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FEB - 1 2005

DEPARTMENT OF
WATER RESOURCES

IDWR STAFF MEMORANDUM

MacGregor

Applications: 65-13912, 65-13913, 65-13986

From: J. Westra, Western Region

Date: 1/27/05

1. An analysis by IDWR whether the applications at issue should be granted:

The concern expressed by IDWR has been possible injury to the senior water rights (Pancheri). Geothermal resource systems are fragile; invasive actions could result in possible non-reversible injury to the resource and senior water rights. The letters of November 12 and June 5, 2003 outline IDWR's responsibilities and concerns relating to the resource.

2. A listing of IDWR memoranda that are applicable to the these applications:

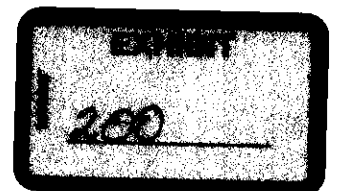
02/18/04	IDWR Memorandum- Application Processing Sequence
11/12/03	IDWR Letter- Applicant's Test Well Proposal Rejection
06/05/03	IDWR Letter-Test Well Proposal
03/25/03	IDWR Letter-Excess Diversion by protestant

3. An analysis of the availability of water at the proposed point of diversion or analysis of related studies:

05/20/03 Sherl Chapman's letter to Scott Campbell—analysis of Belvidere Springs
09/02/03 Terry Scanlan's Test Well Proposal submitted to IDWR.
-Studies/reports referenced in the Scanlan Test Well Proposal

4. GIS Maps relating to the applications:

See attached maps-2 copies



Applications For Permit #65-13912 & #65-13913-Contested

Applicant: Carol MacGregor

J. Westra, Western Region

2/18/04

RE: IDWR Processing Sequence

8/02/99	Applications filed with IDWR for geothermal heating and commercial use. Protests are received from Pancheri
3/10/00	1 st Prehearing protest conference held, applicant does not appear.
6/20/00	Prehearing conference is held—protest is not resolved.
9/18/00	Hearing date is set for 11/14/00
11/03/00	IDWR Order issued to interrupt processing and cancel hearing
1/03/01	IDWR Order issued for discovery
1/25/01	Amended Discovery Order issued to extend deadlines
3/12/01	Monitoring agreement facilitated by the applicant and protestant Flow monitoring begins-Pancheri
6/06/01	IDWR order issued acknowledging the monitoring agreement
10/01/02	Flow monitoring at the Pancheri site is discontinued
11/28/02	Applicant requests total monitoring, test well monitoring
3/25/03	IDWR letter discusses applicant's request-related to test well
6/05/03	Test well proposal discussed by IDWR letter
6/12/03	Site visit by IDWR representatives
9/04/03	IDWR receives test well proposal from Scanlan Engineering
10/02/03	IDWR receives test well proposal analysis from S. Chapman, (Pancheri)
11/12/03	Test well proposal is rejected by IDWR



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 25, 2002 ~~2~~ 3

Josephine P. Beeman
Attorney at Law
409 West Jefferson Street
Boise, ID 83702

Scott L. Campbell
Attorney at Law
P.O. Box 829
Boise, ID 83701 0829

Re: Application to Appropriate Water Nos. 65-13992 & 65-13993 in the name of Carol Lynn MacGregor

Dear Jo and Scott:

I received a letter from Jo Beeman on January 30, 2003 on behalf of Carol Lynn MacGregor, asserting that Duane & Darwin Pancheri are diverting water in excess of their water rights, and asking the Idaho Department of Water Resources (IDWR) to require installation of measuring devices and reporting of measurements to IDWR. I also received a letter from Scott Campbell on February 19, 2003, representing protestants Duane & Darwin Pancheri, disputing the alleged over-diversion of water and objecting to the requested measurement and reporting. These letters were written because of earlier letters sent to me by two consultants who are working for the parties. Sherl Chapman (employed by Pancheri) initially wrote a letter requesting discontinuation of a joint measuring program. Terry Scanlan (employed by MacGregor) responded by stating that the measuring program should continue and requested that Pancheris install measuring devices, read the measurements, and annually report the measured flows to IDWR.

IDWR issued an amended order authorizing discovery on January 25, 2002. The order granted a period of one year for discovery. The order also granted a time period of approximately one month for the parties to negotiate an agreement for water flow data gathering. To insure that MacGregor would be able to gather the information necessary for hearing preparation, IDWR would have required Pancheris to measure and report water diversion if the parties had not agreed to gather data. The parties agreed to a measuring plan, and IDWR did not require measuring and reporting.

The request for additional flow measurement and monitoring is related to a proposal to drill a test well. The drilling of a test well, test pumping (or discharge if water flows from the well because of artesian pressure), and measurement of impacts to other related waters has not yet been approved. Because of the proposed location of the test well and the possibility that the drilling of the well may negatively impact other water rights, the proposal for construction of the test well is being reviewed internally within IDWR. After brief discussions with staff about the test well, I am confident that IDWR will expect significantly more detail about the proposed

Jo Beeman & Scott Campbell
March 25, 2003
Page 2

construction of the test well and the plan for testing. These additional information will be requested shortly.

When all the details of the proposed drilling of a test well and the associated test are submitted to IDWR and served on the protestants, IDWR will review the proposal to determine whether IDWR should allow the construction and test to proceed. If IDWR determines a test is appropriate, MacGregor should attempt to negotiate access for the measurements. If MacGregor is unsuccessful, the request that Pancheris install measuring devices and measure and report may be renewed.

IDWR will not initiate any action against Pancheris at the present time for diversion of more volume of water than is authorized by the water rights. There is insufficient proof at the present time that the total volume authorized for diversion is being exceeded.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Spackman", with a stylized, cursive script.

Gary Spackman

cc. Rob Whitney
Terry Scanlan
Sherl Chapman



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 5, 2003

SCOTT CAMPBELL
ATTORNEY AT LAW
MOFFATT THOMAS
PO BOX 829
BOISE ID 83701-0829

JOSEPHINE BEEMAN
ATTORNEY AT LAW
409 W JEFFERSON
BOISE ID 83702

Re: MacGregor's Proposal to Drill a Test Well; Application to Appropriate Water
No. 63-13913

Dear Scott & Jo:

I have received two letters from Scott Campbell inquiring about Carol MacGregor's proposal to drill a test well for geothermal water. Mr. Campbell's letters specifically request that the Idaho Department of Water Resources (IDWR) provide an opportunity for critical scientific scrutiny of the final proposal for a test well. IDWR will not grant a drilling permit to drill a well to test for the geothermal resource until Pancheris and their technical consultants have had a full opportunity to review the proposal and provide meaningful input.

Rob Whitney of this office has asked Terry Scanlan to arrange an onsite visit to pinpoint the location of the test well. I anticipate that Rob Whitney and at least one other IDWR employee with well drilling expertise will attend. The attorneys, the parties, and their technical consultants should be invited. During the onsite visit, the technical consultants can express their concerns in an open discussion with IDWR personnel.

IDWR staff has already voiced some of the same concerns expressed by Mr. Chapman in his letter. Drilling very near or in vents through which the geothermal water flows may alter the artesian flow of the water to the Pancheris's point of diversion. There is also a possibility of temperature change caused by commingling or by flow reduction. If the test well must be abandoned after it is drilled and tested, the materials used to fill and seal the well may also fill and seal the natural water passages, reducing flow and perhaps pressure.

If IDWR approves the drilling of a test well, IDWR will almost certainly require that MacGregor post a bond in an amount necessary to insure proper abandonment and to protect existing water right holders from injury. IDWR recently required a \$20,000 bond for drilling a cold water test well in Round Valley, Idaho. A bond for the drilling of a low temperature geothermal test well could be significantly larger than \$20,000.

Campbell, Beeman
June 5, 2003
Page -2-

In addition to a site visit, IDWR will require the following additional information to accompany a proposal for a test well:

1. Data gathered from well logs, interviews with drillers in the area, and geological surveying in the area that will better describe the formations that will be encountered, and the nature of the low temperature geothermal aquifer sought to be appropriated included the venting system through which the aquifer is discharging.
2. The data should be summarized and conclusions about the data should be written.
3. A detailed description of the method of construction that will protect the low temperature geothermal system and minimize the risk of injury to other water rights. The description should contain both a diagram of the proposed well and a narrative of the proposed construction.
4. A detailed description of the tests that will be performed on the well and any other water sources, and what data will be gathered. The detail must include methods and timing of measurement and data gathering.

MacGregor should distribute the above information to Pancheris and to IDWR.

IDWR will grant a period of time for technical review and comment following submittal. IDWR will then determine whether drilling a test well is appropriate.

Sincerely,



Gary Spackman

CC: Terry Scanlan
Sherl Chapman
Rob Whitney
~~Mark Shifka~~



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 12, 2003

JOSEPHINE BEEMAN
ATTORNEY AT LAW
BEEMAN & ASSOCIATES
409 W JEFFERSON
BOISE ID 83702

SCOTT CAMPBELL
ATTORNEY AT LAW
MOFFATT THOMAS
PO BOX 829
BOISE ID 83701-829

RE: McGregor Application #65-13913 (Protested); Test Well Proposal

Dear Ms. Beeman and Mr. Campbell:

On 1/30/2003 the Idaho Department of Water Resources (Department) received a proposal for construction of a geothermal test well at Belvidere Springs relating to the McGregor Application for Permit #65-13913. Additional information was received from Scanlan Engineering addressing specific questions on 9/4/2003. The Department also received correspondence from Sherl Chapman of ERO Resources presenting analysis and concerns from the protestant's position on 10/07/03.

Pursuant to Idaho Code Sections 42-235 & 42-237a, the Director is charged with protecting the environment, preventing the mixture of water from different aquifers, and protecting the resource from damage and depletion. In addition, IDAPA 37, Chapter 9, Rule 45.01.d states that "[d]rilling permits will not be issued for construction of a well which requires another separate approval from the department, such as a water right permit . . . until the other separate approval has been given by the department." The Director may grant a waiver "if the public interest will be served by the expedited approval." Finally, Idaho Code § 42-1805 grants the Director the authority to "conduct surveys, tests, investigations, research, examinations, studies . . . relating to availability of unappropriated water . . ." The need for additional information, the public interest in gathering the information, and the risk of injury to other water users should be considered in determining whether to approve a drilling permit.

J. Beeman and S. Campbell
Application #65-13913
Page 2.

The Department has reviewed the proposal submitted by Scanlan Engineering and analysis from Sherl Chapman of ERO Resources. In consideration of State Law, Administrative Rules, and information presented by the parties, the Department concludes the following:

* Drilling into the low temperature geothermal system at Belvidere presents a substantial risk for permanent damage to the resource, and additionally subjects the Pancheri water right to possible injury. MacGregor can attempt to establish proof of water sufficiency at the location by other means. The Department will not consider approval of a drilling permit at the proposed location until the following has occurred:

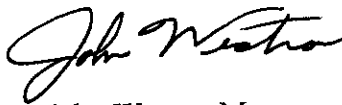
Application for permit #65-13913 is approved, and a drilling permit can be considered.

OR

An agreement to compensate for possible damages is executed by the applicant and protestant.

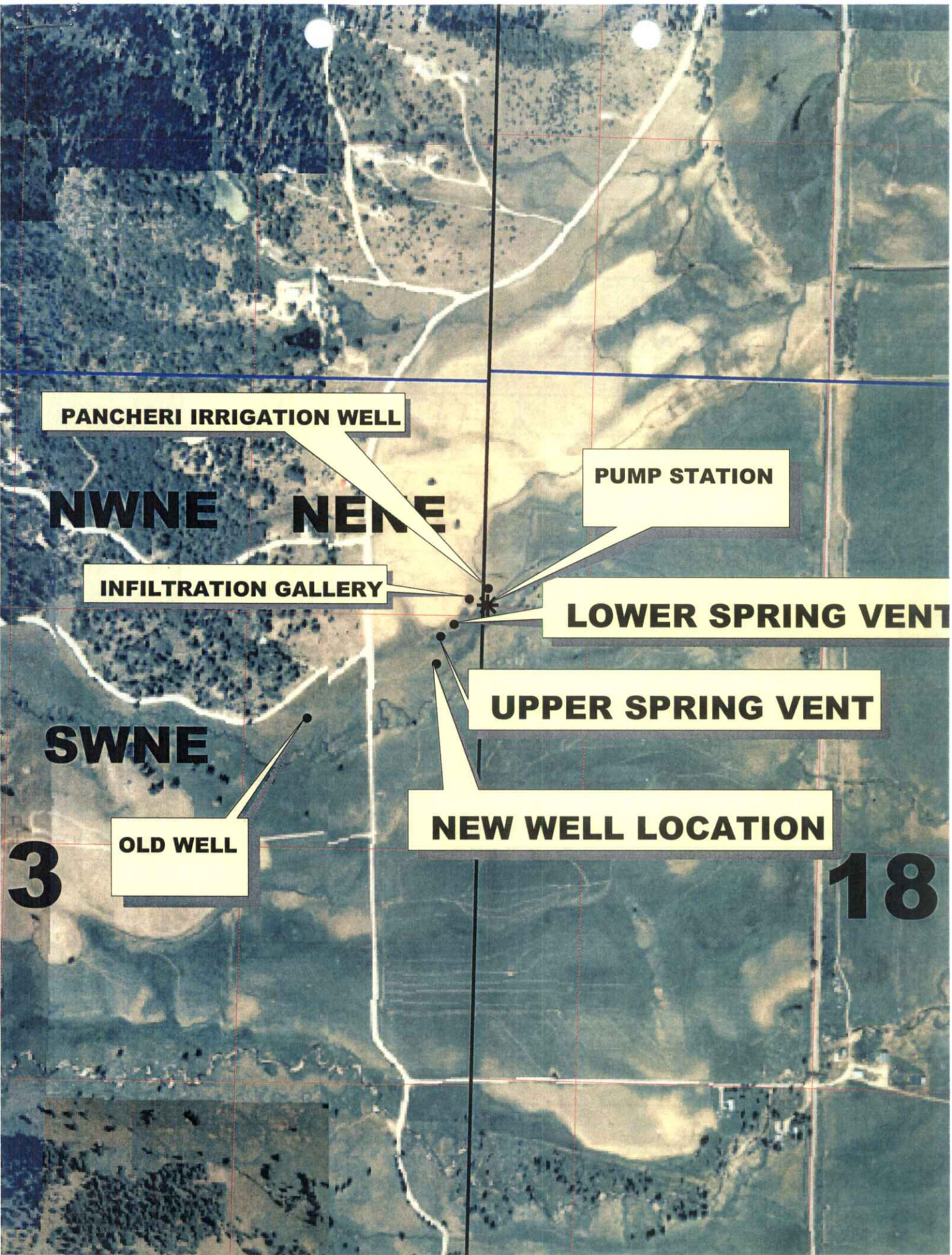
Should you have any questions, please feel free to contact me or Rob Whitney at the Western Regional Office, phone 334-2190.

Sincerely,



John Westra, Manager
Western Region

cc: Sherl Chapman, ERO
Terry Scanlan, Scanlan Engineering



PANCHERI IRRIGATION WELL

PUMP STATION

NWNE NENE

INFILTRATION GALLERY

LOWER SPRING VENT

UPPER SPRING VENT

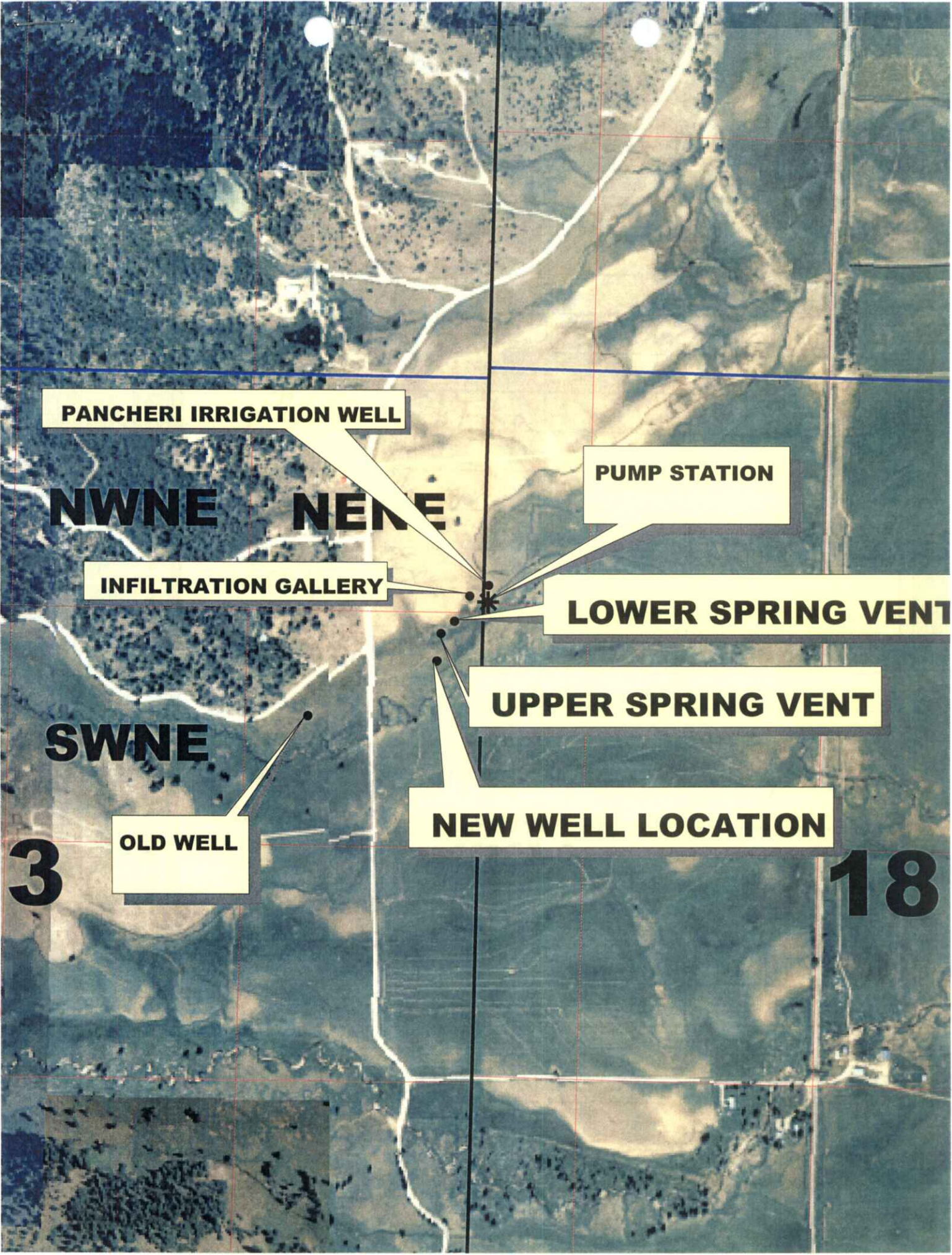
SWNE

OLD WELL

NEW WELL LOCATION

3

18



PANCHERI IRRIGATION WELL

NWNE NENE

PUMP STATION

INFILTRATION GALLERY

LOWER SPRING VENT

SWNE

UPPER SPRING VENT

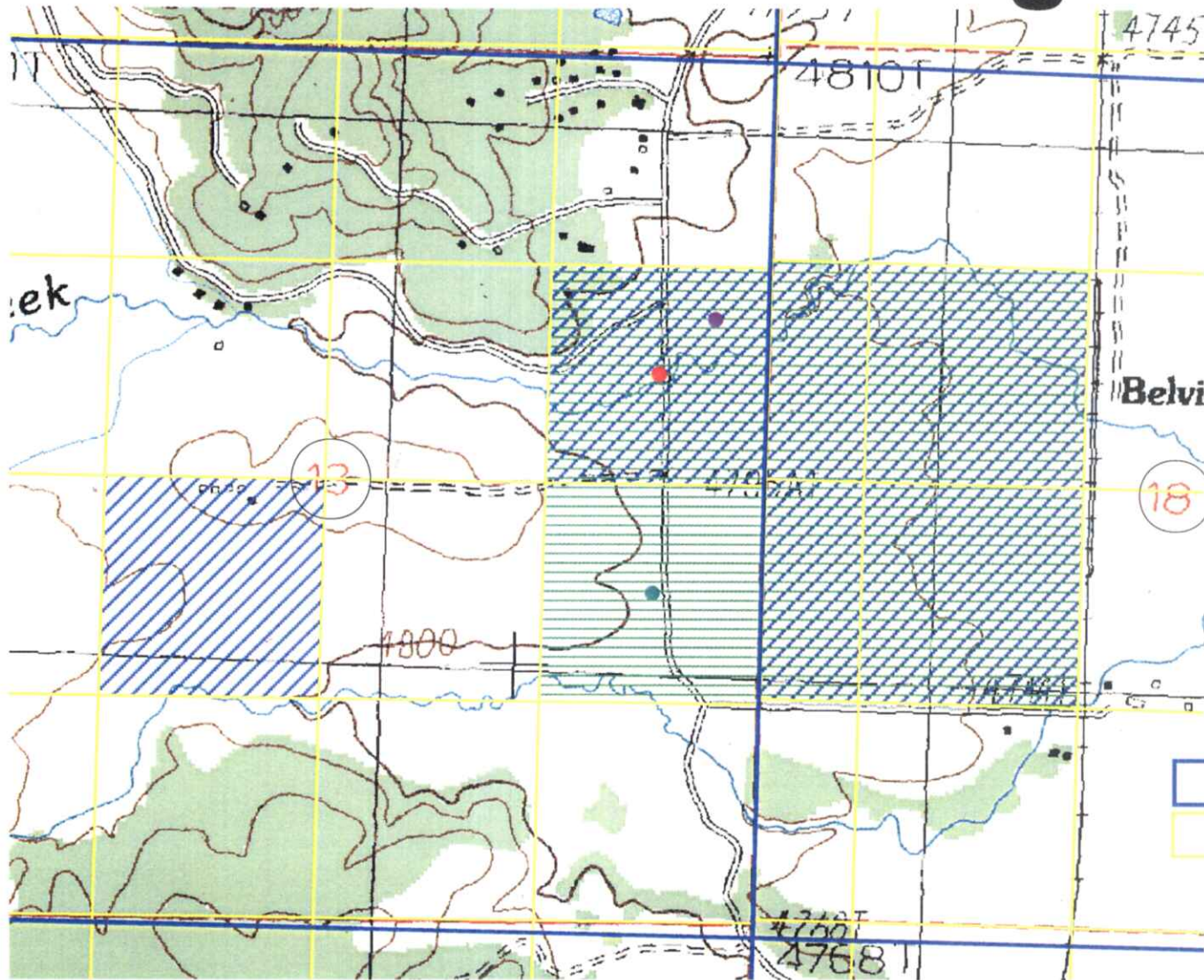
OLD WELL

NEW WELL LOCATION

3

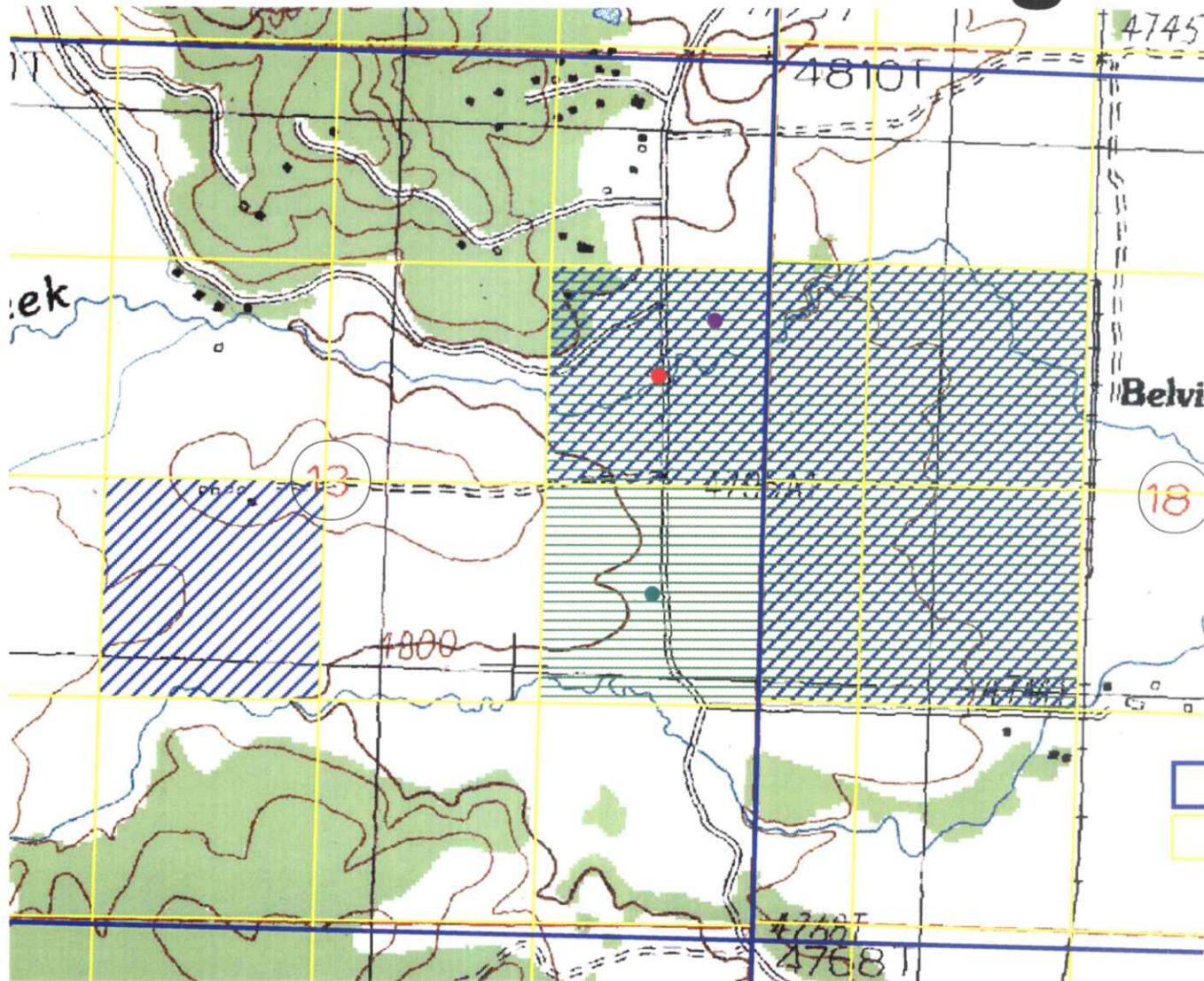
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MacGregor

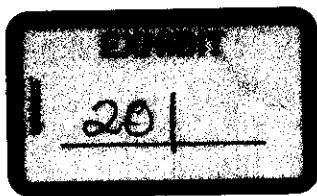


-  Section lines
-  1/4 1/4 lines
-  POD (65-13913 & 65-13986)
-  POD (65-13986)
-  POD (65-13912)
-  POU (65-13912 & 65-13913)
-  POU (65-13986)

MacGregor



- Section lines
- 1/4 1/4 lines
- POD (65-13913 & 65-13986)
- POD (65-13986)
- POD (65-13912)
- POU (65-13912 & 65-13913)
- POU (65-13986)



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR EXTENSION OF TIME TO AVOID
FORFEITURE OF A WATER RIGHT

Section 42-222, Idaho Code, provides that a water right shall be lost and forfeited and the water right revert to the state upon the failure of a water user to apply the water to beneficial use for a period of five (5) years. The Director may allow an additional five (5) year period of non-use without forfeiture upon a showing of reasonable cause.

1. Name of water right holder Carol Lynn MacGregor
2. Mailing address 1109 Warm Springs Avenue, Boise, Idaho 83712
3. The right was obtained or is evidenced by:
a. Partial Decree to Eastern Western Corporation in Case of In Re Snake River Basin Adjudication
vs. _____, Dated 08-28-1998 in District Court, Fifth Judicial
(Name of Court)
District, County of Twin Falls, Fully describe decree State of Idaho
- d. SRBA No. 65-01972
4. Source of water Spring tributary to Moore's Creek
(Name of stream or source)
5. Date of priority of right 05-01-1901
6. Description of Right:
amount 0.04 cfs for domestic purposes from 01/01 to 12/31
(cfs/ac-ft) (1.2 AFA)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
7. Point of Diversion SE 1/4 NE 1/4 of Sec. 13 Twp. 13N Rge. 3E County Valley

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MAR 20 2002

Department of Water Resources

8. Lands irrigated or Place(s) of Use:

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13N	3E	13				X													

Total Acres _____

SCANNED
DEC 21 2004

9. Give the last date when water was put to beneficial use Fall, 1998

Length of extension of time requested five (5) years, or until November 2006
(Date)

10. Explain fully your reasons for requesting an extension of time within which to resume the use of your water right and reasons for non-use See attached page 3

The information contained in this application is true to the best of my knowledge.

(Signature of Applicant) Carol Lynn MacGregor

Subscribed and sworn to before me this 14th day of November, 20 01



(Notary Public)

My commission expires 7-24-02 Residing at Boise, Idaho

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby approve said application subject to the following conditions or reasons:

The right holder shall resume beneficial use of the water on or before November 1, 2006.

Signed this 21st day of March, 20 02

Chief, Water Allocation Bureau L. Glen Saxton

FOR DEPARTMENT USE ONLY

Date Received 12/24/01 FEE Received by J. Masie Date 12/24/01 Receipt # C058699
Preliminary T by g Publication prepared by _____ Pub. approved by _____ Date _____
Published in IDAHO WORLD Dates Published 2-6+13-02
Protests filed by _____
Copies of protests forwarded by _____ Hearing held by _____ Date _____
Recommended for - 9 APPROVAL / 9 DENIAL By Loi Guaver

This water right is in an area known locally as Belvidere Hot Springs and is part of a larger development planned under the immediate area (see Application 65-13912 from hot springs and Application 65-13913 involving two hot water wells and one cold water well). Water Rights 65-01972 and 65-01973 would still be used as domestic rights for private baths within the planned development at Belvidere Hot Springs. However, the two pending applications are protested and are subject at the present to a year-long monitoring program. The bath houses associated with 65-01972 and 65-01973 were removed in the fall of 1998 both in preparation for the proposed development in conjunction with Applications 65-13912 and 65-13913 and because of the "attractive nuisance" status of the bath houses. Both 65-01972 and 65-01973 are listed on Applications 65-13912 and 65-13913 as "water rights used for the same purposes as these applications." Five years is requested, until November 2006, to accommodate the delays associated with the protests and monitoring associated with the new water right applications.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR EXTENSION OF TIME TO AVOID
FORFEITURE OF A WATER RIGHT

Section 42-222, Idaho Code, provides that a water right shall be lost and forfeited and the water right revert to the state upon the failure of a water user to apply the water to beneficial use for a period of five (5) years. The Director may allow an additional five (5) year period of non-use without forfeiture upon a showing of reasonable cause.

1. Name of water right holder Carol Lynn MacGregor
2. Mailing address 1109 Warm Springs Avenue, Boise, Idaho 83712
3. The right was obtained or is evidenced by:
 - a. Partial Decree to Eastern Western Corporation in Case of In Re Snake River Basin Adjudication
vs. _____, Dated 08-28-1998 in District Court, Fifth Judicial
District, County of Twin Falls, Fully describe decree State of Idaho
(Name of Court)
 - b. _____
 - d. SRBA No. 65-01973
4. Source of water Spring tributary to Moores Creek
(Name of stream or source)
5. Date of priority of right 05-01-1901
6. Description of Right:
amount 0.01 cfs for domestic purposes from 01/01 to 12/31
(cfs/ac-ft) (1.2 AFA)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
7. Point of Diversion SE ¼ NE ¼ of Sec. 13 Twp. 13N Rge. 3E County Valley

8. Lands irrigated or Place(s) of Use:

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13N	3E	13				X													

Total Acres _____

9. Give the last date when water was put to beneficial use Fall, 1998

SCANNED
DEC 21 2004

Length of extension of time req ad five (5) years, or until November 2006 (Date)

10. Explain fully your reasons for requesting an extension of time within which to resume the use of your water right and reasons for non-use See attached page 3

The information contained in this application is true to the best of my knowledge

(Signature of Applicant)

Carol Lynn MacGregor

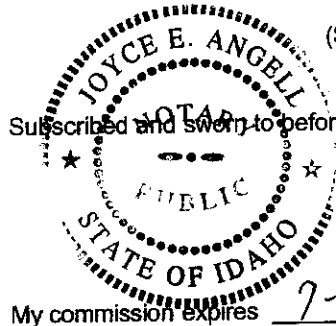
Subscribed and sworn to before me this

14th

day of

November

2001



(Notary Public)

My commission expires

7-24-02

Residing at

Boise, Idaho

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby approve said application subject to the following conditions or reasons:

The right holder shall resume beneficial use of water on or before November 1, 2006.

Signed this

21st

day of

March

20 02

Chief, Water Allocation Bureau

L. Glen Saxton

FOR DEPARTMENT USE ONLY

Date Received

12/24/01

FEE Received by

J. Masie

Date

12/24/01

Receipt #

1058699

Preliminary T by

g

Publication prepared by

Pub. approved by

JE

Date

3/5/02

Published in

IDAHO WORLD

Dates Published

2-6+13-02

Protests filed by

Copies of protests forwarded by

Hearing held by

Date

Recommended for - 9 APPROVAL / 9 DENIAL

By

Loi Garrow

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