

W SUNNYSIDE RD

WYCOFF ADD. - 2700

-BLOCK 1-

-BLOCK 1-

-BLOCK 1-

-BLOCK 2-

-BLOCK 2-

ENTERPRISE

S PROFESSIONAL WY

AMERICAN WY

W 38 S

SUNNYSIDE INDUSTRIAL & PROFESSIONAL PARK

DIV.1 - 7990

S YELLOWSTONE HWY

S PROFESSIONAL WY

AMERICAN WY

-BLOCK 1-

-BLOCK 3-

-BLOCK 4-

Block 1 10 lots
Block 2 5 Lots
Block 3 7 Lots
Block 4 8 Lots
Gravel Pit 1 Lot
31 Lots

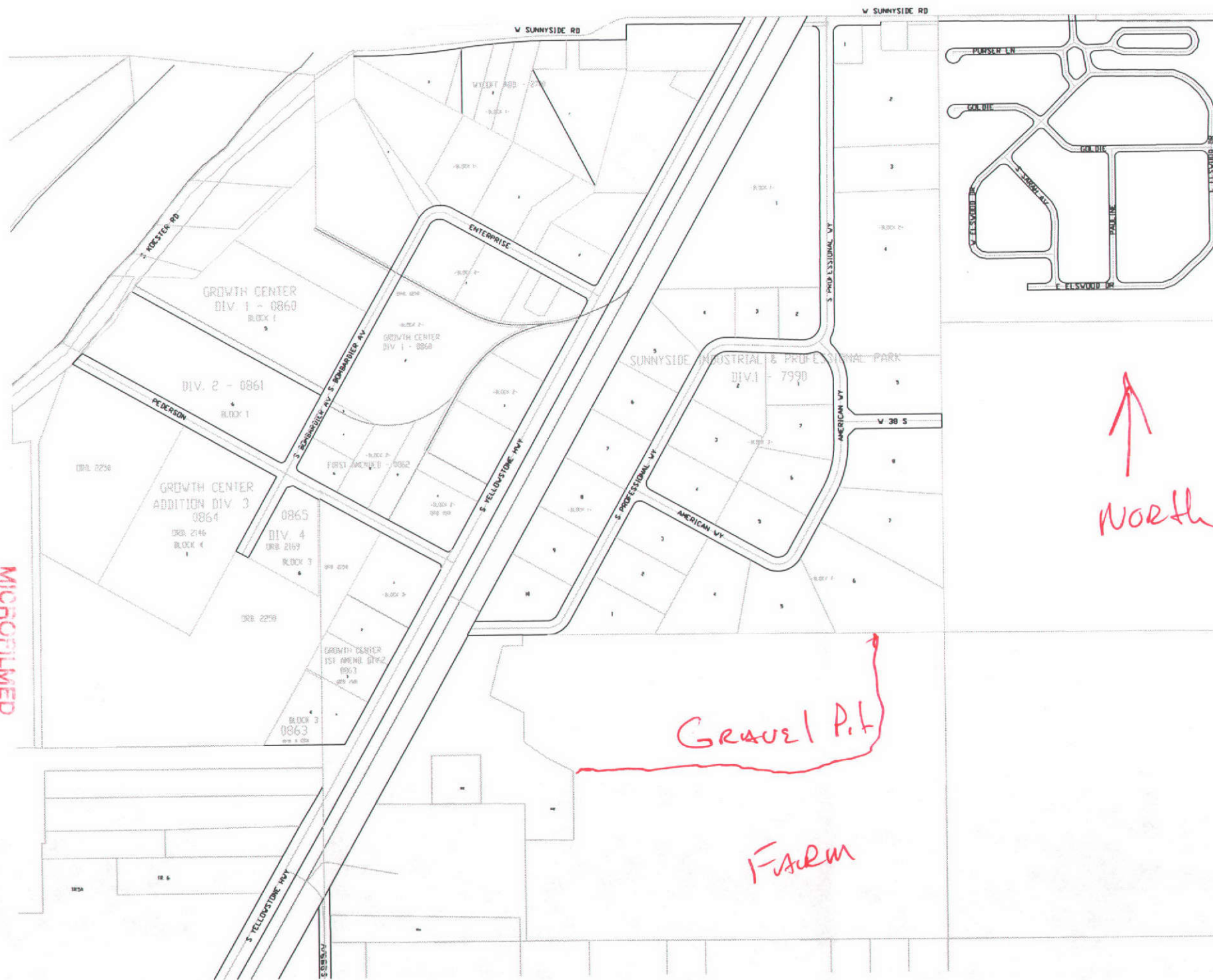
North

X Pit.

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MAR 10 2004

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Well is on Lot 5 of Block 2

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State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 25-13979

Priority: May 10, 2002

Maximum Diversion Rate: 0.90 CFS

This is to certify, that SUNNYSIDE PARK UTILITIES INC
C/O DOYLE BECK
PO BOX 1768
IDAHO FALLS ID 83403-1768

has applied for a permit to appropriate water from:

Source: GROUND WATER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
INDUSTRIAL	01/01 to 12/31	0.90 CFS
COMMERCIAL	01/01 to 12/31	0.90 CFS

LOCATION OF POINT OF DIVERSION:

GROUND WATER NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 36, Twp 02N, Rge 37E, B.M., BONNEVILLE County

PLACE OF USE: INDUSTRIAL AND COMMERCIAL

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
02N 37E 36					X												

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **September 1, 2008**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality standards of the Department of Environmental Quality.
7. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant(s) and the right holder under separate agreement to which the Department is not a party and which may be enforceable by a court of law.
8. This right is limited to a total annual maximum diversion volume of 29.0 af.
9. Point of diversion is located within Lot 5, Block 2, Sunnyside Industrial & Professional Park.

MAR 10 2004

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 25-13979

CONDITIONS OF APPROVAL CONTINUED

10. Place of use is located within Lots 1-10, Blk. 1; Lots 1-5, Blk. 2; Lots 1-7, Blk. 3; Lots 1-8, Blk. 4; Sunnyside Industrial & Professional Park, and one adjacent parcel.
11. The quantity of water under this right shall not exceed 2,500 gallons per day per lot within each of the 30 lots in Sunnyside Industrial & Professional Park.
12. Industrial use on the parcel adjacent to Sunnyside Industrial and Professional Park is for a gravel washing and cement mixing operation.
13. Prior to the diversion of more than 0.04 cfs and 2500 gallons per day of water under this right for the gravel washing and cement mixing operation, the right holder shall implement a plan to mitigate for the consumption of water, subject to the approval of the department, as follows:

A. The right holder shall determine the maximum annual volume of water that will be consumed in the gravel washing and cement mixing operation, including the amount of water that will evaporate from the settling pond, and shall submit the volume and the method of determination to the department.

B. The right holder shall provide the department with documentation showing that the right holder owns, leases, rents, or has otherwise acquired water rights equivalent to the volume of water that will be consumed in the gravel washing and cement mixing operation.

C. The right holder shall submit to the department a written plan providing for the use of water represented by the water rights described in item B, above, to mitigate the consumption of water diverted under this right.

D. The right holder assumes all responsibility for the implementation of the mitigation plan.

E. If the right holder cannot continue to implement its mitigation plan for any reason, the right holder shall cease diverting more than 0.04 cfs and 2500 gallons per day for gravel washing and cement mixing under this right or shall implement an alternative mitigation plan that has been reviewed and approved by the department.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 22nd day of August, 2003.


for KARL J DREHER, Director

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MAR 10 2004

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

MAR 31 2003
Ked

Department of Water Resources

1. Name of Applicant Douglas Beck - Sunnyvale Park Phone 208-529-9891
Mailing address P.O. Box 1768 Idaho Falls - 83403-1768
2. Source of water supply Groundwater which is a tributary of _____
3. Location of point of diversion is Township 2N Range 37E Sec. 36, in the _____ 1/4,
NE 1/4, NW 1/4, Govt. Lot _____, B.M., Bonneville County;
additional points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 0.9 CFS for Ind/Com purposes from 01/01 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 0.9 cubic feet per second and/or (b) _____ acre feet per annum
6. Proposed diverting works:
a. Describe type and size of devices used to divert water from the source WELL/PUMP TO
IND. PARK/COMMERCIAL
b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet
c. Proposed well diameter is 12" inches; proposed depth of well is 220' 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) _____; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 15 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 in kW.
b. Stockwatering; list number and kind of livestock.
c. Municipal; show name of municipality.
d. Domestic; show number of households.
e. Other; describe fully. Industrial Park/Commercial Park

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MAR 10 2004

9. Description of place of use:

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

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

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
2N	37E	36					7c												

Total number of acres to be irrigated _____

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

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

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

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

12. Remarks: Rivk Woodf - Dirs
Dexter Beck - Sec

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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

MAR 10 2004

[Signature]
 Signature of Applicant (and title, if applicable)

Received by AMA Date 10 May 2002 Time 11:57 Preliminary check by _____

Fee \$ 250.00 Receipted by Remain M. Dunn # 5027833 Date 10 May 2002

Publication prepared by SC Date 6/30 & 6/27/02 Published in Post Register

Publication approved SC Date 7/9/02

AGREEMENT FOR MITIGATION WATER

On this 10th day of June, 2002 **IDAHO IRRIGATION DISTRICT** (hereinafter "the District"); and D.H.B. Investments (hereinafter "DHB"); for valuable consideration which is hereby acknowledged, hereby enter into the following Agreement for Mitigation Water (hereinafter "Agreement"):

D.H.B. is the owner of approximately 9.68 acres of real property located within the District, described as Block 2, lot 4 and lot 5, Sunnyside Industrial Professional Park, Division 1. This property is entitled to delivery of irrigation water for use upon the Property from the canal system and water rights and contract storage rights held by the District in trust for the benefit of its landowners (hereinafter "water entitlement").

D.H.B. property is part of Sunnyside Industrial and Professional Park - Sunnyside Park Utilities Inc. (hereinafter "Sunnyside"), who intends to expand their water supply for the community system. This expansion will require the use of Groundwater under a new water right, which Sunnyside intends to obtain, through Idaho statutory procedures. Under the rules and policies of the Idaho Department of Water Resources (hereinafter "IDWR"), a new application for water permit for a groundwater right will not be processed or approved without an acceptable mitigation plan which provides for sufficient quantities of replacement water if senior water right owners demonstrate injury caused by the depletion of water by junior groundwater users.

The District desires to enter into this Agreement to enable D.H.B. to use its water entitlement from the District's allocation for D.H.B. and Sunnyside as mitigation water under this mitigation plan to be submitted to IDWR with the Sunnyside application for water permit.

The District and D.H.B. agree to the following terms and conditions:

1. The District agrees to allow D.H.B. to use any or all of its water entitlement from the District's allocation for the property as mitigation water under its mitigation plan to be submitted to IDWR with Sunnyside application for water permit. The mitigation water will be used to address any injury demonstrated by a senior water right holder resulting from depletions of groundwater by Sunnyside. Water so used will not be available to D.H.B. for irrigation

2. This Agreement is binding upon the District and D.H.B. as well as any heirs, assigns, or other successors in interest of the District or D.H.B.

IDAHO IRRIGATION DIST.

By: William R. Hampton
President of its Board of Directors

Attest:

Debra K. Frazier
Secretary

D.H.B. INVESTMENTS

By: Doyle H. Beck

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MAY 10 2004

ENTIRE SUNNYSIDE INDUSTRIAL SEPTIC SYSTEM

Calculations:	20 Lots @ 200 gpd/lot.	=	4000 gpd	
	4 Lots @ 500 gpd/lot	=	2000 gpd	
	TOTAL	=	6000 gpd	— X 1.5 = 9000 GPD
	Septic tank size	=	12,000 gallons	
	Dosing tank size	=	12,000 gallons	
	Absorption bed @ 1.0 g/sf	=	6,000 sf or 60' X 100'	
	Use 1 1/2" pipe - 19 lines @ 97' ea	=	1843 lf each bed	

Large System requires two separate functioning pressurized beds and a separate replacement area and a dosing tank.

1.	12000 gallon septic tank installed	=	\$ 10,000.00
2.	12000 gallon dosing tank w/pump, installed	=	\$ 12,000.00
3.	60' X 100' Absorption Bed - 2 ea. @ \$6000 ea. Installed	=	\$ 12,000.00
	TOTAL	=	\$ 34,000.00

inst 500 GP load.
 @ 50 Load per Day
 25,000 Gal Day

8 mo yr @ 24 Days mo

= 13150 GPD
 9000 GPD
 —————
 22150 GPD

MICROFILMED
MAY 1 9 2001



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

August 22, 2003

SUNNYSIDE PARK UTILITIES INC
C/O DOYLE BECK
PO BOX 1768
IDAHO FALLS ID 83403-1768

RE: Permit No. 25-13979

Permit Approval Notice

Dear Permit Holder:

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

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

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

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

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

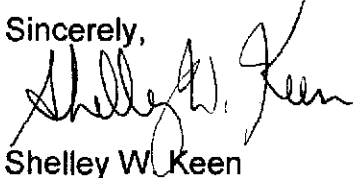
MICROFILMED
MAR 10 2004

Please note that one of the conditions of approval on your permit requires that you measure your diversion and record other important hydrologic and physical features and report them annually to the Department. The Department will shortly send you further information about measuring devices, flow estimation using power records, and annual reporting forms. If you have questions about the measuring and reporting requirements, please call the Department at (208) 327-7900 and ask for someone in the Water Distribution Section.

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

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

Sincerely,



Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

cc: US DEPT OF INTERIOR, KATHLEEN MARION CARR
US DEPT OF INTERIOR, E GAIL MC GARRY

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MAR 10 2004

CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2003 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

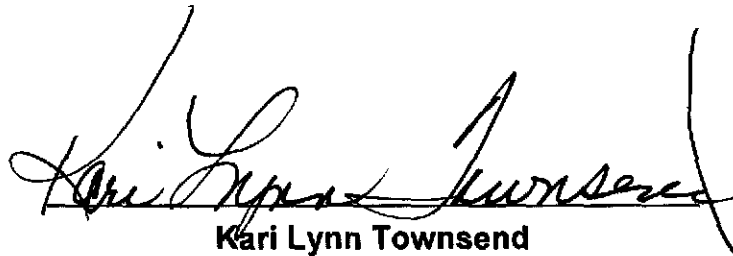
RE: WATER RIGHT NO.

25-13979

**SUNNYSIDE PARK UTILITIES INC
C/O DOYLE BECK
PO BOX 1768
IDAHO FALLS ID 83403-1768**

**US DEPT OF INTERIOR
BUREAU OF RECLAMATION
E GAIL MC GARRY PN-3100
1150 N CURTIS RD STE 100
BOISE ID 83706-5155**

**US DEPT OF INTERIOR
KATHLEEN MARION CARR ATTORNEY
OFFICE OF THE FIELD SOLICITOR
550 W FORT ST MSC-020
BOISE ID 83724**


**Kari Lynn Townsend
Secretary**

**MICROFILMED
MAR 10 2004**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

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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MAR 10 2004

MEMORANDUM

DATE: August 18, 2003

TO: ~~Glen Saxton~~

File

FROM: Shelley W. Keen *SNK*

See the permit approval conditions for a resolution to the issues described in this memo.

*S. Keen
8/19/03*

RE: Sunnyside Park Utilities Application (25-13979)

In May of 2002 Sunnyside Park Utilities, Inc., applied for a right to divert 0.90 cfs of ground water from one well for industrial and commercial purposes. The proposed diversion, located a quarter-mile from the Snake River, is within the "non-trust water area", so it is subject to the moratorium issued on January 6, 1993, for that area. Much of the proposed use is for an industrial park, which the applicant says can get by with 0.04 cfs and 2500 gallons per day per lot. Because there are precedents for issuing a permit in the moratorium area if each commercial/industrial unit is limited to 0.04 cfs and 2500 gallons per day, that part of the proposed use is not a concern. However, the applicant also proposes to provide water to a gravel-washing operation and a cement production facility on property adjacent to the proposed industrial park.

Because there will be some consumption of water associated with the gravel washing operation, the applicant offered a mitigation plan with the application. The consumption will result from water mixed into the concrete and from the evaporation of water from the settling pond for the water used to wash gravel. The applicant has not yet provided a solid estimate of the amount of water that will be consumed each year. The applicant's plan to mitigate for the consumption involves the release of water into the Snake River by Idaho Irrigation District "to address any injury demonstrated by a senior water right holder resulting from depletions of groundwater by Sunnyside." (Emphasis is copied.) The caveat that the mitigation will occur only if injury is demonstrated is a significant departure from previous mitigation requirements in the ESPA moratorium area and the non-trust water moratorium area. Previously, mitigation has been required in these moratorium areas to maintain the water-supply status quo, regardless of the claim of injury, presumably because it would be difficult for a large water user like Twin Falls Canal Company or Northside Canal Company to demonstrate the injury caused by a single water user. (See the July 8, 2002, memo in 27-11917. See also Gmodelo permit, 25-13978, where a similar mitigation plan was ultimately ignored by IDWR.)

The application was protested by the USBOR because they had concerns about the use of water stored in federal projects for mitigation purposes. The protest was withdrawn upon the stipulations that the applicant not use USBOR storage water for mitigation unless it is obtained through the water bank or rental pool and that the maximum daily volume diverted not exceed an average of 25,923 gallons (29 AFY), which is the amount of water the applicant would normally receive from Idaho Irrigation District for a parcel of land it owns.

MAR 10 2004

Memo to Glen Saxton
August 18, 2003
Page 2

The application file was sent to the state office in March of 2003. To be consistent with previous mitigation requirements, I communicated to the applicant the need to mitigate "at any time that water will be diverted and consumed." My letter resulted in a series of discussions with the applicant about mitigation, and on August 8, 2003, I received a letter from the applicant directing IDWR to view the application as being limited to 2500 gpd per lot, with the gravel washing operation to be one lot. The applicant had previously told me over the telephone that he was not ready to move forward with the cement mixing proposal and that he could store 2500 gpd on non-working days to get him by with 2500 gpd for the gravel washing operation. At this point the permit was drafted and sent to you for signature.

Shortly thereafter, I received another letter from the applicant. Again, he states the desire to move ahead with the production of concrete, mitigated with water from Idaho Irrigation District "if someone could show injury." The applicant told me over the phone that IDWR staff helped him draft the letter. As a result, I'm not sure how to view the application and the associated mitigation proposal. Your guidance would be appreciated.

MICROFILMED

MAR 10 2004

Sunnyside Utilities Inc.

RECEIVED
AUG 18 2003
Department of Water Resources

August 12, 2003

Mr. Shelley W. Keen
Water Rights Supervisor
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83720-0098

Re: D.H.B. Mitigation Plan
Application # 25-13979

Dear Mr. Keen:

Your letter of May 6, 2003 was both enlightening and helpful. Perhaps we actually went beyond what we needed to do in trying to assure that our proposed industrial park had a plan to meet all mitigation contingencies.

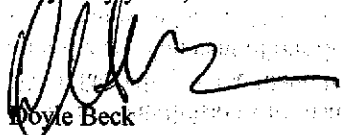
There are many reasons why we believe it is preferable to have one or two wells for the thirty (31) lots in this subdivision rather than thirty individual wells. Consequently we applied for a permit to appropriate water. Because of the moratorium we assumed that every application had to have an associated mitigation plan regardless of the actual consumptive use.

All of this subdivision was historically irrigated with Snake River water supplied by the Idaho Irrigation District. We in fact still pay the Idaho Irrigation District assessments. If you look at the actual consumptive use before and after the development of our Sunnyside Industrial and Professional Park, the water depletion from this area has been significantly reduced. Had this land had continued to be irrigated that consumptive use, depending upon crop would have been between 40 acre-feet and 120 acre-feet per year.

We estimate that the actual consumption associated with the entire development, including the production gravel and concrete will be less than 10 acre-feet per year. Even recognizing the fact that this development would result in less water use on this land than the property had historically used, we got an agreement from Idaho Irrigation District to provide the full irrigation entitlement of this property as mitigation if someone could show injury.

We consequently are in something of a quandary. We are reducing consumptive use on this property to a small fraction of its historical entitlement. We could drill 30 wells and not bother with the application and use the water delivered by Idaho Irrigation for the gravel and concrete operation. The problem this leaves us with is the sediment in the water that poses a problem in the production of concrete. If we compute the amount of water hauled away in the concrete we produce the maximum is seven (7) acre-feet per year. If our mitigation plan is not acceptable given the facts provided in this letter we request that you specifically tell us what options would be acceptable.

Very truly yours,


Doyle Beck

MICROFILMED

MAR 10 2004

We are an Equal Opportunity Employer

P O Box 1768 • Idaho Falls, ID 83403-1768 • Phone (208) 529-9891 •

Fax (208) 522-8949

Sunnyside Utilities Inc.

RECEIVED

AUG 13 2003

DEPARTMENT OF WATER RESOURCES

August 12, 2003

Mr. Shelley W. Keen
Water Rights Supervisor
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83720-0098

Re: D.H.B. Mitigation Plan
Application # 25-13979

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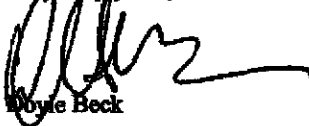
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Very truly yours,



Doyle Beck

We are an Equal Opportunity Employer
P O Box 1768 • Idaho Falls, ID 83403-1768 • Phone (208) 529-9891 •
Fax (208) 522-8949

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MAR 10 2004

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AUG 12 2003

Sunnyside Utilities Inc.

Department of Water Resources

August 8, 2003

Shelley Walter Keen
State of Idaho Department of Water Resources
P.O. Box 83720
1301 N. Orchard St.
Boise, ID 83720-0098

RE: Application for Permit No. 25-13979

Dear Mr. Keen,

As per our telephone conversation, we intend to re-file a new application for our gravel pit, once we have the groundwater issues sorted out.

We would like to complete the application in accordance with your letter dated May 6, 2003 (2,500 gallons per day, per lot) with our gravel pit being considered as one lot. Attached is the county plat for this sub-division.

Please review and advise,



Doyle Beck
Sunnyside Park Utilities, Inc.

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P O Box 1768 • Idaho Falls, ID 83403-1768 • Phone (208) 529-9891 •
Fax (208) 522-8949

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MAR 10 2004

W SUNNYSIDE RD

W SUNNYSIDE RD

WYCOFF ADD. - 2780

-BLOCK 1-

-BLOCK 1-

Block 1 10 Lots
Block 2 5 Lots
Block 3 7 Lots
Block 4 8 Lots
Gravel Pit 1 Lot

31 Lots

-BLOCK 1-

-BLOCK 2-

-BLOCK 2-

North

SUNNYSIDE INDUSTRIAL & PROFESSIONAL PARK

DIV.1 - 7990

W 38 S

S YELLOWSTONE HWY

S PROFESSIONAL WY

AMERICAN WY

S PROFESSIONAL WY

AMERICAN WY

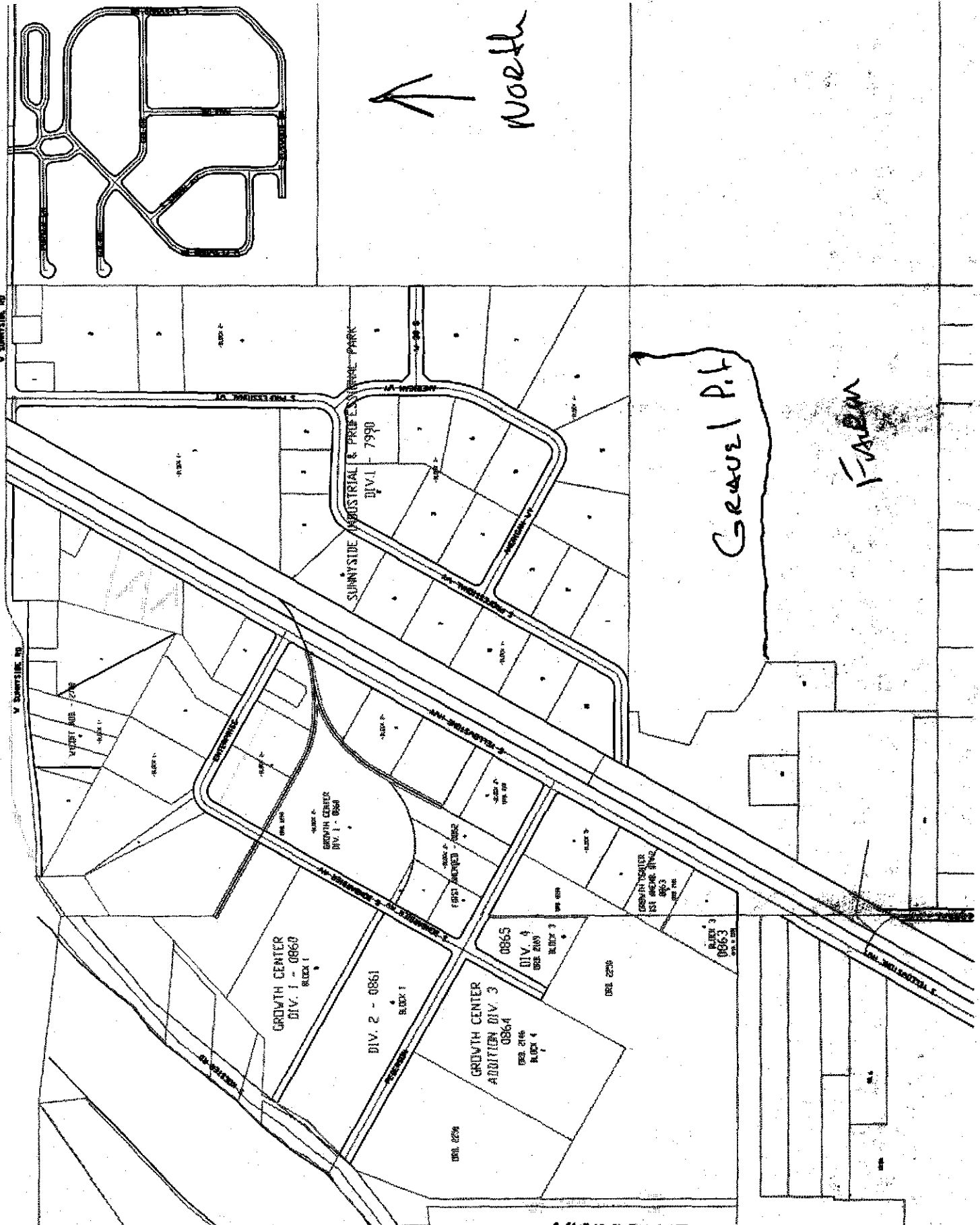
-BLOCK 3-

-BLOCK 1-

-BLOCK 4-

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MAR 10 2004

X Pit.



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MAR 10 2004

Sunnyside Utilities Inc.

August 8, 2003

Shelley Walter Keen
State of Idaho Department of Water Resources
P.O. Box 83720
1301 N. Orchard St.
Boise, ID 83720-0098

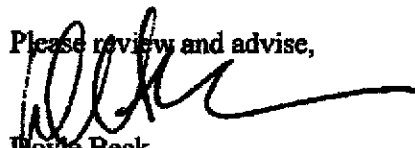
RE: Application for Permit No. 25-13979

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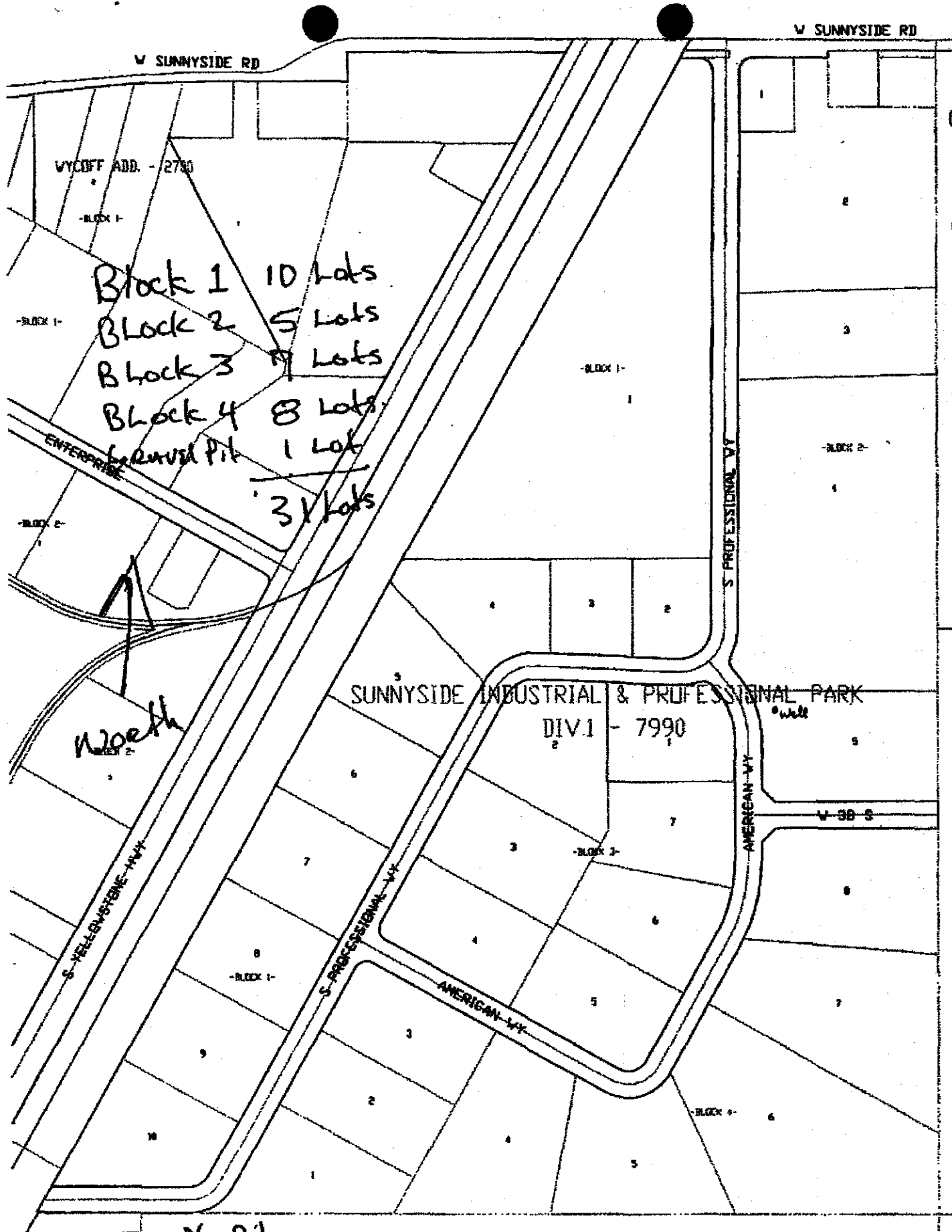
Please review and advise,


Doyle Beck
Sunnyside Park Utilities, Inc.

We are an Equal Opportunity Employer
P O Box 1768 • Idaho Falls, ID 83403-1768 • Phone (208) 529-9891 •
Fax (208) 522-8949

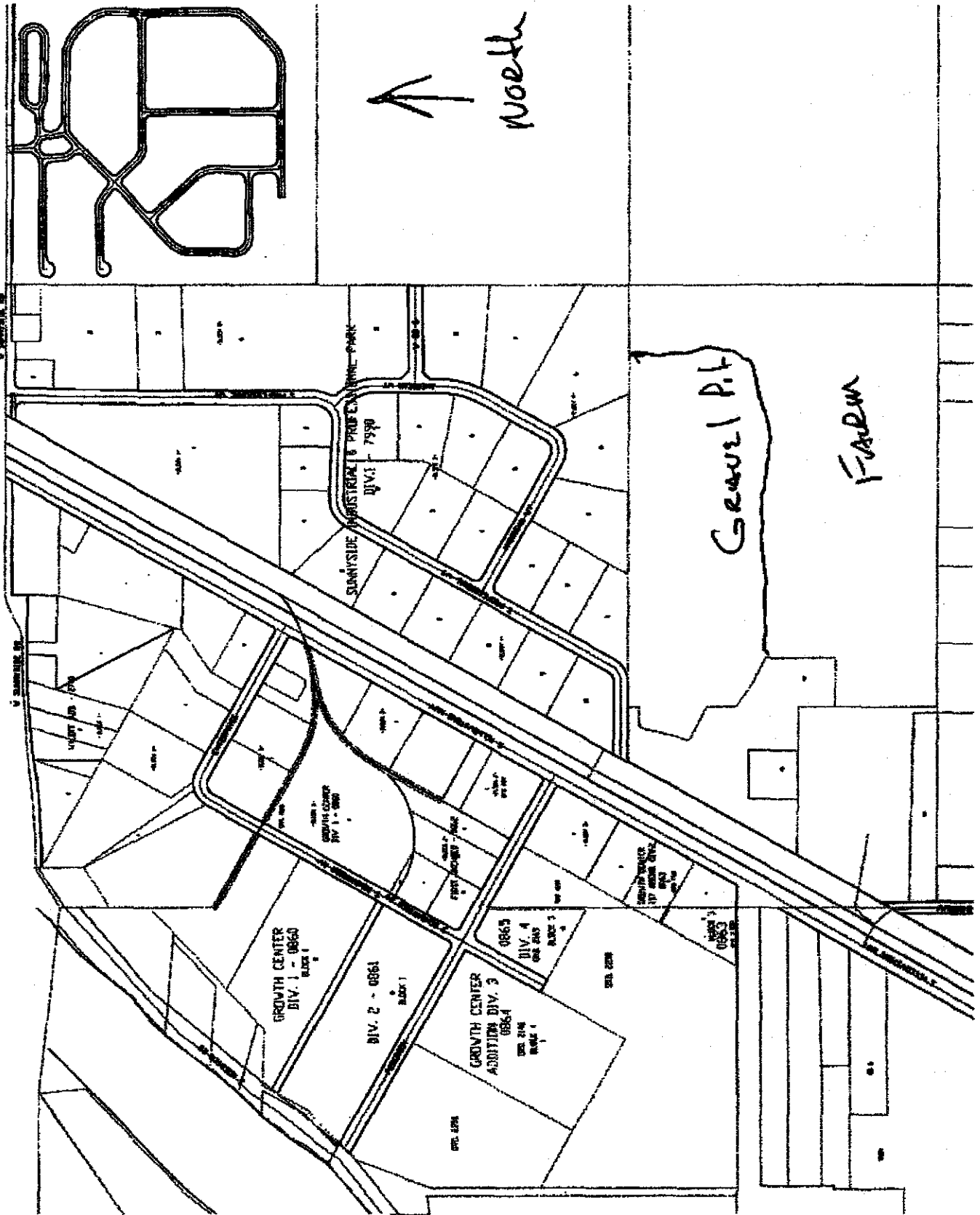
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MAR 10 2004



Well is on Lot 5 of Block 2

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MAR 10 2004



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MAR 10 2004

INTER-DEPARTMENT MEMO--1

FROM Shelley Keen

TO Water Right File 25-13979

DATE 8/8/2003

SUBJECT Mitigation

Yesterday Doyle Beck called to discuss the mitigation requirement for the cement + gravel portion of the Sunnyside Utilities, Inc., application (25-13979). He said the plans for cement production are on hold, but the gravel washing is proceeding ahead. He wants to use 5,000 gallons 3 or 4 days a week, and he can store water in a 15,000 gallon tank. Therefore, Mr. Beck can get by with 2,500 gallons per day for the gravel washing as well. (If he stores 2500 gallons each day off, he'll have 5,000 gallons to work with each workday.)

Shelley Keen
SIGNATURE

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MAR 10 2004

MEMORANDUM

DATE: May 29, 2003

TO: Water Right File 25-13979

FROM: Shelley W. Keen *SWK*

RE: Mitigation

A couple of weeks ago I spoke on the phone with Doyle Beck about Application 25-13979. He explained to me that he wants to provide water for a 60-acre industrial subdivision, which has 28 lots. In addition, he wants to provide water to a gravel and cement operation that is adjacent to the industrial subdivision. He thinks the subdivision can get by with limits of 0.04 cfs and 2500 gpd per lot, which would make the subdivision approvable under the domestic exemption.

The gravel and cement operation, however, is largely a consumptive use, which is not approvable under the moratorium without mitigation. The consumptive components are evaporation from the settling pond and use of water in the cement trucks.

Mr. Beck and I discussed several mitigation options. One promising option is to discontinue the use of surface water from Idaho Irrigation District for irrigation of 10 acres and to allow the water to flow down the ditch and back to the Snake River. This proposal would probably be acceptable with the following components:

- Treat the use at the cement plant as if it is 100% consumptive, or show what percentage of the daily diversion is consumed.
- Limit the daily consumptive use at the cement plant to 29,923 gpd, as specified in the protest resolution agreement.
- Designate a specific 10-acre parcel that will not be irrigated.
- Show that the 10 acres have been irrigated historically.
- Ensure that the applicant will not opt out of the Idaho Irrigation District and will continue paying annual assessments to the district.
- Agree to measure and report all diversions.
- Notify the protestant (BOR) of the alternate mitigation plan.

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MAR 10 2004



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 6, 2003

SUNNYSIDE PARK UTILITIES INC
C/O DOYLE BECK
PO BOX 1768
IDAHO FALLS ID 83403-1768

RE: Application for Permit No. 25-13979

Dear Applicant:

The Department of Water Resources (IDWR) has reviewed the mitigation proposal that forms the basis of your request for approval of your application for the diversion of ground water for industrial and commercial purposes in spite of the moratorium on new consumptive uses of water in the non-trust water portion of the Eastern Snake River Plain area. We currently have two concerns about your mitigation proposal that must be addressed if your application is to be approved.

First, your application provides no quantification of the volume of water that will be diverted or the volume of water that will be consumed under your proposed industrial and commercial uses. If the proposed uses will be entirely non-consumptive, mitigation may not be required at all, so long as the water is returned to the ground or to the Snake River through a sewage treatment facility. Also, if the proposed industrial and commercial uses will occur on a series of lots, and the use on each lot will not exceed 0.04 cfs or 2500 gallons per day, there is precedent for issuing a permit with no mitigation requirement. (See Water Right 35-13285.) However, if the proposed uses will exceed 0.04 cfs and/or 2500 gallons per day and will be consumptive, IDWR must have an estimate of the proposed volume and consumption so that it knows how much water is required for mitigation purposes.

Second, your agreement with Idaho Irrigation District emphasizes that water will be provided for mitigation purposes "to address any injury demonstrated by a senior water right holder resulting from depletions of groundwater by Sunnyside." In the text of the non-trust water area moratorium issued on January 6, 1993, it is clear that there is some dispute about the extent to which new consumptive uses of surface or ground water will injure senior water right holders. Nevertheless, under the moratorium order IDWR requires mitigation for any consumptive use of water without requiring senior water right holders to prove that they will be injured by the proposed use. Therefore, if your proposed uses will be consumptive, you must revise your mitigation plan to provide mitigation at any time that water will be diverted and consumed.

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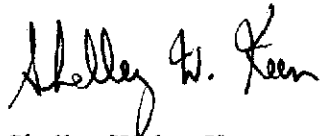
MAR 10 2004

Sunnyside Utilities
May 6, 2003
Page 2

IDWR will hold your application without processing until you provide documentation of the volume that you are proposing to divert; the portion of that volume that may be consumed; and, if necessary based on the discussion above, a revised mitigation plan that is acceptable to IDWR.

If you have any questions, please call me at 208-327-7946, or email me at skeen@idwr.state.id.us.

Sincerely,



Shelley Walter Keen
Water Rights Supervisor

cc: Harold Jones, IDWR Eastern Region

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MAR 10 2004

Sunnyside
Initial Review

INITIAL REVIEW BY HWJ DATE 6-10-02 APPLICATION NO. 25-12979

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

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MAR 3 1

DEPARTMENT OF WATER

MAR 31 2003

DEPARTMENT OF WATER RESOURCES

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

Date Requested _____

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

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

☒	Yes	☐	No	Affidavit of publication received
☒	Yes	☐	No	Application published correctly. If not, record action taken
☒	Yes	☐	No	Publication dates & paper, recorded on application
☒	Yes	☐	No	Protests received
				Final date for protest <u>2/8/02</u>
☒	Yes	☐	No	Protests, dates, resolution of protest, recorded on application
	Yes	☒	No	Recommendations attached
☒	Yes	☐	No	<u>Measuring device required</u> See Memo of Agreement
	Yes	☒	No	<u>Access port required</u>
	Yes	☒	No	Will water be delivered by watermaster? If yes, what District <u> </u>
	Yes	☒	No	Special conditions of approval or cover letter below.

STATE OFFICE REVIEW: _____

ADDITIONAL INFORMATION:

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

COMMENTS



Idaho Secretary of State
Viewing Business Entity

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MAR 31 2003

Department of Water Resources

[[New Search](#)] [[Back to Summary](#)]
[[Get a certificate of existence for SUNNYSIDE PARK UTILITIES, INC.](#)]

SUNNYSIDE PARK UTILITIES, INC.

3655 PROFESSIONAL WAY
IDAHO FALLS, ID 83401

Type of Business: CORPORATION, GENERAL BUSINESS

Status: GOODSTANDING, ANREPT SENT 02 Jan 2003

State of Origin: IDAHO

Date of 29 Mar 2002

Origination/Authorization:

Initial Registered Agent: MARK R FULLER
SUITE 201
IDAHO FALLS, ID 83402

Organizational ID / Filing C143217

Number:

Number of Authorized Stock 1000

Shares:

Date of Last Annual Report: N/A

Amendments:

Amendment 0 filed 29 Mar INCORPORATION
2002

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[Download \(TIFF format\)](#)

[Idaho Secretary of State's Main Page](#)

[State of Idaho Home Page](#)

Comments, questions or suggestions can be emailed to: sosinfo@idsos.state.id.us

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MAR 10 2004

FILED/EFFECTIVE

02 MAR 29 PM 2:11

ARTICLES OF INCORPORATIONDEPT. OF STATE
STATE OF IDAHO**OF****SUNNYSIDE PARK UTILITIES, INC.**

KNOW ALL MEN BY THESE PRESENTS:

That I, the undersigned, being a natural person of legal age and acting as the incorporator under the provisions of the Idaho General Business Corporations Act, do hereby adopt the following Articles of Incorporation:

ARTICLE I**NAME**

The name of this Corporation shall be:

Sunnyside Park Utilities, Inc.

ARTICLE II**PURPOSES AND POWERS**

Section 1. Purposes. Without in any way limiting the powers granted by the laws of the State of Idaho, the purposes for which this corporation is formed are as follows:

1.1 To engage in the ownership, operation, management, organization, or direction of one or more water and sewage utilities; to conduct the aforesaid business and all of its branches, and to do such other things as are incidental, proper and necessary in the operation of the business; and in carrying out any or all described purposes, to design, manufacture, assemble, buy, sell, import, export, display, distribute, rent, repair, maintain, equip, operate, use, or otherwise deal in and with, at wholesale and at retail, and as principal, agent, backer,

1

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LIBRARY SECRETARY OF STATE
03/29/2004 02:11 PM
FILED IN: 11:31 AM BNC 45568
COST: \$36.00 EXPOSURE: 1
\$136.25 = 100.00 DUES \$36.25

C143217

broker, commission merchant, or in any other lawful capacity.

1.2 In addition thereto, the corporation is formed to engage in any other business or trade which, in the opinion of the directors of the Company, may be advantageously carried on in connection with or auxiliary to the primary business, and to do all things as are incidental or conducive to the above objects or any of them.

1.3 To engage in activities that are necessary, suitable, or convenient for the accomplishment of the above mentioned purposes or which are incidental thereto, or connected therewith.

1.4 To conduct its business and carry out the above purposes in any state, territory, district, or possession of the United States of America, or any foreign country to the extent not forbidden by law.

Section 2. Powers. Pursuant to the general purposes of the corporation, the corporation is hereby authorized and empowered to do any act or carry on any business in the State of Idaho authorized by the corporation and the State of Idaho as necessary to compliment and augment the general purposes of the corporation, including, but not limited to:

2.1 To do all and everything necessary, suitable, or proper for the accomplishment of any of the purposes, the attainment of any of the objects, or the exercise of any of the powers herein set forth, either alone or in conjunction with other corporations, firms, or individuals, and either as principals or agents, and to do every other act or acts, thing or things, incidental or appurtenant to or growing out of or connected with the above mentioned objects, purposes or powers.

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MAR 10 2004

2.2 To do and perform any and all lawful business for which corporations may be incorporated for business under the Idaho Business Corporations Act.

ARTICLE III

EXISTENCE

This corporation shall have perpetual existence.

ARTICLE IV

STOCK

Section 1. Description of Classes or Shares. There shall be one class of shares, all of which shall be common shares.

Section 2. Number of Shares. The aggregate number of shares which this corporation shall have authority to issue is one thousand (1000) shares with a par value of zero Dollar per share for an aggregate par value of zero (\$0.00) Dollars.

Section 3. Voting Rights. Each share shall have equal voting powers; each share entitling the holder to one (1) vote.

Section 4. Nonassessable. No shares shall be issued until the same are fully paid for, and when fully paid for the same shall be nonassessable. There shall be stated on each stock certificate in print the following: "The shares represented by this certificate are fully paid for and nonassessable."

Section 5. Internal Revenue Code Section 1244. All stock issued shall be considered "Section 1244 Stock" as is defined under Internal Revenue Code Section 1244. Any individual or partnership receiving such stock shall be entitled to any benefits as explained in that Internal Revenue Code Section.

ARTICLE V

REGISTERED AGENT AND OFFICE

The name of the registered agent and the location of the registered office of the corporation are: Mark R. Fuller, 410 Memorial Drive, Suite 201, Idaho Falls, Idaho 83402.

ARTICLE VI

INCORPORATOR

The name and address of the incorporator is as follows:

Kirk Woolf, 3655 Professional Way, Idaho Falls, Idaho 83401.

ARTICLE VII

The name and post office address of the initial Director named by the incorporator to serve until the first election of the directors shall be as follows: Kirk Woolf, 3655 Professional Way, Idaho Falls, Idaho 83401.

ARTICLE VIII

The corporation reserves the right to amend, add to, or repeal any provision contained in these Articles of Incorporation and the provisions set forth in the By-laws.

ARTICLE IX

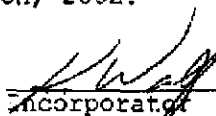
In the furtherance and not in limitation of the powers conferred by the laws of the State of Idaho, the Board of Directors is expressly authorized to frame and adopt By-Laws for the corporation as are not inconsistent with the laws of the State of Idaho or these Articles of Incorporation. Any By-Law or By-Laws so adopted by the Board of Directors may be amended or repealed by a vote of holders of record of a majority of the

corporation's stock at any regular shareholder's meeting or any special shareholder's meeting called for that purpose.

ARTICLE X

This corporation may be dissolved prior to the time fixed in these Articles of Incorporation, by an affirmative vote of stockholders with fifty-one percent (51%) of its voting stock at a meeting of the stockholders called for that purpose in the manner, not inconsistent with law, set forth in the By-Laws. In the event of such dissolution, the affairs of the corporation shall be wound up in a manner provided by Idaho law.

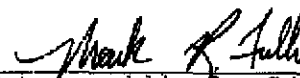
DATED this 28 day of March, 2002.


Incorporator

STATE OF IDAHO)
) ss.
County of Bonneville)

On this 28 day of March, 2002, before me, the undersigned, a notary public in and for said state, personally appeared Kirk Woolf, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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


Notary public for Idaho
Residing at Idaho Falls
My commission expires: 06-09-03



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

DIRK KEMPTHORNE
Governor

February 06, 2003

KARL J. DREHER
Director

SUNNYSIDE UTILITIES INC
C/O DOYLE BECK
PO BOX 1768
IDAHO FALLS ID 83403-1768

Application to Permit No.
Withdrawal of Protest

Dear Applicant(s):

The Department of Water Resources has received withdrawal(s) of protest against the above referenced application. Withdrawals have been received from the following:

United States Department of the Interior

There are no remaining protests against this application, so normal processing will continue in this office. The application will then be forwarded to our State Office in Boise for final processing.

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

Sincerely,

Harold W Jones
Water Right Supervisor

Enclosure

HWJ:sc

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MAR 10 2004



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

February 06, 2003

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

US DEPT OF INTERIOR
KATHLEEN MARION CARR ATTORNEY
OFFICE OF THE FIELD SOLICITOR
550 W FORT ST MSC-020
BOISE, ID 83724

US BUREAU OF RECLAMATION
E GAIL MCGARRY PN-3100
1150 N CURTIS RD STE 100
BOISE, ID 83706

Application to Permit No. 25-13979
Withdrawal of Protest

Dear Protestant(s):

The Department of Water Resources acknowledges receipt of your withdrawal of protest against the above referenced application.

There are no remaining protests against this application, so normal processing will continue in this office. The application will then be forwarded to our State Office in Boise for final processing.

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

Sincerely,


Harold W Jones
Water Right Supervisor

HWJ:sc

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MAR 10 2004



United States Department of the Interior

OFFICE OF THE SOLICITOR
Pacific Northwest Region
Boise Field Office
Federal Building & U.S. Courthouse
MSC 020-550 West Fort Street
Boise, Idaho 83724-0020

RECEIVED
FEB 05 2003
Department of Water Resources
Eastern Region

February 3, 2003

Ron Carlson
Eastern Regional Manager
Idaho Department of Water Resources
900 North Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

Re: Sunnyside Utilities, Inc. Application for Permit # 25-13979

Dear Mr. Carlson:

Please find enclosed a signed stipulation between the Bureau of Reclamation and Sunnyside Utilities, Inc., regarding Application for Permit, # 25-13979. This stipulation resolves the Bureau of Reclamation objections to the permit application and, as a consequence, Reclamation hereby withdraws its protest to the application. For your convenience, I have also enclosed a proposed order for your signature.

If you have any questions, please do not hesitate to call me or Mr. Beck.

Sincerely,

Kathleen Marion Carr

cc: Karl Dreher
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720
Doyle H. Beck
Sunnyside Utilities, Inc.
Post Office Box 1768
Idaho Falls, ID 83703-1768

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MAR 10 2004

MEMORANDUM OF AGREEMENT BETWEEN
DOYLE H. BECK, SUNNYSIDE UTILITIES, INC.
AND
THE UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

This 21 day of Jan 200~~2~~³, the United States Department of the Interior, Bureau of Reclamation ("Reclamation") and Doyle H. Beck, Sunnyside Utilities, Inc. ("Sunnyside") enter into this Memorandum of Agreement ("Agreement") to provide for mutual resolution of issues regarding a contested case before the Idaho Department of Water Resources involving Application for Permit No. 25-13979.

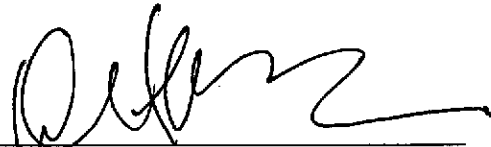
Based upon the mutual promises contained herein, Reclamation and Sunnyside hereby covenant, promise, and agree as follows:

1. Reclamation agrees to withdraw its protest against Sunnyside's Application for Permit No. 25-13979 by filing a written notice of withdrawal with the Idaho Department of Water Resources within ten (10) days of the date of this Agreement.
2. Sunnyside agrees that, except for use pursuant to the rules of the Water Bank and the local rental pool, it will not use any water from Reclamation storage deliveries to Idaho Irrigation District as part of any required mitigation under the Agreement for Mitigation Water, dated June 10, 2002, between Idaho Irrigation District and D.H.B. Investments, represented by Mr. Doyle H. Beck (Exhibit A, hereto).
3. Sunnyside agrees that the maximum daily quantity diverted under this water right shall not exceed an average of 25,923 gallons per day and shall be measured by an appropriate measuring device if requested by Reclamation.
4. This Agreement may be enforced by Reclamation in state or federal district court, at its option, and Sunnyside consents to jurisdiction in either court.
5. The parties agree that Reclamation will provide a copy of this stipulation to the Idaho Department of Water Resources.

UNITED STATES DEPARTMENT OF THE
INTERIOR, BUREAU OF RECLAMATION

D.H.B. INVESTMENTS
SUNNYSIDE UTILITIES, INC.

By: E. Gail McGarry
E. Gail McGarry, Program Manager
Water Rights and Acquisition
Pacific Northwest Regional Office

By: 
Doyle H. Beck

MICHAEL LIMITED

MAR 10 2003

**BEFORE THE DIRECTOR OF THE
IDAHO DEPARTMENT OF WATER RESOURCES**

**IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 25-13979)
IN THE NAME OF SUNNYSIDE UTILITIES) **ORDER**
INCORPORATED)
_____)**

Applicant, Sunnyside Utilities, Inc, and Protestant United States Bureau of Reclamation, through E. Gail McGarry, Manager, Water Rights and Water Acquisitions of the Pacific Northwest Region of the Bureau of Reclamation, have reached an agreement to resolve the Bureau of Reclamation's objection to the captioned permit application.

As a consequence, the parties' have submitted a copy of their stipulated agreement and Reclamation has requested to withdraw its protest in reliance on that agreement. Therefore, it is hereby granted that Reclamation's protest is dismissed.

DATED this 26th day of February, 2003.


RON CARLSON

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of February, 2003, I caused to be served a true and correct copy of the foregoing by postage prepaid U.S. Mail, and addressed to the following:

Karl J. Dreher
Director
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720

Doyle H. Beck
Sunnyside Utilities, Inc.
Post Office Box 1768
Idaho Falls, ID 83703-1768

Kathleen Marion Carr
Office of the Field Solicitor
U.S. Department of the Interior
550 West Fort Street, MSC-020
Boise, ID 83724

By: _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 10, 2002

US DEPT OF INTERIOR
KATHLEEN MARION CARR, ATTORNEY
OFFICE OF THE FIELD SOLICITOR
550 W FORT ST, MSC-020
BOISE, ID 83724

US BUREAU OF RECLAMATION
E GAIL MCGARRY PN-3100
1150 N CURTIS RD STE 100
BOISE ID 83706

Application to Permit No. 25-13979

Dear Protestant(s):

The Department of Water Resources acknowledges receipt of your protest against the approval of the above referenced application. A copy of your protest has been sent to the applicant. The Department suggests that you contact the applicant directly for details regarding the application and, if possible, to resolve the matter without action by the Department. In our experience, informal discussion between the parties prior to initiation of formal proceedings often leads to resolution of the protest.

If the protest cannot be resolved informally, the matter will be scheduled for conference and/or hearing. The following are criteria the Department must consider in either approving or denying the application (Section 42-203A, Idaho Code).

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?

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MAR 10 2004

You will be notified at a later date of the time and place of the conference and/or hearing. Please contact this office if you have any questions regarding this procedure.

Sincerely,

A handwritten signature in cursive script that reads "Harold W. Jones".

Harold W Jones
Water Right Supervisor

HWJ:sc

cc: State Office files

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MAR 10 2004



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 10, 2002

SUNNYSIDE UTILITIES INC
C/O DOYLE BECK
PO BOX 1768
IDAHO FALLS ID 83403-1768

Application to Permit No. 25-13979

Dear Applicant(s):

Enclosed is a copy of a protest filed against approval of the above referenced application. The Department suggests that you contact the protestant(s) directly to determine the nature of the protest and, if possible, to resolve the matter without action by the Department. In our experience, informal discussion between the parties prior to initiation of formal proceedings often leads to resolution of the protest.

If the protest cannot be resolved informally, the matter will be scheduled for conference and/or hearing. The following are criteria the Department must consider in either approving or denying the application (Section 42-203A, Idaho Code).

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?

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You will be notified at a later date of the time and place of the conference and/or hearing. Please contact this office if you have any questions regarding this procedure.

Sincerely,

A handwritten signature in cursive script that reads "Harold W. Jones".

Harold W Jones
Water Right Supervisor

HWJ:sc

cc: State office files

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Proof of Publication

The Post Register

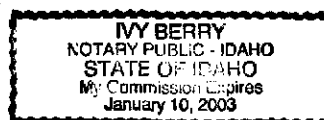
State of Idaho
County of Bonneville

I, ~~Lynn Winter~~ or Danae Jacobsen, first being duly sworn, depose and say: That I am the ~~Production Supervisor or Asst. Prod. Supervisor~~ of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post Register, a newspaper of general circulation, published daily at Idaho Falls, Idaho; said Post Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the First day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than twelve consecutive months and said Post Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post Register for 2 consecutive (days) weeks, first publication having been made on the 20TH day of JUNE 2002, last publication having been made on the 27TH day of JUNE 2002 at the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.



Subscribed and sworn to before me, this 3RD day of JULY 2002




Notary Public

My commission expires January 10, 2003



PUBLIC NOTICE

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

25-13979

SUNNYSIDE UTILITIES INC
C/O DOYLE BECK
P O BOX 1768
IDAHO FALLS ID 83403-1768
Point(s) of Diversion: NENW S36
T02N R37E, BONNEVILLE County
Source GROUND WATER
Use: INDUSTRIAL

01/01 To 12/31 0.9 CFS
Use: COMMERCIAL
01/01 To 12/31 0.9 CFS
0.9 CFS

Total Diversion:
Date Filed: 06/10/2002
Place Of Use: INDUSTRIAL and
COMMERCIAL
T02N R37E S36 NENW

A mitigation plan is available upon request.

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

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before July 8, 2002. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director
Published: June 20, 27, 2002

IDAHO DEPT. OF WATER
RESOURCES

RECEIVED

JUL - 8 2002

Department of Water Resources

RECEIVED

JUL 11 2002

Department of Water Resources
Eastern RegionSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

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

1. Matter being protested Application for permit no. 25-13979 in the name of Sunnyside Utilities Inc, C/O Doyle Beck, PO Box 1768 Idaho Falls, ID 83403-1768

2. Name of Protestant United States Department of Interior Bureau of Reclamation

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

E. Gail McGarry, Manager Water Rights and Acquisition, Pacific Northwest Regional Office, Bureau of Reclamation; and

Kathleen Marion Carr, Attorney, U.S. Department of the Interior, Office of the Field Solicitor, 550 West Fort Street, MSC-020, Boise, ID 83724.

4. Service mailing address

E. Gail McGarry, PN-3100, Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706
Kathleen Marion Carr, Attorney, U.S. Department of the Interior, Office of the Field Solicitor, 550 West Fort Street, MSC-020, Boise, ID 83724.

5. Service telephone number E. Gail McGarry (208) 378-5306, Kathleen Marion Carr (208) 334-1911.

6. Basis of protest (including statement of facts and law upon which the protest is based)

Injury to Reclamation project water rights.

7. What would resolve your protest?

Agreement to use only non-Federal project water supply as mitigation or submit a request to and receive approval from Reclamation to use Federal project water for purposes other than what is currently specified in the Federal contract with Idaho Irrigation District. In addition, if there is determined to be injury to the Federal project water supply due to the withdrawal of ground water, then more information is needed to demonstrate the sufficiency of the proposed mitigation.

Signed this 8th day of July, 2002.

United States

PROTESTANT

E. Gail McGarry
PROTESTANT'S REPRESENTATIVE

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MAR 10 2004

Receipt # C063192

Certificate of Service

The undersigned does hereby certify that on this 8th day of July, 2002, he or she caused a true and correct copy of the within and foregoing document to be transmitted by U.S. mail to the following:

Sunnyside Utilities
P.O. Box 1768
Idaho Falls, ID 83403-1768

and hand delivered to:
The Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83706



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MAR 10 2004



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 11, 2002

STATE OF IDAHO
DEPT OF ENVIRONMENTAL QUALITY
900 N SKYLINE DR STE B
IDAHO FALLS, ID 83402

Application to Permit No. 25-13979

STATE OF IDAHO :

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is enclosed for your reference.

This office can complete the processing of an unprotested application as soon as the protest period is past; therefore, your prompt response to this request is appreciated. If your agency desires to file a formal protest against the approval of this application, your written protest along with a \$25.00 filing fee must be received in this office by July 8, 2002.

Please contact this office if you have any questions regarding the application.

Sincerely,

Harold W Jones
Water Right Supervisor

Enclosure(s)

HWJ:sc

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MAR 10 2004



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION
June 12, 2002

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

SUNNYSIDE UTILITIES INC
C/O DOYLE BECK
P O BOX 1768
IDAHO FALLS ID 83403-1768

RE: Application for Permit No 25-13979

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the Post Register on June 20 and 27, 2002. Submittal of protests to this application will be allowed for a period ending ten days (July 8, 2002) after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved.

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

Sincerely,

Harold W Jones
Water Right Supervisor

HWJ:sc

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MAR 10 2004



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION
June 12, 2002

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Legal Notice Department
POST-REGISTER
PO BOX 1800
IDAHO FALLS ID 83402

RE: Application for Permit No. 25-13979

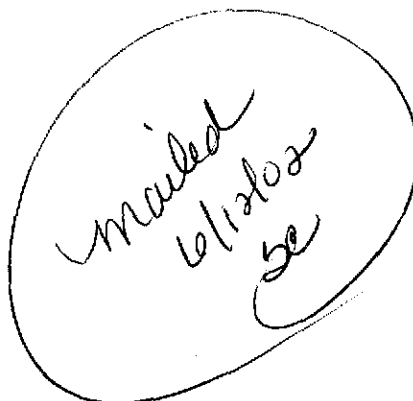
Dear Cathy Von Borstel:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before July 8, 2002. Your cooperation is appreciated.

Sincerely

Sharla Cox
Administrative Assistant



JUN 10 2002

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

25-13979

SUNNYSIDE UTILITIES INC
C/O DOYLE BECK
P O BOX 1768
IDAHO FALLS ID 83403-1768

Point(s) of Diversion: NENW S36 T02N R37E, BONNEVILLE County
Source GROUND WATER

Use: INDUSTRIAL 01/01 To 12/31 0.9 CFS

Use: COMMERCIAL 01/01 To 12/31 0.9 CFS

Total Diversion: 0.9 CFS

Date Filed: 06/10/2002

Place Of Use: INDUSTRIAL and COMMERCIAL

T02N R37E S36 NENW

A mitigation plan is available upon request.

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

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before July 8, 2002. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on June 20 and 27, 2002

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