



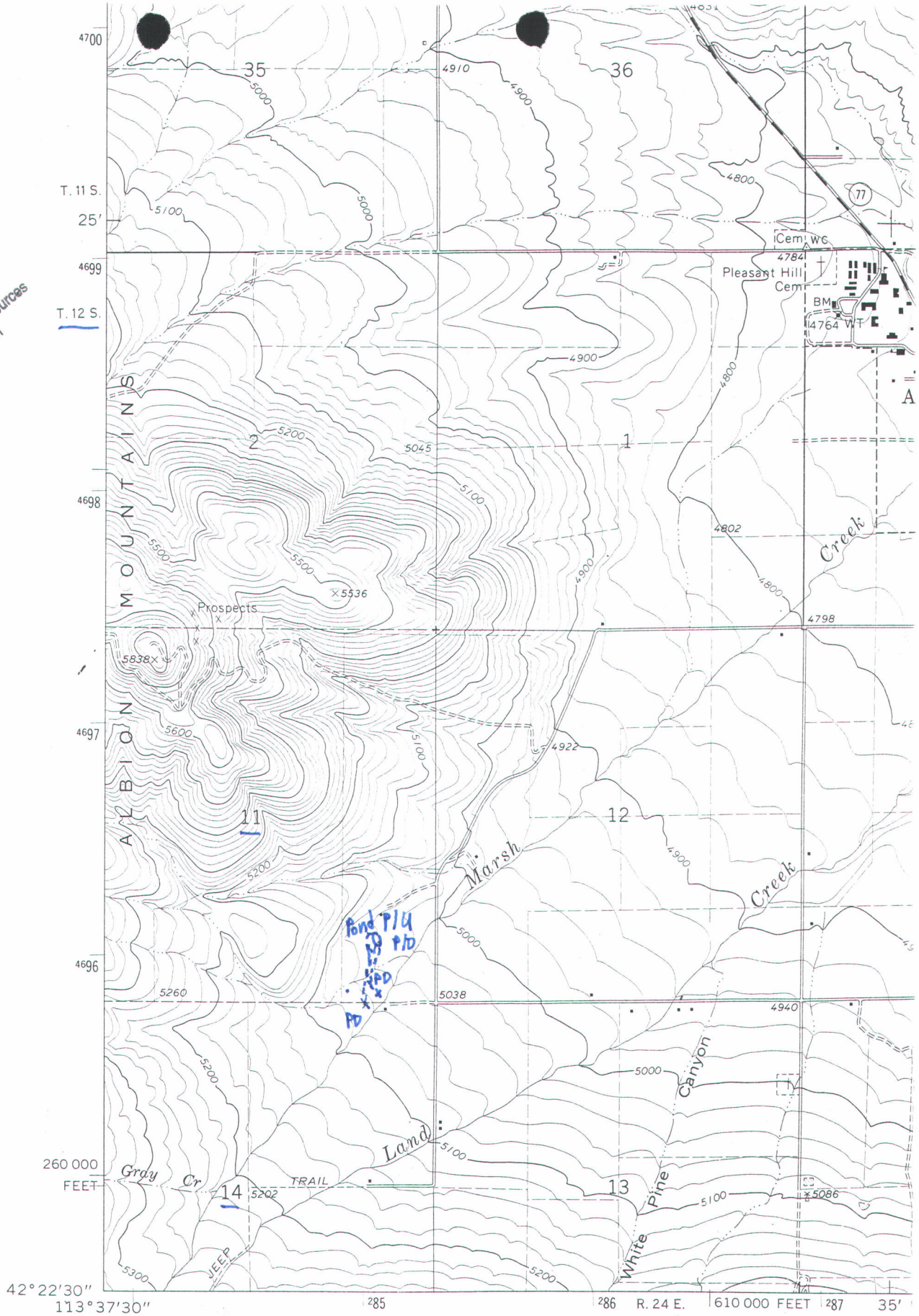
MICROFILMED
AUG 2 2 2000





AUG 2 2 2000

RECEIVED
OCT 28 1999
Department of Water Resources
Southern Region



Mapped, edited, and published by the Geological Survey

Control by USGS and USC&GS

Topography by photogrammetric methods from aerial photographs taken 1967. Field checked 1968

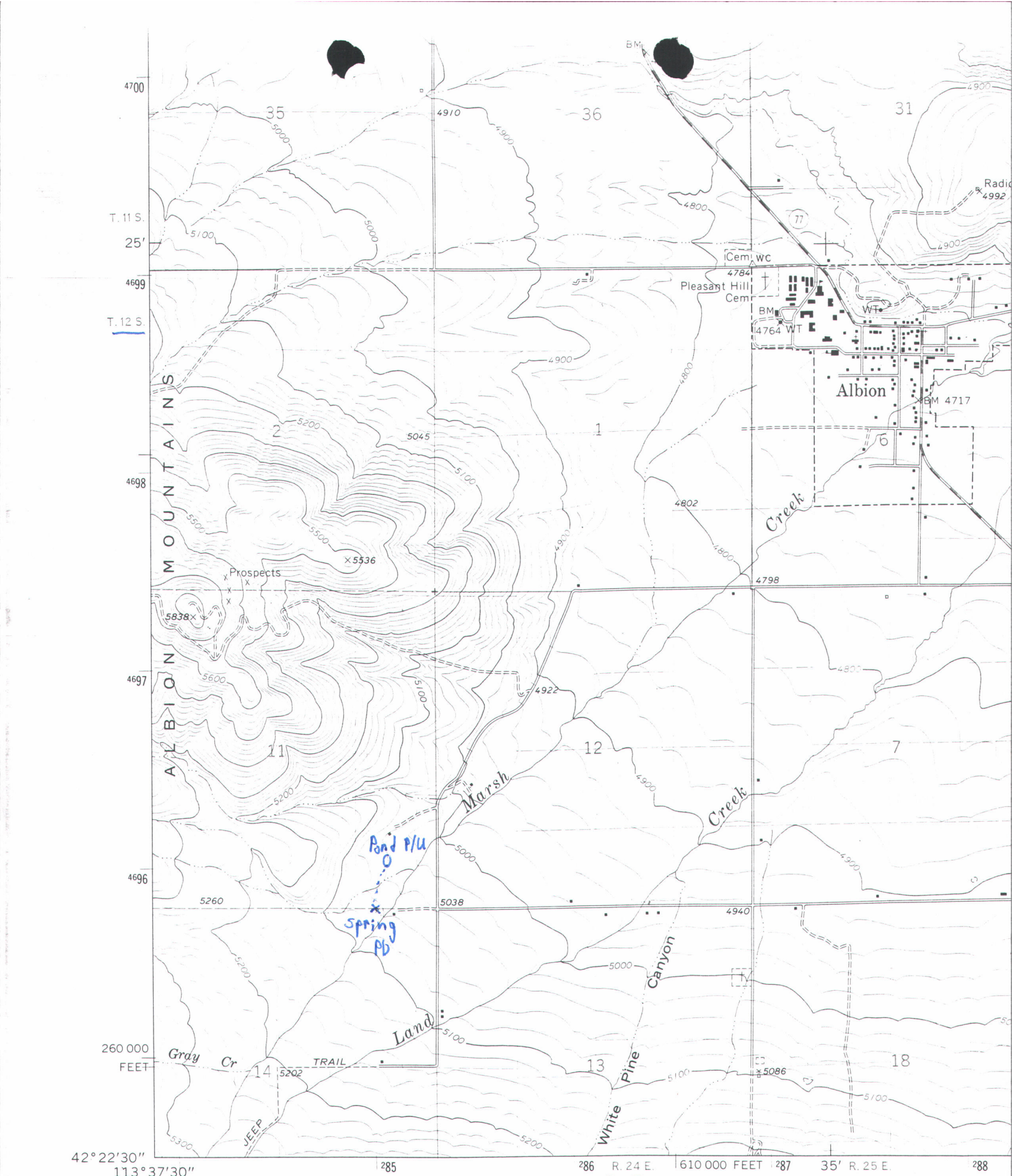
Polyncnic projection. 1927 North American datum
10,000-foot grid based on Idaho coordinate system,

(MT. HARRISON)
3268 I SW

GN
MN
1°44'
31 MILS
17½°
311 MILS

MICROFILMED
AUG 22 2000

45-07737



Mapped, edited, and published by the Geological Survey

Control by USGS and USC&GS

Topography by photogrammetric methods from aerial photographs taken 1967. Field checked 1968

Polyconic projection. 1927 North American datum
10,000-foot grid based on Idaho coordinate system, central zone

(MT. HARRISON) 3268 I SW

GN
MN
1°44' 31 MILS
17½° 311 MILS
1000 0
1

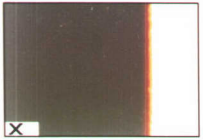
MICROFILMED
AUG 0 6 1998
45-07737


45-07737
11
12
T8365
10.0
2
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5
4
17.9
Pond
SEE V20
11
12
14
13
Spring
MICROFILMED
AUG 0 6 1998

Kodak PREMIUM PROCESSING

NOTES:
83/13 0046 139666E

Index Print
January 07, 1998























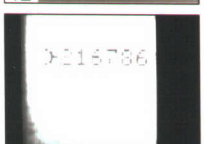












Kodak PREMIUM PROCESSING

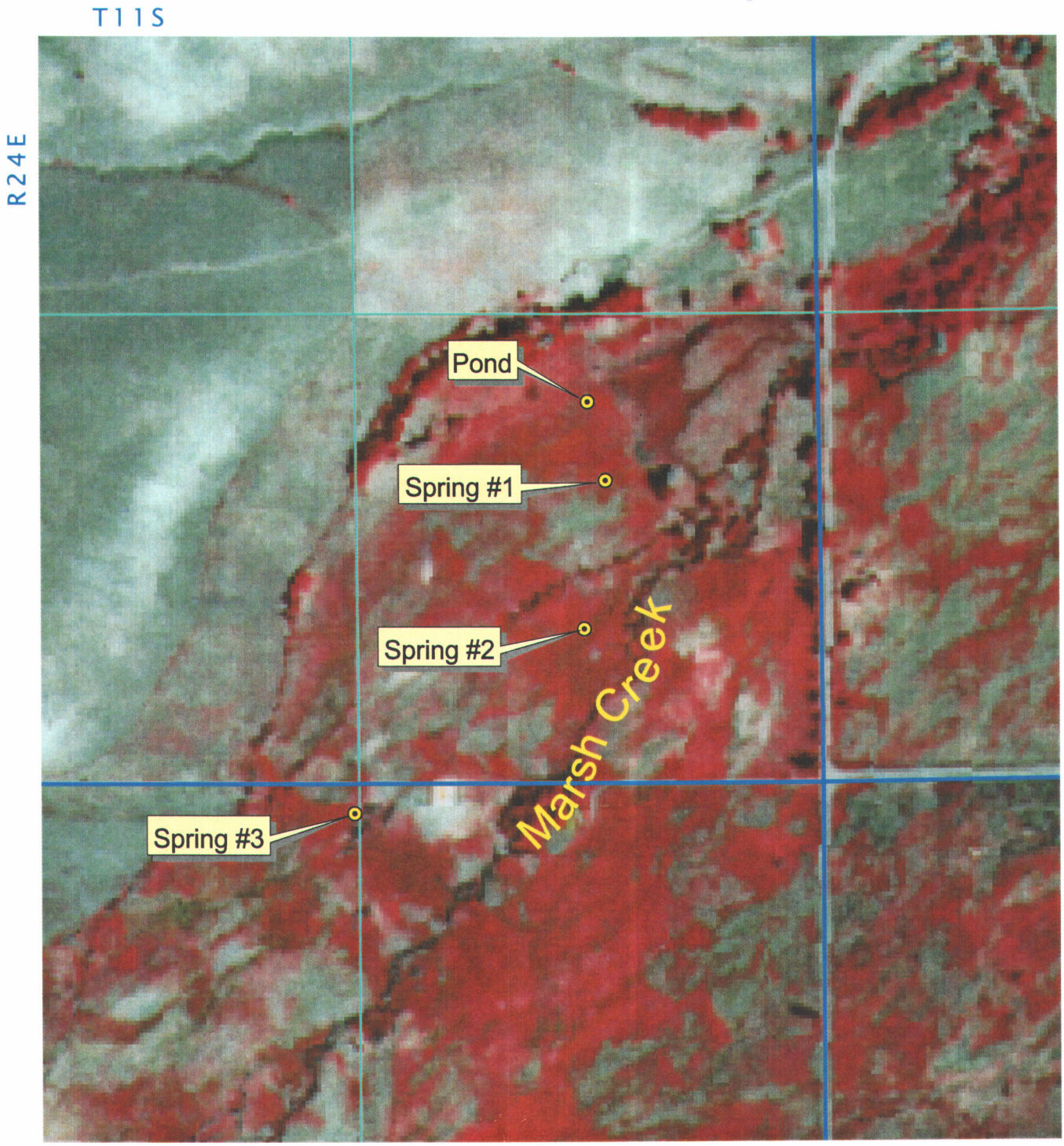
NOTES:
83/13 0046 139666E

Index Print
January 07, 1998



Idaho Department of Water Resource

Recommendation for Permits 45-7737
Thomas Geary



Points of Diversion

Quarter-quarter Lines

Section Lines

Place of Use

MICROFILMED
OCT 19 2001

N

Points of Diversion
T11S R24E S11 & 14
Data entery on July 26, 2001

Point of Diversion Presentation
1987/1988 NAPP Photography
Data Entry By: Amanda Folsom



V notch weir and staff gauge, measuring inflow of springs.



Inflow into pond.



Aesthetic pond, Looking SE'ly.

MICROFILMED
OCT 19 2001

45-7737
Geary
June 11, 2001



Collection Trench



Pipeline To Pond



MICROFILMED
OCT 19 2001

Permit 45-07737
9-30-99
J Stanton



End of New Collection Ditch



End of Existing Pipeline Into Pond

MICROFILMED
AUG 2 2 2000

Permit 45-07737
9-30-99
JE Stanton



New P/D Looking Upstream (SW)



New P/D Looking Downstream (NE)

MICROFILMED
AUG 2 2 2000

Permit 45-07737
9-30-99
JE Stanton



Surface Ditch w/ Feeding Pond (Looking Upstream)



Same Ditch Looking Downstream Toward Pond

Permit 45-07937
9-30-97
JE Stanton

MICF
AUG 2



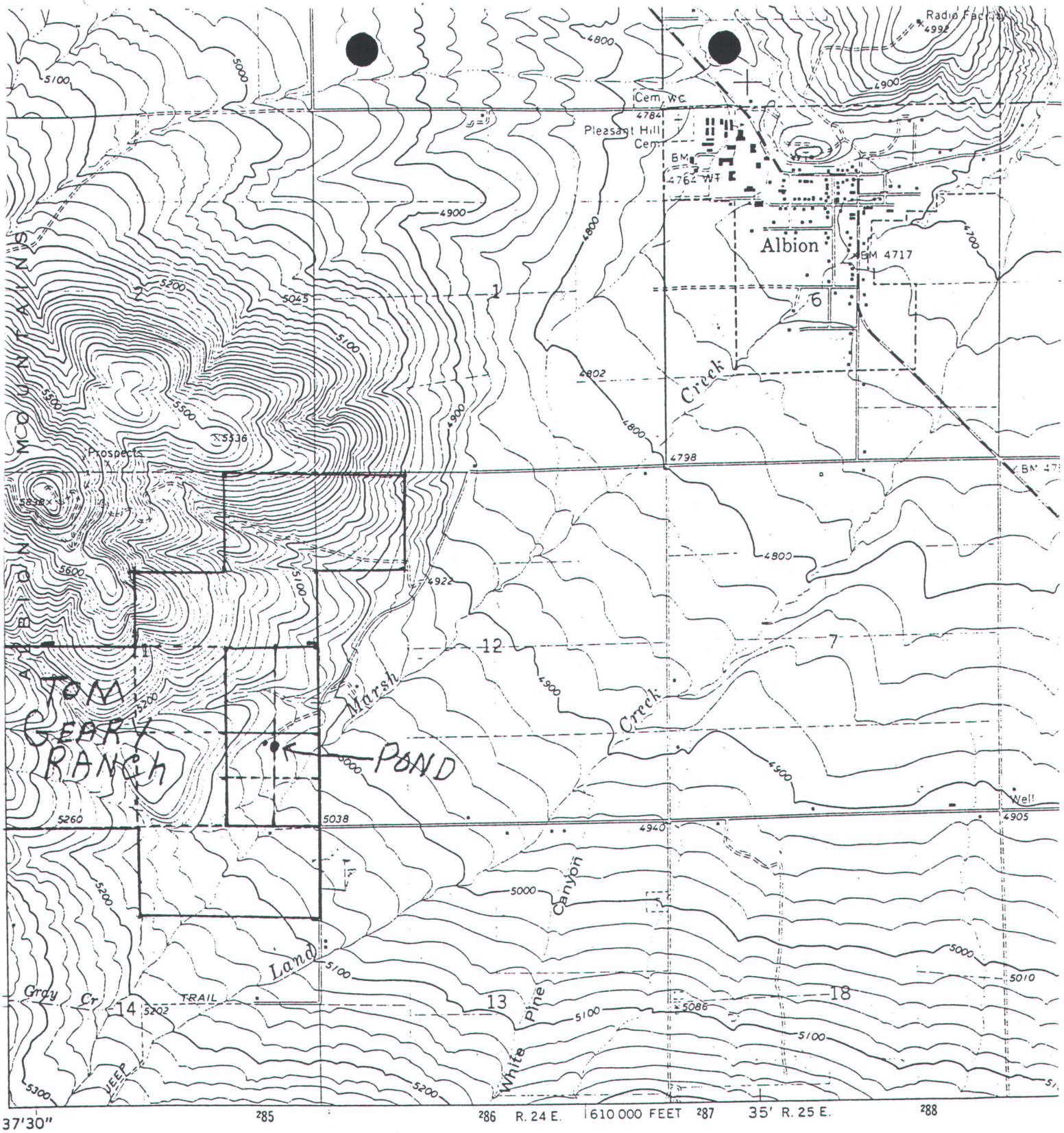
Discharge From Domestic Heat Pump Into Ditch Pond

MICROFILMED
AUG 2 2 2000

Permit 45-07737
9-30-99
JE Stanton







Mapped, edited, and published by the Geological Survey

Control by USGS and USC&GS

Topography by photogrammetric methods from aerial photographs taken 1967. Field checked 1968

Polyconic projection. 1927 North American datum
10,000-foot grid based on Idaho coordinate system, central zone
1000-meter Universal Transverse Mercator grid ticks, zone 12, shown in blue

Fine red dashed lines indicate selected fence lines

GN MN

1°44' / 31 MILS — 17½° / 311 MILS

UTM GRID AND 1968 MAGNETIC NORTH DECLINATION AT CENTER OF SHEET

1 1/2

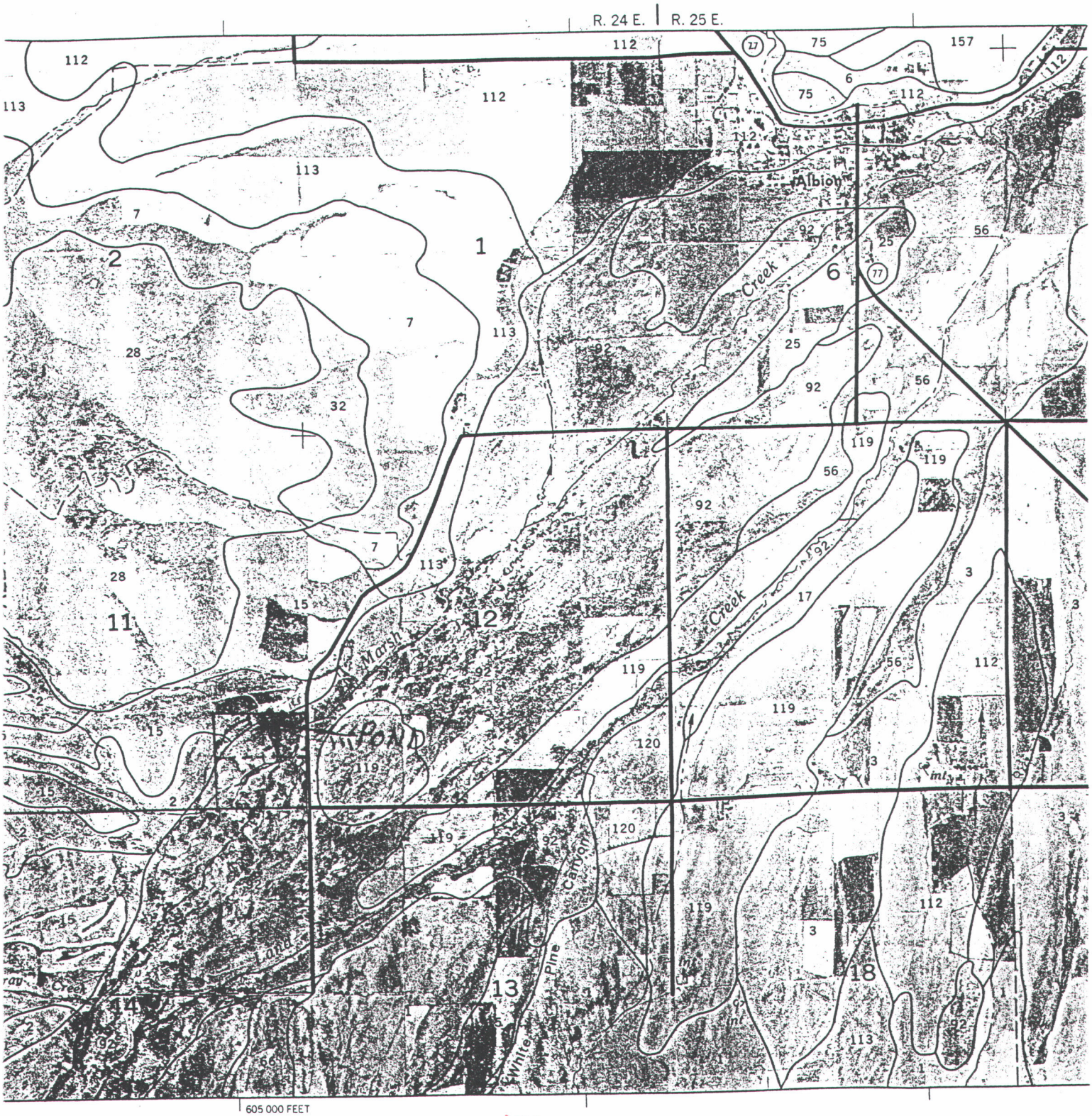
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1 5

CONT
DAT

MICROFILMED
AUG 0 6 1998

THIS MAP COMPLIES
FOR SALE BY U. S. GEOLOGICAL SURV
A FOLDER DESCRIBING TOPOGR



MICROFILMED
AUG 0 6 1998

1 3/4 1/2 1/4 0
1 0.5 0 1
SCALE 1:24 000



Berm On North End of Pond (Looking East)



Pond Outlet Looking SE Towards County Road (Photo Center)

MICROFILMED
AUG 0 6 1998

1-6-98
JE Stanton

45-07737



Spring Looking SW

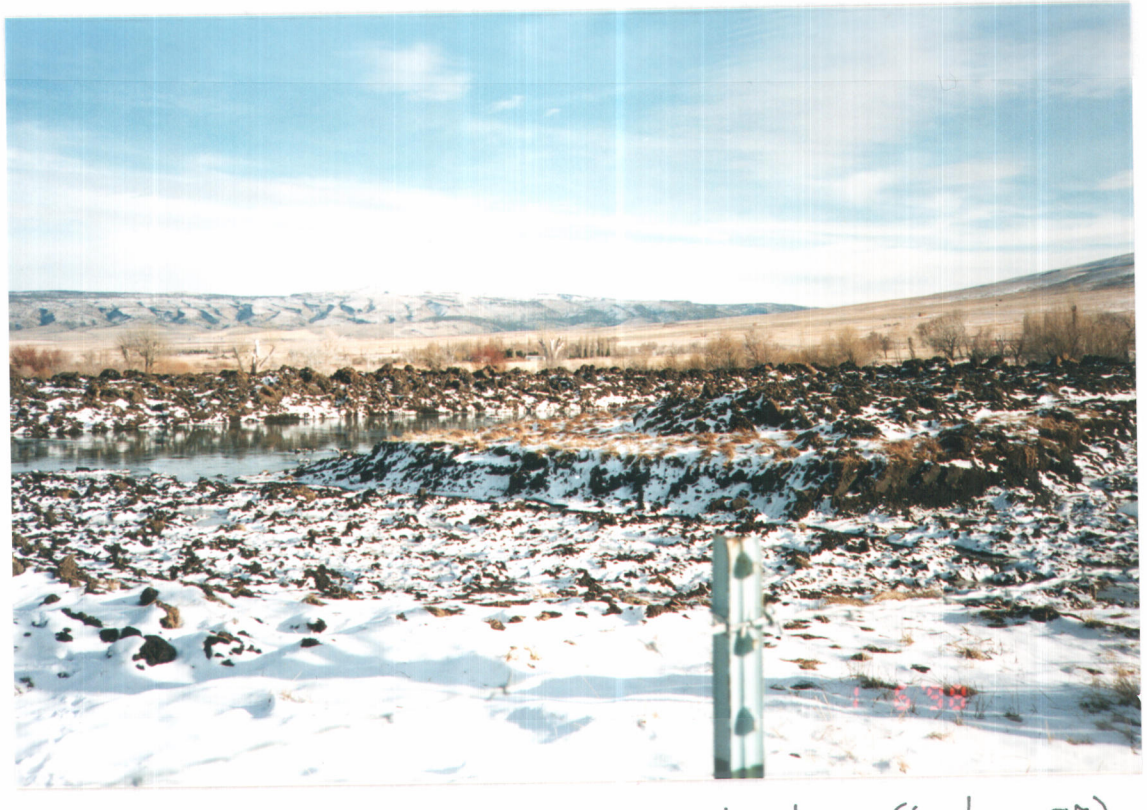


Natural Channel Looking NE

MICROFILMED
AUG 0 6 1998



Spring Diversion (Ditch on Right) Looking NW



Pond Under Construction (Looking SE)

MICROFILMED
AUG 0 6 1998

45-07737



Pond Looking South



Pond Looking East

MICROFILMED
AUG 0 6 1998

45-07737

State of Idaho
Department of Water Resources

Water Right License

WATER RIGHT NO. 45-07737

Priority: December 23,1997

Maximum Diversion Rate: 0.10 CFS
Maximum Diversion Volume: 2.0 AF

It is hereby certified that V THOMAS GEARY
964 S 950 E
ALBION ID 83311 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated December 23, 1997; and has submitted Proof of Beneficial Use on June 27, 2000. An examination indicates that the works have a diversion capacity of 0.11 cfs of water from:

SOURCE
SPRINGS **Tributary:** MARSH CREEK

and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	DIVERSION RATE	ANNUAL DIVERSION VOLUME
AESTHETIC STORAGE	01/01 to 12/31		2.0 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.10 CFS	

LOCATION OF POINT(S) OF DIVERSION:

SPRINGS	NW¼SE¼SE¼	Sec. 11, Twp 12S, Rge 24E, B.M., CASSIA County
SPRINGS	SW¼SE¼SE¼	Sec. 11, Twp 12S, Rge 24E, B.M., CASSIA County
SPRINGS	NW¼NE¼NE¼	Sec. 14, Twp 12S, Rge 24E, B.M., CASSIA County

PLACE OF USE: AESTHETIC STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	24E	11																X	

CONDITIONS OF APPROVAL

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 45F.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
3. Use of water under this right shall be non-consumptive.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 21st day of September, 2001.

MICROFILMED

Acting for KARL J. DREHER
Director

Form No. 217
12/99

FOR OFFICE USE ONLY
Amt. of Fee $: 50.00
Receipt No. -502318
Receipt By: [illegible]
Date Receipted: 6/27/2000

RECEIVED
JUN 29 2000
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

RECEIVED
JUN 27 2000
Department of Water Resources
Southern Region

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner.

1. Permit No. 45-07737 Telephone No. 208 ~~678~~ 673 6373
2. Name of Permit Holder(s): V. THOMAS GEARY
3. Mailing Address: 964 S. 950 E. ALBION, IDAHO 83311

   City ALBION State IDAHO Zip 83311
4. Source of Water: SPRING If **GROUNDWATER** (well), Date Drilled: mo.____ / yr.____

   a. Well Driller: _____ Drilling Permit Number: ____-____-___-_____-_____
5. Use(s) (as authorized by the water right permit):

   Domestic (No. of households): _____ Stockwater (No. and type of stock): 180

   Irrigation (No. of acres): _____ Other: ~~AESTHE~~ DIVERSION TO STORAGE AESTHETIC STORAGE
6. Total rate of diversion and/or volume for which proof is submitted: 0.10 cfs OR 2.00 acre feet
7. Measuring Device Requirement: **(refer to the approval conditions on your permit and respond accordingly)**
   (*This question is **not optional**. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)*

   Measuring Device: Is a measuring device required? Yes X or No ____
   Has the measuring device been installed? Yes X or No ____

45-07737

8. Fee Enclosed: $ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)
9. Person to contact to accompany the Department representative during field examination of the water system.

   Name: V. THOMAS GEARY Telephone Number: 208 673-6373

   Address: 964 S. 950 E ALBION, IDAHO 83311
10. ***The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.***

Signature of permit holder: V. Thomas Geary Date: 6/27/2000
(include your title, if on behalf of company of organization)

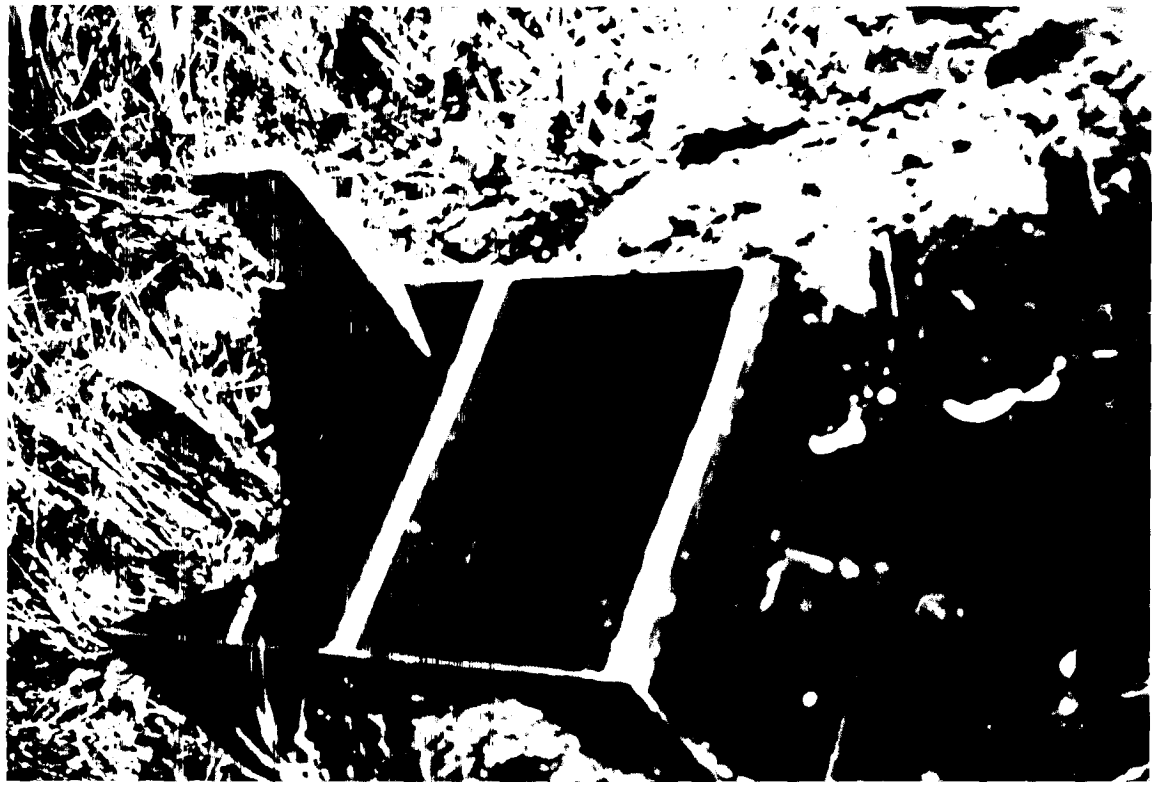
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

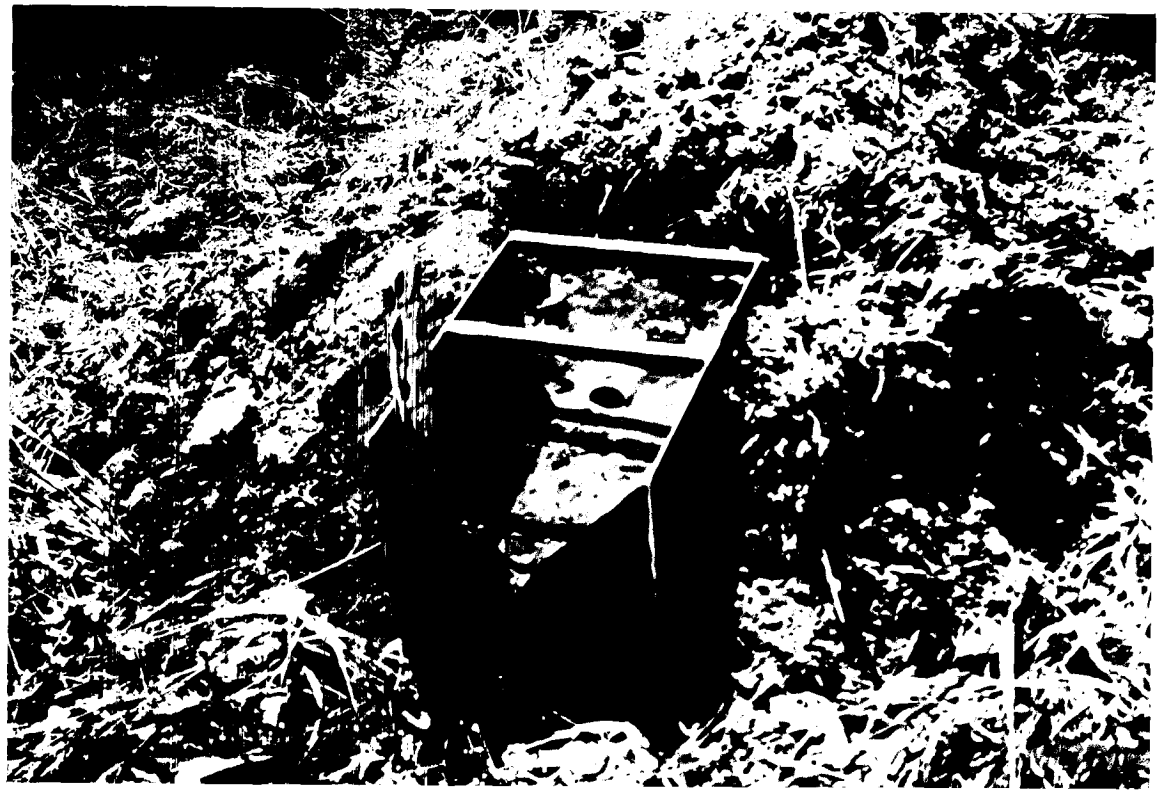
LICENSE EXAMINATION FEE SCHEDULE

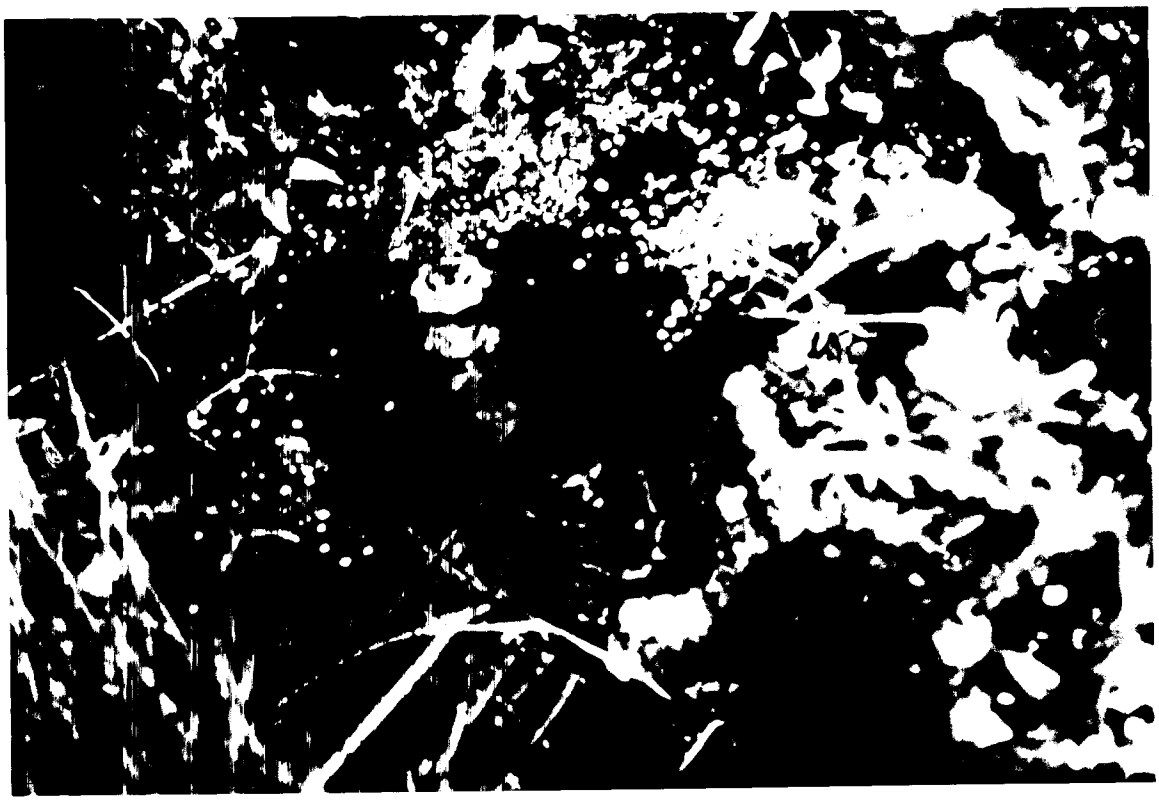
(C.F.S. = cubic feet per second AF = acre feet)

CFS	AF	FEE
0 - 0.20	0 - 20	$50.00*
.21 - 1.00	21 - 100	100.00
1.01 - 2.00	101 - 200	125.00
2.01 - 3.00	201 - 300	150.00
3.01 - 4.00	301 - 400	175.00
4.01 - 5.00	401 - 500	200.00
5.01 - 6.00	501 - 600	225.00
6.01 - 7.00	601 - 700	250.00
7.01 - 8.00	701 - 800	275.00
8.01 - 9.00	801 - 900	300.00
9.01 - 10.00	901 - 1000	325.00
10.01 - 11.00	1001 - 1100	350.00
11.01 - 12.00	1101 - 1200	375.00
12.01 - 13.00	1201 - 1300	400.00
13.01 - 14.00	1301 - 1400	425.00
14.01 - 15.00	1401 - 1500	450.00
15.01 - 16.00	1501 - 1600	475.00
16.01 - 17.00	1601 - 1700	500.00
17.01 - 18.00	1701 - 1800	525.00
18.01 - 19.00	1801 - 1900	550.00
19.01 - 20.00	1901 - 2000	575.00
20.01 - over	2001 - over	600.00

*Checks should be made payable to the
Idaho Department of Water Resources (IDWR.)
A license examination fee is not required in connection with
permits which use a ground water source **AND** have a total rate of
diversion of 0.04 cfs or less or where the total volume stored is 4.0 AF per annum or less.
A license exam fee is required for ANY permit which uses surface water









STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDMENT OF PERMIT
PERMIT NO. 45-07737

This is to certify, that V THOMAS GEARY
964 S 950 E
ALBION ID 83311
has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-211, Idaho Code. The approved amendment of permit is described as follows:

SOURCE

SPRINGS tributary to **MARSH CREEK**

Priority: December 23, 1997

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	
AESTHETIC STORAGE	01/01 to 12/31		2.0 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.10 CFS	
	Totals	0.10 CFS	

LOCATION OF POINT(S) OF DIVERSION:
NWSESE , Sec. 11, Township 12S, Range 24E
SWSESE , Sec. 11, Township 12S, Range 24E
NWNENE , Sec. 14, Township 12S, Range 24E
CASSIA County

PLACE OF USE: AESTHETIC STORAGE

TWN	RGE	SEC	
12S	24E	11	SESE

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 45F.
2. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
3. Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
4. Use of water under this right shall be non-consumptive.

PERMIT NO. 45-07737

CONDITIONS OF APPROVAL AND REMARKS

5. This right authorizes three points of diversion. One of the points of diversion authorized under this right is located on or near the section line between SWSESE, S11 and NWNENE, S14, T12S, R24E.

Witness my hand this 10th day of July, 2000.

L. Glen Saxton

Chief, Water Allocation Bureau

Form 211
10/93

"Amended"

Receipt No. 5022647
Receipted By [illegible]
Date 10-28-99

RECEIVED
OCT 28 1999
Department of Water Resources
Southern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR AMENDMENT OF A PERMIT

RECEIVED
JUN 20 2000
Department of Water Resources

Applicant V. Thomas Geary Phone 673-6373

Address 964 S 950 E, Albion, ID 83311

I am the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 45-07737, and request that the permit and permit map be amended and/or changed as follows:

Purpose of Amendment: ____ Change point of diversion ✓ Add point of diversion

____ Change place of use ____ Change nature of use ____ Change period of use ____ Other

1. Point of diversion: NW ¼ NE ¼ NE ¼, Section 14, Township 12S, Range 24E, B.M., County of Cassia. Other points of diversion 2 points SW/SE/SE Sec, 11, NW/SE/SE Sec, 11 T. 12S R. 24E

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.) No Change

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)

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: No Change

T w p	R g e	S e c	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total number of acres to be irrigated = ____

4. a. Who owns the property at the point of diversion? Applicant

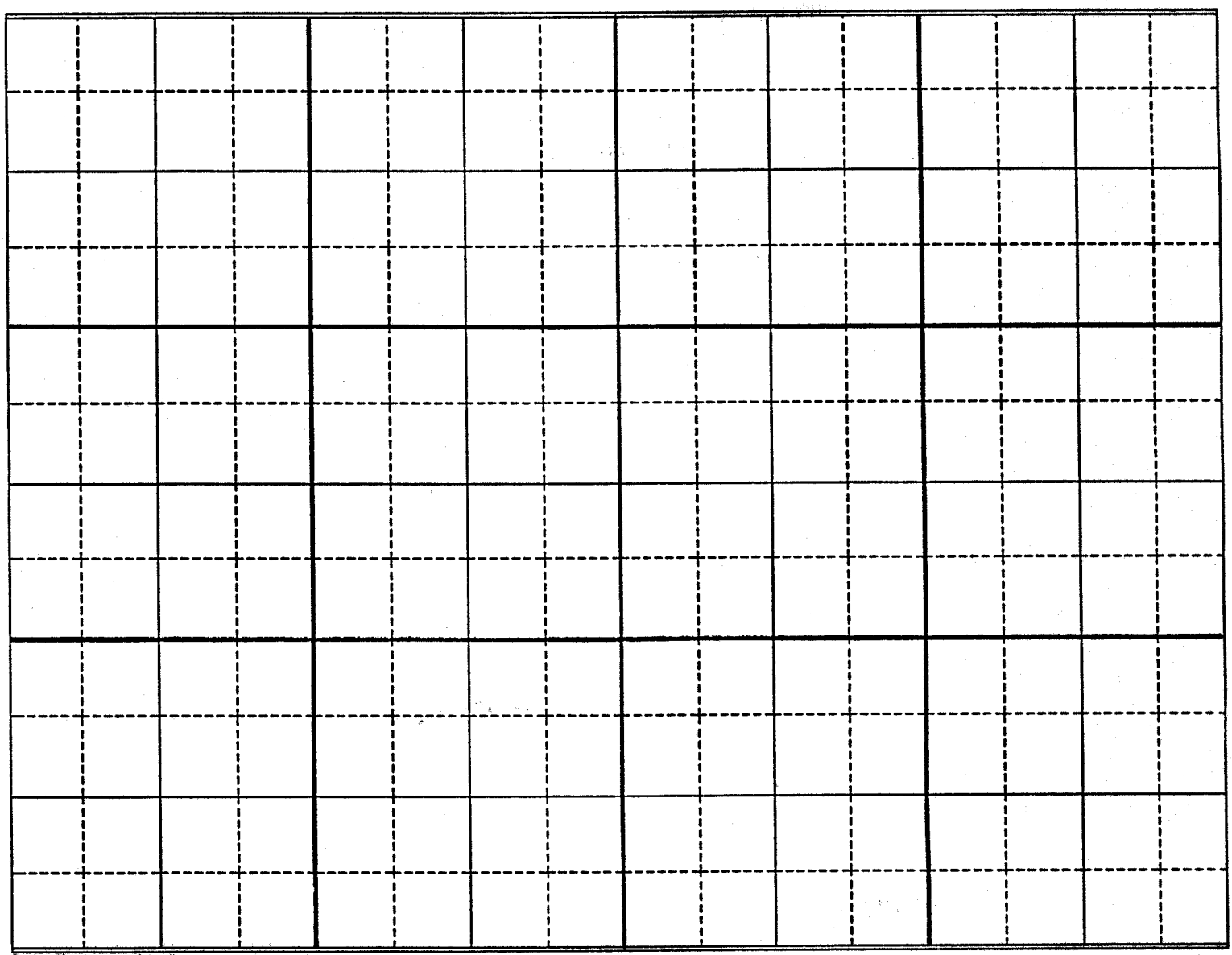
b. Who owns the land to be irrigated at the place of use? "

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

MICROFILMED
AUG 22 2000

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 28th day of October, 1999. V. Thomas Geary

Permit Holder

ACTION OF THE DEPARTMENT OF WATER RESOURCES

Preliminary check by JS Publication prepared by MB Date 2/7/00

Published in So. Id Press Publication dates 2/21 & 2/28/00

I, _____, of the Department of Water Resources hereby

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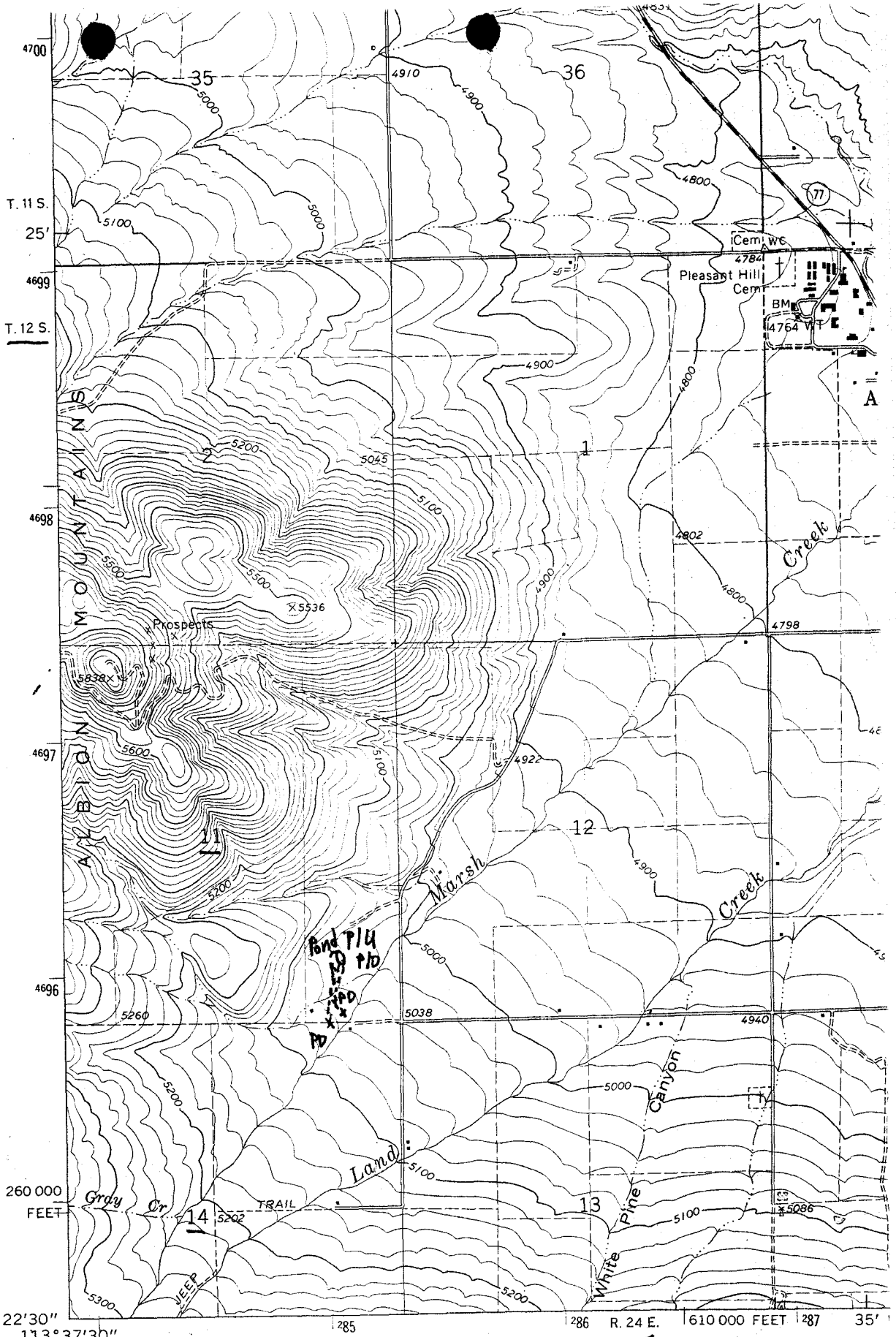
AUG 2 2 2000

Witness my hand this _____ day of _____, 19_____.

_____

SIGNATURE

RECEIVED
OCT 28 1999
Department of Water Resources
Southern Region



Mapped, edited, and published by the Geological Survey

Control by USGS and USC&GS

Topography by photogrammetric methods from aerial photographs taken 1967. Field checked 1968

Polyconic projection. 1927 North American datum

10,000-foot grid based on Idaho coordinate system,

(MT. HARRISON) 3268 I SW

MICROFILMED
AUG 22 2000

GN
1°44'
31 MILS
17½°
311 MILS

45-07737

Form No. 204
7/94

RECEIVED

JUN 14 1999

Department of Water Resources

For Office Use Only
$50 Fee Receipted by JW
Date 6/14/99
Receipt No. 0045729

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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 under the provisions of Section 42-204, Idaho Code in which to complete development of a water right.

Permit No. 45-07737

Note change of address

Name(s) of Permit Holder: V. THOMAS GEARY

Mailing Address: 964 South 950EAST ALBION, ID 83311

Date Proof is Due: July 1, 1999 Telephone No. 208-673-6373

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

The development of this water right, is to bring water from a spring over to a pond. The work is about 2/3 done. Photo enclosed.

Costing $ 2,500.00

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

This project is going through a meado with a high water table, when fall and moisture set in the trench filled with water and made it impossible to finish the project.

Permit holder(s) request an extension to Dec 1, 19 99.

FEE: $50.00

V. Thomas Geary
(Signature)*

**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 **July 1, 2000**

MICROFILMED
JUN 25 1999

Signed this 16th day of June, 19 99.

Chief, Water Allocation Bureau

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 45-07737

Proposed Priority: December 23, 1997 Maximum Diversion Rate: 0.10 CFS

This is to certify, that **V THOMAS GEARY**
407 W 400 S
BURLEY ID 83318
has applied for a permit to appropriate water from:
SPRINGS tributary of **MARSH CREEK**

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

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
AESTHETIC STORAGE	01/01 to 12/31		2.0 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.10 CFS	
	Totals	0.10 CFS	

LOCATION OF POINT(S) OF DIVERSION: NWSESE , Sec. 11, Township 12S, Range 24E
SWSESE , Sec. 11, Township 12S, Range 24E
NWNENE , Sec. 14, Township 12S, Range 24E
CASSIA County

PLACE OF USE: AESTHETIC STORAGE

TWN	RGE	SEC	
12S	24E	11	SESE

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **July 1, 1999.**
2. Subject to all prior water rights.
3. Use of water under this water right will be regulated by the watermaster of State Water District No. 45F.
4. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
5. Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
6. Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
7. The Director retains jurisdiction over this right and may change, add, or remove any requirement as determined to be appropriate.
8. Use of water under this right shall be non-consumptive.

MICROFILMED
AUG 0 6 1998

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 45-07737

CONDITIONS OF APPROVAL AND REMARKS

9. This right authorizes two points of diversion. One of the points of diversion authorized under this right is located on or near the section line between SWSESE, S11 and NWNENE, S14, T12S, R24E.

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

15th day of June, 1998.

for Karl J. Dreher, Director

MICROFILMED
AUG 06 1998

FORM 202
1/96

RECEIVED
DEC 30 1997
Department of Water Resources
Southern Region

Ident. No. 45-07737

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED
JUN 11 1998
Department of Water Resources

1. Name of Applicant E V. Thomas Gedry Phone 678-5724
   Post Office address 407 W 400 S, Burley, ID 83318
2. Source of water supply Springs which is a tributary of Marsh Creek
3. Location of point of diversion is NW 1/4 of SE 1/4 of SE 1/4, Govt. Lot _____
   Sec. 11 Township 12S Range 24E B.M. Cassia County; additional points of diversion if any: SW/SE/SE Sec. 11 or NW/NE/NE Sec. 14 T. 12S R. 24E (exact description unknown)
4. Water will be used for the following purposes:
   Amount 2.0 AFA (cfs or acre-feet per annum) for Storage for Aesthetics purposes from 1-1 to 12-31 (both dates inclusive)
   Amount 0.10 cfs (cfs or acre-feet per annum) for Div. To Storage 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 is (a) 0.10 cubic feet per second and/or (b) 2.0 acre feet per annum
6. Proposed diverting works:
   a. Description of ditches, flumes, pumps, headgates, etc. Dug pond in marshy area, overflow into Marsh Creek. Pipeline from spring to pond.
   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity 2.0 acre-feet; period of year when water will be diverted to storage: 1-1 to 12-31 inclusive.
   c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
   d. Is ground water with a temperature of greater than 85°F being sought? _____
   e. If well is already drilled, when? _____; Drilling firm _____;
   Well was drilled for (well owner) _____
7. Time required for completion of works and application of water to proposed beneficial use is 1 years (*minimum 1 year*)
8. Description of proposed uses (*if irrigation only, go to item 9*):
   a. Hydropower; show total feet of head and proposed capacity if KW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; show name of municipality. _____
   d. Domestic; show number of households. _____
   e. Other; describe fully. Aesthetic pond will be planted with a few trout for personal use, and will have an island in the middle for protected bird habitat.

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AUG 06 1998

9. Description of place of use:

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

b. If water is used for other purposes, place a symbol of the use (*example: D for Domestic*) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	N E				N W				S W				S E				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	24E	11																X	

X = Storage for Aesthetics

Total number of acres to be irrigated _____

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

None

11. a. Who owns the property at the point of diversion? Applicant

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

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

12. Remarks: Spring south of pond irrigates land near the pond via a small ditch. This use will continue. Water will be piped into the pond as needed to keep the pond in good condition.

13. **MAP OF PROPOSED PROJECT ATTACHED** ____ Show clearly the proposed point of diversion, place of use, section number, township and range number.

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

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AUG 0 6 1998

V. Thomas Geary

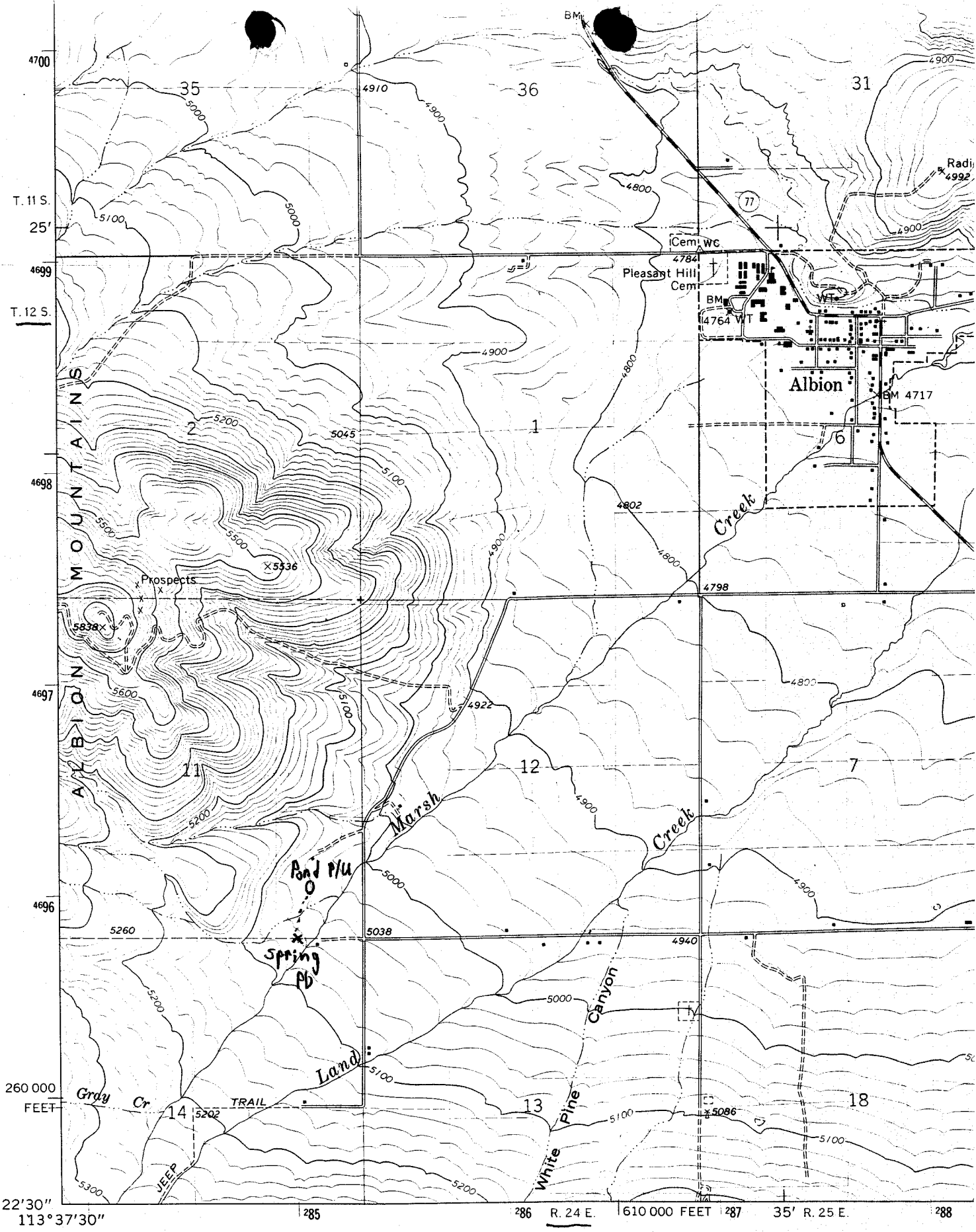
(Applicant)

Received by J.E. Stanton Date 12-23-97 Time 10:20 am Preliminary check by J.E. Stanton

Fee $ 50.00 Receipted by [illegible] # 5020795 Date 12-29-97

Publication prepared by MB Date 1/13/98 Published in So. Id. Press

Publication approved MB Date 1/30/98



(MT. HARRISON) 3268 I SW

Mapped, edited, and published by the Geological Survey

Control by USGS and USC&GS

Topography by photogrammetric methods from aerial photographs taken 1967. Field checked 1968

Polyconic projection. 1927 North American datum
10,000-foot grid based on Idaho coordinate system, central zone

GN MN 1°44' 31 MILS 17½° 311 MILS

1000 0 1

MICROFILMED
AUG 0 6 1998
45-07737


45-07737
10.0
2
11.0
SEE V20
14

Kodak PREMIUM PROCESSING

NOTES:
83/13 0046 139666E

Index Print
January 07, 1998













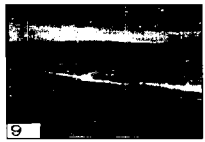






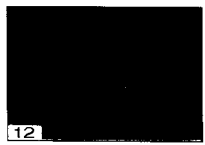




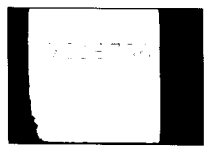












Kodak PREMIUM PROCESSING

NOTES:
83/13 0046 139666E

Index Print
January 07, 1998



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 21, 2001

V THOMAS GEARY
964 S 950 E
ALBION ID 83311

RE: License No. 45-7737 - Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

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

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a $100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-327-7946.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SWK:klt

Enclosure(s)

MICROFILMED
OCT 19 2001

CERTIFICATE OF MAILING

I hereby certify that on September 21, 2001 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO. 45-7737

V THOMAS GEARY
964 S 950 E
ALBION ID 83311

Kari Lynn Townsend
Secretary

MICROFILMED
OCT 19 2001

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

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OCT 19 2001

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.

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OCT 19 2001

LICENSE REVIEW CHECKLIST

Permit No. 45-~~07377~~ 7737 Change/OK Date: 9-20-01 Reviewer: Kay Walker

Name/Address ok

Source ok
Point of Diversion: ok

Does change clarify original intended source? If no, void permit.
Change (P39/P49) Add (P45/P44) Feds (P40)

W32 (multiple in 1/4/1/4)
W36 (overlap)
W59 (subdivision description)

Place of Use ok

Change (P41/P49) Add (P41/P44) Feds (P43)

W60 (subdivision description)
W27 (ppu acre limit)

Overlaps: Right(s): ~~_____~~

File reviewed____ Profile reports printed_____

P/D & P/U amend (P37) Feds (P48)

Rate of Diversion:

Permitted rate 0.1 cfs
Fee Limit ~~0.2~~ cfs
Measured ~~0.1~~ cfs
Theoretical _____ cfs

Recommended Total Diversion Rate 0.1

Season of Use per new Standards

Water Uses ok Change (P46)

Irrigation	____ cfs	____ af	
Stockwater	____ cfs	____ af	
Domestic	____ cfs	____ af	
AS	~~0.1~~ cfs	~~2.0~~ af	
Div to S	0.1 cfs	____ af	
Total	0.1 cfs	2.0 af	

Irrigation - overlap(R58-R61, **R62-R65, R66-R69)**
supp. Gw (WB7/065/104)
overlap spec combined rts (W35)
<1 acre (W31)
Domestic (W01/wb5/070/071/075)
Power (W42 or W43/025/027/R22 or R23
Fish (042)
Fire (077)
Water Quality (081/R07)
Payette – (W22/047/27A)
Stockwater for US (R37)

Volume Determination

____ cfs x 1.9835 x ____ days = _____ af **(vs)** _____ acres x _____ (FHR) = _____ af

Remarks: R04, R43, 27

Additional Conditions
____ Watermaster Control
____ GW Measurement/Measuring Device
____ Other
Trust R55 – remove 051) No
Non-trust (048/049)

GW Dist? _____
Water Msmt. Dist? _____
Crit. GWMA? _____
GWMA? _____
Government Lots? _____

Advance Priority? ____ yes ✓ no If yes, explain why below.

SRBA Claim? ____

Adjust memo ____

Amend Letters _____ **P87, S06** **Second Amendment Notice** _____ **S06**

Form 219
6/92

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT

RECEIVED
AUG - 8 2001
Department of Water Resources

A. GENERAL INFORMATION

Permit No. 45-7737

1. Owner: V. Thomas Geary Phone No. 673-6373

Current Address: 964 S 950 E Albion ID 83311

2. Accompanied by: Tom Geary EXAM DATE: June 11, 2001

Address: Same Phone No. Same

Relationship to Permit Holder: Owner

3. Source: Springs tributary to Marsh Creek

B. OVERLAP REVIEW

1. Other water rights with the same place of use: none

2. Other water rights with the same point of diversion: none

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

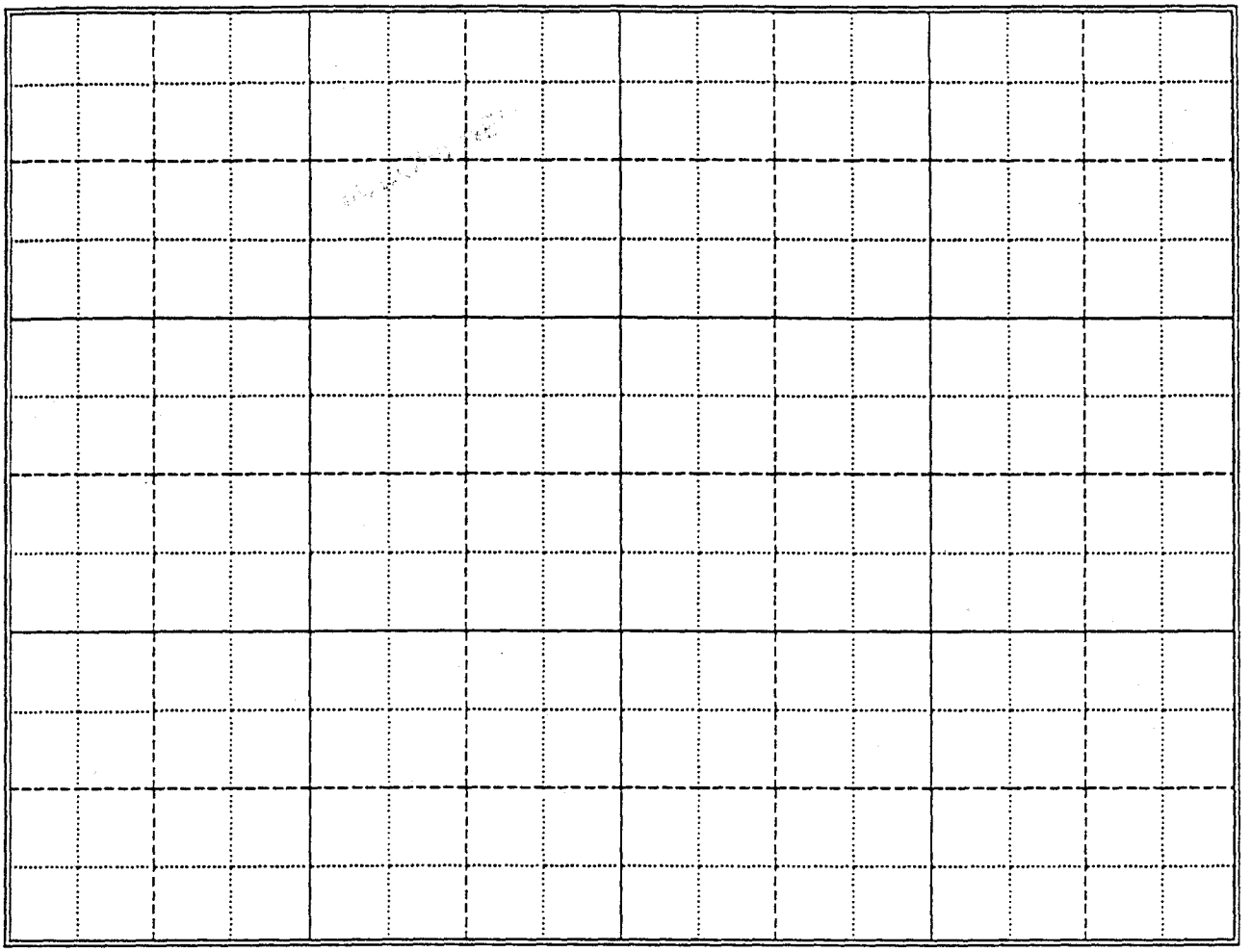
Ident No.	Gov't Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
		NW	SE	SE	11	12S	24E	Cassia	GPS & GIS
		SW	SE	SE	11	12S	24E	Cassia	
		NW	NE	NE	14	12S	24E	Cassia	

2. Place(s) of Use: Indicate Method of Determination GIS

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	24E	11																X	

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OCT 19 2001

3. **Delivery System Diagram**: Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable.



Scale: 1" = _____.

X Copy of USGS Quadrange Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

X Aerial Photo Attached (required for irrigation of 10+ acres)

X Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size

*Code to correspond with No. on map and aerial photo

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D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements: Mr. Geary provided me with diagrams of the flow measurements from the V notch weir, he also gave me diagrams of the dimensions of the pond.

E. NARRATIVE/REMARKS/COMMENTS

PERMIT: 45-7737
FROM: Amanda Folsom
DATE: July 26, 2001

I met with Mr. Tom Geary on June 11, 2001. Mr. Geary is the owner of this permit and accompanied me on my exam. This permit was issued for the beneficial use of storage in and diversion to an aesthetic pond.

POINT OF DIVERSION

There are three different locations where spring water is diverted into the pond. All these points were GPS'd and listed on the field report. Mr. Geary has installed one of the best measuring devices for low flows that I have yet seen. The three springs are collected in perforated pipe, join together by gravity flow to a V notch-measuring device. Mr. Geary has control over the springs to regulate the flow on the pipe coming up by the V notch-measuring device. Mr. Geary has sent along diagrams of the V notch and staff gauge along with the appropriate corresponding table from the Water Measurement Manual. At the time of my exam, all was as depicted on Mr. Geary's diagram. The total diversion rate comes to .106cfs.

PLACE OF USE

All of the water captured from the spring's flows into a large aesthetic pond. Mr. Geary has also provided the diagrams for the pond. There is a large island in the middle of the pond, which significantly reduces the storage capacity. This pond is used solely for looks and the wildlife in the area. There is an outlet on the east side of the pond, which allows the water to continue flowing back into Marsh Creek. Mr. Geary took me to the creek itself and showed me where the outflow was flowing into the creek. This area is littered with springs, and most of them seep back into Marsh Creek at the banks.

The aesthetic pond, at one point, is as deep as nine feet. However, the overall average depth of the pond is five feet. The permitted storage capacity of the pond is 2.0af. I calculated the total storage capacity to be 3.82af; however, the pond is never completely full. Therefore, I am recommending the 2.0af that was permitted. For the diversion rate, I am recommending the .10cfs, which was permitted.

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OCT 19 2001

5. NARRATIVE/REMARKS/COMMENTS

Have conditions of permit approval been met? X yes ___ no

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OCT 19 2001

F. FLOW CALCULATIONS

X Additional Computation Sheets Attached

Measured Method:

V notch weir measurement

.28 head in feet = 0.106 cfs → Water Measurement manual pg. 270

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{I.R.}$ = (Acres Irrigated) x (Irrigation Requirement) = _____

$V_{D.R.}$ = [Diversion Rate (cfs)] x (Days in Irrigation Season) x 1.9835 = _____

V = Smaller of $V_{I.R.}$ and $V_{D.R.}$ = _____

2. Volume Calculations for Other Uses:

* Please see calculation of Pond volume & Area sheet.

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use From	Period of Use To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
Aesthetic Storage	4/1	12/31		2.0
Diversion to Storage	4/1	12/31	0.1	
		Totals:	0.1	2.0

2. Recommended Amendments

___ Change P.D. as reflected above ___ Add P.D. as reflected above X None

___ Change P.U. as reflected above ___ Add P.U. as reflected above ___ Other

I. AUTHENTICATION

Field Examiner's Name Amanda Folsom Date 7/26/01

Reviewer _____ Date _____

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OCT 19 2001
SEAL

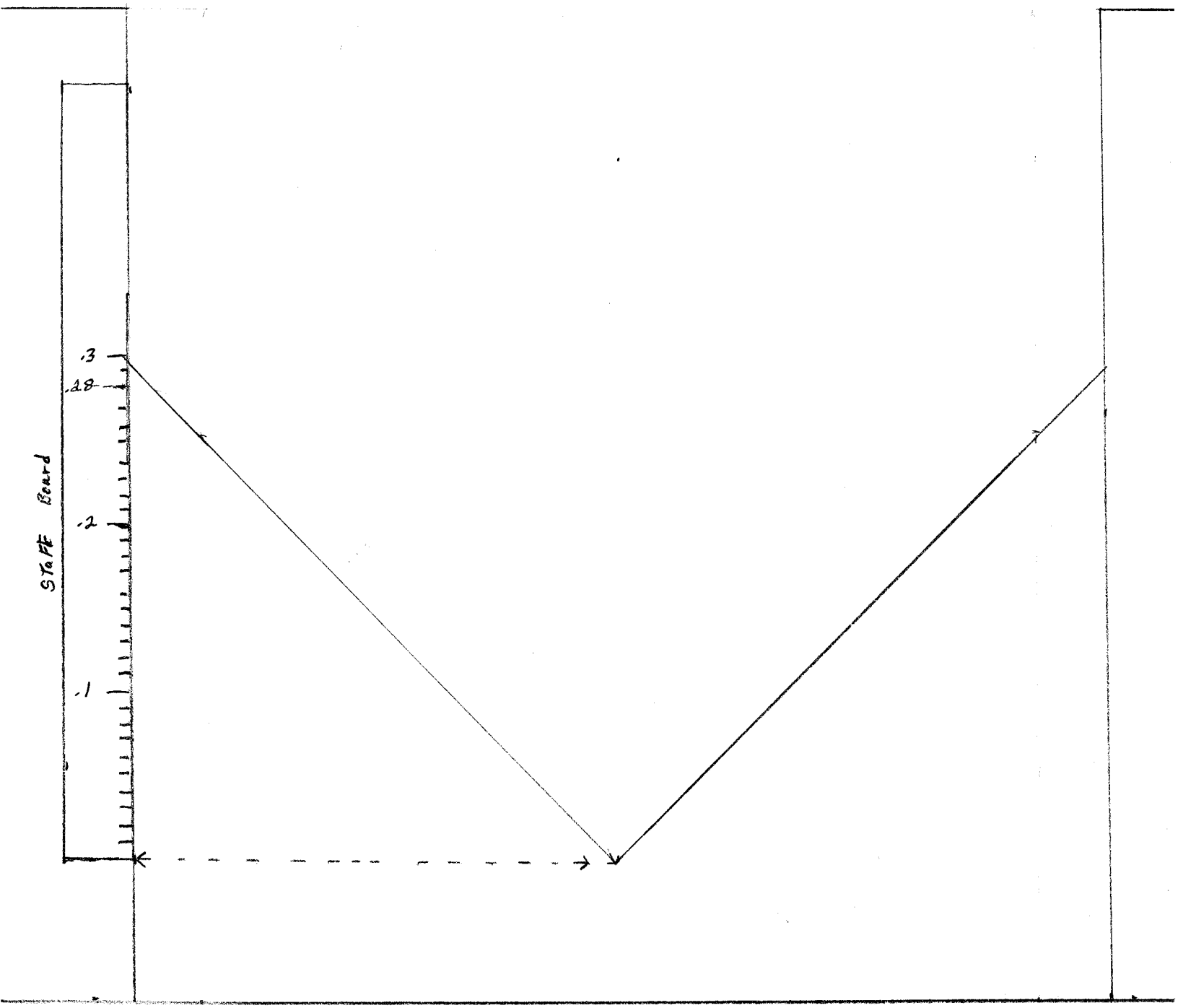
Table 11.—Discharge of 90° V-notch weirs in second-feet. Computed from the formula $Q = 2.49\ H^{2.48}$. (See sec. 21.)

Head in feet	Discharge in second-feet	Head in feet	Discharge in second-feet	Head in feet	Discharge in second-feet
0.20	0.046	0.55	0.564	0.90	1.92
.21	.052	.56	.590	.91	1.97
.22	.058	.57	.617	.92	2.02
.23	.065	.58	.644	.93	2.08
.24	.072	.59	.672	.94	2.13
.25	.080	.60	.700	.95	2.19
.26	.088	.61	.730	.96	2.25
.27	.096	.62	.760	.97	2.31
.28	.106	.63	.790	.98	2.37
.29	.115	.64	.822	.99	2.43
.30	.125	.65	.854	1.00	2.49
.31	.136	.66	.887	1.01	2.55
.32	.147	.67	.921	1.02	2.61
.33	.159	.68	.955	1.03	2.68
.34	.171	.69	.991	1.04	2.74
.35	.184	.70	1.03	1.05	2.81
.36	.197	.71	1.06	1.06	2.87
.37	.211	.72	1.10	1.07	2.94
.38	.226	.73	1.14	1.08	3.01
.39	.240	.74	1.18	1.09	3.08
.40	.256	.75	1.22	1.10	3.15
.41	.272	.76	1.26	1.11	3.22
.42	.289	.77	1.30	1.12	3.30
.43	.306	.78	1.34	1.13	3.37
.44	.324	.79	1.39	1.14	3.44
.45	.343	.80	1.43	1.15	3.52
.46	.362	.81	1.48	1.16	3.59
.47	.382	.82	1.52	1.17	3.67
.48	.403	.83	1.57	1.18	3.75
.49	.424	.84	1.61	1.19	3.83
.50	.445	.85	1.66	1.20	3.91
.51	.468	.86	1.71	1.21	3.99
.52	.491	.87	1.76	1.22	4.07
.53	.515	.88	1.81	1.23	4.16
.54	.539	.89	1.86	1.24	4.24
---	---	---	---	1.25	4.33

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Table 12.—Discharge correction coefficient, C, for determining effect of velocity of approach to weirs. Computed from the formula $C = \frac{Q'}{Q} = \frac{D^{3/2}}{H^{3/2}}$. (See sec. 23.)

a	h	$h^{3/2}$	H												
			0.2	0.4	0.6	0.8	1.0	1.5	2.0	2.5	3.0	3.5	4.0	5.0
0.4	0.0025	0.0002	1.014	1.007	1.004	1.004	1.004	1.002	1.002	1.002	1.001	1.001	1.001	1.001
.5	.0039	.0003	1.027	1.013	1.009	1.006	1.006	1.004	1.003	1.002	1.002	1.002	1.001	1.001
.6	.0056	.0005	1.037	1.019	1.013	1.009	1.008	1.005	1.004	1.003	1.003	1.002	1.002	1.002
.7	.0076	.0007	1.050	1.026	1.017	1.013	1.011	1.007	1.006	1.004	1.004	1.003	1.003	1.002
.8	.0099	.0010	1.064	1.033	1.022	1.016	1.014	1.009	1.007	1.006	1.005	1.004	1.003	1.003
.9	.0126	.0014	1.082	1.042	1.029	1.021	1.018	1.012	1.009	1.007	1.006	1.005	1.005	1.004
1.0	.0155	.0019	1.098	1.051	1.034	1.027	1.022	1.015	1.011	1.009	1.007	1.006	1.005	1.005
1.1	.0188	.0025	1.122	1.062	1.041	1.031	1.026	1.017	1.013	1.011	1.009	1.008	1.007	1.006
1.2	.0224	.0033	1.141	1.072	1.049	1.037	1.031	1.021	1.016	1.013	1.011	1.009	1.008	1.007
1.3	.0263	.0041	1.163	1.084	1.057	1.043	1.036	1.024	1.018	1.015	1.012	1.011	1.009	1.008
1.4	.0305	.0051	1.186	1.096	1.066	1.050	1.041	1.028	1.021	1.017	1.014	1.012	1.011	1.010
1.5	.0350	.0064	1.208	1.109	1.075	1.057	1.047	1.032	1.024	1.019	1.016	1.014	1.012	1.011
1.6	.0398	.0079	1.225	1.122	1.084	1.065	1.052	1.035	1.027	1.022	1.018	1.016	1.014	1.012



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OCT 19 2001

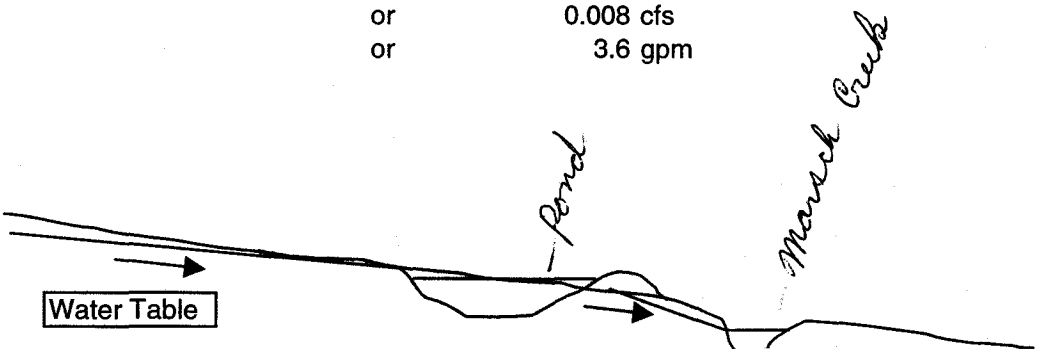
Tom Geary Pond-Albion

Calculation of Pond Volume and Area

	Length	Width	Area sq ft	Depth ft	Volume cu ft
Overall Dimensions	300	166	49800		
Island	220	75	16500		
Net Area			33300	5	166500
			0.76	acres	3.82 af
Estimated maximum daily Evap			0.25	inches	
Estimated maximum daily Evap volume			0.016	af	
		or	0.008	cfs	
		or	3.6	gpm	

7.6 acres

3.6 gal per day



$\left(\frac{210+120}{2}\right) 270 = 44{,}550$

$90 \times 225 = -20250$

24300

$= .56$ af

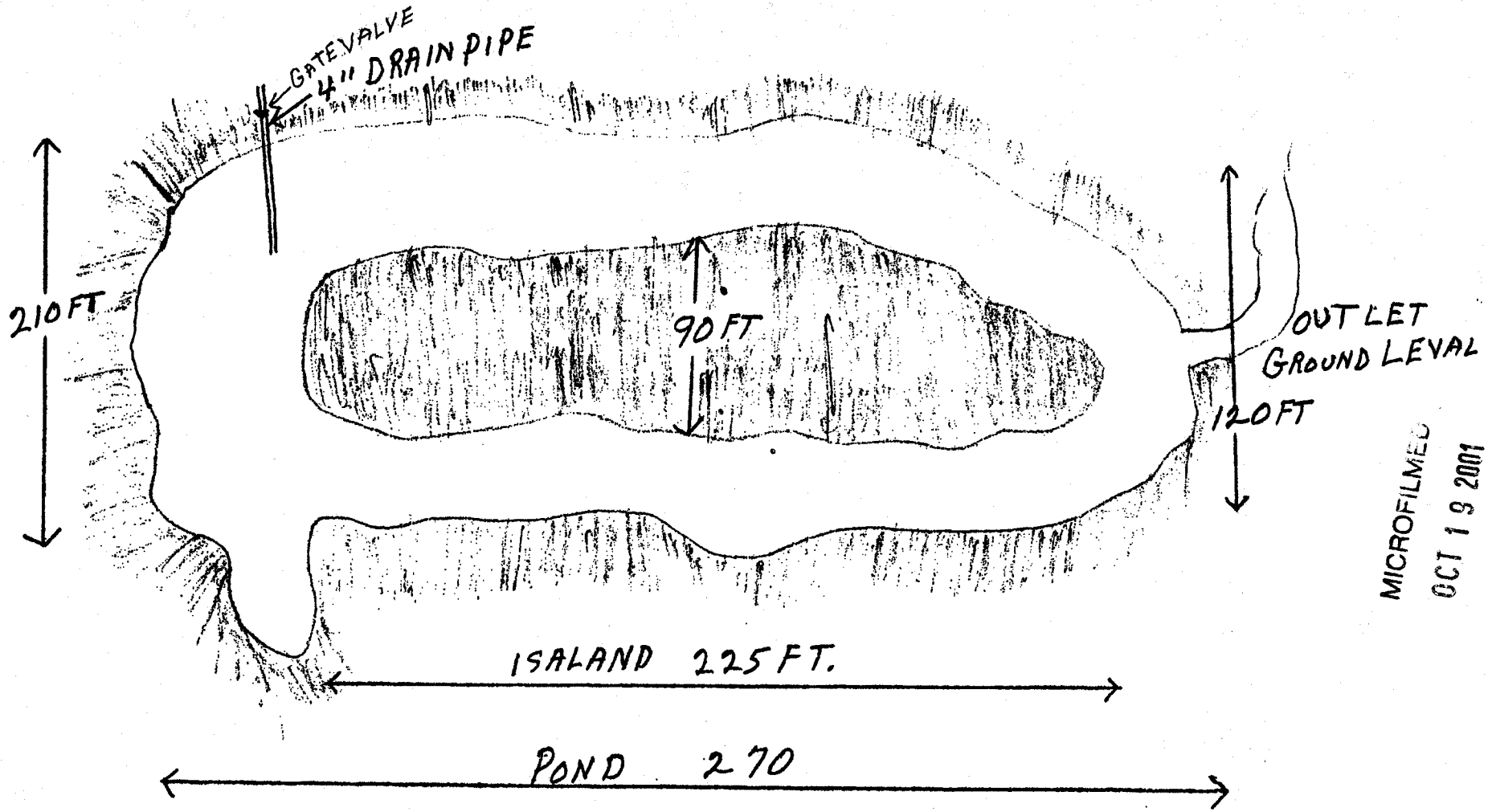
$\frac{9+1\frac{1}{2}}{2} \times .56 = 3.08$ af2

Calc of Storage capacity by

AD — 8/1/01

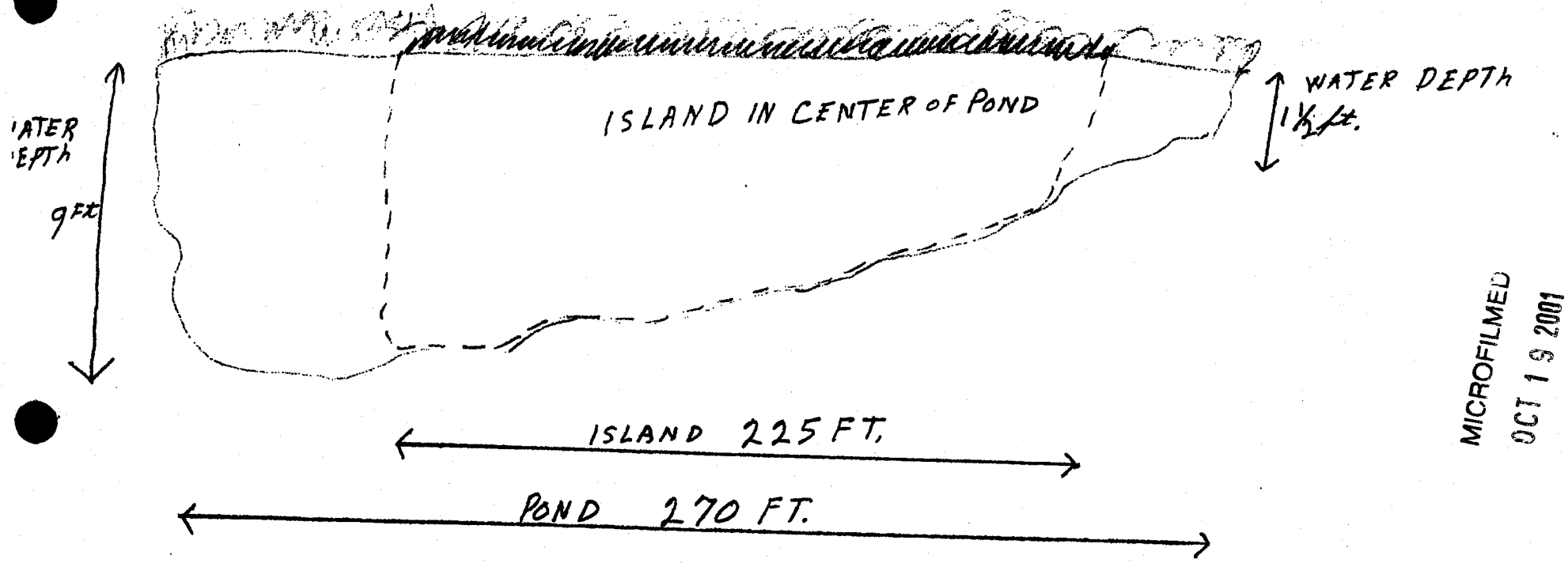
MICROFILMED
OCT 19 2001

TOP VIEW OF POND



MICROFILMED
OCT 19 2001

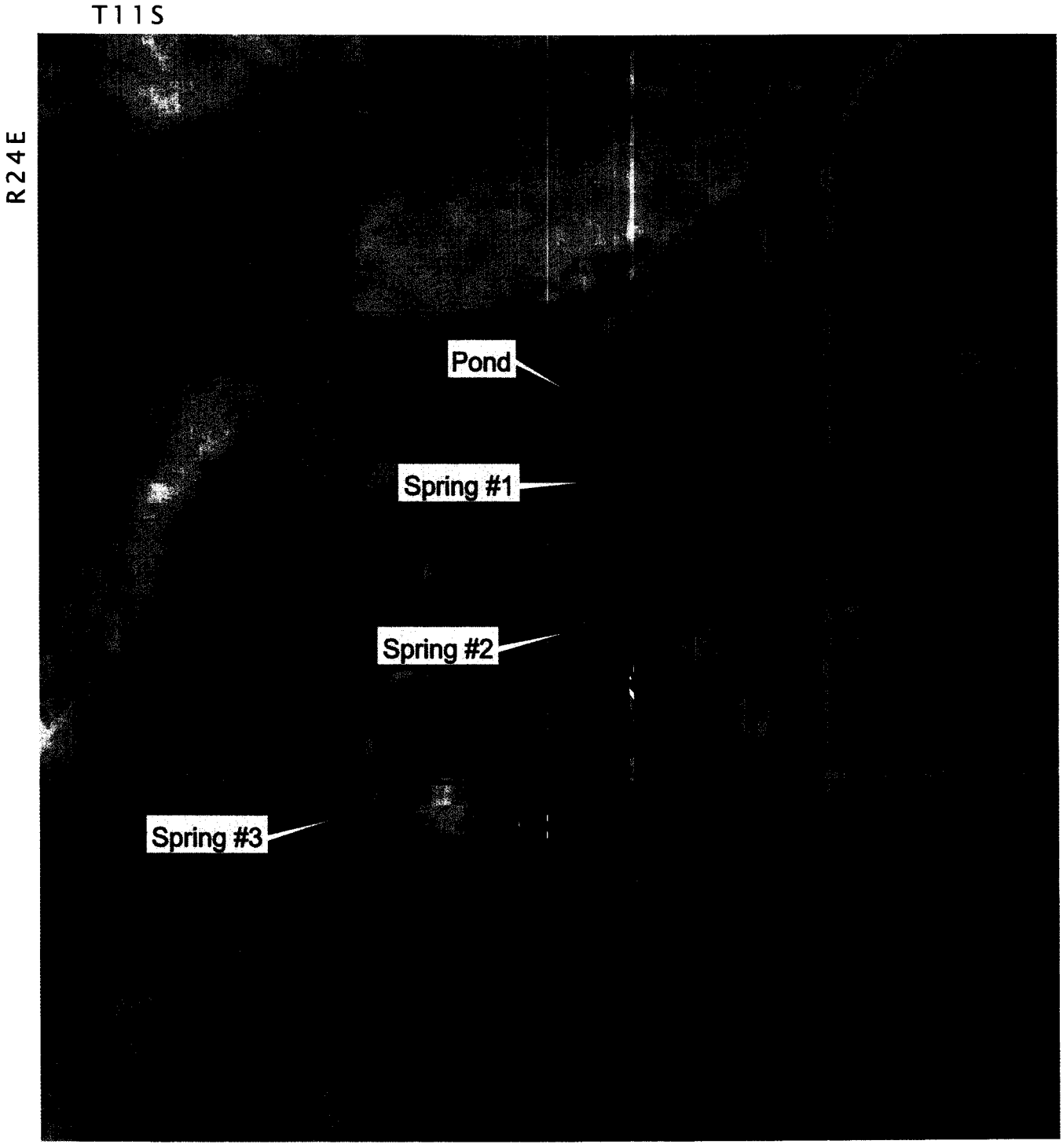
SIDE VIEW OF POND



MICROFILMED
OCT 19 2001

Idaho Department of Water Resource

Recommendation for Permits 45-7737
Thomas Geary



● Points of Diversion

Quarter-quarter Lines

Section Lines

Place of Use

MICROFILMED
OCT 19 2001

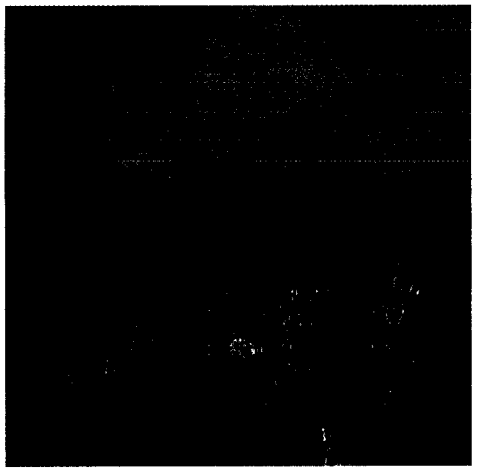
N

Points of Diversion
T11S R24E S11 & 14
Data entery on July 26, 2001

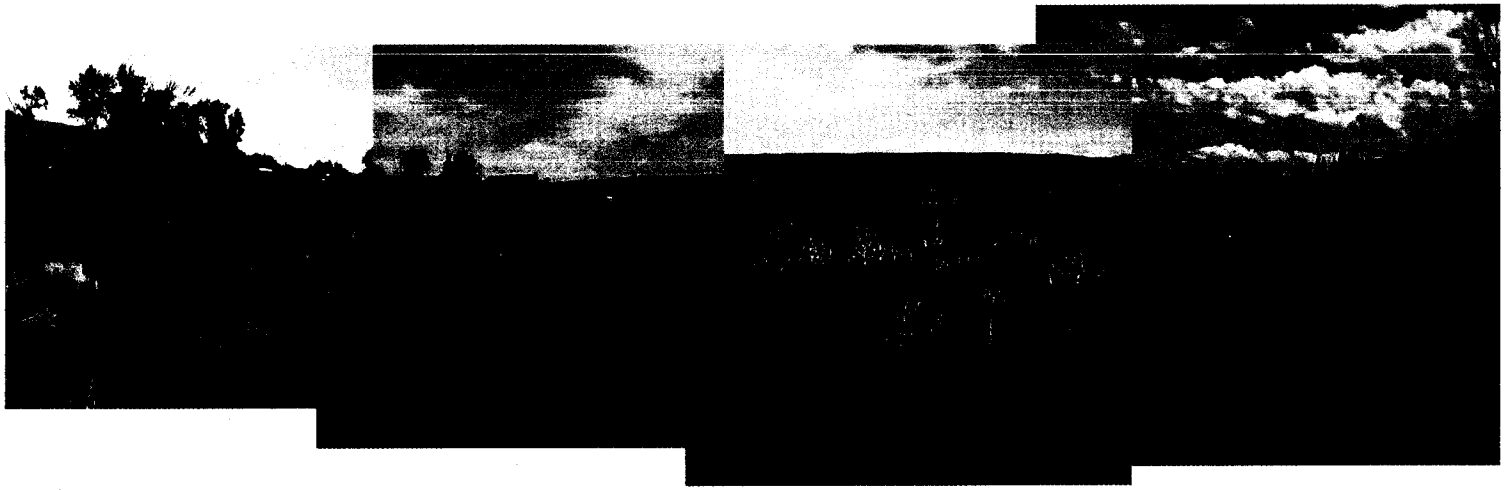
Point of Diversion Presentation
1987/1988 NAPP Photography
Data Entry By: Amanda Folsom



V notch weir and staff gauge, measuring inflow of springs.



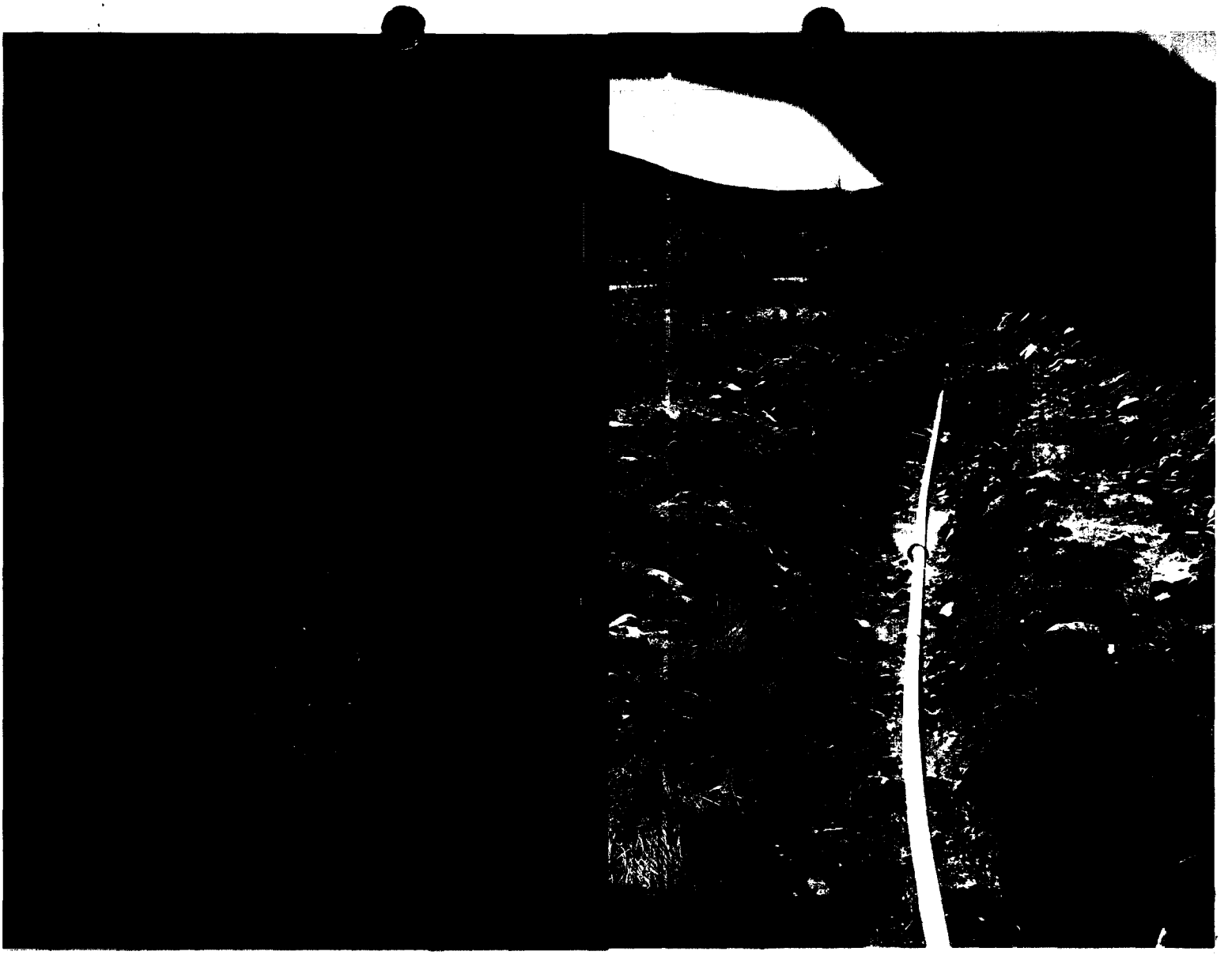
Inflow into pond.



Aesthetic pond, Looking SE'ly.

MICROFILMED
OCT 19 2001

45-7737
Geary
June 11, 2001



Collection Trench

Pipeline To Pond



MICROFILMED
1 9 2001

Permit 45-07737
9-30-99
J Stanton

S1
4/92

IDAHO DEPARTMENT OF WATER RESOURCES

STAFF ANALYSIS SHEET FOR BENEFICIAL USE FIELD EXAMS: PERMIT NO. 45-07737

A. Items To Be Placed In Exam File (Items A & B to be Completed by Compiler:

( ) Blank Field Report & Notice of Completed Exam

( ) Copy of App. for Permit, Approved Permit, Amendments, Orders, Assignments.

Proof of Beneficial Use, SRBA Claim (Claim Filed? _____ Required? _____

( ) Well Inspection Form, Dairy Water-Use Worksheet (if applicable)

( ) Well Log(s) & Groundwater Measurement Analysis Form (if applicable)

( ) Copy of Orthophotoquad Map

( ) 660-Scale Aerial Photo (Examiner Will Obtain If Applicable)

( ) Government Lot Plats (If Applicable)

RECEIVED
AUG - 8 2001
Department of Water Resources

B.1. P/D Overlap - Yes or No? If Yes, Include Copy of Overlapping Rights & Claims

If Yes, Type of Overlap: ( ) Add Acres or Uses to Existing System

( ) Increase Rate of Flow or Volume

B.2. P/U Overlap - Yes or No? If Yes, Include Copies of Overlapping Rights & Claims

If Yes, Type of Overlap: ( ) Increase Rate of Flow or Volume

( ) Add Supplemental Water Source

( ) Increase Acres Within Tracts

C. Field Exam Appointment Made:

Date _____ Time _____ Place _____

_____

Contact Person & Phone _____

D. Post-Exam Review & Processing

Exam Completed June 11, 2001 Notice of Completion Turned In 7/26/01

Field Report Completed 7/26/01 Amanda Folsom 7/26/01
Signature of Examiner & Date

Field Report Reviewed by Sr. Agent _____ (Initial & Date)

Field Report Reviewed by Region Mgr. [illegible] 8/1/01 (Initial & Date)

Field Report Sent to S.O. _____ Region Card File Updated _____

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

July 18, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

V THOMAS GEARY
964 S 950 E
ALBION ID 83311

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 45-07737

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made meets the permitted beneficial use.

Additionally you submitted a Proof of Beneficial Use form for B45-07737 along with the above referenced permit. Water right number B45-07737 refers to the amended permit in our database and one proof will suffice for both. Therefore, the filing fee you paid for permit B45-07737 is unnecessary and I will request that the fee be refunded to you. A check in the amount of $50.00 will be issued to you in approximately 7-10 business days and mailed under separate cover from the Department of Administration of the State of Idaho.

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

If you have questions concerning the field examination, please contact the **Southern** Regional Office of the department in Twin Falls at (208) 736-3033. If you have any questions regarding the refund or the processing of these proofs, please contact me at (208)327-7953.

Sincerely,

Deborah Drew-Ellis

Deborah Drew-Ellis
Administrative Assistant
Water Allocation Bureau

MICROFILMED
AUG 22 2000

Encl.
c: IDWR - Regional Office
Fiscal

Form No. 217
12/99

FOR OFFICE USE ONLY
Amt. of Fee $: 50.00
Receipt No. 5023182
Receipt By: T. SKINNER
Date Receipted: 6/27/2000

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
JUN 27 2000
Department of Water Resources
Southern Region

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner.

1. Permit No. B45-07737 Telephone No. 208-673-6373
2. Name of Permit Holder(s): V. THOMAS GEARY
3. Mailing Address: 964 SOUTH 950 EAST
   City ALBION State IDAHO Zip 83311
4. Source of Water: SPRING If **GROUNDWATER** (well), Date Drilled: mo._____ / yr._____

   a. Well Driller: _____ Drilling Permit Number: ____-____-___-_____-____
5. Use(s) (as authorized by the water right permit):

   Domestic (No. of households): _____ Stockwater (No. and type of stock): 180

   Irrigation (No. of acres): _____ Other: DIVERSION TO STORAGE AESTHETIC STORAGE
6. Total rate of diversion and/or volume for which proof is submitted: 0.10 cfs OR 2.00 acre feet
7. Measuring Device Requirement: **(refer to the approval conditions on your permit and respond accordingly)**
   (*This question is **not optional**. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)*

   Measuring Device: Is a measuring device required? Yes X or No ____
   Has the measuring device been installed? Yes X or No ____
8. Fee Enclosed: $ 50 00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)
9. Person to contact to accompany the Department representative during field examination of the water system.

   Name: V. THOMAS GEARY Telephone Number: 208-673-6373

   Address: 964 S 950 E ALBION, IDAHO 83311
10. ***The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.***

MICROFILMED
AUG 22 2000

Signature of permit holder: V. Thomas Geary Date: 6/27/2000
(include your title, if on behalf of company of organization)

B45-07737

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

LICENSE EXAMINATION FEE SCHEDULE

(C.F.S. = cubic feet per second AF = acre feet)

CFS	AF	FEE
0 - 0.20	0 - 20	$50.00*
.21 - 1.00	21 - 100	100.00
1.01 - 2.00	101 - 200	125.00
2.01 - 3.00	201 - 300	150.00
3.01 - 4.00	301 - 400	175.00
4.01 - 5.00	401 - 500	200.00
5.01 - 6.00	501 - 600	225.00
6.01 - 7.00	601 - 700	250.00
7.01 - 8.00	701 - 800	275.00
8.01 - 9.00	801 - 900	300.00
9.01 - 10.00	901 - 1000	325.00
10.01 - 11.00	1001 - 1100	350.00
11.01 - 12.00	1101 - 1200	375.00
12.01 - 13.00	1201 - 1300	400.00
13.01 - 14.00	1301 - 1400	425.00
14.01 - 15.00	1401 - 1500	450.00
15.01 - 16.00	1501 - 1600	475.00
16.01 - 17.00	1601 - 1700	500.00
17.01 - 18.00	1701 - 1800	525.00
18.01 - 19.00	1801 - 1900	550.00
19.01 - 20.00	1901 - 2000	575.00
20.01 - over	2001 - over	600.00

*Checks should be made payable to the
Idaho Department of Water Resources (IDWR.)
A license examination fee is not required in connection with
permits which use a ground water source **AND** have a total rate of
diversion of 0.04 cfs or less or where the total volume stored is 4.0 AF per annum or less.
A license exam fee is required for ANY permit which uses surface water

ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No. 45-07737 Reviewed by D. Ellis Date 7/18/00

GENERAL CONSIDERATIONS

Yes Name same as permit?
Yes Address same as permit?
Yes Proof timely received?
If not, complete calculation below.

TYPES OF USE

Storage (Aesthetic & Diversion to)

Correct Uses? Yes

SOURCE OF WATER

Yes Surface water source

No Ground water source
___ Drilling permit required?
___ Copy in the file? Drilling Permit No. ___
___ Amount paid for permit ___ Correct?
___ Well log in the file?

LICENSE EXAMINATION FEE

Yes Required?
$50 Amount Submitted
Yes Correct?

MEASURING DEVICE

No Required?
Yes Installed?
___ Waiver requested?

PRIORITY CALCULATION

Date proof received	6/27/00	
Date proof due	7/1/00	-
No. of days late	1	=
Priority Date		+
New Priority Date		

DEFICIENCIES OR ACTION ITEMS

Acknowledge proof - Permit holder submitted proof for 45-07737 (Amendment of Permit) which was not necessary. Fee will be refunded.

DATA ENTRY

New Address No Proof Made 6/27/00

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

July 10, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

V THOMAS GEARY
964 S 950 E
ALBION ID 83311

RE: Permit 45-07737

Dear Permit Holder(s):

The Department of Water Resources (IDWR) has issued the enclosed Amendment of Permit approving your application to amend the water right referenced above. Please be sure to review every element of the Amendment of Permit, including the conditions of approval and remarks.

The Amendment of Permit is a **preliminary order** issued by IDWR pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action by IDWR unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.**

Also, please note that water right owners are required to report any change of water right ownership and/or change of mailing address to the department within 120 days of the change. Failure to report these changes could result in a $100 late filing fee. Contact any office of the department or visit the department's homepage on the Internet to obtain the proper reporting form.

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

Sincerely,

Sharla Curtis

for Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosures

MICROFILMED
AUG 2 2 2000

CERTIFICATE OF MAILING

I hereby certify that on the **10th** day of **July, 2000,** I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER (Amendment of Permit)** to the person(s) listed below:

RE: PERMIT 45-07737

V THOMAS GEARY
964 S 950 E
ALBION ID 83311

Kari Lynn Townsend
Secretary

MICROFILMED
AUG 2 2 2000

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

AUG 2 2 2000

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
AUG 2 2 2000

AMENDMENT OF PERMIT REVIEW

Review Date 7/3/00

PERMIT NO. 45.07737 **NAME** Geary

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: SR Mor ~~GWMA~~ Trust/~~Non-trust~~

PROOF OF B/U RECEIVED? (Yes)/No ~~Due <6 months? Yes/No~~

GROUNDWATER:
Drilling Permit No. N/A;
Drilled _____

Swan Falls Flag ~~A~~

Conditions of Approval: 1, 04, 05, 051, 027

Remarks/Comments Add'd in SW¼SE¼, S11.

MICROFILMED

AUG 2 2 2000

MEMO

RECEIVED
JUN 20 2000
Department of Water Resources

FROM: Allen Merritt DATE 6/7/00

TO: Amendment of Permit No: 45-07737

In the Name of V. Thomas Geary

SUBJECT: **Review and Recommendation**

This amendment was filed to add a point of diversion to and existing pond development. The permit has been essentially developed. The applicant developed two springy areas in a meadow for diversion to his pond (pond also a point of diversion and was built on a springy area) and through this amendment records the additional springy area developed.

The amendment was protested by the Marsh Creek Water District 45F. The protest was resolved subject to an agreement that the applicant put measuring devices and shut off valves on his points of diversion.

The permit requires proof by 7/1/2000.

Recommendation

I recommend that the application be approved subject to the following conditions:
-Subject to original permit conditions and subject to agreement with protestant.

MICROFILMED
AUG 22 2000

Form No. 211a
10/81

V. Thomas Geary

State of Idaho

Department of Water Resources

AMENDMENT ANALYSIS SHEET

INITIAL REVIEW BY: J E Stanton

Right Number 45-07737 Applicant V. Thomas Geary

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.
- ☒ Description of amended places of use. If expanded, delay date of priority.
- ☒ Ownership of point of diversion and place of use.
- ☐ Stream index information (reverse).
- ☒ Map.
- ☒ Signature (must be permit holder).
- ☒ Fee.
- N/A ☐ 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? _____

FINAL REGIONAL PROCESSING REVIEW:

- ☑ Affidavit of publication received.
- ☑ Amendment published correctly. Error noted but 2dd shows what intended change was
- ☑ Protests processed.
- ☑ Approve.
- ☐ Deny.

Conditions _____

By AD Date 6/7/00

STATE OFFICE PROCESSING:

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

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
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

May 11, 2000

RONALD S SORENSEN SEC/TREAS
WATER DISTRICT #45-F
PO BOX 53
ALBION ID 83311

Re: Application for Amendment No. 45-07737 (V. Thomas Geary)

Gentlemen::

This office acknowledges receipt of the withdrawal of your protest against the above referenced application.

Since you were the only protestant, the issue of the protest has been resolved and the Department is now prepared to proceed with the normal processing of the application which includes regional review prior to being forwarded to our State Office.

The Department will continue review of the application without further contact with you unless information is requested.

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

Very truly yours,

Allen D. Merritt,P.E.
Southern Region Manager

AM:mb

Cc:
V. THOMAS GEARY
964 S 950 E
ALBION ID 83311

MICROFILMED
AUG 2 2 2000

May 8, 2000

RECEIVED
MAY 10 2000
Department of Water Resources
Southern Region

Attn: Allen D. Merritt
State Of Idaho
Department Of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301-3380

RE: Protest by Water District #45-F on Application for Amendment No. 45-07737 (V. Thomas Geary)

Allen:

Please be advised that Water District # 45-F has reached a verbal "Agreement" with V. Thomas Geary on the protest submitted by Water District #45-F. In return for Water District dropping the Protest. Mr. Geary has agreed to put both measuring devices and shutoff devices on both of his diversion points in connection with Water Right # 45-07737. Since Mr. Geary has to complete this work by July water District # 45-F would like Idaho Department of Water Resources to confirm this at the time of their inspection and send a copy of the Inspection to the Water District. Please consider this letter the Formal Notice of Withdrawal of Protest by Water District #45-F on V. Thomas Geary Application For Amendment No. 45-07737.

By; _____

Ronald S. Sorensen

Secretary Treasurer

Marsh Creek Water District 45-F

MICROFILMED
AUG 2 2 2000

April 30, 2000

V THOMAS GEARY
964 S 950 E
ALBION ID 83311

PROOF DUE NOTICE

RE: PERMIT NO. B45-07737

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 July 1, 2000. (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,

DEBORAH DREW-ELLIS
Administrative Assistant

Enclosures

MICROFILMED
AUG 2 2 2000

CERTIFIED MAIL
NO. Z 269 224 835

April 30, 2000

V THOMAS GEARY
964 S 950 E
ALBION ID 83311

PROOF DUE NOTICE

RE: PERMIT NO. 45-07737

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 July 1, 2000. (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,

DEBORAH DREW-ELLIS
Administrative Assistant

Enclosures

MICROFILMED
AUG 2 2 2000

CERTIFIED MAIL
NO. Z 269 224 830

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

RECEIVED
MAR 2 8 2000
Department of Water Resources

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

March 25, 2000

V. THOMAS GEARY
964 S 950 E
ALBION ID 83311

RE: APPLICATION FOR AMENDMENT NO. 45-07737

Dear Mr. Geary:

Enclosed is a copy of a protest filed against the above referenced application.

The Department suggests you contact the protestant(s) directly to determine the exact nature of the protest(s) and, if possible, to resolve the matter without action by the Department.

Please note that your application is considered a contested case and subject to the Rules of Procedure adopted by the Department.

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

http://www.idwr.state.id.us/apa/idapa37/0101.htm

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you wish to proceed with a Pre-hearing Conference &/or formal Hearing, please notify this office or if you have any questions please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB

Enclosure(s)

MICROFILMED
AUG 2 2 2000

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR AMENDMENT ISSUES

Section 42-211, Idaho Code, identifies the following potential issues that the department can consider in connection with an application for Amendment:

1) Will the change result in the diversion and use of more water than originally permitted?

2) Will the rights of others be adversely affected by the change?

3) Is the proposed change 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?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1 and 2 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 for issue 3.

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 at hearing and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. The department may issue a "pre-conference statement order" which requires response to the inquiries.

HEARING

The department will tape record the hearing. Copies of a hearing tape 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 may by written stipulation waive the 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

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. As part of the conference a date may be set by which to exchange exhibits and witness lists prior to the hearing.

EFFECT OF FAILURE TO APPEAR AT A CONFERENCE OR HEARING

Failure to appear at the time and place set for a conference or hearing by the applicant or protestant(s) may allow the department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

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.

MICROFILMED

AUG 2 2 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

March 25, 2000

V. THOMAS GEARY
964 S 950 E
ALBION ID 83311

RE: APPLICATION FOR AMENDMENT NO. 45-07737

Dear Mr. Geary:

Enclosed is a copy of a protest filed against the above referenced application.

The Department suggests you contact the protestant(s) directly to determine the exact nature of the protest(s) and, if possible, to resolve the matter without action by the Department.

Please note that your application is considered a contested case and subject to the Rules of Procedure adopted by the Department.

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

http://www.idwr.state.id.us/apa/idapa37/0101.htm

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you wish to proceed with a Pre-hearing Conference &/or formal Hearing, please notify this office or if you have any questions please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB

Enclosure(s)

MICROFILMED
AUG 2 2 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

March 25, 2000

ATTN RONALD SORENSEN
MARSH CRFEEK WD #45-F
PO BOX 53
ALBION ID 83311

RE: APPLICATION FOR AMENDMENT NO. 45-07737 (V. Thomas Geary)

Dear Protestant(s):

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

Please note that the application is considered a contested case and subject to the Rules of Procedure adopted by the Department.

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

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If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

MICROFILMED

AUG 2 2 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

March 25, 2000

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If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

MICROFILMED

AUG 2 2 2000

RECEIVED
MAR 10 2000
Department of Water Resources
Southern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST

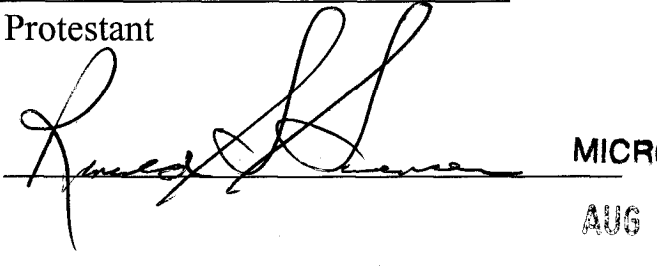
This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested: Application for Amended Point of Diversion permit #45-07737 in the name of Thomas V. Geary
2. Name of protestant: Marsh Creek Water District # 45-F.
3. Protestant's representative for service (If different than protestant): Ronald S. Sorensen Secretary Treasurer Water District #45-F.
4. Service mailing address: P.O. Box 53 Albion, Idaho 83311.
5. Service telephone no. 208-673-6666.
6. Basis of protest: Water user has not complied with the original terms and conditions of "Permit To Appropriate Water NO. 45-07737".
7. What would resolve your protest? Water user adhering to terms and conditions of Permit to Appropriate Water No. 45-07737

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. Also verify that I have served a copy of this protest upon the applicant.

Signed this 10th day of March, 1999

Marsh Creek Water District #45-F
Protestant



MICROFILMED
AUG 22 2000

Ronald S. Sorensen Secretary-Treasurer Water District #45-F

Protestant's Representative

CC: V. Thomas Geary
STATE OF IDAHO Department Of Water Resources

Received by JE Stanton 2-10-00 11:56 am
Receipted by 90 3-10-00 # 22835

MICROFILMED
AUG 2 2 2000

RECEIVED
MAR 10 2000
Department of Water Resources
Southern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST

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Signed this 10th day of March, 1999

Marsh Creek Water District #45-F
Protestant

MICROFILMED
AUG 22 2000

Ronald S. Sorensen Secretary-Treasurer Water District #45-F

Protestant's Representative

CC: V. Thomas Geary
STATE OF IDAHO Department Of Water Resources

Received by JE Stanton 3-10-00 11:56 am
Receipted by 90 3-10-00 # 22835

MICROFILMED
AUG 2 2 2000

SOUTH IDAHO PRESS
BURLEY, IDAHO
AFFIDAVIT OF PUBLICATION

County of Cassia)
) ss
STATE OF IDAHO)

Ruth Holmes, being first duly sworn, dep[o]
is a legals clerk of the South Idaho Pre[ss]
published at Burley, Idaho, in the county
paper is of general circulation therein. I[t]
that the printed notice attached heret[o]
according to law in the regular editio[n]
Press for 2 consecutive week(s)
issue dated February 21, 2000, and endin[g]
February 28, 2000.

Ruth Holmes

00-063
NOTICE OF AMENDMENT TO A WATER PERMIT

Notice is hereby given that Thomas Geary, 964 S 950 E; ALBION ID 83311 has applied to the Department of Water Resources for an additional point of diversion to a water right.

PRESENTLY, Permit No. 45-07737 with a priority date of 12/23/1997, a source of springs tributary to Marsh Creek within NWSESE & SWSESE, S11 and within NWNENE, S4 is authorized for diversion to storage 0.10 cfs & aesthetic (2.0 afa) uses within SESE, S11. The amendment proposes to add another diversion point within SWSESE, S11; all T12S, R24E; Cassia County.

Any protest against the proposed change(s) must be filed with the Department of Water Resources, Southern Region, 1341 Fillmore St., Suite 200; Twin Falls, Id 83301 together with a protest fee of $25.00 on or before March 10, 2000 to be considered by the Department in its decision to grant or deny any part of the proposed change. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the South Idaho Press on February 21 and 28, 2000.

STATE OF IDAHO)
COUNTY OF)
MINIDOKA)

On this 28th day of February in the year of 2000 before me, a Notary Public, personally appeared Ruth Holmes, known or identified to me to be the person whose name is 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.

Kay Moore
Notary Public for Idaho

Residing at: Paul, Idaho

My commission expires: 09-20-2001

Cost of Publication 40.32

Affidavit Fee 5.00

Total Cost 45.32

RECEIVED
MAR 01 2000
Department of Water Resources
Southern Region

SOUTH IDAHO PRESS
BURLEY, IDAHO
AFFIDAVIT OF PUBLICATION

County of Cassia)
) ss
STATE OF IDAHO)

Ruth Holmes, being first duly sworn, deposes and says that she is a legals clerk of the South Idaho Press, a daily newspaper published at Burley, Idaho, in the county aforesaid and that the paper is of general circulation therein. Deponent further states that the printed notice attached hereto was duly published according to law in the regular editions of the South Idaho Press for 2 consecutive week(s), commencing with the issue dated February 21, 2000, and ending with the issue dated February 28, 2000.

Ruth (Rene) Holmes

STATE OF IDAHO)
COUNTY OF)
MINIDOKA)

On this 28th day of February in the year of 2000 before me, a Notary Public, personally appeared Ruth Holmes, known or identified to me to be the person whose name is 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.

Kay Moore
Notary Public for Idaho

Residing at: Paul, Idaho

My commission expires: 09-20-2001

Cost of Publication 40.32

Affidavit Fee 5.00

Total Cost 45.32

errors noted.
MB 3/27/00

RECEIVED
MAR 01 2000
Department of Water Resources
Southern Region

MICROFILMED
AUG 22 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

February 9, 2000

ATTN **LEGALS DEPT**
SOUTH IDAHO PRESS
230 E MAIN ST
BURLEY ID 83318

Ladies and Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper.

We have inserted the required publication dates. If you cannot publish the notice on the proposed dates, please contact us immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

Mary Baldwin
Administrative Assistant

Enclosure

MICROFILMED

NOTICE OF AMENDMENT TO A WATER PERMIT

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Karl J. Dreher, Director

Published in the South Idaho Press on 02/21 & 02/28/2000.

MICROFILMED

MEMO

TO: Allen DATE: October 1, 1999

FROM: J E STANTON

SUBJECT: Permit 45-07737, V. Thomas Geary

Yesterday I met with Marsh Creek watermaster Don Gunderson & water-district board member Ron Sorensen at their request. We looked at the developments made under this permit. We walked the area starting well above the point of diversion, since Don wanted to show me the irrigation ditches from Marsh Creek that come in at the upper end of Tom's place. These ditches undoubtedly contribute to the water supply for Tom's pond, but I did not see any direct surface connection between the two. The upper spring diversion for the pond consists of a dug trench about 4' deep and maybe 30' long partially filled with crushed rock. We could see a solid pvc pipe coming out of the gravel, so assumed that there is a perforated pipe under the gravel. The solid pipe (about 3" diameter) ended at the NW corner of the pond, but I could not see any water flowing out of it. While the application showed a point of diversion right on the section line, this collection system goes up into Sec. 14 a little ways; this is probably within the permit, however.

The only visible water entering the pond was a small flow out of a pipe on the west side of the pond, and this was just a trickle. There was a valve on the pipe to control the flow. Don told me that this was from Tom's heat pump, and the pipe did appear to becoming from the direction of his new home.

We also found a second dug trench, this time in the SE/SE Sec. 11. There was a little crushed rock in the bottom of this trench, but no pipeline. The trench deadends alongside the ditch that Don uses to send water to Marsh Creek. Water was sitting 3-4' deep at the lower end of this trench, but did not appear to be flowing out. While this tract is covered by the permit, this diversion does not appear to be part of the original project idea. Both of these trenches are below boggy areas, and are obviously meant to divert the allowed flow. But there is very little flow available now, and the upper trench is inadequate to supply the permitted amount. The pond level is low, and almost no water is flowing out of it.

Bottom line – is this second trench acceptable? Don took several pictures of this system, which he gave to me before we went to the site, and I also took several shots (attached).

Per Telecon w/Tom Geary this date, he plans to fill in ~~&~~ the lower trench; may use it for stockwater later on after discussing his plans with me.



End of New Collection Ditch



End of Existing Pipeline Into Pond

MICROFILMED
AUG 22 2000

Permit 45-07737
9-30-99
JE Stanton



New P/D Looking Upstream (SW)



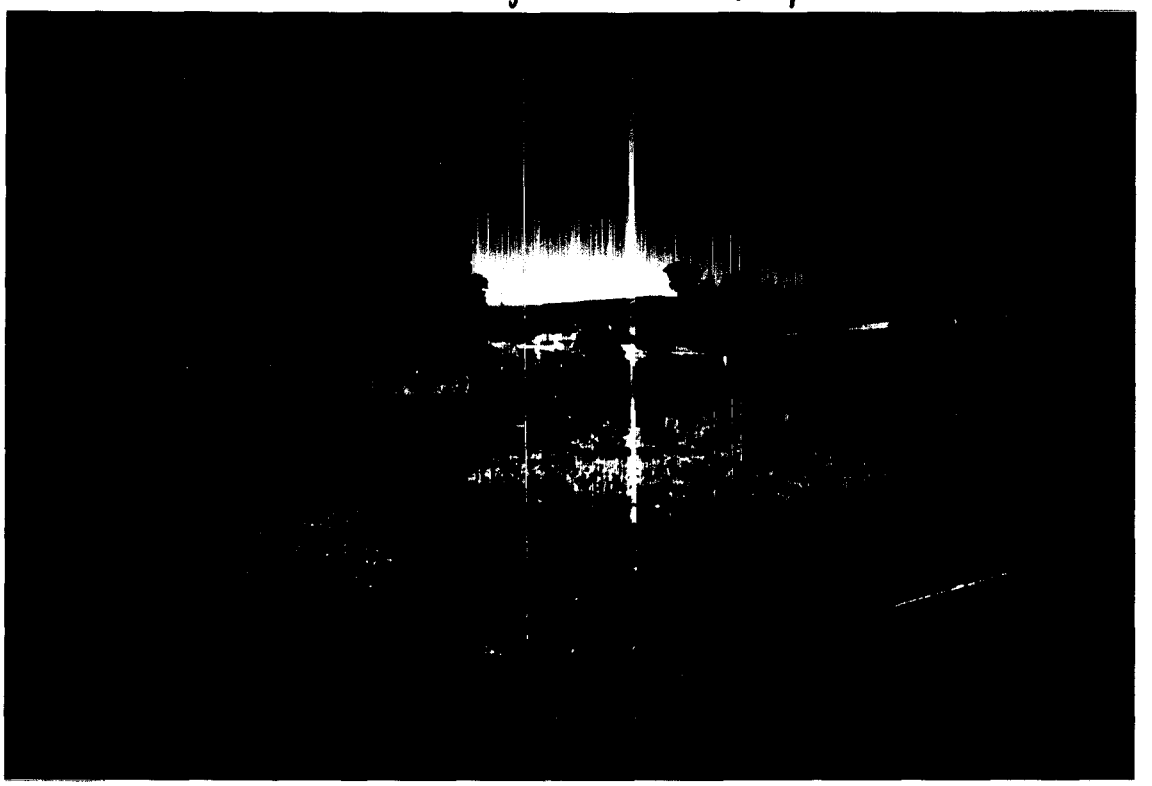
New P/D Looking Downstream (NE)

MICROFILMED
AUG 2 2 2000

Permit 45-07737
9-30-99
JE Stanton



Surface Ditch feeding Pond (looking Upstream)

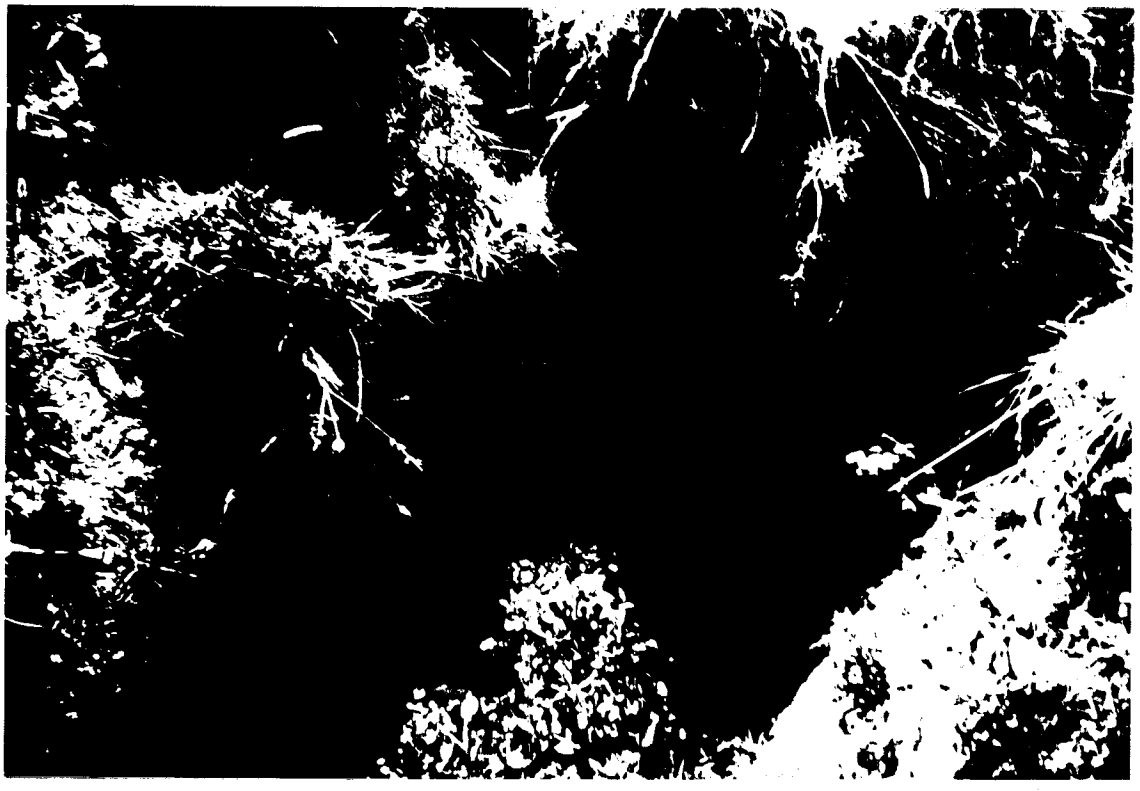


Same Ditch Looking Downstream Toward Pond

Permit 45-07737
9-30-97
JE Stanton

MICF

AUG 2 <illegible>



Discharge From Domestic Heat Pump Into Ditch Pond

MICRO
AUG 2 2

Permit 45-07737
9-30-99
JE Stanton

MEMORANDUM

DATE: July 8, 1999

TO: Water Right Files 36-08567, 36-08735, & 45-07737

FROM: Shelley W. Keen SWK

RE: Trust Water Conditions

When these rights are reviewed for licensing, the reviewer should determine whether the Trust Water conditions were actually appropriate for these water uses.

MICROFILMED
AUG 0 9 1999

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

June 17, 1999

V Thomas Geary
964 S 950 E
Albion ID 83311

RE: Permit No. 45-07737

Dear Permit Holder:

I have enclosed a copy of the approved request for extension of time submitted in connection with the above referenced permit, which extends the time within which to submit proof of beneficial use to **July 1, 2000.** Please note that the department granted the extension based on due diligence. It is important that you work diligently towards completion of this project since the department **will not** be able to grant additional extension requests based on due diligence.

Section 42-248, Idaho Code, which became effective on July 1, 1996, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Please contact this office or any regional office of the department for the proper form to file a change of ownership of a water right and/or a change in the address of the owner.

Please contact me at (208)327-7953, if you have any questions regarding this matter.

Sincerely,

Julie L. Yarbrough

JULIE L. YARBROUGH, Administrative Assistant
Water Allocation Bureau

Enclosure

c: IDWR - Regional Office

MICROFILMED
JUN 25 1999

ANALYSIS SHEET FOR EXTENSION OF TIME

Permit No. 45-07737 Reviewed by 6-16-99 Date July

BASIC INFORMATION

6-14-99 Date stamp received

Yes Extension received timely

Yes Fee received and receipted

Yes Name and signature same as permit

Yes Address Change

BASIS FOR EXTENSION REQUEST

Yes Has adequate work been completed to demonstrate due diligence?

_____ Has the permit been involved in litigation?
Is supporting documentation needed to complete the file?_____ Requested?_____

_____ Is delay by a government agency?
Is supporting documentation needed to complete the file?_____ Requested?_____

_____ Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?

ACTION TAKEN Recommend extend to July 1, 2000, on basis of due diligence.

PRIORITY CALCULATION

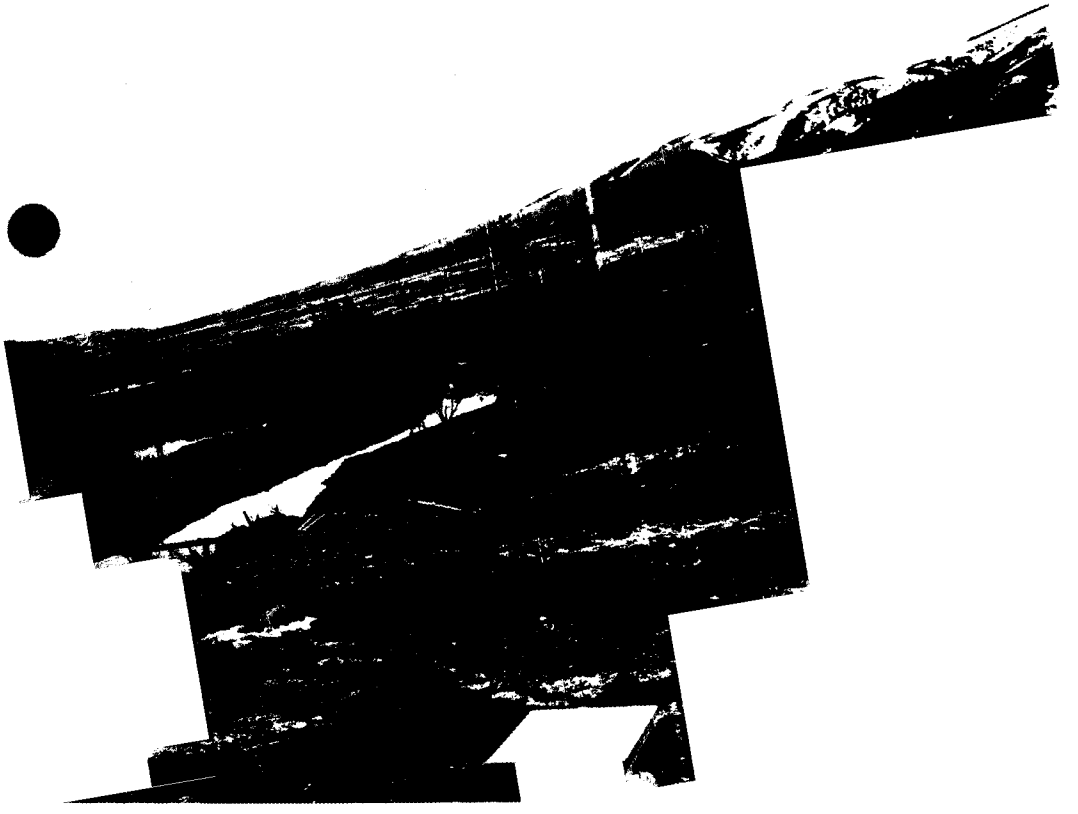
Date extension received	_____	= _____
Proof due date	_____	= _____
Number of days late	_____	= _____
Priority date	_____	= _____
New Priority Date	_____	= _____

DATA ENTRY

New Address 964 S 950 E Albion 83311

Change Proof Due Date 7-1-2000

Change Priority Date X





April 30, 1999

V THOMAS GEARY
407 W 400 S
BURLEY ID 83318

PROOF DUE NOTICE

RE: PERMIT NO. 45-07737

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 July 1, 1999. (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,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

MICROFILMED
AUG 22 2000

CERTIFIED MAIL
NO. 433942302

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 16, 1998

V THOMAS GEARY
407 W 400 S
BURLEY ID 83318

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 45-07737

Dear Permit Holder:

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

The permit is a **preliminary order** issued by IDWR pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action by IDWR unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.**

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

Be sure to note the special condition requiring you to install a measuring device and lockable controlling works that will enable the watermaster to control the rate of diversion.

Also, please note that water right owners are required to report any change of water right ownership and/or change of mailing address to the department within 120 days of the change. Failure to report these changes could result in a $100 late filing fee. Contact any office of the department or visit the department's homepage on the Internet to obtain the proper reporting form.

MICROFILMED
AUG 0 6 1998

This permit authorizes the appropriation of trust water. Trust water is defined as that portion of a particular hydropower water right which exceeds certain minimum stream flows established by state action, and is held in trust by the State of Idaho for the use and benefit of the people within the state. Conditions pertaining to a term review, annual use fee and jurisdiction of the permit are trust water conditions.

If you have any questions, please call me at 208-327-7946.

Sincerely,

Shelley Watte Keen

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosures

MICROFILMED
AUG 0 6 1998

CERTIFICATE OF MAILING

I hereby certify that on the **16th** day of **June, 1998**, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER (Approved Permit)** to the person(s) listed below:

Water Right No. 45-07737

V THOMAS GEARY
407 W 400 S
BURLEY ID 83318

Kari Lynn Townsend
Secretary

MICROFILMED
AUG 0 6 1998

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. **A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief 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 the 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 twenty-one (21) 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 a 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. Otherwise, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) 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 Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review a preliminary order, the Department 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 Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department orders otherwise, all oral arguments will be heard in Boise, Idaho.

MICROFILMED
AUG 0 6 1998

CERTIFICATE OF SERVICE

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

FINAL ORDER

The Department 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 Department 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
AUG 06 1998

05/98

APPLICATION FOR PERMIT
STATE OFFICE REVIEW

by Cindy Lou

No.: 45-7137 Name: Geary Date: 6/12/98 Ad OK? ✓ ✓ Gvmt Lts: ✓

AREA OF CONCERN: - No/Yes: ESRP Mor / _____ GWMA / Trust / Non-trust

PROTESTED: - 020 (Protest Agreement) or *W19 (Order)

SYSTEM COMPLETED:

> 1 year	- 26A-**P17**
≤ 1 year/no proof	- **P16**

GROUNDWATER: (✓ FLO-CH)

WMD (✓ MAP)	- North / East / West
> 0.24 cfs/5 acres	- 067 or No MD (in-stream stock or power)
≤ 0.24 cfs/5acres	- No MD
~~WMD~~ Supplemental use	- 065-079 (if GW use SW 1st-statewide)-(cannot move SW off)
> 0.24 cfs/5acres	- 01M (report when notified)
≤ 0.24 cfs/5acres	- No MD

DRILLING PERMIT:

All wells (✓ WDQ3)	- 046-**P23**
In Basin 34?	- 085
Irr. within WD	- **P05** (new well location)

SURFACE WATER: (✓FLO-CH) (Surface water that *doesn't sink* is regulated):

IN/ABOVE MIN. STR. FLOW (✓ MAP)	- *WB9 _____
WD (✓ MAP & LISTING)	- R04 (WD # 45E)
> 0.10 cfs	- 01J-P08 (MD & LD)
≤ 0.10 cfs	- 01H-**P01** (LD), 01P or No MD (in-stream stock)
WMD (✓ MAP)	
> 0.24 cfs/5 acres	- 067 or No MD (in-stream stock or power)
≤ 0.24 cfs/5acres	- No MD
SPRINGS/SINK, INACTIVE WD & REST OF STATE	
> 0.24 cfs/5 acres	- 01M or No MD (in-stream stock or power)
≤ 0.24 cfs/5acres	- No MD

RIVER BASINS: (*Surface water*):

Snake R (01)	- *W22 -**P04**, NA
(02/03-irr)	- 007 (w/ remark *WB9 if above Weiser), NA
Payette R(65)	- *W22 (regulated uses), 047-**P04** (Payette Lake), NA
Salmon R (70's)	- 029 (fish screens), NA

USE:

Domestic surface	- *WB5 (Big Wood R or Boise R ↑ Star Bridge); 27A (Payette River); NA
>1 in rest. area	- 071-070
Fire Protection	- 077
Fish Propagation	- 029-007-042*(req)*-081 (WQ)-**P10**
Heating/Cooling	- R07 (injection well)
Irr ≤ 5 acres	- R66/R67/R68/R69 (0.03 cfs/acre + 3.0/3.5/4.0/4.5 AF)
> 5 acres	- R62/R63/R64/R65 (0.02 cfs/acre + 3.0/3.5/4.0/4.5 AF)
Mining	- 054*(req)* -081-**P10**
Municipal	- 022, 075, 004 (+memo?), NA (not in restricted area)
Power	- 17H/17K(+uses)-08A-025(**P18**)-01N-028-081(**P10**)-027 (if no other cons. use); 17G (FERC) or 17M (~~FERC~~); 18B-**P09**; >25 cfs-**P18**
Stockwater	- R37 (BLM/USFS); NA
Storage (✓3 compo.)	- 18A (in & out MD for on-stream storage), 18B-**P09** (>10' dam), NA

LOCATION:

42-248 area	- **P84** (in 20/30/40/50/60/70/80 (~~87~~) basin)
Boise Front LoGeo	- ~~058~~ (<85° GW temp only)
In-stream dev.	- **P52** (stream channel alteration)
Mitigation	- 120
SWAN FALLS FLAG (See Code Chart)	- A
Trust	- 051-052-053-P74 (Consumptive Uses), NA
Non-Trust (1)	- 048-049 (Consumptive Uses), NA

OWNERSHIP: - 004 (PD/PU) _____

OTHER CONDITIONS: - 027

STANDARD REMARKS: - 006 mod SWSESE/S11 & NWNENE/S14

BENEFICIAL USE DUE: - 9/1/ 1998

COMMENTS: - Pond oval shape with island in middle, pond is located in former wetland. Water is between 15' & 45' wide and approx 150' in diameter = ± 1/2 ac surface water area.

V. Thomas Geary

RECEIVED
JUN 11 1998
DEPARTMENT OF WATER RESOURCES

FORM NO.202A
REVISED 6-6-91

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY JStanton DATE 12-30, 1997
APPLICATION NO. 45-07737

REQUIRED INFORMATION

√ Name (If applicant is a corporation or partnership, names must b provided for the director, officers, & other partners.
√ Address
√ Source (see USGS quad for names of water sources)
√ Point of diversion (10 Acres for spring, lot & block description subdivisions, local name, flow &/or volume.
√ County
√ Quantity (flow &/or volume)
√ Period of use
√ Nature of proposed use (include description of use)
√ Description of diverting works.
√ Time required for beneficial use of water.
√ Place of use or acres irrigated.
√ Map
√ Signature (If applicant is corp., partnership, or municipality, of signator is required)
√ Fee
√ Yes ___ No* In form to reciept

----PROPOSED PRIORITY DATE
12-23 19,97

ADDITIONAL INFORMATION

~ Overlapping place of use(Describe source & relationship to pres application on the back.
√ Overlapping point of diversion.
√ Yes ___ No Field check required
Field check by_____
√ Yes ___ No Field report attached
___ Yes √ No Critical Ground water area
___ Yes √ No Groundwater management area
___ Yes √ No Send Dam safety information
___ Yes √ No Send power requirement letter
___ Yes √ No Send fish farm requirement letter
___ Yes √ No Power residency affidavit.
___ Yes √ No Power efficiency form
___ Yes √ No Within trustwater boundary(If yes, attach trustwa supplementary analysis sheet.
___ Yes √ No Diversion greater than 5 cfs or 500 acre ft. (If y attach large diversion supplementary analysis shee
___ See reverse side for additional information.

Advertise as non-consumptive use

* REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: ___

Date Requested _____, 19___

PROCESSING ✓ Yes ____ No In form for Advertising
____ Yes ✓ No No Statewide Advertising
✓ Yes ____ No Fee amount, receipt date & No. recorded on app.

SEND COPIES TO:
____ Idaho Dept of Health & Welfare
____ Idaho Dept of Fish & Game
____ Idaho Dept of Lands
____ Adjudication Bureau Unit
___ USDI BLM
___ USFS
___ Water Dist.
___ Other_____

FINAL REGIONAL PROCESSING REVIEW

✓ Yes ___ No Affidavit of publication received.
✓ Yes ___ No Application published correctly. If not, record action taken. _____

✓ Yes ___ No Publication dates and paper, recorded on App.
✓ Yes ___ No Protests received
Final date for Protest _____
✓ Yes ___ No Protests, dates, resolution of protest, recorded on app.
✓ Yes ___ No Recommendations attached
___ Yes ✓ No Measuring device required
___ Yes ✓ No Access port required
✓ Yes ___ No Will water be delivered by watermaster? If yes, what dist. 95F
___ Yes ✓ No Special conditions of approval or cover letter below. _____

See below for additional information ___
Date of priority recommended 12/27, 1997
By _____ Date 6/10, 1998

STATE OFFICE REVIEW _____

See below for additional information
By _____ Date _____, 19 ____

ADDITIONAL INFORMATION: _____

See Memo. 6/10/98

FROM: Allen Merritt DATE: June 10, 1998

TO: Application No. 45-07737
In the Name of: THOMAS GEARY

SUBJECT: Review and Recommendation

This application seeks the diversion of water from springs for non-consumptive aesthetic/recreation use in a pond which has already been constructed. The application was sought after the watermaster on Marsh Ck contacted the department about the construction. When advertised the application was protested by Don Merrill who thought his rights on Marsh Ck would be injured. A pre-hearing conference was held with no resolution. Prior to setting a hearing after the conference the parties continued to meet and resolved the protest.

The pond was built in a naturally swampy area and does not appear to impact other rights since the impact would be essentially "non-consumptive".

RECOMMENDATION

I recommend that the application be approved subject to the following conditions:

-Use is non-consumptive.
-Under control of Watermaster of 45F.

MICROFILMED
AUG 0 6 1998

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

June 5, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

V THOMAS GEARY
407 W 400 S
BURLEY ID 83318

RE: Protested Application for Permit No. 45-07737

Dear Mr. Geary:

We have received a withdrawal of the protest filed by Donald G. Merrill against approval of the above referenced application.

Since he was the only protestant, the issue of the protest has been resolved and the Department is now prepared to proceed with the normal processing of the application which includes regional review prior to being forwarded to our State Office.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB

cc: DON PICKETT ESQ
OAKLEY ID 83346

MICROFILMED
AUG 0 6 1998

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

June 5, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

DONALD G MERRILL
PO BOX 486
ALBION ID 83311

RE: Application for Permit No. 45-07737 (V. Thomas Geary)

Dear Mr. Merrill:

This office acknowledges receipt of the withdrawal of your protest against the above referenced application.

Since you were the only formal protestant, the issue of the protest has been resolved and the Department is now prepared to proceed with the normal processing of the application which includes regional review prior to being forwarded to our State Office.

The Department will continue review of the application without further contact with you unless information is requested.

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

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB

cc:

WILLIAM A PARSONS ESQ
PO BOX 910
BURLEY ID 83318

DON PICKETT
OAKLEY ID 83346

Petitioner List

MICROFILMED

AUG 0 6 1998

RECEIVED
JUN 04 1998
Department of Water Resources
Southern Region

The Idaho Department of
Water Resources
1341 Fillmore - Suite 200
Twin Falls, Idaho 83301-3380

RE: Thomas Geary - Donald G. Merrill
45-07737

TO THE DEPARTMENT OF WATER RESOURCES:

I, the undersigned, Donald G. Merrill, do hereby withdraw my protest of the above application.

DATED this 2 day of June, 1998.

Donald G Merrill
Donald G. Merrill

MICROFILMED
AUG 06 1998

PARSONS, SMITH & STONE, LLP
ATTORNEYS AT LAW
137 WEST 13TH STREET
P. O. BOX 910
BURLEY, IDAHO 83318

WILLIAM A. PARSONS
RICHARD K. SMITH
RANDOLPH C. STONE
rcstone@cyberhighway.net

TELEPHONE
(208) 678-8382
FAX NO.
(208) 678-0146

May 19, 1998

RECEIVED
MAY 22 1998
Department of Water Resources
Southern Region

Mr. Allen D. Merritt
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

RE: V. Thomas Geary, 45-07737- Donald G. Merrill

Dear Merritt:

After an informal conference between Donald G. Merrill, V. Thomas Geary, Don Pickett, attorney for Geary and myself, Donald G. Merrill has agreed to withdraw the protest filed in this case primarily upon the analysis performed by Dr. Chuck Brockway relative to the fact that there would be little or no consumptive use of the water that would affect the flow of Marsh Creek and down stream water rights.

If you need to have specific documents signed by Mr. Merrill please forward the same to me.

Very truly yours,

PARSONS, SMITH AND STONE, LLP

William A. Parsons

WAP:rt

cc: Department of Water Resources
1341 Fillmore - Suite 200
Twin Falls, Idaho 83301

Don Pickett
Oakley, Idaho 83346

MICROFILMED
AUG 06 1998

IDAHO FISH & GAME

Magic Valley Region
868 East Main • P.O. Box 428
Jerome, Idaho 83338
(208) 324-4350
Fax (208) 324-1160

Philip E. Batt/Governor
Stephen P. Mealey/Director

April 21, 1998

RECEIVED
APR 24 1998
Department of Water
Southern Re

Mr. Tom Geary
407 W. 400 S.
Burley, Idaho 83318

RE: **Constructed Pond Adjacent to Marsh Creek, West of Albion, Idaho**

Dear Tom,

I appreciated the opportunity to review plans for the pond complex being constructed on your property near Albion, Idaho. Overall, our impressions were favorable as the pond relates to the surrounding landscape and it's potential benefits for fish and wildlife. We would, however, like to suggest the following actions be taken to enhance the habitat values of the pond:

1. Banks need to be contoured and seeded with plant species native to the Albion area. The local Natural Resource Conservation Service office in Burley should be able to recommend a seed mixture and source which would be suited for your climate and soils. We also encourage the use of plugs from local wetland areas be planted along the perimeter of the pond to provide a nursery source for the re-establishment of native wetland plant species.

Often times it's cheaper and easier to utilize non-native plant species on a project such as yours, but, from a wildlife perspective native plantings provide more habitat and a greater diversity of habitats than non-native plants.

2. Woody perennial vegetation such as native species of willow or cottonwood should be included along the pond. The canopy provided by willow and cottonwood trees will contribute habitat for numerous birds and other wildlife species which will utilize the pond. It will also provide shading to reduce thermal heating of the pond and provide a source of woody debris recruitment for the benefit of fish and aquatic insects.

Woody perennial riparian vegetation also has a dense root system which will aid in strengthening and stabilizing the pond banks.

3. When finishing excavation of the pond we recommend the pond edge be varied as much as possible rather than being symmetrically round. Varying the shape of the shore will increase the shoreline area and increase the potential habitat available to fish and wildlife.

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AUG 0 6 1998

Pond type habitats for the benefit of waterfowl and migratory songbirds are lacking over historic conditions along Marsh Creek. Antidotal evidence would suggest that before Marsh Creek was diverted for irrigation and the stream was confined to it's current channel, the valley floor was probably a series of beaver dams and ponds. The work you have done mimics this natural condition and, in our estimation, should replace habitats which once existed throughout the Albion Valley. If we can provide you any further assistance for plant materials or nesting structures, please do not hesitate to contact our office here in Jerome.

Sincerely,

David Parrish
Natural Resource Biologist

cc: IDFG-NRPB
NRCS-Burley
IDWR-Twin Falls

DATE,TIME 04/27 14:59
FAX NO./NAME CDE I F
DURATION 00:00:49
PAGE(S) 02
RESULT OK
MODE STANDARD ECM

TRANSMISSION VERIFICATION REPORT

TIME : 04/27/1998 15:00
NAME : IDWR SOUTHERN REGION
FAX : 2087363037
TEL : 2087363033

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AUG 0 6 1998

4/17/98

Don Pickett called and indicated that Bill Prussing is Merrill's attorney. Hearing meeting next week.

(May 19, 20, 21) for setting hearing

GTF 8382

MICROFILMED
AUG 0 6 1998

From: DWR03::DWR60::AMERRITT 31-MAR-1998 09:00
To: DWR03::GSAXTON,MBALDWIN
CC: AMERRITT
Subj: Geary Pre-hearing Conference 45-07737

vault —
TO: File in 45-07737

FROM: Allen Merritt DATE: March 31, 1998

TO: Glen Saxton, Mary Baldwin

SUBJECT: Pre-hearing Conference for Thomas Geary

Yesterday I conducted a pre-hearing conference for the protested application 45-07737 in the name of Thomas Geary. The application was protested by Don Merrill.

The purpose of the application is to develop a 2 af pond near where Geary is building a new house. The source of water is identified as springs tributary to Marsh Creek. The pond has essentially been dug last December in a swampy area and has some standing water. It has a surface area of approximately 1/2 acre. The springs have not yet been drained into the pond as proposed.

Stanton looked at the site in January and found that the springs are normally diverted on the Geary property for irrigation and may not directly flow into Marsh Creek. (Marsh Creek may be gaining in the reach near the springs).

At the conference the issue was injury to existing decreed water rights on Marsh Creek. Although Mr. Merrill was the only formal protestant there were several other persons present at the conference that expressed this same concern. The applicant indicates he is not causing additional consumption of the water and any water that has historically benefitted the waterusers below will still benefit them.

At the conference nothing was resolved so we discussed timing for hearing. Mr. Geary has conflicts in April but would like to get it done early May. Mr. Merrill is open but he wants to talk to his lawyer before committing to a date. We left it that they would get back to me by April 17th to schedule a date.

After returning to the office I received a call from Don Pickett. He indicated that Mr. Geary visited him and he will be representing Mr. Geary. He asked if the issue of "private water" was discussed at the conference. I told him "no". He indicated that since the water was solely on the Geary property that it may be private and the issue of protest should be moot. I told him that it was my understanding based on recent IDWR hearing decision that Mr. Geary would need to file a permit regardless of the water being private and I did not know for sure if it was private or not. He asked that I mail him a copy of the decision. I mailed him a copy of the final order for 43-07321 with a note that I understood it had been appealed to district court. Rud-mtn Ranch

I will wait to hear further from the parties before scheduling a hearing.

MICROFILMED
AUG 0 9 1999

FROM: Allen Merritt DATE: March 31, 1998

TO: Glen Saxton, Mary Baldwin

SUBJECT: Pre-hearing Conference for Thomas Geary

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I will wait to hear further from the parties before scheduling a hearing.

MICROFILMED

AUG 0 6 1998

IDAHO DEPARTMENT
OF HEALTH AND WELFARE

DIVISION OF
ENVIRONMENTAL QUALITY

601 Pole Line Road, Suite 2, Twin Falls, ID 83301-3035, (208) 736-2190

Philip E. Batt, Governor

RECEIVED
FEB 13 1998
Regulatory Branch
IDAHO FALLS

February 11, 1998

Mr. Thomas Geary
407 West 400 South
Burley, ID 83318

RE: NWW #983200440 Pond Construction in Wetlands

Dear Mr. Geary:

We have reviewed the above referenced application to construct a pond in wetlands near Marsh Creek, Cassia County, Idaho.

In order to ensure that water quality is protected, the following conditions should be included in the final permit:

1. Construction will be conducted in such a manner so as to minimize turbidity and comply with **IDAHO WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS.**

2. No work will be performed in or near the flowing waters of Marsh Creek.

3. All fuel, oil and other hazardous materials, will be stored and equipment refueled away from the stream to ensure that a spill cannot enter the waterway.

4. No equipment will be operated in the flowing portion of the stream.

5. All areas subject to erosion as a result of the construction will be protected with rock riprap or other suitable methods of erosion protection meeting IDWR minimum standards.

6. Stream bank vegetation will be protected to the extent practical during construction. Disturbed areas will be revegetated and/or seeded with perennial vegetation.

7. All temporary structures, excavated material, vegetative or construction debris resulting from the construction will be disposed of out of the stream channel so it cannot reenter at high flows. All debris will be removed from the site and disposed of properly.

MICROFILMED
AUG 06 1998

8. An overflow channel shall not be constructed connecting the pond to Marsh Creek in order to minimize potential sediment entrainment into Marsh Creek.

If construction is completed in accordance with the described work plan and above conditions, the Department of Health and Welfare, Division of Environmental Quality certifies under Section 401 that this construction will comply with applicable requirements of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and will not violate IDAHO WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS.

Please feel free to call if any questions arise.

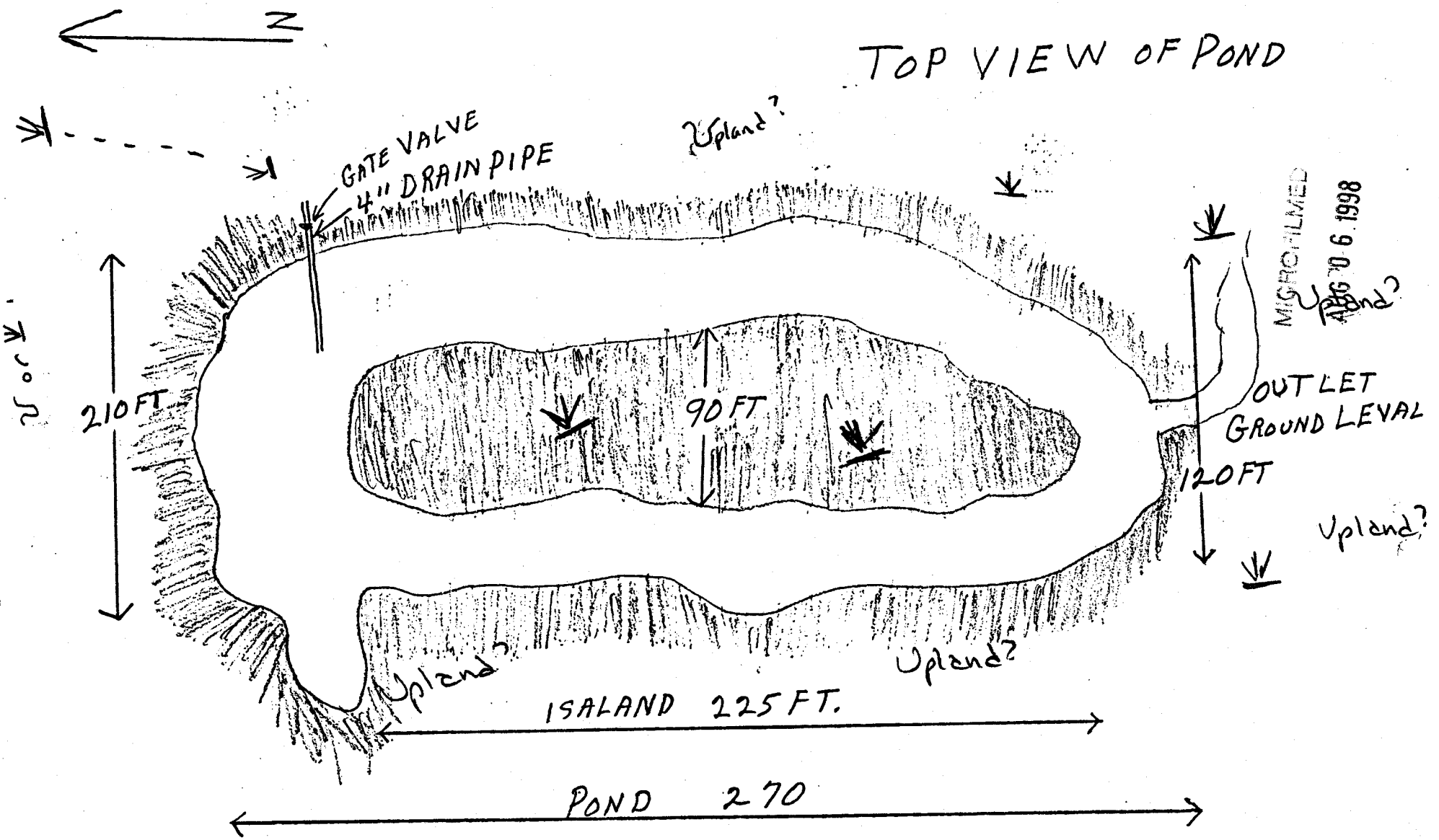
Sincerely,

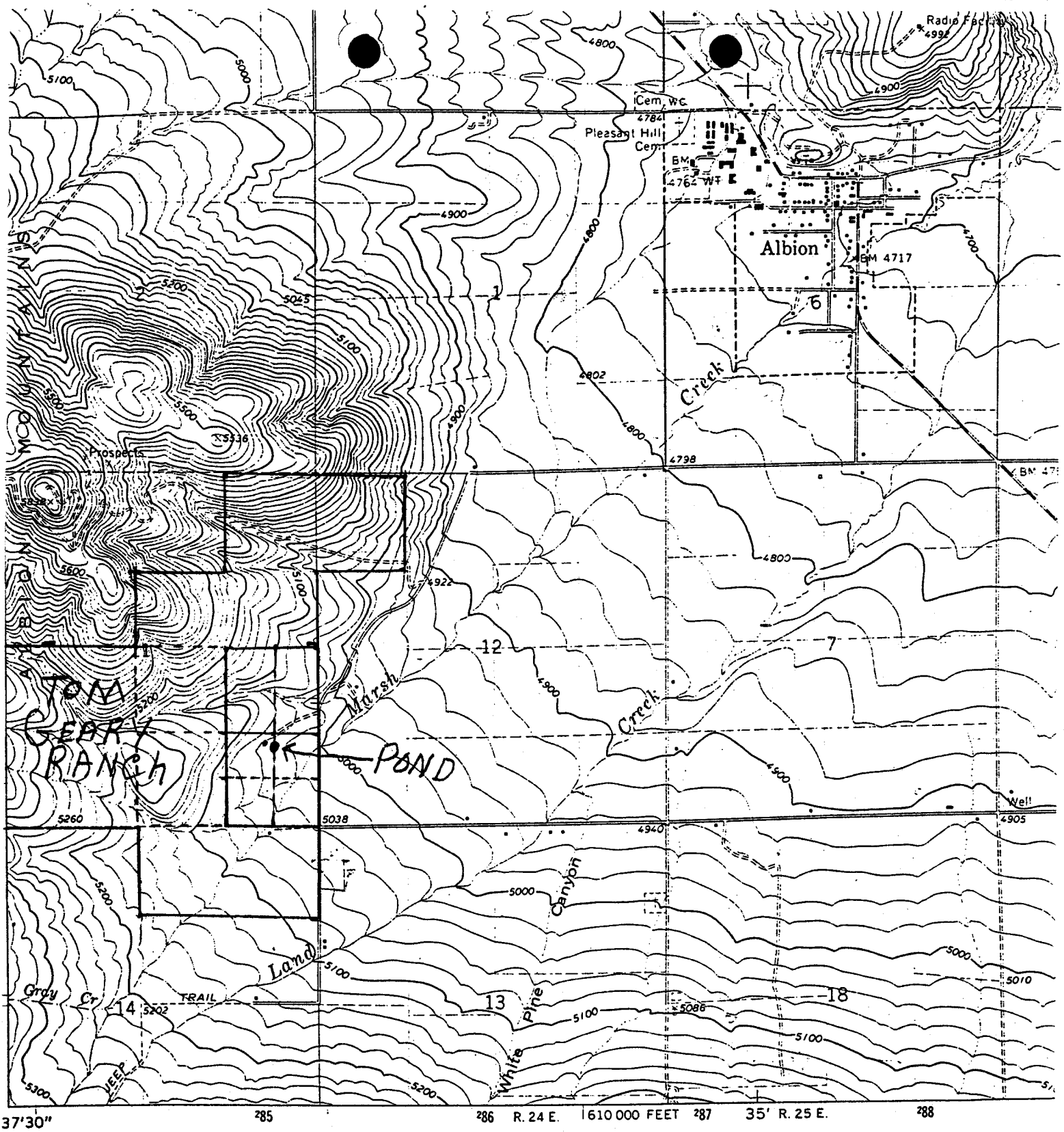
Doug Howard
Regional Administrator

DH/ml
cc: Mike McMasters, Regional Manager-Engineering, DEQ, TFRO
Nick Cizmich, Water Quality Science Officer, DEQ, TFRO
Dave Parrish, Idaho Department of Fish & Game, Jerome
Rob Brochu, US Army Corps of Engineers, Idaho Falls Regulatory Office
Terry Blau, Idaho Department of Water Resources, Twin Falls

2 2bar pipe for marsh creek diversion.

MICROFILMED
AUG 0 6 1998


N
TOP VIEW OF POND
GATE VALVE
4" DRAIN PIPE
Upland?
MICROFILMED
AUG 10 6 1998
210 FT
90 FT
OUTLET
GROUND LEVAL
120 FT
Upland?
Upland?
Upland?
ISALAND 225 FT.
POND 270
Modified by R. Brochu
01/27/98 to show
potential limits of wetlands



Mapped, edited, and published by the Geological Survey

Control by USGS and USC&GS

Topography by photogrammetric methods from aerial photographs taken 1967. Field checked 1968

Polyconic projection. 1927 North American datum
10,000-foot grid based on Idaho coordinate system, central zone
1000-meter Universal Transverse Mercator grid ticks, zone 12, shown in blue

Fine red dashed lines indicate selected fence lines

GN MN

1°44' 31 MILS

17½° 311 MILS

UTM GRID AND 1968 MAGNETIC NORTH DECLINATION AT CENTER OF SHEET

1 1/2

1000 0 1000

1 5

CONT
DAT

MICROFILMED
AUG 06 1998

THIS MAP COMPLIES
FOR SALE BY U. S. GEOLOGICAL SURV
A FOLDER DESCRIBING TOPOGR

RECEIVED
JAN 26 1998
Regulatory
BOISE, IDAHO

JOINT APPLICATION FOR PERMIT
U.S. ARMY CORPS OF ENGINEERS
IDAHO DEPARTMENT OF WATER RESOURCES
IDAHO DEPARTMENT OF LANDS

SEPARATE PERMIT DECISIONS MUST BE RECEIVED FROM BOTH THE STATE OF IDAHO AND THE CORPS OF ENGINEERS PRIOR TO START OF WORK

The Department of the Army permit program is authorized by Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. These laws require permits authorizing structures and work in or affecting navigable waters of the United States and the discharge of dredged or fill material into waters of the United States, including their adjacent wetlands. State permits are required under the State of Idaho, Stream Channel Protection Act (Title 42, Chapter 38, Idaho Code) and the Idaho Lake Protection Act, Section 58-142 et. seq, Idaho Code. This application will meet the requirements of the above agencies.

1. Corps of Engineers # 983200440
Date Received 01-26-98

2. State of Idaho # _____
Date Received _____
$20 Rec'd By: _____ Receipt # _____

PLEASE TYPE OR PRINT

3. Applicant V. THOMAS GEARY
Mailing Address 407 W 400S
BURLEY IDAHO 83318
Work Phone Area 208 678 5724 Home Area 208 678 5724
Fax Number 208-678-4068

4. Authorized Agent _____
Mailing Address _____
Work Phone Area ( ) _____ Home Area ( ) _____

5. Location where proposed activity exists or will occur.
Waterway NEAR MARSH CREEK
Tributary of: SOURCE SPRINGS TRIB. TO SINKS
Assessor's Desc. (Tax No. or Subdivision, Lot & Block No.)
* N 1/2 SE 1/4 SE 1/4 *(See instructions)
ALBION In/near city or town | CASSIA County | IDAHO State
1/4 1/4 | 11 Section | 12S Township | 24E Range or
83311 Zip Code | COUNTY Local jurisdiction (city or county)
UTM Coordinate Grid Zone _____ Northing _____ Easting _____

6. Describe the proposed activity. Provide a general description of the proposed work including all discharges of fill material and any structures such as piers, floats, boat lifts, bulkheads, and cofferdams.

PUTTING IN A POND FOR AESTHETICS IN THE LANDSCAPE AND TO ENHANCE THE WETLAND FOR WILDLIFE HABITATION

Describe construction methods and equipment:
EXCAVATION OF THE SOIL WITH BACKHOE TO CREATE A POND

List all soil series located at project site, and indicate if any are on the county's hydric soils list:
92 - KOVICH SILT LOAM 0 to 3% SLOPE

Length of project along the stream or extension into lake or reservoir: NOT APPLICABLE

Will material be placed waterward of ordinary high water mark? NO If yes, volume: _____ (cubic yards)
(BOTH TEMPORARY AND PERMANENT)

Will material be placed in wetlands? YES If yes, total area: 1 (acres)

Type and composition of fill material: KOVICH SILT LOAM (i.e. sand, etc.) Material Source: ON SITE

Will excavation or dredging be required? YES If yes, volume: _____ (cubic yards) Composition _____

Disposal site for excavated material: ON SITE - BANKS Method of excavation: BACKHOE

Stream gradient: NOT APPLICABLE

Method of controlling turbidity and/or sedimentation: NOT APPLICABLE

7. Size and flow capacity of proposed bridge or culvert and area of drainage served (sq. miles): (Idaho Department of Water Resources requirement.)
NOT APPLICABLE

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8. Preparation of drawings. One set of original or good quality reproducible drawings must be attached to this application. NOTE: DRAWINGS NO LARGER THAN 8-1/2 X 11 INCHES IN SIZE. See the instruction pamphlet for instructions and a checklist for completing the drawings. Include photographs of the project site mounted on 8-1/2 x 11 sheets.

9. Purpose and intended use: Commercial _____ Public X Private X Other _____ Describe To LOOK AT MAYBE FISH

Necessity and justification for project IT WOULD BE NICE TO HAVE IN YARD

10. Proposed Starting Date DEC. 97 Estimated Duration 5 MONTHS

11. If any portion of the activity is complete, indicate month and year of completion DEC 97
Indicate the existing work on the drawings.

12. Names, addresses, and telephone numbers of adjoining property owners, lessees, etc., whose property also adjoins the waterway.

WOODY ANDERSON	SAM SKAGGS	
PARKE LANE	600 E U.S. HWY 30	
ALBION IDAHO 83311	DECLO IDAHO 83323	

☐ Check here if the alteration is located on endowment lands administered by the Idaho Department of Lands

13. LEGAL OWNER IF OTHER THAN APPLICANT _____

Mailing Address _____ City, State, Zip Code _____

Phone Work(Area) _____ Home(Area) _____

14. List other applications, approvals, or certifications from other Federal, interstate, state, or local agencies for any structures, constructions, discharges, deposits, or other activites described in the application.

Issuing Agency	Type of Approval	Identification No.	Date of Application	Date of Approval
DEP. of WATER RESOURCES	WATER PERMIT	No 45-07737	12/23/97	NOT YET

15. Has any agency denied approval for the activity described herein or for any activity directly related to the activity described herein? Yes _____ No X
(If "Yes" explain)

16. Remarks or additional information: _____

17. Application is hereby made for a permit or permits to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to under take the proposed activities. I hereby grant to the agencies to which this application is made, the right to come upon the above-described location to inspect the proposed or completed work.

1/23/98 — Date

V. Thomas Geary — Signature of Applicant (ORIGINAL SIGNATURE REQUIRED)

19. If an authorized agent is to be designated, Item 4 and the following information should be completed.

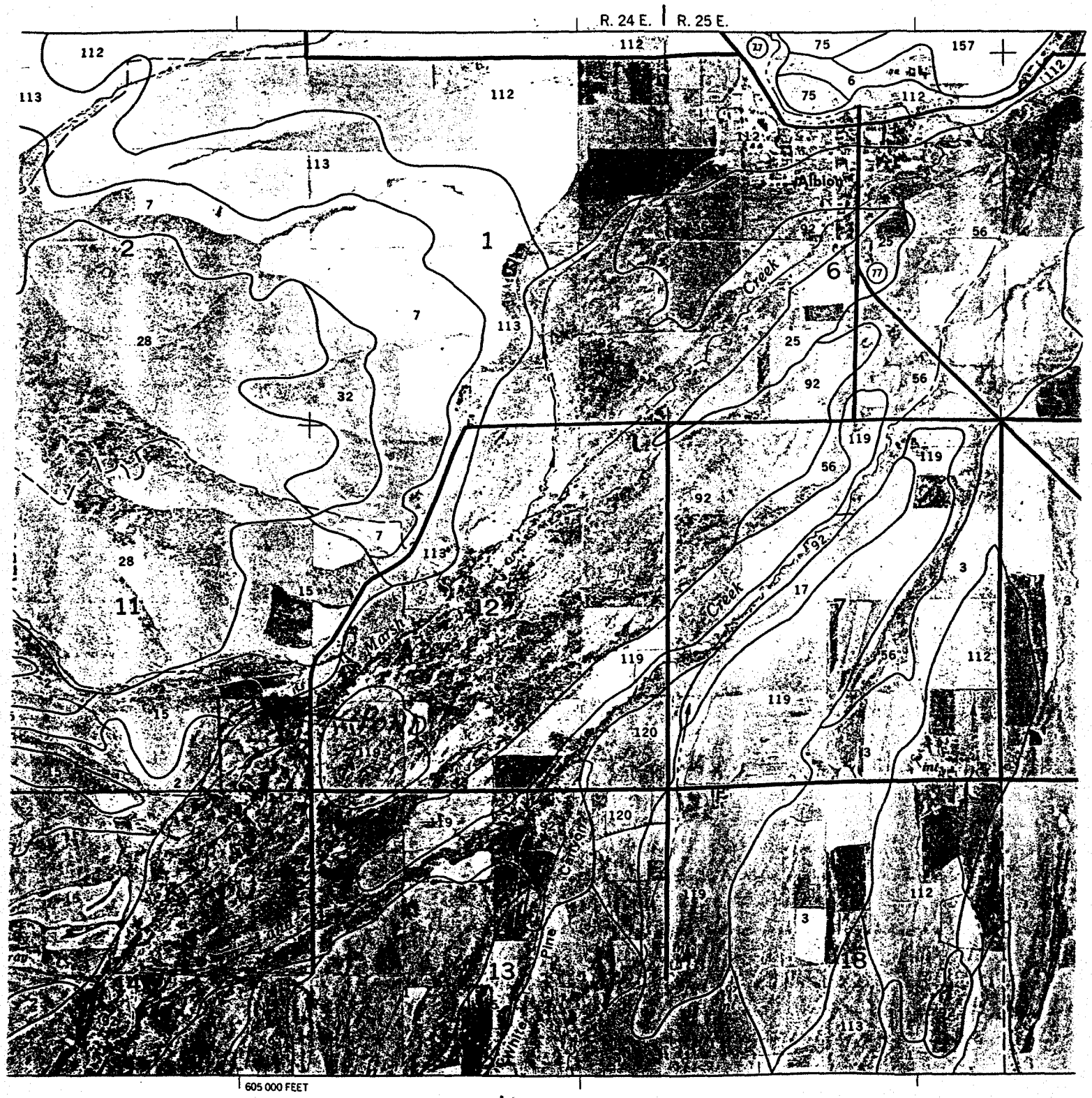
I hereby designate _____ to act as my agent in matters related to this permit application. I understand that if a Federal permit is issued, I must sign the permit.

Date _____ Original Signature of Authorized Agent _____ Original Signature of Applicant _____

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years or both. Do not sent a Federal permit processing fee with this application. The appropriate fee will be assessed when a permit is issued.

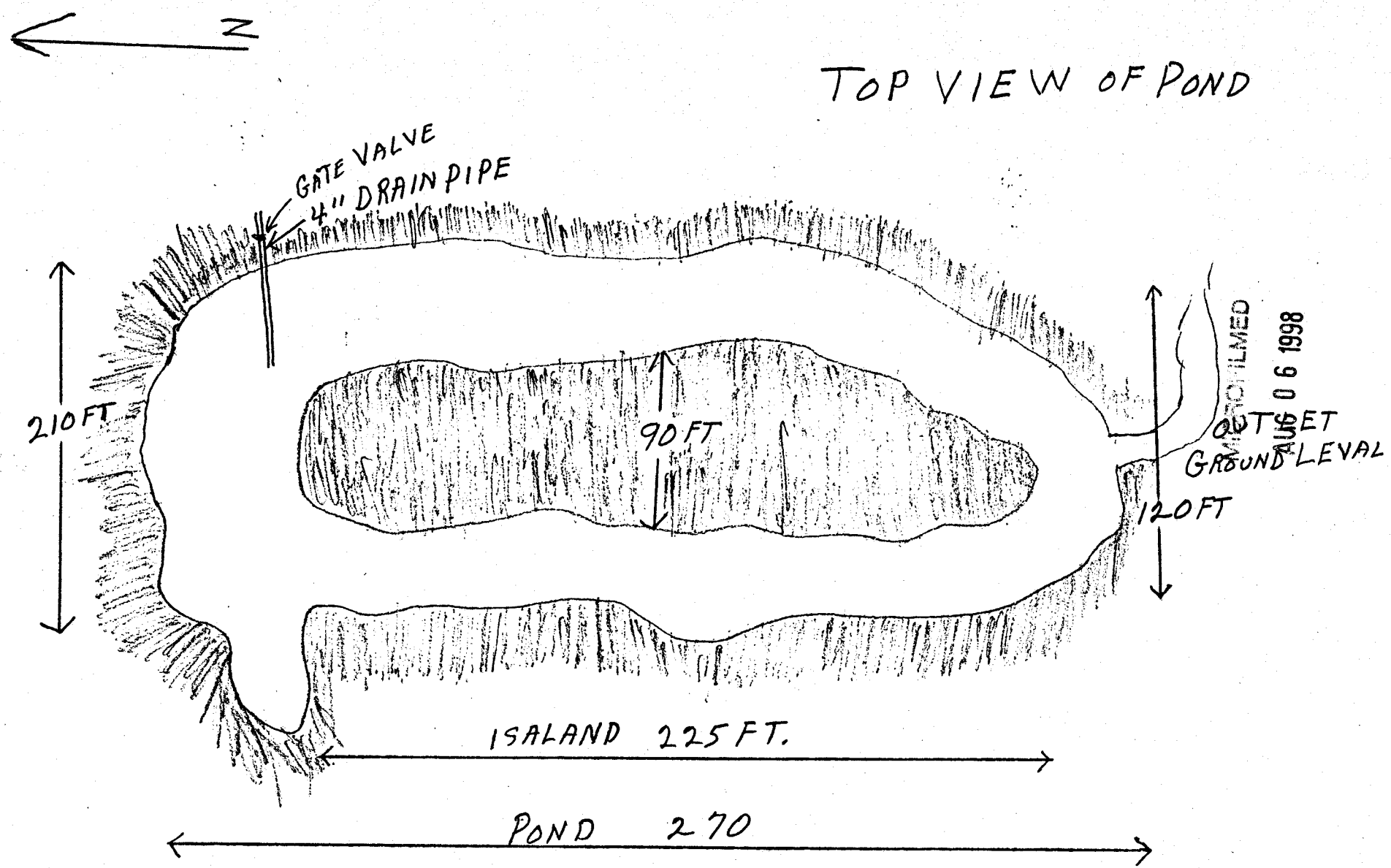
DO NOT SEND FEDERAL PROCESSING FEE WITH APPLICATION

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AUG 0 6 1998

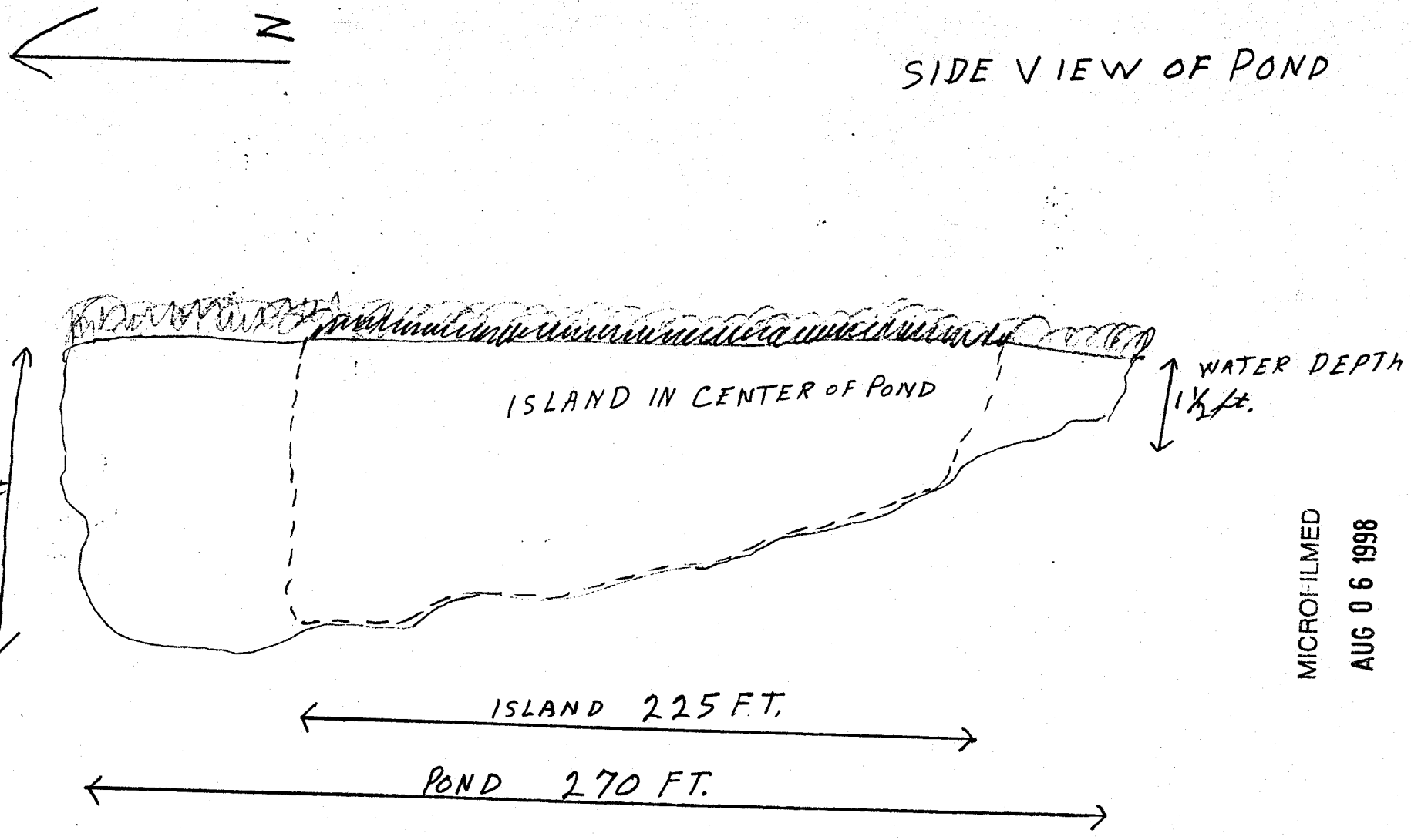


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AUG 0 6 1998

RE: Application for Permit No. 45-07737, (V. Thomas Geary)

PLACE: Cassia County Extension Office-1451 Overland; Burley, ID

DATE: Monday-March 30, 1998 at 1:00 p.m.

CONFERENCE OFFICER: Allen D. Merritt

ASSISTED BY:

ROSTER OF ATTENDANCE

NAME	ADDRESS	REPRESENTING
Don Meservy	1207 4th Ave.	
Thomas Geary	407 W 400 S Burley ID	Tom Geary
Dan Gundersen	1040 E 1000 S. Albion	Water District 45-F
Earl L. Watkins	Box 145 Albion	Earl L. Watkins
Jim Chatburn	Albion	Self.
Ronald S. Sorensen	Albion Idaho 83311	Self
George Montgomery	Albion Id	Self
Martin T. Murray	P.O. 581 Albion Id.	Self
Kent Cooper	Star Rt. Albion Id.	Self
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	AUG 0 6 1998	

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 45-07737	NOTICE OF PRE-HEARING CONFERENCE
V. Thomas Geary, Applicant	
Donald G. Merrill, Protestant	SOURCE: Springs Tributary to Marsh Creek COUNTY: Cassia

On December 23, 1997 V. Thomas Geary, applicant, filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. The Department has received a protest against the approval of said application from the above captioned protestant.

The Department has set the matter of protest for conference on **Monday-March 30, 1998 at 1:00 p.m.** in Conference Room 1, Cassia County Extension Office, 1451 Overland; Burley, ID.

The purpose of the conference is to formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

The conference will be held in accordance with Chapter 2, Title 42, of the Idaho Code and the adopted Rules of Practice and Procedure of the Department of Water Resources.

The conference 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 conference, please advise the department within (10) days prior to the conference.

Dated this 6th day of March, 1998.

Allen D. Merritt, P.E.
Regional Manager

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CERTIFICATE OF MAILING

I hereby certify that on the 6th day of March, 1998 a true and correct copy of the foregoing Notice of Pre-Hearing Conference was forwarded with all required charges prepared, by the method(s) indicated below, to the parties listed:

Mary Baldwin
Secretary

V THOMAS GEARY 407 W 400 S BURLEY ID 83318	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	_____ __x__ _____ _____
DONALD G MERRILL PO BOX 486 ALBION ID 83311	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	_____ __x__ _____ _____

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AUG 0 6 1998

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

March 6, 1998

ATTN LINDA CUTLER
CASSIA COUNTY EXTENSION OFFICE
1451 OVERLAND AVE
BURLEY ID 83318

Dear Ms. Cutler:

This is a follow-up to our telephone conversation to confirm the reservation of Conference Room #1 for a meeting to be held by this office on **Monday-March 30, 1998 from 1:00 - 5:00 p.m.**

If you have any questions please feel free to contact me or Allen Merritt, Southern Regional Office Manager.

Thank you very much for your assistance in this matter.

Very truly yours,

Mary Baldwin
Senior Secretary

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AUG 0 6 1998

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

February 23, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

V THOMAS GEARY
407 W 400 S
BURLEY ID 83318

RE: Application for Permit No. 45-07737

Dear Mr. Geary:

This letter is a follow-up of our correspondence of February 6, 1998 in which we informed you that the Department was presenting the opportunity to the signatories of the petition to become full parties in this protested matter.

However, this office has not received a reply from any of those persons; therefore, the Department will consider them as public witnesses unless a Petition to Intervene is received.

At this time, Donald G. Merrill is the only protestant against your application. The Department suggests you contact Mr. Merrill directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

If the matter cannot be voluntarily resolved between the parties, the Department will conduct a conference and/or hearing.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Regional Manager

AM:MB

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AUG 0 6 1998

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

February 23, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

RONALD SWENSEN
ALBION ID 83311

Re: Application for Permit No. 45-07737 in the Name of V. Thomas Geary

Dear Concerned Citizen:

As you will recall, recently we sent a letter with information regarding becoming a protestant or intervenor in the above matter. As of this date, we have not received a reply; therefore, this office assumes that you wish to retain your status as a public witness.

Please be advised that any water right issued by this office is conditioned to be "subject to all prior water rights." This does offer protection to any senior water rights you may have.

The Department will continue review of the application without further contact with you unless information is requested.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB

MICROFILMED

AUG 0 6 1998

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

February 23, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

RICHARD ADAMS
1819 OCCIDENTAL
BURLEY ID 83318

Re: Application for Permit No. 45-07737 in the Name of V. Thomas Geary

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If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB

MICROFILMED

AUG 0 6 1998

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

February 23, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

ELDON ADAMS
STAR RT BOX 9A
ALBION ID 83311

Re: Application for Permit No. 45-07737 in the Name of V. Thomas Geary

Dear Concerned Citizen:

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If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB

MICROFILMED

AUG 0 6 1998

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

February 23, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

KENT COOPER
STAR RT BOX 12
ALBION ID 83311

Re: Application for Permit No. 45-07737 in the Name of V. Thomas Geary

Dear Concerned Citizen:

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Please be advised that any water right issued by this office is conditioned to be "subject to all prior water rights." This does offer protection to any senior water rights you may have.

The Department will continue review of the application without further contact with you unless information is requested.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB

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AUG 0 6 1998

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

February 23, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

GEORGE MONTGOMERY
937 S 900 E
ALBION ID 83311

Re: Application for Permit No. 45-07737 in the Name of V. Thomas Geary

Dear Concerned Citizen:

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Please be advised that any water right issued by this office is conditioned to be "subject to all prior water rights." This does offer protection to any senior water rights you may have.

The Department will continue review of the application without further contact with you unless information is requested.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB

MICROFILMED

AUG 0 6 1998

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

February 23, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MAYOR JAMES D KELLEY
CITY OF ALBION
315 HUNTER
ALBION ID 83311

Re: Application for Permit No. 45-07737 in the Name of V. Thomas Geary

Dear Concerned Citizen:

As you will recall, recently we sent a letter with information regarding becoming a protestant or intervenor in the above matter. As of this date, we have not received a reply; therefore, this office assumes that you wish to retain your status as a public witness.

Please be advised that any water right issued by this office is conditioned to be "subject to all prior water rights." This does offer protection to any senior water rights you may have.

The Department will continue review of the application without further contact with you unless information is requested.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB

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AUG 0 6 1998

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

February 23, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

BENNIE CHATBURN
136 EAST MARKET
ALBION ID 83311

Re: Application for Permit No. 45-07737 in the Name of V. Thomas Geary

Dear Concerned Citizen:

As you will recall, recently we sent a letter with information regarding becoming a protestant or intervenor in the above matter. As of this date, we have not received a reply; therefore, this office assumes that you wish to retain your status as a public witness.

Please be advised that any water right issued by this office is conditioned to be "subject to all prior water rights." This does offer protection to any senior water rights you may have.

The Department will continue review of the application without further contact with you unless information is requested.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB

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AUG 0 6 1998

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

February 6, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

V THOMAS GEARY
407 W 400 S
BURLEY ID 83318

RE: APPLICATION FOR PERMIT NO. 45-07737

Dear Mr. Geary:

On February 4, 1998 this office received a timely protest filed by Donald G. Merrill against the above reference application with the appropriate fee. That protest had an attachment with additional signatures by concerned parties. Copies of these documents are enclosed for your information. At this time the Department classifies Mr. Merrill as the sole protestant in this matter; **however**, recently the Department clarified the policy regarding the issue of "protest petitions" pursuant to IDAPA 37.01.01355 (Rule 355 of the IDWR Rules of Procedure:

-All petition signatories are considered as public witnesses since these parties have not filed separate protests with the required protest fee.

-The Department wishes to provide the opportunity to the petition signatories to become full parties within **ten (10) days** as required in Section §42-203A, Idaho Code.

-The Department's "Rules of Procedure" provides a means for intervention into contested cases. Enclosed is a copy of these rules for your reference.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

This office will notify you approximately February 18, 1998 regarding any additional protestants in this matter. The Department suggests you contact the protestant(s) directly to determine the exact nature of the protest(s) and, if possible, to resolve the matter without action by the Department.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

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AUG 0 6 1998

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

February 6, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

RONALD SWENSEN
ALBION ID 83311

RE: Protest of Application for Permit 45-07737 in the name of V. Thomas Geary

Dear Concerned Citizen:

On February 4, 1998 this office received a timely protest filed by Donald G. Merrill against the above reference application with the appropriate fee. Also attached to that protest were multiple pages of statements and/or signatures by concerned parties.

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-Please note that if you wish to intervene you must follow the procedures outlined, which includes the requirement that you must send a copy of your request for intervention to the applicant. Also, the request for intervention must be accompanied with the required $25.00 protest/intervention filing fee.

-All users who do not submit the protest fee may continue to participate as public witnesses pursuant to IDAPA 37.01.01355 (Rule 355 of IDWR Rules of Procedure).

If you have any questions please feel free to contact our office.

Sincerely,

Allen Merritt, PE
Southern Region Manager

cc: IDWR - Glen Saxton
V. Thomas Geary

MICROFILMED

AUG 0 6 1998

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
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Sincerely,

Allen Merritt, PE
Southern Region Manager

cc: IDWR - Glen Saxton
V. Thomas Geary

MICROFILMED
AUG 06 1998

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

February 6, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

ELDON ADAMS
STAR RT BOX 9A
ALBION ID 83311

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Allen Merritt, PE
Southern Region Manager

cc: IDWR - Glen Saxton
V. Thomas Geary

MICROFILMED

AUG 0 6 1998

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

February 6, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

KENT COOPER
STAR RT BOX 12
ALBION ID 83311

RE: Protest of Application for Permit 45-07737 in the name of V. Thomas Geary

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Southern Region Manager

cc: IDWR - Glen Saxton
V. Thomas Geary

MICROFILMED

AUG 0 6 1998

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

February 6, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

GEORGE MONTGOMERY
937 S 900 E
ALBION ID 83311

RE: Protest of Application for Permit 45-07737 in the name of V. Thomas Geary

Dear Concerned Citizen:

On February 4, 1998 this office received a timely protest filed by Donald G. Merrill against the above reference application with the appropriate fee. Also attached to that protest were multiple pages of statements and/or signatures by concerned parties.

Recently the Department clarified the policy regarding the issue of "protest petitions" pursuant to IDAPA 37.01.01355 (Rule 355 of the IDWR Rules of Procedure.

-At this time the Department classifies Mr. Merrill as the sole protestant in this matter.

-All petition signatories are considered as public witnesses since these parties have not filed separate protests with the required protest fee.

-The Department wishes to provide the opportunity to the petition signatories to become full parties within **ten (10) days** as required in Section §42-203A, Idaho Code.

-The Department's "Rules of Procedure" provides a means for intervention into contested cases. Enclosed is a copy of these rules for your reference.

-Please note that if you wish to intervene you must follow the procedures outlined, which includes the requirement that you must send a copy of your request for intervention to the applicant. Also, the request for intervention must be accompanied with the required $25.00 protest/intervention filing fee.

-All users who do not submit the protest fee may continue to participate as public witnesses pursuant to IDAPA 37.01.01355 (Rule 355 of IDWR Rules of Procedure).

If you have any questions please feel free to contact our office.

Sincerely,

Allen Merritt, PE
Southern Region Manager

cc: IDWR - Glen Saxton
V. Thomas Geary

MICROFILMED

AUG 0 6 1998

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

February 6, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MAYOR JAMES D KELLEY
CITY OF ALBION
315 HUNTER
ALBION ID 83311

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Southern Region Manager

cc: IDWR - Glen Saxton
V. Thomas Geary

MICROFILMED

AUG 0 6 1998

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

February 6, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

BENNIE CHATBURN
136 EAST MARKET
ALBION ID 83311

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Allen Merritt, PE
Southern Region Manager

cc: IDWR - Glen Saxton
V. Thomas Geary

MICROFILMED
AUG 06 1998

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

February 5, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

DONALD G MERRILL
PO BOX 486
ALBION ID 83311

RE: APPLICATION FOR PERMIT NO. 45-07737 (V. Thomas Geary)

Dear Mr. Merrill:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department. At this time the Department classifies YOU as the sole protestant in this matter.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

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AUG 0 6 1998

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

MICROFILMED
AUG 0 6 1998

3/96

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 the same information.

V. Thomas Geary - 407 W 400 S Burley, Id 83318

1. Matter being protested #45-07737 Pond for storage and recreation should not be allowed.
2. Name of protestant Donald G. Merrill
3. Protestant's representative for service (If different than protestant)

4. Service mailing address Box 486 Albion, Id 83311
5. Service telephone no. 208-673-6649
6. Basis of protest (including statement of facts and law upon which the protest is based)

This permit if granted will adversly affect all existing water rights. The water is measured and delivered by decree and date. By Granting this permit, a potential enlargement of an existing water right can occur. The proposed water service is a tributary of Marsh Creek and should not be allowed to be used for storage or recreation in a pond.

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

7. What would resolve your protest? Withdraw application for permit for increased water right to be diverted to storage.

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 3 day of February, 1998.

Donald G Merrill Rmerrill

PROTESTANT

Names of Protestants See Attached

PROTESTANT'S REPRESENTATIVE

RECEIVED
FEB 04 1998
Department of Water Resources
Southern Region

MICROFILMED
AUG 06 1998

NOTE:

A protestant is required to timely file a protest with the department together with a $25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."

2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.

3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.

4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.

5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.

6. Specifically describe the nature of the protest.

7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by J P Stanton Date 2-4-98 Time 11:35 am

$25.00 fee Receipted by JP # S020865 Date 2-4-98

MICROFILMED
AUG 0 6 1998

Kirkwood Adams 1819 Occidental Boise, Ida.

Eldon Adams Star Rt Box 9A Albion

Kent Cooper Star RT Box 12 Albion, Id.

Gloy Montoya 937 S 900 E Albion Id

James D. Kelley (MAYOR) 315 Hunter Albion, Id.
(City of Albion)

Bennie Calhoun 136 East Market Albion, Id.

MICROFILMED
AUG 0 6 1998

DEPARTMENT OF THE ARMY
WALLA WALLA DISTRICT, CORPS OF ENGINEERS
IDAHO FALLS REGULATORY OFFICE
EXCHANGE PLAZA
1820 E. 17TH, STE 350
IDAHO FALLS, IDAHO 83404

REPLY TO
ATTENTION OF:

January 27, 1998

Operations Division

SUBJECT: NWW No. 983200440

RECEIVED
JAN 29 1998
Department of Water Resources
Southern Region

Mr. V. Thomas Geary
407 West 400 South
Burley, Idaho 83318

Dear Mr. Geary:

This concerns your proposed discharge of dredged and fill material to excavate wetlands to construct a pond and to fill wetlands to construct pond dikes in Marsh Creek. This project was the subject of your January 23, 1998 Joint Application for Permit. Your project will be authorized under Nationwide Permit 26 (33 CFR 330, Appendix A), if the Idaho Division of Environmental Quality (IDEQ) issues or waives individual water quality certification by March 27, 1998. I sent a copy of your application to the IDEQ office in Twin Falls, Idaho, and asked them to consider issuing water quality certification for your project. I also asked them to notify you of their decision directly.

If IDEQ issues or waives water quality certification, your proposed project will be authorized and you may proceed with construction subject to all terms and conditions of their certification, the enclosed list of conditions, and the special conditions listed below. If you have not been notified by March 27, 1998, you may assume water quality certification has been waived and proceed with construction.

Your project is subject to the following special conditions:

a. That the dredged and fill material used to construct the pond impoundment berms and all other wetland soils disturbed to construct the pond shall be seeded or planted with native grasses, trees, and shrubs.

b. No channel shall be constructed connecting Marsh Creek to the pond or its outlet.

c. The resultant pond is a water of the United States. Any additional discharges of dredged and fill material in the pond or adjacent wetlands may require a Department of the Army permit.

MICROFILMED
AUG 06 1998

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d. Prior to stocking fish or other wildlife in the pond, the Idaho Department of Fish and Game shall be notified and any necessary permits requested.

Please carefully review these conditions. If you cannot meet these conditions or if you change the project described in your permit application, this nationwide permit verification is not valid. You should contact us for our approval before modifying your project. We have enclosed a Compliance Certification for you to sign and return when you have completed your project.

This notification is valid for 2 years from the date of this letter unless the nationwide permit is modified, reissued, or revoked. However, it will remain valid until that date if the nationwide permit is reissued without modification or your proposed project complies with the modified nationwide permit. If you commence or are under contract to commence this activity before the date the nationwide permit is modified or revoked, you will have 12 months from the date of the modification or revocation to complete the activity under the present terms and conditions of this nationwide permit.

This determination applies only to Department of the Army permits administered by the Corps of Engineers. Your project may also require permits from other Federal, state, and local agencies. A permit may be required from the Idaho Department of Water Resources for your project. You should contact them to obtain any necessary permits prior to start of construction.

A local floodplain management ordinance may have been adopted by your local city or county zoning office under the National Flood Insurance Program. You should contact them regarding any approvals or permits they may require for your project.

Please contact me at 208-522-1645 if you have any questions.

Sincerely,

Robert A. Brochu
Regulatory Project Manager

Enclosures

Copies Furnished:

MICROFILMED

AUG 0 6 1998

Idaho Department of Water Resources
Southern Region
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301-3380

Doug Howard, Regional Administrator
Idaho Department of Health and Welfare
Division of Environmental Quality
601 Pole Line Road, Suite 2
Twin Falls, Idaho 83301

Mr. Dave Parrish
Idaho Department of Fish and Game
868 East Main Street
Jerome, Idaho 83338

MICROFILMED
AUG 0 6 1990

SOUTH IDAHO PRESS
BURLEY, IDAHO
AFFIDAVIT OF PUBLICATION

County of Cassia)
) ss
STATE OF IDAHO)

Ruth Holmes, being first duly sworn, deposes is the Legals clerk of the South Idaho Press, published at Burley, Idaho, in the county afor paper is of general circulation therein. Depon that the printed notice attached hereto wa according to law in the regular editions of Press for 2 consecutive week(s), co issue dated January 19 19 98, and ending wit January 26 1998.

Ruth Holmes

STATE OF IDAHO)
COUNTY OF)
MINIDOKA)

On this 26th day of January in the year o me, a Notary Public, personally appeared Ruth identified to me to be the person whose name is within instrument, and being by me first duly sw the statements therein are true, and acknowledg executed the same.

Janice K. Burn
Notary Public for

Residing at: Rupe

My commission expires: 6-28-2000

98-014

NOTICE OF APPLICATION FOR WATER PERMIT

The following application has been filed to appropriate the public waters of the State of Idaho:

V THOMAS GEARY
407 W 400 S
BURLEY ID 83318

Application for Permit No. 45-07737
Source:Springs trib. to Marsh Creek
Diversion Pt(s): NW1/4SE1/4SE1/4, S11 (seepage at pond site); SW1/4SE1/4SE1/4, S11 or NW1/4NE1/4NE1/4, S14 (spring South of pond),All T12S, R24E; Cassia County. (Exact description unknown)
Use: 1/1-12/31
Storage for Aesthetics 2.0 afa
Diversion to Storage 0.10 cfs
In: SE1/4SE1/4, S11, T12S, R24E; Cassia County
Date Filed: 12/23/97

Any protest against the proposed application(s) must be filed with the Department of Water Resources, Southern Region, 1341 Fillmore St., Suite 200; Twin Falls, ID 83301 together with a protest fee of $25.00 on or before February 5, 1998 to be considered by the Department in its decision to grant or deny any part of the proposed application(s). The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the South Idaho Press on January 19, and 26, 1998.

Cost of Publication 46.20

Affidavit Fee 5.00

Total Cost 51.20

RECEIVED
JAN 28 1998
Department of Water Resources
Southern Region

SOUTH IDAHO PRESS
BURLEY, IDAHO
AFFIDAVIT OF PUBLICATION

County of Cassia)
) ss
STATE OF IDAHO)

Ruth Holmes, being first duly sworn, deposes and says that she is the Legals clerk of the South Idaho Press, a daily newspaper published at Burley, Idaho, in the county aforesaid and that the paper is of general circulation therein. Deponent further states that the printed notice attached hereto was duly published according to law in the regular editions of the South Idaho Press for 2 consecutive week(s), commencing with the issue dated January 19 1998, and ending with the issue dated January 26 1998.

Ruth Anne Holmes

STATE OF IDAHO)
COUNTY OF)
MINIDOKA)

On this 26th day of January in the year of 1998 before me, a Notary Public, personally appeared Ruth Holmes, known or identified to me to be the person whose name is 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.

Sarah Burns
Notary Public for Idaho

Residing at: Rupert, Idaho

My commission expires: 6-28-2000

Cost of Publication 46.20
Affidavit Fee 5.00
Total Cost 51.20

OK MB 1/30/98

RECEIVED
JAN 28 1998
Department of Water Resources
Southern Region
MICROFILMED
AUG 06 1998

TRANSMISSION VERIFICATION REPORT

TIME : 01/27/1998 16:31
NAME : IDWR SOUTHERN REGION
FAX : 2087363037
TEL : 2087363033

DATE,TIME	01/27 16:29
FAX NO./NAME	912086736242-244305
DURATION	00:01:59
PAGE(S)	03
RESULT	OK
MODE	STANDARD ECM

Copy of app faxed to watermaster 1-27-98

MICROFILMED
AUG 06 1998

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Karl J. Dreher, Director

Published in the South Idaho Press on 1/19 & 1/26/98.

MICROFILMED

AUG 0 6 1998

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

January 13, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

ATTENTION-LEGALS
SOUTH IDAHO PRESS
PO BOX 190
BURLEY ID 83318

Gentlemen:

Enclosed you will find a legal notice which we wish to have published in your newspaper. We have inserted the required publication dates.

We have attempted to submit this legal as camera ready. Please call me at your earliest convenience and prior to your staff re-typing the legal if it does not meet your specifications so I can possibly make adjustments.

If you cannot publish the notice on the proposed dates, please contact us immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

Mary Baldwin
Sr. Secretary

Enclosure

MICROFILMED
AUG 0 6 1998

NOTICE OF APPLICATION FOR WATER PERMIT

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V THOMAS GEARY
407 W 400 S
BURLEY ID 83318

Application for Permit No. 45-07737

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Published in the South Idaho Press on 1/19 & 1/26/98.

MICROFILMED

AUG 0 6 1998

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

January 13, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

V THOMAS GEARY
407 W 400 S
BURLEY ID 83318

COPY

Re: Application for Permit No. 45-07737

Dear Mr. Geary:

The Department of Water Resources acknowledges receipt of your water right application for permit. The application has been assigned the above referenced identification number. Please refer to this number in all further correspondence.

This office has scheduled advertising the application in the South Idaho Press for 1/19 & 1/26/98. A period of ten days following the second publication will be allowed for the submittal of protests.

If an application is protested you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If an application is not protested, it will be forwarded to our State Office in about five weeks. State office personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

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

Very truly yours,

James E. Stanton
Sr. Water Resource Agent

JS:MB

MICROFILMED

AUG 0 6 1998

TO: File DATE: January 7, 1998

FROM: Jim Stanton

SUBJECT: Pre-Permit Exam, V. Thomas Geary

Yesterday I visited the subject property to verify elements of the application prior to advertising. The applicant was not present.

The spring referred to is clearly in Sec. 14. It flows in its natural channel into Sec. 11 for a few feet before being diverted into a ditch that stays east of the natural channel. This water eventually enters Marsh Creek on the Geary property, but was pretty well frozen up during my visit. The spring could easily be piped to the proposed pond when needed; the pipeline diversion will probably be built in Sec. 14 close to the spring.

The pond, which is a little southwest of the Geary home in Sec. 11, has been nearly completed. A donut-shaped pond several feet deep has been bulldozed into the marshy area, and some water has collected in the pond. This is in a flat area below an irrigated pasture, and is shown as being quite dark on the ASCS photo. This is a natural area for water to collect, and the photo shows the original area to be about 1 1/4 acres. Although the pond is probably over 1/2 acre, the large island in its center greatly reduces the actual water surface. Any overflow from this area has entered Marsh Creek on the Geary property, and this will not change. I suspect that it will be necessary to continuously pipe the spring water into the pond to keep the trout alive, which could actually increase the amount of water leaving the Geary property for downstream users. Any changes in the water supply to Marsh Creek should be minimal and impossible to measure, so there is probably no reason to deny the application.

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AUG 0 6 1998

45-07737



Berm On North End of Pond (Looking East)

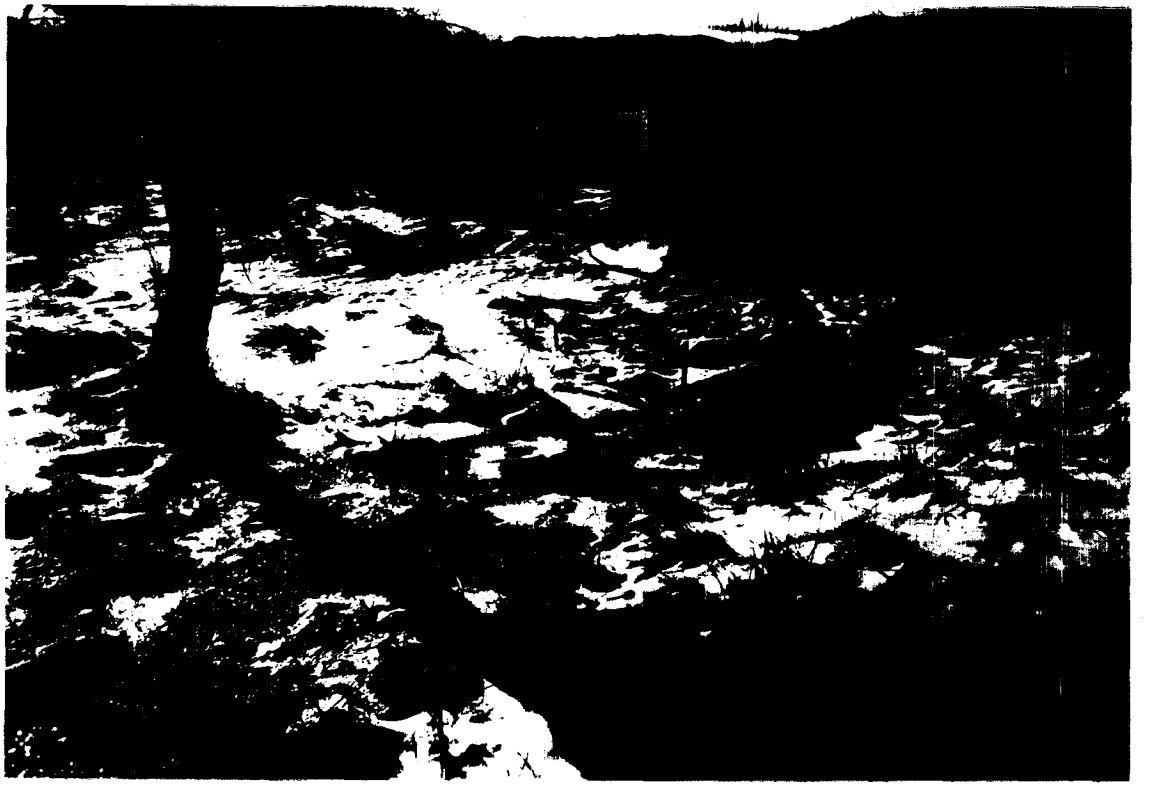


Pond Outlet Looking SE Towards County Road (Photo Center)

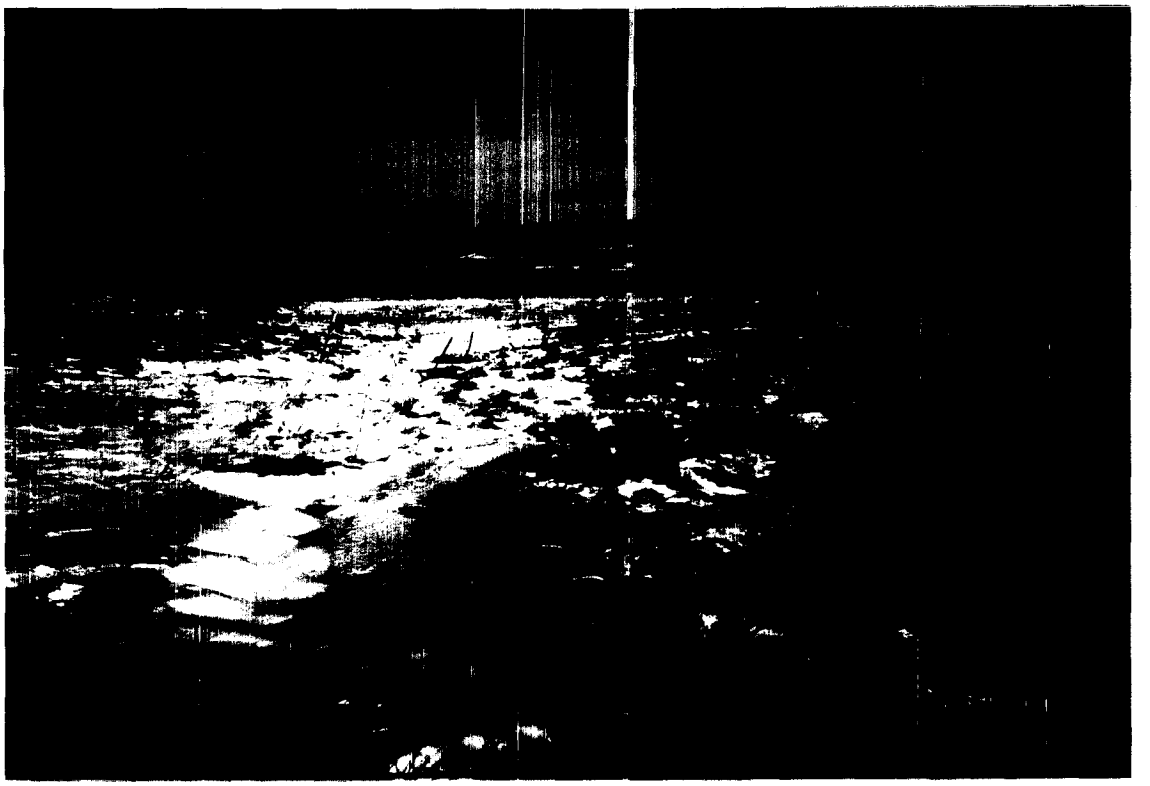
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1-6-98
JE Stanton

45-07737



Spring Looking SW



Natural Channel Looking NE

RECEIVED
AUG 0 6 1998

45-07737



Spring Diversion (Ditch on Right) Looking NW



Pond Under Construction (Looking SE)

MICROFILMED

AUG 0 6 1998

45-07737



Pond Looking South

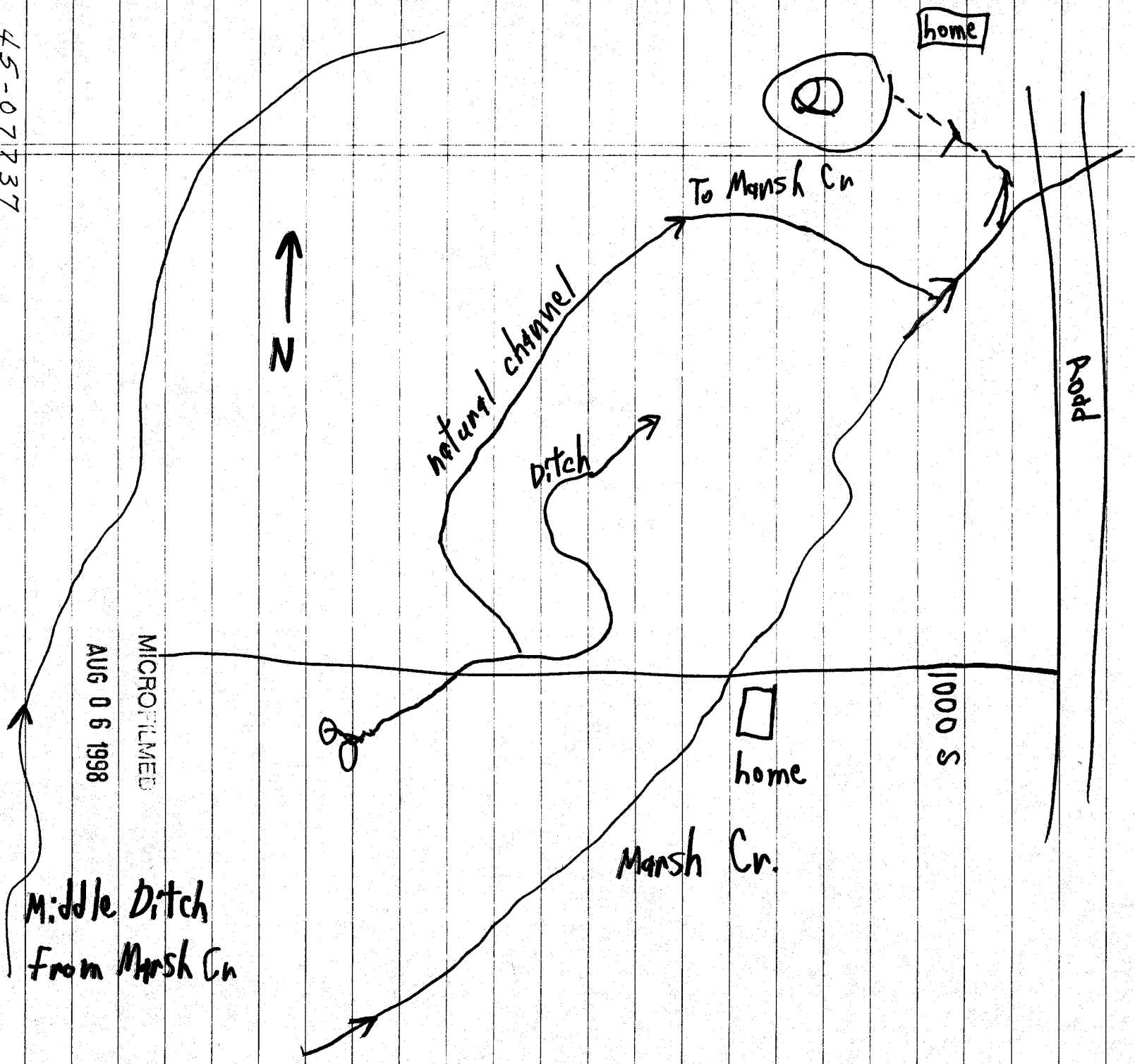


Pond Looking East

MICROFILMED
AUG 0 6 1998

45-07737

45-077437



MICROFILMED
AUG 0 6 1998