

IDAHO DEPARTMENT OF WATER RESOURCES  
Proof Report

7/23/2020

Water Permit 47-7899

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JOHNNIE SUDIK , ZZ

Original Owner	M B PEPPERZAK , ZZ
----------------	-----------------------

Status: Cancelled

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

JUL 24 1996

Department of Water Resources  
Southern Region

July 22, 1996

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

RE: In the Matter of use of Water Right Permit No. 47-07899 in the name of Johnnie Sudick

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

47-07899  
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.

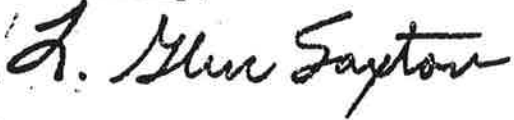
APPEAL OF FINAL ORDER TO DISTRICT COURT

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 DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF PERMIT	)	
	)	
NO. 47-07899 IN THE NAME	)	PRELIMINARY ORDER
	)	TO VOID PERMIT
OF JOHNNIE SUDIK	)	
_____	)	

This matter having come before the Department of Water Resources as a result of an investigation by the Department 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 June 9, 1983, Johnnie Sudik applied to the Department of Water Resources for a permit to appropriate 0.13 cubic feet per second from groundwater within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Section 2, Township 10 South, Range 17 East, B.M., Twin Falls County, to be used for irrigation purposes.

2. On July 23, 1992, the Department approved the Application for Permit.

3. On July 26, 1993, the Department received Proof of Beneficial Use for the permit.

4. On June 12, 1995, the Department conducted a field examination and found that a water use had been developed at a different legal description than authorized by the permit.

5. On May 30, 1996, the Department sent notice and an Application for Amendment to the permit holder stating that the permit has to be amended before the Department can issue a water right license.

6. On June 24, 1996, the Department sent a second notice to the permit holder stating that the permit has to be amended before the Department can issue a water right license.

7. The Department has not received the Application for Amendment of the permit.

8. The provisions of Section 42-219, Idaho Code, authorize the Director of the Department of Water Resources to void permits for which the applicant 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. Development of the water as listed on the permit was a condition of the permit, and compliance with the condition was required prior to perfection of a water right.

3. The permit holder could have amended the permit, but the permit holder has not filed the appropriate Application for Amendment.

4. A license should not be issued on this permit and the permit should be voided pursuant to Section 42-219, Idaho Code.

ORDER

IT IS HEREBY ORDERED that Permit No. 47-07899 is **VOIDED** and issuance of a license is **REFUSED** under Section 42-219, Idaho Code.

Dated this 22<sup>nd</sup> day of July, 1996.


A handwritten signature in cursive script, reading "L. Glen Saxton".

L. GLEN SAXTON  
Chief, Water Allocation Bureau

CERTIFICATE OF MAILING

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

Johnnie Sudick  
2767 Skyline Dr.  
Twin Falls, ID 83301

  
JULIE L. YARBROUGH  
Senior Secretary



Date Sent to S.O. JUL 06 1995

For Office Use: Only  
Amt. of Fee \$ 50.00  
Date 7-26-93  
Receipt No. 5016034  
Received by MTSSTATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has/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. 47-07899 Telephone No. 208/134-7359  
2. Name(s) of Permit Holder(s): Johnny Sudik  
3. Post Office Address: 2767 Skyline Drive  
4. Source of Water: Groundwater

a. If ground water, well driller's name: Smith Pump Date drilled: \_\_\_\_\_

b. Pump horsepower: \_\_\_\_\_ Pressure (psi): \_\_\_\_\_ Dynamic pumping level (ft.): \_\_\_\_\_

## 5. Extent of Use:

Domestic 1 (No. of households) Irrigation 3 (No. of acres)

Stockwater \_\_\_\_\_ (No. and type of stock) Other \_\_\_\_\_

6. Total rate and/or volume for which proof is submitted 0.13 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: \$ 50.00 (See License Examination Fee Schedule)

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

Ginny Sudik 734-7359.  
Name Telephone No.

2767 Skyline Dr., Twin Falls ID 83301.  
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.

7-26-93  
Date

Ginny F. Sudik  
Signature (and title if on behalf of a company or organization)



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS  
GOVERNOR

R. KEITH HIGGINSON  
DIRECTOR

May 21, 1992

RE: Water Right No.

Certified Mail No.

Dear Water Right Holder(s):

In response to record low streamflows and declining groundwater levels resulting from drought conditions, the Director of the Department of Water Resources has declared a moratorium on approval on certain pending and future applications to appropriate water in the Snake River Basin. The moratorium applies to both surface water and groundwater appropriations.

Department records show that you filed an application to appropriate water for irrigation which has not been approved by the Department. Unless you can demonstrate that your proposal qualifies for a narrow exemption to the moratorium, the department will hold your application, and will not process it until the moratorium is lifted.

An application for groundwater to supplement a normally sufficient surface water irrigation supply is exempt from the moratorium. If you can demonstrate that you normally receive an adequate supply of irrigation water from a surface water source, and that you will continue to fully use the surface water, when available, the Department will continue processing your application. If there are other impediments to approval such as a protest or necessary consent from other agencies, the other obstacle to approval must also be removed independent of the moratorium.

The enclosed form requests information which will determine whether your proposed use will qualify for the supplemental irrigation exemption. IF YOU FEEL YOUR PROPOSED USE QUALIFIES AS AN EXEMPT USE, YOU MUST COMPLETE THE FORM AND RETURN IT TO THIS OFFICE. If the form is not completed and returned, your application will be held without action. If you return the form but the use does not qualify, the Department will notify you that the application will be held without further processing.

47-7899

State of Idaho  
Department of Water Resources

# Permit To Appropriate Water

NO. 47-07899

RECEIVED

AUG 14 1992

Department of Water Resources  
Southern Region Office

Proposed Priority: June 9, 1983

This is to certify, that

JOHNNIE SUDIK  
2767 SKYLINE DR  
TWIN FALLS ID 83301

Maximum Diversion Rate:

0.13 CFS

has applied for a permit to appropriate water from: GROUNDWATER  
and a permit is APPROVED for development of water as follows:

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

IRRIGATION  
DOMESTIC

04/01 to 10/31  
01/01 to 12/31

0.09 CFS  
0.04 CFS

Totals

0.13 CFS

LOCATION OF POINT(S) OF DIVERSION:

SESE, Sec. 2, Township 10S, Range 17E  
TWIN FALLS County

PLACE OF USE: IRRIGATION

TWN RGE SEC

ACRES

ACRES

ACRES

TOTAL

10S 17E 2

SESE 3

3

Total number of acres irrigated:

3

PLACE OF USE: DOMESTIC, same as IRRIGATION use

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before August 2, 1993.
2. Subject to all prior water rights.
3. The point of diversion is located within the Twin Falls Groundwater Management Area and use of water with a temperature greater than 85 degrees Fahrenheit is not authorized under this permit.
4. Place of use is located within Lot 5, Skyline Acres Subdivision.
5. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.  
Witness the seal and signature of the Director, affixed at Boise, this

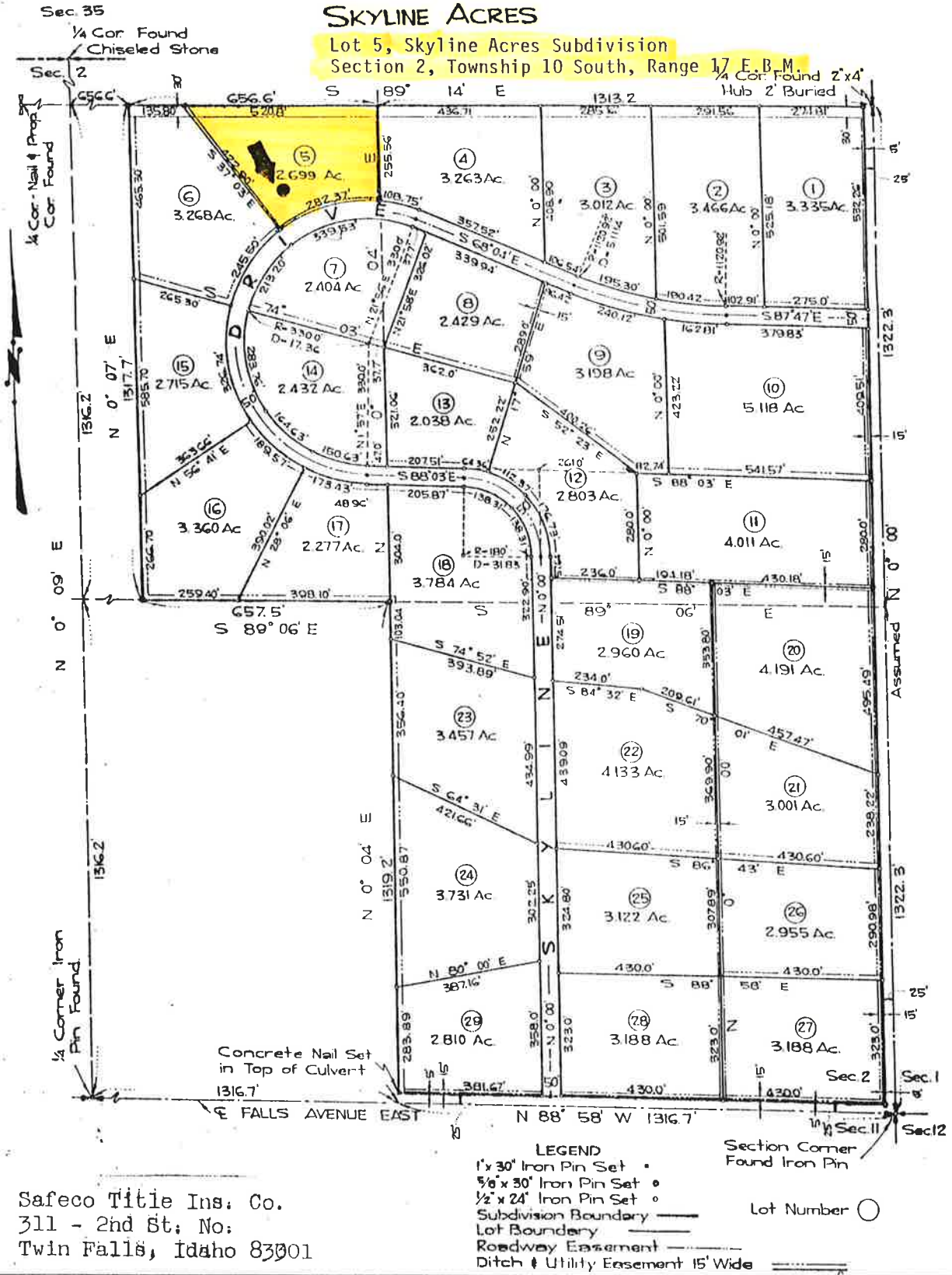
23 day of July, 1992.

*R. Keith Higginson*  
for R. Keith Higginson, Director

47-7899

47-7899

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



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.

*[Signature]*  
(Applicant)



# 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

JUN 29 1992

June 23, 1992

CECIL D. ANDRUS  
GOVERNOR

R. KEITH HIGGINSON  
DIRECTOR

Department of Water Resources  
Southern Region Office

M.B. Peperzack  
P.O. Box 2469  
Twin Falls, ID 83301

RE: Application for Permit No. 47-7899

Dear Mr. Peperzack:

RECEIVED

JUN 24 1992

Department of Water Resources  
Southern Region Office

I spoke to your secretary a couple of weeks ago about the assignment of this water right application to a subsequent buyer of the property you owned in Twin Falls. I understood that the application was filed for a domestic use and associated irrigation which is already developed. I understood that you may have occupied the domestic dwelling.

I have enclosed an assignment form which you may complete and mail back to me. You may also mail me real estate sale documents which show a transfer of the water right application.

If you do not send the assignment documents back to me, or indicate some continued interest in this application, I will remove it from our records. If you have sold the property to someone else, the loss of this application, and its priority date, could jeopardize the future use of water. It could also establish some liability on your part.

I look forward to hearing from you.

Respectfully,

*Gary Spackman*

GARY SPACKMAN, Manager  
Water Right Permits Section

GS:js

Enclosure

cc: Southern Region

47-7899

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

RECEIVED

JUN 8 1983

To appropriate the public waters of the State of Idaho

Department of Water Resources  
Southern District Office

1. Name of applicant M.B. Peperzak Phone 734-6347

Post office address P.O. Box 2469, Twin Falls, Idaho 83301

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

3. Location of point of diversion is SE  $\frac{1}{4}$  of SE  $\frac{1}{4}$  of Section 2 Township 10 South

Range 17 E. B.M. Twin Falls County, additional points of diversion if any: \_\_\_\_\_

Lot 5 of Skyline Acres Subdivision, Twin Falls County, Idaho (2.699 acres)

4. Water will be used for the following purposes:

Amount .04 for domestic purposes from 1/1 to 12/31 (both dates inclusive)  
(cfs or acre-feet per annum)

Amount .09 for irrigation purposes from 1/1 to 12/31 (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)

5. Total quantity to be appropriated:

a. .13 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 and electric motor.

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

Period of year when water will be diverted to storage \_\_\_\_\_ to \_\_\_\_\_ inclusive.  
(Month/Day) (Month/Day)

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

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 — maximum 5 years).

8. Description of proposed uses:

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

(1) Give the place of use of water: SE  $\frac{1}{4}$  of SE  $\frac{1}{4}$  of Section 2 Township 10 South

Range 17 E. B.M.

(2) Amount of power to be generated: \_\_\_\_\_ horsepower under \_\_\_\_\_ feet of head.

(3) List number of each kind of livestock to be watered \_\_\_\_\_

(4) Name of municipality to be served \_\_\_\_\_, or number of families to be supplied with domestic water 1 family.

(5) If water is to be used for other purposes describe: \_\_\_\_\_

47-7899

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

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
10S	17E	2																3	3

Total number of acres to be irrigated 3

c. Describe any other water rights used for the same purposes as described above. \_\_\_\_\_

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 \_\_\_\_\_

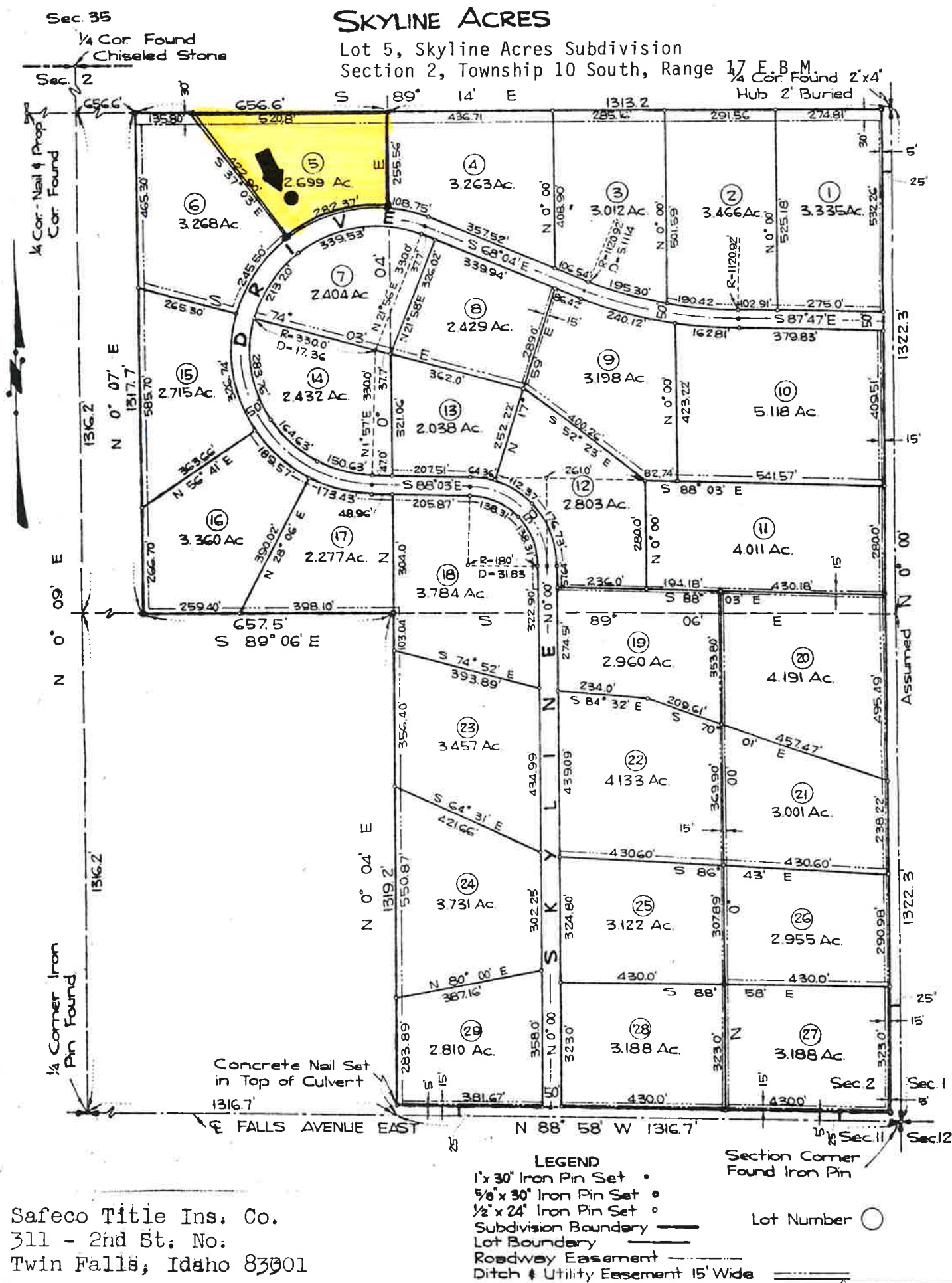
10. Remarks Rate for domestic use for 1 family .04 cfs

irrigation use for 3 acres .09 cfs

AMOUNT APPLIED FOR .13 cfs



11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.





Received by macys Date 6/9/83 Time 11:30a  
Preliminary check by JP Fee \$ 30.00 # 30277  
Receipted by macys Date 6/9/83  
Publication prepared by LW Date 12/30/87  
Published in Times news  
Publication dates 1/21 and 1/28  
Publication approved M. Baldwin Date 2/11/88  
Protests filed by: None  
  
  
Copies of protests forwarded by \_\_\_\_\_  
Hearing held by \_\_\_\_\_ Date \_\_\_\_\_  
Recommended for approval denial by AD

---

---

**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. Other: