

**STARTING
LEFT
SIDE OF
FILE**

Maximum Diversion Rate: 0.30 CFS

has applied for a permit to appropriate water from:

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
DOMESTIC	01/01 to 12/31	0.08 CFS
IRRIGATION	02/15 to 11/30	0.20 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS

GROUND WATER L10 (NW¼ NE¼ NW¼) Sec. 7, Twp 36N, Rge 03W, B.M. NEZ PERCE County
GROUND WATER L10 (SW¼ NE¼ NW¼) Sec. 7, Twp 36N, Rge 03W, B.M. NEZ PERCE County

[illegible][illegible]

PLACE OF USE: STOCKWATER

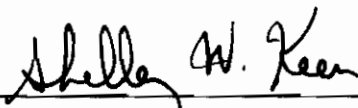
[illegible]

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 85-15685

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2008**.
2. Subject to all prior water rights.
3. Domestic use is for 2 homes. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.
4. Stockwater use is for 3-4 Alpacas.
5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
6. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
8. Water diverted from the point of diversion located in the NW¼ NE¼ NW¼ of Section 7, T36N, R3W, shall be limited to domestic use.
9. This right does not grant any right-of-way or easement across the land of another.
10. The diversion and use of water described in this right may be subject to additional limitations agreed to by another party and the right holder under separate agreement to which the Department is not a party and which may be enforceable by a court of law.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 25th day of May, 2007.


for DAVID R. TOTHILL, JR., Director

3. 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.

for T.C. with Edwin

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
36N	3W	7					D												
36N	3W	7					B			2									10
							S			S									

Total number of acres to be irrigated 10

10. Describe any other water rights used for the same purposes as described above. None.

11. a. Who owns the property at the point of diversion? Dilling, Quillen & Ridgeway

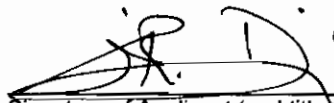
b. Who owns the land to be irrigated or place of use? Dilling, Quillen & Ridgeway

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: See attached Water Use & Maintenance Agreement.

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8 1/2"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 db Date 7/25/06 Time 1:15P Preliminary check by db
 Fee \$ 250.00 Received by db # N017777 Date 7/25/06
 Publication prepared by db Date 11/29/06 Published in August 14, 2006
 Publication approved db Date 12/15/06

85-15685



-  Nez Perce taxlots
-  GCDB36N03W GCDB
-  Pou.shp
-  Pod.shp
-  Administrative BasinsAdminbas.shp



20003031/6

695751
FILED FOR RECORD
27th REG. BY ALLIANCE TITLE

Return Address:

2003 SEP 12 P 4:01

David R. Riskey
Randall, Blake & Cox, P.A.
P.O. Box 446
Lewiston, ID 83501

PATTY O. WEEKS
RECORDER, NEZ PERCE CO ID
BY Corbin DEPUTY

WATER USE AND MAINTENANCE AGREEMENT

Grantors: James R. Dilling aka Jim Dilling and Ella Dilling, husband and wife

Grantees: Raymond D. Quillen, a single man and Julie Marie Ridgeway, a single woman

THIS AGREEMENT made and entered into this 12th day of September, 2003, by and between JAMES R. DILLING aka JIM DILLING AND ELLA DILLING, husband and wife (hereafter "DILLING") and RAYMOND D. QUILLEN, a single man AND JULIE MARIE RIDGEWAY, a single woman (hereinafter "QUILLEN")

WHEREAS, QUILLEN has contracted to purchase a parcel of property situated in Nez Perce County, State of Idaho, more particularly described on Exhibit A (hereinafter referred to as Parcel A) pursuant to the terms of a Residential Purchase and Sale Agreement dated July 10, 2003; and

WHEREAS, DILLING is currently the owner of a parcel of real estate situated in Nez Perce County, State of Idaho, and more particularly described on Exhibit B (hereinafter referred to as Parcel B) attached hereto and incorporated herein by this reference; and

WHEREAS, a water system including a well with a pump drilled on Parcel A which supplies domestic, livestock, agricultural, and irrigation water to both Parcel A and Parcel B (Well 1); a second well with a pump on Parcel B which supplies domestic, livestock,

WATER USE AND MAINTENANCE AGREEMENT

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agricultural, and irrigation water to both Parcel A and Parcel B (Well 2); underground water lines on both Parcel A and Parcel B; pressure tanks and two holding tanks, hydrants for fire protection; and a pump house facility located on Parcel B all of which make and comprise the Wells and Water System; and

WHEREAS, QUILLEN and DILLING wish to enter into this Agreement to define their respective rights and obligations for the use, operation, and maintenance of the Wells and Water System located upon and serving Parcels A and B; and

NOW, THEREFORE, IN CONSIDERATION of the mutual conditions and covenants contained herein the parties agree as follows:

SECTION ONE

WATER RIGHTS AND EASEMENT

The parties hereby agree that QUILLEN and DILLING have an irrevocable, perpetual, and exclusive right to the use of the Wells and Water System including, but not limited to, water from the wells located on Parcels A and B in amounts reasonably necessary to satisfy the needs for domestic, livestock, agricultural, and irrigation purposes for Parcels A and B. The parties further agree that DILLING and QUILLEN will have and hereby grant one to the other mutual reciprocal easements for use of the Wells and Water System including, without limitation, for ingress and egress over and across Parcels A and B to repair, replace, and maintain the Wells and Water system, including the wells and all water lines, the tanks, the pump, the hydrants and all other items reasonably necessary to provide water to Parcels A and B.

This easement shall run with the land and be for all legal purposes related to the use of the Wells and Water System.

In general, QUILLEN will use the water from the Well on Parcel A for both irrigation and domestic purposes. DILLING will use the water from the Well on Parcel B for irrigation purposes and a share of the water from the Well on Parcel A for domestic purposes. However, this allocation may be changed by mutual agreement as needed to meet the needs of the parties or to deal with water supply or system issues. If the parties cannot reach agreement, any disagreements as to source, use or allocation of water shall be subject to Arbitration in accordance with Section Five of this agreement.

SECTION TWO

COSTS AND EXPENSES FOR WELLS AND WATER SYSTEM

DILLING and QUILLEN each agree that they shall pay for repair, maintenance, and operation, and upkeep of the wells, water lines, and other property and equipment associated with the water system on the property in a 1/3 to 2/3 ratio with DILLING paying 2/3 and QUILLEN paying 1/3.

SECTION THREE

SUBSEQUENT USER

DILLING and QUILLEN agree that the right to the use of water from the Wells and Water System located on Parcels A and B, in an amount reasonably necessary to satisfy the needs for domestic, livestock, agricultural, and irrigation purposes of Parcels A and B is exclusive and appurtenant to the land herein described as Parcels A and B. In the event either Parcel A or B is transferred without reconveyance of any easement granted and terminating this Agreement, the selling party shall require that the subsequent owner of Parcel A or B agree in writing to be bound by the terms and conditions of this Agreement, including the obligation to

pay the costs and expenses for the operation, maintenance, and repair of the Wells and Water system as provided in Section Two of this Agreement.

SECTION FOUR

FAILURE TO PAY EXPENSES

In the event that either DILLING or QUILLEN fails to pay for the expenses for the Wells and Water system as provided in Section Two of this Agreement, then the other party, shall have the right, but not the obligation, to advance monies for said expenses or removing liens resulting from the failure to pay said expenses, and shall be repaid by the defaulting party a reasonable amount expended together with interest at the rate of 12% per annum from the date of the expenditure until the date of payment.

SECTION FIVE

ARBITRATION

Decisions regarding the repair, maintenance, payment of expenses, allocation and source of water and operation of the Wells and Water System including, without limitation, pumps, tanks, water lines, and other property and equipment associated with the water system on the property shall be agreed to in advance by the owners of Parcels A, B. In the event the parties are not able to agree on the matters set forth in the preceding sentence, the issues shall be submitted to binding arbitration. Each party shall select an arbitrator, the party selected arbitrators shall select a third, and the decision of the majority of the arbitrators shall be binding upon all parties and may be enforced by any court of competent jurisdiction. The expenses of the arbitrator chosen by each parcel owner shall be paid by that individual and the expenses of the third arbitrator shall be split between the parties. Except as set forth herein, the provisions of Idaho Code Section 7-901 et seq, shall apply to the arbitration proceedings.

WATER USE AND MAINTENANCE AGREEMENT

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SECTION SIXMISCELLANEOUS PROVISIONS

6.1 Binding Effect. This Agreement shall be binding upon the heirs, successors, and assigns of each of the parties hereto. The rights and obligations of the parties under the terms of this Agreement are appurtenant to and shall run with the land.

6.2 Prior Agreements: This agreement modifies the covenants of the prior owners and are made for the express purpose of modifying the right to utilize and share in the water production of the wells and the use of the Wells and Water System.

6.2 Law Governing. This Agreement has been negotiated and made in the State of Idaho, and is to be governed and construed by the laws of the State of Idaho.

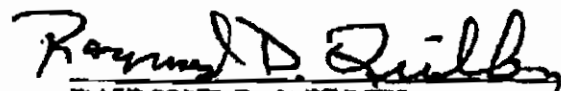
6.3 Modification. This Agreement may be modified or amended only by written agreement signed by the parties hereto.

6.4 Attorney Fees. In any action or suit brought to enforce any of the terms, conditions, or covenants of this Agreement, the prevailing party shall be entitled, as part of the judgment rendered, to all damages and expenses resulting from the breach, including all reasonable attorney fees and court costs, title insurance company charges, witness fees, and other legal expenses incurred by the prevailing party at trial or on appeal.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year hereinabove first written.


ELLA DILLING


ELLA DILLING


RAYMOND D. QUILLEN


JULIE MARIE RIDGEWAY

WATER USE AND MAINTENANCE AGREEMENT

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695751

STATE OF IDAHO)

) ss:

County of Nez Perce)

On this 12 ^{September} day of ~~August~~, 2003, before the undersigned, a Notary Public in and for said State, appeared **JIM DILLING AND ELLA DILLING**, husband and wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year in this certificate first above written.



Kathryn N. VonBargen
Notary Public in and for the State of Idaho
residing at Lewiston therein.
My Commission Expires: 11-6-08

STATE OF IDAHO)

) ss:

County of Nez Perce)

On this 12 th day of August, 2003, before the undersigned, a Notary Public in and for said State, appeared **RAYMOND D. QUILLEN** a single man, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year in this certificate first above written.



Kathryn N. VonBargen
Notary Public in and for the State of Idaho
residing at Lewiston therein.
My Commission Expires: 11-6-08

WATER USE AND MAINTENANCE AGREEMENT

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695751

STATE OF IDAHO)

County of Nez Perce)

) ss:

On this 12 day of August, 2003, before the undersigned, a Notary Public in and for said State, appeared JULIE MARIE RIDGEWAY, a single woman, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year in this certificate first above written.



Kathryn N. Vongsasen
Notary Public in and for the State of Idaho
residing at Lewiston therein
My Commission Expires: 11-6-08

WATER USE AND MAINTENANCE AGREEMENT

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EXHIBIT A

That part of Section 7, Township 36 North, Range 3 West of the Boise Meridian, Nez Perce County, Idaho, more particularly described as follows:

Commencing at the Southwest corner of the Northwest Quarter of said Section 7; thence North 89°47' East along the South line of the North One-Half of said Section 7 a distance of 2911.60 feet to a point on the West line of the Arrow Highline Road; thence North 18°23' East along said West line a distance of 331.00 feet; thence North 43°23' East along said West line a distance of 233.58 feet; thence North 63°11' West 500.00 feet; thence North 42°07' East 383.42 feet; thence South 69°24'03" West 364.69 feet; thence South 79°01'34" West 173.00 feet; thence North 2°59' West 246.76 feet; thence South 63°28' West 107.04 feet; thence North 71°32' West 281.79 feet; thence North 10°08' West 1069.30 feet; thence North 56°48'45" East 157.91 feet to the TRUE PLACE OF BEGINNING; thence North 66°31'15" East 209.04 feet; thence North 77°34' East 197.27 feet; thence South 80°28'47" East 160.53 feet to a point on the West line of Arrow Highline Road; thence South 24°28' East along said West line a distance 280.25 feet; thence South 59°25' West, 187.54 feet; thence South 43°55' West, 103.75 feet; thence North 86°07' West, 76.55 feet; thence South 48°49' West, 127.65 feet; thence North 39°40' West, 130.97 feet; thence North 50°50' West, 164.13 feet; thence North 0°41' West, 123.91 feet; thence North 27°55' West, 86.62 feet to the PLACE OF BEGINNING.

EXHIBIT B

Parcel 1

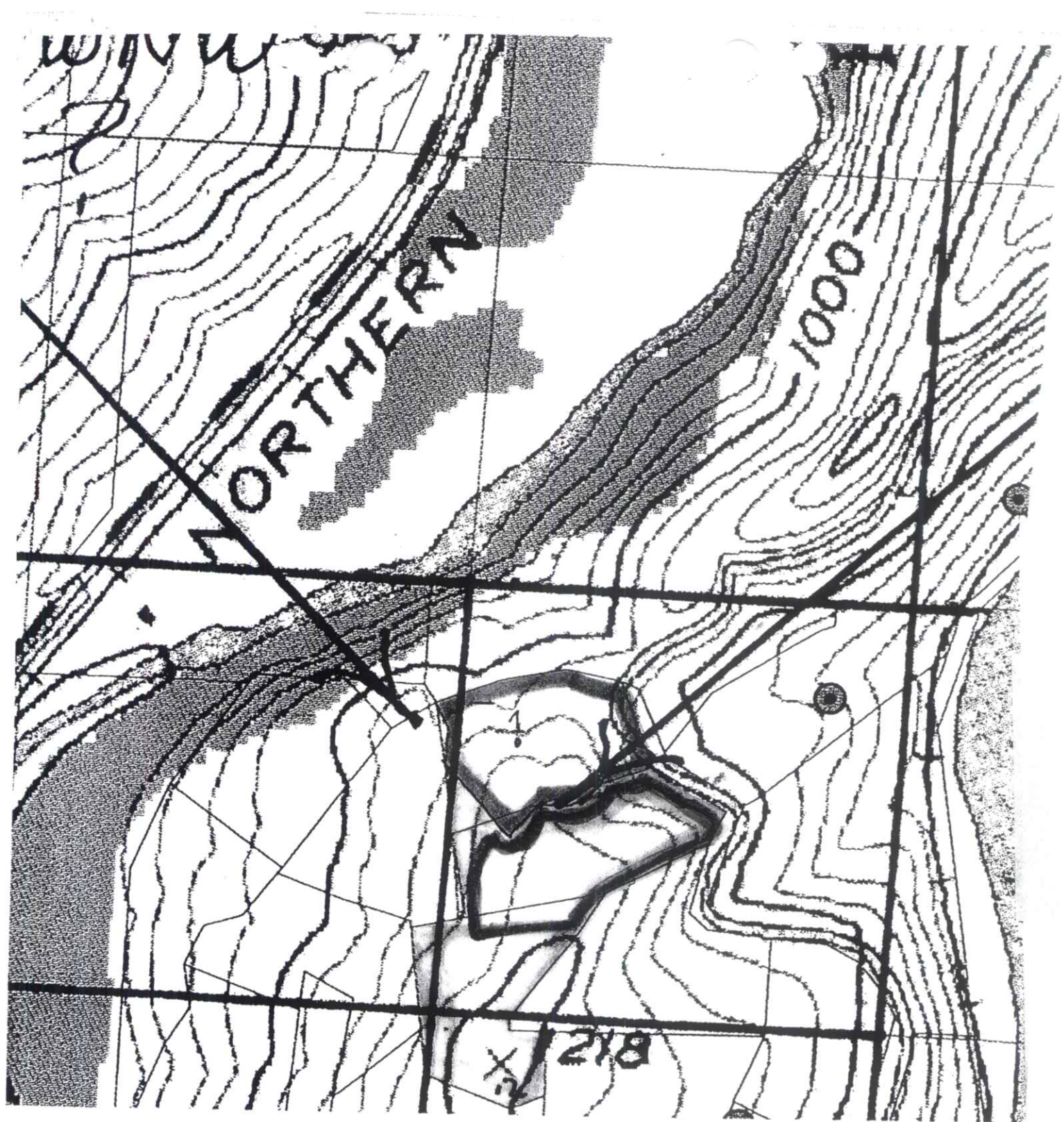
That part of Section 7 of Township 36 North, Range 3 West, B.M., Nez Perce County, Idaho, more particularly described as follows: Commencing at the Southwest corner of the NW¼ of said Section 7; thence N. 89°57'E. along the South line of the North one-half of said Section 7 a distance of 2911.60 feet to a point on the West line of Arrow Highline Road; thence N. 18°23' E. along said West line a distance of 331.00 feet; thence N. 43°23' E. along said West line a distance of 233.58 feet; thence N. 63°11' W., 500.00 feet; thence N. 42°07' E., 383.42 feet; thence S. 69°24'03" W., 364.69 feet; thence S. 79°01'34" W., 173.00 feet; thence N. 2°59' W., 246.76 feet; thence S. 63°28' W., 107.04 feet; thence N. 71°32' W., 281.79 feet; thence N. 10°08' W., 455.19 feet; thence N. 76°22'E., 165.57 feet; thence N. 11°51' W., 261.79 feet; thence N. 67°23' E., 130.66 feet to the true place of beginning; thence continue N. 67°23' E., 493.04 feet; thence S. 59°25'W., 187.54 feet; thence S. 43°55' W., 103.75 feet; thence N. 86°07' W., 76.55 feet; thence S. 48°49' W., 127.65 feet; thence N. 39°40' W., 77.19 feet to the true place of beginning.

Parcel 2

That part of Section 7, Township 36 North, Range 3 West of Boise Meridian, described as follows:

Commencing at the Southwest corner of the Northwest Quarter of said Section 7; thence North 89°57' East along the South line of the North one-half of said Section 7, a distance of 2911.60 feet to the West line of Arrow Highline Road; thence North 18°23' East along the West line of said road a distance of 331.00 feet; thence North 43°23' East along the West line of said road a distance of 233.58 feet; thence North 63°11' West a distance of 500.0 feet; thence North 42°07' East a distance of 383.42 feet; thence South 69°24'03" West a distance of 364.69 feet; thence South 79°01'34" West a distance of 173.00 feet; thence North 2°59' West a distance of 246.76 feet to the True Place of Beginning thence continue North 2°59' West a distance of 194.84 feet; thence South 87°41'21" West (previously described as being South 87°43' West) a distance of 112.93 feet to an existing iron pin; thence North 1°52'08" West a distance of 40.78 feet (previously described as being North 2°17' West 40.0 feet); thence North 34°15'54" East a distance of 294.89 feet (previously described as being North 34°14' East 296.67 feet); thence North 29°23'14" East a distance of 176.30 feet (previously described as being North 29°24' East 180.0 feet); thence South 76°22' West a distance of 587.88 feet; thence South 10°08' East a distance of 455.19 feet; thence South 71°32' East a distance of 281.79 feet; thence North 63°28' East a distance of 107.04 feet to the True Place of Beginning.

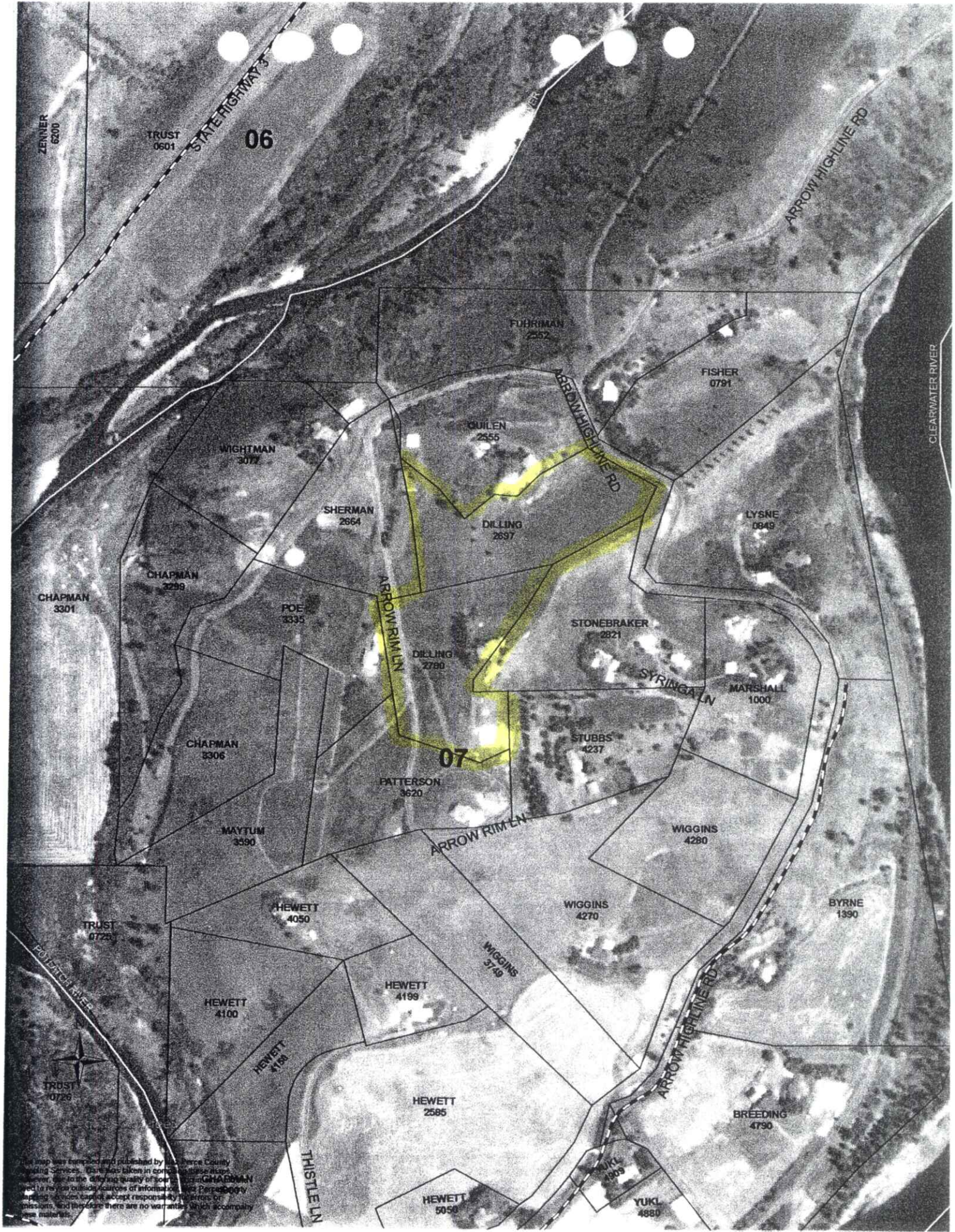
TOGETHER WITH the right of ingress and egress over and across roads as they now exist and traverse from the above described parcel to the Arrow Highline Road.



#1 Well Site
#2 Well Site

Blue Quillen
Yellow Dilling
Pink area, irrigated by Dilling

RP 36N03W07 - - -



This map was prepared and published by [unclear] County Mapping Services. Care was taken in compiling these data. However, due to the changing nature of information, [unclear] County Mapping Services cannot accept responsibility for errors or omissions, and therefore there are no warranties which accompany these materials.

USE TYPEWRITER OR
BALLPOINT PEN

State law requires that this report be filed with the Director, Department of Water Resources
DWR within 30 days after the completion or abandonment of the well.

1. WELL OWNER Name <u>Don Krapp</u> Address <u>Rt 1 Box 149E Juliaetta, MI</u> Owner's Permit No. <u>86-79-N-18-000</u>	7. WATER LEVEL Static water level _____ feet below land surface. Flowing? ☐ Yes ☐ No G.P.M. flow _____ Artisan closed in pressure _____ p.s.i. Controlled by: ☐ Valve ☐ Cap ☐ Plug Temperature <u>64</u> °F. Quality _____ <i>Describe artesian or temperature zones below.</i>																																																																								
2. NATURE OF WORK ☒ New well ☐ Deepened ☐ Replacement ☐ Abandoned (describe abandonment procedures such as materials, plug depths, etc. in lithologic log)	8. WELL TEST DATA ☐ Pump ☐ Beller ☐ Air ☐ Other _____ <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Discharge G.P.M.</th> <th>Pumping Level</th> <th>Hours Pumped</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	Discharge G.P.M.	Pumping Level	Hours Pumped																																																																					
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3. PROPOSED USE ☒ Domestic ☐ Irrigation ☐ Test ☐ Municipal ☐ Industrial ☐ Stock ☐ Waste Disposal or Injection ☐ Other _____ (specify type)	9. LITHOLOGIC LOG <u>88261</u> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2">Bore Diam.</th> <th colspan="2">Depth</th> <th rowspan="2">Material</th> <th rowspan="2">Water Yes No</th> </tr> <tr> <th>From</th> <th>To</th> </tr> </thead> <tbody> <tr><td>4</td><td>0</td><td>4</td><td>Top Soil</td><td> </td></tr> <tr><td>4</td><td>4</td><td>30</td><td>tan clay</td><td> </td></tr> <tr><td>8</td><td>30</td><td>80</td><td>Gravel</td><td> </td></tr> <tr><td>8</td><td>80</td><td>110</td><td>tan clay & rock</td><td> </td></tr> <tr><td>8</td><td>110</td><td>140</td><td>brown clay</td><td> </td></tr> <tr><td>8</td><td>140</td><td>160</td><td>fr. blue sand and mel-</td><td> </td></tr> <tr><td>8</td><td>160</td><td>165</td><td>hard</td><td> </td></tr> <tr><td>8</td><td>165</td><td>175</td><td>round rock - caving</td><td> </td></tr> <tr><td>8</td><td>175</td><td>345</td><td>caving - little of red</td><td> </td></tr> <tr><td>6</td><td>345</td><td>360</td><td>light blue gravel</td><td> </td></tr> <tr><td>6</td><td>360</td><td>440</td><td>blue gravel interbed +</td><td> </td></tr> <tr><td>6</td><td>440</td><td>490</td><td>gray shell - no water</td><td> </td></tr> <tr><td>6</td><td>490</td><td>515</td><td>fr. rounded basalt w/ water</td><td>X</td></tr> </tbody> </table>	Bore Diam.	Depth		Material	Water Yes No	From	To	4	0	4	Top Soil		4	4	30	tan clay		8	30	80	Gravel		8	80	110	tan clay & rock		8	110	140	brown clay		8	140	160	fr. blue sand and mel-		8	160	165	hard		8	165	175	round rock - caving		8	175	345	caving - little of red		6	345	360	light blue gravel		6	360	440	blue gravel interbed +		6	440	490	gray shell - no water		6	490	515	fr. rounded basalt w/ water	X
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4. METHOD DRILLED ☐ Rotary ☐ Air ☐ Hydraulic ☐ Reverse rotary ☐ Cable ☐ Dug ☐ Other _____	RECEIVED AUG 22 1996 Department of Water Resources																																																																								
5. WELL CONSTRUCTION Casing schedule: ☐ Steel ☐ Concrete ☐ Other _____ Thickness _____ inches Diameter _____ inches From _____ feet To _____ feet _____ inches _____ inches _____ feet _____ feet _____ inches _____ inches _____ feet _____ feet _____ inches _____ inches _____ feet _____ feet Was casing drive shoe used? ☒ Yes ☐ No Was a packer or seal used? ☐ Yes ☐ No Perforated? ☐ Yes ☒ No How perforated? ☐ Factory ☐ Knife ☐ Torch Size of perforation _____ inches by _____ inches Number _____ From _____ To _____ _____ perforations _____ feet _____ feet _____ perforations _____ feet _____ feet _____ perforations _____ feet _____ feet Well screen installed? ☐ Yes ☐ No Manufacturer's name _____ Type _____ Model No. _____ Diameter _____ Slot size _____ Set from _____ feet to _____ feet Diameter _____ Slot size _____ Set from _____ feet to _____ feet Gravel packed? ☐ Yes ☐ No ☐ Size of gravel _____ Placed from _____ feet to _____ feet Surface seal depth _____ Material used in seal: ☐ Cement grout ☒ Bentonite ☐ Puddling clay ☐ _____ Sealing procedure used: ☐ Slurry pit ☐ Temp. surface casing ☐ Overbore to seal depth Method of joining casing: ☐ Threaded ☒ Welded ☐ Solvent Weld _____ ☐ Cemented between strata Describe access port <u>COVER</u>	RECEIVED JAN 30 1996 Department of Water Resources																																																																								
6. LOCATION OF WELL Sketch map location <u>must</u> agree with written location. <table border="1" style="width: 100px; height: 100px; border-collapse: collapse; text-align: center;"> <tr><td>N</td></tr> <tr><td>X</td></tr> <tr><td>W</td><td>E</td></tr> <tr><td>S</td></tr> </table> Subdivision Name _____ Lot No. _____ Block No. _____ County <u>Ben. Pette</u> <u>1/2</u> 1/4 NW 1/4 Sec. <u>7</u>, T. <u>36</u> N. S. <u>3</u> E. NW	N	X	W	E	S	11. DRILLERS CERTIFICATION I/We certify that all minimum well construction standards were complied with at the time the rig was removed. Firm Name <u>DE TRAY DRILLING</u> License No. <u>150</u> Address <u>1036-15th St</u> Date _____ <u>CHARLTON, WAH</u> Signed by (Firm Official) _____ and _____ (Operator)																																																																			
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Permit ID
746146

This Well
is on
Dr. King
property

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

1. WELL OWNER Name <u>Jack Curtin</u> Address <u>P.O. Box 677 Lewiston Id. 83501</u> Drilling Permit No. <u>86-92-N-10</u> Water Right Permit No. _____	7. WATER LEVEL Static water level <u>315</u> feet below land surface. Flowing? ☐ Yes ☒ No G.P.M. flow _____ Artesian closed-in pressure _____ p.s.i. Controlled by: ☐ Valve ☐ Cap ☐ Plug Temperature <u>52</u> °F. Quality <u>Good</u> Describe artesian or temperature zones below.																																																																
2. NATURE OF WORK ☒ New well ☐ Deepened ☐ Replacement ☐ Well diameter increase ☐ Modification ☐ Abandoned (describe abandonment or modification procedures such as liners, screen, materials, plug depths, etc. in lithologic log, section 9.)	8. WELL TEST DATA ☐ Pump ☐ Bailor ☐ Air ☐ Other _____ <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 33%;">Discharge G.P.M.</th> <th style="width: 33%;">Pumping Level</th> <th style="width: 33%;">Hours Pumped</th> </tr> </thead> <tbody> <tr> <td><u>60</u></td> <td></td> <td><u>1.50</u></td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Discharge G.P.M.	Pumping Level	Hours Pumped	<u>60</u>		<u>1.50</u>																																																										
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4. METHOD DRILLED ☒ Rotary ☒ Air ☐ Auger ☐ Reverse rotary ☐ Cable ☐ Mud ☐ Other _____ (backhoe, hydraulic, etc.)	10. Work started <u>4-2-92</u> finished <u>4-13-92</u>																																																																
5. WELL CONSTRUCTION Casing schedule: ☐ Steel ☐ Concrete ☒ Other <u>Plastic</u> Thickness <u>160 PSI</u> inches <u>4</u> inches + <u>2</u> inches From <u>0</u> feet To <u>596</u> feet Was casing drive shoe used? ☐ Yes ☒ No Was a packer or seal used? ☐ Yes ☒ No Perforated? ☒ Yes ☐ No <u>8" saw</u> How perforated? ☐ Factory ☐ Knife ☐ Torch ☐ Gun Size of perforation? _____ inches by _____ inches _____ perforations _____ feet _____ feet _____ perforations _____ feet _____ feet _____ perforations _____ feet _____ feet Well screen installed? ☐ Yes ☒ No Manufacturer _____ Type _____ Top Packer or Headpipe _____ Bottom of Tailpipe _____ Diameter _____ Slot size _____ Set from _____ feet to _____ feet Diameter _____ Slot size _____ Set from _____ feet to _____ feet Gravel packed? ☐ Yes ☐ No ☐ Size of gravel _____ Placed from _____ feet to _____ feet Surface seal depth <u>22</u> Material used in seal: ☐ Cement grout ☒ Bentonite ☐ Puddling clay Sealing procedure used: ☐ Temp. surface casing ☒ Overbore to seal depth Method of joining casing: ☐ Threaded ☒ Welded ☐ Solvent Weld ☐ Cemented between strata Describe access port _____	11. DRILLER'S CERTIFICATION I/We certify that all minimum well construction standards were complied with at the time the rig was removed. Firm Name <u>Whitenko H Drilling</u> Firm No. <u>125</u> Address <u>P.O. Box 20</u> Date <u>4-20-92</u> Signed by Drilling Supervisor <u>Roy Whitenko</u> and <u>Jim Whitenko</u> (Operator) <u>(if different than the Drilling Supervisor)</u>																																																																
6. LOCATION OF WELL Sketch map location must agree with written location. Subdivision Name <u>Nez Perce</u> Lot No. _____ Block No. _____ County <u>Clearwater</u> <u>SW 1/4 NW 1/4 Sec. 27, T. 36 N. 3 E. 3</u>																																																																	

Permit ID.
746453

NEW

should have been sec. 7

**NOW
STARTING
RIGHT
SIDE OF
FILE**



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 30, 2007

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Interim Director

JAMES R DILLING
ELLA DILLING
21349 ARROW RIM LN
JULIAETTA ID 83535

RE: Permit No. 85-15685

Permit Approval Notice

Dear Permit Holder:

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

The permit is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

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,

Shelley W. Keen
for Shelley W. Keen, Section Manager
Water Right Permits Section

Enclosure(s)

CERTIFICATE OF SERVICE

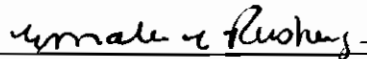
I hereby certify that on May 30, 2007 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the persons listed below:

RE: WATER RIGHT NO.

85-15685

**ELLA DILLING
21349 ARROW RIM LN
JULIAETTA ID 83535**

**JAMES R DILLING
21349 ARROW RIM LN
JULIAETTA ID 83535**

A handwritten signature in cursive script, reading "Emalee Rushing", is written over a horizontal line.

**Emalee Rushing
Technical Records Specialist**

Statement of Available Procedures and Applicable Time Limits

RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES (To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

MEMORANDUM

Date: May 25, 2007
To: Water Right File 85-15685
From: eretelle
Re: permit review

No WD or moratorium
Outside Wild & Scenic Area

No formal protests - concerns raised by Quillen (neighbor) after protest deadline.
Conditions added to capture concerns
All agencies ok

PoD overlap with Quillen water right

Recommend approval as suggested by IDWR Northern

RON T. BLEWETT
WILLIAM JEREMY CARR
PAUL THOMAS CLARK
THOMAS W. FEENEY
SCOTT D. GALLINA **
JONATHAN D. HALLY
RUBE G. JONES *
TINA L. KERNAN **
JOHN C. MITCHELL
DOUGLAS L. MUSHLITZ
CHARLES M. STROSCHEIN **
CONNIE TAYLOR **

* LICENSED IN WASHINGTON & OREGON ONLY
** LICENSED IN IDAHO & WASHINGTON

LAW OFFICES OF
CLARK AND FEENEY
THE TRAIN STATION, SUITE 106
1229 MAIN STREET
P.O. DRAWER 285
LEWISTON, IDAHO 83501

FEB 17 2007

TELEPHONE
(208) 743-9516
(800) 865-9516
FAX
(208) 746-9160
cflaw@lewiston.com

February 16, 2007

Shelley Keen
The Idaho Water Center
322 E. Front Street
Boise, Idaho 83720

re: Quillen Water Right #85-15685

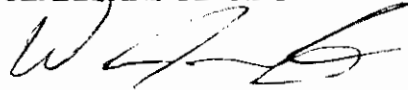
Dear Mr. Keen:

Pursuant to our telephone conversation I am enclosing a copy of Chuck Uhlenkott's letter dated February 15, 2007, together with a copy of the Water Analysis Report from one of the wells Mr. Quillen is trying to get water rights for. The well is located on Mr. Quillen's property.

If you have any questions, please do not hesitate to contact me.

Sincerely,

CLARK AND FEENEY



By: W. Jeremy Carr

WJC:sr
enc.

cc: Ray Quillen

Uhlenkott Pump Service

431 Denver Road
Grangeville, Idaho 83530
(800) 959-9623 • (208) 962-3279 - office
(208) 962-3215 - fax

Thursday, February 15, 2007

ATTN: Mr. Ray Quillan
From: Chuck Uhleniott
Re: Domestic Water Sulfur Content

Dear Mr. Quillan:

The sulfur content of your water when tested in February indicated a .3 to .4 parts per million. This concentration during this time of low water production from the well created a distinct and unpleasant odor in the water in the house fixtures.

During the summer season, when the water usage increases, the sulfur concentration increases, and thus the intensity of the odor condition. Equipment exists that can reduce the sulfur content, but is very expensive.

I would be happy to review your treatment options in the future if you would like. Please contact me in this regard.

Sincerely,



Chuck Uhlenkott

COPY



Pump Controls and Water Treatment Systems

Sample #: 0806-191
Date: 08/28/08

Water Analysis Report

Customer Name: Ray Quillen
Address: 25233 Arrow Highline Rd
Julietette ID 83535
Phone: (208) 276-7709

Hardness	3.51	gpg	Over 3.5 clogs pipes and water heaters
Iron	.35	part-per p/l	Over 0.3 causes staining
Iron Bacteria	0		Actual iron bacteria detected
Manganese	0	ppm-n/g/l	Over 0.05 causes staining
pH	8.73	units	7.0 is neutral, over is alkaline under is acidic
Tannins	0	ppm/m p-l	Caused colored water
TDS	213	ppm/m p-l	500 ppm is EPA suggested limit
Odor	0		Actual odor detected
Color	26	units	Actual color detected
Sodium Salts	153	ppm/m p-l	Affects taste of water
Turbidity	1	NTU	Visible dirt in suspended matter
Suspended Solids	6	ppm/m p-l	Actual deposit in water

Untreated Sample

Primary Problems: Hardness, Iron and Color

Recommendations: Equipment recommendation is a RF25 REACTR System for sulfur odor, iron and color reduction. A field test for sulfur should be conducted prior to installation. Also, a T632 or M832 Water Softener is recommended for hardness reduction.

Distinct alkaline taste

2/8/07
Dealer: Uhlenkott Pump Service
Address: 431 Denver Rd.
Grangeville ID 83530

Distributor: Mitchell Lewis
Address: 2302 E. Trent Ave.
Spokane WA 99202
Fax: 509-534-0360

CHANDLER SYSTEMS INC. • 220 Ohio Street • Ashland, Ohio 44805 • 419.281.5767
Fax: 419.289.2535 • www.chandler-systems-inc.com • csi@zoominternet.net

Field Sulfur Analysis = .3 to .4 parts/million
Charles Uhlenkott

Ball, Dianne

From: Ball, Dianne
Sent: Monday, January 22, 2007 11:17 AM
To: Allen, Debbie
Subject: Receipt No. N017777 dated 7/25/06 - Jim R. Dilling

Good aftererrnoon, Debbie,

We communicated about this receipt last November, concerning whether or not a refund had been made on this receipt, and it was determined that one had not been issued. At this time I am sending the file on down to the state office for review and possible permit issuance, and so am also, at this time, requesting a refund now be made to Mr. Dilling.

To refresh your memory, there was a well drilling upgrade fee included in this receipt for 2 wells - at \$125.00 per well.

The well upgrade fee should have been \$165 for the newer well, drilled in 1992- permit #746453 (old permit No. 86-92-N-10) in name of Jack Curtin - when fees were \$35 per domestic well. However, there should have been NO fee for the older well because the older well was drilled prior to 1987, actually drilled in 1979 - Permit 746146 (old permit No. 86-79-N-0018-000 in name of Don Knapp.)

Notes in file indicate there needs to be refunded \$85.00 to Mr. Dilling for overpayment of upgrade fees.

Will you please take care of that at this time, refunding \$85.00 to Mr. James R. Dilling at 21349 Arrow Rim Ln, Juliaetta, ID 83535. [See scanned attachment for additional information.



Dilling refund
request.pdf

Many thanks, and have a great day and a simply wonderful week.

Dianne

Dianne Ball
Administrative Assistant
Idaho Dept of Water Resources
7600 Mineral Drive Suite 100
Coeur d'Alene, ID 83815
Phone (208)762-2800 FAX (208)762-2819

Ball, Dianne

From: Allen, Debbie
Sent: Monday, November 20, 2006 6:53 AM
To: Ball, Dianne
Subject: RE: Receipt No. N017777 dated 7/25/06 - Jim R Dilling

Dianne,
I find no evidence of a refund being requested or issued.
DA

-----Original Message-----

From: Ball, Dianne
Sent: Friday, November 17, 2006 4:56 PM
To: Allen, Debbie
Subject: Receipt No. N017777 dated 7/25/06 - Jim R Dilling

Good afternoon, Debbie,

Will you check something for me, please, regarding the above referenced Receipt.

There was a well drilling upgrade fee included in this receipt for 2 wells - upgrade fees of \$125.00 per well.

The well upgrade fee should have been \$165 for the newer well, drilled in 1992- Permit #746453 in name of Jack Curtin - when fees were \$35 per domestic well. However, there should have been NO fee for the older well because the older well was drilled prior to 1987 (1978 - Permit 746146).

Notes in file indicate there needs to be refunded \$85.00 to Mr. Jim R. Dilling, for overpayment of upgrade fees.

I'm just double checking to see if a refund has already occurred regarding this receipt, or if it still needs to be requested by our office. [I find no note indicating that a request was actually made to refund any money to Mr. Dilling.]

Thanks for all your help.

Dianne

Idaho Department of Water Resources Receipt

Receipt ID N017777

Payment Amount	\$500.00	Date Received	7/25/2006 1:29:33 PM	Region	Northern	Status	
Payment Type	Check	Check Number	7412				

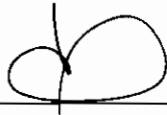
Payer JIM R DILLING

Comment WR Permit App Fee in amount of \$250.00

Well Drilling Upgrade Fee for Permits 746453 and 746146

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$250.00	PERMITS	0229	21	65103	1155
\$250.00	DRILLING PERMITS	0229	21	65134	1205



Signature Line (Dept. Representative)

→ Permit 746146 drilled prior to 1987 (1979)
No upgrade fee required

→ Permit 746453 Drilled in 1942 - (Not 1989)

Domestic fee pd at that time = \$35⁰⁰
 Upgrade fee required = \$165⁰⁰

Difference to be refunded = \$85⁰⁰

238-7
182

RECEIVED

MAR 18 1996

POSTED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

USE TYPEWRITER OR
BALLPOINT PEN

State law requires that this report be filed with the Director, Department of Water Resources
IDWR within 30 days after the completion or abandonment of the well.

1. WELL OWNER

Name Don Knapp
Address Rt 1 Box 145 Gulietta, ID
Owner's Permit No. 86-79-N-18-000

7. WATER LEVEL

Static water level _____ feet below land surface.
Flowing? ☐ Yes ☐ No G.P.M. flow _____
Artesian closed-in pressure _____ p.s.i.
Controlled by: ☐ Valve ☐ Cap ☐ Plug
Temperature 64 °F. Quality _____
Describe artesian or temperature zones below.

2. NATURE OF WORK

☒ New well ☐ Deepened ☐ Replacement
☐ Abandoned (describe abandonment procedures such as materials, plug depths, etc. in lithologic log)

8. WELL TEST DATA

☐ Pump ☐ Bailer ☐ Air ☐ Other _____

Discharge G.P.M.	Pumping Level	Hours Pumped

3. PROPOSED USE

☒ Domestic ☐ Irrigation ☐ Test ☐ Municipal
☐ Industrial ☐ Stock ☐ Waste Disposal or Injection
☐ Other _____ (specify type)

9. LITHOLOGIC LOG

80261

Bore Diam.	Depth		Material	Water	
	From	To		Yes	No
8	0	4	Top Soil		
8	4	30	tan clay		
8	30	80	gravel		
8	80	110	tan clay & rock		
8	110	140	brown clay		
8	140	160	fr. blue basalt med-		
8	160	165	hard		
8	165	175	round rock - cement		
8	175	345	quartz - little rock		
6	345	360	hard blue basalt		
6	360	490	blue basalt interbed &		
6	490	515	gray shell - no water		
6	515	515	blue basalt w/ chert		
6	515	515	FR rounded basalt w/ water		

4. METHOD DRILLED

☐ Rotary ☐ Air ☐ Hydraulic ☐ Reverse rotary
☐ Cable ☐ Dug ☐ Other _____

5. WELL CONSTRUCTION

Casing schedule: ☐ Steel ☐ Concrete ☐ Other _____
Thickness _____ Diameter _____ From _____ To _____
_____ inches _____ inches + _____ feet _____ feet
_____ inches _____ inches _____ feet _____ feet
_____ inches _____ inches _____ feet _____ feet
_____ inches _____ inches _____ feet _____ feet
Was casing drive shoe used? ☒ Yes ☐ No
Was a packer or seal used? ☐ Yes ☐ No
Perforated? ☐ Yes ☒ No
How perforated? ☐ Factory ☐ Knife ☐ Torch
Size of perforation _____ inches by _____ inches
Number _____ From _____ To _____
_____ perforations _____ feet _____ feet
_____ perforations _____ feet _____ feet
_____ perforations _____ feet _____ feet
Well screen installed? ☐ Yes ☐ No
Manufacturer's name _____
Type _____ Model No. _____
Diameter _____ Slot size _____ Set from _____ feet to _____ feet
Diameter _____ Slot size _____ Set from _____ feet to _____ feet
Gravel packed? ☐ Yes ☐ No ☐ Size of gravel _____
Placed from _____ feet to _____ feet
Surface seal depth _____ Material used in seal: ☐ Cement grout
☒ Bentonite ☐ Pudding clay ☐ _____
Sealing procedure used: ☐ Slurry pit ☐ Temp. surface casing
☐ Overbore to seal depth
Method of joining casing: ☐ Threaded ☒ Welded ☐ Solvent
Weld _____
☐ Cemented between strata
Describe access port COVER

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AUG 22 1996

Department of Water Resources

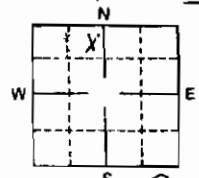
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JAN 30 1996

Department of Water Resources

6. LOCATION OF WELL

Sketch map location must agree with written location.



Subdivision Name _____

Lot No. _____ Block No. _____

County Payette

1/4 NW 1/4 Sec. 7 T. 36 S. R. 3 E. W

11. DRILLERS CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name DETROY DRILLING License No. 150

Address 1036-15th St Date _____

Signed by (Firm Official) Clarkston, WA

and
(Operator) _____

Well Proof Report

Receipt #
Permit No. 746146
Metal Tag No.
Well ID # 281729
Water Right No.

Relationship: Owner/Operator
Name: DON KNAPP
Address: 25216 ARROW HIGHLINE RD
JULIAETTA ID 83535-6083

Permit Status: Permitted

Well Location: Township 36N, Range 03W, Section 7, NE, NW
COUNTY NEZ PERCE

Address of Well Site:

ID
Use of Well: Domestic-Single Residence

Activity: New Well

Region: Northern

Construction Method:

Const Start Date: Aug 02 1979 Const End Date: Aug 13 1979

Well Drilling Company: DETRAY DRILLING (No. 150)

Card Hold Name: W C DETRAY Phone:(509)758-5421 (No. 4489)

Certifying Official:

Date Received: Mar 18 1996

Date Approved:

Date Inspected:

Completed Depth: 515 FT Drilled Depth: Surface Diameter: 8 inches

Primary Flow Depth: Overall Temp: Static Water Level: 99999

Head Pipe Length: Tail Pipe Length Production Rate: 0 GPM

Closed in Pressure: 0 Psi Bottom Hole Temp: 64 F. Low Temp Geothermal: NO

Control Device Desc:

Access Port Desc:

Casing

From	To	Diam	Type	Gauge	Join Type	Material
	80					

Seal

From	To	Material	Amount	Method
------	----	----------	--------	--------

Screen

From	To	Dia	Type	Slot Size	# of Slots	Material	Perforation Meth	Screen Type
------	----	-----	------	-----------	------------	----------	------------------	-------------

Lithologic Layer

From	To	Diam	Water	Color	Material	Texture
------	----	------	-------	-------	----------	---------

Drive Shoe

Depth	Test Description
-------	------------------

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

[illegible]

USE ADDITIONAL SHEETS IF NECESSARY — FORWARD THE WHITE COPY TO THE DEPARTMENT

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

U. TYPEWRITER OR
BALLPOINT PEN

State law requires that this report be filed with the Director, Department of Water Resources
within 30 days after the completion or abandonment of the well.

1. WELL OWNER Name <u>Don Knapp</u> Address <u>Rt 1 Box 165 Juliaetta, ID</u> Owner's Permit No. <u>86-79-N-0018-000</u>	7. WATER LEVEL Static water level _____ feet below land surface. Flowing? ☐ Yes ☐ No G.P.M. flow _____ Artesian closed-in pressure _____ p.s.i. Controlled by: ☐ Valve ☐ Cap ☐ Plug Temperature <u>64</u> °F, Quality _____ Describe artesian or temperature zones below.																																																																																														
2. NATURE OF WORK ☒ New well ☐ Deepened ☐ Replacement ☐ Abandoned (describe abandonment procedures such as materials, plug depths, etc. in lithologic log)	8. WELL TEST DATA ☐ Pump ☐ Bailer ☐ Air ☐ Other _____ <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>Discharge G.P.M.</th> <th>Pumping Level</th> <th>Hours Pumped</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	Discharge G.P.M.	Pumping Level	Hours Pumped																																																																																											
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3. PROPOSED USE ☒ Domestic ☐ Irrigation ☐ Test ☐ Municipal ☐ Industrial ☐ Stock ☐ Waste Disposal or Injection ☐ Other _____ (specify type)	9. LITHOLOGIC LOG 075255 <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2">Bore Diam.</th> <th colspan="2">Depth</th> <th rowspan="2">Material</th> <th colspan="2">Water</th> </tr> <tr> <th>From</th> <th>To</th> <th>Yes</th> <th>No</th> </tr> </thead> <tbody> <tr><td>8</td><td>0</td><td>4</td><td>Top Soil</td><td> </td><td> </td></tr> <tr><td>8</td><td>4</td><td>30</td><td>Thin Clay</td><td> </td><td> </td></tr> <tr><td>8</td><td>30</td><td>80</td><td>Gravel</td><td> </td><td> </td></tr> <tr><td>8</td><td>80</td><td>110</td><td>Thin Clay & rock</td><td> </td><td> </td></tr> <tr><td>8</td><td>110</td><td>140</td><td>Brown Clay</td><td> </td><td> </td></tr> <tr><td>8</td><td>140</td><td>160</td><td>fr. blue. sandy mel-</td><td> </td><td> </td></tr> <tr><td>8</td><td>160</td><td>165</td><td>hard</td><td> </td><td> </td></tr> <tr><td>8</td><td>165</td><td>175</td><td>Round rock - covered</td><td> </td><td> </td></tr> <tr><td>8</td><td>175</td><td>345</td><td>Causing - little. 1 bed</td><td> </td><td> </td></tr> <tr><td>6</td><td>345</td><td>350</td><td>hard blue gravel</td><td> </td><td> </td></tr> <tr><td>6</td><td>350</td><td>490</td><td>blue gravel interbed &</td><td> </td><td> </td></tr> <tr><td>6</td><td>490</td><td>515</td><td>gray shell - no water</td><td> </td><td> </td></tr> <tr><td>6</td><td>515</td><td>515</td><td>Blue gravel w/ chert</td><td> </td><td> </td></tr> <tr><td>6</td><td>515</td><td>515</td><td>FR. rounded gravel & water</td><td> </td><td> </td></tr> </tbody> </table>	Bore Diam.	Depth		Material	Water		From	To	Yes	No	8	0	4	Top Soil			8	4	30	Thin Clay			8	30	80	Gravel			8	80	110	Thin Clay & rock			8	110	140	Brown Clay			8	140	160	fr. blue. sandy mel-			8	160	165	hard			8	165	175	Round rock - covered			8	175	345	Causing - little. 1 bed			6	345	350	hard blue gravel			6	350	490	blue gravel interbed &			6	490	515	gray shell - no water			6	515	515	Blue gravel w/ chert			6	515	515	FR. rounded gravel & water		
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4. METHOD DRILLED ☐ Rotary ☐ Air ☐ Hydraulic ☐ Reverse rotary ☐ Cable ☐ Dug ☐ Other _____	10. Work started <u>8/2/79</u> finished <u>8/15/79</u>																																																																																														
5. WELL CONSTRUCTION Casing schedule: ☐ Steel ☐ Concrete ☐ Other _____ Thickness _____ inches _____ inches + _____ feet _____ feet _____ inches _____ inches _____ feet _____ feet _____ inches _____ inches _____ feet _____ feet _____ inches _____ inches _____ feet _____ feet Was casing drive shoe used? ☒ Yes ☐ No Was a packer or seal used? ☐ Yes ☐ No Perforated? ☐ Yes ☒ No How perforated? ☐ Factory ☐ Knife ☐ Torch Size of perforation _____ inches by _____ inches Number _____ From _____ To _____ _____ perforations _____ feet _____ feet _____ perforations _____ feet _____ feet _____ perforations _____ feet _____ feet Well screen installed? ☐ Yes ☐ No Manufacturer's name _____ Type _____ Model No. _____ Diameter _____ Slot size _____ Set from _____ feet to _____ feet Diameter _____ Slot size _____ Set from _____ feet to _____ feet Gravel packed? ☐ Yes ☐ No ☐ Size of gravel _____ Placed from _____ feet to _____ feet Surface seal depth _____ Material used in seal: ☐ Cement grout ☒ Bentonite ☐ Pudding clay ☐ _____ Sealing procedure used: ☐ Slurry pit ☐ Temp. surface casing ☐ Overbore to seal casing Method of joining casing: ☐ Threaded ☒ Welded ☐ Solvent ☐ Cemented between strata Describe access port <u>COVER</u>	11. DRILLERS CERTIFICATION I/We certify that all minimum well construction standards were compiled with at the time the rig was removed. Firm Name <u>DETROY DRILLING</u> No. <u>150</u> Address <u>1036-15th St</u> Date _____ Signed by (Firm Official) <u>CLARKSON, W.A.</u> and _____ (Operator)																																																																																														
6. LOCATION OF WELL Sketch map location <u>must</u> agree with written location. N <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:25%; text-align: center;">W</td> <td style="width:25%; text-align: center;">Y</td> <td style="width:25%; text-align: center;">E</td> <td style="width:25%;"></td> </tr> <tr> <td style="text-align: center;">S</td> <td></td> <td></td> <td></td> </tr> </table> Subdivision Name _____ Lot No. _____ Block No. _____ County <u>Boz. Pierce</u> <u>NE 1/4 NW 1/4 Sec. 7, T. 36 N, R. 3 E</u>	W	Y	E		S				USE ADDITIONAL SHEETS IF NECESSARY - FORWARD THE WHITE COPY TO THE DEPT. OF WATER RESOURCES																																																																																						
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JAN 30 1995

Department of Water Resources

MAY 06 1996

JANUARY 22, 2007

MEMO TO: TO THE FILE
FROM: KEITH FRANKLIN

THERE IS SOME HISTORY BETWEEN MR. DILLING AND MR. QUILLEN, WHO SHARE ONE OF THE WELLS THAT NEEDS TO BE CONSIDERED. THE APPLICATION WAS NOT PROTESTED, PROBABLY DUE TO AN OVERSIGHT ON MR. QUILLENS PART, HOWEVER, A LETTER FROM MR. QUILLENS ATTORNEY WAS RECEIVED BY THE DEPARTMENT, AFTER THE PROTEST DEAD LINE AND ADDED TO THE FILE, OBJECTING TO THE ISSUANCE OF AN IRRIGATION WATER RIGHT FROM A WELL LOCATED ON MR. QUILLENS PROPERTY.

AT THE TIME MR. QUILLEN PURCHASED THE PROPERTY FROM MR. DILLING, THEY ENTERED INTO A WELL/MAINTENANCE AGREEMENT THAT IS ALSO PART OF THE FILE.

RON T. BLEWETT
WILLIAM JEREMY CARR
PAUL THOMAS CLARK
THOMAS W. FEENEY
SCOTT D. GALLINA **
JONATHAN D. HALLY
RUBE G. JONES *
TINA L. KERNAN **
JOHN C. MITCHELL
DOUGLAS L. MUSHLITZ
CHARLES M. STROSCHEIN **
CONNIE TAYLOR **

* LICENSED IN WASHINGTON & OREGON ONLY
** LICENSED IN IDAHO & WASHINGTON

LAW OFFICES OF
CLARK AND FEENEY
THE TRAIN STATION, SUITE 106
1229 MAIN STREET
P.O. DRAWER 285
LEWISTON, IDAHO 83501

TELEPHONE
(208) 743-9516
(800) 865-9516
FAX
(208) 746-9160
cflaw@lewiston.com

January 12, 2007

RECEIVED
JAN 16 2007
IDWR/North

SENT VIA MAIL AND FACSIMILE TO: (208) 762-2819

Mr. Keith Franklin
Department of Water Resources
State of Idaho, North Region
7600 Mineral Drive, Ste. 100
Coeur d'Alene, ID 83815

Re: James R. Dilling's Application for Permit to Appropriate the Public Waters of the State of Idaho

Dear Mr. Franklin:

Thank you for your letter dated January 2, 2007, that was sent to the Quillens letting them know that the Dillings had filed for an application for a water permit for irrigation. Mr. & Mrs. Raymond Quillen have requested that I correspond with you regarding the Dillings' application. The Quillens object to the Dillings' request for a water permit for the following reasons.

Part of the water for which the Dillings are requesting a permit comes from a well which is located on the Quillens' property. The use of this well is regulated by a water use and maintenance agreement that does not allow the Dillings to use the water from the well for any other use other than domestic purposes. I am attaching a copy of said agreement for your reference. In the past, the Dillings have violated this water use agreement by using water from the well for irrigation purposes without the Quillens' permission and without a water right.

When the Dillings use the water from the Quillens' well for irrigation during the summer, the water from the reservoir from which the Quillens' well draws drops resulting in an increased amount of sulfur. Due to the concentration of sulfur, the Quillens are unable to use the water from their well for domestic purposes and must buy bottled water. At times, the water quality is so bad that the Quillens have to not only buy bottled water for consumption but must also find another location at which they can bathe. If the Dillings are granted a water right to irrigate, said usage will affect the water quality from the Quillens' well since once the water table is drawn down it appears that the sulfur content in the water increases to such a point that it is no longer suitable for domestic use.

Mr. Keith Franklin
January 12, 2007
Page 2

I would be greatly appreciative if you would notify me as to the date and time the hearing is scheduled on the Dillings' request for a water permit. If possible, I would like to attend the hearing telephonically.

If you would like to discuss this matter in more detail, please do not hesitate to contact me.

Sincerely yours,

CLARK and FEENEY

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

By: W. Jeremy Carr

WJC:la
Enclosure
cc: Mr. & Mrs. Raymond Quillen w/out enc

Return Address:

David R. Risley
Randall, Blake & Cox, P.A.
P.O. Box 446
Lewiston, ID 83501

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JAN 16 2007
IDWR/North

WATER USE AND MAINTENANCE AGREEMENT

Grantors: James R. Dilling aka Jim Dilling and Ella Dilling, husband and wife

Grantees: Raymond D. Quillen, a single man and Julie Marie Ridgeway, a single woman

THIS AGREEMENT made and entered into this 12th day of September, 2003, by and between **JAMES R. DILLING aka JIM DILLING AND ELLA DILLING**, husband and wife (hereafter "DILLING") and **RAYMOND D. QUILLEN**, a single man AND **JULIE MARIE RIDGEWAY**, a single woman (hereinafter "QUILLEN")

WHEREAS, QUILLEN has contracted to purchase a parcel of property situated in Nez Perce County, State of Idaho, more particularly described on Exhibit A (hereinafter referred to as Parcel A) pursuant to the terms of a Residential Purchase and Sale Agreement dated July 10, 2003; and

WHEREAS, DILLING is currently the owner of a parcel of real estate situated in Nez Perce County, State of Idaho, and more particularly described on Exhibit B (hereinafter referred to as Parcel B) attached hereto and incorporated herein by this reference; and

WHEREAS, a water system including a well with a pump drilled on Parcel A which supplies domestic, livestock, agricultural, and irrigation water to both Parcel A and Parcel B (Well 1); a second well with a pump on Parcel B which supplies domestic, livestock,

agricultural, and irrigation water to both Parcel A and Parcel B (Well 2); underground water lines on both Parcel A and Parcel B; pressure tanks and two holding tanks, hydrants for fire protection; and a pump house facility located on Parcel B all of which make and comprise the Wells and Water System; and

WHEREAS, QUILLEN and DILLING wish to enter into this Agreement to define their respective rights and obligations for the use, operation, and maintenance of the Wells and Water System located upon and serving Parcels A and B; and

NOW, THEREFORE, IN CONSIDERATION of the mutual conditions and covenants contained herein the parties agree as follows:

SECTION ONE

WATER RIGHTS AND EASEMENT

The parties hereby agree that QUILLEN and DILLING have an irrevocable, perpetual, and exclusive right to the use of the Wells and Water System including, but not limited to, water from the wells located on Parcels A and B in amounts reasonably necessary to satisfy the needs for domestic, livestock, agricultural, and irrigation purposes for Parcels A and B. The parties further agree that DILLING and QUILLEN will have and hereby grant one to the other mutual reciprocal easements for use of the Wells and Water System including, without limitation, for ingress and egress over and across Parcels A and B to repair, replace, and maintain the Wells and Water system, including the wells and all water lines, the tanks, the pump, the hydrants and all other items reasonably necessary to provide water to Parcels A and B.

This easement shall run with the land and be for all legal purposes related to the use of the Wells and Water System.

In general, QUILLEN will use the water from the Well on Parcel A for both irrigation and domestic purposes. DILLING will use the water from the Well on Parcel B for irrigation purposes and a share of the water from the Well on Parcel A for domestic purposes. However, this allocation may be changed by mutual agreement as needed to meet the needs of the parties or to deal with water supply or system issues. If the parties cannot reach agreement, any disagreements as to source, use or allocation of water shall be subject to Arbitration in accordance with Section Five of this agreement.

SECTION TWO

COSTS AND EXPENSES FOR WELLS AND WATER SYSTEM

DILLING and QUILLEN each agree that they shall pay for repair, maintenance, and operation, and upkeep of the wells, water lines, and other property and equipment associated with the water system on the property in a 1/3 to 2/3 ratio with DILLING paying 2/3 and QUILLEN paying 1/3.

SECTION THREE

SUBSEQUENT USER

DILLING and QUILLEN agree that the right to the use of water from the Wells and Water System located on Parcels A and B, in an amount reasonably necessary to satisfy the needs for domestic, livestock, agricultural, and irrigation purposes of Parcels A and B is exclusive and appurtenant to the land herein described as Parcels A and B. In the event either Parcel A or B is transferred without reconveyance of any easement granted and terminating this Agreement, the selling party shall require that the subsequent owner of Parcel A or B agree in writing to be bound by the terms and conditions of this Agreement, including the obligation to

pay the costs and expenses for the operation, maintenance, and repair of the Wells and Water system as provided in Section Two of this Agreement.

SECTION FOUR

FAILURE TO PAY EXPENSES

In the event that either DILLING or QUILLEN fails to pay for the expenses for the Wells and Water system as provided in Section Two of this Agreement, then the other party, shall have the right, but not the obligation, to advance monies for said expenses or removing liens resulting from the failure to pay said expenses, and shall be repaid by the defaulting party a reasonable amount expended together with interest at the rate of 12% per annum from the date of the expenditure until the date of payment.

SECTION FIVE

ARBITRATION

Decisions regarding the repair, maintenance, payment of expenses, allocation and source of water and operation of the Wells and Water System including, without limitation, pumps, tanks, water lines, and other property and equipment associated with the water system on the property shall be agreed to in advance by the owners of Parcels A, B. In the event the parties are not able to agree on the matters set forth in the proceeding sentence, the issues shall be submitted to binding arbitration. Each party shall select an arbitrator, the party selected arbitrators shall select a third, and the decision of the majority of the arbitrators shall be binding upon all parties and may be enforced by any court of competent jurisdiction. The expenses of the arbitrator chosen by each parcel owner shall be paid by that individual and the expenses of the third arbitrator shall be split between the parties. Except as set forth herein, the provisions of Idaho Code Section 7-901 et seq, shall apply to the arbitration proceedings.

SECTION SIX

MISCELLANEOUS PROVISIONS

6.1 Binding Effect. This Agreement shall be binding upon the heirs, successors, and assigns of each of the parties hereto. The rights and obligations of the parties under the terms of this Agreement are appurtenant to and shall run with the land.

6.2 Prior Agreements: This agreement modifies the covenants of the prior owners and are made for the express purpose of modifying the right to utilize and share in the water production of the wells and the use of the Wells and Water System.

6.2 Law Governing. This Agreement has been negotiated and made in the State of Idaho, and is to be governed and construed by the laws of the State of Idaho.

6.3 Modification. This Agreement may be modified or amended only by written agreement signed by the parties hereto.

6.4 Attorney Fees. In any action or suit brought to enforce any of the terms, conditions, or covenants of this Agreement, the prevailing party shall be entitled, as part of the judgment rendered, to all damages and expenses resulting from the breach, including all reasonable attorney fees and court costs, title insurance company charges, witness fees, and other legal expenses incurred by the prevailing party at trial or on appeal.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year hereinabove first written.



JIM DILLING

ELLA DILLING

RAYMOND D. QUILLEN

JULIE MARIE RIDGEWAY

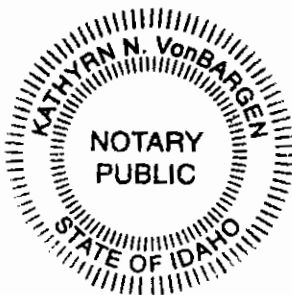
STATE OF IDAHO)

) ss:

County of Nez Perce)

On this 12 day of ~~August~~ ^{September}, 2003, before the undersigned, a Notary Public in and for said State, appeared **JIM DILLING AND ELLA DILLING**, husband and wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year in this certificate first above written.



Kathryn N. VonBargen
Notary Public in and for the State of Idaho
residing at Lewiston therein.
My Commission Expires: 11-6-08

STATE OF IDAHO)

) ss:

County of Nez Perce)

On this ____ day of August, 2003, before the undersigned, a Notary Public in and for said State, appeared **RAYMOND D. QUILLEN** a single man, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year in this certificate first above written.

Notary Public in and for the State of Idaho
residing at _____ therein.
My Commission Expires: _____

STATE OF IDAHO)
) ss:
County of Nez Perce)

On this _____ day of August, 2003, before the undersigned, a Notary Public in and for said State, appeared **JULIE MARIE RIDGEWAY**, a single woman, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year in this certificate first above written.

Notary Public in and for the State of Idaho
residing at _____ therein.
My Commission Expires: _____

EXHIBIT A

That part of Section 7, Township 36 North, Range 3 West of the Boise Meridian, Nez Perce County, Idaho, more particularly described as follows:

Commencing at the Southwest corner of the Northwest Quarter of said Section 7; thence North 89°57' East along the South line of the North One-Half of said Section 7 a distance of 2911.60 feet to a point on the West line of the Arrow Highline Road; thence North 18°23' East along said West line a distance of 331.00 feet; thence North 43°23' East along said West line a distance of 233.58 feet; thence North 63°11' West 500.00 feet; thence North 42°07' East 383.42 feet; thence South 69°24'03" West 364.69 feet; thence South 79°01'34" West 173.00 feet; thence North 2°59' West 246.76 feet; thence South 63°28' West 107.04 feet; thence North 71°32' West 281.79 feet; thence North 10°08' West 1069.30 feet; thence North 56°48'45" East 157.91 feet to the TRUE PLACE OF BEGINNING; thence North 66°31'15" East 209.04 feet; thence North 77°34' East 197.27 feet; thence South 80°28'47" East 160.53 feet to a point on the West line of Arrow Highline Road; thence South 24°28' East along said West line a distance 280.25 feet; thence South 59°25' West, 187.54 feet; thence South 43°55' West, 103.75 feet; thence North 86°07' West, 76.55 feet; thence South 48°49' West, 127.65 feet; thence North 39°40' West, 130.97 feet; thence North 50°50' West, 164.13 feet; thence North 0°41' West, 123.91 feet; thence North 27°56' West, 86.62 feet to the PLACE OF BEGINNING.

EXHIBIT B

Parcel 1

That part of Section 7 of Township 36 North, Range 3 West, B.M., Nez Perce County, Idaho, more particularly described as follows: Commencing at the Southwest corner of the NW¼ of said Section 7; thence N. 89°57'E. along the South line of the North one-half of said Section 7 a distance of 2911.60 feet to a point on the West line of Arrow Highline Road; thence N. 18°23' E. along _ said West line a distance of 331.00 feet; thence N. 43°23' E. along said West line a distance of 233.58 feet; thence N. 63°11' W., 500.00 feet; thence N. 42°07' E., 383.42 feet; thence S. 69°24'03" W., 364.69 feet; thence S. 79°01'34" W., 173.00 feet; thence N. 2°59' W., 246.76 feet; thence S. 63°28' W., 107.04 feet; thence N. 71°32' W., 281.79 feet; thence N. 10°08' W., 455.19 feet; thence N. 76°22'E., 165.57 feet; thence N. 11°51' W., 261.79 feet; thence N. 67°23' E., 130.66 feet to the true place of beginning; thence continue N. 67°23' E., 493.04 feet; thence S. 59°25'W., 187.54 feet; thence S. 43°55' W., 103.75 feet; thence N. 86°07' W., 76.55 feet; thence S. 48°49' W., 127.65 feet; thence N. 39°40' W., 77.19 feet to the true place of beginning.

Parcel 2

That part of Section 7, Township 36 North, Range 3 West of Boise Meridian, described as follows:

Commencing at the Southwest corner of the Northwest Quarter of said Section 7; thence North 89°57' East along the South line of the North one-half of said Section 7, a distance of 2911.60 feet to the West line of Arrow Highline Road; thence North 18°23' East along the West line of said road a distance of 331.00 feet; thence North 43°23' East along the West line of said road a distance of 233.58 feet; thence North 63°11' West a distance of 500.0 feet; thence North 42°07' East a distance of 383.42 feet; thence South 69°24'03" West a distance of 364.69 feet; thence South 79°01'34" West a distance of 173.00 feet; thence North 2°59' West a distance of 246.76 feet to the True Place of Beginning thence continue North 2°59' West a distance of 194.84 feet; thence South 87°41'21" West (previously described as being South 87°43' West) a distance of 112.98 feet to an existing iron pin; thence North 1°52'08" West a distance of 40.78 feet (previously described as being North 2°17' West 40.0 feet); thence North 34°15'54" East a distance of 294.89 feet (previously described as being North 34°14' East 296.67 feet); thence North 29°23'14" East a distance of 176.30 feet (previously described as being North 29°24' East 180.0 feet); thence South 76°22' West a distance of 587.88 feet; thence South 10°08' East a distance of 455.19 feet; thence South 71°32' East a distance of 281.79 feet; thence North 63°28' East a distance of 107.04 feet to the True Place of Beginning.

TOGETHER WITH the right of ingress and egress over and across roads as they now exist and traverse from the above described parcel to the Arrow Highline Road.

CLARK and FEENEY

THE TRAIN STATION, SUITE 106
1229 MAIN STREET
P.O. DRAWER 285
LEWISTON, IDAHO 83501

TELEPHONE: (208) 743-9516
FAX: (208) 746-9160

FAX COVER SHEET

DATE: January 12, 2007

FROM: W. Jeremy Carr

TO: **Mr. Keith Franklin**
Department of Water Resources
State of Idaho, North Region
7600 Mineral Drive, Ste. 100
Coeur d'Alene, ID 83815

FAX NO. (208) 762-2819

Re: *James R. Dilling's Application for Permit to Appropriate the Public Waters of the State of Idaho*

TOTAL # OF PAGES (INCLUDING THIS COVER PAGE):

12

For missing or illegible pages please telephone (208)743-9516, and speak to: Lisa

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THOMAS W. FEENEY
SCOTT D. GALLINA **
JONATHAN D. HALLY
RUBE G. JONES *
TINA L. KERNAN **
JOHN C. MITCHELL
DOUGLAS L. MUGHLITZ
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LAW OFFICES OF
CLARK AND FEENEY
THE TRAIN STATION, SUITE 106
1229 MAIN STREET
P.O. DRAWER 285
LEWISTON, IDAHO 83501

TELEPHONE
(208) 743-9516
(800) 665-9516
FAX
(208) 746-9160
cflaw@lewiston.com

January 12, 2007

SENT VIA MAIL AND FACSIMILE TO: (208) 762-2819

Mr. Keith Franklin
Department of Water Resources
State of Idaho, North Region
7600 Mineral Drive, Ste. 100
Coeur d'Alene, ID 83815

Re: James R. Dilling's Application for Permit to Appropriate the Public Waters of the State of Idaho

Dear Mr. Franklin:

Thank you for your letter dated January 2, 2007, that was sent to the Quillens letting them know that the Dillings had filed for an application for a water permit for irrigation. Mr. & Mrs. Raymond Quillen have requested that I correspond with you regarding the Dillings' application. The Quillens object to the Dillings' request for a water permit for the following reasons.

Part of the water for which the Dillings are requesting a permit comes from a well which is located on the Quillens' property. The use of this well is regulated by a water use and maintenance agreement that does not allow the Dillings to use the water from the well for any other use other than domestic purposes. I am attaching a copy of said agreement for your reference. In the past, the Dillings have violated this water use agreement by using water from the well for irrigation purposes without the Quillens' permission and without a water right.

When the Dillings use the water from the Quillens' well for irrigation during the summer, the water from the reservoir from which the Quillens' well draws drops resulting in an increased amount of sulfur. Due to the concentration of sulfur, the Quillens are unable to use the water from their well for domestic purposes and must buy bottled water. At times, the water quality is so bad that the Quillens have to not only buy bottled water for consumption but must also find another location at which they can bathe. If the Dillings are granted a water right to irrigate, said usage will affect the water quality from the Quillens' well since once the water table is drawn down it appears that the sulfur content in the water increases to such a point that it is no longer suitable for domestic use.

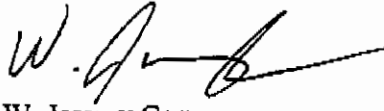
Mr. Keith Franklin
January 12, 2007
Page 2

I would be greatly appreciative if you would notify me as to the date and time the hearing is scheduled on the Dillings' request for a water permit. If possible, I would like to attend the hearing telephonically.

If you would like to discuss this matter in more detail, please do not hesitate to contact me.

Sincerely yours,

CLARK and FEENEY



By: W. Jeremy Carr

WJC:la
Enclosure
cc: Mr. & Mrs. Raymond Quillen w/out enc

LAW OFFICES OF
CLARK AND FEENEY
LEWISTON, IDAHO 83601

JAN. 12. 2007 4:39PM CLARK & FEENEY ATTY

NO. 3952 P. 3

0-0

Return Address:

David R. Risley
Randall, Blake & Cox, P.A.
P.O. Box 446
Lewiston, ID 83501

WATER USE AND MAINTENANCE AGREEMENT

Grantors: James R. Dilling aka Jim Dilling and Ella Dilling, husband and wife

Grantees: Raymond D. Quillen, a single man and Julie Marie Ridgeway, a single woman

THIS AGREEMENT made and entered into this 12th day of September, 2003, by and between JAMES R. DILLING aka JIM DILLING AND ELLA DILLING, husband and wife (hereafter "DILLING") and RAYMOND D. QUILLEN, a single man AND JULIE MARIE RIDGEWAY, a single woman (hereinafter "QUILLEN")

WHEREAS, QUILLEN has contracted to purchase a parcel of property situated in Nez Perce County, State of Idaho, more particularly described on Exhibit A (hereinafter referred to as Parcel A) pursuant to the terms of a Residential Purchase and Sale Agreement dated July 10, 2003; and

WHEREAS, DILLING is currently the owner of a parcel of real estate situated in Nez Perce County, State of Idaho, and more particularly described on Exhibit B (hereinafter referred to as Parcel B) attached hereto and incorporated herein by this reference; and

WHEREAS, a water system including a well with a pump drilled on Parcel A which supplies domestic, livestock, agricultural, and irrigation water to both Parcel A and Parcel B (Well 1); a second well with a pump on Parcel B which supplies domestic, livestock,

agricultural, and irrigation water to both Parcel A and Parcel B (Well 2); underground water lines on both Parcel A and Parcel B; pressure tanks and two holding tanks, hydrants for fire protection; and a pump house facility located on Parcel B all of which make and comprise the Wells and Water System; and

WHEREAS, QUILLEN and DILLING wish to enter into this Agreement to define their respective rights and obligations for the use, operation, and maintenance of the Wells and Water System located upon and serving Parcels A and B; and

NOW, THEREFORE, IN CONSIDERATION of the mutual conditions and covenants contained herein the parties agree as follows:

SECTION ONE

WATER RIGHTS AND EASEMENT

The parties hereby agree that QUILLEN and DILLING have an irrevocable, perpetual, and exclusive right to the use of the Wells and Water System including, but not limited to, water from the wells located on Parcels A and B in amounts reasonably necessary to satisfy the needs for domestic, livestock, agricultural, and irrigation purposes for Parcels A and B. The parties further agree that DILLING and QUILLEN will have and hereby grant one to the other mutual reciprocal easements for use of the Wells and Water System including, without limitation, for ingress and egress over and across Parcels A and B to repair, replace, and maintain the Wells and Water system, including the wells and all water lines, the tanks, the pump, the hydrants and all other items reasonably necessary to provide water to Parcels A and B.

This easement shall run with the land and be for all legal purposes related to the use of the Wells and Water System.

In general, QUILLEN will use the water from the Well on Parcel A for both irrigation and domestic purposes. DILLING will use the water from the Well on Parcel B for irrigation purposes and a share of the water from the Well on Parcel A for domestic purposes. However, this allocation may be changed by mutual agreement as needed to meet the needs of the parties or to deal with water supply or system issues. If the parties cannot reach agreement, any disagreements as to source, use or allocation of water shall be subject to Arbitration in accordance with Section Five of this agreement.

SECTION TWO

COSTS AND EXPENSES FOR WELLS AND WATER SYSTEM

DILLING and QUILLEN each agree that they shall pay for repair, maintenance, and operation, and upkeep of the wells, water lines, and other property and equipment associated with the water system on the property in a 1/3 to 2/3 ratio with DILLING paying 2/3 and QUILLEN paying 1/3.

SECTION THREE

SUBSEQUENT USER

DILLING and QUILLEN agree that the right to the use of water from the Wells and Water System located on Parcels A and B, in an amount reasonably necessary to satisfy the needs for domestic, livestock, agricultural, and irrigation purposes of Parcels A and B is exclusive and appurtenant to the land herein described as Parcels A and B. In the event either Parcel A or B is transferred without reconveyance of any easement granted and terminating this Agreement, the selling party shall require that the subsequent owner of Parcel A or B agree in writing to be bound by the terms and conditions of this Agreement, including the obligation to

pay the costs and expenses for the operation, maintenance, and repair of the Wells and Water system as provided in Section Two of this Agreement.

SECTION FOUR

FAILURE TO PAY EXPENSES

In the event that either DILLING or QUILLEN fails to pay for the expenses for the Wells and Water system as provided in Section Two of this Agreement, then the other party, shall have the right, but not the obligation, to advance monies for said expenses or removing liens resulting from the failure to pay said expenses, and shall be repaid by the defaulting party a reasonable amount expended together with interest at the rate of 12% per annum from the date of the expenditure until the date of payment.

SECTION FIVE

ARBITRATION

Decisions regarding the repair, maintenance, payment of expenses, allocation and source of water and operation of the Wells and Water System including, without limitation, pumps, tanks, water lines, and other property and equipment associated with the water system on the property shall be agreed to in advance by the owners of Parcels A, B. In the event the parties are not able to agree on the matters set forth in the proceeding sentence, the issues shall be submitted to binding arbitration. Each party shall select an arbitrator, the party selected arbitrators shall select a third, and the decision of the majority of the arbitrators shall be binding upon all parties and may be enforced by any court of competent jurisdiction. The expenses of the arbitrator chosen by each parcel owner shall be paid by that individual and the expenses of the third arbitrator shall be split between the parties. Except as set forth herein, the provisions of Idaho Code Section 7-901 et seq, shall apply to the arbitration proceedings.

SECTION SIX

MISCELLANEOUS PROVISIONS

6.1 Binding Effect. This Agreement shall be binding upon the heirs, successors, and assigns of each of the parties hereto. The rights and obligations of the parties under the terms of this Agreement are appurtenant to and shall run with the land.

6.2 Prior Agreements: This agreement modifies the covenants of the prior owners and are made for the express purpose of modifying the right to utilize and share in the water production of the wells and the use of the Wells and Water System.

6.2 Law Governing. This Agreement has been negotiated and made in the State of Idaho, and is to be governed and construed by the laws of the State of Idaho.

6.3 Modification. This Agreement may be modified or amended only by written agreement signed by the parties hereto.

6.4 Attorney Fees. In any action or suit brought to enforce any of the terms, conditions, or covenants of this Agreement, the prevailing party shall be entitled, as part of the judgment rendered, to all damages and expenses resulting from the breach, including all reasonable attorney fees and court costs, title insurance company charges, witness fees, and other legal expenses incurred by the prevailing party at trial or on appeal.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year hereinabove first written.


JIM DILLING

RAYMOND D. QUILLEN

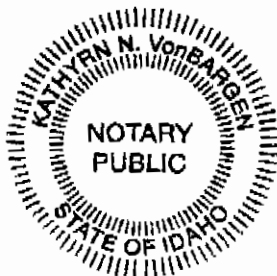

ELLA DILLING

JULIE MARIE RIDGEWAY

STATE OF IDAHO)
) ss:
County of Nez Perce)

On this 12 day of ~~August~~ ^{September}, 2003, before the undersigned, a Notary Public in and for said State, appeared **JIM DILLING AND ELLA DILLING**, husband and wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year in this certificate first above written.



Kathryn N. VonBargen
Notary Public in and for the State of Idaho
residing at Lewiston therein.
My Commission Expires: 11-6-08

STATE OF IDAHO)
) ss:
County of Nez Perce)

On this _____ day of August, 2003, before the undersigned, a Notary Public in and for said State, appeared **RAYMOND D. QUILLEN** a single man, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year in this certificate first above written.

Notary Public in and for the State of Idaho
residing at _____ therein.
My Commission Expires: _____

STATE OF IDAHO)
) ss:
County of Nez Perce)

On this _____ day of August, 2003, before the undersigned, a Notary Public in and for said State, appeared **JULIE MARIE RIDGEWAY**, a single woman, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year in this certificate first above written.

Notary Public in and for the State of Idaho
residing at _____ therein.
My Commission Expires: _____

EXHIBIT A

That part of Section 7, Township 36 North, Range 3 West of the Boise Meridian, Nez Perce County, Idaho, more particularly described as follows:

Commencing at the Southwest corner of the Northwest Quarter of said Section 7; thence North 89°57' East along the South line of the North One-Half of said Section 7 a distance of 2911.60 feet to a point on the West line of the Arrow Highline Road; thence North 18°23' East along said West line a distance of 331.00 feet; thence North 43°23' East along said West line a distance of 233.58 feet; thence North 63°11' West 500.00 feet; thence North 42°07' East 383.42 feet; thence South 69°24'03" West 364.69 feet; thence South 79°01'34" West 173.00 feet; thence North 2°59' West 246.76 feet; thence South 63°28' West 107.04 feet; thence North 71°32' West 281.79 feet; thence North 10°08' West 1069.30 feet; thence North 56°48'45" East 157.91 feet to the TRUE PLACE OF BEGINNING; thence North 66°31'15" East 209.04 feet; thence North 77°34' East 197.27 feet; thence South 80°28'47" East 160.53 feet to a point on the West line of Arrow Highline Road; thence South 24°28' East along said West line a distance 280.25 feet; thence South 59°25' West, 187.54 feet; thence South 43°55' West, 103.75 feet; thence North 86°07' West, 76.55 feet; thence South 48°49' West, 127.65 feet; thence North 39°40' West, 130.97 feet; thence North 50°50' West, 164.13 feet; thence North 0°41' West, 123.91 feet; thence North 27°56' West, 86.62 feet to the PLACE OF BEGINNING.

EXHIBIT B

Parcel 1

That part of Section 7 of Township 36 North, Range 3 West, B.M., Nez Perce County, Idaho, more particularly described as follows: Commencing at the Southwest corner of the NW¼ of said Section 7; thence N. 89°57'E. along the South line of the North one-half of said Section 7 a distance of 2911.60 feet to a point on the West line of Arrow Highline Road; thence N. 18°23' E. along said West line a distance of 331.00 feet; thence N. 43°23' E. along said West line a distance of 233.58 feet; thence N. 63°11' W., 500.00 feet; thence N. 42°07' E., 383.42 feet; thence S. 69°24'03" W., 364.69 feet; thence S. 79°01'34" W., 173.00 feet; thence N. 2°59' W., 246.76 feet; thence S. 63°28' W., 107.04 feet; thence N. 71°32' W., 281.79 feet; thence N. 10°08' W., 455.19 feet; thence N. 76°22'E., 165.57 feet; thence N. 11°51' W., 261.79 feet; thence N. 67°23' E., 130.66 feet to the true place of beginning; thence continue N. 67°23' E., 493.04 feet; thence S. 59°25'W., 187.54 feet; thence S. 43°55' W., 103.75 feet; thence N. 86°07' W., 76.55 feet; thence S. 48°49' W., 127.65 feet; thence N. 39°40' W., 77.19 feet to the true place of beginning.

Parcel 2

That part of Section 7, Township 36 North, Range 3 West of Boise Meridian, described as follows:

Commencing at the Southwest corner of the Northwest Quarter of said Section 7; thence North 89°57' East along the South line of the North one-half of said Section 7, a distance of 2911.60 feet to the West line of Arrow Highline Road; thence North 18°23' East along the West line of said road a distance of 331.00 feet; thence North 43°23' East along the West line of said road a distance of 233.58 feet; thence North 63°11' West a distance of 500.0 feet; thence North 42°07' East a distance of 383.42 feet; thence South 69°24'03" West a distance of 364.69 feet; thence South 79°01'34" West a distance of 173.00 feet; thence North 2°59' West a distance of 246.76 feet to the True Place of Beginning thence continue North 2°59' West a distance of 194.84 feet; thence South 87°41'21" West (previously described as being South 87°43' West) a distance of 112.98 feet to an existing iron pin; thence North 1°52'08" West a distance of 40.78 feet (previously described as being North 2°17' West 40.0 feet); thence North 34°15'54" East a distance of 294.89 feet (previously described as being North 34°14' East 296.67 feet); thence North 29°23'14" East a distance of 176.30 feet (previously described as being North 29°24' East 180.0 feet); thence South 76°22' West a distance of 587.88 feet; thence South 10°08' East a distance of 455.19 feet; thence South 71°32' East a distance of 281.79 feet; thence North 63°28' East a distance of 107.04 feet to the True Place of Beginning.

TOGETHER WITH the right of ingress and egress over and across roads as they now exist and traverse from the above described parcel to the Arrow Highline Road.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 762-2800

Fax: (208) 762-2819

Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

January 2, 2007

Raymond Quillen
25233 Arrow Highline Rd.
Juliaetta, ID 83535

Re: James R. Dilling Application For Permit to Appropriate the Public Waters of the
State of Idaho.

Dear Mr. Quillen:

James R. Dilling submitted an application to appropriate ground water for the irrigation of ten acres, domestic and stock watering purposes. The application has been processed and advertised with no protests received prior to the end of the protest period on December 6, 2006. The application is now ready to be sent to the State Office in Boise for further processing and approval.

If there is any thing you would like to add to the application packet, in so far as comments, you may do so by sending them to me by no later than January 17, 2007. Any comments received will be included with the application prior to being sent to the State Office.

If you have any questions, feel free to contact me at this office.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent

TRIBUNE PUBLISHING COMPANY, INC.

The Lewiston Tribune
505 C St., P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

**LEGAL ADVERTISING
INVOICE**

SOLD TO: ID DEPT. OF WATER RESOURCES
7600 MINERAL DR #100
COEUR D'ALENE ID 83814

Date 12/14/2006INVOICE NO. 446480Account No. 964750Description 446480The following apTimes 2Lines 29**RECEIVED**

Tab. Lines

DEC 15 2006\$ 86.71

IDWR/North

PO# 85-15685

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

AFFIDAVIT OF PUBLICATION

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

85-15685

JAMES R DILLING**ELLA DILLING**

21349 ARROW RIM LN

JULIAETTA ID 83535

Points of Diversion (2) L10 (NENW) S7 T36N R03W NEZ PERCE County

Source for both Points of Diversion GROUND

WATER

Use: IRRIGATION 02/15 To 11/30 0.2 CFS

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

Use: DOMESTIC 01/01 To 12/31 0.08 CFS

Total Diversion: 0.3 CFS

Date Filed: 07/25/2006

Place Of Use: DOMESTIC

T36N R03W S7 NENW Lot 10

Place Of Use: IRRIGATION & STOCKWATER

T36N R03W S7 NENW Lot 10 SENW

Number of Acres 10

Remark: Domestic use is for 2 homes.

Stockwater use is for 3-4 Alpacas.

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, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D'Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 12/26/2006.

The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director Published Dec.7 & 14, 2006

Karen Lewis, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho and under and by virtue of the laws of the State of Washington, paper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 105 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 446480The follo attached hereto and which is made a part of this affidavit was published in the said Lewiston Tribune, 2 time(s). Publication being on 12/07, or once a WEEK for 2 consecutive WEEK, the first publication thereof being on the 12/07/2006, and the last publication thereof being on the 12/14/2006, and said 446480The follo was so published in the regular and entire issue of said newspaper and was not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

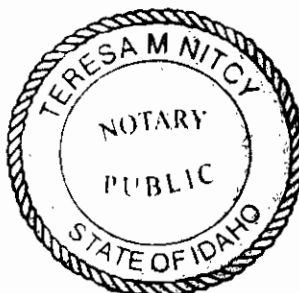
Karen J Lewis

State of Idaho

S.S.

County of Nez Perce

On this 14 day of Dec in the year of 2006, before me, a Notary Public, personally appeared Karen J Lewis, 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 acknowledged to me that he executed the same.



Notary Public in and for the State of Idaho,
residing at Lewiston, therein
Commission Expires 1/23/2010

DEPARTMENT OF WATER RESOURCES
7600 MINERAL DRIVE, SUITE 100
COEUR D'ALENE ID 83814
Phone 208-762-2800 - FAX - 208-762-2819

November 29, 2006

KAREN LEWIS
LEGAL NOTICE DEPARTMENT
LEWISTON MORNING TRIBUNE
505 C ST PO BOX 957
LEWISTON ID 83501

E-MAILED TO klewis@lmtribune.com
ALSO FAXED for clarification to 208-746-7341

Please FAX proof copy before this goes to press, to 762-2819
Thanks, Dianne

RE: Application for Permit No. 85-15685

Dear Karen:

Below, you will find a legal notice which we wish to have published in your newspaper on the dates Indicated, December 7 and 14, 2006, (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 12/26/2006. Your cooperation is, as always, GREATLY appreciated. Thank you,

Sincerely

Dianne

Dianne Ball
Administrative Assistant

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

85-15685

JAMES R DILLING

ELLA DILLING

21349 ARROW RIM LN

JULIAETTA ID 83535

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Source for both Points of Diversion GROUND WATER

Use: IRRIGATION 02/15 To 11/30 0.2 CFS

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Date Filed: 07/25/2006

Place Of Use: DOMESTIC

T36N R03W S7 NENW Lot 10

Place Of Use: IRRIGATION & STOCKWATER

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Stockwater use is for 3-4 Alpacas.

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, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D' Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 12/26/2006. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director Published Dec.7 & 14, 2006

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

85-15685

JAMES R DILLING

ELLA DILLING

21349 ARROW RIM LN

JULIAETTA ID 83535

Points of Diversion (2) L10 (NENW) S7 T36N R03W NEZ PERCE County

Source for both Points of Diversion GROUND WATER

Use: IRRIGATION 02/15 To 11/30 0.2 CFS

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

Use: DOMESTIC 01/01 To 12/31 0.08 CFS

Total Diversion: 0.3 CFS

Date Filed: 07/25/2006

Place Of Use: DOMESTIC

T36N R03W S7 NENW Lot 10

Place Of Use: IRRIGATION & STOCKWATER

T36N R03W S7 NENW Lot 10 SENW

Number of Acres 10

Remark: Domestic use is for 2 homes.

Stockwater use is for 3-4 Alpacas.

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, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D' Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 12/26/2006. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director Published Dec.7 & 14, 2006

**Ball, Dianne**

**From:** Ball, Dianne  
**Sent:** Wednesday, November 29, 2006 11:21 AM  
**To:** Legal Notices-Lewiston Morning Tribune (E-mail)  
**Subject:** LETTERHEAD NORTHERN for Text E-mails.doc

**DEPARTMENT OF WATER RESOURCES  
 7600 MINERAL DRIVE, SUITE 100  
 COEUR D'ALENE ID 83814  
 Phone 208-762-2800 - FAX - 208-762-2819**

November 29, 2006

**KAREN LEWIS** E-MAILED TO [klewis@lmtribune.com](mailto:klewis@lmtribune.com)  
**LEGAL NOTICE DEPARTMENT ALSO FAXED for clarification to 208-746-7341**  
 LEWISTON MORNING TRIBUNE  
 505 C ST PO BOX 957  
 LEWISTON ID 83501

*Please FAX proof copy before this goes to press, to 762-2819  
 Thanks, Dianne*

RE: Application for Permit No. 85-15685

**Dear Karen:**

Below, you will find a legal notice which we wish to have published in your newspaper on the dates indicated, December 7 and 14, 2006, (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 12/26/2006. Your cooperation is, as always, GREATLY appreciated. Thank you,

Sincerely

*Dianne*

Dianne Ball  
 Administrative Assistant

~~~~~

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

85-15685

JAMES R DILLING

ELLA DILLING

21349 ARROW RIM LN

JULIAETTA ID 83535

Points of Diversion (2) L10 (NENW) S7 T36N R03W NEZ PERCE County

Source for both Points of Diversion GROUND WATER

Use: IRRIGATION 02/15 To 11/30 0.2 CFS

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

Use: DOMESTIC 01/01 To 12/31 0.08 CFS

Total Diversion: 0.3 CFS

Date Filed: 07/25/2006

Place Of Use: DOMESTIC

T36N R03W S7 NENW Lot 10

Place Of Use: IRRIGATION & STOCKWATER

T36N R03W S7 NENW Lot 10 SENW

Number of Acres 10

Remark: Domestic use is for 2 homes.

Stockwater use is for 3-4 Alpacas.

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

11/29/2006

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D' Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 12/26/2006. The protestant must also send a copy of the protest to the applicant.
KARL J DREHER, Director Published Dec.7 & 14, 2006



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 762-2800

Fax: (208) 762-2819

Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

November 29, 2006

JAMES R DILLING
ELLA DILLING
21349 ARROW RIM LN
JULIAETTA ID 83535

RE: Application for Permit No 85-15685

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 Lewiston Morning Tribune on December 7 and 14, 2006. 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. A typical processing time for an unprotested application is about eight to twelve weeks.

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

Sincerely,

Keith E. Franklin
Senior Water Resource Agent

Enclosure(s) – Receipt No. N0177777

M E M O R A N D U M

To: Water Right Application # 85-15685

From: Bob Haynes

Date: October 30, 2006

Re: Regional Analysis and Recommendation in accordance with Water Appropriation Rules (IDAPA 37.03.08.040.05) for an Application for a Permit to Appropriate Water within the Salmon and Clearwater River Basins.

Water Supply Information.

The Idaho Department of Fish & Game, Department of Environmental Quality, Nez Perce County and the Nez Perce Tribe have no objection to the applicant utilizing 0.3 cfs from ground water, for the purpose of stock water, domestic and irrigation. The applicant proposes to use 2 wells. There is a "Water Use and Maintenance Agreement" regarding these wells. The applicant proposes to irrigate 10 acres.

Good Faith, Delay, or Speculative Information.

The applicant plans to divert water for his own use on property that he owns. There are issues with the other party to the "Water Use and Maintenance Agreement", however those issues may be outside of the jurisdiction of the department.

Financial Resources Information.

The wells are already in existence and were constructed in 1979 and 1992 and the additional resources required to complete the project are minimal. The applicant appears to have adequate means by which to see the project through.

Local Public Interest.

The Idaho Department of Fish & Game and the Department of Environmental Quality have been ask to comment, by the applicant. Written comments received from these agencies, indicate they are not apposed to the applicant's proposal and see no adverse impact to fish, wildlife or habitat.

Injury to Other Water Rights.

There isn't any foreseen potential to impact area water right holders or impact the Clearwater River below the point of diversion.

Recommendation.

Northern Region recommends proceeding with the processing of this water right application.

Haynes, Bob

From: Franklin, Keith
Sent: Monday, October 30, 2006 11:51 AM
To: Haynes, Bob
Subject: M E M O R A N D U M Lage Jr.

M E M O R A N D U M

To: Water Right Application # 84-12236
From: Keith E. Franklin
Date: October 28, 2006
Re: Application for a Permit to Appropriate Water within the Salmon and Clearwater River Basins.

Re: Regional Analysis and Recommendation in accordance with Water Appropriation Rules (IDAPA 37.03.08.040.05).

Water Supply Information.

The Idaho Department of Fish & Game as well as the Department of Environmental Quality have no objection towards the applicant utilizing 0.17 cfs from an unnamed stream, for the purpose of stock water, stock water storage, irrigation and irrigation storage. The source for the unnamed stream is mainly storm runoff. The area of land proposed to be irrigated is 5 acres.

Good Faith, Delay, or Speculative Information.

The applicant plans to divert water for his own use on property that he owns and there are no known issues with any other party.

Financial Resources Information.

The pond was constructed approximately 5 years ago and the additional resources required to complete the project are minimal. The applicant appears to have adequate means by which to see the project through.

Local Public Interest.

The Idaho Department of Fish & Game and the Department of Environmental Quality have been ask to comment, by the applicant. Written comments received from these agencies, indicate they are not apposed to the applicant's proposal and see no adverse impact to fish, wildlife or habitat.

Injury to Other Water Rights.

There isn't any foreseen potential to impact area water right holders or impact the Clearwater River below the point of diversion.

Recommendation.

Northern Region recommends proceeding with the processing of this water right application.

EDWIN L. LITTENEKER
ATTORNEY AT LAW

P.O. Box 321
322 Main St.
Lewiston, ID 83501
Telephone: 208-746-0344
Facsimile: 208-798-8387
Email: ellattlaw@lewiston.com

October 3, 2006

RECEIVED
OCT 05 2006
IDWR/North

Keith E. Franklin
Water Resources Agent
Department of Water Resources
Northern Region
Suite No. 210
1910 Northwest Blvd.
Coeur d'Alene, Idaho 83814-2615

Re: *James R. Dilling, 21349 Arrow Rim Ln., Juliaetta, Idaho*

Dear Mr. Franklin:

In response to your letter dated September 22, 2006, I believe that Mr. Dilling has complied with the answers to Water Appropriation Rules 40.05.c through 40.05 g. as outlined in your letter dated July 20, 2006 as follows:

40.05.c. ii. For applications appropriating groundwater, a plat shall be submitted locating the proposed well relative to existing wells and springs and permitted wells within a one-half mile radius of the proposed well.

Answer: Mr. Dilling supplied maps of #1 Well Site, #2 Well Site and the area to be irrigated by Mr. Dilling with his Application for Permit. Each of the residences within ½ mile of Mr. Dilling's residence are served by wells.

40.05.c. iii. Information shall be submitted concerning any design, construction, or operation techniques, which will be employed to eliminate or reduce the impact on other water rights.

Answer: There is no impact on other water rights. Mr. Dilling's Application is to irrigate land at the top of the hill. No substantial water users have objected to his Application.

40.05.d. i. Information shall be submitted on the water requirements of the proposed project, including, but not limited to, the required diversion rate during the peak use period and the average use period, the volume to be diverted per year, the period of year that water is required, and the volume of water that will be consumptively used per year.

Keith E. Franklin

October 3, 2006

Page 2

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40.05.d. ii. Information shall be submitted on the quantity of water available from the source applied for, including, but not limited to information concerning flow rates for surface water sources available during periods of peak and average project water demand, information concerning the properties of the aquifers that water is to be taken from for groundwater sources, and information on the other sources of supply that may be used to supplement the applied for water source.

Answer: Mr. Dilling's Application for Permit supplies the purpose of diversion, the quantity of diversion. The location of the diversion is Township 36N, Range 3W, Sec. 7, in the NE ¼, NW 1/4 , Lot West, B.M. Nez Perce County. The quantity of diversion is .3 cfs for irrigation, .08 cfs for domestic, and .07 cfs for stock watering.

40.05.e. i. The applicant shall submit copies of deeds, leases, easements or applications for rights-of-way from federal or state agencies documenting a possessory interest in the lands necessary for all project facilities and the place of use or if such interest can be obtained by eminent domain proceedings the applicant must show that appropriate actions are being taken to obtain the interest. Applicants for hydropower uses shall also submit information required to demonstrate compliance with Sections 42-205 and 42-206, Idaho Code.

Answer: Mr. Dilling submitted the Water Use and Maintenance Agreement with an adjacent landowner with his Application for Permit. No federal or state agency has a possessory interest in the land affected by this Application.

40.05.e. ii. The applicant shall submit copies of applications for other needed permits, license and approvals, and must keep the department apprised of the status of the applications and any subsequent approvals or denials.

Answer: None.

40.05.f.i. The applicant shall submit a current financial statement certified to show the accuracy of the information contained therein, or a financial commitment letter along with the financial statement of the lender or other evidence to show that it is reasonably probable that financing will be available to appropriate the water and apply it to the beneficial use proposed.

40.05.f.ii. The applicant shall submit plans and specifications along with the estimated construction costs for the project works. The plans shall be definite enough to allow for determination of project impacts and implications.

Keith E. Franklin

October 3, 2006

Page 3

Answer: No financing is contemplated. The wells have been installed and are currently used for domestic water uses.

40.05.g. The applicant shall seek comment and shall submit all letters of comment on the effects of the construction and operation of the proposed project from the governing body of the city and/or county and tribal reservation within which the point of diversion and place of use are located, the Idaho department of Fish and Game, the Idaho Department of Environment Quality, and any irrigation district or canal company within which the proposed project is located and from other entities as determined by the director.

Answer: On September 1, 2006, Mr. Dilling submitted letters to the Department of Water Resources from the Idaho Department of Fish and Game dated August 21, 2006; Nez Perce Planning & Building dated August 24, 2006, Department of Environmental Quality dated August 16, 2006, and Mr. Hewett dated August 20, 2006. Enclosed please find a copy of the letter from the Nez Perce Tribal Executive Committee dated September 27, 2006.

Should you have any questions or concerns, please feel free to contact me.

Sincerely,



Edwin L. Litteneker
Attorney at Law

ELL:se

Enc.

Cc: James Dilling w/enc.



Nez Perce

SEP 29 2006

TRIBAL EXECUTIVE COMMITTEE
P.O. BOX 305 • LAPWAI, IDAHO 83540 • (208) 843-2253

September 27, 2006

Edwin L. Litteneker
Attorney At Law
P.O. Box 321
Lewiston, ID 83501

RECEIVED
OCT 05 2006
IDWR/North

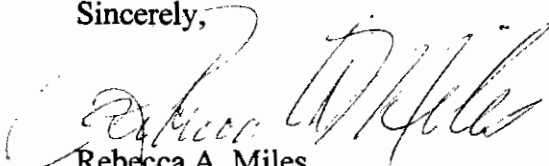
Re: Groundwater Permit Application, Jim Dilling

Dear Mr. Litteneker:

Thank you for providing Mr. Dilling's Application for Permit to Idaho Department of Water Resources for our review. Based on the information you provided and our review of the factors contained in Idaho Code Section 42-203A(5), we have no objection to Mr Dilling's application at this time.

Again, thank you for providing this information for our review. The Tribe appreciates a cooperative, proactive approach to managing water resources to ensure aquatic resource values and treaty resources are protected and enhanced. If you have any questions, please Greg Haller of our staff at (208) 843-7320 ext. 2434.

Sincerely,


Rebecca A. Miles
Chairman



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 762-2800

Fax: (208) 762-2819

Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

September 22, 2006

Edwin L. Litteneker
P.O. Box 321
Lewiston, ID 83501

Re: James R. Dilling, Application For Permit to Appropriate the Public Waters of the
State of Idaho.

Dear Mr. Litteneker:

With comments from Idaho Fish & Game, Department of Environmental Quality, Nez Perce Planning & Building Services, etc., I believe we are almost ready to take the next step in processing Mr. Dilling's application. What the department needs next, are answers to Water Appropriation Rules 40.05.c through 40.05.g, as outlined in my letter to you dated July 20, 2006. Once I receive this, along with the agency comments, I can then formulate a recommendation on how to proceed with further processing of the application.

If you have any questions, don't hesitate to contact me at this office.

Thank you.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent

kf

C O P Y

EDWIN L. LITTENEKER
ATTORNEY AT LAW

P.O. Box 321
322 Main St.
Lewiston, ID 83501
Telephone: 208-746-0344
Facsimile: 208-798-8387
Email: ellatl@lewiston.com

September 18, 2006

RECEIVED
SEP 22 2006
IDWR/North

Keith E. Franklin
Water Resources Agent
Department of Water Resources
Northern Region
Suite No. 210
1910 Northwest Blvd.
Coeur d'Alene, Idaho 83814-2615

Re: *James R. Dilling, 21349 Arrow Rim Ln., Juliaetta, Idaho*

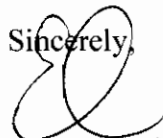
Dear Mr. Franklin:

Heidi Gudgell from the Nez Perce Tribe Legal Counsel office has advised that the Dilling request for comments is one of the first that the tribe has ever received and that they are taking it to the Tribal Executive Committee for tribal action.

Ms. Gudgell has also advised that staff has no objection to Mr. Dilling's application. However, because we have not been able to receive the Tribe's comments in a timely fashion, I would request that you submit this matter for staff review with the additional comments to be forthcoming from the Tribe.

I look forward to hearing from you.

Should you have any questions or concerns, please feel free to contact our office.

Sincerely,


Edwin L. Litteneker
Attorney at Law

ELL:se

Cc: James Dilling
Heidi Gudgell, Nez Perce Tribe

EDWIN L. LITTENEKER
ATTORNEY AT LAW

P.O. Box 321
322 Main St.
Lewiston, ID 83501
Telephone: 208-746-0344
Facsimile: 208-798-8387
Email: ellatlaw@lewiston.com

September 1, 2006

RECEIVED
SEP 08 2006
IDWR/North

Keith E. Franklin
Water Resources Agent
Department of Water Resources
Northern Region
Suite No. 210
1910 Northwest Blvd.
Coeur d'Alene, Idaho 83814-2615

Re: *James R. Dilling, 21349 Arrow Rim Ln., Juliaetta, Idaho*

Dear Mr. Franklin:

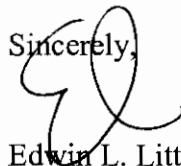
In response to your letter dated July 27, 2006, enclosed you will find response letters from the following:

- Letter dated August 21, 2006 from Idaho Department of Fish & game.
- Letter dated August 24, 2006 from Nez Perce Planning & Building Services.
- Letter dated August 16, 2006 from Department of Environmental Quality.
- Letter dated August 20, 2006, from Mr. Hewett.

We are still waiting for a response from the Nez Perce Tribe.

Should you have any questions or concerns, please feel free to contact our office.

Sincerely,



Edwin L. Litteneker
Attorney at Law

ELL:se

Enc.

Cc: James Dilling

August 21, 2006

RECEIVED
SEP 08 2006
IDWR/North

Law Offices of Edwin L. Litteneker
322 Main Street
PO Box 321
Lewiston, ID 83501

Dear Mr. Litteneker:

RE: Water Right Application for James and Ella Dilling, Identification No. 85-15685

You have submitted the above-named application for a water right to IDFG for review on behalf of your clients. Your clients have applied to Idaho Department of Water Resources for a right to withdraw 0.03 cfs from an existing well in the Potlatch River drainage area for irrigation, domestic and stock watering.

Based on the location of the well identified on the map provided, and the volume of water requested, we believe that the requested withdrawal is not likely to have significant impacts on surface water quantity and quality in the Potlatch River. Fish and Game has no objection to your clients request.

Thank you for the opportunity to comment on your application. Please contact Ray Hennekey at the Lewiston Fish and Game office (208) 799-5010 if you have any questions or for further assistance.

Sincerely,

Cal Groen
Clearwater Regional Supervisor

CG/rh/ss

c: Kerby Cole
Keith Franklin
Shelly Keen



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

AUG 18 2006

1118 F STREET • LEWISTON, IDAHO 83501 • (208) 799-4370

JAMES E. RISCH, GOVERNOR
TONI HARDESTY, DIRECTOR

August 16, 2006

Edwin L. Litteneker
P.O. Box 321
322 Main Street
Lewiston, Idaho 83501

RECEIVED

SEP 08 2006

IDWR/North

Re: Application for Permit, Jim Dilling

Dear Mr. Litteneker:

DEQ has received a copy of your letter and the copy of Mr. Dilling's application to the Idaho Department of Water Resources requesting approval to appropriate ground water from an existing well. Based on the information that has been provided, DEQ cannot estimate nor predict impairments to surface or ground water beneficial uses resulting from the requested withdrawal. However, assuming all federal, state, and local permits have been obtained, regulations met, and reviews completed, we can offer the following comments.

This activity will comply with all aspects of the Well Construction Standards Rules, IDAPA 37, Title 03, Chapter 09. All work will be completed following the guidelines, best management practices, rules and regulations found in "Idaho Well-Driller's Regulatory Compliance Guidebook", Marc McGregor, UI, distributed by the Idaho Department of Water Resources.

It is the policy of the State of Idaho, Ground Water Management Plan that existing and projected beneficial uses of ground water and interconnected surface water be maintained and protected and degradation that would impair beneficial uses of ground water and interconnected surface water not be allowed.

Thank you for requesting our review and comment of your activity.

Sincerely,

Kerby M. Cole, P.E.
Regional Administrator

CC: Keith Franklin, IDWR
Marti Bridges, IDEQ
Ray Hennekey, IDFG

AUG 25 2006



Nez Perce County Planning & Building Services

P.O. Box 896/1225 Idaho Street
Lewiston, ID 83501-0896
Telephone (208) 799-3197
Fax (208) 799-3149

RECEIVED
SEP 08 2006
IDWR/North

August 24, 2006

Edwin Litteneker
322 Main Street
Lewiston, Idaho 83501

Dear Mr. Litteneker,

Nez Perce County has no comments regarding an application for Jim Dilling to have water rights to irrigate his property located at 21349 Arrow Rim Lane in Juliaetta, Idaho.

Sincerely,



Patrick D. Rockefeller
Building Official
PDR/jjw

AUGUST 20, 2006

AUG 29 2006

JIM DILLING
21349 ARROW RIM LANE
JULIAETTA, IDAHO 83535

RECEIVED
SEP 08 2006
IDWR/North

RE: APPLICATION FOR WATER RIGHT PERMIT, JIM DILLING

DEAR MR. JIM DILLING

I WOULD HAVE NO OBJECTION FOR
YOU TO OBTAIN A WATER RIGHT PERMIT
TO IRRIGATE YOUR PROPERTY LOCATED
AT 21349 ARROW RIM LANE, JULIAETTA,
IDAHO.

PLEASE CALL ME SHOULD YOU HAVE ANY
QUESTIONS.

THANK YOU,

Ronald A. Hewett
RONALD A. HEWETT
24513 ARROW HIGHLINE RD.
JULIAETTA, IDAHO 83535



IDAHO DEPARTMENT OF FISH AND GAME

CLEARWATER REGION

3316 16th Street
Lewiston, Idaho 83501

James E. Risch/Governor
Steven M. Huffaker/Director

August 21, 2006

RECEIVED

AUG 30 2006

IDWR/North

Law Offices of Edwin L. Litteneker
322 Main Street
PO Box 321
Lewiston, ID 83501

Dear Mr. Litteneker:

RE: Water Right Application for James and Ella Dilling, Identification No. 85-15685

You have submitted the above-named application for a water right to IDFG for review on behalf of your clients. Your clients have applied to Idaho Department of Water Resources for a right to withdraw 0.03 cfs from an existing well in the Potlatch River drainage area for irrigation, domestic and stock watering.

Based on the location of the well identified on the map provided, and the volume of water requested, we believe that the requested withdrawal is not likely to have significant impacts on surface water quantity and quality in the Potlatch River. Fish and Game has no objection to your clients' request to drill a well to access groundwater to irrigate your landscaping.

Thank you for the opportunity to comment on your application. Please contact Ray Hennekey at the Lewiston Fish and Game office (208) 799-5010 if you have any questions or for further assistance.

Sincerely,

David Caldwell
"HES"

for Cal Groen
Clearwater Regional Supervisor

CG/rh/ss

c: Kerby Cole
Keith Franklin
Shelly Keen
Walt Poole
Cindy Robertson
Tracey Trent



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

Fax (208) 769-1454

FAX TRANSMITTAL COVER SHEET

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

DATE: 8/10/04

TO: Edwin Litteneker

FROM: Keith Franklin

FAX #: 208-798-8387

IDWR

NOTE: BLANK FORMS ARE AVAILABLE ON THE INTERNET AT:
www.idwr.state.id.us/info/forms.htm

DOCUMENT DESCRIPTION:

Copy of James Dilling Application

TOTAL PAGES SENT: 2 PLUS (+) COVER SHEET

CONTACT:

Keith Franklin
(NAME OF SENDER)

CHARGES: One (1) free copy per request, cover sheet not included. Two (2) or more copies per request are \$0.25 per page with a \$0.50 minimum

PLEASE CONSIDER THIS DOCUMENT AS A BILLING STATEMENT.

THE CHARGE FOR YOUR FAX COPIES IS \$ _____

PLEASE REMIT BY RETURN MAIL TO THE ABOVE ADDRESS.

PHONE NO: (208) 769-1450

FAX NO: (208) 769-1454



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 1910 Northwest Blvd. Suite 210, Coeur d'Alene, Idaho 83814-2615

Phone: (208) 769-1450

Fax: (208) 769-1454

Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

July 27, 2006

Edwin L. Litteneker
P.O. Box 321
Lewiston, ID 83501

Re: Sensitive Basin Contacts For Mr. Dillings Application For Permit.

Dear Mr. Litteneker:

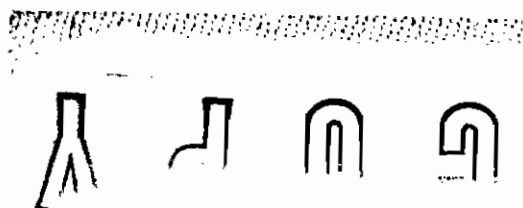
Attached is a copy of the Water Appropriation Rules 40.05.c through 40.05.g and out line for folks to follow who are applying for a Permit to Appropriate Water in the Salmon and Clearwater River Basins. I apologize this was not attached to my July 20, 2006 letter to you.

If you have any questions, don't hesitate to give me a call.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent

Encl/kf



EDWIN L. LITTENEKER
ATTORNEY AT LAW

P.O. Box 321
322 Main St.
Lewiston, ID 83501
Telephone: 208-746-0344
Facsimile: 208-798-8387
Email: ellatiaw@lewiston.com

July 24, 2006

Keith E. Franklin
Water Resources Agent
Department of Water Resources
Northern Region
Suite No. 210
1910 Northwest Blvd.
Coeur d'Alene, Idaho 83814-2615

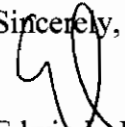
Re: *James R. Dilling, 21349 Arrow Rim Ln., Juliaetta, Idaho*

Dear Mr. Franklin:

Enclosed you will find a copy of the two prior Applications for Permit and the original revised Application for Permit. You will also find a check in the amount of \$500.00, which represents the \$125.00 well upgrade fee for each well and \$250.00 water right application fee.

Should you have any questions or concerns, please feel free to contact our office.

Sincerely,


Edwin L. Litteneker
Attorney at Law

ELL:se

Cc: James Dilling

Upgrade How many wells?

We are have

3 Apps -

or 1 app (3 copies)

*[because they are not
exact copies]*

EDWIN L. LITTENEKER
ATTORNEY AT LAW

July 20, 2006

Robert G. Haynes
Regional Manager
Department of Water Resources
Northern Region
Suite No. 210
1910 Northwest Blvd.
Coeur d'Alene, Idaho 83814-2615

Re: *James R. Dilling, 21349 Arrow Rim Ln., Juliaetta, Idaho*

Dear Mr. Haynes:

This letter will follow up with my telephone conversation with you in regards to the Notice of Violation/Order to Cease and Desist Diversion of Water. This letter is to request a compliance conference to discuss the alleged violation with the Idaho Department of Water Resources on behalf of Mr. Dilling.

Mr. Dilling had supplied sufficient information to me prior to your letter for purposes of completing the applications. Based upon the demands of my office and, apparently, the poor selection of projects to work on, Mr. Dilling's application did not get completed in a timely fashion.

Since I spoke with you on Monday, I have visited with Keith Franklin on several occasions regarding the processing of Mr. Dilling's application. Mr. Dilling will be making another amended application requesting a water right for his domestic and irrigation uses. Because there are two wells, Mr. Dilling will be making application for well upgrades given the potential of both wells being used for irrigation purposes.

I look forward to hearing from you, so that we can complete this.

Sincerely,


Edwin L. Litteneker
Attorney at Law

ELL:se

Cc: James Dilling

RECEIVED
JUL 24 2006
IDWR/North

P.O. Box 321
322 Main St.
Lewiston, ID 83501
Telephone: 208-746-0344
Facsimile: 208-798-8387
Email: ellatl@lewiston.com

RECEIVED
JUL 24 2006
IDWR/North



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 1910 Northwest Blvd. Suite 210, Coeur d'Alene, Idaho 83814-2615

Phone: (208) 769-1450

Fax: (208) 769-1454

Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

July 20, 2006

Edwin L. Litteneker
P.O. Box 321.
Lewiston, ID 83501

Re: Application For Permit to Appropriate the Public Waters of the State of Idaho.

Dear Mr. Litteneker:

The Idaho Department of Water Resources understands your client, James R. Dilling is interested in submitting an Application For Permit to Appropriate the Public Waters of the State of Idaho. Mr. Dilling's property happens to be located within the Salmon-Clearwater River Basins, which are jeopardy basins for the Endangered Species Act (ESA) listed fish species. Each application within this sensitive area must undergo close scrutiny to ensure the Department is not negatively impacting those species.

The IDWR has recently developed a process by which each application is reviewed. I have attached a copy of an information sheet that outlines the additional information the applicant will be required to supply the Department, along with agency contacts. For your convenience, I have highlighted the portions of the rules that would apply to Mr. Dilling's application.

The additional information will need to be provided within 30 days from the date the Department receives Mr. Dilling's application, unless additional time is requested. If you should have any questions, don't hesitate to contact me at this office.

Sincerely,

Keith E. Franklin
Water Resources Agent

Encl/kf/cc James R. Dilling

C O P Y

Water Appropriation Rules 40.05.c through 40.05.g

c. The following information shall be submitted for applications to appropriate unappropriated water. . . .

Information relative to the effect on existing water rights, Section 42-203A(5)(a), Idaho Code, shall be submitted as follows:

- i. For applications appropriating springs or surface streams with five (5) or fewer existing users, either the identification number, or the name and address of the user, and the location of the point of diversion and nature of use for each existing water right shall be submitted.
- ii. For applications appropriating groundwater, a plat shall be submitted locating the proposed well relative to all existing wells and springs and permitted wells within a one-half mile radius of the proposed well.
- iii. Information shall be submitted concerning any design, construction, or operation techniques which will be employed to eliminate or reduce the impact on other water rights.

d. Information relative to sufficiency of water supply, Section 42-203A(5)(b), Idaho Code, shall be submitted as follows:

- i. Information shall be submitted on the water requirements of the proposed project, including, but not limited to, the required diversion rate during the peak use period and the average use period, the volume to be diverted per year, the period of year that water is required, and the volume of water that will be consumptively used per year.
- ii. Information shall be submitted on the quantity of water available from the source applied for, including, but not limited to, information concerning flow rates for surface water sources available during periods of peak and average project water demand, information concerning the properties of the aquifers that water is to be taken from for groundwater sources, and information on other sources of supply that may be used to supplement the applied for water source.

e. Information relative to good faith, delay, or speculative purposes of the applicant, Section 42-203A(5)(c), Idaho Code, shall be submitted as follows:

- i. The applicant shall submit copies of deeds, leases, easements or applications for rights-of-way from federal or state agencies documenting a possessory interest in the lands necessary for all project facilities and the place of use or if such interest can be obtained by eminent domain proceedings the applicant must show that appropriate actions are being taken to obtain the interest. Applicants for hydropower uses shall also submit information required to demonstrate compliance with Sections 42-205 and 42-206, Idaho Code.
- ii. The applicant shall submit copies of applications for other needed permits, licenses and approvals, and must keep the department apprised of the status of the applications and any subsequent approvals or denials.

f. Information Relative to Financial Resources, Section 42-203A(5)(d), Idaho Code, shall be submitted as follows:

- i. The applicant shall submit a current financial statement certified to show the accuracy of the information contained therein, or a financial commitment letter along with the financial statement of the lender or other evidence to show that it is reasonably probable that financing will be available to appropriate the water and apply it to the beneficial use proposed.
- ii. The applicant shall submit plans and specifications along with estimated construction costs for the project works. The plans shall be definite enough to allow for determination of project impacts and implications.

g. Information Relative to Conflict with the Local Public Interest, Section 42-203A(5)(e), Idaho Code, shall be submitted as follows:

The applicant shall seek comment and shall submit all letters of comment on the effects of the construction and operation of the proposed project from the governing body of the city and/or county and tribal reservation within which the point of diversion and place of use are located, the Idaho Department of Fish and Game, the Idaho Department of Environmental Quality, and any irrigation district or canal company within which the proposed project is located and from other entities as determined by the director.

IDAHO DEPARTMENT OF WATER RESOURCES

Applying for a Permit to Appropriate Water in the Salmon and Clearwater River Basins

Idaho Code § 42-203A(5) requires IDWR to evaluate the following criteria for applications to appropriate water:

- The potential to reduce the quantity of water under existing water rights
- The sufficiency of the water supply for the proposed appropriation
- The good faith nature of the application
- The adequacy of the applicant's financial resources
- The local public interest in the public water resource
- The conservation of water resources in Idaho
- Impacts to the economy of the local area or watershed

To ensure that IDWR has sufficient information to evaluate the criteria, Rule 40.05 of the Water Appropriation Rules (IDAPA 37.03.08.040.05) requires water right applicants to submit additional information to IDWR in connection with their applications.

The additional information requirement is usually waived for applications proposing the appropriation of 5.0 cfs or less or the storage of 500 af or less. Because the waters of the Salmon River and Clearwater River drainages are habitat for fish species listed as endangered or threatened under the federal Endangered Species Act, caution is necessary to ensure that new appropriations of water do not undermine efforts to protect and restore the ESA listed fish species and other public values in the basins' rivers and streams. IDWR is, therefore, requiring that applicants submit the additional information required by Water Appropriation Rules 40.05.c through 40.05.g, even when the applications are for less than the usual 5.0 cfs/500 af threshold. Only certain applications for small domestic and stockwater uses and applications to divert ground water for domestic use in multiple homes are exempt from the additional information requirement. A copy of Water Appropriation Rules 40.05.c-g is printed on the back of this page.

Please submit the information required by Water Appropriation Rules 40.05.c-g to IDWR within 30 days from the date you are notified that it is required. IDWR will hold your application until you have submitted the additional information. If you believe that a particular piece of information is not relevant to your application, please explain why. If you do not respond within 30 days, IDWR may void your application. If you need additional time to submit the required information, please submit a written request. IDWR can grant additional time "upon a showing of good cause."

The following are agency representatives who will help you respond to the local public interest requirement of Rule 40.05.g. Please contact these agency representatives at least 15 days prior to the end of your 30-day response period.

IDFG contact list for water right applications:

Panhandle Region: Mary Terra-Berns at 208-769-1414 Clearwater Region: Ray Hennekey at 208-799-5010
McCall Subregion: Dale Allen at 208-634-8137 Southwest Region: Eric Leitzinger at 208-465-8465
Salmon Region: Tom Curet at 208-756-2271

IDEQ contact list for water right applications:

Lewiston: Kerby Cole at 208-769-4370 (Clearwater or lower Salmon River basins)
Cascade: Leslie Freeman at 208-382-6808 (South Fork Salmon River basin)
Idaho Falls: Troy Saffle at 528-2650 (Upper Salmon, Lemhi, Pahsimeroi basins)

EDWIN L. LITTENEKER
ATTORNEY AT LAW

RECEIVED
JUL 18 2006
IDWR/North

P.O. Box 321
322 Main St.
Lewiston, ID 83501
Telephone: 208-746-0344
Facsimile: 208-798-8387
Email: ellatlaw@lewiston.com

July 17, 2006

Gregory J. Taylor
Department of Water Resources
Northern Region
Suite No. 210
1910 Northwest Blvd.
Coeur d'Alene, Idaho 83814-2615

Re: *Application for Permit*

Dear Mr. Taylor:

Enclosed please find two original Application Permits on behalf of James R. Dilling for the two wells on his property. Can you please advise of the necessary fees to be paid with these applications?

Should you have any questions or concerns, please feel free to contact me.

I look forward to hearing from you, so that we can complete this.

Sincerely,



Edwin L. Litteneker
Attorney at Law

ELL:se

Enc.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 1910 Northwest Blvd. Suite 210, Coeur d'Alene, Idaho 83814-2615

Phone: (208) 769-1450

Fax: (208) 769-1454

Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

July 17, 2006

CERTIFIED MAIL

JULIETTA, ID _____

**RE: Notice of Violation / Order to Cease and Desist Diversion of Water
Violations of Idaho Code §§ 42-351 and 42-1701B**

Dear Mr. Johnson:

The Idaho Department of Water Resources (IDWR) has determined that you are illegally diverting water in violation of Idaho Code § 42-351. The violations are associated with the irrigation of 5 acres in the (*describe land*) and the diversion of water from a domestic well located in (*legal description*) near _____. (*common address or point of reference*) IDWR inspected the _____.

IDWR corresponded with you on _____ previous occasions in this regard. The most recent letter from IDWR requested your written response. (*mention the incomplete application previously filed*)

Unless there is a valid water right authorizing the diversion of water from the well for irrigation purposes, irrigation is limited to ½ acre under the domestic exemption. Under Idaho Code § 42-1701B, the director of IDWR may commence an administrative enforcement action to obtain a civil penalty for irrigation uses equal to three hundred dollars (\$300) annually for each acre irrigated, in whole or in part, by the illegal use or diversion.

Pursuant to Idaho Code § 42-1701B, IDWR requires that the following action be taken immediately:

1. **CEASE and DESIST** any further diversion of water from the domestic well for the irrigation of lands in excess of ½ acre.
2. For diverting water without a water right to irrigate 4 ½ acres, the director of IDWR seeks an agreed civil penalty in the amount of \$ 1350.00.

If you object to any provision in this notice, you have the opportunity to schedule a compliance conference to discuss the violation with IDWR. Your written request must be received at this office within fourteen (14) days of receipt of this notice. Failure to comply with the requirements of this notice will be cause for IDWR to initiate a civil enforcement action through the Attorney General in district court.

Please contact me or _____ of my staff at 769-1450 if you have any questions regarding this matter.

Sincerely,

Robert haynes
Northern Regional Manager

c:
John Homan, Deputy Attorney General

SENDER: COMPLETE THIS SECTION

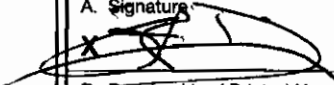
- Complete items 1, 2, 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

James R Dilling
21349 Arrow Rim Ln
Julietta ID 83535

COMPLETE THIS SECTION ON DELIVERY

A. Signature

☐ Agent☐ Addressee

B. Received by (Printed Name)

Jim R. Dilling

C. Date of Delivery

7/17/06

D. Is delivery address different from item 1? ☐ YesIf 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

(Transfer from service label)

7004 2510 0000 4999 0462

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 •

DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD SUITE 210
COEUR D'ALENE ID 83814

008





State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 1910 Northwest Blvd. Suite 210, Coeur d'Alene, Idaho 83814-2615

Phone: (208) 769-1450

Fax: (208) 769-1454

Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

July 14, 2006

JAMES R DILLING
21349 ARROW RIM LN
JULIAETTA ID 83535

CERTIFIED MAIL

**RE: Notice of Violation / Order to Cease and Desist Diversion of Water
Violations of Idaho Code §§ 42-351 and 42-1701B**

Dear Mr. Dilling:

The Idaho Department of Water Resources (IDWR) has determined that you are illegally diverting water in violation of Idaho Code § 42-351. The violations are associated with the irrigation of approximately 5 acres in the NENW Gov. Lot 10 and SENW of Section 7, Township 36 North, Range 3 West, B. M. and the diversion of water from a domestic well located in the NENW Gov. Lot 10 of Section 7, Township 36 North, Range 3 West, B.M., northeast of Arrow, Idaho. IDWR inspected the site on May 16, 2006.

IDWR corresponded with you on December 15, 2005 in this regard previous. The most recent letter, from IDWR was sent to your attorney, Edwin L. Litteneker on March 15, 2006, returning an incomplete application for a permit to appropriate the public waters of the State of Idaho.

Unless there is a valid water right authorizing the diversion of water from the well for irrigation purposes, irrigation is limited to ½ acre under the domestic exemption. Under Idaho Code § 42-1701B, the director of IDWR may commence an administrative enforcement action to obtain a civil penalty for irrigation uses equal to three hundred dollars (\$300) annually for each acre irrigated, in whole or in part, by the illegal use or diversion.

Pursuant to Idaho Code § 42-1701B, IDWR requires that the following action be taken immediately:

1. **CEASE and DESIST** any further diversion of water from the domestic well for the irrigation of lands in excess of ½ acre.
2. For diverting water without a water right to irrigate 4 ½ acres, the director of IDWR seeks an agreed civil penalty in the amount of \$ 1350.00.

C O P Y

If you object to any provision in this notice, you have the opportunity to schedule a compliance conference to discuss the violation with IDWR. Your written request must be received at this office within fourteen (14) days of receipt of this notice. Failure to comply with the requirements of this notice will be cause for IDWR to initiate a civil enforcement action through the Attorney General in district court.

Please contact me or Keith Franklin of my staff at 208-769-1450 if you have any questions regarding this matter.

Sincerely,

Robert G Haynes
Regional Manager

c:
John Homan, Deputy Attorney General
Edwin L. Litteneker



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 1910 Northwest Blvd. Suite 210, Coeur d'Alene, Idaho 83814-2615

Phone: (208) 769-1450

Fax: (208) 769-1454

Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 15, 2006

Edwin L. Litteneker
PO Box 321
Lewiston, ID 83501

Re: James R. Dilling Application For Permit To Appropriate Public Waters.

Dear Mr. Litteneker:

Please find enclosed the Application for Permit you recently submitted to the department. We are returning the application because of insufficient information. Please see the following items that need to be completed before we can process your application.

Item Number 3. Location of point of diversion.

The north-south and east-west coordinates were omitted from the Township and Range coordinates on the application. I took the liberty of inserting the appropriate designations as per the attached Water Use and Maintenance Agreement. Also, please submit a map showing the location of the well to be used, preferably on a USGS map with a scale of two inches equals one mile.

Item Number 4. Water use, purpose.

In regards to irrigation, an applicant can file for any amount they wish however, the diversion rate per acre is 0.02 cfs, unless the applicant can demonstrate more or less is needed. The department questions the amount of 0.027 cfs indicated on the application. The amount probably should read 0.3 cfs, please confirm.

Normally the allotted diversion for domestic use is 0.04 cfs unless the applicant can demonstrate more is needed. You have indicated a diversion of 0.1338 cfs on the application. Will you supply the department information on why an additional 0.0938 cfs is needed for domestic purposes?

On item number 8, the application indicated stock will be watered from the source. If there is to be a stock watering component, it should be included in item number 4. The normal diversion rate for 0 to 25 head of mixed stock is 0.02 cfs.

C O P Y

Item Number 6.

You indicated there will be some kind of storage facility or pond. If so, within item number 4, you need to add a storage component, either for the irrigation, stock water or both, with a one acre-foot storage capacity as indicated by 6(b).

In item 6(e) you indicated a Drilling Permit Number of 746453 for the well that will be used. The department's records show this well is located within Section 27 of Township 36 North, Range 03 West, approximately 4 miles from the prospective place of use. The department questions the validity of this well number, would you please verify?

Item Number 7. Time Required.

Please list the time it will take you to finish developing the system and begin using the water for all of the uses applied for. This time can be from 1-5 years.

Item Number 9. Uses.

Stockwater and storage need to be added to the uses. Also, please submit a copy of a detailed map showing the location of the property and the location of the uses, especially the irrigation component.

Fees.

Once you have determined the overall diversion rate, see chart attached to the instructions sheet, please submit the appropriate filing fee along with the application.

If the well under Permit Number 746453 is to be used, the well permit fee will have to be upgraded. The well was originally drilled for a domestic, single residence in 1992. The well permit fee for an irrigation well is \$200.00, \$35.00 has already been paid, leaving a balance owing, for the upgrade, of \$165.00. This amount will be in addition to the Application For Permit fee.

Ownership.

Please submit a copy of a deed or real-estate contract and map showing the ownership and location of the Dillings and Quillens property. Also, if the Quillens own the land where the water is to be used, then they need to file for a water right in their name. The submitted Water Use and Maintenance Agreement was a little confusing as to ownership.

We will be happy to process your filing when it is returned to our office and it is complete. If you have any questions, or if I can be of further assistance, please feel free to contact me at this office.

Sincerely,

Keith E. Franklin
Water Resources Agent



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

Fax (208) 769-1454

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 15, 2005

JAMES DILLING
21349 ARROW RIM LN
JULIAETTA ID 83535

RE: Diversion of water for irrigation

Dear Mr. Dilling:

It has come to our attention that this past summer you diverted water from a groundwater source to irrigate a portion of the property you own in Nez Perce County. We do not have record of any water right at this place of use. Idaho State Law requires a valid, **recorded** water right before groundwater can be diverted for any purpose other than domestic purposes as defined in 42-111, Idaho Code. Below, is the definition of domestic purposes in 42-111:

- (a) The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or
- (b) Any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day.

Therefore, diverting water from a well to irrigate more than ½ acre is illegal if you do not have a valid water right.

We are sending this letter to help bring you into compliance with the law. We have enclosed an Application for Permit form that you should complete and send to this office if you wish to divert water for irrigation in the future. If the application is complete and the appropriate fees are enclosed, we will advertise the application in the local paper and protests may be filed by other interested parties.

If a person diverts water without a valid water right, the director of the department of water resources is authorized and may commence and pursue enforcement actions to remedy the designated violations set out in title 42, Idaho Code. Please contact this office if you have any questions regarding this matter.

Sincerely,

A handwritten signature in cursive script that reads "Gregory J. Taylor".

Gregory J. Taylor
Sr. Water Resource Agent

Dilling

T36N R3W Section 7



Place of Use



Point of Diversion

