6/19/2020

IDAHO DEPARTMENT OF WATER RESOURCES Proof Report

Water Application 47-7523

Owner Type

Name and Address

Current Owner

CAROLE FRANDSEN

, ZZ

Current Owner

WAYNE FRANDSEN

, 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: 8/2/1983

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:

rage Trof 7

N/A

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES PROPERTY.

OF THE

STATE OF IDAHO

AUG 10 1983

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF APPLICATION FOR PERMIT NO. 47-7523 IN THE NAME OF WAYNE AND/OR CAROLE FRANDSEN

ORDER ADOPTING
PROPOSED MEMORANDUM
DECISION AND ORDER

WHEREAS, A. Kenneth Dunn, Director of the Department of Water Resources having issued and served a copy on the parties on June 30, 1983, a Proposed Memorandum Decision and Order in the above-captioned matter, pursuant to <u>Idaho</u> Code, Section 67-5211; and,

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

WHEREAS, no exceptions to that Proposed Memorandum Decision and Order have been received;

IT IS, THEREFORE, HEREBY ORDERED That said Proposed Memorandum Decision and Order be adopted and issued as the Final Decision and Order.

Dated this ______ day of August, 1983.

A. KENNETH DUNN

Director

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF APPLICATION FOR PERMIT NO. 47-7523 IN THE NAME OF WAYNE AND/OR CAROLE FRANDSEN

PROPOSED

MEMORANDUM DECISION

AND ORDER

On April 26, 1979, Wayne and/or Carole Frandsen applied to the Department of Water Resources for a permit to appropriate 0.12 cubic feet per second of water from a seep stream tributary to an unnamed tributary of Deep Creek.

The application proposed to divert 0.10 cubic feet per second of water between March 15 and November 15 for irrigation and 0.02 cubic feet per second for stockwater year around. The water was proposed to be diverted at a point in the NW1/4NE1/4, Sec. 21, Twp. 9S, Rge. 14E B.M., Twin Falls County and used on 5 acres of land within the same described tract.

Notice of the application was published in the $\underline{\text{Twin Falls Times News}}$ on May 17 and 24, 1979.

On June 1, 1979, a protest against the granting of a permit was received from Roy and Doris Couch. The protestants raised the issue that there was insufficient water to fill the amount requested by the applicants.

A hearing in the matter was set for September 13, 1979 in Twin Falls at which the applicants failed to appear.

On September 14, 1979, the applicants were ordered to show cause on or before October 15, 1979 why the application should not be voided for their failure to appear.

On October 15, 1979, the applicants responded to the order stating that they had not received notice of the hearing.

The applicants were allowed to continue their application and a conference in the matter was held in Twin Falls on April 4, 1980 at which the applicant, Wayne Frandsen and protestants were present.

At the conference, the parties agreed to allow the Department to reach a decision in the matter based upon information obtained at the conference and

information to be gathered by the Department in a field study of the stream and area affected by the application.

The applicant stated that during some portions of the year the water from the proposed source did not reach the stream from which the protestants divert their water.

The protestants are presently irrigating sixty acres and claimed they are limited to that number of acres because of the lack of water to irigate any additional land. They stated that they own 80 acres that could be irrigated if there was sufficient water.

On June 10, 1980, the Department installed a 2-foot Cipolletti weir in the stream at a point just upstream from the protestants' upstream diversion in the NW1/4NE1/4, Sec. 21, Twp. 9S, Rge. 14E. A Stevens Type F water stage recorder was installed in a stilling well in the weir pond.

Water stage records were collected during the 136-day period between June 10 and October 23, 1980. The records were not continuous but 90 days of records out of the 136 days were obtained.

The flows observed were relatively stable and, therefore, the flows during periods of non-record were estimated by averaging flows observed at the beginning and end of the unrecorded periods.

Based upon the information obtained at the conference, the records gathered in the field and his understanding of the law, the Hearing Officer proposes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

- 1) The protestants have filed a water right claim No. 47-4101 with the Department of Water Resources. The claim evidences a right to the use of 1.60 cubic feet per second of water with a priority of March 15, 1936 for the irrigation of 80 acres of land in the W1/2SE1/4, Sec. 16, Twp. 9S, Rge. 14E. The claim shows diversion points in the NW1/4NE1/4, Sec. 21, and the SW1/4SE1/4, Sec. 16, Twp. 9S, Rge. 14E located on the same unnamed stream as is proposed to be diverted by the applicants. Both diversion points are downstream from the points of diversion proposed by the applicants.
- 2) The protestant is presently irrigating 60 acres of land with the water from the unnamed stream. During most of the irrigation season the entire flow of the unnamed stream is diverted and beneficially used by the protestant.
- 3) The seep stream contributes water to the unnamed stream and is considered tributary to it.

4) Records collected by the Department during June through October 1980, show that the average daily flow of the stream exceeded 1.60 cubic feet per second at a point just upstream from the Couch diversions only on October 21, 22, and 23, 1980. Those same records show that the flow of the stream was less than 1.20 cfs on all but 6 days during the months of June and July. It is generally accepted that 1.20 cfs is the rate of diversion necessary to irrigate 60 acres of land.

CONCLUSIONS OF LAW

- 1) There is insufficient water available in the stream for the appropriation requested by the applicants.
- 2) The seep stream is a tributary of the unnamed stream and, therefore, subject to the water rights of the protestants.

ORDER

IT IS, THEREFORE, HEREBY ORDERED That Application for Permit No. 47-7523 be and is DENIED.

Dated this _______, 1983.

BOBBY D. FLEENOR

Hearing Officer

STATE OF IDAHO

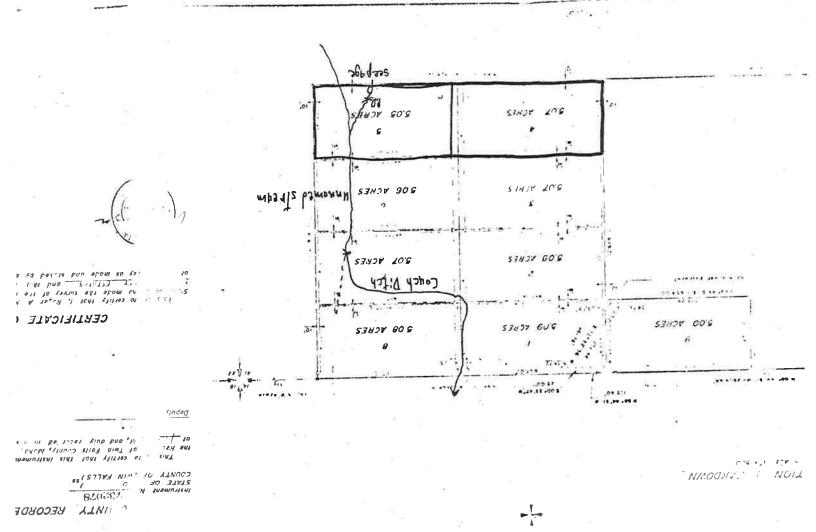
APPLICATION FOR PERMIT





To appropriate the public waters of the State of Idaho APR SS 1872

| 4 61. | | or applicant | Wayne &/or (| Carole Frandsen | | rnone | Outside that the | 133. |
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| | | * | | - Ruhl, Idaho | 7 | | | |
| 2. Sc | urce | e of water sup | oly <u>seep</u> | stream | which is a trib | utary of _ | Unnamed Stre | am |
| 3. Lo | cati | ion of point of | diversion is <u>NW</u> | 1/2 1/4 of <u>NE</u> | ¼ of Section | 21 | Township9 | s |
| R | ange | 14E B.M. | Twin Falls | 1 1 | County, addition | al points o | f diversion if ar | ny: |
| 1. Wa | ater | will be used fo | or the following p | ourposes: | 1,4 | | | |
| | | | | purposes from | | | | |
| Ar (cf | nou s or a | nt <u>0.02</u> fo cre-feet per annum | or <u>livestock</u> | purposes from | _Jan, 1_ to _ | Dec. 31 | _ (both dates i | nclusive) |
| Ar (cf | noui | nt fo | or | purposes from | to _ | | (both dates i | nclusive) |
| | | | | purposes from | | | | |
| | | quantity to be | | | 20 | | | |
| a. | | 0.12 | cubic feet | per second and/or | b | | acre-feet pe | r annum. |
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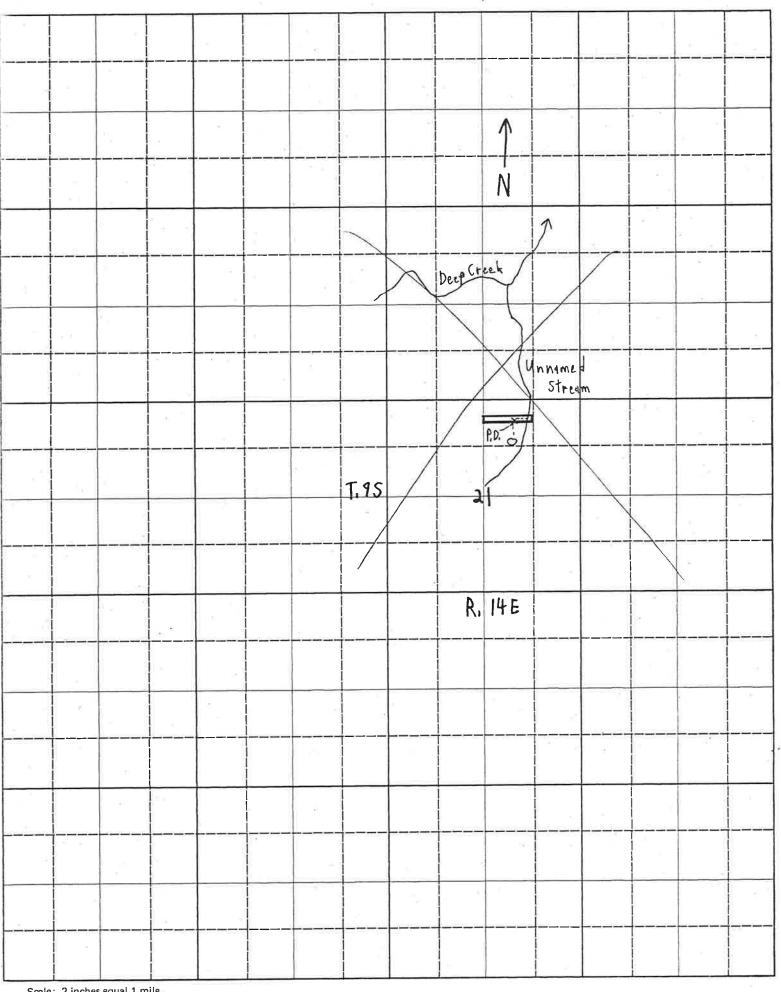
ST. NOTEN

EC51-64

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

| TWP | RANGE | SEC | | N | E¼ | | NW¼ | | | | SW¼ | | | | | SE¼ | | TOTALS | |
|-----|---------|---------|--------|--------|----------|---------|--------|---------|----------|-------|------|--------|--------|--------|----------------|---------|---------|----------|------------|
| | HANGE | SEC. | NE% | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE% | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SE¼ | SW¼ | IOIALS |
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| | c. D | escrib | e any | othe | r wat | er rigi | nts us | ed for | r the | same | purp | oses a | as des | cribed | a abov | /e. | | | |
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| | b. W | /ho ov | ns the | e land | d to b | e irrig | gated | or pla | ce of | use | | | Ann | lica | nte | | | | |
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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.

a-wagen Francisco

| | Received by Date 4-26-79 Time Noon |
|-----------------|---|
| | Preliminary check by Pee \$ 20. 4 12771 |
| 2 | |
| a a | Publication prepared by marya Date 5/3/79 |
| | Published in Times news |
| | Publication dates $\frac{5}{17} + \frac{5}{24} / 19$ |
| | Publication approved merga Date 5/16/79 |
| | Publication approved merga Date 5/16/79 Protests filed by: say & daris couch |
| | |
| | Copies of protests forwarded byM./f. |
| # N | Hearing held by B.F. \$6.H Date 4/4/80 |
| | Recommended for approval denial by |
| 1. Approval | 47-7523 , and said application is hereby <u>DENIED</u> I of said application is subject to the following limitations and conditions: JECT TO ALL PRIOR WATER RIGHTS. |
| | f of construction of works and application of water to beneficial use shall be submitted on or be, 19 |
| c. The ra | ate of diversion, if water is to be used for irrigation under this permit, when combined with all water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land. |
| | PURSUANT TO MEMORANDUM DECISION AND ORDER. |
| 1 | |
| Witness my hand | this 2 nd day of 1545 + , 19 83. |
| | A. Kenned Munn |
| | Director |

Form 202 ≈28

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

| | | | | | | | 200 |
|---|--|--|--|--|-------------|--|------------------------------------|
| . Name | of applicant | Wayne &/or Ca | | | Phone _ | | 733- |
| Post c | office address | P.O. Box 261 | | 83316 | | | |
| . Sourc | e of water sup | ply <u>seep s</u> | tream | which is a tri | butary of | Unnamed Strea | am |
| . Locat | tion of point of | f diversion is <u>NW</u> | % ofNE | ¼ of Section | 21 | _Township9 | 5 |
| Range | e <u>14E</u> B.M. | Twin Falls | | County, addition | onal points | of diversion if an | y: |
| . Water | will be used for | or the following pu | rposes: | | | | |
| Amou | unt 0 10 f | or irrigation | purposes from | Mar. 15 to | Nov. 15 | (both dates in | nclusive) |
| | | or livestock | | | | | nclusive) |
| | | or | | | | | nclusive) |
| Amou | acre-teet per annum untf | or | purposes from | to | | (both dates in | nclusive) |
| | | appropriated: | | | | | |
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| | escription of d | itches flumes num | nns headgates etc. | | | | |
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b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below;

| | BANGE | or o | NE¼ | | | NW¼ | | | SW¼ | | | SE1/4 | | | 7074.0 | | | | |
|-----|------------------------|--------|-----|-------|-------|-----|--------|-----|-----|-------|---------|-------|------|--------|--------|------|---------|-------|--------|
| TWP | RANGE | SEC. | NE% | NW1/4 | SW1/4 | SE¼ | NE¼ | NW¼ | | SE1/4 | NE¾ | | SW% | SE% | NE% | | SE% | SW1/4 | TOTALS |
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| of Idaho N 1. App a. b. | to certify that I have examined Application for Permit to appropriate the public waters of the State o |
| 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. |
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| Nitness my | hand this day of , 19 |
| | Director |