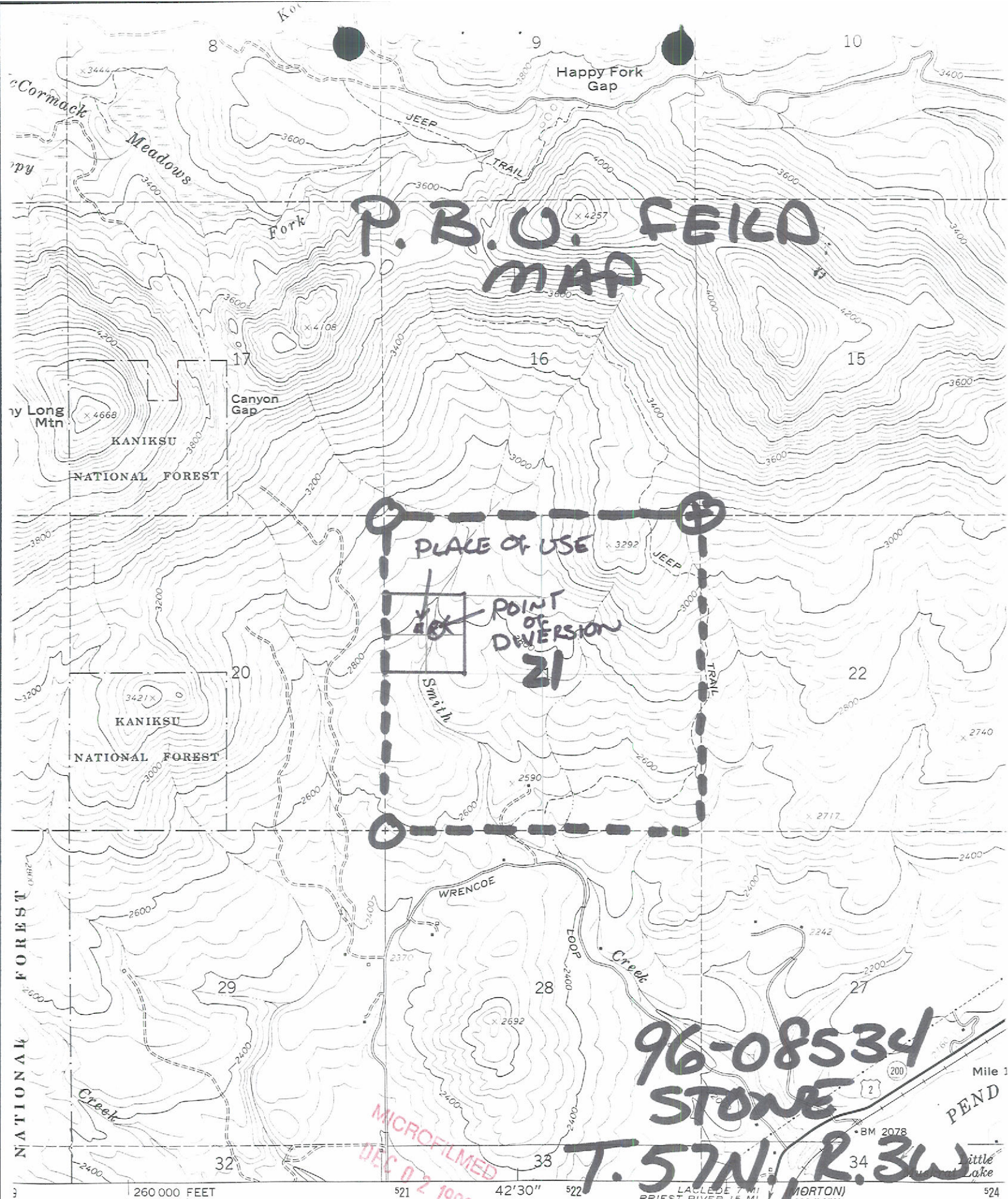


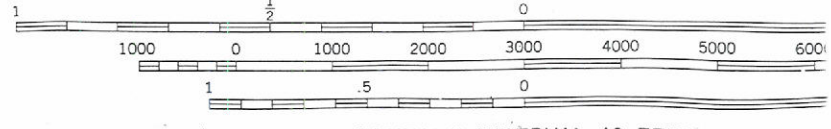
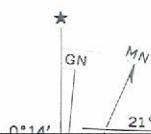


and published by the Geological Survey

and USC&GS

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State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 96-08534

Priority: October 8, 1988

Maximum Diversion Rate:

0.01 CFS

Maximum Diversion Volume:

0.6 AF

This is to certify, that TIM ALLEN STONE

646 WRENCO LOOP

SANDPOINT ID 83864

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated August 16, 1988; and has submitted Proof of Beneficial Use on May 24, 1996. An examination indicates that the works have a diversion capacity of 0.010 cfs of water from:

SMITH CREEK

tributary to PEND OREILLE RIVER

source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.01 CFS	0.6 AF

LOCATION OF POINT(S) OF DIVERSION:

SWNW , Sec. 21, Township 57N, Range 03W
BONNER County

PLACE OF USE: DOMESTIC

TWN RGE SEC

57N 03W 21

SWNW

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.

MICROFILMED
DEC 02 1995

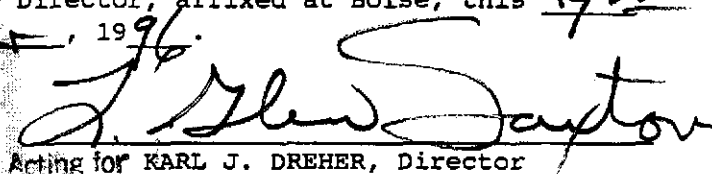
State of Idaho
Department of Water Resources**WATER RIGHT LICENSE**

WATER RIGHT NO. 96-08534

CONDITIONS OF APPROVAL AND REMARKS

5. Water shall be used only for in-house domestic use at a rate not to exceed 100 gallons per day per person and stockwater use at a rate not to exceed 50 gallons per day. All water diverted under this right for in-house domestic use shall be returned to the Smith Creek drainage basin via the property's sewage disposal system. Water may not be diverted for lawn and garden use.
6. Water shall be diverted from an infiltration gallery placed not closer than two (2) feet from the ordinary high water mark of Smith Creek at a rate not to exceed 0.01 cfs.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 7th day of November, 1996.


Acting for KARL J. DREHER, DirectorMICROFILMED
DEC 02 1996

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 96-08534)
)
IN THE NAME OF TIM ALLEN STONE) **ORDER OF**
) **REINSTATEMENT**
)

WHEREAS, the Department issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted on or before April 1, 1996; and,

WHEREAS, the Department notified the permit holder on January 31, 1996, by certified mail that proof was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use; and,

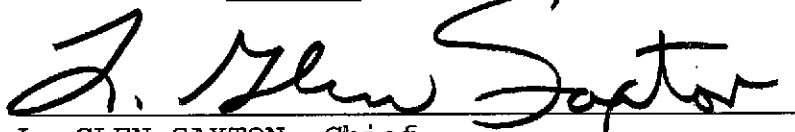
WHEREAS, the department sent a lapse notice on April 8, 1996, since an acceptable proof of beneficial use or extension of time had not been received; and,

WHEREAS, Section 42-218a, Idaho Code, provides that a permit may be reinstated upon a showing of reasonable cause within sixty days of the date of the notice of lapsing; and,

WHEREAS, the permit holder has provided a reasonable showing why the permit should be reinstated by submitting an acceptable proof of beneficial use on May 24, 1996;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 96-08534 is **REINSTATED** with an advance in priority to October 8, 1988.

DATED this 11th day of June, 1996.


L. GLEN SAXTON, Chief
Water Allocation Bureau

AUG 22 1996

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

MAY 24 1996

PROOF OF BENEFICIAL USE

Department of Water Resources

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

1. Permit No. 96 08534 Telephone No. 208 263 1110

2. Name(s) of Permit Holder(s): TIM + JANE Stone

3. Mailing Address: 646 WREUCO LOOP Sandpoint 83864

4. Source of Water: Smith Creek If **GROUNDWATER** (well), Date Drilled: mo. / yr.

a. Well Driller: Drilling Permit Number: - -

b. **OPTIONAL:**
Pump Horsepower: 5 Pressure (psi): 70 Dynamic pumping level (ft): 60

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

Domestic (No. of households): 1 Stockwater (No. and type of stock):

Irrigation (No. of acres): .5 Other: FISH PROPAGATION (NO DIVERSION)

6. Total rate of diversion and/or volume for which proof is submitted: .01 cfs OR acre feet

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

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

Measuring Device: Is a measuring device required? Yes or No X

Has the measuring device been installed? Yes or No

Flow Measurement Port: Is a flow measurement port required? Yes or No X

Has the measurement port been installed? Yes or No

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

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

Name: TIM Stone Telephone Number: 208 263 1110
360 645 2221 WK

Address: 646 WREUCO SANDPOINT or Box 86 Neah Bay WA 98357

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

Signature of permit holder: Tim Stone Date: 5-21-96
(include your title, if on behalf of company of organization)

AUG 22 1996

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 96-08534 IN THE NAME OF)
TIM ALLEN STONE.)
_____)

FINAL ORDER

On June 17, 1994, the hearing officer for the Department of Water Resources (department) issued a Recommended Order in connection with Application for Permit No. 96-08534 in the name of Tim Allen Stone.

On June 29, 1994, the applicant Tim Allen Stone, submitted a Petition for Reconsideration (petition) to the hearing officer.

The petition was denied by operation of law twenty-one (21) days following it's receipt as provided in Section 67-5243 (3), Idaho Code, and IDAPA Rule 37.01.01720 (Procedure Rule 720).

Based upon his understanding of the law, the Director makes the following Findings of Fact, Conclusions of Law and Final Order:

FINDINGS OF FACT

1. Tim Allen Stone filed Application for Permit No. 96-08534, on August 16, 1988, which proposes the diversion of 0.02 cubic foot per second (cfs) and 3.0 acre-feet per annum from Smith Creek, tributary to the Pend Oreille River, with a point of diversion located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 21, Township 57N, Range 3W, BM, for the irrigation of one-half acre from May 15 to October 15, yearly; and domestic uses from January 1 to December 31, yearly; and the storage for aesthetic, fire protection, wildlife and recreation uses within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 21, Township 57N, Range 3W, BM.

2. The department advertised the application in the Bonner County Daily Bee on September 1st and 8th, 1988, and subsequently received a protest from William D. Ellermeier on September 15, 1988.

3. The department scheduled this matter for a conference on August 4, 1993, in Sandpoint, Idaho, at which both the applicant and the protestant were present. The conference failed to resolve the matter.

4. The department then scheduled this matter for a hearing on April 26, 1994, in Coeur d'Alene, Idaho, at which both the applicant and the protestant were present.

MAY 31 1995

5. The only issue identified by the protestant was the injury to existing water rights.
6. Exhibits offered and accepted at the hearing as part of the record include the following:
 - a. Ellermeier Exhibit No. 1 - A statement signed by W.D. Ellermeier and computations relating seepage and evaporation losses from the storage ponds.
7. At the hearing the hearing officer officially noticed the following:
 - a. Application for Permit No. 96-08534.
 - b. Past decisions of the department, including 96-07293, in the name of Tim Allen Stone.
 - c. Water measurements taken on Smith Creek and its tributaries numbered Department's Exhibits 1 thru 6.
 - d. The director's report and the subsequent decree of water rights in the Smith Creek drainage basin.
8. Mr. Stone has installed and used a pump, located in an infiltration gallery next to Smith Creek, for the domestic and irrigation uses prior to receiving approval of the application for permit to appropriate water from the department.
9. Additionally, Mr. Stone has constructed the impoundment facilities associated with the storage portions of the application without receiving authority to do so.
10. Mr. Ellermeier's water rights are described in the Partial Decree of Contested Matters, dated April 5, 1993, in Bonner Civil Case No. 27289. Those rights, both from Smith Creek, are No. 96-04013A for 0.04 cfs for domestic purposes from January 1 to December 31 and 0.02 cfs for stockwater purposes from January 1 to December 31 with a priority date of January 1, 1960, and 96-04013B for 0.08 cfs for irrigation purposes from March 15 to November 15 for the irrigation of five (5) acres with a priority date of July 20, 1970. Ellermeier's irrigation system consists of a pump and sprinklers.
11. Other prior water rights on Smith Creek include water right number 96-04017B, which is also described in the Partial Decree of Contested Matters, dated April 5, 1993, in Bonner County Civil Case No. 27289. This right is held by Max and Nancy Singleton for 1.06 cfs for the irrigation of 53 acres from March 15 to November 15 and 0.03 cfs for stockwater from March 15 to November 15 with a priority date of July 7, 1970. The point of diversion for this right is downstream from the Ellermeier's diversion. The diversion system for this right consists of a gravity feed ditch.
12. Measurements have been taken at various places at different times on Smith Creek. In the reach of Smith Creek where this diversion is proposed and where previously cited in prior

MAY 31 1995

water rights are located, measurements taken in the month of August ranged from 0.17 cfs to 0.19 cfs.

13. Because of the nature of his diversion system, direct pumping from Smith Creek, even for non-consumptive uses, reduces the quantity of water available for Ellermeier's downstream Smith Creek rights. Water pumped from an infiltration gallery trickles into the pumping basin at a slow rate and no immediate fluctuation in stream flow occurs.

14. Water used for in-house domestic purposes is non-consumptive if waste water is treated in an on site septic system or some similar system.

15. Stockwater uses are non-consumptive if the use is limited to that reasonably required for the stock.

CONCLUSIONS OF LAW

1. The director's consideration of this application is governed by the provisions of Section 42-203A (5), Idaho Code, which reads, in part, as follows:

In all applications ... 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 ... may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions.

2. The department's Water Appropriation Rules (IDAPA 37.03.08, Rule 40.04.b.i) provide that the burden of proof is upon the applicant to show there is no injury to prior water rights.

3. Water is unavailable for appropriation for consumptive uses during significant periods of the year.

4. The applicant has failed to demonstrate that his storage system is capable of being operated in a manner that will not result in injury to prior water rights.

5. Water may be appropriated for non-consumptive uses, provided that water is not pumped directly from Smith Creek.

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MAY 31 1995

ORDER

IT IS THEREFORE HEREBY ORDERED that Application for Permit No. 96-08534 is **APPROVED IN PART**, subject to the following conditions and limitations:

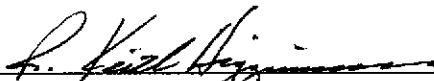
1. Use of water under this permit is subject to all prior water rights.
2. Proof of construction of works and the application of water to a beneficial use shall be submitted to the Department of Water Resources on or before April 1, 1996.
3. The issuance of this permit does not grant any right of way or easement across the land of another.
4. Water shall be used only for in-house domestic use at a rate not to exceed 100 gallons per day per person and stockwater use at a rate not to exceed 50 gallons per day. All water diverted under this permit for in-house domestic use shall be returned to the Smith Creek drainage basin via the property's sewage disposal system. Water may not be diverted for lawn and garden use.
5. Water shall be diverted from an infiltration gallery placed not closer than two (2) feet from the ordinary high water mark of Smith Creek at a rate not to exceed 0.01 cfs.

IT IS FURTHER HEREBY ORDERED that the following portions of Application for Permit No. 96-08534 are **DENIED**:

1. That portion of the application relating to irrigation.
2. That portion of the application relating to storage for wildlife, fire protection, recreation and aesthetics.

IT IS FURTHER HEREBY ORDERED that the impoundment of water in on-stream ponds and reservoirs be ceased immediately.

DATED this 4TH day of April, 1995.



R. KEITH HIGGINSON, Director

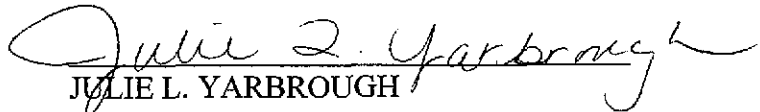
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MAY 31 1995

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 5th day of April, 1995, I mailed a true and correct copy, postage prepaid, of the foregoing **FINAL ORDER** to the following:

Tim Allen Stone
646 Wrenco Loop Rd.
Sandpoint, ID 83864

William D. Ellermeier
700 Wrenco Loop Rd.
Sandpoint, ID 83864


JULIE L. YARBROUGH
Senior Secretary

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MAY 31 1995

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 96-08534

Proposed Priority: August 16, 1988 Maximum Diversion Rate: 0.01 CFS

This is to certify, that **TIM ALLEN STONE**
646 WRENCO LOOP
SANDPOINT ID 83864

has applied for a permit to appropriate water from:
SMITH CREEK tributary of **PEND OREILLE RIVER**

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
DOMESTIC	01/01 to 12/31	0.01 CFS

LOCATION OF POINT(S) OF DIVERSION: SWSWNW , Sec. 21, Township 57N, Range 03W
BONNER County

PLACE OF USE: DOMESTIC
TWN RGE SEC
57N 03W 21 SWNW

CONDITIONS/REMARKS:

1. See Final Order for conditions of approval.

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

4th day of April, 1995

[Signature]
for R. Keith Higginson, Director

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MAY 31 1995

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT TO APPROPRIATE WATER)
NO. 96-8534 IN THE NAME OF TIM ALLEN) RECOMMENDED ORDER
STONE.)
_____)

Protests having been filed against Application No. 96-8534, and a hearing having been held, the hearing officer as a representative of the Director of the Department of Water Resources (Department), proposes the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Tim Allen Stone filed application for permit no. 96-8534, on August 16, 1988, which proposes the diversion of 0.02 cubic foot per second (cfs) and 3.0 acre-feet per annum from Smith Creek, tributary to the Pend Oreille River, with a point of diversion located in the SWSWNW, Section 21, Township 57N, Range 3W, Boise Meridian for the irrigation of one-half acre from May 15 to October 15, yearly; and domestic uses from January 1 to December 31, yearly; and storage for aesthetic uses, fire protection uses, wildlife uses, and recreation uses within the SWNW, Section 21, Township 57N, Range 3W, Boise Meridian.

2. The department advertised the application in the Bonner County Daily Bee on September 1 and 8, 1988 and subsequently received a protest from William D. Ellermeier on September 15, 1988.

3. The department scheduled this matter for a conference on August 4, 1993, in Sandpoint, Idaho, at which the both the applicant and protestant were present. The conference failed to resolve the matter.

4. The department then scheduled this matter for a hearing on April 26, 1994, in Coeur d'Alene, Idaho, at which both the applicant and the protestant were present.

5. The only issue identified by the protestant was injury to existing water rights.

6. Exhibits offered and accepted at the hearing as part of the record include the following:

a. Ellermeier Exhibit No. 1 - A statement signed by W. D. Ellermeier and computations relating seepage and evaporation losses from the storage ponds.

7. At the hearing the hearing officer officially noticed the following:

a. Application for permit file No. 96-08534.

b. Past decisions of the department, including 96-7293, in the name of

ORDER - 96-08534

12
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MAY 31 1995

Tim Allen Stone.

c. Water measurements taken on Smith Creek and its tributaries numbered Department's Exhibits 1-6.

d. The director's report on and the subsequent decree of water rights in the Smith Creek drainage basin.

8. Mr. Stone's has installed and used a pump, located in an infiltration gallery next to Smith Creek, for the domestic and irrigation uses prior to receiving approval of the application for permit to appropriate from the Department of Water Resources.

9. Mr. Stone has also constructed the impoundment facilities associated with the storage portions of the application without receiving authority to do so.

10. Mr. Ellermeier's water rights are described in the Partial Decree of Contested Matters, dated April 5, 1993, in Bonner County Civil Case No. 27289. Those rights, both from Smith Creek, are No. 96-04013A for 0.04 cfs for domestic purposes from January 1 to December 31 and 0.02 cfs for stockwater purposes from January 1 to December 31 with a priority date of January 1, 1960, and 96-04013B for 0.08 cfs for irrigation purposes from March 15 to November 15 for the irrigation of five acres with a priority date of July 20, 1970. Ellermeier's irrigation system consists an pump and sprinklers.

11. Other prior water rights on Smith Creek include water right number 96-04017B, which is also described in the Partial Decree of Contested Matters, dated April 5, 1993, in Bonner County Civil Case No. 27289. This right is held by Max and Nancy Singleton for 1.06 cfs for the irrigation of 53 acres from March 15 to November 15 and 0.03 cfs for stockwater from March 15 to November 15 with a priority date of July 7, 1970. The point of diversion for this right is downstream from Ellermeier's diversion. The diversion system for this right consists of a gravity feed ditch.

12. Measurements have been taken at various places at different times on Smith Creek. In the reach of Smith Creek where this diversion is proposed and where previously cited prior water rights are located, measurements taken in the month of August ranged from 0.17 cfs to 0.19 cfs.

13. Because of the nature of his diversion system, direct pumping from Smith Creek, even for non-consumptive uses, reduces the quantity of water available for Ellermeier's downstream Smith Creek rights. Water pumped from an infiltration gallery trickles into the pumping basin at a slow rate and no immediate fluctuation in stream flow occurs.

14. Water used for in-house domestic purposes is non-consumptive if waste water is treated in an on site septic system or some similar system.

15. Stockwater uses is non-consumptive if the use is limited to that reasonably required for the stock.

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CONCLUSIONS OF LAW

1. The director's consideration of this application is governed by the provisions of I.C. 42-203A(5) which reads, in part, as follows:

In all applications ... 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 ... may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions.

2. The department's water appropriation rules (IDAPA 37.03.08, Rule 40.04.b.i) provide that the burden of proof is upon the applicant to show there is no injury to prior water rights.

3. Water is unavailable for appropriation for consumptive uses during significant periods of the year.

4. The applicant has failed to demonstrate that his storage system is capable of being operated in a manner that will not result in injury to prior water rights.

5. Water may be appropriated for non-consumptive uses, provided that water is not pumped directly from Smith Creek.

ORDER

Based on the foregoing findings of fact and conclusions of law, IT IS HEREBY ORDERED that application for permit 96-08534 is APPROVED IN PART, subject to the following conditions and limitations:

1. Use of water under this permit is subject to all prior water rights.
2. Proof of construction of works and the application of water to beneficial use shall be submitted to the department of water resources on or before the date specified in the final order.
3. The issuance of this permit does grant any right of way or easement across the land of another.
4. Water shall be used only for in-house domestic use at a rate not to exceed 100 gallons per day per person and stockwater use at a rate not to exceed

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MAY 31 1995

50 gallons per day. All water diverted under this permit for in-house domestic use shall be returned to the Smith Creek drainage basin via the property's sewage disposal system. Water may not be diverted for lawn and garden use.

5. Water shall be diverted from an infiltration gallery placed not closer than two feet from the ordinary high water mark of Smith Creek at a rate not to exceed 0.01 cfs.

and DENIED IN PART, to wit:

1. That portion of the application relating to irrigation.
2. That portion of the application relating to storage for wildlife, fire protection, recreation and aesthetics.

It is further HEREBY ORDERED that the impoundment of water in on-stream ponds and reservoirs be ceased immediately.

DATED this 17 day of June, 1994.

Norman C. Young by RSK

ORDER - 96-08534

RECORDED

4 MAY 31 1995

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of June, 1994, I mailed a true and correct copy, postage paid, of the foregoing ~~FINAL ORDER~~ to the following: *recommended order*

Tim Allen Stone
646 Wrenco Loop
Sandpoint, ID 83864

William D. Ellermeier
700 Wrenco Loop Rd.
Sandpoint, ID 83864

Rhonda J. Childers
RHONDA J. CHILDERS
Senior Secretary

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MAY 31 1995

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant TIM ALLEN STONE Phone 263-1761
Post office address 646 WRENCO LOOP SANDPOINT ID 83864
2. Source of water supply Smith Creek which is a tributary of Pandoreille R.
3. Location of point of diversion is SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of NW $\frac{1}{4}$, Govt. Lot N.A.
Sec. 21 Township 57 N Range 3 W B.M. BONNER County; additional
points of diversion if any: NONE
4. Water will be used for the following purposes:
Amount .02 for IRRIGATION + D purposes from MAY 15 to OCT 15 (both dates inclusive)
(cfs or acre-feet per annum) Wildlife, Aesthetic, Fire Prot., Recreation
Amount 3 for FISH PROPOSED STOR. purposes from JAN 1 to DEC 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount .001 for DOMESTIC purposes from JAN 1 to DEC 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) .02 and/or (b) 3
cubic feet per second acre feet per annum
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. 1/2 hp submersible pump - in
CREEK - 1 inch line to house - 50 gal pressure tank -
b. Height of storage dam 4 feet feet; active reservoir capacity 3 acre-feet; total
reservoir capacity 3 acre-feet; period of year when water will be diverted to storage:
JAN 1 to DEC 31 inclusive.
c. Proposed well diameter is NA inches; proposed depth of well is N.A. feet.
d. Is ground water with a temperature of greater than 90°F being sought? NO.
7. Time required for the completion of the works and application of the water to the proposed beneficial use is
N.A. years (minimum 1 year). WORKS COMPLETE

MAY 31 1995

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

- a. Hydropower; show total feet of head and proposed capacity in KW. N.A.
- b. Stockwatering; list number and kind of livestock. N.A.
- c. Municipal; show name of municipality. N.A.
- d. Domestic; show number of households. 1
- e. Other; describe fully. creek flows through pond - total pond surface is 2/3 acre - depth average about 4 ft

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
57N	3W	21							1/2										
"	"	"							3/4										
"	"	"							1/4										
"	"	"							1/4										

Total number of acres to be irrigated 1 1/2

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

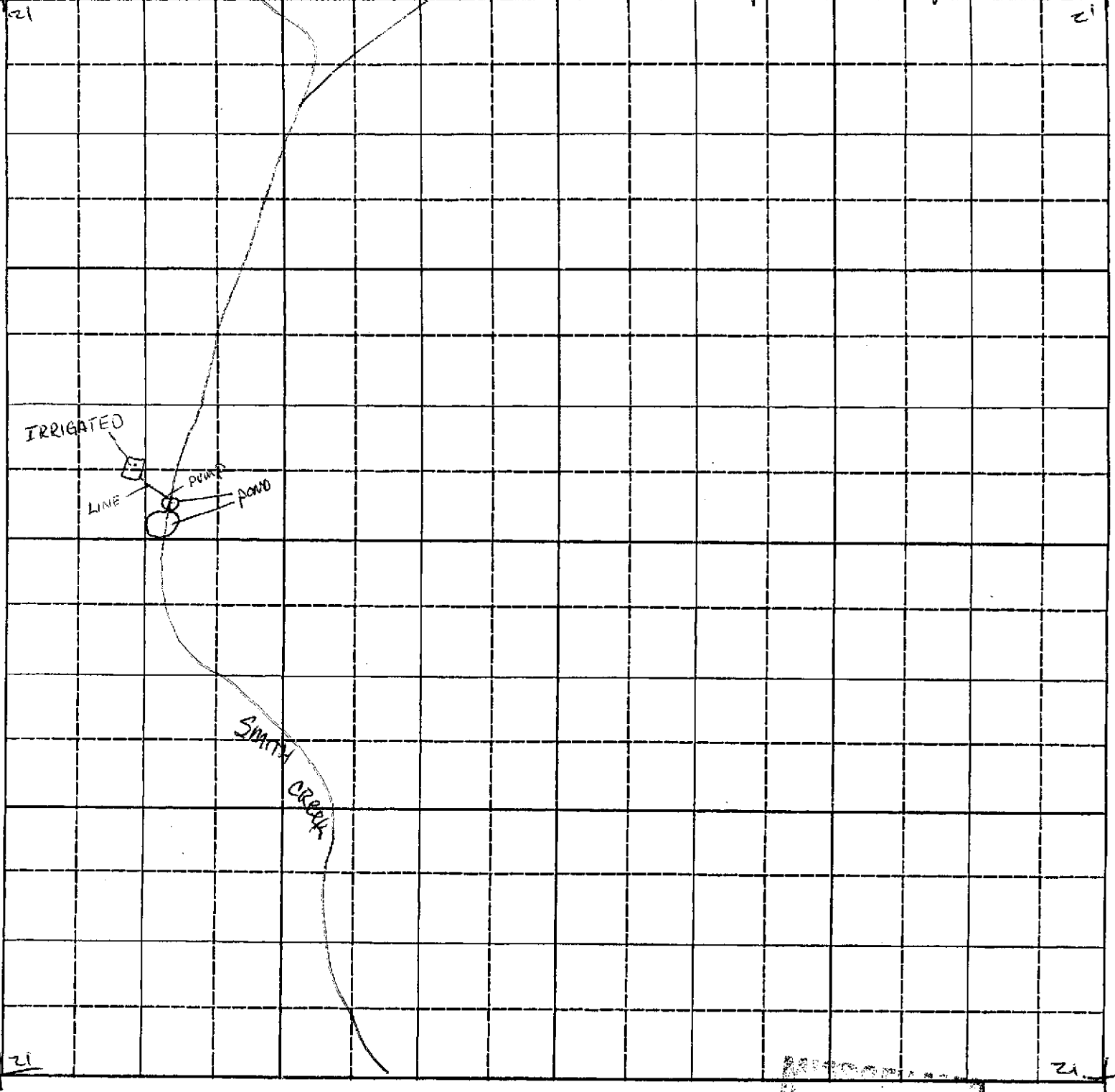
11. a. Who owns the property at the point of diversion? Tim A Stone
- b. Who owns the land to be irrigated or place of use? Tim A. Stone
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: The pond is a former beaver pond that had silted over - the culvert (exit) and dam were built by Reformation as access road. The installation of a down tube has raised the water level by three feet.

MAY 31 1995

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

SEC 21 Township 57N Range 3W



Scale: 2 inches equal 1 mile.

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

MAY 21 1995

Jim A. Stone

(Applicant)

Received by pm Date 9/16/88 Time 1:00pm Preliminary check by RYA
Fee \$ 3000 Receipted by RYA # 12-1046 Date 8/19/88
Publication prepared by pm Date 8/24/88 Published in Permit Bee
Publication approved pm Date 10/7/88

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

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

RECEIVED
MAY 31 1995

AFFIDAVIT OF PUBLICATION

State of Idaho

ss.

County of Bonner,

Brenda Berger being first duly sworn on oath
deposes and says that he/she is Bookkeeper
of the Sandpoint Daily Bee, a newspaper printed and
published at Sandpoint, in Bonner County, Idaho; that the
said newspaper has been continuously and uninterruptedly
published in said Bonner County during a period of 12
months prior to the first publication of the hereto attached
notice of publication in the case of:

Legal Notice

as it was published in the regular and entire issue of the
said paper for a period of two consecutive
weeks, commencing on 1st day of Sept, 19 88
and ending on the 8th day of Sept, 19 88
and that said notice was published in said newspaper.

Brenda Berger

Subscribed and sworn to before me this 14th day
of Sept, 19 88

Notary Public for Idaho

Residing at Sandpoint, Idaho

NOTICE OF APPLICATION
FOR WATER RIGHT

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

96-08531

IRELAND, BARRY
670 WRENCO LOOP RD.
SANDPOINT, ID 83864
Source: SPRING Tributary: SINKS
Diversion Pt: SWNESW Sec 21 T 57N
R 03W

Use: DOMESTIC (.040 CFS)

Dated Filed: 7/28/1988

In: T57N R03W S21 NESW

96-08532

FUGLE, RICHARD W.
692 WRENCO LOOP RD. #12
SANDPOINT, ID 83864
Source: UNNAMED STREAM
Tributary: SMITH CREEK
Diversion Pt: NENENW Sec 21 T
57N R 03W

Use: DOMESTIC (.040 CFS)

Dated Filed: 7/28/1988

In: T57N R03W S21 NENW

96-08534

STONE, TIM ALLEN
646 WRENCO LOOP
SANDPOINT, ID 83864
Source: SMITH CREEK
Tributary: PEND OREILLE
RIVER

Diversion Pt: SWSWNW Sec 21 T
57N R 03W

Use: IRRIGATION (.020 CFS)

WILDLIFE STORAGE (3.00 AF)

FISH PROP. STORAGE (3.00 AF)

DOMESTIC (.010 CFS)

RECREATION STORAGE (3.00 AF)

AESTHETIC STORAGE (3.00 AF)

Date Filed: 8/16/1988

In: T57N R03W S21 SWNW

0.5 ACRES TOTAL

The permit(s) will be subject to all
prior water rights. Protests must be
filed with the Director, Dept. of
Water Resources, Northern Region,
Government Way Suite 9, Coeur
d'Alene, Idaho 83814 on or before
SEPTEMBER 18, 1988

R. KEITH HIGGINSON,
Director

#2282 September 1, 8, 1988

RECEIVED

Department of Water
Northern District

MAY 31 1995

2282



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 7, 1996

TIM ALLEN STONE
646 WRENCO LOOP
SANDPOINT ID 83864

RE: WATER RIGHT NO. 96-08534

Dear Water Right Holder(s):

Enclosed is a copy of the Water Right License issued on the above referenced permit. If you have any questions, please contact me within 10 days of receipt of this license.

Sincerely,

A handwritten signature in cursive script that reads 'Shelley W. Keen'.

Shelley W. Keen
Water Rights Supervisor

SK:ph

Enclosure

MICROFILMED
DEC 02 1996

LICENSE REVIEW CHECKLIST

PERMIT NO. 96-08534

DATE 11/6/96

REVIEWER: SHARLA

NAME	Change <u>—</u>	OK <u>✓</u>	Address Change <u>NO</u>
SOURCE	<u>—</u>	<u>✓</u>	Is change clarification of originally intended source? <u>—</u> If not, prepare Notice of Intent to Void <u>—</u>
POINT OF DIV	<u>—</u>	<u>✓</u>	Amendment required <u>NO</u>
PLACE OF USE	<u>—</u>	<u>✓</u>	Amendment required <u>NO</u>

Does map agree with written description? — yes — no

OVERLAPS — P/D — P/U

RATE OF DIV

Permitted Rate .01 cfs

Fee limit .20 cfs \$5000

Measured — cfs

Theoretical — cfs

limited by permit at lowest rate possible
Recommended Total Div Rate .01 cfs

ANNUAL VOLUME/ NATURE OF USES

<u>—</u>	<u>✓</u>	Use <u>Dom</u>	Volume Calculation <u>.6</u> af
<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u> af
<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u> af
<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u> af
SUBTOTAL			<u>.6</u> af

Flow rate .01 cfs X 365 days X 1.983 = 7.2 af

Total volume recommended .6 af

(SUBTOTAL or Flow Rate, whichever is less)

REMARKS

1 home. 100 gpd/person
Cond from permit

CONDITIONS — Watermaster Control WD# —

— GW Measurement/Measuring Device

— Overlap

— Use-specific conditions

Advancement of Priority Date Required — yes ✓ no

SRBA Claim Filed N/A

Adjustment Memo Volume

1st Amend Letter N/A

2nd Amend Letter —

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
SEP 19 1996
Department of Water Resources

A. GENERAL INFORMATION

Permit No. 96-08534

1. Owner: Tim Allen Stone Phone No. _____

Current Address: 646 WRENCO LOOP SANDPOINT, ID. 83864

2. Accompanied by: N/A EXAM DATE: 7/10/96

Address: _____ Phone No. _____

Relationship to Permit Holder: _____

3. Source: Smith CREEK tributary to Pend Oreille River

B. OVERLAP REVIEW

1. Other water rights with the same place of use: N/A

2. Other water rights with the same point of diversion: N/A

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			SW	NW	21	57N	03W	Bonner	U.S.G.S TOPO.

2. Place(s) of Use:

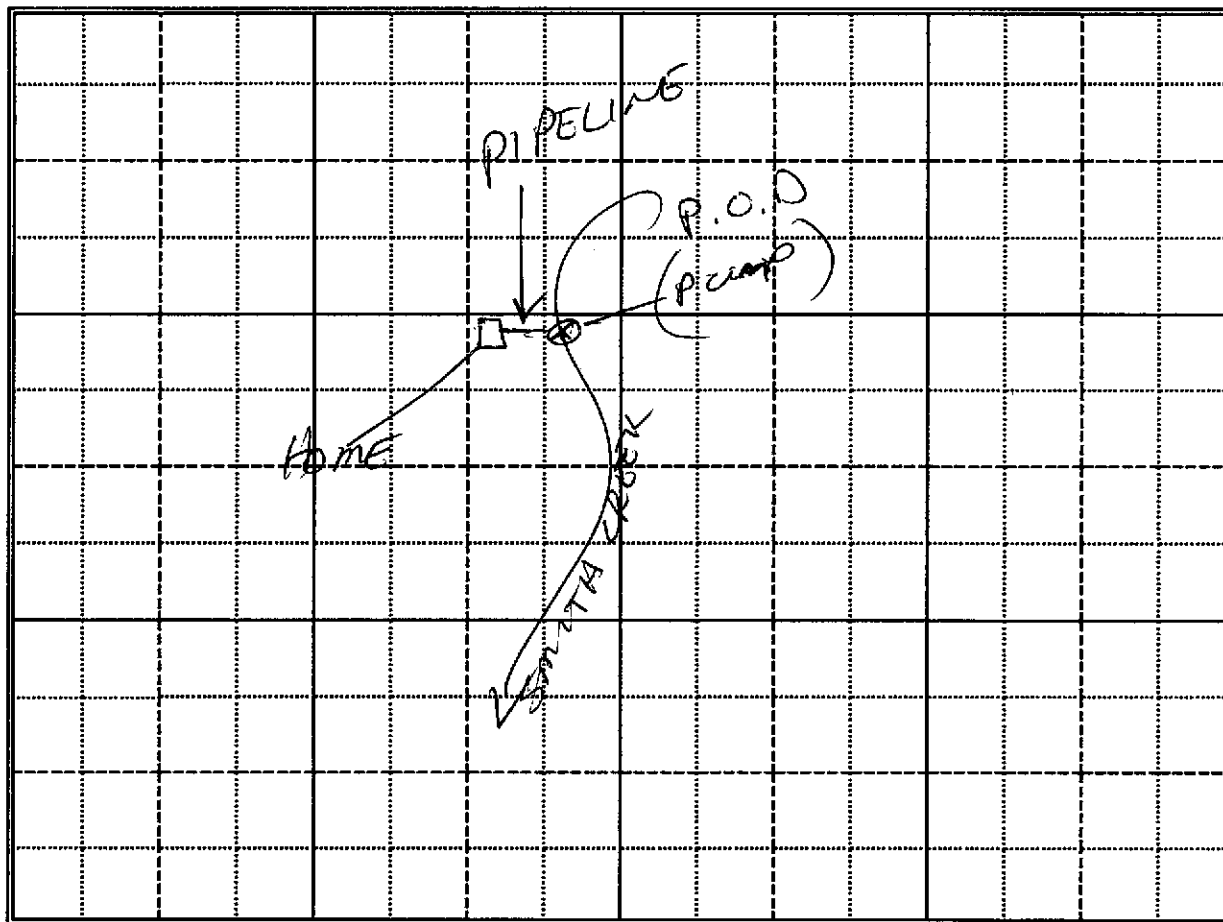
Indicate Method of Determination

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
									D										

MICROFILMED

DEC 02 1996

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



Scale: 1" = NTS

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

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

____ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
		.5			

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

D. FLOW MEASUREMENTS

1.

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

2. Measurements:

MICROFILMED

DEC 0 2 1956

E. NARRATIVE/REMARKS/COMMENTS

The system consist of an infiltration Gallery next to Smith Creek. The cistern has a capacity of 150 gallons. The water is pumped to the house with a .5 hp pump.

*See ORDER SIGNED APRIL 4th 1995 for Licensing Recommendations and Conditions.

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

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DEC 2 1995

F. FLOW CALCULATIONS

____ Additional Computation Sheets Attached

Measured Method:

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

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

2. Volume Calculations for Other Uses:

$$\frac{100 \text{ gpd.} \times 365}{325,850} = 0.11 \text{ AFA}$$

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
<u>DOMESTIC</u>	<u>1/1</u>	<u>12/31</u>	<u>0.01</u>	<u>0.11</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Totals:			<u>0.01</u>	<u>0.11</u>

2. Recommended Amendments

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

I. AUTHENTICATIONField Examiner's Name HERM SPANGLER ALLEN BEARDSLEE Date 7/10/96

Reviewer _____ Date _____

SEAL

 MICROFILMED
 1996 2 139

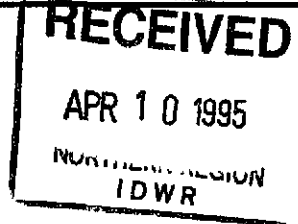


State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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



PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

April 5, 1995

RE: In the Matter of Application for Permit No. 96-08534 in the name of Tim Allen Stone

Dear Interested Party:

The accompanying order is a "final order" issued by the department pursuant to section 67-5246 or 67-5247, Idaho Code.

Section 67-5246 provides as follows:

(1) If the presiding officer is the agency head, the presiding officer shall issue a final order.

(2) If the presiding officer issued a recommended order, the agency head shall issue a final order following review of that recommended order.

(3) If the presiding officer issued a preliminary order, that order becomes a final order unless it is reviewed as required in section 67-5245, Idaho Code. If the preliminary order is reviewed, the agency head shall issue a final order.

(4) Unless otherwise provided by statute or rule, any party may file a petition for reconsideration of any order issued by the agency head within fourteen (14) days of the issuance of that order. The agency head shall issue a written order disposing of the petition. The petition is deemed denied if the agency head does not dispose of it within twenty-one (21) days after the filing of the petition.

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

MICROFILMED
DEC 02 1996

96-08534

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.

(6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.

(7) A nonparty shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(8) The provisions of this section do not preclude an agency from taking immediate action to protect the public interest in accordance with the provisions of section 67-5247, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5246(4) Idaho Code.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter 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

MICROFILMED
DEC 02 1983

- 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 a) of the service date of the final order, b) of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,



L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosure

cc: IDWR - Region

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 96-08534 Reviewed by [Signature] Date 5-31-96

GENERAL CONSIDERATIONS

TYPES OF USE

yes Name same as permit?
yes Address same as permit?
no Proof timely received?
If not, complete calculation below.

dom., irr, fish prop.
Correct Uses? ~~yes~~ no

SOURCE OF WATER

✓ Surface water source
 Ground water source
 Drilling permit required?
 Copy in the file? Drilling Permit No.
 Amount paid for permit Correct?
 Well log in the file?

LICENSE EXAMINATION FEE

MEASURING DEVICE

yes Required?
50- Amount Submitted
yes Correct?

no Required?
 Installed?
 Waiver requested?

PRIORITY CALCULATION

Date proof received	<u>5-24-96</u>	<u>144</u>
Date proof due	<u>4-1-96</u>	<u>- 91</u>
No. of days late	<u>~~80~~</u>	<u>= 53</u>
Priority Date	<u>8-16-88</u>	<u>+ 228</u>
New Priority Date	<u>10-8-88</u>	<u>281</u>

> 10/8/88

DEFICIENCIES OR ACTION ITEMS

Reinstate + advance priority to Oct. 8, 1988.
Proof acceptable

DATA ENTRY

New Address X Proof Made 52496



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR
June 11, 1996

TIMM ALLEN STONE
646 WRENCO LOOP
SANDPOINT ID 83864

PROOF ACKNOWLEDGEMENT LETTER

RE: PERMIT NO. 96-08534

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit.

Enclosed is an order reinstating your permit since the proof was received after the proof due date of April 1, 1996. Please note that the priority date has been advanced to October 8, 1988.

The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

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

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosure

c: IDWR - Region

AUG 22 1996

WARNING

CANCELLED OR LAPSED

This permit has been officially CANCELLED or LAPSED.

Ninety days following the date of official action this file will be DESTROYED.

April 8, 1996

TIM ALLEN STONE
646 WRENCO LOOP
SANDPOINT ID 83864

LAPSE NOTICE

RE: PERMIT NO. 96-08534

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced permit has lapsed and is of no further force nor effect. The department provided the proper forms to you in our proof due notice dated January 31, 1996. No further construction or additional development is authorized under this permit unless it is reinstated.

The permit can only be reinstated if you submit an acceptable proof of beneficial use or an acceptable request for extension of time to the department within sixty (60) days of the mailing of this lapse notice. An acceptable proof of beneficial use submittal must include the examination fee or a completed field examination report. A request for extension of time must be accompanied by a fifty dollar (\$50.00) fee.

Enclosed again for your use are a proof of beneficial use form and a request for extension of time form. Please note that only one extension of time can be granted unless the project has not been completed because of lack of a necessary approval by a government agency or by litigation which may bring title to the water in question.

L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosures

AUG 22 1996

CERTIFICATION OF MAILING

I hereby certify that on 4-8-96
~~a copy~~/an original of this document was
deposited in the United States mail,
postage prepaid addressed to the
individual(s) named above.





State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

RECEIVED

FEB 23 1996

January 31, 1996

Department of Water Resources

TIM ALLEN STONE
646 WRENCO LOOP
SANDPOINT ID 83864

PROOF DUE NOTICE

RE: PERMIT NO. 96-08534

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before April 1, 1996.

(See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

North Orchard Street
Boise, Idaho 83706-2237

CERTIFIED MAIL

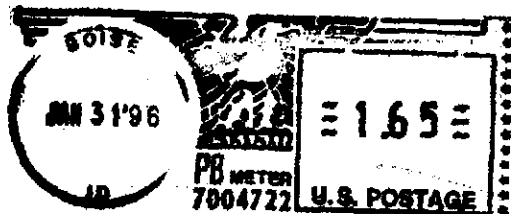
NO. 142550

RECEIVED

FEB 23 1996

Department of Water Resources

REASON FOR RETURN
Forward Error
Insufficient
Unclaimed
Attempted
No Such Address



1st NOTICE

2nd NOTICE

RETURN

2-8-96

2/17

AUG 22 1996

January 31, 1996

TIM ALLEN STONE
646 WRENCO LOOP
SANDPOINT ID 83864

PROOF DUE NOTICE

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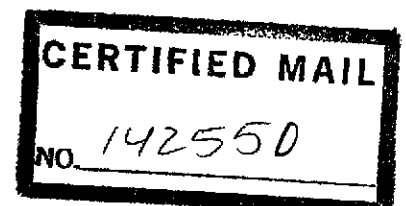
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SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

AUG 2 2 1996

Enclosures





State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

April 5, 1995

RE: In the Matter of Application for Permit No. 96-08534 in the name of Tim Allen Stone

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Microfilm

MAY 31 1995

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- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

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- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or

MAY 31 1995

- 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 a) of the service date of the final order, b) of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,



L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosure

cc: IDWR - Region

MAY 31 1995

Sandpoint, Idaho
April 26, 1994

State of Idaho
Department of Water Resources
Suite no 210-1910 Northwest Blvd.
Coeur d'Alene, Idaho 83814-2615

RECEIVED

JUN 29 1994

NORTHWEST REGION
IDWR

Re: Application for permit no 96-8534
Tim Allen Stone

Gentlemen:

The following is offered in addition to our letter of protest dated September 13, 1988 and our objections made in the conference held by the department on August 4, 1993 regarding the referenced application.

On November 12, 1974 a hearing was held in Sandpoint by the department to consider an application of Stone to divert water from Smith Creek. That application was protested by persons asserting prior claims to the waters and the application was denied.

Despite that denial, Stone has constructed a large diversion ~~diversion~~ consisting of several impoundments.

Stone
own w me not wife -

31 1995

RECEIVED THE CONSERVATION DIVISION - JUN 1994

Stone no 2

The maintenance of these impoundments requires a significant appropriation of water from Smith Creek which is then lost through evaporation and infiltration. Our calculations show that this loss amounts to .48 cfs or 178 AFA, 6 times our maximum diversion rate and 12 times the amount allocated under our decreed prior right.

more than
28 gpm

During the months of August, September and October, the flow in Smith Creek is insufficient to meet the allocations permitted by existing water rights. Stone's current diversion denies these appropriators their right to water which is legally theirs.

We hold our water right to be an important right in property for which we have made a significant expenditure of money and time to acquire and defend. The water granted us under ~~that~~ right is vital to the farming operations.

8/1/1995

Stone no 3

which provide a significant portion of our income. We consider Stone's interference with the natural flow of Smith Creek to be a serious violation of this property right granted us by the State. Therefore, we ask that the department deny Stone's application for an impoundment and further that the department take such measures as are available to it to cause the removal of the present impoundments together with such reconstruction of the stream bed as is necessary to return it to its natural course and flow. We further ask that the department deny Stone's application to divert additional water for domestic purposes on the grounds that there is insufficient water to meet the needs of the present water rights.

Thank you for your consideration

Very Truly Yours
W. S. Allen

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MAY 31 1935

ANALYSIS:

THERE ARE (2) IMPOUNDMENTS; AN UP-STREAM IMPOUNDMENT OF APPROXIMATELY *9,000 SF OF SURFACE AREA WHICH DISCHARGES INTO ANOTHER IMPOUNDMENT IMMEDIATELY DOWNSTREAM OF APPROXIMATELY *12,000 SF FOR A TOTAL OF 21,000 SF. (* FROM VISUAL OBSERVATION)

THE LOSS OF WATER THROUGH EVAPORATION FROM THESE IMPOUNDMENTS MAY BE DEVELOPED AS FOLLOWS:

FROM SOIL CONSERVATION SERVICE NRP 10C-27 THE ANNUAL FREE WATER SURFACE EVAPORATION FOR NORTHERN IDAHO IS 30"/YR. FROM IDAHO DEPARTMENT OF WATER RESOURCES DATA THE ANNUAL FREE WATER SURFACE EVAPORATION FOR THE SAME AREA IS 3.0 ACFT/ACRE OR 36"/YR. FROM GCS TABLE 10C-1, 81% OF THE ANNUAL EVAPORATION OCCURS DURING THE MONTHS OF MAY THROUGH OCTOBER THE TIME OF NORMAL IRRIGATION IN THIS AREA.

not many
not at
end of July

ADJUSTING THE ABOVE EVAPORATION FIGURES FOR TIME OF YEAR LOSS ACCORDINGLY IS AS FOLLOWS:

$$2.5' \times .81 = 2.02' / \text{YR}$$

$$3.0' \times .81 = 2.43' / \text{YR}$$

SELECTING THE CONSERVATIVE VALUE = 2.0' / YR 1995

RECORDED

THE ANNUAL EVAPORATION LOSS FROM THE ABOVE IMPOUNDMENTS IS AS FOLLOWS:

$$21,000 \text{ SF} \times 2.0 \text{ FT/YR} = 42,000 \text{ CF/YR.}$$

$$\frac{42,000 \text{ CF/YR}}{43,560 \text{ SF/A}} = .96 \text{ AF/YR.}$$

THE LOSS OF WATER THROUGH INFILTRATION FROM THESE IMPOUNDMENTS MAY BE DEVELOPED AS FOLLOWS:

FROM SOIL CONSERVATION SERVICE SOIL SURVEY OF BONNER COUNTY AREA, IDAHO - SHEET NO 44, THE SOIL TYPE DESIGNATED AS 35 IN SECTIONS 21 & 28 IN THE AREA AROUND SMITH CREEK IS CLASSIFIED AS PEND OREILLE SILT LOAM.

FROM SCS TABLE 16 THE PERMEABILITY OF THIS SOIL IS GIVEN AS FROM .6 TO 2.0 INCHES/HR IN THE UPPER STRATA WITH HIGHER VALUES IN THE UNDERLYING STRATA. THE LOWER VALUE OF .6 INCHES/HR = 1.2'/DAY WHILE THE VALUE OF 2.0 INCHES/HR = 4.0'/DAY.

ASSUMING A CONSERVATIVE RATE OF 2'/DAY THE ANNUAL LOSS DUE TO INFILTRATION IS:

$$\frac{2.0' / \text{DAY} \times 184 \text{ DAYS} \times 21,000 \text{ SF}}{43,560 \text{ SF/A}} = 177.41 \text{ AF/YR.}$$

* NO OF DAYS/YR - MAY THROUGH OCTOBER

RECORDED
MAY 31 1995

THE TOTAL LOSS FROM EVAPORATION &
INFILTRATION FROM THESE IMPOUNDMENTS COULD
BE CONSERVATIVELY ESTIMATED AS FOLLOWS:

$$.96 \text{ AF} + 177.41 \text{ AF} = 178.37 \text{ AF/DAY}$$

$$\text{OR } \frac{178.37 \text{ AF/DAY} \times 325,851 \text{ G/AF}}{184 \text{ DAY} \times 24 \text{ HR} \times 60 \text{ MIN}} = 219.36 \text{ G/MIN}$$

only flow at 80.8 gpm (Dept says .5 g/m loss)

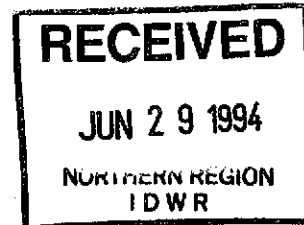
$$\text{OR } 219.36 \text{ G/MIN} \div 448.83 \text{ G/MIN} = .48 \text{ CF/SEC}$$

rate of flow by Dept measure = .18

MAY 31 1985

646 Wrenco Loop Road
Sandpoint, Idaho
June 27, 1984

State of Idaho
Department of Water Resources
Northern Region
Suite No. 210
1910 Northwest Blvd
Coeur d'Alene, Idaho 83814±2615



Dear Sirs:

Regarding the recommended order of June 17, 1994 concerning Application for Permit No. 96-08534 in the name of Tim Allen Stone.

Please consider this as a Petition For Reconsideration of the recommendation which would deny (pg. 4) that portion of the application relating to storage for wildlife, fire protection, recreation and aesthetics and to cease the impoundment of water.

In Findings of Fact (pg. 1-#6a.) the hearing officer has accepted a statement signed by W.D. Ellermeier and computations relating seepage and evaporation losses from the storage ponds. That statement, dated April 26, 1994, in part, claims (pg. 3) "The total loss from evaporation & infiltration from these impoundments could be conservatively estimated as follows:"

$.96 \text{ AF} + 177.41 \text{ AF} = 178.37 \text{ AF/ANNUM}$

or $\frac{178.37 \text{ AF/A} \times 325.851 \text{ G/AF}}{184 \text{ DAY} \times 24 \text{ HR} \times 60 \text{ MIN}} = 219.36 \text{ G/MIN}$

or $219.36 \text{ G/MIN} / 448.83 \text{ G/min} = .48 \text{ CF/SEC}$

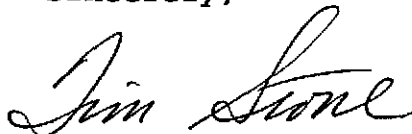
The Department of Water Resources' measurements in August of 1993 conclusively show the actual flows and losses to be entirely different. They show the rate of flow above the ponds (inflow) to be 80.8 GPM and the rate of flow below the ponds (outflow) to be 80.3 GPM. for a total loss (presumably from evaporation and infiltration) of one half of a gallon per minute. This measured loss is one four hundredth or 0.002279 the "conservatively estimated" loss in Mr. Ellermeiers' computations. In fact, Mr. Ellermeiers, computations show the "loss" to be nearly three times the entire flow of the creek.

The proof to show there is no injury to prior water rights is shown by the actual measurements of the Department of Water Resources. All but a tiny amount of water that flows into these ponds flows, unrestrictedly, out of them.

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I would like to further inform the Department of Water Resources that the ponds in question were not "constructed" by me. They are old and abandoned beaver dams. The dike below the bottom pond was created by the "Reforestation Co." in the 1950's as a road to service this area. The marshy areas created by these abandoned dams and possibly enhanced by the road, were suitable only as breeding grounds for mosquitos. Consequently, in 1980, I cleaned out the debris in the marshes to create clear water that has become the home and habitat for Trout, Heron, Turtles, Ducks, Geese, Moose and various other wildlife. The surface area has not been increased so much as cleaned up. The thousands of elder which transpired immense amounts of water into the air have been removed. If the area were to be transformed to its original "pre-pond" state, (twenty years before I arrived), the entire road, built by Reforestation, would have to be removed. This would cut off access for twelve residents and return the area to an unhealthy marsh, severely reducing property values. I welcome an inspection of these ponds in order to confirm these statements.

Sincerely,



Tim A. Stone

Enc. Department Exhibit 1. (inflow/outflow measurement)
Ellermeier letter of April 26, 1994 to Department.

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**NORTHERN REGION
IDWR**

D E P A R T M E N T E X H I B I T 1.

OUTFLOW OF POND Below 27

4Y 37 1995

DIST. FROM INITIAL POINT	WIDTH	DEPTH	INSTRU. DEPTH	REVS.	TIME SEC.	VELOCITY		AREA	DISCHARGE
						AT POINT	MEAN IN VERT.		
0.50	0.15								
0.80	0.30	0.20		30	42	0.71		0.06	0.04
1.10	0.30	0.20		50	44	1.14		0.06	0.07
1.40	0.30	0.20		35	40	0.88		0.06	0.05
1.7	0.50	0.15		10	47	0.21		0.08	0.02
2.4	0.35								
1.9	1.90								0.18
0.18 cfs x 448.8 = 80.8 GPM									

[illegible]



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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

June 17, 1994

RE: In the matter of Application for Permit No. 96-08534 in the name of
Tim Allen Stone.

Dear Interested Party:

The accompanying order is a "recommended order" issued by the department pursuant to Section 67-5243, Idaho Code. The provisions of this order will not become effective until the Director issues a final order in this matter.

Each party to these proceedings who appeared at the hearing may file a petition for reconsideration, briefs and exceptions to the recommended order and may request oral argument before the Director of the department as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of the order. 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 twenty-one (21) days after (a) the service of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of a recommended order and may file briefs in support of the party's position on any issue in the proceeding. Written briefs in support of or taking exceptions to the recommended order shall be filed with the Director. Opposing parties shall have twenty-one (21) days to respond.

ORAL ARGUMENT

The Director may schedule oral argument in the matter before issuing a final order. Oral argument on exceptions to a recommended order shall be heard at the discretion of the Director. If oral arguments are to be heard, the Director will, within a reasonable time, 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.

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MAY 31 1995

CERTIFICATE OF SERVICE

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

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The agency may remand the matter for further evidentiary hearing 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.

APPEAL OF FINAL ORDER TO DISTRICT COURT

A party aggrieved by a final order of the Director is entitled to judicial review in compliance with sections 67-5271 through 67-5279, Idaho Code.

Sincerely,

BOB HAYNES, P.E.
Regional Manager

Enclosures

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MAY 31 1995

SPECIAL NOTE: _____

PROTEST INFORMATION SHEET

Protestant(s)

NAME	ADDRESS	
1 William D. Ellermeier	700 Wrenco Loop Rd., Sandpoint, Id. 83864	9/15/88
2		
3		
4		
5		
6		
7		
8		
9		
10		

ATTORNEY NAME	ADDRESS
<u>Paul Vogel</u>	<u>1828 poe 907 Apt. 263-6636</u>

Date Filed: 9/15/88 Protest Due Date: 9/18/88

Issues: Protestant feels that applicant's proposed diversion will adversely affect his water right.

Applicant

ATTORNEY NAME	ADDRESS

Protest Date Entered on Computer	<u>9/22/88</u>
Acknowledgement Letters Sent	<u>9/22/88</u>
Hearing Date	

(Other Data) **MICROFILMED**
MAY 31 1995

Other Information: Recommended order sent 6/17/94.

Protest information submitted to computer (following hearing): _____

Form No. 202a.
4/87

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

INITIAL REVIEW BY: RLH

DATE: 8/19/88

APPLICATION: 96-8534

REQUIRED INFORMATION

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

ADDITIONAL INFORMATION

YES NO

- ☐ ☐ Overlapping place of use: (Describe source & relationship to present application on the back.)
☐ ☐ Overlapping point of diversion:
☐ ☐ Field check required:
☐ ☐ Field check by: _____
☐ ☐ Field report attached:
☐ ☐ Critical groundwater area:
☐ ☐ Groundwater management area:
☐ ☐ Send dam safety information:
☐ ☐ Send power requirement letter:
☐ ☐ Send fish farm requirement letter:
☐ ☐ Power residency affidavit:
☐ ☐ Power efficiency form:
☐ ☐ Within trust water boundry: (If yes, attach Trust Water Supplementary Analysis Sheet.)
☐ ☐ Diversion greater than 5 cfs or 500 af: (If yes, attach Large Diversion supplementary analysis sheet.)
☐ ☐ Additional information on reverse side:

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT

DATE REQUESTED: _____

PROCESSING

YES NO

☒ In form for advertising:

☒ Statewide advertising:

1 Fee amount, receipt number and date recorded on application:

SEND COPIES TO

YES NO

I.D. Health and Welfare

I.D. Fish and Game

I.D. Lands

Adjudication Bureau

YES NO

U.S. BLM

U.S. Forest Svc.

Water District #

Other

FINAL REGIONAL PROCESSING REVIEW

YES NO

Affidavit of publication received:

Application published correctly: If not, record action taken.

Publication dates and paper recorded on application:

Protests received,	Final date for protest
1	1
2	2
3	3
4	4
5	5
6	6
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10	10
11	11
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99	99
100	100

Protests, dates, resolution of protest recorded on application:

Recommendations attached:

Measuring device required:

Measuring port required:

Water delivered by water master? District #

Special conditions of approval or cover letter: (see additional info. below)

See Below For Additional Information

Recomended Date of Priority

Recomended by: _____ Date: _____

STATE OFFICE REVIEW

See below for additional information. By _____ Date _____

ADDITIONAL INFORMATION

[illegible]

96-08534

STONE, TIM ALLEN
646 WRENCO LOOP
SANDPOINT, ID 83864

Source: SMITH CREEK

Tributary: PEND OREILLE RIVER

Diversion Pt: SWSWNW Sec 21 T 57N R 03W

Use: IRRIGATION	(.020 CFS)	
WILDLIFE STORAGE		(3.00 AF)
FISH PROP. STORAGE		(3.00 AF)
DOMESTIC	(.010 CFS)	
RECREATION STORAGE		(3.00 AF)
AESTHETIC STORAGE		(3.00 AF)

Date Filed: 8/16/1988

In: T57N R03W S21 SWNW

0.5 ACRES TOTAL

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MAY 31 1995

PUBLIC HEARING

File: 96-8534 - Tim Allen Stone
Date: Tuesday, April 26, 1994, 1:00 PM
Place: IDWR, 1910 Northwest Blvd., Coeur d'Alene, Id.

ROSTER OF ATTENDANCE

NAME**ADDRESS**

Nancy Singleton	400 Wrenco Lp. Rd. Sandpoint Id. 83864
Tom Stone	144 Wrenco Lp Rd Sdpt
Summer Fox	694 Wrenco Loop Sdpt
William Elmer	700 WRENCO LOOP RD SDPT
Gene Schori	680 Wrenco Loop Rd Sandpoint, Id.
Steven H. Admann	692 WRENCO LOOP RD #12 SANDPOINT.
Jim Sieben	696 Wrenco Loop Rd. #15 Sandpoint

UNCLASSIFIED

~~MAY 31 1995~~

SENDER:

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

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

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

Consult postmaster for fee.

3. Article Addressed to:

MR TIM ALLEN STONE
646 WRENCO LOOP RD
SANDPOINT ID 83864

96-8534

MAILED
MAY 31 1995

4a. Article Number

48275

4b. Service Type

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

7. Date of Delivery

4-18-94

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

UNITED STATES POSTAL SERVICE

Official Business



PENALTY FOR PRIVATE
USE, \$300

MICROFILMED

MAY 31 1995

Print your name, address and ZIP Code here

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

RECEIVED

APR 19 1994

**NORTHWEST REGION
IDWR**

Hydrological Data

Name and Address of Sender		DEPARTMENT OF WATER RESOURCES 1911 NORTHWEST BLVD. - SUITE 210 COEUR D'ALENE, IDAHO 83814		Indicate type of mail ☐ Registered ☐ Return Receipt ☐ Insured ☐ For Merchandise ☐ COD ☐ Int'l Recorded Del. ☐ Certified ☐ Express Mail		Check appropriate block for Registered Mail: ☐ With Postal Insurance ☐ Without Postal Insurance		Affix stamp here if issued as certificate of mailing or for additional copies of this bill. POSTMARK AND DATE OF RECEIPT				
Line	Article Number	Name of Addressee, Street, and Post Office Address	Postage	Fee	Handling Charge	Act. Value (If Regis.)	Insured Value	Due Sender If COD	R. R. Fee	S. D. Fee	S. H. Fee	Rest. Del. Fee Remarks
1	48271	MR & MRS BRIAN L DOCKINS RT 2 BOX 372A, OLDTOWN ID 83822	.29	1.00					1.00			96-8736
2	48272	MRARLEY LAWRENCE RT 4 BOX 145 OLDTOWN ID 83822	"	"					"			"
3	48273	SUMMER MAE FOX 694 WRENCO LOOP #14 SANDPOINT ID 83864	"	"					"			96-8550
4	48274	MR WILLIAM D ELLERMEIER 700 WRENCO LOOP RD, SANDPOINT ID 83864	.75	"					"			96-8550-8534 96-8532-8534
5	48275	MR TIM ALLEN STONE 646 WRENCO LOOP RD, SANDPOINT ID 83864	.20	"					"			96-8534
6	48276	MS RUTH E KEMP 696-15 WRENCO LOOP RD, SANDPOINT ID 83864	"	"					"			96-8538
7	48277	MS PENELOPE WOOD 660 WRENCO LOOP RD SANDPOINT ID 83864	"	"					"			96-8535
8	48278	MR AND MRS MAX SINGLETON 400 WRENCO LOOP RD SANDPOINT ID 83864	"	"					"			96-8535
9	48279	MS IRENE SCHORI 680 WRENCO LOOP RD #10 SDPT ID 83864	"	"					"			96-8529
10	48280	MR RICHARD W FUGLE 692 WRENCO LOOP RD #12 SDPT ID 83864	"	"					"			96-8532
11												
12												
13												
14												
15												

Total Number of Pieces Listed by Sender
 10

Total Number of Pieces Received at Post Office
 10

POSTMASTER, PER (Name of receiving employee)
CR Grant

The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for the reconstruction of nonnegotiable documents under Express Mail document reconstruction insurance is \$50,000 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is \$500. The maximum indemnity payable is \$25,000 for registered mail, sent with optional postal insurance. See Domestic Mail Manual 913 and 914 for limitations of coverage on insured and COD mail. See International Mail Manual for limitations of coverage on international mail. Special handling charges apply only to third and fourth class parcels.

Files: 96-8529, 96-8531, 96-8532, 96-8534, 96-8535
96-8538, 96-8546, 96-8550, 96-8552
Date: Wednesday, August 4, 1993, 9:00 AM
Place: Fed. Bldg. Conf. Rm #102, Sandpoint, Id.

ROSTER OF ATTENDANCE

NAME

ADDRESS

NAME	ADDRESS
BILL ELLERMEIER	707 WRENCO LOOP RD SANDPOINT
263-8435	680 WRENCO LOOP RD SANDPOINT
263-1110 TIM Stone	646 WRENCO LOOP
63-1501 Horvath, W. Allen	697 WRENCO LOOP
263-3178 Jim + Susan Sieben ^(Kemp)	696 WRENCO LOOP RD.
263-8242 Barry + Roxey Ireland	670 WRENCO LOOP early morning

MICROFILMED

MAY 31 1995

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 96-8534 IN)
THE NAME OF TIM ALLEN STONE.)

NOTICE OF HEARING

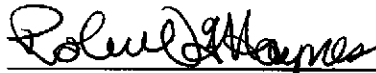
On August 16, 1988, Tim Allen Stone filed with the Department of Water Resources (department) application for permit no. 96-8534. The application was protested by William D. Ellermeier on September 15, 1988. The conference held by the department on August 4, 1993, did not resolve the matter of protest.

The department has scheduled the matter for hearing on Tuesday, April 26, 1994, at 1:00 PM, in the Department of Water Resources Northern Regional Office Conference Room, 1910 Northwest Blvd., Ste. 210, Coeur d'Alene, Id. 83814. 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 Gary Spackman.

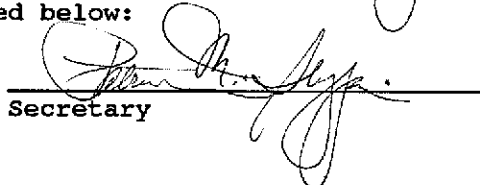
The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.

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

Dated this 7th day of April, 1994.


Regional Supervisor

I hereby certify that on the 7th day of April, 1994, I mailed a true and correct copy, postage prepaid, of this document to the applicants(s) and protestant(s) listed below:


Secretary

Certified Mail
Mr. Tim Allen Stone
646 Wrenco Loop Rd.
Sandpoint, Id. 83864

Mr. William D. Ellermeier
700 Wrenco Loop Rd.
Sandpoint, Id. 83864

Non-Certified Mail
Mr. Paul Vogel
P.O. Box 907
Sandpoint, Id. 83864

MAILED
MAY 31 1995

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 (10) days prior to the hearing.

MICROFILMED

MAY 31 1995

July 27, 1993

William D Ellermeier
700 Wrenco Loop Road
Sandpoint ID 83864

Re: 96-08529, 96-08531, 96-08532, 96-08534, 96-08535, 96-08538, 96-08550, 96-08552

Dear Mr. Ellermeier:

As you a protestant of record against the issuance of permits for the above referenced Applications for Permits to Appropriate the Public Waters of the State of Idaho, your attendance at the conference scheduled for Wednesday, August 4, 1993, is essential. Because a number of the participants in this conference are from out of state, cancelling it could result in a hardship for them. I would hope that, if you are called, the court would see it's way to excuse you for that day.

If I can be of any assistance, please contact me.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RECEIVED

MAY 31 1995

Paul Vogel called -

7/14/93

He has no forwarding address for Long & Long. He sent a letter to each applicant & asked if they still want him to represent them, to advise him. During course of this protest, the applicants have not given ~~any~~ ^{Vogel} any direction, so he will not be at conference unless applicants ask him to.

If ~~no one~~ shows up at the conference - he suggests that we approved the applications since they paid for them.

[Signature] 3:30 PM

MICROFILMED

MAY 31 1995

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to:

MR TIM ALLEN STONE
646 WRENCO LOOP RD
SANDPOINT ID 83864

96-8534

5. Signature — Address

X

6. Signature — Agent

X

Sara Stone

7. Date of Delivery

7-12-93

4. Article Number

48229

Type of Service:

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

Always obtain signature of addressee or agent and DATE DELIVERED.

Address of sender (ONLY if requested and fee paid)

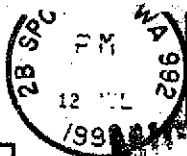
MAY 31 1995

RECEIVED

JUL 13 1993

NORTHERN REGION
IDWR

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS



MAY 31 1995



PENALTY FOR PRIVATE
USE, \$300

SENDER INSTRUCTIONS

Print your name, address and ZIP Code in the space below.

- Complete Items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RETURN
TO



Print Sender's name, address, and ZIP Code in the space below.

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



ACCEPTANCE OF REGISTERED, INSURED, C.O.D. AND CERTIFIED MAIL

PS Form 3877, July 1978

DEPARTMENT OF WATER RESOURCES

NAME AND ADDRESS OF SENDER

1800 NORTHWEST BLVD. - SUITE 210
COEUR D'ALENE, IDAHO 83814

Indicate type of mail
☐ Registered
☐ Insured
☐ COD
☒ Certified

I certify that we have
☐ Commercial Insurance
☐ A deductible clause of \$

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.
POSTMARK AND DATE OF RECEIPT

LINE	NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	Handling Charge	Actual Value (If Registered)	DUE SENDER IF C.O.D.	R. R. FEE	S.D. FEE	S. H. FEE	REST. DEL. FEE	REMARKS
1	48225	MS IRENE SCHORI 680 WRENCO LOOP RD #10, SANDPOINT, ID 83864	29c	1.00				1.00				96-8529
2	48226	MR WILLIAM D ELLERMEIER 700 WRENCO LOOP RD SANDPOINT ID 83864	75¢	"				"				96-8530
3	48227	MR BARRY IRELAND 670 WRENCO LOOP RD SANDPOINT ID 83864	29¢	"				"				96-8531
4	48228	MR RICHARD W FUGLE 692 WRENCO LOOP RD #12 SANDPOINT ID 83864	"	"				"				96-8532
5	48229	MR TIM ALLEN STONE 646 WRENCO LOOP RD SANDPOINT ID 83864	"	"				"				96-8534
6	48230	MS PENELOPE WOOD 660 WRENCO LOOP RD SANDPOINT ID 83864	"	"				"				96-8535
7	48231	MR & MRS MAX SINGLETON 400 WRENCO LOOP RD SANDPOINT ID 83864	"	"				"				96-8536
8	48232	MS RUTH E KEMP 696-15 WRENCO LOOP RD SANDPOINT ID 83864	"	"				"				96-8538
9	48233	GLOCK FAMILY / CHARLES AND MARGARET GLOCK TRUSTEES 319 S 4 TH AVE SANDPOINT ID 83864	"	"				"				96-8546
10	48234	MS SUMMER MAE FOX 694 WRENCO LOOP #14 SANDPOINT ID 83864	"	"				"				96-8550
11	48235	MR & MRS RONALD L WHEELER 4347 SIERRA AVE NORCO CA 91760	"	"				"				96-8552
12												
13												
14												
15												

MAILED
MAY 31 1995

TOTAL NUMBER OF PIECES LISTED BY SENDER

11

TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE

11

POSTMASTER, PER (Name of receiving employee)

[Signature]

The full declaration of value is required on all domestic and international registered mail. Commercial Insurance—Payment of the full registry fee is required on articles valued up to \$1,000 or the full amount of the deductible if the deductible exceeds \$1,000. The maximum indemnity payable is \$25,000 for registered mail, \$400 for COD and \$400 for insured mail. Special handling charges apply only to third- and fourth-class parcels. Special delivery service also includes special handling service.

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN

★ U.S. GOVERNMENT PRINTING OFFICE: 1978 270-037



State of Idaho
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION,

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

July 9, 1993

Mr. Don Young
Federal Building
1500 Hwy. 2
Sandpoint, Id. 83864

Re: 96-8529, 96-8531, 96-8532, 96-8534, 96-8535, 96-8538, 96-8546, 96-8550,
96-8552.

Dear Mr. Young:

This is to confirm reservations for a conference &/or hearing to be held by this Department on Wednesday, August 4, 1993, at 9:00 AM in your Federal Building Conference Room #103.

If this is not the case, please advise immediately.

Sincerely,

PATRICIA M. STYPA
Secretary/Office Coordinator

RECEIVED

MAY 31 1995

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 96-8534 IN THE)
NAME OF TIM ALLEN STONE.)
_____)

NOTICE OF CONFERENCE

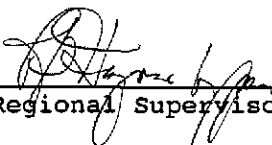
On August 16, 1988, Tim Allen Stone filed with the Department of Water Resources (department) application for permit no. 96-8534. The application was protested by William D. Ellermeier.

The department has scheduled the matter for conference on Wednesday, August 4, 1993, at 9:00 AM, in the Federal Building Conference Room No. 103, 1500 Hwy. 2, Sandpoint, Id. The conference 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 will be Robert G. Haynes, Northern Regional Manager.

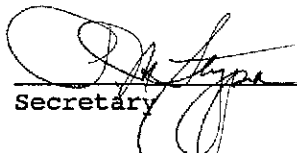
The conference will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the department within (10) days prior to the conference.

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

Dated this 9th day of July, 1993.


Regional Supervisor

I hereby certify that on the 9th day of July, 1993, I mailed a true and correct copy, postage prepaid, of this document to the applicants(s) and protestant(s) listed below:


Secretary

CERTIFIED MAIL
Mr. Tim Allen Stone
646 Wrenco Loop Rd.
Sandpoint, Id. 83864

Mr. William D. Ellermeier
700 Wrenco Loop Rd.
Sandpoint, Id. 83864

NON-CERTIFIED MAIL
Mr. Paul Vogel
P.O. Box 907
Sandpoint, Id. 83864

RECEIVED

MAY 31 1995

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

ISSUES

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

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

BURDEN OF PROOF

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

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

PROCEDURE

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

CONFERENCE

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

RECORDED
MAY 31 1995

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.

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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.

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UNRECORDED
MAY 31 1995



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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

August 8, 1991

Mr. Paul Vogel
Attorney at Law
P. O. Box 907
Sandpoint, Id. 83864

Re: Smith Creek; Your clients: Wood, 96-8535; Fugle, 96-8532; Ireland, 96-8531; Kemp, 96-8538; Schori, 96-8529; and Stone, 96-8534.

Dear Mr. Vogel:

Enclosed are the copies you requested for the above-referenced water right applicants.

Please remit the sum of \$0.50 for these copies at your earliest convenience. If we can be of any further assistance, please contact us.

Sincerely,

PATRICIA M. STYPA
Secretary/Office Coordinator

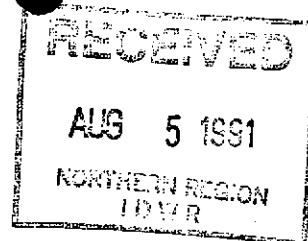
Enclosures

RECEIVED
MAY 31 1995

PAUL WILLIAM VOGEL

Attorney-at-Law

In Association with
PHILIP H. ROBINSON, P.A.
JAMES E. HUNT
ALYSSA C. SWARTZ
JOHN R. TOPP



1323 Michigan
P.O. Box 907
Sandpoint, Idaho 83864-0852
(208) 263-0534
Fax: (208) 263-5344

July 30, 1991

Idaho Department of Idaho Resources
ATTN: BOB HANES
Northern Region
1910 Northwest Boulevard
Suite 210
Coeur d'Alene, ID 83814

RE: Smith Creek; My clients: Wood, Fugle, Ireland, Kemp,
Schori, and Stone.

Dear Bob:

Thank you for your time on July 24, 1991 concerning the
Smith Creek adjudication.

The purpose of this letter is to request that your
Department provide me with copies of all objections filed to my
clients' applications for water rights. My clients names and
water rights numbers are as follows:

Penelope Wood, 96-08535;
Richard W. Fugle, 96-08532;
Barry Ireland, 96-08531;
Irene Schori, 96-08529;
Ruth E. Kemp, 96-08538;
Tim and Jane Stone, water right number unknown.

In relation to Mr. and Mrs. Stone, could you please send to
me, in addition to any objections filed, a copy of the Water
Rights Claim Proof Reading Report.

Again, thank you very much for your time and attention to
this matter.

Sincerely,

Paul Vogel Lat
PAUL VOGEL

PV/lat

cc: Tim and Jane Stone
Ruth Kemp
Irene Schori
Penny Wood
Richard Fugle
Barry and Roxy Ireland

RECEIVED
MAY 31 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 9 • 4055 Government Way • Coeur d'Alene, Idaho 83814 • (208) 765-4639

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

September 22, 1988

Mr. Tim Allen Stone
646 Wrenco Loop
Sandpoint, Id. 83864

Re: 96-8534

Dear Mr. Stone:

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

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

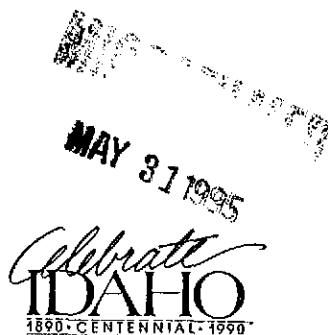
1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculation?
4. Has the applicant sufficient financial resources with which to complete the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

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

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RGH/pms
Enclosure





State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 9 • 4055 Government Way • Coeur d'Alene, Idaho 83814 • (208) 765-4639

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

September 22, 1988

Mr. William D. Ellermeier
700 Wrenco Loop Rd.
Sandpoint, Id. 83864

Re: 96-8531, 96-8532 and 96-8534

Dear Mr. Ellermeier:

Your protests against the approval of the above-referenced applications have been received and a copy has been sent to the applicants. The Department suggests that you contact the applicants directly in an effort to determine what is proposed by the applications and to attempt to resolve the protests.

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

1. Will the proposed uses reduce the quantity of water under existing water rights?
2. Are the proposed water supplies insufficient for the purposes intended?
3. Are the applications made in good faith or for delay or speculation?
4. Have the applicants sufficient financial resources with which to complete the projects?
5. Will the proposed uses conflict with the local public interest?

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

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RGH/pms



Sandpoint, Idaho
Sept. 13, 1988

Idaho Department of Water Resources
4055 Government Way Suite # 9
Coeur D'Alene, Idaho 83814

Re: Application 96-08534
Tim Allen Stone

RECEIVED
SEP 13 1988

Department of Water Resources
Northern District Office

Gentlemen:

This is to protest the granting of a claim to a water right to Tim Allen Stone for the appropriation of water from Smith Creek for domestic and irrigation purposes and the impoundment of Smith Creek (actual and proposed) for the purposes stated in the above application.

We are the holders of a current claim to a water right (claim # 96-4013) to appropriate water from Smith Creek, our point of diversion and place of use being in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 28, Township 57N, Range 3W, which is downstream from the impoundment and diversion asked by Stone.

We believe that the impoundment and diversion described in the Stone application will have an adverse effect upon our claim.

Please advise us if any further information or action is required of us in this matter.

Very Truly yours,

William D. Ellermeier

William D. Ellermeier
700 Wrenco Loop Road
Sandpoint, Idaho 83864

RECEIVED
MAY 31 1995



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 9 • 4055 Government Way • Coeur d'Alene, Idaho 83814 • (208) 765-4639

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

Dear Claimant:

The Department of Water Resources acknowledges receipt of your water right application for permit.

This office is currently in the process of advertising the application in the local county newspaper. The advertisement will be published for two weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this 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 about five weeks. State office personnel will conduct a complete review prior to the final processing of the application and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

Enclosed please find your receipt for the fee involved in filing this application.

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

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RGH/pms
Enc. - Receipt

RECEIVED
MAY 31 1995

Celebrate
IDAHO
1890 - CENTENNIAL - 1990

Water Right Number - 96-08534 Adj. Flag Translation: Standard Water Right Number Old (D) Number -
+ - - - - Last Name - - - - + + - First Name - - + + - - - - Address - - - - - +

*** C - CURRENT OWNER ***
STONE TIM ALLEN 1 - 646 WRENCO LOOP
2 -
3 -
City- SANDPOINT State- ID Zip- 83864
Phone - 208-263-1761

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
08/16/1988 A - APPLICATION

+ - - Source - - - - + + - - Tributary - - - - +
SMITH CREEK PEND OREILLE RIVER

+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County Stream Index (Blank if no Index Code)
57N 03W 21 SW SW NW (17) BONNER

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
01 - IRRIGATION		05/15	10/15	0.020	
17 - WILDLIFE STORAGE		01/01	12/31		3.00
20 - FISH PROP. STORAGE		01/01	12/31		3.00
43 - DOMESTIC		01/01	12/31	0.010	
47 - RECREATION STORAGE		01/01	12/31		3.00
53 - AESTHETIC STORAGE		01/01	12/31		3.00

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
0.020 3.00

+ - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County
57N 03W 21 SW NW 0.5 01 IRRIGATION (17) BONNER

Total Acres: 0.5

+ - - Diversion Means - PUMP, PIPELINE AND TANK.

+ - - Non-Irrigation Use - D/1 HOME, WS, JS, FS, RS/POND FOR WILDLIFE, AESTHETICS, ETC.

+ - - Other Rights for Same Use - NONE.

+ - - - - Remarks - - - - - +
AC. DOMESTIC DIV. RATE=0.001.

+ - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.

RECEIVED
MAY 31 1995

DECLASSIFIED
JUL 31 1995