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MAR 26 2012

DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

A. Subcase 22-7251
(Insert water right number
From the Objection Form)

STANDARD FORM 4

MOTION TO FILE:

☒ LATE NOTICE OF CLAIM

☐ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

- ☐ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing _____ City of Teton, Idaho

My name is Robert L. Harris, Holden Kidwell Hahn & Crapo, P.L.L.C.

My address is 1000 Riverwalk Drive, Suite 200, Idaho Falls, ID 83402

My phone number is 208-523-0620

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

- ✓ I did not file a Notice of Claim to the use of water in the SRBA because:

A council person was assigned to file claims in the SRBA over 10 years ago, but it was only recently discovered that no claims were filed after a recent list was sent by the SRBA Court indicating that the City of Teton had not filed claims in the SRBA. The list was provided to Robert Harris, an attorney, who then contacted Phil Sutherin, the Mayor of the City of Teton, regarding the problem.

- ☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

- ✓ I am providing a legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of you Notice of Claim.)

See attached license documents.

I have attached:

- ✓ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.
- ✓ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ 211.00.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on June 19th, 2012 at 1:30 p.m.
(Insert Date and Time)
at the SRBA Court courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☐ I must amend my Notice of Claim to the use of water in the SRBA because:

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

I have attached:

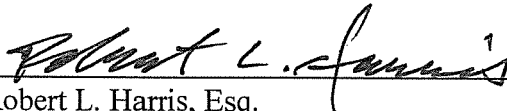
- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION

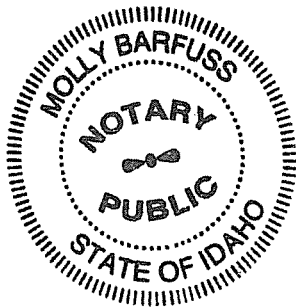
State of Idaho)
)ss.
County of Bonneville)

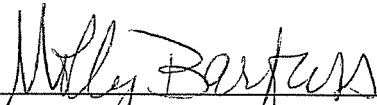
Robert L. Harris, being first duly sworn, upon oath, deposes and says:

That I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.


Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Subscribed and sworn to before me this 23rd day of March, 2012.




Notary Public for Idaho
Residing at _____
My Commission Expires: _____
Notary Public for the State of Idaho
Residing in Idaho Falls
Commission Expires 02-16-18

CERTIFICATE OF MAILING

I certify that on this 23rd day of March, 2012, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

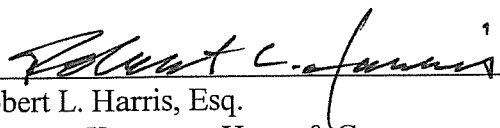
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724


Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

G:\WPDATA\IRLH\City of Teton\22-7251 FORM.4, Mot.wpd

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

RECEIVED

MAR 26 2012

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 3994 DEPT. OF WATER RESOURCES
Ident. Number 22-7251
Date Received _____
Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s) City of Teton Phone (208) 339-4592
Mailing Address PO Box 386, Teton, ID Zip 83451
2. Date of Priority (Only (1) per claim) 08/01/1977
3. Source of water supply (a) Ground Water
which is tributary to (b) _____
- 4.a. Location of existing point of diversion is:
Township 7N Range 41E Section 31, _____ 1/4 of NW 1/4 of SE 1/4, Govt. Lot _____,
County of Fremont
Parcel (PIN) No. _____
Additional points of diversion if any: 7N 41E Section 31 NW1/4 SE1/4
If Available, GPS Coordinates: _____
- b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot _____ B.M., County of _____
ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4 Govt. Lot _____ B.M.,
County of _____
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. 12" well and pump, drilled in 1958. This well was upgraded in 1977, which necessitated the license. Since then, water under this right has been diverted from the City's (drilled in 1948) Well #1 prior to November 1987, resulting in an accomplished transfer to include Well #1 as a point of diversion under this right.
6. Water is claimed for the following purposes: _____ (Both dates are inclusive) (cfs) (acre feet)
For Municipal purposes from 01/01 to 12/31 amount _____ or _____
7. Total quantity claimed (a) 1.11 (cfs) and/or (b) _____ (acre feet)
8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Municipal uses

9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

PLACE OF USE IS WITHIN THE SERVICE AREA OF THE CITY OF TETON MUNICIPAL WATER SUPPLY SYSTEM AS PROVIDED FOR UNDER IDAHO LAW.

Parcel (PIN) No(s). _____ Total number of acres irrigated _____

10. In which county(ies) are lands listed above as place of use located? Fremont

11. Do you own the property listed above as place of use? Yes ___ No ✓
If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.
22-4028 and 22-7251. Combined, all of the City's water rights can divert 3.42 cfs.
_____ or None ()

13. Remarks: The Claimant is a municipality that services its residents through a municipal water system.
There are two (2) wells that pump into one storage tank.

14. Basis of Claim (Check one) Beneficial Use _____ Posted Notice _____ Permit _____ Decree _____
License X

If applicable provide IDWR Water Right Number 22-7251 (see attached)
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

15. Signature(s)
(a) By signing below, I/we acknowledge that I/we have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b) I/we do _____ do not
_____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of Attachments _____

For Individuals: I/we do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) _____ Date _____
_____ Date _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am the attorney of
(Title)

Last Name _____ Ident. Number _____

The City of Teton, that I have signed the foregoing document in the space below as
(Organization)
attorney of the City of Teton and that the statements contained in the
(Title) (Organization)
foregoing document are true and correct.

Signature of Authorized Agent Robert L. Harris

Title and Organization City of Teton Attorney Date March 23, 2012

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris, will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature: Robert L. Harris

Address: Holden, Kidwell, Hahn & Crapo, P.L.L.C.
PO Box 50130, Idaho Falls, ID 83405-0130

Date: March 23, 2012

WATER RIGHT LICENSE

THIS IS TO CERTIFY, that CITY OF TETON

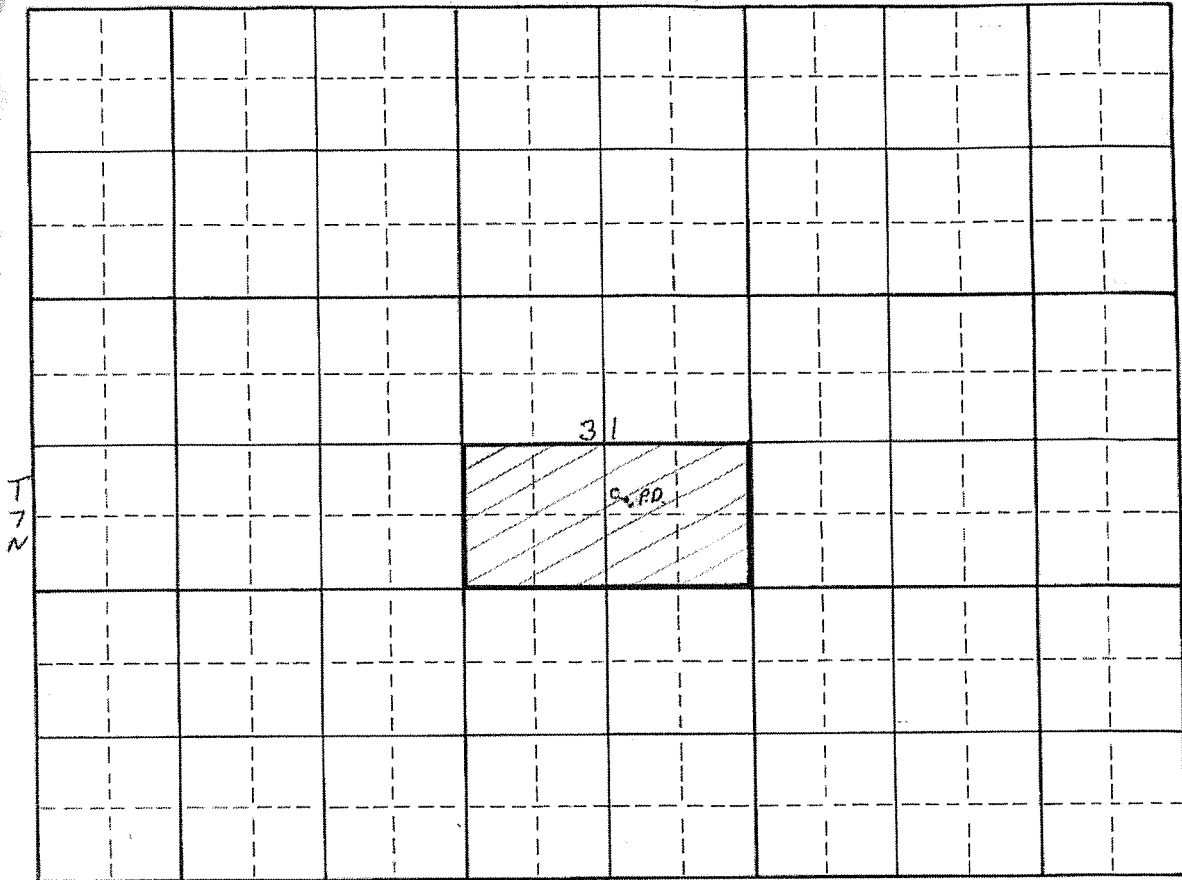
(both dates inclusive)

Description and location of place of use:

Total number of acres irrigated _____

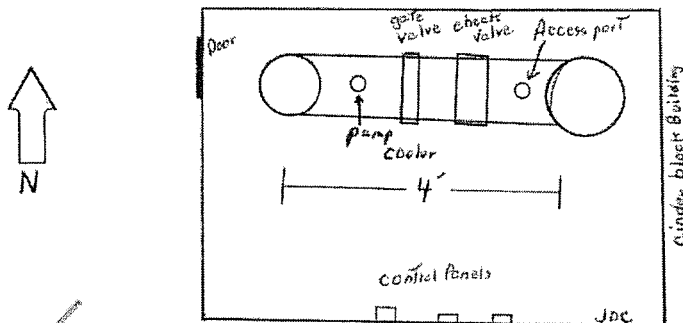
S. Kenneth Wilson
Director

R 41E
MAP (Attach Aerial Photo)



SCHEMATIC DIAGRAM OF SYSTEM

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



Point(s) of diversion:

R 41E

NW 1/4 of SE 1/4 Sect 31 T7N

Place(s) of Use

TWP.	RGE.	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
<u>7N</u>	<u>41E</u>	<u>31</u>									<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	

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

Examiner's Signature

John Carlson

Date ?

Checked by

John Jones

Date

1-27-81

Approved by

Date

Identification No. 22 7251
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)

1. Name of applicant City of Teton Phone: 458-4271
post office address Teton City, Idaho 83451
2. Source of water supply Ground Water (Well) which is a tributary of _____
3. a. Location of point of diversion is NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 31 Township 7N
Range 41E B.M. Fremont County; additional points of diversion if any: _____

b. If water is not consumed, it will be discharged into _____ at a point in _____ $\frac{1}{4}$
of _____ $\frac{1}{4}$ of Section _____ Township _____ Range _____ B.M. _____
4. Water will be used for the following purposes:
Amount 1.11 cfs for Municipal purpose from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 1.11 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. 60 H.P. pump w/1000 gpm capacity

b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir
capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)
c. ~~Existing~~ well diameter is 12 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 \$16,000.00.
8. Description of proposed uses:
a. If water is not for irrigation:
(1) Give the place of use of water: S $\frac{1}{2}$ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section 31 Township 7N
Range 41E 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 City of Teton, or number of families to be
supplied with domestic water _____
(5) If water is to be used for other purposes describe: -----

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

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total number of acres to be irrigated _____

c. Describe any other water rights used for the same purposes as described above. None

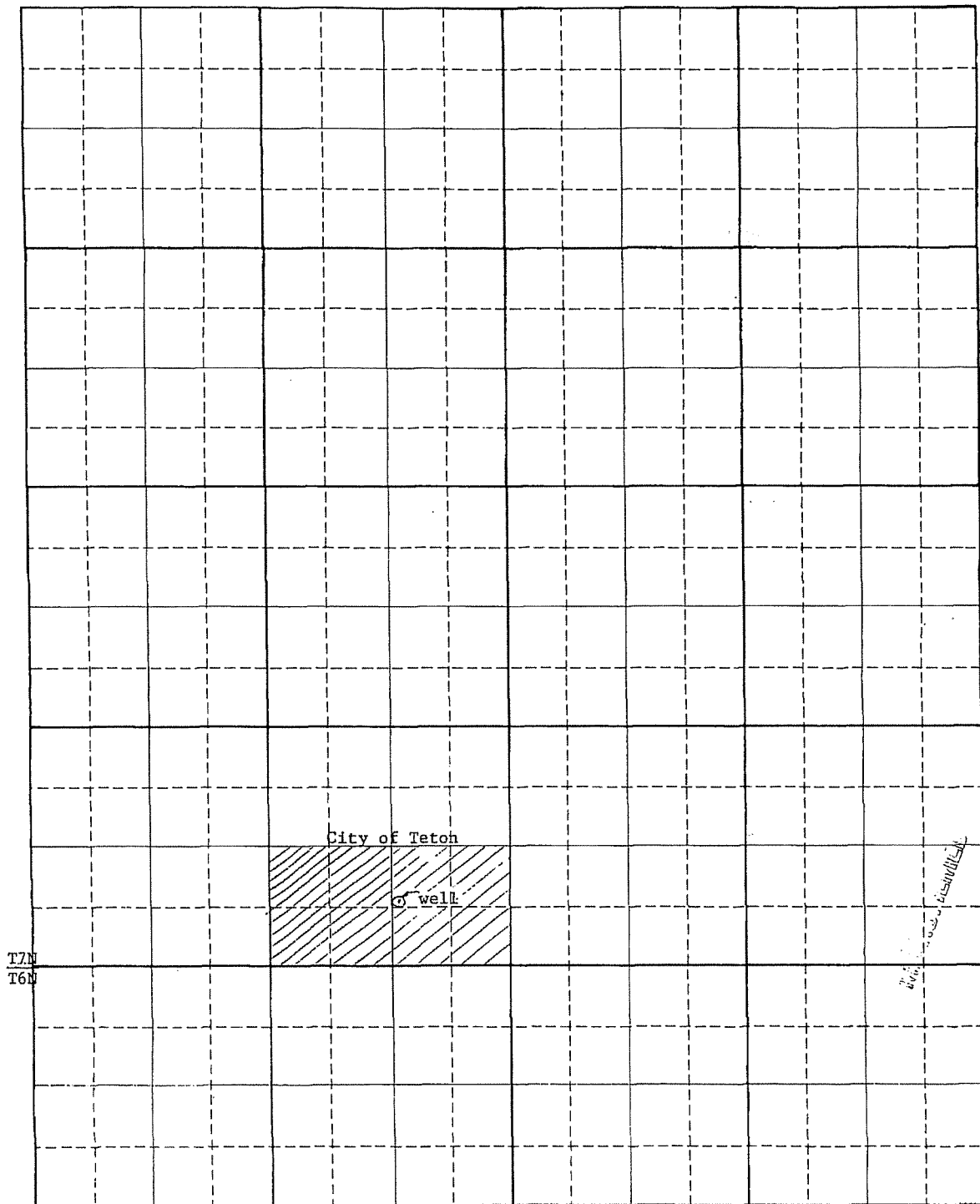
9. a. Who owns the property at the point of diversion Applicant

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

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

10. Remarks The City of Teton has been pumping at a rate of 1.11 cfs from an existing well which was in use prior to 1963. The proposed pumping facility will increase the amount of water being pumped from 1.11 cfs to 2.22 cfs. This application is being filed to appropriate the increased capacity.

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.

Reed C. Tucker
 (Applicant)
 Mayor, City of Teton

Proposed Priority 8/01/77

Received by CW Date 8-01-77 Time 10:45 A.
Preliminary check by EMC Fee \$ 35.00
Received by CW Date 8-01-77 # 8313
Publication prepared by CW Date 8-02-77
Published in Fremont County Chron.
Publication dates Aug 11 + 18 1977
Publication approved me Date Sept. 12 1977
Priority reduced to _____ Reason _____

Protests filed by: _____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by jc

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

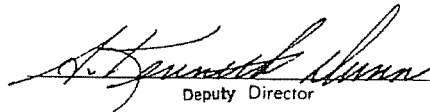
This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 22-7251, and said application is hereby APPROVED.

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, 19 82.
- c. Other: For licensing purposes a scientific measurement of the diversion rate of the system as it is normally operated shall be provided by either properly installing an approved type of measuring device or by having a professional engineer certify the rate of diversion to the Department prior to submitting proof of beneficial use of water.

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

Witness my hand this 14 day of October 19 77.


Deputy Director

State of Idaho
DEPARTMENT OF WATER RESOURCES
FIELD REPORT

22-7251

Permit No.

CONTACT WITH PERMIT HOLDER

	DATE	INITIALS	REMARKS
☐ Appointment letter mailed:			
☐ Telephone call made: (List Telephone No. used)	Phil Baker 458-4556		
☐ Appointment scheduled for: (Date, time, location)			

EXAMINATION

Date Aug 11, 80 Accompanied by Phil Baker (measured) Total Q measured 1.75 cfs
If source is surface water, estimate total flow of source _____
Methods of measurement Annubar Meets Permit requirements? Yes

Measurement calculations:
(pipe ID)² C V⁵ / 10.47 H^{1.85}
(6")² 3.85 V⁵ / 32"
784.04 gpm ÷ 442 cfs/gpm = 1.75 cfs capacity
V = not limited
As per administrator's memorandum
Dated 11/5/79. Mom Young.
Allow 1.11 AS PER PERMIT

WELL/DIVERSION* NO.	HP	MOTOR MAKE	MOTOR SERIAL NO.	PUMP MAKE	PUMP SERIAL NO.	MEASURING DEVICE TYPE	CONDITION OF MEAS. DEV.	REMARKS
#2	60	GE. Tru-Glad	HNJ831356	Johnson	5952	Annubar 6"	Good	

System Description A vertical turbine motor directs groundwater from 94' depth to a 35,000 gal storage tank 92.4' tower. An earlier well which a claim has been filed directs some quantity to the storage tank.

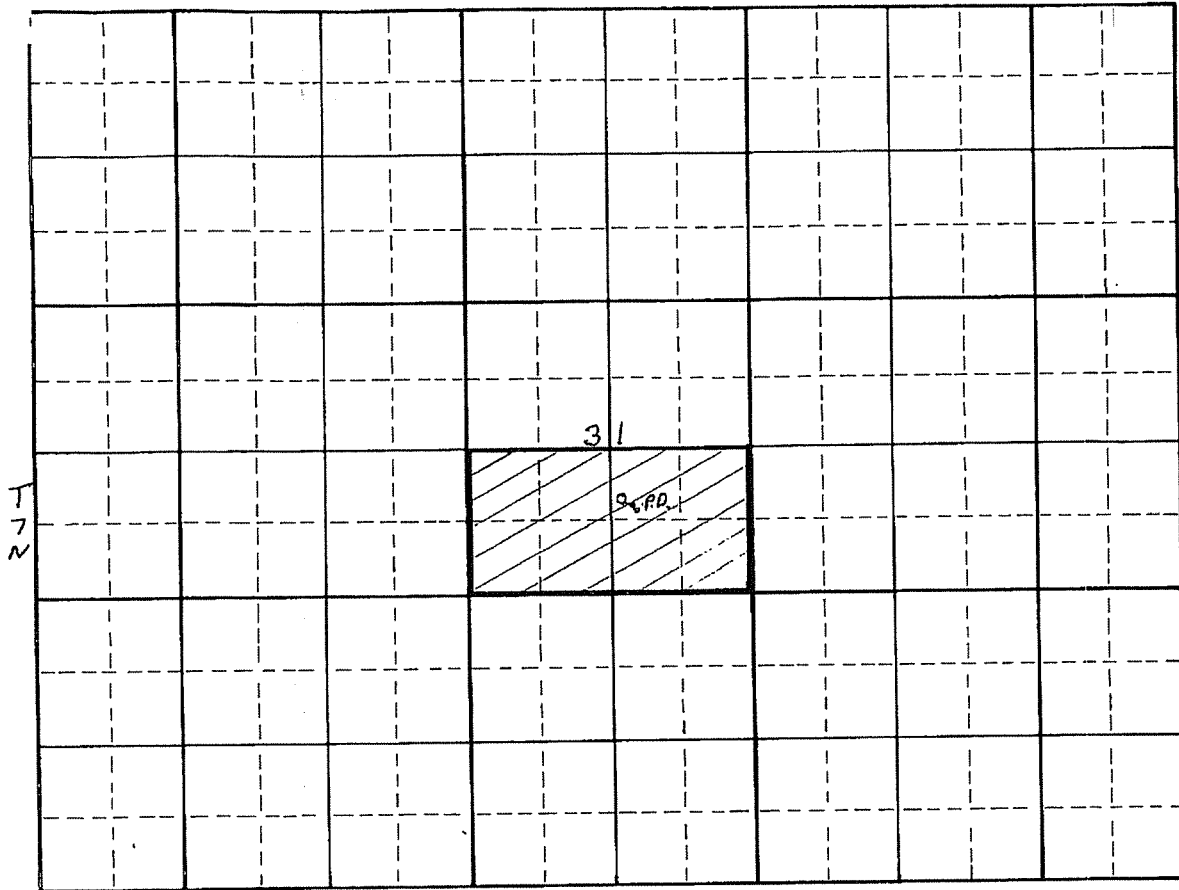
*Code with map on reverse side. Disregard code if only one.

RECOMMENDED AMOUNTS

USE	Irrigation requirement = <u>N/A</u>		AFA/Acre	
	Q (cfs)	V (afa)	FROM	TO
<u>Municipal</u>	<u>1.11 cfs</u> ✓	<u>—</u>	<u>Jan 1</u>	<u>Dec 31</u>
Total	<u>1.11 cfs</u> ✓	<u>—</u>	<u>Jan 1</u>	<u>Dec 31</u>

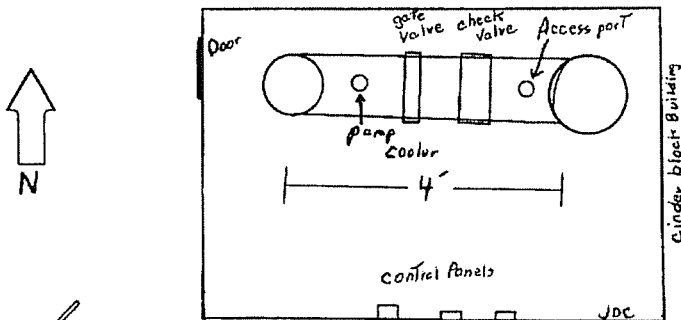
Remarks

R 41E
MAP (Attach Aerial Photo)



SCHEMATIC DIAGRAM OF SYSTEM

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



Point(s) of diversion: R 41E NW 1/4 of SE 1/4 Sect 31 T 7 N

Place(s) of Use

TWP.	RGE.	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
7N	41E	31									X	X	X	X	X	X	X	X	

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

Examiner's Signature John Carlson

Date ?

Checked by John Jones

Date 1-27-81

Approved by

Date