O.K. well.

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

63-9661
STATE OF IDAHO
IDAHO HISTORICAL SOCIETY, 610 N. Julia Davis Dr., Boise, ID 83702
Source: Groundwater
Date Filed: 01/16/1981
Amount: 2.20 CFS
Diversion Point: SWNE Sec. 13 T 03N R 02E, Ada Co.
Use: Irrigation (2.20 CFS) from 03/15 to 11/15
Place of Use: NWNE SWNE NENW Sec 13 T 03N R 02E for 110 acres
Diversion Means: Well & Pump.

63-9662
JOHNSON, ROY B.
3638 Holl Dr., Eagle, ID 83616
Source: Groundwater
Date Filed: 01/19/1981
Diversion Point: SENE Sec 33 T 05N R 01E, Ada Co.
Use: Irrigation (0.10 CFS) from 03/15 to 11/15
Domestic (0.04 CFS) from 01/01 to 12/31
Place of Use: SENE NESE Sec 33 T 05N R 01E for 5 acres
Diversion Means: Pumping Plant & Sprinkler System.

63-9663
SUTHERLAND, DENNIS J. &/or SHARYN K.
11036 Runway Dr., Boise, ID 83703
Source: Groundwater
Date Filed: 01/21/1981
Amount: 0.07 CFS
Diversion Point: NWNW Sec 11 T 04N R 01E, Ada Co.
Use: Irrigation (0.03 CFS) from 03/15 to 11/15
Domestic (0.04 CFS) from 01/01 to 12/31
Place of Use: NWNW Sec 11 T 04N R 01E for 1 acre
Diversion Means: Pump & Sprinkler System.

If issued, the permits will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 92 S. Cole Road, Boise, Idaho 83709 on or before February 16, 1981.

C. STEPHEN ALLRED
Director

Pub. Jan. 29, Feb. 5, 1981

STATE OF IDAHO)
)ss.
COUNTY OF ADA)

Linda Wallace, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in the regular edition of The Idaho Statesman for

two insertions, beginning with the issue of January 29, 1981, and ending with the issue of February 5, 1981.

Linda Wallace

Subscribed and sworn to before me this 5th day of February, 1981.

Dorothy Ferguson

Notary Public for Idaho, Residing at Boise, Idaho

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FEB 6 1981
Department of Water Resources
Western Regional Office

October 27, 1995

Mr. Dave R. Tuthill Jr. P.E.
Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705

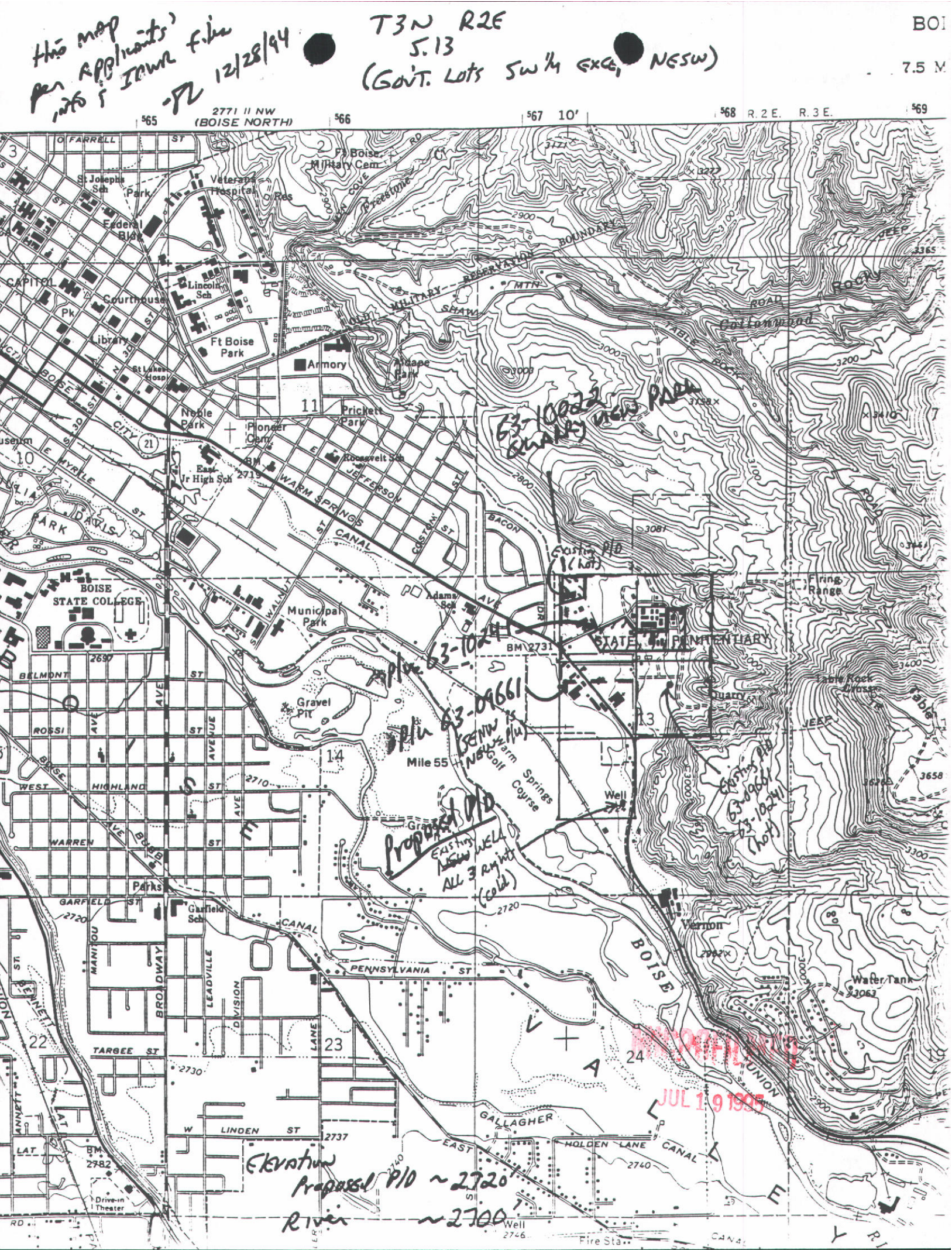
Dear Mr. Tuthill

Please accept this letter as formal notification of conditional withdrawal to our protest to Amendment of Permit No. 63-09861, Change in Point of Diversion No. 63-10241 (Transfer #49826) and Amendment of Permit No. 63-10622.

We withdraw our protest on the condition that the well will not be deepened or opened up to water-bearing sediments below the present bottom of 192 feet below land

Warm Springs Mesa, Inc
Paul W. Wise, President

RECEIVED
JAN 31 1996


this map per Applicants' into 5 Idaho file -PZ 12/28/94
T3N R2E
5.13
(Gov't. Lots 5 SW¼ exc. NESW)
BOI
7.5 M
2771 II NW
(BOISE NORTH)
565
566
567 10'
568 R.2E. R.3E.
569
O FARRELL ST
St Joseph Sch
Park
Veterans Hospital
Res
Ft Boise Military Cem
Freestone Creek
Rd
2900
3100
3200
3300
3365
CAPITOL
Courthouse
Pk
Lincoln Sch
Library
Ft Boise Park
Armory
Adobe Park
St Lukes Hosp
BOISE
CITY
21
Noble Park
Pioneer Cem
Prickett Park
Roosevelt Sch
East Jr High Sch
BM 2719
MYRTLE
WARM SPRINGS
JEFFERSON
CANAL
COSTON
BACON
DAVIS
PARK
BOISE STATE COLLEGE
Municipal Park
WALNUT
Adams Sch
AVE
DR
BM 2731
STATE PENITENTIARY
Firing Range
Quarry
Table Rock Drive
Table Rock
JEEP
BELMONT ST
ROSSI
WEST HIGHLAND ST
WARREN ST
GARFIELD ST
Gravel Pit
Mile 55
Warm Springs Golf Course
Well
Parks
Garfield Sch
CANAL
PENNSYLVANIA ST
MANITOU
BROADWAY
LEADVILLE
DIVISION
LANE
TARGEE ST
W LINDEN ST
2737
GALLAGHER
EAST
HOLDEN LANE
CANAL
Vernon
Water Tank
BOISE
UNION
Drive-in Theater
Well
2746
Fire Sta
CANAL
RD
LAT
BM 2782
22
23
24
13
14
10
11
3
7
63-10022 (QUARRY) View Pond
Existing P/O (hot)
Appl. 63-10241
Appl. 63-09661 (GENW is New Well P/U)
Proposed P/O
Existing New Well ALL 3 Right (cold)
63-09661 (hot)
63-10241 (hot)
Elevation
Proposed P/O ~2720'
River ~2700'
RECEIVED
JUL 19 1995

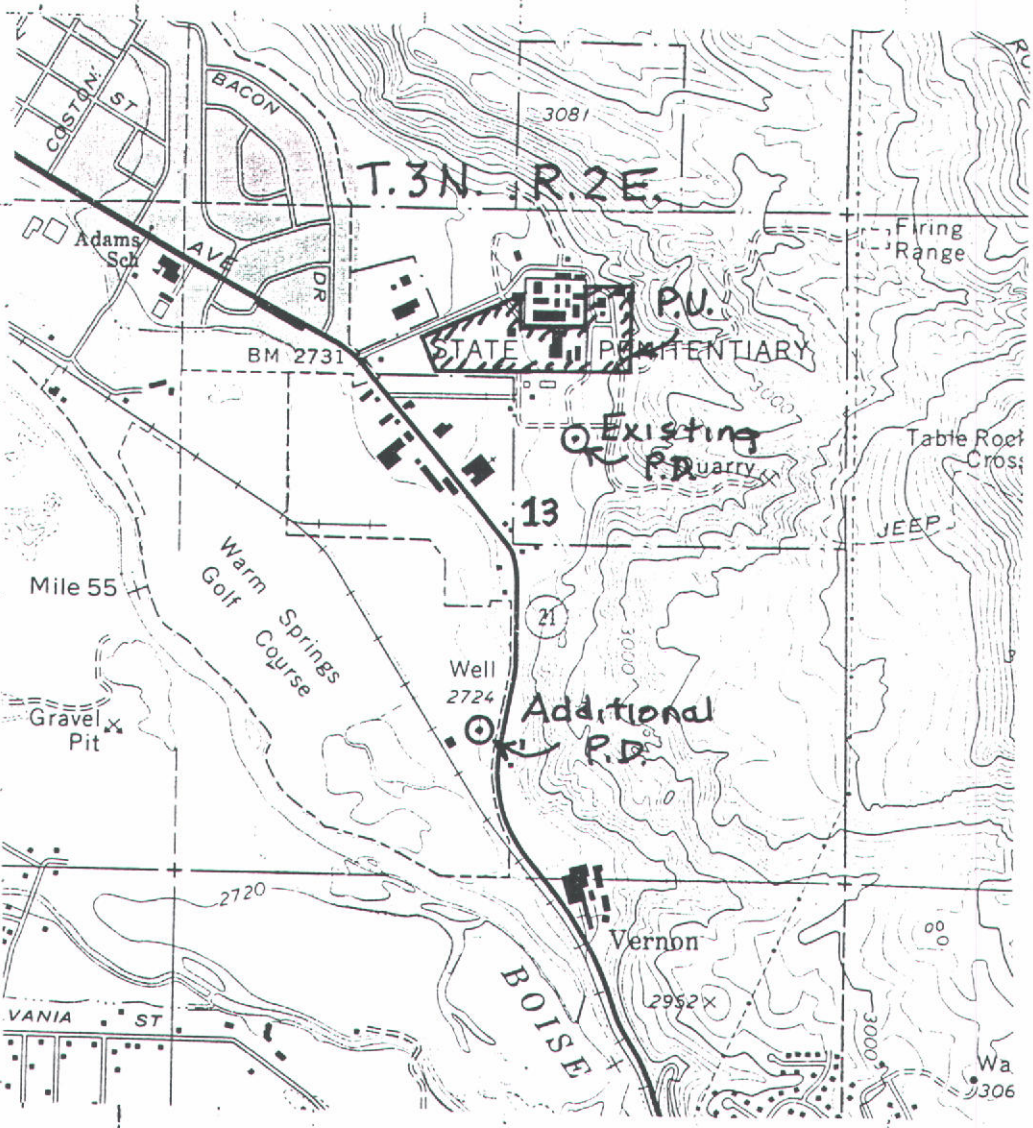
Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



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JUL 19 1995

SCALE: 3.5 inches equal 1 mile. Draw plan in ink.


Rocky
Cottonwood
Picket Pin
Creek
ROAD
TABLE ROCK
OLD MILITARY RESERVATION
MTN.
SHAW
Armory
Adobe Park
Brick Park
Roosevelt
WARREN AVE
Municipal
Gravel Pit
Mile 55
Warm Springs Golf Course
Gravel Pit
Gravel Pit
Hillcrest
STATE PENITENTIARY
P.D.
BM 2731
Firing Range
Quarry
Table Rock Cross
TR
Table Rock
JEEP
TRAIL
ROAD
Vernon
Water Tank
Quarry
Spring
Creek
Warm Springs
CANAL
GALLAHER
Barber
Diversion
EAST
AMITY
ROAD
3365
3158
3081
3410
3702
3605
3712
3441
3552
3563
3626
3658
3544
3435
2952
3063
3082
12
7
8
11
13
14
18
17
28
24
19
20
26
27
29

FORM DA-8 Rev. 7-1-77
WHITE — State Auditor
BLUE — Purchasing Copy
YELLOW — Remittance Advice
PINK — State Auditor then Agency
GOLDENROD — Agency Copy

EXPENDITURE VOUCHER

STATE OF IDAHO
Office of State Auditor

AUDITOR USE

Document No.	
Pre-Audit	Date
Warrant No.	

AGENCY USE

SHSNGI 1101 830737
Date 1-5-83
Code 12.65.00

AGENCY NAME: IDAHO HISTORICAL SOCIETY

CHECK ONE:

(X) MISCELLANEOUS EXPENDITURE
( ) STATE CONTRACT

PAY TO: Layne of Idaho, Inc.
P O Box 1005
Nampa, ID 83651

( ) PURCHASE ORDER
( ) MISCELLANEOUS ENCUMBRANCE REQUISITION

Encumbrance Reference No.

PAYMENT: ( ) PARTIAL ( ) FINAL

LINE No.	PROGRAM Maj	PROGRAM Min	PROGRAM Ele	ACCT.	CLASS Maj	CLASS Min	DESCRIPTION (Include Quantity)	COMPLETE ONE %	COMPLETE ONE LINE AMOUNT	AGENCY USE
1.	04	--	---	1101	8605		Inv. #2489 11-30-82 Old Penitentiary share of repair ~~of machinery~~. THE BALANCE OF THIS INVOICE WILL BE PAID BY HEALTH & WELFARE AND AGRICULTURE AS AGREED. OLD PEN		322.33	
								TOTAL	100%=	322.33

NOTE: Final payment must be accompanied by a receiving copy

MICROFILMED

TO STATE AUDITOR

Request is hereby made that a warrant be authorized and drawn in payment of the item or items described above. I hereby certify that the items described were ordered by proper authority; that they are necessary in the public service, that the items have been received and accounted for, and that the account as stated is correct and just.

1-5-83
Date Head of Agency or Institution

AUDITOR'S CERTIFICATE

I hereby certify that the above account is in proper form; that totals carried hereon are correct; that receipts when required by law or regulation of the State Board of Examiners covering items for which reimbursement is asked are submitted herewith; and that there are funds in the state treasury and balances in appropriation accounts out of which the same may be lawfully paid.

State Auditor

LAYNE OF IDAHO, INC.

P.O. BOX 1005, 118 McCLURE AVENUE
NAMPA, IDAHO 83651
(208) 466-7376

INVOICE NO. [illegible]

SOLD TO [illegible]
Attn: Wesley Tucker
220 OLD FISH ROAD
BOISE, IDAHO 83702

DATE Nov. 30, 1981

REMARKS

QTY.	NUMBER	DESCRIPTION			
		Customer brought in hoses and 10' of 3" & 2" [illegible] X	[illegible]		
		[illegible]			
2		[illegible]			
		[illegible]			
		[illegible]			
		[illegible]			
		[illegible]			
		[illegible]			
		[illegible]			
		[illegible]			

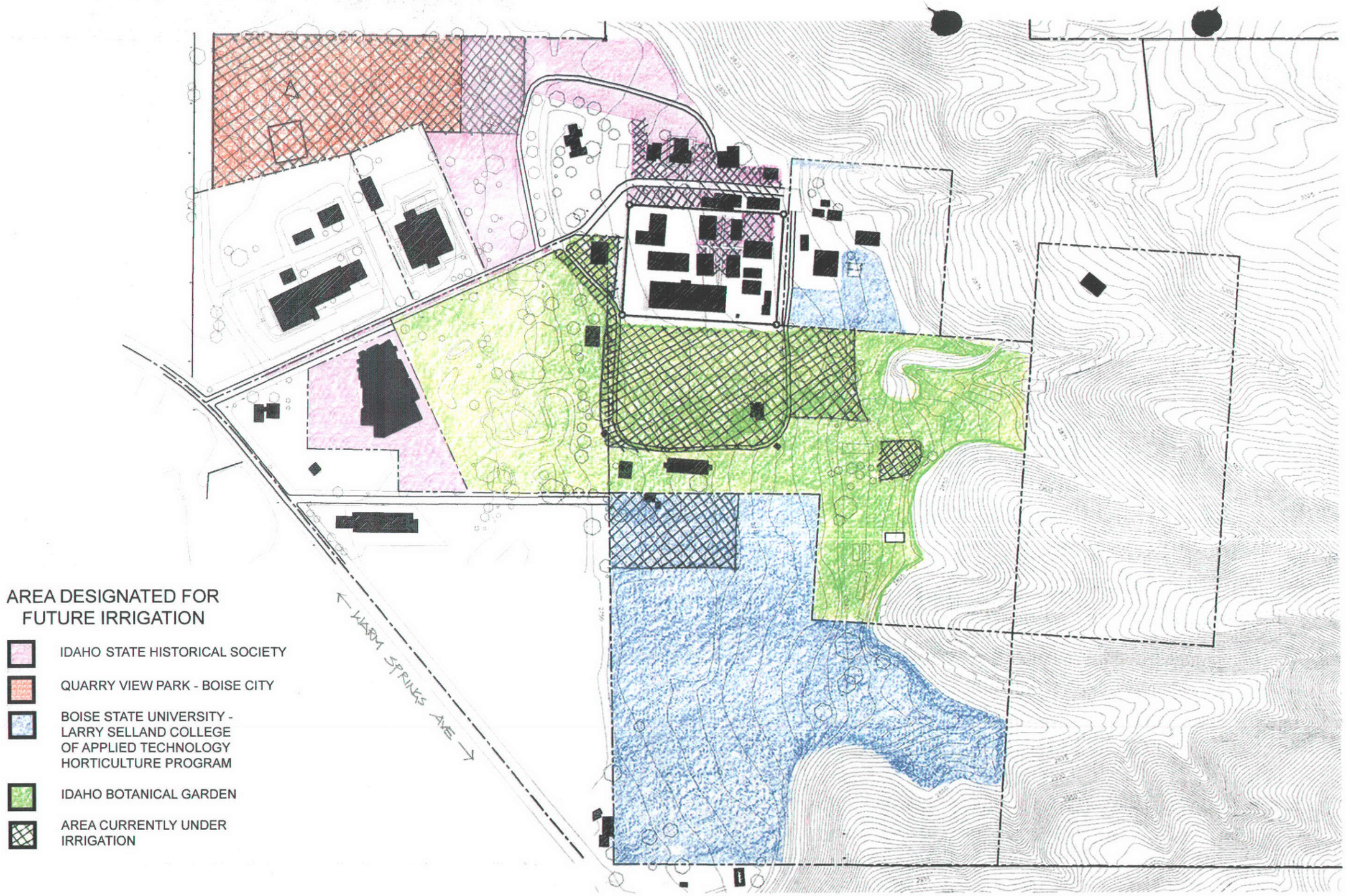
Ok to pay #32233
Balance will be paid by H&W & Ag
as agreed

I certify that the property which I have here purchased will be used by me for the following purpose.
Directly and primarily in the process of producing tangible personal property by mining, manufacturing, processing of farming.
To repair the equipment or machinery described below which is being directly and primarily used in the process of producing tangible personal property and would be exempt from application of sales tax were it being purchased.

Date _____ Signature _____

MICROFILMED
POOR QUALITY ORIGINAL

Please Date, Sign and Return this copy with your Payment. 1101/04/8605



AREA DESIGNATED FOR
FUTURE IRRIGATION

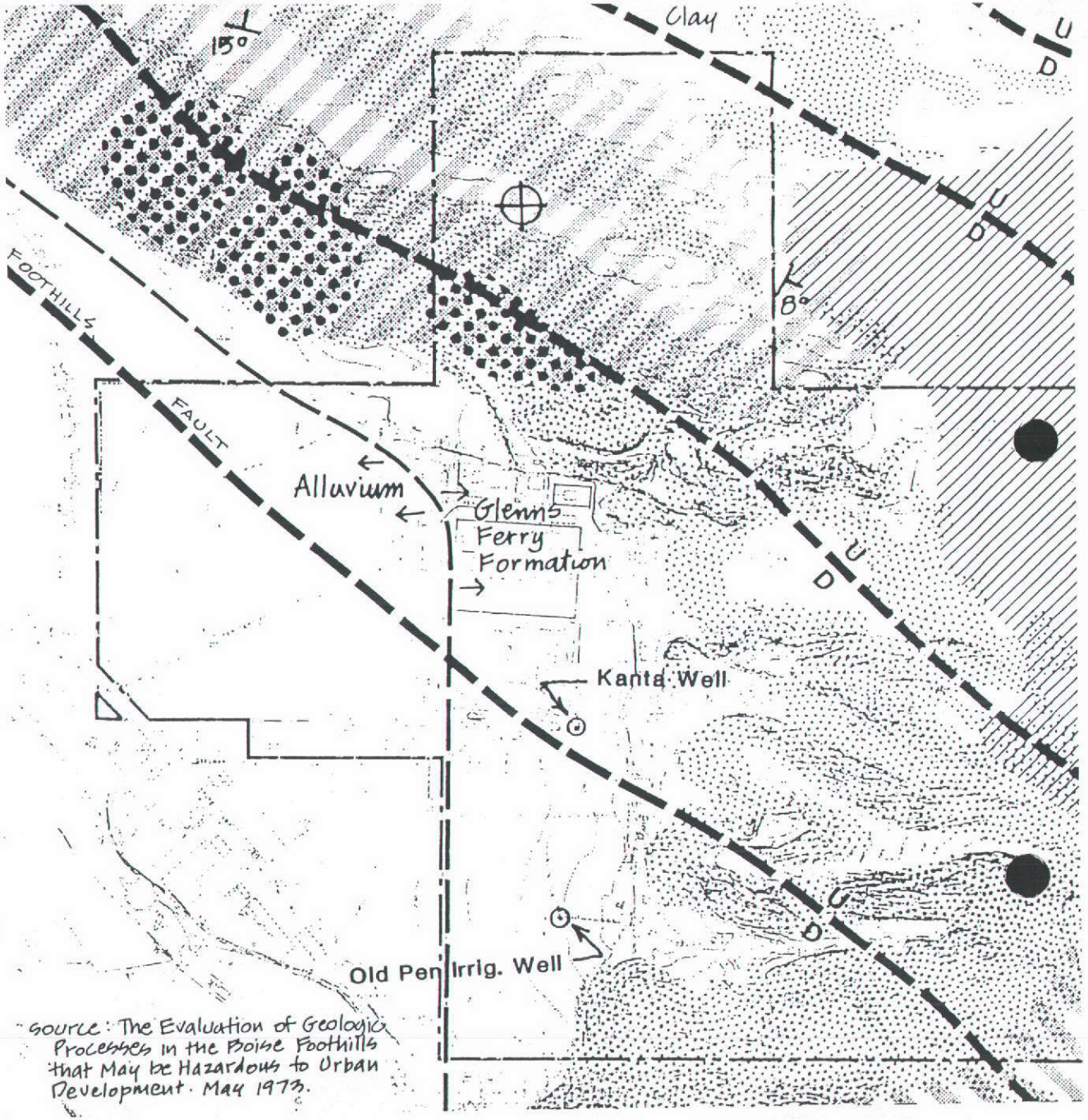
- IDAHO STATE HISTORICAL SOCIETY
- QUARRY VIEW PARK - BOISE CITY
- BOISE STATE UNIVERSITY - LARRY SELLAND COLLEGE OF APPLIED TECHNOLOGY HORTICULTURE PROGRAM
- IDAHO BOTANICAL GARDEN
- AREA CURRENTLY UNDER IRRIGATION

OLD PENITENTIARY HISTORIC DISTRICT

IRRIGATION PLAN

0' 150' 300' 450'

A complex geology is characteristic of the property. It combines the alluvial soils of the Boise River plain with various rock outcroppings, basalt flows, and boulder fields in the rising hill areas.



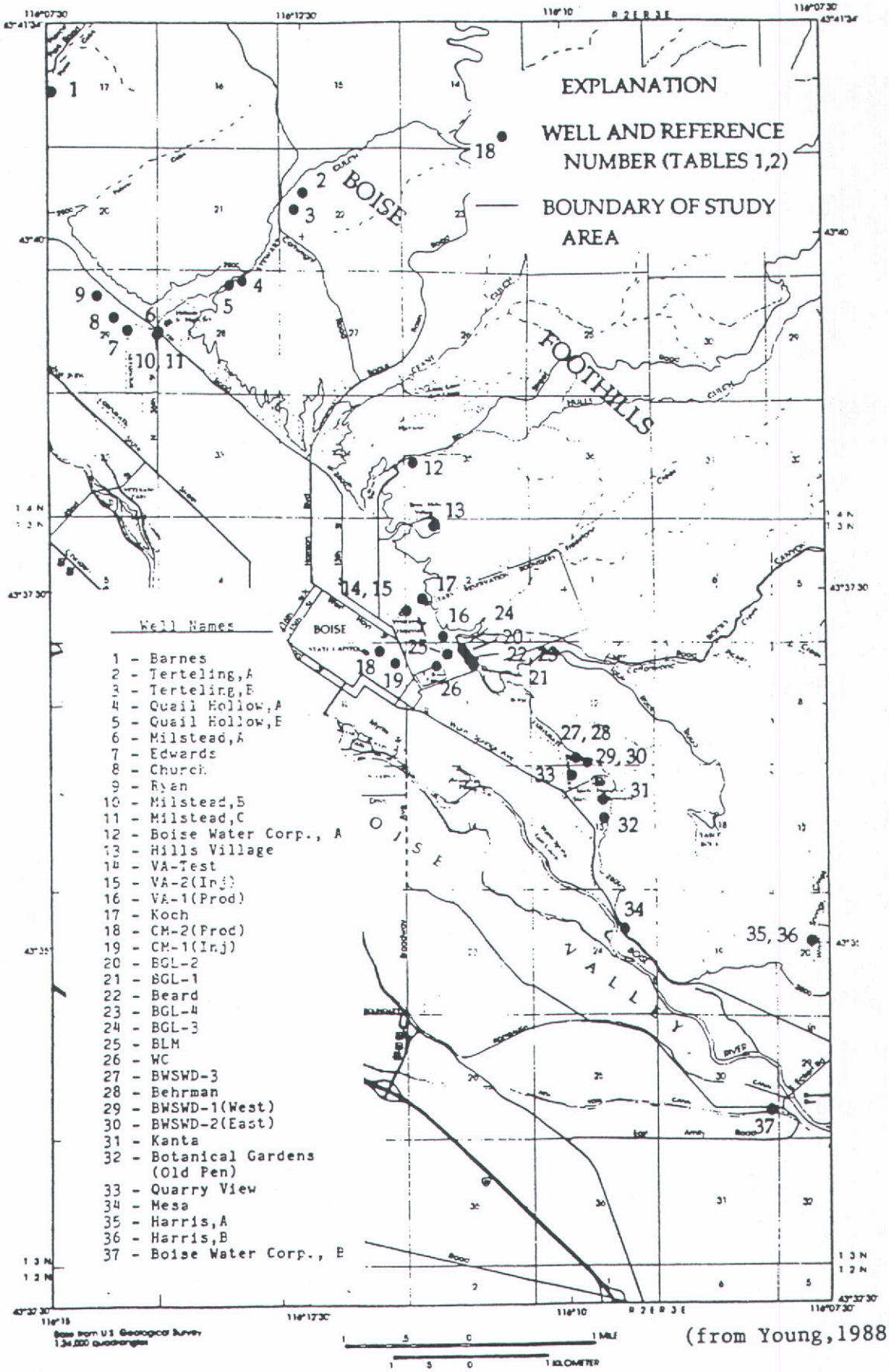
MICROFILMED
JUN 0 2 2003

0 1000 2000 feet

Source: The Evaluation of Geologic Processes in the Boise Foothills that May be Hazardous to Urban Development. May 1973.

Generalized Geology

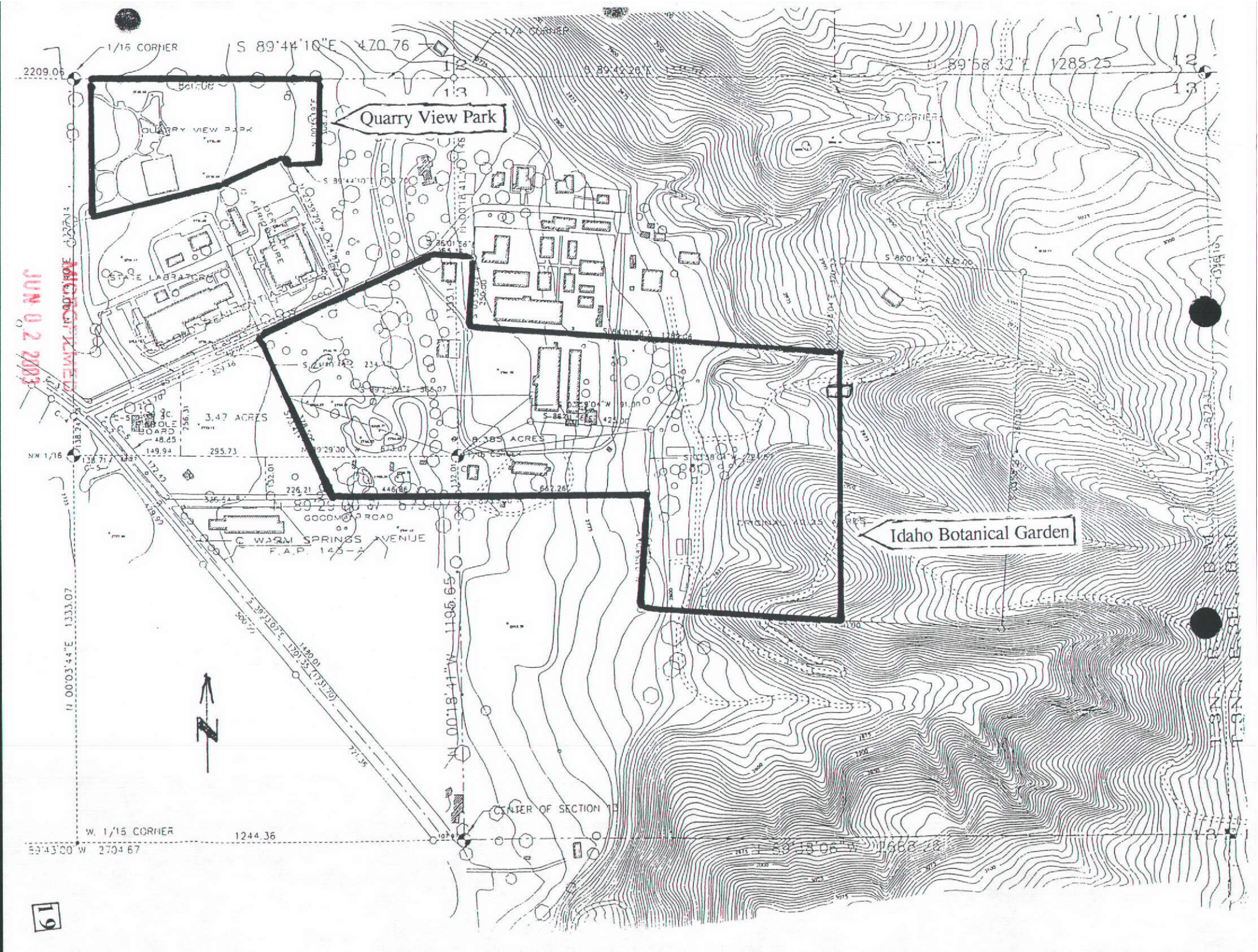
Old Idaho Penitentiary Site Utilization Study



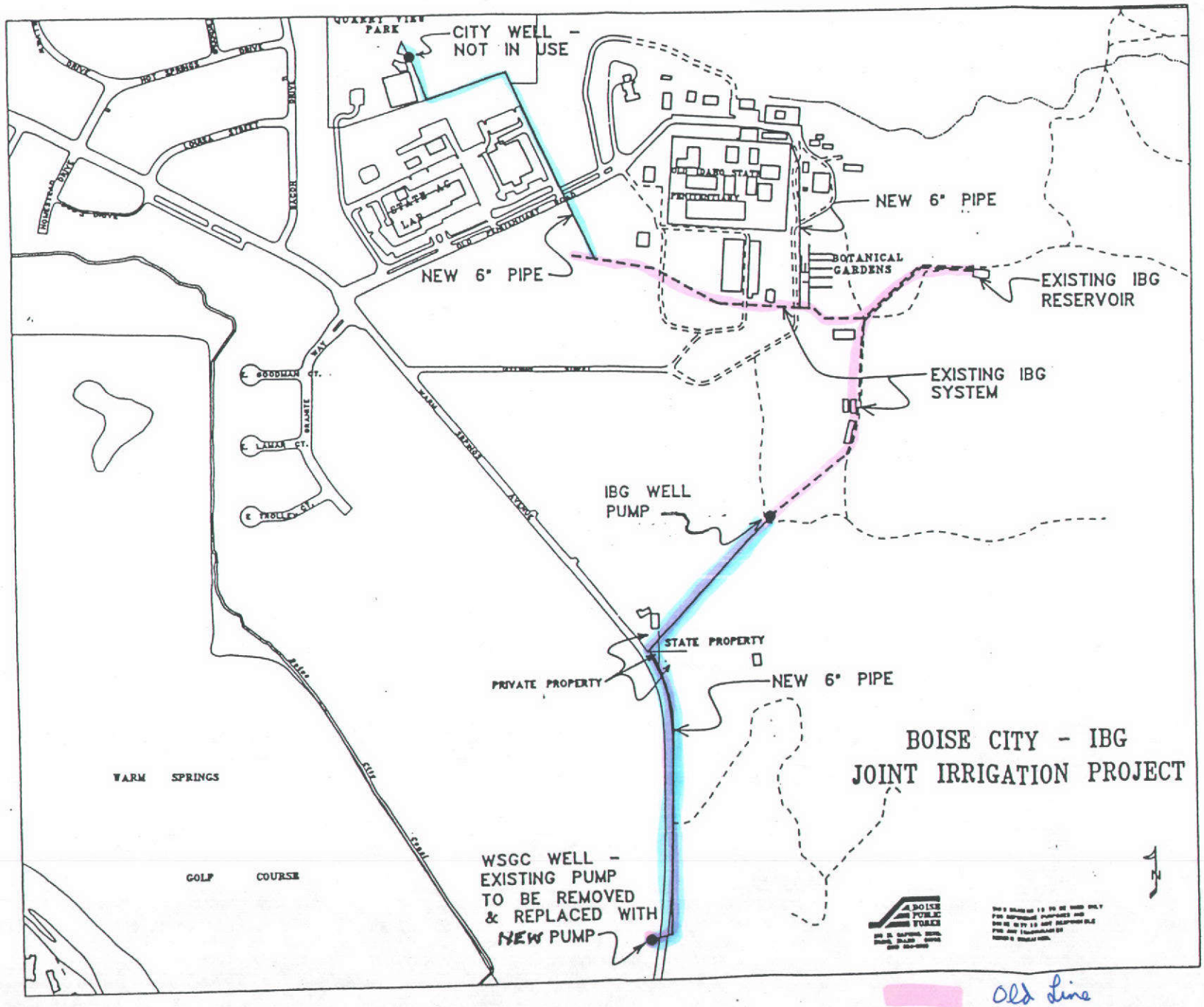
(from Young,1988)

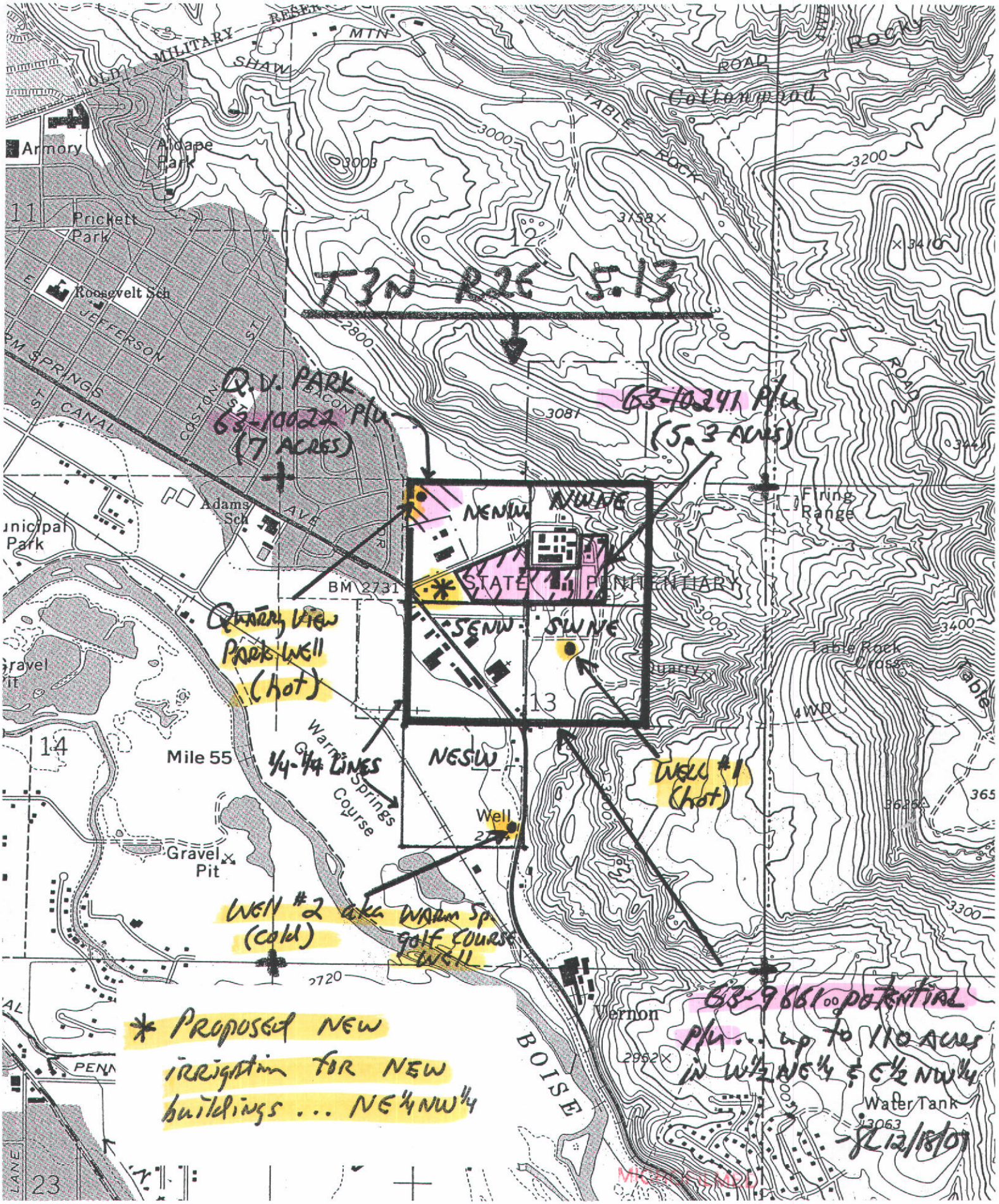
MICROFILMED
JUN 0 2 2003

Location of geothermal wells.


Quarry View Park
Idaho Botanical Garden
QUARRY VIEW PARK
STATE LABORATORY
DEPARTMENT OF AGRICULTURE
3.47 ACRES
8.385 ACRES
GOODMAN ROAD
W. WARM SPRINGS AVENUE
F.A.P. 145-A
CENTER OF SECTION 13
W. 1/16 CORNER
1/16 CORNER
1/4 CORNER
S 89°44'10"E 420.76
S 89°58'32"E 1285.25
2209.06
1244.36
N 00°03'44"E 1333.07
N 00°18'41"W 1196.65
S 89°43'00"W 2704.67
JUN 02 2008

MICROFILMED
JUN 0 2 2003




T3N R2E S.13
Q.V. PARK
63-10022 Plu
(7 ACRES)
63-10241 Plu
(5.3 ACRES)
NENW
NWNE
STATE PENITENTIARY
SENW
SWNE
13
NESW
Quarry View Park Well (Hot)
Warm Springs Golf Course
1/4-1/4 LINES
Well #1 (Hot)
Well #2 aka Warm Sp Golf Course Well (Cold)
Mile 55
Gravel Pit
Well
* Proposed new irrigation for new buildings ... NE¼NW¼
63-9661 potential Plu ... up to 110 acres in W½NE¼ & E½NW¼
Vernon
Water Tank
Table Rock
Quarry
Firing Range
Armory
Adaire Park
Prickett Park
Roosevelt Sch
Adams Sch
Municipal Park
Cottonwood
Rocky
Table Rock
Military Reserve
Old Shaw Mtn
Penitentiary
Boise
Warm Springs
Jefferson
Canal
4WD
Road
3000
3200
3400
3300
2800
2720
2992
3063
3158
3410
3081
3442
3625
3650
11
12
14
23
BM 2731

JAN 09 2002

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 63-9661 IN THE NAME OF STATE OF IDAHO, DEPT. OF LANDS	) PRELIMINARY ORDER) LIFTING STAY IN DEVELOPMENT) AND GRANTING ADDITIONAL TIME) TO SUBMIT PROOF OF BENEFICIAL USE

This matter having come before the Department of Water Resources (Department) as a result of a request to lift a stay in development and grant additional time to submit proof of beneficial use, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On March 3, 1981, the Department issued Permit 63-9661 (permit) authorizing the Idaho Historical Society to divert 2.20 cfs from ground water within the SW¼NE¼, Section 13, Township 3 North, Range 2 East, B.M., for the irrigation of 110 acres in Ada County. The well intended to be the point of diversion for the permit is known locally as Old Penitentiary Well #1.

2. As a condition of approval for the permit, the permit holder was required to submit proof of beneficial use for the permit by March 1, 1986.

3. The temperature of the water in the Old Penitentiary Well #1 is approximately 136 degrees Fahrenheit, which qualifies it as a low temperature geothermal resource as defined in §42-230(1), *Idaho Code*.

4. Section 42-218, *Idaho Code*, says, in pertinent part, that "the department can extend the time for making such proof of beneficial use . . . ."

5. On May 19, 1986, the Department granted the Idaho Historical Society an extension to March 1, 1991, for submitting proof of beneficial use in connection with the permit.

6. On June 15, 1987, the Department established the Boise Front Low Temperature Geothermal Resource Ground Water Management Area (BFGWMA) in Ada County, including the area where the permit was to be developed, in response to declining aquifer water levels and pressure associated with the low temperature geothermal resource

7. On June 10, 1988, the Department imposed a moratorium on additional development of the low temperature geothermal resource within the BFGWMA. Further development of the low temperature geothermal resource in connection with Permit 63-9661 was prohibited under Item No. 1 of the moratorium order, which says:

Effective with the date of entry of this order, further development or additional use pursuant to undeveloped or partially developed permits is prohibited until the permit holder shows to the satisfaction of the Director that further development of additional use: a) will not increase depletions from the aquifer; b) will not increase pumping lift or decrease pressure to existing prior users; and c) will not reduce temperature to existing users causing systems operating at reasonable efficiency to no longer operate.

8. On February 21, 1991, the Idaho Historical Society applied to the Department for an additional extension of time in which to submit proof of beneficial use in connection with the permit.

9. On March 7, 1991, the Department wrote the Idaho Historical Society a letter explaining that it would not act on the additional request for extension of time to submit proof of beneficial use "during the period of the Boise Front Low Temperature Geothermal Resource Ground Water Management Area's moratorium on development."

10. On June 11, 1993, the Department extended the BFGWMA moratorium for five years.

11. On November 21, 1994, the Idaho Historical Society applied to amend the permit by adding a point of diversion in the NE¼SW¼, Section 13, Township 3 North, Range 2 East, B.M., and by rearranging the distribution of the 110 acres to be irrigated under the permit. Data submitted in connection with a pump test conducted in 1995 show that the additional point of diversion, known locally as Old Penitentiary Well #2 and also as the Warm Springs Golf Course well, produces cool water that is not a low temperature geothermal resource.

12. On May 17, 1995, the Idaho Historical Society assigned the permit to the State of Idaho, Department of Lands (permit holder).

13. On January 19, 1996, the Department approved the permit holder's application to amend the permit.

14. On September 1, 1998, the Department extended the BFGWMA moratorium for an additional five-year period.

15. On July 23, 2003, the Department received the permit holder's request to "waive any future interest in development of the low temperature geothermal ground water resource, known as Old Penitentiary Well #1." The permit holder seeks to obtain approval from the Department for continued development of the cool water diverted from the Old Penitentiary #2 well for the beneficial uses of water authorized by the permit.

16. On September 9, 2003, the Department sent notice of the permit holder's request to resume development to 23 parties who are involved in or who are affected by the BFGWMA moratorium. In the notice, the Department asked for written comments on the permit holder's proposal to be submitted by October 9, 2003. The Department did not receive any comments in connection with the notice.

CONCLUSIONS OF LAW

1. The Department should acknowledge the permit holder's intent to remove the Old Penitentiary Well # 1 located in the SW¼NE¼, Section 13, Township 3 North, Range 2 East, B.M., as a point of diversion authorized by the permit.

2. The Department should lift the stay in development for the permit because diversions from the remaining point of diversion, the Old Penitentiary Well #2, will not increase depletions from the low temperature geothermal aquifer, it will not increase pumping lift or decrease pressure to existing prior users in the low temperature geothermal aquifer, and it will not reduce temperature to existing users causing low temperature geothermal systems operating at reasonable efficiency to no longer operate.

3. Section 42-218, *Idaho Code*, authorizes the Department to grant extensions of time for submitting proof of beneficial use in connection with a permit.

4. The Department should grant the permit holder's request for extension of time in which to submit proof of beneficial use for the permit.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that the Old Penitentiary Well # 1 located in the SW¼NE¼, Section 13, Township 3 North, Range 2 East, B.M., is removed from the list of points of diversion authorized by the permit.

IT IS FURTHER HEREBY ORDERED that the stay in development for Permit 63-9661 is lifted.

IT IS FURTHER HEREBY ORDERED that time in which the permit holder may submit proof of beneficial use in connection with Permit 63-9661 is extended to November 1, 2008.

Dated this 15th day of October, 2003.

GARY SPACKMAN

Form 211
10/93

Receipt No. W018370
Receipted By DB
Date 11-21-94

RECEIVED
NOV 21 1994
WATER RESOURCES
WESTERN REGION

APPROVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR AMENDMENT OF A PERMIT

RECEIVED
MAY 03 1996
Department of Water Resources

Applicant State of Idaho, Idaho Historical Society Phone (208) 334-2682

Address 210 W. Main Street, Boise, Idaho 83702

I am the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 63-9661, and request that the permit and permit map be amended and/or changed as follows:

Purpose of Amendment: ____ Change point of diversion XX Add point of diversion XX Change place of use ____ Change nature of use ____ Change period of use ____ Other

1. Point of diversion: ____ ¼ SW ¼ NE ¼, Section 13, Township 3N, Range 2E, B.M., County of Ada. Other points of diversion NE 1/4 SW 1/4 sec. 13, T. 3 N., R. 2 E. B.M. County of Ada

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

Amount 2.20 cfs (cfs or acre feet per annum) for Irrigation (water use) purposes from March 15 (Begin month) to November 15 (End month) (both dates inclusive)

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

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

3. Place of use or land to be irrigated:

Twp	Rge	Sec	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3N	2E	13		35	35		35			5									110

Total number of acres to be irrigated = 110

4. a. Who owns the property at the point of diversion? Boise City (added point of diversion)

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

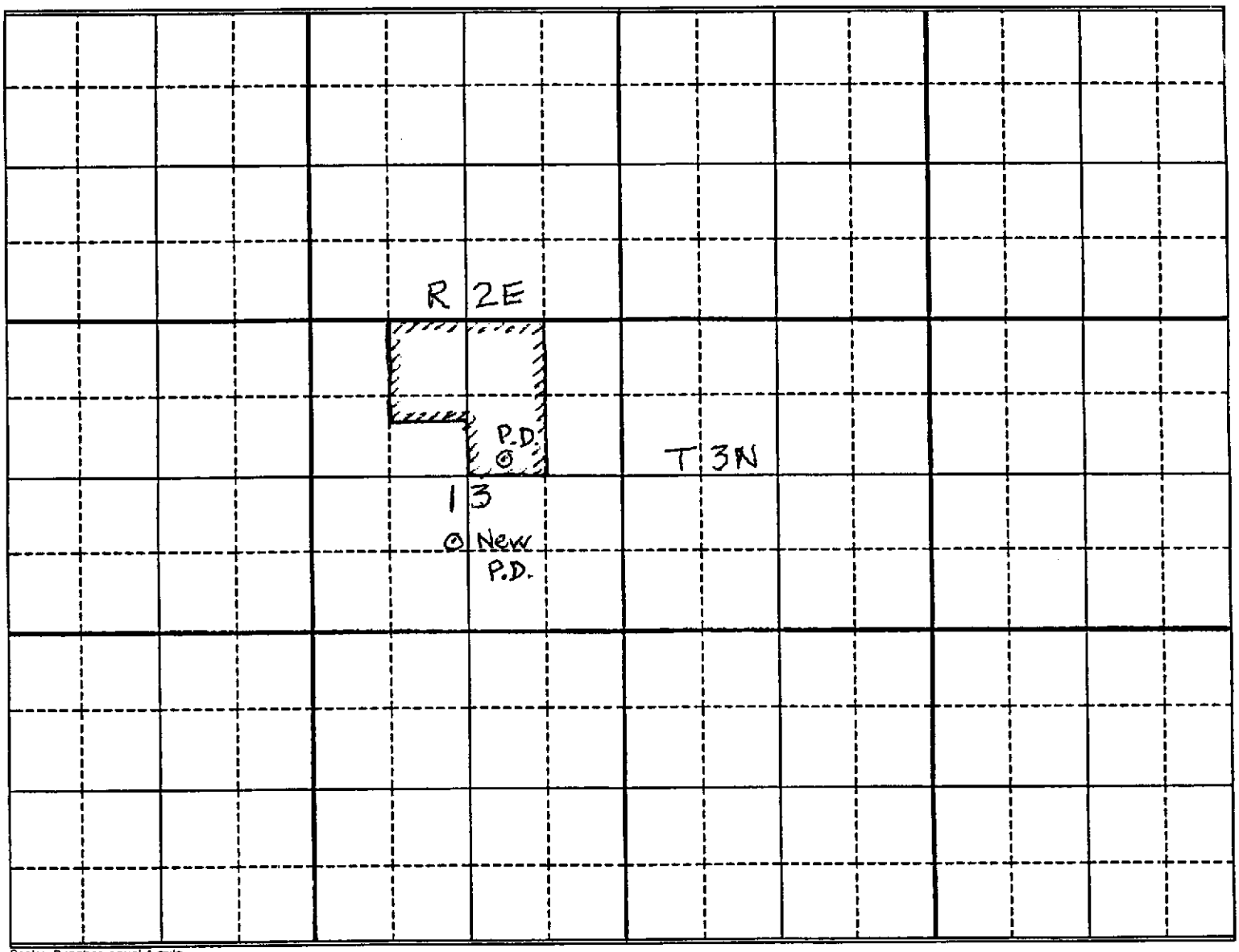
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Pending agreement for joint use

MAY 1 1996

NOTE NEW NAME/ADDRESS (IDL) per 5/17/95 Assignment.
-SL 7/12/95

Complete the following map by showing land and point of diversion as proposed by this amendment.

Show 1/4 1/4, section, township, range and ditches. (the smallest subdivision represents 40 acres)



Scale: 2 inches equal 1 mile

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

Signed this 19th day of November, 19 94.

Permit Holder

ACTION OF THE DEPARTMENT OF WATER RESOURCES

Preliminary check by SL Publication prepared by AT Date

Published in Idaho Statesman Publication dates 1-19 + 26, 1995

I, L. GLEN SAXTON, of the Department of Water Resources hereby approve the above referenced application for amendment. See the attached sheet for the conditions of approval.

Witness my hand this 19th day of January, 1996.

L. Glen Saxton

CONDITIONS OF APPROVAL

Amendment of Permit No. 63-09661

1. The previous conditions as set forth in Permit No. 63-09661 must be met.

2. 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.

3. This permit does not authorize the construction of any new well or the deeping or enlargement of any existing well.

4. The issuance of this permit in no way grants any right-of-way or easement across the land of another.

5. Use of water under this right may be affected by an agreement between the protestant and the right holder.

Dated this 19th day of January, 1996.

L. Glen Saxton

L. GLEN SAXTON
Chief, Water Allocation Bureau

RECEIVED
JAN 31 1996

7/94

RECEIVED
JUN 2 2 1995
WATER RESOURCES
WESTERN REGION

$25.00 Fee Receipted By VR
Receipt No. WO 19426

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

RECEIVED
JUN 2 6 1995
Department of Water Resources

ASSIGNMENT OF PERMIT

To change the ownership of a permit

I, State of Idaho Dept of Education Idaho Historical Society (Applicant), hereby assign to State of Idaho Department of Lands

of 1215 W. State St., Boise, ID 83702 (Full Address) 208-334-0200 (Telephone Number)

All my right, title, and interest in and to Permit No. 63-09661 to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following portion of my right, title, and interest in and to Permit No. _____ appropriate the public waters of the State of Idaho.

Describe portion of the permit assigned listing the number of acres in each 40 acre subdivision, point of diversion location, and the amount of water in cubic feet per second.

_____

_____

_____

_____

_____

FEE $25.00

Made this 17 day of May, 19 95.

X _____
Permit Holder(s)

John R. Hill, Director
Idaho State Historical Society

State of Idaho)
ss
County of Ada)

On this 17 day of May, 1995, personally appeared before me the signer of the above instrument, duly acknowledged to me that he/she/they executed the same.

MICROFILMED
JUL 19 1995

V. L. Huntsinger
Notary Public

SEAL

_____
Signature

My commission expires: 02/02/2000

database updated 6/29/95 cg.

Form 204
4/86

RECEIVED
FEB 21 1991
Department of Water Resources

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

For Office Use Only
$15 FEE Receipted by LC
Date 2/21/91
Receipt # C012521

REQUEST FOR EXTENSION OF TIME
TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF BENEFICIAL USE FOR A WATER RIGHT PERMIT

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time in which to complete development of a water right under the provisions of Section 42-204, Idaho Code.

Permit No. 63-09661

Name(s) of Permit Holder: State of Idaho, Idaho Historical Society

Post Office Address: 210 Main Street, Boise, Idaho 83702

Telephone No. (208)334-2682

Date Proof is Due: March 1, 1991

Describe what work has been completed toward the development of this water right: Use of an existing well, (This must be filled out! If no work has been completed, show "none".)

from which irrigation started in 1965, has been restablished; 60-HP deep well turbine pump installed; 1600 ft. of buried pipeline constructed; 100,000 gallon reservoir reconditioned; a part of the sprinkler system purchased, installed, and operating.

Costing $in excess of $20,000.

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

The "Order Establishing a Moratorium" issued by the Director, Idaho Department of Water Resources on June 10, 1988 prevented the permit holder from completing the remainder of the work.

Permit holder(s) request an extension to March 1, 19 96. (1 yr. minimum)

David L. Crowder Director
(Signature)*

FEE: $15.00

*IF OTHER THAN PERMIT HOLDER, POWER OF ATTORNEY MUST BE SUPPLIED.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be Approved and the time within which to submit proof of beneficial use is extended to November 1, 2008.

Signed this 15th day of October, 2003.

Gary Spackman

OCT 23 2003

Form 284
3/85
09-10-20, 2000, A-6887

RECEIVED
FEB 26 1986
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

For Office Use Only
$15 FEE Received 19
Date 5-5-86
Receipt # 00891

REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit proof of beneficial use on a water right permit

State of Idaho, Idaho Historical Society (Name) of 610 N. Julia Davis Dr., Boise, ID 83702 (Address)

State of Idaho, deposes and says:

That he is the holder, or the duly authorized agent of the holder*, of Permit to Appropriate the Public Water of the State of Idaho No. 63-9661.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before March 1, 19 86.

That he has heretofore performed the following work described under said permit:
(This must be filled out! If no work has been completed put none.)

Installed pump and pipelines to holding reservoir. presently irrigating 3 acres by sprinkler

Costing $ 20,000+

Commenced work

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit:

Project is being funded by contributions and volunteer work. This is a long range project (10 years) and is presently on schedule. This project can only be worked on during the spring and summer months which makes the total amount of time to complete project very short.

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to March 1, 19 91
(1 yr. minimum, 5 yrs. maximum)

Administrator (Signature)*

*IF OTHER THAN HOLDER, Power of Attorney must be supplied.

FEE: $15.00

MICROFILMED

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to March 1, 1991.

Signed this 19th day of May, 19 86.

L. Glen Saxton
Chief, Operations Bureau

Form 202
3/78

Ident. No. 63-9661

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant State of Idaho, Idaho Historical Society Phone 334-2844

   Post office address 610 N. Julia Davis Drive, Boise, Idaho 83702

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

3. Location of point of diversion is SW ¼ of NE ¼ of Section 13 Township 3N

   Range 2E B.M. Ada County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

   Amount 2.20 (cfs or acre-feet per annum) for Irrigation purposes from 3/15 to 11/15 (both dates inclusive)

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

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

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

5. Total quantity to be appropriated:

   a. 2.20 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

   a. Description of ditches, flumes, pumps, headgates, etc. Electric pump, sprinkler, lateral and flood irrigation.

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

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

   c. Proposed well diameter is 16 inches; proposed depth of well is 872 feet.

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

8. Description of proposed uses:
   a. If water is **not** for irrigation:
      (1) Give the place of use of water: _____ ¼ of _____ ¼ of Section _____ Township _____

      Range _____ B.M.

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

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

      (4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____.

      (5) If water is to be used for other purposes describe: _____

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b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
3N	2E	13		35	40		35												110

Total number of acres to be irrigated 110

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

9. a. Who owns the property at the point of diversion State of Idaho

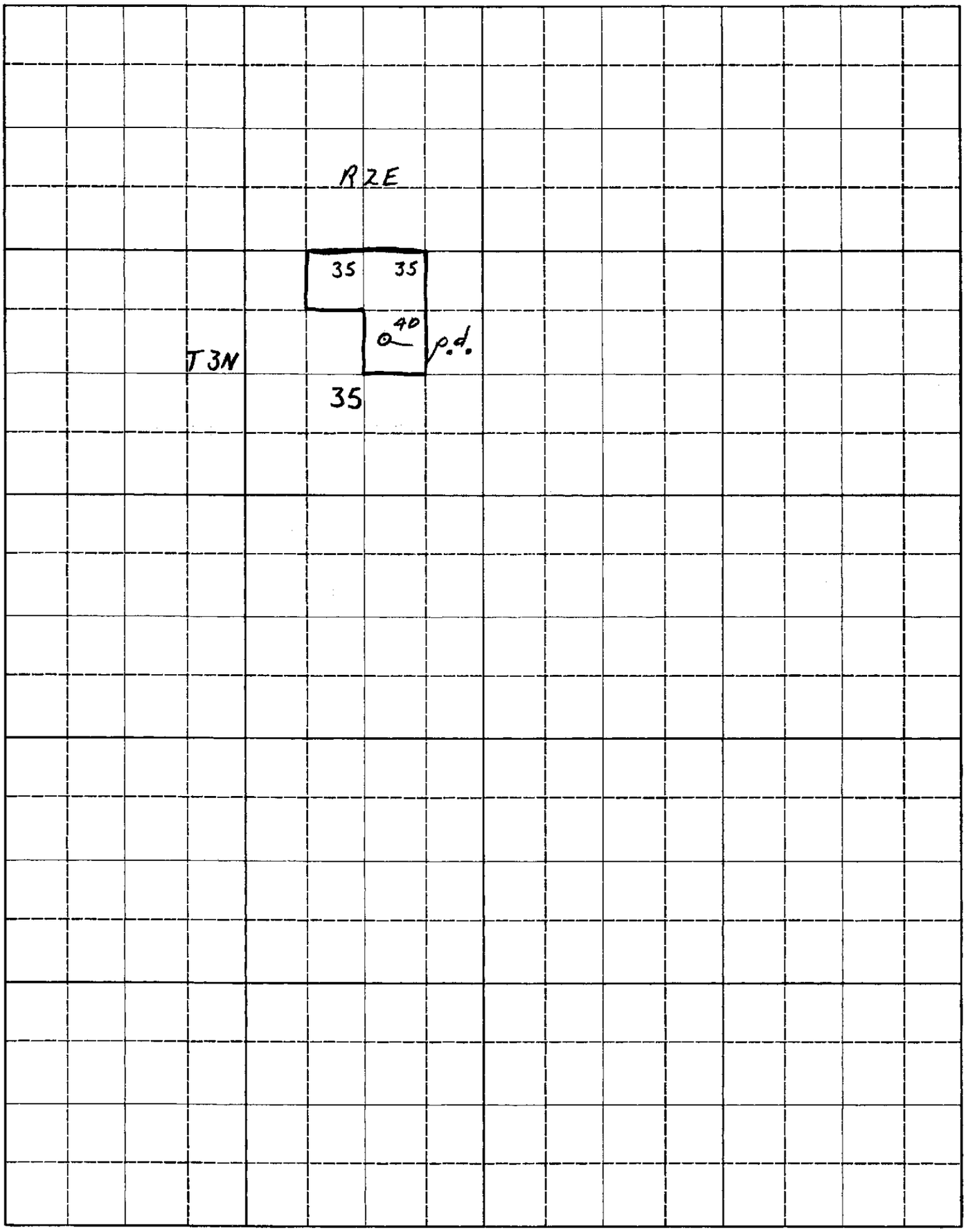
b. Who owns the land to be irrigated or place of use State of Idaho

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

10. Remarks The property at the point of diversion is owned by the State of Idaho and under the management of the Idaho State Historical Society. Portions of the acreage to be irrigated are under the management of the Department of Agriculture and the Department of Health and Welfare. All land to be irrigated is owned by the State of Idaho.

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



Scale: 2 inches equal 1 mile.

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

MICROFILMED

Curtis Hart
(Applicant)

Director, Idaho Historical Society

Proposed Priority 1/16/81

Received by hlh Date 1/16/81 Time voucher

Preliminary check by GLS Fee $ 85.00

Receipted by hlh Date 1/26/81 #17264

Publication prepared by hlh Date 1-22-81

Published in Idaho Statesman

Publication dates 1-29/2-6-81

Publication approved hlh Date 2/12/81

Protests filed by: none

Copies of protests forwarded by

Hearing held by Date

Recommended for (approval) denial by DBS RH

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 63-9661, and said application is hereby approved.

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

   a. SUBJECT TO ALL PRIOR WATER RIGHTS.

   b. Proof of construction of works and application of water to beneficial use shall be submitted on or before March 1, 19 86.

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

   d. Other:

      An access port or other device as specified by the Department shall be installed by the permit holder to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.

Witness my hand this 3rd day of March, 1981.

L. Glen Saxton
Chief, Operations Bureau

MICROFILMED

O.K. Wallace

STATE OF IDAHO)
)ss.
COUNTY OF ADA)

Linda Wallace, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in the regular edition of The Idaho Statesman for

two insertions, beginning with the issue of January 29, 1981, and ending with the issue of February 5, 1981.

Linda Wallace

Subscribed and sworn to before me this 5th day of February, 1981.

Notary Public for Idaho, Residing at Boise, Idaho

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

63-9661
STATE OF IDAHO
IDAHO HISTORICAL SOCIETY, 610 N. Julia Davis Dr., Boise, ID 83702
Source: Groundwater
Date Filed: 01/16/1981
Amount: 2.20 CFS
Diversion Point: SWNE Sec. 13 T 03N R 02E, Ada Co.
Use: Irrigation (2.20 CFS) from 03/15 to 11/15
Place of Use: NWNE SWNE NENW Sec 13 T 03N R 02E for 110 acres
Diversion Means: Well & Pump.

63-9662
JOHNSON, ROY B.
3638 Holl Dr., Eagle, ID 83616
Source: Groundwater
Date Filed: 01/19/1981
Diversion Point: SENE Sec 33 T 05N R 01E, Ada Co.
Use: Irrigation (0.10 CFS) from 03/15 to 11/15
Domestic (0.04 CFS) from 01/01 to 12/31
Place of Use: SENE NESE Sec 33 T 05N R 01E for 5 acres
Diversion Means: Pumping Plant & Sprinkler System.

63-9663
SUTHERLAND, DENNIS J. &/or SHARYN K.
11036 Runway Dr., Boise, ID 83703
Source: Groundwater
Date Filed: 01/21/1981
Amount: 0.07 CFS
Diversion Point: NWNW Sec 11 T 04N R 01E, Ada Co.
Use: Irrigation (0.03 CFS) from 03/15 to 11/15
Domestic (0.04 CFS) from 01/01 to 12/31
Place of Use: NWNW Sec 11 T 04N R 01E for 1 acre
Diversion Means: Pump & Sprinkler System.

If issued, the permits will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 92 S. Cole Road, Boise, Idaho 83709 on or before February 26, 1981.

C. STEPHEN ALLRED
Director

Pub. Jan. 29, Feb. 5, 1981

Department of Water Resources
Western Regional Office
FEB 9

FORM DA-8 Rev. 7-1-77
WHITE — State Auditor
BLUE — Purchasing Copy
YELLOW — Remittance Advice
PINK — State Auditor then Agency
GOLDENROD — Agency Copy

AGENCY USE

SHSM&I 811111
1101
Date 1-15-81
Code 12-65-00

EXPENDITURE VOUCHER

STATE OF IDAHO

Office of State Auditor

AUDITOR USE

Document No.

Pre-Audit | Date

Warrant No.

AGENCY NAME: IDAHO HISTORICAL SOCIETY

CHECK ONE:

(XX) MISCELLANEOUS EXPENDITURE
( ) STATE CONTRACT
( ) PURCHASE ORDER
( ) MISCELLANEOUS ENCUMBRANCE REQUISITION

PAY TO: Dept. of Water Resources - Western Region
92 South Cole Road - Bldg #2
STATEHOUSE MAIL

Encumbrance Reference No.

PAYMENT: ( ) PARTIAL ( ) FINAL

LINE No.	PROGRAM Maj	PROGRAM Min	PROGRAM Ele	ACCT.	CLASS Maj	CLASS Min	DESCRIPTION (Include Quantity)	COMPLETE ONE %	COMPLETE ONE LINE AMOUNT	AGENCY USE
1.	04	--	---	1101	8190		Filing fee for a water use permit on Old Pen property (2.20 CFT/second for 110 acres irrigation) OLD PEN		85 00	
							TOTAL	100%=	85 00	

NOTE: Final payment must be accompanied by a receiving copy

TO STATE AUDITOR

Request is hereby made that a warrant be authorized and drawn in payment of the item or items described above. I hereby certify that the items described were ordered by proper authority; that they are necessary in the public service, that the items have been received and accounted for, and that the account as stated is correct and just.

1-15-81 Date — Arthur A. Hart /cc Head of Agency or Institution

AUDITOR'S CERTIFICATE

I hereby certify that the above account is in proper form; that totals carried hereon are correct; that receipts when required by law or regulation of the State Board of Examiners covering items for which reimbursement is asked are submitted herewith; and that there are funds in the state treasury and balances in appropriation accounts out of which the same may be lawfully paid.

State Auditor

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE BOISE FRONT LOW TEMPERATURE GEOTHERMAL RESOURCE GROUND WATER MANAGEMENT AREA	**FINAL ORDER EXTENDING MORATORIUM**

WHEREAS, on June 15, 1987, the Director of the Idaho Department of Water Resources (IDWR) designated the Boise Front Low Temperature Geothermal Resource Ground Water Management Area in Ada County, Idaho, due to reported declines in aquifer water levels and water pressure; and

WHEREAS, on June 11, 1988, IDWR issued an order establishing a five (5) year moratorium to prevent further development or additional use of the low temperature geothermal water resource (resource); and

WHEREAS, on July 7, 1998, IDWR advised the users of the resource that IDWR was reviewing the need for the moratorium and whether it should be modified or extended. IDWR requested written comments on the nature of the action IDWR should take in connection with the expiring moratorium; and

WHEREAS, six (6) parties submitted written comment to IDWR. All major users supported extending the moratorium for an additional five (5) years.

NOW THEREFORE, pursuant to Section 42-1805(7), Idaho Code, and IDAPA Rule 37.03.08055 (Water Appropriation Rule 55), IT IS HEREBY ORDERED that:

(1) The order dated June 10, 1988 which established a moratorium on further development and additional use of the low temperature geothermal water resource in the Boise Front Ground Water Management area is extended.

(2) The provisions of this order are effective for five (5) years from the date issued unless rescinded or modified by order of a court of competent jurisdiction or unless rescinded or modified by order of the Director.

Dated this 1st day of September, 1998.

KARL J. DREHER
Director

MICROFILMED
JAN 0 9 2002

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JANUARY 19, 1995

STATE OF IDAHO
IDAHO HISTORICAL SOCIETY
210 W MAIN STREET
BOISE ID 83702

RE: Permit No. 63-09661

Dear Water Right Holder(s):

Enclosed is a copy of your approved Application for Amendment submitted in connection with the above referenced permit.

If you have any questions concerning this document, please contact me at (208) 327-7946.

Sincerely,

JIM JOHNSON, Manager
Water Right Permits Section

JJ:rl

Enclosure

RECEIVED
JAN 31 1996

WR0749NP | IDAHO DEPARTMENT OF WATER RESOURCES | DATE: 01/19/96
No. 63-09661 | WATER RIGHT PROFILE REPORT | PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	STATE OF IDAHO DEPT OF LANDS 1215 W STATE ST BOISE ID 83702 (208) 334-0200	01/16/1981	IRRIGATION	03-15	11-15	2.200 CFS	
				TOTAL DIVERSION:		2.200 CFS	

Water Source: GROUNDWATER Tributary to: Stage: PERM

Point(s) of Diversion: T03N R02E S13 SWNE NESW ADA County

Place of use Legal Description for: IRRIGATION

	NE				NW				SW				SE				
	NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T R S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	SUM
03N 02E 13		35	35		35			05									110.0
																TOTAL ACRES	110.0

Pou County: ADA

Other Water Rights with Same Point(s) of Diversion and Source:
63-09661 63-10241 63-10515

Other Water Rights Listing Overlapping Place(s) of use:
63-07932 63-09213 63-09661 63-10022 63-10241

Conditions of Approval:

01M - 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.

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

020 - Use of water under this right may be affected by an agreement
- between the protestant and the right holder.

060 - This approval does not authorize the construction of any new well
- or the deepening or enlargement of any existing well.

Dates: App. Received: 01/16/1981 Priority Date: 01/16/1981
Proof Due Date: 03/01/1991 Proof Made Date:
Exam Made Date: Exam Sent to S.O.:
Licensed Date:

Misc: Water District Number: 63 Field Exam Fee:

Comments: Date: 06/13/1991 User-ID: FLECK Subject: MORATORIUM HOLD/PENDING EXTENSION

Comments: Date: 06/13/1991 User-ID: FLECK Subject: MORATORIUM HOLD/PENDING EXTENSION
On hold in Boise Front Low Temperature Geothermal GWMA
Moratorium; request for extension of time pending.

Audit: 01/10/96 CZIMMERM

(WATER RIGHT NUMBERS THAT BEGIN WITH AN '*' ARE ADJUDICATION CLAIMS)
(QUARTER-QUARTERS WITH A '?' HAVE DIFFERENT ACREAGE AMOUNTS--CHECK THE DATA BASE RECORDS)

		NE								NW								SW								SE							
		NE		NW		SW		SE		NE		NW		SW		SE		NE		NW		SW		SE		NE		NW		SW		SE		
WR-NUMBER	SOURCE	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM
B6309661	T03N R02E S13	GROUNDWATER																																
				39		35				35						05																		110
6300123B	BOISE RIVE																																	
A6300242B	BOISE RIVE																			01		04												5
A6300243C	BOISE RIVE																			01		04												5
A6300283B	BOISE RIVE																			01		04												5
A6300284B	BOISE RIVE																			01		04												5
A6302392A	BOISE RIVE																			01		04												5
6307932	GROUNDWATE															02																		2
A6307932	GROUNDWATE															02																		2
6309213	GROUNDWATE															05																		5
A6309213	GROUNDWATE															05																		5
6309246	GROUNDWATE																			03-01		03-04												5
A6309246	GROUNDWATE																			01		04												5
6309661	GROUNDWATE			35		40				35																								110
A6309661	GROUNDWATE			35		35				35						05																		110
6310022	GROUNDWATE									08																								8
A6310022	GROUNDWATE									07																								7
6310241	GROUNDWATE			02						02																								4
A6310241	GROUNDWATE	10						10																										20
A6310305	GROUNDWATE																			01		02												3
A6320040	BOISE RIVE											08		30		15		30		31		12		32		0								158
A6320041	BOISE RIVE											08		30		15		30		31		12		32		0								158
A6322164	GROUNDWATE																											07						7

AMENDMENT OF PERMIT REVIEW

Reviewed by Cindy Zimmerman
on 1/10/96

PERMIT NO. 63-9661 **NAME** Id. Dept of Lands **Ad OK?** ✓

TYPE:
A = AMENDED
B = CHANGE P/D
C = ADD P/D
D = CHANGE P/U
E = CHANGE N/U
F = CHANGE Per/U
G = OTHER
H = CHANGE P/D & + P/D
I = CHANGE P/D & P/U
(J) = ADD P/D & CHANGE P/U

AREA OF CONCERN: _____ Mor Low Temp Boise Front GWMA Trust/Non-trust

B/U PROOF DUE DATE: NOT IDENTIFIED **Submitted?** Yes/No **Due -6 months?** Yes/No

SURFACE WATER: *<flow chart>*
In Water District - 005; WD No._____
+ 0.2 cfs - 01J
- 0.2 cfs - 01H
Not in WD; +0.2 cfs - 01M
-0.2 cfs - No MD

GROUNDWATER: *<flow chart>*
+ 0.2 cfs - 01M
- 0.2 cfs - No MD
Drilling Permit - Included? No. ____-____-___-_____-____
existing new - Not included? 046-46B
P/D - NA

LOCATION:
Swan Falls Flag - B (1, Blank or Other)
Trust - 051-052-053 (Consumptive Uses); NA
Non Trust <1> - 048-049; NA

RIVER BASINS (Surface Water)
Boise (63) - 05A & 11E, N/A
Payette (65) - 047 (Payette Lake), 064 (consump. use), NA
Snake (01, 02 & 03) - 11A (01), 061 (02/03 No WD Cond.), NA

USE:
Fish Propagation - 06A/09E/010 (WQ/Choose One), 042-002,
- 07A (Spec.), 044 (Policy 5G)
Power - _____ (Use Power Review)
Mining - 06A/010/09E (WQ) & 054 (req.)
Storage (3 comp?) - 18A (multi MD in WD), 18B (+10' dam)
Domestic - 021 (Boise R ↑ L Peak), 064 (Payette R)

NON LAND OWNER - 004
PROTEST AGREEMENT - 020

Recommended conditions same as on the permit or subsequent amendment(s) to the permit? Yes ____ Yes + cond ✓ No ____

Conditions of Approval: Standard, 01M, 068, 004, 020
(do not include any conditions already on permit)

Comments _____

Form No. 211a
11/78

State of Idaho
Department of Water Resources

AMENDMENT ANALYSIS SHEET

New IDL per assignment -SL 1/12/95

INITIAL REVIEW BY: SL

Right Number 63-09661 Applicant State of Idaho (Id. Hist. Society)

Purpose of Amendment: ☐ Change point of diversion. ☑ Add diversion point(s).
☐ Increase amount. ☑ Change place of use. ☐ Other _____

CHECK:

☑ Description of amended point(s) of diversion.
☑ Amount, nature and period of use. If increased, delay date of priority. no increase
☑ Description of amended places of use. If expanded, delay date of priority. no expansion
☑ Ownership of point of diversion and place of use.
☑ Map.
☑ Signature (must be permit holder).
☑ Fee.
☑ Existing water rights from the same source, amended place of use.
☑ Right number(s) _____
☑ Yes ☐ No Should amendment be advertised?
☐ Yes ☑ No Should date of priority be delayed? If yes, to what date? _____
✓ DWR03:Vault 1-11-95 ef

FINAL REGIONAL PROCESSING REVIEW:

☑ Affidavit of publication received.
☑ Amendment published correctly.
☑ Protests processed. Withdrawn conditionally
☑ Approve.
☐ Deny.
Conditions No additional well drilling or well deepening is authorized relative to this water right.

By Dmr Date 12/26/95

STATE OFFICE PROCESSING:

☐ Amendment correct and complete. By _____ Date _____
☐ Approved copy sent to applicant and to Region. By _____ Date _____

RECEIVED
JAN 03 1996
Department of Water Resources

POINT OF DIVERSION AND STREAM INDEX INFORMATION

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 1, 1995

PAUL WISE
2843 STAR CIRCLE
BOISE ID 83723

Re: Application for Transfer No. 63-10241 in the Name of Idaho State Historical Society, Application for Amendment No. 63-9661 in the Name of Idaho Department of Education Historical Society and Application for Amendment No. 63-10022 in the Name of the City of Boise

Dear Protestant:

This letter is to acknowledge your withdrawal of protest against the above-referenced applications.

The Department now will continue to process the application, subject to certain conditions of approval.

If you have any questions please call this office.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:st

CC: Applicants

RECEIVED
JAN 31 1996

October 27, 1995

Mr. Dave C. Tuthill Jr. P.E.
Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705

Dear Mr. Tuthill

Please accept this letter as formal notification of conditional withdrawal to our protest to Amendment of Permit Nr. 63-09661. Change in Point of Diversion No. 1 (63-12241 transfer #61285) and Amendment of Permit No. 63-12422.

We withdraw our protest on the condition that [illegible] will not be developed or opened up to water-bearing [illegible] below the present bottom of 193 feet below land

Warm Springs Mesa, Inc
Paul W. Wire, President

RECEIVED
JAN 31 1996

United Water

RECEIVED
OCT 25 1995
WATER RESOURCES
WESTERN REGION

United Water Idaho
8248 West Victory Road
PO Box 7488
Boise, ID 83707-1488
telephone 208-362-1300
facsimile 208-362-1479

12, October, 1995

Mr. Dave R. Tuthill Jr. P.E.
Manager
Western Regional Office
Idaho Department of Water Resources
2736 Airport Way
Boise, Idaho 83705

Dear Mr. Tuthill:

Please accept this letter as formal notification of conditional withdrawal of our 6 February, 1995 protests to Amendment of Permit No. 63-09661, Change in Point of Diversion No. 63-10241 (Transfer #4526), and Amendment of Permit No. 63-10022.

After conducting a pumping test of the Warm Springs Golf Course well, we are satisfied that operation of the well, in its present state, will not significantly affect our well-field in east Boise. We withdraw our protests on condition that the well not be deepened or opened up to water-bearing strata below the present bottom at 192 feet below land surface. Because of known DNAPL contamination detected in the nearby LDS church well, we recommend that water quality samples be obtained annually to test for volatile organic compounds.

For United Water Idaho, Inc.

Benjamin M Hepler

Benjamin M. Hepler
Vice President of Technical Services

cc:
John Tensen, City of Boise
Keith Anderson

JUN 3 1 1996

✓ Dm Protested apps

RECEIVED
AUG 16 1995
WATER RESOURCES
WESTERN REGION

Neal S. Oldemeyer, P.E.
Geothermal/Special Projects Coordinator
City of Boise Public Works Department
P.O. Box 500
Boise, ID 83701-0500

Re: Pumping-test of the Warm Springs Golf Course well.

Dear Neal:

Here are the results of our hydraulic testing of the Warm Springs Golf Course well, carried out on July 12-13, 1995. Thank-you for your patience in getting these results from us. Problems with the Mesa Water Company wells caused the initial delays before the full-on pumping season consumed our time. Lee Monroe was very helpful with our efforts.

After review of the hydraulic test data, the downhole camera survey, available construction details, and other information supplied by Keith Anderson, we are satisfied that the proposed water-rights transfers and subsequent pumping will have minimal effects to our well-field in east Boise. We are willing to withdraw our protest with the caveat that the well not be deepened or cleaned out below the present bottom at 192 feet below land surface. It is known from previous studies that wells of this area, completed within the 200-500 foot zone, show severe interference effects under pumping conditions. The Warm Springs Golf Course well (formerly the Old Penitentiary well #2 by Lukehart) was originally drilled and completed to a depth of 470 feet below land surface. The well is apparently silted-in to 190 feet below land surface. We would have continued concern over the proposed water-rights transfer if the well were to be cleaned out to the original drilled depth.

For this test, the well was pumped at a discharge rate that was as high as possible, yet could be maintained over the duration of the test. Lee Monroe had indicated that a rate of 600 gpm could be maintained. Because the golf course is unable to irrigate while the well is pumping, the length of the test was dependent on the weather. We were able to run the test for over 24 hours at an estimated pumping rate of 587 gpm. The discharge was measured by means of the "Yardstick" method, where flow is approximated based on how far the top of the discharge stream, flowing from a horizontal pipe, travels before dropping 1 ft. A constant rate was maintained by adjusting a gate valve to regulate flow. The water-level in the well was measured using an electric sounder.

Over the 1.27 day duration of our test there was only 11.17 feet of drawdown in the well and calculated specific capacity at the end of the test was over 50 gpm/ft. The semi-logarithmic plot of drawdown-versus-time shows that a straight line fitted to the later-time data has a greater slope than one matched to data from the first few hours. The change in trend seen on the semi-log plot indicates a negative boundary condition, which may be due to truncation of the aquifer, subsurface fault, a change in permeability at some distance from the well, or interference from nearby pumping wells, possibly the Warm Springs Mesa #1 well. The relatively small amount of total drawdown in the golf course well, however, is indicative of a shallow cone of depression which would not be expected to cause significant decline in adjacent wells.

According to Lee Monroe, the previous pumping test of the well, carried out by Layne of Idaho, resulted in 15 feet of drawdown after 23 hours of pumping the well at 700 gpm from a static water-level of 18 feet (a specific capacity of 46.6 gpm/ft.). This lower static water-level, compared to a higher static level measured by us, is most likely due to pumping the well prior to the testing carried out by Layne; i.e. the well had not fully recovered prior to the commencement of measurements.

Details of well construction obtained by viewing the video of the well done by Northwest Underground Surveys shows that the well has perforations beginning at 101 feet and is cased to a depth of 190 feet. The casing in the vicinity of the upper perforations is clean and the perforations are open. The perforations are 12 to-the-round, two sets per foot and cut $^1/_4$ by 4 inches long. Below about 120 feet the perforations are visible but encrusted and partially closed. From about 136 feet and below there is quite a bit of scale sticking out from the casing wall. Below 140 feet some perforations appear completely closed, and below 160 feet perforations are only occasionally visible. The most encrusted perforations are probably the ones which are opposite the more permeable zones of the aquifer.

In summary, the relatively shallow depth from which the golf course well obtains its water, in contrast to United Water's wells, and the small amount of drawdown in the well, suggest that interference will be minimal. The well is apparently open to a very productive aquifer. Limited step-test data suggest that specific capacity declines due to well loss at higher discharge. We suggest the encrustation, visible on the video, be scaled when pumps are changed-out to improve specific capacity.

Sincerely,
Ed Squires

cc: Keith Anderson
Dave Tuthill
Paul Wise
Kathy Shiflet

JAN 31 1995

WARM SPRINGS GOLF COURSE

Constant Discharge Test (587 gpm)

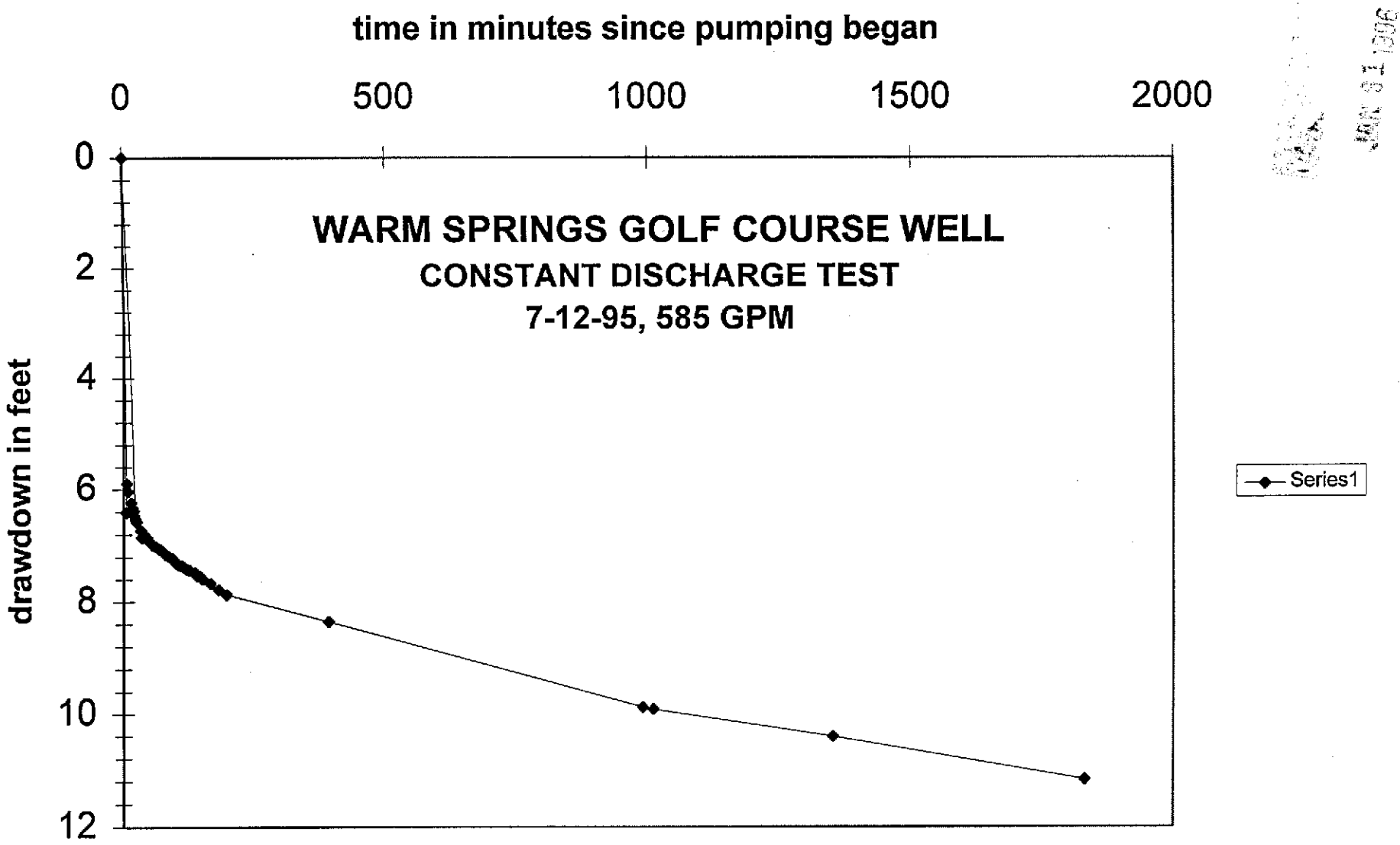
beginning 7-12-95

Time	Water-level Ft. BMP	Elapsed Time minutes	Draw-down	Comments/ Observations
14:15	10.60			static water-level
14:45	10.60			measuring point = 0.6 ft. above ground level
15:15	10.60			
15:35	10.60		0.00	Pump-On:
15:40	17.01	5	6.41	
15:42	16.50	7	5.90	
15:44	16.64	9	6.04	
15:50	16.84	15	6.24	checked discharge (587 gpm: on target)
15:52	16.93	17	6.33	
15:54	16.99	19	6.39	
15:56	17.08	21	6.48	
15:58	17.13	23	6.53	
16:00	17.18	25	6.58	
16:04		29		temperature = 56°F, Cs = 250 uS
16:08	17.33	33	6.73	
16:10	17.45	35	6.85	
16:15	17.41	40	6.81	
16:20	17.46	45	6.86	
16:25	17.53	50	6.93	
16:30	17.58	55	6.98	
16:35	17.60	60		
16:39		64		checked discharge (587 gpm: on target)
16:42	17.65	67	7.05	
16:45	17.67	70	7.07	
16:50	17.70	75	7.10	
16:55	17.75	80	7.15	
17:00	17.78	85	7.18	
17:03		88		temperature = 56°F
17:05		90		Cs = 250 uS
17:08	17.82	93	7.22	
17:10	17.85	95	7.25	
17:15	17.90	100	7.30	
17:20	17.93	105	7.33	
17:25	17.95	110	7.35	
17:30	17.98	115	7.38	
17:35	18.01	120	7.41	
17:40	18.03	125	7.43	
17:43		128		checked discharge (587 gpm: on target)
17:45		130		temperature = 56°F
17:47		132		Cs = 250 uS

JAN 31 1996

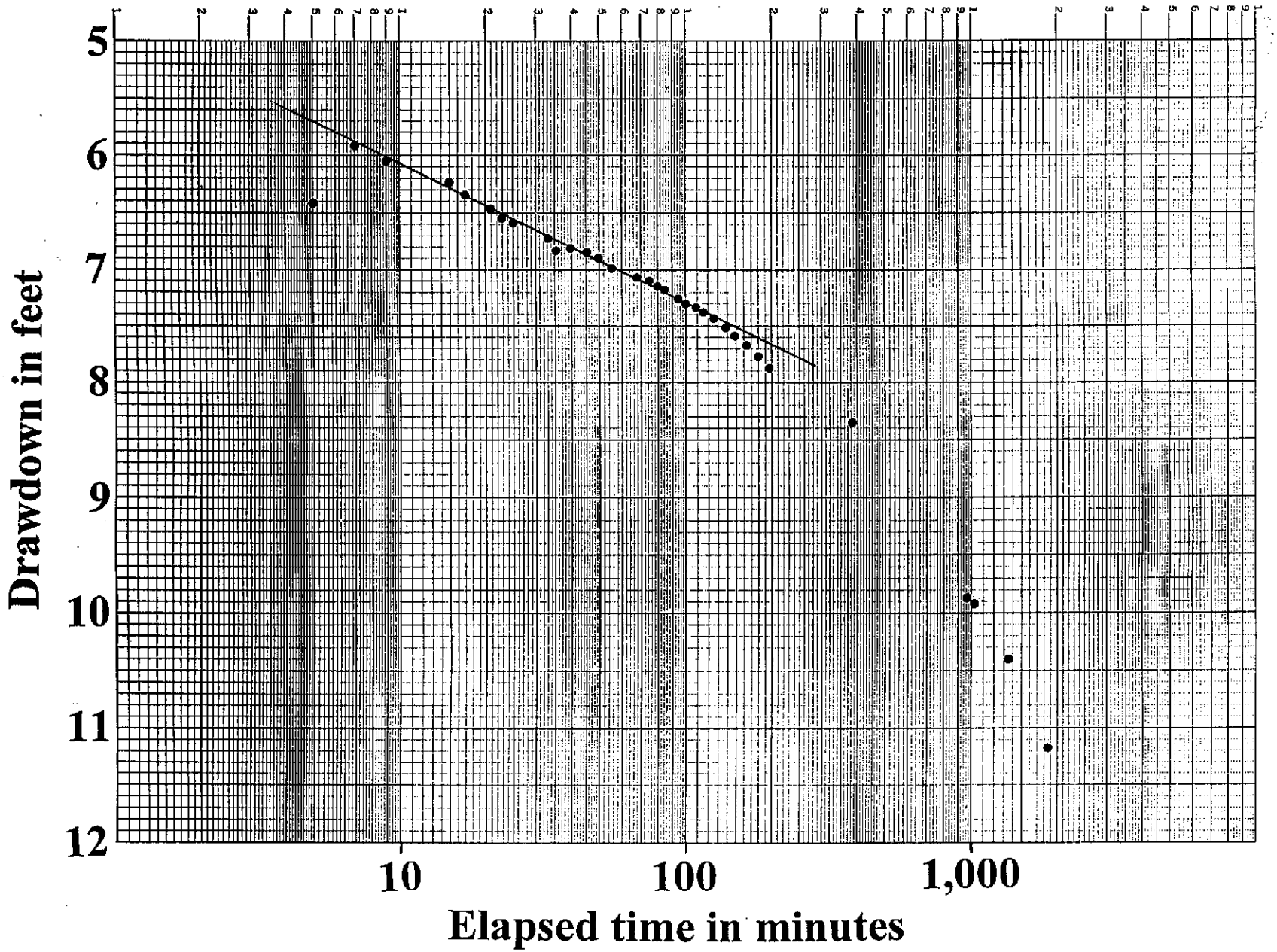
17:50	18.07	135	7.47	
17:55	18.13	140	7.53	
18:00	18.14	145	7.54	
18:05	18.19	150	7.59	
18:20	18.27	165	7.67	
18:24		169		checked discharge (587 gpm: on target)
18:26		171		temperature = 56°F, Cs = 250 uS
18:35	18.38	180	7.78	
18:50	18.47	195	7.87	
22:05	18.96	390	8.36	
7-13-95				
8:05	20.48	990	9.88	
8:12		997		checked discharge and adjusted back up slightly to 587 gpm, temperature = 56°F, Cs = 330 uS
8:25	20.52	1010	9.92	Cs = 310 uS
13:49		1334		checked discharge (587 gpm: on target), temperature = 56°F
13:52		1337		
14:05	21.01	1350	10.41	
22:05	21.77	1830	11.17	

JAN 31 1996


time in minutes since pumping began
0
500
1000
1500
2000
drawdown in feet
0
2
4
6
8
10
12
WARM SPRINGS GOLF COURSE WELL
CONSTANT DISCHARGE TEST
7-12-95, 585 GPM
Series1

WARM SPRINGS GOLF COURSE

Constant Discharge Test (587 gpm)



pumping began 7-12-95 at 15:35 hrs

7/94

RECEIVED
JUN 2 2 1995
WATER RESOURCES
WESTERN REGION

$25.00 Fee Receipted By VR
Receipt No. W01 9426

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
JUN 2 6 1995
Department of Water Resources

ASSIGNMENT OF PERMIT

To change the ownership of a permit

I, State of Idaho Dept of Education Idaho Historical Society (Applicant), hereby assign to State of Idaho Department of Lands

of 1215 W. State St., Boise, ID 83702 (Full Address) 208-334-0200 (Telephone Number)

All my right, title, and interest in and to Permit No. 63-09661 to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following portion of my right, title, and interest in and to Permit No. _____ appropriate the public waters of the State of Idaho.

Describe portion of the permit assigned listing the number of acres in each 40 acre subdivision, point of diversion location, and the amount of water in cubic feet per second.

_____

_____

_____

_____

_____

FEE $25.00

Made this 17 day of May, 19 95.

X _____
Permit Holder(s)

John R. Hill, Director
Idaho State Historical Society

State of Idaho)
ss
County of Ada)

On this 17 day of May, 1995, personally appeared before me the signer of the above instrument, duly acknowledged to me that he/she/they executed the same.

V. L. Huntsinger
Notary Public

SEAL

_____
Signature

My commission expires: 02/02/2000

JAN 31 1996

database updated 4/29/95 cg.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER OF LICENSE NO. 63-10241 AND APPLICATION FOR AMENDMENT OF PERMIT NO. 63-9661 IN THE NAME OF IDAHO STATE HISTORICAL SOCIETY, AND APPLICATION FOR AMENDMENT OF PERMIT NO. 63-10022 IN THE NAME OF CITY OF BOISE	NOTICE OF CONFERENCE

On November 21, 1994, the Idaho State Historical Society filed with the Department of Water Resources application for transfer of license no. 63-10241, and application for amendment of permit no. 63-9661. On January 9, 1995, the City of Boise, Dept. of Parks filed application for amendment of permit no. 63-10022. All three applications were protested by Paul W. Wise and Boise Water Corporation.

The Department has set the matter of protests for a conference to be held on Wednesday, March 15, 1995, at 10:00 a.m., at the Division of Environmental Quality, 1410 N. Hilton, Conference Room D., Boise, Idaho. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice and Procedure of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules of Water Appropriation of the Department of Water Resources.

JAN 31 1995

Opportunity shall be afforded all parties to respond and present information and argument on all issues involved.

Dated this 28th day of February, 1995.

David R. Tuthill Jr.
DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

I hereby certify that on the 28th day of February, 1995, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:

Sue Taylor
Sue Taylor
Secretary-Office Coordinator

Cerfified Mail

ID STATE HISTORICAL SOCIETY
210 W MAIN
BOISE ID 83702

CITY OF BOISE
DEPT OF PARKS
1104 ROYAL BLVD
BOISE ID 83706

PAUL WISE
2843 STAR CIRCLE
BOISE ID 83712

BOISE WATER CORP
PO BOX 7488
BOISE ID 83707

Non-Certified Mail

KEITH ANDERSON
432 SUMMITT
BOISE ID 83702

JAN 31 1996

CONFERENCE AND HEARING PROCEDURE
APPLICATION FOR TRANSFER

ISSUES

Section 42-222, Idaho Code, identifies the following potential issues that the department can consider in connection with an application for transfer

1) Will the proposed transfer injure other water rights?

2) Will the proposed transfer constitute an enlargement in use of the original right?

3) Is the proposed transfer in the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?

4) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1,2 and 4 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 3 above lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers,schedule hearings, establish procedure or at hearing and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

JAN 31 1996

HEARING

The department will tape record the hearing. Copies of the hearing are available upon request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than by the Director himself.If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties by written stipulation, may waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.

JAN 31 1996

CONFERENCE AND HEARING PROCEDURE
APPLICATION FOR AMENDMENT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

1) Will the proposed appropriation injure other water rights?

2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?

BURDEN OF PROOF

The Applicant has the initial burden of proof on issues 1 and 2 above and must provide evidence for the department to evaluate these criteria.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may alos formulate and simplify the issues, identiry documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

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2.1 1996

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Parties may be written stipulation waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

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AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

JAN 31 1996

RECEIVED
FEB 0 8 1995
WATER RESOURCES
WESTERN REGION

February 6, 1995

City of Boise
Deparment of Parks
1104 Royal Blvd
Boise, Idaho 83706

PROTEST1

Subject: Amendment of Water Right Permit 63-1002

Gentlemen:

Please find attached our protest to ammend water right 63-1002.

There are a great number of unanswered questions relating to the above request, which gives body to the attached Protest and should be answered to the satisfaction of the Water Resources Commission prior to approval of any change to present water rights.

Respectfully yours

J. H. WISE & SON, INC.
WARM SPRINGS MESA, INC.

Paul W. Wise

Paul W. Wise, President

cc; Water Resources
Keith Anderson
Peter Boyd, Att.

JAN 02 1996

RECEIVED
FEB 0 8 1995
WATER RESOURCES
WESTERN REGION

February 6, 1995

State of Idaho
Idaho Historical Society
210 E Main Street 83702
Boise, Idaho

PROTEST

Subject: Protest-Application for Amendment of Permit

Gentlemen:

Please find attached our protest to change of water right No. 63-10241, transfer No. 4526 and amendment of water right 63-09661.

There are a great number of unanswered questions relating to the above requests, which gives body to the attched Protest and should be answered to the satisfaction of the Water Resources Commission, prior to approval of any change to present water rights.

Respectfully yours

J. H. WISE & SON, INC.
WARM SPRINGS MESA, INC

Paul W. Wise

Paul W. Wise, President

cc: Water Resources
Keith Anderson
Peter Boyd Att.

JAN 31 1996

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 7, 1995

PAUL WISE
2843 STAR CIRCLE
BOISE ID 83712

BOISE WATER CORP
PO BOX 7488
BOISE ID 83707

Re: Applications for Amendment Nos. 63-10022 in the Name of The City of Boise and 63-9661 in the Name of The ID Historical Society

Dear Protestant:

This office acknowledges receipt of your protest to the approval of the above-referenced application for amendment. The following are the principle items we can consider with respect to either approving or denying an application for amendment:

1. Will the approval of the application result in the diversion and use of more water than originally permitted?

2. Will the rights of others be adversely affected thereby?

The Department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At the conference, the Department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

If we may be of assistance, please contact us.

Sincerely,

David R. Tuthill, Jr.

DAVID R. TUTHILL, JR. P.E.
Manager, Western Regional Office

DRT:st

JAN 31 1996

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

February 7, 1995

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

PAUL WISE
2843 STAR CIRCLE
BOISE ID 83712

BOISE WATER CORP
PO BOX 7488
BOISE ID 83707

Re: Application for Transfer No. 63-10241 in the Name of the ID State Historical Society

Dear Protestant:

This office acknowledges receipt of your protests to the approval of the above-referenced application for transfer. The following are the principle items we can consider with respect to either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?

2. Does the change constitute an enlargement in the use of the original right?

3. Will the proposed change conflict with the local public interest?

4. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

The Department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At the conference, the Department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

If we may be of assistance, please contact us.

Sincerely,

David R. Tuthill Jr.

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

JAN 31 1995

DRT:st

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 7, 1995

ID STATE HISTORICAL SOCIETY
210 W MAIN
BOISE ID 83702

CITY OF BOISE
DEPT OF PARKS
1104 ROYAL BLVD
BOISE ID 83706

Re: Applications for Amendment of Water Rights Nos. 63-10022 in the Name of City of Boise and 63-9661 in the Name of ID Historical Society

Dear Applicant:

Enclosed please find a copy of the protest(s) filed against the above-referenced application. You should be aware that the following are the items we can consider at a conference in either approving or denying an application for amendment:

1. Will the approval of the application result in the diversion and use or more water than originally permitted?

2. Will the rights of others be adversely affected thereby?

The Department suggests you contact the protestant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest. If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At the conference, the Department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

If we may be of assistance, please contact us.

Sincerely,

David R. Tuthill

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:st

Enclosure

CC: Keith Anderson

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 7, 1995

ID HISTORICAL SOCIETY
210 W MAIN
BOISE ID 83702

Re: Application for Transfer of Water Right No. 63-10241

Dear Applicant:

Enclosed please find a copy of the protest(s) filed against the above-referenced application. You should be aware that the following are the items we can consider at a conference in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?

2. Does the change constitute an enlargement in the use of the original right?

3. Will the proposed change conflict with the local public interest?

4. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

The Department suggests you contact the protestant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At the conference, the Department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

If we may be of assistance, please contact us.

Sincerely,

David R. Tuthill

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:st

Enclosure

CC: Keith Anderson

JAN 31 1995

7/94

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains all necessary information.

1. Matter being protested Attached Change in point of diversion. Transfer # 4526 Add points of diversion for Rights 63-10022 and 63-0966

2. Name of protestant Boise Water Corporation

3. Protestant's representative for service (If different than protestant)

Boise Water Corporation

4. Service mailing address P.O. Box 7488 Boise, ID 83707

5. Service telephone no. 362-1704

6. Basis of protest (including statement of facts and law upon which the protest is based)
Boise Water Corporation (BWC) owns and operates several municipal wells in the vicinity. BWC is concerned about well interference effects and is interested in these Amendments owing to the geothermal/cold water rights relationship

(additional pages may be attached to describe the nature of the protest)

7. What would resolve your protest? Please refer to: "Groundwater Conditions and Hydraulic Testing of the Boise Fan Aquifer of Southeast Boise River Valley, Ada County, Idaho," Professional Report submitted to Director, IDWR October 1993.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 6th day of February, 19 95.

Boise Water Corporation
PROTESTANT

PROTESTANT'S REPRESENTATIVE

JUN 21 1996

RECEIVED
FEB 06 1995
WATER RESOURCES
WESTERN REGION

NOTICE OF AMENDMENT
OF WATER RIGHT PERMIT
NO. 63-09661

Notice is hereby given that the State of Idaho (Dept. of Education, Idaho Historical Society) proposes an amendment of permit pursuant to Section 42-211 ofIdaho Code.

WATER RIGHT AS RECORDED:

PERMIT NO.	63-09661
PRIORITY	1/16/1981
SOURCE	Groundwater
POINT OF DIV	SWNE, S13, T3N, R2E, Ada County within the Boise Front (Geothermal) Ground Water Mgmt. Area. The well is also known as old penitentiary well #1.
AMOUNT	2.20 cfs
USE	Irrigation
PLACE OF USE	110 acres in NWNE, SWNE & NENW, S13, T3N, R2E

WATER RIGHT TO BE CHANGED AS FOLLOWS:

POINT OF DIV	Add use of existing cold water well located in NESW, S13, T3N, R2E This is a Warm Springs Golf Course well aka old penitentiary irrigation well #2
PLACE OF USE	110 acres in NWNE, SWNE, E1/2NW, S13, T3N, R2E

This well is also proposed for use in two other current filings: Application for Transfer of Right No. 63-10241 and Amendment of Permit No. 63-10022. All applications for the cold water well propose to augment or replace use of hot water wells.

The permit will be subject to all prior water rights. Any protest against the approval of the proposed amendment must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705, together with a protest fee of $25.00 on or before February 6, 1995. The protestant must also send a copy of the protest to the applicant.

R. Keith Higginson
Director

Published in the Idaho Statesman on January 19 and 26, 1995.

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WATER RESOURCES
WESTERN REGION

JAN 31 1995

NOTICE OF PROPOSED CHANGE OF WATER RIGHT NO. 63-10241
TRANSFER #4526

Notice is hereby given that State of Idaho (ID. Historical Society) has applied to the Department of Water Resources for a Change in Point of Diversion of the following described water right to be changed pursuant to Section 42-222 of Idaho Code:

WATER RIGHT AS RECORDED:

LICENSE NO.	63-10241
DATE OF PRIORITY	5/30/1984
SOURCE	Groundwater
AMOUNT	0.26 cfs
USE	Irrigation (.22cfs) Domestic (.04 cfs)
POINT OF DIV	SWNE, S13, T3N, R2E, Ada County (old penitentiary well #1) within Boise Front (Geothermal) Ground Water Mgmt. Area
PLACE OF USE	NWNE, NENW, S13, T3N, R2E (5.3 acres and offices at ID. Botanical Gardens)

WATER RIGHT TO BE CHANGED AS FOLLOWS:

POINT OF DIV	Add use of existing cold water well located in NESW,. S13, T3N, R2E This is a Warm Springs Golf Course well aka old penitentiary well #2.

This well is also proposed for use in two other current filings: Amendment of Permit No. 63-09661 and Amendment of Permit No. 63-10022. All applications for the cold water well propose to augment or replace use of hot water wells.

Any protest against approval of the proposed water right application must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705, together with a protest fee of $25.00 on or before February 6, 1995. The protestant must also send a copy of the protest to the applicant.

R. Keith Higginson
Director

Published in the Idaho Statesman on January 19 and 26, 1995.

JAN 23 1996

NOTICE OF AMENDMENT
OF WATER RIGHT PERMIT
NO. 63-10022

Notice is hereby given that the City of Boise proposes an amendment of permit pursuant to Section 42-211 of Idaho Code.

WATER RIGHT AS RECORDED:

PERMIT NO.	63-10022
PRIORITY	4/20/83
SOURCE	Groundwater
POINT OF DIV	NENW, S13, T3N, R2E, Ada County within the Boise Front (Geothermal) Ground Water Mgmt. Area.
AMOUNT	0.37 cfs
USE	Irrigation
PLACE OF USE	7 acres in NENW, S13, T3N, R2E, Quarry View Park

WATER RIGHT TO BE CHANGED AS FOLLOWS:

POINT OF DIV	Add use of existing cold water well located in NESW, S13, T3N, R2E This is a Warm Springs Golf Course well aka old penitentiary irrigation well #2

This well is also proposed for use in two other current filings by the State of Idaho: Amendment of Permit No. 63-09661 and Application for Transfer of Right No. 63-10241. All applications for the cold water well propose to augment or replace use of hot water wells.

The permit will be subject to all prior water rights. Any protest against the approval of the proposed amendment must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705, together with a protest fee of $25.00 on or before February 6, 1995. The protestant must also send a copy of the protest to the applicant.

R. Keith Higginson
Director

Published in the Idaho Statesman on January 19, and 26, 1995.

JAN 2

PROTEST

COME NOW, J. H. Wise and Sons, Inc., an Idaho corporation and Warm Springs Mesa, Inc., an Idaho Corporation, by and through their president, Paul Wise, and protests the amendment of water right permit Nos. 63-09661, 63-10022 and change of water right No. 63-10241, transfer No. 4526, all of which notices of amendment and proposed change had been published in The Idaho Statesman pursuant to 42-211 of the Idaho Code. That this protest is made pursuant to the provisions of 42-222 et seq. Idaho Code. Request is hereby made pursuant to said statute, that the Director of The Department of Water Resources investigate the proposed amendments and change and conduct a hearing thereon as provided by statute. That the grounds for said protest, among other things, are as follows:

1. That the water right sought to be changed from its present location, upon information and belief, has been forfeited and abandoned by nonuse;

2. That the transfer of the waters affected by the change in diversion will affect, interfere with and substantially harm the present water supply from protesters wells located in the immediate area, the exact location of which will be provided to the Director at the time of hearing;

3. Upon information and belief, protestors state that because of the nonuse of said water that the ownership of said

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water has reverted to the State of Idaho and is not subject to diversion.

DATED This 3 day of February, 1995.

WARM SPRINGS MESA, INC.

By: Paul W Wise
Paul Wise, President

J. H. WISE & SONS, INC.

By: Paul W Wise
Paul Wise, President

Pd Chk # 1531
W0185666 2/3/95

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WATER RESOURCES
WESTERN REGION

The Idaho Statesman

P.O. BOX 40, BOISE, IDAHO 83707

LEGAL ADVERTISING INVOICE

Amount Due
$85.08

Account Number	Identification
04762800	NOTICE OF AMENDMENT OF WATER RIGHT PERMIT NO. 63-09661

Ordered By	P.O. Number	Rate	Run Dates
Sue Taylor		NT	January 19 & 26, 1995

DEPARTMENT OF WATER RESOURCES
Western Region
Attn: Sue Taylor
2735 Airport Way
Boise, Idaho 83705

Estimated Inches	Real Inches
# Affidavits	Legal Number
1	1074

LEGAL NOTICE
NOTICE OF AMENDMENT OF WATER RIGHT PERMIT NO. 63-09661

Notice is hereby given that Permit No. 63-09661 in the name of State of Idaho (Dept. of Education, Idaho Historical Society) with a priority date 1/16/1981 is recorded as follows:

SOURCE & POINT OF DIVERSION: Ground Water (hot water well) in SWNE, S13, T3N, R2E, Ada County, within the Boise Front (Geothermal) Ground Water Mgmt. Area. The well is also known as old penitentiary well #1.

AMOUNT & USE & PERIOD: 2.20 cfs for Irrigation from 3/15 to 11/15.

PLACE OF USE: NWNE, SWNE & NENW, S13, T3N, R2E (110 acres total).

The permit owner now proposes to Amend the Permit pursuant to Section 42-211 of Idaho Code by Adding a Point of Diversion and Changing the Place of Use as follows:

ADDED POINT OF DIV: Add use of existing cold water well located in NESW of above-referenced section. This is a Warm Springs Golf Course well aka old penitentiary irrigation well #2.

CHANGE PLACE OF USE: Reduce irrigation in SWNE from 40 to 35 acres and move 5 acres to SENW; total remains at 110 acres in NWNE, SWNE, NENW & SENW of above-referenced section.

REMARKS: (1) This well is also proposed for use in two other current filings as follows: Application for Transfer of Right No. 63-10241 (above applicant) and Amendment of Permit No. 63-10022 (City of Boise). All applications for the cold water well propose to augment or replace use of hot water wells.

(2) Right No. 63-09661 is claimed by State of Idaho in the Snake River Basin Adjudication as Claim No. A63-09661; claim is for same priority date, amount of water, two wells and 110 acres as described above in proposed change of Permit 63-09661. Claim states that such use dates to 1965 by Idaho Dept. of Corrections but that no recorded right dating to 1965 has been (nor is it now being) filed.

The permit will be subject to all prior water rights. Any protest against the approval of the proposed amendment must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705, together with a protest fee of $25.00 on or before February 6, 1995. The protestant must also send a copy of the protest to the applicant.

R. KEITH HIGGINSON
Director

Pub. Jan. 19 & 26 1074

LINDA PORTER, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in The Idaho Statesman in conformity with Section 60-108, Idaho Code as amended, for TWO

☒ consecutive weekly ☐ consecutive daily ☐ single ☐ odd skip

insertion(s) beginning with the issue of JANUARY 19, 1995

and ending with the issue of JANUARY 26, 1995

Linda Porter

STATE OF IDAHO)
ss.
COUNTY OF ADA)

JAN 31 1995

On this 26th day of JANUARY in the year of 1995, before me, a Notary Public, personally appeared LINDA PORTER, 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 she executed the same.

Notary Public for Idaho
Residing at Boise, Idaho
My commission expires: 11-27-99

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 11, 1995

Mr. John R. Hill, Director
Idaho State Historical Society
210 W. Main Street
Boise, ID 83702

Mr. Neal S. Oldemeyer, P. E.
Geothermal / Special Projects Coord.
Public Works Dept., City of Boise
PO Box 500
Boise, ID 83701-0500

RE: Water Right Nos. 63-09661 and 63-10241 (Idaho Historical Society) and 63-10022 (City of Boise), Applications for Amendment and Transfer

Dear Sirs:

I am writing to both of you regarding the three water right applications that will be advertised in the "Idaho Statesman" on two consecutive Thursdays, January 19 and 26. The protest deadline for the filings will be on February 6, 1995. While this proceeds, please take the opportunity to submit additional information detailed in this letter.

As you know, use of geothermal resources in the Boise Front Ground Water Management Area (BFGWMA) remains limited, and the BFGWMA Moratorium has been extended to June 10, 1998. Extension of the moratorium could affect Permit No. 63-09661 as explained later in this letter. Management policies for existing uses are distinguished from undeveloped or partially developed permitted uses in the BFGWMA. A copy of pages 9 through 12 from the BFGWMA Management Policy is included for your convenience.

All three of the applications state that a common cold water well will be added to the geothermal rights in question. This suggests that use of the geothermal resource developed in the existing hot wells will continue or is contemplated at some unspecified level of use.

EXISTING USES -- RIGHT NOS. 63-10022 (CITY) AND 63-10241 (IHS)

Permit No. 63-10022 for Quarry View Park and License No. 63-10241 for the Botanical Gardens are existing uses where development under the respective rights cannot expand. Items IV-A1 through A8 (pages 9 & 10) from the policy apply to these two rights.

JAN 31 1996

The applications that you have filed to change these rights address item A3. However, it is not clear to what extent, if any, that hot water from either the Quarry View Park well or the old penitentiary well #1 would continue to be used under the proposed changes for the two water rights.

If hot water will continue to be used from either well, to what extent will the heat value of the resource be used? Will hot water be reinjected; if not, why not? Note that item V-C (page 11) indicates that heat value must be used or that a cold water source must substitute for the geothermal resource use. In other words, it does not appear that the hot wells are usable for other than heating purposes (either as specified in a water right or for exempted uses in Section 42-111 Idaho Code, copy attached) without prior approval as defined in the management policy.

Please show how your continued use, if any, of the geothermal resource will meet the requirements of policy items IV-A1 through A6.

Regarding the proposed use of cold water identifed as the old penitentiary well #2 in NESW of Section 13, please address the issue of conjunctive management. What information do you have that shows that water produced via this well is not related to Boise River flows? Due to the fully appropriated status of the river except for flooding spills at Lucky Peak Dam, mitigation for any additional impacts on the river system must be arranged. For example, storage water from the Boise River Water Supply Bank might be secured.

UNDEVELOPED OR PARTIALLY DEVELOPED PERMITS -- RIGHT NO. 63-09661 (IHS)

Management policies IV-B1 through B4 apply to this permit. Development of this right has not been completed as evidenced by the pending Request for Extension of Time to File Proof of Beneficial Use. Again, use of the cold water well is offered as a mitigation plan for item B1. Will any use of the old penitentiary well #1 occur under the permit? If so, how would you respond to items B1 through B4 regarding use of the geothermal resource?

Of course, the same question previously posed applies to this permit with respect to use of the cold water well and conjunctive management with the Boise River.

Please respond at your earliest convenience to facilitate processing of the three applications. I will be glad to assist you in any way in this endeavor.

Sincerely,

Steve Lester
Water Rights Supervisor

c: Keith E. Anderson

JAN 31 1995

Forest Mgt. Policy BFS/NMA

2. Minimize administrative paper work,

3. Minimize management cost to users and the public, and

4. Provide a reliable basis for actions of both users and IDWR.

D. Stabilize depletions from the aquifer at existing or reasonable rates (whichever is less), until a new equilibrium condition can be accurately predicted. The goals of protection for existing users and for maximizing public benefit from the resource may appear to be in conflict, one seeking to minimize the number of users and the other seeking to maximize development. IDWR must balance these goals to obtain a workable management plan. The key to balance is adequate knowledge of the resource. In particular, IDWR needs reliable estimates of the volume of water the resource can yield, how this volume changes if water levels or pressures are reduced in the aquifer, the effect of reduced water levels or pressures on water temperature, the degree of interconnection between present and future wells, how interconnection can be minimized, and a workable estimate for reasonable pumping (pressure) levels.

Development of this information will be facilitated by the maintenance of stable conditions in the aquifer.

IV. OBJECTIVES TO MEET GOALS

A. Existing Uses

1. Each use will be limited to the lesser of the recorded right, beneficial use being made of the water or sustained historic diversion rate and/or volume.

2. Use with reasonable efficiency will be required.

3. IDWR will require the substitution of cold water resources for existing uses that do not need the heat value of the low temperature geothermal resource, wherever practical.

4. Well and system construction to prevent waste above and and below ground will be required.

5. Reinjection will be required unless it can be shown to the satisfaction of the Director that reinjection is not economically and technically feasible.

6. Uniform monitoring equipment, data collection, and reporting will be required where possible.

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7. Diversion and use of water will be administered through the authority in Sections 42-237a.g., 42-311, 42-350 and 42-351, Idaho Code, until a water district can be formed.

8. IDWR will create a water district and appoint a watermaster upon entry of an interim decree in the Snake River Adjudication (or other adjudication) to measure and deliver water to the users.

B. Undeveloped and Partially Developed Permits

1. Permits to use the low temperature geothermal resource for which the full extent of authorized diversion rate, volume and beneficial use has not been diverted and beneficially used may not be further developed until IDWR determines from information submitted that further development will not:

   a) Increase depletions from the aquifer,

   b) Increase pumping lift or decrease pressurefor existing senior users,

   c) Reduce temperature to existing users causing systems operating at reasonable efficiency to no longer operate.

   Permit holders may submit proposed mitigation approved by IDWR to accomplish a), b), and c).

   Further development can only occur if specifically authorized by IDWR after review and approval of development plans and other applicable information.

2. Permits which do not use heat as a primary purpose will be cancelled.

3. Reinjection to the aquifer will be required unless determined by the Director to be unreasonable.

4. All systems will be required to use water and heat with a reasonable efficiency as determined by the Director.

C. Applications

1. Pending and future applications will be rejected unless information is provided by the applicant to demonstrate the use will not cause:

   a) Additional depletion of the aquifer,

   b) An increase in pumping lift or pressure reduction

JAN 31 1996

to existing users or undeveloped permit holders,

c) Temperature to be reduced to present users or undeveloped permit holders below that necessary for a system operating at reasonable efficiency to operate.

Applicants may propose mitigation necessary to accomplish a), b), and c).

2. Protested applications will not be set for hearing unless the Director makes a preliminary determination that a), b) and c) are satisfied or acceptable mitigation has been proposed.

3. The applicant is responsible to provide all existing users and holders of undeveloped permits a copy of the application and supporting information upon request.

4. Applications which do not propose heat as the primary use will be rejected. Exceptions will be considered based upon the following factors:

   a) Reinjection is proposed.
   b) The system is designed to achieve reasonable efficiency.
   c) Only non consumptive uses are proposed.
   d) Water quality will not be impaired.
   e) A reliable practical source of cold water does not exist.

5. Domestic uses (exempted from the filing of a water appropriation permit by Sec. 42-227, Idaho Code) will be authorized only after approval of a drilling prospectus submitted with the required drilling permit.

V. ADMINISTRATIVE ACTIONS REQUIRED TO IMPLEMENT OBJECTIVES

A. Impose a moratorium pursuant to Section 42-1805(7), Idaho Code, and Rule 7 of the Water Appropriation rules on further development of undeveloped permits until IDWR determines further development is authorized.

B. Require uniform monitoring equipment, data collection and reporting where possible.

C. Require existing users to have systems evaluated by a qualified licensed engineer or geologist with a report to IDWR to confirm adequacy of system construction (including wells) to prevent waste and to use water and heat with reasonable efficiency as determined by the Director. The studies shall include an analysis of the

JAN 31 1996

practicality and efficiency of reinjecting all or a portion of water diverted and retrofitting of existing systems. For systems which do not use or need the heat value of the resource, an analysis of the practicality of substituting a cold water source will be required.

D. Issue administrative orders to enjoin unauthorized or excessive use and to require system reconstruction or repair and reinjection.

E. Continue IDWR data collection efforts and seek funding to conduct studies to increase knowledge of aquifer, water, and heat resources.

F. Issue administrative orders to amend licenses and permits within the BFGWMA which show "heating" as a use but which do not take water from the low temperature geothermal aquifer.

G. Require a drilling prospectus to be submitted for review and approval with each drilling permit proposing to construct a well into the low temperature geothermal aquifer or which exceeds a 300 ft depth.

H. Retain designation as a ground water management area rather than revise the designation to a critical ground water area. This will keep in place the authority to require instrumentation, monitoring, reporting and recordkeeping.

I. Require applicants for water appropriation to furnish sufficient technical data and plans to allow a preliminary determination by the Director that water is available, that existing users will not be damaged, and that depletion of the aquifer will not be increased. Applications will not be advertised and protest hearings will not be scheduled until an affirmative preliminary determination is made by IDWR.

J. Develop a complete inventory of wells constructed into the low temperature geothermal aquifer.

Signed this 3rd day of June, 1988 in Boise, Idaho.

R. KEITH HIGGINSON, Director

FILED
AUG 31 1996

CONVERSATION MEMORANDUM

DATE 1/20/95

FILE 63-09661
-10241
-10022

NAME OF PARTY Keith Anderson, Consultant 336-2718 or 344-3888

EMPLOYEE Steve Lester

RE:

PER OWNERS' REQUEST, he will RESPOND to my RECENT letter & add'tl. INFORMATION

ALSO, IF ANY PROTESTS RECEIVED, SEND COPY TO KEITH ANDERSON, CONSULTANT
432 SUMMIT RIDGE
BOISE 83702

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JAN 31 1996

NOTICE OF AMENDMENT
OF WATER RIGHT PERMIT
NO. 63-09661

Notice is hereby given that Permit No. 63-09661 in the name of State of Idaho (Dept. of Education, Idaho Historical Society) with a priority date 1/16/1981 is recorded as follows:

SOURCE & POINT OF DIVERSION: Ground Water (hot water well) in SWNE, S13, T3N, R2E, Ada County, within the Boise Front (Geothermal) Ground Water Mngt. Area. The well is also known as old penitentiary well #1.

AMOUNT & USE & PERIOD: 2.20 cfs for Irrigation from 3/15 to 11/15.

PLACE OF USE: NWNE, SWNE & NENW, S13, T3N, R2E (110 acres total).

The permit owner now proposes to Amend the Permit pursuant to Section 42-211 of Idaho Code by Adding a Point of Diversion and Changing the Place of Use as follows:

ADDED POINT OF DIV: Add use of existing cold water well located in NESW of above-referenced section. This is a Warm Springs Golf Course well aka old penitentiary irrigation well #2.

CHANGE PLACE OF USE: Reduce irrigation in SWNE from 40 to 35 acres and move 5 acres to SENW; total remains at 110 acres in NWNE, SWNE, NENW & SENW of above-referenced section.

REMARKS: (1) This well is also proposed for use in two other current filings as follows: Application for Transfer of Right No. 63-10241 (above applicant) and Amendment of Permit No. 63-10022 (City of Boise). All applications for the cold water well propose to augment or replace use of hot water wells.

(2) Right No. 63-09661 is claimed by State of Idaho in the Snake River Basin Adjudication as Claim No. A63-09661; claim is for same priority date, amount of water, two wells and 110 acres as described above in proposed change of Permit 63-09661. Claim states that such use dates to 1965 by Idaho Dept. of Corrections but that no recorded right dating to 1965 has been (nor is it now being) filed.

The permit will be subject to all prior water rights. Any protest against the approval of the proposed amendment must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705, together with a protest fee of $25.00 on or before February 6, 1995. The protestant must also send a copy of the protest to the applicant.

R. Keith Higginson
Director

Published in the Idaho Statesman on January 19 and 26, 1995.

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WATER RESOURCES
WESTERN REGION

IDAHO STATE HISTORICAL SOCIETY

Preserving Idaho's Past

John R. Hill, Director — Cecil D. Andrus, Governor

November 18, 1994

Dave Tuthill
2735 Airport Way
Boise, Idaho 83705

Dear Mr. Tuthill:

Please find enclosed an Application for Amendment of a Permit and a Application for Transfer of Water Right for addition of a point of diversion for water rights we hold.

Also we are including a state site draft in the amount of $150.00 for fees ($100.00 for Application for Transfer and $50.00 for Application for Transfer) related to this action.

Please contact me if any additional information is required related to this matter. As indicated my daytime telephone is 334-2682.

Thank you.

Sincerely,

John R. Hill
Director

xc: D. High, P. Anderson, B. Taylor, V. Ricketts, C. Brady

Administration
210 Main Street
Boise, Idaho 83702
208-334-2682

Historic Preservation
210 Main Street
Boise, Idaho 83702
208-334-3847, 3861

Historic Sites
2445 Old Penitentiary Road
Boise, Idaho 83712
208-334-2844

Historical Library and Archives
450 North Fourth Street
Boise, Idaho 83702
208-334-3356

Historical Museum
610 North Julia Davis Drive
Boise, Idaho 83702
208-334-2120

The Idaho State Historical Society is an Equal Opportunity Employer

KEITH E. ANDERSON
CONSULTANT IN ENGINEERING AND GEOLOGY
432 SUMMIT RIDGE
BOISE, IDAHO 83702
TELEPHONE (208) 336-2718 OR 344-3888

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WATER RESOURCES

Exhibits referenced in this letter which are already found in the water right files have been removed to avoid consuming unnecessary space.

November 11, 1994

David High
Senior Deputy Attorney General
Statehouse
Boise, ID 83720

Subject: Water Rights--Idaho State Historical Society/ Idaho Botanical Garden

Dear Mr. High:

This letter is in response to several questions raised at my meeting with you, and Peter Anderson of your office, yesterday at 2:00 pm in the conference room of the Attorney General's Office. Also in attendance were John Hill and Chris Brady of the Idaho State Historical Society (ISHS).

1. "Five-acre change on Application for Amendment to Permit 63-9661"

When the Idaho Botanical Garden (IBG) started consideration of a request to the State Board of Land Commissioners for approximately 8 acres of additional land needed for development, it became necessary to amend the existing permit for irrigation (63-9661) because a few acres of this added land would be outside the place of use on the permit. The simplest and best solution appeared to be to add five acres to cover the expansion to the IBG lease and deduct five acres from the land list on the permit. In this way, there would be no request for an increase in the total area allowed to be irrigated under the permit.

A draft "Application for Amendment of a Permit" was prepared by me and submitted to the ISHS in January 1990 for signature and filing with the Idaho Department of Water Resources (IDWR). A copy of the draft is attached as "Exhibit A". I can find no record of this application in the IDWR files and apparently it was never signed and submitted by ISHS.

Subsequently, in connection with the Snake River Basin Adjudication, a Notice of Claim to a Water Right was filed in connection with Permit 63-9661. I prepared the claim on behalf of IBG as lessee of the well covered by the permit. When the claim summary form was returned by IDWR it was noted that the five-acre correction had not been made, so I made the correction under item 10 on page 2 before it was returned to IDWR. This claim summary form was duly signed on April 11, 1991 by Christine Brady, of ISHS, and Elaine Eberharter-Maki, Deputy Attorney General, and returned to IDWR. Both Brady and Eberharter-Maki initialed the five-acre correction on page 2 of that form. A copy of this signed and initialed form is attached as "Exhibit B".

JAN 31 1996

The State Board of Land Commissioners, at their regular meeting on September 17, 1991, unanimously approved the addition of 8.45 acres to the IBG 50-year lease.

This five-acre correction was included in the "Application for Amendment of a Permit" (63-9661) that was submitted to Chris Brady in January 1993 for signature and filing with IDWR. This was the application needed to proceed with the proposed joint-venture irrigation project that would significantly benefit the City of Boise, ISHS, and IBG--and this is the application you had at our meeting yesterday, still unsigned by ISHS, on which you noted the five-acre change.

A copy of the application, still to be signed and submitted by ISHS, is attached as "Exhibit C".

2. "0.22 cfs vs. 0.11 cfs; and 0.26 cfs vs. 0.15 cfs--License 63-10241"

You are correct in noting the discrepancies in certain figures between the "Application for Transfer of a Water Right" and the actual water documentation of the water right License 63-10241.

The explanation is similar to that given above. At the time the application for transfer was prepared in connection with the proposed joint-venture project (early to mid-January 1993) the proposed licensed allowance for diversion for irrigation was only 0.11 cfs based upon the field examination by IDWR in June 1992. This amount, plus the allowance of 0.04 cfs for domestic use, resulted in a total under the proposed license of 0.15 cfs. This is the application you had at our meeting yesterday, still unsigned by ISHS, on which you noted the discrepancy.

Because extensive irrigation of the garden cannot take place during daylight hours of intense public use, I felt that the 0.11 cfs for irrigation was inadequate. After discussions with Norman Young, IDWR, I submitted a letter to IDWR, on behalf of IBG as lessee, on January 27, 1992 requesting an increase in the proposed licensed diversion rate for irrigation to 0.22 cfs (which, with the 0.04 cfs domestic use resulted in a total diversion under the proposed license of 0.26 cfs). A copy of that letter request is attached as "Exhibit D".

IDWR concurred with my request and License 63-10241 was issued to ISHS on February 3, 1993, with a priority date of May 30, 1984, for 0.26 cfs (0.22 cfs for irrigation and 0.04 cfs for domestic use).

I am sorry that I assumed that ISHS would sign and submit that application in timely fashion nearly two years ago, when the licensing was still in process. The correction to the higher diversion rates has now been made on the application still to be signed and submitted by ISHS, a copy of which is attached as "Exhibit E", together with a copy of the license.

3. "Ownership of land at additional point of diversion"

At our meeting, the question was raised as to the ownership of property

JAN 21 1996

at the proposed additional point of diversion. Neal Oldemeyer, Boise City Public Works Department, advises me that the property at Warm Springs Golf Course proposed for the additional point of diversion is owned by Boise City.

I have accordingly corrected the "Application for Amendment of a Permit" (63-9661) to show under Item 4-a that the property is owned by Boise City, and under Item 4-c that the arrangement enabling the filing is a "Pending agreement for joint use". This is the application still to be signed and submitted by ISHS, a copy of which is attached as "Exhibit F".

4. "Miscellaneous matters"

Because of my close involvement with the matter for more than 10 years, I have prepared a summary of the water-right history at Old Penitentiary Irrigation Well No. 1. This is attached as "Exhibit G" with the thought that it may be of use to you or your staff.

Mr. Hill asked if the IBG office used domestic water for drinking purposes. I said no, the drinking water was from the Boise Water Corporation distribution system. The well is used, however, for incidental watering around the office building which is a "domestic use" under Idaho statutes.

A copy of the "Notice of Claim to a Water Right" and "Application for Transfer of a Water Right", which I prepared for Boise City in January 1993, is attached for information purposes as "Exhibit H". These are also a part of the joint-venture irrigation project. I believe you have already seen these since copies were sent to ISHS nearly two years ago.

At the start of our meeting, Mr. Hill stated something to the effect that "he had only first seen these documents (applications) a few weeks ago". I do not know when Mr. Hill moved to Idaho from Oklahoma--but I understand he may have been here by June 1993 when Chris Brady, ISHS, assured me the applications were about to be signed. In any event, he has been fully aware of the situation for more than seven months. (See last paragraph of April 8, 1994 letter from IBG to Hill, attached as "Exhibit I").

I know that Mr. Hill has concerns that use of the Old Penitentiary Irrigation Well may not be able to continue beyond some specified date for filing proof of beneficial use (by the summer of 1995?). (See first paragraph of FY 96 project proposal in document furnished by the Idaho Division of Public Works--attached as "Exhibit J"). I, too, was concerned about timing and schedule problems imposed by the IDWR moratorium in the Boise Front Low Temperature Geothermal Groundwater Management Area. The proof of beneficial use was actually due by March 1, 1991--and accordingly, on behalf of IBG as lessee, I prepared a request for an extension of time for Permit 63-9661 to March 1, 1996 because of the moratorium. This was signed and submitted by ISHS to IDWR on February 21, 1991. This request is being held without action during the duration of the moratorium. Since the moratorium was ordered 2 years 264 days prior to the original date specified for proof of beneficial use, the new date--if the moratorium continues for the second

JAN 31 1996

five-year term--would become March 1, 2001. Copies of documents relating to this extension are attached as "Exhibit K".

The ISHS proposed water development project for FY 96 causes me to question their willingness to allow the proposed City-ISHS-IBG joint-venture irrigation project to be implemented (see second and third paragraphs of "Exhibit J"). There is no renegotiated lease--and never will be--with IBG that would deprive them of the use of Old Penitentiary Irrigation Well No. 1 and require them to develop their own water source. The joint-venture project would result in considerable saving to ISHS in both capital and annual cost for water--and also allow them to supply water to others, because of their proximity, even though they may be in no way related to the historical significance of the penitentiary (the Bishops' House, Agriculture buildings, etc.).

In addition to the attached exhibits, I am enclosing a "clean" set of the two applications to be signed by, or on behalf of, ISHS and submitted to IDWR for processing. The filing fees total $70, of which $20 is for the amendment to the permit and $50 is for the transfer. If the fees pose a financial problem to ISHS, or if they would delay further the filing, I will renew the offer I made to Chris Brady a year-and-a-half ago and pay them myself!

Please let me know if you have questions or need further information.

Sincerely,

Keith E. Anderson

Keith E. Anderson

Attachments

Enclosures (2)

Copy (w/attachments): John Hill, ISHS
Christine Brady, ISHS
Norman Young, IDWR
David Tuthill, IDWR
Neal Oldemeyer, Boise City
Stan Hamilton, Idaho Dept. Lands
Bryce Taylor, Idaho Dept. Lands
Scott Campbell, Elam & Burke
Doug Donohue, Elam & Burke
Wayne Meuleman, IBG
Sally Jo Peters, IBG
Files

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EXHIBIT "G"

Old Penitentiary Irrigation Well No. 1
Summary of Water Right History

Permit 63-9661 (and predecessors):

Date	Action
2/26/65	State of Idaho, Department of Corrections, filed Application G-40394 and was granted Permit G-32252 (now 63-3439). Permit for 6.7 cfs to irrigate 180 acres. Well No. 1 for 70 acres; Well No. 2 for 110 acres. Note that lands to be irrigated were formerly irrigated from Cruzen Ditch and water purchased from Consumers Water Co. but they were no longer in business. Proof of beneficial use due 2/26/70
10/16-23/69	Publication of notice of existing permit in Idaho Daily Statesman
12/19/69	Affidavit of proof of beneficial use filed by Department of Corrections; 6.7 cfs for 180 acres. Note that there is no other available source of water supply and this is a very coarse soil and requires extra water.
1/22/70	Department acknowledges receipt of affidavit of publication
7/14/72	Field examination by Department; 0.65 cfs diverted; 0.52 cfs recognized for beneficial use; maximum 63 AF/yr; 14 acres in SE NW sec 13; priority date 2/26/65
-?-?-?-	Permit holder not satisfied with examination
9/5/75	Field examination by Peter Chamberlin (difficult to read microfilm): System Description: 60 HP U.S. electric motor, serial no. 3765637, with Layne vertical centrifugal turbine type pump #4424. 10" or 12" well with 6" main line. No pipe or sprinkler seen in area. Prison.....water system out to new site. Remarks: Maybe old rights for surface water.....Site has changed hands from the Dept. of Corrections to the State Historical Society. Little or no irrigation is taking place at the present time. The State Historical Society is trying to reestablish the irrigation system at this time.
10/31/75	Permit 63-3439 assigned by Idaho State Department of Corrections to Idaho State Historical Society.
9/30/77	Field re-examination by William H. MacAllister for the Idaho State Historical Society. Remarks: Recommend cancellation. Water not being used. MacAllister Memo: ISHS said pump had been pulled and, even if

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operable, they had no irrigation pipe and could not irrigate, but did plan to irrigate in future. Tax records indicate the area irrigated in 1972 no longer State-owned.

12/7/77 Permit 63-3439 cancelled by Department

1/16/81 Re-application for permit by ISHS, 2.20 cfs, 110 acres. No protest or intervening applications; approved 3/3/81 and Permit 63-9661 issued. Proof of completion of works and beneficial use due 3/1/86.

3/22/84 IBG granted a 50-year lease by the State Land Board to develop 42.25 acres for a botanical garden; the lease provided for use by IBG of the Old Penitentiary Irrigation Well No. 1. Water from the well was first used for irrigation by IBG in 1985.

5/19/86 Extension of time granted for proof of completion to 3/1/91.

6/10/88 Moratorium order issued by IDWR for Boise Front Low-Temperature Geothermal Resource Ground Water Management Area.

12/19/89 Petition filed by IBG with IDWR for "a ruling allowing continued development, within existing valid permits, for use of low temperature geothermal water". Petition applied to both permits 63-9661 and 63-10241. Idaho Code 42-233 (3) provides that permits issued prior to July 1, 1987 remain valid; both permits were issued prior to that date.

This petition is still before the IDWR.

1/--/90 Draft of "Application for Amendment of a Permit" to Permit 63-9661 was submitted to Historical Society for signature and filing with IDWR. The amendment did not change total acreage or diversion rate, but only added 5 acres in the SE 1/4 NW 1/4 sec. 13 and deleted 5 acres in the SW 1/4 NE 1/4 sec. 13. This was necessary because the IBG was requesting an additional 8.45 acres be added to their lease from ISHS, 5 acres of which were not covered in the original Permit 63-9661.

Apparently this application was never signed by ISHS and never filed with IDWR.

2/21/91 Request submitted to IDWR for extension of time to 3/1/96 because of moratorium.

3/7/91 IDWR agrees to hold request for extension, without action, during period of moratorium. (Moratorium was ordered 2 yrs 264 days prior to date required for completion--which would extend required completion date for proof until at least March 1, 2001

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if the moratorium continues for the full second term of 5 years.

4/11/91 The claim for the water right covered by Permit 63-9661, filed in the Snake River Basin Adjudication (Civil Case No. 39576) was signed by Christine N. Brady, ISHS Historical Sites Administrator, which was corrected to show the 5-acre change in added and deleted area (referred to above as 1/--/90). These corrections were initialed by Ms. Brady as well as by Elaine Eberharter-Maki from the Attorney General's Office, Department of Education.

9/17/91 The State Board of Land Commissioners, at their regular meeting, unanimously approved the addition of the 8.45 acres to the IBG lease from ISHS.

1991-92 Plans for a joint-venture project between City of Boise, IBG, and ISHS underway to benefit all three parties and to add an additional point of diversion to water rights held by the City and ISHS. The added point of diversion was to be at an existing well on Warm Springs Golf Course, and would provide non-geothermal water for irrigation to all parties.

1/28/93 IBG prepared the necessary forms for signature and submittal to IDWR to add an additional point of diversion to the City and ISHS water rights. There was no relinquishment of any original points of diversion or change in irrigated area of either party.

These documents included:

City: Notice of Claim to a Water Right (for City's Quarry View Park Well)
Application for Transfer of Water Right (for City's License 63-10022)

ISHS: Application for Transfer of Water Right (for ISHS License 63-10241--formerly Permit 63-10241)
Application for Amendment of Permit (for ISHS Permit 63-9661.

May-June '93 ISHS refuses to sign and submit documents so joint-venture project could proceed; City will not sign and submit unless ISHS agrees also.

6/10/93 IDWR extends moratorium on Boise Front Low Temperature Geothermal Ground Water Management Area for another 5 years to June 10, 1998.

JAN 31

License 63-10241 (and Permit 63-10241)

5/30/84 ISHS makes application to IDWR for water to irrigate 20 acres and for domestic use. Application assigned as Permit 63-10241, but returned to ISHS for clarification with respect to existing permit 63-9661.

12/6/84 Amended application submitted to IDWR.

1/14/85 Permit 63-10241 issued for total of 0.44 cfs (0.40 cfs for irrigation of 20 acres and 0.04 cfs for domestic use) with priority date of May 30, 1984. Proof of beneficial use due January 1, 1990.

1/2/90 Proof of beneficial use filed with IDWR by ISHS.

4/11/91 The claim for the water right covered by Permit 63-10241, filed in the Snake River Basin Adjudication (Civil Case No. 39576) was signed by Christine N. Brady, Administrator of ISHS Historical Sites, and by Elaine Eberharter-Maki of the Attorney General's Office, Department of Education.

6/24/92 Field examination by IDWR. Examiner recommends 0.11 cfs for irrigation of 5.25 acres and 0.04 cfs for domestic use--total of 0.15 cfs.

12/15/92 IDWR advises licensing in process and requests ISHS to agree to amend Permit to conform to field examination.

12/30/92 ISHS submits application for amendment for licensing purposes to conform to field examination

1/27/93 IBG, as lessee, requests IDWR increase allowance for irrigation to 0.22 cfs because irrigation cannot take place during public use hours.

2/3/93 IDWR concurs with request and issues License 63-10241 for a total of 0.26 cfs and priority date of May 30, 1984 (0.22 cfs for irrigation and 0.04 cfs for domestic use).

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EXHIBIT "I"

IDAHO BOTANICAL GARDEN

April 8, 1994

Mr. John Hill
Executive Director
Idaho State Historical Society
210 Main Street
Boise, ID 83702

Dear John,

Your letter dated March 17, 1994 was referred to me by Sally Jo. We have complied this information pertaining to your request for a report of activities of the Idaho Botanical Garden that have occurred in the past lease year.

The following information is a summary of the Garden's programs and activities that represent what occurred in the 1993 lease year.

EDUCATION PROGRAMS:

♦ In 1993 two new educational programs were developed, bringing our total program offerings to eight. The Garden received funding from the Idaho Dept. of Lands in the amount of $2,500 to develop a tree program, and tours will begin in the spring of 1994. All the Garden's educational programs are endorsed by the Idaho Department of Education and meet the curriculum guidelines for each grade level.

♦ In 1993 the Garden's education docents increased by 49%, and increased student participation by 33%.

♦ Over 8,000 students participated in one or more of the Garden's educational programs in 1993. The Gardens educational programs are attracting students from as far away as Garden Valley, Kuna, Haggerman, Eagle, Emmett, Idaho City and McCall.

♦ The Idaho Botanical Garden became a partner in education with Adams School.

♦ Lectures and Workshops were held in the Spring of 1993.

♦ Three new internship programs where developed with Boise State University, through the Education Department, Horticulture Department and the Biology Department.

♦ Plans began for the 1995 Regional Meeting for the American Assoc. of Botanical Gardens and Arboreta which will be held at the

P.O. Box 2140 / Boise, Idaho 83701 / (208) 343-8649

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Idaho Botanical Garden.

♦ The Garden instructed several sessions for the Community Ed Program.

♦ The Garden was asked to be guest speaker at several Community Service Organizations.

VOLUNTEER PROGRAM: In 1993 the Garden had over 600 volunteers, donating over 5,800 hours. This program has expanded in many exciting ways.

♦ Boise State University students helped the Garden grow and expand it's programs by volunteering their time in 1993. The Construction Management Team spent numerous hours helping prepare for special events. The Horticulture Department spent over 100 hours helping identify plant material, labeling and propagating several species for the spring plant sale.

♦ Several Garden Clubs volunteered in theme Gardens helping with maintenance and planting of materials.

♦ Several clients from the Retired Seniors Program have spent countless hours at the Garden helping answer phones, harvest seed and staff admissions booth.

♦ The Strong Start Volunteer program which was started by the Governor to encourage State employees to volunteer their time to help with education has resulted in several State employees volunteering many hours to the Garden's educational programs.

♦ The Garden had several Eagle Scout projects take place in 1993, such as clearing pathways for our Nature Trails, build benches and mend bridges.

♦ Juvenile Courts have brought several work crews out to the Garden to help these troubled youth gain some work skills, and to give something back to this community.

♦ Honor Society students from local High Schools have taken on special projects at the Garden.

♦ The Garden has become a site for Master Gardeners to earn credits from the Ada County Extension Office to work "hands on" in their field of interest, gain knowledge and network with professionals.

♦ The Private Industry Council through it's summer youth program has used the Garden as an outdoor classroom and at the same time developing employable skills for their youth.

♦ The Garden has become a resource for enhancing work skills in the emotionally and mentally handicapped citizens of this State.

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MEMBERSHIP PROGRAM: The Garden's membership program expanded by 55%. In 1993 the Garden had 548 current members. 90% of these members are from Boise, 7% are outside of Boise, but within the State of Idaho, 3% are outside the State of Idaho.

DEVELOPMENT PLANS:

- Design and planting plans where completed for the Idaho Native Plant Garden.

- Plans for a Rogers NK Seed demonstration garden were started.

ADMISSIONS: Admissions to the Garden doubled in 1993. Over 75% of the Garden's visitors are from outside of Boise. In 1993 the Garden had over 30,000 visitors.

PROGRAMS IMPEDED BY ISHS:

So much of the Gardens development, however, was impeded shortly after the Garden's last lease payment.

In March, 1993 the 1950 Administration was vacated by a Idaho State Historical Society tenant and the Idaho Botanical Garden requested possession in accordance with our lease. Our request was denied and the Idaho State Historical Society entered into a new lease of the building over our objection. The Idaho Botanical Garden planned to use the building to establish a botanical library and research center, public meeting facilities and visitor reception center.

In June of 1993 (this is just two months after the Idaho State Historical Society accepted our lease fee) it stated the Garden was in material breach of it's lease. Although the Garden does not believe any breach of it's lease has occurred, we agreed in good faith to attempt to renegotiate the boundaries of the Garden's leasehold, in an attempt to satisfy concerns of the Historical Society. All of the Garden's development plans have had to be put on hold since the proposals that have been exchanged reflect boundary changes which will affect the Garden's overall Master Plan.

The Garden had been the recipient of $153,000 from Fundsy's 1992 community fundraiser for the purpose of restoring the 1907 building as an Education/Visitor Center. The plans, where developed for the renovation by Architect Brian Smith. The renovation was slated to begin June of 1993 and the first phase completed by September 1993. Although this project was unanimously approved by the Idaho State Historical Society Trustees (see ISHS minutes dated July 10, 1992) and $10,000 of the Fundsy money had already been spent on the plans the Idaho State Historical withdrew its permission to go ahead with this project. In May of 1993 the Garden received a letter from you stating that no further work could be done with the 1907 building and it needed to be approved by the Dept. of Public Works. We would have been able to offer year round educational programming for children and adult lectures if

JAN 31 1994

this project were completed.

Beginning mid 1991 Keith Anderson along with Wayne Meuleman began formulating a joint water project to improve irrigation water for the Garden, Idaho State Historical Society and Boise City. In June, 1993 the Idaho State Historical Society staff approved the concept and agreed to participate. When all documents were completed and submitted for signature, the Idaho State Historical Society refused to sign. (This project would have benefitted the Historical Society). Refusal by the Idaho State Historical Society to permit a additional diversion point for the Garden's irrigation water away from the area subject to the 1988 pumping moratorium imposed by the Department of Water Resources prevented expansion of Garden development area. It is also important to note the Garden has continued to work and cooperate with the Idaho Department of Water Resources with the monitoring ground water levels and withdrawals.

Sincerely,

Marilyn Beck

Marilyn Beck
President
Idaho Botanical Garden

cc: Honorable Governor Cecil Andrus
Virginia Ricketts
IBG Office copy

JAN 21 1994

EXHIBIT "J"

Category 1

SET B

PROJECT APPROVAL F

Project Title: Change Point of Diversion for Water Right at Old Idaho Penitentiary
Institution/Agency: Idaho State Historical Society
Fiscal Year: FY 96
Estimated Total Cost: $ 46,000
Budget Year Request: $ 46,000

The ISHS is in danger of losing a valuable water right unless this project is funded. Currently the water right allows the use of geothermal water for irrigation, a use governed by a temporary permit which must be proven in the summer of 1995 in order for the right to be protected by final licensing. As it stands, the permit has been given two extensions and no further extensions are possible. A recent ruling by the State Department of Water Resources forbids the licensing of water rights using geothermal water, an act which condemned use of this permit beyond the summer of 1995. We must develop an alternate source of cold water on the site in order to change the point of diversion and protect the water right, and we must do so in time for the 1995 inspection.

Based on old well drillers logs, we believe we can protect this right by drilling a new 200' deep well on the site. The project also calls for the installation of a 10hp pump, a 1000 gallon pressure tank in a small pump house, line and trenching.

This project is critically needed at the Old Idaho Penitentiary to both protect the right and provide for an inexpensive source of water. Currently the Old Pen pays over $5,000 for irrigation water in a dry year. Also, the original lease for the Idaho Botanical Garden was written in a way that gave the tenant (the IBG) priority usage over the water right owner, the ISHS. The new, re-negotiated lease returns the primary use of the water right to ISHS and makes the Garden responsible for development of their own water source. Increased development of the site (an abandoned garden was restored this year; interpretation in #2 Yard is planned; maintenance of the grounds around the 1950 Administration Building which is leased to the Department of Agriculture is a newly acquired task) means a greater need for water at the Old Idaho Penitentiary.

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Page 2
Set B
Project Approval Form

Project Approval:_ Institution/Agency: Idaho State Historical Society

Funding		Estimated Budget	
State	$46,000	Land Acquisition	$
Federal	$	Construction	$42,000*
Other (list)	$	A/E Fees	$2,000
	$	Furnishings	$
	$	Contingency (5%)	$2,000

* Includes miscellaneous bidding costs.

(cat1setb.frm)

JAN 31 1996

STATE OF IDAHO Cecil D. Andrus, Governor

DIVISION OF PUBLIC WORKS
502 NORTH 4TH STREET
BOISE, IDAHO 83720-6000
(208) 334-3453
FAX 334-4031

DEPARTMENT OF ADMINISTRATION STATEHOUSE - BOISE, IDAHO 83720

October 11, 1994

Ms. Sally Jo Peters, Executive Director
Idaho Botanical Gardens
2355 E. Old Penitentiary Rd.
Boise, Idaho 83712

Dear Ms. Peters:

Subject: Request for Public Records
Correspondence Received October 11, 1994

As designated custodian for the public records for the Division of Public Works, I am approving your request for information regarding any proposal for funding, including plans that have been submitted for the buildings, and new roofs on the Botanical Garden leasehold for FY96 funding.

This approval is granted under the terms and conditions of the Department of Administration's policies established under the Idaho Public Records Act. A copy of those policies is attached for your information.

Enlcosed are copies of the public records you requested. If you have any questions, please call me at 334-3647.

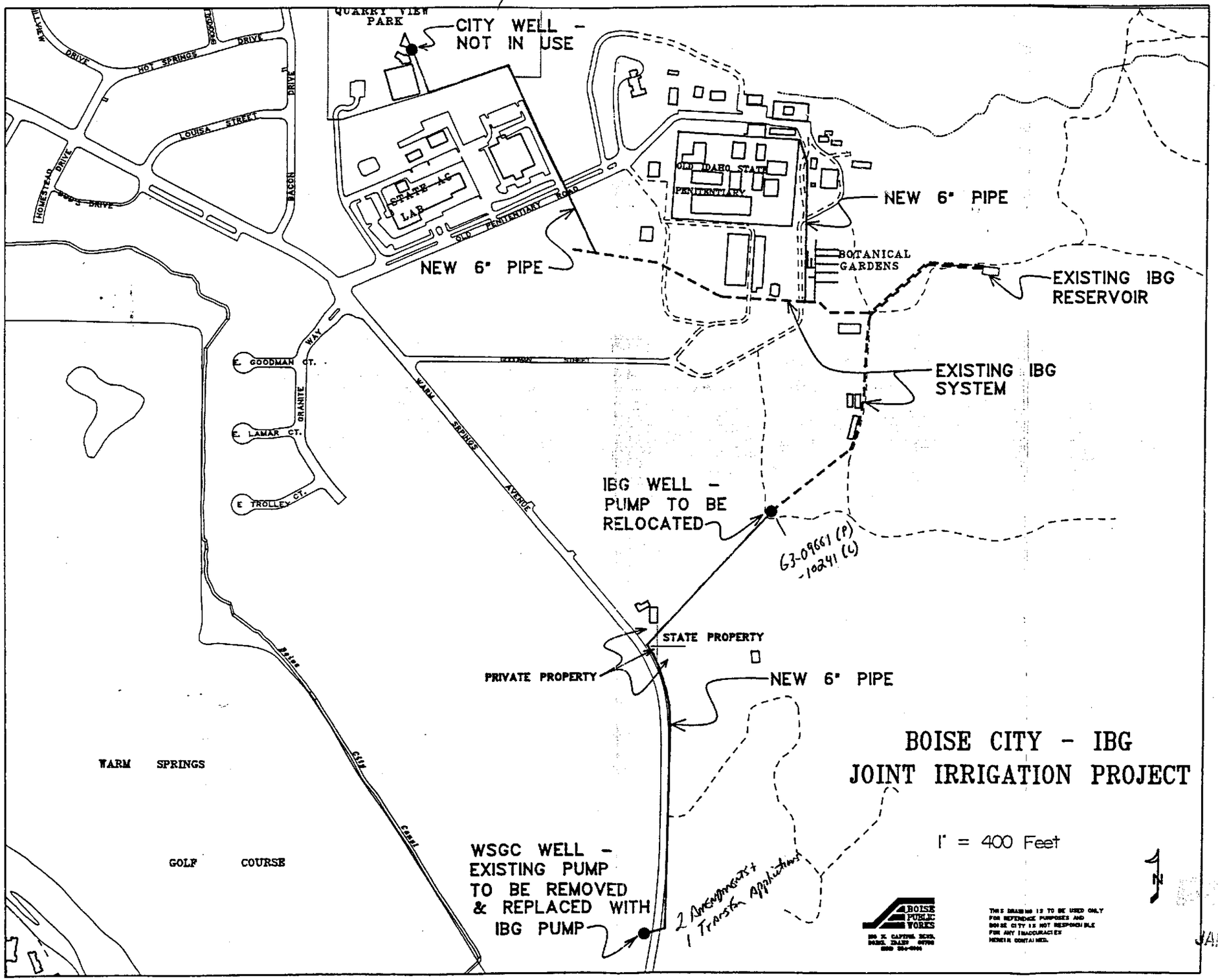
Sincerely,

Larry V. Osgood, Administrator
Division of Public Works

Enclosure

JAN 21 1995

63-10022 (P)



JAN 31 1995

IDAHO BOTANICAL GARDEN
(Old Penitentiary Irrigation Well)

WATER-LEVEL RECORDS

Date		Depth to Water (Ft. below M.P.*)	Remarks
1965	July	73.5	Original level when drilled
1983	Jan 5	50.10	?
	Mar 15	49.71	?
1988	Apr 30	76.81	
	Jun 27	74.28	
	Aug 3	94.23	Pumped recently ?
	Sep 14	150. +	Pumping
	Oct 1	73.05	
	Oct 29	81.69	
	Nov 6	72.85	
1989	Mar 1	72.35	
	Mar 18	72.12	
	Apr 30	77.49	
	Jun 4	71.29	
	Jun 29	73.02	
	Aug 13	74.66	
	Nov 19	73.69	
1990	Apr 9	74.34	
	Sep 30	74.43	
	Oct 24	74.23	
	Nov 15	73.89	
1991	Jan 31	72.70	
	Feb 18	72.72	
	Mar 3	69.73	
	Apr 5	71.74	
	Apr 19	71.52	
	Apr 26	71.72	
	Apr 29	72.61	
	May 21	72.51	
	May 30	72.03	
	Jun 17	74.11	
	Jul 1	68.90	
	Jul 24	75.68	
	Aug 15	73.84	
	Sep 4	69.64	
	Oct 1	---	Pumping
	Oct 14	74.82	
	Dec 4	74.98	

* - Measuring point is hole in pump base which is 0.5 ft. above land surface; approx. elevation 2,780 ft above mean sea level.

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IDAHO BOTANICAL GARDEN - Water Level Records (p.2)

1992	Feb 18	75.53	
	Mar 20	73.03	
	Apr 25	72.69	
	Aug 7	75.84	
	Oct 7	75.78	
	Nov 23	73.63	
1993	Mar 23	72.44	
	Apr 21	70.93	
	Jun 8	70.79	
	Jun 24	71.27	
	Jul 17	71.35	
	Aug 20	73.29	
	Sep 16	70.18	
	Nov 12	69.35	
1994	Feb 15	71.16	
	Mar 24	Pumping	T = 136.5 F
	May 31	90.56	Pumped recently, recovering 0.28 ft/min
	Jul 13	75.34	
	Sep 12	Pumping	T = 136.5 F
	Nov 10	69.61	

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IDAHO BOTANICAL GARDEN
(Old Penitentiary Irrigation Well)

ESTIMATED WATER USE

The following estimates of water use are based on observations made September 14, 1988. At that time, the irrigation pump was discharging approximately 512 gallons a minute (coordinate measurements) and the input to the pump motor was 44.31 kw (watt-hour meter measurement). These data indicate that pumping one acre-foot of water requires 470 kilowatt-hours. One acre-foot (A.F.) = 325,829 gallons.

Season	Acre-Feet	Gallons
1985	2.94	958,000
1986	4.79	1,561,000
1987	11.00	3,584,000
1988	17.15	5,588,000
1989	15.17	4,943,000
1990	15.56	5,070,000
1991	11.36	3,702,000
1992	17.57	5,724,000
1993	14.06	4,582,000
1994	19.48	6,347,100

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IDAHO BOTANICAL GARDEN
(Old Penitentiary Irrigation Well)

ENERGY USE

Period	Kwhr
1985	
2/26-3/36	35
6/24-7/24	208
7/24-8/22	342
8/22-9/22	529
9/22-10/23	267
1985 Season	**1,381**
1986	
4/24-5/23	416
5/23-6/24	375
6/24-7/24	334
7/24-8/22	449
8/22-9/23	490
9/23-10/23	186
1986 Season	**2,250**
1987	
4/2-4/24	281
4/24-5/26	443
5/26-6/24	852
6/24-7/24	890
7/24-8/25	869
8/25-9/24	762
9/24-10/23	819
10/23-11/24	255
1987 Season	**5,171**

Period	Kwhr
1988	
4/1-4/25	259
4/25-5/24	852
5/24-6/23	1,230
6/23-7/25	1,572
7/25-8/24	1,291
8/24-9/23	1,516
9/23-10/25	1,330
10/25-11/23	10
1988 Season	**8,060**
1989	
6/1-6/22	2,300
6/22-7/24	1,601
7/24-8/23	1,503
8/23-9/22	1,037
9/22-10/24	599
10/24-11/22	89
1989 Season	**7,129**
1990	
3/23-4/23	650
4/23-5/22	827
5/22-6/21	1,060
6/21-7/23	1,414
7/23-8/22	1,526
8/22-9/21	1,213
9/21-10/23	623
1990 Season	**7,313**

JAN 21 1936

IDAHO BOTANICAL GARDEN - Energy Use (p. 2)

Period	Kwhr
1991	
4/26-5/28	504
5/28-6/26	955
6/26-7/26	1,054
7/26-8/26	1,076
8/26-9/25	949
9/25-10/25	710
10/25-11/1	92
1991 Season	**5,340**
1992	
3/20-3/26	432
3/26-4/27	723
4/27-5/27	1,309
5/27-6/25	1,116
6/25-7/27	1,131
7/27-8/25	471
8/25-9/24	2,138
9/24-10/26	937
1992 Season	**8,257**
1993	
4/27-5/27	1,023
5/27-6/28	1,133
6/28-7/28	1,165
7/28-8/27	1,325
8/27-9/28	1,313
9/28-10/28	650
1993 Season	**6,609**

Period	Kwhr
1994	
2/15-3/24	174
3/24-5/11	1,281
5/11-5/31	866
5/31-7/13	2,407
7/13-9/13	3,309
9/13-11/10	1,120
1994 Season	**9,157**

New meter installed by Idaho Power Co.
Westinghouse, Type D45-7M, 480 v,
S/N 59 482 735, Kh = 57.6
Readings (2/15/94): 00000 Kwhr, 000 Kw

JAN 31 1995

Idaho Botanical Garden
(Old Penitentiary Irrigation Well)
1991 Pumping Schedule

Date	Time On	Time Off	Hrs:Min Pumped	Temp. (Deg. F)
Apr 29 (Start-up test for season)			0 hr : 33 min	135
May 1				136
May 10	0800	1100	3:00	136
May 15	0845	1100	2:15	136
May 23	0830	1140	3:10	135
May 28	1530	1730	2:00	137 1/2
Jun 3	1430	1700	2:30	137 1/2
Jun 9	1130	1330	2:00	137
Jun 11	0815	1130	3:15	137
Jun 14	1330	1530	2:00	136
Jun 18	1420	1640	2:20	137
Jun 21	0900	1200	3:00	137
Jun 25	1500	1700	2:00	137
Jun 27	1100	1400	3:00	137
Jul 2	0940	1150	2:10	137
Jul 7	1500	1700	2:00	137
Jul 9	1330	1630	3:00	137
Jul 15	1400	1645	2:45	137
Jul 18	1000	1350	3:50	137
Jul 19	1600	1700	1:00	137
Jul 22	1200	1600	4:00	137
Jul 25	0830	1200	3:30	137
Jul 26	1350	1500	1:10	137
Jul 29	1415	1635	2:20	137
Jul 31	1314	1450	1:36	137
Aug 2	1305	1445	1:40	137
Aug 3	1400	1530	1:30	137
Aug 6	1200	1330	1:30	137
Aug 7	1330	1600	2:30	137
Aug 9	1330	1600	2:30	137
Aug 12	1330	1600	2:30	137
Aug 15	1400	1630	2:30	137
Aug 17	1400	1630	2:30	137
Aug 20	1400	1630	2:30	137
Aug 22	1500	1700	2:00	137
Aug 27	0900	1145	2:45	137
Sep 3	1430	1700	2:30	137
Sep 9	1430	1630	2:00	137
Sep 13	1400	1630	2:30	137
Sep 16	1300	1530	2:30	137
Sep 22	1400	1630	2:30	137

JAN 1 1996

Sep 28	1430	1700	2:30	137
Oct 1	1430	1730	3:00	137
Oct 5 .	1430	1700	2:30	137
Oct 14	1330	1630	3:00	137
Oct 20	1400	1700	3:00	137

JAN 31 1995

KEITH E. ANDERSON
CONSULTANT IN ENGINEERING AND GEOLOGY
432 SUMMIT RIDGE
BOISE, IDAHO 83702
TELEPHONE (208) 336-2718 OR 344-3888

RECEIVED
NOV 14 1994
WATER RESOURCES
WESTERN REGION

November 11, 1994

David Tuthill
Manager, Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83704

Subject: Water Rights--Idaho State Historical Society/Idaho Botanical Garden

Dear Dave:

As you requested, I am enclosing some background information on this subject, in addition to (or supplementing) my lengthy letter today to David High, Senior Deputy Attorney General, a copy of which you will receive.

I believe that the IDWR files in the State Office have all (or most) of the enclosed information, except possibly the most recently up-dated information on water levels, use, etc. at the Old Penitentiary irrigation well No. 1. This will, however, give you a "personal set" for your files!

current pld
63-09661 (P)
-10241 (L)

I really appreciate your rescheduling the meeting with David High so that I can attend. I think that my intimate knowledge of the matter for more than the past ten years may be of help in any discussions.

One matter that may come up is whether the applications for transfer and amendment (to provide an additional point of diversion of non-geothermal water) should be filed with IDWR before--or after--completion of a final three-party agreement for the proposed joint-venture irrigation project. To me, this becomes sort of a "which came first, the chicken or the egg?" matter. We (Botanical Garden) are naturally anxious to have the applications filed by the Historical Society immediately, while at the same time we proceed to finalize an agreement for the project with the other parties (Boise City and the Historical Society). Approval of the applications will undoubtedly take some time--particularly if any protests are received. And if they are not approved, the whole idea of this joint-venture project becomes moot!

Please let me know if you have questions or need additional information.

Sincerely,

Keith

Keith E. Anderson

Enclosures

JAN 31 1996

(208) 344-3888
or 336-2718

KEITH E. ANDERSON

CONSULTANT IN ENGINEERING AND GEOLOGY

432 SUMMIT RIDGE, BOISE, IDAHO 83702

April 13, 1993

Mr Norman C Young
Administrator
Idaho Department of Water Resources
Statehouse Mail
Boise, ID 83720

Re: Boise Front Low-Temperature Geothermal Resource
Ground Water Management Area

Dear Mr. Young:

We are pleased to respond to your recent request for information or data that may be of assistance to you in your upcoming departmental review of the Boise Front Low-Temperature Geothermal Resource Ground Water Management Area. As we understand it, the provisions of the Order Establishing a Moratorium, issued June 10, 1988 will expire on June 10, 1993 unless rescinded, modified or extended by subsequent order of the Director of the Idaho Department of Water Resources (IDWR).

extended to 6/10/98

As you recall, IDWR established and designated the Boise Front Ground Water Management Area on June 15, 1987 which was followed on June 3, 1988 by the adoption of a "Management Policy" for that area. The principal reasons for establishing the management area and policy were (1) the observation of water level declines of as much as 30 feet in the period 1983-87, (2) some reduction of temperature in at least one of the producing systems, and (3) the potential for a considerable increase in total withdrawals if all existing rights and applications were fully developed. This letter presents some information and comment relating specifically to the "eastern" part of the management area (east half of T. 2 E. and all of T. 3 E.). We are not familiar with the recent history of developments in the "western" part of the management area.

We are not recommending that either the "Management Policy" or the "Moratorium" be fully rescinded at this time, but would offer the following comments, suggestions and recommendations for possible modification and extension insofar as they apply, at least, to the "eastern" part of the area:

1. Recognize that water levels and temperatures have not continued to decline at the rates anticipated five years ago, and that a degree of stabilization has been achieved.

2. Continue monitoring efforts regarding rates of withdrawal, water level (or pressure), and temperature; continue collection of hydrogeologic data.

3. Recognize that the Boise Front Low-Temperature Geothermal Resource is being used primarily for its heat value--when the "resource" is considered as the aquifer(s) underlying the management area. Any withdrawals for irrigation or other non-heating use are but a very small fraction of either total or net withdrawals.

JAN 31 1996

4 Recognize that many hundreds (thousands?) of acres are irrigated in Idaho with low temperature geothermal water and that such appropriations are considered to be a beneficial use

5. Recognize that valid licenses or permits to appropriate groundwater, issued prior to July 1, 1987, are exempt from the provisions applying to low-temperature geothermal resources or geothermal resources (Sections 42-233 (3) and 42-4003 (7) (e), Idaho Code).

6 Where low-temperature water is not being used primarily for heat value, continue to encourage substitution of a non-geothermal water source where practical.

7. Where low-temperature water, used for heat value, is not reinjected to the aquifer, continue to encourage reinjection where practical

8. Allow continued development, within the terms and provisions of existing valid licenses or permits, as long as it can be shown that such development: (1) does not increase pumping lift or reduce pressure for existing senior users, (2) does not reduce temperature to existing users so that systems can no longer operate with reasonable efficiency, and (3) is in the public interest.

As you know, the Idaho Botanical Garden (IBG) uses the Old Penitentiary Irrigation Well under a lease agreement with the Idaho State Historical Society (ISHS). This well is operated under ISHS water rights (License 63-10241 and Permit 63-9661). In support of statements in the above numbered paragraphs, we would submit for your consideration the following.

1 Enclosed summary sheets showing measured water levels, volume of water pumped, and energy used at the Old Penitentiary Irrigation Well for the period 1988 to date, together with the detailed record of pump operation time for the year 1991

2 Enclosed hydrograph showing water levels in the Kanta well (1984-91) and the Old Penitentiary Irrigation Well (1988-93). The Kanta well is located only about 675 feet from the irrigation well and at about the same land surface elevation. We have requested water level data for the Kanta well, which is unused and equipped with a recorder, for the period since August 1991. When these data are received we will update the hydrograph and furnish you with a copy.

3 The Old Penitentiary Irrigation Well was drilled and placed in service in 1965. The area irrigated at that time was greater than any present potential use by IBG or ISHS. The original water level (1965) was reported to be 73.5 feet below ground (elev. 2706.5) or essentially the same as during the period 1988 to date.

4 Enclosed two hydrographs from the Kanta well recorder in July 1991. These charts show diurnal water level fluctuations (earth tides) and the regional recovery trend after the large withdrawals, such as Boise Geothermal and Boise Warm Springs Water District, have ceased. Superimposed on these charts are the periods that the Old Penitentiary Irrigation Well was being pumped, which ranged from about 1-1/2 to 4 hours duration on five days. These graphs show clearly that pumping by IBG had absolutely no measurable effect at the Kanta well--located only 675 feet distant--the scale on the recorder charts is 1:1, with each small division being only 0.01 foot! Any

JAN 31 1996

interference effects between the Old Penitentiary Irrigation Well and the Kanta well should have shown up on the hydrographs within minutes of pump startup The closest operating geothermal wells are those of the Boise Warm Springs Water District (Nos. 1 and 2) which are more than 2,300 feet from the Old Penitentiary Irrigation Well

5 Water levels in the Kanta well stopped their significant annual decline after 1987. The Kanta well water level fluctuations are similar to those in the Boise Warm Springs Water District wells. All of these wells appear to be in hydraulic connection with each other (Berkeley Group, Inc. report, p. 42).

6. Total withdrawals of low-temperature geothermal water from the eastern part of the management area are probably on the order of 2,300 - 2,400 AF/Yr. Maximum withdrawal by IBG has been less than 20 AF/Yr with an estimated future maximum of only 100 AF/Yr.

7. Prior use of the Old Penitentiary Irrigation Well, whether in the 1960's or in recent years, has never resulted in any reported decline in water level (or pressure) or temperature at the location of any other existing users.

8. Although we do not have the records, it is our understanding that water levels and temperatures have stabilized in recent years throughout the eastern part of the management area.

9. Priority dates for the ISHS water rights are as follows:

License 63-10241	May 30, 1984
Permit 63-9661	January 16, 1981

10. Geologic and hydrologic evidence indicate that the Old Penitentiary Irrigation Well is not interconnected with other existing users (lower water levels, absence of seasonal fluctuation trends, lower temperature, etc.) and continued use by IBG would therefore not affect water levels or temperatures at the location of other users.

11. Continued development by IBG, within the terms and conditions of the existing ISHS valid water rights, would be clearly in the public interest:

A. IBG is the only botanical garden within the State of Idaho.

B. The Garden was visited by approximately 3,000 people in 1992, mainly tourists.

C. The Boise School District has already booked visits by 3,525 students for 1993 as a part of the IBG ongoing educational program.

D. The Garden provided a site for 31 weddings in 1992--each with typically 150 to 200 persons in attendance.

E. The Garden provides an opportunity for both youths and adults to perform required hours of community service.

F. The Garden offers a learning experience opportunity for students and interns from Boise State University, and for those working in the Master Gardener program to obtain credit hours.

JAN 31 1996

12 IBG is continuing to work with the City of Boise and ISHS to see if a feasible alternative source of non-geothermal water can be developed for the Garden

As you realize, it is essential that IBG be allowed to expand their present development under the existing ISHS water rights--at least up to the estimated maximum withdrawal of 100 AF/Yr.

If we can provide you with additional information to assist you with your departmental review of the matter, or if you have questions, please let me know.

Sincerely,

IDAHO BOTANICAL GARDEN, INC

By Keith E Anderson

Enclosures (4)

bcc: Wayne Meuleman
Doug Donohue
IBG files

JAN 31 1996

(208) 344-3888

KEITH E. ANDERSON

CONSULTANT IN ENGINEERING AND GEOLOGY

432 SUMMIT RIDGE, BOISE, IDAHO 837

Exhibits referenced in this letter which are already found in the water Rt. files have been removed to avoid consuming unnecessary space.

June 9, 1993

Norman C. Young, P.E.
Administrator
Water Management Division
Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720

Re: Boise Front Low-Temperature Geothermal Resource
Ground Water Management Area

Dear Mr. Young:

This letter is written on behalf of the Idaho Botanical Garden, Inc. (IBG), as lessee from the Idaho State Historical Society and user of the Old Penitentiary Irrigation well, to provide IBG comments on your May 28, 1993 Memorandum on "Review of Management Decisions" concerning the existing Moratorium of June 10, 1988 applicable to the above Ground Water Management Area. We appreciate the opportunity to offer these comments for your consideration.

Please consider this letter as "supplemental" to my letter to you of April 13, 1993 in which we furnished basic information that we feel is applicable to the matter and that we hope was of assistance to you and your staff. One additional item which would apply to paragraph 11 of that letter (Public Interest) is attached as Exhibit A.

We would concur, with minor exception, to your proposed action which would: (1) leave in place the present ground water management area designation with boundaries unchanged, and (2) continue the moratorium for an additional five-year period with provisions to rescind or amend as additional information becomes available. Our recommended exception is as follows:

1. Paragraph 1 (on page 2 of the original Order) be modified--or another paragraph inserted--with language to read something like:

"....provided, however, that the holders of partially developed Permits 63-9661 and 63-8627, having satisfactorily demonstrated to the Director that their wells are not in an aquifer that is in direct hydraulic connection with that of the other principal users of the low-temperature geothermal resource, be allowed to continue development within the provisions and limits of those existing Permits. This exception, however, shall not relieve those holders from the requirement to continue monitoring water levels, production, and temperature at their respective wells and to furnish such monitoring records to the Department".

Partially developed Permit 63-9661 is for the Old Penitentiary Well (used by IBG) and we feel that all of the available data and information clearly and convincingly supports this suggested modification. Partially developed Permit 63-8627 is for the Dallas Harris well; we understand recently available data warrants inclusion in the modification.

JUL 31 1996

Inclusion of such modification language could also eliminate any need for IBG to request a formal hearing on their petition of December 19, 1989 to the Department "To Allow Continued Development, Within Existing Valid Permits, For Use Of Low-Temperature Geothermal Water". Such modification would also allow IBG to proceed with their planned development while still pursuing a joint-venture project with Boise City for a non-geothermal source of irrigation water.

We are suggesting the above modification, rather than trying to redraw or redefine the boundaries of the management area, because we feel both wells should be subject to the requirement for continuing monitoring and because it would be difficult to draw a definite line that would mark the separation of the aquifer blocks.

We note that such a modification would be in accord with the remarks of Paul Castelin and Ken Neely, in their memorandum of May 25, 1993 to you and Glen Saxton (paragraph 4 under "Downtown Area" and paragraph 2 under "Recommendations"). It would also be in accord with your departmental internal memorandum of January 16, 1989, from Lotwick Reese to Bob Fleenor, a copy of which is attached as Exhibit B.

We have previously provided your office with extensive data on water levels, seasonal fluctuations, production, and temperature that warrant the modification language suggested above--at least certainly for the IBG well. We do have some additional information to offer with this letter that provides additional support.

Attached, as Exhibit C, is a copy of a geologic map that appeared on page 9 of a report entitled "Old Idaho Penitentiary Site Utilization Study". This map first appeared in the publication of "Evaluation of Geologic Processes in the Boise Foothills that may be Hazardous to Urban Development" by K. M. Hollenbaugh for the Ada Council of Governments (May 1973). We have added to this map the location of the Kanta and IBG wells, showing they are separated by Hollenbaugh's foothills fault.

Castelin and Neely, in their memorandum to you, have indicated that development in this isolated aquifer block should be undertaken "incrementally". We feel that the past use of the IBG well, which has exceeded present and potential future use, provides evidence that the incremental development that would occur, under the suggested modification language, has already been met. We have done considerable investigation on past use at this well:

A. Aerial photographs taken April 15, 1974 (about the time the prison was moved to its present site south of Gowen Field) show more than 20 acres that were irrigated from the well.

B. Interviews with former prison employees, familiar with the irrigation, indicate in excess of 20 acres were irrigated from the well; the well was pumped at a rate of about 600 gpm for 14 to 15 hours, three times a week, for the full season.

C. Field examination by your Department, on July 14, 1972, showed that 14 acres were being irrigated in an area separate from that in "B" above.

D. We are attempting to obtain from Idaho Power Co. the records of kilowatt-hours used during the late '60s and early '70s to substantiate production; we

JAN 31 1996

are not sure that they are still available, but if we receive these data we will forward them to you promptly.

Up until now, everyone has seemingly assumed that the Old Penitentiary irrigation well was drilled and used without a permit from your Department. Just yesterday, in going through some old files, I learned that this was not the case at all!

In February 1965 the Idaho Department of Correction made application for 6.7 cfs to irrigate 180 acres from two wells. Well No. 1 (the IBG well) was to serve 70 acres and Well No. 2 (Warm Springs golf course) was to serve 110 acres. The application was approved and Permit G-32252 (now 63-3439) was issued. Irrigation of penitentiary lands continued until the prison site was moved in about 1973 or 1974. On October 31, 1975 the permit was assigned by the Department of Corrections to the Idaho State Historical Society. The Society was not able to proceed with planned irrigation development, however, and on December 7, 1977 the Permit was cancelled by your Department. Just over three years later, on January 16, 1981 a re-application was submitted by the Historical Society for 2.20 cfs to irrigate 110 acres. There were no protests to this application, nor had there been any intervening applications for ground water since the cancellation, and this new application was approved March 3, 1981 with the issuance of the present Permit 63-9661.

A summary of this history of water rights for the IBG well, together with photocopies of documents from your files, is attached as Exhibit D.

Please let me know if you have questions or need additional information. We, of course, continue to support the need for appropriate monitoring at all sites that use low-temperature geothermal water, and support your encouragement for reinjection of geothermal water and the substitution of non-geothermal water when feasible.

Sincerely,

Keith E. Anderson, P.E.

Attachments

Copy: Glen Saxton
Paul Castelin
Ken Neely
Files

JAN 31 1996

BOISE
Convention
& Visitors
Bureau

Idaho Department of Water Resources
1301 North Orchard Street
Boise, Idaho 83704

Dear Board Members:

This letter is written to encourage your positive consideration of the petition filed by the Idaho Botanical Gardens for relief from the moratorium placed on further development of geothermal water in the Warm Springs Water District.

While I am aware of the concern that the geothermal system has been developed to its maximum capacity, it seems that the Botanical Gardens are the single exception that makes sense. Any other commercial or residential user has access to alternative heat sources, the Gardens, on the other hand, will have to stop their development of what promises to be one of the great resources for the City of Boise and State of Idaho, that of a magnificent Botanical Garden.

Like many of the wonderful parks, museums, and other attractions in the city, the Gardens are a gift to those who live here, as well as, those who visit. We have used the Botanical Gardens as the site for a number of receptions and meal functions the past couple of years as the project as increased in beauty. In all cases, the visitors we take there are individuals who have the ability to bring hundreds more visitors by scheduling meetings or tours into the city. Those who have attended functions, at the Gardens, have indicated that they are impressed with the good "start" Boise has made in the development of a potentially great visitor attraction. It is clear that they feel the Gardens need to continue their development in order to draw the attention such projects attract in other cities.

While the hotel rooms, restaurants, convention center and other services are vital to our ability to book group business, it is the high quality of city attractions that make the difference in where decision-makers choose to schedule their events. The Botanical Gardens have become one of the primary assets that the Boise Convention and Visitors Bureau spotlights while attracting business to the city. A slow down in the development would reduce the overall variety of Boise's unique quality.

Thank you for your positive consideration of my comments.

Sincerely,

Bobbie Patterson
Executive Director

EXHIBIT A

P.O. Box 2106
Boise, Idaho 83701

(208) 344-7777
1-(800) 635-5240
Fax (208) 344-6236

JAN 31 1996

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

MEMORANDUM

TO: Bob Fleenor
FROM: Lotwick Reese LR
SUBJ: Idaho Botanical Gardens

DATE: January 16, 1989

I have reviewed the Idaho Botanical Gardens file and John Beal's memo dated December 27, 1988. The Idaho Botanical Gardens are currently pumping from an old penitentiary irrigation well drilled by the State of Idaho in 1965 to irrigate prison farm lands.

There is no record of the State of Idaho making an application for water right at the time the well was drilled, but irrigation use from the well is presently under two water right permits, 63-9661 for 2.2 cfs (254 acre-feet) and 63-10241 for 0.44 cfs (44.5 acre-feet). Both permits were issued and in effect prior to July 1, 1987 when the new legislation concerning low temperature geothermal resources became effective.

Improvements for diverting water from the well and applying it beneficially to the garden lands for irrigation have been completed, including the installation of a 60 hp pump, approximately 1,600 feet of buried pipeline, a 100,000 gallon reservoir and distribution liner and sprinkler systems.

The use of irrigation water from the well is increasing. Current estimated beneficial use of the water in the 1988 irrigation season was 17.15 acre-feet. In a letter to the Department dated November 18, 1988 the Idaho Botanical Gardens submitted an estimate of the development that they anticipated under their current water right permits, 25 acres with a maximum annual diversion of 100 acre-feet.

Pursuant to Section 42-1805(7), Idaho Code and Rule 7 of Water Appropriation Rules and Regulations, the following restriction was ordered June 15, 1987 in connection with the Boise Front Low Temperature Geothermal Resource Ground Water Management Area:

> Effective with the date of entry of this order, further development or additional use pursuant to undeveloped or partially developed permits is prohibited until the permit holder shows to the satisfaction of the Director that further development or additional use: a) will not increase depletions from the aquifer; b) will not increase pumping lift or decrease pressure to existing prior users; and c) will not reduce temperature to existing users causing systems operating at reasonable efficiency to no longer operate.

EXHIBIT B

JAN 31 1996

Keith Anderson in his report states that all previous geologic and hydrologic studies in the area have concluded that the Old Penetentiary irrigation well was drilled in a downfaulted block that is isolated from existing producing low-temperature geothermal wells; i.e. Boise Warm Springs Water District, Boise Geothermal Ltd., Capitol Mall, and the Veterans Administration. And although some degree of hydraulic interconnection exists between the Old Penitentiary well and other low-temperature geothermal wells along the Boise front, the interconnection appears to be limited as indicated by water level elevations and water temperature.

The question facing us is whether we should restrict their water use to their current 17 acre-feet usage, or allow them to develop to their anticipated usage of 100 acre-feet.

John Beal has identified three possible options the Idaho Botanical Gardens has if we were to restrict them to the current usage:

1) Rehabilitate the well to draw only cold water.
2) Use Boise Corp. water.
3) Drill a new cold water well.

All of these options would be expensive and the amount of cold water found at this site may not fulfill their needs.

It is my recommendation we inform the adjacent existing producing low-temperature geothermal well owners, i.e. Boise Warm Springs Water District, Boise Geothermal Ltd., Capitol Mall and the Veterans Administration, it is our intention to allow the Botanical Gardens to develop up to but not exceeding the 100 acre-feet. If there are no objections from these parties, we could give approval for further development not exceeding the 100 acre-feet with the stipulation that should an adverse affect on the adjacent geothermal systems be identified at a later date, usage would have to be reduced depending on the severity of the impact.

JAN 31 1996

[redacted]d Penitentiary Irrigation W[redacted]
Summary of Water Right History

Date	Action
2/26/65	State of Idaho, Department of Corrections, filed Application G-40394 and was granted Permit G-32252 (now 63-3439). Permit for 6.7 cfs to irrigate 180 acres. Well No. 1 for 70 acres; Well No. 2 for 110 acres. Note that lands to be irrigated were formerly irrigated from Cruzen Ditch and water purchased from Consumers Water Co. but they were no longer in business. Proof of beneficial use due 2/26/70
10/16-23/69	Publication of notice of existing permit in Idaho Daily Statesman
12/19/69	Affidavit of proof of beneficial use filed by Department of Corrections; 6.7 cfs for 180 acres. Note that there is no other available source of water supply and this is a very coarse soil and requires extra water.
1/22/70	Department acknowledges receipt of affidavit of publication
7/14/72	Field examination by Department; 0.65 cfs diverted; 0.52 cfs recognized for beneficial use; maximum 63 AF/yr; 14 acres in SE NW sec 13; priority date 2/26/65
-?-?-?-	Permit holder not satisfied with examination
9/5/75	Field examination by Peter Chamberlin (difficult to read microfilm): System Description: 50 HP U.S. electric motor, serial no. 3765637, with Layne vertical centrifugal turbine type pump #4424. 10" or 12" well with 6" main line. No pipe or sprinkler seen in area. Prison..... water system out to new site. Remarks: Maybe old rights for surface water.....Site has changed hands from the Dept. of Corrections to the State Historical Society. Little or no irrigation is taking place at the present time. The State Historical Society is trying to reestablish the irrigation system at this time.
10/31/75	Permit 63-3439 assigned by Idaho State Department of Corrections to Idaho State Historical Society.
9/30/77	Field re-examination by William H. MacAllister for the Idaho State Historical Society Remarks: Recommend cancellation. Water not being used. MacAllister Memo: ISHS said pump had been pulled and, even if operable, they had no irrigation pipe and could not irrigate, but did plan to irrigate in future. Tax records indicate the area irrigated in 1972 no longer State-owned.
12/7/77	Permit 63-3439 cancelled by Department
1/16/81	Re-application for permit by ISHS. 2.20 cfs, 110 acres. No protest or intervening applications; approved 3/3/81 and Permit 63-9661 issued.

EXHIBIT D.
JAN 31 1996

STATE OF IDAHO

DEPARTMENT OF HEALTH AND WELFARE

BUREAU OF LABORATORIES, 2220 Old Penitentiary Road, Boise, ID 83702

January 13, 1981

TO: Arthur Hart, Director, Idaho State Hisbrical Society

FROM: Dr. Darrell W. Brock DWB

SUBJECT: Application for Water Right

After we met with the Land Board attorney on Monday, January 12, Wes Stucker and I met with John Carlson of the Water Resources Department. Mr. Carlson gave us applications for filing for a water right, instructions for completing the application, etc.

committee permit # 63-3439

Since we have a copy of the application which was submitted by the Board of Corrections in 1962, I asked Wes Stucker to fill out as much of the application as possible with regard to legal description, etc. I also asked Wes to forward the application to Kathy after he had filled out as much of the application as possible.

Mr. Carlson indicated that he would also search the records to see if there were any prior applications with regard to a groundwater irrigation application. He subsequently called me and indicated that his review of the records showed that there was no prior application. I would, therefore, recommend that we complete the application and submit it to the Water Resources Department as rapidly as possible.

Mr. Carlson indicated that the actual application review process would be handled by Mr. Dave Shaw of their regional office. As I understand it, the regional office is located at 92 South Cole Road here in Boise. Mr. Shaw will arrange to publish a legal notice regarding the application. If there are no objections, the application will probably be approved; if there are objections, they would apparently go through some type of a formal hearing process.

If we can provide additional assistance regarding this matter, please let us know.

bhs

cc: A.P. Schneider, DVM
Wes Stucker

RECEIVED
JAN 14 1981
IDAHO HISTORICAL SOCIETY

JAN 21 1936

(208) 344-3888
or 336-2718

KEITH E. ANDERSON

CONSULTANT IN ENGINEERING AND GEOLOGY

432 SUMMIT RIDGE, BOISE, IDAHO 83702

June 29, 1993

Mr. Norman C. Young
Administrator
Idaho Department of Water Resources
1301 N. Orchard Street
Statehouse Mail
Boise, ID 83720

Re: Boise Front Low-Temperature Geothermal Resource Ground Water Management Area

Dear Mr. Young:

We have just received the water-level data for since August 1991 at the Kanta well and the Idaho Botanical Garden, in their continuing spirit of cooperation with your Department, has asked me to transmit the enclosed hydrograph that updates the one sent to you with my letter of April 13, 1993.

Also enclosed for your files are the depths to water, and calculated water-level elevations, used in the preparation of this hydrograph. This is the same hydrograph that appears as Figure 5 in the May 25, 1993 memorandum to you from Paul Castelin and Ken Neely--but with updated information.

These enclosures continue to support all other data and confirm that the development at the Idaho Botanical Garden will not injure other uses nor deplete the aquifer.

Please let me know if you have any further questions.

Sincerely,

Keith E. Anderson

Keith E. Anderson, P.E.

Enclosures

Copy (w/encls): IBG files
Wayne Meuleman
Dale Higer
Doug Donohue

JAN 31 1996

IBG/Kanta Water Level Plots

KANTA WELL		M.P. El.2783
Date	Depth	Elev
Sep 1-84		2746.0
15		2748.0
1-Oct		2749.5
15		2749.5
1-Nov		2747.5
15		2744.0
1-Dec		2740.0
15		2738.0
Jan 1-85		2735.5
15		2733.0
1-Feb		2732.5
15		2731.0
1-Mar		2730.0
15		2728.5
1-Apr		2728.0
15		2729.0
1-May		2731.0
15		2733.0
1-Jun		2735.0
15		2737.0
1-Jul		2738.0
15		2739.0
1-Aug		2741.5
15		2743.0
1-Sep		2745.0
15		2747.0
1-Oct		2747.5
15		2747.0
1-Nov		2745.0
15		2742.5
1-Dec		2740.0
15		2737.5
Jan 1-86		2734.5
15		2732.0
1-Feb		2728.0
15		2727.0
1-Mar		2725.0
15		2724.0
1-Apr		2723.5
15		2724.0
1-May		2724.5
15		2724.5
1-Jun		2725.0
15		2726.5
1-Jul		2728.0

IBG WELL		M.P. El.2780
Date	Depth	Elev
Apr 30-1986	76.61	2705.19
27-Jun	74.28	2705.72
3-Aug	94.23	2685.77
1-Oct	73.05	2706.95
29-Oct	81.69	2698.31
26-Nov	72.65	2707.15
Mar 1-1989	72.35	2707.65
18-Mar	72.12	2707.88
30-Apr	77.49	2702.51
4-Jun	71.29	2708.71
29-Jun	73.02	2706.98
13-Aug	74.66	2705.34
19-Nov	73.69	2706.31
Apr 9-1990	74.34	2705.66
30-Sep	74.43	2705.57
24-Oct	74.23	2705.77
15-Nov	73.89	2706.11
Jan 31-1991	72.70	2707.30
18-Feb	72.72	2707.28
3-Mar	69.73	2710.27
5-Apr	71.74	2708.26
19-Apr	71.52	2708.48
26-Apr	71.72	2708.28
29-Apr	72.61	2707.39
21-May	72.51	2707.49
30-May	72.03	2707.97
17-Jun	74.11	2705.89
1-Jul	68.90	2711.10
24-Jul	75.68	2704.32
15-Aug	73.84	2706.16
4-Sep	69.64	2710.36
14-Oct	74.82	2705.18
4-Dec	74.98	2705.02
Feb 18-1992	75.53	2704.47
20-Mar	73.03	2706.97
25-Apr	72.69	2707.31
7-Aug	75.84	2704.16
7-Oct	75.78	2704.22
23-Nov	73.63	2706.37
Mar 23-1993	72.44	2707.56
21-Apr	70.93	2709.07
8-Jun	70.79	2709.21
24-Jun	71.27	2708.73

[redacted]

JAN 31 1996

15		2731.0
1-Aug		2734.0
15		2736.0
1-Sep		2738.0
15		2740.0
1-Oct		2740.5
15		2739.5
1-Nov		2735.0
15		2731.0
1-Dec		2725.0
15		2722.0
Data above scaled from published hydrograph		
Data below from actual recorder charts		
Jan 5-1987	63.33	2719.67
19-Jan	67.70	2715.30
3-Feb	68.20	2714.80
14-Feb	67.45	2715.55
6-Mar	**69.50**	2713.50
14-Mar	67.04	2715.96
4-Apr	67.23	2715.77
18-Apr	66.75	2716.25
2-May	62.14	2720.86
15-May	61.58	2721.42
1-Jun	59.65	2723.35
13-Jun	61.25	2721.75
8-Jul	55.82	2727.18
22-Jul	55.00	2728.00
11-Aug	54.04	2728.96
29-Aug	53.50	2729.50
30- Aug	**53.30**	2729.70
15-Sep	53.44	2729.56
5-Oct	56.41	2726.59
18-Oct	58.51	2724.49
4-Nov	60.62	2722.38
18-Nov	62.83	2720.17
28-Nov	64.41	2718.59
3-Dec	64.04	2716.96
21-Dec	67.60	2715.40
Jan 4-1988	71.54	2711.46
18-Jan	72.08	2710.92
1-Feb	74.17	2708.83
8-Feb	**75.08**	2707.92
15-Feb	74.30	2708.70
29- Feb	72.76	2710.24
14-Mar	72.50	2710.50
31-Mar	72.56	2710.44
14-Apr	69.17	2713.83
28-Apr	67.10	2715.90
17-May	65.80	2717.20

JAN 31 1996

28-May	63.46	2719.54
17-Jun	60.92	2722.08
2-Jul	58.12	2724.88
18-Jul	56.08	2726.92
1-Aug	54.46	2728.54
13-Aug	53.42	2729.58
3-Sep	51.92	2731.08
7-Sep	**51.69**	2731.31
15-Sep	52.39	2730.62
5-Oct	53.75	2729.25
22-Oct	54.92	2728.08
6-Nov	56.59	2726.41
22-Nov	60.60	2722.40
18-Dec	67.42	2715.58
Jan 2-1989	69.13	2713.87
18-Jan	70.26	2712.74
3-Feb	74.90	2708.10
16-Feb	77.81	2705.19
3-Mar	**78.65**	2704.35
17-Mar	75.80	2707.20
31-Mar	73.90	2709.10
13-Apr	70.99	2712.01
28-Apr	68.78	2714.22
13-May	66.29	2716.71
28-May	64.99	2718.01
17-Jun	61.72	2721.28
1-Jul	59.93	2723.07
10-Jul	58.30	2724.70
12-Aug	55.00	2728.00
31-Aug	53.80	2729.20
8-Sep	**53.67**	2729.33
14-Sep	54.46	2728.54
[illegible]	[illegible]	[illegible]
[illegible]	55.46	2727.54
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
30-Nov	64.65	2718.35
14-Dec	67.54	2715.46
29-Dec	70.46	2712.54
Jan 12-1990	70.05	2712.95
1-Feb	71.40	2711.60
16-Feb	72.46	2710.54
23-Feb	**72.81**	2710.19
2-Mar	71.82	2711.18
17-Mar	71.25	2711.75
30-Mar	69.52	2713.48
13-Apr	67.25	2715.75
26-Apr	66.82	2716.18
10-May	66.50	2716.50

[illegible]

JAN 31 1996

28-May	66.24	2716.76
14-Jun	64.58	2718.42
28-Jun	62.30	2720.70
12-Jul	60.52	2722.48
1-Aug	57.91	2725.09
18-Aug	56.00	2727.00
4-Sep	54.53	2728.47
22-Sep	53.62	2729.38
29-Sep	**53.33**	2729.67
15-Oct	55.12	2727.88
31-Oct	56.22	2726.78
19-Nov	57.96	2725.04
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15-Dec	63.85	2719.15
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16-Mar	70.00	2713.00
2-Apr	68.39	2714.61
19-Apr	67.47	2715.53
29-Apr	66.83	2716.17
8-May	65.12	2717.88
22-May	64.06	2718.92
30-May	63.18	2719.82
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17-Jul	56.67	2726.33
25-Jul	55.79	2727.21
12-Aug	53.44	2729.56
26-Aug	52.06	2730.94
2-Sep	51.64	2731.36
16-Sep	51.08	2731.92
30-Sep	**51.03**	2731.97
14-Oct	52.34	2730.66
28-Oct	53.74	2729.26
18-Nov	57.67	2725.33
2-Dec	61.47	2721.53
16-Dec	63.41	2719.59
30-Dec	65.32	2717.68
Jan 6-1992	65.32	2717.68
27-Jan	**68.14**	2714.86
3-Feb	67.68	2715.32
18-Feb	67.38	2715.62
6-Mar	65.72	2717.28
13-Mar	65.33	2717.67
3-Apr	63.10	2719.90

MICROFILMED
JAN 31 1996

14-Apr	62.67	2720.33
28-Apr	61.66	2721.34
7-May	60.07	2722.93
4-Sep	49.65	2733.35
17-Sep	50.62	2732.38
1-Oct	**49.38**	2733.62
15-Oct	50.73	2732.27
5-Nov	53.06	2729.94
19-Nov	55.37	2727.63
3-Dec	59.69	2723.31
11-Dec	61.87	2721.13
24-Dec	62.50	2720.50
Jan 12-1993	66.18	2716.82
25-Jan	67.28	2715.72
15-Feb	68.21	2714.79
1-Mar	**69.96**	2713.04
17-Mar	69.71	2713.29
30-Mar	67.34	2715.66
14-Apr	66.65	2716.35
27-Apr	65.27	2717.73
17-May	62.04	2720.96
30-May	60.15	2722.85
6-Jun	59.66	2723.34

JAN 31 1996

KEITH E. ANDERSON
CONSULTANT IN ENGINEERING AND GEOLOGY
432 SUMMIT RIDGE
BOISE, IDAHO 83702
TELEPHONE: (208) 336-2718 OR 344-3888

May 6, 1994

MEMORANDUM

To: Sally Jo Peters, Administrator, IBG
Wayne Meuleman, Director, IBG

From: Keith E. Anderson

Subject: Notes on "Water History" at Idaho Botanical Garden (IBG)

This memorandum has been prepared to give you some additional background on the history of the Irrigation Water Supply for the Idaho Botanical Garden. You may feel free to share this with the staff of the Idaho Department of Lands or any other parties that may be involved in the dispute over the lease that IBG currently has with the Idaho Historical Society (ISHS).

Here is a chronological summary of some of the "highlights" of the matter:

Feb 1983: I was contacted by Chris Davidson regarding availability of water for a botanical garden he was trying to establish, working with the State Department of Lands in vicinity of the Old Penitentiary.

July 1983: We submitted recommendations to Chris Davidson for an irrigation water supply for his proposed garden, including use of the old irrigation well used by the penitentiary before it was moved. Copy of our July 1, 1983 letter attached--including sketch map of the ISHS showing formerly proposed uses for this area (athletic complex, spa, playfields, equestrian complex, etc.).

1984: Development underway of the irrigation system--pump installation in the well, buried pipelines for sprinkler irrigation, cleaning and rehabilitation of the old reservoir, etc.

March 22, 1984: 50-yr lease to IBG approved by State Land Board; lease included use of existing irrigation well by IBG.

1985: First year of irrigation water use.

1986-88: Expansion of irrigation system and increased use of irrigation water.

June 10, 1988: Idaho Department of Water Resources (IDWR) issued order declaring a moratorium on use of low-temperature geothermal water along the Boise Front; this included the Old Pen irrigation well. The moratorium provided for no new wells to be drilled; use of water from existing wells not to be expanded; and discouraged use of geothermal water for anything other than for its heat value.

JAN 21 1996

December 19, 1989: IBG filed petition with IDWR requesting a ruling allowing continued development of low-temperature geothermal irrigation water within existing valid permits. Petition opposed by City of Boise and Warm Springs Water District. Conferences have been held (1990-92) but no action taken and this petition is still pending with IDWR (who would very much like to have the matter settled!).

1988-91: IBG studied possibilities for an alternative source of irrigation water that would not be geothermal.

September 6, 1991: I met with City Engineer to discuss possibilities of a "joint-project" that could provide cold water for irrigation of both IBG and City's Quarry View Park. I prepared a memorandum following this meeting which was sent to the attorneys representing both ISHS and IBG (copy attached).

1991-92: Continued meetings and discussions with Boise Public Works to formulate a suitable "joint-venture" irrigation project. Financing was proposed to be accomplished by a combination of grants/loans from the Water Resource Board.

June 18, 1992: Wayne Meuleman and I met with Chris Brady (Administrator at the Old Pen for ISHS) to discuss the proposed project (which was to include the irrigated areas within the Old Pen walls and some adjacent areas--and result in a cost saving to ISHS for water). ISHS costs would be minimal--and could perhaps be covered by a reduction in IBG's lease payment so that ISHS current budget for expenses would not be affected adversely. The project was agreed to, in concept, by Chris Brady--subject to working out a satisfactory agreement with Boise City on cost sharing, operation, maintenance, etc.

August 27, 1992: IBG Board of Directors approved making the necessary application to the Water Resource Board for a grant/loan to cover IBG share of joint-project costs.

January 28, 1993: I completed all the necessary forms to file the applications for an additional point of diversion for irrigation water (the Old Pen Well No. 2 at Warm Springs Golf Course) and sent them to the City, ISHS, and IBG--which would be required to implement the joint-venture project (copy attached).

January 29, 1993: Meeting with the City, IDWR, and Water Resource Board to discuss the joint-venture project and possibility for financing with grants/loans. The Board wanted to see final agreement between parties as to operation and maintenance, etc., and also whether the applications for added point of diversion would be approved.

February 1993: Added drafts to finalize an agreement between City-ISHS-IBG for a joint-venture project.

JAN 31 1996

February 18, March 16, and March 22, 1993: Further contacts with Chris Brady (ISHS) re the joint-venture project. I offered to pay the $50 filing fees if that were a problem; she said no problem and getting forms signed was a top priority then.

April 2, 1993: Final agreement almost reached with City on the joint-venture project which was sent to Chris Brady and the attorney for ISHS (copy attached) together with a plea to Chris Brady to get the application forms signed and filed immediately with IDWR so we could show our "good faith". The City was holding up filing their applications until we did so.

May-June 1993: Sometime in this period I received word that ISHS would not sign the necessary forms so that the joint-venture project could proceed. This was about the time that the ISHS was claiming "breach of lease" with IBG.

June 1993: IDWR extended their moratorium on low-temperature geothermal water along the Boise Front. IBG submitted extensive information to show that use of the well for IBG did not adversely affect any other users.

Nothing has progressed since mid-1993 because of the continuing controversy with ISHS over the lease provisions and their demands--except that we have continued to monitor the well and water levels and pumpage (with copies to IDWR), and have cooperated fully with IDWR in all respects. In the latter part of 1993 I advised Norm Young, IDWR, (in confidence) of our difficulties with ISHS and their refusal to sign the application forms required for the joint-venture project.

Miscellaneous: You indicated several questions or comments came up in a recent meeting you had with the ISHS trustees and executive director. My response to these, as I understand them, is:

1. The reservoir holds approximately 90,000-100,000 gallons; about 1/2 to 2/3 of the reservoir is situated on "endowment lands" over which the ISHS has no administrative control.

2. The proposed joint-venture project, which ISHS now refuses to support, would in fact have benefitted them considerably--they could have had their irrigation water at significantly less cost to them than they are now paying to Boise Water Corp.

3. ISHS claim that the project would prevent them from using the well for geothermal heating is simply not true. The water-right permit in their name, which is covered in IBG lease, specifically states that the right is "for irrigation purposes, between March 15 and November 15". There is no legal entitlement to use water from the well for heating purposes by anyone--ISHS or IBG or others!

4. As to use of water and related information, I have summary tables showing the amount of water used each year (starting 1985), electrical energy consumption, measured water levels and temperature, etc. These are furnished periodically to IDWR (and other interested parties). If you do not

JAN 31 1996

have copies and wish them, I can send such data to you or to anyone else you designate.

Let me know if you have further questions or need additional information.

Attachments

JAN 21 1995

-336-2718

(208) 344-3888

KEITH E. ANDERSON

CONSULTANT IN ENGINEERING AND GEOLOGY

432 SUMMIT RIDGE, BOISE, IDAHO 83702

RECEIVED
FEB 1 1993
Department of Water Resources
Western Regional Office

✓DM
Steve ✓

January 28, 1993

MEMORANDUM

To: Distribution
From: Keith E. Anderson KEA
Subject: Idaho Historical Society/Botanical Garden/City of Boise Water Rights

In order to proceed with efforts to obtain funding from the Idaho Water Resource Board for the proposed joint-venture between the Idaho Botanical Garden and City of Boise for an alternate non-geothermal water supply for irrigation, it was agreed in a recent meeting with representatives of the Idaho Department of Water Resources that existing water rights should be amended to provide for an additional point of diversion. This would protect existing rights, as to priority, but allow for the development proposed from an existing well at Warm Springs golf course.

The existing rights are as follows:

Idaho Historical Society (Botanical Garden lessee):

- Permit 63-9661 for 2.20 cfs
- Permit 63-10241 for 0.44 cfs which has had a field examination and is in process of being licensed for 0.15 cfs (a request has been made to increase this to 0.26 cfs--which I think may be granted)
- Claim A63-9661
- Claim A63-10241

City of Boise (Parks Department)

- License 63-10022 for 0.37 cfs

I have prepared the necessary forms to add the new point of diversion. For the Historical Society this consists of: application for amendment to Permit 63-9661, application for transfer for Permit 63-10241 (since it is the process of being licensed), and amended Claims A63-9661 and A63-10241. The amended Claims have already been completed, signed, notarized, and filed with IDWR. For the City of Boise this consists of application for transfer for License 63-10022, and a new Claim under that license since the City has not previously submitted a claim.

Copies of all of the above preparations (with exception of amended Claims for the Historical Society/Botanical Garden) are enclosed with each copy of this letter to the distribution list.

Assuming favorable action by the Water Resource Board at their January 29 meeting, the disposition of the original copies of these forms, which are included with the distribution to the Historical Society and City of Boise, should then be as follows:

JAN 31 1996

Idaho Historical Society (Chris Brady)	Application for Amendment of Permit Needs signature where marked Mailed with fee of $20
	Application for Transfer of Water Right Needs signature, **notarized**, where marked Mailed with fee of $30
City of Boise (Neal Oldemeyer)	Application for Transfer of Water Right Needs signature, **notarized**, where marked Mailed with fee of $50
	Notice of Claim to a Water Right (white copy) Needs signature, **notarized**, where marked Mailed with fee of $107 (includes $50 late filing fee) (Yellow copy for your files)

Mailings should be to: Idaho Department of Water Resources
Western Region Office
2735 Airport Way
Boise, ID 83705
(Attn: Steve Lester)

Remittances payable to: Idaho Department of Water Resources

Please let me know if any of you have questions.

Distribution:

Historical Society:	Chris Brady Elaine Eberharter-Maki
Botanical Garden:	Office Wayne Meuleman Doug Donohue
Boise City	Public Works (C. Mickelson/N. Oldemeyer) Parks (P. Philbrook)
IDWR:	Western Region (D. Tuthill/S. Lester) Headquarters (N. Young)

Enclosure(s) to each

JAN 31 1995

EBERLE, BERLIN, KADING, TURNBOW & GILLESPIE,
CHARTERED
ATTORNEYS AND COUNSELORS AT LAW
CAPITOL PARK PLAZA
300 NORTH SIXTH STREET
POST OFFICE BOX 1368
BOISE, IDAHO 83701

TELEPHONE (208) 344-8535

JAMES L. BERLIN
R. B. KADING, JR.
R. M. TURNBOW
JAMES R. GILLESPIE
WILLIAM J. MCKLVEEN
DALE G. HIGER
WARREN E. JONES
MARK S. GESTON
B. NEWAL SOUYRES, JR.
WILLIAM L. VASCONCELLOS
THOMAS R. LINVILLE
RICHARD A. RILEY
JAMES J. DAVIS
JOE H. UBERUAGA II
T. A. BANDUCCI
MARY S. HOBSON
JOHN MICHAEL BRASSEY
ROBERT L. BERLIN
HOWARD W. CARSMAN
SCOTT D. HESS
BRADLEY G. ANDREWS
KATHLEEN PERKINS BROOKS

J. L. EBERLE (1890-1964)
T. H. EBERLE (1922-1977)

May 3, 1984

Mr. Arthur A. Hart, Director
Idaho Historical Society
610 North Julia Davis Drive
Boise, Idaho 83702

Re: Idaho Botanical Gardens Lease

Dear Mr. Hart:

Please find enclosed a copy of the Lease Agreement you requested.

Very truly yours,

DALE G. HIGER

DGH/pjn
Enclosure

RECEIVED
MAY 4 1984
IDAHO HISTORICAL SOCIETY
JAN 31 1985

LEASE AGREEMENT

THIS AGREEMENT, made and entered into this 22nd day of March, 1984, by and between the STATE OF IDAHO, acting by and through the Idaho State Historical Society as administrative agency of the Old Idaho Penitentiary property for the State Board of Land Commissioners, hereinafter called the "LESSOR"; and the Idaho Botanical Gardens, Inc., a non-profit corporation, hereinafter called the "LESSEE",

WITNESSETH:

THAT the LESSOR, for and in consideration of the agreements hereinafter mentioned to be kept and performed by the LESSEE, has by these presents demised and leased to LESSEE the premises in Ada County, Idaho, described in Exhibit "A" attached hereto and made a part hereof.

SECTION 1. TERM OF LEASE: This lease shall have a term of not more than 50 years, and shall commence on the ___ day of April, 1984, and continue to the ___ day of April, 2034, at which time this agreement shall fully and completely expire without further notice, unless it shall be terminated prior to that date pursuant to other provisions herein.

SECTION 2. PURPOSE OF LEASE: This lease is entered into for the express purpose of allowing LESSEE to establish and maintain botanical gardens and museum and arboretum therein, a. for the collection and culture of plants, flowers, shrubs and trees, and advancement of b. botanical science and knowledge,

JAN 8

and the pursuit of original researches therein and in related subjects, to afford instruction in the same, to exhibit ornamental and decorative horticulture and gardening, and to carry on fundraising, including retail sales of botanically related items, on the site hereto, and no other use shall be permitted without the express written approval of the LESSOR. LESSEE shall not represent that any such fundraising activities are conducted for the benefit of the LESSOR without prior written permission. It is intended that the botanical garden shall complement, and not detract from, the historical nature of the site. LESSOR shall review and finally approve LESSEE'S master plan of development. LESSOR shall also review and finally approve any construction, improvement or alterations to property and/or buildings located on the leased premises to insure compatibility with the historical role of the adjacent property and museum. Such approval shall be in writing and shall not be unreasonably withheld. If such approval is not accepted or rejected by LESSOR within forty-five (45) days of receipt of LESSEE'S request, in writing, then the request shall be deemed approved. Any such improvements or alterations shall be made at the sole expense of the LESSEE and shall become the property of the LESSOR and shall remain in and be surrendered with the premises as a part thereof at the termination

JAN 21 1985

of this agreement, without disturbance or injury.

SECTION 3. RENTAL FEE: LESSEE shall pay LESSOR for use of the leased property at the following rate: Year 1, $1,250; Year 2, $2,500; and Year 3 through Year 10, $5,000 per year. After Year 10, the rental rate shall be re-negotiated. If LESSOR and LESSEE cannot agree on the rental amount, then the rate shall be adjusted from the base rate of $5,000 in accordance with the Consumer Price Index-All Categories. LESSEE shall make the first annual payment on or before the ___ day of April, 1984, and shall make each annual payment thereafter on the same date. Failure to make an annual payment prior to the expiration of 30 days from the due date thereof shall constitute a breach of this agreement, and at the option of the LESSOR, the lease may be cancelled. As additional consideration, LESSEE agrees to plant and maintain the median strip on Old Penitentiary Road as designated by LESSOR.

SECTION 4. OCCUPANCY OF PROPERTY: The leased property, including any buildings made a part of this lease, shall be used and occupied only by the LESSEE and shall not be subleased without the express written approval of the LESSOR. The LESSEE agrees not to occupy the leased property for any purpose deemed to be destructive or hazardous, and to not permit anything to be done which will jeopardize or increase the risk of damage to the leased property; LESSEE agrees to

JAN 31 1996

use the property solely for the purposes expressed in Section 2 of this agreement. LESSOR shall be permitted to use, at its option, and throughout the term of this lease, the portion of the leased property not used by LESSEE as specified under the terms of this lease and/or the master plan.

SECTION 5. SUBSTANTIAL PROGRESS: The continuation of this lease shall depend upon LESSEE making "substantial progress" towards the purposes specified in Section 2 above. For purposes of this lease, "substantial progress" for the first five years of the lease shall be defined as follows:

The LESSEE agrees to raise $50,000 per year in cash, or gifts in kind, including up to $15,000 in professional services, which will be used toward the establishment of plantings, trails, and improvements in the botanical garden. This will include a minimum of 2,000 plants per year.

Year 1. In addition to the contributions and plantings specified above, LESSEE agrees that in the first year of the lease it will install a watering system, either sprinklers or irrigation, or a combination of both, over a minimum of one acre of a five acre area to be developed intensely during the first five years of this lease. Between 1/4 and 1/2 mile of trails and walks shall be completed. LESSEE shall begin a nature study program on weekends by the end of Year 1. LESSEE shall also begin renovation of the vacant school building, including the repair of the roof, installation of doors and windows, electricity and plumbing. Subject to LESSEE'S approval, LESSOR shall be permitted to use, at its option, and throughout the term of this lease, the portions of said school building not used by the LESSEE. Such use shall be on a month-to-month basis and may include the lease of such property to third parties. Any rental received after April 1, 1984 from such rental shall be split 50-50 between LESSOR and LESSEE.

JAN 31 1992

Year 2. In addition to the contributions and plantings specified above, LESSEE shall extend the watering system to a minimum of two acres. LESSEE will have the formal garden opening, and find a volunteer education coordinator. Trails will be extended as in Year 1.

Year 3. The watering system will be extended to a minimum of three acres. Contributions, plantings and trail extensions will continue as specified above. Greenhouse space may be added to allow for the rooting of cuttings and seedlings to be set out in the garden grounds provided the site and plans for such greenhouse can be mutually agreed upon by the parties. In the event that an existing building other than the vacant school building described above is used for the greenhouse, a rental rate for such building shall be negotiated by the parties.

Year 4. LESSEE shall initiate participation in the National Museum Act traineeship plan, providing such plan is still in existence. The watering system will be extended to a minimum of four acres. Contributions, plantings and trail extensions will continue as specified above.

Year 5. LESSEE shall have completed the watering system for the five acre plot selected as the first area to be intensively planted. LESSEE shall have completed the renovation of the vacant school building. Trails will continue to be extended through the native plant areas to tie the entire site together. Contributions and plantings will continue as specified above.

Development of the leased property after year 5 will proceed in accordance with a Master Plan to be jointly developed by the LESSOR and LESSEE and finally approved prior to the sixth year of the lease. The Master Plan shall be consistent with the purposes expressed in Section 2 of this agreement and may be modified from time to time by mutual approval.

JAN 31 1996

LESSOR shall review progress as specified above within 45 days of the completion of each lease year for the first five years. In the event LESSOR determines that LESSEE has failed to make substantial progress as defined above, it shall give notice in writing to LESSEE of such deficiencies. LESSEE shall have 45 days, weather permitting, after receipt of said notice to correct such deficiencies. Extensions may be granted at the discretion of LESSOR. Failure to correct deficiencies shall constitute cause for termination of the lease.

SECTION 6. EXAMINATION OF PREMISES: LESSEE warrants that they have inspected the premises, know the conditions and parts thereof, and accept the same in the condition that said premises and parts thereof, are in now.

RESERVATIONS: The LESSOR expressly reserves the right to have its representatives enter any portion of the area occupied hereunder to inspect the building and grounds at any time.

The LESSOR reserves the right to re-enter and take possession of the leased area upon breach of any terms and conditions of this lease and thereupon cancel this agreement.

SECTION 7. UTILITIES AND SERVICES: No utilities will be provided by the LESSOR. Any necessary utilities shall be installed solely at the expense of the LESSEE, and LESSEE shall pay as the same becomes due all charges for utilities

JAN 31 1996

or other services that are incurred as a result of LESSEE'S occupancy of the leased property.

LESSEE may use LESSOR'S current groundwater well for irrigation purposes only, between the dates of March 15 and November 15 of each year, consistent with LESSOR'S groundwater permit and on a non-exclusive basis. However, any use of the groundwater well by anyone other than LESSEE shall not be such as to deprive LESSEE of enough water to properly irrigate its vegetation. Should the terms of such permit be altered or revoked, LESSEE shall have no right inconsistent with such alteration or revocation. (Current permit allows 2.20 cubic feet per second flow). Geothermal water is available at the Old Penitentiary site, but LESSEE shall negotiate any use thereof with the owners.

SECTION 8. INSURANCE: The LESSEE shall obtain $500,000 of comprehensive general liability insurance, combined single limit, listing the STATE OF IDAHO as an additional insured. LESSEE shall furnish LESSOR with a copy of a current certificate of insurance on an annual basis, or such other period of time covered by the policy. The amount of such policy shall be revised from time to time as required by statute or by the Bureau of Risk Management, STATE OF IDAHO.

SECTION 9. CLAIMS AND LIABILITIES: The LESSEE shall indemnify, defend, and hold harmless the LESSOR, the STATE OF IDAHO, the Idaho State Historical Society, and its

JAN 31 1996

representatives from any and all demands, claims, or liabilities of every nature whatsoever arising directly or indirectly from or in any way connected with the use authorized under this agreement. No employees of the LESSOR shall have any personal liability or responsibility hereunder except for acts of gross negligence or as provided under the IDAHO TORT CLAIMS ACT. All rights and responsibilities of the LESSOR under this agreement shall rest in and be vested with the STATE OF IDAHO.

SECTION 10. HEIRS AND ASSIGNS. The terms of this agreement shall apply to the heirs, executors, administrators, successors, and assigns of the LESSOR and LESSEE in like manner as to the original parties.

SECTION 11. NONWAIVER OF BREACH: The failure of the LESSOR to insist upon strict performance of any of the covenants and agreements of this lease or to exercise any option herein conferred shall not be construed to be a waiver of any such covenant or agreement but the same shall be and remain in full force and effect.

SECTION 12. INGRESS AND EGRESS: LESSOR reserves the right of ingress and egress for any of its authorized agents across the leased premises for purposes of administration, for providing access to neighboring lots and for any other purpose of the LESSOR provided such use does not conflict with LESSEE'S Master Plan approved by LESSOR.

JAN 31 1996

SECTION 13. STATE LAND BOARD APPROVAL: This agreement was approved by the State Board of Land Commissioners at the regular meeting on March 13, 1984.

IN WITNESS WHEREOF THE party of the first part, by and through the Idaho State Historical Society as administrative agency of the Old Idaho Penitentiary property for the State Board of Land Commissioners of the STATE OF IDAHO has caused these presents to be executed by its Director, and the party of the second part has caused these presents to be executed in person on this 22 day of March, 1984.

LESSEE:

IDAHO BOTANICAL GARDENS, INC.

CHRISTOPHER DAVIDSON, President

LESSOR:

STATE OF IDAHO
IDAHO HISTORICAL SOCIETY

ARTHUR A. HART, Director
Idaho Historical Society

JAN 31 1996

EXHIBIT "A"

IDAHO BOTANICAL SOCIETY DESCRIPTION

A parcel of land situated in the North 1/2 of Section 13, Township 3 North, Range 2 East, Boise Meridian, Ada County, Idaho, more particularly described as follows:

Commencing at the Southwest corner of the Northeast 1/4 of the Northwest 1/4 of said Section 13, a point marked by a Brass Cap; thence along the West line of said Northeast 1/4 Northwest 1/4

North 0° 42' 48" East 125.21 feet to a point; thence leaving said West line

North 65° 58' 05" East 705.05 feet to a point, marked by a P.K. Nail, The Point of Beginning; thence continuing

North 65° 58' 05" East 660.66 feet to a point, marked by a P.K. Nail; thence

South 85° 33' 48" East 160.18 feet to a point, marked by a 5/8" Iron Pin; thence

South 4° 26' 12" West 250.00 feet to a point, marked by a 5/8" Iron Pin; thence

South 85° 33' 48" East 1289.06 feet to a point, marked by a 5/8" Iron Pin; thence

North 4° 26' 12" East 320.27 feet to a point, marked by a 5/8" Iron Pin; thence

South 85° 33' 48" East 630.00 feet to a point, marked by a 5/8" Iron Pin; thence

South 4° 26' 12" West 1260.00 feet to a point, marked by a 5/8" Iron Pin; thence

North 85° 33' 48" West 1260.00 feet to a point, marked by a 5/8" Iron Pin; thence

North 4° 26' 12" East 630.00 feet to a point, marked by a 5/8" Iron Pin; thence

North 85° 33' 48" West 425.00 feet to a point, marked by a 5/8" Iron Pin; thence

North 4° 26' 12" East 91.00 feet to a point, marked by a 5/8" Iron Pin; thence

North 88° 53' 00" West 865.07 feet to a point, marked by a 5/8" Iron Pin; thence

North 24° 12' 35" West 232.35 feet to The Point of Beginning.

Said Parcel contains 42.249 acres.

Said Parcel is subject to Easements as shown on the State Department of Lands Land Ownership Status Plat No. 6 for Section 13, Township 3 North, Range 2 East, Boise Meridian.

JAN 31 1996

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JULY 3, 1995

STATE OF IDAHO
DEPT. OF LANDS
1215 W STATE ST
BOISE ID 83702

RE: Permit No. 63-09661

Dear Sirs,

This letter is to confirm that the assignment of ownership on the above referenced water right is satisfactory. We have modified our computer records to reflect this change in ownership.

If you have any questions regarding this matter, please feel free to contact us.

Sincerely,

JIM JOHNSON, Manager
Water Right Permits Section

JJ:rl

RECEIVED
JUL 19 1995

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED
MAR 2 1995
Department of Water Resources

IN THE MATTER OF APPLICATION FOR TRANSFER OF LICENSE NO. 63-10241 AND APPLICATION FOR AMENDMENT OF PERMIT NO. 63-9661 IN THE NAME OF IDAHO STATE HISTORICAL SOCIETY, AND APPLICATION FOR AMENDMENT OF PERMIT NO. 63-10022 IN THE NAME OF CITY OF BOISE	NOTICE OF CONFERENCE

On November 21, 1994, the Idaho State Historical Society filed with the Department of Water Resources application for transfer of license no. 63-10241, and application for amendment of permit no. 63-9661. On January 9, 1995, the City of Boise, Dept. of Parks filed application for amendment of permit no. 63-10022. All three applications were protested by Paul W. Wise and Boise Water Corporation.

The Department has set the matter of protests for a conference to be held on Wednesday, March 15, 1995, at 10:00 a.m., at the Division of Environmental Quality, 1410 N. Hilton, Conference Room D., Boise, Idaho. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice and Procedure of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules of Water Appropriation of the Department of Water Resources.

JUL 1 9 1995

Opportunity shall be afforded all parties to respond and present information and argument on all issues involved.

Dated this 28th day of February, 1995.

David R. Tuthill Jr.
DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

I hereby certify that on the 28th day of February, 1995, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:

Sue Taylor
Sue Taylor
Secretary-Office Coordinator

Cerfified Mail

ID STATE HISTORICAL SOCIETY
210 W MAIN
BOISE ID 83702

CITY OF BOISE
DEPT OF PARKS
1104 ROYAL BLVD
BOISE ID 83706

PAUL WISE
2843 STAR CIRCLE
BOISE ID 83712

BOISE WATER CORP
PO BOX 7488
BOISE ID 83707

Non-Certified Mail

KEITH ANDERSON
432 SUMMITT
BOISE ID 83702

RECEIVED
JUL 19 1995

CONFERENCE AND HEARING PROCEDURE
APPLICATION FOR TRANSFER

ISSUES

Section 42-222, Idaho Code, identifies the following potential issues that the department can consider in connection with an application for transfer

1) Will the proposed transfer injure other water rights?

2) Will the proposed transfer constitute an enlargement in use of the original right?

3) Is the proposed transfer in the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?

4) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1,2 and 4 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 3 above lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers,schedule hearings, establish procedure or at hearing and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

JUN 19 1995

HEARING

The department will tape record the hearing. Copies of the hearing are available upon request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than by the Director himself.If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties by written stipulation, may waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.

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CONFERENCE AND HEARING PROCEDURE
APPLICATION FOR AMENDMENT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

1) Will the proposed appropriation injure other water rights?

2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?

BURDEN OF PROOF

The Applicant has the initial burden of proof on issues 1 and 2 above and must provide evidence for the department to evaluate these criteria.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

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JUL 19 1995

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JUL 19 1995

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 7, 1995

ID STATE HISTORICAL SOCIETY
210 W MAIN
BOISE ID 83702

CITY OF BOISE
DEPT OF PARKS
1104 ROYAL BLVD
BOISE ID 83706

Re: Applications for Amendment of Water Rights Nos. 63-10022 in the Name of City of Boise and 63-9661 in the Name of ID Historical Society

Dear Applicant:

Enclosed please find a copy of the protest(s) filed against the above-referenced application. You should be aware that the following are the items we can consider at a conference in either approving or denying an application for amendment:

1. Will the approval of the application result in the diversion and use or more water than originally permitted?

2. Will the rights of others be adversely affected thereby?

The Department suggests you contact the protestant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest. If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At the conference, the Department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

If we may be of assistance, please contact us.

Sincerely,

David R. Tuthill, Jr.

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:st

Enclosure

CC: Keith Anderson

RECEIVED
JUL 19 1995

Form 211
10/93

Receipt No. W018454
Receipted By SL
Date 12/21/94

RECEIVED
JAN 09 1995
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR AMENDMENT OF A PERMIT

See Note below

Applicant City of Boise, Dept. of Parks Phone 384-4240

Address 1104 Royal Blvd. Boise ID 83706

I am the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 63-10022, and request that the permit and permit map be amended and/or changed as follows:

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

____ Change place of use ____ Change nature of use ____ Change period of use ____ Other

1. Point of diversion: ____ ¼ NE ¼ NW ¼, Section 13, Township 3N, Range 2E, B.M., County of Ada. Other points of diversion NESW S. 13 T3N R2E (cold water well, existing but unused NW) ← this is P/D to be added

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

Amount .37 (cfs or acre feet per annum) for Irrigation (water use) purposes from 4/1 (Begin month) to 10/31 (End month) (both dates inclusive)

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

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

3. Place of use or land to be irrigated:

Twp	Rge	Sec	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3N	2E	13					7												7

Total number of acres to be irrigated = 7

4. a. Who owns the property at the point of diversion? Applicant

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

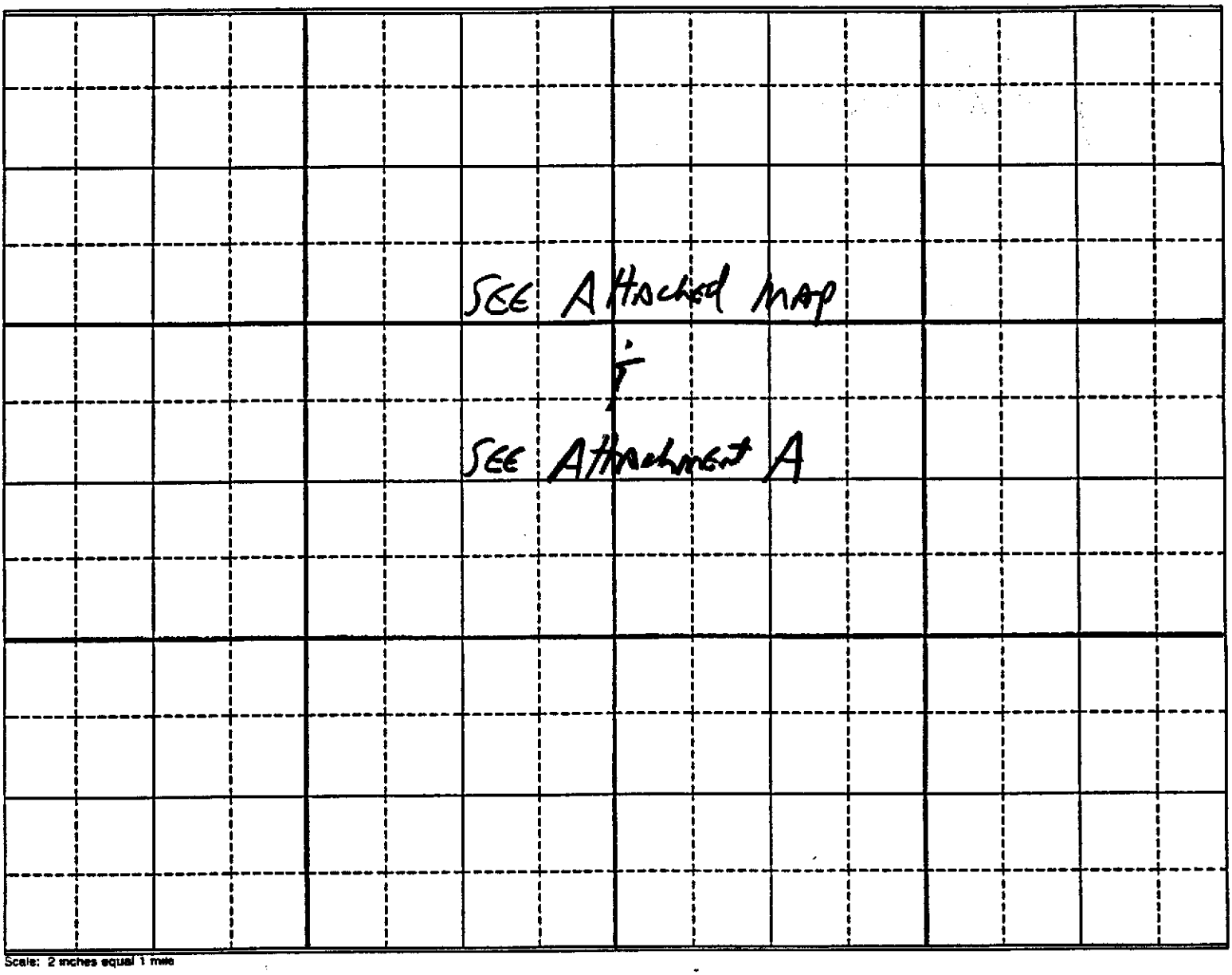
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: ____

JUL 19 1995

NOTE: AMENDMENT IS BASED ON DRAFT LICENSE INSTEAD OF PERMIT DETAILS & THUS REFLECTS LESS WATER & ACRES. AMENDMENT REPLACES WITHDRAWN APPLICATION FOR TRANSFER ORIGINALLY FILED 12/21/94. APPLY $50 FROM $100 PAID 12/21/94, RECEIPT # W018454 – REMAINING $50 TO BE REFUNDED TO APPLICANT.

Complete the following map by showing land and point of diversion as proposed by this amendment.

Show 1/4 1/4, section, township, range and ditches. (the smallest subdivision represents 40 acres)



Scale: 2 inches equal 1 mile

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

Signed this 9 day of JAN, 19 95. James R. Hall 1/9/95
(NAME) Permit Holder (TITLE)

ACTION OF THE DEPARTMENT OF WATER RESOURCES

Preliminary check by _____ Publication prepared by _____ Date _____

Published in Idaho Statesman Publication dates 1-19 & 26, 1995

I, _____, of the Department of Water Resources hereby

_____

_____

APPROVED

JUL 19 1995

Witness my hand this _____ day of _____, 19_____.

_____
SIGNATURE


This map per Applicants' pick 5 drawn file -PL 12/28/94
T3N R2E
5.13
(Gov't. Lots SW¼ exc. NESW)
2771 II NW
(BOISE NORTH)
R. 2 E.
R. 3 E.
Ft Boise Military Cem
Veterans Hospital
St Joseph's Sch
Federal Bldg
Capitol
Courthouse
Lincoln Sch
Ft Boise Park
Armory
Noble Park
Pioneer Cem
Pritchett Park
Roosevelt Sch
Jefferson St
East Jr High Sch
Warm Springs Ave
Canal
Bacon
Adams Sch
Municipal Park
Boise State College
Penitentiary
Firing Range
Quarry
Gravel Pit
Mile 55
Warm Springs Golf Course
Well
Proposed P/D
Existing NSW well
All 3 Rights (cold)
Parks
Garfield Sch
Vernon
Water Tank
Pennsylvania St
Tarbee St
W Linden St
Gallagher
East Holden Lane Canal
Boise River
Drive-in Theater
Fire Sta
Elevation
Proposed P/D ~2720'
River ~2700'

KEITH E. ANDERSON
CONSULTANT IN ENGINEERING AND GEOLOGY
432 SUMMIT RIDGE
BOISE, IDAHO 83702
TELEPHONE (208) 336-2718 OR 344-3888

RECEIVED
JAN 30 1995
Department of Water Resources

January 26, 1995

Mr. Steve Lester
Water Rights Supervisor
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082

RE: Water Right Nos. 63-09661
63-10241
63-10022
(Applications for Amendment and Transfer)

Dear Mr. Lester:

With reference to your letter of January 11, 1995 on the above subject (to the Idaho State Historical Society and Boise City Public Works Department), this letter constitutes a joint-reply to your questions.

Because of my familiarity with background and history of these matters, I have prepared this joint-response at the request of both Bryce Taylor (Idaho Department of Lands) and Neal Oldemeyer (Boise City Department of Public Works). Please also be advised that--as a result of the formal action taken by the Idaho State Board of Land Commissioners at their regular meeting on December 13, 1994--the administration of the lease between the State of Idaho and the Idaho Botanical Garden has been transferred from the Idaho State Historical Society to the Idaho Department of Lands. The Idaho Department of Lands will be filing an assignment of water rights 63-09661 and 63-10241, from the Historical Society to the Department of Lands, to reflect such action.

Background

The pending applications are submitted solely to provide an additional point of diversion for the water rights presently applicable to two existing wells: the City's Quarry View Park well (63-10022) and the State's Old Penitentiary Irrigation Well No. 1 (63-09661 and 63-10241). This additional point of diversion requested is Old Penitentiary Irrigation Well No. 2 (located on City's Warm Springs Golf Course). The additional point of diversion would provide a source of non-geothermal water for the irrigation of both: (1) the City's Quarry View Park, and (2) for the Idaho Botanical Garden area leased from the State (and possibly other State lands covered by 63-09661).

RECORDED
JUL 19 1995

All three water rights have priority dates (1981, 1983, and 1984) that are earlier than the July 1, 1987 effective date specified at the time of adoption of the Low Temperature Geothermal Resource statute (I.C. 42-233).

On June 3, 1988 your department adopted a Management Policy applicable to the Boise Front Ground Water Management Area that had been designated on June 15, 1987. The Management Policy was followed, on June 10, 1988, by the Director of the department issuing the Order Establishing a Moratorium.

In order to comply with the goals of the Management Policy, the City and the Idaho Botanical Garden (acting for the State) have been working for several years toward a Joint Irrigation Project that could provide a non-geothermal water source for continued irrigation of their respective areas. The adopted plan for a Joint Irrigation Project uses the Old Penitentiary Irrigation Well No. 2 (Golf Course) as the added point of diversion for cold water. It is proposed that the existing pump in the Old Pen No. 1 well be moved to the Old Pen No. 2 well, and cold water be pumped through a combination of existing and new pipelines to both parties. Meters would be installed to measure the quantity of water going to each water right. Operation and maintenance costs would be shared. Preparation of an agreement between the parties, for the construction and operation of the Joint Irrigation Project, is currently in progress. In the event that this Project is not jointly funded and operational within five (5) years, it is the intention of both parties to relinquish this added point of diversion.

Existing Wells (Future Use)

The parties are in agreement that when the Joint Irrigation Project is completed, and so long as it remains operational and provides an adequate supply of cold water from the added point of diversion at the Old Pen No. 2 well, neither the Quarry View Park well or the Old Pen No. 1 well will be used for irrigation. I am familiar with the construction of all three existing wells and systems and they conform to IV-A-4 of the Management Policy. There is no intention to permanently abandon either of the existing wells at this time.

Conjunctive Management

Although the proposed added point of diversion (Old Pen No. 2 well) is situated within the floodplain of the Boise River, the location and construction of this well--and the geologic and hydrologic conditions in the vicinity--would preclude any significant or measurable adverse effects on river flows resulting from the proposed use of Old Pen No. 2 well.

The well is constructed with two strings of casing; (1) a solid string of 16-inch steel casing (0.375-inch wall thickness) extending from the surface to a depth of 105 feet--62 feet below the top of a thick impervious layer of "blue clay", and (2) 12-inch steel casing (0.375-inch wall thickness) extending from the surface to the well's total depth of 470 feet. The 12-inch casing is perforated only below a depth of 120 feet. Production from the well is from primarily from thin seams or "stringers" of sand in a thick sequence of impermeable clays, with the water occurring under artesian (confined) conditions.

The well, furthermore, is situated nearly one-quarter mile distant from the

JUL 19 1995

channel of the Boise River. The transmissivity of this deep aquifer is high, probably on the order of 9,000 feet squared per day, and drawdown in the well when pumping will only be an estimated 15 feet. The resulting drawdown in the aquifer at the river channel location would be only a few feet and any change in vertical flux (through the thick clay aquiclude separating the river from the aquifer) resulting from pumping the well would be insignificant and negligible.

In the context of the "Rules for Conjunctive Management of Surface and Ground Water Resources" adopted a few months ago by your department, it is my professional opinion that any "Delivery Call" made by a senior appropriator in the river that alleged injury from pumping at this alternate point of diversion (and assuming such appropriator "was using water efficiently and without waste, and in a manner consistent with the goal of reasonable use of surface and ground waters"--(040.03)) would clearly fall within the provisions of a "Futile Call" (010.08).

Partially Developed Permit

Continued use under 63-09661, pending approval of these applications and implementation of the Joint Irrigation Project described above, would come under the provision of Management Policy IV-B-1. This is addressed more fully in my letters and attached data of April 13 and June 9, 1993 to Norman C. Young, IDWR, State Office (copies of which were also attached to my November 11, 1994 letter to David Tuthill, IDWR, Western Region).

Please let me know if you have questions, or need further information at this time, concerning these pending applications for Amendment and Transfer. I would appreciate it if you could furnish me with a copy of any protests that may be filed.

Sincerely,

Keith E Anderson

Keith E. Anderson, P.E., P.G.

REGISTERED PROFESSIONAL ENGINEER 1027 STATE OF IDAHO KEITH E. ANDERSON 1/26/95

REGISTERED PROFESSIONAL GEOLOGIST KEITH E. ANDERSON NO. 2 STATE OF IDAHO

Copy: Idaho Department of Lands (Bryce Taylor)
Boise City, Dept. of Public Works (Neal Oldemeyer)
Idaho Department of Water Resources (Norman Young)
Idaho Botanical Garden (Wayne Meuleman)

RECEIVED
JUL 19 1995

(copy)
Dean
File 63-9661

KEITH E. ANDERSON
CONSULTANT IN ENGINEERING AND GEOLOGY
432 SUMMIT RIDGE
BOISE, IDAHO 83702
TELEPHONE (208) 336-2718 OR 344-3888

RECEIVED
NOV 14 1994
Department of Water Resources

November 11, 1994

David High
Senior Deputy Attorney General
Statehouse
Boise, ID 83720

Subject: Water Rights--Idaho State Historical Society/ Idaho Botanical Garden

Dear Mr. High:

This letter is in response to several questions raised at my meeting with you, and Peter Anderson of your office, yesterday at 2:00 pm in the conference room of the Attorney General's Office. Also in attendance were John Hill and Chris Brady of the Idaho State Historical Society (ISHS).

1. "Five-acre change on Application for Amendment to Permit 63-9661"

When the Idaho Botanical Garden (IBG) started consideration of a request to the State Board of Land Commissioners for approximately 8 acres of additional land needed for development, it became necessary to amend the existing permit for irrigation (63-9661) because a few acres of this added land would be outside the place of use on the permit. The simplest and best solution appeared to be to add five acres to cover the expansion to the IBG lease and deduct five acres from the land list on the permit. In this way, there would be no request for an increase in the total area allowed to be irrigated under the permit.

A draft "Application for Amendment of a Permit" was prepared by me and submitted to the ISHS in January 1990 for signature and filing with the Idaho Department of Water Resources (IDWR). A copy of the draft is attached as "Exhibit A". I can find no record of this application in the IDWR files and apparently it was never signed and submitted by ISHS.

Subsequently, in connection with the Snake River Basin Adjudication, a Notice of Claim to a Water Right was filed in connection with Permit 63-9661. I prepared the claim on behalf of IBG as lessee of the well covered by the permit. When the claim summary form was returned by IDWR it was noted that the five-acre correction had not been made, so I made the correction under item 10 on page 2 before it was returned to IDWR. This claim summary form was duly signed on April 11, 1991 by Christine Brady, of ISHS, and Elaine Eberharter-Maki, Deputy Attorney General, and returned to IDWR. Both Brady and Eberharter-Maki initialed the five-acre correction on page 2 of that form. A copy of this signed and initialed form is attached as "Exhibit B".

JUL 19 1995

The State Board of Land Commissioners, at their regular meeting on September 17, 1991, unanimously approved the addition of 8.45 acres to the IBG 50-year lease.

This five-acre correction was included in the "Application for Amendment of a Permit" (63-9661) that was submitted to Chris Brady in January 1993 for signature and filing with IDWR. This was the application needed to proceed with the proposed joint-venture irrigation project that would significantly benefit the City of Boise, ISHS, and IBG--and this is the application you had at our meeting yesterday, still unsigned by ISHS, on which you noted the five-acre change.

A copy of the application, still to be signed and submitted by ISHS, is attached as "Exhibit C".

2. "0.22 cfs vs. 0.11 cfs; and 0.26 cfs vs. 0.15 cfs--License 63-10241"

You are correct in noting the discrepancies in certain figures between the "Application for Transfer of a Water Right" and the actual water documentation of the water right License 63-10241.

The explanation is similar to that given above. At the time the application for transfer was prepared in connection with the proposed joint-venture project (early to mid-January 1993) the proposed licensed allowance for diversion for irrigation was only 0.11 cfs based upon the field examination by IDWR in June 1992. This amount, plus the allowance of 0.04 cfs for domestic use, resulted in a total under the proposed license of 0.15 cfs. This is the application you had at our meeting yesterday, still unsigned by ISHS, on which you noted the discrepancy.

Because extensive irrigation of the garden cannot take place during daylight hours of intense public use, I felt that the 0.11 cfs for irrigation was inadequate. After discussions with Norman Young, IDWR, I submitted a letter to IDWR, on behalf of IBG as lessee, on January 27, 1992 requesting an increase in the proposed licensed diversion rate for irrigation to 0.22 cfs (which, with the 0.04 cfs domestic use resulted in a total diversion under the proposed license of 0.26 cfs). A copy of that letter request is attached as "Exhibit D".

IDWR concurred with my request and License 63-10241 was issued to ISHS on February 3, 1993, with a priority date of May 30, 1984, for 0.26 cfs (0.22 cfs for irrigation and 0.04 cfs for domestic use).

I am sorry that I assumed that ISHS would sign and submit that application in timely fashion nearly two years ago, when the licensing was still in process. The correction to the higher diversion rates has now been made on the application still to be signed and submitted by ISHS, a copy of which is attached as "Exhibit E", together with a copy of the license.

3. "Ownership of land at additional point of diversion"

At our meeting, the question was raised as to the ownership of property

JUL 19 1995

at the proposed additional point of diversion. Neal Oldemeyer, Boise City Public Works Department, advises me that the property at Warm Springs Golf Course proposed for the additional point of diversion is owned by Boise City.

I have accordingly corrected the "Application for Amendment of a Permit" (63-9661) to show under Item 4-a that the property is owned by Boise City, and under Item 4-c that the arrangement enabling the filing is a "Pending agreement for joint use". This is the application still to be signed and submitted by ISHS, a copy of which is attached as "Exhibit F".

4. "Miscellaneous matters"

Because of my close involvement with the matter for more than 10 years, I have prepared a summary of the water-right history at Old Penitentiary Irrigation Well No. 1. This is attached as "Exhibit G" with the thought that it may be of use to you or your staff.

Mr. Hill asked if the IBG office used domestic water for drinking purposes. I said no, the drinking water was from the Boise Water Corporation distribution system. The well is used, however, for incidental watering around the office building which is a "domestic use" under Idaho statutes.

A copy of the "Notice of Claim to a Water Right" and "Application for Transfer of a Water Right", which I prepared for Boise City in January 1993, is attached for information purposes as "Exhibit H". These are also a part of the joint-venture irrigation project. I believe you have already seen these since copies were sent to ISHS nearly two years ago.

At the start of our meeting, Mr. Hill stated something to the effect that "he had only first seen these documents (applications) a few weeks ago". I do not know when Mr. Hill moved to Idaho from Oklahoma--but I understand he may have been here by June 1993 when Chris Brady, ISHS, assured me the applications were about to be signed. In any event, he has been fully aware of the situation for more than seven months. (See last paragraph of April 8, 1994 letter from IBG to Hill, attached as "Exhibit I").

I know that Mr. Hill has concerns that use of the Old Penitentiary Irrigation Well may not be able to continue beyond some specified date for filing proof of beneficial use (by the summer of 1995?). (See first paragraph of FY 96 project proposal in document furnished by the Idaho Division of Public Works--attached as "Exhibit J"). I, too, was concerned about timing and schedule problems imposed by the IDWR moratorium in the Boise Front Low Temperature Geothermal Groundwater Management Area. The proof of beneficial use was actually due by March 1, 1991--and accordingly, on behalf of IBG as lessee, I prepared a request for an extension of time for Permit 63-9661 to March 1, 1996 because of the moratorium. This was signed and submitted by ISHS to IDWR on February 21, 1991. This request is being held without action during the duration of the moratorium. Since the moratorium was ordered 2 years 264 days prior to the original date specified for proof of beneficial use, the new date--if the moratorium continues for the second

JUL 19 1995

five-year term--would become March 1, 2001. Copies of documents relating to this extension are attached as "Exhibit K".

The ISHS proposed water development project for FY 96 causes me to question their willingness to allow the proposed City-ISHS-IBG joint-venture irrigation project to be implemented (see second and third paragraphs of "Exhibit J"). There is no renegotiated lease--and never will be--with IBG that would deprive them of the use of Old Penitentiary Irrigation Well No. 1 and require them to develop their own water source. The joint-venture project would result in considerable saving to ISHS in both capital and annual cost for water--and also allow them to supply water to others, because of their proximity, even though they may be in no way related to the historical significance of the penitentiary (the Bishops' House, Agriculture buildings, etc.).

In addition to the attached exhibits, I am enclosing a "clean" set of the two applications to be signed by, or on behalf of, ISHS and submitted to IDWR for processing. The filing fees total $70, of which $20 is for the amendment to the permit and $50 is for the transfer. If the fees pose a financial problem to ISHS, or if they would delay further the filing, I will renew the offer I made to Chris Brady a year-and-a-half ago and pay them myself!

Please let me know if you have questions or need further information.

Sincerely,

Keith E. Anderson

Keith E. Anderson

Attachments

Enclosures (2)

Copy (w/attachments): John Hill, ISHS
Christine Brady, ISHS
Norman Young, IDWR
David Tuthill, IDWR
Neal Oldemeyer, Boise City
Stan Hamilton, Idaho Dept. Lands
Bryce Taylor, Idaho Dept. Lands
Scott Campbell, Elam & Burke
Doug Donohue, Elam & Burke
Wayne Meuleman, IBG
Sally Jo Peters, IBG
Files

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JUL 19 1995

Form 211
2/80

Ident. No. 63-9661

STATE OF IDAHO

EXHIBIT "A"

APPLICATION FOR AMENDMENT OF A PERMIT

To change the point of diversion and/or the place of use.

Comes now State of Idaho, Idaho Historical Society Phone 334-3890

of (address) 210 Main St, Boise, ID 83702, and represents to the

Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 63-9661, and requests that the permit and permit map be changed as follows:

1. Point of diversion: SW ¼ NE ¼, Section 13, Township 3N, Range 2E, B.M., County of Ada. Other points of diversion: _____

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

   Amount 2.20 (cfs or ~~acre feet per annum~~) for Irrigation purposes from 3/15 to 11/15 (both dates inclusive)

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

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

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

3. Place of use or land to be irrigated:

TWP	RGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
3N	2E	13		35	35		35			5									110

Total number of acres to be irrigated = 110

4. a. Who owns the property at the point of diversion? State of Idaho

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

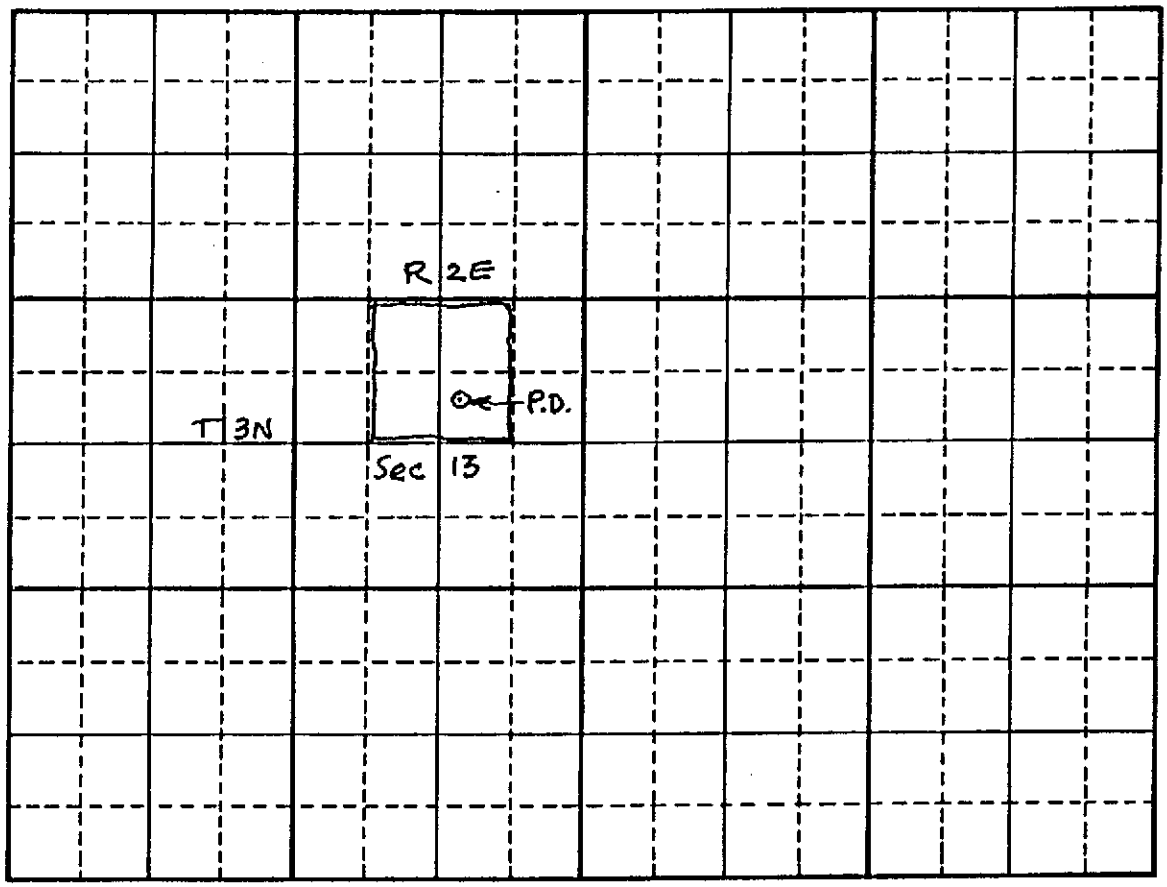
   c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

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Complete the following map by showing land and point of diversion as proposed by this amendment.

Show 40-acre subdivisions, townships, ranges and ditches.



Scale: 2 inches equal 1 mile.

That no one will be injured by such change, and that such change will be made at permit holder's own risk.

Signed at Boise, Idaho, this x day of January, 19 90.

x _____
(Signature)

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = $20.00 Receipted by _____ Date _____

Publication prepared by _____ Date _____ Published in _____

Publication dates _____

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, _____, of the Department of Water Resources hereby

APPROVED

JUL 19 1995

Witness my hand this _____ day of _____, 19 ____.

_____

EXHIBIT "B"

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

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-09661
Date Received: 5/26/1989
Receipt No: C007069
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: STATE OF IDAHO
   Address: DEPT. OF EDUCATION
   IDAHO HISTORICAL SOCIETY
   210 Main Street
   BOISE, ID 83702

   Name: IDAHO BOTANICAL GARDEN, LESSEE 208-343-8649
   Address: 2355 OLD PENITENTIARY RD.
   BOISE, ID 83712

2. Date of Priority: JAN 16, 1981

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
03N	02E	13	SW NE		ADA

5. Description of diverting works:
   DRILLED WELL, 872 FT. DEEP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S (or)	A.F.A.
IRRIGATION	03/15	11/15	2.200	

7. Total Quantity Appropriated is:
   2.200 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 385.0 Acre Feet Per Annum.

9. Non-irrigation uses:

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10. Place of Use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
03N	02E	13	NW	NE		IRR	35.0
			SW	NE		IRR	~~40.0~~ 35.0 CNB, BEM
			NE	NW		IRR	35.0
			SE	NW		IRR	5.0 CNB, BEM
					Section Acres		110.0
					Total Acres		110.0

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? NO

13. Other Water Rights Used:
NONE

14. Remarks:
LEASED FROM STATE OF IDAHO, IDAHO HISTORICAL SOCIETY
THIS WELL FIRST USED FOR IRRIGATION IN 1965 BY STATE OF IDAHO, DEPARTMENT OF CORRECTIONS; NO PERMIT ON FILE.

15. Basis of Claim: PERMIT

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do ____ do not ____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

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For Organizations:

I do solemnly swear or affirm that I am Historical Sites Administrator (Title) of Idaho Historical Society (Organization), that I have signed the foregoing document in the space below as Historical Sites Administrator (Title) of Idaho Historical Society (Organization) and that the statements contained in the foregoing document are true and correct.

Christine D. Bridy
Signature of Authorized Agent

Historical Sites Administrator of the Idaho Historical Society
Title and Organization

April 11, 1991
Date

State of Idaho)
) SS.
County of Ada)

Subscribed and sworn (or affirmed) before me this 11th day of April 19 91

Ina Arnold Sante
Notary Public

Seal

Residing at Boise Id

My Commission Expires 5/30/94

17. Notice of Appearance:
Notice is hereby given that I, Elaine F. Eberharter-Maki (Print Name) will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Elaine Eberharter-Maki

Address Attorney General's Office
Department of Education
620 West State Street, Boise, Idaho 83720

Date April , 1991

With a copy to: Dale H. Higer
Eberle, Berlin, Kading, Turnbow & McKlveen, Chartered
P. O. Box 1368
Boise, Idaho 83701

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Form 211
10/93

EXHIBIT "C"

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR AMENDMENT OF A PERMIT

Applicant State of Idaho, Idaho Historical Society Phone (208) 334-2682

Address 210 W. Main Street, Boise, Idaho 83702

I am the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 63-9661, and request that the permit and permit map be amended and/or changed as follows:

Purpose of Amendment: ____ Change point of diversion XX Add point of diversion XX Change place of use ____ Change nature of use ____ Change period of use ____ Other

1. Point of diversion: ____ ¼ SW ¼ NE ¼, Section 13, Township 3N, Range 2E, B.M., County of Ada. Other points of diversion NE 1/4 SW 1/4 sec. 13, T. 3 N., R. 2 E. B.M. County of Ada

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

Amount 2.20 cfs (cfs or acre feet per annum) for Irrigation (water use) purposes from March 15 (Begin month) to November 15 (End month) (both dates inclusive)

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

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

3. Place of use or land to be irrigated:

Twp	Rge	Sec	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3N	2E	13		35	35		35			5									110

Total number of acres to be irrigated = 110

4. a. Who owns the property at the point of diversion? Boise City (added point of diversion)

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

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

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EXHIBIT "D"

344-3888

KEITH E. ANDERSON

CONSULTANT IN ENGINEERING AND GEOLOGY

432 SUMMIT RIDGE, BOISE, IDAHO 83702

RECEIVED

JAN 27 1993

Department of Water Resources

January 27, 1993

Norman Young
Administrator
Idaho Dept of Water Resources
Boise, ID

Re: Proposed Water Right License 63-10241

Dear Mr. Young:

On behalf of the Idaho Botanical Garden, Inc. lessee from the Idaho State Historical Society on the above water right proposed for license, I would request that the rate of diversion for irrigation be changed from 0.11 cfs to 0.22 cfs, but with no change in the annual volume of 23.9 AF.

The purpose of this request is to allow a diversion rate adequate to irrigate in a 12-hour period per day. This area is open to the public and visitors and the irrigation is often necessarily confined to night-time hours.

Thank you for your consideration of this request. Please let me know if you have questions.

Sincerely,

Keith E Anderson

Keith E. Anderson

Copy: Christine Brady, Historical Society
Idaho Botanical Garden

MICROFILMED JUL 19 1995

MICROFILMED FEB 18 1993

Form 222
1-87

EXHIBIT "E"

Page 1 of 6

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant State of Idaho, Idaho Historical Society Phone (208) 334-2682

Post Office address 210 W. Main Street, Boise, Idaho 83702

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use
   ☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes To provide additional point of diversion of non-geothermal water

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
63-10241	May 30, 1984	0.22 cfs	Irrigation	March 15 to November 15
		0.04 cfs	Domestic	January 1 to December 31
				to
				to

2. Total amount of water being transferred 0.26 cubic feet per second and/or 24.5 acre-feet per annum.
3. Source of water Groundwater tributary to _____
4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	NE	13	3N	2E	Ada	
		NE	SW	13	3N	2E	Ada	

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
3N	2E	13		2.5			2.8												5.3
3N	2E	13		D															

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JUL 19 1995

Total acres 5.3

 Transfer No. _____

PART 1

6. General Information:

a. Description of diversion system Drilled wells with pumps, buried pipeline, sprinkler system

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes X No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

No change of land irrigated; one additional point of diversion

d. Remarks:

Additional point of diversion will provide non-geothermal water

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____.

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JUL 19 1995

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   In case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 63-10241 issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☐ Warranty Deed ☐ Other N.A.

3. Source of water Groundwater tributary to _____

4. Date or priority May 30, 1984

5. Water is used for the following purpose:

   amount 0.22 cfs (cfs/ac-ft) for Irrigation purposes from March 15 to November 15

   amount 0.04 cfs (cfs/ac-ft) for Domestic purposes from January 1 to December 31

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 0.26 cubic feet per second and/or 24.5 acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	NE	13	3N	2E	Ada	Old Penitentiary irrigation well No. 1

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
3N	2E	13		2.5			2.8												5.3
3N	2E	13		D															

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JUL 19 1995
WATER RESOURCES

Total acres 5.3

9. Describe any other water rights used for the same purpose as described above None

PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

_____ If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	NE	13	3N	2E	Ada	Old Penitentiary irrigation well No. 1
		NE	SW	13	3N	2E	Ada	Old Penitentiary irrigation well No. 2

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount 0.22 cfs (cfs/ac-ft) for Irrigation purposes from March 15 to November 15
   amount 0.04 cfs (cfs/ac-ft) for Domestic purposes from January 1 to December 31
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

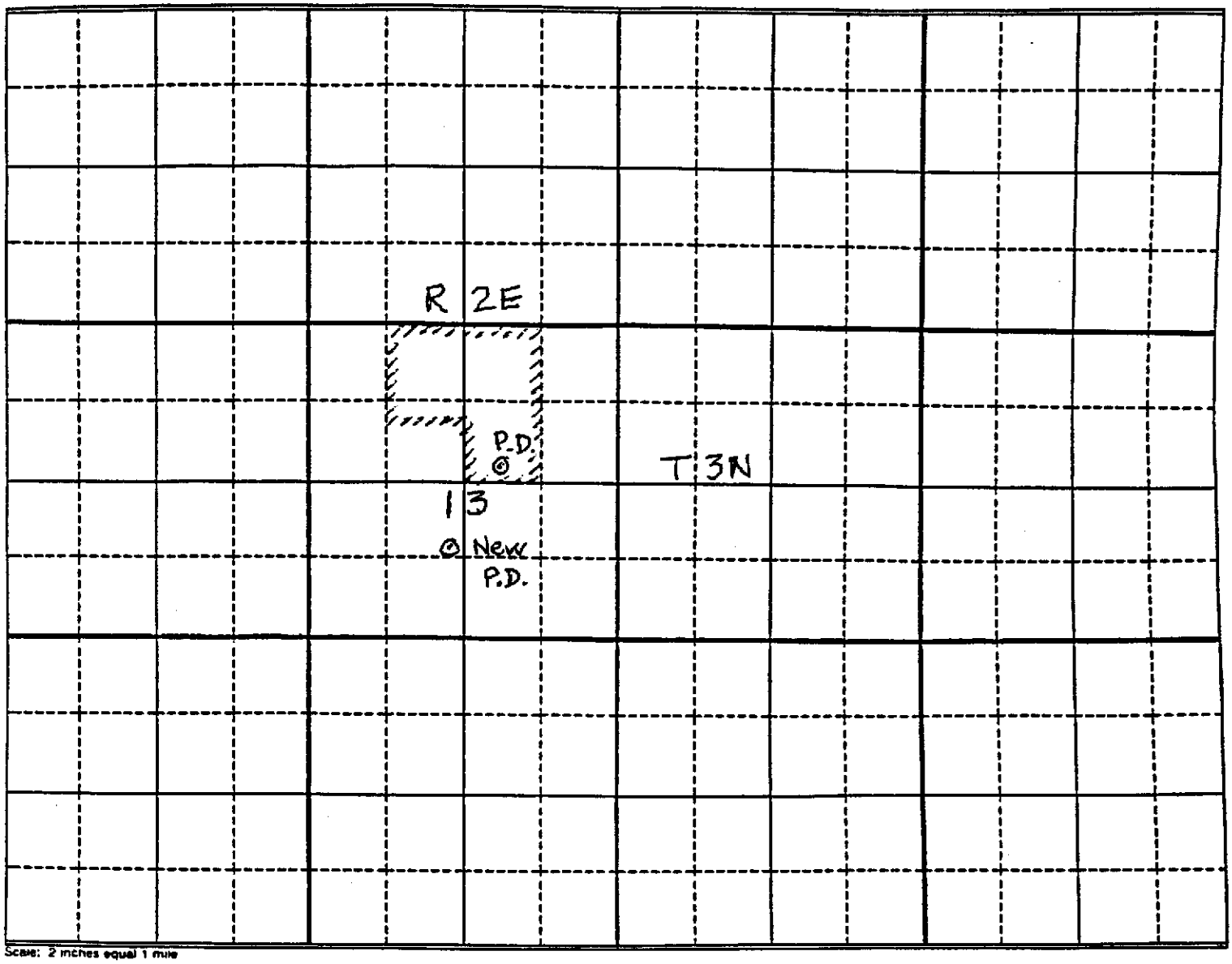
Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
3N	2E	13		2.5			2.8												5.3
3N	2E	13		D															

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JUL 19 1995

Total acres 5.3

Complete the following map by showing land and point of diversion as proposed by this amendment.

Show 1/4 1/4, section, township, range and ditches. (the smallest subdivision represents 40 acres)



Scale: 2 inches equal 1 mile

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

Signed this _____ day of _____, 19 94 . _____

Permit Holder

ACTION OF THE DEPARTMENT OF WATER RESOURCES

Preliminary check by _____ Publication prepared by _____ Date _____

Published in _____ Publication dates _____

I, _____, of the Department of Water Resources hereby

_____

_____

MICROFILMED

JUL 19 1995

Witness my hand this _____ day of _____, 19_____.

_____

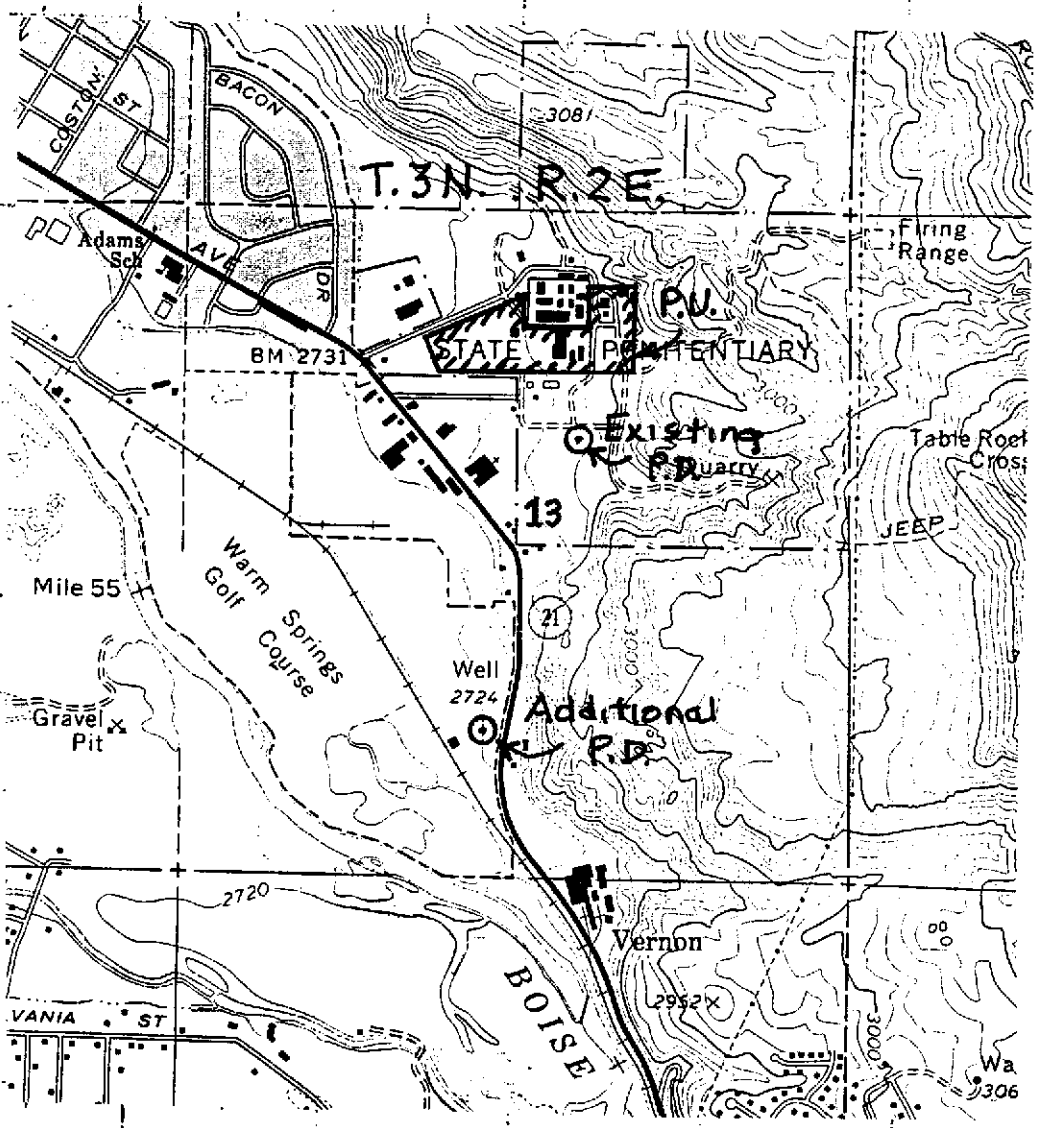
Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



MICROFILMED

JUL 19 1995

3.5

SCALE: X inches equal 1 mile. Draw plan in ink.

 Transfer No. _____

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				_____ to _____
				_____ to _____

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

_____
(Signature of Applicant)

Subscribed and sworn to before me this _____ day of _____, 19 94.

_____
(Notary Public)

My commission expires _____

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by _____ Date _____ Protest filed by _____

Prelim. check by _____ Fee _____

Receipted by _____ Date _____

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

RECEIVED
JUL 19 1995

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 63-10241

Priority: May 30, 1984

Maximum Diversion Rate: 0.26 CFS
Maximum Diversion Volume: 24.5 AF

This is to certify, that IDAHO STATE HISTORICAL SOCIETY
610 N JULIA DAVIS DR
BOISE ID 83702 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated May 30, 1984; and has submitted Proof of Beneficial Use on January 2, 1990. An examination indicates that the works have a diversion capacity of .900 cfs of water from a **GROUNDWATER** source, and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
IRRIGATION	03/15 to 11/15	0.22 CFS	23.9 AF
DOMESTIC	01/01 to 12/31	0.04 CFS	0.6 AF
	Totals	0.26 CFS	24.5 AF

LOCATION OF POINT(S) OF DIVERSION: SWNE , Sec. 13, Township 03N, Range 02E
ADA County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES		ACRES	ACRES	TOTAL
03N	02E	13	NWNE	2.5	NENW	2.8		5.3
					Total number of acres irrigated:			5.3

PLACE OF USE: DOMESTIC

TWN	RGE	SEC	
03N	02E	13	NWNE

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.

RECORDED AS AMENDED

JUL 19 1995

FEB 18 1993

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 63-10241

CONDITIONS/REMARKS:

5. The issuance of this right in no way grants any right-of-way or easement across the land of another.
6. This right when combined with all other rights shall provide no more than 4.5 afa per acre for the lands above.
7. Domestic use is for offices.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 3RD day of FEBRUARY, 1993.

Acting for R. Keith Higginson, Director

MICROFILMED
JUL 19 1995

MICROFILMED
FEB 18 1993

Form 211
10/93

EXHIBIT "F"

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR AMENDMENT OF A PERMIT

Applicant State of Idaho, Idaho Historical Society Phone (208) 334-2682

Address 210 W. Main Street, Boise, Idaho 83702

I am the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 63-9661, and request that the permit and permit map be amended and/or changed as follows:

Purpose of Amendment: ____ Change point of diversion XX Add point of diversion

XX Change place of use ____ Change nature of use ____ Change period of use ____ Other

1. Point of diversion: ____ ¼ SW ¼ NE ¼, Section 13, Township 3N, Range 2E, B.M., County of Ada. Other points of diversion NE 1/4 SW 1/4 sec. 13, T. 3 N., R. 2 E. B.M. County of Ada

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

Amount 2.20 cfs (cfs or acre feet per annum) for Irrigation (water use) purposes from March 15 (Begin month) to November 15 (End month) (both dates inclusive)

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

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

3. Place of use or land to be irrigated:

Twp	Rge	Sec	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3N	2E	13		35	35		35			5									110

Total number of acres to be irrigated = 110

4. a. Who owns the property at the point of diversion? Boise City (added point of diversion)

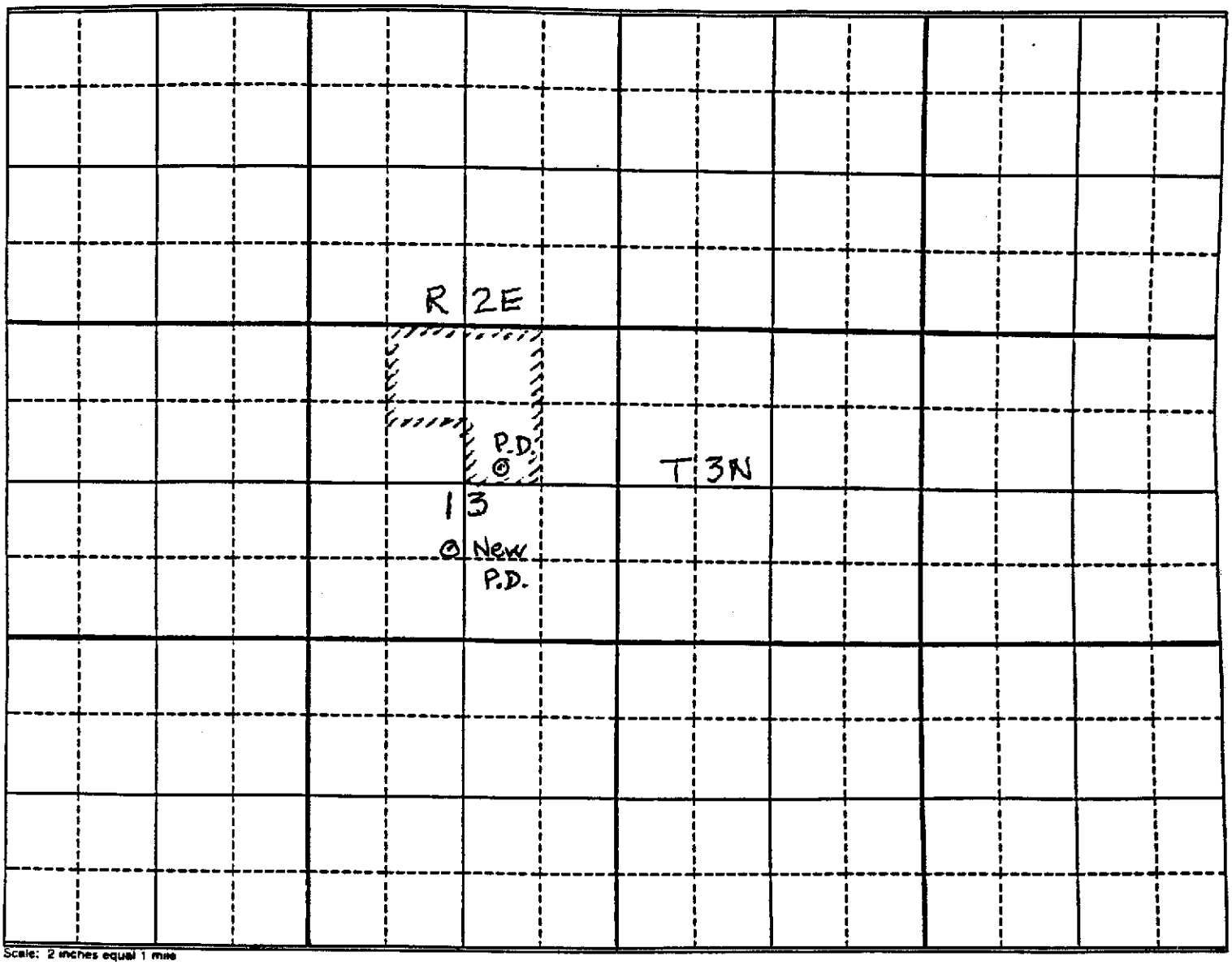
b. Who owns the land to be irrigated at the place of use? Applicant

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

JUL 19 1993

Complete the following map by showing land and point of diversion as proposed by this amendment.

Show 1/4 1/4, section, township, range and ditches. (the smallest subdivision represents 40 acres)



Scale: 2 inches equal 1 mile

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

Signed this _____ day of _____, 19 94 . _____

Permit Holder

ACTION OF THE DEPARTMENT OF WATER RESOURCES

Preliminary check by _____ Publication prepared by _____ Date _____

Published in _____ Publication dates _____

I, _____, of the Department of Water Resources hereby

_____

_____

APPROVED

JUL 19 1995

Witness my hand this _____ day of _____, 19_____.

_____

EXHIBIT "G"

Old Penitentiary Irrigation Well No. 1
Summary of Water Right History

Permit 63-9661 (and predecessors):

Date	Action
2/26/65	State of Idaho, Department of Corrections, filed Application G-40394 and was granted Permit G-32252 (now 63-3439). Permit for 6.7 cfs to irrigate 180 acres. Well No. 1 for 70 acres; Well No. 2 for 110 acres. Note that lands to be irrigated were formerly irrigated from Cruzen Ditch and water purchased from Consumers Water Co. but they were no longer in business. Proof of beneficial use due 2/26/70
10/16-23/69	Publication of notice of existing permit in Idaho Daily Statesman
12/19/69	Affidavit of proof of beneficial use filed by Department of Corrections; 6.7 cfs for 180 acres. Note that there is no other available source of water supply and this is a very coarse soil and requires extra water.
1/22/70	Department acknowledges receipt of affidavit of publication
7/14/72	Field examination by Department; 0.65 cfs diverted; 0.52 cfs recognized for beneficial use; maximum 63 AF/yr; 14 acres in SE NW sec 13; priority date 2/26/65
-?-?-?-	Permit holder not satisfied with examination
9/5/75	Field examination by Peter Chamberlin (difficult to read microfilm): System Description: 60 HP U.S. electric motor, serial no. 3765637, with Layne vertical centrifugal turbine type pump #4424. 10" or 12" well with 6" main line. No pipe or sprinkler seen in area. Prison.....water system out to new site. Remarks: Maybe old rights for surface water.....Site has changed hands from the Dept. of Corrections to the State Historical Society. Little or no irrigation is taking place at the present time. The State Historical Society is trying to reestablish the irrigation system at this time.
10/31/75	Permit 63-3439 assigned by Idaho State Department of Corrections to Idaho State Historical Society.
9/30/77	Field re-examination by William H. MacAllister for the Idaho State Historical Society. Remarks: Recommend cancellation. Water not being used. MacAllister Memo: ISHS said pump had been pulled and, even if

JUL 19 1995

operable, they had no irrigation pipe and could not irrigate, but did plan to irrigate in future. Tax records indicate the area irrigated in 1972 no longer State-owned.

12/7/77 Permit 63-3439 cancelled by Department

1/16/81 Re-application for permit by ISHS, 2.20 cfs, 110 acres. No protest or intervening applications; approved 3/3/81 and Permit 63-9661 issued. Proof of completion of works and beneficial use due 3/1/86.

3/22/84 IBG granted a 50-year lease by the State Land Board to develop 42.25 acres for a botanical garden; the lease provided for use by IBG of the Old Penitentiary Irrigation Well No. 1. Water from the well was first used for irrigation by IBG in 1985.

5/19/86 Extension of time granted for proof of completion to 3/1/91.

6/10/88 Moratorium order issued by IDWR for Boise Front Low-Temperature Geothermal Resource Ground Water Management Area.

12/19/89 Petition filed by IBG with IDWR for "a ruling allowing continued development, within existing valid permits, for use of low temperature geothermal water". Petition applied to both permits 63-9661 and 63-10241. Idaho Code 42-233 (3) provides that permits issued prior to July 1, 1987 remain valid; both permits were issued prior to that date.

This petition is still before the IDWR.

1/--/90 Draft of "Application for Amendment of a Permit" to Permit 63-9661 was submitted to Historical Society for signature and filing with IDWR. The amendment did not change total acreage or diversion rate, but only added 5 acres in the SE 1/4 NW 1/4 sec. 13 and deleted 5 acres in the SW 1/4 NE 1/4 sec. 13. This was necessary because the IBG was requesting an additional 8.45 acres be added to their lease from ISHS, 5 acres of which were not covered in the original Permit 63-9661.

Apparently this application was never signed by ISHS and never filed with IDWR.

2/21/91 Request submitted to IDWR for extension of time to 3/1/96 because of moratorium.

3/7/91 IDWR agrees to hold request for extension, without action, during period of moratorium. (Moratorium was ordered 2 yrs 264 days prior to date required for completion--which would extend required completion date for proof until at least March 1, 2001

JUL 19 1995

if the moratorium continues for the full second term of 5 years.

4/11/91 The claim for the water right covered by Permit 63-9661, filed in the Snake River Basin Adjudication (Civil Case No. 39576) was signed by Christine N. Brady, ISHS Historical Sites Administrator, which was corrected to show the 5-acre change in added and deleted area (referred to above as 1/--/90). These corrections were initialed by Ms. Brady as well as by Elaine Eberharter-Maki from the Attorney General's Office, Department of Education.

9/17/91 The State Board of Land Commissioners, at their regular meeting, unanimously approved the addition of the 8.45 acres to the IBG lease from ISHS.

1991-92 Plans for a joint-venture project between City of Boise, IBG, and ISHS underway to benefit all three parties and to add an additional point of diversion to water rights held by the City and ISHS. The added point of diversion was to be at an existing well on Warm Springs Golf Course, and would provide non-geothermal water for irrigation to all parties.

1/28/93 IBG prepared the necessary forms for signature and submittal to IDWR to add an additional point of diversion to the City and ISHS water rights. There was no relinquishment of any original points of diversion or change in irrigated area of either party.

These documents included:

City: Notice of Claim to a Water Right (for City's Quarry View Park Well)
Application for Transfer of Water Right (for City's License 63-10022)

ISHS: Application for Transfer of Water Right (for ISHS License 63-10241--formerly Permit 63-10241)
Application for Amendment of Permit (for ISHS Permit 63-9661.

May-June '93 ISHS refuses to sign and submit documents so joint-venture project could proceed; City will not sign and submit unless ISHS agrees also.

6/10/93 IDWR extends moratorium on Boise Front Low Temperature Geothermal Ground Water Management Area for another 5 years to June 10, 1998.

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License 63-10241 (and Permit 63-10241)

5/30/84 ISHS makes application to IDWR for water to irrigate 20 acres and for domestic use. Application assigned as Permit 63-10241, but returned to ISHS for clarification with respect to existing permit 63-9661.

12/6/84 Amended application submitted to IDWR.

1/14/85 Permit 63-10241 issued for total of 0.44 cfs (0.40 cfs for irrigation of 20 acres and 0.04 cfs for domestic use) with priority date of May 30, 1984. Proof of beneficial use due January 1, 1990.

1/2/90 Proof of beneficial use filed with IDWR by ISHS.

4/11/91 The claim for the water right covered by Permit 63-10241, filed in the Snake River Basin Adjudication (Civil Case No. 39576) was signed by Christine N. Brady, Administrator of ISHS Historical Sites, and by Elaine Eberharter-Maki of the Attorney General's Office, Department of Education.

6/24/92 Field examination by IDWR. Examiner recommends 0.11 cfs for irrigation of 5.25 acres and 0.04 cfs for domestic use--total of 0.15 cfs.

12/15/92 IDWR advises licensing in process and requests ISHS to agree to amend Permit to conform to field examination.

12/30/92 ISHS submits application for amendment for licensing purposes to conform to field examination

1/27/93 IBG, as lessee, requests IDWR increase allowance for irrigation to 0.22 cfs because irrigation cannot take place during public use hours.

2/3/93 IDWR concurs with request and issues License 63-10241 for a total of 0.26 cfs and priority date of May 30, 1984 (0.22 cfs for irrigation and 0.04 cfs for domestic use).

JUL 19 1995

Form No. 42-1409 (2) a 1/88

IN THE DISTRICT COURT OF THE FIFTH JUDI
STATE OF IDAHO, IN AND FOR THE COUI

EXHIBIT "H"

CIVIL CASE NUMBER: 39576

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

Ident. Number _____
Date Received _____
Receipt Number _____

NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) City of Boise, Dept. of Parks Phone (208) 384-4240

   Mailing Address 1104 Royal Blvd., Boise, ID 83706 Zip 83706

2. Date of Priority (Only one (1) per claim) April 20, 1983

3. Source of water supply (a) Groundwater
   which is tributary to (b) _____

4. a. Location of existing point of diversion is: Township 3N Range 2E Section 13,

   _____ 1/4 of NE 1/4 of NW 1/4, Govt. Lot, _____ B.M., County of Ada

   Additional points of diversion if any: _____

   b. If instream flow, beginning point of claimed instream flow is:

   Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

   Govt. Lot _____ B.M., County of _____

   ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of

   _____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. Drilled well 865 ft. deep, with pump and sprinkler system

FILED
JUL 19 1995

6. Water is claimed for the following purposes:

			(both dates are inclusive)			(cfs)		(acre feet)
For	Irrigation	purposes from	Apr 1	to	Oct 31	amount	0.37	or	31.5
For		purposes from		to		amount		or	
For		purposes from		to		amount		or	
For		purposes from		to		amount		or	

7. Total quantity claimed (a) 0.37 (cfs) and/or (b) 31.5 (acre feet)

8. Total consumptive use claimed is 24.5 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. 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 use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
3N	2E	13					7												7

Total number of acres irrigated 7

11. In which county (ies) are lands listed above as place of use located? Ada

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None (X)

14. Remarks:

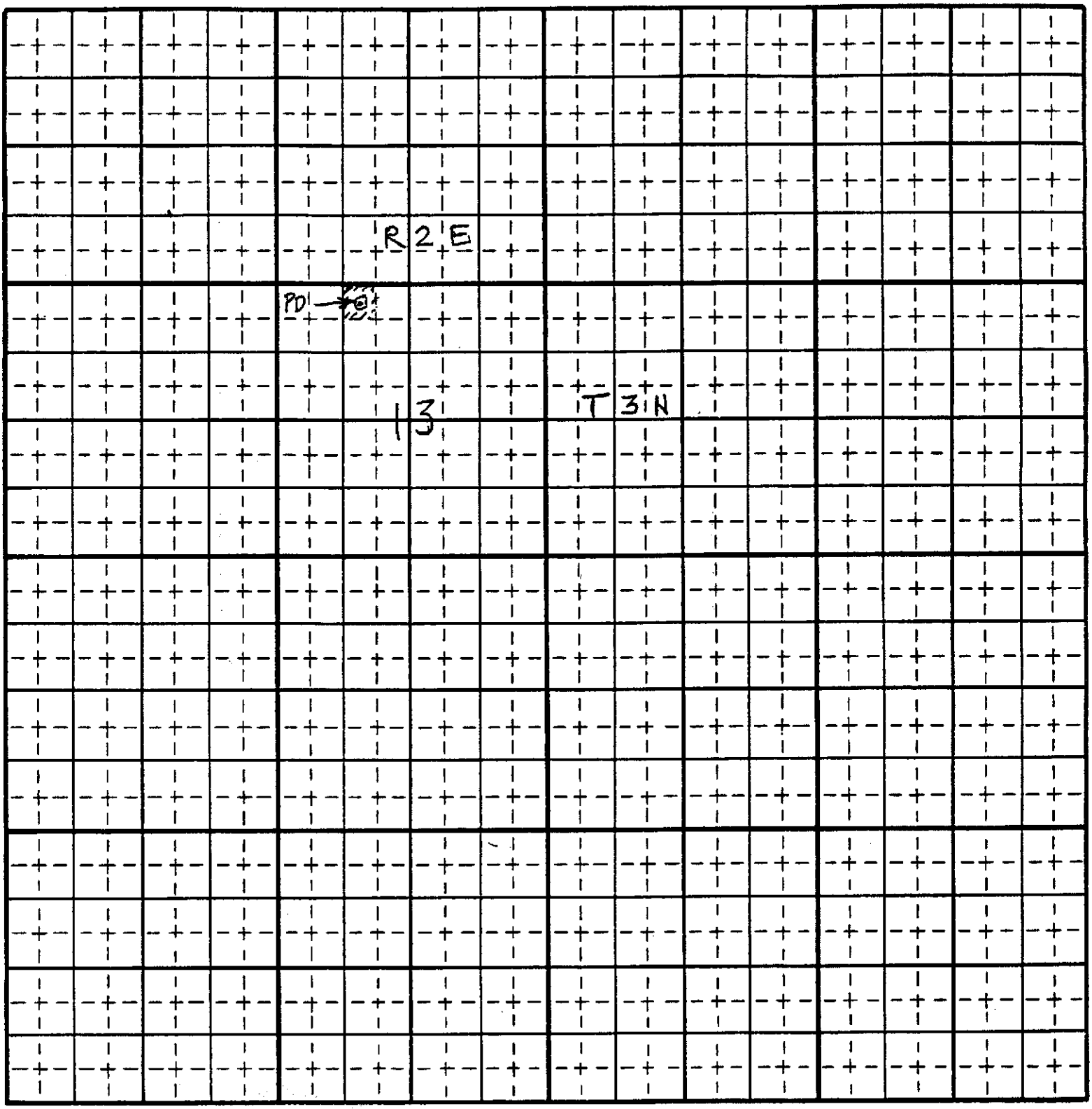
JUL 1 9 1995

Last Name City of Boise Ident No. _____

Copies: White -State, Yellow-Claimant

Map of Project: show clearly the p[redacted] of diversion, place of use, section numbe[redacted]ownship, and range number.

Scale: 2 inches equals 1 mile



JUL 19 1995

Last Name City of Boise Ident No. _____ *Copies: White-State, Yellow-Claimant*

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License X Permit _____
Decree _____

If applicable provide IDWR Water Right Number 63-10022

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____

_____ Date _____

X **For Organizations:** I do solemnly swear or affirm that I am _____
Title

of _____ , that I have signed the foregoing
Organization

document in the space below as _____ of _____
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent X _____

Title and Organization X _____ Date _____

State of Idaho/or _____)
) SS.
County of Ada)

Subscribed and sworn (or affirmed) before me this _____ day of _____ 19 ____

SEAL

Notary Public _____

Residing at _____

My Commission Expires _____

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

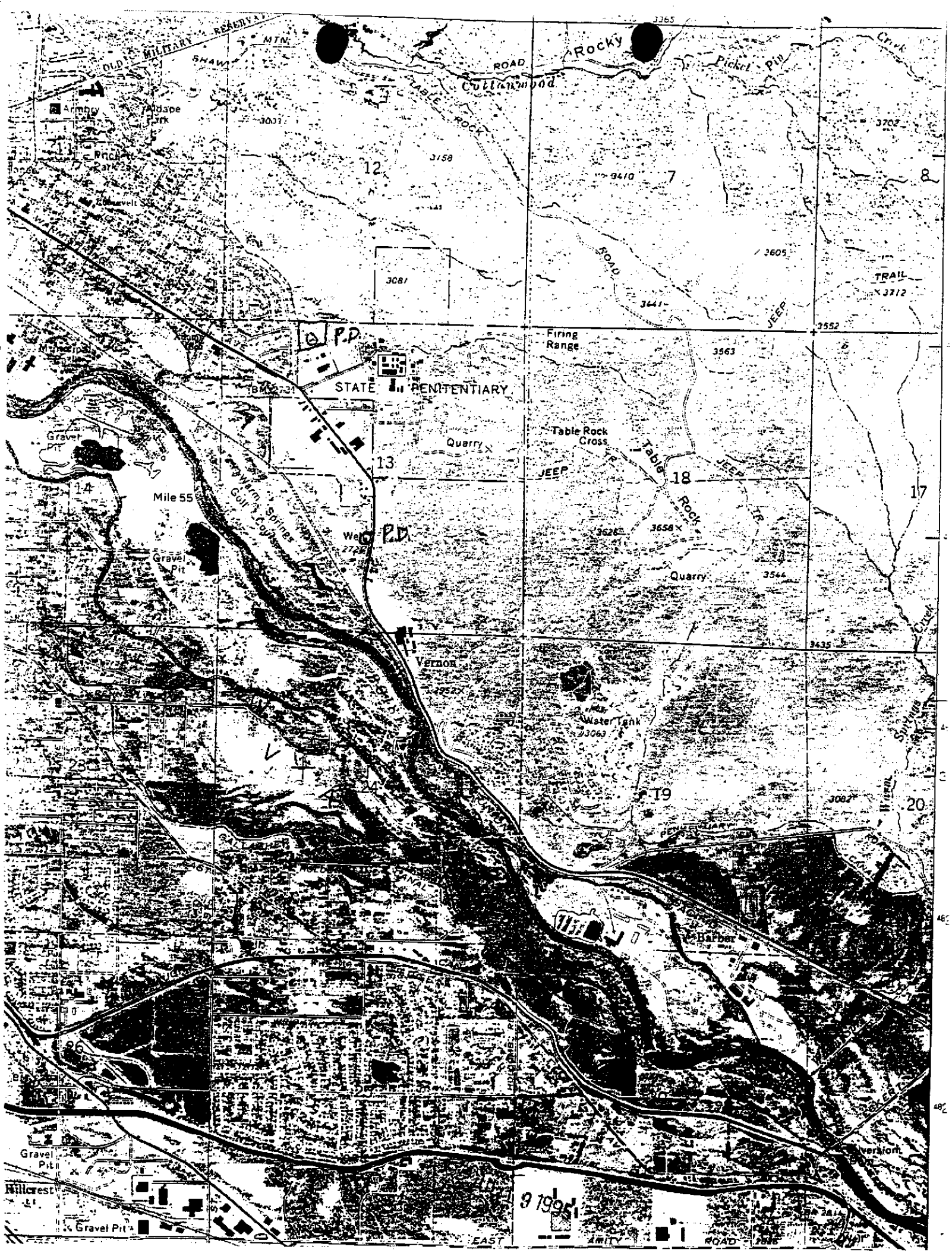
Address _____

Date _____

JUL 19 1995

Last Name City of Boise Ident. Number _____

Copies White-State, Yellow-Claimant


OLD MILITARY RESERVE
SHAW MTN.
ROCKY
Cottonwood
Picket Pin
Creek
ROAD
TABLE ROCK
Army
Indiana Park
Rock Park
Caldwell
3033
3158
12
7
8
9410
3081
3605
ROAD
TRAIL
3712
3441
JEEP
3552
P.D.
Firing Range
3563
STATE PENITENTIARY
Municipal
BM 2731
Gravel Pit
Quarry
Table Rock Cross
TR
Table Rock
JEEP
13
18
17
14
Mile 55
Warm Gulch
Springs
Coyote
Well
2726
P.D.
3626
3658
Gravel Pit
Quarry
3544
3435
Vernon
Creek
2952
Water Tank
3069
28
24
19
20
3082
Barber
86
Gravel Pit
Hillcrest
Gravel Pit
EAST
AMITY
ROAD
9 1995

Form 222
7-87

Page 1 of 6

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant City of Boise, Dept. of Parks Phone (208) 384-4240

Post Office address ~~1104 Royal Blvd~~ Boise, ID 83706

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use
   ☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes To provide additional point of diversion of non-geothermal water

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
63-10022	April 20, 1983	0.37 cfs	Irrigation	April 1 to October 31
				to
				to
				to

2. Total amount of water being transferred 0.37 cubic feet per second and/or 31.5 acre-feet per annum.
3. Source of water Groundwater tributary to _____
4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	NW	13	3N	2E	Ada	
		NE	SW	13	3N	2E	Ada	

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
3N	2E	13					7												7

JUL 19 1995

Total acres 7

PART 1

6. General Information:

a. Description of diversion system Drilled wells, deep-well pumps, buried pipelines, sprinkler system

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes X No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

No change on land irrigated; one additional point of diversion

d. Remarks:

Additional point of diversion will provide non-geothermal water

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____.

_____

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JUL 19 1995

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 63-10022 issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☐ Warranty Deed ☐ Other N.S.

3. Source of water Groundwater tributary to _____

4. Date or priority April 20, 1983

5. Water is used for the following purpose:

   amount 0.37 cfs (cfs/ac-ft) for Irrigation purposes from April 1 to October 31

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 0.37 cubic feet per second and/or 31.5 acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	NW	13	3N	2E	Ada	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
3N	2E	13					7												7

Total acres 7

9. Describe any other water rights used for the same purpose as described above None

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JUL 19 1995

PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

JUL 1 9 1995

Total acres _____

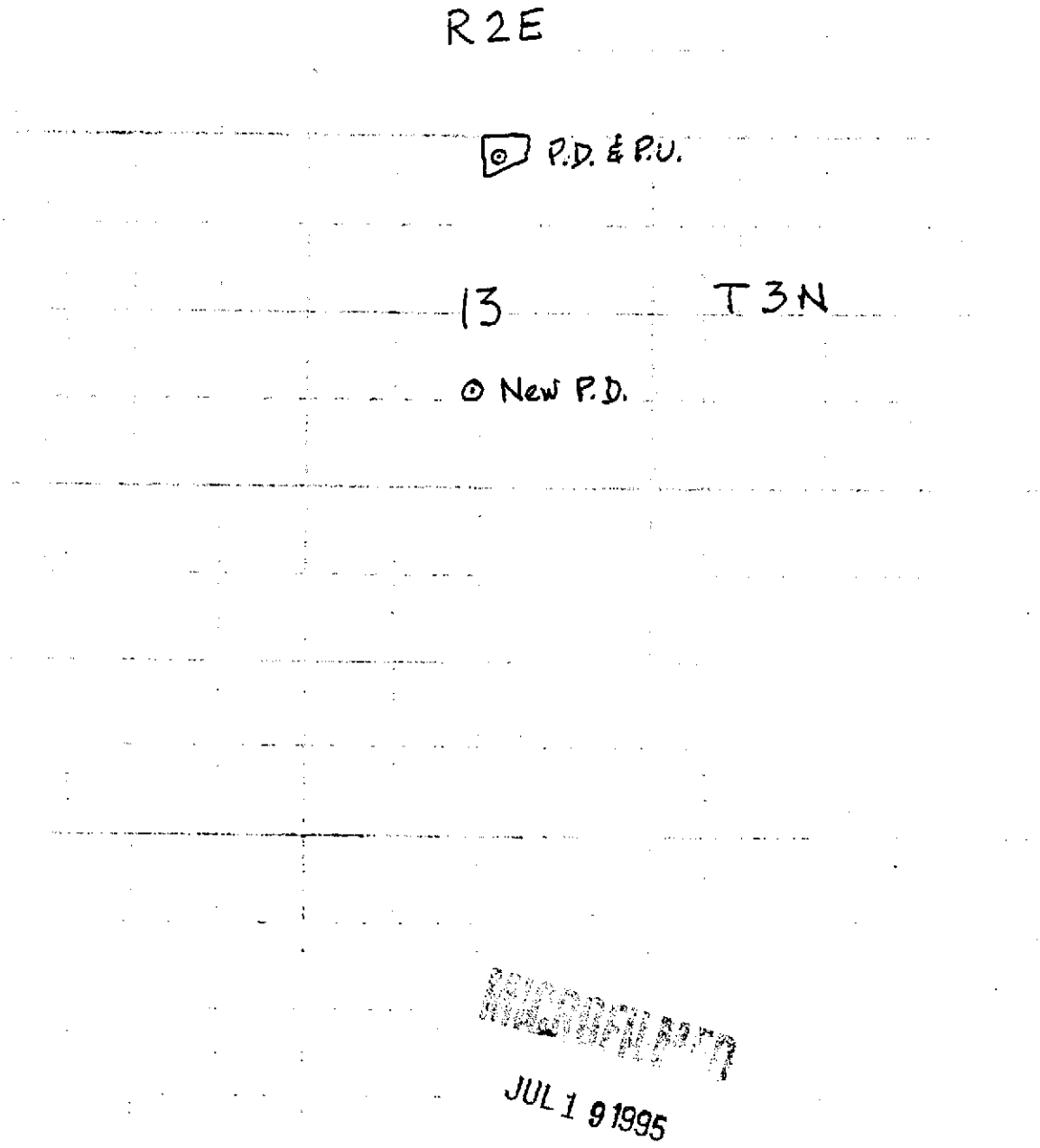
Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



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JUL 19 1995

SCALE: 2 inches equal 1 mile. Draw plan in ink.

Transfer No. _____

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	_____	_____	_____	_____ to _____
	_____	_____	_____	_____ to _____

2. Quantity and quality of return flows and location of discharge:

_____

_____

3. Describe effects on other water uses resulting from the proposed change:

_____

_____

_____

_____

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

X _____
(Signature of Applicant)

Subscribed and sworn to before me this _____ day of _____, 19 ____.

_____
(Notary Public)

My commission expires _____

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by _____ Date _____ Protest filed by _____

Prelim. check by _____ Fee _____ _____

Receipted by _____ Date _____ _____

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

JUL 19 1995

EXHIBIT "I"

IDAHO BOTANICAL GARDEN

April 8, 1994

Mr. John Hill
Executive Director
Idaho State Historical Society
210 Main Street
Boise, ID 83702

Dear John,

Your letter dated March 17, 1994 was referred to me by Sally Jo. We have complied this information pertaining to your request for a report of activities of the Idaho Botanical Garden that have occurred in the past lease year.

The following information is a summary of the Garden's programs and activities that represent what occurred in the 1993 lease year.

EDUCATION PROGRAMS:

♦ In 1993 two new educational programs were developed, bringing our total program offerings to eight. The Garden received funding from the Idaho Dept. of Lands in the amount of $2,500 to develop a tree program, and tours will begin in the spring of 1994. All the Garden's educational programs are endorsed by the Idaho Department of Education and meet the curriculum guidelines for each grade level.

♦ In 1993 the Garden's education docents increased by 49%, and increased student participation by 33%.

♦ Over 8,000 students participated in one or more of the Garden's educational programs in 1993. The Gardens educational programs are attracting students from as far away as Garden Valley, Kuna, Haggerman, Eagle, Emmett, Idaho City and McCall.

♦ The Idaho Botanical Garden became a partner in education with Adams School.

♦ Lectures and Workshops were held in the Spring of 1993.

♦ Three new internship programs where developed with Boise State University, through the Education Department, Horticulture Department and the Biology Department.

♦ Plans, began for the 1995 Regional Meeting for the American Assoc. of Botanical Gardens and Arboreta which will be held at the

JUL 19 1995

Idaho Botanical Garden.

♦ The Garden instructed several sessions for the Community Ed Program.

♦ The Garden was asked to be guest speaker at several Community Service Organizations.

VOLUNTEER PROGRAM: In 1993 the Garden had over 600 volunteers, donating over 5,800 hours. This program has expanded in many exciting ways.

♦ Boise State University students helped the Garden grow and expand it's programs by volunteering their time in 1993. The Construction Management Team spent numerous hours helping prepare for special events. The Horticulture Department spent over 100 hours helping identify plant material, labeling and propagating several species for the spring plant sale.

♦ Several Garden Clubs volunteered in theme Gardens helping with maintenance and planting of materials.

♦ Several clients from the Retired Seniors Program have spent countless hours at the Garden helping answer phones, harvest seed and staff admissions booth.

♦ The Strong Start Volunteer program which was started by the Governor to encourage State employees to volunteer their time to help with education has resulted in several State employees volunteering many hours to the Garden's educational programs.

♦ The Garden had several Eagle Scout projects take place in 1993, such as clearing pathways for our Nature Trails, build benches and mend bridges.

♦ Juvenile Courts have brought several work crews out to the Garden to help these troubled youth gain some work skills, and to give something back to this community.

♦ Honor Society students from local High Schools have taken on special projects at the Garden.

♦ The Garden has become a site for Master Gardeners to earn credits from the Ada County Extension Office to work "hands on" in their field of interest, gain knowledge and network with professionals.

♦ The Private Industry Council through it's summer youth program has used the Garden as an outdoor classroom and at the same time developing employable skills for their youth.

♦ The Garden has become a resource for enhancing work skills in the emotionally and mentally handicapped citizens of this State.

JUL 19 1995

MEMBERSHIP PROGRAM: The Garden's membership program expanded by 55%. In 1993 the Garden had 548 current members. 90% of these members are from Boise, 7% are outside of Boise, but within the State of Idaho, 3% are outside the State of Idaho.

DEVELOPMENT PLANS:

- Design and planting plans where completed for the Idaho Native Plant Garden.

- Plans for a Rogers NK Seed demonstration garden were started.

ADMISSIONS: Admissions to the Garden doubled in 1993. Over 75% of the Garden's visitors are from outside of Boise. In 1993 the Garden had over 30,000 visitors.

PROGRAMS IMPEDED BY ISHS:

So much of the Gardens development, however, was impeded shortly after the Garden's last lease payment.

In March, 1993 the 1950 Administration was vacated by a Idaho State Historical Society tenant and the Idaho Botanical Garden requested possession in accordance with our lease. Our request was denied and the Idaho State Historical Society entered into a new lease of the building over our objection. The Idaho Botanical Garden planned to use the building to establish a botanical library and research center, public meeting facilities and visitor reception center.

In June of 1993 (this is just two months after the Idaho State Historical Society accepted our lease fee) it stated the Garden was in material breach of it's lease. Although the Garden does not believe any breach of it's lease has occurred, we agreed in good faith to attempt to renegotiate the boundaries of the Garden's leasehold, in an attempt to satisfy concerns of the Historical Society. All of the Garden's development plans have had to be put on hold since the proposals that have been exchanged reflect boundary changes which will affect the Garden's overall Master Plan.

The Garden had been the recipient of $153,000 from Fundsy's 1992 community fundraiser for the purpose of restoring the 1907 building as an Education/Visitor Center. The plans, where developed for the renovation by Architect Brian Smith. The renovation was slated to begin June of 1993 and the first phase completed by September 1993. Although this project was unanimously approved by the Idaho State Historical Society Trustees (see ISHS minutes dated July 10, 1992) and $10,000 of the Fundsy money had already been spent on the plans the Idaho State Historical withdrew its permission to go ahead with this project. In May of 1993 the Garden received a letter from you stating that no further work could be done with the 1907 building and it needed to be approved by the Dept. of Public Works. We would have been able to offer year round educational programming for children and adult lectures if

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JUL 19 1995

this project were completed.

Beginning mid 1991 Keith Anderson along with Wayne Meuleman began formulating a joint water project to improve irrigation water for the Garden, Idaho State Historical Society and Boise City. In June, 1993 the Idaho State Historical Society staff approved the concept and agreed to participate. When all documents were completed and submitted for signature, the Idaho State Historical Society refused to sign. (This project would have benefitted the Historical Society). Refusal by the Idaho State Historical Society to permit a additional diversion point for the Garden's irrigation water away from the area subject to the 1988 pumping moratorium imposed by the Department of Water Resources prevented expansion of Garden development area. It is also important to note the Garden has continued to work and cooperate with the Idaho Department of Water Resources with the monitoring ground water levels and withdrawals.

Sincerely,

Marilyn Beck

Marilyn Beck
President
Idaho Botanical Garden

cc: Honorable Governor Cecil Andrus
Virginia Ricketts
IBG Office copy

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9 1995

EXHIBIT "J"

Category 1

SET B

PROJECT APPROVAL F

Project Title: Change Point of Diversion for Water Right at Old Idaho Penitentiary
Institution/Agency: Idaho State Historical Society
Fiscal Year: FY 96
Estimated Total Cost: $ 46,000
Budget Year Request: $ 46,000

The ISHS is in danger of losing a valuable water right unless this project is funded. Currently the water right allows the use of geothermal water for irrigation, a use governed by a temporary permit which must be proven in the summer of 1995 in order for the right to be protected by final licensing. As it stands, the permit has been given two extensions and no further extensions are possible. A recent ruling by the State Department of Water Resources forbids the licensing of water rights using geothermal water, an act which condemned use of this permit beyond the summer of 1995. We must develop an alternate source of cold water on the site in order to change the point of diversion and protect the water right, and we must do so in time for the 1995 inspection.

Based on old well drillers logs, we believe we can protect this right by drilling a new 200' deep well on the site. The project also calls for the installation of a 10hp pump, a 1000 gallon pressure tank in a small pump house, line and trenching.

This project is critically needed at the Old Idaho Penitentiary to both protect the right and provide for an inexpensive source of water. Currently the Old Pen pays over $5,000 for irrigation water in a dry year. Also, the original lease for the Idaho Botanical Garden was written in a way that gave the tenant (the IBG) priority usage over the water right owner, the ISHS. The new, re-negotiated lease returns the primary use of the water right to ISHS and makes the Garden responsible for development of their own water source. Increased development of the site (an abandoned garden was restored this year; interpretation in #2 Yard is planned; maintenance of the grounds around the 1950 Administration Building which is leased to the Department of Agriculture is a newly acquired task) means a greater need for water at the Old Idaho Penitentiary.

(catlsetb.frm)

JUL 19 1995

Project Approval: _

Institution/Agency: Idaho State Historical Society

Funding	
State	$46,000
Federal	$
Other (list)	$
	$
	$

Estimated Budget	
Land Acquisition	$
Construction	$42,000*
A/E Fees	$2,000
Furnishings	$
Contingency (5%)	$2,000

* Includes miscellaneous bidding costs.

(cat1setb.frm)

JUL 19 1995



DIVISION OF PUBLIC WORKS
502 NORTH 4TH STREET
BOISE, IDAHO 83720-6000
(208) 334-3453
FAX 334-4031

DEPARTMENT OF ADMINISTRATION
STATEHOUSE - BOISE, IDAHO 83720

October 11, 1994

Ms. Sally Jo Peters, Executive Director
Idaho Botanical Gardens
2355 E. Old Penitentiary Rd.
Boise, Idaho 83712

Dear Ms. Peters:

Subject: Request for Public Records
Correspondence Received October 11, 1994

As designated custodian for the public records for the Division of Public Works, I am approving your request for information regarding any proposal for funding, including plans that have been submitted for the buildings, and new roofs on the Botanical Garden leasehold for FY96 funding.

This approval is granted under the terms and conditions of the Department of Administration's policies established under the Idaho Public Records Act. A copy of those policies is attached for your information.

Enlcosed are copies of the public records you requested. If you have any questions, please call me at 334-3647.

Sincerely,

Larry V. Osgood, Administrator
Division of Public Works

Enclosure

JUL 19 1995

EXHIBIT "K"

March 7, 1991

STATE OF IDAHO
IDAHO HISTORICAL SOCIETY
210 MAIN STREET
BOISE ID 83702

Gentlemen:

Re: Permit No. 63-9661

The department has reviewed the request for extension of time submitted to this office on February 21, 1991 in connection with the above referenced permit.

The department will hold the request without action during the period of the Boise Front Low Temperature Geothermal Resource Ground Water Management Area's moratorium on development.

If you you have questions concerning this matter, please contact the department.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

rf

JUL 19 1995

Form 204
2/86

RECEIVED
FEB 21 1991
Department of Water Resources

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

For Office Use Only
$15 FEE Receipted by L.J
Date 2/21/91
Receipt # C019621

REQUEST FOR EXTENSION OF TIME

TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF BENEFICIAL USE FOR A WATER RIGHT PERMIT

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time in which to complete development of a water right under the provisions of Section 42-204, Idaho Code.

Permit No. 63-09661

Name(s) of Permit Holder: State of Idaho, Idaho Historical Society

Post Office Address: 210 Main Street, Boise, Idaho 83702

Telephone No. (208)334-2682

Date Proof is Due: March 1, 1991

Describe what work has been completed toward the development of this water right: Use of an existing well, (This must be filled out! If no work has been completed, show "none".)
from which irrigation started in 1965, has been restablished; 60-HP deep well turbine pump installed; 1600 ft. of buried pipeline constructed; 100,000 gallon reservoir reconditioned; a part of the sprinkler system purchased, installed, and operating.

Costing $in excess of $20,000.0

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:
The "Order Establishing a Moratorium" issued by the Director, Idaho Department of Water Resources on June 10, 1988 prevented the permit holder from completing the remainder of the work.

Permit holder(s) request an extension to March 1, 19 96. (1 yr. minimum)

David L. Crowder Director
(Signature)*

FEE: $15.00

*IF OTHER THAN PERMIT HOLDER, POWER OF ATTORNEY MUST BE SUPPLIED.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be

Signed this ____ day of _____, 19____.

JUL 19 1995

138421

December 31, 1990

STATE OF IDAHO
DEPT. OF EDUCATION
IDAHO HISTORICAL SOCIETY
610 N. JULIA DAVIS DR.
BOISE, ID 83702

RE: PERMIT NO. 63-09661 PROOF DUE NOTICE

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before March 1, 1991. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

SINCERELY,

Rita Fleck
Secretary/Records Manager

Enclosures

JUL 19 1995

MEMORANDUM

To: Norman C. Young

From: L. Glen Saxton LGS

RE: RESPONSES TO QUESTIONS OF JOHN BEAL - GRANT AND LOAN REQUEST

Date: January 14, 1993

You probably know more about the=is matter since you have recently met with representative of the city and the Botanical Gardens, howver, I will try to respond to the questions in the order asked.

Western Region is not aware of a new application for permit or a transfer which has been filed by the city of Boise or the Botanical Gardens to use an existing well on the Warm Springs Golf course. This is a little difficult to check without a legal description of the well location. If such a filing is made, is not protested and is otherwise approvable, about 6 to 8 weeks are needed before the department could take final action on an application.

The places of use described in Beal's question could be irrigated with several differnet water rights. It is also possible that a transfer could be filed which would change the point of diversion from the low temp geothermal well in Quarry View park to the golf course well. A transfer filed by the city or by Botanical Gardens, however, could not be change the rights of Boise Water Corp.

The well log of the well on the golf course would need to be reviewed to determine well construction. Bob Fleenor advises that the golf course well is cold water and that he is not sure why someone is not using it. I don't know about connection with the Boise River. The well logs might clarify this matter somewhat.

General comment:

I would guess that the golf course well is hydraulically connected to the Boise River. If so, mitigation of some sort to the river likely would be required before the well could be used.

It also would appear unusual for the Idaho Water Resource Board to act on the described grant and loan request unless the proper transfer(s) have been filed, reviewed and approved by the department.

MICROFILMED

JUL 19 1995

Glen YSS
Please provide a written response.
NCY

MEMORANDUM

To: Norm Young NCY

From: John Beal JB

Date: January 13, 1993

Re: Request for a Idaho Water Resource Board Grant and Loan
City of Boise and Idaho Botanical Gardens

The City of Boise and the Idaho Botanical Gardens have requested a grant and loan from the Water Board to connect the Botanical Gardens, Old Penitentiary, and Quarry View Park to an existing well on the Warm Springs Golf Course. I have discussed the water rights with Neal Oldemeyer from Boise Public Works.

I have several questions concerning the water rights that the Water Board may ask at the January 29 meeting. You should be prepared to respond to the following:

Has the City and Idaho Botanical Gardens filed a water right application or transfer for the new well and if the filing has been made, how long will it take to approve (assuming no protests)?

Since Quarry View and the Penitentiary grounds have been irrigated with Boise Water Corp water, can these uses be approved.

Do we know enough about the proposed well? Is this well in the cold water aquifer, the warm water aquifer, connected to the Boise River?

Active water rights that may pertain to this use and the new filing include 63-10022, 63-09661 and 63-10241. There may be others that I am not aware of.

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JUL 19 1995

March 7, 1991

STATE OF IDAHO
IDAHO HISTORICAL SOCIETY
210 MAIN STREET
BOISE ID 83702

Gentlemen:

Re: Permit No. 63-9661

The department has reviewed the request for extension of time submitted to this office on February 21, 1991 in connection with the above referenced permit.

The department will hold the request without action during the period of the Boise Front Low Temperature Geothermal Resource Ground Water Management Area's moratorium on development.

If you you have questions concerning this matter, please contact the department.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

rf

JUL 19 1995

138421

December 31, 1990

STATE OF IDAHO
DEPT. OF EDUCATION
IDAHO HISTORICAL SOCIETY
610 N. JULIA DAVIS DR.
BOISE, ID 83702

PROOF DUE NOTICE

RE: PERMIT NO. 63-09661

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before March 1, 1991. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

SINCERELY,

Rita Fleck
Secretary/Records Manager

Enclosures

JUL 19 1995

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

MEMORANDUM

TO: Bob Fleenor
FROM: Lotwick Reese LR
SUBJ: Idaho Botanical Gardens

DATE: January 16, 1989

I have reviewed the Idaho Botanical Gardens file and John Beal's memo dated December 27, 1988. The Idaho Botanical Gardens are currently pumping from an old penitentiary irrigation well drilled by the State of Idaho in 1965 to irrigate prison farm lands.

There is no record of the State of Idaho making an application for water right at the time the well was drilled, but irrigation use from the well is presently under two water right permits, 63-9661 for 2.2 cfs (254 acre-feet) and 63-10241 for 0.44 cfs (44.5 acre-feet). Both permits were issued and in effect prior to July 1, 1987 when the new legislation concerning low temperature geothermal resources became effective.

Improvements for diverting water from the well and applying it beneficially to the garden lands for irrigation have been completed, including the installation of a 60 hp pump, approximately 1,600 feet of buried pipeline, a 100,000 gallon reservoir and distribution liner and sprinkler systems.

The use of irrigation water from the well is increasing. Current estimated beneficial use of the water in the 1988 irrigation season was 17.15 acre-feet. In a letter to the Department dated November 18, 1988 the Idaho Botanical Gardens submitted an estimate of the development that they anticipated under their current water right permits, 25 acres with a maximum annual diversion of 100 acre-feet.

Pursuant to Section 42-1805(7), Idaho Code and Rule 7 of Water Appropriation Rules and Regulations, the following restriction was ordered June 15, 1987 in connection with the Boise Front Low Temperature Geothermal Resource Ground Water Management Area:

> Effective with the date of entry of this order, further development or additional use pursuant to undeveloped or partially developed permits is prohibited until the permit holder shows to the satisfaction of the Director that further development or additional use: a) will not increase depletions from the aquifer; b) will not increase pumping lift or decrease pressure to existing prior users; and c) will not reduce temperature to existing users causing systems operating at reasonable efficiency to no longer operate.

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OCT 19 1995

Keith Anderson in his report states that all previous geologic and hydrologic studies in the area have concluded that the Old Penetentiary irrigation well was drilled in a downfaulted block that is isolated from existing producing low-temperature geothermal wells; i.e. Boise Warm Springs Water District, Boise Geothermal Ltd., Capitol Mall, and the Veterans Administration. And although some degree of hydraulic interconnection exists between the Old Penitentiary well and other low-temperature geothermal wells along the Boise front, the interconnection appears to be limited as indicated by water level elevations and water temperature.

The question facing us is whether we should restrict their water use to their current 17 acre-feet usage, or allow them to develop to their anticipated usage of 100 acre-feet.

John Beal has identified three possible options the Idaho Botanical Gardens has if we were to restrict them to the current usage:

1) Rehabilitate the well to draw only cold water.
2) Use Boise Corp. water.
3) Drill a new cold water well.

All of these options would be expensive and the amount of cold water found at this site may not fulfill their needs.

It is my recommendation we inform the adjacent existing producing low-temperature geothermal well owners, i.e. Boise Warm Springs Water District, Boise Geothermal Ltd., Capitol Mall and the Veterans Administration, it is our intention to allow the Botanical Gardens to develop up to but not exceeding the 100 acre-feet. If there are no objections from these parties, we could give approval for further development not exceeding the 100 acre-feet with the stipulation that should an adverse affect on the adjacent geothermal systems be identified at a later date, usage would have to be reduced depending on the severity of the impact.

JUL 19 1995

EBERLE, BERLIN, KADING, TURNBOW & GILLESPIE,
CHARTERED
ATTORNEYS AND COUNSELORS AT LAW
CAPITOL PARK PLAZA
300 NORTH SIXTH STREET
POST OFFICE BOX 1368
BOISE, IDAHO 83701

TELEPHONE
(208) 344-8535

JAMES L. BERLIN
OF COUNSEL

T. H. EBERLE (1922-1977)

R. B. KADING, JR.
R. M. TURNBOW
JAMES R. GILLESPIE
WILLIAM J. MCKLVEEN
DALE G. HIGER
WARREN E. JONES
MARK S. GESTON
B. NEWAL SOUYRES, JR.
THOMAS R. LINVILLE
RICHARD A. RILEY
JAMES J. DAVIS
JOSEPH H. UBERUAGA II
T. A. BANDUCCI
JOHN MICHAEL BRASSEY
ROBERT L. BERLIN
SCOTT D. HESS
BRADLEY G. ANDREWS
KATHY PERKINS BROOKS
WILLIAM A. FUHRMAN
RICHARD K. LIERZ
NEIL D. MCFEELEY
STEPHEN A. BRADBURY

November 18, 1988

Norman C. Young
Administrator
Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720

Subject: Boise Front Groundwater Management Area
Permits: 63-9661 and 63-10241

Dear Mr. Young:

As President of the Idaho Botanical Garden, and as requested by you in the recent conference, I am enclosing information on our anticipated beneficial use of irrigation water under the above permits. Also enclosed is a summary of information and data pertinent to the irrigation well and system. Extra copies of these two enclosures are being furnished with the request that they be placed in each of the above permit files.

The following paragraphs may help to acquaint you with our organization, our progress to date, and our plans and goals.

In 1988, the Idaho Botanical Garden served 13,000 of Idaho's citizens through its programs and activities. Attendance will reach 67,000 in 1989. As the only botanical garden in our state and a unique educations resource, the Garden's programs are widely acclaimed. To quote Governor Cecil Andrus: "The Idaho Botanical Garden is broadening the horizons for Idaho students in a very meaningful way and is a valuable esthetic and cultural addition to the state. You're to be commended for the good work you're doing."

The Garden's "outdoor classroom" provided an opportunity for 3,118 elementary school students to participate in outstanding science education programs. An additional 1,000 students in secondary schools, community youth groups, and Boise State University benefited this year. Special events, adult education offerings, and theme and display gardens attracted

NOV 19 1988

7,000 more citizens. Education program offerings will double each and every year.

On December 7, 1988, Mr. and Mrs. J.R. Simplot will kick-off a $500,000 fund-raising campaign for the Garden with an event in their home. Business and community leaders will be helping the Garden raise funds to create the exciting, 4-acre Centennial Heritage Gardens, complete its Plaza Gardens complex, and insure continuation and expansion of education programs for the public through 1990. $117,000 in pledges have been received already.

The Idaho Botanical Garden's purpose is threefold: botanical display, botanical education, and botanical research. Its goal is to serve populations throughout the State of Idaho as well as visitors from elsewhere. Its value as a tourist attraction is evidenced by the fact that the Boise Tour Train will re-route through the Garden beginning next year.

In our view, and in the view of many others, it is imperative that this one-of-a-kind facility continue to grow and flourish.

Please let me know if you have any questions or need additional information.

Very truly yours,

Dale G. Higer, President
Idaho Botanical Garden

DGH:js
Enclosures
cc: Terry Uhling, w/encl.
Jeff Fereday, w/encl.
J.L. Terteling, w/encl.

JUL 19 1995

IDAHO BOTANICAL GARDEN
2355 Old Penitentiary Road
P.O. Box 2140
Boise, Idaho 83702

November 18, 1988

Mr. Norman C. Young
Administrator
Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720

Subject: Permits 63-9661 and 63-10241

Dear Mr. Young:

At the October 28, 1988 pre-hearing conference you requested that the Idaho Botanical Garden (IBG) submit an estimate of the development that would occur under the above permits.

At this time we estimate that, under these permits, IBG will irrigate a maximum area of 25 acres with a maximum annual diversion of 100 acre-feet.

Very truly yours,

Dale G. Higer, President

DGH:js

RECEIVED
JUL 19 1995

Permits: 63-9661
63-10241

SUMMARY OF INFORMATION

Idaho Botanical Garden
(Old Penitentiary Irrigation Well)

Background

The Old Penitentiary irrigation well was drilled by the State of Idaho in the summer of 1965 to irrigate prison farm lands. This irrigation use continued until about 1973 or 1974 when the penitentiary was moved to the present desert site south of the Boise Air Terminal. The irrigated area, from aerial photographs, was at least 20 acres.

In the early 1980's, Dr. Christopher Davidson and a small group of interested citizens established the Idaho Botanical Garden (IBG). For the garden site, IBG leased approximately 42 acres at the old penitentiary from the State of Idaho (under the administration of the Idaho Historical Society).

The original irrigation well was re-equipped with a deep-well turbine pump and electrical power brought back to the well site. The well was then once more used for irrigation in 1984 to water the first areas of the garden. Irrigation use has continued and increased each year since.

Water Rights

Although the fact that irrigation of the prison farm land (starting in 1965) is well established, there is no record of the State of Idaho making an application for a water right at the time the well was drilled.

Irrigation use from the well is presently covered by two water right permits issued by the Idaho Department of Water Resources:

63-9661 State of Idaho, Idaho Historical Society

JUL 19 1995

Amount: 2.20 cfs

Purpose: Irrigation

Place of Use: Section 13, T.3N., R.2E.

NE¼NW¼ - 35 acres

NW¼NE¼ - 35 acres

SW¼NE¼ - 40 acres

Total - 110 acres

Priority Date: 1/16/81

Proof Due: 3/1/91

63-10241 State of Idaho, Idaho Historical Society

Amount: 0.44 cfs

Purpose: Irrigation and Domestic

Place of Use: Section 13, T.3N., R.2E.

NE¼NE¼ - 10 acres

SE¼NE¼ - 10 acres

Total - 20 acres

Priority Date: 5/30/84

Proof due: 1/1/90

The primary works have already been completed to divert water from the well and apply it beneficially to the garden lands for irrigation. These works include a 60 hp pump (approximately 600 gpm), about 1,600 feet of buried transmission pipeline, a 100,000-gallon surface reservoir, and buried distribution pipelines and sprinkler systems. Additional distribution and sprinklers will be added during the normal IBG expansion schedule. Both permits were issued and in effect prior to July 1, 1987 when the new legislation regarding low-temperature geothermal resources became effective.

The only other water rights to nearby warm-water wells are for the Boise Warm Springs Water District wells, constructed late in the last century, and an application (63-10515) for the "Kanta well" with a junior priority date of July 10, 1987.

Use of Water

The use of irrigation water from the IBG well is increasing, within the permitted amounts, as the garden area is developed. Estimated beneficial use of irrigation water has been as follows:

JUL 19 1995

1985 - 2.94 ac-ft
1986 - 4.79 ac-ft
1987 - 11.00 ac-ft
1988 - 17.15 ac-ft (through Nov. 6)

By comparison, the combined use by Boise Warm Springs Water District and Boise Geothermal Ltd., in their 1985-86 season, was about 1,350 acre-feet.

Other users of low-temperature geothermal water beneficially for irrigation may include:

State of Idaho (capitol building grounds)
Quail Hollow golf course
Terteling property
Floral nurseries on Hill Road
Boise Water Corporation

Relocation To Other Wells

All previous geologic and hydrologic studies in the area have concluded tht the Old Penitentiary irrigation well was drilled in a downfaulted block that is isolated from existing producing low-temperature geothermal wells (Boise Warm Springs Water District, Boise Geothermal Ltd., Capitol Mall, and Veterans Administration). The Kanta well, about 675 feet to the north, was drilled within the same downfaulted block but to a greater depth, with warmer water and a higher piezometric surface (water level elevation); the Kanta well has never been equipped with a permanent pump and no permit has been issued as yet.

Although some degree of hydraulic interconnection probably exists between the Old Penitentiary irrigation well and other low-temperature geothermal wells along the Boise Front, the interconnection appears to be limited as indicated by water-level elevations and water temperatures.

Attached Materials

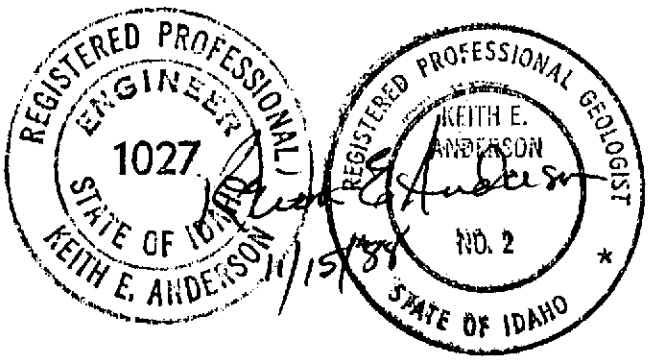
- Irrigation system data
- Water-level records

RECEIVED
JUL 19 1995

- o Energy use
- o Estimated water use
- o Other geothermal water production
- o Water-level interference data
- o Hydrograph during Kanta well test
- o Pump performance curve

Prepared by:

Keith E. Anderson, P.E., P.G.
Boise, Idaho



RECEIVED
JUL 19 1995

IDAHO BOTANICAL GARDEN
(Old Penitentiary Irrigation Well)

SYSTEM DATA

Well

Date Drilled:	July 1965
Contractor:	Billie Lukehart
Total Depth:	872 ft
Casing:	16-inch, 0-117 ft
	12-inch, 0-872 ft (perforated below 220 ft)
Static Water Level:	73 ft (1965)
Pumping Water Level:	223 ft at 630 gpm (1965)
	135 ft at 200 gpm (1965)
Temperature:	Reported 139°F (1965)
Ground Elevation:	Approx. 2,777 ft
Location:	SW¼, NE¼, Sec. 13, T.3N., R.2E.

Pump

Layne, deep-well vertical turbine

Column Length:	260 ft
Bowl Assembly:	7 stage - RKLC (12-inch)
	Trim to 50 ft/stage at 630 gpm
Motor:	60 hp, vertical hollow shaft

Electric Meter

GE VM-66S 480-volt
Serial No. 50-687-750
K_h = 57.6

Pipeline

Approx. 1,600 ft of 6-inch buried PVC

Reservoir

Approx. 29 x 68 ft, 6-6½ ft depth
Maximum contents approx. 100,000 gallons
Water surface elevation approx. 2,875 ft

Distribution

Buried PVC pipes to convey irrigation water from reservoir to sprinklers in garden areas.

JUL 19 1995

IDAHO BOTANICAL GARDEN
(Old Penitentiary Irrigation Well)

WATER-LEVEL RECORDS

Date	Depth to Water (ft)*	Remarks
July 1965	73.5	Original level reported when drilled
1/5/83	50.10	
3/15/83	49.71	
4/30/88	76.81	
6/27/88	74.28	
8/3/88	94.23	Pumped recently?
9/14/88	150.+	Pumping
10/1/88	73.05	
10/29/88	81.69	
11/6/88	72.85	

*Depths to water in feet below measuring point (hole in pump base) which is 0.5 ft above land surface.

JUL 19 1995

IDAHO BOTANICAL GARDEN
(Old Penitentiary Irrigation Well)

ENERGY USE

Period	kwhr
1985	
2/26 - 3/26	35
6/24 - 7/24	208
7/24 - 8/22	342
8/22 - 9/22	529
9/22 - 10/23	267
1985 Season	**1,381**
1986	
4/24 - 5/23	416
5/23 - 6/24	375
6/24 - 7/24	334
7/24 - 8/22	449
8/22 - 9/23	490
9/23 - 10/23	186
1986 Season	**2,250**

Period	kwhr
1987	
4/2 - 4/24	281
4/24 - 5/26	443
5/26 - 6/24	852
6/24 - 7/24	890
7/24 - 8/25	869
8/25 - 9/24	762
9/24 - 10/23	819
10/23 - 11/24	255
1987 Season	**5,171**
1988	
4/1 - 4/25	259
4/25 - 5/24	852
5/24 - 6/23	1,230
6/23 - 7/25	1,572
7/25 - 8/24	1,291
8/24 - 9/23	1,516
9/23 - 10/25	1,330
1988 (to 11/6)	**8,060**

JUL 19 1988

IDAHO BOTANICAL GARDEN
(Old Penitentiary Irrigation Well)

ESTIMATED WATER USE

1988 (Through Nov. 6)	17.15 A.F.
1987	11.00 A.F.
1986	4.79 A.F.
1985	2.94 A.F.

(One A.F. (Acre-Foot) = 325,829 gallons)

Above estimates from observations made September 14, 1988. At that time the irrigation pump was discharging approximately 512 gallons a minute (coordinate measurements) and the input to the pump motor was 44.31 kw (watt-hour meter measurement). These data indicate that pumping one acre-foot requires 470 kilowatt-hours.

JUL 19 1995

ANNUAL PRODUCTION OF GEOTHERMAL WATER
(Acre-Feet)

Year	Boise Warm Springs Water District	Boise Geothermal Limited (City of Boise)
1978-79	922.5	—
1979-80	935.8	—
1980-81	725.7	—
1981-82	601.5	—
1982-83	864.7	—
1983-84	858.7	511.6
1984-85	696.5	372.5
1985-86	797.1	542.7

1 Acre-Foot = 325,829 gallons
1 Million Gallons = 3.07 Acre-Feet

JUL 19 1995

IDAHO BOTANICAL GARDEN
(Old Penitentiary Irrigation Well)

WATER-LEVEL INTERFERENCE DATA

1. Use of the Old Penitentiary irrigation well from about 1965- 1973, to irrigate approximately 20 acres, reportedly did not adversely affect water levels (or pressures) at the Boise Warm Springs Water District wells located about one-half mile to the north.

2. Continued large annual withdrawals of water from the Boise Warm Springs Water District (BWSWD) wells, for decades, has apparently had no significant affect on water levels at the Old Penitentiary irrigation well:

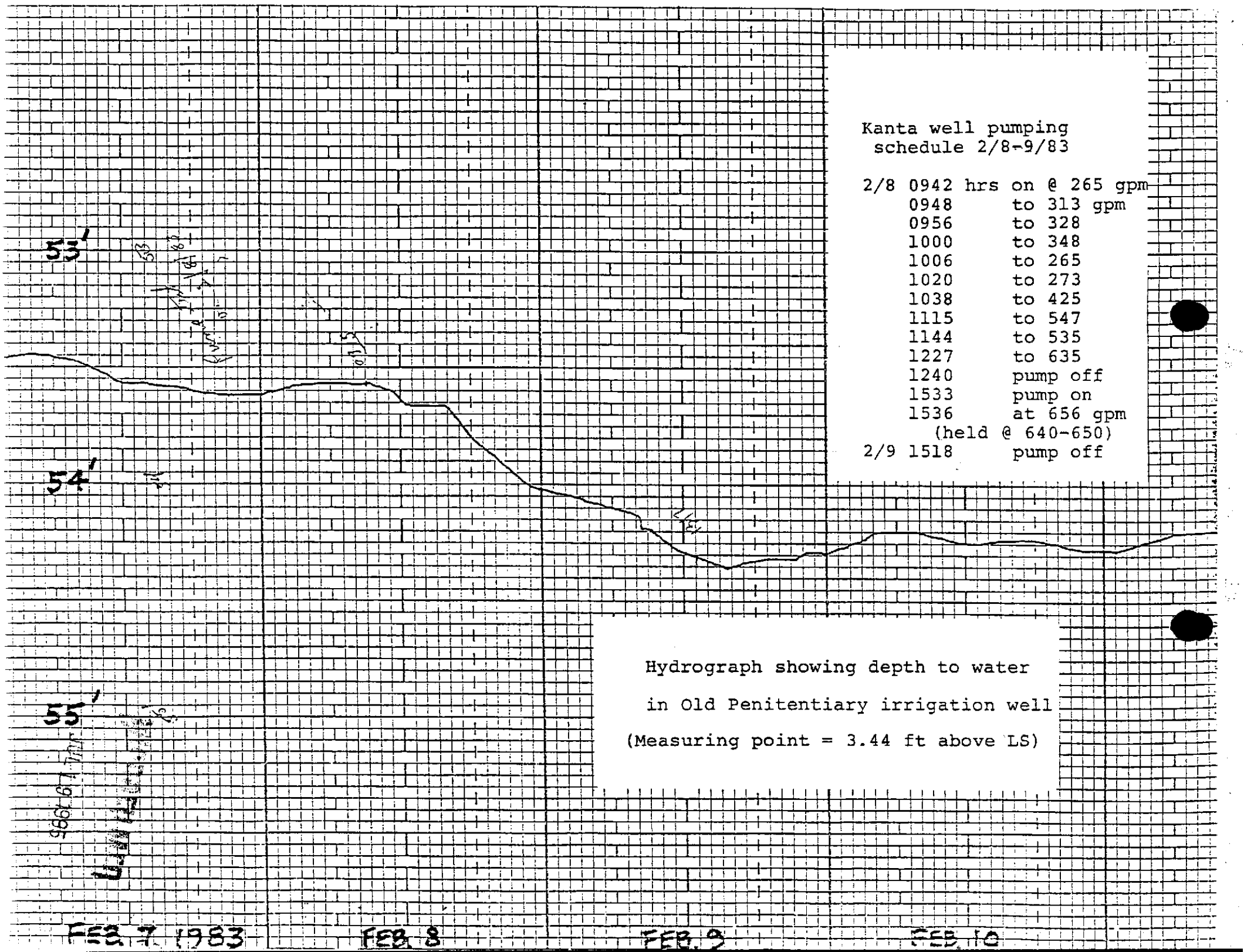
July 1965	73.5 ft (when drilled)
April 1988	76.8 ft
October 1988	73.1 ft
November 1988	72.9 ft

3. A report on tests in 1979, on the BWSWD production wells, "indicated a boundary within the aquifer system toward the southeast, between the wells and the State well east of the Old Penitentiary."

4. The Idaho Department of Water Resources maintained a water-level recorder on the Old Penitentiary irrigation well in the late 1970's. It was reported that pumping of the two BWSWD wells apparently did not affect the water level in the Old Penitentiary well.

5. A water-level recorder was maintained on the Old Penitentiary irrigation well during a pumping test on the Kanta well in February 1983 (see hydrograph attached). The Kanta well is approximately 675 feet to the north. Withdrawal of about 3 acre-feet from the Kanta well at a rate of about 650 gpm resulted in less than a foot of water-level decline in the irrigation well.

ATTACHMENT
JUL 19 1995



Kanta well pumping
schedule 2/8-9/83

2/8	0942 hrs	on @ 265 gpm
	0948	to 313 gpm
	0956	to 328
	1000	to 348
	1006	to 265
	1020	to 273
	1038	to 425
	1115	to 547
	1144	to 535
	1227	to 635
	1240	pump off
	1533	pump on
	1536	at 656 gpm
		(held @ 640-650)
2/9	1518	pump off

Hydrograph showing depth to water
in Old Penitentiary irrigation well
(Measuring point = 3.44 ft above LS)

CURVE NO. PB 1819

CHANGE EFFICIENCY AS FOLLOWS	NUMBER OF POINTS	FOR NUMBER OF STAGES
LOWER	4	1
LOWER	2	2
LOWER	1	3
AS IS	0	4

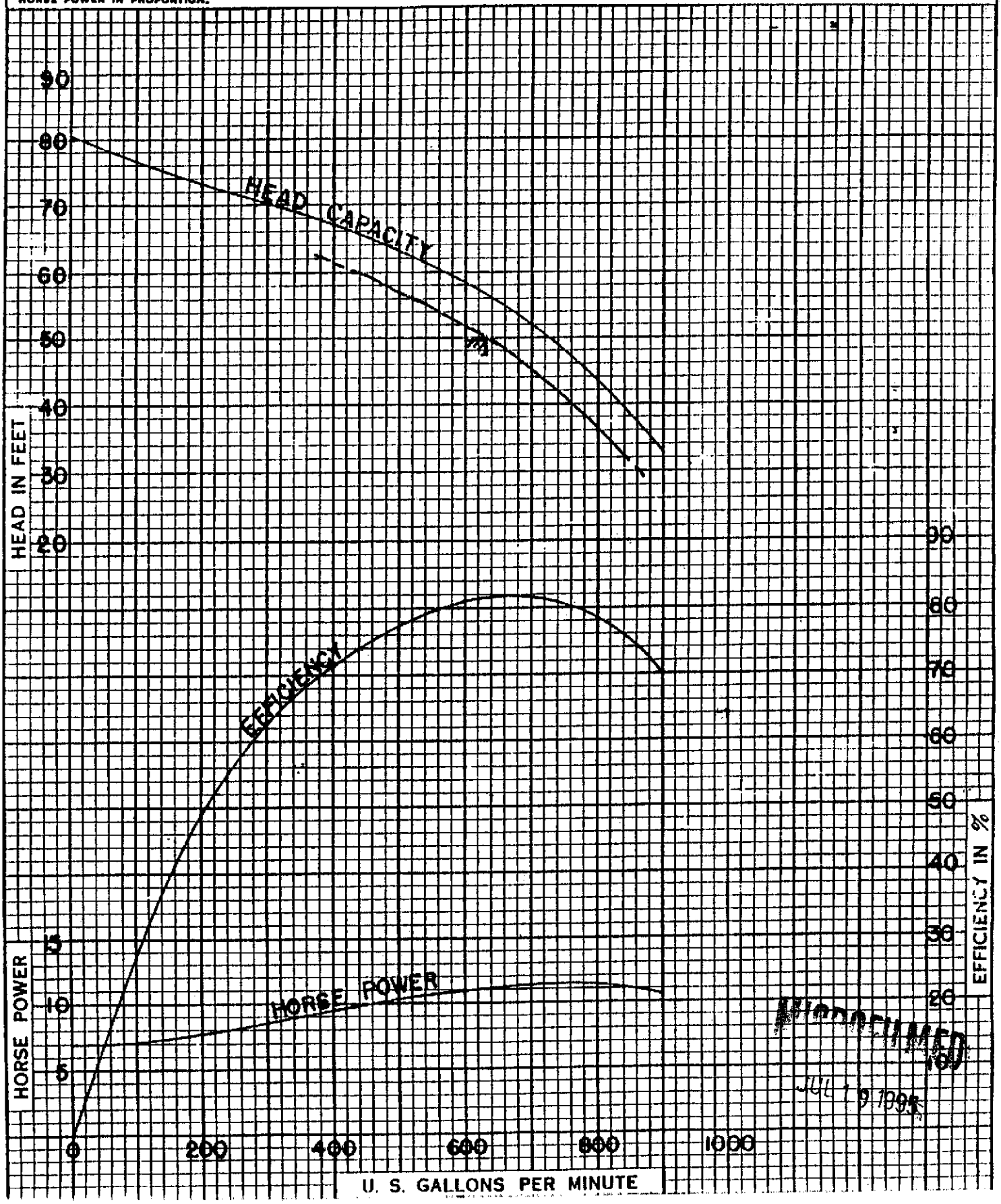
NOTE: ANY CHANGE IN EFFICIENCY CHANGES EITHER THE HEAD OR HORSE POWER IN PROPORTION.



LAYNE & BOWLER, INC.
Memphis, Tenn.

12" RKLC
1750 RPM

SINGLE STAGE LABORATORY
HEAD & HORSE POWER
THRUST "K" = 9.0



Form 204-p
6/82

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

COMMENCEMENT OF WORKS

Permit No. 63-9661

Name(s) of Permit Holder(s): State of Idaho/Historical Society

Post Office Address: 610 No. Julia Davis Drive

Boise, Idaho 83702 Tel. No. (208) 334-2844

☒ I hereby certify that construction of diversion works for the above referenced permit began on Jan. 5, 1983 (date). I understand that I must continue to develop the water system with due diligence to maintain a valid permit.

☐ I hereby certify that construction of diverting works on the above referenced project has not yet begun due to the following reason beyond my control*:

JUL 10 1995

*Note: A financing difficulty is not an acceptable reason.

6/24/83
Date

Signature of Permit Holder

PLACE
STAMP
HERE



RECEIVED
JUN 29 1995

IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

MICROFILMED
JUL 19 1995

May 21 1986

Idaho Historical Society
610 N. Julia Davis Dr.
Boise, ID 83702

Gentlemen:

Re: Permit No. 63-9861

Enclosed is a copy of the approved request for extension of time. The time within which to submit proof of beneficial use is extended to March 1, 1991.

If you have any questions concerning your water right, please feel free to contact the department.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosure

MICROFILMED

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

EXTENSION OF TIME

May 9, 1986

State of Idaho, Idaho Historical Society
610 N. Julia Davis Dr.
Boise, ID 83702

PERMIT NO. **63-9661**

We are in receipt of the **$15** extension fee for Extension(s) of Time to provide additional time in which to submit proof of beneficial use on a water right permit.

Your request for extension(s) of time is being reviewed by staff. You will be informed of our decision when review has been completed.

Enclosed is our receipt No. **00891 Inter-Agency Billing.**

Roberta Garrett
Records Supervisor

Enclosure

MICROFILMED

FORM DA—18 Rev. 7-1-77
WHITE - State Auditor
GREEN - Paying Agency
YELLOW - Billing Agency
PINK - Retain in Paying Agency
GOLDENROD - Retain in Billing Agency

State of Idaho
Office of State Auditor
INTER—AGENCY BILL

AUDITOR USE

Document No.	
Pre Audit	Date

FOR AGENCY USE #00891 DRI

861032	
Delivery Date	Billing Date 4-24-86
Agency Code 19-30-02	

TO: (Paying Agency)

Idaho HIstorical Society

FROM: (Billing Agency)

Water Resources

INSTRUCTIONS:

1. BILLING AGENCY: Prepare 5 copies of DA-18. Complete sections A and B and sign. Detach goldenrod copies and forward rest of form to receiving agency. Yellow copy will be returned to you after this transaction has been processed.
2. PAYING AGENCY: Upon receipt of this form, complete section C. Sign, detach pink copy for your files and forward remaining copies to office of State Auditor. Green copy will be returned to you after form has been processed.
3. NOTE: Inter-agency bills may be used only for charges of materials or services from one agency to another. This form may not be used for intra-agency transfers of adjustment.

A. THIS SECTION CONTAINS THE NAME, PRICE, AND DESCRIPTION OF MATERIALS OR SERVICES SUPPLIED.

Description	Unit	Quantity	Unit Price	Amount
permit fee for application renewal for water rights. 5 year extenstion - Permit #639661				15 00
				15 00

B. THIS SECTION PROVIDES FOR AN INTER-AGENCY CREDIT TO THE BILLING AGENCY FOR THOSE ITEMS SHOWN ABOVE.

Line	Program			Acct.	Recpt. Class		Amount	For Agency Use
1	09	20	999	1238	63	90	15.00	

C. THIS SECTION CHARGES THE AMOUNT SHOWN IN SECTION A TO THE PROPER ACCOUNTS INDICATED BELOW.

☐ PARTIAL ☐ FINAL — Encumbrance Reference Number:

Agency Code	Line	Program			Acct.	Exp. Class	% of Total	Amount	For Agency Use
12-65-00	1.	04	--	---	1101	8190		15.00	Old Pen
						TOTAL	100%=	15.00	

MICROFILMED

I hereby certify that the items listed above were furnished to the state agency indicated and that the amounts billed are proper charges:

Signed 05-05-86 *(Authorized Agent of Billing Agency)*

Signed 4-24-86 *(Authorized Agent of Paying Agency)*

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL
DECEMBER 31, 1985

138648

STATE OF IDAHO
IDAHO HISTORICAL SOCIETY
610 N. JULIA DAVIS DR.
BOISE, ID 83702

PROOF DUE NOTICE

RE: PERMIT NO. 63-9661

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF THE ABOVE REFERENCED WATER PERMIT WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE MARCH 1, 1986. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST.) ENCLOSED IS A FORM WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU OR A PREVIOUS OWNER OF THIS PERMIT HAVE NOT RECEIVED A PRIOR EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME IF THE DELAY IS FOR REASONABLE CAUSE AS PROVIDED IN SECTION 42-204, IDAHO CODE. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION WHICH MIGHT BRING TITLE TO THE WATER IN QUESTION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER A COMPLETED PROOF OF BENEFICIAL USE FORM OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE DESCRIBED PROOF DUE DATE. IF NEITHER IS RECEIVED, THE DEPARTMENT WILL SEND YOU A LAPSE NOTICE. WITHIN SIXTY (60) DAYS OF THE MAILING OF THE LAPSE NOTICE, THE PERMIT WILL NO LONGER BE OF ANY FORCE NOR EFFECT.

SINCERELY,

RITA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES

MICROFILMED

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

July 13, 1983

Kathleen J. Dodson
Idaho State Historical Society
610 N. Julia Davis Drive
Boise, ID 83702

Dear Ms. Dodson:

In response to your letter of inquiry dated June 24, 1983 relative to a well on the Old Penitentiary property, I have checked Department records and with Department staff about the agreement you referred to for financial assistance in the re-installation of a pump in the well. In talking with Department staff who in approximately 1978 conducted some depth to water and other measurements, I have found no recollection or evidence of any agreement to financially assist in pump re-installation at the site.

The attachments which you submitted with your letter of June 24, 1983 will be placed in the water right file as evidence to show that work is underway to develop a water right under the terms and conditions of permit 63-9661.

Since the Department has no evidence to show that an agreement was made, the Department does not plan to cost share in the pump installation. The Department will, of course, reconsider its position if there is reasonable evidence showing the existence of an agreement.

Please feel free to contact me (phone 334-4440) if you have additional questions or find an agreement.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON, Chief
Operations Bureau

LGS:ldt

MICROFILMED

IDAHO STATE HISTORICAL SOCIETY
610 NORTH JULIA DAVIS DRIVE BOISE, 83702

RECEIVED
JUN 29 1983

June 24, 1983

Mr. David Tuthill, Jr.
Supervisor, Water Allocation Section
Department of Water Resources
450 W. State Street
Boise, Idaho 83720

Dear Dave:

Please accept our expenditures for the repairs made to the pump head in order to reinstall it on the well as appropriate construction effort in our attempt to divert the water for our permit #63-9661.

The reactivation of this well is a joint effort involving three state agencies. Attached you will find copies of our expenditure voucher as documentation of our portion of the payment made for the pump overhaul.

Several years ago, the Historical Society worked with the Department of Water Resources when the pump head was pulled. It was the understanding of the Historical Society that the Department of Water Resources would cover the expenses involved in having the pump head pulled and later reinstalled.

This agreement was made between Mr. Fred Walters, administrator of the Old Penitentiary property at the time, and the Department of Water Resources, at the request of Water Resources. Your department wanted to run some tests on the well and since the Historical Society was not using the well at the time, agreed to let Water Resources pull the pump, do the testing, and reinstall the pump head, as long as it would be of no expense to our agency. Mr. Walters and Mr. Charles Hirsch, maintenance foreman at the time, still live in Boise and both remember the agreement very clearly.

We have always had every intention of using that well, but have been delayed due to shortages of funds. We are at the stage where we need to do some irrigation, along with the Department of Health and Welfare and the Department of Agriculture, and would like to have the pump reinstalled. We have received an estimate of $1460 from Mr. Webb at Layne of Idaho, Inc. to have the pump head reinstalled.

Would the Department of Resources bear the expenditure of reinstalling the pump head so we can appropriate this water?

Sincerely,

Kathleen J. Dodson
Administrator, Old Penitentiary

cc: Mr. A. Kenneth Dunn
Mr. Arthur Hart

MICROFILMED

FORM DA-8 Rev. 7-1-77
WHITE — State Auditor
BLUE — Purchasing Copy
YELLOW — Remittance Advice
PINK — State Auditor then Agency
GOLDENROD — Agency Copy

EXPENDITURE VOUCHER

STATE OF IDAHO
Office of State Auditor

AUDITOR USE

Document No.	
Pre-Audit	Date
Warrant No.	

AGENCY USE

SHDRAI 830737 1101
Date 1-5-88
Code 12.65.00

AGENCY NAME: IDAHO HISTORICAL SOCIETY

CHECK ONE:

(X) MISCELLANEOUS EXPENDITURE
( ) STATE CONTRACT

PAY TO: Layne of Idaho, Inc.
P O Box 1005
Nampa, ID 83651

( ) PURCHASE ORDER
( ) MISCELLANEOUS ENCUMBRANCE REQUISITION

Encumbrance Reference No.

PAYMENT: ( ) PARTIAL ( ) FINAL

LINE No.	PROGRAM Maj	PROGRAM Min	PROGRAM Ele	ACCT.	CLASS Maj	CLASS Min	DESCRIPTION (Include Quantity)	COMPLETE ONE %	COMPLETE ONE LINE AMOUNT	AGENCY USE
1.	04	--	---	1101	8695		Inv. #2489 11-30-87 Old Penitentiary share of repair ~~machinery~~. THE BALANCE OF THIS INVOICE WILL BE PAID BY HEALTH & WELFARE AND AGRICULTURE AS AGREED.		322.33	
							OLD FILE			
								TOTAL	100%=	322.33

NOTE: Final payment must be accompanied by a receiving copy

MICROFILMED

TO STATE AUDITOR

Request is hereby made that a warrant be authorized and drawn in payment of the item or items described above. I hereby certify that the items described were ordered by proper authority; that they are necessary in the public service, that the items have been received and accounted for, and that the account as stated is correct and just.

1-5-88
Date

Head of Agency or Institution

AUDITOR'S CERTIFICATE

I hereby certify that the above account is in proper form; that totals carried hereon are correct; that receipts when required by law or regulation of the State Board of Examiners covering items for which reimbursement is asked are submitted herewith; and that there are funds in the state treasury and balances in appropriation accounts out of which the same may be lawfully paid.

State Auditor

LAYNE OF IDAHO, INC.

P.O. BOX 1005, 118 McCLURE AVENUE
NAMPA, IDAHO 83651
(208) 466-7376

INVOICE NO. [illegible]

SOLD TO [illegible]
[illegible] Kelly Tucker
220 COLE REK ROAD
BOISE, IDAHO 83702

DATE Nov. [illegible], 19[illegible]

REMARKS

QTY.	NUMBER	DESCRIPTION	
		[illegible] X	
		[illegible]	

Ok to pay #32233
Balance will be paid by HEWE Ag
as agreed

I certify that the property which I have here purchased will be used by me for the following purpose.
Directly and primarily in the process of producing tangible personal property by mining, manufacturing, processing of farming.
To repair the equipment or machinery described below which is being directly and primarily used in the process of producing tangible personal property and would be exempt from application of sales tax were it being purchased.

Date _____ Signature _____

MICROFILMED
POOR QUALITY ORIGINAL

Please Date, Sign and Return this copy with your Payment. 11/01/04/9605

if there are problems, call Kathy Dodson x2844 d State Pen

Form No. 202a
3/79

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY: GLS APPLICATION NUMBER: 63-9661 Historical Society

CHECK:

- ☑ Source.
- ☑ Point of diversion.
- ☑ County.
- ☑ Quantity of water and period of use.
- ☑ Description of diverting works.
- ☑ Time required for beneficial use of water.
- ☑ Place of use or acres irrigated.
- ☑ Map.
- ☑ Signature.
- ☑ Fee.

Field check by: _____
Date: _____
Comments: It looks as though the acreage may be a bit high, they will have to sprinkle the steep hillside to the northand east. Maybe they will do it.

- ☐ Yes ☑ No Field check required.
- ☐ Yes ☑ No Critical groundwater area.
- ☐ Yes ☑ No Request dam safety information. Sent by: _____ Date: _____
- ☑ Yes ☐ No* In form to receipt.

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

SEND COPIES TO:

- ☐ Idaho State Health Department. Copies sent by: _____ Date: _____
- ☐ Idaho Fish and Game Department.
- ☐ Idaho Department of Lands.
- ☐ U.S. Bureau of Land Management.
- ☐ U.S. Forest Service.
- ☐ Other _____

PROCESSING:

- ☐ Yes ☐ No Platted by: _____ Map No. _____
- ☐ Yes ☑ No Other rights on same place of use. None Found
- ☑ Yes ☐ No* In form for advertising.
  Final date for protests: 2-16-81 ✓
- ☐ Yes ☑ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☑ Affidavit of publication received. Date: 2/6/81 ✓
- ☑ Application published correctly. If not, record action taken: _____
- ☑ Fee amount, receipt date & number, recorded on application.
- ☑ Publication dates and paper, recorded on application.
- ☑ Protests, dates, withdrawal, etc., recorded on application.
- ☑ Recommendation & initial, recorded on application.
- ☐ Yes ☑ No Measuring device required.
- ☑ Yes ☐ No Access port required.
- ☐ Yes ☑ No Will water be delivered by watermaster? If yes, what district? _____

✓ 1/16/81 Date of priority recommended.
Special conditions of approval or cover letter. I.P. GW letter

By: DBS Date: 2/19/81

STATE OFFICE REVIEW:

SLW/LO3 OIC

☐ See attached sheet for more information.
By: _____ Date: 3/2/81

MICROFILMED

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440

STATE OF IDAHO
IDAHO HISTORICAL SOCIETY
610 N. JULIA DAVIS DR.
BOISE, ID 83702

MARCH 10, 1981

RE: PERMIT NO. 63-9661

DEAR PERMIT HOLDER:

ENCLOSED IS A COPY OF YOUR APPROVED APPLICATION FOR PERMIT. WE DIRECT YOUR ATTENTION TO THE CONDITIONS OF APPROVAL ON THE FOURTH PAGE.

BE SURE TO NOTE THE SPECIAL CONDITION REQUIRING YOU TO INSTALL A MEASURING DEVICE, OR AN ACCESS PORT TO PROVIDE FOR THE INSTALLATION OF MEASURING EQUIPMENT BY THE DEPARTMENT. ENCLOSED PLEASE FIND A LIST OF MEASURING DEVICE OPTIONS, AND SPECIFICATIONS FOR THE INSTALLATION OF THE ACCESS PORT.

WE HAVE ENCLOSED A FORM ENTITLED "MAKING PROOF OF BENEFICIAL USE". PLEASE READ THE INSTRUCTIONS CAREFULLY SINCE YOU MUST TAKE FURTHER ACTION TO DEVELOP THIS PERMIT INTO A LICENSE.

SINCERELY,

DAVID R. TUTHILL, JR., P.E.
SUPERVISOR, WATER ALLOCATION SECTION

ENCLOSURE

MICROFILMED

Form 204-p
6/82

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

COMMENCEMENT OF WORKS

Permit No. 63-9661

Name(s) of Permit Holder(s): State of Idaho/Historical Society

Post Office Address: 610 No. Julia Davis Drive
Boise, Idaho 83702 Tel. No. (208) 334-2844

☒ I hereby certify that construction of diversion works for the above referenced permit began on Jan. 5, 1983 (date). I understand that I must continue to develop the water system with due diligence to maintain a valid permit.

☐ I hereby certify that construction of diverting works on the above referenced project has not yet begun due to the following reason beyond my control*:

*Note: A financing difficulty is not an acceptable reason.

6/24/83
Date

Signature of Permit Holder

MICROFILMED

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Western Region

92 South Cole Road
Boise, Idaho 83709
(208) 334-2190

JANUARY 22, 1981

The Idaho Statesman
Box 40
Boise, ID 83707

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. 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. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before FEBRUARY 16, 1981.

Yours truly,

HELEN L. HARRINGTON
Secretary

Encl.

MICROFILMED

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 92 S. Cole Road, Boise, Idaho 83709 on or before FEBRUARY 16, 1981.

C. STEPHEN ALLRED

Director

Published 1/29 & 2/6/81.

MICROFILMED

63-9661

STATE OF IDAHO

IDAHO HISTORICAL SOCIETY, 610 N. JULIA DAVIS DR., BOISE, ID 83702

Source: GROUNDWATER

Date Filed: 01/16/1981

Amount: 2.20 CFS

Diversion Point: SWNE Sec 13 T 03N R 02E, ADA Co.

Use: IRRIGATION (2.20 CFS) from 03/15 to 11/15

Place of Use: NWNE SWNE NENW Sec 13 T 03N R 02E FOR 110 ACRES

Diversion Means: WELL & PUMP.

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
450 W. State Street
Boise, ID 83720
(208) 334-4440

Date January 16, 1981

Name State of Idaho
Idaho Historical Society
Address

No. of Copies	Material	Cost
	Application for Permit to a Water Right	$ 85.00
	TOTAL	$ 85.00

Please find enclosed the form(s) and/or information you requested. The charge, if any, is indicated above.

If we may be of further assistance, please contact us.

Sincerely,

Helen L. Harrington

HELEN L. HARRINGTON
Secretary

MICROFILMED

FORM DA-8 Rev. 7-1-77
WHITE — State Auditor
BLUE — Purchasing Copy
YELLOW — Remittance Advice
PINK — State Auditor then Agency
GOLDENROD — Agency Copy

EXPENDITURE VOUCHER

STATE OF IDAHO
Office of State Auditor

AUDITOR USE
Document No. [redacted]
Pre-Audit: (J)
Date: JAN 19 1981
Warrant No. 1215869

AGENCY USE
SHSM&I 811111
1101
Date: 1-15-81
Code: 12-65-00

AGENCY NAME: IDAHO HISTORICAL SOCIETY

CHECK ONE:
(XX) MISCELLANEOUS EXPENDITURE
( ) STATE CONTRACT

PAY TO: Dept. of Water Resources - Western Region
92 South Cole Road
STATEHOUSE MAIL

( ) PURCHASE ORDER
( ) MISCELLANEOUS ENCUMBRANCE REQUISITION

Encumbrance Reference No.

PAYMENT: ( ) PARTIAL ( ) FINAL

LINE No.	PROGRAM Maj	PROGRAM Min	PROGRAM Ele	ACCT.	CLASS Maj	CLASS Min	DESCRIPTION (Include Quantity)	COMPLETE ONE %	COMPLETE ONE LINE AMOUNT	AGENCY USE
1.	04	--	---	1101	8190		Filing fee for a water use permit on Old Pen property (2.20 CFT/second for 110 acres irrigation) OLD PEN		85 00	

RECEIVED
JAN 26 1981
Department of Water Resources
Western Regional Office

NOTE: Final payment must be accompanied by a receiving copy

TOTAL 100%= 85 00

TO STATE AUDITOR

Request is hereby made that a warrant be authorized and drawn in payment of the item or items described above. I hereby certify that the items described were ordered by proper authority; that they are necessary in the public service, that the items have been received and accounted for, and that the account as stated is correct and just.

1-15-81
Date

Head of Agency or Institution

AUDITOR'S CERTIFICATE

I hereby certify that the above account is in proper form; that totals carried hereon are correct; that receipts when required by law or regulation of the State Board of Examiners covering items for which reimbursement is asked are submitted herewith; and that there are funds in the state treasury and balances in appropriation accounts out of which the same may be lawfully paid.

State Auditor

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
450 W. State Street
Boise, ID 83720
(208) 334-4440

Date January 16, 1981

Name State of Idaho

Address Idaho Historical Society

No. of Copies	Material	Cost
	Application for Permit to a Water Right	$ 85.00
	TOTAL	$ 85.00

Please find enclosed the form(s) and/or information you requested. The charge, if any, is indicated above.

If we may be of further assistance, please contact us.

Sincerely,

HELEN L. HARRINGTON
Secretary

MICROFILMED

STATE OF IDAHO

Department of Water Resources

No 17264

Boise, Idaho, January 26, 1981

RECEIVED FROM State of Idaho of ——— $85.00

Eighty-five and no cents DOLLARS

FOR		
1 application	$ 85	—
	$	
	$	
	$	
TOTAL - - -	$ 85	00

N. J. Mary

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 63-9661 IN THE NAME OF THE STATE OF IDAHO, DEPARTMENT OF LANDS	)))))	**ORDER DENYING PETITION FOR RECONSIDERATION**

This matter having come before the Department of Water Resources (Department) as a petition to reconsider the issuance of an order lifting a stay in development and granting additional time to submit proof of beneficial use, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On November 21, 1994, the Department received an application to amend permit no. 63-9661 (permit) to authorize the State of Idaho, Department of Lands (permit holder), to add a second point of diversion to the permit. The additional point of diversion would be used to divert cool ground water from a well located within the SW¼NE¼, Section 13, Township 3 North, Range 2 East, B.M., for use in connection with the permit. The additional point of diversion is called the Old Penitentiary Well #2. On the application for amendment the permit holder indicated that it had a "pending agreement for joint use" with the City of Boise, the owner of the Old Penitentiary Well #2.

2. On January 11, 1995, the Department sent the permit holder at the time, the Idaho State Historical Society, and the City of Boise a letter that discussed, among other things, the proposed amendment.

3. The City of Boise did not protest the amendment when it was publicized in accordance with Idaho Code §§ 42-211 and 42-203A.

4. On January 19, 1996, the Department approved the amendment.

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JUN 0 2 2004

5. On June 10, 1988, the Department imposed a moratorium on additional development of the low temperature geothermal resource within the Boise Front Ground Water Management Area, in which the original point of diversion for the permit was located. Further development of the low temperature geothermal resource in connection with permit no. 63-9661 was prohibited under Item No. 1 of the moratorium order.

6. On July 23, 2003, the Department received the permit holder's request for the Department to lift the stay in development because the permit holder would "waive any future interest in development of the low temperature geothermal ground water resource, known as Old Penitentiary Well #1." The permit holder sought to obtain approval from the Department for continued development of the cool water diverted from the Old Penitentiary Well #2 for the beneficial uses of water authorized by the permit.

7. On September 9, 2003, the Department notified the City of Boise, among others, of the permit holder's request and asked for comments to be submitted by October 9, 2003. The Department received no comments in connection with the permit holder's request.

8. On October 15, 2003, the Department issued a Preliminary Order Lifting Stay in Development and Granting Additional Time to Submit Proof of Beneficial Use (order) authorizing the permit holder to continue the development authorized by permit no. 63-9661 using only cool ground water diverted within the SW¼NE¼, Section 13, Township 3 North, Range 2 East, B.M., in Ada County.

9. On October 21, 2003, the Department mailed the order to the permit holder with a letter explaining the procedure for petitioning for reconsideration of a preliminary order pursuant to Rule 730.02.a. of the Rules of Procedure of the Department (IDAPA 37.01.01730.02.a.).

10. On October 29, 2003, the Department received a petition for reconsideration and amendment of preliminary order from the City of Boise (petitioner) in connection with the order. The petitioner asks the Department amend the order in the following three ways, as quoted from the petition:

MICR... JUN 0 2 2004

A. Boise City seeks Reconsideration of the *Preliminary Order* benefiting the Idaho Department of Lands, and seeks relief which further clarifies or modifies the *Preliminary Order* to state that the development of permit 63-9661 shall not adversely impact Boise City permit 63-10022 and license 63-9276.

B. Boise City, through its Parks & Recreation Department, seeks Reconsideration of the Preliminary Order and seeks clarification or modification of the Findings of Fact and Conclusions of Law in order to address or to condition the additional development of permit 63-9661 from Old Pen #2 well upon: (a) agreed-upon access or other contractual rights to the "permitted point of diversion" referenced in the *Preliminary Order*; (b) no injury to Boise City permit 63-10022, if drawn from the Boise City-owned Old Pen #2 well.

C. Boise City does not necessarily contest the Conclusions of Law, but does seek clarification of Conclusion of Law Number 2, in that it reflects an analysis of the impact additional development of a cool water source will have on the low temperature geothermal aquifer, but fails to address the aquifer zone's cool water limited volume. The well contemplated for additional development cannot meet the combined rates of diversion for the Department of Lands' and Boise City's permitted amounts. Reconsideration and amendment by IDWR in order to address the impact issue should also consider and evaluate the merits and impact that the additional development may have on the pending transfer application filed by Boise City under 63-9276.

11. The petitioner did not submit additional documentation or evidence in connection with the petition.

12. The petitioner did not request a hearing in connection with the order.

13. Section 67-5243(3), *Idaho Code*, provides in pertinent part as follows:

Unless otherwise provided by statute or rule, any party may file a motion for reconsideration of a recommended order or a preliminary order within fourteen (14) days of the issuance of that order. The presiding officer shall render a written order disposing of the petition.

ANALYSIS

The City of Boise does not have standing to petition for reconsideration of the order pursuant to Rule 730.02.a. of the Rules of Procedure of the Department (IDAPA 37.01.01730.02.a.) because it is not a party to the contested case. The City of Boise was invited to comment on the proposed action prior to the issuance of the order, but it did not. The City of Boise has not petitioned to intervene in the contested case, nor has it requested a hearing pursuant to

MAR 0 2 2004

§42-1701A(3), *Idaho Code*. Had the petition been a valid pleading, the Department would have responded to the issues raised in the petition as described in this analysis.

The question of whether the permit holder can divert from the cool ground water source via the Old Penitentiary Well #2 located in the SW¼NE¼, Section 13, Township 3 North, Range 2 East, B.M., under this permit is not the subject of the Preliminary Order Lifting Stay in Development and Granting Additional Time to Submit Proof of Beneficial Use issued by the Department on October 15, 2003. That question was decided in 1996 when the Department approved the amendment to add the Old Penitentiary Well #2 as an alternative point of diversion for the entire amount of water authorized to be diverted under the permit. The City of Boise had ample opportunity to protest the amendment before its approval, but it did not.

The issue addressed by the Preliminary Order Lifting Stay in Development and Granting Additional Time to Submit Proof of Beneficial Use is whether discontinuing the use of low temperature geothermal water diverted from the original point of diversion for the permit is sufficient reason to lift the stay in development imposed on the permit. The stay in development was implemented solely because it originally authorized the diversion of low temperature geothermal water. The Department found sufficient reason to lift the stay in development. In its petition, the city of Boise did not address this issue.

The City of Boise's objections to the order focus on preventing injury to the City's water rights, which are also diverted from the cool water aquifer via the Old Penitentiary Well #2. The City asserts that the aquifer from which the Old Penitentiary Well #2 draws water may be insufficient to support increased withdrawals resulting from the renewed development activity under the permit in addition to the amount of water withdrawn under current water rights using the Old Penitentiary Well #2 as a point of diversion. In Idaho water rights are regulated according to the prior appropriation doctrine, as codified at Idaho Code § 42-106, which holds that "the first in time is first in right." Under the prior appropriation doctrine, the City of Boise's water rights

NOV 0 2 2004

bearing earlier priority dates than permit no. 63-9661 are protected from injury resulting from diversions of water by the permit holder.

CONCLUSIONS OF LAW

1. The City of Boise does not have standing to petition for reconsideration of the order pursuant to Rule 730.02.a. of the Rules of Procedure of the Department (IDAPA 37.01.01730.02.a.) because it is not a party to the contested case.

2. The Department should deny the petition for reconsideration of the order pursuant to Idaho Code § 67-5243(3).

ORDER

IT IS HEREBY ORDERED that the City of Boise's petition for reconsideration of the Preliminary Order Lifting Stay in Development and Granting Additional Time to Submit Proof of Beneficial Use is **DENIED.**

Dated this 17th day of February, 2004.

GARY SPACKMAN
Bureau Chief, Water Allocations

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of February, 2004, the above and foregoing document was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

MATTHEW K WILDE
BOISE CITY ATTORNEYS OFFICE
150 N CAPITOL BLVD
BOISE ID 83702

IDWR - WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705-5082

SCOTT NICHOLS
IDAHO DEPT OF LANDS
PO BOX 83720
BOISE ID 83720-0050

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 18, 2004

CERTIFIED MAIL

Re: In the Matter of Permit No. 63-9661 in the name of the State of Idaho, Department of Lands

Dear Interested Parties:

The Department of Water Resources (department) has issued the enclosed **Order Denying Petition for Reconsideration** pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department unless a party files an exception and/or brief as described in the enclosed information sheet.**

If you have any questions, please call me at (208) 327-7953.

Sincerely,

Deborah J. Gibson

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosures
c: IDWR - Regional Office

MICROFILMED
JUN 0 2 2004

EXPLANATORY INFORMATION

The accompanying order is an **Order Denying Petition for Reconsideration** of the "preliminary order" issued previously in this proceeding by the department pursuant to section 67-5243, Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after the service date of this denial of petition for reconsideration of the preliminary order, any party may in writing file exceptions to any part of the preliminary order and file a brief 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.

If any party appeals or takes exceptions to the preliminary order, opposing parties shall have fourteen (14) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

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 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.

MICROFILMED
JUN 0 2 2004

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.

RECEIVED
OCT 29 2003
Department of Water Resources

Roger E. Cockerille
Boise City Attorney

Matthew K. Wilde, ISB #5018
Ted W. Baird, ISB #3944
Richard W. Stover, ISB #6801
Assistant City Attorneys
Boise City Attorney's Office
150 North Capitol Blvd.
Boise, Idaho 83702
Telephone: 384-3870

Counsel for Boise City

BEFORE THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 63-9661 IN THE NAME OF THE STATE OF IDAHO, DEPARTMENT OF LANDS	**PETITION FOR RECONSIDERATION AND AMENDMENT OF PRELIMINARY ORDER LIFTING STAY IN DEVELOPMENT AND GRANTING ADDITIONAL TIME TO SUBMIT PROOF OF BENEFICIAL USE**

COMES NOW, Boise City, a municipal corporation, through the Boise City Parks & Recreation Department ("Boise City"), and timely requests the Idaho Department of Water Resources ("IDWR") both reconsider and amend its *Preliminary Order Lifting Stay in Development and Granting Additional Time to Submit Proof of Beneficial Use* (the "*Preliminary Order*"), dated October 15, 2003 in the above-referenced matter.

Boise City asserts its opportunity to seek Reconsideration and Amendment of the *Preliminary Order* pursuant to Idaho Administrative Procedures Act (IDAPA) for the Idaho Department of Water Resources (IDAPA 37.01.01 Rule 230.01.01 (a) through (e) and 230.01.02.

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Boise City owns and maintains the groundwater well known as Old Penitentiary Well #2 (Old Pen #2), referred to in the *Preliminary Order* as a "remaining point of diversion" in the *Preliminary Order* (*Preliminary Order*, at 3). Boise City objects to the *Preliminary Order*'s Findings and Conclusions in that they fail to address the additional development pressure that will be placed on the Old Pen #2 well. This well is located at Boise City's Warm Springs Golf Course (T3N, R2E, Section 13, NESW). Boise City, through Old Pen #2, diverts water for irrigation under permitted water right number 63-10022. If the Department of Lands is allowed to develop its permit utilizing this single point of diversion, Boise City's water right will likely be adversely impacted.

In 1994, Old Pen #2's well capacity was measured at 600 gallons per minute (gpm), or 1.33 cubic feet per second (cfs). Boise City contends that Old Pen #2 may be drawing from an aquifer zone of "limited lateral extent or volume," and as a result, the well cannot meet the combined rates of diversion for the Department of Lands' permitted amount and Boise City's permitted right.

The following rights have the Old Pen #2 well listed as at least one point of diversion:

Water Right No.	Priority	Diversion Rate (cfs)	Owner
63-9661	3/3/1981	2.20	ID Dept of Lands
63-10022	4/20/1983	.37	City of Boise, Parks & Recreation Dept
63-10241	5/30/1984	.26	ID Dept of Lands (Botanical Gardens)

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In addition, Boise City has filed an Application for Transfer for license 63-9276 to change the point of diversion to the Old Pen #2 well. This .80 cfs license has a priority date of August 16, 1979. The Department of Lands has sought to subordinate this right to other water rights which are diverted from the Old Pen #2 well as a condition of approval of the Application for Transfer.

Boise City seeks Reconsideration of the *Preliminary Order* benefiting the Idaho Department of Lands, and seeks relief which further clarifies or modifies the *Preliminary Order* to state that the development of permit 63-9661 shall not adversely impact Boise City permit 63-10022 and license 63-9276. The *Preliminary Order* should not and cannot be construed as authorizing the State of Idaho Department of Lands to injure Boise City's licensed or permitted water rights, or to unlawfully increase the diversion rate in excess of its contractual rights or other rights under the law.

Specifically, Idaho Code § 42-211 states: "...if the rights of others will not be adversely affected thereby, the director of the department of water resources shall approve said application...". Boise City stands to be adversely impacted by the additional development of Permit 63-9661 from the Old Pen #2 well. Boise City, through its Parks & Recreation Department, seeks Reconsideration of the *Preliminary Order* and seeks clarification or modification of the Findings of Fact and Conclusions of Law in order address or to condition the additional development of permit 63-9661 from Old Pen #2 well upon: (a) agreed-upon access or other contractual rights to the "permitted point of diversion" referenced in the *Preliminary Order*; (b) no injury to Boise City permit 63-10022, if drawn from the Boise City-owned Old Pen #2 well.

Boise City does not necessarily contest the Conclusions of Law, but does seek clarification of Conclusion of Law Number 2, in that it reflects an analysis of the impact additional development of a cool water source will have on the low temperature geothermal aquifer, but fails to address the aquifer zone's cool water limited volume. The well contemplated for additional development cannot meet the combined rates of diversion for the Department of Lands' and Boise City's permitted amounts. Reconsideration and amendment by IDWR in order to address the impact issue should also consider and evaluate the merits and impact that the additional development may have on the pending transfer application filed by Boise City under 63-9276.

While Conditions of Approval contained within the Department of Lands' permit 63-9661 reflect that the "right does not grant any right of way or easement across the land of another," and therefore may act to limit the Department of Lands' access to the Old Pen #2 well in the absence of an agreement, the Preliminary Order fails to address the likelihood that the additional development of a cool source will have on other appropriators from the same source.

Neither argument nor hearing are requested by this Petition.

DATED this 24th day of October, 2003.

MATTHEW K. WILDE
Assistant City Attorney

MICROFILMED
NOV 02 2003

CERTIFICATE OF SERVICE

RE: Water Right Appropriation Permit 63-9661

I hereby certify that I have, this 29th day of October 2003, served the foregoing Petition for Reconsideration upon all parties of record in this proceeding, by delivering a copy thereof in person, to:

Idaho Department of Lands
Attention: Scott Nichols
954 W. Jefferson
Boise, Idaho

Ted W. Baird
Assistant City Attorney
City of Boise

MICROFILMED
JUN 0 2 2004

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 21, 2003

IDAHO DEPT OF LANDS
ATTN SCOTT NICHOLS
PO BOX 83720
BOISE ID 83720-0050

RE: Preliminary Order in the Matter of Water Appropriation Permit 63-9661

Dear Permit Holder(s):

I have enclosed an order lifting the stay in development and granting additional time to submit proof of beneficial use for Permit 63-9661. The order is a "preliminary order" issued by the department pursuant to §67-5243, *Idaho Code*. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days as described in the enclosed information sheet.

If you have any questions regarding this matter, please call me at 208-327-7946.

Sincerely,

Shelley Keen
Water Rights Supervisor

Enclosures

MICROFILMED
JUN 0 2 2004

CERTIFICATE OF SERVICE

I hereby certify that on **October 21, 2003** I mailed a true and correct copy, certified, postage prepaid, of the foregoing **PRELIMINARY ORDER** to the person(s) listed below:

RE: Water Right Appropriation Permit 63-9661

IDAHO DEPT OF LANDS
ATTN SCOTT NICHOLS
PO BOX 83720
BOISE ID 83720-0050

Kari Lynn Townsend
Secretary

MICROFILMED
JUN 0 2 2004

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

MICROFILMED
JUN 0 2 2004

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.

MICROFILMED
JUN 0 2 2006

Permit #63-9661
no listing in Qwest Dex
or Phone Book
Kari Lyon - 9.18.03

MICROFILMED

JUN 0 2 2004

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

Return Service Requested

RECEIVED
SEP 18 2003
Department of Water Resources

RETURN TO SENDER
ATTEMPTED-NOT KNOWN
UNABLE TO FORWARD

NIXIE 2016 1 08 09/16/03

VANCROFT CORP
3222 S PASS COURT
BOISE ID 83705

Return to Sender
Not at this address

RE
FIRST CL

BOISE ID SEP 17 03
PB METER 7113631
U.S. POSTAGE
$02.78

CAUTION: THIS ENVELOPE MAY CONTAIN IMPORTANT INFORMATION

Permit 63-6991
Mo listing in Owner Dept
Marie Lyon - 9.17.03

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JUN 0 7 2004

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

Return Service Requested

RETURNED TO SENDER
ATTEMPTED, NOT KNOWN

RECEIVED
SEP 17 2003
Department of Water Resources

BOISE WARM SPRINGS
WATER DIST
C/O BRUCE M SMITH
[redacted] STE 2139
BOISE ID 83701

[redacted]

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

Return Service Requested

RECEIVED
SEP 14 2003
Department of Water Resources

THE TERTELING CO INC
3823 N 6TH ST
BOISE ID 83703

Permit 63-9661-
no listing in Questnet
Kari Lyon
9.16.03

MICROFILMED
JUN 0 2 2004

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

Return Service Requested

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SEP 1 4 2003
Department of Water Resources

RECEIVED
SEP 1 9 2003
Department of Water Resources

SHERMAN NELSON
3911 WHITEHEAD
BOISE ID 83703

NIXIE 2006 1 10 09/13/03
RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

Permit 63-9661
no testing in Dworshak
Kari Lyons - 9.16.03

MICROFILMED
JUN 0 2 2004

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

Return Service Requested

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SEP 14 2003
Department of Water Resources

GEORGE ANDRADE
3911 WHITEHEAD
BOISE ID 83703

ANDR911 03703201610 1503-06-09/13/03
RETURN TO SENDER
ANDRADE
83702E TAB 83703 DR545
RETURN TO SENDER

Permit #63-9661
Mail receipt - Kari Lyon
9.15.03

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JUN 0 2 2004

SEPT. 9,
SERVICE LIST FOR LETTER OF ~~AUGUST 21~~, 2003
RE: WATER APPROPRIATION PERMIT NO. 63-9661

Name	Address	
GEORGE ANDRADE	3911 WHITEHEAD	BOISE ID 83703
J. TODD BUNDERSON BECKY K BUNDERSON	4015 WHITEHEAD	BOISE ID 83703
JOHN MARSHALL GIVENS-PURSLEY LLP	PO BOX 2720	BOISE ID 83701
MIKE MATHISON	4401 CASTLEBAR	BOISE ID 83703
HELEN MILLER	4023 WHITEHEAD	BOISE ID 83703
GARNETTE MONNIE, WD CHAIRMAN C/O EDWARDS GREENHOUSE	4106 SAND CREEK	BOISE ID 83703
SHERMAN NELSON	3911 WHITEHEAD	BOISE ID 83703
MARY OR ROSE RYAN	4504 FOOTHILLS DR	BOISE ID 83703
THE TERTELING CO INC	3823 N 6TH ST	BOISE ID 83703
DANA HOFSTETTER HOFSTETTER LAW OFFICE	608 W FRANKLIN ST	BOISE ID 83702
DAVE HENDRICKSON QUAIL HOLLOW GOLF COURSE	4520 N 36TH ST	BOISE ID 83706
VANCROFT CORP	3222 S PASS COURT	BOISE ID 83705
DANA HOFSTETTER	608 W FRANKLIN	BOISE ID 83702
ED SQUIRES HYDRO LOGIC INC	1002 W FRANKLIN ST	BOISE ID 83702-5431
LORI GRAVES	IDWR WESTERN OFFICE	
KEN NEELY WATERMASTER	IDWR MAIN OFFICE	
PRODUCERS LUMBER CO	3051 WISE WY	BOISE ID 83712
IDAHO HISTORICAL SOCIETY	1109 MAIN ST STE 250	BOISE ID 83702
CITY OF BOISE PUBLIC WORKS DEPT ATTN: NEAL S OLDEMEYER P E	150 N CAPITOL BLVD	BOISE ID 83701
BOISE WARM SPRINGS WATER DIST C/O BRUCE M SMITH	1221 W IDAHO STE 2139	BOISE ID 83701
IDAHO BOTANICAL GARDENS C/O SCOTT L CAMPBELL	PO BOX 1539	BOISE ID 83701
IDAHO DEPT OF LANDS ATTN: SCOTT NICHOLS	PO BOX 83720	BOISE ID 83720-0050
VETERANS ADMINISTRATION MEDICAL CENTER	500 W FORT ST	BOISE ID 83702-4598

DANA HOFSTETTER
608 W FRANKLIN
BOISE ID 83702

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JUN 0 2 2004

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 9, 2003

RE: Water Appropriation Permit No. 63-9661

Dear Boise Front Geothermal Resource User:

The Department of Water Resources (IDWR) is seeking comment on a proposal by the Idaho Department of Lands to discontinue its use of the low temperature geothermal resource in the Boise Front Low Temperature Geothermal Resource Ground Water Management Area (BFGWMA) under Permit 63-9661. The Department of Lands proposal involves the use of cold water instead of the low temperature geothermal resource for the irrigation authorized under the permit.

IDWR established the BFGWMA in 1987, and in 1988 IDWR imposed a moratorium on additional development of the low temperature geothermal resource within the BFGWMA. The moratorium was extended for additional five-year periods in 1993 and in 1998. One of the provisions of the moratorium order said:

> Effective with the date of entry of this order, further development or additional use pursuant to undeveloped or partially developed permits is prohibited until the permit holder shows to the satisfaction of the Director that further development of additional use: a) will not increase depletions from the aquifer; b) will not increase pumping lift or decrease pressure to existing prior users; and c) will not reduce temperature to existing users causing systems operating at reasonable efficiency to no longer operate.

Because of this provision in the moratorium order, the Department of Lands has not been authorized to complete the water right development authorized under Permit 63-9661, which was issued by IDWR in 1981.

Permit 63-9661 authorized the diversion of 2.20 cfs from ground water for the irrigation of 110 acres of state land in and around the Idaho Botanical Gardens and the Old Penitentiary, which are located near Warm Springs Avenue in Boise. The water to be diverted for irrigation was low temperature geothermal water from a well located within the SW¼NE¼, Sec. 13, T3N, R2E, B.M. The well is known as Old Penitentiary Well No. 1. In 1994 the permit owner at the time, the Idaho Historical Society, applied to add a cold water well located on the north side of the Warm Springs Golf Course as a second point of diversion for Permit 63-9661. This second well is known as Old Penitentiary Well No. 2. Boise Water Corporation and Paul Wise protested the

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application, but both protests were withdrawn, and IDWR approved the application in 1996. Meanwhile, the permit was assigned to the Department of Lands in 1995.

Last month IDWR received notice from Idaho Department of Lands that it intends to "waive any future interest in development of the low temperature geothermal ground water source, known as Old Penitentiary Well #1." The notice also states that the Department of Lands will continue the monitoring and reporting program established for the Old Penitentiary Well No. 1. If Idaho Department of Lands retains only the cold water well as the point of diversion for Permit 63-9661, then presumably it would no longer be subject to the BFGWMA moratorium on further development of the low temperature geothermal resource, and additional irrigation, up to limits of the permit, could be developed using the cold water.

If you have concerns or suggestions related to this proposal by the Department of Lands, please notify me in writing by October 9, 2003. If you have any questions, please call me at 208-327-7946, or email me at skeen@idwr.state.id.us.

Sincerely,

Shelley W. Keen

Shelley W. Keen
Water Rights Supervisor

c: See attached Service List
IDWR Western Region

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JUL 2 3 2003
Department of Water Resources

IDAHO DEPARTMENT OF LANDS

954 W. Jefferson St., PO Box 83720
Boise, Idaho 83720-0050
Phone (208) 334-0200 Fax (208) 334-2339

WINSTON WIGGINS - DIRECTOR

BOARD OF LAND COMMISSIONERS

DIRK KEMPTHORNE
Governor

BEN YSURSA
Secretary of State

LAWRENCE G. WASDEN
Attorney General

KEITH L. JOHNSON
State Controller

MARILYN HOWARD
Sup't of Public Instruction

July 21, 2003

Shelley Keen
Idaho Department of Water Resources
1301 N. Orchard Street
Boise, Idaho 83706

SUBJECT: Water Right Permit No. 63-09661

Dear Shelley,

This letter is in response to our conversations since December 2003 regarding water rights at the Old Penitentiary Site.

In 1995, the Idaho Historical Society, pursuant to Idaho Code section 42-211, requested an amendment of Water Permit No. 63-09661. The purpose of the amendment was to change the point of diversion from a low temperature geothermal ground water source known as Old Penitentiary Well # 1, to a new point of diversion located on the north side of Warm Springs Golf Course, known as Old Penitentiary Irrigation Well No. 2 that is cold water.

The purpose of this letter is to confirm that the department (as the permit holder), the Idaho Historical Society, Idaho Botanical Gardens and other lessees have concurred that we wish to waive any future interest in development of the low temperature geothermal ground water source, known as Old Penitentiary Well # 1. We understand that the point of diversion for Water Right Permit No. 63-09661 has been moved to the cold water well known as Old Penitentiary Irrigation Well No. 2. This well is expected to meet the irrigation needs of the lessees at the Old Penitentiary site. The department will continue to monitor Well No. 1 and report the results as required but the source will not be utilized as a water source or diversion point.

If you have any questions or need additional information, I would be happy to meet with the Department of Water Resources to explain the overall water use agreements at the Old Penitentiary Site. Thank you for your consideration.

SCOTT H. NICHOLS, Chief
Bureau of Minerals

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JUN 0 2 2004

SHN:sjb

Keen, Shelley

To: snichols@idl.state.id.us
Subject: Old Penitentiary Well No. 1

To File

Scott,

After discussing your proposal to remove the Old Penitentiary Well No. 1 as a point of diversion for Permit 63-9661, we think that an application to amend the permit will not be required. Instead, you can state your intent in a letter. Once the letter is received, IDWR will contact other parties interested in the Boise Front GWMA to determine if there are any objections to removing the stay of development on Permit 63-9661.

Please call or email if you have any questions.

Shelley Keen
Water Right Permits Section
Idaho Dept. of Water Resources
208-327-7946
skeen@idwr.state.id.us

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JUN 0 2 2004

Keen, Shelley

From: Neely, Ken
Sent: Monday, April 07, 2003 3:35 PM
To: Keen, Shelley
Subject: RE: IDL geothermal well near the Idaho Botanical Gardens

To File

Shelley,

The well hasn't been used for years as far as I know. Dropping the well as a POD sounds fine to me. They are to monitoring the well as part of the agreement signed last year. I am assuming that they will still be responsible for monitoring the well...is that correct? Yes

ken

-----Original Message-----
From: Keen, Shelley
Sent: Friday, April 04, 2003 10:52 AM
To: Neely, Ken
Subject: IDL geothermal well near the Idaho Botanical Gardens

Ken,

Under Permit 63-9661 Idaho Dept. of Lands can irrigate with water diverted from the Old Penitentiary Well No. 1, which produces low temperature geothermal water, and from a well on the north side of Warm Springs Golf Course, which produces cold water. The Boise Front GWMA moratorium has prevented IDL from completing the authorized development under the permit. IDL is proposing to drop the Old Penitentiary Well No. 1 as a point of diversion and rely solely on the cold water well so that they can be excluded from the moratorium. I know you have extensive involvement with the Boise Front GWMA issue. Do you, or does anyone in your group, foresee a problem with approving this proposal?

I have the water right file if you need to see it.

Thanks.

Shelley Keen
Water Right Permits Section
Idaho Dept. of Water Resources
208-327-7946
skeen@idwr.state.id.us

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JUN 0 2 2004

MEMORANDUM

DATE: April 1, 2003

TO: Glen Saxton File

FROM: Shelley W. Keen SWK

RE: Request to lift stay of development for Permit 63-9661

The Department of Lands (IDL) has asked IDWR to lift the stay of development in effect for Permit 63-9661. Originally the permit authorized the diversion of 2.20 cfs from a low-temperature geothermal well along the Boise Front for the irrigation of 110 acres. In 1996 the Idaho Historical Society, who was the permit holder at that time, received an extension of time allowing proof of beneficial use to be submitted in 1991. But before development under the permit could be completed, IDWR established the Boise Front Low Temperature Geothermal Resource GWMA and implemented a moratorium on new development of the low-temperature geothermal resource within the area. The moratorium prevented "further development or additional use pursuant to undeveloped or partially developed permits" unless the permit holder could demonstrate that the additional use:

a) will not increase depletions from the aquifer,
b) will not increase pumping lift or decrease pressure to existing prior users, and
c) will not reduce temperature to existing users causing systems operating at reasonable efficiency to no longer operate.

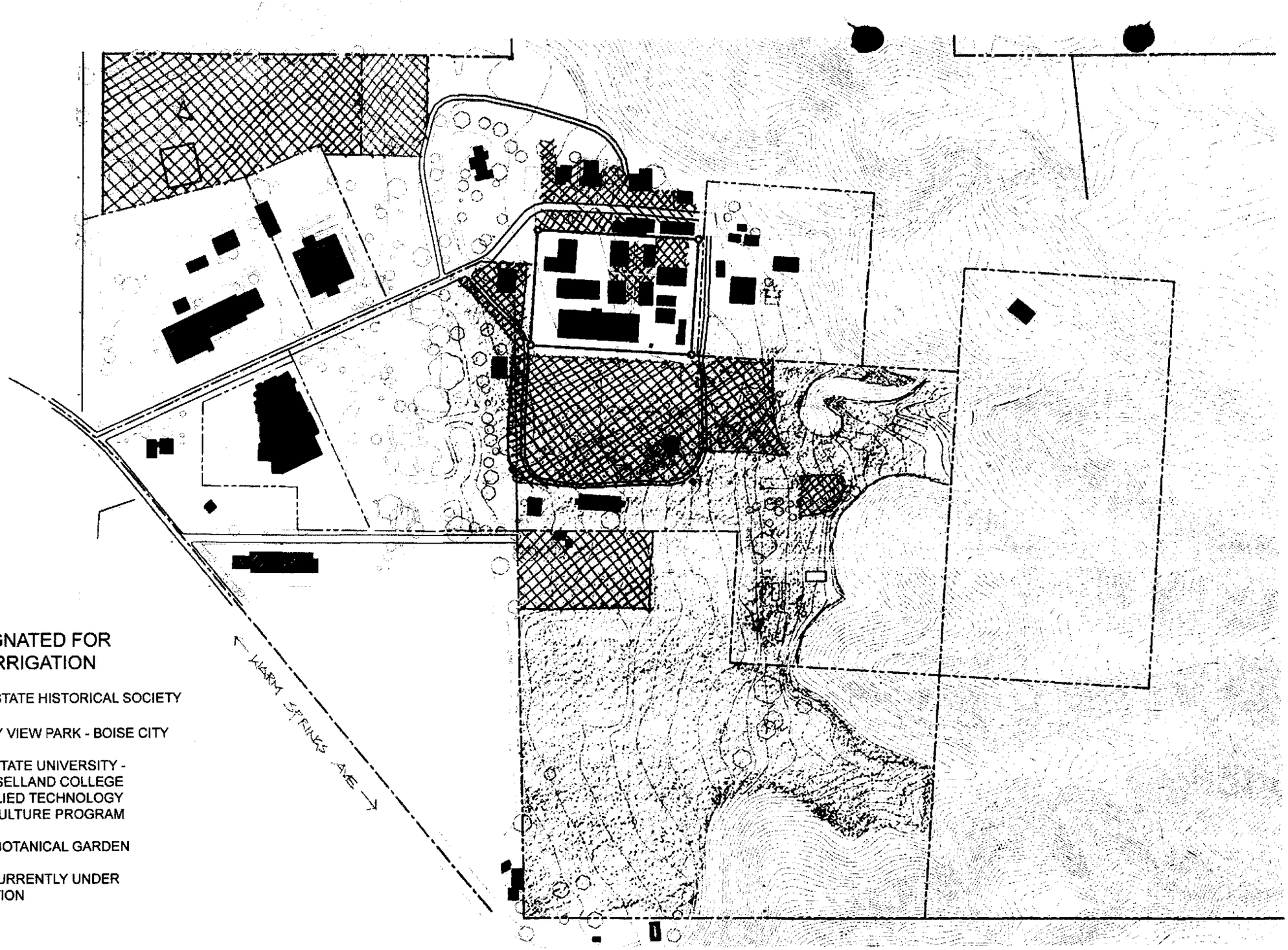
In 1991 the Idaho Historical Society submitted another request for extension of time to submit proof of beneficial use. IDWR replied that the extension request would be held without action due to the moratorium. The Historical Society assigned the permit to IDL in 1995.

In 1996 the permit was amended to add a cold-water well owned by the City of Boise as a second point of diversion. IDL says it is requesting removal of the stay in development because "the point of diversion for the water has been moved and low temperature geothermal water is not used for irrigation purposes." I have not yet determined IDL's long-term objective for use of the low temperature geothermal resource.

If IDL reassures IDWR that it has no intention of resuming diversions from the low temperature geothermal well, then I think IDWR could lift the stay in development. Perhaps the best way to reassure IDWR would be for IDL to apply to amend the permit to drop the geothermal well as an authorized point of diversion. IDWR would not have to advertise the proposed amendment. With the low temperature geothermal point of diversion removed from the permit, IDL would no longer be subject to the stay in development, which is targeted at geothermal rights exclusively. The outstanding request for extension of time to submit proof of beneficial use could be addressed at the same time as the amendment.

I do not believe additional development would be prevented by the processing hold in Basin 63 because existing permits are not included in the directive. Also, approval of the 1996 amendment appears to be partly based on Keith Anderson's conclusion that diversions from the well would not have an immediate impact on flows in the Boise River.

MCA...
JUN 9 2003



AREA DESIGNATED FOR
FUTURE IRRIGATION

- IDAHO STATE HISTORICAL SOCIETY
- QUARRY VIEW PARK - BOISE CITY
- BOISE STATE UNIVERSITY - LARRY SELLAND COLLEGE OF APPLIED TECHNOLOGY HORTICULTURE PROGRAM
- IDAHO BOTANICAL GARDEN
- AREA CURRENTLY UNDER IRRIGATION

OLD PENITENTIARY HISTORIC DISTRICT

IRRIGATION PLAN

0' 150' 300' 450'

MEMORANDUM

DATE: January 10, 2003

TO: Water Right File 63-9661

FROM: Shelley W. Keen SWK

RE: Petition to Lift the Stay in Development Order

This afternoon I met briefly with Scott Nichols of the Dept. of Lands regarding his request that IDWR lift the stay in development order on Permit 63-9661. The stay in development was in response to concerns about the over-use of low temperature geothermal water. Mr. Nichols explained to me that the low temperature geothermal water ~~that~~ is no longer being used for irrigation. Instead, a new 6-inch water line has been installed to carry cold water from the Warm Springs Golf Course to the irrigated place of use. The line runs north along Warm Springs Avenue for a short distance, then it runs northeastward to a point near the Idaho Botanical Gardens geothermal well, which was the old point of diversion for this permit. From there it ties into the old 4-inch line that runs to the existing concrete storage reservoir. The irrigation system is fed by gravity from the reservoir. A new line has also been installed from the Idaho Botanical Gardens to Quarry View Park, which is leased by the City of Boise. Mr. Nichols submitted a report by Keith Anderson that contains a map showing the location of the new water lines.

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JUN 2 2003

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JAN 10 2003
Department of Water Resources

KEITH E. ANDERSON
CONSULTANT IN ENGINEERING AND GEOLOGY
432 SUMMIT RIDGE
BOISE, IDAHO 83702
TELEPHONE (208) 336-2718 OR 344-3888

WATER SUPPLY NOTES

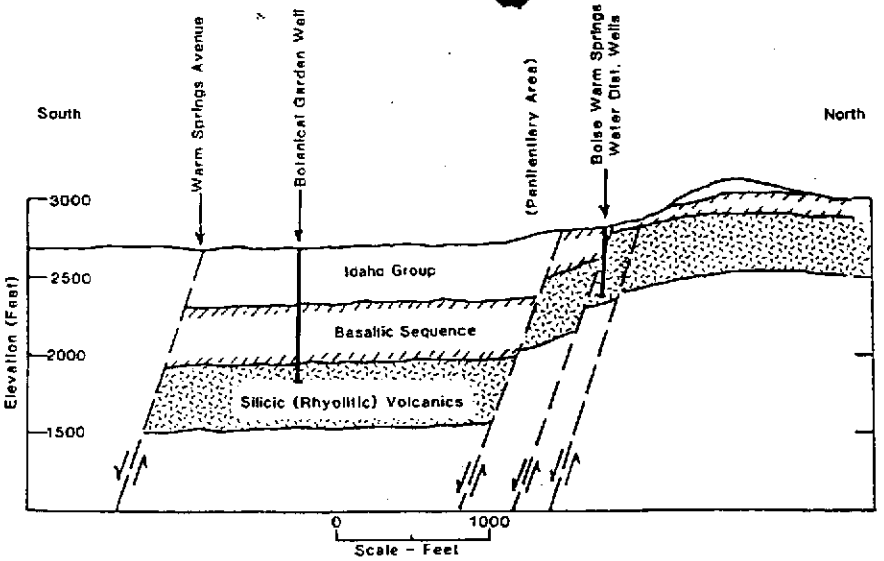
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Generalized geologic map	2
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JAN 2 2003

Botanical Garden Gets Into Hot Water

by Keith E. Anderson

The Idaho Botanical Garden (IBG) has joined the growing number of homes, businesses, and institutions utilizing the underground reservoir of geothermal water in the Boise area. A deep well, drilled in 1965 on the Old Penitentiary property, has been re-equipped with a pump that now furnishes hot water to a small pond and buried pipeline system for sprinkler irrigation of the IBG grounds.



GENERALIZED GEOLOGIC CROSS-SECTION

History

The earliest large-scale development of geothermal water was in 1890-91 when two wells were drilled just north of the Penitentiary site at one of the several locations of hot springs and seeps that occurred along the base of the foothills. These wells, about 400 feet deep, encountered flowing artesian water with a temperature of 170 degrees F. Since that time these wells have provided hot water and space heating to homes along Warm Springs Avenue and to the old Natatorium swimming pool. The original wells, now operated by the Boise Warm Springs Water District, serve nearly 250 homes in addition to State facilities on the Old Penitentiary grounds. Only a few additional wells were drilled subsequently in the 1890-1970 period.

In the late 1970s, studies to evaluate the potential for further utilization of geothermal water were intensified and several deep test wells were drilled in the Military Reserve area. Since 1980 there have been significant new developments nearby, completed or under construction, to supply hot water to the State Capitol and adjacent office buildings, to businesses and buildings in downtown Boise, to the Veterans Administration regional complex, and to the City's Quarry View neighborhood park.

Geologic Setting

Boise is situated along the northern edge of the Snake River Plain, a down-faulted land mass between mountainous areas to the north and south. Numerous hot springs (or hot water wells) lie along the fault zones that border the plain.

The oldest rocks in the area are the granitic crystalline rocks of the Idaho Batholith (Cretaceous age--about 100 million years old) that are exposed in the mountains of the Boise Ridge about 2-1/2 to 3 miles northeast of the Idaho Botanical Garden.

A series of younger rock rest upon, or are faulted against, this granitic "basement." The oldest (and lowest) of this series is a thick section of silicic volcanic rocks and sediments of the Idavada Series (middle- to late-Miocene age--about 20 million years old). The volcanic rocks are chiefly rhyolite flows that resemble the more common basalt flows of southern Idaho, but which have a higher quartz content. Associated with the volcanic flows are layers of tuffaceous (ash) sediments, sandstone, and conglomerates. One of these rhyolite flows forms the rocky prominence northwest of the Old Penitentiary known locally as Castle Rock. It is this sequence that is the principal geothermal reservoir rock in the area.

Overlying the Idavada Series is a sequence, about 600 feet thick, of basalt flows and tuffs that are probably about 9 million years old. This basaltic sequence is in turn overlain by lake sediments and deltaic or stream deposits of the Idaho Group--principally sandstones and siltstones. Table Rock, the prominent topographic feature east of the Idaho Botanical Garden, is a section of these sediments that was thoroughly cemented by solutions rising along the fault zones and became highly resistant to erosion.

A series of later faults has dropped the blocks to the southwest so that the upper rhyolite at the IBG well is about 1,000 feet lower than the nearby Castle Rock exposure (see diagram). These faults roughly parallel Warm Springs Avenue and the margin of the foothills. Radiocarbon dating of geothermal waters in the Boise area indicates the water to be 6,000 to 12,000 years old.

"Radiocarbon dating of the geothermal waters in the Boise area indicates the water to be 6,000 to 12,000 years old"

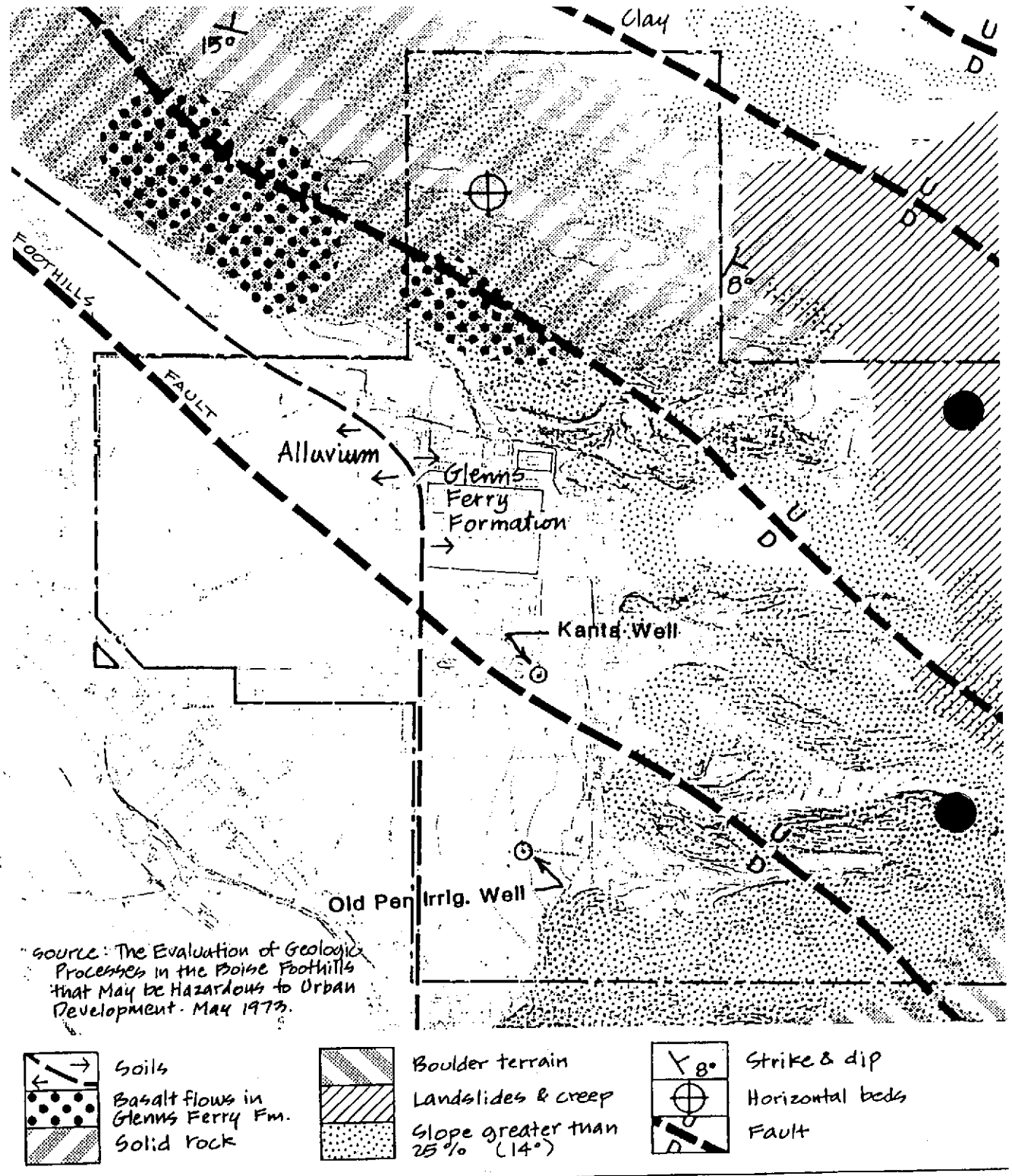
Garden Water Supply

Irrigation water for the Idaho Botanical Garden comes from an 872-foot-deep well drilled for the Penitentiary in 1965. The well has 12-inch-diameter steel casing installed to the total depth, with perforations between 220 and 862 feet. The static (non-pumping) water level is about 60-70 feet below ground and the well has been tested at a rate of 630 gallons a minute (almost a million gallons a day) with the pumping level 210-220 feet below ground.

The well is equipped with a pump driven by a 60-horsepower motor. The pump, set at a depth of 260 feet, delivers the hot water (about 140 degrees F) to a 115,000-gallon storage pond above the garden. After cooling, the water is then distributed from the pond to the various garden areas through a system of buried irrigation pipelines.

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A complex geology is characteristic of the property. It combines the alluvial soils of the Boise River plain with various rock outcroppings, basalt flows, and boulder fields in the rising hill areas.

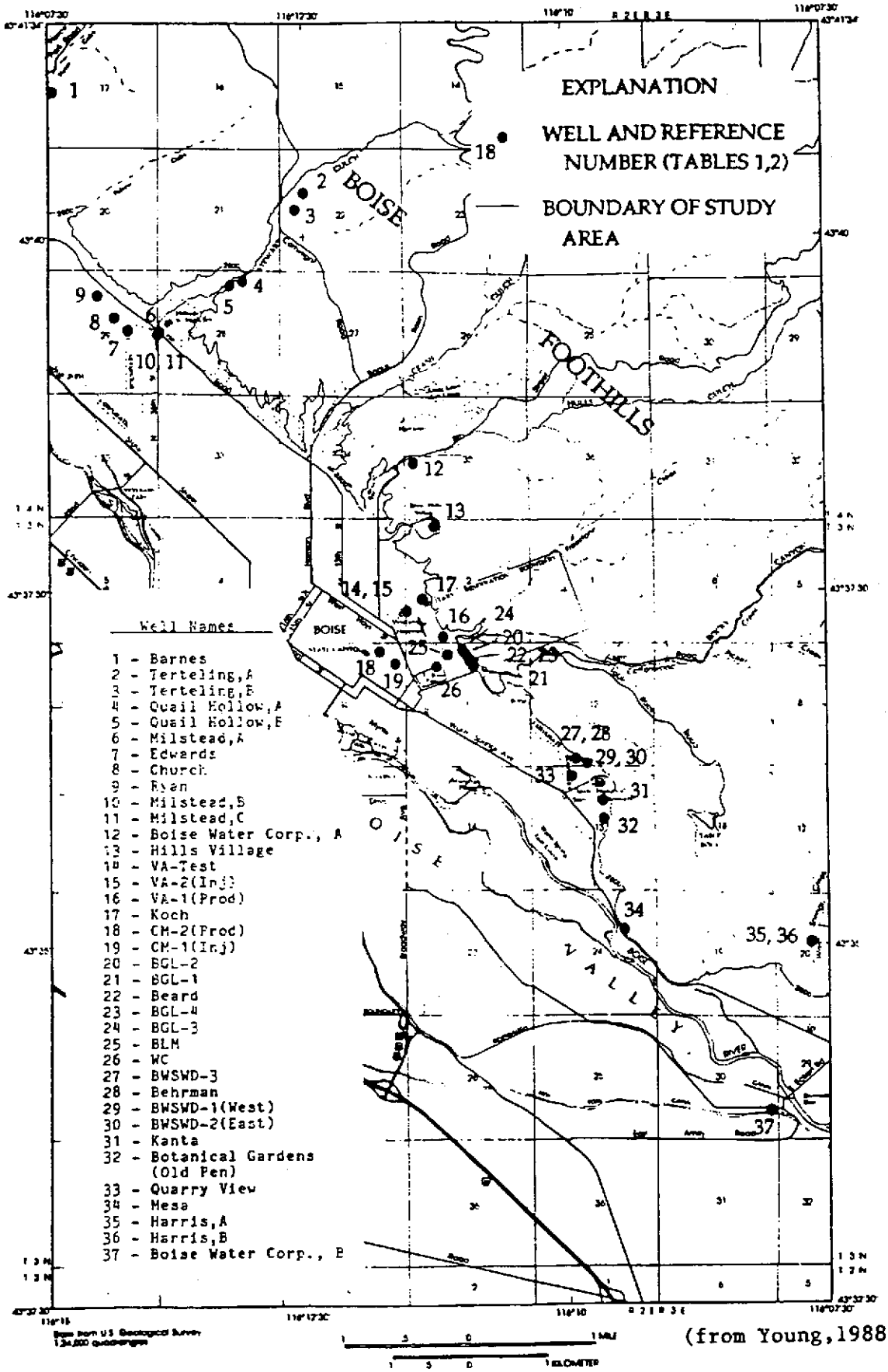


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0 1000 2000 feet

Generalized Geology

Old Idaho Penitentiary Site Utilization Study



(from Young,1988)

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JUN 0 2 2009

Location of geothermal wells.

Summary of Selected Well Completions

Well	Elevation	Depth	Completion	Approx Temp (Deg F)
BWSWD-1 (East)	2765 ft.	400 ft.	160-400 open	170
BWSWD-2 (West)	2765	400	160-400 open	172
BWSWD-3	2790	600	210-600 open	144
Kanta	2782	1015	635-1015 open	181
Botanical Garden (Old Pen.)	2780	872	220-862 perf.	136
Behrman	2740	unknown	unknown	
Quarry View	2728	865	468-865 open	132
VA-1 (Prod.)	2763	1666	630-1500 slots 1500-1666 open hole	165
VA-2 (Inj.)	2720	2312	1300-2300 slots	
VA-Test	2718	1839	1272-1472 slots 1472-1839 open	
CM-1 (Inj.)	2716	2152	1750-2152 open	160
CM-2 (Prod.)	2709	3030	1260-2550 perf. 2550-3030 open	156
BGL-1	2749	2008	857-1657 perf. 1657-2008 open	172
BGL-2	2749	880	642-880 open	171
BGL-3	2770	1897	680-1050 perf. 1050-1897 open	171
BGL-4	2749	1103	720-1040 perf.	171
BLM	2743	1222	610-1222 slots	
Beard	2747	1282	823-925 screen 964-1279 perf.	
Harris	2890	890	548-890 open	180

BGL = Boise City (Boise Geothermal Ltd)
BWSWD = Boise Warm Springs Water District
BLM = Bureau of Land Management
CM = State of Idaho (Capitol Mall)
VA = Veterans Administration

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JUN 0 7 2000

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF THE BOISE FRONT LOW TEMPERATURE GEOTHERMAL RESOURCE GROUND WATER MANAGEMENT AREA	ORDER ESTABLISHING A MORATORIUM

On June 15, 1987, the Director of the Idaho Department of Water Resources (IDWR) designated the Boise Front Low Temperature Geothermal Resource Ground Water Management Area (Boise Front) in Ada County due to reported declines in aquifer water levels and pressure. On January 22, 1988, Boise Warm Springs Water District (BWSWD) petitioned IDWR to:

1) Establish a moratorium on further development pursuant to Section 42-1805(7), Idaho Code, and Rule 7 of the Department's Water Appropriation Rules and Regulations,

2) Designate the Boise Front as a critical ground water area pursuant to Section 42-233(a), Idaho Code, and

3) To stop further development in the Boise Front pursuant to management authority provided by Sections 42-233(b) and 42-237(b), Idaho Code.

The IDWR staff has reviewed the present status of use and development of the low temperature geothermal resource in the Boise Front area and based upon this staff review, the Director has determined that:

1) Water levels or pressures in the Boise Front continue to decline at an estimated rate of six (6) to seven (7) feet per year in all or part of the Boise Front.

2) Pending applications and undeveloped permits could increase the annual withdrawal from the aquifer several fold if developed.

3) Protection of existing rights require additional management of the resource.

4) A moratorium on further development which will increase the rate of depletion from the Boise Front is required to insure compliance with the provisions of Chapter 2, Title 42, Idaho Code.

5) Additional hydrogeologic data is needed to adequately

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JUN 02 2003

evaluate the characteristics of the aquifer to prevent over appropriation of the resource, to stabilize depletions and to adequately assess the potential of long term declines.

6) By maintaining a ground water management area designation, the Director is authorized to require right holders to report withdrawals of ground water and other information to determine the ground water supply and its usage.

7) The Director is charged with the protection of existing water rights while allowing reasonable use of the resource.

8) Section 42-1805(7), Idaho Code, and Rule 7 of the Water Appropriation Rules and Regulations provide for the establishment of a moratorium on further development.

NOW, THEREFORE, pursuant to Section 42-1805(7), Idaho Code, and Rule 7 of the Water Appropriation Rules and Regulations, it is hereby ORDERED in connection with the Boise Front Low Temperature Geothermal Resource Ground Water Management Area designed on June 15, 1987 that:

1. Effective with the date of entry of this order, further development or additional use pursuant to undeveloped or partially developed permits is prohibited until the permit holder shows to the satisfaction of the Director that further development or additional use: a) will not increase depletions from the aquifer; b) will not increase pumping lift or decrease pressure to existing prior users; and c) will not reduce temperature to existing users causing systems operating at reasonable efficiency to no longer operate.

2. Pending and future applications will be rejected unless information is provided to demonstrate the use: a) will not cause additional depletion of the aquifer; b) will not increase pumping lift or pressure reduction to existing users or undeveloped permit holders; and c) will not reduce the temperature of the resource to existing users or undeveloped permit holders below the temperature necessary for a system operating at reasonable efficiency to operate.

3. The Director retains the designation of the Boise Front as a Ground Water Management Area and DENIES the petition of the Boise Warm Springs Water District to designate the Boise Front a Critical Ground Water Area.

4. The provisions of this order are effective upon issuance and remain effective for a period of five (5) years unless rescinded, modified or extended by subsequent order of the Director.

5. Service and publication of this order shall be made in accordance with the provisions of Rule 7 of the Water

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Appropriation Rules and Regulations.

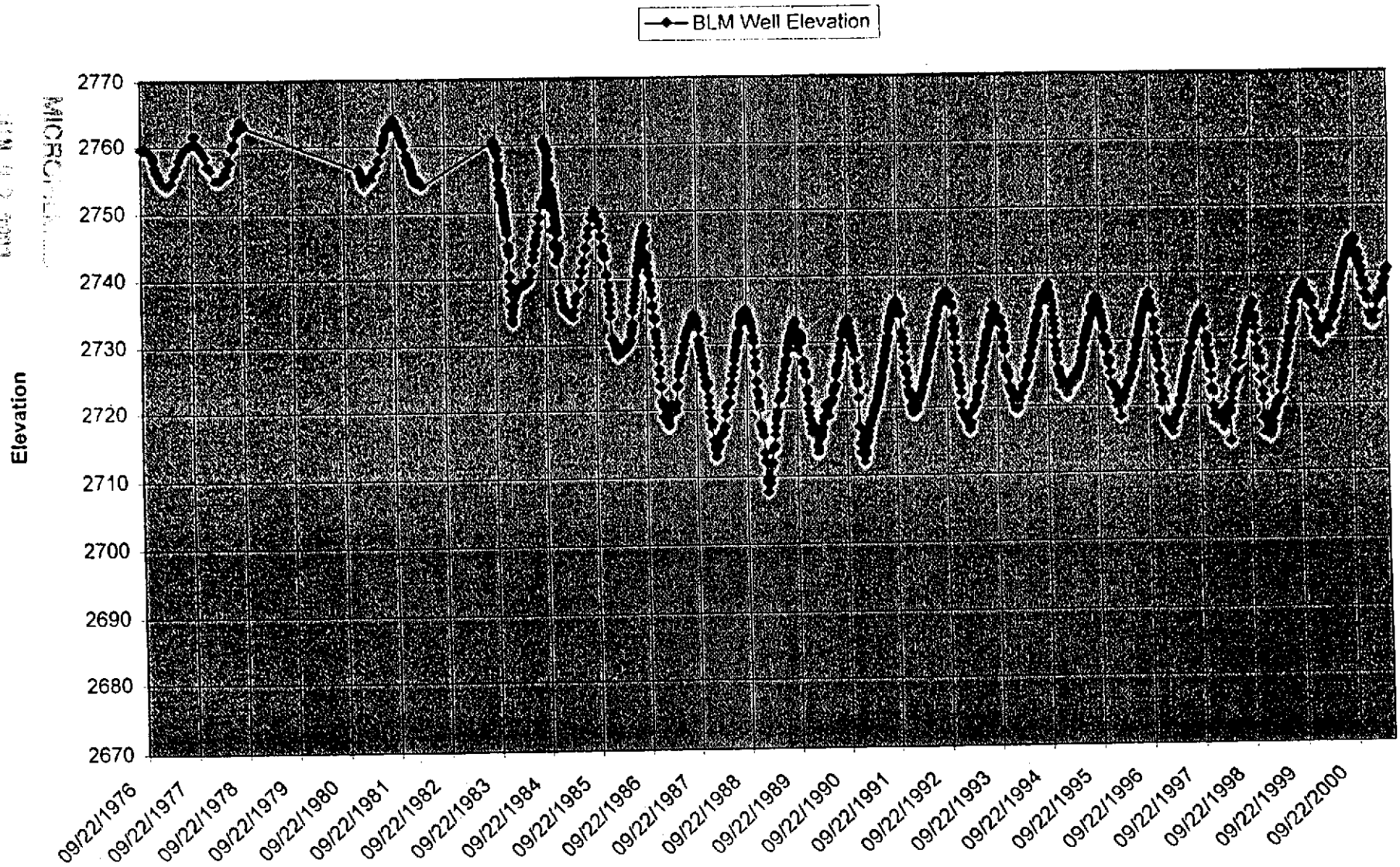
6. Any person aggrieved by this order shall be entitled to a hearing before the Director for the purpose of contesting the order. A request for hearing must be filed with the Director within fifteen (15) days after receipt of a copy of the order by certified mail, or within fifteen (15) days after completion of the publication of the order for three (3) consecutive weeks in a newspaper of general circulation, whichever is earlier. The hearing shall be conducted in accordance with the provisions of Chapter 52, Title 67, Idaho Code, and the rules of Practice and Procedure of the Department of Water Resources.

Dated this 10TH day of JUNE, 1988.

R. KEITH HIGGINSON
Director

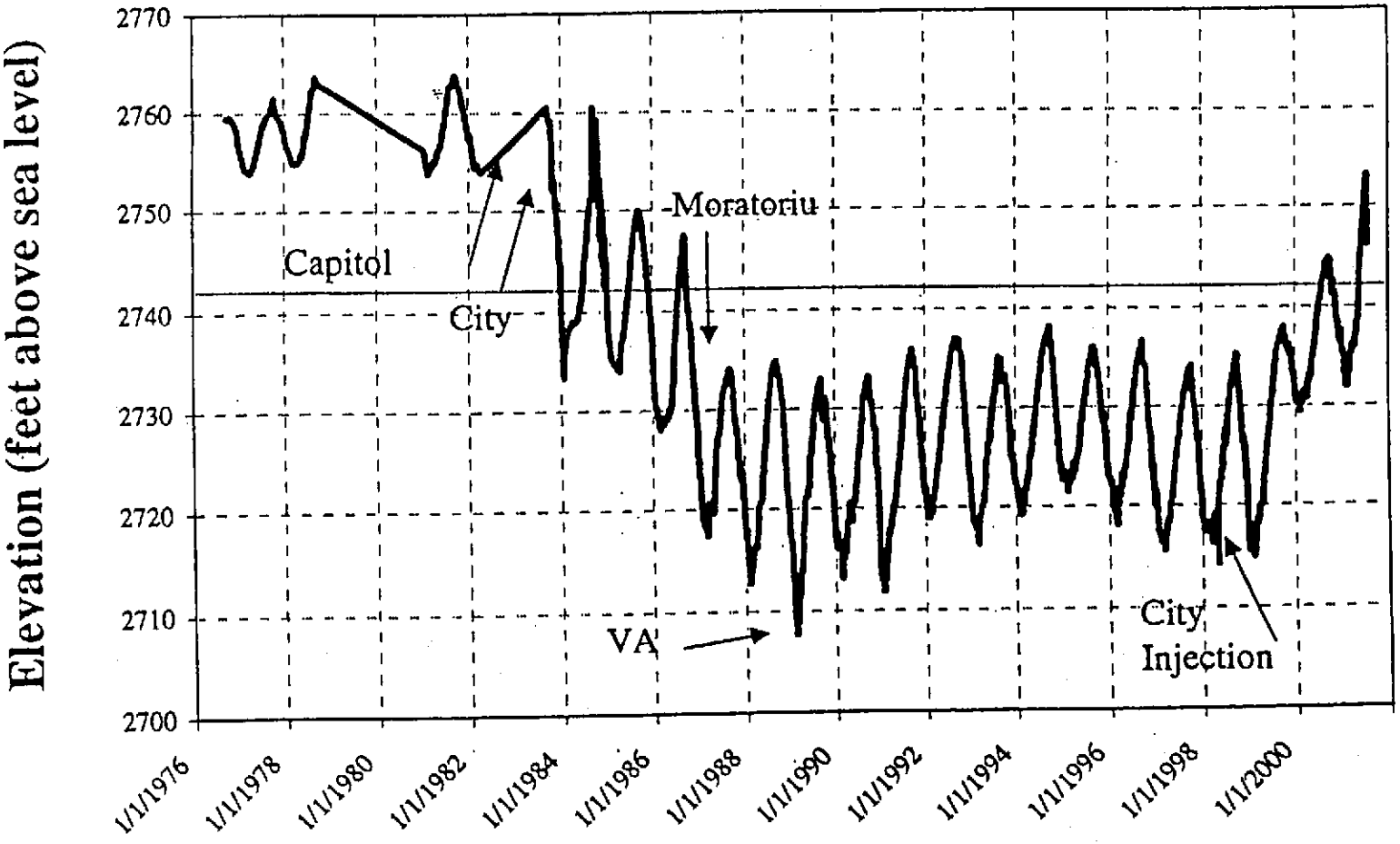
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BLM Monitoring Well Levels Long Term

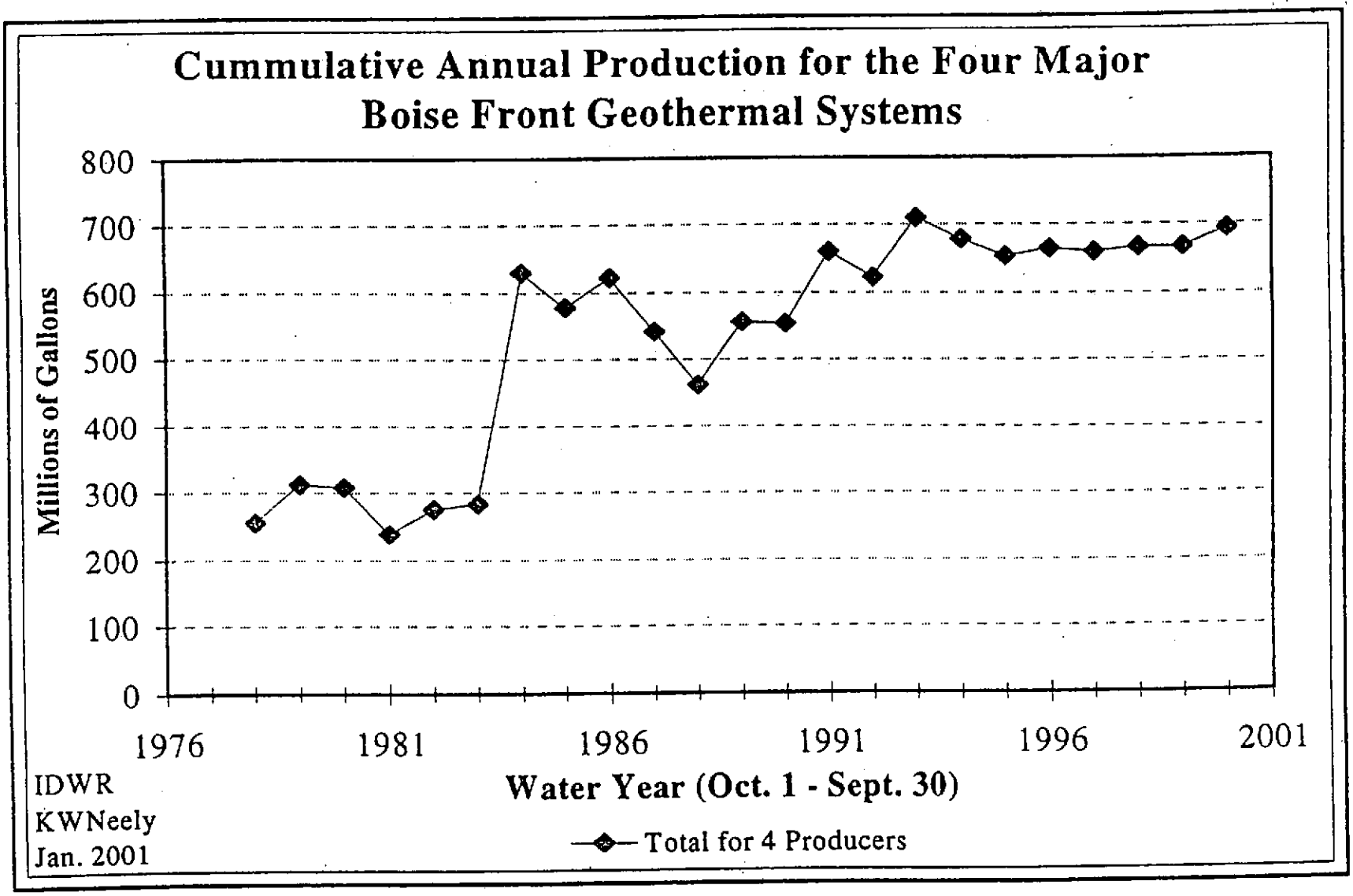


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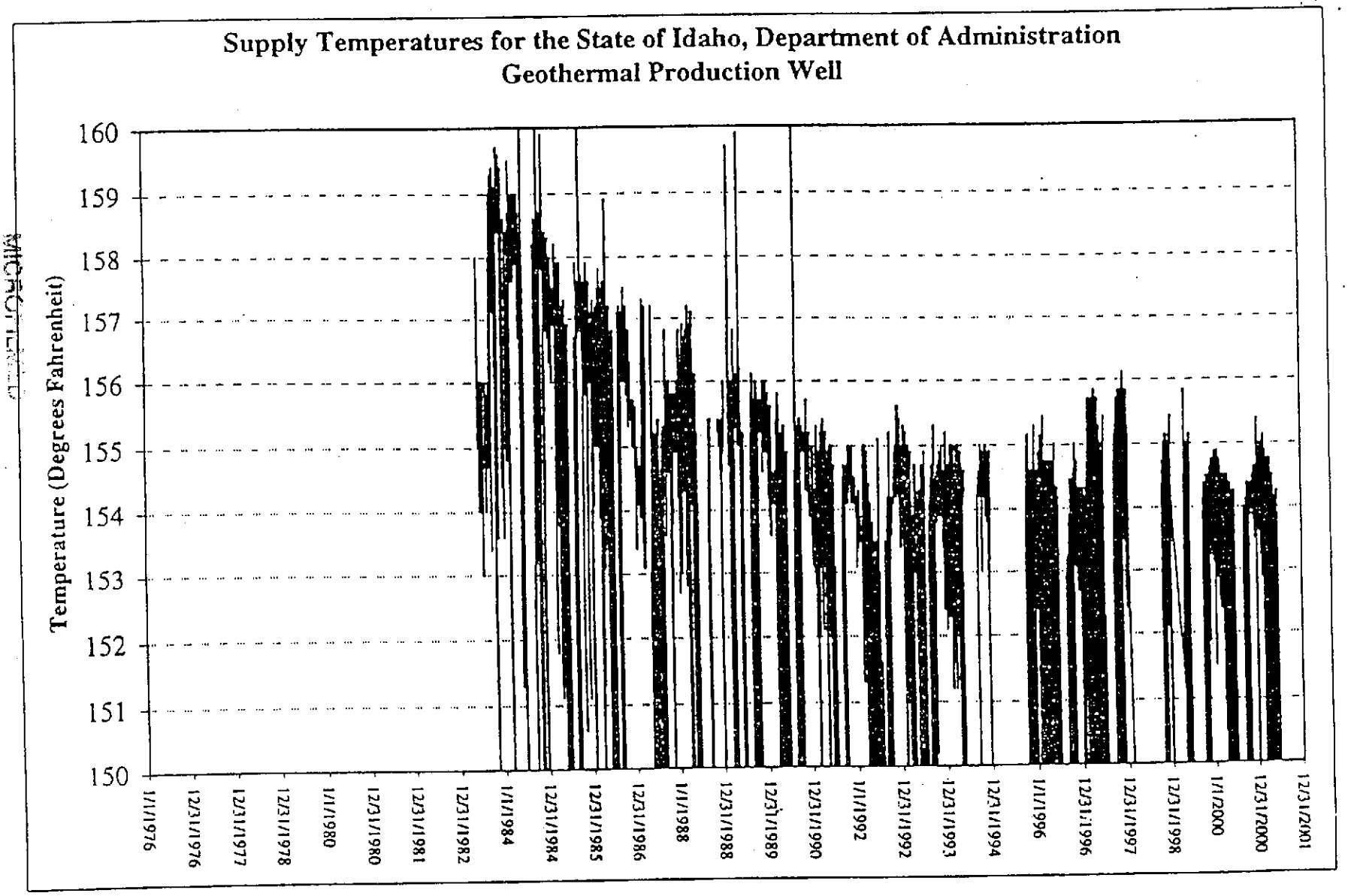
BLM Monitoring Well Levels



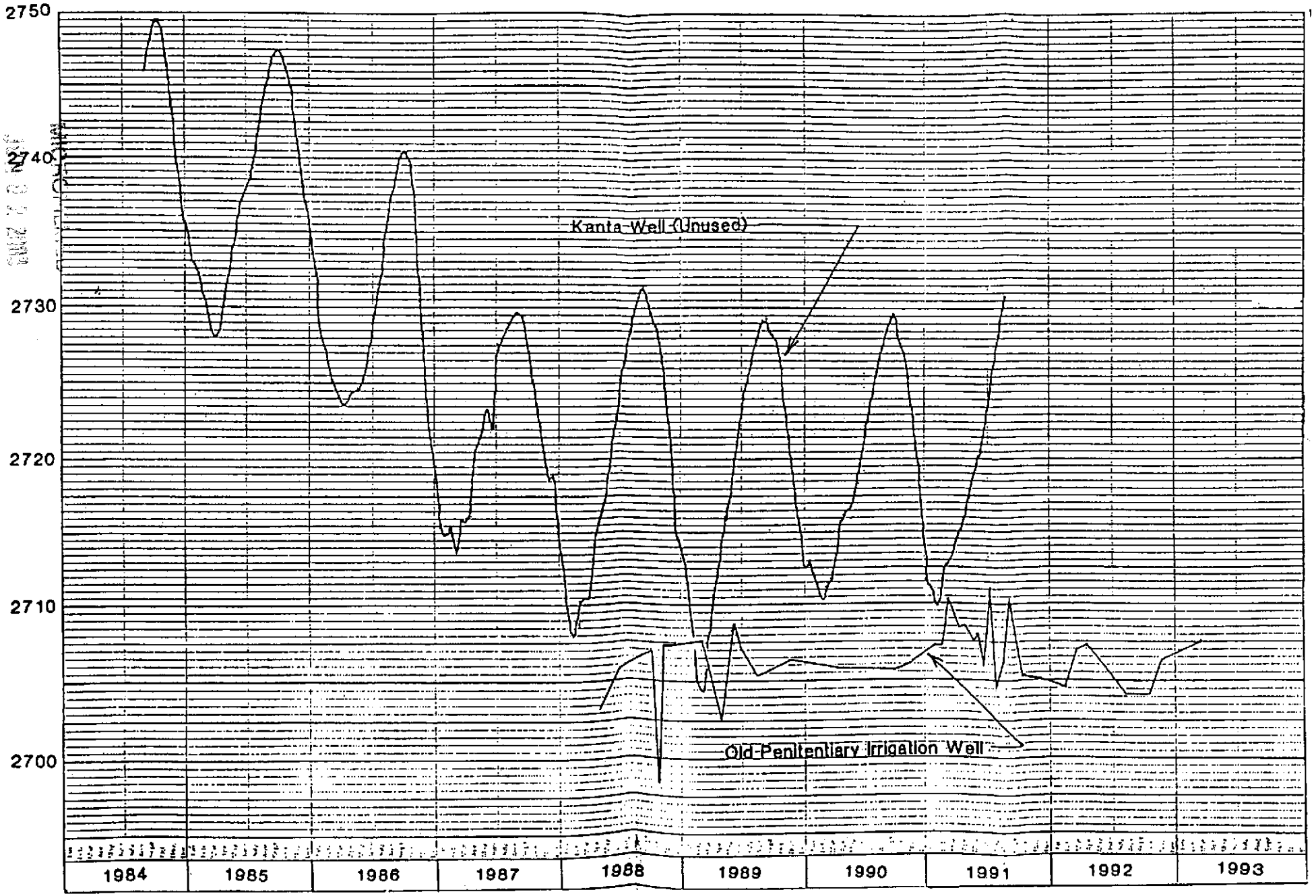
Hydrograph for the BLM Well

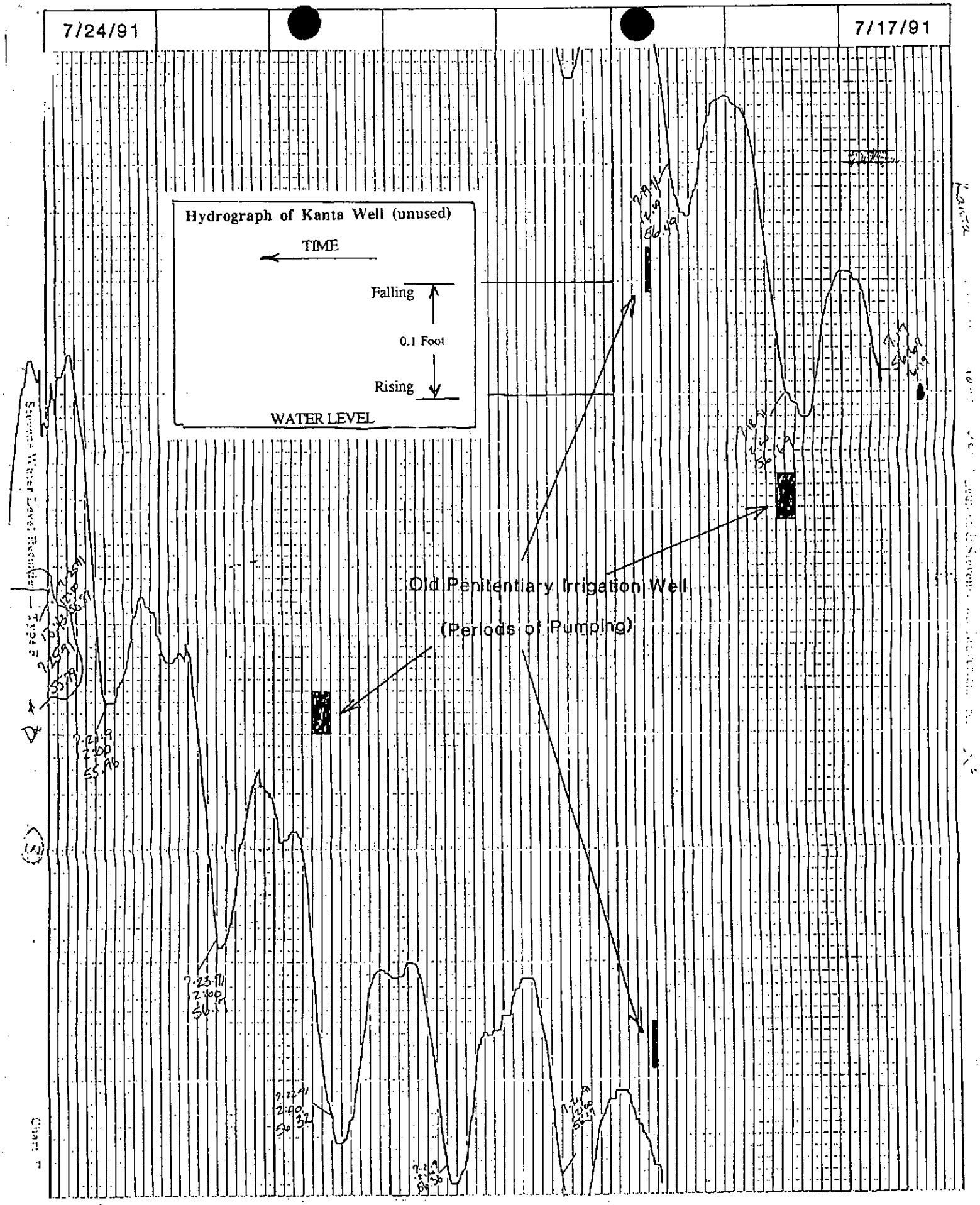


Cumulative Production for the 4 District Heating Systems in the Boise Area.



Supply temperature data for the State System.


2750
2740
2730
2720
2710
2700
Kanta Well (Unused)
Old Penitentiary Irrigation Well
1984
1985
1986
1987
1988
1989
1990
1991
1992
1993



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IDAHO BOTANICAL GARDEN
(Old Penitentiary Irrigation Well)

WATER-LEVEL RECORDS

Date	Depth to Water (Ft. below M.P.*)	Remarks
1965 July	73.5	Original level when drilled
1983 Jan 5	50.10	?
Mar 15	49.71	?
1988 Apr 30	76.81	
Jun 27	74.28	
Aug 3	94.23	Pumped recently ?
Sep 14	150. +	Pumping
Oct 1	73.05	
Oct 29	81.69	
Nov 6	72.85	
1989 Mar 1	72.35	
Mar 18	72.12	
Apr 30	77.49	
Jun 4	71.29	
Jun 29	73.02	
Aug 13	74.66	
Nov 19	73.69	
1990 Apr 9	74.34	
Sep 30	74.43	
Oct 24	74.23	
Nov 15	73.89	
1991 Jan 31	72.70	
Feb 18	72.72	
Mar 3	69.73	
Apr 5	71.74	
Apr 19	71.52	
Apr 26	71.72	
Apr 29	72.61	
May 21	72.51	
May 30	72.03	
Jun 17	74.11	
Jul 1	68.90	
Jul 24	75.68	
Aug 15	73.84	
Sep 4	69.64	
Oct 1	---	Pumping
Oct 14	74.82	
Dec 4	74.98	

* - Measuring point is hole in pump base which is 0.5 ft. above land surface; approx. elevation 2,780 ft above mean sea level.

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IDAHO BOTANICAL GARDEN - Water Level Records (p.2)

1992	Feb 18	75.53	
	Mar 20	73.03	
	Apr 25	72.69	
	Aug 7	75.84	
	Oct 7	75.78	
	Nov 23	73.63	
1993	Mar 23	72.44	
	Apr 21	70.93	
	Jun 8	70.79	
	Jun 24	71.27	
	Jul 17	71.35	
	Aug 20	73.29	
	Sep 16	70.18	
	Nov 12	69.35	
1994	Feb 15	71.16	
	Mar 24	Pumping	T = 136.5 F
	May 31	90.56	Pumped recently, recovering 0.28 ft/min
	Jul 13	75.34	
	Sep 12	Pumping	T = 136.5 F
	Nov 10	69.61	
1995	Jan 12	72.62	
	Mar 15	71.12	
	May 19	69.43	
	Jun 1	70.35	
	Jun 15	70.33	
	Jul 28	72.88	
	Nov 28	70.46	
1996	Feb 12	70.54	
	May 28	Pumping	
	Jun 4	Pumping	
	Jun 26	69.52	
1997	Apr 7	81.32	

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IDAHO BOTANICAL GARDEN
(Old Penitentiary Irrigation Well No. 1)

ENERGY USE

Period	Kwhr
1985	
2/26-3/36	35
6/24-7/24	208
7/24-8/22	342
8/22-9/22	529
9/22-10/23	267
1985 Season	**1,381**
1986	
4/24-5/23	416
5/23-6/24	375
6/24-7/24	334
7/24-8/22	449
8/22-9/23	490
9/23-10/23	186
1986 Season	**2,250**
1987	
4/2-4/24	281
4/24-5/26	443
5/26-6/24	852
6/24-7/24	890
7/24-8/25	869
8/25-9/24	762
9/24-10/23	819
10/23-11/24	255
1987 Season	**5,171**

Period	Kwhr
1988	
4/1-4/25	259
4/25-5/24	852
5/24-6/23	1,230
6/23-7/25	1,572
7/25-8/24	1,291
8/24-9/23	1,516
9/23-10/25	1,330
10/25-11/23	10
1988 Season	**8,060**
1989	
6/1-6/22	2,300
6/22-7/24	1,601
7/24-8/23	1,503
8/23-9/22	1,037
9/22-10/24	599
10/24-11/22	89
1989 Season	**7,129**
1990	
3/23-4/23	650
4/23-5/22	827
5/22-6/21	1,060
6/21-7/23	1,414
7/23-8/22	1,526
8/22-9/21	1,213
9/21-10/23	623
1990 Season	**7,313**

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IDAHO BOTANICAL GARDEN - Energy Use (p. 2)

Period	Kwhr
1991	
4/26-5/28	504
5/28-6/26	955
6/26-7/26	1,054
7/26-8/26	1,076
8/26-9/25	949
9/25-10/25	710
10/25-11/1	92
1991 Season	**5,340**
1992	
3/20-3/26	432
3/26-4/27	723
4/27-5/27	1,309
5/27-6/25	1,116,
6/25-7/27	1,131
7/27-8/25	471
8/25-9/24	2,138
9/24-10/26	937
1992 Season	**8,257**
1993	
4/27-5/27	1,023
5/27-6/28	1,133
6/28-7/28	1,165
7/28-8/27	1,325
8/27-9/28	1,313
9/28-10/28	650
1993 Season	**6,609**

New meter installed by Idaho Power Co.
Westinghouse, Type D45-7M, 480 v,
S/N 59 482 735, Kh = 57.6
Readings (2/15/94): 00000 Kwhr, 000 Kw

Period	Kwhr
1994	
2/15-3/29	252
3/29-4/28	798
4/28-5/27	1,111
5/27-6/28	1,471
6/28-7/28	2,235
7/28-8/26	1,637
8/26-9/27	1,218
9/27-10/26	489
10/26-11/25	37
1994 Season	**9,248**
1995	
2/15-3/28	0
3/28-4/27	557
4/27-5/26	818
5/26-6/27	1,258
6/27-7/27	1,276
7/27-8/28	2,088
8/28-9/27	3,435
9/27-10/27	3,118
10/27-11/28	0
1995 Season	**12,550**
1996	
4/29-5/29	1,718
5/29-6/27	2,292
6/27-7/29	1,924
7/29-8/27	1,973
8/27-9/18	902
9/18-10/28	1,737
1996 Season	**10,546**

1997 Season--start using Old Penitentiary Well No 2 at Warm Spgs. Golf Course

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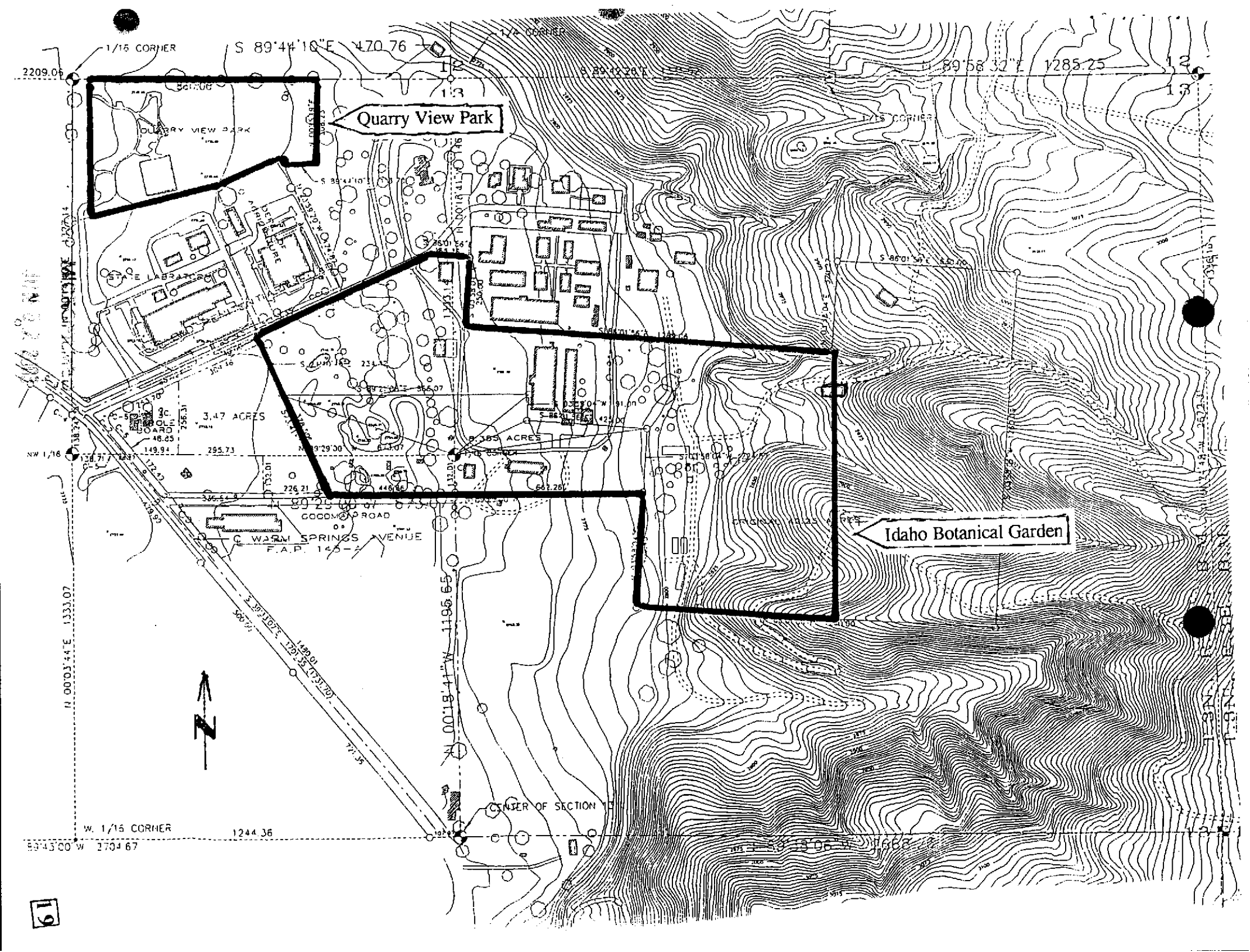
IDAHO BOTANICAL GARDEN
(Old Penitentiary Irrigation Well No. 1)

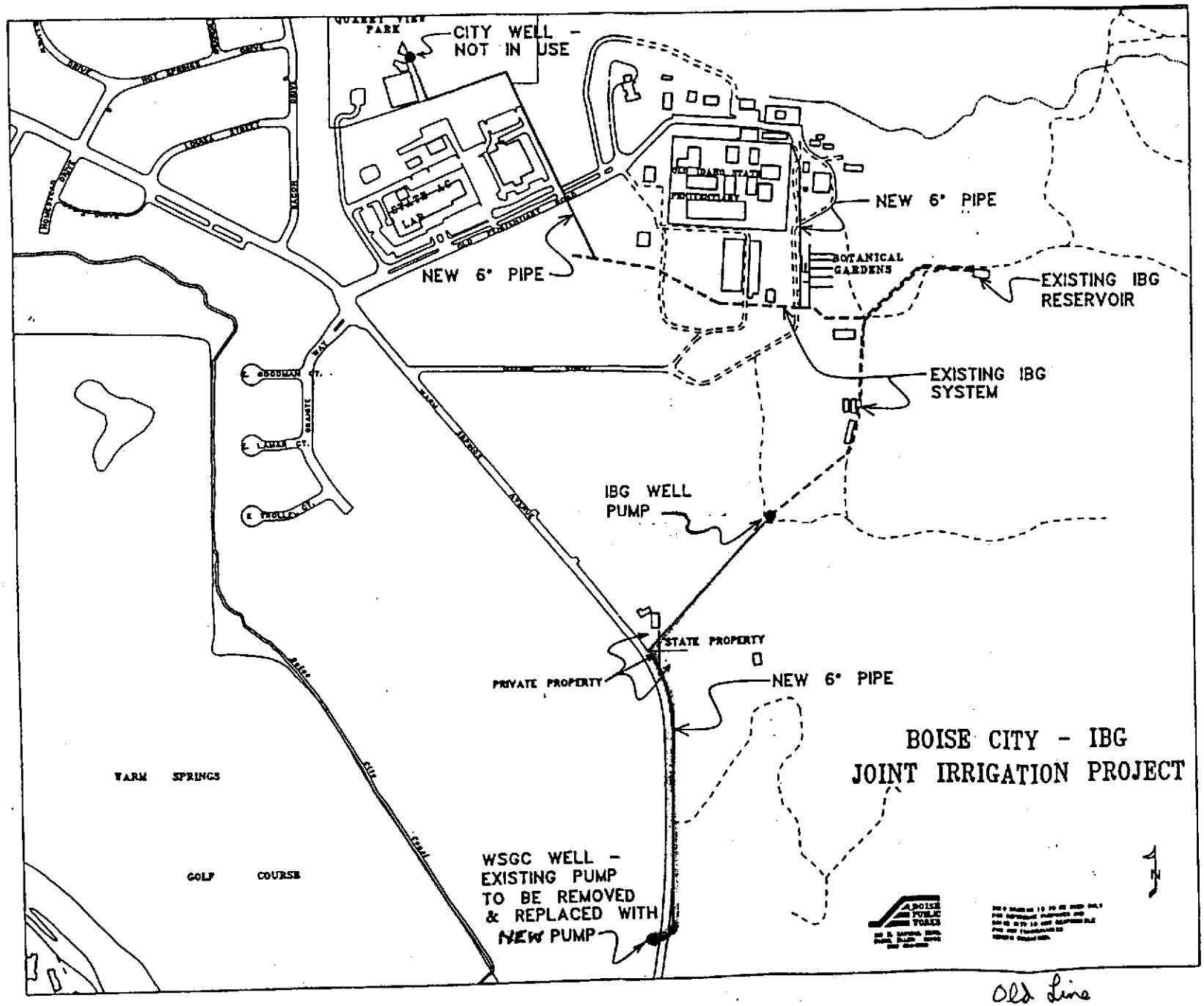
ESTIMATED WATER USE

The following estimates of water use are based on observations made September 14, 1988. At that time, the irrigation pump was discharging approximately 512 gallons a minute (coordinate measurements) and the input to the pump motor was 44.31 kw (watt-hour meter measurement). These data indicate that pumping one acre foot of water required 470 kilowatt-hours. This has been used to estimate water use from electric power consumption for the years 1985-1993. Similar observations were made on April 5, 1995 at which time the pump was discharging approximately 452 gallons a minute and input to the motor was 43.65 kw. These data indicate that pumping one acre foot of water required 525 kilowatt-hours. This has been used to estimate water use commencing with the 1994 season. (One acre foot (A.F.) = 325,851 gallons).

Season	Acre-Feet	Gallons
1985	2.94	958,000
1986	4.79	1,561,000
1987	11.00	3,584,000
1988	17.15	5,588,000
1989	15.17	4,943,000
1990	15.56	5,070,000
1991	11.36	3,702,000
1992	17.57	5,724,000
1993	14.06	4,582,000
1994	17.61	5,738,000
1995	23.90	7,788,000
1996	20.09	6,546,000

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Quarry View Park
Idaho Botanical Garden
S 89°44'10"E 470.76
1/16 CORNER
QUARRY VIEW PARK
STATE LABORATORY
3.47 ACRES
8.385 ACRES
GOODMAN ROAD
W. WARM SPRINGS AVENUE
F.A.P. 148-A
CENTER OF SECTION 13
W. 1/16 CORNER
1244.36
S 89°45'00" W 2704.67
N 00°03'44" E 1333.07
N 00°18'41" W 1196.65
N 89°58'32" E 1285.25
S 89°49'26" E 1334.52
2209.06
NW 1/16
13
12
18
19



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SEP 0 7 2005

OLD PENITENTIARY WELL NO. 2 (Warm Springs Golf Course)

Location: NE SW 13, 3N, 2E

Ground elev: about 2724 ft

Total Depth: 470 ft

Drilled: Lukehart, 8/1/65 to 9/6/65

Construction: 16" casing 0 - 105
12" casing 0 - 470 (1/4 x 4 perforations 120 - 460 ft)

Static Water Level: 10 ft

Temp: 68 ° F

Tested 8 hr with turbine pump, diesel engine:

1000 gpm with 33 ft drawdown
1350 gpm with 42 ft drawdown
1600 gpm with 48 ft drawdown
(Transmissivity = about 9,000 ft sq/day?)

Drillers Log

0 - 10 ft	soil
10 - 30	gravel and sand
30 - 68	sand
68 - 130	blue shale
130 - 243	stringers of blue shale and sand
243 - 305	hard blue shales (with seams of water)
305 - 315	blue shale
315 - 415	hard blue shale with stringers of sand
415 - 432	sandy shale
432 - 436	blue shale - gravel
436 - 451	lava rock
451 - 470	blue shale

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IRRIGATION WATER ALLOCATION
(Idaho Botanical Garden--Boise City Quarry View Park--Old Penitentiary--Boise State University

Existing agreement provides for allocation of Idaho Power Co. pumping costs (at Golf Course well) to be shared between organizations using water based on meter readings. Meters are read by Boise Parks & Recreation. Meter readings are in 100-gallon units. "Upper Meter" measures total released from reservoir. "Lower Meter" measures water delivered to Quarry View Park". "Old Pen Meter" measures water delivered to Old Penitentiary. "BSU Meter" measures water delivered to Boise State University. Idaho Botanical Garden usage is equal to amount released from reservoir (Upper Meter) minus all other meter readings. First measurements were in June 1997 for only Upper and Lower meters. Old Penitentiary measurements started in June 1999. BSU measurements started in March 2001.

NOTE: Errors apparently occurred in Penitentiary data for the period of about November 1999 through September 2000 when it was noted that "meter under water"; and also in Quarry View Park data after about October 2000. Meters apparently malfunctioned since readings during those times at those locations apparently showed zero use. Data have been copied from City notes; data for 12/8/00 and later are questionable--not sure what meter readings for a "Pond" refer to, or exactly how BSU usage is computed (where their meters are located)

Date	Meter Readings				Water Delivered (million gal)					Percentage Delivered			
	"Upper"	"Lower"	"Old Pen"	"BSU"	Total	Garden	Park	Pen	BSU	Garden	Park	Pen	BSU
6/3/97	23168	6956											
8/1/97	77472	39202	---	---	5.43	2.21	3.22	---	---	41	59	----	---
9/3/97	107640	57640	---	---	3.02	1.17	1.84	---	---	39	61	----	---
10/1/97	124525	66355	---	---	1.69	0.82	0.87	---	---	48	52	----	---
10/29/97	132810	70751	---	---	0.83	0.39	0.44	---	---	47	53	----	---
12/2/97	132996	70751	---	---	0.02	0.02	0.00	---	---	100	0	----	---
								---	---				
5/1/98	138318	74939	---	---	0.53	0.11	0.42	---	---	21	79	----	---
6/2/98	147136	78221	---	---	0.88	0.55	0.33	---	---	63	37	----	---
6/30/98	168667	87791	---	---	2.15	1.20	0.96	---	---	56	44	----	---
8/3/98	219468	105652	---	---	5.08	3.29	1.79	---	---	65	35	----	---
9/8/98	282146	132369	---	---	6.27	3.60	2.67	---	---	57	43	----	---
10/5/98	298052	137277	---	---	1.59	1.10	0.49	---	---	69	31	----	---
12/4/98	307727	141644	---	---	0.97	0.53	0.44	---	---	55	45	----	---
			---	---				---	---				
5/3/99	326194	148460	---	---	1.85	1.17	0.68	---	---	63	37	----	---
5/17/99			38180										
6/2/99	361507	158916	42492		3.53	2.05	1.05	0.43	---	58	30	12	---
7/9/99	418837	182677	54183		5.73	2.19	2.38	1.17	---	38	41	20	---
8/2/99	464192	202990	61757		4.54	1.75	2.03	0.76	---	39	45	17	---
9/1/99	505400	219137	67951		4.12	1.89	1.61	0.62	---	46	39	15	---
10/1/99	539012	233483	74515		3.36	1.27	1.43	0.66	---	38	43	20	---
11/8/99	553416	239585	75140		1.44	0.77	0.61	0.06	---	53	42	4	---

(One Million Gallons = 3.07 Acre-Feet)

Date	Meter Readings				Water Delivered (million gal)					Percentage Delivered			
	"Upper"	"Lower"	"Old Pen"	"BSU"	Total	Garden	Park	Pen	BSU	Garden	Park	Pen	BSU
12/2/99	556842	239585	----		0.34	0.34	0.00	???	---	100			
4/10/00	560251	241068	75952		0.34	0.19	0.15	???	---	56			
5/8/00	574250	248404	75952		1.40	0.67	0.73	???	---	48			
6/7/00	607186	259151	75952		3.29	2.22	1.07	???	---	67			
7/13/00	665216	282601	75952		5.80	3.46	2.35	???	---	60			
8/3/00	704702	296021	75952		3.95	2.61	1.34	???	---	66			
9/7/00	755006	314527	75952		5.03	3.18	1.85	???	---	63			
9/29/00	778894	324352	75952		2.39	1.41	0.98	???	---	59			
10/30/00	791357	327098	868		1.25	0.97	0.27	???	---	78			
12/8/00	791455	327098	1174		0.01	0.00	???	0.00	---	0			
3/20/01	791956	327098	1186	36	0.05	0.00	???	0.00		0			
4/3/01	792053	327098	1186	55	0.01	0.00	???	???		0			

(One Million Gallons = 3.07 Acre-Feet)

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

RECEIVED
DEC 02 1996
MEULEMAN, MILLER & CUMMINGS

RECEIVED
MAR 10 2003
Department of Water Resources

November 19, 1996

Idaho Botanical Gardens
Wayne Meuleman
2355 Old Penitentiary Road
Boise, Idaho 83712

Dear Wayne:

As you know, the Idaho Water Resource Board has approved your IBG's request to increase the loan amount from $90,000 to $110,000. Because of this I have prepared new loan documents to take the place of the originals (with the exception of the UCC-1 Financing Statements). Enclosed with this letter are the new loan contracts. Please review them and sign them if they are acceptable. Then, return them to me so that I can have the Department of Water Resources Director sign them. A copy of the signed contracts will be returned to you for your records.

Also for your information, in August of this year, the Board voted to stop charging the 2% loan fee. Because your original loan commitment of $90,000 was committed prior to this date, IBG will be required to pay the 2% fee on the $90,000, but will not be required to pay it on the $20,000 loan increase.

If you have any questions please contact me.

Sincerely,

B Patton

Brian Patton
Water Resource Engineer
Water Planning Bureau

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JUN 0 2 2003

STATE BOARD OF LAND COMMISSIONERS
May 14, 1996
CONSENT AGENDA JUN 03 1996

SUBJECT

Adjustment to Idaho Botanical Garden and Quarry View Park Leases to Incorporate New Main Water Line

BACKGROUND

The Garden has been irrigating with low grade geothermal water from an old penitentiary well (Well #1) on site since its inception in 1984. The Idaho Department of Water Resources (IDWR) has asked the Garden to develop a cold water source so that the geothermal source can be reserved for other uses.

The Boise City Quarry View Park is also a lease on state general fund property. The park had also irrigated with low grade geothermal water from a well at the park but currently use United Water Idaho water to irrigate in an effort to reserve geothermal water.

The Old Penitentiary has been irrigating with United Water Idaho water which is much more expensive than operating a well.

DISCUSSION

There is a second old penitentiary well (Well #2) located on the Warm Springs Golf Course, Boise City property, that tests show will provide an adequate cold water source. There is enough water to irrigate the Garden, the Park, and the Old Penitentiary.

Prior to the transfer of the Garden lease to Lands administration, the Idaho State Historical Society, Boise City, and the Garden had begun discussions to develop a Joint Water Use Agreement to utilize Well #2 to irrigate all three general fund state properties. Staff continued the development of the agreement and it is now completed (attached).

Under the agreement, the Garden and Boise City will fund and install a new main water line from Well #2 to Well #1 and develop Well #2. The Historical Society will install a service line from Well #1 to the Old Penitentiary. Each party will have a service meter and each will pay their metered use of water.

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Preliminary cost estimates (attached) indicate that the cost to the Historical Society will be $9,000.00 for their service line. The Historical Society had also estimated and budgeted for a new independent well for their use. The amount budgeted for a new well was $40,000.00. The Historical Society will realize a savings of $31,000.00 under the agreement. There will also be long term savings since the Historical Society will not have to irrigate with United Water Idaho water.

Once the new main line is installed to Well #1, the Garden will continue to use their existing distribution lines for irrigation. Boise City will install a service line to the Park.

Boise City has the responsibility to provide ongoing overview of the system with each party being responsible to cost share ongoing maintenance.

There is a significant investment to develop Well #2 and install the new main water line. The Garden and Boise City need to know their investment will be protected throughout the duration of their lease. Staff believes the best process to handle this concern is to incorporate the new water line into the leases as an off-site improvement. This will keep all elements of the lease consistent with the terms and expiration of the leases.

The water line will be incorporated into the leases using a standard "Lease Adjustment" form (IDL 1535).

Staff reviewed the attached agreement with all parties including the Idaho Historical Society recently and all remain satisfied with the agreement.

RECOMMENDATION

Approve incorporating the new main water line into the Idaho Botanical Garden Lease and the Boise City Quarry View Park Lease.

BOARD ACTION

APPROVED JUN 0 3 1996

STATE BOARD OF LAND COMMISSIONERS SEAL IDAHO

ATTACHMENTS

1. Joint Water Use Agreement
2. Summary of Responsibilities
3. Adjustment Form

BT:lf

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JUN 0 2 2003

STATE OF IDAHO

DEPARTMENT OF LANDS

PERMIT FOR CONSTRUCTION OF IMPROVEMENT

Project No. _____ Date January 2, 1997

Lease No. M-6015 Location: Part Sec 13 Twp 3N Rge 2E

Lease Type Miscellaneous Lot _____ Block _____ Sub _____

Permission is hereby granted to:

Name Boise City Quarry View Park Telephone _____

Address 150 N. Capitol Blvd.

Town Boise, ID Zip 83701-0500

Description of construction of improvement (attach scale plats, drawings, plat plans and specifications):

To install a new main water line service across state land per attached drawing as approved by land board action June 3, 1996. This water line is to serve Boise City Quarry View Park, the Idaho Botanical Garden, and the Old Penitentiary and will be a part of the existing leases to Boise City and the Idaho Botanical Garden.

Estimated Cost: $84,000.00 - $94,000.00

Mandatory Completion Date: N/A

Bond NO X

YES _____ Amount _____

STANLEY F. HAMILTON
Director

By Bryce D Taylor

Distribution:
White – Permittee
Canary – Issuing Office
Pink – Director's Office

IDL 1507 (7-91)

MICROFILMED
JUN 02 2003

LEASE ADJUSTMENT
Section 17 of Lease #M-601

We, the undersigned, do hereby agree that this adjustment shall become a part of State of Idaho lease number M-6015, and that beginning January 1, 1996, until December 31, ~~19~~ 2033, the following rates, acreages and conditions shall apply.

Former conditions were:

ACRES	TYPE	RATE (AUMs)	RENTAL
6.64	Park	One-Time Payment	$ 1.00
			$
			$
			$
	Total Acres	Total:	$ 1.00

New conditions are:

No Substantive Changes			$ NC
			$
			$
			$
	Total Acres	Total:	$ NC

Special or revised terms or conditions:

This adjustment is to add Section #17 to Lease #M-6015 which reads as follows:

17. Off Site Water Line: Lessee and Lessor agree that Lessee can construct a new water line from Old Penitentiary Well #1 to Old Penitentiary Well #2 per the Joint Water Use Agreement between Lessor, Lessee, and Idaho Botanical Garden approved February 21, 1996, and that there will be no additional rental for such since the water delivered by the new line will only be used to irrigate Lessor's land. A copy of the Joint Water Use Agreement is attached to this adjustment which shall all be attached to the lease as Attachment B.

A. Brent Cahn
Lessee - Boise City

Bryce D. Taylor
IDL - ~~Area Supervisor~~
Bureau Chief, Range Management & Surface Leasing
Date

Lessee

Stanley F. Hammett
Director
Idaho Department of Lands

Distribution:
WHITE - File
CANARY - Lessee
PINK - Area

IDL 1535 March 1990

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 2, 2003

SCOTT H NICHOLS
IDAHO DEPARTMENT OF LANDS
PO BOX 83720
BOISE ID 83720-0050

RE: Water Right Permit 63-9661

Dear Mr. Nichols:

This is to acknowledge that IDWR has received your letter requesting that the "stay in development" on Permit 63-9661 be lifted.

According to your letter, you intended to include a map of the water system that was installed subsequent to the change in diversion point. The map did not accompany your letter, and to date it has not been received by our office.

It would be much appreciated if you could forward a copy of the map of the water system as an aid to our review of your request.

If you have any questions regarding this matter, please call me at 327-7946.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SWK:klt

MICROFILMED
JUN 0 2 2003

RECEIVED
DEC - 5 2002
Department of Water Resources

IDAHO DEPARTMENT OF LANDS

954 W. Jefferson St., PO Box 83720
Boise, Idaho 83720-0050
Phone (208) 334-0200 Fax (208) 334-2339

WINSTON WIGGINS - DIRECTOR

BOARD OF LAND COMMISSIONERS
DIRK KEMPTHORNE
Governor
PETE T. CENARRUSA
Secretary of State
ALAN G. LANCE
Attorney General
J.D. WILLIAMS
State Controller
MARILYN HOWARD
Sup't of Public Instruction

December 3, 2002

Shelley Keen
Idaho Department of Water Resources
1301 N. Orchard Street
Boise, Idaho 83706

SUBJECT: Water Right Permit No. 63-09661

This letter is in response to recent conversations that I have had with the Department of Water Resources regarding water rights at the Old Penitentiary Site.

It is my understanding that a "stay in development" was placed on the state's water right application due to the Boise Front Geothermal Moratorium in development.

In 1995, the Idaho Historical Society, pursuant to Idaho Code section 42-211, requested an amendment of Water Permit No. 63-09661. The purpose of the amendment was to change the point of diversion from a low temperature geothermal ground water source, known as Old Penitentiary Well No. 1, to the new point of diversion, located on the north side of Warm Springs Golf Course, known as Old Penitentiary Irrigation Well No. 2 that is cold water.

The purpose of this letter is to request that the stay in development on Water Right Permit No. 63-09661 be lifted because the point of diversion for the water has been moved and low temperature geothermal water is not used for irrigation purposes. For your information, I have enclosed a copy of the change of water right ownership, a copy of the amended water right permit and a map of the water system which has been installed subsequent to the change in diversion point.

I realize this can be a confusing issue; if you have any questions or need additional information, I would be happy to meet with the Department of Water Resources to explain the overall water use agreements at the Old Penitentiary Site. Thank you for your consideration.

SCOTT H. NICHOLS, Chief
Bureau of Minerals

MICROFILMED
JUN 0 2 2003

SHN:sjb

irrigation at new site in NENW? Total irrigation cannot be increased under this license.

- A possibility exists for Well #2 to provide new irrigation in NENW under a different water right record. Boise City filed a proposed change to a water right license to allow Well #2 to irrigate the golf course. The matter is pending before IDWR. Maybe the City would entertain amending the proposal to include irrigation of new acres in NENW. This would involve amending **Transfer Application #69327 to alter Water Right License 63-9276** (not related to Well #1 or to Quarry View Park well).

ANY PROPOSAL TO IRRIGATE NEW ACRES IN NENW SECTION 13

- Additional irrigation from wells subject to provisions of the Boise Front GWMA requires IDWR approval prior to development.

- The potential irrigator should seek IDWR approval by submitting a written request to determine if a proposal is feasible. IDWR can review a draft proposal prior to an official filing if that would be helpful.

- The well owner and water right owner must be included in this process to provide legal irrigation coverage at the new site.

- Uses of some or all of the wells discussed in this summary appear to be subject to an agreement between several parties. Private agreements are useful tools provided that water uses do not exceed those defined by valid water rights.

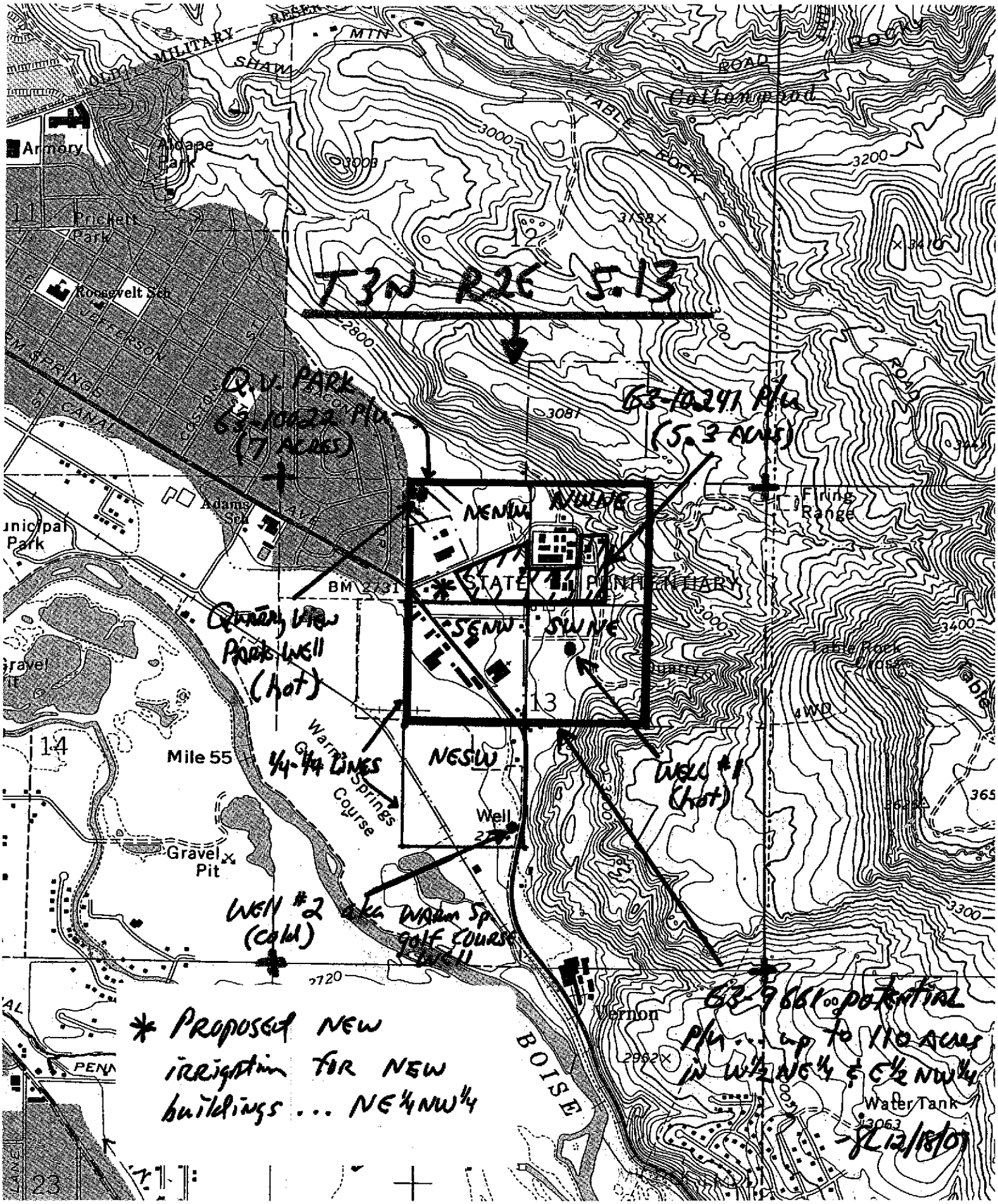
ATTACHMENTS

- Map showing Well #1, #2 and Quarry View Park Well plus places of use for 3 records.

- Printouts of 3 records.

- Pages 9 and 10 from Boise Front GWMA management plan addressing partially or completely developed uses. Permits that are not fully developed, e.g. 63-9661, cannot be futher developed unless authorized by IDWR. A cold water well used to increase development under such a permit might be acceptable in the GWMA.

MICROFILMED
JAN 09 2002


T3N R2E S.13
Q.V. PARK
63-10022 P/U
(7 ACRES)
63-10241 P/U
(5.3 ACRES)
NENW
W½NE
SENW
SWNE
NESW
QUARRY VIEW
PARK WELL
(HOT)
WELL #1
(HOT)
WELL #2
(COLD)
1/4-1/4 LINES
* PROPOSED NEW
IRRIGATION FOR NEW
BUILDINGS ... NE¼NW¼
63-9661 POTENTIAL
P/U ... UP TO 110 ACRES
IN W½NE¼ & E½NW¼
-SL 12/18/07
Armory
Aldape Park
Prickett Park
Roosevelt Sch
Adams Sch
Municipal Park
Gravel Pit
Mile 55
Warm Springs Golf Course
Firing Range
Table Rock
Cottonwood
Vernon
Water Tank
BOISE
MILITARY
SHAW MTN
OLD
ROAD
TABLE ROCK
WARM SPRINGS
CANAL
PENN
BM 2731
3000
3200
2800
3081
3158
3410
3400
3300
2962
3063
2720
4WD

2. Minimize administrative paper work,

3. Minimize management cost to users and the public, and

4. Provide a reliable basis for actions of both users and IDWR.

D. Stabilize depletions from the aquifer at existing or reasonable rates (whichever is less), until a new equilibrium condition can be accurately predicted. The goals of protection for existing users and for maximizing public benefit from the resource may appear to be in conflict, one seeking to minimize the number of users and the other seeking to maximize development. IDWR must balance these goals to obtain a workable management plan. The key to balance is adequate knowledge of the resource. In particular, IDWR needs reliable estimates of the volume of water the resource can yield, how this volume changes if water levels or pressures are reduced in the aquifer, the effect of reduced water levels or pressures on water temperature, the degree of interconnection between present and future wells, how interconnection can be minimized, and a workable estimate for reasonable pumping (pressure) levels.

Development of this information will be facilitated by the maintenance of stable conditions in the aquifer.

IV. OBJECTIVES TO MEET GOALS

A. Existing Uses

1. Each use will be limited to the lesser of the recorded right, beneficial use being made of the water or sustained historic diversion rate and/or volume.

63-10022 and 63-10241

2. Use with reasonable efficiency will be required.

3. IDWR will require the substitution of cold water resources for existing uses that do not need the heat value of the low temperature geothermal resource, wherever practical.

re Well #2

4. Well and system construction to prevent waste above and and below ground will be required.

5. Reinjection will be required unless it can be shown to the satisfaction of the Director that reinjection is not economically and technically feasible.

6. Uniform monitoring equipment, data collection, and reporting will be required where possible.

From June 1988 Mgt Plan, Boise Front GWMA

MICROFILM

7. Diversion and use of water will be administered through the authority in Sections 42-237a.g., 42-311, 42-350 and 42-351, Idaho Code, until a water district can be formed.

8. IDWR will create a water district and appoint a watermaster upon entry of an interim decree in the Snake River Adjudication (or other adjudication) to measure and deliver water to the users.

B. Undeveloped and Partially Developed Permits

1. Permits to use the low temperature geothermal resource for which the full extent of authorized diversion rate, volume and beneficial use has not been diverted and beneficially used may not be further developed until IDWR determines from information submitted that further development will not:

63-9661

a) Increase depletions from the aquifer,

b) Increase pumping lift or decrease pressurefor existing senior users,

c) Reduce temperature to existing users causing systems operating at reasonable efficiency to no longer operate.

Permit holders may submit proposed mitigation approved by IDWR to accomplish a), b), and c).

Further development can only occur if specifically authorized by IDWR after review and approval of development plans and other applicable information.

2. Permits which do not use heat as a primary purpose will be cancelled.

3. Reinjection to the aquifer will be required unless determined by the Director to be unreasonable.

4. All systems will be required to use water and heat with a reasonable efficiency as determined by the Director.

C. Applications

1. Pending and future applications will be rejected unless information is provided by the applicant to demonstrate the use will not cause:

a) Additional depletion of the aquifer,

b) An increase in pumping lift or pressure reduction

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 63-9661

WATER RIGHT NUMBER: 63-9661

Owner Type	Name and Address
Current Owner	STATE OF IDAHO DEPT OF LANDS STATEHOUSE MAIL PO BOX 83720 BOISE, ID 837200050 (208)334-0200

Priority Date: 01/16/1981

Basis:

Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	3/15 to 11/15	2.200 CFS	
	Total Diversion:	2.200 CFS	

Location of Point(s) of Diversion

GROUND WATER SW1/4NE1/4 Sec. 13, Twp 03N, Rge 02E, B.M. "Well #1, ho.
ADA County

GROUND WATER NE1/4SW1/4 Sec. 13, Twp 03N, Rge 02E, B.M. "Well #2"
ADA County
cold, warm Sp. golf course

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	02E	13		35.0	35.0		35.0			5.0									110.0

Total Acres: 110

Conditions of Approval:

1. 004 The issuance of this right does not grant any right-of-way or easement across the land of another.
2. 01M 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.
3. 020 Use of water under this right may be affected by an agreement between the protestant and the right holder.
4. 068 This permit does not authorize the construction of any new well or the deepening or enlargement of any existing well.

Remarks:

MICROFILMED

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 63-10022

WATER RIGHT NUMBER: 63-10022

Owner Type	Name and Address
Current Owner	CITY OF BOISE PARKS & RECREATION DEPT 1104 ROYAL BLVD BOISE, ID 83706 (208)384-4060

Priority Date: 04/20/1983

Basis:

Status: Active

Source: GROUND WATER

Tributary:

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/01 to 10/31	0.370 CFS	
	Total Diversion:	0.370 CFS	

Location of Point(s) of Diversion

GROUND WATER ADA County	NE1/4SW1/4	Sec. 13, Twp 03N, Rge 02E, B.M.	"Well #2, cold
GROUND WATER ADA County	NE1/4NW1/4	Sec. 13, Twp 03N, Rge 02E, B.M.	"Q.V. Park", hot

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	02E	13					7.0												7.0

Total Acres: 7

Conditions of Approval:

1. 004 The issuance of this right does not grant any right-of-way or easement across the land of another.
2. 01M 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.

Remarks:

1. General Place of use is Quarry View Park.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 63-9661

Comments:

1. FLECK 6/13/1991 MORATORIUM HOLD/PENDING EXTENSION
Comment: On hold in Boise Front Low Temperature Geothermal GWMA Moratorium; request for extension of time pending.

Dates and Other Information:

Permit Proof Due Date: 3/1/1991
Permit Proof Made Date:
Permit Approved Date: 3/3/1981
Permit Moratorium Expiration Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Field Exam Date:
Date Sent to State Office:
Date Received at State Office:
State or Federal:
Owner Name Connector:
Water District Number: 63
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-9661

WATER RIGHT NUMBER: 63-9661

Owner Type	Name and Address
Original Owner	IDAHO BOTANICAL GARDEN 2355 OLD PENITENTIARY RD BOISE, ID 83712 (208)343-8649
Original Owner	STATE OF IDAHO DEPT OF EDUCATION IDAHO HISTORICAL SOCIETY 610 N JULIA DAVIS DR BOISE, ID 83702
Current Owner	STATE OF IDAHO DEPT OF LANDS STATEHOUSE MAIL PO BOX 83720 BOISE, ID 837200050 (208)334-0200
Also Known As	LANDS , ID
Original Owner	EDUCATION , ID

claim filed to protect permit in Adjudication

Priority Date: 01/16/1981
Basis: Permit
Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	3/15 to 11/15	2.200 CFS	
	Total Diversion:	2.200 CFS	

Location of Point(s) of Diversion

GROUND WATER ADA County	NE1/4SW1/4	Sec. 13,	Twp 03N, Rge 02E, B.M.
GROUND WATER ADA County	SW1/4NE1/4	Sec. 13,	Twp 03N, Rge 02E, B.M.

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	02E	13		35.0	35.0		35.0			5.0									110.0

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-9661

Conditions of Approval:

1. 004 The issuance of this right does not grant any right-of-way or easement across the land of another.
2. 01M 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.
3. 020 Use of water under this right may be affected by an agreement between the protestant and the right holder.
4. 068 This permit does not authorize the construction of any new well or the deepening or enlargement of any existing well.

Remarks:

1. General OWNERSHIP CHANGED BY LH 7/25/95.
CLAIM AMENDED PER APPLICATION FOR AMENDMENT OF A PERMIT DATED 01-19-96.
SEE ALSO ADDITIONAL CONDITIONS OF APPROVAL AS LISTED ON THE COPY OF APPROVED APPLICATION FOR AMENDMENT OF A PERMIT IN FILE.

Comments:

Dates and Other Information:

Claim Received Date: 1/28/1993
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal: S
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 63-10022

Comments:

1. SCURTIS 2/16/1996 AMENDMENT OF PERMIT
Comment: An amendment of permit was approved on 2/16/1996 adding a point of diversion under this right.

Dates and Other Information:

Permit Proof Due Date: 6/1/1986
Permit Proof Made Date: 5/30/1986
Permit Approved Date: 6/13/1983
Permit Moratorium Expiration Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Field Exam Date: 11/12/1986
Date Sent to State Office: 11/12/1986
Date Received at State Office:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

MICRO

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-10022

WATER RIGHT NUMBER: 63-10022

claim filed to protect permit in adjudication

Owner Type	Name and Address
Original Owner	CITY OF BOISE PARKS & RECREATION DEPT 1104 ROYAL BLVD BOISE, ID 83706 (208)384-4060

Priority Date: 04/20/1983

Basis: Permit

Status: Active

Source: GROUND WATER

Tributary:

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/01 to 10/31	0.370 CFS	31.50 AF
	Total Diversion:	0.370 CFS	31.50 AF

Location of Point(s) of Diversion

GROUND WATER NE1/4SW1/4 Sec. 13, Twp 03N, Rge 02E, B.M.
ADA County

GROUND WATER NE1/4NW1/4 Sec. 13, Twp 03N, Rge 02E, B.M.
ADA County

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	02E	13					7.0												7.0

Total Acres: 7

Conditions of Approval:

Remarks:

1. General NAME CHANGE PER CLAIMANT REQUEST. 4/2/99 DB

Comments:

Dates and Other Information:

MICROFILMED

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-10241

WATER RIGHT NUMBER: 63-10241

Owner Type	Name and Address
Current Owner	STATE OF IDAHO DEPT OF LANDS STATEHOUSE MAIL PO BOX 83720 BOISE, ID 837200050 (208)334-0200

Priority Date: 05/30/1984

Basis: License

Status: Active

Source: GROUND WATER

Tributary:

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	3/15	11/15	0.220 CFS	23.90 AF
DOMESTIC	1/01	12/31	0.040 CFS	0.60 AF
		Total Diversion:	0.260 CFS	24.50 AF

Location of Point(s) of Diversion

GROUND WATER — SW1/4NE1/4 — Sec. 13, Twp 03N, Rge 02E, B.M. "Well #1, 407
ADA County

GROUND WATER — NE1/4SW1/4 — Sec. 13, Twp 03N, Rge 02E, B.M. "Well #2" cold
ADA County

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	02E	13		2.5			2.8												5.3

Total Acres: 5.3

DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	02E	13		X															

Conditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-10241

1. 028 After specific notification by the department, the right holder shall annually report the amount of water diverted to the department.
2. 068 This permit does not authorize the construction of any new well or the deepening or enlargement of any existing well.
3. R52 This right when combined with all other rights shall provide no more than .03 cfs per acre nor more than 4.5 afa per acre for irrigation of the lands above.
4. T04 Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.
5. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
6. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. T09 Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
8. T17 Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.

Remarks:

1. General The total instantaneous diversion of water from all points of diversion under Transfer No. 4526 shall not exceed 0.26 cfs, nor total combined annual volume of 24.5 af.
Domestic use is for offices.

Comments:

1. SLESTER 12/29/1994 TRANSFER NO. 4526
Comment: Transfer proposes to add a cold water well to hot water system. The well to be added is an existing well at Warm Springs Golf Course aka old penitentiary well #2, which is also proposed for use in Amendments of Permit #63-09661 (same applicant) and 63-10022 (City of Boise). A joint agreement will cover all of the proposed uses.

Dates and Other Information:

Licensed Date: 2/3/1993
Decreed Date:
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-10241

WATER RIGHT NUMBER: 63-10241

claim filed to protect License in Adjudication

Owner Type	Name and Address
Current Owner	STATE OF IDAHO DEPT OF LANDS STATEHOUSE MAIL PO BOX 83720 BOISE, ID 837200050 (208)334-0200
Original Owner	STATE OF IDAHO DEPT OF EDUCATION IDAHO HISTORICAL SOCIETY 610 N JULIA DAVIS DR BOISE, ID 83702
Original Owner	IDAHO BOTANICAL GARDEN 2355 OLD PENITENTIARY RD BOISE, ID 83712 (208)343-8649
Original Owner	EDUCATION , ID
Also Known As	LANDS , ID

Priority Date: 05/30/1984

Basis: License

Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From To	Diversion Rate	Annual Volume
DOMESTIC	1/01 to 12/31	0.040 CFS	0.60 AF
IRRIGATION	3/15 to 11/15	0.220 CFS	23.90 AF
	Total Diversion:	0.260 CFS	24.50 AF

Location of Point(s) of Diversion

GROUND WATER ADA County	SW1/4NE1/4	Sec. 13, Twp 03N, Rge 02E, B.M.
GROUND WATER ADA County	NE1/4SW1/4	Sec. 13, Twp 03N, Rge 02E, B.M.

Place of Use

DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N 02E 13		X															

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-10241

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	02E	13		2.5			2.8												5.3

Total Acres: 5.3

Conditions of Approval:

1. 028 After specific notification by the department, the right holder shall annually report the amount of water diverted to the department.
2. 068 This permit does not authorize the construction of any new well or the deepening or enlargement of any existing well.
3. R52 This right when combined with all other rights shall provide no more than .03 cfs per acre nor more than 4.5 afa per acre for irrigation of the lands above.
4. T04 Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.
5. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
6. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. T09 Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
8. T17 Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.

Remarks:

1. General OWNERSHIP CHANGED BY LH 7/25/95.
CLAIM AMENDED PER TRANSFER NO. 4526 APPROVED 01-16-96.
SEE ALSO ADDITIONAL CONDITIONS OF APPROVAL AS LISTED ON THE COPY OF APPROVED TRANSFER NO. 4526 IN FILE.
DOMESTIC USE IS FOR OFFICES.

Comments:

12-20-01

Milan Kovak from Historical Society called - wants to know what status of permit is & are they authorized to develop 110 acres from Cold water wells permit was amended to — told him to send in a request for status & someone would investigate file & figure out what was going on — no proof - due in 1991 but request for extension never acted upon as far as I can ~~[illegible]~~ tell. kw

MICROFILMED

JAN 03 2002