

IDAHO DEPARTMENT OF WATER RESOURCES  
Proof Report

8/7/2020

Water Application 47-8058

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	NANCY DUFFY 2738 E 2400 N TWIN FALLS, ID 83301 (208) 655-4337
Current Owner	JERRY G DUFFY 2400 N 2738 E TWIN FALLS, ID 83301 (208) 655-4337

Status: Denied

Source

Tributary

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
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Source and Point(s) of Diversion

Place Of Use

Conditions of Approval:

Comments:

Dates and Other Information

Number of Protests: 0  
Water District Number: TBD  
Application Type: New Appropriation  
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR  
PERMIT NO. 47-8058

JERRY G. AND/OR NANCY DUFFY

Applicants,

JONES CORP., R. J. AND RUTH OWEN,  
JO ANN LOHR, and SHULL ENTERPRISES;

Protestants.

SOURCE: Ground water  
COUNTY: Twin Falls

PROPOSED MEMORANDUM DECISION AND ORDER  
APPROVING APPLICATION FOR PERMIT NO. 47-8058

Jerry G. and/or Nancy Duffy (applicants) having filed with the Department of Water Resources Application for Permit No. 47-8058 to appropriate unappropriated water, protests having been received, and a hearing having been held, the department finds and concludes as follows:

FINDINGS OF FACT

The Application

1. On January 23, 1987, Jerry G. and/or Nancy Duffy applied to the Department of Water Resources for a permit to appropriate 1.0 cubic foot per second (cfs) of water from ground water. The application indicated that water with a temperature greater than 90° F. was being sought and proposed to use the water as follows:

<u>AMOUNT</u>	<u>USE</u>	<u>PERIOD OF USE</u>
1.00 cfs	Commercial (Swimming pool)	1/1 TO 12/31
0.10 cfs	Heating (Space heating a shop & Home)	1/1 TO 12/31
0.35 cfs	Domestic (55 RV campsites & 1 home)	1/1 TO 12/31
1.00 cfs	Irrigation (50 acres)	3/15 TO 11/15

2. The location of the proposed point of diversion is the NE1/4NE1/4NW1/4, Sec. 31, Twp. 12S, Rge. 17E B.M., Twin Falls County and the place of use on 50 acres of land in the SE1/4SW1/4, SW1/4SE1/4, Sec. 30; and NE1/4NW1/4, Sec. 31, Twp. 12S, Rge. 17E B.M., Twin Falls County.

3. Notice of the application was published in the Twin Falls Times News on February 19 and 26, 1987.

#### Applicants' Project

4. A replacement well was drilled for the applicants in January, 1987 to supply water for the Nat-Soo-Pah resort. The old well, drilled in 1951, had deteriorated and no longer produced sufficient water to operate the resort. The 1951 well was itself, a replacement for a well which was drilled in the late 1920's to tap flows of a natural hot spring for use in the resort swimming pool which was constructed in 1928.

5. The construction of the new well is documented in a well driller's report prepared by well driller Robert E. Denton on January 17, 1987. The well was completed on January 6, 1987. The report indicates that the well is drilled in sedimentary rocks to a depth of 398 feet, that water was encountered from a depth of 341 feet to the bottom of the hole and that the well is 20 inches in diameter from the surface to 354 feet, 16 inches in diameter from 354 feet to 381 feet, and 12 inches in diameter from 381 to 398 feet. A 16-inch steel casing is reported to be installed from the surface to 254 feet and a 12-inch perforated casing installed from 361 feet to 397 feet. The well produces an artesian flow of 680 gallons per minute (1.52 cfs) of water at a temperature of 99° F. There was a pressure of 25 pounds per square inch at the wellhead when closed in.

6. The applicants indicated that a flow of 300 gallons per minute (0.67 cfs) was sufficient under normal operating conditions to maintain a pool temperature of 82° F. and to maintain clarity of the water. According to the applicants, water clarity so that swimmers can be seen underwater in the deep parts of the pool is the most difficult water quality parameter to maintain.

7. The applicants also indicated that a flow of water through the pool in the winter was necessary to warm the ground around the pool and prevent frost damage to the concrete decks surrounding the pool.

#### Protests

8. Protests against approval of the application were received from Jones Corporation, Oran Jones; president; Jo Ann Lohr; R. J. And Ruth Owen; and William L. Nungester, attorney for Shull Enterprises.

9. The protestants objected to issuance of a permit on the grounds that it would injure existing water rights by lowering water levels in wells owned by the protestants.

10. The wells drilled on what is now the Jones Corp. property in 1903

and 1904 produced artesian flows of 375 miner's inches (7.5 cfs) and pressure equal to 20 feet above land surface.

11. Additional wells were drilled in 1912 and diversion of ground water increased. Pumps were added to the wells in the 1940's. With the start of pumping, most of the wells and some springs ceased to flow.

12. A flowing well on the Jones property has ceased to flow and the water level has dropped to 4 feet below land surface since completion of the Duffy well.

#### Conference and Hearing

13. A pre-hearing conference was held on April 1, 1987, and a hearing in the matter was held on December 8, 1987. Present at the hearing were the applicants, Jerry and Nancy Duffy who were represented by Robert C. Weaver, attorney; protestants Jones Corporation, represented by Roger Jones, Orrin Jones, and Ora Jones; Jo Ann Lohr, representing herself; and R. J. & Ruth Owen, representing themselves. Shull Enterprises did not have a representative at the hearing.

#### Additional Information Considered

14. In addition to the application and the testimony of the parties, the following information is considered in reaching this decision:

- a) The well driller's report for the applicants' well completed January 6, 1987;
- b) Memorandum dated March 25, 1987 from Leah Street, Idaho Department of Water Resources geologist describing well locations, ground water levels, and geology in the Nat-Soo-Pah area;
- c) The water right records of the department.
- d) Idaho Department of Health and Welfare Rules and Regulations for Public Swimming Pools in Idaho.

#### Water Rights of the Applicants

15. Department records contain the following water rights associated with the Nat-Soo-Pah resort:

##### Claim 47-4148 (amended)

Priority Date: January 1, 1926

Amount: 0.28 cfs

Uses:	Commercial	0.28 cfs	from 1/1 to 12/31
	Irrigation	0.28 cfs	from 1/1 to 12/31
	(38 acres)		
	Domestic	0.04 cfs	from 1/1 to 12/31
	Stockwater	0.12 cfs	from 1/1 to 12/31
	(3000 sheep)		

Claim 47-4147 (amended)

Priority Date: January 1, 1951

Amount : 0.87 cfs

Uses:	Commercial	0.60 cfs	from 1/1 to 12/31
	Heating	0.52 cfs	from 1/1 to 12/31
	Domestic	0.26 cfs	from 1/1 to 12/31
	Irrigation	0.87 cfs	from 3/15 to 11/15
	(41 acres)		

Permit No. 47-7624

Priority Date: January 8, 1980

Amount: 0.30 cfs

Uses:	Commercial	0.30 cfs	from 1/1 to 12/31
	(Spa & heating bath facilities)		

Water Rights of the Protestants

16. Department records indicate the following rights to the use of ground water in the names of the protestants.

NUMBER	NAME	PRIORITY	AMOUNT (cfs/afa)	USES	ACRES
47-4011	Jones Corp.	8/24/1912	0.50	Irrigation Domestic Stockwater	780
47-4012	Jones Corp.	8/24/1912	0.50	Irrigation Stockwater	780
47-4013	Jones Corp.	8/24/1912	0.30	Irrigation Stockwater	740
47-4308	David R. Lohr	6/1/1953	1.00	Irrigation	154
47-2285	Mildred Jones	3/10/1955	3.66/648	Irrigation	185
47-2406	Shull Enterprises	8/13/1965	2.00/700	Irrigation	200

CONCLUSIONS OF LAW

Applicable Legal Principles

1. Idaho Code, Sec. 42-203A(5) (Supp. 1987) states in part as follows:

The director of the department of water resources shall find and determine from the evidence presented to what use or uses the water sought to be appropriated can be and are intended to be applied. In all applications whether

protested or not protested, where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the department that such application is not made in good faith, and is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people directly affected by the proposed use; the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit on conditions.

2. Idaho Code, Sec. 42-226 (supp. 1987) states in part as follows:

The traditional policy of the state of Idaho, requiring water resources of this state to be devoted to beneficial use in reasonable amounts through appropriation, is affirmed with respect to the ground water and, while the doctrine of "first in time is first in right" is recognized, a reasonable exercise of this right shall not block full economic development of the underground water resources. Prior appropriators of underground water shall be protected in the maintenance of reasonable ground water pumping levels as may be established by the director of the department of water resources as herein provided. In determining a reasonable ground water pumping level or levels, the director of the department of water resources shall consider and protect the thermal and/or artesian pressure values for low temperature geothermal resources and for geothermal resources to the extent that he determines such protection is in the public interest.

3. Domestic wells drilled prior to [March 29,] 1978, are exempt from provisions of Idaho Code, Sec 42-226 (supp 1987). Parker v. Wallentine, 103 Idaho 506, 510 (1982).

4. Idaho Code, Sec. 42-233 (supp. 1987) states in part as follows:

(1) The right to the use of low temperature geothermal resources of this state shall be acquired by appropriation. The appropriation may be perfected by means of the application permit and license procedure as provided in this chapter for ground water, provided that low temperature geothermal resources shall be utilized primarily for heat value and secondarily for the value as water. Usage of a low temperature geothermal resource primarily for reasons other than heat value is not a beneficial use of the resource, unless the director of the department of water resources exempts the proposed use. The director may exempt the

proposed use if the director finds that the proposed use satisfies the following criteria: (i) there is no feasible alternative use of the resource; (ii) there is no economically viable source of water having a bottom hole temperature of eighty-five (85) degrees or less in a well available; and (iii) the exemption is in the public interest.

5. Rule 1-7220.01 of the Rules and Regulations for Public Swimming Pools (16 IDAPA, 1982) states:

Flow Rate. A recirculation system, consisting of pumps, piping, filter, water conditioning, disinfection equipment, and other accessory equipment shall be so designed and sized as to completely recirculate the swimming pool volume of water in six (6) hours. The minimum operational turnover rate of the recirculation system at the end of a filter run shall be at least once every eight hours.

#### Application of Legal Principles

6. The applicants have existing claims filed for water rights developed by use of 1.45 cfs which is adequate for the use that is proposed by this application, therefore, the granting of this permit would serve no purpose unless the prior claimed water rights are invalid.

7. Shull Enterprises did not appear at the hearing, therefore, their protest is set aside.

#### ORDER

IT IS THEREFORE, HEREBY ORDERED that Application for Permit No. 47-8058 be DENIED.

Dated this 6<sup>th</sup> day of September, 1988.

  
BOBBY D. FLEENOR,  
Hearing Officer

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Jerry G. <sup>and</sup> / or Nancy Duffy Phone 655-4337  
Post office address Route #1 Box 4640, Twin Falls, ID 83301
2. Source of water supply Groundwater which is a tributary of \_\_\_\_\_
3. Location of point of diversion is NE  $\frac{1}{4}$  of NE  $\frac{1}{4}$  of NW  $\frac{1}{4}$ , Govt. Lot \_\_\_\_\_  
Sec. 31 Township 12S Range 17E B.M. Twin Falls County; additional  
points of diversion if any: \_\_\_\_\_
4. Water will be used for the following purposes:
- Amount 1.00 for Commercial purposes from 1/1 to 12/31 (both dates inclusive)  
(cfs or acre-feet per annum)
- Amount 0.10 for Heating purposes from 1/1 to 12/31 (both dates inclusive)  
(cfs or acre-feet per annum)
- Amount 0.35 for Domestic purposes from 1/1 to 12/31 (both dates inclusive)  
(cfs or acre-feet per annum)
- Amount 1.00 for Irrigation purposes from Mar 15 to Nov 15 (both dates inclusive)  
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 1.0 cfs and/or (b) \_\_\_\_\_  
cubic feet per second acre feet per annum
6. Proposed diverting works:
- a. Description of ditches, flumes, pumps, headgates, etc. 16" x 398' well with natural  
Discharge flows into pool, a portion will be pressurized to serve  
RV sites and heat a new home and supply its domestic
- 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~~ <sup>Existing</sup> well diameter is 16 inches; ~~proposed~~ <sup>Existing</sup> depth of well is 398 feet.
- d. Is ground water with a temperature of greater than 90°F being sought? yes
7. Time required for the completion of the works and application of the water to the proposed beneficial use is  
3 years (minimum 1 year).

47-8058

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

- a. Hydropower; show total feet of head and proposed capacity in KW. \_\_\_\_\_
- b. Stockwatering; list number and kind of livestock. \_\_\_\_\_
- c. Municipal; show name of municipality. \_\_\_\_\_
- d. Domestic; show number of households. 55 additional R.V. Camps. to hookups + 1 new home
- e. Other; describe fully. Additional water for commercial use will be to fill the pool when pool is filled well will be used down to maintain desired temp. Heating of 1440 sq ft Shop and New house. (See attached sheet for justification)

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. 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	
12S	17E	30											5			21			26
		31					24												24

Total number of acres to be irrigated 50

10. Describe any other water rights used for the same purposes as described above. 47-4147, 47-4148  
47-7624

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

12. Remarks: The well covered under this Application was drilled to replace old wells which have caved in and flow had reduced significantly. Irrigation water is water after use in keeping pool warm. All Commercial use is in conjunction with NetSoo-Pak Resort.

(Applicant)

Received by T. Blau Date 1-23-87 Time 12:30 Preliminary check by A.F.  
Fee \$ 45<sup>00</sup>/100 Receipted by T. Blau # 40656 Date 1-23-86  
Publication prepared by M. Baldwin Date 2/3/87 Published in Times News <sup>2/19 + 2/26/87</sup>  
Publication approved M. Baldwin Date 3/3/87

### 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. \_\_\_\_\_, and said application is hereby \_\_\_\_\_.

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 \_\_\_\_\_, 19 \_\_\_\_.

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:

RECEIVED

OCT 27 1988

Department of Water Resources  
Southern Region Office

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR )  
PERMIT NO. 47-8058 IN THE NAME OF )  
JERRY G. AND/OR NANCY DUFFY )

ORDER ADOPTING  
PROPOSED MEMORANDUM  
DECISION AND ORDER

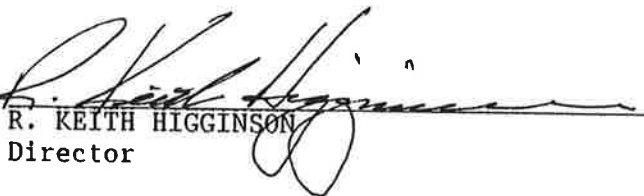
WHEREAS, R. Keith Higginson, Director of the Department of Water Resources having issued and served a copy on the parties on September 8, 1988, a Proposed Memorandum Decision and Order in the above-captioned matter, pursuant to Section 67-5211, Idaho Code; and,

WHEREAS, more than fifteen days have passed since the service of the Proposed Memorandum Decision and Order; and,

WHEREAS, no exception to that Proposed Memorandum Decision and Order has been received;

IT IS, THEREFORE, HEREBY ORDERED that said Proposed Memorandum Decision and Order be adopted and issued as the Final Decision and Order and Application for Permit No. 47-8058 is denied.

Dated this 18th day of October, 1988.

  
R. KEITH HIGGINSON  
Director

47-8058

RECEIVED

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

DENIED

OCT 1985 To appropriate the public waters of the State of Idaho

Department of Water Resources  
Southern Region Office

1. Name of applicant Jerry G. and/or Nancy Duffy Phone 655-4337

Post office address Route #1 Box 4640, Twin Falls, ID 83301

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

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Sec. 31 Township 12S Range 17E B.M. Twin Falls County; additional

points of diversion if any: \_\_\_\_\_

4. Water will be used for the following purposes:

Amount 1.00 for Commercial purposes from 1/1 to 12/31 (both dates inclusive)  
(cfs ~~on acre-foot per annum~~)

Amount 0.10 for Heating purposes from 1/1 to 12/31 (both dates inclusive)  
(cfs ~~on acre-foot per annum~~)

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(cfs ~~on acre-foot per annum~~)

Amount 1.00 for Irrigation purposes from Mar 15 to Nov 15 (both dates inclusive)  
(cfs ~~on acre-foot per annum~~)

5. Total quantity to be appropriated is (a) 1.0 cfs and/or (b) \_\_\_\_\_  
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. 16" x 398' well with natural  
Discharge flows into pool, a portion will be pressurized to serve  
R.V. sites and heat a new home and supply its domestic

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~~ <sup>Existing</sup> well diameter is 16 inches; ~~proposed~~ <sup>Existing</sup> depth of well is 398 feet.

d. Is ground water with a temperature of greater than 90°F being sought? yes

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

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

a. Hydropower; show total feet of head and proposed capacity in KW. \_\_\_\_\_

b. Stockwatering; list number and kind of livestock. \_\_\_\_\_

c. Municipal; show name of municipality. \_\_\_\_\_

d. Domestic; show number of households. 55 additional R.V. Camps. 6 hookups + 1 new home

e. Other; describe fully. additional water for commercial use will be to fill the pool when pool is filled well will be used down to maintain desired temp. Heating of 1440 sq ft Shop and New house. (See attached sheet for justification)

9. Description of place of use:

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

b. 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.

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			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
12S	17E	30												5			21		26
		31					24												24

Total number of acres to be irrigated 50

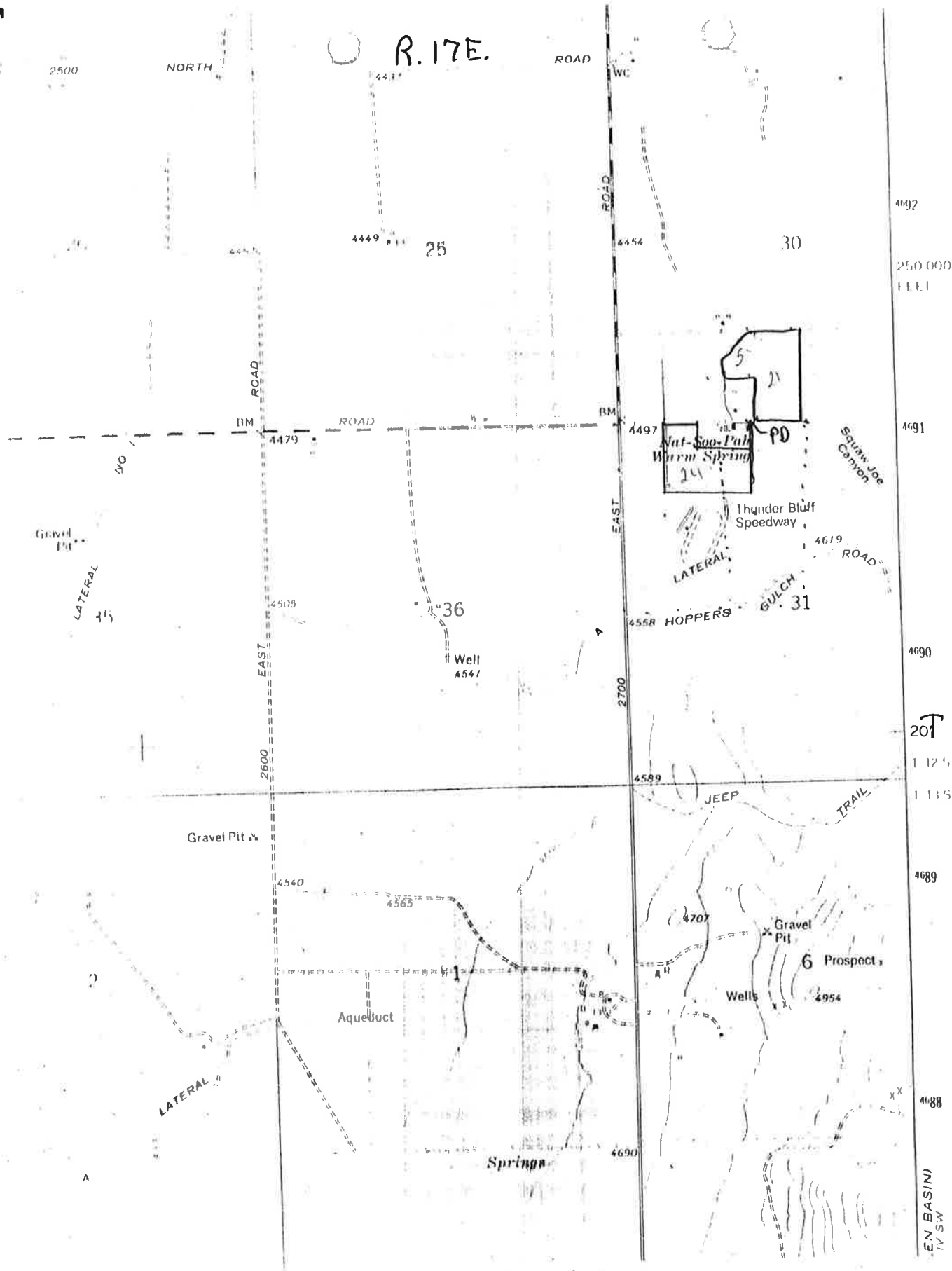
10. Describe any other water rights used for the same purposes as described above. 47-4147, 47-4148  
47-7624

11. a. Who owns the property at the point of diversion? Applicant

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

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

12. Remarks: The well covered under this Application was drilled to replace old wells which have caved in and flow had reduced significantly. Irrigation water is water after use in keeping pool warm. All Commercial use is in conjunction with Net Soa-Pak Resort.



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.

*Henry Duffey*  
(Applicant)

Received by T. Blau Date 1-23-87 Time 12:30 Preliminary check by A.F.  
Fee \$ 45<sup>00</sup>/<sub>100</sub> Receipted by T. Blau # 40656 Date 1-23-87  
Publication prepared by M. Baldwin Date 2/3/87 Published in Times News <sup>2/19 + 2/26/87</sup>  
Publication approved M. Baldwin Date 3/3/87

### 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. 47-8058, and said application is hereby DENIED.

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 \_\_\_\_\_, 19 \_\_\_\_.
- 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: Pursuant to Proposed Memorandum Decision and Order & Order Adopting Proposed Decision and Order.

Dated this 18th day of October, 1988.

  
R. KEITH HIGGINSON, Director

September 27, 1988

Mr. Bobbie Fleenor  
Department of Water Resources  
State Office  
Statehouse Mail  
Boise, Idaho 83720

Re: Permit No. 47-<sup>8058</sup>~~0858~~  
Jerry G. or Nancy Duffy

Dear Bobbie:

I visited with Mr. Duffy concerning the decision regarding the above permit. While Mr. Duffy does not want to protest or appeal the decision, there are two points of clarification he would like to have made. One, is on your Findings of Fact No. 6, while it is not too important, the water temperature is 92° and that is what he testified to at the hearing. The only other thing Mr. Duffy has concerns about is the fact he drilled another well as a replacement well and he wants to be insured he can continue to use that well as a replacement well even though he takes no more than what his prior application show.

With those questions in mind, could you please issue a clarification on those points so Mr. Duffy's permits will be allowed to flow from the replacement well. Thank you for your attention to this matter.

Sincerely yours,

ROBERT C. WEAVER

RCW:sh

47-8058-44



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

October 5, 1988

Robert C. Weaver  
Weaver and Melanson  
130 N. Broadway  
Buhl, Idaho 83316

Re: Application for Permit No. 47-8058 Jerry G. or Nancy Duffy

Dear Bob:

Your September 27 letter asked for clarification of points on the decision reached on Application for Permit No. 47-8058.

You are correct that Mr. Duffy testified that the flow from the new well is adequate to keep the pool temperature at 92°, but he also stated, and that was what was the subject of Findings of Fact No. 6, that the wintertime flow kept the temperature at 82°. His testimony was that the temperature of the pool was 82° on the day of the hearing.

The second point is concerning the use of the replacement well. It has long been the policy of the department to allow a replacement well to be drilled in the same 40 acre land survey tract without the need for filing a transfer application. Therefore, if this well is a replacement well, then no further action is required for Mr. Duffy to use the well.

We hope this has answered your concerns. The final decision in this matter should be issued shortly.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Bobby'.

Bobby D. Fleenor  
Chief of the Regional Bureau