

8/7/2020

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CRAIG E OLLINGER , ZZ

Current Owner DEBORAH L OLLINGER
, ZZ

Source

Tributary

Beneficial Use

From

To

Diversion Rate

Volume

Source and Point(s) of Diversion

Place Of Use

Conditions of Approval:

Comments:

Dates and Other Information

Water District Number: TBD

Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A



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

RECEIVED

July 22, 1996

JUL 24 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Department of Water Resources
Southern Region

RE: In the Matter of use of Water Right Permit No. 47-08136 in the name of Craig E. and Deborah L. Ollinger

Dear Interested Party:

The accompanying order is a "preliminary order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of this order. The hearing officer will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

47-08136
Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding to the Director. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The

Director retains the right to review the preliminary order on his own motion.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,



L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosure

cc: IDWR - Region

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT)	
)	
NO. 47-08136 IN THE NAME)	PRELIMINARY ORDER VOIDING
)	PERMIT
OF CRAIG E. AND DEBORAH L.)	
)	
OLLINGER)	
_____)	

This matter having come before the Department of Water Resources (Department) as a result of an examination by Department staff to determine the extent of beneficial use of water, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On November 1, 1988, Craig E. Ollinger and Deborah L. Ollinger applied to the Department of Water Resources for a permit to appropriate 0.09 cubic feet per second of water from groundwater within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 24, Township 9 South, Range 14 East, B.M., Twin Falls County, to be used for irrigation purposes.
2. The Department designated the Ollingers' Application for Permit as number 47-08136.
3. On April 19, 1989, the Department approved the Application for Permit.

4. On March 19, 1991, the Department received Proof of Beneficial Use for the permit.

5. On June 27, 1995, Department staff conducted a field examination to verify the water use developed under the permit.

6. The examiner found that the Ollingers had not completed construction of works and application of water from the source identified to the proposed beneficial use within the authorized permit period.

7. On June 13, 1996, the Department sent the Ollingers a Notice of Pending Order to Void Permit requesting relinquishment of the permit because of failure to establish a beneficial use of water.

8. The permit holder has not shown cause why the permit should not be voided and has not responded to the request for relinquishment of the permit.

9. The provisions of Section 42-219, Idaho Code, authorize the Director of the Department to void permits for which the permit holder has not fully complied with the law and the conditions of the permit.

CONCLUSIONS OF LAW

1. Section 42-219, Idaho Code, states:

In the event that the Department shall find that the applicant has not fully complied with the law and the conditions of the permit, it may issue a license for that portion of use which is in accordance with the permit, or may refuse issuance of a license and void the permit.

2. Permit No. 47-08136 required that the permit holder complete construction of works and application of water from the source identified to the proposed beneficial use within the authorized permit period.

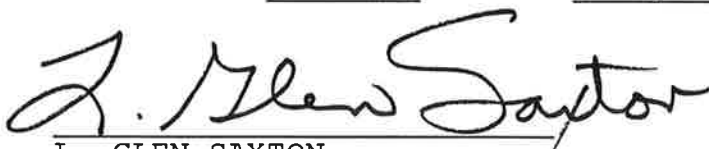
3. Examination by the Department revealed that the permit holder has not complied with the conditions of the permit by not completing construction of works and application of water from the identified source to the proposed beneficial use to establish a new water right as required by the permit and Section 42-219, Idaho Code.

4. The permit should be voided pursuant to Section 42-219, Idaho Code.

ORDER

IT IS HEREBY ORDERED that Permit No. 47-08136 is **VOIDED** and issuance of a license is **REFUSED** under Section 42-219, Idaho Code.

Dated this 22nd day of July, 1996

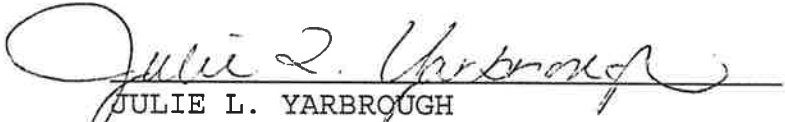


L. GLEN SAXTON
Chief, Water Allocation Bureau

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 22nd day of July, 1996, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER** to the following:

Craig E. Ollinger
Deborah L. Ollinger
Rt. 4 Box 286A
Buhl, ID 83316


JULIE L. YARBROUGH
Senior Secretary



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

June 13, 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Craig E Ollinger
Deborah L Ollinger
Rt 4 Box 286A
Buhl ID 83316

RECEIVED

JUN 19 1996

RE: Permit to Appropriate Water No. 47-08136 Department of Water Resources
Southern Region

NOTICE OF PENDING ORDER TO VOID PERMIT

Dear Permit Holder(s):

On April 19, 1989, the Director of the Department of Water Resources approved Application for Permit No. 47-08136 for the diversion of water from groundwater for the purpose of irrigating 3 acres in the SW 1/4 NW 1/4 SE 1/4, Sec. 24, Twp. 9S, Rng. 14E, B.M. Twin Falls County.

On 6/27/96, an employee of the Department reported that no water was diverted and beneficially used under this permit within the authorized development period, which ended May 1, 1991.

The purpose of this letter is to inform you that I will take action to void your permit after thirty (30) days from the date of this letter unless you provide evidence showing that a beneficial use of water was developed under this permit.

If you are no longer interested in this permit you can shorten the voiding process by signing and returning the enclosed relinquishment form.

If you have any questions in regard to this matter, please contact me at 327-7946.

Respectfully,

Shelley Walter Keen

Shelley Walter Keen
Water Right Supervisor

SWK:rl

Enclosure

47-08136

Date: Sent to S.O.

JUL 28 1995

April 12, 1991

CRAIG E. OLLINGER
DEBORAH L. OLLINGER
RT. 4 BOX 286A
BUHL, ID 83316

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 47-08136

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

If you have questions concerning this matter, please feel free to contact the SOUTHERN Regional Office in Twin Falls at (208)734-3578.

Sincerely,

Rita Fleck
Secretary/Records Manager

c: IDWR - Region

DW 2

For Office Use Only
Amt. of Fee \$ _____
Date _____
Receipt No. _____
Received by _____

RECEIVED
MAR 19 1991

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

No \$ enclosed
Department of Water Resources

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has/have 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.

1. Permit No. 47-08136 Telephone No. 543-8385
2. Name(s) of Permit Holder(s): CRAIG E. & DEBORAH L. OLLINGER
3. Post Office Address: RR #4 Box 286A Buhl, ID 83316
4. Source of Water: DOMESTIC WELL
- a. If ground water, well driller's name: N/A Date drilled: 1975 (?)
- b. Pump horsepower: 3 Hp Pressure (psi): 50-75 Dynamic pumping level (ft.): est 70 FT

5. Extent of Use:

Domestic 6 (No. of households)

Irrigation est 2.5 (No. of acres)

Stockwater Pigs (4) (No. and type of stock)

Other ORCHARDS & GARDEN

(INCLUDED IN THE 2.5A)

6. Total rate and/or volume for which proof is submitted 0.04 cfs _____ acre/feet

7. Refer to the approval conditions on your permit and respond accordingly:

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

OR

Flow Measurement Port: Required? Yes ☒ No Installed? Yes ☐ No

8. Fee Enclosed: \$ _____ (See License Examination Fee Schedule)

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

CRAIG OLLINGER

543-8385

Name

Telephone No.

RR #4 Box 286A Buhl, ID 83316

Address

10. The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

3/17/91

Date

[Signature]
Signature (and title if on behalf of a company or organization)

RECEIVED

May 5 1989
Department of Water Resources
Southern Region Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 47-08136

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant Craig E. &/or Deborah L. Ollinger Phone 543-8385
Post office address Rt. 4 Box 286A, Buhl, ID 83316

2. Source of water supply Groundwater which is a tributary of

3. Location of point of diversion is SW 1/4 of NW 1/4 of SE 1/4, Govt. Lot
Sec. 24 Township 9S Range 14E B.M. Twin Falls County; additional
points of diversion if any:

4. Water will be used for the following purposes:

Amount 0.09 cfs for Irrigation purposes from Mar 15 to Nov 15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)
Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)
Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) 0.09 cubic feet per second and/or (b) acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Existing well & pump

b. Height of storage dam feet; active reservoir capacity acre-feet; total
reservoir capacity acre-feet; period of year when water will be diverted to storage:
to inclusive.

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

d. Is ground water with a temperature of greater than 90°F being sought? No

7. Time required for the completion of the works and application of the water to the proposed beneficial use is
5 years (minimum 1 year).

47-8136

8. Description of proposed uses (if irrigation only, go to item 9):

- Hydropower; show total feet of head and proposed capacity in KW. _____
- Stockwatering; list number and kind of livestock. _____
- Municipal; show name of municipality. _____
- Domestic; show number of households. _____
- Other; describe fully. _____

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 the use (example: *D* for *Domestic*) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
9S	14E	24														3			3

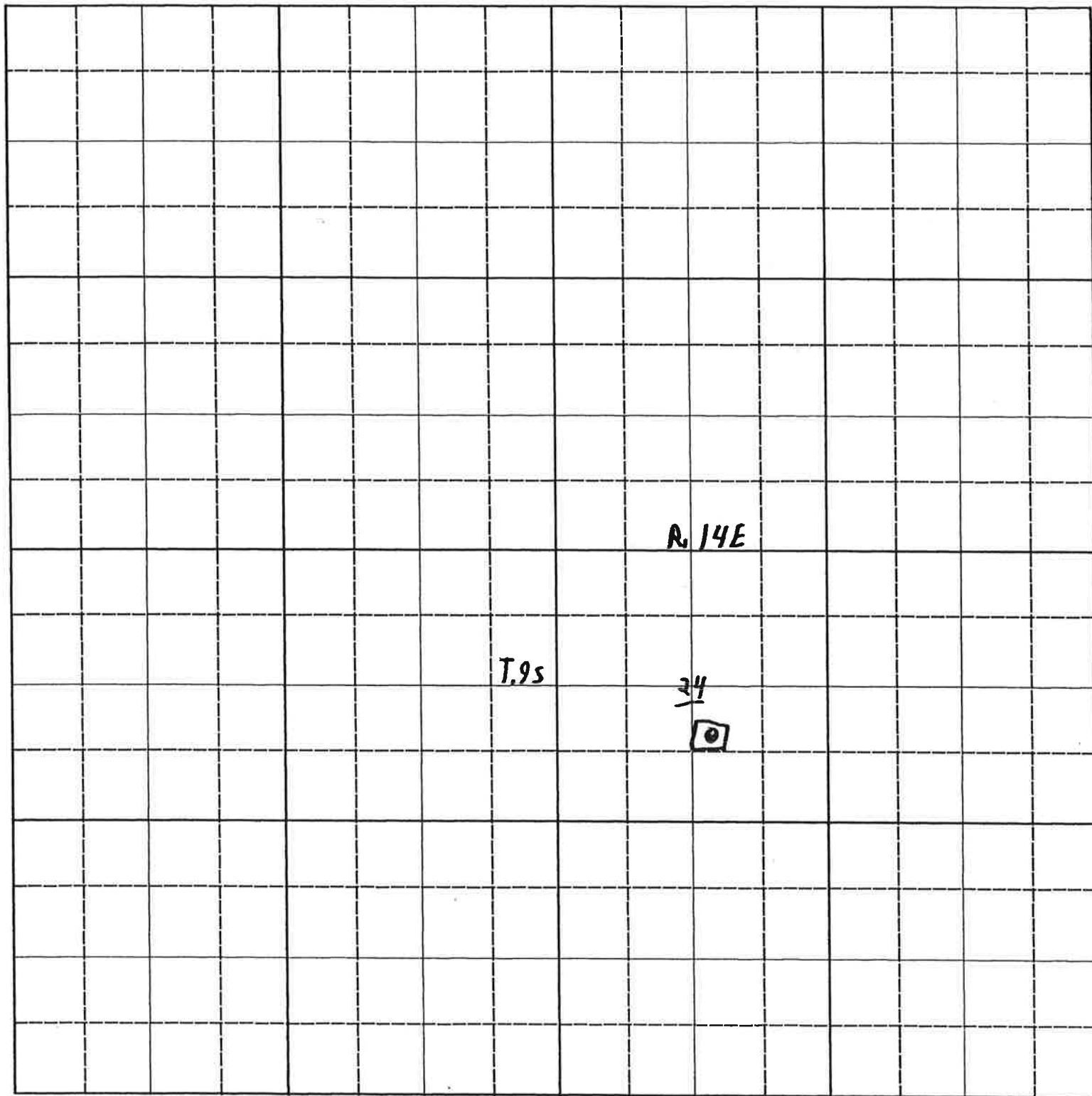
Total number of acres to be irrigated 3

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

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

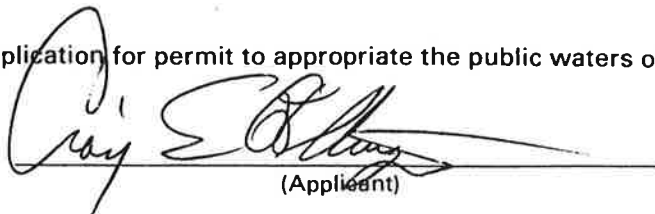
12. Remarks: There is an existing domestic use on the property (see Claim A47-07264).

13. 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 11/1/88

Received by J Date 11-1-88 Time 3:20 pm Preliminary check by AD

Fee \$ 30.00 Received by J # 500 3423 Date 11-1-88

Publication prepared by M. Baldwin Date 2/8/89 Published in Times News

Publication approved M. Baldwin Date 2/27/89

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. 47-8136, 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 May 1, 19 91.

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

e. Other: Permit holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

Irrigation use under this permit is authorized only in connection with a domestic use.

Permit holder shall commence the excavation or construction of diverting works within one year of the date this permit is issued and shall proceed diligently until the project is complete.

Witness my hand this 19th day of April, 1989.

J. Glen Saxton