

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

6/19/2020

Water Permit 47-7521

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	GARY R STONE 394 FAFNIR DR KIMBERLY, ID 83341 (208) 423-4355

Status: Cancelled

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

Water District Number: TBD
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A

From: DWR60::GSATTERL 2-FEB-1998 16:39:21.81
To: DWR01::SKEEN
CC: GSATTERL
Subj: History of 47-07521

History of the Application for Permit 47-07521

1. Permit applied for irrigation 17 ac., mining-0.34 cfs
2. Permit approved 25 June 1979
3. Request for Extension of Time (change from 1984 to 1989)
4. Proof of Beneficial filed 4/89 (Irrigation 2 acres-0.04 cfs)
5. Continuation Order Swan Falls Trust Water Area-June 1990
6. Field Exam 10/97
7. You Know The Rest....

Question(s)/Comment(s)

- A. To issue a license, a beneficial use and/or a developed use needs to be found, I did not find such a critter.
- B. Mr. Stone is sure if he doesn't file on this...whatever... that someone else will and therefore exploit that whole area and possibly the world at large (yes I am very sarcastic on this one)
- C. Extension of Time - been there, done that...
- D. Transfer is an option but if you don't have anything to transfer, well you know...

Just a few items that came up for me that I wanted to share.
Talk to you soon. Thanks for your response. GLS

From: DWR06::"skeen@idwr.state.id.us" 2-FEB-1998 10:08:56.31
To: gsatterl@idwr.state.id.us ('Satterlee, Georgia')
CC:
Subj: Permit 47-07521

Georgia,

When Gary Stone called me this morning I did not have the benefit of having the file in front of me to review. My response to him was based on the information he gave me about his water use. Based on what he told me, I envisioned the following.

1. We should issue a license for any use developed in accordance with the permit during the authorized development period, which was 6/25/79 to 5/2/89. Mr. Stone told me that he did develop a mining use during that period. Note, however, that he did not pay an examination fee and must, therefore, be limited to 0.04 cfs unless he pays the fee and a late payment penalty. You may need require that Mr. Stone provide evidence of past use.
2. If the mining (or other) use has subsequently been discontinued, the forfeiture clock is ticking. If it has been close to five years, Mr. Stone should consider filing a request for extension of time to avoid forfeiture.
3. In my opinion we should issue a license and process a transfer instead of trying to amend a permit after the development period is over and a field examination has been conducted. If development occurred in compliance with the permit and other legal requirements, we are obligated to issue a license to confirm the appropriation and benchmark the extent of beneficial use. The transfer process is the appropriate method for changing any element of an established water right. If the permit were amended at this point, we would put ourselves in the position of having require proof of beneficial use again and to confirm development again via another field exam at some undertermined time in the future.

Let's resolve the beneficial use and licensing issues, then address future changes via the transfer process. I am willing to work with you and Mr. Stone to expedite licensing. Meanwhile, Mr. Stone should consider filing a request for extension of time to avoid forfeiture.

Let me know if you have any questions or other ideas.

Thanks for your help.

Shelley Keen

From: DWR60::GSATTERL 2-FEB-1998 10:21:34.78
To: DWR01::SKEEN
CC: GSATTERL
Subj: 47-07521

Good Morning. I am departing for the field right now but I wanted to tie in w/ you about Stone's field examination. If he is going to amend the permit to show recreational use, instead of irrigation, will you send him the paper work?

Will I re-do the field exam?

Thanks for your assistance. Have a great day. GLS



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098

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

January 14, 1998

RECEIVED

JAN 16 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

GARY R STONE
394 FAFNIR DR
KIMBERLY ID 83341

Department of Water Resources
Southern Region

Notice of Intent to Void Permit

RE: Water Appropriation Permit 47-07521

Dear Permit Holder(s):

In 1979 IDWR issued permit 47-07521 authorizing you to develop a right to use 0.34 cfs of water from three unnamed springs for irrigation and mining purposes in Section 5, Township 10 South, Range 18 East, B. M. Under the provisions of your permit, you were to have completed your development by June 1, 1989. On May 2, 1989, IDWR received your Proof of Beneficial Use statement indicating you had completed at least some of the development authorized by the permit. However, on October 29, 1997, an IDWR field examiner inspected the location of your proposed development and reported that she could find no evidence of a water use. Therefore, she could not verify that a beneficial use of water has been developed in accordance with your permit.

The final step in the water appropriation process is the issuance of a Water Right License. By issuing a license, IDWR recognizes that you have met the requirements for establishing a water right. If you have not developed a beneficial use of water within the development period authorized by your permit, however, no water right has been established, and no license can be issued. Once the development period authorized by your permit expires, your permit cannot be retained to cover future development of the resource.

If you disagree with the field examiner's findings, please supply information to demonstrate that you have developed a beneficial use of water in accordance with permit 47-07521. If I do not receive the requested information from you within thirty days, I will take action to void your permit under the provision of Section 42-219(6) of the Idaho Code.

If you concur that no development occurred under permit 47-07521, you can shorten the voiding process by completing the enclosed relinquishment form and returning it to IDWR.

47-07521

ALL
9/5

Gary Stone
January 14, 1998
Page 2

If you have any questions, please contact me at 208-327-7946.

Respectfully,

A handwritten signature in cursive script that reads "Shelley Walter Keen". The signature is written in dark ink and is positioned above the printed name.

Shelley Walter Keen
Water Rights Supervisor

Enclosure

c: IDWR Southern Region

219-S.A.
6/86

Date Sent to S.O.

DEC 09 1997

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

47-07521
Permit No.

Staff Analysis Sheet
for
Beneficial Use Field Report

A. Prior to Conducting the Exam, the File Contains:

- ☒ Blank Field Report Form
- ☒ Copy of Permit
- ☒ Copies of any Amendments/Orders with conditions of approval
- ☒ Computer Data Proof Report
- ☒ Copy of U.S.G.S. Quad
- ☒ Check for Government Lots. If so, make a copy of Government Plat

Check of P/D index _____ (Initial and date)

Overlap? ☐ yes ☐ no If yes: ☐ copy of exam(s) attached?

Type of Overlap? ☐ Add acres or uses to existing system
☐ Increase rate of flow or volume
☐ Other: _____

Check of P/U index _____ (Initial and date)

Overlap? ☐ yes ☐ no If yes: ☐ copy of water right(s) attached?

Type of Overlap? ☐ Increase rate of flow or volume
☐ Add P/D's
☐ Increase number of acres within tracts
☐ Other: _____

Aerial Photo

Required? ☐ yes ☐ no If yes: ☐ copy attached?

Scheduling Letter sent? _____ (Initial and date)

☐ Appointment made and telephone conversation memo attached

B. After Conducting the Exam, the File Contains:

- ☐ Fully completed and signed Field Report Form
- ☐ Photographs of Point of Diversion and Place of Use
- ☐ Corrected Computer Data Proof Report with recommended license information, and date and signature of examiner.

C. Review and Processing:

Exam Completed _____ (Signature of examiner and date)

Exam Reviewed by Senior Water Resource Agent _____ (Initial and date)

Exam Reviewed by Manager of Regional Office ADN 12/8/97 (Initial and date)

Exam Date Entered in Computer _____ (Initial and date)

Exam sent to State Office _____ (Initial and date)

Copy of Staff Analysis Sheet sent to Manager of Regional Office and Original
Refiled in White File _____ (Initial and date)

3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe I.D. as applicable.

Scale: 1" = _____



Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).



Aerial Photo Attached (required for irrigation of 10+ acres)



Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size

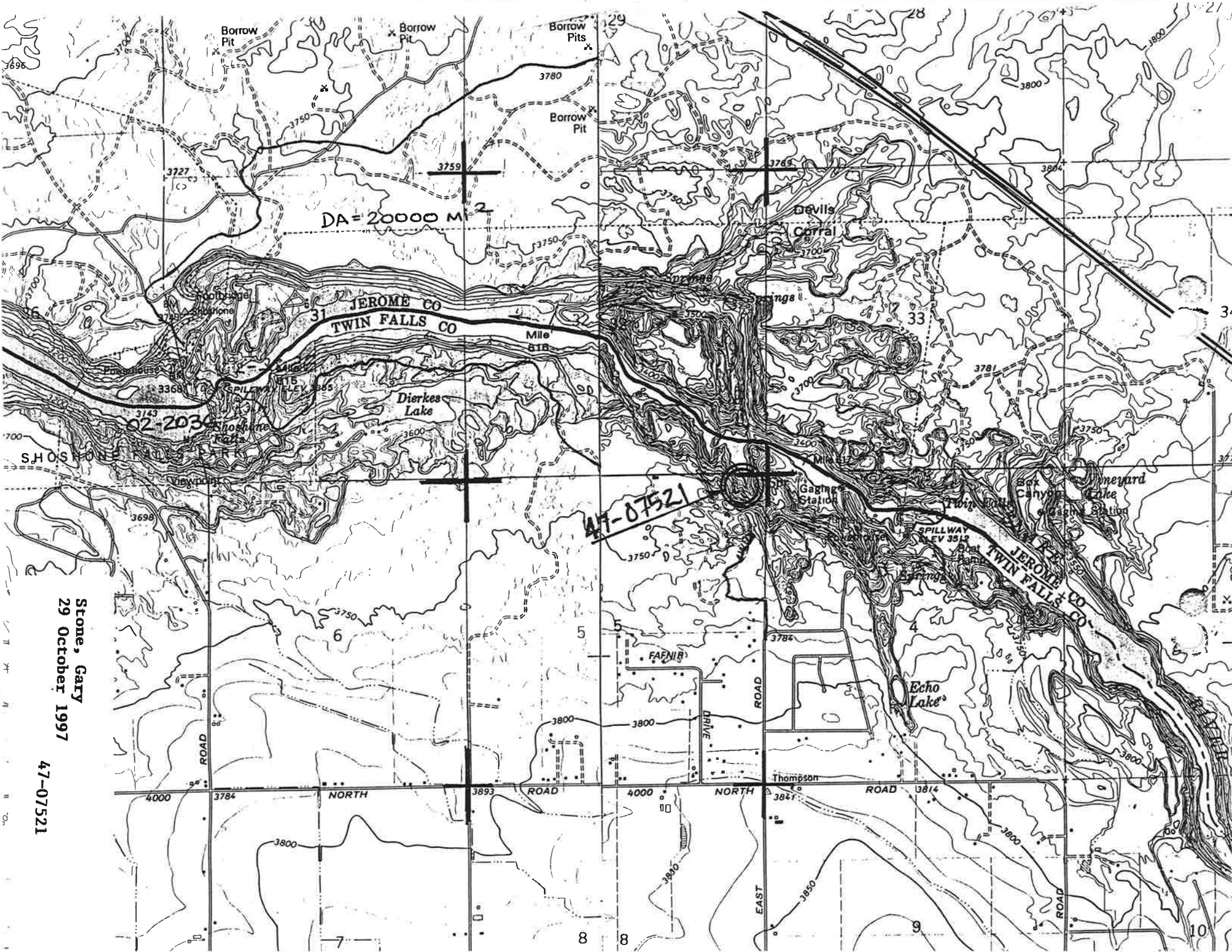
*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements:



Stone, Gary
29 October 1997

47-07521

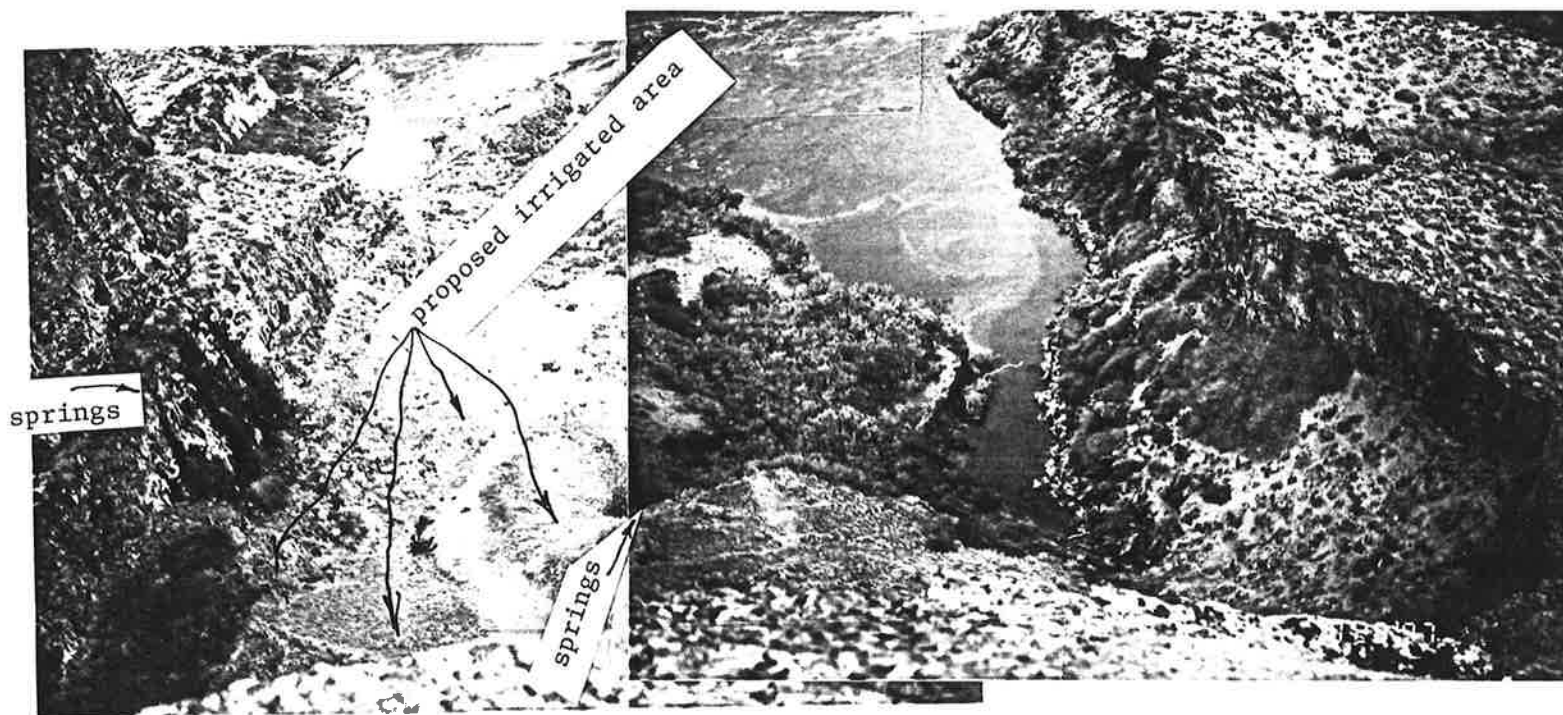


photo looking N'ly taken from top of
canyon rim.

Stone, Gary 29 October 1997
1300 hrs. Examiner: Satterlee

47-07521

E. NARRATIVE/REMARKS/COMMENTS

FROM: Georgia Satterlee
DATE: 06 November 1997
RE: 47-07521

On 29 October 1997 at 1330 hrs., I met with Gary Stone to perform a field examination on the above permit. The permit is for 2 acres of irrigation from springs. The place of use and point of diversion are both in Section 5, T10S, R18E, NE $\frac{1}{4}$ NE $\frac{1}{4}$.

The photographs depict questionable irrigated area. I went to ASCS and looked at aerial photographs flights in 1992 and 1997. Both of the flights show dry ground.

I am unable to recommend any irrigated acres and the permit should be disallowed.

Have conditions of permit approval been met? ___ yes ☒ no

F. FLOW CALCULATIONS

_____ Additional Computation Sheets Attached

Measured Method:

G. VOLUME CALCULATIONS**1. Volume Calculations for Irrigation:** $V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____ $V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ _____ $V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$ _____**2. Volume Calculations for Other Uses:****H. RECOMMENDATIONS****1. Recommended Amounts**

NONE

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Totals:			_____	_____

2. Recommended Amendments

___ Change P.D. as reflected above

___ Add P.D. as reflected above

___ None

___ Change P.U. as reflected above

___ Add P.U. as reflected above

___ Other

I. AUTHENTICATION

Field Examiner's Name

Donja Satterlee

Date

7 November 97

Reviewer _____

Date _____

SEAL

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

RECEIVED

JUN 7 1990

Department of Water Resources
Southern Region Office

IN THE MATTER OF PERMIT
NO. 47-7521 IN THE NAME
OF GARY STONE

CONTINUATION ORDER

This matter having come before the Idaho Department of Water Resources (IDWR) as a requirement of Section 42-203D, Idaho Code, the Department Finds, Concludes and Orders as follows:

FINDINGS OF FACT

1. Section 42-203D, Idaho Code, directs IDWR to review all permits issued prior to July 1, 1985, located within the Swan Falls Trust Water Area, to determine if water was beneficially used prior to said date.

2. If water was not beneficially used until after July 1, 1985, Section 42-203D further directs IDWR to review the permit under the provisions of Section 42-203C, Idaho Code.

3. Section 42-203C requires IDWR to determine whether diversion of water under a permit issued prior to July 1, 1985, causes a significant reduction of trust water available for power production and, if there is a significant reduction, to determine whether the reduction is in the public interest.

4. Permit No. 47-7521 (permit) was issued to Gary Stone (permit holder) authorizing the diversion of 0.34 cfs of water from springs tributary to the Snake River for irrigation of 17.0 acres.

47-7521

5. Information submitted by the permit holder shows that the irrigation of 3.0 acres of the 17.0 acres authorized under this permit did not occur prior to July 1, 1985.

6. The development and use of water authorized under this permit does not cause a significant reduction of trust water.

7. Proof of beneficial use has been submitted and only three acres are authorized for development.

CONCLUSIONS OF LAW

1. The water authorized for diversion under Permit No. 47-7521 is trust water.

2. The use of water under the permit satisfies the provisions of Sections 42-203C and 42-203D, Idaho Code.

3. An order continuing the permit should be issued.

ORDER

IT IS HEREBY ORDERED that Permit No. 47-7521 is valid and may CONTINUE as provided in Section 42-203D, Idaho Code, subject to the following additional conditions and limitations:

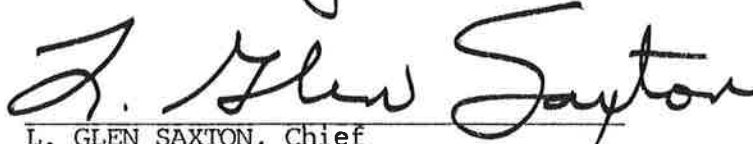
1. The use of trust water authorized by this right is subject to review 20 years after the date of this order to determine availability of trust water and to reevaluate the public interest.

2. Diversion and use of trust water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.

3. The Director retains jurisdiction of this right to change, add or remove any requirement as determined to be appropriate.

4. All conditions of approval contained on the permit are incorporated into and made part of this order.

Dated this 1st day of May, 1990.


L. GLEN SAXTON, Chief
Water Allocation Bureau

08-Aug-1989

Gary Stone
Rt 1
Kimberly, Idaho 83341

Re; Permit No. 47-07521

Dear Mr. Gary Stone,

We acknowledge receipt of the affidavit submitted as proof of beneficial use for the above referenced permit.

Before a license can be issued, a field examination must be made by a representative of this Department. We cannot tell just when this examination will be made, but our examiner will try to contact you at the time he makes the examination so that you may show him the system.

Field examinations must be done while the system is in operation. For this reason we concentrate on irrigation permits during the summer months and do examinations on permits for other uses during the non-irrigating months.

If you have any questions regarding the field examination, please contact our office.

Very truly yours,

Lloyd Payne
Clerk

Encl:

MEMORANDUM

July 18, 1989

TO: File 47-7521

FROM: RITA FLECK

I contacted Gary Stone regarding the discrepancy - number of acres being irrigated - between the proof of beneficial use form and the trust water questionnaire. I received no response.

I suggest that the department accept the proof of beneficial use form as is with a maximum rate of diversion set at 0.04 cfs and determine the number of acres being irrigated at the time of the field inspection. If the examiner finds that the springs produce more water after the inspection, then we should give Mr. Stone the opportunity to pay the examine fee plus penalty.

I get the feeling these springs do not run consistently all year. Consequently, the amount of water produced might be hard for the permit holder to estimate.

I will return the file to Tim to address whether the re-advertising is required.

RECEIVED

MAY 02 1989

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

For Office Use Only
Fee Received _____
Date _____
Receipt # _____
Receipt by _____
Reviewed by _____
Sent to region _____

no # enclosed KSH
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 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.

Permit No. 47-07521

Name(s) of Permit Holder: GARY STONE

Post Office Address: RT 1 KIMBERLY, ID. 83341

Telephone No. 423-4355

Source of Water: SPRINGS

Extent of Use:

Domestic _____ (number of households) Stockwater _____ (number and type of stock)

Irrigation 2 (acres) Other/Remark WATER USED TO

SPRINKLE ROAD / SPRINGS DRY UP PART OF YEAR ...

Total rate and/or volume for which proof is submitted 34.04 cfs per memo acre-feet

Show the date water was first diverted and beneficially used under this permit: AUG 31, 1988

Measuring Device: Required? ☐ Yes ☒ No
Installed? ☐ Yes ☒ No

Fee enclosed \$ _____
(See License Examination Fee Schedule)

Flow Measurement Port: Required? ☐ Yes ☒ No
Installed? ☐ Yes ☒ No

Person to contact to accompany the Department representative during the field examination:

GARY STONE
(Name)

423-4355
(Telephone Number)

RT. 1 KIMBERLY, ID.
(Address)

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.

4-29-89
Date

Gary Stone
Signature of Permit Holder (and title, if appropriate)

JUL 25 1984

For Office Use Only	
Fee Received	15.00 +g
Date	7-5-84
Receipt #	34869

Department of Water Resources
STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

JUL 2 1984

REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit
proof of beneficial use on a water right permit

Department of Water Resources
Southeast District Office

Gary Stone

(Name)

of

Route #1, Kimberly

(Address)

State of Idaho, deposes and says:

That he is the holder, or the duly authorized agent of the holder*, of Permit to Appropriate the Public Water of the State of Idaho No. 47-7521.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before June 1, 1984.

That he has heretofore performed the following work described under said permit:

(This must be filled out! If no work has been completed put none.)

No work has been done has been done on the project due to lack of access.

Considerable legal work has been done to gain access to the property.

Costing \$ 4000.

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit:

The water source is on Idaho Power Co. land, & they have not allowed access to the spring at this time. Permission has been secured to cross BLM land with a pipeline to carry the water. There is no point in building the project unless access to the water is assured.

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to June 1, 1989.
(1 yr. minimum, 5 yrs. maximum)

NOTE

AS OF JULY 1, 1980,
THERE IS A \$15.00
CHARGE FOR REQUESTS
FOR EXTENSION OF
TIME

Gary R. Stone

(Signature)*

*IF OTHER THAN HOLDER, Power of Attorney must be supplied.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within which to submit the statement of beneficial use is extended to June 1, 1989.

IT IS FURTHER ORDERED that the permit be reinstated and the priority advanced to May 25, 1979, pursuant to Section 42-218a, Idaho Code.

The Department reserves jurisdiction of this permit for the purpose of adding any applicable conditions to protect the public interest.

Dated this 19 day of July, 1984.

David R. Tuttle Jr.
ACTING Chief, Operations Bureau

47-7521

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

Department of Water Resources
Southern District Office

To appropriate the public waters of the State of Idaho

1. Name of applicant Gary Stone Phone 423-4355

Post office address Route 1, Kimberly, Idaho

2. Source of water supply 3 Unnamed Springs which is a tributary of Snake River

3. Location of point of diversion is 1/4 of Lot 1 1/4 of Section 5 Township 10S

Range 18E B.M. Twin Falls County, additional points of diversion if any:

4. Water will be used for the following purposes:

Amount 0.34cfs for irrigation purposes from Mar 15 to Nov 15 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 0.34cfs for mining 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)

5. Total quantity to be appropriated:

a. 0.34 cubic feet per second and/or b. acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Collection boxes and pipes

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: Lot 7 32 9S
1/4 of Lot 1 1/4 of Section 5 Township 10S
Range 18E B.M.

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

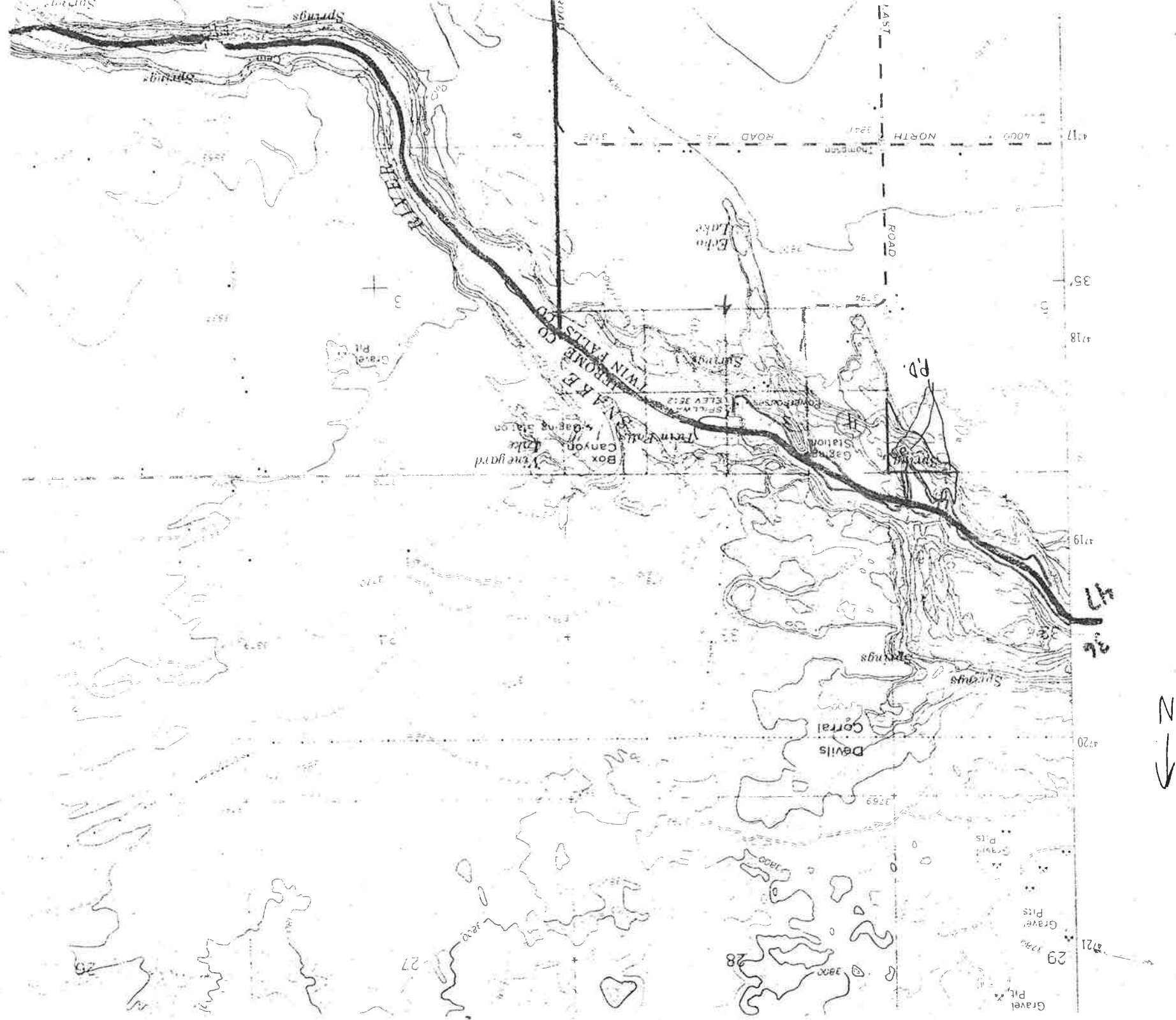
(3) List number of each kind of livestock to be watered

(4) Name of municipality to be served , or number of families to be supplied with domestic water

(5) If water is to be used for other purposes describe: placer mining of gold

47-7521

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



Gary R. Stone
(Applicant)

Proposed Priority 4-24-79

Received by JS Date 4-24-79 Time 11:30 am

Preliminary check by RB Fee \$ 35.00

Received by marie Date 4/24/79 # 12769

Publication prepared by marie Date 5-3-79

Published in times news

Publication dates 5/17 + 5/24/79

Publication approved marie Date 5/16/79

Protests filed by: _____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by JS

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. 47-7521, and said application is hereby APPROVED.

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 June 1, 19 84.

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: (1) The issuance of this permit in no way grants any right-of-way or easement across the land of another.

(2) Settling ponds shall be installed which are capable of reducing the silt load in the return water to such a level that the quality of the receiving waters will not be impaired for other beneficial uses.

Witness my hand this 25th day of June, 1979.

L. Glen Saxon
Chief, Operations Bureau