

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/7/2020

Water Permit 47-8053

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	FRED F KIPPES , ZZ

Status: Cancelled

<u>Source</u>	<u>Tributary</u>
---------------	------------------

<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

Water District Number: TBD
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A



State of Idaho

Date Sent to S.O. MAY 16 1995

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

04-Jan-1989

Paul Howell
Rt.2 Box 51A
Buhl, ID 83316

Re: Application 47-8053, Fred Kippes

Dear Mr Howell:

Enclosed as requested are copies of the field notes taken during water measurements on the Galloway Drain on January 27 & April 7, 1988.

Please let us know if this information affects the status of your protest.

Very Truly yours,

Loren O. Holmes, P. E.
Southern Region Manager

47-08053



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

04-Jan-1989

Fred F. Kippes
Rt. 2 Box 50
Buhl, ID 83316

Re: Application for permit 47-8053

Dear Mr. Kippes:

Enclosed are copies of water measurements made on January 27 & April 7, 1988 to determine the high and low flows of the seep drain filed on under your application.

Please let us know if you are ready to proceed with a hearing in the matter or if you wish to amend or withdraw your application.

Very Truly yours,

Loren O. Holmes
Loren O. Holmes, P. E.
Southern Region Manager

47-8053

Water Right No.
(if applicable)

A. GENERAL INFORMATION

- ## B. MEASUREMENT DATA

[illegible]

C. DIAGRAMS

1. Measurement Location

Scale: _____ = _____

See earlier meas.
(1/27/88)

2. Cross-Section of Measurement

Scale _____ = _____

See earlier meas.
(1/27/88)

D. SUMMARY INFORMATION

1. Measurement rated

_____ excellent ☒ good _____ fair _____ poor

2. Remarks:

Seep drain output = $2.94 - .97 = 1.97$ cfs

3. Width: _____ **Area:** _____ **Discharge in cubic feet per second:** _____

4/7/83

DATE


SIGNATURE OF PERSON CONDUCTING MEASUREMENT

0 .10 .20 .30 .40 .50 .60 .70 .75 .80 .85

Form 219-N
7/86

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

47-8053
Water Right No.
(if applicable)

Open Channel Discharge Measurement Notes

A. GENERAL INFORMATION

1. Name of stream or ditch: Galloway Drain .92
2. Location: Sec 8 T10S R14E
3. Person conducting measurement: Loren Holmes .94
4. Date and time of measurement: 11/27/85 3 PM
5. Accompanied by: _____ .96
6. Measuring device size and ID no.: 1" x 1/2" x 1/2" 090177 Rating: 1 Rev/sec = 1 ft/sec .97
7. Spin test before measurement OK? OK after measurement OK? OK
8. Purpose of measurement: Protected Area - 100' x 100' - 100' x 100' .98

B. MEASUREMENT DATA

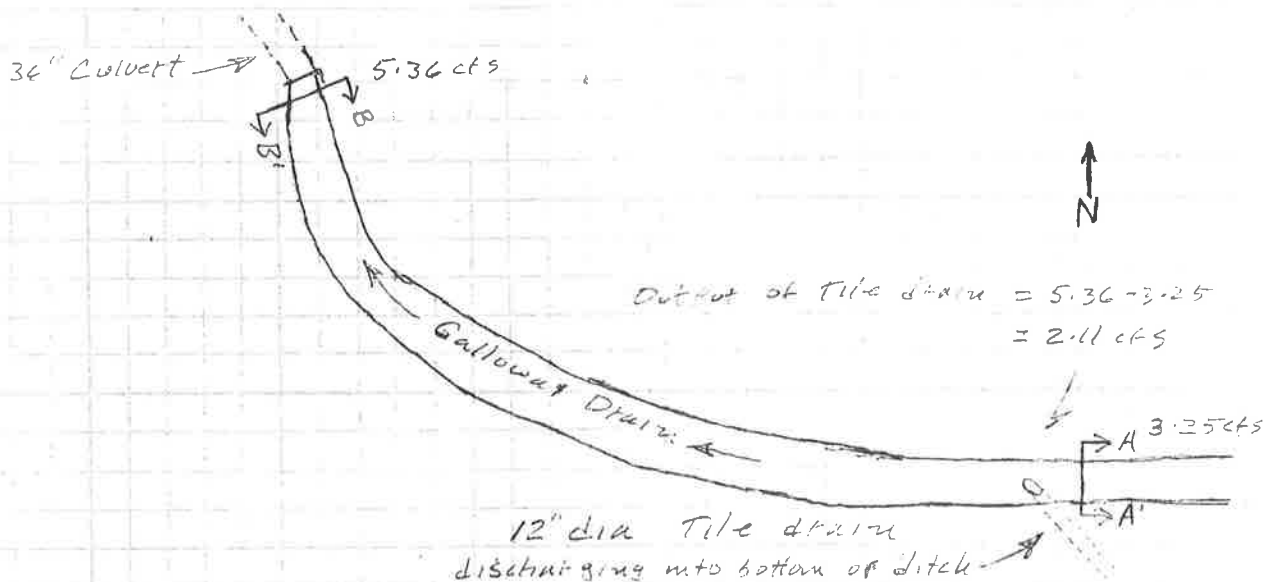
Angle co-efficient	Dist. from Initial point	Width	Depth	Observation depth	Revolutions	Time in seconds	VELOCITY		Adjusted for hor. angle or	Area	Discharge
							At point	Mean in vertical			
	LEW 0		0							0	0
	2.0	1.0	0.25	.6	10	2.5		.48		.25	.12
	2.2	1.0	0.45	.6	32	4.5		.80		.45	.36
	2.4	1.0	0.75	.6	50	4.0		1.148		.45	.66
	6.0	1.0	0.55	.6	22	4.2		.52		.55	.29
	7.0	1.0	0.50	.6	55	4.0		1.138		.50	.67
	8.0	1.0	0.50	.6	26	4.0		.65		.60	.39
	2.2	.75	0.65	.6	53	4.0		1.133		.49	.65
	2.2	.75	0.65	.6	10	4.2		.24		.39	.09
		.5		.6	0	8.0		—		.50	0
		.75	0							0	0
		1.80									3.25
	1.2	.25	0.45		0	—		0		.11	0
		.50	0.50	.6	19	4.0		.45		.25	.11
		.75	0.50	.6	23	4.0		1.125		.49	.61
		1.0	0.50	.6	20	4.0		2.08		.65	1.35
	5.0	1.0	0.95	.6	95	4.0		2.138		.95	2.26
	5.0	.75	0.95	.6	48	4.0		1.20		.71	.86
	6.5	.35	0.90	.6	21	4.0		.53		.32	.17
	1.0	.10	0.90		0			0		.09	0

0 .10 .20 .30 .40 .50 .60 .70 .75 .80 .85

C. DIAGRAMS

1. Measurement Location

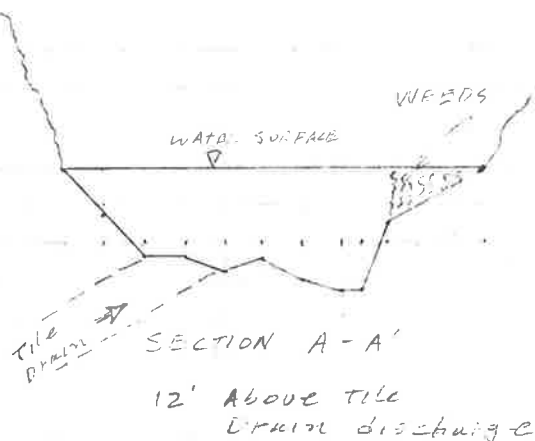
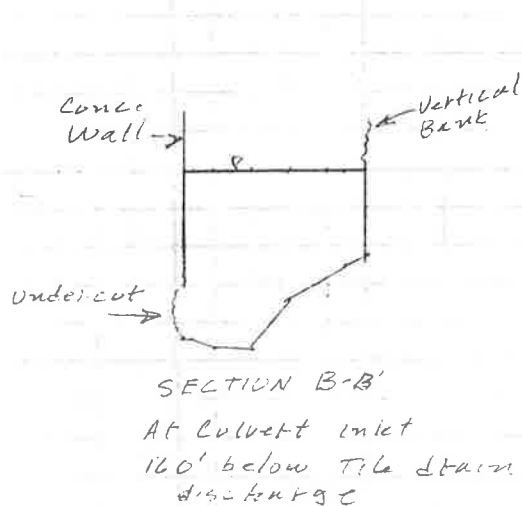
Scale: 1" = 50' Approx.



2. Cross-Section of Measurement

Horiz Scale 1" = 10'

Vertical Scale: 1" = 1'



D. SUMMARY INFORMATION

1. Measurement rated _____ excellent ☒ good _____ fair _____ poor

2. Remarks: Measurements to determine output of tile drain
 $Q_{\text{drain}} = 5.36 - 3.25 = 2.11$ cfs

3. Width: _____ Area: _____ Discharge in cubic feet per second: _____

1/27/58
 DATE

Lawrence D. Fairbank
 SIGNATURE OF PERSON CONDUCTING MEASUREMENT



State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

Mailing Address:
Southern Region
2148 4th Ave. East
Twin Falls, Idaho 83301
(208) 734-3578

January 4, 1988

Twin Falls City Police Dept.
356 3rd Ave. E.
Twin Falls, ID 83301

Dear Gentlemen:

This is to confirm the use of the Conference room for two conferences and/or hearings to be held by this office on Wednesday, 01/20/1988, at 10:00 a.m. and 1:30 p.m.

Thank you very much for your cooperation.

Sincerely yours,

Lori White

Lori A. White
Clerk

LW

IN THE MATTER OF PROTESTS
AGAINST APPROVAL OF APPLICATION
FOR PERMIT NO. 47-8053 IN THE
NAME OF FRED F. KIPPES

Loren O. Holmes
Loren O. Holmes
Southern Region Manager



State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

Mailing Address:
Southern Region
2148 4th Ave. East
Twin Falls, Idaho 83301
(208) 734-3578

December 16, 1987

Fred F. Kippes
Rt. 2 Box 50
Buhl, ID 83316

Re: Application for Permit No. 47-8053, Fred F. Kippes

Dear Mr. Kippes:

This office is tentatively planning to schedule the matter of the above referenced application for permit for conference and/or hearing on January 19, 1988 in Twin Falls.

Formal notices giving the time and place for hearing will be sent by certified mail about January 4, 1988.

If you have a conflict on the proposed date, please advise this office prior to January 4, 1988.

Very Truly yours,

Loren O. Holmes, P. E.
Southern Region Manager

LOH



State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

Mailing Address:
Southern Region
2148 4th Ave. East
Twin Falls, Idaho 83301
(208) 734-3578

December 16, 1987

Paul A. Howell
Rt. 2 Box 51A
Buhl, ID 83316

Re: Application for Permit No. 47-8053, Fred F. Kippes

Dear Mr. Howell:

This office is tentatively planning to schedule the matter of the above referenced application for permit for conference and/or hearing on January 19, 1988 in Twin Falls.

Formal notices giving the time and place for hearing will be sent by certified mail about January 4, 1988.

If you have a conflict on the proposed date, please advise this office prior to January 4, 1988.

Very Truly yours,

Loren O. Holmes, P. E.
Southern Region Manager

LOH



ate of Idaho
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

March 19, 1987

Paul A. Howell
Rt. 2, Box 51-A
Buhl, ID 83316

Re: 47-8053 (Kippes)

Dear Mr. Howell:

At the Applicant's request, hearing in the matter of application 47-8053 will be postponed until July or August, 1987.

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb



ate of Idaho
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

March 19, 1987

Fred F. Kippes
Rt. 2, Box 50
Buhl, ID 83316

Re: 47-8053

Dear Mr. Kippes:

At your request, hearing in the matter of application 47-8053
will be postponed until July or August, 1987.

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb

rch 16, 1987
R.R.#2 Box 50
Buhl, ID 83316

Mr. Loren O. Holmes
State of Idaho Department of Water Resources
2148 4th Ave. E.
Twin Falls, ID 83301

RECEIVED

MAR 17 1987

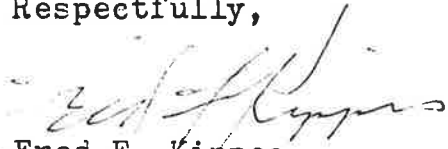
Department of Water Resources
Southern Region Office

Re: Your letter dated March 22, 1987

Mr. Holmes:

The tentative hearing date of April 2, 1987, is going to conflict with our existing schedule. Please reschedule for later in the year. A date in July or August would fit better with us. We plan no construction until fall anyway. Thank you.

Respectfully,


Fred F. Kippes



ate of Idaho
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

March 12, 1987

Fred F. Kippes
Rt. 2, Box 50
Buhl, ID 83316

Re: Application for Permit No. 47-8053

Dear Mr. Kippes:

This office is scheduling a Conference and/or Hearing in the matter of your Application for Permit No. 47-8053, which is protested by Paul A. Howell.

We have tentatively set the hearing for Thursday, April 2, 1987 in Twin Falls.

Formal notices of the Hearing will be sent by Certified Mail about March 20.

If you have any questions, please let us know.

Very truly yours,

A handwritten signature in cursive script, reading "Loren O. Holmes", is written over the typed name.

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb



ate of Idaho
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3573

March 12, 1987

Paul A. Howell
Rt. 2, Box 51-A
Buhl, ID 83316

Re: Application for Permit No. 47-8053

Dear Mr. Howell:

This office is scheduling a Conference and/or Hearing on Application for Permit No. 47-8053, filed by Fred F. Kippes, against which you have filed a protest.

We have tentatively set the hearing for Thursday, April 2, 1987 in Twin Falls.

Formal notices of the Hearing will be sent by Certified Mail about March 20.

. If you have any questions, please let us know.

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:mb



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

November 13, 1986

Fred F. Kippes
Rt. 2, Box 50
Buhl, ID 83316

Dear Mr. Kippes:

RE: 47-8053

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to your above referenced application. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider 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 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?
- 5) Will the proposed use conflict with the local public interest?

If this office can be of further assistance, please contact us.

Very truly yours,

LOREN O. HOLMES
Southern Region Supervisor

LOH:MB

Encl:



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION

John V. Evans
Governor

Kenneth D. Dineen
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

November 13, 1986

Paul A. Howell
Rt. 2, Box 51A
Buhl, ID 83316

Dear Mr. Howell:

Re: 47-8053

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider 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 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?
- 5) Will the proposed use conflict with the local public interest?

If this office can be of further assistance, please contact us.

Very truly yours,

LOREN O. HOLMES
Southern Region Supervisor

LOH:MB

We, Paul & Monica Howell, do hereby protest Application for Permit 47-8053. We believe that construction of fish ponds upstream from our existing ponds (see 47-7374) will degrade the quality of our water source and could lead to reduced production capacity and to increased incidence of disease in our ponds.

Signed 10-31-86

Paul A. Howell

Paul & Monica Howell
Rt. 2 Box 51A
Buhl, ID
83316

RECEIVED

OCT 31 1986

Department of Water Resources
Southern Region Office



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

October 29, 1986

William E. Webb, Supervisor
Idaho Dept. of Fish & Game
P.O. Box 428ID 83301
Jerome, ID 83338

RE: Application for Water Permit No. 47-8053

Dear Mr. Webb:

Enclosed for your information is a copy of an application for water permit which has been filed with this office.

If you have any questions or need additional information regarding this application, please feel free to contact this office.

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:MB

Enclosure



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

October 29, 1986

Jack H. Eakin
Twin Falls Canal Co.
Box 326
Twin Falls, ID 83301

RE: Application for Water Permit No. 47-8053

Dear Mr. Eakin:

Enclosed for your information is a copy of an application for water permit which has been filed with this office.

If you have any questions or need additional information regarding this application, please feel free to contact this office.

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Supervisor

LH:MB

Enclosure



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

October 29, 1986

Fred F. Kippes
Rt. 2, Box 50
Buhl, ID 83316

RE: 47-8053

Dear Mr. Kippes:

We have commenced processing of your Application for Permit No. 47-8053.

Since you plan to use the water for fish propagation purposes, the following items must be submitted for inclusion with your application before it can be forwarded for final action by the Director:

- 1) A plan of the proposed facility. This must be a scale drawing showing the proposed layout of the ponds on the property and giving length, width and depth dimensions of all ponds.
- 2) Proof of possessory interest in the land upon which the water is to be used. This may be in the form of a copy of a warranty deed, title report, sale or lease agreement, or tax notice, giving ownership and legal description of the property.
- 3) A detailed estimate of the construction costs. This must include estimated costs of each major component of the construction plan.
- 4) A statement of the financial resources of the corporation, association, firm, or person making the application and the means by which the funds necessary to construct the facility are to be provided.

This information will be reviewed in confidence and returned to you.

We estimate that advertising and protest period, as required by statute, will take until November 24, 1986.

If the necessary material is received before that date, there should be no additional delay in handling your application.

Fred F. Kippes
Page 2
October 29, 1986

Enclosed please find Receipt #38786 in the amount of \$185.00 for the filing fee for an application for permit.

If you have any questions, please feel free to contact this office.

Very truly yours,

Loren O. Holmes
Southern Region Supervisor

LOH:marya

RECEIVED

OCT 27 1986

Department of Water Resources
Southern Region Office

October 23, 1986
Rt. 2 Box 50
Buhl, AR 83316

Dept. of Water Resources

Mr. Stanton:

Enclosed find Check # 1460 in payment of
filing fee of \$185⁰⁰ on 8 cfs water right
out of Halloway drain.

Thank you -

Fred Hepp

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Fred F. Kippes Phone 543-8373
Post office address Rt. 2 Box 50, Buhl, ID 83316
2. Source of water supply Seepage which is a tributary of Unnamed Stream
(Galloway Drain)
3. Location of point of diversion is NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of NE $\frac{1}{4}$, Govt. Lot _____
Sec. 8 Township 10S Range 14E B.M. Twin Falls County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 8.0cfs for Fish Prop. purposes from Jan 1 to Dec 31 (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) 8.0 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. Buried pipeline to collect seep water.
Pipe to ponds for fry rearing or trout production. Pipe from ponds to Galloway
Drain.
 - 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).

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. Source will provide clean water needed for fry ^{rearing} production or possibly for trout production.

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	
10S	14E	8				X													

X = Fish Propagation Use

Total number of acres to be irrigated _____

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

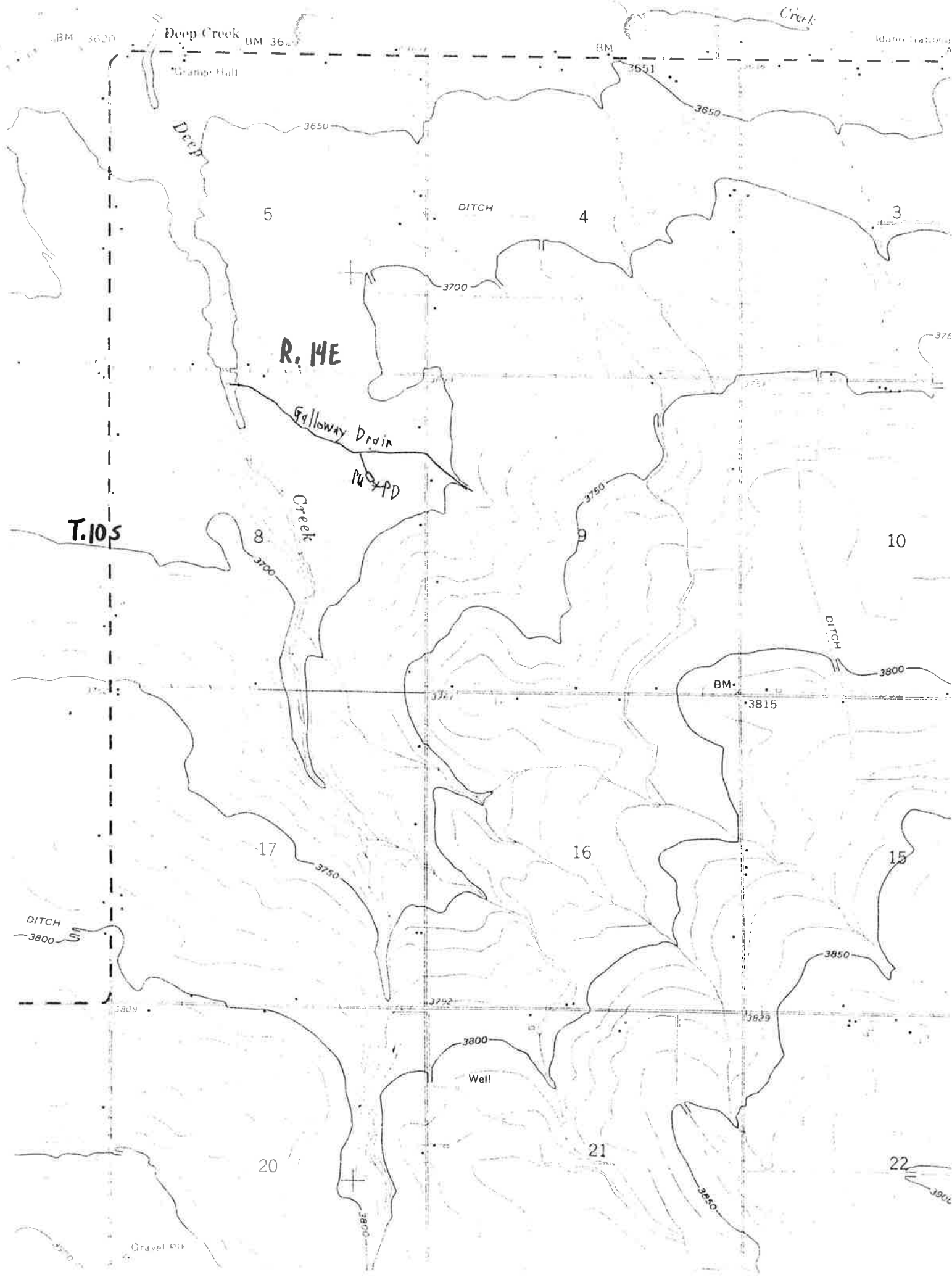
None from this source

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: _____



Received by JS Date 10-27-86 Time 11 am Preliminary check by ADM 10/29/86
Fee \$ 185.00 Received by M. Baldwin # 38786 Date 10/27/86
Publication prepared by M. Baldwin Date 10/29/86 Published in 11/6/86; 11/13/86
Publication approved M. Baldwin Date 11/24/86

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:



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

September 27, 1995

SEP 28 1995

PHILIP E. BATT
GOVERNOR

Department of Water Resources
Southern Region

KARL J. DREHER
DIRECTOR

RE: In the matter of Application for Permit No. 47-08053 in the name of Fred F. Kippes

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

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

47-08053

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 DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 47-08053 IN)
THE NAME OF FRED F. KIPPES)

PRELIMINARY ORDER

This matter having come before the Idaho Department of Water Resources (department), the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On October 27, 1986, Fred F. Kippes (applicant) filed Application for Permit No. 47-08053 with the department proposing the diversion of 8.0 cubic feet per second of water from Seepage tributary to an Unnamed Drain also known as Galloway Drain to be used year-round for fish propagation purposes in Twin Falls County, Idaho.

2. The department published notice of the application which was subsequently protested by Paul A. Howell.

3. On January 20, 1988, the department conducted a conference with the parties but was not able to resolve the matter.

4. On September 29, 1994, the department corresponded with the applicant and asked for the submittal of certain information including a financial statement, comments from several natural resource state agencies and proposed construction or operation techniques to reduce the impact on other water rights. The applicant did not provide the requested information.

5. On August 8, 1995, the department again corresponded with the applicant and requested the submittal of the same information. The department advised the applicant that failure to provide the requested information by September 11, 1995, would be cause for the department to reject the application. The applicant did not respond and did not provide the requested information.

CONCLUSIONS OF LAW

1. Section 42-204, Idaho Code, provides in pertinent part as follows:

If the application is returned to the applicant or the department shall request additional information and the applicant fails to return the corrected application or to supply the needed information within thirty (30) days, the department may void the record of said application and notify the applicant of such action.

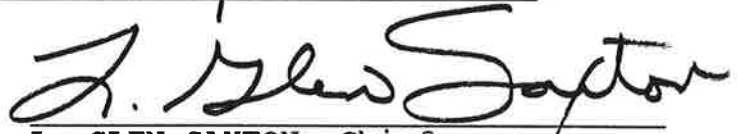
2. The applicant has not responded to the department and has not provided the requested information.

3. The department should void the record of the application pursuant to Section 42-204, Idaho Code.

ORDER

IT IS THEREFORE, HEREBY ORDERED that Application for Permit No. 47-08053 in the name of Fred F. Kippes is **VOIDED** pursuant to the provisions of Section 42-204, Idaho Code.

Dated this 25th day of September, 1995.




L. GLEN SAXTON, Chief
Water Allocation Bureau

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 27th day of September, 1995,
I mailed a true and correct copy, postage prepaid, of the foregoing
PRELIMINARY ORDER to the following:

Fred F. Kippes
Rt. 2 Box 50
Buhl, ID 83316


JULIE L. YARBROUGH
Senior Secretary

Date Sent to S.O.

SEP 19 1995

Glen Saxton

INTER-DEPARTMENT MEMO

TO: Glen Saxton
FROM: Allen Mervitt

SUBJECT: 47-8053
DATE: 9/18/95

We have not received a response from
my 8/8/95 letter. Please proceed
to void application

- () For your information
() Response required

ADM
signature

47-08053



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

August 8, 1995

Fred F. Kippes
Rt 2, Box 50
Buhl, ID 83316

RE: Protested Application For Permit No. 47-08053

Dear Mr. Kippes:

As you know the department recently attempted to set the matter the protest of your application 47-08053 for a hearing. After setting the hearing it was then postponed until later this fall as both you and Mr. Howell agreed.

A review of the file finds that the additional information as requested in Glen Saxton's September 29, 1994 letter to you (copy enclosed) has not been submitted to the department. Specifically the letter identifies six items that need to be addressed as listed under part 2. of Saxton's letter. At the time when the canceled hearing was being discussed with you, you indicated that you had submitted documents to the department. I find no documents in the file.

The requested information is required by the department to adequately understand your project and to assure the application conforms to the established rules for water appropriation. Additionally, in fairness, the information may be needed by the protestant to fully understand your project to either resolve the protest or prepare for any future hearing.

You are again requested to provide the information described in Saxton's 9/29/94 letter. **You must provide the information to IDWR by September 11th, 1995.** If you do not provide the information I will recommend that your application be rejected pursuant to §42-203A(5), IDAHO CODE.

If you have questions please feel free to contact this office.

Sincerely,

Allen Merritt, PE
Southern Region Manager

CC: Glen Saxton - IDWR State Office
Paul Howell

From: DWR60::AMERRITT 12-JUL-1995 08:00:31.72
To: DWR03::GSAXTON
CC: AMERRITT
Subj: Cancel hearing

Over the last two days I have been in contact with the applicant and protestant and I have cancelled the hearing and all have been notified by phone and are in agreement.

On 7/10 Mr. Howell came in the office to review the file. On that same day we received the certified notice of hearing back from the Post Office un-delivered. In review of the file Mr. Howell was preparing for the hearing and got copies of documents in the file. One point he made was that it appears Mr. Kippes had not provided plans, etc as your letter requested and Mr. Howell thinks we should reject the application for that reason. I told him that I would not make that call at this time but he could raise the issue at any hearing. After Howell left I was able to contact Mr. Kippes by phone and he indicates he is taking his daughter to enroll and get things arranged for college back east and will be gone the 20th. He requested we postpone the hearing until after October 1. I questioned him about having plans for the proposed fish facility and he indicated he did and had submitted them. (They are not in the file).

I contacted Mr. Howell by phone and he is agreeable for the hearing to be postponed until after Oct. 1.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
222 Shoshone Street East • Twin Falls, Idaho • 83301-6105

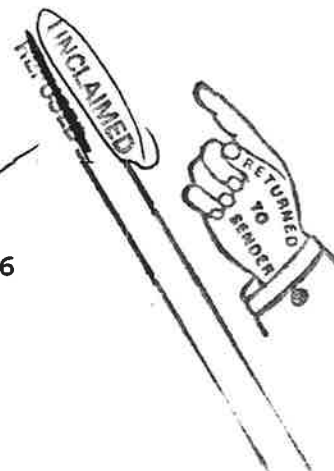


ALWAYS
USE ZIP CODE

RECEIVED RECEIVED
JUL 10 1995

Department of Water Resources
Southern Region

FRED F KIPPES
RT 2 BOX 50
BUHL ID 83316



CERTIFIED
1633
6-23-95
6/28 2/8

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 47-08053)
IN THE NAME OF:)

Fred F. Kippes,)
Applicant)

NOTICE OF HEARING

Paul & Monica Howell,)
Protestants)

On October 27, 1986, Fred F. Kippes, (applicant) filed with the Department of Water Resources (department) application for permit no. 47-08053. The application was protested by Paul and Monica Howell. The conference held by the department on January 20, 1988 did not resolve the matter of protest.

The Department has scheduled the matter for hearing on Thursday, July 20, 1995 at 9:00 a.m. in the Health & Welfare Conference Room, 601 Pole Line Road; Twin Falls ID 83301. The hearing will be held in accordance with provisions of chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45. A copy of the rules may be obtained from the department upon request. The presiding officer at the hearing will be Glen Saxton.


If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01606 requires that you provide a copy of exhibits to each party and to the presiding officer.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans With Disabilities Act.

If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within ten (10) days prior to the hearing.

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 22nd day of June, 1995.


Allen D. Merritt
Southern Region Manager

CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of June, 1995, a true and correct copy of the foregoing Notice of Hearing was forwarded with all required charges prepared, by the method(s) indicated below, to the parties listed:

Mary A. Baldwin
Secretary

FRED F KIPPES
RT 2 BOX 50
BUHL ID 83316

Hand delivered _____
U.S. Mail-Regular _____
U.S. Mail-Certified ☒ _____
Fax _____

PAUL & MONICA HOWELL
RT 2 BOX 51A
BUHL ID 83316

Hand delivered _____
U.S. Mail-Regular _____
U.S. Mail-Certified ☒ _____
Fax _____

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT ISSUES

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

1. Will the proposed appropriation injure other water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?
6. Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, and 6 above and must provide evidence for the department to evaluate these criteria. The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. The department may issue a "pre-conference statement order" which requires response to the inquiries.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon request and the payment of the cost of reproducing the tape. The hearing likely will be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director. Parties may by written stipulation waive the right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer. As part of the conference a date may be set by which exchange of exhibits and witness lists must occur.

EFFECT OF FAILURE TO APPEAR AT A CONFERENCE OR HEARING

Failure to appear at the time and place set for a conference or hearing by the applicant or protestant(s) may allow the department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing party.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 47-8053

To appropriate the public waters of the State of Idaho

1. Name of applicant Fred F. Kippes Phone 543-8373
Post office address Rt. 2 Box 50, Buhl, ID 83316
2. Source of water supply Seepage which is a tributary of Unnamed Stream
(Galloway Drain)
3. Location of point of diversion is NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of NE $\frac{1}{4}$, Govt. Lot _____
Sec. 8 Township 10S Range 14E B.M. Twin Falls County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 8.0cfs for Fish Prop. purposes from Jan 1 to Dec 31 (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) 8.0 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. Buried pipeline to collect seep water.
Pipe to ponds for fry rearing or trout production. Pipe from ponds to Galloway
Drain.
 - 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).

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. Source will provide clean water needed for fry ^{rearing} ~~production~~ or possibly for trout production.

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	
10S	14E	8				X													

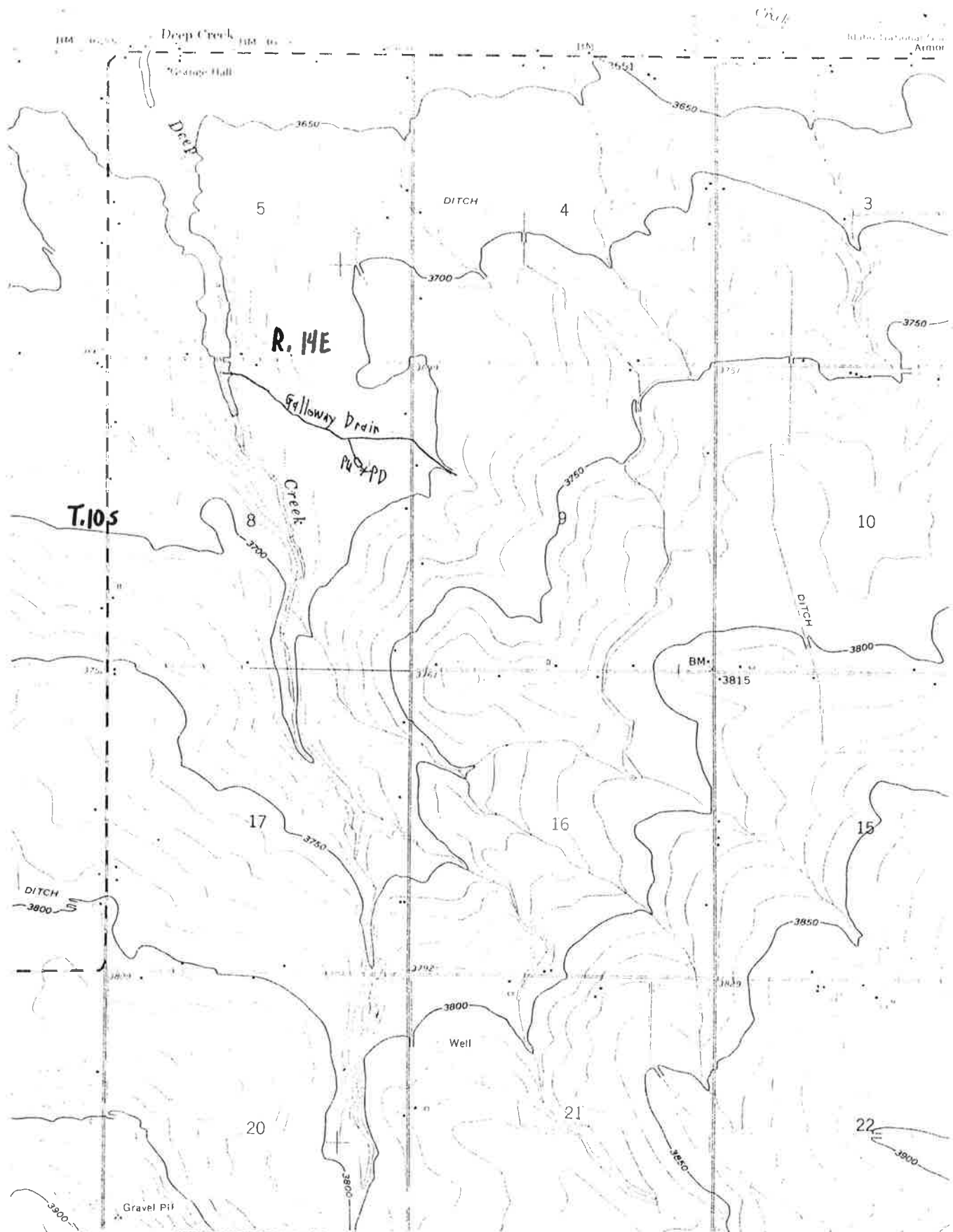
X = Fish Propagation Use

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. _____
None from this source

- Who owns the property at the point of diversion? Applicant
- 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: _____



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.

Paul L. Hagg
(Applicant)

Received by JS Date 10-27-86 Time 11 am Preliminary check by ADM 10/29/86
Fee \$ 185.00 Receipted by M. Baldwin # 38786 Date 10/27/86
Publication prepared by M. Baldwin Date 10/29/86 Published in 11/6/86; 11/13/86
Publication approved M. Baldwin Date 11/24/86

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: