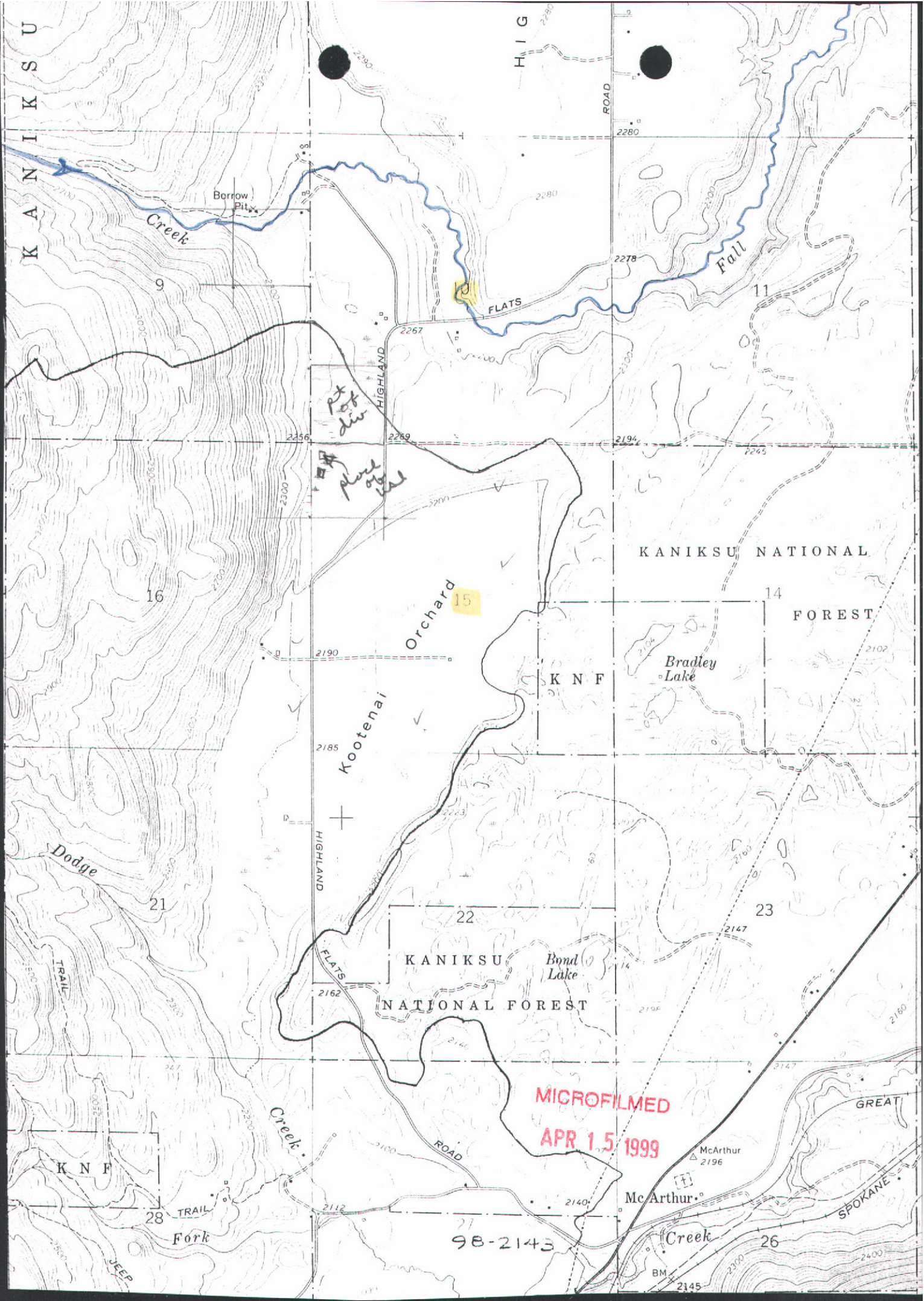
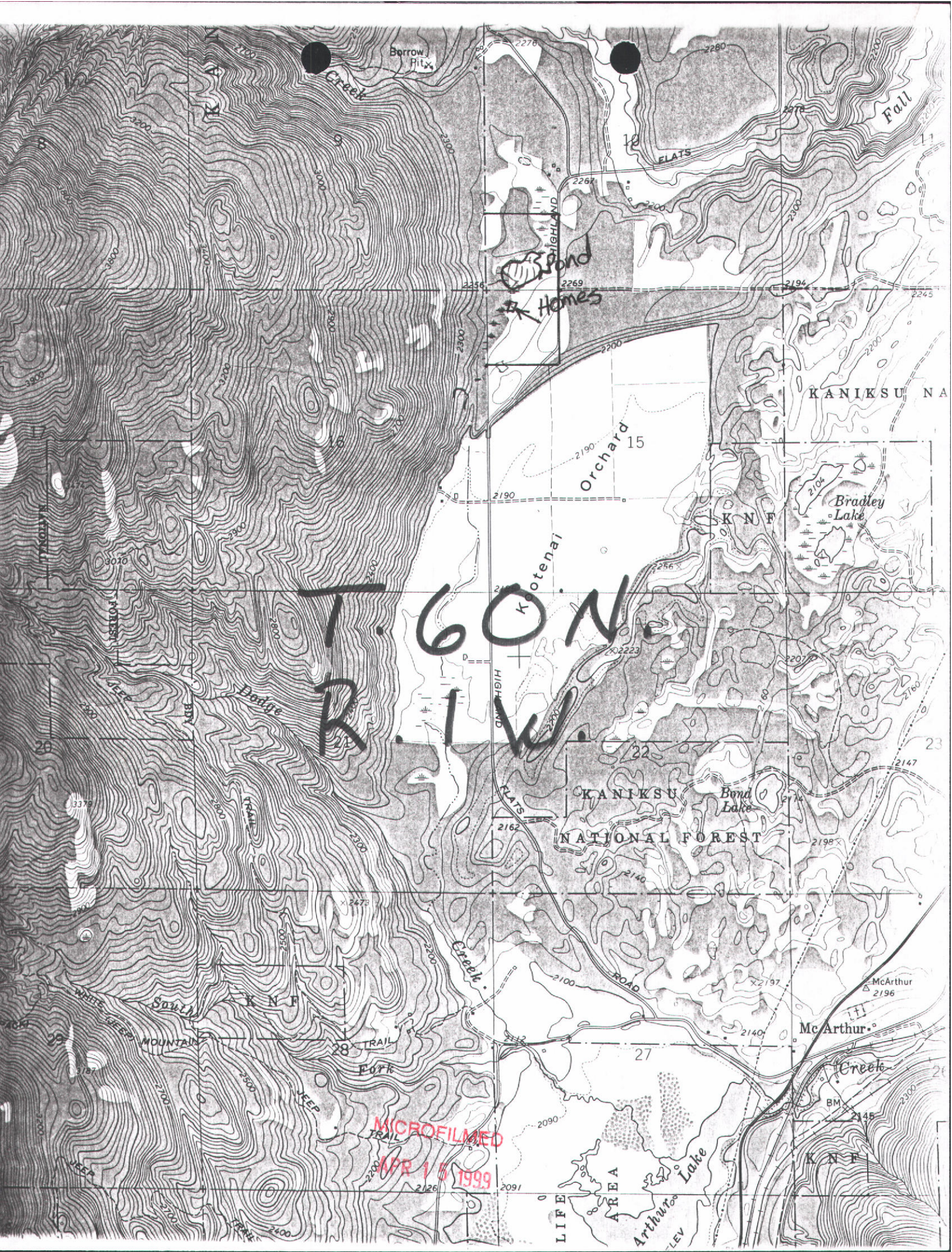
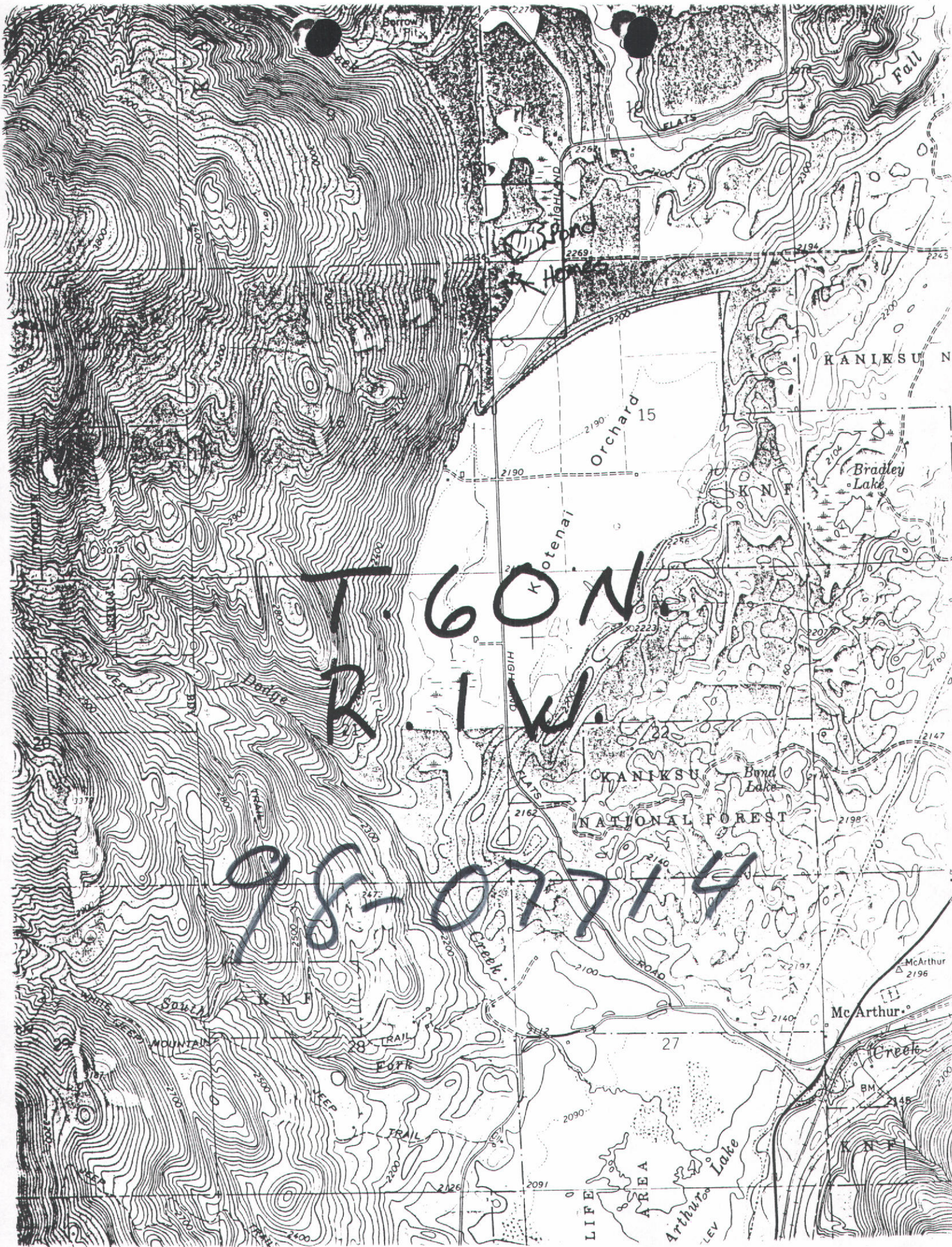








98-07714



T. 60 N.
R. 1 W.

98-07714

WILSON & WALTER
ATTORNEYS AT LAW
P. O. BOX 749
BOZEMAN, MONT. 59709
TELEPHONE: 547-3197

EASEMENT AGREEMENT

THIS AGREEMENT entered into by and between ROBERT T. SPALDING and IONE SPALDING, Husband and Wife, and FRANKLIN SPALDING and ANNA MAY SPALDING, Husband and Wife, (hereinafter referred to as Spalding), and ^{JUSTUS J.}JUSTUS K. CRAEMER and JOHN F. CRAEMER, and VIOLET WYMAN, (hereinafter referred to as Craemer-Wyman;

For the considerations as hereinafter enumerated, Spalding has granted, bargained, and sold, and by these presents does grant, bargain, sell, convey and confirm unto Craemer-Wyman an easement to construct and maintain a water diversion dam on Fall Creek and also to construct and maintain a water pipeline from said dam along Fall Creek upon the following described property:

The South Half of the Northwest Quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$) of Section Nine (9), Township Sixty (60) North, Range One (1) West, B.M.

SUBJECT TO the following terms and conditions:

1. Craemer-Wyman agrees to pay to Spalding the sum of One Thousand Dollars (\$1,000.00) for the easement. That Craemer-Wyman agrees to put the property back in its original condition as much as is reasonably possible;
2. That Craemer-Wyman shall have a right of access to maintain the diversion dam and pipeline but that such access shall be restricted only to foot traffic, unless prior approval otherwise is given by Spaldings ^{IN WRITING};

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3. That Spalding may install in the dam a hydroelectric generating plant and that Craemer-Wyman will construct an outlet in the dam for such purposes;

4. That it is understood and agreed that this easement is appurtenant to a claim of a water right by Craemer-Wyman and it is expressly understood that this easement is not transferable separate from said water right;

5. That Craemer-Wyman agrees to hold Spalding harmless from any claims whatsoever arising out of the construction and maintenance of this system;

6. Neither the pipeline nor the diversion dam may be moved or relocated without the express written consent of Spalding.

DATED this 17 day of December, 1982.

Robert T. Spalding

James W. Spalding

Franklin L. Spalding

Lone May Spalding

John F. Craemer

Justin J. Craemer

Walter E. Wyman

STATE OF IDAHO)
County of Banner) ss

On this 17 day of December, 1982, before me, the undersigned Notary Public, personally appeared ROBERT T. SPALDING and LONE SPALDING, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

August H. Ward
Notary Public for Idaho
Residing at Bonanza Ferry Summit

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-2-

APR 15 1999

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STATE OF IDAHO)
 Bonner :ss
 County of *Bonner*)

On this 17 day of DECEMBER, 1982, before me, the undersigned Notary Public, personally appeared FRANKLIN SPALDING and ANNA MAY SPALDING, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

Douglas C. Ward
 Notary Public for Idaho
 Residing at *Bonanza Ferry SANDPOINT*

STATE OF IDAHO)
 Bonner :ss
 County of *Bonner*)

On this 24 day of DECEMBER, 1982, before me, the undersigned Notary Public, personally appeared JUSTIS K. CRAEMER, JOHN F. CRAEMER, and VIOLET WYMAN, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

Douglas C. Ward
 Notary Public for Idaho
 Residing at *Bonanza Ferry SANDPOINT, Idaho*

STATE OF IDAHO)
 County of *Bonner*)
 Filed for record at the request of
Douglas C. Ward
 on the 3rd day of January, 1983
 at SANDPOINT, IDAHO
 Notary Public
 My Comm. Expires 1985
 Fee \$10.00
 Made in SANDPOINT, IDAHO

0139669

RECEIVED

NOV 15 1993

NORTHERN REGION
TOWR

171706

Copy

Easement Agreement between Robert T. Spalding and Ione Spalding, husband and wife, and Franklin L. Spalding and Anna May Spalding, husband and wife, and John J. Craemer and John F. Craemer, and Violet Wyman, is declared Null and Void on this date November 1, 1993, for the following reasons.

1. It is our belief no legal or valid water right exist or has existed since agreement was written and signed, 17 December 1982.
2. That on October 25, 1993 we discovered that original water pipeline had been removed, and that new water pipeline had been installed under ground. That water pipeline inlet had been reconstructed. Numerous trees had been cut and removed. Creek Bed and Creek Banks had been drastically altered. The foregoing changes required heavy equipment.
3. Subject to "following terms and conditions Paragraph 2 of the easement agreement" Craemer-Wyman are in violation of easement agreement because no prior approval was requested or given.

Dated this 1 day of NOV., 1993.

Robert T. Spalding
Ione M. Spalding
Franklin L. Spalding
Anna May Spalding

STATE OF IDAHO } ss
County of Boundary }

Filed for record at the request of

Spalding
on the 1st day of Nov. at 2:34 o'clock P.M., and recorded in Book 92
of Section page 97

NORMA L. ESTEP

County Recorder

C. Thornton

Deputy

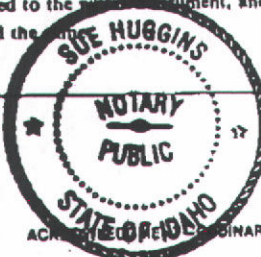
STATE OF Idaho

County of Boundary } ss.

On this 1st day of November, 1993, before me,
Sue Huggins, a Notary Public in and for said State,
personally appeared **FRANKLIN L. and ANNA MAY**
SPALDING known or identified to me to be the
person(s) whose name(s) is/are subscribed to the above instrument, and
acknowledged to me that they executed the same.

Notary Public for: Idaho
Residing at: Bonnors Ferry
Commission Exp: 8/7/98

First American Title Company, Inc.



STATE OF Idaho

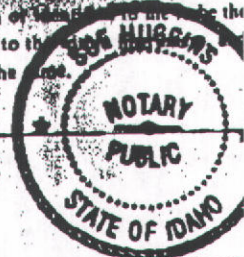
County of Boundary } ss.

On this 1st day of November, 1993, before me,
Sue Huggins, a Notary Public in and for said State,
personally appeared **ROBERT T. and IONE M.**
SPALDING known or identified to me to be the
person(s) whose name(s) is/are subscribed to the above instrument,
and acknowledged to me that they executed the same.

Notary Public for: Idaho
Residing at: Bonnors Ferry
Commission Exp: 8/7/98

First American Title Company, Inc.

ACKNOWLEDGMENT—ORIGINAL

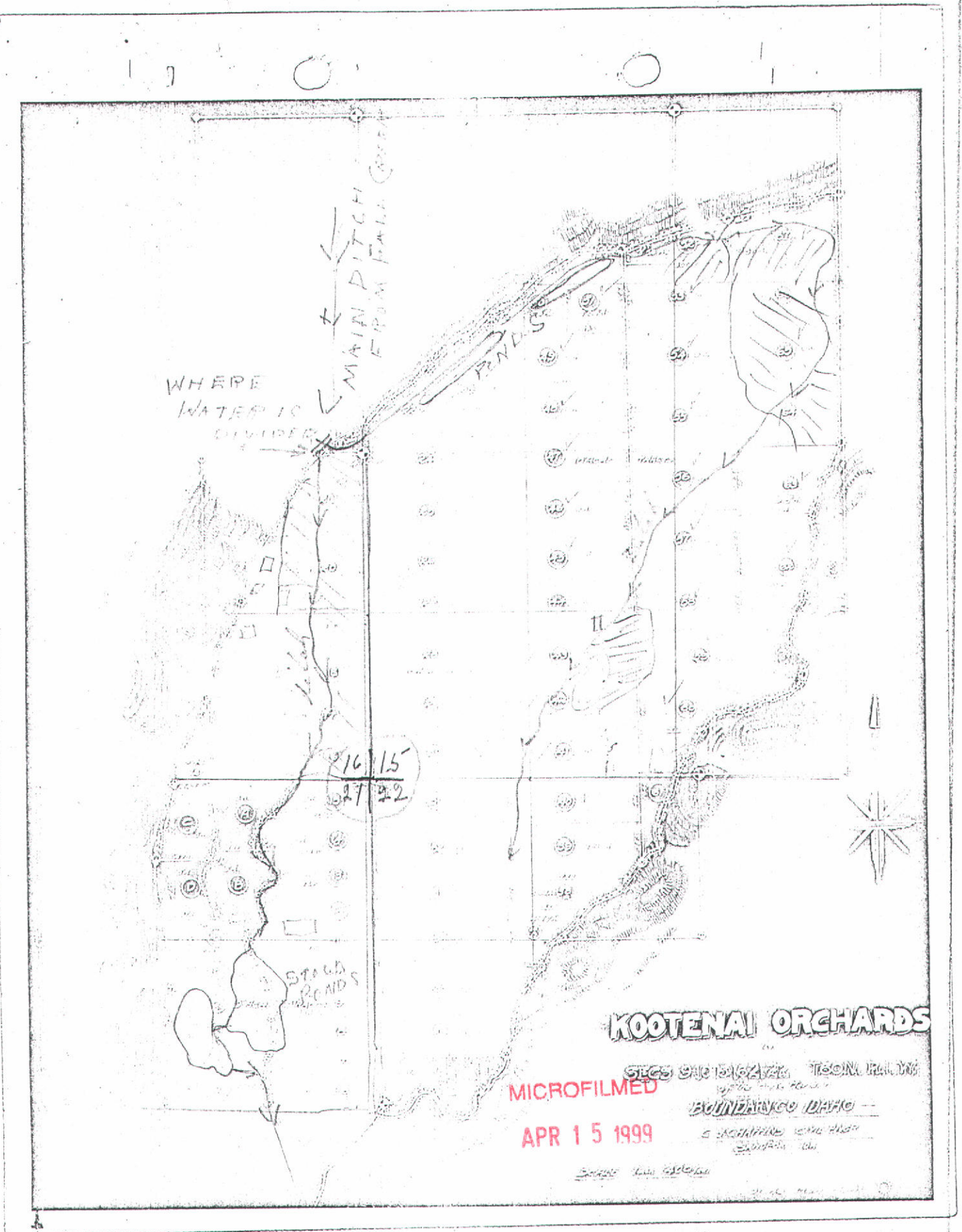


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OCT 2 1968

Department of Reclamation



--- Irrigated land

--- Ditch

--- Ponds

98-4001

OUR SOIL - OUR STRENGTH



CONSERVATION PLAN MAP

Prepared by UNITED STATES DEPARTMENT of AGRICULTURE * SOIL CONSERVATION SERVICE
cooperating with

OWNER

L. R. WYMAN

S. C. DISTRICT

FARM NO.

DATE

OPERATOR

NAPLES

SCALE

ACRES

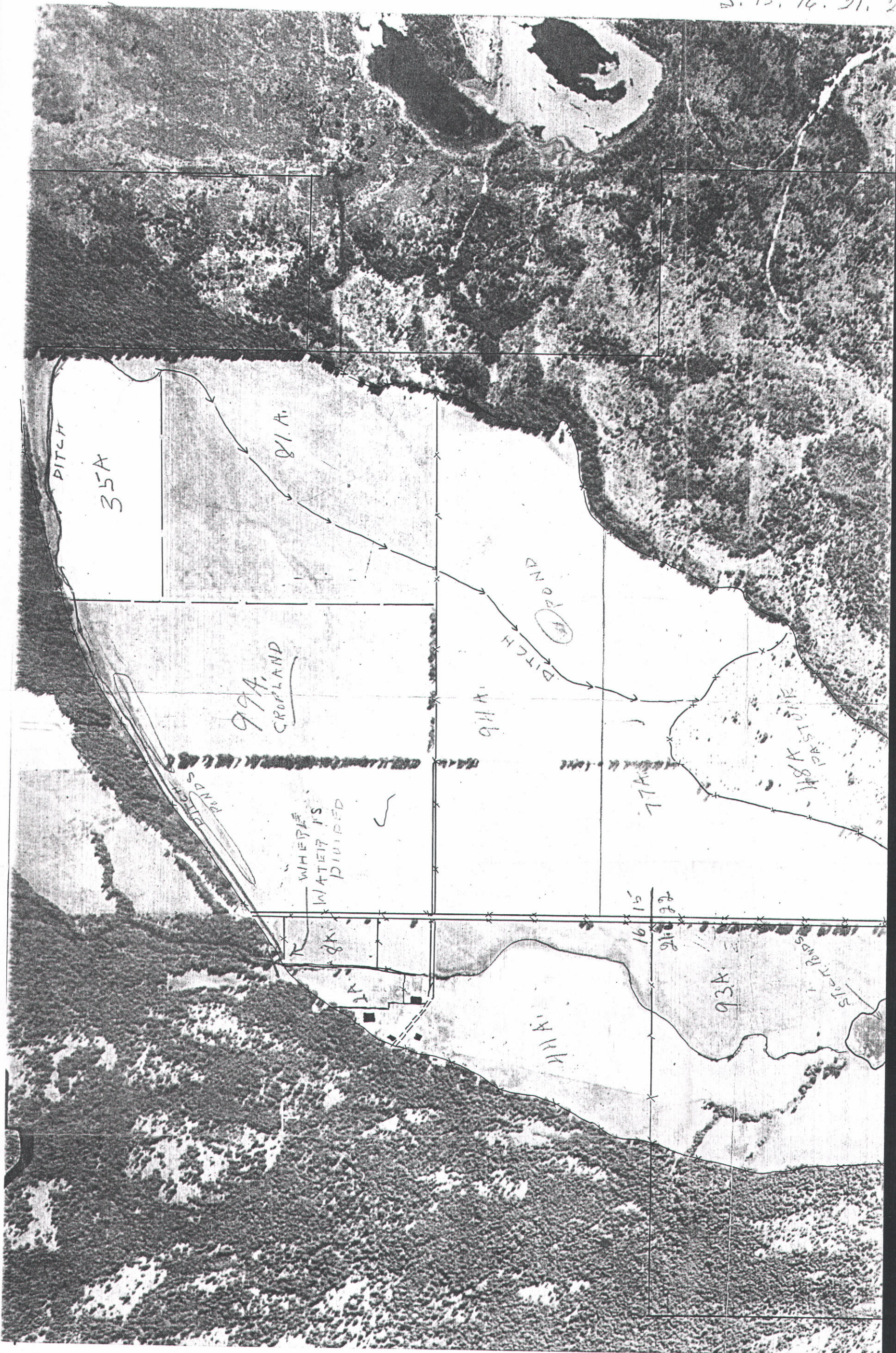
BOUNDARY

FLA.

PHOTO NO.

APPROXIMATE

North
S. 15. 14. 21. 2

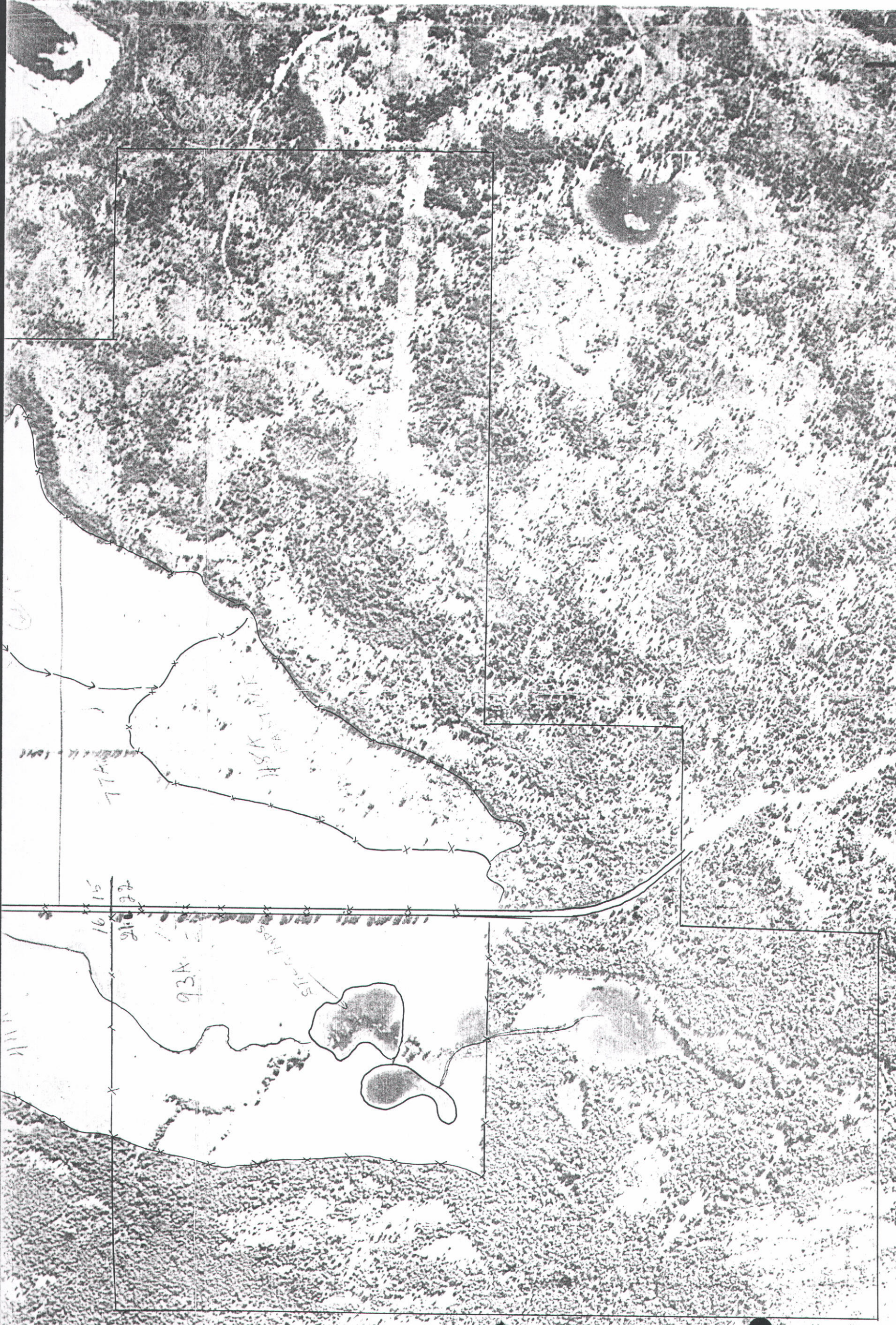


98-4001

DATE
ACRES
APPROXIMATE



S. 15, 14, 21, 22. T60. NW. BM.

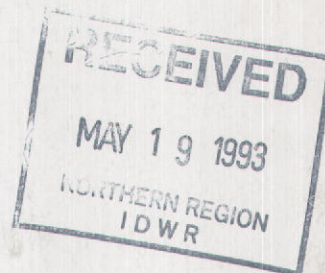




Randall W. Day
Counselor & Attorney at Law, P.A.

225 Main Street
P.O. Box 918
Bonners Ferry, ID 83805-0918
(208) 267-3197

May 19, 1993



Department of Water Resources,
Northern Region,
1910 Northwest Blvd., Suite 210
Coeur D Alene, Idaho 83814
FAX 765-2088

FASCIMILE TRANSMISSION

RE: Application for Water Right, 98-07714,
Scott A. Peterson and Mary Peterson

Dear Director:

I am writing on behalf of Violet Wyman and Jack Cramer, who are down stream land owners with prior water rights to that which is mentioned in the Notice Of Application For Water Right, No. 98-07714, published in the Bonners Ferry Herald on the 5th. day of May and the 12th. day of May, 1993.

This is to officially notify you that Mrs. Wyman and Mr. Cramer protest the granting of any application to appropriate the waters of the State of Idaho under permit No. 98-07714.

To grant such an application, would irreparably and permanently damage Mrs. Wyman and Mr. Cramer.

The protestants are aware of no lawful right what so ever which would allow the applicants to construct and place a dam in the stream, which protestants understand has in fact occurred. Its continued existence poses an extreme risk of flooding, pollution, and interferes with the prior rights of protestants.

Could you kindly acknowledge receipt of this protest?

Thank you.

Sincerely,

Randall W. Day
Randall W. Day
Counselor & Attorney at Law, P.A.

MICROFILMED

RWD:nc
cc: Violet Wyman

APR 15 1999

- location of Hot Springs
NE 4 NE 4 Sec 4
- T.R. Benedict had lease from U.S. Govt
from Jan 17, 1928
to Oct 24, 1936
- The land has been used in trespass
since & by letter dated 3-13-68
the BLM was going to initiate
trespass action for unauthorized use

RECEIVED

OCT 23 2000

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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. 98-07714 Telephone No. (208) 267-9804
2. Name of Permit Holder(s): Scott & Mary Peterson
3. Mailing Address: HC 01 Box 395
City Naples State ID Zip 83847
4. Source of Water: Un-named Stream If GROUNDWATER (well), Date Drilled: mo. _____ / yr. _____
Well Driller: _____ Drilling Permit Number: _____ - _____ - _____ - _____
5. Use(s) (as authorized by the water right permit):
Domestic (No. of households): 2 Stockwater (No. and type of stock): _____
Irrigation (No. of acres): _____ Other: _____
6. Total rate of diversion and/or volume for which proof is submitted: _____ cfs OR 15 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 _____ or No _____
Has the measuring device been installed? Yes _____ or No _____
8. Fee Enclosed: \$ 50- (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: Mary Peterson Telephone Number: _____
Address: As above
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:

Mary T. Peterson
(include your title, if on behalf of company or organization)

Date:

10/17/00

MICROFILMED

JAN 31 2001

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 98-07714

Proposed Priority: April 14, 1993

Maximum Storage Volume:

15.0 AF

This is to certify, that **SCOTT A PETERSON**
MARY PETERSON
HC 01 BOX 395
NAPLES ID 83847

has applied for a permit to appropriate water from:
UNNAMED STREAM tributary of **SINKS**

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>	<u>ANNUAL VOLUME</u>
WILDLIFE STORAGE	01/01 to 12/31		15.0 AF
DOMESTIC STORAGE	01/01 to 12/31		15.0 AF
DOMESTIC FROM STORAGE	01/01 to 12/31		2.4 AF
FIRE PROTECTION STORAGE	01/01 to 12/31		15.0 AF
FIRE PROTECT. FROM STOR	01/01 to 12/31		15.0 AF
AESTHETIC STORAGE	01/01 to 12/31		15.0 AF
	Totals		15.0 AF

LOCATION OF POINT(S) OF DIVERSION:

SWSW , Sec. 10, Township 60N, Range 01W
BOUNDARY County

PLACE OF USE: WILDLIFE STORAGE

TWN RGE SEC

60N 01W 10 SWSW

PLACE OF USE: DOMESTIC STORAGE

TWN RGE SEC

60N 01W 10 SWSW

PLACE OF USE: DOMESTIC FROM STORAGE

TWN RGE SEC

60N 01W 15 NWNW

PLACE OF USE: FIRE PROTECTION STORAGE

TWN RGE SEC

60N 01W 10 SWSW

PLACE OF USE: FIRE PROTECT. FROM STOR

TWN RGE SEC

60N 01W 10 SWSW

15 NWNW

PLACE OF USE: AESTHETIC STORAGE

TWN RGE SEC

60N 01W 10 SWSW

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before December 1, 2000.
2. Subject to all prior water rights.

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APR 15 1993

State of Idaho
Department of Water Resources**Permit To Appropriate Water**

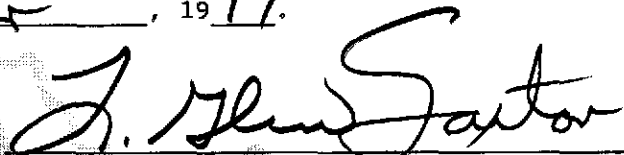
NO. 98-07714

CONDITIONS OF APPROVAL AND REMARKS

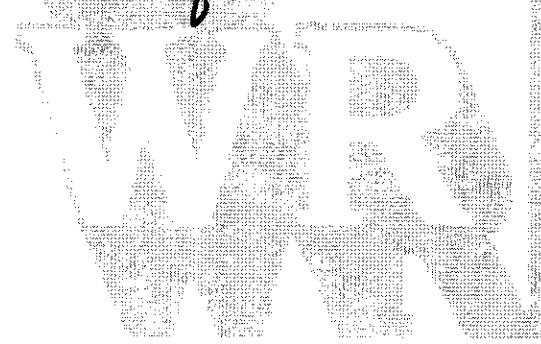
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. The issuance of this right does not grant any right-of-way or easement across the land of another.
5. Water shall not be diverted for fire protection from storage use under this right except to fight or repel an existing fire.
6. Domestic storage use is for 2 homes.
7. Aesthetic storage use is for a pond.

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

16th day of December, 1997.


Karl J. Dreher, Director

for



MICROFILMED

APR 13 1999

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 98-0774
RECEIVED
DEC 03 1997

To appropriate the public waters of the State of Idaho

Department of Water Resources

1. Name of applicant Scott A. & Mary Peterson Phone 208 267-9804
Post office address HER 01 Box 395 Naples ID 83847
2. Source of water supply Unnamed stream which is a tributary of Sink
3. Location of point of diversion is _____ 1/4 of SW 1/4 of SW 1/4, Govt. Lot _____
Sec. 10 Township 60N Range 1W B.M. BOUNDARY County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 15AF for Storage for Wildlife purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum) Domestic Aesthetic
Amount 24 for Domestic from purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum) Storage
Amount 15AF for Fire Prot from str. purposes from 1/1 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)
5. Total quantity to be appropriated is (a) _____ and/or (b) 15
cubic feet per second acre feet per annum
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Dam

b. Height of storage dam 6-8 feet; active reservoir capacity 15 acre-feet; total
reservoir capacity 15 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 90°F being sought? _____
7. Time required for the completion of the works and application of the water to the proposed beneficial use is
3 years (minimum 1 year).

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APR 15 1999

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. 2
- e. Other; describe fully. _____

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	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
60N	1W	10																	
60N	1W	15																	

Total number of acres to be irrigated _____

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

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

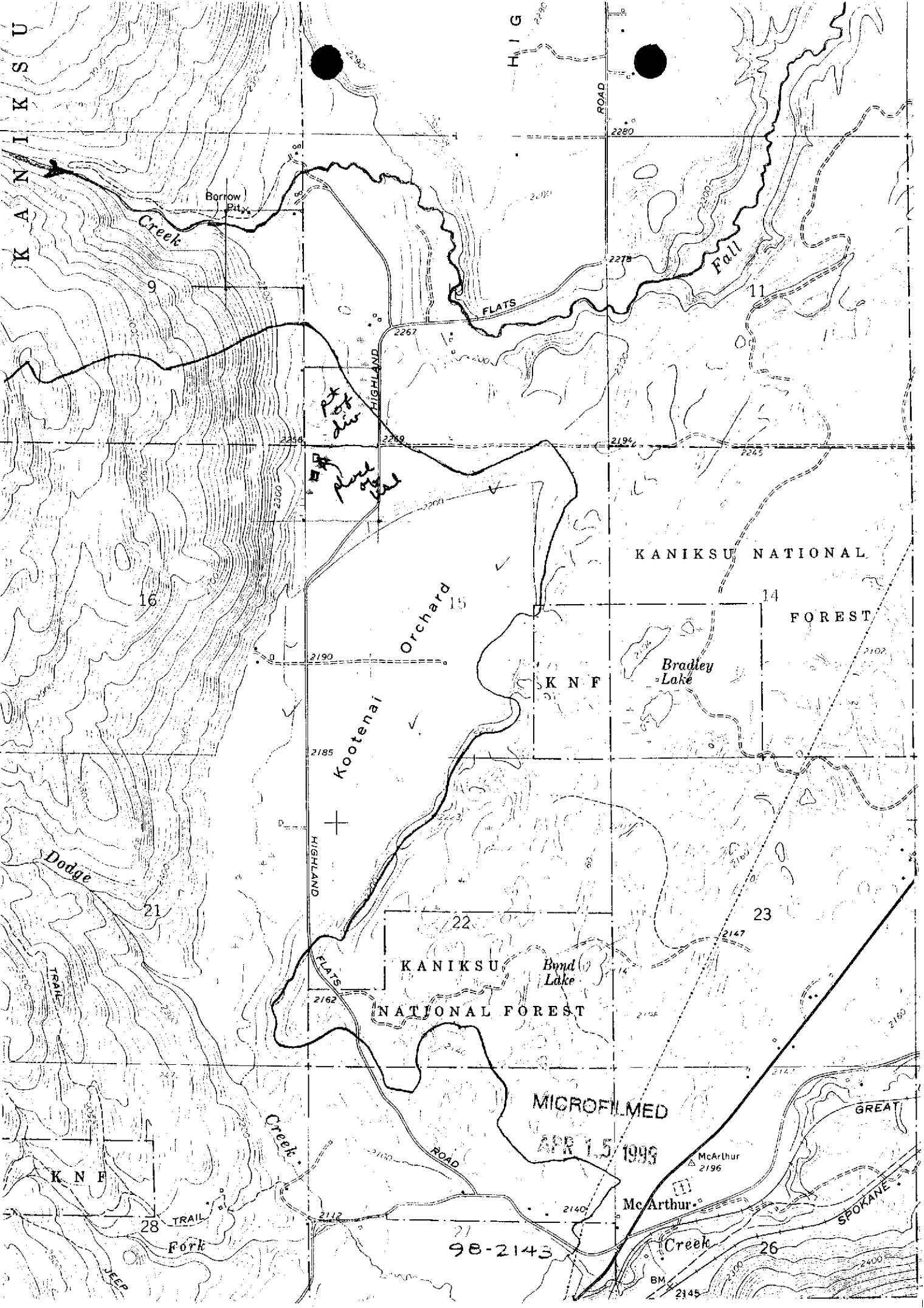
b. Who owns the land to be irrigated or place of use? App

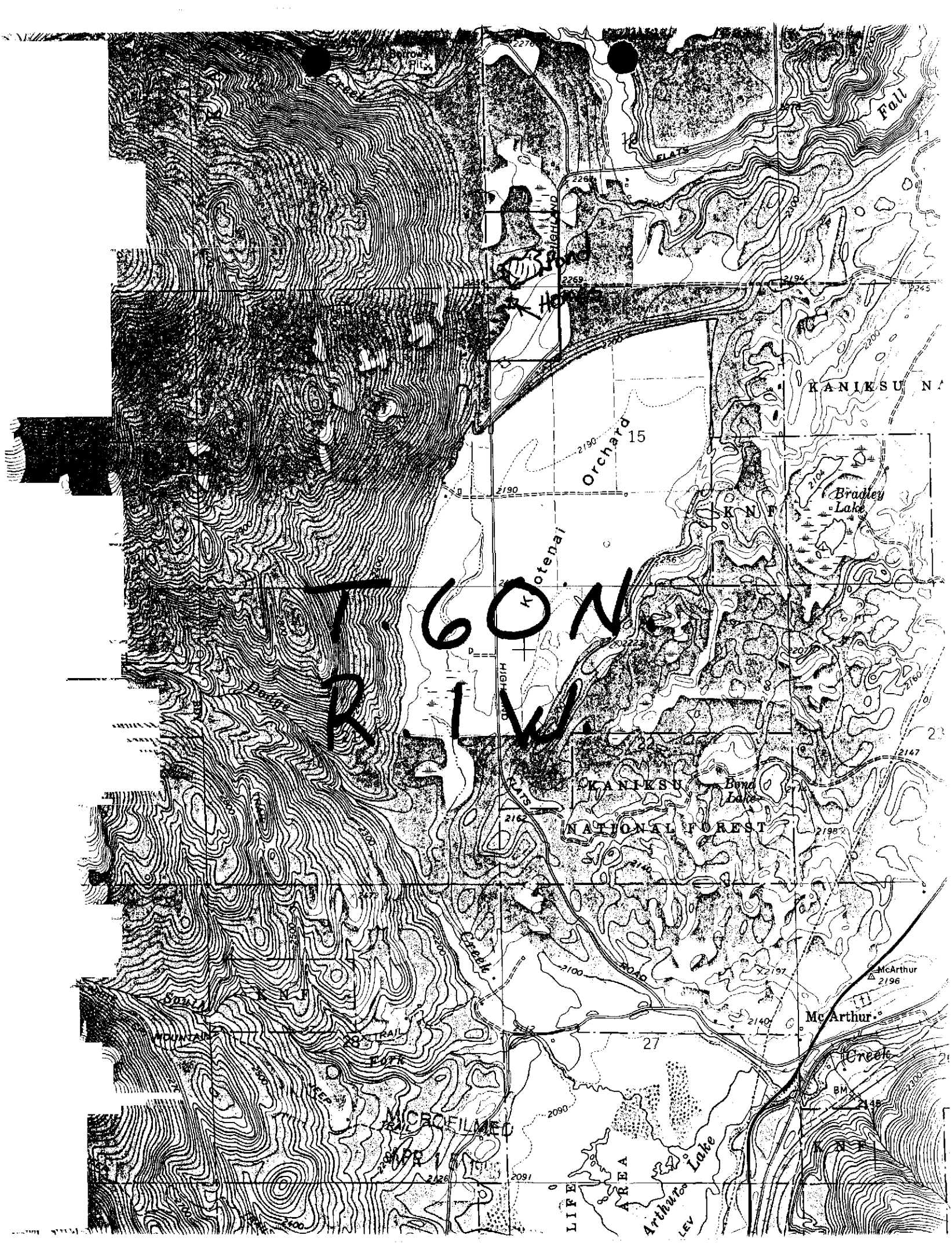
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: _____

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APR 1999





A full-page sheet of white graph paper with a black grid. The grid consists of 15 vertical columns and 15 horizontal rows, creating a total of 225 small squares. The lines are thin and evenly spaced. There are no margins or additional markings on the page.

Mary T. Peterson
(Applicant)

Received by RyA Date 4/14/93 Time 5:00 Preliminary check by AB
Fee \$ 3000 Received by RyA # N6442 Date 4/14/93
Publication prepared by [signature] Date 4/28/93 Published in 5-12/93
Publication approved [signature] Date 6/12/93

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 ____.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
- e. Other:

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APR 13 1989

SENDER:

- Complete items 1 and 2 for additional services.
- Complete items 3, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also ☒ to receive the following ☒ (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

MR RANDALL DAY
PO BOX 918
BONNERS FERRY ID 83805

4a. Article Number

48269

4b. Service Type

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☒ Return Receipt for Merchandise

7. Date of Delivery**8. Addressee's Address (Only if requested and fee is paid)**

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APR 15 1999

95-8802 48-774

5. Signature (Addressee)**6. Signature (Agent)**

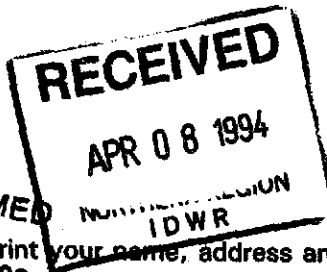
UNITED STATES POSTAL SERVICE

Official Business

SPD WA 992 DER3 19:4



PENALTY FOR PRIVATE
USE, \$300



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APR 15 1994

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD. - SUITE 210
COEUR D'ALENE, IDAHO 83814



SENDER:

- Complete items 1 and 2 for additional services.
- Complete items 3, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also ☐ to receive the following ☐ (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

MR AND MRS SCOTT A PETERSON
HCR 01 BOX 395
NAPLES ID 83847

4a. Article Number

48270

4b. Service Type

- | | |
|---------------------------------------|---|
| ☐ Registered | ☐ Insured |
| ☐ Certified | ☐ COD |
| ☐ Express Mail | ☐ Return Receipt for Merchandise |

7. Date of Delivery

4/8/94

5. Signature (Addressee)**6. Signature (Agent)****8. Addressee's Address (Only if requested and fee is paid)**

UNITED STATES POSTAL SERVICE

Official Business



RECEIVED

APR 11 1994

Print your name, address and ZIP Code here
IDWR

PENALTY FOR PRIVATE
USE, \$300

DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD. - SUITE 210
COEUR D'ALENE, IDAHO 83814

APR 15 1999

Name and Address of Sender

DEPARTMENT OF WATER RESOURCES

1910 NORTHWEST BLVD. - SUITE 210

COEUR D'ALENE, IDAHO 83814

Indicate type of mail
☐ Registered ☐ Return Receipt
☐ Insured ☐ For Merchandise
☐ COD ☐ Int'l Recorded Del.
☒ Certified ☐ Express Mail

Check appropriate block for Registered Mail:
☐ With Postal Insurance
☐ Without Postal Insurance

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.

POSTMARK AND DATE OF RECEIPT

Line	Article Number	Name of Addressee, Street, and Post Office Address	Postage	Fee	Handling Charge	Act. Value (If Regis.)	Insured Value	Due Sender If COD	R. R. Fee	S. D. Fee	S. H. Fee	Rest. Del. Fee	Remarks
1	48267	Mr. Paul Finney 16300 S Asbury Rd., Harrison, Id. 83833	29c	\$1.00					\$1.00				95-8802
2	48268	Mr. Jeffrey A. Child 105 N. 4TH ST, STE 301, CDA, Id. 83814	"	"					"				"
	48269	Mr. Randall Day P.O. BOX 918, BONNERS FERRY ID 83805	"	"					"				98-7714
4	48270	MR AND MRS SCOTT A PETERSON HCR 01 BOX 395, NAPLES ID 83847	"	"					"				"
5													
6													
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10													
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14													
15													

MICROFILMED
APR 15 1999

Total Number of Pieces Listed by Sender 4	Total Number of Pieces Received at Post Office 4	POSTMASTER, PER (Name of receiving employee) [Signature]	The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for the reconstruction of nonnegotiable documents under Express Mail document reconstruction insurance is \$50,000 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is \$500. The maximum indemnity payable is \$25,000 for registered mail, sent with optional postal insurance. See Domestic Mail Manual 913 and 914 for limitations of coverage on insured and COD mail. See International Mail Manual for limitations of coverage on international mail. Special handling charges apply only to third and fourth class parcels.
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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED

OCT 3 - 2001

Department of Water Resources

A. GENERAL INFORMATION

Permit No. 98-07714

1. Owner: Scott A. & Mary Peterson Phone No. (208) 267-9849

Current Address: 401 Box 395 Naples Id. 83847

2. Accompanied by: Mary Peterson EXAM DATE: 9-13-01

Address: Same as above Phone No. _____

Relationship to Permit Holder: _____

3. Source: unnamed stream tributary to Sinks

B. OVERLAP REVIEW

1. Other water rights with the same place of use: _____

2. Other water rights with the same point of diversion: _____

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			SW	SW	10	60N	01W	Boundary	USGS 7.5 min Quad

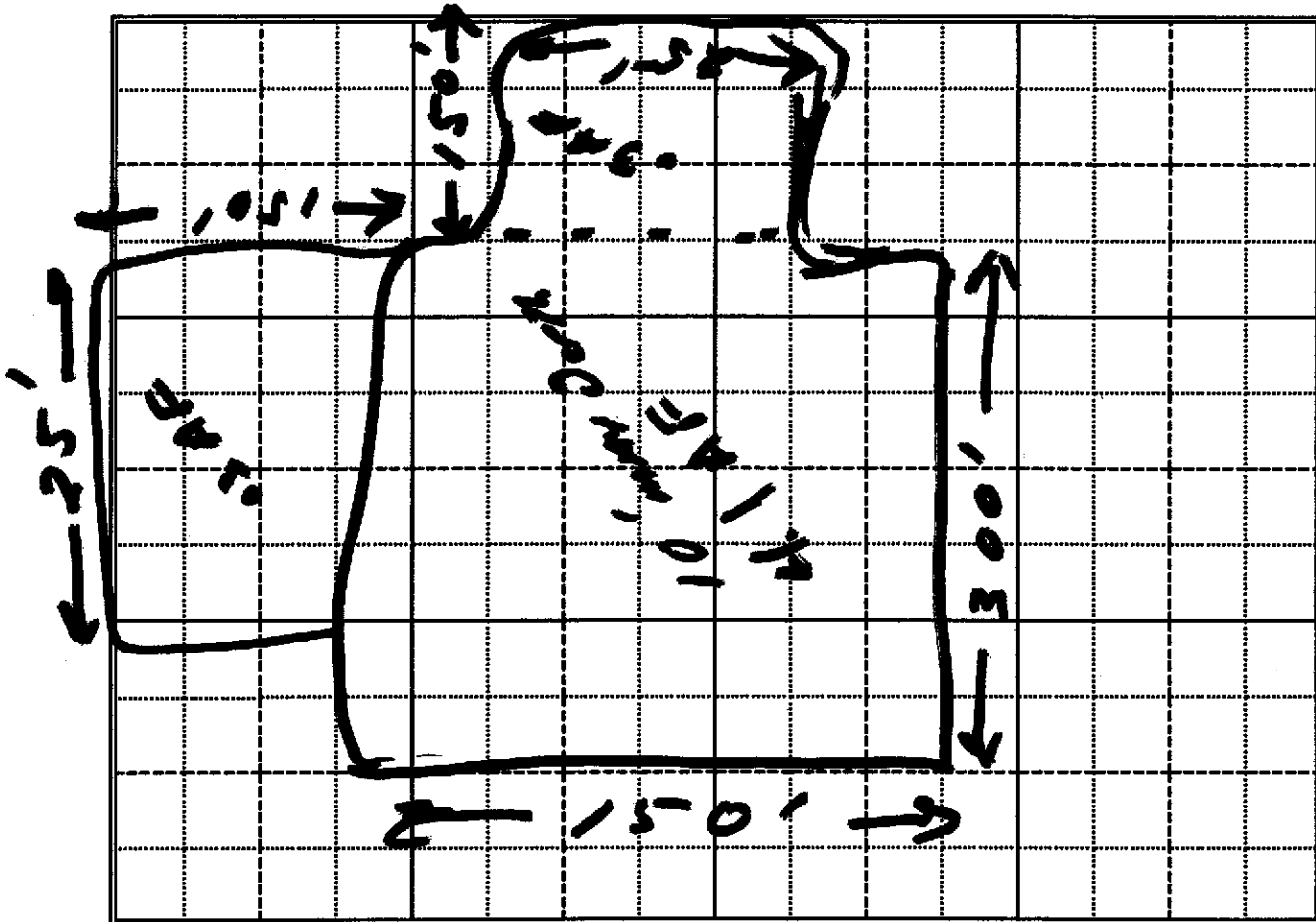
2. Place(s) of Use:

Indicate Method of Determination

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
60N	01W	10										W							
												A							
												F							

~~208-661-5081~~

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



Scale: 1" = _____

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

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

____ 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

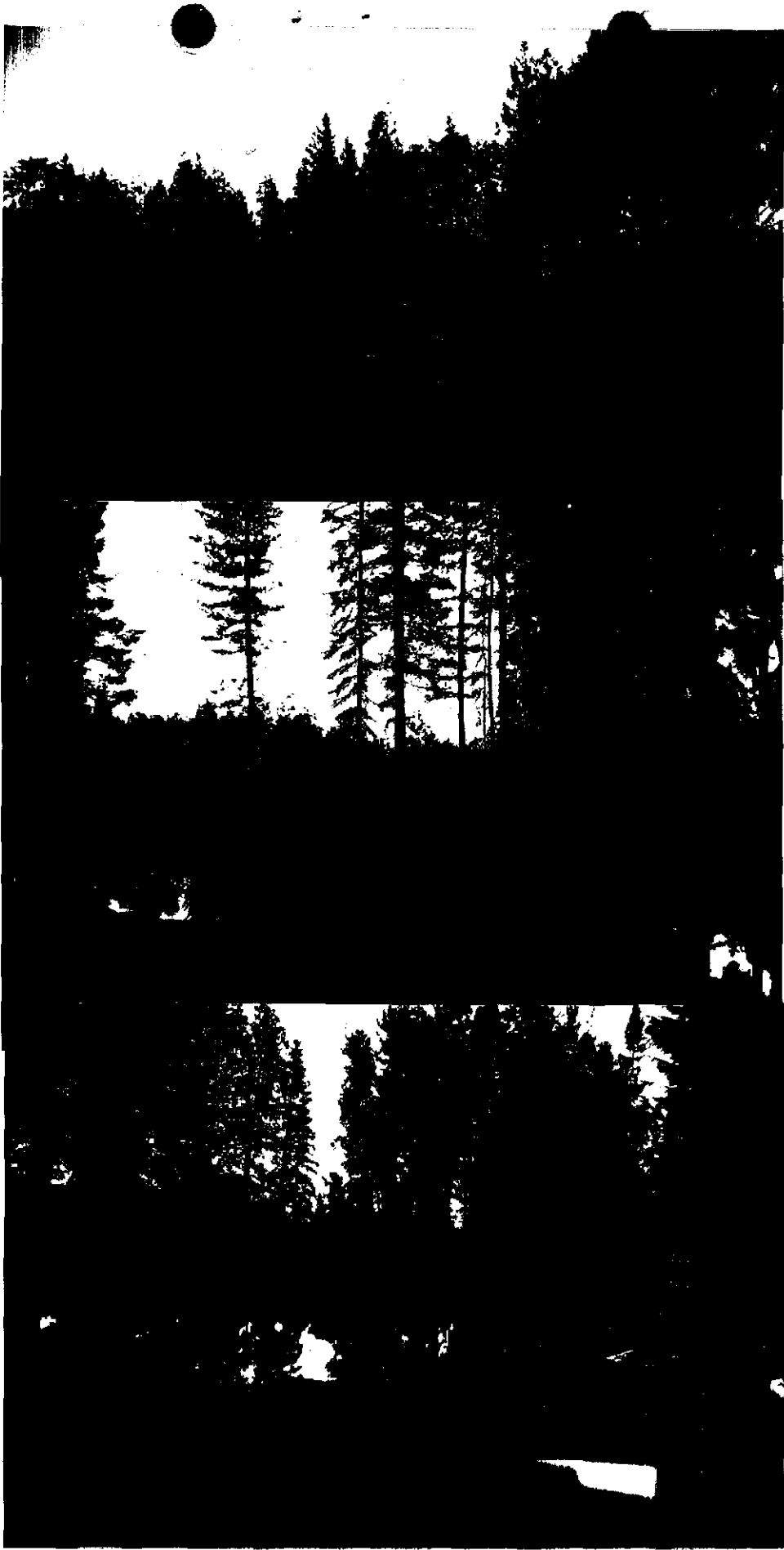
*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

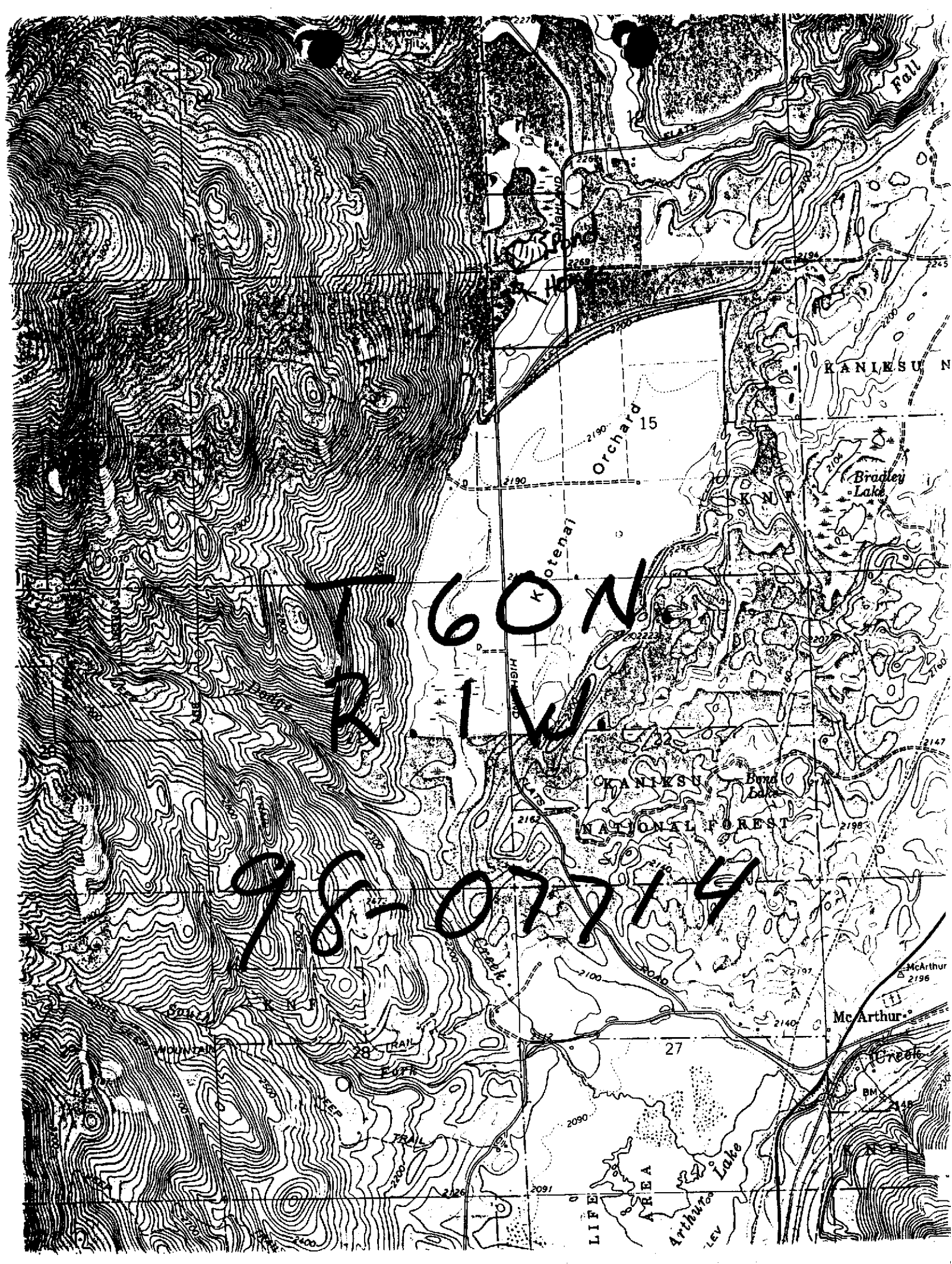
1.

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

2. Measurements: _____



98-07714



T-60N
R-1W

98-07714

Orchard 15

KANIESU N

Bradley Lake

KANIESU
NATIONAL FOREST

McArthur

Arthur Lake

E. NARRATIVE/REMARKS/COMMENTS

There were no domestic uses developed
Pond was really low at time of
exam. Been a very dry dry year. But
all measurements done at historic high water
marks

Have conditions of permit approval been met? ☒ yes ☐ no

F. FLOW CALCULATIONS

____ Additional Computation Sheets Attached

Measured Method:

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

 $V_{LR} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____ $V_{D,R} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ _____ $V = \text{Smaller of } V_{LR} \text{ and } V_{D,R} =$ _____

2. Volume Calculations for Other Uses:

$150 \times 300 \times 10 \times .4 = 4.1 \text{ AF}$
43560
 $150 \times 25 \times 10 \times .4 = .3 \text{ AF}$
43560
 4.7 AF
 .3 AF

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
Wild life storage	01-01	12-31		4.7
Asphaltic Storage	01-01	12-31		4.7
Fire Storage	01-01	12-31		4.7
Totals:				4.7

2. Recommended Amendments

____ Change P.D. as reflected above ____ Add P.D. as reflected above ____ None
 ____ Change P.U. as reflected above ____ Add P.U. as reflected above ____ Other

I. AUTHENTICATIONField Examiner's Name Wayne Bald Date 9-26-01

Reviewer _____ Date _____

SEAL



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

October 23, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

SCOTT A PETERSON
MARY PETERSON
HC 01 BOX 395
NAPLES ID 83847

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 98-07714

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 of the water, and that it meets the permitted beneficial use.

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 Northern Regional Office of the department in Coeur d' Alene at (208) 334-2190.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encl.

c: IDWR - Regional Office

MICROFILMED

JAN 31 2001

ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE

Permit No. 98-07714 Reviewed by D. Gibson Date 10/23/00

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 for wild life,
Domestic & fire protection

Correct Uses? _____

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

/ Well log in the file?

/ Correct?

LICENSE EXAMINATION FEE

Yes Required?

\$50 Amount Submitted

Yes Correct?

MEASURING DEVICE

No Required?

_____ Installed?

_____ Waiver requested?

PRIORITY CALCULATION

Date proof received

10/17/00

Date proof due

12/1/00

No. of days late

/

Priority Date

/

New Priority Date

/

DEFICIENCIES OR ACTION ITEMS

Acknowledge proof

DATA ENTRY

New Address

No

Proof Made

10/17/00

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

North Orchard Street, P.O. Box 83720

Boise, Idaho 83720-0098

Return Service Requested

RECEIVED

OCT 19 2000

Department of Water Resources

CERTIFIED MAIL



7099 3220 0006 2688 3946



- ☐ Not Deliverable As Addressed
Unable To Forward
- ☐ Insufficient Address
- ☐ Moved, Left No Address
- ☒ Unclaimed (7 days)

First Notice 10/12/00
Second Notice 7
Returned 17

MICROFILMED

JAN 31 2001





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

September 30, 2000

SCOTT A PETERSON
MARY PETERSON
HC 01 BOX 395
NAPLES ID 83847

PROOF DUE NOTICE

RE: PERMIT NO. 98-07714

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 December 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 GIBSON
Administrative Assistant

Enclosures

September 30, 2000

SCOTT A PETERSON
MARY PETERSON
HC 01 BOX 395
NAPLES ID 83847

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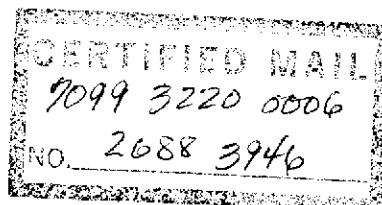
SINCERELY,

DEBORAH GIBSON
Administrative Assistant

Enclosures

MICROFILMED

JAN 3 1 2001





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

December 17, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

SCOTT A PETERSON
MARY PETERSON
HC 01 BOX 395
NAPLES ID 83847

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 98-07714

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.

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.

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

Sincerely,

Shelley W. Keen
Water Rights Supervisor

MICROFILMED

APR 15 1999

SK:klt

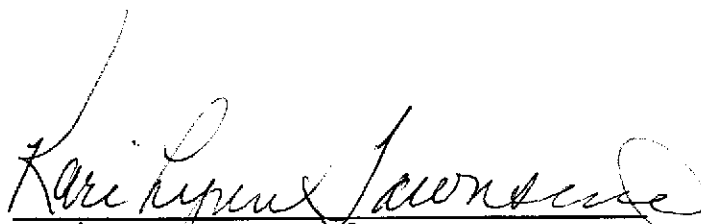
Enclosures

CERTIFICATE OF MAILING

I hereby certify that on the 17th day of December, 1997, 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. 98-07714

SCOTT A PETERSON
MARY PETERSON
HC 01 BOX 395
NAPLES ID 83847


Kari Lynn Townsend
Secretary

MICROFILMED

APR 15 1999

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

APR 15 1993

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.

MEMORANDUM

RECEIVED

DEC 03 1997

Department of Water Resources

To: Glen Saxton
From: Bob Haynes *BH*
Date: December 1, 1997
Subject: Application for Permit 98-07714

A Notice of Proposed Default Order was sent to the protestants attorney on November 18. No response from him has been received.

MICROFILMED
APR 15 1999

12/97

APPLICATION FOR PERMIT STATE OFFICE REVIEW

by *Cindy Lee*

No.: 98-07714 Name: Peterson Date: 12/10/97 Ad OK? ✓ / Gvmt Lts: ✓

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

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

SYSTEM COMPLETED:

1 year/no proof
>1 year

- P16
- 26A P17

GROUNDWATER: (✓ FLO-CH)

WMD (✓ MAP)

>0.24 cfs/5 acres
≤ 0.24 cfs/5 acres

- 067 or No MD (in-stream stock or power)
- No MD

WMD >0.24 cfs/5 acres
Supplemental use
≤ 0.24 cfs/5 acres

- 01M (report when notified)
- 065-079 (if GW use SW 1st-statewide)-(cannot move SW off)
- No MD

DRILLING PERMIT:

Existing well
Included w/permit

- NA (pre 7/1/87; ✓ WDQ3)
- Permit No. _____ - _____ - _____ - _____ P99

No drilling permit?
irr. in WD

- 046-46B-P23 (post 7/1/87)
- 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)

Pumped >0.20 cfs

- R04 (WD # _____)-01J-P08 (MD)
- 01H-P01 (LD & MD) or No MD (in-stream stock)

WMD (✓ MAP)

> 0.24 cfs/5 acres
≤ 0.24 cfs/5 acres

- 067 or No MD (in-stream stock or power)
- No MD

SPRINGS/SINK, INACTIVE WD & REST OF STATE

> 0.24 cfs/5 acres
Vol only ≤ 0.24 cfs/5 acres

- 01M or No MD (in-stream stock or power)
- No MD

RIVER BASINS: (*Surface water):

Snake R (01)
(02/03-irr)

- *W22 -P04, NA
- 007 (w/ remark *WB9 if above Weiser), NA
- *W22 (regulated uses), 047-P04 (Payette Lake), NA
- 029 (fish screens), NA

Payette R(65)
Salmon R(70's)

USE:

Domestic surface
>1 in rest. area

- *WB5 (Big Wood R or Boise R ↑ Star Bridge); 27A (Payette River); NA
- 071-070

Fish Propagation
Heating/Cooling

- 029-007-042(req)-081 (WQ)-P10
- R07 (injection well)

Irr ≤ 5 acres
> 5 acres

- R66/R67/R68/R69 (0.03 cfs/acre + 3.0/3.5/4.0/4.5 AF)
- 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-025-01N-028-081(P10)-027 (if no other cons. use);
17G (FERC) or 17M (FERC); 18B-P09; >25 cfs-P18

Stock

- R37 (BLM/USFS); NA

Storage (✓3 compo.)

- 18A (in & out MD for on-stream storage), 18B-P09 (>10' dam), NA

LOCATION:

42-248 area
Boise Front LoGeo
~~In stream dev.~~
Irr Dist/Canal Co.

- P84 (in 20/30/40/50/60/70/80 (87) basin)
- 058 (<85° GW temp only)
~~- P82 (stream channel alteration)~~
- 023 (Twin Falls area)

SWAN FALLS FLAG (See Code Chart)

Trust
Non-Trust (1)

-
- 051-052-053-P74 (Consumptive Uses), NA
- 048-049 (Consumptive Uses), NA
- 004 (PD/PU) _____

OWNERSHIP:

OTHER CONDITIONS:

STANDARD REMARKS:

- ① 077 ② Aest./pond. ③ Dom/2

BENEFICIAL USE DUE:

- 12/1/2000

COMMENTS:

No. a
4/87-06/92n

DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

RECEIVED

DEC 03 1997

APPLICATION # _____

DEPARTMENT OF WATER RESOURCES

***** INITIAL REVIEW *****

APPLICANT: PETERSON BY: A3 DATE: 4/15/93

ITEM REQUIRED INFORMATION

1. ☒ Name and Address
2. ☒ Source
3. ☒ Point of Diversion & County
4. ☒ Quantity
☒ Nature of Proposed Use
☒ Period of Use
5. ☒ Total Quantity
6. ☒ Description of diverting works
☒ Dam information requested
or not requested
7. ☒ Time required for b/u
8. ☒ Proposed use
9. ☒ Place of use or acres irrigated
10. ☒ Other Water Rights
11. ☒ Ownership
13. ☒ Map
☒ Signature
☒ Fee (Amt, recpt, acknowledgment)
Send info sheet Y() N()

ADDITIONAL INFORMATION

Yes No

- ☒ Field check: by _____
- ☒ Field report attached
- ☒ Analysis Supp. attached(>5cfs/500af)
- ☒ Water delivered by water master?
- Water District # _____

PROCESSING

Yes No

PRIORITY DATE: 4/14/93

☒ (Include Moratorium Remark)

☒ Statewide Avertising: (Diversion rate greater than 10 cfs or 1,000 af).

/// Advertised in: _____

County of: BOWNBURY

SEND COPIES TO:

☐ USFS CdA ☐ USFS Oro ☐ USFS Grangeville
☐ BLM ☐ W/W Corps ☐ Albeni Corps
☐ F&G CdA ☐ F&G Lew ☐ IDL ☐ Region
☐ H&W CdA ☐ H&W Lew ☐ Adj Div
(Other) _____

LETTERS SENT REQUESTING:

☐ Dam information ☐ Fish Information
☐ Power information ☒ Other

INFORMATION RECEIVED

☐ Power information ☐ Dam information
☐ Fish Information ☒ Other

***** GROUNDWATER SECTION *****

(Yes) (No)

Checked by: _____ Date: ///

Remarks: _____

- ☒ Groundwater management area
- ☒ Critical ground water area
- ☒ Well Drilling Permit required
- ☒ Well Drilling Application and Fees received
- ☒ Well Drilling Application approved?
- Well Drilling Application Number _____

***** FINAL REGIONAL PROCESSING/REVIEW *****

(Yes) (No)

- ☐ Notice of pending void order issued. Final order response date: ///
- ☐ Further information required from applicant
- ☒ Affidavit of publication received
- ☒ Application published correctly, If not, record action taken: _____
- ☒ Publication dates and paper recorded on application | Sr. Agent initial _____
- ☒ Protests received. Final protest date: 5/24/93
- ☒ Measuring device required
- ☒ Measuring port required
- ☒ Special conditions: _____
- ☒ Special conditions of approval supplement and/or cover letter attached:

Approval Recommended by: RYA

Date: 12/1/92

98-07714

PETERSON, SCOTT A
PETERSON, MARY
HCR 01 BOX 395
NAPLES, ID 83847

Source: UNNAMED STREAM

Tributary: SINKS

Diversion Pt: SWSW Sec 10 T 60N R 01W in BOUNDARY County.

Use: WILDLIFE STORAGE	(15.00 AF)
DOMESTIC STORAGE	(15.00 AF)
DOMESTIC FROM STORAGE	(2.40 AF)
FIRE PROTECTION STORAGE	(15.00 AF)
FIRE PROTECT. FROM STOR	(15.00 AF)
AESTHETIC STORAGE	(15.00 AF)
Total Diversion:	(15.00 AF)

Date Filed: 4/14/1993

In: BOUNDARY County	
T60N R01W S10	SWSW
S15	NWNW

MICROFILMED

APR 15 1999

Application No. 98-7714

SPECIAL NOTE: _____

PROTEST INFORMATION SHEET

Protestant(s)

	NAME	ADDRESS	PROTEST DATE
1	Randall Day, Atty. for	PO Box 918 Bonners Ferry, Id. 83805	5/19/93
	Violet Wyman & Jack Cramer		
2	_____	_____	_____
3	_____	_____	_____
4	_____	_____	_____
5	_____	_____	_____
6	_____	_____	_____
7	_____	_____	_____
8	_____	_____	_____
9	_____	_____	_____
10	_____	_____	_____

ATTORNEY	ADDRESS
Randall Day	PO Box 918 Bonners Ferry, Id. 83805

DATE FILED: 5/19/93 PROTEST DUE DATE: 5/24/93

ISSUES: Irreparably damage protestants' water rights which are prior. Dam
poses risk of flooding, pollution.

Applicant

ATTORNEY	ADDRESS
----------	---------

	DATE
Protest Date Entered on Computer	<u>6/1/93</u>
Acknowledgment Letters Sent	<u>6/1/93</u>
Hearing Date	_____
_____	_____
_____	_____ (Other Dates)
_____	_____

Other Information: _____

Protest information submitted to computer (following hearing): _____

MICROFILMED

APR 15 1993

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

VIOLET WYMAN & JACK CRAMER
C/O RANDALL DAY, ATTORNEY
PO BOX 918
BONNIEVILLE ID 83805

4a. Article Number

P 070 016 307

4b. Service Type

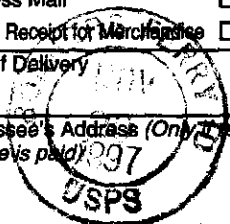
- | | |
|---|---|
| ☐ Registered | ☒ Certified |
| ☐ Express Mail | ☐ Insured |
| ☐ Return Receipt for Merchandise | ☐ COD |

5. Date of Delivery**5. Received By: (Print Name)****8. Addressee's Address (Only if requested and fees paid)****6. Signature: (Addressee or Agent)**

X

RECEIVED
NOV 24 1997

NORTHERN REGION
IDWR



UNITED STATES POSTAL SERVICE

SPD WA 992 DCR3 21

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD. - SUITE 210
COEUR D'ALENE, IDAHO 83814





State of Idaho
DEPARTMENT OF WATER RESOURCES

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

Fax (208) 769-1454

PHILIP E. BATT
Governor

KARL J. DREHER
Director

November 18, 1997

Certified Mail
Violet Wyman & Jack Cramer
c/o Randall Day, Attorney
PO Box 918
Bonners Ferry ID 83805

Re: Water Right No. 98-07714 - Proposed Default Order

Dear Water Right Applicants and Protestants Thereto:

The accompanying is a Notice of Proposed Default Order issued by the Department of Water Resources (Department) pursuant to IDAPA 37.01.01700.

You may challenge this Proposed Default Order pursuant to IDAPA 37.01.01701. SEVEN DAYS TO CHALLENGE PROPOSED DEFAULT ORDER (RULE 701). Within Seven (7) days after the service of the notice of proposed default order, the party against whom it was filed may file a written petition requesting that a default order not be entered. The petition must state the grounds why the petitioning party believes that default should not be entered.

CERTIFICATE OF SERVICE

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

If you have any questions, please contact me at (208) 769-1450.

Sincerely,

Robert G. Haynes, P.E.
Regional Manager

RGH:db

Reg Mail
cc { Scott A. and/or Mary Peterson
HCR 01 BOX 395
Naples ID 83847

MICROFILMED

APR 15 1999

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

IN THE MATTER OF APPLICATION	)	
FOR PERMIT NO. 98-07714 IN THE	)	NOTICE OF
NAME OF SCOTT A. AND/OR MARY PETERSON	)	PROPOSED DEFAULT ORDER
_____	)	

This matter having come before the Idaho Department of Water Resources (department), the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On April 14, 1993, Scott A. &/or Mary Peterson (applicant) filed Application for Permit No. 98-07714 (application) with the department proposing to appropriate 15 acre feet per annum of water from an unnamed stream tributary to sinks, to be used year-round for Wildlife Storage, Domestic Storage, Fire Protection Storage and Aesthetic Storage purposes.

2. The application was subsequently protested by Violet Wyman and Jack Cramer (protestants), through their attorney Randall day.

3. The department scheduled the above entitled matter for hearing on April 20, 1995, to be held in accordance with provisions of Chapter 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45.

4. In a conference prior to the start of the hearing, the protestants indicated that they believed the matter could be resolved without proceeding with the hearing, and asked for a continuance.

5. Having not received notification from the parties involved that the matter has been resolved, and it being the intention of the department to proceed to schedule the matter for hearing, on October 2, 1997 an ORDER was mailed to both the applicants, and the protestants c/o their counsel of record, requiring notification by October 17, 1997 of witnesses, if any, they intend to call to testify in the matter, service of which was acknowledged by both, but protestants failed to appear by not responding to the above mentioned Order.

CONCLUSIONS OF LAW

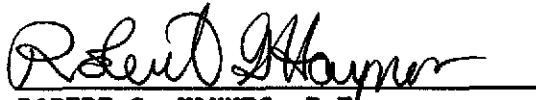
1. IDAPA Rule 37.01.01700 (Rule of Procedure 700) authorizes the department to issue a Notice of Proposed Default for Failure to Appear by protestants not responding to the ORDER requiring information by October 17, 1997.

2. The department should enter a Notice of Proposed Default for Failure to Appear by protestants failure to respond to above referenced Order requiring information by October 17, 1997.

ORDER

IT IS THEREFORE, HEREBY ORDERED that the department plans to enter a Default Order Setting Aside the protest of the above referenced Application for Permit No. 98-07714, which protest will no longer be considered by the department, and proceed with the issuance of the Application for Permit No. 98-07714.

Dated this 18 day of November, 1997.


ROBERT G. HAYNES, P.E.
Hearing Officer

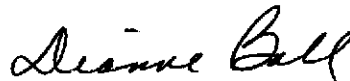
CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 18th of November, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing NOTICE OF PROPOSED DEFAULT ORDER to the following:

Scott A. &/or Mary Peterson
HCR 01 Box 395
Naples ID 83847

and

Violet Wyman & Jack Cramer
c/o Randall Day, Attorney
PO Box 918
Bonners Ferry ID 83805



DIANNE BALL
Senior Secretary



**Above
the
Crowd!**

TO: Mr Haynes
State of Id - Dept of Water
RE: Resources

Mary T. Peterson
Broker/Owner

Shirley Elliott
Personal Assistant
Sales Associate

Suzi Bishop
Executive Assistant
Sales Associate

FROM: Mary Peterson

Our FAX #: (208) 267-3971

Number of Pages: Cover Plus _____ DATE: 10/17/97 Time: 9:48am

COMMENTS: List of witnesses to appear on
our behalf regarding water right
issues are:

- | | |
|-----------------|--------------------|
| 1) Dale Baker | 5) Susan Ireland, |
| 2) Bonnie Bace | Fish Biologist |
| 3) Jim Bace Sr. | 6) Wayne Warkinen |
| 4) Gerry Depue | Wildlife Biologist |
| | 7) Jarrod Forester |
| | (Independent) |

☒ ORIGINAL WILL NOT FOLLOW OR ORIGINAL WILL FOLLOW BY: Regular Mail
Hand Delivery
Certified Mail/Return Receipt
Other

CONFIDENTIALITY NOTICE

The information contained in this facsimile communication is confidential and is intended solely for the use of the recipient named above. If you are not the intended recipient or a person responsible for delivering it to the intended recipient, any dissemination, distribution, copying or other use of this communication for any purposes is strictly prohibited. If you have received this communication in error, please telephone the sender immediately and/or mail the communication to the sender at the address shown below. Thank you again for your cooperation.

YOUR FAX #: 769-1454 MICROFILMED

APR 15 1999



RE/MAX Selkirk Mountain Real
Route 4 Box 4804
Bonners Ferry, Idaho 83805
Office: (208) 267-3780
Fax (208) 267-3971

Each Office Independently Owned and Operated

SENDER:

- Complete items 1 and/or 2 and additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
 2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

VIOLET WYMAN & JACK CRAMER
 C/O RANDALL DAY, ATTORNEY
 PO BOX 918
 BONNERS FERRY, ID 83805

4a. Article Number

P 070 016 293

4b. Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery**5. Received By: (Print Name)****6. Signature: (Addressee or Agent)**

X

8. Addressee's Address (Only if requested and fee is paid)

UNITED STATES POSTAL SERVICE



First-Class Mail,
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

MICROFILMED

APR 15 1999

DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD. - SUITE 210
COEUR D'ALENE, IDAHO 83814



SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
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- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
 2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

SCOTT A. &/OR MARY PETERSON
 HCR 01 BOX 395
 NAPLES ID 8384

4a. Article Number

P 070 016 294

4b. Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

FILMED 10/8/97

5. Received By: (Print Name)

IDWR
 NORTHERN REGION
 APP 15 1994

8. Addressee's Address (Only if requested and fee is paid)

15 1994

6. Signature: (Addressee or Agent)

X Mary Peterson

UNITED STATES POSTAL SERVICE

SPEKANE WA APR 2 10 09/57

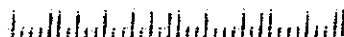
First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD. - SUITE 210
COEUR D'ALENE, IDAHO 83814

MICROFILMED

APR 15 1999



BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 98-07714 IN THE)
NAME OF SCOTT A. &/OR MARY PETERSON)

ORDER

On April 14, 1993, Scott A. &/or Mary Peterson (applicants) filed with the Department of Water Resources, (department) Application for Permit No. 98-07714. The application was protested by Violet Wyman and Jack Cramer (protestants) through their attorney, Randall Day, on May 19, 1993.

The department scheduled the above entitled matter for hearing on April 20, 1995, to be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45.

In a conference prior to the start of the hearing, the protestants indicated that they believed the matter could be resolved without proceeding with the hearing, and asked for a continuance.

Having not received notification from the parties involved that the matter has been resolved, it is the intention of the department to proceed to schedule the matter for hearing.

IT IS HEREBY ORDERED that in preparation for the hearing, the protestants and applicants notify the department by October 17, 1997, of witnesses, if any, they intend to call to testify in the matter.

Dated this 2nd day of October, 1997.


Regional Manager

I hereby certify that on the 2nd day of October, 1997, I mailed a true and correct copy, postage prepaid, of this document to the applicants(s) and protestant(s) listed below:


Senior Secretary

Certified Mail
Violet Wyman & Jack Cramer
c/o Randall Day, Attorney
PO Box 918, Bonners Ferry ID 83805

Scott A &/or Mary Peterson
HCR 01 Box 395, Naples ID 83847

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APR 15 1999



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

Fax (208) 769-1454

PHILIP E. BATT
Governor

KARL J. DREHER
Director

August 13, 1997

Randall W. Day
Counselor & Attorney at Law, P.A.
PO Box 918
Bonners Ferry ID 83805-0918

Re: 98-07714 - Peterson/Wyman

Dear Randy:

I am writing in regard to an application for a permit filed by Scott and Mary Peterson for water from an unnamed stream in Boundary County, that was protested by you on behalf of Violet Wyman and Jack Cramer.

If you recall, we had a hearing on April 20, 1995 here in Coeur d'Alene. That hearing was continued because your clients thought that perhaps they would be able to change the routing of the water conveyance system so that it would not cross Peterson's property, and would not be affected by Peterson's dam.

There were also issues raised with regard to the possible forfeiture of water rights for the right that Wyman and Cramer claimed. It was my understanding that a Request for Extension of Time to Avoid Forfeiture would be forthcoming from your client. I am unaware of that request having been filed.

Could you please advise me of the progress that your clients have made with regard to re-routing the conveyance system, and their position with regard to continuing the protest.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Robert G. Haynes'.

Robert G. Haynes, P.E.
Regional Manager

RGH:db

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APR 15 1999

File: 98-07714 - SCOTT A. &/OR MARY PETERSON
Date: THURSDAY, APRIL 20, 1995 AT 9:30 A.M.
Place: 1910 NORTHWEST BLVD., COEUR D'ALENE, ID
SECOND FLOOR CONFERENCE ROOM

ROSTER OF ATTENDANCE

NAME**ADDRESS**

Mary Peterson

HCR 01 Box 395, Naples, ID 83847

Bonnie Bace

#CR 01 Box 388 Naples ID 83847

Dale Baker

HC 1 Box 387 Naples ID 83847

Steve Smith

P.O. Box C, Sandpoint, ID. 83864

Kanby Day

Box 358 'Bonner Ferry' Id. 93805

Michael Walcott

P.O. Box 1966 Sandpoint, ID 83864

mitt Hütte

B2 Box 258 maples Idaho 83847

MICROFILMED

APR 15 1999

*All Info in 98-4001
& Old# 6350
also is pertinent*

HEARING SCHEDULE

Northern Region

RECEIVED

APR 06 1995

Department of Water Resources

1910 NORTHWEST BOULEVARD, SECOND FLOOR CONFERENCE ROOM, COEUR D'ALENE, ID

THURSDAY, APRIL 20, 1995

9:30 A.M. - 98-07714 - PETERSON

2:00 P.M. - 98-07726 - ALBRIGHT &/OR OATS

FEDERAL BUILDING, SECOND FLOOR CONFERENCE ROOM, 220 E. FIFTH, MOSCOW, ID

FRIDAY, APRIL 21, 1995

8:30 A.M. - 85-07606 - CRAIGO

1:00 P.M. - 87-07174 - HICKLIN

MICROFILMED

APR 15 1999

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 98-07714)
IN THE NAME OF SCOTT A. AND/OR)
MARY PETERSON)

NOTICE OF HEARING

On April 14, 1993, Scott A. &/or Mary Peterson (applicant) filed with the Department of Water Resources (department), application for permit No. 98-07714. The application was protested by Violet Wyman and Jack Cramer through their attorney, Randall Day, on May 19, 1993. The conference held by the department on April 25, 1994 did not resolve the matter of protest.

The department has scheduled the matter for hearing on April 20, 1995, at 9:30 AM at 1910 Northwest Blvd., Coeur d'Alene, ID, in the second floor conference room. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45. A copy of the rules may be obtained from the department upon request. The presiding officer at the hearing will be L. Glen Saxton.

If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01606 requires that you provide a copy of exhibits to each part and to the presiding officer.

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

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 15th day of March, 1995.



Regional Supervisor

MICROFILMED
APR 15 1995

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

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3. Article Addressed to:

Mr & Mrs Scott Peters

APR 15 1995

HCR 01 Box 345

Naples ID 83847

4a. Article Number

48304

4b. Service Type

- | | |
|---|---|
| ☐ Registered | ☐ Insured |
| ☒ Certified | ☐ COD |
| ☐ Express Mail | ☐ Return Receipt for Merchandise |

7. Date of Delivery

3-17-95

He

5. Signature (Addressee)

RECEIVED

6. Signature (Agent)

MAR 20 1995

8. Addressee's Address (Only if requested and fee is paid)

UNITED STATES POSTAL SERVICE

Official Business

RECEIVED

MAR 20 1995

INVESTMENT DESIGN
IDWR



PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



Print your name, address and ZIP Code here

IDWR

1910 Northwest Blvd #210

Coeur d'Alene ID 83814

I hereby certify that on the 15th day of March, 1995, I mailed a true and correct copy of the foregoing Notice of Hearing in the Matter of Application for Permit No. 98-07714, postage prepaid, to the applicant(s) and protestant(s) listed below:



Dianne L. Ball, Senior Secretary

Certified Mail

Mr. Randall Day, Attorney
P. O. Box 18
Bonners Ferry, ID 83805

Mr. and Mrs. Scott A. Peterson
HCR 01 Box 398
Naples, ID 83847

Non-Certified Mail

Mr. Steve Smith
Cooke, Lamanna, Smith, Cogswell & Elliott
P. O. Box C
Sandpoint, ID 83864

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APR 15 1999

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

ISSUES

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

1. Will the proposed appropriation injure other water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use conflict with 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?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, and 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

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

MICROFILMED

APR 15 1999

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may 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.

HEARING

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

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

Parties 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 and judicial review of the order.

EXHIBITS

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

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within ten (120) days prior to the hearing.

MICROFILMED
APR 15 1999

COOKE LAMANNA SMITH COGSWELL & ELLIOTT

CHARTERED

ATTORNEYS AND COUNSELORS AT LAW

FIRST AND SUPERIOR

P. O. BOX C

SANDPOINT, IDAHO 83864

(208) 263-3115

FAX NUMBER (208) 263-8932

RECEIVED

MAR 23 1995

IDENTIFICATION
IDWR

THOMAS E. COOKE
NICK M. LAMANNA
STEPHEN F. SMITH
DAR COGSWELL
CINDY ELLIOTT

March 21, 1995

PRIEST RIVER OFFICE
PRIEST RIVER PROFESSIONAL CENTER
PRIEST RIVER, ID 83856
(208) 448-1921
FAX NUMBER (208) 448-1314

ESTHER L. COX
ADMINISTRATIVE ASSISTANT

Department of Water Resources
State of Idaho
ATTENTION: Robert G. Haynes, P.E.
Regional Supervisor
Suite 210, 1910 Northwest Boulevard
Coeur d'Alene, Idaho 83814-2615

Re: Scott A. or Mary T. Peterson/Application for Permit
No. 98-07714

Dear Mr. Haynes:

This letter is sent in an attempt to resolve, without a hearing, the objection to this Application received by the Department on May 19, 1993 from Randy Day, as filed on behalf of Violet Wyman and Jack Cramer. Based upon the documents which have been filed with the Department, and the on-site inspection by Department personnel, it appears that there is no basis to believe that the water source supplying Mr. and Mrs. Peterson's pond is Fall Creek. Since it was the main contention of the objecting parties that the water source was Fall Creek, and that the objecting parties had prior water rights to Fall Creek, it is submitted that the main aspect of the objection would properly be administratively overruled by the Department.

The other aspect of the objection which is material is that Mr. and Mrs. Peterson's pond lies in the line of the alleged historic route of the Cramer water appropriation. Mr. and Mrs. Peterson would propose to deal with that aspect as follows: In the event the objecting parties can prove to the Department that the Cramer water right is valid, and in the event the objecting parties can properly establish their right to an easement over the real property, and through the pond, of Mr. and Mrs. Peterson, then Mr. and Mrs. Peterson would be willing, at their own expense, to install and maintain appropriate measuring devices, to be able to document that any lawfully-appropriated water allowed to be used by the objecting parties will flow through the pond for use by the objecting parties.

MICROFILMED

APR 15 1999

Department of Water Resources
State of Idaho
ATTENTION: Robert G. Haynes, P.E.
Page Two
March 21, 1995

By sending to him a copy of this letter, I am advising Randy Day of this proposal, which will remain open for acceptance for ten (10) days after the date of this letter. In the event the proposal is accepted, it should be unnecessary for the hearing to be held on the objection. Alternatively, if the proposal is not accepted, Mr. and Mrs. Peterson would respectfully request that another pre-hearing conference be held in order to have the Department make a determination as to what issues would need to be heard at the hearing.

Thank you.

Very truly yours,

COOKE LAMANNA SMITH COGSWELL & ELLIOTT

Steve Smith

Steve Smith
Attorney at Law

SS:ps

p: Mr. and Mrs. Scott Peterson
Randall W. Day, Esq.

P:Haynes.

MICROFILMED
APR 15 1999

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 98-07714)
IN THE NAME OF SCOTT A. AND/OR)
MARY PETERSON)

NOTICE OF HEARING

On April 14, 1993, Scott A. &/or Mary Peterson (applicant) filed with the Department of Water Resources (department), application for permit No. 98-07714. The application was protested by Violet Wyman and Jack Cramer through their attorney, Randall Day, on May 19, 1993. The conference held by the department on April 25, 1994 did not resolve the matter of protest.

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If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01606 requires that you provide a copy of exhibits to each part and to the presiding officer.

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

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 15th day of March, 1995.



Regional Supervisor

MICROFILMED

APR 15 1999

I hereby certify that on the 15th day of March, 1995, I mailed a true and correct copy of the foregoing **Notice of Hearing in the Matter of Application for Permit No. 98-07714**, postage prepaid, to the applicant(s) and protestant(s) listed below:



Dianne L. Ball, Senior Secretary

Certified Mail

Mr. Randall Day, Attorney
P. O. Box 18
Bonners Ferry, ID 83805

Mr. and Mrs. Scott A. Peterson
HCR 01 Box 398
Naples, ID 83847

Non-Certified Mail

Mr. Steve Smith
Cooke, Lamanna, Smith, Cogswell & Elliott
P. O. Box C
Sandpoint, ID 83864

MICROFILMED
APR 15 1999

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

ISSUES

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

1. Will the proposed appropriation injure other water rights?
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3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use conflict with 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?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?

BURDEN OF PROOF

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PROCEDURE

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MICROFILMED

APR 15 1999

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may 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.

HEARING

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

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

Parties 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 and judicial review of the order.

EXHIBITS

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

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within ten (120) days prior to the hearing.

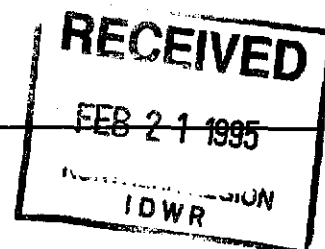
MICROFILMED

APR 15 1999



Randall W. Day
Counselor & Attorney at Law, P.A.

7169 Main Street
P.O. Box 918
Bonners Ferry, ID 83805-0918
(208) 267-3197



February 13, 1995

Robert G. Haynes, P.E.
Regional Manager
State of Idaho
Dept. of Water Resources
1910 Northeast Blvd.
Suite No. 310
Coeur D Alene, ID 83814-2615

RE: 98-07714
Wyman/Peterson

Dear Mr. Haynes:

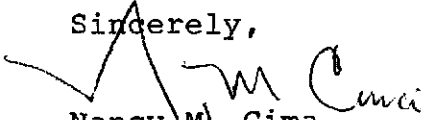
In accordance with our recent telephone conversation,
the following is an updated list of available dates for both
Randy and Steve:

March 10, 15, 16, 17, 22, 24, and 31st.
April 12, 13, 14, 19, 20, and 21st.

Thank you.

9:30

Sincerely,


Nancy M. Cima
Secretary

nmc
cc: Steve Smith
Mike Wolcott

MICROFILMED

APR 15 1999



Randall W. Day
Counselor & Attorney at Law, P.A.

7169 Main Street
P.O. Box 918
Bonners Ferry, ID 83805-0918
(208) 267-3197

RECEIVED

FEB 01 1995

**NORTHWEST REGION
IDWR**

January 30, 1995

Robert G. Haynes, P.E.
Regional Manager
State of Idaho
Dept. of Water Resources
1910 Northeset Blvd.
Suite No. 210
Coeur D Alene, ID 83814-2615

RE: 98-07714
Wyman-Peterson

Dear Bob:

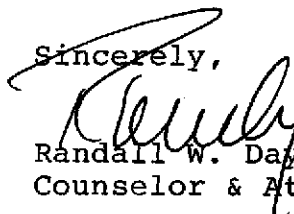
According to my secretary, Nancy, Steve Smith and I are presently both available to meet with you on the following dates:

February 16, 1995, after 11:00 o'clock a.m.
February 17, 1995, after 1:00 o'clock a.m.
February 22, 23, 24, and 28, 1995.
March 1, 2, 3, 8, 9, 10, 15, 16, 17, 22, 23, 24, 29, and 31st.

Please advise as to a time and date convenient to you.

Thank you.

Sincerely,


Randall W. Day
Counselor & Attny. at Law, P.A.

RWD:nc
cc: Stephen Smith

MICROFILMED

APR 15 1999

COOKE LAMANNA SMITH COGSWELL & ELLIOTT

CHARTERED

ATTORNEYS AND COUNSELORS AT LAW

FIRST AND SUPERIOR

P. O. BOX C

SANDPOINT, IDAHO 83864

(208) 263-3115

FAX NUMBER (208) 263-8932

RECEIVED

JAN 19 1995

NORTHWEST REGION
IDWR

THOMAS E. COOKE
NICK M. LAMANNA
STEPHEN F. SMITH
DAR COGSWELL
CINDY ELLIOTT
KEVIN SATTERLEE

January 17, 1995

PRIEST RIVER OFFICE
PRIEST RIVER PROFESSIONAL CENTER
PRIEST RIVER, ID 83856
(208) 448-1221
FAX NUMBER (208) 448-1314

ESTHER L. COX
ADMINISTRATIVE ASSISTANT

Department of Water Resources
State of Idaho
ATTENTION: Robert G. Haynes,
Regional Supervisor
Suite 210, 1910 Northwest Boulevard
Coeur d'Alene, Idaho 83814

Re: Scott and Mary Peterson/Violet Wyman and Jack Cramer
Application for Water Right No. 98-07714

Dear Bob:

This is a follow-up letter to a telephone call I received from Mary Peterson on January 17, 1995.

During that conversation, she inquired of me as to what was the status of the above-noted matter. I gave her my recollection, which was that an effort was being made to find a hearing date which would be available to all of the parties.

At your convenience, it would be appreciated if you would please review your file, and then contact me so that we can discuss what is necessary to bring this matter to a conclusion.

I will look forward to hearing from you soon.

Thank you.

Very truly yours,

COOKE LAMANNA SMITH COGSWELL & ELLIOTT

Steve Smith

Steve Smith
Attorney at Law

SS:ps

p: Mr. and Mrs. Scott Peterson

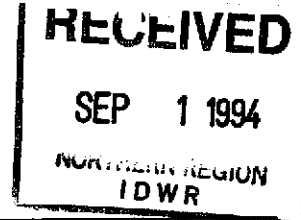
F:Haynes.

MICROFILMED

APR 15 1999



Randall W. Day
Counselor & Attorney at Law, P.A.



225 Main Street
P.O. Box 918
Bonners Ferry, ID 83805-0918
(208) 267-3197

August 30, 1994

Robert G. Haynes, P.E.
Regional Manager
State of Idaho
Dept. of Water Resources
1910 Northwest Blvd.
Suite No. 210
Coeur D Alene, Idaho 83814-2615

RE: 98-07714
Wyman -Peterson

Dear Bob:

Thank you for your correspondence of August 20, 1994,
and the file memorandum together with the photographs.

I have contacted Steve Smith and am awaiting his list
of available dates.

We will be in touch as soon as we have some common
times.

Thank you.

Sincerely,


Randall W. Day
Counselor & Attny. at Law, P.A.

RWD:nc
cc: Steve Smith

MICROFILMED

APR 15 1999

August 20, 1994

Mr Steve Smith
P O Box C
Sandpoint ID 83864

Re 98-07714

Dear Steve:

Enclosed are copies of pictures that I took at various places on August 9 on my inspection of the pipeline/ditch system for Claim to a Water Right 98-04001 (Wyman-Craemer). Also enclosed is a copy of a memo to the file. I have supplied the same information to Randy Day. Randy was supposed to contact you to determine some dates that would work for scheduling a hearing on the protest of Peterson' application for permit.

If you have any questions, please contact me.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

MICROFILMED

APR 15 1999

August 20, 1994

Mr Randy Day
P O Box 918
Bonners Ferry ID 83805

Re 98-07714

Dear Randy:

Enclosed are copies of pictures that I took at various places on August 9 on my inspection of the pipeline/ditch system for Claim to a Water Right 98-04001 (Wyman-Craemer). Also enclosed is a copy of a memo to the file. I have supplied the same information to Steve Smith. Have you had a chance to contact Steve to determine some dates that would work for scheduling a hearing on the protest of Peterson' application for permit?

If you have any questions, please contact me.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

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APR 15 1999



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450 Fax (208) 769-1454

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

MEMORANDUM

To: File 98-07714

From: Bob Haynes 

Date: August 19, 1994

Subject: Field visit

On August 9, 1994, I conducted a pre-hearing inspection relating the above referenced application for permit to appropriate water. I was accompanied by the applicant, Scott Peterson; Randy Day, attorney for the protestant; Milt Hittle, a representative of the protestant; Bonnie Bace, through whose property the protestants water system runs; and another representative of the protestant whose name I did not catch. The inspection consisted of walking the protestants water system because allegations have been made that the water use which is the subject of Claim to a Water Right 98-04001 has been lost by forfeiture because of more than five years of non-use. Pictures of the diversion ditch/pipeline, which is approximately 1 1/2 to 1 3/4 miles long, were taken at various places and attached to this memo. The results of this investigation are inconclusive as to the length of time non-use has occurred. It is apparent that it has been some time since water flowed in the ditch; however, I did not see any large growth in the bottom of the ditch that would indicate that it had been perhaps fifteen years since it had been used.

A dam Scott & Mary Peterson constructed is built across the an area that the ditch traverses on their property and is the subject of the above referenced application for permit. This dam presently contains water that apparently issues from springs that arise in the area. According to Scott Peterson the dam was built free years ago. The upper 1/2 mile or so of the pipeline/ditch has for some time consisted a pipeline. According to Bonnie Bace about three years ago in the spring she noticed that Fall Creek was muddy and investigated to determine the cause. She found that the pipeline had breached as it ran above Fall Creek. She indicated that there was water in the pipeline; however, I have no way of the knowing whether water was going all the way to the place of use specified in Claim 98-04001.

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APR 15 1999

PUBLIC HEARING

File: 98-7714 - Scott A. &/or Mary Peterson
Date: Monday, April 25, 1994, 1:00 PM
Place: Coop. Ext. Bldg., 315 Kootenai Ave., Bonners Ferry, Id.

ROSTER OF ATTENDANCE

NAME**ADDRESS**

Randall W Day	Box 918 Bonners Ferry ID 83805
Jim L. Bace Jr	HCR 01 Box 388 Naples ID. 83847
Bonnie Bace	" " "
Scott Peterson	HCR 01 Box 395 Naples ID. 83847
Mary Peterson	" " " "
Steve Smith	P.O. Box C, Sandpoint, Id. 83864

MICROFILMED

APR 15 1999

COOKE LAMANNA SMITH COGSWELL & ELLIOTT

CHARTERED

ATTORNEYS AND COUNSELORS AT LAW

FIRST AND SUPERIOR

P. O. BOX C

SANDPOINT, IDAHO 83864

(208) 263-3115

FAX NUMBER (208) 263-8932

RECEIVED

APR 12 1994

Northwest Region
IDWR

THOMAS E. COOKE
NICK M. LAMANNA
STEPHEN F. SMITH
DAR COGSWELL
CINDY ELLIOTT
KEVIN SATTERLEE

April 8, 1994

PRIEST RIVER OFFICE
PRIEST RIVER PROFESSIONAL CENTER
PRIEST RIVER, ID 83856
(208) 448-1221
FAX NUMBER (208) 448-1314

ESTHER L. COX
ADMINISTRATIVE ASSISTANT

Robert G. Haynes, P.E.
Regional Manager
State of Idaho
Department of Water Resources
1910 Northwest Boulevard
Suite 210
Coeur d'Alene, Idaho 83814-2615

Re: Scott and Mary Peterson/Violet Wyman and Jack Cramer
Application for Water Right, No. 98-07714

Dear Mr. Haynes:

Thank you for sending to me a copy of the Notice of Conference and/or Hearing in regard to the above-noted application.

Based upon our prior correspondence concerning this matter, it would be my understanding that the proceeding scheduled to commence at 1:00 o'clock P.M. on Monday, April 25, 1994 will constitute a pre-hearing conference unless the protestants do not appear and are not represented by their attorney. It would also be my understanding that it is therefore not necessary for Mr. and Mrs. Peterson to fully prepare this matter for hearing at this time, and they will not need to have their witnesses attend and be ready to testify. Instead, it would be my understanding that, if the protestants appear or are represented by their attorney, the parties and the Department will discuss the matter and either attempt to resolve it completely, or at least attempt to narrow the issues to be heard.

Please let me know if any of the above-stated understandings are incorrect or incomplete for any reason. In the event I do not hear from you to the contrary, Mr. and Mrs. Peterson and I will intend to appear together at the time of the pre-hearing conference.

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APR 15 1994

Robert G. Haynes, P.E.
Regional Manager
State of Idaho
Department of Water Resources
April 8, 1994
Page 2

Thank you.

Very truly yours,

COOKE LAMANNA SMITH COGSWELL & ELLIOTT

A handwritten signature in cursive script that reads "Steve Smith".

Steve Smith
Attorney at Law
SS:dr
p: Scott and Mary Peterson

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APR 15 1999



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450 Fax (208) 769-1454

CECIL D. ANDRUS

Governor

April 8, 1994

R. KEITH HIGGINSON

Director

Ms. Rachelle William
Cooperative Extension Office
315 Kootenai Ave.
Bonners Ferry, Id. 83805

Re: Conference Room Reservations.

Dear Ms. William:

This is to confirm reservations for hearings to be held by this Department in your Conference Room on April 25, 1994, beginning at 1:00 PM and lasting until approximately 4:00 PM.

If this does not agree with your records, please notify me immediately.

Sincerely,

PATRICIA M. STYPA
Senior Secretary

MICROFILMED

APR 15 1999

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

ISSUES

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

1. Will the proposed appropriation injure other water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use conflict with 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?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, and 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

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

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APR 15 1999

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may 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.

HEARING

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

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

Parties 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 and judicial review of the order.

EXHIBITS

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

AMERICANS WITH DISABILITIES ACT

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

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APR 15 1999

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 98-7714)
IN THE NAME OF SCOTT A. &/OR)
MARY PETERSON.)
_____)

NOTICE OF CONFERENCE
AND/OR HEARING

On April 14, 1993, Scott A. &/or Mary Peterson filed with the Department of Water Resources (department) application for permit no. 98-7714. The application was protested by Violet Wyman and Jack Cramer through their attorney, Randall Day, on May 19, 1993.

The department has scheduled the matter for conference &/or hearing on Monday, April 25, 1994, at 1:00 PM, in the Conference Room of the Cooperative Extension Building, 315 Kootenai Ave., (Courthouse Annex), Bonners Ferry, Id. 83805. The conference &/or hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45. A copy of the rules may be obtained from the department upon request. The presiding officer at the conference &/or hearing will be Gary Spackman.

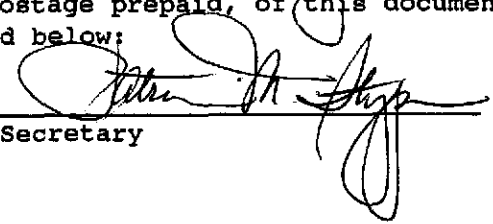
The conference &/or hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference &/or hearing, please advise the department within (10) days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

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 6th day of April, 1994.


Regional Supervisor

I hereby certify that on the 6th day of April, 1994, I mailed a true and correct copy, postage prepaid, of this document to the applicants(s) and protestant(s) listed below:


Secretary

Certified Mail

Mr. Randall Day
P.O. Box 918
Bonners Ferry, Id. 83805

Mr. and Mrs. Scott A. Peterson
HCR 01 Box 395
Naples, Id. 83847

Non-Certified Mail

Mr. Steve Smith
Cooke, Lamanna, Smith, Cogswell & Elliott
P.O. Box C
Sandpoint, Id. 83864

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APR 15 1999

Place: Coop. Ext. Office, 315 Kootenai Ave., Bonners Ferry, Id.

APR 15 1999

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

MICROFILMED
APR 15 1999



State of Idaho
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450 Fax (208) 769-1454

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

March 23, 1994

Mr. Randall Day
P.O. Box 918
Bonners Ferry, Id. 83805

Dear Mr. Day:

Re: 98-7714

Please be advised that the hearing that was scheduled for Tuesday, March 29, 1994, at 12:30 PM, in the Cooperative Extension Building, 315 Kootenai Ave., Bonners Ferry, Idaho, has been cancelled due to a conflict with the hearing officer.

The hearing will be rescheduled for the last week in April and a new notice with be forthcoming. We are sincerely sorry for any inconvenience and if you have any questions, please feel free to contact us.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RGH/pms

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APR 15 1999



State of Idaho
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615

(208) 769-1450 Fax (208) 769-1454

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

March 23, 1994

Mr. and Mrs. Scott A. Peterson
HCR 01 Box 395
Naples, Id. 83847

Dear Mr. and Mrs. Peterson:

Re: 98-7714

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Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RGH/pms

MICROFILMED

APR 15 1999



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450 Fax (208) 769-1454

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

March 23, 1994

Mr. Steve Smith
Cooke, Lamanna, Smith, Cogswell & Elliott
P.O. Box C
Sandpoint, Id. 83864

Dear Mr. Smith:

Re: 98-7714

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The hearing will be rescheduled for the last week in April and a new notice will be forthcoming. We are sincerely sorry for any inconvenience and if you have any questions, please feel free to contact us.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RGH/pms

MICROFILMED

APR 15 1994



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

MEMORANDUM

TO: Cecil D. Andrus, Governor

FROM: R. Keith Higginson *RKH*

DATE: November 30, 1993

RE: Letter from Jim Bace Regarding Work in Fall Creek, Boundary County

The Department of Water Resources investigated the allegations in Mr. Bace's letter involving the construction activity in Fall Creek. The department examined the water rights of the parties as well as the applicability of the Stream Protection Act to determine if any permits were needed to complete the construction work in Fall Creek. The department had begun an inquiry into this matter prior to Mr. Bace's letter because he and others previously had contacted the department's Northern Regional office. We have also been in contact with Mr. Bace since his letter to you. Department personnel have recently made two on-site inspections of the area.

As to the water right issue, Wyman's claim No. 98-4001 does indeed appear to be based upon an old Application for Permit (No. 98-2012) originally filed by John Dutton in 1910. The old Dutton application was originally approved and proof of beneficial use was due on December 21, 1926. Proof of beneficial use for permit No. 98-2012 was never filed and the permit lapsed.

The fact that the permit lapsed does not mean that there was not a water right created. The department received several inquiries about the status of the old Dutton permit and Mr. Leslie Wyman filed Claim to a Water Right No. 98-4001 on October 1, 1968, which appears to be based on information contained in the old lapsed Dutton permit No. (98-2012).

The statutory Claim to a Water Right process does not contemplate verification by the department of the validity or accuracy of filings. However, interviews with local residents indicate that uses described in Mr. Wyman's claim probably existed at one time and, therefore, a water right probably did exist.

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APR 15 1999

Mr. Bace and others allege that any water right that may have existed has been lost through forfeiture due to more than five years of non-use. The issue of the current validity of Claim No. 98-4001 is not presently before the department. However, it may become an issue if the present owner of claim No. 98-4001 changes the nature of use of the water as it has been reported that he plans to do. This will require prior approval by the department with notice to other parties, and an opportunity for a hearing. The existence of the water right is a threshold issue in ruling on a requested change.

The water system was modified in 1983 by the installation of a small concrete diversion dam with a headgate on the north side that diverted water into a steel pipe. This pipe ran above ground parallel to Fall Creek for approximately 300 feet. At that point the line crossed to the south side of Fall Creek and paralleled the stream for some distance. Our field inspection revealed that a portion of that water system has been replaced, and it is that work to which Mr. Bace refers.

The replacement work involved changing the location of the headgate, replacing and burying at least a portion of the pipeline. The work at the diversion dam to change the headgate is exempted from the requirement to obtain a stream channel alteration permit; however, any work on the pipeline below the diversion dam that is below the ordinary high water mark would require a permit. It appears that there may have been some minor amount of material deposited below the ordinary high water mark as the work burying the line adjacent to the stream was done. The evidence is circumstantial and the exact scope of any work that may have been done below the ordinary high water mark is not known because no eye witnesses have been located.

The project, as envisioned by those performing the work, involves a buried crossing of the pipeline on Fall Creek. The department has received conflicting information about whether the crossing has been completed. This is further complicated by the fact that the work that has been done is on property owned by Messrs. Frank and Bob Spalding, who have alleged that the work violates an easement agreement concerning the pipeline.

Mr. Milt Hittle, who is involved in the project, told department personnel that the crossing has not been constructed and will not be until next year. He was cautioned in that conversation that any work below the ordinary high water mark, except on the diversion dam, required a stream channel alteration permit. Because work below the ordinary high water mark may have occurred, a Cease and Desist Order to that effect has been sent to Mr. Hittle.

In an interview with the Spaldings, they indicated that Mr. Hittle told them that the work on their property was complete. If the crossing has been done, then a violation of the Stream Channel Protection Act has occurred. In an effort to determine what has been done, department personnel used a metal detector to try to locate the line. While the results were not conclusive, it appears that the pipeline crossing has not been constructed.

Department personnel are continuing their investigation and if illegal activity is uncovered, we will pursue available remedies. IDWR personnel are in contact with personnel from DEQ and IDL on this matter.

MICROFILMED
3 APR 15 1999

WILSON D. WALTER
Attorney at Law
P. O. Box 949
Bozeman, Montana 59717
Telephone 547-2117

EASEMENT AGREEMENT

THIS AGREEMENT entered into by and between ROBERT T. SPALDING and IONE SPALDING, Husband and Wife, and FRANKLIN SPALDING and ANNA MAY SPALDING, Husband and Wife, (hereinafter referred to as Spalding), and ^{JUSTICE J.} JUSTICE K. CRAEMER and JOHN F. CRAEMER, and VIOLET WYMAN, (hereinafter referred to as Craemer-Wyman);

For the considerations as hereinafter enumerated, Spalding has granted, bargained, and sold, and by these presents does grant, bargain, sell, convey and confirm unto Craemer-Wyman an easement to construct and maintain a water diversion dam on Fall Creek and also to construct and maintain a water pipeline from said dam along Fall Creek upon the following described property:

The South Half of the Northwest Quarter (SH NW4) of Section Nine (9), Township Sixty (60) North, Range One (1) West, B.M.

SUBJECT TO the following terms and conditions:

1. Craemer-Wyman agrees to pay to Spalding the sum of One Thousand Dollars (\$1,000.00) for the easement. That Craemer-Wyman agrees to put the property back in its original condition as much as is reasonably possible.
2. That Craemer-Wyman shall have a right of access to maintain the diversion dam and pipeline but that such access shall be restricted only to foot traffic, unless prior approval otherwise is given by Spalding IN WRITING;

MICROFILMED

APR 7 5 1993

general
outlet

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never
Spald

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ack

TO: STATE OFFICE

NOV-18-93 THU 10:41 ID:208 769 1454

TEL NO:208 769 1454

#067 P06

3. That Spalding may install in the dam a hydroelectric generating plant and that Craemer-Wyman will construct an outlet in the dam for such purposes;

4. That it is understood and agreed that this easement is appurtenant to a claim of a water right by Craemer-Wyman and it is expressly understood that this easement is not transferable separate from said water right;

5. That Craemer-Wyman agrees to hold Spalding harmless from any claims whatsoever arising out of the construction and maintenance of this system;

6. Neither the pipeline nor the diversion dam may be moved or relocated without the express written consent of Spalding.

DATED this 17 day of DECEMBER, 1982.

Robert P. Spalding

John T. Craemer

Samuel Spalding

Justin J. Craemer

Franklin L. Spalding

Walter E. Craemer

Luna May Spalding

0139563

STATE OF IDAHO)
County of Bonneville) ss

On this 17 day of DECEMBER, 1982, before me, the undersigned Notary Public, personally appeared ROBERT T. SPALDING and LUNA SPALDING, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

August H. Ward
Notary Public for Idaho
Residing at Bonneville Ferry, Idaho

MICROFILMED
-2-

APR 13 1983

STATE OF IDAHO)
) *Banner* :ss
 County of *Bannock*)

On this 17 day of DECEMBER, 1982, before me, the undersigned Notary Public, personally appeared FRANKLIN SPALDING and ANNA MAY SPALDING, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

Douglas C. Ward
 Notary Public for Idaho
 Residing at *Bannock County SANDPOINT*

STATE OF IDAHO)
) *Banner* :ss
 County of *Bannock*)

On this 24 day of DECEMBER, 1982, before me, the undersigned Notary Public, personally appeared JUSTIS E. CRAEMER, JOHN E. CRAEMER, and VIOLET WYMAN, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

Douglas C. Ward
 Notary Public for Idaho
 Residing at *Bannock County SANDPOINT, Idaho*

CLERK OF IDAHO) 0139659
 (County of Bannock)

Filed for record at the request of

Douglas C. Ward
 on the 3rd day of January, 1983 at SANDPOINT

Notary Public for Idaho
 My commission expires on 12/31/85

By CLERK OF IDAHO Deputy

For State of Idaho
 Made on 12/24/82 at SANDPOINT, Idaho

RECEIVED

NOV 15 1993

NORTHERN REGION
IDWR

171706

Copy

Easement Agreement between Robert T. Spalding and Ione Spalding, husband and wife, and Franklin L. Spalding and Anna May Spalding, husband and wife, and John J. Craemer and John F. Craemer, and Violet Wyman, is declared Null and Void on this date November 1, 1993, for the following reasons.

1. It is our belief no legal or valid water right exist or has existed since agreement was written and signed, 17 December 1982.
2. That on October 25, 1993 we discovered that original water pipeline had been removed, and that new water pipeline had been installed under ground. That water pipeline inlet had been reconstructed. Numerous trees had been cut and removed. Creek Bed and Creek Banks had been drastically altered. The foregoing changes required heavy equipment.
3. Subject to "following terms and conditions Paragraph 2 of the easement agreement" Craemer-Wyman are in violation of easement agreement because no prior approval was requested or given.

Dated this 1 day of NOV., 1993.

Robert T. Spalding
Ione M. Spalding
Franklin L. Spalding
Anna May Spalding

STATE OF IDAHO } ss
 County of Boundary }

Filed for record on the request of

on the 1st day of Nov 1993 at 2:34 P.M. and recorded in Book 92
 of Section page 97

NOTARY PUBLIC

C. Hutton

Deputy

STATE OF Idaho

County of Boundary }

On this 1st day of November, 1993, before me,
 Sue Huggins, a Notary Public in and for said State,
 personally appeared FRANKLIN L. and ANNA MAY
SPALDING known or identified to me to be the
 person(s) whose name(s) is/are subscribed to the foregoing instrument, and
 acknowledged to me that they executed the same.

Notary Public for: Idaho
 Residing at: Bonnere Ferry
 Commission Exp: 8/7/98

First American Title Company, Inc.

ACKNOWLEDGMENT—ORIGINAL



STATE OF Idaho

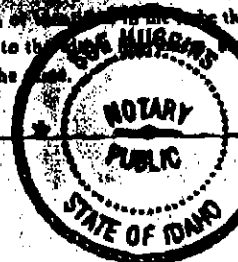
County of Boundary }

On this 1st day of November, 1993, before me,
 Sue Huggins, a Notary Public in and for said State,
 personally appeared ROBERT T. and IONE M.
SPALDING known or identified to me to be the
 person(s) whose name(s) is/are subscribed to the foregoing instrument, and
 acknowledged to me that they executed the same.

Notary Public for: Idaho
 Residing at: Bonnere Ferry
 Commission Exp: 8/7/98

First American Title Company, Inc.

ACKNOWLEDGMENT—ORIGINAL



MICROFILMED

APR 15 1994



State of Idaho DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450 ~~208 769 1451~~ Fax (208) 769-1454

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

November 17, 1993

CERTIFIED MAIL NO. 48238
RETURN RECEIPT REQUESTED

Mr. Milt Hittle
P.O. Box 258
Naples, Id. 83847

Dear Mr. Hittle:

We have inspected work consisting of laying a pipeline in Section 9, T60N, R1W which we understand you may have performed or be responsible for. We observed the following work done below the ordinary high water mark of Fall Creek:

1. Changing the intake structure behind the concrete diversion dam.
2. A ford that was used to gain access to the northerly side of the stream.
3. Rocks and other minor fill may have been placed below the ordinary high water mark on the stream banks.

A Permit to Alter a Stream Channel is required for any work below the ordinary high water mark of a continuously flowing stream, except for work on a water diversion structure or to get water to a diversion structure under a valid water right, work within a port district or work on a reservoir project.

The construction of the diversion works does not require a permit, if it is done under a valid water right. If the rocks and minor fill are below the ordinary high water mark, then this is a violation of the Stream Channel Protection Act (Section 42-3801, Idaho Code).

In order to prevent possible problems in the future you are ordered to cease all activity below the ordinary high water mark except construction work on the diversion structure until a permit is obtained from this department.

Sincerely,

KENNETH KNOBLOCK
Stream Channel Specialist

KK/pns

MICROFILMED

APR 15 1994

DRAFT

November 15, 1993

Mr Jim L Bace
HCR 01 Box 388
Naples ID 83847

Post-It™ brand fax transmittal memo 7671

of pages 1

To	Norm	From	Bob H-
Co.		Co.	
Dept.		Phone #	
Fax #		Fax #	

Re: Fall Creek

Dear Mr. Bace:

Thank you for the information about and the inquiry into the activities around and in Fall Creek in Boundary County. I understand that you have been in contact with personnel from both the Department of Water Resources State Office in Boise and the Northern Regional Office in Coeur d'Alene. It is also my understanding that IDWR had initiated an investigation that is still ongoing of the activities prior to your contacting my office. If this investigation uncovers any illegal actions you may rest assured that the State of Idaho will vigorously pursue remedies.

If you have any questions, please contact either my office or the Department of Water Resources.

Sincerely,

CECIL D. ANDRUS
Governor

MICROFILMED

APR 15 1994

CONSTITUENT AFFAIRS TRACKING MEMO
OFFICE OF THE GOVERNOR
Cecil D. Andrus

Norm

Number: 14646 Date: 11/01/93
Name: Bace, Jim L Class: SHE
Org: Type: Letter
Address: HCR 01, Box 388 Phone: (208) SSN:
Address: Phone: (208) Case:
Zip: 83847 City: Naples State: County: Boundary

Assigned To		Current Referral	
Andy Brunelle	Date: 11/01/93	Keith Higginson	Date: 11/01/93
Org.: Governor's Office		Org.: Water Resources	
Phone: (208) 334-2100	Due: 12/01/93	Phone: (208) 327-7910	Due: 11/15/93

Subject

wants someone to look into situation regarding the abuse of the Fall Creek watershed

Notes

11/02/93 4:53 PM Tracking memo: Report to Governor on Your Letter Head.
11/01/93 Referred to Water Resources, Keith Higginson

ACTION:
Please look into the attached matter and send a report directly to the Governor on your department's letterhead, bearing in mind that the Governor may send it on to the constituent with his own letter and return this form and all documentation to the Governor's office.

MICROFILMED

APR 15 1999

RECEIVED

NOV 01 1993

SHC
OFFICE OF GOVERNOR

Jim L. Bace
HCR 01 Box 388
Naples, ID 83847

10-26-1993

Governor
Cecil D. Andrus
Room 228, Statehouse
Boise, Id 83720

Dear Mr. Andrus,

The reason for this letter is to ask that you look into a situation where Violet Wyman and Jack Cramer or their contractors are flagrantly abusing the Fall Creek watershed by pushing fill dirt into the stream, blasting, falling and skidding trees and pipe across the stream, modifying the stream flow causing great ecological damage.

Currently there is a small dam that was constructed in 1983 which does not fall under the grandfather clause which was built without the proper permits and is being modified. There has been no impact statement filed nor has there been any approval from the Department of Environmental Quality, The Army Corp Engineers, Department of Lands or Department of Water Resources that would justify their actions.

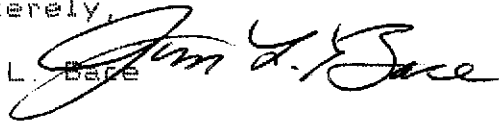
Being one of the landowners affected by the Wyman/Cramer Application for Water Right, No. 98-07714, we have joined with another landowner and are being represented by legal council as per the letter enclosed.

I would appreciate any assistance that you might offer on this situation and it's resolve.

Thank you for your time and consideration in this matter.

Sincerely,

Jim L. Bace



MICROFILMED

APR 15 1999

COOKE LAMANNA SMITH COGSWELL & ELLIOTT

CHARTERED

ATTORNEYS AND COUNSELORS AT LAW

FIRST AND SUPERIOR

P. O. BOX C

SANDPOINT, IDAHO 83864

(208) 263-3115

FAX NUMBER (208) 263-8932

RECEIVED

MAR 15 1994

NORTHERN REGION
IDWR

THOMAS E. COOKE
NICK M. LAMANNA
STEPHEN F. SMITH
DAR COGSWELL
CINDY ELLIOTT
KEVIN SATTERLEE

July 27, 1993

PRIEST RIVER OFFICE
PRIEST RIVER PROFESSIONAL CENTER
PRIEST RIVER, ID 83856
(208) 448-1251
FAX NUMBER (208) 448-1314

ESTHER L. COX
ADMINISTRATIVE ASSISTANT

Department of Water Resources
State of Idaho
ATTENTION: Robert G. Haynes,
Regional Supervisor
Suite 210, 1910 Northwest Boulevard
Coeur d'Alene, Idaho 83814

Re: Scott and Mary Peterson/Violet Wyman and Jack Cramer
Application for Water Right No. 98-07714

Dear Bob:

This is a follow-up letter to the Notice of Conference and/or hearing dated March 10, 1994.

After we last talked by telephone, I telephoned Randy Day's office and was advised that it might be some time before he would be able to get back to me because of a heavy schedule of duties as prosecuting attorney. When I had not heard back from him by March 10, 1994, I dictated a letter on that date to request that he contact me in regard to available dates for a prehearing conference concerning this matter. I received your Department's Notice on the following day, March 11, 1994.

It would be appreciated if you would please let me know whether the meeting on March 29, 1994 is intended as a prehearing conference or a hearing. As we have previously discussed, it would be probably more profitable for the parties to have a prehearing conference on that date in an effort to either resolve or at least narrow the issues. I will therefore look forward to hearing from you soon as to whether this meeting time would be for a prehearing conference.

Secondly, if the intention of the Department is to have a hearing rather than a prehearing conference, it would be appreciated if you would please send me a copy of the Rules of Procedure of the Department, and Water Appropriation Rules 40 and 45. Alternatively, if this meeting time is to be a prehearing conference, I can let you know at a later date in the event a copy of the Rules would be requested.

APR 15 1994

Department of Water Resources
State of Idaho
ATTENTION: Robert G. Haynes,
Regional Supervisor
Page Two
March 14, 1994

Finally, in the portion of the Notice denominated "CONFERENCE AND HEARING PROCEDURE," there are four issues which are presented. However, under the section denominated "BURDEN OF PROOF," the Procedure states that the applicant has the initial burden of proof for issue 6, and that the initial burden of proof on issue 5 lies both with the applicant and protestant as to factors of which they are most knowledgeable and cognizant. It would be appreciated if you would please let me know what are the issues 5 and 6.

I will look forward to hearing from you soon.

Thank you.

Very truly yours,

COOKE LAMANNA SMITH COGSWELL & ELLIOTT



Steve Smith
Attorney at Law
SS:ps
p: Mr. and Mrs. Scott Peterson

MICROFILMED

APR 15 1999

COOKE, LAMANNA, SMITH, COGSWELL & ELLIOTT

CHARTERED

ATTORNEYS AND COUNSELORS AT LAW

FIRST AND SUPERIOR

P. O. BOX C

SANDPOINT, IDAHO 83864

(208) 263-3115

FAX NUMBER (208) 263-8032

THOMAS E. COOKE
NICK M. LAMANNA
STEPHEN F. SMITH
DAR COGSWELL
CINDY ELLIOTT

July 30, 1992

PRIEST RIVER OFFICE
PRIEST RIVER PROFESSIONAL CENTER
PRIEST RIVER, ID 83856
(208) 448-1221
FAX NUMBER (208) 448-1314

ESTHER L. COX
ADMINISTRATIVE ASSISTANT

Scott A. and Mary T. Peterson
Route 4, Box 48
Bonners Ferry, Idaho 83805

Re: Scott and Mary Peterson/Violet Wyman and Jack Cramer
Application for Water Right, No. 98-07714

Dear Mr. and Mrs. Peterson:

Enclosed please find photocopies of the copies of documents which I received in this office on July 28, 1993 in regard to the Dutton Water Right issue. Unfortunately, a few of those pages were so dark that I could not read them, and I am sure that the photocopies of them will be even more impossible to read. If necessary, we can make special arrangements for getting the information off those pages from the records at the Idaho Department of Water Resources.

Perhaps the most interesting document is the last one, which is an Order of Cancellation of the Dutton/Kootenai Company Water Permit. When I spoke by telephone with Bob Haynes at the Department, he told me that it appeared that Mr. Wyman had attempted to connect with the Dutton/Kootenai Company Water Permit when Mr. Wyman filed his Claim to a Water Right, and that the Claim may have been filed in response to the Department's notification of intending to cancel the Dutton/Kootenai Company water right.

It would be interesting to check with the Department to determine whether there was any official action taken on Mr. Wyman's Claim. It is very clear that Mrs. Wyman could not now be relying on the Dutton/Kootenai Company Water Permit, because of its cancellation many years ago.

Please contact me after you have had an opportunity to review the enclosed information so that we can discuss alternatives and develop a strategy for proceeding from this point. I would also appreciate any information you have as to whether it appears that there is any alternate route for the water diversion to take.

Scott A. and Mary T. Peterson
Page Two
July 30, 1992

I will look forward to talking with you soon.

Thank you.

Very truly yours,

COOKE LAMANNA SMITH COGSWELL & ELLIOTT

A handwritten signature in cursive script that reads "Steve Smith". The signature is written in dark ink and is positioned above the typed name and title.

Steve Smith
Attorney at Law
SS:ps
enclosures

MICROFILMED

APR 15 1999

October 17, 1991

Mr. Jim L. Bace
P O Box 3112
Bonners Ferry, Id. 83805

Re: 98-04001 Exception

Dear Mr. Bace:

I have received your correspondence of October 9, 1991 and will place your letter in the above referenced file. For your letter to be considered as an exception you must follow the steps I outlined on the telephone.

An exception must be filed in accordance with Idaho State Code 42-244. Which states in part "... At any time after the filing of a claim under the previous section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems as appropriate. An exception filed shall be made a part of the file of the claim in the department of water resources and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the department of water resources. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original, which shall be recorded and numbered by the department the same as the original, and for which no additional filing fees shall be required."

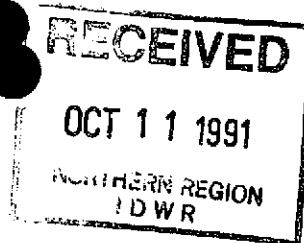
If you have any questions or if I can be of any assistance please feel free to contact me at this office.

Sincerely,

Tom D. King
Sr. Water Resource Agent

MICROFILMED

APR 15 1999



Jim L. Bace

P.O. Box 3112
Bonners Ferry, ID 83805
(208) 267-5660

October 9, 1991

Mr. Tom King
Department of Water Resources
1910 Northwest Blvd., Suite 210
Coeur D'Alene, ID 83814-2615

RE: Protest of Claim To A Water Right #98-4001 (SE 1/4, NE 1/4, Sec 9, T60N, R1W)

Dear Mr. King:

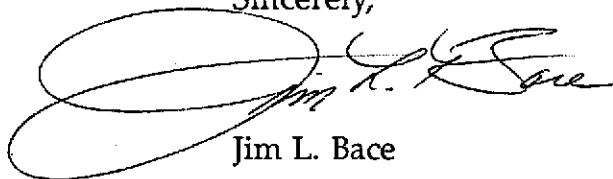
I would like to protest the above water claim to a water right on the following grounds:

1. Wyman did not have complete ownership of lands crossed as stated in claim.
2. There is total inconsistency in water usage as per same document dated 1968.
3. Waters have not been used for purpose described nor have volumes been used.
4. There is nothing of record to prove the claim.
5. There are many people that would be affected should waters be removed from this stream and not returned to Fall Creek.
6. It could have a severe ecological impact on the Fall Creek stream if such a permit were allowed or approved.

I would appreciate this letter being filed as a protest and hopefully voiding the above claim due to false statements as well as waters, volumes or any part used for the purpose described in said claim.

I would appreciate your review of this matter and would like to be advised of your conclusions, since I am a land owner on the lands being affected.

Sincerely,



Jim L. Bace

MICROFILMED

APR 15 1999

September 30, 1981

RE: Claim to a Water Right No. 98-4001

Doug Ward
P.O. Box 585
Sandpoint, ID 83864

Dear Mr. Ward;

As per your request, enclosed is a copy of the above referenced claim to a water right. Please feel free to contact our office if we can be of further assistance.

Sincerely,

KAY WALKER
Sr. Clerk

KW:kw
Enclosure

MICROFILMED

APR 15 1999

RECEIVED

NOV 5 1968

Department of Reclamation

NOTICE OF CLAIM TO A
WATER RIGHT
No. 98-4001

Notice is hereby given that Leslie R. Wymann, Naples, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 24 cubic feet per second of water from Fall Creek, tributary of Deep Creek with point of diversion in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, sec. 8, T. 60 N, R. 1 W, B.M., Boundary County; the water is claimed to be used from June 1 to November 15 for domestic use and irrigation and from January 1 to December 31 for stock water with a priority of May 13, 1910; the place of use is located in the W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, sec. 15, E $\frac{1}{2}$ SE $\frac{1}{4}$, sec. 16, T. 60 N, R. 1 W, B.M.

Any exception to this claim of water right may be filed with the Department of Reclamation.

R. KEITH HIGGINSON

State Reclamation Engineer

Published in the Bonners Ferry Herald, Bonners Ferry, Idaho on November 7 and November 14, 1968.

Re: Claim
Leslie

Bonnors Fer
Bonnors Fer
Idaho 83801

Gentlemen:

Enclos
a week for t
the publicat
review befo

published once
e have inserted
galley proof for

After sending us a galley proof, proceed with the publication on the dates we have inserted assuming the notice is correct. If we have any corrections, we will notify you before the first publication date. If you can not publish the notice on the proposed dates please contact us immediately.

An affidavit of publication must be submitted to the Department of Reclamation, along with the publication bill. In order to receive payment, the following certification must appear on the bill:

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of same has been paid.

Signature of claimant

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:ks
enclosure: legal notice (1)

MICROFILMED

APR 15 1999

98-4001

November 20, 1968

Re: Claim No. 98-4001

Mr. Leslie R. Wyman
Naples,
Idaho 83847

Dear Mr. Wyman:

Please be advised that we have received and processed your claim to a water right. The information in your claim has been filed under Claim No. 98-4001. Please refer to this number when you add or change the information in your claim.

Enclosed you will find Receipt No. 2147 in the amount of \$10.00 to cover the filing fee for the claim. Please contact us if we may be of further assistance.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:KS
enclosure: receipt

MICROFILMED

APR 15 1999

98-4001

NOTICE OF CLAIM TO A WATER RIGHT

No. 98-4001

Notice is hereby given that Leslie R. Wyman, ~~Nipile~~ Naples, Idaho
_____ has filed a claim to a water right
established by diversion and application to beneficial use of 34
cubic feet per second ~~per second~~ of water from Wall Creek, tributary of Deep
Creek _____ with point of diversion in the SE 1/4, sec. 9,
T. 60 N, R. 1 W, B.M., Boundary County _____; the water is
claimed to be used from June 1 to November 15 for domestic use and irrigation and from
January 1 to December 31 for stock water with a priority of May 13, 1910
_____; the place of use is located in the NW 1/4,
SE 1/4 SW 1/4,
SW 1/4, sec. 15; E 1/4 SE 1/4, sec. 16, T. 60 N, R. 1 W, B.M.

Any exception to this claim of water right may be filed with the Department
of Reclamation.

R. KEITH HIGGINSON
State Reclamation Engineer

Published in the Bonnere Ferry Herald, Bonnere Ferry, Idaho
on November 7 and November 14, 1968

MICROFILMED

APR 15 1999

98-4001

**NOTICE OF CLAIM TO A
WATER RIGHT
No. 98-4001**

Notice is hereby given that Leslie R. Wyman, Naples, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 24 cubic feet per second of water from Fall Creek, tributary of Deep Creek with point of diversion in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, sec. 9,

T. 60 N, R. 1 W, B.M., Boundary County; the water is claimed to be used from June 1 to November 15 for domestic use and irrigation and from January 1 to December 31 for stock water with a priority of May 13, 1910; the place of use is located in the W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, sec. 15; E $\frac{1}{2}$ SE $\frac{1}{4}$, sec. 16, T. 60 N, R. 1 W, B.M.

Any exception to this claim of water right may be filed with the Department of Reclamation.

R. KEITH HIGGINSON
State Reclamation Engineer
Published in the Bonners Ferry Herald, Bonners Ferry, Idaho on November 7 and November 14, 1968.

**NOTICE OF CLAIM TO A
WATER RIGHT
No. 98-4001**

Notice is hereby given that Leslie R. Wyman, Naples, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 24 cubic feet per second of water from Fall Creek, tributary of Deep Creek with point of diversion in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, sec. 9,

**RECEIVED
AFFIDAVIT OF PUBLICATION**

STATE OF IDAHO }
County of Boundary } ss.

NOV 20 1968

W. A. Chubb

being first duly sworn up his oath, deposes and says that he is the publisher (or foreman) of the Bonners Ferry Herald, a newspaper of general circulation, published weekly at Bonners Ferry, Boundary County, State of Idaho; that the said Bonners Ferry Herald has been continuously and uninterruptedly published in said Boundary County during a period of 18 months or 78 weeks prior to the first publication of the hereto attached notice; that the advertisement of

State of Idaho Dept. of Reclamation

a Notice of claim to Water Right No. 98-4001-L. R. Wyman

Notice for Publication, a printed copy of which is attached hereto was published in said newspaper and not in a supplement thereof for 2 consecutive issues, commencing with the issue dated Nov. 7, 1968, and ending with the issue dated Nov. 14, 1968.

Subscribed and sworn to before me this 15 day of Nov., 1968.

Notary Public in and for the County of Boundary, State of Idaho, residing at Bonners Ferry, Idaho.

NOTARY PUBLIC for the State of Idaho
Residing at Bonners Ferry, Idaho
My commission expires Jan. 11, 1970

98-4001

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO }
County of Boundary } ss.

W. A. Chubb

being first duly sworn up his oath, deposes and says that he is the publisher (or foreman) of the Bonners Ferry Herald, a newspaper of general circulation, published weekly at Bonners Ferry, Boundary County, State of Idaho; that the said Bonners Ferry Herald has been continuously and uninterruptedly published in said Boundary County during a period of 18 months or 78 weeks prior to the first publication of the hereto attached notice; that the advertisement of

State of Idaho Dept. of Reclamation

STATEMENT

BONNERS FERRY HERALD

Complete Newspaper Coverage of Boundary County

P. O. Box 539

BONNERS FERRY, IDAHO — 83805

Department of Reclamation
State house-Annex 2
Boise, Idaho 83707

MICROFILMED
APR 15 1968

1968

Nov. 14 Notice of Application for
water-No. 98-4001-L.R. Wyman \$ 6.96

"I hereby certify that the foregoing
account is just and correct, that the
amount claimed is legally due, after
allowing all just credits, and that
no part of same has been paid."

SIGNED

BY

Bonnors Ferry Herald
N. G. Chubb, Publisher

98-4001

Interest at the rate of 14 1/2% per month will be charged on accounts 30 days past due.

To _____

Date _____ Time _____

A.M.
P.M.

WHILE YOU WERE OUT

of _____

Phone _____

AREA CODE

NUMBER

EXTENSION

Telephoned		Please call	
Called to see you		Will call again	
Wants to see you		Returned your call	

Message

Copy of Pullon filing

Bonnie Bace

HCR 01 Box 388

Naples ID 83847

MICROFILMED

Signed *SEP 13 1993*

Identification No. 98-4001R

Claim No. _____

Map No. _____

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
CLAIM TO A WATER RIGHT

Established by Diversion and Application to Beneficial Use

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. **The filing of this claim does not confirm the water right but will serve for information purposes only.** It may, however, become the basis for future adjudication of the water right by the Court.

(Please refer to the instructions on the back of this form)

1. Name of claimant Leslie R. Wyman
post office address Naples, Idaho

2. The point of diversion is in SE $\frac{1}{4}$ of NE $\frac{1}{4}$ Section 9 Township 60 N.
Range 1 W B.M. located on Fall Creek
(name of source)
tributary to Deep Creek in Boundary County.

3. Dates of priority claimed: list the priority for each separate quantity that you claim. Priority dates should be based upon the earliest diversion of the water which has resulted in continued beneficial use since that time. If there has been an interval of five years or greater when the water was not beneficially used for the same purpose as originally appropriated, the priority that you claim should date from the time that the water was again beneficially applied following the period of non-use.

a. Date of priority claimed:

May 13, 1910 amount 24 c.f.s. or _____ acre feet
amount: _____ c.f.s. or _____ acre feet
amount: _____ c.f.s. or _____ acre feet
Total claimed _____ c.f.s. or _____ acre feet.

b. Explain the purpose for which the water has been used and the time during the year when you have used the right claimed: irrigation

use domestic & period of use from June 1 to Nov. 15 (both dates inclusive)
use stock water period of use from Jan. 1 to Dec. 31 (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive).

4. Description of diverting works:

a. Surface water diversion dam and/or headgate: material is composed of Steel
headgate 14' diameter; length is _____ feet; height is _____ feet;
width at bottom is _____ feet; with at top is _____ feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known _____
No dam, original dam washed out.

b. Underground water diverting works: is well flowing or pumped MICROFILMED; depth of well is _____ feet; diameter of well is _____ inches; type of pump is APR 15 1999
capacity of pump is _____ g.p.m.; name and address of well driller is _____

98-4001

attach well logs if available; has there been any change in pump or motor since well was first completed _____; if so, give dates and explain _____

- c. Conveying works: length of ditch to place of use is 3960 feet; width of ditch at top is 6 feet; width of bottom of ditch is 3 feet; depth of water is _____ feet; grade of ditch per 1000 feet is 12' feet; material through which ditch passes is clay; maximum length of pipe line to first place of use is 550 feet; diameter of pipe line is 1 1/2" inches; reduced to 650' of 10" pipe; type of pipe iron; grade of pipe per 1000 feet is 12 feet.

Please explain any changes or increase in size of conveying system since water was first appropriated, giving date and dimensions if possible originally flume 3' x 2'

- d. If water is stored: name of reservoir no name; total capacity of reservoir is 20 acre feet; active capacity of reservoir is 20 acre feet; year construction commenced 1950; year completed 1950; date first used 1950; period of storage is from Jan. 1 to Dec. 31; is reservoir drained each year no; is reservoir on or off stream off explain the flow from this reservoir returns to Dodge Creek which is a tributary of Deep Creek.

if feeder canal is used give maximum carrying capacity _____ c.f.s.; if reservoir is off stream, describe location of reservoir by 40-acre subdivisions SENE Sec. 21, T. 60 R. 1 W.B.M.

has there been any enlargement of the reservoir since it was first built no, if so, give dates and describe _____

5. a. Where water is used for irrigation, describe area irrigated by 40-acre subdivisions and give total acres:

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
<u>60N</u>	<u>1W</u>	<u>15</u>		<u>10</u>	<u>30</u>								<u>10</u>						
<u>"</u>	<u>"</u>	<u>16</u>													<u>10</u>			<u>5</u>	

Total number of acres to be irrigated 65

Explain any significant increase in area irrigated since first use, give dates and acreages if known _____

b. Do you get water through a ditch owned by several users? _____ If yes, give the name of the ditch
complete ownership _____ The other users and their respective
interests in the ditch are (if known) _____

6. Where water is used for stock watering, give number of each kind of stock watered _____
165 head

7. Where water is used for domestic or municipal purposes give number of families served _____
name of town supplied _____ two families

8. Where water is used for other purposes not above enumerated, give the nature of use, the extent of use,
and any details regarding the initiation of the right or subsequent later expansion. Be as specific as possible,
giving dates and quantities Fishing, swimming and recreation in stock
water pond described above.

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation
An application for water permit was made by the Kootenai Orchards Company
on May 13, 1910 for 24 c.f.s. The Kootenai Orchards Co. at that time owned
all of the tracts of land shown on the attached map. The land was divided
into mostly 10 acre tracts and the plat was recorded in Boundary Co. as
Kootenai Orchards, in Book 1 of Plats at p. 65. Certain extensions were
granted by the St. of Idaho and the Koot. Orchard Co. made Proof of Com-
pletion of Work in 1922. The original diversion system consisted of a
diversion dam at the present location on Fall Creek with several miles
of ditch and flume. I bought a portion of this land in 1925 and have
gradually increased my holdings until at the present time I own the entire
Koot. Orch. tract, together with other adjoining land. When I moved onto
this land I tried irrigation and used the old flume and ditch which was
in very poor condition. I used the water for stock water and irrigated
about 15 acres. In 1930 about 335 acres of this land was owned by the
Fed. Land Bank; 100 acres was owned by Z.A. MacArthur; 60 acres owned by
the State Land Dept., which I had under lease at that time. We got to-
gether and built a new flume, 30" wide and 24" deep. The water was divided
1/3 for Sects. 16 and 21 and 2/3 on the E. side of the County Road in
Secs. 15 and 22. The water was used to fill ponds on the place for stock
water, irrigation and for flood irrigation of about 65 acres. In 1950 the
flume from the diversion was again replaced with about 550' of 12' pipe
reduced to 600' of 10" pipe. The pipe was extended about 100' up the
BE IT KNOWN that the undersigned hereby makes claim to a water right as described above together with

all attached information and certifies that all statements are true and accurate to the best of his knowledge.

Oct. 1-1968
(Date)

Leslie A. M. [Signature]
(Signature of Claimant)

State of Idaho }
County of Boundary } ss.

On this 1 day of October 19 68, personally appeared before me the signer(s) of the
above instrument, who duly acknowledged to me that he (she) (they) executed the same.

[Signature]
Notary Public residing at Bonners Ferry, Idaho

My commission expires 6/1/72

MICROFILMED

For Department Use Only

APR 15 1999

Received by <u>dy</u> Date <u>10-2-68</u>	Exception filed by: _____	Forwarded to _____	Date _____
		claimant by: _____	
Prelim. check by <u>SA</u> Date <u>10-2-68</u>	_____	_____	_____
Fee received by <u>dy</u> Date <u>10-2-68</u> Fee \$ <u>10.00</u>	_____	_____	_____
Approved for publication by <u>10-10-68</u>	_____	_____	_____
Published in _____ Dates <u>11-2-68</u>	_____	_____	_____

92,400.1

b. Do you get water through a ditch owned by several users? _____ If yes, give the name of the ditch
complete ownership
_____ The other users and their respective
interests in the ditch are (if known) _____

6. Where water is used for stock watering, give number of each kind of stock watered _____
165 head

7. Where water is used for domestic or municipal purposes give number of families served _____
name of town supplied two families

8. Where water is used for other purposes not above enumerated, give the nature of use, the extent of use,
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giving dates and quantities Fishing, swimming and recreation in stock
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An application for water permit was made by the Kootenai Orchards Company
on May 13, 1910 for 24 c.f.s. The Kootenai Orchards Co. at that time owned
all of the tracts of land shown on the attached map. The land was divided
into mostly 10 acre tracts and the plat was recorded in Boundary Co. as

No. 9 - Remarks (continued)

creek to obtain about 6' additional fall. The old ditch and pipe
line on the ranch have been in continuous use since that time. I
also built a stock pond in 1950 covering an area of approximately
5 acres and have used it continuously since that time. I have
developed this ranch mainly as a hay and cattle ranch and have
been running up to 165 head of cattle. It is my intention to make
proof on the water that I have been using, consisting of approxi-
mately 2 second feet, and then make application for approximately
4 additional feet to irrigate. Most of the plated area with
sprinkler irrigation since the land is such that it is not practi-
cal to irrigate by flooding.

I hereby make claim to a water right as described above together with
all attached information and certifies that all statements are true and accurate to the best of his knowledge.

Oct. 1-1968
(Date)

Leslie A. W. [Signature]
(Signature of Claimant)

State of Idaho

County of Boundary } ss.

On this 1 day of October 19 68, personally appeared before me the signer(s) of the
above instrument, who duly acknowledged to me that he (she) (they) executed the same.

[Signature]
Notary Public residing at Bonnors Ferry, Idaho

My commission expires 6/1/72

MICROFILMED

APR 15 1999

For Department Use Only

Received by dy Date 10-2-68

Exception filed by: _____

Forwarded to
claimant by: _____

Date _____

Prelim. check by SA Date 10-2-68

Fee received by dy Date 10-2-68 Fee \$ 10.00

Approved for publication by KS 10-21-68

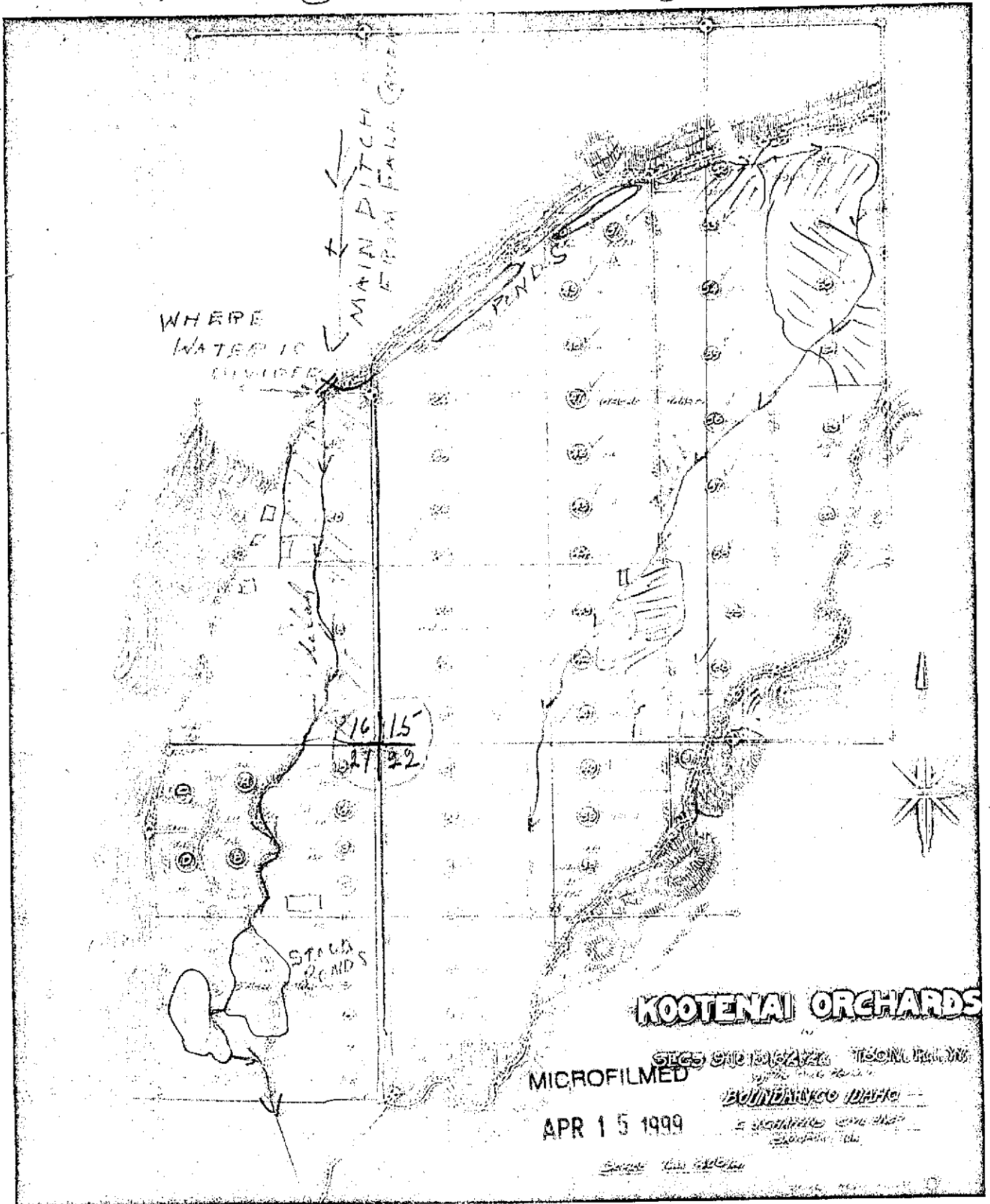
Published in Bonnors Ferry Dates 11-2/1968

C. D. 4001

RECEIVED

OCT 2 1968

Department of Reclamation



Trig. 1/8nd

Ditch

Pends

98-4001

OUR SOIL & OUR STRENGTH



CONSERVATION PLAN MAP

Prepared by UNITED STATES DEPARTMENT of AGRICULTURE * SOIL CONSERVATION SERVICE
cooperating with

OWNER

L. P. Wyman

FARM NO.

DATE

OPERATOR

NAPLES

SCALE

ACRES

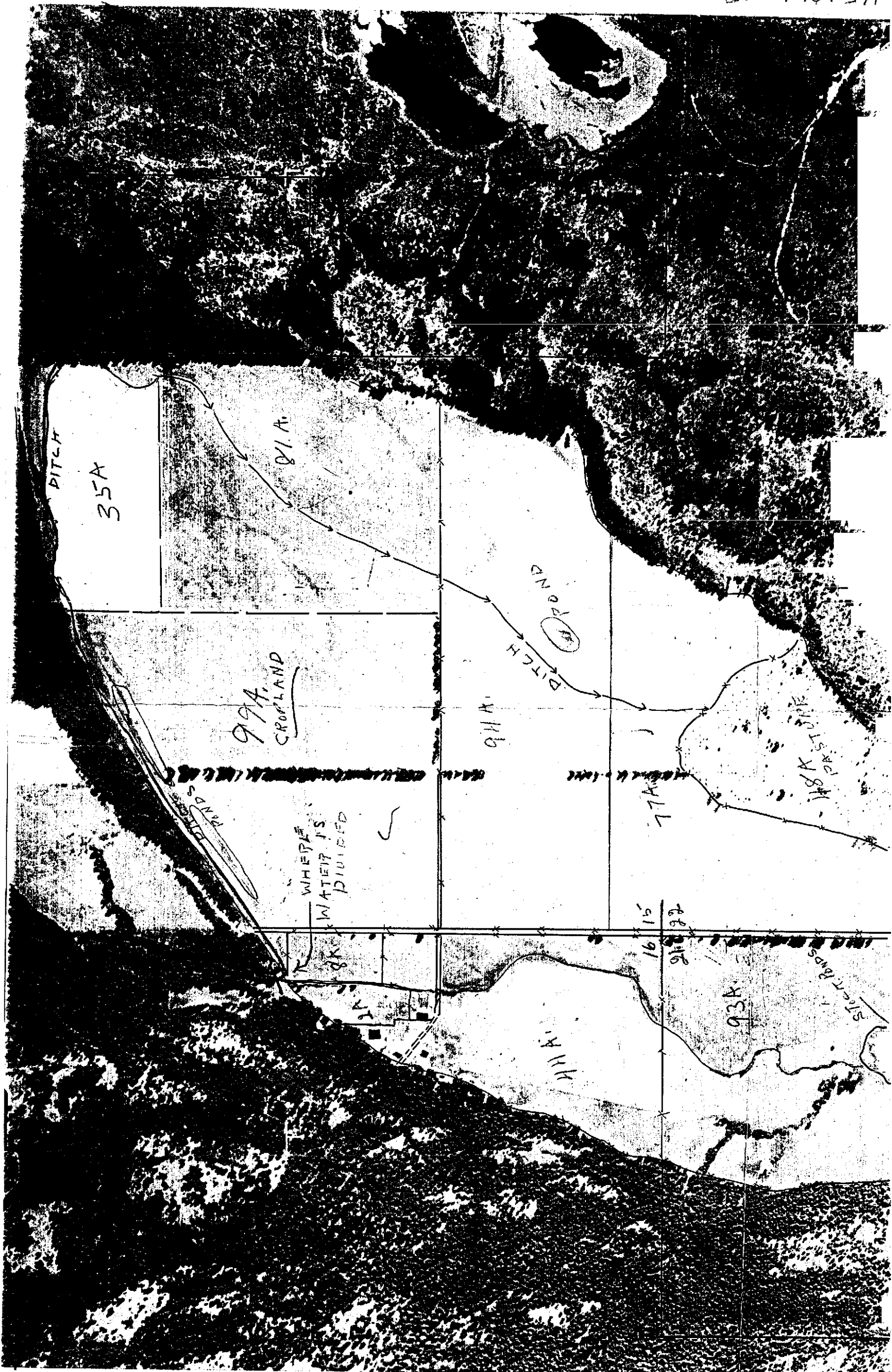
BLANDARY

FLA.

PHOTO NO.

APPROXIMATE

North
S. 15. 14. 21.

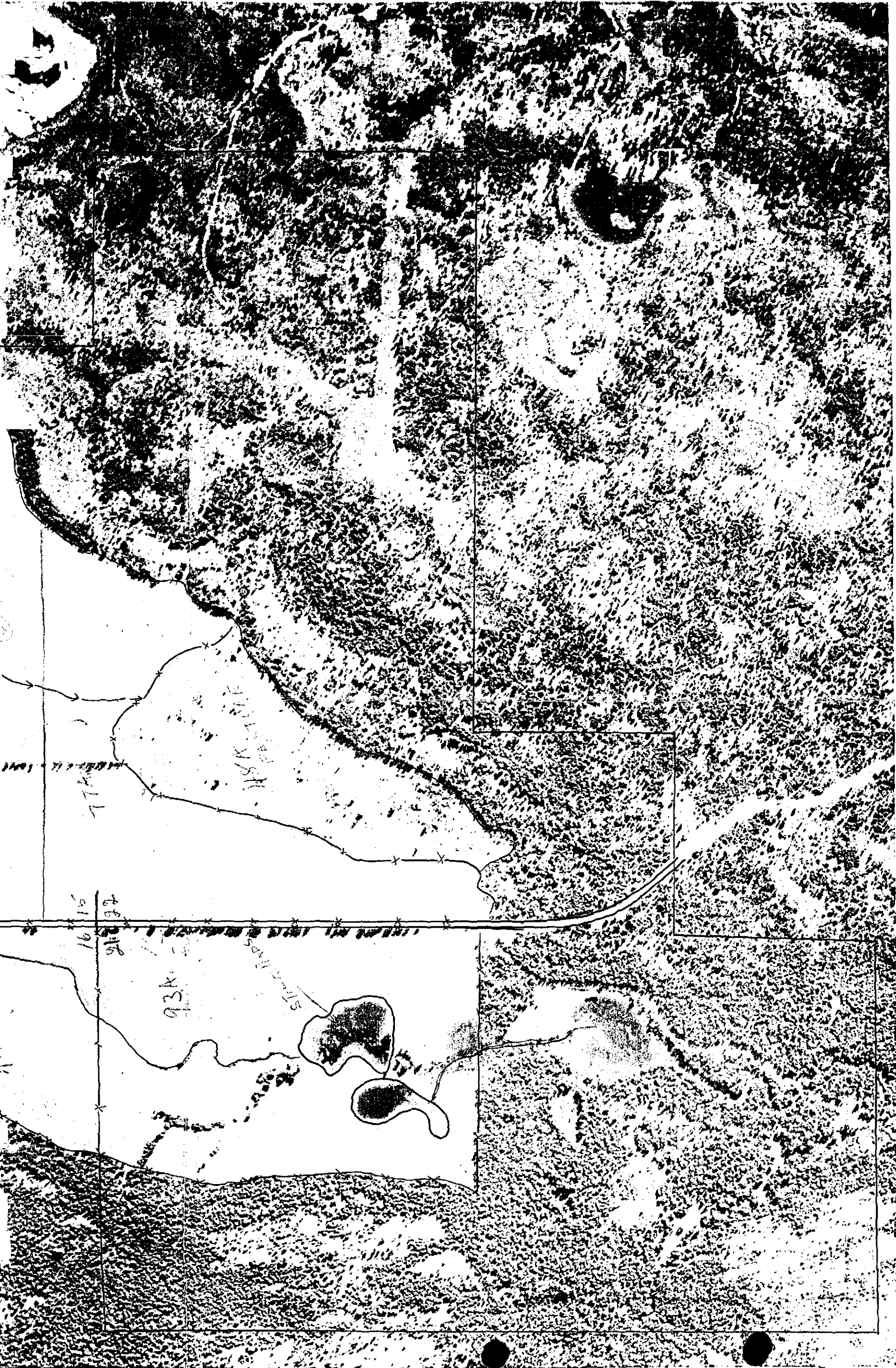


98-4001

CONSERVATION SERVICE

DATE
ACRES
APPROXIMATE

← North
S. 15, 16, 21, 22 T60. R14. 24N.





State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450 Fax (208) 769-1454

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

March 16, 1994

Mr. Randall Day
P.O. Box 918
Bonners Ferry, Id. 83805

Dear Mr. Day:

Re: 98-7714

Enclosed is a new Conference and Hearing Procedure Sheet to replace the one that was sent with the Notice of Hearing on March 10, 1994.

The previous information sheet had some errors in it. If you have any questions, please feel free to contact this office.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RGH/pms

Enc. - Conference and Hearing Procedure Sheet

MICROFILMED
APR 15 1999



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450 Fax (208) 769-1454

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

March 16, 1994

Mr. and Mrs. Scott A. Peterson
HCR 01 Box 395
Naples, Id. 83847

Dear Mr. and Mrs. Peterson:

Re: 98-7714

Enclosed is a new Conference and Hearing Procedure Sheet to replace the one that was sent with the Notice of Hearing on March 10, 1994.

The previous information sheet had some errors in it. If you have any questions, please feel free to contact this office.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RGH/pms

Enc. - Conference and Hearing Procedure Sheet

MICROFILMED

APR 15 1994

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

MR RANDALL DAY
PO BOX 918
BONNERS FERRY ID 83805
MICROFILMED
98-7714
APR 15 1999

4a. Article Number

48265

4b. Service Type

- | | |
|---|---|
| ☐ Registered | ☐ Insured |
| ☒ Certified | ☐ COD |
| ☐ Express Mail | ☐ Return Receipt for Merchandise |

7. Date of Delivery

3/11/94

5. Signature (Addressee)**6. Signature (Agent)****8. Addressee's Address (Only if requested and fee is paid)**

UNITED STATES POSTAL SERVICE

Official Business



PENALTY FOR PRIVATE
USE, \$300

RECEIVED

MAR 14 1994

NORTHWEST REGION
IDWR

MICROFILMED Print your name, address and ZIP Code here

APR 15 1989

DEPARTMENT OF WATER RESOURCES

1910 NORTHWEST BLVD. - SUITE 210

COEUR D'ALENE, IDAHO 83814



SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

MR AND MRS SCOTT A PETERSON
HCR 01 BOX 395
NAPLES ID 83847

4a. Article Number

48266

4b. Service Type

- | | |
|---|---|
| ☐ Registered | ☐ Insured |
| ☒ Certified | ☐ COD |
| ☐ Express Mail | ☐ Return Receipt for Merchandise |

7. Date of Delivery**8. Addressee's Address (Only if requested and fee is paid)**

98-7714

5. Signature (Addressee)**6. Signature (Agent)**

RECEIVED

MAR 15 1999

FDWR

3 MICROFILMED
98-7714

APR 15 1999

UNITED STATES POSTAL SERVICE


Official Business



PENALTY FOR PRIVATE
USE, \$300

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD. - SUITE 210
COEUR D'ALENE, IDAHO 83814



Name and Address of Sender		Indicate type of mail		Check appropriate block for Registered Mail:		Affix stamp here if issued as certificate of mailing or for additional copies of this bill.							
DEPARTMENT OF WATER RESOURCES 1910 NORTHWEST BLVD. - SUITE 210 COEUR D'ALENE, IDAHO 83814		☐ Registered ☐ Insured ☐ COD ☒ Certified	☐ Return Receipt ☐ For Merchandise ☐ Int'l Recorded Del. ☐ Express Mail	☐ With Postal Insurance ☐ Without Postal Insurance	POSTMARK AND DATE OF RECEIPT								
Line	Article Number	Name of Addressee, Street, and Post Office Address	Postage	Fee	Handling Charge	Act. Value (If Regis.)	Insured Value	Due Sender If COD	R. R. Fee	S. D. Fee	S. H. Fee	Rest. Del. Fee	Remarks
1	48262	MR AND MRS BRIAN L DOCKINS RT 2 BOX 372A OLDTOWN ID 83822	29c	\$1.00					\$1.00				96-8736
2	48263	MR ARLEY LAWRENCE RT 4 BOX 145, OLDTOWN ID 83822	"	"					"				"
3	48264	MR ARLEY LAWRENCE PO BOX 1931 OLDTOWN ID 83822	"	"					"				"
4	48265	MR RANDALL DAY PO BOX 918 BONNERS FERRY ID 83805	"	"					"				"
5	48266	MR AND MRS SCOTT A PETERSON HCR 01 BOX 395 NAPLES ID 83847	"	"					"				98-7714
6													"
7													
8													
9													
10													
11													
12													
13													
14													
15													
Total Number of Pieces Listed by Sender		Total Number of Pieces Received at Post Office		POSTMASTER, PER (Name of receiving employee)		The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for the reconstruction of nonnegotiable documents under Express Mail document reconstruction insurance is \$50,000 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is \$500. The maximum indemnity payable is \$25,000 for registered mail, sent with optional postal insurance. See Domestic Mail Manual 913 and 914 for limitations of coverage on insured and COD mail. See International Mail Manual for limitations of coverage on international mail. Special handling charges apply only to third and fourth class parcels.							
5		Five		bh Chant									

March 10, 1994

Cooperative Extension Office
315 Kootenai Ave.
Bonners Ferry, Id. 83805

Gentlemen:

This is to confirm reservations made for a conference &/or hearing to be held by this Department on Tuesday, March 29, 1994, in your conference room, beginning at 12:30 PM and lasting until approximately 2:30 PM.

If your records do not reflect this, please advise us immediately,

Thank you for your cooperation.

Sincerely,

PATRICIA M. STYPA
Senior Secretary

MICROFILMED

APR 15 1999

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 98-7714)
IN THE NAME OF SCOTT A. &/OR)
MARY PETERSON.)
_____)

NOTICE OF CONFERENCE
AND/OR HEARING

On April 14, 1993, Scott A. &/or Mary Peterson filed with the Department of Water Resources (department) application for permit no. 98-7714. The application was protested by Violet Wyman and Jack Cramer through their attorney, Randall Day, on May 19, 1993.

The department has scheduled the matter for conference &/or hearing on Tuesday, March 29, 1994, at 12:30 PM, in the Cooperative Extension Building, 315 Kootenai Ave, Bonners Ferry, Idaho 83805. The conference &/or hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45. A copy of the rules may be obtained from the department upon request. The presiding officer at the conference &/or hearing will be Gary Spackman.

The conference &/or hearing 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 &/or hearing, please advise the department within (10) days prior to the conference &/or hearing.

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

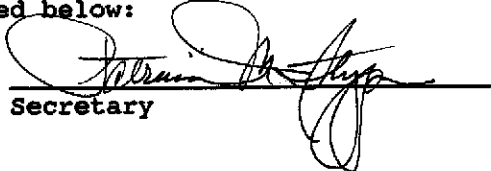
Dated this 10th day of March, 1994.


Regional Supervisor

MICROFILMED

APR 15 1999

I hereby certify that on the 10th day of March, 1994, I mailed a true and correct copy, postage prepaid, of this document to the applicants(s) and protestant(s) listed below:


Secretary

Certified Mail

Mr. Randall Day
P.O. Box 918
Bonners Ferry, Id. 83805

Mr. and Mrs. Scott A. Peterson
HCR 01 Box 395
Naples, Id. 83847

Non-Certified Mail

Mr. Steve Smith
Cooke, Lamanna, Smith, Cogswell & Elliott
P.O. Box C
Sandpoint, Id. 83864

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

ISSUES

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

1. Will the proposed appropriation injure other water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, and 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

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

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may 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.

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APR 15 1999

HEARING

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

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

Parties 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 and judicial review of the order.

EXHIBITS

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

AMERICANS WITH DISABILITIES ACT

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

COOKE, LAMANNA, SMITH, COGSWELL & ELLIOTT

CHARTERED

ATTORNEYS AND COUNSELORS AT LAW

FIRST AND SUPERIOR

P. O. BOX C

SANDPOINT, IDAHO 83864

(208) 263-3115

FAX NUMBER (208) 263-8932

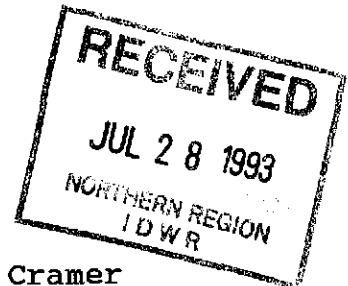
THOMAS E. COOKE
NICK M. LAMANNA
STEPHEN F. SMITH
DAR COGSWELL
CINDY ELLIOTT

July 27, 1993

PRIEST RIVER OFFICE
PRIEST RIVER PROFESSIONAL CENTER
PRIEST RIVER, ID 83856
(208) 448-1221
FAX NUMBER (208) 448-1314

ESTHER L. COX
ADMINISTRATIVE ASSISTANT

Department of Water Resources
State of Idaho
Northern Region
ATTENTION: PAT
Suite 210, 1910 Northwest Boulevard
Coeur d'Alene, Idaho 83814



Re: Scott and Mary Peterson/Violet Wyman and Jack Cramer
Application for Water Right No. 98-07714

Dear Pat:

Thank you for discussing this matter with me by telephone on July 26, 1993.

Enclosed please find the check from this office in the amount of \$4.65, remitted as payment in full for the photocopies which you so kindly prepared concerning this matter.

It was my understanding that Bob Haynes will call me in the event he has further information or comments concerning this matter.

Again, thank you.

Very truly yours,

COOKE LAMANNA SMITH COGSWELL & ELLIOTT

Steve Smith

Steve Smith
Attorney at Law
SS:ps
enclosure

p: Mr. and Mrs. Scott Peterson (without enclosure)

MICROFILMED

APR 15 1993

COOKE, LAMANNA, SMITH, COGSWELL & ELLIOTT

CHARTERED

ATTORNEYS AND COUNSELORS AT LAW

FIRST AND SUPERIOR

P. O. BOX C

SANDPOINT, IDAHO 83864

(208) 263-3115

FAX NUMBER (208) 263-8932

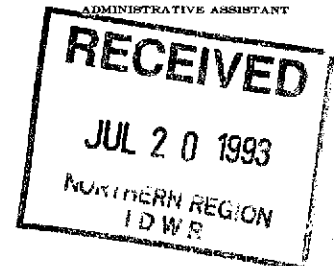
THOMAS E. COOKE
NICK M. LAMANNA
STEPHEN F. SMITH
DAR COGSWELL
CINDY ELLIOTT

July 19, 1993

PRIEST RIVER OFFICE
PRIEST RIVER PROFESSIONAL CENTER
PRIEST RIVER, ID 83856
(208) 448-1221
FAX NUMBER (208) 448-1314

ESTHER L. COX
ADMINISTRATIVE ASSISTANT

Robert G. Haynes, P.E.
Regional Manager
State of Idaho
Department of Water Resources
Northern Region
Suite 210, 1910 Northwest Blvd.
Coeur d'Alene, Idaho 83814



Re: Scott and Mary Peterson/Violet Wyman and Jack Cramer
Application for Water Right No. 98-07714

Dear Mr. Haynes:

Thank you for discussing this matter with me by telephone on July 15, 1993.

On July 16, 1993, my clients and I met with Randy Day, the attorney representing Mrs. Wyman and Mr. Cramer. Randy Day did not have a copy of the Dutton Water Application documents, and, pursuant to your suggestion, I am therefore making a request that you please provide those for use in attempting to resolve this objection to the above-noted application.

Please let me know if there is any photocopying or mailing expense, and I will reimburse your department promptly.

Thank you.

Very truly yours,

COOKE LAMANNA SMITH COGSWELL & ELLIOTT

Steve Smith
Attorney at Law

SS:ps

p: Scott and Mary Peterson

MICROFILMED

APR 15 1999

6/30/93
Steve Smith attorney for
Scott Peterson 263-345

He and the attorney for
Violet Weyman are trying
to resolve the problems.

He would like 2-3 weeks
more to work things out

Law
Knobloch

MICROFILMED

APR 15 1999

AFFIDAVIT OF PUBLICATION

State of Idaho

ss.

County of Boundary,

BOB MILLER being first duly sworn on oath
deposes and says that he/she is MANAGER
of the Bonners Ferry Herald, a newspaper printed and
published at Bonners Ferry, Boundary County, Idaho; that
the said newspaper has been continuously and
uninterruptedly published in said Boundary County during
a period of 12 months prior to the first publication of the
hereto attached notice of publication in the case of:

LEGAL# 2474

as it was published in the regular and entire issue of the
said paper for a period of 2 consecutive weeks,
commencing on 5 day of May, 1993
and ending on the 12 day of May, 1993
and that said notice was published in said newspaper.

Dated: 5/13/93

John B. Miller

Subscribed and sworn to before me this 14 day
of May, 1993.

Kunala G. Haworth
Notary Public for Idaho

Residing at BONNERS FERRY

My Commission expires: 11/08/97

**NOTICE OF APPLICATION
FOR WATER RIGHT**

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

98-07714

PETERSON, SCOTT A.

PETERSON, MARY

HCR 01 BOX 395

NAPLES, ID 83847

Source: UNNAMED STREAM

Tributary: SINKS

Diversion Pt: SWSW Sec 10 T 60N

R 01W in BOUNDARY County

Use: WILDLIFE STORAGE (15.00

AF)

DOMESTIC STORAGE (15.00

AF)

DOMESTIC FROM STORAGE

(2.40 AF)

FIRE PROTECTION STORAGE

(15.00 AF)

FIRE PROTECT. FROM STOR

(15.00 AF)

AESTHETIC STORAGE (15.00

AF)

Total Diversion: (15.00 AF)

Date Filed: 4/14/1993

In: BOUNDARY County

T60N R01W S10 SWSW

S15 NWNW

For additional information con-
cerning the property location, call
the Northern Regional Office at 765-
4639.

The permit(s) will be subject to all
prior water rights. Protests must be
filed with the Director, Dept. of
Water Resources, Northern Region,
1910 Northwest Blvd., Suite 210,
Coeur d'Alene, Idaho 83814 on or
before MAY 24, 1993.

R. KEITH HIGGINSON, Director
BFH#2474 May 5, 12, 1993

RECEIVED

JUN 04 1993

**NORTHERN REGION
IDWR**

MICROFILMED

APR 15 1993



State of Idaho
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 765-4639 • Fax (208) 765-2088

CECIL D. ANDRUS

Governor
June 1, 1993

R. KEITH HIGGINSON
Director

Mr. Randall W. Day
P.O. Box 918
Bonners Ferry, Id. 83805

Re: 98-7714

Dear Mr. Day:

Your clients' protest against the approval of the above-referenced application has been received and a copy has been sent to the applicant. The Department suggests that you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the Application for Permit (Section 42-203, 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 speculation?
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?

You will be notified at a later date of the time and place of the conference and/or hearing. If we can be of any assistance, please contact us.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager
RGH/pms

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APR 15 1999



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 765-4639 • Fax (208) 765-2088

CECIL D. ANDRUS

Governor
June 1, 1993

R. KEITH HIGGINSON
Director

Mr. and Mrs. Scott Peterson
HCR 01 Box 395
Naples, Id. 83847

Re: 98-7714

Dear Mr. and Mrs. Peterson:

Enclosed is a copy of a protest filed against the approval of the above-referenced application for permit to appropriate the public waters of the State of Idaho. The Department suggests you contact the protestants directly in an effort to determine the nature of the protest and attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the Application for Permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
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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?

You will be notified at a later date of the time and place of the conference and/or hearing. If we can be of any assistance, please contact us.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager
RGH/pms
Enclosure

MICROFILMED

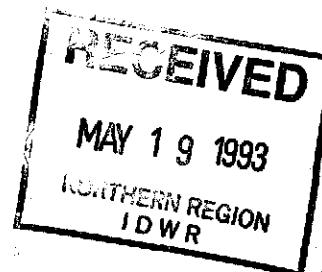
APR 15 1993



Randall W. Day
Counselor & Attorney at Law, P.A.

225 Main Street
P.O. Box 918
Bonners Ferry, ID 83805-0918
(208) 267-3197

May 19, 1993



Department of Water Resources,
Northern Region,
1910 Northwest Blvd., Suite 210
Coeur D Alene, Idaho 83814
FAX 765-2088

FASCIMILE TRANSMISSION

RE: Application for Water Right, 98-07714,
Scott A. Peterson and Mary Peterson

Dear Director:

I am writing on behalf of Violet Wyman and Jack Cramer, who are down stream land owners with prior water rights to that which is mentioned in the Notice Of Application For Water Right, No. 98-07714, published in the Bonners Ferry Herald on the 5th. day of May and the 12th. day of May, 1993.

This is to officially notify you that Mrs. Wyman and Mr. Cramer protest the granting of any application to appropriate the waters of the State of Idaho under permit No. 98-07714.

To grant such an application, would irreparably and permanently damage Mrs. Wyman and Mr. Cramer.

The protestants are aware of no lawful right what so ever which would allow the applicants to construct and place a dam in the stream, which protestants understand has in fact occurred. Its continued existence poses an extreme risk of flooding, pollution, and interferes with the prior rights of protestants.

Could you kindly acknowledge receipt of this protest?

Thank you.

Sincerely,

Randall W. Day
Randall W. Day
Counselor & Attorney at Law, P.A.

MICROFILMED

RWD:nc
cc: Violet Wyman

APR 15 1999

RANDALL W. DAY
COUNSELOR & ATTORNEY AT LAW, P.A.
225 Main Street
P.O. Box 918
Bonners Ferry, ID 83814
(208) 267-3197
FAX (208) 267-5284

CONFIDENTIALITY NOTICE: The documents accompanying this facsimile transmission contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity stated on this form. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone (collect if necessary, see below) to arrange for disposition of the original documents.

FACSIMILE TRANSMITTAL

DATE: May 19, 1993	TIME: 10:30
DELIVER TO: Director Department of Water Resources	
RE: Application for Water Right 98-07714	
VERIFICATION Phone: 764-1450	TELECOPIER Phone: 765-2088
FROM: Randall W. Day	PHONE: 267-3197
NUMBER OF PAGES: 2	CLIENT NO.:
NOTE: Protest Ltr	
ORIGINAL WILL FOLLOW: to	
IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL, Nancy Cima	
PHONE NUMBER FOR VERIFICATION OF TRANSMISSION: (208) 267-3197	
TELECOPIER PHONE NUMBER: (208) 267-5284	

MICROFILMED

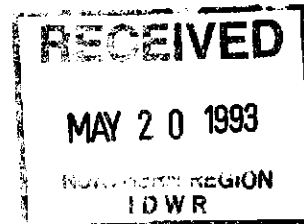
APR 15 1999



Randall W. Day
Counselor & Attorney at Law, P.A.

225 Main Street
P.O. Box 918
Bonners Ferry, ID 83805-0918
(208) 267-3197

May 19, 1993



Department of Water Resources,
Northern Region,
1910 Northwest Blvd., Suite 210
Coeur D Alene, Idaho 83814
FAX 765-2088

FASCIMILE TRANSMISSION

RE: Application for Water Right, 98-07714,
Scott A. Peterson and Mary Peterson

Dear Director:

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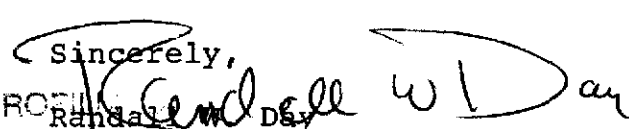
This is to officially notify you that Mrs. Wyman and Mr. Cramer protest the granting of any application to appropriate the waters of the State of Idaho under permit No. 98-07714.

To grant such an application, would irreparably and permanently damage Mrs. Wyman and Mr. Cramer.

The protestants are aware of no lawful right what so ever which would allow the applicants to construct and place a dam in the stream, which protestants understand has in fact occurred. Its continued existence poses an extreme risk of flooding, pollution, and interferes with the prior rights of protestants.

Could you kindly acknowledge receipt of this protest?

Thank you.

Sincerely,

MICROFILMED
Randall W. Day
Counselor & Attny. at Law, P.A.
APR 15 1993

RWD:nc
cc: Violet Wyman



State of Idaho
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 765-4639 • Fax (208) 765-2088

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

April 28, 1993

Mr. Scott A. Peterson
HCR 01 Box 395
Naples, Id. 83847

Re: 98-7714

Dear Mr. Peterson:

The Idaho Department of Water Resources hereby acknowledges receipt of the above referenced Application for Permit to appropriate the Public Waters of the State of Idaho. To assist us in providing you with prompt, accurate service, please refer to the above referenced number in all future matters concerning this water right application.

Your appropriation application is currently being prepared for advertising in the county newspaper. This advertisement will be published for two consecutive weeks followed by a waiting period of ten days to allow for the submittal of protests.

If the application is not protested it will be forwarded to Boise to be considered for approval by the Director. However, if the application is protested during this waiting period, you will be sent a copy of the protest and instructions to aid you in resolving the protest without a hearing. However all protests must be resolved before approval of the application can be made, so if the protestant does not voluntarily withdraw the protest, this department will conduct a conference and/or hearing on the matter.

If your application is for groundwater and unless you are using a well that was constructed prior to July 1, 1987, it will be necessary for you to apply for a well drilling permit upon approval of the appropriation application. Well drilling permits can be issued by this office only to holders of approved appropriation permits.

If you have any questions or if I can be of any assistance please feel free to contact me at this office.

Sincerely,

ALLEN BEARDSLEE
Senior Water Resources Agent

AB/pms

MICROFILMED

APR 15 1993