

RECEIVED

JUN 07 2016

Amended App.
WATER RESOURCES
WESTERN REGION
STATE OF IDAHO

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single-sided document

MAR 23 2016

MAR 22 2016

DEPARTMENT OF
WATER RESOURCES

WATER RESOURCES
WESTERN REGION

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-34206

1. Name of applicant(s) Hawk Stone Phone 208-336-4084

Name connector (check one): ☐ and ☐ or ☐ and/or

Mailing address: 3921 W. Catalpa Drive City Boise

State ID _____ Zip 83703 Email: hawkstone1@gmail.com

2. Source of water supply Waste Water Groundwater which is a tributary of Boise River NA

3. Location of point(s) of diversion: HS 6.3-16 HS 6.3-16

Twp	Rgs	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
4N	2E	29		SE	SW	NE	Ada	Waste water (Johnson)	3907 Whitehead Dr.
4N	2E	29		SE	SW	NE	Ada	Waste Water (Niznik)	3911 Whitehead Dr.
4N	2E	29		SE	SW	NE	Ada	Waste Water (Pursley)	4015 Whitehead Dr.

4. Water will be used for the following purposes:

Amount 0.03 cfs for Heating purposes from Jan 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)

5. Total quantity to be appropriated is (a) 0.03 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source. Pipe attached to waste pipes from Johnson, Niznik, and Pursley heating systems.

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11.

For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No

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

d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☒ No

e. If well is already drilled, when? _____; drilling firm _____;
Well was drilled for (well owner) _____; Drilling Permit No. _____.

7. Description of proposed uses (if irrigation only, go to item 8):

a. Hydropower; show total feet of head and proposed capacity in kW. _____

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; show name of municipality or the applicant's qualifications as a municipal provider. _____

d. Domestic; show number of households _____

e. Other; describe fully. Supplemental heating for one residence at 3921 W Catalpa Drive; heating for greenhouse and agricultural outbuilding at same location; and/or snow melting on driveway.

8. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. 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	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
2N	4E	29													G	9			
4N	2E																		

Total number of acres to be irrigated: 0

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? _____
10. a. Who owns the property at the point of diversion? Wynn Johnson, David Niznik and Ben Pursley
- b. Who owns the land to be irrigated or place of use? Hawk Stone
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Written agreement from Messrs. Johnson, Niznik and Pursley allowing connection and routing of pipe.
11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Collect waste geothermal water from Johnson, Niznik, and Pursley systems. Water is currently wasted into the Boise City Canal system. Transport water through irrigation culvert underneath Catalpa Drive (permission has been obtained from Boise City Canal Company). Use heat from water: 1) To provide supplemental space heating for residence by routing through system of pipes under floor or by using a heat pump system. Residence already has a gas furnace as its primary heat source, 2) To warm an unheated agricultural outbuilding, 3) To warm a greenhouse used for growing plants and vegetables and/or 4) To melt snow on a driveway and paths.
12. Time required for completion of works and application of water to proposed beneficial use is 3 years (minimum 1 year).
13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8 1/2" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Hawk Stone
Signature of Applicant

Hawk Stone
Print Name (and title, if applicable)

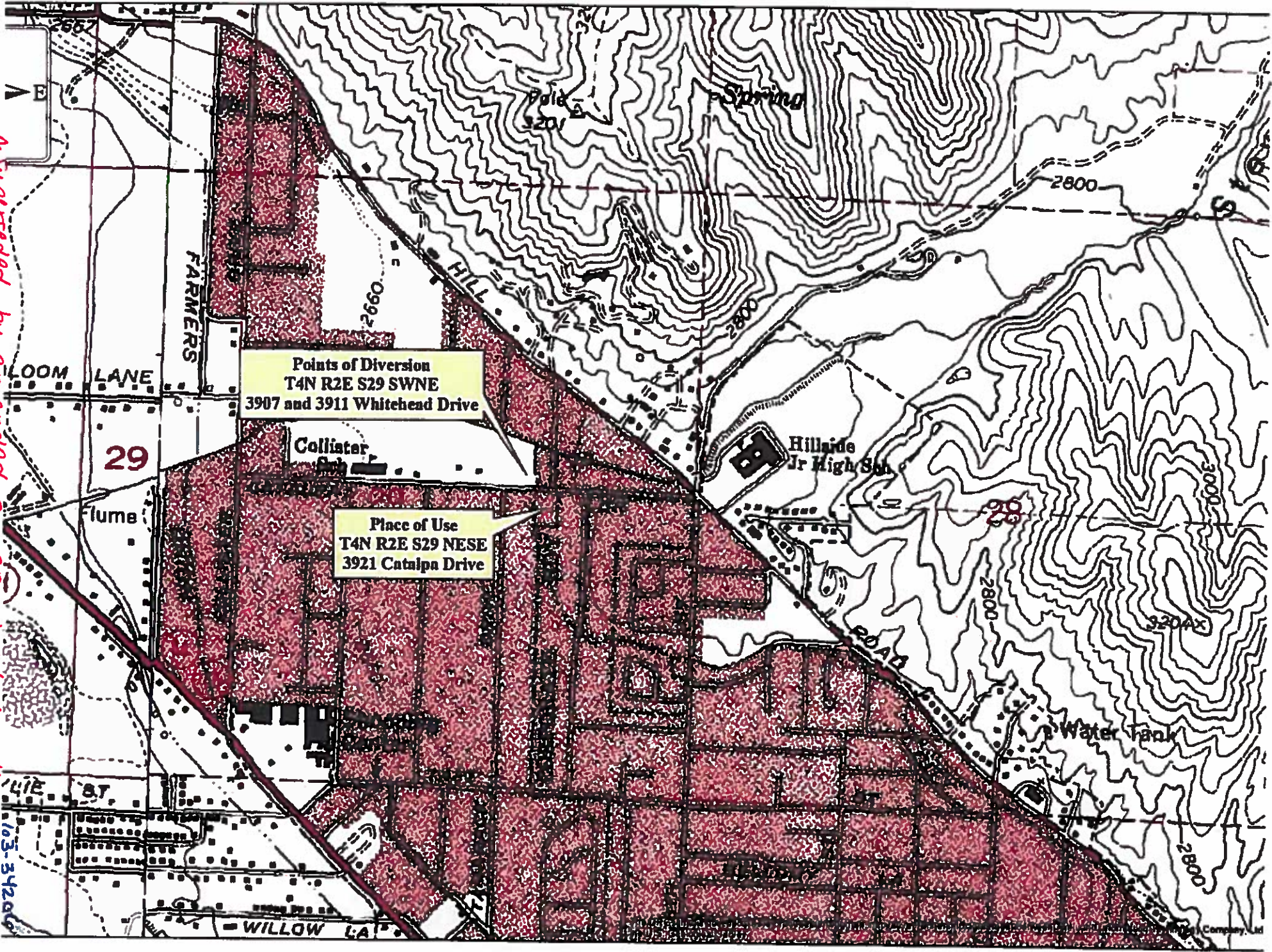
Signature of Applicant

Print Name (and title, if applicable)

Received by ELB Date 3/22/16 Time 11:34 AM Preliminary check by DM
Fee \$ 100.00 Received by ELB Receipt No. C101715 Date 3/22/16

Superseded by amended app. 2 received 6-17-16 DM

As superseded by amended app. 2 received 6-17-10 - OM



Hawk Stone Water Right Application

3-22-16

Legend

 Pipe Route



Superseded by amended app 2. received 6-17-16, DH 03-34206

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DEPARTMENT OF
WATER RESOURCES

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WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

Ident. No. 63-34206

ORIGINAL

1. Name of applicant(s) Hawk Stone Phone 208-336-4084
Name connector (check one): ☐ and ☐ or ☐ and/or

Mailing address: 3921 W. Catalpa Drive City Boise

State ID Zip 83703 Email: hawkstone1@gmail.com

2. Source of water supply Waste Water which is a tributary of Boise River

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Hawk Stone

Signature of Applicant

Hawk Stone

Print Name (and title, if applicable)

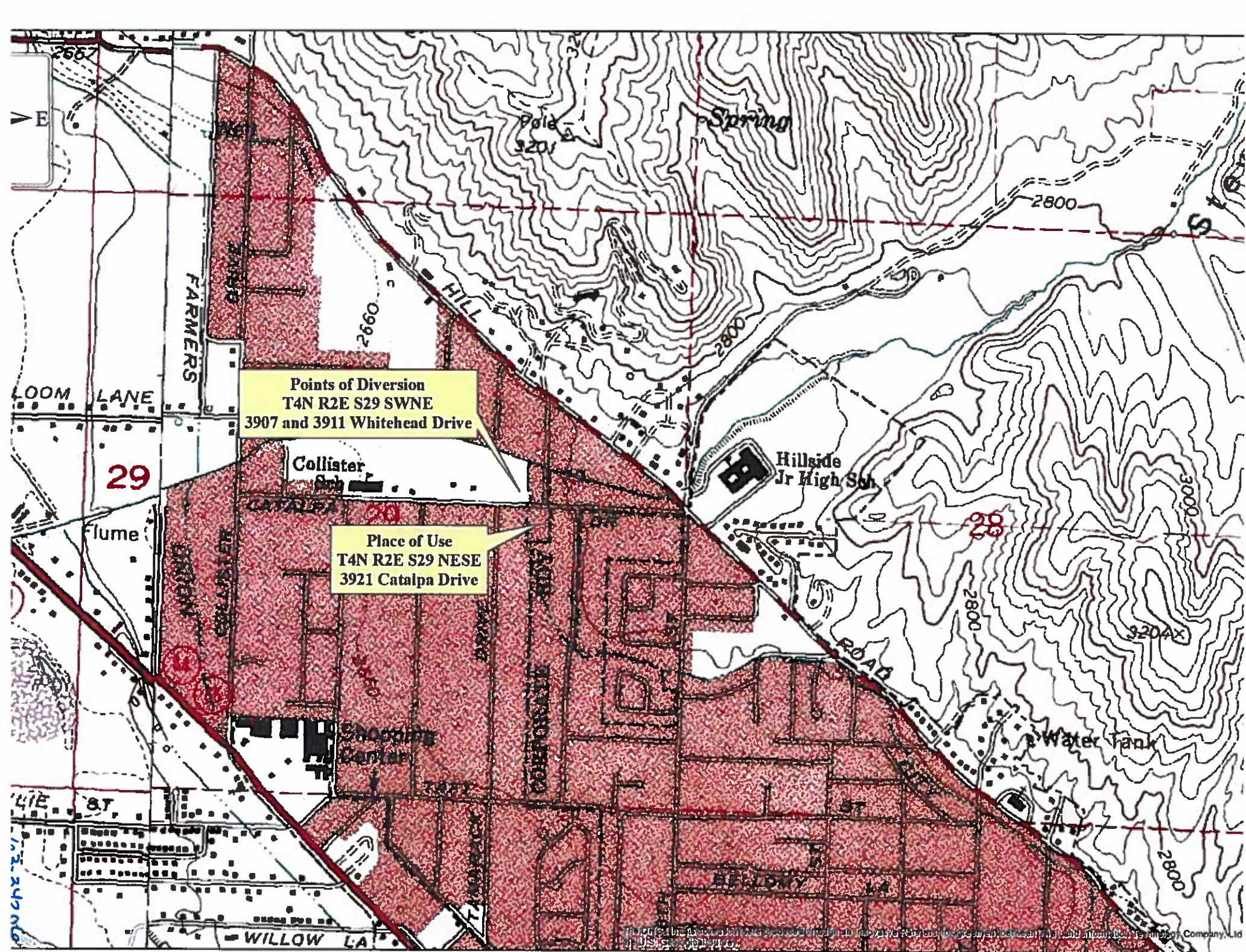
Signature of Applicant

Print Name (and title, if applicable)

Received by ELB Date 3/22/16 Time 11:34 AM Preliminary check by DM

Fee \$ 100.00 Received by ELB Receipt No. C101715 Date 3/22/16

* superseded by amended app. received 6-7-16. -DM



Hawk Stone Water Right Application

3-22-16

Legend
Pipe Route



Google earth

© 2015 Google

200 ft

N

1-3-2422610



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 29, 2016

HAWK STONE
3921 W CATALPA DR
BOISE, ID 83703

Application for Permit No. 63-34206

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the IDAHO STATESMAN on 7/7/2016 and 7/14/2016. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rachel Neely', with a long horizontal flourish extending to the right.

Rachel Neely
Administrative Assistant

Neely, Rachel

From: Neely, Rachel
Sent: Wednesday, June 29, 2016 1:01 PM
To: 'BOI Legals'
Subject: Ada Legal Ads
Attachments: Ada Cover Letter.docx; Ada Legal Ad.docx

Good Afternoon Legal Clerk,

Please see the attached ads for publication on 7/7/2016 & 7/14/2016.

Please confirm these are okay to publish as shown.

Thank you,

Rachel Neely

Administrative Assistant I
IDWR-Western Region
2735 Airport Way Boise, ID 83705
Rachel.Neely@idwr.idaho.gov

June 29, 2016

LEGAL NOTICE DEPARTMENT
IDAHO STATESMAN
PO BOX 40
BOISE, ID 83707

RE: Application for Permit No. 63-34085
 Application for Permit No. 63-34149
 Application for Permit No. 63-34206

Dear Legal Notice Department:

Please publish the enclosed legal notices on the dates indicated (once a week for two consecutive weekly issues). 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. Please send the affidavit and bill to this office before 7/25/2016. Your cooperation is appreciated.

Sincerely,

Rachel Neely
Administrative Assistant

Enclosure(s)

The following applications have been filed to appropriate the public waters of the State of Idaho:

63-34085

REYNOLDS IRRIGATION DISTRICT

PO BOX 12

MELBA, ID 83641

Point of Diversion SWNE S9 T01S R02W CANYON County Source GROUCH DRAIN Tributary WARM SPRINGS CREEK

(2)Points of Diversion NWNE S10 T01S R02W CANYON County Source UNNAMED DRAINS Tributary WARM SPRINGS CREEK

Point of Diversion SESE S3 T01S R02W CANYON County Source UNNAMED DRAINS Tributary WARM SPRINGS CREEK

Point of Diversion SWNWNW S10 T01S R02W CANYON County Source SPRINGS Tributary WARM SPRINGS CREEK

Use: POWER 01/01 to 12/31 13.56 CFS

Total Diversion: 13.56 CFS

Date Filed: 5/18/2015

Place of Use: POWER

T01S R02W S17 NWNE

63-34149

SUNROC CORPORATION

PO BOX 1955

OREM, UT 84059

Point of Diversion L10(NESE) S22 T04N R01E ADA County Source GROUND WATER

Use: COMMERCIAL 01/01 to 12/31 0.45 CFS

Total Diversion: 0.45 CFS

Date Filed: 9/28/2015

Place of Use: COMMERCIAL

T04N R01E S22 L2(SWNE) L7(SWNE) SWNE L8(SENE) SENE L10(NESE) L8(NESE) NESE L11(NWSE) NWSE SESE

T04N R01E S23 L8(SWNW) L8(NWSW) L9(NWSW) NWSW

Water bearing zone to be appropriated is from 200 to 300 feet.

63-34206

HAWK STONE

3921 W CATALPA DR

BOISE, ID 83703

Point of Diversion SWNE S29 T04N R02E ADA County Source WASTE WATER Tributary BOISE RIVER

Point of Diversion SWNE S29 T04N R02E ADA County Source WASTE WATER Tributary BOISE RIVER

Point of Diversion SWNE S29 T04N R02E ADA County Source WASTE WATER Tributary BOISE RIVER

Use: HEATING 01/01 to 12/31 0.03 CFS

Total Diversion: 0.03 CFS

Date Filed: 3/23/2016

Place of Use: HEATING

T04N R02E S29 NESE NWSE

The proposed use is non-consumptive.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s), please see www.idwr.idaho.gov/WaterManagement/WaterRights. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 7/25/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 7/7/2016 and 7/14/2016

Neely, Rachel

From: Neely, Rachel
Sent: Wednesday, June 29, 2016 1:02 PM
To: 'Rex Barrie'
Subject: Application for Permit No. 63-34206
Attachments: Watermaster Recommendation Form.docx; Application for Permit No. 63-34206.pdf

June 29, 2016

REX BARRIE
WATER DISTRICT #63
PO BOX 767
10769 W STATE ST
STAR ID 83669-0767

RE: Application for Permit No. 63-34206

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. A copy of the application is enclosed with this email for your reference. Please review the application, complete a recommendation form, and submit your reply, if any, to this office by July 25, 2016.

IDWR will assume you do not object to this application if a timely response is not received. Please contact me if you have any questions in this matter. Thank you for your help.

Sincerely,

Rachel Neely

Administrative Assistant I
IDWR-Western Region
2735 Airport Way Boise, ID 83705
Rachel.Neely@idwr.idaho.gov

Neely, Rachel

From: Neely, Rachel
Sent: Wednesday, June 29, 2016 1:02 PM
To: Neely, Ken
Subject: Application for Permit No. 63-34206
Attachments: Watermaster Recommendation Form.docx; Application for Permit No. 63-34206.pdf

June 29, 2016

KENNETH NEELY
WATER DISTRICT #63S
IDWR STATE OFFICE

RE: Application for Permit No. 63-34206

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. A copy of the application is enclosed with this email for your reference. Please review the application, complete a recommendation form, and submit your reply, if any, to this office by July 25, 2016.

IDWR will assume you do not object to this application if a timely response is not received. Please contact me if you have any questions in this matter. Thank you for your help.

Sincerely,

Rachel Neely

Administrative Assistant I
IDWR-Western Region
2735 Airport Way Boise, ID 83705
Rachel.Neely@idwr.idaho.gov

MEMORANDUM

TO: 63-34206 Stone File
FROM: Danie Merriman (Western)
DATE: June 28, 2016
RE : Application for Permit Amendments

There has been much discussion between Water Resource staff regarding the appropriate source of water on application for permit 63-34206. The current system involves water right 63-5195, where water is diverted from one well on the Niznik property and is piped to three separate homes (Niznik, Johnson, and Pursley) to use the heat value of the water. After the water is used for its heat, each home discharges the water into a culvert that eventually connects to the Boise City Canal. The applicant proposes piping the water directly from the discharge points at the homes to his property for heating uses. The water will not intermingle with other appropriable water until after it has been used at the Stone property and is released into the Boise City Canal.

Originally, the applicant applied for this water under the source “wastewater” tributary to “Boise River.” The applicant felt that this water was already used under water right 63-5195, and by making the source waste water, he would only be taking water that had previously been utilized. Initial review deemed that this may be an inappropriate source because wastewater tends to be surface water that is collected after it has been used for other purposes and has potentially intermingled with other water. Because the water would be piped directly from the discharge point and would not intermingle with other water, it was originally thought that the proposal would be a continuation of the current system and the source should cite ground water.

Upon further review, a similar proposal was submitted by Flinda Tertleing in 2004. During the processing of this application, Gary Spackman sent a letter (dated September 7, 2005) to Ms. Tertling that defines the term “wastewater” as the following.

The term “wastewater” infers that the water has already been beneficially used and is passing completely from the control of the original water right holder to another location where it can be diverted by the wastewater appropriator.

Based on this definition, it was deemed more appropriate to list the source of the water as “wastewater.” The water from the Niznik well under water right 63-5195 is beneficially used for heat in the homes of Niznik, Pursley, and Johnson before being discharged separately into a culvert that eventually connects to the Boise City Canal. Once it exits the discharge point at the homes, it is no longer in control of the water right holder. This is the point where Mr. Stone would pipe the water to another location

Based on this determination, we are accepting the amended application that was received on June 7, 2016. This version amends section two of the form to state the source of the water supply as “ground water.” However, section three of the form lists three points of diversion with sources “wastewater” and the names of the discharge point property owners. We are choosing to honor the wastewater source of this amendment as described in section three.

The amendment attached to this memo was received June 17, 2016 and removes two of the points of diversion and amends the third to have a source of ground water. We are not considering this amendment as it inaccurately describes the proposal.

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WESTERN REGION

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STATE OF IDAHO

MAR 22 2016

DEPARTMENT OF
WATER RESOURCES

MAR 23 2016

DEPARTMENT OF
WATER RESOURCES

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-342061. Name of applicant(s) Hawk Stone Phone 208-336-4084Name connector (check one): ☐ and ☐ or ☐ and/orMailing address: 3921 W. Catalpa Drive City BoiseState ID Zip 83703 Email: hawkstone1@gmail.com2. Source of water supply Waste Water Groundwater which is a tributary of Boise River NA3. Location of point(s) of diversion: HS 6-3-16 HS 6-3-16

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IDAHO DEPT. OF AGRICULTURE
BOISE, IDAHO 83720

8. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
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Total number of acres to be irrigated: 0

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Hawk Stone

Signature of Applicant

Hawk Stone

Print Name (and title, if applicable)

Signature of Applicant

Print Name (and title, if applicable)

Received by ELL Date 3/22/16 Time 11:34 AM Preliminary check by DM
 Fee \$ 100.00 Receipted by ELL Receipt No. 0101715 Date 3/22/16

Hawk Stone Water Right Application

3-22-16

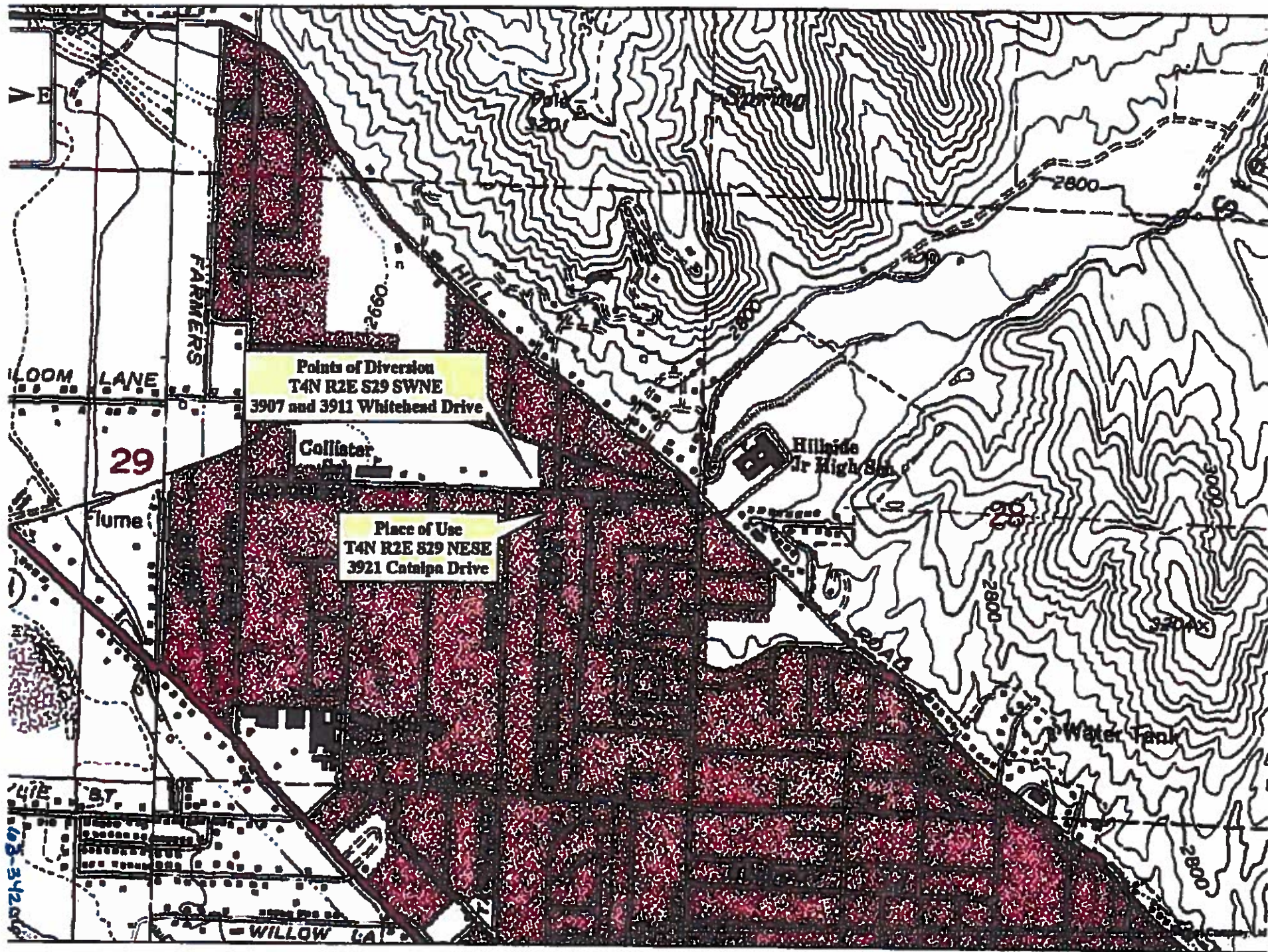
Legend

 Pipe Route



03-342060

Google earth



Merriman, Danielle

From: Merriman, Danielle
Sent: Friday, June 10, 2016 3:32 PM
To: 'Hawk.Stone@deq.idaho.gov'
Subject: App for Permit 63-34206
Attachments: 63-34206 Stone App.pdf

Hi Hawk,

I'm sorry I missed your call this morning. Thank you for the message.

Unfortunately, I do need you to make the changes to your form and mail it back to the office. I'm sorry for the hassle! I've attached a copy of the originally amended application. Please cross out the two points of diversion that read "Johnson" and "Pursley." In the table, could you also change the source from "waste water (Niznik)" to "groundwater." Also, in the POD location, could you cross out the "SE" in the "SE SW NE." This last part may be overkill, but I reviewed the Niznik right and his well is described in the SW NE QQ, so making it the same on your form may help with consistency.

Thanks with all of your patience on this. I hope you are enjoying Northern Idaho! I don't remember a lot happening in Troy, but the Palouse is so pretty! Enjoy your weekend.

Danie Merriman

Water Resource Agent, Sr.

Idaho Department of Water Resources

Phone: (208) 334-2190

Fax: (208) 334-2348

Email: danie.merriman@idwr.idaho.gov

Merriman, Danielle

From: Merriman, Danielle
Sent: Friday, May 13, 2016 9:52 AM
To: 'hawk.stone@deq.idaho.gov'
Subject: RE: Application for permit 63-34206

Hi Hawk,

Thank you for the chat last week and the explanation of your proposed project.

We briefly discussed amending your application to correct the POU description. Currently, your application describes the use taking place in the NESE QQ of T02N R04E Sec 29. Based on the map you included and our conversation, the POU should actually be described as the NESE and NWSE QQs of T04N R02E Sec 29. Please reply to this email and confirm if you would like the application to be amended to reflect this change.

Also, based on our conversation it sounds like you are going to pipe the warm water directly from the discharge points to your property. My understanding of this is that the water will not mix with other water found in the culvert. It will not flow into the canal or waterway until after it has been used on your property. If this is true, we need to amend the source of your water. If the water does not mingle with surface water prior to use, it would need to be called "ground water" tributary to "N/A." This is a bit different than the Terteling permit because they are pulling water out of surface ditch that has been comingled with other surface water. Although the source will say "ground water," an approved permit would include a condition that limits the quantity of water used to that which is actually pumped from the well. Changing the source would also require amending the number of diversion points requested. Because this is likely a ground water proposal, the only POD would be the well and, therefore, only one description should be listed in section 3 of your application. If all this sounds agreeable, please reply to this email confirming the source and POD amendments.

Your proposal takes place in water basin 63 and is likely a groundwater application. Therefore, it is necessary to include the water bearing zone of the well when we advertise your proposal. The backfile of the Niznik/Nelson well says that the well is approximately 1,400 feet deep, but does not describe the zone where water is pulled from. Could you please submit the water bearing zone for the Niznik well?

Thank you very much in advance! Let me know if you have any questions regarding these requests. Happy Friday and have a great weekend!

Danie Merriman

Water Resource Agent, Senior

Idaho Department of Water Resources

Phone: (208) 334-2190

Fax: (208) 334-2348

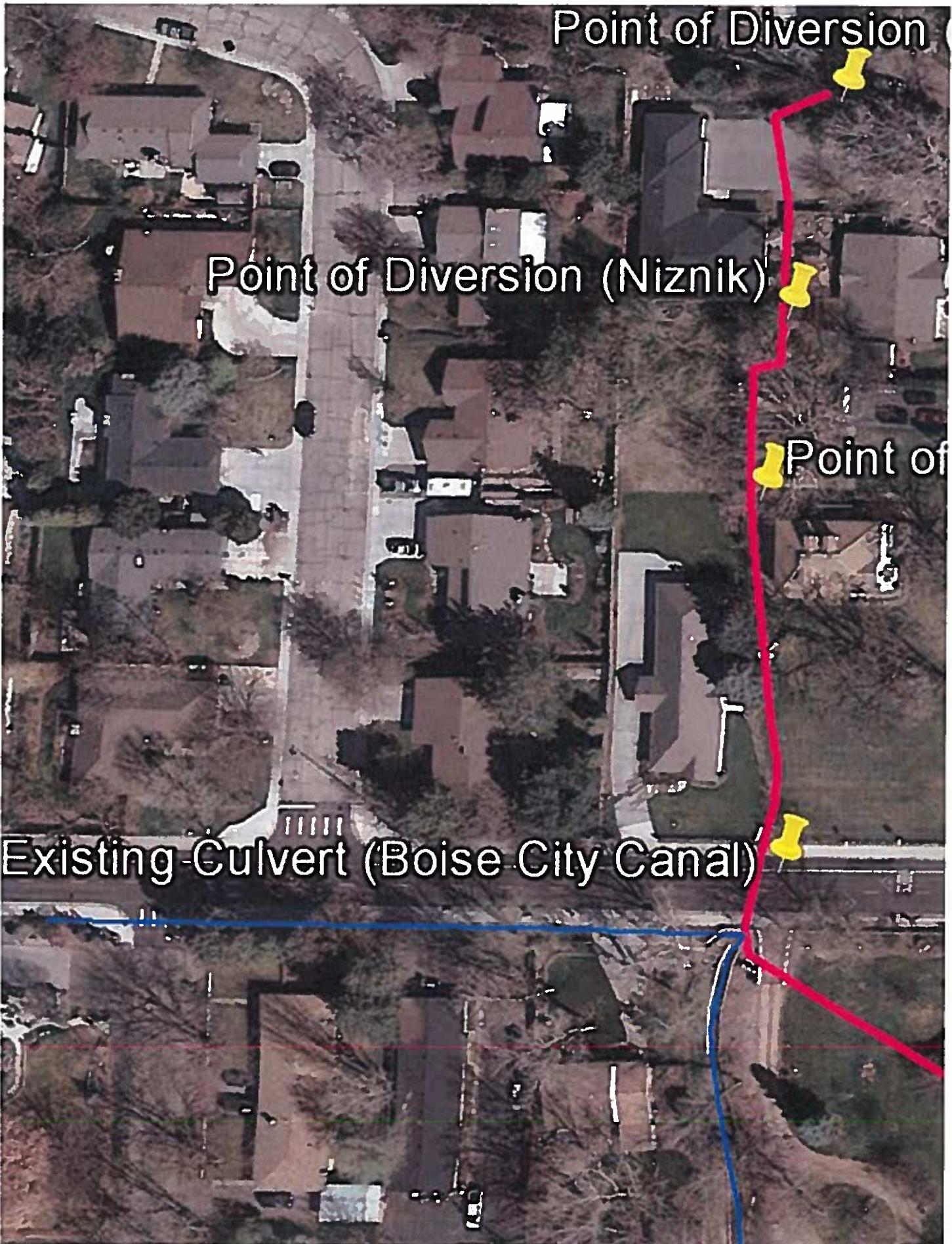
Email: danie.merriman@idwr.idaho.gov

From: Hawk.Stone@deq.idaho.gov [mailto:Hawk.Stone@deq.idaho.gov]

Sent: Friday, May 06, 2016 10:57 AM

To: Merriman, Danielle

Subject: Canal



Hawk Stone
Surface Water Specialist

Idaho Department of Environmental Quality

Office of Technical Services

1410 North Hilton. Boise, Idaho 83706

(208) 373-0588



MEMORANDUM

TO: 63-34206 Stone file
FROM: Danie Merriman (Western)
DATE: May 6, 2016
RE: Telephone conversation with Hawk Stone on 5/6/16 at 10:45 am

The following responses were acquired per a telephone conversation with the applicant in regards to their application for permit.

Overall description of how system will work.

Hawk emailed me the following screen shot to aid in the following description of his proposed system.



He explained that the blue line is the Boise City Canal and it flows north and then west. The pink line is a two foot wide underground culvert that transports water to and from the Pursley, Niznik, and Johnson homes. If left undiverted as described in this proposal, the water from the Niznik well would flow into each of the homes before being discharged individually into the culvert that eventually flows to the Boise City Canal. Hawk's proposal includes three points of diversion because he will divert from each discharge point where the water is relinquished from the control of Pursley, Niznik, and Johnson.

Hawk is proposing to install a plastic pipe to the "ceiling" of the culvert represented by the pink line that connects to the discharge point of the three wells. The culvert only ever fills halfway and the placement of the pipe at the top of the culvert will keep the water out of the flow of the culvert and will reduce transfer of heat to water that flows through culvert. He will then dig a trench between his property and the corner of the Boise City Canal to extend the pipe and transport the water to his project.

How did the applicant calculate 0.03 cfs as a quantity to be used?

Hawk said that the 0.03 cfs listed is based on the water that would be available to appropriate. He took rudimentary measurements of the discharge from the wells and came up with 2-3 gallons per minute, which translates to roughly 0.03 cfs.

Although the water in the culvert flows in different directions based on the season, Hawk believes he will be able to control the flow to his property year round using the pipe. He also believes water will be available year round because the Pursleys keep their well active to fill a heated swimming pool.

The description of the POU may be incorrect.

Hawk agrees that the POU description should be amended to include both the NWSE and NESE QQs so his entire property and shop are included. I will email him later to explain the change and he will reply to confirm the amendment.

Hawk Stone
3921 Catalpa Drive Boise Idaho 83703
hawkstone1@gmail.com 208-373-0588

March 21, 2016

Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Dear Sir or Madam,

Please find enclosed my application for a new water right in district 63-S.

In 2013, I applied to drill a new geothermal well. I withdrew that application after concluding that the 1988 moratorium prevented me from obtaining a water right. At that time, Vicki Music and Steve Lester of IDWR advised me that the only feasible way to obtain geothermal water was to use an existing source.

The enclosed application proposes exactly that. Presently, four houses on Whitehead Street are heated with geothermal water from the Niznik well. The water passes through their heating systems, and is then discharged to the Boise City Canal system. The residual heat in the water is wasted.

My proposal is to collect and beneficially use this water for its remaining heat value. Although it is no longer warm enough to provide residential heating, it is sufficient to warm a greenhouse and an outbuilding. With installation of a heat pump system, supplemental space heating may be feasible.

My proposal entails no consumptive use of the water. After I have extracted the remaining heat, the water will return to the Boise City Canal, exactly as it does presently. Mike Harrison, manager of the Boise City Canal supports this application. No extra water would be removed from the aquifer, and therefore this application is compatible with the moratorium.

Notably, this exact kind of wastewater permit has already been approved in district 63-S. Flinda Terteling uses wastewater from the 36th Street Greenhouse to heat her residence (permit 63-31999). In his September 7, 2005 letter to Ms. Terteling, then-Hearing Officer Gary Spackman wrote:

"If the application to appropriate wastewater were filed by an applicant unrelated to the water right holder who originally diverts the water from the source, the review of the wastewater delivery would be minimal".

I have no family or financial ties with any of the water users on the Niznik system. Mr. Niznik is permitted to serve 4 homes under his water right. This application would not change that, because I am collecting water that would otherwise go to waste. The Niznik system ends at the waste pipe of each house. In each case, my independent collection system would be located at

Hawk Stone
3921 Catalpa Drive Boise Idaho 83703
hawkstone1@gmail.com 208-373-0588

the discharger's property boundary, serving to highlight that the discharger has lost control of the resource and that this is truly wastewater.

In summary, this application supports a new beneficial use without any extra depletion of the resource. It is supported by the original water right holder, by the canal company, and by the property owners. It is also consistent with the moratorium on new development.

Thank you for processing my application. Please call or email with any questions.

Sincerely,



Hawk Stone



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 7, 2005

FLINDA F TERTELING
3623 N 36TH ST
BOISE ID 83703

DANA HOFSTETTER
ATTORNEY AT LAW
608 WEST FRANKLIN ST
BOISE ID 83702

Re: Application to Appropriate Water no. 63-31999 in the name of Flinda Terteling

Dear Ladies:

I apologize for the delay in the review of application to appropriate water no. 63-31999. I've read the written comments each of you submitted. I've also reviewed the documents in the file.

It is not clear if the ditch from which Flinda Terteling proposes to divert is controlled by a water delivery organization. Past investigations by staff of the Idaho Department of Water Resources (IDWR) concluded that the Boise City Canal Company controls and possibly maintains the ditch. Prior to approval of the application, Flinda Terteling should provide written confirmation from the Boise City Canal Company or from another local delivery organization, if identified as the controlling entity, regarding the following points:

1. Whether or not the ditch remains under the control of the local delivery organization.
2. Written consent to divert from the ditch if it is under control of that organization.

If the application to appropriate wastewater were filed by an applicant unrelated to the water right holder who originally diverts the water from the source, the review of the wastewater delivery would be minimal. Based on the information available to me, however, Flinda Terteling is an officer in the Terteling Company. The Terteling Company holds water rights that authorize heating, irrigation, and domestic uses for the greenhouse business located southwest of 36th Street and Hill Road in addition to another place of use found north of this site (along Cartwright Road). I understand Flinda Terteling is also a member of the immediate family whose members are officers in the Terteling Corporation and who may control or direct the activities of water operation. The concern is also heightened because of longstanding controversies about the use of the limited low temperature geothermal resource in the Stewart Gulch vicinity.

The term "wastewater" infers that the water has already been beneficially used and is passing completely from the control of the original water right holder to another location where it can be diverted by the wastewater appropriator. The challenge in considering application no. 63-31999 is to insure that the low temperature geothermal water has been beneficially used at the 36th and Hill site with adequate efficiency by the related water right holder prior to it being wasted from the original place of use.

To insure that low temperature geothermal water is beneficially used by the original water right holder prior to passing it on to the wastewater right holder, I propose IDWR issue a permit authorizing diversion of wastewater with the following conditions:

1. Prior to diversion of water under this right, measuring devices shall be installed at the proposed point of diversion and the proposed discharge from the heating network. The measuring devices shall insure that the identical quantity of water being diverted is discharging back to the ditch from which it was diverted.
2. This right shall be regulated by the Watermaster of Water District no. 63-S. Regulation by the watermaster includes unannounced inspections and measurement of ground water diverted under right nos. 63-12, 63-13 and 63-15 from which waste water would be generated in the NE¹/₄ SE¹/₄, Section 29, T4N, R2E (36th Street and Hill Road) and/or unannounced watermaster inspections and measurement of wastewater diversion and beneficial use under this right.
3. IDWR shall issue a notice of violation and an order to show cause why this right should not be cancelled or revoked if IDWR determines any of the following:
 - (a) The right holder is consumptively using water under this right.
 - (b) Low temperature geothermal water is being delivered to the wastewater right holder without beneficially using the low temperature geothermal water at the 36th Street and Hill Road site, or that the beneficial use at that site is not reasonably efficient.
 - (c) The right holder is diverting or using water not in compliance with the conditions of this water right.

In addition, other standard conditions may also be placed on the permit.

Please inform me within fourteen (14) days of this letter whether the proposed conditions are not acceptable. If not, we need to schedule this contested case for hearing.

Sincerely,


Gary Spackman

cc: Western Region