

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 84-12285

Priority: February 16, 2015

Maximum Diversion Rate: 0.06 CFS

This is to certify, that DAN FUGATE
2360 MICHIGAN AVE NO 1
OROFINO ID 83544

CAROLYNN FUGATE
2360 MICHIGAN AVE NO 1
OROFINO ID 83544

has applied for a permit to appropriate water from:

Source: SPRING

Tributary: 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>
DOMESTIC	01/01 to 12/31	0.04 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING NW1/4, SE1/4N, W1/4, Sec. 32, Twp 37N, Rge 02E, B.M., CLEARWATER County

PLACE OF USE: DOMESTIC and STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
37N	02E	32																	X

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2018**.
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
5. Domestic use is for 1 home.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Stockwater use is for 6 horses and mules.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Regional Manager, affixed at Coeur d'Alene, this 27th day of April, 2016.


MORGAN CASE, Regional Manager

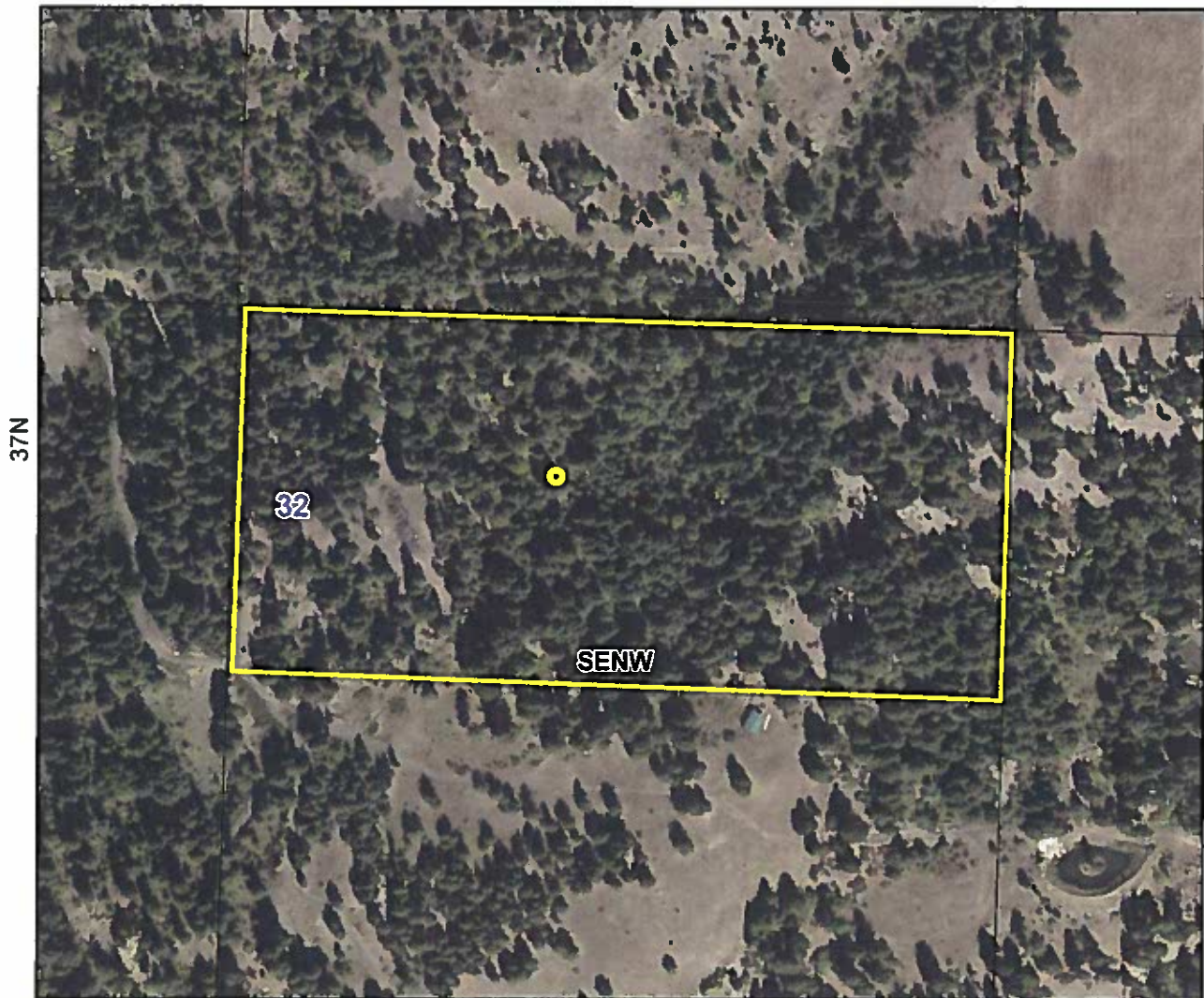
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

84-12285

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.

02E



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Taxlots

0 0.0375 0.075 0.15 Miles



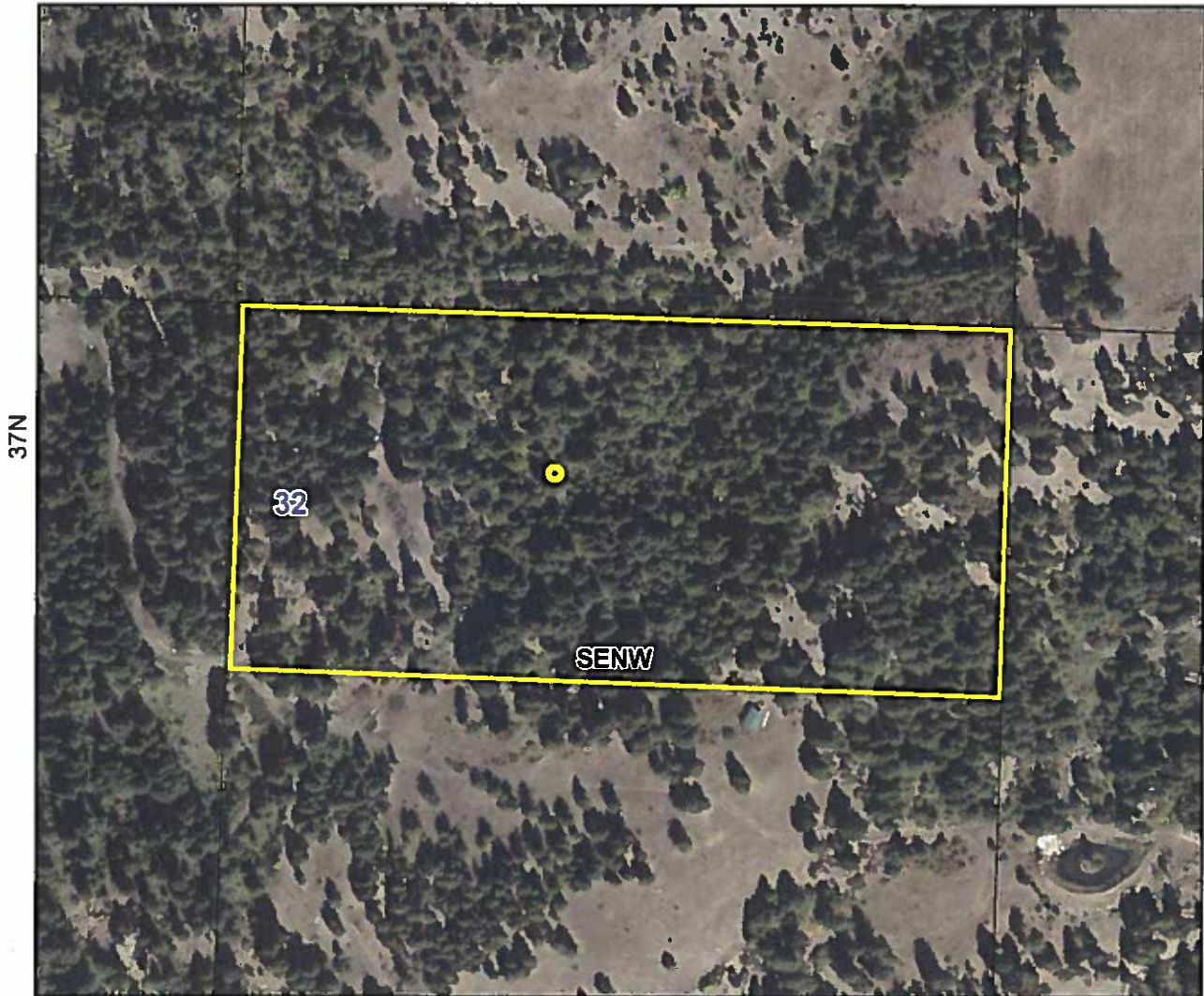
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

84-12285

This map depicts the STOCKWATER place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.

02E



Point of Diversion



Place Of Use Boundary



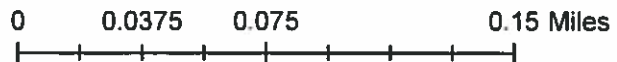
Townships



PLS Sections



Taxlots





State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 FAX: (208) 762-2819 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 2, 2016

DAN FUGATE And/Or
CAROLYNN FUGATE
2360 MICHIGAN AVE NO 1
OROFINO ID 83544

RE: Permit No.84-12285

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

- Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, 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 208-762-2800.

Sincerely,


Morgan Case
Northern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on May 2, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

84-12285

**CAROLYNN FUGATE
2360 MICHIGAN AVE NO 1
OROFINO ID 83544**

**DAN FUGATE
2360 MICHIGAN AVE NO 1
OROFINO ID 83544**



**Dianne Ball
Administrative Assistant**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

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. **Note: the petition must be received by the department within this fourteen (14) day period.** 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 Water Resource 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).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

To: Water Right Application 80677 for Permit 84-12285

From: Shaun M. Maxey

Date: April 21, 2016

SUBJECT: Application for Permit to Appropriate Water within the Salmon and Clearwater River Basins

Re: Idaho Department of Water Resources (IDWR) Regional Analysis and Recommendation in accordance with Water Appropriation rules (IDAPA 37.03.08.040.05).

Water Supply Information.

Idaho Department of Fish & Game (IDFG) and Idaho Department of Environmental Quality (IDEQ) were contacted and have no adverse comments concerning the Applicant's (FUGATE, Carolyn and Dan) proposal to divert 0.06 CFS using water from a spring which sinks. Domestic (1 home) and Stockwater are the intended beneficial uses.

The Point of Diversion (POD) and Place of Use (POU) are within the Clearwater River basin. There is no information to indicate that use of water from the spring will adversely affect groundwater, minimum stream flows, or beneficial uses of ground or surface water.

Good Faith, Delay, or Speculative Information.

The POD and POU are on property owned by the Applicant. IDWR is not aware of any information that indicates the Application is not being made in good faith, is intended to delay, or is speculative.

Financial Resources Information.

The scope of the project, proposed by the Applicant, appears to be achievable. IDWR has no information that indicates the Applicant is financially incapable of completing the project.

Local Public Interest

IDFG and IDEQ were contacted on March 8, 2016 and have no adverse comments concerning damage to the public interest. No comments or protests were received indicating the proposal is controversial or likely to cause damage to the local public interest.

Injury to Other Water Rights:

The source of water shown in the Application is a spring. Diversion of water from this source is not expected to adversely affect water supply in the vicinity or any other water rights.

Recommendation

IDWR Northern Region recommends processing of Application for Permit 84-12285 be allowed to continue.



Shaun M. Maxey
Idaho Department of Water Resources, Northern Region
7600 Mineral DR, Ste. 100
Coeur d'Alene, ID 83815

AFFIDAVIT OF PUBLICATION

MAR 28 2016

STATE OF IDAHO)
) ss.
 County of Clearwater)

IDWR / NORTH

CLOANN MCNALL

being first duly sworn in, on oath, deposes and says:

That I am and at all times herein mentioned have been a citizen of the United States and of the State of Idaho, over 21 years of age, and that I am not a party to nor interested in the above entitled proceeding; that I am and at all times herein mentioned have been the Editor, Foreman, of THE CLEARWATER TRIBUNE; that said Clearwater Tribune is a newspaper of general circulation, printed and published weekly at Orofino, in the County of Clearwater and State of Idaho; that the Clearwater Tribune has been continuously and uninterruptedly published in Clearwater County, Idaho, during the period of seventy-eight consecutive weeks prior to the first publication of attached copy of:

**Idaho Department of Water Resources
FUGATE APPLICATION**

of which the annexed is a full, true and correct printed copy, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for a period of two consecutive weeks, commencing on the 17th day of March 2016 and ending on the 24th day of March 2016.

Cloann McNall

STATE OF IDAHO)
)
 COUNTY OF CLEARWATER)

On this 24th day of March in the year of 2016, before me, a Notary Public, personally appeared

Cloann McNall

known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Marcie Stanton

Notary Public for Idaho
 Resident at Orofino, Idaho
 My commission expires: 5-16-20

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

84-12285

CAROLYNN FUGATE

DAN FUGATE

2360 MICHIGAN AVE NO 1

OROFINO, ID 83544

Point of Diversion NWSNW S32 T37N R02E

CLEARWATER County

Source SPRING tributary SINKS

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Use: STOCKWATER 01/01 to 12/31 0.02 CFS

Total Diversion: 0.06 CFS

Date Filed: 2/16/2015

Place of Use: DOMESTIC T37N R02E S32 SENW

Place of Use: STOCKWATER same as DOMESTIC

Domestic use is for 1 home.

Stockwater use is for 6 horses.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at (208) 762-2800; or for a full description of the right(s), please see:

www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp.

Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D' Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 4/4/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 3/17/2016 and 3/24/2016

3-17, 24-16c

MARCIE STANTON
 NOTARY PUBLIC
 STATE OF IDAHO



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370
www.deq.idaho.gov

C.L. "Butch" Otter, Governor
John H. Tippetts, Director

March 15, 2016

Mr. Shaun Maxey
Idaho Department of Water Resources
7600 North Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815

RECEIVED
MAR 16 2016
12:41 PM / NORTHERN

RE: Water Appropriation, Permit # 84-12285

Dear Shaun,

We received a request for comment for an application for a water appropriation permit to appropriate a total quantity of 0.06 cubic feet per second from a spring located on property in Clearwater County. A 50 gallon barrel will be placed at the source of the spring and water will be captured with a 1 inch water pipe. The appropriated water will be used for stockwater and domestic use from January 1 to December 31. Assuming all federal, state and local permits have been obtained, regulations met, and reviews completed, we offer the following comments.

The spring is described in the application as a sink. Because we assume any water of the State which occurs beneath the surface of the earth in a saturated geological formation of rock or soil to be groundwater (Idaho Code 58.01.02.010.45), we assume there to be hydrologic gradient connectivity to surface waters of the State. It is the policy of the State of Idaho Ground Water Management Plan that existing and projected beneficial uses of ground water and interconnected surface water be maintained and protected and degradation that would impair beneficial uses of ground water and interconnected surface water not be allowed.

Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards, please call us at (208) 799-4370.

Sincerely,

A handwritten signature in black ink that reads "Cindy Barrett". The signature is fluid and cursive.

Cindy Barrett
Surface Water Quality Manager

c: Carolyn and Dan Fugate, Orofino
John Cardwell, DEQ

Maxey, Shaun

From: Maxey, Shaun
Sent: Wednesday, February 10, 2016 2:04 PM
To: 'dfugate@nightforceoptics.com'
Subject: FUGATE Basin 84 Application for Water Right Permit
Attachments: 84-XXXX-FUGATE-App-for-Permit-CORRECTION.pdf; 84-XXXX-FUGATE-App-EXAMPLE.pdf

Mr. Fugate:

Attached is a photocopy of your Application for Permit with a color map and an Example of page 2 of the Application showing corrections. These corrections are required before we can continue processing your Application.

Please make the corrections shown below after telephoning me about your Application for Permit. These corrections should include:

- 1) Change #3 (Point of Diversion) by moving SE and NW each one box to the right.
- 2) Change #4 (purposes of water use) by crossing out .01 CFS & making it read 0.04 CFS for 'DOMESTIC.'
- 3) Change #4 (purposes of water use) by crossing out .01 CFS & making it read 0.02 CFS for 'STOCKWATER.'
- 4) Change #4 (purposes of water use) by crossing out the entire line for IRRIGATION.
- 5) Change #5 (Total Quantity to be appropriated) by crossing out .03 and making it read 0.06 CFS.
- 6) Write in '1' for line 7 (d).
- 7) Correct the boxes shown on page 2 of the Application after referring to my attached Example.
- 8) Correct #9 on page 2 of the Application by adding the words '.....not to exceed 0.5 acres.' after '...landscaping...'
- 9) Add the words '...and Domestic use at a home or cabin.' at the end of what you have written for #11.
- 10) Please change #12 if you believe additional time is required to complete your project.

Each of the above corrections must be initialed and dated. Please use blue ink or a different color than used on your original Application.

Please label your color map using a dark pen or marker with the word '**SPRING**' to show the approximate location of your spring. Please label the areas you have marked as '**Place Of Use**'.

Please use U.S. mail to return your corrected Application (single sided) and the labeled color map to me as soon as possible. Your corrected application and the labeled map are needed as soon as possible to avoid delay in publishing legal notices.

Thanks,

Shaun Maxey