

STARTING LEFT SIDE OF FILE

SCANNED
MAR 05 2008

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 29-13672

Priority: January 30, 2004

Maximum Diversion Rate: 0.50 CFS

This is to certify, that FRANCES B BRADY
980 CENTENNIAL CIRCLE
POCATELLO ID 83201

has applied for a permit to appropriate water from:

Source: GROUND WATER

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>
HEATING	01/01 to 12/31	0.50 CFS

LOCATION OF POINT(S) OF DIVERSION:GROUND WATER NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 21, Twp 09S, Rge 38E, B.M.

BANNOCK County

PLACE OF USE: HEATING

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S	38E	21																	X

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before June 1, 2012, but no sooner than June 1, 2011. The establishment of this timeframe provides for a minimum of three years of monitoring and reporting flow rates, water surface elevations and temperatures in the well(s) associated with this permit.
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. Heating use is for 2 buildings and 11 therapy pools.
5. Use of water under this right shall be non-consumptive.
6. Return flow discharged to a subsurface system must be authorized by a separate injection well permit.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 29-13672

7. To evaluate and/or quantify potential injury to senior water right holders resulting from the diversion of water in connection with this permit, the Department may require the permit holder to perform a pump test or pump tests at the location of the proposed water right diversion at any time during the permit phase. In the event that injury is alleged by senior water right holders, the Department will determine if a pump test is warranted and notify the permit holder in writing if a pump test is required. Following notification of a required pump test and prior to conducting the test, the permit holder shall submit a pump test narrative to the Department for review and approval. The pump test narrative shall summarize the pumping well, the observation well(s), and the proposed pump test, including objectives, methods, data collection, and key components. The test should be designed and conducted by a qualified professional, such as a hydrologist, geologist, or engineer, and approved by the Department before it is conducted. Following the pump test and prior to further development or utilization of water for the beneficial uses described by the permit, a Technical Report containing data, analysis, and conclusions from the pump test shall be submitted to the Department for review and evaluation. During the pump test, observed decreases in water surface elevations, flow rates, and/or temperatures to the water rights of the concerned parties will signify injury, and may result in the cancellation of all or part of the permit unless the permit holder implements a mitigation plan, subject to Department approval, that alleviates injury. The requirements of this condition are contingent upon the support and cooperation of the parties claiming injury, which shall include on their part installation of adequate flow rate and temperature measuring devices as well as providing access to the devices and any data collected during the pump test. If this support and cooperation is not provided to the permit holder in a timely manner, as determined by the Department, the permit holder may petition the Department in writing to re-evaluate this requirement.
8. Prior to diversion and use of water for heating purposes under this permit, the permit holder shall install a totalizing measuring device with data logging capabilities of a type approved by the Department on the system diverting ground water for beneficial use. Each day water is diverted, the permit holder must record and maintain records of all diversions from the well, identifying the amount of water diverted by date and the total daily volume. These records must be maintained and compiled into an annual record set and made available to the Department upon request. Annual record sets must be maintained for the duration of the permit process and submitted to the Department with proof of beneficial use. Submittal of proof of application of water to beneficial use, without an acceptable data set will not be accepted by the Department and may result in cancellation of the permit.
9. Water surface elevations and water temperatures in the well(s) used as the point of diversion for this right, shall be measured and recorded on a weekly basis. The permit holder must record and maintain records of the water surface elevation by date and elevation in feet above mean sea level and temperature by date and temperature in degrees Celsius. Temperatures shall be measured at the well head. These records must be maintained and compiled into an annual record set and made available to the Department upon request. Annual record sets must be maintained for the duration of the permit stage and submitted to the Department with proof of beneficial use. Submittal of proof of application of water to beneficial use without an acceptable data set will not be accepted by the Department and may result in cancellation of the permit.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 29th day of May, 2008.


For DAVID R. TUTHILL, JR., Director

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APP. NO. 29-13672	)	ORDER GRANTING PETITION
IN THE NAME OF FRANCES B. BRADY	)	FOR RECONSIDERATION
_____	)	

This matter having come before the Department of Water Resources (Department) as a petition to reconsider a preliminary order voiding an application for permit, the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On April 25, 2005, the Department issued a preliminary order (order) voiding Application for Permit to Appropriate Water No. 29-13672 in the name of Frances B. Brady (applicant).
2. On April 26, 2005, the Department served notice to the applicant that it had issued the order.
3. The Department issued the order because the applicant failed to supply the following requested information within 30 days of notice.
 - a. Information showing impacts that the proposed appropriation would have on other water users in the area.
 - b. Information showing the sufficiency of the water supply in the area.
 - c. Information justifying the quantity of water sought for appropriation.
4. Rule 730.02.a. of the Department's Rules of Procedure (IDAPA 37.01.01.730.02.a.) provides in pertinent part as follows:

Any party may file a petition for reconsideration of this preliminary order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this order will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law.
5. On May 9, 2005, the applicant's legal council (Gregory W. Moeller) filed a Petition for Reconsideration (petition) with the department in connection with the order. In the petition, item 10 states, "...if an additional extension of time is granted, as per [the] Applicant's most recent request, there is a substantial likelihood that this issue can be resolved."
6. On May 12, 2005, the Department disposed of the petition by granting the permit holder 30 days to provide documentation to support the petition.

7. On June 10, 2005, the Department received a fax from Gregory W. Moeller responding to the "Disposition of Petition for Consideration", dated May 12, 2005.

8. On July 10, 2005, the Department extended the time for submittal of documentation and agreed to hold action on the petition until after September, 2005.

9. On September 19, 2005, the Department received a letter from the applicant outlining her plan to address the Department's outstanding "requirement of demonstration that our request for an additional 0.5 cfs of geothermal water will not affect our neighbors having low temperature wells and pumping facilities".

10. On September 29, 2005, the Department received substantial documentation, including a signed letter by Thomas E. Lachmar, Ph. D., summarizing the technical investigations he and an associate carried out, in evaluating the impact on surrounding wells by pumping the applicant's well at an average flow of 90 gpm.

CONCLUSIONS OF LAW

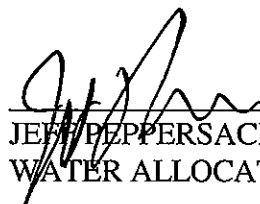
1. The petition was filed timely.
2. Although all of the documentation supporting the petition was not submitted within 30 days from the Department's letter disposing of the petition for reconsideration, the documentation should be considered to have been submitted timely because the applicant showed good faith by providing on-going communication with the Department and by providing substantial information, including a limited pump test, to the Department as soon as she was able.
3. The Department should grant the petition for reconsideration of the order pursuant to Rule 730.02.a. of the Department's Rules of Procedure.
4. The Department should withdraw the preliminary order voiding the application.

ORDER

IT IS HEREBY ORDERED that the petition is **GRANTED** pursuant to Rule 730.02.a. of the Department's Rules of Procedure.

IT IS FURTHER HEREBY ORDERED that the preliminary order voiding Application NO. 29-13672 is WITHDRAWN.

Dated this 29th day of May, 2008.


JEFF PEPPERSACK, CHIEF
WATER ALLOCATION BUREAU

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 29-13672 IN THE)
NAME OF FRANCES B. BRADY)
_____)

PRELIMINARY ORDER VOIDING APPLICATION FOR PERMIT, Page1

application. The letter did not provide computations or analysis to justify for the amount proposed for diversion.

7. On July 19, 2004, the Department received a letter from the applicant providing clarification to some of the deficiencies on the application, but did not provide adequate response to the request for additional information associated with the appropriation of low-temperature geothermal water as requested in the Department's letter of May 21, 2004.

8. On August 31, 2004, Department sent the applicant a letter again requesting information associated with appropriation of low-temperature geothermal water as requested in the Department's letter of May 21, 2004. In the letter, the Department allowed 30 days for submittal of the required information. The Department also provided for an extension of time to submit the required information upon receipt of a written request and justification for an extension.

9. On September 28, 2004, the Department received a letter from the applicant asking for clarification of the requirements and asking for an additional 90 days to submit the required information.

10. On November 15, 2004, the Department sent the applicant a letter providing the requested clarification and allowing an additional 90 days for submittal of the required information.

11. On January 14, 2005, the Department received a letter from the applicant asking for additional time to submit the required information. In addition, the applicant indicated that the justification for the amount of water proposed had already been met.

12. On January 18, 2005, the Department sent the applicant a letter allowing an additional 90 days for submittal of the required information. In addition, the Department indicated that justification of the quantity of water required will require an analysis showing the heat loads for the space and pool heating including temperature differentials and other necessary parameters.

13. On April 4, 2005, the Department received a letter from the applicant asking for additional time to submit the required information. The letter did not provide any justification for the request.

14. Idaho Code § 42-204 says, in pertinent part:

If the application is returned to the applicant or the department shall request additional information and the applicant fails to return the corrected application or to supply the needed information within thirty (30) days, the department may void the record of said application and notify the applicant of such action.

CONCLUSIONS OF LAW

1. Idaho Code § 42-204 authorizes the Department to void an application if the applicant fails to supply requested information within 30 days.

2. The Department should void the application as provided in Idaho Code § 42-204.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that Application for Permit No. 29-13672 in the name of Frances B. Brady is **VOIDED**.

Dated this 25th day of April, 2005.


GARY SPACKMAN
Chief, Water Allocation Bureau

RECEIVED

MAR 18 2004

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

JAN 28 2004

Department of Water Resources

Department of Water Resources
Eastern Region

1. Name of Applicant Frances B. Brady Phone 208-233-6061
Mailing address 980 Centennial Circle Pocatello ID 83201
2. Source of water supply groundwater which is a tributary of _____
3. Location of point of diversion is Township 09S Range 38E Sec. 21, in the NW 1/4, SE 1/4, SE 1/4, Govt. Lot 2, B.M., Bannock County;
additional points of diversion if any: _____

4. Water will be used for the following purposes:

- Amount 0.5 cfs for commercial purposes from Jan 1 to Dec 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)
- 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) 0.5 cubic feet per second and/or (b) _____ acre feet per annum

6. Proposed diverting works:

- a. Describe type and size of devices used to divert water from the source Gran 505 pump 10 hp,
Franklin motor 10 hp
- b. Height of storage dam NA feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet
- c. Proposed well diameter is NA inches; proposed depth of well is _____ feet
- d. Is ground water with a temperature of greater than 85°F being sought? NA
- e. If well is already drilled, when? 2002; Drilling firm Wellman
Well was drilled for (well owner) Brady - Katsilometes; Drilling Permit No. D0014893

7. Time required for completion of works and application of water to proposed beneficial use is NA years (minimum 1 year)
immediate

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.
- c. Municipal; show name of municipality.
- d. Domestic; show number of households.
- e. Other; describe fully. Commercial use - Direct use and mixing; and
Mixing - Non-consumptive use (Heating of Lava Hot Springs Town's use in
the hot tubs)

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	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S	38E	21																9/4	
Commercial																			

Total number of acres to be irrigated NA

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

11. a. Who owns the property at the point of diversion? Frances B. Bradley and George W.

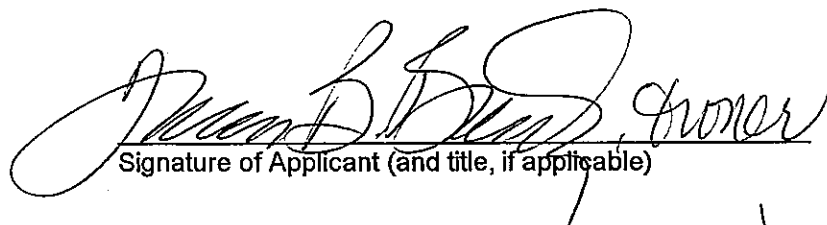
b. Who owns the land to be irrigated or place of use? Katsilomides
NA

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: _____

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" 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.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

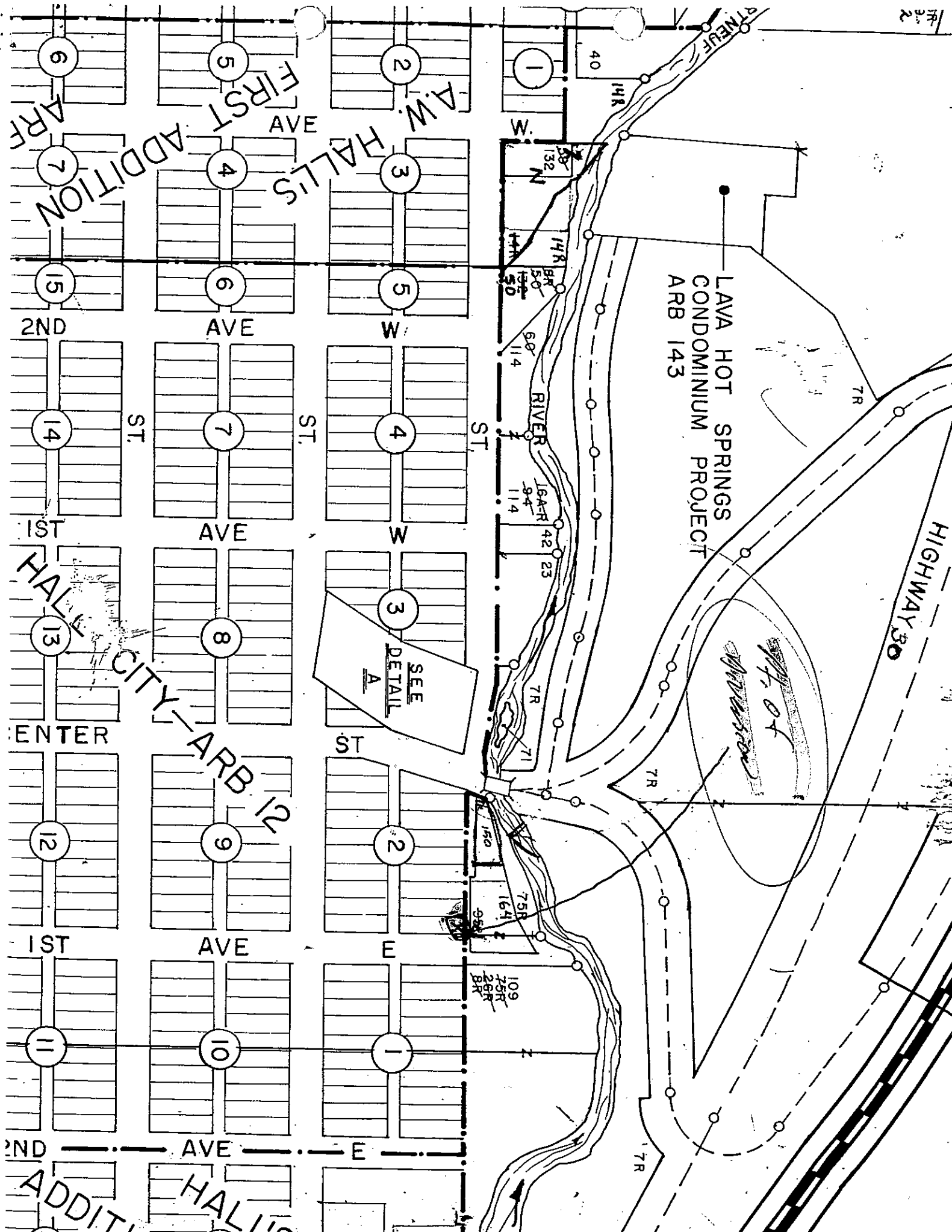

Signature of Applicant (and title, if applicable)

Received by SC Date 1-30-2004 Time 12:00 PM Preliminary check by Dennis Lewis

Fee \$ 250.00 Received by SC # E629499 Date 1/30/04

Publication prepared by SC Date 2/19 & 2/26/04 Published in Idaho State Journal

Publication approved SC Date 3/1/04



**STARTING
RIGHT
SIDE OF
FILE**

RECEIVED
JUL 30 2008
DEPARTMENT OF
WATER RESOURCES

07/25/2008

Frances B. Brady
PO 670
94 E. Portneuf Ave.
Lava Hot Springs, ID 83246

Shelley W. Keen, Manager
Water Rights Permits Section
IDWR
322 E. Front St.
PO 83720
Boise, ID 83720-0098

Dear Manager Keen:

I writing to request that my mailing address be changed to the Lava Hot Springs Address above.

Thank you very much.
Yours,

Permit No. 29-13672

Frances B. Brady

SCANNED
AUG 04 2008

4 pages 8/4/08 RC



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

May 29, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

FRANCES B BRADY
980 CENTENNIAL CIRCLE
POCATELLO ID 83201

RE: Preliminary Order Granting Petition for Reconsideration and Permit Approval Notice
for Permit No. 29-13672

Dear Permit Holder:

The Department of Water Resources has issued the enclosed order granting your petition for reconsideration and the department's preliminary order voiding your application for permit has been withdrawn. Also enclosed is the approved 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.

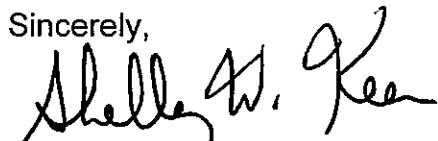
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

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 208-287-4947.

Sincerely,

A handwritten signature in black ink, appearing to read "Shelley W. Keen". The signature is fluid and cursive, with the first name "Shelley" being the most prominent.

Shelley W. Keen, Manager
Water Right Permits Section

Enclosure(s)

cc: RIGBY THATCHER ANDRUS RIGBY & MOELLER, CHTD

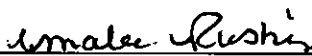
CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2008 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the persons listed below:

RE: WATER RIGHT NO. 29-13672

**FRANCES B BRADY
980 CENTENNIAL CIRCLE
POCATELLO ID 83201**

**RIGBY THATCHER ANDRUS RIGBY & MOELLER, CHTD
C/O JERRY R RIGBY
25 N 2ND E
PO BOX 250
REXBURG ID 83440-0250**



**Emalee Rushing
Office Services Supervisor**

MEMO

State of Idaho

Department of Water Resources

322 E Front Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700

Date: March 18, 2008

To: Jeff Peppersack

From: Dennis Owsley, Hydrology Section, State Office 

cc: Sean Vincent and Rick Raymondi

Subject: Hydrologic review of water right application 29-13672 for Lava Hot Springs Inn

Introduction

The Hydrology Section in the State Office was requested to evaluate the hydrologic impacts associated with a diversion rate of 0.5 cfs (224 gpm) for water right 29-13672. The application is for commercial use of geothermal water to heat Lava Hot Springs Inn and supply water to the facility's hot tubs. A letter report prepared by Thomas Lachmar, Ph.D., was submitted in support of the application. The letter report summarizes two aquifer tests involving the pumping of two different wells. The owner of both wells is George Katsilometes, who co-owns the Lava Hot Springs Inn with the applicant, Frances Brady.

The drilling permit number for the point of diversion on the application for permit (D0014893) is for a 700-foot deep well that was drilled in 2001. According to the driller's log for this well, the nominal 6" diameter well casing is perforated from 150 to 270 feet below ground surface (ft-bgs). The geologic log indicates that the uppermost 5 feet of the perforated interval is comprised of pumice and clay. A layer of claystone is logged from 155 feet to 165 ft-bgs and sandstone is logged from 165 to 280 ft-bgs. Below this, the geologic log indicates alternating layers of sandstone, clay, and sand to the total depth of 700 feet.

Review of Supporting Report

The report included with the application shows that two geothermal wells within the vicinity of the applicant's well did not respond to the pumping of either pumping well. The report concludes "*none of the water producing zones in well #1 or well #3 are*

hydraulically connected with the water-producing zones in either the State Foundation or Riverside Inn wells, and therefore the water levels in these two wells will not be affected by additional pumping of wells #1 and #3.” Though the test results generally support this conclusion, the report lacks supporting information and analysis which are necessary in order to assess the potential impact of the proposed groundwater diversion on water levels in area wells.

Specific shortcomings in the analysis and documentation are as follows:

- The well identification on the map included in the report does not correlate to the narrative descriptions of the wells used in the tests. Therefore, it is unclear which wells were tested and which wells were monitored.
- The basis for selecting wells for monitoring also is not presented. There is no discussion of the hydrogeologic setting or the hydrogeologic conceptual model. This lack of context makes it difficult to interpret and assess the significance of the test results.
- The well logs for the test and monitoring wells were not included in the report and the impact of well construction on test results was not discussed other than mentioning the *“dramatic difference in the depths”* of well #1 and the State Foundation well. Failure to consider well construction in the context of the hydrogeologic setting precludes use of the test results for: 1) assessing hydraulic communication between the applicants well and other vicinity wells and springs that were not monitored during the test, and 2) using the test results to assess/predict drawdown caused by the pumping of wells that were not tested.
- There is no information in the permit application or in the letter report concerning the location and construction of the other well that was tested (well #3) other than the statement that it is *“one of two shallow and cooler wells”*. Conclusions based upon the test results are not applicable to assessing the potential impacts associated with this appropriation if wells producing from different water bearing zones are used for production.

In addition to incomplete analysis and documentation, the impact of the proposed additional diversion is difficult to assess because the scope of the aquifer tests was limited. Specific deficiencies of the aquifer test are as follows:

- The pumping rate for both aquifer tests was approximately 90 gpm, which in both cases is less than half the rate on the permit application (224 gpm). According to Dr. Lachmar, the well that is proposed in the permit application for the additional 0.5 cfs (224 gpm) appropriation (well #1) *“could not (be) pumped at rate of more than 100 gpm even with the larger capacity pump”*. It appears, therefore, that it may require an additional well(s) to obtain the full appropriation amount.

- Drawdown, water level recovery, and temperature measurements apparently were not recorded for the pumped well during either test. Given the apparent lack of response in the monitoring wells, the lack of pumping well drawdown and water level recovery data precludes determination of aquifer properties. Significantly, no attempt was made beyond monitoring two of the wells during the aquifer tests to assess the likelihood or predict water level impacts resulting from the proposed appropriation.
- Only two of the nine wells identified on the map that accompanies the letter report were monitored during the test. Based on a review of well logs in the IDWR database, the hydrogeology of the area is complex, comprised of fractured rock and sedimentary layers that have been faulted and folded. Groundwater flow patterns and hydraulic communication are difficult to predict for this heterogeneous and anisotropic aquifer system. Therefore, all of the geothermal wells in the vicinity of the POD had the potential of being impacted by the tests, and should have been monitored.

Additional Analysis

Because of the above-identified deficiencies and the complexity of the hydrogeologic setting, there is a large amount of uncertainty associated with the conclusions of Dr. Lachmar's aquifer test report. Given this uncertainty, a review of driller's logs for vicinity wells in an attempt to assess the potential impacts of the 0.5 cfs appropriation on neighboring wells and springs was conducted. Based upon the review of the IDWR database, it appears there are 54 wells (15 of which are for monitoring) completed within a one mile radius of the applicant's POD. Within one-half mile of the applicant's well, there are 14 wells as shown on Figure 1 and summarized in Table 1. Of those 14 wells, five are owned by George Katsilnotes. The same well that is referred to as "well #1" in the letter report and proposed for production in the permit application was also referred to as "George Katsilnotes #5" in an unpublished report by IWRRI. Unfortunately, a definitively correlate the monitoring well designations in the aquifer test report (State Foundation well and Riverside Inn well) to driller's logs in the IDWR database was not determined. As previously discussed, this makes it difficult to extrapolate the test results beyond the wells that were involved in the test.

Faulting makes the hydrogeology of the area complex (Figure 2). Multiple wells in the area are completed in the fractured rock geothermal system including the proposed production well, which produces water primarily from claystone and sandstone intervals. The existence of high temperature water in shallow wells indicates that the vertical hydraulic conductivity is relatively high and suggests that the fault system provides a conduit for vertical flow. An unpublished report by IWRRI hypothesizes that the geothermal system is controlled by a northwest trending fault system which transects the area of geothermal development.

Due to the complexity of the fracture flow system, well interference is difficult to assess. Comparison of water level elevation, water level fluctuation patterns, water chemistry, and water temperature may provide indication that two wells are in hydraulic

communication. Wells that are close together and produce from the same depth intervals also are more likely to produce from the same water bearing zones. However, because of the complexity of fracture controls on hydraulic interconnectedness, all area geothermal wells and springs have the potential to be impacted unless there are data presented to indicate otherwise.



Figure 1. Map showing the location of the applicant's well with respect to the surroundings geothermal wells in the area.

Table 1. Summary of wells and springs within one-half mile of applicant's POD.

Well Owner	Well Use	Depth (feet)	Discharge (gpm)	Discharge Temperature (°F)
AURA SOMA LAVA WELL	Unknown	NA	Unknown	Unknown
CITY OF LAVA HOT SPRINGS	Irrigation	160	Unknown	80
GEORGE KATSILOMETES #1 (TEST HOLE #1)	Test Well - Abandoned	44	Unknown	Unknown
GEORGE KATSILOMETES WELL #2	Test Well - Abandoned	24	Unknown	Unknown
GEORGE KATSILOMETES WELL #3	Commercial	80	50	90?

GEORGE KATSILOMETES WELL #4	Commercial	80	120	90
GEORGE KATSILOMETES #5; LAVA HOT SPRINGS INN ¹	Heating	700	Unknown	145
HOME HOTEL AND MOTEL	Domestic	70	40	140
HOME HOTEL HOT SPRING	Heating	NA	Unknown	Unknown
JOE CAMPBELL WELL	Domestic	295	160?	80
LAVA HOT SPRINGS FOUNDATION WELL	Heating	16	100	136
LAVA HOT SPRINGS #2	Recreation	NA	Unknown	110
LAVA LIONS CLUB	Irrigation	110	80	68
RIVERSIDE INN SPRINGS	Heating	NA	Unknown	Unknown

¹Applicant's well associated with this water right.

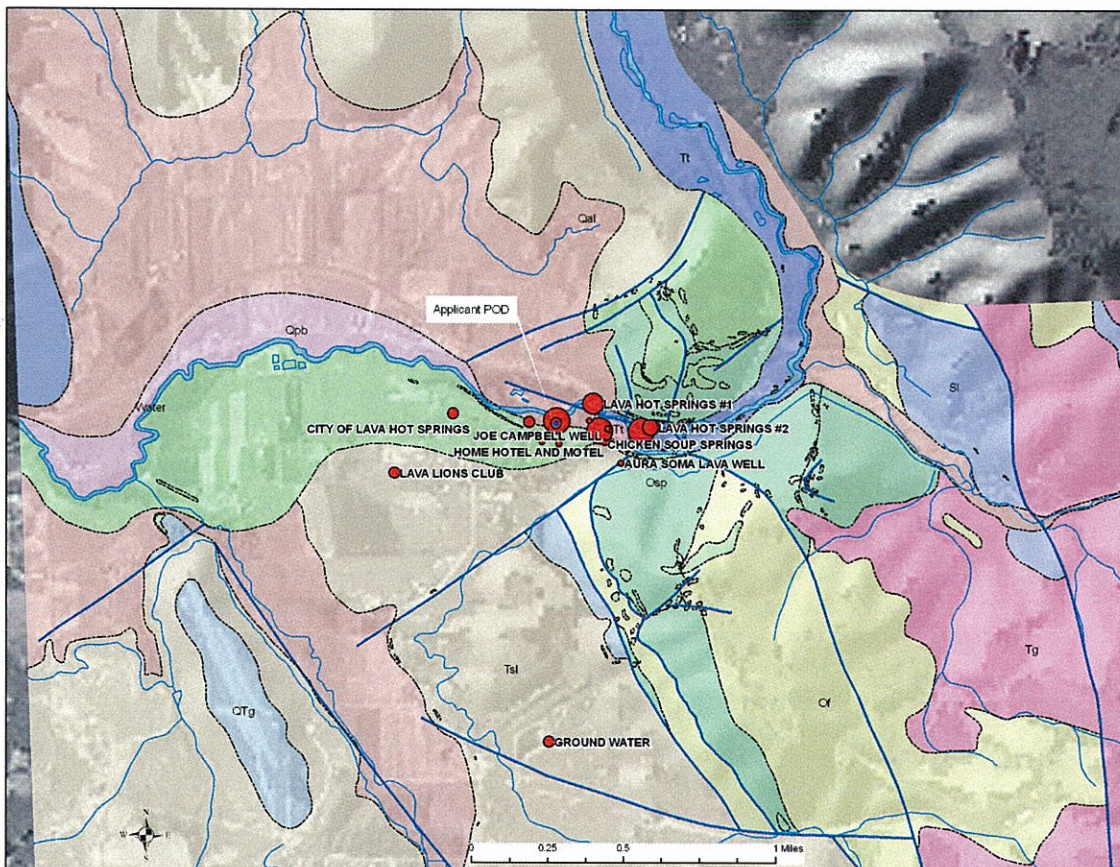


Figure 2. Geologic map of the Lava Hot Springs area. The dark blue lines indicate fault locations and the red dots indicate geothermal locations, with the size of the dot proportional to the water temperature.

Conclusions

As described above, the applicant's POD is located in an area of complex geology and limited hydrogeologic data. Several wells and springs exist within one half-mile of the POD that appear to be producing water from the same geothermal aquifer system as the applicant's well. Nonetheless, hydraulic communication between the 700-foot deep well identified as the POD in the permit application and two nearby wells owned by others appears to be limited based on aquifer test results presented in the letter report accompanying the application. However, the hydrogeologic setting is complex and the geothermal wells and springs in the areas could potentially be impacted by the proposed diversion. In addition, the well proposed for the 0.5 cfs (224 gpm) appropriation is incapable of producing more than 100 gpm, so at least one well in addition to the proposed POD would be needed in order to supply the full amount. In recognition of the limited productivity of the proposed POD, a second aquifer test involving the same monitoring wells and a different production well that is also co-owned by the applicant was conducted. The results from the second aquifer test also suggest limited hydraulic communication between the pumping and monitoring wells. Extrapolation of the findings in terms of potential hydrogeologic impacts is not possible with the information that is presented in the aquifer test report.

References

Idaho Water Resources Research Institute (IWRRI). Hydrogeology of the Lava Hot Springs Area. Unpublished document for the Technical Assistance for Rural Drinking Water Development in Idaho Project.

MEMORANDUM

Date: October 7, 2005

To: Sean Vincent - Hydrology

From: Jeff Peppersack

Re: Hydrology Review of Application 29-13672

Water Allocation Bureau is seeking review of the attached analysis of Thomas E. Lachmar, Ph.D. regarding the effects of pumping an additional 0.5 cfs by the applicant on other water rights in the Lava Hot Springs area. The applicant currently holds a water right for 0.5 cfs for commercial (heating) use.

The application provides specific details and a recommended order from a previous case in the area provides some background.

Let me know if other information is necessary to complete a review.

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Let me know if other information is necessary to complete a review.

Jeff /

10/4/05 GP

Gary,

Here's the technical analysis for the Frances Brady application (Lava Hot Springs Inn). Two questions come to mind, 1) are the flows adequate for a proper test and 2) are the measured wells the most appropriate to determine impact. I have attached your recommended order for Lazy V Ranch for reference. We should probably have Hydrology staff review the analysis.

I don't think they've addressed the sufficiency of water supply and the justification of flows questions. How do you want to proceed with this.

Jeff

Please ask Shane Bendixson or Helen Harrington to review & comment. IF OK - I'm in favor of approving. ~~Parties~~ Potential objecting parties have been informed. Brady has tested. ~~90 gpm~~ Could turn out to 90 gpm - but perhaps we can condition and require additional test at time of field exam.

Gary

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR)
PERMIT NOS. 29-08162 and 29-08164)
IN THE NAME OF LAZY V RANCH)
_____)

RECOMMENDED ORDER

Lazy V Ranch filed two applications to appropriate water with the Idaho Department of Water Resources (IDWR), numbered as 29-08162 and 29-08164. Lazy V Ranch is not a corporation as represented on the applications but is a business operated by Thayne and Karen Vargason. The applicant will hereafter be referred to as "Vargasons." The applications were protested by George Katsilometes, Evelee Hill-Rush, John Mehlhaff, and Duke Walden. A hearing was conducted on October 23 - 24, 1997, regarding the protests.

Based on the evidence and testimony presented at the hearing, the hearing officer recommends the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Application for permit nos. 29-08162 and 29-08164 propose diversion of low temperature geothermal water arising or artificially captured on lands owned by the State of Idaho and administered by the Lava Hot Springs Foundation (Foundation). Vargasons own 17 acres of property adjoining the west side of the Foundation property.

2. Application for permit no. 29-08162 proposes the following:

Purpose:	Diversion to Storage Storage for Fish Propagation
Flow Rate:	3.0 cfs
Storage Volume:	0.5 acre feet
Period of Use:	January 1 through December 31
Proposed Priority:	November 20, 1995

Point of Diversion: Lot 7 (NWSE), Section 21,
T9S, R38E, B.M. (Two diversions)

Place of Use: Lot 6 (NESW), Section 21,
T9S, R38E, B.M.

Source: Wastewater

3. Karen Vargason testified that application for permit no. 29-08162 proposes two points of diversion after low temperature geothermal water is beneficially used by the Foundation. The specific description of the points of diversion will be discussed later in the decision.

4. Application for permit no. 29-08164 proposes the following:

Purpose: Diversion to Storage
Storage for Fish Propagation

Flow Rate: 7.0 cfs

Storage Volume: 0.5 acre feet

Period of Use: January 1 through December 31

Proposed Priority: January 5, 1996

Point of Diversion: Lot 8 (SENESE), Section 21,
T9S, R38E, B.M.

Place of Use: Lot 6 (NESW), Section 21,
T9S, R38E, B.M.

Source: Spring located on Foundation property

5. The Portneuf River flows through the center of the City of Lava Hot Springs. In general, the private property of the townsite is located on the south side of the river. The State of Idaho owns several hundred acres of land located immediately north of the City of Lava Hot Springs.

6. The Idaho Legislature created the Foundation by enacting Title 67, Chapter 44 of the Idaho Code. The Foundation is charged with the duty of managing the state lands in the vicinity of Lava Hot Springs and the unique low temperature geothermal water located thereon.

7. Protestants' exhibit K generally depicts the location of the state property, the City of Lava Hot Springs, and the properties owned by the protestants.

8. Since its creation, the Foundation has built and promoted the construction of public hot pools, a natatorium (assumed to be a swimming pool) that collapsed or was irreparably damaged during a flood event, and in later years, a swimming pool complex and some condominiums. The Foundation has contracted with concessionaires to operate businesses on the property of the Foundation. The condominiums are operated privately by a concessionaire through a lease arrangement.

9. The Foundation claimed water rights for the beneficial use of the low temperature geothermal water. A summary of the Foundation's Snake River Basin Adjudication (SRBA) claims are attached as Attachment A. The Foundation claims the right to divert a total of 6.27 cubic feet per second (cfs) from geothermal springs for commercial purposes.

10. In approximately 1990, the Foundation decided to improve the delivery of water to the swimming pool complex for heating the pool water and associated buildings, and initiated a reconstruction of its hot water delivery system. Prior to reconstruction, the pool and associated buildings were heated with natural gas.

11. Water can be captured for delivery to the swimming pool complex from two sources on Foundation property. The first source of water discharges from the public bathing pools, located at the east side of the Foundation property. The second source of water is springs (or shallow underground flows) located south and west of the public bathing pools. The springs once supplied hot water to the natatorium.

12. The Foundation decided to construct a primary delivery system and an auxiliary system for back up that could also serve future expansion. The systems were designed so that water from the two sources would not commingle.

13. Two parallel water delivery systems were constructed alongside each other. The systems will be referred to as system no. 1 and system no. 2. The pumps, pump basins, and pipelines of the systems will be assigned the same number as the system of which they are a component.

14. System no. 2 is the primary system for delivery of the Foundation's low temperature geothermal water and is designed to pump 780 gallons per minute (gpm).

15. System no. 1 is an auxiliary or back up system. Pump no. 1 was designed to divert approximately 1,200 gpm.

16. Together, the pumps were designed to divert 1,980 gpm. The engineer for the project, Charles Sudweeks (Sudweeks), testified that the pumps were designed to divert all of the available water. A flow of 1,980 gpm is equal to a flow of 4.41 cfs. This flow rate is less than the total flow rate claimed by the Foundation in its SRBA claims.

17. Water from both sources is delivered to a single location in a divided structure referred to in the evidence as a cistern, a pump house, a collection box, and a well. For purposes of this decision, the structure will be referred to as the "main pump house."

18. The main pump house has two compartments. This decision will refer to the compartments as pump basin no. 1 and pump basin no. 2. Water is diverted from both sources continuously and delivered into pump basin nos. 1 and 2. The testimony and evidence refers to pumps in and pipelines extending from the compartments as pump nos. 1 and 2, and pipeline nos. 1 and 2, respectively.

19. During construction of the main pump house, the contractor excavated from five to ten feet below ground surface. A concrete floor was constructed in pump basin no. 1. The floor in pump basin no. 2 was not covered with concrete, but was left open after the excavation. Protestants allege that pumping of water from the excavated pump basins is drying up springs that once flowed on Foundation property and is also reducing temperatures and water levels in wells and springs from which they divert water.

20. Sudweeks testified that the old natatorium site was cleared, and new pipelines were connected to the old pipelines that capture spring water and once supplied water to the natatorium. Water from the springs flow by gravity to pump basin no. 2. A ten horsepower pump and motor, referred to as pump no. 2, delivers water into pipeline no. 2.

21. Water flowing from the public bathing pools discharges into pump basin no. 1. A 20 horsepower pump and motor, referred to as pump no.1, pumps water into pipeline no. 1.

22. Low temperature geothermal water must be lifted from the main pump house to reach the swimming pool complex. Sudweeks determined that water should be pumped from the main pump house uphill (approximately 400 horizontal feet and 30-40 vertical feet) in a northwesterly direction to a point where the water would gravity flow downhill to the swimming pool complex (See applicant's exhibit no. 14).

23. Two twelve-inch diameter pipes exit the main pump house in a northwesterly direction (one from each pump basin) and ascend alongside each other to the apex discussed above. After reaching the apex, the pipelines descend parallel to each other in a westerly direction to a valve box (valve box no. 1).

24. Four valve boxes are spaced along the pipelines, and both pipelines intersect the valve boxes. The valve boxes were numbered during the hearing, and are identified on applicant's exhibit no. 14. The valve box numbers have no relationship to the system numbers.

25. Valve box no. 1 was built for possible future development. The valves in valve box no. 1 are not currently utilized for controlling water in the system.

26. A junction is constructed in pipeline nos. 1 and 2 in the second valve box (valve box no. 2). A single delivery pipeline, cross connected to both pipeline nos. 1 and 2, was constructed south to the swimming pool complex. A bleeder valve was constructed in each cross connection. The bleeder valves can release air and water into pipeline no. 1 and pipeline no. 2 in a westerly direction. Parallel pipeline nos. 1 and 2 extend west from valve box no. 2 through two more unused valve boxes (valve box nos. 3 & 4) to the western boundary of the Foundation property. Pipelines constructed down gradient of valve box no. 4 will be referred to hereafter as the "pipeline extensions."

27. The initial plans, depicted on applicant's exhibit no. 14, proposed construction of the pipeline extensions along the western boundary of the Foundation property that would discharge water to the Portneuf River. The pipeline extensions would have crossed the lands leased by the condominium concessionaire. When the contractor was in the field preparing for construction, the lessee of the condominiums objected to construction of the pipeline extensions across the leased property.

28. The contractor communicated the lessee's objection to the executive director of the Foundation, Robert Meline (Meline).

29. The system reconstruction was planned for the spring of 1991, and completion was necessary before the swimming pool opened in May of 1991.

30. Meline felt that an extended dispute with the condominium concessionaire would unacceptably delay the construction and sought other options. He approached Thayne and Karen Vargason about constructing the pipeline extensions on the Vargason property that adjoins the west side of the Foundation property.

31. Vargasons agreed that the Foundation could construct its pipeline extensions on their property in exchange for the right to divert "excess water" from the Foundation's pipelines. Applicant's exhibit nos. 2 and 3 are copies of the documents underlying the agreement. Meline testified that he received consent for the agreement from three Foundation board members prior to signing the agreement. The pipeline extensions were constructed on Vargason's property. A pipeline to the Vargason property was tapped to line 2 in valve box no. 4 at the time of construction. Vargasons paid for the pipeline delivering water to their property. Valve box no. 4 is the location of one of two points of diversion proposed by application no. 29-08162.

32. Vargasons constructed a pond on their property to raise tilapia, a tropical fish that lives in warm water. Water from the bleeder valve was diverted to the pond. A research project, conducted by Shelley High School students, showed that young tilapia could be raised in the pond. Approximately 40,000 tilapia were reared in the pond.

33. The temperature of the water delivered to Vargasons' pond is 102° F, and must be cooled to 84° F for rearing of tilapia. Vargasons constructed sprayers to aerate and cool the warm water to an acceptable temperature for the fish.

34. The Foundation's system operates automatically except on rare occasions. System no. 2 operates 24 hours a day year-round, except when occasional maintenance is necessary or a shut down occurs because of a power failure or mechanical failure. In most cases, pump no. 1 will operate when pump no. 2 is not operating.

35. To maintain the proper temperature in the Vargason pond, low temperature geothermal water must flow almost continuously into the pond. In March of 1996, the Foundation's automated delivery system malfunctioned. Flow of low temperature geothermal water to the Vargason pond ceased, and, as the water in the pond cooled, approximately 20,000 fish died.

36. Pump nos. 1 and 2 are variable speed pumps. The pumps operate at different speeds depending on demand at the swimming pool complex. Water is pumped to the apex of the pipelines. From the apex, water flows by gravity towards the swimming pool complex. At valve box no. 2, the bleeder valves previously discussed drain air out of the operating pipeline before the water flows toward the swimming pool complex. The purpose of the bleeder valve is to remove air that impedes the operation of the heat exchangers.

37. Some water discharges from the bleeder valves along with the air bled from the pipelines at the head of the delivery line to the swimming pool complex. Vargasons propose to divert the water passing the bleeder valves for use in their fish pond.

38. The bleeder valves are operated manually. Sudweeks did not establish the quantity of water that must be passed with escaping air to properly operate the system.

39. John Mehlhaff (Mehlhaff), one of the protestants, owns a company that designs heat exchangers. Mehlhaff testified that the system delivering water to the swimming pool complex does not require bleeder valves. Protestants also argue that, even if the bleeder valves are necessary, an excessive amount of water is being released to Vargasons.

40. Russell Rydalch, an engineer employed by IDWR, and Ken Baker, his supervisor, examined the Foundation's water delivery system. A report of the investigation was received into evidence as applicant's exhibit no. 4. Rydalch and Baker determined that there were several ways that the system could have been constructed, but that the construction with bleeder valves was an

acceptable method of constructing the system to insure proper delivery of water and operation of the heat exchangers.

41. The hearing officer specifically finds that Sudweeks' design is a sound engineering design that allows unsophisticated operation of the delivery system.

42. A large swimming pool, a small swimming pool, and several associated buildings are components of the swimming pool complex. The walls of the swimming pools are constructed with gunite. Gunite walls are susceptible to damage when the pools are drained. The walls could be damaged by back wall pressure because of a high water table or by frost. The pools are only open for public access from the end of May through the first of September. Sudweeks testified that the water required to supply the swimming pool complex varies depending on weather and human use of the swimming pools.

43. The pools are closed from September until May. The Foundation leaves water in the pools year round to protect the pool structure from collapse or frost heaves, except during a short maintenance period. The Foundation buildings are heated year round. The temperature of the water in the pools is at least 40° F through the winter months.

44. The swimming pools are annually drained in the fall for four or five days and cleaned. Although not clearly explained in the testimony, fall is probably the time when the ground water level in the soil behind the pool walls is the lowest and risk of failure because of hydrostatic back-pressure is reduced. During periods of maintenance, system no. 2 still supplies water to the buildings. In addition, water is used for cleaning and maintenance work.

45. Two heat exchangers heat water for the large swimming pool. One heat exchanger heats the water for the small swimming pool. Another heat exchanger heats the buildings of the Foundation near the pools. In addition, low temperature geothermal water is sometimes placed directly in the swimming pools.

46. Water used for heating purposes or discharging from the swimming pools is recollected in a pipeline that discharges to the Portneuf River as depicted in applicant's exhibit nos. 4 and 14. This discharge pipe is another point of diversion from which Vargasons propose to divert wastewater under application for permit no. 29-08162, and will be referred to as the swimming pool complex outlet.

47. Application no. 29-08164 proposes the diversion of water now flowing into pump basin no. 1 that is unused by the Foundation. Although the application lists the source of water as a spring, Karen Vargason testified that the application proposes diversion of water flowing from the public hot pools into the main pump house (pump basin no. 1) and spilling into the Portneuf River.

48. Karen Vargason testified that if the application is approved, she would seek a right of way from the Foundation to construct a pipeline that would capture water flowing (not pumped) from pump basin no. 1 before it discharges into the Portneuf River. She also testified that, as an alternative, she might seek an agreement with the Foundation to deliver low temperature geothermal water to the Vargason property through the existing Foundation delivery system. No specific plans for diversion and delivery of water were submitted into evidence.

49. Karen Vargason testified that she could pay for the planned improvements with her savings.

50. Karen Vargason testified that 20,000 pounds of tilapia would be reared annually, equivalent to between 40,000 and 100,000 juvenile fish annually.

51. George Katsilometes (Katsilometes) owns a hotel on the south side of the Portneuf River in Lava Hot Springs southwest of the Foundation's main pump house. Katsilometes owns permit to appropriate water no. 29-07869 which authorizes the diversion of 0.50 cfs from ground water for commercial purposes. Katsilometes constructed an 80 foot deep low temperature geothermal well in 1990. A well driller's report of the well is one of the documents marked as protestants' exhibit J. The portion of the well driller's report where casing perforation information should be entered is blank. Without additional information, the hearing officer must presume that the well casing is not perforated.

52. Katsilometes constructed a bathing pool for guests at the hotel. He installed a 5.0 horsepower pump in the well at a depth of 72 feet. The pump produced a flow of 80 gpm.

53. Katsilometes testified that he needed 40 gpm to maintain the pool at an optimum bathing temperature of approximately 108° F. Protestants' exhibit J contains a summary of a pump test conducted by Katsilometes' well driller, Rodney Hendricks (Hendricks). Hendricks measured a temperature of 122° F after pumping the well for 17.5 hours.

54. Katsilometes testified that water was pumped from his well 24 hours a day for the entire year.

55. From 1991 through 1995, water levels in Katsilometes' well declined. Katsilometes testified that the water temperature in his well also declined from 122° F to 104° F.

56. In 1995, Katsilometes constructed additional bathing pools. Because of the additional water demand, and the reduction in the water level and temperature in the first well, Katsilometes drilled another well. The well driller's report for the second well is also a part of protestants' exhibit J. The portion of the report where casing perforation information should be entered is blank. Katsilometes testified that the casing was perforated.

57. Between 1990 and 1995, Katsilometes installed a 7.5 horsepower pump in the first well, lowered the intake, and installed a pump in the second well. He increased his total pumping capacity from 80 gpm to between 200 and 230 gpm.

58. Katsilometes submitted evidence of a test of the two wells conducted in 1995 by an employee of Hendricks. A summary of the test is included as part of protestants' exhibit J.

59. Katsilometes testified that when water is being pumped from the second well, the water temperature in the first well rises. He speculated that pumping by the Foundation moved the hot water east of his property. He hypothesized that pumping from the second well draws some of the hot water back from the east to the first well. He testified that the 1995 test by Hendricks' employee supports this theory.

60. Katsilometes also testified that he observed an increase in water levels and water temperatures in his wells and a decrease in turbidity and sediment in the water he diverts when the Foundation ceases pumping.

61. Katsilometes' property is located west and south of the Foundation's main pump house. He testified that the ground surface elevation at his property is lower than the ground surface elevation of the Foundation's property. He testified that the hottest well (the second well drilled in 1995) is approximately 130 yards away from the Foundation's main pump house. He testified that the first well (the well drilled in 1990) is located approximately 60 feet west of the second well.

62. Mehlhaff testified that he owns a domestic well located almost directly across the river from the Foundation's main pump house. Mehlhaff testified that he noticed a decline in both water temperature and pressure after the Foundation reconstructed its system. He testified that, during the summer months, he is now unable to divert low temperature geothermal water. His domestic well is approximately 20 feet deep and is a four (4) inch diameter well.

63. Duke Walden (Walden) is the proprietor of the River Side Inn. He testified that his water rights are some of the oldest water rights authorizing diversion of low temperature geothermal water. He testified that he diverts water both from a well and a low temperature geothermal spring. He derives approximately 80 percent of his water from the spring and 20 percent of his water from the well. Walden's spring arises in the Portneuf River just upstream and across the river from the Foundation's main pump house. A cistern was constructed in the river to prevent mixing of water from the spring with the river water. The temperature of the spring is 133° F; one of the warmer springs in the area. Walden's well is approximately 16 to 18 feet deep.

64. Walden testified that he observed significant fluctuations in water levels after the Foundation reconstructed its system. Nevertheless, he has at all times been able to divert water pursuant to his water rights.

65. Evelee Hill-Rush (Rush) owns property located south and east of the Foundation's main pump house. She diverts water from the same spring Walden diverts water from. She is concerned about future declines in water levels of the spring from which she now diverts or proposes to divert water.

66. According to the well driller's reports of the Katsilometes wells, contained in protestants' exhibit J, both the wells were completed to a depth of 80 feet. The wells were constructed entirely within a rock strata that is permeable to surface water infiltration. The geothermal water is not separated from cold water flowing in the Portneuf River by any aquiclude. The water in the Portneuf River interacts directly with warm geothermal water rising through underground fractures or faults. The cold surface water and the warmer ground water mix together but retain some separation because of a pressure equilibrium between the cold and the hot water.

67. If pumping by the Foundation causes declines in water levels and water temperature, the most dramatic declines would be noticed in the geothermal diversions nearest to the Foundation's main pump house. Although Walden testified he had noticed fluctuations of water levels in his spring, the changes were not significant compared to allegations by Katsilometes that the pump in his well would not pump from a depth of 72 feet because there was not enough water. Both Walden and Mehlhaff should observe significantly greater effect from pumping by the Foundation than Katsilometes.

68. Furthermore, if the Katsilometes wells were constructed without perforations, all of the water must enter the casing from the bottom of the well, decreasing the productivity of the well.

69. Pumping by Katsilometes is drawing warm water away from its boundary with the cold water of the Portneuf River, and the declining water temperature is caused by intrusion of cold water into Katsilometes' wells.

70. Water levels are declining in the Mehlhaff well and the spring from which Walden and Rush divert water probably because of pumping by Katsilometes not because of pumping by the Foundation.

71. Diversion by the Foundation from its pump basins does not affect the availability of water to the protestants.

72. Diversion of water from the outlet of the swimming pool complex will not adversely affect other water users.

73. Diversion of excess water bled from the bleeder valves at the cross connection where water is delivered to the swimming pool complex will not adversely affect other water users.

74. Diversion of water now leaving the Foundation's hot pools, either through the existing pipeline, or through a new pipeline, will not adversely affect diversions by other water users.

75. Meline testified that the proposals by Vargasons to the Foundation to divert water not presently used by the Foundation had been discussed with the Foundation's board, but the board had tabled any action regarding the proposal pending the review and the decision regarding the protests to these applications. Meline testified that he was not prepared to state the position of the Foundation regarding the pending applications.

76. The protestants argued that Vargasons' applications were speculative because Vargasons did not present a sufficient plan for the construction and operation of the fish facility and a delivery of water to the facility.

77. Karen Vargason testified that the quantities sought for appropriation were determined with the help of Keith Wilson, an employee of IDWR. Keith Wilson testified that the flow rate sought for appropriation was taken from an IDWR graph that relates flow rate to the number of fish proposed for rearing. The graph is only to be used for determining the flow rate necessary for trout rearing and propagation.

CONCLUSION OF LAW

1. Idaho Code § 42-203A provides, in pertinent part, as follows:

In all applications whether protested or not protested, where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions.

2. The applicant bears the burden of proof regarding the criteria set forth in Idaho Code § 42-203A.

3. Title 67, Chapter 44 of the Idaho Code creates the Lava Hot Springs Foundation and grants the Foundation authority to manage the state property and the geothermal resources at Lava

Hot Springs. The law does not describe a preference for one use of the geothermal water over another use. Furthermore, the law does not expressly charge the Foundation with any public interest responsibility.

4. The traditional uses of low temperature geothermal waters by the Foundation have been for bathing and heating. Idaho Code § 42-4404 refers to "hot springs, bathing facilities, and sanitarium and hospital. . ." and implies that the intended use is for some human therapeutic activity. Idaho Code § 42-4405 and § 42-4408 refer to "bathing facilities, pleasure resort, hospital or sanitarium"

5. Idaho Code § 67-4402 states that the Foundation has the authority to lease property under its control "not used or needed by the foundation"

6. The statutory charge to the Foundation to manage water on the lands it controls combined with language discussing traditional uses of the water creates an oversight authority in the Foundation to determine the best use of the water for the public good. IDWR should not approve any proposal for diversion on Foundation property by the applicant unless the Foundation expressly consents to the diversion and use. IDWR also should not approve a proposal by an applicant to use water that would prevent the Foundation from using water on its property for some purpose it determines to be a better beneficial use in the future.

7. If the Foundation consents to water use by Vargasons, the use is in the public interest as determined by the Foundation.

8. The use of water proposed by Vargasons will not injure other water rights.

9. The testimony established that only 4.41 cfs is available from the sources now diverted by the Foundation. At times, there is sufficient water to satisfy the flow rate proposed for diversion by application for permit no. 29-08162. The flow rate proposed for diversion by application for permit no. 29-08164 should be reduced to 4.41 cfs.

10. The combined flow rate diverted under permit nos. 29-08162 and 29-08164 should be limited to 4.41 cfs.

11. The ability to deliver water through the existing system and the already-constructed Vargason pond are sufficient indications of intent to beneficially use the water. The applicant did not submit sufficient plans for a new pipeline system, however, and any proposal to build a new pipeline to delivery water from the Foundation's collection works to Vargason's fish pond is speculative.

12. Use of the trout water sufficiency curve to determine how many fish can be raised is not grounds to establish that the applications are speculative. The applications are not speculative and were filed in good faith.

13. The applicant has sufficient financial resources to complete the proposed project.

14. Application for permit no. 29-08162 proposes diversion of wastewater. The term has always referred to water that has been beneficially used and can be diverted by the original right holder or another downstream user prior to reaching a public water supply. Water exiting a bleeder valve is wastewater, provided no more water is bled from the valve than is necessary to accomplish the delivery in the existing system.

15. When water is not being delivered to the swimming pool complex, no wastewater should be delivered to Vargasons pursuant to permit no. 29-08162.

16. Application for permit no. 29-08164 proposes diversion of water arising on Foundation property but not beneficially used by the Foundation. Water may be diverted through the existing system.

17. If the Foundation determines to contract with Vargasons to deliver water other than wastewater through its system for fish propagation, the characterization of the water as wastewater is unimportant.

18. The proposed use of water is not contrary to conservation of the water resources of the State of Idaho, particularly if the use of water is subordinate to future uses of the low temperature geothermal water as determined by the Foundation.

ORDER

IT IS HEREBY ORDERED that application for permit nos. 29-08162 and 29-08164 are APPROVED.

IT IS FURTHER ORDERED that permit nos. 29-08162 and 29-08164 are issued with the following conditions:

1. Proof of beneficial use shall be submitted within two years of the final decision issued by the director and disposition of any subsequent appeals to the courts of the State of Idaho.

2. The permit holder must obtain written consent from the Lava Hot Springs Foundation for development of low temperature geothermal water arising on Foundation property for fish propagation prior to any development or diversion of water under this permit.

3. At the time of the field examination following submittal of proof of beneficial use, the permit holder must submit information showing the quantity of water necessary for the rearing of 20,000 pounds of tilapia annually.

4. The combined flow rate diverted for permit nos. 29-08162 and 29-08164 shall be limited to 4.41 cfs.

5. This water right is subordinate to any beneficial future use of water by the Lava Hot Springs Foundation, and the Lava Hot Springs Foundation may interrupt delivery of water to the holder of this water right for the future beneficial use.

6. Two points of diversion located within Lot 7 (NWSE), S21, T09S, R38E are authorized under right no. 29-08162.

7. 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.

8. The right holder shall not assign or sell the permit without first securing the written approval of the Department of Water Resources.

9. Use of water under this approval shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare.

10. The issuance of this right does not grant any right-of-way or easement across the land of another.

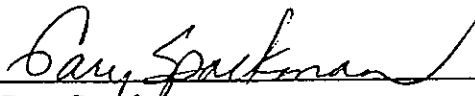
11. Use of water under this water right shall be nonconsumptive.

12. Use of water under this water right will be regulated by the watermaster of State Water District no. 29, Portneuf River.

IT IS FURTHER ORDERED that permit no. 29-08164 shall contain the following condition:

The water right holder may divert water pursuant to this permit only through the water delivery systems delivering water to the Foundation's beneficial uses.

Dated this 14th day of May, 1998.



Gary Spackman
Hearing Officer

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 29th day of May, 1998, I mailed a true and correct copy, postage paid, of the foregoing **RECOMMENDED ORDER** to the following:

Bob Meline
Lava Hot Springs Foundation
420 East Main
Lava Hot Springs, ID 83246

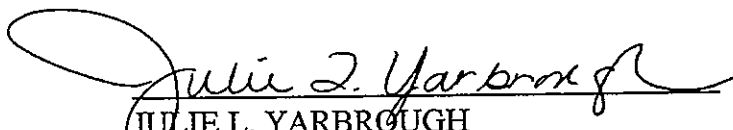
Jack H. Robison
Jones, Chartered
415 S. Arthur
P.O. Box 967
Pocatello, ID 83204-0967

Evelee Hill Rush
P.O. Box 4905
Pocatello, ID 83205-4905

Gregory W. Moeller
Rigby, Thatcher, Andrus, Rigby, Kam &
Moeller
P.O. Box 250
Rexburg, ID 83440

John Mehlhaff
1424 High St.
Auburn, CA 95603

F.L. Duke Walden
P.O. Box 127
Lava Hot Springs, ID 83246


JULIE L. YARBROUGH
Senior Secretary

ATTACHMENT A

AJ5809NP
No. A29-04178

IDAHO DEPARTMENT OF WATER RESOURCES ADJUDICATION CLAIM PROFILE REPORT

DATE: 02/06/98
PAGE: 3

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	STATE OF IDAHO	06/13/1908	COMMERCIAL	01-01 12-31	3.00 CFS	
TOTAL DIVERSION:					3.00 CFS	

Water Source: SPRINGS

Tributary to:

Stage: BENEFICIAL USE

Point(s) of Diversion:

T09S R38E S22 Lot10(SWSWSW)

BANNOCK County

Place of use Legal Description for: COMMERCIAL

NE				NW				SW				SE				
NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T	R	S	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	
09S 38E 22 :				:	:	:	:	10-C				:	:	:	:	:

POU County: BANNOCK

Non-Irrigation Uses: COMMERCIAL USE FOR VISITORS NEEDS AT RECREATION AREA

Other Rights: A29-02283, A29-02360 AND A29-10213, A29-10219

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

Audit: 01/23/90 JONES 07/19/94 THOMPSON

AJ5809NP
No. A29-10213

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 02/06/98
PAGE: 4

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	STATE OF IDAHO	07/23/1963	COMMERCIAL	01-01 12-31	3.27 CFS	
TOTAL DIVERSION:					3.27 CFS	

Water Source: SPRINGS

Tributary to: PORTNEUF RIVER

Stage: BENEFICIAL USE

Point(s) of Diversion: T09S R38E S21 Lot08(NESE)

BANNOCK County

Place of use Legal Description for: COMMERCIAL

				NE				NW				SW				SE				
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:
09S	38E	21	:																	:

POU County: BANNOCK

Non-Irrigation Uses: COMMERCIAL USE FOR VARIETY OF NEEDS OF RECREATION AREA

Other Rights: A29-02283, A29-02360 AND A29-04178

Remarks: GEN CLAIM BASED ON LAPSED PERMIT 29-02478

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number:

Field Inspection Flag:
Presumption Flag:

Audit: 01/23/90 JONES 08/01/94 THOMPSON

09/27/05

Frances B. Brady
Lava Hot Springs Inn
P.O. 670
Lava Hot Springs, Idaho 83246

RECEIVED
OCT 03 2005
DEPARTMENT OF
WATER RESOURCES

Jeff Peppersack
Water Rights Manager
IDWR
322 E. Front Street
P.O. Box 83720
Boise, ID 83720-0098

Dear Mr. Peppersack:

Regarding Application 29-13672, please find enclosed in this mailing a letter from Dr. Thomas E. Lachmar, Utah Professional Geologist and professor of Hydrology-Utah State University, an aerial photograph of the Lava Hot Springs Inn with a clear view of the pools in current use and those we wish to put into use for the expansion of our business, and this letter. Dr. Lachmar and his associate Barry Myers, M.A.; Geology, have done a scientific study of the pertinent low temperature geothermal aquifers in Lava Hot Springs and have found that an increased use of 0.5 cfs of water for our business would have no effect on our neighbors and that we should be granted the additional 0.5 cfs for the full operation of our inn.

This study and the previous study done by Scott Gerwe, M.A.; Geology (please see the previous letter to your office dated 7/12/04 from Mr. Gerwe) which demonstrated our need for the additional water satisfy the demands made on us by your agency.

In addition to the time and inconvenience associated with gaining approval of this application, the cost of installing a new breaker box by Bitton Electrical (Grace, Idaho) and the removal of our 5hp pump and motor, the installation of the 40 hp test pump and 25 hp motor, the reinstallation of our pump and motor, the disruptive loss of business due to the testing and the inability to make use of our 11 empty pools for the time it has taken to secure the permit for the additional water has now cost our business in excess of \$6000.

Thank you for your time in this matter and we are looking forward to a favorable outcome for our business.

Sincerely yours,



Frances B. Brady; Applicant and Co-Owner: Lava Hot Springs Inn
Cc: Gregory W. Moeller, Esq.

27 September 2005

Mr. Jeff Peppersack, Manager
Water Rights Permits Section
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, Idaho 83720-0098

Dear Mr. Peppersack:

I am sending you this letter report via Dr. George Katsilometes and Ms. Frances Brady, the co-owners of the Lava Hot Springs Inn in Lava Hot Springs, Idaho, in response to their request for a permit to appropriate an additional 0.5 cubic feet per second (cfs) of geothermal water to augment their current permit for 0.5 cfs. When I visited the Lava Hot Springs Inn on August 13, 2005, Dr. Katsilometes showed me nine 7-foot inside diameter (I.D.) and two 10-foot I.D. pools that currently are dry which he and Ms. Brady would like to fill with the additional 0.5 cfs of geothermal water they have applied for, thus documenting the need for this additional water.

On September 15 and 16, 2005, I supervised the testing of the deepest and hottest of their three wells (well #1). The well was fitted with a larger capacity pump by PumpCo of American Falls, Idaho, which was set at a depth of 250 feet. The well was pumped constantly for approximately 21-1/2 hours commencing at 11:53 AM on September 15. The pumping rate was measured by timing how long it took to fill a 5-gallon bucket. The time varied from 3.0 to 3.6 seconds, which corresponds to a range of 83 to 100 gallons per minute (gpm); thus, the average pumping rate was approximately 90 gpm during the test.

Prior to the start of the test, 5-pound per square inch (psi) Geokon vibrating-wire transducers were placed in the wells operated by the Idaho State Foundation and the Riverside Inn. Each transducer was connected to a Campbell Scientific data logger which was programmed to record temperature and temperature-compensated pressure measurements every minute.

The change in pressure, converted into feet of water, recorded by the transducer and data logger in the State Foundation well from the time the pump was turned on (11:53 AM on the 15th) until the data logger was turned off at 9:25 AM on the 16th is shown on Figure 1. Although there was a decline of 0.24 feet during the test, it was very gradual, unlike the decline that would be expected if it was caused by pumping of a nearby well, which would be rapid initially and decrease with time. Because the decline in water level in the State Foundation well was so gradual and the total decline was so small, it is my opinion that this decline was caused by something other than pumping of the test well (well #1). It also seems unlikely that the water-producing zones in well #1 would be hydraulically connected to the water-producing zone in the State Foundation well because of the dramatic difference in the depths of these two wells.

Figure 2 shows the change in pressure, once again converted into feet of water, recorded by the transducer and data logger in the Riverside Inn well from the time the pump was turned on until the data logger was turned off at 9:46 AM on the 16th. The water level in this well experienced a gradual increase of 0.12 feet, demonstrating that the water-producing zone in it is not hydraulically connected to the water-producing zones in well #1.

Because well #1 could not be pumped at rate of more than 100 gpm even with the larger capacity pump, a second test was conducted on one of the two shallow and cooler wells (well #3) on September 19 and 20, 2005. The existing pump was used for this test, which commenced at 8:30 PM on the 19th and lasted for approximately 24 hours. Once again, the pumping rate was measured by timing how long it took to fill a 5-gallon bucket. The time varied from 3.2 to 3.5 seconds, corresponding to a range of 86 to 94 gpm; thus, the average pumping rate for this test was also approximately 90 gpm.

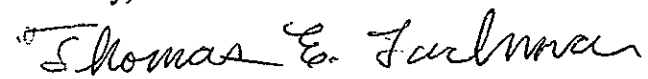
The same transducers and data loggers that were used during the first test were re-installed in the State Foundation and Riverside Inn wells for the second test. Figure 3 shows the change in pressure, converted into feet of water, recorded by the transducer and data logger in the State Foundation well from the time the pump was turned on (8:30 PM on the 19th) until the data logger was turned off at 8:52 PM on the 20th. The water level again experienced a very gradual decline during the test, but this time the total decline was only 0.17 feet. Because the water level decline was so gradual and so small, it is my opinion that this decline also was caused by something other than pumping of the test well (well #3).

The change in pressure, converted into feet of water, recorded by the transducer and data logger in the Riverside Inn well from the time the pump was turned on until the data logger was turned off at 9:12 PM on the 20th is shown on Figure 4. This well again experienced a gradual increase in its water level of 0.18 feet until its pump was turned on at 7:37 AM on the 20th. The initial rapid decline in the water level and subsequent decrease in the rate of decline shown on Figure 4 is characteristic of the effect pumping has on the water level in a well, and differs markedly from the water level changes recorded in the State Foundation well during both tests. The water level in the Riverside Inn well decreased a total of 0.47 feet before its pump was turned off at 11:17 AM. The water level quickly rose 0.53 feet after the pump was turned off, and then gradually declined 0.07 feet before slowly rising 0.04 feet by the end of the test.

Based on the results of the two pumping tests, it is my opinion that none of the water-producing zones in well #1 or well #3 are hydraulically connected with the water-producing zones in either the State Foundation or Riverside Inn wells, and therefore the water levels in these two wells will not be affected by additional pumping of wells #1 and #3. For this reason, and because of the demonstrated need for the additional 0.5 cfs of geothermal water to fill the nine 7-foot I.D. and two 10-foot I.D. pools, I recommend that you approve the permit for appropriating the additional 0.5 cfs to the Lava Hot Springs Inn, co-owned by Dr. George Katsilometes and Ms. Frances Brady.

Thank you very much.

Sincerely,

A handwritten signature in cursive script that reads "Thomas E. Lachmar". The signature is written in dark ink and is positioned above the printed name.

Thomas E. Lachmar, Ph.D.

Utah Professional Geologist 5264602-2250

State Foundation Well

September 15 & 16, 2005

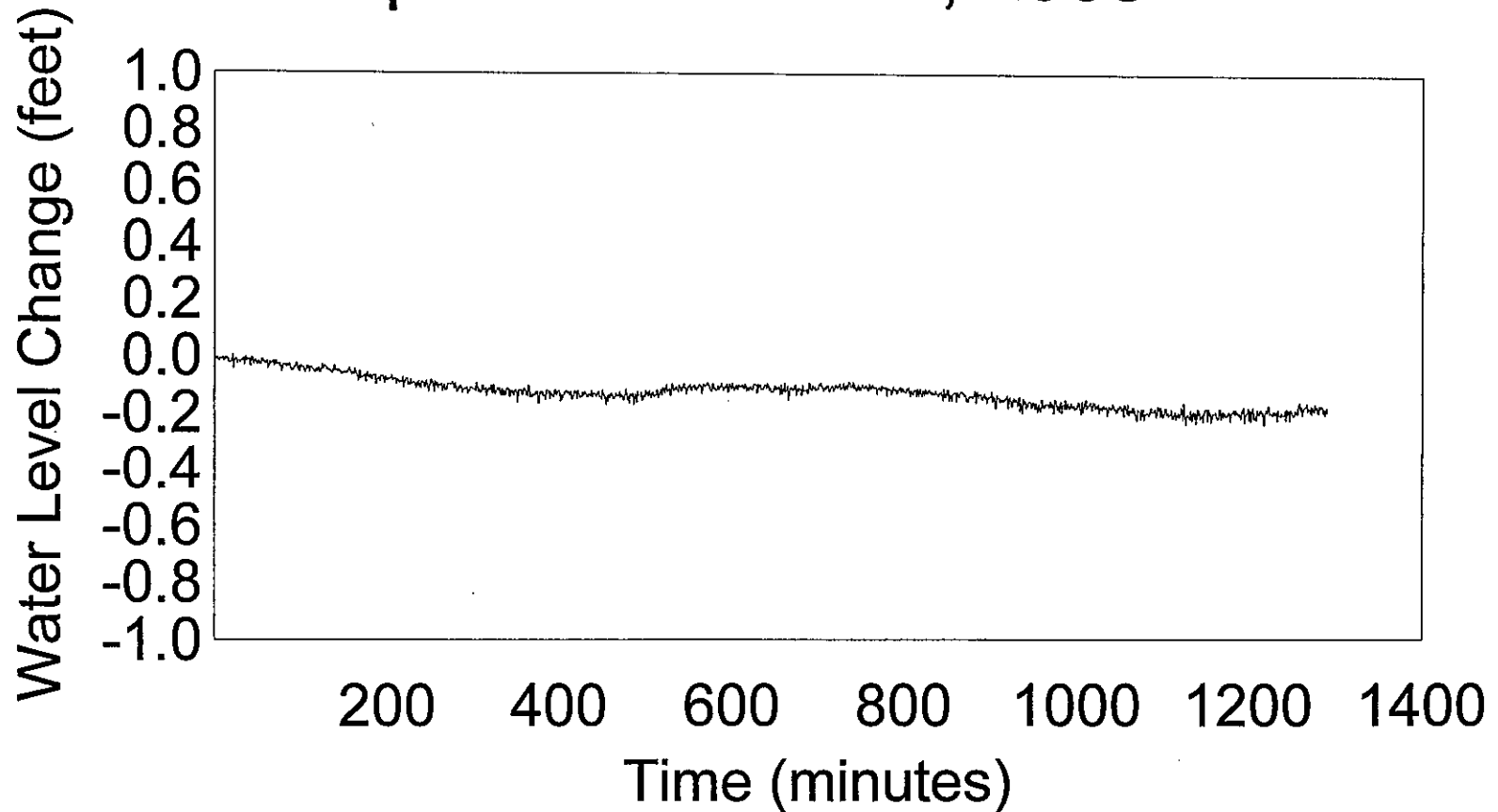


Figure 1. Water level change in the State Foundation well during testing of well #1 (September 15 and 16, 2005).

Riverside Inn Well

September 15 & 16, 2005

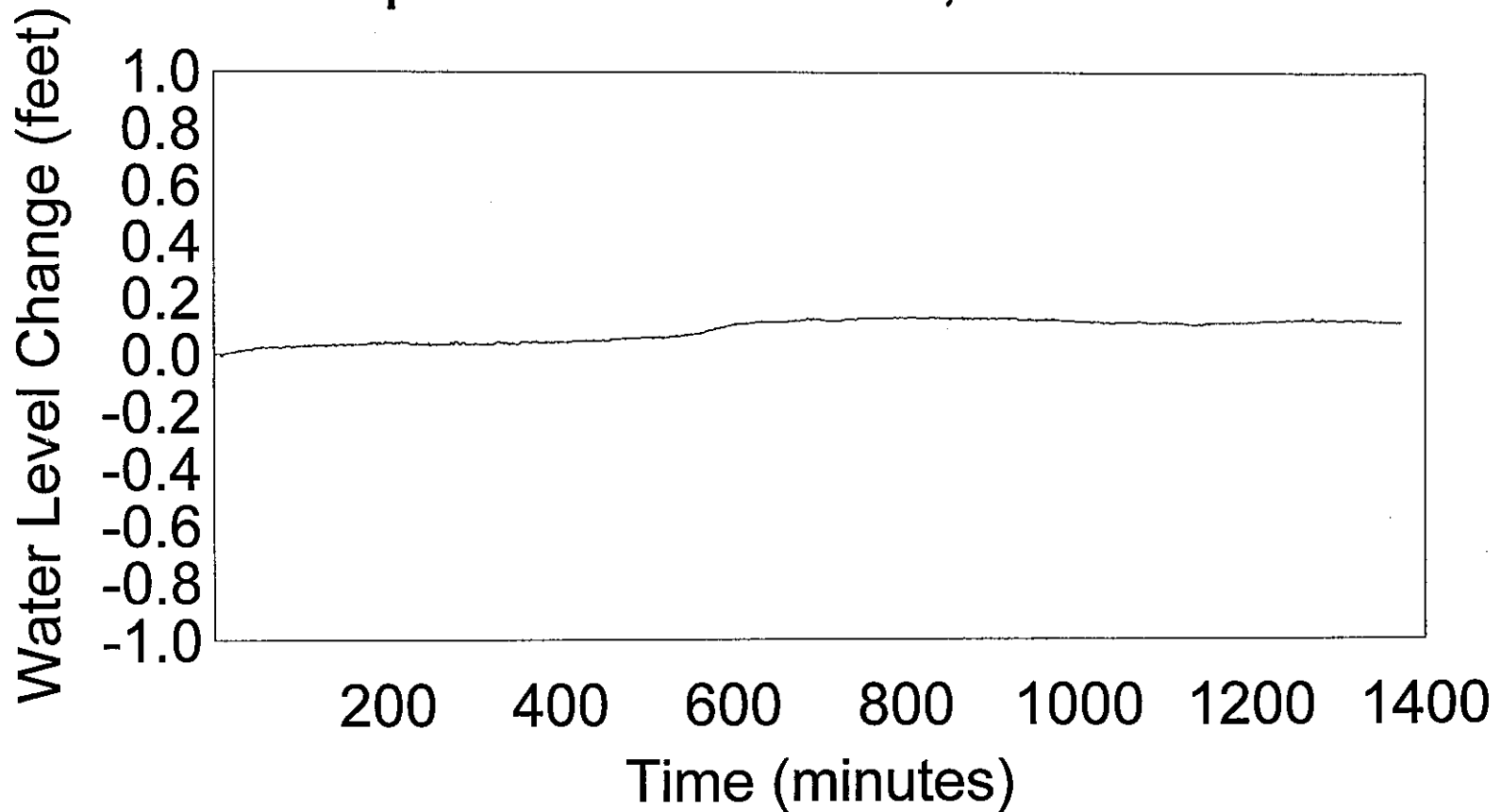


Figure 2. Water level change in the Riverside Inn well during testing of well #1 (September 15 and 16, 2005).

State Foundation Well

September 19 & 20, 2005

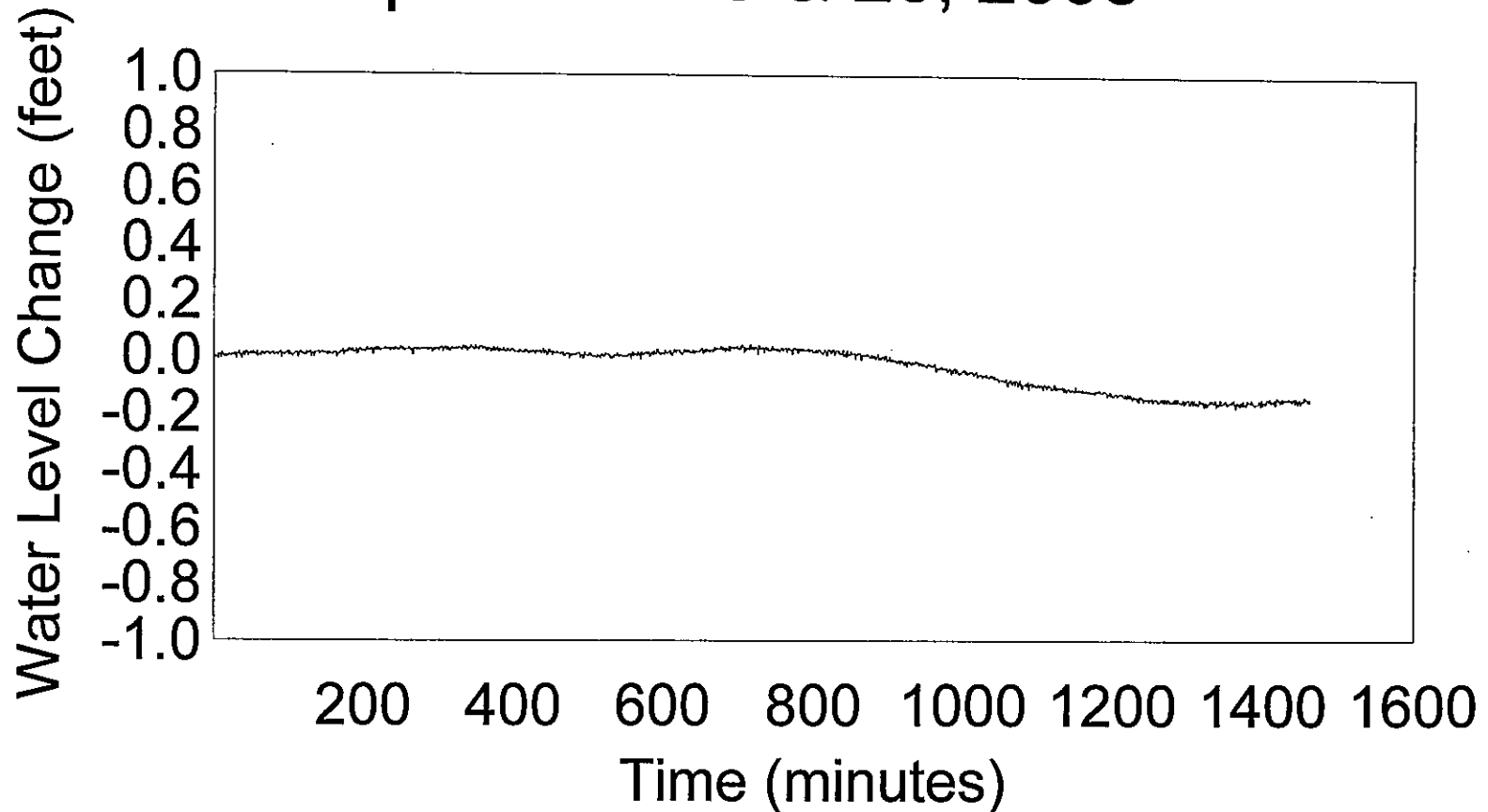


Figure 3. Water level change in the State Foundation well during testing of well #3 (September 19 and 20, 2005).

Riverside Inn Well

September 19 & 20, 2005

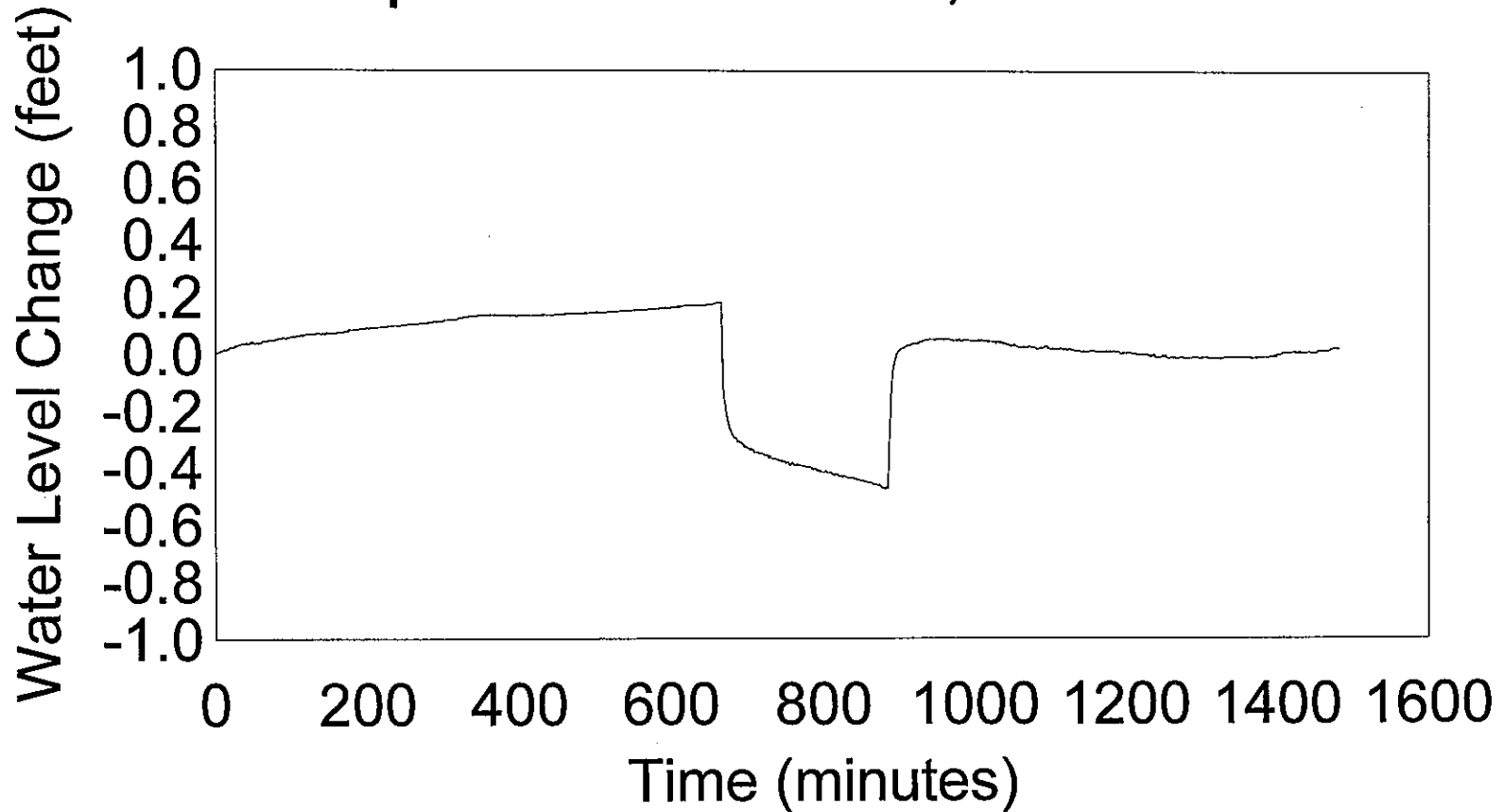
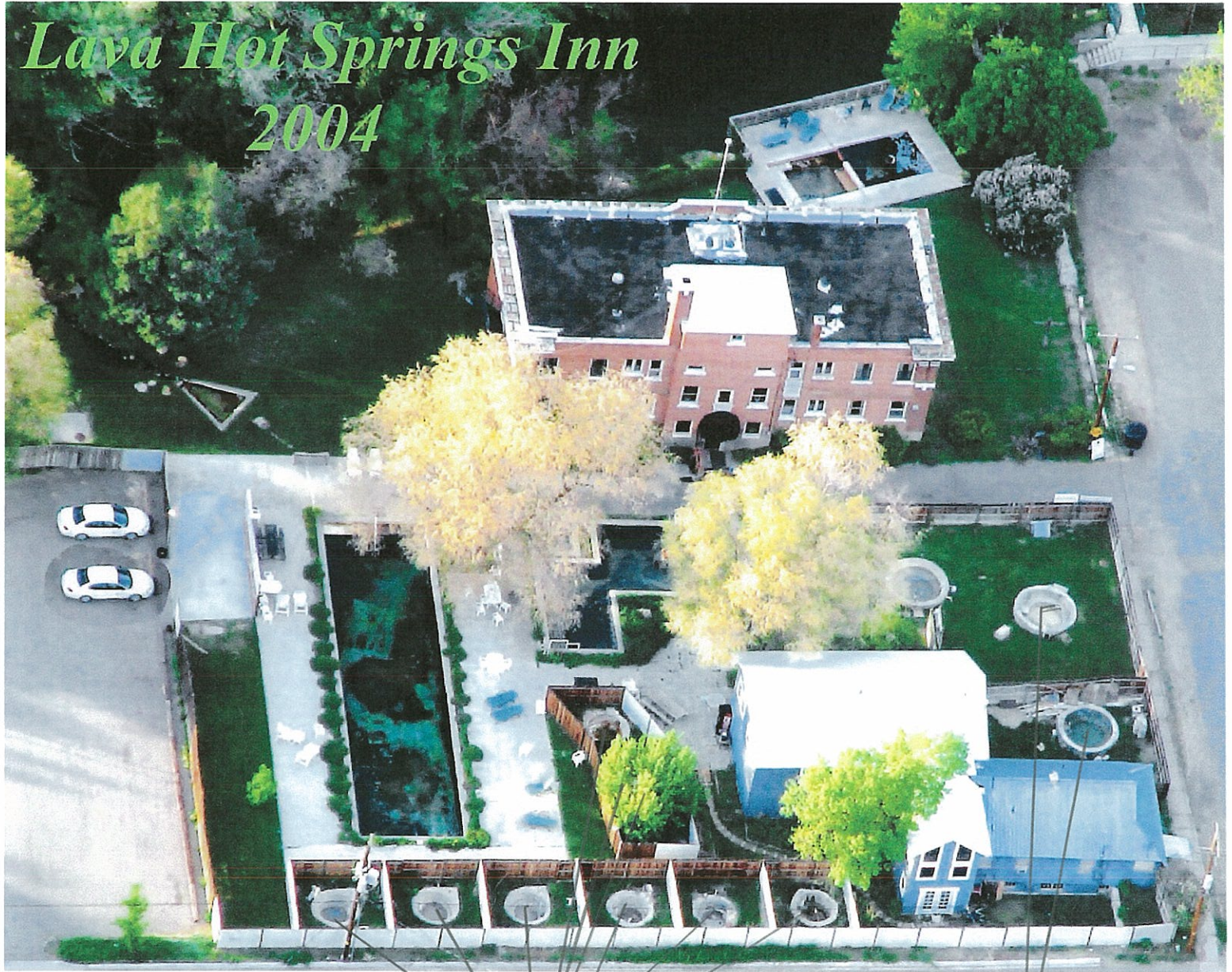


Figure 4. Water level change in the Riverside Inn well during testing of well #3 (September 19 and 20, 2005).

Lava Hot Springs Inn

2004



9-7' Round Pools

(2 Pools under
Apple Tree)

2-10' Round Pools

united Pools and Buildings we wish to Heat.

9/29/09

To: Jeff Peppersack

From: Frances B. Brady

Love Hot Springs Inn

Copies will arrive by
surface mail.

10 Pages Total

09/27/05

Frances B. Brady
Lava Hot Springs Inn
P.O. 670
Lava Hot Springs, Idaho 83246

Jeff Peppersack
Water Rights Manager
IDWR
322 E. Front Street
P.O. Box 83720
Boise, ID 83720-0098

Dear Mr. Peppersack:

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Thank you for your time in this matter and we are looking forward to a favorable outcome for our business.

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Frances B. Brady; Applicant and Co-Owner: Lava Hot Springs Inn
Cc: Gregory W. Moeller, Esq.

27 September 2005

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Water Rights Permits Section
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, Idaho 83720-0098

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The change in pressure, converted into feet of water, recorded by the transducer and data logger in the Riverside Inn well from the time the pump was turned on until the data logger was turned off at 9:12 PM on the 20th is shown on Figure 4. This well again experienced a gradual increase in its water level of 0.18 feet until its pump was turned on at 7:37 AM on the 20th. The initial rapid decline in the water level and subsequent decrease in the rate of decline shown on Figure 4 is characteristic of the effect pumping has on the water level in a well, and differs markedly from the water level changes recorded in the State Foundation well during both tests. The water level in the Riverside Inn well decreased a total of 0.47 feet before its pump was turned off at 11:17 AM. The water level quickly rose 0.53 feet after the pump was turned off, and then gradually declined 0.07 feet before slowly rising 0.04 feet by the end of the test.

Based on the results of the two pumping tests, it is my opinion that none of the water-producing zones in well #1 or well #3 are hydraulically connected with the water-producing zones in either the State Foundation or Riverside Inn wells, and therefore the water levels in these two wells will not be affected by additional pumping of wells #1 and #3. For this reason, and because of the demonstrated need for the additional 0.5 cfs of geothermal water to fill the nine 7-foot I.D. and two 10-foot I.D. pools, I recommend that you approve the permit for appropriating the additional 0.5 cfs to the Lava Hot Springs Inn, co-owned by Dr. George Katsilometes and Ms. Frances Brady.

Sep 29 05 08:37a

208-776-5521

p.5

07

Sep-27-2005 10:35am From-USU GEF

+01143579715

T-320

P.004/008

F-015

3

Thank you very much.

Sincerely,

Thomas E. Lachmar

Thomas E. Lachmar, Ph.D.

Utah Professional Geologist 5264602-2250

State Foundation Well

September 15 & 16, 2005

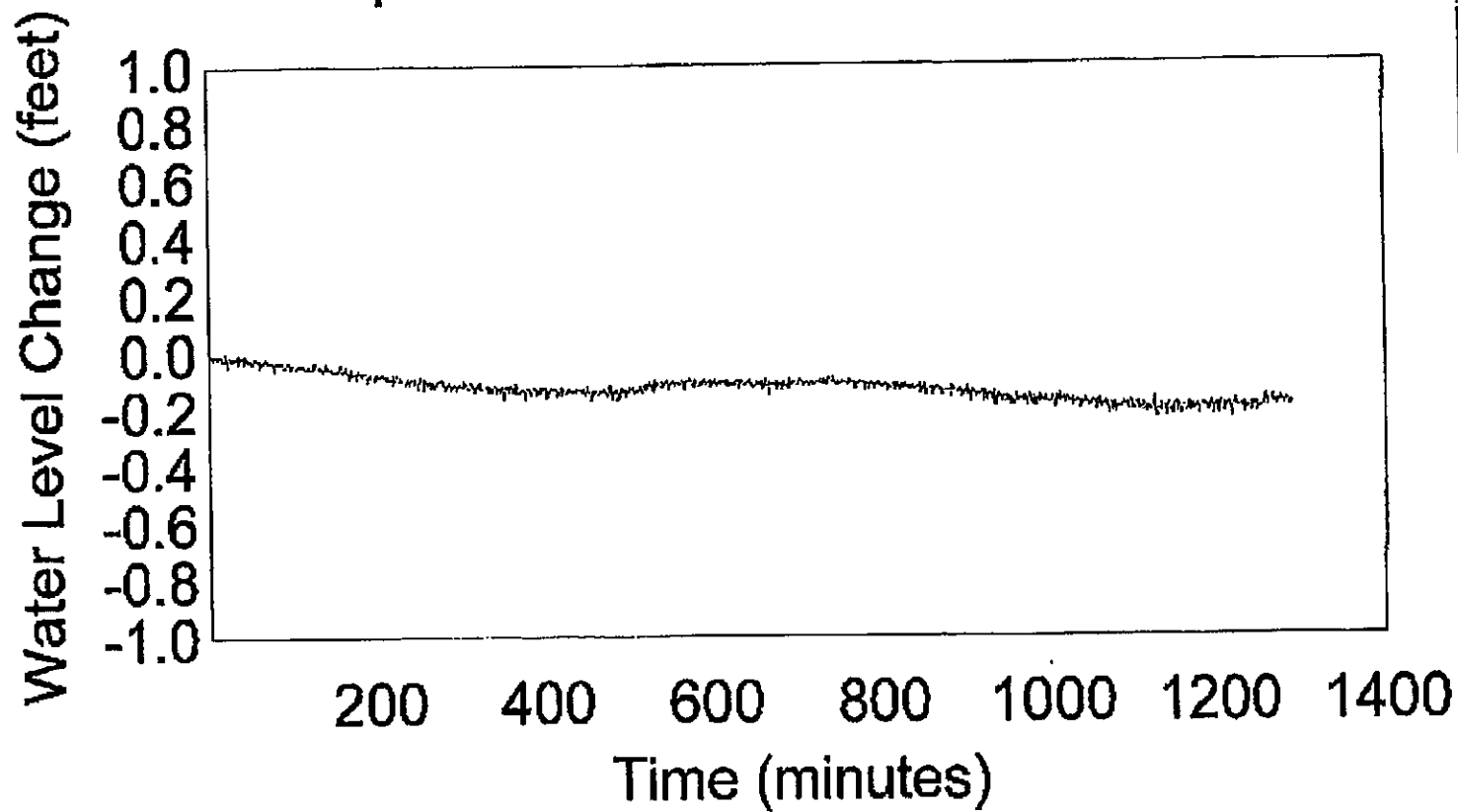


Figure 1. Water level change in the State Foundation well during testing of well #1 (September 15 and 16, 2005).

Riverside Inn Well

September 15 & 16, 2005

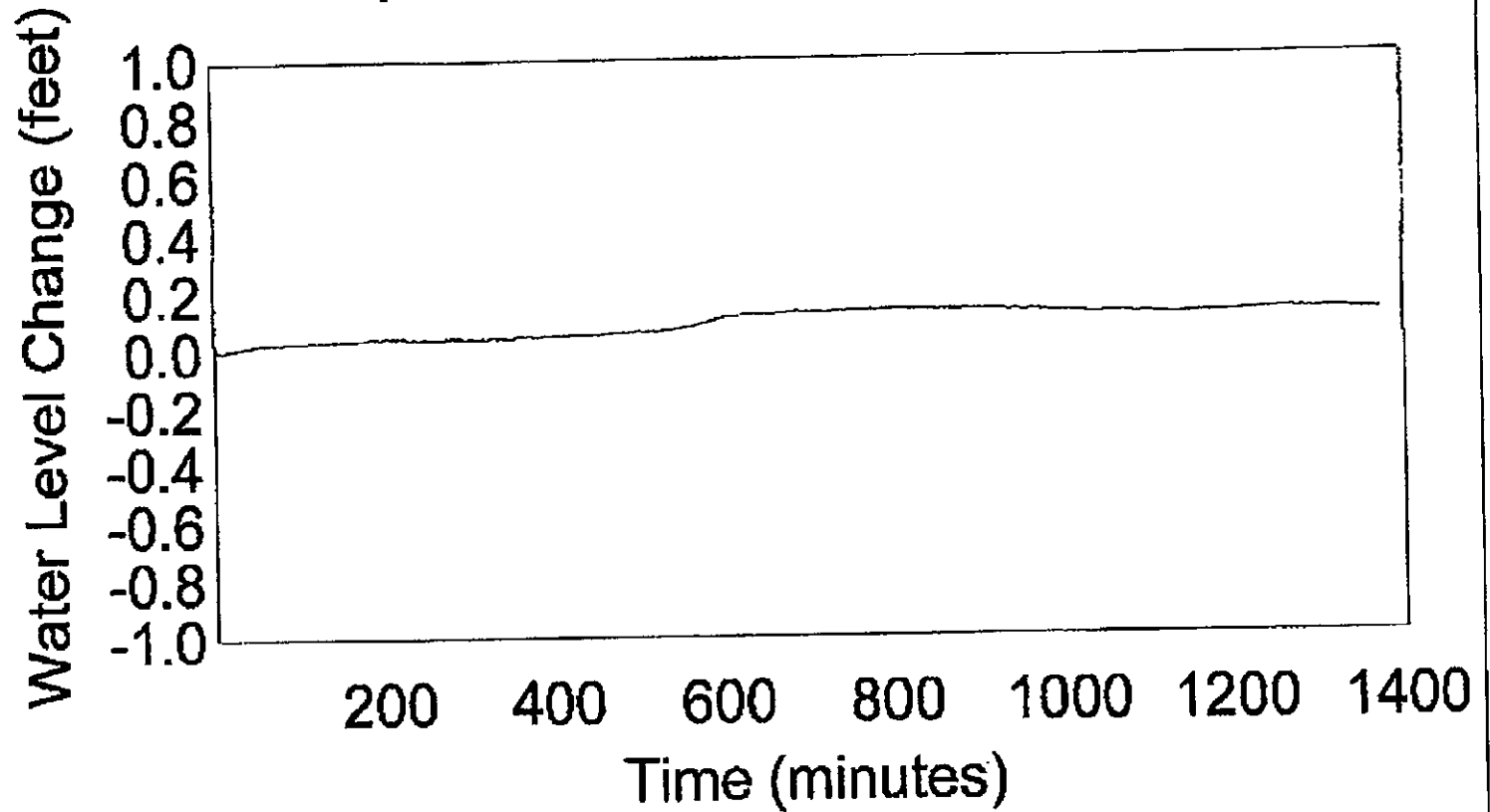


Figure 2. Water level change in the Riverside Inn well during testing of well #1 (September 15 and 16, 2005).

State Foundation Well

September 19 & 20, 2005

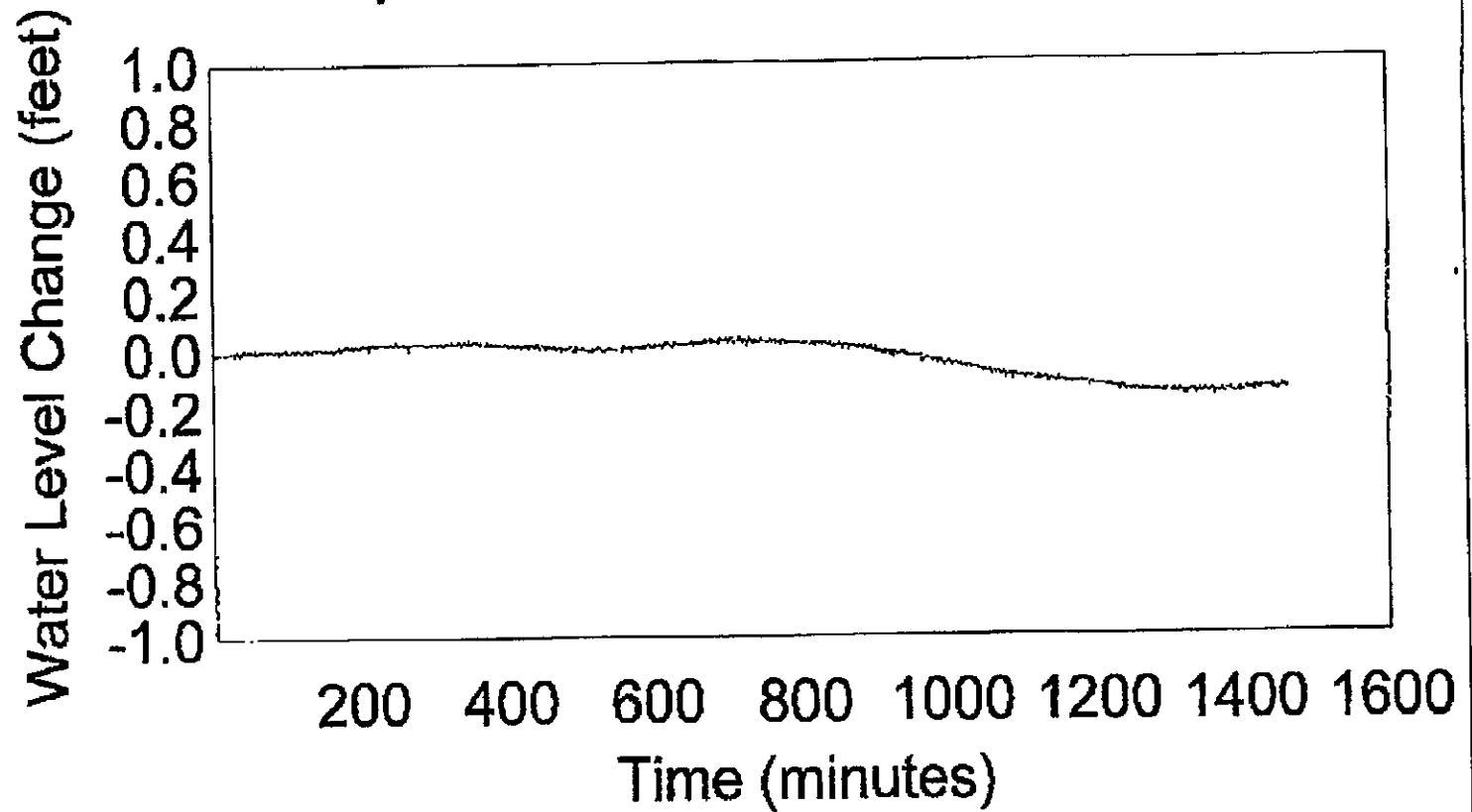


Figure 3. Water level change in the State Foundation well during testing of well #3 (September 19 and 20, 2005).

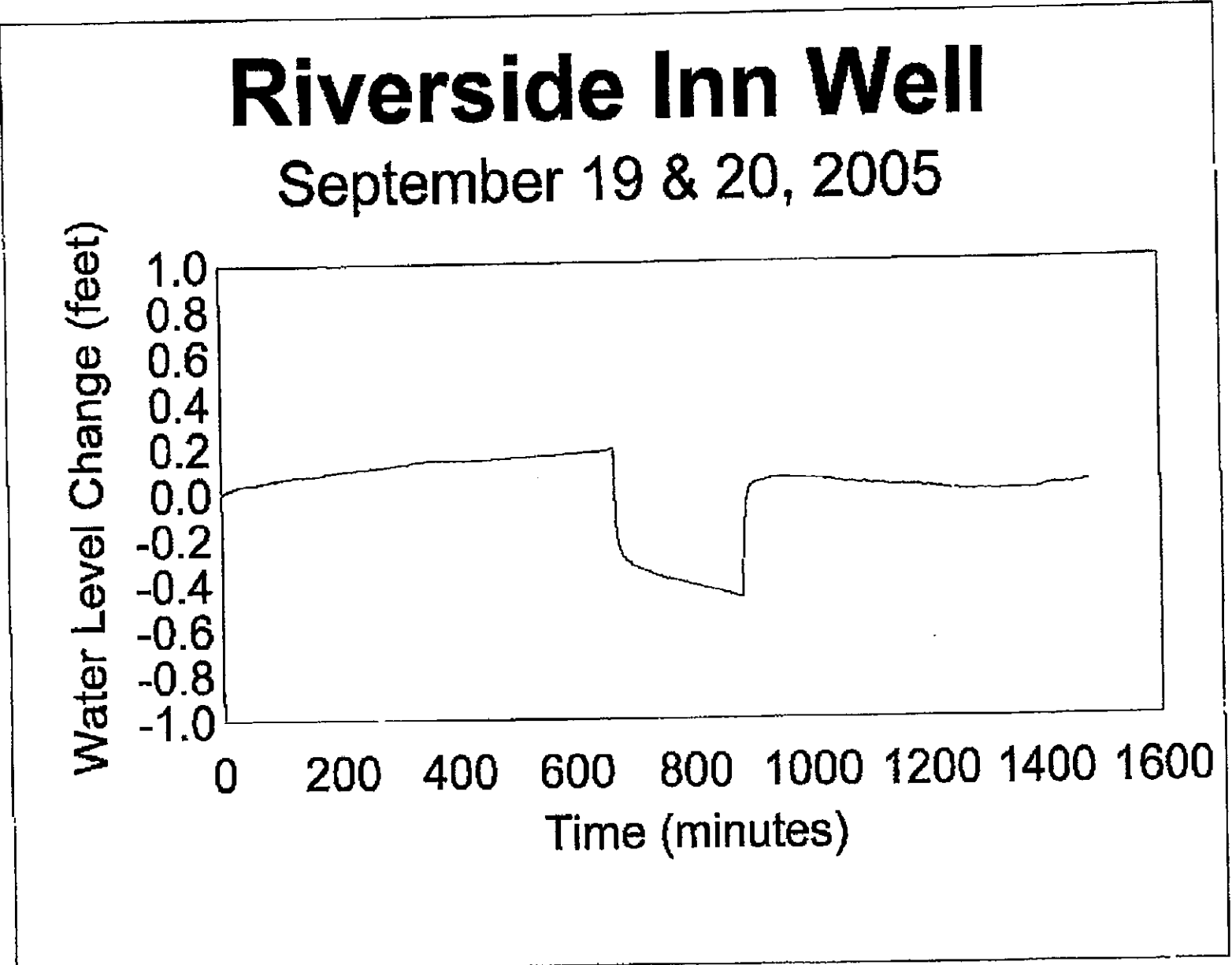


Figure 4. Water level change in the Riverside Inn well during testing of well #3 (September 19 and 20, 2005).

Lava Hot Springs Inn 2004



9-11 Round Pools

2 Pools under
Apple Tree

2-10' Round Pools

Harvest Apples and Sun. Days 2004-2005

9/11/05
Francis B. Brady
Lava Hot Springs Inn
94 E. Portneuf Ave.
Lava Hot Springs, ID 83246

RECEIVED
SEP 19 2005
Department of Water Resources

Mr. Jeff Peppersack
Manager
Water Rights Permits Section
IDWR

Sirs:

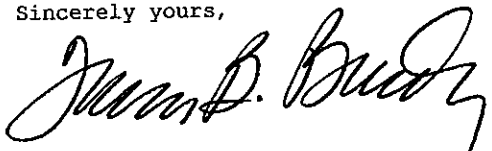
In order to comply with the requirement of demonstration that our request for an additional 0.5 cfs of geothermal water will not affect our neighbors having low temperature wells and pumping facilities, we have sought the help of Thomas E. Lachmar, Ph.D, P.G. and his colleague Barry Myers, M.S. Geology. (Dr. Lachmar is a professor of hydrology at Utah State University) and Barry Myers is employed in the private sector. Dr. Lachmar and Mr. Myers visited our business (Lava Hot Springs Inn) on August 13 to determine how best to proceed. They viewed our 11 inoperable pools and buildings to verify the need for the additional 0.5 cfs as was stated in the letter to you from Scott Gerwe, M.S. Geology of 7/12/05.

They also visited the state foundation well within 200 yards and the Riverside Inn well (Duane Walden permit) within 350 yards of our wells. They were able to measure the water level in the Riverside Inn Well and then decided that the best test for any effect from our use would be to pump the full 1.0 cfs (the 0.5 cfs currently appropriated plus the additional 0.5 cfs) for approximately 24 hours. During the time that the well(s) at our site are being pumped, Dr. Lachmar and/or Mr. Myers will record the water levels in the foundation well and in the Riverside Inn well using pressure transducers connected to data loggers to determine if the pressure (head) decreases in one or both of these wells in response to the pumping. Both wells should be inoperable during the 24 hours of the test to get meaningful results as these two wells are the only other major geothermal wells in Lava.

The data obtained will be used to produce a report that will be able to predict the reduction in pressure (head) in the foundation and/or Riverside Inn wells as a result of our pumping at any hypothetical rate for any hypothetical period of time.

This will satisfy the conditions we are required to meet in order to receive a permit to appropriate the additional 0.5 cfs.

Sincerely yours,



Please see attached letter
from Dr. Lachmar

2 September 2005

George W. Katsilometes, D.V.M., Ph.D.
Lava Hot Springs Inn
1424 East Maple Street
Pocatello, Idaho 83201

Dear Dr. Katsilometes,

Thank you so much for meeting with me and my former student, Barry Myers, on Saturday, August 13, in regard to your application to appropriate an additional 0.5 cubic feet per second (cfs) of thermal water from one or more of your three wells. We both greatly appreciate your willingness to personally show us around your facility, as well as showing us the wells operated by the Idaho State Foundation and the Riverside Inn. We also appreciate the background information and photocopies of correspondence and other documents related to this matter that you provided us with.

I am sending you this letter to describe what you need to do in order to satisfy the Idaho Department of Water Resources (IDWR) conditions that you are required to meet before being granted a permit to appropriate the additional 0.5 cfs. As I stated on August 13, I recommend that you try to pump your deepest, and hottest, well at the full 1.0 cfs (the 0.5 cfs currently appropriated plus the additional 0.5 cfs) if possible for a period of 24 hours. If it is not possible to pump this well at 1.0 cfs, then I recommend pumping it at the maximum possible rate and pumping the remainder of the 1.0 cfs from one or both of your other two shallower, and cooler, wells.

During the time that the well(s) is(are) being pumped, Barry and/or I will record the water levels in the State Foundation and Riverside Inn wells using pressure transducers connected to data loggers to determine if the pressure (head) decreases in one or both of these wells in response to the pumping. Please note that it will be difficult to determine the affect of pumping your well(s) on the Foundation and/or Riverside Inn wells if one or both of the latter are being pumped during the test. Therefore, if it is at all possible, please arrange to schedule the test during a 24-hour period when the owners/operators of those two wells will be able to go without pumping them.

The data obtained during the test will be used to produce a report that will be able to predict the reduction in pressure (head) in the Foundation and Riverside Inn wells as a result of pumping your well(s) at any hypothetical rate for any hypothetical period of time. This will satisfy the conditions that you are required to meet in order to receive a permit to appropriate the additional 0.5 cfs.

As far as the schedule is concerned, Barry and I will have to conduct the test during the first week or two of September, which will allow me to prepare the report by the September 30 deadline imposed by the IDWR. However, please be advised that if the test is delayed for any reason, it may well make it difficult or impossible to meet the deadline.

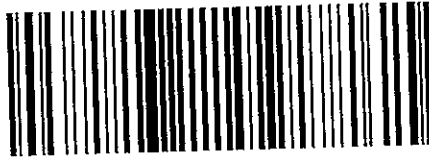
Thank you again for meeting with Barry and me on August 13. I look forward to working with you to successfully obtain a permit to appropriate the additional 0.5 cfs you desire.

Sincerely yours,

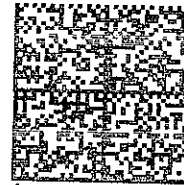
Thomas E. Lachmar, Ph.D., P.G.

Letter Not Signed
PO 670
Letter Not Signed, FN
83246

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09/13/2005
Mailed From 83246
USPS
US POSTAGE

RETURNED
REQUESTED

Jeff Keppner

IDWR

PO 83720

Boise, Idaho 83720-0098

83720/0098





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

July 8, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

GREGORY W MOELLER
RIGBY THATCHER ANDRUS RIGBY & MOELLER CHARTERED
PO BOX 250
REXBURG ID 83440

Disposition of Petition for Reconsideration

RE: Petition for Reconsideration of the Preliminary Order Voiding Application 29-13672

Dear Mr. Moeller:

The Department of Water Resources (IDWR) has received the "Response to Disposition of Petition for Reconsideration" you submitted to support the Petition for Reconsideration referenced above. IDWR will grant an extension of time, until the end of September 2005, for the applicant to submit the information required in the May 21, 2004 letter from IDWR identified as items 1, 2 and 3.

Please note that the applicant has not adequately responded to any of the listed items 1, 2 and 3 as of this date. The required information will be necessary for IDWR to make a decision regarding the petition and the application.

IDWR will hold action on the petition until after September, 2005 to await the applicant's response and submittal of the required information. After that time, if we do not receive an adequate response and submittal of the required information, IDWR will deny the petition for reconsideration.

If you have any questions, please contact me at 208-287-4948.

Sincerely,

Jeff Peppersack, Manager
Water Right Permits Section

JP:klf

RECEIVED

JUN 13 2005

Department of Water Resources

Gregory W. Moeller (Idaho Bar No. 4228)
of Rigby, Thatcher, Andrus,
Rigby, & Moeller, Chartered
25 North 2nd East
P.O. Box 250
Rexburg, ID 83440
Telephone No. (208) 356-3633

Attorneys for Applicants

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION	)	
FOR PERMIT NO. 29-13672 IN THE	)	
NAME OF FRANCES B. BRADY.	)	
_____	)	RESPONSE TO "DISPOSITION OF PETITION FOR RECONSIDERATION," DATED MAY 12, 2005

COMES NOW Frances B. Brady, Applicant on the above captioned application for a permit to appropriate water and hereby responds to the Department's "Disposition of Petition for Reconsideration," dated May 12, 2005, as follows.

The Department in their letter of May 12, 2005, requested "information and/or documentation supporting the numbered items listed in the Petition." The information and documentation will be set forth below.

1. There were no protests from any of Applicant's neighbors. It is undisputed that the Department sent additional notice to neighboring water users after the advertisement was placed in the paper. It should also be clear from the record that there were no protests filed. In the absence of any information to the contrary from the Department, it would be inappropriate to

require Applicant to prove a negative.

2. The letters and documentation that were attached to the May 12, 2005, letter provide much of the documentation and justification for the water permit sought by Applicant. Of note, please see the two letters from Scott Gerwe, geologist, dated July 12, 2004, (Exhibit "A") and July 13, 2004, (Exhibit "B").

3. Please see response to paragraph 2, supra.

4. This issue was also addressed by Applicant in her letter of April 5, 2004, (Exhibit "C").

5. Unless information can be provided by the Department to the contrary, the Applicant has not received a response to their suggestions for how to ascertain additional impact information by measuring neighboring springs and wells during the Applicant's period of use.

6. This information has also been provided in prior correspondence, much of which was attached to the Department's letter of May 12, 2005. As to the points raised by Applicant in paragraph 5, please see the correspondence attached to your letter of May 12, 2005.

7. As to the information set forth in paragraph 6 and 7, Applicant wishes to supplement it as follows:

a. Since receiving the letter of May 12, 2005, Applicant has retained Dr. Thomas Lachmar, PhD, a licensed hydro-geologist on the staff of Utah State University. He has agreed to help them.

b. In light of the onerous demands placed upon Applicant, which are unprecedented considering the small size of the permit sought, some additional time is required.

c. In order to test with larger pumps, as requested by the Department,

electrical work will be needed to accommodate larger pumps.

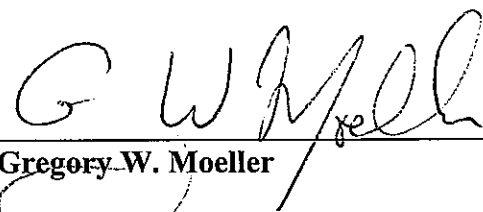
d. At this point, Dr. Lachmar has recommended that testing will need to take place over at least a three week period to obtain meaningful data.

e. In order to coordinate the electrical work, the schedule of Dr. Lachmar, and the time necessary to run a meaningful test, Applicant believes she will require until the end of September, 2005.

8. As to paragraphs 8 through 9, we believe the Department is already in possession of information in their own records validating these statements.

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DATED this 10th day of June, 2005.

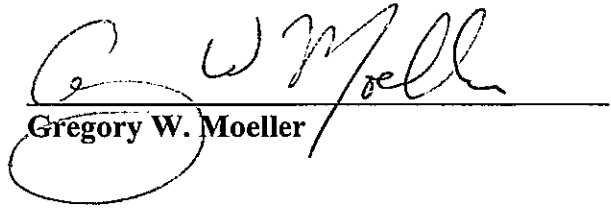


Gregory W. Moeller

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 10th day of June, 2005, a true and accurate copy of the foregoing was sent by facsimile transmission and U.S. Mail, postage prepaid, to the following:

Idaho Department of Water Resources
322 E Front St
PO Box 83720
Boise ID 83720-0098
Fax No. 208-287-6700



Gregory W. Moeller

7/12/04

Scott Gerwe
Geologist
490 West Fife
Lava Hot Springs, Idaho 83246
(208) 313-1349

RECEIVED
JUL 19 2004
DEPARTMENT OF
WATER RESOURCES

Gary Spackman
State of Idaho
Department Of Water Resources
1301 North Orchard Street
Boise, Idaho 83706

Dear Gary:

On 06/24/04, at the request of George Katsilometes, I visited the Lava Hot Springs Inn for the purpose of evaluating and determining the need for hot water at the facility. Mr. Katsilometes informed me the Inn has 3 low temperature geothermal wells, one with water at 85° F, the second at 90° F, and the third at 145° F. He also told me the business is currently pumping from two (the 85° F and 145° F) wells to supply the 5 therapy pools they have operating.

When I visited the Inn there were five pools filled with geothermal water. One functioning circular pool was approximately 10 feet in diameter and 3 feet deep. Another operational pool measured approximately 80 feet long, 19 feet wide and 4 feet deep. A third operating pool was L-shaped and measured approximately 20X50X3 feet overall. A 4th pool, used by small children, was a small triangular pool measuring approximately 7X7X7 feet and 18 inches deep. The 5th pool was approximately 15X30X3 feet.

I saw eleven empty pools that were not being utilized. One of these circular pools had an approximate inside diameter of 10 feet and was about 3 feet deep; the second had an approximate inside diameter of 10 feet and was about 4 feet deep. The remaining 9 pools had approximate inside diameters of 7 feet and were about 3 feet deep. In addition to the demand for the 11 idle pools, the Inn needs geothermal water for winter heating of the main Inn and the Spa building.

EXHIBIT

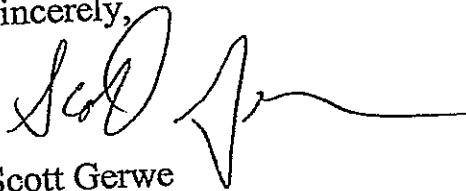
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A

To estimate the amount of geothermal water needed to supply the pools, we used a stop-watch and a five gallon bucket to measure the water flows to each pool. The current usage was first calculated and then the flows were increased to match winter flow rates. The largest pool has a maximum demand of approximately 140 gpm. The L-shaped pool needs a supply of 50 gpm and the 15X30X3 foot pool requires a flow of 30 gpm. The operational circular pool requires 7 gpm. The small triangular pool is supplied by overflow from the big pool.

The water flow rates for the empty/idle pools were then measured. We calculated that the 2 larger circular pools each require 7 gpm, and the 9 smaller circular pools require 3.5 gpm per pool. The Inn also requires more geothermal water to utilize heat exchangers and fan coils installed to heat buildings on the property. Mr. Katsilometes tells me the Modine fan coil in the main Inn building needs 90 gpm for optimal operation and the Hersteller GmbH heat exchanger in the Spa building requires 70 gpm to sufficiently heat the building. Based on our flow measurements and estimates the Lava Hot Springs Inn requires an additional 205 gpm of geothermal water for the business to be fully operational. Please give me a call if you have any questions or concerns regarding this letter.

Sincerely,

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

Scott Gerwe

RECEIVED
JUL 19 2004
DEPARTMENT OF
WATER RESOURCES

7/13/04

Lava Hot Springs Inn
94 E. Portneuf Ave.
PO 670
Lava Hot Springs, Idaho 83246

Gary Spackman
State of Idaho
Department Of Water Resources
1301 N. Orchard St.
Boise, Idaho 83706

Re: Application to Appropriate Water No. 29-13672

Dear Mr. Spackman:

This letter is written in response to your letter of May 21, 2004 regarding our application for an expanded beneficial use of the low temperature mineral water rising on our business property (Lava Hot Springs Inn).

We misinterpreted the question 6.d. to mean the drilling for or exploration for additional water of 85° F. Since we are not seeking to drill for or explore for additional water we felt our NA answer was satisfactory. If the question means that we are seeking to use an additional amount of our artesian low temperature geothermal water (>85° F) then we apologize and would like for the answer to be yes.

The handwriting in question 8.e. (other than ours) reading (Heating of Lava Hot Springs Inn & use in the hot tubs) is that of Ms. Kay Walker who inserted this after calling us and asking us our planned specific uses.

Question 10 should read: We have a State of Idaho Department of Water Resources **Permit To Appropriate Water NO. 29-07869** with a Priority: August 25, 1989

We built our first therapy pool in 1990. We built an additional 16 mineral water therapy pools in 1995. There are currently 5 of these pools in use. We also have the main Inn building and the Spa building we wish to heat with the water.

We are seeking to make additional beneficial direct use of low temperature geothermal water in our tourist-related business to expand the beneficial use to more visitors to Idaho which is a goal of the Department Of Energy's Renewable Energy Program as stated by director Roy Mink. It is also the goal of the Lava Hot Springs Geothermal Energy Team organized by Helen Harrington and Ken Neeley of the IDWR. We are charter members of this team.

EXHIBIT

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Your paragraph referring to the protest hearing Re: Applications for Permit No.'s 29-8162 and 29-08164 in the Name of Lazy "V" Ranch pertains to a matter having nothing to do with this application (above) and is, therefore, inappropriate. Your conclusion that pumping of water by George Katsilometes was likely resulting in a decline of water pressures in other artesian wells completed in the low temperature geothermal aquifer was also inappropriate and inaccurate as the issue of why and how water temperatures declined near the illegal State Foundation well was not under question in that hearing. Your conclusion was and is unsupportable by the facts in the testimony brought out in the hearing and by the facts in the record which clearly demonstrate that the illegal low temperature well which was dug for the State Foundation by track hoe without permit or licensed well driller and located within a few hundred yards of the protestants in the hearing is the cause of the decline in water temperature and the drying up of natural hot springs on both the North and South sides of the Portneuf river and in all nearby artesian geothermal wells. This illegal well, the multiple underground siphon pipes which divert low temperature geothermal water to the well, the multiple illegal points of diversion and the continued pumping (mining) of water from this well by the State Foundation has financially damaged neighboring business and property owners for over 10 years without relief from the Department of Water Resources. It is an unnecessary diversion of geothermal water as the State Foundation has over 3 cfs flowing from springs which is more than enough to heat the recreation pool without pumping from an illegal well.

Yes, George W. Katsilometes is co-owner of the Lava Hot Springs Inn and, with Frances B. Brady, has been so for over fifteen years.

The application is for the additional beneficial direct use of low temperature geothermal water and we have obtained the assistance of Mr. Scott Gerwe who is a geologist with graduate school course work in hydrogeology in order to satisfy your demands. Mr. Gerwe made an analysis and measured the water needs of the fan coils and heat exchanger in our buildings and the needs of the other 11 pools at the Lava Hot Springs Inn on 06/24/04. Please see his findings attached to this letter.

We are not proposing the drilling or pumping of water from new wells or sources on our property.

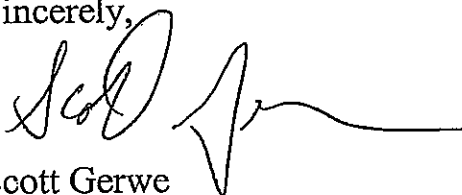
There is no deficiency of geothermal water in Lava, but the pumping of water from the illegal State Foundation well has affected the temperature of neighboring wells and has also lowered the level of the aquifer as evidenced by the drying of natural springs on the North and South sides of the Portneuf river and by the lowering of static water levels in wells on private property on the South side of the river.

We have followed accepted procedures for a request for additional beneficial use in that we met with Ron Carlson (regional director IDWR), filled out the application he gave us, paid the fee, underwent public notice in the paper and all without negative comment from our neighbors. We have also answered questions from Kay Walker and have written her a letter to satisfy additional questions.

To estimate the amount of geothermal water needed to supply the pools, we used a stop-watch and a five gallon bucket to measure the water flows to each pool. The current usage was first calculated and then the flows were increased to match winter flow rates. The largest pool has a maximum demand of approximately 140 gpm. The L-shaped pool needs a supply of 50 gpm and the 15X30X3 foot pool requires a flow of 30 gpm. The operational circular pool requires 7 gpm. The small triangular pool is supplied by overflow from the big pool.

The water flow rates for the empty/idle pools were then measured. We calculated that the 2 larger circular pools each require 7 gpm, and the 9 smaller circular pools require 3.5 gpm per pool. The Inn also requires more geothermal water to utilize heat exchangers and fan coils installed to heat buildings on the property. Mr. Katsilometes tells me the Modine fan coil in the main Inn building needs 90 gpm for optimal operation and the Hersteller GmbH heat exchanger in the Spa building requires 70 gpm to sufficiently heat the building. Based on our flow measurements and estimates the Lava Hot Springs Inn requires an additional 205 gpm of geothermal water for the business to be fully operational. Please give me a call if you have any questions or concerns regarding this letter.

Sincerely,

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

Scott Gerwe

RECEIVED

JUL 19 2004

DEPARTMENT OF
WATER RESOURCES

4/5/04

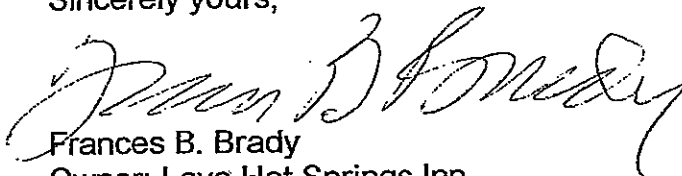
Kay Walker
Sr. Water Resource Agent
Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706-0098

RE: Application for Permit 29-13672

Dear Ms. Walker:

This letter is written in reply to your request for our determination of the need for 0.50 cfs in the continued operation of our business (the Lava Hot Springs Inn). The direct-uses we have applied for (heating of our hotel buildings and supplying water to our outdoor mineral therapy pools) are not new to the Inn. We currently have 2 buildings we would like to heat with the water. Each building requires up to 80 gallons of hot water/minute for heating purposes. We also have 11 outdoor mineral therapy pools which are not presently supplied with mineral water. Nine of these pools require 5 gallons/minute for operation and the other two require 10 gallons/minute. In order for us to fully provide for our customers by heating the additional 2 buildings and supplying the eleven existing pools we will need the 0.50 cfs we have applied for. We have this water without any need for additional wells or pumps as our sources are artesian and all of the water we are asking for in this permit is discharged into the Portneuf River to be used by farmers, etc. downstream. Thank you for your help in providing for a tourist business that hires 7 to 10 and collects and currently pays \$30,000 in State of Idaho taxes/year.

Sincerely yours,


Frances B. Brady
Owner: Lava Hot Springs Inn

Cc: Greg Moeller, Esq.; Rigby, Thatcher, Andrus, Rigby, Kam & Moeller

EXHIBIT

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C

*Law Offices***RIGBY, THATCHER, ANDRUS
RIGBY, & MOELLER, Chartered**

*Ray W. Rigby
Gordon S. Thatcher
G. Rich Andrus
Jerry R. Rigby
Michael S. Kam (1954-2001)
Gregory W. Moeller
Reed E. Andrus*

*P.O. Box 250
25 North Second East
Rexburg, ID 83440*

*Telephone: (208) 356-3633
Fax: (208) 356-0768
E-Mail: rexlaw@rexlaw@srv.net*

FAX Transmission Sheet

Date: June 10, 2005

To: IDWR - Attn: Peppersack

Fax No: 700-287-6700

From: Gregory W. Moeller

Sent By: Jodi

Subject: Response to "Disposition of Petition for Reconsideration," dated May 12, 2005

You should receive 11 page(s) including this cover sheet.

COMMENTS:

If transmission was incomplete or not legible, please call the sender at 208-356-3633.

CONFIDENTIALITY NOTICE: This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of the communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the US Postal Service. Thank you.

Gregory W. Mocller (Idaho Bar No. 4228)
of Rigby, Thatcher, Andrus,
Rigby, & Moeller, Chartered
25 North 2nd East
P.O. Box 250
Rexburg, ID 83440
Telephone No. (208) 356-3633

Attorneys for Applicants

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION	)	
FOR PERMIT NO. 29-13672 IN THE	)	
NAME OF FRANCES B. BRADY.	)	RESPONSE TO "DISPOSITION OF
	)	PETITION FOR RECONSIDERATION,"
	)	DATED MAY 12, 2005

COMES NOW Frances B. Brady, Applicant on the above captioned application for a permit to appropriate water and hereby responds to the Department's "Disposition of Petition for Reconsideration," dated May 12, 2005, as follows.

The Department in their letter of May 12, 2005, requested "information and/or documentation supporting the numbered items listed in the Petition." The information and documentation will be set forth below.

1. There were no protests from any of Applicant's neighbors. It is undisputed that the Department sent additional notice to neighboring water users after the advertisement was placed in the paper. It should also be clear from the record that there were no protests filed. In the absence of any information to the contrary from the Department, it would be inappropriate to

require Applicant to prove a negative.

2. The letters and documentation that were attached to the May 12, 2005, letter provide much of the documentation and justification for the water permit sought by Applicant. Of note, please see the two letters from Scott Gerwe, geologist, dated July 12, 2004, (Exhibit "A") and July 13, 2004, (Exhibit "B").

3. Please see response to paragraph 2, supra.

4. This issue was also addressed by Applicant in her letter of April 5, 2004, (Exhibit "C").

5. Unless information can be provided by the Department to the contrary, the Applicant has not received a response to their suggestions for how to ascertain additional impact information by measuring neighboring springs and wells during the Applicant's period of use.

6. This information has also been provided in prior correspondence, much of which was attached to the Department's letter of May 12, 2005. As to the points raised by Applicant in paragraph 5, please see the correspondence attached to your letter of May 12, 2005.

7. As to the information set forth in paragraph 6 and 7, Applicant wishes to supplement it as follows:

a. Since receiving the letter of May 12, 2005, Applicant has retained Dr. Thomas Lachmar, PhD, a licensed hydro-geologist on the staff of Utah State University. He has agreed to help them.

b. In light of the onerous demands placed upon Applicant, which are unprecedented considering the small size of the permit sought, some additional time is required.

c. In order to test with larger pumps, as requested by the Department,

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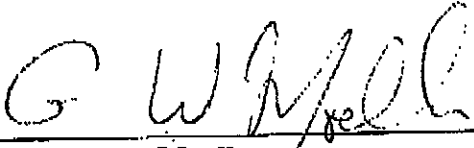
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DATED this 10th day of June, 2005.

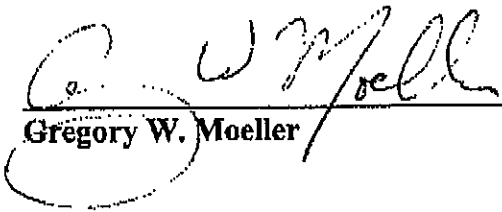


Gregory W. Moeller

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 10th day of June, 2005, a true and accurate copy of the foregoing was sent by facsimile transmission and U.S. Mail, postage prepaid, to the following:

Idaho Department of Water Resources
322 E Front St
PO Box 83720
Boise ID 83720-0098
Fax No. 208-287-6700



Gregory W. Moeller

RECEIVED

JUL 19 2004

DEPARTMENT OF
WATER RESOURCES

7/12/04

Scott Gerwe
Geologist
490 West Fife
Lava Hot Springs, Idaho 83246
(208) 313-1349

Gary Spackman
State of Idaho
Department Of Water Resources
1301 North Orchard Street
Boise, Idaho 83706

Dear Gary:

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EXHIBIT

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Sincerely,



Scott Gerwe

RECEIVE

JUL 19 2004

DEPARTMENT OF
WATER RESOURCES

7/13/04

Lava Hot Springs Inn
94 E. Portneuf Ave.
PO 670
Lava Hot Springs, Idaho 83246

Gary Spackman
State of Idaho
Department Of Water Resources
1301 N. Orchard St.
Boise, Idaho 83706

Re: Application to Appropriate Water No. 29-13672

Dear Mr. Spackman:

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Question 10 should read: We have a State of Idaho Department of Water Resources **Permit To Appropriate Water** NO. 29-07869 with a Priority: August 25, 1989

We built our first therapy pool in 1990. We built an additional 16 mineral water therapy pools in 1995. There are currently 5 of these pools in use. We also have the main Inn building and the Spa building we wish to heat with the water.

We are seeking to make additional beneficial direct use of low temperature geothermal water in our tourist-related business to expand the beneficial use to more visitors to Idaho which is a goal of the Department Of Energy's Renewable Energy Program as stated by director Roy Mink. It is also the goal of the Lava Hot Springs Geothermal Energy Team organized by Helen Harrington and Ken Neeley of the IDWR. We are charter members of this team.

EXHIBIT

6

Your paragraph referring to the protest hearing Re: Applications for Permit No.'s 29-8162 and 29-08164 in the Name of Lazy "V" Ranch pertains to a matter having nothing to do with this application (above) and is, therefore, inappropriate. Your conclusion that pumping of water by George Katsilometes was likely resulting in a decline of water pressures in other artesian wells completed in the low temperature geothermal aquifer was also inappropriate and inaccurate as the issue of why and how water temperatures declined near the illegal State Foundation well was not under question in that hearing. Your conclusion was and is unsupportable by the facts in the testimony brought out in the hearing and by the facts in the record which clearly demonstrate that the illegal low temperature well which was dug for the State Foundation by track hoe without permit or licensed well driller and located within a few hundred yards of the protestants in the hearing is the cause of the decline in water temperature and the drying up of natural hot springs on both the North and South sides of the Portneuf river and in all nearby artesian geothermal wells. This illegal well, the multiple underground siphon pipes which divert low temperature geothermal water to the well, the multiple illegal points of diversion and the continued pumping (mining) of water from this well by the State Foundation has financially damaged neighboring business and property owners for over 10 years without relief from the Department of Water Resources. It is an unnecessary diversion of geothermal water as the State Foundation has over 3 cfs flowing from springs which is more than enough to heat the recreation pool without pumping from an illegal well.

Yes, George W. Katsilometes is co-owner of the Lava Hot Springs Inn and, with Frances B. Brady, has been so for over fifteen years.

The application is for the additional beneficial direct use of low temperature geothermal water and we have obtained the assistance of Mr. Scott Gerwe who is a geologist with graduate school course work in hydrogeology in order to satisfy your demands. Mr. Gerwe made an analysis and measured the water needs of the fan coils and heat exchanger in our buildings and the needs of the other 11 pools at the Lava Hot Springs Inn on 06/24/04. Please see his findings attached to this letter.

We are not proposing the drilling or pumping of water from new wells or sources on our property.

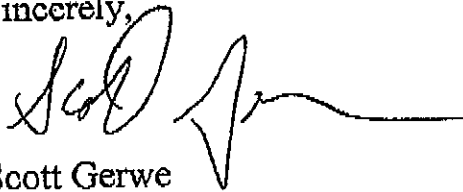
There is no deficiency of geothermal water in Lava, but the pumping of water from the illegal State Foundation well has affected the temperature of neighboring wells and has also lowered the level of the aquifer as evidenced by the drying of natural springs on the North and South sides of the Portneuf river and by the lowering of static water levels in wells on private property on the South side of the river.

We have followed accepted procedures for a request for additional beneficial use in that we met with Ron Carlson (regional director IDWR), filled out the application he gave us, paid the fee, underwent public notice in the paper and all without negative comment from our neighbors. We have also answered questions from Kay Walker and have written her a letter to satisfy additional questions.

To estimate the amount of geothermal water needed to supply the pools, we used a stop-watch and a five gallon bucket to measure the water flows to each pool. The current usage was first calculated and then the flows were increased to match winter flow rates. The largest pool has a maximum demand of approximately 140 gpm. The L-shaped pool needs a supply of 50 gpm and the 15X30X3 foot pool requires a flow of 30 gpm. The operational circular pool requires 7 gpm. The small triangular pool is supplied by overflow from the big pool.

The water flow rates for the empty/idle pools were then measured. We calculated that the 2 larger circular pools each require 7 gpm, and the 9 smaller circular pools require 3.5 gpm per pool. The Inn also requires more geothermal water to utilize heat exchangers and fan coils installed to heat buildings on the property. Mr. Katsilometes tells me the Modine fan coil in the main Inn building needs 90 gpm for optimal operation and the Hersteller GmbH heat exchanger in the Spa building requires 70 gpm to sufficiently heat the building. Based on our flow measurements and estimates the Lava Hot Springs Inn requires an additional 205 gpm of geothermal water for the business to be fully operational. Please give me a call if you have any questions or concerns regarding this letter.

Sincerely,



Scott Gerwe

RECEIVED

JUL 19 2004

DEPARTMENT OF
WATER RESOURCES

4/5/04

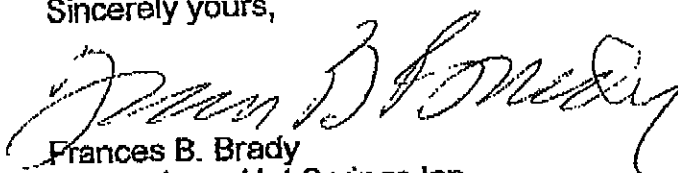
Kay Walker
Sr. Water Resource Agent
Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706-0098

RE: Application for Permit 29-13672

Dear Ms. Walker:

This letter is written in reply to your request for our determination of the need for 0.50 cfs in the continued operation of our business (the Lava Hot Springs Inn). The direct-uses we have applied for (heating of our hotel buildings and supplying water to our outdoor mineral therapy pools) are not new to the Inn. We currently have 2 buildings we would like to heat with the water. Each building requires up to 80 gallons of hot water/minute for heating purposes. We also have 11 outdoor mineral therapy pools which are not presently supplied with mineral water. Nine of these pools require 5 gallons/minute for operation and the other two require 10 gallons/minute. In order for us to fully provide for our customers by heating the additional 2 buildings and supplying the eleven existing pools we will need the 0.50 cfs we have applied for. We have this water without any need for additional wells or pumps as our sources are artesian and all of the water we are asking for in this permit is discharged into the Portneuf River to be used by farmers, etc. downstream. Thank you for your help in providing for a tourist business that hires 7 to 10 and collects and currently pays \$30,000 in State of Idaho taxes/year.

Sincerely yours,


Frances B. Brady
Owner: Lava Hot Springs Inn

Cc: Greg Moeller, Esq.; Rigby, Thatcher, Andrus, Rigby, Kam & Moeller

EXHIBIT



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

May 12, 2005

GREGORY W MOELLER
RIGBY THATCHER ANDRUS RIGBY & MOELLER CHARTERED
PO BOX 250
REXBURG ID 83440

Disposition of Petition for Reconsideration

RE: Petition for Reconsideration of the Preliminary Order Voiding Application 29-13672

Dear Mr. Moeller:

The Department of Water Resources (IDWR) has received the petition you submitted for reconsideration of the preliminary order voiding Application for Permit No. 29-13672. In response to the petition, IDWR requires that the applicant submit information and/or documentation supporting the numbered items listed in the petition. The required information will be necessary for IDWR to make a decision regarding the petition.

Upon receipt of the required information to support the petition, IDWR will consider the information to determine if additional time should be granted to the applicant to respond to the information requested in IDWR's August 31, 2004 to the applicant. I have enclosed copies of correspondence related to the information request for your reference.

IDWR will hold action on the petition for 30 days to await your response and submittal of the required information. After that time, if we do not receive an adequate response supporting the petition, IDWR will deny the petition for reconsideration.

If you have any questions, please contact me at 208-287-4948.

Sincerely,

Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosures

SPACKMAN
RECEIVED

MAY 11 2005

DEPARTMENT OF
WATER RESOURCES

Gregory W. Moeller (Idaho Bar No. 4228)
of Rigby, Thatcher, Andrus,
Rigby, & Moeller, Chartered
25 North 2nd East
P.O. Box 250
Rexburg, ID 83440
Telephone No. (208) 356-3633

Attorneys for Applicants

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 29-13672 IN THE)
NAME OF FRANCES B. BRADY.)

**PETITION FOR RECONSIDERATION
OF PRELIMINARY ORDER**

COMES NOW, Frances B. Brady, applicant on the above captioned Application For a Permit to Appropriate Water, and hereby petitions the Department for reconsideration of the "Preliminary Order Voiding Application for Permit," dated April 25, 2005, which was mailed on April 26, 2005. On behalf of said Petition, Applicant respectfully submits as follows:

1. There were no protests from any of Applicant's neighbors to the newspaper advertisement placed by the Idaho Department of Water Resources regarding Applicants' application for an additional 0.5 cfs. The Department took the unusual step of sending additional notice to neighboring water users. In spite of subsequent notifications sent by the Department, there have not yet been any protests to the application.
2. Applicant has repeatedly supplied the Department with adequate justification for her

Application.

3. Applicant has justified the quantity of water sought for application.
4. Applicant has suggested, without response, a means of providing additional measurement and data. Applicant asked that geothermal flow measurements be taken of neighboring springs and wells before and after the pumping of an additional 0.5 c.f.s. from existing sources on her property. This would suffice to demonstrate any possible effect on the neighbors.
5. Applicant has provided information showing the heat loads (water flows) for the additional 12 pools and the water flowing to the 5 pools now in use have been valved to keep the pools comfortable (between 95% and 110% Fahrenheit) for their guests. Applicants have also supplied information as to the heat exchanger and fan coil required to heat the two buildings in the winter.
6. Applicant has previously explained in letters requesting an extension that inclement weather and difficulty in getting pump rigs and electricians to their property prevented them from running an earlier pump test. The Department of Water Resources is yet to inform her whether or not such a test would satisfy the requirements that they have placed upon her.
7. Applicant suggests that evidence already in the possession of Idaho Department of Water Resources will provide abundant proof in support of the permit. Idaho Department of Water Resources currently possesses evidence from other users in Lava that are using the geothermal water resources in the same manner as Applicants.
8. Applicant further suggests that they have been unfairly singled out for excessive and illegal scrutiny of their Application for a Permit. When the State Foundation, Evelee Hill-Rush,

the Campbell family, and others have made similar applications, they were not required to undergo the same type of scrutiny and requirements. Campbell's are currently using geothermal water and are pumping beyond their issued use permits. Evelee Hill-Rush has had an application in for 1.51 c.f.s. since 1999 and no additional steps have been taken by the Department to advise neighbors of her petition. Applicant is only asking that they be treated in the same manner as other applicants in the area have been treated.

9. Applicant has a long history of dealing with the Department of Water Resources over the years and has attempted to be cooperative. Applicant is only requesting a fair and unbiased review of her Application for a Permit and for this Petition for Reconsideration.

10. Applicant has just retained the law firm of Rigby, Thatcher, Andrus, Rigby & Moeller, Chartered, to assist her in seeking approval of her application. Said firm believes that if an additional extension of time is granted, as per Applicant's most recent request, there is a substantial likelihood that this issue can be resolved.

DATED this 9th day of May, 2005.



Gregory W. Moeller, Attorney for
Applicant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 9th day of May, 2005, a true and accurate copy of the foregoing was sent by facsimile transmission and U.S. Mail, postage prepaid, to the following:

Idaho Department of Water Resources
322 E Front St
PO Box 83720
Boise ID 83720-0098
208-287-6700



Gregory W. Moeller

*Law Offices***RIGBY, THATCHER, ANDRUS
RIGBY, & MOELLER, Chartered**

Ray W. Rigby
Gordon S. Thatcher
G. Rich Andrus
Jerry R. Rigby
Michael S. Kam (1954-2001)
Gregory W. Moeller
Reed E. Andrus

P.O. Box 250
25 North Second East
Rexburg, ID 83440

Telephone: (208) 356-3633
Fax: (208) 356-0768
E-Mail: rexlaw@rexlaw@srv.net

FAX Transmission Sheet

Date: May 9, 2005
To: Idaho Department of Water Resources
Fax No: 208-287-6700
From: Gregory W. Moeller
Sent By: Jodi
Subject: Petition for Reconsideration
You should receive 5 page(s) including this cover sheet.

COMMENTS:

If transmission was incomplete or not legible, please call the sender at 208-356-3633.

CONFIDENTIALITY NOTICE: This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of the communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the US Postal Service. Thank you.

Gregory W. Moeller (Idaho Bar No. 4228)
of Rigby, Thatcher, Andrus,
Rigby, & Moeller, Chartered
25 North 2nd East
P.O. Box 250
Rexburg, ID 83440
Telephone No. (208) 356-3633

Attorneys for Applicants

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 29-13672 IN THE)
NAME OF FRANCES B. BRADY.)

**PETITION FOR RECONSIDERATION
OF PRELIMINARY ORDER**

COMES NOW, Frances B. Brady, applicant on the above captioned Application For a Permit to Appropriate Water, and hereby petitions the Department for reconsideration of the "Preliminary Order Voiding Application for Permit," dated April 25, 2005, which was mailed on April 26, 2005. On behalf of said Petition, Applicant respectfully submits as follows:

1. There were no protests from any of Applicant's neighbors to the newspaper advertisement placed by the Idaho Department of Water Resources regarding Applicants' application for an additional 0.5 cfs. The Department took the unusual step of sending additional notice to neighboring water users. In spite of subsequent notifications sent by the Department, there have not yet been any protests to the application.

2. Applicant has repeatedly supplied the Department with adequate justification for her

Application.

3. Applicant has justified the quantity of water sought for application.
4. Applicant has suggested, without response, a means of providing additional measurement and data. Applicant asked that geothermal flow measurements be taken of neighboring springs and wells before and after the pumping of an additional 0.5 c.f.s. from existing sources on her property. This would suffice to demonstrate any possible effect on the neighbors.
5. Applicant has provided information showing the heat loads (water flows) for the additional 12 pools and the water flowing to the 5 pools now in use have been valved to keep the pools comfortable (between 95% and 110% Fahrenheit) for their guests. Applicants have also supplied information as to the heat exchanger and fan coil required to heat the two buildings in the winter.
6. Applicant has previously explained in letters requesting an extension that inclement weather and difficulty in getting pump rigs and electricians to their property prevented them from running an earlier pump test. The Department of Water Resources is yet to inform her whether or not such a test would satisfy the requirements that they have placed upon her.
7. Applicant suggests that evidence already in the possession of Idaho Department of Water Resources will provide abundant proof in support of the permit. Idaho Department of Water Resources currently possesses evidence from other users in Lava that are using the geothermal water resources in the same manner as Applicants.
8. Applicant further suggests that they have been unfairly singled out for excessive and illegal scrutiny of their Application for a Permit. When the State Foundation, Evelle Hill-Rush,

the Campbell family, and others have made similar applications, they were not required to undergo the same type of scrutiny and requirements. Campbell's are currently using geothermal water and are pumping beyond their issued use permits. Evelec Hill-Rush has had an application in for 1.51 c.f.s. since 1999 and no additional steps have been taken by the Department to advise neighbors of her petition. Applicant is only asking that they be treated in the same manner as other applicants in the area have been treated.

9. Applicant has a long history of dealing with the Department of Water Resources over the years and has attempted to be cooperative. Applicant is only requesting a fair and unbiased review of her Application for a Permit and for this Petition for Reconsideration.

10. Applicant has just retained the law firm of Rigby, Thatcher, Andrus, Rigby & Moeller, Chartered, to assist her in seeking approval of her application. Said firm believes that if an additional extension of time is granted, as per Applicant's most recent request, there is a substantial likelihood that this issue can be resolved.

DATED this 9th day of May, 2005.

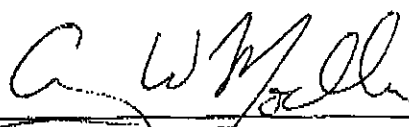


Gregory W. Moeller, Attorney for
Applicant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 9th day of May, 2005, a true and accurate copy of the foregoing was sent by facsimile transmission and U.S. Mail, postage prepaid, to the following:

Idaho Department of Water Resources
322 E Front St
PO Box 83720
Boise ID 83720-0098
208-287-6700



Gregory W. Moeller

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**FRANCES B BRADY
980 CENTENNIAL CREEK
POCATELLO ID 83201**

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Name) B. Date of Delivery

FRANCES BRADY 5-3-05

C. Signature

☒ X ☐ Agent
☒ AddresseeD. Is delivery address different from item? ☐ Yes
If YES, enter delivery address below. ☒ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Copy from service label)

7003 0500 0003 1969 2652

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

U.S. Postal Service™**CERTIFIED MAIL™ RECEIPT**

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com**OFFICIAL USE**

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
HereMAILED ON
4.27.05

Sent To

FRANCES B BRADY

Street, Apt. No.,
or PO Box No. 980 CENTENNIAL CREEK

City, State, ZIP+4

POCATELLO ID 83201

PS Form 3800, June 2002

See Reverse for Instructions

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

- Sender: Please print your name, address, and ZIP+4 in this box •

MAY 05 2005

**DEPT. OF WATER RESOURCES
322 E. FRONT ST.
P. O. BOX 83720
BOISE, ID 83720-0098**

KL T #29-13672



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

April 26, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

FRANCES B BRADY
980 CENTENNIAL CREEK
POCATELLO ID 83201

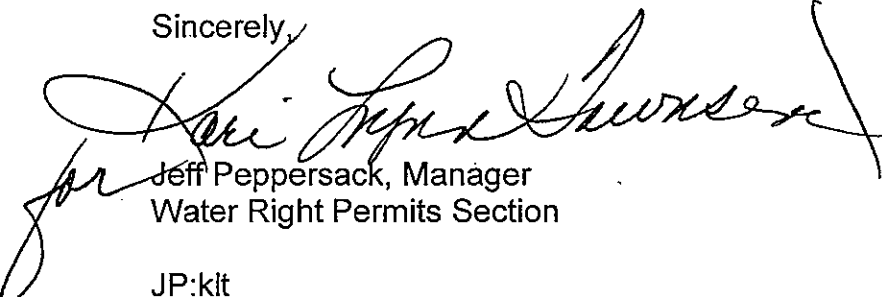
RE: Preliminary Order in the Matter of Application for Permit No. 29-13672

Dear Permit Holder(s):

The accompanying order 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 unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed information sheet.

If you have any questions regarding this matter, please call me at 208-327-7940.

Sincerely,


Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosures

cc: GEORGE W KATSILOMETES

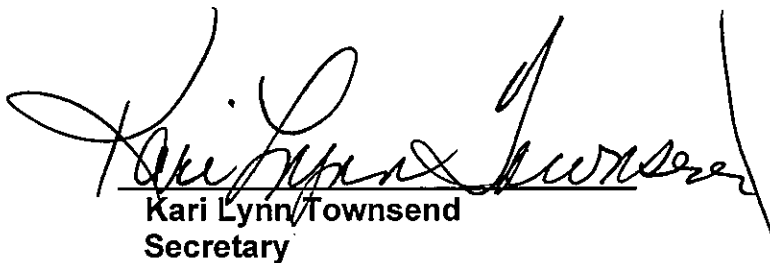
CERTIFICATE OF SERVICE

I hereby certify that on **April 26, 2005** I mailed a true and correct copy, certified, postage prepaid, of the foregoing **PRELIMINARY ORDER** to the person(s) listed below:

RE: Preliminary Order in the Matter Application for Permit No. 29-13672

**FRANCES B BRADY
980 CENTENNIAL CREEK
POCATELLO ID 83201**

**GEORGE W KATSILOMETES
PO BOX 670
LAVA HOT SPRINGS ID 83246**


**Kari Lynn Townsend
Secretary**

**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. 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 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.

George W. Katsilometes
Frances B. Brady
Lava Hot Springs Inn
94 E. Portneuf Ave.
PO 670
Lava Hot Springs, Idaho 83246

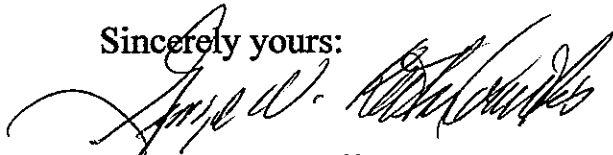
RECEIVED
APR - 11 1985
DEPARTMENT OF
WATER RESOURCES
April 4, 2005

Jeff Peppersack, Manager
Water Rights Permits Section
Department of Water Resources
322 E. Front St.
P.O. Box 83720

Dear Mr. Peppersack:

We are respectfully requesting additional time to meet your requirements for demonstrating the need for an additional 0.5 cfs of mineral water for the pools and for heating at our business (Lava Hot Springs Inn).
Thank you for your consideration in this matter.

Sincerely yours:



George W. Katsilometes

Cc: Gregory Moeller, Esq.

29-13672



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

January 18, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

FRANCES B BRADY
980 CENTENNIAL CREEK
POCATELLO ID 83201

RE: Application for Permit No. 29-13672

Dear Ms. Brady:

This letter is a response to your letter of January 9, 2005 requesting additional time to submit the required information related to the application referenced above. Please consider this letter an approval of your request for an additional 90 days.

Your letter also indicates that you "...have complied with the requirement as set out in the original letter from Gary Spackman wherein he asked for analysis of the water needs as demonstrated by the additional use in our existing pools and buildings." As I noted in my last letter, the measured values do not provide justification that those quantities are necessary from a water sufficiency and conservation standpoint. Justification of the quantity of water required will require an analysis showing the required heat loads for the space and pool heating including temperature differentials and other necessary parameters. You may need to consult with a qualified professional to complete the required analysis. You might also wish to contact the Geo Heat Center (<http://geoheat.oit.edu/>) at the Oregon Institute of Technology for additional information and assistance.

The Department will hold your application for permit for an additional 90 days to await your response and submittal of the required information. After that time, if we do not receive an adequate response from you regarding the application, the Department will initiate action to void the application pursuant to Section 42-204, *Idaho Code* for failure to submit the requested additional information.

If you have any questions, please feel free to contact the Department.

Sincerely,

Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

cc: Karen Vargas
Evelee Hill Rush

Lava Hot Springs Inn 01/09/05
Frances B. Brady and George W. Katsilometes
PO 670
Lava Hot Springs, Idaho 83246

RECEIVED
JAN 14 2005
DEPARTMENT OF
WATER RESOURCES

Jeff Peppersack, Manager
Water Rights Permits Section
Dept . Of Water Resources
322 E. Front Street, PO 83720
Boise, Idaho 83720-0098

Dear Mr. Peppersack:

Thank you for your letter of November 15, 2004. We appreciate the Department's patience in allowing us to meet the demands for justification for our request for additional beneficial use of the low temperature geothermal waters rising on our property in Lava Hot Springs. In our previous letter to you we asked for "at least 90 days" to meet these demands. Due to the time of year, expenses involved in meeting the demands of the Department and the logistics of establishing water uses of our neighbors, we will need more than 90 days to comply. This request should in no way affect the current water use situation in Lava and will be in keeping with the Department's patience in allowing our immediate neighbor Evelee Hill-Rush more than one year (since 1996) to meet requirements the Department placed on her for her request for 1.51 cfs increase in water usage from a spring not located on her property in Lava. We find it interesting that the Department chooses to inform others (including Evelee) as to the status of our request but we have never received a letter or any other correspondence from the Department regarding her activities (or any of our neighbors) with respect to additional use permits .

As to your statement that the Department will require justification for the additional use we have applied for, again, we have complied with the requirement as set out in the original letter from Gary Spackman wherein he asked for analysis of the water needs as demonstrated by the additional use in our existing pools and buildings. We have accurately measured these uses and the measurements have been witnessed by the geologist Scott Gerwe. As the additional pools are built and as they are exactly the same size as pools we now have in operation, the water requirements for the pools which we wish to put into operation are accurate. This demand has been met.

Lastly, we would again like to thank you for your help in providing records as to the licenses/permits of our neighbors?

Sincerely yours,

Frances B. Brady

George W. Katsilometes

29-13672

Peppersack, Jeff

29-13672

From: Peppersack, Jeff
Sent: Tuesday, December 14, 2004 1:31 PM
To: 'dsigeorge@hotmail.com'
Subject: water right information

I have attached Excel Spreadsheets with water rights listed for the following:

Lava Hots Springs Foundation
Evelee Hill Rush
Home Hotel & Motel Inc.
Joan Martin and Floyd Walden

If you need additional details for the water rights listed, you can view details on our web site at:

<http://www.idwr.state.id.us/apps/ExtSearch/SearchWRAJ.asp>

Please if you have questions.

Jeff Peppersack, Manager
Water Right Permits Section
208-287-4948



lava.xls



Rush.xls



home.xls



Walden.xls

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Basis</u>	<u>Status</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Volume(af)</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>	<u>Source Table</u>
29	2283		License	Active	1/14/1949	0.5		GROUND WATER	COMMERCIAL, DOMESTIC, IRRIGATION	LAVA HOT SPRINGS FOUNDATION (Current)	wrWaterRight
29	2360		License	Active	2/5/1955	0.5		GROUND WATER	DOMESTIC, IRRIGATION	LAVA HOT SPRINGS FOUNDATION (Current)	wrWaterRight
29	4178		Statutory Claim	Active	6/13/1902	3		SPRING	RECREATION	LAVA HOT SPRINGS FOUNDATION (Current)	wrWaterRight

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Basis</u>	<u>Status</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Volume(acf)</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>	<u>Source Table</u>
29	150		Decreed	Active	1889-06-01	0.18		FISH CREEK	IRRIGATION	RUSH, EVELEE HILL (Current); RUSH, ROBERT E (Current)	wrAdjudicationClaim
29	13511		Decreed	Active	6/20/1902	0.02		WEST BOB SMITH CREEK	IRRIGATION	RUSH, EVELEE HILL (Current)	wrAdjudicationClaim
29	150		Decreed	Active	1889-06-01	0.07		FISH CREEK	IRRIGATION	RUSH, EVELEE HILL (Current); RUSH, ROBERT E (Current)	wrAdjudicationRecommendation
29	12887		Beneficial Use	Active	3/10/1960	0.04		GROUND WATER	DOMESTIC	RUSH, EVELEE HILL (Current)	wrAdjudicationRecommendation
29	13511		Decreed	Active	6/20/1902	0.02		WEST BOB SMITH CREEK	IRRIGATION	RUSH, EVELEE HILL (Current)	wrAdjudicationRecommendation
29	13513		Decreed	Active	7/1/1902	0.02		WEST BOB SMITH CREEK	IRRIGATION	RUSH, EVELEE HILL (Current)	wrAdjudicationRecommendation
29	13515		Decreed	Active	5/1/1903	0.02		WEST BOB SMITH CREEK	IRRIGATION	RUSH, EVELEE HILL (Current); RUSH, ROBERT E (Current)	wrAdjudicationRecommendation
29	13517		Decreed	Active	7/1/1909	0.02		WEST BOB SMITH CREEK	IRRIGATION	RUSH, EVELEE HILL (Current); RUSH, ROBERT E (Current)	wrAdjudicationRecommendation
29	13519		Decreed	Active	7/1/1917	0.02		WEST BOB SMITH CREEK	IRRIGATION	RUSH, EVELEE HILL (Current); RUSH, ROBERT E (Current)	wrAdjudicationRecommendation
29	13521		Beneficial Use	Active	8/7/1932	0.1		WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	RUSH, EVELEE HILL (Current); RUSH, ROBERT E (Current)	wrAdjudicationRecommendation
29	4233		Decreed	Active	6/15/1910	0.2		HOT SPRING	DOMESTIC	RUSH, EVELEE HILL (Current); RUSH, ROBERT E (Current)	wrWaterRight
29	4234		Decreed	Active	6/15/1910	0.08		HOT SPRING	DOMESTIC	RUSH, EVELEE HILL (Current); RUSH, ROBERT E (Current)	wrWaterRight
29	13508		Decreed	Active	1/1/1902	0.02		WEST BOB SMITH CREEK	STOCKWATER	RUSH, EVELEE HILL (Current); RUSH, ROBERT E (Current)	wrWaterRight
29	8174		Decreed	Active	7/1/1996	1.51		SPRING	COMMERCIAL, HEATING	RUSH, EVELEE HILL (Current)	wrWaterPermit

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Basis</u>	<u>Status</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Volume(af)</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>	<u>Source Table</u>
29	4212		Statutory Claim	Active	1/16/1918	0.08		GROUND WATER	COMMERCIAL, HEATING	HOME HOTEL & MOTEL INC (Current)	wrAdjudicationClaim
29	4212		Beneficial Use	Active	1/16/1918	0.08	58	GROUND WATER	COMMERCIAL, HEATING	HOME HOTEL & MOTEL INC (Current)	wrAdjudicationRecommendation
29	4212		Statutory Claim	Active	6/1/1925	0.08		GROUND WATER	COMMERCIAL, HEATING	HOME HOTEL & MOTEL INC (Current)	wrWaterRight

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Basis</u>	<u>Status</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Volume(af)</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>	<u>Source Table</u>
29	4492		Statutory Claim	Active	12/31/1914	0.75		GROUND WATER	COMMERCIAL	MARTIN, JOAN B (Current); WALDEN, FLOYD L (Current)	wrAdjudicationClaim
29	4493		Statutory Claim	Active	12/31/1914	0.75		SPRING	COMMERCIAL	MARTIN, JOAN B (Current); WALDEN, FLOYD L (Current)	wrAdjudicationClaim
29	4492		Beneficial Use	Active	12/31/1914	0.11		GROUND WATER	COMMERCIAL	MARTIN, JOAN B (Current); WALDEN, FLOYD L (Current)	wrAdjudicationRecommendation
29	4493		Beneficial Use	Active	12/31/1914	0.75		SPRING	COMMERCIAL	MARTIN, JOAN B (Current); WALDEN, FLOYD L (Current)	wrAdjudicationRecommendation



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

November 15, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

FRANCES B BRADY
980 CENTENNIAL CREEK
POCATELLO ID 83201

RE: Application for Permit No. 29-13672

Dear Ms. Brady:

This letter is a response to your letter of September 21, 2004 requesting additional time to submit the required information related to the application referenced above. Please consider this letter an approval of your request for an additional 90 days. In addition I would like to respond to some of your questions or comments related to the items that need to be addressed for the application.

In your letter, you asked about the meaning of "the Lava Hot Springs area," and "the sufficiency of the water supply in the area," in relation to required item nos. 1 and 2. I believe your understanding of the meaning of "the Lava Hot Springs area" is correct based on your comment that "Sufficiency of the water supply must mean that those Lava Hot Springs entities having low temperature geothermal water use permits/water rights have enough water for the operation of their businesses or other activities under the conditions of their permits." In addition to the potential impacts on other water uses, "the sufficiency of the water supply in the area" pertains to the sufficiency of the water supply to meet the needs of your proposed use.

You also noted that data has already been submitted for required item no. 3 to justify the quantity of water sought for appropriation. Although existing flows may provide an indication that the proposed quantities will meet your commercial needs, they do not provide justification that those quantities are necessary from a water sufficiency and conservation standpoint. The Department will require justification in the form of an appropriate analysis as noted in my letter of August 31, 2004.

The Department will hold your application for permit for an additional 90 days to await your response and submittal of the required information. After that time, if we do not receive a response from you regarding the application, the Department will initiate action to void the application pursuant to Section 42-204, *Idaho Code* for failure to submit the requested additional information.

If you have any questions, please feel free to contact the Department.

Sincerely,

for Jeff Peppersack, Manager
Water Right Permits Section

JP:kit

c: Karen Vargas
Evelee Hill Rush

RECEIVED

SEP 28 2004

DEPARTMENT OF
WATER RESOURCES

9/21/04

George W. Katsilometes
Frances B. Brady
Owners: Lava Hot Springs Inn
PO 670
Lava Hot Springs, ID 83246

Jeff Peppersack, Manager
Water Rights Permits Section
Idaho Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706-0098

Dear Mr. Peppersack:

This letter is a reply to your letter of August 31, 2004 RE: Application for Permit No. 29-13672 submitted Jan. 28, 2004. In your letter Section 42-203A(5), Idaho Code is cited. We assume this is because this Section is being used as a basis for imposing the requirements we are having to satisfy for this permit. According to the citation, the director may reject such application and refuse issuance of a permit, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions... In all applications whether protested or not protested, where the proposed use is such (a) that it **will reduce the quantity of water under existing water rights**, or (b) that the water supply itself is **insufficient for the purpose for which it is sought to be appropriated** or (c) where it appears to the satisfaction of the director that such application is **not made in good faith**, is made for **delay or speculative purposes**, or (d) that the applicant has not sufficient financial resources with which **to complete the work involved therein**, or (e) that it **will conflict with the local public interest** as defined in Section 42-202B, Idaho Code, or (f) that it is **contrary to conservation of water resources** within the state of Idaho, or (g) that it will adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, **in the case where the place of use is outside of the watershed or local area where the source of water originates; ...**

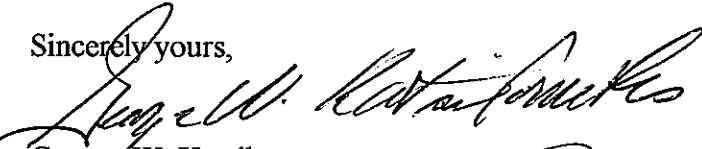
Our application was not protested, our use of the geothermal waters rising on our property will not reduce the quantity of water, it is sufficient for the purpose for which it is sought, our application is made in good faith and not for delay or speculation, we have completed the construction of the pools and buildings for which the water use is necessary, the use of the water is favorable to the local public interest (Lava is a resort town and relies on revenues from visitors to the springs and mineral pools), our use is not contrary to conservation of water resources and we are using the waters where they originate.

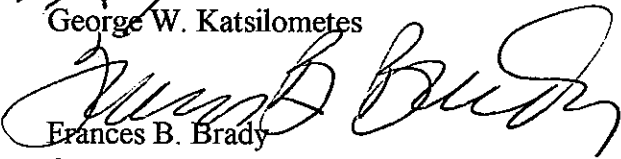
Addressing the 3 requirements placed on us:

1. The requirement for analysis of the impact our proposed appropriation of water will have on other water users in the Lava Hot Springs area is vague (what is meant by the 'Lava Hot Springs area'?). We assume this to mean our immediate neighbors to the East and North in Lava Hot Springs who are using geothermal water as we are. We will do our best to satisfy this demand by demonstrating no adverse impact of the additional use on our neighbors.
2. The asking for "information related to the sufficiency of the water supply in the area" is again unclear but can partially be answered by stating that Dr. John Welhan (a geologist with Idaho State University) has estimated that geothermal water has been flowing from springs here for 3-4 million years. Sufficiency of the water supply in the area (what does this mean exactly?) must mean that those Lava Hot Springs entities having low temperature geothermal water use permits/water rights have enough water for the operation of their businesses or other activities under the conditions of their permits. Again, we will do our best to satisfy this demand by demonstrating no adverse impact of our additional 0.5 cfs use on our neighbors.
3. We have satisfied this requirement as we know how much water flow is needed for our additional pools and buildings and we know the temperatures of our water sources (100 to 145 degrees F). We have pools in continuous operation since 1995 of exactly the same size and dimensions as the additional pools we need to supply, therefore, the measurements submitted are accurate as they were taken at the pools presently in use. The flows calculated reflect those necessary to keep the pools comfortable for our tourist guests of Idaho (temperatures ranging between 95 and 108 degrees F). This data has been submitted (please see the letter from Mr. Scott Gerwe in our last correspondence with Mr. Spackman and Mr. Dreher).

In closing, we are asking for at least an additional 90 days to complete the increasingly costly requirements that have been made on us.

Sincerely yours,


George W. Katsilometes


Frances B. Brady

Owners: Lava Hot Springs Inn

Cc: Gregory Moeller, Esq.



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

August 31, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

FRANCES B BRADY
980 CENTENNIAL CREEK
POCATELLO ID 83201

RE: Application for Permit No. 29-13672

Dear Ms. Brady:

This letter is a follow-up to correspondence you exchanged with Gary Spackman of this office. Mr. Spackman's letter of May 21, 2004 listed several items requiring clarification for the application referenced above.

Mr. Spackman wrote you because any application to appropriate the waters of the state must be reviewed to ensure that the intended diversion and use complies with Idaho law. Section 42-203A(5), *Idaho Code* requires, in pertinent part, that:

...In all applications whether protested or not protested, where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest as defined in section 42-202B, *Idaho Code*, or (f) that it is contrary to conservation of water resources within the state of Idaho, or (g) that it will adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates; the director of the department of water resources may reject such application and refuse issuance of a permit therefore, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions...

In addition, the Department's Water Appropriation Rule 40.05c provides that the Director may request the submittal of additional information during review of an application. The Department's request may include information relative to the effect on existing water rights and sufficiency of the water supply (including water requirements). Since your application is seeking to appropriate low temperature geothermal water, you were asked to submit the following:

1. Information prepared by a registered professional engineer, a registered professional geologist, or other qualified professional, analyzing the impact your proposed appropriation of water will have on other water uses in the Lava Hot Springs area.
2. Included in the above-requested analysis, please submit information related to the sufficiency of the water supply in the area.
3. Please submit computations justifying the quantity of water sought for appropriation. These computations should justify the quantity of water sought for appropriation by analyzing water temperature, total space proposed to be heated, and total water necessary for diversion to the mineral pools including flow-through to keep the pools fresh.

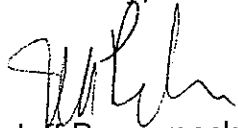
You have addressed many of the items requested by Mr. Spackman in your letter of July 13, 2004; however, there are still some important items that need to be addressed before the Department can complete the processing of your application.

In your July 13, 2004 letter, you did not provide a response to items 1 and 2 and your response to item 3 was not sufficient. Regarding item 3, you did provide measurements of present flows and estimates of proposed flows; however, justification of the quantity of water required will require an analysis showing the required heat loads for the space and pool heating including temperature differentials and other necessary parameters. You may need to consult with a qualified professional to complete the required analysis. You might also wish to contact the Geo Heat Center (<http://geoheat.oit.edu/>) at the Oregon Institute of Technology for additional information and assistance.

The Department will hold your application for permit for an additional 30 days to await your response and submittal of the required information. Additional time may be granted by the Department upon receipt of a written request and sufficient justification for an extension. After that time, if we do not receive a response from you regarding the application, the Department will initiate action to void the application pursuant to Section 42-204, *Idaho Code* for failure to submit the requested additional information.

If you have any questions, please feel free to contact the Department.

Sincerely,



Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

cc: Karen Vargas
Evelee Hill Rush

7/15/04

RECEIVED

JUL 19 2004

DEPARTMENT OF
WATER RESOURCES

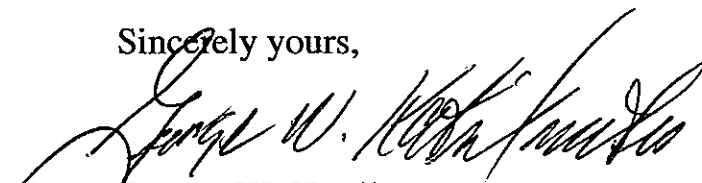
George W. Katsilometes
Owner: Lava Hot Springs Inn and Spa
PO 670
Lava Hot Springs, Idaho 83246

Karl J Dreher
Director: Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83706

Dear Mr. Dreher:

I am sending enclosed in this mailing some of the correspondence having to do with our Application to Appropriate Water No. 29-13672. I would not have taken your time with this matter but I felt you should be aware of the troublesome actions of members of your staff. Please note that we felt the demands of Ms. Walker for additional information were understandable and, though mildly irritating, were rather easily complied with. However, the letter from Mr. Spackman contained elements of hostility toward our business and to myself in particular. His demands and unwarranted misrepresentations of the situation in Lava were disheartening to us and we ask you to please read our responses to his letter. As taxpayers and tax collectors for the State through the travel and tourism tax, we expect more even-handed and gentle treatment from our public servants.

Sincerely yours,



George W. Katsilometes

RECEIVED

MAR 18 2004

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

JAN 28 2004

Department of Water Resources
Eastern RegionDEPARTMENT OF
WATER RESOURCESPhone 208-233-6061Name of Applicant Frances B. BradyMailing address 980 Centennial Circle Docetella ID 83201Source of water supply Groundwater which is a tributary of _____Location of point of diversion is Township 09S Range 38E Sec. 21, in the NW 1/4, SE 1/4, SE 1/4, Govt. Lot 2, B.M., Bennock County;

additional points of diversion if any: _____

1. Water will be used for the following purposes:

Amount 0.5 cfs for commercial purposes from Jan. 1 to Dec. 31 (both dates inclusive)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)

5. Total quantity to be appropriated is (a) 0.5 cubic feet per second and/or (b) _____ acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source Gran Los pump 10 hp

Franklin motor 10 hp

b. Height of storage dam NA feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet

c. Proposed well diameter is NA inches; proposed depth of well is _____ feetd. Is ground water with a temperature of greater than 85°F being sought? NAe. If well is already drilled, when? 2002; Drilling firm WellmanWell was drilled for (well owner) Brady - Katsilometes; Drilling Permit No. D00146937. Time required for completion of works and application of water to proposed beneficial use is NA years (minimum 1 year) immediate

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.

c. Municipal; show name of municipality.

d. Domestic; show number of households.

e. Other; describe fully. Commercial use - Direct use and mixing; and
Mixing - Nonconsumptive use (Heating of Lava Hot Springs Inn; use in the hot tubs)

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	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S	38E	21																9H	
Commercial																			

Total number of acres to be irrigated NA

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

11. a. Who owns the property at the point of diversion? Frances B. Brady and George W. Natsilomates

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

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

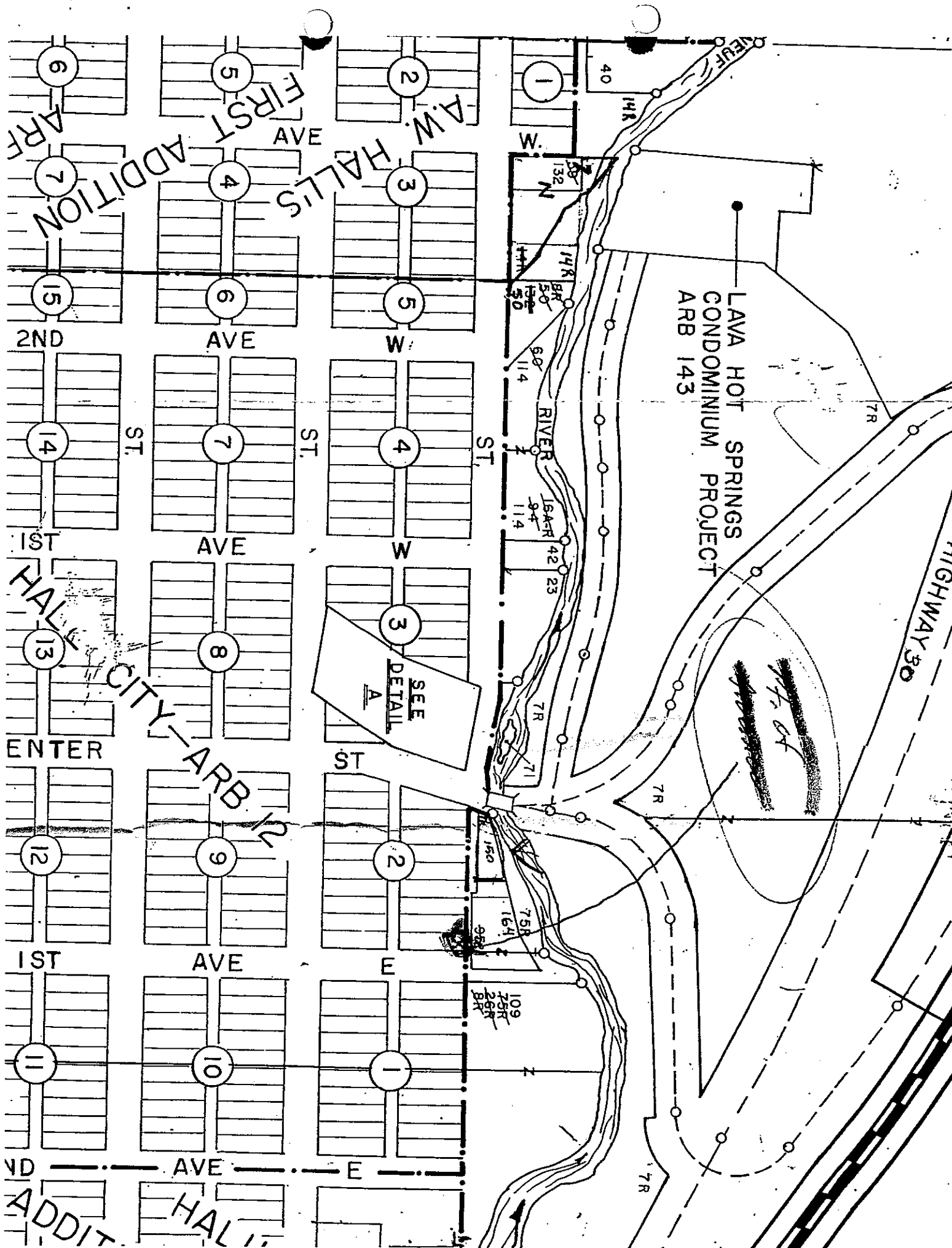
12. Remarks:

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" 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.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Frances B. Brady
Signature of Applicant (and title, if applicable)

Received by SC Date 1-30-2004 Time 12:00 PM Preliminary check by Kenneth Jones
Fee \$ 250.00 Received by SC # E629499 Date 1/30/04
Publication prepared by SC Date 2/19 & 2/26/04 Published in Idaho State Journal
Date 3.1.04



RECEIVED

JUL 19 2004

DEPARTMENT OF
WATER RESOURCES

4/5/04

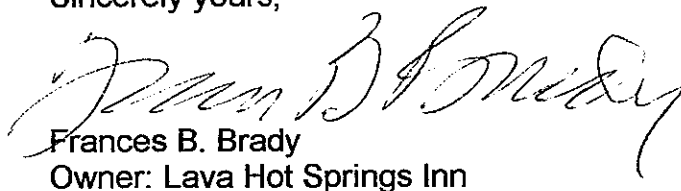
Kay Walker
Sr. Water Resource Agent
Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706-0098

RE: Application for Permit 29-13672

Dear Ms. Walker:

This letter is written in reply to your request for our determination of the need for 0.50 cfs in the continued operation of our business (the Lava Hot Springs Inn). The direct-uses we have applied for (heating of our hotel buildings and supplying water to our outdoor mineral therapy pools) are not new to the Inn. We currently have 2 buildings we would like to heat with the water. Each building requires up to 80 gallons of hot water/minute for heating purposes. We also have 11 outdoor mineral therapy pools which are not presently supplied with mineral water. Nine of these pools require 5 gallons/minute for operation and the other two require 10 gallons/minute. In order for us to fully provide for our customers by heating the additional 2 buildings and supplying the eleven existing pools we will need the 0.50 cfs we have applied for. We have this water without any need for additional wells or pumps as our sources are artesian and all of the water we are asking for in this permit is discharged into the Portneuf River to be used by farmers, etc. downstream. Thank you for your help in providing for a tourist business that hires 7 to 10 and collects and currently pays \$30,000 in State of Idaho taxes/year.

Sincerely yours,



Frances B. Brady
Owner: Lava Hot Springs Inn

Cc: Greg Moeller, Esq.; Rigby, Thatcher, Andrus, Rigby, Kam & Moeller



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

JUL 19 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 21, 2004

FRANCES B BRADY
980 CENTENNIAL CREEK
POCATELLO ID 83201

Re: Application to Appropriate Water No. 29-13672

Dear Ms. Brady:

This letter is a follow-up to correspondence you exchanged with Kay Walker of this office. Application to appropriate water no. 29-13672 was forwarded to me for final application review.

Application to appropriate water no. 29-13672 seeks the appropriation of 0.5 cfs for commercial purposes. Question 6.d. of the application asks whether ground water with a temperature of greater than 85 degrees Fahrenheit is sought. You answered the question "NA." Question 8.e. states, in someone else's hand writing, that the use will be for the purpose of "heating Lava Hot Springs Inn & use in the hot tubs."

Question 10. of the application asks for a description of any other water rights used for the same purposes. This item was left blank on the application.

In your letter dated April 5, 2004 to Kay Walker, you write:

The direct-uses we have applied for (heating of our hotel buildings and supplying water to our outdoor mineral therapy pools) are not new to the Inn. We currently have 2 buildings we would like to heat with the water. Each building requires up to 80 gallons of hot water/minute for heating purposes. We also have 11 outdoor mineral therapy pools which are not presently supplied with mineral water. Nine of these pools require 5 gallons/minute for operation and the other two require 10 gallons/minute. In order for us to fully provide for our customers by heating the additional 2 buildings and supplying the eleven existing pools we will need the 0.50 cfs we have applied for. We have this water without any need for additional wells or pumps as our sources are artesian and all of the water we are asking for in this permit is discharged into the Portneuf River to be used by farmers, etc. downstream."

The letter implies that there is an existing use of water. As a result there is either a water right representing the existing use, or the existing use is illegal. In addition, the letter implies that the water proposed to be diverted is low temperature geothermal water despite the representations on the application.

JUL 19 2004

DEPARTMENT OF
WATER RESOURCE

If my conclusions are incorrect, and you are seeking cold ground water, please correct my mistake. If however, you want to divert additional low temperature geothermal water, significant additional information must be submitted to the IDWR for consideration.

Several years ago, I conducted a contested case hearing for a proposed use of low temperature geothermal water downstream of the Lava Hot Springs Foundation lands. I concluded in my preliminary order that pumping of water by George Katsilometes was likely resulting in a decline of water pressures in other artesian wells completed in the low temperature geothermal aquifer. I notice on your application that George W. Katsilometes is a co-owner of the property listed as a place of use.

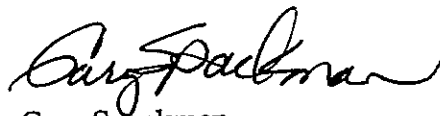
~~Again, if the application is seeking the appropriation of low temperature geothermal~~
water, please submit the following information:

1. Information prepared by a registered professional engineer, a registered professional geologist, or other qualified professional, analyzing the impact your proposed appropriation of water will have on other water uses in the Lava Hot Springs area.
2. Included in the above-requested analysis, please submit information related to the sufficiency of the water supply in the area.
3. Please submit computations justifying the quantity of water sought for appropriation. These computations should justify the quantity of water sought for appropriation by analyzing water temperature, total space proposed to be heated, and total water necessary for diversion to the mineral pools including flow-through to keep the pools fresh.

In addition to the above information, I will mail a copy of your application with a copy of this letter to all of the water users who were parties to the previous contested matter and ask them for comment related to the injury to other water users, sufficiency of water supply, the local public interest, and conservation of waters of the state of Idaho.

Because I have asked you for technical information, I will grant a period of 90-days within which to submit the information. If any of the water users to whom I send direct notice respond questioning the criteria IDWR must consider, I will send them a copy of the information you submit, and give them an opportunity to respond through their own experts.

Respectfully,


Gary Spackman

Cc: Kay Walker
Eastern Region
Parties to Lazy V. Ranch

7/12/04

Scott Gerwe
Geologist
490 West Fife
Lava Hot Springs, Idaho 83246
(208) 313-1349

RECEIVED
JUL 19 2004
DEPARTMENT OF
WATER RESOURCES

Gary Spackman
State of Idaho
Department Of Water Resources
1301 North Orchard Street
Boise, Idaho 83706

Dear Gary:

On 06/24/04, at the request of George Katsilometes, I visited the Lava Hot Springs Inn for the purpose of evaluating and determining the need for hot water at the facility. Mr. Katsilometes informed me the Inn has 3 low temperature geothermal wells, one with water at 85° F, the second at 90° F, and the third at 145° F. He also told me the business is currently pumping from two (the 85° F and 145° F) wells to supply the 5 therapy pools they have operating.

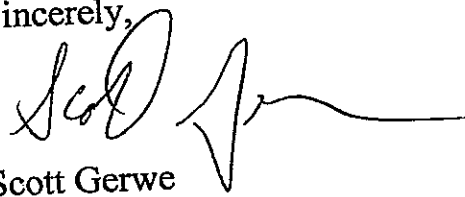
When I visited the Inn there were five pools filled with geothermal water. One functioning circular pool was approximately 10 feet in diameter and 3 feet deep. Another operational pool measured approximately 80 feet long, 19 feet wide and 4 feet deep. A third operating pool was L-shaped and measured approximately 20X50X3 feet overall. A 4th pool, used by small children, was a small triangular pool measuring approximately 7X7X7 feet and 18 inches deep. The 5th pool was approximately 15X30X3 feet.

I saw eleven empty pools that were not being utilized. One of these circular pools had an approximate inside diameter of 10 feet and was about 3 feet deep; the second had an approximate inside diameter of 10 feet and was about 4 feet deep. The remaining 9 pools had approximate inside diameters of 7 feet and were about 3 feet deep. In addition to the demand for the 11 idle pools, the Inn needs geothermal water for winter heating of the main Inn and the Spa building.

To estimate the amount of geothermal water needed to supply the pools, we used a stop-watch and a five gallon bucket to measure the water flows to each pool. The current usage was first calculated and then the flows were increased to match winter flow rates. The largest pool has a maximum demand of approximately 140 gpm. The L-shaped pool needs a supply of 50 gpm and the 15X30X3 foot pool requires a flow of 30 gpm. The operational circular pool requires 7 gpm. The small triangular pool is supplied by overflow from the big pool.

The water flow rates for the empty/idle pools were then measured. We calculated that the 2 larger circular pools each require 7 gpm, and the 9 smaller circular pools require 3.5 gpm per pool. The Inn also requires more geothermal water to utilize heat exchangers and fan coils installed to heat buildings on the property. Mr. Katsilometes tells me the Modine fan coil in the main Inn building needs 90 gpm for optimal operation and the Hersteller GmbH heat exchanger in the Spa building requires 70 gpm to sufficiently heat the building. Based on our flow measurements and estimates the Lava Hot Springs Inn requires an additional 205 gpm of geothermal water for the business to be fully operational. Please give me a call if you have any questions or concerns regarding this letter.

Sincerely,


Scott Gerwe

7/13/04

Lava Hot Springs Inn
94 E. Portneuf Ave.
PO 670
Lava Hot Springs, Idaho 83246

Gary Spackman
State of Idaho
Department Of Water Resources
1301 N. Orchard St.
Boise, Idaho 83706

Re: Application to Appropriate Water No. 29-13672

Dear Mr. Spackman:

This letter is written in response to your letter of May 21, 2004 regarding our application for an expanded beneficial use of the low temperature mineral water rising on our business property (Lava Hot Springs Inn).

We misinterpreted the question 6.d. to mean the drilling for or exploration for additional water of 85° F. Since we are not seeking to drill for or explore for additional water we felt our NA answer was satisfactory. If the question means that we are seeking to use an additional amount of our artesian low temperature geothermal water (>85° F) then we apologize and would like for the answer to be yes.

The handwriting in question 8.e. (other than ours) reading (Heating of Lava Hot Springs Inn & use in the hot tubs) is that of Ms. Kay Walker who inserted this after calling us and asking us our planned specific uses.

Question 10 should read: We have a State of Idaho Department of Water Resources **Permit To Appropriate Water** NO. 29-07869 with a Priority: August 25, 1989

We built our first therapy pool in 1990. We built an additional 16 mineral water therapy pools in 1995. There are currently 5 of these pools in use. We also have the main Inn building and the Spa building we wish to heat with the water.

We are seeking to make additional beneficial direct use of low temperature geothermal water in our tourist-related business to expand the beneficial use to more visitors to Idaho which is a goal of the Department Of Energy's Renewable Energy Program as stated by director Roy Mink. It is also the goal of the Lava Hot Springs Geothermal Energy Team organized by Helen Harrington and Ken Neeley of the IDWR. We are charter members of this team.

Your paragraph referring to the protest hearing Re: Applications for Permit No.'s 29-8162 and 29-08164 in the Name of Lazy "V" Ranch pertains to a matter having nothing to do with this application (above) and is, therefore, inappropriate. Your conclusion that pumping of water by George Katsilometes was likely resulting in a decline of water pressures in other artesian wells completed in the low temperature geothermal aquifer was also inappropriate and inaccurate as the issue of why and how water temperatures declined near the illegal State Foundation well was not under question in that hearing. Your conclusion was and is unsupportable by the facts in the testimony brought out in the hearing and by the facts in the record which clearly demonstrate that the illegal low temperature well which was dug for the State Foundation by track hoe without permit or licensed well driller and located within a few hundred yards of the protestants in the hearing is the cause of the decline in water temperature and the drying up of natural hot springs on both the North and South sides of the Portneuf river and in all nearby artesian geothermal wells. This illegal well, the multiple underground siphon pipes which divert low temperature geothermal water to the well, the multiple illegal points of diversion and the continued pumping (mining) of water from this well by the State Foundation has financially damaged neighboring business and property owners for over 10 years without relief from the Department of Water Resources. It is an unnecessary diversion of geothermal water as the State Foundation has over 3 cfs flowing from springs which is more than enough to heat the recreation pool without pumping from an illegal well.

Yes, George W. Katsilometes is co-owner of the Lava Hot Springs Inn and, with Frances B. Brady, has been so for over fifteen years.

The application is for the additional beneficial direct use of low temperature geothermal water and we have obtained the assistance of Mr. Scott Gerwe who is a geologist with graduate school course work in hydrogeology in order to satisfy your demands. Mr. Gerwe made an analysis and measured the water needs of the fan coils and heat exchanger in our buildings and the needs of the other 11 pools at the Lava Hot Springs Inn on 06/24/04. Please see his findings attached to this letter.

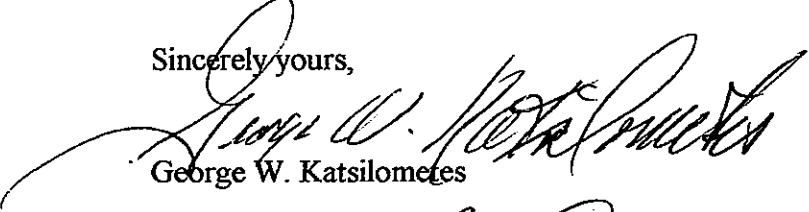
We are not proposing the drilling or pumping of water from new wells or sources on our property.

There is no deficiency of geothermal water in Lava, but the pumping of water from the illegal State Foundation well has affected the temperature of neighboring wells and has also lowered the level of the aquifer as evidenced by the drying of natural springs on the North and South sides of the Portneuf river and by the lowering of static water levels in wells on private property on the South side of the river.

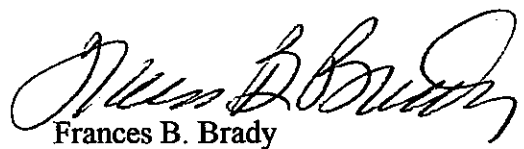
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In closing, we find it interesting that you would choose to mail a copy of our application to all the water users who were parties to a previous contested matter (Lazy "V" Ranch above) and ask them for comment related to the injury to other water users, sufficiency of water supply, the local public interest, and conservation of waters of the state of Idaho. We wonder about the propriety of this action as the previous hearing had only to do with an application to appropriate water being delivered to the Vargason property from the illegal State Foundation well (to which we were protestants). We would ask you is it the norm for an employee of the Department of Water Resources to take these measures and if so, how often have you done this in the last 10 years and what are the file numbers for those applications?

Sincerely yours,



George W. Katsilometes



Frances B. Brady

Cc: Gregory Moeller, Esq., and Karl J. Dreher; Director: IDWR

RECEIVED
JUL 19 2004
DEPARTMENT OF
WATER RESOURCES

7/13/04

Lava Hot Springs Inn
94 E. Portneuf Ave.
PO 670
Lava Hot Springs, Idaho 83246

Gary Spackman
State of Idaho
Department Of Water Resources
1301 N. Orchard St.
Boise, Idaho 83706

Re: Application to Appropriate Water No. 29-13672

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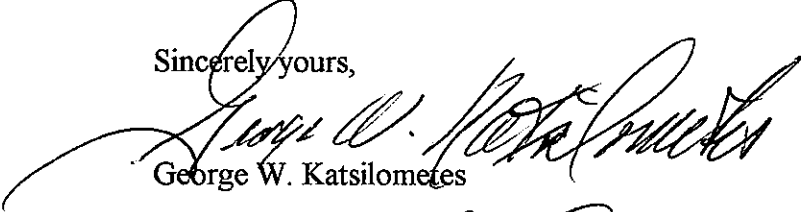
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George W. Katsilometes



Frances B. Brady

Cc: Gregory Moeller, Esq., and Karl J. Dreher, Director: IDWR

RECEIVED
JUL 19 2004
DEPARTMENT OF
WATER RESOURCES

7/12/04

Scott Gerwe
Geologist
490 West Fife
Lava Hot Springs, Idaho 83246
(208) 313-1349

Gary Spackman
State of Idaho
Department Of Water Resources
1301 North Orchard Street
Boise, Idaho 83706

Dear Gary:

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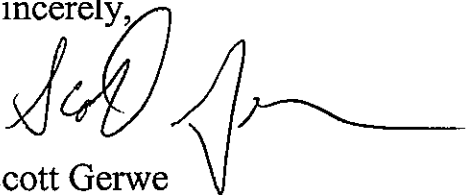
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Sincerely,

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

Scott Gerwe

RECEIVED

JUN 07 2004

DEPARTMENT OF
WATER RESOURCES

June 4, 2004

Gary Spackman
Idaho Department of Water Resources
P.O. Box 83720
Boise, Id 83720-0098

Re: Application to Appropriate Water No. 29-13672

Dear Gary,

I am in receipt of your letter dated May 21, 2004, faxed to me by Karen Vargeson, Lazy V Ranch. I believe there is an ample supply of low temp geothermal water here in Lava. My concern is learning more expert knowledge about the resource and it's best development. Perhaps the city of Lava could obtain a grant for further exploration.

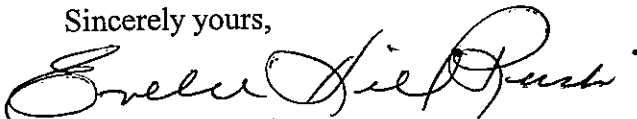
Thank you for your time on the phone today. Yes, the application is most confusing to me also. I had understood that George at the Lava Hot Springs Inn and Spa had all the hot water he needed after drilling deeper in an existing well.

Several questions are important to me:

1. What are the current hot water rights approved by water resources for George's establishment? Commercial? Domestic? Consumptive? He bottles water for sale.
2. Does he have a permit to heat the buildings currently being heated and cooled?
3. How does drilling a 720 foot deep well effect the water system as a whole?
4. What is the difference between a hot and cold well water drilling, casing, etc.?

I was not aware of the permit application, thus no objection was filled. I would like to be kept informed of any further details of the application. Much more information is needed to understand how this affects other hot water users in the adjacent areas.

Sincerely yours,



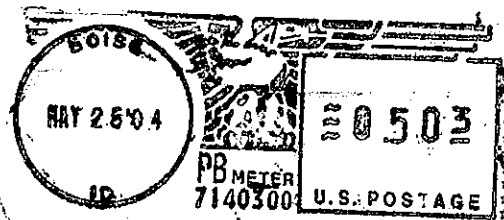
Evelee Hill Rush
P.O. Box 129
Lava Hot Springs, ID 83246

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

North Orchard Street, P.O. Box 83720
Boise, Idaho 83720-0098

Return Service Requested

POSTED
FIRST CLASS



UNDELIVERABLE AS
ADDRESSED
FORWARDING ORDER
EXPIRED

~~EVELLE HILL RUSH~~

PO BOX 4905
POCATELLO ID 83205-4905

FIVE

221-9800
Evelle
Hill-
PO Box 129
Lava Hot Sp.
83246-
Water Resources

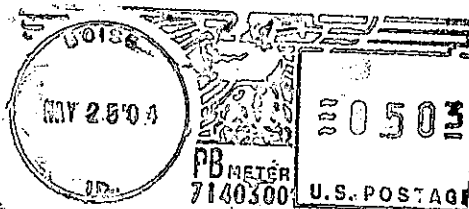
CAAGTMS 83205 JUL 11 1905

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

North Orchard Street, P.O. Box 83720
Idaho 83720-0098

Return Service Requested

REGISTER
FIRST CLASS



ART
MK

JOHN MEHREZ
1424 HIGH ST
AUBURN CA 95603

RETURNED
TO SENDER
ATTEMPTED
NOT KNOWN

RETURNED
TO SENDER
ATTEMPTED
NOT KNOWN

RECEIVED
JUN 04 2004
DEPARTMENT OF
WATER RESOURCES

Unsubscribed

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

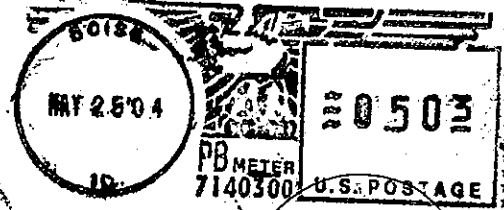
1801 North Orchard Street, P.O. Box 83720
Boise, Idaho 83720-0098

Return Service Requested

- ☐ Not Deliverable As Addressed
☐ Unable To Forward
☐ Insufficient Address
☐ Moved, Left No Address
☐ Undelivered ☐ Refused
☐ Attempted-Not Known
☐ No Such Street/Number
☐ Vacant ☐ Incomplete
☐ No Mail Recent
☐ Box Closed-No Order
☐ Return d For Better Address
☐ Postage Due _____

BOB MELINE
LAVA HOT SPRINGS FOUNDATION
420 EAST MAIN
LAVE HOT SPRINGS ID 83246

PRESORTED
FIRST CLASS



Resent 6/3/04
df
RECEIVED
JUN 02 2004
Department of Water Resources

LAVA HOT SPRINGS, IDAHO
83246
83246

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

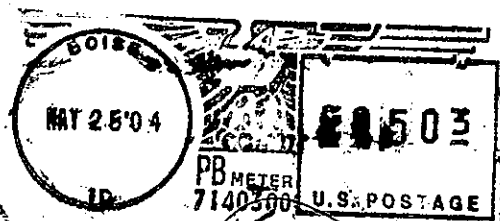
1 North Orchard Street, P.O. Box 83720
Boise, Idaho 83720

Return Service Requested

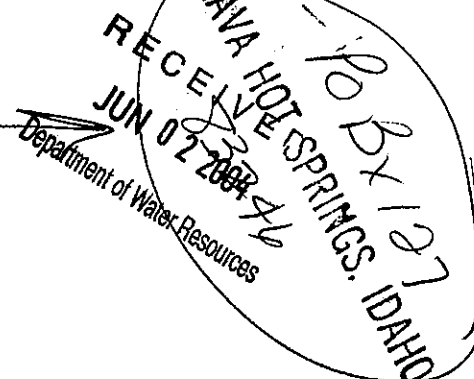
- ☒ Not Delivered As Addressed
☒ Unable To Forward
☐ Insufficient Address
☐ Moved, Left No Address
☐ Unclaimed ☐ Refused
☐ Attempted-Not Known
☐ No Such Street ☐ Number
☐ Vacant ☐ Illegible
☐ No such place
☐ Gov. Certificate Order
☐ Return to Other Address
☐ Postage Due

F L WALDEN
PO BOX 137
LAVA HOT SPRINGS ID 83246

RESERVED
FIRST CLASS



Resent
6/3/04
dg





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

May 21, 2004

FRANCES B BRADY
980 CENTENNIAL CREEK
POCATELLO ID 83201

Re: Application to Appropriate Water No. 29-13672

Dear Ms. Brady:

This letter is a follow-up to correspondence you exchanged with Kay Walker of this office. Application to appropriate water no. 29-13672 was forwarded to me for final application review.

Application to appropriate water no. 29-13672 seeks the appropriation of 0.5 cfs for commercial purposes. Question 6.d. of the application asks whether ground water with a temperature of greater than 85 degrees Fahrenheit is sought. You answered the question "NA." Question 8.e. states, in someone else's hand writing, that the use will be for the purpose of "heating Lava Hot Springs Inn & use in the hot tubs."

Question 10. of the application asks for a description of any other water rights used for the same purposes. This item was left blank on the application.

In your letter dated April 5, 2004 to Kay Walker, you write:

The direct-uses we have applied for (heating of our hotel buildings and supplying water to our outdoor mineral therapy pools) are not new to the Inn. We currently have 2 buildings we would like to heat with the water. Each building requires up to 80 gallons of hot water/minute for heating purposes. We also have 11 outdoor mineral therapy pools which are not presently supplied with mineral water. Nine of these pools require 5 gallons/minute for operation and the other two require 10 gallons/minute. In order for us to fully provide for our customers by heating the additional 2 buildings and supplying the eleven existing pools we will need the 0.50 cfs we have applied for. We have this water without any need for additional wells or pumps as our sources are artesian and all of the water we are asking for in this permit is discharged into the Portneuf River to be used by farmers, etc. downstream."

The letter implies that there is an existing use of water. As a result there is either a water right representing the existing use, or the existing use is illegal. In addition, the letter implies that the water proposed to be diverted is low temperature geothermal water despite the representations on the application.

If my conclusions are incorrect, and you are seeking cold ground water, please correct my mistake. If however, you want to divert additional low temperature geothermal water, significant additional information must be submitted to the IDWR for consideration.

Several years ago, I conducted a contested case hearing for a proposed use of low temperature geothermal water downstream of the Lava Hot Springs Foundation lands. I concluded in my preliminary order that pumping of water by George Katsilometes was likely resulting in a decline of water pressures in other artesian wells completed in the low temperature geothermal aquifer. I notice on your application that George W. Katsilometes is a co-owner of the property listed as a place of use.

Again, if the application is seeking the appropriation of low temperature geothermal water, please submit the following information:

1. Information prepared by a registered professional engineer, a registered professional geologist, or other qualified professional, analyzing the impact your proposed appropriation of water will have on other water uses in the Lava Hot Springs area.
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In addition to the above information, I will mail a copy of your application with a copy of this letter to all of the water users who were parties to the previous contested matter and ask them for comment related to the injury to other water users, sufficiency of water supply, the local public interest, and conservation of waters of the state of Idaho.

Because I have asked you for technical information, I will grant a period of 90-days within which to submit the information. If any of the water users to whom I send direct notice respond questioning the criteria IDWR must consider, I will send them a copy of the information you submit, and give them an opportunity to respond through their own experts.

Respectfully,



Gary Spackman

Cc: Kay Walker
Eastern Region
Parties to Lazy V. Ranch

Parties to Lazy V Ranch- rec'd 5/21/04 letter. of
w/encl. (Copy of Application)

Bob Meline
Lava Hot Springs Foundation
420 East Main
Lava Hot Springs, ID 83246

Jack H. Robison
Jones, Chartered
415 S. Arthur
P.O. Box 967
Pocatello, ID 83204-0967

Evelee Hill Rush
P.O. Box 4905
Pocatello, ID 83205-4905

Gregory W. Moeller
Rigby, Thatcher, Andrus,
Rigby, Kam & Moeller
P.O. Box 250
Rexburg, ID 83440

John Mehlhaff
1424 High St.
Auburn, CA 95603

F.L. Duke Walden
P.O. Box 127
Lava Hot Springs, ID 83246

RECEIVED

APR 09 2004

Department of Water Resources

Lava Hot Springs Inn

Porrneuf Ave. ~ Lava Hot Springs ~ Idaho 83256

4/5/04

Kay Walker *KW*
Sr. Water Resource Agent
Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706-0098

2 bldgs @ 80 gal/min

RE: Application for Permit

*11 pools 9 @ 5 gpm
2 @ 10 gpm*

Dear Ms. Walker:

This letter is written in response to your request for 0.50 cfs in the continued use of the direct-uses we have been supplying water to our customers. We currently have 2 buildings that require up to 80 gpm. We also have 11 outdoor mineral water pools. Nine of these pools are heated and the other two require heating. Our customers by heating existing pools we will need without any need for additional water. We are as the Snake River to be used by farmers and providing for a tourist business. \$30,000 in State of Idaho

*160
45
20
225 gpm = 0.50 cfs*

ESRP area

Non-Trust area

Sincerely yours,

Frances B. Brady

Frances B. Brady
Owner: Lava Hot Springs Inn

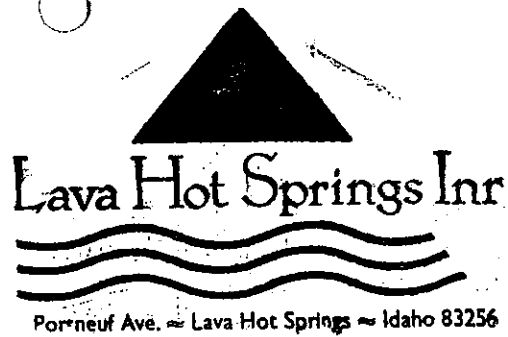
post pub = 0

Cc: Greg Moeller, Esq.; Rigby, Th

RECEIVED

APR 09 2004

Department of Water Resources



4/5/04

Kay Walker *KW*
Sr. Water Resource Agent
Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706-0098

RE: Application for Permit 29-13672

Dear Ms. Walker:

This letter is written in reply to your request for our determination of the need for 0.50 cfs in the continued operation of our business (the Lava Hot Springs Inn). The direct-uses we have applied for (heating of our hotel buildings and supplying water to our outdoor mineral therapy pools) are not new to the Inn. We currently have 2 buildings we would like to heat with the water. Each building requires up to 80 gallons of hot water/minute for heating purposes. We also have 11 outdoor mineral therapy pools which are not presently supplied with mineral water. Nine of these pools require 5 gallons/minute for operation and the other two require 10 gallons/minute. In order for us to fully provide for our customers by heating the additional 2 buildings and supplying the eleven existing pools we will need the 0.50 cfs we have applied for. We have this water without any need for additional wells or pumps as our sources are artesian and all of the water we are asking for in this permit is discharged into the Portneuf River to be used by farmers, etc. downstream. Thank you for your help in providing for a tourist business that hires 7 to 10 and collects and currently pays \$30,000 in State of Idaho taxes/year.

Sincerely yours,

Frances B. Brady
Frances B. Brady
Owner: Lava Hot Springs Inn

Cc: Greg Moeller, Esq.; Rigby, Thatcher, Andrus, Rigby, Kam & Moeller



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

March 31, 2004

FRANCES B BRADY
980 CENTENNIAL CK
POCATELLO ID 83201

RE: Application for Permit 29-13672

Dear Mr. Brady:

The Department of Water Resources is reviewing the application you filed for 0.50 cfs of water to be used for heating Lava Hot Springs Inn and for use in hot tubs. IDWR is required in Section 42-203A(5), *Idaho Code*, to ensure that new water uses are not contrary to the conservation of water resources in Idaho. In other words, new water uses must meet reasonable standards of efficiency.

In order for IDWR to evaluate your application, we need information describing how you determined the amount of water you have applied to appropriate. Please provide the calculations you used to determine that 0.50 cfs is the necessary diversion rate for your project.

The Department will hold further processing of your application for 30 days to allow submittal of the required information. Additional time may be granted by the Department upon receipt of a written request and sufficient justification for an extension. After that time, if adequate information is not received, the Department will issue a preliminary order to reject or deny the application.

If you have any questions in regard to this matter, please feel free to contact me at (208)327-7944 or our regional office in Idaho Falls at (208)525-7161.

Sincerely,

KAY WALKER
Sr. Water Resource Agent

KW:k

Cc: ROGER WARNER, IDWR, Idaho Falls

RECEIVED

MAR 18 2004

Dist for Staffing _____
Submitted for advertising _____

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT ANALYSIS PERMIT

INITIAL REVIEW BY Dennis DATE 4 Feb 2004 APPLICATION NO. 29-13672

REQUIRED INFORMATION:

- ☒ Name (if applicant is a corporation or partnership, names must be provided for the director, officers, & other partners.)
☒ Address
☒ Source (See USGS Quad for names of water sources)
☒ Point of Diversion (10 acres for spring, lot & block descriptions for subdivision, local name, flow and/or volume)
☒ County
☒ Quantity (flow and/or volume)
☒ Period of Use
☒ Nature of proposed use (Include description of use.)
☒ Description of diverting works
☒ Time required for beneficial use of water
☒ Place of use or acres irrigated
☒ Map
☒ Signature (If applicant is corp., partnership, or municipality, title of signatory is required)
☒ Fee
☒ Yes _____ No* In form to receipt

ADDITIONAL INFORMATION:

- ☒ Overlapping place of use (Describe source & relationship to present application on the back) 29-
☒ Overlapping point of diversion
Yes _____ No _____ Critical groundwater area
Yes _____ No _____ Groundwater management area
Yes _____ No _____ Send dam safety information
Yes _____ No _____ Send fish farm requirement letter
Yes _____ No _____ Power residency affidavit
Yes _____ No _____ Within trustwater boundary (If yes, attach trust water supplementary analysis sheet)
Yes _____ No _____ Public Water System
Yes _____ No _____ Planning section review
Yes _____ No _____ Moratorium Hold file
See reverse side for additional information

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT

_____ Date Requested _____

PROCESSING:

- ☒ Yes _____ No _____ In form for advertising
☒ Yes _____ No _____ Statewide advertising
☒ Yes _____ No _____ Fee amount, receipt date & No. recorded on application

SEND COPIES TO:

_____ Id Dept of Environmental Quality _____ U.S. BLM
_____ Id Dept of Fish & Game _____ U.S. Forest Service
_____ Id Dept of Lands _____ Water District
_____ Adjudication Bureau Unit _____ Other _____

FINAL REGIONAL PROCESSING REVIEW:

☒ Yes	☐ No	Affidavit of publication received
☒ Yes	☐ No	Application published correctly. If not, record action taken
☒ Yes	☐ No	Publication dates & paper, recorded on application
☐ Yes	☒ No	Protests received
		Final date for protest
☐ Yes	☐ No	Protests, dates, resolution of protest, recorded on application
☐ Yes	☐ No	Recommendations attached
☐ Yes	☐ No	Measuring device required
☐ Yes	☐ No	Access port required
☐ Yes	☐ No	Will water be delivered by watermaster? If yes, what District
☐ Yes	☐ No	Special conditions of approval or cover letter below.

Date of priority recommend

By:

1/30/2004
3/10/2004

STATE OFFICE REVIEW:

By:

Date:

ADDITIONAL INFORMATION:

LOCAL PUBLIC INTEREST:

Comments received from:

☐ City	☐ Id Fish & Game	☐ Irrigation District
☐ County	☐ Id Health & Welfare	☐ Canal Company
☐ Reservations	☐ Div. Of Environment	☐ Other

Project impacts/implications report

COMMENTS

RECEIVED

MAR 01 2004

Department of Water Resources
Eastern Region

PROOF OF PUBLICATION

STATE OF IDAHO
County of Bannock

LN10450

KAREN MASON

NOTICE

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

29-13672

FRANCES B. BRADY
980 CENTENNIAL
CIRCLE
POCATELLO, ID
83201

Point(s) of Diversion:
NWSESE S21 T09S
R38E, BANNOCK
County

Source GROUND WATER

Use: HEATING 01/01
to 12/31 0.5 CFS

Total Diversion: 0.5
CFS

Date Filed: 01/30/2004

Place of Use: HEATING

T09S R38E S21 SESE

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Eastern Region, 900 N. Skyline Dr., Ste. A, Idaho Falls, ID 83402 together with a protest fee of \$25.00 for each application on or before March 8, 2004. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director
February 19, 26, 2004
LN10450

being first duly sworn on oath deposes and says: That SHE was at all times herein mentioned a citizen of the United States of America, more than 21 years of age, and the Principal Clerk of THE IDAHO STATE JOURNAL, a daily newspaper, printed and published at Pocatello, Bannock County, Idaho, and having a general circulation therein.

That the document or notice, a true copy of which is attached, was published in the said IDAHO STATE JOURNAL, on the following dates, to-wit:

FEB. 19	2004	2004
FEB. 26	2004	2004
	2004	2004

That said paper has been continuously and uninterruptedly published in said County for a period of seventy-eight weeks prior to the publication of said notice of advertisement and is a newspaper within the meaning of the laws of Idaho.

Karen Mason

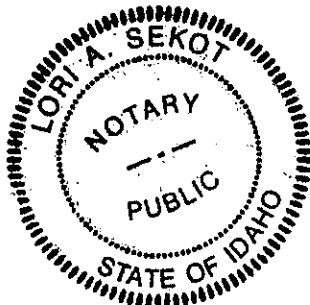
STATE OF IDAHO
COUNTY OF BANNOCK

On this 26TH DAY of FEB. in the year of 2004, before me, a Notary Public, personally appeared KAREN MASON, 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 acknowledge to me that she executed the same.

Lori A. Sekot
Notary Public for Idaho

Residing at ARIMO

My commission expires :FEBRUARY 2009





State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 11, 2004

FRANCES B BRADY
980 CENTENNIAL CIRCLE
POCATELLO ID 83201

RE: Application for Permit No 29-13672

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the Idaho State Journal on February 19 and 26, 2004. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). 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, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved.

Please feel free to contact this office if you have any questions.

Sincerely,

W Roger Warner
Water Rights Supervisor

WRW:sc



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 11, 2004

Legal Notice Department
IDAHO STATE JOURNAL
PO BOX 431
POCATELLO ID 83204

RE: Application for Permit No. 29-13672

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper 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 March 8, 2004. Your cooperation is appreciated.

Sincerely

Sharla Cox
Administrative Assistant

Mailed
2/11/04
se

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

29-13672

FRANCES B BRADY
980 CENTENNIAL CIRCLE
POCATELLO ID 83201

Point(s) of Diversion: NWSESE S21 T09S R38E, BANNOCK County

Source GROUND WATER

Use: HEATING 01/01 To 12/31 0.5 CFS

Total Diversion: 0.5 CFS

Date Filed: 01/30/2004

Place Of Use: HEATING

T09S R38E S21 SESE

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before March 8, 2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on February 19 and 26, 2004