

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 29-08057)
IN THE NAME OF WINDMILL LAND AND STOCK) ORDER OF
REINSTATEMENT)

WHEREAS, the Department issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted on or before June 1, 1992; and,

WHEREAS, the Department notified the permit holder by certified mail that proof was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use; and,

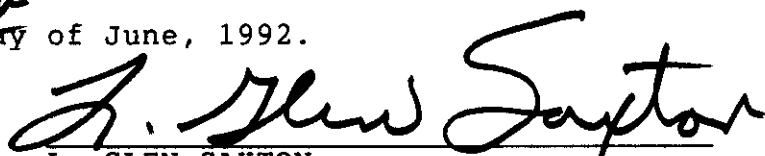
WHEREAS, the Department notified the permit holder that the permit had lapsed for failure to submit the proof of beneficial use; and,

WHEREAS, Section 42-218a of the Idaho Code provides that a permit may be reinstated upon a showing of reasonable cause within sixty days of the date of the notice of lapsing; and,

WHEREAS, the permit holder has provided a reasonable showing why the permit should be reinstated by submitting proof of beneficial use on June 15, 1992;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 29-08057 be REINSTATED with an advance in priority to March 20, 1991.

Dated this 16th day of June, 1992.



L. GLEN SAXTON
Chief, Water Allocation B

MIPOFILMED

JUN 24 1992

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 29-08057

Proposed Priority: March 6, 1991 Maximum Diversion Rate: 0.03 CFS
This is to certify, that WINDMILL LAND & STOCK
5935 W. 16800 N.
GARLAND, UT 84312
has applied for a permit to appropriate water from:

SPRINGS

tributary of SINKS

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	0.03 CFS
<u>LOCATION OF POINT(S) OF DIVERSION:</u> SESESE Sec. 14, Township 11S, Range 32E POWER County		

PLACE OF USE: STOCKWATER
TWN RGE SEC

11S 32E 24 SENW

CONDITIONS/REMARKS:

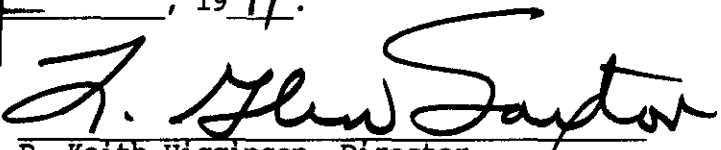
1. Proof of construction of works and application of water to beneficial use shall be submitted on or before June 1, 1992.
2. Subject to all prior water rights.
3. The right to the use of water acquired under this permit shall not give rise to any right or claim against the holder of a senior right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
4. The Director retains jurisdiction of the permit 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.
5. Stockwater use is for 70 range cattle.

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

23rd day of May, 1991.

MICROFILMED

MAY 30 1991

for 
R. Keith Higginson, Director

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant WINDMILL LAND AND STOCK Phone (801) 458-3490
Post office address 5935 West 16800 North, Garland, Ut 84312
2. Source of water supply Springs which is a tributary of SINKS
3. Location of point of diversion is SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Govt. Lot _____
Sec. 14 Township 11S Range 32E B.M. Power County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 0.03 for Stockwater 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) 0.03 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. Collection pipe to stock tanks and troughs
 - 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? NO
7. Time required for the completion of the works and application of the water to the proposed beneficial use is
2 years (minimum 1 year).

MAY 30 1991

8. Description of proposed uses (if irrigation only, go to item 9):

- a. Hydropower; show total feet of head and proposed capacity in KW. _____
- b. Stockwatering; list number and kind of livestock. 70 range cattle
- c. Municipal; show name of municipality. _____
- d. Domestic; show number of households. _____
- e. Other; describe fully. _____

9. 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	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
11S	32E	24								S									

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. NONE

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

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

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

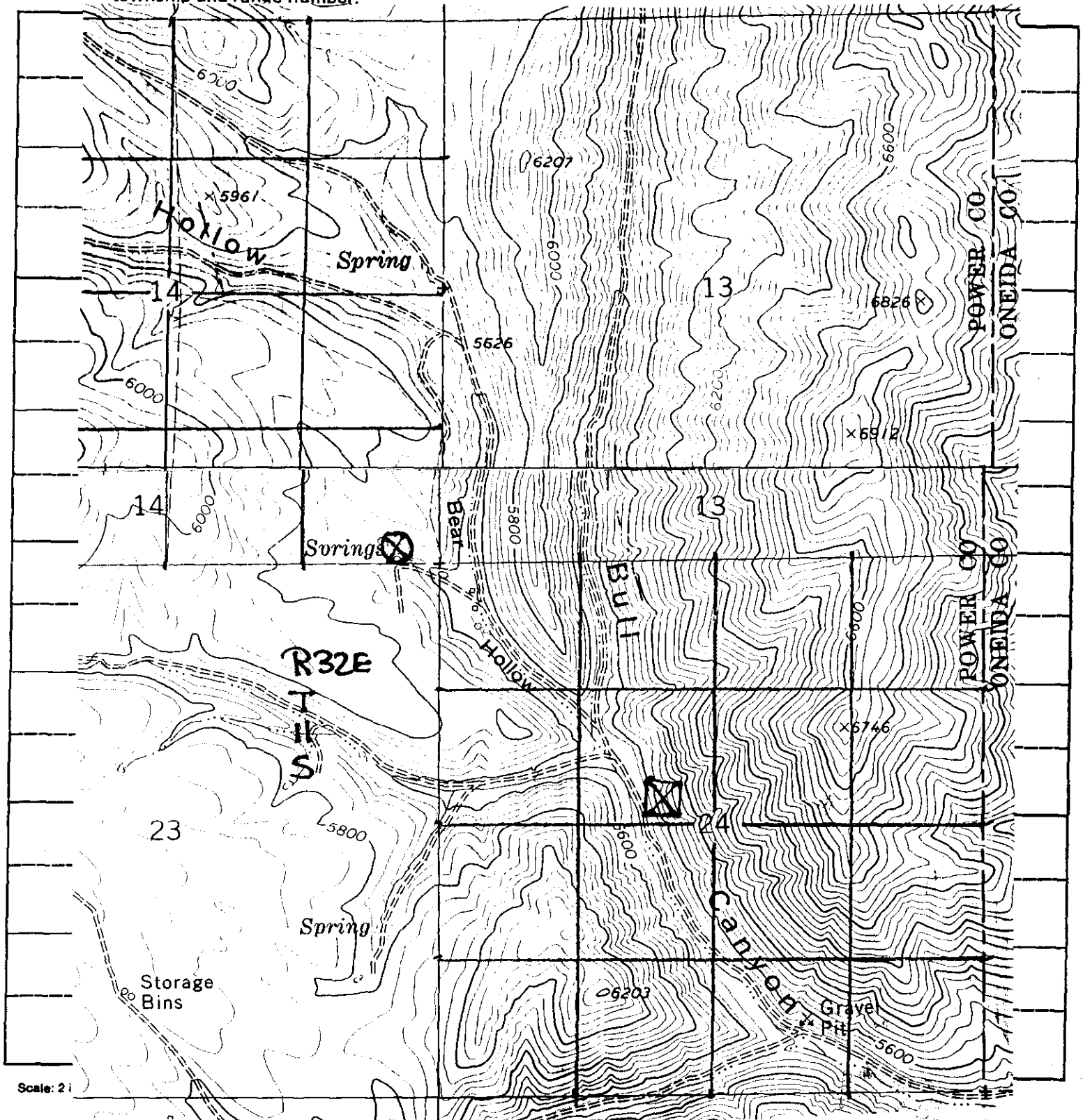
12. Remarks: Officers: Merrill Potter Pres

Effie Potter V-P

Virginia Potter Sec/Trea.

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



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.

Windmill Pond & Stock by
Mervin Potter
 MAY 30 1991

(Applicant)

ASSISTED by Kcw 10/4/90
Received by (CW) Date 3-25-91 Time 12:59P Preliminary check by _____
Fee \$ 30.00 Receipted by HCT # E015763 Date 3-6-91
Publication prepared by RB Date 4-4-91 Published in Lower Cnty Press
Publication approved (CW) Date 4-26-91

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:

MISPLACED
MAY 30 1991

Affidavit of Publication

State of Idaho

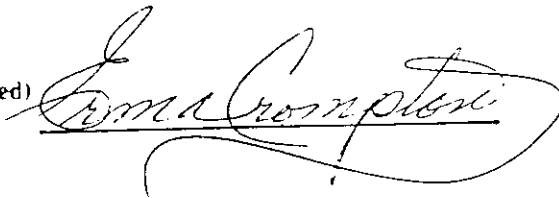
County of Power

Erma Crompton being first duly sworn on oath, states:

That she is the publisher of The Power County Press, a newspaper of general circulation in Power County, Idaho, published weekly at American Falls in said county, that said newspaper has been published in said county uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement:

That the annexed notice or advertisement was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof for 2 successive weekly issues thereof, the date of the first publication being the 3RD day of APRIL 1991 and the date of last publication being the 10TH day of APRIL 1991.

(Signed)



State of Idaho

County of Power

On this 10TH day of APRIL in the year of 1991, before me, a Notary Public, personally appeared Erma Crompton, 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 she executed the same.



Notary Public for Idaho

Residing at American Falls, Idaho

My commission expires: June 8, 1993

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APR 12 1991

Department of Water Resources
Eastern District Office

Application for
water right

Published in The Power County Press,
April 3, 10, 1991.

29-08055
MERRITT NEIBAUR & SONS
P.O. BOX 235
NEWDALE, ID 83436

Source: GROUNDWATER
Diversion Pt: NENE Sec 30 T 07S R
32E

Use: IRRIGATION (4.960 CFS)
Total Diversion: (4.960 CFS)

Date Filed: 2/11/1991

ACRES TOTAL
In: T07S R32E S19 SESE
S20 NESW NWSW SWSW
SESW
S30 NENE SENE SESW NESE
NWSE SWSE SESE
S31 NWNE SWNE NENW

248.0 ACRES TOTAL

29-08057
WINDMILL LAND & STOCK
5935 W. 16800 N.
GARLAND, UT 84312

Source: SPRINGS Tributary: SINKS

Diversion Pt: SESESE Sec 14 T 11S R
32E

Use: STOCKWATER (.030 CFS)
Total Diversion: (.030 CFS)

Date Filed: 3/6/1991

In: T 11S R32E S24 SENW

The permit(s) will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code and/or the new public interest criteria of Sec. 42-203 C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 on or before APRIL 22, 1991.

R. Keith Higginson, Director

June 18, 1992

WINDMILL LAND & STOCK
5935 W. 16800 N.
GARLAND UT 84312

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 29-08057

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. Enclosed is an order advancing the priority of the permit since the proof was received after the proof due date. 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,

Karen L. Gustafson
Secretary/Records Manager

c: IDWR - Region

Enclosure

MICROFILMED
JUN 24 1992

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. 29-08057 Telephone No. (801) 458-3490
2. Name(s) of Permit Holder(s): Windmill Land & Stock Co - Merrill Potter
3. Mailing Address: 5935 W 16800 N Garland Utah, 84312
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 70 head, Beef Cows (No. and type of stock)
Irrigation _____ (No. of acres) Other _____

6. Total rate and/or volume for which proof is submitted 15.03 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: \$ _____ (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.

Merrill Potter (801) 458-3490
Name Telephone No.
5935 W 16800 N Garland, Utah, 84312
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.

4/10/92 Merrill Potter president
Date Signature (and title, if on behalf of a company or organization)

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JUN 24 1992

ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE

Permit No. 29-08057

Reviewed by Klg

Date 6/15/92

GENERAL CONSIDERATIONS

yes Name same as permit?
yes Address same as permit?
no Proof timely received?
If not, complete calculation below.

TYPES OF USE

stock-70
yes Correct Uses?

SOURCE OF WATER

 Surface water source
✓ Ground water source

NA Drilling permit required?
 Copy in the file? Drilling Permit No.
 Amount paid for permit Correct?
 Well log in the file?

LICENSE EXAMINATION FEE

yes Required?
50 Amount Submitted
yes Correct?

MEASURING DEVICE

NA Required?
 Installed?
 Waiver requested?

PRIORITY CALCULATION

Date proof received 6/15/92 166
Date proof due 6/1/92 - 152
No. of days late = 14
Priority Date 3/6/91 + 65
New Priority Date 3/20/91 79

DEFICIENCIES OR ACTION ITEMS

proof acceptable

needs an order

DATA ENTRY

New Address

Proof Made 3/6/15/92
6/18/92 Klg

June 5, 1992

WINDMILL LAND & STOCK
5935 W. 16800 N.
GARLAND UT 84312

LAPSE NOTICE

RE: PERMIT NO. 29-08057

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced permit has lapsed and is of no further force nor effect. The department provided the proper forms to you in our proof due notice dated March 31, 1992. 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 to the department within sixty (60) days of the mailing of this lapse notice. An acceptable proof of beneficial use submittal must include the examination fee or a completed field examination report. A request for extension of time must be accompanied by a fifteen dollar (\$15) fee.

Enclosed again for your use are a proof of beneficial use form and a request for extension of time form. 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 government agency or by litigation which may bring title to the water in question.

L. GLEN SAXTON
Chief, Water Allocation Bureau

LGS:klg

Enclosures

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JUN 24 1992

WINDMILL LAND & STOCK
5935 W. 16800 N.
GARLAND UT 84312

March 31, 1992

PROOF DUE NOTICE

RE: PERMIT NO. 29-08057

CERTIFIED MAIL

NO. 138725

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 June 1, 1992.

(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,

Karen L. Gustafson
Secretary/Records Manager

Enclosures

MICROFILMED
JUN 24 1992



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

May 28, 1991

WINDMILL LAND & STOCK
5935 W. 16800 N.
GARLAND, UT 84312

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 29-08057

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,

JIM JOHNSON
Water Rights Supervisor

JJ:blm

Enclosures

MAY 30 1991

APPLICATION FOR PERMIT REVIEW

Application #: 29-8057
Date: 5-20-91

Reviewer: Pam Skaggs ²⁸

Existing:

- ✓ No - 26A-P17
- Complete in 1 year - P16
- Yes
 - Proof not submitted - P16
 - Proof submitted - N/A
- Groundwater:
 - GT. 0.7 cfs - 01G-P03, 01C-P03 (existing well)
 - LT. 0.7 cfs - N/A
- Drilling Permit:
 - Approved w/permit - P99
 - Not included - 046-P23 (All GW, even existing wells)

Location:

- ✓ Water Districts
- ✓ Surface water ^{links} WD No. 01
 - 005, 005-01H-P01 (LT.7 w/pump)
 - 005-01J-P08 (GT.7)
- Groundwater - P05
- Irrigation Districts - 023
- Canal Co. Areas - 023
- Drainage Districts - 024
- Boise Front (63) - 058 (Groundwater)
- ✓ Swan Falls Flag - 1 (1, Blank or Other)
- Trust - 051-052-053-P74 (Cons.), 041 (DCMI, w/Irr
- ✓ Non Trust - 048-049 or Irr & Dom)

River Basins:

- (Surface Water) Water District Control Condition &....
- Boise (63) - 05A & 11E
- Payette (65) - 047-P04, 059-P71
- Snake (01, 02 & 03) - 11A-P04(01), 061-P07(02/03 No W.D.Cond.)

Use:

- Fish Propagation - 06A, 09E-P10 & 010 (WQ/Choose One), 042(req.), 002-P06(MD), 07A(Spec.), 044(Policy 5G)
- Power - Use Power Review
- Mining - 06A or 010, 09E-P10 & 054(req.)
- Storage - 18A-for multiple measuring devices(In WD), 18B-P09(Size)
- Rec. & Aesthetic - 027(Non-Consumptive)
- Domestic - 021(restricted areas)

Ownership:

- Non land owner - 004

Protested:

- Agreement - 020

Minimum Stream Flow:

- Overlapping uses - 029-P20

- ✓ Beneficial Use Due Date: - 06-01-1992
- Other Conditions Recommended

MAY 30 1991

29-08057

WINDMILL LAND & STOCK
5935 W. 16800 N.
GARLAND, UT 84312

Source: SPRINGS

Tributary: SINKS

Diversion Pt: SESESE Sec 14 T 11S R 32E

Use: STOCKWATER (.030 CFS)
Total Diversion: (.030 CFS)

Date Filed: 3/ 6/ 1991

In: T11S R32E S24 SENW

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MAY 30 1991

The permit(s) will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-2 A, Idaho Code and/or the new public interest criteria of Sec. 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 on or before APRIL 22, 1991.

R. Keith Higginson, Director

Published 4/ 3/1991 & 4/10/1991

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MAY 30 1991

27-Feb-1991

WINDMILL LAND & STOCK
5935 W 16800 N
GARLAND UT 84312

RE: Application No. 29-08057

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 POWER COUNTY PRESS on April 4 & 11, 1991. 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
Water Rights Supervisor

HWJ/rb

MAY 20 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

25 February 1991

Windmill Land and Stock
c/o Merrill Potter
5935 West 16800 North
Garland, Utah 84312

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MAR 4 1991

Department of Water Resources
Eastern District Office

RE: Application for Permit

Dear Mr. Potter:

Enclosed is the application for permit and a cashier's check #312797 for \$30.00 that you submitted to this office. The application for permit must be signed before processing can begin.

Please sign the application for permit just below the map and return with the \$30.00 filing fee. Upon receipt of the completed application processing will begin.

Your prompt response will be appreciated.

Sincerely,

Keith C. Wilson
Senior Resource Agent

