

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 29-07657

Priority: August 19, 1982

Maximum Diversion Rate: 0.04 CFS
Maximum Diversion Volume:¹ 1.5 AF

This is to certify, that GLENN AUBREY
P.O. BOX 275

LAVA HOT SPRINGS, ID 83246 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated August 19, 1982; and has submitted Proof of Beneficial Use on September 25, 1985. An examination indicates that the works have a diversion capacity of .040 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.04 CFS	1.5 AF

LOCATION OF POINT(S) OF DIVERSION: LOT 1(SESE), Sec. 21, Township 09S, Range 38E
BANNOCK County

PLACE OF USE: DOMESTIC

TWN RGE SEC

09S 38E 21 LOT 1(SESE)

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Return flow if discharged to a surface water system shall meet Idaho Water Quality Standards.
6. Domestic use is for heating 1 home & a restaurant.

MICROFILMED

MAY 29 1990

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 29-07657

This license is issued pursuant to the provisions of Section 42-219, Idaho Code,
Witness the seal and signature of the Director, affixed at Boise, this 15TH
day of MAY, 1990.

Acting for R. Keith Higginson, Director

MICROFILMED

MAY 29 1990

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant Glenn Aubrey Phone 776-5559
Post office address P.O. Box 275 Lava Hot Springs, Idaho 83246

2. Source of water supply Groundwater which is a tributary of _____

3. Location of point of diversion is SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 21 Township 9S
Range 38E B.M. Bannock County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 0.04 for Domestic purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 0.04 for Commercial Space Heating purposes from 10-1 to 5-1 (both dates inclusive)
(cfs or acre-feet per annum)

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

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

5. Total quantity to be appropriated:

a. 0.08 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works: *As per telecon with G. Aubrey 8-20-1982 HWT

a. Description of ditches, flumes, pumps, headgates, etc. Pump and pipes to radiators
* Heating water will be returned to Portneuf River

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____

Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)

c. Proposed well diameter is 10 inches; proposed depth of well is 9 feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year — maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 21 Township 9S
Range 38E B.M.

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

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

(4) Name of municipality to be served _____, or number of families to be

_____ supplied with domestic water 1

(5) If water is to be used for other purposes describe: Water to be used for space
heating of commercial building attached to the home approx. 50' x 50'

[illegible]

c. Describe any other water rights used for the same purposes as described above. _____

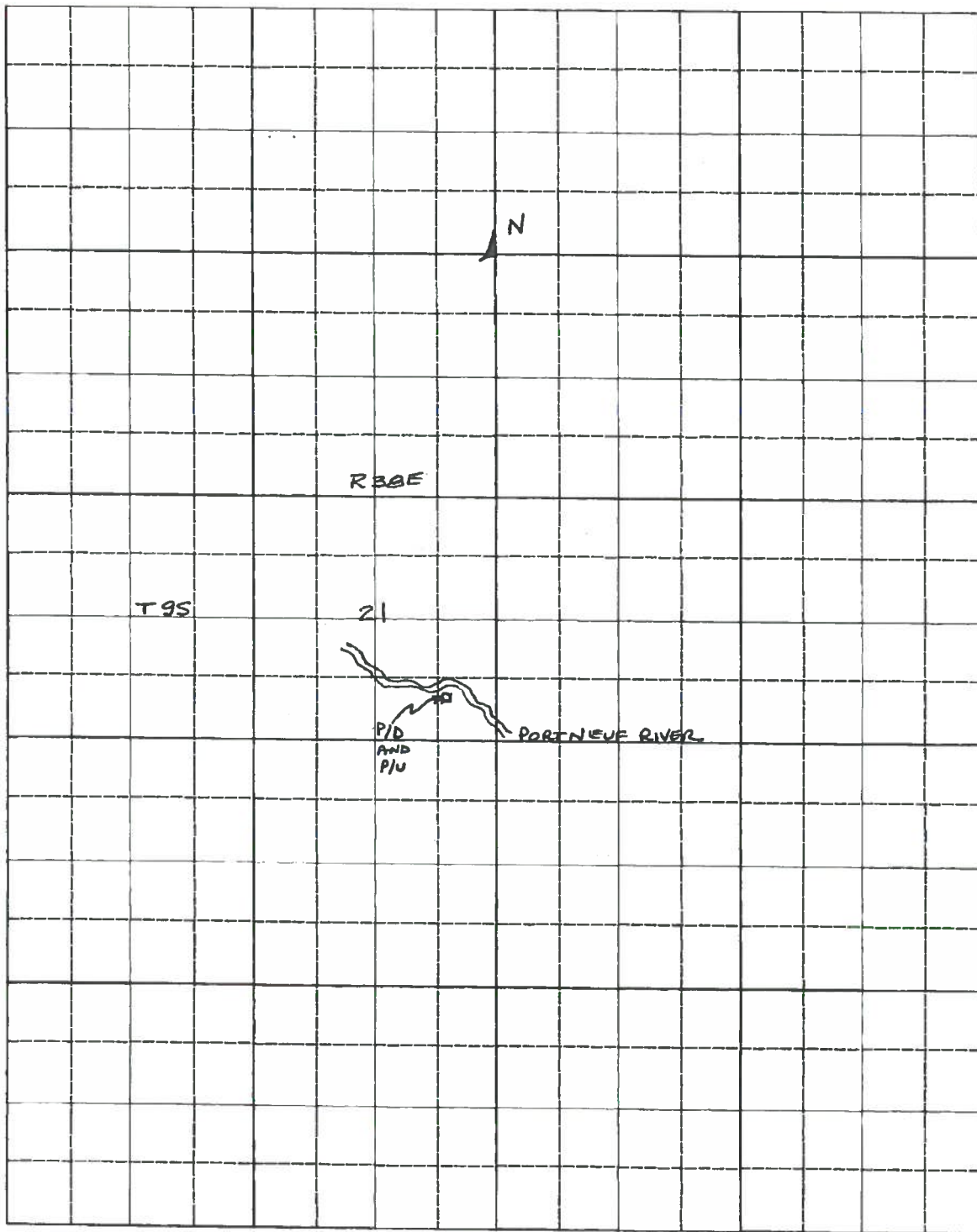
b. Who owns the land to be irrigated or place of use Applicant

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

10. Remarks Space heating to be developed for home and attached ~~an~~ commercial building.

3

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



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.

Glenn R. Aubrey
(Applicant)

RECEIVED
JAN 10 1961
IDAHO DEPT. OF AGRICULTURE
BOISE, IDAHO

Proposed Priority 8/19/1982

Received by Am Date 8/19/82 Time 2:55pm

Preliminary check by Am # HWJ Fee \$ 30.00

Receipted by BP Date 8-19-82 # 2245.7

Publication prepared by BP Date 8-25-82

Published in Idaho St. Journal

Publication dates Sept 2 + 9, 1982

Publication approved CW Date 9-20-82

Protests filed by: None

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by RC

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. 29-7657, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before September 1, 19 87.

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

d. Other:

Permit holder shall commence the excavation or construction of diverting works within one year of the date this permit is issued and shall proceed diligently until the project is complete.

Return flow if discharged to a subsurface system must be authorized by a separate injection well permit, and return flow if discharged to a surface water system shall meet Idaho Water Quality Standards.

Witness my hand this 30th day of September, 1982.

J. Glen Saxton
Chief, Operations Bureau

4286-100001

MEMORANDUM

TO: FILE/PERMIT NO. 29-7657

FROM: TIM LUKE

RE: FIELD EXAM REVIEW

DATE: 2-14-90

=====

Use found under this exam is for inside heating of one home and attached commercial unit (restaurant). As per conversation with employee of permit holder, temperature of thermal water is about 120 degrees F. Heating is primarily for home. Restaurant is open only from April to September. Heating use in restaurant is therefore minimal. Without any other information, should assume temperature of 120 degrees and use area identified in permit, 2500 sq. ft.

Discharge requirement and volume calculation shown on attached memo.

Based on attached calculations, I recommend licensing volume as 1.5 afa. Identify use as domestic only and allow 0.04 cfs for rate of diversion.

Note: Period of Use → Allow yr. Round use.

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MAY 29 1990

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

SEP 25 1985

PROOF OF BENEFICIAL USE

Department of Water Resources

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed development under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below:

Permit No. 29-7657

Name(s) of Permit Holder: Glenn Aubrey

Post Office Address: Box 275 Lava Hot Springs ID 83246

Telephone No. (208) 776-5559

Source of Water: Ground water via a well

Extent of Use:

Domestic 1 (number of households)

Stockwater _____ (number and type of stock)

Irrigation _____ (acres)

Other/Remarks _____

Indicate the date water was first diverted and beneficially used under this permit: December 1984

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

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

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

Glenn Aubrey

(Name)

Box 275 Lava Hot Springs, ID 83246

(Address)

(208) 776-5559

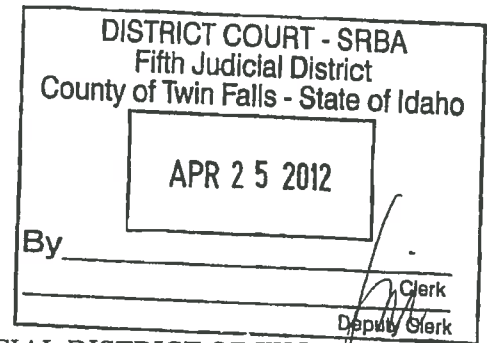
(Telephone Number)

The above information is a true statement of the extent to which the above numbered permit has been developed.

9/20/85
Date

Glenn L Aubrey
Signature of Permit Holder (and Title, if appropriate)

MICROFILMED



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA) **Basin-Wide Issue 16**
Case No. 39576) **Subcase No: 00-92099**
) **(In Re: Form and Content of Final Unified**
) **Decree)**
)
) **ORDER CLOSING CLAIMS TAKING**
) **BASINS 21, 22, 29, 32, 33, 65, 67, 69, 71,**
) **72, 73, 74, 75, 77, 78 and 79 AND**
) **DISALLOWAL OF UNCLAIMED**
) **WATER RIGHTS**
)

I.

PROCEDURAL BACKGROUND

This Court issued an *Order Setting Initial Status Conference Re: Form and Content of Final Decree* on January 13, 2011. On July 15, 2011, this Court entered its *Order Establishing Steering Committee and Notice of First Scheduled Meeting*. “The steering committee (“Committee”) is charged with identifying issues and sub-issues pertaining to the form and content of the final decree to be entered upon completion of the SRBA.” *Id.* at 1. The Committee is also “charged with recommending a logical order and time frame in which these issues and sub-issues should be decided.” *Id.*

In the *State of Idaho's Initial Comments on Form and Content of Final Unified Decree*, filed May 17, 2011, the State of Idaho (“State”) recommended the Court “establish a schedule for closing claims taking in each of the reporting basins . . . [i]n order to allow sufficient time for development of general provisions and preparation of the final decree” *Id.* at 6. On July 18, 2011, the State filed its *Supplemental Comments on Form and Content of Final Unified Decree*, in which it proposed a schedule for closure of taking of late claims in the SRBA basins. The proposed schedule

divided the SRBA basins into three groups based on the following criteria: (i) the amount of subcase activity within each basin, (ii) regional distribution of the closures to spread the workload out for IDWR, and (iii) SRBA basins that represented an entire drainage basin. At its initial meeting, the Committee reviewed the State's proposed basin closure procedure and recommended that this Court implement that procedure.

On January 31, 2012, the Court issued its *Order Establishing Deadline for Late Claim Filings in Basins 21, 22, 29, 32, 33, 65, 67, 69, 71, 72, 73, 74, 75, 77, 78 and 79* ("Deadline Order"). This Court found that the Committee's proposal for closure of taking of late claims within basins based on subcase activity, staging of IDWR's workload, and drainage basins was a logical and necessary step in the completion of the SRBA, and ordered that claims takings in basins 21, 22, 29, 32, 33, 65, 67, 69, 71, 72, 73, 74, 75, 77, 78 and 79 be closed on March 30, 2012.

II.

DISCUSSION

Completion of claims taking in individual basins is an essential first step to completion of the SRBA. Without it, completion of the SRBA will not occur.

Based on the criteria identified above, the *Deadline Order* provided that "except for *de minimis* domestic and stockwater uses and late claims required to resolve pending litigation on the date of this *Order* in the SRBA, that the last date to file a MOTION TO FILE LATE CLAIM in Basins 21, 22, 29, 32, 33, 65, 67, 69, 71, 72, 73, 74, 75, 77, 78 and 79 shall be March 30, 2012." *Deadline Order* at 4. Exhibit 1 to the *Deadline Order* included a list of *non-de minimis* water rights from IDWR's water rights database that IDWR determined were required to be claimed in the SRBA. The preparation of this list was undertaken as a courtesy to the water users, not as an additional due process requirement. The *Deadline Order* provided that "[i]f unclaimed, these water right will be decreed as disallowed." *Id.* at 3.

Claimants in each of these basins previously received extensive first-round and second-round *Notice of Filing Requirements* in the SRBA. *See* Idaho Code § 42-1408. These notice procedures meet constitutional due process requirements. *LU Ranching Co. v. U.S.*, 138 Idaho 606 (2003).

As of March 30, 2012, eight motions for late claim in basins 21, 22, 29, 32, 33, 65, 67, 69, 71, 72, 73, 74, 75, 77, 78 and 79 were received by the Court.

III.

CONCLUSION

In accordance with the *Deadline Order*, the Court has determined that except for *de minimis* domestic and stockwater uses and late claims required to resolve pending litigation on the date of this *Order* in the SRBA, that claims taking should be closed in basins 21, 22, 29, 32, 33, 65, 67, 69, 71, 72, 73, 74, 75, 77, 78 and 79. Further, the Court has determined that unclaimed water rights represented by the water right numbers listed on Exhibit 1 to this *Order*, except for any deferrable domestic and/or stockwater portion of such rights, should be decreed as disallowed.

This *Order* does not alter the deferrable nature of *de minimis* domestic and stockwater rights as provided for in "Findings of Fact, Conclusions of Law, and Order Establishing Procedures for Adjudication of Domestic and Stock Water Uses" (January 17, 1989).

This *Order* does not preclude filing of late claims related to the resolution of litigation pending at the time of this *Order* in basins 21, 22, 29, 32, 33, 65, 67, 69, 71, 72, 73, 74, 75, 77, 78 and 79.

IV.

ORDER

For the reasons stated above, IT IS HEREBY ORDERED that, except for *de minimis* domestic and stockwater uses and late claims required to resolve pending litigation on the date of this *Order* in the SRBA,¹ claims taking in basins 21, 22, 29, 32, 33, 65, 67, 69, 71, 72, 73, 74, 75, 77, 78 and 79 is closed. No late claims will be accepted for filing in basins 21, 22, 29, 32, 33, 65, 67, 69, 71, 72, 73, 74, 75, 77, 78 and 79, except as expressly provided by this *Order*.

¹ "Pending litigation" refers to an active, related subcase(s) pending at the time of the basin closure deadline wherein an additional late claim(s) is required to resolve the related water right(s).

IT IS FURTHER ORDERED that all unclaimed water rights represented by the water right numbers listed on Exhibit 1, except for any deferrable domestic and/or stockwater portion of such rights, are hereby decreed as disallowed.

The Clerk of the Court is hereby instructed to file a copy of the *Order Closing Claims Taking in Basins 21, 22, 29, 32, 33, 65, 67, 69, 71, 72, 73, 74, 75, 77, 78 and 79 and Disallowal of Unclaimed Water Rights* in the above captioned subcase and in the SRBA main case 00-39576.

Dated April 25, 2012.


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

Water Right No.	Basis	Priority Date	Rate	Source(s)	Water Use(s)	Owner(s) of Record
29-7525	License	12/13/1979	0.10	GROUND WATER	INDUSTRIAL	DANS PUMP & SERVICE
29-7562	License	5/23/1975	0.08	GROUND WATER	DOMESTIC, IRRIGATION, STOCKWATER	SPERRY, WALLACE
29-7576	License	1/23/1981	0.06	GROUND WATER	DOMESTIC, IRRIGATION	BALDWIN, ABRAM R; BALDWIN, LEONE
29-7657	License	8/19/1982	0.04	GROUND WATER	DOMESTIC	AUBREY, GLENN
29-7684	License	1/4/1983	0.01	BULL SPRING	STOCKWATER, WILDLIFE	UNITED STATES OF AMERICA ACTING THROUGH
29-7737	License	11/1/1984	0.04	GROUND WATER	DOMESTIC, IRRIGATION	COLUCCI, KELLY
29-7743	License	5/25/1993	0.10	GROUND WATER	DOMESTIC, IRRIGATION, STOCKWATER	BUNKER, RICHARD A
29-7744	License	6/29/1983	0.07	GROUND WATER	DOMESTIC, IRRIGATION	HULL, BARBIE L; HULL, ROSEN
29-7761	License	12/20/1983	0.25	BLUE CRANE CREEK	POWER	NOBLE, DON
29-7826	License	4/6/1987		UNNAMED STREAM	STOCKWATER FROM STORAGE, STOCKWATER STORAGE, WILDLIFE FROM STORAGE, WILDLIFE STORAGE	UNITED STATES OF AMERICA ACTING THROUGH