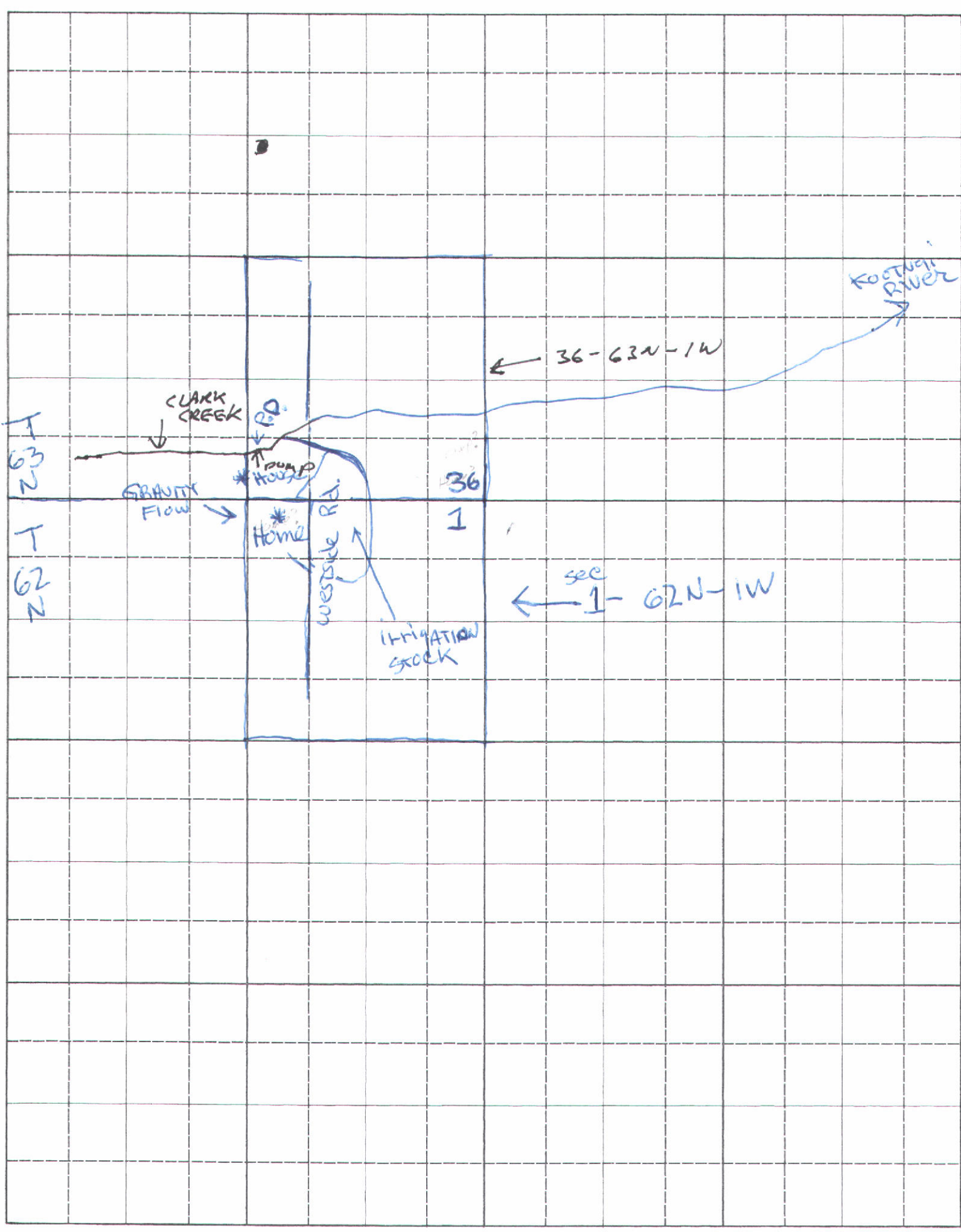


11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



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.

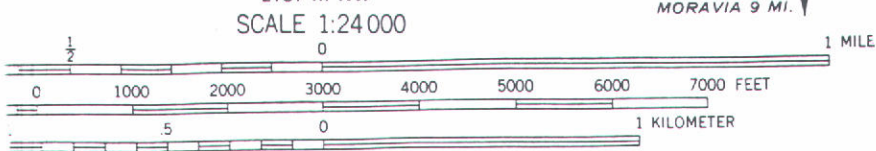
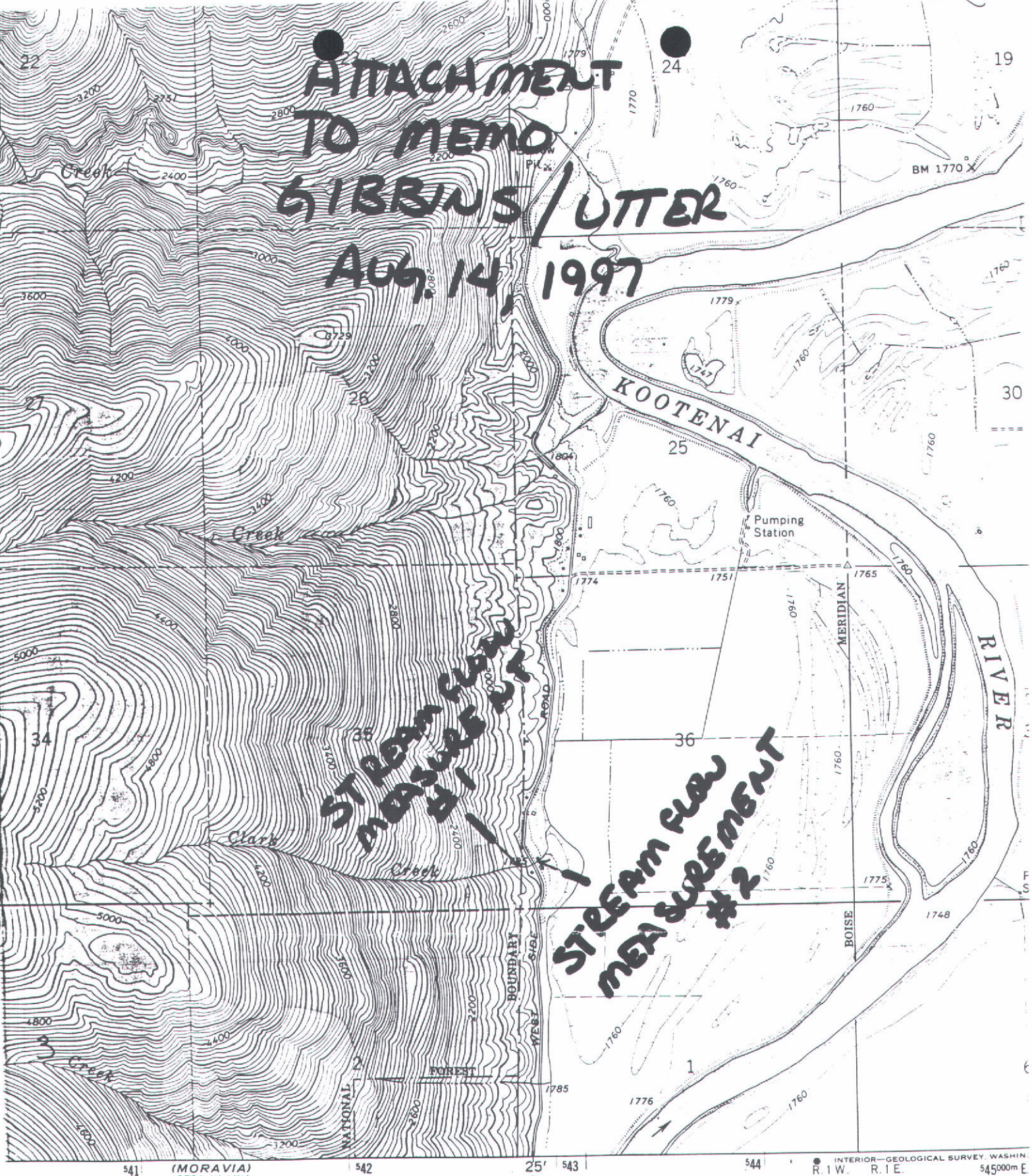
RECEIVED

[Signature]
(Applicant)

**ATTACHMENT
TO MEMO
GIBBINS/UTTER
AUG. 14, 1997**

**STREAM FLOW
MEASUREMENT #1**

**STREAM FLOW
MEASUREMENT #2**



CONTOUR INTERVAL 40 FEET
DOTTED LINES REPRESENT 10-FOOT CONTOURS
DATUM IS MEAN SEA LEVEL



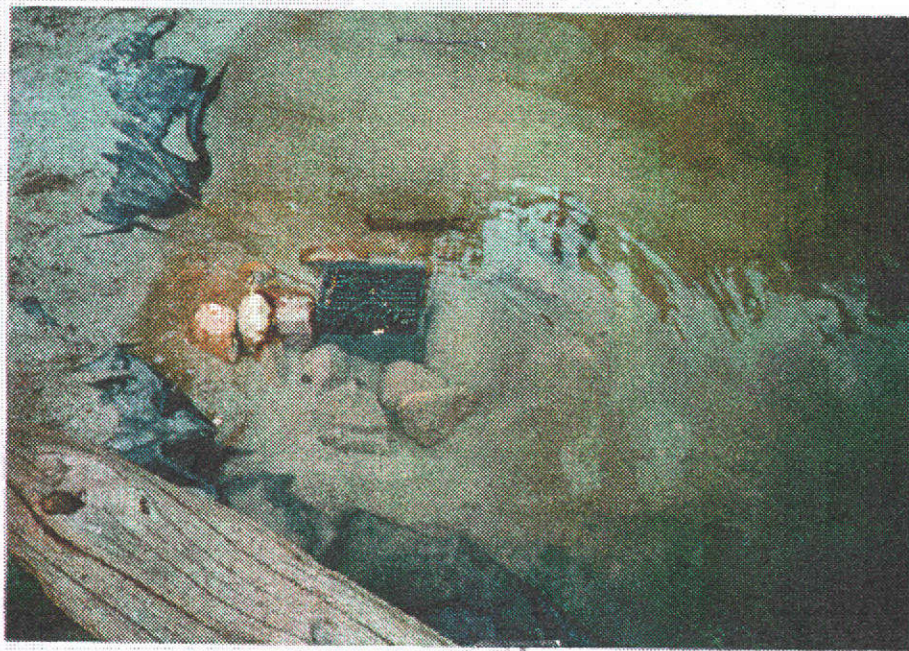
ROAD CLASSIFICA
Light-duty Unim

FARNHAM

GIBBINS
FIELD NOTES 6/20/97



↑ GIBBINS POND
PICTURE TAKEN FROM LAWN
FACING WEST.



← POND OUTLET



GIBBINS
FIELD NOTES
6/20/97

1 of 7

PICTURE TAKEN FROM
NW CORNER OF GARAGE
FACING SOUTH - SHOWING
PLASTIC ON GARAGE
FOUNDATION TO PROTECT IT
FROM SPRING ACTIVITY.



PICTURE TAKEN FROM
NW CORNER OF GARAGE
FACING NORTH - SHOWING
LARGE ROCKS PLACED OVER
SPRING. THE PLASTIC PIPE
IN PHOTO WAS ONCE USED
TO DIVERT WATER FROM
CLARK CREEK.



PICTURE TAKEN FACING
EAST - SHOWING GARAGE
AND SPRING.

GIBBINS
FIELD NOTES
6/20/97

7067



PICTURE
TAKEN AT
4:45 PM

(GIBBINS) DIVERSION PIPE AND VALVE FROM CLARK CREEK.
VALVE TURNED TO OFF POSITION TO SEE IF SUPPLYING
WATER TO POND ON 6/20/97.

WATER CONTINUING
TO FLOW AFTER
VALVE TURNED
OFF ON CLARK CR.
DIVERSION SYSTEM.

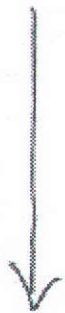


PICTURE
TAKEN AT
5:15 PM

POND INFLOW PIPE ↑

GIBBINS
FIELD NOTES
6/20/97

GIBBINS
DIVERSION
PIPE
→
(OUT OF CLARK
CREEK)



UTTERS DIVERSION
PIPE
(OUT OF WATER)



GIBBINS
FIELD NOTES
6/20/97

CLARK CREEK



PICTURE TAKEN FROM CO. RD.
FACING WEST.



CLARK CREEK

PICTURE TAKEN FROM CO. RD,
FACING EAST. - WATER FLOWING
THROUGH UTER'S PROPERTY.

GIBBINS
FIELD NOTES
6/20/97



PICTURE TAKEN FROM CO. RD.
FACING WEST. ACCESS CMP TO
BURIED CULVERT UNDER CO.
RD.



PICTURE TAKEN FROM CO. RD., FACING
EAST. OVERFLOW WATER FROM POND
FLOWING ACROSS UTTER'S PROPERTY.

GIBBINS
6/20/97
FIELD NOTES



DOMESTIC WELL
LOCATED IN LAWN, WEST OF
HOME.



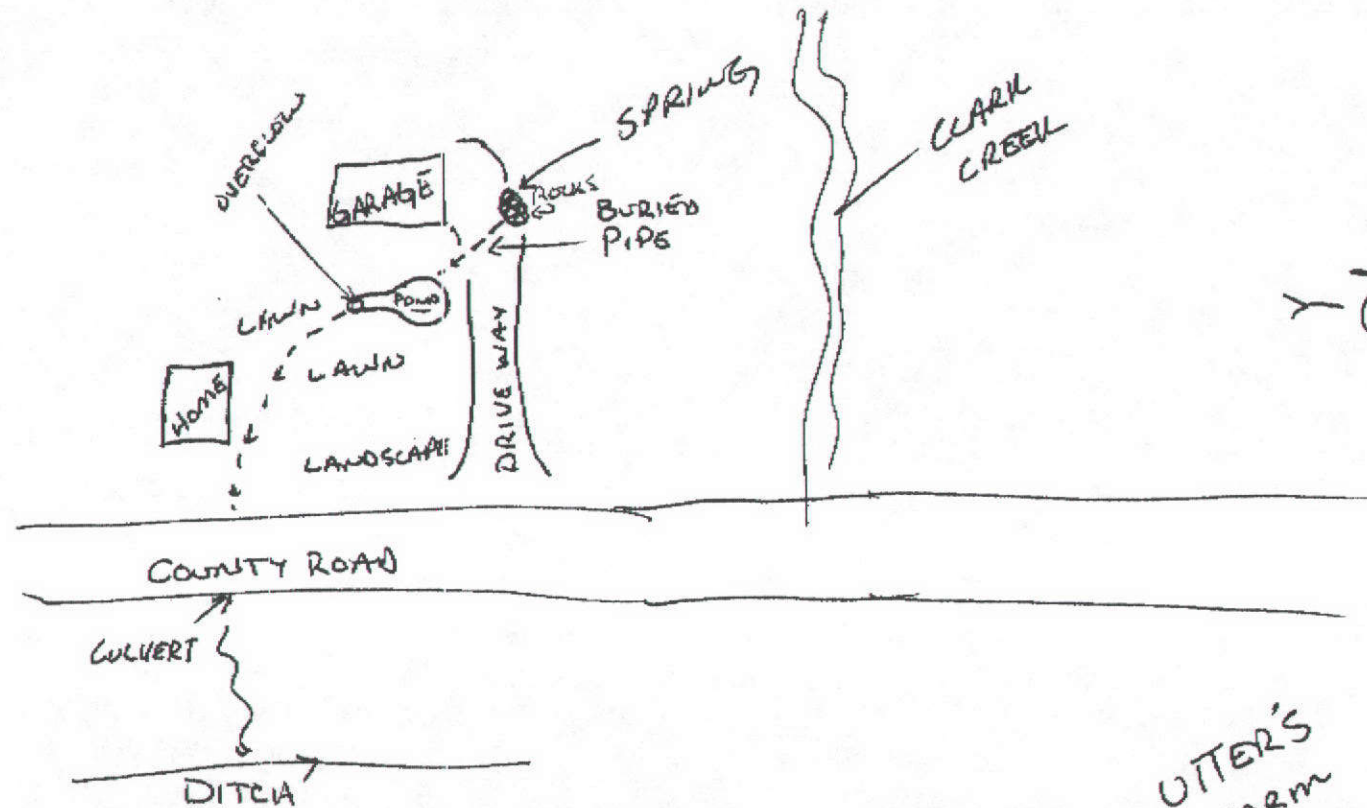
GIBBINS
HOME
←
PICTURE TAKEN FROM
NORTH OF POND, SOUTH-
EASTERN.

FIELD VISIT NOTES

GIBBINS POND/SPRING

JUNE 20, 1997

SKETCH



UTTER'S
FARM

07/12/96

16:27

☎ 1 208 327 7886

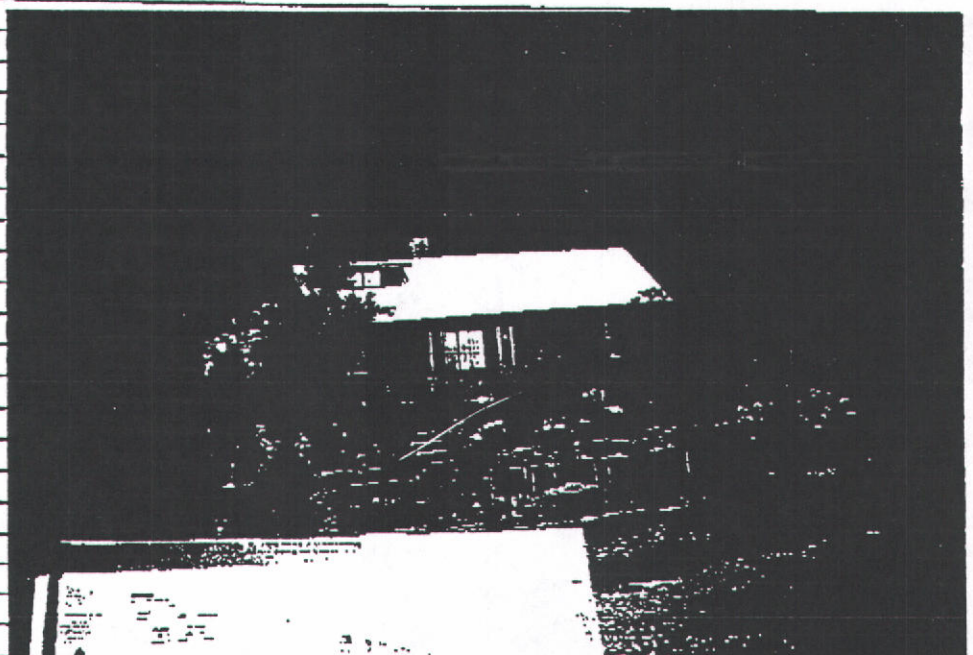
ID WATER RESOURS

007

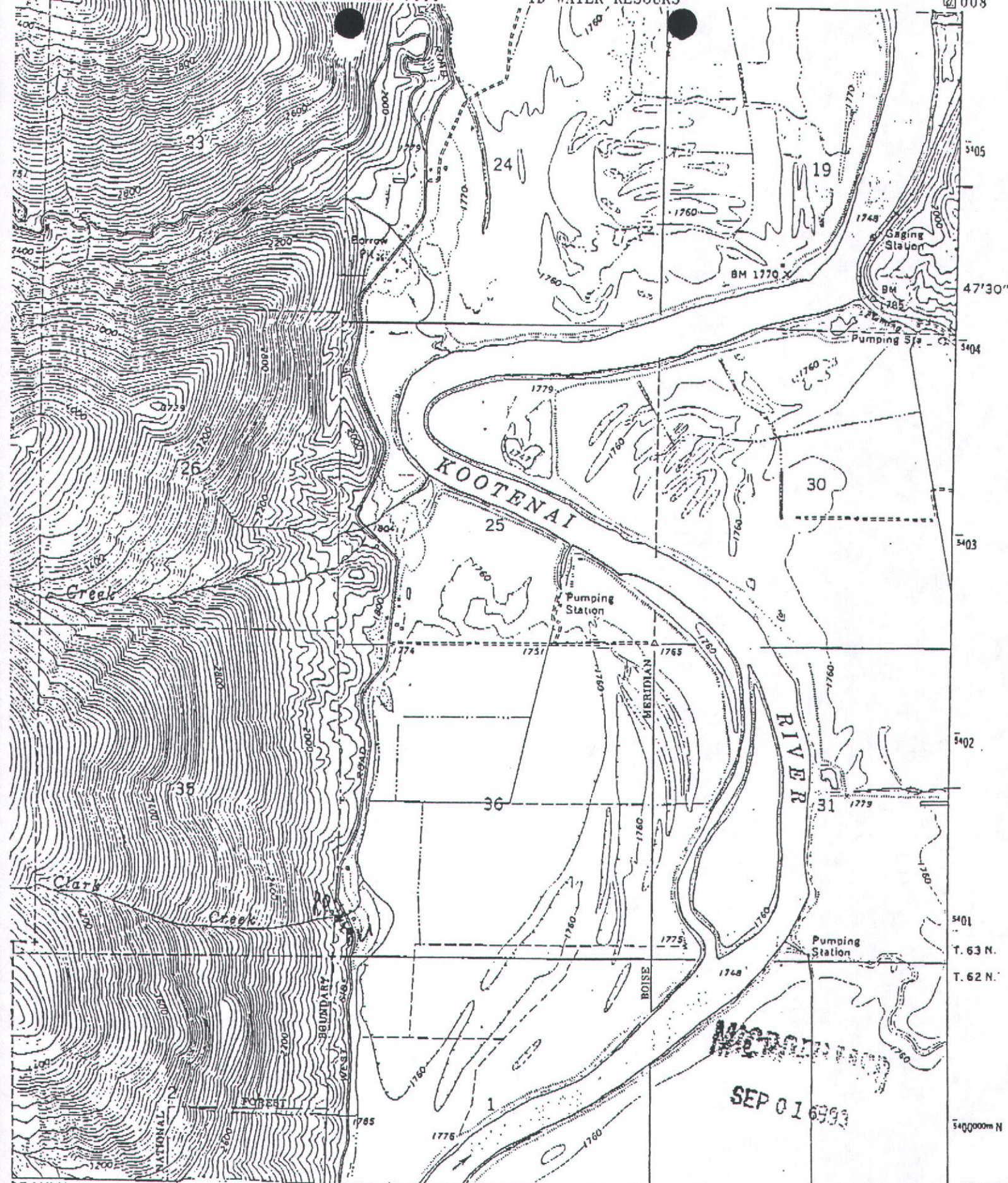
PERMIT # 98-07514

DD

PCU



SEP 01 1996



GRAVIA
11 III NW
E 1:24000

0
1000 2000 5000

SPRINGETT
PD: T63N, R1W, SEC.36,
PU: " " "
SOURCE: CLARK CR.

QUAD: A-57
SWSW
S2SW
TRIBUTARY: KOOTENAI RIVER
PERMIT #98-07514
GL: Δ
ACRES: 5

INTERIOR GEOLOGICAL SURVEY, WASHINGTON, D.C. - 1987

48°45'
116°22'30"

ION

NOTICE OF APPLICATION FOR WATER RIGHT
The following applications have been filed appropriate
the public waters of the State of Idaho:

98-7514

SPRINGETT, GREGORY K.
STAR RT. 1 BOX 154, BONNERS FERRY, ID 83805
Source: CLARK CREEK trib. to KOOTENAI RIVER
Date Filed: 04/01/1983
Diversion Pt: SWSW Sec 36 T 63N R 01W
Use: IRRIGATION (0.10 CFS)
STOCKWATER (0.04 CFS)
DOMESTIC (0.04 CFS)
In: SWSW Sec 36 T 63N R 01W NWNW Sec 01 T 62N R 01W
FOR 4 ACRES

98-7515

WEE-4
P.O. BOX 1009, BONNERS FERRY, ID 83805
Source: SPRING trib. to KOOTENAI RIVER
Date Filed: 04/22/1983
Diversion Pt: SWNE Sec 25 T 65N R 01W
Use: STOCKWATER (0.02 CFS)
DOMESTIC (0.04 CFS)
In: SWNE Sec 25 T 65N R 01W

98-7516

HEATH, RAY &/or TOM
P.O. BOX 1009, BONNERS FERRY, ID 83805
Source: SPRING trib. to KOOTENAI RIVER
Date Filed: 04/22/1983
Diversion Pt: SESW Sec 25 T 65N R 01W
Use: STOCKWATER (0.02 CFS)
DOMESTIC (0.04 CFS)
In: SESW Sec 25 T 65N R 01W

98-7517

HEATH, RAY &/or TOM
P.O. BOX 1009, BONNERS FERRY, ID 83805
Source: UNNAMED STREAM trib. to KOOTENAI RIVER
Date Filed: 04/22/1983
Diversion Pt: NWSW Sec 25 T 65N R 01W
Use: IRRIGATION (0.20 CFS)
DOMESTIC (0.04 CFS)
In: NWSW Sec 25 T 65N R 01W FOR 15 ACRES

98-7518

HEATH, RAY &/or TOM
P.O. BOX 1009, BONNERS FERRY, ID 83805
Source: UNNAMED STREAM trib. to KOOTENAI RIVER
Date Filed: 04/22/1983
Diversion Pt: NESW Sec 25 T 65N R 01W
Use: STOCKWATER (0.02 CFS)
DOMESTIC (0.04 CFS)
In: NESW Sec 25 T 65N R 01W

98-7519

WEE-4
P.O. BOX 1009, BONNERS FERRY, ID 83805
Source: UNNAMED STREAM trib. to KOOTENAI RIVER
Date Filed: 04/22/1983
Diversion Pt: SWNW Sec 25 T 65N R 01W
Use: STOCKWATER (0.02 CFS)
DOMESTIC (0.04 CFS)
In: SWNW Sec 25 T 65N R 01W

98-7521

ARMSTRONG, BYNG E.
P.O. BOX 1311, BONNERS FERRY, ID 83805
Source: UNNAMED STREAM trib. to MOYIE RIVER
Date Filed: 04/26/1983
Diversion Pt: SENE Sec 35 T 65N R 02E
Use: IRRIGATION (0.14 CFS)
STOCKWATER (0.02 CFS)
DOMESTIC (0.04 CFS)
In: SENE Sec 35 T 65N R 02E FOR 9 ACRES

98-7522

SCHNUERLE, ROBERT L.

ID WATER RESOURS

023

AFFIDAVIT OF PUBLICATION

IDAHO

boundary

I, Ann, bkpr for Pete Thompson being
born upon his oath, deposes and says that he is the publisher (or foreman)

Publisher

Bonn's Ferry Herald, a newspaper of general circulation, published weekly at
Boundary County, State of Idaho; that the said Bonners Ferry Herald has
been published continuously and uninterruptedly published in said Boundary County during a period
of 78 weeks prior to the first publication of the hereto attached notice; that

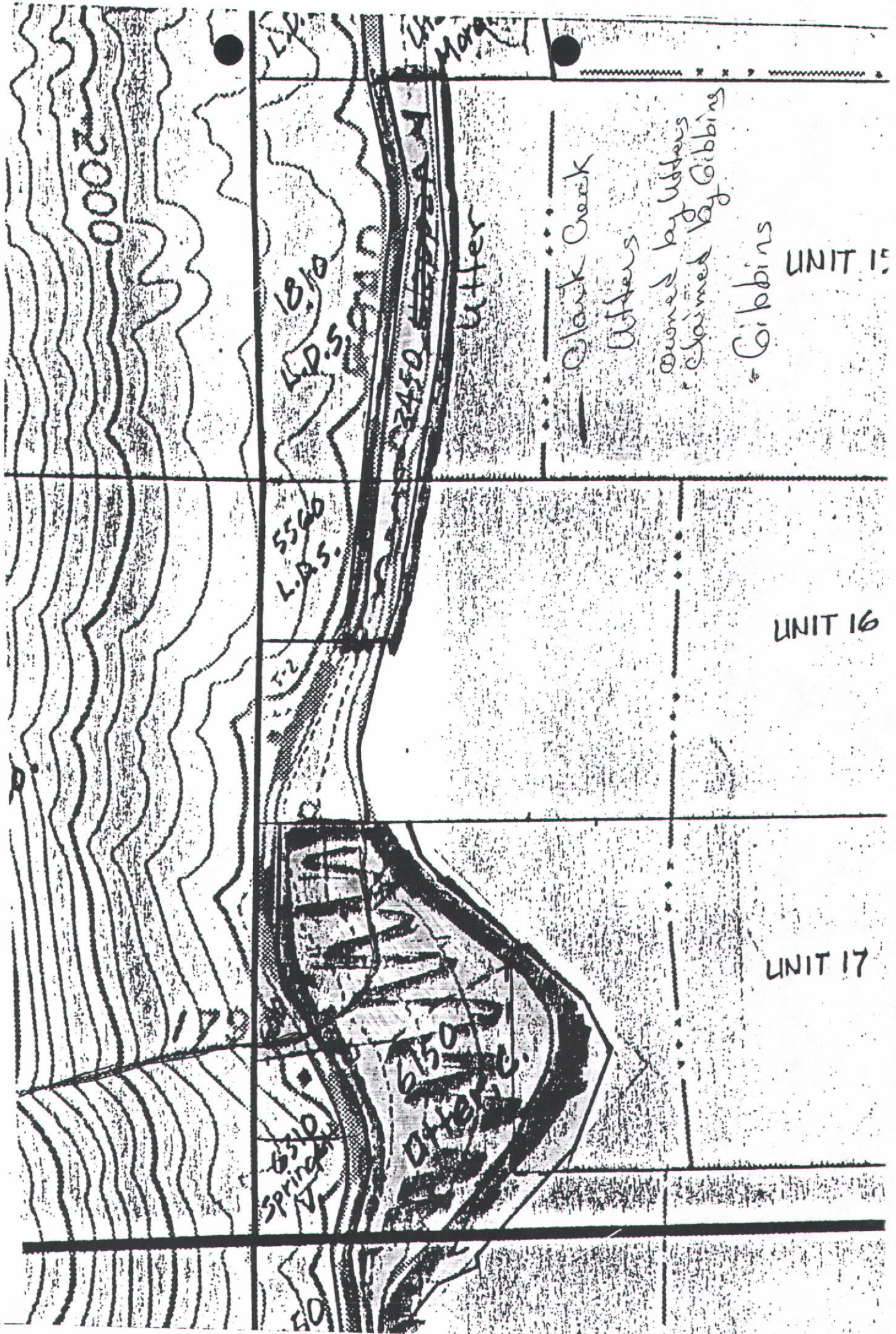
ent of Notice of Application for Water Right

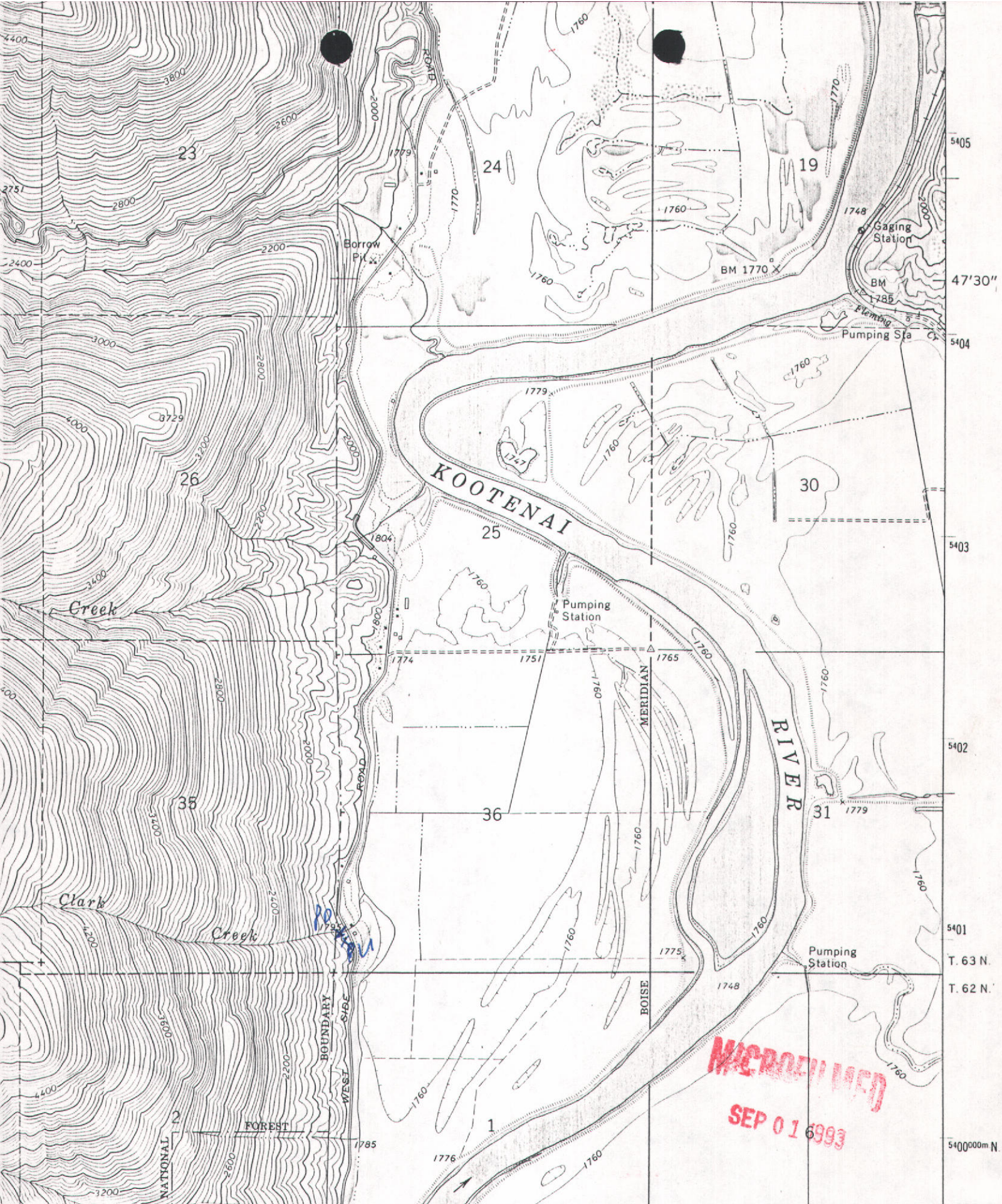
98-7515, 98-7516, 98-7517, 98-7518, 98-7519
98-7522, 98-7523

publication, a printed copy of which is attached hereto was published in said
not in a supplement thereof for 2 consecutive issues, com-
mencing issue dated May 5, 1983, and ending with the
May 12, 1983.

sworn to before me this 18th day of May, 1983.

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





(MORAVIA)
2781 III NW
SCALE 1:24 000

0 3000 4000 5000

0

SPRINGETT
PD: T63N, R1W, SEC.36,
PU: " " "
SOURCE: CLARK CR.

QUAD: A-57
SWSW
S2SW
TRIBUTARY: KOOTENAI RIVER

PERMIT #98-07514
GL: $\hat{=}$
ACRES: ^5

ION
roved dirt

INTERIOR—GEOLOGICAL SURVEY, WASHINGTON, D. C.—1967

48°45'
116°22'30"

5400000m N

(BON 2)

PERMIT # 98-07514

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
FIELD REPORT SUPPLEMENT

P H O T O G R A P H S

PD



PU



UNRECORDED

SEP 01 1993

3/14/83

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant GREGORY K SPRINGETT Phone 267-5970
- Post office address SR 1 BOX 154 BONNERS FERRY ID 83805
2. Source of water supply CLARK CREEK which is a tributary of KOOTENAI RIVER
3. Location of point of diversion is SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 36 Township 63N
- Range 1W B.M. BOUNDARY County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

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

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

Amount .10 for IRRIGATION purposes from 3/31 to 11/1 (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:

a. .18 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. NOZZLE, PIPE, PUMP,
BASIN

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____

Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)

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

7. Time required for the completion of the works and application of the water to the proposed beneficial

use is 5 years (minimum 1 year — maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 36 Township 63N
NW NW 1 62N

Range 1W B.M. 1W

(2) Amount of power to be generated: _____ horsepower under _____ feet of head.

(3) List number of each kind of livestock to be watered 100 ASSORTED

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water 2.

(5) If water is to be used for other purposes describe: _____

MICROFILMED

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

[illegible]

Total number of acres to be irrigated 5

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

9. a. Who owns the property at the point of diversion APPLICANT

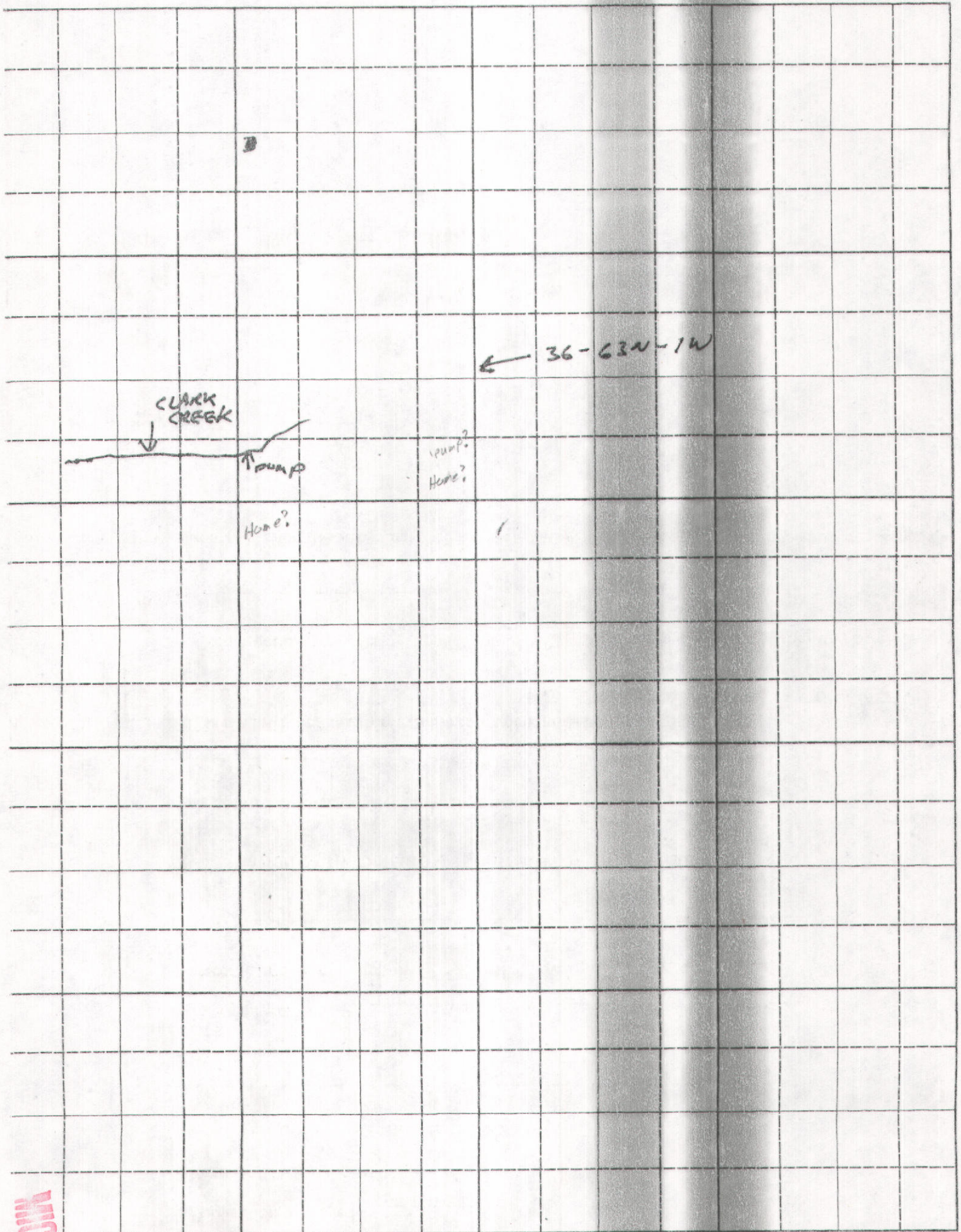
b. Who owns the land to be irrigated or place of use APPLICANT

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

10. Remarks

MICROFILMED

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



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.

David K. [Signature]
(Applicant)

Received by RJA Date 4/1/83 Time _____
Preliminary check by _____ Fee \$ _____
Receipted by _____ Date _____
Publication prepared by _____ Date _____
Published in _____
Publication dates _____
Publication approved _____ Date _____
Protests filed by: _____

Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by _____

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. Other:

MICROFILMED

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

RECEIVED

SEP 30 1996

Department of Water Resources

Please print or type. Attach pages with additional information. Instructions are on the back of this page.

Incomplete forms will be returned.

- n= Adj. claim
- name reg'd -
- outside SRBA boundary.
- as 1-7-96

1. Water Right Number(s) 98-07514~~Adjudication Claim Number(s)~~2. The following **REQUIRED** information must be submitted with this form.A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE, or other legal document indicating your ownership of the property and water rights ~~or claims~~ in question, WITH ATTACHED LEGAL DESCRIPTION.

AND

B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually on file with the county.)

OR

C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency (formerly ASCS) AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/~~Claimant~~(s) GREGORY K. SPRINGETT & ALEXANDER R. SPRINGETTHCR 60 Box 279 BONNERS FERRY, ID 838054. New Owner/~~Claimant~~(s) THOMAS ALLEN GIBBONS, JR. & ANGEL INGRAM FLEWName connector (Check one): ☐ AND, ☐ OR, ☒ AND/OR

GIBBONS

New Mailing Address HCR 60 Box 279City, State and ZIP Code BONNERS FERRY, IDAHO 83805New Telephone Number (208) 267-76795. Date you acquired the property JUNE 28, 19956. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages. N/A

Number of acres actually irrigated _____ Number and type of stock _____

Diversion rate in CFS _____ Number of homes _____ Other uses _____
cubic feet per second

If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

7. Signature of New Owner/~~Claimant~~(s)

Thomas Allen Gibbons, Jr. Date 27 Sept 96
Angel Ingram Flew Date 27 SEPT, 1996

MICROFILMED
DEC 5 1996

(Corporations or other organizations must submit a list of directors/officers demonstrating authority to sign form.)

8. For Snake River Basin Adjudication Claims: If you are represented by an attorney and you want IDWR to correspond directly with your attorney for all matters related to your claims, please attach a Notice of Appearance completed by your attorney.

INSTRUCTIONS

This form has been prepared to assist new owners of property to comply with the requirements of Sections 42-248 and 42-1409(6), Idaho Code. Section 42-248 requires certain property holders to notify the Department of Water Resources (IDWR) of any change in mailing address or ownership of all or part of a water right record on file with IDWR. Section 42-1409(6) provides that new property owners must notify IDWR of any change in ownership of a water right during an adjudication of water rights, and, if a required claim for the water right has not been filed, to file the needed claim.

Separate brochures are available from IDWR describing the adjudication of water rights and the requirement to notify IDWR of changes in ownership. If you would like any of these brochures, or if you have questions about completing this form, please contact your nearest IDWR office or call 1-800-451-4129.

If you need additional space to describe or explain any of the items on the form, please attach additional sheets to the form as you may require.

1. If there are water rights associated with the property, the seller should be able to provide you with the water right or adjudication claim number(s). Please enter these number(s) at Item 1. If you or the seller believe there are water rights for the property but the numbers are unknown, you may wish to call IDWR or come into an office of IDWR for assistance in identifying the water rights for the property in question. If claims for the rights are required, and have not been filed, IDWR will so advise you.
2. The information described at Item 2 is required, since IDWR cannot process the requested change without documentation of ownership. The preferred types of documentation are shown; contact IDWR if you have difficulty obtaining this information. Do not obtain a new survey for purposes of this form before contacting IDWR.
3. Please provide the name and address of the former owner of the water right and/or adjudication claim at Item 3.
4. The name, mailing address, and telephone number of the new owner(s) is entered at Item 4. Please indicate the relationship between multiple owners by using the connector "and", "or" or "and/or". If an "and" is used, all parties must sign this form. If an "and/or" or "or" is used, all parties may sign, however only one of the named parties is required to sign.
5. At Item 5, please provide the date the property in question was acquired. This may be the date of "closing" in the case of a real estate transaction or the date of court order for other types of ownership changes.
6. If the property you have purchased is only a portion of the property owned by the former owner/seller, you may be purchasing only a portion of the total water right held by the seller. This means the water right held by the seller may be "split" to provide your share of the right in question. Be sure to include a description of the portion of the water right you have purchased at Item 6.

Please provide as much detail as possible concerning your water right: include the number of homes, irrigated acreage if more than 1/2 acre is irrigated, type and number of stock if your right is for stockwater, etc. In the absence of information to the contrary, IDWR will assume the intent is to split the rights *proportionately*.

7. The new owner(s) must sign the form in the space(s) provided at Item 7. Corporations and other organizations must submit a list of directors or officers demonstrating the authority of the director or officer to sign the form.
8. There is no filing fee. When complete, you should retain a copy and return the original of the form to the IDWR office nearest you:

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

IDWR Southern Region, 222 Shoshone St. E., Twin Falls, ID 83301-6105 (208) 736-3033

IDWR Northern Region, 1910 Northwest Blvd., Suite 210, Coeur d'Alene, ID 83814-2615 (208) 769-1450

IDWR Eastern Region, 900 N Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 (208) 525-7161

RECEIVED
DEC 02 1996

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Water Right Number(s) 98-07514
~~Adjudication Claim Number(s)~~ _____
2. The following **REQUIRED** information must be submitted with this form.
 - A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE, or other legal document indicating your ownership of the property and water rights ~~or claims~~ in question, WITH ATTACHED LEGAL DESCRIPTION.
AND
 - B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually on file with the county.)
OR
 - C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency (formerly ASCS) AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.
3. Name and Address of Former Owner/Claimant(s) GREGORY K. SPRINGETT & NERONIA R. SPRINGETT
HCR 60 Box 279 BONNERS FERRY, ID 83805
4. New Owner/Claimant(s) THOMAS ALLEN GIBBINS, JR. AND/OR INGRID ELEAN GIBBINS
Name connector (Check one): ☐ AND, ☐ OR, ☒ AND/OR
New Mailing Address HCR 60 Box 279
City, State and ZIP Code BONNERS FERRY, IDAHO 83805
New Telephone Number (208) 267-7679
5. Date you acquired the property JUNE 28, 1995
6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages. N/A
Number of acres actually irrigated _____ Number and type of stock _____
Diversion rate in CFS _____ Number of homes _____ Other uses _____
cubic feet per second
If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.
7. Signature of New Owner/Claimant(s) [Signature] Date _____
[Signature] Date 27 SEPT, 1996
8. (Corporations or other organizations must submit a list of directors/officers demonstrating authority to sign form.)
For Snake River Basin Adjudication Claims: If you are represented by an attorney and you want IDWR to correspond directly with your attorney for all matters related to your claims, please attach a Notice of Appearance completed by your attorney.

DEC 2 1996

WARRANTY DEED 0178042

For Value Received

GREGORY K. SPRINGETT and VERONICA SPRINGETT, husband and wife

The grantor s do hereby grant, bargain, sell and convey unto

THOMAS A. GIBBINS, JR. and INGRID ELENA GIBBINS, husband and wife
the grantee s whose current address is 620 East 3rd Avenue, Post Falls, ID 83854

the following described premises, in BOUNDARY County Idaho, to-wit:

That part of Unit No. Eighteen (18) of Rural Subdivision of Drainage District No. 3, according to the plat thereof recorded with the Boundary County, Idaho, Recorder, being in Section Thirty-six (36), Township Sixty-three (63) North, Range One (1) West, B.M., and lying West of the road known variously as the West Side Road, County Road, or Forest Service Road, as it existed January 1, 1995.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee s their heirs and assigns forever. And the said Grantor s do hereby covenant to and with the said Grantee s that be y are the owner in fee simple of said premises; that they are free from all incumbrances

SUBJECT to such rights, easements, covenants, restrictions and zoning regulations as appear of record or by use upon the premises.

and that t he y will warrant and defend the same from all lawful claims whatsoever.

Dated: 6/27/95

[Signature]
GREGORY K. SPRINGETT
[Signature]
VERONICA SPRINGETT

STATE OF IDAHO, COUNTY OF Boundary
On this 27 day of June 1995.
before me, a notary public in and for the said State, personally appeared

GREGORY K. SPRINGETT
VERONICA SPRINGETT

known or identified to me to be the person s whose name s subscribed to the within instrument, and acknowledged to me that they executed the same.

[Signature]
Residing at Bonners Ferry, Idaho
Comm. Expires 10/1/97
Notary Public

STATE OF IDAHO, COUNTY OF Boundary
I hereby certify that this instrument was filed for record at the request of Boundary Abstract
at 11 minutes past 4:00 o'clock P.M.
this 28th day of June 1995, in my office, and duly recorded in Book 102 of Instruments at Page 273

Kris Larson
Ex-Officio Recorder

By *[Signature]* Deputy.

Fees \$ 34.00
Mail to: BA

INSTRUMENT NO.

UNIT 16

160.679 ACRES

UNIT 17

152.103 ACRES

UNIT 18

148.148 ACRES

SECTION CORNER

2 1/2 I.P.

35

36

490'

2

N 0° E

617.03'

2645.68'

N 5° 35' 43" E

1166.42'

N 15° 42' E 265.3'

N 27° 36' E 297.10'

N 20° 11' E 308.6'

N 11° 59' W 171.0'

N 23° 28' E 217.1'

N 06° 13' W 59.1'

N 29° 29' W 337.0'

S 0° 15' 30" E 710.03'

N 56° 40' 15" E 264.97'

N 39° 17' 45" E 164.92'

502.73'

N 78° 53' 15" E

N 33° 38' W 270.7'

N 0° 15' E 245.2'

N 32° 46' E 171.10'

N 07° 34' W 71.0'

N 07° 34' W 487.9'

N 21° 05' E 234.7'

N 05° 33' W 124.4'

N 03° 18' E 311.6'

FOREST SERVICE

1380.43'

N 89° 45' 50" E

5320.66'

N 89° 45' E

3408.79'

T 63 N

T 62 N

LOT 3

LOT

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 98-07514

Priority: June 18, 1983

Maximum Diversion Rate: 0.04 CFS
Maximum Diversion Volume: 1.2 AF

This is to certify, that GREGORY K SPRINGETT
HCR 60 BOX 279

BONNERS FERRY ID 83805 has complied with the terms and conditions
of the permit, issued pursuant to Application for Permit dated April 1, 1983; and
has submitted Proof of Beneficial Use on September 16, 1988. An examination indicates
that the works have a diversion capacity of .040 cfs of water from:

CLARK CREEK tributary to KOOTENAI 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	0.04 CFS	1.2 AF

LOCATION OF POINT(S) OF DIVERSION: SWSW , Sec. 36, Township 63N, Range 01W
BOUNDARY County

PLACE OF USE: DOMESTIC
TWN RGE SEC

63N 01W 36 SWSW

CONDITIONS/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.
5. Domestic use is for 1 home and shop.

SEP 01 1993

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 98-07514

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 12th
day of July, 1993.

Acting for R. Keith Higginson, Director

SEP 01 1993

RECEIVED

SEP 16 1988

STATE OF IDAHO

Department of Water Resources

DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

For Office Use Only
Fee Received 50.00
Date 9/19/88
Receipt # 1002602
Receipt by CP
Reviewed by _____
Sent to region _____

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has 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 or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 98-7514

Name(s) of Permit Holder: GREGORY K SPRINGETT

Post Office Address: HCR 60 BOX 279 BONNERS FERRY

IDAHO 83805 Telephone No. 208-267-5970

Source of Water: CLARK CREEK

Extent of Use:

Domestic 1 (number of households) Stockwater _____ (number and type of stock)

Irrigation 1-2 (acres) Other/Remark SEE MAP ON

back of completed usage

Total rate and/or volume for which proof is submitted .08 cfs _____ acre-feet

Show the date water was first diverted and beneficially used under this permit: July 1983

Measuring Device: Required? ☐ Yes ☒ No
Installed? ☐ Yes ☐ No Fee enclosed \$ 50.00
(See License Examination Fee Schedule)

Flow Measurement Port: Required? ☐ Yes ☒ No
Installed? ☐ Yes ☐ No

Person to contact to accompany the Department representative during the field examination:

GREGORY K. SPRINGETT 208-267-5970
(Name) (Telephone Number)

HCR 60 BOX 279 BONNERS FERRY IDAHO
(Address)

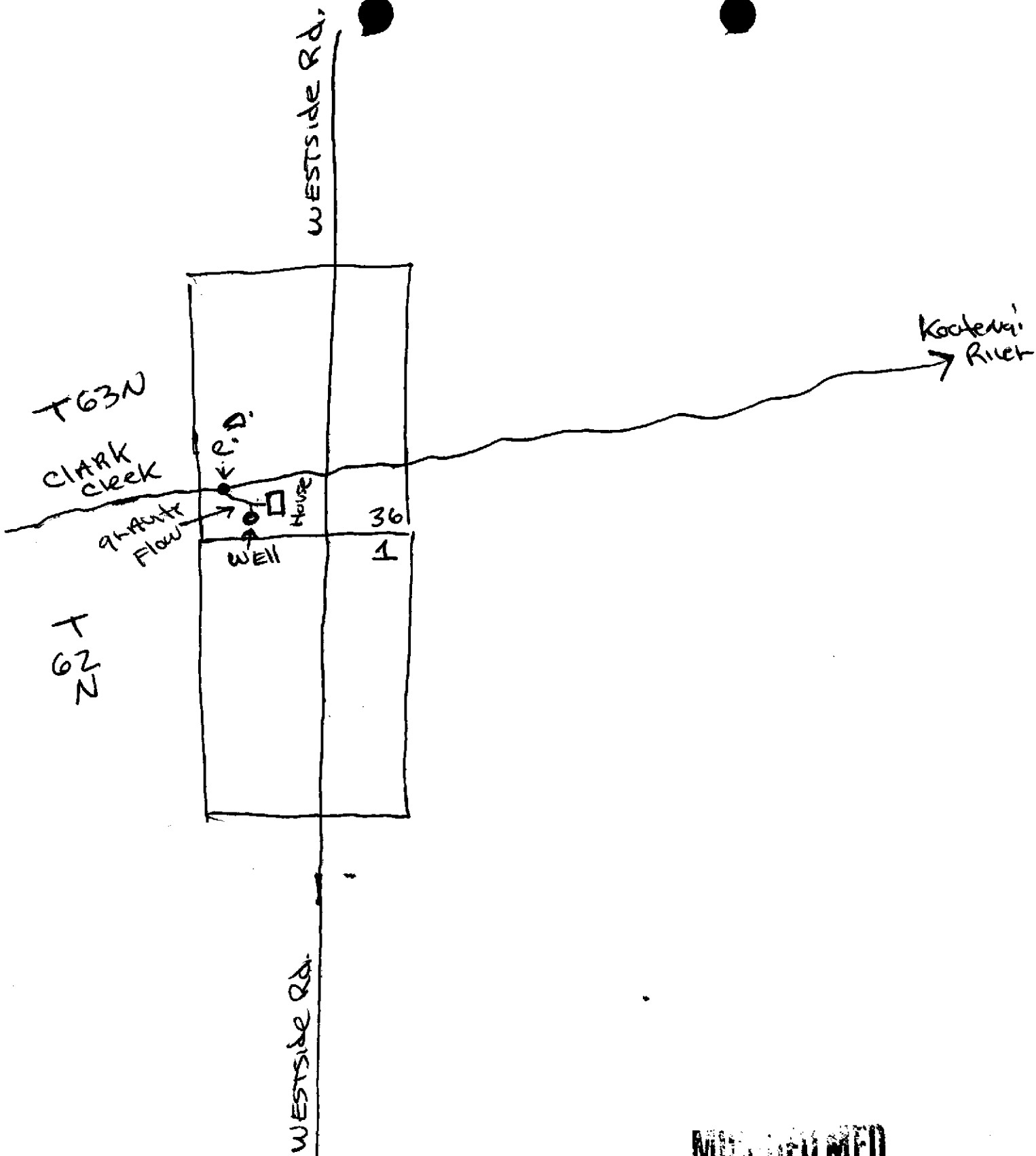
The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

9/1/88
Date

GREGORY K SPRINGETT
Signature of Permit Holder (and title, if appropriate)

MICROFILMED

FEB 22 1989



MICROFILMED

FEB 22 1989

3/14/83

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant GREGORY K SPRINGETT Phone 267-5970
 Post office address SR 1 BOX 154 BONNERS FERRY ID 83805
 2. Source of water supply CLARK CREEK which is a tributary of KOOTENAI RIVER
 3. Location of point of diversion is SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 36 Township 63N
 Range 1W B.M. BOUNDARY County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount .04 for DOMESTIC purposes from 1/1 to 12/31 (both dates inclusive)
 (cfs or acre-feet per annum)
 Amount .04 for STOCKWATER purposes from 1/1 to 12/31 (both dates inclusive)
 (cfs or acre-feet per annum)
 Amount .10 for IRRIGATION purposes from 3/31 to 11/1 (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:

a. .18 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. NOZZLE, PIPE, PUMP,
BASIN - GRAVITY FLOW

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____

Period of year when water will be diverted to storage _____ to _____ inclusive.
 (Month/Day) (Month/Day)

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

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year - maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 36 Township 63N
NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 1 Township 62N

Range 1W B.M. 1W

(2) Amount of power to be generated: _____ horsepower under _____ feet of head.

(3) List number of each kind of livestock to be watered 100 ASSORTED

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water 2.

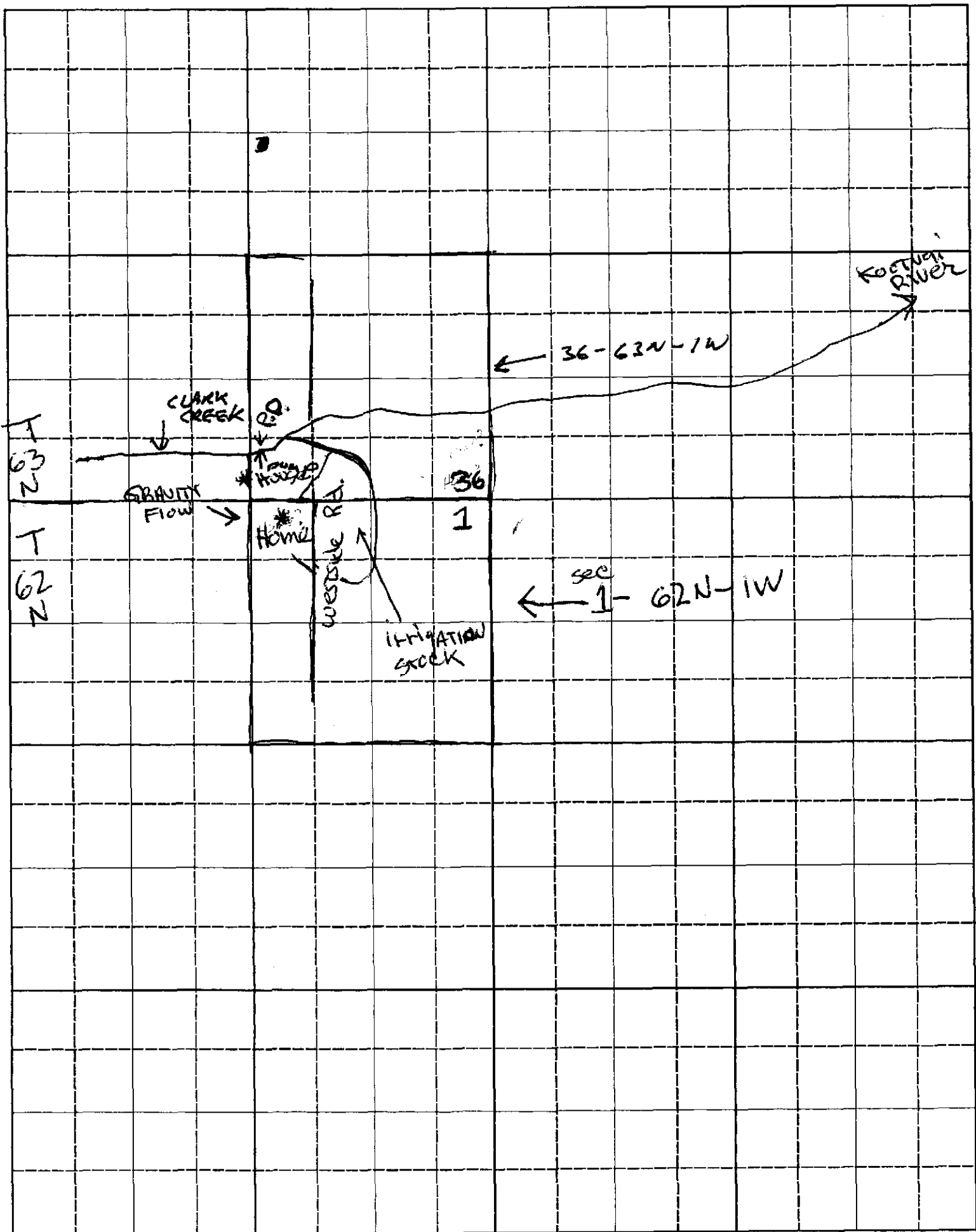
(5) If water is to be used for other purposes describe: _____

MICROFILMED

TWP	RANGE	SEC.	NE%			NW%			SW%			SE%			TOTALS
W 63N	36	1													2.5
W 62N	1														2.5
MICROFILMED															

applicant to make this filing

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



Scale: 2 inches equal 1 mile.

MICROFILMED

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.

[Signature]
(Applicant)

RECEIVED

Proposed Filing: 4/1/83
Received by: [Signature] Date: 4/1/83 Time: 11:15 AM
Filing Fee: \$3000
Preliminary check by: [Signature] Date: 4/1/83 (2782)
Publication prepared by: [Signature] Date: 4/28/83
Published in: [Signature] Date: 5/2/83
Publication dates: 5/2/83
Publication approved: [Signature] Date: 5/27/83
Protests filed by: _____
Copies of protests forwarded by: _____
Hearing held by: _____ Date: _____
Recommended for: approval denial by: [Signature]

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. 98-7514, and said application is hereby APPROVED

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 July 1, 1988.

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. Other:

Permit holder shall commence the excavation or construction of diverting works within one year of the date this permit is issued and shall proceed diligently until the project is complete.

Witness my hand this 16th day of June, 1983.

J. Allen Saylor
Chief, Operations Bureau

S.O. COPY

MEMORANDUM TO FILE

#98-07514

RECEIVED

AUG 18 1997

Department of Water Resources

FROM: Beardslee

DATE: August 14, 1997

RE: Stream flow measurements on Clark Creek, August 12, 1997.

Stream flow measurements were taken on Clark Creek to gather data on the possible effects of the diversion of water from Gibbin's spring on Clark Creek.

The Gibbin's spring is located approximately 50' south of Clark Creek.

See attached map, showing the measurement locations. The upper measurement was taken at a point on Clark Creek upstream from Gibbin's spring and the lower measurement below Gibbin's spring.

Results:

Upper measurement - 0.31 CFS (139.1 GPM)

Lower measurement - 0.37 CFS (166.1 GPM)

Remarks:

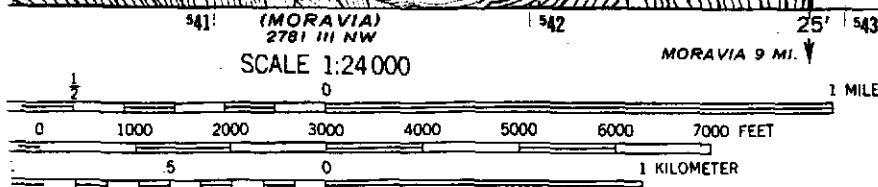
Standard U.S.G.S procedures were followed to take the measurements.

See Q-Note, attached.

ATTACHMENT
TO MEMO
GIBBS/UTTER
Aug. 14, 1997

STEAM FLOW
MEASUREMENT #1

STEAM FLOW
MEASUREMENT #2



CONTOUR INTERVAL 40 FEET
DOTTED LINES REPRESENT 10-FOOT CONTOURS
DATUM IS MEAN SEA LEVEL



ROAD CLASSIFICATION
Light-duty _____ Unim

FARNHAM

RECEIVED

JUL 01 1997

Department of Water Resources

TO: DREHER

FROM: BEARDSLEE

DATE: JUNE 27, 1997

SUBJECT: GIBBINS FIELD VISIT PHOTOS ON JUNE 20, 1997

ATTACHED ARE PHOTOS OF GIBBINS POND / PROPERTY.

THE GIBBINS HAVE AGREED TO FILE AN APPLICATION FOR PERMIT FOR THEIR POND. ARRANGEMENTS WILL BE MADE TO ASSIST THEM DO SO AS SOON AS POSSIBLE.

CALL IF YOU HAVE ANY QUESTIONS.

AL

~~AL~~

Springett
file -

GIBBINS
FIELD NOTES 6/20/97



↑ GIBBINS POND
PICTURE TAKEN FROM LAWN
FACING WEST.



← POND OUTLET

GIBBINS
FIELD NOTES
6/20/97

1 of 7



PICTURE TAKEN FROM
NW CORNER OF GARAGE
FACING SOUTH - SHOWING
PLASTIC ON GARAGE
FOUNDATION TO PROTECT IT
FROM SPRING ACTIVITY.



PICTURE TAKEN FROM
NW CORNER OF GARAGE
FACING NORTH - SHOWING
LARGE ROCKS PLACED OVER
SPRING. THE PLASTIC PIPE
IN PHOTO WAS ONCE USED
TO DIVERT WATER FROM
CLARK CREEK.



PICTURE TAKEN FACING
EAST - SHOWING GARAGE
AND SPRING.

GIBBINS
FIELD NOTES
6/20/97



PICTURE
TAKEN AT
4:45 PM

(GIBBINS) DIVERSION PIPE AND VALVE FROM CLARK CREEK.
VALVE TURNED TO OFF POSITION TO SEE IF SUPPLYING
WATER TO POND ON 6/20/97.

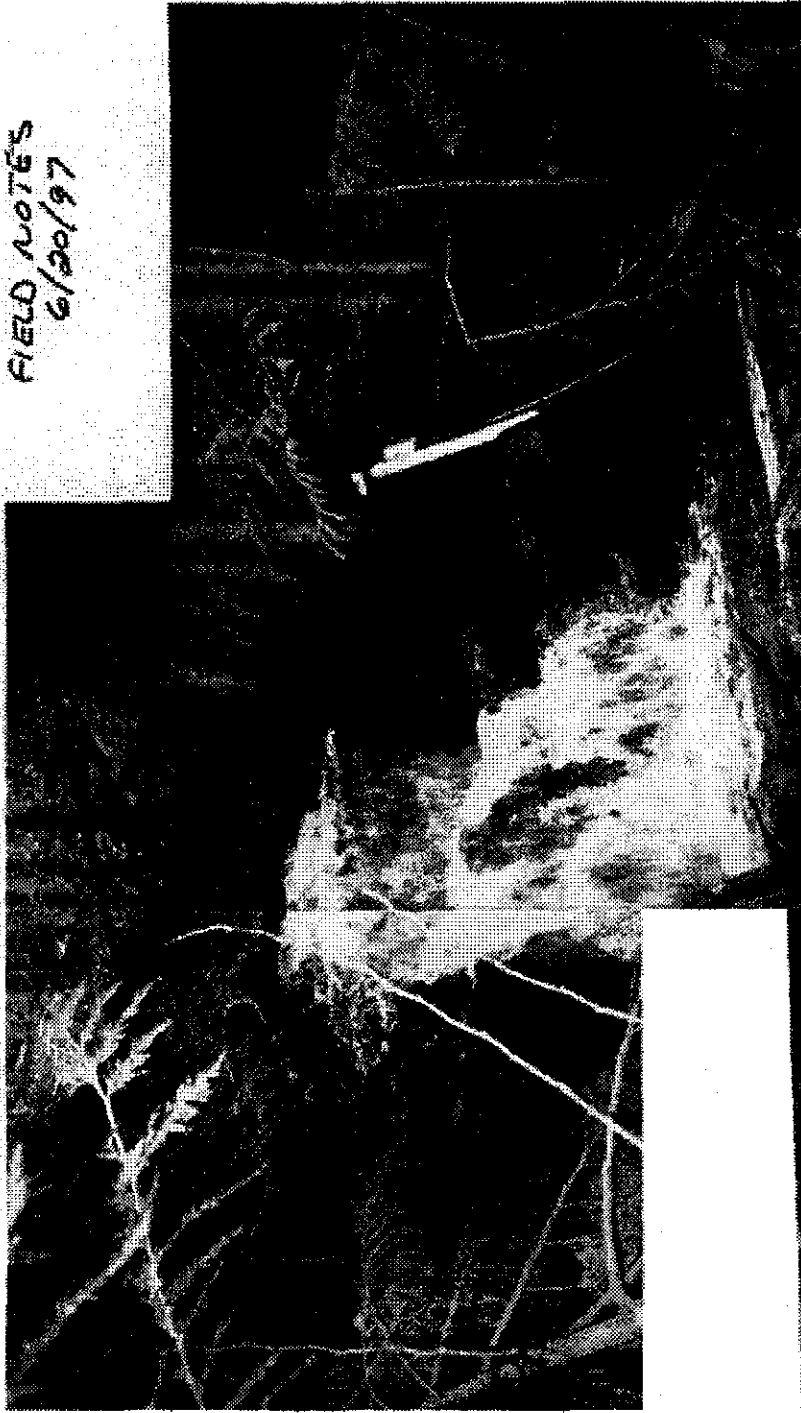
WATER CONTINUING
TO FLOW AFTER
VALVE TURNED
OFF ON CLARK CR
DIVERSION SYSTEM.



PICTURE
TAKEN AT
5:15 PM

POND INFLOW PIPE ↑

GIBBINS
FIELD NOTES
6/20/97



GIBBINS
DIVERSION
PIPE →
(OUT OF CREEK
GABER)



OTTERS DIVERSION
PIPE
(OUT OF WATER)



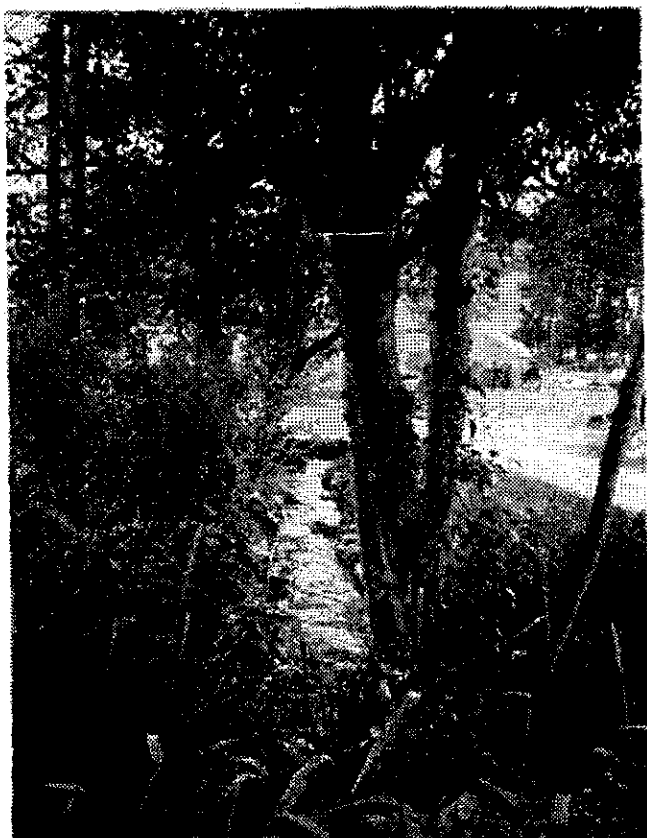


GIBBINS
FIELD NOTES
6/20/97

CLARK CREEK



PICTURE TAKEN FROM CO. RD.
FACING WEST.



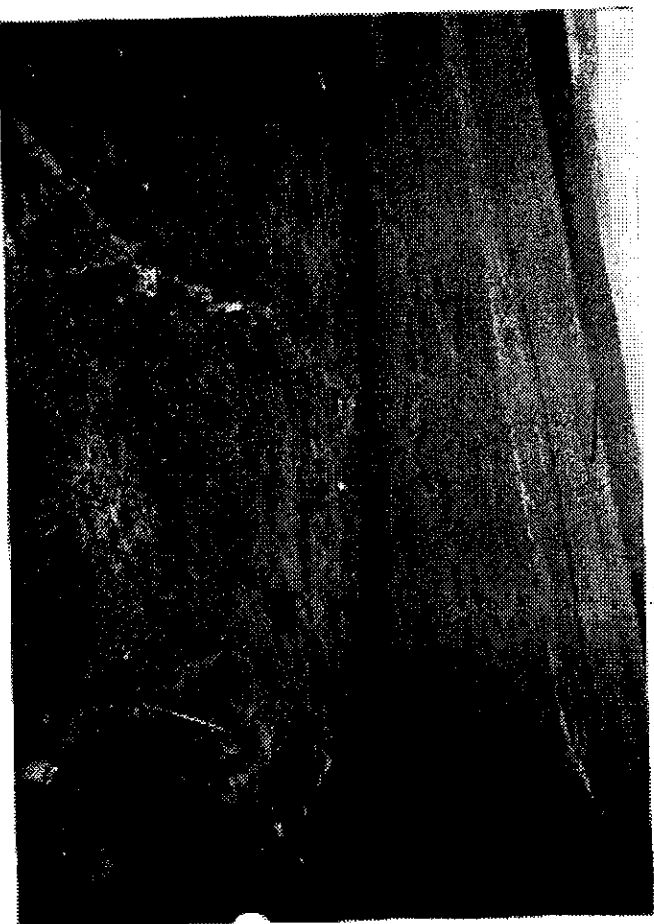
CLARK CREEK

PICTURE TAKEN FROM CO. RD,
FACING EAST. - WATER FLOWING
THROUGH UTER'S PROPERTY.

6188/US
FIELD NOTES
6/20/97



PICTURE TAKEN FROM CO. RD.
FACING WEST. ACCESS CAMP TO
BURIED CONCRETE UNDER CO.
RD.

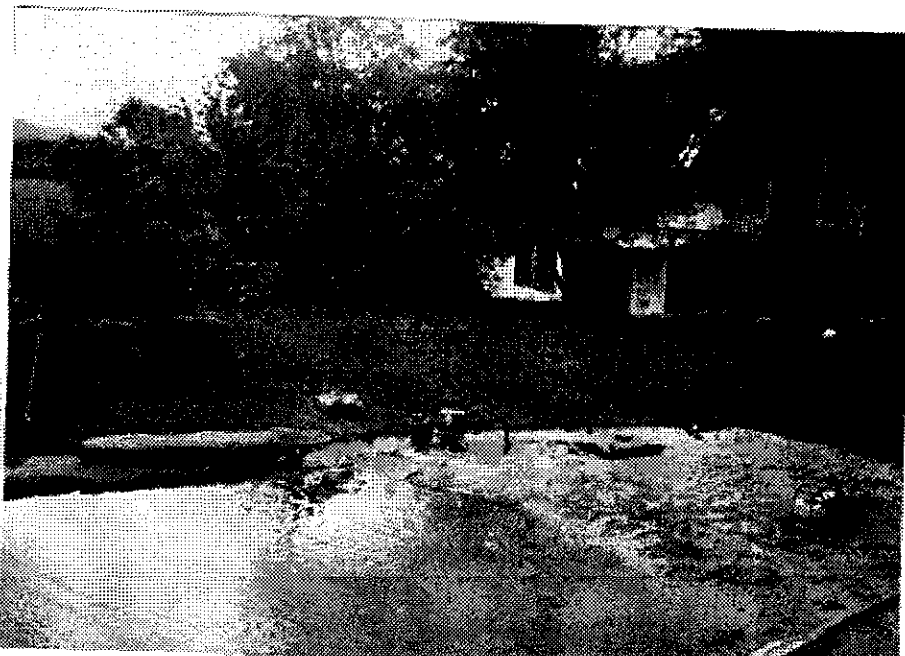


PICTURE TAKEN FROM CO. RD., FACING
EAST. OVERFLOW WATER FROM POND
FLOWING ACROSS UTEN'S PROPERTY.

GIBBINS
6/20/97
FIELD NOTES



DOMESTIC WELL
LOCATED IN LAWN, WEST OF
HOME.



GIBBINS
HOME
←
PICTURE TAKEN FROM
NORTH OF POND, SOUTH-
EASTERN.



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

COPY

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MEMORANDUM

To: Governor Philip E. Batt

Date: June 30, 1997

From: Karl J. Dreher

A handwritten signature of Karl J. Dreher is written over the name 'Karl J. Dreher'.

Subject: Response to Follow-Up Letter from Clifford Utter to Congressman Chenoweth
Constituent Affairs Tracking Memo No. 19929

This memorandum is provided in response to your request for additional information concerning issues raised by Clifford Utter in a letter to Congressman Chenoweth. Mr. Utter wrote to Congressman Chenoweth on March 10, 1997, following his review of my prior memorandum to you dated February 18, 1997 (Constituent Affairs Tracking Memorandum No. 17529), which addressed various water rights and property ownership issues of concern to Mr. Utter and his wife, Donna Utter (the "Utters"), involving their neighbors, Thomas and Ingrid Gibbins (the "Gibbinses"). This response to the more recent letter from Mr. Utter has been delayed to provide my staff time to conduct additional field investigation of the development and use of a pond which the Utters have alleged is illegal. In my February 18 memorandum to you, I committed the Department of Water Resources (the "Department") to conduct the additional field investigation this summer. An earlier field investigation would not have been meaningful.

Mr. Utter expressed his dissatisfaction with my previous response to you in several areas. First, Mr. Utter believes my statement that "Springett may have owned the property containing the proposed point of diversion, or reasonably believed he did, when he filed the application ..." can be proven to be false. Mr. Springett (the Gibbinses predecessor in ownership of whatever portion of the property in dispute is now owned by the Gibbinses) filed an application in 1983 to appropriate water proposing to use a point of diversion on Clark Creek located on land the Utters claimed they purchased in 1993. Unless the Springett quit claim deeds referred to by Mr. Utter in his March 10 letter predate 1983 and clearly delineate Springett's northern land boundary as being offset to the south of Clark Creek on the west side of the county road, Mr. Utter could not know what Springett reasonably believed regarding ownership of the land at the proposed point of diversion when he filed his water right application in 1983. Whatever access Springett did or did not have to land on the east side of the county road has no bearing on what he could have reasonably believed to be the property boundaries on the west side of the county road.

Whether Springett did or did not own the land at the proposed point of diversion, or did or did not own or have access to the lands proposed for irrigation east of the county road, had no legal effect on the water right license the Department ultimately issued to Springett. Because the water right license did not provide for irrigation of lands not owned or otherwise legally accessible, the license is not now voidable simply because Springett may not have had access to irrigate other lands as he originally intended at the time he applied for the water right permit.

Land ownership and whether or not the use of lands not owned had been granted to Springett were not issues the Department should have investigated before issuing Springett a permit to appropriate water. However, Mr. Utter may believe that someone should not be issued a permit to appropriate water unless that person owns the land at the location the water is diverted. In the event you decide to forward this memorandum to Mr. Utter, I have enclosed a copy of sections from the Idaho Code which are pertinent to the water right permit and land ownership issues. Section 42-202, Idaho Code, lists the five elements that are required to be included in an application to appropriate water. The elements (a) through (e) are highlighted in yellow on enclosure 1. Evidence of land ownership or permission to use land at the proposed point of diversion or place of use is not one of the required elements.

Why, then, does the application form used by the Department for a water right permit require applicants to indicate whether they own or have access to lands at the proposed point of diversion and place of use? There are two primary reasons. First, the Department will not issue a permit to appropriate water when the applicant's proposed use of the water is clearly speculative. Based on specific facts in a situation where an applicant did not own or have access to lands at a proposed place of use, the Department may determine that such application is speculative and deny the issuance of a permit. In the case of Springett's application to appropriate water, the application was advertised as required by law. There were no protests filed. Had someone protested Springett's application on the basis of evidence showing Springett did not own or have access to lands proposed for irrigation, the Department would likely have denied that part of the permit. However, the Department would probably not have denied the part of the permit for domestic uses on land owned by Springett. Consequently, the result would have been the same as the current situation. Namely, Springett would have developed the water right for domestic uses and received a license for such uses. Enclosure 1 includes Idaho Code §42-219(6) which specifically allows the Department to issue a license for that portion of water use which was developed in accordance with the provisions of a prior permit when other provisions of the permit were not met.

The second reason the Department requires applicants for a permit to appropriate water to indicate whether they own or have access to lands at the proposed point of diversion and place of use is so that if a permit is issued, the permit can contain an explicit statement that issuance of the permit does not grant the permit holder rights to trespass on lands not owned or leased. However, this limitation or restriction always applies even when such a statement is not explicitly included in the permit, as in the case of Springett's permit.

The fact that Idaho statutes do not require a showing of land ownership or access to land at a proposed point of diversion or place of use when a permit to appropriate water is granted and the fact that a permit to appropriate water does not grant rights to trespass on lands not owned or leased by the permit holder were both explained in the four paragraphs on page 2 of my February 18 memorandum to you. I also explained that if the Gibbinses did not own the disputed land at the point of diversion and could not secure a right from the Utters to use the minimum amount of land reasonably needed to divert and convey water to the Gibbinses' property, then the Gibbinses could "take" an ownership interest in the land required to use the water right by proceeding under the law of eminent domain. In enclosure 1 to this memorandum, I have also highlighted in yellow portions of the applicable law in Idaho Code §§42-1103 and 42-1106 which provide for obtaining rights-of-way through lands owned or occupied by entities other than the water right holder needing to use the lands.

The second area where Mr. Utter is dissatisfied with my response is in my description of the land where ownership or access is being disputed. In my February 18 memorandum to you, I described the land in dispute as being an "approximately 30-foot wide strip of land south of Clark Creek." I did not indicate that this strip of land was or was not a separate parcel. I believe it is appropriate to discuss the status of this strip of land separately from the remaining land owned by the Utters because it is apparently the only portion of land being disputed by the Utters and Gibbinses. Additionally, Clark Creek divides this 30-foot wide strip of land from the rest of the parcel it may be part of which lies on the north side of Clark Creek.

The third area where Mr. Utter is dissatisfied with my prior response involves his understanding that "Springett's application was denied in 1988 for failure to fulfil [sic] his application [sic] requirements, yet received his license 10 years after he originally applied." I have enclosed copies of correspondence in 1988 between the Department and Springett (enclosure 2). This correspondence shows that the Department never "denied" Springett's application, the permit, or the issuance of a license because Springett failed to develop the water right in accordance with the permit. Rather, Springett was given a lapse notice because he had not submitted proof of beneficial use or requested an extension of time to submit such proof by the date set by the permit (July 1, 1988). As set forth in Idaho Code §42-218a, which is also included in enclosure 1, the law provides for reinstating a lapsed permit within 60 days or more after the date set by the permit for filing proof of beneficial use.

The Department frequently reinstates lapsed permits in accordance with §42-218a, and reinstatement of Springett's permit upon his filing adequate proof of beneficial use was not unique. It was not routine, however, for the Department to take four years to conduct a field examination after receiving Springett's proof of beneficial use and another year to issue the license. This delay resulted from a backlog of approximately 6,000 permitted water rights awaiting field examinations and determinations of eligibility for licensure. This large backlog occurred following a large number of permit applications in the early to mid 1980s. The Department did not have sufficient staff to handle this large number of water rights until the legislature required the payment of fees for field examinations or the use of certified water rights examiners during the late 1980s. During the five

year period between the lapse of Springett's water right permit in 1988 and the issuance of a water right license in 1993, the Department did conduct an investigation of the nature and extent of water use by Springett. The investigation consisted of a field examination that was conducted in July of 1992, as described on page 3 of my February 18 memorandum to you.

The fourth area where Mr. Utter expresses dissatisfaction with my prior response involves the Gibbinses construction of a pond and diversion of water which Mr. Utter alleges is illegal. During this past winter, when the Department first investigated this allegation, it was not possible to discern with certainty the purpose and use of the pond. Consequently, I committed to have an additional field investigation performed this summer. The investigation was conducted 10 days ago from which it was determined that the pond has been constructed for the purposes of aesthetics and recreation. The tear-drop shaped pond is approximately 20 feet wide, 40 feet long, and 9 feet deep at the deepest end. Contrary to Mr. Utter's allegation that the source of water for the pond is Clark Creek, the Department employee conducting the investigation determined that the source of water is a spring which rises near the Gibbinses' garage. The nonuse of water for the pond from Clark Creek was confirmed by closing the valve on the Gibbinses' diversion pipe from Clark Creek without any resulting reduction in the flow of water to the pond.

Although Clark Creek is not the source of water for the pond, the Gibbinses have not applied for a water right permit to appropriate the spring water for the pond. Before initiating legal action against the Gibbinses, the Department has advised them to apply for a water right permit for the pond. Assuming such application is made, notice of the application will be published in a newspaper and a courtesy individual notice will be provided to the Uppers. This will allow the Uppers to protest the application and provide a process for the Department to resolve the Gibbinses use of the pond in the context of a contested matter. Mr. Utter also indicated that the pond had been illegally constructed since a permit for the construction had not been obtained from the Corps of Engineers. However, no permit from the Corps of Engineers was required unless the construction involved the disturbance of wetlands or construction below the ordinary high water level of waters of the United States.

Mr. Utter concludes his March 10 letter by indicating that he believes the conflict with the Gibbinses is not primarily a dispute over land ownership but rather the result of the Department's actions or lack of action. In the last paragraph of my February 18 memorandum to you, I referenced a telephone conversation between a deputy attorney general for the Department and the attorney who was representing the Uppers at that time. The Uppers' attorney agreed with the Department that the dispute between the Uppers and the Gibbinses was not a water rights issue. Mr. Utter is correct in stating that this matter will have to be resolved through court action. It is, however, extremely unfortunate that disputes between neighbors sometimes have to be resolved in this manner. If a court confirms that the Uppers own the disputed 30-foot wide strip of land, that the Gibbinses have trespassed, and that the nature of the trespass was egregious, the court may possibly award costs and attorney fees to the Uppers if their attorney so moves.

42-202. Application to appropriate water — Contents — Filing fees — Disposition of fees — Record of receipts. — (1) For the purpose of regulating the use of the public waters and of establishing by direct means the priority right to such use, any person, association or corporation hereafter intending to acquire the right to the beneficial use of the waters of any natural streams, springs or seepage waters, lakes or ground water, or other public waters in the state of Idaho, shall, before commencing of the construction, enlargement or extension of the ditch, canal, well, or other distributing works, or performing any work in connection with said construction or proposed appropriation or the diversion of any waters into a natural channel, make an application to the department of water resources for a permit to make such appropriation. Such application must set forth:

- (a) The name and post-office address of the applicant.
- (b) The source of the water supply.
- (c) The nature of the proposed use or uses and the period of the year during which water is to be used for such use or uses.
- (d) The location of the point of diversion and description of the proposed ditch, channel, well or other work and the amount of water to be diverted and used.
- (e) The time required for the completion of construction of such works and application of the water to the proposed use.

(2) An application proposing an appropriation of water by a municipal provider for reasonably anticipated future needs shall be accompanied by sufficient information and documentation to establish that the applicant qualifies as a municipal provider and that the reasonably anticipated future needs, the service area and the planning horizon are consistent with the definitions and requirements specified in this chapter. The service area need not be described by legal description nor by description of every intended use in detail, but the area must be described with sufficient information to identify the general location where the water under the water right is to be used and the types and quantity of uses that generally will be made.

(3) Whenever it is desired to appropriate and store flood or winterflow waters, the applicant shall specify in acre feet the quantity of such flood or winterflow waters which he intends to store, but for irrigation purposes he shall not claim more than five (5) acre feet of stored water per acre of land to be irrigated, nor, in the event of the filing of an application claiming both normal flow and flood water and winterflow water, shall the total amount of water claimed exceed the equivalent of a continuous flow during the irrigation season of more than one (1) cubic foot per second for each fifty (50) acres of land to be irrigated, or more than five (5) acre feet of stored water for each acre of land to be irrigated.

(4) The application shall be accompanied by a plan and map of the proposed works for the diversion and application of the water to a beneficial use, showing the character, location and dimensions of the proposed reservoirs, dams, canals, ditches, pipelines, wells and all other works proposed to be used by them in the diversion of the water, and the area and location of the lands proposed to be irrigated, or location of place of other use.

(5) If the application involves more than twenty-five (25) cubic feet per second of water or the development of more than five hundred (500) theoretical horsepower, or impoundment of water in a reservoir with an active storage capacity in excess of ten thousand (10,000) acre feet, the applicant may be required by the director of the department of water resources to furnish a statement of the financial resources of the corporation, association, firm or person making the application, and the means by which the funds necessary to construct the proposed works are to be provided, and the estimated cost of construction; and if such application is made by a corporation, the amount of its capital stock, how much thereof has been actually paid in, and the names and places of residence of its directors; and if for the generation of power or any other purpose than irrigation or domestic use, the purpose for which it is proposed to be used, the nature, location, character, capacity and estimated cost of the works, and whether the water used is to be and will be returned to the stream, and if so, at what point on the stream.

(6) In case the proposed right of use is for agricultural purposes, the application shall give the legal subdivisions of the land proposed to be irrigated, with the total acreage to be reclaimed as near as may be; provided, that no one shall be authorized to divert for irrigation purposes more than one (1) cubic foot of water per second of the normal flow for each fifty (50) acres of land to be so irrigated, or more than five (5) acre feet of stored water per annum for each acre of land to be so irrigated, unless it can be shown to the satisfaction of the department of water resources that a greater amount is necessary. Provided further, that the plan of irrigation submitted shall provide for the distribution of water to within not more than one (1) mile of each legal subdivision of the land proposed to be reclaimed by the use of such water; provided also, that in the case of all ditches designed to have a capacity of ten (10) cubic feet per second or less, such map showing the location of such ditch, and the place of use of such water, or the location of the lands to be irrigated, may be upon blanks furnished by the department of water resources.

(7) No application shall be accepted and filed by the department of water resources until the applicant shall have deposited with the department a filing fee as in this chapter provided.

(8) All moneys received by the department of water resources under the provisions of this chapter shall be deposited with the state treasurer, and such sums as may be necessary shall be available for the payment of the expenses of the department of water resources incurred in carrying out the provisions of this chapter.

(9) Such expense shall be paid by the state controller in the manner provided by law, upon vouchers duly approved by the state board of examiners, for the work performed under the direction of the department of water resources. The department of water resources shall keep a record of all filing fees received in connection with applications for permits to appropriate public waters.

(10) Provided further, that rights initiated prior to the enactment of this amendment, so far as it pertains to flood and winterflow waters, shall not be affected thereby.

5. The source of the water used.

6. Such other information as shall be required by the blank form furnished by the department.

Such written proof as may be required to be submitted by such user shall be upon forms furnished by the department of water resources and shall include fees as provided in subsection K of section 42-221, Idaho Code, or a field examination report prepared by a certified water right examiner.

Upon receipt of such proof and the fee as required in section 42-221, Idaho Code, by the department of water resources the department shall examine, or cause to be examined:

1. The place where such water is diverted and used, and, if the use is for irrigation, he shall ascertain the area and location of the land irrigated and the nature of all the improvements which have been made as a direct result of such use.

2. The capacities of the ditches or canals or other means by which such water is conducted to such place of use, and the quantity of water which has been beneficially applied for irrigation or other purposes.

The department or the person making such examination under the direction of the department shall prepare and file a report of the investigation: provided, that whenever irrigation systems cover more than twenty-five thousand (25,000) acres, proof of beneficial use may be made by the persons, company or corporation constructing the irrigation works on behalf of the project, and in such cases, the lands upon which the water has been used need not be described by legal subdivisions, but may be described generally as the lands under the irrigation system, and it shall only be necessary to show in such cases that the quantity of water beneficially applied for irrigation has been applied within the limits of the project.

Holders of permits who have submitted proof of beneficial use but have not had their project examined for beneficial use shall submit the fee required in section 42-221, Idaho Code, within sixty (60) days of notification by the director of the department of water resources that a license examination fee is required. Failure to submit the fee in the time allowed shall be cause for the director to advance the date of priority of the permit one (1) day for each day that the fee is late; provided that if the fee is not fully paid within one (1) year of the time it is due, the director of the department of water resources may consider the proof of beneficial use for the permit to be incomplete and lapse the permit, as provided in section 42-218a, Idaho Code. [1903, p. 223, § 7; reen. R.C., § 3260; am. 1913, ch. 36, § 1, p. 134; am. 1915, ch. 94, § 1, p. 216; reen. C.L., § 3260; C.S., § 5577; I.C.A., § 41-211; am. 1967, ch. 374, § 8, p. 1079; am. 1979, ch. 138, § 1, p. 434; am. 1986, ch. 242, § 1, p. 657; am. 1996, ch. 297, § 3, p. 967.]

Compiler's notes. Section 2 of S.L. 1986, ch. 242 is compiled as § 42-221. Sections 2 and 4 of S.L. 1996, ch. 297 are compiled as §§ 42-202B and 42-219, respectively.

Cited In: Vineyard Land & Stock Co. v. Twin Falls Salmon River Land & Water Co., 245 F. 9 (9th Cir. 1917); Vineyard Land & Stock Co. v. Twin Falls Oakley Land & Water Co., 245 F. 30 (9th Cir. 1917); Idaho Power & Transp. Co. v. Stephenson, 16 Idaho 418, 101 P. 821 (1909).

Proof of Use Inadmissible.

Where it appeared that an irrigation district failed to prove the issuance of a permit by the state engineer (department of water

resources), or a compliance with the terms of such a permit, as it has alleged in its pleading, it was not permitted to prove the beneficial use of an additional amount of water. *Bachman v. Reynolds Irrigation Dist.*, 56 Idaho 507, 55 P.2d 1314 (1936). *Collateral References.* 78 Am. Jur. 2d, Waters, §§ 330-332. 93 C.J.S., Waters, § 178.

42-217a. Certified water right examiner. — The director shall adopt all necessary rules and regulations setting forth the procedures and requirements for qualification of licensed professional engineers or geologists to become certified water right examiners.

An initial application fee of two hundred dollars (\$200) shall be paid by those applying for certification with an annual renewal fee of fifty dollars (\$50.00). All certificates of appointment shall expire on March 31 of each year and thereafter are void unless renewed. The fees collected shall be transmitted to the state treasurer for deposit in the water administration account.

Employees of the department shall be exempt from the requirements of this section. [I.C., § 42-217a, as added by 1987, ch. 97, § 1, p. 192.]

42-218. Proof of application to beneficial use — Extension of time. — Whenever a less period of time than the maximum prescribed in section 42-204 has been granted by the department of water resources for making proof of beneficial use, upon a satisfactory showing being made by the permit holder, the department can extend the time for making such proof of beneficial use, but in no case shall such extension or extensions, including the original time granted, exceed the maximum prescribed in section 42-204. The department shall grant no extension unless the application therefor be filed with it prior to the date upon which the proof of beneficial use was required to be made under the original terms of the permit. [1913, ch. 47, § 1, p. 154; am. by implication, 1915, ch. 94, § 1, p. 216; adding a proviso extending the maximum period of ten years in some cases; compiled and reen. C.L., § 3260a; C.S., § 5578; I.C.A., § 41-212; am. 1967, ch. 374, § 9, p. 1079.]

Compiler's notes. The name of the department of water administration (formerly the department of reclamation) has been changed to the department of water resources on the authority of S.L. 1974, ch. 286, § 1 and S.L. 1974, ch. 20, § 28 (§ 42-1801a).

42-218a. Lapse of application for failure to request extension or submit proof of application to beneficial use — Notice of lapsing. — A permit upon which the proof of beneficial use has not been submitted, or a request for extension of time has not been received on or before the date set for such proof, shall lapse and be of no further force nor effect. Notice of said lapsing shall be sent by the department to the applicant at the address of record by regular mail provided:

1. That within sixty (60) days after such notice of lapsing the department may, upon a showing of reasonable cause, reinstate the permit with the priority date advanced a time equal to the number of days that said showing is subsequent to the date set for proof;

2. That upon receipt of proof of beneficial use after sixty (60) days after such notice of lapsing, the director shall require sufficient evidence to be submitted by the permit holder to clearly establish the extent of beneficial use made during the time authorized by the permit and any extensions of time previously approved. Upon finding that beneficial use had occurred during the authorized period and upon a showing of reasonable cause for filing a late proof of beneficial use, the director may reinstate the permit with the priority date advanced to the day that proof of beneficial use was received;

3. The original priority date of a lapsed permit shall not be reinstated except upon a showing of error or mistake of the department. [I.C., § 42-218a, as added by 1967, ch. 374, § 10, p. 1079; am. 1983, ch. 157, § 1, p. 435.]

Compiler's notes. Section 2 of S.L. 1983, ch. 157 declared an emergency. Approved in § 42-217. April 8, 1983. Sec. to sec. ref. This section is referred to in § 42-217.

42-219. Issuance of license — Priority. — (1) Upon receipt by the department of water resources of all the evidence in relation to such final proof, it shall be the duty of the department to carefully examine the same, and if the department is satisfied that the law has been fully complied with and that the water is being used at the place claimed and for the purpose for which it was originally intended, the department shall issue to such user or users a license confirming such use. Such license shall be issued under the seal of the office of the department of water resources, and shall state the name and post-office address of such user, the purpose for which such water is used, the quantity of water which may be used, which in no case shall be an amount in excess of the amount that has been beneficially applied. A license may be issued to a municipal provider for an amount up to the full capacity of the system constructed or used in accordance with the original permit provided that the director determines that the amount is reasonably necessary to provide for the existing uses and reasonably anticipated future needs within the service area and otherwise satisfies the definitions and requirements specified in this chapter for such use. The director shall condition the license to prohibit any transfer of the place of use outside the service area, as defined in section 42-202B, Idaho Code, or to a new nature of use of amounts held for reasonably anticipated future needs together with such other conditions as the director may deem appropriate.

(2) If such use is for irrigation, such license shall give a description, by legal subdivisions, of the land which is irrigated by such water. If the use is for municipal purposes, the license shall describe the service area and shall state the planning horizon for that portion of the right, if any, to be used for reasonably anticipated future needs.

(3) Such license shall bear the date of the application for, and the number of, the permit under which the works from which such water is taken were constructed; the capacity of such works; the date when proof of beneficial use of such water was made, and also the date of the priority of the right confirmed by such license.

(4) The date of priority confirmed by the license shall be the date of the application for the permit for the construction of the works from which the water is taken, and to which the right relates, provided there has been no loss of priority under the provisions of this chapter. Whenever proof of the beneficial application of water shall be offered subsequent to the date stated in the permit, or in any authorized extension thereof, when such beneficial application shall be made, the proof shall be taken, if received by the department within the sixty (60) days prescribed in the preceding section. If the proof taken is satisfactory to the department of water resources, a license shall be issued by the department the same as though proof had been made before the date fixed for such beneficial application. The priority of the right established by the proof shall not date back to the date of the application for the permit to which the right would relate under the provisions of this chapter, but shall bear a date which shall be subsequent to the date of the application, a time equal to the difference between the date set in the permit, or extension thereof, for such beneficial application of water and the date of proof.

(5) For irrigation projects where the canals constructed cover an area of twenty-five thousand (25,000) acres or more, or within irrigation districts organized and existing as such under the laws of the state of Idaho, the license issued shall be issued to the persons, association, company or corporation or irrigation district owning the project, and final proof may be made by such owners for the benefit of the entire project. It shall not be necessary to give a description of the land by legal subdivisions but a general description of the entire area under the canal system shall be sufficient. The water diverted and the water right acquired thereby shall relate to the entire project and the diversion of the water for the beneficial use under the project shall be sufficient proof of beneficial use without regard as to whether each and every acre under the project is irrigated or not.

(6) In the event that the department shall find that the applicant has not fully complied with the law and the conditions of permit, it may issue a license for that portion of the use which is in accordance with the permit, or may refuse issuance of a license and void the permit. Notice of such action shall be forwarded to the permit holder by certified mail. The applicant may contest such action by the department pursuant to section 42-1701A(3), Idaho Code. [1903, p. 233, § 8; reen. R. C., § 3261; modified by 1913, ch. 47, § 1, p. 154, and 1915, ch. 94, § 2, p. 216; compiled and reen. C. L., § 3261; C. S., § 5579; am. 1925, ch. 44, § 1, p. 61; I. C. A., § 41-213; am. 1967, ch. 374, § 11, p. 1079; am. 1980, ch. 238, § 5, p. 526; am. 1996, ch. 297, § 4, p. 967.]

Compiler's notes. Sections 4 and 6 of S.L. 1980, ch. 238 are compiled as §§ 42-211 and 42-222, respectively.

Sections 3 and 5 of S.L. 1996, ch. 297 are compiled as §§ 42-217 and 42-222, respectively.

Sec. to sec. ref. This section is referred to in §§ 42-1409 and 42-1411.

Cited in: Vineyard Land & Stock Co. v. Twin Falls Salmon River Land & Water Co., 245 F. 9 (9th Cir. 1917); Vineyard Land & Stock Co. v. Twin Falls Oakley Land & Water Co., 245 F. 30 (9th Cir. 1917); Idaho Power & Transp. Co. v. Stephenson, 16 Idaho 418, 101 P. 821 (1909); Speer v. Stephenson, 16 Idaho

competent evidence that any consumer or consumers of water distributed through any ditch or canal, is entitled to the distribution or use of any water therefrom, at not to exceed a proportionate amount of the actual cost of maintenance and operation of said ditch or canal, they shall, upon request of such person or persons so entitled, fix the rate per cubic foot per second to be charged to such consumer or consumers for the current year. [1899, p. 380, § 30; reen. R.C. & C.L., § 3298; C.S., § 5645; I.C.A., § 41-905.]

CHAPTER 11

RIGHTS OF WAY

- SECTION.
42-1101. Rights of landowners to water.
42-1102. Owners of land — Right to right-of-way.
42-1103. Owners of springs and streams — Right to right of way.
42-1104. Right of way over state lands.
- SECTION.
42-1105. Right of way for riparian proprietors.
42-1106. Right of eminent domain.
42-1107. Right of way for drains.
42-1108. Right to cross ditches.

42-1101. Rights of landowners to water. — All persons, companies and corporations owning or claiming any lands situated on the banks or in the vicinity of any stream, are entitled to the use of the waters of such stream for the purpose of irrigating the land so held or claimed. [R.S., § 3180; reen. R.C. & C.L., § 3299; C.S., § 5646; I.C.A., § 41-1001.]

Riparian Rights.

In the dissenting opinion this section was cited in support of the application of the doctrine of riparian rights to the irrigation law, but the majority of the court, without citing this section, declared, in effect, that the doctrine of riparian rights has no place in the jurisprudence of this state. *Drake v. Earhart*, 2 Idaho 750, 23 P. 541 (1890).

Riparian rights are substantial property rights which may not be arbitrarily destroyed, but they are subject to the police power of the

state and, within reasonable limits, may be modified by legislation passed in the interest of the general welfare. *California-Oregon Power Co. v. Beaver Portland Cement Co.*, 73 F.2d 555 (9th Cir. 1934), aff'd, 295 U.S. 142, 55 S. Ct. 725, 79 L. Ed. 1356 (1935).
Collateral References. Constitutionality of statutes affecting riparian rights. 56 A.L.R. 277.

Prescriptive right of riparian owners to continuance of an artificial channel or ditches. 88 A.L.R. 134.

42-1102. Owners of land — Right to right-of-way. — When any such owners or claimants to land have not sufficient length of frontage on a stream to afford the requisite fall for a ditch, canal or other conduit on their own premises for the proper irrigation thereof, or where the land proposed to be irrigated is back from the banks of such stream, and convenient facilities otherwise for the watering of said lands cannot be had, such owners or claimants are entitled to a right-of-way through the lands of others, for the purposes of irrigation. The right-of-way shall include, but is not limited to, the right to enter the land across which the right-of-way extends, for the purposes of cleaning, maintaining and repairing the ditch, canal or conduit, and to occupy such width of the land along the banks of the ditch, canal or conduit as is necessary to properly do the work of cleaning, maintaining and repairing the ditch, canal or conduit with personnel and with such equipment as is commonly used, or is reasonably adapted, to that work. The right-of-way also includes the right to deposit on the banks of the

ditch or canal the debris and other matter necessarily required to be taken from the ditch or canal to properly clean and maintain it, but no greater width of land along the banks of the canal or ditch than is absolutely necessary for such deposits shall be occupied by the removed debris or other matter. Provided, that in the making, constructing, keeping up and maintenance of such ditch, canal or conduit, through the lands of others, the person, company or corporation, proceeding under this section, and those succeeding to the interests of such person, company or corporation, must keep such ditch, canal or other conduit in good repair, and are liable to the owners or claimants of the lands crossed by such work or aqueduct for all damages occasioned by the overflow thereof, or resulting from any neglect or accident (unless the same be unavoidable) to such ditch or aqueduct.

The existence of a visible ditch, canal or conduit shall constitute notice to the owner, or any subsequent purchaser, of the underlying servient estate, that the owner of the ditch, canal or conduit has the right-of-way and incidental rights confirmed or granted by this section.

This section shall apply to ditches, canals or other conduits existing on effective date [March 12, 1996] of this act, as well as to ditches, canals or other conduits constructed after such effective date. [1881, p. 269; R.S., § 3181; reen. R.C. & C.L., § 3300; C.S., § 5647; I.C.A., § 42-1002; am. 1996, ch. 187, § 1, p. 594.]

Compiler's notes. The words in parentheses so appeared in the law as enacted.

Section 2 of S.L. 1996, ch. 187 is compiled as § 42-1204.

Section 3 of S.L. 1996, ch. 187 declared an emergency. Approved March 12, 1996.

ANALYSIS

Condemnation for right of way.

Repair and maintenance costs.

Use of existing canal.

Condemnation for Right of Way.

Where an owner of land was denied access for irrigation water across the lands of an adjacent landowner, the owner could condemn a right of way to supply the water under the law of eminent domain. *White v. Marty*, 97 Idaho 85, 540 P.2d 270 (1976), overruled on other grounds, *Carr v. Magistrate Court*, 108 Idaho 546, 700 P.2d 949 (1985).

Landlocked individuals may condemn a right of way through the lands of others for purposes of irrigation. *Canyon View Irrigation Co. v. Twin Falls Canal Co.*, 101 Idaho 604, 619 P.2d 122 (1980), cert. denied, 451 U.S. 912, 101 S. Ct. 1983, 68 L. Ed. 2d 301 (1981).

Repair and Maintenance Costs.

If the servient estate landowner's use of irrigation ditch had increased the cost of repairs and maintenance he would have been responsible for the additional costs, but since his use did not increase those costs, he had no

obligation to pay for any portion of those costs. *Sellers v. Powell*, 120 Idaho 250, 815 P.2d 448 (1991).

Use of Existing Canal.

Where an irrigation company had purchased approximately 300 cfs of Snake River water and sought to put that water to beneficial use on land located west of an existing canal system, but where the irrigation company had no canal and there existed no natural waterway by which its water could be transported by gravity to its stockholders' lands, the irrigation company could condemn the right to enlarge and use the existing canal in common with the canal company and thus the irrigation company could divert its water from the Snake River into the canal company's canal system and then reclaim a like amount, with due allowance for seepage and evaporation, at a headgate closer to its irrigation project site. *Canyon View Irrigation Co. v. Twin Falls Canal Co.*, 101 Idaho 604, 619 P.2d 122 (1980), cert. denied, 451 U.S. 912, 101 S. Ct. 1983, 68 L. Ed. 2d 301 (1981).

Collateral References. 26 Am. Jur. 2d, Eminent Domain, §§ 1-9, 189-198. Constitutionality of statutes affecting riparian rights. 56 A.L.R. 277.

Liability of irrigation district for failure to supply water, and for negligent construction or operation of ditches or canals. 59 A.L.R. 1232; 160 A.L.R. 1165; 169 A.L.R. 536.

Prescriptive right of riparian owners to

continuance of an artificial channel or ditches. 88 A.L.R. 134.
Right of owner to alter his easement in such a way as to deprive servient estate of incidental benefits. 172 A.L.R. 193.

42-1103. Owners of springs and streams — Right to right of way. — Where the owners of any spring, or the appropriators thereof, or of any stream, desire to conduct the waters thereof to any lands for the purposes of irrigation, or to any city or town for the use of the inhabitants thereof, or to any factory, or to any distant place, with the intent to apply the same to a beneficial use, and to accomplish such object it is necessary to cross with ditches, flumes or other conduit, the lands owned or occupied by others than the owners or appropriators of such spring or stream, the right of way over and across the lands of others for conducting said water may be acquired in the manner above provided. [1881, p. 271; R.S., § 3185; reen. R.C. & C.L., § 3301; C.S., § 5648; I.C.A., § 41-1003.]

Collateral References. 26 Am. Jur. 2d, 1232; 160 A.L.R. 1165; 169 A.L.R. 536.
Eminent Domain, §§ 1-9, 189-198.
29A C.J.S., Eminent Domain, §§ 1-5, 38.
Constitutionality of statutes affecting riparian rights. 56 A.L.R. 277.
Liability of irrigation district for failure to supply water, and for negligent construction or operation of ditches or canals. 69 A.L.R. 193.
Right of owner to alter his easement in such a way as to deprive servient estate of incidental benefits. 172 A.L.R. 193.

42-1104. Right of way over state lands. — The right of way over and upon any and all lands owned or controlled by the state of Idaho is hereby granted to any and all persons for the purpose of constructing and maintaining any ditch, canal, conduit or other works for the diversion or carrying of water for any beneficial use; provided, that no property shall be taken under the provisions of this section until a just compensation shall be paid therefor, to be ascertained in the manner prescribed by law for the taking of private property for a public use. [1899, p. 380, § 13; reen. R.C. & C.L., § 3302; C.S., § 5649; I.C.A., § 41-1004.]

Cross ref. Procurement of right of way over state lands, § 58-601.
Right of eminent domain, §§ 7-701 — 7-721.

Running water across public highway, construction of bridges and culverts, § 40-910.
Cited in: Dayley v. Burley, 96 Idaho 101, 524 P.2d 1073 (1974).

ANALYSIS

Compensation.

Condemnation of state lands.

Easements.

Federal authority to condemn lands.

Compensation.

Right of way over state land can be acquired only after just compensation is paid therefor, to be ascertained in the manner prescribed by law. Tobey v. Bridgwood, 22 Idaho 566, 127 P. 178 (1912), overruled on

other grounds, Idaho-Iowa Lateral & Reservoir Co. v. Fisher, 27 Idaho 695, 151 P. 1002 (1915).

Condemnation of State Lands.

This section, taken in conjunction with R.S., § 5212 (§ 7-703 herein), authorizes action in district court to condemn state lands for public use. Hollister v. State, 9 Idaho 8, 71 P. 541 (1903).

Easements.

Where irrigation ditch extended in part across school section, and owners had not acquired easement therefor in the statutory manner, private party could not question such owners' right to the easement. Swan v. Sprout, 36 Idaho 75, 209 P. 1070 (1922).

Federal Authority to Condemn Lands.

The state of Idaho has consented to be sued in condemnation proceedings involving lands belonging to the state, and the federal govern-

ment has the authority to condemn and acquire endowed school lands belonging to the state for purposes of an irrigation canal right of way for a migratory waterfowl refuge. United States v. Forty Acres, More or Less, of Land, 24 F. Supp. 390 (D. Idaho 1938).

Collateral References. 26 Am. Jur. 2d, Eminent Domain, §§ 1-9, 189-198.
29A C.J.S., Eminent Domain, §§ 1-5, 38.
Constitutionality of statutes affecting riparian rights. 56 A.L.R. 277.

42-1105. Right of way for riparian proprietors. — All persons, companies and corporations owning or having the possessory title or right to lands adjacent to any stream, have the right to place in the channel or upon the banks or margin of the same, rams or other machines for the purpose of raising the waters thereof to a level above the banks, requisite for the flow thereof to and upon such adjacent lands; and the right of way over and across the lands of others, for conducting said waters, may be acquired in the manner prescribed in the following section. [1881, p. 271; R.S., § 3303; am. R.C. & C.L., § 3303; C.S., § 5650; I.C.A., § 41-1005.]

Nature of Right.

License given by this section does not confer any power to appropriate, without reference to beneficial use, the entire volume of a river or its current, to the destruction of the rights of others to make appropriations of the unused water. Schodde v. Twin Falls Land & Water Co., 224 U.S. 107, 32 Ct. 470, 56 L. Ed. 686 (1912).

This section gives mere license to use an appropriate method for raising water, but the method or means adopted does not attach as an appurtenance to the appropriation of the water as against other appropriators. Schodde v. Twin Falls Land & Water Co., 161 F. 43 (9th Cir. 1908), aff'd, 224 U.S. 107, 32 S.

Ct. 470, 56 L. Ed. 686 (1912).
Collateral References. 26 Am. Jur. 2d, Eminent Domain, §§ 1-9, 189-198.

29A C.J.S., Eminent Domain, §§ 1-5, 38.
Constitutionality of statutes affecting riparian rights. 56 A.L.R. 277.

Liability of irrigation district for failure to supply water, and for negligent construction or operation of ditches or canals. 69 A.L.R. 193.
Prescriptive right of riparian owners to continuance of an artificial channel or ditches. 88 A.L.R. 134.

Right of owner to alter his easement in such a way as to deprive servient estate of incidental benefits. 172 A.L.R. 193.

42-1106. Right of eminent domain. — In case of the refusal of the owners or claimants of any lands, through which any ditch, canal or conduit is proposed to be made or constructed, to allow passage thereof, the persons or persons desiring the right of way may proceed as in the law of eminent domain. [1899, p. 380, § 14; reen. R.C. & C.L., § 3304; C.S., § 5651; I.C.A., § 41-1006.]

Cross ref. Law of eminent domain, §§ 7-701 — 7-721.

Cited in: Branson v. Miracle, 107 Idaho 221, 687 P.2d 1348 (1984); Branson v. Miracle, 111 Idaho 933, 729 P.2d 408 (Ct. App. 1986).

ANALYSIS

Injunction to prevent trespasses.

Right to condemn right of way.

Use of existing canal.

Injunction to Prevent Trespass.

An injunction will issue against trespass on

owner's land by reservoir company for maintenance purposes of ditches, etc., where reservoir company had not used water for period of 12 years. Condie v. Swainston, 62 Idaho 473, 112 P.2d 787 (1941).

Right to Condemn Right of Way.

Where an owner of land was denied access for irrigation water across the lands of an adjacent landowner, the owner could condemn a right of way to supply the water under the law of eminent domain. White v. Marty, 97 Idaho 85, 540 P.2d 270 (1975), overruled on

ENCLOSURE 2

July 11, 1988

GREGORY K. SPRINGETT
STAR RT. 1 BOX 154
BONNERS FERRY, ID 83805

LAPSE NOTICE

RE: PERMIT NO. 98-07514

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced water permit has lapsed. This office did not receive either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time. You were provided the proper form in our proof due notice to you dated April 30, 1988.

Your permit cannot be reinstated unless you submit proof of beneficial use or submit an extension of time request showing reasonable cause for delay. Either the completed proof of beneficial use submittal (including the examination fee or a completed field examination report) or the extension request form together with the \$15 fee must be received by this lapse notice or the permit will no longer be of any force of effect.

A proof of beneficial use form and a request for extension of time form are again enclosed for your use. 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 governmental agency or by litigation which might bring title to the water in question.

L. Glen Saxton
Chief, Operations Bureau

Enclosures

LGS:RF

MICROFILMED

FEB 22 1989

CERTIFICATION OF MAILING

I hereby certify that on 7/15/88
a copy of this document was
deposited in the United States mail
postage prepaid addressed to the
individual(s) named above.

Heidi Miller



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

October 21, 1988

Gregory K. Springett
HCR 60 Box 279
Bonners Ferry, ID 83805

RE: Permit No. 98-7514

Dear Mr. Springett:

The Department received both your proof of beneficial use statement and the request for extension of time for the above referenced permit on September 16, 1988. The fees you submitted to the Department for these forms were \$50.00 and \$15.00 respectively.

Based on the information you submitted, it appears that the proof statement is the proper form to send since you have completed some or all of your development and do not wish to proceed further. I am returning the extension request along with your check no. 2380 (92-55/1231) in the amount of \$15. If you feel that I am in error, please contact me in order to clarify your intentions. You have the option of requesting an extension, but you cannot submit both an extension and a proof statement.

I would like to remind you that this permit lapsed on July 1, 1988. The Department sent you a lapse notice with a certified mailing date of July 15, 1988. The Department provides a sixty day grace period from the date of the lapse notice for the permit holder to submit the proof statement or extension of time request. The Department received your proof on September 16, 1988, which was actually sixty-three days after the date of lapse notice. In reviewing your file, I noticed that the original lapse notice which we sent you on July 15 did not specify that the proof was due within sixty days of the certified mailing date. As a result, we consider your submittal of the proof statement to have been received within the sixty (60) day grace period. The Department will reinstate the permit with a priority advancement equal to the number of days the proof statement was submitted late.

You should receive a copy of the reinstatement order. Following reinstatement, a field examiner from our Northern Region Office will contact you to schedule a field exam.

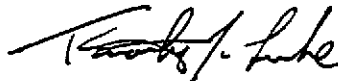
MITIGATED

FEB 22 1989

Page 2
Gregory K. Springett
October 21, 1988

Please feel free to contact me if you have additional questions.

Sincerely,



TIM LUKE
Sr. Water Rights Agent

TL:hm
Enclosure

64-11111-10000

FEB 22 1989

Memorandum

To: Norm Young / Karl Dreher

From: Al Beardslee

Date: June 23, 1997

Re: Thomas Gibbins pond & use of water (Tracking Memo 17529)

As stated in Karl Dreher's memo to Governor Batt, dated February 18, 1997, we would visit the Gibbins' property to verify the use(s) of water from their pond, which was done on June 20, 1997, by myself.

Mrs. Gibbins was home when I arrived at their property. She showed me the pond which was estimated to be 20' wide by 40' long. The depth was approximately 9' at the deepest (northern end) and mostly shallow to a few inches deep at the southern portion of the pond. The "tear-drop" shaped pond is estimated to be less than 0.05 AF.

The spring was evident near the garage, as water could be heard running through large rocks (1'x1' in size), which had been placed over it.

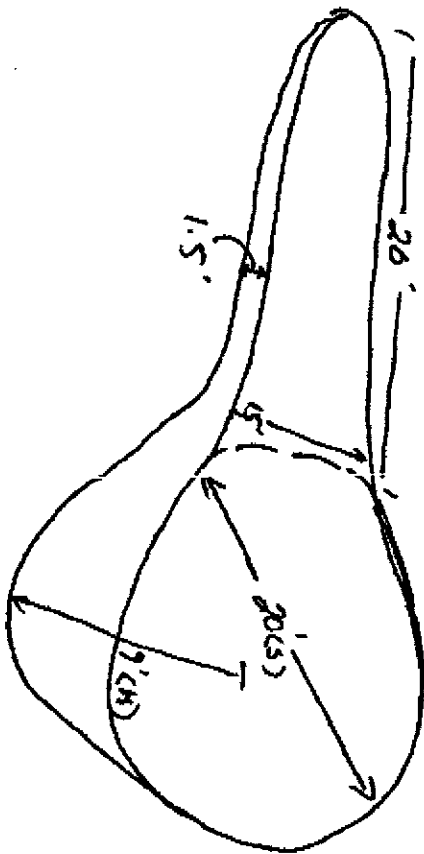
No use other than storage was found. Mrs. Gibbins said that they wished to file an Application for Permit for the storage uses (recreation & aesthetic) as an act of good faith to our Department. She further said that they wished to swim in the pond.

Water is piped from the spring to the pond, then from the outlet of the pond, it is piped under lawn to a culvert under the county road and then to the Utter's property, where it flows across their field.

While there, I also visited with Mrs. Utter to let her know we were actively perusing the water right issues over which we have jurisdiction. She maintained that Mr. Gibbins was diverting water from Clark Creek into the pond. Afterwards, I returned and asked Mrs. Gibbins to close the valve on her diversion pipe from Clark Creek, which she did. The water still flowed into the pond, concluding it was not being delivered by the Clark Creek diversion. Furthermore, we hiked up the creek and observed both the Gibbins and Utter's diversion intake pipes laying on each side of Clark Creek (out of the water). Mrs. Utter also expressed her dislike of the pond overflow onto their property.

Additional attached - Volume Calculations for pond & photos

FIELD VISIT NOTES
 GIBBINS POND/SPRINGS
 JUNE 20, 1997
 ESTIMATED DIMENSIONS



VOLUME CALCULATION FOR SPHERE PORTION

$$V = \frac{\pi h}{6} \left(\frac{3}{4} S^2 + h^2 \right)$$

$$(4.71) (381) = 1794.5 \text{ ft}^3$$

REMAINDER OF POND

$$15' \times 20' \times 1.5' \times .6$$

WIDTH LENGTH DEPTH SHAPE
 SLABS

$$= 270 \text{ ft}^3$$

$$\frac{2064.5 \text{ ft}^3}{\times 7.4805 \text{ GAL/ft}^3}$$

$$15443.5 \text{ GAL}$$

$$10.21112 \times 6.6 \text{ ALLOANS}$$

$$\frac{15443.5 \text{ GAL}}{325.850} = 0.047 \text{ AL}$$

$$6.6 \text{ AL/AL}$$

#98-7514

MEMORANDUM

File Copy

DATE: February 24, 1997

TO: Karl J. Dreher, Director

FROM: Al Beardslee, Northern Region Allocation Section

RE: Gibbin's pond / Memorandum to Governor Batt

~~~~~  
Regarding your Memorandum dated February 18, 1997, to Governor Batt, we will plan to schedule a field visit to verify the use of water for Mr. Gibbin's pond. The date of our visit will be planned during such time that water is likely to be used for purposes other than what we have verified before. This will depend on our spring weather, however, June or July are normal months for diversions from surface water sources in this area.

Please advise if an earlier date for a field visit is desired.

*1101-8h*



**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

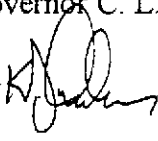
PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

**MEMORANDUM**

**To:** Lieutenant Governor C. L. "Butch" Otter

**Date:** February 19, 1997

**From:** Karl J. Dreher 

**Subject:** Water Rights and Property Ownership Issues Affecting Clifford & Donna Utter

Attached to this memorandum is a copy of a memorandum I prepared for Governor Batt concerning the issues described in a letter you received from Clifford and Donna Utter several months ago. I apologize for the delay in responding to your request for information regarding this matter dated August 30, 1996, and have personally conveyed my apology for this delay to Mrs. Utter last Thursday by telephone.

I believe the enclosed memorandum thoroughly addresses the concerns of Mr. and Mrs. Utter. However, should you need additional information please contact me again.

Attachment



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

February 19, 1997

KARL J. DREHER  
DIRECTOR

The Honorable Hellen Chenoweth  
United States House of Representatives  
118 North 2nd Street, Suite No. 2  
Coeur d'Alene, ID 83814

Re: Water Rights, Property Ownership, and Trespass Issues Affecting Clifford & Donna Utter

Dear Congressman Chenoweth:

Enclosed with this letter is a copy of a memorandum I prepared for Governor Batt concerning the issues described in a letter you received from Clifford and Donna Utter several months ago. I apologize for the delay in responding to your request for information regarding this matter dated August 29, 1996, and have personally conveyed my apology for this delay to Mrs. Utter last Thursday by telephone.

I believe the enclosed memorandum thoroughly addresses the concerns of Mr. and Mrs. Utter. However, should you need additional information please contact my office again.

Very Truly,

Karl J. Dreher  
Director

Enclosure



## State of Idaho

### DEPARTMENT OF WATER RESOURCES

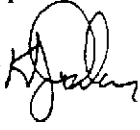
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

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

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

## MEMORANDUM

**To:** Governor Philip E. Batt  
**Date:** February 18, 1997  
**From:** Karl J. Dreher   
**cc:** Lieutenant Governor Otter  
Congressman Helen Chenoweth  
**Subject:** Response to Request for Assistance from Clifford and Donna Utter  
Constituent Affairs Tracking Memo No. 17529

This memorandum is provided in response to a request for assistance you received by letter several months ago from Clifford and Donna Utter (the "Utters"). I spoke with Mrs. Utter by telephone last Thursday and personally apologized for my delay in responding to this matter.

The Utters requested that the water right held by their neighbors, Thomas and Ingrid Gibbins (the "Gibbinses"), be revoked. The Utters believe this action should be taken because: (1) they allege false statements were made by the predecessor to the Gibbinses in the water right when the application to appropriate water was made; (2) they believe that the field examination of beneficial use conducted by the Department of Water Resources (the "Department") was not accurate; and (3) they claim the Gibbinses have trespassed on their property.

The Utters claim to own land along Clark Creek, a tributary to the Kootenai River in Boundary County. They claim to own land along the north side of Clark Creek as well as a strip of land approximately 30 feet wide along the south side of Clark Creek. The Gibbinses apparently own land south of Clark Creek offset from the creek by the approximately 30-foot wide strip of land the Utters claim to own.

The Gibbinses purchased the property from Mr. Gregory Springett ("Springett") in 1995. In 1983, Springett applied for a permit to appropriate water for domestic, stockwater, and irrigation purposes on the property he eventually sold to the Gibbinses as well as on adjacent property. On the application for the water right permit, Springett indicated that he owned the property at the proposed point of diversion as well as the property at the proposed place of use. The Utters claim they own the property at the point of diversion and that Springett did not own all of the property at the proposed place of use. Therefore, on the basis that the Utters believe Springett made false statements on the permit application, they suggest that the resulting water right (No. 98-7514), which Springett included in the sale to the Gibbinses, should be revoked.

When an application for permit to appropriate water is filed with the Department, the applicant is asked to indicate who owns the property at the proposed point of diversion and place of use. If a permit is granted by the Department and the applicant does not own the property at the point of diversion or place of use, this information is used to condition the permit to make it clear that a permit to appropriate water does not grant any right to use or access property owned by someone else for the purpose of diverting or using water. The Department does not confirm ownership at a proposed point of diversion or place of use because a false statement by an applicant regarding ownership does not change the fact that a permit to appropriate water can not grant any rights of access.

In the case of Springett, the Utters apparently accepted Springett's claim that he owned land to the center of Clark Creek until at least 1988 (see last full paragraph on page 2 of letter from the Utters). Springett filed the application to appropriate water in 1983. This was one year prior to when the Utters stated that they moved to the property they eventually purchased, five years prior to when the Utters indicated they purchased the property north of Clark Creek, and ten years prior to when the Utters indicated they purchased the approximately 30-foot wide strip of land south of Clark Creek (see second full paragraph on page 2 of letter from the Utters). Therefore, Springett may have owned the property containing the proposed point of diversion, or reasonably believed he did, when he filed the application to appropriate water in 1983. In any event, after 1993 when the Utters claimed to have purchased the property south of Clark Creek, the Utters have confirmed that they granted Springett verbal permission on an annual basis for access across the approximately 30-foot wide strip of land the Utters now claim to own to the Springett point of diversion on Clark Creek and for the water line to Springett's property. That verbal permission was apparently revoked in 1995 prior to Springett's sale of the property and appurtenant water right to the Gibbinses.

No permission for access has apparently been given by the Utters to the Gibbinses. However, this does not invalidate the water right. Assuming the Utters own the approximately 30-foot wide strip of land south of Clark Creek, the Gibbinses need to secure a right to access across this property either on mutually agreeable terms or through eminent domain proceedings in accordance with Chapter 7, Title 7, Idaho Code. Again, assuming the Utters own the property being disputed, the Gibbinses water right which they acquired from Springett does not grant access. To have failed to obtain either permission or legal authority for the access required prior to use under the water right constitutes trespass. However, the Department has no authority to curtail diversions under a valid water right on the basis of alleged trespass nor can the Department find that a water right is invalid because of trespass.

The Utters also suggest that the water right should be revoked because Springett included a place of use in his application to appropriate water which he did not own or have a legal right to use. However, whether Springett owned or had a legal right to use the property identified by the Utters is not pertinent at the present time because Springett did not develop the water right on the land in question. When the Department conducted its field examination of beneficial use of the water on the Springett property on July 2, 1992, Springett had actually developed only a portion of the water right for which he received a permit in 1983, and that portion was for the land Springett subsequently sold to the Gibbinses. Springett's proposed uses stated in his 1983 application for permit to appropriate

water consisted of domestic, stockwater, and irrigation on two parcels with a total diversion rate of 0.18 cubic feet per second ("cfs"). When the field examination of beneficial use was conducted in 1992, only the domestic use on the parcel of land Springett later sold to the Gibbinses had been developed. Consequently, when the water right was licensed on July 12, 1993, the place of use which the Utters allege Springett had no right to use was deleted, the allowable use was reduced to only domestic, and the diversion rate was reduced to 0.04 cfs with a total annual volume of 1.2 acre-feet. The domestic use was limited to "1 home and shop", but as with all water rights for domestic uses in Idaho, the water right can also be used for limited irrigation and other purposes associated with the "1 home and shop". When the beneficial use field exam was conducted in 1992, the Department's examiner found a water line, which was described in the examiner's field report, from the point of diversion on Clark Creek to the house and shop on the Springett property. The report states that the water line "goes to a shop and to 1 domestic w/lawn. Water from creek is backup to well for house." The Utters claim that the water line "had never been connected to the house or shop and was used only for irrigation . . ." However, whether or not the water line has ceased to be connected to the house or shop does not render the water right invalid. A domestic water right does not become invalid simply because it is not used for household purposes so long as it continues to be used for purposes associated with domestic uses.

Other issues raised by the Utters include whether a field investigation of the beneficial use developed under the Springett water right was actually conducted, why the Utters never received any notification of a water right application or approval, excavation conducted by Mr. Gibbins which is impacting a Class I stream, and the unauthorized diversion of water by Mr. Gibbins to a new pond. As described previously, a Department examiner conducted a field investigation of the extent of beneficial use that had been developed under Springett's water right permit on July 2, 1992. The report documenting the field investigation was prepared on July 16, 1992. Given the difference in dates between when the field investigation occurred and when the report documenting the investigation was prepared, together with the detail in the report describing the various sizes of pipe used for the water line from the point of diversion on Clark Creek to the Springett property, it is difficult to conclude that a field investigation was never actually conducted, as alleged by the Utters. As far as notice is concerned, the Department is required to publish notice of an application to appropriate water. After Springett filed his application in April of 1983, the Department published notice of the application in the Bonners Ferry Herald on May 5 and 12, 1983, one year before the Utters stated they moved to the property they now own. No protests to Springett's application were filed, and a permit to appropriate water was issued to Springett on June 16, 1983. Neither the laws governing the Department's actions nor the Department's own policies require any further notification when an application is not protested. Regarding the alleged illegal excavation by Mr. Gibbins affecting a Class I stream, this stream classification was presumably established under "Rules and Regulations Pertaining to the Idaho Forest Practices Act". These rules and regulations are applicable to the harvesting of trees and associated activities. Unless, Mr. Gibbins is engaged in such activities, the classification of Clark Creek as a Class I stream does not limit or restrict his excavation activities. As far as the unauthorized diversion of water by Mr. Gibbins to a new pond, it appears that the pond is for the purpose of managing ground water flowing from an excavation for a building foundation. In such a case, a permit to appropriate water is not required. However, the Department will further investigate use of the pond by Mr. Gibbins this coming summer.

Governor Philip E. Batt  
February 18, 1997  
Page 4 of 4

The conflict between the Utters and the Gibbinses is basically a dispute over land ownership. The Utters have filed a quiet title action against the Gibbinses as well as an action for trespass. A deputy attorney general for the Department contacted the Utters' attorney, with the permission of Mrs. Utter, and he confirmed that the dispute does not involve a water rights matter. Therefore, no further action by the Department is appropriate at this time.

CONSTITUENT AFFAIRS TRACKING MEMO  
OFFICE OF THE GOVERNOR  
Philip E. Batt

RECEIVED

SEP 04 1996

Department of Water Resources

Number: 17529 Date: 08/30/96  
Name: Utter, Clifford & Donna Class: SW  
Org: Type: Letter  
Address: HC 60, Box 278 Phone: (208)  
Address: Phone: (208) SSN:  
Zip: 83805 City: Bonners Ferry State: Case:  
County: Boundary

| Assigned To                                                                                | Current Referral                                                                           |
|--------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| Jim Yost Date: 08/30/96<br>Org.: Office Of Governor<br>Phone: (208) 334-2100 Due: 09/30/96 | Karl Dreher Date: 09/03/96<br>Org.: Water Resources<br>Phone: (208) 327-7910 Due: 09/17/96 |

Subject

water right dispute, Clark Creek, request help

Notes

09/03/96 10:54 AM Tracking memo: Governor Report, Your Letterhead, Via Your Director.  
09/03/96 Referred to Water Resources, Karl Dreher

\*\*\*\*\*  
ACTION:

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

MEMORANDUM

TO: BOB HAYNES  
FROM: NORM YOUNG *NY*  
SUBJECT: CLIFFORD AND DONNA UTTER'S COMPLAINT AGAINST  
LICENSE NO. 98-07514 (SPRINGETT)  
DATE: September 4, 1996

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*Faxed & mailed  
9/4/96*

*NY*

Mr. and Mrs. Utter have sent letters to most of the elected officials asking that the Springett license be revoked. Please make an onsite inspection, meet with both parties (apparently the Springett right is now owned by Gibbins), and prepare a memo documenting the facts and suggesting a response that Karl can make to Governor Batt and others.

Please respond by September 13, 1996 so that Karl can meet the deadline set by the Governor's office for a reply.

*Additional background  
information is being  
mailed.*



Mr. & Mrs. Clifford R. Utter  
HC 60 Box 278  
Bonners Ferry, ID 83805-9518

RECEIVED

AUG 30 1996

SW

OFFICE OF THE GOVERNOR

August 25, 1996

Dear Sir,

We are writing to you concerning a water right granted by the Department of Water Resources to Mr. Greg Springett of Bonners Ferry, Idaho. This water right was filed on Clark Creek which runs through our property. We have just recently become aware of this water right and feel it was obtained with false information and as a result is causing a hardship for us. We are enclosing a copy of his application, correspondence to him from the Department, a copy of Class I verification, and a map showing property lines. ✓

Mr. Springett first applied for a water right in March of 1983, the year he bought his property. If you will examine his application, you will see in item #4, he originally applied for 'stock, irrigation and domestic' use. In #6a, he planned to divert the water by using 'a nozzle, pipe, pump, basin and gravity flow.' In #8a(3), he planned to supply '100 assorted livestock.'

In 9a, the applicant stated he owned the property at the point of diversion. This is a false statement. His property is south of the dividing line between Unit 18 and Unit 17 in Drainage District 3. It has been the property line since the District was established in 1940. Clark Creek lies in Unit 17 and does not extend into Unit 18 at all.

In 9b, the applicant 'owns the land to be irrigated or place of use' is a partially true statement. He did own the land his house was on in Unit 18 above the Westside Road. He owned nothing below the Westside Road, nor was there a lease or verbal agreement with the owners at that time, Hubbard Farms.

In #11, it refers to a map included and shows an area to be 'irrigated and stock' use. This is below the Westside Road. He did have permission to keep a wooden boat in the barn but again - no ownership, lease or verbal agreement.

This application was processed 4-1-83 and returned 4-5-83 because of a descriptive location error that needed to be corrected to 'insure accuracy.' We believe SE|SE was changed to SW|SW. It was then approved on 6-16-83. He was to have proof of construction with beneficial use before 7-1-88.

In April, 1988, a notice of proof of beneficial use was due. On July 11, 1988, a Lapse notice was sent. Mr. Springett then mailed a proof of beneficial use in September of 1988 and it was received three days past the grace period. Somewhere there must have been a communication between him and the Department of Water Resources that indicated he had changed his plans from his original application on how he was going to divert the water. We feel this change was because of a change of ownership of the property. The Department discovered they had erred in not informing him of a sixty day grace period and therefore adjusted his application date to fit the date of the receipt of the proof of beneficial use and reinstated his water right. This is dated 12-30-88.

The major discrepancy in all of this is the lie about ownership. The property in Unit 17 containing Clark Creek was owned by Hubbard Farms of Bonners Ferry. It was sold to the LDS Church in May of 1988 and we bought the property in Unit 18 and 17 below the Westside Road from them, the church, at the same time. We have lived on this property since July, 1984, and rented from the Hubbards. We bought the piece of Unit 17 above the Road, containing Clark Creek in February, 1993. The property was surveyed in 1988 and 1995.

A beneficial use field report was done in July of 1992 --- four years after the order of reinstatement and the application was approved. This report indicates nothing had changed, and also indicates the water was connected to the house and the shop. The water had never been connected to the house or shop and was used only for irrigation via a garden hose connected to a plastic pipeline. We have taken care of Springett's property at times and know this for a fact. The report also states there were no other water rights with a same place of use. The water from Clark Creek has been used in our house and on our property via a gravity flow line since the 60's and earlier. Mr. Springett was fully aware of this.

This field report was received at the Department of Water Resources in Boise on 6-10-93, just short of a full year after it was done and the property had again changed hands. We have several questions we would like to have answered. Why wasn't a proof of ownership required on the first application? Why didn't the field report show the changes in plan of use and ownership and the fact that there was someone else using this water? Was the field report done via an office chair and not actually out in the field?

Because of all of this, we feel Mr. Springett continued to falsify his application and was aided by careless and sloppy field work. Mr. Springett often told us he owned the property to the center of the stream until 1988 when it sold. Then he became very vague about it even after we bought it in 1993. When he sold his property in 1995, we had it surveyed and marked every ten to twelve feet to verify the exact boundaries because he had advertised it 'with a stream near by'. Now, after receiving a copy of the application, we know why.

In June of 1995, he sold his property to Mr. and Mrs. Tom Gibbins with the water right included. Now, Mr. Gibbins is using

this water right to lay claim to our property with the stream. We posted the land and removed his water lines to the property line. He then moved the posted signs to the stream and has broken survey stakes, saying all the surveys and maps are wrong. Twice he has posted our land against us. He has also threatened to fence the stream.

The water from Clark Creek is piped into our house and is used as a backup for our well as well as irrigation. Because of this household use it is a Class I stream. Mr. Gibbins was aware of this and has blatantly excavated inside the parameters set by the state for such streams. He has cut the underground water supply and done irreparable damage to the system. He now has a flow of water running down his drive and along the edge of the road. He has also laid a new lateral field next to the road after taking out the bar ditch. He has dug a pond in his yard and plans to use water from Clark Creek to supply it and divert the overflow across our property. He has obtained no permits for any of his work. We have talked to the Department of Water Resources, The Corps of Engineers, to our county road department, our county commissioners, the Sheriff's Department, and the Board of Health. Every one of them has had the power to insist on permits and adherence to state regulations but yet he continues to thumb his nose at all of them.

Why do we have to go to court to get back our land, to keep our water supply from being contaminated, our roadway from further damage, and contend with a drainage problem across our land that we didn't have before? It does not help when in June of this year, Mrs. Gibbins placed a call to the Department of Water Resources and is given all the misinformation from the water right application. This brings us back to the first page of this letter.

The Gibbins' house burned in January of this year. We allowed them to live with us for two months. During that time, they tried to buy the property and stream and tried to get us to put it in writing that they could have access to the stream. They also asked for a written first chance if we sold our place. We kept telling them we would put nothing in writing and even explained it was willed to our children. They then wanted a written statemnt that they could have first chance if any of the children wanted to sell. We continued to tell them no but did say they could continue to use their gravity flow pipe. Then they received the copy of the water right.

We have never received any notification of a water right application or an approval and we understand this is a direct violation of Water Resources policies.

There is something desperately wrong with a governing system with so many departments that will not fulfill their obligations. why do we have to borrow money for court fees to get straightened

out what is legally and rightfully ours and should have been handled by each one of the proper department?

We are asking for help. We would like to see Mr. Gibbins water right revoked because of his malicious use of Mr. Springett's false application. Mr. Gibbins has a good well and because of the illegal excavating, cutting of the underground water source and non-permitted pond, he now has a second source of water, and live at that, to use for irrigation of his yard.

This would again allow us to enjoy our property without conflict and would not perpetuate the error of property ownership. Can you please help us resolve this matter? If you need clarification on any point, please call us, preferably early in the day at 208-267-2228.

Sincerely,

Clifford & Donna Utter

Clifford and Donna Utter

HCR 60 Box 278

Bonnars Ferry, Idaho 83805

Mr. Gibbins continues to trespass on our land to the sink he has even a path and has indicated to the police we will continue to do so.

I am a minister and my wife is a nurse. Our funds limited and this property is our retirement. This matter causing us great financial and mental stress. We have asked God to make our community a better place to live and we believe our government should enforce the laws and regulations now in place. Under no circumstances could someone be allowed to say - basically - I want your property, therefore it's mine.

Since this water right was obtained by submitting false information, it should not be allowed to stand. Can you please help us revoke it?

Please give us your immediate consideration cause this problem is rapidly escalating.

Thank-you

SS-7514

SPRINGETT, GREGORY K.

STAR RT. 1 BOX 154, BONNERS FERRY, ID 83805

Source: CLARK CREEK trib. to KOOTENAI RIVER

Date Filed: 04/01/1983

Diversion Pt: SWSW Sec 36 T 63N R 01W

|                 |            |
|-----------------|------------|
| Use: IRRIGATION | (0.10 CFS) |
| STOCKWATER      | (0.04 CFS) |
| DOMESTIC        | (0.04 CFS) |

In: SWSW Sec 36 T 63N R 01W NNNW Sec 01 T 62N R 01W FOR 4 ACRES

RECEIVED  
APR 11 1983  
FBI - BUTTE

State of Idaho  
Department of Water Resources

RECEIVED

JUL 19 1993

NORTHWEST REGION  
IDWR

**WATER RIGHT LICENSE**

WATER RIGHT NO. 98-07514

Priority: June 18, 1983

Maximum Diversion Rate:  
Maximum Diversion Volume:

0.04 CFS  
1.2 AF

This is to certify, that GREGORY K SPRINGETT  
HCR 60 BOX 279

BONNERS FERRY ID 83805 has complied with the terms and conditions  
of the permit, issued pursuant to Application for Permit dated April 1, 1983; and  
has submitted Proof of Beneficial Use on September 16, 1988. An examination indicates  
that the works have a diversion capacity of .040 cfs of water from:

CLARK CREEK

tributary to KOOTENAI 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       | 0.04 CFS                 | 1.2 AF               |

LOCATION OF POINT(S) OF DIVERSION:

SWSW , Sec. 36, Township 63N, Range 01W  
BOUNDARY County

PLACE OF USE: DOMESTIC  
TWN RGE SEC

63N 01W 36 SWSW

CONDITIONS/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.
5. Domestic use is for 1 home and shop.

AGE 2

State of Idaho  
Department of Water Resources

# WATER RIGHT LICENSE

WATER RIGHT NO. 98-07514

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 12<sup>th</sup>  
day of July, 1993.

Acting for R. Keith Higginson, Director

# IDAHO DEPARTMENT OF LANDS

## FOREST PRACTICES REPORT

Compliance No.: B4497-E

Date of Inspection: 07/11/1994

Date of Report: 07/12/1994

Report # 1

Landowner: (Contacted)

Operator: (Contacted)

Louisiana-Pacific Corp.  
P.O. Box 108  
Moyie Springs, ID 83845

Louisiana-Pacific Corp.  
P.O. Box 108  
Moyie Springs, ID 83845

**Legal Description:**

(7210A)

Subdivision  
SE

Section  
35  
36

Township  
63N

Range  
01W

**Operation Status:**

NO Stream Segment of Concern  
NO Conversion in Use

**Forest Practice Activity:**

- X Timber Harvesting
- Road Construction
- Reforestation
- Chemicals or Fertilizer
- X Management of Slash

**Site Characteristics:**

- YES Class I Streams
- NO Class II Streams
- YES Slopes over 45%
- YES Erosive Soils

- X Pre-operational
- Operation in Progress
- Inactive or Completed

Acres Inspected: 100

**FOREST PRACTICES ACT COMPLIANCE**

X - Inspection

NOV - Notice of Violation

NI - Not Inspected

NA - Not Applicable

GENERAL RULES - 2  
2.a.i. Variance.....  
2.e. Notification.....  
2.j. Petroleum Products.....

Satis Unsatis  
NA  
X  
NA

ROAD CONSTRUCTION RULES - 4  
4.b. Plans/Specifications.....  
4.b.vi. Culverts.....  
4.c. Road Construction.....  
4.d. Road Maintenance.....  
4.e. Winter Operations.....

Satis Unsatis  
NI  
NI  
NI  
NI  
NI

TIMBER HARVESTING RULES - 3  
3.b. Residual Stocking.....  
3.c. Soil Protection.....  
3.d. Location of Trails  
& Landings.....  
3.e. Drainage Systems.....  
3.f. Waste Materials.....  
3.g. Stream Protection.....  
3.g.iii Class I.....  
3.g.iv Class II.....  
3.h. Related Values.....

NI  
NI  
NI  
NI  
NI  
NI  
X  
X  
NI  
NI

REFORESTATION RULES - 5  
5.c. Stocking Levels.....  
5.d. Supplemental Reforestation.....

NI  
NI

USE OF CHEMICALS - 6  
6. Use of Chemicals.....

NI

SLASHING MANAGEMENT RULES - 7  
7. Fuels & Debris.....

NI

STREAM SEGMENTS OF CONCERN - 8  
8.c.d. Site Specific BMPs.....

NI

8.e. Landowner Agreement.....

NI

**COMMENTS:**

Inspected "no cut" zone along Clark Creek. No cut zone is marked with red ribbon and exceeds widths required in Idaho Forest Practices Act.

**DISTRIBUTION:**

- X Landowner
- Operator
- Other

- Bureau Chief
- X Area Supervisor
- X Forest Practices Advisor
- Fire Warden

*Jerry K. Garten*  
Forest Practices Advisor: Jerry K. Garten

## WARRANTY DEED 0178042

For Value Received

GREGORY K. SPRINGETT and VERONICA SPRINGETT, husband and wife

The grantor ~~do~~ hereby grant, bargain, sell and convey untoTHOMAS A. GIBBINS, JR. and INGRID ELENA GIBBINS, husband and wife  
the grantee ~~whose~~ current address is 620 East 3rd Avenue, Post Falls, ID 83854

the following described premises, in

BOUNDARY

County Idaho, to-wit:

That part of Unit No. Eighteen (18) of Rural subdivision of Drainage District No. 3, according to the plat thereof recorded with the Boundary County, Idaho, Recorder, being in Section Thirty-six (36), Township Sixty-three (63) North, Range One (1) West, B.M., and lying West of the road known variously as the West Side Road, County Road, or Forest Service Road, as it existed January 1, 1995.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and their heirs and assigns forever. And the said Grantor ~~do~~ hereby covenant to and with the said Grantee that ~~be~~ y are the owner in fee simple of said premises; that they are free from all incumbrances

SUBJECT to such rights, easements, covenants, restrictions and zoning regulations as appear of record or by use upon the premises.

and that ~~the~~ y will warrant and defend the same from all lawful claims whatsoever.

Dated: 6/27/95

*[Signature]*  
GREGORY K. SPRINGETT  
*[Signature]*  
VERONICA SPRINGETT

STATE OF IDAHO, COUNTY OF Boundary  
On this 27 day of June, 1995,  
before me, a notary public in and for the said State, personally  
appeared

GREGORY K. SPRINGETT  
VERONICA SPRINGETT

Known or identified to me to be the person ~~whose~~ name ~~is~~  
subscribed to the within instrument, and acknowledged to me  
that ~~they~~ executed the same.

*[Signature]*  
Notary Public

Residing at Bonners Ferry  
Comm. Expires 10/1/97

STATE OF IDAHO, COUNTY OF Boundary  
I hereby certify that this instrument was filed for record at the  
request of Boundary Abstract  
at 11 minutes past 4:00 o'clock P.M.,  
this 28th day of June,  
1995, in my office, and duly recorded in Book 102  
of Instruments at Page 273

Kris Larson  
Ex-Officio Recorder

By *[Signature]* Deputy.

Fees \$ 3<sup>00</sup> chg  
Mail to: BA

INSTRUMENT NO.

## MEMORANDUM

To: File 98-07514  
From: L. Glen Saxton *LS*  
RE: TELEPHONE CALL FROM INGRID GIBBINS OF BONNERS FERRY  
Date: June 24, 1996

On this date, Ingrid Gibbins (phone 208-267-7679) called inquiring about water rights appurtenant to property she has purchased from Gregory Springett. She also wanted to know about property boundaries, since a neighbor apparently has cut off the supply of water from Clark Creek which is tributary to the Kootenai River.

I determined from the water right data base that the department has issued License No. 98-07514 to Gregory Springett authorizing the diversion of 0.04 cfs of water from Clark Fork for domestic purposes. I also checked the data base and could not determine that there were any other recorded water rights on Spring Creek. I also advised Ms. Gibbins that the application for permit indicates that Springett owned the property at the point of diversion.

I FAXed a copy of the license to Ms. Gibbins and mailed a copy of the application for permit, field examination and license to her.

c: N. Idaho  
Bob Haynes

# RECEIVED

JUN 10 1993

Form 219  
8/88

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**BENEFICIAL USE FIELD REPORT**

Department of Water Resources

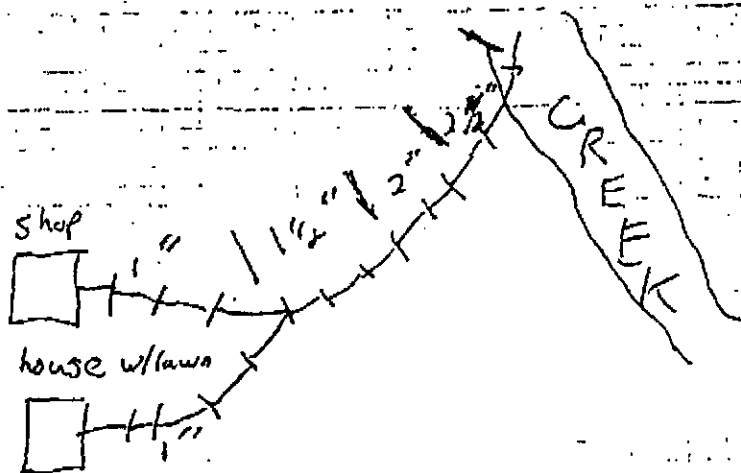
**A. GENERAL INFORMATION**Permit No. 98075141. Owner: Gregory K Springett Phone No. 267 5970Current Address: Hwy 60 Box 279 ; Banners Ferry, ID 838052. Accompanied by: None EXAM. DATE: 7/2/92

Address: \_\_\_\_\_ Phone No. \_\_\_\_\_

Relationship to Permit Holder: \_\_\_\_\_

3. Source: Clark Creek tributary to Kootenai River**B. OVERLAP REVIEW**1. Other water rights with same place of use: None ☐ Copies Attached2. Other water rights with same point of diversion: None ☐ Copies Attached ☐ Copies of Field Exam's Attached**C. SYSTEM DESCRIPTION**

1. Diversion System Diagram: Indicate all major components and distances between components. Indicate weir size/ditch size/pipe I.D. as applicable. ☐ Alternative diagram attached

Scale: 1" = NTS

SEP 01 1993

2. ☒ Copy of U.S.G.S. Quadrangle Attached  
Showing location(s) of point(s) of diversion and  
place(s) of use (required).

- ☒ Photo of Diversion and System Attached

(required for all but single household domestic groundwater, and stockwater.)

- ☐ Aerial Photo Attached  
(required for irrigation of 10 acres or more).

## System Description (continued)

3. Narrative: Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

Water from creek is picked up with 2 1/2" pipe which runs into 2" then 1 1/2" off of which 1" pipe goes to a shop ~~then~~ and to 1 domestic w/ lawn. Water from creek is backup to well for house.

☐ See Remarks on page 4 for continuation

4.

| Well or Diversion Identification No.* | Motor Make | Hp | Motor Serial No. | Pump Make | Pump Serial No. or Discharge Size |
|---------------------------------------|------------|----|------------------|-----------|-----------------------------------|
| gravity                               |            |    |                  |           |                                   |
|                                       |            |    |                  |           |                                   |
|                                       |            |    |                  |           |                                   |
|                                       |            |    |                  |           |                                   |

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

5. Point(s) of Diversion:

| Ident. No. | Gov't Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rgs. | County   | Method of Determination/Remarks |
|------------|-----------|-----|-----|-----|------|------|------|----------|---------------------------------|
|            |           |     | SW  | SW  | 36   | 63N  | 01W  | Boundary | Map                             |
|            |           |     |     |     |      |      |      |          |                                 |
|            |           |     |     |     |      |      |      |          |                                 |
|            |           |     |     |     |      |      |      |          |                                 |

6. Place(s) of Use:

Indicate Method of Determination

Map

| Twp. | Rgs. | 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 |        |
| 63N  | 01W  | 36   |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Do not use this space

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SEP 01 1993

## - REMARKS AND OVERLAP REVIEW ANALYSIS

[The page contains several horizontal black bars, likely representing redacted information or scanning artifacts.]

## I. RECOMMENDATIONS

## 1. Recommended Amounts

| Beneficial Use  | Period of Use |              | Rate of Diversion<br>Q (cfs) | Annual Volume<br>V (afa) |
|-----------------|---------------|--------------|------------------------------|--------------------------|
|                 | From          | To           |                              |                          |
| <u>Domestic</u> | <u>1/1</u>    | <u>12/31</u> | <u>.04</u>                   | <u>1.2</u>               |
|                 |               |              |                              |                          |
|                 |               |              |                              |                          |
|                 |               |              |                              |                          |
|                 |               |              |                              |                          |
|                 |               | Totals:      | <u>.04 cfs</u>               | <u>1.2 AF</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

## J. AUTHENTICATION

Field Examiner's Name

Robert Knoblock

**Signature**

Robert Knobloch

**Certification Date**

Field Report Preparation Date

7/16(92)

**CONSULTANT SEAL**

K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.

**PAPER NO. 200**

2011-1-1993

07/12/96

18:27

☎ 1 208 327 7886

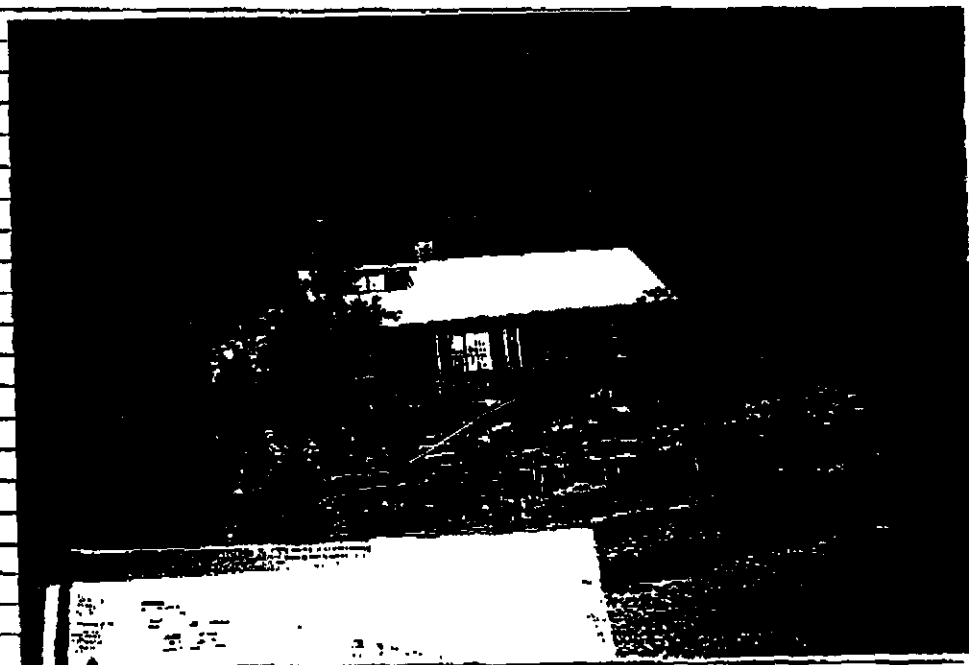
ID WATER RESOURS

007

PERMIT # 98-07514

AD

PC



SEP 01 1996



101

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF PERMIT

NO. 98-7514 IN THE NAME OF

GREGORY K. SPRINGETT

ORDER OF REINSTATEMENT

This matter having come before the Idaho Department of Water Resources (Department) the Department finds as follows:

FINDINGS OF FACT

1. On June 16, 1983, the Director of the Department of Water Resources issued Permit No. 98-7514 with a condition of approval that proof of construction of works and application of water to beneficial use be submitted on or before July 1, 1988.
2. On April 30, 1988, the Department sent a proof due notice to the permit holders.
3. On July 15, 1988, the Department sent a lapse notice to the permit holders since neither proof of beneficial use nor a request for extension of time had been received from the permit holders.
4. On September 16, 1988, Proof of Beneficial Use was received by the Department from the permit holders.
5. Section 42-218a, Idaho Code, authorizes the Department to reinstate a lapsed permit if a showing of reasonable cause is submitted to the Department within 60 days of the lapse notice and the priority is advanced a time equal to the number of days that said show of cause is due to the date set for proof.

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FEB 22 1989

6. Upon review of the Proof of Beneficial Use, the Department discovered that the lapse notice sent to the permit holder on July 15, 1988, did not advise of the 60 day period in which to return the proof.

#### CONCLUSIONS OF LAW

1. The permit holders have submitted proof of beneficial use which establishes that water was beneficially used as identified on the permit.

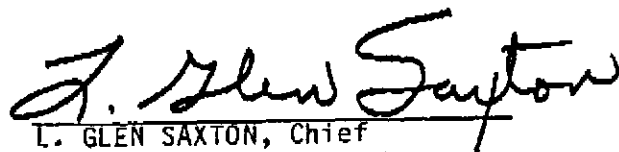
2. The permit holders have shown sufficient cause why the proof of beneficial use was not submitted in a timely manner.

3. The Department made an error in the lapse notice which was sent to the permit holder. Submittal of proof beyond the 60 day period, therefore, is not cause for the Department to reject the proof of beneficial use. The priority date, however, should be advanced one day for each day the proof statement was submitted after the original proof due date.

#### ORDER

IT IS HEREBY ORDERED that Permit No. 98-7514 is reinstated with the priority date advanced to June 18, 1983.

Dated this 30<sup>th</sup> day of December, 1988.

  
L. GLEN SAXTON, Chief  
Water Allocations Bureau

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FEB 22 1989



State of Idaho  
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS  
GOVERNOR  
R. KEITH HIGGINSON  
DIRECTOR

December 29, 1988

RE: Permit No. 98-7514

Gregory Springett  
HCR 60, Box 279  
Bonners Ferry, ID 83805

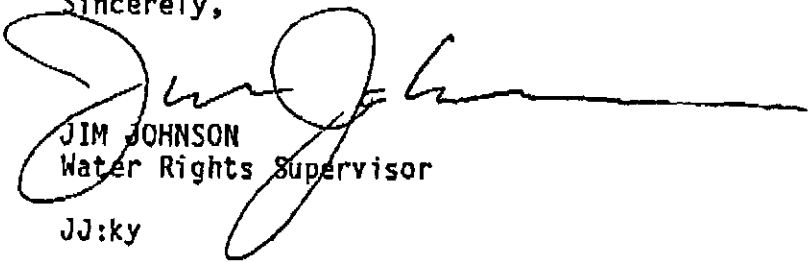
Dear Mr. Springett:

We acknowledge receipt of the statement of beneficial use and the supporting documentation for reinstating the above referenced permit. Enclosed is a copy of the Order of Reinstatement. Please note that the priority date has been advanced to June 18, 1983.

Before a license can be issued, a field examination will be made by a representative of this Department.

If you have any questions regarding this matter, please contact this office or our Northern Regional Office at 765-4639.

Sincerely,

  
JIM JOHNSON  
Water Rights Supervisor

JJ:ky

Enclosure

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FEB 22 1989



State of Idaho

## DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

October 21, 1988

Gregory K. Springett  
HCR 60 Box 279  
Bonners Ferry, ID 83805

RE: Permit No. 98-7514

Dear Mr. Springett:

The Department received both your proof of beneficial use statement and the request for extension of time for the above referenced permit on September 16, 1988. The fees you submitted to the Department for these forms were \$50.00 and \$15.00 respectively.

Based on the information you submitted, it appears that the proof statement is the proper form to send since you have completed some or all of your development and do not wish to proceed further. I am returning the extension request along with your check no. 2380 (92-55/1231) in the amount of \$15. If you feel that I am in error, please contact me in order to clarify your intentions. You have the option of requesting an extension, but you cannot submit both an extension and a proof statement.

I would like to remind you that this permit lapsed on July 1, 1988. The Department sent you a lapse notice with a certified mailing date of July 15, 1988. The Department provides a sixty day grace period from the date of the lapse notice for the permit holder to submit the proof statement or extension of time request. The Department received your proof on September 16, 1988, which was actually sixty-three days after the date of lapse notice. In reviewing your file, I noticed that the original lapse notice which we sent you on July 15 did not specify that the proof was due within sixty days of the certified mailing date. As a result, we consider your submittal of the proof statement to have been received within the sixty (60) day grace period. The Department will reinstate the permit with a priority advancement equal to the number of days the proof statement was submitted late.

You should receive a copy of the reinstatement order. Following reinstatement, a field examiner from our Northern Region Office will contact you to schedule a field exam.

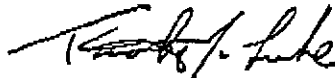
NOT RECORDED

FEB 22 1989

Page 2  
Gregory K. Springett  
October 21, 1988

Please feel free to contact me if you have additional questions.

Sincerely,



TIM LUKE  
Sr. Water Rights Agent

TL:hm  
Enclosure

RECEIVED  
FEB 22 1989

FEB 22 1989

July 11, 1988

GREGORY K. SPRINGETT  
STAR RT. 1 BOX 154  
BONNERS FERRY, ID 83805

## LAPSE NOTICE

RE: PERMIT NO. 98-07514

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced water permit has lapsed. This office did not receive either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time. You were provided the proper form in our proof due notice to you dated April 30, 1988.

Your permit cannot be reinstated unless you submit proof of beneficial use or submit an extension of time request showing reasonable cause for delay. Either the completed proof of beneficial use submittal (including the examination fee or a completed field examination report) or the extension request form together with the \$15 fee must be received by this lapse notice or the permit will no longer be of any force of effect.

A proof of beneficial use form and a request for extension of time form are again enclosed for your use. 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 governmental agency or by litigation which might bring title to the water in question.

L. Glen Saxton  
Chief, Operations Bureau

Enclosures

LGS:RF

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FEB 22 1989

## CERTIFICATION OF MAILING

I hereby certify that on 7/15/88  
~~a copy~~ an original of this document was  
deposited in the United States mail,  
postage prepaid addressed to the  
individual(s) named above.

Heidi Miller

138593  
CERTIFIED MAIL  
April 30, 1988

SPRINGETT, GREGORY K.  
STAR RT. 1 BOX 154  
BONNERS FERRY, ID 83805

PROOF DUE NOTICE

RE: Permit No. 98-7514

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 July 1, 1988. (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 completed 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, or the permit will no longer be of any force nor effect.

Sincerely,

RITA FLECK  
Secretary/Records Manager

Enclosures

MICROFILMED

FEB 22 1989

07/12/86 18:32

21 208 327 7888

ID WATER RESOURS

018

S T E O F I D A H O

DEPARTMENT OF WATER RESOURCES

STATEHOUSE  
BOISE, IDAHO 83720  
(208) 334-4440

SPRINGETT, GREGORY K.  
STAR RT. 1 BOX 154  
BONNERS FERRY, ID 83805

JULY 06, 1983

RE: PERMIT NO. 98-7514

DEAR PERMIT HOLDER:

ENCLOSED IS A COPY OF YOUR APPROVED APPLICATION FOR PERMIT. WE DIRECT YOUR ATTENTION TO THE CONDITIONS OF APPROVAL ON THE FOURTH PAGE.

THE 1982 IDAHO LEGISLATURE ADDED A REQUIREMENT THAT AS A PERMIT HOLDER YOU MUST COMMENCE THE EXCAVATION OR CONSTRUCTION OF DIVERTING WORKS WITHIN ONE YEAR OF THE DATE THE PERMIT WAS ISSUED, AND YOU MUST PROCEED DILIGENTLY UNTIL THE PROJECT IS COMPLETED. THE ENCLOSED BLUE CARD MUST BE COMPLETED AND RETURNED TO THIS OFFICE AS SOON AS YOU COMMENCE CONSTRUCTION, NO LATER THAN ONE YEAR FROM THE DATE THE PERMIT WAS APPROVED.

WE HAVE ENCLOSED INSTRUCTIONS ENTITLED "MAKING PROOF OF BENEFICIAL USE". PLEASE READ THE INSTRUCTIONS CAREFULLY SINCE YOU MUST TAKE FURTHER ACTION TO DEVELOP THIS PERMIT INTO A LICENSE.

SINCERELY,

DAVID R. TUTHILL, JR., P.E.  
SUPERVISOR, WATER ALLOCATION SECTION

ENCLOSURE

RECEIVED

Form 202

3/78

WAF

3/14/83

Ident. No. 98-7514

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

**APPROVED**

To appropriate the public waters of the State of Idaho

1. Name of applicant GREGORY K SPRINGETT Phone 267-5970  
Post office address SR 1 BOX 154 BONNERS FERRY ID 83805
2. Source of water supply CLARK CREEK which is a tributary of KOOTENAI RIVER
3. Location of point of diversion is SW % of SW % of Section 36 Township 63N  
Range 1W B.M. BOUNDARY County, additional points of diversion if any: \_\_\_\_\_

## 4. Water will be used for the following purposes:

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

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

Amount .10 for IRRIGATION purposes from 7/21 to 11/1 (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:

a. .18 cubic feet per second and/or b. \_\_\_\_\_ acre-feet per annum.

## 6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. NOZZLE, PIPE, PUMP,  
Basin - GRAVITY FLOW

b. Height of storage dam \_\_\_\_\_ feet, active reservoir capacity \_\_\_\_\_ acre-feet; total reservoir capacity \_\_\_\_\_ acre-feet, materials used in storage dam: \_\_\_\_\_

Period of year when water will be diverted to storage \_\_\_\_\_ to \_\_\_\_\_ inclusive.  
(Month/Day) (Month/Day)

c. Proposed well diameter is \_\_\_\_\_ inches; proposed depth of well is \_\_\_\_\_ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year - maximum 5 years).

## 8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: SW % of SW % of Section 36 Township 63N  
NW NW 1 62N  
Range 1W B.M. 1W

(2) Amount of power to be generated: \_\_\_\_\_ horsepower under \_\_\_\_\_ feet of head.

(3) List number of each kind of livestock to be watered 100 ASSORTED

(4) Name of municipality to be served \_\_\_\_\_, or number of families to be supplied with domestic water 2.

(5) If water is to be used for other purposes describe: \_\_\_\_\_

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

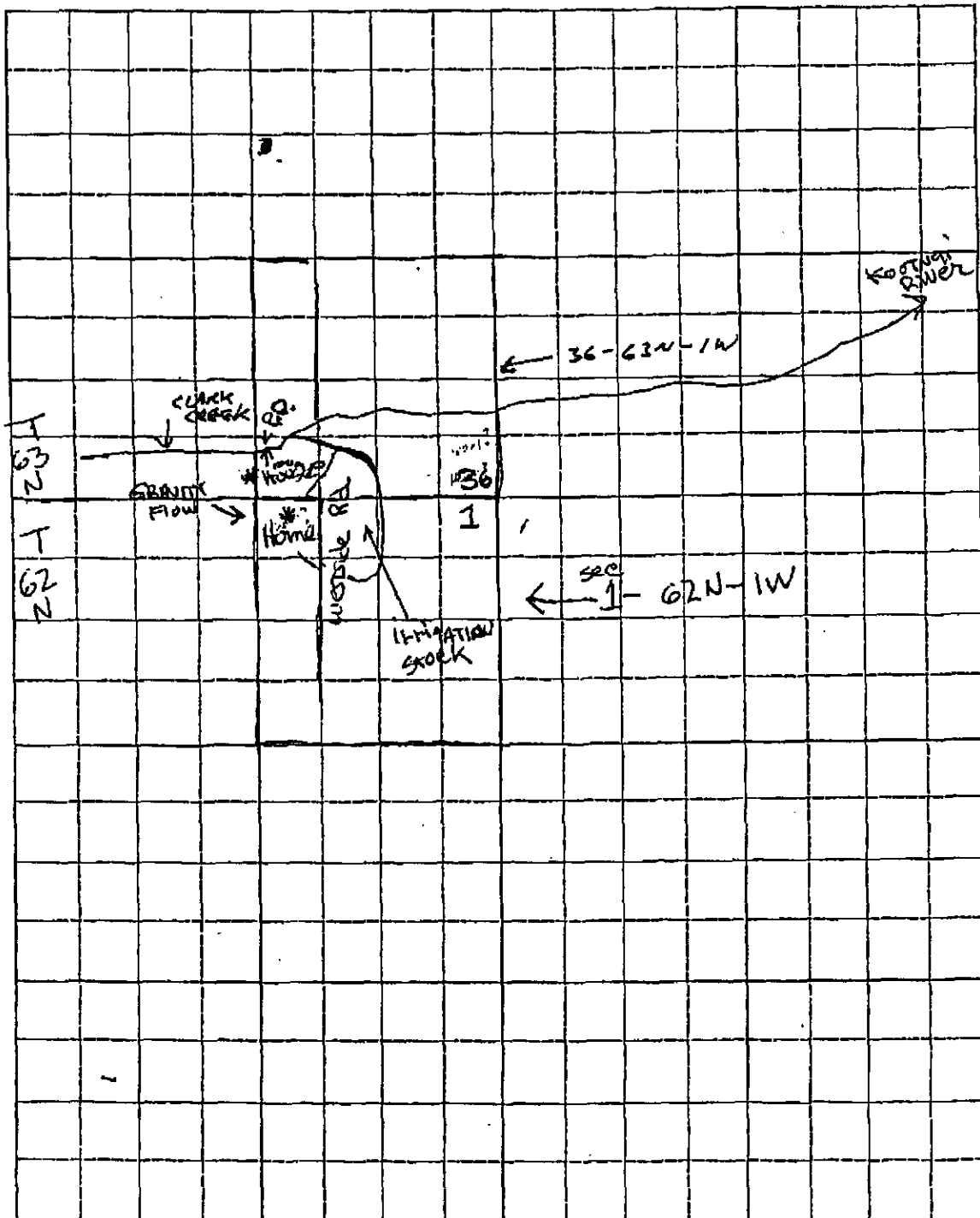
| TWP                                   | RANGE | SEC. | NE¼ |     |     |     | NW¼ |     |     |     | SW¼ |     |     |     | SE¼ |     |     |     | TOTALS |
|---------------------------------------|-------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|--------|
|                                       |       |      | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ |        |
| 1W                                    | 63N   | 36   |     |     |     |     |     |     |     |     |     | 2.5 |     |     |     |     |     | 3   | 2.5    |
| 1W                                    | 62N   | 1    |     |     |     |     | 2.6 |     |     |     |     |     |     |     |     |     |     |     | 2.5    |
| MICROTERRED                           |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|                                       |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|                                       |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|                                       |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|                                       |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|                                       |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
| Total number of acres to be irrigated |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     | 6      |

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

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

10. Remarks

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



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.

*[Signature]*  
(Applicant)

Proposed Filing: 4/1/83 RA 4/21/83 11:15 AM

Received by RA Date 4/1/83 Time NOON

Preliminary check by RA Fee \$ 3000

Receipted by m Date 4/21/83 (27582)

Publication prepared by m Date 4/28/83

Published in Donner Sunday

Publication dates 5/5 & 12/83

Publication approved RA Date 5/27/83

Protests filed by: \_\_\_\_\_

Copies of protests forwarded by \_\_\_\_\_

Hearing held by \_\_\_\_\_ Date \_\_\_\_\_

Recommended for ☒ approval ☐ denial by RA

## 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. 98-7514, and said application is hereby APPROVED.

## 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 July 1, 19 88.
- 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. Other:

Permit holder shall commence the excavation or construction of diverting works within one year of the date this permit is issued and shall proceed diligently until the project is complete.

Witness my hand this 16<sup>th</sup> day of June, 1983.

J. Glen Saxton  
Chief, Operations Bureau

Form 217  
03/86

SEP 16 1988

STATE OF IDAHO

Department of Water Resources

DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

For Office Use Only  
Fee Received 50.00  
Date 9/16/88  
Receipt # 1875505  
Received by RP  
Reviewed by \_\_\_\_\_  
Sent to region \_\_\_\_\_

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has 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 or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 98-7514

Name(s) of Permit Holder: GREGORY K SPRINGETT

Post Office Address: HCR 60 Box 279 BONNERS FERRY  
IDAHO 83805 Telephone No. 208-267-5970

Source of Water: Clark Creek

Extent of Uses:

Domestic 1 (number of households) Stockwater \_\_\_\_\_ (number and type of stock)

Irrigation 1-2 (acres) Other/Remark SEE MAP ON

back of completed usage

Total rate and/or volume for which proof is submitted .08 cfs \_\_\_\_\_ acre-feet

Show the date water was first diverted and beneficially used under this permit: July 1983

Measuring Device: Required? Yes ☒ No ☐  
Installed? Yes ☐ No ☐ Fee enclosed \$ 50.00  
(See License Examination Fee Schedule)

Flow Measurement Port: Required? Yes ☐ No ☒  
Installation? Yes ☐ No ☐

Person to contact to accompany the Department representative during the field examination:

GREGORY K. SPRINGETT 208-267-5970  
(Name) (Telephone Number)

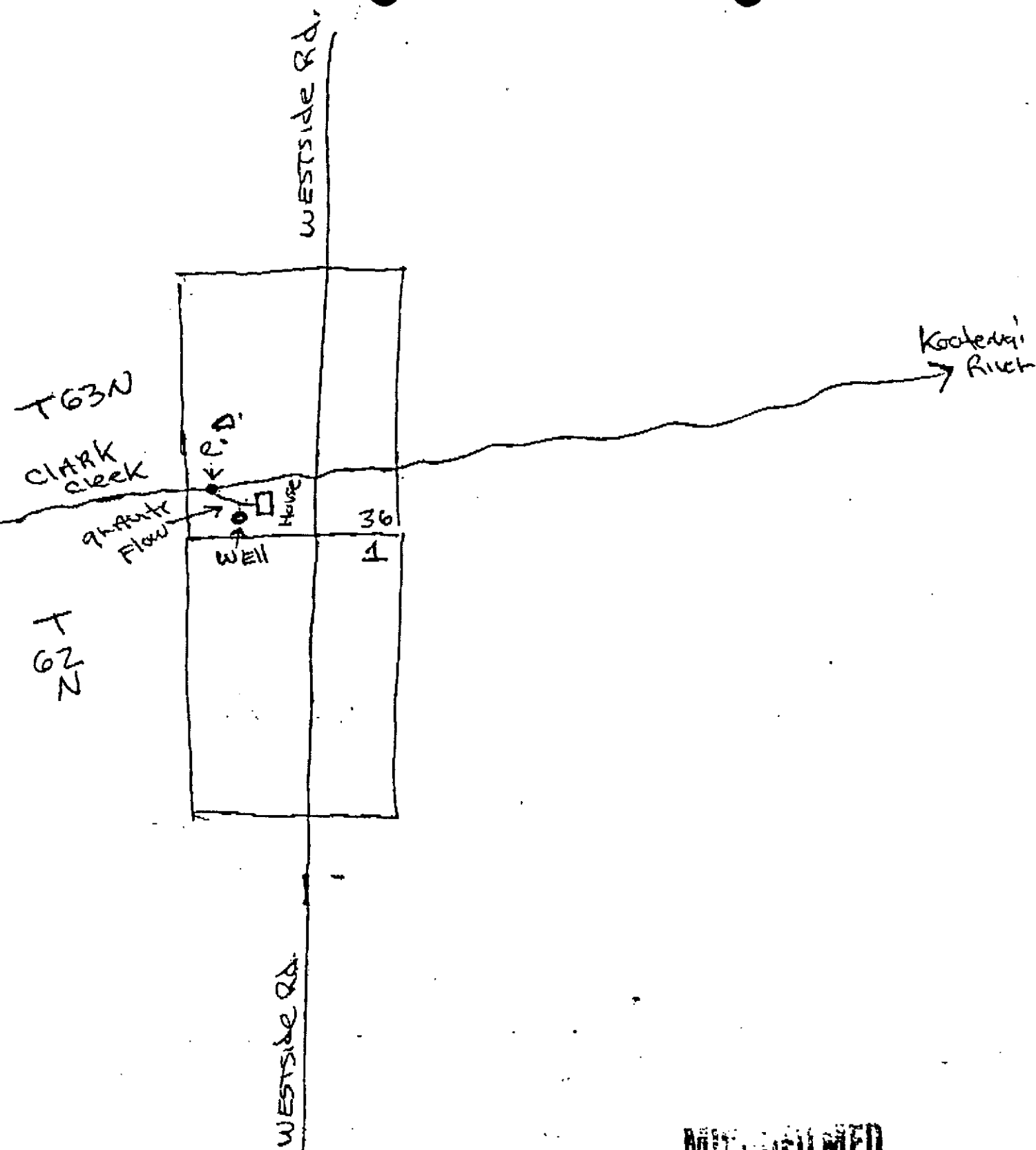
HCR 60 Box 279 BONNERS FERRY IDAHO  
(Address)

The above information 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.

MICROFILMED

9/1/88  
Date

GREGORY K. SPRINGETT  
Signature of Permit Holder (and title, if appropriate)



MICROFILMED

FEB 22 1989

**NOTICE OF APPLICATION FOR WATER RIGHT**  
The following applications have been filed appropriate  
the public waters of the State of Idaho:

98-7514

SPRINGETT, GREGORY K.  
STAR RT, 1 BOX 154, BONNERS FERRY, ID 83805  
Source: CLARK CREEK trib. to KOOTENAI RIVER  
Date Filed: 04/01/1983  
Diversion Pt: SWSW Sec 36 T 63N R 01W  
Use: IRRIGATION (0.10 CFS)  
STOCKWATER (0.04 CFS)  
DOMESTIC (0.04 CFS)  
In: SWSW Sec 36 T 63N R 01W NWNW Sec 01 T 62N R 01W  
FOR 4 ACRES

98-7515

WEE-4  
P.O. BOX 1009, BONNERS FERRY, ID 83805  
Source: SPRING trib. to KOOTENAI RIVER  
Date Filed: 04/22/1983  
Diversion Pt: SWNE Sec 25 T 65N R 01W  
Use: STOCKWATER (0.02 CFS)  
DOMESTIC (0.04 CFS)  
In: SWNE Sec 25 T 65N R 01W

98-7516

HEATH, RAY &/or TOM  
P.O. BOX 1009, BONNERS FERRY, ID 83805  
Source: SPRING trib. to KOOTENAI RIVER  
Date Filed: 04/22/1983  
Diversion Pt: SESW Sec 25 T 65N R 01W  
Use: STOCKWATER (0.02 CFS)  
DOMESTIC (0.04 CFS)  
In: SESW Sec 25 T 65N R 01W

98-7517

HEATH, RAY &/or TOM  
P.O. BOX 1009, BONNERS FERRY, ID 83805  
Source: UNNAMED STREAM trib. to KOOTENAI RIVER  
Date Filed: 04/22/1983  
Diversion Pt: NWSW Sec 25 T 65N R 01W  
Use: IRRIGATION (0.20 CFS)  
DOMESTIC (0.04 CFS)  
In: NWSW Sec 25 T 65N R 01W FOR 15 ACRES

98-7518

HEATH, RAY &/or TOM  
P.O. BOX 1009, BONNERS FERRY, ID 83805  
Source: UNNAMED STREAM trib. to KOOTENAI RIVER  
Date Filed: 04/22/1983  
Diversion Pt: NESW Sec 25 T 65N R 01W  
Use: STOCKWATER (0.02 CFS)  
DOMESTIC (0.04 CFS)  
In: NESW Sec 25 T 65N R 01W

98-7519

WEE-4  
P.O. BOX 1009, BONNERS FERRY, ID 83805  
Source: UNNAMED STREAM trib. to KOOTENAI RIVER  
Date Filed: 04/22/1983  
Diversion Pt: SWNW Sec 25 T 65N R 01W  
Use: STOCKWATER (0.02 CFS)  
DOMESTIC (0.04 CFS)  
In: SWNW Sec 25 T 65N R 01W

98-7521

ARMSTRONG, BYNG E.  
P.O. BOX 1311, BONNERS FERRY, ID 83805  
Source: UNNAMED STREAM trib. to MOYIE RIVER  
Date Filed: 04/26/1983  
Diversion Pt: SENE Sec 35 T 65N R 02E  
Use: IRRIGATION (0.14 CFS)  
STOCKWATER (0.02 CFS)  
DOMESTIC (0.04 CFS)  
In: SENE Sec 35 T 65N R 02E FOR 9 ACRES

98-7522

SCHNUFFLE, ROBERT L.  
BONNERS FERRY, ID 83805

## AFFIDAVIT OF PUBLICATION

IDAHO

Boundary

inn, b4pr for Date Thompson being  
orn upon his oath, deposes and says that he is the publisher (or foreman)

Publisher  
rs Ferry Herald, a newspaper of general circulation, published weekly at  
y, Boundary County, State of Idaho; that the said Bonners Ferry Herald has  
usly and uninterruptedly published in said Boundary County during a period  
or 78 weeks prior to the first publication of the hereto attached notice; that

ent of Notice of Application for Water Right

98-7515, 98-7516, 98-7517, 98-7518, 98-7519  
98-7522, 98-7523

ication, a printed copy of which is attached hereto was published in said  
not in a supplement thereof for 2 consecutive issues, com-  
me issue dated May 5, 1983, and ending with the  
May 12, 1983.

sworn to before me this 18th day of May, 1983.

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



STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION

A. Kenneth Dunn  
Director

Suite No. 9  
4055 Government Way  
Coeur d'Alene, Idaho 83814  
(208) 667-6484

April 5, 1983

Mr. Gregory K. Springett  
Star Route 1 Box 154  
Bonners Ferry, Id. 83805

Dear Mr. Springett:

I am returning your Check No. 92-310 in the amount of \$30.00 and your Application for Permit for clarification.

In Item No. 3, you list the point of diversion (P/D) within the SESE, Sec. 36, yet the map (Item No. 11) seems to indicate the P/D within the SWSW, Sec. 36.

You must also show the place of use on the map (Item No. 11) for the home, stock and irrigation usage, to provide a cross-reference to insure accuracy.

If you need any assistance, please contact me at this office.

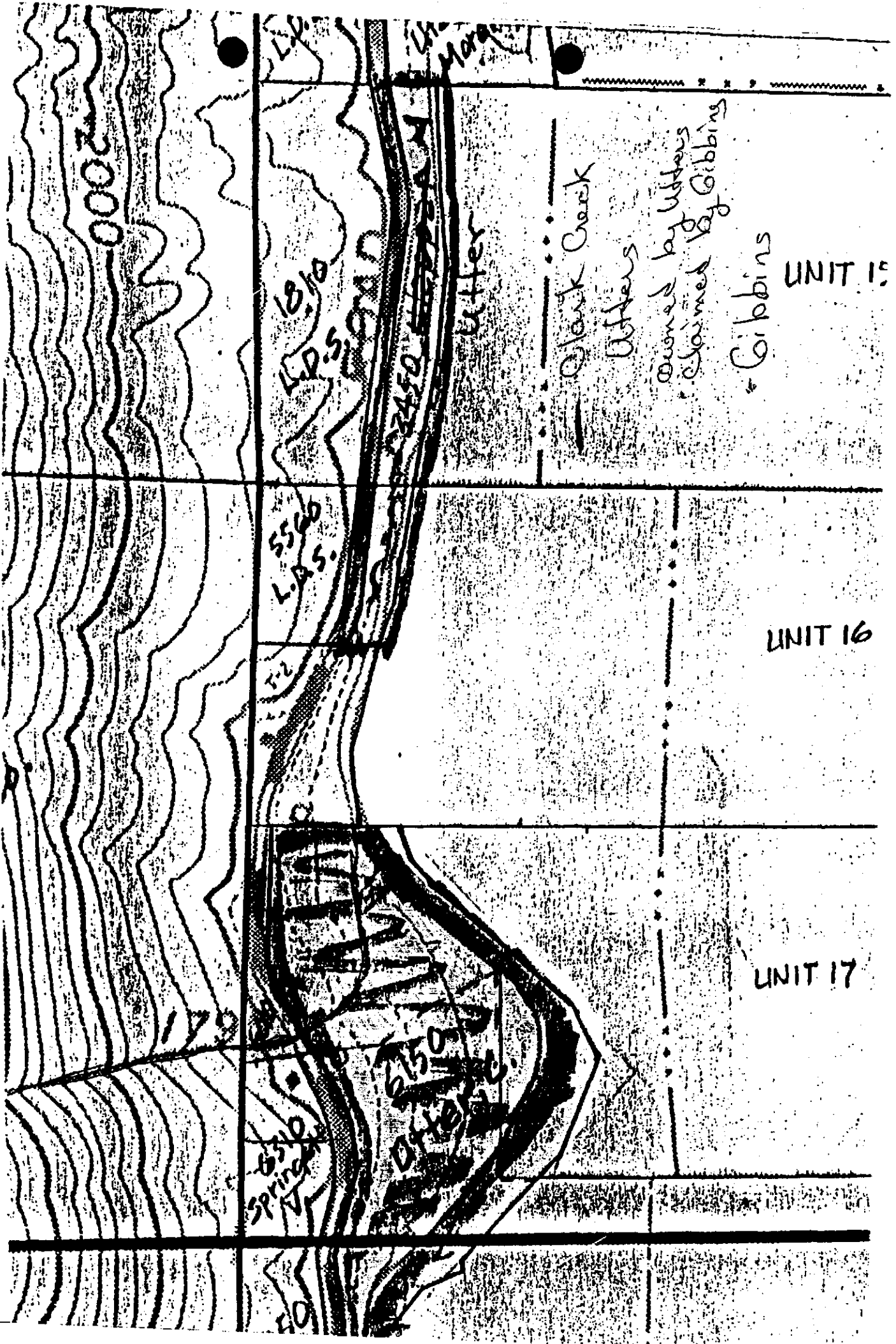
Sincerely,

TOM D. KING  
Senior Water Resource Agent

TDK/pms

Enc. - Check  
Application

RECEIVED



2000

L.A.S.  
556

Utter

Clark Creek

Utters

Owned by Utters  
Claimed by Gibbins

Gibbins

UNIT 15

UNIT 16

UNIT 17



## Memorandum

**To: Norm Young**

**From: Al Beardslee**

**Date: September 18, 1996**

**Subject: Clifford and Donna Utter's Complaint Against License No.  
98-07514 (Springett)**

As per a phone conversation with Mr. Clifford Utter, it was determined that the controversy he has with the above water right has to do with a matter of easement, rather than water right related issues.

Springett filed for and received a Water Right License (98-07514) to divert water from Clark Creek and use it for domestic purposes.

Mr. Utter said that he granted Springett verbal permission for his water line to cross his property for 13 years. However, Mr. Utter had problems with how Springett advertised his property for sale with usage of Clark Creek, via his property.

Mr. Gibbins now owns Springett's property and is challenging the survey of property lines where the creek is located. Mr. Gibbin's stated that he feels that he owns the property where the point of diversion is located. Also, Mr. Gibbins was excavating some earth material near his shop and opened up a spring, which flowed onto Utter's property. This irritated Mr. Utter and prompted him to revoke the verbal agreement for Mr. Gibbins water line by posting his property.

Mr. Utter's attorney has received the proper forms for filing a Statutory Claim for his historical water usage from Clark Creek. And, Mr. Gibbins has been sent an Application for Permit for the pond he constructed on his property from the spring water.

Both parties stated that they are preparing for a civil law suite against each other.

We have offered to serve as a mediator to facilitate communication for these parties, however, each has indicated that they wish to settle in court.



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

October 10, 1996

THOMAS ALLEN GIBBINS JR  
INGRID ELENA GIBBINS  
HCR 60 BOX 279  
BONNERS FERRY ID 83805

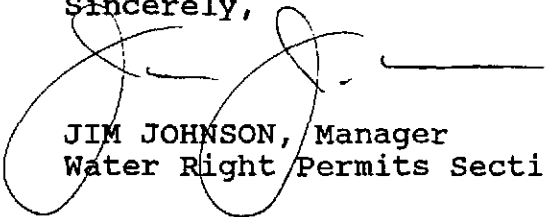
RE: Water Right License No. 98-07514

Dear Mr. and Mrs. GIBBINS:

We acknowledge receipt of the correspondence changing ownership of the above referenced water right to you. We have modified our computer records to reflect this change in ownership. We have also enclosed a report regarding this water right.

If you have any questions regarding this matter, please feel free to contact us.

Sincerely,

  
JIM JOHNSON, Manager  
Water Right Permits Section

JJ:ph

Enclosure

MICROFILMED  
DEC 02 1996

WR0749NP  
No. 98-07514

IDAHO DEPARTMENT OF WATER RESOURCES  
WATER RIGHT PROFILE REPORT

DATE: 10/10/96  
PAGE: 1

| OWNER<br>CODE | NAME & ADDRESS          | PRIORITY<br>DATE | WATER USE | USE PERIOD<br>FROM TO | DIVERSION<br>RATE | DIVERSION<br>VOLUME |
|---------------|-------------------------|------------------|-----------|-----------------------|-------------------|---------------------|
| C             | THOMAS ALLEN GIBBINS JR | 06/18/1983       | DOMESTIC  | 01/01 12/31           | 0.040 CFS         | 1.20 AFA            |
| C             | INGRID ELENA GIBBINS JR |                  |           |                       |                   |                     |
|               | HCR 60 BOX 279          |                  |           |                       |                   |                     |
|               | BONNERS FERRY ID 83805  |                  |           |                       |                   |                     |
|               | (208) 267-7679          |                  |           |                       |                   |                     |
|               |                         |                  |           | TOTAL DIVERSION:      | 0.040 CFS         | 1.20 AFA            |

Water Source: CLARK CREEK

Tributary to: KOOTENAI RIVER

Stage: LICENSE

Point(s) of Diversion Capacity: 0.040 CFS

Point(s) of Diversion: T63N R01W S36 SWSW BOUNDARY County

Place of use Legal Description for: DOMESTIC

|            | NE   |      |      |      | NW   |      |      |      | SW   |      |      |      | SE   |      |      |      |
|------------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
|            | NENE | NWNE | SWNE | SENE | NENW | NWNW | SWNW | SENW | NESW | NWSW | SWSW | SESW | NESE | NWSE | SWSE | SESE |
| T R S      | : Lt | Ac   | Lt   | Ac   | Lt   | Ac   | Lt   | Ac   | : Lt | Ac   | Lt   | Ac   | Lt   | Ac   | Lt   | Ac   |
| ---        | :    | ---  | :    | ---  | :    | ---  | :    | ---  | :    | ---  | :    | ---  | :    | ---  | :    | ---  |
| 63N 01W 36 | :    |      | :    |      | :    |      | :    |      | :    |      | :    | D    | :    |      | :    |      |

Pou County: BOUNDARY

Remarks: Domestic use is for 1 home and shop.

|        |                 |            |                    |            |                           |
|--------|-----------------|------------|--------------------|------------|---------------------------|
| Dates: | App. Received:  | 04/01/1983 | Priority Date:     | 06/18/1983 | (Priority Date Advanced.) |
|        | Proof Due Date: | 07/01/1988 | Proof Made Date:   | 09/16/1988 | (Proof Received Late.)    |
|        | Exam Made Date: | 07/02/1992 | Exam Sent to S.O.: | 06/08/1993 |                           |
|        | Licensed Date:  | 07/12/1993 |                    |            |                           |

Misc: Water District Number: Field Exam Fee: R (Received)

MEMORANDUM

To: File 98-07514  
From: L. Glen Saxton *WJ*  
RE: TELEPHONE CALL FROM INGRID GIBBINS OF BONNERS FERRY  
Date: June 24, 1996

On this date, Ingrid Gibbins (phone 208-267-7679) called inquiring about water rights appurtenant to property she has purchased from Gregory Springett. She also wanted to know about property boundaries, since a neighbor apparently has cut off the supply of water from Clark Creek which is tributary to the Kootenai River.

I determined from the water right data base that the department has issued License No. 98-07514 to Gregory Springett authorizing the diversion of 0.04 cfs of water from Clark Fork for domestic purposes. I also checked the data base and could not determine that there were any other recorded water rights on Spring Creek. I also advised Ms. Gibbins that the application for permit indicates that Springett owned the property at the point of diversion.

I FAXed a copy of the license to Ms. Gibbins and mailed a copy of the application for permit, field examination and license to her.

c: N. Idaho  
Bob Haynes

MICROFILMED

DEC 02 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS  
GOVERNOR

R. KEITH HIGGINSON  
DIRECTOR

July 13, 1993

GREGORY K SPRINGETT  
HCR 60 BOX 279  
BONNERS FERRY ID 83805

RE: WATER RIGHT NO. 98-07514

Dear Water Right Holder(s):

Enclosed herewith is a copy of the Water Right License issued on the above referenced permit.

Sincerely,

A handwritten signature in dark ink, appearing to be 'Jim Johnson', with a long horizontal line extending to the right.

JIM JOHNSON  
Water Rights Supervisor

JJ:dc

Enclosure

RECORDED

SEP 01 1993

# LICENSE REVIEW CHECKLIST

Permit # 98-7514

Date 7-6-93

Brenda Chapman

|               |                                                            |                                        |                                                                               |
|---------------|------------------------------------------------------------|----------------------------------------|-------------------------------------------------------------------------------|
| NAME-NO       | <input checked="" type="checkbox"/> Yes                    | <input checked="" type="checkbox"/> No | Or <u>Address</u> Change?                                                     |
| PRIORITY DATE | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Advance? <u>DCNE</u> Memo to Advance                                          |
|               | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Order to Reinstatement Needed?                                                |
| SOURCE        | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Changes? Clarification of Originally Intended source                          |
|               | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Notice of Intent to Void - Source change.                                     |
| P/D           | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Amendment Needed?                                                             |
|               | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Is Overlap Analysis a Consideration?                                          |
| P/U           | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Amendment Needed?                                                             |
|               | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Is Overlap Analysis a Consideration?                                          |
| TOTAL CFS     | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Incorrect Fee for rate recommended?                                           |
|               | <input checked="" type="checkbox"/> NA                     |                                        | Disagree/Measurement <u>NONE DONE</u>                                         |
|               | <input checked="" type="checkbox"/> NA                     |                                        | Pumping Theoretical $(8.8) \times (.70) \times ( )$<br>$( + [2.31 \times ] )$ |
|               | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | System Capacity <u>.04</u>                                                    |
|               | <input type="checkbox"/>                                   | <input type="checkbox"/>               | Allowable Amount: <u>Permitted @ .04 CFS</u>                                  |
| TOTAL VOLUME  |                                                            |                                        | Rate/ac <u>      </u> AFA Irr. Season <u>      </u>                           |
|               |                                                            |                                        | Standard Irr. Season <u>      </u>                                            |
|               |                                                            |                                        | Season Recommended <u>      </u>                                              |
|               | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Disagree with Examiner's Calculations?                                        |
|               | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | <u>DOMESTIC W/LAWN @ 1.2 AF</u>                                               |
|               | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Flow limit: <u>.04</u> x 365 x 1.9835 = <u>297</u>                            |
| USES          | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Change(s) in Nature of Use?                                                   |
|               | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Amendment Needed?                                                             |
| REMARKS       | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Multiple P/Ds in 1/4 1/4?                                                     |
|               | <input checked="" type="checkbox"/>                        | <input type="checkbox"/>               | Non-Irr. Uses <u>DOMESTIC</u> (1 HOME ONLY)                                   |
|               | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Special Overlap Condition                                                     |
|               | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Other <u>      </u>                                                           |
| CONDITIONS    | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Measuring Devices                                                             |
|               | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | W/Master Control                                                              |
|               | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Irrigation Overlap                                                            |
|               | <input type="checkbox"/>                                   | <input checked="" type="checkbox"/>    | Water Quality                                                                 |
|               |                                                            |                                        | Dates/Misc                                                                    |
|               |                                                            |                                        | Water Dist <u>      </u>                                                      |
|               |                                                            |                                        | App Rec'd <u>4-1-83</u>                                                       |
|               |                                                            |                                        | Exam Made <u>7-2-92</u>                                                       |
| COMMENTS:     | <u>REDUCE rate ; delete STOCKWATER AND IRRIGATION USES</u> |                                        |                                                                               |

| RECOMMENDED   | CFS           | VOL           |
|---------------|---------------|---------------|
| Irrigation    | <u>.04</u>    | <u>1.2</u>    |
| Domestic      | <u>      </u> | <u>      </u> |
| Stockwater    | <u>      </u> | <u>      </u> |
| <u>      </u> | <u>      </u> | <u>      </u> |
| <u>      </u> | <u>      </u> | <u>      </u> |

LICENSE ☒

AMEND

WR0749NP  
No. L98-07514

IDAHO DEPARTMENT OF WATER RESOURCES  
WATER RIGHT PROFILE REPORT  
(REGIONAL)

DATE: 07/06/93  
PAGE: 1

| OWNER<br>CODE    | NAME & ADDRESS                                                                    | PRIORITY<br>DATE | WATER USE | USE PERIOD<br>FROM TO | DIVERSION<br>RATE | DIVERSION<br>VOLUME |
|------------------|-----------------------------------------------------------------------------------|------------------|-----------|-----------------------|-------------------|---------------------|
| C                | GREGORY K SPRINGETT<br>HCR 60 BOX 279<br>BONNERS FERRY ID 83805<br>(208) 267-5970 | 06/18/1983       | DOMESTIC  | 01-01 12-31           | 0.04 CFS          | 1.2 AFA             |
| TOTAL DIVERSION: |                                                                                   |                  |           |                       | 0.04 CFS          | 1.2 AFA             |

Water Source: CLARK CREEK

Tributary to: KOOTENAI RIVER

Stage: LICENSE

Point(s) of Diversion Capacity: 0.04 CFS

Point(s) of Diversion: T63N R01W S36 SW SW

Place of use Legal Description for: DOMESTIC

| NE  |     |    |                           | NW                        |                           |                           |                           | SW                        |                           |   |   | SE |   |   |   |
|-----|-----|----|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---|---|----|---|---|---|
| T   | R   | S  | : Lt Ac Lt Ac Lt Ac Lt Ac | : Lt Ac Lt Ac Lt Ac Lt Ac | : Lt Ac Lt Ac Lt Ac Lt Ac | : Lt Ac Lt Ac Lt Ac Lt Ac | : Lt Ac Lt Ac Lt Ac Lt Ac | : Lt Ac Lt Ac Lt Ac Lt Ac | : Lt Ac Lt Ac Lt Ac Lt Ac |   |   |    |   |   |   |
| 63N | 01W | 36 | :                         | :                         | :                         | :                         | :                         | :                         | :                         | : | : | :  | : | : | : |

Pou County: BOUNDARY

Non-Irrigation Uses: S/100 RANGE, D/2 HOMES.

Other Water Rights Listing Overlapping Place(s) of use:  
98-07514

Remarks: Domestic use is for 1 home and shop.

|        |                 |            |                    |            |                           |
|--------|-----------------|------------|--------------------|------------|---------------------------|
| Dates: | App. Received:  | 04/01/1983 | Priority Date:     | 06/18/1983 | (Priority Date Advanced.) |
|        | Proof Due Date: | 07/01/1988 | Proof Made Date:   | 09/16/1988 | (Proof Received Late.)    |
|        | Exam Made Date: | 07/02/1992 | Exam Sent to S.O.: | 06/08/1993 | ✓                         |
|        | Licensed Date:  |            |                    |            |                           |

Misc: Water District Number: Field Exam Fee: R (Received)

Audit: 07/06/93 CHAPMAN

RECEIVED  
JUN 10 1993

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**BENEFICIAL USE FIELD REPORT**

Department of Water Resources

**A. GENERAL INFORMATION**

Permit No. 9807514

1. Owner: Gregory K Springett Phone No. 267 5970

Current Address: HCR 60 Box 279 ; Bonners Ferry, ID 83805

2. Accompanied by: None EXAM. DATE: 7/2/92

Address: — Phone No. —

Relationship to Permit Holder: —

3. Source: Clark Creek tributary to Kootenai River

**B. OVERLAP REVIEW**

1. Other water rights with same place of use: None

☐ Copies Attached

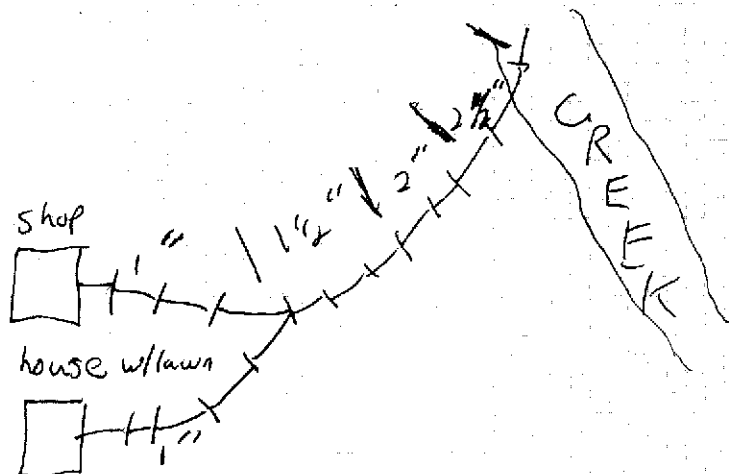
2. Other water rights with same point of diversion: None

☐ Copies Attached

☐ Copies of Field Exam's Attached

**C. SYSTEM DESCRIPTION**

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached



Scale: 1" = NTS

SEP 01 1993

2. ☒ Copy of U.S.G.S. 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 or more).  
☒ Photo of Diversion and System Attached  
(required for all but single household domestic groundwater, and stockwater).

**System Description (continued)**

3. **Narrative:** Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

Water from creek is picked up with 2 1/2" pipe which runs into 2" then 1 1/2" off of which 1" pipe goes to a shop ~~then~~ and to 1 domestic w/ lawn. Water from creek is backup to well for house.

☐ See Remarks on page 4 for continuation

- 4.

| Well or Diversion Identification No.* | Motor Make | Hp | Motor Serial No. | Pump Make | Pump Serial No. or Discharge Size |
|---------------------------------------|------------|----|------------------|-----------|-----------------------------------|
| gravity                               |            |    |                  |           |                                   |
|                                       |            |    |                  |           |                                   |
|                                       |            |    |                  |           |                                   |
|                                       |            |    |                  |           |                                   |

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

5. **Point(s) of Diversion:**

| Ident. No. | Gov't. Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County   | Method of Determination/Remarks |
|------------|------------|-----|-----|-----|------|------|------|----------|---------------------------------|
|            |            |     | SW  | SW  | 36   | 63N  | 01W  | Boundary | Map                             |
|            |            |     |     |     |      |      |      |          |                                 |
|            |            |     |     |     |      |      |      |          |                                 |
|            |            |     |     |     |      |      |      |          |                                 |

6. **Place(s) of Use:**

Indicate Method of Determination

Map

| Twp. | Rge. | 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 |        |
| 63N  | 01W  | 36   |        |        |        |        |        |        |        |        |        |        | D      |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Do not use this space

MICROFILMED

SEP 01 1993

Do not use this space

**D. FLOW MEASUREMENTS**

*None*

☐ Additional Data Sheets Attached

1.

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

2. Measurements:

*[Handwritten signature]*

**E. FLOW CALCULATIONS**

☐ Additional Computation Sheets Attached

1. Measured Method:

2. Alternate Method for Checking Purposes: *1 domestic w/ lawn @ .04 cfs*

**F. PUMP EFFICIENCY DATA (Optional)**

Discharge Pressure: \_\_\_\_\_ psi x 2.31 = \_\_\_\_\_ ft (1); Dynamic pumping level: \_\_\_\_\_ ft (2)

Total Head: (1) + (2) = \_\_\_\_\_ (3) ; Flow rate: \_\_\_\_\_ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = \_\_\_\_\_ (5)

Meter Input KW: 3.6 x \_\_\_\_\_ KH x \_\_\_\_\_ CTR or \_\_\_\_\_ MULT x \_\_\_\_\_ PTR x \_\_\_\_\_ N/ \_\_\_\_\_ T = \_\_\_\_\_ (6)

Meter Input HP: (6) x 1.34 = \_\_\_\_\_ (7)

Panel Input KW: \_\_\_\_\_ Ave PF x \_\_\_\_\_ Ave Volts x \_\_\_\_\_ Ave Ampsx .001732 = \_\_\_\_\_ (6)

Panel Input HP: (6) x 1.34 = \_\_\_\_\_ (7) Efficiency: (5)/(7) x 100 = \_\_\_\_\_ %

**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:

*1 domestic w/ lawn = 1.2 AF*

**RECORDED**

SEP 01 1993

## H. REMARKS AND OVERLAP REVIEW ANALYSIS

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## I. RECOMMENDATIONS

### 1. Recommended Amounts

| Beneficial Use | Period of Use |       | Rate of Diversion<br>Q (cfs) | Annual Volume<br>V (afa) |
|----------------|---------------|-------|------------------------------|--------------------------|
|                | From          | To    |                              |                          |
| Domestic       | 1/1           | 12/31 | .04                          | 1.2                      |
|                |               |       |                              |                          |
|                |               |       |                              |                          |
| Totals:        |               |       | .04 cfs                      | 1.2 AF                   |

### 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

## J. AUTHENTICATION

Field Examiner's Name Robert Knoblock  
Signature Robert Knoblock

Certification Date \_\_\_\_\_

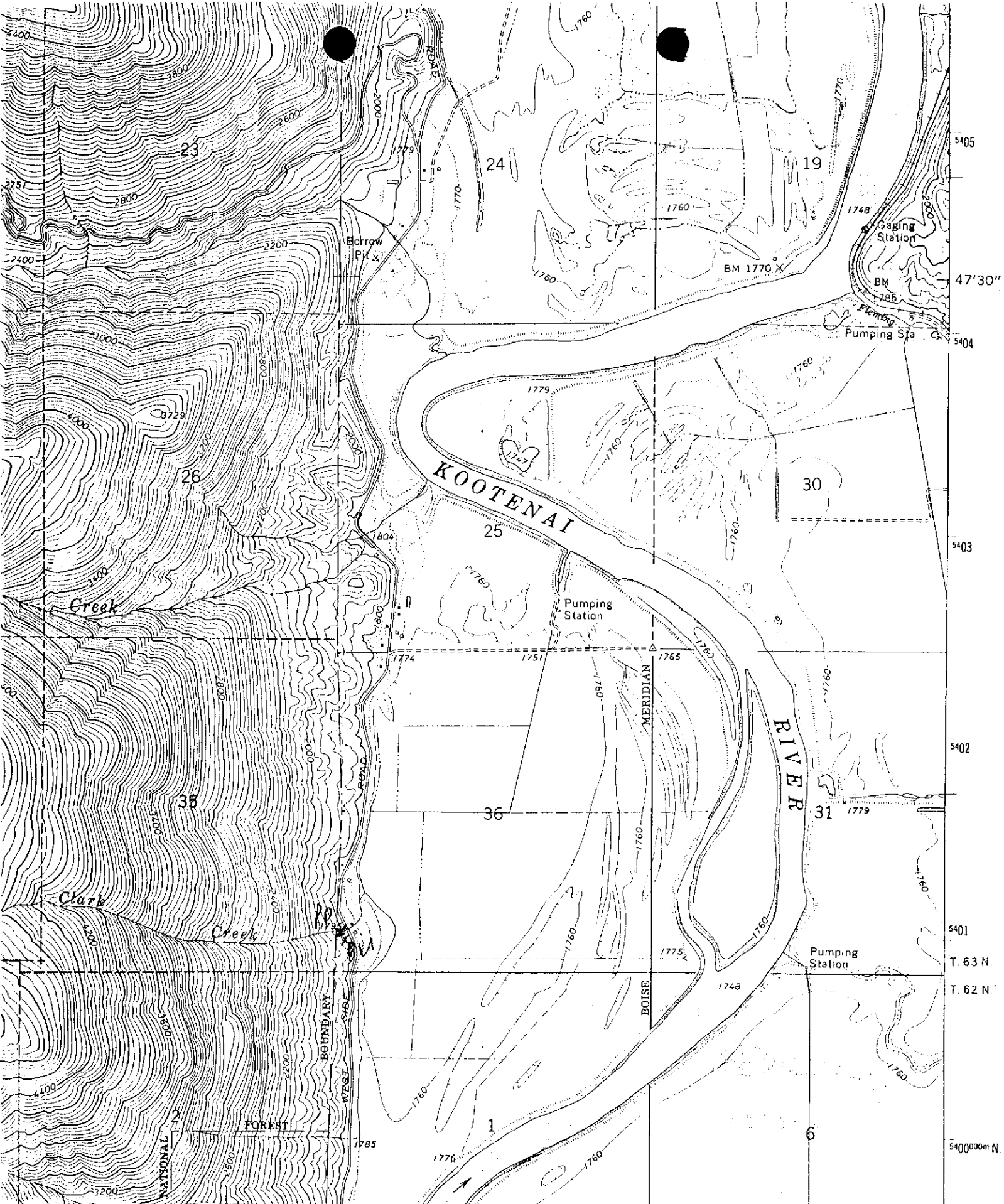
Field Report Preparation Date 7/16/92

CONSULTANT SEAL

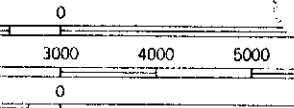
- K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.

PROCESSED

SEP 01 1993



MORAVIA)  
2781 III NW  
ALE 1:24 000



SPRINGETT  
PD: T63N, R1W, SEC.36,  
PU: " " "  
SOURCE: CLARK CR.

QUAD: A-57  
SWSW  
S2SW  
TRIBUTARY: KOOTENAI RIVER

PERMIT #98-07514  
GL:  $\hat{+}$   
ACRES: 5

ION

roved dirt

Light-duty

INTERIOR-GEOLOGICAL SURVEY, WASHINGTON, D. C. - 1967

48° 45'  
116° 22' 30"

(BON)

PERMIT # 98-07514

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
FIELD REPORT SUPPLEMENT

P H O T O G R A P H S

DD



PCU



BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

|                            |   |                        |
|----------------------------|---|------------------------|
| IN THE MATTER OF PERMIT    | ) |                        |
|                            | ) |                        |
| NO. 98-7514 IN THE NAME OF | ) | ORDER OF REINSTATEMENT |
|                            | ) |                        |
| GREGORY K. SPRINGETT       | ) |                        |
| _____                      | ) |                        |

This matter having come before the Idaho Department of Water Resources (Department) the Department finds as follows:

FINDINGS OF FACT

1. On June 16, 1983, the Director of the Department of Water Resources issued Permit No. 98-7514 with a condition of approval that proof of construction of works and application of water to beneficial use be submitted on or before July 1, 1988.

2. On April 30, 1988, the Department sent a proof due notice to the permit holders.

3. On July 15, 1988, the Department sent a lapse notice to the permit holders since neither proof of beneficial use nor a request for extension of time had been received from the permit holders.

4. On September 16, 1988, Proof of Beneficial Use was received by the Department from the permit holders.

5. Section 42-218a, Idaho Code, authorizes the Department to reinstate a lapsed permit if a showing of reasonable cause is submitted to the Department within 60 days of the lapse notice and the priority is advanced a time equal to the number of days that said showing is subsequent to the date set for proof.

6. Upon review of the Proof of Beneficial Use, the Department discovered that the lapse notice sent to the permit holder on July 15, 1988, did not advise of the 60 day period in which to return the proof.

#### CONCLUSIONS OF LAW

1. The permit holders have submitted proof of beneficial use which establishes that water was beneficially used as identified on the permit.

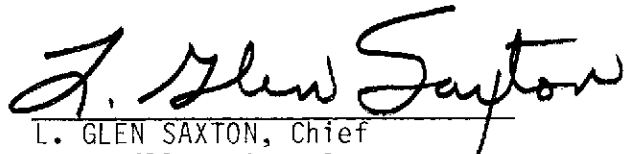
2. The permit holders have shown sufficient cause why the proof of beneficial use was not submitted in a timely manner.

3. The Department made an error in the lapse notice which was sent to the permit holder. Submittal of proof beyond the 60 day period, therefore, is not cause for the Department to reject the proof of beneficial use. The priority date, however, should be advanced one day for each day the proof statement was submitted after the original proof due date.

#### ORDER

IT IS HEREBY ORDERED that Permit No. 98-7514 is reinstated with the priority date advanced to June 18, 1983.

Dated this 30<sup>th</sup> day of December, 1988.

  
L. GLEN SAXTON, Chief  
Water Allocations Bureau



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS  
GOVERNOR  
R. KEITH HIGGINSON  
DIRECTOR

December 29, 1988

RE: Permit No. 98-7514

Gregory Springett  
HCR 60, Box 279  
Bonners Ferry, ID 83805

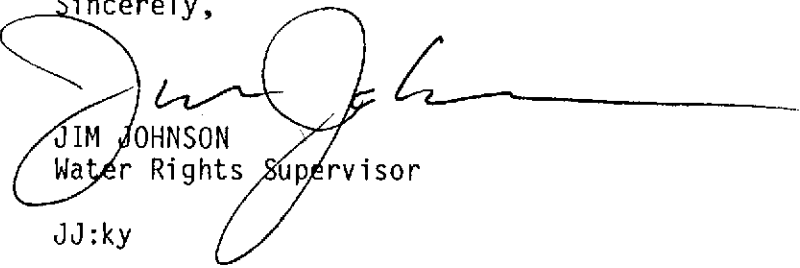
Dear Mr. Springett:

We acknowledge receipt of the statement of beneficial use and the supporting documentation for reinstating the above referenced permit. Enclosed is a copy of the Order of Reinstatement. Please note that the priority date has been advanced to June 18, 1983.

Before a license can be issued, a field examination will be made by a representative of this Department.

If you have any questions regarding this matter, please contact this office or our Northern Regional Office at 765-4639.

Sincerely,

  
JIM JOHNSON  
Water Rights Supervisor

JJ:ky

Enclosure



State of Idaho  
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS  
GOVERNOR  
R. KEITH HIGGINSON  
DIRECTOR

October 21, 1988

Gregory K. Springett  
HCR 60 Box 279  
Bonners Ferry, ID 83805

RE: Permit No. 98-7514

Dear Mr. Springett:

The Department received both your proof of beneficial use statement and the request for extension of time for the above referenced permit on September 16, 1988. The fees you submitted to the Department for these forms were \$50.00 and \$15.00 respectively.

Based on the information you submitted, it appears that the proof statement is the proper form to send since you have completed some or all of your development and do not wish to proceed further. I am returning the extension request along with your check no. 2380 (92-55/1231) in the amount of \$15. If you feel that I am in error, please contact me in order to clarify your intentions. You have the option of requesting an extension, but you cannot submit both an extension and a proof statement.

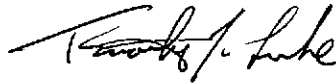
I would like to remind you that this permit lapsed on July 1, 1988. The Department sent you a lapse notice with a certified mailing date of July 15, 1988. The Department provides a sixty day grace period from the date of the lapse notice for the permit holder to submit the proof statement or extension of time request. The Department received your proof on September 16, 1988, which was actually sixty-three days after the date of lapse notice. In reviewing your file, I noticed that the original lapse notice which we sent you on July 15 did not specify that the proof was due within sixty days of the certified mailing date. As a result, we consider your submittal of the proof statement to have been received within the sixty (60) day grace period. The Department will reinstate the permit with a priority advancement equal to the number of days the proof statement was submitted late.

You should receive a copy of the reinstatement order. Following reinstatement, a field examiner from our Northern Region Office will contact you to schedule a field exam.

Page 2  
Gregory K. Springett  
October 21, 1988

Please feel free to contact me if you have additional questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tim Luke", with a stylized flourish at the end.

TIM LUKE  
Sr. Water Rights Agent

TL:hm  
Enclosure

July 11, 1988

GREGORY K. SPRINGETT  
STAR RT. 1 BOX 154  
BONNERS FERRY, ID 83805

LAPSE NOTICE

RE: PERMIT NO. 98-07514

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced water permit has lapsed. This office did not receive either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time. You were provided the proper form in our proof due notice to you dated April 30, 1988.

Your permit cannot be reinstated unless you submit proof of beneficial use or submit an extension of time request showing reasonable cause for delay. Either the completed proof of beneficial use submittal (including the examination fee or a completed field examination report) or the extension request form together with the \$15 fee must be received by this lapse notice or the permit will no longer be of any force of effect.

A proof of beneficial use form and a request for extension of time form are again enclosed for your use. 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 governmental agency or by litigation which might bring title to the water in question.

L. Glen Saxton  
Chief, Operations Bureau

Enclosures

LGS:RF

**MICROFILMED**

FEB 22 1989

CERTIFICATION OF MAILING

I hereby certify that on 7/15/88  
a copy of this document was  
deposited in the United States mail,  
postage prepaid addressed to the  
individual(s) named above.

*Heidi Miller*

138593  
CERTIFIED MAIL  
April 30, 1988

SPRINGETT, GREGORY K.  
STAR RT. 1 BOX 154  
BONNERS FERRY, ID 83805

**PROOF DUE NOTICE**

RE: Permit No. 98-7514

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 July 1, 1988. (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 completed 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, or the permit will no longer be of any force nor effect.

Sincerely,

RITA FLECK  
Secretary/Records Manager

Enclosures

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

STATEHOUSE  
BOISE, IDAHO 83720  
(208) 334-4440

SPRINGETT, GREGORY K.  
STAR RT. 1 BOX 154  
BONNERS FERRY, ID 83805

JULY 06, 1983

RE: PERMIT NO. 98-7514

DEAR PERMIT HOLDER:

ENCLOSED IS A COPY OF YOUR APPROVED APPLICATION FOR PERMIT. WE DIRECT YOUR ATTENTION TO THE CONDITIONS OF APPROVAL ON THE FOURTH PAGE.

THE 1982 IDAHO LEGISLATURE ADDED A REQUIREMENT THAT AS A PERMIT HOLDER YOU MUST COMMENCE THE EXCAVATION OR CONSTRUCTION OF DIVERTING WORKS WITHIN ONE YEAR OF THE DATE THE PERMIT WAS ISSUED, AND YOU MUST PROCEED DILIGENTLY UNTIL THE PROJECT IS COMPLETED. THE ENCLOSED BLUE CARD MUST BE COMPLETED AND RETURNED TO THIS OFFICE AS SOON AS YOU COMMENCE CONSTRUCTION, NO LATER THAN ONE YEAR FROM THE DATE THE PERMIT WAS APPROVED.

WE HAVE ENCLOSED INSTRUCTIONS ENTITLED "MAKING PROOF OF BENEFICIAL USE". PLEASE READ THE INSTRUCTIONS CAREFULLY SINCE YOU MUST TAKE FURTHER ACTION TO DEVELOP THIS PERMIT INTO A LICENSE.

SINCERELY,

DAVID R. TUTTILL, JR., P.E.  
SUPERVISOR, WATER ALLOCATION SECTION

ENCLOSURE

RECEIVED  
JUL 11 1983  
WATER RESOURCES  
DIVISION

**NOTICE OF APPLICATION FOR WATER RIGHT**  
The following applications have been filed appropriate  
the public waters of the State of Idaho:

98-7514

SPRINGETT, GREGORY K.  
STAR RT. 1 BOX 154, BONNERS FERRY, ID 83805  
Source: CLARK CREEK trib. to KOOTENAI RIVER  
Date Filed: 04/01/1983  
Diversion Pt: SWSW Sec 36 T 63N R 01W  
Use: IRRIGATION (0.10 CFS)  
STOCKWATER (0.04 CFS)  
DOMESTIC (0.04 CFS)  
In: SWSW Sec 36 T 63N R 01W NWNW Sec 01 T 62N R 01W  
FOR 4 ACRES

98-7515

WEE-4  
P.O. BOX 1009, BONNERS FERRY, ID 83805  
Source: SPRING trib. to KOOTENAI RIVER  
Date Filed: 04/22/1983  
Diversion Pt: SWNE Sec 25 T 65N R 01W  
Use: STOCKWATER (0.02 CFS)  
DOMESTIC (0.04 CFS)  
In: SWNE Sec 25 T 65N R 01W

98-7516

HEATH, RAY &/or TOM  
P.O. BOX 1009, BONNERS FERRY, ID 83805  
Source: SPRING trib. to KOOTENAI RIVER  
Date Filed: 04/22/1983  
Diversion Pt: SESW Sec 25 T 65N R 01W  
Use: STOCKWATER (0.02 CFS)  
DOMESTIC (0.04 CFS)  
In: SESW Sec 25 T 65N R 01W

98-7517

HEATH, RAY &/or TOM  
P.O. BOX 1009, BONNERS FERRY, ID 83805  
Source: UNNAMED STREAM trib. to KOOTENAI RIVER  
Date Filed: 04/22/1983  
Diversion Pt: NWSW Sec 25 T 65N R 01W  
Use: IRRIGATION (0.20 CFS)  
DOMESTIC (0.04 CFS)  
In: NWSW Sec 25 T 65N R 01W FOR 15 ACRES

98

98-7518

HEATH, RAY &/or TOM  
P.O. BOX 1009, BONNERS FERRY, ID 83805  
Source: UNNAMED STREAM trib. to KOOTENAI RIVER  
Date Filed: 04/22/1983  
Diversion Pt: NESW Sec 25 T 65N R 01W  
Use: STOCKWATER (0.02 CFS)  
DOMESTIC (0.04 CFS)  
In: NESW Sec 25 T 65N R 01W

98-7519

WEE-4  
P.O. BOX 1009, BONNERS FERRY, ID 83805  
Source: UNNAMED STREAM trib. to KOOTENAI RIVER  
Date Filed: 04/22/1983  
Diversion Pt: SWNW Sec 25 T 65N R 01W  
Use: STOCKWATER (0.02 CFS)  
DOMESTIC (0.04 CFS)  
In: SWNW Sec 25 T 65N R 01W

98-7521

ARMSTRONG, BYNG E.  
P.O. BOX 1311, BONNERS FERRY, ID 83805  
Source: UNNAMED STREAM trib. to MOYIE RIVER  
Date Filed: 04/26/1983  
Diversion Pt: SENE Sec 35 T 65N R 02E  
Use: IRRIGATION (0.14 CFS)  
STOCKWATER (0.02 CFS)  
DOMESTIC (0.04 CFS)  
In: SENE Sec 35 T 65N R 02E FOR 9 ACRES

98-7522

SCHNUERLE, ROBERT L.  
STAR RT. 2, BONNERS FERRY, ID 83805  
Source: SPRINGS trib. to SINKS  
Date Filed: 04/26/1983  
Diversion Pt: SESW NWSE Sec 32 T 63N R 02E  
Use: IRRIGATION (0.10 CFS)  
STOCKWATER (0.06 CFS)  
DOMESTIC (0.04 CFS)  
In: E $\frac{1}{2}$ SW Sec 32 T 63N R 02E FOR 20 ACRES

98-7523

TUCKER, A.J.  
RT. 1, BONNERS FERRY, ID 83805  
Source: GROUNDWATER  
Date Filed: 04/27/1983  
Diversion Pt: NWSW Sec 12 T 61N R 01E  
Use: IRRIGATION (0.06 CFS)  
DOMESTIC (0.02 CFS)  
In: NWSW Sec 12 T 61N R 01E FOR 4 ACRES

The permits will be subject to all prior water rights.  
Protests must be filed with the Director, Dept. of Water  
Resources, 4055 Gov't. Way, Coeur d'Alene, Id. 83814 on or  
before MAY 23, 1983.

KEN DUNN, Dir.

First publication May 5, 1983

Final publication May 12, 1983-dwr

# AFFIDAVIT OF PUBLICATION

STATE OF IDAHO }  
County of Boundary } ss.

Alice Winn, bkpr for Pete Thompson being  
first duly sworn upon his oath, deposes and says that he is the publisher (or foreman)

Publisher  
of The Bonners Ferry Herald, a newspaper of general circulation, published weekly at Bonners Ferry, Boundary County, State of Idaho; that the said Bonners Ferry Herald has been continuously and uninterruptedly published in said Boundary County during a period of 18 months or 78 weeks prior to the first publication of the hereto attached notice; that

the advertisement of Notice of Application for Water Right  
98-7514, 98-7515, 98-7516, 98-7517, 98-7518, 98-7519  
98-7521, 98-7522, 98-7523

Notice for Publication, a printed copy of which is attached hereto was published in said newspaper and not in a supplement thereof for 2 consecutive issues, commencing with the issue dated May 5, 1983, and ending with the issue dated May 12, 1983.

Subscribed and sworn to before me this 18th day of May, 1983.

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

98-2514

SPRINGETT, GREGORY K.

STAR RT. 1 BOX 154, BONNERS FERRY, ID 83805

Source: CLARK CREEK trib. to KOOTENAI RIVER

Date Filed: 04/01/1983

Diversion Pt: SWSW Sec 36 T 63N R 01W

|                 |            |
|-----------------|------------|
| Use: IRRIGATION | (0.10 CFS) |
| STOCKWATER      | (0.04 CFS) |
| DOMESTIC        | (0.04 CFS) |

In: SWSW Sec 36 T 63N R 01W NWNW Sec 01 T 62N R 01W FOR 4 ACRES

RECEIVED



# STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

NORTHERN REGION

A. Kenneth Dunn  
Director

Suite No. 9  
4055 Government Way  
Coeur d'Alene, Idaho 83814  
(208) 667-6484

April 5, 1983

Mr. Gregory K. Springett  
Star Route 1 Box 154  
Bonners Ferry, Id. 83805

Dear Mr. Springett:

I am returning your Check No. 92-310 in the amount of \$30.00 and your Application for Permit for clarification.

In Item No. 3, you list the point of diversion (P/D) within the SESE, Sec. 36, yet the map (Item No. 11) seems to indicate the P/D within the SWSW, Sec. 36.

You must also show the place of use on the map (Item No. 11) for the home, stock and irrigation usage, to provide a cross-reference to insure accuracy.

If you need any assistance, please contact me at this office.

Sincerely,

TOM D. KING  
Senior Water Resource Agent

TDK/pms

Enc. - Check  
Application

RECEIVED



**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**  
NORTHERN REGION

John V. Evans  
Governor

C. Stephen Alfred  
Director

Suite No. 1  
4055 Government Way  
Coeur d'Alene, Idaho 83814  
(208) 667-6484

Mr. Gregory K. Springett  
Star Route 1 Box 154  
Bonners Ferry, Id. 83805

Dear Mr. Springett:

I am returning your Check No. 92-310 in the amount of \$30.00 and your Application for Permit for clarification.

In Item No. 3, you list the point of diversion (B/D) within the SESE, Sec. 36, yet the map (Item No. 11) seems to indicate the P/D within the SWSW, Sec. 36.

You must also show the place of use on the map (Item No. 11) for the home, stock and irrigation usage, to provide a cross-reference to insure accuracy.

If you need any assistance, please contact me at this office.

Sincerely,

TOM D. KING  
Senior Water Resource Agent

TDK/pms

Enc. - Check  
Application

3/14/83

**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**  
**APPLICATION FOR PERMIT**

To appropriate the public waters of the State of Idaho

1. Name of applicant GREGORY K SPRINGETT Phone 267-5970  
 Post office address SR 1 BOX 154 BONNERS FERRY ID 83805
2. Source of water supply CLARK CREEK which is a tributary of KOOTENAI RIVER
3. Location of point of diversion is SE  $\frac{1}{4}$  of SE  $\frac{1}{4}$  of Section 36 Township 63N  
 Range 1W B.M. BOUNDARY County, additional points of diversion if any: \_\_\_\_\_

4. Water will be used for the following purposes:

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

Amount .09 for STOCKWATER purposes from 1/1 to 12/31 (both dates inclusive)  
 (cfs or acre-feet per annum)

Amount .10 for IRRIGATION purposes from 3/31 to 11/1 (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:

a. .18 cubic feet per second and/or b. \_\_\_\_\_ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. NOZZLE, PIPE, PUMP,  
BASIN

b. Height of storage dam \_\_\_\_\_ feet, active reservoir capacity \_\_\_\_\_ acre-feet; total reservoir capacity \_\_\_\_\_ acre-feet, materials used in storage dam: \_\_\_\_\_

Period of year when water will be diverted to storage \_\_\_\_\_ to \_\_\_\_\_ inclusive.  
 (Month/Day) (Month/Day)

c. Proposed well diameter is \_\_\_\_\_ inches; proposed depth of well is \_\_\_\_\_ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year — maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: SE  $\frac{1}{4}$  of SE  $\frac{1}{4}$  of Section 36 Township 63N  
NW NW 1 62N  
 Range 1W B.M. 1W

(2) Amount of power to be generated: \_\_\_\_\_ horsepower under \_\_\_\_\_ feet of head.

(3) List number of each kind of livestock to be watered 100 ASSORTED

(4) Name of municipality to be served \_\_\_\_\_, or number of families to be supplied with domestic water 2

(5) If water is to be used for other purposes describe: \_\_\_\_\_

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

| 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 |        |
| 10W | 83N   | 36   |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        | 5      | 5      |
|     |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|     |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|     |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|     |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|     |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|     |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|     |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|     |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|     |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|     |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total number of acres to be irrigated 6

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

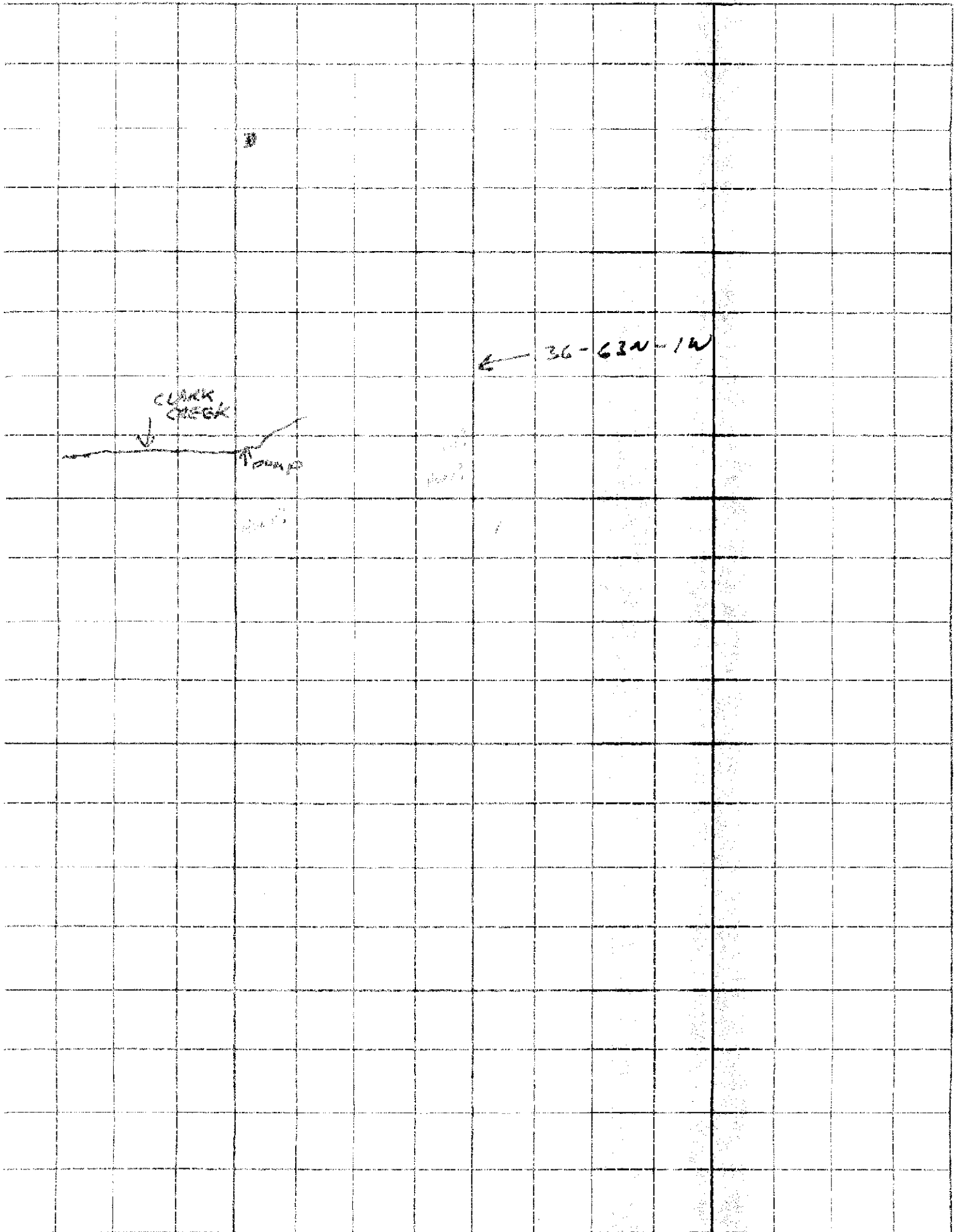
9. a. Who owns the property at the point of diversion APPLICANT

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

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

10. Remarks

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



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.

*Sam K. [Signature]*  
(Applicant)

Received by Ryan Date 4/1/83 Time \_\_\_\_\_

Preliminary check by \_\_\_\_\_ Fee \$ \_\_\_\_\_

Receipted by \_\_\_\_\_ Date \_\_\_\_\_

Publication prepared by \_\_\_\_\_ Date \_\_\_\_\_

Published in \_\_\_\_\_

Publication dates \_\_\_\_\_

Publication approved \_\_\_\_\_ Date \_\_\_\_\_

Protests filed by: \_\_\_\_\_

Copies of protests forwarded by \_\_\_\_\_

Hearing held by \_\_\_\_\_ Date \_\_\_\_\_

Recommended for approval denial by \_\_\_\_\_

**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. Other: