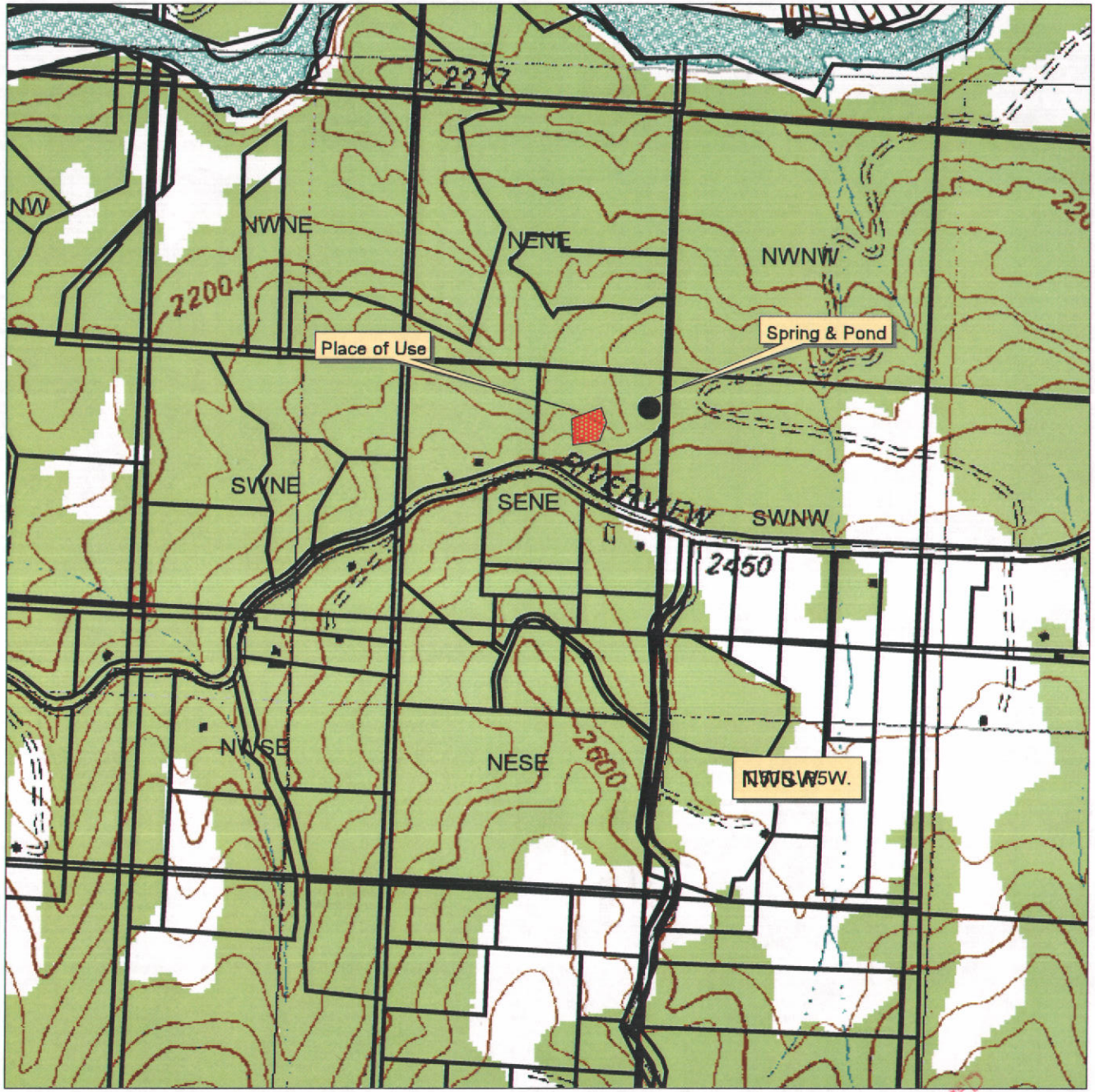


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TOTAL P.03

WELL DRILLER'S REPORT

BALLPOINT PEN

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

1) OWNER

Name Jim Crouch

Address Post Falls, Idaho

Owner's Permit No.

2) NATURE OF WORK

[X] New well [ ] Deepened [ ] Replacement
[ ] Abandoned (describe abandonment procedures such as materials, plug depths, etc. in lithologic log)

3) PROPOSED USE

[X] Domestic [ ] Irrigation [ ] Test [ ] Municipal
[ ] Industrial [ ] Stock [ ] Waste Disposal or Injection
[ ] Other (specify type)

4) METHOD DRILLED

[X] Rotary [ ] Air [ ] Hydraulic [ ] Reverse rotary
[ ] Cable [ ] Dug [ ] Other

5) WELL CONSTRUCTION

Casing schedule: [X] Steel [ ] Concrete [ ] Other

Thickness	Diameter	From	To
.250 inches	6 inches	1 feet	20 feet
PVC inches	4 inches	1 feet	160 feet
inches	inches	feet	feet
inches	inches	feet	feet

Was casing drive shoe used? [X] Yes [ ] No
Was a packer or seal used? [ ] Yes [X] No
Perforated? [ ] Yes [X] No
How perforated? [ ] Factory [ ] Knife [ ] Torch
Size of perforation inches by inches

Number perforations	From	To
	feet	feet
	feet	feet
	feet	feet

Well screen installed? [ ] Yes [X] No
Manufacturer's name
Type Model No.
Diameter Slot size Set from feet to feet
Diameter Slot size Set from feet to feet
Gravel packed? [ ] Yes [X] No [ ] Size of gravel
Placed from feet to feet
Surface seal depth 20 Material used in seal: [ ] Cement grout
[X] Bentonite [ ] Puddling clay [ ]
Sealing procedure used: [ ] Slurry pit [ ] Temp. surface casing [X] Overbore to seal depth
Method of joining casing: [ ] Threaded [X] Welded [ ] Solvent Weld [ ] Cemented between strata
Perforations access port

6) LOCATION OF WELL

Sketch map location must agree with written location.

N
W E
S

Kootenai

Subdivision Name
Lot No. Block No.
¼ NE ¼ Sec. 8 T. 50 N/E R. 5 W/E

7) WATER LEVEL

Static water level 95 feet below land surface.
Flowing? [ ] Yes [X] No G.P.M. flow
Artesian closed-in pressure p.s.i.
Controlled by: [ ] Valve [ ] Cap [ ] Plug
Temperature of. Quality good
Describe artesian or temperature flows below

8) WELL TEST DATA

[ ] Pump [ ] Bailer [X] Air [ ] Other

Discharge G.P.M.	Pumping Level	Hours Pumped
15 gpm		

9) LITHOLOGIC LOG

Bore Diam.	Depth From	Depth To	Material	Water Yes	Water No
6	-	1	topsoil		
	1	120	med hard granite		
	120	160	soft granite	X	

10) Work started 1-23-84 finished 1-26-84

11) DRILLER'S CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name Coeur d'Alene Drilling, Inc. Firm No. 214
Address P.O. Box 380 Hayden Lake, Idaho Date 2-15-84
Signed by (Firm Official) Bill Finley
and
(Operator) Bill Finley

ADDITIONAL SPACE IF NECESSARY -- FORWARD THIS

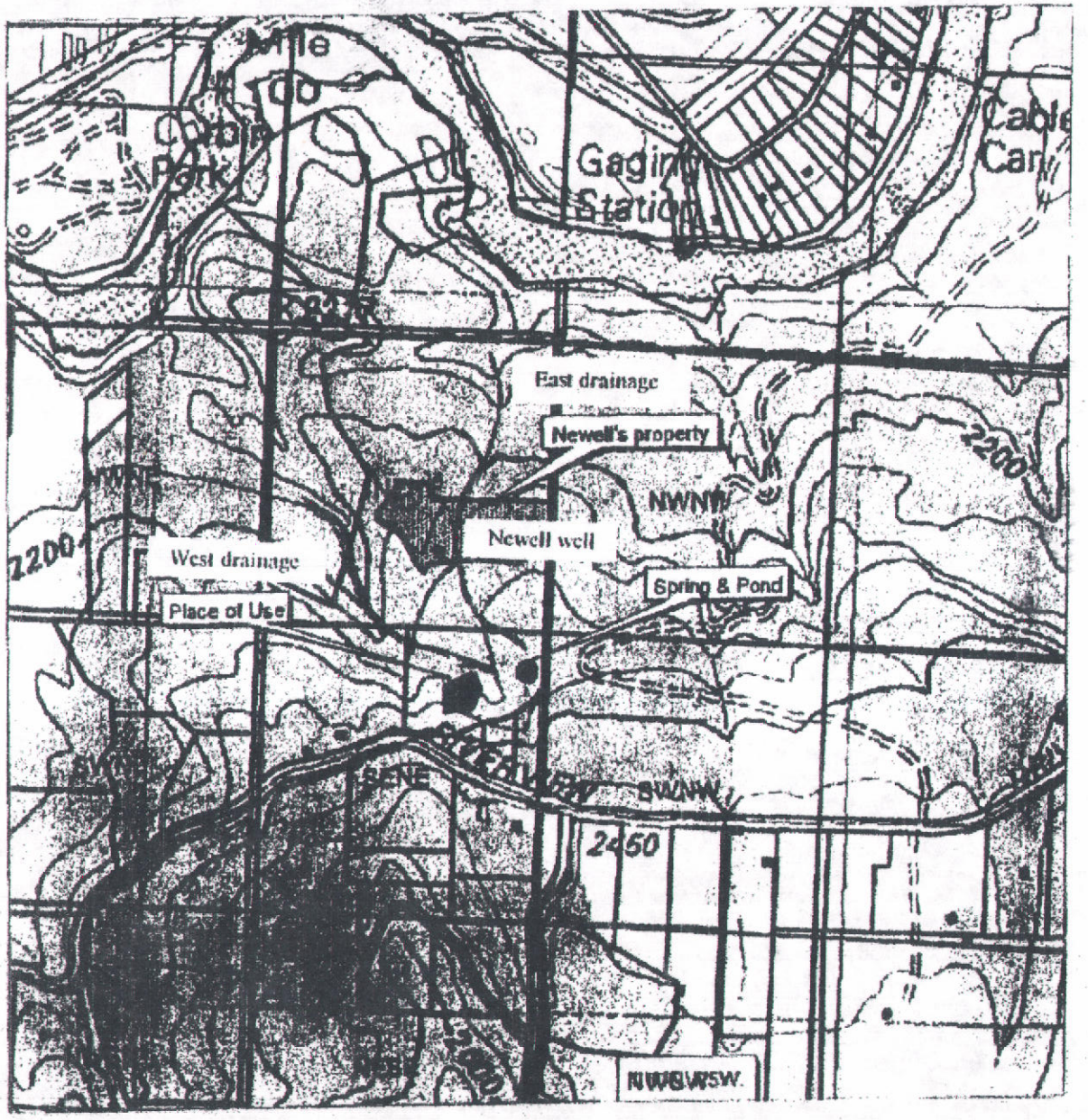
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Cross Spokane St. bridge, go west on River View Dr. for 2 miles. Turn right past Signal Pt. Rd. at 2 new homes. Newell's home 1/4 mile down road.

FORM 202
2/98

Ident. No. 95-9064

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
SEP 14 2001
Department of Water Resources

APPLICATION FOR PERMIT

Appl ID # 68983

To appropriate the public waters of the State of Idaho

1. Name of Applicant Terry D. Schmautz Phone (425) 486-7347
Mailing address 7032 NE 182nd Kenmore, WA 98028
2. Source of water supply groundwater which is a tributary of n/a
3. Location of point of diversion is Township 50 N Range 5W Sec. 8 in the 1/4, SE 1/4, NE 1/4, Govt. Lot , B.M., Kootenai County,
additional points of diversion if any:
4. Water will be used for the following purposes:
Amount .04 (cfs or acre-feet per annum) for domestic purposes from 1-1 to 12-31 (both dates inclusive)
Amount .03 (cfs or acre-feet per annum) for irrigation purposes from 3-15 to 11-15 (both dates inclusive)
Amount (cfs or acre-feet per annum) for purposes from to (both dates inclusive)
Amount (cfs or acre-feet per annum) for purposes from to (both dates inclusive)
Amount (cfs or acre-feet per annum) for purposes from to (both dates inclusive)
Amount (cfs or acre-feet per annum) for purposes from to (both dates inclusive)
5. Total quantity to be appropriated is (a) .04 cubic feet per second and/or (b) acre feet per annum
6. Proposed diverting works:
a. Describe type and size of devices used to divert water from the source well pump and pipe
b. Height of storage dam n/a feet; active reservoir capacity acre-feet; total reservoir capacity acre-feet
c. Proposed well diameter is 6" inches; proposed depth of well is 250 feet
d. Is ground water with a temperature of greater than 85°F being sought? no
e. If well is already drilled, when? no ; 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 4 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. 1
e. Other; describe fully.

Department of Water Resources
APPLICANT'S
Exhibit 1
Date Admitted 4/22/03

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EXHIBIT
tabbies
1
2 Page

9. Description of place of use:

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

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

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
50N	5W	8				D													1
						1													

Total number of acres to be irrigated 1

10. Describe any other water rights used for the same purposes as described above. None

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

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

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

12. Remarks:

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

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

Terry Schmaltz
Signature of Applicant (and title, if applicable)

Received by [illegible] Date 12/5/00 Time 2:30P Preliminary check by

Fee $ 100.00 Receipted by [illegible] Date 2/09/01 # N01405 Date 12/5/00

Publication prepared by [illegible] Published in CDA Press 4/6 & 12/01

Publication approved Date 4/13/01

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Department of Water Resources
APPLICANT'S
Exhibit 8
Date Admitted 4/22/03

EXHIBIT
8
6 pages

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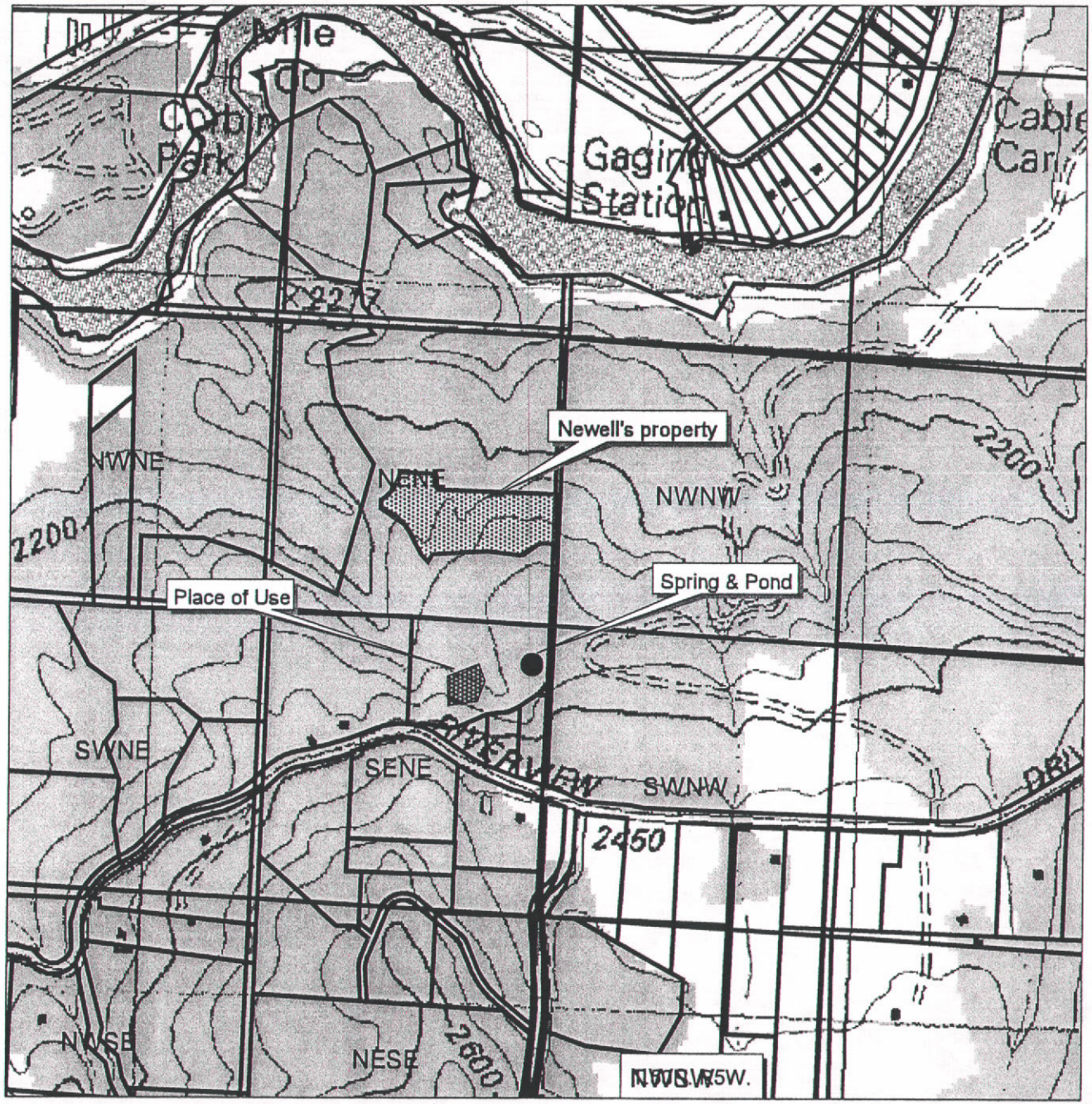
NEWELL

VS.

SCHMANTZ

WELL / POND DISPUTE

11-28-01



Admitted 4/22/03 RSA

History

2-15-84	Well drilled
3-18-94	Dad hooked up well to new home, no water problem
5-00-00	We moved into dads home, ran hose for 3 hours, no water problem
4-00-01	Schmautz completed home, approximate date
4-00-01	Schmautz completes pond, Sun Valley during disruption, approximate date
6-00-01	Started to notice yield change to well, approximate date
10-20-01	Pumptec keeps shutting off
10-22-01	H20, Steve, check out water problem, points to pond as possible problem
10-23-01	H20, Mike, no water, points to pond as possible problem
10-23-01	Notified Terry and Shannon, they said we should have study done, they will pay for study, 457-1884, they will contact their insurance company
10-23-01	Rented water tank, H20, John Wheeler said pond may be problem
10-24-01	Talked to Terry again, no permit for water or construction, wants to handle without notifying an any regulatory agency, said he notified insurance company
10-24-01	Talked to Nationwide, Claim # 11N00854, $250 deductible, 866-842-4515
10-24-01	Terry asked me not to get in touch with department of water resources, "seattle always needs permits" said he would give me his claim # in exchange, gave mine
10-24-01	Contacted Department of Water Resources, Al Beardslee, 208-769-1450, Al said he needs permit, needs water rights, I have constitutional right to water, recommended John Riley at Pyrite Hydochem, 773-5223
10-24-01	Notified Terry of John Riley, said he would pass it on to insurance company
10-25-01	Talked to John Wheeler, H20, told him to delay pending Schmautz insurance company interaction
10-25-01	John Riley visited site, said pond looks like blocking water to well
10-25-01	Talked to John Beaton, Nationwide, 509-464-4515, recorded statement, John Riley talked to Beaton, said pond looks like blocking water to well, said go ahead with survey
10-25-01	Talked to Terry, said John thinks pond is problem, Riley thinks 4 hours @ $90, Terry said insurance company anxious to see report, encouraged Terry input with report
10-25-01	Sent letter #1 to Riley, faxed to Beaton, Delivered to Terry, cc to Beardslee
10-26-01	Beaton said no coverage, left message with Terry, asked him to give me his claim #
10-26-01	Faxed and talked to Al Beardslee
10-27-01	Terry and Shannon came up, said they talked with the Department of Water Resources, told me they would give me a claim # from State Farm, they apologized for the problem, they told me they will do anything to not lose house, indicated their insurance company would take care of it, she indicated she was in insurance business
10-28-01	Talked to Bill Fouche, said marsh on road and across road, built trench to take care of marsh area, springs on road he has repaired, Mike Bell did road construction, he did pond, knows of spring and marsh problems, no contractors license Mike Bell, called Terry and informed him asked again for claim number, said he would call back, but would pass on information to State Farm
10-29-01	208-773-3511, 773-8708, 666-8268 Steve Malloy, p&z kootenai co, department of lands, department of environmental quality208-769-1482 marsha, june burquist, Building permit, 769-4401, Army corps of engineers
10-29-01	Building permit required, engineered plans required, Nick Bentley 769-4417, notice period required.
10-29-01	left message with State Farm, said Mary Beth would give me a call back, 208-773-7537- no return call

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NOV 2 6 2003

Table of Contents

1 *CORRESPONDENCE

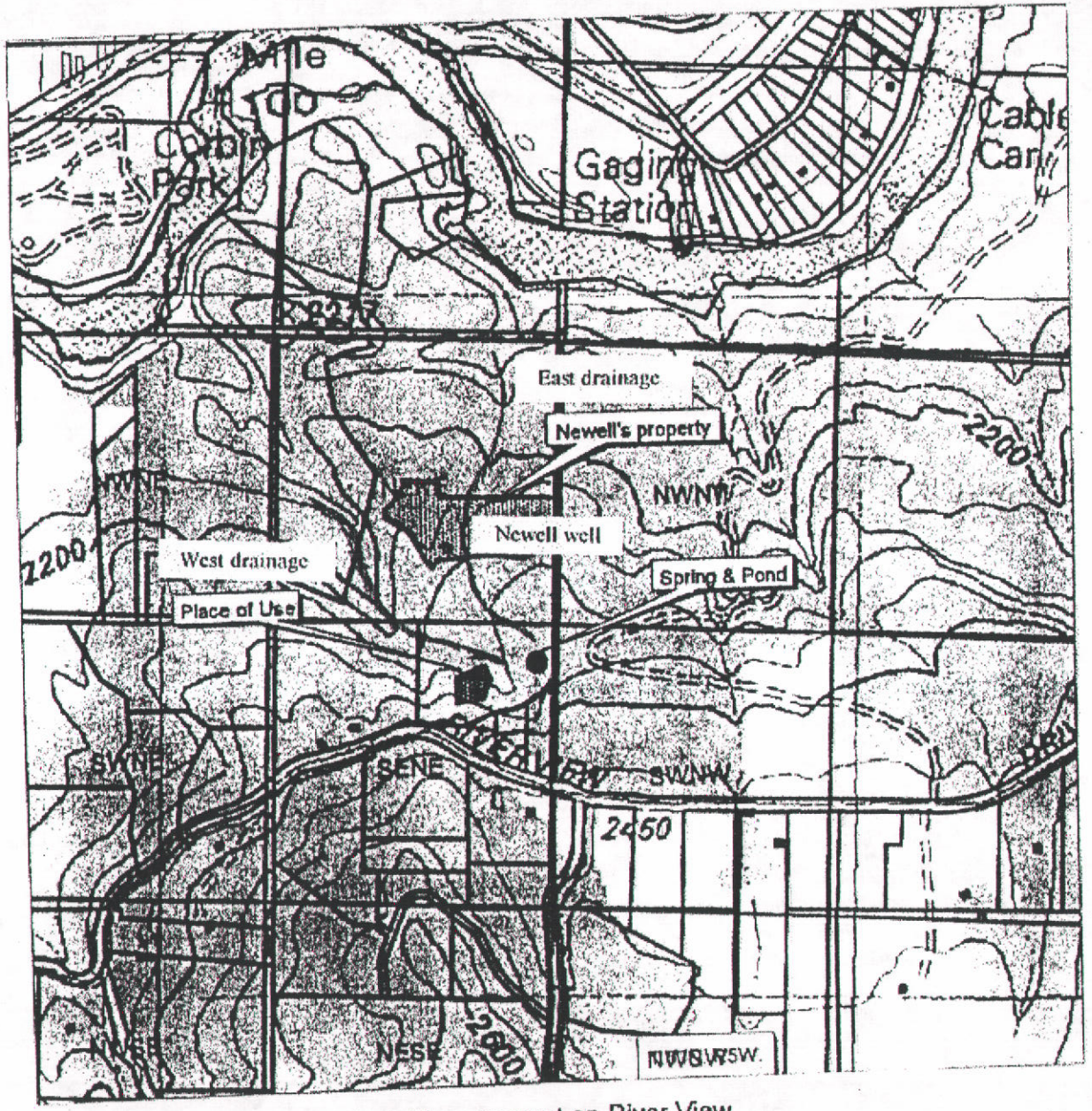
2 *PYRITE
HYDROCHEM
REPORT

3 *WELL
ORIGINAL WELL REPORT 84
CONDITION 3/18/94
NEW WORK ORDER
NEW WELL DRILLERS REPORT 11/5/01
PROPOSAL FOR SAME PRESSURE 11/13/01

4 *COLIFORM BACTERIA ANALYSIS

5 *OTHER
PICTURES
P+Z REQUIREMENTS
SCHMALTZ WELL PERMIT 12/5/00

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NOV 2 6 2003



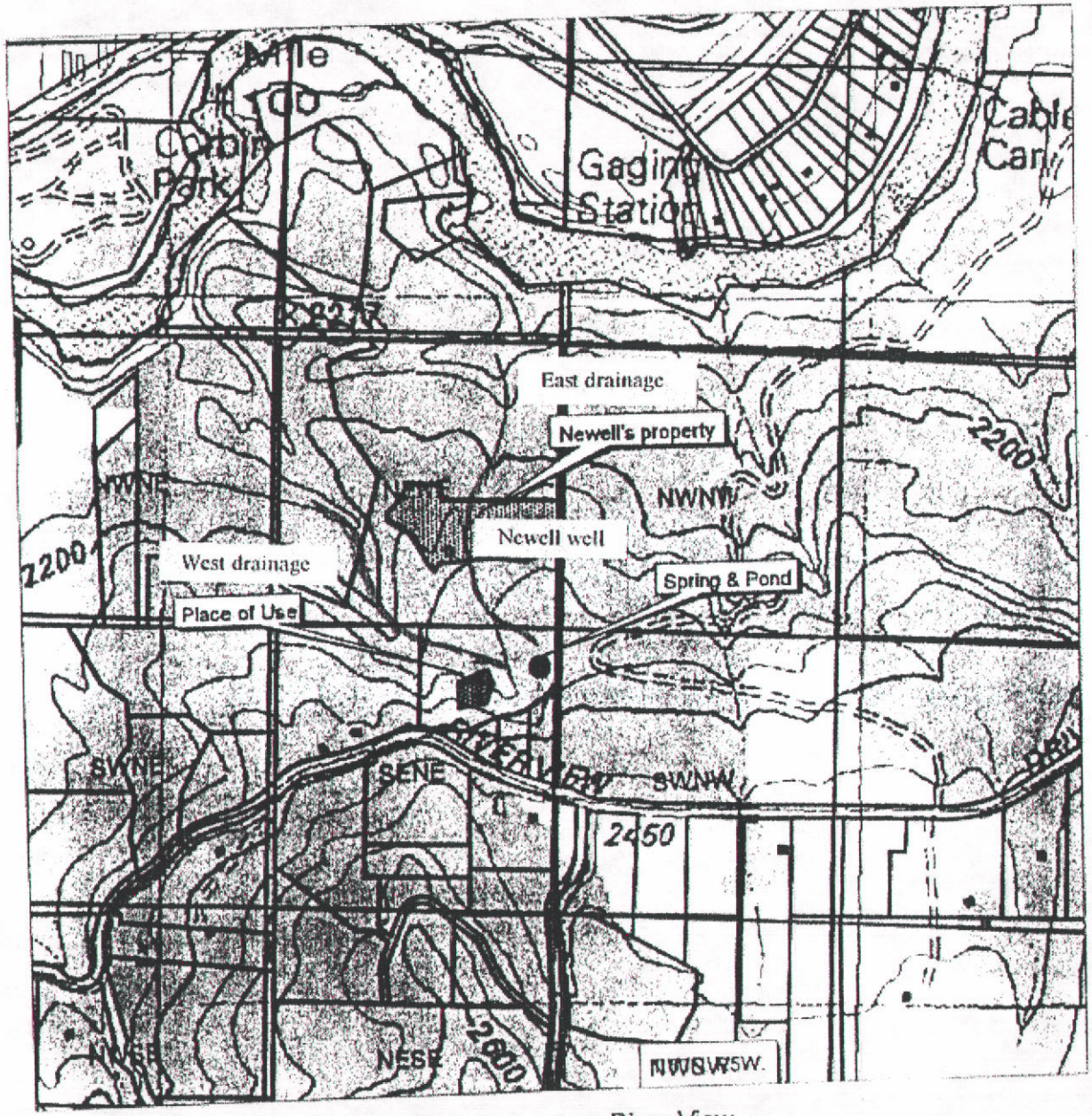
Cross Spokane St. bridge, go west on River View Dr. for 2 miles. Turn right past Signal Pt. Rd. at 2 new homes. Newell's home 1/4 mile down road.

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Department of Water Resources
PROTESTANT'S
Exhibit A-12
Date Admitted 4-22-03



Cross Spokane St. bridge, go west on River View Dr. for 2 miles. Turn right past Signal Pt. Rd. at 2 new homes. Newell's home 1/4 mile down road.

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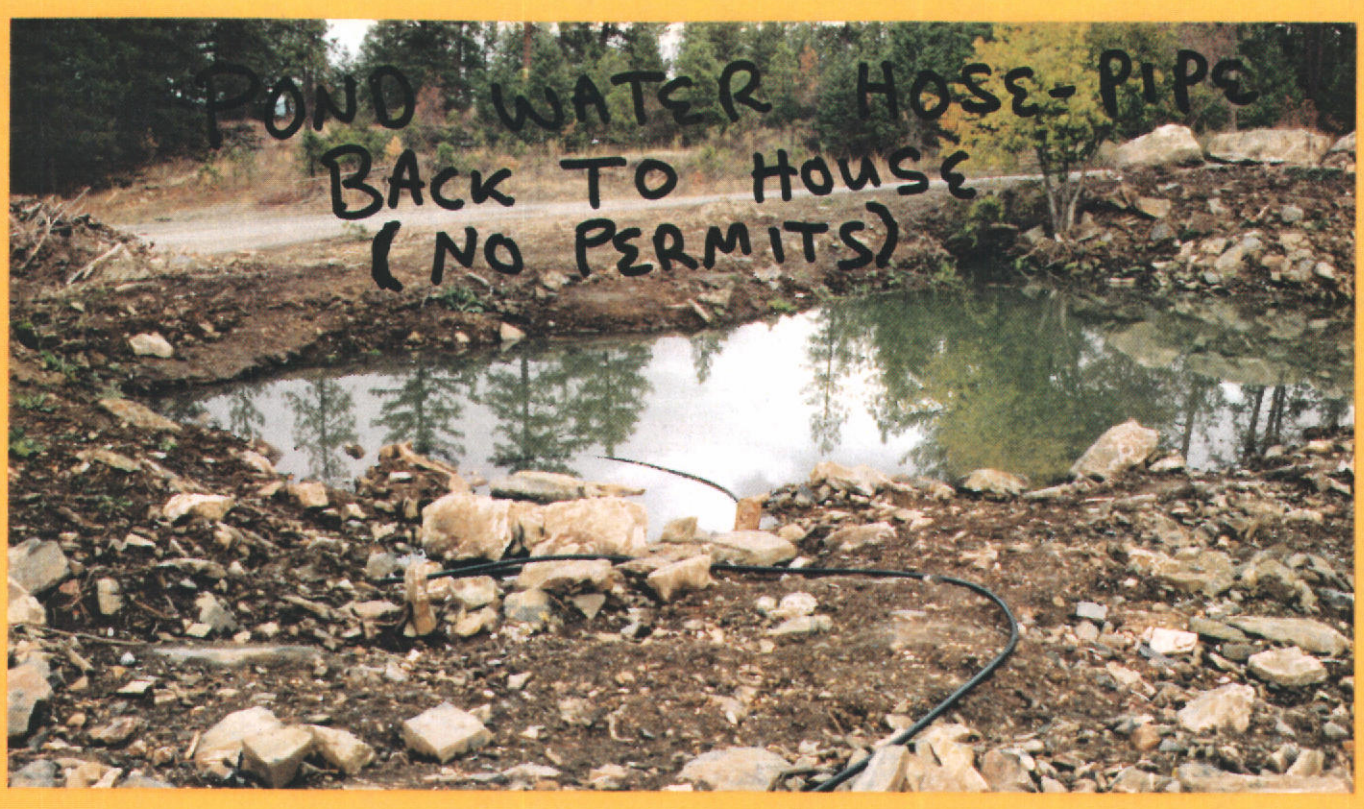
Department of Water Resources
PROTESTANT'S
Exhibit B-6
Date Admitted 4-22-03





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Department of Water Resources
PROTESTANT'S
Exhibit E-1
Date Admitted 4-22-03

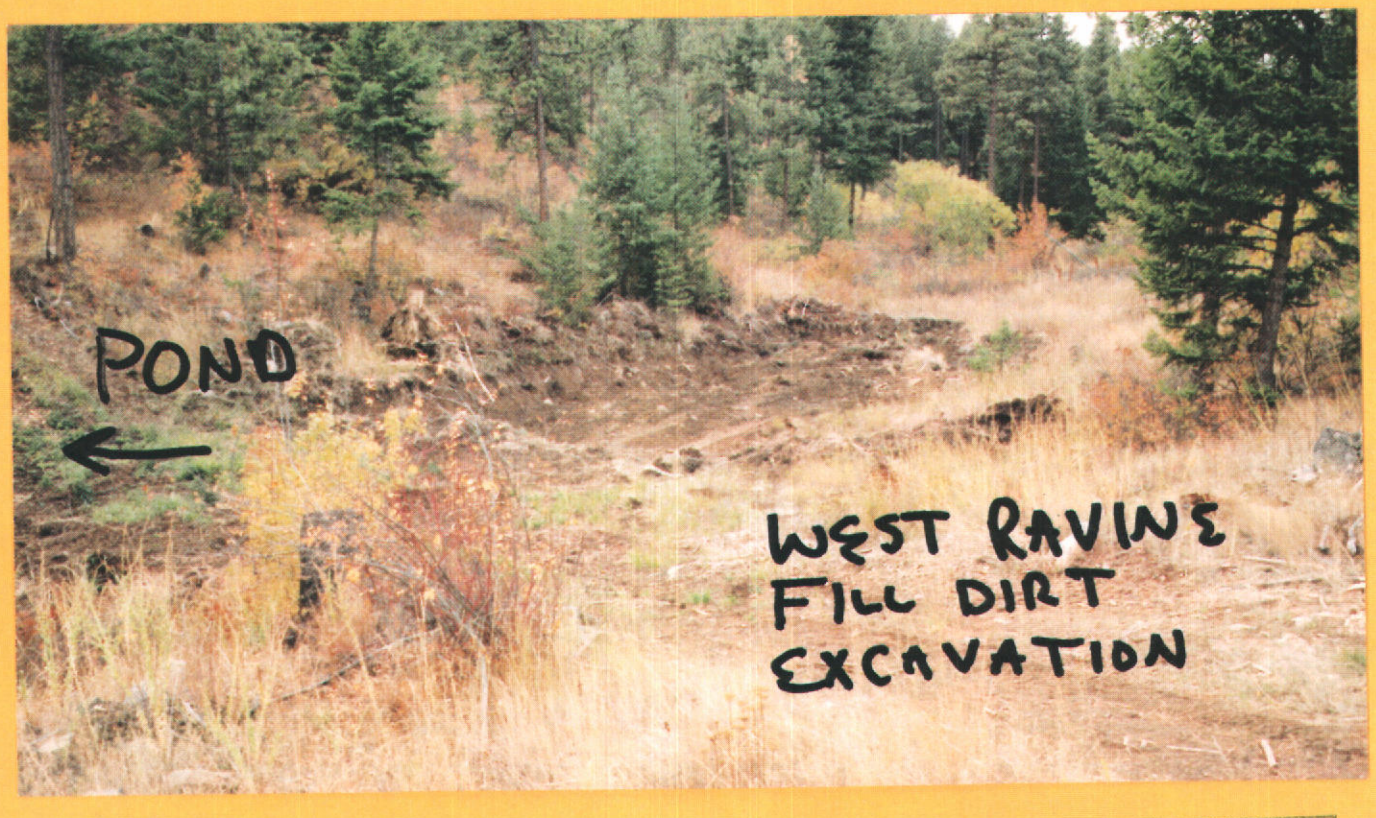




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CA Department of Water Resources
PROTESTANT'S
Exhibit REV. E-2
Date Admitted 4-22-07



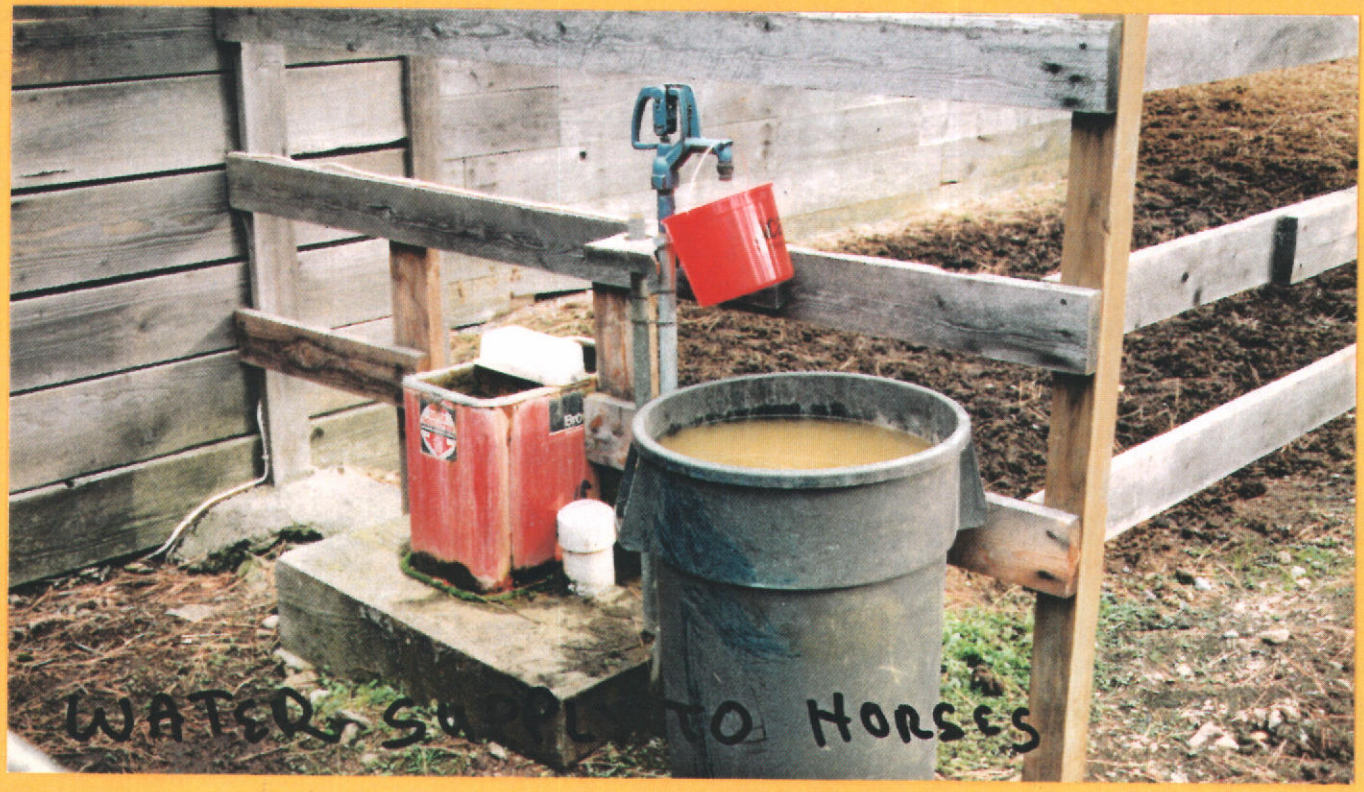


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Department of Water Resources
PROTESTANT'S
Exhibit E-3
Date Admitted 4-22-03



WATER SUPPLY TO HOME

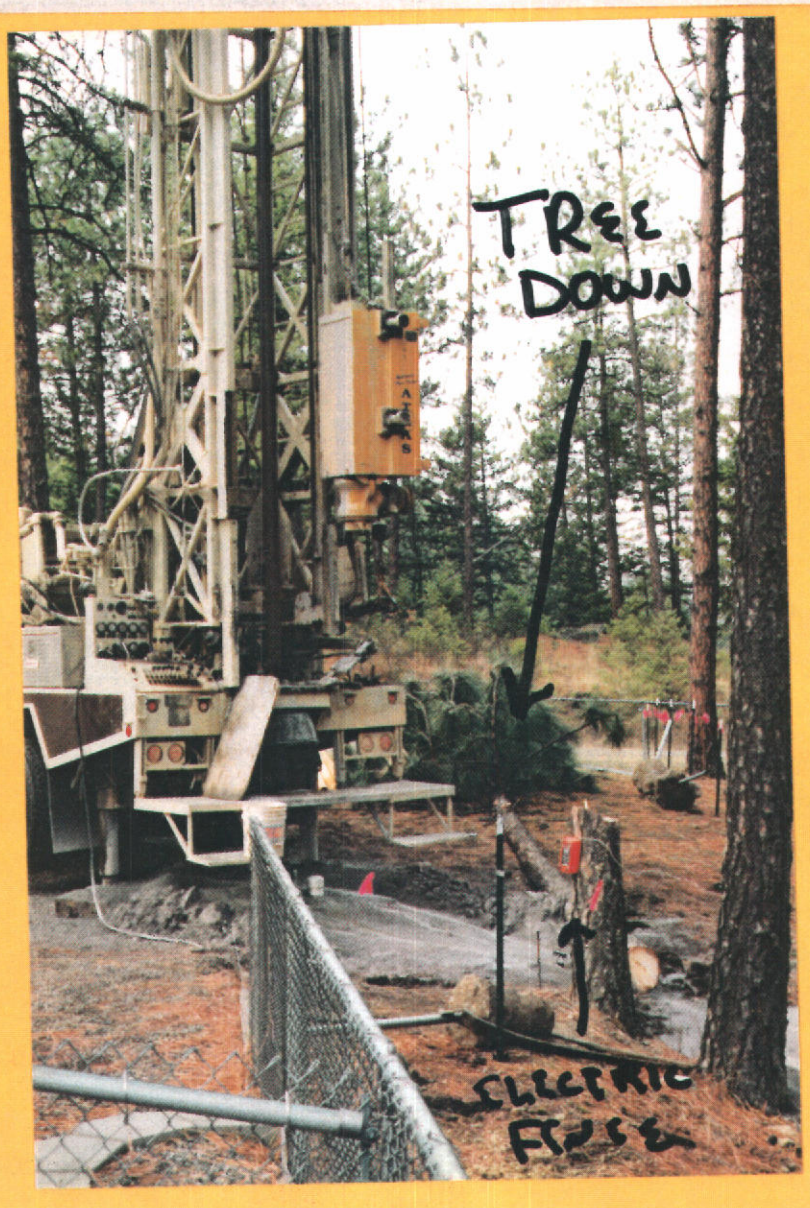


WATER SUPPLY TO HORSES

Department of Water Resources
PROTESTANT'S
Exhibit E-4
Date Admitted 4-22-03

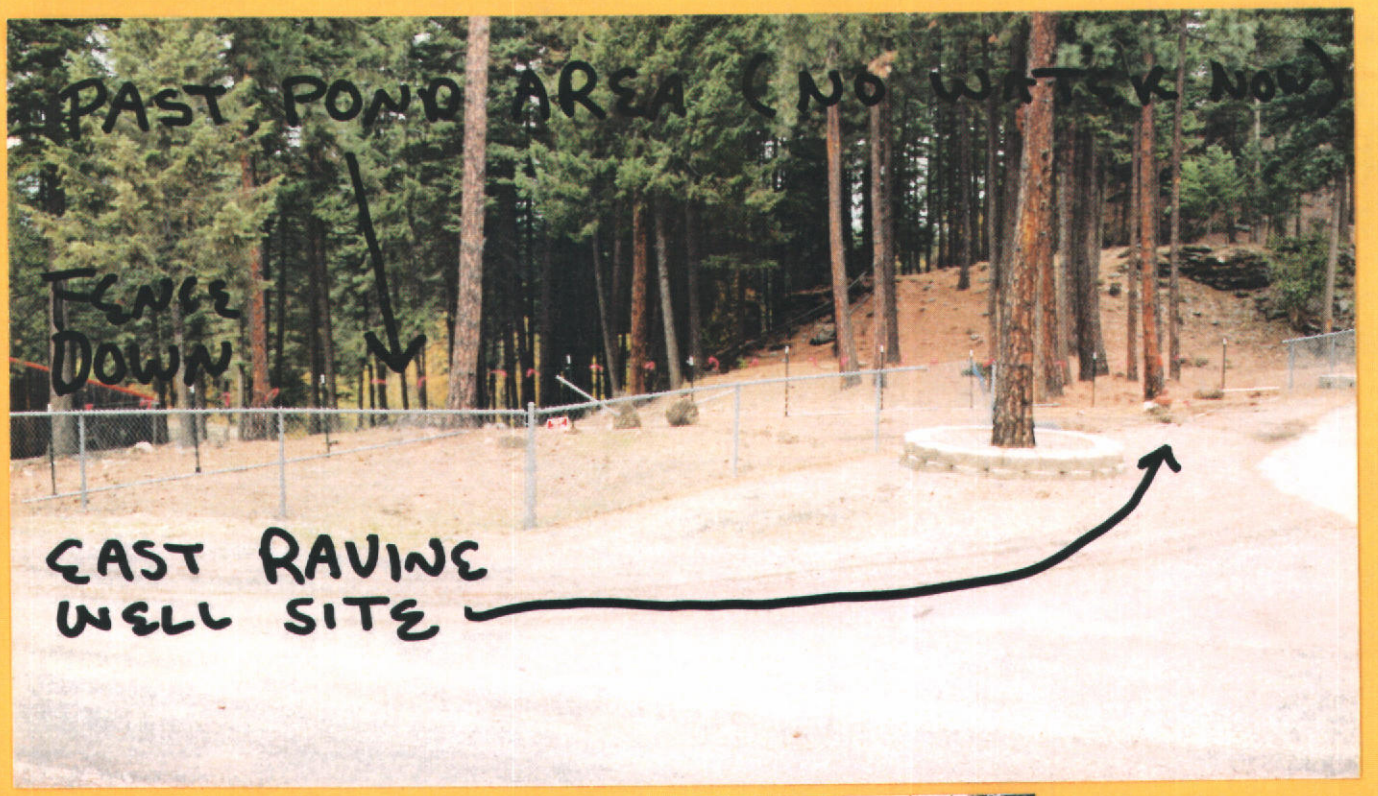
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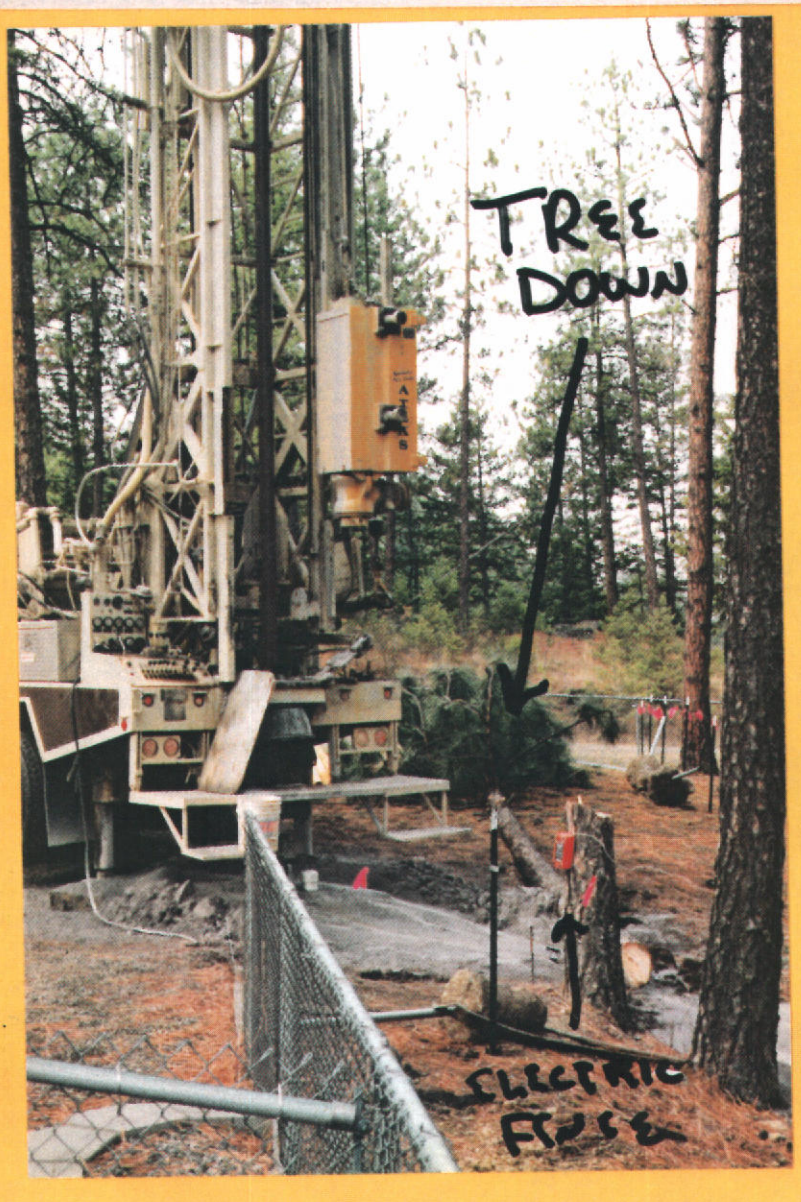




Department of Water Resources
PROTESTANT
Exhibit E-5
Date Admitted 4-22-03

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Department of Water Resources
PROTESTANT'S
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Department of Water Resources
PROTESTANTS
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Date Admitted 4-22-03

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DEC 0 3 2003



POND SET UP TO DRAIN WEST AWAY FROM HELL



Department of Water Resources
PROTESTANT
Exhibit E-8
Date Admitted 4-22-03

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DEC 0 3 2003

Department of Water Resources
PROTESTANT'S
Exhibit E-9 AYA
Date Admitted 4-22-03







DEC 0 3 2003
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Department of Water Resources
PROTESTANT'S
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Date Admitted 4-22-03

4/21/03



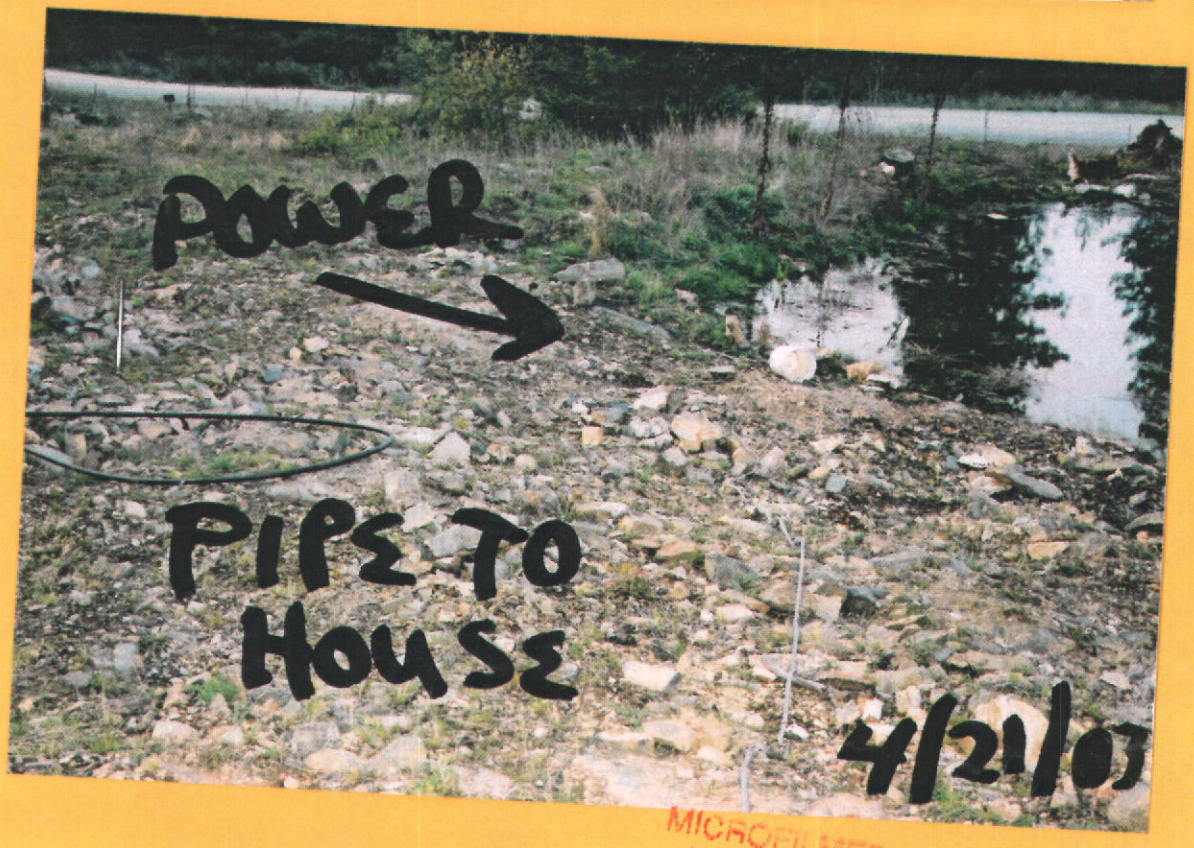


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Department of Water Resources
PROTESTANT'S
Exhibit E-1
Date Admitted 4-22-03





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DEC 0 3 2003

4/21/03

Department of Water Resources
PROTESTANT'S
Exhibit E-12
Date Admitted 4-22-03





DEC 0 3 2003

4/21/03

Department of Water Resources
PROTESTANTS
Exhibit E-13
Date Admitted 4-22-03





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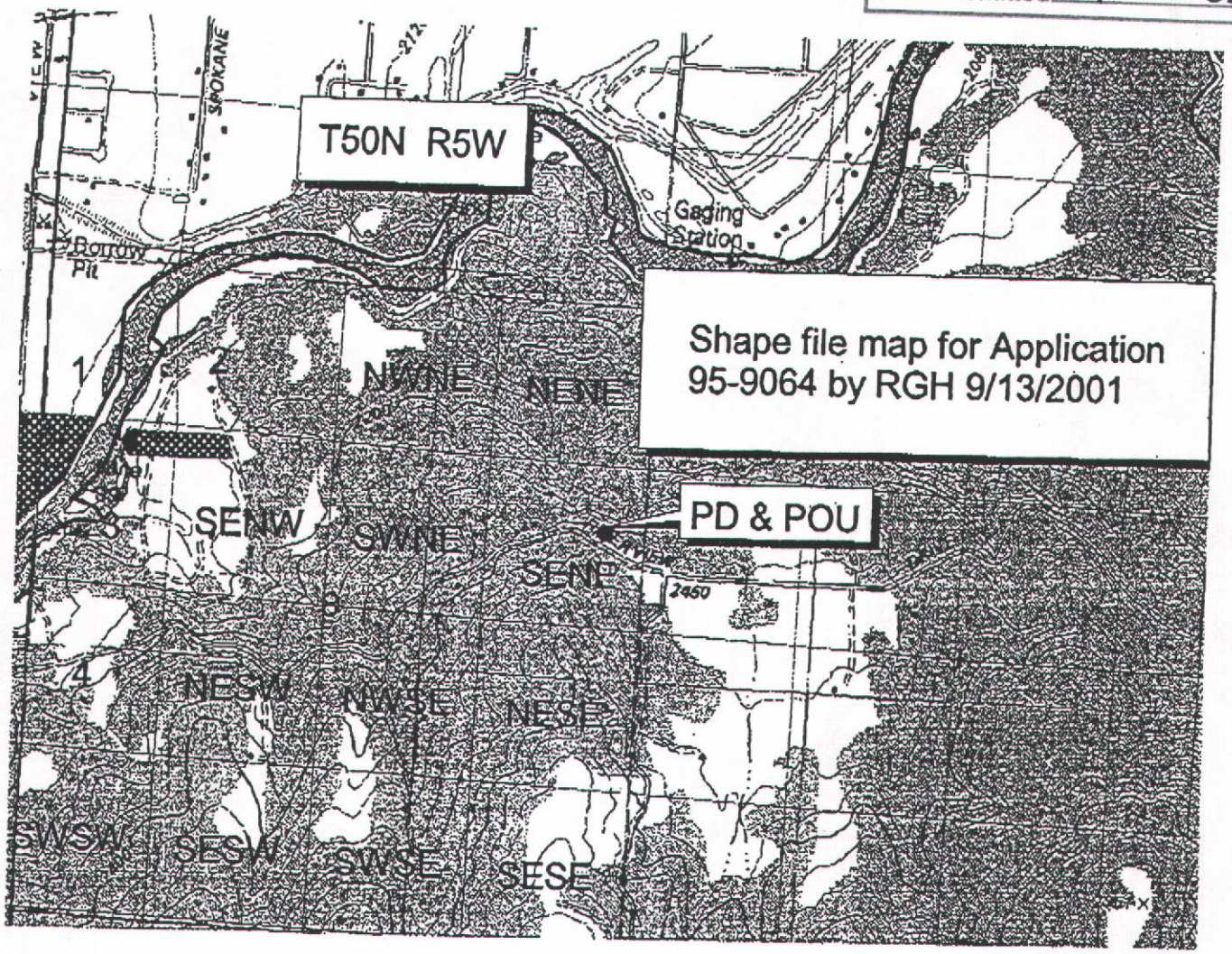


WEST RAVINE NEW DRAINAGE POND

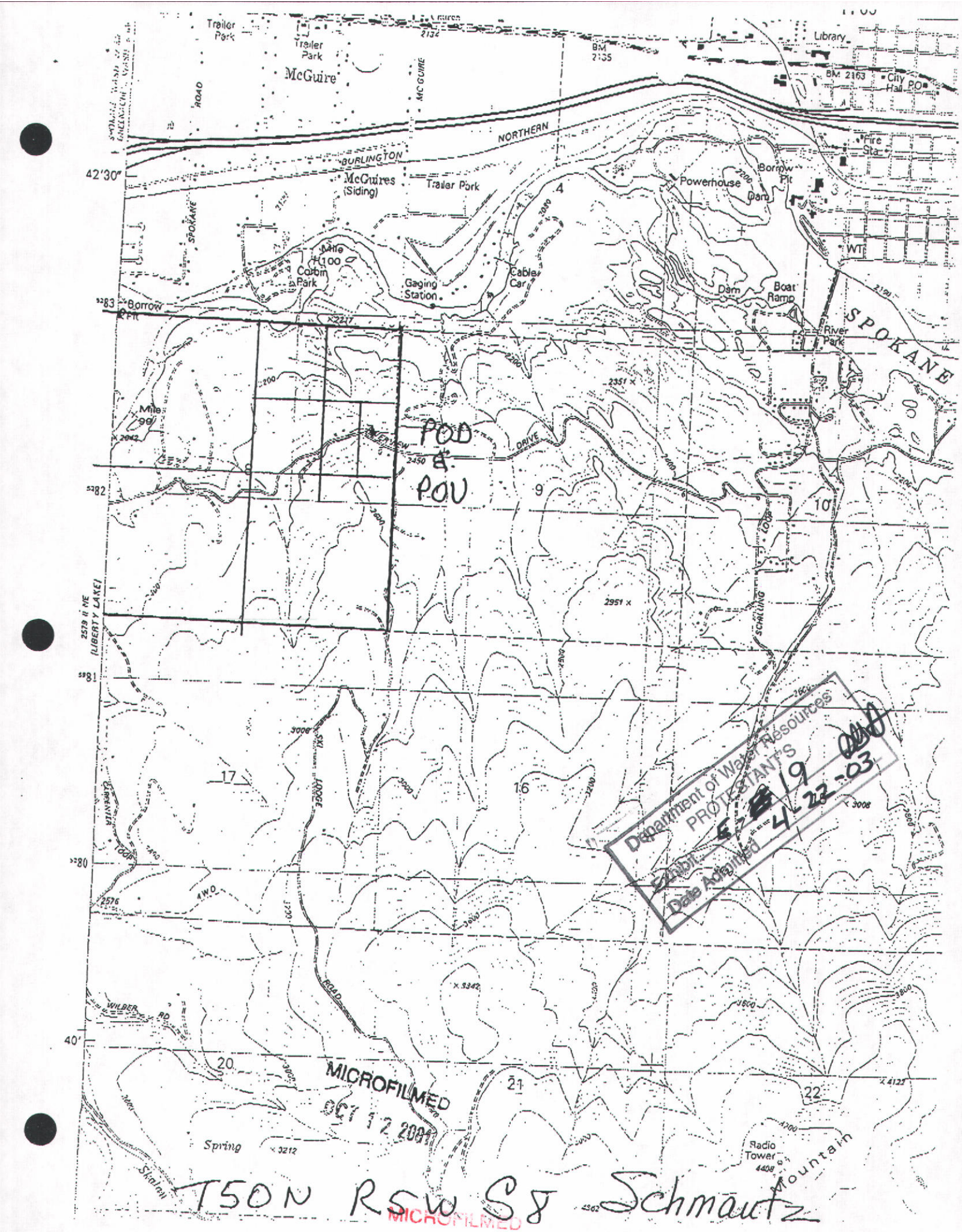
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PROTESTANT'S
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Date Admitted 4-22-03

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Department of Water Resources
PROTESTANT'S
Exhibit E-18
Date Admitted 4-22-03 RGH



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OCT 12 2001
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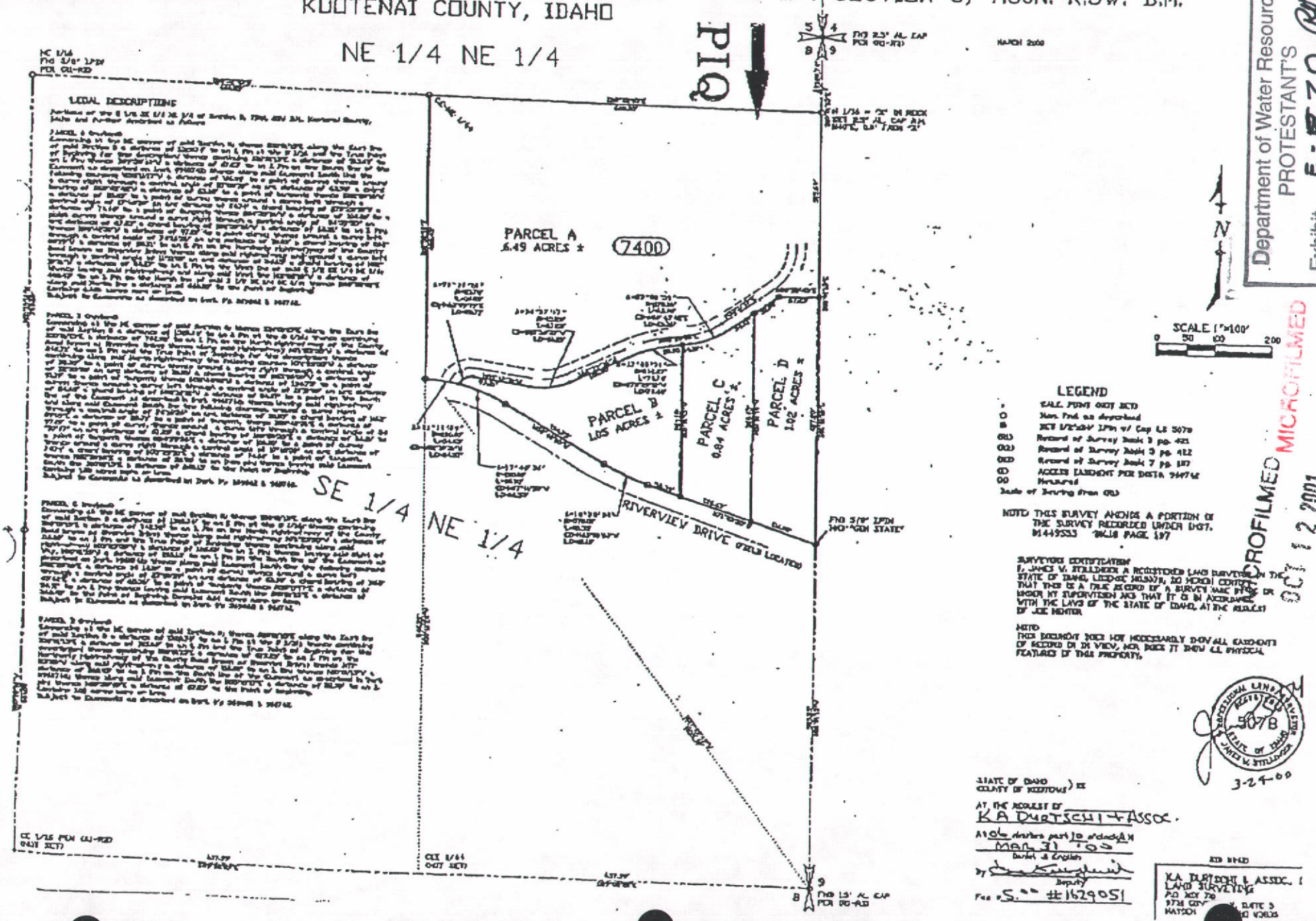
Department of Water Resources
PROTESTANT'S
Exhibit 5 & 19
Date Admitted 4-22-03

AMENDED RECORD OF SURVEY

Book 20 Page 219

A PORTION OF THE E 1/2 SE 1/4 NE 1/4, SECTION 8, T.50N. R.5W. B.M.
KOOTENAI COUNTY, IDAHO

NE 1/4 NE 1/4



LEGEND

- SALE POINT ONLY NOTED
- Non Mnd as described
- (R1) Record of Survey Book 3 pg. 421
- (R2) Record of Survey Book 3 pg. 422
- (R3) Record of Survey Book 7 pg. 187
- (E) ACCESS EASEMENT PER INSTR. #1449532
- (M) Measured

Basis of Bearing from (R3)

NOTE: THIS SURVEY AMENDS A PORTION OF THE SURVEY RECORDED UNDER INST. #1449533 BK.18 PAGE 197

SURVEYORS CERTIFICATION
I, JAMES V. STELLMON A REGISTERED LAND SURVEYOR IN THE STATE OF IDAHO, LICENSE #5078, DO HEREBY CERTIFY THAT THIS IS A TRUE RECORD OF A SURVEY MADE BY ME OR UNDER MY SUPERVISION AND THAT IT IS IN ACCORDANCE WITH THE LAWS OF THE STATE OF IDAHO, AT THE REQUEST OF JOE HUNTER

NOTE
THIS DOCUMENT DOES NOT NECESSARILY SHOW ALL EASEMENTS OF RECORD OR IN VIEW, NOR DOES IT SHOW ALL PHYSICAL FEATURES OF THIS PROPERTY.

JAMES V. STELLMON 5078 STATE OF IDAHO PROFESSIONAL LAND SURVEYOR
3-24-00

STATE OF IDAHO)
COUNTY OF KOOTENAI) ss

AT THE REQUEST OF KA DURTSCHI & ASSOC.
A105 minutes past 10 o'clock A.M.
MAR 31 '00
Recorded & Examined
By [signature] Deputy
Fee $ [illegible] #1629051

KA DURTSCHI & ASSOC.
LAND SURVEYING
P.O. BOX 770
[illegible] STATE 3
HAYDEN

Department of Water Resources
PROTESTANT'S
Exhibit E-20
Date Admitted 4-22-03

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OCT 12 2001
MICROFILMED
DEC 03 2003

P. 06
NO. 984 P. 9

Gen from this point down

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 95-09104

Priority: October 29, 2001 Maximum Diversion Rate: 0.04 CFS

This is to certify, that TERRY D SCHMAUTZ
1277 S STONE RIVER DR
POST FALLS ID 83854

has applied for a permit to appropriate water from:

Source: SPRING **Tributary:** SINKS

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

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
RECREATION STORAGE	01/01 to 12/31		0.3 AF
IRRIGATION STORAGE	03/15 to 11/15		0.3 AF
IRRIGATION FROM STORAGE	03/15 to 11/15		0.3 AF
STOCKWATER STORAGE	01/01 to 12/31		0.3 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.04 CFS	

LOCATION OF POINT(S) OF DIVERSION:

SPRING SE¼NE¼ Sec. 8, Twp 50N, Rge 05W, B.M. KOOTENAI County

PLACE OF USE: IRRIGATION STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
50N 05W 8				X													

PLACE OF USE: IRRIGATION FROM STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
50N 05W 8				2.0													2.0

Total Acres: 2

PLACE OF USE: STOCKWATER STORAGE, same as Irrigation Storage

PLACE OF USE: RECREATION STORAGE, same as Irrigation Storage

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **May 1, 2006.**
2. Subject to all prior water rights.

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NOV 2 6 2003

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 95-09104

CONDITIONS OF APPROVAL

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.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 30th day of June, 2003.

for KARL J DREHER, Director

MICROFILMED
NOV 26 2003

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 95-9104 IN THE NAME OF TERRY D. SCHMAUTZ	))))	**PRELIMINARY ORDER**

This matter came before the Idaho Department of Water Resources ("Department") in the form of a protested application for permit. At the hearing conducted in the matter, the applicant made a motion to dismiss the protest, alleging it was not timely filed. The hearing officer took the motion under advisement stating that he would rule on it as a part of the Preliminary Order to be issued in the matter.

The protest was not timely filed, as further described below in this Preliminary Order, resulting in the protestant not being a proper party to the matter. Although the protestant is not a party, Section 42-203A, Idaho Code, requires the Department to evaluate the criteria on which a timely filed protest could have been based, whether an application is protested or not protested.

The Department having held a conference and a hearing in the matter and having considered relevant information in Department files and presented at the hearing, the hearing officer enters the following Findings of Fact, Conclusions of Law and Preliminary Order:

FINDINGS OF FACT

1. On October 29, 2001, Terry D. Schmautz ("applicant") submitted Application for Permit No. 95-9104 ("application") to the Department proposing the diversion of 0.04 cubic feet per second ("cfs") of water from a spring to be stored in a small pond to be used for recreation, irrigation and stockwater purposes. The approximate size of the pond is 40' x 40' x 7' deep (about 0.25 acre feet). The proposed season of use is year-round except for irrigation that is proposed from March 15 to November 15 each year. The point of diversion and place of use are located in the SE1/4NE1/4 Section 8, T50N, R5W, B.M., Kootenai County, Idaho. The applicant proposes to irrigate 2 acres.

(Note: The "1/4" designations will be omitted from subsequent legal descriptions in this order).

2. On December 6 and 13, 2001, the Department published notice of the application in the Coeur d'Alene Press advising that protests must be filed with the Department on or before December 24, 2001. On December 26, 2001, Robert Newell and Jack Newell submitted a late protest to the Department contending that development of the pond by the applicant has injured the protestant's use of ground water from their well.

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6. Letter from Mike Bell
7. Letter to Terry (Schmautz) from Donald Peterson together with 3 attachments titled History of Spring, Access Road and Exhibit "A"
8. Photographs (6 pages)
9. Letter report dated January 10, 2002 to State Farm Insurance Company from Grant R. Cummings of Cummings Geotechnology

Protestant's Exhibits:

A-1 through A-7 - Letters
A-8 Technical Memorandum dated November 7, 2001
A-9 Well Driller's Report
A-10 Pressure readings
A-11 Work Order from H20 Well Service, Inc
A-12 Map
A-13 through A-21 - Letters
A-22 Notice of Conference and/or Hearing
A-23 Hand written notes - 2 pages
A-24 Letter
A-25 Notice of Hearing
A-26 through A-30 - Letters
B-1 Excerpt from John H. Riley report (2 pages)
B-2 Technical Memorandum dated November 7, 2001 to Rob Newell from John A. Riley
B-3 Well Driller's Report (Same exhibit as A-9)
B-4 Pressure readings (Same exhibit as A-10)
B-5 Work Order from H2O Well Service, Inc (Same exhibit as A-11)
B-6 Map (Same exhibit as A-12)
C-1 Well Driller's Report (Same exhibit as A-9)
C-2 Pressure readings (Same exhibit as A-10)
C-3 Work Order
C-4 Work Order
C-5 Well Drilling Contract
C-6 Well Driller's Report
C-7 Invoice dated October 24, 2001 to Rob Newell
C-8 Statement dated October 31, 2001 to Rob Newell
C-9 Invoice dated November 7, 2001 to Rob Newell
C-10 Invoice dated October 24, 2001 to Rob Newell
C-11 Invoice dated November 8, 2001 to Rob Newell
C-12 Estimated Proposal on Pump System from H2) Well Service, Inc dated November 13, 2001
D-1 through D-4 – NOT ADMITTED
E-1 through E-14 - Photographs
E-15 NOT ADMITTED
E-16 Permit to Appropriate Water 95-9064
E-17 Application for Permit 95-9064
E-18 IDWR Shape File for 95-9064

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3. On April 22, 2003, the Department conducted a hearing in the matter. The applicant was present and was represented by Charles M. Dodson. Rob Newell ("Newell") who opposed the application was also present and represented himself.

4. Issues the Department can consider in its evaluation of an application for permit are as follows:

a. Whether the appropriation will reduce the quantity of water under existing water rights;
b. Whether the water supply itself is insufficient for the purpose for which it is sought to be appropriated;
c. Whether the application is made in good faith, or is made for delay or speculative purposes;
d. Whether the applicant has sufficient financial resources with which to complete the work involved therein;
e. Whether the proposed appropriation will conflict with the local public interest; and
f. Whether the proposed appropriation is contrary to conservation of water resources within the state of Idaho.

5. Exhibits premarked, offered or accepted as a part of the record are as follows:

Applicant's Exhibits:

1. Application for Permit 95-9064
2. Permit to Appropriate Water 95-9064
3. Application for Permit 95-9104
4. Letter dated April 1, 2003 to Terry Schmautz from Robert Newell
   Letter dated March 18, 2003 to Terry Schmautz from Robert Newell
   Letter dated November 15, 2001 to Terry Schmautz from Robert Newell
   Letter dated November 12, 2001 to Terry Schmautz from Robert Newell
   Letter dated November 7, 2001 to Terry Schmautz and State Farm from Robert Newell (Letter #9)
   Letter dated November 7, 2001 to Terry Schmautz and State Farm from Robert Newell (Letter #8)
   Letter dated November 5, 2001 to Terry and State Farm from Rob Newell
   Letter dated November 3, 2001 to Terry Schmautz from Rob Newell
   Letter dated November 2, 2001 to John Beaton from Robert Newell
   Letter dated October 26, 2001 to Rob Newell from John Beaton
   Letter dated November 1, 2001 to Terry (Schmautz) from Rob Newell with 2 enclosures
   Letter dated October 29, 2001 to State Farm Insurance Company from Robert Newell
   Letter dated October 25, 2001 to John Riley from Robert Newell
5. Letter dated April 21, 2003 from Mike Bell with attached Dickerson Pump & Irrigation Co, Inc. Installation Report

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E-19 USGS Quadrangle sheet map
E-20 Amended Record of Survey
E-21 IDWR Water Permit Report - 95-9064

Among other information, the hearing officer officially noticed Section 73-108, Idaho Code, enumerating legal holidays.

6. The applicant purchased his property in 2001 and owns a domestic well that produces about 1.25 gallons per minute. Since the well does not produce enough water for desired uses, the applicant also uses a cistern that was constructed in about 1929 and was refurbished in 1979.

7. The applicant has excavated a boggy area on his property down to bedrock and has created a small pond that has filled with ground water. The applicant pumps water from the cistern and pond for recreation and irrigation uses. The pumping rate from the pond is about 7 or 8 gallons per minute.

8. Newell's property is about 800 feet away down gradient from the applicant's pond. Newell alleges that excavation of the boggy area by the applicant blocked ground water that would have discharged to Newell's well site and has caused ground water to flow in a different direction away from Newell's property. Newell's well was drilled in 1984 to a depth of 160 feet. Static water level in the well was fairly constant from 1984 to 1994 at about 115 feet below land surface but declined to below 155 feet in 2001 causing the well to be unusable. In November 2001, Newell deepened the well to 500 feet.

9. The applicant's expert witness, Grant Cummings, examined the area of the pond and outcrops in the vicinity of the application and found no evidence of past ground water or surface water discharge toward the Newell property as alleged by Newell. (See Applicant's Exhibit 9).

10. A neighbor of the applicant provided an affidavit stating that "the direction of the water has in no way been diverted by the excavation process and to date drains in exactly the same direction it has always gone, since the road was constructed in 1985 ... ." (See Applicant's Exhibit 6).

11. Neighbors of the applicant have provided affidavits describing that as a result of past drought conditions, they have had to deepen their wells. (See Applicant's Exhibits 5 and 7).

CONCLUSIONS OF LAW

1. Section 42-203A, Idaho Code, provides in pertinent part as follows:

> (1) Upon receipt of an application to appropriate the waters of the state, the department of water resources, shall prepare a notice in such form as the department may prescribe, specifying: (a) the number of the

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application; (b) the date of filing thereof; (c) the name and post-office address of the applicant; (d) the source of the water supply; (e) the amount of water to be appropriated; (f) in general the nature of the proposed use; (g) the approximate location of the point of diversion, (h) and the point of use. The department shall also state in said notice that any protest against the approval of such application, in form prescribed by the department, shall be filed with the department within ten (10) days from the last date of publication of such notice. (Emphasis added).

....

(5) ... In all applications whether protested or not protested where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor....

2. IDAPA Rule 37.03.08.040.03.a.ii (Water Appropriation Rule 40.03) provides in pertinent part as follows:

ii. Protests against the approval of an application for permit or against a permit being reprocessed will only be considered if received by the department after receipt of the application by the department and prior to the expiration of the protest period announced in the advertisement unless the protestant successfully intervenes in the proceeding.

3. IDAPA Rule 37.01.01053 (Procedure Rule 53) provides as follows:

All written communications and documents that are intended to be part of an official record for a decision in a contested case must be filed with the officer designated by the agency. Unless otherwise provided by statute, rule, order or notice, documents are considered filed when received by the officer designated to receive them, not when mailed or otherwise transmitted.

4. Timely protests in this matter were required to have been filed with the Department by December 24, 2001. The protest submitted to the Department in this proceeding on December 26, 2001, was not timely filed and should therefore be set aside as untimely.

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5. The prima facie showing of the applicant that discharge from the pond area has not been changed as a result of excavation in his pond area has not been overcome by Newell. Use of water as proposed in the application will not reduce the quantity of water under existing water rights.

6. The water supply itself is sufficient for the purposes intended.

7. The application is made in good faith and not for delay or speculative purposes.

8. The applicant has demonstrated that he has sufficient financial resources with which to complete the project, since the project is essentially complete.

9. The application proposes the use of water for irrigation, stockwater and recreation and does not conflict with the local public interest.

10. The applicant has taken reasonable efficiency measures to accumulate and use water from the pond. The application is not contrary to the conservation of water resources within Idaho.

11. The Department should approve the application with certain conditions.

ORDER

IT IS THEREFORE hereby ORDERED that the protest of Robert Newell and Jack Newell is **SET ASIDE**, since the protest was not timely filed.

IT IS FURTHER hereby ORDERED that Application for Permit No. 95-9104 in the name of Terry D. Schmautz is **APPROVED** subject to the following conditions:

1. Proof of construction of works and application of water to beneficial use shall be submitted to the department on or before **May 1, 2006**.

2. Use of water under this right is 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.

Signed this 7th day of May 2003.

L. GLEN SAXTON, P.E.
Hearing Officer

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of May, 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:

TERRY D SCHMAUTZ
1277 S STONE RIVER DR
POST FALLS ID 83854

JACK NEWELL
ROBERT NEWELL
C/O MICHAEL E REAGAN
1044 NORTHWEST BLVD
COEUR D'ALENE ID 83814

BOB HAYNES – NORTHERN REGION
IDAHO DEPT. OF WATER RESOURCES
1910 NORTHWEST BLVD STE 210
COEUR D' ALENE ID 83814-2615

Deborah J. Gibson

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

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MAY 2 8 2003

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of May, 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:

CHARLES M DODSON
1424 SHERMAN STE 300
COEUR D'ALENE ID 83814

ROBERT NEWELL
BOX 2345
POST FALLS ID 83877

Deborah J. Gibson

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

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MAY 23 2003

FORM 202
12/99

69571

Ident. No. 95-9104

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant TERRY D SCHMAUTZ Phone 457-1884
   Mailing address 1277 S. STONE RIVER DR POST FALLS ID 83854
2. Source of water supply SPRING which is a tributary of SINKS
3. Location of point of diversion is Township 50N. Range 5W. Sec. 8, in the ____ ¼, SE ¼, NE ¼, Govt. Lot ____, B.M., KOOTENAI County;
   additional points of diversion if any: ____
4. Water will be used for the following purposes:
   .3 Amount 0.25 (cfs or acre-feet per annum) for STORAGE FOR RECREATION purposes from 4/1 to 12/31 (both dates inclusive)
   Amount 0.04 (cfs or acre-feet per annum) for DIVERSION TO STORAGE purposes from 4/1 to 12/31 (both dates inclusive)
   .3 Amount 0.25 (cfs or acre-feet per annum) for STORAGE FOR IRR. IRR. FROM STOR. purposes from 3/15 to 11/15 (both dates inclusive)
   .3 Amount 0.25 (cfs or acre-feet per annum) for STORAGE FOR STOCKWATER purposes from 4/1 to 12/31 (both dates inclusive)
   Amount ____ (cfs or acre-feet per annum) for ____ purposes from ____ to ____ (both dates inclusive)
   Amount ____ (cfs or acre-feet per annum) for ____ purposes from ____ to ____ (both dates inclusive)
5. Total quantity to be appropriated is (a) 0.04 cubic feet per second and/or (b) 0.25 acre feet per annum
6. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source SPRING - CISTERN + 40'X40'X7' POND.
   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 5 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. 10 Head Range Stock
   c. Municipal; show name of municipality. ____
   d. Domestic; show number of households. ____
   e. Other; describe fully. RECREATION) STORAGE IS FOR FISH

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NOV 26 2003

9. Description of place of use:

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

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

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
50N	5W	8				2													2
						★													

★ STORAGE FOR IRR. DIV. TO STORAGE, IRR. FROM STOR. RECREATION STORAGE
STOCKWATER STOR.

Total number of acres to be irrigated 2

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

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

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

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

12. Remarks: _____

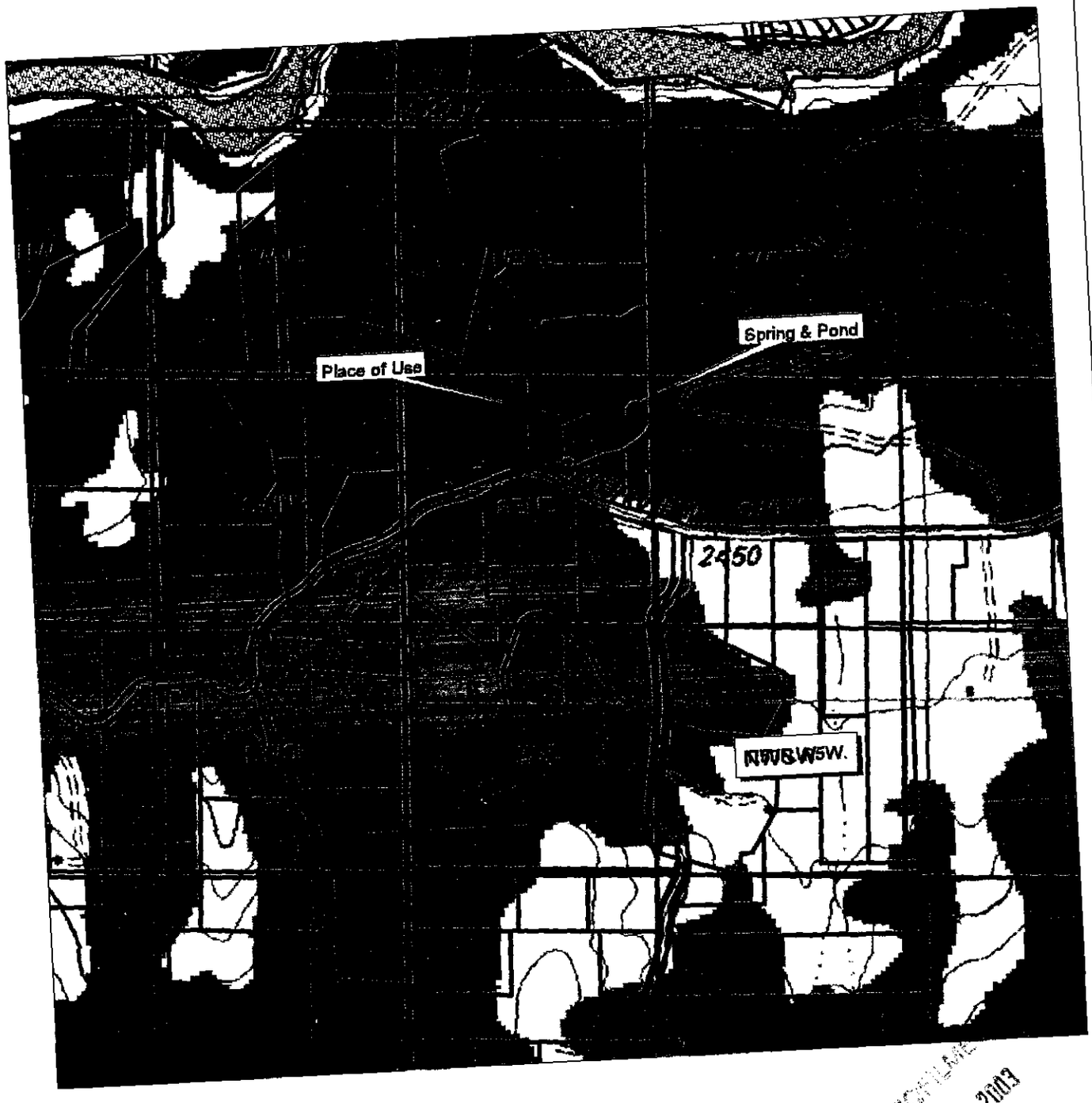
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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

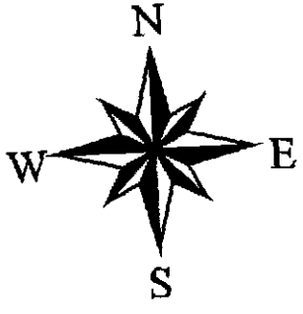
X Terry Schwartz
Signature of Applicant (and title, if applicable)

Received by JK Date 10-29-01 Time 12:30 Preliminary check by JB
Fee $ 160 Receipted by JB # 0014735 Date 10-29-01
Publication prepared by ab Date 11/28/01 Published in CDA Press 12/6 & 13/01
Publication approved ab Date 12/17/01

MICROFILMED
NOV 26 2003



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Parcels011001.shp
Quad IndexQuadcov.shp



NOV 2 6 2003

ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No.: 95-9104 Reviewed By: croberts Date: February 17, 2006

	Yes	No		Yes	No
Proof received timely?	X		Drilling permit required?		X
License examination fee required?	X		Drilling permit No.:		
Appropriate fee submitted?	X		Drilling permit upgrade needed?		X
Receipt No.:	N014735, NO16569		Well driller's report filed?		X
Additional Amount Due:			Measuring device required?		X
Name and address same as permit?	X		Measuring device installed?		X
Are the water uses correct?	X		Measure device waiver requested?		X

Priority Calculation

Date proof received		09/29/2004
Date proof due	-	05/01/2006
Lapse notice sent	-	
No. of days late	=	0
Holiday allowance	+	
Priority date	+	10/29/2001
New priority date	=	10/29/2001

Deficiencies of Actions Items

ACKNOWLEDGE PROOF

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

July 1, 2003

TERRY D SCHMAUTZ
1277 S STONE RIVER DR
POST FALLS ID 83854

RE: Permit No. 95-9104

Permit Approval Notice

Dear Permit Holder:

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

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

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

Please note that a separate stream channel alteration permit must be obtained from the Department 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 a 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 mailing address to the Department within 120 days of the change. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

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DEC 0 3 2003

Stan from this Point Down.

If you have any questions, please contact me at 208-327-5452.

Sincerely,

Sharla Curtis

Sharla Curtis
Senior Water Resource Agent

Enclosure(s)

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DEC 0 3 2003

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ROBERT NEWELL
BOX 2345
POST FALLS ID 83877

95-9104

2. Article Number *(Copy from service label)*
7000 1670 0011 3313 9093

COMPLETE THIS SECTION ON DELIVERY

A. Received (Please Print Clearly) B. Date of Delivery
RUSSELL NEWELL 5-23-03

C. Signature
X
☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

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JUN 3 2003

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

UNITED STATES POSTAL SERVICE



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

• Sender: Please print your name, address, and ZIP+4 in this box •

IDAHO DEPT OF WATER
RESOURCES
ATTN DEBORAH GIBSON
1301 N ORCHARD ST
BOISE ID 83706

MICROFILMED
DEC 0 3 2003

49



DODSON & RAEON LAW OFFICES

ASSOCIATES IN THE PRACTICE OF LAW

Charles M. Dodson, Attorney, ISB #2134
(208) 664-1577
James A. Raeon, Attorney, ISB #2075
(208) 765-5875

Eastlake Professional Suites
1424 Sherman Avenue
Suite 300
Coeur d'Alene ID 83814
Facsimile (208) 666-9211

RECEIVED
MAY 13 2003
Department of Water Resources

RECEIVED
MAY 14 2003
IDWR/North

May 13, 2003

Idaho Department of Water Resources
ATTN: Robert D. Haynes, Regional Supervisor
1910 Northwest Blvd., Suit 210
Coeur d'Alene ID 83814

RE: In the Matter of the Application for Permit No. 95-9104 - Terry D. Schmatuz

Dear Mr. Haynes:

A hearing was held in the above application matter on the 22nd of April, 2003. At that hearing I represented Terry Schmautz, the applicant. The hearing was held before Mr. Saxton as the Hearing Officer. I advised Mr. Saxton on the record that I represented Mr. Schmautz, but I do not recollect that I provided my full mailing address. I have reviewed the Preliminary Order and have no objection to the same. It would be appreciated if a copy of future correspondence be forwarded to my office on behalf of Mr. Schmautz. My address is as set forth on the letterhead herein.

Thank you for your attention in this matter.

Sincerely,

Charles M. Dodson
Attorney at Law

CMD/mab

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DEC 03 2003

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 22, 2003

ROBERT NEWELL
BOX 2345
POST FALLS ID 83877

Re: Application for Permit No. 95-9104 in the name of Terry D. Schmautz

Dear Mr. Newell:

Enclosed as you requested is a copy of the recording of the hearing, and the exhibits you submitted in the above-referenced matter. I am enclosing a copy of the invoice from Custom Recording & Sound showing $47.74 for the hearing tape copy. The cost for the copies of the exhibits is $7.35. I am enclosing a separate invoice from the department in the amount of $55.09 for these charges. Please return it with your payment.

Please call me at (208)327-7953, if I can answer any questions.

Sincerely,

Deborah J. Gibson

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encl.

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DEC 03 2003

SENDER: *COMPLETE THIS SECTION*

- Complete items [illegible] and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

CHARLES M DODSON
1424 SHERMAN STE 300
COEUR D'ALENE ID 83814

95-9104

2. Article Number *(Copy from service label)*
7000 1670 0011 3313 9109

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Pleas[illegible]nt Clearly)* B. Date of Delivery 5/16/03

C. Signature
X M Bonstead ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

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OCT 03 2003

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

UNITED STATES POSTAL SERVICE

SPOKANE WA 993
PM
16 MAY
2003

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

• Sender: Please print your name, address, and ZIP+4 in this box •

IDAHO DEPT OF WATER
RESOURCES
ATTN DEBORAH GIBSON
1301 N ORCHARD ST
BOISE ID 83706

MICROFILMED
DEC 03 2003

Custom Recording & Sound, Inc.
3907 Custer Drive
Boise, ID 83705-2910
Phone # (208) 344-3535
Fax # (208) 323-0373

Invoice

Date	Invoice #
5/16/2003	23-61598

Bill To	Ship To
Idaho Water Resources Janet Garrett 1301 N Orchard Boise, ID 83706	

P.O. Number	Terms	Due Date	Rep	Ship	Via	F.O.B.
Debbie Gibson	Net 30	6/15/2003		5/16/2003		Boise Dock

Quant...	Item Code	Description	Price Each	Amount
3	Cass-Std Speed	Copy Slow Speed Tape to Standard Speed	15.00	45.00
2	C95M	C95 Audio Cassette Bulk Normal Bias	1.25	2.50
2	24.500	Poly Cassette Box - Opaque	0.12	0.24

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DEC 0 3 2003

Subtotal	$47.74
Sales Tax (6.0%)	$0.00
Total	$47.74

Returns subject to management approval. 15% Restocking fee on all returned items.
No return on special orders or after 30 days.

RECEIVED
MAY 12 2003
Department of Water Resources

4-28-01

RECEIVED
APR 29 2003
IDWR/North

Robert Haynes
Department of Water Resources
1910 Northwest Blvd.
Suite 210
Coeur d' Alene, Idaho 83814

Robert,

The purpose of this letter is to request a copy of the recorded record of the hearing. Also, please send me a copy of my exhibits I filed at the hearing. Please let me know what the cost will be and I will drop off a check.

Please let me know your hearing decision and next course of action at your earliest convenience.

Sincerely,

Robert Newell
208-755-9475

Box 2345
Post Falls ID 83877

MICROFILMED
DEC 03 2003

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

May 8, 2003

ROBERT NEWELL
PO BOX 2345
POST FALLS ID 83877

Dear Mr. Newell:

This letter is to inform you that we have forwarded your letter to Mr. Glen Saxton in our State Office.

If you have any questions, you may contact him at 208-327-7955.

Sincerely,

Robert G. Haynes

Robert G. Haynes, P.E.
Regional Manager

RGH:db

MICROFILMED
DEC 0 3 2003

7000 1670 0011 3313 9109

U.S. Postal Service
CERTIFIED MAIL RECEIPT
Domestic Mail Only; No Insurance Coverage Provided

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

MICROFILMED
DEC 03 2003

5/14/03
Postmark Here
dy

Sent To
Charles M. Dodson
Street, Apt. No.; or PO Box No.
1424 Sherman Ave. Ste 300
City, State, ZIP+4
Post d'Alene, ID 83814

Certified Mail Provides:

- A m[redacted] receipt
- A u[redacted]dentifier for your mailpiece
- A signature upon delivery
- A record of delivery kept by the Postal Service for two years

Important Reminders:

- Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.
- Certified Mail is *not* available for any class of international mail.
- NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a *Return Receipt* may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement *"Restricted Delivery"*.
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

IMPORTANT: Save this receipt and present it when making an inquiry.

U.S. Postal Service

CERTIFIED MAIL RECEIPT

Domestic Mail Only; No Insurance Coverage Provided

7000 1670 0011 3313 9093

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	MICROFILMED
Restricted Delivery Fee (Endorsement Required)	DEC 03 2003
Total Postage & Fees	$

5/14/03

Postmark Here

dg

Sent To: Robert Newell

Street, Apt. No., or PO Box No.: Box 2345

City, State, ZIP+4: Post Falls, ID. 83877

Certified Mail Provides:

- A m[redacted] receipt
- A u[redacted] identifier for your mailpiece
- A signature upon delivery
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- For an additional fee, a *Return Receipt* may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS postmark on your Certified Mail receipt is required.
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IMPORTANT: Save this receipt and present it when making an inquiry.

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 14, 2003

CHARLES M DODSON
1424 SHERMAN STE 300
COEUR D ALENE ID 83814

ROBERT NEWELL
BOX 2345
POST FALLS ID 83877

Re: Permit No. 95-9104 in the name of Terry D. Schmautz

Dear Sirs:

The department has discovered an error in the service of the Preliminary Order in this matter, issued on May 7, 2003. Therefore, we are again serving the enclosed order, and will recognize this service date for any petitions for reconsideration. The enclosed **Preliminary Order** was issued pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.**

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. Contact any office of the department or visit our homepage on the Internet to obtain the proper reporting form.

If you have any questions, regarding this order, please contact either myself at (208)327-7953 or Mr. Saxton at (208)327-7910.

Sincerely,

Deborah J. Gibson

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encl.
c: Terry Schmautz

MICROFILMED
DEC 03 2003

RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES

The accompanying order is a **Preliminary Order** issued by the Idaho Department of Water Resources (Department) pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of the order as shown on the certificate of service. **Note: the petition must be received by the Department within this fourteen (14) day period.** The hearing officer 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 to the Director. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have fourteen (14) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

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.

MICROFILMED
DEC 03 2009

CERTIFICATE OF SERVICE

All exceptions, briefs, request 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 Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The 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 not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:
>
> (a) the petition for reconsideration is disposed of; or
> (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

MICROFILMED
SEP 23 2002

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

,CK NEWELL
)BERT NEWELL
'O MICHAEL E REAGAN
)44 NORTHWEST BLVD
)EUR D'ALENE ID 83814

95-9104

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* — B. Date of Delivery
Aimee Mitchell 5-9-03

C. Signature
X Aimee Mitchell ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☑ Yes
If YES, enter delivery address below: ☐ No

#E

MICROFILMED

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

MAY 03 2003

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)*
7000 1670 0011 3313 9147

PS Form 3811, July 1999 — Domestic Return Receipt — 102595-00-M-0952

UNITED STATES POSTAL SERVICE

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

• Sender: Please print your name, address, and ZIP+4 in this box •

IDAHO DEPT OF WATER
RESOURCES
ATTN DEBORAH GIBSON
1301 N ORCHARD ST
BOISE ID 83706

MICROFILMED
DEC 03 2003

SENDER: COMPLETE THIS SECTION

- Complete items 1, [illegible]d 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

TERRY D SCHMAUTZ
277 S STONE RIVER DR
POST FALLS ID 83854

95-9104

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please [illegible]learly)* — B. Date of Delivery
Lillian Lahonde — 5-9-03

C. Signature
X Lillian La Londe ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

MICROFILMED
DEC 03 2003

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)*
7000 1670 0011 3313 9154

PS Form 3811, July 1999 — Domestic Return Receipt — 102595-00-M-0952

UNITED STATES POSTAL SERVICE



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

• Sender: Please print your name, address, and ZIP+4 in this box •

MICROFILMED
DEC 0 3 2003

IDAHO DEPT OF WATER
RESOURCES
ATTN DEBORAH GIBSON
1301 N ORCHARD ST
BOISE ID 83706

49



U.S. Postal Service

CERTIFIED MAIL RECEIPT

Domestic Mail Only; No Insurance Coverage P

Postage	$
Certified Fee	MICROFILMED
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	2003
Total Postage & Fees	$

5/7/03

Postmark Here

dg

Sen

Stre

City,

TERRY D SCHMAUTZ
1277 S STONE RIVER DR
POST FALLS ID 83854

7154 3711 0001 0000 0154

Certified Mail Provides:

- A m[redacted] receipt
- A u[redacted] identifier for your mailpiece
- A signature upon delivery
- A record of delivery kept by the Postal Service for two years

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IMPORTANT: Save this receipt and present it when making an inquiry.

U.S. Postal Service

CERTIFIED MAIL RECEIPT

Domestic Mail Only; No Insurance Coverage P

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total	$

5/7/03

Postmark Here

dg

Sent JACK NEWELL
ROBERT NEWELL
Stree C/O MICHAEL E REAGAN
City 1044 NORTHWEST BLVD
COEUR D'ALENE ID 83814

7000 1670 0007 4747 7700

Certified Mail Provides:

- A mailing receipt
- A unique identifier for your mailpiece
- A signature upon delivery
- A record of delivery kept by the Postal Service for two years

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IMPORTANT: Save this receipt and present it when making an inquiry.

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 7, 2003

Re: In the matter of Application for Permit No. 95-9104 in the name of Terry D. Schmautz

Dear Interested Parties:

The Department of Water Resources (department) has issued the enclosed **Amended Preliminary Order** pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.**

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 our homepage on the Internet to obtain the proper reporting form.

If you have any questions, please call me at (208) 327-7953.

Sincerely,

Deborah J. Gibson

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosures
c: IDWR - Regional Office Manager

MICROFILMED
DEC 0 3 2003

RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES

The accompanying order is a **Preliminary Order** issued by the Idaho Department of Water Resources (Department) pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of the order as shown on the certificate of service. **Note: the petition must be received by the Department within this fourteen (14) day period.** The hearing officer 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 to the Director. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have fourteen (14) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

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.

MICROFILMED
DEC 03 2003

CERTIFICATE OF SERVICE

All exceptions, briefs, request 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 Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The 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 not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:
>
> (a) the petition for reconsideration is disposed of; or
> (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

MICROFILMED
DEC 03 2003

State of Idaho
Department of Water Resources



ROSTER OF ATTENDANCE

IN THE MATTER OF APPLICATION FOR PERMIT NO. 95-9104
IN THE NAME OF TERRY D. SCHMANTZ

Date: Apr 22, 2003

Time: 8:00 a.

Location: Coeur d' Alene, ID

Hearing Officer: L. Glen Saxton

** *Please Print* **

NAME	ADDRESS	REPRESENTING (Applicant, Protestant)
Charles M Dodson	1914 Sherman Ave Ste 300 Coeur D'Alene	Applicant
Grant R. Cummings	1721 W. Euclid Ave, Spokane, WA 99205	Applicant
Terry Schmantz	1277 S. Stoneriver Dr Post Falls, ID 83854	Applicant
ROB NEWELL	890 S. STONE RIVER DRIVE POST FALLS ID 83854	PROTEST

MICROFILMED
NOV 26 2003

4-11-03

Department of Water Resources
%Robert Haynes
%Glen Saxton
Hand Delivered on 4-11-03

In the matter of Application # 95-9104 Schmautz Newell Dispute
In the matter of Application #95-9159 Schmautz Newell Dispute

Dear Sirs,

In compliance with IDAPA Rule of Procedure 37.01.01606 I am providing a copy of exhibits to each party and the presiding officer. Enclosed please find your copy.

In a letter dated April 1, 2003, I requested from Mr. Schmautz and State Farm to receive from them their exhibits 10 days in advance to our meeting on April 22, 2003. I have not yet received their information as of today's date.

Finally, If you would please provide me a copy of Application # 95-9104 and #95-9159 before our meeting, it would be appreciated.

Sincerely,

Robert Newell
Box 2345
Post Falls, Idaho 83877
208-755-9475

enclosed: Letter of April 1, 2003

MICROFILMED
NOV 2 6 2003

April 1, 2003

Terry Schmautz
1277 S. Stone River Drive
Post Falls, Idaho 83854

Newell vs. Schmautz

Dear Terry,

I hope you received the notice of hearing for April 22, 2003. Since I did not hear back from you concerning my offer to settle this matter, it appears that you are denying my offer. I will leave it open until Friday, April 4, 2003. I do not understand your reluctance to correspond with your insurance company, but I would suggest that you relay my offer to them so they have an opportunity to mitigate the damages.

As you are aware, I have made repeated attempts to correspond with you, and in each attempt, I received no reply. I am convinced that you have injured me and I will avail myself of every opportunity to remedy this situation with any means legally available. I believe I have dealt with you in good faith and look forward to this problem being put behind us.

I anticipate that it will cost you over $25,000 to remedy this problem if we do not decide on a settlement. My final resolution to this problem will be the payment to me of $15,000 for my costs plus the removal of the dam and return of the spring area to its original condition.

Finally, if you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01606 requires that you provide a copy of exhibits to each party and to the presiding officer. I request that you provide me with that information at least 10 days in advance to our meeting. In good faith, I have supplied you with most of my exhibits with each of the many letters I sent you from October of 2001.

I hope to hear from you soon.

Sincerely,

Robert Newell

CC: Glen Saxton

LETTER #16

MICROFILMED
NOV 2 6 2003

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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

95-0104

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

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

Consult postmaster for fee.

3. Article Addressed to:

TERRY D SCHMAUTZ
1277 S STONE RIVER DR
POST FALLS ID 83854

RECEIVED
APR 03 2003
IDWR/North

4a. Article Number

7099 3220 0005 3955 8863

4b. Service Type

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

7. Date of Delivery

4-1-03

5. Received By: *(Print Name)*

Terry Schmautz

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

6. Signature: *(Addressee or Agent)*

X Terry Schmautz

MICROFILMED NOV 26 2003

PS Form **3811,** December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE



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

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

DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD SUITE 210
COEUR D ALENE ID 83814

MICROFILMED
NOV 26 2003

SENDER:

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

95 9104

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

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

Consult postmaster for fee.

3. Article Addressed to:

JACK & ROBERT NEWELL
C/O MICHAEL E REAGAN
1044 NORTHWEST BLVD
COEUR D ALENE ID 83814

#E

RECEIVED
APR 02 2003
IDWR/North

4a. Article Number

7099 3220 0005 8955 8875

4b. Service Type

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

7. Date of Delivery

APR 2-8-2003

5. Received By: *(Print Name)*

Agent Mitchell

6. Signature: *(Addressee or Agent)*

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

SPOKANE WA 990 APR 10 PM

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE



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

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

DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD SUITE 210
COEUR D ALENE ID 83814

MICROFILMED
NOV 26 2003

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 95-9104)
IN THE NAME OF TERRY D SCHMAUTZ) **NOTICE OF HEARING**

On October 29, 2001, TERRY D SCHMAUTZ (applicant) filed with the Department of Water Resources (department), application for permit No. 95-9104. The application was protested by JACK NEWELL & ROBERT NEWELL. The conference held by the department on March 25, 2003, did not resolve the matter of protest.

The department has scheduled the matter for hearing on **April 22, 2003, at 8:00 AM** at the **Department of Water Resources, 1910 Northwest Blvd., Suite 210, Coeur d'Alene, Idaho.** The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45. A copy of the rules may be obtained from the department upon request. The presiding officer at the hearing will be L. Glen Saxton.

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

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

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

Dated this 31st day of March, 2003.

Robert G. Haynes, Regional Supervisor

I hereby certify that on the 31st day of March, 2003, I mailed a true and correct copy of this document, postage prepaid, to the applicant(s) and protestant(s) listed below:

Dianne L. Ball, Administrative Assistant

Certified Mail

TERRY D SCHMAUTZ
1277 S STONE RIVER DR
POST FALLS ID 83854

JACK & ROBERT NEWELL
C/O MICHAEL E REAGAN
1044 NORTHWEST BLVD
COEUR D ALENE ID 83814

MICROFILMED
MAR 26 2003

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

ISSUES

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

1. Will the proposed appropriation injure other water rights?

2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?

3. Was the application made in good faith or for delay or speculative purposes?

4. Does the applicant have sufficient financial resources with which to complete the proposed project?

5. Will the proposed use conflict with the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?

6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?

BURDEN OF PROOF

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

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

PROCEDURE

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

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CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

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

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

Parties may by written stipulation waive the right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order and judicial review of the order.

EXHIBITS

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

AMERICANS WITH DISABILITIES ACT

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

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NOV 2 6 2003

PUBLIC HEARING

File: 95-9104
TERRY D. SCHMAUTZ

Date: 3/25/2003

Time: 10:30 A.M.

Place: DEPARTMENT OF WATER RESOURCES
MAIN OFFICE CONFERENCE ROOM
1910 NORTHWEST BLVD. SUITE 210
COEUR D' ALENE ID 83814

ROSTER OF ATTENDANCE

NAME	ADDRESS
ROB NEWELL	BOX 2345 POST FALLS ID 83877
Terry Schmautz	1222 S. Stoneriver Dr Post Falls, ID 83854

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CONFERENCE/HEARING SCHEDULE

Northern Region

Location DEPARTMENT OF WATER RESOURCES.
MAIN OFFICE CONFERENCE ROOM
1910 NORTHWEST BLVD. SUITE 210
COEUR D'ALENE ID 83814

March 25, 2003

8:00 A.M. 95-9159 - Ronald & Valerie Barene

10:30 A.M. 95-9104 - Terry Schmautz

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NOV 26 2003

208-769-1450

RECEIVED
MAR 19 2003
IDWR/North

Mar 18, 2003

Terry Schmautz Hand Delivered 3-18-03 PERMIT # 95-9104
PROTEST HEARING 3/25/03

Dear Terry:

As you are aware, a hearing has been scheduled for March 25, 2003 concerning your application and my protest for permit number 95-9159. As a matter of fact, I will remind you that you applied for this permit after you built the pond and after I notified you of the disturbance to my well.

I am prepared to present my case for protest and I will copy you and the Department of Water Resources per IDAPA Rule of Procedure 37.01.01606 prior to the meeting. I hope you will do the same.

My hope for remedy from the Department of Water Resources is:

- Return the pond area to its original condition
- Return water penetration from spring
- Deny Schmautz water use application
- Return original drainage to ravine leading to well site

I offer you the following remedy, which would be less costly to you than the remedy I seek from the Department of Water Resources:

- Payment of ½ of my cost for my new well and legal expenses ($5,000)
- I will not dispute your application

OR

- Payment of ¼ of my cost for my new well and legal expenses ($2,500)
- Shared use of the pond and spring water
- I will not dispute your application

If I do not receive a reply from you on my offers, and/or if I do not receive the remedy I am requesting from the Department of Water Resources, I intend on initiating legal action through the courts. I have made every attempt to come up with a solution to this problem that is fair to all parties. I have not heard anything back from you since you said you would take care of this problem back on October 24, 2001.

I again look forward to some response.

Sincerely, Robert Newell 208-755-9475

CC: Department of Water Resources FAX 769-1454 ROBERT HAYNES

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NOV 26 2003

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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

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

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

Consult postmaster for fee.

3. Article Addressed to:

MICROFILMED NOV 2 6 2003

TERRY D SCHMAUTZ
1277 S STONE RIVER DR
POST FALLS ID 83854

RECEIVED
MAR 0 3 2003
IDWR/North

4a. Article Number
7099 3220 0005 8955 8844

4b. Service Type

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

7. Date of Delivery
3-1-03

5. Received By: *(Print Name)*
Lillian LaLonde

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

6. Signature: *(Addressee or Agent)*
X Lillian LaLonde

PS Form **3811,** December 1994 Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE



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

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

DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD SUITE 210
COEUR D ALENE ID 83814

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NOV 2 6 2003

05



SENDER:

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

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MAR 0 4 2003
IDWR/North

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

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

Consult postmaster for fee.

3. Article Addressed to:

JACK & ROBERT NEWELL
C/O MICHAEL E REAGAN
SIMS, LIESCHE, REAGAN,
WALLACE & WALLACE PA
1044 NORTHWEST BLVD
COEUR D ALENE ID 83814

4a. Article Number
7099 3220 0005 8955 8851

4b. Service Type

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

7. Date of Delivery
MED 3-3-03

5. Received By: *(Print Name)*
Ginger Mitchell

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

6. Signature: *(Addressee or Agent)*
Ginger Mitchell

NOV 26 2003

PS Form **3811**, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE



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

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

DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD SUITE 210
COEUR D ALENE ID 83814

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NOV 2 6 2003

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 95-9104 IN THE NAME OF TERRY D SCHMAUTZ	))))	NOTICE OF CONFERENCE AND/OR HEARING

On ~~September 30, 2002~~ Oct 29 2001, TERRY D SCHMAUTZ filed with the Department of Water Resources (department) Application for Permit No. 95-9104. The application was protested by JACK NEWELL & ROBERT NEWELL

The department has scheduled the matter for conference &/or hearing at **10:30 a.m. on March 25, 2003 at the Department of Water Resources, 1910 Northwest Blvd., Suite 210, Coeur d'Alene, Idaho**. The conference &/or hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45. A copy of the rules may be obtained from the department upon request. The presiding officer at the conference &/or hearing will be Robert Haynes, P.E., Regional Manager Idaho Dept. of Water Resources.

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

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

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

Dated this 28th day of February, 2003.

Robert A Haynes
Regional Manager

I hereby certify that on the 28th day of February, 2003, I mailed a true and correct copy, postage prepaid, of this document to the applicants(s) and protestant(s) listed below:

Dianne L Ball
Administrative Assistant

Certified Mail TERRY D SCHMAUTZ Card Rcvd 3/3/03
1277 S STONE RIVER DR
POST FALLS ID 83854

JACK AND ROBERT NEWELL
C/O MICHAEL E REAGAN
SIMS, LIESCHE, REAGAN, WALLACE & WALLACE PA
1044 NORTHWEST BLVD #E
COEUR D ALENE ID 83814

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NOV 26 2003

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

ISSUES

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

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3. Was the application made in good faith or for delay or speculative purposes?

4. Does the applicant have sufficient financial resources with which to complete the proposed project?

5. Will the proposed use conflict with the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?

6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?

BURDEN OF PROOF

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

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PROCEDURE

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CONFERENCE

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Parties may by written stipulation waive the right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order and judicial review of the order.

EXHIBITS

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AMERICANS WITH DISABILITIES ACT

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NOV 26 2003

\February 1, 2002

Al Beardslee,
Senior Water Resource Agent
Department of Water Resources
Northern Region
Suite #210, 1910 Northwest Blvd
Coeur d' Alene, ID 83814

Dear Al Beardslee,

Enclosed you will find a copy of a report from Grant Cummings of Cummings Geotechnology. This is the additional information we discussed. I hope this information is sufficient to demonstrate that the excavation site has no relationship to the unfortunate loss of water experienced by Mr. Newell.

Thank you for your time and efforts in this matter. Please feel free to contact us with any questions you may have.

Sincerely,

Terry D. Schmautz
1277 S Stoneriver Dr
Post Falls ID 83854
(208)457-1884

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NOV 2 6 2003

Receipt Details for ID N014791

Status	Adjustment Type	Version
		2

General Information:

Date Received	Date Deposited	Region	Total Amount	Payment Type
12/26/2001 9:45:18 AM	12/28/2001 1:59:28 PM	NORTHERN	$25.00	Check
Payer	CHASE NEWELL BY ROBERT NEWELL CUST UNDER UTMA			

Account Information:

Check #	Account #	Credit Card Name	Authorization #
1143			
Card Expiration Date	**Credit Card Transaction #**		

Comment Protest Fee Schmautz/Newell

Fee Detail:

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
$25.00	PROTESTS	65103	0229	21		1155

Refund(s):

Amount	Payee	Date	Document Number

Show References | Next Step | Previous Steps: Select Receipt | Screen ID 394

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NOV 26 2003

RECEIVED
DEC 26 2001
IDWR/North

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST

1. Matter being protested: Terry D. Schmautz, application for permit, a copy of which is attached hereto.

2. Name of protestant: Jack Newell and Robert Newell.

3. Protestant's representative for service (if different than protestant). Michael E. Reagan.

4. Service mailing address. Sims, Liesche, Reagan, Wallace & Wallace, P.A., 1044 Northwest Blvd., Coeur d'Alene, Idaho 83814.

5. Service telephone number: 208/664-1561.

6. Basis of protest (including statement of facts and law upon which the protest is based): The Newell well, drilled in 1984, has been adversely affected by the unpermitted Schmautz diversion of surface spring water and construction of a pond. See, Pyrite Hydrochem technical memorandum dated November 7, 2001, by John A. Riley, Consulting Hydrogeologist, copy attached. The Newells began beneficial use of the waters of the subject spring or stream and/or subterranean water in 1984, and have constantly utilized the same through their well since that time. The Newells claim a constitutional use water right to what they believe are the waters which Mr. Schmautz now seeks to appropriate by permit. Idaho Code §42-103 establishes the public's right to the unappropriated waters within the state of Idaho. In addition, Nettleton v. Higginson, 98 Idaho 87, 558 P.2d 1048 (1977) stands for the proposition that constitutional use water right is created simply by diverting unappropriated waters and putting these waters to beneficial use. At the time the Newells appropriated the subject water, there was no other person or entity appropriating the subject water. Further, an appropriator, whose right is based upon a valid, although unadjudicated, constitutional method of appropriation, retains a senior claim in relation to a person holding a later issued permit. R.T. Nahas Co. v. Hulet, 114 Idaho 23, 752 P.2d 625 (Ct. App. 1988). In the instant case, Mr. Schmautz is seeking a permit to the detriment of the Newells' senior claim and appropriation.

Idaho Code §42-226 provides, in part:

> Ground waters are public waters ... The doctrine of "first in time is first in right" is recognized ... Prior appropriations of underground water shall be protected in the maintenance of reasonable ground water pumping levels.

The Newells believe that they no longer have a reasonable ground water pumping level as a result of Mr. Schmautz's unpermitted appropriation and unpermitted construction of the pond.

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JAN 25 2002

7. What would resolve your protest: Reimbursement of all sums expended or to be expended by the Newells to obtain the water flows which they enjoyed prior to the Schmautz's unpermitted diversion and construction of the pond in the approximate total sum of $10,000.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 21 day of December, 2001.

ROBERT NEWELL, Protestant

MICHAEL E. REAGAN,
Protestant's Representative

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NOV 2 6 2003

PYRITE HYDROCHEM

John A. Riley
Consulting
Hydrogeologist

TECHNICAL MEMORANDUM

Date: November 7, 2001

To: Rob Newell

From: John A. Riley, Hydrogeologist

Subject: Ground Water Evaluation

Introduction

The purpose of this technical memorandum is to evaluate the decrease in production of your water well. It is my understanding that you noticed a dramatic decrease in the yield of your well several months after your neighbor constructed a pond uphill from your existing well. The pond collects spring discharge which previously appeared to flow north and northwest as shallow ground water.

The objectives of this investigation are to:

- Review the production history of the well,
- Conduct a preliminary investigation of the hydrogeology,
- Develop a hydrogeologic conceptual model, and
- Determine if the construction of the pond may be responsible for the decrease in well production.

The information presented in this memorandum is based on field observations at the property, review of USGS and Idaho Geological Survey maps, review of existing well records, and my professional knowledge of hydrogeology.

The Newell well is located in the northeast quarter of section 8, T. 50 N., R. 5 W. It was drilled in January, 1984, to a depth of 160 feet below ground surface (BGS). The owner's name on the driller's report is Jim Crouch. The driller's report indicates static water level at 95 feet, and production of 15 gpm using air lift pumping. The well was production tested in March, 1994 for 70 minutes. Static water level was 115 feet. Initial production was 30 gpm. Sustainable production was 5-6 gpm, with a pumping level of 153.5 feet. The well was

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Voice & Fax:208.773.5223 • 1.800.565.5819 • PO Box 453, Post Falls, ID 83877-0453 • pyritejr@iea.com

production tested again in October, 2001 after the production declined substantially. The pump was set at 155 feet, and would pump no water, indicating that the static water level was deeper than 155 feet. The driller's report and results of the tests are attached at the end of this memorandum.

The decline in well production appears to have resulted from a dramatic decline in static water level between 1994 and the present. The static water level remained fairly cvonstant from 1984 through 1994, as documented on the driller's report and production test. The static water level declined from 115 feet in 1994 to below 155 feet in 2001. The well is 160 feet deep, which leaves no available drawdown. No well production problems occurred until approximately one months after the pond had been completed.

Hydrogeologic Setting

The Newell well is completed in Precambrian metamorphic rocks of the Belt Supergroup. Production from Belt rocks typically is derived from weathered and/or fractured zones in the bedrock. The driller's report states that hard bedrock overlies medium bedrock. This suggests that production comes from structurally controlled fracture zones. Recharge typically comes from infiltration into and flow within the fractured bedrock. The size of the recharge area is unknown, and determination of its size is beyond the scope of this investigation.

The well is located in an area of moderately steep, north-facing hills between West Riverview Drive and the Spokane River. The top of the well casing is at an elevation of approximately 2240 feet above sea level. The bottom of the well is at an elevation of approximately 2080 feet. The river elevation is approximately 2050 feet.

The springs discharge from a shallow alluvial hillside at an elevation of approximately 2340 feet. A map is included that presents spring and well locations, and topography, Prior to construction of the pond, discharge from the springs appeared to have flowed toward the river as shallow ground water in the thin alluvium, and in the weathered and fractured bedrock.

Two drainages exist north (downhill) of the springs. These are informally named the west and east drainages. The west drainage flows to the northwest away from the springs. The east drainage flows to the north northeast from the springs. A bedrock outcrop exists adjacent to the access road between the drainages. The west drainage is more deeply incised than the east drainage. The Newell well is located along the axis of the east drainage.

Shallow ground water formally produced an area of wet spongy alluvium below the springs between the access road and bedrock outcrop that separates the drainages. Since the construction of the pond, this spongy area has dried up. Similarly, an area of spongy alluvium

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and shallow puddles formally existed in the east drainage adjacent to the Newell barn, and downhill of the Newell well. Since the construction of the pond, this spongy area also has dried up. The west drainage still is damp downgradient of the pond.

Hydrogeologic Conceptual Model

The hydrogeologic conceptual model describes in general terms the probable hydrostratigraphy, and flow paths. It is developed to present a plausible understanding of the physical conditions that control ground water flow.

Shallow alluvium carries infiltrating water toward the north along the contact with bedrock. The shallow ground water within the alluvium recharges bedrock in weathered or fractured zones. Ground water that remains in the alluvium appears as spongy or wet areas and eventually discharge to the Spokane River.

The springs uphill from the Newell well appear on a hillside in an area where the alluvium probably thins. This concept is supported by outcrops of bedrock in the area. Discharge from the springs used to be divided between the east and west drainage, supplying recharge to the bedrock in both systems. The relative proportion of spring discharge that recharge the two drainages in not known.

The pond construction activities appear to have altered the shallow ground water flow in the east drainage. Now shallow ground water appears to flow only or predominantly down the west drainage. This has resulted in decreased recharge to bedrock in the east drainage.

Conclusions

Recharge to the Newell well appears to be substantially less than it had been until recently. It is possible that recharge to the Newell well has been blocked. The decrease in recharge probably has taken place because of the disruption of the shallow ground water flow path down gradient of the springs.

This conclusion is supported by:

- a substantial decrease in static water level in well, and
- the disappearance of spongy areas immediately downhill from the pond, and adjacent to the Newell barn.

Simply breaching the pond dikes may or may not return recharge to the east drainage, The mechanisms and location of the original recharge pathways is not understood. The degree of

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disruption of those pathways, likewise, is not known. It may be necessary to conduct engineering or geophysical investigations to determine the nature of the original recharge mechanisms, and what steps must be taken to reestablish recharge mechanisms.

If you have any questions or comments, please contact me at 208.773.5223. FAX number is the same, via automatic switching device.

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NOV 2 6 2003

TOTAL P.03

BALLPOINT PEN

WELL DRILLER'S REPORT

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

1) OWNER

Name Jim Crouch

Address Post Falls, Idaho

Owner's Permit No. ____

2) NATURE OF WORK

☒ New well ☐ Deepened ☐ Replacement

☐ Abandoned (describe abandonment procedures such as materials, plug depths, etc. in lithologic log)

3) PROPOSED USE

☒ Domestic ☐ Irrigation ☐ Test ☐ Municipal

☐ Industrial ☐ Stock ☐ Waste Disposal or Injection

☐ Other (specify type)

4) METHOD DRILLED

☒ Rotary ☐ Air ☐ Hydraulic ☐ Reverse rotary

☐ Cable ☐ Dug ☐ Other ____

5) WELL CONSTRUCTION

Casing schedule: ☒ Steel ☐ Concrete ☐ Other ____

Thickness	Diameter	From	To
.250 inches	6 inches +	1 feet	20 feet
PVC inches	4 inches	1 feet	160 feet
inches	inches	feet	feet
inches	inches	feet	feet

Was casing drive shoe used? ☒ Yes ☐ No

Was a packer or seal used? ☐ Yes ☒ No

Perforated? ☐ Yes ☒ No

How perforated? ☐ Factory ☐ Knife ☐ Torch

Size of perforation ____ inches by ____ inches

Number	From	To
perforations	feet	feet
perforations	feet	feet
perforations	feet	feet

Well screen installed? ☐ Yes ☒ No

Manufacturer's name ____

Type ____ Model No. ____

Diameter ____ Slot size ____ Set from ____ feet to ____ feet

Diameter ____ Slot size ____ Set from ____ feet to ____ feet

Gravel packed? ☐ Yes ☒ No ☐ Size of gravel ____

Placed from ____ feet to ____ feet

Surface seal depth 20' Material used in seal: ☐ Cement grout

☒ Bentonite ☐ Puddling clay ☐ ____

Sealing procedure used: ☐ Slurry pit ☐ Temp. surface casing

☒ Overbore to seal depth

Method of joining casing: ☐ Threaded ☒ Welded ☐ Solvent Weld

☐ Cemented between strata

Describe access port ____

6) WATER LEVEL

Static water level 95 feet below land surface.

Flowing? ☐ Yes ☒ No G.P.M. flow ____

Artesian closed-in pressure ____ p.s.i.

Controlled by: ☐ Valve ☐ Cap ☐ Plug

Temperature ____ or. Quality good

(Describe artesian or temperature zones below)

7) WELL TEST DATA

☐ Pump ☐ Bailer ☒ Air ☐ Other ____

Discharge G.P.M.	Pumping Level	Hours Pumped
15 gpm		

8) LITHOLOGIC LOG

Bore Diam.	Depth From	Depth To	Material	Water Yes	Water No
6	-	1	topsoil		
	1	120	med hard granite		
	120	160	soft granite	X	

9)

Work started 1-23-84 finished 1-26-84

10) LOCATION OF WELL

Each map location must agree with written location.

N

W E

S

Kootenai

Subdivision Name ____

Lot No ____ Block No. ____

¼ NE ¼ Sec. 8 T. 50 N/S R. 5 E/W.

11) DRILLER'S CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Coeur d'Alene Drilling, Inc. Firm No. 214

Firm Name

Address P.O. Box 386 Hayden Lake, Idaho Date 2-15-84

Signed by (Firm Official) Bill Finley

and

(Operator) Bill Finley

USE ADDITIONAL SHEETS IF NECESSARY -- ESTIMATED THICKNESS

MICROFILMED

MAY 2 8 2003

DATE 3-18-94
WELL CONSTRUCTION
WELL DEPTH
STATIC WATER LEVEL
GPM DRILLER TESTED
TEST PUMP USED
PUMP SETTING
PIPE SIZE WIRE SIZE
LIQUID LEVEL CONTROLS

CUSTOMER NAME Jack Newell
ADDRESS
PHONE
JOB LOCATION
PITLESS PUMP HOUSE
CONDITION
PRESSURE TANK SIZE w/log
ELECTRICAL CONTROLS

TIME	FLOW RATE	PRESSURE	WATER QUALITY	STATIC
9:20	30	Ø	DIRTY	15'
9:25	25	Ø	Cloudy	115'
9:31	10	70 PSI	Cloudy	150'
9:35	7.5	80 PSI	Cloudy	150'
9:40	7.5	80 PSI	Clear	153'
9:48	5	85 PSI	Clear	153'
9:58	6	85 PSI	Clear	150'
10:05	6	82 PSI	Clear	154'
10:10	6	82 PSI	Clear	157'
10:15	5	88 PSI	Clear	153' 6"
10:20	5	88 PSI	Clear	153' 6"
10:25	5	88 PSI	Clear	153' 6"
10:30	5	88 PSI	Clear	153' 6"

WELL TEST SUMMARY

MICROFILMED

582 W. Hayden Avenue, Hayden Lake, ID 83835
(208) 772-4004 • Fax (208) 772-4892
ELL SERVICE, INC.

WORK ORDER

Date 10/22/01

NAME: Bob Newell

JOB LOCATION: Bridge x Spokane St

ADDRESS: Box 7345

DIRECTIONS: 2 miles on W. Riverview

P.F. Idaho

PHONE: 755-9475

JOB PHONE: (Sig Pt to Left) -

JOB INSTRUCTIONS - WORK ORDERED

Pump for Trapps -
No Water - New Pump

QTY.	ITEM	MATERIAL	PRICE	AMOUNT
		Ran Comm to Customer - Bring Back		
11-2161		1 TSC Life		
10-4154W04		#4 Sub wire		
[redacted]				

TOTAL MATERIALS

WELL INFORMATION

WELL DEPTH		PUMP SETTING	
STATIC LEVEL		CASING	
PUMP	16507	DRILLING CO.	
GPM		WIRE SIZE	PIPE SIZE

DESCRIPTION OF WORK DONE

Went Right Towards (2555 W/ Riverview) Riv. John House on Comm (on Post)

Pump out of water, lowered pump 11' - 5' off bottom. No Water

SERVICE CHECKS

VOLTS OFF		VOLTS RUNNING	
OHMS	R#	RY	RY
OHMS to GND	R	B	Y
AMPS	R	B	Y

LABOR

DATE	EMPLOYEE	TIME IN	TIME OUT	HRS.	RATE	AMOUNT
10/22	Steve	215	515	2	60	
	Steve	64	Bruce			
10-23-01	Travel	9AM	11:30	2½	60	M/C

DATE	TRAVEL TIME	MILES	HRS.	RATE	AMOUNT

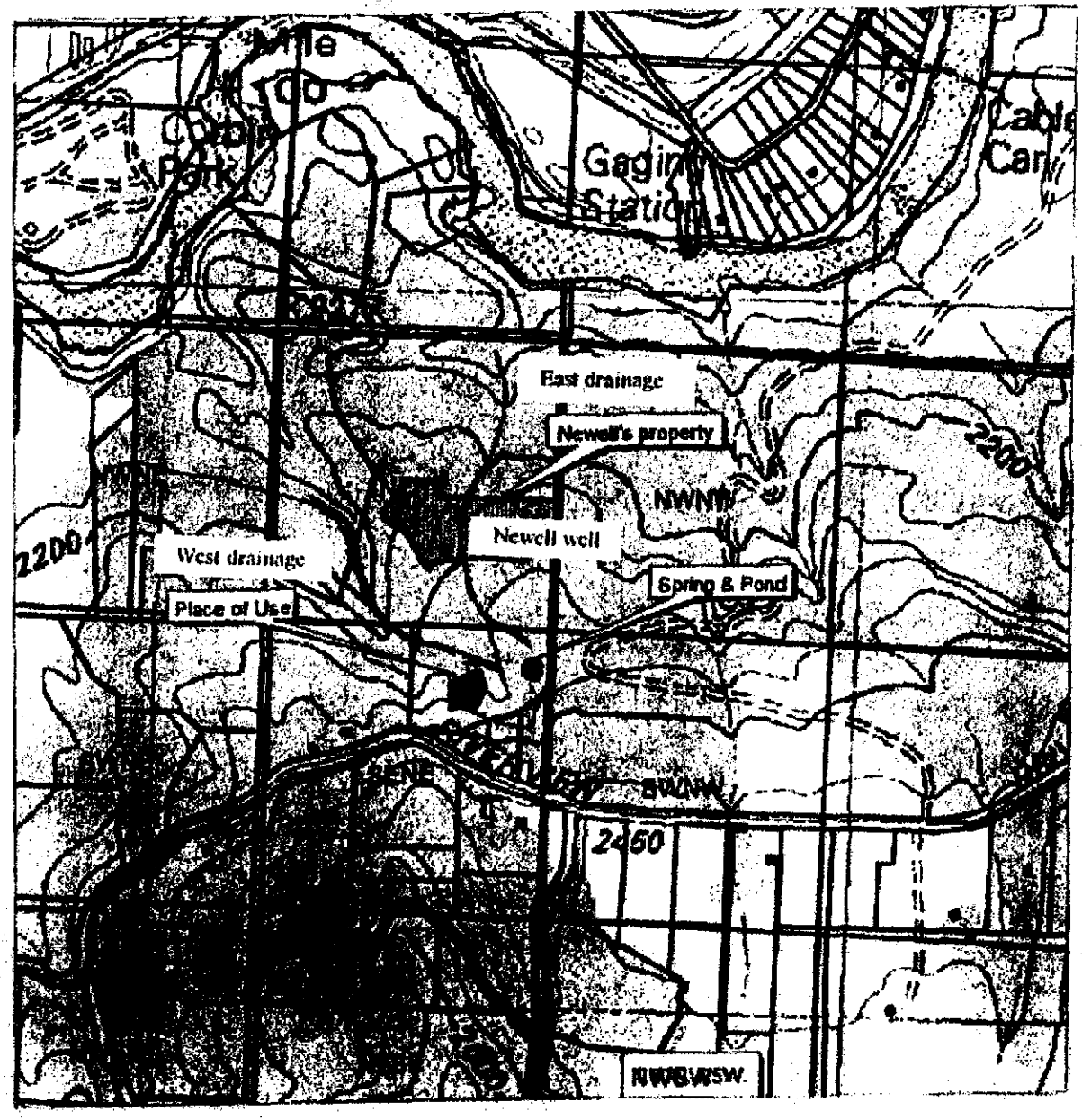
TOTAL LABOR	
TOTAL MATERIALS	
TOTAL OTHER	
TAX	
TOTAL	

Work ordered by

MICRO

2003

P.01



Qq50n05w.shp
Parcels011001.shp
Quad IndexQuadcov.shp

N
W
E
S

Cross Spokane St. bridge, go west on River View Dr. for 2 miles. Turn right past Signal Pt. Rd. at 2 new homes. Newell's home 1/4 mile down road.

IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

W.R. # 95-9104

APPLICATION ID # 69571 ENT. 1/26 BCA 1/28 OK to Publish dc
INITIAL REVIEW

APPLICANT: SCHMAUTZ BY: AS DATE: 10/29/01

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

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

PROCESSING

(Yes)(No) PRIORITY DATE: 10/29/01

__ X (Include Moratorium Remark)

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

CA 2 hrs / ok

ADVERTISE IN: KOOTENAI County

LETTERS SENT REQUESTING:

( ) Dam Information ( ) Fish Information

( ) Power Information ( ) Other: N/A

INFORMATION RECEIVED:

( ) Dam Information ( ) Fish Information

( ) Power Information ( ) Other: N/A

ADDITIONAL INFORMATION

(Yes)(No)

__ __ **Shape File Created Date** _____ **By:** _____
__ __ Field check: by _____
__ __ Field report attached
__ __ Analysis Supp. attached(>5cfs/500af)
__ __ Water delivered by water master? Water District #_____

GROUNDWATER SECTION

WD Permit No.'s:	Tag #	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: _____

FINAL REGIONAL PROCESSING/REVIEW

(Yes)(No)

__ __ Notice of pending void order issued. Final order response date: __/__/__
__ __ Further information required from applicant
12/17 __ Affidavit of publication received
12/17 __ Application published correctly. If not, record action taken: _____
1/28 __ Publication dates and paper recorded on application | Sr. Agent initial _____
__ __ Protests received, Final protest date: 12/24/2001
__ __ Measuring device required
__ __ Measuring port required
__ __ Special conditions: _____
__ __ Special conditions of approval supplement and/or cover letter attached:

Approval Recommended by: _____ Date: __/__/__

RECEIVED
DEC 17 2001
IDWR/North

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai, } ss.

Jennifer Standridge being first duly sworn upon oath deposes and says:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press," a newspaper printed and published daily except Sunday in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3. The legal Notice

of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for 2 consecutive weeks commencing on the 6 day of December 2001, and ending on the 13 day of December 2001, and such publication was made as often during said period as said daily newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice.

Jennifer Standridge

Personally appeared before me this 13 day of December, 2001

Regina Mason
Notary Public for the State of Idaho,
residing at Coeur d'Alene, Idaho.

REGINA MASON NOTARY PUBLIC STATE OF IDAHO

MY COMMISSION EXPIRES 6/18/03

NOTICE OF APPLICATION FOR WATER RIGHT

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

95-9102

GARY A BAKER
2870 SO SCHILLING LOOP
POST FALLS ID 83854
Point(s) of Diversion: NWSE S10 T50N R05W KOOTENAI County
Source GROUND WATER
Use: IRRIGATION 03/15 To 11/15 0.12 CFS
Use: DOMESTIC 01/01 To 12/31 0.04 CFS
Total Diversion 0.16 CFS
Date Filed: 11/15/2001
Place Of Use: IRRIGATION
T50N R05W S10 NWSE Number of Acres 10
Place Of Use: DOMESTIC - same as IRRIGATION
Remark: Domestic use is for 1 home.

95-9103

AMBER ORR
500 S HIGHVIEW
COEUR D ALENE ID 83814
Point(s) of Diversion: NESENW S19 T50N R04W KOOTENAI County
Source SPRING Tributary To SINKS
Use: DOMESTIC 01/01 To 12/31 0.04 CFS
Total Diversion 0.04 CFS
Date Filed: 11/16/2001
Place Of Use: DOMESTIC
T50N R04W S19 SWNE SENW
Remark: Domestic use is for 1 home.

MICROFILMED
NOV 26 2003

95-9104

TERRY D SCHMAUTZ
1277 S STONE RIVER DR
POST FALLS ID 83854
Point(s) of Diversion: SENE S8 T50N R05W KOOTENAI County
Source SPRING Tributary To SINKS

Use: IRRIGATION STORAGE	03/15 To 11/15	0.3 AFA
Use: IRRIGATION FROM STORAGE	03/15 To 11/15	0.3 AFA
Use: STOCKWATER STORAGE	01/01 To 12/31	0.3 AFA
Use: RECREATION STORAGE	01/01 To 12/31	0.3 AFA
Use: DIVERSION TO STORAGE	01/01 To 12/31	0.04 CFS
Total Diversion		0.04 CFS

Date Filed: 10/29/2001
Place Of Use: IRRIGATION STORAGE and IRRIGATION FROM STORAGE
T50N R05W S8 SENE
Number of Acres: 2
Place Of Use: STOCKWATER STORAGE, and RECREATION STORAGE same as IRRIGATION STORAGE
Remark: Stockwater storage is for 10 head of range stock.
Recreation storage is for fish.

Permits will be subject to all prior water rights. Protests must be submitted based on the criteria of Sec. 42.203A, Idaho Code.
Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Northern Region,1910 Northwest Blvd., Suite 210, Coeur D'Alene, ID 83814 together with a protest fee of $25.00 for each application on or before 12/24/2001. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director

Legal 0123
Dec. 6, 13, 2001

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

95-9102

GARY A BAKER
2870 SO SCHILLING LOOP
POST FALLS ID 83854
Point(s) of Diversion NWSE S10 T50N R05W KOOTENAI County
Source GROUND WATER

Use:	IRRIGATION	03/15 To 11/15	0.12 CFS
Use:	DOMESTIC	01/01 To 12/31	0.04 CFS
	Total Diversion:		0.16 CFS

Date Filed: 11/15/2001
Place Of Use: IRRIGATION
T50N R05W S10 NWSE Number of Acres 10
Place Of Use: DOMESTIC - same as IRRIGATION
Remark: Domestic use is for 1 home.

95-9103

AMBER ORR
500 S HIGHVIEW
COEUR D ALENE ID 83814
Point(s) of Diversion NESENW S19 T50N R04W KOOTENAI County
Source SPRING Tributary To SINKS

Use:	DOMESTIC	01/01 To 12/31	0.04 CFS
	Total Diversion:		0.04 CFS

Date Filed: 11/16/2001
Place Of Use: DOMESTIC
T50N R04W S19 SWNE SENW
Remark: Domestic use is for 1 home.

95-9104

TERRY D SCHMAUTZ
1277 S STONE RIVER DR
POST FALLS ID 83854
Point(s) of Diversion SENE S8 T50N R05W KOOTENAI County
Source SPRING Tributary To SINKS

Use:	IRRIGATION STORAGE	03/15 To 11/15		0.3 AFA
Use:	IRRIGATION FROM STORAGE	03/15 To 11/15		0.3 AFA
Use:	STOCKWATER STORAGE	01/01 To 12/31		0.3 AFA
Use:	RECREATION STORAGE	01/01 To 12/31		0.3 AFA
Use:	DIVERSION TO STORAGE	01/01 To 12/31	0.04 CFS	
	Total Diversion:		0.04 CFS	

Date Filed: 10/29/2001
Place Of Use: IRRIGATION STORAGE and IRRIGATION FROM STORAGE
T50N R05W S8 SENE
Number of Acres 2

Place Of Use: STOCKWATER STORAGE, and RECREATION STORAGE same as IRRIGATION STORAGE

Remark: Stockwater storage is for 10 head of range stock.
Recreation storage is for fish.

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

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Northern Region, 1910 Northwest Blvd, Suite 210, Coeur D' Alene ID 83814 together with a protest fee of $25.00 for each application on or before 12/24/2001. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director Published in Coeur d'Alene Press on December 6 and 13/2001.

MICROFILMED

NOV 2 8 2003

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

November 28, 2001

Legal Notice Department
Coeur D Alene Press
201 N 2nd
COEUR D ALENE ID 83814

FAXED 11/28/01 TO 664-0212
TWO PAGES INCLUDING COVER LETTER

RE: Application for Permit No. 95-9102, 95-9103 and 95-9104

Dear LEGAL NOTICE DEPARTMENT:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 12/24/2001. Your cooperation is appreciated.

Thanks ☺

Sincerely,

Dianne Ball

Dianne Ball
Administrative Assistant

PS- Any questions – please call.
Thanks ☺

MICROFILMED
NOV 2 6 2001

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

November 28, 2001

TERRY D SCHMAUTZ
1277 S STONE RIVER DR
POST FALLS ID 83854

RE: Application for Permit No 95-9104

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the Coeur d'Alene Press on December 6 and 13, 2001. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

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

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

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

Sincerely,

Allen Beardslee
Senior Water Resource Agent

Enclosure - Receipt No.

MICROFILMED
NOV 26 2001

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

11/26/2001

RAY HENNEKEY
IDF&G
2750 KATHLEEN AVE
COEUR D ALENE ID 83815

Application to Permit No. 95-9104

Dear Ray:

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

This office can complete the processing of an unprotested application as soon as the protest period is past; therefore, your prompt response to this request is appreciated. If your agency desires to file a formal protest against the approval of this application, your written protest along with a $25.00 filing fee must be received in this office by December 24, 2001.

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

Sincerely,

Dianne Ball

Dianne Ball
Administrative Assistant

Enclosure(s)

MICA

NOV 2 6 2001

10-25-01

John Riley (Fax 208-773-5223)
Consulting Hydrogeologist
Pyrite Hydrochem
Box 453
Post Falls, Idaho 83877

Dear John.

Thank you for coming over today on such short notice. Al Beardslee, from the Department of Water Resources asked that I give you a call. Also, thank you for discussing this matter directly with my insurance adjuster, John Beaton. Let me outline some facts for you.

My neighbor, directly up the hill from me, completed his home approximately five months ago. During his construction, he constructed a pond on his property approximately 50 feet above and 200 feet away from my well. The pond construction blocked off a naturally occurring spring which flows past my well site and settles in an area near my barn. The area near my barn, as you observed, is usually covered in ground water, but it is presently dry, and has been dry since the construction of the pond.

After talking with my neighbor who built the pond, Terry Schmoutz, he said he excavated the area originally for fill for his new home and then packed and backfilled the area to form a pond. The pond is approximately 100 feet wide, 100 feet long, and 15 feet deep. The area is currently filled with water. It appears that there is a water line in the pond leading back up to his home. The area, before excavation, was filled with trees and a wet marshy area. The natural flow of the water, before excavation, was past my well site and then directly down a ravine beside my barn.

I informed Mr Schmoutz on 10-23-01 that I was having well problems and that I thought his pond was blocking the natural supply of my well. He informed me that he was willing to pay for a study. He also informed me that he did not get a permit for the construction of the pond as required, and that he did not consult with the Department of Water Resources before the construction of the pond. An impact study would have been required before construction of the pond. No impact study was performed.

As you noted from yourvisit, the construction of the pond may have diverted water into another ravine adjacent to the pond. In addition, and as you noted, the pond construction may have permanently constricted the natural seepage of the spring into the ground.

Approximately a month after the construction of the pond, I noticed a yield change from my well. I believe H2O tested the well, when my father built the home approximately 7 years ago, and it tested at 5 gpm. The well is approximately 150 feet deep and has a static water level of 60 feet. I have included a well log of a well believed to be mine and supplied to me by H2O. Each month following the construction of the pond, my well yield has diminished. Now I have almost no water as tested by H2O. Three of the employees and the owner of H2O believe the pond construction had an impact on my current well status.

As noted in your conversation with my adjuster, he has informed me to go ahead with a report of this problem. He would also like to have a report mailed to him. Time is of the essence as I currently have no water, and I thank you for getting this back to me by Tuesday of next week with a completed report. I believe I can get H2O in early next week to survey the well and begin their work if needed. Otherwise, I will potentially have to wait another month. As you know, I have passed this information on to my adjuster.

Sincerely,

Robert Newell for Jack Newell

CC: JOHN B EATON FAX: 509-464-4515 CLAIM # 11N00854
509-465-2208

MICROFILMED
NOV 2 6 2002

ORIGINAL

Applicant's Exhibits

EXHIBITS TO SCHMAUTZ HEARING 4/22/03

1. Original Application dated 12/5/00
2. Permit No. 95-09064
3. Application for Permit dated 10/29/01
4. Letters from Robert Newell to Terry Schmautz
5. Notarized Statement from Mike Bell with attached Installation Reports
6. Notarized Statement from Mike Bell re: 1985 Road Construction.
7. Notarized Statements of Edwin P. Knapp and Donald E. Peterson
8. Photos of site
9. Report of Cummings Geotechnology.

MICROFILMED
2003

FORM 202

Ident. No. 95-9064

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

RECEIVED

SEP 14 2001

Department of Water Resources

APPLICATION FOR PERMIT App ID #68983

To appropriate the public waters of the State of Idaho

1. Name of Applicant Terry D. Schmautz Phone (425) 486-7347

Mailing address 7032 NE 182nd Kenmore, WA 98028

2. Source of water supply groundwater which is a tributary of n/a

3. Location of point of diversion: Township 50 N Range 5W Sec. 8 in the 1/4

SE 1/4 NE 1/4 Govt. Lot , B.M. Kootenai County

Additional points of diversion if any:

4. Water will be used for the following purposes:

Amount .04 (cfs or acre-feet per annum) for domestic purposes from 1-1 to 12-31 (both dates inclusive)

Amount .03 (cfs or acre-feet per annum) for irrigation purposes from 3-15 to 11-15 (both dates inclusive)

Amount (cfs or acre-feet per annum) for purposes from to (both dates inclusive)

Amount (cfs or acre-feet per annum) for purposes from to (both dates inclusive)

Amount (cfs or acre-feet per annum) for purposes from to (both dates inclusive)

Amount (cfs or acre-feet per annum) for purposes from to (both dates inclusive)

5. Total quantity to be appropriated is (a) .04 cubic feet per second and/or (b) acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source well pump and pipe

b. Height of storage dam n/a feet; active reservoir capacity acre-feet; total reservoir capacity acre-feet

c. Proposed well diameter is 6 inches; proposed depth of well is 250 feet

d. Is ground water with a temperature of greater than 85° F being sought? no

e. If well is already drilled, when? no ; 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 4 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. 1

e. Other; describe fully.

Department of Water Resources
APPLICANT'S
Exhibit 1
Date Admitted 4/22/03

NOV 26 2003

EXHIBIT
tabbies
1
2 Page

9. Description of place of use:

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

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

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
50N	5W	9				D													
						1													1

Total number of acres to be irrigated 1

10. Describe any other water rights used for the same purposes as described above. None

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

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

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

12. Remarks:

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

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

Signature of Applicant (and title, if applicable)

Received by [illegible] Date 12/5/00 Time 2:30P Preliminary check by

Fee $ 100.00 Receipted by [illegible] # N014953 Date 12/5/00

Publication prepared by [illegible] Date 2/09/01 Published in DDO Press 4/6 & 12/01

Publication approved [illegible] Date 4/13/01

MICROFILMED
MAY 2 6 2003

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 95-09064

Priority: 12/05/2000 Maximum Diversion Rate: 0.04 CFS

This is to certify, that TERRY D SCHMAUTZ
7032 NE 182ND
KENMORE WA 98028

has applied for a permit to appropriate water from:

Department of Water Resources
APPLICANT'S
Exhibit 2
Date Admitted 4/22/03 PDM

Source: GROUND WATER

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

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION
IRRIGATION	03/15 to 11/15	0.03 CFS
DOMESTIC	01/01 to 12/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:
GROUND WATER SE¼NE¼ Sec. 8, Twp 50N, Rge 05W, B.M. KOOTENAI 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	
50N	05W	8				1.0													1.0

Total Acres: 1

PLACE OF USE: DOMESTIC, same as Irrigation

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 1, 2005.**
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. 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.
6. Domestic use is for 1 home and does not include lawn, garden, landscape, or other types of irrigation.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 19th day of September, 2001.

EXHIBIT
2

MICROFILMED
MAY 2 6 2003

for KARL J DREHER, Director

FORM 202
12/99

6.9571

Ident. No. 95-9104

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant TERRY D SCHMAUTZ Phone 457-1884
Mailing address 1277 S. STONE RIVER DR POST FALLS ID 83854
2. Source of water supply SPRING which is a tributary of SINKS
3. Location of point of diversion is Township 50N Range 5W Sec. 8, in the ____ ¼, SE ¼, NE ¼, Govt. Lot ____, B.M., KOOTENAI County;
additional points of diversion if any: ____
4. Water will be used for the following purposes:
.2 Amount 0.25 (cfs or acre-feet per annum) for STORAGE FOR RECREATION purposes from 4/1 to 12/31 (both dates inclusive)
Amount 0.04 (cfs or acre-feet per annum) for DIVERSION TO STORAGE purposes from 4/1 to 12/31 (both dates inclusive)
.3 Amount 0.25 (cfs or acre-feet per annum) for STORAGE FOR IRR. IRR. FROM STOR. purposes from 3/15 to 11/15 (both dates inclusive)
.3 Amount 0.25 (cfs or acre-feet per annum) for STORAGE FOR STOCKWATER purposes from 4/1 to 12/31 (both dates inclusive)
Amount ____ (cfs or acre-feet per annum) for ____ purposes from ____ to ____ (both dates inclusive)
Amount ____ (cfs or acre-feet per annum) for ____ purposes from ____ to ____ (both dates inclusive)
5. Total quantity to be appropriated is (a) 0.04 cubic feet per second and/or (b) 0.25 acre feet per annum
6. Proposed diverting works:
a. Describe type and size of devices used to divert water from the source SPRING - CISTERN + 40'X40'X7' POND.
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 5 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. 10 Head Range Stock
c. Municipal; show name of municipality. ____
d. Domestic; show number of households. ____
e. Other; describe fully. RECREATION STORAGE IS FOR FISH

Department of Water Resources
APPLICANT'S
Exhibit 3
Date Admitted 4/22/03 AM

MICROFILMED NOV 2 6 2003

EXHIBIT
3
2 pages

9. Description of place of use:

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

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

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
50N	5W	8				2													2
						*													

* STORAGE FOR IRR. DIV. TO STORAGE. IRR. FROM STOR. RECREATION STORAGE STOCKWATER STOR.

Total number of acres to be irrigated 2

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

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

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

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

12. Remarks: _____

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

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

X Greg Schwartz
Signature of Applicant (and title, if applicable)

Received by TK Date 10-29-01 Time 12:30 Preliminary check by TK

Fee $ 100 Receipted by KE # L20014735 Date 10-29-01

Publication prepared by ⌀ Date 11/28/01 Published in CDA Press 12/6, 13/01

Publication approved ⌀ Date 12/17/01

MICROFILMED

NOV 2 6 2003

Attention Tracy

April 1, 2003

Terry Schmautz
1277 S. Stone River Drive
Post Falls, Idaho 83854

Newell vs. Schmautz

Dear Terry,

I hope you received the notice of hearing for April 22, 2003. Since I did not hear back from you concerning my offer to settle this matter, it appears that you are denying my offer. I will leave it open until Friday, April 4, 2003. I do not understand your reluctance to correspond with your insurance company, but I would suggest that you relay my offer to them so they have an opportunity to mitigate the damages.

As you are aware, I have made repeated attempts to correspond with you, and in each attempt, I received no reply. I am convinced that you have injured me and I will avail myself of every opportunity to remedy this situation with any means legally available. I believe I have dealt with you in good faith and look forward to this problem being put behind us.

I anticipate that it will cost you over $25,000 to remedy this problem if we do not decide on a settlement. My final resolution to this problem will be the payment to me of $15,000 for my costs plus the removal of the dam and return of the spring area to its original condition.

Finally, if you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01606 requires that you provide a copy of exhibits to each party and to the presiding officer. I request that you provide me with that information at least 10 days in advance to our meeting. In good faith, I have supplied you with most of my exhibits with each of the many letters I sent you from October of 2001.

I hope to hear from you soon.

Sincerely,

Robert Newell

CC: Glen Saxton

Department of Water Resources
APPLICANT'S
Exhibit 4
Date Admitted 4/22/03

EXHIBIT
tabbies
4
15 pages

MICRO...
Newell 13

ATTENTION TRACY

Mar 18, 2003

Terry Schmautz Hand Delivered 3-18-03 PERMIT # 95-9104
PROTEST HEARING 3/25/03
ROBERT HAYNES

Dear Terry:

As you are aware, a hearing has been scheduled for March 25, 2003 concerning your application and my protest for permit number 95-9159. As a matter of fact, I will remind you that you applied for this permit after you built the pond and after I notified you of the disturbance to my well.

I am prepared to present my case for protest and I will copy you and the Department of Water Resources per IDAPA Rule of Procedure 37.01.01606 prior to the meeting. I hope you will do the same.

My hope for remedy from the Department of Water Resources is:

- Return the pond area to its original condition
- Return water penetration from spring
- Deny Schmautz water use application
- Return original drainage to ravine leading to well site

I offer you the following remedy, which would be less costly to you than the remedy I seek from the Department of Water Resources:

- Payment of ½ of my cost for my new well and legal expenses ($5,000)
- I will not dispute your application

OR

- Payment of ¼ of my cost for my new well and legal expenses ($2,500)
- Shared use of the pond and spring water
- I will not dispute your application

If I do not receive a reply from you on my offers, and/or if I do not receive the remedy I am requesting from the Department of Water Resources, I intend on initiating legal action through the courts. I have made every attempt to come up with a solution to this problem that is fair to all parties. I have not heard anything back from you since you said you would take care of this problem back on October 24, 2001.

I again look forward to some response.

Sincerely, Robert Newell 208-755-9475
CC: Department of Water Resources FAX 769-1454 ROBERT HAYNES

MICROFILMED
NOV 26 2003
Letter # 12

12-6016-0666

Robert Newell
Box 2345
Post Falls, ID 83877

11-15-01

Terry Schmautz
Tracy Spelce
Claims Adjuster
Box 2087
CDA, ID 83816

Delivered to Mail Box
Faxed: 667-8480 & Regular Mail

Dear Tracy,

Hopefully, you have received my correspondence from Terry and have had a chance to review the information relating to my claim. I look forward to hearing from you again soon.

As you are aware from my earlier correspondence, I do not have the water pressure in my system that I had prior to my well problem. This, according to H20, has to do with using my same pump at a deeper level of 220 feet. I have asked them to propose a solution to the problem. Please find enclosed their proposal. Note the estimate does not include excavation and backfill. I am looking into other solutions.

It also appears that the liquidation of my Microsoft stock from my IRA will not cover all the expenses to date. Should I liquidate more stock from my IRA to cover the additional expenses until we can reach a solution to our problem? I have not yet had my fence repaired. It appears that will be the last of my immediate expenses. I am awaiting word from you on how I should proceed. As we discussed, I will not take any further action until I have spoken with you again.

Sincerely,

Robert Newell

Enclosed: H20 proposal to increase water pressure to previous level

letter #11

MICROFILMED
NOV 26 2001

Ft. Tracy Spelce

11-12-01

Terry Schmautz
Tracy Spelce
Claims Adjuster, State Farm
Box 2087
CDA, ID 83816

Delivered to Mail Box
Faxed: 667-8480 & Regular Mail

Dear Terry and Tracy,

Thank you for calling me today. It was nice to finally hear from someone. I am sorry to hear that you have not received any of my nine previous letters and correspondence from Terry. Terry informed me that he was forwarding my correspondence on to State Farm.

Based on your call to me today, I will postpone my first meeting with my attorney, Mike Reagan, until I hear from either you or Terry again regarding my claim.

Please find enclosed a copy of another bill from H20. I have cleared the tree that was cut down to make way for H20. It took me approximately 3 hours and I purchased a new saw blade.

A copy of the hydrogeologist's report was forwarded on to Al Beardslee with the Department of Water Resources. He has informed me that I have a "constitutional water right" to the water in the spring which used to run by my well and down to the barn pond area. I understand from Al Beardslee that after I notified Mr. Schmautz of my water problem, Mr. Schmautz attempted to obtain a water rights permit to the spring through the Department of Water Resources. I have informed Al Beardslee that I will appeal his water rights application. I have also been informed by Nick Bently, County Building Supervisor, that a building permit was required and never obtained for the construction of the pond. Furthermore, I have been informed that I should have received notice prior to the building of the pond and that an impact study and engineered plans should have been completed prior to the pond construction. I am obtaining correspondence from other regulatory agencies as it relates to other problems with the pond.

If I can get my expenses paid, by State Farm or Mr. Schmautz, as it relates to the well development, I will discontinue my efforts to get the pond removed and returned to its original condition. In further consideration, I will not oppose Mr. Schmautz's recent application for water rights from the spring.

Please review the correspondence that I sent to Terry Schmautz and State Farm and get back with me as soon as possible. I will not take any further action until I hear back from you or Mr. Schmautz. I have done everything possible to keep everyone informed of the status of this problem. I have requested input repeatedly, and have received no reply. Now that I have your name and number, I will copy you with all my correspondence. I look forward to a quick resolution to this problem to help keep neighbor relationships friendly.

Sincerely,

Robert Newell

Enclosed: H20 bill # 3

Well Letter # 10

MICROFILMED
NOV 26 2003

11-7-01

Terry Schmoutz and State Farm,

Delivered to Mail Box:

Enclosed please find the positive coliform test for the Newell/Schmoutz spring. Also, please find the H20 well driller's report for the Newell well.

Also included are invoices from H20 for $78.84 and $6,155.00. Notice the **Due on Receipt.** Please pay this amount directly to H20. Below please find a list of other expenses and estimates to date:

H20	10/22 No Water Service	$78.84	enclosed
H20	10/23 No Water Retest/Service	N/C	
H20	Drill Invoice	$6,155	enclosed
Idaho	10/31 Coliform Lab Test/Well	$11	enclosed
Idaho	11/5 Coliform Lab Test/Spring	$11	enclosed
Schucks	10/31 Trailer Jack to free Truck	$21.09	enclosed
Fence	Repair Fence taken down for drill	?	
Tree	Tree Removal, cut down for drill	?	
Clean Up	Fill Hole, clean up well site	?	
Water	5 fill ups of 550 gallon on trailer	?	
H20	Estimate to improve water pressure	?	
E*Trade	11/9 Early withdrawal penalty	$650	enclosed
Pyrite	Report	$540	enclosed 11/7 letter
Misc.	Miscellaneous Work	?	

In addition, please find a sell notice for E*Trade. If I am forced to pay for any or all of the items listed above before our resolution of this matter, I will be forced to take an early withdrawal from my IRA. Aside from the Federal and State taxes, I will have to pay a 10% early withdrawal penalty. Also, I may be harmed by price fluctuations as it concerns the point when I am repaid and can redeposit the money to my IRA and buy back MSFT. If I do not hear from you by 11/09/01 concerning your payment to H20, I will go ahead and take my IRA withdrawal.

Finally, if I do not have an offer and acceptance of settlement, or other reasonable correspondence, in 5 days, I will pursue all legal remedies to satisfy my damages, plus reimbursement of legal expenses.

As always, I look forward to hearing anything back from you. I will get other expenses and estimates to you when I receive them.

Sincerely,

Robert Newell, Well letter # 9

MICROFILMED
NOV 26 2003

11-7-01

Terry Schmoutz and State Farm,

Delivered to Mail Box

Enclosed please find the Pyrite Hydrochem report. The Conclusion's section reads "Recharge to the Newell well appears to be substantially less than it had been until recently. It is possible that recharge to the Newell well has been blocked. The decrease in recharge probably has taken place because of the disruption of the shallow ground water flow path down the gradient of the springs."

In addition, as I had written in a previous letter, I had the water tested in the spring and it, too, contained coliform. I will give you a copy of that report when I receive it.

H20 has completed the setting of the pump. With respect to saving money, I had them reset my existing ¾ horse well pump at 220 feet. My water pressure at the house is less than it was before. H20 recommends a larger pump and other remedies. They will send me a proposal of those remedies along with their bill. As with all my other correspondence, I will forward these items along to you.

As stated to you several times, my desire from the onset of this problem has been to keep you informed, give you and your insurance company an opportunity for input and resolution, and to get your insurance company involved so we could keep our relationship friendly. I am sorry your insurance company has elected to have you handle this problem and the correspondence up to this point. I have still not received an insurance contact person or claim number from your insurance company State Farm. To this point, I have received no input, no correspondence, or no solutions from you or your insurance company. I am hopeful we can come up with a satisfactory remedy to this problem. I would not like to handle this problem legally.

Sincerely,

Robert Newell

Enclosed: Pyrite Report
Pyrite Bill

Well letter #8

MICRO
DEC 2 5 200

11-5-01

Terry and State Farm,

Dropped off in mail box: 3:30 p.m.

I am pleased to inform you that H20 hit 20 gpm of water @ 505 feet. They will finish their work tomorrow, hopefully. They are preparing an estimate for their work and I will forward it on to you when I receive it. I will also have the fence repaired and the tree removed as soon as possible. I will forward the invoices on to you.

Also, I was able to get in touch with John Riley today. He apologized for his delay, but said he would have the report back to us tomorrow. I have informed him of the water we hit @ 505 feet. He said the news reinforces the conclusions that I have already shared with you. Also, I had the State of Idaho test the pond for coliform today. The results should be available tomorrow.

Sincerely,

Rob Newell

Well letter # 7

MICRO
NOV 2 6 2001

11-03-01

Terry Schmoutz,

Dropped off in mail box: 12:15 p.m.

To keep you informed, yesterday H20 drilled to 380 feet without hitting water. Unless I hear from you in writing, I will continue drilling on Monday. As you know, I am attempting to present a claim with State Farm. But I have been unsuccessful to now. I do not think this is my responsibility, however. I would much rather be corresponding with your insurance company.

Per our early discussion regarding your indication that you have no money to take the pond dam down and return the area to its original condition, or money to help mitigate my damages, I have liquidated my Microsoft Stock in my 401K plan to help handle some of the immediate costs until your condition changes, we get your insurance company involved, or you come up with some other solution. I noticed Mike Bell talking with the H20 people yesterday at the well site. Maybe he has an idea of a solution.

I believe you mentioned that you thought the spring produced approximately 5 gpm. Another solution may be to extend a water pipe from the spring to my well site. Before we spend a lot more on a potentially dry well, this might be a solution to consider. Let me know about this in writing. Let me know about anything I have written to you about.

Finally, as we discussed earlier, my horses go through a lot of water each day. Because I have a short supply of water in my portable water tank at home, I plan on taking water by bucket from the pond for my horses until we have some resolution or unless you object.

Sincerely,

Rob Newell

Well letter # 6

MICROFILMED
NOV 2 5 2003

FAXED: 509-465-2208

11-2-01

John Beaton
Master Claim Representative
Nationwide Insurance
112128 North Division
PMB # 134
Spokane, WA 99218

Dear John,

As you are aware, the Schmoutz's have refused to give me a claim number or contact person with State Farm. As you suggested, early this morning, I called State Farm at 667-9447, talked to Barb, and asked to report a claim against one of their clients, and stated that I needed a claim number and a contact person. They would not give me either, but said someone would be back with me today. It is in the evening, and I have not yet received a call back. They did say that a claim had not been filed by the Schmoutz's, however. What am I to do now. I have given all the parties an opportunity to respond and provide me input, but no one is responding.

Contrary to your letter of 10-26-01, I believe I have a claim with Nationwide. For the following reasons, I believe I have a claim: 1) The Schmoutz's illegally built a pond to block off a naturally occurring spring, without permits or other required items. 2) According to John Riley, the spring contributed to my well before it was blocked by the pond. 3) A test completed by the State of Idaho concluded that my well has coliform in it which suggests that it receives ground water. 4) The well is physical property and personal property. 5) The well has been damaged by the illegal pond. 6) The well is now worth less as a consequence. 7) The value of the home and property are consequently worth less. And, 8) This should be a valid claim.

I have given the Schmoutz's and their insurance company notice, and they have elected not to make comment or attempt to mitigate the damages. Consequently, today H20 well company began drilling the well deeper. They drilled the well more than 200 more feet, but still no water. This is even more evidence that the well received its water from the spring. Because of the lack of participation from any party, should I begin legal action? Should I do any more work? I have been without water for about two weeks now. Your input is appreciated before I make any more financial decisions. I am waiting to hear from you.

Sincerely,

208-755-9475

Robert Newell

Cc: Terry Schmoutz-Hand Delivered

MICROFILMED
NOV 2 3 2005

well letter 5

ALLIED GROUP INSURANCE
A MEMBER OF NATIONWIDE
12128 NORTH DIVISION
PMB # 134
SPOKANE, WA 99218-1905
509-484-4515.877-524-9855
FAX: 509-465-2208

10/26/01

ROB NEWELL
PO BOX 2345
POST FALLS, ID 83877

CLAIM NUMBER:11N00854
~~INSURED: JACK AND MERRIE LU NEWELL~~
DATE OF LOSS: 10/22/01
LOSS LOCATION: W 2555 RIVERVIEW DR, POST FALLS, ID 83854

Dear: Mr. Newell,

Thank you for the report that you faxed to me on 10/26/01 regarding the inspection by John Riley, a Consulting Hydrogeologist. You had stated to me in the recorded statement that the flow of underground water to your well has stopped due to the fact your neighbor had built a pond above the property you reside in. It appears that that pond has affected the natural flow of the water.

Under your Golden Blanket Homeowners Insurance policy this type of loss does not apply as a covered loss under the coverage for the Dwelling or Other Structures. Under the coverage for your contents, Coverage C the water is not considered a contents item.

It appears that you may be in a position to make a claim against the neighbor if you do believe he is at fault for your well drying out.

If you do believe that your insurance policy does have coverage please call me to discuss.

Sincerely,
ALLIED GROUP INSURANCE

John Beaton
Master Claim Representative

MICRO

NOV 2 5 2001

11-1-01

Terry.

HAND DELIVERED

Despite my several calls and letters, I have not yet received any insurance information from you regarding a claim number or contact person with State Farm. I have allowed you and your insurance company an opportunity to mitigate any damages to my well from your illegal work to the spring area. It has been over 10 days now since I notified you of the well problem. If I do not receive this information from you, I will be forced to call State Farm personally and present the claim.

As you are aware, the Pyrite study was promised to be delivered to me by Tuesday. For some reason, I have not received it yet, but I have left several messages with John Riley. You are aware of his initial comments. When I receive his report, I will give you a copy. Also, I had the State of Idaho Division of Health perform a well water test for me and the test shows signs of coliform. Please find the test results enclosed. This would indicate surface water penetration into the well. This test was recommended to me by Al Beardslee.

As you know, I postponed H2O once so I could give you and your insurance company an opportunity to come up with a possible solution to the problem. Since I have not received any comments or possible solutions from you, and since it has been two weeks now that I have been without water, I gave H20 the green light to begin their work on the well. H20 has informed me that they can begin tomorrow. Please let me know, in writing, if you do not want me to have them begin work tomorrow. Otherwise, depending on what they find and depending on the formal findings of the Pyrite report, I plan on billing your insurance company for the well work and other financial outlays.

If you have a State Farm claim number and contact for me, please pass it along. As we discussed, I would like your insurance company to be on notice and involved before I make any further financial decisions regarding my well problem.

Sincerely,

Rob Newell

Enclosed: State of Idaho, Drinking Water Coliform Bacteria Analysis Report

MICRO
DEC 2 8 2001

well letter #4

State of Idaho, Department of Health and Welfare
Bureau of Laboratories - Coeur d'Alene Branch Lab
2195 Ironwood Court, Coeur d'Alene, Idaho 83814

DRINKING WATER COLIFORM BACTERIA ANALYSIS REPORT (PRIVATE)

LAB: COEUR D'ALENE, Phone: (208) 769-1432
Branch Laboratory Supervisor, Bacteriology: Mike Brodwater

BOB NEWELL
W 2555 RIVERVIEW DRIVE
POST FALLS, ID 83854

Tracking Number: 11001-9273/
(Please Refer to this Tracking Number on any communications)

PWS Number:	PRI
Water System:	BOB NEWELL
Sample Location:	BARN OUTLET - WELL
County:	KOOTENAI
Collected by:	NEWELL
Sample Type:	Routine Sample - S

Date Collected: 10/31/01 Date Received in Lab: 10/31/01
Time Collected: 08:00 Time Received in Lab: 09:10

TEST CODE		RESULTS	COMPLETED
WMMO	TOTAL COLIFORM BACTERIA	PRESENT	11/01/01
WMUG	ESCHERICHIA COLI	ABSENT	11/01/01

NOTES:

IF YOUR RESULT IS "ABSENT": The absence of coliform bacteria indicates that your water meets the bacterial standard set by the EPA for drinking water.

IF YOUR RESULT IS "PRESENT": The presence of coliform bacteria means that your water is contaminated, and may contain disease causing organisms. Contaminated water should not be used for drinking water. If coliform bacteria are present, an additional test has been run for Escherichia coli bacteria. The result for this test is also reported as present or absent. If E. coli is present your sample is likely to contain disease causing organisms.

IF YOU HAVE QUESTIONS concerning the quality of your water, call the Kootenai County office of the Panhandle Health District (667-9513) and speak with an Environmental Health Specialist.

MICROFILMED
NOV 26 2003

Rob Newell
777-9765

10-29-01 Second Letter 3:00P.M.

Dear Terry,

I just learned a few minutes ago from my hydro geologist, that today you applied for a water rights permit from the Department of Water Resources through Mr. Al Beardslee. This letter is to inform you that I will protest your claim rigorously. In addition, I am aware that you have had recent discussions with Mike Bell regarding redirecting the water to the western ravine. This letter is to further notify you to discontinue any work, modification, or redirection of the spring or pond until we have a chance to resolve my current well problem.

As noted in my earlier letter today, please get in contact with your insurance company as soon as you can as to keep our relationship friendly. Also, please inform me of any other permits, work, or engineered plans you plan on starting so I can protect my interest in the water that was at my well site.

As mentioned to you earlier, I will give you a copy of the hydro geologists report when I receive it tomorrow. Please then forward it your insurance company, State Farm.

Sincerely,

Rob Newell

Idaho DWR
Department of Water Resources
910 Northwest Blvd. Suite 210, Coeur d'Alene, Idaho 83814-2615

I'll give Copies!

AL BEARDSLEE
SENIOR WATER RESOURCE AGENT
NORTHERN REGIONAL OFFICE
PH. (208) 769-1450
FAX (208) 769-1454
abeardsl@idwr.state.id.us

MICRO
NOV 2 6 2003

10-29-01

State Farm Insurance Company

To Whom it may concern,

On 10-23-01 I gave notice to your clients, Terry and Shannon Schmoutz, that it was my belief that a recently constructed pond on the Schmoutz's property has blocked the water supply to my well. I have hired a Hydrogeologist to survey the problem, and he has come to the same conclusion. His report will be finished tomorrow.

On 10-24-01 I contacted my insurance company, Nationwide. My claim # is 11N00854 and my contact is John Beaton at 509-464-4515.

Your clients have informed me that there were no permits gathered for the construction of the pond or the use of the spring water. The Hydrogeologist has informed me that the problem might not be resolved by simply opening the pond. In addition, I believe there may be additional problems as it concerns: lack of building permit, no construction license, no permit through the Department of Water Resources, no impact study, no posting period, no consultation with the Department of Lands, Army Corp of Engineers, or Department of Environmental Quality.

Furthermore, it has come to my attention, that the person who constructed the pond was aware of the spring activity near my well and may have been aware of the adverse affect building a pond may have on my water supply.

I have been without well water for over a week. I am forced to gather water with a rented 550 gallon tank on the back of a utility trailer that I own every other day. The filled tank weighs over 4000 pounds, and I am concerned about the safety of hauling that amount of water so often, especially down the steep hill to my property. In addition, it ties up my truck permanently. I also have to haul water to my horses three times a day.

I have H20 on hold pending a reply on how to resolve this situation. I anticipate a new set of problems once freezing weather arrives.

I have enclosed a letter sent to the Hydrogeologist for your review. I look forward to your quick response.

Sincerely,

Robert Newell
208-755-9475
2555 W. Riverview Drive
Post Falls, Idaho 83854

Cc: Terry and Shannon Schmoutz - Relinquished to Terry for delivery to State Farm Insurance Company

MICROFILMED
NOV 26 2003

10-25-01

Nancy Lucas

John Riley (Fax 208-773-5223)
Consulting Hydrogeologist
Pyrite Hydrochem
Box 453
Post Falls, Idaho 83877

Dear John,

Thank you for coming over today on such short notice. Al Beardslee, from the Department of Water Resources asked that I give you a call. Also, thank you for discussing this matter directly with my insurance adjuster, John Beaton. Let me outline some facts for you.

My neighbor, directly up the hill from me, completed his home approximately five months ago. During his construction, he constructed a pond on his property approximately 50 feet above and 200 feet away from my well. The pond construction blocked off a naturally occurring spring which flows past my well site and settles in an area near my barn. The area near my barn, as you observed, is usually covered in ground water, but it is presently dry, and has been dry since the construction of the pond.

After talking with my neighbor who built the pond, Terry Schmoutz, he said he excavated the area originally for fill for his new home and then packed and backfilled the area to form a pond. The pond is approximately 100 feet wide, 100 feet long, and 15 feet deep. The area is currently filled with water. It appears that there is a water line in the pond leading back up to his home. The area, before excavation, was filled with trees and a wet marshy area. The natural flow of the water, before excavation, was past my well site and then directly down a ravine beside my barn.

I informed Mr Schmoutz on 10-23-01 that I was having well problems and that I thought his pond was blocking the natural supply of my well. He informed me that he was willing to pay for a study. He also informed me that he did not get a permit for the construction of the pond as required, and that he did not consult with the Department of Water Resources before the construction of the pond. An impact study would have been required before construction of the pond. No impact study was performed.

As you noted from yourvisit, the construction of the pond may have diverted water into another ravine adjacent to the pond. In addition, and as you noted, the pond construction may have permanently constricted the natural seepage of the spring into the ground.

Approximately a month after the construction of the pond, I noticed a yield change from my well. I believe H2O tested the well, when my father built the home approximately 7 years ago, and it tested at 5 gpm. The well is approximately 150 feet deep and has a static water level of 60 feet. I have included a well log of a well believed to be mine and supplied to me by H2O. Each month following the construction of the pond, my well yield has diminished. Now I have almost no water as tested by H2O. Three of the employees and the owner of H2O believe the pond construction had an impact on my current well status.

As noted in your conversation with my adjuster, he has informed me to go ahead with a report of this problem. He would also like to have a report mailed to him. Time is of the essence as I currently have no water, and I thank you for getting this back to me by Tuesday of next week with a completed report. I believe I can get H2O in early next week to survey the well and begin their work if needed. Otherwise, I will potentially have to wait another month. As you know, I have passed this information on to my adjuster.

Sincerely,

Robert Newell for Jack Newell

NOV 2 5 2001

To Whom It May Concern:

I am a retired contractor and neighbor of Terry Schmautz. I told Terry Schmautz how to design a pump system to pump water out of the excavation area and the preexisting cistern. The system should be made up of:

1) Either a submergible centrifugal, or jet pump
2) A controller to access the pump
3) A fuse box to convert the electricity (optional)
4) An electric cable to supply power from the house to the portable fuse box or controller
5) At least 300 ft of one inch polypipe to carry the water to the desired destination
6) A converter to be able to connect to common half-inch garden hose.

I showed him how to do this in March of 2001
The estimated cost for such a system is around five hundred to six hundred dollars.

Furthermore I understand that he began the work to design that system in the summer of 2001 and to date has completed the system and successfully watered his backyard lawn.

In addition, I have 2 wells in the vicinity. Both wells had to had to have the pump set deeper because of the static water level dropping significantly due to drought conditions making the well unusable. One in November 2000 was set over 40 ft deeper. The other in May 2001 was set over 200 ft deeper.

Department of Water Resources
APPLICANT'S
Exhibit 5
Date Admitted 4/22/03 RM

Sincerely, Michael Lee Bell

Mike Bell
4-21-2003

Kristine M. Bear
KRISTINE M. BEAR
Notary Public
State of Idaho
MY COMMISSION EXPIRES
October 8, 2008
BONDED THRU NOTARY PUBLIC UNDERWRITERS

County of Kootenai
State of Idaho
April 19th, 2003

MICROFILMED
NOV 26 2003

EXHIBIT
tabbies
5
4 pages

DICKERSON PUMP & IRRIGATION CO., INC. INSTALLATION REPORT

PREPARED BY: ORVIS	DATE: 05-17-01
PULL: X SET: X REPAIR:	WORK ORDER NUMBER : 2218 S-O
NAME: MIKE BELL	DATE OF ORGINAL INSTALLATION: 1988
ADDRESS: 604 S OLD CREEK RD POST FALLS ID 83854	REASON FOR PULLING : MOTOR GOUNDED GOULDS 3HP SUB 13EM304
PERSON TO CONTACT: MIKE	CREW : ORVIS
PHONE NUMBER: 208-773-0147	OUR HOIST USED: X HOIST NO#: 65
REMARKS SECTION: NEW DELUXE PANEL INSTALLED ONE CHECK VALVE @ PUMP INSTALLED	CRANE RENTED FROM:

WELL INFORMATION

WELL LOCATION: ON HILL TOP NORTH END OF GREEN HOUSE WELL NO#: 2	PUMPHOUSE: X PIT: X OPEN: OTHER: WATER – CLEAR: X SANDY: RUSTY: X OTHER:
WELL DEPTH IN FEET: 650 TAKEN FROM THE CASING TOP: X OR GROUND LEVEL :	WELL SCREEN?: TYPE: DEPTH TO TOP : SCREEN LENGTH:
AMOUNT OF CASING : SIZE: 6 REDUCTION IN SIZE: NONE WHERE:	METER MFG: SIZE: TYPE: MODEL NO#:
STANDING WATER LEVEL: 75	PORT PROBE?: SIZE:
BOWL LATERAL?: ADJUSTMENTS:	*"REMARKS SECTION ":*

ELECTRICAL INFORMATION

"STARTER AND / OR PANEL INFORMATION"	TRANSFORMER - SIZE: HOW MANY:
MANUFACTURER: FE	*"CABLE SIZE FROM THE TRANSFORMER TO THE PANEL"*
MODEL NUMBER: 3 HP	SIZE: LENGTH:
TYPE ————: DELUXE	*"MOTOR SAVER INFORMATION"*
VOLTAGE: 230 NEMA SIZE:	MANUFACTURER :
RUN AMPS: 17.0 CONTROL VOLTS:	MODEL NUMBER :
DISCONNECT TYPE–FUSED: MCP: CIR. BREAK: X	POWER COMPANY:
FUSE(S): PART NO.#:	ELECTRICIAN——:
HEATER(S) - SIZE: PART NO#:	OVERLOAD - MFG: PART NO.#:
"REMARK SECTION":	

MOTOR DATA

MAKE: FE HP: 3 RPM: 3450		PHASE: 1	FRAME: NEMA
SERIAL#: 00J18083140 MODEL#:		AMP—: 17.0	VOLTS-: 230
RACHET?: OIL USED—:		BEARINGS – (UPPER)	(LOWER)
"OTHER DATA":			
RESIST. TO GRD.	BEFORE SPLICE: RY: 0 RB: 0 YB: 0 AFTER SPLICE : RY: 2 RB: 2 YB: 2	*"PHASE TO PHASE"*	BEFORE SPLICE: RY: 4.2 RB: 5.6 YB: 1.6 AFTER SPLICE: RY: 4.0 RB: 5.4 YB: 1.4
IDLE VOLTS – L1 / L2: 245	L1 / L3: L2 / L3:	START AMPS – L1:	L2: L3:
RUN VOLTS – L1 / L2: 242	L1 / L3: L2 / L3:	RUN AMPS – L1: 16.6	L2: 15.4 L3:

PUMP DATA

MAKE: MYERS MODEL #: J3021-12		SHAFT / TUBE / CABLE SIZE : 6-4 FEET: 556
TYPE : SUB SERIAL#:		"HEAD SIZE :
BASE SIZE:		"SHAFT LENGTH :
SET ON: 6 X 1 1/2 WS GROUTED?:		INFO" 1 OR 2 PIECES :
DROP PIPE SIZE: 1 1/2 FEET: 547-6 LENGTH: ELS / OLS : ELS		STRAINER - SIZE: LENGTH: TYPE: *(TOTAL SETTING)* 551-1
UNIT TYPE: SUB #OF STAGES:		LENGTH OF UNIT: 4-1 SIZE: 4
LUB TYPE - AUTO: MAN: OIL: WATER:		TAIL PIPE – FEET : SIZE:
"WATER LEVEL INDICATOR" MFG: MODEL#: TUBING - TYPE: SIZE: LENGTH:		CHECK VALVE? : 3 SIZE: 1 1/2 LOCATION(S) : ABOVE PUMP 21', 210', 420 RELEIF VALVE? : NO SIZE:
"PRESSURE TANK"	SIZE : NONE TYPE :	LOCATION : METHOD OF AIR CHARGE: NONE
PRESSURE SWITCH - LOCATION: NONE (ON PSI) (OFF PSI)		

"REMARKS SECTION": **PUMPS OPEN DISCHARGE UP HILL TO ABOVE GROUND RESERVOIR CONTROLLED FLOAT SWITCH ADDED 42' OF 1 1/2" T&G PIPE CUSTOMER WANTED TOTAL WELL SET DEEPER. BOTTOM 504' OF WIRE IS 6-3 UNTIL SEPARATE #8 SOLID THHN NEW WIRE, TOP 42' IS 6-4 NEW SUB WIRE. CUSTOMER DID NOT WANT ALL NEW SUB WIRE.**

MICROFILMED

NOV 2 8 2001

DICKERSON PUMP & IRRIGATION CO., INC. INSTALLATION REPORT

PREPARED BY: **ORVIS**	DATE: **05-09-01**
PULL: **X** SET: **X** REPAIR:	WORK ORDER NUMBER :
NAME: **MIKE BELL**	DATE OF ORGINAL INSTALLATION: **11-00**
ADDRESS: **604 S OLD CREEK RD POST FALLS, ID 83854**	REASON FOR PULLING : **WRONG PUMP WAS INSTALLED IN WELL BY GARRY 3ST102-20**
PERSON TO CONTACT: **MIKE**	CREW : **ORVIS**
PHONE NUMBER:	OUR HOIST USED: **X** HOIST NO#: **25**
REMARKS SECTION: **LOWER PUMP 42'**	CRANE RENTED FROM:

WELL INFORMATION

WELL LOCATION: **EAST SIDE OF HOUSE AND EAST SIDE OF DRIVEWAY** WELL NO#: **1**	PUMPHOUSE: PIT: OPEN: **X** OTHER: WATER – CLEAR: SANDY: RUSTY: OTHER:
WELL DEPTH IN FEET: **550** TAKEN FROM THE CASING TOP: OR GROUND LEVEL :	WELL SCREEN?: TYPE: DEPTH TO TOP : SCREEN LENGTH:
AMOUNT OF CASING : **6** SIZE: **4** REDUCTION IN SIZE: WHERE:	METER MFG: SIZE: TYPE: MODEL NO#:
STANDING WATER LEVEL: **98-6**	PORT PROBE?: SIZE:
BOWL LATERAL?: ADJUSTMENTS:	*"REMARKS SECTION ":*

ELECTRICAL INFORMATION

"STARTER AND / OR PANEL INFORMATION"	TRANSFORMER - SIZE: HOW MANY:
MANUFACTURER: **FE**	*"CABLE SIZE FROM THE TRANSFORMER TO THE PANEL"* SIZE: LENGTH:
MODEL NUMBER: **1 1/2HP**	
TYPE ————:	*"MOTOR SAVER INFORMATION"*
VOLTAGE: **230** NEMA SIZE:	MANUFACTURER :
RUN AMPS: **11.5** CONTROL VOLTS:	MODEL NUMBER :
DISCONNECT TYPE–FUSED: MCP: CIR. BREAK: **X**	POWER COMPANY:
FUSE(S): **30A** PART NO.#:	ELECTRICIAN——:
HEATER(S) - SIZE: PART NO#:	OVERLOAD - MFG: PART NO.#:
"REMARK SECTION":	

MOTOR DATA

MAKE: **FE** HP: **1.5** RPM: **3450**			PHASE: **1**		FRAME: **NEMA**
SERIAL#: **99G18064530** MODEL#:			AMP—: **11.5**		VOLTS-: **230**
RACHET?: OIL USED—:			BEARINGS – (UPPER)		(LOWER)
"OTHER DATA":					
RESIST.	BEFORE SPLICE: RY: RB: YB:		*"PHASE*	BEFORE SPLICE: RY: **8.8** RB: **10.8** YB: **2.0**	
TO GRD.	AFTER SPLICE : RY: RB: YB:		*TO PHASE"*	AFTER SPLICE: RY: **9.0** RB: **11.0** YB: **2.0**	
IDLE VOLTS – L1 / L2: **243**	L1 / L3:	L2 / L3:	START AMPS – L1:	L2:	L3:
RUN VOLTS – L1 / L2: **240**	L1 / L3:	L2 / L3:	RUN AMPS – L1: **11.7**	L2: **11.3**	L3:

PUMP DATA

MAKE: **MYERS** MODEL #: **3ST152-8**		SHAFT / TUBE / CABLE SIZE : **10-4**	FEET: **448**
TYPE : **SUB** SERIAL#:		"HEAD SIZE :	
BASE SIZE:		"SHAFT LENGTH :	
SET ON: **PA** GROUTED?:		INFO" 1 OR 2 PIECES :	
DROP PIPE SIZE: **1-1 1/4** FEET: **436-7**		STRAINER - SIZE:	LENGTH:
LENGTH: ELS / OLS : **ELS**		TYPE: *(TOTAL SETTING)* **445-10**	
UNIT TYPE: **SUB** #OF STAGES:		LENGTH OF UNIT: **3-2** SIZE: **4**	
LUB TYPE - AUTO: MAN: OIL: WATER:		TAIL PIPE – FEET :	SIZE:
"WATER LEVEL INDICATOR"		CHECK VALVE? : **5**	SIZE: **1 1/4 & 1**
MFG: MODEL#:		LOCATION(S) :	
TUBING - TYPE: SIZE: LENGTH:		RELEIF VALVE? : **YES**	SIZE: **3/4**
"PRESSURE TANK"	SIZE : **CA220** TYPE : **BLADDER 85 GAL**	LOCATION : **21,105,231,315,420**	
		METHOD OF AIR CHARGE: **BLADDER**	
PRESSURE SWITCH - LOCATION: **TANK** (ON PSI) **40**		(OFF PSI) **60**	

"REMARKS SECTION": **PITLESS IS 5-7 DEEP. PUMP WAS NOT DESIGNED FOR THIS APPLICATION 400 REPLACED WITH 1 1/2HP 8GPM. PRE CHARGED TANK TO 38PSI. WERE IN 1 1/2 HP CONTROL BOX**

MICROFILMED
NOV 2 5 2003

DICKERSON PUMP & IRRIGATION CO., INC. INSTALLATION REPORT

PREPARED BY: [redacted]S MEISNER	DATE: 11-30-00
PULL: X SET: X REPAIR:	WORK ORDER NUMBER :
NAME: MIKE BELL	DATE OF ORGINAL INSTALLATION: 1982
ADDRESS: MEADOW VIEW RD POST FALLS ID 83854	REASON FOR PULLING : CHANGING HP PUMP MODEL
PERSON TO CONTACT: MIKE	CREW : [redacted]S MEISNER
PHONE NUMBER: 208-773-0147	OUR HOIST USED: YES HOIST NO#: 65
REMARKS SECTION:	CRANE RENTED FROM:

WELL INFORMATION

WELL LOCATION: SOUTH SIDE OF HOUSE 60' NEXT TO DRIVEWAY WELL NO#: 2	PUMPHOUSE: PIT: OPEN: X OTHER: WATER – CLEAR: X SANDY: RUSTY: OTHER:
WELL DEPTH IN FEET: 550 TAKEN FROM THE CASING TOP: Y OR GROUND LEVEL :	WELL SCREEN?: TYPE: DEPTH TO TOP : SCREEN LENGTH:
AMOUNT OF CASING : 160 SIZE: 6" REDUCTION IN SIZE: 4' WHERE: 150	METER MFG: SIZE: TYPE: MODEL NO#:
STANDING WATER LEVEL: 103	PORT PROBE?: SIZE:
BOWL LATERAL?: ADJUSTMENTS:	*"REMARKS SECTION":*

ELECTRICAL INFORMATION

"STARTER AND / OR PANEL INFORMATION"	TRANSFORMER - SIZE: HOW MANY:
MANUFACTURER: FE	*"CABLE SIZE FROM THE TRANSFORMER TO THE PANEL"*
MODEL NUMBER: 1 HP	SIZE: LENGTH:
TYPE ----------: SUB	*"MOTOR SAVER INFORMATION"*
VOLTAGE: 230 NEMA SIZE:	MANUFACTURER :
RUN AMPS: 9.8 CONTROL VOLTS:	MODEL NUMBER :
DISCONNECT TYPE–FUSED: MCP: CIR. BREAK: X	POWER COMPANY: AVISTA
FUSE(S): 30A PART NO.#:	ELECTRICIAN----: MIKE BELL
HEATER(S) - SIZE: PART NO#:	OVERLOAD - MFG: PART NO.#:
"REMARK SECTION":	

MOTOR DATA

MAKE: FE HP: 1 RPM: 3450		PHASE: 1	FRAME: NEMA
SERIAL#: 00H18302489 MODEL#:		AMP---: 9.8	VOLTS-: 230
RACHET?: OIL USED---:		BEARINGS – (UPPER)	(LOWER)
"OTHER DATA":			
RESIST. TO GRD.	BEFORE SPLICE: RY: RB: YB: AFTER SPLICE : RY: RB: YB:	*"PHASE TO PHASE"*	BEFORE SPLICE: RY: 9.8 RB: 12.2 YB: 2.4 AFTER SPLICE: RY: 13 RB: 16 YB: 3.5
IDLE VOLTS – L1 / L2: L1 / L3: L2 / L3:		START AMPS – L1: L2: L3:	
RUN VOLTS – L1 / L2: 240 L1 / L3: L2 / L3:		RUN AMPS – L1: 10.4 L2: 10.6 L3:	

PUMP DATA

MAKE: MEYERS MODEL #: 3ST102-20		SHAFT / TUBE / CABLE SIZE : 10-4 FEET: 405
TYPE : SUB SERIAL#:		"HEAD SIZE :
BASE SIZE:		"SHAFT LENGTH :
SET ON: 1" PA GROUTED?:		INFO" 1 OR 2 PIECES :
DROP PIPE SIZE: 1" FEET: 395-6 LENGTH: ELS / OLS : ELS		STRAINER - SIZE: 1" LENGTH: TYPE: *(TOTAL SETTING)* 401-10
UNIT TYPE: SUB #OF STAGES:		LENGTH OF UNIT: 2-4 SIZE: 4"
LUB TYPE - AUTO: MAN: OIL: WATER:		TAIL PIPE – FEET : SIZE:
"WATER LEVEL INDICATOR" MFG: MODEL#: TUBING - TYPE: SIZE: LENGTH:		CHECK VALVE? : YES SIZE: 1" LOCATION(S) : FROM PUMP 21-126-247-376 RELEIF VALVE? : YES SIZE: 3/4
"PRESSURE TANK"	SIZE : 35 GAL STA RITE TYPE : BLADDER	LOCATION : TANK METHOD OF AIR CHARGE: BLADDER
PRESSURE SWITCH - LOCATION: TANK (ON PSI) 40		(OFF PSI) 60

"REMARKS SECTION": CONTROL AND TANK FOR WELL 2 IN THE BASEMENT PITLESS 6' DOWN FROM WELL CAP 1" PITLESS 63' 1 1/4 PIPE AT BOTTOM OF WELL AT PUMP.

MICROFILMED
NOV 2 6 2003

To Whom It May Concern:

I was involved in putting in the road that is currently called S. Stoneriver Dr in the spring of 1985. I can clearly testify that the road was constructed with much effort in the center of a spring. The dirt was removed down to bedrock and significant amounts of cement from Central Premix along with numerous loads of boulder rock and stone were used to effectively cut off the spring from running on the North side of the road. After the completion of the road, the water on the North side of the road directly across from the cistern dried up. Any excess water (in certain seasons) from the cistern drained down the ditch on the South side of the road, **not** the North side of the road. Being a neighbor and personal friend of the *previous* owners of that land for over 15 years I am extremely familiar with the history of the direction the cistern overflow has run. Having been involved in the maintenance of that road for the pas 17 years has allowed me to be extremely familiar with direction of any visible water running on or beside that road. I can clearly testify that the direction of the water has in no way been diverted by the excavation process and to date drains in exactly the same direction it has always gone since the road was constructed in 1985: On the South side of the road down the drainage ditch.

Sincerely, Michael Lee Bell

Mike Bell

Kristine M. Bear

KRISTINE M. BEAR
Notary Public
State of Idaho

MY COMMISSION EXPIRES
October 8, 2008
BONDED THRU NOTARY PUBLIC UNDERWRITERS

County of Kootenai
State of Idaho
April, 19th 2003

Department of Water Resources
APPLICANT'S
Exhibit 6
Date Admitted 4/22/03 RVH

EXHIBIT
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MICROFILMED
MAY 2 5 2003

Ricky!

IN EITHER 1998 OR 99 I HAD TO HAVE MY WELL DEEPENED FROM 180' TO 380' DUE TO FALLING WATER TABLES. I STILL HAVE TO BE CAREFUL IN LATE SUMMER AS THE WATER TABLE FLUCTUATES.

Donald Pedersen

Department of Water Resources
APPLICANT'S
Exhibit 7
Date Admitted 4/22/03

MICROFILMED
NOV 2 6 2003

EXHIBIT
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4 pages

History of Spring

1. Property was originally homesteaded by Charles Waggoner in the early 1900's or 1890's.

2. Subject Spring was developed into a wooden storage basin with overflow into a pond basin in the 1920's.

3. The Spring was further developed and a wooden storage cistern was replaced with a masonery cistern in 1972.

Irrigation & Stock Tanks

1. Original cistern was used to refill livestock watering tanks

2. Electric water pump was installed about 1960 and was used to pump irrigation water up to the property now owned by Don Peterson at the S.W. corner of West Riverview Drive & Signal Point Rd.

3. Crops included feed corn, potatoes & general garden.

4. Overflow water at cistern site was also diverted for use in irrigating Raspberries & Blackberries by Don Peterson in 1978 when the pump & water lines were updated for additional use in irrigating the Peterson property.

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NOV 26 2003

Access Road

1. Access Rd was relocated and improved in the early 1980's by Jim Crouch. Easement was granted by Phil (Edwin) Knapp for this purpose.

2. In the process of improving and relocating the access Rd. it required substantial fill on the corner of the down hill side (North) of the cistern due to standing water from the spring/cistern overflow into the catch basin (pond).

In Conclusion:

For at least the past eighty years there has been off & on use of & development of the spring & cistern. This also required occasional mucking out of the catch basin (pond) to retain water boundries & stop erosion of roadway.

Should you need additional information please contact:

Edwin P. Knapp : Edwin P. Knapp 4-20-03
(208) 773-7068
17053 West Riverview Dr.
Post Falls, Id 83854

Or

Donald E. Peterson : Donald E Peterson 4-20-03
(208) 773-2317
16674 W. Riverview Dr.
Post Falls, Id 83854

NOTARY PUBLIC STATE OF WASHINGTON JULY 21, 2006

Judy A. Nelson, Priscilla M Peterson

MICROFILMED
NOV 26 2003

1675395

EXHIBIT "A"

Order No. 2679

A portion of the E ½ SE ¼ NE ¼ of Section 8, T50N, R5W, B.M., Kootenai County, Idaho and further described as follows:

Commencing at the NE corner of said Section 8; thence S 00° 01' 15" E along the East line of said Section 8 a distance of 1328.74 feet to an I. pin at the N 1/16 corner and the True Point of Beginning for this description; thence continuing S 00° 01' 15"E a distance of 267.90 feet to an I. pin; thence S 89° 58' 45" W a distance of 29.67 feet to an I. pin on the South East line of the easement as described on Instrument #960742; thence along said easement South East line the following courses; around a non-tangent curve concave to the North West through a central angle of 34° 05' 17" an arc distance of 61.69 feet a chord bearing S 38° 08' 39" W a distance of 60.78 feet to a point of tangent; thence S 55° 11' 17" W a distance of 106.99 feet to a point of curve; thence around a curve right through a central angle of 27° 08' 39" an arc distance of 65.98 feet, a chord bearing of S 68° 45' 42" W a distance of 65.36 feet to a point of tangent; thence S 82° 20' 06" W a distance of 35.05 feet to a point of curve; thence around a curve left through a central angle of 17° 40' 30" an arc distance of 74.74 feet, a chord bearing S 73° 29' 51" W a distance of 74.44 feet to a point of tangent; thence S 64° 39' 36" W a distance of 106.80 feet to a point of curve; thence around a curve right through a central angle of 34° 37' 53" an arc distance of 67.23 feet, a chord bearing S 81° 58' 33" W a distance of 66.21 feet to a point of tangent; thence N 80° 42' 31" W a distance of 97.21 feet to a point of curve; thence around a curve left through a central angle of 74° 16' 26" an arc distance of 30.83 feet, a chord bearing S 62° 09' 09" W a distance of 28.71 feet to a point on the Northerly right-of-way of the County road known as Riverview Drive; thence along said right-of-way and around a curve concave to the South through a central angle of 11° 11' 00" an arc distance of 54.65 feet, a chord bearing N 82° 10' 31" W a distance of 54.57 feet to an I. Pin on the West line of said E ½ SE ¼ NE ¼ ; thence leaving said right-of-way and along said West line N 00° 08'18" W a distance of 488.43 feet to an I. Pin on the North line of said S ½ SE ¼ NE ¼ ; thence S 88° 32' 03" E along the North line a distance of 660.85 feet to the Point of Beginning.

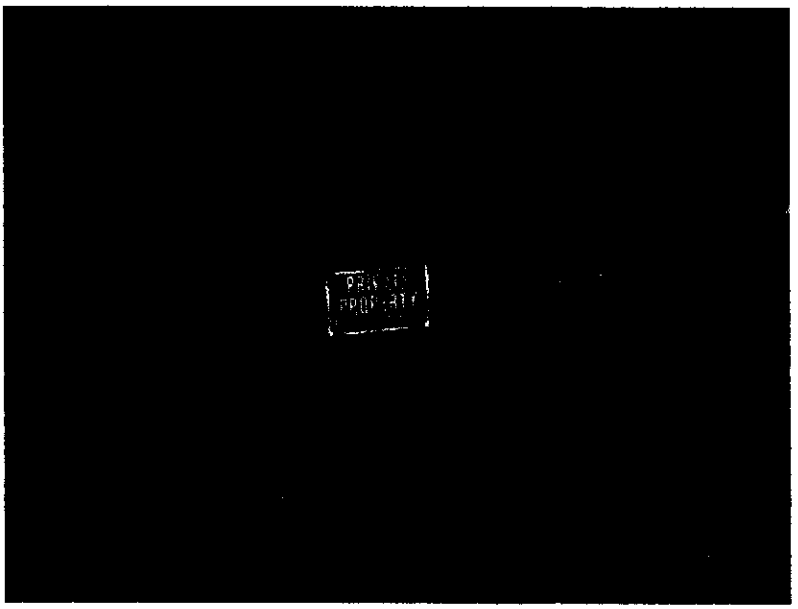
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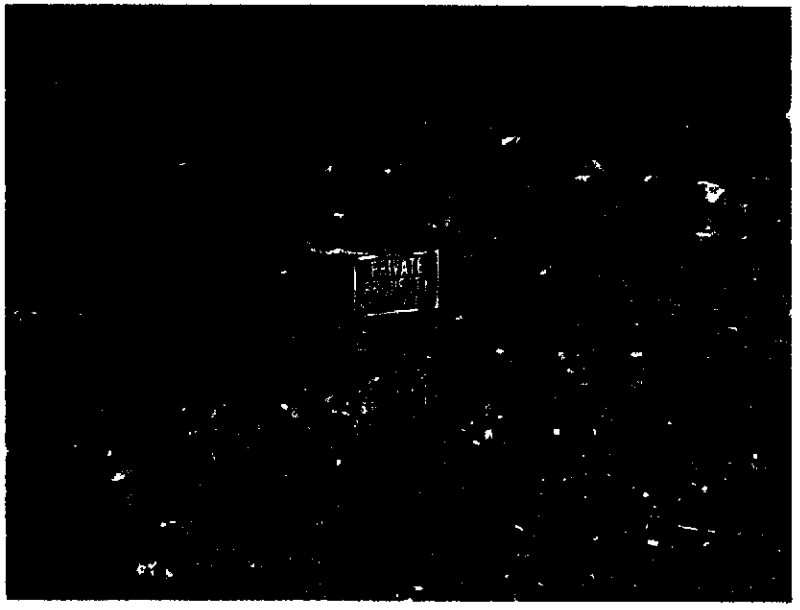
Department of Water Resources
APPLICANT'S
Exhibit 8
Date Admitted 4/22/03

EXHIBIT
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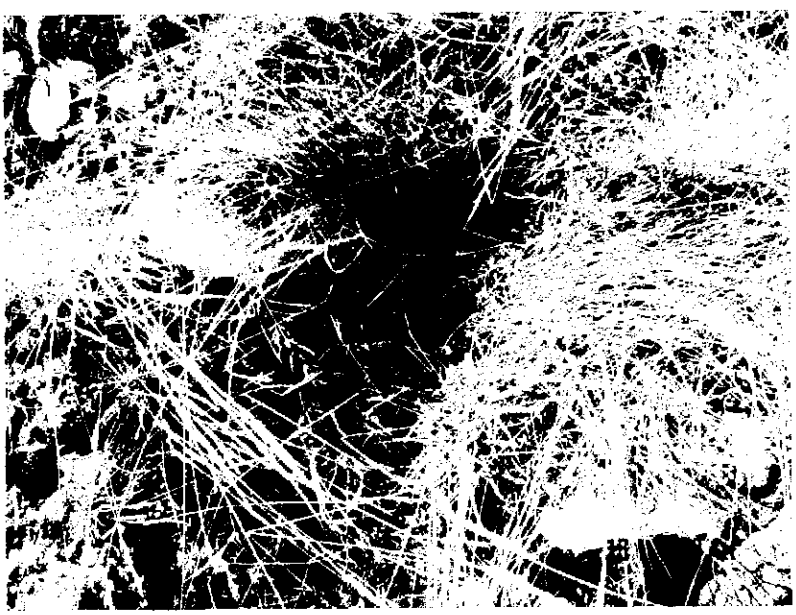
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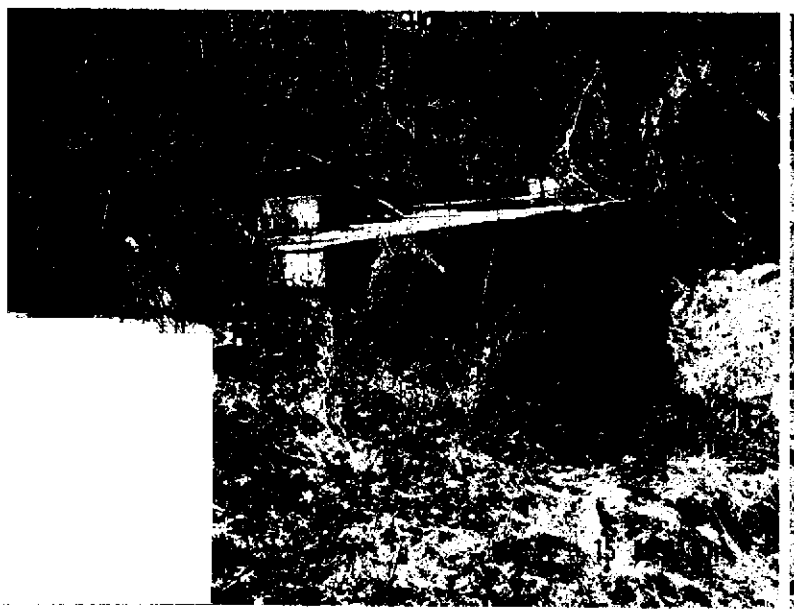




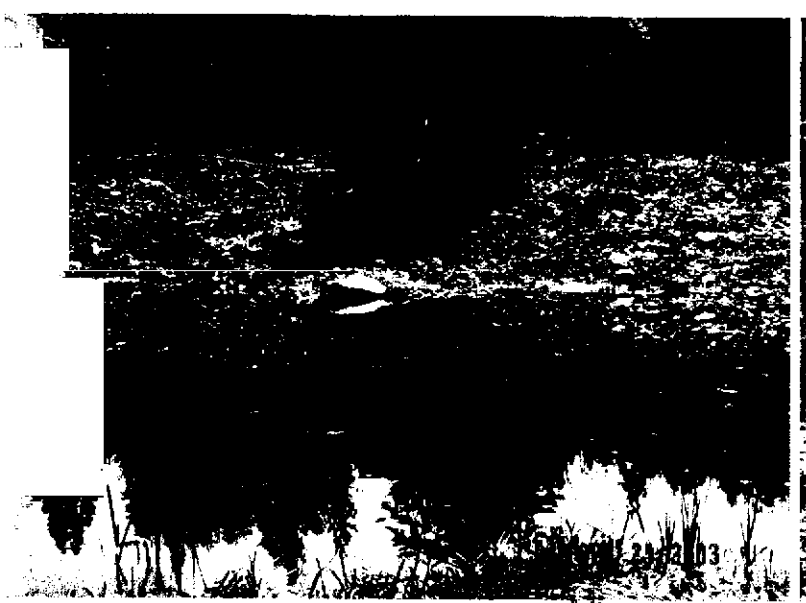
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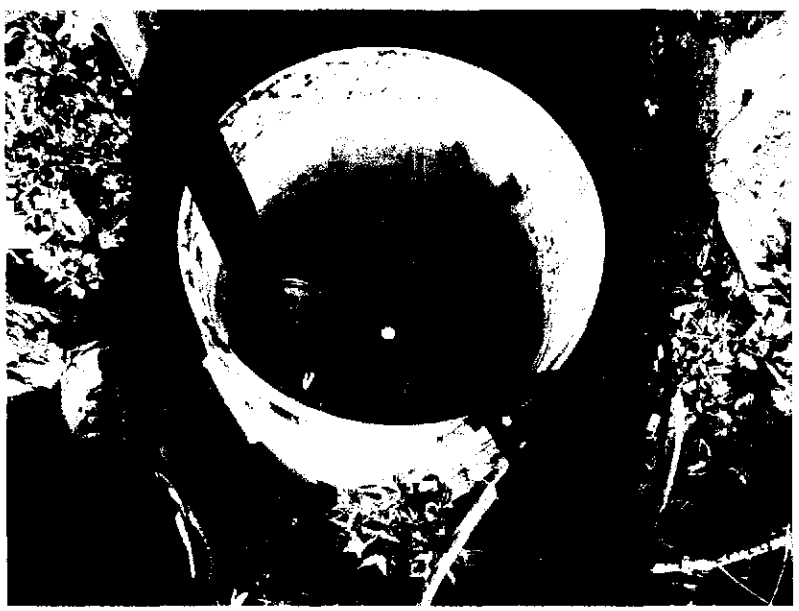




MICRO











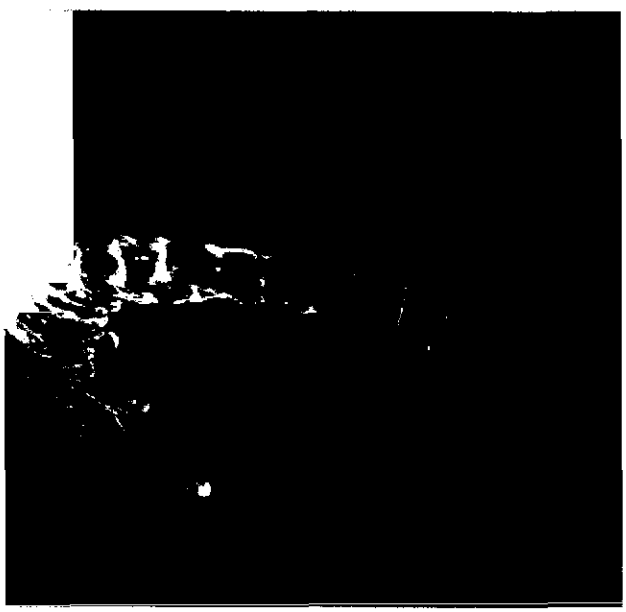


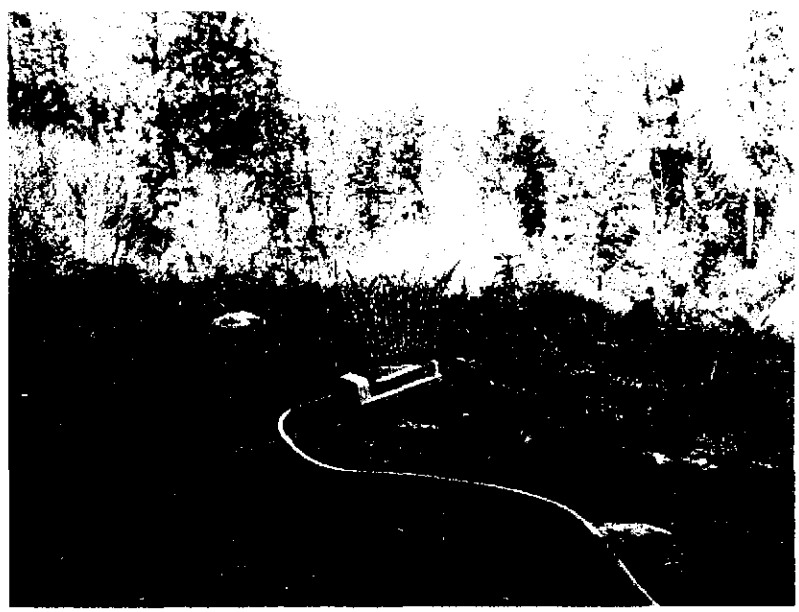
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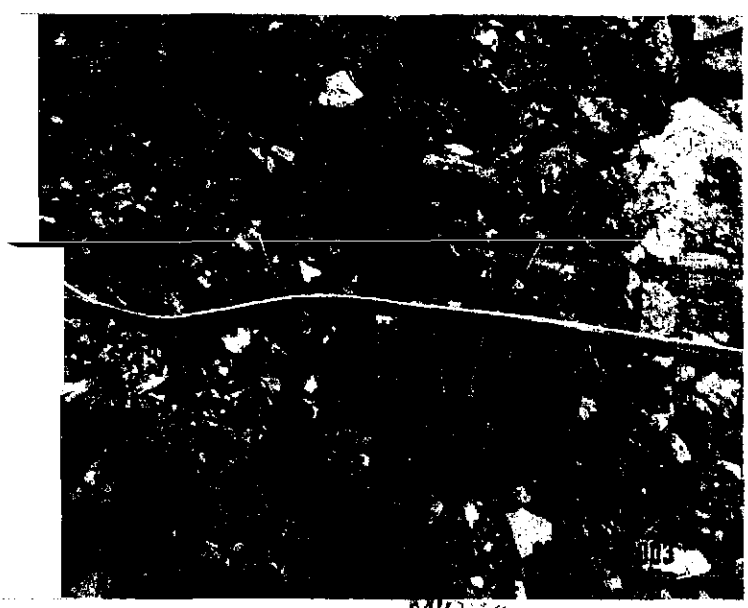
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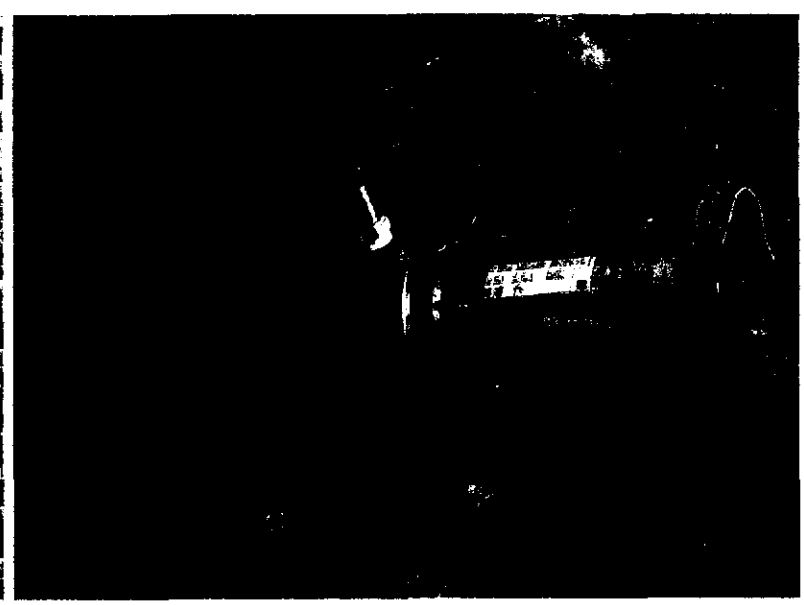












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CUMMINGS GEOTECHNOLOGY

♦♦♦
2716 E. Hillcrest ♦ Colbert, Washington 99005
Phone 509-466-4350 ♦ Fax 509-466-4190 ♦ Email grcummings@earthlink.net

January 10, 2002

State Farm Insurance Company
P.O. Box 2087
Coeur d'Alene, Idaho

Attn: Ms. Tracy Spelce

RESULTS OF LIMITED GEOLOGICAL FORENSIC STUDY, SCHMAUTZ AND NEWELL PROPERTIES, POST FALLS, IDAHO

This letter report presents results of a limited geological forensic study that I conducted at the Schmautz and Newell properties in Post Falls, Idaho. The purpose of the study was to evaluate the probabilities of a cause/effect relationship between soil excavation on the Schmautz property and decreased production from the water well on the Newell property.

PROJECT BACKGROUND AND HISTORY

The following background and historical information was obtained from review of a report, dated November 7, 2001, written by Mr. John Riley; 14 letters recently written by Mr. Robert Newell; information that you provided me; and conversations with Mr. Terry Schmautz and uphill neighbors, Mr. Don Peterson and Mr. Mike Bell.

I understand that your policyholders, Terry and Shannon Schmautz, had a house constructed within the last year on South Stone River Drive, just north of the its intersection with West Riverview Drive in Post Falls, Idaho. Mr. Schmautz indicated that during construction they needed a substantial quantity of soil material to use as structural fill to support the house, driveway, and yard. After paying for several truck-loads of imported soil, Mr. Schmautz decided to search his own property for a less expensive source of structural fill material. However, his property is generally characterized by granitic gneiss outcrops and a thin layer of soil on top of gneiss bedrock. He was able to find a substantial amount of soil in a boggy area just below a spring. In May of this year, he had this soil excavated out to use as structural fill. The depression created by the excavation and removal of the soil has since filled with water to form a pond, about 50 feet by 40 feet in plan dimensions.

It is also my understanding that the closest house downhill from the new Schmautz residence is owned by Mr. Jack Newell. I understand that Mr. Newell's son, Robert, has lived in this house

Department of Water Resources
APPLICANT'S
Exhibit 9
Date Admitted 4/22/03 RJH

EXHIBIT
9

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with his wife and children for about the past year. The water well that supplies the house was drilled in 1984 by the original owner of the house, Mr. James Crouch. According to Driller's Well Reports, when first constructed, the well was 160 feet deep and produced 15 gallons per minute. The static water level at that time was 95 feet below the ground surface. When Jack Newell purchased the property in 1994 he had the well tested. At this time the static water level was 115 feet below the ground surface. The sustainable production of the well after pumping for about an hour was five gallons per minute with a drawdown of the water level to 153.5 feet below the ground surface, or just 6.5 feet above the bottom of the well.

Robert Newell reported in his letters that the yield of the well decreased over the summer of 2001 and by October the well produced very little water. He theorized that the excavation activity below the spring blocked groundwater that would have recharged his well and made it flow in a different direction. He hired Mr. John Riley, a local hydrogeologist, to examine the area between the spring and the Newell well and offer an opinion. Mr. Riley agreed that it is possible that the excavation may have altered the groundwater flow. He said he believed that the excavation activity may have caused the groundwater to flow down a drainage that he refers to as the West Drainage and not down what he calls the East Drainage, where the groundwater has historically flowed. Mr. Riley, however, did not present any physical evidence that this was actually happening. He summarized the results of his study in a letter dated November 7, 2001.

As supporting evidence for his claim that the excavation activity diverted the groundwater, Robert Newell has also reported that this summer and fall a formerly wet area next to his barn and a small marshy area just across the roadway from the excavation have dried up.

By early November, apparently the water yield from the well was so small that Robert Newell had the well deepened by H2O, Inc., a local well drilling firm. The well was deepened to a depth of 500 feet. A pumping test showed that the well now produced 25 gallons per minute. I understand that H2O, Inc. also installed a new pump because apparently the old pump could not efficiently pump from the increased depth.

I understand from his letters that Robert Newell demands reimbursement from State Farm Insurance on the homeowners liability policy of Mr. and Mrs. Schmautz for the expenses that he incurred hauling water and improving the well at the home owned by Jack Newell.

RESULTS OF SITE RECONNAISSANCE AND MEETINGS

On November 30, 2001 I met on site with Mr. Schmautz to make observations of the spring, pond, drainages, and well. The pond that formed in the excavation appeared to be on the order of about 50 feet by 40 feet in plan dimensions. Mr. Schmautz indicated that the excavation was limited on the downhill sides by a rim of bedrock that could not be excavated.

At the time of my reconnaissance, the spring was flowing into the excavation at a rate that I would estimate at between 2 and 5 gallons per minute. I did not take any accurate measurements of the flow. On the north side of the excavation there were two areas of groundwater seepage that flowed north toward the roadway and appeared to infiltrate into the ground again. The total

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flow from the two areas of seepage appeared to be approximately the same as what flowed out of the spring into the excavation. Mr. Schmautz indicated that these two areas of seepage had not changed appreciably to his knowledge since he has own property, and continued flowing during the time of the soil excavation.

On the opposite side of the roadway from the excavation I observed the small marshy area that Robert Newell reported in his letters had dried up. This area is a small depression, about 20 feet long and a few feet wide, with cattails growing in it. At this time I observed that there was about 2 to 4 inches of water in the bottom of the depression.

On December 7, 2001 I met with Mr. Riley on site to have him clarify a few points from his report and to gain a better understanding of the hydrological process that he described in the report. He pointed out to me what he meant in his report about the West and East Drainages.

The East Drainage is the NNW-trending linear topographic depression that the roadway follows and through which the water from the spring appears historically to flow. It is bounded on the sides by outcrops of gneiss. Jack Newell's well is located within this drainage approximately 800 to 900 feet down-gradient from the spring area.

The West Drainage trends more northwesterly and is located about 100 to 200 feet west of the East Drainage. The head of this drainage is just west of the spring area. Mr. Riley and I made the following observations about the West drainage. There is no observable drainage channel in the West drainage and, based on the vegetation growing there, appears to be relatively dry. About 100 feet down-gradient from the spring area, the topsoil has been excavated and removed down to a depth of about 1 to 2 feet in an area approximately 50 feet square. At the bottom of this excavation there did not appear to be an abnormally high soil moisture content. About 200 to 300 feet down gradient from the spring area there is what appears to be an old backhoe test pit that had never been filled in. The pit is about 6 to 7 feet deep and the sidewalls consist of rocky, colluvial soil, typical of this area. In the bottom of the pit there was no water, and there did not appear to be soil with an abnormally high moisture content. The vegetation growing in the test pit was sparse. We saw no evidence that groundwater or surface water had been flowing out of the spring area into the West drainage.

ADDITIONAL CONSIDERATIONS

According to precipitation records contained in the web site of the Western Regional Climate Center, precipitation in this area has been well below normal for over a year. Although there are no records for Post Falls, records for the Coeur d'Alene weather station show that for the 16 months from June of 2000 through September of 2001, total precipitation was almost 10 inches below normal, 20.55 inches compared to 30.20 inches in a normal comparable period.

It is well known in the northern Idaho area that the dry conditions in the last one to two years have caused many shallow wells to experience decreased capacity. Mr. Riley told me that this past year he received "about a dozen" inquiries from potential clients whose wells were not producing as they normally would. He indicated that this number of inquiries is unusually high.

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I understand that the well that Terry and Shannon Schmautz had drilled at their property is approximately 550 feet deep. According to two uphill neighbors of the Schmautz', Mr. Don Peterson and Mr. Mike Bell, the wells in their neighborhood are all at least 400 to 500 feet deep. Within the last 2 years, at least 4 wells in the neighborhood uphill from the Schmautz' have been deepened because of declining production and water levels. Mr. Bell had both of his wells deepened, one of them to a depth of about 650 feet.

I further understand that the production of the Newell well has been decreasing over the years. As stated earlier in this report, between 1984 in 1994, the yield of the well decreased from 15 gallons per minute to 5 gallons per minute and the static water level dropped from 95 to 115 feet below the ground surface. I also understand that early last year, before the soil excavation and removal in the spring area, Mr. Robert Newell had told neighbors that the production of the well was down to about three gallons per minute.

CONCLUSIONS

Based on my observations and information that I was given, I've seen no significant and meaningful evidence that would indicate that the excavation and removal of soil in the spring area caused the drainage from the spring area to flow into the West Drainage instead of the East Drainage, or that this soil excavation and removal has decreased the groundwater flow into the Newell well. The groundwater that I observed surfacing down-gradient from the excavated area was flowing into the East Drainage and toward the Newell well, not into the West Drainage as postulated by Mr. Robert Newell.

In my opinion, the decrease in production of the Newell well was caused by three main factors:

1. The abnormally dry conditions that this region had experienced in the latter half of 2000 and the first nine months of 2001.
2. The age and limited depth (160 feet) of the Newell well. The gradually decreasing production of the well in the last 17 years since it was drilled has been typical of wells in this area, especially those of shallow depth.
3. The increased demands on the Newell well when usage changed from that of an elderly couple to a young family of four with horses.

Furthermore, I believe that the Newell well would have experienced last year's production problems even if the spring area had remained undisturbed. It appears to me that the Newells have been fortunate to have such a shallow well producing for so long in this area.

RECOMMENDATIONS

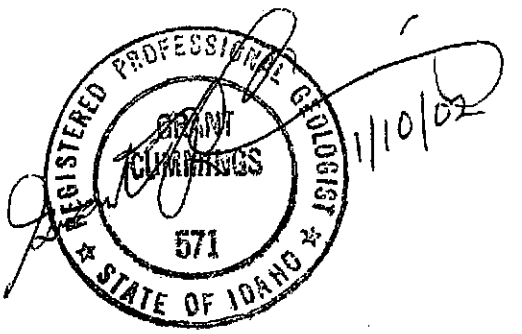
I recommend, based on the above conclusions, that State Farm Insurance Company deny Mr. Newell's claim. Furthermore, I don't believe that it is necessary to fill in the pond created by the soil excavation and removal.

MICHAEL
NOV 26 2001

Thank you for the opportunity to assist you with this interesting project. If you have any questions or comments concerning the observations, conclusions, and recommendations presented in this report, please contact me.

Sincerely,

Grant R. Cummings, P.E., P. G.



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NOV 2 6 2002

Schwartz 95-9104 officially noticed as part of record

TITLE 73

GENERAL CODE PROVISIONS

CHAPTER
1. CONSTRUCTION OF STATUTES, § 73-108.
2. IDAHO CODE COMMISSION, § 73-215.
4. FREE EXERCISE OF RELIGION PROTECTED, §§ 73-401 — 73-404.

CHAPTER 1

CONSTRUCTION OF STATUTES

SECTION.
73-108. Holidays enumerated.

73-108. Holidays enumerated. — Holidays, within the meaning of these compiled laws, are:

Every Sunday;

January 1 (New Year's Day);

Third Monday in January (Martin Luther King, Jr.-Idaho Human Rights Day);

Third Monday in February (Washington's Birthday);

Last Monday in May (Memorial Day);

July 4 (Independence Day);

First Monday in September (Labor Day);

Second Monday in October (Columbus Day);

November 11 (Veterans Day);

Fourth Thursday in November (Thanksgiving Day);

December 25 (Christmas);

Every day appointed by the President of the United States, or by the governor of this state, for a public fast, thanksgiving, or holiday.

Any legal holiday that falls on Saturday, the preceding Friday shall be a holiday and any legal holiday enumerated herein other than Sunday that falls on Sunday, the following Monday shall be a holiday. [C.C.P. 1881, § 7; R.S., § 10; reen. R.C., § 10; am. 1909, p. 27; am. 1911, ch. 102, p. 344; am. 1911, ch. 158, p. 482; compiled and reen. C.L. 500:10; C.S., § 9450; am. 1925, ch. 80, § 1, p. 114; I.C.A., § 70-108; am. 1943, ch. 36, § 1, p. 68; am. 1945, ch. 38, § 1, p. 49; am. 1955, ch. 19, § 1, p. 38; am. 1969, ch. 11, § 1, p. 15; am. 1973, ch. 16, § 1, p. 32; am. 1977, ch. 167, § 2, p. 431; am. 1990, ch. 371, § 2, p. 1019; am. 2002, ch. 146, § 3, p. 419.]

Compiler's notes. Section 2 of S.L. 2002, ch. 146, is compiled as § 67-5302.

73-113. Construction of words and phrases.

Cited in: State v. Baer, 132 Idaho 416, 973 P.2d 768 (Ct. App. 1999); State v. Miller, 134 Idaho 458, 4 P.3d 570 (Ct. App. 2000); State v. Edghill, 134 Idaho 218, 999 P.2d 255 (Ct. App. 2000).

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Protestant
Exhibits

NEWELL

VS.

SCHMANTZ

WELL / POND

DISPUTE

11-28-01



Admitted 4/22/03 RSA

History

2-15-84	Well drilled
3-18-94	Dad hooked up well to new home, no water problem
5-00-00	We moved into dads home, ran hose for 3 hours, no water problem
4-00-01	Schmautz completed home, approximate date
4-00-01	Schmautz completes pond, Sun Valley during disruption, approximate date
6-00-01	Started to notice yield change to well, approximate date
10-20-01	Pumptec keeps shutting off
10-22-01	H20, Steve, check out water problem, points to pond as possible problem
10-23-01	H20, Mike, no water, points to pond as possible problem
10-23-01	Notified Terry and Shannon, they said we should have study done, they will pay for study, 457-1884, they will contact their insurance company
10-23-01	Rented water tank, H20, John Wheeler said pond may be problem
10-24-01	Talked to Terry again, no permit for water or construction, wants to handle without notifying an any regulatory agency, said he notified insurance company
10-24-01	Talked to Nationwide, Claim # 11N00854, $250 deductible, 866-842-4515
10-24-01	Terry asked me not to get in touch with department of water resources, "seattle always needs permits" said he would give me his claim # in exchange, gave mine
10-24-01	Contacted Department of Water Resources, Al Beardslee, 208-769-1450, Al said he needs permit, needs water rights, I have constitutional right to water, recommended John Riley at Pyrite Hydochem, 773-5223
10-24-01	Notified Terry of John Riley, said he would pass it on to insurance company
10-25-01	Talked to John Wheeler, H20, told him to delay pending Schmautz insurance company interaction
10-25-01	John Riley visited site, said pond looks like blocking water to well
10-25-01	Talked to John Beaton, Nationwide, 509-464-4515, recorded statement, John Riley talked to Beaton, said pond looks like blocking water to well, said go ahead with survey
10-25-01	Talked to Terry, said John thinks pond is problem, Riley thinks 4 hours @ $90, Terry said insurance company anxious to see report, encouraged Terry input with report
10-25-01	Sent letter #1 to Riley, faxed to Beaton, Delivered to Terry, cc to Beardslee
10-26-01	Beaton said no coverage, left message with Terry, asked him to give me his claim #
10-26-01	Faxed and talked to Al Beardslee
10-27-01	Terry and Shannon came up, said they talked with the Department of Water Resources, told me they would give me a claim # from State Farm, they apologized for the problem, they told me they will do anything to not lose house, indicated their insurance company would take care of it, she indicated she was in insurance business
10-28-01	Talked to Bill Fouche, said marsh on road and across road, built trench to take care of marsh area, springs on road he has repaired, Mike Bell did road construction, he did pond, knows of spring and marsh problems, no contractors license Mike Bell, called Terry and informed him asked again for claim number, said he would call back, but would pass on information to State Farm
10-29-01	208-773-3511, 773-8708, 666-8268 Steve Malloy, p&z kootenai co, department of lands, department of environmental quality208-769-1482 marsha, june burquist, Building permit, 769-4401, Army corps of engineers
10-29-01	Building permit required, engineered plans required, Nick Bentley 769-4417, notice period required.
10-29-01	left message with State Farm, said Mary Beth would give me a call back, 208-773-7537- no return call

MUSSO

10-29-01	prepared letter for State Farm~~letter #2~~; sent and delivered
10-29-01	received call from Riley that Al Beardslee gave him a call to inform him that Schmautz was in to get a water rights permit
10-29-01	Called Terry to oppose water right claim, ~~sent letter # 3~~
10-29-01	H20 sending Riley info on present condition of well
10-29-01	Talked to Al Beardslee, protested Schmautz claim, said he would be out tomorrow @ 1:00, said if over 10 feet another problem
10-30-01	Dave and Al Beardslee came over, 10ft?, said I should have Health Department perform coliform test of well to show ground water, I will not need to file for water rights, constitutional right, he will send me protest form, will send me his well application
10-31-01	Talked to June Bergquest, department of environmental quality, took water sample to pan handle health
11-1-01	Test concluded surface water in well, coliform
11-1-01	Called Terry to tell him of surface water problem, he said State Farm would give me a call to discuss claim with me, again, said to go ahead a do what I have to do
11-1-01	Called Beardslee to report coliform findings
11-1-01	~~Letter # 4~~ to Terry, Hand Delivered
11-1-01	Green light to H20 to begin work on 11-2-01
11-2-01	Did not get reply from Terry or State Farm, H20, had them test for water again, No Water
11-2-01	Liquidated MSFT @ 61.96, CSCO at 17.37, ERTH at 2.04
11-2-01	Tried to get in touch with State Farm again, 208-773-7537, 667-9447, called State Farm to report claim, Barb said there was no claim #, she said I would receive call back shortly, no call. Terry told me before he had claim #
11-2-01	Called State Farm again, they gave me agents name, Dennis Friend, 772-4612, left message with Dennis to give me a call, no call
11-2-01	Mike Bell on site, he visited with well guys, well guys said they were at 380 and no water
11-2-01	~~Delivered letter # 5 to Terry~~
11-3-01	~~Delivered letter #6 to Terry~~
11-5-01	~~Dropped off letter #7 to Terry~~
11-6-01	Coliform in spring water
11-7-01	Picked up report from Riley, delivered report, delivered bill, delivered letter # 8
11-7-01	Picked up invoice, delivered to Terry Letter # 9
11-8-01	LM Dennis Freund, no call back
11-8-01	Called Dennis Freund, he called back, he said Schmautz never contacted him, he learned of the problem the first time I called and left message with State Farm, Referred me to Mary Beth Alberts, no claim #, they have not seen letters 772-6877
11-8-01	~~Faxed letter # 9 to Dennis Freund 772-6877~~
11-9-01	Talked to Al Beardslee, said he talked with Riley, was familiar with results of report, said I had a constitutional right to the water in spring and pond, told him I have not received anything from him regarding protest form or water rights claim
11-9-01	Called Mike Reagan 664-1561
11-12-01	Tracy called from State Farm, no claim #, she had not received or read any of the previous 9 letters, wanted to do recorded statement, did not want me to do anything until she read letters, said she learned of problem from my previous call to State Farm, Box 2087, CDA 83816, 667-9447 fax 667-8480
11-12-01	~~Sent letter # 10~~ to Terry, Faxed to Tracy and regular mail
11-15-01	No call from Tracy, ~~Sent letter # 11~~
11-18-01	~~Received letter # 1~~ from State Farm
11-19-01	Received call from Tracy, recorded interview, she said she would give me name of geologist, never did, said Schmautz was just trying to get fill dirt, other BS
11-19-01	called Tracy to get name and number of geologist, left message, no reply as

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	promised
11-19-01	Ordered fence repaired
11-19-01	Ordered CSCO to be sold nest day
11-19-01	Left several messages with grant cummings? 509-466-4350
11-19-01	Sent letter # 12 to Tracy and faxed
11-20-01	Left several messages with grant cummings, told him of facts to consider
11-20-01	Repaired fence 3 hours
11-20-01	Discovered other power line and pipe to pond, hidden, sent letter # 13
11-21-01	Left messages with grant cummings, no reply, found address, 2716 E. Hillcrest Drive, Colbert WA 99005
11-21-01	Sent letter # 14 in a.m. faxed to Tracy
11-21-01	Received letter # 2 from State Farm in p.m.
11-21-01	Postponed complaints to regulatory agencies until I talk with Reagan on Monday
11/26/01	TALKED TO AG BOARDSLEY, HE SAID HE SENT PROTEST FORMS, STIO TURF APPLIED FOR SPRING PERMIT, SCHRAUNK NOT FOR HIM TODAY, I DID NOT RECEIVE I-FORMATION, 1910 N.W. BLVD.
11/26/01	WENT TO NICK BENTLEY - "SOMETIME PEOPLE HERE BUILD FIRST PERMIT LATER, SEE WHERE DUST SETTLES," LITTLE HE CAN DO NOW GAVE HIM REPORT.
11/26/01	WENT TO AG BOARDSLEY OFFICE, GAVE ME WELL PERMIT, GAVE ME SPRING APPLICATION 10/29/01, WELL PERMIT ONLY BEFORE. GAVE ME PROTEST FORM.
3/17/03	PAYMENT OF LEGAL FEES 705.00
3/17/03	LETTER TO SCHMANTZ / DWR #15 SCHMANTZ LETTER #15
3/18/03	RECEIVED LETTER FROM DWR HEARING #1 DWR#1 REVIEWED LEGAL RIGHTS FROM SLR #1 SLR #1
4/1/03	DWR LETTER #2 HEARING #2
4/1/03	SCHMANTZ LETTER #16
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APR 2 5 2003

10-25-01

Department of Water Resources
PROTESTANT'S
Exhibit No A-1
Date Admitted

John Riley (Fax 208-773-5223)
Consulting Hydrogeologist
Pyrite Hydrochem
Box 453
Post Falls, Idaho 83877

Dear John,

Thank you for coming over today on such short notice. Al Beardslee, from the Department of Water Resources asked that I give you a call. Also, thank you for discussing this matter directly with my insurance adjuster, John Beaton. Let me outline some facts for you.

My neighbor, directly up the hill from me, completed his home approximately five months ago. During his construction, he constructed a pond on his property approximately 50 feet above and 200 feet away from my well. The pond construction blocked off a naturally occurring spring which flows past my well site and settles in an area near my barn. The area near my barn, as you observed, is usually covered in ground water, but it is presently dry, and has been dry since the construction of the pond.

After talking with my neighbor who built the pond, Terry Schmoutz, he said he excavated the area originally for fill for his new home and then packed and backfilled the area to form a pond. The pond is approximately 100 feet wide, 100 feet long, and 15 feet deep. The area is currently filled with water. It appears that there is a water line in the pond leading back up to his home. The area, before excavation, was filled with trees and a wet marshy area. The natural flow of the water, before excavation, was past my well site and then directly down a ravine beside my barn.

I informed Mr Schmoutz on 10-23-01 that I was having well problems and that I thought his pond was blocking the natural supply of my well. He informed me that he was willing to pay for a study. He also informed me that he did not get a permit for the construction of the pond as required, and that he did not consult with the Department of Water Resources before the construction of the pond. An impact study would have been required before construction of the pond. No impact study was performed.

As you noted from yourvisit, the construction of the pond may have diverted water into another ravine adjacent to the pond. In addition, and as you noted, the pond construction may have permanently constricted the natural seepage of the spring into the ground.

Approximately a month after the construction of the pond, I noticed a yield change from my well. I believe H2O tested the well, when my father built the home approximately 7 years ago, and it tested at 5 gpm. The well is approximately 150 feet deep and has a static water level of 60 feet. I have included a well log of a well believed to be mine and supplied to me by H2O. Each month following the construction of the pond, my well yield has diminished. Now I have almost no water as tested by H2O. Three of the employees and the owner of H2O believe the pond construction had an impact on my current well status.

As noted in your conversation with my adjuster, he has informed me to go ahead with a report of this problem. He would also like to have a report mailed to him. Time is of the essence as I currently have no water, and I thank you for getting this back to me by Tuesday of next week with a completed report. I believe I can get H2O in early next week to survey the well and begin their work if needed. Otherwise, I will potentially have to wait another month. As you know, I have passed this information on to my adjuster.

Sincerely,

Robert Newell for Jack Newell

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NOV 2 8 2001

CC: JOHN BEATON FAX: 509-464-4515
509-465-2208
CLAIM # 11N00854

CC: AL BEARDSLEE FAX: 769-1454
DELIVERED TO MR. SCHMANTZ 10/25/0

WELL 1

Department of Water Resources
PROTESTANT'S
Exhibit 4-2
Date Admitted

10-29-01

State Farm Insurance Company

To Whom it may concern,

On 10-23-01 I gave notice to your clients, Terry and Shannon Schmoutz, that it was my belief that a recently constructed pond on the Schmoutz's property has blocked the water supply to my well. I have hired a Hydrogeologist to survey the problem, and he has come to the same conclusion. His report will be finished tomorrow.

On 10-24-01 I contacted my insurance company, Nationwide. My claim # is 11N00854 and my contact is John Beaton at 509-464-4515.

Your clients have informed me that there were no permits gathered for the construction of the pond or the use of the spring water. The Hydrogeologist has informed me that the problem might not be resolved by simply opening the pond. In addition, I believe there may be additional problems as it concerns: lack of building permit, no construction license, no permit through the Department of Water Resources, no impact study, no posting period, no consultation with the Department of Lands, Army Corp of Engineers, or Department of Environmental Quality.

Furthermore, it has come to my attention, that the person who constructed the pond was aware of the spring activity near my well and may have been aware of the adverse affect building a pond may have on my water supply.

I have been without well water for over a week. I am forced to gather water with a rented 550 gallon tank on the back of a utility trailer that I own every other day. The filled tank weighs over 4000 pounds, and I am concerned about the safety of hauling that amount of water so often, especially down the steep hill to my property. In addition, it ties up my truck permanently. I also have to haul water to my horses three times a day.

I have H20 on hold pending a reply on how to resolve this situation. I anticipate a new set of problems once freezing weather arrives.

I have enclosed a letter sent to the Hydrogeologist for your review. I look forward to your quick response.

Sincerely,

sent 10/29/01 / faxed to Mary Beth, State Farm, 208-667-8480

Robert Newell
208-755-9475
2555 W. Riverview Drive
Post Falls, Idaho 83854

Cc: Terry and Shannon Schmoutz - hand delivered

MICROFILMED
NOV 2 5 2002

WELL 2

Department of Water Resources
PROTESTANT'S
Exhibit A-3
Date Admitted

10-29-01 Second Letter 3:00P.M.

Dear Terry,

I just learned a few minutes ago from my hydro geologist, that today you applied for a water rights permit from the Department of Water Resources through Mr. Al Beardslee. This letter is to inform you that I will protest your claim rigorously. In addition, I am aware that you have had recent discussions with Mike Bell regarding redirecting the water to the western ravine. This letter is to further notify you to discontinue any work, modification, or redirection of the spring or pond until we have a chance to resolve my current well problem.

As noted in my earlier letter today, please get in contact with your insurance company as soon as you can as to keep our relationship friendly. Also, please inform me of any other permits, work, or engineered plans you plan on starting so I can protect my interest in the water that was at my well site.

As mentioned to you earlier, I will give you a copy of the hydro geologists report when I receive it tomorrow. Please then forward it your insurance company, State Farm.

Sincerely,

Rob Newell

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MAY 2 8 2003

WCC 3

Department of Water Resources
PROTESTANTS
Exhibit A-4
Date Admitted 4-22-03

11-1-01

Terry,

HAND DELIVERED

Despite my several calls and letters, I have not yet received any insurance information from you regarding a claim number or contact person with State Farm. I have allowed you and your insurance company an opportunity to mitigate any damages to my well from your illegal work to the spring area. It has been over 10 days now since I notified you of the well problem. If I do not receive this information from you, I will be forced to call State Farm personally and present the claim.

As you are aware, the Pyrite study was promised to be delivered to me by Tuesday. For some reason, I have not received it yet, but I have left several messages with John Riley. You are aware of his initial comments. When I receive his report, I will give you a copy. Also, I had the State of Idaho Division of Health perform a well water test for me and the test shows signs of coliform. Please find the test results enclosed. This would indicate surface water penetration into the well. This test was recommended to me by Al Beardslee.

As you know, I postponed H2O once so I could give you and your insurance company an opportunity to come up with a possible solution to the problem. Since I have not received any comments or possible solutions from you, and since it has been two weeks now that I have been without water, I gave H20 the green light to begin their work on the well. H20 has informed me that they can begin tomorrow. Please let me know, in writing, if you do not want me to have them begin work tomorrow. Otherwise, depending on what they find and depending on the formal findings of the Pyrite report, I plan on billing your insurance company for the well work and other financial outlays.

If you have a State Farm claim number and contact for me, please pass it along. As we discussed, I would like your insurance company to be on notice and involved before I make any further financial decisions regarding my well problem.

Sincerely,

Rob Newell

Enclosed: State of Idaho, Drinking Water Coliform Bacteria Analysis Report

MICRO
NOV 2 6 2002

well letter #4

Department of Water Resources
PROTESTANT'S
Exhibit A-5
Date Admitted 4-22-03

FAXED: 509-465-2208

11-2-01

John Beaton
Master Claim Representative
Nationwide Insurance
112128 North Division
PMB # 134
Spokane, WA 99218

Dear John,

As you are aware, the Schmoutz's have refused to give me a claim number or contact person with State Farm. As you suggested, early this morning, I called State Farm at 667-9447, talked to Barb, and asked to report a claim against one of their clients, and stated that I needed a claim number and a contact person. They would not give me either, but said someone would be back with me today. It is in the evening, and I have not yet received a call back. They did say that a claim had not been filed by the Schmoutz's, however. What am I to do now. I have given all the parties an opportunity to respond and provide me input, but no one is responding.

Contrary to your letter of 10-26-01, I believe I have a claim with Nationwide. For the following reasons, I believe I have a claim: 1) The Schmoutz's illegally built a pond to block off a naturally occurring spring, without permits or other required items. 2) According to John Riley, the spring contributed to my well before it was blocked by the pond. 3) A test completed by the State of Idaho concluded that my well has coliform in it which suggests that it receives ground water. 4) The well is physical property and personal property. 5) The well has been damaged by the illegal pond. 6) The well is now worth less as a consequence. 7) The value of the home and property are consequently worth less. And, 8) This should be a valid claim.

I have given the Schmoutz's and their insurance company notice, and they have elected not to make comment or attempt to mitigate the damages. Consequently, today H20 well company began drilling the well deeper. They drilled the well more than 200 more feet, but still no water. This is even more evidence that the well received its water from the spring. Because of the lack of participation from any party, should I begin legal action? Should I do any more work? I have been without water for about two weeks now. Your input is appreciated before I make any more financial decisions. I am waiting to hear from you.

Sincerely,

208-755-9475

Robert Newell

Cc: Terry Schmoutz-Hand Delivered

MICRO
MAY 2 6 2003

#5

Department of Water Resources
PROTESTANT'S
Exhibit A-6
Date Admitted 4-22-03

11-03-01

Terry Schmoutz,

Dropped off in mail box: 12:15 p.m.

To keep you informed, yesterday H20 drilled to 380 feet without hitting water. Unless I hear from you in writing, I will continue drilling on Monday. As you know, I am attempting to present a claim with State Farm. But I have been unsuccessful to now. I do not think this is my responsibility, however. I would much rather be corresponding with your insurance company.

Per our early discussion regarding your indication that you have no money to take the pond dam down and return the area to its original condition, or money to help mitigate my damages, I have liquidated my Microsoft Stock in my 401K plan to help handle some of the immediate costs until your condition changes, we get your insurance company involved, or you come up with some other solution. I noticed Mike Bell talking with the H20 people yesterday at the well site. Maybe he has an idea of a solution.

I believe you mentioned that you thought the spring produced approximately 5 gpm. Another solution may be to extend a water pipe from the spring to my well site. Before we spend a lot more on a potentially dry well, this might be a solution to consider. Let me know about this in writing. Let me know about anything I have written to you about.

Finally, as we discussed earlier, my horses go through a lot of water each day. Because I have a short supply of water in my portable water tank at home, I plan on taking water by bucket from the pond for my horses until we have some resolution or unless you object.

Sincerely,

Rob Newell

Well letter # 6

MICRO
NOV 25 2003

Department of Water Resources
PROTESTANT'S
Exhibit A-7
Date Admitted 4-22-03

11-5-01

Terry and State Farm,

Dropped off in mail box: 3:30 p.m.

I am pleased to inform you that H20 hit 20 gpm of water @ 505 feet. They will finish their work tomorrow, hopefully. They are preparing an estimate for their work and I will forward it on to you when I receive it. I will also have the fence repaired and the tree removed as soon as possible. I will forward the invoices on to you.

Also, I was able to get in touch with John Riley today. He apologized for his delay, but said he would have the report back to us tomorrow. I have informed him of the water we hit @ 505 feet. He said the news reinforces the conclusions that I have already shared with you. Also, I had the State of Idaho test the pond for coliform today. The results should be available tomorrow.

Sincerely,

Rob Newell

Well letter # 7

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NOV 2 6 2003

PYRITE HYDROCHEM

John A. Riley
Consulting
Hydrogeologist

Department of Water Resources
PROTESTANT'S
Exhibit A-8
Date Admitted 4-22-03

TECHNICAL MEMORANDUM

Date: November 7, 2001

To: Rob Newell

From: John A. Riley, Hydrogeologist

Subject: Ground Water Evaluation

Introduction

The purpose of this technical memorandum is to evaluate the decrease in production of your water well. It is my understanding that you noticed a dramatic decrease in the yield of your well several months after your neighbor constructed a pond uphill from your existing well. The pond collects spring discharge which previously appeared to flow north and northwest as shallow ground water.

The objectives of this investigation are to:

- Review the production history of the well,
- Conduct a preliminary investigation of the hydrogeology,
- Develop a hydrogeologic conceptual model, and
- Determine if the construction of the pond may be responsible for the decrease in well production.

The information presented in this memorandum is based on field observations at the property, review of USGS and Idaho Geological Survey maps, review of existing well records, and my professional knowledge of hydrogeology.

The Newell well is located in the northeast quarter of section 8, T. 50 N., R. 5 W. It was drilled in January, 1984, to a depth of 160 feet below ground surface (BGS). The owner's name on the driller's report is Jim Crouch. The driller's report indicates static water level at 95 feet, and production of 15 gpm using air lift pumping. The well was production tested in March, 1994 for 70 minutes. Static water level was 115 feet. Initial production was 30 gpm. Sustainable production was 5-6 gpm, with a pumping level of 153.5 feet. The well was

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OCT 2 6 2001

#8

Voice & Fax:208.773.5223 • 1.800.565.5819 • PO Box 453, Post Falls, ID 83877-0453 • pyritejr@iea.com

production tested again in October, 2001 after the production declined substantially. The pump was set at 155 feet, and would pump no water, indicating that the static water level was deeper than 155 feet. The driller's report and results of the tests are attached at the end of this memorandum.

The decline in well production appears to have resulted from a dramatic decline in static water level between 1994 and the present. The static water level remained fairly cvonstant from 1984 through 1994, as documented on the driller's report and production test. The static water level declined from 115 feet in 1994 to below 155 feet in 2001. The well is 160 feet deep, which leaves no available drawdown. No well production problems occurred until approximately one months after the pond had been completed.

Hydrogeologic Setting

The Newell well is completed in Precambrian metamorphic rocks of the Belt Supergroup. Production from Belt rocks typically is derived from weathered and/or fractured zones in the bedrock. The driller's report states that hard bedrock overlies medium bedrock. This suggests that production comes from structurally controlled fracture zones. Recharge typically comes from infiltration into and flow within the fractured bedrock. The size of the recharge area is unknown, and determination of its size is beyond the scope of this investigation.

The well is located in an area of moderately steep, north-facing hills between West Riverview Drive and the Spokane River. The top of the well casing is at an elevation of approximately 2240 feet above sea level. The bottom of the well is at an elevation of approximately 2080 feet. The river elevation is approximately 2050 feet.

The springs discharge from a shallow alluvial hillside at an elevation of approximately 2340 feet. A map is included that presents spring and well locations, and topography, Prior to construction of the pond, discharge from the springs appeared to have flowed toward the river as shallow ground water in the thin alluvium, and in the weathered and fractured bedrock.

Two drainages exist north (downhill) of the springs. These are informally named the west and east drainages. The west drainage flows to the northwest away from the springs. The east drainage flows to the north northeast from the springs. A bedrock outcrop exists adjacent to the access road between the drainages. The west drainage is more deeply incised than the east drainage. The Newell well is located along the axis of the east drainage.

Shallow ground water formally produced an area of wet spongy alluvium below the springs between the access road and bedrock outcrop that separates the drainages. Since the construction of the pond, this spongy area has dried up. Similarly, an area of spongy alluvium

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MAY 2 5 2003

and shallow puddles formally existed in the east drainage adjacent to the Newell barn, and downhill of the Newell well. Since the construction of the pond, this spongy area also has dried up. The west drainage still is damp downgradient of the pond.

Hydrogeologic Conceptual Model

The hydrogeologic conceptual model describes in general terms the probable hydrostratigraphy, and flow paths. It is developed to present a plausible understanding of the physical conditions that control ground water flow.

Shallow alluvium carries infiltrating water toward the north along the contact with bedrock. The shallow ground water within the alluvium recharges bedrock in weathered or fractured zones. Ground water that remains in the alluvium appears as spongy or wet areas and eventually discharge to the Spokane River.

The springs uphill from the Newell well appear on a hillside in an area where the alluvium probably thins. This concept is supported by outcrops of bedrock in the area. Discharge from the springs used to be divided between the east and west drainage, supplying recharge to the bedrock in both systems. The relative proportion of spring discharge that recharge the two drainages in not known.

The pond construction activities appear to have altered the shallow ground water flow in the east drainage. Now shallow ground water appears to flow only or predominantly down the west drainage. This has resulted in decreased recharge to bedrock in the east drainage.

Conclusions

Recharge to the Newell well appears to be substantially less than it had been until recently. It is possible that recharge to the Newell well has been blocked. The decrease in recharge probably has taken place because of the disruption of the shallow ground water flow path down gradient of the springs.

This conclusion is supported by:

- a substantial decrease in static water level in well, and
- the disappearance of spongy areas immediately downhill from the pond, and adjacent to the Newell barn.

Simply breaching the pond dikes may or may not return recharge to the east drainage, The mechanisms and location of the original recharge pathways is not understood. The degree of

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NOV 2 6 2003

disruption of those pathways, likewise, is not known. It may be necessary to conduct engineering or geophysical investigations to determine the nature of the original recharge mechanisms, and what steps must be taken to reestablish recharge mechanisms.

If you have any questions or comments, please contact me at 208.773.5223. FAX number is the same, via automatic switching device.

MICRO
NOV 2 8 2003

Department of Water Resources
PROTESTANT'S
Exhibit A-9
Date Admitted 4-22-03

TOTAL P.03

WELL DRILLER'S REPORT

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

1) OWNER

Name Jim Crouch

Address Post Falls, Idaho

Owner's Permit No.

2. NATURE OF WORK

☒ New well ☐ Deepened ☐ Replacement
☐ Abandoned (describe abandonment procedures such as materials, plug depths, etc. in lithologic log)

3. PROPOSED USE

☒ Domestic ☐ Irrigation ☐ Test ☐ Municipal
☐ Industrial ☐ Stock ☐ Waste Disposal or Injection
☐ Other (specify type)

4. METHOD DRILLED

☒ Rotary ☐ Air ☐ Hydraulic ☐ Reverse rotary
☐ Cable ☐ Dug ☐ Other

5. WELL CONSTRUCTION

Casing schedule: ☒ Steel ☐ Concrete ☐ Other

Thickness	Diameter	From	To
.250 inches	6 inches +	1 feet	20 feet
PVC inches	4 inches	1 feet	160 feet
inches	inches	feet	feet
inches	inches	feet	feet

Was casing drive shoe used? ☒ Yes ☐ No
Was a packer or seal used? ☐ Yes ☒ No
Perforated? ☐ Yes ☒ No
How perforated? ☐ Factory ☐ Knife ☐ Torch
Size of perforation inches by inches

Number	From	To
perforations	feet	feet
perforations	feet	feet
perforations	feet	feet

Well screen installed? ☐ Yes ☒ No
Manufacturer's name
Type Model No.
Diameter Slot size Set from feet to feet
Diameter Slot size Set from feet to feet
Gravel packed? ☐ Yes ☒ No ☐ Size of gravel
Placed from feet to feet
Surface seal depth 20 Material used in seal: ☐ Cement grout
☒ Bentonite ☐ Puddling clay ☐
Sealing procedure used: ☐ Slurry pit ☐ Temp. surface casing
☒ Overbore to seal depth
Method of joining casing: ☐ Threaded ☒ Welded ☐ Solvent Weld
☐ Cemented between strata
Describe access port

6. LOCATION OF WELL

Sketch map location must agree with written location.

N

W E

S

Kootenai

Subdivision Name
Lot No. Block No.

¼ NE ¼ Sec. 8 T. 50 N/E R. 5 W.

IF ADDITIONAL SURVEYS IS NECESSARY, FORWARD THE MAP

7. WATER LEVEL

Static water level 95 feet below land surface.
Flowing? ☐ Yes ☒ No G.P.M. flow
Artesian closed-in pressure p.s.i.
Controlled by: ☐ Valve ☐ Cap ☐ Plug
Temperature °F. Quality good
Describe artesian or temperature control below

8. WELL TEST DATA

☐ Pump ☐ Bailer ☒ Air ☐ Other

Discharge G.P.M.	Pumping Level	Hours Pumped
15 gpm		

9. LITHOLOGIC LOG

Bore Diam.	Depth From	Depth To	Material	Water Yes	Water No
6	-	1	topsoil		
	1	120	med hard granite		
	120	160	soft granite	X	

10.

Work started 1-23-84 finished 1-26-84

11. DRILLERS CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Coeur d'Alene Drilling, Inc. Firm No. 214
Firm Name
P.O. Box 380
Address Hayden Lake, Idaho Date 2-15-84
Signed by (Firm Official) Bill Finley
and
(Operator) Bill Finley

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NOV 2 6 2003

Department of Water Resources
PROTESTANT'S
Exhibit A-10
Date Admitted 4-22-03

DATE 3-18-94
WELL CONSTRUCTION
WELL DEPTH
STATIC WATER LEVEL
GPM DRILLER TESTED
TEST PUMP USED
PUMP SETTING
PIPE SIZE WIRE SIZE
LIQUID LEVEL CONTROLS

CUSTOMER NAME Jack Newell
ADDRESS
PHONE
JOB LOCATION
PITLESS PUMP HOUSE
CONDITION
PRESSURE TANK SIZE w/log
ELECTRICAL CONTROLS

TIME	FLOW RATE	PRESSURE	WATER QUALITY	STATIC
9:20	30	Ø	Dirty	15'
9:25	25	Ø	Cloudy	115'
9:31	10	70 PSI	Cloudy	150'
9:35	7.5	80 PSI	Cloudy	150'
9:40	7.5	80 PSI	Clear	152'
9:48	5	86 PSI	Clear	152'
9:58	6	85 PSI	Clear	150'
10:05	6	82 PSI	Clear	154'
10:10	6	82 PSI	Clear	157'
10:15	5	88 PSI	Clear	153' 6"
10:20	5	88 PSI	Clear	153' 6"
10:25	5	88 PSI	Clear	153' 6"
10:30	5	88 PSI	Clear	153' 6"

WELL TEST SUMMARY
MIC

FEB-11-1900 06:52
P.02
NOV 2 6 2003

Department of Water Resources
PROTESTANT'S
Exhibit A-11
Date Admitted 4-22-03

582 W. Hayden Avenue, Hayden Lake, ID 83835
(208) 772-4004 • Fax (208) 772-4892

ELL SERVICE, INC.

WORK ORDER

Date 10/22/01

NAME: Bob Newell JOB LOCATION: Bridge x Spokane St

ADDRESS: Box 2345 DIRECTIONS: 3 miles on W.

P.F. Idaho Riverview

PHONE: 755-9475 JOB PHONE: (Sig Pt to Left) -

JOB INSTRUCTIONS - WORK ORDERED

Pump for trapps -
No Water - New Pump

QTY.	ITEM	MATERIAL	PRICE	AMOUNT
for Comm to Customer - Bring Back				
11 - 2161	1 T&C LPE			
10 - 4150104	10/4 Sub wire			
[redacted]	[redacted]			

TOTAL MATERIALS

WELL INFORMATION

WELL DEPTH	PUMPSETTING
STATIC LEVEL	CASING
PUMP 16507	DRILLING CO.
GPM	WIRE SIZE PIPE SIZE

DESCRIPTION OF WORK DONE

Went Right towards (2555 W/ Riverview) Riven Now House on Comm (200 Past)

Running out of water, lowered pump 11 - 5' off bottom. No Water

SERVICE CHECKS

VOLTS OFF VOLTS RUNNING

OHMS RB RY BY

OHMS to GND R B Y

AMPS R B Y

LABOR

DATE	EMPLOYEE	TIME IN	TIME OUT	HRS.	RATE	AMOUNT
10/22	Steve	215	515	3	60	
	Shawn	64	745 min			
10-23-01	Mike	900	1130	2½	60	N/C

DATE	TRAVEL TIME	MILES	HRS.	RATE	AMOUNT

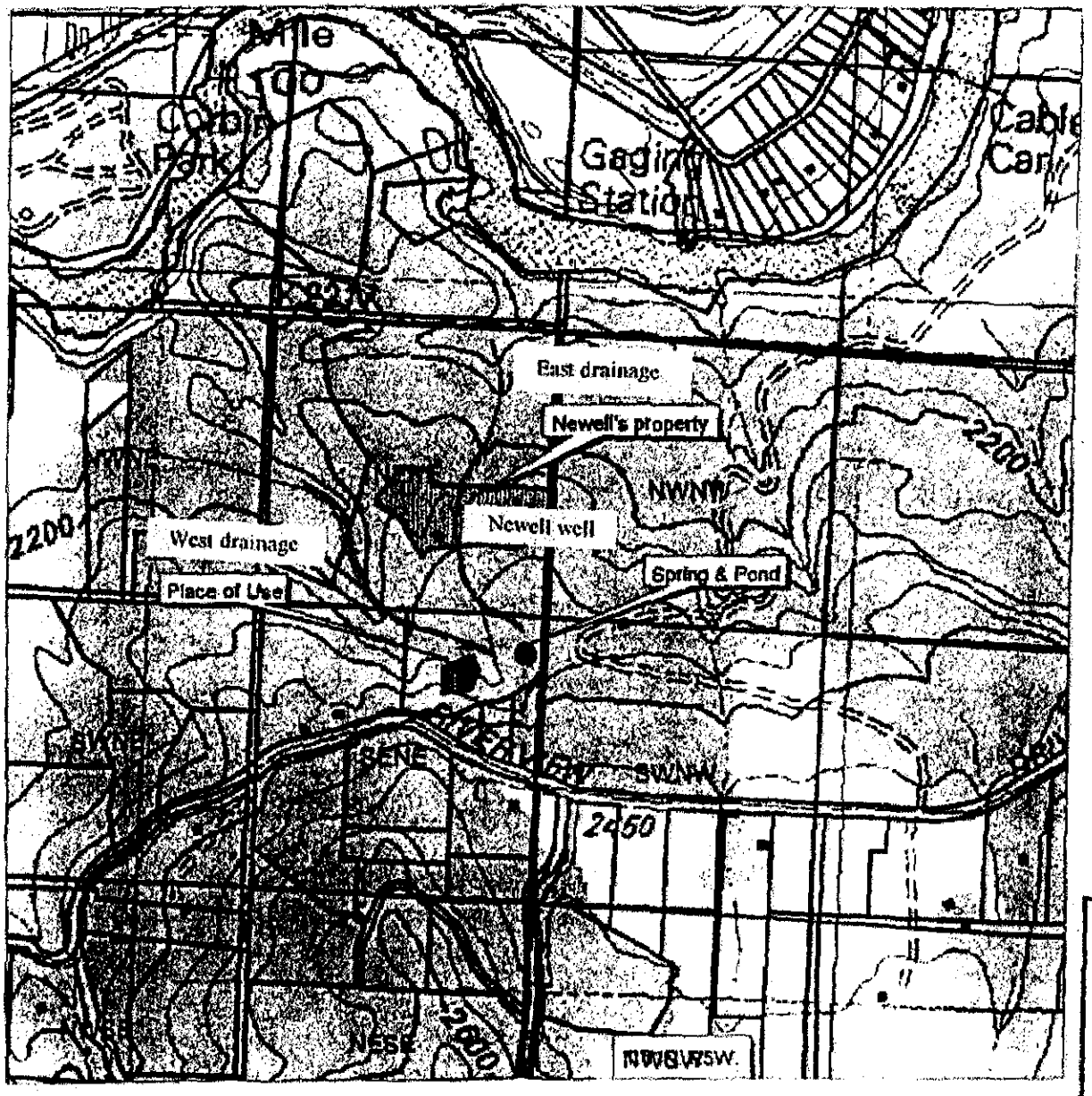
TOTAL LABOR	
TOTAL MATERIALS	
TOTAL OTHER	
TAX	
TOTAL	

Work ordered by _____

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MAY 28 2003

P.01

FEB-11-1900 06:52



Cross Spokane St. bridge, go west on River View Dr. for 2 miles. Turn right past Signal Pt. Rd. at 2 new homes. Newell's home 1/4 mile down road.

Qq50n05w.shp
Parcels011001.shp
Quad IndexQuadcov.shp

N
W
E
S

Department of Water Resources
PROTESTANT'S
Exhibit A-12
Date Admitted 4-22-03

Dennis Freund, STATE FARM AGENT 772-6877
Thank you for returning my call. Here is a copy of my 9th letter to Mr. Schmoutz and State Farm. I am awaiting from Mr. Schmoutz that State Farm has received this information - i.e. letters #1 through #9. I look forward to hearing from you short of legal action.
Sincerely, 11/7/01

11-7-01

Terry Schmoutz and State Farm,

Delivered to Mail Box:

Enclosed please find the positive coliform test for the Newell/Schmoutz spring. Also, please find the H20 well driller's report for the Newell well.

Department of Water Resources
PROTESTANT'S
Exhibit A-13
Date Admitted 4-22-03

Also included are invoices from H20 for $78.84 and $6,155.00. Notice the **Due on Receipt.** Please pay this amount directly to H20. Below please find a list of other expenses and estimates to date:

H20	10/22 No Water Service	$78.84	enclosed
H20	10/23 No Water Retest/Service	N/C	
H20	Drill Invoice	$6,155	enclosed
Idaho	10/31 Coliform Lab Test/Well	$11	enclosed
Idaho	11/5 Coliform Lab Test/Spring	$11	enclosed
Schucks	10/31 Trailer Jack to free Truck	$21.09	enclosed
Fence	Repair Fence taken down for drill	?	
Tree	Tree Removal, cut down for drill	?	
Clean Up	Fill Hole, clean up well site	?	
Water	5 fill ups of 550 gallon on trailer	?	
H20	Estimate to improve water pressure	?	
E*Trade	11/9 Early withdrawal penalty	$650	enclosed
Pyrite	Report	$540	enclosed 11/7 letter
Misc.	Miscellaneous Work	?	

In addition, please find a sell notice for E*Trade. If I am forced to pay for any or all of the items listed above before our resolution of this matter, I will be forced to take an early withdrawal from my IRA. Aside from the Federal and State taxes, I will have to pay a 10% early withdrawal penalty. Also, I may be harmed by price fluctuations as it concerns the point when I am repaid and can redeposit the money to my IRA and buy back MSFT. If I do not hear from you by 11/09/01 concerning your payment to H20, I will go ahead and take my IRA withdrawal.

Finally, if I do not have an offer and acceptance of settlement, or other reasonable correspondence, in 5 days, I will pursue all legal remedies to satisfy my damages, plus reimbursement of legal expenses.

As always, I look forward to hearing anything back from you. I will get other expenses and estimates to you when I receive them.

Sincerely,

Robert Newell, Well letter # 9

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NOV 18 2003

Department of Water Resources
PROTESTANT'S
Exhibit A-14
Date Admitted 4-22-03

11-12-01

Terry Schmautz
Tracy Spelce
Claims Adjuster, State Farm
Box 2087
CDA, ID 83816

Delivered to Mail Box
Faxed: 667-8480 & Regular Mail ✓✓

Dear Terry and Tracy,

Thank you for calling me today. It was nice to finally hear from someone. I am sorry to hear that you have not received any of my nine previous letters and correspondence from Terry. Terry informed me that he was forwarding my correspondence on to State Farm.

Based on your call to me today, I will postpone my first meeting with my attorney, Mike Reagan, until I hear from either you or Terry again regarding my claim.

Please find enclosed a copy of another bill from H20. I have cleared the tree that was cut down to make way for H20. It took me approximately 3 hours and I purchased a new saw blade.

A copy of the hydrogeologist's report was forwarded on to Al Beardslee with the Department of Water Resources. He has informed me that I have a "constitutional water right" to the water in the spring which used to run by my well and down to the barn pond area. I understand from Al Beardslee that after I notified Mr. Schmautz of my water problem, Mr. Schmautz attempted to obtain a water rights permit to the spring through the Department of Water Resources. I have informed Al Beardslee that I will appeal his water rights application. I have also been informed by Nick Bently, County Building Supervisor, that a building permit was required and never obtained for the construction of the pond. Furthermore, I have been informed that I should have received notice prior to the building of the pond and that an impact study and engineered plans should have been completed prior to the pond construction. I am obtaining correspondence from other regulatory agencies as it relates to other problems with the pond.

If I can get my expenses paid, by State Farm or Mr. Schmautz, as it relates to the well development, I will discontinue my efforts to get the pond removed and returned to its original condition. In further consideration, I will not oppose Mr. Schmautz's recent application for water rights from the spring.

Please review the correspondence that I sent to Terry Schmautz and State Farm and get back with me as soon as possible. I will not take any further action until I hear back from you or Mr. Schmautz. I have done everything possible to keep everyone informed of the status of this problem. I have requested input repeatedly, and have received no reply. Now that I have your name and number, I will copy you with all my correspondence. I look forward to a quick resolution to this problem to help keep neighbor relationships friendly.

Sincerely,

Robert Newell

Enclosed: H20 bill # 3

Well Letter # 10

MICRO
NOV 2 5 2003

Department of Water Resources
PROTESTANT'S
Exhibit A-15
Date Admitted 4-22-03

Robert Newell
Box 2345
Post Falls, ID 83877

11-15-01

Terry Schmautz
Tracy Spelce
Claims Adjuster
Box 2087
CDA, ID 83816

Delivered to Mail Box
Faxed: 667-8480 & Regular Mail

Dear Tracy,

Hopefully, you have received my correspondence from Terry and have had a chance to review the information relating to my claim. I look forward to hearing from you again soon.

As you are aware from my earlier correspondence, I do not have the water pressure in my system that I had prior to my well problem. This, according to H20, has to do with using my same pump at a deeper level of 220 feet. I have asked them to propose a solution to the problem. Please find enclosed their proposal. Note the estimate does not include excavation and backfill. I am looking into other solutions.

It also appears that the liquidation of my Microsoft stock from my IRA will not cover all the expenses to date. Should I liquidate more stock from my IRA to cover the additional expenses until we can reach a solution to our problem? I have not yet had my fence repaired. It appears that will be the last of my immediate expenses. I am awaiting word from you on how I should proceed. As we discussed, I will not take any further action until I have spoken with you again.

Sincerely,

Robert Newell

Enclosed: H20 proposal to increase water pressure to previous level

letter # 11

MICROFILMED
NOV 28 2001

State Farm Insurance Companies

Coeur d'Alene Service Center
PO Box 2087
Coeur d'Alene, Idaho 83816
Phone: (208) 667-9447

November 14, 2001

RECEIVED
11/18/01

Department of Water Resources
PROTESTANT'S
Exhibit A-16
Date Admitted 4-22-03

Robert Newell
2555 West River View Drive
Post Falls, ID 83854

RE: Claim Number: 12-B016-066
Date of Loss: October 22, 2001
Our Insureds: Terry and Shannon Schmautz

Dear Mr. Newell:

This letter is to confirm receipt of the letters and reports you left in our insured's mailbox regarding your well. In a few days, I will contact you to obtain a recorded statement of your version of this incident. After I have obtained your recorded statement and have had a chance to fully investigate this matter, I will contact you to discuss it further.

Please do not contact our insured regarding this matter. Any correspondence or telephone calls should be directed to me.

Sincerely,

Tracy Spelce
Claim Specialist
State Farm Fire and Casualty Company
(208) 667-9447

TS/011/1113059

cc: Terry and Shannon Schmautz
1277 South Stone River Drive
Post Falls, ID 83854

letter #1 from State Farm

Department of Water Resources
PROTESTANT'S
Exhibit A-17
Date Admitted 4-22-03

11-19-01

Tracy Spelce **Faxed to 667-8480 & Regular Mail**
State Farm Insurance
Box 2087
Coeur d' Alene, Idaho 83816

RE: Claim # 12-B016-06

Dear Tracy,

Thank you for your letter of November 14, 2001 and your call on November 12, 2001. Please note that this is the first correspondence I have received from State Farm or Mr. Schmautz, verbally or in writing, since this problem began almost a month ago. As requested in your letter of November 14, 2001, I will be happy to correspond only with you in the future, as that is what I requested from the very beginning.

Also, thank you for the call today and your formal recorded interrogation of me concerning the facts of this case. I can't believe it has taken a month for you to begin your fact finding. As noted in the recorded interrogation, the eleven letters written to you and Mr. Schmautz, from October 22 to November 19, will serve as the factual basis of this case. Furthermore, based on State Farm's and Mr. Schmautz's purposeful delays, on Wednesday of this week, and unless I hear from you otherwise, I plan on making every legal effort possible to have the pond removed and the spring returned to its original condition. This action I made reference to in my November 12, letter. I will, however, postpone my legal action regarding the collection of my expenses and damages for one week, or until I hear from you, whichever is first.

As you can read from the series of letters I wrote State Farm and Mr. Schmautz, I have given you every opportunity to interact and become involved with the activities and fact finding of Pyrite, H20, the Department of Water Resources, the Building Department, the Department of Health, and other regulatory agencies before any financial decisions were made. You and your client have elected not to become involved until now. I hope you extend the same courtesy to me that I extended to you and allow me to become involved and provide my input in your fact finding. To this end, please provide me with the company name and number of the other hydrogeologist you recently hired. I want to make sure they have a copy of the first hydrogeologist's report and they are aware of the other information I told you about regarding road spring activity and the previous marsh condition prior to the road development. Also, my father informs me that he had the water tested in 1994 and it showed coliform. It also might be useful for them to have a copy of the other correspondence I mailed to State Farm and Mr. Schmautz. I would be willing to pay your hydrogeologist, based on a formal agreement, for any time it takes to insure that they are fully informed. Please disclose these items to him. Please inform me of any other test or study you plan on conducting so I can provide my input, as I was kind enough to do with you.

This letter will also inform you that I am selling my Cisco stock tomorrow in my retirement plan to pay for additional expenses to date. Please be advised that I have a limited time to redeposit money back to my retirement plan before it is further taxed. This I made reference to in a previous letter. Also, today, after I talked with you, I ordered my fence to be repaired.

Sincerely,

Robert Newell, and for Jack Newell

Cc: Only to you as requested in 11/14/01 State Farm letter.

Letter # 12

MICROFILMED
NOV 25 2003

Department of Water Resources
PROTESTANT'S
Exhibit A-18
Date Admitted 4-22-03

~~11-2-01~~ 11/20/01

Tracy Spelce **Faxed to 667-8480 & Regular Mail**
State Farm Insurance
Box 2087
Coeur d' Alene, Idaho 83816

RE: Claim # 12-B016-066

Dear Tracy,

I just discovered another hidden power line and pipe at the pond. What is this all about? I thought Mr. Schmautz said he had no intent on using the pond for a water source and that he just built it for landfill. I took a picture of this along with a picture of the other water line for you and your new hydogeologist.

Since I did not hear back from you, I think I was able to run down the company name (Cummings Geotech) and number (509-466-4350) of the new hydrogeologist you recently hired. I have left several messages with him in regard to the information concerning the pre-existing marsh area, past coliform tests, trench run off area and old marsh area on my property adjacent to the new pond, past pond area near my barn, and old spring activity on the road near my well site. I also gave him the name and number of Dr. Bill Fouche (773-0488), who will tell him about the spring activity on the road near the well site and the pre-existing marsh condition on my property prior to the pond construction. I have not received a call back from him yet. I am sorry that you were unwilling to give me his company name or number so I could get this relevant information to him. If this is not the person you hired, please relay this information to him and give me this person's name and number.

Also, in your letter of November 14, 2001, you made reference to letters left in the insured's mailbox. I also hand delivered a few letters early in our correspondence. Please make sure you have all 12 letters from 10-25-01 to 11-19-01 along with all the enclosed information with the letters.

Finally, my fence has been repaired and I am waiting for a bill from NW Fence (208-667-1185). In addition, on Wednesday, or unless I hear from you otherwise in writing, I will formally object to Mr. Schmautz's recent application for water rights to the spring along with other complaints I referred to in my last letter and other letters. I will, however, wait until Monday to proceed legally for the collection of my damages. If I do not hear from you before Monday, consider this letter your notice that I have given this matter to my attorney Mr. Mike Reagan at 208-664-1561. I will be seeking attorney fees in my complaint.

Sincerely,

Robert Newell, and for Jack Newell

Cc: Only to you per your request

Letter # 13

MICROFILMED
NOV 26 2003

Department of Water Resources
PROTESTANT'S
Exhibit A-19
Date Admitted 4-22-03

FORTUNE CAPITAL GROUP
Box 2345 Post Falls Idaho 83877
robertlnewell@msn.com 208-775-9475

11-21-01

Grant Cummings
Cummings Geotechnology
2716 E. Hillcrest Drive
Colbert, WA 99005

Dear Grant,

I have left several messages with you as I understand you may be doing a study for State Farm and Mr. Schmautz concerning an upstream pond construction and the degree of impact it had on the loss of water to my well.

Tracy Spelce, State Farm Insurance Company, has informed me that she has given you a previous report done for me and Mr. Schmautz by Pyrite. She has also informed me that you have a copy of 13 letters I have sent to State Farm and Mr. Schmautz, along with factual and supporting information.

For some reason, Tracy does not want me to provide you with information that would help you create a fair and unbiased appraisal of the problem. As you may be aware, Mr. Schmautz and I both had the opportunity to provide input to the previous hydro geologist. In Fact, Mr. Schmautz agreed to pay for the first report. We selected him because he was recommended by Al Beardslee with the Department of Water Resources. I would be happy to pay you for your time as it relates to the time spent with me to attain all the facts. Tracy is aware of this proposal. Please return a call or write back so we can discuss this further.

I have enclosed several pictures of areas you should look at to help your evaluation. Also, please call Dr. Bill Fouche, at 208-773-0488, to discuss the prior spring and marsh areas near my well, and on my property, that existed prior to the construction of the pond. I also have other pictures that might be helpful to you. In addition, I have past coliform test results and well development information for your review. In order for you to do a fair appraisal, it is important that we get together before you report your results.

If you would like to meet with me at your convenience, please give me a call on my cell @ 208-755-9475, or at home @ 208-777-9765.

Sincerely,

Robert Newell, and for Jack Newell

Enclosed: Pictures
Letter to Tracy Spelce 11/20/01
CC: Tracy Spelce **Faxed to 667-8480**

Letter # 14

MICROFILMED
NOV 2 6 2003

State Farm Insurance Companies

STATE FARM INS. CLAIMS OFFIC
1917 Lakewood Drive
P.O. Box 2087
Coeur d'Alene, Idaho 83814
208-667-9447

November 19, 2001

Robert Newell

Box 2345
Post Falls, ID 83877

Department of Water Resources
PROTESTANT'S
Exhibit A-20
Date Admitted 4-22-03

RE: Claim Number: 12-B016-066
Date of Loss: October 22, 2001
Our Insured: Terry Schmautz

Dear Mr. Newell:

As discussed today, I have requested a hydrogeologist investigate why your well ran dry. If you have any information you haven't already submitted which may be pertinent to his investigation, please send it to me in the form of a letter. I will then forward to him for his consideration.

As I explained to you, copies of all the documentation you submitted were forwarded to the hydrogeologist for his review.

Your cooperation in this matter is appreciated.

Sincerely,

Tracy Spelce
Claim Specialist
State Farm Fire and Casualty Company
(208) 667-9447

Received 11/21/01

RECEIVED 11/21/01

#2

MICROFILMED

ALLIED GROUP INSURANCE
A MEMBER OF NATIONWIDE
12128 NORTH DIVISION
PMB # 134
SPOKANE, WA 99218-1905
509-464-4515.877-524-9855
FAX: 509-465-2208

10/26/01

Department of Water Resources
PROTESTANT'S
Exhibit A-21
Date Admitted 4-22-03

ROB NEWELL
PO BOX 2345
POST FALLS, ID 83877

CLAIM NUMBER:11N00854
INSURED: JACK AND MERRIE LU NEWELL
DATE OF LOSS: 10/22/01
LOSS LOCATION: W 2555 RIVERVIEW DR, POST FALLS, ID 83854

Dear: Mr. Newell,

Thank you for the report that you faxed to me on 10/26/01 regarding the inspection by John Riley, a Consulting Hydrogeologist. You had stated to me in the recorded statement that the flow of underground water to your well has stopped due to the fact your neighbor had built a pond above the property you reside in. It appears that that pond has affected the natural flow of the water.

Under your Golden Blanket Homeowners Insurance policy this type of loss does not apply as a covered loss under the coverage for the Dwelling or Other Structures. Under the coverage for your contents, Coverage C the water is not considered a contents item.

It appears that you may be in a position to make a claim against the neighbor if you do believe he is at fault for your well drying out.

If you do believe that your insurance policy does have coverage please call me to discuss.

Sincerely,
ALLIED GROUP INSURANCE

John Beaton
Master Claim Representative

MIC

2003

letter #1 from Nationwide

RECEIVED
MAR 03 2003
LIESCHE, REAGAN, WALLACE & WALLACE

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 95-9104 IN THE NAME OF TERRY D SCHMAUTZ	))))	NOTICE OF CONFERENCE AND/OR HEARING

On September 30, 2002, TERRY D SCHMAUTZ filed with the Department of Water Resources (department) Application for Permit No. 95-9159. The application was protested by JACK NEWELL & ROBERT NEWELL.

The department has scheduled the matter for conference &/or hearing at **10:30 a.m. on March 25, 2003 at the Department of Water Resources, 1910 Northwest Blvd., Suite 210, Coeur d'Alene, Idaho.** The conference &/or hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45. A copy of the rules may be obtained from the department upon request. The presiding officer at the conference &/or hearing will be Robert Haynes, P.E., Regional Manager Idaho Dept. of Water Resources.

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

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

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

Dated this 28th day of February, 2003.

Robert A Haynes
Regional Manager

I hereby certify that on the 28th day of February, 2003, I mailed a true and correct copy, postage prepaid, of this document to the applicants(s) and protestant(s) listed below:

Deanne L Ball
Administrative Assistant

Certified Mail TERRY D SCHMAUTZ
1277 S STONE RIVER DR
POST FALLS ID 83854

JACK AND ROBERT NEWELL
C/O MICHAEL E REAGAN
SIMS, LIESCHE, REAGAN, WALLACE & WALLACE PA
1044 NORTHWEST BLVD
COEUR D ALENE ID 83814

DWR #1

Notice of Hearing &/or Conference

MICROFILMED
MAR 26 2003

Department of Water Resources
PROTESTANT'S
Exhibit A-22
Date Admitted 4-22-03

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

ISSUES

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

1. Will the proposed appropriation injure other water rights?

2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?

3. Was the application made in good faith or for delay or speculative purposes?

4. Does the applicant have sufficient financial resources with which to complete the proposed project?

5. Will the proposed use conflict with the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?

6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?

BURDEN OF PROOF

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

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

PROCEDURE

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

MICROFILMED
MAY 26 2009

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

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

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

Parties may by written stipulation waive the right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order and judicial review of the order.

EXHIBITS

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

AMERICANS WITH DISABILITIES ACT

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

MICROFILMED
NOV 26 2003

Department of Water Resources
PROTESTANT'S
Exhibit A-23
Date Admitted 4-22-93

Newell

real vs personal prop

water right is real prop See #2
55-101 ; Ireton v Dd Irrign Co.
30 I 310, 164 P 687 (1917)

public waters only — to appropriation

waters from creek, formed by natural spring on priv. prop. constitutes public ~~property~~ waters w/in I.C. 42-101 and therefore subject to appropriation. Bachman v. Reynolds Irrign Dist. 56 I 507, 55 P.2d 1314 (1936).

pt. of appropriation

waters of a natural spring or stream, flowing from the lands of another where they arise, are subject to diversion and application to beneficial use if there is not a prior right in existence Jones v McEntire 60 I 338, 91 P.2d 373 (1939) Meyer v Gentry 67 I 559, 186 P.2d 870 (1947)

42-103 the rt to use of unappropriated waters of rivers, streams lakes, springs, and of subterranean waters or other sources within this state shall hereafter be acqd only by appropriation under the applcn .... this chapter.

constitutional water right

— constitutional water right is created simply by diverting unappropriated waters and putting those waters to beneficial use
Nettleton v Higginson 98 I 87, 558 P.2d 1048 (1977)

SLR #1

MICROFILMED
NOV 2 6 2003

an appropriator, whose right is based upon a valid, although unadjudicated, constitutional method of appropriation, retains a senior claim in relation to a person holding a later issued permit. R.T. Nahas Co. v. Hulet
114 I 23, 752 P.2d 625 (Ct. App. 1988)

42-226 ground waters are public waters
... the doctrine of "first in time is first in right" is recognized
... prior appropriators of underground water shall be protected in the maintenance of reasonable ground water pumping levels.
... all ground waters in this state are declared to be the property of the state.

pre 1978 — domestic wells drilled prior to 1978 are exempt from provisions of IC 42-226
Parks v. Wallentine 103 I 506, 650 P.2d 648 (1982)

42-227 domestic wells shall not be subject to the permit requirements under 31 42-229 I.C.
... Rights to ~~stock~~ groundwater for such domestic purposes may be acquired by withdrawal & use.

MICRO
MAY 2 5 2003

Department of Water Resources
PROTESTANT'S
Exhibit A-24
Date Admitted 4-22-03

Mar 18, 2003

Terry Schmautz Hand Delivered 3-18-03

PERMIT # 95-9104
PROTEST HEARING 3/25/03
ROBERT HAYNES

Dear Terry:

As you are aware, a hearing has been scheduled for March 25, 2003 concerning your application and my protest for permit number 95-9159. As a matter of fact, I will remind you that you applied for this permit after you built the pond and after I notified you of the disturbance to my well.

I am prepared to present my case for protest and I will copy you and the Department of Water Resources per IDAPA Rule of Procedure 37.01.01606 prior to the meeting. I hope you will do the same.

My hope for remedy from the Department of Water Resources is:

- Return the pond area to its original condition
- Return water penetration from spring
- Deny Schmautz water use application
- Return original drainage to ravine leading to well site

I offer you the following remedy, which would be less costly to you than the remedy I seek from the Department of Water Resources:

- Payment of ½ of my cost for my new well and legal expenses ($5,000)
- I will not dispute your application

OR

- Payment of ¼ of my cost for my new well and legal expenses ($2,500)
- Shared use of the pond and spring water
- I will not dispute your application

If I do not receive a reply from you on my offers, and/or if I do not receive the remedy I am requesting from the Department of Water Resources, I intend on initiating legal action through the courts. I have made every attempt to come up with a solution to this problem that is fair to all parties. I have not heard anything back from you since you said you would take care of this problem back on October 24, 2001.

I again look forward to some response.

Sincerely, Robert Newell 208-755-9475

CC: Department of Water Resources FAX 769-1454 ROBERT HAYNES

MICAH

LETTER # 15

RECEIVED

APR 01 2003

BEFORE THE DEPARTMENT OF WATER RESOURCES

LIESCHE, REAGAN,
WALLACE & WALLACE

OF THE

STATE OF IDAHO

Department of Water Resources
PROTESTANT'S
Exhibit A-25
Date Admitted 4-22-03

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 95-9104)
IN THE NAME OF TERRY D SCHMAUTZ)

NOTICE OF HEARING

On October 29, 2001, TERRY D SCHMAUTZ (applicant) filed with the Department of Water Resources (department), application for permit No. 95-9104. The application was protested by JACK NEWELL & ROBERT NEWELL. The conference held by the department on March 25, 2003, did not resolve the matter of protest.

The department has scheduled the matter for hearing on **April 22, 2003, at 8:00 AM** at the **Department of Water Resources, 1910 Northwest Blvd., Suite 210, Coeur d'Alene, Idaho.** The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45. A copy of the rules may be obtained from the department upon request. The presiding officer at the hearing will be L. Glen Saxton.

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

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

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

Dated this 31st day of March, 2003.

Robert G. Haynes, Regional Supervisor

I hereby certify that on the 31st day of March, 2003, I mailed a true and correct copy of this document, postage prepaid, to the applicant(s) and protestant(s) listed below:

Dianne L. Ball, Administrative Assistant

Certified Mail

TERRY D SCHMAUTZ
1277 S STONE RIVER DR
POST FALLS ID 83854

JACK & ROBERT NEWELL
C/O MICHAEL E REAGAN
1044 NORTHWEST BLVD
COEUR D ALENE ID 83814

DWR #2

MICHAEL E REAGAN

APR 2 5 2003

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

ISSUES

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1. Will the proposed appropriation injure other water rights?

2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?

3. Was the application made in good faith or for delay or speculative purposes?

4. Does the applicant have sufficient financial resources with which to complete the proposed project?

5. Will the proposed use conflict with the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?

6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?

BURDEN OF PROOF

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

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

PROCEDURE

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

MICRO
MAY 2 6 2009

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

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

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

Parties may by written stipulation waive the right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order and judicial review of the order.

EXHIBITS

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

AMERICANS WITH DISABILITIES ACT

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

MICROFILMED
NOV 26 2003

Department of Water Resources
PROTESTANT'S
Exhibit A-26
Date Admitted 4-22-03

April 1, 2003

Terry Schmautz
1277 S. Stone River Drive
Post Falls, Idaho 83854

Newell vs. Schmautz

Dear Terry,

I hope you received the notice of hearing for April 22, 2003. Since I did not hear back from you concerning my offer to settle this matter, it appears that you are denying my offer. I will leave it open until Friday, April 4, 2003. I do not understand your reluctance to correspond with your insurance company, but I would suggest that you relay my offer to them so they have an opportunity to mitigate the damages.

As you are aware, I have made repeated attempts to correspond with you, and in each attempt, I received no reply. I am convinced that you have injured me and I will avail myself of every opportunity to remedy this situation with any means legally available. I believe I have dealt with you in good faith and look forward to this problem being put behind us.

I anticipate that it will cost you over $25,000 to remedy this problem if we do not decide on a settlement. My final resolution to this problem will be the payment to me of $15,000 for my costs plus the removal of the dam and return of the spring area to its original condition.

Finally, if you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01606 requires that you provide a copy of exhibits to each party and to the presiding officer. I request that you provide me with that information at least 10 days in advance to our meeting. In good faith, I have supplied you with most of my exhibits with each of the many letters I sent you from October of 2001.

I hope to hear from you soon.

Sincerely,

Robert Newell

CC: Glen Saxton

LETTER #16

MICROFILMED
APR 2 2 2003

State Farm Insurance Companies®

April 3, 2003

State Farm Insurance Claims Office
1917 Lakewood Drive
P.O. Box 2087
Coeur d'Alene, ID 83814
208-667-9447

667-8480

Robert Newell
Box 2345
Post Falls, ID 83877

Department of Water Resources
PROTESTANT'S
Exhibit A-27
Date Admitted 4-22-03

RE: Our Claim Number: 12-B016-066
Our Insured: Schmautz
Date of Loss: October 22, 2001

Dear Mr. Newell:

The purpose of this letter is to reiterate our position regarding your claim against our insured. As stated in a letter to your attorney dated January 14, 2002 (copy enclosed), we found no negligence on the part of our insured which may have contributed to your damages and consequently, we will be unable to "mitigate the damages" you feel our insured has caused.

It should be noted Mr. Schmautz has forwarded all correspondence he has received directly to State Farm. As requested in a letter to you dated November 14, 2001, we respectfully request you direct your correspondence to this office rather than Mr. Schmautz.

If you are represented by counsel, I will need permission from your attorney to correspond with you directly. My records indicate you were once represented by Rich Wallace at Sims, Liesche, Reagan, Wallace & Wallace. Please provide me with updated contact information in the event you continue to be represented by counsel.

Sincerely,

Tracy Spelce
Claim Representative
Phone No: (208) 667-9447
State Farm Fire and Casualty Company

Enclosure(s)

cc: Terry Schmautz

STATE FARM LETTER MISC #3

OCT 2 6 2003

State Farm Insurance Companies

Coeur d'Alene Service Center
PO Box 2087
Coeur d'Alene, Idaho 83816
Phone: (208) 667-9447

January 14, 2002

Department of Water Resources
PROTESTANT'S
Exhibit A-28
Date Admitted 4-22-03

Mike Reagan, Attorney at Law
Sims, Liesche, Reagan, Wallace & Wallace, P.A.
PO Box 2127
Coeur d' Alene, ID 83816

RE:

Our Claim Number:	12-B016-066
Our Insured:	Schmautz, Terry and Shannon
Date of Loss:	October 22, 2001
Your Client:	Robert Newell

Dear Mr. Reagan:

Our investigation of the above-referenced matter is complete. We have found no negligence on the part of our insured which may have contributed to your client's loss. Therefore, Mr. Schmautz is not legally liable for damages and we respectfully deny Mr. Newell's claim.

Please be aware the statute of limitations for property damage in the state of Idaho is three years from the date of loss (October 22, 2004).

If there is any additional information you would like us to consider which may have bearing on this decision or Mr. Newell's claim, please contact me and I will reevaluate our position.

Sincerely,

Tracy Speice
Claim Specialist
State Farm Fire and Casualty Company
Phone No: (208) 667-9447

COPY

MICR[illegible]
NOV 2 5 2003

Tracy Speice
Claim Representative
1917 Lakewood Drive
Box 2087
CDA, Id 83814

FAXED TO: 667-8470 4/8/03
SENT VIA MAIL: 4/8/03

Department of Water Resources
PROTESTANT'S
Exhibit A-29
Date Admitted 4-22-03

April 8, 2003

Tracy,

Pursuant to your letter dated April 3, 2003, requesting that I correspond with you rather than Mr. Schmautz, I am requesting permission to enter Mr. Schmautz's property to conduct a perk test and water sample. I would like permission to enter before our meeting on April 22, so I can coordinate the engineer's time.

Also, I am no longer represented by Sims, Liesche, Reagan as I will be having my in-house council provide guidance in regards to this dispute. Please forward all correspondence to me at Box 2345, Post Falls, Idaho 83877.

Sincerely,

Robert Newell

CC: Department of Water Resources

MICRO...
NOV 2 6 2003

LETTER # 17

Department of Water Resources
PROTESTANT'S
Exhibit A-30
Date Admitted 4-22-03

4-11-03

Department of Water Resources
%Robert Haynes
%Glen Saxton
Hand Delivered on 4-11-03

In the matter of Application # 95-9104 Schmautz Newell Dispute
In the matter of Application #95-9159 Schmautz Newell Dispute

Dear Sirs,

In compliance with IDAPA Rule of Procedure 37.01.01606 I am providing a copy of exhibits to each party and the presiding officer. Enclosed please find your copy.

In a letter dated April 1, 2003, I requested from Mr. Schmautz and State Farm to receive from them their exhibits 10 days in advance to our meeting on April 22, 2003. I have not yet received their information as of today's date.

Finally, If you would please provide me a copy of Application # 95-9104 and #95-9159 before our meeting, it would be appreciated.

Sincerely,

Robert Newell
Box 2345
Post Falls, Idaho 83877
208-755-9475

enclosed: Letter of April 1, 2003

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LETTER A



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2003

Department of Water Resources
PROTESTANT'S
Exhibit B-1
Date Admitted 4-22-03

between the access road and bedrock outcrop that separates the drainages. Since the construction of the pond, this spongy area has dried up. Similarly, an area of spongy alluvium and shallow puddles formally existed in the east drainage adjacent to the Newell barn, and downhill of the Newell well. Since the construction of the pond, this spongy area also has dried up. The west drainage still is damp downgradient of the pond.

Hydrogeologic Conceptual Model

The hydrogeologic conceptual model describes in general terms the probable hydrostratigraphy, and flow paths. It is developed to present a plausible understanding of the physical conditions that control ground water flow.

Shallow alluvium carries infiltrating water toward the north along the contact with bedrock. The shallow ground water within the alluvium recharges bedrock in weathered or fractured zones. Ground water that remains in the alluvium appears as spongy or wet areas and eventually discharge to the Spokane River.

The springs uphill from the Newell well appear on a hillside in an area where the alluvium probably thins. This concept is supported by outcrops of bedrock in the area. Discharge from the springs used to be divided between the east and west drainage, supplying recharge to the bedrock in both systems. The relative proportion of spring discharge that recharge the two drainages in not known.

The pond construction activities appear to have altered the shallow ground water flow in the east drainage. Now shallow ground water appears to flow only or predominantly down the west drainage. This has resulted in decreased recharge to bedrock in the east drainage.

Conclusions

Recharge to the Newell well appears to be substantially less than it had been until recently. The decrease in recharge probably has taken place because of the disruption of the shallow ground water flow path down gradient of the springs.

This conclusion is supported by:

- a substantial decrease in static water level in well, and
- the disappearance of spongy areas immediately downhill from the pond, and adjacent to the Newell barn.

Simply breaching the pond dikes may or may not return recharge to the east drainage, The

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Shallow alluvium carries infiltrating water along the contact with bedrock, recharging bedrock in weathered or fractured zones.

Spring discharge in an area where the alluvium thins. Outcrop supports this idea.

Discharge used to be divided between the east and west drainage.

Now shallow ground water appears to flow only or predominantly down the west drainage.

Conclusions

Recharge to the Newell well no longer takes place because of the disruption of the shallow ground water flow path.

This conclusion is supported by:

- decrease in static water level in well,
- dissappearance of spongy areas

If you have any questions or comments, please contact me at 208.773.5223. FAX number is the same, via automatic switching device.

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PYRITE HYDROCHEM

John A. Riley
Consulting
Hydrogeologist

Department of Water Resources
PROTESTANT'S
Exhibit B-2
Date Admitted 4-22-03

TECHNICAL MEMORANDUM

Date: November 7, 2001

To: Rob Newell

From: John A. Riley, Hydrogeologist

Subject: Ground Water Evaluation

Introduction

The purpose of this technical memorandum is to evaluate the decrease in production of your water well. It is my understanding that you noticed a dramatic decrease in the yield of your well several months after your neighbor constructed a pond uphill from your existing well. The pond collects spring discharge which previously appeared to flow north and northwest as shallow ground water.

The objectives of this investigation are to:

- Review the production history of the well,
- Conduct a preliminary investigation of the hydrogeology,
- Develop a hydrogeologic conceptual model, and
- Determine if the construction of the pond may be responsible for the decrease in well production.

The information presented in this memorandum is based on field observations at the property, review of USGS and Idaho Geological Survey maps, review of existing well records, and my professional knowledge of hydrogeology.

The Newell well is located in the northeast quarter of section 8, T. 50 N., R. 5 W. It was drilled in January, 1984, to a depth of 160 feet below ground surface (BGS). The owner's name on the driller's report is Jim Crouch. The driller's report indicates static water level at 95 feet, and production of 15 gpm using air lift pumping. The well was production tested in March, 1994 for 70 minutes. Static water level was 115 feet. Initial production was 30 gpm. Sustainable production was 5-6 gpm, with a pumping level of 153.5 feet. The well was

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Voice & Fax:208.773.5223 • 1.800.565.5819 • PO Box 453, Post Falls, ID 83877-0453 • pyritejr@iea.com

production tested again in October, 2001 after the production declined substantially. The pump was set at 155 feet, and would pump no water, indicating that the static water level was deeper than 155 feet. The driller's report and results of the tests are attached at the end of this memorandum.

The decline in well production appears to have resulted from a dramatic decline in static water level between 1994 and the present. The static water level remained fairly cvonstant from 1984 through 1994, as documented on the driller's report and production test. The static water level declined from 115 feet in 1994 to below 155 feet in 2001. The well is 160 feet deep, which leaves no available drawdown. No well production problems occurred until approximately one months after the pond had been completed.

Hydrogeologic Setting

The Newell well is completed in Precambrian metamorphic rocks of the Belt Supergroup. Production from Belt rocks typically is derived from weathered and/or fractured zones in the bedrock. The driller's report states that hard bedrock overlies medium bedrock. This suggests that production comes from structurally controlled fracture zones. Recharge typically comes from infiltration into and flow within the fractured bedrock. The size of the recharge area is unknown, and determination of its size is beyond the scope of this investigation.

The well is located in an area of moderately steep, north-facing hills between West Riverview Drive and the Spokane River. The top of the well casing is at an elevation of approximately 2240 feet above sea level. The bottom of the well is at an elevation of approximately 2080 feet. The river elevation is approximately 2050 feet.

The springs discharge from a shallow alluvial hillside at an elevation of approximately 2340 feet. A map is included that presents spring and well locations, and topography, Prior to construction of the pond, discharge from the springs appeared to have flowed toward the river as shallow ground water in the thin alluvium, and in the weathered and fractured bedrock.

Two drainages exist north (downhill) of the springs. These are informally named the west and east drainages. The west drainage flows to the northwest away from the springs. The east drainage flows to the north northeast from the springs. A bedrock outcrop exists adjacent to the access road between the drainages. The west drainage is more deeply incised than the east drainage. The Newell well is located along the axis of the east drainage.

Shallow ground water formally produced an area of wet spongy alluvium below the springs between the access road and bedrock outcrop that separates the drainages. Since the construction of the pond, this spongy area has dried up. Similarly, an area of spongy alluvium

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and shallow puddles formally existed in the east drainage adjacent to the Newell barn, and downhill of the Newell well. Since the construction of the pond, this spongy area also has dried up. The west drainage still is damp downgradient of the pond.

Hydrogeologic Conceptual Model

The hydrogeologic conceptual model describes in general terms the probable hydrostratigraphy, and flow paths. It is developed to present a plausible understanding of the physical conditions that control ground water flow.

Shallow alluvium carries infiltrating water toward the north along the contact with bedrock. The shallow ground water within the alluvium recharges bedrock in weathered or fractured zones. Ground water that remains in the alluvium appears as spongy or wet areas and eventually discharge to the Spokane River.

The springs uphill from the Newell well appear on a hillside in an area where the alluvium probably thins. This concept is supported by outcrops of bedrock in the area. Discharge from the springs used to be divided between the east and west drainage, supplying recharge to the bedrock in both systems. The relative proportion of spring discharge that recharge the two drainages in not known.

The pond construction activities appear to have altered the shallow ground water flow in the east drainage. Now shallow ground water appears to flow only or predominantly down the west drainage. This has resulted in decreased recharge to bedrock in the east drainage.

Conclusions

Recharge to the Newell well appears to be substantially less than it had been until recently. It is possible that recharge to the Newell well has been blocked. The decrease in recharge probably has taken place because of the disruption of the shallow ground water flow path down gradient of the springs.

This conclusion is supported by:

- a substantial decrease in static water level in well, and
- the disappearance of spongy areas immediately downhill from the pond, and adjacent to the Newell barn.

Simply breaching the pond dikes may or may not return recharge to the east drainage, The mechanisms and location of the original recharge pathways is not understood. The degree of

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disruption of those pathways, likewise, is not known. It may be necessary to conduct engineering or geophysical investigations to determine the nature of the original recharge mechanisms, and what steps must be taken to reestablish recharge mechanisms.

If you have any questions or comments, please contact me at 208.773.5223. FAX number is the same, via automatic switching device.

MICR[illegible]

NOV 2 6 2003

Department of Water Resources
PROTESTANT'S
Exhibit B-3
Date Admitted 4-22-03

TOTAL P.03

WELL DRILLER'S REPORT

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

1. OWNER

Name Jim Crouch

Address Post Falls, Idaho

Owner's Permit No. ____

2. NATURE OF WORK

☒ New well ☐ Deepened ☐ Replacement
☐ Abandoned (describe abandonment procedures such as materials, plug depths, etc. in lithologic log)

3. PROPOSED USE

☒ Domestic ☐ Irrigation ☐ Test ☐ Municipal
☐ Industrial ☐ Stock ☐ Waste Disposal or Injection
☐ Other (specify type)

4. METHOD DRILLED

☒ Rotary ☐ Air ☐ Hydraulic ☐ Reverse rotary
☐ Cable ☐ Dug ☐ Other

5. WELL CONSTRUCTION

Casing schedule: ☒ Steel ☐ Concrete ☐ Other

Thickness	Diameter	From	To
.250 inches	6 inches	+ 1 feet	20 feet
PVC inches	4 inches	1 feet	160 feet
inches	inches	feet	feet
inches	inches	feet	feet

Was casing shoe used? ☒ Yes ☐ No
Was a packer or seal used? ☐ Yes ☒ No
Perforated? ☐ Yes ☒ No
How perforated? ☐ Factory ☐ Knife ☐ Torch
Size of perforation ____ inches by ____ inches

Number	From	To
____ perforations	____ feet	____ feet
____ perforations	____ feet	____ feet
____ perforations	____ feet	____ feet

Well screen installed? ☐ Yes ☒ No
Manufacturer's name ____
Type ____ Model No. ____
Diameter ____ Slot size ____ Set from ____ feet to ____ feet
Diameter ____ Slot size ____ Set from ____ feet to ____ feet
Gravel packed? ☐ Yes ☒ No ☐ Size of gravel ____
Placed from ____ feet to ____ feet
Surface seal depth 20' Material used in seal: ☐ Cement grout
☒ Bentonite ☐ Puddling clay ☐ ____
Sealing procedure used: ☐ Slurry pit ☐ Temp. surface casing
☒ Overbore to seal depth
Method of joining casing: ☐ Threaded ☒ Welded ☐ Solvent Weld
☐ Cemented between strata
Describe access port ____

6. LOCATION OF WELL

Sketch map location must agree with written location.

N
W E
S

Subdivision Name ____
Lot No. ____ Block No. ____

Kootenai

¼ NE ¼ Sec. 8 T. 50 N/S, R. 5 W.

7. WATER LEVEL

Static water level 95 feet below land surface.
Flowing? ☐ Yes ☒ No G.P.M. flow ____
Artesian closed-in pressure ____ p.s.i.
Controlled by: ☐ Valve ☐ Cap ☐ Plug
Temperature ____ °F. Quality good
Describe artesian or temperature zones below.

8. WELL TEST DATA

☐ Pump ☐ Bailer ☒ Air ☐ Other ____

Discharge G.P.M.	Pumping Level	Hours Pumped
15 gpm		

9. LITHOLOGIC LOG

Bore Diam.	Depth From	Depth To	Material	Water Yes	Water No
6	-	1	topsoil		
	1	120	med hard granite		
	120	160	soft granite	X	

10.

Work started 1-23-84 finished 1-26-84

11. DRILLER'S CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Coeur d'Alene Drilling, Inc. 214
Firm Name ____ Firm No. ____
Address P.O. Box 380 Hayden Lake, Idaho Date 2-15-84
Signed by (Firm Official) Bill Finley
and
(Operator) Bill Finley

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Department of Water Resources
PROTESTANT'S
Exhibit B-4
Date Admitted 4.22.03

DATE 3-18-94
WELL CONSTRUCTION
WELL DEPTH
STATIC WATER LEVEL
GPM DRILLER TESTED
TEST PUMP USED
PUMP SETTING
PIPE SIZE WIRE SIZE
LIQUID LEVEL CONTROLS

CUSTOMER NAME Jack Newell
ADDRESS
PHONE
JOB LOCATION
PITLESS PUMP HOUSE
CONDITION
PRESSURE TANK SIZE w/log
ELECTRICAL CONTROLS

TIME	FLOW RATE	PRESSURE	WATER QUALITY	STATIC
9:20	30	Ø	DIRTY	15'
9:25	25	Ø	Cloudy	115'
9:31	10	70PSI	Cloudy	150'
9:35	7.5	80PSI	Cloudy	150'
9:40	7.5	80PSI	Clear	152'
9:48	5	85PSI	Clear	152'
9:58	6	85PSI	Clear	150'
10:05	6	82 PSI	Clear	154'
10:10	6	82PSI	Clear	157'
10:15	5	88 PSI	Clear	153' 6"
10:20	5	88PSI	Clear	153' 6"
10:25	5	88PSI	Clear	153' 6"
10:30	5	88PSI	Clear	153' 6"

WELL TEST SUMMARY

MICROFILMED
NOV 2 6 2003

FEB-11-1900 06:52 P.02

Department of Water Resources
PROTESTANT'S
Exhibit B-5
Date Admitted 4-22-03

WORK ORDER

582 W. Hayden Avenue, Hayden Lake, ID 83835
(208) 772-4004 • Fax (208) 772-4892
ELL SERVICE, INC.

Date 10/22/01

NAME: Bob Newell
JOB LOCATION: Bridge x Spokane St
ADDRESS: Box 2345
DIRECTIONS: 2 miles on W. Riverview
P.F. Idaho
PHONE: 755-9475
JOB PHONE: (Sig Pt to Left) -

JOB INSTRUCTIONS - WORK ORDERED

Pump for Trapps -
No Water - New Pump

QTY.	ITEM	MATERIAL	PRICE	AMOUNT
Ten Comm to Customer - Being Back				
11-3161	1 T&C PE			
10-4150104	10/4 Sub Wire			
~~Ten~~	~~Comm~~	~~Pump~~		

TOTAL MATERIALS

WELL INFORMATION

WELL DEPTH		PUMPSETTING	
STATIC LEVEL		CASING	
PUMP	16507	DRILLING CO.	
GPM		WIRE SIZE	PIPE SIZE

DESCRIPTION OF WORK DONE

Went Right Towards (2555 W/ Riverview) Riven New House on Comm. (Co Post)

Running out of water, lowered pump 11' - 5' off bottom. Air Water

SERVICE CHECKS

VOLTS OFF		VOLTS RUNNING	
OHMS	RB	RY	BY
OHMS to GND	R	B	Y
AMPS	R	B	Y

LABOR

DATE	EMPLOYEE	TIME IN	TIME OUT	HRS.	RATE	AMOUNT
10/22	Steve	215	515	✓	60	
	Standby	64	45 min			
10-23-01	Mike	9	11:30	2½	60	N/C

DATE	TRAVEL TIME	MILES	HRS.	RATE	AMOUNT

TOTAL LABOR	
TOTAL MATERIALS	
TOTAL OTHER	
TAX	
TOTAL	

Work ordered by

MICROFILMED

NOV 16 2001

FEB-11-1900 06:52 P.01

Department of Water Resources
PROTESTANT'S
Exhibit B-6
Date Admitted 4-22-03

Cross Spokane St. bridge, go west on River View Dr. for 2 miles. Turn right past Signal Pt. Rd. at 2 new homes. Newell's home 1/4 mile down road.

N E S W

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

USE TYPEWRITER OR BALLPOINT PEN

WELL DRILLER'S REPORT

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

Department of Water Resources
PROTESTANT'S
Exhibit C-1
Date Admitted 4-22-03

WELL OWNER

Name [redacted] Jim Crouch

Address Post Falls, Idaho

Owner's Permit No. _____

NATURE OF WORK

☒ New well ☐ Deepened ☐ Replacement
☐ Abandoned (describe abandonment procedures such as materials, plug depths, etc. in lithologic log)

PROPOSED USE

☒ Domestic ☐ Irrigation ☐ Test ☐ Municipal
☐ Industrial ☐ Stock ☐ Waste Disposal or Injection
☐ Other _____ (specify type)

METHOD DRILLED

☒ Rotary ☐ Air ☐ Hydraulic ☐ Reverse rotary
☐ Cable ☐ Dug ☐ Other _____

WELL CONSTRUCTION

Casing schedule: ☒ Steel ☐ Concrete ☐ Other _____

Thickness		Diameter		From		To	
.250	inches	6	inches	+ 1	feet	20	feet
PVC	inches	4	inches	1	feet	160	feet
	inches		inches		feet		feet
[redacted]	inches		inches		feet		feet

Was casing drive shoe used? ☒ Yes ☐ No
Was a packer or seal used? ☐ Yes ☒ No
Perforated? ☐ Yes ☒ No
How perforated? ☐ Factory ☐ Knife ☐ Torch
Size of perforation _____ inches by _____ inches

Number		From		To	
	perforations		feet		feet
	perforations		feet		feet
	perforations		feet		feet

Well screen installed? ☐ Yes ☒ No
Manufacturer's name _____
Type _____ Model No. _____
Diameter ___ Slot size ___ Set from ___ feet to ___ feet
Diameter ___ Slot size ___ Set from ___ feet to ___ feet
Gravel packed? ☐ Yes ☒ No ☐ Size of gravel _____
Placed from _____ feet to _____ feet
Surface seal depth 20' Material used in seal: ☐ Cement grout
☒ Bentonite ☐ Puddling clay ☐ _____
Sealing procedure used: ☐ Slurry pit ☐ Temp. surface casing
☒ Overbore to seal depth
Method of joining casing: ☐ Threaded ☒ Welded ☐ Solvent Weld
☐ Cemented between strata
Describe access port _____

7. WATER LEVEL

Static water level 95 feet below land surface.
Flowing? ☐ Yes ☒ No G.P.M. flow _____
Artesian closed-in pressure _____ p.s.i.
Controlled by: ☐ Valve ☐ Cap ☐ Plug
Temperature ___ °F. Quality good
Describe artesian or temperature zones below.

8. WELL TEST DATA

☐ Pump ☐ Bailer ☒ Air ☐ Other _____

Discharge G.P.M.	Pumping Level	Hours Pumped
15 gpm		

9. LITHOLOGIC LOG

Bore Diam.	Depth From	Depth To	Material	Water Yes	Water No
6	-	1	topsoil		
	1	120	med hard granite		
	120	160	soft granite	x	

10.

Work started 1-23-84 finished 1-26-84

LOCATION OF WELL

Sketch map location must agree with written location.

N
W E
S

Subdivision Name _____
Lot No. _____ Block No. _____
County Kootenai
NW ¼ NE ¼ Sec. 8, T. 50 N/S, R. 5 E/W.

11. DRILLERS CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Coeur d'Alene Drilling, Inc. 214
Firm Name _____ Firm No. _____
P.O. Box 386
Address Hayden Lake, Idaho Date 2-15-84
Signed by (Firm Official) Bill Finley
and
(Operator) Bill Finley

USE ADDITIONAL SHEETS IF NECESSARY — FORWARD THE WHITE COPY TO THE DEPARTMENT

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DEC 03 2003
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NOV 26 2003

Department of Water Resources
PROTESTANT'S
Exhibit C-2
Date Admitted 4-22-03

DATE 3-18-94
WELL CONSTRUCTION
WELL DEPTH
STATIC WATER LEVEL
GPM DRILLER TESTED
TEST PUMP USED
PUMP SETTING
PIPE SIZE WIRE SIZE
LIQUID LEVEL CONTROLS

CUSTOMER NAME Jack Newell
ADDRESS
PHONE
JOB LOCATION
PITLESS PUMP HOUSE
CONDITION
PRESSURE TANK SIZE w/log
ELECTRICAL CONTROLS

TIME	FLOW RATE	PRESSURE	WATER QUALITY	STATIC
9:20	30	Ø	DIRTY	15'
9:25	25	Ø	Cloudy	115'
9:31	10	70 PSI	Cloudy	150'
9:35	7.5	80 PSI	Cloudy	150'
9:40	7.5	80 PSI	Clear	152'
9:48	5	85 PSI	Clear	152'
9:58	6	85 PSI	Clear	150'
10:05	6	82 PSI	Clear	154'
10:10	6	82 PSI	Clear	157'
10:15	5	88 PSI	Clear	153' 6"
10:20	5	88 PSI	Clear	153' 6"
10:25	5	88 PSI	Clear	153' 6"
10:30	5	88 PSI	Clear	153' 6"

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WELL TEST SUMMARY

h2o WELL SERVICE, INC.
582 W. Hayden Avenue, Hayden Lake, ID 83835
(208) 772-4004 • Fax (208) 772-4892

WORK ORDER

Date 10/22/01

NAME: Rob Jack Newell JOB LOCATION:

ADDRESS: Box 2345 DIRECTIONS:
F. F.

Department of Water Resources
PROTESTANT'S
Exhibit C-3
Date Admitted 4-22-03 Call

PHONE: 755-9475 JOB PHONE: 699-0444 John

JOB INSTRUCTIONS - WORK ORDERED

OTC Less 30%

WELL INFORMATION Wheeler

WELL DEPTH	PUMPSETTING	
STATIC LEVEL	CASING	
PUMP	DRILLING CO.	
GPM	WIRE SIZE	PIPE SIZE

QTY.	ITEM	MATERIAL	PRICE	AMOUNT
1		Pump Tec		
		Dave		
		JIM		
		10/22/01 3 hrs - nine Mile		
		10/23/01 1 hr		

TOTAL MATERIALS

DESCRIPTION OF WORK DONE

returned

10/22 10/23

Steve, Jim, + John all think the pond construction had impact on well loss of water

Dalin Steve

170 ft w/ new

SERVICE CHECKS

VOLTS OFF		VOLTS RUNNING	
OHMS	RB	RY	BY
OHMS to GND	R	B	Y
AMPS	R	B	Y

LABOR

DATE	EMPLOYEE	TIME IN	TIME OUT	HRS.	RATE	AMOUNT

DATE	TRAVEL TIME	MILES	HRS.	RATE	AMOUNT

TOTAL LABOR	
TOTAL MATERIALS	
TOTAL OTHER	
TAX	
TOTAL	

MICROFILMED
DEC 03 2003
MICROFILMED
MAY 26 2003

Work ordered by

582 W. Hayden Avenue, Hayden Lake, ID 83835
(208) 772-4004 • Fax (208) 772-4892

ELL SERVICE, INC.

WORK ORDER

Date 10/22/01

E: Bob Newell JOB LOCATION: Bridge x Spokane St

ADDRESS: Box 2345 DIRECTIONS: 2 miles on W.

P.F. Idaho Riverview

PHONE: 755-9475 JOB PHONE: (Sig Pt to Left) -

JOB INSTRUCTIONS - WORK ORDERED

Pump for Trapps -
No Water - New Pump

WELL INFORMATION

WELL DEPTH	PUMPSETTING
STATIC LEVEL	CASING
PUMP 76507	DRILLING CO.
GPM	WIRE SIZE PIPE SIZE

QTY.	ITEM	MATERIAL	PRICE	AMOUNT
for Given to Customer - Bring Back				
11 -	2161	1 T&C PIPE		
10 -	4150104	10/4 Sub Wire		
~~Returned~~		~~Pump rec~~		

DESCRIPTION OF WORK DONE

Went Right towards (2555 W/ Riverview) Riven New House on Common (Go Past)

Running out of water, lowered pump 11' - 5' off bottom Nr Water

SERVICE CHECKS

VOLTS OFF		VOLTS RUNNING	
OHMS	RB	RY	BY
OHMS to GND	R	B	Y
AMPS	R	B	Y

LABOR

DATE	EMPLOYEE	TIME IN	TIME OUT	HRS.	RATE	AMOUNT
10/22	Steve	215	515	1	60.00	
	Stan	64	45 min			
10-23-01	Mike	9.00	11.30	2½	60.00	N/C

DATE	TRAVEL TIME	MILES	HRS.	RATE	AMOUNT

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NOV 26 2003

MICROFILMED
DEC 03 2003

TOTAL LABOR	
TOTAL MATERIALS	
TOTAL OTHER	
TAX	
TOTAL	

TOTAL MATERIALS

Department of Water Resources
PROTESTANT'S
Exhibit C-4
Date Admitted 4-22-03

Work ordered by

WELL DRILLING CONTRACT

H2O WELL SERVICE INC.

Serving North Idaho & Eastern Washington

HAYDEN, ID
(208) 772-4004 (800) 772-4901 Toll Free
(208) 772-4892 Fax

SPOKANE, WA
(509) 624-4508
(509) 624-5619 Fax

Department of Water Resources
PROTESTANT'S
Exhibit C-5
Date Admitted 4-22-03

P.M.

DATE: 10-23-01

NAME: ROB NEWELL PHONE: 208-777-9765

ADDRESS: 2555 W. RIVERVIEW DRIVE JOB PHONE: 208-755-9475

CITY, STATE, ZIP: POST FALLS ID 83854 OWNER:

LEGAL DESCRIPTION: NW S-9 50N 5W ADDRESS:

JOB LOCATION:

I. TERMS OF THE AGREEMENT

1. The Purchaser hereby engages and employs H_2O Well Service, Inc. (H_2O), for the purpose of drilling a well on the land described above which is owned or under the legal control of the Purchaser. The Purchaser agrees to the terms, provisions, and conditions, and to the prices listed for the work specified.

2. The minimum charge for drilling & casing of the well shall be 2500. This agreement will be considered complete when:
   A. Sufficient water is obtained
   B. Purchaser requests that drilling be stopped
   C. H_2O has reached a maximum depth of 400 feet
   D. At the discretion of H_2O, continuation of drilling operations would be impractical.

   In the event the purchaser requests that drilling be stopped, H_2O shall remove H_2O casing, material, and property, and be entitled to all costs as specified in this agreement, plus abandonment charges.

3. Purchaser hereby grants H_2O a security interest in the material and equipment furnished by H_2O to secure payment of all money when due, and agrees that H_2O has all remedies provided by law in the event of the Purchaser's default on payment.

4. H_2O:
   A. Is an independent contractor.
   B. Shall determine the time, manner, means, and method of doing the work.
   C. Shall furnish all labor, tools, material, and machinery necessary to carry out this part of the contract, and will pursue the work diligently and in a workmanlike manner.
   D. Agrees that the Purchaser will not be responsible in case of any accident, or injury to H_2O's employees in connection with the drilling operations, and further agrees to carry the necessary insurance to cover such situations.
   E. Agrees to hold the purchaser harmless from any and all liens for material and/or labor supplied by H_2O subcontractors.
   F. Agrees to keep an accurate record of the strata drilled, or water levels, of casing used, of perforations made (if any) and make and file a Well Drillers Report with the State, and to provide a copy of this Report to the Purchaser.
   G. Warrants that the well shall be serviceable, straight, round, all within generally accepted tolerances, so as to allow the installation and operation of pumping equipment designed for that diameter well.

pump work Hourly

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5. The Purchaser:
   A. Warrants that he (she) has full right and authority to enter into this contract and authorized H_2O to drill upon the above described land.
   B. Grants H_2O full right to ingress and egress to and from the above described land for the purpose of performing the contracted work.
   C. Will provide at no charge to H_2O such space at the drill site for pits, dumps, machinery, and storage of material and equipment which may be required under this contract. Purchaser further holds H_2O harmless for accidental damage to crops, lawns, trees, fences, walks or any other property upon or adjacent to the drill site.
   D. Takes full responsibility for selecting the drilling site and agrees to hold H_2O harmless for any liability arising out of the drilling site selected. H_2O may make suggestions on the location, but any statements made are suggestions only and may not be construed as professional recommendations or representations as to where the hole should be drilled.
   E. Agrees that H_2O shall at any time after Purchaser's default in payment have the right and permission to go upon the premises and reclaim and recover any materials or equipment installed including casing.
   F. Agrees that in the event of default in payment, all collection costs, including reasonable attorney fees, and any accrued Finance charges will be paid to H_2O.
   G. Authorizes H_2O to perform a credit check of purchaser's current financial and credit information through any credit reporting agency or service.

6. It is understood and agreed by Both Parties:
   A. That neither can tell exactly what will be found underneath the surface of the earth, therefore:
      i. H_2O does not guarantee the quantity, quality, or kind of water if any which may be encountered. All operations are at the risk of the Purchaser and failure to strike water shall in no way release the Purchaser from payment of the full contract price.
      ii. H_2O shall not be liable for any damage arising out of any delay or failure due to the hazards of drilling, but in the event of unreasonable delay or failure, this contract may be terminated by the Purchaser, upon payment to H_2O for all drilling done and materials installed.
   B. That the starting date shall be 1-2 wks days from the date of signing this contract. This date is an approximate date only. Purchaser shall not hold H_2O liable for any damages due to delay in starting or finishing the job.
   C. That both parties shall have a signed copy of the agreement prior to commencement of work.
   D. Proposal based on a estimated depth of 400 feet.

II. CONTRACTED WORK AND ESTIMATED COST

Cooper

	SIZE	FROM FEET	TO FEET	T. EST FEET	@ PER FOOT		
A. 1. Drilling	6"	180?	400	220	12	=	$
2. Casing						=	$
B 1. Drilling						=	$
2. Casing						=	$

Form 238-7
7/98
Starships Consulting and Management Services

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Office Use Only
Inspected by_____
Twp____Rge____Sec____
____1/4____1/4____1/4
Lat: : : Long: : :

WELL TAG NO. D0017932
Drilling Permit No: _____
Water IDWR No. _____

2. OWNER **Well Number:** 332
Name ROB NEWELL
Address P.O. BOX 2345
City POST FALLS State ID Zip 83854

3. LOCATION OF WELL by legal description
sketch map location must agree with written location

N / W / E / S — X

Twp. 50N ☑ North or ☐ South
Rge. 5W ☐ East or ☑ West
Sec. 8 NW 1/4 NE 1/4 ____ 1/4
Gov't Lot ____ County KOOTENAI
Lat: : : Long: : :
Address of Well Site _____ City POST FALLS
(Give at least name of road + Distance to Road or Landmark)
Lt. ____ Blk. ____ Sub. Name _____

4. USE:
☑ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement, etc.)
☐ New Well ☑ Modify ☐ Abandonment ☐ Other DEEPEN

6. DRILL METHOD
☐ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD

Was drive shoe used? ☐ Y ☐ N Shoe Depth(s) _____
Was drive shoe seal tested? ☐ Y ☐ N How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
4	-5	500	.160	PVC	☐	☑	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

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9. PERFORATIONS/SCREENS
☑ Perforations Method SKIL SAW
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
470	500	1/4 X 8			PVC	☐	☑

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
150 ft. below ground Artesian pressure ____ lb.
Depth flow encountered 486 ft. Describe access port or control devices: _____

11. WELL TESTS:
☐ Pump ☐ Bailer ☑ Air ☐ Flowing Artesian

Yield gal./min.	Drawdown	Pumping Level	Time
25		500	1 HR

Water Temp. COLD Bottom Hole Temp COLD
Water Quality test or comments: CLEAR
Depth first Water encountered 486

12. LITHOLOGIC LOG:(Describe repairs or abandonment)

Bore Diam	From	To	Remarks: Lithology, Water Quality, Temperature	Water Y	Water N
6	170	178	Granite Salt & Pepper W/green apx. 1.	☑	☐
	178	460	Granite Black & Copper w/White	☐	☑
	460	471	Granite Salt & Pepper w/ Green	☐	☑
	471	483	Granite Blck & Copper	☐	☑
	483	486	Granite Fractured w/ H2O Apx. 25gpm	☑	☐
	486	500	Granite Black & Copper Hard	☐	☑

COPY

Department of Water Resources
PROTESTANT'S
Exhibit C-6
Date Admitted 4-22-03

Completed Depth 500 (Measurable)
Date: Started 11/2/01 Completed 11/5/01

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name **H20 WellService, Inc.** Firm No. **448**
Firm Official _____ Date _____
and
Supervisor or Operator _____ Date _____
(Sign Once if Firm Offical and Operator)

Louie Hanner

h2o WELL SERVICE INC
582 West Hayden Avenue • Hayden Lake, Idaho 83835
(208) 772-4004 Office • (800) 772-4901 Toll Free • (208) 772-4892 Fax • (509) 624-4508

****** INVOICE ******

INVOICE NUMBER: 0004052-IN
INVOICE DATE: 10/24/01

SALESPERSON: JW
TAX CODE: ID KT

NEW9475
NEWELL, ROB
P.O. BOX 2345
Post Falls ID 83854

Department of Water Resources
PROTESTANT'S
Exhibit C-7
Date Admitted 4-22-03

DUE ON RECEIPT
SVC CHGS AFTER 30 DAYS

ITEM NO.	UNIT	QUANTITY	PRICE	DISCOUNT	AMOUNT
	SERVICE - PUMP TEC - NO WATER 10/22/01				
21G1	FOOT	11.00	1.14	.00%	12.54
	lv pipe 1"				
41SW104	FOOT	10.00	.63	.00%	6.30
	10-4 Submersible Pump Wire				
/001	Hour	1.00	60.00	.00%	60.00
	Pump Serv Truck & Operator STEVE H.				
/001	Hour	2.50	.00	.00%	.00
	Pump Serv Truck & Operator MIKE H.				

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NET INVOICE:	78.84
LESS DISCOUNT:	.00
FREIGHT:	.00
SALES TAX:	.00
INVOICE TOTAL:	78.84

582 West Hayden Avenue • Hayden Lake, Idaho 83835
(208) 772-4004 Office • (800) 772-4901 Toll Free • (208) 772-4892 Fax • (509) 624-4508

STATEMENT DATE: 10/31/01

SALESPERSON:
JOHN WHEELER SR.

NEWELL, ROB
P.O. BOX 2345
Post Falls ID 83854

CUSTOMER NO.: NEW9475

Department of Water Resources
PROTESTANT'S
Exhibit C-8
Date Admitted 4-22-03

DATE	REFERENCE	DESCRIPTION	CHARGE	CREDIT	BALANCE
10/24/01	0004052-IN	NO WATER	78.84		78.84

TOTAL: 78.84

CURRENT	30 DAYS	60 DAYS	90 DAYS	120 DAYS	BALANCE DUE
78.84	.00	.00	.00	.00	78.84

THIS IS A STATEMENT - NOT AN INVOICE.
PAYMENT WAS DUE UPON RECEIPT OF INVOICE.

MICA[illegible]

DEC 03 2003

WELL h2o SERVICE INC
582 West Hayden Avenue • Hayden Lake, Idaho 83835
(208) 772-4004 Office • (800) 772-4901 Toll Free • (208) 772-4892 Fax • (509) 624-4508

****** INVOICE ******

INVOICE NUMBER: 0004110-IN
INVOICE DATE: 11/07/01

SALESPERSON: JW
TAX CODE: ID KT

NEW9475
NEWELL, ROB
P.O. BOX 2345
Post Falls ID 83854

Department of Water Resources
PROTESTANT'S
Exhibit C.9
Date Admitted 4-22-03

DUE ON RECEIPT
SVC CHGS AFTER 30 DAYS

ITEM NO.	UNIT	QUANTITY	PRICE	DISCOUNT	AMOUNT
	DRILL RIG #14 HANNER & PENICK				
	DATE COMPLETED: 11-5-01				
/014	Foot	330.00	12.00	.00%	3,960.00
	6" Drilling-Rig #14				
80P1604	FOOT	455.00	4.00	.00%	1,820.00
	4" Class 160 PVC liner				
/038	Hour	1.00	300.00	.00%	300.00
	Rig Time-Rig #14				
94IDPERMITS	EACH	1.00	75.00	.00%	75.00
	Domestic Id Drill Tags				

NET INVOICE:	6,155.00
LESS DISCOUNT:	.00
FREIGHT:	.00
SALES TAX:	.00
INVOICE TOTAL:	6,155.00

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DEC 03 2003

H2O WELL SERVICE INC
582 West Hayden Avenue • Hayden Lake, Idaho 83835
(208) 772-4004 Office • (800) 772-4901 Toll Free • (208) 772-4892 Fax • (509) 624-4508

****** INVOICE ******

INVOICE NUMBER: 0004125-IN
INVOICE DATE: 11/08/01

SALESPERSON: JW
TAX CODE: ID KT

NEW9475
NEWELL, ROB
P.O. BOX 2345
Post Falls ID 83854

Department of Water Resources
PROTESTANT'S
Exhibit C-10
Date Admitted 4-22-03

DUE ON RECEIPT
SVC CHGS AFTER 30 DAYS

ITEM NO.	UNIT	QUANTITY	PRICE	DISCOUNT	AMOUNT
	PULL PUMP & LINER 11/2/01				
	FOOT	63.00	1.14	.00%	71.82
Galv pipe 1"					
41SW104	FOOT	225.00	.63	.00%	141.75
10-4 Submersible Pump Wire					
60SPK4	EACH	1.00	4.63	.00%	4.63
#14-12-10 4 Wire Splice Kit					
60PW21	EACH	1.00	9.80	.00%	9.80
Pipe Wrap 2"x100' Tape					
31GDU1	EACH	1.00	17.25	.00%	17.25
Galv Die electric union					
32GN1-212	EACH	2.00	1.09	.00%	2.18
Galv Nipple 1" x 2-1/2"					
/002	Hour	1.50	85.00	.00%	127.50
Pump Hoist & Operator					
/001	Hour	1.00	60.00	.00%	60.00
Pump Serv Truck & Operator					
	MIKE H.				
/002	Hour	1.25	85.00	.00%	106.25
Pump Hoist & Operator					
/001	Hour	3.00	60.00	.00%	180.00
Pump Serv Truck & Operator					
/003	Hour	2.25	45.00	.00%	101.25
Extra Man - Pump Dept					
/003	Hour	2.00	.00	.00%	.00
Extra Man - Pump Dept					

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DEC 03 2001

CONTINUED

h2o WELL SERVICE INC
582 West Hayden Avenue • Hayden Lake, Idaho 83835
(208) 772-4004 Office • (800) 772-4901 Toll Free • (208) 772-4892 Fax • (509) 624-4508

****** INVOICE ******

INVOICE NUMBER: 0004125-IN
INVOICE DATE: 11/08/01

SALESPERSON: JW
TAX CODE: ID KT

NEW9475
NEWELL, ROB
P.O. BOX 2345
Post Falls ID 83854

Department of Water Resources
PROTESTANT'S
Exhibit C-11
Date Admitted 4-22-03

DUE ON RECEIPT
SVC CHGS AFTER 30 DAYS

ITEM NO.	UNIT	QUANTITY	PRICE	DISCOUNT	AMOUNT
	11/6/01 DUG HOLE - WORK ON PUMP				
/004	Hour	1.50	35.00	.00%	52.50
	mp Shop Labor				

NET INVOICE:	874.93
LESS DISCOUNT:	.00
FREIGHT:	.00
SALES TAX:	.00
INVOICE TOTAL:	874.93

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DEC 03 2003

H2O WELL SERVICE INC
582 West Hayden Avenue • Hayden Lake, Idaho 83835
(208) 772-4004 Office • (800) 772-4901 Toll Free • (208) 772-4892 Fax • (509) 624-4508

Department of Water Resources
PROTESTANT'S
Exhibit C-12
Date Admitted 4-22-03

CUSTOMER NAME Rob Newell November 13, 2001
ADDRESS:

Well Diameter 6" Desired Pumping Yield 12-15 GPM Set Depth 462'
Distance Well to Power 300' - Well to Pressure Tank (Existing) - Located in Utility Room
Estimate done prior to drilling & site development.
Revised estimate will be provided after well drilling and site preparation is completed.

Estimated Proposal on Pump System

Qty	Description	Each	Total
1	Goulds Pump 10GS30412 3hp		$1,709.00
462	Drop Pipe 11/4" galvanized	$1.76	$813.12
468	Submersible wire #4/3 w/grd	$3.59	$1,680.12
3	Check Valve 1"	$13.17	$39.51
1	5 Year Prosurance		$75.00
8	Pump Installation Labor	$85.00	$680.00
	Phase One Total		**$4,996.75**
300	2" conduit with sweeps and fittings		$338.37
1	Well Cap 6" (if needed for larger conduit fitting)		$120.00
1	11/4" Pitless Adaptor S-12		$117.89
320	Buried Wire #1/4 aluminum	$2.24	$716.80
1	Franklin 3 HP Control Box DL		$261.00
1	Misc. Electrical Fittings		$250.00
1	Outdoor Disconnect w/circuit breaker		$89.00
no	Permits Electrical Plumbing		
10	Plumbing and Wiring Labor	$60.00	$600.00
	Phase Two Total		**$2,154.69**
	Subtotal		**$7,151.44**
	Prices quoted are valid for 60 days.		
	Optional Items Added to the System:		
1	Bettis Excavating Bill (Estimate)		$750.00
1	15gpm Dole Valve		$65.00
	Optional Items Total		$815.00
	Subtotal		**$7,966.44**
	Sales Tax		$0.00
	Grand Total		**$7,966.44**

Prices quoted are estimated amounts. Actual quantities and labor may vary.
Excavation and backfill are not included in this estimate.

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Department of Water Resources
PROTESTANT'S
Exhibit D-1
Date Admitted 4-22-03

not admitted
4-22-03

IDAHO DEPARTMENT OF HEALTH & WELFARE

BUREAU OF LABORATORIES

Invoice # Date 10/31 20 01

Received From R. Norwell

Address

Walk-in	Mail	Mail/ Sample	Cash	Check	State Warrant	Other
			X			

Quantity	Description	Price	Amount
1	Coliform		11 —

This YOU Present this bill with claims or returned mdse. Total 11 —

57687

201155

Rec'd by

STANDARD REGISTER COMPANY, U.S.A.

MICRO

DEC 0 3 2003

State of Idaho, Department of Health and Welfare
Bureau of Laboratories - Coeur d'Alene Branch Lab
2195 Ironwood Court, Coeur d'Alene, Idaho 83814

DRINKING WATER COLIFORM BACTERIA ANALYSIS REPORT (PRIVATE)

LAB: COEUR D'ALENE, Phone: (208) 769-1432
Branch Laboratory Supervisor, Bacteriology: Mike Brodwater

Department of Water Resources
PROTESTANT'S
Exhibit D-2
Date Admitted 4-22-03

not admitted
4-22-03

BOB NEWELL
W 2555 RIVERVIEW DRIVE
POST FALLS, ID 83854

Tracking Number: 11001-9273/
(Please Refer to this Tracking Number on any communications)

PWS Number:	PRI
Water System:	BOB NEWELL
Sample Location:	BARN OUTLET - WELL
County:	KOOTENAI
Collected by:	NEWELL
Sample Type:	Routine Sample - S

Date Collected: 10/31/01 Date Received in Lab: 10/31/01
Time Collected: 08:00 Time Received in Lab: 09:10

TEST CODE		RESULTS	COMPLETED
WMMO	TOTAL COLIFORM BACTERIA	PRESENT	11/01/01
WMUG	ESCHERICHIA COLI	ABSENT	11/01/01

NOTES:

IF YOUR RESULT IS "ABSENT": The absence of coliform bacteria indicates that your water meets the bacterial standard set by the EPA for drinking water.

IF YOUR RESULT IS "PRESENT": The presence of coliform bacteria means that your water is contaminated, and may contain disease causing organisms. Contaminated water should not be used for drinking water. If coliform bacteria are present, an additional test has been run for Escherichia coli bacteria. The result for this test is also reported as present or absent. If E. coli is present your sample is likely to contain disease causing organisms.

IF YOU HAVE QUESTIONS concerning the quality of your water, call the Kootenai County office of the Panhandle Health District (667-9513) and speak with an Environmental Health Specialist.

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DEC 03 2003

Department of Water Resources
PROTESTANT'S
Exhibit D-3
Date Admitted 4-22-03

not admitted 4-22-03

IDAHO DEPARTMENT OF HEALTH & WELFARE

BUREAU OF LABORATORIES

Invoice #		Date 11/5 2001				
Received From R. Newell						
Address						
Walk-in	Mail	Mail/ Sample	Cash X	Check	State Warrant	Other

Quantity	Description	Price	Amount
1	collyform		11
Thank You Present this bill with claims or returned mdse.		Total	11 —

57567

No. 201169

MICROFILMED
DEC 0 3 2003

State of Idaho, Department of Health and Welfare
Bureau of Laboratories - Coeur d'Alene Branch Lab
2195 Ironwood Court, Coeur d'Alene, Idaho 83814

DRINKING WATER COLIFORM BACTERIA ANALYSIS REPORT (PRIVATE)

LAB: COEUR D'ALENE, Phone: (208) 769-1432
Branch Laboratory Supervisor, Bacteriology: Mike Brodwater

Department of Water Resources
PROTESTANT'S
Exhibit D-4
Date Admitted 4-22-03

ROBERT NEWELL
2555 W RIVERVIEW DRIVE
POST FALLS, ID 83854

Not Submitted
NVO
4-22-03

Tracking Number: 11101-9341/
(Please Refer to this Tracking Number on any communications)

PWS Number:	PRI
Water System:	NEWELL/SCHMAUTZ
Sample Location:	NEWELL/SCHMAUTZ SPRING
County:	KOOTENAI
Collected by:	NEWELL
Sample Type:	Routine Sample - S

Date Collected: 11/05/01
Time Collected: 10:00

Date Received in Lab: 11/05/01
Time Received in Lab: 10:59

TEST CODE		RESULTS	COMPLETED
WMMO	TOTAL COLIFORM BACTERIA	PRESENT	11/06/01
WMUG	ESCHERICHIA COLI	ABSENT	11/06/01

NOTES:

IF YOUR RESULT IS "ABSENT": The absence of coliform bacteria indicates that your water meets the bacterial standard set by the EPA for drinking water.

IF YOUR RESULT IS "PRESENT": The presence of coliform bacteria means that your water is contaminated, and may contain disease causing organisms. Contaminated water should not be used for drinking water. If coliform bacteria are present, an additional test has been run for Escherichia coli bacteria. The result for this test is also reported as present or absent. If E. coli is present your sample is likely to contain disease causing organisms.

IF YOU HAVE QUESTIONS concerning the quality of your water, call the Kootenai County office of the Panhandle Health District (667-9513) and speak with an Environmental Health Specialist.

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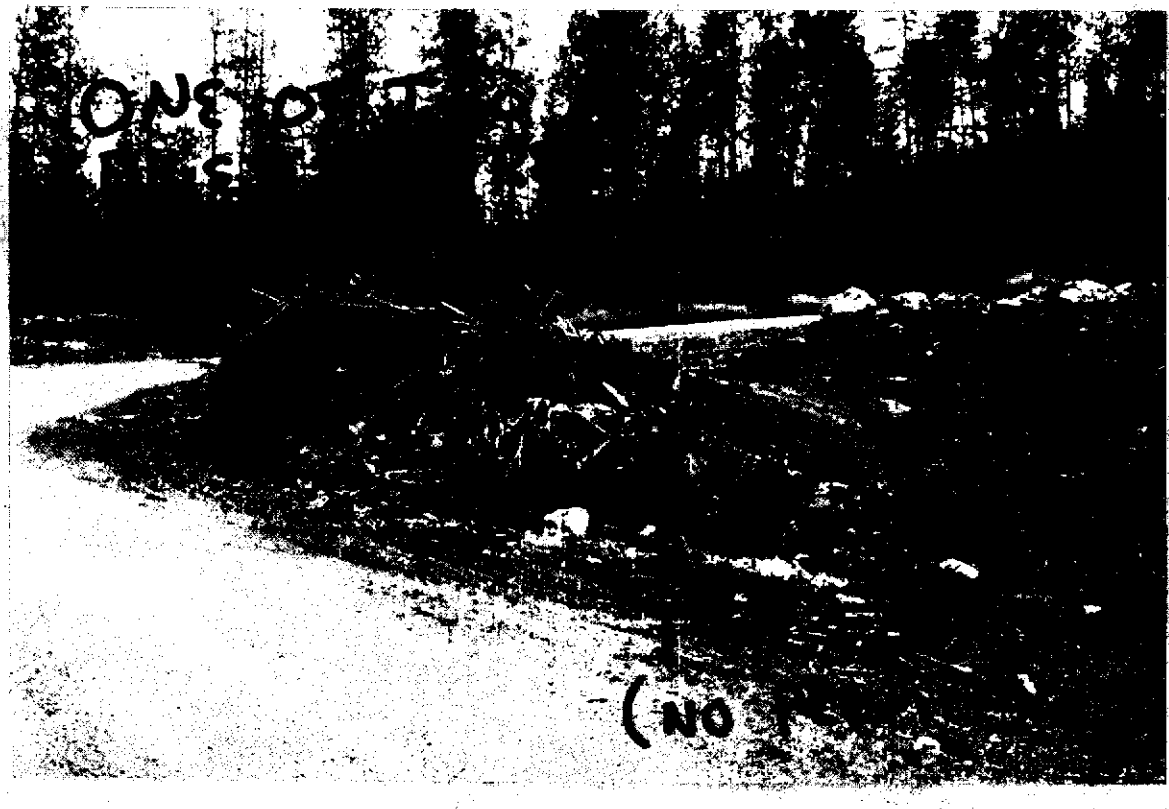
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DEC 03 2003

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DEC 0 3 2003

Department of Water Resources
PROTESTANT'S
Exhibit E-1
Date Admitted 4-22-03

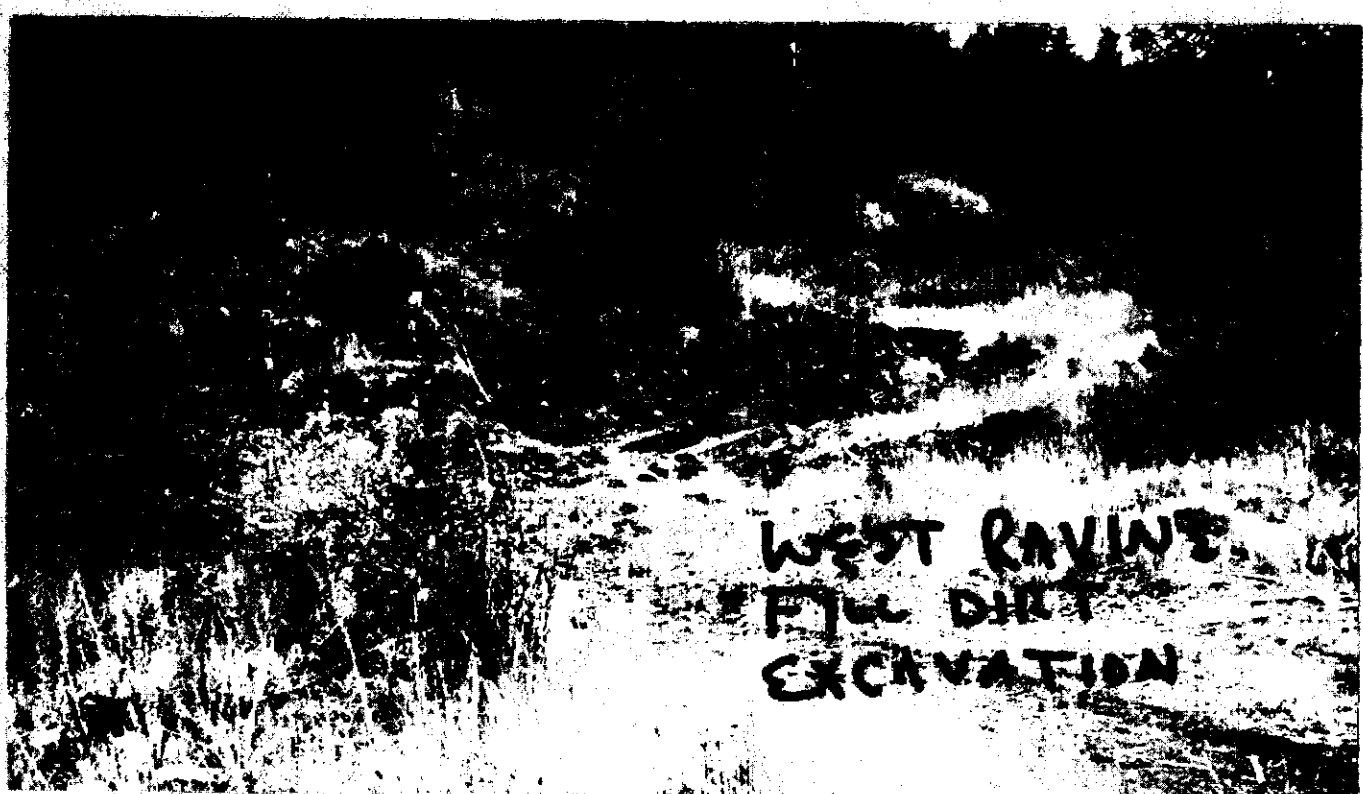




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DEC 0 3 2003

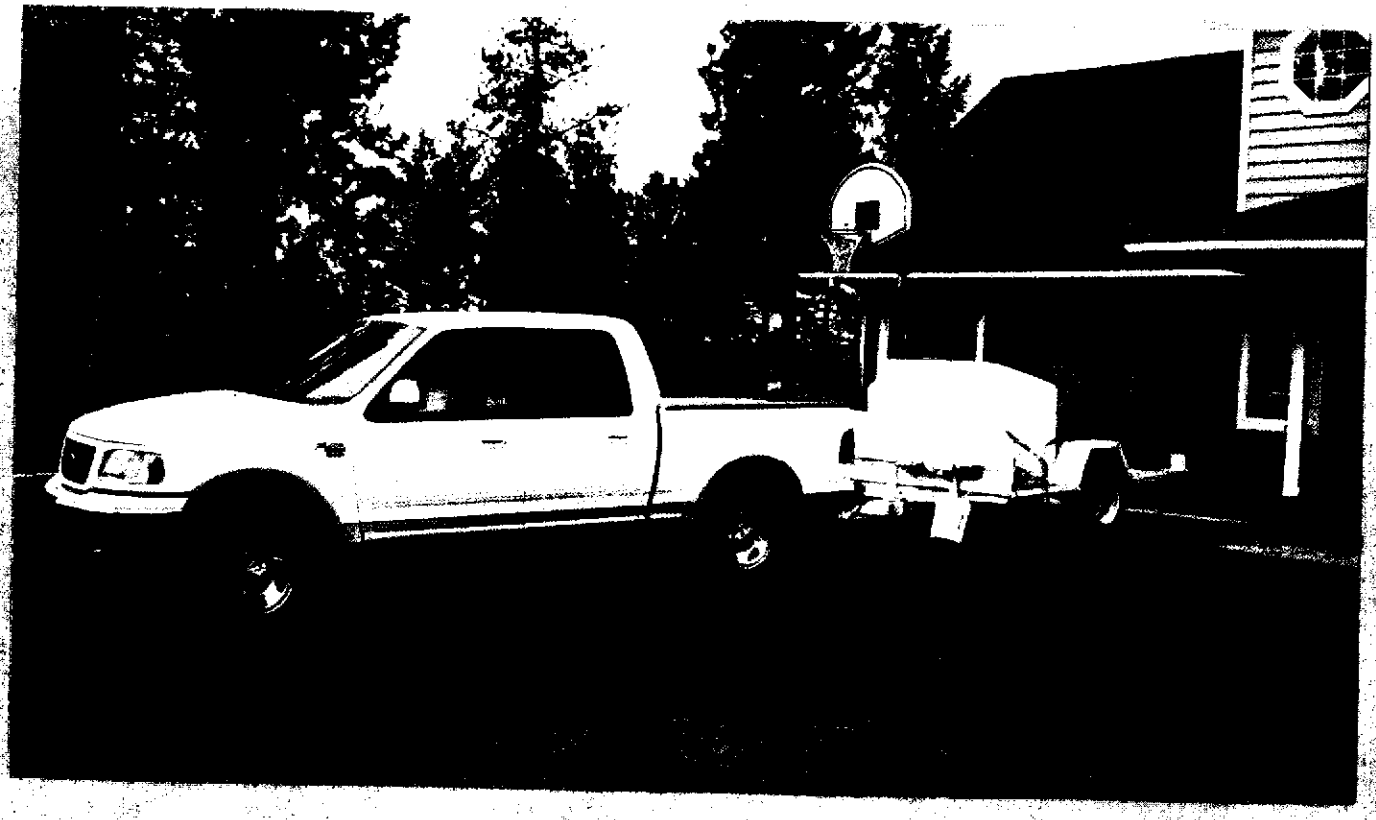
...rtment of Water Resources
PROTESTANT'S
Exhibit 2-2
Date Admitted 4-22-04





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DEC 0 3 2003

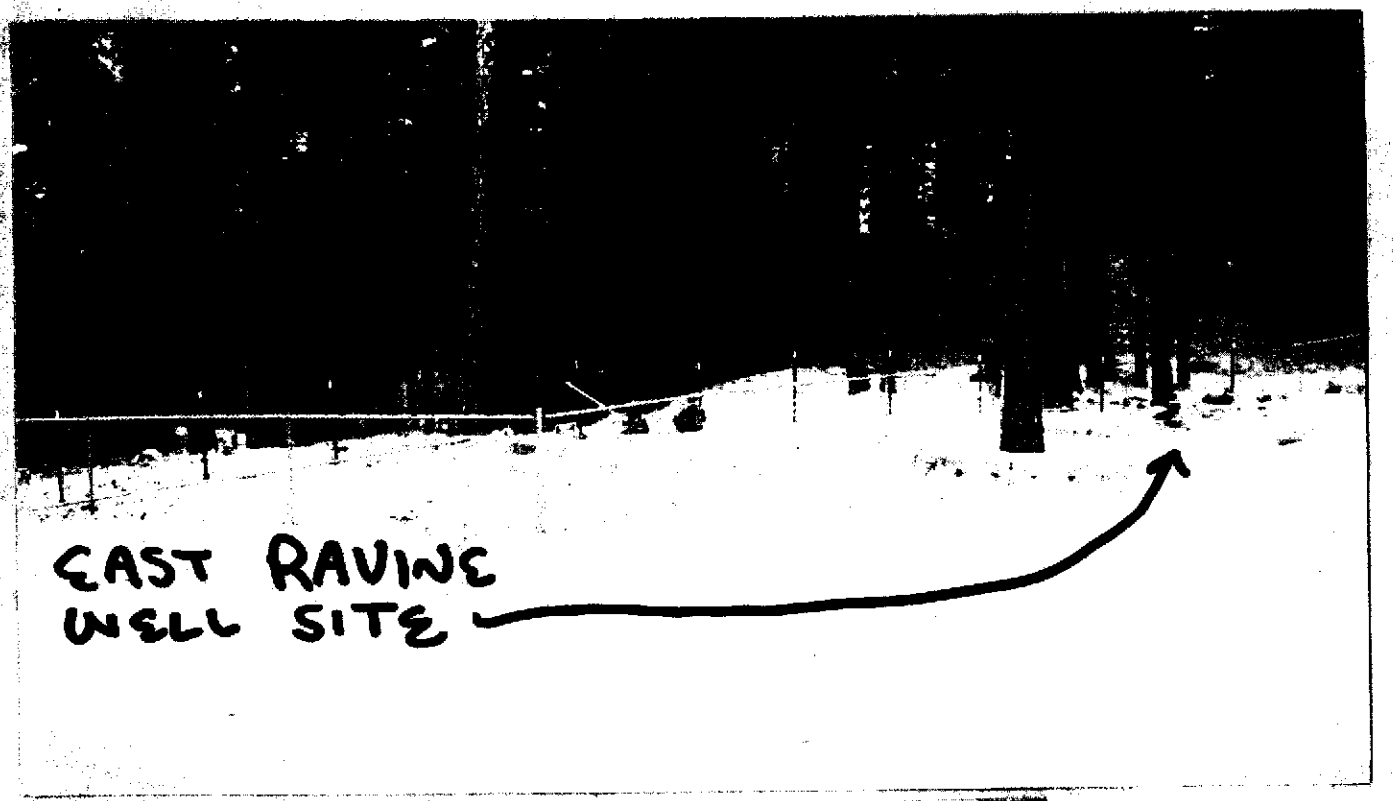
Department of Water Resources
PROTESTANT'S
Exhibit E-3
Date Admitted 4-22-03





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DEC 0 3 2003

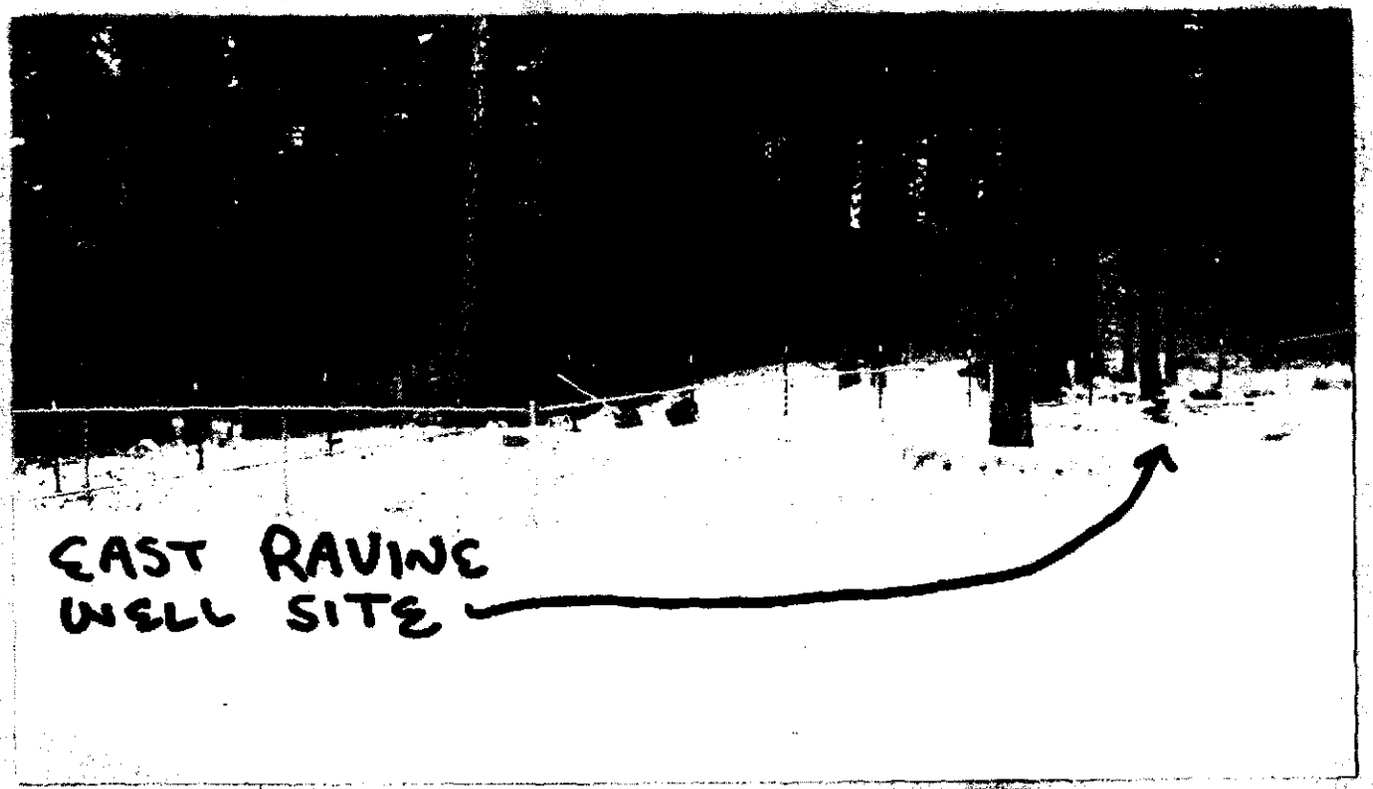
Department of Water Resources
PROTESTANTS
Exhibit E-4
Date Admitted 4-22-03





Department of Water Resources
PROTESTANT
Date Admitted 4-22-03

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DEC 0 3 2003





Department of Water Resources
PROTESTANT'S
Exhibit 6-6
Date Admitted 4-22-03

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DEC 0 3 2003

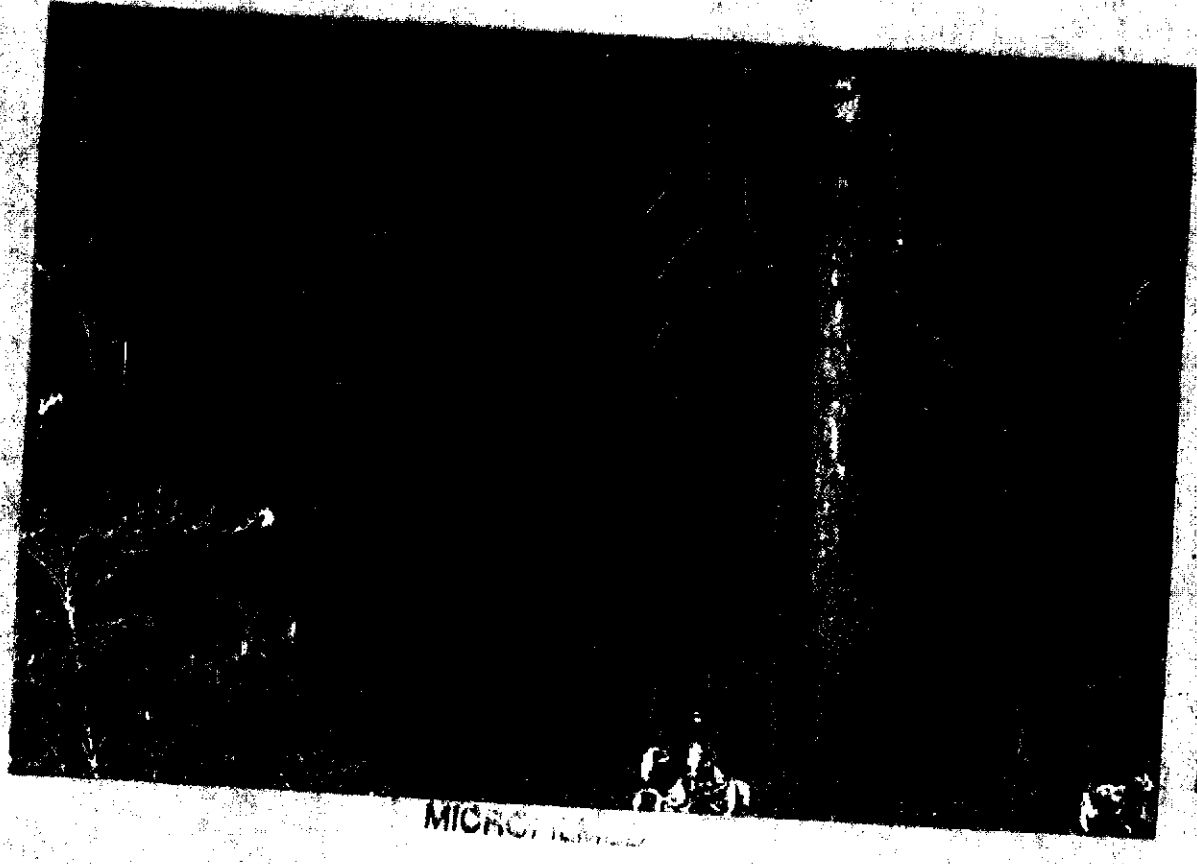


Department of Water Resources
PROTESTANT'S
Exhibit E-7
Date 4-22-03

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DEC 0 3 2003



POND SET UP TO DRAIN
WEST AWAY FROM WELL



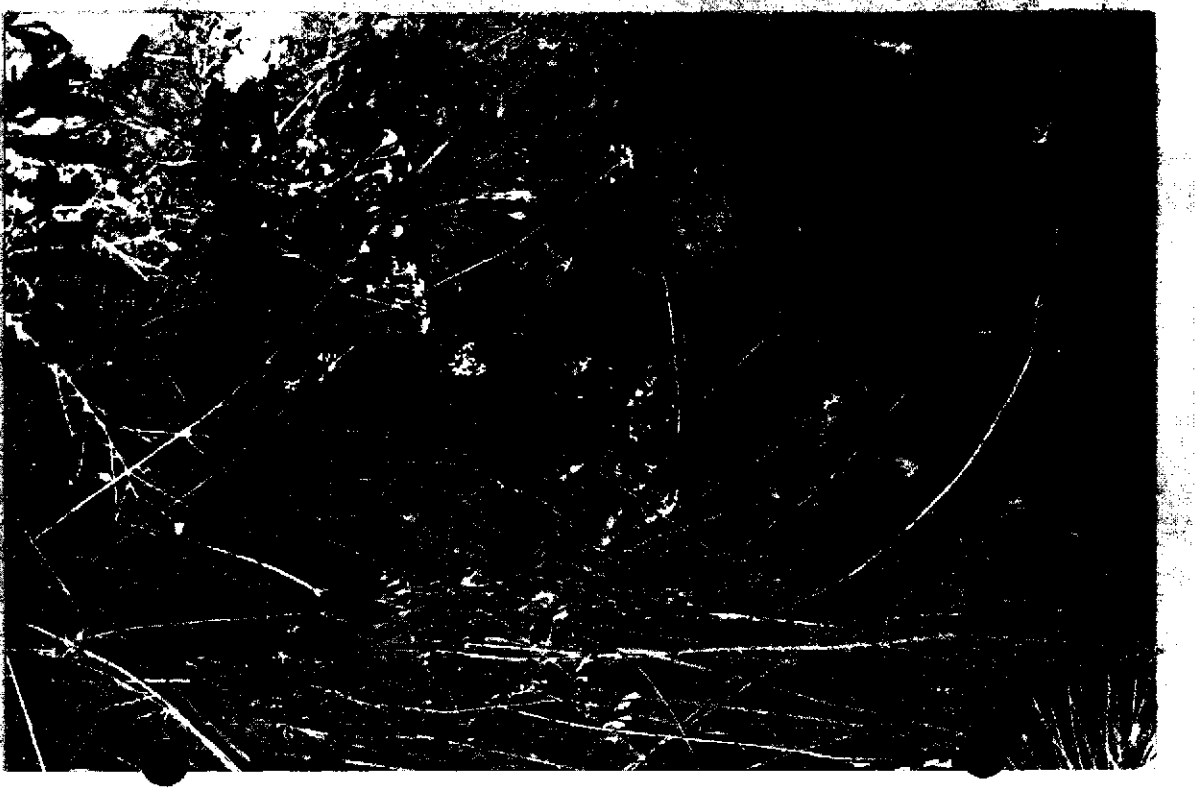
Department of Water Resources
PROTESTANT'S
Exhibit 5-8
Date Admitted 4-22-03

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DEC 0 3 2003

Department of Water Resources
PROTESTANT'S
Exhibit E-9
Date Admitted 4-22-03





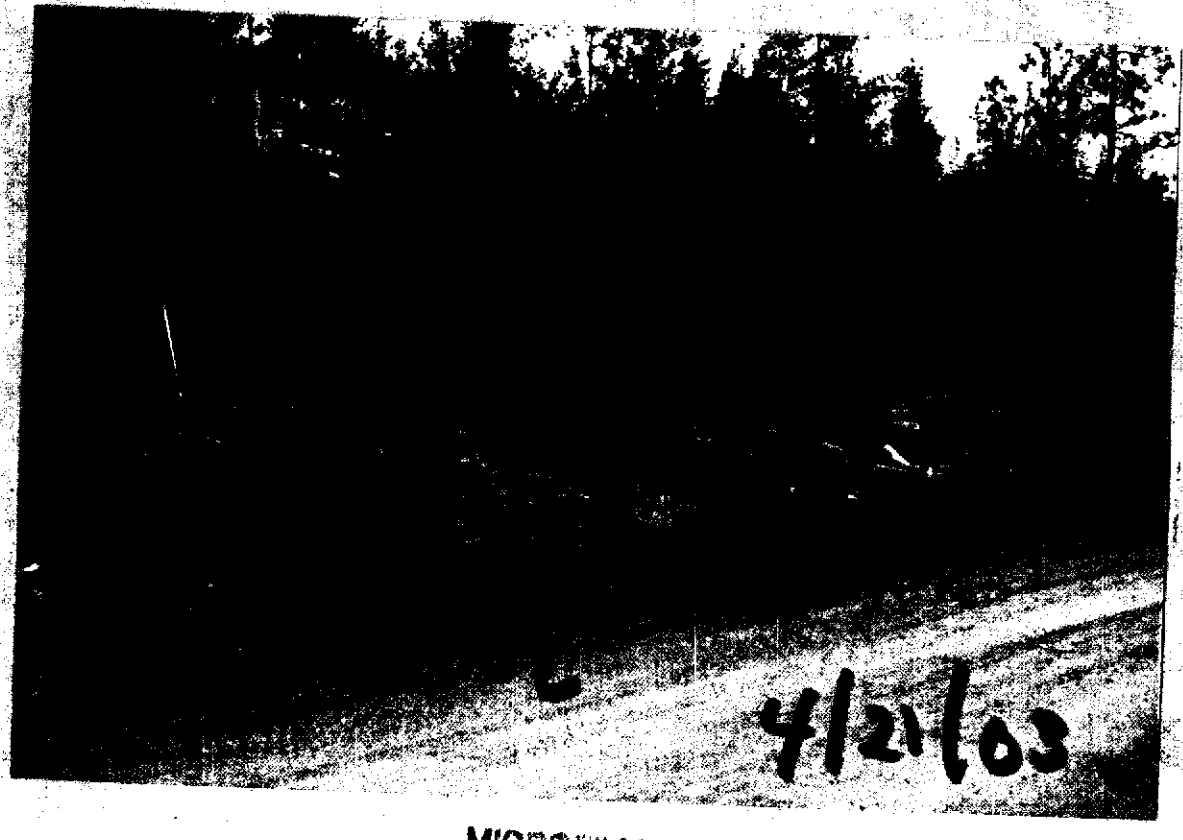


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Department of Water Resources
PROTESTANT'S
Exhibit E-10
Date Admitted 4-22-03

4/21/03





4/21/03

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DEC 0 3 2003

4/21/03

Department of Water Resources
PROTESTANT'S
Exhibit E-11
Date Admitted 4-22-03





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DEC 0 3 2003

4/21/03

Department of Water Resources
PROTESTANT'S
Exhibit E-12
Date Admitted 4-22-03





DEC 03 2003

4/21/03

Department of Water Resources
PROTESTANTS
Exhibit E-13 PNA
Date Admitted 4-22-03





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WEST RAVINE NEW DRAINAGE POND

Department of Water Resources
PROTESTANT'S
Exhibit E-14
Date Admitted 4-22-03

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--SITE PLAN--

Department of Water Resources
PROTESTANT'S
Exhibit E-715
Date Admitted 4-22-03

THE PLANNING DEPARTMENT WILL REQUIRE THE FOLLOWING INFORMATION ON THE SITE PLAN BEFORE ACCEPTING YOUR APPLICATION
If you have questions regarding certain requirements, please ask to speak with a Planner. Without a proper site plan, a Planner will be required to visit the site for an additional $40.00 fee. We thank you for your cooperation.

01. Show North Direction.
02. Scale, you must use 1 square = an even number of feet. (e.g. 20 feet, 40 feet, 100 feet, 600 feet depending on the size of your property)
03. Drawn on 8-1/2" X 11" size paper or on the reverse of this page.
04. Boundaries of your entire parcel, including dimensions (you may need a plat map of your property).
05. Location, dimensions, and purpose of rights-of-ways and easements, and other structures.
06. Location, dimensions, and use of all existing and proposed structures.
07. Distances of existing and proposed structures from all property lines, from rights-of-ways, easements, and other structures.
08. Location of all utilities, labeled existing or proposed, including septic tank and drainfield, water, power, phones, etc.
09. Locations and dimensions of all proposed and existing roads, driveways, parking areas, patios, decks, walkways, and other impervious area(s).
10. Location of any surface water (streams, culverts, drainage ways), or any distinguishing land features such as slopes, within or adjacent to the parcel.
11. Extent of area which will be disturbed by construction activity, clearing, digging, or earth moving.

IN ADDITION

Please show exact driveway location using measurements to each property line.

The Planning Department will not accept site plans that are not on 8 ½ X 11 paper, nor will we reduce site plans submitted on paper larger than 11 X 17.

We do have a sample site plan to use as a reference, if needed.

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* Please draw site plan on the back portion of this page.

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 95-09064

Priority: 12/05/2000 Maximum Diversion Rate: 0.04 CFS

This is to certify, that TERRY D SCHMAUTZ
7032 NE 182ND
KENMORE WA 98028

Department of Water Resources
PROTESTANT'S
Exhibit E-16
Date Admitted 4-22-03

has applied for a permit to appropriate water from:

Source: GROUND WATER

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

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION
IRRIGATION	03/15 to 11/15	0.03 CFS
DOMESTIC	01/01 to 12/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:
GROUND WATER SE¼NE¼ Sec. 8, Twp 50N, Rge 05W, B.M. KOOTENAI 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	
50N 05W 8				1.0													1.0

Total Acres: 1

PLACE OF USE: DOMESTIC, same as Irrigation

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before October 1, 2005.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. 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.
6. Domestic use is for 1 home and does not include lawn, garden, landscape, or other types of irrigation.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 19th day of September, 2001.

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OCT 12 2001

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DEC 03 2003

for KARL J DREHER, Director

FORM 202
2/96

Ident. No. 95-9064

RECEIVED
SEP 14 2001
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

App ID # 6898.

To appropriate the public waters of the State of Idaho

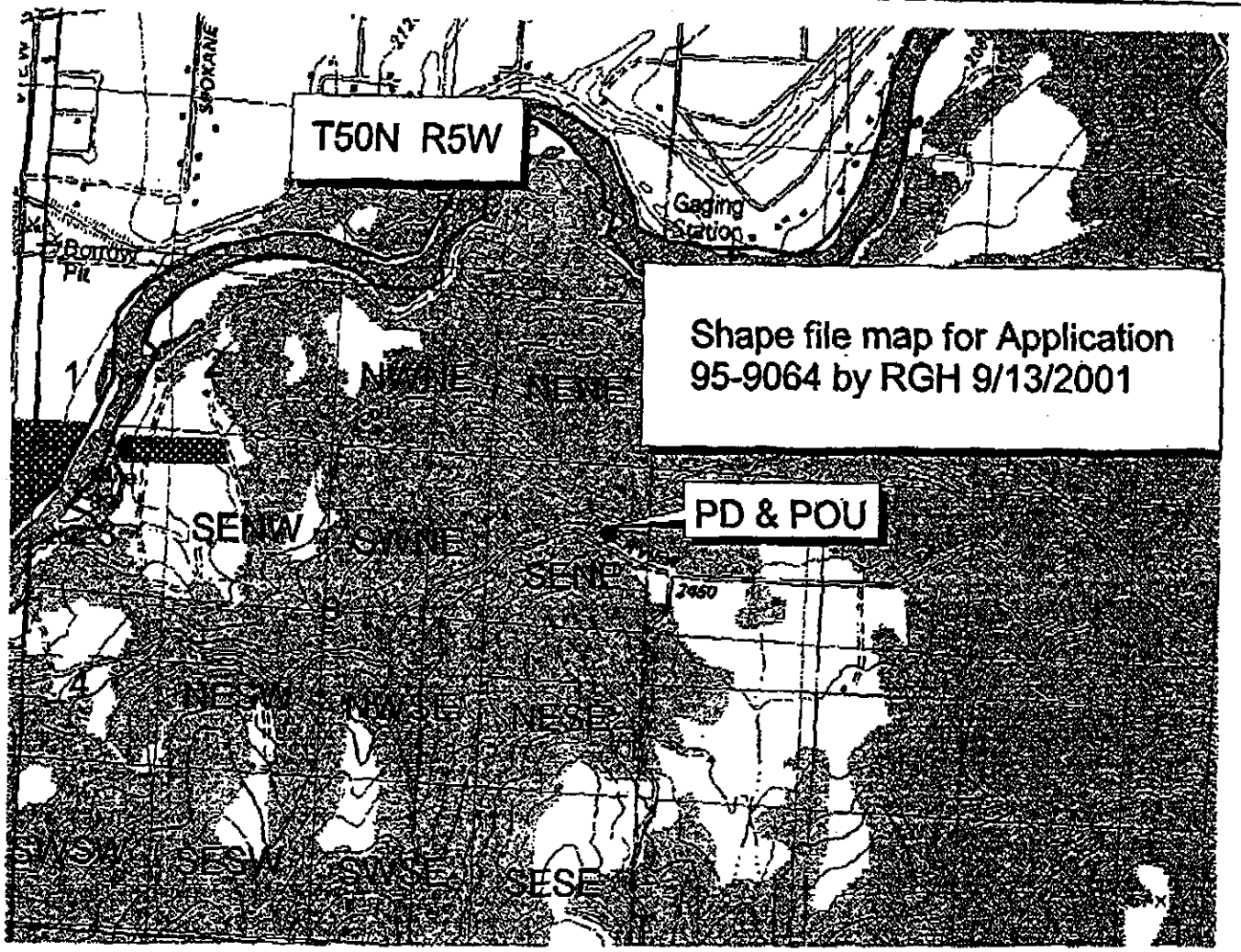
1. Name of Applicant Terry D. Schmautz Phone (425) 486-7347
   Mailing address 7032 NE 182nd Kenmore, WA 98028
2. Source of water supply groundwater which is a tributary of n/a
3. Location of point of diversion is Township 50 N Range 5W Sec. 8 in the ____ 1/4, SE 1/4, NE 1/4, Govt. Lot ____, B.M., Kootenai County;
   additional points of diversion if any: ____
4. Water will be used for the following purposes:
   Amount .04 (cfs or acre-feet per annum) for domestic purposes from 1-1 to 12-31 (both dates inclusive)
   Amount .03 (cfs or acre-feet per annum) for irrigation purposes from 3-15 to 11-15 (both dates inclusive)
   Amount ____ (cfs or acre-feet per annum) for ____ purposes from ____ to ____ (both dates inclusive)
   Amount ____ (cfs or acre-feet per annum) for ____ purposes from ____ to ____ (both dates inclusive)
   Amount ____ (cfs or acre-feet per annum) for ____ purposes from ____ to ____ (both dates inclusive)
   Amount ____ (cfs or acre-feet per annum) for ____ purposes from ____ to ____ (both dates inclusive)
5. Total quantity to be appropriated is (a) .04 cubic feet per second and/or (b) ____ acre feet per annum
6. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source well pump and pipe.
   b. Height of storage dam n/a feet; active reservoir capacity ____ acre-feet; total reservoir capacity ____ acre-feet
   c. Proposed well diameter is 6 inches; proposed depth of well is 250 feet
   d. Is ground water with a temperature of greater than 85°F being sought? no
   e. If well is already drilled, when? no; 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 4 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. 1
   e. *Other; describe fully.* ____

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DEC 03 2003

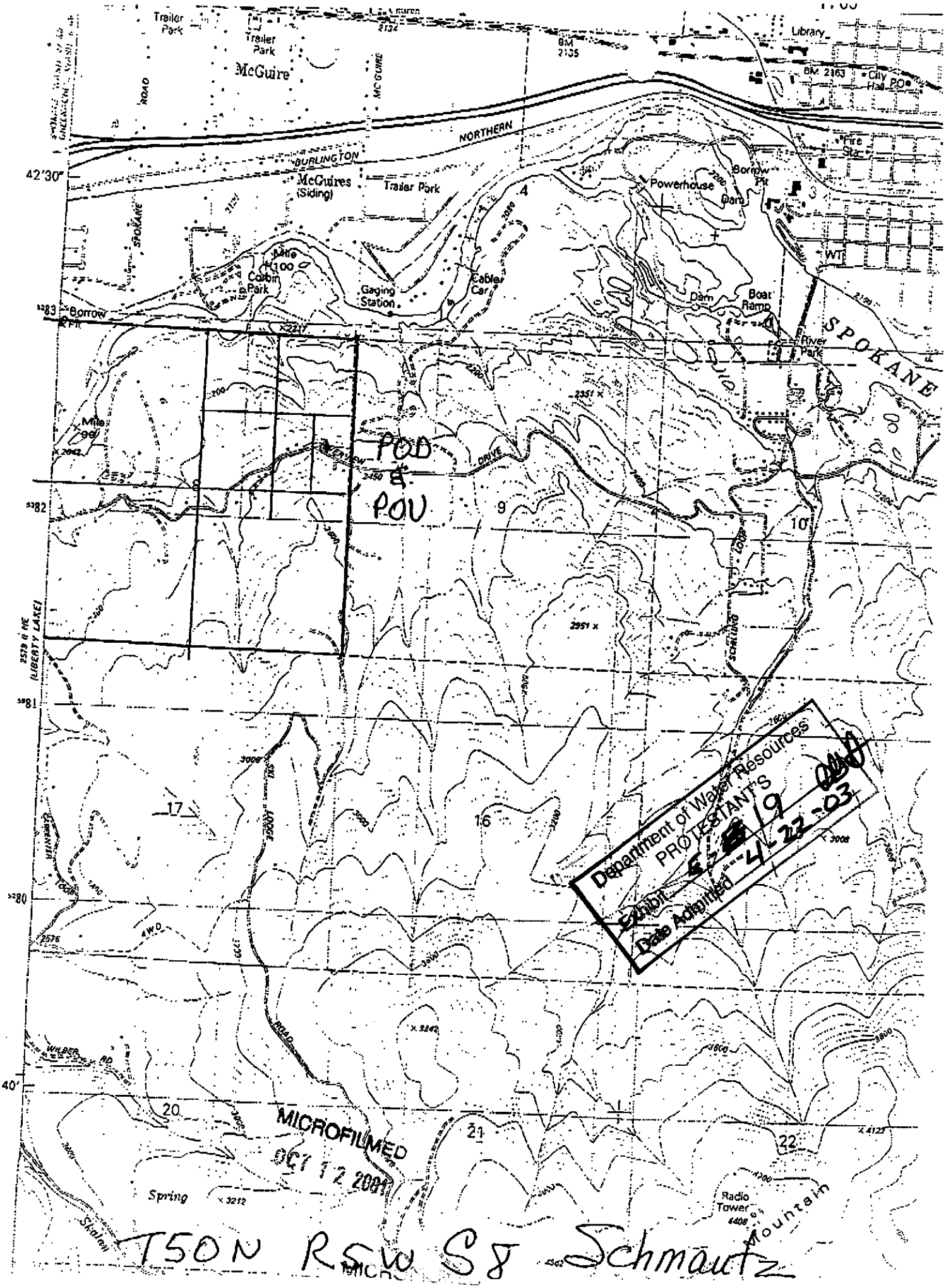
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OCT 12 2001

Department of Water Resources
PROTESTANT'S
Exhibit 17
Date Admitted 4-22-03 KM

Department of Water Resources
PROTESTANT'S
Exhibit E-18
Date Admitted 4-22-03 RGH



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DEC 03 2003



T50N R5W S8 Schmautz

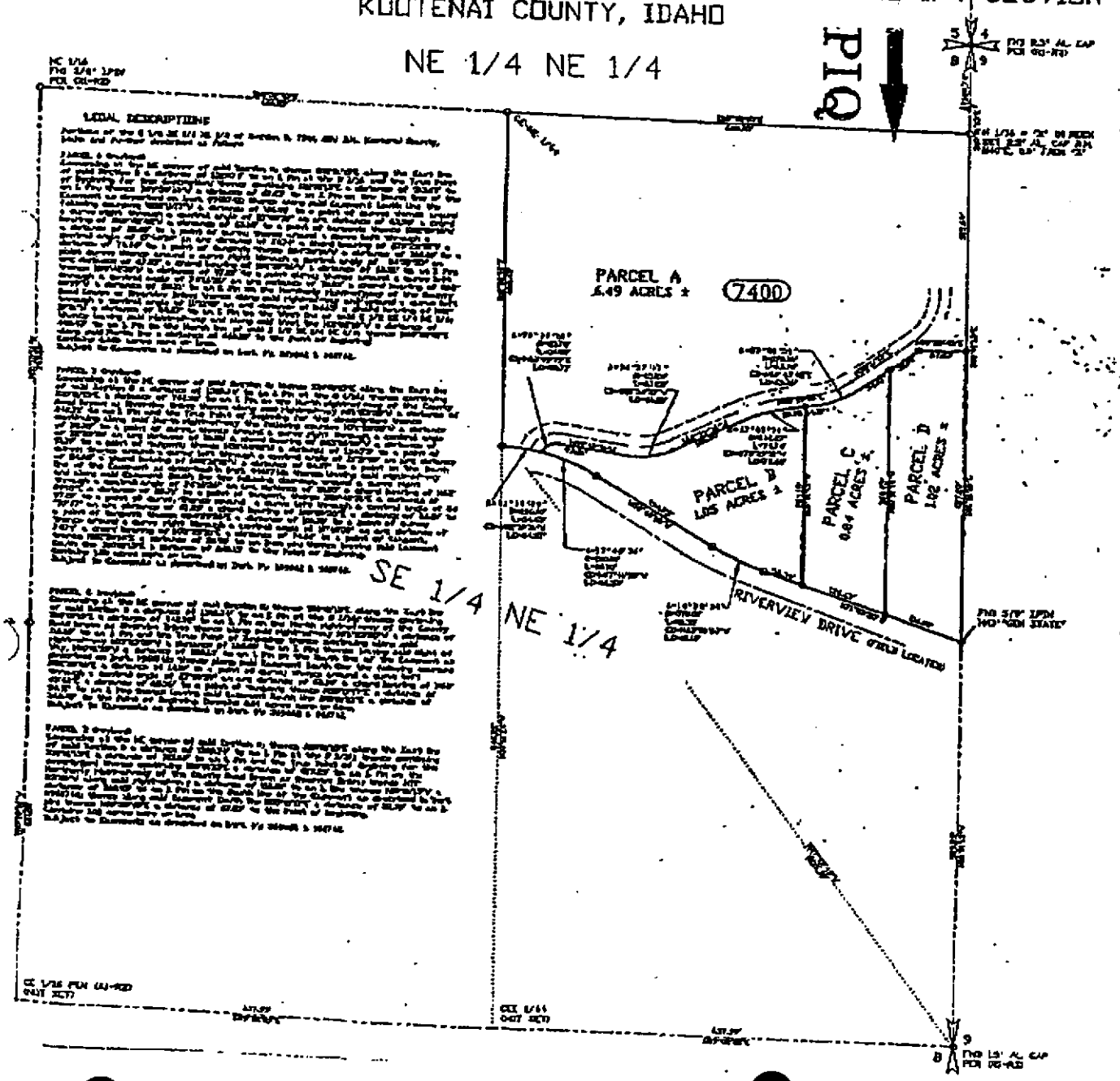
OCT 13 2003

AMENDED RECORD OF SURVEY

Book 20 Page 219

A PORTION OF THE E 1/2 SE 1/4 NE 1/4 SECTION 8, T.50N. R.5W. B.M.
KOOTENAI COUNTY, IDAHO

NE 1/4 NE 1/4



LEGEND

NOTED THIS SURVEY ABOVES A PORTION OF THE SURVEY RECORDED UNDER INST. #1449553 BOOK 18 PAGE 197

SURVEYOR'S CERTIFICATION

I, JAMES W. STALLCUP, A REGISTERED LAND SURVEYOR IN THE STATE OF IDAHO, LICENSE #5079, DO HEREBY CERTIFY THAT THIS IS A TRUE RECORD OF A SURVEY MADE BY ME OR UNDER MY SUPERVISION AND THAT IT IS IN ACCORDANCE WITH THE LAWS OF THE STATE OF IDAHO, AT THE REQUEST OF JOE HUNTER.

NOTED
THIS SURVEY DOES NOT NECESSARILY SHOW ALL EASEMENTS OF RECORD OR IN VIEW, NOR DOES IT SHOW ALL PHYSICAL FEATURES OF THIS PROPERTY.

5079
JAMES W. STALLCUP
3-24-00

STATE OF IDAHO)
COUNTY OF KOOTENAI) ss

AT THE REQUEST OF K.A. Duetsch + Assoc.
AT 9:54 minutes past 10 o'clock A.M.
Mar 31 '00
Recorded in Kootenai County, Idaho
By [signature] Deputy
Fee $ ** #1629051

K.A. DUETSCH & ASSOC.
LAND SURVEYING
P.O. BOX 776
3734 GOVERNMENT WAY
HAYDEN, IDAHO 83835

Department of Water Resources
PROTESTANT'S
Exhibit E-20 Rev 4
Date Admitted 4-22-03

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OCT 12 2001

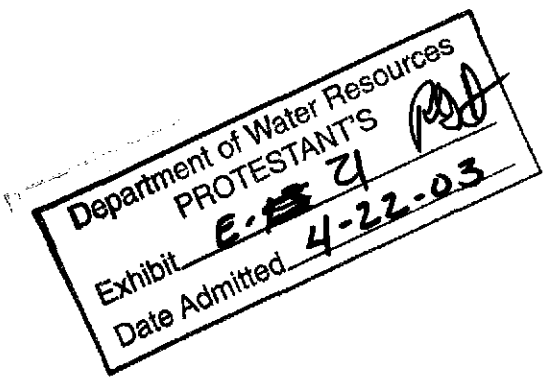
P.06
P.9
NO. 904

11/26/2001

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 95-9064

WATER RIGHT NUMBER: 95-9064



Owner Type	Name and Address
Current Owner	TERRY D SCHMAUTZ 7032 NE 182ND KENMORE, WA 98028 (425)806-7347

Priority Date: 12/05/2000

Basis:

Status: Active

Source: GROUND WATER

Tributary:

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	03/15	11/15	0.030 CFS	
DOMESTIC	01/01	12/31	0.040 CFS	
		Total Diversion:	0.040 CFS	

Location of Point(s) of Diversion

GROUND WATER — SE1/4NE1/4 — Sec. 8, Twp 50N, Rge 05W, B.M.

KOOTENAI 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	
50N 05W 8				1.0													1.0

DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
50N 05W 8				X													

Conditions of Approval:

1. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

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DEC 03 2003

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 95-9064

2. 26A 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.

3. R66 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.

Remarks:

1. General Domestic use is for 1 home and does not include lawn, garden, landscape, or other types of irrigation.

Comments:

Dates and Other Information:

Permit Proof Due Date: 10/1/2005
Permit Proof Made Date:
Permit Approved Date: 9/19/2001
Permit Moratorium Expiration Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Field Exam Date:
Date Sent to State Office:
Date Received at State Office:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre: 0.03
Generic Max Volume Per Acre: 3
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

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DEC 03 2001