Identification No. 13 7116

Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPROVED

APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Idaho

(TYPE OR PRINT IN INK)

1. Name of applicant Frank L. Hart Phone: 801-825-9795
   post office address P.O. Box 1326, Freeport Center, Clearfield, Utah 84016
2. Source of water supply ground water which is a tributary of _____
3. a. Location of point of diversion is SW ¼ of NE ¼ of Section 5 Township 14S
   Range 38E B.M. Franklin County; additional points of diversion if any: _____

   b. If water is not consumed, it will be discharged into _____ at a point in _____ ¼ of _____ ¼ of Section _____ Township _____ Range _____ B.M. _____
4. Water will be used for the following purposes:
   Amount 7.88 (cfs or acre-feet per annum) for Irrigation purpose from Apr. 1 to Nov. 1 (both dates inclusive)
   Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)
5. Total quantity to be appropriated:
   a. 7.88 cubic feet per second and/or
   b. _____ acre feet per annum.
6. Proposed diverting works:
   a. Description of ditches, flumes, pumps, headgates, etc. Well, pump, and sprinkler system

   b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet, materials used in storage dam: _____
   Period of year during which storage will occur _____ (Mo. Day) to _____ (Mo. Day) inclusive.
   c. Proposed well diameter is 16 inches; proposed depth of well is 400 feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years.
   b. Estimated construction cost is $ 75,000.00 .
8. Description of proposed uses:
   a. If water is **not** for irrigation:
      (1) Give the place of use of water: _____ ¼ of _____ ¼ 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.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
14S	38E	3						30	30										60
		4	35		40	40			4	40									159
		5		30	30	35	10			20	15				18	17			175

Total number of acres to be irrigated 394

c. Describe any other water rights used for the same purposes as described above. License G-29897/13-2242 covers 34 acres in the SW¼NW¼, T. 14S, R. 38E in the amount of 0.63, priority 6/20/61

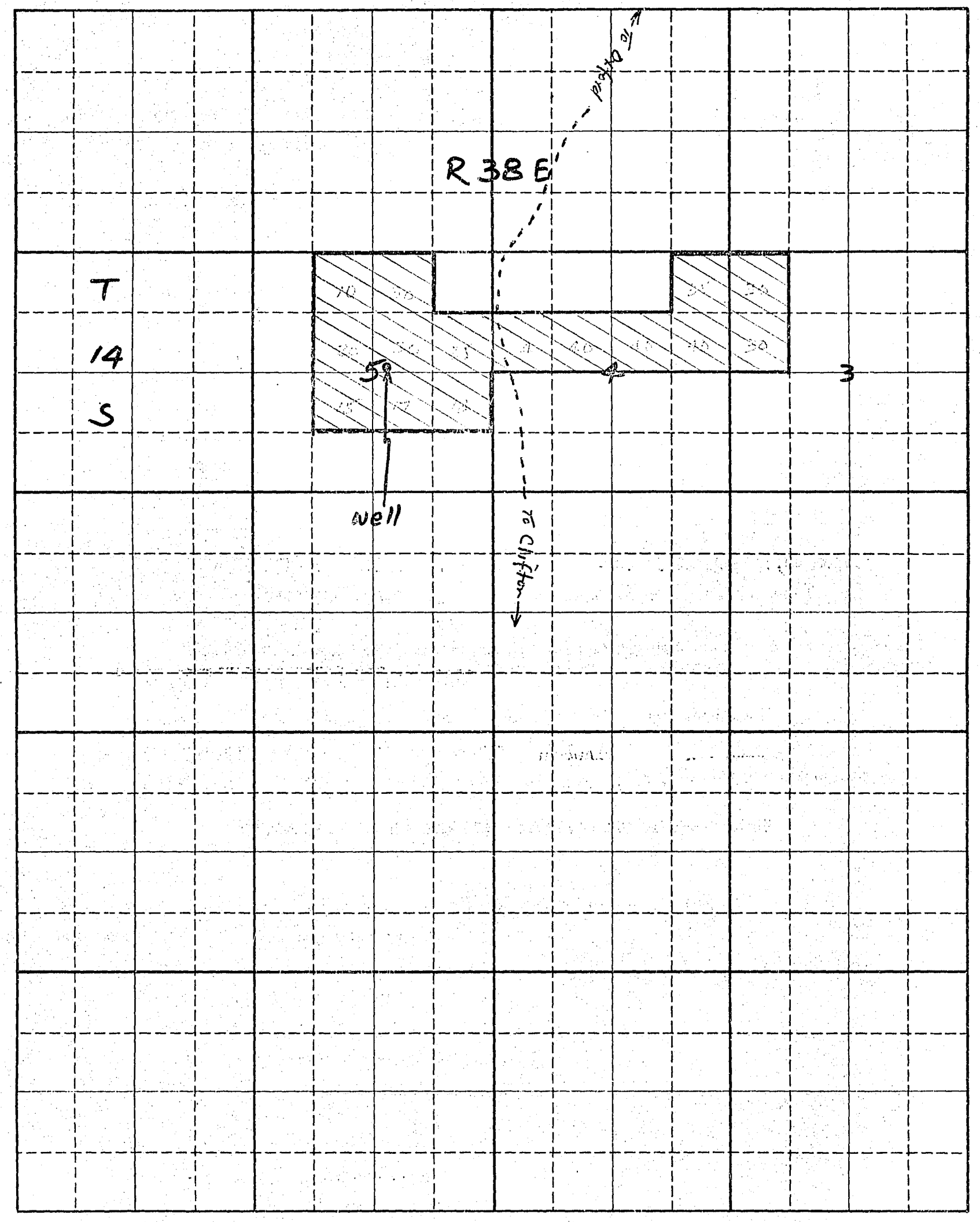
9. a. Who owns the property at the point of diversion Earl H. Ward & Anna Mae Ward

b. Who owns the land to be irrigated or place of use Earl H. Ward & Anna Mae Ward

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing Purchase of contract notice attached and deed from Dixon Christensen dated May 20, 1975, recorded.

10. Remarks The well in SW¼NW¼, Sec. 4, T. 14S, R. 38E, Permit number G29897 will be abandoned. It was found inadequate by the present owners. There are, further, two flowing wells in the pond in the same ¼ section. There is a drainage canal at approximately the dividing line between SW¼ and the SE¼ of the NW¼, Sec. 4, T. 14S, R. 38E, B.M. draining into the Oxford Slough. It is the intention of the applicant to drill the well as applied for and construct the necessary underground piping to accomodate a modern wheel move sprinkler system capable of providing adequate dependable water for the land blocked out. There will further be additional drainage installed in Sec. 3 & 4 of the farm project.

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.

X Frank L. Hunt
(Applicant)

Proposed Priority 6-2-1975

Received by MB Date 6-2-75 Time 11:00 A

Preliminary check by [illegible] Fee $ 95.00

Receipted by MB Date 6-2-75 # 4271

Publication prepared by MB Date 6-4-75

Published in Preston Citizen

Publication dates June 12 & 19, 1975

Publication approved CW Date 7-08-75

Priority reduced to _____ Reason _____

Protests filed by: Andrew Hunt

Copies of protests forwarded by MB

Hearing held by _____ Date _____

Recommended for approval denial by RDC & SDF

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 13-7116, 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 October 1, 1980.

   c. Other: A measuring device of a type approved by the Director 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 11 day of October 1975.

Director

NOTICE OF PURCHASE UNDER

REAL ESTATE SALE CONTRACT

****

TO WHOM IT MAY CONCERN:

NOTICE is hereby given that FRANK L. HART is purchasing from EARL H. WARD and ANNA MAE WARD, husband and wife, under a contract now escrowed at the First Bank & Trust of Idaho, the following described real property located at Franklin County, Idaho, to-wit:

PARCEL A:

Township 13 South, Range 38 East of the BOISE MERIDIAN, Section 32: S½SW¼.

Township 14 South, Range 38 East of the Boise MERIDIAN, Section 3: SW¼NW¼.
Section 4: S½NW¼, LOT ONE (1), and the S½NE¼.
Section 5: LOTS TWO (2), THREE (3) and FOUR (4), S½NW¼, S½NE¼, NE¼SW¼, N½N½SE¼.

PARCEL B:

Township 14 South, Range 38 East of the BOISE MERIDIAN, Section 5: NW¼SW¼.

DATED this 22nd day of May, 1975.

Frank L. Hart
FRANK L. HART

STATE OF UTAH)
ss.
COUNTY OF WEBER)

On the 22nd day of May, 1975, personally appeared before me FRANK L. HART, the signer of the foregoing instrument, who acknowledged to me that he executed the same.

Eugene H. Nelson
NOTARY PUBLIC
Residing At: Ogden, Utah

My Commission Expires: 3 / 5 / 76

№ 2968

AFFIDAVIT OF PUBLICATION

RECEIVED
JUL 8 1975
Department of Water Resources
Eastern District Office

STATE OF IDAHO, }
County of Franklin } ss.

Wayne D. Bell
being duly sworn,

deposes and says:

That he is the Co-publisher of THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; 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

June 12, 19 75, and ending

with the issue of June 19, 19 75

Wayne D. Bell

Fees, $ 12.95

Subscribed and sworn to before me this 7 day

of July, 19 75.

Delma D. Geddes

Notary Public, Residing at Preston, Idaho

My Commission Expires March, 19 78

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Frank L. Hart, Clearfield, Utah has on 6-2-75 submitted Application No. 13-7116 for a permit to appropriate 7.88 cubic feet per second of water from a ground-water source by means of well and pump within the SW¼NE¼, Sec. 5, T. 14S, R. 38E, B.M., Franklin County; to be used from Apr. 1 to Nov. 1 for the irrigation of 394 acres within the W½NW¼, Sec. 3, E½NE¼, SW¼NE¼, S½NW¼, Sec. 4, W½NE¼, SE¼NE¼, E½NW¼, NE¼SW¼, N½SE¼, Sec. 5, T. 14S, R. 38E, 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 June 30, 1975.

R. KEITH HIGGINSON
Director

Published in the Preston Citizen, Preston, Idaho on June 12 and June 19, 1975.

Legal No. 2968 — Pub. June 12, 19, 1975.

FROM THE DESK OF

Frank L. Hart
P.O. Box 1326
Freeport Center
Clearfield, Utah 84016

May 22, 1975

RECEIVED
MAY 27 1975
Department of Water Resources
Eastern District Office

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

Attention: Mr. Loy H. Johnson
Water Resource Supervisor

Dear Mr. Johnson:

Kindly find enclosed my application for my well permit in Franklin County and also a check for $105.00 to cover the cost of same.

Further enclosed, is a duplicate Notice of Purchase under Real Estate Sale Contract which has been recorded in Franklin County.

The deed referred to from Dixon Christensen has not yet been received but I will forward it to you upon its receipt. The quarter section referred to on the drawing, Purchased by Option, is a verbal option between myself and Earl Ward and will be consummated in the near future. You will note that our exhibit 11 has been produced on a topographical map of the area involved.

We trust the enclosed information will enable you to proceed in an orderly manner with this application.

Very truly yours,

Frank L. Hart

FLH/lrt

May 28, 1975

Mr. Frank L. Hart
P.O. Box 1326
Freeport Center
Clearfield, Utah 84016

Dear Mr. Hart:

Please find enclosed your application and check No. 97-158 in the amount of $105.00. In checking your land description we find the SW¼NW¼, Sec. 4, T. 14S, R. 38E, was licensed under No. 13-2242 in the amount of 0.63 c.f.s., to irrigate 34 acres within the SW¼NW¼, Sec. 4, T. 14S, R. 38E. Therefore, it is necessary to reduce the amount of your application and change the land list accordingly.

We have taken the liberty of retyping your application showing the amount of water that can be filed on at the rate of 0.02 c.f.s. per acre. Subtracting the 34 acres from the total acres in your land list would leave 394 acres that can be filed on, making a total appropriation of 7.88 c.f.s. The filing fee for this new application is $95.00.

You indicated the original well would be abandoned. Therefore, it will be necessary to transfer the point of diversion from the SW¼NW¼, Sec. 4 to the SW¼NE¼, Sec. 5, T. 14S, R. 38E, to cover the land already under license in order to retain the original priority date for this ground. An application for transfer with instructions is enclosed. The filing fee for submitting a transfer is $30.00

The two flowing wells on your property should be equipped with valves to shut the water off during the non-irrigation season. This is required by Idaho law. You previously mentioned your intent was to cap the wells below land surface, fill in the pond, and farm over them. Please indicate how you will handle these flowing wells.

If the retyped application meets with your approval, please sign at the bottom of Page 3 and remit with the statutory filing fee for further processing. If you have any questions or if I may be of further assistance, please do not hesitate to contact this office.

Very truly yours,

LOY H. JOHNSON
Water Resource Supervisor

LHJ:CW

FROM THE DESK OF

Frank L. Hart
P.O. Box 1326
Freeport Center
Clearfield, Utah 84016

May 30, 1975

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

RECEIVED
JUN 2 1975
Department of Water Resources
Eastern District Office

Attention: Mr. Loy H. Johnson
Water Resources Supervisor

Dear Mr. Johnson:

In conformance with your letter of May 28, 1975, we have signed the re-typed Application for Permit and further we have filled out the Application for Transfer of Water and have attached our check in the re-established amounts of $95.00 for the Application for Permit and $30.00 for Transfer of Water.

We are further enclosing the original application as it contains the original date of receipt on the last page of same.

In regards to recapping the two existing flowing wells, it is our intention to dig down below the surface and place caps on these wells and discontinue their use.

Flowing wells to be abandoned.

We trust that this information will be sufficient to enable you to proceed with the enclosed applications.

Very truly yours,

Frank L. Hart
Frank L. Hart

FLH/lrt

Enclosures

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Frank L. Hart,
Clearfield, Utah

has on 6-2-75 submitted Application No. 13-7116

for a permit to appropriate 7.88 cubic feet per second ~~acre-feet per annum~~

of water from a ground-water source

by means of well and pump

within the SW¼NE¼, Sec. 5, T. 14S, R. 38E, B.M., Franklin County;

to be used from Apr. 1 to Nov. 1

for the irrigation of 394 acres

within the W½NW¼, Sec. 3, E½NE¼, SW¼NE¼, S½NW¼, Sec. 4, W½NE¼, SE¼NE¼, E½NW¼, NE¼SW¼, N½SE¼, Sec. 5, T. 14S, R. 38E, 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 June 30, 1975.

R. KEITH HIGGINSON
Director

Published in the Preston Citizen, Preston, Idaho
on June 12 and June 19, 1975

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Frank L. Hart, Clearfield, Utah has on 6-2-75 submitted Application No. 13-7116 for a permit to appropriate 7.88 cubic feet per second of water from a ground-water source by means of well and pump within the SW¼NE¼, Sec. 5, T. 14S, R. 38E, B.M., Franklin County; to be used from Apr. 1 to Nov. 1 for the irrigation of 394 acres within the W½NW¼, Sec. 3, E½NE¼, SW¼NE¼, S½NW¼, Sec. 4, W½NE¼, SE¼NE¼, E½NW¼, NE¼SW¼, N½SE¼, Sec. 5, T. 14S, R. 38E, 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 June 30, 1975.

R. KEITH HIGGINSON
Director

Published in the Preston Citizen, Preston, Idaho on June 12 and June 19, 1975.

Legal No. 2968 -- Pub. June 12, 19, 1975.

June 4, 1975

RE: Application for Transfer No. 13-2242 WARD
Claim to a Water Right No. 13-4027 RICHES
Claim to a Water Right No. 13-4028 BAKER
Application for Permit No. 13-7116 HART

The Preston Citizen
Box 472
Preston, ID 83263

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
District Engineer

Bill submitted _____ by _____

RDC:MB

No bill

Enc: Legal Notice (4)

RECEIVED
JUN 2 1975
Department of Water Resources
Eastern District

June 27, 1975

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

Gentlemen:

I, Andrew Hunt, of 495 E. Parkview Circle, Smithfield, Utah, protest the granting of Permit No. 13-7116 filed by Frank L. Hart, and Transfer No. 13-2242 filed by Earl H. and Anna Mae Ward, on the following grounds:

That the pumping of ground water from wells located as mentioned in the above application will reduce the quantity of water available from a spring which supplies culinary water to my ranch. The spring is about one-half mile from the planned well location.

The wells may also reduce the water available from Dudley Springs, located in the NE¼, Sec. 9, T. 14S, R. 38E, which supplies irrigation water to may ranch.

Andrew Hunt
ANDREW HUNT

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT

Cecil D. Andrus
Governor

R. Keith Higginson
Director

June 27, 1975

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

Mr. Frank L. Hart
P.O. Box 1326
Freeport Center
Clearfield, Utah 84016

Dear Mr. Hart:

We have enclosed a copy of the protest filed against the issuance of a permit pursuant to your Application No. 13-7116. 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 41-202, Idaho Code).

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

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

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

Very truly yours,

RONALD D. CARLSON
District Engineer

RDC:MB

Enc: Copy of Protest(s)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT

Cecil D. Andrus
Governor

R. Keith Higginson
Director

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

June 27, 1975

RE: Application for Permit No. 13-7116 HART

Mr. Andrew Hunt
495 E. Parkview Circle
Smithfield, Utah 84335

Dear Mr. Hunt:

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

(1) Will the proposed use reduce the quantity of water under existing water rights?

(2) Is the proposed water supply insufficient for the purposes intended?

(3) Is the application made in good faith or for delay or speculative purposes?

(4) Has the applicant sufficient financial resources with which to complete the project?

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

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

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

Very truly yours,

RONALD D. CARLSON
District Engineer

RDC MB

cc: IDWR - Boise

June 30, 1975

RE: Application for Transfer No. 13-2242 Ward
Claim to a Water Right No. 13-4027 Riches
Claim to a Water Right No. 13-4028 Baker
Application for Permit No. 13-7116 Hart

The Preston Citizen
Box 472
Preston, ID 83263

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced applications. The legal notices were to have been published in your paper on June 12 and June 19, 1975.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

RONALD D. CARLSON
District Engineer

RDC:ME

Called 7/7/75

August 21, 1975

COPY

Franklin County Courthouse
Clerk of the District Court
Preston, Idaho 83263

Dear Sir:

This is to confirm the use of the Courtroom for conferences and/or hearings to be held by this office on Friday, September 19, 1975, at 8:00 a.m.

Thank you for your cooperation in this matter.

Very truly yours,

RONALD D. CARLSON
District Engineer

RDC:MB

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

In the Matter of Protest Against Approval of Application for Permit No. 13-7116 in the name of FRANK L. HART	NOTICE OF CONFERENCE AND/OR HEARING

On June 2, 1975, Frank L. Hart filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On June 27, 1975, the Department received a protest against approval of said application from Andrew Hunt.

The Department has set the matter of protest for conference and/or hearing for Friday, September 19, 1975, at 8:00 a.m., in the Courtroom of the Franklin County Courthouse, Preston, 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 29th day of August, 1975.

13-716

PS Form 3811, Jan. 1975

SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

- [x] Show to whom and date delivered..... 15¢
- [ ] Show to whom, date, & address of delivery.. 35¢
- [ ] RESTRICTED DELIVERY.
  Show to whom and date delivered..... 65¢
- [ ] RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:

Frank L Clark

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	705	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE [ ] Addressee [x] Authorized agent

4. DATE OF DELIVERY: FREEPORT STA. UTA
POSTMARK

5. ADDRESS (Complete only if requested)
CLEARFIELD, UTAH 84016

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

☆ GPO: 1975—O-568-047

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

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

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.
- Complete items 1, 2, and 3 on reverse side.
- Moisten gummed ends and attach to back of article.

RETURN TO

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

RECEIVED
SEP 4 1975
Department of Water Resources
Eastern District Office

DEPARTMENT OF WATER R[illegible]
EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

NAME AND ADDRESS OF SENDER

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

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

AUG 29 [illegible]

	NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST OFFICE ADDRESS	POSTAGE	FEE	R. R. FEE	REST. DEL. FEE	ACTUAL VALUE	SURCHARGE	REMARKS*
1	755	Frank L Hunt, P.O. Box 326 Freeport Center, Clearfield, Utah	10	30	15				13-7116 T 15-2242
2	756	Andrew Hunt, 495 E. Parkview Circle, Smithfield	10	30	15				"
3	757	Delora Henderson, 5 Mi. Irrig. Co. Clayton	10	30	15				13-7109
4	758	Mrs Jay Cox, Rt #3 Box 266, Preston	10	30	15				"
5	759	Joe F. Baird 5545 S. 1225 E, Ogden Ut.	10	30	15				"
6	760	Edison Bingham, Preston	10	30	15	30			"
7									
8									
9									
10									
11									
12									
13		Sent be certified mail by							
14									
15		ME + MB							
16									
17									
18									
19									
20									

TOTAL NO. OF PIECES LISTED BY SENDER: 6
TOTAL NO. OF PIECES REC'D AT P. O.: 6
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)

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

CONVERSATION MEMORANDUM

DATE September 17, 1975

FILE 13-7116

NAME OF PARTY Andrew Hunt

EMPLOYEE Colleen

RE: Mr. Andrew Hunt, protestant on the above referenced application telephone this date from California. He stated that he would be unable to attend the conference. When asked if he had an attorney in the matter, he stated that his attorney would be tied up in court all day and would not be able to attend either. He only received notification of his attorney not being able to attend this morning. He stated he would have his farm manager attend the conference as his representative and to state his views.

G2987/13-2242 - Earl H. and Anna Mae Ward

Courtroom, Franklin County Courthouse, Preston, Idaho

September 19, 1975 - 8:00 a.m.

ROSTER OF ATTENDANCE

Name	Address	Representing
Mark R. Hunt	1124 Oakwood Layton Utah	Self
Ward W. Moon	Clifton Idaho	Andrew J. Hunt
Robert A. Hunt	1391 S 1st E Tremonton Utah	Andrew J. Hunt
Ben Johnson Attorney	233 N. Main Preston, Idaho	" " "

Frank L. Hart - 13-7116

Courtroom, Franklin County Courthouse, Preston, Idaho

September 19, 1975 - 8:00 a.m.

ROSTER OF ATTENDANCE

Name	Address	Representing

This hearing consolidated with 13-2242 transfer hearing.

IN THE MATTER OF PROTESTS AGAINST THE APPROVAL OF APPLICATION FOR PERMIT NO. 13-7116 & APPLICATON FOR TRANSFER 13-2292 IN THE NAME OF FRANK L. HART

WITHDRAWAL OF PROTEST

WE ARE CONCERNED ABOUT ANY DEVELOPMENT THAT MIGHT REDUCE THE FLOW FROM OUR SPRINGS. HOWEVER IN VIEW OF THE FACT THAT THERE IS NO EVIDENCE THAT THE APPLICANT'S DEVELOPMENT WILL BE DETRAMENTAL TO OUR WATER RIGHT(S) AND WITH THE UNDERSTANDING THAT THIS APPROPRIATION IS JUNIOR IN TIME AND SUBJECT TO OUR PRIOR RIGHTS WE AGREE TO WITHDRAW OUR PROTEST.

SIGNED AT PRESTON, IDAHO SEPT 19, 1975

Andrew Gadsby by Robt A. Lewis

Ben Johnson, Attorney

DEPARTMENT OF WATER RESOURCES
- STAFF ANALYSIS -

Frank L. Hart

Application No. _____

Item	Initial	Date	
			✓ Source
			✓ Point of Diversion
			✓ County
			✓ Quantity of Water and Period of Use
			✓ Description of Diverting Works
			✓ Time required for B/U of water
			✓ Place of Use or Acres Irrigated
			✓ Map
			✓ Signature
			✓ Fee
(1)	JRD	6/2/75	In form to receipt yes
(2)	"	"	Send Copies to:
			_____ Idaho State Health Department
			N.A. Idaho Fish and Game Department
			_____ Bureau of Land Management
			_____
(3)	"	"	N.A. Request Special Use Permit from U.S.F.S.
			_____ Request Easement from B.L.M.
			_____ Request Information from Applicant
(4)	"	"	In form for advertising yes
(5)	"	"	Platted on Map No. T14S, 38E
(6)	"	"	Located within Water District No. Not under Watermaster
(7)	"	"	Critical groundwater area: yes _____ no ✓
(8)	"	"	Groundwater levels:
			_____ Declining, _____ Stable, _____ Increasing
			(comment) No obs wells in area
(9)	"	"	Other rights on the same place of use
(10)	"	"	Comments: Lic 13 - 22442 (.63 cfs 34 ac. SWNW 4 14S, 38E.)
(11)	MB	7/7/75	Affidavit of Publication received (date) 7-7
(12)			Final date for protests June 30, 1975
			Protests received: yes X no _____
(13)	RDC	10/1/75	All requested information received from agencies or applicant: yes _____ no _____
(14)	"	"	Action recommended:
			_____ Approve _____ Deny
			6/2/75 Proposed Priority
			_____ Reason for Reduction _____
			_____ Measuring device required
			_____ See attached sheet for other conditions of approval
			_____ No special conditions for approval
(15)	District 2		By RDC Date 10/1/75

RECEIVED
OCT
Department of Water Resources

October 14, 1975

Re: Permit No. 13-7116

Frank L. Hart
P. O. Box 1326
Freeport Center
Clearfiedl, UT 84016

Dear Mr. Hart:

Enclosed is a copy of your approved Application for Permit No. 13-7116. 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

Filing Fee: $10.00
Receipt # 6588

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
APR 29 1977
Department of Water Resources
Eastern District Office

APPLICATION FOR AMENDMENT

Permit No. 13-7116

Comes now Kayle G. Richins &/or Claude Richens of (address) 13650 South 13th West, Riverton, UT 84065, 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. 13-7116, and requests that the permit and permit map be changed as follows:

1. Point of diversion: SW ¼ NW ¼, Sec. 4 Twp. 14S Rge. 38E, B.M., County of Franklin. Other points of diversion:

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

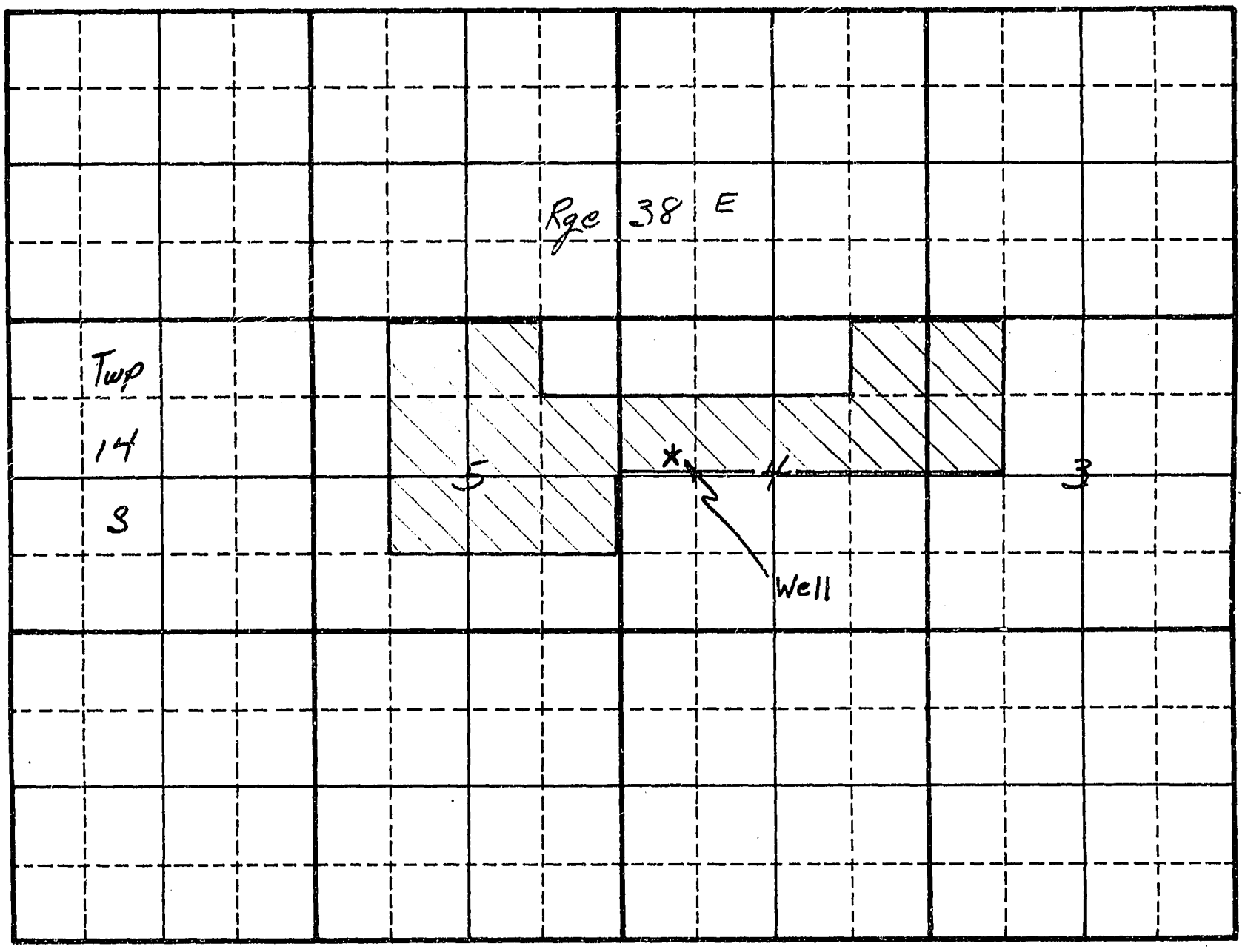
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre feet per annum)

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

TWP	RANGE	SEC	NE ¼				NW ¼				SW ¼				SE ¼				TOTALS
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total number of acres to be irrigated

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 holders own risk.

Signed at Fernley, Nevada, this 26 day of April, 19 77.

Loyle M Tucker
(signature)

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

Chief, Operations Bureau

I, BOBBY D. FLEENOR, ~~Director~~ of the Department of Water Resources

hereby APPROVE the above application for amendment on Permit No. 13-7116.

o.k. JG

Witness my hand this 20th day of May, 19 77.

Bobby D. Fleenor
~~Director~~

BOBBY D. FLEENOR
Chief, Operations Bureau

RECEIVED
MAY 4 1977
Department of Water Resources
Eastern District Office

State of Idaho
Department of Water Resources

ASSIGNMENT OF PERMIT

I, Frank L. Hart, hereby assign to Kayle G. Riching &/or Claude Richins

of 13650 South 13th West, Riverton, UT 84065
Address

CHECK ONE

☒ All my right, title, and interest in and to Permit No. 13-7116 to appropriate the public waters of the State of Idaho.

☐ The following described portion of my right, title, and interest in and to Permit No. 13-7116 to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within each 40 acre subdivision, the point of diversion and the amount of water in cubic feet per second for direct diversion, or acre feet for storage)

7.88 cubic feet per second - See attached

Made this 2 day of May, 1977.

Frank L. Hart
Permit Holder

Althea T. Hart
Spouse of Permit Holder

State of ~~Idaho~~ UTAH)
County of WEBER) ss.

On this 2nd day of MAY, 1977, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Eugene D. Waters
Notary Public residing at
Ogden, Utah

seal

My commission expires:
3-5-80

May 12, 1977

Re: Permit No. 13-7116

COPY

Kayle G. &/or Claude Richens
13650 South 13th West
Riverton, UT 84065

Dear Mr. and Mrs. Richens:

We are in receipt of the Application for Amendment submitted in connection with the above referenced permit.

However, we cannot accept this application as our records show this permit is in the name of Frank L. Hart.

In order for this application to be acceptable, the enclosed Assignment of Permit form must be completed and signed by Mr. Hart, thereby assigning the permit to you.

We will hold the amendment application in our files until the assignment is returned.

If you have any questions, please contact this office.

Sincerely,

JAN GROVER
Water Rights Supervisor

Enclosure

May 20, 1977

COPY

Re: Permit No. 13-7116

Kayle G. Riching &/or Cläude Richins
13650 South 13th West
Riverton, Utah 84065

Dear Sirs:

We acknowledge receipt of the assignment conveying the above referenced permit to you. The assignment has been entered into the Department's records.

Also, enclosed is a copy of the approved application for amendment issued on this permit.

Sincerely,

JAN GROVER
Water Rights Supervisor

JG:JFR

Encl.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF CHANGING THE MEASURING DEVICE REQUIREMENT FOR PERMIT NO. 13-7116

ORDER

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

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

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

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

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

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

Dated this 18th day of August, 1978.

C. STEPHEN ALLRED
Director

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

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

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

May 8, 1980

Dear Wateruser:

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

The changed condition is less restrictive and provides you the option to install an access port or have your system measured and certified by a professional engineer. Instructions for access port installation are also enclosed.

If you have questions regarding this matter, please contact the Regional Office nearest to you.

Sincerely,

David R. Tuthill Jr.

DAVID R. TUTHILL JR., P.E.
Supervisor, Water Allocations Section

DRT:jg

Enclosures

Northern Region Office
Rt. #5 Box 203, Government Way
Coeur d'Alene, Idaho 83814

Eastern Region Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Southern Region Office
1041 Blue Lake Boulevard North
Twin Falls, Idaho 83301

Western Region Office
92 South Cole Road
Boise, Idaho 83705

Form 204
7/80

Identification No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME

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

RECEIVED
AUG 21 1980
Department of Water Resources

Richins, Kayle G. &/or Claude Richins of 13650 So. 13TH West Riverton, Ut. 84065
(Name) (Address)

State of Utah, 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. 13-7116.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before October 1, 1980.

That he has heretofore performed the following work described under said permit: one finished well and are planning for more is possible.

Costing $95,000

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit: Insufficient funds at this time, and will need more time to complete the remainder of the project.

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to December, 1986.

Kayle G. Richins
(Signature)*

*IF OTHER THAN HOLDER, Power of Attorney must be supplied.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within which to submit the statement of beneficial use is extended to October 1, 1985.

Signed this 26th day of August, 1980.

L. Glenn Saxton
Chief, Operations Bureau

$15.00 fee received by LJ Date 8-26-80 Receipt # 15987

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL

RICHINS, KAYLE G. and/or Claude Richins
13650 S. 13TH W.
RIVERTON, UT 84065

108333

JULY 31, 1980

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 13-7116 WAS THAT EVIDENCE OF THE EXTENT OF DEVELOPMENT MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE OCTOBER 01, 1980. (SEE LAST PAGE OF YOUR APPROVED PERMIT). ENCLOSED IS A POST CARD WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF OF BENEFICIAL USE.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU HAVE NOT PREVIOUSLY RECEIVED AN EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME PROVIDED THE DELAY IS FOR REASONABLE CAUSE AS INDICATED IN SECTION 42-204, IDAHO CODE, AMENDED. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. A REQUEST FOR EXTENSION OF TIME FORM IS ENCLOSED FOR YOUR CONVENIENCE. PLEASE NOTE THAT A FEE OF $15.00 MUST BE SUBMITTED WITH THIS FORM.

EITHER THE BENEFICIAL USE POST CARD OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECIEVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE MENTIONED DATE, OTHERWISE, THE PERMIT WILL LAPSE AND BE OF NO FURTHER FORCE OR EFFECT WITHIN 60 DAYS.

SINCERELY,

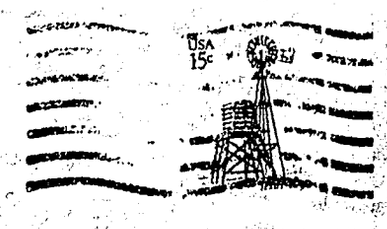
RITA FLECK
SR. SECRETARY

ENCLOSURES

Richins Brothers

Kayle G. Richins & Claude Richins
13650 So. 13TH West
Riverton, Utah 84065





Department of Water Resources

Statehouse

Boise, Idaho 83720

AURORA PUMP
A DIVISION OF THE AURORA PUMP
UNIT OF GENERAL SIGNAL

DEEP WELL TURBINE PUMP

ESTIMATE SHEET

SOLD TO: Childs Plating — DATE 4-17-74
ADDRESS — P. O. NO.
SHIP TO — QUOTATION NO.
ATTN: — BID DATE
SHIP VIA — NO. OF PUMPS
CUSTOMER JOB NO. — LOCATION — ITEM NO.

Casing (Inside)	20 Inches	Type	No. Stages		RPM
Setting	200 Feet	Impeller			Curve No.
Static Water Level	8 Feet	K. Value	Total Thrust		Lbs.
Pumping Level	150 Feet	GPM	HEAD	% EFF.	BHP
Column	174 Feet	1350	192	83	79
Bowl Assembly (Submergence)	Feet	1350	16		Laboratory
Total Head	174 Feet	1350	174		82 Losses
Capacity	1350 GPM	Motor Eff.	% (Full load)	% (¾ load)	% (½ load) Overall Eff.

DESCRIPTION		PRICING SCHEDULE	Approx. Wgt.
MOTOR:	Make 75 HP 1800 RPM 460 Volts		
	60 Cycle Type Frame No. NEMA	1,955.00	
	Shaft Required:		
HEAD SIZE:	17 AC-8		
	Stages 8		
	Ft. Below Ground Dschg. "Base to ℄ Dschg.)		
	Suction Pipe 8 Ft. of 8 "Std. Pipe		
	Column Pipe Ft. 8 "Std. Pipe x 2½ "Tube x 1½ "Shaft, per Ft. $		
	Bowl Size 12 Type RH No. Stages 3		
	SUCTION PIPE: 8 Ft. of cone "Std. Pipe	6,000.00	
	STRAINER Size "Type Matl.		
	AIR LINE: Ft. of "(Galv.)(Copper) $ Ft.		
	ALTITUDE GAUGE & FITTINGS: Hand Pump		
	STARTING EQUIPMENT		
	75 HP 460 Volt size #4 pumping plant panel w/ time delay relay and lightning protection	800.00	
	ACCESSORIES, SPECIAL CONSTRUCTION, VARIATIONS:		
	ACCESSORIES, SPECIAL CONSTRUCTION, VARIATIONS:		
	TOTALS	8,755.00	
INSTALLATION SERVICE		800.00	
WIRING: Customer to furnish			
	NET TOTAL EACH		
	ONE NET TOTAL – UNITS	2,563.00	

REMARKS: Mr. Kitchens, I would be glad to meet with you any time to discuss pumps.

Form LB-SS

QUOTED BY: Bill Staley

AUGUST 17, 1980

DEAR SIR,

AS WE ONLY HAVE ONE FINISHED WELL WHICH IS ONLY A PORTION OF THE WATER ON THE WELL PERMIT AS OF NOW - I WOULD LIKE TO ASK FOR AN EXTENSION OF TIME TO COMPLETE THE FULL WELL PERMIT.

I AM SENDING PROOF OF THE ENGINEERS REPORT BY AURORA PUMP CO. TO THE FACT THAT OUR WELL RUNS 1350 = 3.0 cfs GALLONS OF WATER PER MINUTE.

WE PLAN TO UTILIZE AN ADDITIONAL 200 TO 300 ACRES OF GROUND, OUR PLAN FOR THIS RANCH WILL REQUIRE THE FULL AMOUNT OF THE WELL PERMIT AND AS WE ARE FINANCING THIS PROJECT OURSELVES IT WILL TAKE A GOOD DEAL OF TIME AND MONEY TO COMPLETE.

IF YOU NEED ANY FURTHER INFORMATION PLEASE CONTACT ME AS SOON AS POSSIBLE.

THANK YOU.

Kayle G. Richins

KAYLE G. RICHINS
13650 SO. 13TH WEST
RIVERTON, UTAH 84065

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

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

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

September 3, 1980

Richins, Kayle & or Claude Richins
13650 So. 13th West Riverton,
Utah 84065

Dear Sir's

RE: Permit No. 13-7116

Enclosed is a copy of the approved request for extension of time. The time within which to submit the statement of beneficial use is extended to Oct. 1, 1985.

Also enclosed is receipt No. 15987 in the amount of $15.00.

Sincerely,

Rita Fleck

Sr. Secretary

RECEIVED
SEP 27 1983

Department of Water Resources
Western Regional Office

September 20, 1983

Dear Sir

As it was recently brought to our attention we believe a Mr Larry Mathews has filed a claim on the spring on our land, the same as Mr Jess Elgin did May 4, 1977 on the NW 4 SE 4 Sec 5 T 14 Sr 38 E. Would you please check to make sure our claim is on file, if in fact our claim was not recorded at that time, we wish to again file rights on any of the excess water that we have been using up to now.

We have been gradually developing this project and as it takes much time and money on our own so far without any help from the government or anyone else we finished the pipe lines and pond. We use a wheel line or better from this spring.

If there is anything else we need to do to file claim on this spring and as your department has been so good to advise us right along we would appreciate any further advice that we may need.

Attached is a copy of the meeting we had in 1977 with Mr Elgin on a dispute about this spring.

Thank you.

Kayle G. Richins

Claude L. Richins

In The Matter of Protests)
Against Approval of) STIPULATION
Application for Permit) AND AGREEMENT
No. 13-7157 in the Name)
of JESS ELGAN)

It is understood that the water from the spring located in the NW¼SE¼ SEC5 T14SR38E has been used equally for domestic purposes by Kayle & Claude Richins and Jess Elgan. It is agreed that any development under taken by the applicant will not change the 50-50 division of the water in the existing 2½" pipe or diminish the flow from this spring to the extent that these existing water rights will be damaged.

It is further agreed that no development of the spring will interfere with the watering of stock in the NW¼ of SE¼ of Sec 5 T14S, R38E

It is further agreed that the pipe will remain full prior to allowing any overflow to occur.

It is further agreed that if the development of the spring in Lot 5 (SW¼NW¼) Sec 6 T14S R38E interferes with the spring in Sec 5, T14S R38E. that the diversion from the spring in Lot 5 Sec 6 will be terminated

Kayle Richins Jess Elgan
Claude Richins Earl H. Ward Derrik L. Ward

In The Matter of Protests)
Against Approval of) Withdrawal of
Application for Permit) Protests
NO. 13-7157 JESS ELGAN)

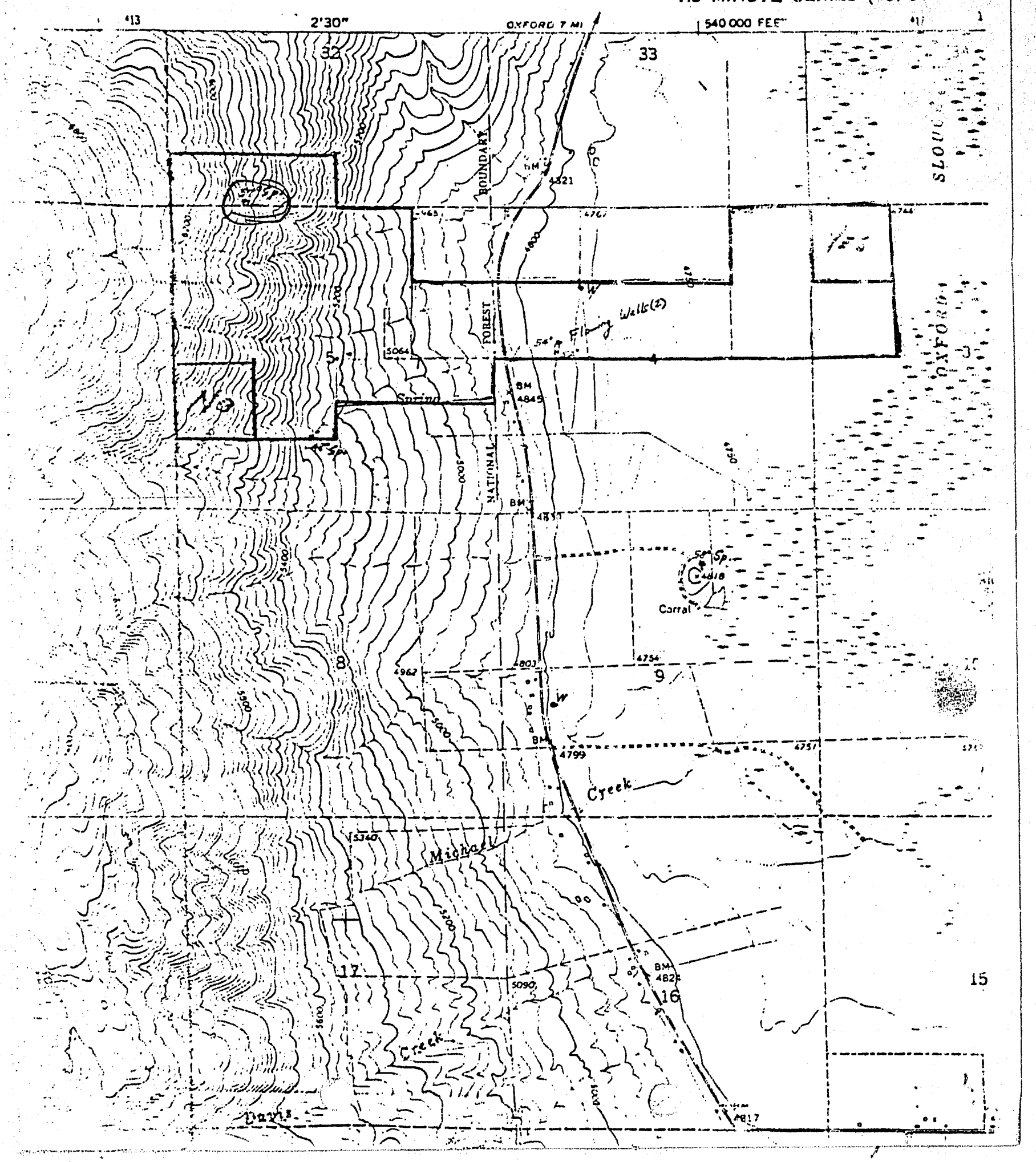
We hereby agree to withdraw our protest against approval of the above referenced application for Permit with the understanding that our permit No 13-7116 is earlier in priority and that permit 13-7157 will be subject to our Prior water rights.

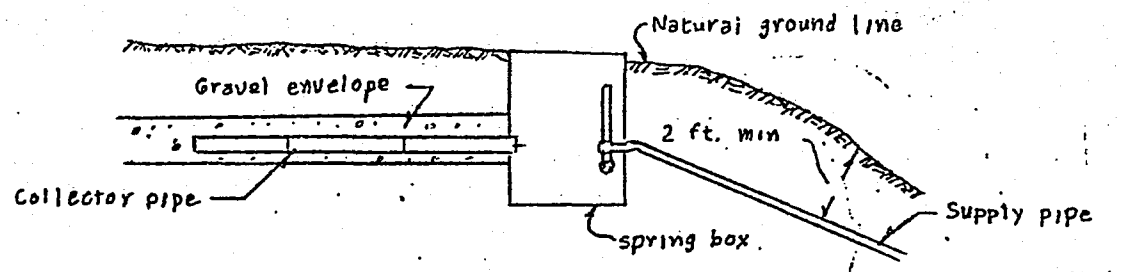
Signed at Preston Idaho
this 4th day of May 1977.

Clyde M Perkins
Glenda L Perkins
Earl H. Wells
Ethel A Wells

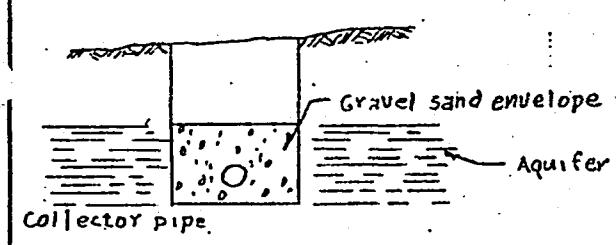
Property Map, with hydrologic data.

SCALE: 1:24,000 (1"=2,000')

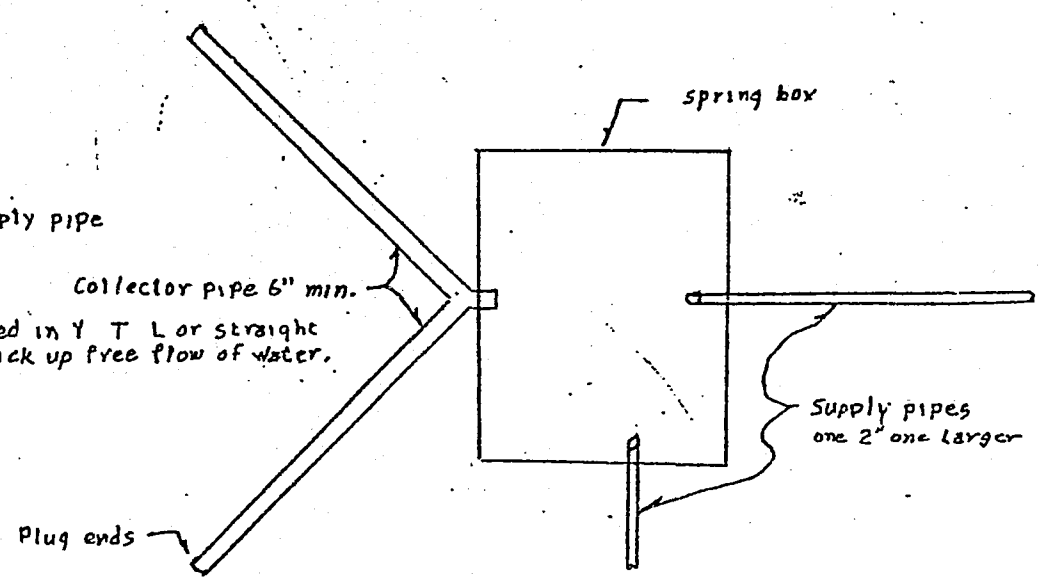




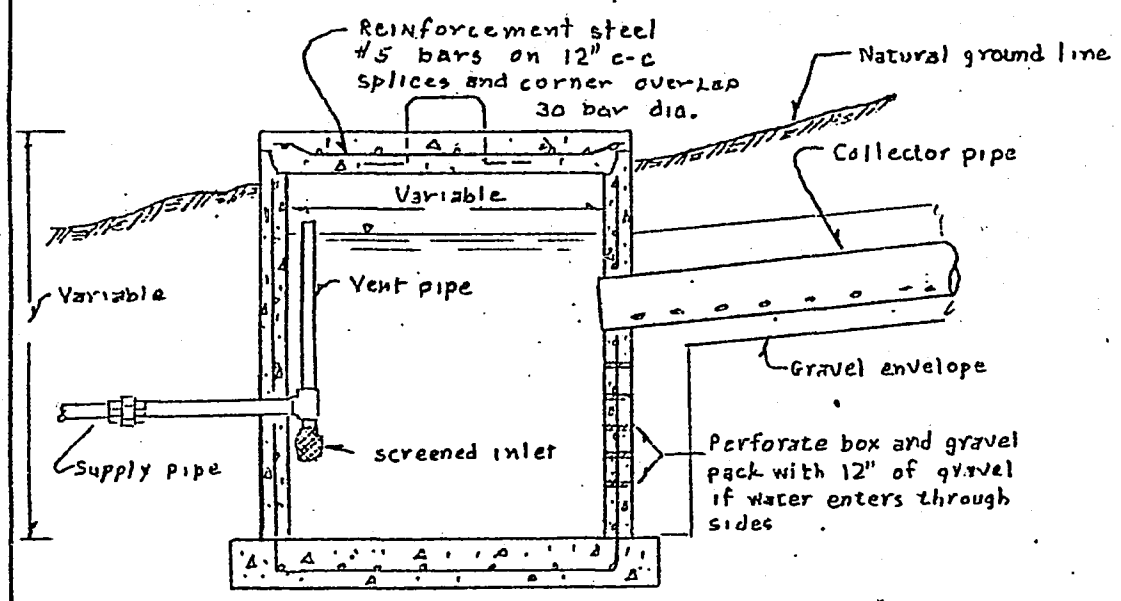
ELEVATION



TRENCH DETAIL



SCHEMATIC LAYOUT



I have reviewed the plans and specifications and agree to construct this project to the best of my ability in accordance with them.

_____ Date: _____

SPRING DEVELOPMENT
KAYLE RICHENS
FRANKLIN SCD IDAHO

U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

	Date		
Designed O.W.D.	May	Approved by	
Drawn O.W.D.	May	Title	
Traced		Title	
Checked		Sheet No. of	Drawing No.

SCS-ENG-313A REV 8-75

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

October 26, 1983

Claude L. & Kayle G. Richins
13650 S. 13th W.
Riverton, UT 84065

RE: Water Rights from a Spring

Dear Mr. and Mrs. Richins:

We are in receipt of your letter dated September 20, 1983, in which you indicated that you have water rights on a spring located in the NW¼SE¼, Sec. 5, Twp. 14S., Rge. 38E. In the letter you indicated that you use water from the spring for irrigation purposes, and that you are concerned about the other water right filings on the spring.

For your information we have enclosed a copy of Claim to a Water Right No. 13-4248, filed by Mr. Larry Don Matthews to record a claimed use of the waters from Anderson Spring for domestic and stockwater use, with date of first use claimed to be May 12, 1885. The procedure for the recording of claims includes a process where if you cannot agree with the information shown on the claim, you can submit a letter of objection to this office. A copy of the letter is sent to the claimant, and your original letter is placed in the file. No further action is taken by this Department to determine the validity of the claimed right, but rather the information is saved in anticipation of any future water rights action by the court.

We have investigated water rights from the spring and have found no existence of a water right from a spring in your name. You may be aware of the requirements to claim existing beneficial use rights. The filing fee to claim a right during this fiscal year, that is until June 30, 1984, is $100.00. The filing fee next fiscal year will be $200.00 per claim, and the deadline for filing claims for existing beneficial use rights for irrigation purposes is June 30, 1985.

If you feel that you have already recorded a water right for diversion from the spring, please advise this office with additional information and we will investigate further based on that information. If you do not have evidence of an existing recorded right, may I suggest that you contact our Eastern Regional Office located at 150 Shoup Ave. in Idaho Falls for assistance in properly recording your water right. Personnel in that office will be happy to help you.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:ns

cc: Eastern Region

Enclosures

S T A T E O F I D A H O

DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL

138198

RICHINS, KAYLE G. &/OR CLAUDE
13650 S. 13TH W.
RIVERTON, UT 84065

PROOF DUE NOTICE

JULY 31, 1985

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 13-7116 WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE OCTOBER 01, 1985. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST). ENCLOSED IS A FORM WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU OR A PREVIOUS OWNER OF THIS PERMIT HAVE NOT RECEIVED A PRIOR EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME IF THE DELAY IS FOR REASONABLE CAUSE AS PROVIDED IN SECTION 42-204, IDAHO CODE. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER THE BENEFICIAL USE FORM OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE DESCRIBED PROOF DUE DATE. IF NEITHER IS RECEIVED, THE DEPARTMENT WILL SEND YOU A LAPSE NOTICE. WITHIN SIXTY (60) DAYS OF THE MAILING OF THE LAPSE NOTICE, THE PERMIT WILL NO LONGER BE OF ANY FORCE NOR EFFECT.

SINCERELY,

RITA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440

RICHING, KAYLE G. &/or CLAUDE
13650 S. 13TH W.
RIVERTON, UT 84065

LAPSE NOTICE

OCTOBER 03, 1985

DEAR PERMIT HOLDER:

YOU ARE HEREBY NOTIFIED THAT UNDER THE PROVISIONS OF SECTION 42-218A OF THE IDAHO CODE, PERMIT NO. 13-7116 HAS LAPSED. THIS OFFICE DID NOT RECEIVE EITHER AN ACCEPTABLE NOTICE THAT YOU HAVE COMPLETED THE PROJECT (PROOF OF BENEFICIAL USE) BY THE DATE REQUIRED ON YOUR PERMIT OR AN ACCEPTABLE REQUEST FOR AN EXTENSION OF TIME. YOU WERE PROVIDED THE PROPER FORMS IN OUR PROOF DUE NOTICE TO YOU DATED JULY 31, 1985.

YOUR PERMIT CANNOT BE REINSTATED UNLESS YOU SUBMIT THE PROOF OF BENEFICIAL USE OR SUBMIT AN EXTENSION OF TIME REQUEST SHOWING REASONABLE CAUSE FOR DELAY. EITHER THE COMPLETED PROOF FORM OR THE EXTENSION REQUEST MUST BE RECEIVED BY THIS OFFICE WITHIN SIXTY DAYS OF THE DATE OF THIS LAPSE NOTICE OR THE PERMIT WILL NO LONGER BE OF ANY FORCE OR EFFECT.

A PROOF OF BENEFICIAL USE FORM AND A REQUEST FOR EXTENSION OF TIME FORM ARE AGAIN ENCLOSED FOR YOUR USE. PLEASE NOTE THAT A FEE OF $15.00 MUST ACCOMPANY AN EXTENSION OF TIME REQUEST AND THAT ONLY ONE EXTENSION OF TIME CAN BE GRANTED UNLESS THE PROJECT HAS NOT BEEN COMPLETED BECAUSE OF LACK OF A NECESSARY APPROVAL BY A GOVERNMENTAL AGENCY OR BY LITIGATION WHICH BRINGS TITLE TO THE WATER IN QUESTION.

L. GLEN SAXTON
CHIEF, OPERATIONS BUREAU

ENCLOSURES

LGS:RF

CERTIFICATION OF MAILING

I hereby certify that on 10-30-1985 a ~~copy~~ original of this document was deposited in the United States mail, postage prepaid addressed to the individual(s) named above.

Rita Fleck

I certify that file No. 13-7116 has been reviewed and is ready to be MICROFILMED and DESTROYED.

File should not be destroyed before 3/27/86
Date

S. Curtis
Signature

3/27/86
Date

micro

June 13, 1988

Kayle Richins
13650 S. 13th W.
Riverton UT 84065

RE: LAPSED PERMIT 13-7116

Dear Mr. Richins:

As a follow-up to our telephone conversation on June 9, 1988 in connection with the above referenced matter, I am forwarding a "Proof of Beneficial Use" form which needs to be completed and returned to the department together with the appropriate license examination fee.

To review our conversation, on August 21, 1980, you submitted to the department a request for extension of time in which to submit the required proof of beneficial use. On the extension request you stated you had drilled one well but that more time was needed to complete the remainder of the project. In addition, in 1980, you submitted what appears to be a pump installation cost estimate sheet from Aurora Pump Company. Correspondence in the file states that the pump produced 1350 gallons per minute.

On July 31, 1985, the department sent notice to you by certified mail that proof of beneficial use was due on or before October 1, 1985. On October 30, 1985, the department sent you a lapse notice, since neither proof of beneficial use of the water nor a request for an extension of time was submitted to the department. Sixty days subsequent to the mailing of the lapse notice, the permit became of no force nor effect as provided in Section 42-218a., Idaho Code.

Provisions of Section 42-218a., Idaho Code, provide for the late reinstatement of a permit. In order to have the permit reinstated under these provisions, however, you need to submit the following information:

a) A completed Proof of Beneficial Use form together with the required examination fee. The fee is $150 if the rate of diversion on which you are submitting proof is 1350 gallons per minute as described in your 1980 correspondence. For different rates the fee is also different.

b) Evidence to clearly show to what extent the water from the well was diverted and beneficially used between June 1975 and October 1, 1985. This evidence can be in several forms including information from the SCS or ASCS or affidavits from parties familiar with the use of water on the property. The information from Aurora Pump Co which is already in our file does not clearly provide this evidence.

c) Reasonable cause why the proof of beneficial use was not submitted on or before October 1, 1985.

Upon receipt, review and determination of suitability of this information, the Director of the department is authorized under the provisions of Section 42-218a.2., Idaho Code, to reinstate the lapsed permit. The priority of such a reinstated permit will be advanced to the date that the proof of beneficial use is received.

Please feel free to contact the department if you have questions. Also note that the department has offices in Twin Falls and Idaho Falls which are available to assist in the filing of the proof or to answer questions.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

Enclosures

c: E. Region

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 13-7116 IN THE NAME OF KAYLE G. &/OR CLAUDE RICHINS	ORDER OF REINSTATEMENT

This matter having come before the Idaho Department of Water Resources (Department) the Department finds as follows:

FINDINGS OF FACT

1. On October 11, 1975, the Director of the Department of Water Resources issued Permit No. 13-7116 with a condition of approval that proof of construction of works and application of water to beneficial use be submitted on or before October 1, 1980.

2. On August 26, 1980, an Extension of Time in which to submit proof of beneficial use was granted, extending the proof due date to October 1, 1985.

3. On July 31, 1985 the Department sent a proof due notice to the permit holders.

4. On October 30, 1985 the Department sent a lapse notice to the permit holders since neither proof of beneficial use nor a request for extension of time had been received from the permit holders.

5. On June 23, 1988 Proof of Beneficial Use was received by the Department from the permit holders.

6. Section 42-218a, Idaho Code, authorizes the Department to reinstate a lapsed permit, with the priority date advanced to the date that proof of beneficial use was received, upon submittal of evidence clearly establishing the extent of beneficial use prior to the proof due date and a showing of reasonable cause why the proof was submitted late.

7. The permit holders submitted copies of various documents giving evidence that water has been put to beneficial use. These documents include power records, cost breakdowns for installation of the irrigation system, and an aerial photo from the ASCS verifying irrigated lands.

8. Inspection of the ASCS aerial photo shows irrigated lands within the place of use described by the permit.

9. The permit holders have stated that the proof due and lapse notices were not received and therefore proof was not filed in a timely manner. They were unaware of action required on their part.

CONCLUSIONS OF LAW

1. The permit holders have submitted proof of beneficial use along with supporting evidence which establishes that water was in fact beneficially used for irrigation during the authorized development period identified on the permit.

2. The permit holders have shown sufficient cause why the proof of beneficial use was not submitted in a timely manner.

3. The permit can be reinstated with the date of priority advanced to the date proof of beneficial use was received by the Department.

ORDER

IT IS HEREBY ORDERED that Permit No. 13-7116 is reinstated.

IT IS FURTHER ORDERED that the date of priority of this permit is advanced to June 23, 1988.

IT IS FURTHER ORDERED that the extent of the water right will be determined in the license of water right ultimately issued by the department.

Dated this 19th day of December, 1988.

L. Glen Saxton

L. GLEN SAXTON, Chief
Water Allocations Bureau

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 13-7116 IN THE NAME OF KAYLE &/OR CLAUDE RICHINS	NOTICE OF HEARING

On June 23, 1988, Kayle &/or Claude Richins (permit holders) filed proof of beneficial use of water in connection with Permit No. 13-7116.

On September 19, 1988, the Department of Water Resources (department) received an objection to reinstatement of the permit from J. D. Williams on behalf of of the Roy G. Peterson Family Trust (protestant). The objection was acknowledged by the department as an objection to the issuance of a license (Re: 42-224, Idaho Code) and that after a field examination by the department, a fact finding hearing would be conducted to determine the number of acres irrigated during the authorized development period.

On December 19, 1988, the department issued an order reinstating the permit which advanced the priority of the permit to the date proof of beneficial use was received. The permit holders subsequently alleged that the department erred in the reinstatement of the permit which advanced the date of priority.

On August 29, 1989, the department conducted a field examination of the permit holders' irrigation system and the findings of the field examiner have been provided to the permit holders and to the protestant.

The department has set this matter for hearing on Friday, June 8, 1990 at 10:00 a.m. at the Franklin County Courthouse, Basement Meeting Room in Preston, Idaho.

The hearing will be held in accordance with Chapter 2, Title 43, Idaho Code, and the adopted rules of Practice and Procedure of the department. Opportunity shall be afforded to all the parties to respond and present evidence and argument on all issues involved.

Dated this 16th day of May, 1990.

L. Glen Saxton

L. GLEN SAXTON
Hearing Officer

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 13-7116 IN THE NAME OF KAYLE &/OR CLAUDE RICHINS	PROPOSED MEMORANDUM DECISION AND ORDER

This matter having come before the Director of the Idaho Department of Water Resources (department) as a result of an objection filed against the reinstatement of Permit No. 13-7116, an objection to the advancement of the date of priority of the reinstated permit and the department having held a hearing, the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On October 11, 1975, the department issued Permit No. 13-7116 (permit) to Frank L. Hart authorizing the diversion of 7.88 cfs of water from a groundwater source for the irrigation of 394 acres in parts of sections 3, 4 and 5, Twp. 14S, Rge. 38E, B.M. A condition of approval of the permit required the submittal of the proof of construction of works and application of water to beneficial use (proof) to the department on or before October 1, 1980.

2. On May 2, 1977, Frank L. Hart assigned his interest in and to the permit to Kayle G. Richins and/or Claude Richins (applicants).

3. On July 31, 1980, the department sent notice to the applicants that proof of beneficial use of the water was due on or before October 1, 1980 and advised that if the project was not complete, the applicants could submit a request for an extension of time in which to file the required proof. The notice included the following language:

> Either the beneficial use post card or a request for an extension of time must be received by the department on or before the above mentioned date, otherwise, the permit will lapse and be of no further force nor effect within 60 days. (Emphasis added).

4. On August 21, 1980, the applicants advised the department by letter that the project was only partially complete and that additional time was needed to complete the development. The applicants submitted a request for an extension of time with the letter.

5. The department approved the request for an extension of time on August 26, 1980 with the condition that the time in which to submit the proof was extended to October 1, 1985.

6. On July 31, 1985, the department sent a proof due notice by

certified mail to the applicants.

7. On October 30, 1985, the department sent a lapse notice to the applicants since neither proof nor a request for an extension of time had been submitted to the department.

8. On June 23, 1988, the applicants submitted proof of beneficial use together with supporting information to the department.

9. Section 42-218a.2., Idaho Code, provides as follows:

> A permit upon which the proof of beneficial use has not been submitted, or a request for an extension of time has not been received on or before the date set for such proof, shall lapse and be of no further force nor effect. Notice of said lapsing shall be sent by the department to the applicant at the address of record by regular mail provided:
>
> 1. That within sixty (60) days after such notice of lapsing the department may, upon a showing of reasonable cause, reinstate the permit with the priority date advanced a time equal to the number of days that said showing is subsequent to the date set for proof;
>
> 2. That upon receipt of proof of beneficial use after sixty (60) days after such notice of lapsing, the director shall require sufficient evidence to be submitted by the permit holder to clearly establish the extent of beneficial use made during the time authorized by the permit and any extensions of time previously approved. Upon finding that beneficial use had occurred during the authorized period and upon a showing of reasonable cause for filing a late proof of beneficial use, the director may reinstate the permit with the priority date advanced to the day that proof of beneficial use was received;
>
> 3. The original priority date of a lapsed permit shall not be reinstated except upon showing of error or mistake by the department.

10. On September 19, 1988, the department received an objection to reinstatement of the permit from J. D. Williams on behalf of the Roy G. Peterson Family Trust (protestant). The objection was acknowledged by the department as an objection to the issuance of a license pursuant to Section 42-224, Idaho Code. The department also advised that after a field examination by the department, a fact finding hearing would be scheduled and conducted to determine the number of acres irrigated during the authorized development period.

11. On December 19, 1988, the department issued an order reinstating Permit No. 13-7116 pursuant to the provisions of Section 42-218a.2., Idaho Code, with the priority advanced to June 23, 1988, the date the proof was received.

12. On August 29, 1989, the department conducted a field examination

of the applicants' irrigation system and the findings of the field examiner were provided to the applicants and to the protestant. The examiner's report showed that 222 acres are irrigated.

13. On February 13, 1990, the applicants requested amendment of the department's December 19, 1988 Order of Reinstatement of the permit. The request stated that the reinstatment order should show the original date of priority of the permit and alleged that the department had erred in the handling of statutory procedures associated with the permit.

14. On June 8, 1990, the department conducted a fact finding hearing in Preston, Idaho. The applicants were present and were represented by Randall C. Budge, attorney at law. The protestant was present and was represented by Steve R. Fuller, attorney at law.

15. Evidence and exhibits admitted into the record and considered in the decision include the following:

a) Applicant's Exhibit 1 - A copy of Permit No. 13-7116 issued by the department on October 11, 1975.

b) Applicant's Exhibit 2 - A copy of an application for amendment approved by the department on May 20, 1977.

c) Applicant's Exhibit 3 - A copy of an Estimate Order Sheet prepared by Aurora Pump dated January 1, 1978.

d) Applicant's Exhibit 4 - A copy of Invoice No. 0718 dated April 21, 1978 prepared by Utah Electric Motor and Pump Co.

e) Applicant's Exhibit 5 - A copy of a contract to Claude Richins dated May 3, 1978.

f) Applicant's Exhibit 6 - A copy of a department letter dated July 31, 1980 to Kayle G. Richins and/or Claude Richins. This letter is commonly referred to in the department as a "proof due notice".

g) Applicant's Exhibit 7 - A blank proof of beneficial use post card which may be used for the submittal of proof of beneficial use of water.

h) Applicant's Exhibit 8 - A copy of a department letter dated September 3, 1980 to the applicants, a copy of a request for an extension of time which was approved on August 26, 1980 and a copy of an estimate order sheet prepared by Aurora Pump dated January 17, 1978.

i) Applicant's Exhibit 9 - A copy of a letter dated August 17, 1980 signed by Kayle G. Richins.

j) Applicant's Exhibit 10 - Copies of "Report of

Acreage" showing crops grown during specific years.

k) Applicant's Exhibit 11 - Copy of a letter dated November 10, 1988 from Utah Power and Light Co. to Kayle Richins.

l) Applicant's Exhibit 12 - Copy of a letter dated November 10, 1988 from Head Manufacturing Co. to Gary Spackman.

m) Applicant's Exhibit 13 - Copy of a power invoice from Utah Power & Light Co. to Kayle Richins.

n) Protestant Exhibit A - Copy of a Quitclaim Deed dated April 23, 1987 from Florence A. Buxton to Claude R. Richins.

o) Protestant's Exhibit B - Copy of a Personal Representative's Deed dated April 30, 1987 between Stanley T. Buxton and Claude R. Richins.

16. The authorized development period for the diversion and beneficial use of water under this permit was from the date of permit approval (October 11, 1975) to the proof due date shown on the request for extension of time signed on August 26, 1980 (October 1, 1985).

17. The N1/2SW1/4 Section 4, Twp. 14S, Rge. 38E, B.M. is known as the "Buxton Place" and was not originally included as part of the proposed place of use for Permit No. 13-7116.

18. The twenty (20) acres of land located in the W1/2SE1/4NE1/4 Section 4, Twp. 14S, Rge. 38E, B.M. was not irrigated under this permit until 1986.

19. Section 42-217, Idaho Code, provides in part that:

> On or before the date set for the beneficial use of waters appropriated under the provisions of this chapter, the permit holder shall submit a statement that he has used such water for the beneficial purpose allowed by the permit. The statement shall include:
>
> 1. The name and post-office address of the permit holder.
> 2. The permit number.
> 3. A description of the extent of use.
> 4. The source of the water used.
> 5. Such other information as shall be required by the blank form furnished by the department.
>
> Such written proof as may be required to be submitted by such user shall be upon forms furnished by the department of water resources and shall include fees as provided in subsection K of section 42-221, Idaho Code, or a field examination report prepared by a certified water right examiner.

CONCLUSIONS OF LAW

1. In August 1980, the applicants submitted a request for an extension of time which was approved by the department. The applicants did not submit the proof required by Section 42-217, Idaho Code.

2. The lapsed permit could only be reinstated pursuant to the provisions of Section 42-218a.2., Idaho Code, since the proof was submitted to the department more than sixty (60) days after the notice of lapsing of the permit.

3. The original priority date of the permit should not and cannot be reinstated since the department did not make a mistake or an error in the notification that proof was due, that the permit had lapsed or in the general handling of the permit..

4. The twenty (20) acres located in the W1/2SE1/4NE1/4 Section 4, Twp. 14S, Rge. 38E, B.M. cannot be included within the authorized place of use for a license issued pursuant to permit 13-7116, since the development did not occur during the authorized development period of October 11, 1975 to October 1, 1985.

5. The land known as the Buxton Place can be included as part of the place of use of a license issued pursuant to Permit No. 13-7116, if the applicant submits an appropriate amendment to the department and the amendment is approved.

ANALYSIS

The applicants allege that in 1980, they submitted both the proof required by Section 42-217, Idaho Code, and a request for an extension of time (extension request). The applicants suggest that the conditions of approval on the extension request approved by the department in August 1980, only relate to the undeveloped portion of the permit.

The department has no evidence in its files to show or to even suggest that the required proof has been submitted. If the required proof had been submitted in addition to the request for an extension of time, the department would have accepted one or the other, but not both. The submittal of proof is the applicant's notice that the permitted development is complete or is as complete as the permit holder intends to develop it and that the permitted development is ready for the department's examination. The submittal of an extension request is the applicant's notice that the project is not complete and that more time is needed to complete the permitted development.

The Idaho statutes do not provide for the submittal of proof of beneficial use for a portion of a permit (partial proof submittal) while providing additional development time for the remainder of a permit. Such a procedure may have existed prior to 1967, when the water appropriation statutes were amended, but no longer exists.

It is highly improbable that the applicants submitted the proof required by Section 42-217, Idaho Code, as alleged, since department correspondence dated September 3, 1980 returning a copy of the approved

extension request to the applicants did not reference the dual submittal or a returned proof form.

The applicants stated that the portion of the permit developed by the applicants by 1980 has been "ignored and caught up in administrative proceedings" by the department. Such is not the case. In fact, substantial development of a permit is included in the criteria of Section 42-204, Idaho Code, which authorizes the director to approve an extension request. If partial development of a project or other reasons provided in Section 42-204, Idaho Code, to justify the granting of an extension request cannot be shown, the department is not authorized to approve the request.

The extension of time approved on August 26, 1980 was conditioned that: "... the time in which to submit the statement of beneficial use is extended to October 1, 1985".

The approval of the extension of time request does not in any manner waive or suffice for the proof submittal required by Section 42-217, Idaho Code.

Prior to amendment of Section 42-218a, Idaho Code, in 1983, there was no authority to reinstate a lapsed permit such as 13-7116. The holder of a lapsed permit prior to 1983 had only one method of developing a water right associated with a lapsed permit and that was to start the appropriation process over by filing a "new" application for permit. The date of priority associated with the lapsed permit then was the date the new application for permit was submitted to and accepted by the department.

ORDER

IT IS, THEREFORE, hereby ORDERED that the Order of Reinstatement issued December 19, 1988 in connection with lapsed Permit No. 13-7116 should not be changed and is AFFIRMED; and

IT IS FURTHER, hereby ORDERED that License NO. 13-7116 should be issued for the irrigation of the following described land:

Section 4

SW1/4NE1/4 - 40 acres
SW1/4NW1/4 - 36
SE1/4NW1/4 - 40
NE1/4SW1/4 - 10
NW1/4SW1/4 - 27

Section 5

SW1/4NE1/4 - 12
SE1/4NE1/4 - 37

Total 202 acres

All in Twp. 14S, Rge. 38E, B.M.

Dated this 23rd day of July, 1990.

L. GLEN SAXTON
Hearing Officer

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this the 23rd day of July, 1990, a true and correct copy of each, the ORDER ISSUING PROPOSED DECISION and PROPOSED MEMORANDUM DECISION AND ORDER was mailed, postage prepaid to:

Kayle and/or Claude Richins
13650 South 13th West
Riverton, UT 84065

Randall C. Budge
RACINE, OLSON, NYE, COOPER & BUDGE
P. O. Box 1391
Pocatello, ID 83204-0391

Steven Fuller
Attorney at Law
P. O. Box 191
Preston, ID 83263

RITA I. FLECK
Secretary/Records Manager

BEFORE THE DIRECTOR OF THE DEPARTMENT

OF WATER RESOURCES OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 13-7116 IN THE NAME OF KAYLE &/OR CLAUDE RICHINS	ORDER ISSUING PROPOSED MEMORANDUM DECISION

R. Keith Higginson, Director of the Department of Water Resources, having reviewed the attached proposed decision prepared by his appointee, L. GLEN SAXTON, who conducted the hearing or who has read the record in the this case, hereby approves the same as a proposed decision pursuant to Idaho Code, Sec. 67-5211.

Each party to these proceedings who appeared at the hearing is given the opportunity, pursuant to Idaho Code, Sec. 42-1701A and 67-5211, to file exceptions to the proposed decision and to present briefs and oral arguments. If no timely and proper exceptions are received, an order by the Director will be entered adopting the proposed decision as his final decision.

I.
EXCEPTIONS

A. To be considered by the Director, exceptions must:

1. be received by the Director on or before the 15th day following the day of service of this Order and the proposed decision,

2. specifically identify the portions of the proposed decision to which exceptions are made and specifically state the grounds for those exceptions, and

3. be sent to each of the parties who appeared or their attorneys.

II.
BRIEFS

A. Any briefs in support of exceptions to the proposed decision shall be filed with the Director at the same time that party's exceptions are filed with the Director.

B. All response briefs to the exceptions must be filed with the Director within 15 days after the exceptions were served upon the responding party.

III.

A. No oral arguments before the Director on the proposed decision will be held unless specifically requested by a party filing exceptions to the proposed decision and unless that request is filed with the Director concurrently with the filing of that party's exception.

B. If oral arguments have been properly requested by a party filing exceptions, any other party, upon reasonable notice to the Director, shall have the right to present oral argument in response to the exceptions filed.

C. Oral arguments before the Director on exceptions to the proposed decision shall be heard at the discretion of the Director, pursuant to Idaho Code, Sec. 42-1701A. If oral arguments are to be heard, the Director will, within a reasonable time, notify each party of the place, date and hour the oral arguments will take place and of the period of time allocated for the arguments of this case. Unless the Director orders otherwise, all oral arguments shall be heard in Boise, Idaho.

IV.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests oral arguments and other matters filed with the Director in connection with the proposed decision shall be served on all other parties to these proceedings in accordance with Rule 7.2.

V.

FINAL DECISION

Following the submission of all exceptions, briefs and oral arguments, if they are heard, the Director shall issue a final decision adopting, modifying or rejecting and replacing the proposed decision. Copies of the decision and order shall be served on all parties.

Dated this 23rd day of July, 1990.

R. KEITH HIGGINSON
Director

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 13-7116	SOURCE: Ground Water
KAYLE AND/OR CLAUDE RICHINS Permit Holders.	COUNTY: Franklin

FINAL MEMORANDUM DECISION
AND ORDER

This matter came before the Director of the Idaho Department of Water Resources (department) as a result of an objection filed against the reinstatement of Permit No. 13-7116, and an objection to the advancement of the date of priority of the reinstated permit.

On June 8, 1990, the department conducted a fact finding hearing and on July 23, 1990 issued a Proposed Memorandum Decision and Order. On August 7, 1990, the permit holders filed exceptions to the proposed decision. The Director having reviewed the exceptions and having determined that no change to the proposed decision is required or justified, hereby adopts the Proposed Memorandum Decision and Order as the Final Memorandum Decision and Order as follows:

FINDINGS OF FACT

1. On October 11, 1975, the department issued Permit No. 13-7116 (permit) to Frank L. Hart authorizing the diversion of 7.88 cfs of water from a groundwater source for the irrigation of 394 acres in parts of sections 3, 4 and 5, Twp. 14S, Rge. 38E, B.M. A condition of approval of the permit required the submittal of the proof of construction of works and application of water to beneficial use (proof) to the department on or before October 1, 1980.

2. On May 2, 1977, Frank L. Hart assigned his interest in and to the permit to Kayle G. Richins and/or Claude Richins (applicants).

3. On July 31, 1980, the department sent notice to the applicants that proof of beneficial use of the water was due on or before October 1, 1980 and advised that if the project was not complete, the applicants could submit a request for an extension of time in which to file the required proof. The notice included the following language:

> Either the beneficial use post card or a request for an extension of time must be received by the department on or

before the above mentioned date, otherwise, the permit will lapse and be of no further force nor effect within 60 days. (Emphasis added).

4. On August 21, 1980, the applicants advised the department by letter that the project was only partially complete and that additional time was needed to complete the development. The applicants submitted a request for an extension of time with the letter.

5. The department approved the request for an extension of time on August 26, 1980 with the condition that the time in which to submit the proof was extended to October 1, 1985.

6. On July 31, 1985, the department sent a proof due notice by certified mail to the applicants.

7. On October 30, 1985, the department sent a lapse notice to the applicants since neither proof nor a request for an extension of time had been submitted to the department.

8. On June 23, 1988, the applicants submitted proof of beneficial use together with supporting information to the department.

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>
> 1. That within sixty (60) days after such notice of lapsing the department may, upon a showing of reasonable cause, reinstate the permit with the priority date advanced a time equal to the number of days that said showing is subsequent to the date set for proof;
>
> 2. That upon receipt of proof of beneficial use after sixty (60) days after such notice of lapsing, the director shall require sufficient evidence to be submitted by the permit holder to clearly establish the extent of beneficial use made during the time authorized by the permit and any extensions of time previously approved. Upon finding that beneficial use had occurred during the authorized period and upon a showing of reasonable cause for filing a late proof of beneficial use, the director may reinstate the permit with the priority date advanced to the day that proof of beneficial use was received;
>
> 3. The original priority date of a lapsed permit shall not be reinstated except upon showing of error or mistake by the department.

10. On September 19, 1988, the department received an objection to reinstatement of the permit from J. D. Williams on behalf of the Roy G. Peterson Family Trust (protestant). The objection was acknowledged by the department as an objection to the issuance of a license pursuant to Section 42-224, Idaho Code. The department also advised that after a field examination by the department, a fact finding hearing would be scheduled and conducted to determine the number of acres irrigated during the authorized development period.

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15. Evidence and exhibits admitted into the record and considered in the decision include the following:

a) Applicant's Exhibit 1 - A copy of Permit No. 13-7116 issued by the department on October 11, 1975.

b) Applicant's Exhibit 2 - A copy of an application for amendment approved by the department on May 20, 1977.

c) Applicant's Exhibit 3 - A copy of an Estimate Order Sheet prepared by Aurora Pump dated January 1, 1978.

d) Applicant's Exhibit 4 - A copy of Invoice No. 0718 dated April 21, 1978 prepared by Utah Electric Motor and Pump Co.

e) Applicant's Exhibit 5 - A copy of a contract to Claude Richins dated May 3, 1978.

f) Applicant's Exhibit 6 - A copy of a department letter dated July 31, 1980 to Kayle G. Richins and/or Claude Richins. This letter is commonly referred to in the department as a "proof due notice".

g) Applicant's Exhibit 7 - A blank proof of beneficial use post card which may be used for the submittal of

proof of beneficial use of water.

h) Applicant's Exhibit 8 - A copy of a department letter dated September 3, 1980 to the applicants, a copy of a request for an extension of time which was approved on August 26, 1980 and a copy of an estimate order sheet prepared by Aurora Pump dated January 17, 1978.

i) Applicant's Exhibit 9 - A copy of a letter dated August 17, 1980 signed by Kayle G. Richins.

j) Applicant's Exhibit 10 - Copies of "Report of Acreage" showing crops grown during specific years.

k) Applicant's Exhibit 11 - Copy of a letter dated November 10, 1988 from Utah Power and Light Co. to Kayle Richins.

l) Applicant's Exhibit 12 - Copy of a letter dated November 10, 1988 from Head Manufacturing Co. to Gary Spackman.

m) Applicant's Exhibit 13 - Copy of a power invoice from Utah Power & Light Co. to Kayle Richins.

n) Protestant Exhibit A - Copy of a Quitclaim Deed dated April 23, 1987 from Florence A. Buxton to Claude R. Richins.

o) Protestant's Exhibit B - Copy of a Personal Representative's Deed dated April 30, 1987 between Stanley T. Buxton and Claude R. Richins.

16. The authorized development period for the diversion and beneficial use of water under this permit was from the date of permit approval (October 11, 1975) to the proof due date shown on the request for extension of time signed on August 26, 1980 (October 1, 1985).

17. The N1/2SW1/4 Section 4, Twp. 14S, Rge. 38E, B.M. is known as the "Buxton Place" and was not originally included as part of the proposed place of use for Permit No. 13-7116.

18. The twenty (20) acres of land located in the W1/2SE1/4NE1/4 Section 4, Twp. 14S, Rge. 38E, B.M. was not irrigated under this permit until 1986.

19. Section 42-217, Idaho Code, as amended in 1979, which was applicable when proof was due on October 1, 1985 provided in part that:

> On or before the date set for the beneficial use of waters appropriated under the provisions of this chapter, the permit holder shall submit a statement that he has used such water for the beneficial purpose allowed by the permit. The

statement shall include:

1. The name and post-office address of the permit holder.
2. The permit number.
3. A description of the extent of the use.
4. The source of the water used.
5. Such other information as shall be required by the blank form furnished by the department.

Such written proof as may be required to be submitted by such user shall be upon forms furnished by the department of water resources.

CONCLUSIONS OF LAW

1. In August 1980, the applicants submitted a request for an extension of time which was approved by the department. The applicants did not submit the proof required by Section 42-217, Idaho Code.

2. The lapsed permit could only be reinstated pursuant to the provisions of Section 42-218a.2., Idaho Code, since the proof was submitted to the department more than sixty (60) days after the notice of lapsing of the permit.

3. The original priority date of the permit should not and cannot be reinstated since the department did not make a mistake or an error in the notification that proof was due, that the permit had lapsed or in the general handling of the permit.

4. The twenty (20) acres located in the W1/2SE1/4NE1/4 Section 4, Twp. 14S, Rge. 38E, B.M. cannot be included within the authorized place of use for a license issued pursuant to permit 13-7116, since the development did not occur during the authorized development period of October 11, 1975 to October 1, 1985.

5. The land known as the Buxton Place can be included as part of the place of use of a license issued pursuant to Permit No. 13-7116, if the applicant submits an appropriate amendment to the department and the amendment is approved.

ANALYSIS

The applicants allege that in 1980, they submitted both the proof required by Section 42-217, Idaho Code, and a request for an extension of time (extension request). The applicants suggest that the conditions of approval on the extension request approved by the department in August 1980, only relate to the undeveloped portion of the permit.

The department has no evidence in its files to show or to even suggest that the required proof has been submitted. If the required proof had been submitted in addition to the request for an extension of time, the department would have accepted one or the other, but not both. The submittal of proof is the applicant's notice that the permitted development is complete or is as complete as the permit holder intends to develop it and that the permitted development is ready for the department's examination. The submittal of an

extension request is the applicant's notice that the project is not complete and that more time is needed to complete the permitted development.

The Idaho statutes do not provide for the submittal of proof of beneficial use for a portion of a permit (partial proof submittal) while providing additional development time for the remainder of a permit. Such a procedure may have existed prior to 1967, when the water appropriation statutes were amended, but no longer exists.

It is highly improbable that the applicants submitted the proof required by Section 42-217, Idaho Code, as alleged, since department correspondence dated September 3, 1980 returning a copy of the approved extension request to the applicants did not reference the dual submittal or a returned proof form.

The applicants stated that the portion of the permit developed by the applicants by 1980 has been "ignored and caught up in administrative proceedings" by the department. Such is not the case. In fact, substantial development of a permit is included in the criteria of Section 42-204, Idaho Code, which authorizes the director to approve an extension request. If partial development of a project or other reasons provided in Section 42-204, Idaho Code, to justify the granting of an extension request cannot be shown, the department is not authorized to approve the request.

The extension of time approved on August 26, 1980 was conditioned that: "... the time in which to submit the statement of beneficial use is extended to October 1, 1985".

The approval of the extension of time request does not in any manner waive or suffice for the proof submittal required by Section 42-217, Idaho Code.

Prior to amendment of Section 42-218a, Idaho Code, in 1983, there was no authority to reinstate a lapsed permit such as 13-7116. The holder of a lapsed permit prior to 1983 had only one method of developing a water right associated with a lapsed permit and that was to start the appropriation process over by filing a "new" application for permit. The date of priority associated with the lapsed permit then was the date the new application for permit was submitted to and accepted by the department.

ORDER

IT IS, THEREFORE, hereby ORDERED that the Order of Reinstatement issued December 19, 1988 in connection with lapsed Permit No. 13-7116 should not be changed and is AFFIRMED; and

IT IS FURTHER, hereby ORDERED that License NO. 13-7116 should be issued for the irrigation of the following described land:

Section 4

SW1/4NE1/4 - 40 acres
SW1/4NW1/4 - 36
SE1/4NW1/4 - 40

Section 4 (cont'd)

NE1/4SW1/4 - 10
NW1/4SW1/4 - 27

Section 5

SW1/4NE1/4 - 12
SE1/4NE1/4 - 37

Total 202 acres

All in Twp. 14S, Rge. 38E, B.M.

Dated this 29TH day of August, 1990.

R. KEITH HIGGINSON
Director

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this the 4th day of September, 1990, a true and correct copy of each, the FINAL MEMORANDUM DECISION AND ORDER was mailed, postage prepaid to:

Kayle and/or Claude Richins
13650 South 13th West
Riverton, UT 84065

Randall C. Budge
RACINE, OLSON, NYE, COOPER & BUDGE
P. O. Box 1391
Pocatello, ID 83204-0391

Steven Fuller
Attorney at Law
P. O. Box 191
Preston, ID 83263

RITA I. FLECK
Secretary/Records Manager

LAW OFFICES
J.D. WILLIAMS
ATTORNEY AND COUNSELOR AT LAW
24 NORTH STATE • P.O. BOX 191 • PRESTON, IDAHO 83263

J. D. WILLIAMS *
STEVEN R. FULLER **

* ALSO, MEMBER OF DISTRICT OF COLUMBIA BAR
** ALSO, MEMBER OF UTAH BAR

TELEPHONE
(208) 852-2680

June 6, 1988

Idaho Department of Water Resources
150 Shoup Avenue
Idaho Falls, ID 83401

Re: Protest to Permit No. 13-7116 Held to the Name of Frank L. Hart, Kayle Richins and/or Claude Richins

Dear Sirs:

Our law firm represents the Roy G. Peterson Family Trust which owns property near Clifton in Franklin County, Idaho. They own water rights to the Dudley Canal located on their property which is the prime source of their irrigation water. Their water rights in this spring are being interfered with by the well was dug persuant to Permit No. 13-7116.

The Peterson's have informed me that whenever the said well is being operated, that it has a severe impact on the Dudley Spring and drys it up and leaves them without irrigation water. In reviewing a copy of Permit No. 13-7116, it appears to me that this permit lapsed after October 1, 1985, because no license was issued prior to that time. Accordingly, please accept this as a protest to the issuance of any license based on this permit because of its interference with the Peterson's prior rights.

Yours very truly,

J.D. Williams
Attorney at Law

JDW/ew

cc: Mr. Roy Peterson

RECEIVED
JUN 20 1988
Department of Water Resources

RECEIVED
JUN 8 1988
Department of Water Resources
Eastern District Office

June 13, 1988

Kayle Richins
13650 S. 13th W.
Riverton UT 84065

RE: LAPSED PERMIT 13-7116

Dear Mr. Richins:

As a follow-up to our telephone conversation on June 9, 1988 in connection with the above referenced matter, I am forwarding a "Proof of Beneficial Use" form which needs to be completed and returned to the department together with the appropriate license examination fee.

To review our conversation, on August 21, 1980, you submitted to the department a request for extension of time in which to submit the required proof of beneficial use. On the extension request you stated you had drilled one well but that more time was needed to complete the remainder of the project. In addition, in 1980, you submitted what appears to be a pump installation cost estimate sheet from Aurora Pump Company. Correspondence in the file states that the pump produced 1350 gallons per minute.

On July 31, 1985, the department sent notice to you by certified mail that proof of beneficial use was due on or before October 1, 1985. On October 30, 1985, the department sent you a lapse notice, since neither proof of beneficial use of the water nor a request for an extension of time was submitted to the department. Sixty days subsequent to the mailing of the lapse notice, the permit became of no force nor effect as provided in Section 42-218a., Idaho Code.

Provisions of Section 42-218a., Idaho Code, provide for the late reinstatement of a permit. In order to have the permit reinstated under these provisions, however, you need to submit the following information:

a) A completed Proof of Beneficial Use form together with the required examination fee. The fee is $150 if the rate of diversion on which you are submitting proof is 1350 gallons per minute as described in your 1980 correspondence. For different rates the fee is also different.

b) Evidence to clearly show to what extent the water from the well was diverted and beneficially used between June 1975 and October 1, 1985. This evidence can be in several forms including information from the SCS or ASCS or affidavits from parties familiar with the use of water on the property. The information from Aurora Pump Co which is already in our file does not clearly provide this evidence.

c) Reasonable cause why the proof of beneficial use was not submitted on or before October 1, 1985.

Upon receipt, review and determination of suitability of this information, the Director of the department is authorized under the provisions of Section 42-218a.2., Idaho Code, to reinstate the lapsed permit. The priority of such a reinstated permit will be advanced to the date that the proof of beneficial use is received.

Please feel free to contact the department if you have questions. Also note that the department has offices in Twin Falls and Idaho Falls which are available to assist in the filing of the proof or to answer questions.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

Enclosures

c: S. Region

LAW OFFICES
J.D. WILLIAMS
ATTORNEY AND COUNSELOR AT LAW
24 NORTH STATE • P.O. BOX 191 • PRESTON, IDAHO 83263

J. D. WILLIAMS •
STEVEN R. FULLER ••

• ALSO, MEMBER OF DISTRICT OF COLUMBIA BAR
•• ALSO, MEMBER OF UTAH BAR

TELEPHONE
(208) 852-2660

June 6, 1988

Mr. Robert C. Richins
Clifton, Idaho 83228

Dear Mr. Richins:

Our law firm represents the Roy G. Peterson Family Trust which has the priority water rights in the Dudley Spring located on their property near Clifton, Idaho. The Petersons have indicated to me that whenever you are operating a well which was drilled based upon Idaho Permit No. 13-7116 that it severely impacts upon their spring and drys it up leaving them without adequate irrigation water.

In reviewing the records furnished by the Department of Water Resources to the Petersons I note that this permit lapsed on October 1, 1985, because beneficial use was not proved to the Department by that date. Accordingly, demand is hereby made for you and anyone working under you or for Kayle G. Richins or Claude Richins to cease using your well at such time as it interferes with the Peterson's water rights in Dudley Spring.

If you have not agreed to do this by Monday, June 13, 1988, we will file a petition in the District in Franklin County for a restraining order to prevent you from interfering with the Peterson's rights. We are willing to sit down and discuss this matter with you and anyone else to see if this cannot be resolved to the benefit of everyone involved, but rest assured that if arrangements are not made to shut off your wells so that the Petersons can irrigate their property when needed, that we will have no alternative but to seek a Court Order to obtain this relief. Either the Petersons or myself will be happy to discuss this matter with you in order to avoid having to file this court action.

Yours very truly,

J. D. WILLIAMS
Attorney at Law

JDW/ew

cc: Roy Peterson
Kayle G. Richins
Claude Richins

RECEIVED
JUN 23 1988
Department of Water Resources

June 18, 1988

Dear Sir

As we have been informed by a letter of protestfrom Mr Roy Peterson's lawyer that our well permit is no longer valid and Mr Peterson wants te shut our well down I am writing this letter in hopes of correcting this serious problem.

We were not aware that an extension of the well permit was necessary from 1985 on until we received this letter - a copy of which is enclosed.

To our knowledge no notification or information of expiration was ever received by either Claude Robbie Richins, Claude Richins or myself, we have gone to a tremendous expense on this well and surely would never even consider letting the permit lapse.

Your department has always been very accommodating and so obliging with us and we cant understand why there is a foul up on the permit by anyone, and we surely would not have overlooked such an inportant matter.

We would still like to extend the permit that we had on the finished well and also hope to carry on further with this project.

Now we need ~~another~~ A LICENSE AND A permit on our finished well and also an extension to finish the other 3 acre ft. of water left on permit # 13-7116. As soon as we have the financing and permit we would like to be ~~xxx~~ able to finish this project.

We really hope this permit foul up can be resolved and do appreciate your help.

Thank you.

Kayle G. Richins

INQUIRY FORMAT ORDERS EMP# 09716 61000000
METER # M025P32150 REV 04 RATE 039 0643791 047908650 000 2 VODIS N
LAST READ 03JUN88 4218 DIALS 5 00000 CLIFI
PREV READ 03AUG87 3807 PHASE 3 RICHINS KAYLE 254-4503
CON 80.0000 UNTS 1 LOC PL DBA 160 HP PUMP BSC ACT
KON 80.0000 SCL 9.6000MRI CON 23MAY88
ML1 13650 S 1300 W DIS
ML2 RIVERTON UT 84065 E-P 6700
SPOUSE YVONNE BUY
BILLS 1
CR-CODE 1

DATE	RDCD	KW	KWH	DAY	KWHDAY	ID	CODE	AMOUNT	BALANCE
08JUN88	08JU	001	438007460	TRNF	BIL FRM	BFRM	TRNF	13.48	0.00
08JUN88	08JU	001	438007460	TRNF	BIL FRM	BFRM	TRNF	819.31-	13.48-
03JUN88	08JU	111	16400	11	1491	2150	METR	819.31	805.83
03JUN88	08JU	0	0	11	0	2150	RRC	13.48-	13.48-
09MAY88	09MY	0	0	0	0	2150	METR	0.00	0.00
06MAY88	06MY	001	438007460	TRNF	BIL FRM	BFRM	TRNF	49.29	0.00

16JUN88 0944

INQUIRY FORMAT ORDERS EMP# 09716 61000000
0643791 047908650 000 2 VODIS N
00000 CLIFI
RICHINS KAYLE

DATE	RDCD	KW	KWH	DAY	KWHDAY	ID	CODE	AMOUNT	BALANCE
04MAY88	06MY	90	99				PYMT	49.29-	49.29-
08APR88	08AP	0	0	0	0	2150	METR	0.00	0.00
08MAR88	08MA	0	0	0	0	2150	METR	0.00	0.00
05FEB88	05FE	0	0	0	0	2150	METR	0.00	0.00
07JAN88	07JA	0	0	0	0	2150	METR	0.00	0.00
07DEC87	07DE	0	0	0	0	2150	METR	0.00	0.00
04NOV87	04NO	0	0	0	0	2150	METR	0.00	0.00
06OCT87	06OC	0	0	0	0	2150	METR	0.00	0.00
04SEP87	04SE	0	0	0	0	2150	METR	0.00	0.00
03SEP87	03SE	001	438007460	TRNF	BIL FRM	BFRM	TRNF	1289.77-	0.00
03SEP87	03SE	001	438007460	TRNF	BIL FRM	BFRM	TRNF	63.12	1289.77
28AUG87	03SE	0	0	25	0	2150	DRC	63.12-	1226.65
28AUG87	03SE	112	16480	25	659	2150	DDM	1289.77	1289.77
06AUG87	06AU	001	438007460	TRNF	BIL FRM	BFRM	TRNF	6.05	0.00
06AUG87	06AU	001	438007460	TRNF	BIL FRM	BFRM	TRNF	1366.26-	6.05-
03AUG87	06AU	111	15600	33	473	2150	METR	1366.26	1360.21
03AUG87	06AU	0	0	33	0	2150	RRC	6.05-	6.05-

16JUN88 0944

INQUIRY FORMAT ORDERS EMP# 09716 61000000
0643791 047908650 000 2 VODIS N
00000 CLIFI
RICHINS KAYLE

DATE		RDCD	KW	KWH	DAY	KWHDAY	ID	CODE	AMOUNT	BALANCE
07JUL87	07JL		001	438007460	TRNF	BIL FRM	BFRM	TRNF	1196.02-	0.00
01JUL87	07JL	RV	108	13840	29	477	2150	METR	1196.02	1196.02
05JUN87	05JU		001	438007460	TRNF	BIL FRM	BFRM	TRNF	146.88-	0.00
02JUN87	05JU	RV	0	0	32	0	2150	METR	146.88	146.88
06MAY87	06MY		001	438007460	TRNF	BIL FRM	BFRM	TRNF	728.17-	0.00
01MAY87	06MY		109	15440	9	1716	2150	METR	728.17	728.17
07APR87	07AP		0	0	0	0	2150	METR	0.00	0.00
07APR87	07AP		001	438007460	SUMMARY	RELATION		TRNF	0.00	0.00
07APR87	07AP		001	438007460	TRANFER	FROM	FROM	TRNF	31.10	0.00
09MAR87	09MA		0	0	0	0	2150	METR	0.00	31.10-
27FEB87	27FE		90	99				FYMT	31.10-	31.10-
05FEB87	05FE		0	0	0	0	2150	METR	0.00	0.00
07JAN87	07JA		0	0	0	0	2150	METR	0.00	0.00
05DEC86	05DE		0	0	0	0	2150	METR	0.00	0.00
04NOV86	04NO		0	0	0	0	2150	METR	0.00	0.00
060CT86	060C		0	0	0	0	2150	METR	0.00	0.00
23SEP86	23SE		55	91				FYMT	587.22-	0.00

16JUN88 0944

INQUIRY FORMAT ORDERS EMP# 09716 61000000
0643791 047908650 000 2 VODIS N
00000 CLIFI
RICHINS KAYLE

DATE		RDCD	KW	KWH	DAY	KWHDAY	ID	CODE	AMOUNT	BALANCE
05SEP86	05SE		0	0	0	0	2150	METR	0.00	587.22
04SEP86	05SE		0	0	0	0	00000	RIN	5.81	587.22
29AUG86	29AU		0	10640	28	380	2150	DNW	333.48-	581.41
29AUG86	29AU		76	10640	28	380	2150	DDM	914.89	914.89
21AUG86	21AU		13	90				PYMT	668.21-	0.00
01AUG86	06AU		80	13760	31	444	2150	METR	1099.48	668.21
01AUG86	06AU		0	13760	31	444	2150	RNW	431.27-	431.27-
28JUL86	28JL		52	92				PYMT	217.55-	0.00
01JUL86	07JL	RV	80	10800	7	1543	2150	METR	584.98	217.55
01JUL86	07JL	RV	0	10800	7	1543	2150	RNW	337.09-	367.43-
05JUN86	05JU		0	0	0	0	2150	METR	0.00	30.34-
14MAR86	14MA		90	0				PYMT	30.34-	30.34-
12SEP85	12SE		6	91				PYMT	1009.85-	0.00
22AUG85	22AU		1	91				PYMT	756.06-	1009.85
26JUL85	26JL		57	92				PYMT	420.33-	1765.91
25MAR85	25MA		10	51				PYMT	28.13-	2186.24
18SEP84	18SE		55	92				PYMT	404.38-	2214.37

16JUN88 0944

INQUIRY FORMAT ORDERS EMP# 09716 61000000
0643791 047908650 000 2 VODIS N
00000 CLIFI
RICHINS KAYLE

DATE		RDCD	KW	KWH	DAY	KWHDAY	ID	CODE	AMOUNT	BALANCE
14AUG84	14AU		5	91				PYMT	457.75-	2618.75

utah power & LIGHT COMPANY
P.O. Box 432
Preston, Idaho 83263

June 16, 1988

Mr. Kayle Richins
13650 S 1300 W
Riverton, UT 84065

Dear Mr. Richins:

Attached are printouts and documents that show you have connected and used your irrigation pump since June, 1984. That is as far back as our records are readily available. Should you have any additional questions or if we can help you, please call on us.

Sincerely,

Peggie Dahle
Customer Accounting

PD

IRRIGATION CONNECT DOCUMENT

NAME: Kayle Richins ADDRESS: Clifton ACCT NO.: 0479-08650.0

YEAR	1984	1985	1986	1987	1988	1989
Date Wanted	6-27	6-14	6-24	4-22	5-23	
Date Connected	6-27	6-14	6-24	4-25	5-23	
KWH Reading	2180	02133	02806	03246	04014	
Demand Reading	0.00	0.00	0.00	0.00	0.00	
Requested by		KR	KR	KR	K.R	
Order received by		PD.	PD.	PD.	P.	
Date Wanted	8-29	8-29	8-29	8-28		
Date disconnected	9-4	8-30	9-2	9-2		
KWH Reading	02133	02806	03246	04014		
Demand Reading	0.00	0.00	0.00	0.00		
Requested by			KR	KR		
Order received by		PD				
Meter No. M025P32150						
Telephone No.	457-5761 58					
Shut off day & Radio Rdg C	07 57 61 58					
Size of pump 160hp						
Acres & how watered 100						
Direction & other info						

PROPOSAL

UTAH Electric Motor & Pump Co.

ENGINEERING SALES INSTALLATION SERVICE

Phone 486-7506 1839 South 8th West Salt Lake City, Utah 84104

0718

Proposal Submitted To:

Date Apr 21 1978

Company	Address	
Name	Job	Phone

We hereby submit specifications and costs on the following proposals:

Pumps Pump Panels Motors Motor Controls Switch Gears Motor Rewinding Pump Rebuilding Field Service	(1) Johnston Turbine @ 1350 GPM @ 50 PSI @ 460 Volt-Setting @ 180' Including Bowl/screen - w/ 5 Stages / Auto Oiler / PANEL w/ Ø Failure Relay Wired in ($470.00) @ N/c w/ 10" Col + 8" Head Disch - 100 HP VHS (1) Peerless Split Case Size 6" w/ 50 HP (60 Hp Capacity) Mtd + w/ PANEL Both units Installed and set on Customer pad — Quote $16,070.00 Net Installation Agreement; Includes the Above settings as pre-scribed, and Hookups Motors To panels set on Cement (6'-12' From Motors) and panel Interlocks, w/ Heaters + Fuses - Note: Cement pad, etc, panel to pole wiring, Meter Base, Meter etc @ Power Co. Discression and @ parts/Labor Xtra - Also ALL Piping, Gaskets, Valves etc To & From pump Discharge Flanges @ Customer Discression + Xtra @	Incl Into Split Connection From Motors) $ 45.00 / Hr

The cost of this proposal, in keeping with above specifications is

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs, will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

TITLE AND LIEN RIGHTS The Equipment shall remain personal property, regardless of how affixed to any realty or structure. Until the price (including any notes given therefor) of the equipment has been fully paid in cash, the company shall, in the event of customer's default, have the right to repossess such equipment.

TERMS If not otherwise specified in the quotation, the terms of payment shall be balance net within 30 days after date of invoice.

SHIPPING TERMS FOB Factory

SHIPPING WEIGHTS 10 Tons est

APPROX. DELIVERY DATE Will Install Immed. Following DMAD Turbine, + Tooele City Submersible

Authorized Signature W Ernest Johnson

NOTE: This proposal may be withdrawn by us if not accepted within 30 days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____

Date _____ Signature _____

For further verification of our well on permit # 13-7116 the owner of Pitcher Irrigation Mr. Marcell Pitcher would be glad to give any verification of production of the well and also how long it has been used.

Mr Marcell Pitcher 582-2802

Pitcher irrigation Co. 582-3300 Preston Idaho

IDAHO PHONE (208) 852-2000 AND UTAH (801) 258-2277 PRESTON, IDAHO 83263 FOD-635-0790

DATE	FILE NO.	SOLD BY	ORDER NO.	INSTRUCTIONS	NUMBER
4-3-78	Ted				01477

SOLD TO Claud Richins

ITEM	QUANTITY	PART NO.	DESCRIPTION	UNIT PRICE	AMOUNT
1	600		FT 6" 100 # PVC	1.02	612 00
2	1,320		FT 8" 100 #	1 80	2,376 00
3	1,620		FT 10" 100 #	2 81	4,552 20
4	10		6" Riser Unit	38 00	380 00
5	22		8" " "	45 00	990 00
6	22		10" " "	50 00	1,100 00
7					
8					
9	1100		FT 6" 160 # PVC	1 91	2,101 00
10	1100		FT 4" 100 # PVC	55	605 00
11	18		6" 160 # Riser Unit	40 00	720 00
12	18		4" " " "	32 00	576 00
13					
14	5,740		FT Installation	60	3,444 00
15	1		Highway Bank	1,000 00	1,000 00
16			fittings + Valves Estimate	800 00	800 00
17					$ 19,256.20
18					
19			Cash Discount 6% on pipe = 4%		614 78
20					
21					$ 18,641.42
22					
23					
24					
25					
26					
27					
28				TAX	
			SEE REVERSE SIDE FOR TERMS & CONDITIONS	TOTAL	

R57222

CUSTOMER COPY

The upper portion of this rep t is the engineers report, the lower part is their bid on the well.

This is the only report we received and a copy was also sent to Dept. of Water Resources.

Utah Electric put the pumps ~~&~~ and controls in. Pitcher Irrigation put the main lines and 8 quarter mile 4 inch lines 4 wheel quater mile long and 4 inch quater mile hand moves in.

These lines have been in use since the 6th month of 1978.

RECEIVED
JUN 23 1988
Department of Water Resources

AURORA PUMP
A SUBSIDIARY OF THE AURORA PUMP
UNIT OF GENERAL SIGNAL
(750 Kimberly Rd., P.O. Box 892, Twin Falls, ID 83301)

DEEP WELL TURBINE PUMP

460/480 Volt

ESTIMATE ORDER **SHEET**

1 DES 733X22

SOLD TO: Claude Richins — DATE: 1-17-78

ADDRESS: — P.O. NO.

SHIP TO: — QUOTATION NO.

ADDRESS: — BID DATE

SHIP VIA: — COLLECT PREPAID — NO. OF PUMPS

CUSTOMER JOB NO. — LOCATION — ITEM NO.

Well Diameter (Inside) 16 Inches	Type -		No. Stages		RPM	
Well Depth 250 Feet	Impeller				Curve No.	
Static Water Level 38 Feet	K. Value		Total Thrust			Lbs.
Drawdown 136 Feet	GPM	HEAD	% EFF.	BHP		
Pumping Level 174 Feet	1350	192	83	79		Laboratory
Dsch. Pressure (- G - psig) Feet	1350	16		3		Losses
Total Pumping Head 174 Feet	1350	174		82		Field
Pump Capacity 1350 GPM	Motor Eff.	% (full load)	% (¾ load)	% (½ load)		Overall Eff. %

	DESCRIPTION	PRICING SCHEDULE			Approx. Wgt.
1	MOTOR: Make 75 HP 1800 RPM 460 Volts				
	3 Phase 60 Cycle Type Frame No.			1,955.00	
	Special Features: N R R				
2	HEAD SIZE: 17 AC-8				
	Suction Flanges 8				
	Surface Dschg. (Below Ground Dschg. " Base to ℄ Dschg.)				
3	DISCHARGE PIPE: 5 Ft. of 8 " Std. Pipe				
4	COLUMN: Ft. 8 " Std. Pipe x 2½ " Tube x 1½ " Shaft, per Ft. $				
5	BOWLS: Size 12 Type RH No. Stages 3				
6	SUCTION PIPE: 8 Ft. of cone " Std. Pipe			6,008.00	
7	STRAINER: Size " Type Matl.				
8	AIR LINE: Ft. of " (Galv.) (Copper) $ Ft.				
9	ALTITUDE GAUGE & FITTINGS: Hand Pump				
10	STARTING EQUIPMENT				
11					
12	75 HP 460 Volt size #4 pumping plant panel w/				
13	time delay relay and lightning protection			800.00	
14					
15	ACCESSORIES, SPECIAL CONSTRUCTION, VARIATIONS:				
16					
17					
18					
19					
20	ACCESSORIES, SPECIAL CONSTRUCTION, VARIATIONS:				
21					
22					
23					
24					
25					
26					
27					
28	TOTALS			8,763.00	
	INSTALLATION SERVICE			800.00	
	WIRING customer to furnish				
	NET TOTAL EACH				
	one NET TOTAL - UNITS			9,563.00	

REMARKS: Mr. Richins, I would be glad to meet with you any time to discuss pumps.

Form LB-S8 — QUOTED BY: Bail Staley

Form 217
03/86

RECEIVED
JUN 23 1988

For Office Use Only
Fee Received $175.00
Date 6/23/88
Receipt # C00156
Receipt by CP
Reviewed by _____
Sent to region _____

STATE OF IDAHO
Department of Water Resources
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 13-7116

Name(s) of Permit Holder: Kayle G and Claude L. Richins

Post Office Address: 13650 South 1300 West Riverton, Utah 84065

Telephone No. 801 254-4503

Source of Water: Well

Extent of Use:

Domestic _____ (number of households) Stockwater _____ (number and type of stock)

Irrigation 350 (acres) Other/Remark _____

Total rate and/or volume for which proof is submitted 1360 ft per min. cfs between 3 & 4 acre-feet

Show the date water was first diverted and beneficially used under this permit: 1-17-78

Measuring Device: Required? x Yes ___ No
Installed? x Yes ___ No

Fee enclosed $ 175.00
(See License Examination Fee Schedule)

Flow Measurement Port: Required? x Yes ___ No
Installed? x Yes ___ No

Person to contact to accompany the Department representative during the field examination:

Robbie Claude Richins — 1 208 747-3539
(Name) (Telephone Number)

Box 7579 North Westside Highway Clifton, Idaho 83228
(Address)

The above information is my true statement of the extent to which the above numbered permit has been developed. ~~And I hereby agree that any undeveloped portion of the permit to the state of Idaho~~

June 18 1988 — Kayle G Richins Claude L Richins
Date — Signature of Permit Holder (and title, if appropriate)

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVENOR
R. KEITH HIGGINSON
DIRECTOR

June 27, 1988

Kayle Richins
13650 S. 13th W.
Riverton, UT 84065

RE: Lapsed Permit 13-7116

Dear Mr. Richins:

The department has received the late proof and supporting information which you submitted in connection with the above referenced lapsed permit.

Initial review of the information submitted indicates that documentation is needed which shows the location of the land actually irrigated prior to August 1, 1985.

The SCS or ASCS may have aerial photos taken in 1985 or before which show lands were irrigated as of a certain time. Copies of this information is likely available for a nominal fee. The Department will not be able to reinstate your permit unless this additional information is provided.

Further, in response to your letter of June 18, 1988, I have enclosed a copy of the Proof Due Notice and the Lapse Notice sent in 1985. Since the permit has already lapsed there is no way available to have an another Extension of Time approved extending the time in which to submit Proof to Beneficial Use.

If the permit is reinstated, the subsequent license will be issued reflecting the extent of development that occured prior to October 1, 1985. If you plan further development or if you have irrigated additional land after October 1, 1985, you need to apply for a new permit.

Please submit the information requested above at your earliest convenience. Feel free to contact this office if you have questions.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

cc: Eastern Region

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVENOR
R. KEITH HIGGINSON
DIRECTOR

June 28, 1988

J.D. Williams
24 North State
P.O. Box 191
Preston, ID 83263

RE: Lapsed Permit 13-7116 -
Kayle G. Richins &/or Claude Richins

Dear Mr. Williams:

In response to your June 6, 1988 letter in connection with the above referenced matter, I have reviewed file 13-7116. The permit lapsed for failure to submit proof of beneficial use of the water.

Mr. Richins called the Department a couple of weeks ago in connection with the lapsed permit. The Department advised him that amendments enacted in 1983 to Section 42-218a, Idaho Code, provides for the reinstatement of a lapsed permit upon a certain showing. The priority of a permit reinstated under the provisions of paragraph 2. of the section is advanced to the date the proof of beneficial use is submitted. In this case, the priority likely would be 1988 if reinstatement is approved.

On June 23, 1988, Mr. Richins submitted a late proof and other information required in connection with late reinstatement. The information will be reviewed for adequacy by Department staff.

I'm not sure under what provisions of water law the Department can consider your letter as a protest against reinstatement of the permit. Provisions of Section 42-224, Idaho Code, however, may be applicable in this case for filing a protest against the issuance of a license if sufficient evidence is submitted by Mr. Richins to have the permit reinstated.

The Department will endeavor to advise you of any action taken in connection with reinstatement of the permit.

Please feel free to contact the Department if you have questions.

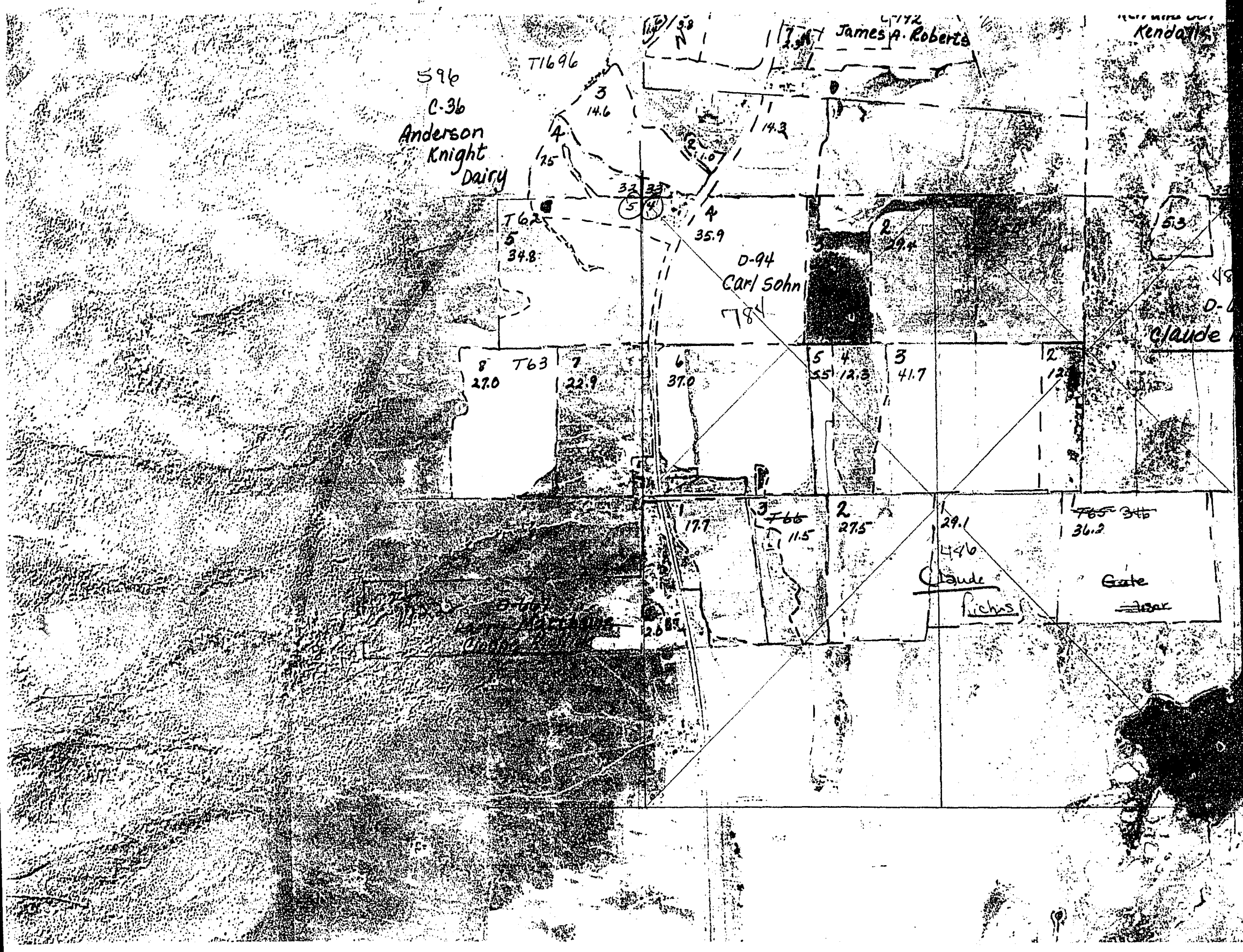
Sincerely,

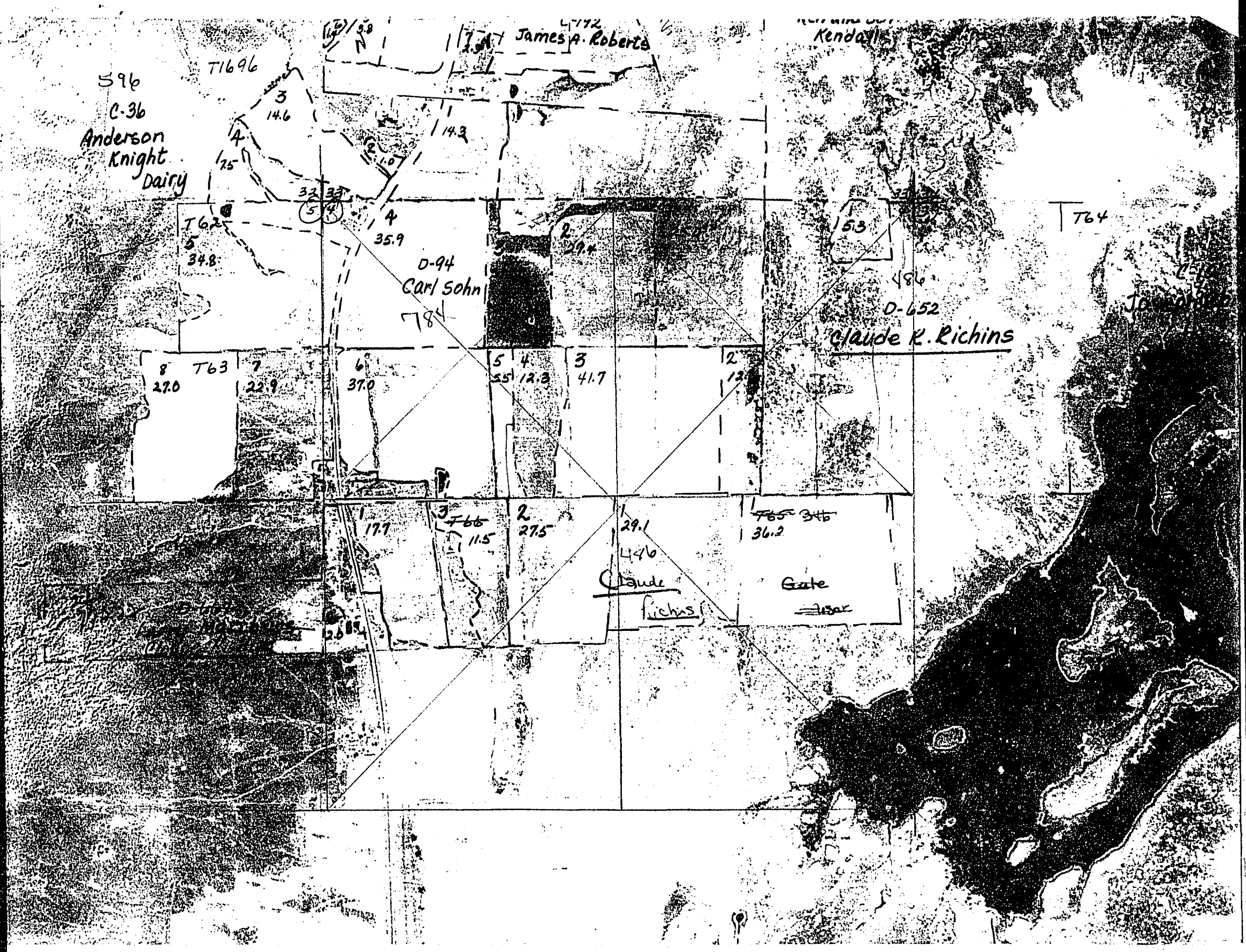
L. Glen Saxton

L. GLEN SAXTON, Chief
Operations Bureau

LGS:ldt(GP11-1.54)

CC: IDWR - Eastern Region


596
C-36
Anderson
Knight
Dairy
T1696
3
14.6
4
25
32
33
5
4
T62
5
34.8
4
35.9
1.0
14.3
James A. Roberts
T72
Kendall
2
29.4
5.3
D-94
Carl Sohn
T84
Claude
8
T63
7
22.9
6
37.0
5
55
4
12.3
3
41.7
2
12
17.7
3
T66
11.5
2
27.5
29.1
T65
36.2
446
Claude
Fuchs
Gate
2.6


T1696
596
C-36
Anderson
Knight
Dairy
James A. Roberts
Kendalls
T62
T63
T64
D-94
Carl Sohn
784
D-652
Claude K. Richins
486
446
Claude
Richins
Gate
3
14.6
4
35.9
5
34.8
8
27.0
7
22.9
6
37.0
5
12.8
4
41.7
3
29.4
2
27.5
1
17.7
29.1
36.2
11.5
14.3
1.0
2.8
7.3
6.3

LANDS	WITHIN YELLOW OUTLINE SHOWING ACRES.
1	5.3
2	12.6
3	41.7
4	12.3
5	5.5
6	37.0
7	22.9
8	27.0
9	17.7
10	2.0
11	11.5
12	27.5
13	29.1
14	36.2
	288.3

RECEIVED
JUL 11 1988
Department of Water Resources

July 7, 1988

Dear Mr. Johnson

In regards to your letter of June 27, 1988 Re: Lapsed permit 13-7116 herewith is the aerial map of the Richins Ranch which the ASCS said has not changed ~~in~~ in 8 years, if this needs verification you can contact Saundra at the ASCS in Preston, Itaho phone # 1 208-852-0482.

I appreciate your help and if you need further information please let me know.

Thank you.

Kayle G. Richins

13650 South 1300 West

Riverton, Utah 84065

1 801 254-4503

LAW OFFICES
J.D. WILLIAMS
ATTORNEY AND COUNSELOR AT LAW
24 NORTH STATE • P.O. BOX 191 • PRESTON, IDAHO 83263
TELEPHONE
(208) 852-2680

J. D. WILLIAMS *
STEVEN R. FULLER **

* ALSO, MEMBER OF DISTRICT OF COLUMBIA BAR
** ALSO, MEMBER OF UTAH BAR

RECEIVED
AUG - 1 1988
Department of Water Resources

July 28, 1988

To: Rita Fleck
Idaho State Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720

Please note:
This form letter is used to expedite communications. You need direct your attention **only** to the items marked.

Re: Claude Richins and/or Kayle G. Richins 13-7116
Our File No. 2658.1W

_____ Enclosed is information/pleadings relating to the above matter.

_____ For your information.

_____ Please review and file in your records.

_____ Please record in the county records and return.

_____ Please file in the court record of the above case.

_____ Please review and call us to discuss over the telephone.

_____ Please sign and return ____ all but one copy.
____ all copies.

__XX__ Enclosed is the information you requested.

Enclosures:

Letter from L. Glen Saxton dated June 28, 1988

I requested a copy as I know Glen had sent a letter and the correspondence in the file was out of order.

2658.1w

RECEIVED JUL 1 1988

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVENOR
R. KEITH HIGGINSON
DIRECTOR

June 28, 1988

COPY

J.D. Williams
24 North State
P.O. Box 191
Preston, ID 83263

RE: Lapsed Permit 13-7116 -
Kayle G. Richins &/or Claude Richins

Dear Mr. Williams:

In response to your June 6, 1988 letter in connection with the above referenced matter, I have reviewed file 13-7116. The permit lapsed for failure to submit proof of beneficial use of the water.

Mr. Richins called the Department a couple of weeks ago in connection with the lapsed permit. The Department advised him that amendments enacted in 1983 to Section 42-218a, Idaho Code, provides for the reinstatement of a lapsed permit upon a certain showing. The priority of a permit reinstated under the provisions of paragraph 2. of the section is advanced to the date the proof of beneficial use is submitted. In this case, the priority likely would be 1988 if reinstatement is approved.

On June 23, 1988, Mr. Richins submitted a late proof and other information required in connection with late reinstatement. The information will be reviewed for adequacy by Department staff.

I'm not sure under what provisions of water law the Department can consider your letter as a protest against reinstatement of the permit. Provisions of Section 42-224, Idaho Code, however, may be applicable in this case for filing a protest against the issuance of a license if sufficient evidence is submitted by Mr. Richins to have the permit reinstated.

The Department will endeavor to advise you of any action taken in connection with reinstatement of the permit.

Please feel free to contact the Department if you have questions.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON, Chief
Operations Bureau

LGS:ldt(GP11-1.54)

CC: IDWR - Eastern Region

REINSTATEMENT REVIEW

Permit No. 13-7116

Proof due: October 1, 1985
Proof submitted: June 23, 1988
Proof letter sent: July 31, 1985
Lapse letter sent: October 30, 1985

Evidence submitted:

Power records starting with September, 1984 thru June, 1988

Installation proposal from Utah Electric Motor & Pump Co. dated 4/78

Irrigation system parts & installation breakdown from Pitcher Irrigation Co. dated 4/78

Estimate bid from Aurora Pump dated 1/78

Aerial photo showing irrigated lands 1982 flight

Reason for not submitting proof in a timely manner:

letter from Kayle Richins dated 6/18/88 explains that notices were not received by either owner to his knowledge

Fee paid: $175.00

MEMORANDUM

TO: FILE 13-7116

FROM: JIM JOHNSON

RE: REINSTATEMENT REVIEW

DATE: 8-16-88

==========

During the review of this file I noted that correspondence was received on 6-6-88 from J.D. Williams representing a Mr. Peterson's Family Trust stating that the well covered by this right had a severe impact to his client and protested the subsequent issuance of a license.

On 6-28-88 Glen Saxton responded informing Mr. Williams that Section 42-224, I.C. may provide the proper avenue for filing a protest against the license issuance if the permit were to be reinstated.

Because of the potential for future litigation, extra review was made of the information provided to insure that sufficient evidence was submitted showing that beneficial use had occurred during the authorized permit period.

I checked the U-2 flights that photographed the area in question and confirmed that we did not have any flight after 11-8-1977. The two flights that did cover the area were flown on 8-20-1976 (#8948) and 11-8-1977 (# 2676).

Mr. Richins provided upon request an ASCS photo showing the permitted lands. This photo is of poor quality and did not necessarily confirm the extent to which the land was irrigated. Therefore, more reliance was placed upon reviewing other documents submitted supporting use. Based upon review of these documents there appears to be sufficient showing that the required means for irrigation of said land were at least purchased and bills for power supply were paid during the appropriate period.

The reason given for not submitting the Proof of Beneficial Use Statement is identical to the reasons given by most lapsed permit holders during the reinstatement review process which is that they did not receive the Proof Due or the Lapse notices. The Department's file does not contain the signed acknowledgement of receipt card required on all certified mail, therefore, the permit holders statement cannot be proven or disproven. To be consistent with past Dept. action on this issue the statement provided by the permit holder as to why the Proof was not submitted is acceptable.

The issue of injury stated by Mr. Williams was not addressed in the reinstatment processing other than stated above. This matter may be impacted by the fact that priority date of this permit will be advanced and will be junior to any other existing rights.

In follow-up to the 6-28-88 correspondence, Mr. Williams should be informed that the permit is being reinstated.

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVENOR
R. KEITH HIGGINSON
DIRECTOR

August 17, 1988

RE: Lapsed Permit No. 13-7116

Claude &/or Kayle Richins
13650 S. 1300 W.
Riverton, UT 84065

Gentlemen:

The above referenced water right is being reviewed for reinstatement. We are prepared to issue the order of reinstatement, however, the reinstated permit will be limited to the number of acres which were identified on the ASCS aerial photo you submitted. This total is 288 acres.

If you do not agree with this proposal and can give us further documentation to show that more acres were actually irrigated prior to the proof due date of October 1, 1985, we will consider the additional information in our review. We will allow you 30 days to gather any additional information and submit it to our department. Please feel free to contact our office if you have any further questions.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

"TER-DEPARTMENT MEMO — 1

FROM

DATE

TO

SUBJECT

Claude Richins (801)-254-4615
Kayle Richins (801) 254-4503

SIGNATURE

MEMORANDUM

TO: FILE

FROM: JIM JOHNSON

RE: CONVERSATION WITH CLAUDE RICHINS

DATE: 8-26-88

==========

Mr. Richins called in follow-up to my letter of Aug 17,1988. He said that the 288 acres identified were adequate and he didn't have any objections to limiting the permit to this number.

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVENOR
R. KEITH HIGGINSON
DIRECTOR

September 9, 1988

J. D. Williams
24 North State
P.O. Box 191
Preston, ID 83263

RE: Reinstatement of permit no. 13-7116 in the name of Kayle G. and/or Claude Richins

Dear Mr. Williams:

As per our telephone conversation, enclosed is a copy of the ASCS aerial photograph depicting the Richins property from which irrigated acreage was derived.

The Department has proposed to limit the acreage under the reinstated permit to 288 acres. Please inform me in writing, within ten (10) days of the date of this letter, whether the present controversy between your client and Richins concerns the extent of beneficial use. If the extent of beneficial use is at issue, please submit a short statement of why the proposed extent of beneficial use should be reduced, and also submit evidence supporting your position.

If I have not received an answer within ten (10) days, the Department will assume that extent of beneficial use is not an issue in the controversy.

Sincerely,

Gary Spackman

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:hm

cc: Claude Richins

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVENOR
R. KEITH HIGGINSON
DIRECTOR

September 21, 1988

RE: Lapsed Permit No. 13-7116

Claude Richins
c/o Kayle Richins
13650 S. 1300 W.
Riverton, UT 84065

Dear Mr. Richins:

Per our telephone conversation of this date, I reviewed the above referenced water right file to find the copy of the 10/14/75 letter you mentioned (copy enclosed). Please be advised that the imposing of such a condition of approval is not unusual for a system using a well. In fact, this condition is imposed on all wells for which an amount of water greater than 0.7 cfs is requested. Since this permit requested 7.88 cfs, the condition applies. The condition was modified slightly in 1978 by an order and a copy of that order is also enclosed for your information.

Also, the imposing of this condition has nothing to do with culinary water used from the spring you mentioned in our phone conversation. In fact, I do not believe that Mr. Williams' protest against the reinstatement of this right has anything to do with the measurement of water. Rather, he is being given an opportunity to prove that perhaps an expansion in the right has taken place by irrigating more acreage than is being claimed. At this point, there is nothing I can do to speed up the process of reinstatement, nor can I advise you of any action to take. As I stated on the phone, Mr. Spackman will be contacting J.D. Williams in the next day or so and we will keep you informed of proceedings.

I hope this letter has helped to clarify your concern over the restriction placed on the well by means of a measuring device condition.

Sincerely,

SHARLA CURTIS
Water Rights Processing Clerk

LAW OFFICES
J.D. WILLIAMS
ATTORNEY AND COUNSELOR AT LAW
24 NORTH STATE • P.O. BOX 191 • PRESTON, IDAHO 83263

J. D. WILLIAMS *
STEVEN R. FULLER **

* ALSO, MEMBER OF DISTRICT OF COLUMBIA BAR
** ALSO, MEMBER OF UTAH BAR

RECEIVED
SEP 19 1988
Department of Water Resources

September 16, 1988

(208) 852-2680

Mr. Gary Spackman
Attorney at Law
Supervisor Water Allocation Section
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720

Re: Protest to Reinstatement of Permit No. 13-7116 in the Name of Kayle G. and/or Claude Richins
Our File No. 2658.1W

Dear Mr. Spackman:

Thank you for your letter of September 9, 1988, which I received on September 12, 1988, which supplied a copy of the ASCS aerial photograph submitted by the Richins which allegedly indicated the number of acres irrigated with the well in question. I have now had the opportunity of reviewing this very carefully with Mr. Randy Peterson and wish to formally protest the Departments proposal to allow acreage irrigated by the well at 288 acres.

According to Mr. Peterson's knowledge of irrigation from the well prior to October 1, 1985, the actual number of acres irrigated by the well is 159 acres. In reviewing the aerial photograph, Mr. Peterson submits that Parcel No. 1 of 5.3 acres has never been irrigated with the well and there is a substantial question if the 12.6 acres in Parcel No. 2 has been watered with the well. However, there is a wheel move in that area at this time so it is possible that it may have been irrigated prior to October 1, 1985. In addition, Parcels No. 7 and 8 which are west of the county highway use the well only as a supplemental water source with the primary source of water to these two tracts being a spring located on the Peterson property in Section 5. In addition, the Tracts you have identified on the material you sent me as 9, 10, 11, 12, 13 and 14 which appear to correspond with different numbered tracts on the aerial photograph lying immediately South of the above referenced tracts are property which the Richins

purchased on April 30, 1987, from the Clair J. Buxton Estate and which the exception of one occasion in 1986, no water from their well has been used on that property and certainly not before October 1, 1985. A copy of the Buxton Deed is enclosed for your information. Based upon this information provided above, the Petersons submit that the Richins have apparently misrepresented the number of acres watered by their well.

As a second basis of protest, the Petersons also submit to the Department that the Richins well substantially interfers with their use of their water right in the Dudley Spring located on their property. The Petersons have kept meticulous records of the flows of the spring and every time the Richins use their well it dramatically lowers the spring and interfers with their pumps and other irrigation facilities and impairs their ability to use their full water right.

Accordingly the Petersons protest the reinstatement of Permit No. 13-7116 and also the issuance of any license pursuant thereto. If we may provide any additional information, please feel free to call. The Petersons will be available to furnish any sworn testimony necessary to support the representations contained in this letter. Thank you for your assistance.

Yours very truly,,

J.D. Williams
Attorney at Law

JDW/ew

Enclosure

cc: Randy Peterson

175371 1-2

Recorded at the request of
Steve Fuller
a.m. MAY 5 1987 12:15 p.m.
CORRIE L. KELLER, RECORDER
By Katie Johnson Depu
FRANKLIN COUNTY, IDAHO

PERSONAL REPRESENTATIVE'S DEED

THIS DEED made this 30th day of April, 1987, between STANLEY T. BUXTON as Personal Representative of the Estate of CLAIR J. BUXTON, deceased, the Party of the First Part, and CLAUDE R. RICHINS, Party of the Second Part.

WHEREAS, STANLEY T. BUXTON, Party of the First Part, is the duly appointed and acting Personal Representative of the Estate of CLAIR J. BUXTON, deceased; and

NOW, THEREFORE, WITNESSETH, that the said Party of the First part, for valuable consideration, and for the purpose of distributing certain real property from the Estate of CLAIR J. BUXTON, deceased, does by these presents hereby distribute, grant, bargain, sell, convey, and confirm unto the said Party of the Second Part, and to his heirs and assigns forever, the described undivided interests in that certain parcel of land, situate, lying and being in Franklin County, State of Idaho, and more particularly described as follows:

Township 14 South, Range 38 East of the Boise Meridian, Franklin County, Idaho
Section 4: N1/2SW1/4, EXCEPT: Beginning at the Southwest corner of the NW1/4SW1/4 of said Section 4, thence East 640 feet, more or less, thence North 430 feet, more or less, thence West to the Highway D-1 Right-of-Way, thence along said right-of-way to the North boundary of the NW1/4SW1/4 of Section 4, thence West to the Northwest corner of the NW1/4SW1/4, thence South 1320 feet to the point of beginning.

ALSO INCLUDING the North half of the 139 and 60/100 acres embraced in the N1/2SE1/4.

175371

TOGETHER with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders rents, issues and profits thereof;

TO HAVE AND TO HOLD, all and singular the said premises together with the appurtenances unto the Party of the Second Part, and to his heirs and assigns forever.

IN WITNESS WHEREOF, the said Party of the First Part, has hereunto set his hand and seal the day and year first above written.

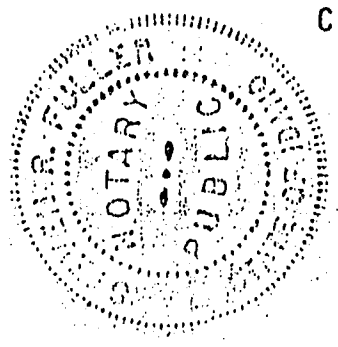
Stanley T. Buxton
STANLEY T. BUXTON
Personal Representative of the
Estate of Clair J. Buxton

STATE OF IDAHO)
)
County of Franklin)

On this 30th day of April, 1987, before me, the undersigned, a Notary Public in and for said State, personally appeared STANLEY T. BUXTON, known or identified to me to be the person whose name is subscribed to the within instrument as Personal Representative of the Estate of Clair J. Buxton and acknowledged to me that he executed the same as such Personal Representative of the Estate of Clair J. Buxton.

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

Steven R. Fuller
NOTARY PUBLIC for State of Idaho
Residing at Preston, Idaho
Commission Expires: Feb. 19, 1993



State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVENOR
R. KEITH HIGGINSON
DIRECTOR

October 20, 1988

Claude Richins
13650 S. 13th W.
Riverton, UT 84065

RE: Reinstatement of permit no. 13-7116 in the name of Kayle G. and/or Claude Richins

Dear Mr. Richins:

Enclosed is a copy of a letter which I received from J. D. Williams, attorney at law, in response to an inquiry I sent him regarding the proof which you have submitted showing the extent of beneficial use that occured prior to October 1, 1985. As you can determine from the letter, Mr. Williams and his client contest the allegation that 288 acres were irrigated by the well prior to October 1, 1985. They maintain that only 159 acres were irrigated.

It appears to me, without any more than an ASCS aerial photograph, that beneficial use on the entire 288 acres has not been clearly established. Some of the acreage could have been irrigated by surface water at the time the photograph was taken. Additional information must be submitted to the department prior to reinstatement. The best evidence would be an affidavit or several affidavits from the detached parties not having a personal interest in the matter, such as an ASCS officer, or a county agent, which states the number of acres which were irrigated from the well prior to October 1, 1985, and also stating, if possible, the amount of water that was diverted from the well.

Sincerely,

Gary Spackman

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:ds

Enc.

cc: J. D. Williams
Eastern Region

Form Approved - OMB No. 0560-

ASCS-576 (10-82-A) USDA-ASCS

REPORT OF ACREAGE

PAGE 1 OF 2

NOTE: *Section 371 of the Agricultural Adjustment Act of 1938, as amended, authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing this data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the Act.*

FARM NO.	NAME AND ADDRESS	FARM LAND	CROP LAND
652	CLAUDE R. RICHINS	765	155 212.7
D	OXFORD ROUTE		
OP	CLIFTON, IDAHO 83228		-
	528 90 3262 4		-

OPERATOR / OWNER

PROGRAM YEAR: 1986

OTHER

OTHER INTERESTED PRODUCERS

KEY	NAME AND ADDRESS (A)	OTHER FARMS (B)	ASSIGNMENT CROP (C)	ASSIGNMENT JOB (D)
3				
4				
5				
6				
7				

SECTION I - FARM FIELD REPORT *(Note: Grey Shaded Area For County Office Use Only) (Section I Continued on Reverse)*

(1)	FIELD NO. (2)	CROP OR LAND USE (3)	CROP OR LAND USE SUMMARY: D WHT	I-WHT	D BLY	I BLY	OATS	CORN	D-ACR	I-ACR	CU WHT	CU BRLY	CU CORN	CRP	OTHER	KEY (5)	SHARE (6)	Disposition	NET ACRES (11)
a	Map	5B Low				12.6													
b	2 A	Bly Sp																	
	B 2	Wheat SP HR		12.8															
	C	Wheat SP HR		23.2															
	4 D	grass													12.3				
	5 E	alf													5.5				
	6 F	alf													37.0				
	7 G	alf													22.9				
	8 H	alf													37.0				
TOTAL OPERATION REPORT				36.0		32.5				29.2					115.0				
TOTAL DETERMINED ACREAGE																			

Permitted:

DIV. Wheat _____ Brly-Oats _____ Corn _____ ACR___

I. OPERATOR'S SIGNATURE	DATE	II. OPERATOR'S SIGNATURE	DATE
		Claude R. Richins	June 24. 86

SECTION II - OPERATOR'S CERTIFICATION

I certify to the best of my knowledge and belief that the acreages of crops and [illegible] uses listed herein are true and correct. I understand that an incorrect acreage [illegible] could result in a payment reduction or loss of program benefits and/or reduction [illegible] future allotments and quotas when applicable.

C. OPERATOR'S SIGNATURE	DATE

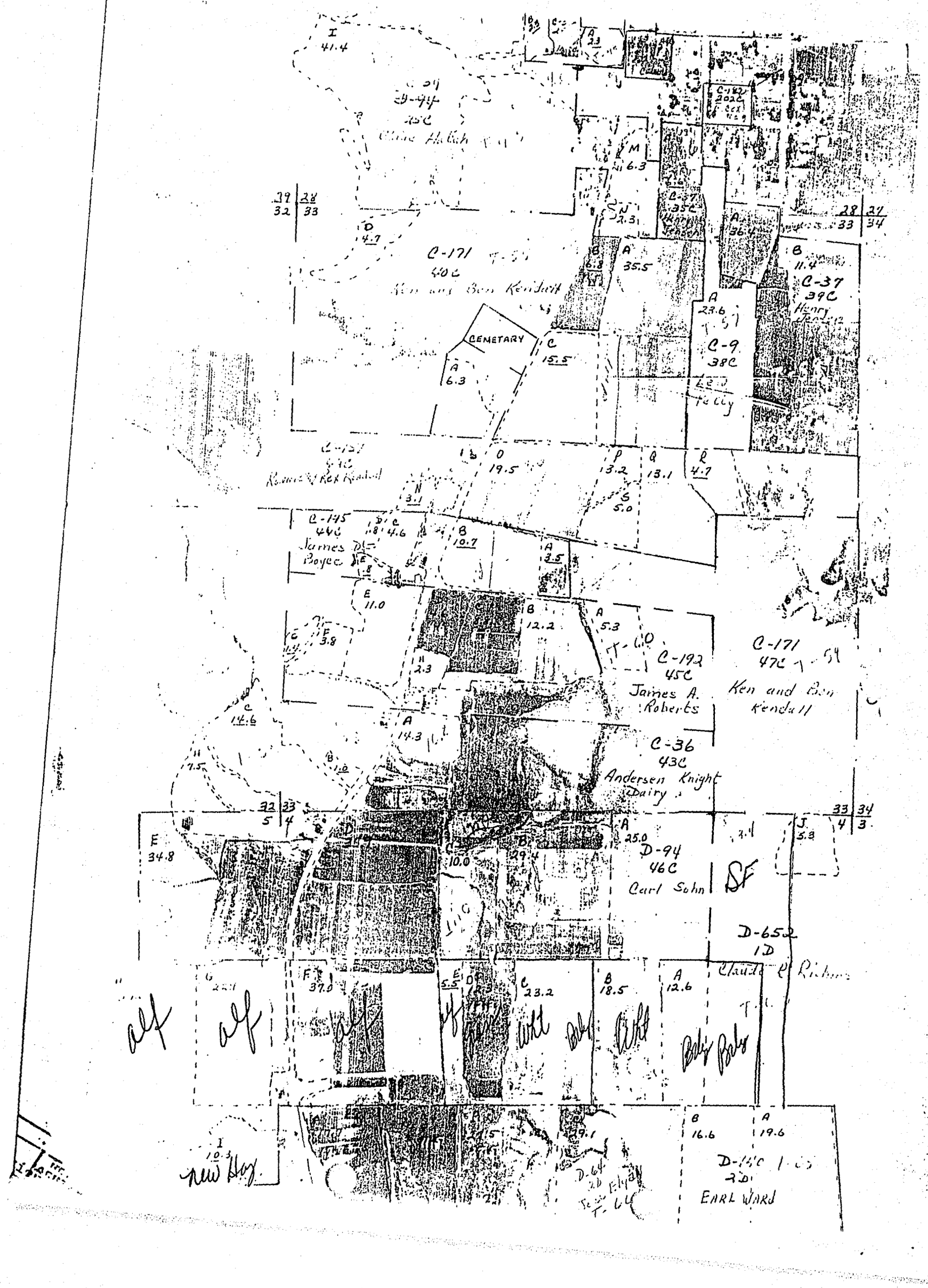
SECTION I - FARM FIELD REPORT (Continued) (Grey Area for County Office Use Only)

TRACT NO.	FIELD NO.	CROP OR LAND USE	CROP OR CARD USE SUMMARY									CROP OR CARD USE SUMMARY					KEY	SUB-ARE	Disposition	NO. ACRE
			D WHT	I WHT	D BLY	I BLY	OATS	CORN	D-ACR	I-ACR	CU WHT	CU BRLY	CU CORN	CRP	OTHER				
1	2	3														5	6	10	11
10	I	Grass Hay 10.3													10.3				
	J1	Bdy				14.2													
	J2	SF 29.2								29.2									
	B1	Bdy				5.7													
	A	6-24-86																	

SKETCHES OR REMARKS

Land designated for ACR meets the cropping requirements and other eligibility requirements as applicable. Int: LRR Date: 6/24/86

No new land has been broken out or converted and planted to an agricultural commodity since December 23, 1985 on this farm, or any other farm in which I have an interest. Int: LRR Date: 6/24/8


I
41.4
C-171
40C
Ken and Ben Kendall
CEMETARY
C
15.5
A
6.3
M
6.3
N
2.3
C-37
35C
A
36.4
A
35.5
B
6.8
D
4.7
A
23.6
C-9
38C
B
11.4
C-37
39C
Henry Jeffrey
O
19.5
P
13.2
Q
13.1
R
4.7
S
5.0
C-145
44C
James Boyce
B
10.7
A
3.5
E
11.0
C-192
45C
James A. Roberts
C-171
47C
Ken and Ben Kendall
C-36
43C
Andersen Knight Dairy
D-94
46C
Carl Sohn
SF
D-652
1D
Claude & Richmond
E
34.8
F
37.0
C
23.2
B
18.5
A
12.6
B
16.6
A
19.6
D-14C
2D
EARL WARD
I
10.3
new Hay
D-64
2D
Scott
T. 64

ASCS-578
(6-7-78)

REPORT OF ACREAGE

USDA-ASCS

NOTE: *Sect. 1374a, 7 U.S.C., authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing this data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the Act.*

PAGE OF

KEY 1 OPERATOR

FARM NO. | NAME AND ADDRESS | FARM-LAND | CROP-LAND

Claude R. Richens 765 308
Oxford Route
Clifton, Idaho 83228

KEY 2 OWNER

OTHER FARMS
OPERATOR: none
OWNER: none

PROGRAM YEAR: 1985
OTHER:

OTHER INTERESTED PRODUCERS

KEY	NAME AND ADDRESS	OTHER FARMS
3		
4		
5		
6		
7		

ASSIGNMENT

CROP	JOB

SECTION I - FARM FIELD REPORT (NOTE: Grey Shaded Area to be Filled in by Reporter ONLY.)

TRACT NO. 1	FIELD NO. 2	CROP OR LAND USE 3	CROP OR LAND USE SUMMARY: Dry Wht	Irr Wht	Dry Bly	Irr Bly 4	Dry ACR	Irr ACR	Corn	Oats	Hay	Other	KEY 5	SHARE 6	DISPOSITION 7	METHOD 8	GROSS ACRES 9	DEDUCTIONS: MEAS 10	DEDUCTIONS: ACRES 11	NET ACRES 12	INITIAL & DATE 13
		grain				12.6															
1 V	2A	Map 58 Low Barley in																			
	10a							19.0													
	J	ACR in																			
	10b											24.4									
	J	Fallow in.																			
	1	grain				~~14.5~~ 18.5 crr		18.5 crr.													
	B	Barley in																			
	3										23.2										
	C	alf in																			
	4										12.3										
	D	hay in																			
	5										5.5										
	E	alf in																			
	6										37.0										
	F	alf in																			
	7										22.9										
	G	alf in																			
TOTAL OPERATOR REPORT				21.8		~~37.1~~ 31.1		19.0			151.7	88.1									
TOTAL REPORTER'S REPORT																					

SECTION II - OPERATOR'S CERTIFICATION

I certify to the best of my knowledge and belief that the acreages of crops and land uses listed herein are true and correct. Further, my signature constitutes authority for ASCS personnel to enter my farm for making any program determinations.

OPERATOR'S SIGNATURE: Claude R. Richens — DATE: 5/10/85

OPERATOR'S SIGNATURE — DATE

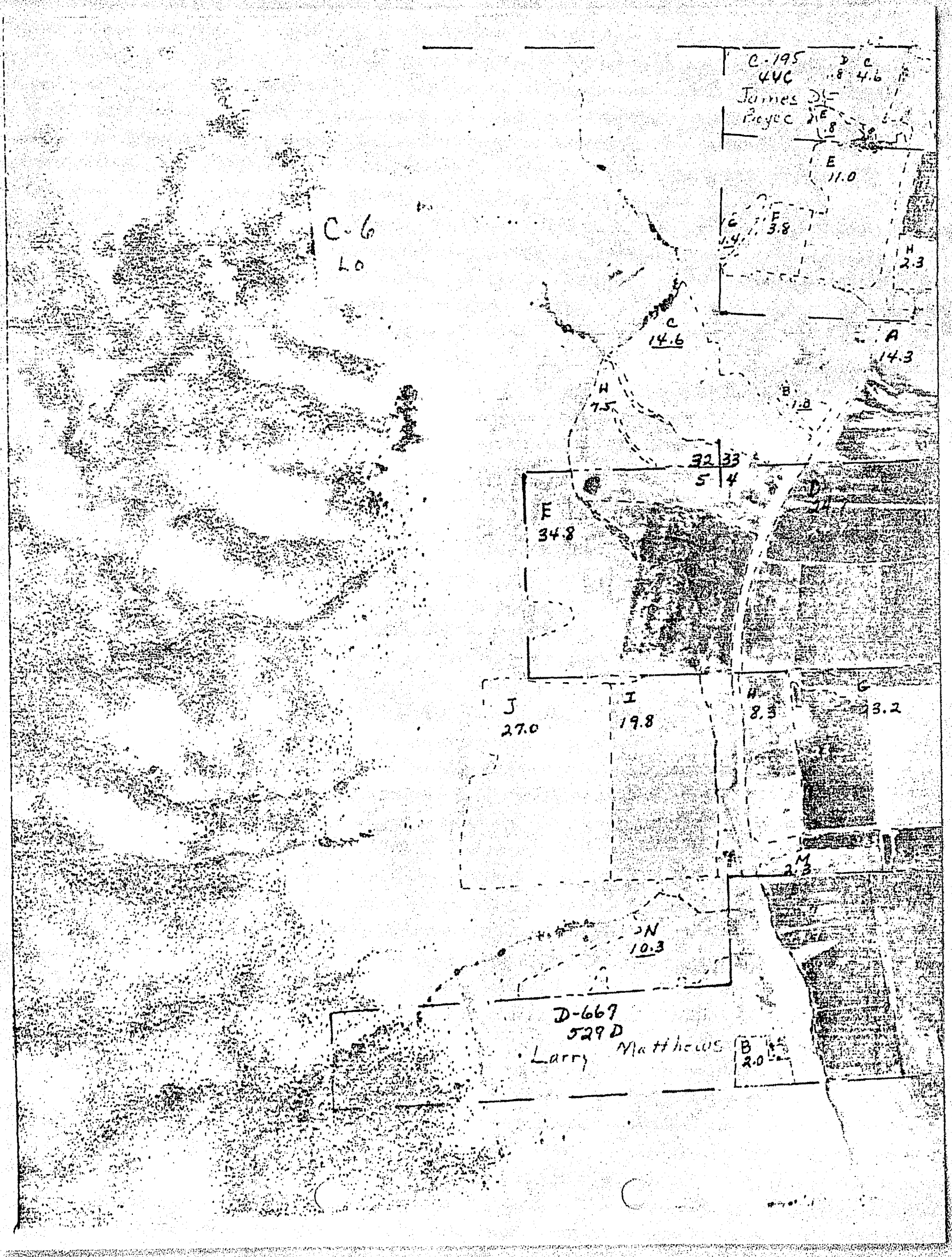
SECTION I - FARM FIELD REPORT (Continued) (Grey Area to be Filled in by Reporter ONLY.)

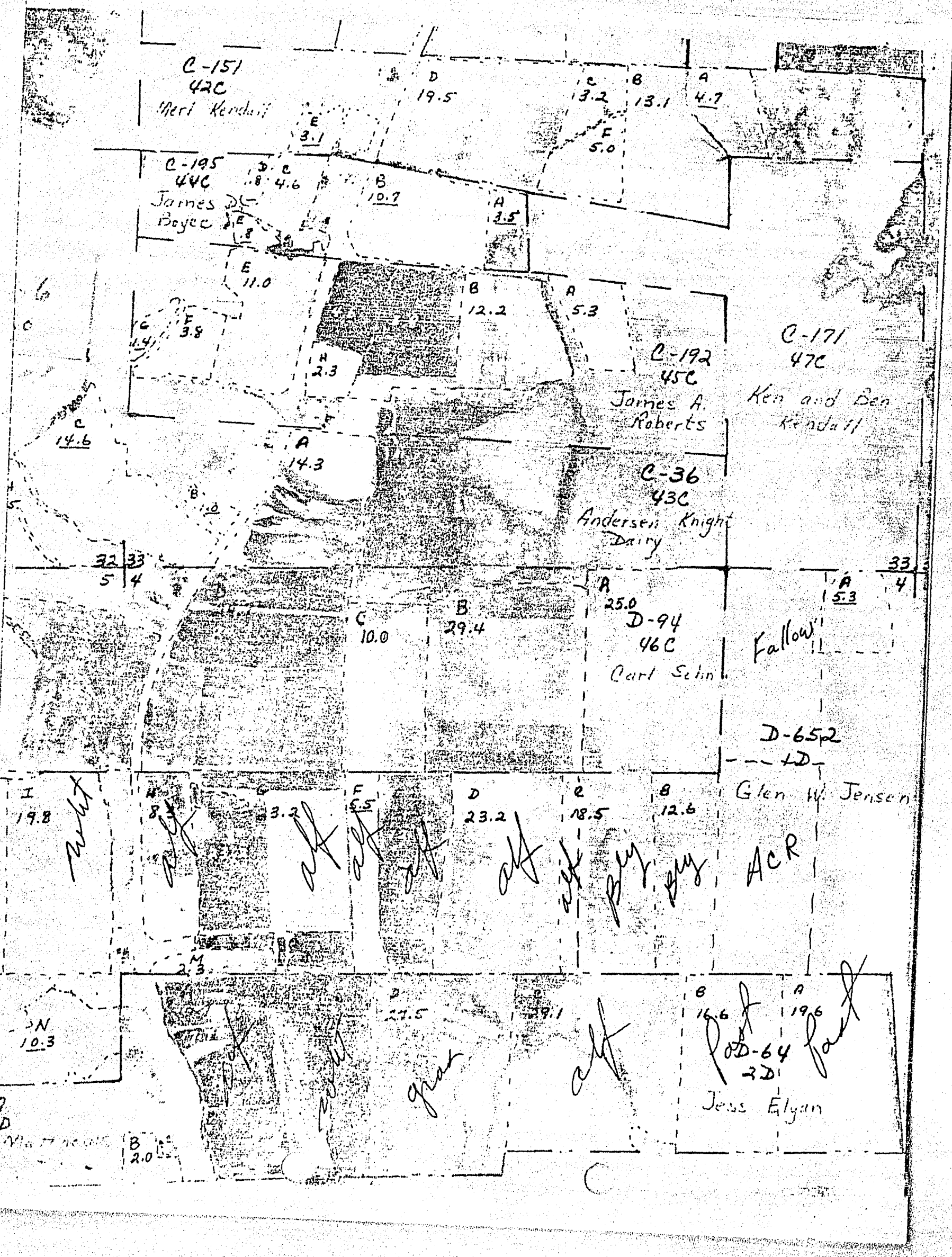
TRACT NO. 1	FIELD NO. 2	CROP OR LAND USE 3	CROP OR LAND USE SUMMARY: Dry Wht	Irr Wht	Dry Bly	Irr Bly	Dry ACR	Irr ACR	Corn	Oats	Hay	Other	KEY 5	SHARE 6	DISPOSITION 7	METHOD 8	GROSS ACRES 9	DEDUCTIONS: MEAS. 10	DEDUCTIONS: ACRES 11	NET ACRES 12	INITIAL DATE 13
	8 H	alf in									29.0 ~~22.9~~										
	9 I	grass in wheat ca		10.3																	
T66 MAP 5B 2D	Loc 3a A,	grass in wheat ca		11.5																	
	#36 A2	alf in									17.7										
	2 B	grass in										27.5									
	1 C	alf in									29.1										
	4 A	Past in										16.6									
	5 A	Past in										19.6									
T63 1D	#11 B	alf in									4.0										

9 Ly 5-16-85

SKETCHES OR REMARKS

Land designated for ACR acreage meets the cropping requirements or other eligibility requirements as applicable.


C-6
L.O
C-195
44C
James
Royce
D
.8
C
4.6
E
11.0
F
3.8
H
2.3
C
14.6
A
14.3
H
7.5
B
1.8
32
33
5
4
F
34.8
J
27.0
I
19.8
H
8.3
G
3.2
M
2.3
N
10.3
D-667
529 D
Larry
Matthews
B
2.0


C-151
42C
Meri Kendall
D
19.5
E
3.1
C
13.2
B
13.1
A
4.7
F
5.0
C-195
44C
James Boyce
D
1.8
C
4.6
B
10.7
A
3.5
E
11.0
B
12.2
A
5.3
C
14.4
E
3.8
H
2.3
C-192
45C
James A. Roberts
C-171
47C
Ken and Dan Kendall
C
14.6
A
14.3
B
1.0
C-36
43C
Andersen Knight Dairy
32
5
33
4
C
10.0
B
29.4
A
25.0
D-94
46C
Carl Selin
A
5.3
Fallow
D-652
-4D-
Glen W. Jensen
I
19.8
G
3.2
F
5.5
D
23.2
E
18.5
B
12.6
ACR
M
2.3
D
27.5
E
29.1
B
16.6
A
19.6
POD-64
-2D
Jess Elgan
N
10.3
B
2.0

ASCS-578
(6-7-78)

REPORT OF ACREAGE

USDA-ASCS

NOTE: *Sect. 1374a, 7 U.S.C., authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing this data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the Act.*

PAGE OF

OPERATOR

FARM NO.	NAME AND ADDRESS	FARM-LAND	CROP-LAND
652	CLAUDE M. RICHINS	765	209 157
D	OXFORD ROUTE		
OP	CLIFTON, IDAHO 83228		

OWNER

652	CLAUDE RICHINS	528 90 3262 4	765 195
L	13634 S. 1300 W.		
OW	RIVERTON, UTAH 84065		

529 28 6108 4

OTHER FARMS: OPERATOR; OWNER

PROGRAM YEAR: 1984

OTHER

OTHER INTERESTED PRODUCERS

KEY	NAME AND ADDRESS	OTHER FARMS	ASSIGNMENT CROP	ASSIGNMENT JOB
3	Kayle G Richins			
4				
5				
6				
7				

SECTION I - FARM FIELD REPORT (NOTE: Gray Shaded Area to be Filled in by Reporter ONLY.)

TRACT NO. 1	FIELD NO. 2	CROP OR LAND USE 3	CROP OR LAND USE SUMMARY: Dry Wht 4	Irr Wht	Dry Bly	Irr Bly	Dry ACR	Irr ACR	Corn	Oats	Hay	Other	KEY 5	SHARE 6	DISPOSITION 7	METHOD 8	GROSS ACRES 9	DEDUCTIONS MEAS 10	DEDUCTIONS ACRES 11	NET ACRES 12	INITIAL & DATE 13
	A	Barley - Barley Spring SS				12.6															
	B	Hay									18.5										
	C	Hay									23.0										
	D	Hay - Marsh									10.3										
	E	Hay									5.5										
	F	Barley - Barley Spring CC				37.0															
	G	Hay									22.9										
	H	Hay									27.0										
	I	Pasture									+	10.3									
TOTAL OPERATOR REPORT						49.6					109.4	83.7									
TOTAL REPORTER'S REPORT																					

SECTION II - OPERATOR'S CERTIFICATION

I certify to the best of my knowledge and belief that the acreages of crops and land uses listed herein are true and correct. Further, my signature constitutes authority for ASCS personnel to enter my farm for making any program determinations.

OPERATOR'S SIGNATURE	DATE	OPERATOR'S SIGNATURE	DATE
Claude L. Richins	8/21/84		

SECTION I - FARM FIELD REPORT *(Continued) (Grey Area to be Filled in by Reporter ONLY.)*

TRACT NO. 1	FIELD NO. 2	CROP OR LAND USE 3	CROP OR LAND USE SUMMARY 4 Dry Wht	Irr Wht	Dry Bly	Irr Bly	Dry ACR	Irr ACR	Corn	Oats	Hay	Other	KEY 5	SHARE 6	DISPOSITION 7	METHOD 8	GROSS ACRES 9	DEDUCTIONS MEAS. 10	DEDUCTIONS ACRES 11	NET ACRES 12	INITIAL & DATE 13
	5	S.S.										434									

SKETCHES OR REMARKS

ASCS-578 (10-27-78)

REPORT OF ACREAGE

USDA-ASCS

NOTE: Sect. 1374n, 7 U.S.C., authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing this data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the Act.

PAGE OF

KEY 1 OPERATOR / KEY 2 OWNER

FARM NO.	NAME AND ADDRESS	FARM-LAND	CROP-LAND
652	CLAUDE H. RICHINS	765	157
D	OXFORD ROUTE		
OP	CLIFTON, IDAHO 83228		
	528 90 3262 4		

OTHER FARMS: OPERATOR; OWNER; PROGRAM YEAR 1982; OTHER

OTHER INTERESTED PRODUCERS KEY	NAME AND ADDRESS	OTHER FARMS	ASSIGNMENT CROP	ASSIGNMENT JOB
3				
4				
5				
6				
7				

SECTION I - FARM FIELD REPORT (NOTE: Grey Shaded Area to be Filled in by Reporter ONLY.)

TRACT NO. 1	FIELD NO. 2	CROP OR LAND USE 3	CROP OR LAND USE SUMMARY: Dry Wheat	Irr Wheat	Dry Barley	Irr Barley 4	Corn	Cons Use	Other	KEY 5	SHARE 6	DISPOSITION 7	METHOD 8	GROSS ACRES 9	DEDUCTIONS: IDENT./MEAS. 10	DEDUCTIONS: ACRES 11	NET ACRES 12	INITIAL & DATE 13
1D	I	Fall Wheat	27.0															
	H1	Oats				14.0												
	H2	Fallow							8.9									
	F	Spring Barley				37.0												
	A	CUA						12.6										
Balance of farm in hay & fallow									57.5									
(To other program crops planted)																		
TOTAL OPERATOR REPORT			27.0			51.0		12.6	66.4									
TOTAL REPORTER'S REPORT																		

SECTION II - OPERATOR'S CERTIFICATION

I certify, to the best of my knowledge and belief that the acreages of crops and land uses listed herein are true and correct. Further, my signature constitutes authority for ASCS personnel to enter my farm for making any program determinations.

OPERATOR'S SIGNATURE	DATE	OPERATOR'S SIGNATURE	DATE
Claude H. Richins	5/21/82		


C-151
42C
Meri Kendall
E 3.1
D 19.5
C 13.2
B 13.1
A 4.7
F 5.0
C-195
44C
James D. Boyce
D .8
C 4.6
B 10.7
A 3.5
E .8
E 11.0
B 12.2
A 5.3
C-192
45C
James A. Roberts
C-171
47C
Ken and Ben Kendall
C-36
43C
Andersen Knight Dairy
C 14.6
A 14.3
H 1.5
B 1.0
32
5
33
4
A 25.0
D-94
46C
Carl Schn
B 5.3
33
4
C 10.0
B 29.4
D-652
1D
Glen H Jensen
I 19.8
22.9
Oats
14.0
27.0 wheat
F 3.9
Barley
37.0
E 5.5
D 23.2
C
B 18.5
A 12.6
CUA
N 10.3
D 29.5
C 29.1
B 16.6
A 19.6
D-64
2D
Jess Elgan
B 2.0
NOT TO SCALE

ASCS-578 (6-7-78)

REPORT OF ACREAGE

USDA - ASCS

NOTE: Sect. 1374a, 7 U.S.C., authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing this data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the Act.

KEY 1 OPERATOR

FARM NO. | NAME AND ADDRESS | FARM-LAND | CROP-LAND

652 CLAUDE RICHINS 765 195
D 13634 S. 1300 W.
OW RIVERTON, UTAH 84065
529 28 6108 4

KEY 2 OWNER

Multiple

OTHER FARMS
OPERATOR: None
OWNER: None

PROGRAM YEAR: 1981

OTHER: NCA 130.2

OTHER INTERESTED PRODUCERS

KEY	NAME AND ADDRESS	OTHER FARMS	ASSIGNMENT CROP	ASSIGNMENT JOB
3				
4				
5				
6				
7				

SECTION I - FARM FIELD REPORT (NOTE: Grey Shaded Area to be Filled In by Reporter ONLY.)

TRACT NO. 1	FIELD NO. 2	CROP OR LAND USE 3	CROP OR LAND USE SUMMARY: Dry Bly 4	Dry Barley 4	Dry Wht 4	Other Alf 4			KEY 5	SHARE 6	DISPOSITION 7	METHOD 8	GROSS ACRES 9	DEDUCTIONS IDENT./MEAS. 10	DEDUCTIONS ACRES 11	NET ACRES 12	INITIAL & DATE 13
D	A	Non Crop															
	B1	Barley Grain		9.6							Harvest						
	B2	Wheat Grain			3.0						Harvest						
	C	Alf				18.5											
	D	Alf				23.2											
	E	Alf				12.3											
	F	Alf				5.5											
	G	Wheat Grain			23.2						Harvest						
	H	Wheat Grain			8.3						Harvest						
TOTAL OPERATOR REPORT				29.6	37.0	104.4											
TOTAL REPORTER'S REPORT																	

SECTION II - OPERATOR'S CERTIFICATION

I certify to the best of my knowledge and belief that the acreages of crops and land uses listed herein are true and correct. Further, my signature constitutes authority for ASCS personnel to enter my farm for making any program determinations.

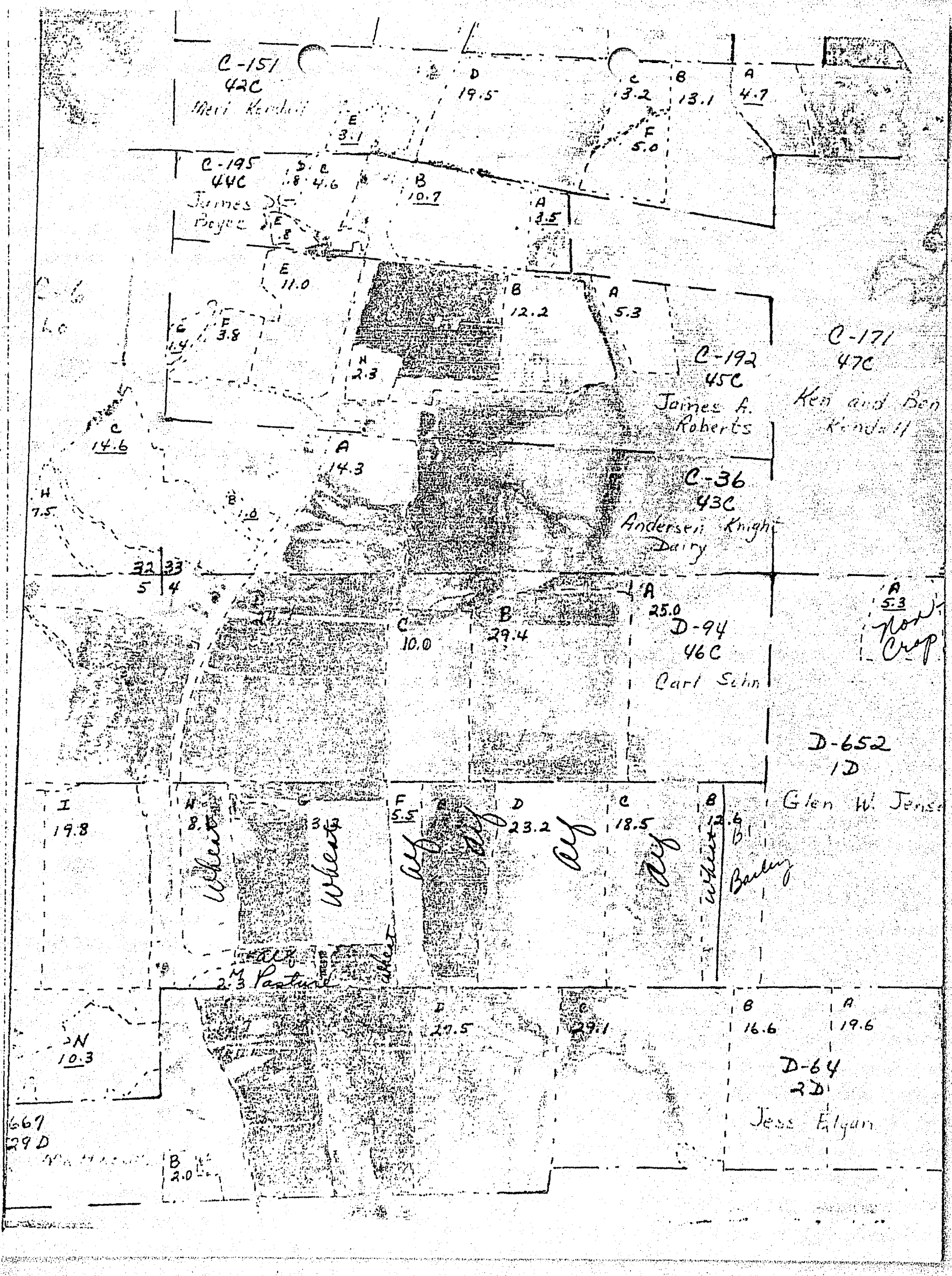
OPERATOR'S SIGNATURE: Claude L. Richins — DATE: 4/28/81

OPERATOR'S SIGNATURE — DATE

SECTION I - FARM FIELD REPORT (Continued) (Grey Area to be Filled in by Reporter ONLY.)

TRACT NO. 1	FIELD NO. 2	CROP OR LAND USE 3	CROP OR LAND USE SUMMARY	KEY 5	SHARE 6	DISPOSITION 7	METHOD 8	GROSS ACRES 9	DEDUCTIONS IDENTITY & MEAS. 10	DEDUCTIONS ACRES 11	NET ACRES 12
			Irr Wheat Other								
		Irr Grain	2.5								
	L	Wheat				Harvest					
			1.3								
	K	Alf									
			2.3								
	M	Pasture									
		Grain	20.0								
	I'	Barley 1				Harvest					
			27.0								
	I	Alf									
			10.3								
	N	Alf									
			4.0								
	I²	Alf									
	28-81										
4	BH										

SKETCHES OR REMARKS


C-151
42C
Meri Kendall
D
19.5
C
3.2
B
13.1
A
4.7
E
3.1
F
5.0
C-195
44C
James
Boyce
D. E
.8 4.6
B
10.7
A
3.5
E
.8
E
11.0
B
12.2
A
5.3
C-192
45C
James A.
Roberts
C-171
47C
Ken and Ben
Kendall
C
1.4
F
3.8
H
2.3
C
14.6
A
14.3
H
7.5
B
1.0
C-36
43C
Andersen Knight
Dairy
32 33
5 4
A
25.0
D-94
46C
Carl Schn
A
5.3
Row
Crop
C
10.0
B
29.4
D-652
1D
Glen W. Jense
I
19.8
H
8.1
Wheat
G
3.3
Wheat
F
5.5
B
Alf
D
23.2
Alf
C
18.5
Alf
B
12.6
Wheat
B1
Barley
Fallow
2.3 Pasture
Forest
N
10.3
D
27.5
C
29.1
B
16.6
A
19.6
D-64
2D
Jess Elgan
667
29D
B
2.0


C-6
LO
C
14.6
A
14.3
H
7.5
B
1.0
32
5
33
4
E
34.8
D
24
J
27.0
I
19.8
H
8.3
G
13.2
Sf
Sf
Sf
M
3
N
10.3
D-667
529 D
Larry Matthews
B
2.0

AURORA PUMP
A SUBSIDIARY OF THE AURORA PUMP
UNIT OF GENERAL SIGNAL
760 Kimberly Rd., P.O. Box 892, Twin Falls, ID 83301

DEEP WELL TURBINE PUMP

440/460 Volt 60 cy.

1308 7337228

ESTIMATE ORDER **SHEET**

SOLD TO: Claude Richins — DATE: 1-17-78

ADDRESS: — P. O. NO.

SHIP TO: — QUOTATION NO.

ADDRESS: — BID DATE

SHIP VIA: — COLLECT / PREPAID — NO. OF PUMPS

CUSTOMER JOB NO. — LOCATION — ITEM NO.

Well Diameter (Inside) 16 Inches	Type		No. Stages		RPM	
Well Depth 250 Feet	Impeller				Curve No.	
Static Water Level 38 Feet	K. Value		Total Thrust			Lbs.
Drawdown 136 Feet	GPM	HEAD	% EFF.	BHP		
Pumping Level 174 Feet	1350	192	83	79		Laboratory
Disch. Pressure (- C - psig) Feet	1350	16		3		Losses
Total Pumping Head 174 Feet	1350	174		82		Field
Pump Capacity 1350 GPM	Motor Eff.	% (full load)	% (¾ load)	% (½ load)	Overall Eff.	%

	DESCRIPTION	PRICING SCHEDULE			Approx. Wgt.
1	MOTOR: Make 75 HP 1800 RPM 460 Volts				
	3 Phase 60 Cycle Type Frame No.			1,955.00	
	Special Features: N R R				
2	HEAD SIZE: 17 AC-8				
	Companion Flanges 8				
	(Surface Dschg.) (Below Ground Dschg. " Base to ℄ Dschg.)				
3	DISCHARGE PIPE: 5 Ft. of 8 " Std. Pipe				
4	COL 200 Ft. 8 " Std. Pipe x 2⅓ " Tube x 1½ " Shaft, per Ft. $				
5	BOWLS: Size 12 Type RH No. Stages 3				
6	SUCTION PIPE: 8 Ft. of cone " Std. Pipe			6,008.00	
7	STRAINER: Size " Type Matl.				
8	AIR LINE: Ft. of " (Galv.) (Copper) $ Ft.				
9	ALTITUDE GAUGE & FITTINGS: Hand Pump				
10	STARTING EQUIPMENT				
11					
12	75 HP 460 Volt size #4 pumping plant panel w/				
13	time delay relay and lightning protection			800.00	
14					
15	ACCESSORIES, SPECIAL CONSTRUCTION, VARIATIONS:				
16					
17					
18					
19					
20	ACCESSORIES, SPECIAL CONSTRUCTION, VARIATIONS:				
21					
22					
23					
24					
25					
26					
27					
28	TOTALS			8,763.00	
	INSTALLATION SERVICE			800.00	
	WIRING Customer to furnish				
	NET TOTAL EACH				
	one NET TOTAL – UNITS			9,563.00	

REMARKS: W. Richins, I would be glad to meet with you any time to discuss pumps.

Form LE-58 — QUOTED BY: Bill Hall

PROPOSAL

411

UTAH Electric Motor & Pump Co.

ENGINEERING SALES INSTALLATION SERVICE

Phone 486-7506 1839 South 8th West Salt Lake City, Utah 84104

0718

Proposal Submitted To:

Date Apr 21 1978

Company	Address	
Name	Job	Phone

We hereby submit specifications and costs on the following proposals:

Pumps Pump Panels Motors Motor Controls Switch Gears Motor Rewinding Pump Rebuilding Field Service	(1) Johnston Turbine @ 1350 GPM @ 50 PSI @ 460 Volt - Setting @ 180' Including Bowl/Screen - w/ 5 Stages / Auto Oiler / PANEL w/ @ Failure Relay Wired in ($470.00) @ N/C w/ 10" Col + 8" Head Disch - 100 HP VHS (1) Peerless Split Case Sup 6" w/ 50HP (60 Hp Capacity) Mtd + w/ PANEL Both units Installed and set on Customer pad — Quote $16,070.00 Xtra Installation Agreement; Includes the Above settings as Incl Extra Split Coupling pre-scribed, and Hookups Motors To panels set on Cement (6'-12' From Motors) and panel Interlock, w/ Heaters + Fuses - Note: Cement pad, etc, panel to pole wiring, Meter Base, Meter etc @ Power Co. Discression and @ parts/Labor Xtra - Also ALL Piping, Gaskets, Valves etc To + From pump Discharge Flanges @ Customer Discression + Xtra @	$
	The cost of this proposal, in keeping with above specifications is	$ 450.00 Ea

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs, will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

TITLE AND LIEN RIGHTS The Equipment shall remain personal property, regardless of how affixed to any realty or structure. Until the price (including any notes given therefor) of the equipment has been fully paid in cash, the company shall, in the event of customer's default, have the right to repossess such equipment.

TERMS If not otherwise specified in the quotation, the terms of payment shall be balance net within 30 days after date of invoice.

SHIPPING TERMS FOB Factory

SHIPPING WEIGHTS 10 Tons est

APPROX. DELIVERY DATE Will Install Immed. Following DMAD Turbine, + Towle City Submersible Authorized Signature W Eugene Johnson

NOTE: This proposal may be withdrawn by us if not accepted within 30 days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature Wayne Clark

Date _____ Signature Delaunde L Tuckiss

head
MANUFACTURING CO.
640 SO. HWY. 91/PRESTON, IDAHO 83263
(208) 852-2000/(800) 635-2790

Gary Spackman
State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

Regarding the Claud Richins well Clifton Idaho.

Dear Mr. Spackman,

After examination of the records available to me I have come to the following conclusions:

The above mentioned well has a normal capacity of between 1200 and 1400 gpm. This is based on (1) that the pump curve on the well pump shows a capacity of 1350 gpm at 175 ft. of total dynamic head. (2) The main line sizes of 10 in. and the 8 in. have a combined capacity of 1891 gpm. (3) There are 8 quarter mile lines of sprinkler pipe on the system which require between 1200 and 1600 gpm.

I have included a copy of the materials we supplied and installed in 1978 and a copy of the pump curve.

Respectfully submitted,

Rex Pitcher
Engineering and design
Pitcher Irrigation / Head Manufacturing Company.
November 10, 1988

PIONEER IRRIGATION COMPANY

IDAHO — UTAH — PRESTON, IDAHO 83263

PHONE (208) 852-2000 AND (801) 258-2277

DATE	FILE NO.	SOLD BY	ORDER NO.	INSTRUCTIONS	NUMBER
5-3-78	4				01658

SOLD TO Cland Richins

13634 SO. 1300 W

Riverton, Utah

Ed 210 254-4615

KL = 254-~~46~~ 4503

ITEM	QUANTITY	PART NO.	DESCRIPTION	UNIT PRICE	AMOUNT
1	1,920	56	FT 8" ~~100~~ 125 # PVC	1 80	3,456 00
2	1,620	57	FT 10" ~~100~~ 125 # PVC	2 81	4,552 20
3	32	112	8" Riser units	45 00	1,440 00
4	24	113	10" Riser units	50 00	1,200 00
5	1100	458	FT 7" aluminum V@60'	2 40	2,640 00
6	1100	20 21	FT 18 5" aluminum V@60'	1 75	1,925 00
7	3,540	454	FT Installation	.60	2,124 00
8	200	454	FT Installation	.60	120 00
9	200	75	FT ~~6~~ 8" 160 # PVC	1 91	382 00
10		458	miscellaneous fittings & swages	400 00	400 00
11					$18,239 20
12					
13			Less 4~~5~~% on pvc		-441 21
14					
15					17,797 99
16					
17	4 132	429	USED Lines of mcdowell	40 1,320 00	5,280 00
18					
19					$23,077 99
20			Changes made per phone conversation		
21			with Rex Pitcher - Changes on item's 1 - 2 & 9		
22			Item 1 & 2 changed from 100 # pcv to 125 pvc		
23			Item 9 changed from 6" to 8"		
24			with an additional charge of $2,800.40		
25			Grand total of bid $25,878.39		
26			This job to be completed by June 1, 1978		
27			Please return a copy of this contract		
28			to confirm our agreement.	TAX	
			SEE REVERSE SIDE FOR TERMS & CONDITIONS	TOTAL	

R57222

25,878.39

ORIGINAL

utah power & LIGHT COMPANY
P.O. Box 432
Preston, Idaho 83263

November 10, 1988

Mr. Kayle Richins
13650 S. 1300 W.
Riverton, UT 84065

RE: Account #0479-08650.0, 160 HP Pumping facility

Dear Mr. Richins:

This letter is in response to your inquiry concerning usage and the guarantee agreement on the above pumping facility.

This pump was connected and metered September 27, 1978. There was no advance payment but there was an Annual Guarantee Agreement for $2,023.00 per year for five years.

Usage Totals:

1978-1979	$2,594.86
1979-1980	$1,702.02
1980-1981	$1,901.03
1981-1982	$1,489.14
1982-1983	$ 359.61

At this point the Annual Guarantee Agreement was cancelled. These figures do not reflect BPA credit which started in 1981.

This pumping operation has been in operation every year since that time.

I hope that this information is sufficient for your needs.

Sincerely,

Peggie Dahle

Peggie Dahle
Accounting Clerk

PD

United States
Department of
Agriculture

Agricultural
Stabilization and
Conservation Service

Franklin County ASCS
Box 111
Preston, Idaho 83263

November 11, 1988

To Whom it may concern:

Enclosed is a copy of the crop acreages reported for the years 1981 through 1986. These acreages are recorded as they were reported and certified by Claude Richins.

Sincerely,

Layne C. Peterson
County Executive Director

ASCS

RECEIVED
NOV 30 1988
Department of Water Resources

November 19, 1988

State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse mail
Boise, Idaho 83720

Re: Lapsed Permit No. 13-7116, 288 acres. Kayle & Claude Richins.

Attention: Mr Gary Spackman, Water Allocation Section.

Dear Sir:

Reference is made to the letter, dated August 17, 1988, from Jim Johnson of your office, and your letter, dated October 20, 1988, in regard to the above matter. Your letter contained a copy of a Letter of Protest, filed by J.D. Williams, attorney for Randy Peterson, which we will comment on later in this letter.

It should be noted that the delay in answering the letters was because the requested information was difficult to locate and required several trips to Idaho to locate the sources. Further, your request needed further study because of the untimely Protest filed by Mr J.D. Williams.

We belive that the following information, herewith filed with your office, is sufficient evidence to establish the fact that we beneficially used our water rights and proves the amount of acreage irrigated.

The information in support of our position is herewith submitted for your consideration is as follows:

1. Aurora Pump Company's Engineers Order Sheet, dated January 17, 1978.
2. Utah Electric Motor & Pump Co Installation Order, dated April 21, 1978.
3. Letter addressed to your office, dated November 10, 1988, written by Rex Pitcher, Engineer for Pitcher Irrigation/ Head Manufacturing.

4. Pitcher Irrigation Company Cost Sheet for well installation, dated May 3, 1978.
5. Letter from Utah Power & Light Co,, dated November 10, 1988, relating to the power usage from 1978-1983, for irrigation pump use.
6. Letter dated November 11, 1988, from Layne C. Peterson, County Executive Director, US Department of Agriculture, Franklin County ASCS, covering the crop acreages for the years 1981 through 1986.
7. Five (5) Annual Reports on Crop Acreage, each containing multiple pages.

It is submitted that the above information verifies that the 288 acres water rights were used beneficially, as defined, and that the lapsed Permit No. 13-7116 should be reinstated.

Although we feel that the letter from Mr J.D. WIlliams was untimely, it also states facts, upon which they base their Protest, which are incorrect and they did not file any evidence to support their protest. Tests have been made over the years and the property and water use was operated compatably without any complaint from the owners of the property Mr Peterson now occupies, and their water rights have not been adversely affected by our use in any matter whatsoever. It should be noted also that Mr Peterson has been in occupancy approximately two years and is in no postion to refute the evidence prior to his occupancy. The computations submitted date prior to 1985.

The other and very important objection we have is that the letter of Protest, including a threat of litigation, was filed by Mr J.D. Williams, who personally represents Randy Peterson. Mr Williams has been and is presently a member or director of the area water board, and as such, sits in a position of decision making and privy to information and records of that Board. We feel that such representation, especially in water matters in his district, is a conflict of interest and violates his oath as an attorney licensed in Idaho. Our attorney suggests that we should file a complaint with the Idaho State Bar Association.

We protest his representation, or his law firm, in which he is a principal, because of that conflict, especially where he participates in the adjudication of water rights as a Board member and places us at a distinct disadvantage.

We would appreciate being advised as to your findings, and if a hearing is necessary we need sufficient advance notice to retain Idaho counsel and arrange for witnesses to appear. If further evidence need be submitted or further explanations be required, we'd be happy to comply.

Respectfully submitted,

Kayle G. Richins

Claude L. Richins

Claude Richins
13634 South 1300 West
Riverton, Utah 84065

Encls.

MEMORANDUM

To: Gary Spackman

From: L. Glen Saxton LGS

RE: DISPOSITION OF FILE 13-7116

Date: December 09, 1988

I have reviewed the above referenced file and suggest the following procedure.

If we have sufficient information to reinstate the permit under the provisions of Section 42-218a.2., I think we should do so. I suggest the order of reinstatement be changed something like I have shown on the draft order to eliminate the specifics of the number of acres irrigated. The purpose of the examination to be conducted is to determine the extent of beneficial use that can be licensed.

I think we need to advise Richins and J.D. Williams that the department will not consider the Williams letter dated Sept 16, 1988 as an objection to the reinstatement of the permit, but will consider the letter as an objection to the issuance of a license. We should advise both parties that the reinstatement of the permit does not determine the number of acres which can be licensed.

We also need to advise both parties that after the field examination has been conducted by a department representative, the department will schedule and hold a fact finding hearing on the issue of how many acres were irrigated during the authorized permit development period. The examiner needs to be aware of the contest in this matter before he conducts the examination. If so alerted, his pre-examination research of aerial photos, etc. may provide information on the number of irrigated acres.

Note that the code section relating to a protest against a license is Section 42-224. This section is really related to the old system of making proof and is not clearly applicable in this case, but we have used it before as the basis of holding a hearing and we will use it here.

Please discuss the procedure with me if you have other

suggestions or questions.

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVENOR
R. KEITH HIGGINSON
DIRECTOR

December 20, 1988

J.D. Williams
Attorney at Law
P.O. Box 191
Preston, ID 83263

RE: Reinstatement of permit no. 13-7116 in the name of Kayle G. and/or Claude Richins

Dear Mr. Williams:

Enclosed is a copy of a reinstatement order issued by the department reinstating permit no. 13-7116. The order reinstates permit no. 13-7116, but reserves determination of the number of acres and other issues dealing with the components of the water right to the time of licensing.

Your letter, dated September 16, 1988, regarding permit no. 13-7116, will not be considered as an official protest to the reinstatement. It will, however, be considered as a protest to the issuance of a license under Idaho Code § 42-224. A field examiner from the department will examine the present use, and also investigate the extent of beneficial use by Richins prior to October 1, 1985. Following the examination, the department will conduct a hearing where both parties will be entitled to present evidence regarding the extent of beneficial use.

I have enclosed with the order of reinstatement a copy of a letter sent to Mr. Claude Richins explaining to him the procedures that will be followed.

Sincerely,

Gary Spackman

GARY SPACKMAN, Manager
Water Right Permits Section

cc:Claude Richins

GS:ds

Enclosure

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVENOR
R. KEITH HIGGINSON
DIRECTOR

December 20, 1988

Claude Richins
13650 South 13th W.
Riverton, UT 84065

RE: Reinstatement of permit no. 13-7116 in the name of Kayle G. and/or Claude Richins

Dear Mr. Richins:

Enclosed is an order reinstating permit no. 13-7116.

As you read the order, please note that the number of acres irrigated from your well has not been identified, nor does the order limit the flow rate. Further definition of the extent of beneficial use will be necessary at the time of licensing.

We are informing J.D. Williams, through correspondence, a copy of which is enclosed, that his objection to the number of acres you allege to have irrigated will not be considered as a protest to the reinstatement, but rather, will be considered as a protest to licensing of permit no. 13-7116. Following a field examination by a department examiner, the department will conduct a hearing to determine the full extent of beneficial use. At the hearing, you must present evidence showing the number of acres that were irrigated from the well prior to October 1, 1985. The information which you submitted establishes that lands were irrigated, but does not establish the number of acres that were irrigated from the well instead of to some other source of water. This issue, along with other issues pertaining to the license, may be raised at the time of the hearing.

Sincerely,

Gary Spackman

GARY SPACKMAN, Manager
Water Right Permits Section

cc:J.D. Williams

GS:ds

Enclosure

LAW OFFICES
J.D. WILLIAMS
ATTORNEY AND COUNSELOR AT LAW
24 NORTH STATE • P.O. BOX 191 • PRESTON, IDAHO 83263

J. D. WILLIAMS •
STEVEN R. FULLER ••

• ALSO, MEMBER OF DISTRICT OF COLUMBIA BAR
•• ALSO, MEMBER OF UTAH BAR

TELEPHONE
(208) 852-2680

February 28, 1989

RECEIVED
MAR 28 1989
Department of Water Resources

Mr. Gary Spackman, Manager
Water Rights Permit Section
Idaho Department of Water Resources
1301 N. Orchard Street
Statehouse Mail
Boise, Idaho 83720

RE: Reinstatement of Permit No. 13-7116

REQUEST: To provide additional information during field inspection

Dear Mr. Spackman:

As you are aware from our prior conversations and correspondence regarding this matter, our law firm represents Mr. and Mrs. Roy Peterson and their family in a dispute with Claude Richins and members of his family regarding the above referenced permit which involves a groundwater well on their property.

Please accept this letter as a formal request from the Peterson's to be allowed to present additional information to the individual that makes the field inspection of the well and area irrigated thereby involved in this permit. It is our understanding that this inspection will be made later this year and we would appreciate it if you would let our law firm know when the inspection is being made, and also allow time for the Peterson's and other neighbors to present information to the inspector regarding the Richin's use of the well involved with Permit No. 13-7116.

If you have any problem with this procedure will you please let me know. Thank you for your assistance in this matter.

Yours very truly,

J.D. WILLIAMS
Attorney at Law

JDW/jw

May 18, 1989

Kirk Hadley
P. O. Box 1391
Pocatello, ID 83204

Dear Mr. Hadley:

Re: Permit No. 13-7116

Pursuant to your request, enclosed are the copies requested.

I just wanted to mention that these notices are sent out in window envelopes so that the address you see on the letters is the exact same address it was sent. There is no record of mail being returned to the department for failure to deliver.

If I can be of further assistance, please feel free to contact me.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosures

MEMORANDUM

TO: Eastern Region
Attn: Harold Jones
FROM: Gary Spackman
DATE: July 24, 1989

Enclosed are some documents regarding permit to appropriate water no. 13-7116. As I review the documents, I am not certain whether you received all of them.

The permit is reinstated, and, according to the order of reinstatement and my correspondence, a field examination must be conducted. Perhaps we did not inform you of this at the time of reinstatement. I apologize if we did not. It was my oversight.

This reinstatement has been controversial. Claude Richins and someone named Peterson are contemplating litigation regarding interference and other issues.

As the order and correspondence state, the field examiner must carefully determine by talking to both Mr. Richens and to Peterson, and by consulting any other source of information, what the extent of beneficial use was prior to October 1, 1985. This includes both the number of acres irrigated, and the pumping capacity of the well.

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
JOHN B. INGELSTROM
DANIEL C. GREEN
REED W. LARSEN
CARY B. COLAIANNI
BRENT O. ROCHE
FRED J. LEWIS
KIRK B. HADLEY

*ALSO MEMBER ILLINOIS BAR

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-0391

TELEPHONE
AREA CODE 208
232-6101

TELEX
208-232-6109

RECEIVED
FEB 14 1990
Department of Water Resources

February 12, 1990

L. Glen Saxton,Chief
Operations Bureau
State of Idaho
Depart. of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83702

Gary Spackman, Manager
Water Right Permit Section
State of Idaho
Depart. of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83702

Re: Permit No. 13-7116
Kayle G. and/or Claude Richins

Dear Gary and Glen:

We represents brother Kayle G. and Claude L. Richins ("Richins") who are the owners and holders of Permit No. 13-7116. There has been some controversy and considerable confusion pertaining to the development and priority of the water rights covered by this Permit which now appears to have occurred largely as a result of an apparently lack of communication and misunderstandings between the Richins and the Idaho Department of Water Resources.

On or about August 29, 1989, Keith C. Wilson, met with the Richins, conducted an examination and prepared a field report which we understand has been submitted to you for consideration in conjunction with the issuance of a license. The original Application was for 7.88 cfs for the irrigation of 394 acres. Keith Wilson's "Beneficial Use Field Report" recommends a license for irrigation purposes from 4-1 to 11-1 for a total of 2.83 cfs for the irrigation of 222 acres located in Sections 4 and 5 of Township 14 South, Range 38 East B.M., Franklin County, Idaho. Please be advised that the Richins concur with the recommendations in this Field Report even though they believe that the actual quantity of water they have been using since the system was developed in 1980, has been slightly higher, about 3.0 cfs (1350 gpm) as compared with 2.83 cfs found by Mr. Wilson's report. This small difference probably resulted from the fact

that the measurement occurred in the Fall of 1989 when the water level would be at it lowest, particularly after two consecutive years of draught conditions, and/or because of wear to the bowls on the pump.

The Richins have no present intention of expanding their present use in an attempt to utilize the remaining water under the permit. Accordingly, the only remaining issue appears to be the priority date to be given to the water rights that have been developed. From my discussions with the Richins and based upon the documentation they have provided, it appears that there has been a misunderstanding between the Richins and IDWR and that the portion of the water right which they developed and began applying the beneficial use in 1978, was in fact fully developed and timely proved up on within the term of the original permit by reason of which their priority date should be June 2, 1975. It appears appropriate that I briefly review the history of this permit and the available information which we are relying upon which supports the conclusion that the Richins are entitled to the priority date of June 2, 1975, the date the original Application for Permit was filed.

The original Application for Permit which sought to appropriate 7.88 cfs for irrigation purposes was filed on June 2, 1975, by Frank L. Hart and was approved on October 11, 1975, by Director R. Keith Higginson. The approval was made subject to proof of construction of works and application of water to beneficial use submitted to the Department on or before October 1, 1980. On April 29, 1977, the Permit was assigned to Kayle G. Richins and/or Claude Richins. The Richins submitted an Application for Amendment on April 26, 1977, which was approved on May 20, 1977. Attached for your ready reference are copies of the original Application, the Assignment and Amendment discussed above.

The Richins drilled the well which was completed in January of 1978, and a pump was installed by Aurora Pumps at a cost of $9,563.00. This is verified by the enclosed order from Aurora Pumps which reflects that the well was 16 inches in diameter, drilled to a depth of 250 feet, has a pump capacity of 1350 gpm. A Johnson Turban Pump and Peerless Motor were installed by Utah Electric Motor and Pump Company in April of 1978 at a cost of $16,070.00 as reflected by the enclosed Invoice No. 0718 dated 4-21-78. Considerable sprinkler irrigation equipment was acquired

from Picture Irrigation Company at a total costs of $25,878.39 as reflected by the enclosed Invoice No. 01658 dated 5-3-78 from Picture Irrigation Company.

The irrigation system installed in the Spring of 1978 as above described has been continuously used in the same manner from the 1978 irrigation season to date.

I am enclosing a copy of the original letter and envelope provided by the Richins which reflects by that letter dated 7-31-80 which was mailed on 8-1-80 and received by the Richins on or about 8-18-80, the IDWR gave notice that "evidence of the extent of the development must be submitted to this office on or before October 1, 1980." The letter enclosed a "post card which may be used to submit the required proof of beneficial use." (Emphasis added) The letter also indicated that if the project was not complete, an extension of time may be request, with a "request of extension of time form enclosed." Acting in good faith and in a full attempt to comply with the IDWR letter, the Richins submitted both the "post card" together with copies of the well, pump, motor and sprinkler equipment invoices which I have again enclosed to prove upon that portion of the permit that had been developed in 1978, together with the "request for extension of time" which related only to remaining water which had not yet been developed. All of this was timely submitted with the Richins' letter dated August 17, 1980, a copy of which is enclosed. The letter states in pertinent part:

> As we have only one finished well which is only a portion of the water on the well permit as of now -- I would like to ask for an extension of time to complete the full well permit.
>
> I am sending proof of the engineer's report by Aurora Pump Company to the fact that our well runs 1350 gallons of water per minute.

The Richins advise that both the completed "postcard" and "request for extension" were submitted with the August 17, 1980, letter (in addition to the mentioned invoices) although they did not keep copies of the same and should be located in the IDWR file. I am enclosing a copy of the one of the postcard type proofs that I believe were then used by the IDWR which the Richins recalled as being very similar to if not identical to the

postcard which they completed and submitted. If the card cannot be located in the IDWR files it would not appear to be significant as the information contained in the Richins transmittal letter of August 17, 1980, and the enclosures provides far more verification and information concerning their development than what was contained in the postcard type "proof of development."

Based on the foregoing, it appears clear that the Richins timely submitted proof of their development before the October 1, 1980, deadline by reason of which they are entitled to have a priority date of June 2, 1975, the date the original Application for Permit was filed. From the Department's microfilm records we have obtain a copy of the "Request for Extension of Time" which was received on August 21, 1980, and was approved on August 26, 1980. The face of this request further verifies that the developed portion of the permit was timely completed for the 1350 gpm and that the extension of time only related to the undeveloped portion of the permit, to wit:

> **That he has heretofore performed the following work described under said Permit** one finished well and are planning for more if possible.
>
> **Costing:** **$95,000.00**
> **That he is unable to complete the remainder of the work within the required time for the following reasons, to wit:** insufficient funding at this time, and will need more time to complete the remainder of the project.

For reasons unknown, due to a simple misunderstanding by the Richins and apparent lack of communication with IDWR, the entire water amount covered by the Permit after the extension request was filed seemed to be treated as if it were undeveloped and covered by the extension. The developed portion of the permit, being the 1350 gpm completed in 1978 in which proof had been timely submitted by August, 1980, seems to have been ignored and caught up in subsequent administrative proceedings regarding the permit lapse and reinstatement with a later priority date. Enclosed is a copy of the Order of Reinstatement dated December 19, 1988, which, again, appears to ignore the fact that a portion of the water right had already been developed in 1978 and timely proved up in 1980. Without question the extension of the proof due to October 1, 1985, the lapse and the order of reinstatement

only applied to the undeveloped portion of the permit. That all is irrelevant and or no significance at this time because the Richins never did develop the additional water and have no intentions of doing so. Unfortunately, both the Richins and the IDWR expended considerable time and effort dealing with the extension, lapse and reinstatement.

Through all of these proceedings, the Richins were not represented by counsel and it appears they simply did not fully understand all of the complexities of Idaho water law and were merely acting in good faith to protect their water rights and provide whatever information the IDWR sought.

It appears appropriate to address Idaho Code §42-218(a) which has been discussed in some of the correspondence between the IDWR and the Richins. It would not appear that this statutory section would have any application to the facts of this case since the extension, lapse and reinstatement with the later priority date only applied to the undeveloped water under the permit, not that portion which was developed in 1978 and proved up on in 1980. If the Department feels that I.C. 42-218(a) has application, there appears to be an ample basis for reinstating the original priority date nonetheless. The last sentence of that statute states "the original priority date of the last permit shall not be reinstated <u>except upon a showing of error or mistake of the Department</u>." Obviously there was an error or mistake by the Department in not accepting the information the Richins submitted with their August 17, 1980, letter as sufficient "proof" of the timely development and application for beneficial use of the 1350 gpm.

Based on the foregoing, it is respectfully requested that the IDWR issue a license in favor of the Richins for 2.83 cfs and 222 acres as recommended by the Field Report of Keith C. Wilson, with a priority date of June 2, 1975, the date the original application for permit was filed. Thank you for your consideration. I would be happy to discuss this further if you would like to give me a call.

Very truly yours,

RANDALL C. BUDGE

RCB:gr
Enclosures
cc: Kayle Richins
Claude Richins
Robert Richins

LAPSED

RECEIVED

OCT 16 1975

Department of Water Resources
Eastern District Office

Identification No. 13 7116

Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To Appropriate the Public Waters of the State of Idaho

(TYPE OR PRINT IN INK)

ASSIGNED TO: Kayle G Riching &/or Claude Richins, of 13650 South 13th West Riverton, UT 84065

1. Name of applicant Frank L. Hart Phone: 801-825-9795

   post office address P.O. Box 1326, Freeport Center, Clearfield, Utah 84016

2. Source of water supply ground water which is a tributary of _____

3. a. Location of point of diversion is SW ¼ of NE ¼ of Section 5 Township 14S Range 38E B.M. Franklin County; additional points of diversion if any: _____

   b. If water is not consumed, it will be discharged into _____ at a point in _____ ¼ of _____ ¼ of Section _____ Township _____ Range _____ B.M. _____

4. Water will be used for the following purposes:

   Amount 7.88 (cfs or acre-feet per annum) for Irrigation purpose from Apr. 1 to Nov. 1 (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)

5. Total quantity to be appropriated:

   a. 7.88 cubic feet per second and/or

   b. _____ acre feet per annum.

6. Proposed diverting works:

   a. Description of ditches, flumes, pumps, headgates, etc. Well, pump, and sprinkler system

   b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet, materials used in storage dam: _____

   Period of year during which storage will occur _____ (Mo. Day) to _____ (Mo. Day) inclusive.

   c. Proposed well diameter is 16 inches; proposed depth of well is 400 feet.

7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years.

   b. Estimated construction cost is $ 75,000.00 .

8. Description of proposed uses:

   a. If water is **not** for irrigation:

      (1) Give the place of use of water: _____ ¼ of _____ ¼ 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: _____

P

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

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
14S	38E	3						30	30										60
		4	35		40	40			4	40									159
		5		30	30	35	10			20	15				18	17			175

Total number of acres to be irrigated 394

c. Describe any other water rights used for the same purposes as described above. License G-29897/13-2242 covers 34 acres in the SW¼NW¼, Sec 3, T. 14S, R. 38E in the amount of 0.63, priority 6/20/61

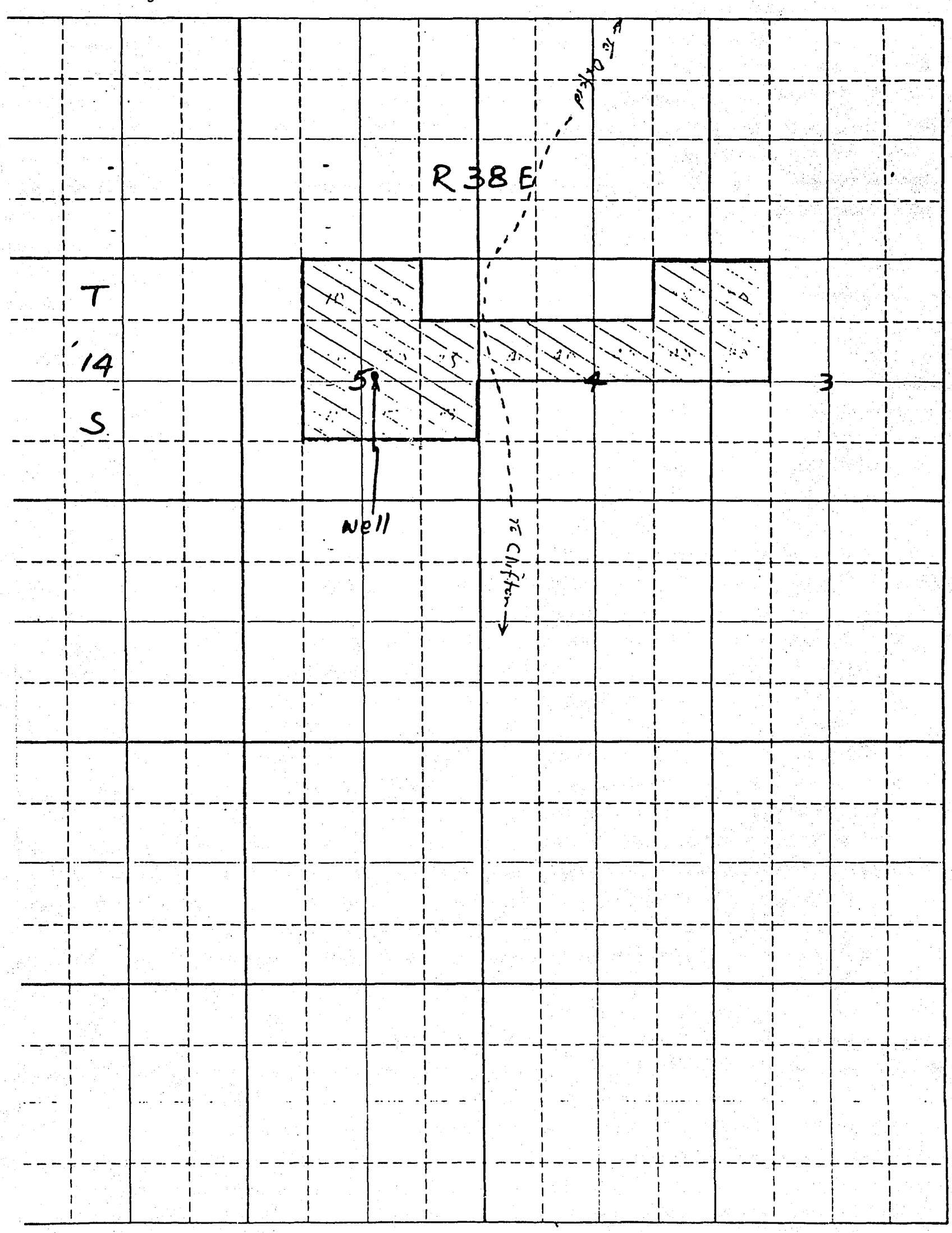
9. a. Who owns the property at the point of diversion Earl H. Ward & Anna Mae Ward

b. Who owns the land to be irrigated or place of use Earl H. Ward & Anna Mae Ward

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing Purchase of contract notice attached and deed from Dixon Christensen dated May 20, 1975, recorded.

10. Remarks The well in SW¼NW¼, Sec. 4, T. 14S, R. 38E, Permit number G29897 will be abandoned. It was found inadequate by the present owners. There are, further, two flowing wells in the pond in the same ¼ section. There is a drainage canal at approximately the dividing line between SW¼ and the SE¼ of the NW¼, Sec. 4, T. 14S, R. 38E, B.M. draining into the Oxford Slough. It is the intention of the applicant to drill the well as applied for and construct the necessary underground piping to accomodate a modern wheel move sprinkler system capable of providing adequate dependable water for the land blocked out. There will further be additional drainage installed in Sec. 3 & 4 of the farm project.

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.

(Applicant)

Proposed Priority 6-2-1975

Received by MB Date 6-2-75 Time 11:00 A

Preliminary check by ~~MJ~~ Fee $ 95.00

Receipted by MB Date 6-2-75 # 4271

Publication prepared by MB Date 6-4-75

Published in Preston Citizen

Publication dates June 12 + 19, 1975

Publication approved CW Date 7-08-75

Priority reduced to _____ Reason _____

Protests filed by: Andrew Hunt

Copies of protests forwarded by MB

Hearing held by _____ Date _____

Recommended for approval denial by RDC + SDF

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 13-7116, 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 October 1, 1980.

   c. Other: A measuring device of a type approved by the Director 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 11 day of October 1975.

Director

Filing Fee: $10.00
Receipt #: 6511

RECEIVED
APR 29 1977
Department of Water Resources
Eastern District Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
MAY 23 1977
Department of Water Resources
Eastern District Office

APPLICATION FOR AMENDMENT

Permit No. 13-7116

Comes now Kayle G. Richins &/or Claude Richens of (address) 13650 South 13th West, Riverton, UT 84065, 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. 13-7116, and requests that the permit and permit map be changed as follows:

1. Point of diversion: SW ¼ NW ¼, Sec. 4 Twp. 14S Rge. 38E, B.M., County of Franklin. Other points of diversion:

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

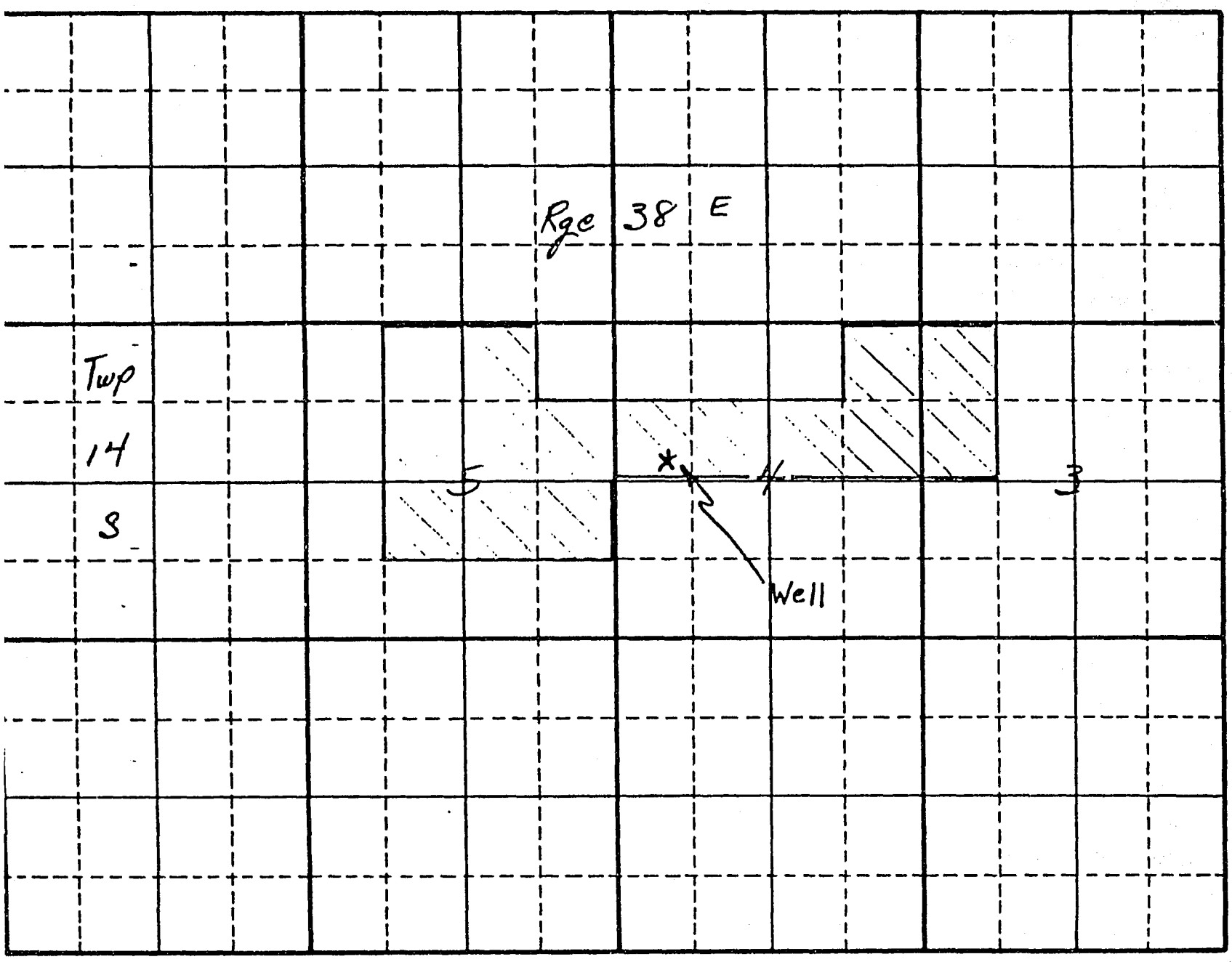
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre feet per annum)

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

TWP	RANGE	SEC	NE ¼				NW ¼				SW ¼				SE ¼				TOTALS
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
			✓																

Total number of acres to be irrigated

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 holders own risk.

Signed at Riverton, Utah, this 26 day of April, 19 77.

Louis M Carlson
(signature)

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

Chief, Operations Bureau

I, BOBBY D. FLEENOR, ~~Director~~ of the Department of Water Resources

hereby APPROVE the above application for amendment on Permit No. 13-7116.

Witness my hand this 20th day of May, 19 77.

Bobby D. Fleenor
~~Director~~

BOBBY D. FLEENOR
Chief, Operations Bureau

AURORA PUMP
A DIVISION OF THE AURORA PUMP
UNIT OF GENERAL SIGNAL

DEEP WELL TURBINE PUMP

ESTIMATE ORDER **SHEET**

440/480 Volt

SOLD TO: Claude Richins — DATE: 1-17-78
ADDRESS: — P.O. NO.
SHIP TO: — QUOTATION NO.
ADDRESS: — BID DATE
SHIP VIA: — COLLECT PREPAID — NO. OF PUMPS
CUSTOMER JOB NO. — LOCATION — ITEM NO.

Well Diameter (Inside) 16	Inches	Type	No. Stages		RPM	
Well Depth 250	Feet	Impeller			Curve No.	
Static Water Level 38	Feet	K. Value	Total Thrust			Lbs.
Setting 136	Feet	GPM	HEAD	% EFF.	BHP	
Pumping Level 174	Feet	1350	192	83	79	Laboratory
Test Pressure (- C - psig)	Feet	1350	16		3	Losses
Total Pumping Head 174	Feet	1350	174		82	Field
Test Capacity 1350	GPM	Motor Eff.	% (full load)	% (¾ load)	% (½ load)	Overall Eff. %

DESCRIPTION	PRICING SCHEDULE	Approx Wgt.
MOTOR: Make 75 HP 1800 RPM 460 Volts		
Phase 60 Cycle Type Frame No.	1,955.00	
Motor Features: N R R		
HEAD SIZE: 17 AC-8		
No. of Flanges 8		
Discharge (Below Ground Dschg. " Base to ℄ Dschg.)		
DISCHARGE PIPE: 5 Ft. of 8 " Std Pipe		
COLUMN: 20 Ft. 5 "Std. Pipe x 2½ "Tube x 1¼ "Shaft, per Ft. $		
BOWL SIZE 12 Type RH No. Stages 3		
SUCTION PIPE 8 Ft. of cone "Std. Pipe	5,008.00	
Strainer Size "Type Matl.		
AIR LINE: Ft. of "(Galv.)(Copper) $ Ft.		
AIR LINE TUBE GAUGE & FITTINGS: Hand Pump		
STARTING EQUIPMENT		
To operate 460 volt size #4 pump plant panel w/ low pressure relay and lightning protection	800.00	
ACCESSORIES, SPECIAL CONSTRUCTION, VARIATIONS:		
TOTALS	8,763.00	
INSTALLATION SERVICE	800.00	
PRICE SUBJECT TO CHANGE WITHOUT NOTICE		
NET TOTAL EACH UNIT		
ONE NET TOTAL - UNITS	9,563.00	

Thank you Richins, I will be glad to meet with you any time to discuss pump.

QUOTED BY: Bill Hill

PROPOSAL

UTAH Electric Motor & Pump Co.

ENGINEERING SALES INSTALLATION SERVICE

Phone 486-7506 1839 South 8th West Salt Lake City, Utah 84104

0718

Proposal Submitted To:

Date Apr 21 1978

Company	Address	
Name	Job	Phone

We hereby submit specifications and costs on the following proposals:

Pumps	(1) Johnston Turbine @ 1350 GPM @ 50 psi @ 460 Volt-setting @ 180 Including Bowl/Screen - w/ 5 Stages / Auto Oiler / PANEL w/	$
Pump Panels	@ Failure Relay Wired in ($470.00) @ N/C w/ 10" Col + 8" Head Disch - 100 HP VHS	
Motors	(1) Peerless Split Case Size 6" w/ 50HP (60 Hp Capacity) Mtd + w/ PANEL	
Motor Controls	Both units Installed and set on Customers pad — Quote $16,070.00 ✕	
Switch Gears	Installation Agreement; Includes the Above settings as Incl Fits sgld conn	
Motor Rewinding	pre-scribed, and Hookup Motors To panels set on Cement (6-12 Farm Motors)	
Pump Rebuilding	and panel Interlock, w/ Heaters + Fuses — Note: Cement pad et,	
Field Service	panel to pole wiring, Meter Base, Meter etc @ Power Co. Discression	
	and @ parts/labor Xtra - Also ALL piping, Gaskets, Valves etc	
	To + From pump Discharge Flanges @ Customer Discression + Xtra @	
	The cost of this proposal, in keeping with above specifications is	$ 450.00 Ea

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs, will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

TITLE AND LIEN RIGHTS The Equipment shall remain personal property, regardless of how affixed to any realty or structure Until the price (including any notes given therefor) of the equipment has been fully paid in cash, the company shall, in the event of customer's default, have the right to repossess such equipment.

TERMS If not otherwise specified in the quotation, the terms of payment shall be balance net within 30 days after date of invoice.

SHIPPING TERMS FOB Factory

SHIPPING WEIGHTS 10 Tons est

APPROX. DELIVERY DATE Will Install Immed. Following DMAD Turbine, + Tooele City Submissible

Authorized Signature W Eugene Johnson

NOTE This proposal may be withdrawn by us if not accepted within 30 days

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____

Date _____ Signature _____

PHONE (208) 852-2000 AND (801) 254-3271

DATE	SALES NO.	SOLD BY	ORDER NO.	INSTRUCTIONS	NUMBER
5-3-78	4				01658

SOLD TO: Cland Richins
13634 So. 1300 W
Riverton, Utah

Ed 210 / 254-4615
KL = 254-~~46~~ 4503

NO.	QUANTITY	PART NO.	DESCRIPTION	UNIT PRICE	AMOUNT
			125		
1	1,920	56	FT 8" ~~100~~ # PVC	180	3,456 00
2	1,620	57	FT 10" ~~135~~ # PVC	281	4,552 20
3	32	112	8" Riser units	4500	1,440 00
4	24	113	10" Riser units	5000	1,200 00
5	1100	458	FT 7" aluminum V@60'	240	2,640 00
6	1100	20 21	FT 11/8 5" aluminum V@60'	175	1,925 00
7	3,540	454	FT Installation	.60	2,124 00
8	200	454	FT Installation	.60	120 00
9	200	75	FT ~~6~~ 8" 160 # PVC	191	382 00
10		458	Miscellaneous fittings & surge	400 00	400 00
11					$18,239 20
12					
13			Less 4~~5~~% M PVC		-441 21
14					
15					17,797.99
16					
17	4 132	429	USED Lines of mcdowell	40 1,320 00	5,280 00
18					
19					$23,077.99
20			Changes made per phone conversation		
21			with Rex Pitcher - Changes on item's 1 - 2 & 9		
22			Item 1 & 2 changed from 100 # pcv to 125 pvc		
23			Item 9 changed from 6" to 8"		
24			with an additional charge of $2,800.40		
25			Grand total of bid $25,878.39		
26			This job to be completed by June 1, 1978		
27			Please return a copy of this contract		
28			to confirm our agreement.	TAX	
			SEE REVERSE SIDE FOR TERMS & CONDITIONS	TOTAL	

25.878.39

ORIGINAL

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL

19C

RICHINS, KAYLE G. and/or Claude Richins
13650 S. 13TH W.
RIVERTON, UT 84065

JULY 31, 1980

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 13-7116 WAS THAT EVIDENCE OF THE EXTENT OF DEVELOPMENT MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE OCTOBER 01, 1980. (SEE LAST PAGE OF YOUR APPROVED PERMIT). ENCLOSED IS A POST CARD WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF OF BENEFICIAL USE.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU HAVE NOT PREVIOUSLY RECEIVED AN EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME PROVIDED THE DELAY IS FOR REASONABLE CAUSE AS INDICATED IN SECTION 42-204, IDAHO CODE, AMENDED. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. A REQUEST FOR EXTENSION OF TIME FORM IS ENCLOSED FOR YOUR CONVENIENCE. PLEASE NOTE THAT A FEE OF $15.00 MUST BE SUBMITTED WITH THIS FORM.

EITHER THE BENEFICIAL USE POST CARD OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECIEVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE MENTIONED DATE, OTHERWISE, THE PERMIT WILL LAPSE AND BE OF NO FURTHER FORCE OR EFFECT WITHIN 60 DAYS.

SINCERELY,

Rita Fleck

RITA FLECK
SR. SECRETARY

ENCLOSURES

DEPARTMENT [illegible]

BOISE, IDAHO 83720

BOISE AUG-1'80 IDAHO

U.S POSTAGE

$.95

CLAIM CHECK NO.
581295

☐ HOLD

DATE
8-4-80

1ST NOTICE

2ND NOTICE
Attn: [illegible]

RETURN

Detached from PS Form 3849-A May 1979

CERTIFIED MAIL

NO 108323

19L-21

AUGUST 17, 1980

DEAR SIR,

AS WE ONLY HAVE ONE FINISHED WELL WHICH IS ONLY A PORTION OF THE WATER ON THE WELL PERMIT AS OF NOW - I WOULD LIKE TO ASK FOR AN EXTENSION OF TIME TO COMPLETE THE FULL WELL PERMIT.

I AM SENDING PROOF OF THE ENGINEERS REPORT BY AURORA PUMP CO. TO THE FACT THAT OUR WELL RUNS 1350 GALLONS OF WATER PER MINUTE.

WE PLAN TO UTILIZE AN ADDITIONAL 200 TO 300 ACRES OF GROUND, OUR PLAN FOR THIS RANCH WILL REQUIRE THE FULL AMOUNT OF THE WELL PERMIT AND AS WE ARE FINANCING THIS PROJECT OURSELVES IT WILL TAKE A GOOD DEAL OF TIME AND MONEY TO COMPLETE.

IF YOU NEED ANY FURTHER INFORMATION PLEASE CONTACT ME AS SOON AS POSSIBLE.

THANK YOU.

Kayle G. Richins

KAYLE G. RICHINS
13650 SO. 13TH WEST
RIVERTON, UTAH 84065

Form 204
7/80

Identification No. _____

RECEIVED
SEP 5 1980
Department of Water Resources
Eastern District Office

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

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

AUG 21 19XX
Department of Water R

Richins, Kayle G. &/or Claude Richins 1365 So. 13TH West Riverton, Ut. 84065
(Name) (Address)

State of Utah, 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. 13-7110.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before October 1, 1980.

That he has heretofore performed the following work described under said permit: one finished well and are planning for more is possible.

Costing $35,000.00

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit: Insufficient funds at this time, and will need more time to complete the remainder of the project.

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to December, 1985.

Kayle G. Richins
(Signature)*

*IF OTHER THAN HOLDER, Power of Attorney must be supplied

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within which to submit the statement of beneficial use is extended to October 1, 1985.

Signed this 26th day of August, 1980.

L. Glen Saxton
Chief, Operations Bureau

Received by _____ Date _____ Receipt # _____

DEPARTMENT OF WATER RESOURCES

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

Name(s) of Permit Holder: _____

Post Office Address: _____

_____ Tel. No. _____

Source of Water: _____

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

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

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

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

_____ Date

_____ Signature of Permit Holder

22 D

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

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address
Statehouse
Boise, Idaho 8372(
(208) 334-4440

September 3, 1980

Richins, Kayle & or Claude Richins
13650 So. 13th West Riverton,
Utah 84065

Dear Sir's

RE: Permit No. 13-7116

Enclosed is a copy of the approved request for extension of time. The time within which to submit the statement of beneficial use is extended to Oct. 1, 1985.

Also enclosed is receipt No. 15987 in the amount of $15.00.

Sincerely,

Rita Fleck

Sr. Secretary

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED
DEC 22 1988
Department of Water Resources
Eastern District Office

IN THE MATTER OF PERMIT)
NO. 13-7116 IN THE NAME OF)
KAYLE G. &/OR CLAUDE RICHINS)

ORDER OF REINSTATEMENT

This matter having come before the Idaho Department of Water Resources (Department) the Department finds as follows:

FINDINGS OF FACT

1. On October 11, 1975, the Director of the Department of Water Resources issued Permit No. 13-7116 with a condition of approval that proof of construction of works and application of water to beneficial use be submitted on or before October 1, 1980.

2. On August 26, 1980, an Extension of Time in which to submit proof of beneficial use was granted, extending the proof due date to October 1, 1985.

3. On July 31, 1985 the Department sent a proof due notice to the permit holders.

4. On October 30, 1985 the Department sent a lapse notice to the permit holders since neither proof of beneficial use nor a request for extension of time had been received from the permit holders.

5. On June 23, 1988 Proof of Beneficial Use was received by the Department from the permit holders.

6. Section 42-218a, Idaho Code, authorizes the Department to reinstate a lapsed permit, with the priority date advanced to the date that proof of beneficial use was received, upon submittal of evidence clearly establishing the extent of beneficial use prior to the proof due date and a showing of reasonable cause why the proof was submitted late.

7. The permit holders submitted copies of various documents giving evidence that water has been put to beneficial use. These documents include power records, cost breakdowns for installation of the irrigation system, and an aerial photo from the ASCS verifying irrigated lands.

8. Inspection of the ASCS aerial photo shows irrigated lands within the place of use described by the permit.

9. The permit holders have stated that the proof due and lapse notices were not received and therefore proof was not filed in a timely manner. They were unaware of action required on their part.

CONCLUSIONS OF LAW

1. The permit holders have submitted proof of beneficial use along with supporting evidence which establishes that water was in fact beneficially used for irrigation during the authorized development period identified on the permit.

2. The permit holders have shown sufficient cause why the proof of beneficial use was not submitted in a timely manner.

3. The permit can be reinstated with the date of priority advanced to the date proof of beneficial use was received by the Department.

ORDER

IT IS HEREBY ORDERED that Permit No. 13-7116 is reinstated.

IT IS FURTHER ORDERED that the date of priority of this permit is advanced to June 23, 1988.

IT IS FURTHER ORDERED that the extent of the water right will be determined in the license of water right ultimately issued by the department.

Dated this 19th day of December, 1988.

L. Glen Saxton

L. GLEN SAXTON, Chief
Water Allocations Bureau

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
JOHN B. INGELSTROM
DANIEL C. GREEN
REED W. LARSEN
CARY B. COLAIANNI
BRENT O. ROCHE
FRED J. LEWIS
KIRK B. HADLEY

*ALSO MEMBER ILLINOIS BAR

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-0391

TELEPHONE
AREA CODE 208
232-6101

TELEX
208-232-6109

RECEIVED
MAR 23 1990
Department of Water Resources

March 22, 1990

L. Glen Saxton, Chief
Operations Bureau
State of Idaho
Depart. of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83702

Gary Spackman, Manager
Water Right Permit Section
State of Idaho
Depart. of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83702

Re: Permit No. 13-7116
Kayle G. and/or Claude Richins

Dear Gary and Glen:

I have not heard from you in response to our February 12, 1990, letter requesting that the Department issue a license on the captioned permit in favor of the Richins for 2.83 cfs as recommended by the field report of Keith C. Wilson, with a priority date of June 2, 1975, the date the original Application for Permit was filed. I believe we submitted all available supporting documentation that would be necessary to permit a decision. However, if you have any questions or desire additional information, please contact me.

As the upcoming irrigation season will soon be upon us, we would appreciate it if this matter could be addressed and the license issues as soon as possible.

Very truly yours,

RANDALL C. BUDGE

RCB:gr
cc: Kayle Richins
Claude Richins
Robert Richins

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 26, 1990

Randall C. Budge
Attorney at Law
P.O. Box 1391
Pocatello, ID 83204-0391

RE: Permit to Appropriate Water No. 13-7116; in the Name of Kayle G. &/or Claude Richins

Dear Randy:

I acknowledge receipt of your letter dated February 12, 1990. The Department of Water Resources will consider your letter a request for amendment to the Department's Order of Reinstatement, dated December 19, 1988. I have forwarded a copy of your letter to Steve Fuller, Attorney at Law, Preston, Idaho. He represents people who have contested the reinstatement of permit no. 13-7116, and have also contested the extent of development.

In prior correspondence with your client and Steve Fuller's client, the Department promised to schedule a fact finding hearing to determine the number of acres irrigated during the duration of the permit. It seems appropriate to me that the issues raised by your letter could also be argued at that time.

I will forward this file for scheduling of a hearing. I feel I should not be a hearing officer in this matter because of my prior conversations with both parties.

Sincerely,

Gary Spackman

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

cc. Steve Fuller

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED
JUL 5 1990
Department of Water Resources

IN THE MATTER OF PERMIT NO. 13-7116 IN THE NAME OF KAYLE &/OR CLAUDE RICHINS	APPLICANT'S POST-HEARING BRIEF

At the conclusion of the hearing conducted by the Idaho Department of Water Resources (hereinafter "IDWR" or "Department") in Preston, Idaho on June 8, 1990, hearing officer Glen Saxton requested that counsel for the respective parties submit written briefs addressing the factual and legal issues presented to be simultaneously mailed on July 2, 1990.

Applicants, Kayle G. and Claude L. Richins (hereinafter "Applicants" or "Richins") submit this Brief to set forth their position on the evidence presented and applicable law.

STATEMENT OF THE CASE

Applicants contend that they are lawfully entitled to the issuance of their water right license pursuant to I.C. 42-219 based upon their development and application to a beneficial use of Permit 13-7116. Applicants further submit that their water rights should be issued for 2.83 cfs for irrigation purposes from April 1 to November 1 for use upon 222 acres as reflected in the IDWR "Beneficial Use Field Report" date August 29, 1989, with a

priority date of June 2, 1975, the date of the original Application.

Protestants, Petersons, protested the number of acres designated in the place of use and assert that the priority date should be June 23, 1988, the reinstatement date of the permit pursuant to the Order of Reinstatement dated December 19, 1988. Applicants assert that proof of beneficial use was in fact timely submitted to IDWR on or about August 17, 1980, with respect to the 2.83 cfs portion of the permit that had been developed; and, further, that the extension, lapse and reinstatement of a later priority date only applied to the undeveloped portion of the water right under the permit. Alternatively, Applicants submit they are entitled to the early priority date on the developed water pursuant to I.C. § 42-218(a) by reason of error or mistake by IDWR in not recognizing the proof of beneficial use timely submitted by Applicants on August 17, 1980.

STATEMENT OF FACTS

The evidence presented by Applicants in favor of their license is unrebutted and uncontroverted, except as to a minor acreage question noted below. Protestant contends that the following facts were clearly and convincingly established by the testimony and evidence presented at the hearing.

1. The original Application for permit was filed by Frank L. Hart June 2, 1975, and approved on October 11, 1975, for 7.88

cfs for irrigation purposes. The approval was subject to proof of construction of works and application of the water to beneficial use to be submitted to IDWR on or before October 1, 1980. The permit was assigned to Applicants Kayle G. Richins and/or Claude Richins on April 29, 1977. (Exhibit "1") The Applicant Richins submitted an Application for Amendment to change the point of diversion, which amendment was approved on May 20, 1977. (Exhibit "2")

2. In the Spring of 1977, the Richins drilled their well at the designated point of diversion. The well was tested in the Fall of 1977, by Aurora Pump. The Engineer's Report as shown in Exhibit "3" reflects a 16" diameter well with a depth of 250 feet producing 1350 gpm at a pumping level of 174 feet. Richins contracted in April of 1978, with Utah Electric Motor and Pump Company who installed a Johnson Turban Pump and two Peerless Electric Motors of 100 hp and 60 hp. (Exhibit "4") Also installed in the Spring of 1978, prior to the irrigation season were 4 handlines purchased from Pitcher Irrigation. (Exhibit "5") and 4 wheel lines. The total cost of the well and irrigation equipment was approximately $95,000.00 as testified to by Kayle G. Richins and shown in Exhibits 3, 4, 5 and 8.

3. The described irrigation system has been continuously used by the Richins since the 1978 irrigation season to irrigate their property to raise hay and grain. It is undisputed that the

full 222 acres identified on the map included in the IDWR Field Report has been irrigated by the irrigation system at various times since it was constructed in 1978. NO!

It is further undisputed that all of that property was developed and irrigated within the authorized permit period commencing October 11, 1975, and ending October 1, 1985, with two minor exceptions. Rob Richins testified that the east most 20 acres, described as East ½ of the Southeast ¼ of the Northeast ¼ of Section 4, Township 14, South Range 38 East B.M., was in an ASCS set-aside program through the 1985 irrigation season. This parcel was placed under irrigation from the system in 1986 from which date it has been continuously irrigated from the system. Although this 20 acre parcel was out of production and in the set-aside program until 1986, it is undisputed, as testified by Rob Richins, that mainlines had been extended to the property in 1978, on which date the system was complete and all of the property include the 29 acres in the government set-aside program.

The only other parcel in question is a 37 acre parcel of property located in the North ½ Southwest ¼ of Section 4. This property, known as the "Buxton" property was purchased by the Richins in 1987. (Exhibits "A", "B") From the testimony of the Richins and Randy Peterson, it is undisputed that the Buxton 37 acres was leased by the Richins during 1985 and 1986 and that it

has been irrigated from the described system continuously beginning in 1986. A dispute of facts exist whether or not this property was irrigated during the 1985 season. Richins contend it was while Peterson testified that it was not. Rob Richins testified that the Buxton property was in fact all irrigated during the 1985 irrigation season, first using water from the Oxford irrigation system which was available until early June and thereafter from the well which was pumped into an irrigation ditch in the upper west edge of the Buxton property to permit flood irrigation. Rob Richins' testimony was more persuasive as he actually did the irrigating and was there on a daily basis as applicant's farm manager. Under cross-examination, Peterson admitted during 1985 he was living in Salt Lake and working full time for Kennecott Copper. He claimed, however, that he knew the area and worked on the family farm weekends during the summer and during his vacation except for "about 6" of his off days. Thus his opportunity to observe was much more limited and would have only been on the weekends when he had days off. The Richins do not normally irrigate on weekends. Petersons credibility to recall details on other issues, even the irrigation of his own property during 1985 and other years casts doubt on his memory that the Buxton property was not irrigated in 1985.

4. On August 1, 1980, IDWR mailed to the Richins a letter dated July 31, 1980, telling the Richins that they needed to

submit evidence of the "extent of development" by October 1, 1980. The letter stated that a post card was enclosed which "may be used to submit the required proof of beneficial use." The letter also indicated that if they had not completed their project they could request an extension with the enclosed form. (Exhibit "6")

5. Kayle Richins sent a letter to the Department on August 17, 1980 (Exhibit "9") and enclosed the completed "proof card" with respect to the developed portion of the water, together with the Request for Extension form with respect to the undeveloped portion of the water. (Exhibits "7", "8" and "9") Kayle Richins' letter and also the Request for Extension clearly stated that one well was completed. Kayle Richins also submitted with his August 17, 1980 letter the report from Aurora Pump (Exhibit "3") and Utah Electric Motor and Pump Company bill (Exhibit "4") to verify the completion of the system and the costs expended which were estimated on the request form at $95,000.00 Richins' testimony in this regard is uncontroverted and substantiated by the fact that his file copies retained of his August 17, 1980 letter and the Request for Extension, Pitcher Irrigation bill and the Aurora Pump statement, which coincide exactly with the copies of these documents contained in the IDWR file.

6. The Request for Extension of time was approved by IDWR on August 26, 1990, extending the period to submit proof of

beneficial use to October 1, 1985. A copy was returned to Richins with IDWR letter dated September 3, 1980. (Exhibit "8") At no time thereafter did IDWR make further inquiries of the Richins or request any additional information with regard to developed portion of the permit which Richins submitted the proof of use on with his August 17, 1980, letter.

7. Subsequently, IDWR sent a lapse notice as Richins had submitted no additional proof of more development or beneficial use of the remaining water under the permit. In response to the Department's request, on June 23, 1988, Richins submitted an additional Proof of Beneficial Use, basically re-submitting the same proof submitted August 17, 1980 as to the developed portion of the permit. By Order dated December, 1988, the permit was reinstated and the priority date advanced to June 23, 1988. Richins assert that this reinstatement and advanced priority date only apply to the undeveloped portion of the permit, not that portion that was developed and proved up on in August of 1980. The undeveloped water under the permit no longer is at issue as Richins no longer intend to drill additional wells or expand their system beyond what was originally built in 1978.

ISSUES

1. Did the IDWR properly conduct a hearing on issues presented regarding the proposed issuance of the Richins water right license based on Permit No. 13-7116?

2. Did the Richins properly submit prior to October 1, 1985, sufficient proof of development and beneficial use at the designated point of diversion and place of use entitling them to issuance of a license with priority date of June 2, 1975?

3. Within the permit period ending October 1, 1980, did the Richins apply the water to beneficial use upon 222 acres as reflected by the Field Examiner's Report?

ARGUMENT

I. APPLICANTS HAVE HAD NO PRIOR HEARING ON THE ISSUANCE OF THEIR WATER LICENSE AND RELATED ISSUES AND WERE ENTITLED TO THE IDWR HEARING AS A MATTER OF LAW.

Idaho Code §42-219 governing the issuance of a license expressly provides in the last sentence that "the applicant may contest such action by the Department pursuant to §42-1701A(3). Pursuant to I.C. 42-1701A(3)

> "...any applicant for permit, license, certificate, approval, registration, or similar form of permission required by law to be issued by the director . . . and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the denial or conditional approval..."

It is undisputed that applicants have had no hearing on issuance of their license, nor has a hearing been conducted on the other issues raised, i.e., the sufficiency and timeliness of the proof submitted, and the priority date and acreage.

At the hearing for the first time the protestants questioned the propriety of the IDWR conducting the hearing. The

Applicants submit that the Peterson's protest was untimely and improperly raised for the first time on the morning of the hearing. The position submitted by protestants at the hearing is totally inconsistent with and conflicts with their own prior requests that the issues presented be resolved by hearing before the Department.

The file of the Department (which the hearing officer took judicial notice of) contains a June 6, 1988, letter from Protestant's attorney which specifically states "please accept this as a protest to the issuance of any license based on this permit." In response, IDWR supervisor, Gary Spackman wrote the Richins on October 20, 1988, acknowledging that Petersons contested the number of acres and that Richins had asserted question concerning the priority date of the developed portion of the permit. In response by letter to Applicants' attorney Mr. Budge, dated March 26, 1990, which was also copied to Protestant's counsel, Spackman indicated:

> "The Department of Water Resources will consider your letter a request for amendment to the Department's Order of Reinstatement dated December 19, 1988.
>
> * * *
>
> "In prior correspondence with your client and Steve Fuller's client, the Department promised to schedule a fact finding hearing to determine the number of acres irrigated during the duration of the permit."

Additionally, the December 19, 1988, Order regarding the hearing stated:

IT IS FURTHER ORDERED that the extent of the water right will be determined in the license of water right ultimately issued by the Department.

Clearly, none of the issues in dispute between the applicant and the protestant have been previously heard before the Department. Accordingly, these issues were properly heard by the Department per the statutory authority cited above. 75?

II. APPLICANTS ARE ENTITLED TO THE ISSUANCE OF A LICENSE FOR 2.88 CFS WITH A PRIORITY DATE OF JUNE 2, 1985, THE DATE THE PERMIT WAS ISSUED.

It is undisputed that Permit No. 13-7016 originally issued to Frank L. Hart with a priority date of June 4, 1975, was assigned to the Richins properly and amended to reflect a change in the point of diversion. The permit reflected a quantity of 7.88 cfs for the irrigation of some 394 acres. The permit was issued upon the condition that "Proof of construction of works and application of water to beneficial use shall be submitted on or before October 1, 1980."

The evidence is clear and undisputed that applicants drilled a well at the designated point of diversion in the Spring of 1977. In the Fall of 1977, the well was tested by Aurora Pump. Aurora's report dated January 17, 1978, Exhibit "3", showed the well had a diameter of 16 inches, depth of 250 feet, pumping level at 174 feet, with a capacity or flow of 1350 gpm. In the Spring of 1978, Applicants completed their irrigation system by installing a Johnson turbine pump with 100 hp and 60 hp Peerless

electric motors as reflected by Exhibit "4". Additionally they purchased four handlines from Pitch Irrigation (Exhibit "5") and purchased four additional wheel lines. The system was completed, operational and used for the first time in the 1978 irrigation season as testified to by the applicants. Kayle Richins testified that the total investment in the system was approximately $95,000.00.

The described irrigation system has been used continuously since the beginning of the 1978 irrigation season to supply irrigation water to the designated place of use. The originally installed system included buried mainline and portable sprinkler irrigation equipment and was capable or irrigating all of the property designated in the permit as the place of use. As a matter of law, the system the completed in 1978. Completion is defined at I.C. 42-112 as follows:

> "By completion is meant conducting the waters to the place of intended use."

Based upon the testimony of the applicants, their farm manager, Rob Richins, the ASCS acreage reports, (Exhibit "10") power usage records (Exhibit "11") applicants have clearly and convincingly established, without any question whatsoever, that the system was completed and operational in 1978 and has been utilized to irrigate various portions of their property from time-to-time in accordance with customary irrigation practices in the area every year to date. The irrigation system as described by Richins

represented a substantial investment to bring their land under irrigation and beneficially use their permitted water rights.

The "Beneficial Use Field Report" prepared by Keith Wilson based upon his examination on August 29, 1989, completely substantiates the nature and use of Applicant's irrigation system, their water right in the amount of 2.83 cfs and use upon 222 acres and designated in the original permit. The only question raised at all is Protestants' largely unsubstantiated claim that a portion of the property consisting of 37 acres known as the "Buxton Property" did not come under irrigation until 1986.

A. APPLICANTS TIMELY SUBMITTED SUBSTANTIAL PROOF OF CONSTRUCTION AND APPLICATION OF WATER TO BENEFICIAL USE BEFORE OCTOBER 1, 1980.

Idaho Code §42-217 provides in pertinent part:

> On or before the date set for the beneficial use of waters appropriated under the provisions of the chapter, the permit holder shall submit a statement that he has used such water for the beneficial purpose allowed by the permit.

This statutory section further provides that upon such written proof by the user, "or a field examination report prepared by a certified water right examiner," the Department shall conduct a license examination of the place of use, the area and location of the land irrigated and the nature of all of the improvements that have been made. The issuance of the license is

governed by I.C. 42-219 which provides in pertinent part as follows:

> **42-219. Issuance of License - Priority** -- Upon receipt by the Department of Water Resources of all the evidence in relation to such final proof, it shall be the duty of the Department to carefully examine the same, and if the Department is satisfied that the law has been fully complied with and that the water is being used at the place claimed and for the purpose for which it was originally intended, the Department shall issue to such user or users a license confirming such use.
>
> * * *
>
> Such license shall bear the date of the application for, and the number of, the permit under which the works from which such water is taken were constructed; the capacity of such works; the date when proof of beneficial use of such water was made, and also the date of the priority of the right confirmed by such license, which shall be the date of the Application for the permit. . . provided there has been no loss of priority under the provisions of this chapter.

The testimony and Exhibits "6", "7", "8" and "9" presented by witness Kayle Richins clearly and convincingly establishes that the applicants timely and properly submitted to IDWR adequate proof of beneficial use prior to October 1, 1985, has not been questioned or disputed by the protestants or the Department.

The Department's letter dated July 31, 1980, to the Applicants (Exhibit "6") provided them notice "that evidence of the extent of development must be submitted to this office on or before October 1, 1980." A postcard was included which the Department indicated "may be used to submit the required proof of

beneficial use." The letter further indicated that "if you have not fully completed your project ... you may request and extension of time." A request for extension of time form was also enclosed.

After calling the Department for further clarification, Kayle Richins testified that he completed the post card, which was similar to Exhibit "7", and also completed and returned the Request for Extension of Time form, Exhibit "8", with his letter of August 17, 1980, Exhibit "9". Mr. Richins testified he did not retain a photocopy of the post card he completed and submitted to the Department. For reasons unknown it could not be located in the Department's microfilm records. Notwithstanding, all information that would have been provided to the Department by the postcard was nonetheless supplied in other documents actually received by the Department with Mr. Richins August 17, 1980, letter and/or the "Request for Extension of Time". The request form identifies the name and address of the Applicant, the permit number, and the required completion date of October 1, 1980. By incorporating Permit No. 13-7116 by reference, Mr. Richins reasonably and properly concluded that the Department understood the places of diversion and use and other pertinent information as specified in the permit itself. Furthermore, the Request itself on its face showed that the developed portion of

the permit had been timely completed and applied to beneficial use.

Mr. Richins supplied the information requested in the body of the Request for Extension as follows:

> **That he has heretofore performed the following work described under said permit:** _____ one finished well and are planning for more is possible." _____ costing $95,000.00.
>
> **That he is unable to complete the remainder of the work within the required time for the following reasons, to wit:** "insufficient funds at this time and will need more time to complete the remainder of the project. (Emphasis added)

Mr. Richins transmittal letter dated August 17, 1980, (Exhibit "9") stated:

> "August 17, 1980,
>
> Dear Sir: As we have only one finished well which is only a portion of the water on the well permit as of now -- I would like to ask for an extension of time to complete the full well permit.
>
> I am sending proof of the engineer's report by Aurora Pump Company to the fact that our well runs 1350 gallons of water per minute.
>
> We plan to utilize an additional 2 to 300 acres of ground, our plan for this ranch will require the full amount of the well permit and as we are financing this project ourselves, it will take a good deal of time and money to complete.
>
> If you need any further information, please contact me as soon as possible.
>
> Thank you.
>
> Kayle G. Richins
> 13650 South 13th West
> Riverton, Utah 84065
>
> (Emphasis added)

Mr. Richins testified that the postcard (similar to Exhibit "7"), the Request for Extension of Time, (Exhibit "8"), Aurora Pump Company's engineer's report (Exhibit "3"), copies of the Utah Electric Motor and Pump Company bill (Exhibit "4"), and Pitch Irrigation bill (Exhibit "5"), were mailed to the Department with his August 17, 1980 letter to provide proof of construction of works and application of the developed portion of the water under the permit to beneficial use as well as to get an extension on the remaining undeveloped water.

With the exception of the proof card, the documents which Mr. Richins testified he sent with his letter were all located in the Department's microfilm records and timely received well prior to the October 1, 1985, deadline.

The Request for Extension of Time was approved on August 26, 1980, stating as follows:

> IT IS HEREBY ORDERED that the above Application for Extension of Time be APPROVED and the time within which to submit the statement of beneficial use is extended to October 1, 1985.

It was Mr. Richins understanding that the Order approving the Request returned to him with the Department's letter of September 3, 1980 (Exhibit "8") constituted IDWR's approval of the portion of the well that had been completed for the 1350 gpm as well as an extension of time to October 1, 1980 to complete the balance. Mr. Richins' understanding that he had fully complied with all

requirements of the Department and properly submitted adequate proof on the developed portion of the permit is reasonable and understandable under the circumstances. If the Department had any question or problem with the proof submitted with the August 17, 1980, letter it certainly could have and should have made further inquiry at that time. Mr. Richins indicated in the last sentence of his letter: "if you need any further information please contact me as soon as possible."

The proof submitted by the Applicant as above described fully provided all information that would have been provided by the Department's proof card, assuming arguendo that it was not actually received by the Department. Richins substantially if not fully complied with the requirements of I.C. 42-217 that "the permit holder must submit a statement that he has used such water for the beneficial purpose allowed by the permit." There was nothing further the Applicant had to do with respect to the developed portion of the permit pending the Department's completion of its field report, examination and issuance of the license pursuant to I.C. 42-219.

There is simply no factual or legal basis whatsoever that would support any action by the Department other than issuing the permit for the develop portion of the water right of 2.83 cfs with the priority date of the original permit, June 2, 1975. To deny the Applicants' license as requested and shown by the IDWR's

own Field Report would be wholly unreasonable, arbitrary and capricious.

B. THE REINSTATEMENT OF THE PERMIT WITH THE ADVANCED PRIORITY MEANS ONLY TO THE UNDEVELOPED PORTION OF THE PERMIT.

The provisions of I.C. §42-218(a) relating to the extension of the permit, lapse and reinstatement with a later priority date only apply to the undeveloped water, with respect to which no proof had been submitted by October 1, 1980. If the Department could somehow conclude that under I.C. § 42-218(a) the priority date could be extended for the entire permit amount including the previously developed portion, there is nonetheless ample basis for reinstating the original priority date. The last sentence of the statutory provision states: "the original priority date of the permit shall not be reinstated except upon a showing of error or mistake of the Department." (Emphasis added)

It appears obvious from the evidence presented that the Department, due to mistake, inadvertence or oversight, simply ignored the proof Richins timely submitted with respect to the developed portion of the water right. As a result, the Richins subsequently became engulfed in the administrative quagmire before the Department pertaining to the undeveloped portion of the permit which later lapsed and was reinstated with the later priority date. The undeveloped portion of the water right under the permit is no longer an issue of significance as it was not timely developed and the Richins no longer harbor any intentions

to further develop or expand their original system constructed in 1978.

C. THE LICENSE SHOULD BE ISSUED FOR 2.83 CFS USE UPON 222 ACRES SET FORTH IN THE DEPARTMENT'S FIELD REPORT.

At a very minimum, the license should be issued for 2.83 cfs as recommended by Wilson's Field Report prepared following his examination on August 19, 1989. The Applicant submits that the permit should be issued for 3.0 cfs, the original capacity of the system when it was installed in 1978, as reflected by the Aurora Pump Company's Engineering Report. The quantity calculated by Mr. Wilson's Field Report based upon his testing in August of 1989, was near the end of the irrigation season after 2 successive years of severe draught as testified to by Rob Richins. Wear to the bowels of the pump over the proceeding 12 years from the date it was installed would account for Wilson's measurements being slightly less than the original installed capacity of the system. At the time the system was installed and use commenced in 1978, the quantity being diverted and applied to beneficial use most likely was the full 3.0 cfs, rather than the slightly reduced 2.83 cfs Mr. Wilson found some 11 years later.

The Field Report identified the place of use to consist of 222 acres. With two minor areas of question, the evidence is undisputed that the water was applied to all of this property continuously since 1978. Rob Richins testified that the 20 acre parcel identified as the east most 20 acres shown on the map was

placed in the ASCS set aside program through the year 1985 thus did not go under irrigation under 1986. It is submitted that the east most 20 acres that was in the set-aside program should still be covered by the permit since the Applicant's irrigation system mainlines extended to this ground when they were constructed in 1978 from which date the land was irrigable from the system, notwithstanding the fact that there was no irrigation inasmuch as no crops were permitted under the government's set-aside program.

Idaho water law recognizes that a right should not be lost when non-use is attributable to federal set-aside programs. I.C. § 42-222(2) specifically states:

> "All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter; except that all water rights appurtenant to land contracted in a federal cropland set-aside program, shall not be lost and forfeited for nonuse during the contracted period. The five (5) year period of nonuse for forfeiture of a water right shall begin to accrue upon termination of the contract if a period of nonuse did not occur prior to the effective date of the contract or shall continue to accrue if a period of nonuse occurred prior to the effective date of the contract. . . ."

do will include permits.

The Protestants have also asserted that the so called Buxton property should not be included in the license since it was not purchased by the Applicants until 1987. However,

Protestants admit that the Applicants leased the property during 1985 and 1986 and irrigated the property in 1986. Kayle, Claude and Rob Richins each testified that the Buxton property was irrigated from the well beginning in 1985. Rob Richins testified that the Buxton property was flood irrigated beginning in 1985 from the Oxford Irrigation rights available prior to June 1st and thereafter from the well water which was partially diverted into the same ditch and used for flood irrigation. The contrary testimony of Randy Peterson that it was not irrigated in 1985, was simply unconvincing and uncredible given the inadequacy of his memory of other related issues and the fact that he has such a limited opportunity to observe the irrigation practices on the property. Rob Richins was the full-time manager for the Applicant who actually did the flood irrigation on a day to day basis. Obviously he would know and well recall irrigation of the Buxton property in 1985 as he testified. On the other hand, Peterson admitted on cross-examination that during 1985 he was working full time for Kennecott Copper while he lived in Salt Lake. He stated that he traveled to the family farm on the weekends and on vacation days when he was off work, except for 6 days that he did not come up. Since the Buxton property was being flood irrigated, the irrigation that was occurring would not be readily observable as would be the case if sprinkler systems were used. Since the Petersons live approximately 2

miles to the south of the Richins property, Peterson would have to make a special trip to the Richins property and actually get out and walk in the field to be able to see the flood irrigation that was occurring. It is undisputed that he did not do this as his view was at a distance and from the highway. Furthermore, what limited observations he would have made would have occurred on the weekends when he was off work, a time other than the normal irrigation rotations which are during the week days.

The ASCS acreage reports, Exhibit "10", further substantiate Rob Richins' testimony that the Buxton property was irrigated during 1985. Rob was able to specifically identify the 1985 acreage reports reflecting irrigated hay and grain crops grown on the Buxton property. Accordingly, the overwhelming weight of the evidence towards the issuance of the license for the full 222 acres.

Respectfully submitted.

DATED this 2nd day of July, 1990.

RACINE, OLSON, NYE, COOPER
& BUDGE, Chartered

By Randall C. Budge
RANDALL C. BUDGE

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT I mailed a true and correct copy of the foregoing by placing the same in the U.S. mail, postage prepaid addressed as follows on this 2nd day of July, 1990.

Steven R. Fuller
Attorney at Law
P.O. Box 191
Preston, Idaho 83263

L. Glen Saxton, Chief
Operations Bureau
State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

Randall C. Budge
RANDALL C. BUDGE

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
JOHN B. INGELSTROM
DANIEL C. GREEN
REED W. LARSEN
CARY B. COLAIANNI
BRENT O. ROCHE
FRED J. LEWIS
KIRK B. HADLEY

*ALSO MEMBER ILLINOIS BAR

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
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POCATELLO, IDAHO 83204-0391

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July 2, 1990

RECEIVED
JUL 5 1990
Department of Water Resources

Mr. L. Glen Saxton
Hearing Office
Idaho Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83702

Re: Permit No. 13-7116
Kayle G. and/or Claude Richins

Dear Glen:

Following the June 8, 1990 hearing in Preston on the captioned matter, it was agreed that the parties would mail briefs simultaneously on July 2, following which an additional ten days would be allowed to file any reply briefs. Enclosed please find the Applicants' Post-Hearing Brief, which has also been mailed this date to opposing counsel, Steven R. Fuller.

After I have had an opportunity to review Mr. Fuller's brief, we will advise if any further reply will be filed. Thank you for your consideration.

Very truly yours,

RANDALL C. BUDGE

RCB:rr

Enclosure

cc: Steven R. Fuller (w/encls.)

STEVEN R. FULLER
Attorney at Law
P.O. Box 191
24 North State
Preston, ID 83263
Telephone (208) 852-2680)

BEFORE THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 13-7116 IN THE NAME OF KAYLE G. and/or CLAUDE RICHINS.	PROTESTANTS' BRIEF IN OPPOSITION

THIS MATTER having come before the Idaho Department of Water Resources pursuant to hearing on June 8, 1990, and the Department of Water Resources having requested that the issues be briefed, Protestants, RANDY and SUSAN PETERSON and ROY PETERSON and BEVERLY PETERSON hereby submit the following:

STATEMENT OF FACTS

1. An application for permit was submitted to the Department of Water Resources by the Applications' predecessors in interest in 1975. The Department of Water Resources issued Permit No. 13-7116 on October 11, 1975 with the usual requirements that proof of beneficial use be submitted on or before October 1, 1980.

2. On July 31, 1980, a notice was sent to the Richins indicating that proof of beneficial use must be submitted to the Department prior to October 1, 1980 or their permit would lapse.

3. The Richins submitted to the Department of Water Resources a request for extension of time which extension was granted on August 26, 1980

extending the time period to submit proof of beneficial use to October 1, 1985. The file at the Department of Water Resources does not show that the required form for submission or proof of beneficial use was submitted in 1980.

4. On July 31, 1985, a letter was sent to the Richins by the Department of Water Resources requiring them to submit proof of beneficial use prior to the expiration date or allow their permit to lapse. This letter specifically stated that if the beneficial use form was not sent, "the permit will no longer be of any force nor effect." Subsequently, by letter dated October 30, 1985, from the Department of Water Resources, the Richins were informed that their permit had lapsed.

5. It was not until June 23, 1988 that proof of beneficial use was received by the Department from the Richins.

6. The original application for permit did not include the "Buxton property", more particularly described in Protestants' Exhibit "B". Actual title to this property was not acquired by the Richins until April 30, 1987, two years after the expiration date for submitting proof of the area of designated use. Protestants know of no amendment to the Application for Permit nor notice thereof as to additions or expansion of the area of designated use.

7. The applicants admitted at hearing that the most easterly twenty acres were not placed under irrigation by 1985.

ARGUMENT

Priority Date Issue

The appropriation of water in the State of Idaho for beneficial purposes is strictly controlled by the various statutes governing appropriation. "Such appropriation shall be perfected only by means of the application, permit and license procedure as provided in this title;....."

Idaho Code, Section 42,-201. The issuance of a license may only follow after all of the diversion works or construction are completed and the water is applied to beneficial use pursuant to these procedures. (See Idaho Power Company vs. State of Idaho, 104 Idaho 575, 587, 661 p.2d 741 (1983))

Pursuant to Idaho Code, Section 42-204, the appropriate notices were sent to the Richins together with the reminder notice sent sixty (60) days prior to the date set for completion of the proof that the water had been put to beneficial use. The letters and other documents submitted at hearing indicate that the Richins requested an extension of time to complete their proof of beneficial use. There is no record whatsoever that in 1980 they were requesting that a license be issued for a partial completion of their project. The Richins' attempt to retroactively call their request for extension of time a submission of proof for beneficial use and a license is to call "black white and white black."

Further, since the Richins have more recently increased the area of designated use as set forth in their original application, it is obvious they did not want to be restricted by what they irrigated in 1980. In any event this should have been accomplished by an amended application or permit pursuant to Idaho Code, Section 42-211. Otherwise, the substance and intent of the notice requirements provided under the Code would be subverted.

Idaho Code, Section 42-217 requires that the proof of beneficial use to be submitted by the permit holder shall contain certain information and "such written proof as may be required to be submitted by such user shall be upon forms furnished by the Department of Water Resources and shall include fees as provided in sub-section K of Section 42-221, Idaho Code, or a field examination report prepared by a certified water right examiner." Since the Richins were applying for an extension of their permit, no field examination took place in 1980. Further, no proof of the payment of the fee for the issuance of a license for any part of their original application was submitted until 1988.

It is unusual for the Legislature to provide for the use of specific forms such as those designated in Idaho Code, Section 42-217 (5) unless

there exists an important reason for such direct legislative intent. This very case demonstrates the Legislature's wisdom in requiring that only certain forms with the necessary information be provided to the Department of Water Resources, otherwise, the various letters, notes or memoranda sent to the Department as proof of beneficial use would spawn a hopeless amount of disputes over what information is enough and would entangle the Department in an administrative nightmare.

The Department records show that on July 31, 1985, the Department sent a notice to the Richins that proof of beneficial use was due and on October 30, 1985, the Department sent a lapse notice to the permit holders indicating that they had failed to comply with the request for extension of time and that their permit had lapsed. Assuming the Richins believed that the information submitted to the Department in 1980 was sufficient, the documents sent by the Department on July 31, 1985, certainly gave them ample notice that they needed to submit the required form or their permit would lapse. The notice sent by the Department did not indicate that they had a license but specifically stated the permit itself would lapse and since they only had one permit, such notice could only be construed as causing a lapse for the entire Permit No. 13-7016.

The Idaho Code is very specific that once a permit has lapsed, such permit may be reinstated but with the "priority date advanced to the day that proof of beneficial use was received". Idaho Code, Section 42-218a(2) The Department then acted correctly in advancing the priority date to June 23, 1988.

There has been no showing of any error or mistake by the Department of Water Resources in its handling of this matter. The Richins simply failed to follow the explicit procedures outlined in the notices sent to them and due to their own neglect, the priority date for their reinstated permit was advanced. The order of the Department entered on December 19, 1988 should therefore be confirmed.

Area of Designated Use

The area of original designated use set forth in the Application for Permit does not include certain property which the Richins acquired in 1987, referred to at the hearing as the "Buxton Place". This property is described in a deed submitted as Protestants' Exhibit "B" at hearing. Further, the Richins admitted at the hearing that the most easterly twenty (20) acres had not been placed under irrigation by 1985 and therefore this acreage should also not be allowed as part of the area of designated use.

Idaho Code, Section 42-211 specifically allows for an amendment to an application of permit or to a permit after its filing. From the records available to the Protestants, no such amended application was every submitted to the Department of Water Resources. This foregoing statute also requires the Department to give notice to affected water users if it appears that an amendment may result in the use of more water than originally requested. The expansion of the original application to include additional ground will certainly increase the amount of water used by the Richins and will adversely affect the Protestants. If the Richins wish to expand their permit, they should do so by appropriate application for amendment as required by statute.

Even at the time of hearing, there was some dispute as to whether or not the Richins had placed the "Buxton Property" under irrigation in 1985. Even if the Department were to find that such property was placed under irrigation in 1985, the said premises were not only ommitted from the original application as an area of designated use, but actual title was not acquired to the property until 1987. In addition, the Richins testified at hearing that the water from their well was used only as a supplement to water rights already appurtenant to that land.

CONCLUSION

Despite all of the exhibits and testimony at the hearing of this matter, nothing really "new" has been presented to the Department of Water Resources which the Department did not have before it at the time it made its order on December 19, 1988 reinstating the permit of the Richins but with an advanced priority date. All of the pertinent information is contained in the Department's own records. The submission of exhibits and testimony to show that a well was drilled by 1980 is really irrelevant to the issue of whether or not proof of beneficial use according to the forms and requirements of the statute had been properly submitted to the Department of Water Resources. Their "after the fact" assertion that the information given at the time they requested an extension was really proof of beneficial use seems ludicrous since they had before them the form necessary to submit beneficial use. No such completed form is in the Department's records.

The Richins had a second chance to maintain their original priority date in 1985, but they chose to ignore the notice sent by the Department requiring proof of beneficial use at the end of the extension period and by their own neglect, the permit lapsed. The Department has simply followed the procedures outlined in the Idaho Code for reinstatement of their permit and the advancement of a priority date.

The only new evidence submitted at the time of the hearing affected the issue of the area of designated use. The Richins have attempted to expand the area of use from the original application without amendment and have included property that was not irrigated in 1985 and property that was not even owned by them until 1987. The area of designated use should be reduced to conform to the testimony and exhibits produced at hearing.

RESPECTFULLY SUBMITTED this 3rd day of July, 1990.

Steven R. Fuller

STEVEN R. FULLER
Attorney for Protestants

CERTIFICATE OF MAILING

I do hereby certify that I mailed a true and correct copy of the foregoing PROTESTANTS' BRIEF IN OPPOSITION on this 3rd day of July, postage prepaid, to:

RANDALL C. BUDGE
Attorney at Law
P.O. Box 1391
Pocatello, ID 83204-0391

Steven R. Fuller
STEVEN R. FULLER

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
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REED W. LARSEN
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FRED J. LEWIS
KIRK B. HADLEY

*ALSO MEMBER ILLINOIS BAR

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-0391

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July 6, 1990

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JUL 9 1990
Department of Water Resources

Mr. L. Glen Saxton
Hearing Office
Idaho Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, ID 83702

RE: Permit No. 13-7116
Kayle G. and/or Claude Richins

Dear Mr. Saxton:

The Protestants' Brief In Opposition does not raise any factual or legal arguments not already addressed in the Applicant's opening Brief. Accordingly, we will not be filing a Reply Brief and consider this matter properly at issue and before the department for a decision.

The department's decision in this matter will be most significant with respect to pending litigation, but by the Protestants against the Applicants. Accordingly, we would appreciate it if the decision-making process can be expedited. If you do not expect that a decision can be rendered within the next 30 days, would you kindly advise when one might be expected so that we can keep the Court appropriately informed.

Respectively,

RANDALL C. BUDGE

RCB/th
c: Kayle Richins
Robert Richins
Claude Richins
Steve Fuller

RECEIVED
AUG 9 1990
Department of Water Resources

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 13-7116 IN THE NAME OF KAYLE AND/OR CLAUDE RICHINS	**APPLICANTS' EXCEPTIONS TO PROPOSED MEMORANDUM DECISION**

Applicants Kayle Richins and Claude Richins hereby take exceptions to the proposed Memorandum Decision dated July 23, 1990, and prepared by L. Glenn Saxton following the fact finding hearing conducted in Preston, Idaho on June 8, 1990.

EXCEPTIONS TO FINDING OF FACT:

1. Applicants take exception to proposed Finding No. 4. Applicant asserts that this finding is inaccurate and incomplete. The letter being referred to as Exhibit 9, Applicants' letter dated August 17, 1980, did substantially more than advise the Department "that the project was only partially complete and that additional time was needed," as suggested by the proposed Finding No. 4. The letter specifically advised the Department that one well had been finished. Additionally, as testified to by Mr. Richins, the letter transmitted back to the Department the completed proof card [similar to Exhibit 7], the Request for Extension of Time [Exhibit 8], Aurora Pump Company's engineering report [Exhibit 3], copies of the Utah Electric Motor & Pump

Company bill [Exhibit 4], and Pitcher Irrigation bill [Exhibit 5]. With the exception of the proof due card, each of the documents transmitted with Mr. Richins August 17, 1980 letter are in fact located in the Department's microfilm records and were timely received well prior to the October 1, 1985 deadline. Furthermore, the Request for Extension [Exhibit 8] specifically stated that one well had been finished at a cost of $95,000.

The testimony of Mr. Richins that he also submitted at that time the proof due card is unrebutted and uncontroverted. It appears likely that the proof card was in fact received by the Department and either misplaced or simply not microfilmed along with the other documents. Notwithstanding, the other documentation submitted with the August 17, 1980 letter fully provided the Department with all information that would have been provided by the proof card. Accordingly, at that time the Applicants had fully complied with all requirements of I.C. § 42-217, which merely requires "the permit holder must submit a statement that he has used such water for beneficial purpose allowed by the permit." Accordingly, there was simply nothing further the Applicant had to do with respect to the 2.83 cfs that had been developed and put to beneficial use as the Department was so notified by the August 17, 1980 letter and enclosures.

The Applicants' letter specifically stated: "If you need any further information, please contact me as soon as possible."

As the Department did nothing to contact the Applicants requesting further information, the Applicants properly and reasonably assumed and concluded that the information they had provided was adequate. The Department is prohibited by the legal principles of waiver and estoppel from questioning at this time the sufficiency of the proof timely submitted in August 1980. The Applicant respectfully requests that Part II-A, pages 10-17 of their Opening Brief be reviewed and that Finding No. 4 be amended and supplemented to reflect that Applicants submitted to the Department their August 17, 1980 letter a Request for Extension and Exhibits 3, 4, 7, and 8, which verified that the well and irrigation system had been completed in 1978 at a cost of $95,000, that the well had a diameter of 16 inches and depth of 250 feet, that the pumping level was 174 feet, that the well had a capacity of 1350 gpm, that the point of diversion and place of use was as stated in Permit No. 13-7016, that 100 hp and 60 hp electric motors were installed, that 4 handlines and 4 wheel lines were being utilized, and that the system was completed, operational and used for the first time in the 1980 irrigation season.

2. Applicants take exception to Finding No. 6. The alleged proof due notice sent by the Department on July 31, 1985, was never received by either of the Applicants as they both testified. Furthermore, when Applicants' counsel reviewed the

Department's microfilm records in Idaho Falls, there was no evidence whatsoever that the Applicants ever received the alleged July 31, 1985 proof due notice. There is no signed mailing receipt or any other evidence in the Department's file or in the record before the hearing officer indicating that the Department mailed or the Applicants received the July 31, 1985 proof due notice. Furthermore, the Department's own records reflect that, while both Claude and Kayle Richins were Applicants with separate mailing addresses, all mailings were made only to Claude Richins and nothing was sent to Applicant Kayle Richins. This fact as shown by the Department's own files and records should be reflected in the findings of fact.

3. Applicants take exception to Finding No. 8 which states that "on June 23, 1988, the Applicants submitted proof of beneficial use together with supporting information to the Department. For the reasons stated in Exception No. 1 above, the Applicants submit that this finding should reflect that the Applicants timely submitted proof of beneficial use together with supporting information to the Department on August 21, 1980, not on June 23, 1988. The submissions made to the Department by the Applicants on June 23, 1988 were nothing more than a re-submission of the same information the Applicants previously submitted with their August 17, 1980 letter.

4. Applicants take exception with Finding No. 17. Applicants request that this finding be expanded to reflect that even though the Buxton place was not originally designated as a place of use under Permit No. 13-7116, this property has been continuously irrigated in its entirety from the subject well from the 1985 irrigation season to date. It is undisputed from the testimony of Applicants' farm manager, Rob Richins, and Protestant, Randy Peterson, that the Buxton property has been continuously irrigated from the Applicants' system since 1986. There is dispute between those two witnesses as to whether or not the property was irrigated in 1985. The testimony of Rob Richins that the property was irrigated beginning in 1985 as discussed in pages 20-22 of Applicants' Opening Brief is persuasive and the Department should so find.

5. Applicants takes exception to Finding No. 18. Applicants submit that the finding with respect to this 20-acre parcel should be expanded and elaborated upon to reflect that Applicants' irrigation system was extended to this parcel when initially constructed in 1978, from which date the land was irrigable from the system even though there was no irrigation, since the property was in the ASCS set-aside program, which did not permit cropping or irrigation through the year 1985.

EXCEPTION TO CONCLUSIONS OF LAW

1. Applicant takes exception to the proposed Conclusion No. 1 that "Applicants did not submit the proof required by Section 42-217, Idaho Code." The requirement of Idaho Code § 42-217 is as follows:

> "On or before the date set for the beneficial use of waters . . . the permit holder shall submit a statement that he has used such water for the beneficial purpose allowed by the permit." (Emphasis added.)

The testimony and Exhibits 3, 4, 5, 8, and 9 as presented by witness Kayle Richins clearly and convincingly establishes that the Applicants timely and properly submitted to the IDWR adequate proof of beneficial use prior to October 1, 1985. This testimony and evidence has not been questioned or disputed by the Protestants or the Department. Although Mr. Richins' testimony that the postcard was completed and submitted with his August 17, 1980 letter and no explanation exists why it is not located in the Department's microfilm records, all information that would have been provided to the Department by the postcard was nonetheless supplied in the other documents actually received by the Department with Mr. Richins' August 17, 1980 letter and/or the request for extension of time. The request form identifies the name and address of the Applicant, the permit number, and the required completion date of October 1, 1980, by incorporating the permit number by reference. Exhibits 3, 4, and 5 provided

the Department with complete proof of construction of works and application of the developed 2.83 cfs portion of the water under the permit to beneficial use. Accordingly, it should be concluded that in August 1980 the Applicants did in fact comply with the requirements of I.C. § 42-217, which merely mandates the holder "submit a statement that he has used such water for the beneficial purpose allowed by the permit." The Applicants substantially if not fully complied with this statutory requirement by supplying more information than required by the proof card even if it is assumed the Department did not receive the card. There is no basis whatsoever to conclude that the information and statements submitted by the Applicant were insufficient to comply with the statutory requirement. If they could somehow be found deficient, a specific finding should be made in this regard.

2. The Applicant takes exception with Conclusion No. 2. As discussed above, the actual proof submitted by the Applicants to the Department of the development and construction of the system in 1978 and the application of the water to beneficial use thereafter was timely and properly submitted in August of 1980, well within the authorized development period, which ended October 1, 1985. The proof subsequently submitted by the Applicant in 1988 was only in response to additional requests made by the Department to the Applicants, in response to which

the Applicants merely resubmitted the same proof originally submitted in August of 1980. Accordingly, the proposed Conclusion that the proof was submitted more than 60 days after the notice of lapsing of the permit is clearly erroneous, contrary to the evidence presented at the hearing and in disregard of Exhibits 3, 4, 5, 8 and 9..

3. Applicant takes exception to Conclusion No. 3. The Department did in fact make a mistake or error within the meaning of I.C. § 42-218(a). It appears obvious from the evidence presented that the Department, due to mistake, inadvertence or oversight, simply ignored the proof the Applicants timely submitted in August 1980 (Exhibits 3, 4, 5, 8, 9) with respect to the developed portion of the water right. The Department should do what is fair, just and right and recognize this error and reinstate the priority date of the permit based upon the Applicants' substantial submission and proof submitted in August 1980.

EXCEPTIONS TO ANALYSIS

The proposed Analysis states in the first sentence of paragraph 2: "The Department has no evidence in its files to show or to even suggest that the required proof has been submitted." This analysis is clearly erroneous, ignores the undisputed testimony of witnesses Kayle and Claude Richins, as well as the clear proof provided by the Exhibits submitted in the

record, specifically Exhibits 3, 4, 5, 7, 8 and 9 which were submitted to the Department with Applicants' August 17, 1980 letter. These exhibits coupled with the undisputed testimony of Kayle Richins clearly and convincingly establishes that the Applicants timely and properly submitted to IDWR a "statement that he has used such water for the beneficial purpose allowed by the permit" within the meaning of I.C. § 42-217 in August of 1980, well prior to the expiration of the permit period on October 1, 1985. This testimony and evidence has not been questioned or disputed by the Protestants or the Department. The Exhibits referred to, i.e., Exhibits No. 3, 4, 5 8 and 9, which Mr. Richins contended he submitted to the Department with his August 17, 1980 letter, were in fact all found in the Department's microfilm records by this writer, which verifies the timely and complete submission by the Applicants in compliance with the statutory requirements. The analysis that the Department "has no evidence in its file to show or even to suggest that the required proof has been submitted" is absolutely unsupported by the record before the hearing officer and contrary to the overwhelming weight of the evidence presented at the hearing.

The analysis further indicates that the Department would not accept both the required proof and the Request for Extension, only one or the other. The hearing officer concludes that "the

Idaho statutes should not provide for the submittal of proof of beneficial use for a portion of a permit [partial proof submittal] while providing additional development time for the remainder of a permit." While apparently acknowledging that such a procedure existed prior to 1987, the officer states that such a "procedure . . . no longer exists." The Applicants respectively submit that this analysis is without legal basis whatsoever and respectfully requests reconsideration. No authority is cited by the hearing officer indicating that an Applicant cannot prove up on a portion of a permit water right while obtaining an extension of time for the balance. The statutes do not preclude this nor is there any known rule or regulation to that effect. If some sort of secret interdepartment policy exists to that effect, it is unknown, unpublished and does not have the effect of law. A careful examination of I.C. § 42-218 pertaining to a request for extension, as well as I.C. § 42-219 pertaining to the issuance of a license, reveals no language whatsoever that precludes an applicant from proving up on the developed portion of his water right while obtaining additional time to complete the balance. Such certainly would be reasonable and expected, particularly in the case where the permit is secured for a large water right that may require development over a number of years. Furthermore, the express language of I.C. § 42-219 contemplates that the license

can be issued based upon a partial development even though the permit has not been fully developed or complied with.

The last paragraph of this statute provides as follows:

> "In the event that the department shall find that the applicant has not fully complied with the law in the conditions of the permit, it may issue a license for that portion of the use which is in accordance with the permit . . ." (Emphasis added.)

In enacting this statute, it appears clear that the legislature contemplated that licenses could be issued on a "portion" of the permitted right. There is simply no statutory or regulatory authority to the contrary and the hearing officer's analysis to that effect is unsupported by any law.

The analysis further states in the fourth paragraph that "it is highly improbable that the applicant submitted the proof required by I.C. § 42-217." This analysis conflicts with the analysis in the second paragraph that there is "no evidence" suggesting that proof has been submitted. The mere fact that the Department's reply letter dated September 3, 1980 only made reference to the extension request further indicates that the proof submitted as to the developed portion of the permit was simply overlooked or ignored by the Department.

When the Applicant submitted the Request for Extension in August of 1980, substantial documentation was simultaneously submitted which no one disputes at all, verifying that the Applicants had spent $95,000, had completed the drilling of their

well, the installation of a pump and motor, and also purchased substantial irrigation equipment. These facts alone rightfully should have placed the Department on inquiry and notice that the Applicant had certainly done much more than merely request an extension of time to develop the water right. Obviously, the $95,000 was expended for something. The Department's failure to make further inquiry regarding this information amounts to acquiescence in the proof submitted by the Applicant as to the works completed. Under the legal principles of waiver and estoppel, the Department is barred from questioning at this late date the sufficiency of the proof submitted by the Applicant.

The Applicants respectfully request reconsideration based on the foregoing exceptions.

DATED this 7th day of August, 1990.

RACINE, OLSON, NYE, COOPER &
BUDGE, CHARTERED

By _____
RANDALL C. BUDGE

CERTIFICATE OF MAILING

FAXED and I HEREBY CERTIFY that on this 7th day of August, 1990, I mailed a true and complete copy of the foregoing document, postage prepaid, to the following:

Steven R. Fuller
Attorney at Law
P.O. Box 191
Preston, Idaho 83263

L. Glen Saxton, Chief
Operations Bureau
State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

Randall C. Budge
RANDALL C. BUDGE

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE
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KIRK B. HADLEY

*ALSO MEMBER ILLINOIS BAR

LAW OFFICES OF
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CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-0391

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August 7, 1990

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AUG 9 1990
Department of Water Resources

L. Glen Saxton, Chief
Operations Bureau
State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

Re: In the Matter of Permit No. 13-7116 in the Name of Kayle and/or Claude Richins

Dear Mr. Saxton:

Enclosed for filing in the above-entitled case you will find the original Applicants' Exceptions to the Proposed Memorandum Decision. A copy of the Exceptions was faxed to the Department of Water Resources this afternoon.

Sincerely,

RANDALL C. BUDGE

RCB:rr

Enclosure

cc: Steve Fuller

RECEIVED
AUG 9 1990
Department of Water Resources

Post-it™ brand
Fax Transmittal Memo 7672

To R. ~~Keith~~ Higginson, Director	No. of Pages 11 Today's Date 8/7/90 Time 4:45
Company Idaho Dept. Water Resources	From Randy Budge, Attorney for Applicant
Location 1301 N. Orchard St. Boise, Id. 83720	Company Racine, Olson, Nye, Cooper & Budge, Location Pocatello Dept. Charge
Fax # 327-7866 Telephone #	Fax # 232-6109 Telephone # 232-6101
Comments	Original Disposition: ☐ Destroy ☐ Return ☐ Call for pickup

RE: Application No. 13-7116 Kayle/Claude Richins
Applicants Exceptions to Proposed Memorandum Decision
of L. Glen Saxton dated 7/23/90 (Original mailed today)

Attach Document At Line

Fax Transmittal Memo 7672

To R. Keith Higginson, Director
Company Idaho Dept. Water Resources
Location 1301 N. Orchard St. Boise, Id. 83720
Fax # 327-7866 Telephone #
Comments

No. of Pages 11 Today's Date 8/7/90 Time 4:45
From Randy Budge, Attorney for Applicant
Company Racine Olson, Nye, Cooper & Budge,
Location Pocatello Dept. Charge
Fax # 232-6109 Telephone # 232-6101
Original Disposition: ☐ Destroy ☐ Return ☐ Call for pickup

RE: Application No. 13-7116 Kayle/Claude Richins
Applicants Exceptions to Proposed Memorandum Decision
of L. Glen Saxton dated 7/23/90 (Original mailed today)

record, specifically Exhibits 3, 4, 5, 7, 8 and 9 which were submitted to the Department with Applicants' August 17, 1980 letter. These exhibits coupled with the undisputed testimony of Kayle Richins clearly and convincingly establishes that the Applicants timely and properly submitted to IDWR a "statement that he has used such water for the beneficial purpose allowed by the permit" within the meaning of I.C. § 42-217 in August of 1980, well prior to the expiration of the permit period on October 1, 1985. This testimony and evidence has not been questioned or disputed by the Protestants or the Department. The Exhibits referred to, i.e., Exhibits No. 3, 4, 5 8 and 9, which Mr. Richins contended he submitted to the Department with his August 17, 1980 letter, were in fact all found in the Department's microfilm records by this writer, which verifies the timely and complete submission by the Applicants in compliance with the statutory requirements. The analysis that the Department "has no evidence in its file to show or even to suggest that the required proof has been submitted" is absolutely unsupported by the record before the hearing officer and contrary to the overwhelming weight of the evidence presented at the hearing.

The analysis further indicates that the Department would not accept both the required proof and the Request for Extension, only one or the other. The hearing officer concludes that "the

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The analysis further states in the fourth paragraph that "it is highly improbable that the applicant submitted the proof required by I.C. § 42-217." This analysis conflicts with the analysis in the second paragraph that there is "no evidence" suggesting that proof has been submitted. The mere fact that the Department's reply letter date is September 3, 1980 only made reference to the extension request further indicates that the proof submitted as to the developed portion of the permit simply overlooked or ignored by the Department.

When the Applicant submitted the Request for Extension in August of 1980, substantial documentation was simultaneously submitted which no one disputes at all, verifying that the well, the installation of a pump and motor, and also purchased substantial irrigation equipment. These facts alone rightfully should have placed the Department on inquiry and notice that the Applicant had certainly done much more than merely request an extension of time to develop the water right. Obviously, the $95,000 was expended for something. The Department's failure to make further inquiry regarding this information amounts to acquiescence in the proof submitted by the Applicant as to the works completed. Under the legal principles of waiver and estoppel, the Department is barred from questioning at this late date the sufficiency of the proof submitted by the Applicant.

The Applicants respectfully request reconsideration based on the foregoing exceptions.

DATED this 7th day of August, 1990.

RACINE, OLSON, NYE, COOPER &

analysis in the second paragraph that there is "no evidence" suggesting that proof has been submitted. The mere fact that the Department's reply letter date is September 3, 1980 only made reference to the extension request further indicates that the proof submitted as to the developed portion of the permit simply overlooked or ignored by the Department.

When the Applicant submitted the Request for Extension in August of 1980, substantial documentation was simultaneously submitted which no one disputes at all, verifying that the well, the installation of a pump and motor, and also purchased substantial irrigation equipment. These facts alone rightfully should have placed the Department on inquiry and notice that the Applicant had certainly done much more than merely request an extension of time to develop the water right. Obviously, the $95,000 was expended for something. The Department's failure to make further inquiry regarding this information amounts to acquiescence in the proof submitted by the Applicant as to the works completed. Under the legal principles of waiver and estoppel, the Department is barred from questioning at this late date the sufficiency of the proof submitted by the Applicant.

The Applicants respectfully request reconsideration based on the foregoing exceptions.

DATED this 7th day of August, 1990.

RACINE, OLSON, NYE, COOPER &
BUDGE, CHARTERED

By Randall C. Budge
RANDALL C. BUDGE

Post-it™ brand Fax Transmittal Memo 7672

To R. Keith Higginson, Director
Company Idaho Dept. Water Resources
Location 1301 N. Orchard St. Boise, Id. 83720
Fax # 327-7866 Telephone #

No. of Pages 11 Today's Date 8/7/90 Time 4:45
From Randy Budge, Attorney for Applicant
Company Racine, Olson, Nye, Cooper & Budge, Dept. Charge
Location Pocatello
Fax # 232-6109 Telephone # 232-6101
Original Disposition: ☐ Destroy ☐ Return ☐ Call for pickup

Comments

RE: Application No. 13-7116 Kayle / Claude Richins
Applicants Exceptions to Proposed Memorandum Decision
of L. Glen Saxton dated 7/23/90 (Original mailed today)

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 13-7116 IN THE NAME OF KAYLE AND/OR CLAUDE RICHINS	))))	**APPLICANTS' EXCEPTIONS TO PROPOSED MEMORANDUM DECISION**

Applicants Kayle Richins and Claude Richins hereby take exceptions to the proposed Memorandum Decision dated July 23, 1990, and prepared by L. Glenn Saxton following the fact finding hearing conducted in Preston, Idaho on June 8, 1990.

EXCEPTIONS TO FINDING OF FACT:

1. Applicants take exception to proposed Finding No. 4. Applicant asserts that this finding is inaccurate and incomplete. The letter being referred to as Exhibit 9, Applicants' letter dated August 17, 1980, did substantially more than advise the Department "that the project was only partially complete and that additional time was needed," as suggested by the proposed Finding No. 4. The letter specifically advised the Department that one well had been finished. Additionally, as testified to by Mr. Richins, the letter transmitted back to the Department the completed proof card [similar to Exhibit 7], the Request for Extension of Time [Exhibit 8], Aurora Pump Company's engineering report [Exhibit 3], copies of the Utah Electric Motor & Pump

Company bill [Exhibit 4], and Pitcher Irrigation bill [Exhibit 5]. With the exception of the proof due card, each of the documents transmitted with Mr. Richins August 17, 1980 letter are in fact located in the Department's microfilm records and were timely received well prior to the October 1, 1985 deadline. Furthermore, the Request for Extension [Exhibit 8] specifically stated that one well had been finished at a cost of $95,000.

The testimony of Mr. Richins that he also submitted at that time the proof due card is unrebutted and uncontroverted. It appears likely that the proof card was in fact received by the Department and either misplaced or simply not microfilmed along with the other documents. Notwithstanding, the other documentation submitted with the August 17, 1980 letter fully provided the Department with all information that would have been provided by the proof card. Accordingly, at that time the Applicants had fully complied with all requirements of I.C. § 42-217, which merely requires "the permit holder must submit a statement that he has used such water for beneficial purpose allowed by the permit." Accordingly, there was simply nothing further the Applicant had to do with respect to the 2.83 cfs that had been developed and put to beneficial use as the Department was so notified by the August 17, 1980 letter and enclosures.

The Applicants' letter specifically stated: "If you need any further information, please contact me as soon as possible."

As the Department did nothing to contact the Applicants requesting further information, the Applicants properly and reasonably assumed and concluded that the information they had provided was adequate. The Department is prohibited by the legal principles of waiver and estoppel from questioning at this time the sufficiency of the proof timely submitted in August 1980. The Applicant respectfully requests that Part II-A, pages 10-17 of their Opening Brief be reviewed and that Finding No. 4 be amended and supplemented to reflect that Applicants submitted to the Department their August 17, 1980 letter a Request for Extension and Exhibits 3, 4, 7, and 8, which verified that the well and irrigation system had been completed in 1978 at a cost of $95,000, that the well had a diameter of 16 inches and depth of 250 feet, that the pumping level was 174 feet, that the well had a capacity of 1350 gpm, that the point of diversion and place of use was as stated in Permit No. 13-7016, that 100 hp and 60 hp electric motors were installed, that 4 handlines and 4 wheel lines were being utilized, and that the system was completed, operational and used for the first time in the 1980 irrigation season.

2. Applicants take exception to Finding No. 6. The alleged proof due notice sent by the Department on July 31, 1985, was never received by either of the Applicants as they both testified. Furthermore, when Applicants' counsel reviewed the

Department's microfilm records in Idaho Falls, there was no evidence whatsoever that the Applicants ever received the alleged July 31, 1985 proof due notice. There is no signed mailing receipt or any other evidence in the Department's file or in the record before the hearing officer indicating that the Department mailed or the Applicants received the July 31, 1985 proof due notice. Furthermore, the Department's own records reflect that, while both Claude and Kayle Richins were Applicants with separate mailing addresses, all mailings were made only to Claude Richins and nothing was sent to Applicant Kayle Richins. This fact as shown by the Department's own files and records should be reflected in the findings of fact.

3. Applicants take exception to Finding No. 8 which states that "on June 23, 1988, the Applicants submitted proof of beneficial use together with supporting information to the Department. For the reasons stated in Exception No. 1 above, the Applicants submit that this finding should reflect that the Applicants timely submitted proof of beneficial use together with supporting information to the Department on August 21, 1980, not on June 23, 1988. The submissions made to the Department by the Applicants on June 23, 1988 were nothing more than a re-submission of the same information the Applicants previously submitted with their August 17, 1980 letter.

4. Applicants take exception with Finding No. 17. Applicants request that this finding be expanded to reflect that even though the Buxton place was not originally designated as a place of use under Permit No. 13-7116, this property has been continuously irrigated in its entirety from the subject well from the 1985 irrigation season to date. It is undisputed from the testimony of Applicants' farm manager, Rob Richins, and Protestant, Randy Peterson, that the Buxton property has been continuously irrigated from the Applicants' system since 1986. There is dispute between those two witnesses as to whether or not the property was irrigated in 1985. The testimony of Rob Richins that the property was irrigated beginning in 1985 as discussed in pages 20-22 of Applicants' Opening Brief is persuasive and the Department should so find.

5. Applicants takes exception to Finding No. 18. Applicants submit that the finding with respect to this 20-acre parcel should be expanded and elaborated upon to reflect that Applicants' irrigation system was extended to this parcel when initially constructed in 1978, from which date the land was irrigable from the system even though there was no irrigation, since the property was in the ASCS set-aside program, which did not permit cropping or irrigation through the year 1985.

EXCEPTION TO CONCLUSIONS OF LAW

1. Applicant takes exception to the proposed Conclusion No. 1 that "Applicants did not submit the proof required by Section 42-217, Idaho Code." The requirement of Idaho Code § 42-217 is as follows:

> "On or before the date set for the beneficial use of waters . . . the permit holder shall submit a statement that he has used such water for the beneficial purpose allowed by the permit." (Emphasis added.)

The testimony and Exhibits 3, 4, 5, 8, and 9 as presented by witness Kayle Richins clearly and convincingly establishes that the Applicants timely and properly submitted to the IDWR adequate proof of beneficial use prior to October 1, 1985. This testimony and evidence has not been questioned or disputed by the Protestants or the Department. Although Mr. Richins' testimony that the postcard was completed and submitted with his August 17, 1980 letter and no explanation exists why it is not located in the Department's microfilm records, all information that would have been provided to the Department by the postcard was nonetheless supplied in the other documents actually received by the Department with Mr. Richins' August 17, 1980 letter and/or the request for extension of time. The request form identifies the name and address of the Applicant, the permit number, and the required completion date of October 1, 1980, by incorporating the permit number by reference. Exhibits 3, 4, and 5 provided

the Department with complete proof of construction of works and application of the developed 2.83 cfs portion of the water under the permit to beneficial use. Accordingly, it should be concluded that in August 1980 the Applicants did in fact comply with the requirements of I.C. § 42-217, which merely mandates the holder "submit a statement that he has used such water for the beneficial purpose allowed by the permit." The Applicants substantially if not fully complied with this statutory requirement by supplying more information than required by the proof card even if it is assumed the Department did not receive the card. There is no basis whatsoever to conclude that the information and statements submitted by the Applicant were insufficient to comply with the statutory requirement. If they could somehow be found deficient, a specific finding should be made in this regard.

2. The Applicant takes exception with Conclusion No. 2. As discussed above, the actual proof submitted by the Applicants to the Department of the development and construction of the system in 1978 and the application of the water to beneficial use thereafter was timely and properly submitted in August of 1980, well within the authorized development period, which ended October 1, 1985. The proof subsequently submitted by the Applicant in 1988 was only in response to additional requests made by the Department to the Applicants, in response to which

the Applicants merely resubmitted the same proof originally submitted in August of 1980. Accordingly, the proposed Conclusion that the proof was submitted more than 60 days after the notice of lapsing of the permit is clearly erroneous, contrary to the evidence presented at the hearing and in disregard of Exhibits 3, 4, 5, 8 and 9..

3. Applicant takes exception to Conclusion No. 3. The Department did in fact make a mistake or error within the meaning of I.C. § 42-218(a). It appears obvious from the evidence presented that the Department, due to mistake, inadvertence or oversight, simply ignored the proof the Applicants timely submitted in August 1980 (Exhibits 3, 4, 5, 8, 9) with respect to the developed portion of the water right. The Department should do what is fair, just and right and recognize this error and reinstate the priority date of the permit based upon the Applicants' substantial submission and proof submitted in August 1980.

EXCEPTIONS TO ANALYSIS

The proposed Analysis states in the first sentence of paragraph 2: "The Department has no evidence in its files to show or to even suggest that the required proof has been submitted." This analysis is clearly erroneous, ignores the undisputed testimony of witnesses Kayle and Claude Richins, as well as the clear proof provided by the Exhibits submitted in the

record, specifically Exhibits 3, 4, 5, 7, 8 and 9 which were submitted to the Department with Applicants' August 17, 1980 letter. These exhibits coupled with the undisputed testimony of Kayle Richins clearly and convincingly establishes that the Applicants timely and properly submitted to IDWR a "statement that he has used such water for the beneficial purpose allowed by the permit" within the meaning of I.C. § 42-217 in August of 1980, well prior to the expiration of the permit period on October 1, 1985. This testimony and evidence has not been questioned or disputed by the Protestants or the Department. The Exhibits referred to, i.e., Exhibits No. 3, 4, 5 8 and 9, which Mr. Richins contended he submitted to the Department with his August 17, 1980 letter, were in fact all found in the Department's microfilm records by this writer, which verifies the timely and complete submission by the Applicants in compliance with the statutory requirements. The analysis that the Department "has no evidence in its file to show or even to suggest that the required proof has been submitted" is absolutely unsupported by the record before the hearing officer and contrary to the overwhelming weight of the evidence presented at the hearing.

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

September 4, 1990

Kayle and Claude Richins
13650 South 13th West
Riverton, UT 84065

Dear Mr. and Mrs. Richins:

Re: Permit No. 13-7116

Enclosed is a copy of the Final Memorandum Decision and Order issued on the above referenced permit.

Any person who does not agree with the decision of the department may request a rehearing before the Director within 20 days, or may appeal directly to the district court within 30 days of the date the decision is mailed.

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

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosure

c: Randall Budge
Steven Fuller

Hearing
Information
13-7116

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 13-7116 IN THE NAME OF KAYLE &/OR CLAUDE RICHINS	NOTICE OF HEARING

On June 23, 1988, Kayle &/or Claude Richins (permit holders) filed proof of beneficial use of water in connection with Permit No. 13-7116.

On September 19, 1988, the Department of Water Resources (department) received an objection to reinstatement of the permit from J. D. Williams on behalf of of the Roy G. Peterson Family Trust (protestant). The objection was acknowledged by the department as an objection to the issuance of a license (Re: 42-224, Idaho Code) and that after a field examination by the department, a fact finding hearing would be conducted to determine the number of acres irrigated during the authorized development period.

On December 19, 1988, the department issued an order reinstating the permit which advanced the priority of the permit to the date proof of beneficial use was received. The permit holders subsequently alleged that the department erred in the reinstatement of the permit which advanced the date of priority.

On August 29, 1989, the department conducted a field examination of the permit holders' irrigation system and the findings of the field examiner have been provided to the permit holders and to the protestant.

The department has set this matter for hearing on Friday, June 8, 1990 at 10:00 a.m. at the Franklin County Courthouse, Basement Meeting Room in Preston, Idaho.

The hearing will be held in accordance with Chapter 2, Title 43, Idaho Code, and the adopted rules of Practice and Procedure of the department. Opportunity shall be afforded to all the parties to respond and present evidence and argument on all issues involved.

Dated this 16th day of May, 1990.

L. Glen Saxton

L. GLEN SAXTON
Hearing Officer

NOTES
of Ron Carlson

HEARING LOG — JUNE 8, 1990
13-07116 — Preston, ID
Kayle & Claude Richens

Glen — TIME 10:25

0100 - APPEARANCES

0160 - ISSUES IDENTIFIED

0420 - KAYLE RICHENS - direct

Property acquired in 1977
w/ existing
0640 - Applicant's EXHIBIT 1
Admitted
HART PERMIT
No system developed at time purchased
Property in 1977
6/2/75 - original Priority Proposal
PERMIT ASSIGNED
1020 - APPLICANT'S EXHIBIT 2
Admitted
Application for Amendment
well drilled in 1977
Tested in fall 1977 -

1290 - APPLICANT EXHIBIT 3

ADMITTED

PUMP TEST REPORT

1587 - Pump Capacity 1387 gpm (AERORA)
UTAH PUMP & ELECTRIC INSTALLED

1720 - APPLICANT EXHIBIT 4

ADMITTED

BID OF UTAH PUMP

1850 - APPLICANT - EXHIBIT 5

ADMITTED

EQUIPMENT LIST
Cost of wheel lines
Rob been farm manager since 1980

2340 APPLICANT EXHIBIT 6

ADMITTED

1980 IDWR LETTER
July 31, 1980
Proof due Oct 1, 1980
Form for EXTENSION

2490 APPLICANT EXHIBIT 7
PROOF CARD (SAMPLE)

ADMITTED

Applicant sent in both proof card & application for extension

2660 APPLICANT EXHIBIT 8

APPLICATION FOR EXTENSION OF TIME

Admitted

APPLICANT EXHIBIT 9

ADMITTED

LETTER TO IDWR 8/17/1980

3120 - Questions from exhibit 8
Relates to Extension of time

3570 OFF RECORD TO ORGANIZE EXHIBITS
TIME 11:20

3630 - No further development under
Permit contemplated,

3760 - Agree w/ examiners report

3980 - LOOKING AT DEPT MAP
N½ SEC 4, SE¼NE¼ SEC 5
EXAMINERS MAP

APRIL, 1987 Property acquired N½SW SEC 4

4040 - Kayle Richins X - Fuller

4970 - Questio on Place of use
applicatio & Amendmt.

5100 Applicatio for extensio of
time & Approval undes funding
for partial develomt.

5390 - 20 acre parcel SE¼NE¼ SEC 4.

5550 - 37 acres irrigated in 1979
by Glen Jense. SEC 5

5810 RE.-DIRECT
No need for extensio of
time on developed portion of
Project.

6000 - RE: X - Fuller

6200 - RE DIRECT -

6360 Robbie Richens - DIRECT
Manager since 6/1/1980

6550 - Familiarity w/ irrigation
started in 1980

PAGE 5

6650 Has no knowledge of irrigation of property prior to 1980

6820 All of Property shown has been irrigated except 20 acres W½ SW NE SEC 4 Brought in in 1985 or 1986

0000

0140 APPLICANT'S EXHIBIT 10
ASCS RECORDS
ADMITTED
20 ACRES W½SE¼NE¼
Brought in 1986

BUXTON PROPERTY BROUGHT in in MAY 1985 37 ACRES N½ SW¼ SEC 4
Irrigated 1985, 1986, 1987, 1989

0490 JD Williams stopped irrigation in 1988.

Buxton property leased in 1985, 1986

0550 - FIELD EXAM 1989 w/ Keith W. Aug.
Flow in well down due to drought

0730 - R. Richens X - Fuller

Oxford "highwater" available upto June (meadow slanes)

Oxford tr acquired w/ Buxton property.

0990 - ASCS REPORT
Richins indicate 1985 report says
17 acres Alfalfa & 12.5 wheat

1675 - CLAUDE RICHENS - DIRECT

1800 PROTESTANTS EXHIBITS A & B

ADMITTED

Kayle Primarily responsible for water correspondence.

2070 EXHIBIT 11
LETTER UP & L

ADMITTED

HEAD MANUFACTURING
EXHIBIT 12

ADMITTED

2600 L. Richens X- Fuller

~~EXHIBIT 5~~

~~LEAD~~

Burton property leased prior to Purchase.

2770 - Claims no correspondence received from IDWR. All correspondence went to Kayle

PROTESTANTS

2900 KAYLE RICHINS -

APPLICANT'S EXHIBIT 13
UP&L 1984 POWER BILL
ADMITTED
(1983 BILL PAID IN 1984)

3560 -

FULLER

3675 RANDY K PETERSON - DIRECT
Moved up to Property in 1985?
BUXTON PROPERTY - 1984 -
Was not irrigated

3850 Peterson says he leased ground
in 1984 for grazing?

3990 - Worked for KENNICOTT COPPER

4900 - Has never observed water on both 20 Acres irrigated.

5000 - 1986 was the first time water was used on Buxton Property.

5190 - Property located South of Buxton

5245 - Robbie Richers recall - Badger East 20 acres summer fallowed.

5770 - Buxton property.
Top flood irrigated from well
Lower hand line.

Briefing Schedule —
1. Procedures
a. Proof
b. Timeliness of Hearing
c. development of leased property as part of water right

6300 TIME — INITIAL PERIOD 20 days (July 2)

ROSTER OF ATTENDANCE
HEARING 13-7116

JUNE 8, 1990

NAME		REPRESENTING
Claude L. Ruckins		Ruckins
Edward L Ruckins		Ruckins
Randall C. Budge	Attorney For	Ruckins / Applicant
Faye M Ruckins		Ruckins
Steven R. Fuller	Attorney for	Petersons
Randy K Peterson		Peterson
Susan L Peterson		Petersons

LAPSED

APPLICANT
EXHIBIT 1

RECEIVED
OCT 16 1975
Department of Water Resources
Eastern District Office

Identification No. 13 7116
Application No.

admitted
6-8-90

APPROVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

ASSIGNED TO: Kayle G Riching &/or Claude Richins, of 13650 South 13th West Riverton, UT 84065

To Appropriate the Public Waters of the State of Idaho

(TYPE OR PRINT IN INK)

1. Name of applicant Frank L. Hart Phone: 801-825-9795

   post office address P.O. Box 1326, Freeport Center, Clearfield, Utah 84016

2. Source of water supply ground water which is a tributary of _____

3. a. Location of point of diversion is SW ¼ of NE ¼ of Section 5 Township 14S Range 38E B.M. Franklin County; additional points of diversion if any: _____

   b. If water is not consumed, it will be discharged into _____ at a point in _____ ¼ of _____ ¼ of Section _____ Township _____ Range _____ B.M. _____

4. Water will be used for the following purposes:

   Amount 7.88 (cfs or acre-feet per annum) for Irrigation purpose from Apr. 1 to Nov. 1 (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)

5. Total quantity to be appropriated:

   a. 7.88 cubic feet per second and/or

   b. _____ acre feet per annum.

6. Proposed diverting works:

   a. Description of ditches, flumes, pumps, headgates, etc. Well, pump, and sprinkler system

   b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet, materials used in storage dam: _____

   Period of year during which storage will occur _____ (Mo. Day) to _____ (Mo. Day) inclusive.

   c. Proposed well diameter is 16 inches; proposed depth of well is 400 feet.

7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years.

   b. Estimated construction cost is $ 75,000.00 .

8. Description of proposed uses:

   a. If water is **not** for irrigation:

   (1) Give the place of use of water: _____ ¼ of _____ ¼ 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: _____

p

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

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
14S	38E	3						30	30										60
		4	35		40	40			4	40									159
		5		30	30	35	10			20	15				18	17			175

Total number of acres to be irrigated 394

c. Describe any other water rights used for the same purposes as described above. License G-29897/13-2242 covers 34 acres in the SW¼NW¼, Sec 3, T. 14S, R. 38E in the amount of 0.63, priority 6/20/61

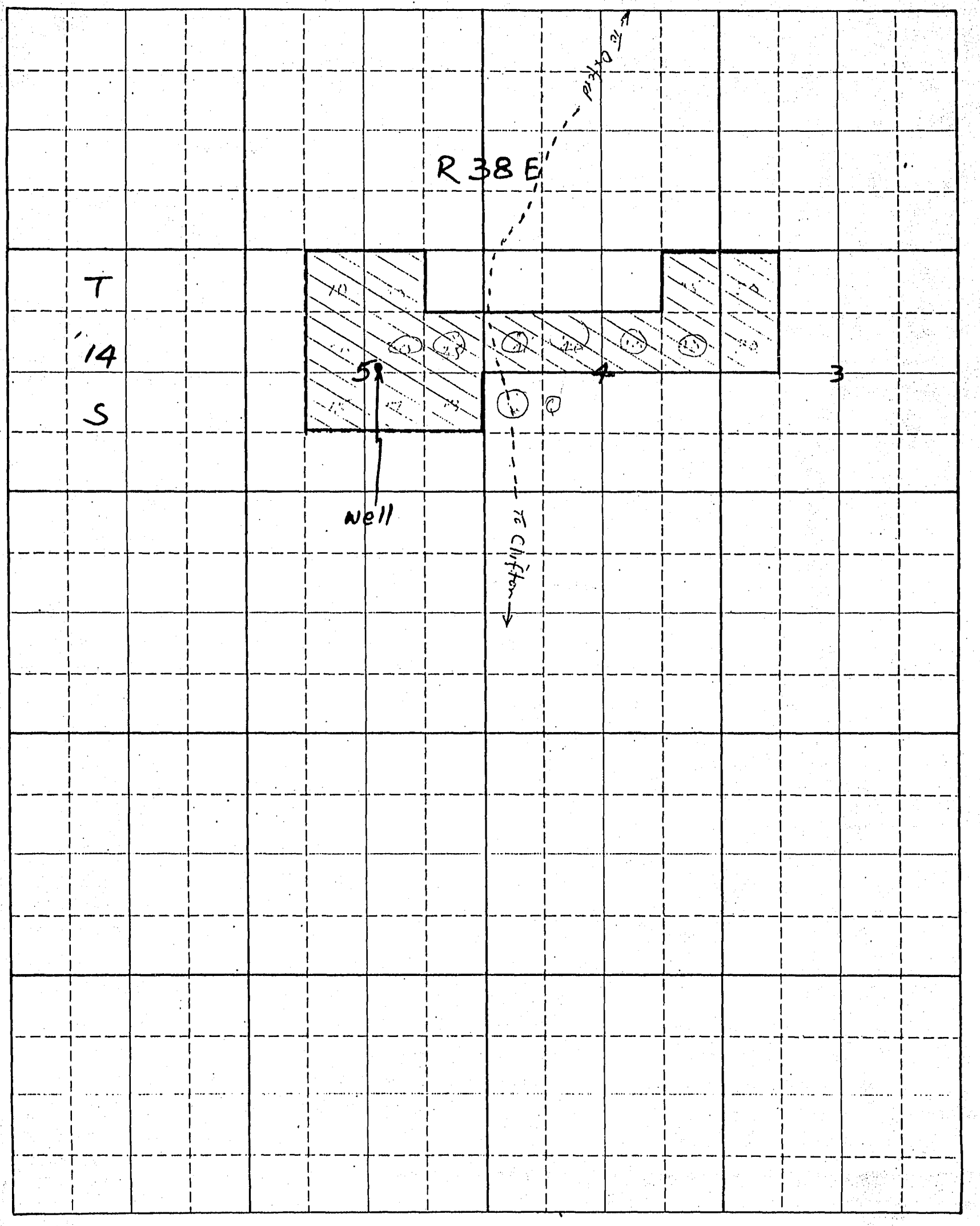
9. a. Who owns the property at the point of diversion Earl H. Ward & Anna Mae Ward

b. Who owns the land to be irrigated or place of use Earl H. Ward & Anna Mae Ward

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing Purchase of contract notice attached and deed from Dixon Christensen dated May 20, 1975, recorded.

10. Remarks The well in SW¼NW¼, Sec. 4, T. 14S, R. 38E, Permit number G29897 will be abandoned. It was found inadequate by the present owners. There are, further, two flowing wells in the pond in the same ¼ section. There is a drainage canal at approximately the dividing line between SW¼ and the SE¼ of the NW¼, Sec. 4, T. 14S, R. 38E, B.M. draining into the Oxford Slough. It is the intention of the applicant to drill the well as applied for and construct the necessary underground piping to accomodate a modern wheel move sprinkler system capable of providing adequate dependable water for the land blocked out. There will further be additional drainage installed in Sec. 3 & 4 of the farm project.

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.

(Applicant)

Proposed Priority 6-2-1975

Received by MB Date 6-2-75 Time 11:00A

Preliminary check by [illegible] Fee $ 95.00

Receipted by MB Date 6-2-75 # 4271

Publication prepared by MB Date 6-4-75

Published in Preston Citizen

Publication dates June 12 & 19, 1975

Publication approved [illegible] Date 7-08-75

Priority reduced to _____ Reason _____

Protests filed by: Andrew Hunt

Copies of protests forwarded by MB

Hearing held by _____ Date _____

Recommended for approval denial by RDC & JDF

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 13-7116, 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 October 1, 1980.

   c. Other: A measuring device of a type approved by the Director 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 11 day of October 1975.

L. Kent Higgs
Director

Filing Fee: $10.00
Receipt: [illegible]

APPLICANT
EXHIBIT 2
admitted
6-8-90
VA

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
APR 29 1977
Department of Water Resources
Eastern District Office

RECEIVED
MAY 23 1977
Department of Water Resources
Eastern District Office

APPLICATION FOR AMENDMENT

Permit No. 13-7116

Comes now Kayle G. Richins &/or Claude Richens of (address) 13650 South 13th West, Riverton, UT 84065, 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. 13-7116, and requests that the permit and permit map be changed as follows:

1. Point of diversion: SW ¼ NW ¼, Sec. 4 Twp. 14S Rge. 38E, B.M., County of Franklin. Other points of diversion:

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

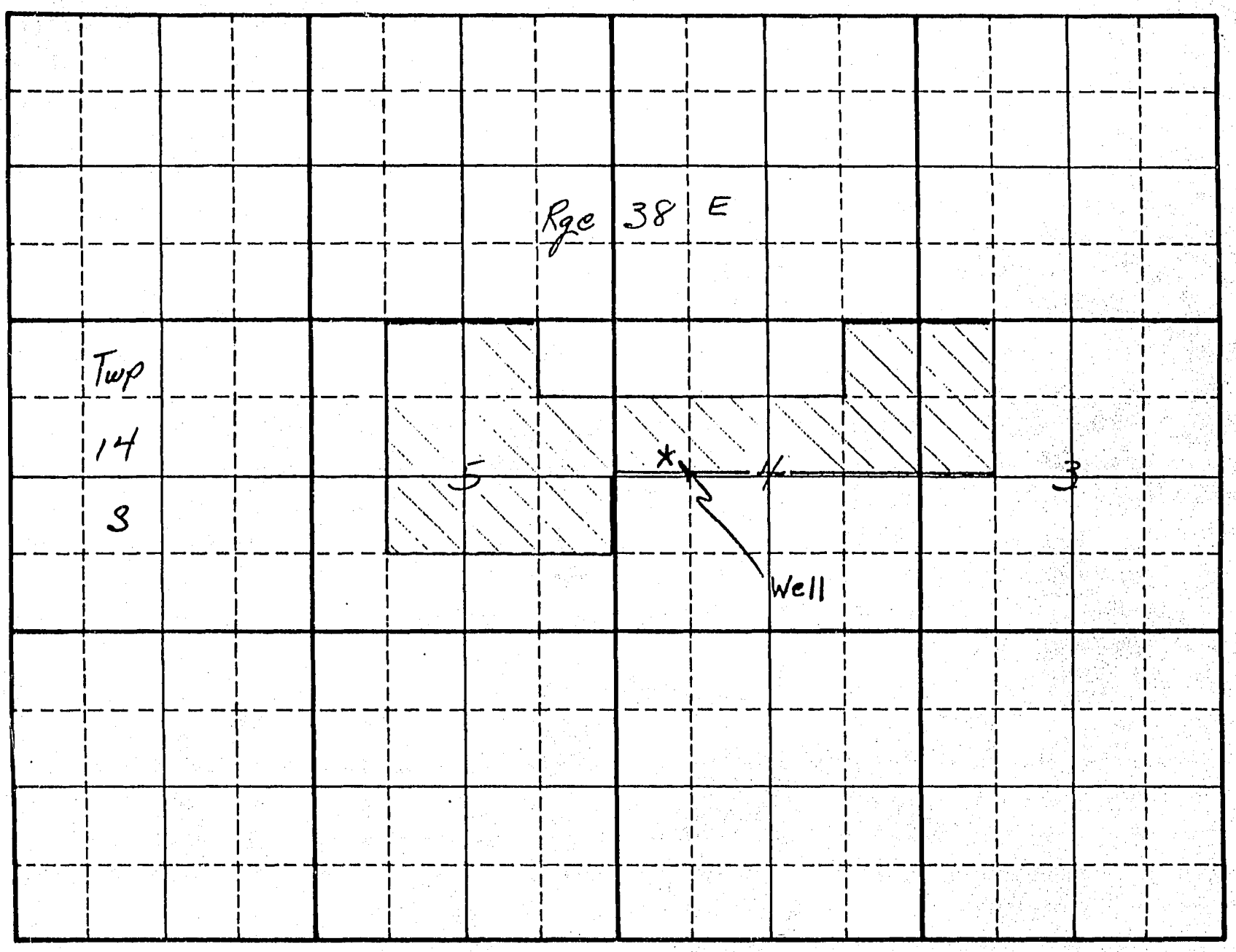
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre feet per annum)

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

TWP	RANGE	SEC	NE ¼				NW ¼				SW ¼				SE ¼				TOTALS
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total number of acres to be irrigated

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 holders own risk.

Signed at Fernley, Nevada, this 26 day of April, 19 77.

Kayle M. Lechner
(Signature)

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

Chief, Operations Bureau

I, BOBBY D. FLEENOR, ~~Director~~ of the Department of Water Resources

hereby APPROVE the above application for amendment on Permit No. 13-7116.

Witness my hand this 20th day of May, 19 77.

Bobby D. Fleenor
~~Director~~

BOBBY D. FLEENOR
Chief, Operations Bureau

Form 204
7/80

Identification No. _____

RECEIVED
SEP 5 1980
Department of Water Resources
Eastern District Office

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

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

AUG 21 1980
Department of Water Re

Richins, Kayle G. &/or Claude Richi of 13650 So. 13TH West Riverton, Ut. 84065
(Name) (Address)

State of Utah, 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. 13-7116.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before October 1, , 1980.

That he has heretofore performed the following work described under said permit: one finished we
and are planning for more is possible.

Costing $95,000

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit: Insufficient funds at this time, and will need more time to complete the remainder of the project.

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to December , 1986.

(Signature)*

*IF OTHER THAN HOLDER, Power of Attorney must be supplied.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within which to submit the statement of beneficial use is extended to October 1, 1985.

Signed this 26th day of August , 1980.

L. Glen Saxton
Chief, Operations Bureau

received by _____ Date _____ Receipt # _____

"X" APPLICANT EXHIBIT 3

AURORA PUMP

A SUBSIDIARY OF THE AURORA PUMP UNIT OF GENERAL SIGNAL

1760 Kimberly Rd., P.O. Box 892, Twin Falls, ID 83301

DEEP WELL TURBINE PUMP

admitted 6-8-80

440/460 only

ESTIMATE ORDER **SHEET**

1-208-733-9278

SOLD TO: Claude Richins DATE 1-17-78

ADDRESS: P. O. NO.

SHIP TO: QUOTATION NO.

ADDRESS: BID DATE

SHIP VIA: COLLECT PREPAID NO. OF PUMPS

CUSTOMER JOB NO. LOCATION ITEM NO.

Well Diameter (Inside) 10 Inches	Type	No. Stages		RPM	
Well Depth 250 Feet	Impeller			Curve No.	
Static Water Level 38 Feet	K. Value	Total Thrust			Lbs.
Drawdown 136 Feet	GPM	HEAD	% EFF.	BHP	
Pumping Level 174 Feet	1350	192	83	79	Laboratory
Dsch. Pressure (-0- psig) Feet	1350	16		3	Losses
Total Pumping Head 174 Feet	1350	174		82	Field
Pump Capacity 1350 GPM	Motor Eff.	% (full load)	% (¾ load)	% (½ load)	Overall Eff. %

	DESCRIPTION	PRICING SCHEDULE			Approx. Wgt.
1	MOTOR: Make 75 HP 1800 RPM 460 Volts				
	3 Phase 60 Cycle Type Frame No. N R R			1,925.00	motor only
	Special Features:				
2	HEAD SIZE: 17 AC-8				
	Companion Flanges 8				
	(Surface Dschg.) (Below Ground Dschg. " Base to ℄ Dschg.)				
3	DISCHARGE PIPE: 5 Ft. of 8 " Std. Pipe				
4	COLUMN: 200 Ft. 8 " Std. Pipe x 2½ " Tube x 1½ " Shaft, per Ft. $				
5	BOWLS: Size 12 Type RH No. Stages 3				
6	SUCTION PIPE: 8 Ft. of cone " Std. Pipe			6,008.00	pump
7	STRAINER: Size " Type Matl.				
8	AIR LINE: Ft. of " (Galv.) (Copper) $ Ft.				
9	ALTITUDE GAUGE & FITTINGS: Hand Pump				
10	STARTING EQUIPMENT				
11					
12	75 HP 460 Volt size #4 pumping plant panel w/			800.00	Install
13	time delay relay and lightning protection				
14					
15	ACCESSORIES, SPECIAL CONSTRUCTION, VARIATIONS:				
16					
17					
18					
19					
20	ACCESSORIES, SPECIAL CONSTRUCTION, VARIATIONS:				
21					
22	Note: This Copy is the Engineer's				
23	Report that we Received on 1-21-78,				
24	and from which we Bid our Job				
25					
26	To Customer: Utah pump & Motor Supply				
27					
28	Wm D. Wenger TOTALS			8,763.00	
	INSTALLATION SERVICE			800.00	
	WIRING customer to furnish				
	NET TOTAL EACH				
	one NET TOTAL – UNITS			9,563.00	

REMARKS: Mr. Richins I would be glad to meet with you any time to discuss pumps.

Form LB-58

QUOTED BY: Dwight Staley

APPLICANT
EXHIBIT 4
admitted
6-8-90

PROPOSAL

UTAH Electric Motor & Pump Co.

ENGINEERING SALES INSTALLATION SERVICE

Phone 486-7506 1839 South 8th West Salt Lake City, Utah 84104

0718

Proposal Submitted To:

Date Apr 21 1978

Company	Address	
Name	Job	Phone

We hereby submit specifications and costs on the following proposals:

Pumps
Pump Panels
Motors
Motor Controls
Switch Gears
Motor Rewinding
Pump Rebuilding
Field Service

(1) Johnston Turbine @ 1350 GPM @ 50 psi @ 460 Volt-Setting @ 180 Including Bowl/Screen - w/ 5 Stages / Auto Oiler / PANEL w/ @ Failure Relay Wired in ($470.00) @ N/C w/ 10" Col + 8" Head Disch - 100 HP VHS

(1) Peerless Split Case Size 6" w/ 50 HP (60 Hp Capacity) Mtd + w/ PANEL Both units Installed and set on Customer pad — Quote $16,070.00 Net Installation Agreement; Includes the Above settings as pre-scribed, and Hooking Motors To panels set on Cement (6'-12' From Motors) and panel Interlock w/ Heaters + Fuses - Note: Cement pad, ect, panel to pole wiring, Meter Base, Meter etc @ Power Co. Discression and @ posts/Rubber Xtra - Also ALL piping, Gaskets, Valves etc To + From pump Discharge Flanges @ Customer Discression + Xtra @

The cost of this proposal, in keeping with above specifications is $ 450.00 Ea

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs, will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

TITLE AND LIEN RIGHTS The Equipment shall remain personal property, regardless of how affixed to any realty or structure Until the price (including any notes given therefor) of the equipment has been fully paid in cash, the company shall, in the event of customer's default, have the right to repossess such equipment.

TERMS If not otherwise specified in the quotation, the terms of payment shall be balance net within 30 days after date of invoice.

SHIPPING TERMS FOB Factory

SHIPPING WEIGHTS 10 Tons est

APPROX. DELIVERY DATE Will Install Immed. Following DMAD Turbine, + Tourle City Subm. 66

Authorized Signature W Eric Johnson

NOTE This proposal may be withdrawn by us if not accepted within 30 days

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted You are authorized to do the work as specified Payment will be made as outlined above

Signature [illegible]

Date _____ Signature [illegible]

JOHNSON PIPE & SUPPLY

IDAHO UTAH

PHONE (208) 852-2000 AND (801) 255-3271

DATE	FILE NO.	SOLD BY	ORDER NO.	INSTRUCTIONS	NUMBER
5-3-78	4				01658

SOLD TO Cland Richins — E-210 / 254-4615

13634 SO. 1300 W — KL = 254-~~4~~4503

Riverton, Utah

TIE	QUANTITY	PART NO.	DESCRIPTION	UNIT PRICE	AMOUNT
1	1,920	56	FT 8" ~~100~~ 125 # PVC	1 80	3,456 00
2	1,620	57	FT 10" ~~125~~ 135 # PVC	2 81	4,552 20
3	32	112	8" Riser units	45 00	1,440 00
4	24	113	10" Riser units	50 00	1,200 00
5	1100	458	FT 7" aluminum V@60'	2 40	2,640 00
6	1100	20 21	FT 11 18 5" aluminum V@60'	1 75	1,925 00
7	3,540	454	FT Installation	.60	2,124 00
8	200	454	FT Installation	.60	120 00
9	200	75	FT ~~6~~ 8" 160 # PVC	1 91	382 00
10		458	miscellaneous fittings & surge	400 00	400 00
11					$18,239 20
12					
13			Less 4~~5~~% on PVC		-441 21
14					
15					17,797.99
16					
17	4 132	429	USED Lines of mcdowell	40 1,320 00	5,280 00
18					
19					$23,077.99
20			Changes made per phone conversation		
21			with Rex Pitcher - Changes on item's 1 - 2 & 9		
22			Item 1 & 2 ~~changed from 100 # pcv to 125~~ pvc		
23			Item 9 changed from 6" to 8"		
24			with an additional charge of $2,800.40		
25			Grand total of bid $25,878.39		
26			This job to be completed by June 1, 1978		
27			Please return a copy of this contract		
28			to confirm our agreement.	TAX	
			SEE REVERSE SIDE FOR TERMS & CONDITIONS	TOTAL	

APPLICANT - EXHIBIT 5 admitted 6-8-90 vrj 25.878.39

ORIGINAL

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

19C

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL

RICHINS, KAYLE G. and/or Claude Richins
13650 S. 13TH W.
RIVERTON, UT 84065

JULY 31, 1980

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 13-7116 WAS THAT EVIDENCE OF THE EXTENT OF DEVELOPMENT MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE OCTOBER 01, 1980. (SEE LAST PAGE OF YOUR APPROVED PERMIT). ENCLOSED IS A POST CARD WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF OF BENEFICIAL USE.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU HAVE NOT PREVIOUSLY RECEIVED AN EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME PROVIDED THE DELAY IS FOR REASONABLE CAUSE AS INDICATED IN SECTION 42-204, IDAHO CODE, AMENDED. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. A REQUEST FOR EXTENSION OF TIME FORM IS ENCLOSED FOR YOUR CONVENIENCE. PLEASE NOTE THAT A FEE OF $15.00 MUST BE SUBMITTED WITH THIS FORM.

EITHER THE BENEFICIAL USE POST CARD OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECIEVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE MENTIONED DATE, OTHERWISE, THE PERMIT WILL LAPSE AND BE OF NO FURTHER FORCE OR EFFECT WITHIN 60 DAYS.

SINCERELY,

Rita Fleck

RITA FLECK
SR. SECRETARY

ENCLOSURES

admitted
6-8-90
RJS

APPLICANT
EXHIBIT 6

PLACE
TEN CENT
STAMP
HERE

admitted
6-8-90

IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

APPLICANT
EXHIBIT 7

DEPARTMENT OF WATER RESOURCES

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

Name(s) of Permit Holder: _____

Post Office Address: _____

_____ Tel. No. _____

Source of Water: _____

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

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

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

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

_____ Date

_____ Signature of Permit Holder

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

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

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

September 3, 1980

Richins, Kayle & or Claude Richins
13650 So. 13th West Riverton,
Utah 84065

Dear Sir's

RE: Permit No. 13-7116

Enclosed is a copy of the approved request for extension of time. The time within which to submit the statement of beneficial use is extended to Oct. 1, 1985.

Also enclosed is receipt No. 15987 in the amount of $15.00.

Sincerely,

Rita Fleck

Rita Fleck

Sr. Secretary

admitted
6-8-90
VVS

APPLICANT
EXHIBIT 8

Form 204
7/80

Identification No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME

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

RECEIVED
AUG 21 1980
Department of Water Re

Richins, Kayle G. &/or Claude Richi of 13650 So. 13TH West Riverton, Ut. 84065
(Name) (Address)

State of Utah, 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. 13-7116.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before October 1, , 1980.

That he has heretofore performed the following work described under said permit: one finished we
and are planning for more is possible.

Costing $95,000

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit: Insufficient funds at this time, and will need more time to complete the remainder of the project.

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to December , 1986.

Kayle G. Richins
(Signature)*

*IF OTHER THAN HOLDER, Power of Attorney must be supplied.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within which to submit the statement of beneficial use is extended to October 1, 1985.

Signed this 26th day of August , 1980.

L. Glen Saxton
Chief, Operations Bureau

$15.00 fee received by _____ Date 8-26-80 Receipt # 16[illegible]

APPLICANT
EXHIBIT 8

AURORA PUMP
A SUBSIDIARY OF THE AURORA PUMP
UNIT OF GENERAL SIGNAL
[illegible]

DEEP WELL TURBINE PUMP

ESTIMATE ORDER **SHEET**

SOLD TO: Claude Richins — DATE 1-17-76
ADDRESS: — P. O. NO.
SHIP TO: — QUOTATION NO.
ADDRESS: — BID DATE
SHIP VIA: — COLLECT PREPAID — NO. OF PUMPS
CUSTOMER JOB NO. — LOCATION — ITEM NO.

Well Diameter (Inside)	16 Inches	Type		No. Stages		RPM	
Well Depth	250 Feet	Impeller				Curve No.	
Static Water Level	38 Feet	K. Value		Total Thrust:		Lbs:	
Drawdown	136 Feet	GPM	HEAD	% EFF.	BHP		
Pumping Level	174 Feet	1350	192	83	79		Laboratory
Static Pressure (- & - psig)	Feet	1350	16		3		Losses
Total Pumping Head	174 Feet	1350	174		82		Field
Pump Capacity	1350 GPM	Motor Eff.	% (full load)	% (¾ load)	% (½ load)	Overall Eff.	%

	DESCRIPTION	PRICING SCHEDULE	Approx. Wgt.
1	MOTOR: Make 75 HP 1800 RPM 460 Volts		
	3 Phase 60 Cycle Type Frame No.	1,955.00	
	Special Features: N R R		
2	HEAD SIZE: 17 AC-8		
	Companion Flanges 8		
	(Surface Dschg.) (Below Ground Dschg. " Base to ℄ Dschg.)		
3	DISCHARGE PIPE: 5 Ft. of 8 " Std. Pipe		
4	COL. 200 Ft. 8 "Std. Pipe x 2⅜ "Tube x 1⅓ "Shaft, per Ft. $		
5	BOWLS: Size 12 Type RH No. Stages 3		
6	SUCTION PIPE: 8 Ft. of cone "Std. Pipe	6,008.00	
7	STRAINER: Size "Type Mat'l.		
8	AIR LINE: Ft. of "(Galv.) (Copper) $ Ft.		
9	ALTITUDE GAUGE & FITTINGS: Hand Pump		
10	STARTING EQUIPMENT		
11			
12	75 HP 460 Volt size #4 pumping plant panel w/		
13	time delay relay and lightning protection	800.00	
14			
15	ACCESSORIES, SPECIAL CONSTRUCTION, VARIATIONS:		
16			
17			
18			
19			
20	ACCESSORIES, SPECIAL CONSTRUCTION, VARIATIONS:		
21			
22			
23			
24			
25			
26			
27			
28	TOTALS	8,763.00	
	INSTALLATION SERVICE	800.00	
	WIRING Customer to furnish		
	NET TOTAL EACH		
	one NET TOTAL - UNITS	9,563.00	

REMARKS: Mr. Richins, I would be glad to meet with you any time to discuss pumps.

Form LB-98 — QUOTED BY: [illegible]

19E-21

AUGUST 17, 1980

DEAR SIR,

AS WE ONLY HAVE ONE FINISHED WELL WHICH IS ONLY A PORTION OF THE WATER ON THE WELL PERMIT AS OF NOW - I WOULD LIKE TO ASK FOR AN EXTENSION OF TIME TO COMPLETE THE FULL WELL PERMIT.

I AM SENDING PROOF OF THE ENGINEERS REPORT BY AURORA PUMP CO. TO THE FACT THAT OUR WELL RUNS 1350 GALLONS OF WATER PER MINUTE.

WE PLAN TO UTILIZE AN ADDITIONAL 200 TO 300 ACRES OF GROUND, OUR PLAN FOR THIS RANCH WILL REQUIRE THE FULL AMOUNT OF THE WELL PERMIT AND AS WE ARE FINANCING THIS PROJECT OURSELVES IT WILL TAKE A GOOD DEAL OF TIME AND MONEY TO COMPLETE.

IF YOU NEED ANY FURTHER INFORMATION PLEASE CONTACT ME AS SOON AS POSSIBLE.

THANK YOU.

Kayle G. Richins

KAYLE G. RICHINS
13650 SO. 13TH WEST
RIVERTON, UTAH 84065

admitted
6-8-90 WS

APPLICANT
EXHIBIT 9

Form Approved - OMB No. 0560

CRP-576 USDA-ASCS

REPORT OF ACREAGE

NOTE: *Section 371 of the Agricultural Adjustment Act of 1938, as amended, authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing this data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the Act.*

PAGE 1 of 2

FARM NO.	NAME AND ADDRESS	FARM LAND	CROP LAND
652	CLAUDE R. RICHINS	765	155 212.1
D	OXFORD ROUTE		-
OP	CLIFTON, IDAHO 83228		-
	528 90 3262 4		-

OPERATOR: None

OWNER: None

PROGRAM YEAR: 1986

OTHER:

KEY	OTHER INTERESTED PRODUCERS NAME AND ADDRESS A	OTHER FARMS B	ASSIGNMENTS CROP C	ASSIGNMENTS JOB D
3				
4				
5				
8				
7				

SECTION I - FARM FIELD REPORT (Note: Grey Shaded Area For County Office Use Only) (Section I Continued on Reverse)

TRACT NO.	FIELD NO. 2	CROP OR LAND USE 3	CROP OR LAND USE SUMMARY D WHT	I-WHT	D BLY	I BLY	OATS	CORN	D-ACR	I-ACR	CU WHT	CU BRLY	CU CORN	CRP	OTHER	KEY 5	SUB-ARE 6	Disposition	NET ACRE 11
3	Map 5B Low					12.6													
1	2A	Bly DP																	
	B2	Wheat DP HR		12.8															
	C	Wheat DP HR		23.2															
4	D	Grass													12.3				
5	E	alf													5.5				
6	F	alf													37.0				
7	G	alf													22.9				
8	H	alf													37.0				
TOTAL OPERATOR REPORT				36.0		32.5				29.2					115.0				
TOTAL DETERMINED ACREAGE																			

Admitted 6-8-90 [illegible]

Permitted:

DTV ____ Wheat ____ Brly-Oats ____ Corn ____ ACR ____

A. OPERATOR'S SIGNATURE | DATE

B. OPERATOR'S SIGNATURE: Claude R. Richins | DATE: June 24, 86

SECTION II - OPERATOR'S CERTIFICATION

I certify to the best of my knowledge and belief that the acreages of crops and [illegible] uses listed hereon are true and correct. I understand that an inaccurate acreage [illegible] could result in a payment reduction or loss of program benefits and/or reduction in future allotments and quotas when applicable.

C. OPERATOR'S SIGNATURE | DATE

APPLICANT - EXHIBIT 10

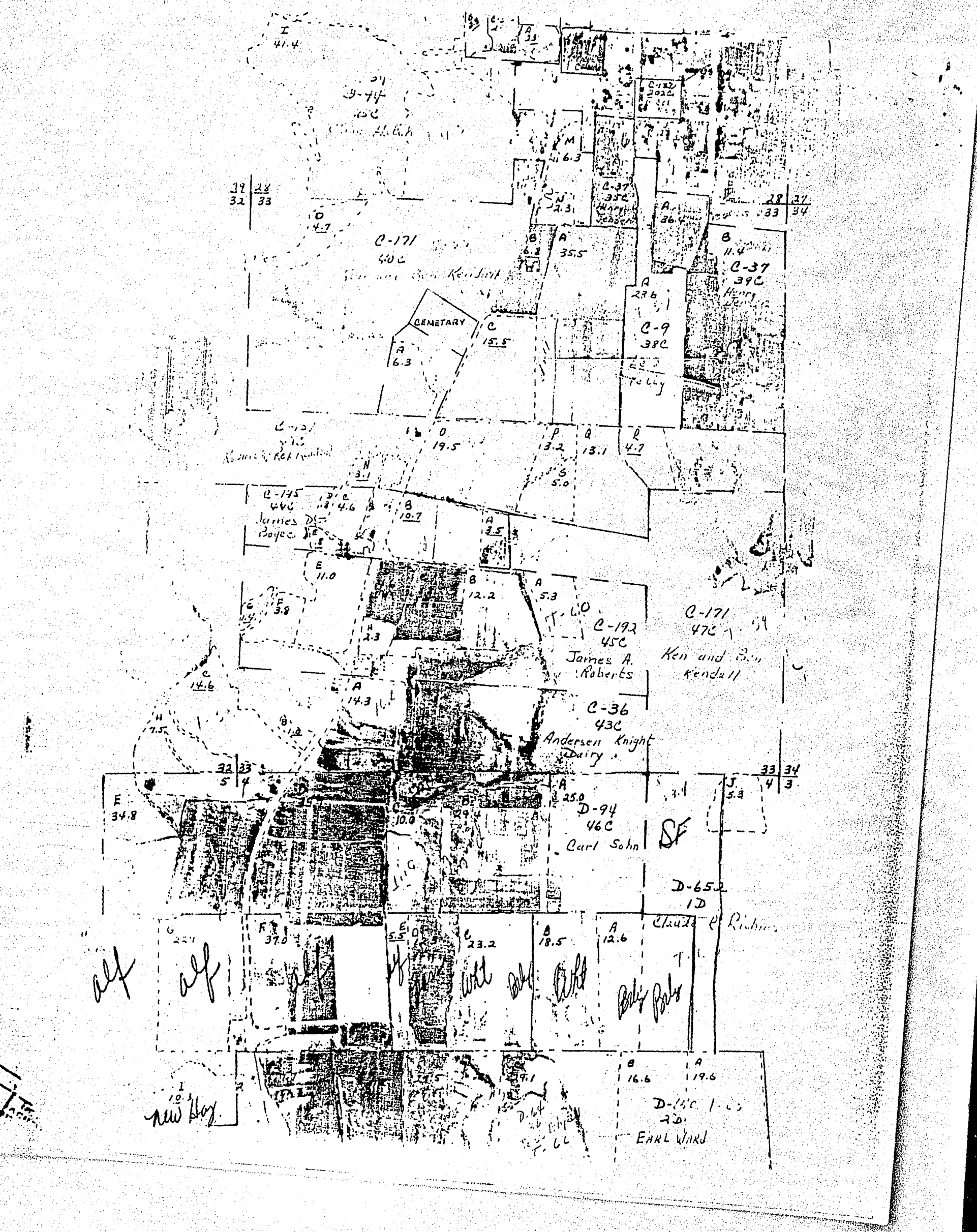
SECTION I - FARM FIELD REPORT (Continued) (Grey Area for County Office Use Only)

TRACT NO.	FIELD NO.	CROP OR LAND USE	CROP OR LAND USE SUMMARY: D WHT	I WHT	D BLY	I BLY	OATS	CORN	D-ACR	I-ACR	CU WHT	CU BRLY	CU CORN	CRP	OTHER	KEY 5	SU-ACR 6	Disposition 10	NC-ACR 11
1	2	3													10.3				
10	I	New Hay 10.3				14.2													
	J1	Bly								29.2									
	J2	SF 29.2				5.7													
	B1	Bly																	
		6-24-86																	

SKETCHES OR REMARKS

Land designated for ACR meets the cropping requirements and other eligibility requirements as applicable. Int: LRR Date: 6/24/86

No new land has been broken out or converted and planted to an agricultural commodity since December 23, 1985 on this farm, or any other farm in which I have an interest. Int: LRR Date: 6/24/8


C-171
40C
CEMETERY
C-37
35C
C-37
39C
C-9
38C
C-175
44C
James Boyce
C-192
45C
James A. Roberts
C-171
47C
Ken and Ben Kendall
C-36
43C
Andersen Knight Dairy
D-94
46C
Carl Sohn
D-65
1D
Claude & Richard
D-64
2D
EARL WARD
SF
New Hay

ASCS-578
(5-7-78)

REPORT OF ACREAGE

USDA-ASCS

NOTE: *Sec. 1374a, 7 U.S.C., authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing this data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the Act.*

PAGE OF

KEY 1 OPERATOR
KEY 2 OWNER

FARM NO. | NAME AND ADDRESS | FARM-LAND | CROP-LAND

Claude R. Richens
Oxford Route
Clifton, Idaho 83228

765 | 308

OTHER FARMS
OPERATOR: none
OWNER: none

PROGRAM YEAR: 1985

OTHER:

OTHER INTERESTED PRODUCERS

KEY	NAME AND ADDRESS	OTHER FARMS	ASSIGNMENT CROP	ASSIGNMENT JOB
3				
4				
5				
6				
7				

SECTION I - FARM FIELD REPORT (NOTE: Grey Shaded Area to be Filled in by Reporter ONLY.)

TRACT NO. 1	FIELD NO. 2	CROP OR LAND USE 3	CROP OR LAND USE SUMMARY: Dry Wht	Irr Wht	Dry Bly	Irr Bly	Dry ACR	Irr ACR	Corn	Oats	Hay	Other	KEY 5	SHARE 6	DISPOSITION 7	METHOD 8	GROSS ACRES 9	DEDUCTIONS MEAS 10	DEDUCTIONS ACRES 11	NET ACRES 12	INITIAL & DATE 13
all in T63	Map 58 Lot 1	grain				12.6															
1 D	2A	Barley in																			
	10a							19.0													
	J	ACR in																			
	10b											24.4									
	J	Fallow in																			
	1	grain				14.5 ~~18.5~~ ARR		18.5 ARR.													
	B	Barley in																			
	3										23.2										
	C	alf in																			
	4										12.3										
	D	hay in																			
	5										5.5										
	E	alf in																			
	6										37.0										
	F	alf in																			
	7										22.9										
	G	alf in																			
TOTAL OPERATOR REPORT				21.8		~~29.1~~ 31.1		19.0			151.7	88.1									
TOTAL REPORTER'S REPORT																					

SECTION II - OPERATOR'S CERTIFICATION

I certify to the best of my knowledge and belief that the acreages of crops and land uses listed herein are true and correct. Further, my signature constitutes authority for ASCS personnel to enter my farm for making any program determinations.

OPERATOR'S SIGNATURE: Claude R. Richens | DATE: 5/10/85

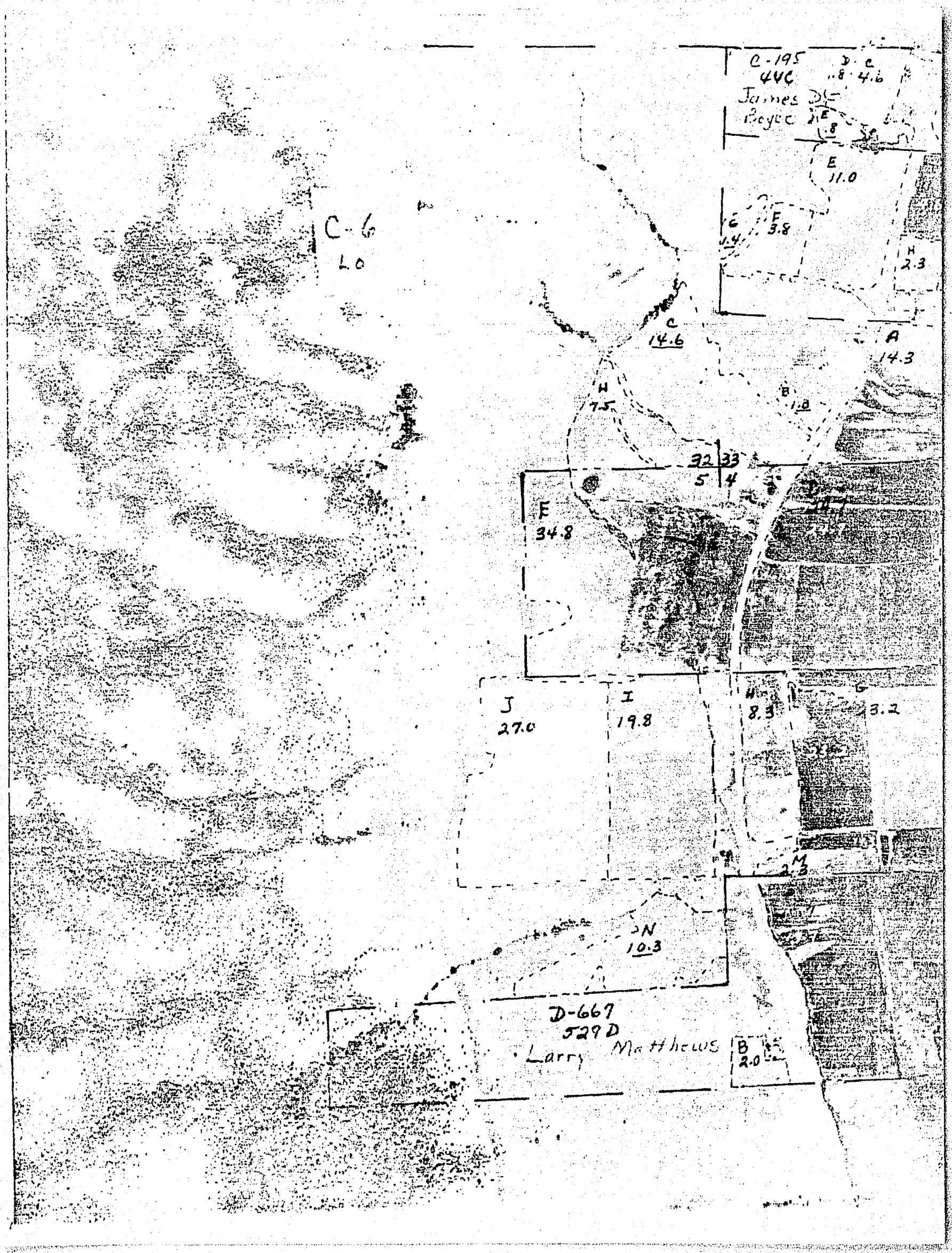
OPERATOR'S SIGNATURE | DATE

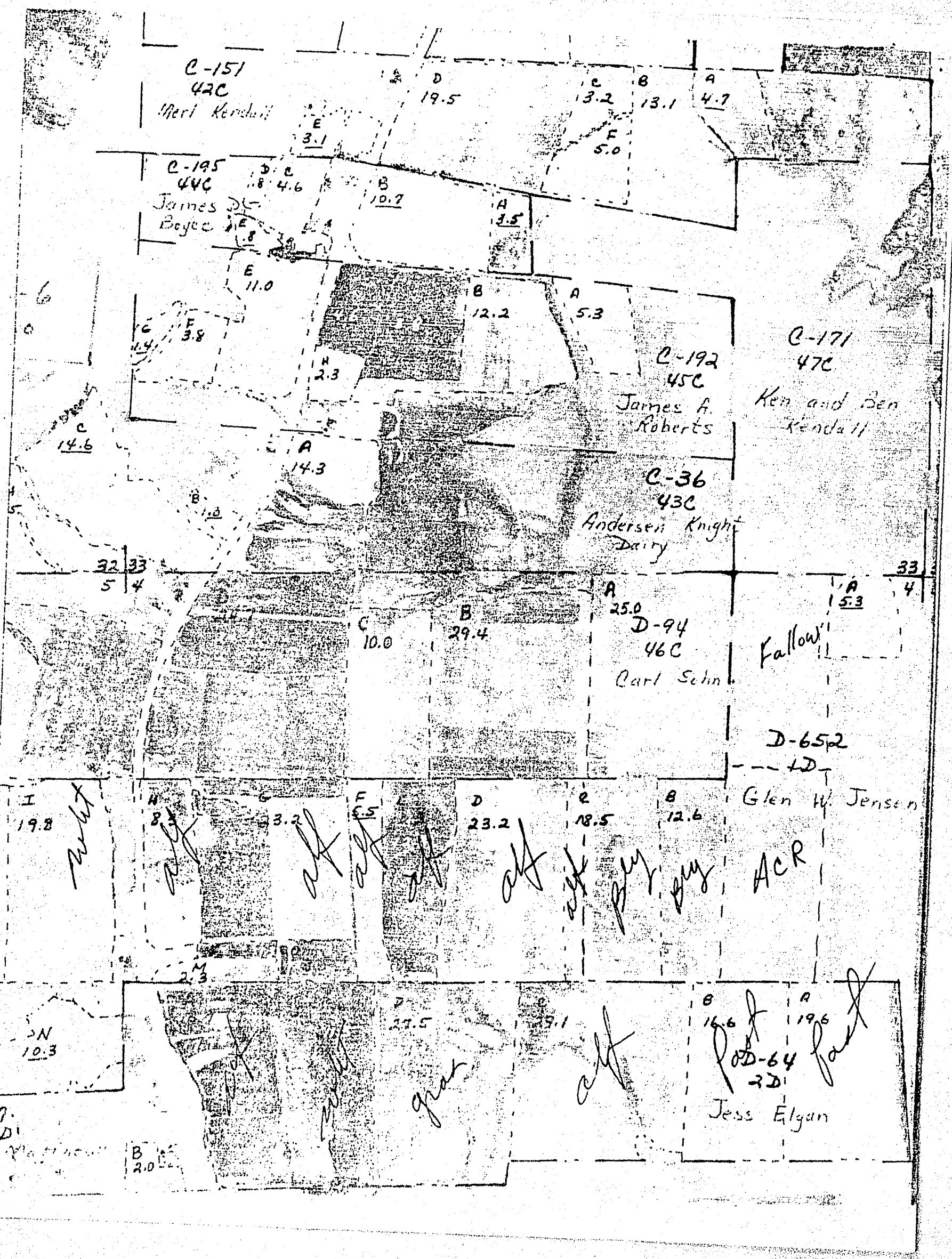
SECTION I - FARM FIELD REPORT (Continued) (Grey Area to be Filled in by Reporter ONLY.)

TRACT NO. 1	FIELD NO. 2	CROP OR LAND USE 3	CROP OR LAND USE SUMMARY: Dry Wht	Irr Wht	Dry Bly	Irr Bly	Dry ACR	Irr ACR	Corn	Oats	Hay	Other	KEY 5	SHARE 6	DISPOSITION 7	METHOD 8	GROSS ACRES 9	REDUCTIONS: MEAS 10	REDUCTIONS: ACRES 11	NET ACRES 12	INITIAL DATE 13
	8 H	alf in									2.0 ~~2.9~~	out									
	9 I	grass in wheat co		10.3																	
T66 Map 5B 2D	Lo pasture A 3a	wheat co		11.5																	
	#36 A2	alf in									17.7										
	2 B	grass in										27.5									
	1 C	alf in									29.1										
	4 B	Past in										16.6									
	5 A	Past in										19.6									
T63 1D	#11 B	alf in									4.0										
		Dy 5-16-85																			

SKETCHES OR REMARKS

Land designated for ACR acreage meets the cropping requirements or other eligibility requirements as applicable.


C-195
44C
D
.8
C
4.6
James D(-
Boyce
E
.8
E
11.0
C
1.4
E
3.8
H
2.3
C
14.6
A
14.3
H
7.5
B
1.0
32
5
33
4
F
34.8
J
27.0
I
19.8
H
8.3
G
3.2
M
2.3
N
10.3
D-667
529D
Larry Matthews
B
2.0


C-151
42C
Meri Kendall
E 3.1
D 19.5
C 3.2
B 13.1
A 4.7
F 5.0
C-195
44C
James Boyce
D 1.8
C 4.6
B 10.7
A 3.5
E 11.0
E 1.8
C 1.4
F 3.8
H 2.3
B 12.2
A 5.3
C-192
45C
James A. Roberts
C-171
47C
Ken and Ben Kendall
C 14.6
A 14.3
B 1.3
C-36
43C
Andersen Knight Dairy
32 5
33 4
C 10.0
B 29.4
A 25.0
D-94
46C
Carl Schn
A 5.3
Fallow
D-652
Glen W. Jensen
I 19.8
H 8.7
G 3.2
F 5.5
E
D 23.2
C 18.5
B 12.6
ACR
2M 2.3
2N 10.3
D 27.5
C 9.1
B 16.6
A 19.6
POD-64
2D
Jess Elgan
B 2.0

ASCS-578
(6-7-78)

REPORT OF ACREAGE

USDA-ASCS

NOTE: Sect. 1374a, 7 U.S.C., authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing this data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the Act.

OF

	FARM NO.	NAME AND ADDRESS	FARM-LAND	CROP-LAND
OPERATOR	652	CLAUDE R. RICHINS	765	319 157
	D	OXFORD ROUTE		
	OP	CLIFTON, IDAHO 83228		
OWNER	652	CLAUDE RICHINS 528 90 3262 4	765	195
	D	13634 S. 1300 W.		
	OW	RIVERTON, UTAH 84065		

529 29 6108 4

OTHER FARMS

OPERATOR

OWNER

PROGRAM YEAR: 1984

OTHER

OTHER INTERESTED PRODUCERS			ASSIGNMENT	
KEY	NAME AND ADDRESS	OTHER FARMS	CROP	IOB
3	Kayle G Richins			
4				
5				
6				
7				

SECTION I - FARM FIELD REPORT (NOTE: Grey Shaded Area to be Filled in by Reporter ONLY.)

TRACT NO. 1	FIELD NO. 2	CROP OR LAND USE 3	CROP OR LAND USE SUMMARY: Dry Wht	Irr Wht	Dry Bly	Irr Bly	Dry ACR	Irr ACR	Corn	Oats	Hay	Other	KEY 5	SHARE 6	DISPOSITION 7	METHOD 8	GROSS ACRES 9	DEDUCTIONS MEAS 10	DEDUCTIONS ACRES 11	NET ACRES 12	INITIAL & DATE 13
D	A	Barley-Barley Spring Oats				12.6															
	B	Hay									18.5										
	C	Hay									23.0										
	D	Hay- Marsh									10.3										
	E	Hay									5.5										
	F	Barley-Barley Spring Oats				37.0															
	G	Hay									22.9										
	H	Hay									27.0										
	I	Pasture									+	10.3									
TOTAL OPERATOR REPORT						49.6					109.4	53.7									
TOTAL REPORTER'S REPORT																					

SECTION II - OPERATOR'S CERTIFICATION

I certify to the best of my knowledge and belief that the acreages of crops and land uses listed herein are true and correct. Further, my signature constitutes authority for ASCS personnel to enter my farm for making any program determinations.

OPERATOR'S SIGNATURE	DATE	OPERATOR'S SIGNATURE	DATE
Claude L. Richins	6/21/84		

SECTION I - FARM FIELD REPORT *(Continued) (Grey Area to be Filled in by Reporter ONLY.)*

TRACT NO. 1	FIELD NO. 2	CROP OR LAND USE 3	CROP OR LAND USE SUMMARY 4										KEY 5	SHARE 6	DISPOSITI 7	METHOD 8	GROSS ACRES 9	DEDUCTIONS		NET ACRES 12	INITIAL & DATE 13
			Dry Wht	Irr Wht	Dry Bly	Irr Bly	Dry ACR	Irr ACR	Corn	Oats	Hay	Other						MEAS. 10	ACRES 11		
	5	D.S.										434									

SKETCHES OR REMARKS

Form Approved - OMB No. 40-R1005

ASCS-578 (Rev. 7-81)

REPORT OF ACREAGE

USDA-ASCS

NOTE: *Sect. 1374a, 7 U.S.C., authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing this data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the Act.*

PAGE OF

KEY 1 OPERATOR

FARM NO.	NAME AND ADDRESS	FARM-LAND	CROP-LAND
652	CLAUDE R. RICHINS	765	157
D	OXFORD ROUTE		
OP	CLIFTON, IDAHO 83228		
	528 90 3262 4		

KEY 2 OWNER

OTHER FARMS: OPERATOR / OWNER

PROGRAM YEAR: 1982

OTHER

OTHER INTERESTED PRODUCERS

KEY	NAME AND ADDRESS	OTHER FARMS
3		
4		
5		
6		
7		

ASSIGNMENT

CROP	JOB

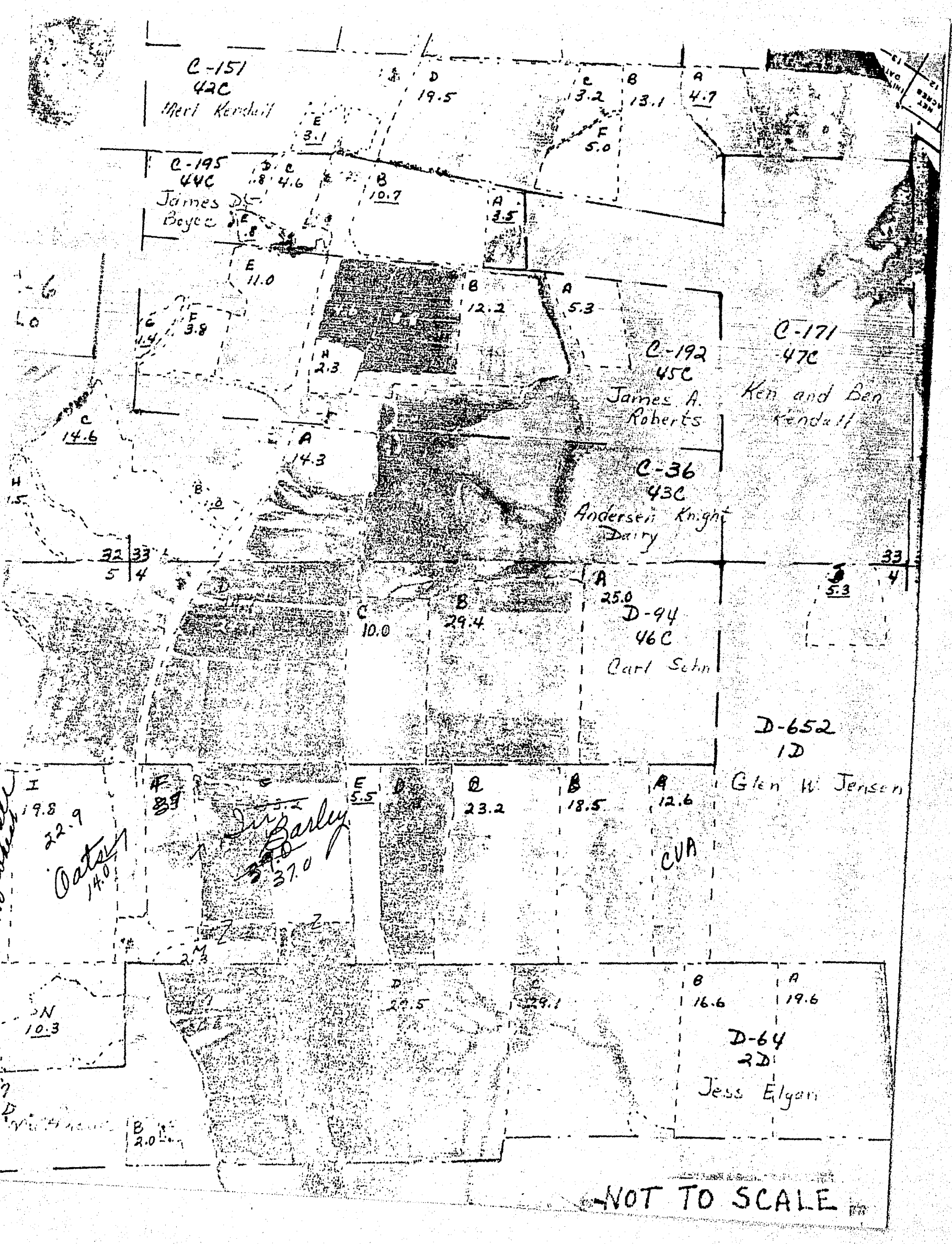
SECTION I - FARM FIELD REPORT (NOTE: Grey Shaded Area to be Filled in by Reporter ONLY.)

TRACT NO. 1	FIELD NO. 2	CROP OR LAND USE 3	CROP OR LAND USE SUMMARY: Dry Wheat	Irr Wheat	Dry Barley	Irr Barley 4	Corn	Cons Use	Other	KEY 5	SHARE 6	DISPOSITION 7	METHOD 8	GROSS ACRES 9	DEDUCTIONS: IDENT./MEAS. 10	DEDUCTIONS: ACRES 11	NET ACRES 12	INITIAL & DATE 13
1D	I	Fall Wheat	27.0															
	H1	Oats				14.0												
	H2	Fallow							8.9									
	F	Spring Barley				37.0												
	A	CRP						12.6										
Balance of farm in hay & fallow									57.5									
No other program crops planted																		
TOTAL OPERATOR REPORT			27.0			51.0		12.6	66.4									
TOTAL REPORTER'S REPORT																		

SECTION II - OPERATOR'S CERTIFICATION

I certify, to the best of my knowledge and belief that the acreages of crops and land uses listed herein are true and correct. Further, my signature constitutes authority for ASCS personnel to enter my farm for making any program determinations.

OPERATOR'S SIGNATURE	DATE	OPERATOR'S SIGNATURE	DATE
Claude R. Richins	5/21/82		


C-151
42C
Meri Kendall
E 3.1
D 19.5
C 3.2
B 13.1
A 4.7
F 5.0
C-195
44C
James Boyce
D .8
C 4.6
B 10.7
A 3.5
E .8
E 11.0
B 12.2
A 5.3
C-171
47C
Ken and Ben Kendall
C-192
45C
James A. Roberts
C-36
43C
Andersen Knight Dairy
C 14.6
A 14.3
B 1.0
H 1.5
32 5
33 4
C 10.0
B 29.4
A 25.0
D-94
46C
Carl Sehn
33 4
5.3
D-652
1D
Glen H. Jensen
I 19.8
F 8.9
E 5.5
D 23.2
B 18.5
A 12.6
CVA
Barley
37.0
Oats
14.0
27.0 wheat
22.9
N 10.3
D 29.5
C 29.1
B 16.6
A 19.6
D-64
2D
Jess Elgan
29 D
B 2.0
NOT TO SCALE

ASCS-578 * (6-7-78)

REPORT OF ACREAGE

USDA - ASCS

NOTE: *Sect. 1374a, 7 U.S.C., authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing this data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the Act.*

PAGE 1 OF 2

KEY 1 OPERATOR: L

FARM NO.: 652

NAME AND ADDRESS: CLAUDE RICHINS
13634 S. 1300 W.
RIVERTON, UTAH 84065

FARM-LAND: 765

CROP-LAND: 195

KEY 2 OWNER: Multiple

OPERATOR: None

OWNER: None

OTHER FARMS: 529 28 6108 4

PROGRAM YEAR: 1981

OTHER: NCA 130.2

OTHER INTERESTED PRODUCERS

KEY	NAME AND ADDRESS	OTHER FARMS	ASSIGNMENT CROP	ASSIGNMENT JOB
3				
4				
5				
6				
7				

SECTION I - FARM FIELD REPORT (NOTE: Grey Shaded Area to be Filled in by Reporter ONLY.)

TRACT NO. 1	FIELD NO. 2	CROP OR LAND USE 3	CROP OR LAND USE SUMMARY: Barley	Barley	Wht	Alf				KEY 5	SHARE 6	DISPOSITION 7	METHOD 8	GROSS ACRES 9	DEDUCTIONS IDENT./MEAS. 10	DEDUCTIONS ACRES 11	NET ACRES 12	INITIAL & DATE 13
D	A	Non Crop																
		Grain		9.6														
	B1	Barley Irr										Harvest						
		Grain			3.0													
	B2	Wheat Irr										Harvest						
						18.5												
	C	Alf																
						23.2												
	D	Alf																
						12.3												
	E	Alf																
						5.5												
	F	Alf																
		Grain			23.2													
	G	Wheat Irr										Harvest						
		Grain			8.3													
	H	Wheat Irr										Harvest						
TOTAL OPERATOR REPORT				29.6	37.0	104.4												
TOTAL REPORTER'S REPORT																		

SECTION II - OPERATOR'S CERTIFICATION

I certify to the best of my knowledge and belief that the acreages of crops and land uses listed herein are true and correct. Further, my signature constitutes authority for ASCS personnel to enter my farm for making any program determinations.

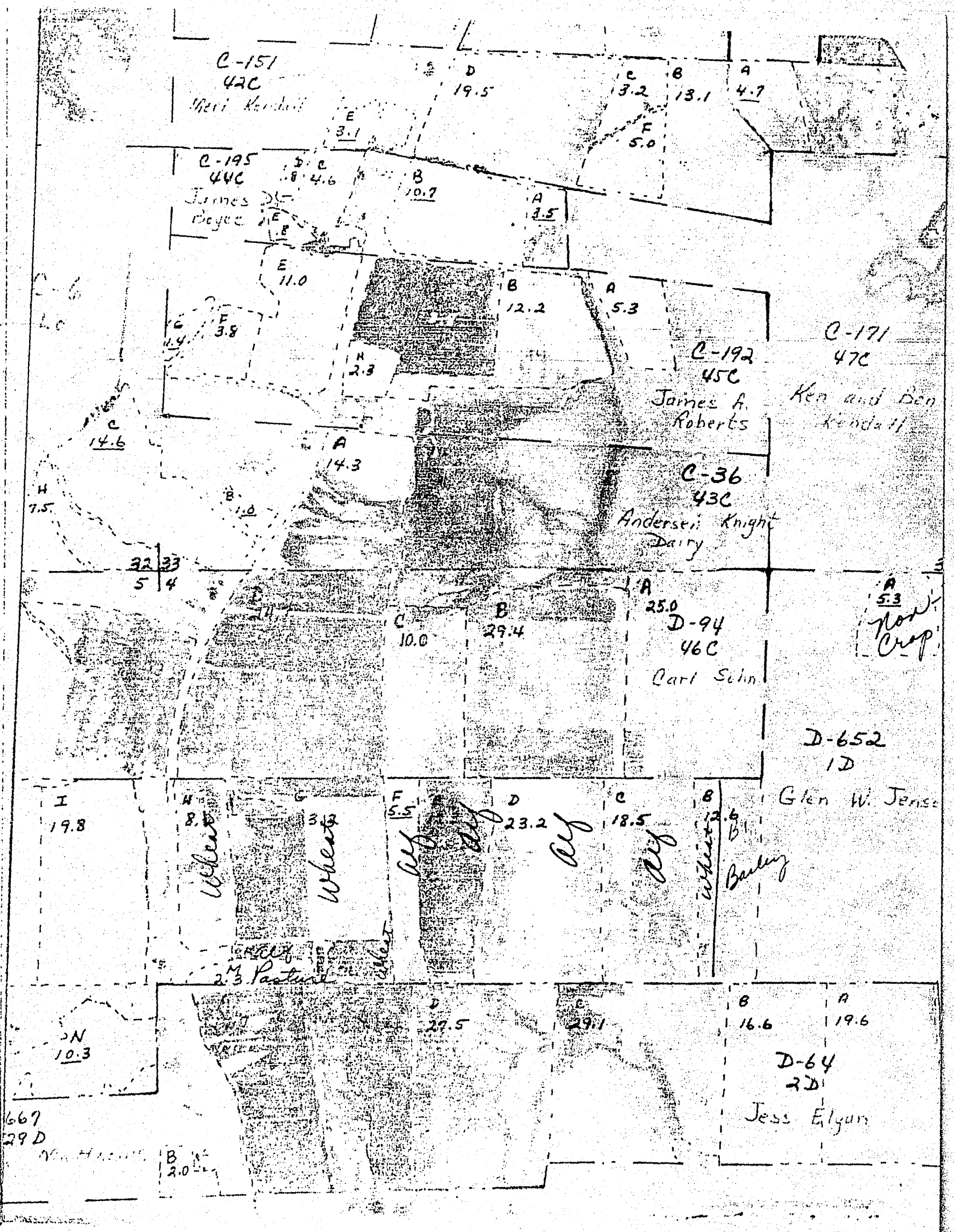
OPERATOR'S SIGNATURE: Claude R. Richins — DATE: 4/28/81

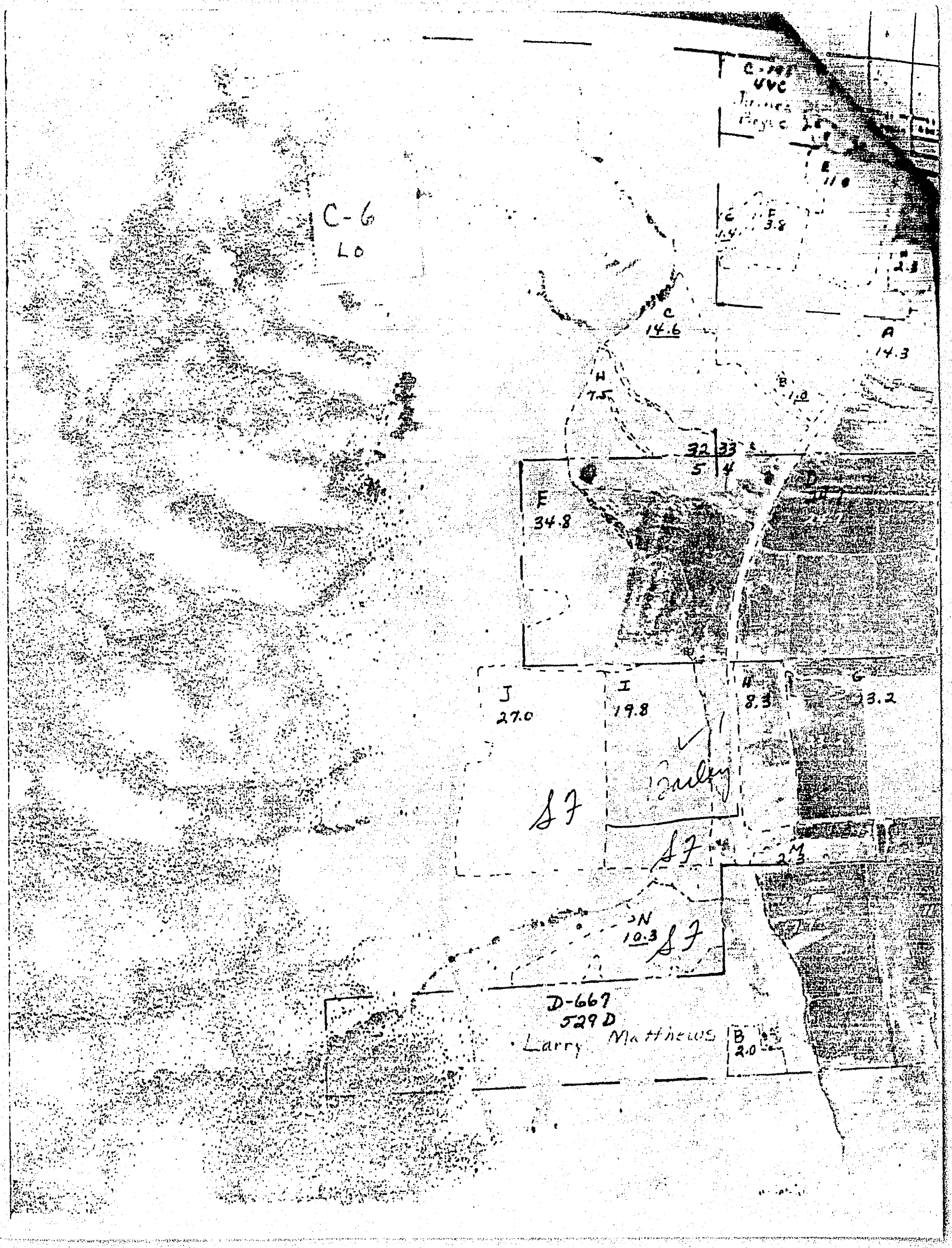
OPERATOR'S SIGNATURE — DATE

SECTION I - FARM FIELD REPORT (Continued) (Grey Area to be Filled in by Reporter ONLY.)

TRACT NO. 1	FIELD NO. 2	CROP OR LAND USE 3	CROP OR LAND USE SUMMARY	KEY 5	SHARE 6	DISPOSITION 7	METHOD 8	GROSS ACRES 9	DEDUCTIONS IDENTITY & MEAS. 10	DEDUCTIONS ACRES 11	NET ACRES 12
		Irr Grain	Irr Wheat Olter 2.5								
	L	Wheat				Harvest					
	K	Alf	1.3								
	M	Pasture	2.3								
	I'	Grain Barley 1	20.0			Harvest					
	I	Sf	27.0								
	N	Sf	10.3								
	I²	Sf	4.0								
4	28-81										
	BH										

SKETCHES OR REMARKS


C-151
42C
Merl Kendall
E
3.1
D
19.5
C
3.2
B
13.1
A
4.7
F
5.0
C-195
44C
James Boyce
D
.8
C
4.6
B
10.7
A
3.5
E
11.0
B
12.2
A
5.3
C-171
47C
Ken and Don Kendall
C-192
45C
James A. Roberts
C-36
43C
Andersen Knight Dairy
C
14.6
A
14.3
H
7.5
B
1.0
22
5
33
4
C
10.0
B
29.4
A
25.0
D-94
46C
Carl Selin
A
5.3
Non Crop
D-652
1D
Glen W. Jense
I
19.8
Wheat
Wheat
Fallow
Fallow
Fallow
D
23.2
C
18.5
Wheat
Barley
M
2.3
Pasture
D
29.5
C
29.1
B
16.6
A
19.6
D-64
2D
Jess Elgan
N
10.3
667
29D
B
2.0


C-6
LO
C-66
UVC
C
14.6
A
14.3
H
7.5
B
1.0
32
5
33
4
F
34.8
D
J
27.0
I
19.8
H
8.3
G
3.2
SF
SF
SF
N
10.3
D-667
529 D
Larry Matthews
B
2.0

utah power & LIGHT COMPANY
P.O. Box 432
Preston, Idaho 83263

November 10, 1988

Mr. Kayle Richins
13650 S. 1300 W.
Riverton, UT 84065

RE: Account #0479-08650.0, 160 HP Pumping facility

Dear Mr. Richins:

This letter is in response to your inquiry concerning usage and the guarantee agreement on the above pumping facility.

This pump was connected and metered September 27, 1978. There was no advance payment but there was an Annual Guarantee Agreement for $2,023.00 per year for five years.

Usage Totals:

1978-1979	$2,594.86
1979-1980	$1,702.02
1980-1981	$1,901.03
1981-1982	$1,489.14
1982-1983	$ 359.61

At this point the Annual Guarantee Agreement was cancelled. These figures do not reflect BPA credit which started in 1981.

This pumping operation has been in operation every year since that time.

I hope that this information is sufficient for your needs.

Sincerely,

Peggie Dahle

Peggie Dahle
Accounting Clerk

PD

admitted
6-8-90

APPLICANT
EXHIBIT 11

head
MANUFACTURING CO.
640 SO. HWY. 91/PRESTON, IDAHO 83263
(208) 852-2000/(800) 635-2790

Gary Spackman
State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

Regarding the Claud Richins well Clifton Idaho.

Dear Mr. Spackman,

After examination of the records available to me I have come to the following conclusions:

The above mentioned well has a normal capacity of between 1200 and 1400 gpm. This is based on (1) that the pump curve on the well pump shows a capacity of 1350 gpm at 175 ft. of total dynamic head. (2) The main line sizes of 10 in. and the 8 in. have a combined capacity of 1891 gpm. (3) There are 8 quarter mile lines of sprinkler pipe on the system which require between 1200 and 1600 gpm.

I have included a copy of the materials we supplied and installed in 1978 and a copy of the pump curve.

Respectfully submitted,

Rex Pitcher
Engineering and design
Pitcher Irrigation / Head Manufacturing Company.
November 10, 1988

admitted
6-8-90

APPLICANT
EXHIBIT 12

APPLICANTS
EXHIBIT 13

utah power & LIGHT COMPANY

P.O. BOX 30898
SALT LAKE CITY, UTAH 84140

6000020
SB43

CURRENT BILL PAST DUE AFTER	AMOUNT NOW DUE
5-03-84	2441.04

admitted
6-8-90

0443790 2 047908650.000
KAYLE RICHINS
160 HP PUMP
13650 S 1300 W
RIVERTON UT 84065

$_____
AMOUNT ENCLOSED
RETURN THIS PORTION WITH YOUR PAYMENT

047908650000000244l042 2

utah power & LIGHT COMPANY

IF YOU HAVE QUESTIONS ABOUT THIS BILL CALL: 852-1916

TO REPORT SERVICE TROUBLE OR OUTAGES CALL: 852-1916

ACCOUNT NUMBER	SERVICE ADDRESS
0479-08650.000 2	CLIFTON ID 83228

RATE SCHEDULE	SERVICE FROM	SERVICE TO	DAYS	METER READINGS PREVIOUS	METER READINGS PRESENT	KILOWATT-HOURS USED	
	6-29	10-10	897				
14#	GUARANTEE ADJUSTMENT						121.97
14#	GUARANTEE ADJUSTMENT						533.86

Give a little, help a lot. To donate to the voluntary program to help needy people with energy emergencies, please add exactly $1, $2, $5, or $10 to your payment.

PREVIOUS BALANCE	1785.21	CURRENT BILL	655.83
PAYMENTS RECEIVED	.00	PAST DUE-APR 20	1785.21
		ACCOUNT BALANCE	2441.04

EQUAL PAYMENT PLAN	
MONTHLY PAYMENT	

AMOUNT NOW DUE
2441.04

ENERGY USAGE COMPARISON

MONTHLY BILLING	DAYS	KWH USED TOTAL	KWH USED PER DAY	ELECTRIC SERVICE CHARGE TOTAL	ELECTRIC SERVICE CHARGE PER DAY	ELECTRIC SERVICE CHARGE COST/KWH
THIS YEAR						
LAST YEAR						

CURRENT BILL PAST DUE AFTER
5-03-84

CUSTOMER PORTION—PLEASE RETAIN
FOR ADDITIONAL INFORMATION PLEASE SEE REVERSE SIDE

Utah Power & Light Co.
P.O. Box 30898
Salt Lake City, Utah 84140

INTEREST CHARGES

State	Interest Rate	Interest Billed on Amounts Unpaid at the End of
Utah	18%	Second billing period (approximately 60 days)
Idaho	12%	First billing period (approximately 30 days)
Wyoming	18%	First billing period (approximately 30 days)

* * * * *

RATE INFORMATION

Electric service rate information is available at all Utah Power offices.

* * * * *

ENERGY USAGE COMPARISON

The "Energy Usage Comparison" chart provides data about your usage of electricity and is designed to assist you in energy conservation efforts.

175372

QUITCLAIM DEED

admitted 6-8-90 VSA

For Value Received

FLORENCE A. BUXTON,

do hereby convey, release, remise and forever quit claim unto

CLAUDE R. RICHINS

whose current address is

the following described premises, to-wit:

Township 14 South, Range 38 East of the Boise Meridian, Franklin County, Idaho

Section 4: N1/2SW1/4, EXCEPT: Beginning at the Southwest corner of the NW1/4SW1/4 of said Section 4, thence East 640 feet, more or less, thence North 430 feet, more or less, thence West to the Highway D-1 Right-of-Way, thence along said right-of-way to the North boundary of the NW1/4SW1/4 of Section 4, thence West to the Northwest corner of the NW1/4SW1/4, thence South 1320 feet to the point of beginning.

ALSO INCLUDING the North half of the 139 and 60/100 acres embraced in the N1/2SE1/4.

together with their appurtenances.

Dated: April 23rd, 1987

Florence A. Buxton

STATE OF IDAHO, COUNTY OF FRANKLIN

On this 23rd day of April, 19 87, before me, a notary public in and for said State, personally appeared

FLORENCE A. BUXTON

known to me to be the person who name is subscribed to the within instrument and acknowledged to me that she executed the same.

Notary Public

Residing at Preston, Idaho

Comm. Expires

Recorded at the request of

Steve Fuller

a.m. MAY 5 1987 12:10 p.m.

CORRIE L. KELLER, RECORDER

LaRae Johnson Deputy

FRANKLIN COUNTY, IDAHO

Furnished by the AMERICAN LAND TITLE CO., Pocatello, Idaho

PROTESTANT EXHIBIT A

PROTESTANT
EXHIBIT B

175371 1-2

admitted
6-8-90
VLS

Recorded at the request of
Steve Fuller

a.m. MAY 5 1987 12:05 p.m.

CORRIE L. KELLER, RECORDER
By Ja Rae Johnson Depu
FRANKLIN COUNTY, IDAHO

PERSONAL REPRESENTATIVE'S DEED

THIS DEED made this 30th day of April, 1987, between STANLEY T. BUXTON as Personal Representative of the Estate of CLAIR J. BUXTON, deceased, the Party of the First Part, and CLAUDE R. RICHINS, Party of the Second Part.

WHEREAS, STANLEY T. BUXTON, Party of the First Part, is the duly appointed and acting Personal Representative of the Estate of CLAIR J. BUXTON, deceased; and

NOW, THEREFORE, WITNESSETH, that the said Party of the First part, for valuable consideration, and for the purpose of distributing certain real property from the Estate of CLAIR J. BUXTON, deceased, does by these presents hereby distribute, grant, bargain, sell, convey, and confirm unto the said Party of the Second Part, and to his heirs and assigns forever, the described undivided interests in that certain parcel of land, situate, lying and being in Franklin County, State of Idaho, and more particularly described as follows:

Township 14 South, Range 38 East of the Boise Meridian, Franklin County, Idaho

Section 4: N1/2SW1/4, EXCEPT: Beginning at the Southwest corner of the NW1/4SW1/4 of said Section 4, thence East 640 feet, more or less, thence North 430 feet, more or less, thence West to the Highway D-1 Right-of-Way, thence along said right-of-way to the North boundary of the NW1/4SW1/4 of Section 4, thence West to the Northwest corner of the NW1/4SW1/4, thence South 1320 feet to the point of beginning.

ALSO INCLUDING the North half of the 139 and 60/100 acres embraced in the N1/2SE1/4.

TOGETHER with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders rents, issues and profits thereof;

TO HAVE AND TO HOLD, all and singular the said premises together with the appurtenances unto the Party of the Second Part, and to his heirs and assigns forever.

IN WITNESS WHEREOF, the said Party of the First Part has hereunto set his hand and seal the day and year first above written.

Stanley T. Buxton
STANLEY T. BUXTON
Personal Representative of the
Estate of Clair J. Buxton

STATE OF IDAHO)
)
County of Franklin)

On this 30th day of April, 1987, before me, the undersigned, a Notary Public in and for said State, personally appeared STANLEY T. BUXTON, known or identified to me to be the person whose name is subscribed to the within instrument as Personal Representative of the Estate of Clair J. Buxton and acknowledged to me that he executed the same as such Personal Representative of the Estate of Clair J. Buxton.

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

Steven R. Fuller
NOTARY PUBLIC for State of Idaho
Residing at Preston, Idaho
Commission Expires: Feb. 19, 1993

From - H.W. Jones

TO - Ron Carlson

On June 2, 1988 a complaint was filed by Mrs. Beverly L. Peterson of Clifton, ID. She stated that Kayle and Claude Richins are the owners of an irrigation well adjacent to her property. Claude's son Robert was identified as the operator. The well location was established by Mrs. Peterson as the SW 1/4 NW 1/4 of Sect. 4 T14S R38E. I searched the records and found Lapsed Permit 13-7116 with a matching point of diversion. There is also a License 13-2242 for 3 4 acres in the SWNW of Sect. 35 but Mrs. Peterson says the acreage for exceeds this amount.

Mrs. Peterson has irrigated ground which is listed on Claim 13-4110 from Dudley Springs. She states that when the Richins well is turned on that the Pond (Dudley Springs) goes down directly. Mrs. Peterson feels she has compiled direct evidence that her Beneficial use right is being injured by this potential illegal diversion of Mr. Richins and requests the Dept. send someone to look at this situation.

H.W. Jones

Mrs. B. Peterson @ 747-3909 Box 4 Clifton, ID 83228

Randy Peterson @ 747-3358

LAW OFFICES
J.D. WILLIAMS
ATTORNEY AND COUNSELOR AT LAW
24 NORTH STATE • P.O. BOX 191 • PRESTON, IDAHO 83263

J. D. WILLIAMS *
STEVEN R. FULLER **

* ALSO, MEMBER OF DISTRICT OF COLUMBIA BAR
** ALSO, MEMBER OF UTAH BAR

TELEPHONE
(208) 852-2680

June 6, 1988

Idaho Department of Water Resources
150 Shoup Avenue
Idaho Falls, ID 83401

Re: Protest to Permit No. 13-7116 Held to the Name of Frank L. Hart, Kayle Richins and/or Claude Richins

Dear Sirs:

Our law firm represents the Roy G. Peterson Family Trust which owns property near Clifton in Franklin County, Idaho. They own water rights to the Dudley Canal located on their property which is the prime source of their irrigation water. Their water rights in this spring are being interfered with by the well was dug persuant to Permit No. 13-7116.

The Peterson's have informed me that whenever the said well is being operated, that it has a severe impact on the Dudley Spring and drys it up and leaves them without irrigation water. In reviewing a copy of Permit No. 13-7116, it appears to me that this permit lapsed after October 1, 1985, because no license was issued prior to that time. Accordingly, please accept this as a protest to the issuance of any license based on this permit because of its interference with the Peterson's prior rights.

Yours very truly,

J.D. Williams
Attorney at Law

JDW/ew

cc: Mr. Roy Peterson

RECEIVED
JUN 8 1988
Department of Water Resources
Eastern District Office

b) Evidence to clearly show to what extent the water from the well was diverted and beneficially used between June 1975 and October 1, 1985. This evidence can be in several forms including information from the SCS or ASCS or affidavits from parties familiar with the use of water on the property. The information from Aurora Pump Co which is already in our file does not clearly provide this evidence.

c) Reasonable cause why the proof of beneficial use was not submitted on or before October 1, 1985.

Upon receipt, review and determination of suitability of this information, the Director of the department is authorized under the provisions of Section 42-218a.2., Idaho Code, to reinstate the lapsed permit. The priority of such a reinstated permit will be advanced to the date that the proof of beneficial use is received.

Please feel free to contact the department if you have questions. Also note that the department has offices in Twin Falls and Idaho Falls which are available to assist in the filing of the proof or to answer questions.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

Enclosures

c: S. Region

File
Region 2

RECEIVED
JUN 17 1988
Department of Water Resources
Eastern District Office

June 13, 1988

Kayle Richins
13650 S. 13th W.
Riverton UT 84065

RE: LAPSED PERMIT 13-7116

Dear Mr. Richins:

As a follow-up to our telephone conversation on June 9, 1988 in connection with the above referenced matter, I am forwarding a "Proof of Beneficial Use" form which needs to be completed and returned to the department together with the appropriate license examination fee.

To review our conversation, on August 21, 1980, you submitted to the department a request for extension of time in which to submit the required proof of beneficial use. On the extension request you stated you had drilled one well but that more time was needed to complete the remainder of the project. In addition, in 1980, you submitted what appears to be a pump installation cost estimate sheet from Aurora Pump Company. Correspondence in the file states that the pump produced 1350 gallons per minute.

On July 31, 1985, the department sent notice to you by certified mail that proof of beneficial use was due on or before October 1, 1985. On October 30, 1985, the department sent you a lapse notice, since neither proof of beneficial use of the water nor a request for an extension of time was submitted to the department. Sixty days subsequent to the mailing of the lapse notice, the permit became of no force nor effect as provided in Section 42-218a., Idaho Code.

Provisions of Section 42-218a., Idaho Code, provide for the late reinstatement of a permit. In order to have the permit reinstated under these provisions, however, you need to submit the following information:

a) A completed Proof of Beneficial Use form together with the required examination fee. The fee is $150 if the rate of diversion on which you are submitting proof is 1350 gallons per minute as described in your 1980 correspondence. For different rates the fee is also different.

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVENOR
R. KEITH HIGGINSON
DIRECTOR

June 28, 1988

J.D. Williams
24 North State
P.O. Box 191
Preston, ID 83263

RECEIVED
JUL 5 1988
Department of Water Resources
Eastern District Office

RE: Lapsed Permit 13-7116 -
Kayle G. Richins &/or Claude Richins

Dear Mr. Williams:

In response to your June 6, 1988 letter in connection with the above referenced matter, I have reviewed file 13-7116. The permit lapsed for failure to submit proof of beneficial use of the water.

Mr. Richins called the Department a couple of weeks ago in connection with the lapsed permit. The Department advised him that amendments enacted in 1983 to Section 42-218a, Idaho Code, provides for the reinstatement of a lapsed permit upon a certain showing. The priority of a permit reinstated under the provisions of paragraph 2. of the section is advanced to the date the proof of beneficial use is submitted. In this case, the priority likely would be 1988 if reinstatement is approved.

On June 23, 1988, Mr. Richins submitted a late proof and other information required in connection with late reinstatement. The information will be reviewed for adequacy by Department staff.

I'm not sure under what provisions of water law the Department can consider your letter as a protest against reinstatement of the permit. Provisions of Section 42-224, Idaho Code, however, may be applicable in this case for filing a protest against the issuance of a license if sufficient evidence is submitted by Mr. Richins to have the permit reinstated.

The Department will endeavor to advise you of any action taken in connection with reinstatement of the permit.

Please feel free to contact the Department if you have questions.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON, Chief
Operations Bureau

LGS:ldt(GP11-1.54)

CC: IDWR - Eastern Region

State of Id o
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVENOR
R. KEITH HIGGINSON
DIRECTOR

October 20, 1988

Claude Richins
13650 S. 13th W.
Riverton, UT 84065

RE: Reinstatement of permit no. 13-7116 in the name of Kayle G. and/or Claude Richins

Dear Mr. Richins:

Enclosed is a copy of a letter which I received from J. D. Williams, attorney at law, in response to an inquiry I sent him regarding the proof which you have submitted showing the extent of beneficial use that occured prior to October 1, 1985. As you can determine from the letter, Mr. Williams and his client contest the allegation that 288 acres were irrigated by the well prior to October 1, 1985. They maintain that only 159 acres were irrigated.

It appears to me, without any more than an ASCS aerial photograph, that beneficial use on the entire 288 acres has not been clearly established. Some of the acreage could have been irrigated by surface water at the time the photograph was taken. Additional information must be submitted to the department prior to reinstatement. The best evidence would be an affidavit or several affidavits from the detached parties not having a personal interest in the matter, such as an ASCS officer, or a county agent, which states the number of acres which were irrigated from the well prior to October 1, 1985, and also stating, if possible, the amount of water that was diverted from the well.

Sincerely,

Gary Spackman

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:ds

Enc.

cc: J. D. Williams
Eastern Region

RECEIVED
OCT 25 1988
Department of Water Resources
Eastern District Office

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVENOR
R. KEITH HIGGINSON
DIRECTOR

December 20, 1988

Claude Richins
13650 South 13th W.
Riverton, UT 84065

RE: Reinstatement of permit no. 13-7116 in the name of Kayle G. and/or Claude Richins

Dear Mr. Richins:

Enclosed is an order reinstating permit no. 13-7116.

As you read the order, please note that the number of acres irrigated from your well has not been identified, nor does the order limit the flow rate. Further definition of the extent of beneficial use will be necessary at the time of licensing.

We are informing J.D. Williams, through correspondence, a copy of which is enclosed, that his objection to the number of acres you allege to have irrigated will not be considered as a protest to the reinstatement, but rather, will be considered as a protest to licensing of permit no. 13-7116. Following a field examination by a department examiner, the department will conduct a hearing to determine the full extent of beneficial use. At the hearing, you must present evidence showing the number of acres that were irrigated from the well prior to October 1, 1985. The information which you submitted establishes that lands were irrigated, but does not establish the number of acres that were irrigated from the well instead of to some other source of water. This issue, along with other issues pertaining to the license, may be raised at the time of the hearing.

Sincerely,

Gary Spackman

GARY SPACKMAN, Manager
Water Right Permits Section

cc:J.D. Williams

GS:ds

Enclosure

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVENOR
R. KEITH HIGGINSON
DIRECTOR

December 20, 1988

J.D. Williams
Attorney at Law
P.O. Box 191
Preston, ID 83263

RE: Reinstatement of permit no. 13-7116 in the name of Kayle G. and/or Claude Richins

Dear Mr. Williams:

Enclosed is a copy of a reinstatement order issued by the department reinstating permit no. 13-7116. The order reinstates permit no. 13-7116, but reserves determination of the number of acres and other issues dealing with the components of the water right to the time of licensing.

Your letter, dated September 16, 1988, regarding permit no. 13-7116, will not be considered as an official protest to the reinstatement. It will, however, be considered as a protest to the issuance of a license under Idaho Code § 42-224. A field examiner from the department will examine the present use, and also investigate the extent of beneficial use by Richins prior to October 1, 1985. Following the examination, the department will conduct a hearing where both parties will be entitled to present evidence regarding the extent of beneficial use.

I have enclosed with the order of reinstatement a copy of a letter sent to Mr. Claude Richins explaining to him the procedures that will be followed.

Sincerely,

Gary Spackman

GARY SPACKMAN, Manager
Water Right Permits Section

cc:Claude Richins

GS:ds

Enclosure

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED
DEC 2 2 1988
Department of Water Resources
Eastern District Office

IN THE MATTER OF PERMIT)
NO. 13-7116 IN THE NAME OF) ORDER OF REINSTATEMENT
KAYLE G. &/OR CLAUDE RICHINS)

This matter having come before the Idaho Department of Water Resources (Department) the Department finds as follows:

FINDINGS OF FACT

1. On October 11, 1975, the Director of the Department of Water Resources issued Permit No. 13-7116 with a condition of approval that proof of construction of works and application of water to beneficial use be submitted on or before October 1, 1980.

2. On August 26, 1980, an Extension of Time in which to submit proof of beneficial use was granted, extending the proof due date to October 1, 1985.

3. On July 31, 1985 the Department sent a proof due notice to the permit holders.

4. On October 30, 1985 the Department sent a lapse notice to the permit holders since neither proof of beneficial use nor a request for extension of time had been received from the permit holders.

5. On June 23, 1988 Proof of Beneficial Use was received by the Department from the permit holders.

6. Section 42-218a, Idaho Code, authorizes the Department to reinstate a lapsed permit, with the priority date advanced to the date that proof of beneficial use was received, upon submittal of evidence clearly establishing the extent of beneficial use prior to the proof due date and a showing of reasonable cause why the proof was submitted late.

7. The permit holders submitted copies of various documents giving evidence that water has been put to beneficial use. These documents include power records, cost breakdowns for installation of the irrigation system, and an aerial photo from the ASCS verifying irrigated lands.

8. Inspection of the ASCS aerial photo shows irrigated lands within the place of use described by the permit.

9. The permit holders have stated that the proof due and lapse notices were not received and therefore proof was not filed in a timely manner. They were unaware of action required on their part.

CONCLUSIONS OF LAW

1. The permit holders have submitted proof of beneficial use along with supporting evidence which establishes that water was in fact beneficially used for irrigation during the authorized development period identified on the permit.

2. The permit holders have shown sufficient cause why the proof of beneficial use was not submitted in a timely manner.

3. The permit can be reinstated with the date of priority advanced to the date proof of beneficial use was received by the Department.

ORDER

IT IS HEREBY ORDERED that Permit No. 13-7116 is reinstated.

IT IS FURTHER ORDERED that the date of priority of this permit is advanced to June 23, 1988.

IT IS FURTHER ORDERED that the extent of the water right will be determined in the license of water right ultimately issued by the department.

Dated this 19th day of December, 1988.

L. Glen Saxton

L. GLEN SAXTON, Chief
Water Allocations Bureau

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.
1. ☐ Show to whom delivered, date, and addressee's address. *(Extra charge)*
2. ☐ Restricted Delivery *(Extra charge)*

3. Article Addressed to:
Kayle G. Richins
Claude Richins
13650 South 13th West
Riverton, UT 84065

4. Article Number

Type of Service:
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Address
X Mr. Kayle G Richins

6. Signature — Agent
X

7. Date of Delivery
5-23-90

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

PS Form **3811**, Mar. 1988 ★ U.S.G.P.O. 1988-212-865 **DOMESTIC RETURN RECEIPT**
13-7116

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.
1. ☐ Show to whom delivered, date, and addressee's address. *(Extra charge)*
2. ☐ Restricted Delivery *(Extra charge)*

3. Article Addressed to:
Steve Fuller
Attorney at Law
P.O. Box 191
Preston, Id 83263

4. Article Number

Type of Service:
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Address
X

6. Signature — Agent
X Celaine Williams

7. Date of Delivery
5-23-90

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

PS Form **3811**, Mar. 1988 ★ U.S.G.P.O. 1988-212-865 **DOMESTIC RETURN RECEIPT**
13-7116

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

3. Article Addressed to:
Kendall Budge
Attorney at Law
P.O. Box 1391
Pocatello, Id 83204-0391

4. Article Number

Type of Service:
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Address
X Bill Olson

6. Signature — Agent
X

7. Date of Delivery

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

MAY 22 1990 BANNOCK STA. BOISE, IDAHO

PS Form **3811**, Mar. 1988 ★ U.S.G.P.O. 1988-212-865 **DOMESTIC RETURN RECEIPT**
13-7116

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

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

RETURN TO

Department of Water Resources

RECEIVED

MAY 25 1990

U.S.MAIL

PENALTY FOR PRIVATE USE, $300

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

DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

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

RETURN TO

PRESTON, MAY 23 PM 1990 83263

RECEIVED

MAY 25 1990

PENALTY FOR PRIVATE USE, $300

Department of Water Resources

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

DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

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RETURN TO

RECEIVED

MAY 24 1990

U.S.MAIL

Department of Water Resources

PENALTY FOR PRIVATE USE, $300

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

DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVENOR
R. KEITH HIGGINSON
DIRECTOR

December 20, 1988

J.D. Williams
Attorney at Law
P.O. Box 191
Preston, ID 83263

RE: Reinstatement of permit no. 13-7116 in the name of Kayle G. and/or Claude Richins

Dear Mr. Williams:

Enclosed is a copy of a reinstatement order issued by the department reinstating permit no. 13-7116. The order reinstates permit no. 13-7116, but reserves determination of the number of acres and other issues dealing with the components of the water right to the time of licensing.

Your letter, dated September 16, 1988, regarding permit no. 13-7116, will not be considered as an official protest to the reinstatement. It will, however, be considered as a protest to the issuance of a license under Idaho Code § 42-224. A field examiner from the department will examine the present use, and also investigate the extent of beneficial use by Richins prior to October 1, 1985. Following the examination, the department will conduct a hearing where both parties will be entitled to present evidence regarding the extent of beneficial use.

I have enclosed with the order of reinstatement a copy of a letter sent to Mr. Claude Richins explaining to him the procedures that will be followed.

Sincerely,

GARY SPACKMAN, Manager
Water Right Permits Section

cc:Claude Richins

GS:ds

Enclosure

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVENOR
R. KEITH HIGGINSON
DIRECTOR

December 20, 1988

Claude Richins
13650 South 13th W.
Riverton, UT 84065

RE: Reinstatement of permit no. 13-7116 in the name of Kayle G. and/or Claude Richins

Dear Mr. Richins:

Enclosed is an order reinstating permit no. 13-7116.

As you read the order, please note that the number of acres irrigated from your well has not been identified, nor does the order limit the flow rate. Further definition of the extent of beneficial use will be necessary at the time of licensing.

We are informing J.D. Williams, through correspondence, a copy of which is enclosed, that his objection to the number of acres you allege to have irrigated will not be considered as a protest to the reinstatement, but rather, will be considered as a protest to licensing of permit no. 13-7116. Following a field examination by a department examiner, the department will conduct a hearing to determine the full extent of beneficial use. At the hearing, you must present evidence showing the number of acres that were irrigated from the well prior to October 1, 1985. The information which you submitted establishes that lands were irrigated, but does not establish the number of acres that were irrigated from the well instead of to some other source of water. This issue, along with other issues pertaining to the license, may be raised at the time of the hearing.

Sincerely,

Gary Spackman

GARY SPACKMAN, Manager
Water Right Permits Section

cc:J.D. Williams

GS:ds

Enclosure

LAW OFFICES
J.D. WILLIAMS
ATTORNEY AND COUNSELOR AT LAW
24 NORTH STATE • P.O. BOX 191 • PRESTON, IDAHO 83263

J. D. WILLIAMS •
STEVEN R. FULLER ••

• ALSO, MEMBER OF DISTRICT OF COLUMBIA BAR
•• ALSO, MEMBER OF UTAH BAR

TELEPHONE
(208) 852-2660

February 28, 1989

RECEIVED
MAR 28 1989
Department of Water Resources

Mr. Gary Spackman, Manager
Water Rights Permit Section
Idaho Department of Water Resources
1301 N. Orchard Street
Statehouse Mail
Boise, Idaho 83720

RE: Reinstatement of Permit No. 13-7116

REQUEST: To provide additional information during field inspection

Dear Mr. Spackman:

As you are aware from our prior conversations and correspondence regarding this matter, our law firm represents Mr. and Mrs. Roy Peterson and their family in a dispute with Claude Richins and members of his family regarding the above referenced permit which involves a groundwater well on their property.

Please accept this letter as a formal request from the Peterson's to be allowed to present additional information to the individual that makes the field inspection of the well and area irrigated thereby involved in this permit. It is our understanding that this inspection will be made later this year and we would appreciate it if you would let our law firm know when the inspection is being made, and also allow time for the Peterson's and other neighbors to present information to the inspector regarding the Richin's use of the well involved with Permit No. 13-7116.

If you have any problem with this procedure will you please let me know. Thank you for your assistance in this matter.

Yours very truly,

J.D. WILLIAMS
Attorney at Law

JDW/jw

RECEIVED
MAR 31 1989
Department of Water Resources
Eastern District Office

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 13-7116 IN THE NAME OF KAYLE G. &/OR CLAUDE RICHINS	ORDER OF REINSTATEMENT

This matter having come before the Idaho Department of Water Resources (Department) the Department finds as follows:

FINDINGS OF FACT

1. On October 11, 1975, the Director of the Department of Water Resources issued Permit No. 13-7116 with a condition of approval that proof of construction of works and application of water to beneficial use be submitted on or before October 1, 1980.

2. On August 26, 1980, an Extension of Time in which to submit proof of beneficial use was granted, extending the proof due date to October 1, 1985.

3. On July 31, 1985 the Department sent a proof due notice to the permit holders.

4. On October 30, 1985 the Department sent a lapse notice to the permit holders since neither proof of beneficial use nor a request for extension of time had been received from the permit holders.

5. On June 23, 1988 Proof of Beneficial Use was received by the Department from the permit holders.

6. Section 42-218a, Idaho Code, authorizes the Department to reinstate a lapsed permit, with the priority date advanced to the date that proof of beneficial use was received, upon submittal of evidence clearly establishing the extent of beneficial use prior to the proof due date and a showing of reasonable cause why the proof was submitted late.

7. The permit holders submitted copies of various documents giving evidence that water has been put to beneficial use. These documents include power records, cost breakdowns for installation of the irrigation system, and an aerial photo from the ASCS verifying irrigated lands.

8. Inspection of the ASCS aerial photo shows irrigated lands within the place of use described by the permit.

9. The permit holders have stated that the proof due and lapse notices were not received and therefore proof was not filed in a timely manner. They were unaware of action required on their part.

CONCLUSIONS OF LAW

1. The permit holders have submitted proof of beneficial use along with supporting evidence which establishes that water was in fact beneficially used for irrigation during the authorized development period identified on the permit.

2. The permit holders have shown sufficient cause why the proof of beneficial use was not submitted in a timely manner.

3. The permit can be reinstated with the date of priority advanced to the date proof of beneficial use was received by the Department.

ORDER

IT IS HEREBY ORDERED that Permit No. 13-7116 is reinstated.

IT IS FURTHER ORDERED that the date of priority of this permit is advanced to June 23, 1988.

IT IS FURTHER ORDERED that the extent of the water right will be determined in the license of water right ultimately issued by the department.

Dated this 19th day of December, 1988.

L. Glen Saxton

L. GLEN SAXTON, Chief
Water Allocations Bureau

RECEIVED
JUL 27 1989
Department of Water Resources
Eastern District Office

MEMORANDUM

TO: Eastern Region
Attn: Harold Jones
FROM: Gary Spackman
DATE: July 24, 1989

Enclosed are some documents regarding permit to appropriate water no. 13-7116. As I review the documents, I am not certain whether you received all of them.

The permit is reinstated, and, according to the order of reinstatement and my correspondence, a field examination must be conducted. Perhaps we did not inform you of this at the time of reinstatement. I apologize if we did not. It was my oversight.

This reinstatement has been controversial. Claude Richins and someone named Peterson are contemplating litigation regarding interference and other issues.

As the order and correspondence state, the field examiner must carefully determine by talking to both Mr. Richens and to Peterson, and by consulting any other source of information, what the extent of beneficial use was prior to October 1, 1985. This includes both the number of acres irrigated, and the pumping capacity of the well.

Claude Richens (801) 254-4615

Kirk Hadley (attorney) 232-6101

Filing Fee: $10.00
Receipt: 6511

13-7116

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
APR 29 1977
Department of Water Resources
Eastern District Office

APPLICATION FOR AMENDMENT

RECEIVED
MAY 23 1977
Department of Water Resources
Eastern District Office

254-4503

Permit No. 13-7116

Comes now Kayle G. Richins &/or Claude L. Richens of (address)
13634
13650 South 13th West, Riverton, UT 84065, and represents to the Director of
(801)-254-4615
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. 13-7116, and requests that the permit and permit map be changed as follows:

1. Point of diversion: SW ¼ NW ¼, Sec. 4 Twp. 14S Rge. 38E, B.M., County of Franklin. Other points of diversion:

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

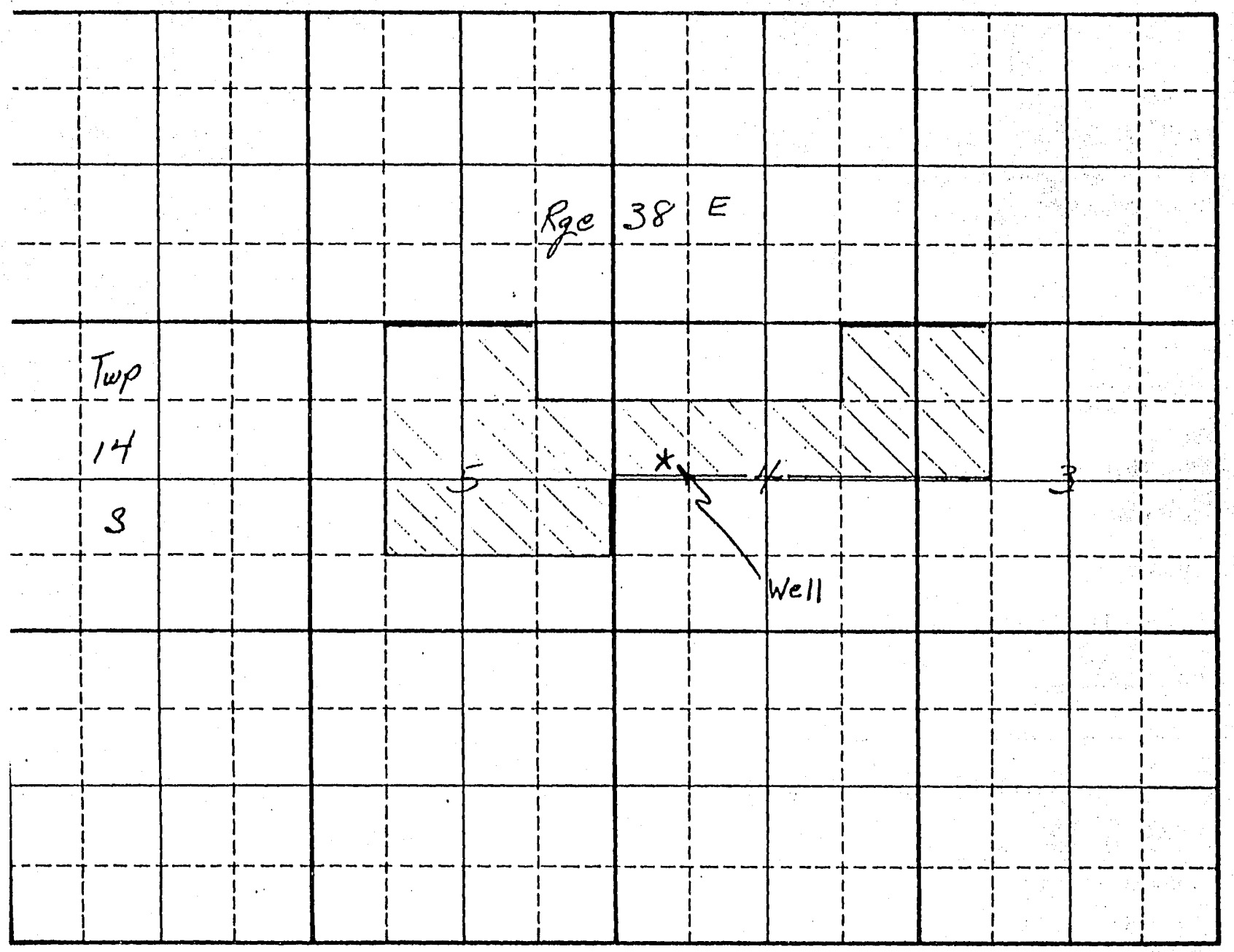
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre feet per annum)

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

TWP	RANGE	SEC	NE ¼				NW ¼				SW ¼				SE ¼				TOTALS
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
14S	38E	3						30	30										60
		4	35		40	40			4	40									159
		5		30	30	35	10			20	15				18	17			175

Total number of acres to be irrigated 394

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 holders own risk.

Signed at Fernley, Nevada, this 26 day of April, 19 77.

Kayle M Carlson
(Signature)

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

Chief, Operations Bureau

I, BOBBY D. FLEENOR, ~~Director~~ of the Department of Water Resources hereby APPROVE the above application for amendment on Permit No. 13-7116.

Witness my hand this 20th day of May, 19 77.

Bobby D. Fleenor
~~Director~~

BOBBY D. FLEENOR
Chief, Operations Bureau

LAPSED

RECEIVED

OCT 16 1975

Department of Water Resources
Eastern District Office

Identification No. 13 7116

Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPROVED

APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Idaho

(TYPE OR PRINT IN INK)

ASSIGNED TO: Kayle G Riching &/or Claude Richins, of 13650 South 13th West Riverton, UT 84065

1. Name of applicant Frank L. Hart Phone: 801-825-9795

   post office address P.O. Box 1326, Freeport Center, Clearfield, Utah 84016

2. Source of water supply ground water which is a tributary of _____

3. a. Location of point of diversion is SW ¼ of NE ¼ of Section 5 Township 14S

   Range 38E B.M. Franklin County; additional points of diversion if any: _____

   _____

   _____

   b. If water is not consumed, it will be discharged into _____ at a point in _____ ¼

   of _____ ¼ of Section _____ Township _____ Range _____ B.M. _____

4. Water will be used for the following purposes:

   Amount 7.88 (cfs or acre-feet per annum) for Irrigation purpose from Apr. 1 to Nov. 1 (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)

5. Total quantity to be appropriated:

   a. 7.88 cubic feet per second and/or

   b. _____ acre feet per annum.

6. Proposed diverting works:

   a. Description of ditches, flumes, pumps, headgates, etc. Well, pump, and sprinkler system

   _____

   _____

   _____

   b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet, materials used in storage dam: _____

   Period of year during which storage will occur _____ (Mo. Day) to _____ (Mo. Day) inclusive.

   c. Proposed well diameter is 16 inches; proposed depth of well is 400 feet.

7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years.

   b. Estimated construction cost is $ 75,000.00 .

8. Description of proposed uses:

   a. If water is **not** for irrigation:

      (1) Give the place of use of water: _____ ¼ of _____ ¼ 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.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
14S	38E	3						30	30										60
		4	35		40	40			4	40									159
		5		30	30	35	10			20	15				18	17			175

Total number of acres to be irrigated 394

c. Describe any other water rights used for the same purposes as described above. License G-29897/13-2242 covers 34 acres in the SW¼NW¼, Sec 3, T. 14S, R. 38E in the amount of 0.63, priority 6/20/61

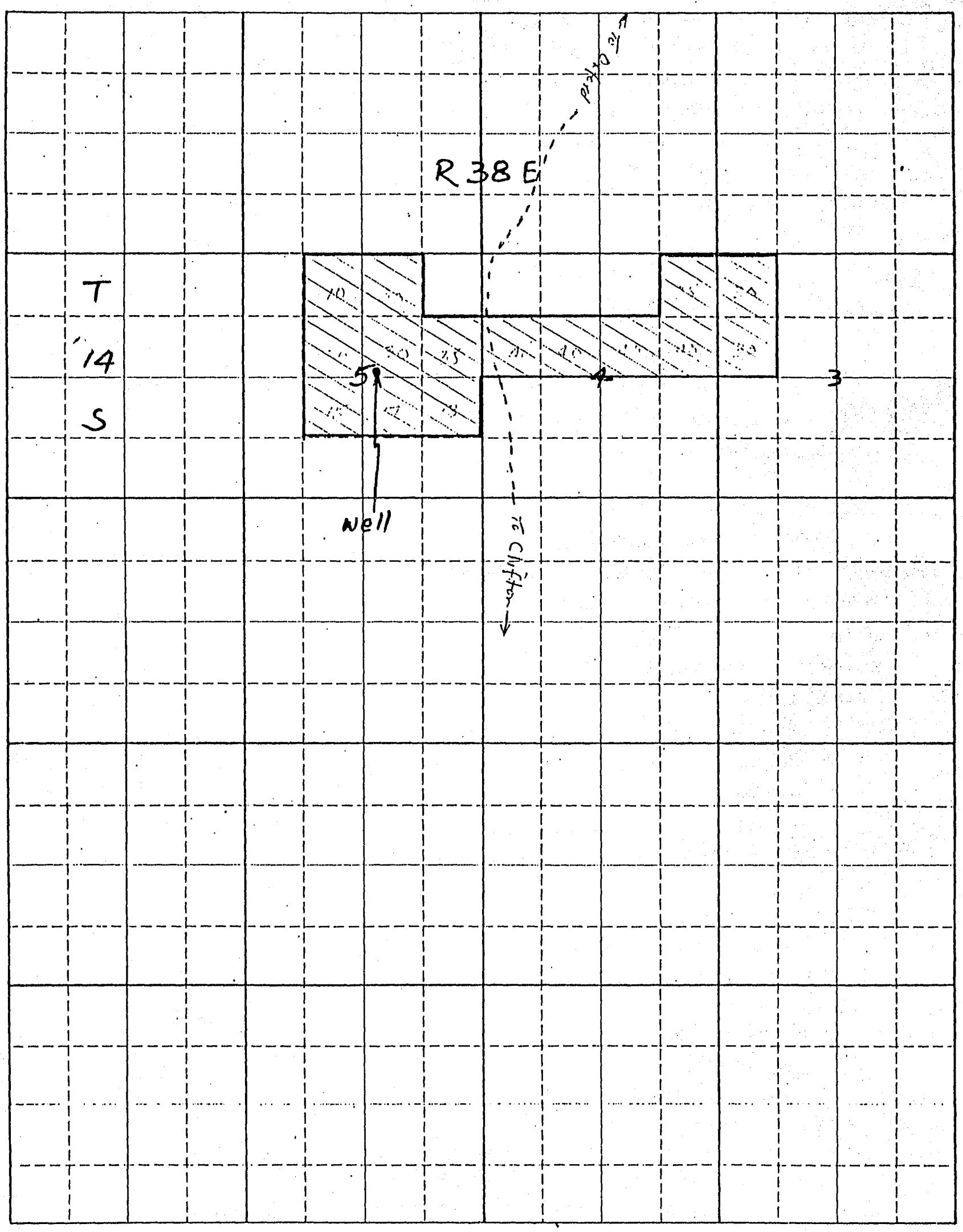
9. a. Who owns the property at the point of diversion Earl H. Ward & Anna Mae Ward

b. Who owns the land to be irrigated or place of use Earl H. Ward & Anna Mae Ward

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing Purchase of contract notice attached and deed from Dixon Christensen dated May 20, 1975, recorded.

10. Remarks The well in SW¼NW¼, Sec. 4, T. 14S, R. 38E, Permit number G29897 will be abandoned. It was found inadequate by the present owners. There are, further, two flowing wells in the pond in the same ¼ section. There is a drainage canal at approximately the dividing line between SW¼ and the SE¼ of the NW¼, Sec. 4, T. 14S, R. 38E, B.M. draining into the Oxford Slough. It is the intention of the applicant to drill the well as applied for and construct the necessary underground piping to accomodate a modern wheel move sprinkler system capable of providing adequate dependable water for the land blocked out. There will further be additional drainage installed in Sec. 3 & 4 of the farm project.

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.

(Applicant)

Proposed Priority 6-2-1975

Received by MB Date 6-2-75 Time 11:00 A

Preliminary check by ~~RJ~~ Fee $ 95.00

Receipted by MB Date 6-2-75 # 4271

Publication prepared by MB Date 6-4-75

Published in Preston Citizen

Publication dates June 12 & 19, 1975

Publication approved CW Date 7-08-75

Priority reduced to _____ Reason _____

Protests filed by: Andrew Hunt

Copies of protests forwarded by MB

Hearing held by _____ Date _____

Recommended for approval denial by RDC ~~WJDF~~

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 13-7116, 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 October 1, 1980.

   c. Other: A measuring device of a type approved by the Director 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 11 day of October 1975.

Director

Filing Fee $10.00
Receipt 62554

RECEIVED
APR 29 1977
Department of Water Resources
Eastern District Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
MAY 23 1977
Department of Water Resources
Eastern District Office

APPLICATION FOR AMENDMENT

Permit No. 13-7116

Comes now Kayle G. Richins &/or Claude Richens of (address) 13650 South 13th West, Riverton, UT 84065, 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. 13-7116, and requests that the permit and permit map be changed as follows:

1. Point of diversion: SW ¼ NW ¼, Sec. 4 Twp. 14S Rge. 38E, B.M., County of Franklin. Other points of diversion:

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

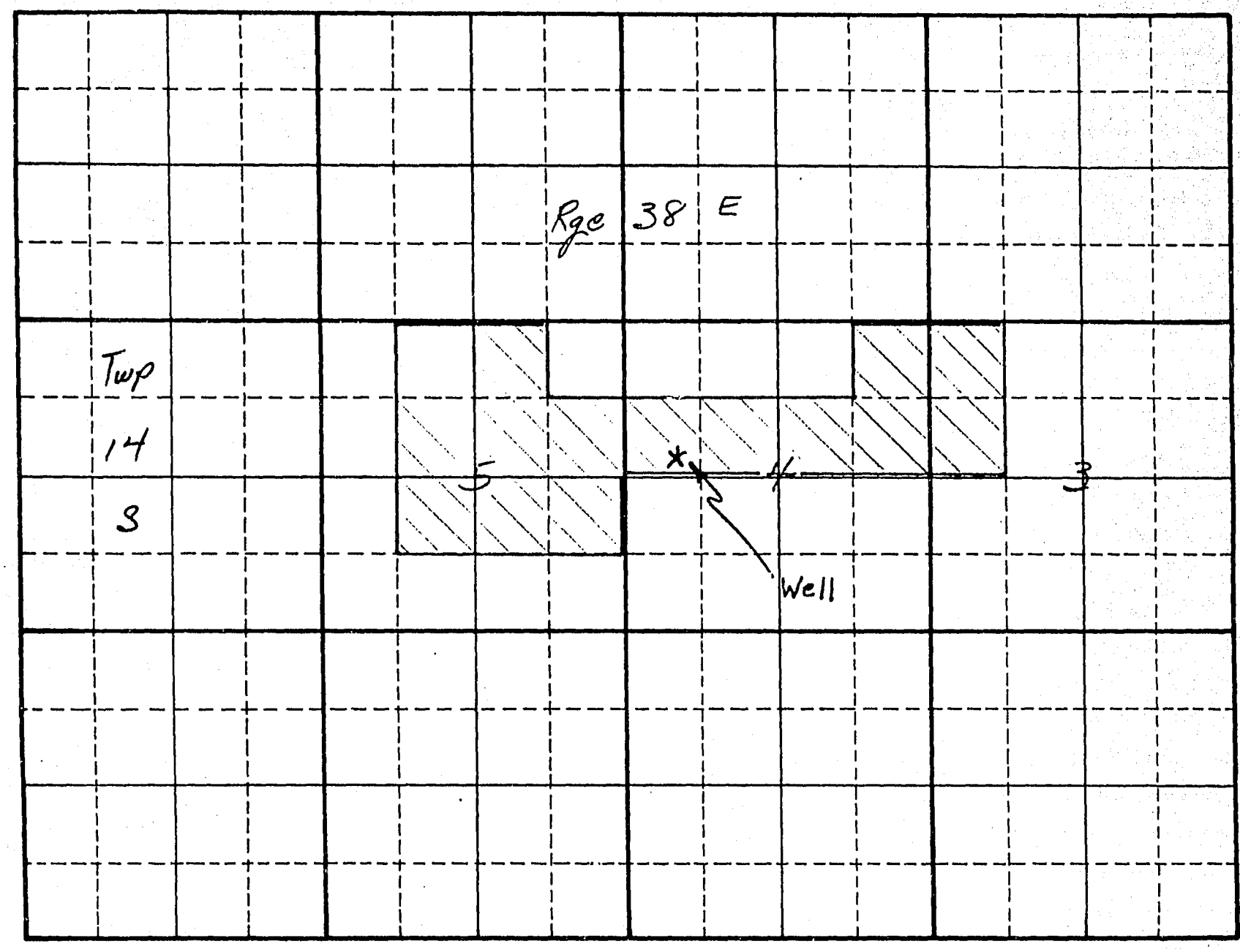
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre feet per annum)

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

TWP	RANGE	SEC	NE ¼				NW ¼				SW ¼				SE ¼				TOTALS
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total number of acres to be irrigated

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 holders own risk.

Signed at Fernley, Nevada, this 26 day of April, 19 77.

Kayle M Erickson
(Signature)

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

Chief, Operations Bureau

I, BOBBY D. FLEENOR, ~~Director~~ of the Department of Water Resources

hereby APPROVE the above application for amendment on Permit No. 13-7116.

Witness my hand this 20th day of May, 19 77.

Bobby D. Fleenor
~~Director~~

BOBBY D. FLEENOR
Chief, Operations Bureau

LAPSED

RECEIVED
OCT 16 1975
Department of Water Resources
Eastern District Office

Identification No. 13 7116
Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

ASSIGNED TO: Kayle G Riching &/or Claude Richins, of 13650 South 13th West Riverton, UT 84065

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

1. Name of applicant Frank L. Hart Phone: 801-825-9795
   post office address P.O. Box 1326, Freeport Center, Clearfield, Utah 84016
2. Source of water supply ground water which is a tributary of _____
3. a. Location of point of diversion is SW ¼ of NE ¼ of Section 5 Township 14S
   Range 38E B.M. Franklin County; additional points of diversion if any: _____
   b. If water is not consumed, it will be discharged into _____ at a point in _____ ¼
   of _____ ¼ of Section _____ Township _____ Range _____ B.M. _____
4. Water will be used for the following purposes:
   Amount 7.88 (cfs or acre-feet per annum) for Irrigation purpose from Apr. 1 to Nov. 1 (both dates inclusive)
   Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)
5. Total quantity to be appropriated:
   a. 7.88 cubic feet per second and/or
   b. _____ acre feet per annum.
6. Proposed diverting works:
   a. Description of ditches, flumes, pumps, headgates, etc. Well, pump, and sprinkler system
   b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet, materials used in storage dam: _____
   Period of year during which storage will occur _____ (Mo. Day) to _____ (Mo. Day) inclusive.
   c. Proposed well diameter is 16 inches; proposed depth of well is 400 feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years.
   b. Estimated construction cost is $ 75,000.00 .
8. Description of proposed uses:
   a. If water is **not** for irrigation:
   (1) Give the place of use of water: _____ ¼ of _____ ¼ 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.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
14S	38E	3						30	30										60
		4	35		40	40			4	40									159
		5		30	30	35	10			20	15				18	17			175

Total number of acres to be irrigated 394

c. Describe any other water rights used for the same purposes as described above. License G-29897/13-2242 covers 34 acres in the SW¼NW¼, Sec 3, T. 14S, R. 38E in the amount of 0.63, priority 6/20/61

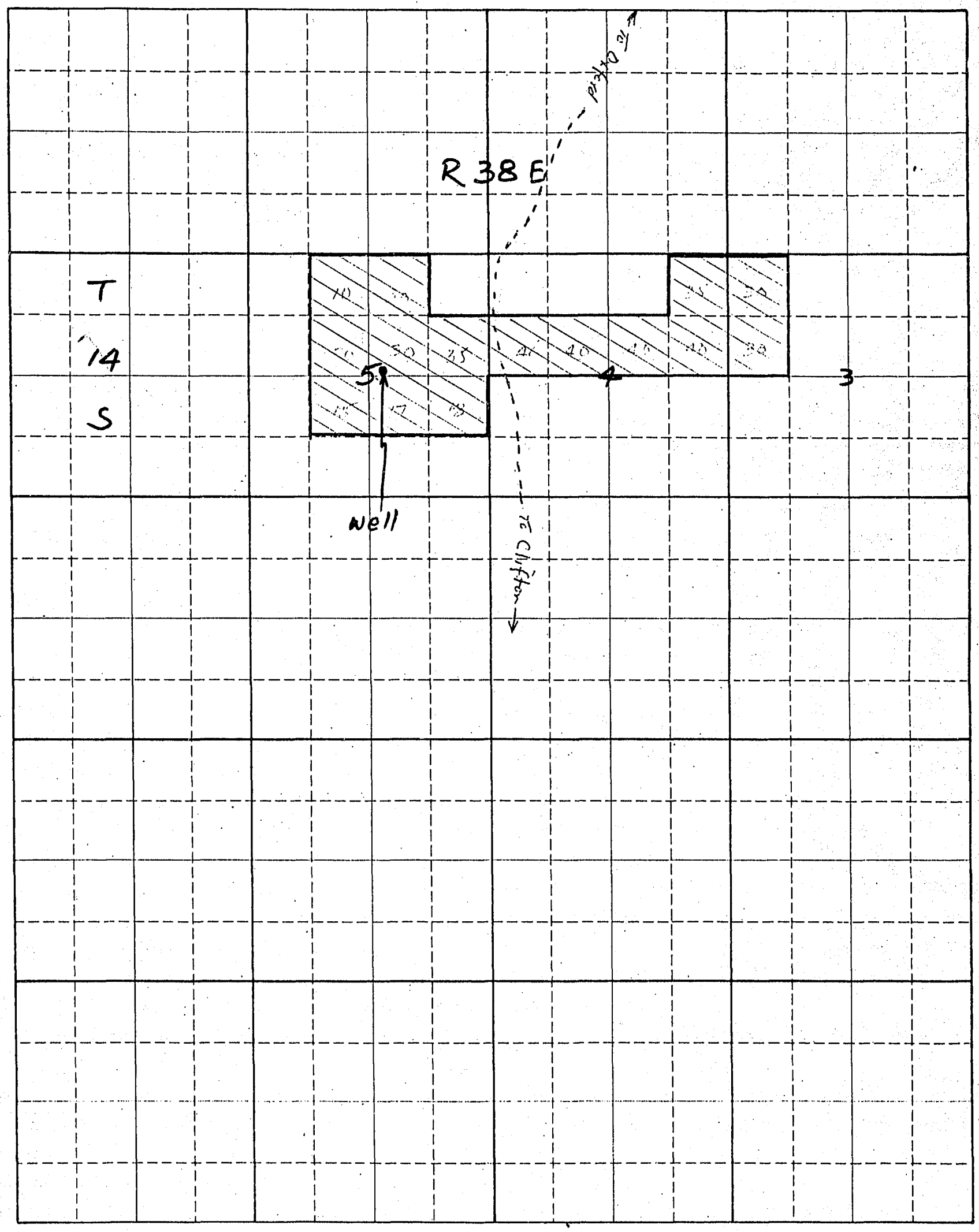
9. a. Who owns the property at the point of diversion Earl H. Ward & Anna Mae Ward

b. Who owns the land to be irrigated or place of use Earl H. Ward & Anna Mae Ward

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing Purchase of contract notice attached and deed from Dixon Christensen dated May 20, 1975, recorded.

10. Remarks The well in SW¼NW¼, Sec. 4, T. 14S, R. 38E, Permit number G29897 will be abandoned. It was found inadequate by the present owners. There are, further, two flowing wells in the pond in the same ¼ section. There is a drainage canal at approximately the dividing line between SW¼ and the SE¼ of the NW¼, Sec. 4, T. 14S, R. 38E, B.M. draining into the Oxford Slough. It is the intention of the applicant to drill the well as applied for and construct the necessary underground piping to accomodate a modern wheel move sprinkler system capable of providing adequate dependable water for the land blocked out. There will further be additional drainage installed in Sec. 3 & 4 of the farm project.

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.

(Applicant)

Proposed Priority 6-2-1975

Received by MB Date 6-2-75 Time 11:00 A

Preliminary check by ~~RJ~~ Fee $ 25.00

Receipted by MB Date 6-2-75 # 4271

Publication prepared by MB Date 6-4-75

Published in Preston Citizen

Publication dates June 12 & 19, 1975

Publication approved CW Date 7-08-75

Priority reduced to _____ Reason _____

Protests filed by: Andrew Hunt

Copies of protests forwarded by MB

Hearing held by _____ Date _____

Recommended for approval denial by RDC & BDF

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 13-7116, 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 October 1, 1980.

   c. Other: A measuring device of a type approved by the Director 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 11 day of October 1975.

Director

Form 204
7/80

Identification No. 13-7116

RECEIVED
SEP 5 1980
Department of Water Resources
Eastern District Office

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

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

RECEIVED
AUG 21 1980
Department of Water Re

Richins, Kayle G. &/or Claude Richi of 13650 So. 13TH West Riverton, Ut. 84065
(Name) (Address)

State of Utah, 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. 13-7116.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before October 1, , 1980.

That he has heretofore performed the following work described under said permit: one finished we" and are planning for more is possible.

Costing $95,000

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit: Insufficient funds at this time, and will need more time to complete the remainder of the project.

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to December, 1986.

(Signature)*

*IF OTHER THAN HOLDER, Power of Attorney must be supplied.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within which to submit the statement of beneficial use is extended to October 1, 1985.

Signed this 26th day of August, 1980.

L. Glen Saxton
Chief, Operations Bureau

Fee received by LJ Date 8-26-80 Receipt # 15727

Form 219
6/86

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No. 13-07116

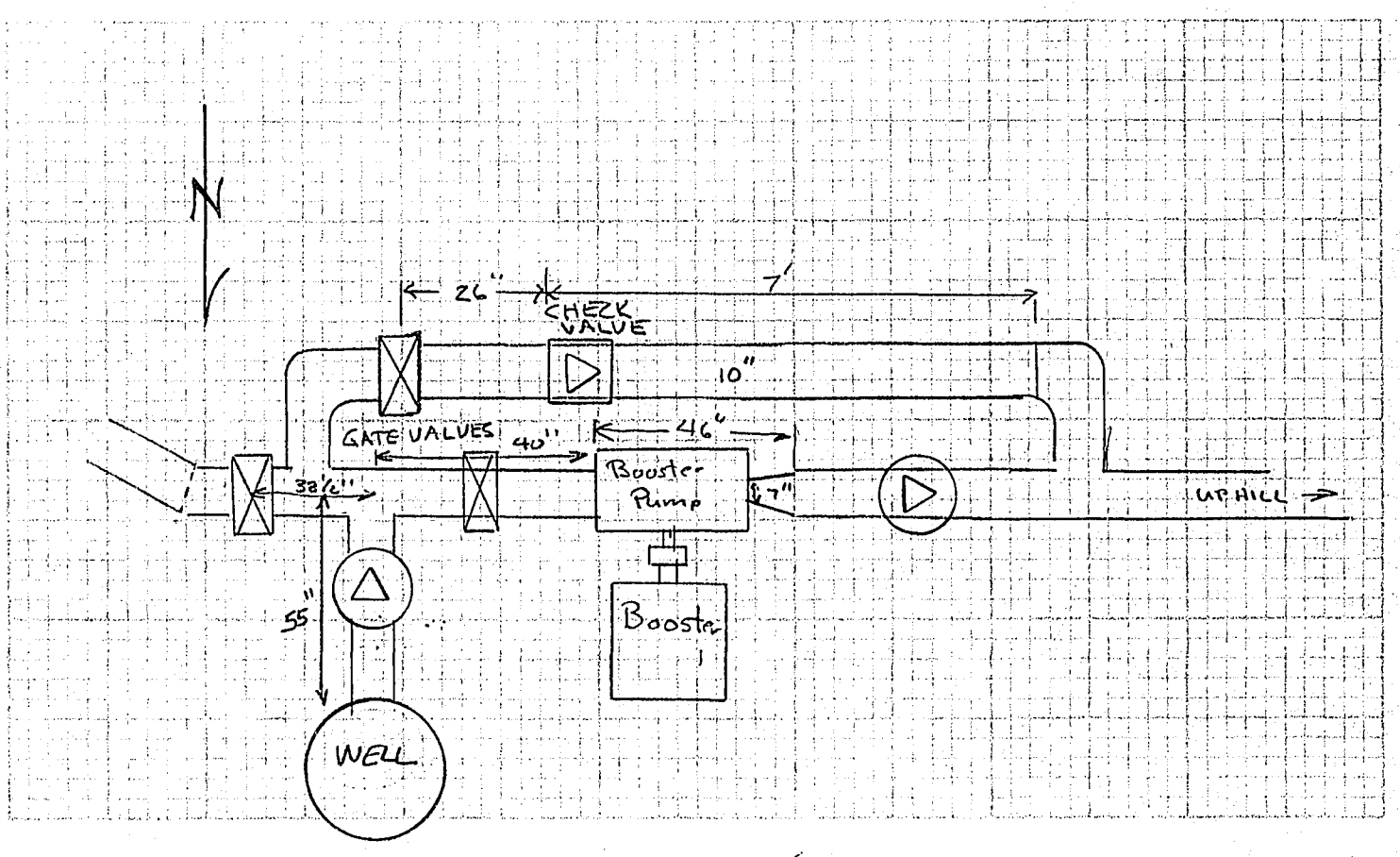
1. Owner: Kayle or Claude Richins — Phone No. (801) 254-4615
   Current Address: 13650 South 1300 West, Riverton, UT. 84065
2. Accompanied by: Claude R. Richins — EXAM. DATE: 29 Aug 1989
   Address: 7579 N West Side Hwy Clifton Id 83228 — Phone No. 747-3539
   Relationship to Permit Holder: Operator
3. Source: Groundwater tributary to _____

B. OVERLAP REVIEW

1. Other water rights with same place of use: NONE
   _____ ☐ Copies Attached
2. Other water rights with same point of diversion: NONE
   _____ ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached



Scale: 1" = _____.

2. ☑ Copy of U.S.G.S. Quadrangle Attached
   Showing location(s) of point(s) of diversion and place(s) of use (required).
   ☑ Aerial Photo Attached
   (required for irrigation of 10 acres or more).
   ☑ Photo of Diversion and System Attached
   (required for all but single household domestic groundwater, and stockwater.

System Description (continued)

3. **Narrative:** Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)
well, pump, mainline to laterals with sprinklers and booster for pressuring lines on hill fields. laterals consist of wheel lines and hand lines

☐ See Remarks on page 4 for continuation

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
well	U.S. Motors	100	H1021759	Johnston 15713 Y	10"
Booster	Marathon	60	ED96591-3/29-13	Peerless	7 7 L 1 - 2150

**Code to correspond with No. on map and aerial photo*

5. **Point(s) of Diversion:**

Ident. No.	Gov't. Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			SW	NW	4	14S	38E	Franklin	On site inspection / USGS MAP

6. **Place(s) of Use:** Indicate Method of Determination _____

Twp.	Rge.	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
14S	38E	4			40	20			36	40	10	27							173
		5			12	37													49
																			222

Do not use this space

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
FlowMeter Station	Annubar	Dieterich	7517-316-55	19 11 47	10.02	
Flow Indicator	Manometer	IDWR	–	–	57"	

2. **Measurements:**

Manometer Reading — SEE ATTACHED SHEETS FOR Q_{TOTAL} of Lines 1-5

18.3" - 16.3" = 2" — $Q_{LINES\ 1-5}$ = 669.97gpm

@ 53 PSI

10 3/8" id

33 3/4" circ

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method:
   Annubar $Q = C(id)^2\sqrt{inches} = 3.94(10.375"id)^2\sqrt{2} = 599.77gpm$ $Q_{TOTAL} = 599.77 + 669.97 = 1269.74gpm$
   Pitot tube line measurement = 669.97gpm
   Total Q = 2.83cfs
2. Alternate Method for Checking Purposes:

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)
Total Head: (1) + (2) = _____ (3) ; Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)
Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)
Meter Input HP: (6) x 1.34 = _____ (7)
Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Ampsx .001732 = _____ (6)
Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

   $V_{I.R.}$ = (Acres Irrigated) x (Irrigation Requirement) = 222ac x 2.5afa = 555 afa

   $V_{D.R.}$ = [Diversion Rate (cfs)] x (Days in Irrigation Season) x 1.9835 = 2.83 x 214 days x 1.9835 = 1201.2afa

   V = Smaller of $V_{I.R.}$ and $V_{D.R.}$ = 555

2. Volume Calculations for Other Uses:

H. REMARKS AND OVERLAP REVIEW ANALYSIS

I. RECOMMENDATIONS

1. **Recommended Amounts**

Beneficial Use	Period of Use From	Period of Use To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
Irrigation	4/1	11/1	2.83 cfs	555
		Totals:	2.83 cfs	

2. **Recommended Amendments**

☐ Change P.D. as reflected above ☐ Add P.D. as reflected above ☐ None

☑ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ Other

J. AUTHENTICATION

Field Examiner's Name KEITH C. WILSON

Signature Keith C Wilson

Certification Date

Field Report Preparation Date

PROFESSIONAL ENGINEER REGISTERED LAND SURVEYOR 2861 STATE OF IDAHO RONALD D. CARLSON CONSULTANT SEAL

K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

LICENSING REPORT

13-7116
Permit No.

Measurement Calculations

a) Field Measurement Calculations (Include theoretical capacities and system capacity)

Line #5 @ 40 psi average pressure

From Chart Model 40BW

$11/64$" nozzle @ 40psi = 5.37gpm x 4 = 21.48gpm

$3/16$" nozzle @ 40 psi = 6.41gpm x 23 = 147.43gpm

$13/64$" nozzle @ 40psi = 7.60gpm x 7 = 53.20gpm

$7/32$" nozzle @ 40psi = 8.87gpm x 1 = 8.87gpm

$9/32$" nozzle @ 40psi = 14.3 x 1 = 14.30gpm

Model 40B

$\frac{11}{64}$" x $\frac{3}{32}$" nozzles @ 40psi = 7.03 x 2 = 14.06gpm

$\frac{13}{64}$" x $\frac{3}{32}$" nozzle @ 40psi = 9.26 x 1 = 9.26gpm

268.6gpm Total Q_{LINES}

$\frac{11}{64}$" x $\frac{3}{32}$" @ 7.03 less $\frac{11}{64}$" @ 5.37gpm

= 1.66 gpm @ 40 psi for $3/32$"

Plus 7.60gpm for $13/64$ @ 40psi

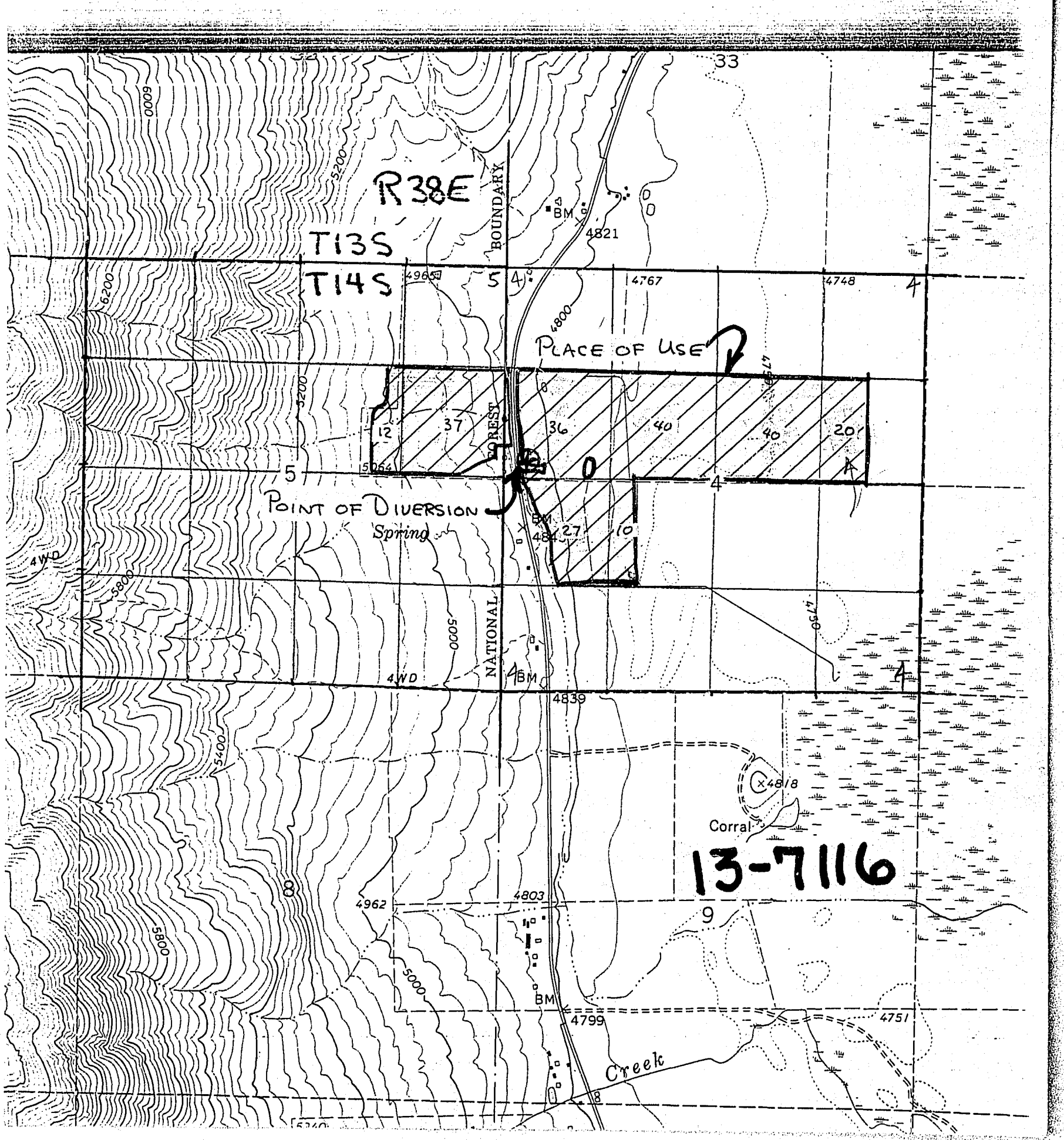
= 7.60gpm + 1.66gpm = 9.26gpm

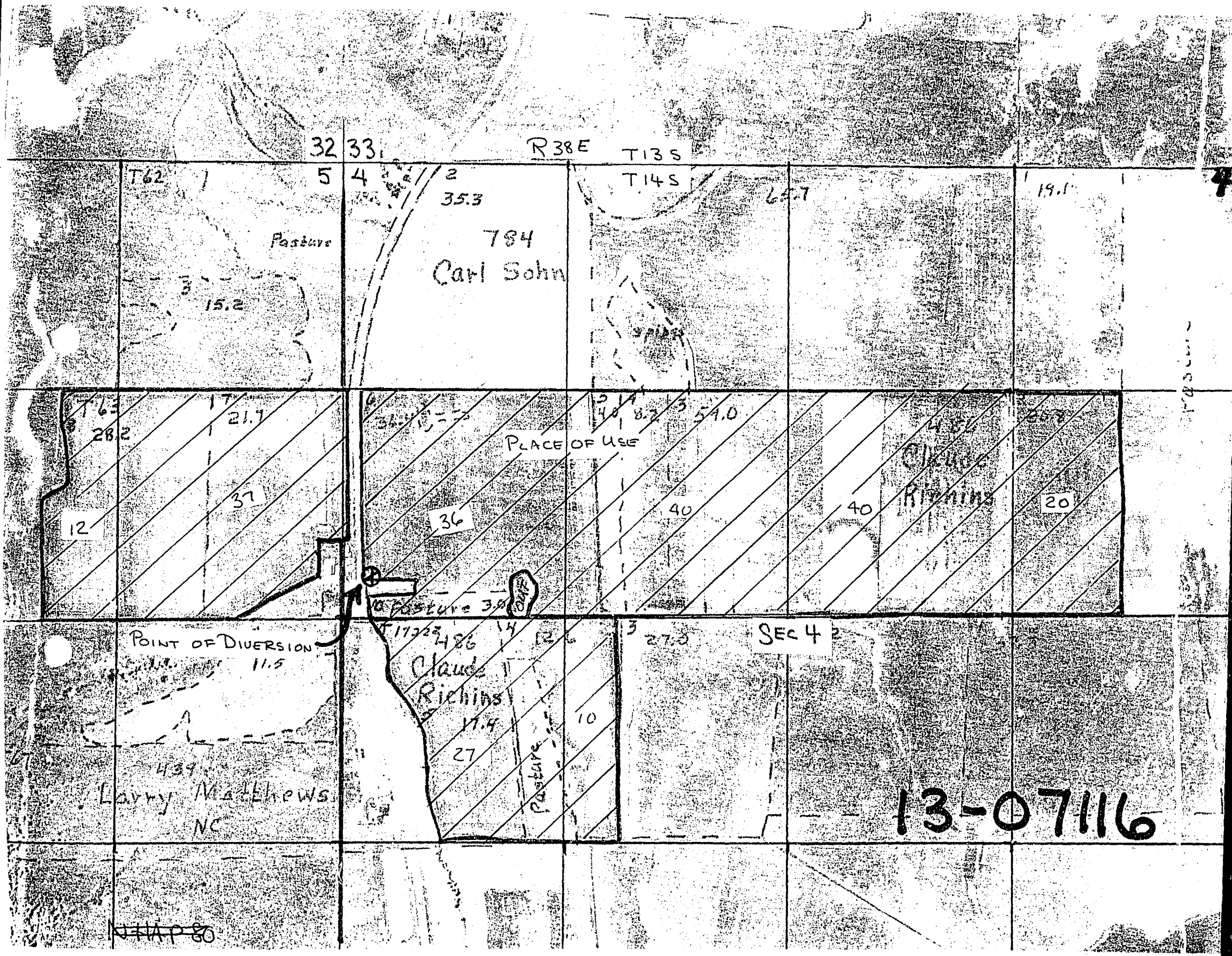
$= Q_{TOTAL\ LINES} = 268.6gpm$

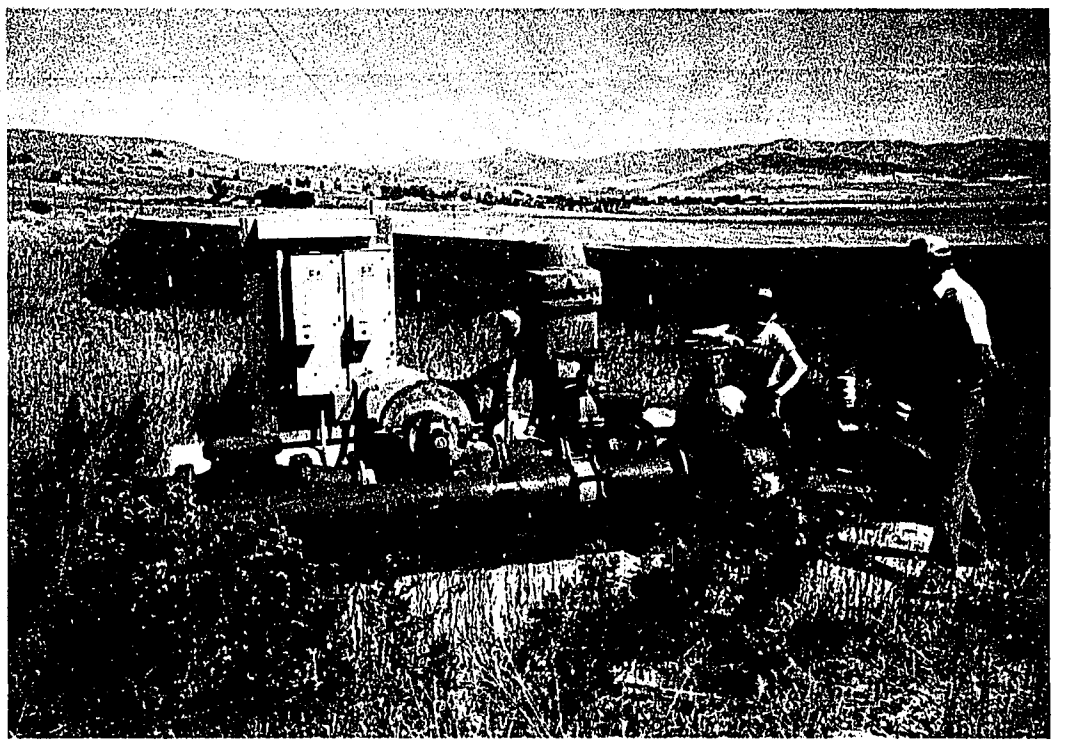
TOTAL FLOW RATE LINES 1, 2, 3, 4, & 5

Q_T = 90.0gpm + 10.74gpm + 153.35gpm + 147.28gpm + 268.6gpm

$Q_{LINES\ 1-5}$ = 669.97gpm

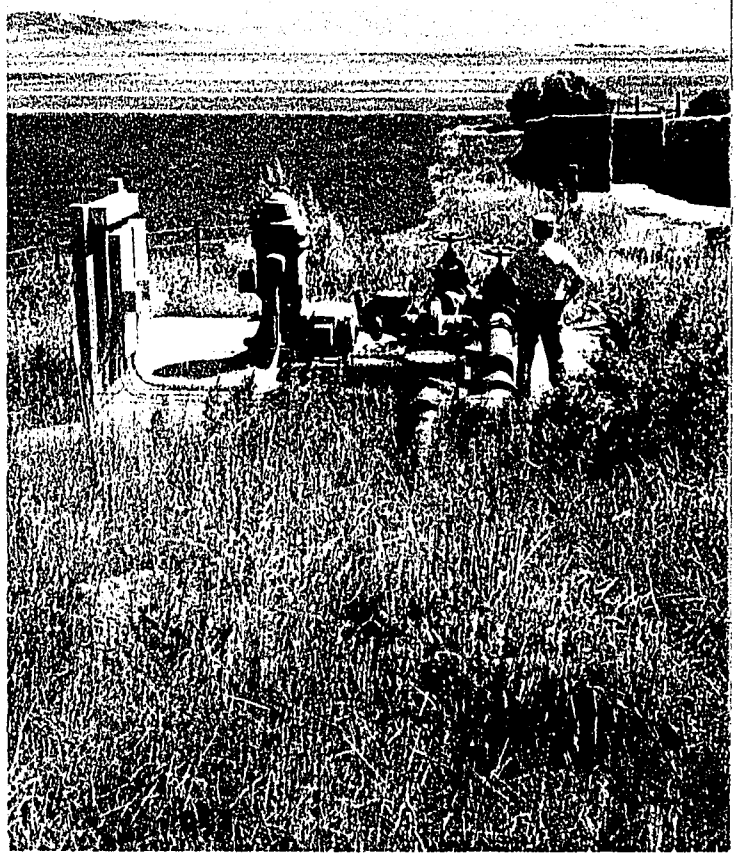

R38E
T13S
T14S
BOUNDARY
NATIONAL FOREST
PLACE OF USE
POINT OF DIVERSION
Spring
BM
4821
4965
4767
4748
4800
5064
4839
4818
Corral
4962
4803
4799
4751
Creek
6000
5200
6200
5800
5000
5400
4WD
33
5
4
9
8
12
37
36
40
20
27
10
13-7116


32
33
R38E
T13S
T14S
5
4
2
35.3
T62
Pasture
15.2
784
Carl Sohn
64.7
19.1
1
T63
28.2
17
21.7
37
12
36
PLACE OF USE
40
8.2
3
54.0
40
40
Claude
Richins
20
Pasture 3.0
POINT OF DIVERSION
11.5
486
Claude
Richins
11.4
27
14
12
10
Pasture
3
27.3
SEC 4
434
Larry Matthews
NC
13-07116

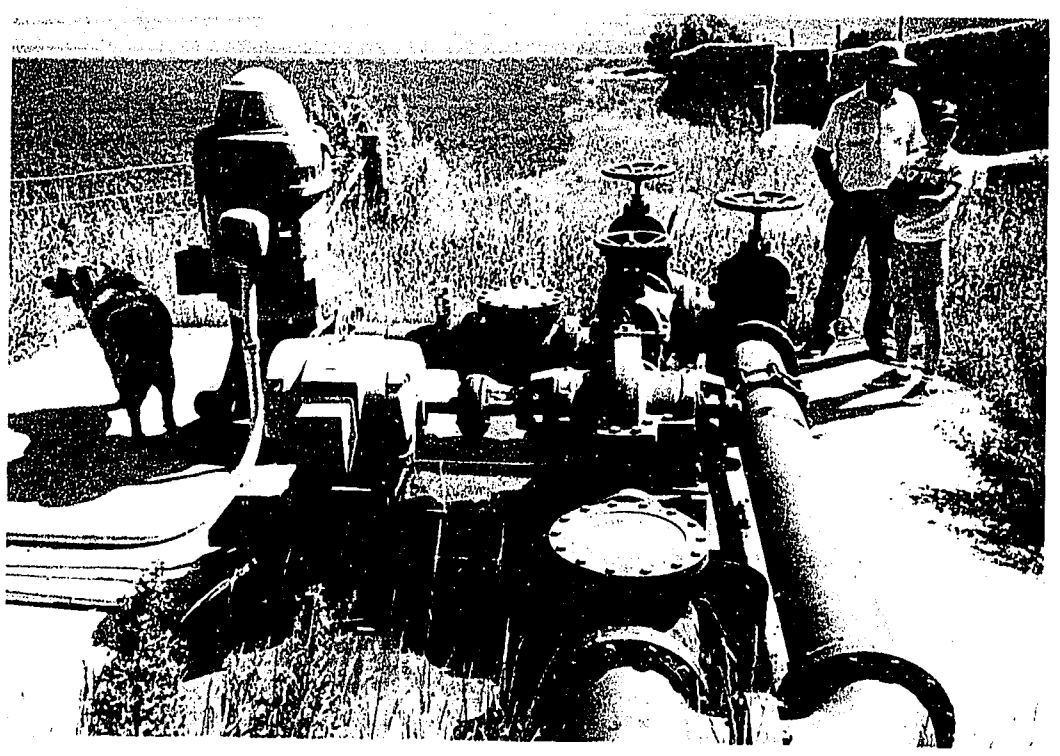


POINT OF DIVERSION - VIEW LOOKING NORTH

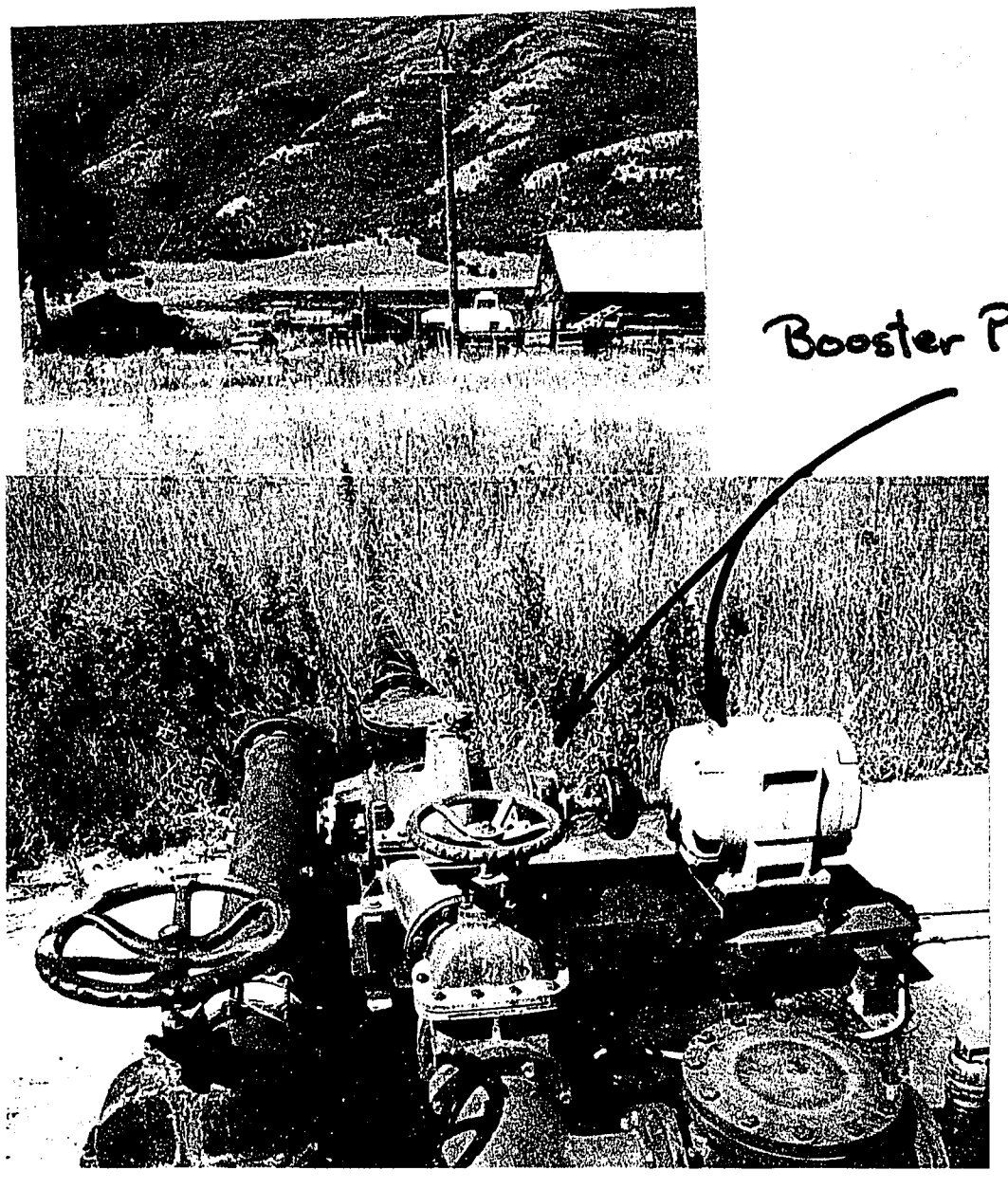
13-7116



POINT OF DIVERSION
VIEW LOOKING
EAST



13-7116



Booster Pump & Motor

From Point of Diversion - View Looking West

13-7116

For Clarity of Photographs Filmed Please See File

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

LICENSING REPORT

13-7116
Permit No.

Measurement Calculations

a) Field Measurement Calculations (Include theoretical capacities and system capacity)

Line #4 @ 49 psi avg pressure

From chart Model 30W

9/64" nozzle @ 45 psi = 3.84 gpm
@ 49 psi = 4.00 gpm
@ 50 psi = 4.04 gpm

$\left(\frac{4.04-3.84}{50-45}\right) = \left(\frac{x}{49-45}\right)$ $x = 0.16$

3.84 + 0.16 = 4.0

4.0 gpm x 1 = 4.0 gpm

5/32" nozzle @ 45 psi = 4.72 gpm
@ 49 psi = 4.93 gpm
@ 50 psi = 4.98 gpm

$\left(\frac{4.98-4.72}{50-45}\right) = \left(\frac{x}{49-45}\right)$ $x = 0.21$

4.72 + 0.21 = 4.93

4.93 gpm x 24 = 118.32 gpm

11/64" nozzle @ 45 psi = 5.70 gpm
@ 49 psi = 5.95 gpm
@ 50 psi = 6.01 gpm

$\left(\frac{6.01-5.7}{50-45}\right) = \left(\frac{x}{49-45}\right)$ $x = 0.248$

5.7 + 0.248 = 5.95

5.95 gpm x 3 = 17.85 gpm

3/16" nozzle @ 45 psi = 6.81 gpm
@ 49 psi = 7.11 gpm
@ 50 psi = 7.18 gpm

$\left(\frac{7.18-6.81}{50-45}\right) = \frac{x}{4-45}$ $x = 0.296 \approx 0.30$

6.81 + 0.30 = 7.11 gpm

7.11 gpm x 1 = 7.11 gpm

$Q_{TOTAL\ LINE\ 4}$ = 4.0 + 118.32 + 17.85 + 7.11 =

$Q_{TOTAL\ LINE\ 4}$ = 147.28 gpm

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

LICENSING REPORT

13- 7116
Permit No.

Measurement Calculations

a) Field Measurement Calculations (Include theoretical capacities and system capacity)

LINE #1 @ 20 PSI AUERAGE

FROM FLOW CHART #3 Model # 29

5/32" nozzle = 3.11 gpm/nozzle × 4 nozzles = 12.44 gpm

11/64" nozzle = 3.78 gpm/nozzle × 9 nozzles = 34.02 gpm

3/16" nozzle = 4.40 gpm/nozzle × 8 nozzles = 35.20 gpm

Chart #2 Model # 40 BW off of chart

1/4" nozzle = 8.34 gpm/nozzle × 1 nozzle = 8.34 gpm

$Q = A\sqrt{2gh} = \frac{\pi d^2}{4}\sqrt{2g(psi \times 2.308}$ = $0.0665\, id^2\sqrt{psi}$

$= 0.0665(0.25)^2\sqrt{20}$ = 0.01858 cfs

= 8.34 gpm

90.0 gpm = Total Line 1

LINE #2 @ 40 PSI AVERAGE

From Flow CHART TABLE # 3 Model 30W

11/64" nozzle = 5.37 gpm/nozzle × 2 = 10.74 gpm = Total Line 2

LINE #3 @ 42 PSI AUERAGE

FROM FLOW CHART TABLE #3 Model 30W

5/32" nozzle @ 40 PSI = 4.54 gpm
@ 42 PSI = 4.61 gpm
@ 45 PSI = 4.72 gpm

$\left(\frac{4.72-4.54}{45-40}\right) = \left(\frac{x}{42-40}\right)$ $x = 0.072$

4.54 gpm + 0.072 = 4.61 gpm

4.61 gpm × 4 = 18.44 gpm

11/64" nozzle @ 40 psi = 5.37 gpm
@ 42 psi = 5.50 gpm
@ 45 psi = 5.70 gpm

$\left(\frac{5.7-5.37}{45-40}\right) = \left(\frac{x}{42-40}\right)$ $x = 0.132$

5.37 gpm + 0.132 = 5.50 gpm

5.50 gpm × 9 = 49.5 gpm

3/16" nozzle @ 40 psi = 6.41 gpm
@ 42 psi = 6.57 gpm
@ 45 psi = 6.81 gpm

$\left(\frac{6.81-6.41}{45-40}\right) = \left(\frac{x}{42-40}\right)$ $x = 0.16$

6.41 gpm + 0.16 = 6.57 gpm

6.57 gpm × 13 = 85.41 gpm

$Q_{TOTAL\ LINE\ \#3}$ = 153.35 gpm

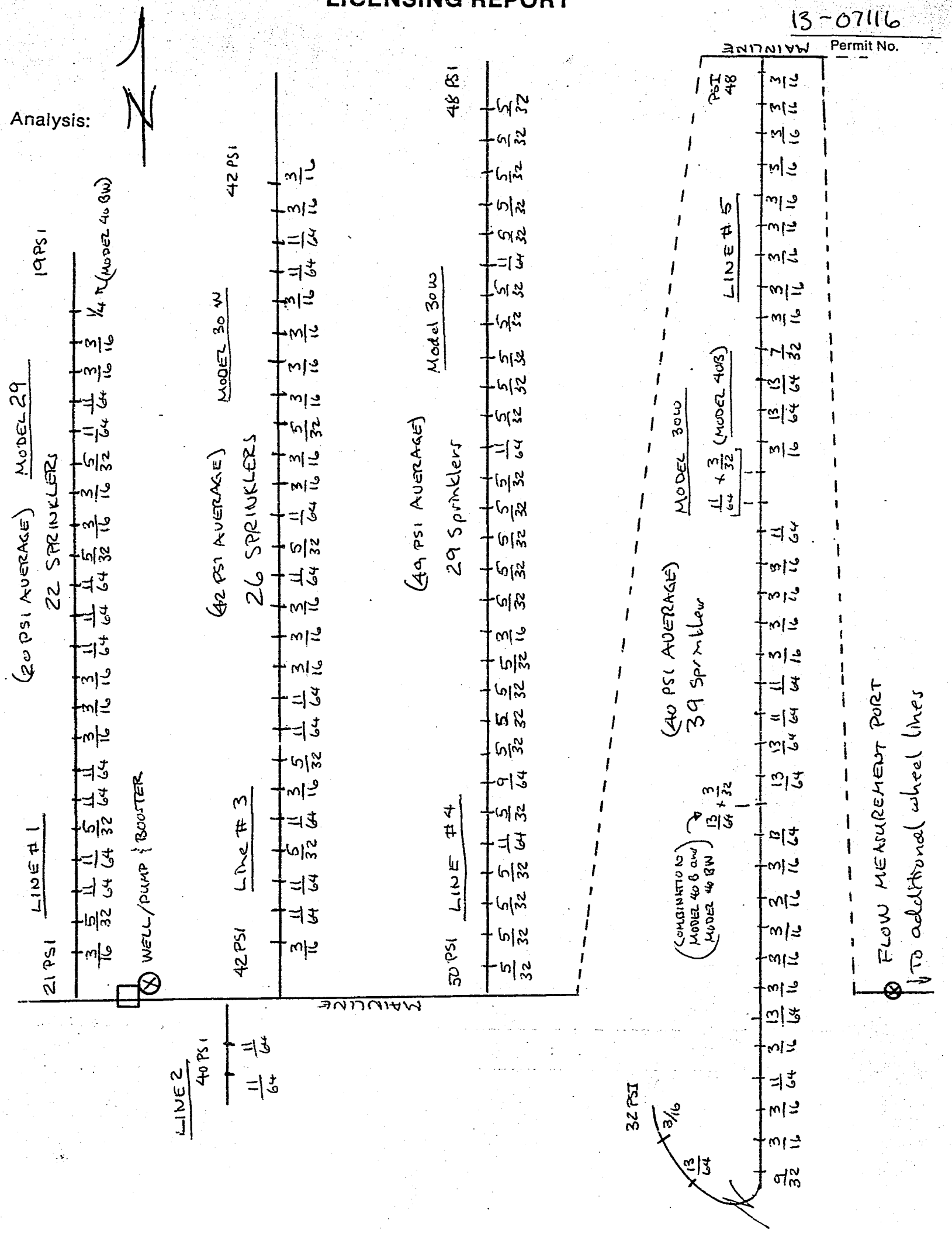
Form 219B
5/84

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

LICENSING REPORT

13-07116
Permit No.

Analysis:



FROM: KEITH C. WILSON 12 OCTOBER 1989

TO: FILE 13-7116

SUBJECT: IRRIGATED ACRES WITHIN SE1/4NE1/4 SEC 4,T14S,R38E

IN CONVERSATION WITH CLAUD RICHINS I WAS INFORMED THAT THE EAST MOST FIELD LOCATED IN THE ABOVE LEGAL HAD BEEN IRRIGATED OCCASIONALLY FOR PASTURE. HOWEVER, MR. PETERSON INFORMED ME THAT THAT FIELD HAD NOT BEEN IRRIGATED PRIOR TO OCTOBER 1985.

AERIAL PHOTOS FROM THE FRANKLIN COUNTY ASCS OFFICE
PHOTO #'S

1. NHAP 80 16041-155 (1000' SCALE) TAKEN 08/05/1980
2. PHOTOS TAKEN FROM 1985 COMPLIANCE OVER FLIGHT SLIDES
3. NHPP 16041-365 (660' SCALE) TAKEN 06/24/1987

IT APPEARS TO ME THAT THAT PORTION OF THE SE1/4NE1/4 WAS NOT BEING IRRIGATED IN 1980 (PHOTO #1).

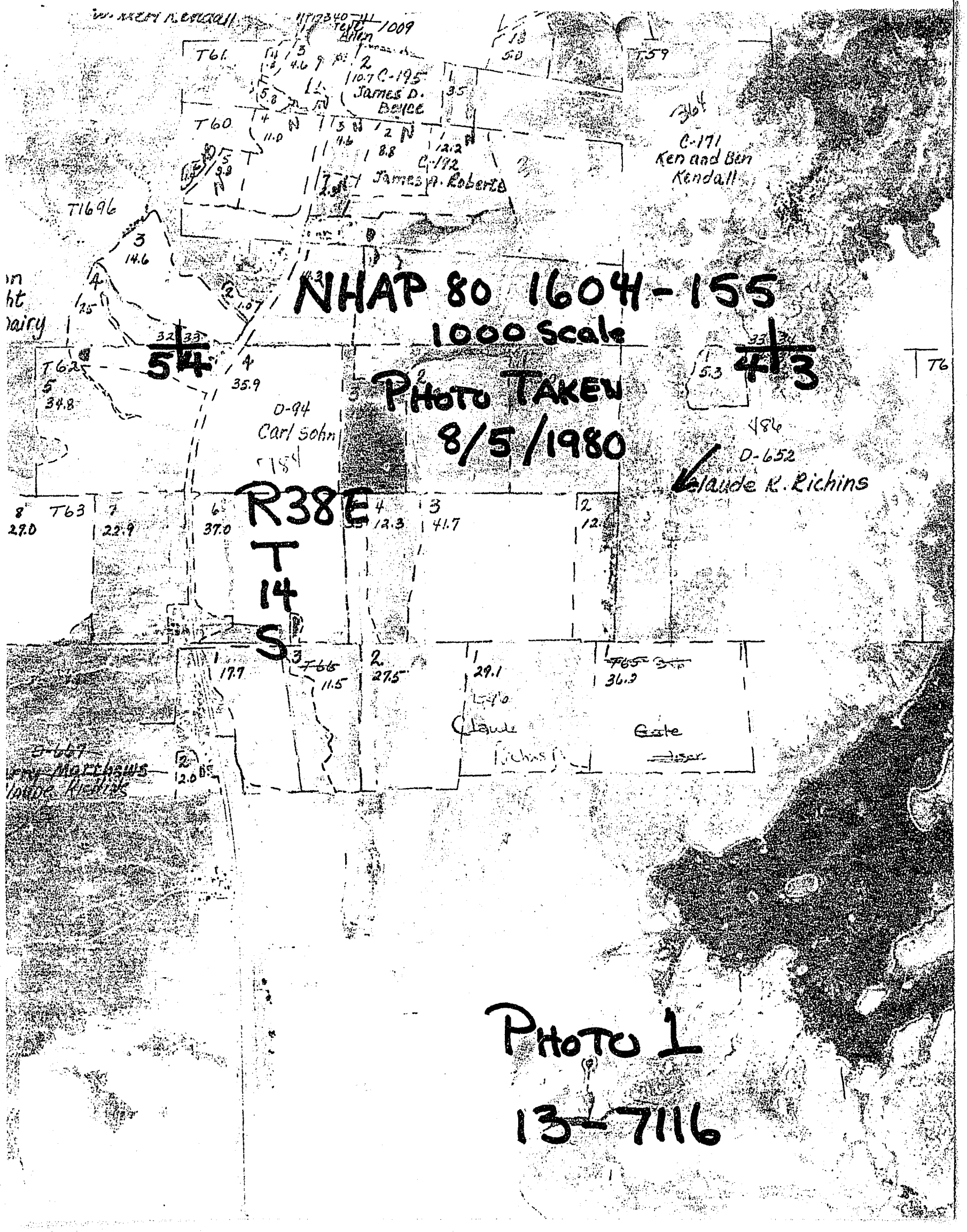
IN PHOTOS #2 IT APPEARS THAT SOME ACTIVITY HAD OCCURRED WITHIN THAT AREA, WHICH MAY INDICATE GRAZING AND EVEN THE POSSIBILITY OF IRRIGATION ON AN OCCASIONAL BASIS.

IN PHOTO #3 IT APPEARS THAT THE AREA HAS BEEN IRRIGATED.

BASED ON MY OBSERVATIONS I RECOMMEND THAT THE ACREAGE WITHIN THE SE1/4NE1/4 SEC 4,T14S, R38E BE INCLUDED IN THE LAND DESCRIPTION OF THE LICENSE.

Keith C Wilson

KEITH C. WILSON


T61
T60
T59
T62
T63
T66
T65
T1696
1009
Allen
C-195
James D. Boyce
C-172
James A. Roberts
C-171
Ken and Ben Kendall
D-94
Carl Sohn
D-652
Claude K. Richins
Claude Richins Estate
D-667
Mathews
R38E
T14S
NHAP 80 1604-155
1000 Scale
PHOTO TAKEN
8/5/1980
PHOTO 1
13-7116

Franklin County ASCS
Box 111
Preston, Idaho 83263

September 1, 1989

RECEIVED
SEP 5 1989
Department of Water Resources
Eastern District Office

Department of Water Resources
Attn: Keith Wilson
150 Shoup Suite #15
Idaho Falls, Idaho 83402

Dear Mr. Wilson:

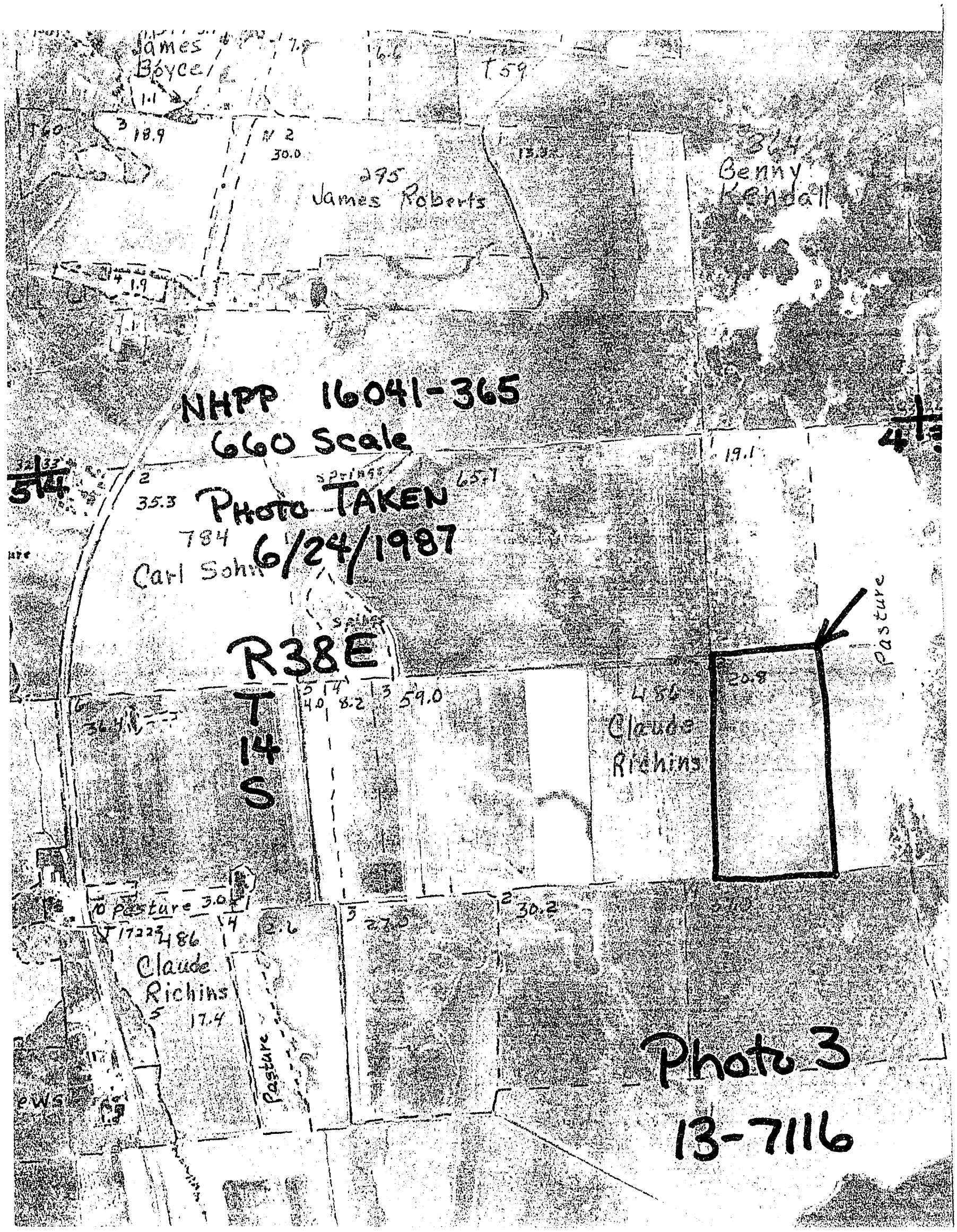
Enclosed are the requested slides for the 1985 year. If they are not adequate please let me know and I will make a copy of the actual slides.

Sincerely,

Layne C. Peterson
County Executive Director



Photo 2
13-7116


James Boyce
T59
Benny Kendall
James Roberts
NHPP 16041-365
660 Scale
PHOTO TAKEN
6/24/1987
Carl Sohn
R38E
T14S
Claude Richins
Pasture
Claude Richins
Pasture
Phot 3
13-7116

INTER-DEPARTMENT MEMO — 1

FROM Gary

DATE 11/1/89

TO Skip

SUBJECT The attached protest appears to have been sent to the state office by mistake. Thanks.

Gary
SIGNATURE

October 1, 1989

Dear Sir

We wish to protest the proposed change of water right No.4110 Legal No. 2822 - 37 L published Sept. 20, 27, 1989.

To our knowledge the Petersons can only run 3 quarter mile lines of water & possible 4 lines, if they pump 4 lines continues in 5 days the Dudley spring will dry up as it takes as long to recuperate the water as it takes to irrigate. In our opinion 3 or 4 lines will not handle the 360 acres plus 40 acres more which the Peterson's are applying for.

The Dudley spring is supposed to have 2 1/2 acre ft. of water. Some time ago Mr. Elgan & Mr. Beckstead went together and put in a well just south of Dudley spring. When they pumped 2 lines it would take away from the spring & if they pumped more than 2 lines it would dry the Dudley spring up.

Mr. Elgan told us the well was a big mistake because when the Beckstead & Elgan well pumped he gained nothing and gave half his water from the Dudley spring away. When Mr. Elgan owned the property his claim to the Dudley spring and the 175 shares of Oxford irrigation water could have probably watered 300 acres. But he sold his property to Mr. Peterson and kept the 175 shares of Oxford irrigation water and sold these shares to other land owners.

Mr. Peterson put in a big well right next to the Dudley spring and has a 6" culinary well, also half interest in the Elgan and Beckstead well, this is the only water he has claim to which we figure Mr. Peterson should have to prove up to date his water right and the acreage his water will take care of.

Mr. Peterson has an Idaho water claim but does not have an Idaho water right on the Dudley spring that has been approved. Mr. Peterson forced we the Richins brothers to prove our claim to water acreage & water rights to the Idaho Dept. of Water Resources. We contest that Petersons prove their water right and acreage also.

Thank you.

Kay & Claude Richins
Kayle & Claude Richins
Richins Brothers

KGR/YMR
CC: Gary Spackman
Keith Wilson

RECEIVED
OCT 6 1989
Department of Water Resources
Eastern District Office

Public Noti

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

No. 13-4110

Notice is hereby given that Roy Grant Peterson Family Trust c/o Beverly Peterson, Clifton, [illegible] has applied to the Department of Water Resources to change place of use of the waters of Dudley Springs tributary to Sinks. The right sought to be changed is evidenced as follows:

AMOUNT: 2.40 cfs

PRIORITY: May 20, 1881

POINT OF DIVERSION: SWNE SEC9 T14S R38E, B.M. Franklin County

The water is used for stockwater within S½NE¼ SEC 9, NWNW N½SW¼ SEC 10 and the irrigation of 360 acres within E½NE¼ SEC9, W½NE¼ SENE, NW¼ SEC9 T14S R38E, B.M.

TO BE CHANGED AS FOLLOWS:

Only .27 cfs of the water will be diverted within the SWNE SEC9 T14S R38E, and used to irrigate 40 acres within the S½SW¼, SWSE SEC4 T14S R38E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Idaho Falls, ID 83402, on or before October 9, 1989.

R. Keith Higginson
Director

Legal No. 2822 —37L— Publish Sept. 20, 27, 1989.

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

November 3, 1989

852-2680

Steve Fuller, Attorney at Law
P.O. Box 191
Preston, ID 83263

RE: Field Examination for Permit No. 13-7116 in the Name of Kayle G. and/or Claude Richins

Dear Mr. Fuller:

Enclosed is a copy of a field examination for permit no. 13-7166 in the name of Kayle G. and/or Claude Richins. Field examiner, Keith C. Wilson, has represented to me that he spoke to your clients during the field examination.

The Department intends to issue a license based on Mr. Wilson's representations.

Sincerely,

Gary Spackman

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

cc. Claude Richins

RECEIVED
OCT 19 1989
Department of Water Resources

FROM: KEITH C. WILSON 16 OCTOBER 1989

TO: GARY SPACKMAN

SUBJECT: LICENSING OF 13-7116

AS PER YOUR MEMO OF JULY 24, 1989 ENCLOSED IS A COMPLETED EXAMINATION OF PERMIT 13-7116. MR. RICHINS HAS REQUESTED THAT THE PERMIT BE LICENSED AS SOON AS POSSIBLE. I WOULD ALSO LIKE FOR THE PERMIT TO BE LICENSED AS SOON AS POSSIBLE.

THANKS,

Keith C Wilson

KEITH C. WILSON

See FiLe
FoR
Hearing Tape
OR Tapes

Form 211
2/80

RECEIVED
MAY 28 1991
Department of Water Resources
Eastern District Office

Ident. No. _____

STATE OF IDAHO

APPROVED

APPLICATION FOR AMENDMENT OF A PERMIT

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

Comes now Kayle G. Richins and/or Claude Richins Phone (801) 254-4503 of (address) 13650 South 13th West, Riverton, Utah 84065, 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. 13-7116, and requests that the permit and permit map be changed as follows:

1. Point of diversion: SW ¼ NW ¼, Section 4 (NO CHANGE), Township 14S, Range 38E, B.M., County of Franklin. Other points of diversion: _____

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

Amount 2.83 (cfs or acre feet per annum) for Irrig purposes from 4-1 to 11-1 (both dates inclusive)

Amount _____ (cfs or acre feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

Amount _____ (cfs or acre feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

Amount _____ (cfs or acre feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

3. Place of use or land to be irrigated:

TWP	RGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
14S	38E	4			40				36	40	10	27							153
		5			12	37													49

Total number of acres to be irrigated = 202

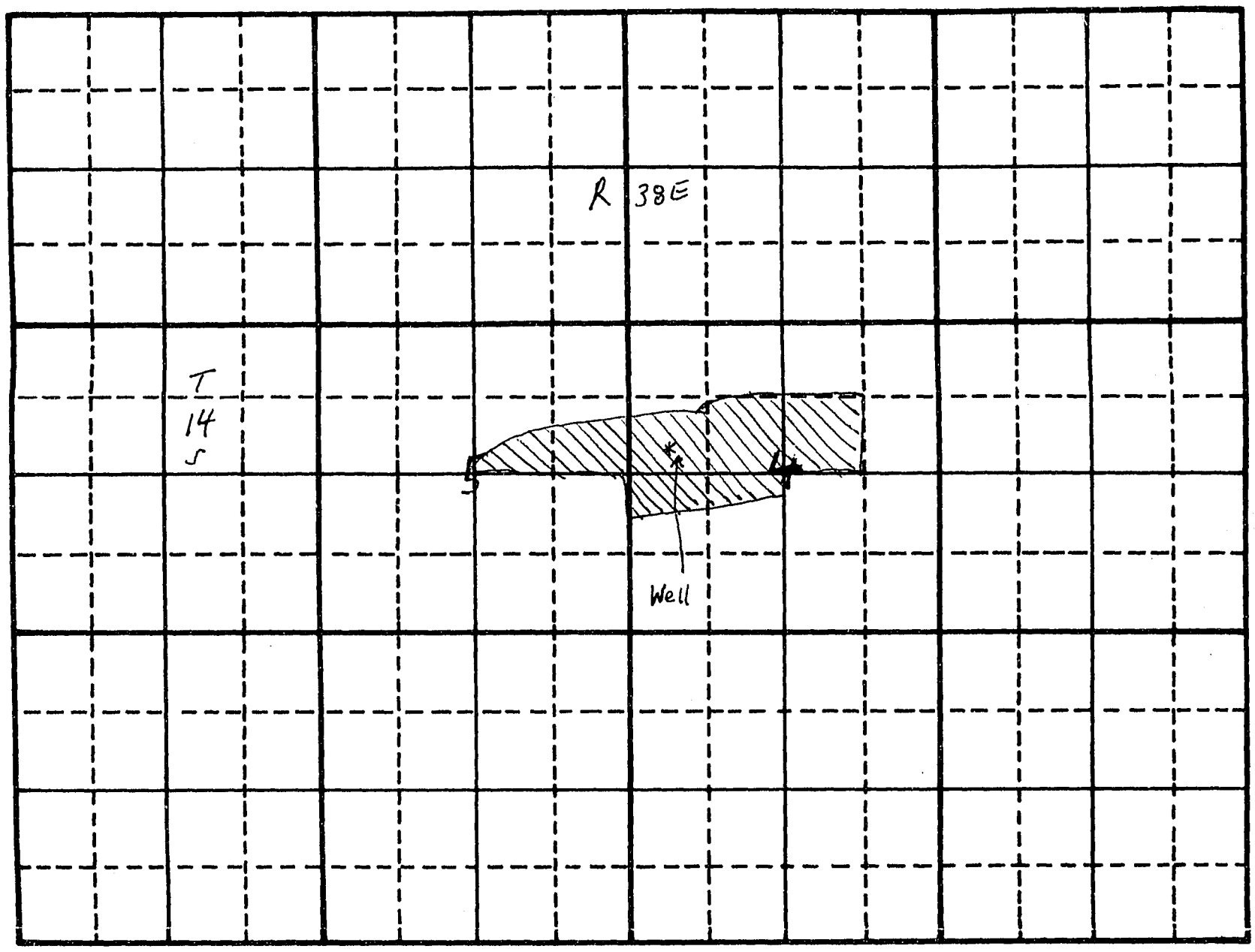
4. a. Who owns the property at the point of diversion? Applicant

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 Riverton, Utah, this 20 day of May, 19 91.

Sandra N. Lloyd
Notary Public
SANDRA N. LLOYD
12765 South 1400 West
Riverton, Utah 84065
My Commission Expires
February 10, 1993
State of Utah

Faye or Lisa
(Signature)
Faye or Lisa Perkins

FOR DEPARTMENT USE ONLY

Preliminary check by HWS Fee = $20.00 #E016123 Receipted by HWS Date 5-28-91

Publication prepared by _____ Date _____ Published in _____

Publication dates _____

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, R. KEITH HIGGINSON, of the Department of Water Resources hereby APPROVE THE ABOVE APPLICATION FOR AMENDMENT FOR PERMIT NO. 13-07116.

Witness my hand this 9TH day of March, 19 93.

Acting for DIRECTOR

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 13-07116

Priority: June 23, 1988

Maximum Diversion Rate: 2.83 CFS
Maximum Diversion Volume:[1] 707.0 AF

This is to certify, that CLAUDE RICHINS
KAYLE G. RICHINS
13650 S. 13TH W.
RIVERTON, UT 84065 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated June 2, 1975; and has submitted Proof of Beneficial Use on June 23, 1988. An examination indicates that the works have a diversion capacity of 2.830 cfs of water from a **GROUNDWATER** source, and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
IRRIGATION	04/01 to 11/01	2.83 CFS	707.0 AF

LOCATION OF POINT(S) OF DIVERSION: SWNW , Sec. 4, Township 14S, Range 38E
FRANKLIN County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
14S	38E	4	SWNE	40	SWNW	36	SENW	40	
			NESW	10	NWSW	27			153
		5	SWNE	12	SENE	37			49
							Total number of acres irrigated:		202

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. This right when combined with all other rights shall provide no more than 3.5 afa per acre for the lands above.

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 13-07116

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 9TH day of MARCH, 1993.

Acting for R. Keith Higginson, Director

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 11, 1993

CLAUDE RICHINS
KAYLE G RICHINS
13650 S 13TH W
RIVERTON UT 84065

RE: Water Right No. 13-07116

Dear Water Right Holder:

Enclosed is a copy of your approved Application for Amendment submitted in connection with the above referenced permit.

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

If you have any questions concerning these documents, please feel free to contact us.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:cz

Enclosure

This Right has been Decreed in the Case: Peterson vs. Richins

*See Decree file for the Director's Report and Agreements.

07/30/2001

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 13-07116

NAME AND ADDRESS: CLAUDE RICHINS
KAYLE RICHINS
13659 S 1300 W
RIVERTON, UT 84065

SOURCE: GROUND WATER

QUANTITY: 2.2 CFS

USE OF THIS RIGHT WITH RIGHT NOS. 13-02242 AND 13-04283 IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 707 AF

PRIORITY DATE: 06/23/1988

POINT OF DIVERSION: T14S R38E S4 SWSWNW Within FRANKLIN County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	4-01 11-01	2.20 CFS

PLACE OF USE:

IRRIGATION Within FRANKLIN County

T14S R38E S4	SWNE	40	T14S R38E S4	SWNW	36
T14S R38E S4	SENW	40	T14S R38E S4	NESW	10
T14S R38E S4	NWSW	27	T14S R38E S5	SWNE	12
T14S R38E S5	SENE	37			

202 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NOS. 13-02242 AND 13-04283 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 202 ACRES IN A SINGLE IRRIGATION SEASON

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS RIGHT MAY BE USED TO SUPPLY REPLACEMENT WATER FOR RIGHT NOS. 13-04110A, 13-04110C AND 13-04110D

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

RIGHT NO. 13-02242 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE