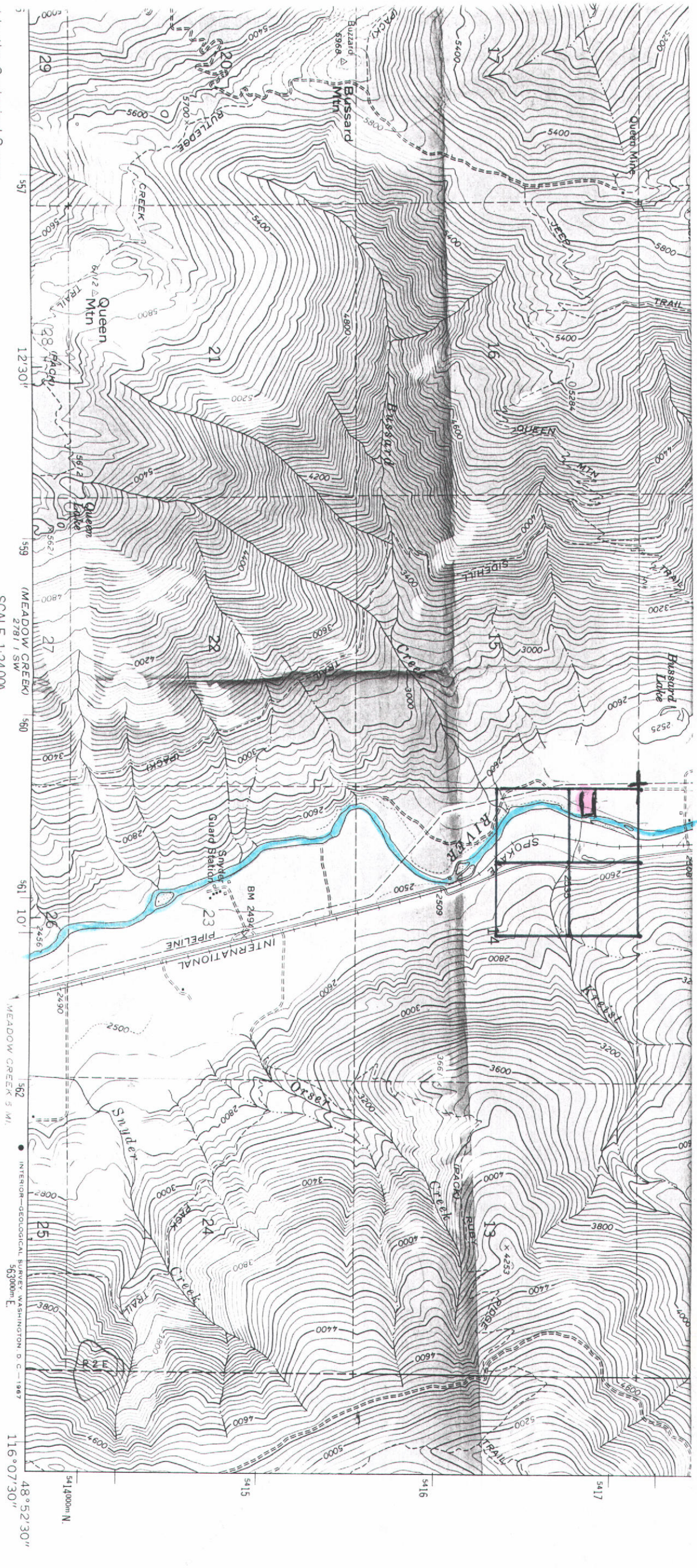


1 by the Geological Survey
International
Methods from aerial
checked 1965
h American datum
coordinate system,
Mercator grid ticks,
UTM GRID AND 1965 MAGNETIC NORTH
DECLINATION AT CENTER OF SHEET

SCALE 1:24000
(MEADOW CREEK) 560
2781 / SW

1000 0 1000 2000 3000 4000 5000 6000 7000 FEET
1 1/2 1
1 0 5 10 15 20 25 30 35 40 45 50 55 60 65 70 75 80 85 90 95 100 METERS
1 KILOMETER

CONTOUR INTERVAL 10 FEET
DOTTED LINES REPRESENT 20-FOOT CONTOURS
DATUM IS MEAN SEA LEVEL

THIS MAP COMPLETES WITH NATIONAL MAPACCURACY STANDARDS
FOR SALE BY U.S. GEOLOGICAL SURVEY, DENVER, COLORADO 80225, OR WASHINGTON, D.C. 20242
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST



ROAD CLASSIFICATION
Heavy-duty
Unimproved dirt
U. S. Route

EASTPORT, IDAHO
N4852.5—W11607.5/7.5
1965
AMS 2781 / NW—SERIES V893



Government lot check for
98-P7800 by RGH 9/5/2000

T64N R2E

PD

NWNW

NENW

NWNE

NENE

SWNW

SENW

SWNE

SENE

NWSW

NESW

NWSE

NESE

SWSW

SESW

SWSE

SESE

BM 2492

Snyder
Guard Station

INTERNATIONAL
PIPELINE

MICROFILMED

29 2003



Pump



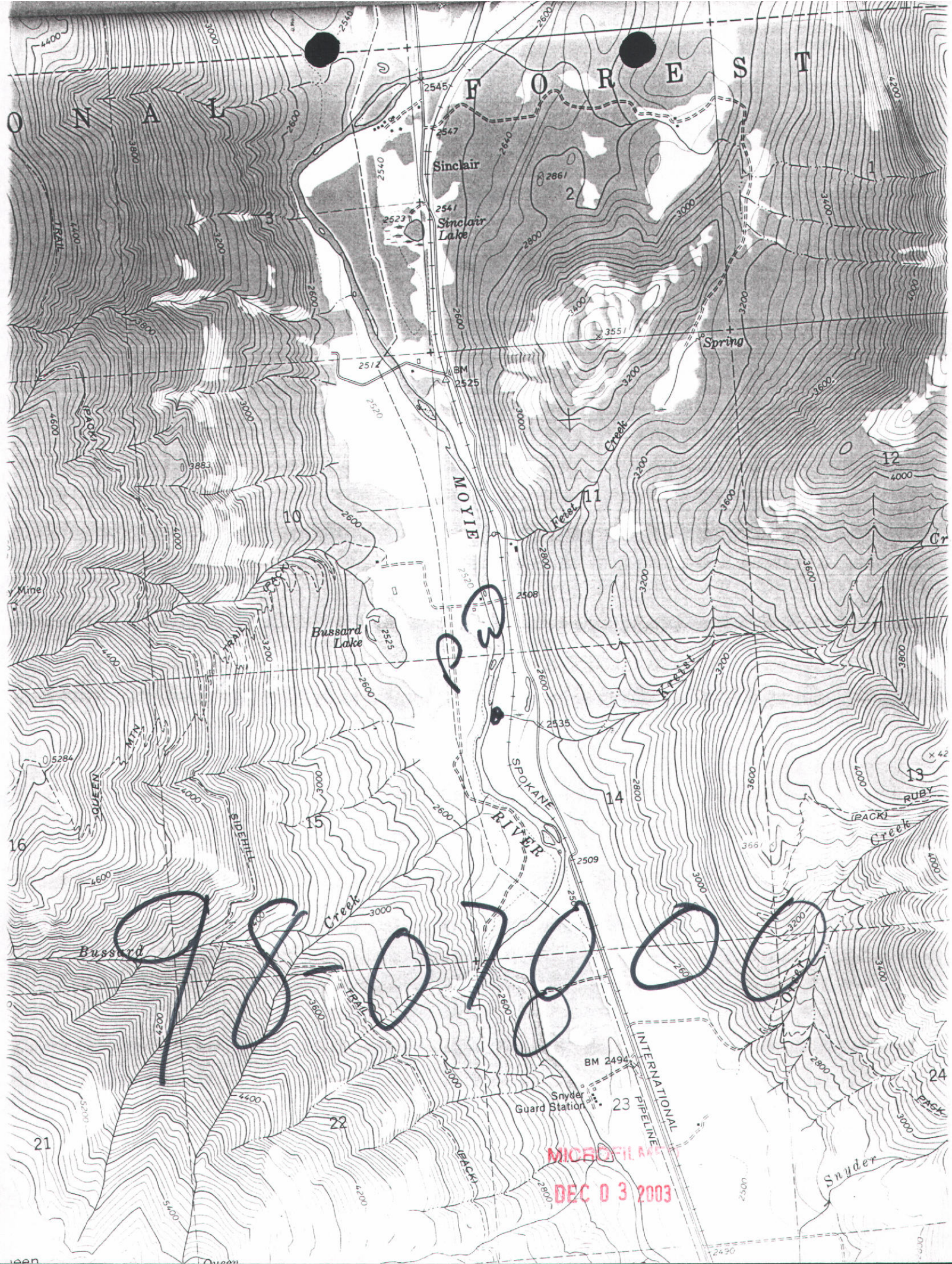
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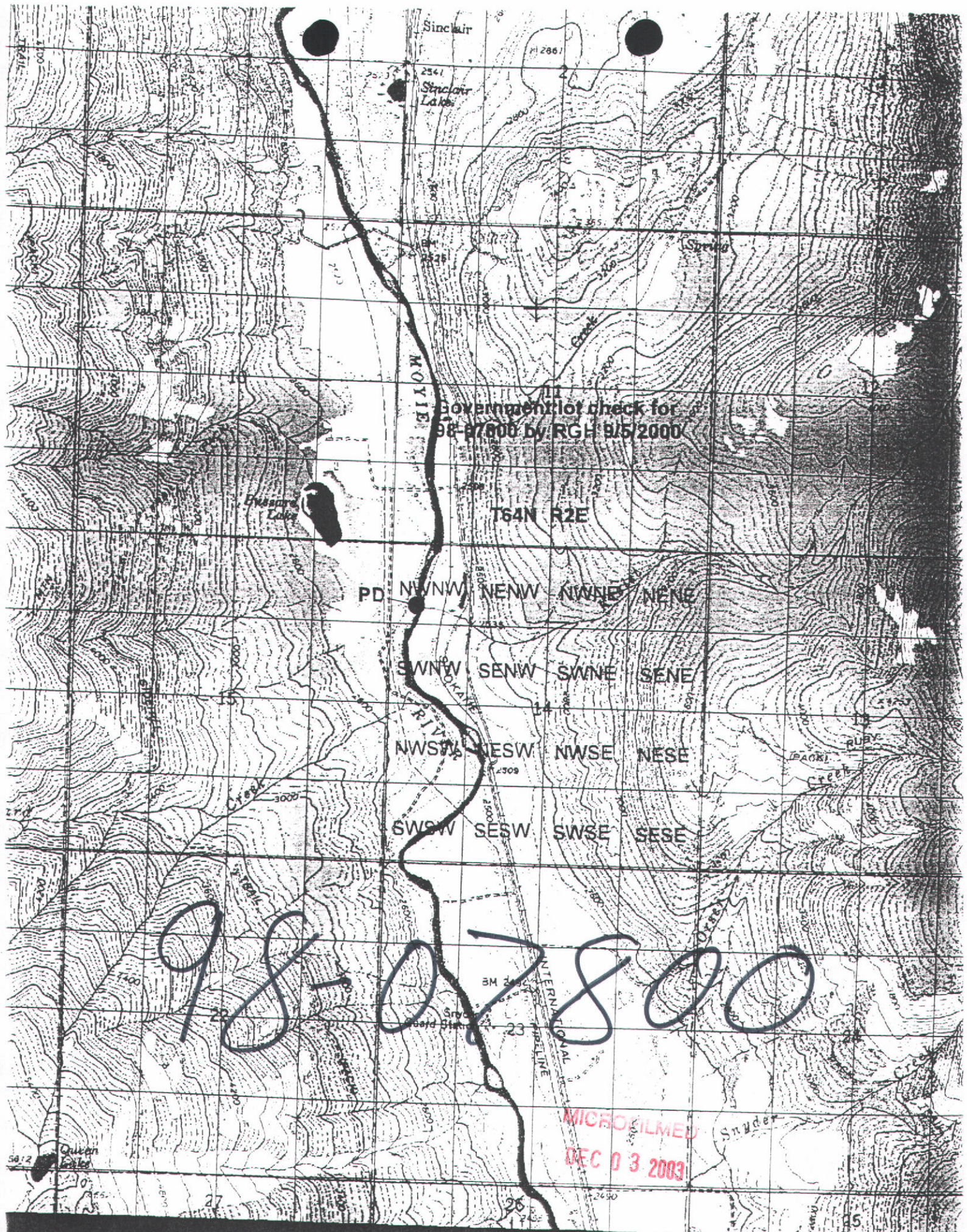


pu

98-07800

MICROFILMED
DEC 03 2003





Government lot check for
98-07800 by RGH 9/5/2000

T64N R2E

PD NWNW NENW NWNW NENE
SWNW SENW SWNE SENE
NWSW NESW NWSE NESE
SWSW SESW SWSE SESE

98-07800

MICROFILMED
DEC 03 2003









State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 98-07800

Priority: April 26, 2000

Maximum Diversion Rate: 0.02 CFS
Maximum Diversion Volume: 1.5 AF

It is hereby certified that KENNETH W LUSTIG
802 BANCROFT
COEUR D ALENE ID 83814 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated April 26, 2000; and has
submitted Proof of Beneficial Use on March 26, 2001. An examination indicates that the works have a
diversion capacity of 0.03 cfs of water from:

SOURCE

MOYIE RIVER

Tributary: KOOTENAI RIVER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
IRRIGATION	5/01 to 10/31	0.02 CFS	1.5 AF

LOCATION OF POINT OF DIVERSION:

MOYIE RIVER NW¼NW¼ Sec. 14, Twp 64N, Rge 02E, B.M., BOUNDARY County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
64N 02E 14								.5									.5
Total Acres: 0.5																	

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.02 cfs nor more than 1.5 afa at the field headgate for irrigation of the land described above.
2. Water shall not be diverted under this right when flows in the Moyie River are below established minimum stream flows.

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

Signed and sealed this 3rd day of April, 2003.


for KARL J. DREHER
Director

MICROFILMED

DEC 03 2003

Amt. of Fee \$ 50.00
Receipt No. 0253934
Receipt By: J. K. ...
Date Received: 3/27/01

RECEIVED

MAR 26 2001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

Department of Water Resources

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

1. Permit No. 98-07800 Telephone No. Home - 208-665-5989
Work - 208-667-95132. Name of Permit Holder(s): Kenneth William LUSTIG3. Mailing Address: 802 BancroftCity Coeur d'Alene State ID Zip 838144. Source of Water: Moyle River If **GROUNDWATER** (well), Date Drilled: mo. _____ / yr. _____

Well Driller: _____ Drilling Permit Number: _____

5. Use(s) (as authorized by the water right permit):

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

Irrigation (No. of acres): about 1.5 Other: _____6. Total rate of diversion and/or volume for which proof is submitted: 0.04 cfs OR _____ acre-feet
(May 1 to Oct 31)

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)

(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required?

Yes _____ or No ☒

Has the measuring device been installed?

Yes _____ or No _____

8. Fee Enclosed: \$ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

9. Person to contact to accompany the Department representative during field examination of the water system.

Name: Ken Lustig Telephone Number: 208-667-9513 (wk)Address: 802 Bancroft, Coeur d'Alene, Id 83814

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: [Signature]
(Include your title, if on behalf of company or organization)Date: 3/21/2001

MICROFILMED

JUN 29 2003

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 98-07800

Priority: April 26, 2000

Maximum Diversion Rate:

0.04 CFS

This is to certify, that KENNETH W LUSTIG

6039 N DAVENPORT

DALTON GARDENS ID 83815

has applied for a permit to appropriate water from:

MOYIE RIVER

tributary of KOOTENAI RIVER

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	05/01 to 10/31	0.04 CFS
------------	----------------	----------

LOCATION OF POINT(S) OF DIVERSION:

NWNW , Sec. 14, Township 64N, Range 02E
BOUNDARY County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
64N 02E 14	NWNW 1.5			1.5

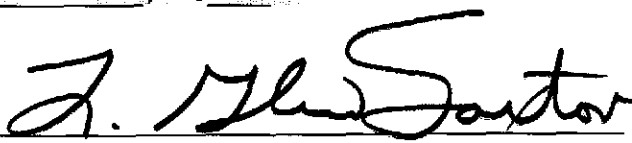
Total number of acres irrigated: 1.5

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of application of water to beneficial use shall be submitted on or before November 1, 2001.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
4. Water shall not be diverted under this right when flows in the Moyie River are below established minimum stream flows.

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

31st day of October, 2000


for Karl J. Dreher, Director

MICROFILMED

JAN 23 2003

Ident. No. 98-07800

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

RECEIVED

SEP 6 2000

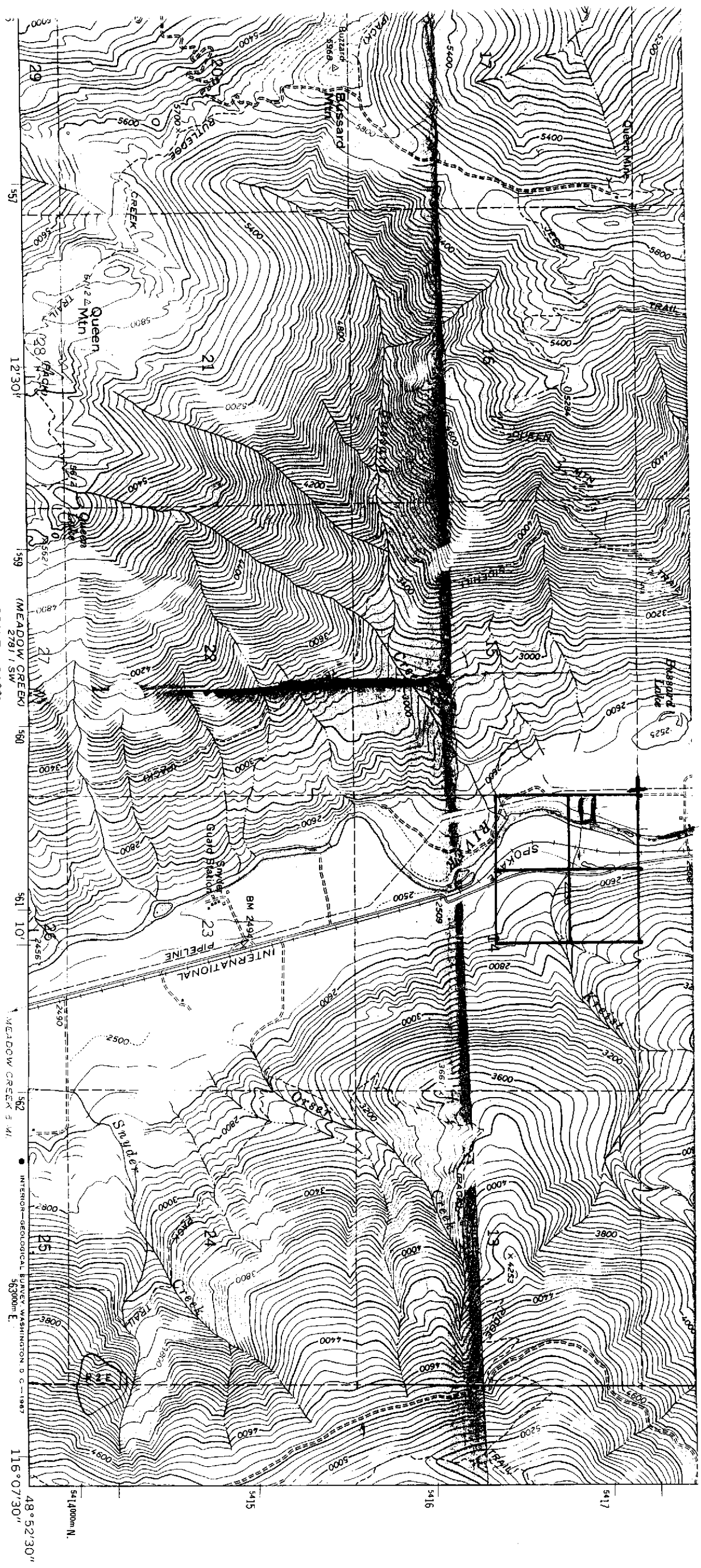
To appropriate the public waters of the State of Idaho

DEPARTMENT OF WATER RESOURCES

1. Name of Applicant Kenneth W. LUSTIG Phone 208/667/9513
Mailing address 6039 N. Davenport, Dalton Gardens, ID 83815
2. Source of water supply MONIE RIVER which is a tributary of KOOTENAI RIVER
3. Location of point of diversion is Township 64 N Range 2 East Sec. 14 in the NW 1/4, NW 1/4, Govt. Lot 863.99 feet S of NW corner, B.M., (Bannock Co.) County; additional points of diversion if any: (Bannock Co.)
4. Water will be used for the following purposes:
Amount 0.04 for IRRIGATION purposes from 3/15 to 11/15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 0.04 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
a. Describe type and size of devices used to divert water from the source PUMP IN RIVER
b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet
c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet
d. Is ground water with a temperature of greater than 85°F being sought? _____
e. If well is already drilled, when? _____; Drilling firm _____
Well was drilled for (well owner) _____; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
a. Hydropower; show total feet of head and proposed capacity in KW. _____
b. Stockwatering; list number and kind of livestock. _____
c. Municipal; show name of municipality. _____
d. Domestic; show number of households. _____
e. Other; describe fully. _____

MICROFILMED

JAN 29 2000



Map by the Geological Survey
International
Methods from aerial
checked 1965
American datum
coordinate system,
Mercator grid ticks,
UTM GRID AND 1965 MAGNETIC NORTH
DECLINATION AT CENTER OF SHEET

0°37' 11 MILS
21°
GN
MM

1
1000 0 1000 2000 3000 4000 5000 6000 7000 FEET
1
1000 0 1000 2000 3000 4000 5000 6000 7000 METERS
1
1000 0 1000 2000 3000 4000 5000 6000 7000 FEET
1
1000 0 1000 2000 3000 4000 5000 6000 7000 METERS

SCALE 1:24000

CONTOUR INTERVAL 40 FEET
DOTTED LINES REPRESENT 20-FOOT CONTOURS
DATUM IS MEAN SEA LEVEL

THIS MAP COMPLIES WITH NATIONAL MAP-ACCURACY STANDARDS
FOR SALE BY U.S. GEOLOGICAL SURVEY, DENVER, COLORADO 80225, OR WASHINGTON, D.C. 20242
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

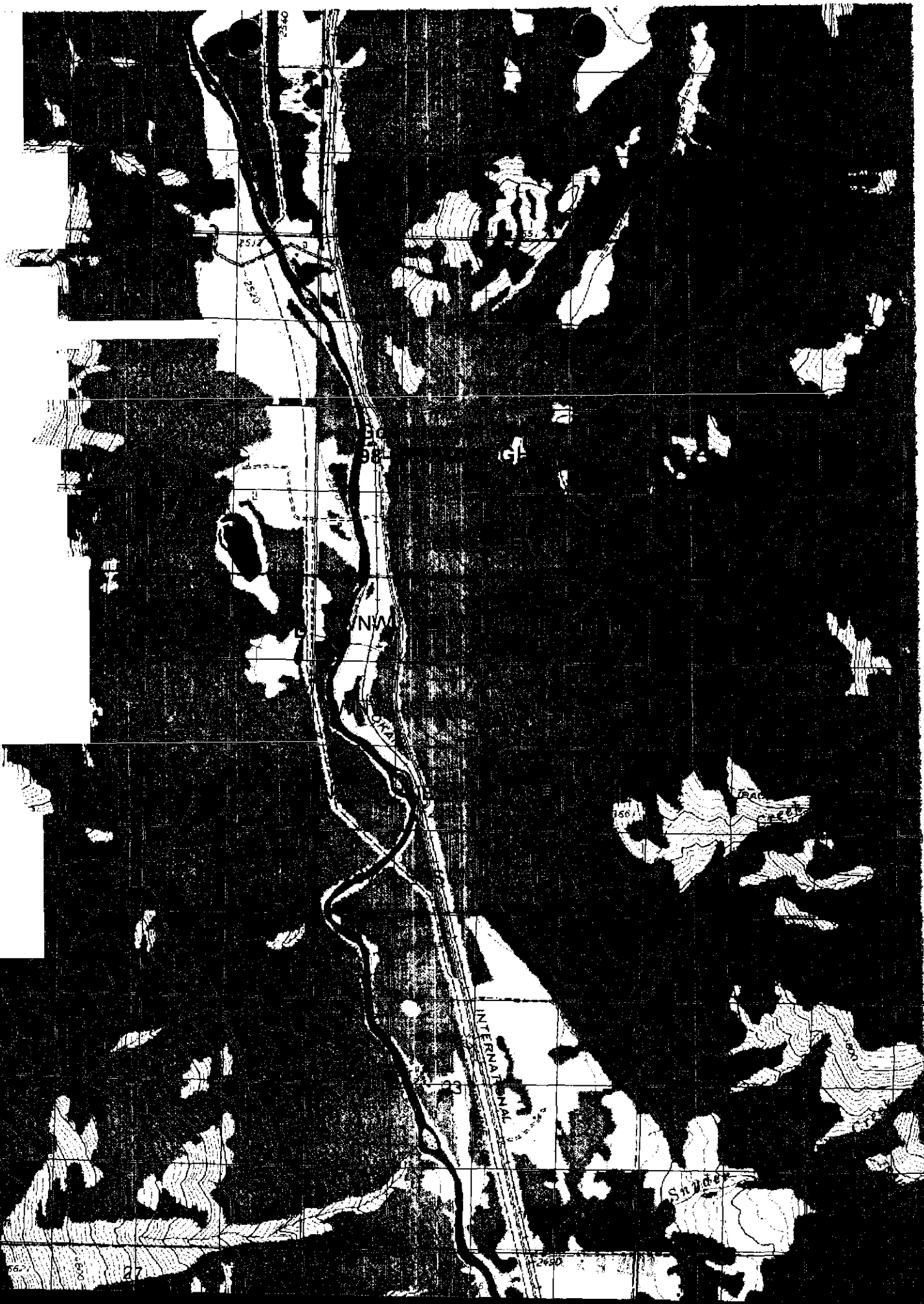
QUADRANGLE LOCATION

IDAHO

EASTPORT, IDAHO
N4852.5—W11607.5/7.5
1965
AMS 2781 1 NW—SERIES V693

ROAD CLASSIFICATION
Heavy-duty
Unimproved dirt
Light-duty
U.S. Route

LINE POINT
2781 1 SE





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

April 3, 2003

KENNETH W LUSTIG
802 BANCROFT
COEUR D ALENE ID 83814

RE: License No. 98-7800 - Issuance of License

Dear Water Right Holder(s):

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

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

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

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

Sincerely,

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

MICROFILMED
DEC 03 2003

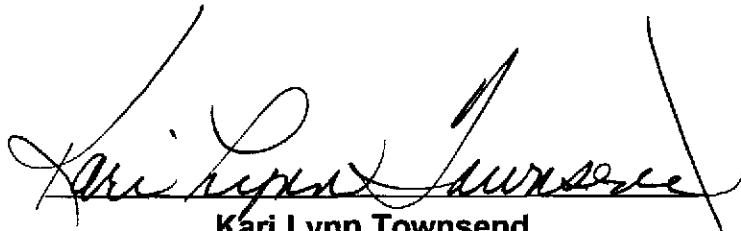
CERTIFICATE OF SERVICE

I hereby certify that on April 3, 2003 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO.

98-7800

**KENNETH W LUSTIG
802 BANCROFT
COEUR D ALENE ID 83814**



**Kari Lynn Townsend
Secretary**

MICROFILMED

DEC 6 3 2003

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

LICENSE REVIEW CHECKLIST

Permit No. 98-7800 Date: 3/31/03 Reviewer: Kay Walker

Change/OK

Name/Address

fix per proof & exam

Source

Point of Diversion:

OK

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

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

Place of Use

OK

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

W60 (subdivision description)
W27 (ppu acre limit)

Overlaps: Right(s): none
File reviewed _____ Profile reports printed _____

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

Rate of Diversion:

Permitted rate 0.04 cfs
Fee Limit 0.00 cfs
Measured 0.03 cfs
Theoretical _____ cfs

Recommended Total Diversion Rate 0.02

Water Uses

OK Change (P46)

Season of Use per new Standards

5-1 10-31

.5 ac x 0.03 = 0.015
≈ 0.02

Irrigation 0.02 cfs 1.5 af
Stockwater _____ cfs _____ af
Domestic _____ cfs _____ af
_____ cfs _____ af
Total 0.02 cfs 1.5 af

Irrigation - overlap (R58-R61, R62-R65, R66-R69)

supp. Gw (WB7/065/104)
overlap spec combined rts (W35)
<1 acre (W31)
Domestic (W01/wb5/070/071/075)
Power (W42 or W43/025/027/R22 or R23)
Fish (042)
Fire (077)
Water Quality (106/R07)
Payette - (W22/047/27A)
Stockwater for US (R37)

Volume Determination

0.02 cfs x 1.9835 x 184 days = 7.3 af (vs) .5 acres x 3.0 (FHR) = 1.5 af
2.0 (coh)

Remarks:

Additional Conditions _____ Watermaster Control
_____ GW Measurement/Measuring Device
_____ Other
Trust R55 - remove 051)
Non-trust (048)

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

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

SRBA Claim? N/A

Adjust memo _____

Amend Letters _____ P87, S06 Second Amendment Notice _____ S06

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED

SEP 23 2001 *A*

Department of Water Resources

A. GENERAL INFORMATION

Permit No. 98-07800

1. Owner: Kenneth W. Lustig Phone No. (208) 665-5984

Current Address: 802 Bancroft, Coeur D Alene Id. 83814

2. Accompanied by: Ken Lustig EXAM DATE: 8-01-01

Address: Same as above Phone No. _____

Relationship to Permit Holder: _____

3. Source: Mojave River tributary to Footenai River

B. OVERLAP REVIEW

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

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

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			NW	NW	14	64N	02E	Boundary	USGS 7.5min Quad

2. Place(s) of Use:

Indicate Method of Determination

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
64N	02E	14						.5											

MICROFILMED

DEC 03 2003

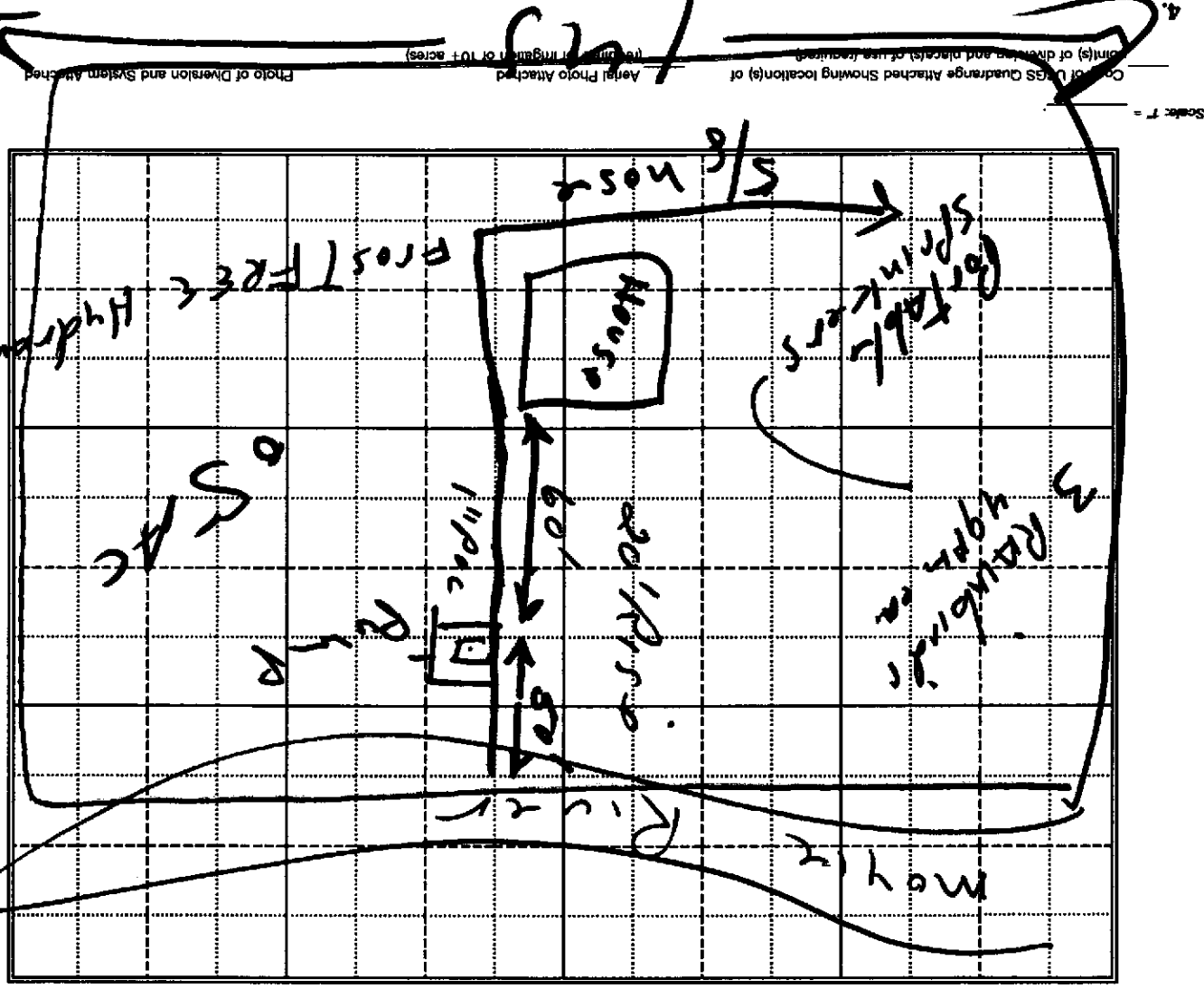
2. Measurements:

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

D. FLOW MEASUREMENTS

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

Well or Diversion Identification No. *	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	STARITZ	1	STAR 63	STARITZ	1 1/2"



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

E. NARRATIVE/REMARKS/COMMENTS

Lined area for narrative/remarks/comments.

Have conditions of permit approval been met? ☒ yes ☐ no **MICROFILMED**
DEC 03 2003

F. FLOW CALCULATIONS

Measured Method:

5 gal bucket with hose over sprinkler
12 gpm
 $12 \times 1.33681 = 16.0416$ cfs

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{IR} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 0.5 \times 3 = 1.5$$

$$V_{DR} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = 10.3 \times 183 \times 1.9835 = 10.9$$

$$V = \text{Smaller of } V_{IR} \text{ and } V_{DR} = 1.5$$

2. Volume Calculations for Other Uses:

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use

forage

Period of Use

From 01-01 To 11-31

Rate of Diversion

Q (cfs) 103

Annual Volume

V (afa) 1.5

2. Recommended Amendments

Change P.D. as reflected above
Change P.U. as reflected above

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

I. AUTHENTICATION

Field Examiner's Name

Wayne Ball

Date

9-25-01

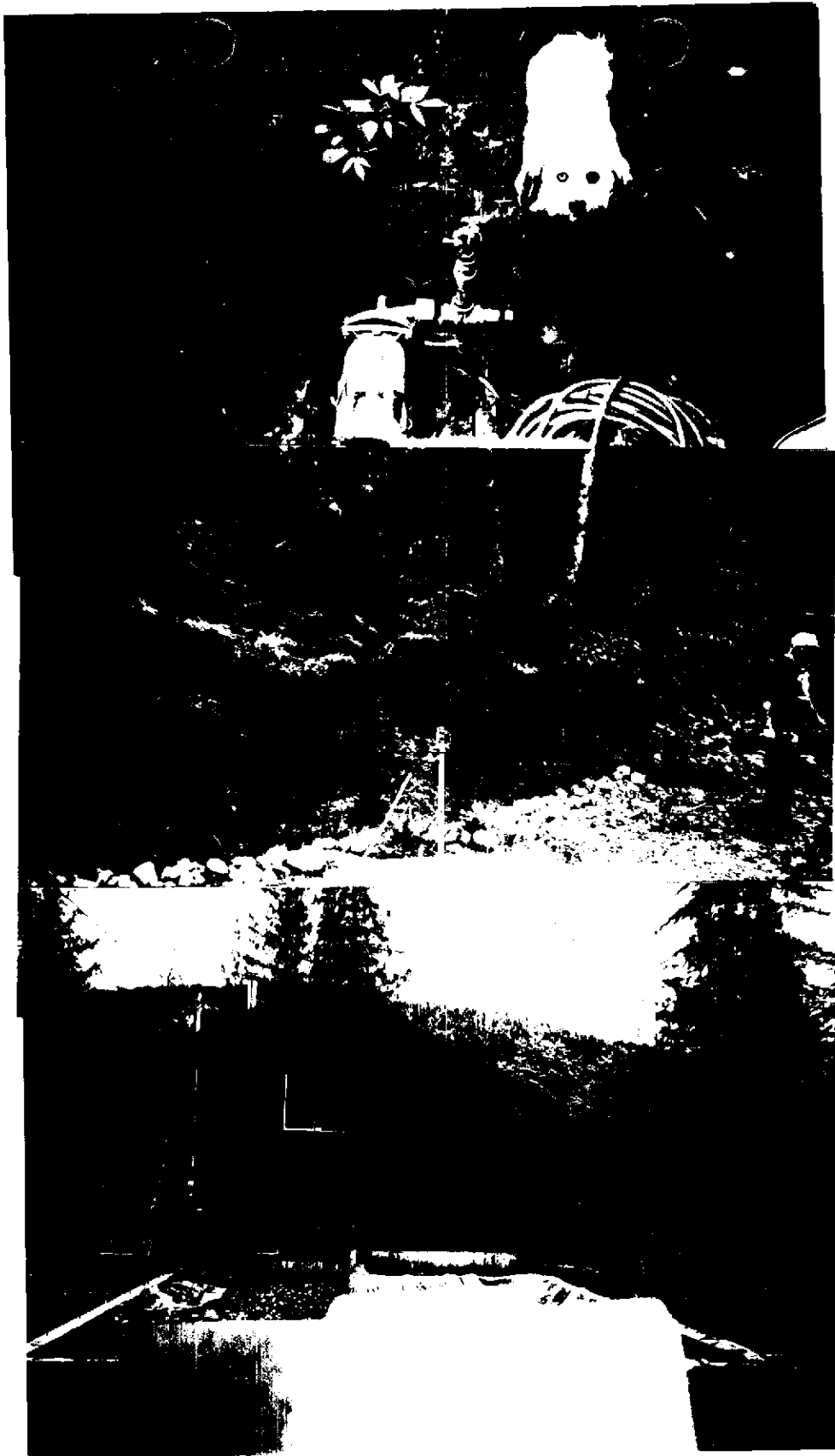
Reviewer

Date

SEAL

MICROFILMED

DEC 13 2003



Pump

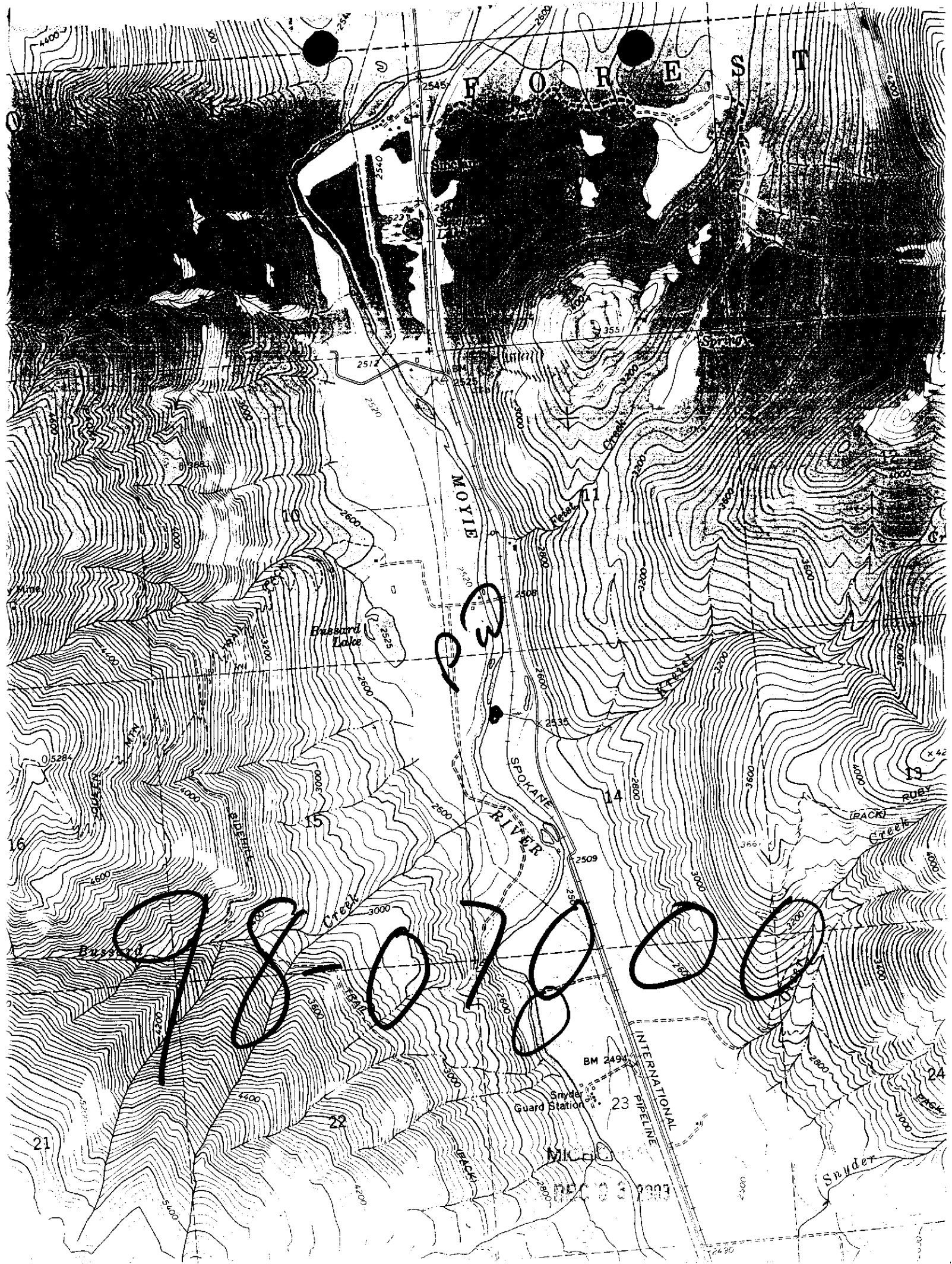
pu

pu

98-07800

MICROFILMED

DEC 13 2003



Sinclair

Sinclair Lake

Government lot check for
98-07800 by RGH 9/5/2000

T64N R2E

PD

NWNW NENW NWNW NENE

SWNW SENW SWNE SENE

NWSW SESW NWSE NESE

SWSW SESW SWSE SESE

98-07800

INTERNATIONAL
BOUNDARY

BM 24

23

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Queen

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27

2000



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

April 4, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

KENNETH WILLIAM LUSTIG
802 BANCROFT
COEUR D'ALENE ID 83814

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 98-07800

Dear Permit Holder:

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

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

If you have questions concerning the field examination, please contact the Northern Regional Office of the department in Coeur d'Alene at (208) 769-1450.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

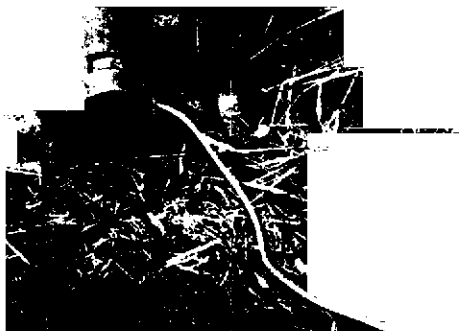
Encl.

c: IDWR - Regional Office

MICROFILMED

JAN 29 2003









Photos
MICROFILMED

JAN 29 2003

Photos submitted
with Proof of
Beneficial Use.
4/4/01 dg

ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No.: 98-7800

Reviewed By: dgibson

Date: April 4, 2001

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Proof received timely?	X		Drilling permit required?		X
License examination fee required?	X		Drilling permit No.:		
Appropriate fee submitted?	X		Drilling permit upgrade needed?		
Receipt No.:		N013620, C052934	Well driller's report filed?		X
Additional Amount Due:			Measuring device required?		X
Name and address same as permit?		X	Measuring device installed?		
Are the water uses correct?	X		Measure device waiver requested?		

Priority Calculation

Date proof received		03/27/2001
Date proof due	-	11/01/2001
Lapse notice sent	-	
No. of days late	=	0
Holiday allowance	+	
Priority date	+	04/26/2000
New priority date	=	04/26/2000

Deficiencies of Actions Items

Acknowledge proof. Make changes to mailing address.

**APPLICATION FOR PERMIT
STATE OFFICE ANALYSIS**
Reviewed by Cindy Zimmerman on _____

No. 98-7800 Name: Lustig Corp. Officers NA Ad ok ☒ Govt Lots per R4

AREA OF CONCERN: No/Yes Moratorium GWMA TRUST/NON-TRUST

☒ **GROUNDWATER: (√Flow Chart)**

DRILLING PERMIT

All wells - 046(P23)

Irr. w/in WD - P05

WMD - North/East/West

≤ 0.24 cfs/5 acres - No MD

> 0.24 cfs/5 acres - 067

~~WMD~~

Supp irr (irr = only use) - 065-104

Supp irr (+ other uses) - 100-105

≤ 0.24 cfs/5 acres - No MD

> 0.24 cfs/5 acres - 01M

LOCATION:

Boise Front LoGeo - 058 (<85 GW)

Mitigation - 121

42-248 Area - P84 (20s-70s, 81-86)

Swan Falls Flag -

Trust - 051(P74) (consumptive uses)

Non-Trust - 048-049 (consumptive uses or non-cons. > 1.0 cfs)

☒ **SURFACE WATER: (√Flow Chart)**

F&G contacted ☒ Yes ☒ No Response None

~~Ir~~ Above MSF ☒ WB9 Moyle River Kosterbrook

☒ PLANNING REVIEW/RESPONSE Add MSF cond.

☒ In-stream development ☒ P52

WD

≤ 0.20 cfs/others

> 0.20 cfs

- R04 (WD# _____)

- 01H(P01), 01P or No MD

- 01J(P08)

☒ **SPRINGS/SINK, INACTIVE WD & REST OF STATE**

☒ ≤ 0.24 cfs/5 acres

> 0.24 cfs/5 acres

- No MD

- 01M or No MD

RIVER BASINS: (SW special considerations)

SNAKE R (01)

(02,03)

Payette R (65)

Salmon R (70's)

Weiser R (67)

- W22(P04), N/A

- 007 (w/ remark WB9 if above Weiser)

- 047(P04) (Payette Lake)

- 029 (fish screens)

- 086-087

☒ **USES:**

STORAGE - 18A-01H(P01), 01P-18B(P09)-NA

☒ IRR ≤ 5 ac - (R66/R67/R68/R69 (0.03 cfs/ac) 3.0 AF

> 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)

STOCKWATER - R37 (BLM/USFS)

MINING - 054-081(P10)

FISH PROP - 029(70's only)-007-042-081(P10)

HEAT/COOL - R07(injection well)

FIRE PROT. - 077

USES:

POWER

MUNICIPAL

Restricted area

Irr., GW supp to SW

DOMESTIC

Surface water

> 1 in restricted area

Irr use listed separatc

Moratorium approvable

- 17H-17K (+uses)-08A-025(P18)-01N-081(P10)

- 022,075

- 102

- WB5 (Big Wood or Boise above Star Bridge)

- 27A (Payette R)

- 070-071-075(no parks/common areas, etc)

- WB5

- W03 (2500 gpd - meets domestic definition

i.e. D/convenience store)

BENEFICIAL USE DUE: 11 / 01 / 01

☒ **MISC CONDITIONS/REMARKS:**

Protested - 020-W19

☒ Development Period

☒ ≤ 1 yr

> 1 yr

Ownership

Non-consumptive

Water Quality

- P16

- 26A(P17)

- 004

- 027

- 081-R07

Multiple pd's per 1/4

Subd lot desc (pd)

Subd lot desc (pu)

Use definitions

Pre-1987 development

Single p/d intended

- W32

- W59

- W60

- W02 example - S/50 range

- 068-074 (allow 120 days for proof due)

- 076

IRRIGATION SEASON 5/1 - 10/31 (Per updated map)

OTHER CONDITIONS/REMARKS

COMMENTS

WB9/Moyle R2 R66
Paragraph Codes: P16, P52

Keen, Shelley

From: Graham, Bill
Sent: Friday, November 10, 2000 1:44 PM
To: Keen, Shelley
Subject: RE: Applications 95-09047, 98-07796, 98-07800

Shelley - Again, I have problems with diversions for private recreational purposes. However all have their traditional beneficial use component, and 98-07800 is strictly an irrigation right. I would request that all three applications be conditioned with the standard minimum streamflow language.

-----Original Message-----

From: Keen, Shelley
Sent: Monday, October 23, 2000 7:55 AM
To: Graham, Bill
Cc: Zimmerman, Cindy
Subject: Applications 95-09047, 98-07796, 98-07800

<< File: Doc1.doc >>

Bill,

Here are three applications for you to review.

Thanks.

Shelley



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

November 1, 2000

KENNETH W LUSTIG
6039 N DAVENPORT
DALTON GARDENS ID 83815

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 98-07800

Dear Permit Holder:

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

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

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

Please note that a separate stream channel alteration permit must be obtained from the IDWR prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

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

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

MICROFILMED

JAN 23 2001

Sincerely,

A handwritten signature in cursive script that reads "Shelley Keen". The signature is written in dark ink and is positioned above the printed name.

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosures

MICROFILM

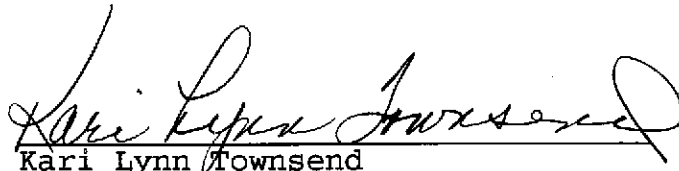
JAN 23 2003

CERTIFICATE OF MAILING

I hereby certify that on the 1st day of November, 2000, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

Water Right No. 98-07800

KENNETH W LUSTIG
6039 N DAVENPORT
DALTON GARDENS ID 83815


Kari Lynn Townsend
Secretary

MICHO...

JAN 2 9 2001

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

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.

IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

RECEIVED
SEP 6 2000
WR1
BCA
WRA

APPLICATION # 98-07800

DEPARTMENT OF WATER RESOURCES

INITIAL REVIEW

APPLICANT: LOSTIG

BY: AB

DATE: 4/26/00

ITEM REQUIRED INFORMATION

1. (X) Name and Address
2. (X) Source
3. (X) Point of Diversion & County
4. (X) Quantity
(X) Nature of Proposed Use
(X) Period of Use
5. (X) Total Quantity
6. (X) Description of diverting works
7. (X) Time required for b/u
8. (X) Proposed use
9. (X) Place of use or acres irrigated
10. (X) Other water Rights
11. (X) Ownership
12. (X) Map
(X) Signature
(X) Fee (Amt, receipt, acknowledgement)

*** Send info sheet Y() N()

ADDITIONAL INFORMATION

(Yes) (No)

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

PROCESSING

(Yes) (No)

PRIORITY DATE: 4/26/00

X (Include Moratorium Remark)

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

ADVERTISE IN: BOUNDARY County

LETTERS SENT REQUESTING:

- () Dam Information () Fish Information
() Power Information () Other: N/A

INFORMATION RECEIVED:

- () Dam Information () Fish Information
() Power Information () Other: N/A

GROUNDWATER SECTION

WD Permit No.'s:	Type:	Fees	Receipt No.	Upgrade Needed?
_____	Dom. _____ Non-Dom. _____	Paid \$ _____	_____	Y () N ()
_____	Dom. _____ Non-Dom. _____	Paid \$ _____	_____	Y () N ()
_____	Dom. _____ Non-Dom. _____	Paid \$ _____	_____	Y () N ()

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

Remarks: NO GOVT. LOT INFORMATION IN REG. FOR THIS AREA - AB

FINAL REGIONAL PROCESSING/REVIEW

(Yes) (No)

- ✓ Notice of pending void order issued. Final order response date: _____
✓ Further information required from applicant
✓ Affidavit of publication received
✓ Application published correctly. If not, record action taken: _____

5/10 Publication dates and paper recorded on application | Sr. Agent initial _____

- ✓ Protests received, Final protest date: 6/5/00
✓ Measuring device required
✓ Measuring port required
✓ Special conditions:

✓ Special conditions of approval supplement and/or cover letter attached:

Approval Recommended by: AB

Date: 9/5/2000

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, May 10, 2000 9:24 AM
To: 'Chip Corsi'
Subject: perweek2.txt

Greetings, Chip. At the end of the attachment you will find three water rights for your review:

Villelli - 96-09046 - final date for protest is 5/22/00
Clifty View - 98-07798 - final date for protest is 6/5/00
Lustig - 98-07800 - final date for protest is 6/5/00.

We will appreciate your comments either way before the final dates for protest.

Thanks ever so much.

Dianne - IDWR North



perweek2.txt.htm

*No response
from Chip*

MICROFILMED

1 MAY 29 2001

AFFIDAVIT OF PUBLICATION

State of Idaho

ss.

County of Boundary, Carol Arthur

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

4317 Water Right

as it was published in the regular and entire issue of the
said paper for a period of 2 consecutive weeks,
commencing on 17 day of May, 20 00
and ending on the 24 day of May, 20 00
and that said notice was published in said newspaper.

On this 24 day of May in the year
of 2000 before me, a Notary Public, personally
appeared Carol A. Arthur,
known or identified to me to be the person whose name
subscribed to the within instrument, and being by me
first duly sworn, declared that the statements therein are
true, and acknowledged to me that he executed the same.

Jan E. Dule
Notary Public for Idaho

Residing at Bonners Ferry

My Commission expires: 7/22/2002

RECEIVED
JUN 09 2000
IDWR/North

NOTICE OF APPLICATION
FOR WATER RIGHT

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

98-07798

CLIFTY VIEW NURSERY INC.

RT 1 BOX 509

BONNERS FERRY, ID 83805

Source: KOOTENAI RIVER

Diversion Pt: SWSWNW Sec 25 T 62N R 01E in BOUNDARY County. Tributary: COLUMBIA RIVER

Use: IRRIGATION

Total Diversion:

Date Filed: 4/26/2000

In: BOUNDARY County

T62N R01E S25

25.0 ACRES TOTAL

(0.500 CFS)

(0.500 CFS)

SWNW

NWSW

98-07799

CLIFTY VIEW NURSERY INC.

RT 1 BOX 509

BONNERS FERRY, ID 83805

Source: GROUNDWATER

Diversion Pt: SESESE Sec 26 T 62N R 01E in BOUNDARY County.

Use: IRRIGATION

Total Diversion:

Date Filed: 4/26/2000

In: BOUNDARY County

T62N R01E S25

S26

S36

72.0 ACRES TOTAL

SWSW

NWSW

NWNW

SESW

98-07800

LUSTIG, KENNETH W

6039 N DAVENPORT

DALTON GARDENS, ID 83815

Source: MOYIE RIVER

Diversion Pt: NWNW Sec 14 T 64N R 02E in BOUNDARY County. Tributary: KOOTENAI RIVER

Use: IRRIGATION

Total Diversion

Date Filed: 4/26/2000

In: BOUNDARY County

T64N R02E S14

1.5 ACRES TOTAL

(0.040 CFS)

(0.040 CFS)

NWNW

For additional information concerning the property location, call the Northern
Regional Office at (208) 769-1450.

The permit(s) will be subject to all prior water rights. Protests must be filed with
the applicant and with the Director, Dept. of Water Resources, Northern Region,
1910 Northwest Blvd., Suite 210, Coeur d'Alene, Idaho 83814, together with a protest
fee of \$25.00 on or before JUNE 5, 2000.

KARL J. DREHER, Director

BFH#4317

May 17, 24, 2000

MICROFILMED

JAN 23 2001

98-07800

LUSTIG, KENNETH W
6039 N DAVENPORT
DALTON GARDENS, ID 83815

Source: MOYIE RIVER

Tributary: KOOTENAI RIVER

Diversion Pt: NWNW Sec 14 T 64N R 02E in BOUNDARY County.

Use: IRRIGATION	(	0.040 CFS)
Total Diversion:	(	0.040 CFS)

Date Filed: 4/26/2000

In: BOUNDARY County
 T64N R02E S14 NWNW

1.5 ACRES TOTAL

MICROFILMED

JAN 22 2003

May 10, 2000

Kenneth W. Lustig
6039 N. Davenport
Dalton Gardens ID 83815

Re: Water Appropriation Application No. 98-07800

Dear Mr. Lustig:

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

Your appropriation application is currently being prepared for advertising in the local county newspaper. This advertisement will be published for two consecutive weeks followed by a waiting period of ten days to allow for the submittal of protests. Normal processing time is approximately 3 to 4 months, if the application is not protested.

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

You will receive your approved Application for Permit and instructions on filing the Proof of Beneficial Use from our State office in Boise.

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

Sincerely,

ALLEN BEARDSLEE
Senior Water Resources Agent

AB:db

MICHAEL LAMM

JAN 2 9 2000

N013620

4/26/2000

LUSTIG, KENNETH

APPLIATION FOR PEMRIT	65103	229 21 1155	50.00
-----------------------	-------	-------------	-------

CHECK	1498	\$	50.00
-------	------	----	-------

Region: NORTHERN

Signature: _____

MICHAEL

JAN 23 2000