

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 85-15343

Priority: 05/01/2001

Maximum Diversion Rate: 0.10 CFS

This is to certify, that **MARK B FAGAN**
2430 GRELLE AVE
LEWISTON ID 83501

has applied for a permit to appropriate water from:

Source: GROUND WATER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
DOMESTIC	01/01 to 12/31	0.04 CFS
IRRIGATION	02/15 to 11/30	0.06 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 13, Twp 35N, Rge 05W, B.M. NEZ PERCE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
35N 05W 13																2.5	2.5

Total Acres: 2.5

PLACE OF USE: DOMESTIC, same as Irrigation

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **November 1, 2006**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
6. Domestic use is for 1 home and does not include lawn, garden, landscape, or other types of irrigation.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 31st day of October, 2001.

MICROFILMED

SEP 22 2003

Karl J Dreher
for **KARL J DREHER, Director**

69139

Ident. No. 85-15343

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

OCT 23 2001

DEPARTMENT OF WATER RESOURCES

1. Name of Applicant MARK B. FAGAN Phone 208-750-1168
Mailing address 2438 GALILEE AVE. → LEWISTOWN ID. 83501
2. Source of water supply DRIED WELL GRADUALS which is a tributary of ---
3. Location of point of diversion is Township 35 N. Range 5 W. Sec. 13, in the SW 1/4, SE 1/4, --- 1/4, Govt. Lot ---, B.M., NEZ PERCE County;
additional points of diversion if any: ---
4. Water will be used for the following purposes:
- | | | |
|---|---|------------------------|
| Amount <u>.04</u> for <u>DOMESTIC</u> | purposes from <u>1-1</u> to <u>12-31</u> | (both dates inclusive) |
| (cfs or acre-feet per annum) | | |
| Amount <u>.06</u> for <u>IRRIGATION</u> | purposes from <u>3-15</u> to <u>11-15</u> | (both dates inclusive) |
| (cfs or acre-feet per annum) | | |
| Amount <u>---</u> for <u>---</u> | purposes from <u>---</u> to <u>---</u> | (both dates inclusive) |
| (cfs or acre-feet per annum) | | |
| Amount <u>---</u> for <u>---</u> | purposes from <u>---</u> to <u>---</u> | (both dates inclusive) |
| (cfs or acre-feet per annum) | | |
| Amount <u>---</u> for <u>---</u> | purposes from <u>---</u> to <u>---</u> | (both dates inclusive) |
| (cfs or acre-feet per annum) | | |
| Amount <u>---</u> for <u>---</u> | purposes from <u>---</u> to <u>---</u> | (both dates inclusive) |
| (cfs or acre-feet per annum) | | |
5. Total quantity to be appropriated is (a) .10 and/or (b) ---
cubic feet per second acre feet per annum
6. Proposed diverting works: WELL
- a. Describe type and size of devices used to divert water from the source SUBMERGED PUMP, LINES, PRESSURE TANKS (2) IRRIGATION LINES
- b. Height of storage dam --- feet; active reservoir capacity --- acre-feet; total reservoir capacity --- acre-feet
- c. ^{ACTUAL} Proposed well diameter is 6" inches; ^{ACTUAL} proposed depth of well is 165' feet
- d. Is ground water with a temperature of greater than 85°F being sought? NO
- e. If well is already drilled, when? 3-99; Drilling firm STUIVENGA VESSEY 145109
Well was drilled for (well owner) PREVIOUS OWNER STEVE GALLIS; Drilling Permit No. 85-99-N-16
7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
- a. Hydropower; show total feet of head and proposed capacity in KW. ---
- b. Stockwatering; list number and kind of livestock. ---
- c. Municipal; show name of municipality. ---
- d. Domestic; show number of households. 1
- e. Other; describe fully. ---

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9. Description of place of use:

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

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

TWP	RGE	SEC	N E				N W				S W				S E				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
35N	5W	13															D		
																	2.5		2.5

Total number of acres to be irrigated 2.5

10. Describe any other water rights used for the same purposes as described above. N/A

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

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

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

12. Remarks: _____

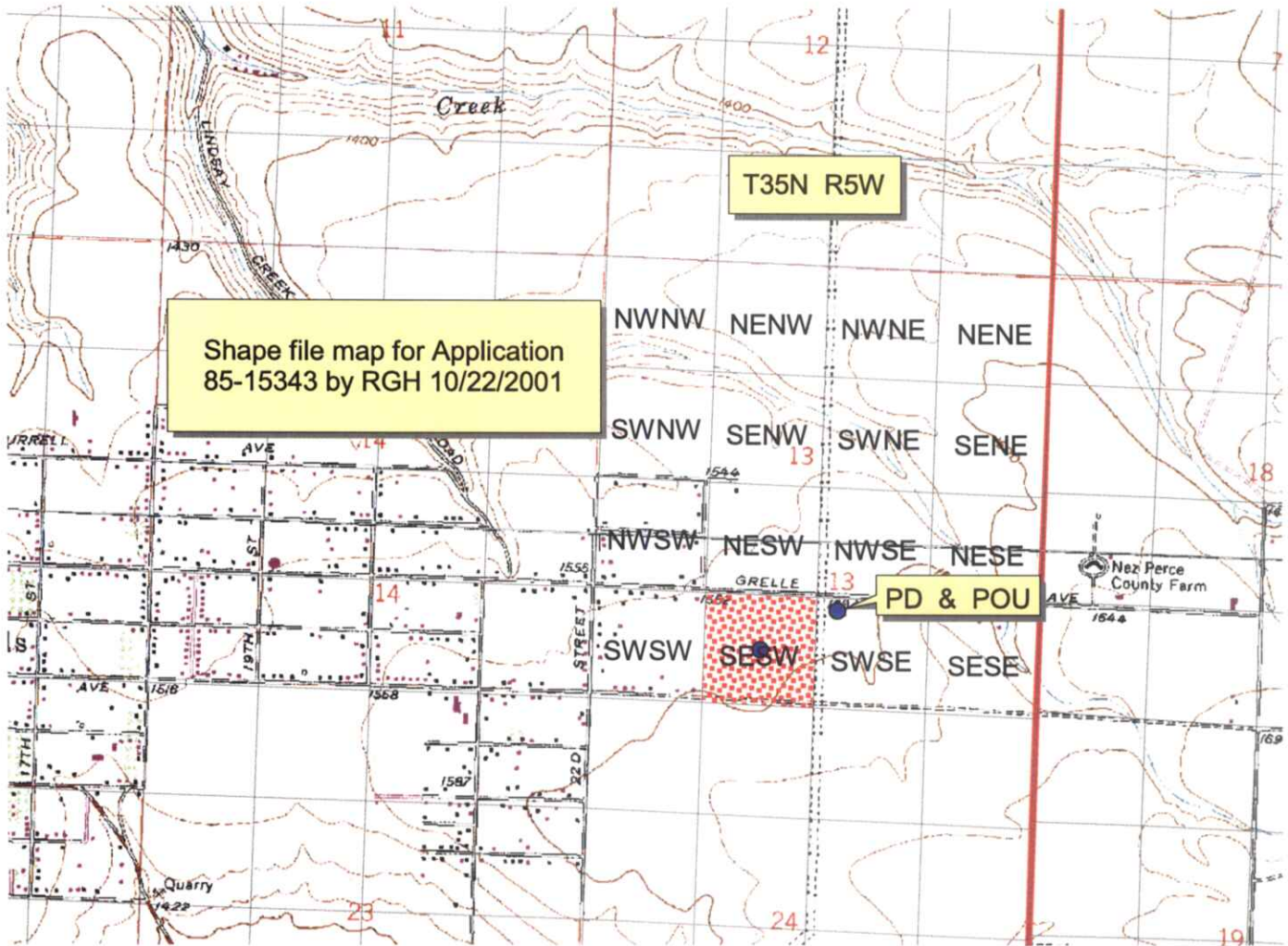
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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

MICRO
SEP 22 2001

M.B. Taylor
Signature of Applicant (and title, if applicable)

Received by db Date 5/1/01 Time 1:25 P Preliminary check by JB
 Fee \$ 100.00 Receipted by db # NO 14319 Date 5/1/01
 Publication prepared by db Date 5/30/01 Published in Lewiston Trib 6/7+14/01
 Publication approved db Date 6/19/01



0.4 0 0.4 0.8 Miles

- Quad IndexQuadcov.shp
- GCDBT35N04W.shp
- GCDBT35N05W.shp
- POD- ApplicationApplication POD
- Application POU
- Townships





(LEWISTON ORCHARDS SOUTH)
2676 IV SW
SCALE 1:24 000
0 1000 2000 3000 4000 5000
5 0
CONTOUR INTERVAL 40 FEET
CONTOUR INTERVAL ON RIVER SURFACE 5 FEET
DATUM IS MEAN SEA LEVEL

FAGEN

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SEP 22 2003

**POINT OF DIVERSION
+
PLACE OF USE**

IMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
AL SURVEY, DENVER, COLORADO 80225 OR WASHINGTON, D.C. 20242
3 TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

NW 1/4 LEWISTON ORCHARDS 15' QUADRANGLE
T.35N. R.5W. S.22.5-W11652.5/7.5

1958
PHOTOREVISED 1972
MS 2676 IV NW-SERIES V893

T.35N., R.5W.

**NOW
STARTING
RIGHT
SIDE OF
FILE**



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 1, 2001

MARK B FAGAN
2430 GRELLE AVE
LEWISTON ID 83501

RE: Permit No. 85-15343

Permit Approval Notice

Dear Permit Holder:

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

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

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

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

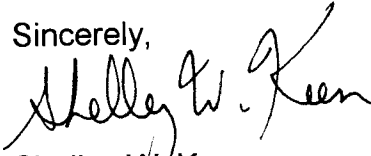
The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Shelley W. Keen". The signature is fluid and cursive, with the first name "Shelley" being the most prominent.

Shelley W. Keen

Water Rights Supervisor

SWK:klr

Enclosure(s)

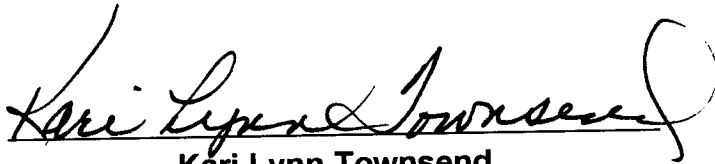
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CERTIFICATE OF MAILING

I hereby certify that on November 1, 2001 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 85-15343

**MARK B FAGAN
2430 GRELLE AVE
LEWISTON ID 83501**


**Kari Lynn Townsend
Secretary**

MICROFILM
SEP 22 2002

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

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FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

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MEMORANDUM

To: File 85-15343

From: Sharla

Date: October 29, 2001

Re: Telecon

On this date I spoke with Mrs. Fagan about any overlapping surface water appurtenant to the property identified for irrigation under this application. She said that Lewiston Orchards has a line that runs by close to their property but they have never been connected to their system and the property has never had any surface water applied to it.

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SEP 22 2003



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

Fax (208) 769-1454

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

October 3, 2001

MARK B FAGAN
3521 8TH STREET E
LEWISTON ID 83501

Re: Application for Permit Nol. 85-15343 and Well Drilling Permit/TAG No. D0005783

Dear Mr. Fagan:

Enclosed is a letter that was returned to us by the post office. I am re-mailing it to you for your reference and action.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Dianne Ball".

Dianne Ball
Administrative Assistant

db

Enc.

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SEP 22 2003



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

September 12, 2001

MARK B FAGAN
~~2430 GRELLE AVE~~
LEWISTON ID 83501

Mailing address
3521 8th St. E

Re: Application for Permit No. 85-15343 and Well Drilling Permit/TAG No. D0005783

Dear Mr. Fagan:

The Department of Water Resources has completed the legal advertising of your application for permit to appropriate water. The filing is now ready to be sent our state office for approval. However, before we can do that, the status of the well drilling permit which was obtained by Stuvenga Vessey on behalf of Steve Galles prior to the drilling of your well, **must be upgraded from that of a domestic well to a non-domestic**. The fee for this change is \$125.00 payable to the Idaho Department of Water Resources. Please refer to the above referenced numbers so that we may ensure proper credit is given.

If you have any questions, please contact me.

Sincerely,

Robert G. Haynes

ROBERT G. HAYNES, P.E.
Regional Manager

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SEP 22 2003

TRIBUNE PUBLISHING COMPANY, INC.

The Lewiston Morning Tribune
505 C St., P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date 06/14/2001INVOICE NO. 263994Account No. 964750Description 263994 The following apTimes 2Lines 24

Tab. Lines _____

**LEGAL ADVERTISING
INVOICE**

SOLD TO: ID DEPT. OF WATER RESOURCES
1910 NORTHWEST BLVD. STE 210
COEUR D AL ID 83814

RECEIVED

JUN 18 2001

IDWR/North

\$ 77.28

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

AFFIDAVIT OF PUBLICATION

The following application(s) have been filed to appropriate the public waters of the State of Idaho: ²⁶³⁹⁹⁴ 85-15343

MARK B FAGAN
2430 GRELLE AVE
LEWISTON ID 83501
Point(s) of Diversion SWSE S13 T35N R05W NEZ PERCE County
Source GROUND WATER
Use: IRRIGATION 03/15 To 11/15 0.06 CFS
Use: DOMESTIC 01/01 To 12/31 0.04 CFS
Total Diversion: 0.1 CFS

Date Filed: 05/01/2001
Place Of Use: DOMESTIC T35N R05W S13 SWSE
Place Of Use: IRRIGATION T35N R05W S13 SWSE
Number of Acres 2.5

Remarks: Domestic use is for 1 home.
Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.
Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Northern Region, 1910 Northwest Blvd, Suite 210, Coeur D'Alene ID 83814 together with a protest fee of \$25.00 for each application on or before 06/25/2001. The protestant must also send a copy of the protest to the applicant.
KARL J DREHER, Director Published on 6/7 and 14/2001.

Karen Lewis, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 263994 The follo attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 06/07, or once a WEEK for 2 consecutive WEEK, the first publication thereof being on the 06/07/2001, and the last publication thereof being on the 06/14/2001, and said 263994 The follo was so published in the regular and entire issue of said newspaper and was not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

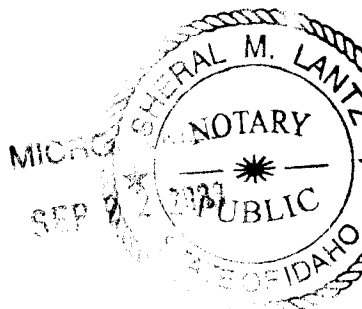
Karen J Lewis

State of Idaho

S.S.

County of Nez Perce

On this 15th day of June in the year of 2001, before me, a Notary Public, personally appeared Karen J Lewis, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.



Notary Public in and for the State of Idaho,
residing at Lewiston, therein
Commission Expires June 4, 03

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

85-15343

MARK B FAGAN
2430 GRELLE AVE
LEWISTON ID 83501
Point(s) of Diversion SWSE S13 T35N R05W NEZ PERCE County
Source GROUND WATER

Use: IRRIGATION 03/15 To 11/15 0.06 CFS

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

Total Diversion: 0.1 CFS

Date Filed: 05/01/2001

Place Of Use: DOMESTIC

T35N R05W S13 SWSE

Place Of Use: IRRIGATION

T35N R05W S13 SWSE

Number of Acres 2.5

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KARL J DREHER, Director

Published on 6/7 and 14/2001.

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SEP 22 2003



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

May 29, 2001

Legal Notice Department
LEWISTON MORNING TRIBUNE
505 C ST PO BOX 957
LEWISTON ID 83501

RE: Application for Permit No. 85-15343

Dear LEGAL NOTICE DEPARTMENT:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 06/25/2001. Your cooperation is appreciated.

Sincerely

A handwritten signature in cursive script, appearing to read 'Dianne Ball'.

Dianne Ball
Administrative Assistant

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SEP 22 2003



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

Fax (208) 769-1454

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

May 29, 2001

MARK B FAGAN
2430 GRELLE AVE
LEWISTON ID 83501

RE: Application for Permit No 85-15343

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the Lewiston Morning Tribune on June 7 and 14, 2001. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

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

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

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

Sincerely,

Al Beardslee
Senior Water Resource Agent

Enclosure(s) Receipt No. N014319

MICRON

SEP 22 2001