

**STARTING
LEFT
SIDE OF
FILE**

505 1150

State of Idaho
Department of Water Resources
Amendment of Permit

NO. 63-12296

Priority: December 10, 1995

Maximum Diversion Rate: 5.00 CFS

This is to certify, that STATE OF IDAHO
DEPT OF CORRECTIONS
1299 N ORCHARD STE 110
BOISE ID 83706

has applied for an amendment of a permit and the amendment is APPROVED for development of water as follows:

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
MUNICIPAL	01/01 to 12/31	4.23 CFS	414.5 AF
IRRIGATION	03/15 to 11/15	0.90 CFS	

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NE¼NE¼ Sec. 32, Twp 02N, Rge 02E, B.M.	ADA County
GROUND WATER	SE¼NE¼ Sec. 32, Twp 02N, Rge 02E, B.M.	ADA County
GROUND WATER	SE¼SE¼ Sec. 30, Twp 02N, Rge 02E, B.M.	ADA County
GROUND WATER	NW¼NE¼ Sec. 33, Twp 02N, Rge 02E, B.M.	ADA County
GROUND WATER	NE¼SE¼ Sec. 27, Twp 02N, Rge 02E, B.M.	ADA County
GROUND WATER	NW¼SE¼ Sec. 32, Twp 02N, Rge 02E, B.M.	ADA County
GROUND WATER	SW¼SW¼ Sec. 27, Twp 02N, Rge 02E, B.M.	ADA County
GROUND WATER	SW¼SE¼ Sec. 27, Twp 02N, Rge 02E, B.M.	ADA County
GROUND WATER	SW¼SE¼ Sec. 27, Twp 02N, Rge 02E, B.M.	ADA County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N 02E 21											40.0	40.0			40.0		120.0
02N 02E 27					40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	5.0	40.0	40.0		405.0
02N 02E 28	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
02N 02E 29									40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	320.0
02N 02E 30			40.0	40.0				40.0	40.0			40.0	40.0	40.0	40.0	40.0	360.0
02N 02E 31	40.0	40.0	40.0	40.0	40.0			40.0									240.0
02N 02E 32	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0			40.0	40.0			480.0
02N 02E 33	40.0	40.0	40.0	40.0													160.0
02N 02E 34	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0							400.0

Total Acres:

3125

PLACE OF USE: MUNICIPAL – See conditions of approval.

State of Idaho
Department of Water Resources
Amendment of Permit
NO. 63-12296

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **November 1, 2011**.
2. Subject to all prior water rights.
3. Water bearing zone to be appropriated is 550 to 750 feet.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. Rights 63-3271, 63-3445, 63-3487, 63-7025, 63-8088, 63-30297, and 63-30298 are also diverted through the points of diversion described above.
6. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
7. The Director retains jurisdiction to require the right holder to install and maintain acceptable measuring device(s), including data loggers, at the dedicated distribution lines to the authorized place of use for this right.
8. Place of use for municipal purposes is within the service area of the Idaho Department of Corrections as provided for under Idaho law. The place of use is generally described as within the state prison facilities.
9. A map depicting the place of use boundary for the municipal use component of this water right at the time of this approval is attached to this document for illustration purposes.
10. Municipal use includes irrigation of open spaces with the state prison facilities, but it does not include irrigation of agricultural cropland. However, municipal wastewater may be applied to agricultural cropland within the irrigation place of use to satisfy water quality requirements.
11. Water diverted for municipal use under this right is considered to be fully consumed.
12. This right is limited to the irrigation of 45 acres within the place of use described above in a single irrigation season.
13. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
14. Rights 63-3271, 63-3445, 63-3487, 63-7025, 63-8088, and 63-12296 when combined shall not exceed a total diversion rate of 19.54 cfs for irrigation use and the irrigation of 1,120 acres within the place of use described above in a single irrigation season.
15. Rights 63-3487, 63-7025, 63-30297, 63-30298 and 63-12296 when combined shall not exceed a total diversion rate of 10.41 cfs nor a total annual maximum diversion volume of 2469.0 af for municipal use.
16. Rights 63-3271, 63-3445, 63-3487, 63-7025, 63-8088, 63-30297, 63-30298, and 63-12296 when combined shall not exceed a total diversion rate of 26.24 cfs for all authorized purposes and the irrigation of 1,120 acres within the place of use described above in a single irrigation season.
17. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

State of Idaho
Department of Water Resources
Amendment of Permit
NO. 63-12296

CONDITIONS OF APPROVAL CONTINUED

18. The diversion and use of water described in this right may be subject to additional limitations agreed to by the protestant(s) and the right holder under separate agreement to which the Department is not a party and which may be enforceable by a court of law.

This amendment of permit is issued pursuant to the provisions of Section 42-211, Idaho Code. Witness the signature of the Director, affixed at Boise, this 8th day of November, 2006.



KARL J. DREHER, Director

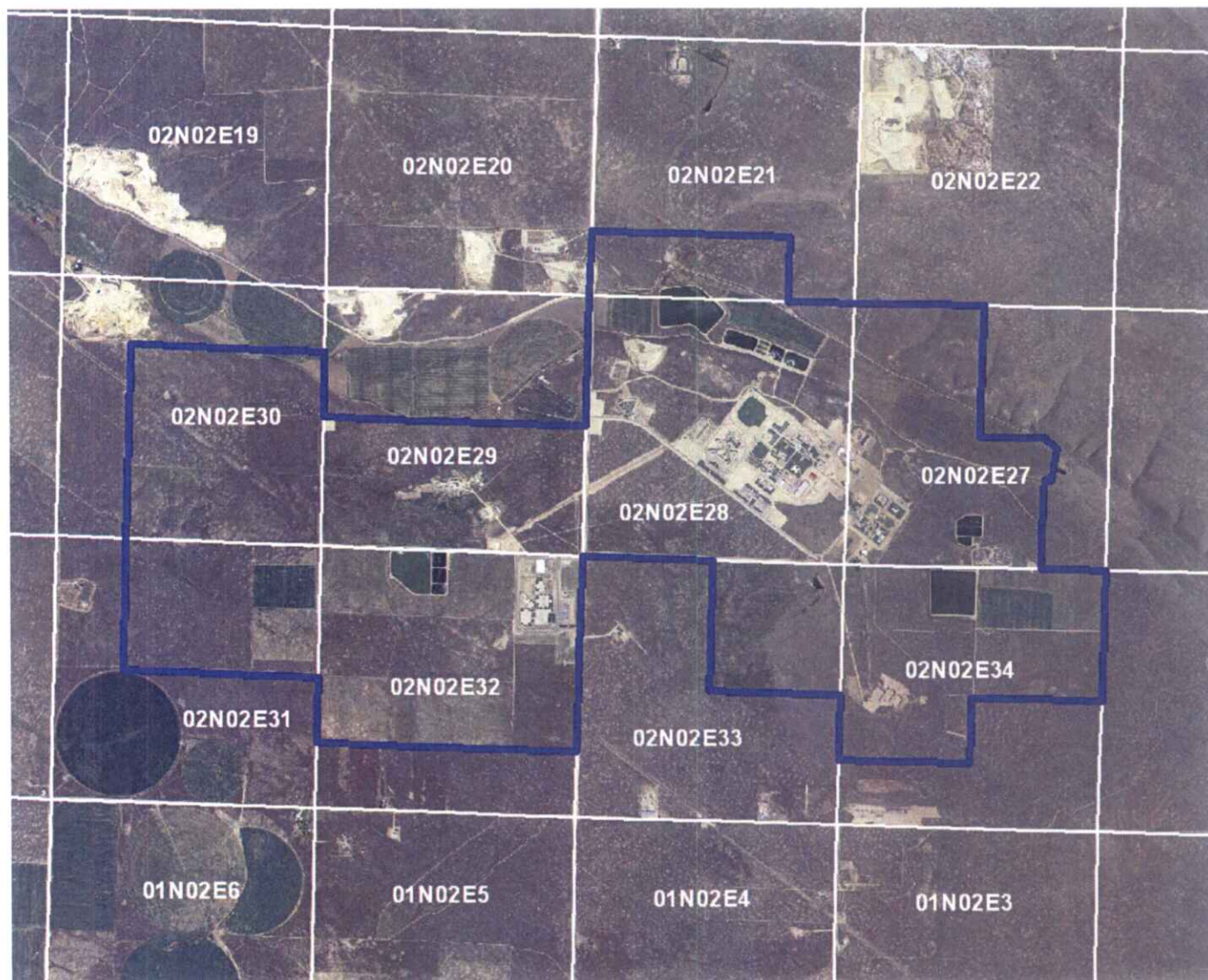
State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 63-12296

DIGITAL BOUNDARY FOR THE IDAHO DEPARTMENT OF CORRECTIONS

NOVEMBER 8, 2006



Municipal Place of Use

White lines and labels are sections.

2000 0 2000 4000 Feet



Ident. No.

D0000603

63-98-C-0531-000

WR 63-12296

63-03445

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR DRILLING PERMIT

1. Name: STATE OF IDAHO O 208-334-2318

Address: DEPT OF CORRECTIONS
~~500 SOUTH 10TH STREET~~ 1299 N. Orchard St
BOISE ID ~~83702~~ 83706 Ste 110

Name: SCANLAN ENGINEERING R 208-383-4140

Address: C/O TERRY SCANLAN
600 EAST RIVER PARK LANE
SUITE 105
BOISE ID 83706

2. Proposed Well Location: Township 02N, Range 02E, Sec. 32, NENE
ADA County

Street Address of Well Site: PLEASANT VALLEY ROAD 6 MILES SOUTH OF BOISE
BOISE ID

3. Proposed Use of Well: Other
PRISON

4. Well Construction Information:

A. NEW WELL

B. Proposed Surface Diameter 12 In. Proposed Maximum Depth 900 Ft.

C. Anticipated Bottom Hole Temperature: 85 F or less (Cold water well)
(NOTE: Construction diagrams and/or other information may be requested for
monitor, low temperature geothermal, municipal and artesian wells.)

5. Construction Start Date: 9/17/98 NC9
~~12/12/2112~~

6. Anticipated Well Driller: PETE COPE DRILLING CO INC (No. 0213)

NOTE: The actual well driller must be identified to IDWR prior to drilling
commencement.

7. Applicant's Signature [Signature] Date 9/17/98

Title Attorney for Department of Corrections
(Owner, Firm Representative, Other)

Fee \$ 400.00 Received by _____ No. W024153 Date 7/20/1998

MICROFILMED

OCT 27 1998

(Continued)

ACTION OF THE DEPARTMENT OF WATER RESOURCES

This permit is

Approved

Date:

9-17-98

If approved, this permit authorizes the construction or modification of a well subject to the following conditions. READ CAREFULLY!

CONDITIONS OF APPROVAL:

1. This drilling permit is valid for two (2) months from the approval date for the start of construction and is valid for one (1) year from the approval date for completion of the well unless an extension has been granted.
2. This permit does not constitute an approval of the District Health Department or the Idaho Department of Health and Welfare which may be required prior to construction of this well. The local Health Department should be contacted for septic tank/drainfield locations. Domestic wells must not be drilled closer than 100' from any drainfield and 50' from any septic tank. Public Water Supply wells must not be drilled closer than 100' from any drainfield or septic tank.
3. The well shall be constructed by a driller currently licensed in the state of Idaho who must maintain a copy of the drilling permit at the drilling site.
4. Approval of this drilling permit does not authorize trespass on the land of another party.
5. This permit does not constitute other local, county, state or federal approvals which may be required for construction of a well.
6. This drilling permit does not represent a right to divert and use the water of the State of Idaho.
7. If a bottom hole temperature of 85 Degrees F (29.44 oC) or greater is encountered, well construction shall cease and the well driller and the well owner shall contact the Department immediately.
8. Idaho Code, S 55-2201 - 55-2210 requires the applicant and/or his contractors to contact "Digline" (DigLine is a one-call center for utility notification) not less than 2 working days prior to the start of any excavation for this project. The "Dig Line " Number for your area is 1-800-342-1585.
9. The screened, perforated, filterpacked or otherwise open and commingled strata which are to be produced from, shall be of similiar hydraulic head, temperature and quality. If there are notable variations encountered as the well is drilled and/or developed, the Department will be notified for evaluation.
10. Prior to commencing construction of the well authorized by this permit, Corrections shall submit for written approval by IDWR a drilling prospectus and written construction procedure showing compliance with the IWRB Well Constructin Standards and DEQ public water supply requirement. The drilling prospectus shall depict all components of the well and describe sizes and dimensions of the bore hole, casing, and all materials used in constructing the well; The written construction procedures shall describe in detail the stratigraphy expected at the well site and methods of construction, casing and sealing that will protect all aquifers encountered,

(Continued)

MICROFILMED

OCT 27 1998

CONDITIONS OF APPROVAL:

- including the aquifer in which the well is developed.
11. Corrections acknowledges that by accepting this drilling permit and commencing construction, Corrections accepts all risk that diversion of water from this well may not ultimately be approved for use.
 12. Pumping equipment shall not be installed and no water shall be diverted from the well hereby authorized prior to approval of water right or other authorization to divert and use water.
 13. Upon rejection of a water right application proposing diversion of water from wells drilled pursuant to these drilling permits, and exhaustion of all legal challenges or other alternative proposals for use of water (other than an application for permit), Corrections shall abandon or cap the well according to state law.



Signature of Authorized Dept. Representative



Title

EXTENSION OF DRILLING PERMIT

Extension Approved by: _____

Approval Date: _____

Expires On: _____

MICROFILMED

OCT 27 1998

9/6/96

Drilling Permit No. 63-98-C-0530-000, 63-98-C-0531-000

Water Right No. 63-12296 ; 63-03445 (Transfer No. 5314)

REQUEST FOR EXPEDITED ISSUANCE OF A DRILLING PERMIT

State of Idaho, Department of Corrections, Applicant, requests issuance of Drilling Permit prior to approval of a water right. The request is made for the following reason(s):

New prison is in construction. Wells for the
new prison are required for both construction and
bringing the plumbing on line for the prison.
Construction schedule requires the wells drilled and
functioning by October. Applicant seeks to have the
wells drilled at the same time the above permit application
and transfer are approved
Applicant understands that the drilling permit does not constitute a water right and does not authorize diversion or use of water from the well.

Applicant acknowledges that by accepting a drilling permit and commencing construction he accepts all risk that the well may not ultimately be approved for use.

9-17-98
Date
[Signature]
Applicant's Signature
Administrator of Institutional Services
Applicant's Title

MICROFILMED

OCT 27 1998

RECEIVED

SEP 23 1998

WATER RESOURCES
WESTERN REGION

Ident. No.

D0000602

63-98-C-0530-000

WR 63-12296

63-03445

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR DRILLING PERMIT

1. Name: STATE OF IDAHO O 208-334-2318

Address: DEPT OF CORRECTIONS

~~500 SOUTH 10TH STREET~~ 1299 N. Orchard St
BOISE ID ~~83702~~ 83706 Ste 110

Name: SCANLAN ENGINEERING

R 208-383-4140

Address: C/O TERRY SCANLAN

600 EAST RIVER PARK LANE
SUITE 105
BOISE ID 83706

2. Proposed Well Location: Township 02N, Range 02E, Sec. 32, NENE
ADA County

Street Address of Well Site: PLEASANT VALLEY ROAD 6 MILES SOUTH OF BOISE
BOISE ID

3. Proposed Use of Well: Other
PRISON

4. Well Construction Information:

A. NEW WELL

B. Proposed Surface Diameter 12 In. Proposed Maximum Depth 900 Ft.

C. Anticipated Bottom Hole Temperature: 85 F or less (Cold water well)

(NOTE: Construction diagrams and/or other information may be requested for
monitor, low temperature geothermal, municipal and artesian wells.)

5. Construction Start Date: 9/17/98 NY
~~12/12/2112~~

6. Anticipated Well Driller: PETE COPE DRILLING CO INC (No. 0213)

NOTE: The actual well driller must be identified to IDWR prior to drilling
commencement.

7. Applicant's Signature

Date 9/17/98

Title

Attorney for Department of Corrections
(Owner, Firm Representative, Other)

Fee \$ 400.00 Received by _____ No. W024153 Date 7/20/1998

MICROFILMED

(Continued)

OCT 27 1998

ACTION OF THE DEPARTMENT OF WATER RESOURCES

This permit is Approved.Date: 9-17-98

If approved, this permit authorizes the construction or modification of a well subject to the following conditions. READ CAREFULLY!

CONDITIONS OF APPROVAL:

1. This drilling permit is valid for two (2) months from the approval date for the start of construction and is valid for one (1) year from the approval date for completion of the well unless an extension has been granted.
2. This permit does not constitute an approval of the District Health Department or the Idaho Department of Health and Welfare which may be required prior to construction of this well. The local Health Department should be contacted for septic tank/drainfield locations. Domestic wells must not be drilled closer than 100' from any drainfield and 50' from any septic tank. Public Water Supply wells must not be drilled closer than 100' from any drainfield or septic tank.
3. The well shall be constructed by a driller currently licensed in the state of Idaho who must maintain a copy of the drilling permit at the drilling site.
4. Approval of this drilling permit does not authorize trespass on the land of another party.
5. This permit does not constitute other local, county, state or federal approvals which may be required for construction of a well.
6. This drilling permit does not represent a right to divert and use the water of the State of Idaho.
7. If a bottom hole temperature of 85 Degrees F (29.44 oC) or greater is encountered, well construction shall cease and the well driller and the well owner shall contact the Department immediately.
8. Idaho Code, S 55-2201 - 55-2210 requires the applicant and/or his contractors to contact "Digline" (DigLine is a one-call center for utility notification) not less than 2 working days prior to the start of any excavation for this project. The "Dig Line " Number for your area is 1-800-342-1585.
9. The screened, perforated, filterpacked or otherwise open and commingled strata which are to be produced from, shall be of similiar hydraulic head, temperature and quality. If there are notable variations encountered as the well is drilled and/or developed, the Department will be notified for evaluation.
10. Prior to commencing construction of the well authorized by this permit, Corrections shall submit for written approval by IDWR a drilling prospectus and written construction procedure showing compliance with the IWRB Well Constructin Standards and DEQ public water supply requirement. The drilling prospectus shall depict all components of the well and describe sizes and dimensions of the bore hole, casing, and all materials used in constructing the well; The written construction procedures shall describe in detail the stratigraphy expected at the well site and methods of construction, casing and sealing that will protect all aquifers encountered,

(Continued)

MICROFILMED

OCT 27 1998

CONDITIONS OF APPROVAL:

- including the aquifer in which the well is developed.
11. Corrections acknowledges that by accepting this drilling permit and commencing construction, Corrections accepts all risk that diversion of water from this well may not ultimately be approved for use.
 12. Pumping equipment shall not be installed and no water shall be diverted from the well hereby authorized prior to approval of water right or other authorization to divert and use water.
 13. Upon rejection of a water right application proposing diversion of water from wells drilled pursuant to these drilling permits, and exhaustion of all legal challenges or other alternative proposals for use of water (other than an application for permit), Corrections shall abandon or cap the well according to state law.

M. S. Skiff
Signature of Authorized Dept. Representative

Sec. Mgr.
Title

EXTENSION OF DRILLING PERMIT

Extension Approved by: _____

Approval Date: _____

Expires On: _____

MICROFILMED

OCT 27 1998

9/6/96

Drilling Permit No. 63-98-C-0530-000, 63-98-C-0531-000

Water Right No. 63-12296 ; 63-03445 (Transfer No. 5314)

REQUEST FOR EXPEDITED ISSUANCE OF A DRILLING PERMIT

State of Idaho, Department of Corrections, Applicant, requests issuance of Drilling Permit prior to approval of a water right. The request is made for the following reason(s):

New prison is in construction. Wells for the
new prison are required for both construction and
bringing the plumbing on line for the prison.
Construction schedule requires the wells drilled and
functioning by October. Applicant seeks to have the
wells drilled at the same time the above permit application
and transfer are approved

Applicant understands that the drilling permit does not constitute a water right and does not authorize diversion or use of water from the well.

Applicant acknowledges that by accepting a drilling permit and commencing construction he accepts all risk that the well may not ultimately be approved for use.

9-17-98
Date

[Signature]
Applicant's Signature

Administrator of Institutional Services
Applicant's Title

MICROFILMED

OCT 27 1998

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
OCT 17 2003

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

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

Permit No. 63-12296

Name(s) of Permit Holder: STATE OF IDAHO -- DEPARTMENT OF CORRECTION

Mailing Address: 1299 NORTH ORCHARD -- SUITE 110, BOISE, ID 83706

Date Proof is Due: NOVEMBER 1, 2003 Telephone No. (208) 658-2000

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

SEE ATTACHMENT AT 1

Costing \$ 49,936,944.00

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

SEE ATTACHMENT AT 2

Permit holder(s) request an extension to NOVEMBER 1, 2008, 19 .

FEE: \$50.00


(Signature)*

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be
REINSTATED with the priority advanced to December 10, 1995. IT IS
FURTHER ORDERED that the time within which to submit proof of
beneficial use is extended to November 1, 2011.

Signed this 8th day of November, 2006


GARY SPACKMAN

REQUEST FOR EXTENSION OF TIME

Permit No. 12296

Permit Holder: State of Idaho – Department of Correction

ATTACHMENT

1. Describe what work has been completed toward the development of this water right:

Permit No. 63-12296 authorized the construction of wells no. 7 and 8 for the Idaho Correctional Center south of Boise, Idaho. The Department has completed wells no. 7 and 8, and these wells were placed in service in July 2000 via an integrated water distribution system constructed for that purpose. Presently, the Idaho Correctional Center has a design capacity of 1,272 inmate beds; the population of inmates at the Idaho Correctional Center was 1,273 on July 1, 2003. The amount of beneficial use is expanding at the Idaho Correctional Center although not at the originally projected rate. It is scheduled for expansion of 250 beds in FY2006 and of 500 beds in FY2009.

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

The Department filed application for amendment of permit on November 19, 1999. United Water Idaho filed a protest to the approval of this application. This application requested the addition of a point of diversion, a change in place of use, a change in nature of use, and a change in period of use. This application is still pending before the Department of Water Resources. The pendency of this application has impaired the Department's ability to complete the beneficial use of the water.



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN
November 8, 2006

VIA STATEHOUSE MAIL AND
FACSIMILE 287-6700

Ms. Deborah Gibson
Administrative Assistant
Idaho Department of Water Resources
322 E. Front St.
Boise, ID 83720

Re: Permit No. 63-12296.

Dear Debbie:

The purpose of this letter is to respond to your telephonic request regarding the request for extension of time for filing proof of beneficial use, which the Idaho Department of Correction filed in November 2003. I understand that the Idaho Department of Water Resources never formally acted on this request, and you requested information on how the Idaho Department of Correction would like to proceed regarding this request. I have consulted with my client the Idaho Department of Correction, and they would like the extension to extend for a period of five years from the date the IDWR acts on this extension request. If you have any questions, please give me a phone call.

Sincerely,

A handwritten signature in cursive script, reading "David J. Barber".

DAVID J. BARBER
Deputy Attorney General

DJB/ov

cc: Pat Donaldson

RECEIVED

OCT 11 2006

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESFee N/A
Receipt
Received by
Date 10/11/06

APPLICATION FOR AMENDMENT OF A PERMIT

Name of Applicant STATE OF IDAHO - DEPARTMENT OF CORRECTIONS Phone 208-658-2000
Mailing address 1299 N. ORCHARD SUITE 110 BOISE, ID 83706I am the owner and the holder of Permit to Appropriate the Public Waters of the State of Idaho No. 63-12296, and request that the permit and permit map be amended and/or changed as follows:**Purpose of Amendment:** Change point of diversion ☒ Add point of diversion
☒ Change place of use ☒ Change nature of use Change period of use Other1. Point of diversion: 1/4 1/4 1/4, Section , Township , Range , B.M.,
County of . Other points of diversion SEE ATTACHMENTS A & C

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

Amount 0.90 for IRRIGATION purposes from 3/15 to 11/15 (both dates inclusive)
(cfs or acre-feet per annum) (water use) (Begin Month) (End month)Amount 4.23 for MUNICIPAL purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum) (water use) (Begin Month) (End month)Amount 5.00 cfs total for purposes from to (both dates inclusive)
(cfs or acre-feet per annum) (water use) (Begin Month) (End month)

3. Place of use or land to be irrigated:

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			SEE ATTACHMENTS B & C																

Total number of acres to be irrigated

4. a. Who owns the property at the point of diversion? } APPLICANT
 b. Who owns the land to be irrigated at the place of use?
 c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

5. REMARKS: PROPOSE SAME SYSTEM AS TRANSFER APPLICATION 67055. PERMIT LIMITED TO 45 ACRES/YEAR WITHIN PROPOSED PERMISSIBLE PLACE OF USE (PPOU).

AMENDED

SCANNED
OCT 16 2006

SEE ATTACHMENT C

Pat Puckett
Facility Services Manager
Permit Holder

SIGNATURE

ATTACHMENT **A**

Point(s) of Diversion

1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	SE	27	2N	2E	Ada	State Penitentiary - Well No. 1
	NW	SE	32	2N	2E	Ada	State Penitentiary - Well No. 2
	SW	SW	27	2N	2E	Ada	State Penitentiary - Well No. 3
	SW	SE	27	2N	2E	Ada	State Penitentiary - Well No. 4 <i>plus 4B</i> *
	SE	SE	30	2N	2E	Ada	State Penitentiary - Well No. 5
	SE	NE	32	2N	2E	Ada	State Penitentiary - Well No. 7
	NE	NE	32	2N	2E	Ada	State Penitentiary - Well No. 8
	NW	NE	33	2N	2E	Ada	" " " " 6 **

* *#4B drilled recently as replacement well but then determined it needed to be an additional well. - 3/13/02*

** *#6 drilled in 1970s but capped, will be brought into production.*

SCANNED
OCT 16 2006

AMENDMENT

63-12296

ATTACHMENT

B

5. Lands irrigated or place of use: (= Permissible Place of Use or PPOU)

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Total
			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	
2N	2E	21											40 M	40 M			40 M		120
		27					40 M	40 M	40 M	40 M	40 M	40 M	40 M	40 M	5 M	40 M	40 M		405
		28	40 M	40 M	40 M	40 M	40 M	40 M	40 M	40 M	40 M	40 M	40 M	40 M	40 M	40 M	40 M	40 M	640
		29									40 M	40 M	40 M	40 M	40 M	40 M	40 M	40 M	320
		30			40 M	40 M				40 M	40 M			40 M	40 M	40 M	40 M	40 M	360
		31	40 M	40 M	40 M	40 M	40 M			40 M									240
		32	40 M	40 M	40 M	40 M	40 M	40 M	40 M	40 M	40 M				40 M	40 M			480
		33	40 M	40 M	40 M	40 M													160
		34	40 M	40 M	40 M	40 M	40 M	40 M	40 M	40 M	40 M								400
Total Acres = 3,125																			

• Municipal use will be in Applicant's service area generally described as above.

• Irrigation limited to 45 acres/year in above PPOU

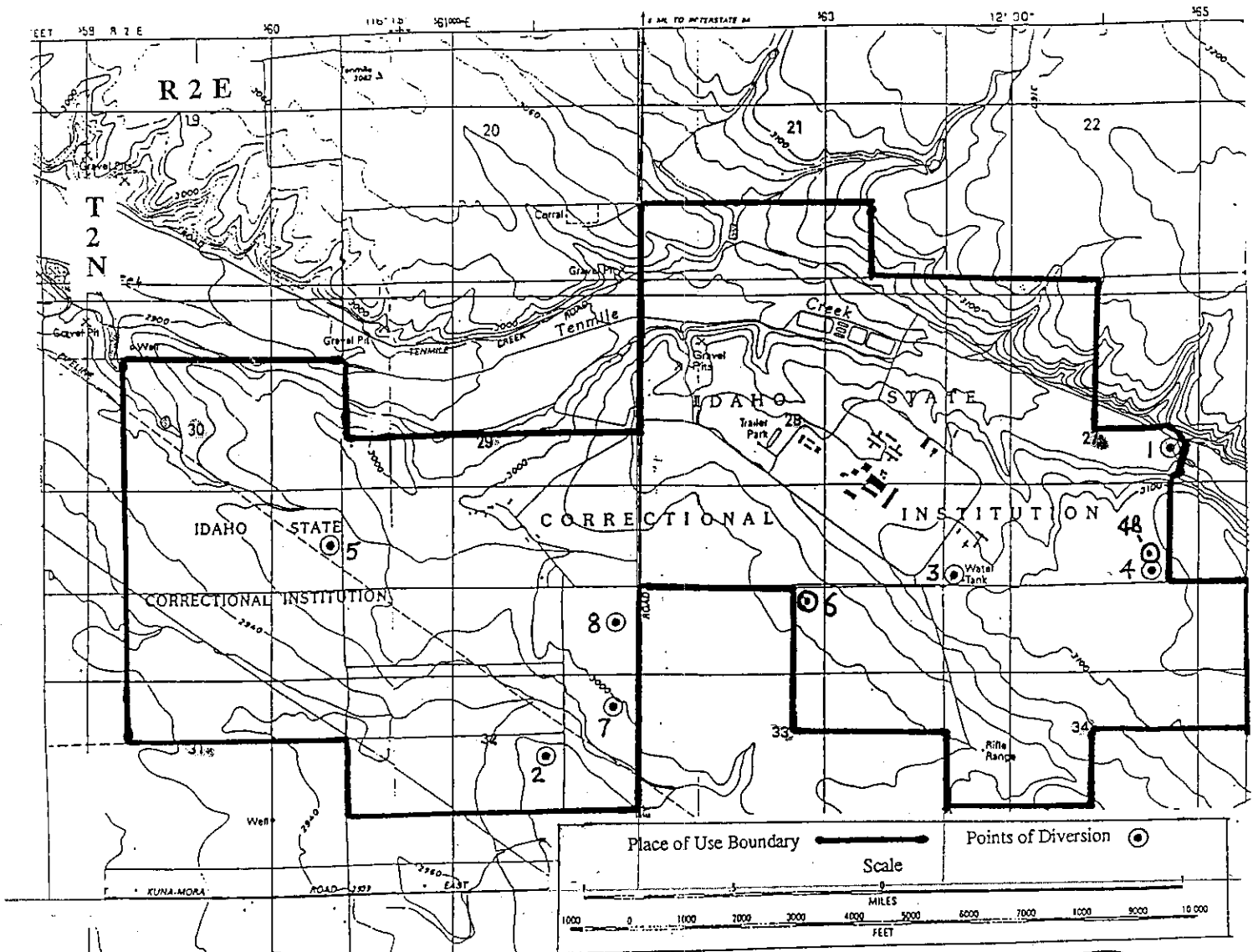
SCANNED
OCT 16 2006

AMENDMENT
63-12296

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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

ATTACHMENT C



AMENDMENT
63-12296
JUL 1 6 2006

10/93

RECEIVED

 Receipt No. W025934
 Received By 82
 Date 11/19/99

RECEIVED

SEP 12 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

APPLICATION FOR AMENDMENT OF A PERMIT

NOV 19 1999

Department of Water Resources

WATER RESOURCES
WESTERN REGIONApplicant STATE OF IDAHO - DEPARTMENT OF CORRECTION Phone (208) 658-2000Address 1299 North Orchard - Suite 110, Boise, Idaho 83706I am the owner and holder of Permit to appropriate the Public Waters of the State of Idaho No. 63-12296, and request that the permit and permit map be amended and/or changed as follows:
 Purpose of Amendment: Change point of diversion X Add point of diversion
XXX Change place of use XXX Change nature of use XXX Change period of use Other
1. Point of diversion: SE 1/4 NE 1/4 NE 1/4, Section 32, Township 02 N, Range 02 E, B.M.,County of Ada, Other points of diversion SE 1/4 NE 1/4 sec. 32, T. 02 N., R. 02 E.;SWSWSW, SESWSE (2 wells), S. 27, T. 2N, R. 2E. (wells # 3, 4, 4B, 7 & 8).

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

Amount 5.00 cfs for Municipal purposes from January 1 to December 31 (both dates inclusive)
(cfs or acre feet per annum) (water use) (Begin month) (End month)Amount for purposes from to (both dates inclusive)
(cfs or acre feet per annum) (water use) (Begin month) (End month)Amount for purposes from to (both dates inclusive)
(cfs or acre feet per annum) (water use) (Begin month) (End month)

3. Place of use or land to be irrigated:

T w p	R g e	S e c	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

SEE ATTACHMENT "A"

Total number of acres to be irrigated =

4. a. Who owns the property at the point of diversion? Applicant (State of Idaho)
- b. Who owns the land to be irrigated at the place of use? Applicant (State of Idaho)
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

SCANNED

FEB 06 2003

AMENDED

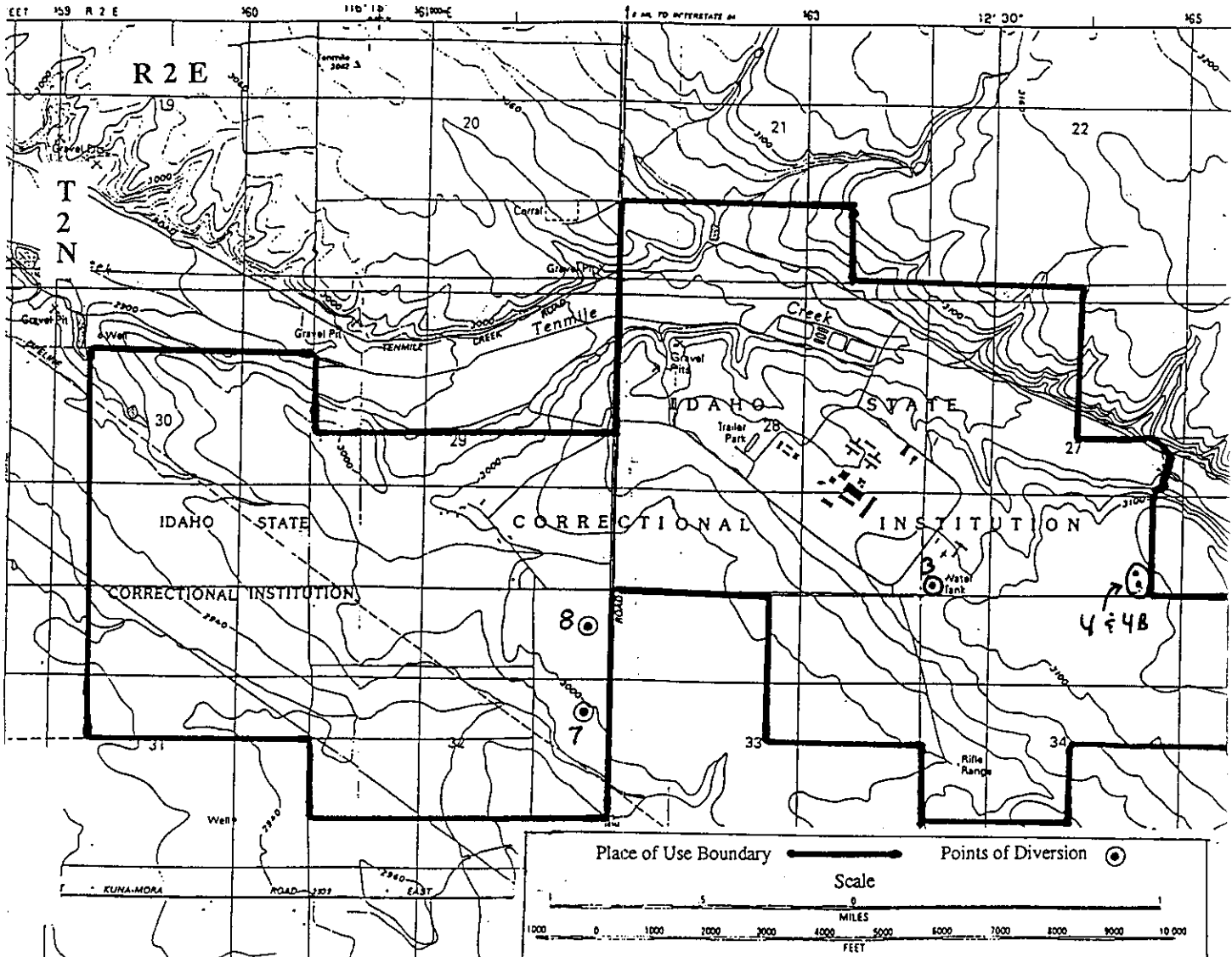
Superseded

3/13/02

550 W028875 -92

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

Public water supply # 3, 4, 4B, 7 & 8.



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

Signed this 19th day of Nov., 19 99.

Title: Building Operations Manager

ACTION OF THE DEPARTMENT OF WATER RESOURCES

Preliminary check by [Signature] Publication prepared by AT Date 1-13-00

Published in Idaho Statesman, Post Register Publication dates 1-20 & 27-00

Lewiston Tribune, Times News, of the Department of Water Resources hereby

SCANNED

FEB 06 2003

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

AF 'CATION FOR AMENDMENT OF A PERMIT
 Permit 63-12296
ITEM 3 - Place of use or land to be irrigated

ATTACHMENT "A"

Permissible Place of Use

3 Place of use or land to be irrigated

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Total
			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	
2N	2E	21											M	M			M		
		27					M	M	M	M	M	M	M	M	M	M	M		
		28	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	
		29									M	M	M	M	M	M	M	M	
		30			M	M				M	M			M	M	M	M	M	
		31	M	M	M	M	M			M									
		32	M	M	M	M	M	M	M	M	M				M	M			
		33	M	M	M	M													
		34	M	M	M	M	M	M	M	M	M								
																			Total Acres = 3,125

this 3125 Acre AREA matches irrigation plan in
 Transfer Application # 67055.

the proposed plan for municipal use is the service area
 associated with the old & new prison complexes
 south of the Boise Airport near Pleasant Valley Road.

SCANNED

FEB 06 2003

Version #1
RECEIVED Copy
JAN 20 2008 APPLICATION

Receipt No. W025934
 Received By 82 FS
 Date 11/19/99

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
MIT
NOV 19 1999

Department of Water Resources

WATER RESOURCES
WESTERN REGION

Applicant STATE OF IDAHO - DEPARTMENT OF CORRECTION Phone (208) 658-2000

Address 1299 North Orchard - Suite 110, Boise, Idaho 83706

I am the owner and holder of Permit to appropriate the Public Waters of the State of Idaho No. 63-12296, and request that the permit and permit map be amended and/or changed as follows:

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

1. Point of diversion: 1/4 NE 1/4 NE 1/4, Section 32, Township 02 N, Range 02 E, B.M.,
County of Ada. Other points of diversion SE 1/4 NE 1/4 sec. 32, T. 02 N., R. 02 E.

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

Amount 5.00 cfs for Municipal purposes from January 1 to December 31 (both dates inclusive)
(cfs or acre feet per annum) (water use) (Begin month) (End month)

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

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

3. Place of use or land to be irrigated:

[illegible]

Total number of acres to be irrigated = _____

4. a. Who owns the property at the point of diversion? Applicant (State of Idaho)

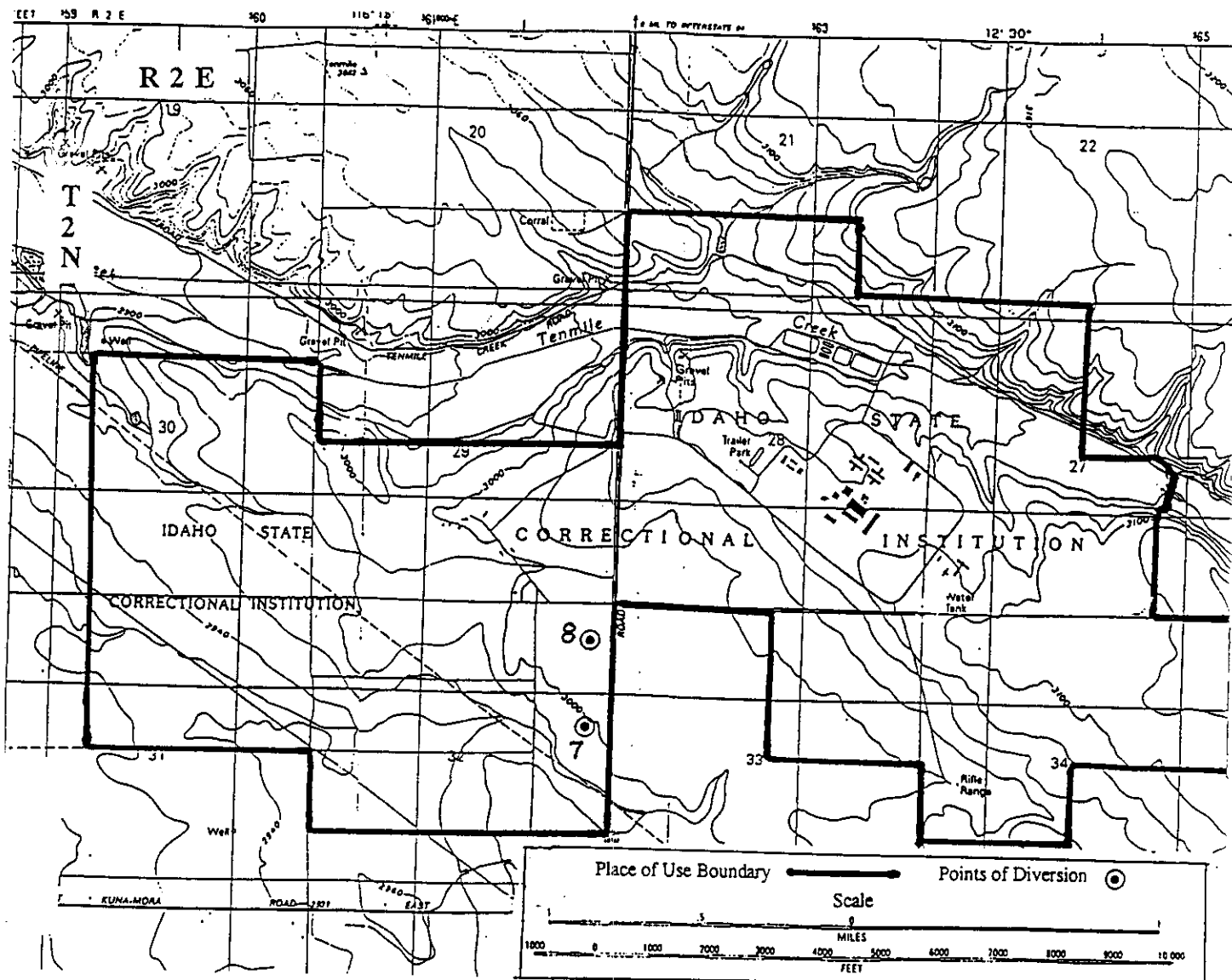
b. Who owns the land to be irrigated at the place of use? Applicant (State of Idaho)

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

ORIGINAL

Supermarket

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



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

Signed this 19th day of Nov., 19 99.

[Signature]

Title: Building Operations Manager

ACTION OF THE DEPARTMENT OF WATER RESOURCES

Preliminary check by [Signature] Publication prepared by ST Date 1-13-00

Published in Idaho Statesman, Post Register Publication dates 1-20 & 27-00

Lewiston Tribune, Times News

_____, of the Department of Water Resources hereby

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

ITEM 3 - Place of use or land to be irrigated

Permissible Place of Use

[illegible]

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDMENT OF PERMIT
PERMIT NO. 63-12296

This is to certify, that STATE OF IDAHO
DEPT OF CORRECTIONS
1299 N ORCHARD #110
BOISE ID 83706

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-211, Idaho Code. The approved amendment of permit is described as follows:

SOURCE

GROUNDWATER

Priority: December 7, 1995

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	03/15 to 11/15	0.90 CFS
DOMESTIC	01/01 to 12/31	4.23 CFS
	Totals	5.00 CFS

LOCATION OF POINT(S) OF DIVERSION: NENE , Sec. 32, Township 02N, Range 02E
SENE , Sec. 32, Township 02N, Range 02E
ADA County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
02N 02E 31	NENE 40	NWNE 40	SWNE 25	
	SENE 25	NENW 20	SENW 10	160
32	NENE 2	SENE 3		5

Total number of acres irrigated: 165

PLACE OF USE:

DOMESTIC, same as IRRIGATION use

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before November 1, 2003.
2. Subject to all prior water rights.
3. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

MICROFILMED

JAN 04 1999

PERMIT NO. 63-12296

CONDITIONS OF APPROVAL AND REMARKS

5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
6. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary for this purpose will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
7. Irrigation use under this right is limited to 45 acres within the place of use described above in a single irrigation season.
8. Domestic use is for up to 3000 inmates and 700 employees at the state prison addition, and includes the land application of waste water within the NE and NW, S31, T2N, R2E.
9. The water used for domestic purposes under this right is applied to and irrigates land listed in the place of use to satisfy water quality requirements. Water diverted for domestic purposes shall not irrigate growing plants unless the water is first beneficially used in the prison facility as authorized by this right.
10. Water diverted under this right is considered to be fully consumed.
11. Water bearing zone to be appropriated is 550 to 750 feet.

Witness my hand this 18th day of December, 1998.


Chief, Water Allocation Bureau

MICROFILMED

JAN 04 1999

RECEIVED

DEC 16 1998

For Office Use Only

\$50 Filing Fee

Receipt #

Date 12-16-98

044144

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR AMENDMENT OF A PERMIT

To change the point of diversion, place of use or nature of use on a permit to appropriate the public waters of the State of Idaho.

Permit Holder: State of Idaho, Department of Correction Phone: (208)658-2000

Address: 1299 N. Orchard, Suite 110 Boise ID 83706

Permit No. 63-12296

1. Point of diversion: (Springs must be identified to the nearest 10 acre tract.)

1/4 NE 1/4 NE 1/4, Section 32, Twp. 2N, Rge. 2E, B.M. County of ADA

Other point(s) of diversion: SENE, S32, T2N, R2E

2. Water use (irrigation, domestic, stockwater, etc.), amount, and period of use under the permit:

Amount 0.90 cfs for Irrigation purposes from 3/15 to 11/15 (inclusive)

Amount 4.23 cfs for Domestic purposes from 1/1 to 12/31 (inclusive)

3. Place of use or land to be irrigated:

TWP	RGE	SEC	NE				NW				SW				SE				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	02E	31	40	40	25	25	20			10									160
		32	2			3													5

Total Acres 165

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

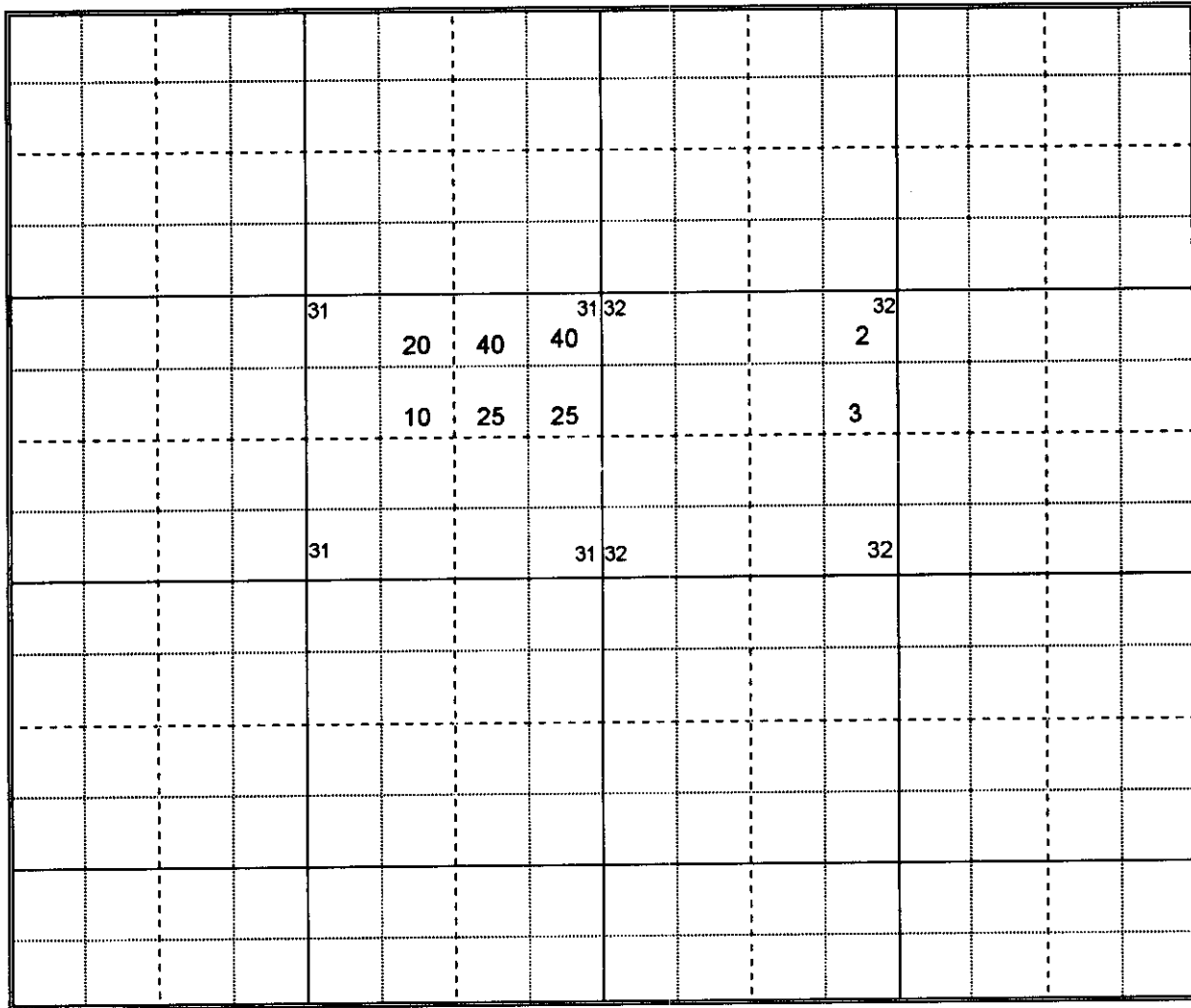
b. Who owns the land to be irrigated or the place of use? Applicant

c. If the property is owned by another party, please describe the arrangement allowing the applicant to make this filing:

MICROFILMED

JAN 04 1999

Complete the following map by showing where the point of diversion and place of use are located as proposed by this amendment. (Scale: 1 block = _____ acres)



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

Signed this 14 day of Dec, 19 98

Permit Holder

Published in _____

Publication dates _____

MICROFILMED

JAN 04 1999

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 63-12296

Proposed Priority: December 7, 1995 Maximum Diversion Rate: 5.00 CFS

This is to certify, that **STATE OF IDAHO**
DEPT OF CORRECTIONS
1299 N ORCHARD STE 110
BOISE ID 83706

has applied for a permit to appropriate water from: **GROUNDWATER**

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>
IRRIGATION	03/15 to 11/15	0.90 CFS
DOMESTIC	01/01 to 12/31	4.23 CFS
	Totals	5.00 CFS

LOCATION OF POINT(S) OF DIVERSION:

NENE , Sec. 32, Township 02N, Range 02E
SENE , Sec. 32, Township 02N, Range 02E
ADA County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
02N	02E	32	NENE 2.0	SENE 3.0	NENW 40.0	
			NWNW 40.0	SWNW 40.0	SENW 40.0	165.0

Total number of acres irrigated: 165.0

PLACE OF USE: DOMESTIC, same as IRRIGATION use

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **November 1, 2003**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

MICROFILMED

OCT 27 1998

State of Idaho
Department of Water Resources

Permit To Appropriate Water

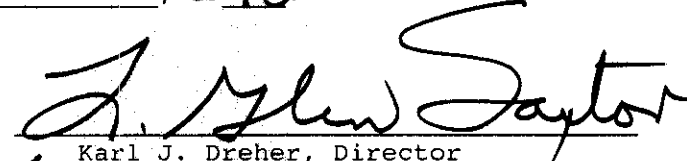
NO. 63-12296

CONDITIONS OF APPROVAL AND REMARKS

6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
7. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary for this purpose will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
8. Irrigation use under this right is limited to 45 acres within the place of use described above in a single irrigation season.
9. Domestic use is for up to 3000 inmates and 700 employees at the state prison addition, and includes the land application of waste water within NW, S32, T02N, R02E.
10. The water used for domestic purposes under this right is applied to and irrigates land listed in the place of use to satisfy water quality requirements. Water diverted for domestic purposes shall not irrigate growing plants unless the water is first beneficially used in the prison facility as authorized by this right.
11. Water diverted under this right is considered to be fully consumed.
12. Water bearing zone to be appropriated is 550 to 750 feet.

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

23rd day of October, 1998


for
Karl J. Dreher, Director

MICROFILMED
OCT 27 1998

Ident. No. 63-12296

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Department of Water Resources

1. Name: STATE OF IDAHO
Address: DEPT OF CORRECTIONS 1299 N OCEAN RD SUIT 110
STATEHOUSE
BOISE ID 83720 83706

208-000-0000

2. Source: GROUNDWATER Trib. to:
3. Location of Point of Diversion: NENE Sec. 32, Township 02N, Range 02E
SENE Sec. 32, Township 02N, Range 02E
ADA County

4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
IRRIGATION	03/15	11/15	0.900		
DOMESTIC	01/01	12/31	4.230		

5. Total quantity to be appropriated is:
5.000 CFS (and/or) AF

6. Proposed diverting works:
- a. Description of ditches, flumes, pumps, headgates, etc.
2 NEW WELLS, STORAGE TANK & DISTRIBUTION SYSTEM TO NEW PRISON
 - b. Height of storage dam feet; active reservoir capacity
acre-feet; total reservoir capacity acre-feet; period of
year when water will be diverted to storage: to inclusive.
 - c. Proposed well diameter is 16 inches; proposed depth of well is 800
feet.
 - d. Is groundwater with a temperature greater than 85F being sought? NO
 - e. If well is already drilled, when?
Drilling Firm
Well was drilled for

7. Time required for the completion of the works and application of
the water to the proposed beneficial use is 5 year(s).

8. Place of Use: IRRIGATION

TWN	RGE	SEC	ACRES	ACRES	ACRES	TOTAL
02N	02E	32	NENE 02	SENE 03	NENW 40	
			NWNW 40	SWNW 40	SESW 40	165

Total number of acres irrigated: 165 *

* SEE REMARKS

Place of Use: DOMESTIC, same as IRRIGATION use

9. a. Who owns the property at the point of diversion?
APPLICANT
b. Who owns the land to be irrigated or place of use?
APPLICANT
c. If the property is owned by a person other than the applicant,
describe the arrangement enabling the applicant to make this filing.

10. Remarks:

Domestic use is for Idaho State Penitentiary.
Water bearing zone to be appropriated is 550 to 750 feet.
Application proposes diversion of groundwater from two proposed
wells at new prison complex. Domestic use is for complex and
includes land application of waste water in NW 1/4 S32.
Irrigation includes 5 acres at complex and possibly 40 acres in
160 acre parcel in NW 1/4 S32.
Applicant seeks a waiver of local moratorium asserting water use
for a prison is in the local public interest. **
Applicant agrees to mitigate consumptive use in the future as needed.

11. Map of proposed point of diversion and place of use attached? [x]

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



Applicant

IDOL - OPERATIONS MANAGER

Received by SL Date 7/7/98 Time 4⁴⁵ Preliminary check by SL

Fee \$ 50 Receipted by SL # W024112 Date 7/7/98

Publication prepared by AT Date 7-8-98 Published in Idaho Statesman

Publication approved AT Date 8-4-98 ⁷⁻¹⁶⁻⁹⁸

* Amended 12/7/1995 (version).
Priority date is proposed for 12/7/1995.
Original filing receipt E0460379 (voucher). -SL
Amended filing receipt W024112 (check).

** per 7/8/98 Response Form.
D'base updated.

MICROFILMED
OCT 27 1998

Comments: Date: 12/ 7/1995 User-ID: RHOWERTO

Subject: Future Growth

This application is intended to cover future growth.
Domestic water use based upon additional persons in the next five years.
Total population for the year 2000 is 3000 inmates and 700 staff.

Comments: Date: 12/ 7/1995 User-ID: RHOWERTO

Subject: DOC Wells

DOC wells 3 & 4 are connected now and well 4 is a back-up well for well 3.
DOC well 6 exists and will be interconnected as part of the plan for growth.

Comments: Date: 12/ 8/1995 User-ID: SLESTER

Subject: PROCESSING DELAY, FEE & OVERLAP

Application processing delayed pending backlog reduction.
Purchase Order submitted with filing, date of priority to be determined per follow-up with correct payment (fee is \$200).
Application related to pre-1987 development (appl. 63-12297) plus SRBA claims A63-30296 through A63-30298 (& perhaps others?).
Large Div. info solicited from applicant & response in process.
Water bearing zone assumed per 2 well logs in IDWR records: well #3 and well #4; no log found for well #6.

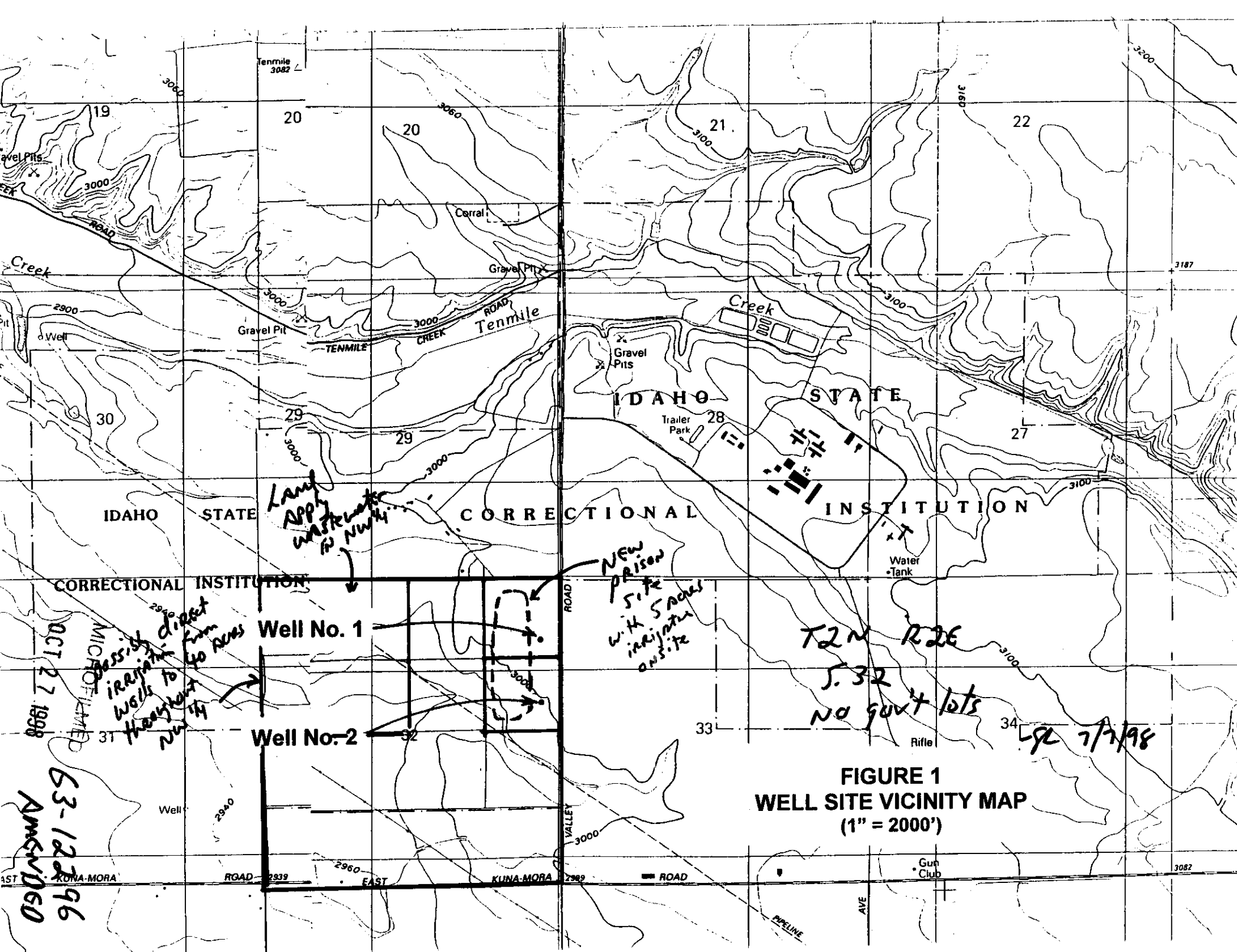
Comments: Date: 7/ 7/1998 User-ID: SLESTER

Subject: PROCESSING UPDATE

Application was advertised last 2 weeks of June 1998. Information was out of date. This amended filing is for new prison site near existing prison. Note that irrigation in NW 1/4 is limited to 40 acres per irrigation season within 160 acre land base. The land application practice (domestic use in NW 1/4) is included per the interim waste water treatment policy of IDWR.
Total build-out of 2 phase prison development is 3000 beds. Total number of staff not known at this time. New wells will not serve existing prison. Wells at existing prison will not serve new prison.

MICROFILMED

OCT 27 1998



Public Water System Well Site Evaluation

April 6, 1998

Attachment A

info per 7/7/98
office visit

MICROFILMED
OCT 27 1998

63-12296
AMENDED

SCANLAN ENGINEERING

Groundwater and Environmental Engineering

April 6, 1998

Mr. Bill Freeman
Idaho Division of Environmental Quality
1445 North Orchard Street
Boise, ID 83706-2239

Subject: Public Water System Well Site Evaluation for Water Supply Wells and Pumps -
Private Prison of Idaho

Dear Bill:

The following well site evaluation describes two proposed water supply wells for the Private Prison of Idaho.

Well Site Locations

The prison will be located approximately six miles south of Boise, on the west side of Pleasant Valley Road.

Well No. 1 will be located in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 32, Township 2 North, Range 2 East. Well No. 2 will be located in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 32, Township 2 North, Range 2 East.

A vicinity map is provided as Figure 1. A project site map is provided as Figure 2. A well site map is provided as Figure 3.

Land Ownership

The Idaho Department of Corrections owns the property. The prison will be operated initially by Corrections Corporation of America.

Site boundaries extend to Pleasant Valley Road on the east (330 feet), the quarter-quarter section line on the west (990 feet), the section line on the north (750 feet from Well 1), and the quarter section line on the south (430 feet from Well No. 2). Department of Correction land ownership extends further north, south, and west of the site boundaries, as shown on Figure 1.

Topography and Land Use

The well sites are located on gently sloping ground with good access for drilling equipment, pump rigs, etc. Permanent all weather roads will be constructed to each well head.

The land slopes southwesterly at a 1 percent grade at Well No. 1. The land slopes southwesterly at a 2 percent grade at Well No. 2. Well sites elevations are 3012 feet at Well 1 and 2999 feet at Well No. 2. There are no floodways or floodplains within one half mile of the well sites.

MICROFILMED

OCT 27 1998

There are no existing wells within 500 feet of the proposed well sites. No aquifer recharge projects are located within a mile of the well sites. There are no known injection wells in the project vicinity.

The well sites are located approximately 330 feet west from Pleasant Valley Road and the site property boundary.

The wastewater treatment ponds for the new prison will be located 2,000 to 3,000 feet west and northwest of the well sites. Wastewater land application will take place west of the ponds, approximately 4000 feet west of the well sites.

There will be no sewer, stormwater, irrigation, or other non-potable water lines or ditches within 100 feet of the well sites. There will be no parking lots, roads (except for well access roads), or buildings within 50 feet of the well sites. A 275,000-gallon water tank will be located approximately 50 feet south of Well No. 1.

Well Head Protection

The well sites and surrounding land will be under the control of the Idaho Department of Corrections or their contractors. The well sites are located outside of the perimeter of the actual prison facility. Surface seals will extend from ground level to approximately 580 feet. These deep seals will prevent contaminants from migrating downward through the annular space between casing and borehole. Therefore, the wells should be adequately protected from surface and subsurface activities that could impact groundwater quality.

Groundwater Under The Direct Influence of Surface Water

The wells will be located more than 500 feet from the nearest surface water sources. Furthermore, they will be sealed to an approximate depth of 580 feet. As a result, the water from the proposed wells does not have potential to be classified as Groundwater Under the Direct Influence of Surface Water.

Other Well Sites Evaluated

No other well sites have been evaluated because the proposed sites meet all DEQ well site criteria.

Professional Opinion

Based on the data provided herein, it is my professional opinion that the two proposed well sites are suitable for public water supply wells.

Please contact me at your convenience to schedule a site visit.

Sincerely,



Terry M. Scanlan, P.E., P.G.
Engineer/Hydrogeologist



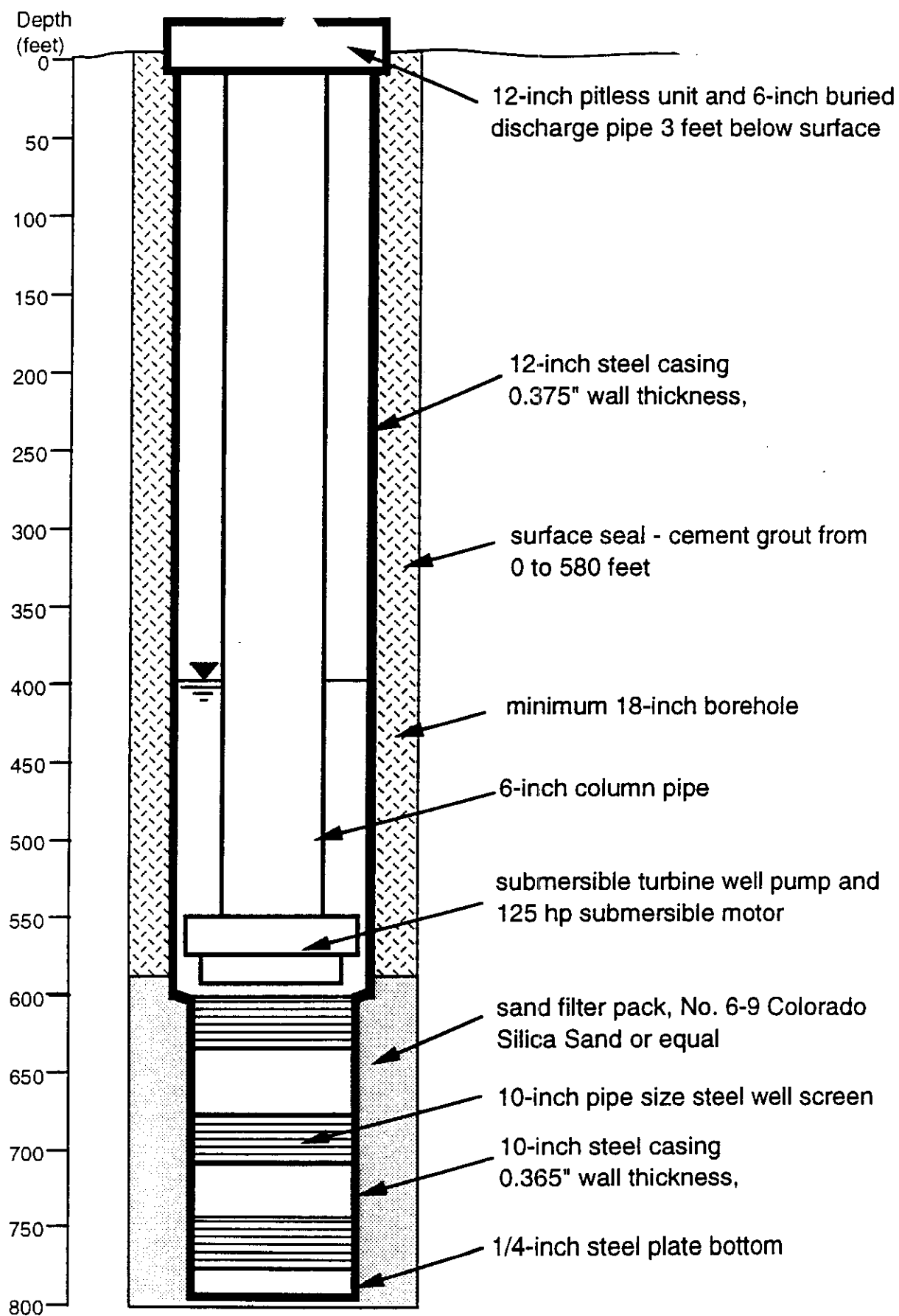


FIGURE 4
CONCEPTUAL DESIGN
PRIVATE PRISON OF IDAHO - WELL NO. 1

MICROFILMED

951 77 1000

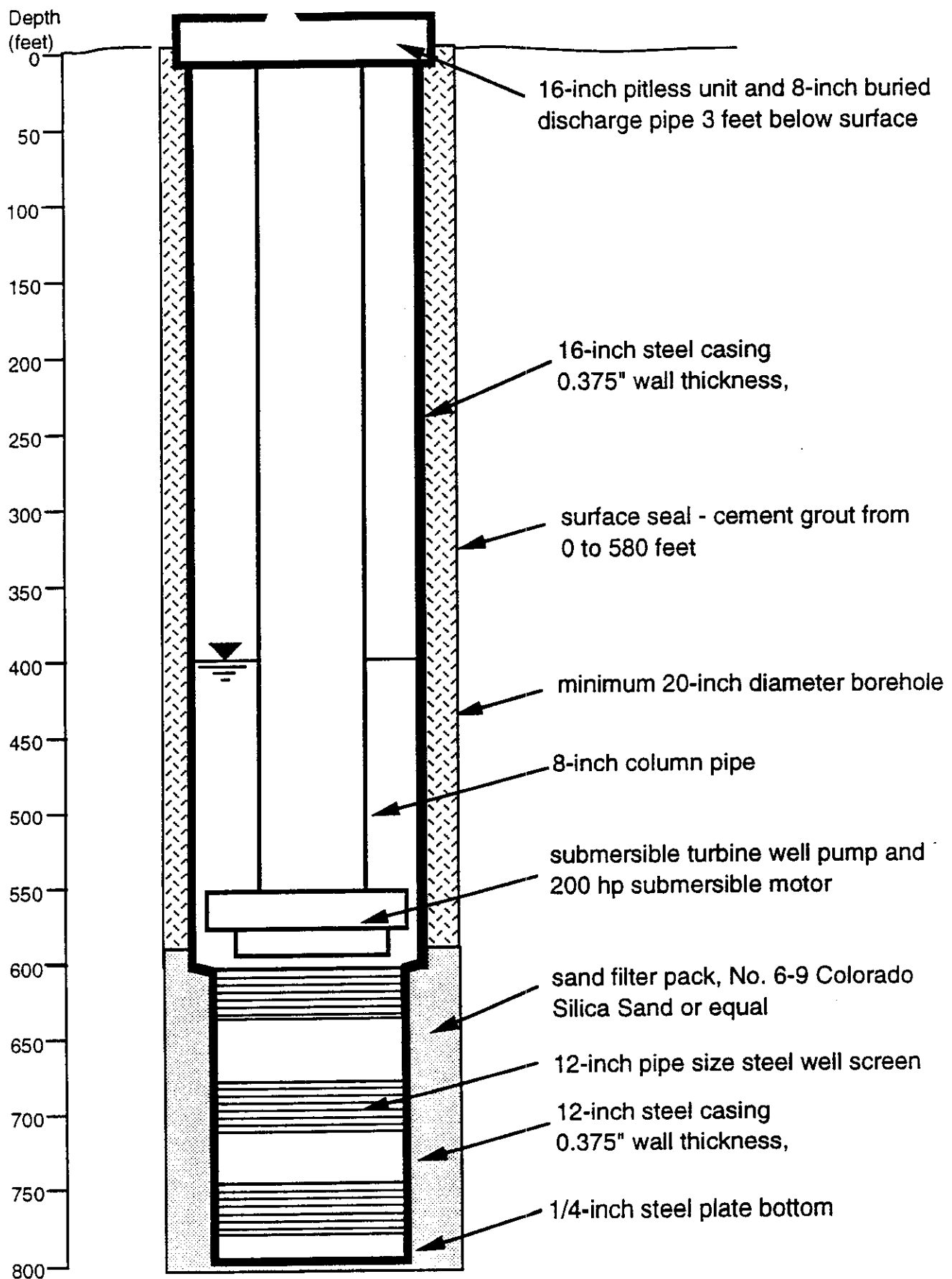
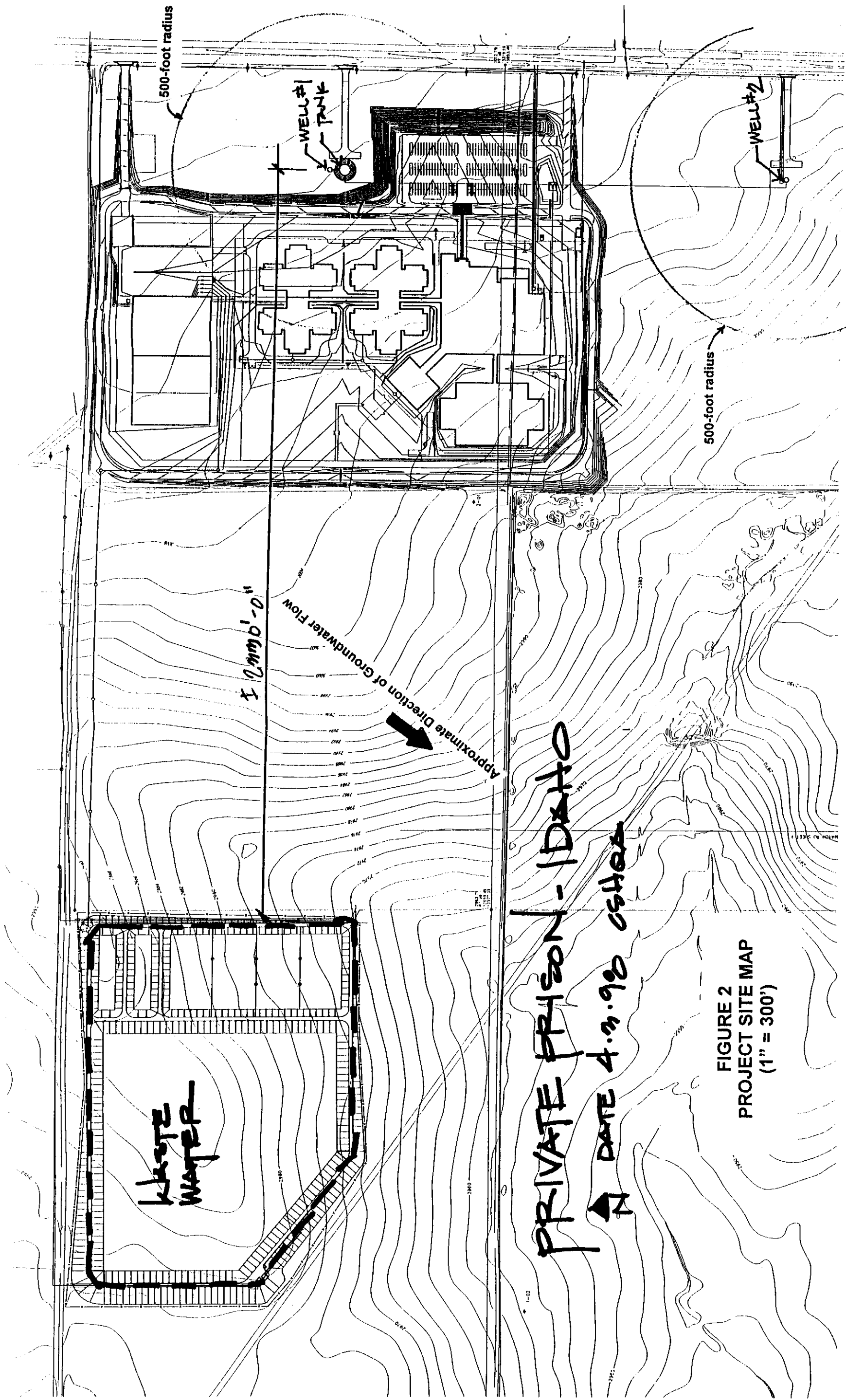
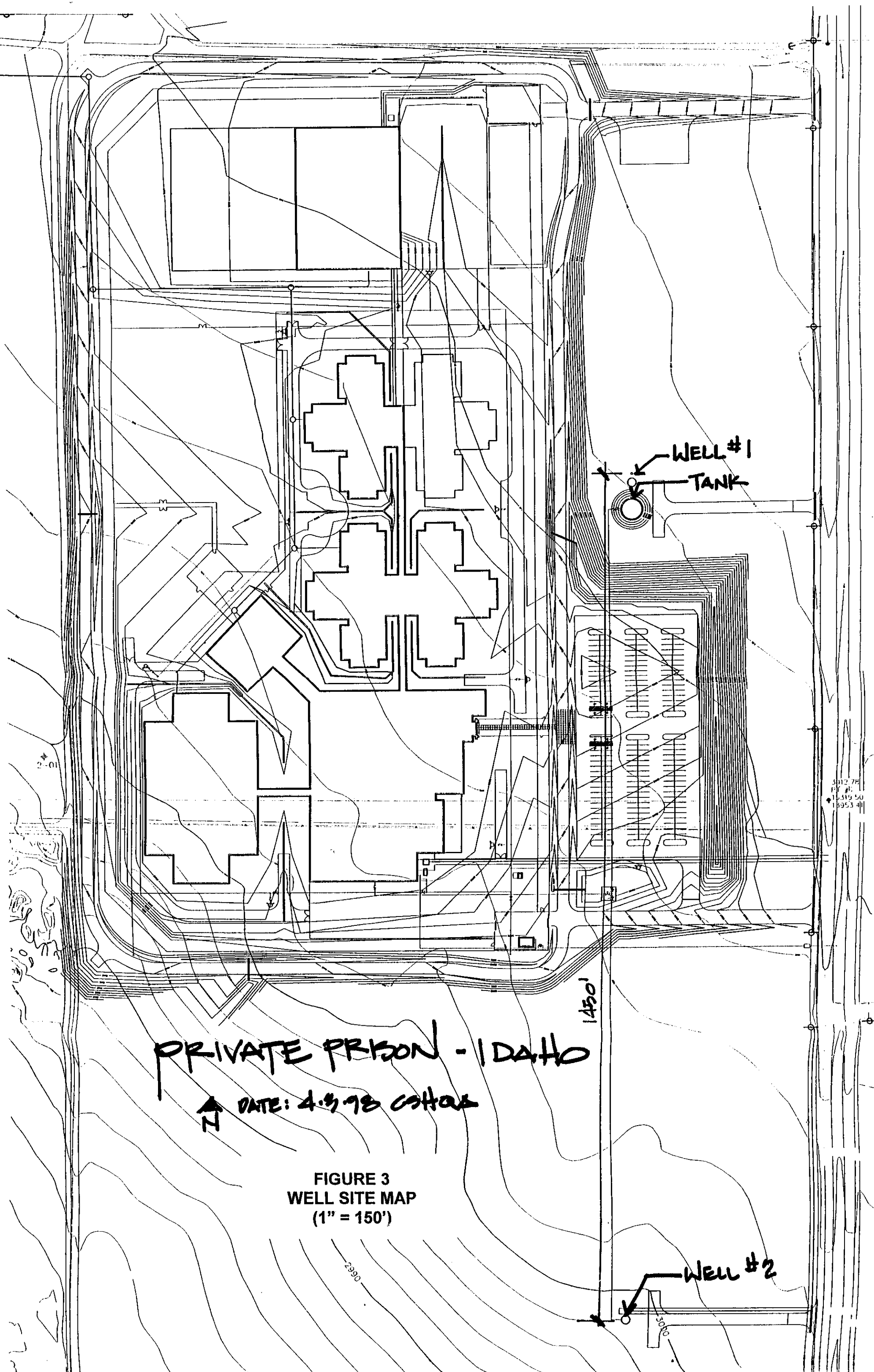


FIGURE 5
CONCEPTUAL DESIGN
PRIVATE PRISON OF IDAHO WELL NO. 2

001 27 1998





3012 78
PT #1
1319 50
1353 40

PRIVATE PRISON - 1 DATA

DATE: 4.9.98 CSH/OK

FIGURE 3
WELL SITE MAP
(1" = 150')

1430'

WELL #2

1390

1350

Basin 83 Delay

Ident. No. 63-12296

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name: STATE OF IDAHO
Address: DEPT OF CORRECTIONS
STATEHOUSE
BOISE ID 83720
208-000-0000
2. Source: GROUNDWATER
3. Location of Point of Diversion: Trib. to:
SWSWSW Sec. 27, Township 02N, Range 02E
SESWSE Sec. 27, Township 02N, Range 02E
NWNWNE Sec. 33, Township 02N, Range 02E
ADA County
4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
IRRIGATION	03/15	11/15	1.680		
DOMESTIC	01/01	12/31	3.540		
5. Total quantity to be appropriated is:
5.220 CFS (and/or) AF
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc.
3 EXISTING INTERCONNECTED WELLS; FOR FUTURE GROWTH @ ID. ST. PEN.
 - b. Height of storage dam feet; active reservoir capacity
acre-feet; total reservoir capacity acre-feet; period of
year when water will be diverted to storage: to inclusive.
 - c. Proposed well diameter is 16 inches; proposed depth of well is 770 feet.
 - d. Is groundwater with a temperature greater than 85F being sought? NO
 - e. If well is already drilled, when? 11/12/1965
Drilling Firm JESSE DOTY + WITT & SONS (WELL #3 & 4, 1965-1968; #6 WELL ?)
Well was drilled for STATE OF IDAHO
7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 year(s).

MICROFILMED

OCT 27 1998

*Previous version replaced by 7/7/98
Amended Appl.*

8. Place of Use: IRRIGATION

TWN	RGE	SEC	ACRES	ACRES	ACRES	TOTAL
02N	02E	27	NWSW 05	SWSW 10		15
		28	SWNE 03	SENE 01	SENE 02	
			NESW 05	NESE 05	NWSE 10	
			SWSE 01	SESE 10		37
		34	SENE 32			32

Total number of acres irrigated: 84

Place of Use: DOMESTIC

TWN	RGE	SEC	ACRES	ACRES	ACRES
02N	02E	27	NWSW	SWSW	
		28	SWNE	SENE	SENE
			NESW	NESE	NWSE
			SWSE	SESE	

9. a. Who owns the property at the point of diversion?
APPLICANT
- b. Who owns the land to be irrigated or place of use?
APPLICANT
- c. If the property is owned by a person other than the applicant,
describe the arrangement enabling the applicant to make this filing.

10. Remarks:

Domestic use is for Idaho State Penitentiary.
Water bearing zone to be appropriated is 550 to 750 feet.

11. Map of proposed point of diversion and place of use attached? []

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

Applicant

Received by RdH Date 12/7/95 Time 2:00 Preliminary check by R

Fee \$ 200 Receipted by * # Date

Publication prepared by St Date 6-11-98 Published in Statesman
6-18-25-98

Publication approved Date

* Receipt #, d.o.p. to be determined upon processing of P.M. MICHOY 6329
Received 12/7/95.
P.O. \$200 but correct fees 63-12296 5.22 cfs + OCT 27 1998

63-12297 .66 cfs \$100 } \$300 total.

Comments: Date: 12/ 7/ 1995User-ID: RHOWERTO

Subject:
Future Growth

This application is intended to cover future growth.

Domestic water use based upon additional persons in the next five years.

Total population for the year 2000 is 3000 inmates and 700 staff.

Comments: Date: 12/ 7/ 1995User-ID: RHOWERTO

Subject:
DOC Wells

DOC wells 3 & 4 are connected now and well 4 is a back-up well for well 3.

DOC well 6 exists and will be interconnected as part of the plan for growth.

Comments: Date: 12/ 8/ 1995User-ID: SLESTER

Subject:
PROCESSING DELAY, FEE & OVERLAP

MICROFILMED

Application processing delayed pending backlog reduction OCT 27 1998

Purchase Order submitted with filing, date of priority to be

63-12296

determined per follow-up with correct payment (fee is \$200).

Application related to pre-1987 development (appl. 63-12297) plus

SRBA claims A63-30296 through A63-30298 (& perhaps others?).

Large Div. info solicited from applicant & response in process.

Water bearing zone assumed per 2 well logs in IDWR records: well #3 and well #4; no log found for well #6.

MICROFILMED
OCT 27 1998

63-12296

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant STATE OF IDAHO
DEPT OF CORRECTIONS Phone _____
Post office address STATEHOUSE BOISE ID 83720
2. Source of water supply GROUNDWATER which is a tributary of _____
DOC WELL #3
3. Location of point of diversion is SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Govt. Lot _____
Sec. 27 Township 02N Range 02E B.M. ADA County; additional
DOC WELL #4 DOC WELL #6
points of diversion if any: T02N, R02E, S27, SESWSE & T02N, R02E, S33, NWNWNE
4. Water will be used for the following purposes:
Amount 1.68 for IRRIGATION purposes from 03/15 to 11/15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 3.54 for DOMESTIC purposes from 01/01 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 5.22 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. DOC #3 DOC #4
EXISTING WELLS, LIC 63-03487 & 63-07025
& NON LIC DOC WELL #6 WILL BE INTERCONNECTED. DOC WELLS #3 & #4 ARE CONNECTED NOW AND
WELL #4 IS A BACK-UP FOR #3.
- b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.
NO NEW WELLS
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
- d. Is ground water with a temperature of greater than 85°F being sought? NO MICROFILMED
- e. If well is already drilled, when? _____; Drilling firm _____ OCT 27 1998;
Well was drilled for (well owner) _____
7. Time required for the completion of the works and application of the water to be proposed beneficial use is
5 years (minimum 1 year).

8. Description of proposed uses (if irrigation only, go to item 9):

- Hydropower; show total feet of head and proposed capacity in KW. _____
- Stockwatering; list number and kind of livestock. _____
- Municipal; show name of municipality. _____
- Domestic; show number of households. _____
- Other; describe fully. DOMESTIC WATER USE BASED UPON PROJECTED ADDITIONAL PERSONS IN THE NEXT FIVE YEARS: INMATES= 1800 STAFF= 700
PRIOR LICENSES COVER 1200 INMATES. TOTAL FOR THE YEAR 2000 IS: 3000 INMATES, 700 STAFF.

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- 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	
02N	02E	27										D 5	D 10						15
		28			D 3	D 1				D 2	D 5				D 5	D 10	D 1	D 10	37
		34				32													32

Total number of acres to be irrigated 84

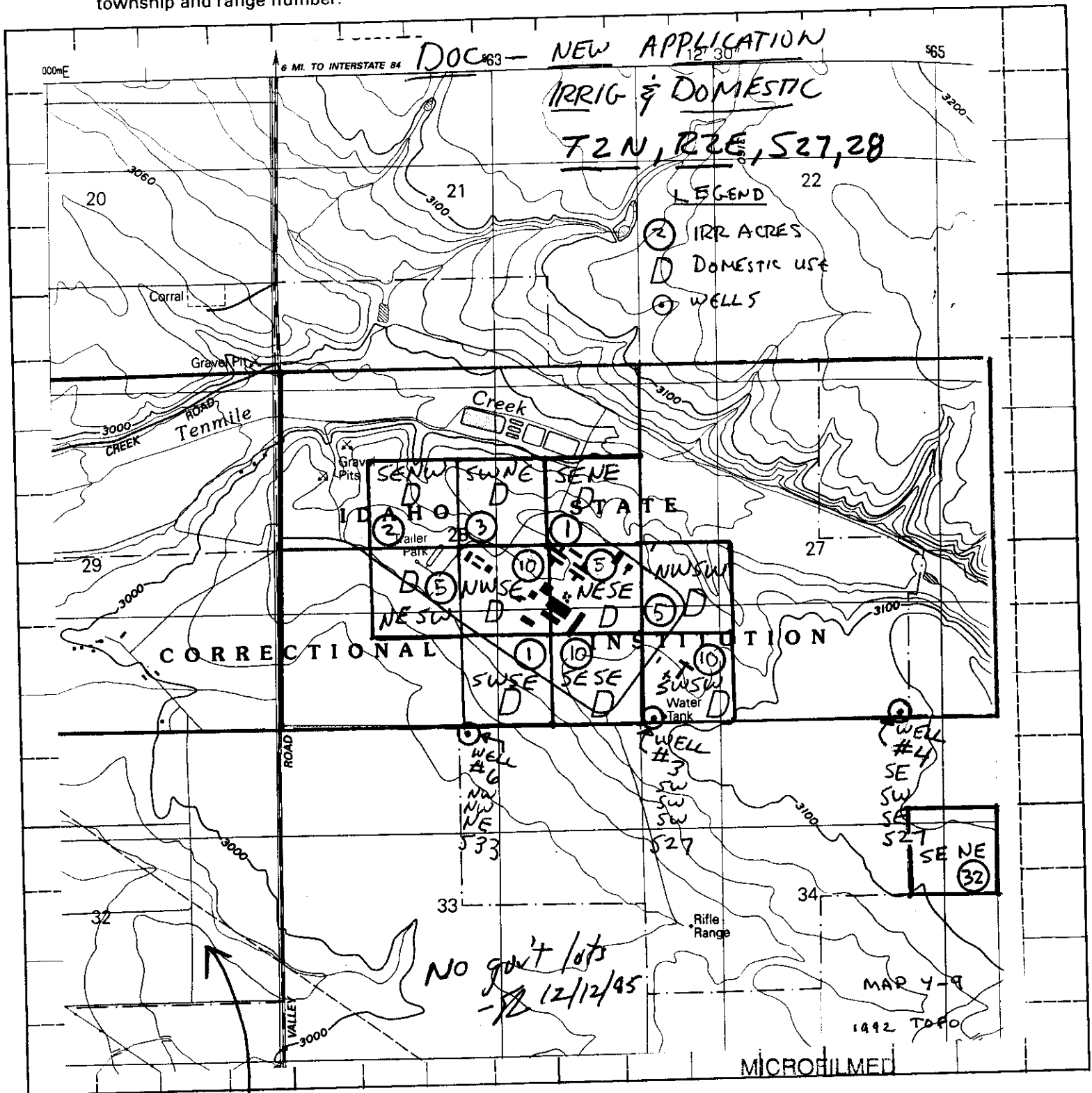
10. Describe any other water rights used for the same purposes as described above. 63-03487 & 63-07025
USED FOR DOMESTIC OVERLAP TO ADD MORE CFS & PERSONS. NO IRRIGATION OVERLAP ON ACRES.

- Who owns the property at the point of diversion? APPLICANT
- Who owns the land to be irrigated or place of use? APPLICANT
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: THIS APPLICATION IS INTENDED TO COVER FUTURE GROWTH.

MICROFILMED
OCT 7 1998

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



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

Amended site E 1/2 NE 1/4
S. 32 1/1/98
-FL (see new map)

x *James C. Spalding*
(Applicant)

Received by _____ Date _____ Time _____ Preliminary check by _____
Fee \$ _____ Received by _____ # _____ Date _____
Publication prepared by _____ Date _____ Published in _____
Publication approved _____ Date _____

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:

MICROFILMED
OCT 27 1998

**NOW
STARTING
RIGHT
SIDE OF
FILE**



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

JAMES E. RISCH
Governor

KARL J. DREHER
Director

November 15, 2006

PAT DONALDSON
STATE OF IDAHO
DEPT OF CORRECTIONS
1299 N ORCHARD STE 110
BOISE ID 83706

RE: Permit No. 63-12296

Amendment of Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed amendment of permit approving your application to amend the permit referenced above. Please be sure to thoroughly review every element including the conditions of approval listed on your permit.

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

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

If you have any questions, please contact me at 208-287-4947.

Sincerely,

for Shelley W. Keen

Water Rights Supervisor

Enclosure(s)

cc: DAVID J BARBER

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2006 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Amendment of Permit) to the person(s) listed below:

RE: WATER RIGHT PERMIT NO. 63-12296

**DAVID J BARBER
DEPUTY ATTORNEY GENERAL
700 W JEFFERSON, ROOM 210
PO BOX 44449
BOISE ID 83711-4449**

**PAT DONALDSON
STATE OF IDAHO
DEPT OF CORRECTIONS
1299 N ORCHARD STE 110
BOISE ID 83706**

A handwritten signature in cursive script, reading "Deborah J. Gibson", is written over a horizontal line.

**Deborah J. Gibson
Admin. Assistant**

Statement of Available Procedures and Applicable Time Limits

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

(Required by Rule of Procedure 730.02)

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

JAMES E. RISCH
Governor

KARL J. DREHER
Director

November 9, 2006

IDAHO DEPARTMENT OF CORRECTION
1299 N ORCHARD STE 110
BOISE ID 83706

RE: PERMIT NO. 63-12296

Dear Permit Holder:

Enclosed is a copy of the request for extension you submitted to the department for the above referenced permit, granting an extension of time for filing proof of beneficial use to **November 1, 2011**. This approved request reinstates the permit since the request was submitted after the proof due date, and the priority of the permit advances to December 10, 1995, as referenced in Section 42-218a, Idaho Code. Please note that the department has granted this extension based on good cause.

It is important that you work diligently toward the completion of the development during the construction period allowed since the department may not be able to grant additional extensions based on good cause.

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. Please contact any office of the department for the proper form to file a change of ownership of a water right and/or a change in the address of the owner. The department's website, which provides these forms is at: www.idwr.idaho.gov.

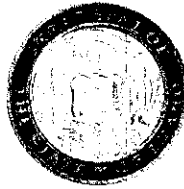
If you have any questions, please contact me at (208) 287-4942.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosure

Cc: David Barber



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN
November 8, 2006

RECEIVED

NOV 09 2006

VIA STATEHOUSE MAIL AND
FACSIMILE 287-6700

Ms. Deborah Gibson
Administrative Assistant
Idaho Department of Water Resources
322 E. Front St.
Boise, ID 83720

Re: Permit No. 63-12296.

Dear Debbie:

The purpose of this letter is to respond to your telephonic request regarding the request for extension of time for filing proof of beneficial use, which the Idaho Department of Correction filed in November 2003. I understand that the Idaho Department of Water Resources never formally acted on this request, and you requested information on how the Idaho Department of Correction would like to proceed regarding this request. I have consulted with my client the Idaho Department of Correction, and they would like the extension to extend for a period of five years from the date the IDWR acts on this extension request. If you have any questions, please give me a phone call.

Sincerely,

A handwritten signature in black ink, reading "David J. Barber".

DAVID J. BARBER
Deputy Attorney General

DJB/ov

cc: Pat Donaldson

CONVERSATION MEMORANDUM

Date 11/2/06

File _____

NAME OF PARTY IDUC

EMPLOYEE RL

RE: CONTACT INFO

(1) DAVID BARBER, Deputy A.G. 334-2400

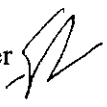
(2) PAT DONALDSON, IDUC 658-2108

- TRANSFER APPROVAL ASAP
- RE 11/17/06 DEADLINE for AJ REC'D'S
- PRELIM ORDERS → IDUC ATTN PAT DONALDSON
→ CC DAVID BARBER

THIS DOES NOT NEED TO BE SCANNED

MEMORANDUM

TO: Transfer No. 67055 & Amendment No. 69884 Files

FROM: Steve Lester 

DATE: October 27, 2006

RE: Evaluation of Sufficiency of Information Submitted

Transfer – includes 5 licenses (63-3271, 63-3445, 63-3487, 63-7025 and 63-8088) plus 3 beneficial use claims (63-30296, 63-30297 and 63-30298).

Amendment – permit 63-12296.

The Idaho Department of Corrections (IDOC) proposed changes to its water rights serving the prison complex south of Boise. The transfer and permit amendment applications originated in 1999. Previously amended versions were protested by United Water Idaho (UWI). The parties resolved the protest with a private agreement submitted to IDWR. The agreement does not include conditions subject to IDWR jurisdiction.

IDOC and IDWR worked together in recent months for approvals to be issued. Western Region allocation and adjudication staff met recently with IDOC to work through some remaining issues. Accordingly, IDOC amended both applications on October 11. Although additional legal notice and fees were not needed for this step, UWI was provided a comment period through October 25. Roger Dittus from UWI called Western Region on October 26 to report that UWI did not have concerns about the amended applications.

The recently amended applications propose these revisions:

1. List all wells as P/D for all rights instead of segregating irrigation from municipal wells (one system vs. two).
2. List all wells to 40-acre instead of 10-acre locations.
3. Amend the permit by retaining irrigation use but changing 4.23 cfs from domestic to municipal (instead of changing all 5.00 cfs to municipal).

The applications can be approved as outlined in this memo. The applicant will have an opportunity to respond to the approvals. Assuming no significant changes result from that process, IDWR can prepare SRBA recommendations based on the transfer approval (the permit is beyond SRBA scope). SRBA recommendations need to be completed by November 17 to be included in the Basin 63 Part III Director's Report.

Everything is on track to successfully meet the SRBA deadline.

SCANNED

NOV 01 2006

Preliminary Orders approving the applications should be sent to IDOC ATTN Pat Donaldson with a copy to Deputy AG David Barber. Those two have been very helpful in working through this process.

Summary of Information Submitted

Note: For simplicity, the rights being transferred and the permit being amended are sometimes collectively referred to as rights.

Authority to File: The applicant owns the rights.

Water Right Validity: Transferred rights are presumed valid based on thorough SRBA review with one exception noted below. Licensed rights were claimed more or less as licensed with some minor differences generally focused on accomplished P/D changes. All of the licensed irrigation is recognized by the adjudication review. Note that right 63-3445 will revert to its pre-Transfer 5314 full irrigation status. Previous IDWR file information in that regard adequately verified full irrigation. Approval of Transfer 5314 was followed by the filing of Transfer 67055 about one year later. These factors favor reversal of Transfer 5314 without complications.

Beneficial use expansion claim 63-32096 will be disallowed in the SRBA. That claim is not included in the transfer approval. That claim was not included in application data entry due to some problems dealing with this in Workflow.

The permit remains in good standing assuming an approved extension of time to file proof of beneficial use (pending at SO). Ideally the extension approval will be part of the amendment approval.

Injury to Other Water Rights: Injury to other rights is not found. Settlement of the protest reinforces this conclusion.

Enlargement of Use: Enlargement is prevented by limiting the nature of use change to appropriate amounts reflected in the draft approvals. While municipal use in the permit is considered fully consumptive (existing condition of approval), municipal use in the transfer is not. This fully consumptive issue revolves around land application practices necessary for environmental requirements.

Transfer approval should not include a condition stating that municipal use is fully consumptive. Since municipal water under the transfer derives from retired irrigation, a fully consumptive clause would result in an enlargement. Land application of municipal water will result in de minimus consumptive use during the non-irrigation season if this practice is needed during those times. Land application of municipal water during the irrigation season will mimic irrigation use after water is first used for non-consumptive uses (potable water etc.). Therefore, land application under the transfer will not result in an enlargement.

Local Public Interest: Both approvals serve local public interests.

Beneficial Use/Conservation of Water Resources: Both applications propose beneficial use consistent with conservation of water resources in Idaho.

Approval of both applications is consistent with criteria of I. C. § 42-211 (amendment) and § 42-222 (transfer).

Discussion

Data entry affected correct records.

The same boundary will define irrigation and municipal uses. The uses are kept separate to distinguish traditional irrigation of cropland from typical municipal uses generally served by separate wells. (The separate well thought is subject to change in the future for this site as noted below.)

Both draft approvals reflect a system of 9 wells for dual uses in a large area. The wells can provide irrigation and/or municipal uses within the boundary. The boundary is a 3125 acre PPOU for irrigation that doubles as a municipal use service area.

All the public water supply wells can provide backup to irrigation use but not vice versa. Some of the wells are older irrigation wells that cannot be used for potable water at this time. However, IDOC estimated that eventual replacement of such a well with a well constructed to public water supply standards would be cost effective in the long run. The approvals reflect this possible flexibility. The approvals also list the wells to 40-acre tracts for additional well replacement flexibility in the future.

Both applications propose some irrigation and some municipal uses. IDOC has ceased irrigating cropland at the site. Apparently the irrigation rights or portions of rights will be leased into the water bank. Municipal approvals will provide the necessary water for the site. This will include miscellaneous irrigation (defined under municipal use) other than agricultural cropland.

Verifying Beneficial Use and Combined Limits For Transfer

Transfer 5314 for 63-3445 will be reversed to cover full irrigation as in the original license. That irrigation was previously verified and is reconfirmed by current SRBA analysis. All the other irrigation licenses are similarly verified by adjudication review. Acres, rates and volumes are adapted from the licenses with one exception. Volume in 63-3271 was not previously defined. Using "volume required vs. volume diverted" analysis, allow full volume of 1026 afa for that license ($V_r < V_d$).

Additional review reveals license 63-7025 adds 163 unique acres to the total (264 acres minus 101 overlap acres with 63-3271 and 63-3487). Total licensed acres includes 1080 unique acres with 18.64 cfs and 4860 afa (full volume).

As already noted, expansion claim 63-30296 (added 33 unique acres to the total) will be disallowed and is excluded from transfer approval. It is not necessary for transfer approval to state this disallowal – that can be covered by the adjudication process.

Licenses 63-3487 and 63-7025 include about 6 cfs/2038 afa for domestic use that can be changed to municipal use. Again, SRBA verification of historic use supports this change. Additionally, current transfer policy (Transfer Memo #24, item 5d "enlargement of use," subsection 13

“historic use recognized for municipal purposes”) supports this change. The thrust of subsection 13 recognizes that domestic use historically acting like municipal use can be changed without considering this an enlargement of use.

Beneficial use claims 63-30297 and 63-30298 for “42-111 exemptions” were verified by SRBA review. The claims include data collected by SRBA staff in the mid-1990s. Staff visited on-site with system operators, which resulted in the claims being filed. Domestic use for the meat packing plant in 63-30297 is limited to 2500 gpd. Stockwater use for 63-30298 is limited to 13,000 gpd. Allow 2500 gpd all year for the former without additional data (2.8 afa). Allow 12,050 gpd all year for the latter based on system data previously provided to IDWR (13.5 afa). It is not unreasonable to assume year around usage or close thereto for the prison setting.

The total municipal rate of flow in the transfer must be limited by constraints for the rights that will provide this use. Then the total municipal rate can be factored into all necessary constraints to yield the total flow rate for all uses in the transfer. Here is the layout for that:

Total irrigation rate = 18.64	= + 18.64
Municipal rate 63-3487 = 5.40 / only 2.60 cfs of that is additive per license	= + 2.60
Municipal rate 63-7025 = 0.50 / but none of that is additive per license	= + 0.00
Municipal rate 63-30297 = 0.04 / all of which is additive in transfer	= + 0.04
Municipal rate 63-30298 = 0.24 / all of which is additive in transfer	= + 0.24
Sum of above rates	= 21.52
Allow maximum rate applied for in transfer	= 21.24

Allow 18.64 cfs for irrigation and 6.18 cfs for municipal. Limit the total combined rate to the maximum applied for in the transfer application, 21.24 cfs. Volumes for those uses are additive (6914.5 afa) and are capable of being produced by the system ($21.24 \times 365 \times 1.8935 = 15,377$ afa).

Disregard “fire protection” use in any rights. That does not add rate or volume to any right in the transfer and will be covered by municipal use.

Transfer limits should be linked with permit limits.

Limits in Amending the Permit

The permit authorizes 45 acres in a 165 acre P/U. It also covers 4.23 cfs for up to 3700 people. The permit is considered fully consumptive due to land application requirements.

The 45 acres add 40 unique acres to the total P/U (5 acre overlap with 63-3445 when consider original licensed irrigation prior to T5314 that is now being reversed). Therefore there will be 1120 total unique acres of irrigation under the transfer (1080) combined with the permit (40).

Use the 100 gpd/person licensing standard for this setting (same standard used in most recent license with domestic use, 63-7025). Limit municipal use to the maximum volume the domestic use could be licensed for: $(3700 \times 100 \times 365) / 325850 = 414.5$ afa.

Irrigation volume remains undefined by IDWR standards in the permit. Rate limits are maintained in the amendment ($0.90 + 4.23 = 5.00$ cfs). Conditions of approval reflect combined limits with the transfer where appropriate.

See the attached tables for a summary of transfer and amendment uses, flow rates, volumes and combined limits. Also see the attached irrigation overlap diagram.

Conditions of Approval

Draft conditions are based on existing conditions, standard requirements for proposed uses, and a few odds and ends. The odds and ends are noted below.

Internal IDWR consultation suggested a condition of approval that municipal use does not cover crops. IDOC asked for a condition of approval clarifying that municipal use does include other types of irrigation (lawns etc.).

Internal IDWR consultation also suggested a condition to verify which use is being served by which well(s) at any given time since two separate systems are not proposed. A suggested condition from a previous case was modified to require this if needed in the future (for example, if annual reporting becomes required).

A condition notes that municipal use does not include irrigation of cropland, another suggestion resulting from internal IDWR consultation.

A condition notes that municipal use does include other types of irrigation. This was requested by the applicant for future clarity – seems like a good idea.

Summary

1. See draft approvals. Note that it is acceptable to remain silent on disallowal of expansion claim 63-30296.
2. Include approved extension of time for permit (5 years?).
3. Issue preliminary orders ASAP to accommodate SRBA deadlines.
4. Mail orders to IDOC Attn. Pat Donaldson at applicant's address.
5. Send a copy of orders to Deputy AG David Barber at:

PO BOX 83720
BOISE ID 83720-0010 (tel 334-2400, fax 334-2690).

Attachments: Table 1. Transfer 67055
Table 2. Amendment 63-12296
Table 3. Transfer 67055 and Amendment 63-12296 Combined
IDOC Irrigation Overlap Diagram

- 82
10/17/06

TABLE 1. Transfer 67055

<u>#</u>	<u>USE</u>	<u>ACRES</u>	<u>CFS</u>	<u>AFA</u> ¹⁾
63-3271	IRR	228	2.92	1026
63-3445	IRR	237	4.74	1066.5 ²⁾
63-3487	IRR	140	2.80	630
	mini	-	5.40	1971
63-7025	IRR	264	3.38	1184.8
	mini	-	0.50	67.2
63-8088	IRR	312	4.80	1404
63-30297	mini	-	0.04	2.8
63-30298	mini	-	0.24	13.5
<u>SUBTOTAL</u>	IRR	1080 ³⁾	18.64	4860
<u>SUBTOTAL</u>	mini	-	6.18	2054.5
<u>TOTAL ALL USES</u>		1080	21.24 ⁴⁾	6914.5

1) Diversion volume, note full volume per acre

2) REVERSES T. 5314, reflects original license

3) Unique acres per IRR reason for 3125 acre apow

4) per application limit

SCANNED

NOV 01 2006

19 of 2

SL
10/17/06

TABLE 2. AMENDMENT 63-12296

<u>USE</u>	<u>ACRES</u>	<u>CFS</u>	<u>AFA</u> ^{1/}
IRR	45	0.90	UNDEFINED
Muni	—	4.23	414.5
<u>TOTAL</u>	45	5.00	UNDEFINED

TABLE 3. TRANSFER 67055 & AMENDMENT 63-12296 COMBINED

<u>USE</u>	<u>ACRES</u>	<u>CFS</u>	<u>AFA</u> ^{1/}	<u>NOTES</u>
IRR }	1080	18.64	4860	TRANSFER
	45	0.90	UNDEFINED	AMENDMENT
<u>SUBTOTAL</u>	1120 ^{2/}	19.54	UNDEFINED	COMBINED
Muni }	—	6.18	2054.5	TRANSFER
	—	4.23	414.5	AMENDMENT
<u>SUBTOTAL</u>	—	10.41	2469	COMBINED
<u>TOTAL</u>	1120	26.24	UNDEFINED	COMBINED

^{1/} diversion volume

^{2/} UNIQUE ACRES PER IRR SEASON for 3125 Acre PPU

SCANNED

NOV 11 2006

Pg. 2 of 2

Section line
1/4 1/4 1/4 1/4

Section # 21

63-3271
(15)

63-7025

9 15

UNIQUE ACRES per Overlap

TOTAL 30

TOTAL 25

TOTAL 12

63-8088

30

29

28

7

30

22

17

25

5

12

4

27

22

5

14 23 10 30
40 40 40 40 20 15 40

31

63-3445 After

T.5314 REVERSED

32
40 40 40 39

39

39

39

63-3487

35 35

35 35

40 39

33

TOTAL 40 + 39

40 40 40

2

34

* Remit
63-12296

Overlap Area in
40 other " "

E 1/2 NW 1/4 S. 32
NW 1/4 + E 1/2 NW S. 31



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

JAMES E. RISCH
Governor

KARL J. DREHER
Director

October 13, 2006

ATTN ROGER DITTUS
UNITED WATER IDAHO
PO BOX 190420
BOISE ID 83719-0420

HAND-DELIVERED

Re: Idaho Department of Corrections (IDOC) Amended Applications

Dear Roger:

Enclosed are copies of the amended applications for transfer and amendment of permit that we discussed earlier today. Please review the amended versions and provide written comments, if any, by October 25, 2006.

The following information summarizes the amended versions.

Transfer

- Pg 2, item 6a – 9 existing wells, not 7
- Pg 19 – deleted notes distinguishing irrigation from municipal wells
- Pg 23 – deleted notes as in pg. 19, deleted 10-acre location of wells

Amendment

- All wells to be used as needed for both uses
- Retain irrigation currently in permit, change domestic portion to municipal use (previously listed all 5.00 cfs in permit for municipal use)
- Use same points of diversion and place of use identified in transfer application.

IDOC Amended Applications
October 13, 2006
Page 2

The bottom line can be summarized as follows:

1. Allow all nine wells to be diversion points for all rights and the permit.
2. Limit nature of use change in permit to 4.23 cfs.
3. Proposed uses remain subject to private agreement between IDOC and United Water.

Please let me know if you have any questions. Thank you for your time in reviewing the amended proposals.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Lester", with a stylized flourish at the end.

Steve Lester
Water Rights Supervisor

Enclosure

CONVERSATION MEMORANDUM

Date 10/11/06

File T. 67055 &

NAME OF PARTY David Bunker for IDUC

Amendment 63.12296

EMPLOYEE SL

RE: Proceeding with APPROVALS

LEFT VOICE MAIL MESSAGE

PER prior meetings & calls:

① Confirmed OK to Amend as discussed without additional legal notice (S.O. concurs). Additional fees N/A.

② Confirmed will provide written comment period.

③ Confirmed Appt. with Pat Donaldson is in the works to amend both Appls.

④ On track to issue WR approvals & then make IRBA recommendations based on that.

MEMORANDUM

TO: File

FROM: Steve Lester 

DATE: October 11, 2006

RE: IDOC Transfer Application 67055 and Amendment Application 69884

Deputy AG David Barber and Ed Squires contacted me recently in a conference call. Barber has some concerns about the draft approval information I provided to him (not available in database yet).

Most of the concerns were minor and were easily addressed. One concern remains that needs more thought.

The applications propose a set of irrigation wells for rights that will remain for irrigation. The applications propose another set of wells for municipal uses under rights proposed for that purpose. Some right propose both uses while others propose a single use. The municipal wells can back up irrigation uses but not vice versa. The legal notice for these applications discussed the wells as above in a narrative rather than a legal description way.

Barber said that the irrigation wells are generally old. IDOC plans to replace those wells over time as needed by upgrading them to public water supply standards. Squires noted that this would actually be cost-effective in the long run for managing the prison site.

The issue is this: would revision of the applications to allow all wells to be used for irrigation and/or municipal uses require additional legal notice? Both applications will be amended to show all wells for all rights if this will not prolong the approval process.

After reviewing the applications as filed and the legal notice (see attached copy), I do not think additional legal notice would be necessary. It is hard to imagine how anyone would be injured by this revision. Under this new approach, all the rights would list all the wells as points of diversion. This would avoid the need for a complex clarifying condition of approval that certain wells can be used for municipal use but that all the wells could be used for irrigation as originally proposed.

Additionally, this proposed revision should not have any bearing on the settlement between IDOC and United Water. We should give United Water a chance to comment if the applications are revised.

I discussed this today with Jeff Peppersack. He agreed with this analysis.

NOTICE OF AMENDED PROPOSED CHANGE OF WATER RIGHTS

IDAHO DEPT. OF CORRECTIONS of 1299 N. Orchard Suite 110, Boise ID 83706 has applied to the Department of Water Resources to amend an application for transfer of water rights and an application for amendment of permit pursuant to I.C. §§ 42-211 and 42-222 for nine ground water rights in Ada County. The transfer and amendment were originally processed in January 2000 but were amended in March 2002 to include two additional wells. The rights include five licenses, three beneficial use adjudication claims and one permit, all serving various portions of two prison complexes. The existing water rights and proposed changes are in Sections 21 and 27 through 34, T2N, R2E near Pleasant Valley Road south of the Boise Airport. The water rights are nos. 63-3271, 63-3445, 63-3487, 63-7025, 63-8088, 63-12296, 63-30296, 63-30297 and 63-30298. The priority dates range from early 1962 to late 1995.

The rights presently cover seven wells, 27.06 cfs, 1816 acres of irrigation (some overlap), and various year around non-irrigation uses. The applicant wants the water rights to reflect the municipal nature of the site. The applicant seeks to combine the rights into a 3125 acre permissible place of use (PPU). **TRANSFER APPLICATION #67055** for licenses and claims with 1962-1977 priorities will provide 19.18 cfs to irrigate 1214 acres per year within the PPU and 6.18 cfs for year around municipal use within the general service area of the prisons. The total amount of water being transferred is 21.24 cfs/7350 afa for both uses when combined. **AMENDMENT APPLICATION #69884** for permit #63-12296 with a 1995 priority will change 5.00 cfs of irrigation/domestic uses into year around municipal use within the same general service area. Uses will include fully consumptive land application of waste water.

e wells ↓

Nine existing wells will be used. Five of the wells were constructed to public water supply standards and will supply the municipal water. Most of the irrigation will be provided from the other four wells, although the municipal wells will be available for irrigation if needed. Details of the proposed changes are available from the office listed below.

Any protest against approval of the proposed changes must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705-5082, together with a protest fee of \$25 for each application on or before June 3, 2002. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director Published in the Idaho Statesman on May 16 and 23, 2002.

This is the notice as should have appeared in May 2002. For some reason unknown to me, the notice was published twice on each day: once with heading a transfer and once with heading a permit amendment. But the above information appeared in both notices following the word "Remark" in the newspaper (see back of attached pages). Although unfortunate, no harm was done by this "double-duty."

- JR 6/20/02

UPDATE TO 5/28/02 Affidavit of publication

SCANNED

FEB 06 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 28, 2005

DAVID J BARBER
DEPUTY ATTORNEY GENERAL
PO BOX 83720
BOISE ID 83720-0010

Re: In the matter of Application for Transfer 67055 and Application for Amendment of Permit No. 63-12296 in the name of the State of Idaho, Department of Correction

Dear Sirs:

The Department of Water Resources acknowledges receipt of a withdrawal of United Water Idaho's protest of the above-referenced applications. This withdrawal is based on a written agreement between the parties.

The department will resume processing of this application and issue a permit.

Sincerely,

Gary Spackman
Hearing Officer

cc: Regional Office
John Marshall, Givens Pursley



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

September 13, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

IDAHO DEPT OF CORRECTIONS
C/O DAVID J BARBER
DEPUTY ATTORNEY GENERAL
PO BOX 83720
BOISE ID 83720-0010

Re: Application for Amendment of Permit No. 63-12296

Dear Mr. Barber:

Enclosed please find information regarding revision of the above referenced application. While the attachments are not pristine, it would be fine to use them as they are in submitting an amended application.

An additional fee is not necessary to amend the application because additional legal notice will not occur.

Thank you for your time today. I hope you found it useful to discuss the draft approvals. I will contact you early in the week of September 25 to resume our discussion.

Sincerely,

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

Steve Lester
Water Rights Supervisor

Enclosure

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

 Fee _____
 Receipt _____
 Received by _____
 Date _____
AMENDED**APPLICATION FOR AMENDMENT OF A PERMIT**

Name of Applicant _____ Phone _____

Mailing address _____

 I am the owner and the holder of Permit to appropriate the Public Waters of the State of Idaho No. 63-12296, and request that the permit and permit map be amended and/or changed as follows:

Purpose of Amendment: _____ Change point of diversion ☒ Add point of diversion
☒ Change place of use ☒ Change nature of use ☒ Change period of use _____ Other

 1. Point of diversion: _____ $\frac{1}{4}$ _____ $\frac{1}{4}$ _____ $\frac{1}{4}$, Section _____, Township _____, Range _____, B.M.,
 County of _____ Other points of diversion _____
SEE ATTACHMENT A & C

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

 Amount 0.90 for IRRIGATION purposes from 3/15 to 11/15 (both dates inclusive)
 (cfs or acre-feet per annum) (water use) (Begin Month) (End month)

 Amount 4.23 for Municipal purposes from 1/1 to 12/31 (both dates inclusive)
 (cfs or acre-feet per annum) (water use) (Begin Month) (End month)

 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per annum) (water use) (Begin Month) (End month)
5.00 cfs total3. Place of use or land to be irrigated: SEE ATTACHMENT B

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total number of acres to be irrigated _____

4. a. Who owns the property at the point of diversion? _____ } Applicant
- b. Who owns the land to be irrigated at the place of use? _____ }
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:
- _____
- _____
- _____

Complete the following map by showing land and point of diversion as proposed by this amendment.
 Show 1/4 1/4, section, township, range and ditches. (the smallest subdivision represents 40 acres)

Scale: 2 inches equal 1 mile

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

→ Signed this _____ day of _____, 20_____. _____ Permit Holder

ACTION OF THE DEPARTMENT OF WATER RESOURCES

Preliminary check by _____ Publication prepared by _____ Date _____

Published in _____ Publication dates _____

I, _____, of the Department of Water Resources hereby

Witness my hand this _____ day of _____, 20_____.

 SIGNATURE

**SETTLEMENT AGREEMENT BETWEEN
UNITED WATER IDAHO INC. AND THE IDAHO DEPARTMENT OF
CORRECTION**

RECITALS

A. The Idaho Department of Correction filed Application for Transfer No. 67055 and Application for Amendment of Permit No. 63-12296 with the Idaho Department of Water Resources on November 19, 1999. The Applications concern water rights (and a permit) that authorize various water uses associated with Corrections' prison facility located south of Boise City, Idaho.

B. United Water Idaho Inc. filed notices of protest to the Applications on June 3, 2002. United Water filed its protests primarily to protect its diversions of water from four wells (the "Ten Mile Ridge Wells") in the vicinity of the prison.

C. United Water and Corrections enter into this Settlement Agreement to resolve United Water's protests to the Applications and to enter into a cooperative arrangement to protect the common water supply shared by them.

NOW, THEREFORE, in consideration of the promises stated in this Agreement and for other good and valuable consideration, the receipt of which is hereby acknowledged, United Water and Corrections agree to the terms of this Settlement Agreement as set forth herein.

TERMS OF AGREEMENT

1. DEFINITIONS.

A. The term "Applications" means Application for Transfer No. 67055 and Application for Amendment of Permit No. 63-12296.

B. The term "Corrections" means the Idaho Department of Correction, 1299 N. Orchard St., Suite 110, P.O. Box 83720 Boise, ID 83720-0018, by and through its authorized representatives.

C. The term "IDWR" means the Idaho Department of Water Resources, 322 E. Front St., P.O. Box 83720, Boise, ID 83720-0098, by and through its authorized representatives.

D. The term "IWRB" means the Idaho Water Resource Board, 322 E. Front St., P.O. Box 83720, Boise, ID 83720-0098, by and through its authorized representatives.

*Assume Rec'd
e S.O. about
9/20/05*

-82

E. The term "Prison Water Rights" means the following water rights 63-3271, 63-3445, 63-3487, 63-7025, 63-8088, A63-30296, A63-30297 and A63-30298 and application for permit no. 63-12296:

Right Number	Priority Date	Irrigation Diversion Rate	Domestic, Stockwater Diversion Rate	Fire and/or	Protection, Municipal
63-3271	01/02/1962	2.92 c.f.s.			
63-3445	04/16/1965	4.74 c.f.s.			
63-3487	01/20/1966	2.8 c.f.s.	5.4 c.f.s.		
63-7025	9/22/1967	3.38 c.f.s.	0.50 c.f.s.		
63-08088	02/27/1975	4.8 c.f.s.			
A63-30296	03/15/1977	0.54 c.f.s.			
A63-30297	08/01/1977		0.04 c.f.s.		
A63-30298	08/01/1977		0.24 c.f.s.		
63-12296	12/07/1995		5.0 c.f.s.		

F. The term "Prison Irrigation Water Rights" means water right numbers 63-3271, 63-3445, 63-8088, A63-30296 and that portion of the following water rights authorized for diversion of water for irrigation purposes: 63-3487 and 63-7025.

G. The term "Prison Municipal Water Rights" means water right numbers A63-30297, A63-30298, 63-12296 and that portion of the following water rights currently authorized for diversion of water for domestic and fire protection purposes: 63-3487 and 63-7025.

H. The term "SRBA" shall mean the proceedings in *"In Re the General Adjudication of Rights to the Use of Water From the Snake River Drainage Basin Water System, State of Idaho v. United States; State of Idaho; and all unknown claimants to the use of water from the Snake River Drainage Basin Water System,"* Case No. 39576, in the District Court of the Fifth Judicial District of the State of Idaho, County of Twin Falls, or any successor proceedings.

H. The term "United Water" means United Water Idaho Inc., 8248 West Victory Rd., P.O. Box 109420, Boise, ID 83719-0420, by and through its authorized representatives.

2. UNITED WATER WITHDRAWAL OF PROTESTS.

Within ten days (10) following execution of this Settlement Agreement, United Water shall withdraw its protests to the Applications.

3. SRBA

United Water agrees not to file objections to IDWR's recommendations of the Prison Water rights in the SRBA, provided these rights are claimed by Corrections and recommended by IDWR consistent with description of these rights in the Part 2 of Application for Transfer No. 67055.

4. USE OF PRISON IRRIGATION RIGHTS.

Corrections has ceased farming operations and agrees not to use (or allow others to use) the Irrigation Water Rights for any purpose from the effective date of this Agreement through 2020 except as provided below.

A. Corrections may lease the Prison Irrigation Rights into the Idaho Water Supply Bank for rental to others provided that the acceptance of any such lease by the IWRB is conditioned such that any rental of any Irrigation Water Right from the Idaho Water Supply Bank may not be diverted through a ground water well located in the area depicted on the attached Exhibit A, which is incorporated herein by this reference.

B. Upon reasonable determination by Corrections that its Prison Municipal Water Rights are insufficient for the actual municipal water needs associated with the prison complex it operates south of Boise City, Idaho (the "Prison"), Corrections shall notify United Water it will need to use the Prison Irrigation Rights, or a portion thereof, to meet the municipal water needs of the Prison. The notice shall state the quantity of water Corrections intends to use both in terms of annual volume and diversion rate. Not sooner than three years after providing said notice to United Water, Corrections may begin using that portion of the Prison Irrigation Rights identified in the notice.

5. MONITORING

A. Both United Water and Corrections shall make every effort to maintain useable monitoring tubes and flowmeters on wells and to regularly collect measurement data. Older wells that are presently without monitoring tubes, or which have inoperative monitoring tubes, shall be equipped with such monitoring tubes whenever new or repaired pumping plants are installed. At such times, turbine oil, downhole debris, or any other obstruction to obtaining a clear and useful monitoring tube shall be overcome so that each newly equipped well is able to have its water level measured via a designated plastic tube free of oil or other constrictions. Similarly, all new wells shall be equipped with totalizing flowmeters and designated water level monitoring tubes.

B. Upon request by United Water, Corrections will provide United Water with all of Corrections' water level measurement data. Upon request by Corrections, United Water will provide Corrections with all of United Water's water level measurement data for the Ten Mile Ridge Wells.

6. MODIFICATION

This Agreement (including any amendments thereto) may not be modified except upon the express written agreement of the Parties signed by a duly authorized representative of each Party.

7. RETAINED RIGHTS

A. Corrections retains the right to drill replacement wells for the Prison Municipal Water Rights and for the Prison Irrigation Water Rights, and United Water retains the right to

drill replacement wells for its water rights, in accordance with the procedures set forth in Chapter 2, Title 42, Idaho Code.

B. This Agreement applies to the land presently owned by Corrections for its prison facility located south of Boise City, Idaho. This Agreement does not apply to any lands and water rights appurtenant to those lands that Corrections may purchase in the future.

8. AGREEMENT TO COOPERATE

The Parties agree that a primary purpose of this Agreement is to protect United Water's Ten Mile Ridge Wells from problems that could arise if Corrections were to reinitiate diversions under the Prison Irrigation Water Rights. The Parties also agree that Corrections should be able to retain its Prison Irrigation Water Rights for use should future municipal demands at its prison complex require water in excess of that authorized by the Prison Municipal Water Rights. Consequently, the Parties formulated this agreement to cease diversions by Corrections under the Prison Irrigation Water Rights for a set period while protecting these rights from forfeiture by placing them in the Idaho Water Supply Bank. The Parties recognize that implementation of this Agreement requires acceptance by the IWRB of certain conditions of leasing the Prison Irrigation Water Rights and the continued operation of the Idaho Water Supply Bank as it currently exists. Because of these (and possibly other) contingencies that the parties cannot control, the Parties hereby agree to cooperate in the future to implement the goals of this Agreement should Corrections be unable, for whatever reason, to place its Prison Irrigation Water Rights into the Idaho Water Supply Bank.

9. ENTIRE AGREEMENT

This Agreement contains and constitutes the entire understanding of the Parties hereto. This Agreement shall be construed in a manner to be consistent with the Franchise Agreement and complement its operation, but shall not be construed as a supplement or an amendment thereto.

10. NO WAIVER

The duties and obligations imposed by this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No waiver of any right or duty under this Agreement by either Party shall be effective against such Party unless in writing executed by an authorized representative of such Party. No action or failure to act by Corrections or United Water shall constitute a waiver of any right or duty afforded either of them under this Agreement nor shall any such action or failure to act constitute an approval of or acquiescence in any breach.

11. SEVERABILITY

If any of the provisions of this Agreement shall be held to be invalid or unenforceable by a court of competent jurisdiction or governmental authority, or otherwise inconsistent with law, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement, but rather the entire Agreement shall be construed as if not containing the particular

invalid or unenforceable provision or provisions, and the rights and obligations of Corrections and United Water shall be construed and enforced accordingly.

12. CONSTRUCTION

Nothing contained in this Settlement Agreement should be construed to create any right in or any duty or obligation to any third party. This Agreement shall be construed under the laws of the State of Idaho.

13. EFFECT OF SECTION HEADINGS

The section headings appearing in this Settlement Agreement are not to be construed as interpretations of the text but are inserted for convenience and reference only.

14. DUPLICATE ORIGINALS

This Settlement Agreement is executed in duplicate. Each of the two agreements with an original signature of each party shall be an original.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives effective as of the last date below written.

Idaho Department of Correction

United Water Idaho Inc.

By:

By:

Name: Thomas J. Beuclair

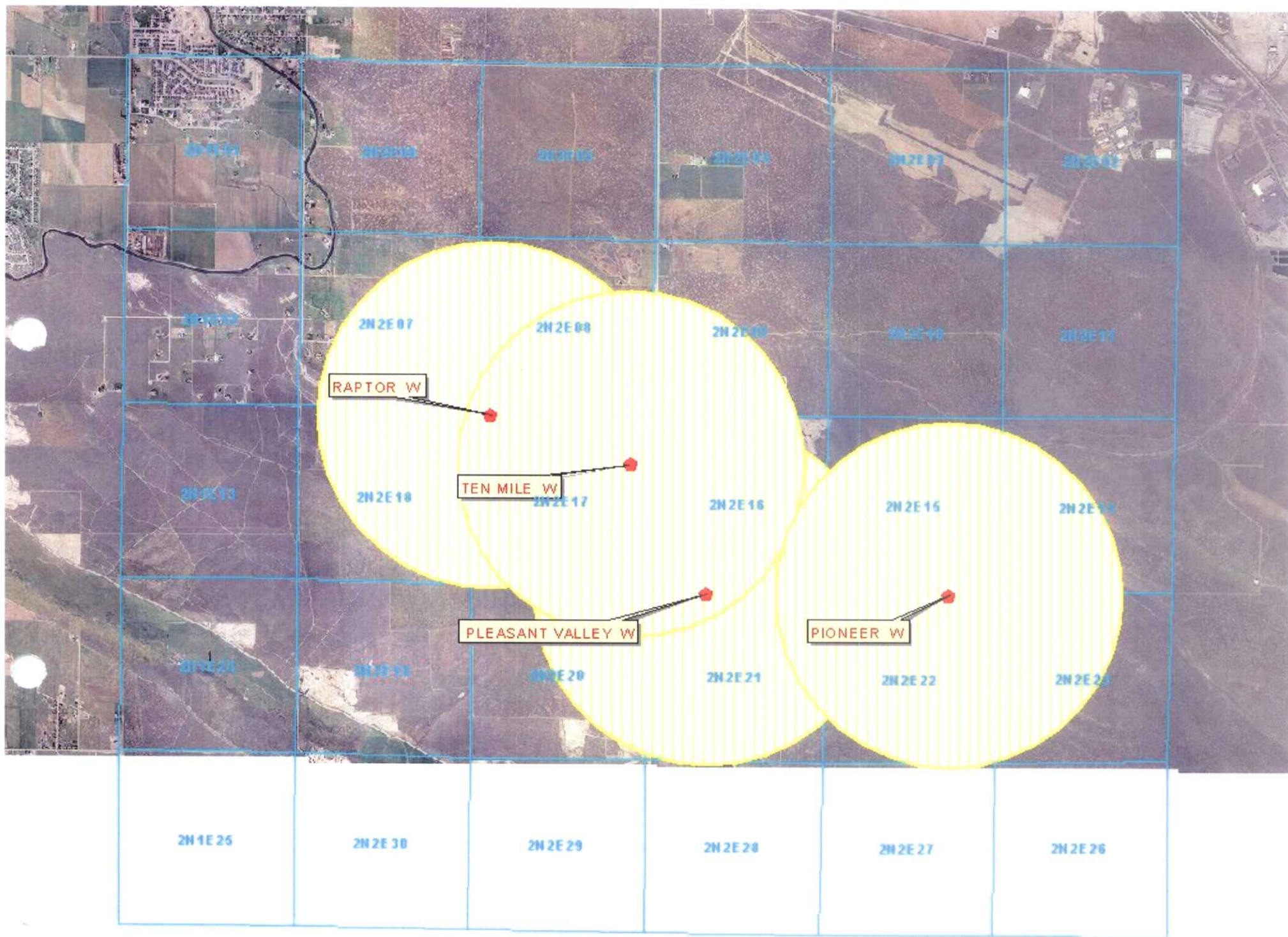
Name: Gregory P. Wyatt

Title: Director

Title: Vice President

Dated: _____

Dated: _____



United Water



RECEIVED

SEP 21 2005

DEPARTMENT OF
WATER RESOURCES

United Water Idaho Inc.
8248 W. Victory Road
P.O. Box 190420
Boise, ID 83719-0420
Telephone 208 362 7300
Facsimile 208 362 3858

September 19, 2005

RECEIVED

SEP 20 2005

WATER RESOURCES
WESTERN REGION

John Westra
Manager, Western Region
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

Re: Withdrawal of Protests to Applications for Transfer 67055 and Amendment of Permit No. 63-12296 in the name of the Idaho Department of Corrections.

Dear Mr. Westra:

On June 3, 2002 United Water Idaho Inc. filed protests to the Application for Transfer No. 67055 and the Application for Amendment of Permit No. 63-12296 with the Idaho Department of Water Resources.

United Water Inc. hereby withdraws its protests of these Applications.

Sincerely,

Roger Dittus, PG
Hydrogeologist

cc: Mr. David Barber, Office of the Attorney General
Mr. John Marshall, Givens Pursley LLP



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 25, 2005

DAVID J BARBER
DEPUTY ATTORNEY GENERAL
PO BOX 83720
BOISE ID 83720-0010

Re: Application for Transfer 67055 and Application for Amendment, in the name of
the State of Idaho, Department of Correction

Dear Mr. Barber:

I received your letter dated June 1, 2005 addressed to Karl Dreher. Attached to the letter was a copy of a draft agreement between the Idaho Department of Correction (Correction) and United Water to resolve a protest against the application for transfer and application for amendment. I am responding to your letter.

A condition of the proposed settlement agreement provides that water rights held by Correction will be placed in the Water Supply Bank for a period of 15 years, but would "not be rented from the Water Supply Bank for diversion from any well within a one-mile radius of the production wells of United Water of Idaho." As I review the text of the draft agreement, however, the restriction for rental is limited to four wells owned by United Water depicted on an aerial image referred to as Attachment A in the letter. An image attached to the draft settlement agreement locates four wells identified as Raptor W, Ten Mile W, Pleasant Valley W, and Pioneer W. A one-mile-radius circle is drawn around each well location. I assume your reference to the "production wells of United Water" is limited to the four wells depicted on the unlabeled attachment.

When a water right is offered to the Idaho Water Resource Board (Board) for lease into the Water Supply Bank, the Board has the obligation to review the water right, to determine whether allowing water to be placed in the bank would be appropriate, and has the discretion to accept or refuse the application. In both the lease and subsequent rental from the water bank, the Board and the Idaho Department of Water Resources (IDWR), as the administrator of the water supply bank, have an obligation to prevent injury to other water rights. The settlement agreement, while not a determination by IDWR that injury would occur within a one-mile radius of each of the United Water wells, is an attempt by the parties to prevent injury. Because the prohibition is limited to a small geographical area and because there are other areas within the

Mr. Barber
July 25, 2005
Page 2

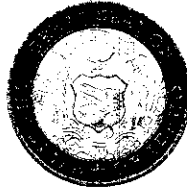
Treasure Valley where the water could be rented and beneficially used, the Correction water rights can be accepted into the Water Supply Bank. The water rights can be leased into the bank and the rights can be rented back out of the water bank at some other location.

Sincerely,

A handwritten signature in black ink that reads "Gary Spackman". The signature is written in a cursive style with a large, stylized "G" and "S".

Gary Spackman
Hearing Officer

C: Western Region
John Marshall, Givens Pursley



KARL
RECEIVED
JUN 03 2005
DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

June 1, 2005

(Sent via Statehouse Mail)

Honorable Karl J. Dreher
Director, Idaho Department
of Water Resources
The Water Center
322 E. Front Street
Boise, ID 83702

Re: In the Matter of Application to Transfer No. 67055 and Application for
Amendment in the Name of the State of Idaho, Department of Correction.

Dear Director Dreher:

The State of Idaho, Department of Correction, hereinafter referred to as the "IDOC," has several production wells associated with its prison facilities on Pleasant Valley Road south of the City of Boise. United Water Idaho, which has a series of production wells generally north of these prison facilities, filed protests to the above-described applications. The IDOC and United Water Idaho have negotiated a resolution of this protest. A copy of the draft settlement agreement is attached for your information. The purpose of this letter is to obtain your position regarding the implementation of the present settlement agreement.

Recently, the IDOC temporarily ceased diverting water from its wells for irrigation of large agricultural fields for a prison farm. A critical part of the agreement is IDOC's agreement to not resume use of its water rights for irrigation for a period of fifteen (15) years and to place the water rights during this period in the Water Supply Bank, which is administered by the Idaho Water Resource Board. The agreement further provides that these water rights could not be rented from the Water Supply Bank for diversion from any well within a one mile radius of the production wells of United Water of Idaho. The purpose for this restriction is to prevent well interference with the wells of United Water Idaho.

Mr. John Marshall, attorney for United Water Idaho, and I, have discussed with Mr. Gary Spackman whether the proposed restriction would contravene any existing

Honorable Karl J. Dreher
June 1, 2005

Page 2

policies of the Idaho Department of Water Resources or of the Idaho Water Resource Board. Our understanding is that such a restriction would not contravene any existing policies. Mr. Thomas J. Beauclair, Director of the IDOC, asked me to make a written inquiry regarding your view of such a restriction. I have advised Director Beauclair that any view that you might have would not bind any future Director of the Idaho Department of Water Resources or the Idaho Water Resource Board. Nonetheless, if you perceived a problem with such a restriction, it may affect how the IDOC would proceed in this matter.

Thank you for consideration of this request.

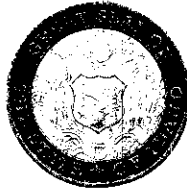
Sincerely,

A handwritten signature in black ink, appearing to read "David J. Barber". The signature is fluid and cursive, with the first name "David" being more prominent.

DAVID J. BARBER
Deputy Attorney General

DJB/OV

cc: Director Thomas J. Beauclair
Pat Donaldson
Tim McNeese
Gary Spackman
John Marshall



RECEIVED
JAN 11 2005
Department of Water Resources
JAN 11 2005

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN
January 10, 2005

Mr. Gary Spackman
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082

Re: In the Matter of Application to Transfer No. 67055 and Application for
Amendment in the Name of the State of Idaho, Department of Correction.

Dear Mr. Spackman:

The purpose of this letter is to provide you an update on the proposed settlement of the protest by United Water ("UWID") to the above-mentioned transfer. Mr. Squires and Mr. Dittus have discussed the settlement agreement several times. They have suggested changes that I believe legal counsel for United Water will find acceptable. These changes have simplified the settlement agreement. These discussions have prompted me to make an additional proposal that would eliminate any need for any review of the settlement agreement by IDWR. UWID and their legal counsel have not had a reasonable opportunity to review this additional proposal.

My understanding is that Mr. Roger Dittus is out of town and will be for about three weeks. Mr. John Marshall has just recently returned from vacation during much of Christmas break. These absences have prevented me and will prevent me for at least three weeks from getting a final settlement. I realize that you have been very patient with the Idaho Department of Correction in this matter. Nonetheless, I request that I be given until January 31, 2005 to get this matter resolved. Mr. Marshall reviewed this letter and concurs with this request.

Sincerely,

A handwritten signature in cursive script, reading "David J. Barber".

DAVID J. BARBER
Deputy Attorney General

DJB/ov

cc: John Marshall
Pat Donaldson
Ed Squires



RECEIVED

NOV 22 2004

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN
November 19, 2004

Mr. Gary Spackman
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082

Re: In the Matter of Application to Transfer No. 67055 and Application for
Amendment in the Name of the State of Idaho, Department of Correction.

Dear Mr. Spackman:

The purpose of this letter is to provide you an update on the proposed settlement of the protest by United Water to the above-mentioned transfer. The parties have continued to negotiate with respect to this matter. I sent United Water a new proposal on August 2, 2004, and United Water responded with some proposed revisions in September. Their proposed revision is conceptually acceptable to the negotiators. However, we need some technical input to assure that the proposed solution will actually achieve the desired result. If the proposed solution is determined to be unworkable, I will request that the matter be set for hearing. I will advise you on or before December 31, 2004, whether this matter should be set for hearing.

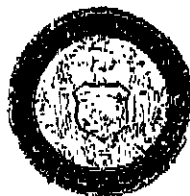
Sincerely,

A handwritten signature in black ink, reading "David J. Barber".

DAVID J. BARBER
Deputy Attorney General

DJB/ov

cc: John Marshall
Pat Donaldson
Ed Squires



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WARDEN
November 19, 2004

Mr. Gary Spackman
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082

Re: In the Matter of Application to Transfer No. 67055 and Application for
Amendment in the Name of the State of Idaho, Department of Correction.

Dear Mr. Spackman:

The purpose of this letter is to provide you an update on the proposed settlement of the protest by United Water to the above-mentioned transfer. The parties have continued to negotiate with respect to this matter. I sent United Water a new proposal on August 2, 2004, and United Water responded with some proposed revisions in September. Their proposed revision is conceptually acceptable to the negotiators. However, we need some technical input to assure that the proposed solution will actually achieve the desired result. If the proposed solution is determined to be unworkable, I will request that the matter be set for hearing. I will advise you on or before December 31, 2004, whether this matter should be set for hearing.

Sincerely,

A handwritten signature in black ink, reading "David J. Barber".

DAVID J. BARBER
Deputy Attorney General

DJB/ov

cc: John Marshall
Pat Donaldson
Ed Squires



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 18, 2004

DAVID J BARBER
DEPUTY ATTORNEY GENERAL
PO BOX 83720
BOISE ID 83720-0010

JEFFREY C FEREDAY
JOHN MARSHALL
GIVENS PURSLEY
PO BOX 2720
BOISE ID 83701-2720

Re: In the matter of Application for Transfer 67055 and Application for Amendment of Permit No. 63-12296 in the name of the State of Idaho, Department of Correction

Dear Sirs:

Enclosed for your information is a copy of a memorandum from Cynthia Bridge Clark dated May 13, 2004 regarding the above-referenced matter.

If you have any questions, please contact either Ms. Clark or Mr. Spackman at (208) 327-7900.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

C: Western Region

MEMORANDUM

To: Gary Spackman

From: Cynthia Bridge Clark *CB*

Date: May 13, 2004

Re: Department of Corrections, Transfer 67055

A letter dated April 13, 2004, by David Barber of the Office of Attorney General, requested comments on the use of the Water Supply Bank (bank) for the leasing of water rights owned the Idaho Department of Corrections (IDOC). Mr. Barber asked whether the Department of Water Resources (department) would accept these rights into the bank, and allow them to be rented from the bank exclusively by United Water for a period of twenty (20) years.

Without having a detailed understanding of the transfer application filed by IDOC or of the rights involved, the proposal appears to be a reasonable use of the bank. The following issues will need to be addressed, and should be considered in determining whether the bank will satisfy the applicants needs:

1. For rental applications of more than five years, a determination by the Water Resource Board (Board) is required, and the director of the department is required to publish notice.
2. The validity of the rights will be reviewed, and authority to file applications to the bank is required.
3. A change in nature of use from irrigation through rental of water from the bank may require documentation of the extent of beneficial use of the rights.
4. Payment for rental of water from the bank is required prior to execution of the rental agreement. Payment is generally calculated for the length of the rental based on the rental rate per acre-foot per year. The current rental rate is \$11.00 per acre-foot (e.g. \$11.00 x volume rented x 20 years).

Additional details may be considered in the processing of bank applications.



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

April 13, 2004

RECEIVED
APR 14 2004
Department of Water Resources

Mr. Gary Spackman
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082

Re: In the Matter of Application to Transfer No. 67055 and Application for
Amendment in the Name of the State of Idaho, Department of Correction.

Dear Mr. Spackman:

The purpose of this letter is to provide you an update on the proposed settlement of the protest by United Water to the above-mentioned transfer. The parties have reached a potential settlement; however, the Idaho Department of Water Resources, (hereinafter the "IDWR"), needs to review one aspect of the potential settlement before the parties execute the settlement agreement. The purpose of this letter is to solicit that review, and to explain some other problems that will delay execution of the proposed settlement, even if the review by the IDWR is favorable.

The proposed settlement would include the unconditional withdrawal of United Water's protest. After the Snake River Basin Adjudication district court has entered partial decrees for these water rights, the Idaho Department of Correction, (hereinafter the "IDOC"), would put its irrigation water rights in IDWR's water bank for use by United Water for a term of 20 years. The issue for review by the IDWR is whether it would accept the IDOC's irrigation water rights into the water bank where United Water would have exclusive use the water rights. Clive J. Strong, Chief of the Natural Resources Division, suggested this approach based on the use of such limitations in the water bank for the Lemhi River. Please provide the parties an informal review of this legal issue. If this proposal is not acceptable, then the parties will need to rethink their position.

Other issues also exist. The Office of the Attorney General is researching whether the IDOC has the authority to enter the proposed settlement. This question of authority is a major issue because of the original acquisition of the property for the prisons. The following four classes of land exist at the present prisons: (i) land was acquired under the Recreation and Public Purposes Act of June 14, 1926, ch. 578, 44 Stat. 471, as amended; (ii) land was acquired under sections 203 and 209 of the Federal Land Policy and Management Act of 1976, Pub. L. 94-579,

Mr. Gary Spackman
April 13, 2004
Page 2

90 Stat. 2743; (iii) land was acquired by warranty deed from private individuals; and (iv) land was acquired by exchange between the public school endowment and the prison endowment. The lands acquired under the Recreation and Public Purposes Act and the lands subject to the prison endowment present the biggest issues. Three separate deeds transferred the land to the State of Idaho under the Recreation and Public Purposes Act of June 14, 1926. Each of those deeds contains a condition subsequent that authorizes the United States to recover the land if the land is not used in conformance with the conditions contained in the deed. In addition, each deed makes reference to a specific plan of development submitted to, and approved by the Bureau of Land Management, (hereinafter the "BLM"). An example is enclosed for your information. The Office of Attorney General has contacted the BLM about getting a copy of the operation's plan for each deed. The BLM ordered for our review the files from the National Archives offices in Seattle, Washington, and those files just arrived, although our office has not had the opportunity to review them. While the staff of the BLM has informally advised the Office of the Attorney General that the proposed settlement would not likely cause the BLM to proceed under such a condition subsequent, the IDOC will request a written opinion to this effect prior to executing any settlement agreement. The IDOC obviously does not desire to jeopardize in any manner its ownership of the present prison properties. The Office of the Attorney General is also reviewing whether existing limitations applicable to prison endowment land would preclude such a settlement.

The review by the Office of the Attorney General described above will take some time, and the office does not have a good estimate of when it will be completed. While this review is ongoing, the parties would appreciate it if the IDWR could review the one issue described above. The parties would like concurrent review to occur in this matter. Mr. John Marshall reviewed this letter, and he concurs.

Sincerely,



DAVID J. BARBER
Deputy Attorney General

DJB/ov

Encl.

cc: John Marshall
Pat Donaldson
Julie Weaver

Idaho 016575

The United States of America

To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Land Office at Boise, Idaho, is now deposited in the Bureau of Land Management, whereby it appears that full payment has been made by the Idaho State Board of Correction, according to the provisions of the Act of Congress of June 14, 1926 (44 Stat. 741) as amended and supplemented (43 U.S.C. 869, 869-1 to 869-4), for the following described land:

Boise Meridian, Idaho.

T. 2 N., R. 2 E.,
Sec. 27, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 28, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 33, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 34, NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$.

The area described contains 640 acres, according to the Official Plat of the Survey of the said Land, on file in the Bureau of Land Management:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the said Acts of Congress, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT unto the said Idaho State Board of Correction, the tracts above-described, for penitentiary purposes only; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said Idaho State Board of Correction, and to its successors forever; subject, however, to the following reservations, conditions and limitations:

Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States.

Reserving unto the United States, its permittee or licensee, the right to enter upon, occupy and use, any part or all of that portion of the W $\frac{1}{2}$ SW $\frac{1}{4}$ said Section 27; E $\frac{1}{2}$ NE $\frac{1}{4}$ said Section 33; NW $\frac{1}{4}$ SW $\frac{1}{4}$ said Section 34 lying within 50 feet of the center line of the transmission line right-of-way of the Great Shoshone and Twin Falls Water Power Company, Power Site Reserve No. 406 for the purposes provided in the Act of June 10, 1920 (41 Stat. 1063), and subject to the conditions and limitations of Section 24 of said Act, as amended by the Act of August 26, 1935 (49 Stat. 846).

There is also reserved to the United States, all mineral deposits in the land above-described, together with the right to mine and remove the same, under applicable laws and regulations to be established by the Secretary of the Interior.

If the patentee or its successor in interest does not comply with the provisions of the approved plan of development, filed on July 2, 1965 with the Bureau of Land Management, or by any revision thereof approved by the Secretary of the Interior or his delegate, said Secretary or his delegate, after due notice, and opportunity for a hearing, may declare the terms of this grant terminated in whole or in part. The patentee, by acceptance of this patent, agrees for itself and its successors in interest that such declaration shall be conclusive as to the facts found by the Secretary or his delegate and shall, at the option of the Secretary or his delegate, operate to revert in the United States full title to the lands involved in the declaration.

The Secretary, or his delegate, may in lieu of said forfeiture of title require the patentee or its successor in interest to pay the United States an amount equal to the difference between the price paid for the land by the patentee prior to issuance of this patent and 50 percent of the fair market value of the patented lands, to be determined by the Secretary or his delegate as of the date of issuance of this patent, plus compound interest computed at four percent beginning on the date this patent is issued.

Provided, that, if the patentee or its successor attempts to transfer title to or control over the lands to another or the lands are devoted to a use other than that for which the lands were conveyed, without the consent of the Secretary of the Interior or his delegate, or prohibits or restricts, directly or indirectly, or permits its agents, employees, contractors, or subcontractors (including without limitation, lessees, sublessees and permittees), to prohibit or restrict, directly or indirectly, the use of any part of the patented lands or any of the facilities thereon by any person because of such person's race, creed, color, or national origin, title shall revert to the United States.

The grant of the above-described lands is also subject to the following reservations, conditions, and limitations:

1. The patentee or its successor in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 241), and requirements of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant thereto (43 CFR 17) for the period that the lands conveyed herein are used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits.

2. If the patentee or its successor in interest does not comply with the terms or provisions of Title VI of the Civil Rights Act of 1964, and the requirements imposed by the Department of the Interior issued pursuant to that title, during the period during which the property described herein is used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits, the Secretary of the Interior or his delegate may declare the terms of this grant terminated in whole or in part.

Idaho 016575

3. The patentee, by acceptance of this patent, agrees for itself or its successors in interest that a declaration of termination in whole or in part of this grant shall, at the option of the Secretary or his delegate, operate to revert in the United States full title to the lands involved in the declaration.

4. The United States shall have the right to seek judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1964, and the terms and conditions of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the patentee.

5. The reservations, conditions, and limitations contained in paragraphs 1 through 4 shall constitute a covenant running with the land, binding on the patentee and its successors in interest for the period for which the land described above is used for the purpose for which this grant was made, or for another purpose involving the provision of similar services or benefits.

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

[SEAL]

GIVEN under my hand, in Boise, Idaho
the TWENTY-FOURTH day of SEPTEMBER in the year
of our Lord one thousand nine hundred and SIXTY-FIVE
and of the Independence of the United States the one hundred
and NINETIETH.

By

Orval H. Hadley

Manager, Idaho Land Office



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

May 12, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

David Barber
State of Idaho
Office of the Attorney General
P.O. Box 83720
Boise, ID 83720-0010

VIA FACSIMILE
Fax: 334-2690

John M. Marshall
Givens Pursley LLP
P.O. Box 2720
Boise, ID 83701-2720

VIA FACSIMILE
Fax: 388-1300

Re: Hearing for the State of Idaho, Department of Correction's Application for
Transfer No. 67055 and Application for Amendment of Permit No. 63-12296

Gentlemen:

This letter confirms that the hearing for the protest against the Department of Correction's applications as referenced above, scheduled for May 13 & 14, 2004, is vacated. I will contact you again to coordinate rescheduling of the hearing after the issues raised in Mr. Barber's letter, dated April 13, 2004, are resolved.

Sincerely,


Gary Spackman

c. Western Region

hp officejet 7130
printer/fax/scanner/copier

Fax-history Report for
ID Dept of Water Resource
208-327-7866
May 12 2004 1:50pm

Last Transaction

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
May 12	1:49pm	Fax Sent	93881300	0:45	2	OK

hp officejet 7130
printer/fax/scanner/copier

Fax-History Report for
ID Dept of Water Resource
208-327-7866
May 12 2004 1:48pm

Last Transaction

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
May 12	1:47pm	Fax Sent	93342690	0:47	2	OK

IDAHO DEPARTMENT OF WATER RESOURCES

Fax

To:	David Barber & John Marshall	From:	Deborah J. Gibson (208) 327-7953
Fax:	334-2690 & 388-1300	Date:	May 12, 2004
Phone:		Pages:	2
Re:	Idaho Dept. of Corrections	CC:	

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

•Comments: See the attached letter vacating the hearing set in this matter for May 13 & 14, 2004.

Please contact me at the above number if you have any problems with the transmission of this fax.



STATE OF IDAHO, OFFICE OF THE ATTORNEY GENERAL
700 W. Jefferson Street, Rm. 210
P.O. Box 83720
Boise, Idaho 83720-0010

Phone: (208) 334-2400
Natural Resources Division FAX: (208) 334-2690

Transmittal Cover

To:

Name	Fax:
DEBBIE GIBSON	327-7866

From: DAVID BARBER

Date: May 11, 2004

Re: Idaho Department of Correction Application to Transfer

Pages: 6 (including this page)

***Please advise of any deficiency in this transmission. Call
Olga Valdivia at (208) 334-4159***

NOTICE: This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this notice is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return these papers to us at the address shown above via first class mail.



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WARDEN

April 13, 2004

Mr. Gary Spackman
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082

Re: In the Matter of Application to Transfer No. 67055 and Application for
Amendment in the Name of the State of Idaho, Department of Correction.

Dear Mr. Spackman:

The purpose of this letter is to provide you an update on the proposed settlement of the protest by United Water to the above-mentioned transfer. The parties have reached a potential settlement; however, the Idaho Department of Water Resources, (hereinafter the "IDWR"), needs to review one aspect of the potential settlement before the parties execute the settlement agreement. The purpose of this letter is to solicit that review, and to explain some other problems that will delay execution of the proposed settlement, even if the review by the IDWR is favorable.

The proposed settlement would include the unconditional withdrawal of United Water's protest. After the Snake River Basin Adjudication district court has entered partial decrees for these water rights, the Idaho Department of Correction, (hereinafter the "IDOC"), would put its irrigation water rights in IDWR's water bank for use by United Water for a term of 20 years. The issue for review by the IDWR is whether it would accept the IDOC's irrigation water rights into the water bank where United Water would have exclusive use the water rights. Clive J. Strong, Chief of the Natural Resources Division, suggested this approach based on the use of such limitations in the water bank for the Lemhi River. Please provide the parties an informal review of this legal issue. If this proposal is not acceptable, then the parties will need to rethink their position.

Other issues also exist. The Office of the Attorney General is researching whether the IDOC has the authority to enter the proposed settlement. This question of authority is a major issue because of the original acquisition of the property for the prisons. The following four classes of land exist at the present prisons: (i) land was acquired under the Recreation and Public Purposes Act of June 14, 1926, ch. 578, 44 Stat. 471, as amended; (ii) land was acquired under sections 203 and 209 of the Federal Land Policy and Management Act of 1976, Pub. L. 94-579,

Mr. Gary Spackman

April 13, 2004

Page 2

90 Stat. 2743; (iii) land was acquired by warranty deed from private individuals; and (iv) land was acquired by exchange between the public school endowment and the prison endowment. The lands acquired under the Recreation and Public Purposes Act and the lands subject to the prison endowment present the biggest issues. Three separate deeds transferred the land to the State of Idaho under the Recreation and Public Purposes Act of June 14, 1926. Each of those deeds contains a condition subsequent that authorizes the United States to recover the land if the land is not used in conformance with the conditions contained in the deed. In addition, each deed makes reference to a specific plan of development submitted to, and approved by the Bureau of Land Management, (hereinafter the "BLM"). An example is enclosed for your information. The Office of Attorney General has contacted the BLM about getting a copy of the operation's plan for each deed. The BLM ordered for our review the files from the National Archives offices in Seattle, Washington, and those files just arrived, although our office has not had the opportunity to review them. While the staff of the BLM has informally advised the Office of the Attorney General that the proposed settlement would not likely cause the BLM to proceed under such a condition subsequent, the IDOC will request a written opinion to this effect prior to executing any settlement agreement. The IDOC obviously does not desire to jeopardize in any manner its ownership of the present prison properties. The Office of the Attorney General is also reviewing whether existing limitations applicable to prison endowment land would preclude such a settlement.

The review by the Office of the Attorney General described above will take some time, and the office does not have a good estimate of when it will be completed. While this review is ongoing, the parties would appreciate it if the IDWR could review the one issue described above. The parties would like concurrent review to occur in this matter. Mr. John Marshall reviewed this letter, and he concurs.

Sincerely,



DAVID J. BARBER
Deputy Attorney General

DJB/ov

Encl.

cc: John Marshall
Pat Donaldson
Julie Weaver

Form 1860-9
(March 1945)
(formerly 4-1047)

Idaho 016575

The United States of America

To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Land Office at Boise, Idaho, is now deposited in the Bureau of Land Management, whereby it appears that full payment has been made by the Idaho State Board of Correction, according to the provisions of the Act of Congress of June 14, 1926 (44 Stat. 741) as amended and supplemented (43 U.S.C. 869, 869-1 to 869-4), for the following described land:

Boise Meridian, Idaho.

T. 2 N., R. 2 E.,
Sec. 27, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 28, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 33, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 34, NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$.

The area described contains 640 acres, according to the Official Plat of the Survey of the said Land, on file in the Bureau of Land Management:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the said Acts of Congress, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT unto the said Idaho State Board of Correction, the tracts above-described, for penitentiary purposes only; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said Idaho State Board of Correction, and to its successors forever; subject, however, to the following reservations, conditions and limitations:

Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States.

Reserving unto the United States, its permittee or licensee, the right to enter upon, occupy and use, any part or all of that portion of the W $\frac{1}{2}$ SW $\frac{1}{4}$ said Section 27; E $\frac{1}{2}$ NE $\frac{1}{4}$ said Section 33; SW $\frac{1}{4}$ SW $\frac{1}{4}$ said Section 34 lying within 50 feet of the center line of the transmission line right-of-way of the Great Shoshone and Twin Falls Water Power Company, Power Site Reserve No. 406 for the purposes provided in the Act of June 10, 1920 (41 Stat. 1063), and subject to the conditions and limitations of Section 24 of said Act, as amended by the Act of August 26, 1935 (49 Stat. 845).

There is also reserved to the United States, all mineral deposits in the land above-described, together with the right to mine and remove the same, under applicable laws and regulations to be established by the Secretary of the Interior.

11-66-0074

Idaho 016575

If the patentee or its successor in interest does not comply with the provisions of the approved plan of development, filed on July 2, 1965 with the Bureau of Land Management, or by any revision thereof approved by the Secretary of the Interior or his delegate, said Secretary or his delegate, after due notice, and opportunity for a hearing, may declare the terms of this grant terminated in whole or in part. The patentee, by acceptance of this patent, agrees for itself and its successors in interest that such declaration shall be conclusive as to the facts found by the Secretary or his delegate and shall, at the option of the Secretary or his delegate, operate to revert in the United States full title to the lands involved in the declaration.

The Secretary, or his delegate, may in lieu of said forfeiture of title require the patentee or its successor in interest to pay the United States an amount equal to the difference between the price paid for the land by the patentee prior to issuance of this patent and 50 percent of the fair market value of the patented lands, to be determined by the Secretary or his delegate as of the date of issuance of this patent, plus compound interest computed at four percent beginning on the date this patent is issued.

Provided, that, if the patentee or its successor attempts to transfer title to or control over the lands to another or the lands are devoted to a use other than that for which the lands were conveyed, without the consent of the Secretary of the Interior or his delegate, or prohibits or restricts, directly or indirectly, or permits its agents, employees, contractors, or subcontractors (including without limitation, lessees, sublessees and permittees), to prohibit or restrict, directly or indirectly, the use of any part of the patented lands or any of the facilities thereon by any person because of such person's race, creed, color, or national origin, title shall revert to the United States.

The grant of the above-described lands is also subject to the following reservations, conditions, and limitations:

1. The patentee or its successor in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 241), and requirements of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant thereto (43 CFR 17) for the period that the lands conveyed herein are used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits.

2. If the patentee or its successor in interest does not comply with the terms or provisions of Title VI of the Civil Rights Act of 1964, and the requirements imposed by the Department of the Interior issued pursuant to that title, during the period during which the property described herein is used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits, the Secretary of the Interior or his delegate may declare the terms of this grant terminated in whole or in part.

Patent Number 11-66-0074

Form 1860-10
(March 1965)
(formerly 4-1044)

Idaho 016575

3. The patentee, by acceptance of this patent, agrees for itself or its successors in interest that a declaration of termination in whole or in part of this grant shall, at the option of the Secretary or his delegate, operate to revert in the United States full title to the lands involved in the declaration.

4. The United States shall have the right to seek judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1964, and the terms and conditions of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the patentee.

5. The reservations, conditions, and limitations contained in paragraphs 1 through 4 shall constitute a covenant running with the land, binding on the patentee and its successors in interest for the period for which the land described above is used for the purpose for which this grant was made, or for another purpose involving the provision of similar services or benefits.

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in Boise, Idaho
the TWENTY-FOURTH day of SEPTEMBER in the year
of our Lord one thousand nine hundred and SIXTY-FIVE
and of the Independence of the United States the one hundred
and NINETEENTH.

[SEAL]

By Orval H. Bradley
Manager, Idaho Land Office



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

April 13, 2004

RECEIVED
APR 14 2004
Department of Water Resources

Mr. Gary Spackman
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082

Re: In the Matter of Application to Transfer No. 67055 and Application for
Amendment in the Name of the State of Idaho, Department of Correction.

Dear Mr. Spackman:

The purpose of this letter is to provide you an update on the proposed settlement of the protest by United Water to the above-mentioned transfer. The parties have reached a potential settlement; however, the Idaho Department of Water Resources, (hereinafter the "IDWR"), needs to review one aspect of the potential settlement before the parties execute the settlement agreement. The purpose of this letter is to solicit that review, and to explain some other problems that will delay execution of the proposed settlement, even if the review by the IDWR is favorable.

The proposed settlement would include the unconditional withdrawal of United Water's protest. After the Snake River Basin Adjudication district court has entered partial decrees for these water rights, the Idaho Department of Correction, (hereinafter the "IDOC"), would put its irrigation water rights in IDWR's water bank for use by United Water for a term of 20 years. The issue for review by the IDWR is whether it would accept the IDOC's irrigation water rights into the water bank where United Water would have exclusive use the water rights. Clive J. Strong, Chief of the Natural Resources Division, suggested this approach based on the use of such limitations in the water bank for the Lemhi River. Please provide the parties an informal review of this legal issue. If this proposal is not acceptable, then the parties will need to rethink their position.

Other issues also exist. The Office of the Attorney General is researching whether the IDOC has the authority to enter the proposed settlement. This question of authority is a major issue because of the original acquisition of the property for the prisons. The following four classes of land exist at the present prisons: (i) land was acquired under the Recreation and Public Purposes Act of June 14, 1926, ch. 578, 44 Stat. 471, as amended; (ii) land was acquired under sections 203 and 209 of the Federal Land Policy and Management Act of 1976, Pub. L. 94-579,

Mr. Gary Spackman
April 13, 2004
Page 2

90 Stat. 2743; (iii) land was acquired by warranty deed from private individuals; and (iv) land was acquired by exchange between the public school endowment and the prison endowment. The lands acquired under the Recreation and Public Purposes Act and the lands subject to the prison endowment present the biggest issues. Three separate deeds transferred the land to the State of Idaho under the Recreation and Public Purposes Act of June 14, 1926. Each of those deeds contains a condition subsequent that authorizes the United States to recover the land if the land is not used in conformance with the conditions contained in the deed. In addition, each deed makes reference to a specific plan of development submitted to, and approved by the Bureau of Land Management, (hereinafter the "BLM"). An example is enclosed for your information. The Office of Attorney General has contacted the BLM about getting a copy of the operation's plan for each deed. The BLM ordered for our review the files from the National Archives offices in Seattle, Washington, and those files just arrived, although our office has not had the opportunity to review them. While the staff of the BLM has informally advised the Office of the Attorney General that the proposed settlement would not likely cause the BLM to proceed under such a condition subsequent, the IDOC will request a written opinion to this effect prior to executing any settlement agreement. The IDOC obviously does not desire to jeopardize in any manner its ownership of the present prison properties. The Office of the Attorney General is also reviewing whether existing limitations applicable to prison endowment land would preclude such a settlement.

The review by the Office of the Attorney General described above will take some time, and the office does not have a good estimate of when it will be completed. While this review is ongoing, the parties would appreciate it if the IDWR could review the one issue described above. The parties would like concurrent review to occur in this matter. Mr. John Marshall reviewed this letter, and he concurs.

Sincerely,



DAVID J. BARBER
Deputy Attorney General

DJB/ov

Encl.

cc: John Marshall
Pat Donaldson
Julie Weaver

Idaho 016575

The United States of America

To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Land Office at Boise, Idaho, is now deposited in the Bureau of Land Management, whereby it appears that full payment has been made by the Idaho State Board of Correction, according to the provisions of the Act of Congress of June 14, 1926 (44 Stat. 741) as amended and supplemented (43 U.S.C. 869, 869-1 to 869-4), for the following described land:

Boise Meridian, Idaho.

T. 2 N., R. 2 E.,
Sec. 27, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 28, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 33, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 34, NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$.

The area described contains 640 acres, according to the Official Plat of the Survey of the said Land, on file in the Bureau of Land Management:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the said Acts of Congress, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT unto the said Idaho State Board of Correction, the tracts above-described, for penitentiary purposes only; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said Idaho State Board of Correction, and to its successors forever; subject, however, to the following reservations, conditions and limitations:

Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States.

Reserving unto the United States, its permittee or licensee, the right to enter upon, occupy and use, any part or all of that portion of the W $\frac{1}{2}$ SW $\frac{1}{4}$ said Section 27; E $\frac{1}{2}$ NE $\frac{1}{4}$ said Section 33; NW $\frac{1}{4}$ SW $\frac{1}{4}$ said Section 34 lying within 50 feet of the center line of the transmission line right-of-way of the Great Shoshone and Twin Falls Water Power Company, Power Site Reserve No. 406 for the purposes provided in the Act of June 10, 1920 (41 Stat. 1063), and subject to the conditions and limitations of Section 24 of said Act, as amended by the Act of August 26, 1935 (49 Stat. 846).

There is also reserved to the United States, all mineral deposits in the land above-described, together with the right to mine and remove the same, under applicable laws and regulations to be established by the Secretary of the Interior.

If the patentee or its successor in interest does not comply with the provisions of the approved plan of development, filed on July 2, 1965 with the Bureau of Land Management, or by any revision thereof approved by the Secretary of the Interior or his delegate, said Secretary or his delegate, after due notice, and opportunity for a hearing, may declare the terms of this grant terminated in whole or in part. The patentee, by acceptance of this patent, agrees for itself and its successors in interest that such declaration shall be conclusive as to the facts found by the Secretary or his delegate and shall, at the option of the Secretary or his delegate, operate to revert in the United States full title to the lands involved in the declaration.

The Secretary, or his delegate, may in lieu of said forfeiture of title require the patentee or its successor in interest to pay the United States an amount equal to the difference between the price paid for the land by the patentee prior to issuance of this patent and 50 percent of the fair market value of the patented lands, to be determined by the Secretary or his delegate as of the date of issuance of this patent, plus compound interest computed at four percent beginning on the date this patent is issued.

Provided, that, if the patentee or its successor attempts to transfer title to or control over the lands to another or the lands are devoted to a use other than that for which the lands were conveyed, without the consent of the Secretary of the Interior or his delegate, or prohibits or restricts, directly or indirectly, or permits its agents, employees, contractors, or subcontractors (including without limitation, lessees, sublessees and permittees), to prohibit or restrict, directly or indirectly, the use of any part of the patented lands or any of the facilities thereon by any person because of such person's race, creed, color, or national origin, title shall revert to the United States.

The grant of the above-described lands is also subject to the following reservations, conditions, and limitations:

1. The patentee or its successor in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 241), and requirements of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant thereto (43 CFR 17) for the period that the lands conveyed herein are used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits.

2. If the patentee or its successor in interest does not comply with the terms or provisions of Title VI of the Civil Rights Act of 1964, and the requirements imposed by the Department of the Interior issued pursuant to that title, during the period during which the property described herein is used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits, the Secretary of the Interior or his delegate may declare the terms of this grant terminated in whole or in part.

Idaho 016575

3. The patentee, by acceptance of this patent, agrees for itself or its successors in interest that a declaration of termination in whole or in part of this grant shall, at the option of the Secretary or his delegate, operate to revest in the United States full title to the lands involved in the declaration.

4. The United States shall have the right to seek judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1964, and the terms and conditions of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the patentee.

5. The reservations, conditions, and limitations contained in paragraphs 1 through 4 shall constitute a covenant running with the land, binding on the patentee and its successors in interest for the period for which the land described above is used for the purpose for which this grant was made, or for another purpose involving the provision of similar services or benefits.

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

[SEAL]

GIVEN under my hand, in Boise, Idaho
the TWENTY-FOURTH day of SEPTEMBER in the year
of our Lord one thousand nine hundred and SIXTY-FIVE
and of the Independence of the United States the one hundred
and NINETIETH.

By

Orval H. Hadley

Manager, Idaho Land Office

hp officejet 7130
printer/fax/scanner/copier

Fax-history Report for
ID Dept of Water Resource
208-327-7866
Mar 31 2004 11:43am

Last Transaction

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
Mar 31	11:42am	Fax Sent	93881300	1:14	4	OK

hp officejet 7130
printer/fax/scanner/copier

Fax-History Report for
ID Dept of Water Resource
208-327-7866
Mar 31 2004 11:41am

Last Transaction

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
Mar 31	11:40am	Fax Sent	93342690	1:14	4	OK

IDAHO DEPARTMENT OF WATER RESOURCES

Fax

To: David Barber & John Marshall

From: Deborah J. Gibson
(208) 327-7953

Fax: 334-2690 & 388-1300

Date: March 31, 2004

Phone:

Pages: 4

Re: Dept. of Corrections

CC: *Western Region*

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

•Comments: See attached Order Amending the Scheduling Order and Vacating and Rescheduling the Hearing in the protested matter before the department in the name of the State of Idaho, Department of Correction.

Please contact me at the above number if you have any problems with the transmission of this fax.



RECEIVED

MAR 26 2004

Department of Water Resources

LAW OFFICES

601 W. Bannock Street
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

JOHN M. MARSHALL
Direct Dial: 208-388-1270
E-Mail: johnmarshall@givenspursley.com

Gary G. Allen
Christopher J. Beeson
Jessica M. Borup
William C. Cole
Michael C. Creamer
Thomas E. Dvorak
Roy Lewis Eiguren
Timothy P. Feamside
Jeffrey C. Fereday
Steven J. Hippler
Karl T. Klein
Debora K. Kristensen
Anne C. Kunkel
Franklin G. Lee

David R. Lombardi
D. David Lorello, Jr.
Emily A. MacMaster
Kimberly D. Maloney
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery
Angela K. Nelson
Deborah E. Nelson

W. Hugh O'Riordan, LLM
Michael C. Orr
Kenneth L. Pursley
Bradley V. Sneed
H. Barton Thomas, LLM
Conley E. Ward
Robert B. White
Michael V. Woodhouse

James A. McClure
OF COUNSEL

Raymond D. Givens
RETIRED

March 24, 2004

Deborah J. Gibson
Water Allocation Bureau
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Re: In the matter of Application for Transfer 67055 and Application for Amendment
of Permit No. 63-12296 in the name of the State of Idaho, Department of
Correction
GP File No. 30-118

Dear Ms. Gibson:

Pursuant to your letter of March 22, 2004, unavailable dates for Jeff Fereday and myself
for the month of May 2004 are as follows: May 3, 5, 7 and 10, 2004.

Thank you for your assistance. Please contact me if you have any questions.

Sincerely,

John M. Marshall

JMM/hcm

cc: David Barber

S:\CLIENTS\30\118\JMM to Gibson enc unavailable dates DOC



RECEIVED

MAR 30 2004

Department of Water Resources

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WARDEN

March 29, 2004

Ms. Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau
Idaho Department of Water Resources
1301 N. Orchard Street
Boise, ID 83706
STATEHOUSE MAIL

Re: In the matter of Application for Transfer 67055 and Application for
Amendment of Permit No. 63-12296 in the name of the State of Idaho
Department of Correction.

Dear Ms. Gibson:

This letter is in response to your letter dated March 22, 2004. My present
unavailable dates for the month of May of this year are as follows: May 4th,
May 11th-12th, May 18th-24th, and May 31st.

Sincerely,

A handwritten signature in cursive script that reads "David J. Barber".

DAVID J. BARBER
Deputy Attorney General

DJB/ov

cc : John Marshall



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 22, 2004

DAVID J BARBER
DEPUTY ATTORNEY GENERAL
PO BOX 83720
BOISE ID 83720-0010

JEFFREY C FEREDAY
JOHN MARSHALL
GIVENS PURSLEY
PO BOX 2720
BOISE ID 83701-2720

Re: In the matter of Application for Transfer 67055 and Application for Amendment of Permit No. 63-12296 in the name of the State of Idaho, Department of Correction

Dear Sirs:

I received a Joint Motion for an Order Amending the Scheduling Order and Resetting the Date for Hearing regarding the above-entitled matter. Please provide me with your unavailable dates for the month of May, 2004, within 14-days of the date of this letter.

Thank you for your assistance in this matter. If you have any questions, please contact me at (208) 327-7953, or fax me your response at (208) 327-7866.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

C: Western Region

MAR 18 2004

Department of Water Resources

LAWRENCE G. WASDEN
ATTORNEY GENERAL

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

DAVID J. BARBER [ISB No. 2597]
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010
Telephone No. (208) 334-2400
Fax No. (208) 334-2690
dbarber@ag.state.id.us

JEFFREY C. FEREDAY [ISB No. 2719]
JOHN M. MARSHALL [ISB No. 5628]
GIVENS PURSLEY LLP
601 W. Bannock Street
P.O. Box 2720
Boise, ID 83701-2720
Telephone No. (208) 388-1200
Fax No. (208) 388-1300
jcf@givenspursley.com
johnmarshall@givenspursley.com

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

IN THE MATTER OF APPLICATION FOR
TRANSFER 67055 AND APPLICATION
FOR AMENDMENT OF PERMIT NO. 63-
12296 IN THE NAME OF THE STATE OF
IDAHO, DEPARTMENT OF CORRECTION.

**JOINT MOTION FOR AN ORDER
AMENDING THE SCHEDULING ORDER
AND RESETTING THE DATE FOR
HEARING**

The State of Idaho, Department of Correction, by and through the undersigned deputy attorney general, and the Protestant United Water Idaho Inc. ("United Water"), by and through its counsel of record, hereby move the Idaho Department of Water Resources for an order amending the scheduling order and resetting the date for hearing. The grounds for this motion are as follows:

1. The State of Idaho, Department of Correction, and the Protestant United Water Idaho continue to have productive settlement discussions and believe they have developed a settlement framework that will resolve this matter. The parties need additional time to finalize the details of the agreement and to obtain all of the necessary internal approvals.

2. The parties intend to proceed in good faith to finalize their settlement agreement.

ORIGINAL

3. The current schedule for completion of discovery and for hearing in this matter does not provide the parties the time they need to finalize the settlement. The parties request that the Department amend the present schedule as follows:

- a) Discovery must be completed on or before April 16, 2004.
 - b) The parties shall submit written expert testimony to the hearing officer and the opposing party by April 23, 2004. This submittal will become the direct testimony of the expert witness, subject to corrections at hearing.
 - c) The hearing on the merits will be conducted in May 2004.
4. Oral argument is not requested on this motion.

PRAYER FOR RELIEF

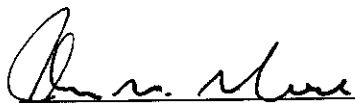
1. That the Idaho Department of Water Resources amends the scheduling order as set forth in paragraph 3.

2. That the Idaho Department of Water Resources grants such further relief that the Idaho Department of Water Resources deems is proper and appropriate.

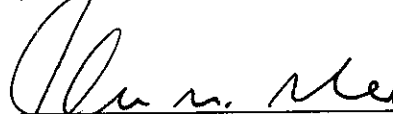
DATED this 18th day of March 2004.

LAWRENCE G. WASDEN
ATTORNEY GENERAL

CLIVE J. STRONG
DEPUTY ATTORNEY GENERAL
CHIEF, NATURAL RESOURCES DIVISION

 For
DAVID J. BARBER
Deputy Attorney General

GIVENS PURSLEY LLP

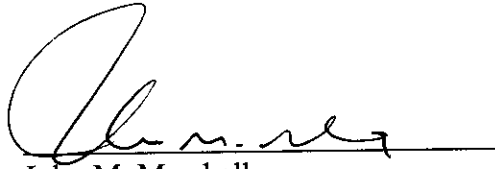

JOHN M. MARSHALL
Attorneys for Protestant United Water Idaho

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of March 2004, I caused to be served a true and correct copy of the foregoing document by method indicated below, and addressed to the following:

State of Idaho
Department of Correction
c/o David J. Barber
Deputy Attorney General
700 W. Jefferson Street
P.O. Box 83720
Boise, ID 83720-0010

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile


John M. Marshall

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

IN THE MATTER OF APPLICATION)
FOR TRANSFER 67055 AND)
APPLICATION FOR AMENDMENT)
PERMIT NO. 63-12296 IN THE NAME)
OF THE STATE OF IDAHO,)
DEPARTMENT OF CORRECTION.)

**ORDER AMENDING THE
SCHEDULING ORDER, AND
VACATING AND
RESCHEDULING THE
HEARING**

On February 5, 2004, the Idaho Department of Water Resources (IDWR) issued an Order Amending the Scheduling Order and Third Notice of Hearing scheduling the above-referenced matter presently before the department as a protested matter for hearing for April 1 & 2, 2004.

On March 18, 2004, the IDWR received a Joint Motion for An Order Amending the Scheduling Order and Resetting the Date for Hearing filed by the applicant, the State of Idaho, Department of Correction., filed by their counsel of record and the protestant United Water Idaho, Inc., filed by their counsel of record. The parties are in the process of settlement negotiations and request that additional time be granted for continuation of settlement and to obtain all of the necessary internal approvals related to the protested application.

ORDER

IT IS HEREBY ORDERED that discovery shall be complete on or before **April 16, 2004**. The parties shall submit written expert testimony to the hearing officer and the opposing party by **April 23, 2004**. The submittal will become the direct testimony of the expert witness, subject to corrections at the hearing. The parties shall also submit hearing exhibits on or

before **May 7, 2004** to the hearing officer and the opposing parties according to Rule 606 of the department's Rules of Procedure.

IT IS HEREBY ORDERED that the hearing set in this matter for **April 1 & 2, 2004** is hereby **VACATED**.

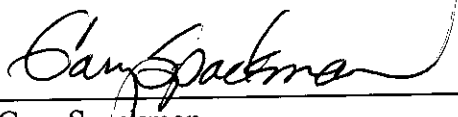
FOURTH NOTICE OF HEARING

PLEASE TAKE NOTICE that the hearing in this matter has been rescheduled for **May 13 & 14, 2004, beginning at 9:00 a.m.**, at the offices of the Idaho Department of Water Resources, State Office in Conference Rooms A&B, located at 1301 N. Orchard St., Boise, Idaho.

The hearing will be held in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, and the adopted Rules of Procedure of the department. IDAPA 37.01.01. A copy of the rules may be obtained from the department upon request.

The hearing will be conducted in accordance with 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 twenty-four hours prior to the hearing. Inquires about scheduling, hearing facilities, etc., should be directed to Deborah Gibson, Administrative Assistant, Idaho Department of Water Resources, 1301 N. Orchard St., Boise, Idaho 83706-2237, telephone: (208) 327-7953, fax: (208) 327-7866.

Dated this 31st day of March, 2004.



Gary Spackman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of March, 2004, the above and foregoing document was served on the following by faxing a copy of the same at the noted fax number:

DAVID J BARBER
DEPUTY ATTORNEY GENERAL
PO BOX 83720
BOISE ID 83720-0010
Fax #: 334-2690

JOHN MARSHALL
GIVENS PURSLEY
PO BOX 2720
BOISE ID 83701-2720
Fax #: 388-1300


Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

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

IN THE MATTER OF APPLICATION)
FOR TRANSFER 67055 AND)
APPLICATION FOR AMENDMENT)
PERMIT NO. 63-12296 IN THE NAME)
OF THE STATE OF IDAHO,)
DEPARTMENT OF CORRECTION.)
_____)

**ORDER AMENDING THE
SCHEDULING ORDER AND
THIRD NOTICE OF HEARING**

On July 2, 2003, the Idaho Department of Water Resources (IDWR) issued a Scheduling Order setting deadlines regarding the above-referenced matter presently before the department as a protested matter for preparation for hearing. An Order Amending the Scheduling Order and a Second Notice of Hearing was issued on October 29, 2003 in response to a joint request for a continuance.

On January 15, 2004 the IDWR received a Joint Motion for An Order Amending the Scheduling Order and Resetting the Date for Hearing filed by the applicant, the State of Idaho, Department of Correction (IDOC) and the protestant United Water Idaho, Inc. filed on behalf of the parties by their counsel of record. The parties are in the process of settlement negotiations and request that additional time be granted for settlement discussions.

ORDER

IT IS HEREBY ORDERED that discovery shall be complete on or before **March 12, 2004**. The parties shall submit written expert testimony to the hearing officer and the opposing party by **March 19, 2004**. The submittal will become the direct testimony of the expert witness, subject to corrections at the hearing. The parties shall also submit hearing exhibits on or before

March 29, 2004 to the hearing officer and the opposing parties according to Rule 606 of the department's Rules of Procedure.

IT IS HEREBY ORDERED that the hearing set in this matter for **February 25 & 26, 2004** is hereby **VACATED**.

THIRD NOTICE OF HEARING

PLEASE TAKE NOTICE that a formal hearing will be held on **April 1 and 2, 2004, beginning at 9:00 a.m.**, at the offices of the Idaho Department of Corrections, in the Training Room located in the Basement, located at 1299 N. Orchard, Boise, Idaho.

The hearing will be held in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, and the adopted Rules of Procedure of the department. IDAPA 37.01.01. A copy of the rules may be obtained from the department upon request.

The hearing will be conducted in accordance with 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 twenty-four hours prior to the hearing. Inquires about scheduling, hearing facilities, etc., should be directed to Deborah Gibson, Administrative Assistant, Idaho Department of Water Resources, 1301 N. Orchard St., Boise, Idaho 83706-2237, telephone: (208) 327-7953, fax: (208) 327-7866.

Dated this 4th day of February, 2004.



Gary Spackman

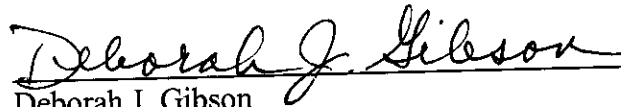
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of February, 2004, the above and foregoing document was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

DAVID J BARBER
DEPUTY ATTORNEY GENERAL
PO BOX 83720
BOISE ID 83720-0010

CHRISTOPHER H MEYER
JOHN MARSHALL
GIVENS PURSLEY
PO BOX 2720
BOISE ID 83701-2720

See: written



Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

FAX COVER SHEET

DATE: Thursday, January 15, 2004

PAGES (INCLUDING COVER): 3

ORIGINAL TO FOLLOW: No

RECEIVED

JAN 15 2004

HEIDI C. MEIER

GIVENS PURSLEY LLP

Department of Water Resources

601 W. Bannock Street

P.O. Box 2720

Boise, ID 83701-2720

Telephone No. (208) 388-1234

Fax No. (208) 388-1300

heidimeier@givenspursley.com

www.givenspursley.com

RE: IDOC Transfer Application No. 67055 and Application to Amend
Permit No. 63-12296
GP File No. 30-118

TO: Debbie Gibson
Idaho Department of Water Resources

SEND TO FAX PHONE: 327-7866

MESSAGE:

Attached for filing in the above-referenced matter is a Joint Motion for an Order Amending the Scheduling Order and Resetting the Date for Hearing. Thank you for your assistance.

If this fax does not transmit fully or is difficult to read, please contact Heidi Meier at (208) 388-1234.

CONFIDENTIALITY NOTICE

This facsimile may contain confidential information that is protected by the attorney-client or work product privilege. It is intended only for the use of the individual(s) named above. If you are not a named recipient or an employee responsible for delivering the facsimile, you are instructed not to deliver, distribute or copy this facsimile, nor should you disclose its contents or take any action in reliance on the information it contains. If you have received this facsimile in error, please notify us immediately by telephone to

RECEIVED

JAN 15 2004

Department of Water Resources

LAWRENCE G. WASDEN
ATTORNEY GENERAL

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

DAVID J. BARBER [ISB No. 2597]
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010
Telephone No. (208) 334-2400
Fax No. (208) 334-2690
dbarber@ag.state.id.us

JEFFREY C. FEREDAY [ISB No. 2719]
JOHN M. MARSHALL [ISB No. 5628]
GIVENS PURSLEY LLP
601 W. Bannock Street
P.O. Box 2720
Boise, ID 83701-2720
Telephone No. (208) 388-1200
Fax No. (208) 388-1300
jcf@givenspursley.com
johnmarshall@givenspursley.com

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

IN THE MATTER OF APPLICATION FOR
TRANSFER 67055 AND APPLICATION
FOR AMENDMENT OF PERMIT NO. 63-
12296 IN THE NAME OF THE STATE OF
IDAHO, DEPARTMENT OF CORRECTION.

**JOINT MOTION FOR AN ORDER
AMENDING THE SCHEDULING ORDER
AND RESETTING THE DATE FOR
HEARING**

The State of Idaho, Department of Correction, by and through the undersigned deputy attorney general, and the Protestant United Water Idaho Inc. ("United Water"), by and through its counsel of record, hereby move the Idaho Department of Water Resources for an order amending the scheduling order and resetting the date for hearing. The grounds for this motion are as follows:

1. The State of Idaho, Department of Correction, and the Protestant United Water Idaho continue to have productive settlement discussions. If the parties are given an adequate opportunity to discuss settlement, they likely will reach a final settlement agreement.
2. The parties intend to conduct further settlement discussions during the next several weeks and will proceed in good faith effort to reach a settlement.

JOINT MOTION FOR AN ORDER AMENDING THE SCHEDULING ORDER AND RESETTING THE

3. The current schedule for completion of discovery and for hearing in this matter will not provide the opportunity for these further settlement discussions. The parties respectively request that the present schedule be amended to provide for these settlement discussions to continue as follows:

- a) Discovery must be completed on or before March 12, 2004.
 - b) The parties shall submit written expert testimony to the hearing officer and the opposing party by March 19, 2004. This submittal will become the direct testimony of the expert witness, subject to corrections at hearing.
 - c) The hearing on the merits will be conducted on April 1-2, 2004.
4. Oral argument is not requested on this motion.

PRAYER FOR RELIEF

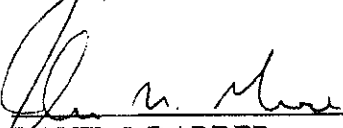
1. That the Idaho Department of Water Resources amends the scheduling order as set forth in paragraph 3.

2. That the Idaho Department of Water Resources grants such further relief that the Idaho Department of Water Resources deems is proper and appropriate.

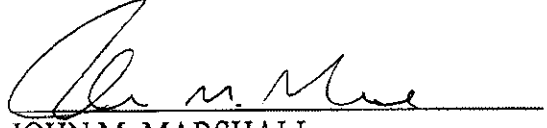
DATED this 15th day of January 2004.

LAWRENCE G. WASDEN
ATTORNEY GENERAL

CLIVE J. STRONG
DEPUTY ATTORNEY GENERAL
CHIEF, NATURAL RESOURCES DIVISION


DAVID J. BARBER
Deputy Attorney General

GIVENS PURSLEY LLP

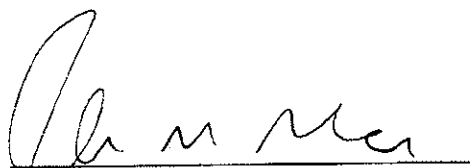

JOHN M. MARSHALL
Attorneys for Protestant United Water Idaho

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of January 2004, I caused to be served a true and correct copy of the foregoing document by method indicated below, and addressed to the following:

State of Idaho
Department of Correction
c/o David J. Barber
Deputy Attorney General
700 W. Jefferson Street
P.O. Box 83720
Boise, ID 83720-0010

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile


John M. Marshall



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
Governor

January 14, 2004

KARL J. DREHER
Director

PAT DONALDSON
IDAHO DEPT OF CORRECTION
1299 N ORCHARD STE 110
BOISE ID 83706

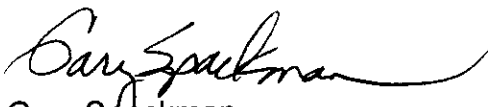
Re: Request for Extension of Time for filing Proof of Beneficial Use; Permit No.
63-12296

Dear Mr. Donaldson:

This letter acknowledges receipt of a request for extension of time for filing proof of beneficial use for permit to appropriate water no. 63-12296. An application to amend permit no. 63-12296 is presently pending before the Idaho Dept. of Water Resources (IDWR) as a contested case. A hearing for the contested case is scheduled for the end of January 2004.

Because of the pending contested case, and the effect it may have on the water right permit, IDWR will hold the request for extension of time without action until the contested case is resolved. The request has been timely filed and satisfies the requirements of the law related to filing proof of beneficial use or a request for extension of time.

Sincerely,


Gary Spackman

Cc: David Barber, Deputy Attorney General
Deborah Nelson, Givens Pursley
Western

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

IN THE MATTER OF APPLICATION)
FOR TRANSFER 67055 AND)
APPLICATION FOR AMENDMENT)
PERMIT NO. 63-12296 IN THE NAME)
OF THE STATE OF IDAHO,)
DEPARTMENT OF CORRECTION.)
_____)

**ORDER AMENDING THE
SCHEDULING ORDER AND
SECOND NOTICE OF HEARING**

On July 2, 2003, the Idaho Department of Water Resources (IDWR) issued a Scheduling Order setting deadlines regarding the above-referenced matter presently before the department as a protested matter for preparation for hearing. This Scheduling Order was issued based on deadlines the parties had agreed to during a prehearing conferences on July 10, 2002, February 18, 2003 and June 30, 2003.

On October 14, 2003 the IDWR received a Joint Motion for An Order Amending the Scheduling Order and Resetting the Date for Hearing filed by the applicant, the State of Idaho, Department of Correction (IDOC) and the protestant United Water Idaho, Inc. filed on behalf of the parties by their counsel of record. The parties are in the process of settlement negotiations and request that additional time be granted for continuation of settlement without binding deadlines related to the upcoming hearing.

Therefore, the IDWR has reviewed the parties' request and HEREBY ORDER that discovery shall be complete on or before **January 16, 2004**. The parties shall submit written expert testimony to the hearing officer and the opposing party by **February 18, 2004**. The submittal will become the direct testimony of the expert witness, subject to corrections at the

hearing. The parties shall also submit hearing exhibits on or before **February 20, 2004** to the hearing officer and the opposing parties according to Rule 606 of the department's Rules of Procedure.

IT IS HEREBY ORDERED that the hearing set in this matter for **November 20 & 21, 2003** is hereby **VACATED**.

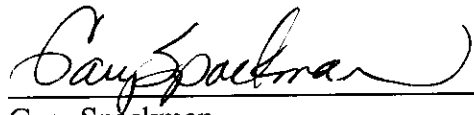
SECOND NOTICE OF HEARING

PLEASE TAKE NOTICE that a formal hearing will be held on **February 25 and 26, 2004, beginning at 9:00 a.m.**, at the offices of the Idaho Department of Water Resources, State Office in Conference Rooms A&B, located at 1301 N. Orchard St., Boise, Idaho.

The hearing will be held in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, and the adopted Rules of Procedure of the department. IDAPA 37.01.01. A copy of the rules may be obtained from the department upon request.

The hearing will be conducted in accordance with 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 twenty-four hours prior to the hearing. Inquires about scheduling, hearing facilities, etc., should be directed to Deborah Gibson, Administrative Assistant, Idaho Department of Water Resources, 1301 N. Orchard St., Boise, Idaho 83706-2237, telephone: (208) 327-7953, fax: (208) 327-7866.

Dated this 29th day of October 2003.



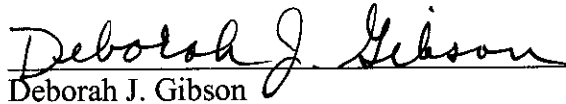
Gary Spackman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of October, 2003, the above and foregoing document was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

DAVID J BARBER
DEPUTY ATTORNEY GENERAL
PO BOX 83720
BOISE ID 83720-0010

CHRISTOPHER H MEYER
JOHN MARSHALL
GIVENS PURSLEY
PO BOX 2720
BOISE ID 83701-2720


Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Idaho State Correctional Institution

PURCHASE ORDER

P.O.#: E00Issue Date: 10-

Vendor:	Order date: 10/17/2003	Ship to: Dept. of Correction
Department of Water Resources	Pat Donaldson	
1301 N Orchard St.	1299 N. Orchard Ste. 110	
Boise Id 83706-2237	Boise, ID 83706	

Item No.	Quan.	Delivered	Description	Unit Price	Amount
1	1		Request for Extension of Time	50.00	\$
2			to provide additional time in which to submit proof of		\$
3			beneficial use for a water right permit		\$
4			Permit No. 63-12296		\$
5					\$
6					\$
7					\$
8					\$
9					\$
10					\$
11					\$
12					\$

VOID AFTER 60 DAYS

GRAND TOTAL \$

BFY: 04	Trans Code	PCA	Sub. Obj.	Amount	Invoice	Invoice Description
Enc./sfx:	0	06101	5199	\$50		
	01					
	02					
Disb #:	03					
Contract #	04					
Cmp. #	05					
Property #						

Purchase Requested By

Spending Approval Signature

Purchase Review Signature

Processed Date/Initials

IDAHO DEPARTMENT OF WATER RESOURCES

Fax

To:	John Marshall Attn: Heidi	From:	Deborah J. Gibson (208) 327-7953
Fax:	388-1300	Date:	November 6, 2003
Phone:		Pages:	2
Re:	Dept. of Corrections' applications before IDWR	CC:	

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

•**Comments:** Attached is the missing page 2 of the Order Amending the Scheduling Order and Second Notice of Hearing I mailed out on Oct. 30, 2003 in the above-referenced matter. I apologize for your inconvenience.

Please contact me at the above number if you have any problems with the transmission of this fax.

*done
dy 8:30am*

RECEIVED

OCT 14 2003

Department of Water Resources

LAWRENCE G. WASDEN
ATTORNEY GENERAL

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

DAVID J. BARBER (ISB #2597)
Deputy Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 334-2400
FAX: (208) 334-2690
dbarber@ag.state.id.us

CHRISTOPHER H. MEYER, ESQ. (ISB #2597)
JOHN M. MARSHALL, ESQ. (ISB # 5628)
GIVENS PURSLEY, LLP
277 North 6th Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Office: (208) 388-1200
FAX: (208) 388-1300
Email: chrismeyer@givenspursely.com
jmm@givenspursely.com
www.givenspursely.com
Counsel for Protestant United Water Idaho Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

**IN THE MATTER OF APPLICATION)
FOR TRANSFER 67055 AND)
APPLICATION FOR AMENDMENT)
OF PERMIT NO. 63-12296 IN THE)
NAME OF THE STATE OF IDAHO,)
DEPARTMENT OF CORRECTION.)**

**JOINT MOTION FOR AN ORDER
AMENDING THE SCHEDULING ORDER
AND RESETTING THE DATE FOR
HEARING**

COMES NOW the State of Idaho, Department of Correction, by and through the undersigned deputy attorney general, and the Protestant United Water Idaho, by and through its counsel of record, move the Idaho Department of Water Resources for an order amending the scheduling order and resetting the date for hearing. The grounds for this motion are as follows:

ORIGINAL

1. The State of Idaho, Department of Correction, and the Protestant United Water Idaho, met on October 9, 2003, for an unmediated settlement discussion. While no settlement in principle was reached, it was also clear that a settlement is likely, if the parties are given an adequate opportunity to discuss settlement.

2. The parties intend to meet during the week of October 13-17, 2003, and will proceed in a good faith effort to reach a settlement.

3. The current schedule for completion of discovery and for hearing in this matter will not provide the opportunity for these further settlement discussions. The parties respectively request that the present schedule for discovery and hearing be amended to provide for these settlement discussions to continue as follows

- Discovery must be completed on or before January 16, 2004.
- The parties shall submit written expert testimony to the hearing officer and the opposing party by February 18, 2004. The submittal will become the direct testimony of the expert witness, subject to corrections at the hearing.
- The hearing on the merits will be conducted on February 25-26, 2004.

4. Oral argument is not requested on this motion.

PRAYER FOR RELIEF

1. That the Idaho Department of Water Resources amends the scheduling order as set forth in paragraph 3.

2. That the Idaho Department of Water Resources grants such further relief that the Idaho Department of Water Resources deems is proper and appropriate.

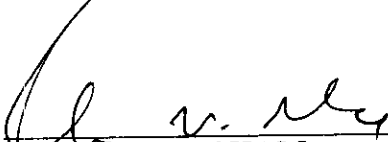
DATED this 14th day of October 2003.

LAWRENCE G. WASDEN
ATTORNEY GENERAL
CLIVE J. STRONG
DEPUTY ATTORNEY GENERAL
CHIEF, NATURAL RESOURCES DIVISION



DAVID J. BARBER
Deputy Attorney General

GIVENS PURSELY LLP



JOHN M. MARSHALL
Attorneys for Protestant United Water

CERTIFICATE OF MAILING

I certify that on October 14, 2003, I served the foregoing **JOINT MOTION FOR AN ORDER AMENDING THE SCHEDULING ORDER AND RESETTNG THE DATE FOR HEARING** on the following persons by the method designated:

1. Original to:

IDAHO DEPARTMENT OF WATER RESOURCES

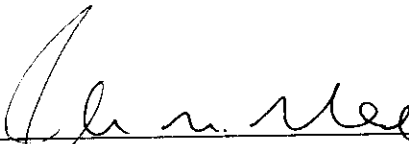
HAND DELIVERED

~~WESTERN REGION~~ *State office*
~~2735 AIRPORT WAY~~ *1301 N. Orchard St.*
BOISE, ID ~~83705-5082~~ *83709*

2. One copy to the applicant:

STATE OF IDAHO
DEPT OF CORRECTION
C/O DAVID J. BARBER
DEPUTY ATTORNEY GENERAL
P.O. BOX 83720
BOISE ID 83720-0010

U.S. MAIL



JOHN M. MARSHALL
Attorney for Protestant United Water Idaho

ORIGINAL

RECEIVED

OCT 09 2003

Department of Water Resources
Adjudication Bureau

LAWRENCE G. WASDEN
ATTORNEY GENERAL

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

DAVID J. BARBER (ISB #2597)
Deputy Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 334-2400
FAX: (208) 334-2690
dbarber@ag.state.id.us

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

**IN THE MATTER OF APPLICATION)
FOR TRANSFER 67055 AND)
APPLICATION FOR AMENDMENT)
OF PERMIT NO. 63-12296 IN THE)
NAME OF THE STATE OF IDAHO,)
DEPARTMENT OF CORRECTION.)**

**NOTICE OF SERVICE OF IDAHO
DEPARTMENT OF CORRECTION'S
ANSWERS AND RESPONSES TO UWID'S
FIRST SET OF DISCOVERY REQUESTS
TO THE DEPARTMENT OF CORRECTION**

NOTICE OF SERVICE

On October 8, 2003, the State of Idaho served the original of the IDAHO DEPARTMENT OF CORRECTION'S ANSWERS AND RESPONSES TO UWID'S FIRST SET OF DISCOVERY REQUESTS TO THE DEPARTMENT OF CORRECTION by hand delivery to the following person at the following address:

UNITED WATER IDAHO
c/o JOHN MARSHALL
GIVENS PURSLEY
277 NORTH SIXTH ST., SUITE 200
BOISE ID 83701

**NOTICE OF SERVICE OF IDAHO DEPARTMENT OF CORRECTION'S ANSWERS AND RESPONSES
TO UWID'S FIRST SET OF DISCOVERY REQUESTS TO THE DEPARTMENT OF CORRECTION**

CERTIFICATE OF SERVICE

I further certify that I served on this 8th day of October 2003, a copy of the **NOTICE OF SERVICE OF IDAHO DEPARTMENT OF CORRECTION'S ANSWERS AND RESPONSES TO UWID'S FIRST SET OF DISCOVERY REQUESTS TO THE DEPARTMENT OF CORRECTION** by hand delivery to the John Marshall at the address set forth above.

I further certify that on this 8th day of October 2003, I filed the original of the **NOTICE OF SERVICE OF IDAHO DEPARTMENT OF CORRECTION'S ANSWERS AND RESPONSES TO UWID'S FIRST SET OF DISCOVERY REQUESTS TO THE DEPARTMENT OF CORRECTION** by placing the original in the STATEHOUSE MAIL addressed as follows:

IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE, ID 83705-5082

DATED this 8th day of October 2003.

LAWRENCE G. WASDEN
ATTORNEY GENERAL
STATE OF IDAHO

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division



DAVID J. BARBER
Deputy Attorney General

RECEIVED

OCT 1 2003

Department of Water Resources

Christopher H. Meyer [ISB No. 4461]
John M. Marshall [ISB No. 5628]
GIVENS PURSLEY LLP
601 W. Bannock Street
P.O. Box 2720
Boise, ID 83701-2720
Telephone No. (208) 388-1200
Fax No. (208) 388-1300
chrismeyer@givenspursley.com
jmm@givenspursley.com
S:\CLIENTS\30\118\NOS - UWID's Answers and Responses to IDOC's 1st Set of Discovery.DOC

Counsel for Protestant United Water Idaho Inc.

BEFORE THE

IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR
TRANSFER 67055 AND APPLICATION
FOR AMENDMENT OF PERMIT NO. 63-
12296 IN THE NAME OF THE STATE OF
IDAHO, DEPARTMENT OF CORRECTION.

NOTICE OF SERVICE

On behalf of Protestant United Water Idaho Inc., I, John M. Marshall, of the law firm Givens Pursley LLP, certify that on this date I caused to be served upon the Department of Correction a true and correct copy of UNITED WATER IDAHO INC.'S ANSWERS AND RESPONSES TO IDAHO DEPARTMENT OF CORRECTION'S FIRST SET OF DISCOVERY by hand delivering the same to their counsel of record as indicated below:

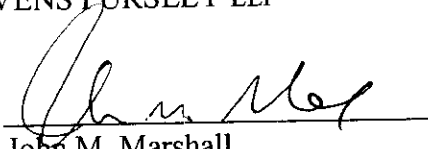
David J. Barber
Office of the Attorney General
700 W. Jefferson Street
Boise, ID 83720

ORIGINAL

DATED this 1st day of October 2003.

GIVENS PURSLEY LLP

By

A handwritten signature in black ink, appearing to read "John M. Marshall", is written over a horizontal line.

John M. Marshall

Counsel for Protestant United Water Idaho Inc.

SEP 26 2003

Department of Water Resources



RECEIVED

SEP 22 2003

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WARDEN

September 19, 2003

Gary Spackman
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082

Re: In The Matter of Application For Transfer 67055 and Application for
Amendment of Permit No. 63-12296 in The Name of The State Of Idaho,
Department Of Correction.

Dear Mr. Spackman:

This letter is a follow-up to our conversation this week about the FIRST SUPPLEMENTAL RESPONSE TO SCHEDULING ORDER. After the Office of the Idaho Attorney General did not receive our conformed copy of this document, I have inquired on several occasions about this document. I understand that staff at the Western Region Office of the Idaho Department of Water Resources has looked for the document and that you have the transmittal letter. But, the original and copy to be conformed have not been found, and no one knows what happened to them. In any event, the office did send a copy to the client, the Idaho Department of Correction (IDOC), and the IDOC provided a copy of their copy to me. Enclosed are two copies of the copy obtained from the IDOC. I ask that you file the one copy in your files and that the other copy be returned to me endorsed filed. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, reading "David J. Barber".

DAVID J. BARBER

Deputy Attorney General

DJB/ov
Enclosures

Calvin?

M
Further in our
Water case:

m

LAWRENCE G. WASDEN
ATTORNEY GENERAL

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

DAVID J. BARBER (ISB #2597)
Deputy Attorney General
P.O. Box 44449
Boise, Idaho 83711-4449
Telephone: (208) 334-2400
FAX: (208) 334-2690
dbarber@ag.state.id.us

RECEIVED

SEP 26 2003

Department of Water Resources

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER 67055 AND)
APPLICATION FOR AMENDMENT)
OF PERMIT NO. 63-12296 IN THE)
NAME OF THE STATE OF IDAHO,)
DEPARTMENT OF CORRECTION.)

FIRST SUPPLEMENTAL RESPONSE
TO SCHEDULING ORDER

The State of Idaho Department of Correction supplements its RESPONSE TO
SCHEDULING ORDER as follows:

I. LIST OF WITNESSES AND SUMMARY OF TESTIMONY

There is nothing to add at this time.

COPY

05/10/03 10:15

II. LIST OF DATA, SCIENTIFIC INFORMATION, AND DOCUMENTS RELIED ON
THE IDAHO DEPARTMENT OF CORRECTION

A. Documents Incorporated by Reference:

There is nothing to add at this time.

B. The following documents are submitted with this Response:

- i. Report of Ed Squires entitled "Details of Drilling, Construction, and Hydraulic Testing of the Idaho State Correctional Institution #4 Supply Well" dated November 5, 2002.
- ...
- v. Idaho Department of Correction, Director's Count Sheet for 7/15/2001. A count sheet is available for every day of the year. If the protestant desires a copy of the count sheet for any particular day, please advise counsel, and a copy will be provided.
- vi. Report on Proof of Completion of Works & Beneficial Use dated July 2, 1965 for water right no. 63-3271.
- vii. Report on Proof of Completion of Works & Beneficial Use dated July 20, 1972 for water right no. 63-3445.
- viii. Report on Proof of Completion of Works & Beneficial Use dated August 24, 1972 for water right no. 63-3487.
- ix. Report on Proof of Completion of Works & Beneficial Use dated September 30, 1977 for water right no. 63-7025.
- x. Report on Proof of Completion of Works & Beneficial Use dated January 28, 1981 for water right no. 63-8088.

III. SUPPLEMENTATION OF RESPONSES

The preparation for the hearing in this matter is continuing. The designation of witnesses, description of their testimony, and list of data, scientific information, and documents may be supplemented as the preparation continues for the hearing.

DATED this 4th day of August 2003.



DAVID J. BARBER
Deputy Attorney General

CERTIFICATE OF MAILING

I certify that on August 4, 2003, I served the foregoing FIRST SUPPLEMENTAL RESPONSE TO SCHEDULING ORDER on the following persons by the method designated:

1. Original to:

IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE, ID 83705-5082

STATEHOUSE MAIL

(Without Attachments)

2. One copy to the protestant:

UNITED WATER IDAHO
c/o JOHN MARSHALL
GIVENS PURLSEY
277 NORTH SIXTH ST., SUITE 200
BOISE ID 83720

HAND DELIVERED

(With Attachments)

3. One copy to the applicant:

STATE OF IDAHO
DEPT OF CORRECTION
1299 N. ORCHARD STE 110
BOISE ID 83706

STATEHOUSE MAIL

(Without Attachments)



DAVID J. BARBER
Deputy Attorney General

RECEIVED
SEP 23 2003
Department of Water Resources

Christopher H. Meyer, Esq. (Idaho Bar No. 4461)
John M. Marshall, Esq. (Idaho Bar No. 5628)
GIVENS PURSLEY LLP
601 West Bannock Street
P.O. Box 2720
Boise, Idaho 83701-2720
Office: 208-388-1200
Fax: 208-388-1300
Email: chm@givenspursley.com; jmm@givenspursley.com
Counsel for Protestant United Water Idaho Inc.

**BEFORE THE
IDAHO DEPARTMENT OF WATER RESOURCES**

IN THE MATTER OF APPLICATION FOR
TRANSFER 67055 AND APPLICATION
FOR AMENDMENT OF PERMIT NO. 63-
12296 IN THE NAME OF THE STATE OF
IDAHO, DEPARTMENT OF
CORRECTION.

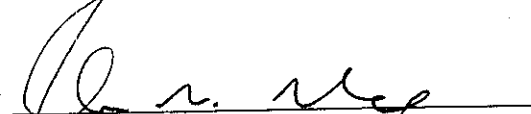
**UWID'S NOTICE OF SERVICE OF FIRST
SET OF DISCOVERY REQUESTS TO THE
DEPARTMENT OF CORRECTION**

On behalf of Protestant United Water Idaho Inc., I, John M. Marshall of the firm Givens Pursley LLP, certify that on this date, I caused to be served upon the Department of Correction a true and correct copy of UWID's First Set of Discovery Requests to the Department of Correction by hand delivering the same to their counsel of record as indicated on the attached certificate of service.

Respectfully submitted this 23rd day of September 2003.

GIVENS PURSLEY LLP

By



John M. Marshall

Attorneys for Protestant United Water

ORIGINAL

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of September, 2003, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Idaho Department of Water Resources
State Office
1301 N. Orchard Street
P.O. Box 83720
Boise, ID 83720-0098

☐ U.S. Mail
☐ Facsimile
☒ Hand Delivery
☐ Overnight Mail
☐ E-mail

David J. Barber
Deputy Attorney General
P.O. Box 44449
Boise, Idaho 83711-4449
Attorney for the Department of Correction

☐ U.S. Mail
☐ Facsimile
☒ Hand Delivery
☐ Overnight Mail



John M. Marshall

RECEIVED

SEP 19 2003

Department of Water Resources

LAWRENCE G. WASDEN
ATTORNEY GENERAL

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

DAVID J. BARBER (ISB #2597)
Deputy Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 334-2400
FAX: (208) 334-2690
dbarber@ag.state.id.us

RECEIVED

SEP 17 2003

WATER RESOURCES
WESTERN REGION

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

**IN THE MATTER OF APPLICATION)
FOR TRANSFER 67055 AND)
APPLICATION FOR AMENDMENT)
OF PERMIT NO. 63-12296 IN THE)
NAME OF THE STATE OF IDAHO,)
DEPARTMENT OF CORRECTION.)**

**NOTICE OF SERVICE OF FIRST
SET OF DISCOVERY SERVED ON
PROTESTANT UNITED WATER IDAHO**

NOTICE OF SERVICE AND CERTIFICATE OF SERVICE

On September 16, 2003, the State of Idaho retained in its files the original of the State of Idaho's FIRST SET OF DISCOVERY ON PROTESTANT UNITED WATER IDAHO and served a copy thereof on the United Water Idaho by hand delivery to the following person at the following address:

UNITED WATER IDAHO
c/o JOHN MARSHALL
GIVENS PURSLEY
277 NORTH SIXTH ST., SUITE 200
BOISE ID 83701

ORIGINAL

I further certify that I served on this 16th day of September 2003, a copy of the NOTICE OF SERVICE OF FIRST SET OF DISCOVERY SERVED ON PROTESTANT UNITED WATER IDAHO on United Water Idaho by hand delivery to the John Marshall at the address set forth above.

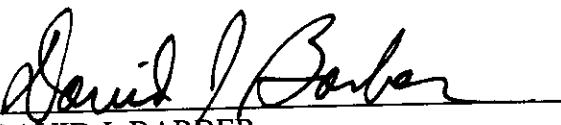
I further certify that on this 16th day of September 2003, I filed the original of this NOTICE OF SERVICE OF FIRST SET OF DISCOVERY SERVED ON PROTESTANT UNITED WATER IDAHO by placing the original in the STATEHOUSE MAIL addressed as follows:

IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE, ID 83705-5082

DATED this 16th day of September 2003.

LAWRENCE G. WASDEN
ATTORNEY GENERAL
STATE OF IDAHO

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division


DAVID J. BARBER
Deputy Attorney General

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

**IN THE MATTER OF APPLICATION)
FOR TRANSFER 67055 AND)
APPLICATION FOR AMENDMENT)
OF PERMIT NO. 63-12296 IN THE)
NAME OF THE STATE OF IDAHO,)
DEPARTMENT OF CORRECTION)**

ORDER AUTHORIZING DISCOVERY

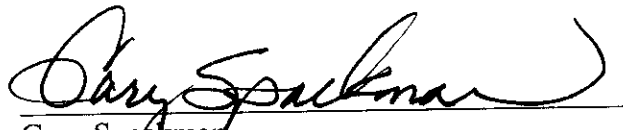
On November 19, 1999, the State of Idaho, Department of Correction (IDOC) filed with the Idaho Department of Water Resources (IDWR) application for transfer no. 67055 and application for amendment of permit no. 63-12296. The applications were protested by United Water Idaho. The prehearing conferences held on July 10, 2002, February 18, 2003, and June 30, 2003, did not resolve the matter of protest.

Based on discussions of the parties at the prehearing conference and the request for discovery by the protestants, IDWR orders as follows:

ORDER

IT IS HEREBY ORDERED that the parties to this matter are authorized to engage in discovery until October 15, 2003.

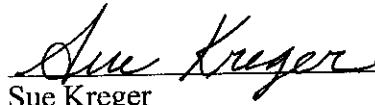
Dated this 5th day of September 2003.



Gary Spackman
Hearing Officer

CERTIFICATE OF MAILING

I hereby certify that on this 8th day of September 2003, I mailed a true and correct copy, postage prepaid, of this Order Authorizing Discovery to those listed below:


Sue Kreger
Administrative Assistant

NON CERTIFIED MAIL

STATE OF IDAHO
DEPT OF CORRECTION
1299 N. O RCHARD STE 110
BOISE ID 83706

UNITED WATER IDAHO
C/O ROGER DITTUS
8248 W. VISTORY RD
BOISE ID 83709

CERTIFIED MAIL

DAVID J. BARBER
DEPUTY ATTY GENERAL
PO BOX 83720
BOISE ID 83720-0010

JOHN MARSHALL
GIVENS PURSLEY
PO BOX 2720
BOISE ID 83701

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

**IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 67055 AND)
APPLICATION FOR AMENDMENT)
OF PERMIT NO. 63-12296 IN THE)
NAME OF THE STATE OF IDAHO,)
DEPARTMENT OF CORRECTION)**

NOTICE OF HEARING

On November 19, 1999 the State of Idaho, Department of Correction filed with the Idaho Department of Water Resources (IDWR) application for transfer no. 67055 and application for amendment of permit no. 63-12296. The applications were protested by United Water Idaho. The prehearing conferences held on July 10, 2002, February 18, 2003, and June 30, 2003 did not resolve the matter of protest.

IDWR has scheduled a hearing for the protest to be held on **Thursday, November 20 and Friday, November 21, 2003. The hearing will begin on November 20 at 10:30 a.m. at the Idaho Department of Water Resources, conference room AB, 1301 N. Orchard, Boise, Idaho 83706.** The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code and the adopted Rules of Procedure of the Department. A copy of the rules may be obtained from IDWR upon request. The presiding officer at the hearing will be Gary Spackman.

The hearing will be conducted in a facility that 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 at least 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.

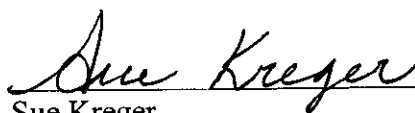
Dated this 6th day of September 2003.



GARY SPACKMAN

CERTIFICATE OF MAILING

I hereby certify that on the 8TH day of September 2003 I mailed a true and correct copy, postage prepaid, of this Notice of Hearing to the following:



Sue Kreger

Administrative Assistant

NON CERTIFIED MAIL

STATE OF IDAHO
DEPT OF CORRECTION
1299 N ORCHARD STE 110
BOISE ID 83706

UNITED WATER IDAHO
C/O ROGER DITTUS
8248 W VICTORY RD
BOISE ID 83709

CERTIFIED MAIL

DAVID J BARBER
DEPUTY ATTY GENERAL
PO BOX 83720
BOISE ID 83720-0010

JOHN MARSHALL
GIVENS PURSLEY
PO BOX 2720
BOISE ID 83701

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR TRANSFER

Section 42-222, Idaho Code, requires the department to consider the following issues in connection with an application for transfer:

- 1) Will the proposed transfer injure other water rights?
- 2) Will the proposed transfer constitute an enlargement in use of the original right?
- 3) Is the proposed transfer in the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?
- 4) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

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

The initial burden of proof on issue 3 above lies with both the applicant and protestant as to factors 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 offers, schedule hearings, establish procedure at hearings 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 tape are available upon written 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 the Director himself. If so, the hearing officer will prepare a preliminary order for the Director's consideration. Parties can file exceptions to a preliminary 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 their right to a preliminary order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

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

AMERICANS WITH DISABILITIES ACT

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

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR AMENDMENT

Section 42-222, Idaho Code, requires the department to consider the following issues in connection with an application for amendment:

1. Will other water rights be injured by the transfer or the amendment?
2. Will the change constitute an enlargement in the use of the original right?
3. Will the proposed change conflict with the local public interest?
4. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant bears the initial burden of proof for issues 1, 2 and 4 above and must provide evidence for the department to evaluate these criteria. The applicant must also establish that the water right is valid. Forfeiture must be established by clear and convincing evidence.

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 offers, schedule hearings, establish procedure at hearings 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 tape are available upon written 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 the Director himself. If so, the hearing officer will prepare a preliminary order for the Director's consideration. Parties can file exceptions to a preliminary 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 their right to a preliminary order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

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

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility that 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.