

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO.)
63-31339 IN THE NAME OF)
TODD R. SCHAEFER)
_____)

REINSTATEMENT ORDER

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 to the Department on or before December 1, 2003; and

WHEREAS, the Department notified the permit holder on September 30, 2003, by certified mail that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use or an extension of time request; and

WHEREAS, the Department sent the permit holder a lapse notice on December 9, 2003, since the department had not received an acceptable proof of beneficial use statement or extension of time request; and

WHEREAS, Section 42-218a, Idaho Code, provides that the Department may reinstate a permit upon a showing of reasonable cause by the permit holder 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 acceptable proof of beneficial use on January 27, 2004.

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 63-31339 is **REINSTATED** with an advance in priority to **December 27, 2001**.

DATED this 10th day of February, 2004.



GARY SPACKMAN

MICROFILMED
FEB 10 2004

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

RECEIVED
JAN 27 2004

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 be accompanied by a completed field examination report prepared by a certified water right examiner.

1. Permit No. 63-31339 Telephone No. 208 336 3393 WORK
2. Name of Permit Holder(s): TODD R SCHAEFER
3. Mailing Address: 4015 DEL MONTE
City BOISE State ID Zip 83704
4. Source of Water: GROUNDWATER If GROUNDWATER (well), Date Drilled: mo. _____ / yr. _____
Well Driller: SOS WELL DRILLING Drilling Permit Number: _____
5. Use(s) (as authorized by the water right permit):
Domestic (No. of households): 7 Stockwater (No. and type of stock): _____
Irrigation (No. of acres): _____ Other: _____
6. Total rate of diversion and/or volume for which proof is submitted: .05 cfs OR _____ acre-feet
7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
(This question is **not optional**. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)
Measuring Device: Is a measuring device required? Yes _____ or No X
Has the measuring device been installed? Yes _____ or No _____
8. Fee Enclosed: \$ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)
9. Person to contact to accompany the Department representative during field examination of the water system.
Name: TODD R SCHAEFER Telephone Number: 208 870 3363 CH
Address: 4015 DEL MONTE BOISE ID 83704
10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.
Signature of permit holder: Todd Schaefer Date: 1-22-04
(include your title, if on behalf of company or organization)

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State of Idaho
Department of Water Resources
Amendment of Permit

NO. 63-31339

Priority: October 31, 2001

Maximum Diversion Rate: 0.05 CFS

This is to certify, that TODD R SCHAEFER
4015 DELMONTE DR
BOISE ID 83704

has applied for an amendment of a permit and the amendment is APPROVED for development of water as follows:

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
DOMESTIC	01/01 to 12/31	0.05 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 2, Twp 03N, Rge 01E, B.M. ADA County

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03N	01E	2			X														

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 1, 2003**.
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
4. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
5. Domestic use is for lawn/garden irrigation associated with 7 homes within Stanford Subdivision.
6. The irrigation occurring under this domestic use shall not exceed a total of 2 acres. This right does not provide for irrigation of common areas or for irrigation of lots upon which homes have not been constructed.
7. Water bearing zone to be appropriated is 20 to 90 feet.

This amendment of permit is issued pursuant to the provisions of Section 42-211, Idaho Code. Witness the signature of the Director, affixed at Boise, this 25th day of April, 2003.

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JUN 02 2003

Karl J Dreher
for
KARL J DREHER, Director

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APR 01 2003

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

PR 18 2003

Department of Water Resources

Fee 50.00
Receipt W030295
Received by KL
Date 4/1/03

APPLICATION FOR AMENDMENT OF A PERMIT

#70525

Name of Applicant TODD R SCHAEFER Phone 322 5659

Mailing address 4015 DEL MONTE BDL 83704 CEL 8703363

I am the owner and the holder of Permit to Appropriate the Public Waters of the State of Idaho No. 63-31339, and request that the permit and permit map be amended and/or changed as follows:

Purpose of Amendment: X Change point of diversion _____ Add point of diversion

X Change place of use _____ Change nature of use _____ Change period of use _____ Other

1. Point of diversion: SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 3N, Range 1E, B.M.,
County of _____ Other points of diversion _____

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount .05 for Domestic purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum) (water use) (Begin Month) (End month)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum) (water use) (Begin Month) (End month)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum) (water use) (Begin Month) (End month)

3. Place of use or land to be irrigated:

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
<u>3N</u>	<u>1E</u>	<u>2</u>			<u>2</u>														<u>2</u>

Total number of acres to be irrigated 2

4. a. Who owns the property at the point of diversion? TODD R. SCHAEFER

b. Who owns the land to be irrigated at the place of use? TODD R. SCHAEFER

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

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JUN 02 2003

Complete the following map by showing land and point of diversion as proposed by this amendment.
 Show 1/4 1/4, section, township, range and ditches. (the smallest subdivision represents 40 acres)

Scale: 2 inches equal 1 mile

I hereby request approval of this change subject to the fact that no one will be injured by the change, and that the change will be made at my own risk.

Signed this 31st day of March, 2003.

Judd R Schaefer
 Permit Holder

ACTION OF THE DEPARTMENT OF WATER RESOURCES

Preliminary check by JS Publication prepared by N/A Date _____

Published in _____ Publication dates _____

I, _____, of the Department of Water Resources hereby

Witness my hand this _____ day of _____, 20 _____

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 JUN 02 2003

SIGNATURE

2

1

T3N, R1E

AR LEONARD

SWNE

63-31340

63-31339

AZAR LEONARD

2

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JUN 02 2003

11/99

For Office Use Only
\$25 filing fee 25.00
Receipt # W030302
Date 4/4/03

RECEIVED

APR 04 2003

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF PERMIT

To change the ownership of a permit

RECEIVED

APR - 7 2003

Department of Water Resources

I, LEONARD AZAR, hereby assign to TODD R SCHAEFER
of, 4015 DEL MONTE DR, Box 10 83704 208-8703363
(Full Address) (Phone)

All my right, title, and interest in and to Permit No. 63-31339 to
appropriate the public waters of the State of Idaho. 63-31340

OR (for partial assignments)

The following described portion of my right, title, and interest in and to for
Permit No. _____ to appropriate the public waters of the State of Idaho.
(Describe portion of the application for permit assigned, listing the number of acres in each 40 acre
subdivision, point of diversion location, and amount of the water in cubic feet per second.)

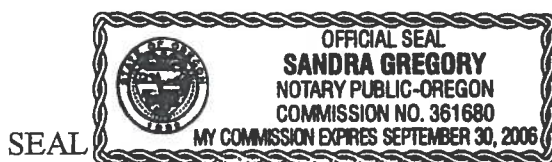
ALL RIGHT TITLE AND INTEREST IN PERMIT # 63-31339
AND PERMIT # 63-31340

Made this 3rd day of APRIL, 20 03.

Leonard Azar
Permit Holder(s)

State of Oregon
County of Curry)ss

On this 3rd day of April, 20 03, personally appeared before me the signer(s) of the above
instrument, who duly acknowledged to me that he (she) (they) executed the same.



Brookings, Oregon
Notary Public residing at
Sandra Gregory

My commission expires Sept 30, 2006

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JUN 02 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 11, 2004

TODD R SCHAEFER
4015 DELMONTE DR
BOISE ID 83704

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 63-31339 & 63-31340

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use forms and examination fees submitted for the above referenced permits. Enclosed are two orders reinstating the permits and advancing the priorities since proof was submitted after the proof due date. I am enclosing copies of the proofs you filed. The next step in the process of developing a water right is for the department to contact you to schedule a field examination to determine and confirm the use being made of the water, and that it meets the permitted beneficial uses. At the time the examination is conducted the system must be in operation, otherwise this permit will be of no force nor effect.

Upon review of your proof for 63-31340, I find that you paid \$50.00 for the license examination fee. The department waives the license exam fee for groundwater rights with a diversion rate of 0.04 cfs or less. Since this waiver applies to 63-31340 right, I have requested that the State of Idaho issue you a check for \$50.00. This check will be mailed to you within 7-10 business days.

Be advised that Section 42-248, Idaho Code, requires you or the owner of these water rights to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

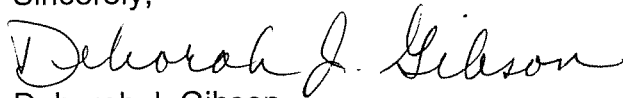
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FEB 10 2004

Mr. Schaefer
February 11, 2004
Page 2

If you have questions concerning the field examination, please contact the **Western** Regional Office of the department in Boise at (208) 334-2190.

Sincerely,



Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosure

c: IDWR - Region (w/encl.)
Fiscal

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FEB 11 2004

ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No.: 63-31339

Reviewed By: dgibson

Date: February 10, 2004

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Proof received timely?		X	Drilling permit required?	X	
License examination fee required?	X		Drilling permit No.:		
Appropriate fee submitted?	X		Drilling permit upgrade needed?		
Receipt No.:		W030285, C072454	Well driller's report filed?		X
Additional Amount Due:			Measuring device required?		X
Name and address same as permit?	X		Measuring device installed?		
Are the water uses correct?	X		Measure device waiver requested?		

Priority Calculation

Date proof received		01/27/2004
Date proof due	-	12/01/2003
Lapse notice sent	-	12/09/2003
No. of days late	=	57
Holiday allowance	+	
Priority date	+	10/31/2001
New priority date	=	12/27/2001

Deficiencies of Actions Items

Acknowledge proof. Reinstate permit and advance priority to 12/27/2001.

December 9, 2003

TODD R SCHAEFER
4015 DELMONTE DR
BOISE, ID 83704

LAPSE NOTICE

RE: PERMIT NO. 63-31339

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 the proof due notice dated September 20, 2003. 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 fifty dollar (\$50.00) 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.

Sincerely,

Gary Spackman
Water Allocation Bureau

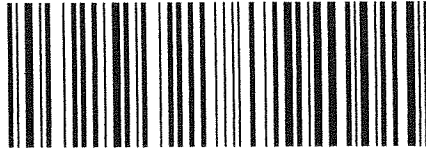
Enclosures

CERTIFICATION OF MAILING
I hereby certify that on 12/9/03
a ~~copy~~ original of this document was
deposited in the United States mail,
postage prepaid addressed to the
individual(s) named above.
MICROFILMED
FEB 10 2004 

CERTIFIED MAIL

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720
Boise, Idaho 83720-0098

Return Service Requested



7000 1670 0011 3314 1959

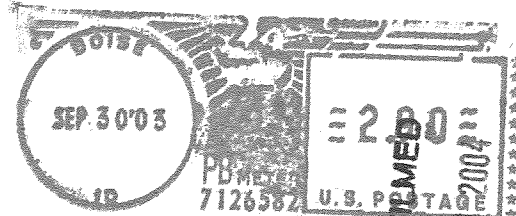
RETURNED TO
SENDER
UNCLAIMED

TODD R SCHAEFER
4015 DELMONTE DR
BOISE, ID 83704

RECEIVED

OCT 22 2003

Department of Water Resources



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FEB 10 2004

NAME
1st Notice 10-1
2nd Notice 10-9
Rev 10-14

83704+3314

September 30, 2003

TODD R SCHAEFER
4015 DELMONTE DR
BOISE, ID 83704

PROOF DUE NOTICE

RE: PERMIT NO. 63-31339

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 December 01, 2003. (See last page of your approval permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a completed 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.

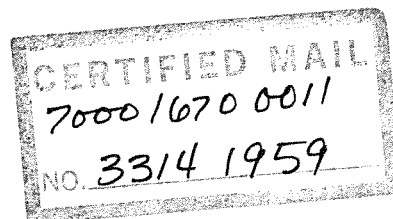
Sincerely,

Deborah J. Gibson, Administrative Assistant
Water Allocation Bureau

Enclosures

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FEB 10 2004





State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 25, 2003

TODD R SCHAEFER
4015 DELMONTE DR
BOISE ID 83704

RE: Permit No. 63-31339

Amendment of Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed amendment of permit approving your application to amend the permit referenced above. Please be sure to thoroughly review every element including the conditions of approval listed on your permit.

The amendment of 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.

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 208-327-7940.

Sincerely,

for Jeff Peppersack
Jeff Peppersack, Manager
Water Rights Permits Section

JP:klt

Enclosure(s)

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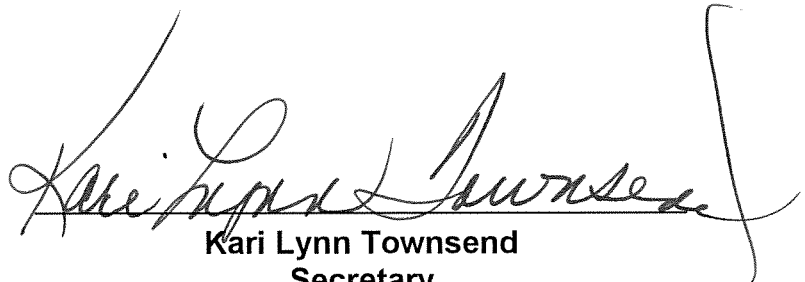
JUN 02 2003

CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2003 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Amendment of Permit) to the person(s) listed below:

RE: WATER RIGHT PERMIT NO. 63-31339

**TODD R SCHAEFER
4015 DELMONTE DR
BOISE ID 83704**



**Kari Lynn Townsend
Secretary**

**MICROFILMED
JUN 02 2003**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

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

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

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JUN 02 2003

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 issuance 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.

MEMORANDUM

TO: Files

FROM: Steve Lester 

DATE: April 16, 2003

RE: Applications for Amendments of Permits 63-31339 & 63-31340

The permits were assigned to Todd Schaefer about the same time the amendment applications were filed. Schaefer can proceed with the amendments. The assignments were forwarded to the State Office last week.

The permits were issued for diversions and use in NWSE S2 just within the boundary of the West Boise Area of Drilling Concern. The actual sites for these two adjacent developments are barely outside of that area and are located in SWNE S2 (see attached maps). Digital maps submitted with the amendment applications were prepared by Rob Whitney independent of Workflow. It is unlikely that the digital projects were saved for copying into Workflow.

The permit records are incorrect but can be fixed by the amendment applications. Original processing of the permits included legal notices with water bearing zone information and yard irrigation descriptions for uses within a subdivision identified in the notices. Adequate public notice was provided at that time. The simple clarification sought by the applicant does not warrant additional legal notice. Gary Spackman and Jeff Peppersack agreed that legal notices are not needed in this situation.

The applicant paid \$50 to complete both assignments. The applicant also paid \$100 to amend both permits. Follow up review of Glen Saxton's 7-21-00 memo "Guidance on HB 545 Amending Section 42-248, I. C." indicates assignment fees are not needed in this case. Section 42-211, I. C., requires a fee for an amendment application. Section 42-221, I. C., has been interpreted at times to infer that a fee is not needed if a legal notice is not warranted. It seems unreasonable and beyond the intent of the statutes to assign and amend the permits but escape all fees. We should keep the amendment application fees but refund the assignment fees.

Recommendations

- Approve both amendments and retain existing conditions of approval.
- Issue a \$50 refund to Schaefer.

MICROFILMED
APR 22 2003

63-31339 SE SW NE } 3N 1E 5.2
63-31340 SW SW NE }

originally mislabeled as NWSE, mistakenly showed
Cory Ln. as 44-46 line. Actual line
is along south end of both projects.



Estimated
44-45 lines

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JUN 02 2003

SE 1/4 in West Boise AREA of Drilling CONGRAN.
NE 1/4 out " " " " .

MAP by
52 4/14/03
per file history

Attachment 1. Proposed West Boise Area of Drilling Concern

