

IDAHO DEPARTMENT OF WATER RESOURCES  
Proof Report

7/21/2020

Water Application 47-7805

**Owner Type**      **Name and Address**

Current Owner      DORIS F COUCH  
                             , ZZ

Current Owner      ROY H COUCH  
                             , ZZ

**Status:** Denied

**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**

Application Denied Date: 7/27/1989

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



# State of Idaho

## DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

March 23, 1989

Roy H. and Doris F. Couch  
Rt. 1  
316 Fafnir Dr.  
Kimberly, ID 83341

Re: Application for Permit No. 47-7805

Dear Mr. and Mrs. Couch:

Enclosed is a copy of the order rejecting the above referenced application for permit and a copy of the rejected application for permit.

Section 42-1701A(3), Idaho Code, provides that any person aggrieved by a denial by the director is entitled to a hearing. A written petition stating the grounds for contesting the action and requesting a hearing must be received within 15 days after the receipt of the denial.

Feel free to contact the department if you have questions.

Sincerely,

L. GLEN SAXTON, Chief  
Water Allocation Bureau

Enclosure

c: S. Region ✓

RECEIVED

MAR 27 1989

Department of Water Resources  
Southern Region Office

47-7805

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR )  
 )  
PERMIT NO. 47-7805 IN THE NAME OF ) ORDER  
 )  
ROY H. AND DORIS F. COUCH )  
 )

This matter having come before the Idaho Department of Water Resources (IDWR) as a result of a general review of protested matters pending administrative hearing, IDWR finds, concludes and orders as follows:

FINDINGS OF FACT

1. On March 16, 1982, Roy H. and Doris F. Couch submitted Application for Permit No. 47-7805 to IDWR. The application proposed to divert 200 cubic feet per second of water from Deep Creek; the water to be diverted within Sec. 16 and 17, Twp. 9S, Rge. 14E, B.M., Twin Falls County, Idaho to be used for power production purposes.

2. The application was advertised as required by law and was subsequently protested by the Twin Falls Canal Company.

3. On January 26, 1989, IDWR sent the applicant a Notice of Pending Order to Reject the Application and requested information required by Water Appropriation Rule 4,5,3,3,2. to determine the status of the project.

4. Section 42-203A(5), Idaho Code, provides that where a proposed use is such:

- a) that it will reduce the quantity of water under existing water rights, or
- b) that the water supply 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, 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 in the area affected by the proposed use,

the director of IDWR may reject the application.

5. Water Appropriation Rule 5,1,3. describes evaluation criteria for determining whether an application is made in good faith and provides among other criteria that an application will be found to have been made in good faith if:

The applicant shall have legal access to the property necessary to construct and operate the proposed project, has the authority to exercise eminent domain authority to obtain such access, or in the instance of a project diverting water from or conveying water across land in state or federal ownership, has filed all applications for a right-of-way. (Rule 5,1,3,1.),

and

The applicant is in the process of obtaining other permits needed to construct and operate the project (Rule 5,1,3,2.).

6. Water Appropriation Rule 4,4,2,1. provides that the applicant bear the initial burden of coming forward with evidence for the evaluation of criteria a) through d) of Section 42-203A(5), Idaho Code.

#### CONCLUSIONS OF LAW

1. Applicant has not shown that he has the legal access to the properties necessary to construct and operate the project as required in Water Appropriation Rule 5,1,3,1.

2. Applicant does not have and is not in the process of obtaining other permits needed to construct and operate the project as required in Water Appropriation Rule 5,1,3,2. including any needed FERC approval.

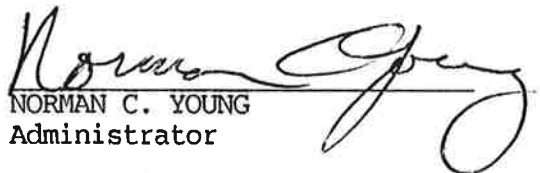
3. Applicant has not responded and has not met the burden of providing evidence as required by Water Appropriation Rule 4,4,2,1.

4. The application should be rejected on the basis that it was not made in good faith.

#### ORDER

IT IS, THEREFORE hereby ORDERED that Application for Permit No. 47-7805 is REJECTED pursuant to the provisions of Section 42-203A, Idaho Code.

Dated this 22<sup>nd</sup> day of MARCH, 1989.

  
NORMAN C. YOUNG  
Administrator

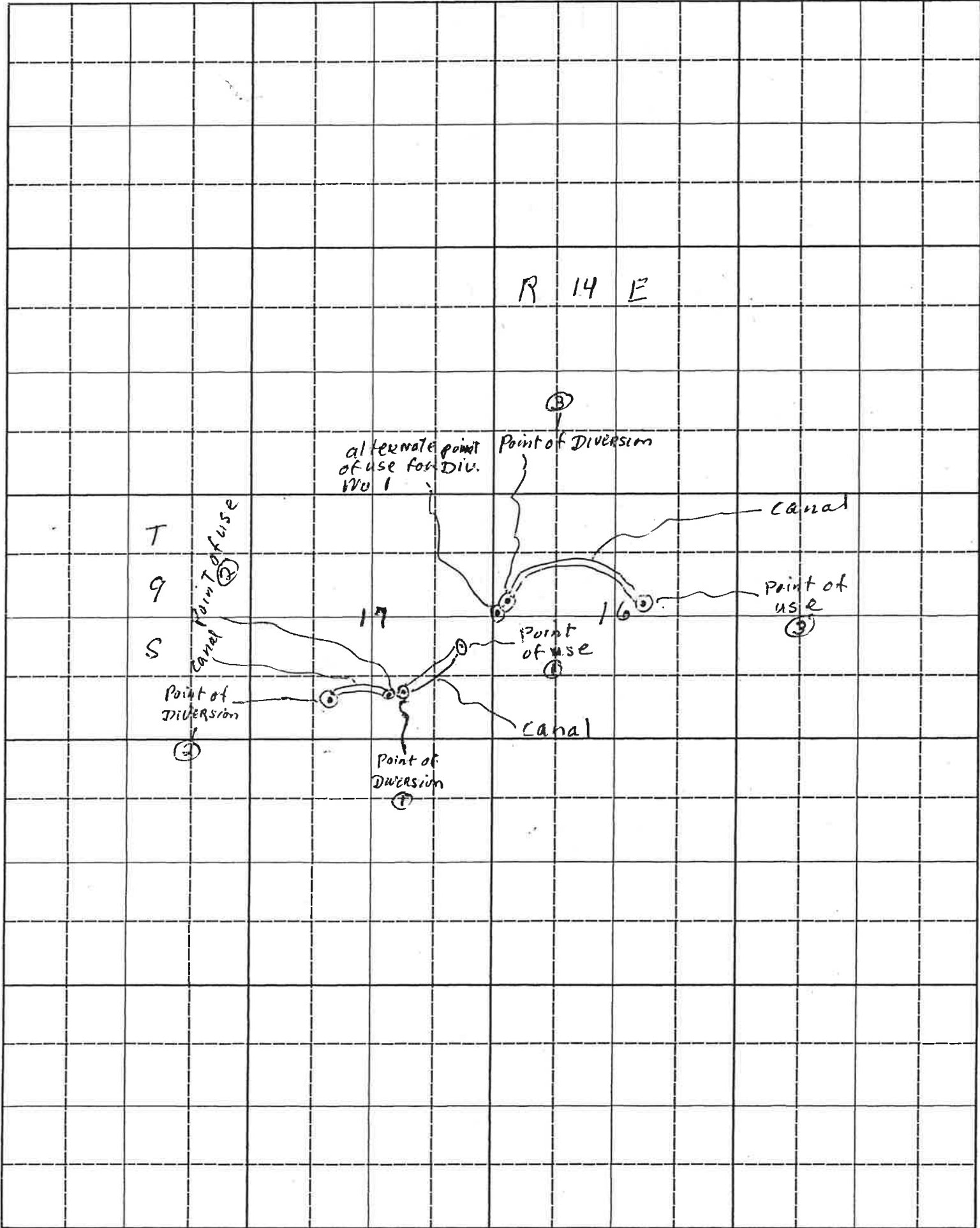
STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Ray H. & Doris F. Couch Phone 543-6582  
Post office address Route 3 Box 202 Buhl, Idaho 83316
2. Source of water supply DEEP CREEK which is a tributary of SNAKE RIVER
3. Location of point of diversion is SW  $\frac{1}{4}$  of SE  $\frac{1}{4}$  of Section 17 Township 9S  
Range 14 E. B.M. Twin Falls County, additional points of diversion if any: SE  $\frac{1}{4}$   
of SW  $\frac{1}{4}$  of Sec. 17 T 9S R 14 E B.M., SW  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of Sec. 16 T 9S R 14 E B.M.
4. Water will be used for the following purposes:  
Amount 200 for power prod. 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:  
a. 200 cubic feet per second and/or b. \_\_\_\_\_ acre-feet per annum.
6. Proposed diverting works:  
a. Description of ditches, flumes, pumps, headgates, etc. diversion dam, open canal  
and pipe.  
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: NE  $\frac{1}{4}$  of SE  $\frac{1}{4}$  of Section 17 Township 9S  
Range 14 E. B.M. add. points of use - SW  $\frac{1}{4}$  of SE  $\frac{1}{4}$  sec. 17 T 9S R 14 E B.M. SW  $\frac{1}{4}$  NW  $\frac{1}{4}$   
sec. 16 T 9S R 14 E B.M., SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  sec. 16 T 9S R 14 E B.M.  
(2) Amount of power to be generated: 2270 horsepower under 100 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 \_\_\_\_\_.  
(5) If water is to be used for other purposes describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



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



Scale: 2 inches equal 1 mile.

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

*Roy L. Cook*  
*Doris F. Cook*  
(Applicant)

Received by LH Date 3/16/82 Time 2:30 PM  
Preliminary check by JP Fee \$ 1725<sup>00</sup>  
Receipted by LH Date 3/16/82 # 22087  
Publication prepared by merge Date 3/17/82  
Published in times news  
Publication dates 3/25 + 4/1/82  
Publication approved merge Date 3/22/82  
Protests filed by: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Copies of protests forwarded by \_\_\_\_\_  
Hearing held by \_\_\_\_\_ Date \_\_\_\_\_  
Recommended for approval denial by \_\_\_\_\_

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**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. 47-7805, and said application is hereby REJECTED.

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: Pursuant to Order Rejecting Application. Dated March 23, 1989.



NORMAN C. YOUNG  
Administrator