

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 22-07749

Priority: September 24, 1988

Maximum Diversion Rate: 0.02 CFS
Maximum Diversion Volume: 0.3 AF

It is hereby certified that JERELYN HILL
PO BOX 81
TETONIA ID 83452

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated September 19, 1988; and has submitted Proof of Beneficial Use on March 07, 1994. An examination indicates that the works have a diversion capacity of 0.02 cfs of water from:

SOURCE

HORSE CREEK tributary to **DRY CREEK**

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
STOCKWATER	01/01 to 12/31	0.02 CFS	0.3 AF

LOCATION OF POINT(S) OF DIVERSION:

HORSE CREEK SW1/4NE1/4NE1/4 Sec. 10, Twp 07N, Rge 45E, B.M. TETON County

PLACE OF USE: STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
07N	45E	16	X																

CONDITIONS OF APPROVAL

1. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
2. The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 26th day of January, 2001

Acting for

KARL J. DREHER, Director

MICROFILMED

MAR 29 2001

RECEIVED

JAN 19 2001

Department of Water Resources

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)
WATER RIGHT NO. 22-07749

Date of Priority: September 24, 1988

Maximum Diversion Rate: 0.02 CFS
Maximum Diversion Volume: 0.3 AF

Comes JERELYN HILL
PO BOX 81
TETONIA ID 83452

and represents to the Director of the

Idaho Department of Water Resources:

That she is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 22-07749, and requests that the permit be changed as follows:

Source **HORSE CREEK**

tributary to **DRY CREEK**

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
STOCKWATER	01/01 to 12/31	0.02 CFS	0.3 AF

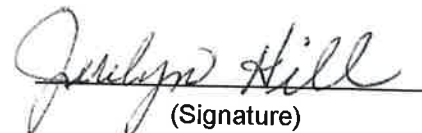
LOCATION OF POINT(S) OF DIVERSION:

HORSE CREEK SW1/4NE1/4NE1/4 Sec. 10, Twp 07N, Rge 45E, B.M. TETON County

PLACE OF USE: STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
07N	45E	16	X																

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk. Signed at Tetonia, Idaho, this 16 day of January, 2001.


(Signature)

MICROFILMED
MAR 29 2001

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)
WATER RIGHT NO. 22-07749

FOR DEPARTMENT USE ONLY

Preliminary check by SWK Fee = \$50.00 Received by JM # C051945 Date 1.19.01

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, Karl J. Dreher, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 22-07749 with the following:

CONDITIONS OF APPROVAL AND REMARKS

1. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
2. The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.

Witness my hand this 26TH day of January, 2001.

Acting for


KARL J. DREHER, Director

MICROFILMED

MAR 29 2001

REC

MAR 07 1994

Department of Water Resources

OFFICE USE ONLY

Amt. of Fee \$ 50.00
Date 3/7/94
Receipt No. C029753
Receipt by aw

RECEIVED

JAN 21 1994

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form 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, when necessary, or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 22-07749 Telephone No. (208) 456-2921

2. Name(s) of Permit Holder(s): Jerelyn Hill

3. Mailing Address: P.O. Box 81, Tetonia, Idaho, 83452

4. Source of Water: Spring

If **GROUNDWATER**, Well Driller's Name: _____ Date Drilled: _____

OPTIONAL:

Pump horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft.): _____

5. Extent of Use (as authorized by the permit):

Domestic _____ (No. of households) Stockwater 20²⁵ Horses & cows (No. and type of stock)

Irrigation _____ (No. of acres) Other _____

6. Total rate and/or volume for which proof is submitted .02 cfs OR _____ 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 Fee Schedule on back of Instruction Sheet)

9. Person to contact to accompany the Department representative during field examination of the water system.

Name _____ Telephone No. _____

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.

Jan 19, 1994
Date

Jerelyn Hill
Signature (and title, if on behalf of a company or organization)

APR 07 1994

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 22-07749

Proposed Priority: September 19, 1988 Maximum Diversion Rate: 0.02 CFS
This is to certify, that **JERELYN HILL**
PO BOX 81
TETONIA ID 83452
has applied for a permit to appropriate water from:

SPRING tributary of **HORSE CREEK**

and a permit is **APPROVED** for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
STOCKWATER	01/01 to 12/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION: SENW , Sec. 10, Township 07N, Range 45E
TETON County

PLACE OF USE: STOCKWATER
TWN RGE SEC

07N 45E 16 SWNE

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **March 1, 1994**.
2. Subject to all prior water rights.
3. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
4. The Director retains jurisdiction of the right and any license subsequently issued to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.

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

27th day of January, 1993

[Signature]
for R. Keith Higginson, Director

MICROFILMED

FEB 17 1993

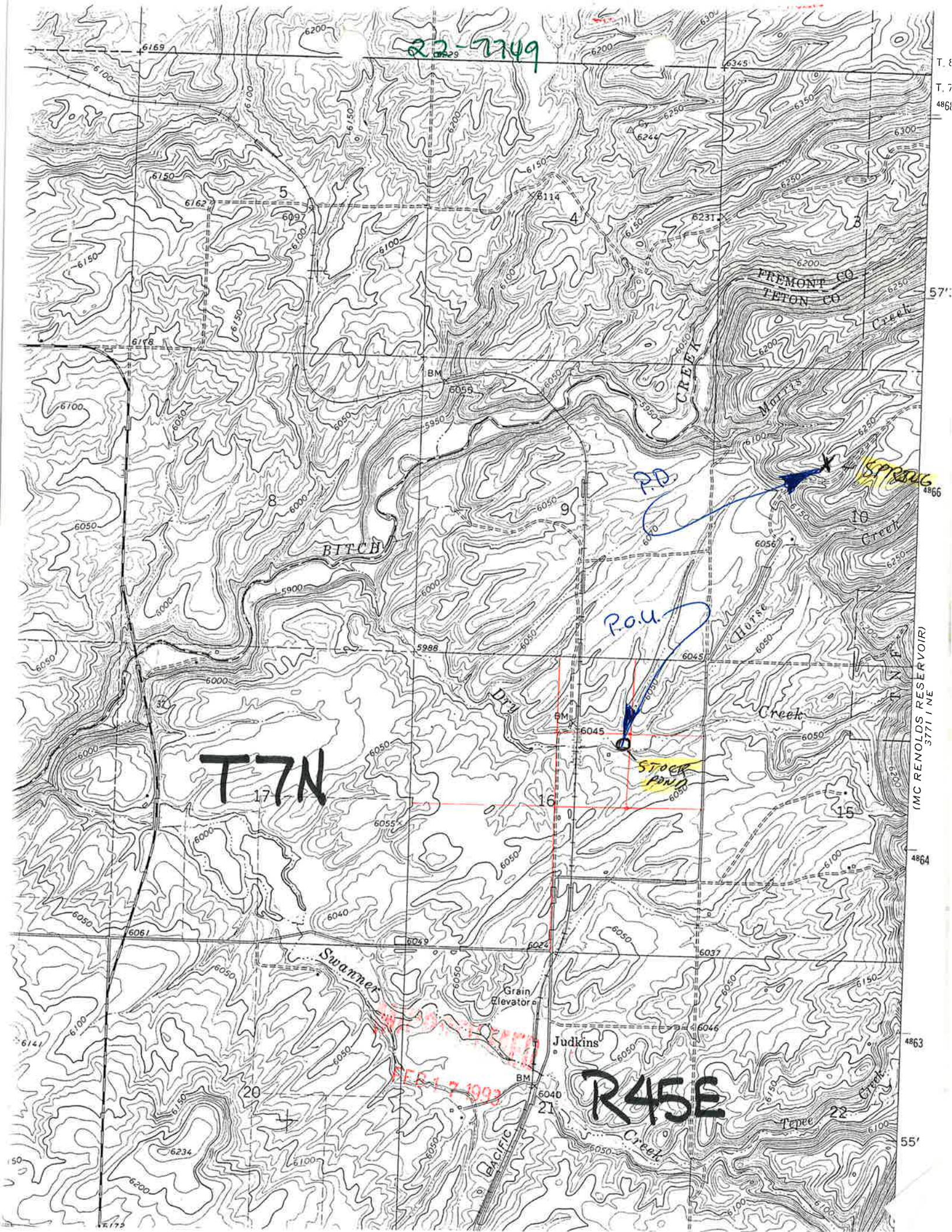
22-7749

T7N

R45E

SEP 17 1993

(MC RENOLDS RESERVOIR)
3771 INE



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 22-1149

To appropriate the public waters of the State of Idaho

1. Name of applicant Jerelyn Hill Phone 208-456-2289
Post office address Box 81 Teton, Idaho 83452
2. Source of water supply unnamed spring which is a tributary of Horse Creek
3. Location of point of diversion is 1/4 of SE SW 1/4 of NW Govt. Lot _____
Sec. 10 Township 7 N Range 45 E B.M. Teton County; additional
points of diversion if any: * Change by HWJ as per map location
4. Water will be used for the following purposes:
Amount .02 for stock 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)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) .02 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. natural flow from
spring to stock pond, 10x10 ft
 - 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? _____
7. Time required for the completion of the works and application of the water to the proposed beneficial use is
1 years (minimum 1 year).

FEB 17 1993

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. 20 head horses
- Municipal; show name of municipality. _____
- Domestic; show number of households: _____
- Other; describe fully. _____

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	
<u>TN</u>	<u>45E</u>	<u>16</u>	<u>S</u>	<u>S</u>	<u>S</u>														

Total number of acres to be irrigated _____

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

well right

11. a. Who owns the property at the point of diversion? Jerdyn Hill

b. Who owns the land to be irrigated or place of use? Jerdyn Hill

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. See remarks

12. Remarks: there is no development at spring source

B 17 1993

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

10

w w

w w

B B

x x

16

MICROFILMED

FEB 17 1993

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.

Jerilyn Hill
(Applicant)

Received by RS Date 9-19-88 Time 6:38 Preliminary check by _____
Fee \$ 30.00 Receipted by RS # 10001351 Date 9-19-88
Publication prepared by RB Date 8-20-27-92 Published in Teton Valley News
Publication approved AB Date 1-13-93

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:

RECORDED

FEB 17 1993

AFFIDAVIT OF PUBLICATION

State of Idaho)
)ss
County of Teton)

I, Nadine Soose
being first duly sworn, depose and say that I am
the of the Teton Valley News,
a newspaper as defined by Idaho Codes An-
notated, Section 58-106, as amended, and that
said newspaper is a weekly newspaper printed and
published at Driggs, in Teton County, Idaho,
having a general circulation in said county, and
that said newspaper has been printed in said
county for more than 78 consecutive weeks prior
to the first publication of the attached notice, ad-
vertisement, or publication of Notice of Correction
secretary

And affiant further says that said attached notice,
advertisement, or publication, as per clipping at-
tached, was published in said newspaper, in the
regular and entire issue thereof, and not in any
supplement issue thereof, for 400 consecutive
issues thereof; first publication having been
made on the 17 day of Dec
1992

And affiant further says that at the times herein
mentioned said newspaper was made up of at
least eight pages of at least five columns each,
printed from typed matter, of at least sixteen in-
ches deep.

Nadine Soose

State of Idaho)
)
County of Teton)

On this 5th day of January
in the year of 1993, before me, a Notary Public,
personally appeared Nadine Soose
known or identified to me to be the person whose
name subscribed to the within instrument, and
being by me first duly sworn, declared that the
statements therein are true, and acknowledged to
me that he executed the same.

Bonnie Johnson
Notary Public for Idaho

Residing at Driggs Idaho

My commission expires 10/24/98

NOTICE OF CORRECTION

Notice is hereby given that Ap-
plication No. 22-07749 in the name
of Jerelyn Hill, Tetonia, Id, was ad-
vertised incorrectly on 8/20 and 27/
1992. The point of diversion was
advertised as being within the SWNW
SEC 10 T07N R45E, B.M. Teton
County.

Whereas, the actual point of di-
version is within the SENW SEC 10
T07N R45E, B.M. Teton County.

Any protests against the grant-
ing of this permit as a result of this
correction must be filed with the Ida-
ho Department of Water Resources,
150 Shoup Ave., Idaho Falls, Id
83402, on or before January 4, 1993.

R. Keith Higginson
Director

Published in the Teton Valley
News on December 17 and 24, 1992.

RECORDED
FEB 17 1993

AFFIDAVIT OF PUBLICATION

State of Idaho)
)ss
County of Teton)

I, Nadine Soore
being first duly sworn, depose and say that I am
the secretary of the Teton Valley News,
a newspaper as defined by Idaho Codes An-
notated, Section 58-106, as amended, and that
said newspaper is a weekly newspaper printed and
published at Driggs, in Teton County, Idaho,
having a general circulation in said county, and
that said newspaper has been printed in said
county for more than 78 consecutive weeks prior
to the first publication of the attached notice, ad-
vertisement, or publication of

Notice of Application
for Water Right

And affiant further says that said attached notice,
advertisement, or publication, as per clipping at-
tached, was published in said newspaper, in the
regular and entire issue thereof, and not in any
supplement issue thereof, for two consecutive
issues thereof; first publication having been
made on the 27 day of Aug.,
1992

And affiant further says that at the times herein
mentioned said newspaper was made up of at
least eight pages of at least five columns each,
printed from typed matter, of at least sixteen in-
ches deep.

Nadine Soore

State of Idaho)
)
County of Teton)

On this 22nd day of September
in the year of 1992, before me, a Notary Public,
personally appeared Nadine Soore
known or identified to me to be the person whose
name subscribed to the within instrument, and
being by me first duly sworn, declared that the
statements therein are true, and acknowledged to
me that he executed the same.

Bonnie Johnson
Notary Public for Idaho

Residing at Driggs Idaho

My commission expires 10/1/92

NOTICE OF APPLICATION
FOR WATER RIGHT

The following
application(s) have been filed
to appropriate the public waters
of the State of Idaho:

22-07749

HILL, JERELYN

P.O. BOX 81

TETONIA, IDAHO 83452

Source: SPRING

Tributary: HORSE

CREEK

DIVERSION PT:

SWNW SEC 10 T

07N R 45E IN TETON
COUNTY.

Use: STOCKWATER

(.020 CFS)

Date Filed: 9/19/1988

In: TETON COUNTY

TO7N R45E S16

SWNE

The permit(s) will be
subject to all prior water rights.
Protests must be filed with the
Director, Dept. of Water
Resources, Eastern Region, 150
Shoup Avenue, Suite 15, Idaho
Falls, Idaho 83402 on or before
SEPTEMBER 7, 1992.
R. KEITH HIGGINSON,
Director

Published in the
Teton Valley News August 27
and September 3, 1992.

RECORDED

FEB 17 1993

Keen, Shelley

9/23/04

To: Wilson, Keith
Subject: GPS Data for 22-7749

Keith,

When you submitted your field report for 22-7749, you included a layout with some GPS points on it. Do you still have the one labeled r103119b.cor? Could you convert it to a shapefile and email it to me? It appears to be in the NENE, yet the Hills' land is all in the SWNE and SENE. Your photographs seem to show the POD south of the fenceline, however.

Shelley Keen
Water Right Permits Section
Idaho Dept. of Water Resources
208-327-7946
skeen@idwr.state.id.us

MEMORANDUM

DATE: September 23, 2004

TO: Water Right File 22-7749

FROM: Shelley W. Keen *SWK*

RE: Location of Hill Property

After reviewing the Fremont County tax parcel data layer in ArcView yesterday afternoon, I spoke with a representative in the Teton County assessor's office (208-354-3507) about the location of the parcel of land owned by Joe and Jerelyn Hill. I was informed that the parcel lies entirely in the S½NE¼ of Section 16, Township 7 North, Range 45 East, B. M. This information is significant because the field examiner for Right 22-7749 reported that both the point of diversion and place of use are in the NE¼NE¼ of Section 16, Township 7 North, Range 45 East, B. M. Either the field examiner's conclusion was incorrect, or the water right was established on land that is not owned by the Hills.

MEMORANDUM

DATE: November 9, 2001

TO: ~~Norm Young~~ *File*

FROM: Shelley W. Keen *SWK*

RE: Hill vs. Robinson (Horse Creek in Basin 22)

Norm,

Skip wrote the attached memo to you, but sent it through me. Because I am somewhat familiar with the issue, I am passing it on with some analysis.

Issue

Neighbors Joe Hill and William Robinson are in disagreement about access by Hill to Robinson's land for maintenance of a channel conveying water to Hill's stock pond. According to Hill, Robinson has warned him to stay off the Robinson land. Mr. Hill asserts that under §42-1102, *Idaho Code*, he has the right to enter Robinson's land to maintain the channel. (I admit to being the one who referred Mr. Hill to that section of the code.) Normally, we would consider the matter to be a civil dispute between two property owners. However, IDWR contributed to the dispute by making a mistake on Hill's licensed right, 22-7749. The field examiner for Hill's license reported that the channel is not a ditch, as Hill contends. Instead, he reported that the channel is the natural course of an unnamed intermittent tributary of Horse Creek. The examiner's documentation is thorough and conclusive, in my opinion. Based on his report, the examiner advised that the point of diversion for the 22-7749 should be changed from a location in Section 10 on Robinson's land to a location far down in Section 16 on Hill's land. Due to a typographical error, as best I can determine, the QQ designation for the point of diversion was changed as the examiner recommended, but the section was left as 10 instead of being changed to 16. Consequently, the authorized point of diversion for Hill's right remains on Robinson's land, bolstering Hill's claim to a right enter Robinson's property.

Options

1. Do nothing. To my knowledge, neither Hill nor Robinson has asked IDWR in writing for a remedy. The advantage is that the parties may yet work it out. The disadvantage is that the license remains inaccurate, and we could be embarrassed if the matter ends up in court.
2. Pursue a correction to the license by asking Hill for another licensing amendment. If we pursue this option, I'm afraid Hill will not sign the amendment for two reasons. First, he may perceive us to be in Robinson's pocket. Second, it is unlikely that he can get much water to

Memo RE: Hill vs. Robinson

November 9, 2001

Page 2

his pond without the license as a "ticket" to go on Robinson's land and clear the channel. Still, I recommend this option because even if we don't get the amendment, our attempt will show for the record that we discovered the problem and tried to remedy the situation.

3. Unilaterally change the license. This is problematic. If we stick to 100 years of precedent, we can't change the legal description of the point of diversion without the amendment. Moreover, unilateral action could be construed as a taking of property.

MEMORANDUM

RECEIVED
MSV - 5 2001

TO: Norm Young *File*
From: H.W. Jones
RE: Hill vs. Robinson (Horse Creek)

On March 21, 2001, Lewis Rounds of this office did an on-site exam on the William Robinson Ranch near Felt, Idaho in response to a complaint filed by Joe Hill. I've enclosed his report for your review.

I took the report from Lewis and issued a Show Cause letter on the pond issue. Mr Robinson's attorney Roy Moulton (Fish and Game Commissioner) responded and ultimately filed an adjudication claim. Mr. Robinson was also advised through his attorney not to use the irrigation well to fill the pond.

In October of 2001 I received another complaint by Mr. Hill that Mr. Robinson had drilled a domestic well and was using that to fill his pond, Dennis Dunn investigated and his report of October 24, 2001 is included.

Another issue of contention was that Mr. Hill has insisted on going upon Mr. Robinson's property to maintain his "ditch" for license 22-7749.

Mr. Robinson's attorney complained of that and I reviewed the application, field exam and licensing files.

It appears the examiner (Keith Wilson) found no ditch and point of diversion on the Robinson property but rather the intermittent channel of Horse Creek. Keith's memo explains his findings, which are also included with this memo.

The long and short of it is that Mr. Robinson now has a copy of the field exam and memo and I think we need to act to correct the point of diversion discrepancy first.

I'm concerned that Mr. Robinson will use some legal action if we don't address the fact that our own licensing amendment was incorrect. The proposed corrected version puts the point of diversion on Mr. Hill's property as the field examiner found it.



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 30, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

JERELYN HILL
PO BOX 81
TETONIA ID 83452

RE: License No. 22-7749 - Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The license 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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Also enclosed is a copy of your approved Application for Amendment.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

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

Sincerely,

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

MICROFILMED

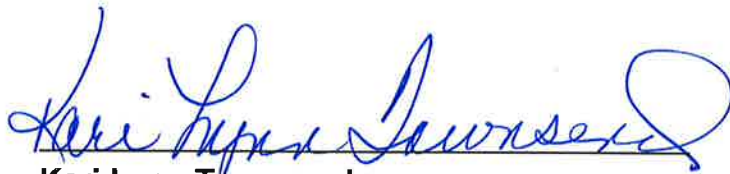
MAR 29 2001

CERTIFICATE OF MAILING

I hereby certify that on January 30, 2001 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO. 22-7749

**JERELYN HILL
PO BOX 81
TETONIA ID 83452**



**Kari Lynn Townsend
Secretary**

MICROFILMED

MAR 29 2001

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

The accompanying order or approved document 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 of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. The department 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 fourteen (14) 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 with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

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 IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).



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 3, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

JERELYN HILL
PO BOX 81
TETONIA ID 83452

RE: Water Right Permit No. 22-7749

Dear Permit Holder(s):

The Department of Water Resources is reviewing the permit referenced above prior to issuing a water right license. By issuing a license, the Department confirms that a water right has been established in compliance with the terms of the permit. The examiner who verified your water use reported that certain elements of the permit have been developed differently than what was described on your permit. Therefore, before a license can be issued, your permit must be amended to depict your water use as it was actually developed.

Based on the examiner's report, the following elements were developed differently than what was described on your permit:

☒ Point(s) of Diversion

☒ Place(s) of Use

The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license when it is issued. Please review the amendment form carefully. If you concur with the information presented, please sign the form and return it with the \$50.00 filing fee within 14 days.

If you have any questions, please call me at 208-327-7944.

Sincerely,

KAY WALKER
Sr. Water Resource Agent

Enclosure

MICROFILMED

MAR 29 2001

MEMORANDUM

DATE: December 6, 2000

TO: Kay Walker

FROM: Shelley W. Keen *swk*

RE: Licensing of 22-07749

I had a request today from Jerelyn Hill for the issuance of a license for 22-07749. I know you're busy, but if you could squeeze this one in she'd appreciate it. If it looks to be easy, go for it. If it will be hard, wait until after we're on the new system.

Any questions should be addressed to her attorney, Cody Runyan, at 354-2244. When the license is issued, please fax him a copy at 354-8886.

*Done
1-29-01
Kari Runyan*

MICROFILMED

MAR 29 2001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
NOV - 8 2000
Department of Water Resources

A. GENERAL INFORMATION

Permit No. 22-07749

1. Owner: Jerelyn Hill

Phone No. 456-2921

Current Address: P.O. Box 81, Tetonia, Id. 83452

2. Accompanied by: Mr. Hill

EXAM DATE: 10/31/2000

Address: -

Phone No. -

Relationship to Permit Holder: Husband

3. Source: Horse Creek

tributary to Dry Creek

B. OVERLAP REVIEW

1. Other water rights with the same place of use: NONE

2. Other water rights with the same point of diversion: NONE

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			NE	NE	16	7N	45E	Teton	On site / GPS (file r103119)

2. Place(s) of Use:

Indicate Method of Determination on site / GPS

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	45E	16	\$																

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MAR 29 2001

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

SEE ATTACHED PHOTOS

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
N/A					

*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: NONE Flow in spring area tributary to Horse Creek flowed in excess of 0.02 cfs

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MAR 29 2001

E. NARRATIVE/REMARKS/COMMENTS

See attached Memorandum

Source Horse Creek trib to Dry Creek

If Flow reached applicants they could divert all the flow

From Permit Use is for 20 horses Note: Cfs for 20-25 Cattle = 0.01 cfs
@ Vol = 0.3 afa

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

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MAR 29 2001

F. FLOW CALCULATIONS

Measured Method:

_____ Additional Computation Sheets Attached

*RECOMMEND 0.02 cfs***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:

*V_{stock} = 0.3 afa***H. RECOMMENDATIONS**

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
<i>Stockwater</i>	<i>1/1</i>	<i>12/31</i>	<i>0.02 cfs</i>	<i>0.3 afa</i>
<i>(25 head)</i>				
Totals:			<i>0.02 cfs</i>	<i>0.3 afa</i>

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. AUTHENTICATIONField Examiner's Name *Keith C. White* Date *10/31/2000*

Reviewer _____ Date _____

SEAL

MICROFILMED

MAR 29 2001

Memorandum

FROM: Keith C. Wilson

October 31, 2000

TO : File 22-07749

RE: On site inspection of Permit **22-07749**

According to Mr. & Mrs. Hill after high water there is no Horse Creek, only the springs tributary to Horse Creek. They contend that they have maintained the drainage (Photos #1 - #6) as a "Ditch" from their place of use up to the spring area (Photo #4) for the past 20 years. Their maintenance of the "Ditch" included removal of branches from the "Ditch", shoveling out silt, and taking a tractor and running one of the wheels (or tracks) up the "Ditch" as far as they could to maintain flow. Maintenance also included the removal of Beaver ponds up above the spring area.

I was accompanied by Mr. Hill during the on site inspection of Permit 22-07749. The following is based on what I was shown by Mr. Hill:

1. Photo #1 - Developed Place of use, Pond, and "Ditch" [View up-stream]
2. Photo #2 - Drainage "Ditch" used to deliver water to pond [View up-stream from "Pond"]
3. Photo #3 - Drainage "Ditch" used to deliver water [View up-stream above "Pond"]
4. Photo #4 - Point of Diversion (Spring area) tributary to Horse Creek
5. Photo #5 - View from Spring Area looking down-stream
6. Photo #6 - Down-stream view of Drainage "Ditch" just below old homestead.

The "Ditch" appears to be the natural channel of Horse Creek. I observed no evidence of development that would indicate that the natural channel of Horse Creek could or would be classed as a "Ditch".

Therefore: Photo #1 shows the Point of Diversion & the Place of Use ("Pond").

SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec 16, T07N, R45E.

Photos #1 - #6 the Drainage "Ditch" is actually the natural channel of "Horse Creek" tributary to "Dry Creek". Thus the Source is actually "Horse Creek"

Photo #4 - Spring area NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 10, T07N, R45E, is not the Point of Diversion.

I informed Mr. & Mrs. Hill that the problem that they had with the permit was that the "Ditch" did not appear to be a "Ditch", but appeared to be the natural channel of Horse Creek. I also told them that according to the U.S.G.S. Map I could only call the source "Horse Creek". I informed them that an amendment to Permit 22-07749 would be required to correctly identify the Point of Diversion and Source. (Later I determined that the place of use was also incorrectly identified on Permit 22-07749.)

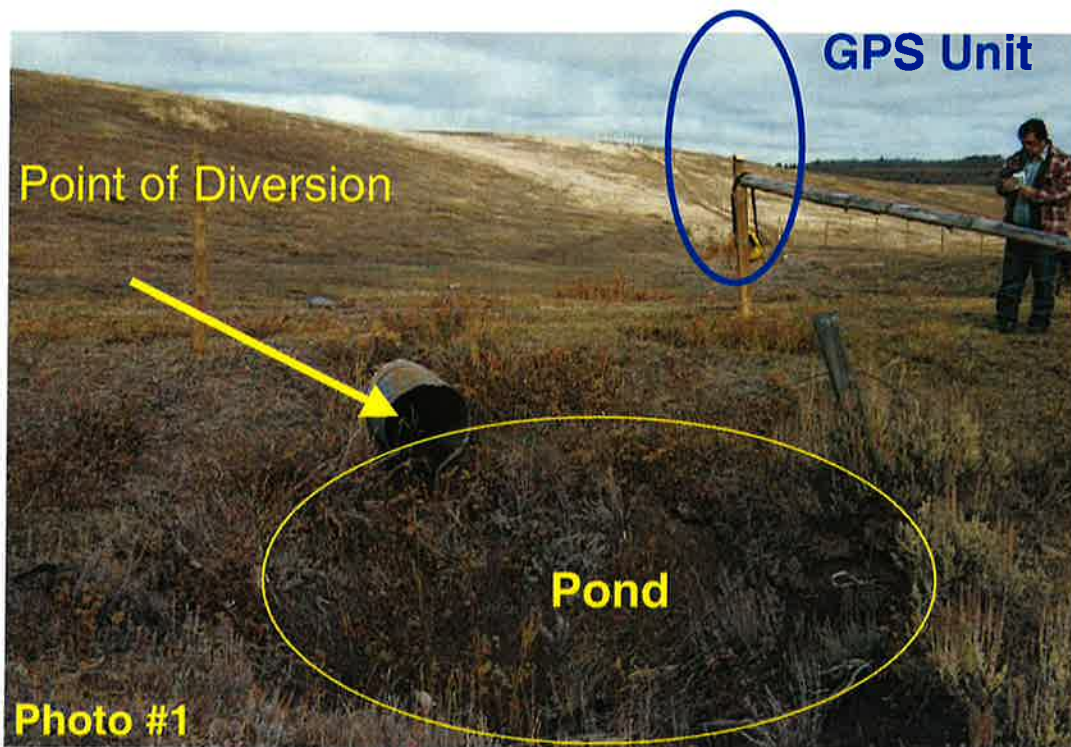
As to their maintenance of the natural channel of Horse Creek as a "Ditch", I informed Mr. & Mrs. Hill, that that would require a legal decision as to whether Horse Creek could be classed as a "Ditch".

At the time of the field inspection no water was flowing onto Mr. & Mrs. Hill's property. However, water was flowing, in excess of 0.02 cfs, from the spring area forming Horse Creek.

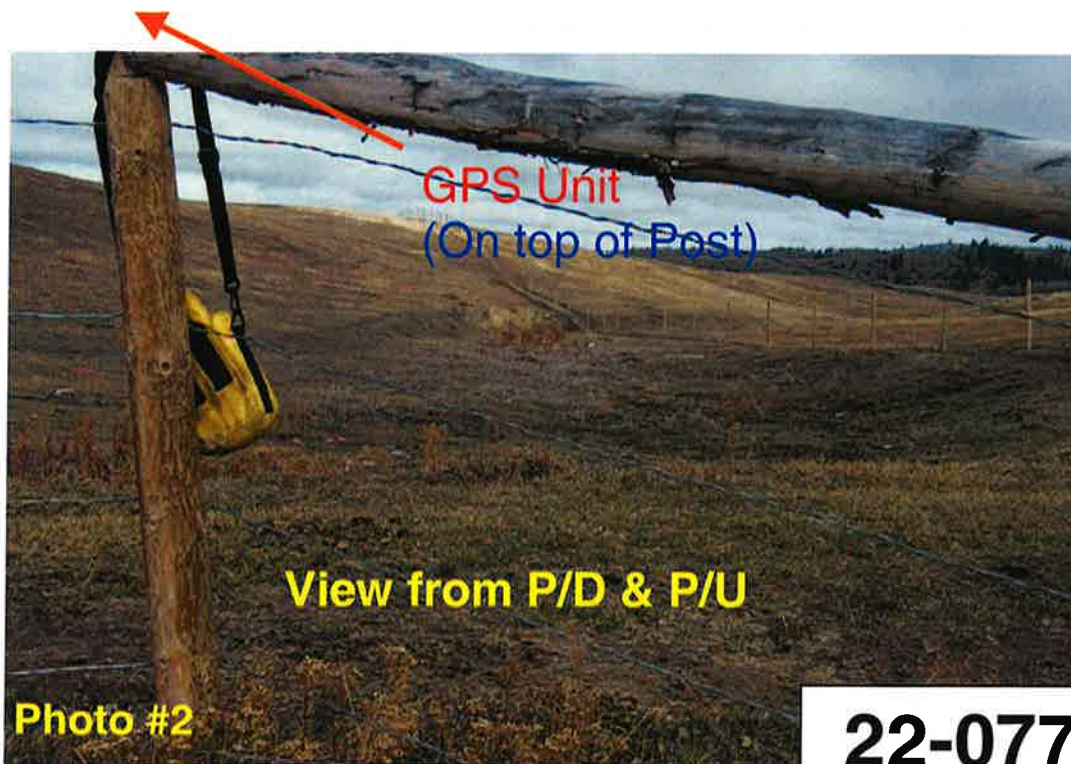

Keith C. Wilson
Senior Resource Agent

MICROFILMED

MLR 2 3 1991



(View Up-Stream)



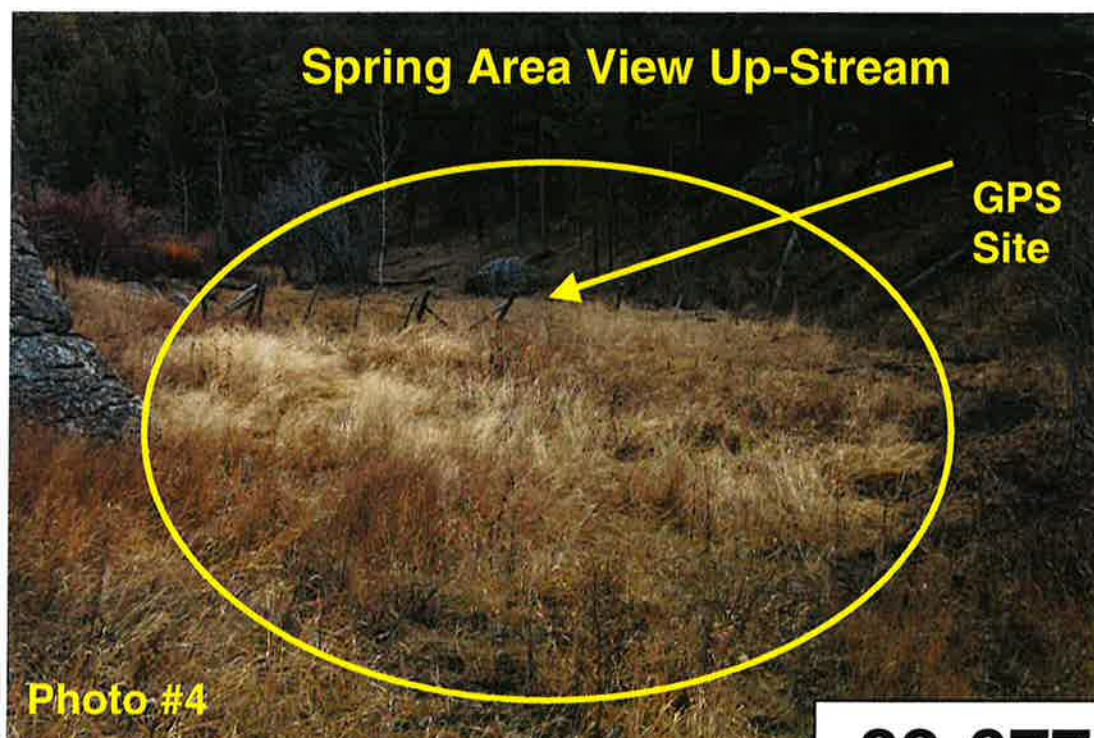
(View Up-Stream)

22-07749

Photo Page 1 of 3

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MAR 29 2001



22-07749

Photo Page 2 of 3

MICROFILMED

MAR 29 2001



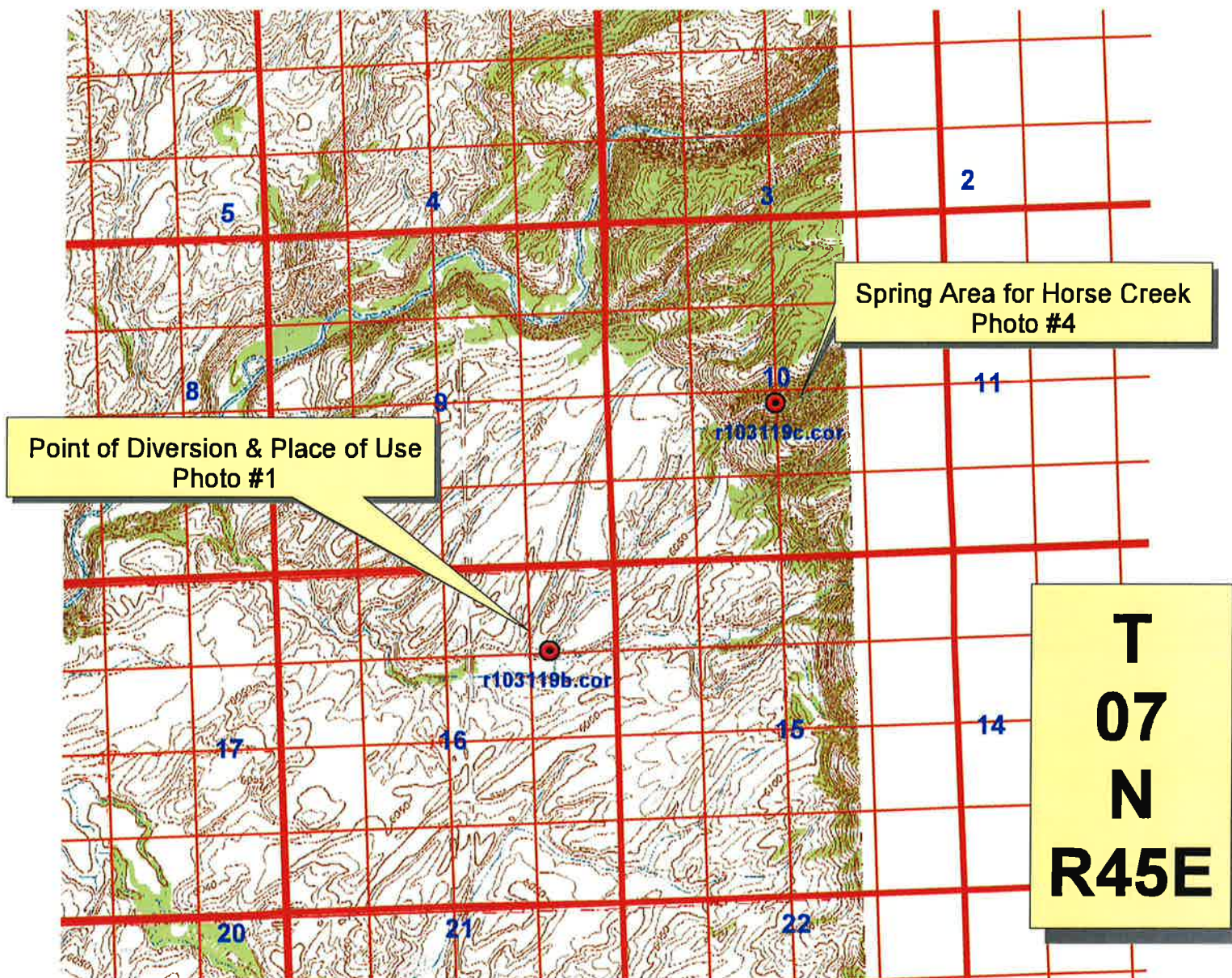
**View of Drainage Downstream
Near Homestead
(N $\frac{1}{2}$ SW $\frac{1}{4}$ Sec 10, T07N, R45E)**

22-07749

Photo Page 3 of 3

MICROFILMED

MAR 29 2001



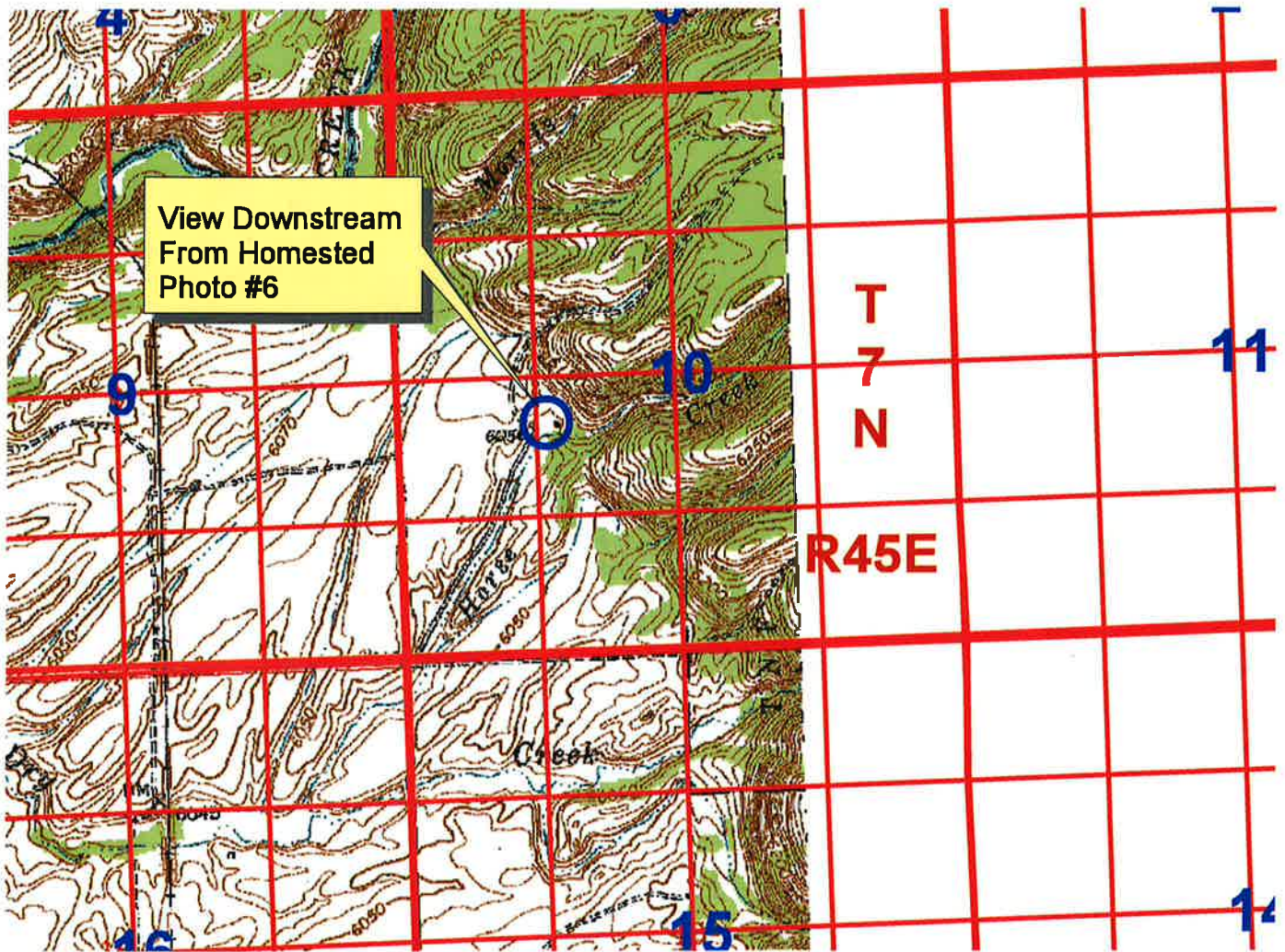
4000 0 4000 8000 Feet



- Posnpnt.dbf
- T07n45e.shp
- Sections.shp

MICROFILMED
MAR 29 2001

22-07749

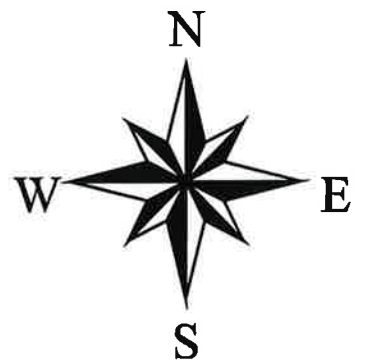


View Downstream
From Homestead
Photo #6

T
7
N

R45E

0.6 0 0.6 1.2 Miles



T07n45e.shp
Sections.shp
MICROFILMED
MAR 29 2001

22-07749

March 22, 1994

JERELYN HILL
P O BOX 81
TETONIA ID 83452

PROOF ACKNOWLEDGEMENT LETTER

RE: PERMIT NO. 22-07749

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. Enclosed is an order reinstating your permit since the Proof of Beneficial Use form was submitted after the proof due date. Please note that your priority has been advanced to September 24, 1988. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

If you have questions concerning this matter, please feel free to contact the EASTERN Regional Office in Idaho Falls, at (208)525-7161.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosure

c: IDWR - Region

RECEIVED
APR 07 1994

WARNING

CANCELLED OR LAPSED

This permit has been officially CANCELLED or LAPSED.

Ninety days following the date of official action this file will be DESTROYED.

March 7, 1994

JERELYN HILL
P O BOX 81
TETONIA ID 83452

RE: Permit No. 22-07749

Dear Permit Holder:

LAPSE NOTICE

You are hereby notified that under the provisions of Section 42-218a of the Idaho Code, the above referenced permit has lapsed. The department provided the proper forms to you in our proof due notice dated December 31, 1993. No further construction or additional development is authorized under this permit unless it is reinstated.

The permit can only be reinstated if you submit an acceptable Proof of Beneficial Use or an acceptable Request for Extension of Time showing reasonable cause for the delay. Either the completed Proof of Beneficial Use Submittal including the examination fee, or a completed field examination report; or the extension request form together with the \$15 fee, must be received by this department within sixty (60) days of the date of mailing of this lapse notice or the permit will no longer be of any force or effect.

A proof of beneficial use form and a request for extension of time form are again enclosed for your use. Please note that only one extension of time can be granted, unless the project has not been completed because of lack of a necessary approval by a governmental agency or by litigation which brings title to the water in question.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosures

RECORDED

APR 07 1994

CERTIFICATION OF MAILING

I hereby certify that on 3-7-94
an original of this document was
deposited in the United States mail,
prepaid addressed to the
individual(s) named above.

[Signature]

February 7, 1994

Jerelyn Hill
P.O. Box 81
Tetonia, ID 83452

RE: Permit No. 22-07749

Dear Permit Holder:

Returned is the proof of beneficial use you submitted in connection with the above referenced permit. Unfortunately, it is unacceptable as filed.

The Department has determined, from pertinent sections of the Idaho Code, that the permit holder must meet two requirements in order to be exempt from the license exam fee. They are:

1. The water right must use a groundwater (well) source.
2. The rate of diversion must be .04 cfs or 4.0 AF or less.

As you can see, you do not meet requirement #1 since you use an unnamed stream (surface) for your source. Therefore, a license examination fee of \$50.00 applies to the permit. I have enclosed a copy of the Instructions for the Proof of Beneficial Use for your convenience.

Please return the original proof form along with the license exam fee by the proof due date of March 1, 1994.

If you have any questions or if I can be of any further assistance, please feel to contact me.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosure

RECEIVED

APR 07 1994

December 31, 1993

JERELYN HILL
PO BOX 81
TETONIA ID 83452

PROOF DUE NOTICE

RE: PERMIT NO. 22-07749

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before March 1, 1994. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

APR 07 1994





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

January 27, 1993

JERELYN HILL
PO BOX 81
TETONIA ID 83452

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 22-07749

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. We direct your attention to the conditions of approval on the final page.

Enclosed is a form entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop this permit. Also enclosed is a form entitled "Proof of Beneficial Use". If your project is already completed you should complete and submit this form immediately.

Sincerely,

BRENDA L. MILLER
Water Resource Agent

BLM:cz

Enclosures

RECEIVED

JAN 27 1993

MEMORANDUM

TO: Application 22-07749
FROM: Brenda Miller
DATE: November 20, 1992
RE: Point of Diversion Correction

=====

The point of diversion listed on the application differs from that listed on the enclosed map. The file is being returned to the region for correction and if necessary, re-advertisement.

Done.
HWT 1-13-93

MICROFILMED

FEB 17 1993

21-Aug-1992

JERELYN HILL
PO BOX 81
TETONIA ID 83452

RE: Application No. 22-07749

Dear Water Right Applicant:

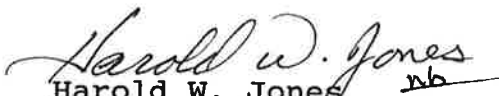
The Department of Water Resources acknowledges receipt of your water right permit. This office is currently in the process of advertising the application in the Teton Valley News on August 8 & 27, 1992. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in about five weeks. State Office Personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,


Harold W. Jones *nb*
Water Right Supervisor

HWJ:rb

RECEIVED
FEB 17 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region
150 Shoup Ave., Suite 15

Idaho Falls, Idaho 83402
(208) 525-7161

AUGUST 12, 1992

TETON VALLEY NEWS
P.O. BOX 509
DRIGGS, ID 83422

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before SEPTEMBER 7, 1992.

Yours truly,

Rita Bodell
Secretary

Encl.

MICROFILMED

FEB 17 1993

NOTICE OF APPLICATION FOR WATER RIGHT

The Following application(s) have been filed to appropriate the public waters of the State of Idaho:

RECEIVED

FEB 17 1993

22-07749

HILL, JERELYN
PO BOX 81
TETONIA, ID 83452

Source: SPRING

Tributary: HORSE CREEK

Diversion Pt: SWNW Sec 10 T 07N R 45E in TETON County.

Use: STOCKWATER (.020 CFS)
Total Diversion: (.020 CFS)

Date Filed: 9/19/1988

In: TETON County
T07N R45E S16 SWNE

FEB 17 1993

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Eastern Region, 150 Shoup Avenue, Suite 15, Idaho Falls, Idaho 83402 on or before SEPTEMBER 7, 1992.

R. KEITH HIGGINSON, Director

Published: 8/27/1992 & 9/ 3/1992

FEB 17 1993