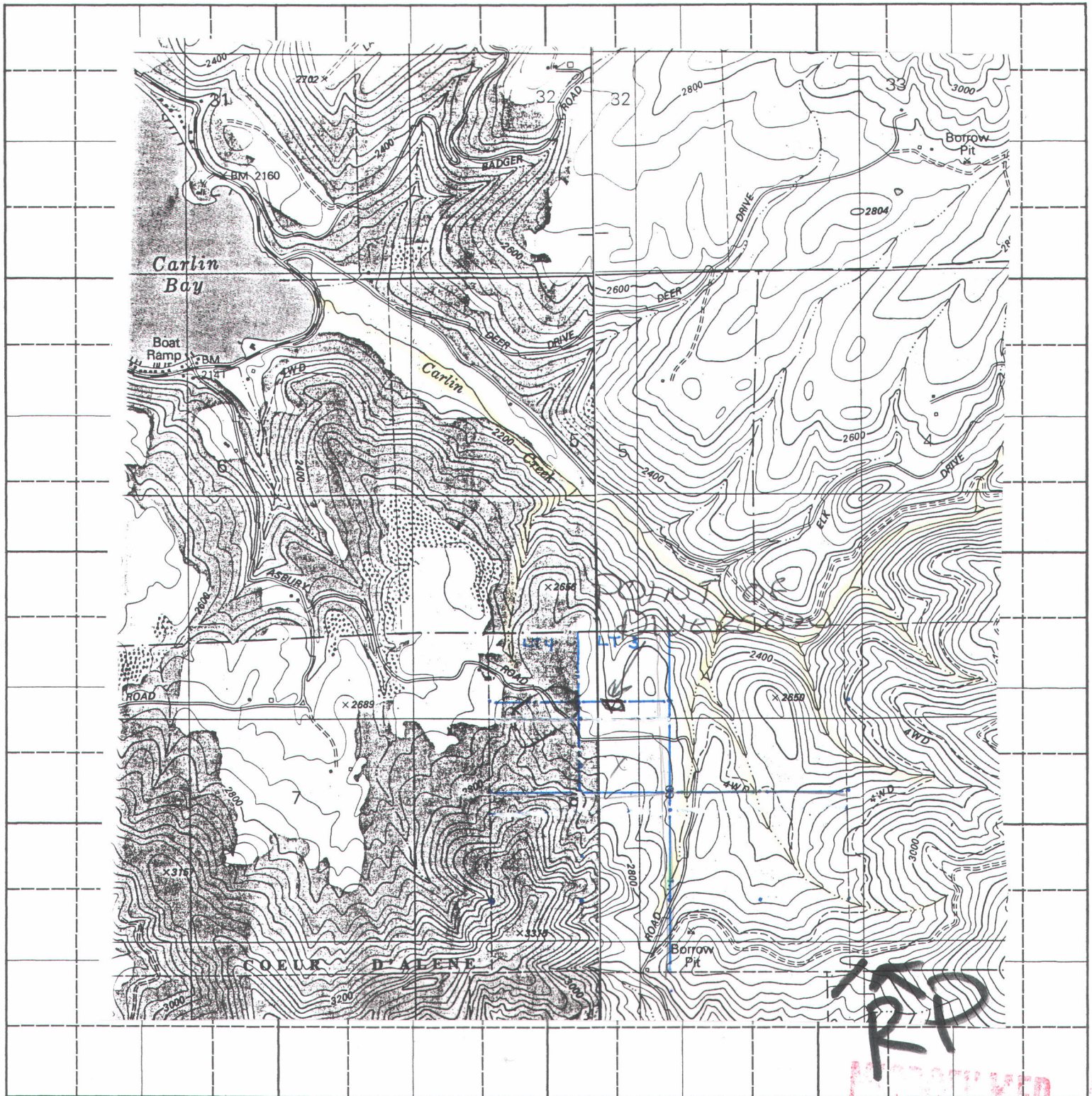


13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

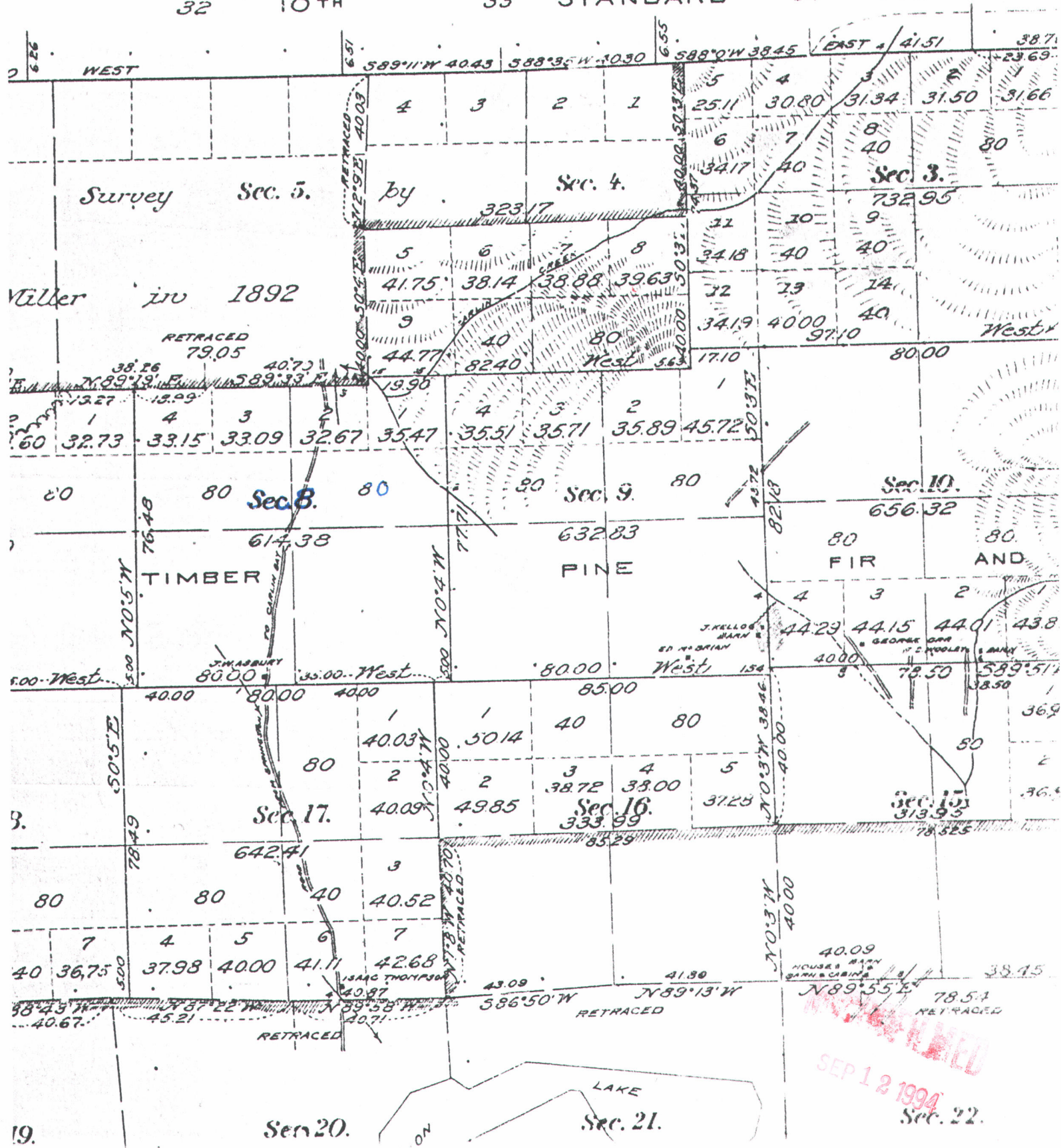
BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Saul Torrey
(Applicant)

SEP 12 1994

Nº 48 North, Range Nº 3 West of the

F e E d D c
32 10TH 33 STANDARD 34 PARALLEL



E. NARRATIVE/REMARKS/COMMENTS



outlet

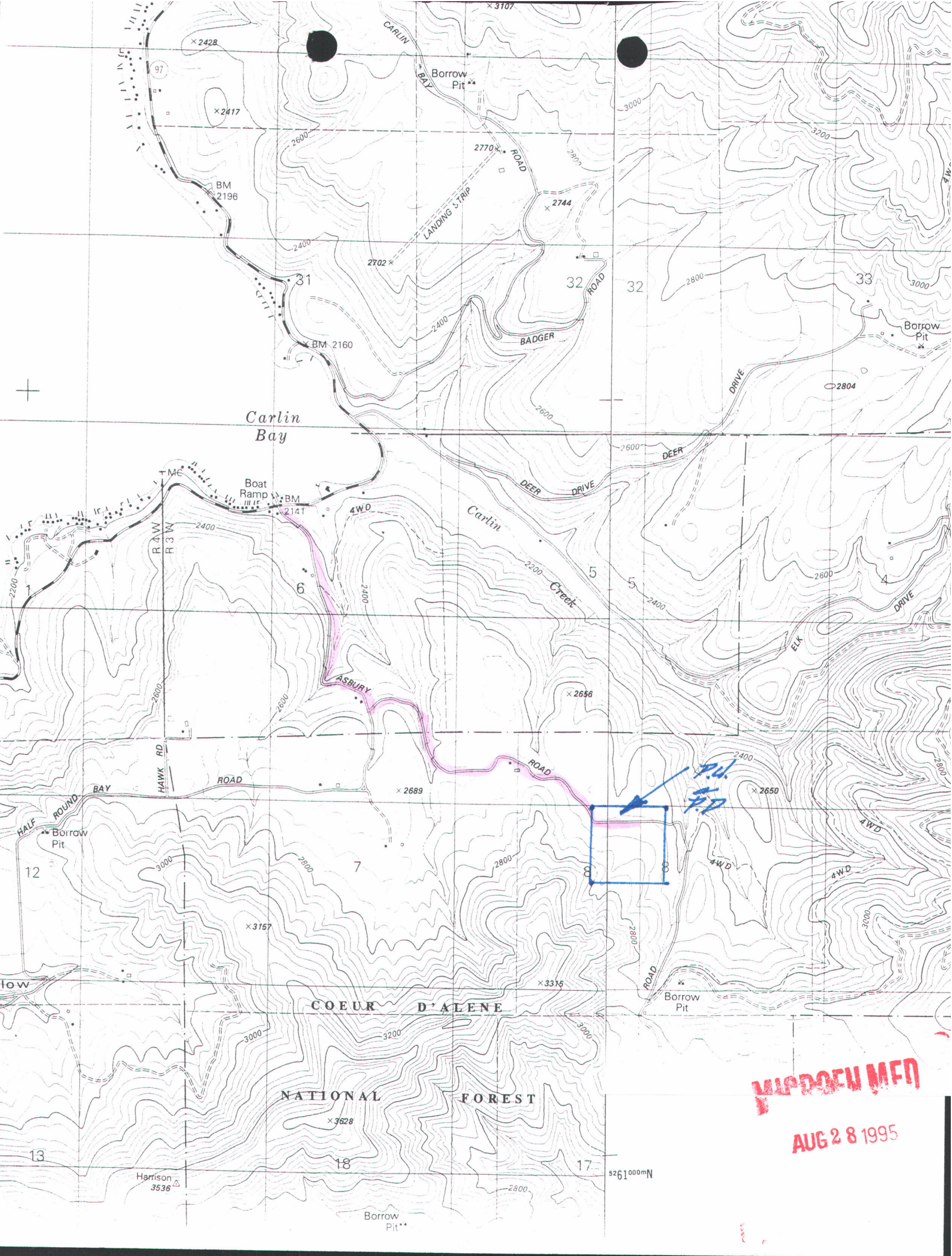


(pond)

place of
use

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

RECEIVED
AUG 28 1995



MILPOCH MFD

AUG 28 1995

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Kootenai, } ss.

Keri Alexander

..... being first duly sworn
upon oath deposes and says:

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

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

3. The *legal notice*

of which the annexed is a printed copy, was published in the regular *Thurs.*
issue of said newspaper for *2* consecutive *weeks*
commencing on the *15th* day of *April*, 19 *93*, and
ending on the *22nd* day of *April*, 19 *93*, and such
publication was made as often during said period as said *daily*
newspaper was regularly issued.

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

Keri Alexander

Subscribed and sworn to before me this *22nd* day of *April*, 19 *93*.

Roberta Manley

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

ROBERTA MANLEY
My commission expires *2-5-99* *SEP 12 1994*

NOTICE OF APPLICATION FOR WATER RIGHT

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

95-08802

FINNEY, PAUL
16300 S ASBURY RD
HARRISON, ID 83833
Source: UNNAMED STREAM
Tributary: CARLIN CREEK
Diversion Pt: LOT 3 (SENW) Sec 8 T 48N
R 03W in KOOTENAI County.
Use: WILDLIFE STORAGE (9.00 AF)
RECREATION STORAGE (9.00 AF)
Total Diversion: (9.00 AF)

Dated Filed: 3/30/1993
In: KOOTENAI County
T48N R03W S08 SENW
95-08744

HANEY, NATHAN D
HANEY, DORCAS A
PO BOX 3463
HAYDEN LAKE, ID 83835
Source: GROUNDWATER
Diversion Pt: NWSW Sec 14 T 53N R 03W
in KOOTENAI County.
Use: STOCKWATER (.020 CFS)
DOMESTIC (.110 CFS)
Total Diversion: (.110 CFS)

Dated Filed: 4/5/1993
In: KOOTENAI County
T53N R03W S14 NWSW SWSW

For additional information concerning
the property location, call the Northern
Regional Office at 765-4639.

The permit(s) will be subject to all prior
water rights. Protests must be filed with
the Director, Dept. of Water Resources,
Northern Region, 1910 Northwest Blvd.,
Suite 210, Coeur d'Alene, Idaho 83814 on
or before MAY 3, 1993.

R. KEITH HIGGINSON, Director

Legal 132
Apr. 15, 22, 1993

APR 23 1993

NORTHERN REGION
IDWR

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 95-08802

Priority: March 30, 1993

Maximum Storage Volume:

1.0 AF

This is to certify, that PAUL FINNEY
16300 S ASBURY RD
HARRISON ID 83833

has complied with the terms and conditions
of the permit, issued pursuant to Application for Permit dated March 30, 1993; and
has submitted Proof of Beneficial Use on May 31, 1994. An examination indicates
that the works have a storage capacity of 1.000 af of water from:

UNNAMED STREAM

tributary to CARLIN CREEK

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>
WILDLIFE STORAGE	01/01 to 12/31		1.0 AF
RECREATION STORAGE	01/01 to 12/31		1.0 AF
	Totals		1.0 AF

LOCATION OF POINT(S) OF DIVERSION: Lot 3(SENW), Sec. 8, Township 48N, Range 03W
KOOTENAI County

PLACE OF USE: WILDLIFE STORAGE

TWN RGE SEC

48N 03W 8 Lot 3(SENW)

CONDITIONS/REMARKS:

1. This water right is appurtenant to the described place of use.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. The storage of water is contingent upon certification by the Department of Water Resources under the dam safety provisions of the Idaho Code, authorizing storage.

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 22ND
day of AUGUST, 1995.

Acting for

KARL J. DREHER, Director

AUG 28 1995

STATE OF IDAHO

Amt. of Fee \$ 50-
Date 5/24/94
Receipt No. N007690
Received by SLDEPARTMENT OF WATER RESOURCES
PROOF OF BENEFICIAL USERECEIVED
MAY 31 1994
Department of Water Resources

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

1. Permit No. 95-08802 Telephone No. 667-4994
2. Name(s) of Permit Holder(s): Paul Finney
3. Post Office Address: 16300 S. Asbury Rd. Harrison, Idaho 83833
4. Source of Water: Surface water, Spring run off
- a. If ground water, well driller's name: _____ Date drilled: _____
- b. Pump horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft.): _____
5. Extent of Use:
- | | |
|--|--|
| Domestic _____ (No. of households) | Irrigation _____ (No. of acres) |
| Stockwater _____ (No. and type of stock) | Other <u>Wild Life + to aid in possible wild fire control.</u> |
6. Total rate and/or volume for which proof is submitted _____ cfs 9.0 acre/feet
7. Refer to the approval conditions on your permit and respond accordingly:
- Measuring device: Required? Yes ☒ No Installed? Yes ☒ No
- OR
- Flow Measurement Port: Required? Yes ☒ No Installed? Yes ☒ No
8. Fee Enclosed: \$ 50.00 (See License Examination Fee Schedule)
9. Person to contact to accompany the Department representative during the field examination:
- Paul Finney 667-4994
Name Telephone No.
- 16300 S. Asbury Rd., Harrison, Id. 83833
Address
10. 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.

5-18-94
DatePaul Finney, Finney Brothers Owner
Signature (and title if on behalf of a company or organization)

SEP 12 1994

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 95-08802

Proposed Priority: March 30, 1993

Maximum Storage Volume:

9.0 AF

This is to certify, that **PAUL FINNEY**

16300 S ASBURY RD

HARRISON ID 83833

has applied for a permit to appropriate water from:

UNNAMED STREAM

tributary of **CARLIN CREEK**

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>	<u>ANNUAL VOLUME</u>
WILDLIFE STORAGE	01/01 to 12/31		9.0 AF
RECREATION STORAGE	01/01 to 12/31		9.0 AF
	Totals		9.0 AF

LOCATION OF POINT(S) OF DIVERSION: Lot 3(SENW), Sec. 8, Township 48N, Range 03W
KOOTENAI County

PLACE OF USE: WILDLIFE STORAGE

TWN RGE SEC

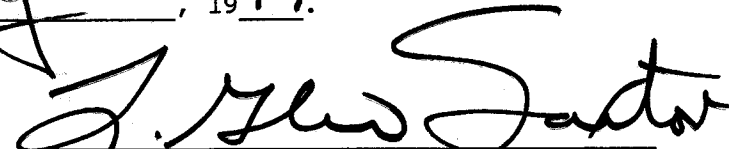
48N 03W 8 Lot 3(SENW)

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **May 1, 1995**.
2. Subject to all prior water rights.
3. The storage of water under this right is contingent upon the certification of the dam and authorization of storage per the dam safety provisions of the Idaho Code.
4. Single point of diversion located on or near line between Lot 3 (NENW) and SENW, S08, T48N, R03W.
5. Single place of use located on or near line between Lot 3 (NENW) and SENW, S08, T48N, R03W.

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

12th day of May, 1994.


R. Keith Higginson, Director

for
SEP 12 1994

RECEIVED
MAY 02 1994

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 95-9802

Department of Water Resources To appropriate the public waters of the State of Idaho

1. Name of applicant PAUL FINNEY Phone 667-4994
Post office address 16300 South Asbury Rd.
~~Box 101~~ HARRISON, ID 83833
2. Source of water supply UNNAMED STREAM which is a tributary of CARLIN CREEK
3. Location of point of diversion is SE $\frac{1}{4}$ of NW $\frac{1}{4}$, Govt. Lot 3
Sec. 8 Township 48 N. Range 3 W. B.M. KOOTENAI County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
- | | | |
|---|-------------------------------|---|
| Amount <u>9.0</u>
(cfs or acre-feet per annum) | for <u>RECREATION STORAGE</u> | purposes from <u>1/1</u> to <u>12/31</u> (both dates inclusive) |
| Amount <u>9.0</u>
(cfs or acre-feet per annum) | for <u>WILDLIFE STORAGE</u> | purposes from <u>1/1</u> to <u>12/31</u> (both dates inclusive) |
| Amount _____
(cfs or acre-feet per annum) | for _____ | purposes from _____ to _____ (both dates inclusive) |
| Amount _____
(cfs or acre-feet per annum) | for _____ | purposes from _____ to _____ (both dates inclusive) |
5. Total quantity to be appropriated is (a) _____ and/or (b) 9
cubic feet per second acre feet per annum
6. Proposed diverting works:
- a. Description of ditches, flumes, pumps, headgates, etc. DAM
- b. Height of storage dam 19 ft feet; active reservoir capacity 9 acre-feet; total
reservoir capacity 9 acre-feet; period of year when water will be diverted to storage:
1/1 to 12/31 inclusive.
- ☒ Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
- ☒ Is ground water with a temperature of greater than 90°F being sought? _____
7. Time required for the completion of the works and application of the water to the proposed beneficial use is
1 years (minimum 1 year).

SEP 12 1994

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

a. Hydropower; show total feet of head and proposed capacity in KW. _____

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; show name of municipality. _____

d. Domestic; show number of households. _____

e. Other; describe fully. _____

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.

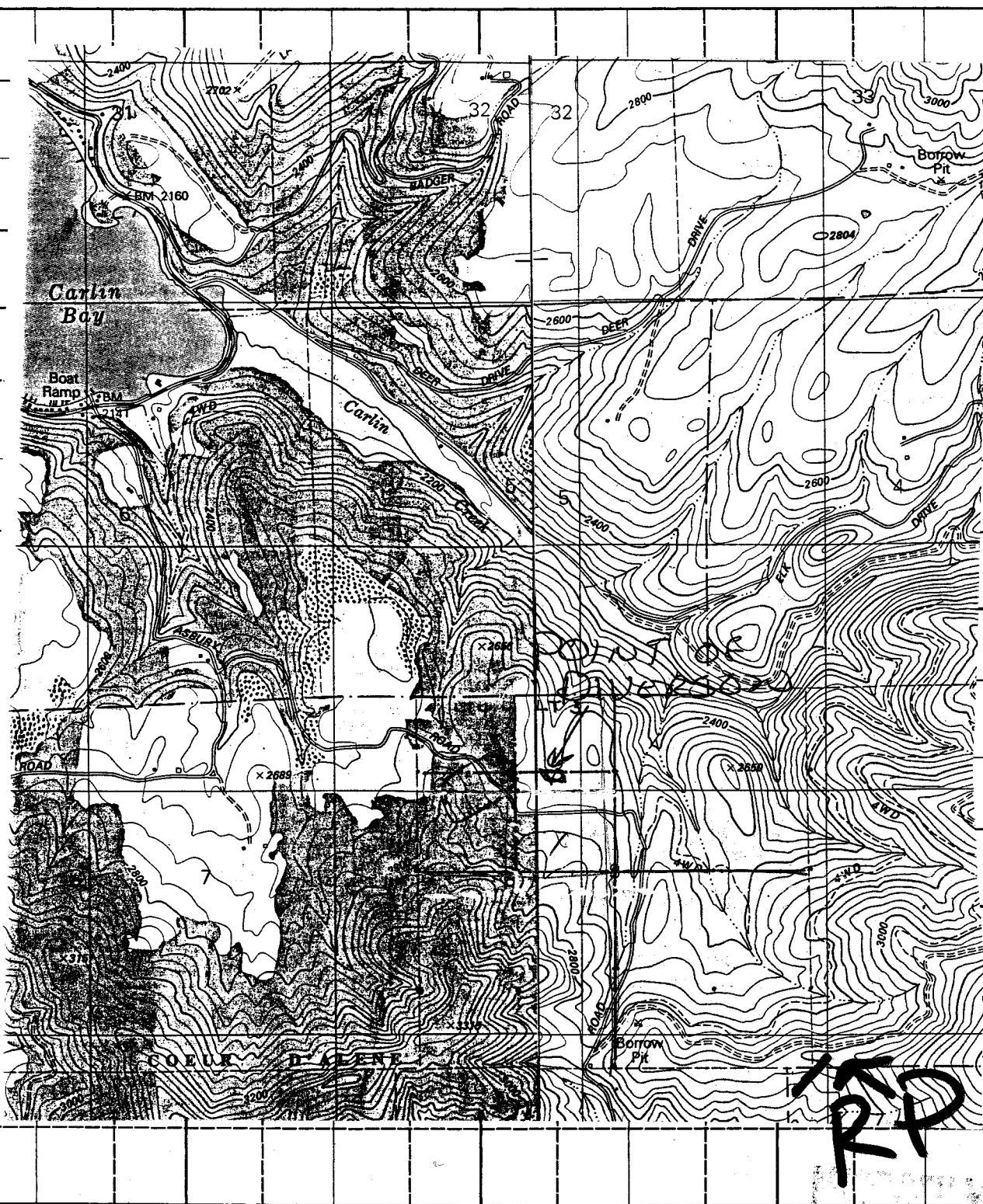
[illegible]

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

11. a. Who owns the property at the point of diversion? APPLICANT
b. Who owns the land to be irrigated or place of use? 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: Single P/D & P/U located on/ near the line between LT3 (NENW) & SE1W, S8, T48N, R3W.

13. 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.

SEP 12 1994
Paul Turner
 (Applicant)

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

Received by Date 3/30/93 Time 12:00 noon Preliminary check by
Fee \$ \$30 - Received by # 13006403 Date 3/30/93
Publication prepared by Date 4/7/93 Published in CDR Queue
Publication approved Date 4/24/93

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of

Idaho No. , and said application is hereby
1. Approval of said application is subject to the following limitations and conditions:

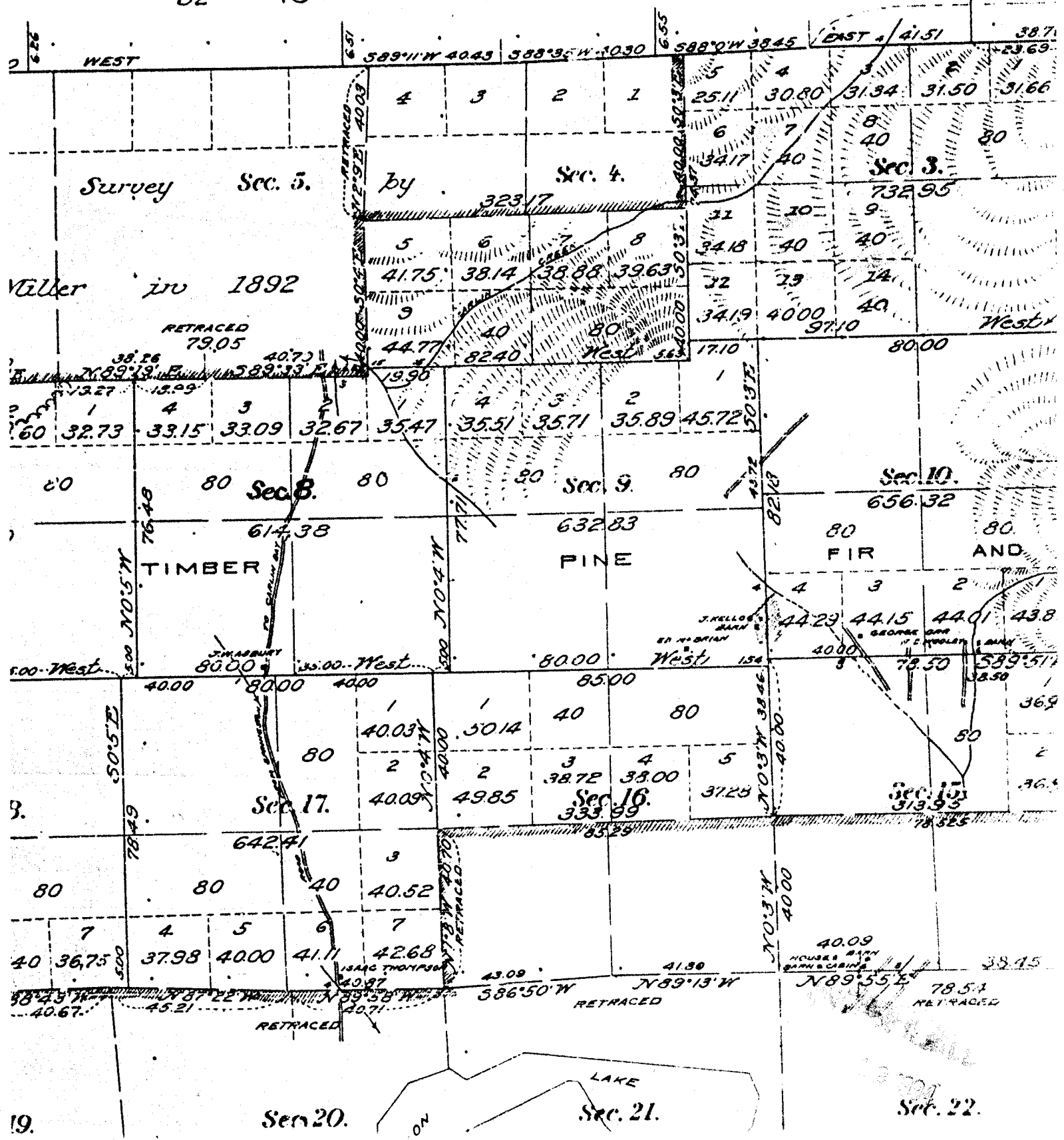
- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
b. Proof of construction of works and application of water to beneficial use shall be submitted on or before , 19 .

- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
e. Other:

Nº 48 North, Range Nº 3 West of the

F e E d D c

32 10TH 33 STANDARD 34 PARALLEL





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

August 22, 1995

PAUL FINNEY
16300 S ASBURY RD
HARRISON ID 83833

RE: WATER RIGHT NO. 95-08802

Dear Water Right Holder(s):

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

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:rl

Enclosure

RECEIVED
AUG 28 1995

LICENSE REVIEW
Cindy Zimmerman

Permit #: 95-8802 Name: Finney Date: 8/8/95
App Rcd 3/30/93 Priority 3/30/93 Examined 5/3/95 ✓ Lots ✓

NAME	Chng	OK	Or Address Change?
SOURCE	—	✓	Clarify source Prelim. Order to Void - Source change.
P/D	—	✓	Amendment Needed? <u>clarify Lt3</u> <u>add</u> <u>Lt3</u> -P39, P38 Overlap(s) _____
P/U	—	✓	Amendment Needed? <u>clarify Lt3</u> -P41, P38 Overlap(s) _____ *P/D & P/U Amend? <u>P37, P38</u> (See paragraph list for governmental agencies.)
RATE	—	—	Permit/fee limits <u>NONE</u> Measured Q= _____ cfs Theoretical Q= _____ cfs
STORAGE RIGHT ONLY			
		Recommended capacity _____ cfs	
		Recommended rate _____ cfs	
VOLUME	—	✓	Season of Use: () <u>1/1-12/31</u> = <u>365</u> days Calculations: <u>Wildlife Storage = 1.0 AF</u> <u>Recreation Storage = 1.0 AF</u> Flow limit: _____ x _____ x 1.9835 = _____ AF Recommended volume <u>1.0</u> AF
USES	—	✓	Same Nature of Use? _____ -P46 Amendment Needed? _____
REMARKS	—	—	Multiple p/d's in <u>1 1/4</u> ? _____
CONDITIONS	—	—	Measuring (R01)/Locking (R02) Devices Watermaster Control (R04) - WD # _____ Irrigation rate/volume overlap Irrigation water overlap (065) (If gw use sw) Water Quality <u>R13</u> Other <u>(Dam Safety)</u>
PRIORITY	Due <u>5/1/95</u> Rc'd <u>5/24/94</u> Receipt# <u>N7690</u> Fee OK? <u>(Yes)</u> No Order to Reinstate Needed? Yes/No Done? _____ If Yes, Advanced? Yes/No to: _____		

COMMENTS: _____

USE	CFS	DIV VOL	Adjustment Memo
<u>Wildlife Stor.</u>	—	<u>0.0</u>	✓
<u>Rec. Storage</u>	—	<u>1.0</u>	
	—	—	
TOTAL	—	<u>1.0</u>	

LICENSE: (P49)
#1 AMEND LTR: P46 or P39/P41/P37 & P38
#2 AMEND LTR: P42/P47

MEMORANDUM

DATE: August 8, 1995
TO: File No. 95-08802
FROM: Cindy Zimmerman
SUBJECT: Adjustments to Beneficial Use Exam

=====

The following adjustments were made on the field exam.

1. Rate of diversion deleted; this right is for storage only.
2. Annual Volume.
 - a. Volume = surface area $\div$ 43,560 x height x 0.4
= $\{ [.5 \times (100 \times 120)] \div 43,560 \} \times 19 \times 0.4$
= $\{ [.5 \times 12000] \div 43,560 \} \times 19 \times 0.4$
= $\{ 6000 \div 43,560 \} \times 19 \times 0.4$
= $0.137 \times 19 \times 0.4$
= $1.04 \approx 1.0$ AF

Microfilm

AUG 28 1995

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
JUL 13 1995

Department of Water Resources

A. GENERAL INFORMATION

Permit No. 95-8802

1. Owner: Paul Finney Phone No. 667 4994

Current Address: 16300 S. Ashbury Rd. Harrison ID 83833

2. Accompanied by: _____ EXAM DATE: 5/3/95

Address: _____ Phone No. _____

Relationship to Permit Holder: _____

3. Source: UNNAMED STREAM tributary to CARLIN CREEK

B. OVERLAP REVIEW

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

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

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			SE	NW	8	48	3W	KOOTENAI	SITE - 4545 Topo.

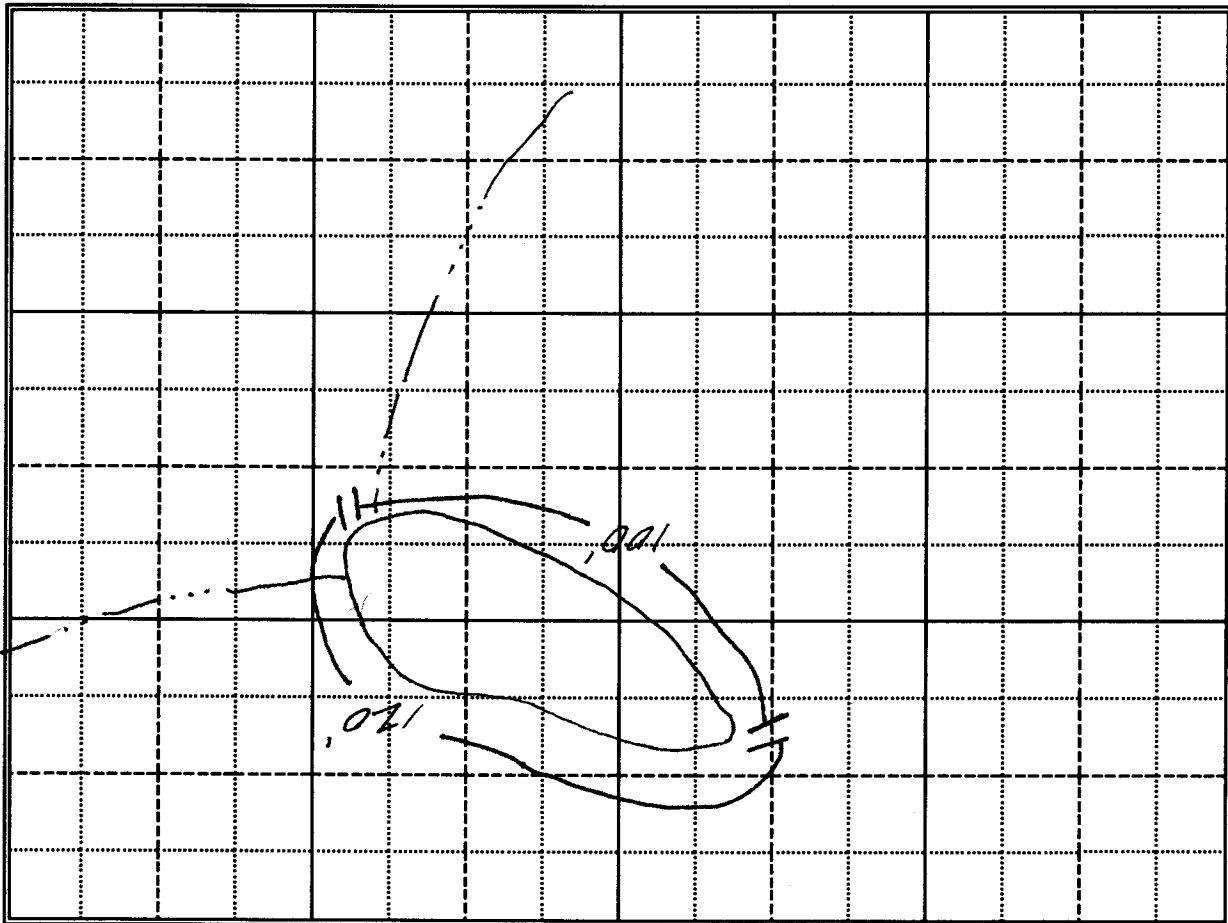
2. Place(s) of Use:

Indicate Method of Determination

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
48	3N	8																	

AUG 28 1995

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



Scale: 1" = _____
 _____ Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).
 _____ Aerial Photo Attached (required for irrigation of 10+ acres)
 _____ Photo of Diversion and System Attached

4.

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

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

D. FLOW MEASUREMENTS

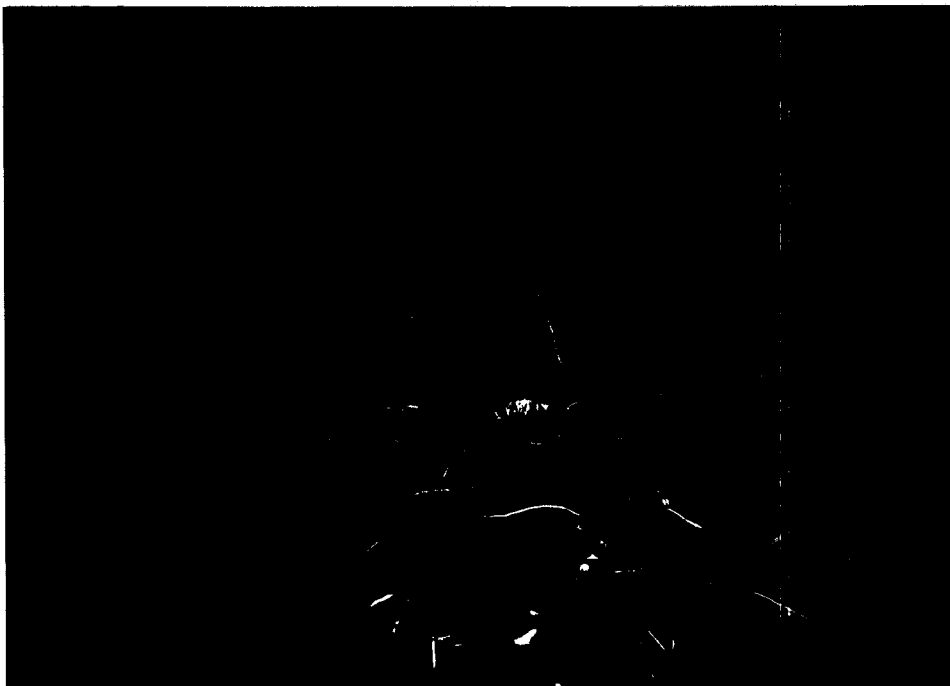
1.

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

2. Measurements:

AUG 28 1995

E. NARRATIVE/REMARKS/COMMENTS



outlet



(pond)

place of
use

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

RECEIVED MED
AUG 28 1995

F. FLOW CALCULATIONS

Measured Method:

Additional Computation Sheets Attached

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

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

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

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

2. Volume Calculations for Other Uses:

$$\frac{1/2 (100') \times 120'}{0.13 \text{ cfs}} = 43,560$$

$$0.13 \times 19 \times 0.4 = 0.98$$

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	From	To	Period of Use	Rate of Diversion Q (cfs)	Annual Volume V (ata)
Wildlife Storage	1-1	12-31		0.13	0.98
Recreation Storage	1-1	12-31		0.13	0.98
			Totals:	0.13	0.98

2. Recommended Amendments

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

I. AUTHENTICATION

Field Examiner's Name

Date

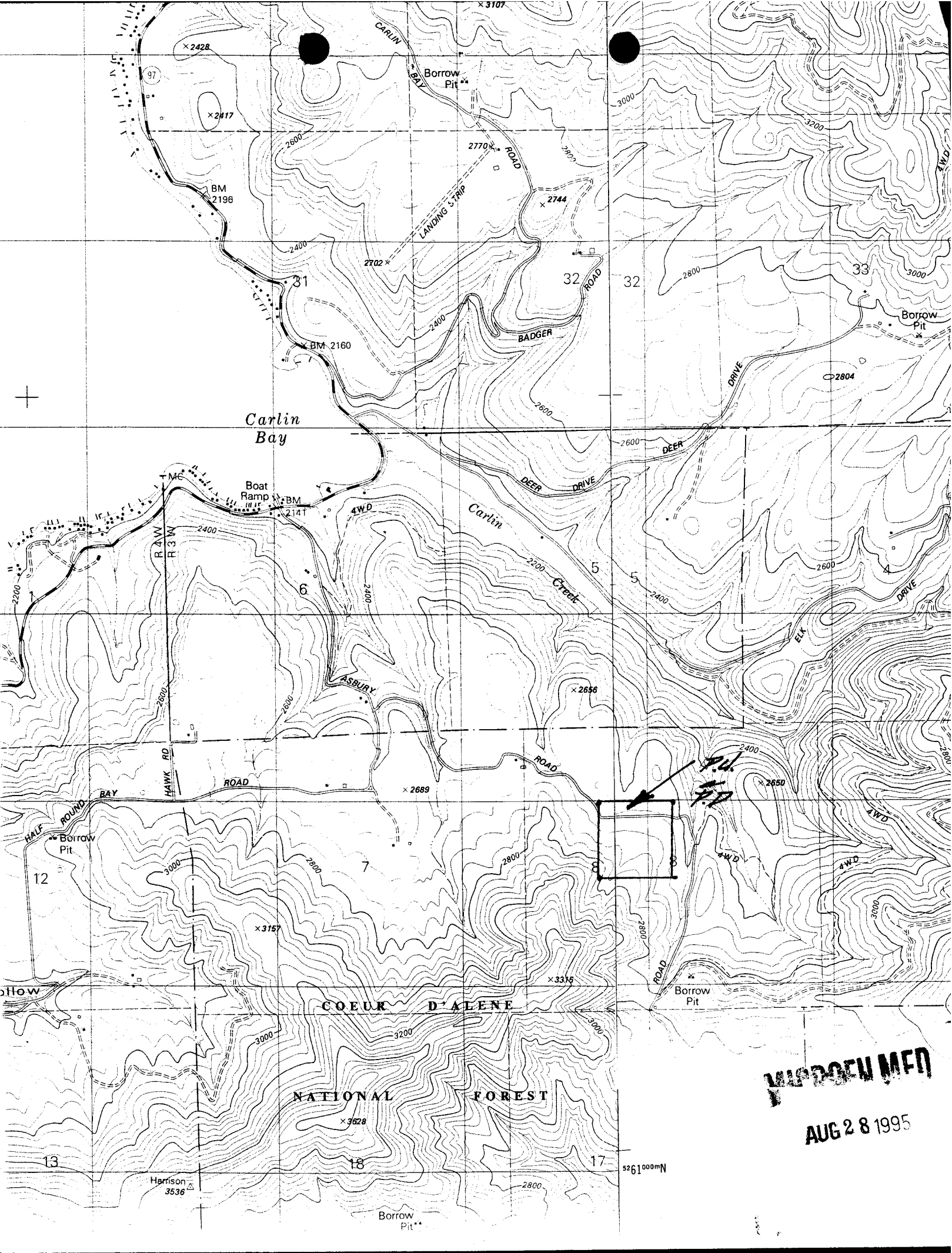
Reviewer

Date

* Adjustments made to this report during review for license approval. See memo for additional information 8/8/95 cjs

MAILED

AUG 28 1995



WILSON MEN

AUG 28 1995

5261000mN

RECEIVED

FEB 21 1995

ORIGINAL

Department of Water Resources

1

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI

MILDRED STOTT, by and through her)
legal guardian JOYCE DOUGALL,)

Plaintiff,)

vs.)

CASE NO. CV 94-2079

PAUL FINNEY and SUE FINNEY,)
and the marital community thereof,)

Defendants.)

DEPOSITION OF DAVID LePARD

Taken on Tuesday, December 20, 1994

At 10:05 a.m.

At the Offices of Gilbertson Reporting Service
408 Sherman Avenue - Suite 209
Coeur d'Alene, Idaho

Reported by: Richard W. Gilbertson, CSR (NV) (ID) (WA)

Gilbertson Reporting Service

408 SHERMAN / SUITE 209
COEUR D'ALENE, ID 83814
(208) 667-8536

AUG 28 1995

1 APPEARANCES:

2 Attorney for Plaintiff: R. D. Watson, Esq.
 3 WATSON LAW OFFICES
 4 Attorneys at Law
 408 Sherman Avenue - Suite 202
 Coeur d'Alene, ID 83814

5 Attorney for Defendants: Irving "Buddy" Paul, Esq.
 6 Attorney at Law
 2110 Ironwood Parkway
 Coeur d'Alene, ID 83814

10 I N D E X

11	<u>WITNESS</u>	<u>PAGE</u>	<u>LINE</u>
12	David LePard		
13	Examination by Mr. Watson	3	4
14	Examination by Mr. Paul	17	4

19 E X H I B I T

20		<u>PAGE</u>	<u>LINE</u>
21	Deposition Exhibits 1, 2 and 3 for Id.	6	2
22	Deposition Exhibit 4 for Id.	15	17
23	Deposition Exhibit 5 for Id.	21	17

24
25

Gilbertson Reporting Service

408 SHERMAN / SUITE 209
 COEUR D'ALENE, ID 83814
 (208) 667-8536

1 DAVID LePARD,
2 was called as a witness by the Plaintiff, and having been
3 first duly sworn, was examined and testified as follows:

4 EXAMINATION

5 BY MR. WATSON:

6 Q. Would you state your name for the record, please.

7 A. David LePard.

8 Q. And how do you spell your last name?

9 A. It's L-e capital P-A-R-D.

10 Q. Have you ever had your deposition taken before?

11 A. Yes.

12 Q. Good. Are you familiar with the proceedings?

13 A. Yes.

14 Q. If you have any questions or confusion about any
15 question I ask, make sure that you make me clarify myself so
16 you understand exactly what I'm trying to get after, and we
17 can move this along.

18 And if Mr. Paul raises any objections, you can
19 stop right there, and we can work out any problems we might
20 have and then continue.

21 A. Okay.

22 Q. Where do you live just generically?

23 A. North Idaho. Harrison, Idaho.

24 Q. And how long have you lived there?

25 A. Since either '89 or '90.

Gilbertson Reporting Service

100 SHERMAN / SUITE 209
COEUR D'ALENE, ID 83814
(208) 667-8536

Microfilm
AUG 28 1995

1 Q. And where did you live before that?

2 A. Coeur d'Alene.

3 Q. And what's your occupation?

4 A. I'm an Engineering Geologist with the State of
5 Idaho Department of Water Resources.

6 Q. What does that entail?

7 A. Well, in the northern regional office I do the
8 Dam Safety Program and the Injection Well Program.

9 Q. How long have you held that position?

10 A. Oh, in going to North Idaho since '88.

11 Q. And what are your duties as a dam safety
12 inspector?

13 A. To insure that all dams greater than 10 feet in
14 height and storing more than 50 acre feet of water, which
15 fall under the Dam Safety Act are maintained and operated to
16 insure the public safety.

17 Q. Are there any special techniques or anything
18 specially required? Do you need any special training to
19 enforce the Dam Safety Act?

20 A. Yes.

21 Q. What is that?

22 A. I've had numerous classes on dam construction,
23 dam maintenance. I attend seminars as often as I can get to
24 them.

25 Q. I just want to say, you went to those dam

1 seminars.

2 A. Yeah. And then I've been doing it for 18 years.

3 Q. And what's your educational background?

4 A. I have a Bachelor's degree in Geology.

5 Q. And how long have you worked for the

6 Department of Water Resources?

7 A. Since 1976.

8 Q. And what kind of experience have you had, or what
9 kind of dams do you work with in this area?

10 A. I have dams everywhere from 10 feet in height
11 storing almost no water, like Finney's, up to Dworshak, which
12 is 800 and some feet tall.

13 Q. Are you familiar with the event that occurred in
14 I think it was March, 1993 as the Finney dam failure?

15 A. Yes.

16 Q. How did you first become aware of that incident?

17 A. That incident?

18 Q. Failure?

19 A. The failure? I think I got a phone call from
20 somebody. I don't think I have a phone message. I think it
21 was Ms. Stott. I didn't write it down, so I don't remember
22 exactly.

23 Q. Was it a citizen's complaint or notification?

24 A. Exactly.

25 Q. Do you know about when it was?

1 A. Whenever the dam failed, within a day or so.
2 (Deposition Exhibits 1, 2 and 3 marked for
3 Identification.)

4 Q. (By Mr. Watson) Handing you what's been marked
5 as Deposition Exhibit 1, a letter from I believe it's
6 Dave Ortmann--

7 A. Ortmann, yeah.

8 Q. --Department of Fish and Game. Have you had a
9 chance to review that letter?

10 A. I read it when we received it. And we replied to
11 it.

12 Q. Okay. I guess that's March 20th is the date of
13 the letter.

14 A. 30th?

15 Q. Oh, 30th? Okay. Were you responsible for
16 following up on that complaint, or who was?

17 A. As far as what kind of follow-up?

18 Q. Well, like Mr. Ortmann makes reference to his
19 observations in relationship to the dam failure. Was anyone
20 assigned to look into it and check out his observations?

21 A. Well, I was the one that went out and actually
22 saw what damage had occurred after the failure. But that was
23 prior to--prior to his letter, if I remember correctly.

24 Q. And do you remember when you went out?

25 A. March 25th is when I took the pictures.

AUG 28 1985

1 Q. And were you able to determine how long it had
2 been since the dam had failed at that time?

3 A. No. There's no way to tell time on that. I
4 mean, it was reasonably--reasonably close to the failure.

5 Q. When you went out, what did you find?

6 A. A breach in the dam, erosion in the stream
7 channel below the dam, and some deposition of material at
8 Carlin Creek.

9 Q. And can you describe the dimensions of the dam
10 and what you saw?

11 A. The dimensions of the dam, or dimensions of the
12 failure?

13 Q. Both.

14 A. You wanted to know when I received notification
15 on the failure. That was March 24th.

16 And I didn't make any measurements of the
17 dimensions of the failure. But the dam has got a hydraulic
18 height of 19 feet, stores 9 acre feet of water. The
19 reservoir area covers about an acre. And I don't have a
20 crest one for any of that other stuff in the file.

21 Q. From your observations were you able to tell how
22 the dam was constructed?

23 A. Well, it's just an earth filled dam.

24 Q. When you say an earth filled, you mean mounded?

25 A. There is no way to tell actually how it's

1 constructed after the fact. And I didn't see the dam during
2 construction or the site before construction.

3 Q. Was there any spillway that you saw?

4 A. Yes.

5 Q. Can you describe what the spillway was?

6 A. It was a channel cut in the right abutment around
7 the side of it, right side of the dam. And when I say right
8 and left referring to the dam, you're always facing
9 downstream.

10 Q. From your observations were able to make any
11 determination on why the dam failed?

12 A. No. My initial indica--or my initial feeling
13 when I got to the site was, well, the dam over topped and
14 failed.

15 And then I looked at the spillway channel, and it
16 still was full of snow. It had never had any water run
17 through it. And the spillway channel was definitely lower
18 than the top of the dam. So that didn't occur.

19 And then as I looked closer especially after I
20 got the pictures back, you could see that it only had two or
21 three foot of water in it when it failed. So it had to have
22 run through the embankment somehow.

23 Q. Now did the construction of the dam involve any
24 appropriation of water?

25 A. It should have, yeah-- Or it does, yes.

AUG 28 1995

1 Q. What is required when someone appropriates water?

2 A. You have to file an application for permit to
3 appropriate the water. It has to go through an advertising
4 process, protest period, and review in our State office
5 before it's approved.

6 Q. And had that been done at the time?

7 A. No.

8 Q. And was there any requirements as far as
9 obtaining any permits for the construction of the dam?

10 A. Yes.

11 Q. And what would that have been?

12 A. You need to file an application for permit to
13 construct it, in this case a small dam.

14 Q. And was any permit or any application filed?

15 A. No.

16 Q. Okay. And what is the purpose of filing for an
17 application?

18 A. It allows us the opportunity to review the
19 construction plans, review the size of the structure, and
20 make sure that it's adequately and properly constructed.

21 And in-- I don't remember when they changed the
22 law. Since '86 I believe it is. I'd have to go back and
23 review the statutes when the legislature changed the law and
24 told us that we were no longer going to regulate small dams
25 in low hazard areas.

1 We have to do a hazard evaluation prior to the
2 constructing to see whether we're actually going to regulate
3 the project.

4 Q. After this dam failure are you aware of anyone
5 else who did any investigations in relationship to the
6 failure? I know Dave Ortmann wrote a letter. Are you aware
7 of anyone else who participated in it?

8 A. No.

9 Q. Are you aware of anyone from the Department of
10 Health and Welfare having any involvement?

11 A. They were called due to the reported turbidity in
12 Carlin Creek. And I don't know whether they had actually had
13 anybody go out on it or not.

14 Q. How about the Army Corp of Engineering?

15 A. I believe they were called also. But again I
16 don't know whether they went out and looked at it.

17 Q. Did you have any contact with Mr. Finney in
18 relationship to this failure?

19 A. Yes.

20 Q. When was the first time you had contact with him?

21 A. When I first found the dam would be the initial
22 time I talked to him, which was back in February, 11th, '93.

23 Q. And that would have been before the dam failure?

24 A. Correct.

25 Q. What purpose had you to contact him at that time?

AUG 28 1995

1 A. Well, the dam had been reported to me around that
2 date. And I stopped by, found the embankment, did a
3 preliminary measurement on it that had 4 foot of snow on it,
4 3, 4 foot of snow on it, found out it was over 10 feet tall
5 and started looking for the owner. And I just happened to
6 stop by-- The nearest house was Finneys. Oh, yeah, that's
7 mine. And I left him the paper work for the water right and
8 for the dam safety application.

9 Q. Did he indicate why the dam had been built?

10 A. He said fire protection.

11 Q. And then I assume you had subsequent contacts.
12 When's the next time you talked to him?

13 A. I believe the next time I talked to him was when
14 it failed.

15 Q. And that would have been in March?

16 A. Right.

17 Q. And what was the nature-- Was anyone else
18 present at that time?

19 A. Yeah. I believe Al Beardslee our water rights
20 specialist went with me on that trip.

21 Q. And what was the nature of the conversation at
22 that time?

23 A. We were discussing filling out the application
24 for permit for water and the dam safety application.

25 Q. Was there any determination of anything to be

1 done about the failure?

2 A. At that time, no. Well, actually I don't know
3 whether it was that trip or the next one we actually
4 discussed--or he discussed wanting to get down and clean up
5 the material at the edge of Carlin Creek.

6 Q. And had you gone down and taken a look at that
7 area at that time?

8 A. Yes.

9 Q. Your file has a series of photographs in it.
10 When were they taken, and when did you go through them and
11 assess them?

12 A. That was-- What was it? March 25th? Right.

13 Q. And was your water resource specialist with you
14 at that time?

15 A. No. That was just me. I don't remember the day
16 we went back out there. I would have to look at his water
17 rights.

18 Q. And then somewhere later you got this letter from
19 Mr. Ortman. And you did the investigation. Did you reply
20 to this, respond to his concerns?

21 A. Actually I don't know that I actually went out
22 anymore to the area. I already had the information that he'd
23 asked for.

24 Q. I'm handing you what's been marked as Deposition
25 Exhibit 2. It's a letter to Mr. Finney I believe from you?

1 A. Yes.

2 Q. Now you make reference to a Cease and Desist
3 Order from Boise. What was the status of that?

4 A. I don't believe it was ever written.

5 Q. Was there a discussion of one--of obtaining one?

6 A. There was discussion of obtaining one, which is
7 standard procedure when we find someone appropriating water
8 without the proper permit. They're usually not issued unless
9 the person just ignores us totally.

10 Q. And that didn't happen?

11 A. No.

12 Q. In fact he rebuilt the dam. Is that correct?

13 A. That's correct.

14 Q. Did you assist him in lending engineering
15 expertise in how it was to be done?

16 A. I went out and watched him. We put the cutoff
17 trench in the new one.

18 Q. What was different with the final impoundment
19 structure as opposed to the first one to your knowledge?

20 MR. PAUL: If any. If you know.

21 Q. By Mr. Watson) If any, if you know.

22 A. Because the new one had a cutoff trench in it.
23 And I don't know whether the old one did or not. Without
24 being there prior to construction, I can't tell.

25 Q. I'm looking at the letter marked as Deposition

1 Exhibit 3, April 8th, 1993. It's signed by you. Is that a
2 letter that you wrote to Mr. Ortmann?

3 A. Yes.

4 Q. In that I believe the last paragraph you make
5 reference to recommendations you'd be making to
6 Mr. Finney regarding construction of the dam. What kind of
7 recommendations were made?

8 A. The installation of the cutoff trench, how to
9 reconstruct the embankment. It's perpendicular to the stream
10 channel instead of parallel to just to insure that you get
11 better compaction and don't construct planes of weakness into
12 the dam parallel to the direction the water wants to flow.

13 Q. Help me out. I'm not into dams.

14 A. A lot of people when they construct dams, they
15 don't know how, have a tendency to push the material from the
16 reservoir area parallel to the stream channel, up and down
17 the stream channel, push it downstream into a pile and maybe
18 walk the Cat back and forth over a few times.

19 Since you're moving the material in the direction
20 that the water wants to flow, which is downstream, you have
21 the potential for creating areas of weakness in the
22 structure. If you construct the material perpendicular to
23 the stream channel, across the stream channel, you have a
24 tendency to eliminate those potential areas of weakness.

25 Q. Now I remember a hearing that Joyce was at and

1 Mr. Finney was at that was held by the Department of Water
2 Resources. And I believe you were present as well.

3 A. Correct.

4 Q. Around April or May or sometime. I'm not sure.

5 A. Yeah. I'm not sure either.

6 Q. There was some discussion about installation of a
7 key at the base of the dam. What is that?

8 A. That's the cutoff trench I've been referring to.

9 Q. Okay. Can you describe that?

10 A. That's just excavating below the existing ground
11 surface under the center line of the dam, and that keys the
12 structure into the foundation and increases the seepage path,
13 the length of the seepage path under the embankment to keep
14 water from running straight through.

15 Q. Now I got this diagram. I guess I can have it
16 marked.

17 (Deposition Exhibit 4 marked for Identification.)

18 Q. (By Mr. Watson) I went to a dam school at the
19 Soil Conservation Service. They gave me that. Does that
20 Deposition Exhibit 4, does that show the key that we're
21 talking about?

22 A. That's correct. It's labeled core/key trench.

23 Q. Okay. And that's what you're talking about as
24 far as assuring more integrity in the impoundment structure
25 itself?

1 A. They serve two functions. One, like I say, is to
2 key the structure to the ground, actually keep the whole
3 structure from sliding in a downstream direction. And the
4 other is to increase the length of the seepage path from the
5 reservoir to the downstream fill.

6 Q. Now this diagram as you look at it, does that
7 reflect the accepted methods of building these small
8 impoundment structures?

9 A. In most cases.

10 Q. Would it be appropriate at the Finney
11 impoundment?

12 A. Yes, other than there's no outlet in the
13 Finney--or was no outlet in the original structure.

14 Q. Is there an outlet now?

15 A. That's correct.

16 Q. And what is reflected in this diagram in
17 Exhibit 4 that was not present at the Finney dam to your
18 knowledge?

19 A. Well, I think the low level outlet was not there.

20 Q. And was there a key constructed in that?

21 MR. PAUL: Object. Asked and answered.

22 Q. (By Mr. Watson) And the photographs you have
23 there, those were taken by you, the photographs you have in
24 your file?

25 A. Yes.

AUG 22 1955

1 Q. And I'm showing you an engineering report done by
2 J-U-B Engineers that have some photographs in it. Are those
3 copies of your photographs to the best of your knowledge?

4 A. They appear to be.

5 Q. I'm looking at--

6 A. The failure one.

7 Q. --the earthen dam photograph reflected-- I guess
8 they were taken March 25th, 1993. And do they fairly and
9 accurately depict what you observed and took photographs at
10 that day of?

11 A. I don't recognize that one that's No. 3. It was
12 just the difference in scale. There it is.

13 MR. WATSON: That all the questions I'd have.

14 EXAMINATION

15 BY MR. PAUL:

16 Q. Dave, would you describe the hearing process?
17 You talked about attending a hearing.

18 A. That was a hearing on the protest filed by Stotts
19 on Mr. Finney's water right application.

20 Q. And what was the outcome of that hearing?

21 A. I don't remember to tell you the truth. I
22 think-- I don't think there has been a disposition of that
23 to tell you the truth.

24 Q. You described a process for assessing the hazard
25 rating of small dams?

1 A. That's correct.

2 Q. Did you conduct such a hazard rating on the
3 Finney dam?

4 A. Yes.

5 Q. And what was its rating?

6 A. Low.

7 Q. In terms of the Finney dam then, what if any
8 power does the State of Idaho have to regulate that dam?

9 A. Legally we have no right to dictate anything to
10 the dam owner of that small, low hazard dam. We don't
11 regulate it at all.

12 Q. Could you walk me through your photographs? I'll
13 look over your shoulder. And just identify 1, 2, 3 and 4 and
14 tell me what they show. We can use yours. We can just
15 start--

16 A. Yeah. But you want to see the same ones I take
17 it?

18 Q. I just want all your pictures and just have you
19 tell me what they are.

20 A. Okay.

21 Q. You were there, and I wasn't. It's my chance to
22 learn.

23 A. The picture of the dam, the downstream slope of
24 the dam, this being the dam structure here. And that was my
25 initial visit to it.

AUG 22 1995

1 Q. Before the failure?

2 A. Right. And that's just more pictures of--
3 That's the reservoir of the dam again. The dam looking
4 across the spillway along the crest and another shot from the
5 other abutment at the dam crest.

6 Q. Okay.

7 A. Pictures a wet area, seep area at the toe of the
8 dam. Another one just a little further away.

9 Oh, and there's the note. It was Joyce Doolittle
10 that called me.

11 Q. On March 24th?

12 A. Right.

13 Q. Okay.

14 The seepage areas were existent prior to the
15 failure?

16 A. Correct.

17 Q. Okay, what do they mean--

18 A. I don't know.

19 Q. --if anything?

20 A. I don't know-- The fact is I've labeled them as
21 seepage areas. They could have either been seepage, or they
22 could have been melting snow.

23 Q. Okay. The other pictures begin March 25th?

24 A. Right. And that's just a picture of the area
25 directly below the dam, the dam being right here, and the

1 breach being right there.

2 Q. Okay.

3 A. Picture of the downstream slope. Picture of the
4 breach looking downstream. Picture of the breach looking
5 upstream. The left side of the breach just looking at the
6 embankment.

7 Q. Okay.

8 A. And then I got a picture of Carlin Creek looking
9 downstream from a point about an eighth of a mile below where
10 the small stream that Finney's dam was on entered
11 Carlin Creek. Another picture of Carlin. This is the
12 picture of Carlin where the small stream entered it.

13 Q. Okay.

14 A. And two views of the upstream slope of the dam
15 after the failure. And another one looking across the
16 reservoir area. Okay, this is the small drainage that comes
17 around the side of the dam. The dam itself is up here, and
18 this is looking back up towards the dam. And another picture
19 of the small drainage. Picture of the spillway channel after
20 the failure. It's still full of snow. And another picture
21 of the spillway channel. Oh, and this is a picture of the
22 stream where it crosses an old logging road down on the
23 Stotts' property.

24 Q. Did you notice anything that occurred at about
25 that location?

AUG 28 1995

1 A. Yeah. The stream left its existing channel and
2 created a new one.

3 Q. And could you tell what mechanisms caused the
4 channel to move?

5 A. It over topped that existing logging road in a
6 low spot which was not where the old channel was.

7 Q. I didn't quite understand what was said.

8 A. Well, the logging road went across the stream.
9 The low area of that road was not adjacent to the existing
10 stream channel. So when it over topped, it just went
11 straight on down the hill at that point.

12 Q. Can you draw me a sketch of that crossing? I
13 guess I'm still having-- You can use this piece of paper.
14 And this is on the Stott property?

15 A. Correct.

16 Q. Okay, we'll make it Exhibit 5.

17 (Deposition Exhibit 5 marked for Identification.)

18 Q. (By Mr. Paul) Can you do like a cross-section?

19 A. Do you want both?

20 Q. Sure.

21 A. It probably will require both.

22 Q. Okay.

23 A. I don't know how I'm going to show on the
24 cross-section--

25 Q. Do you want to do a cross-section of the stream

1 and show how the road--

2 A. Well, yeah, I put the road in there. But
3 actually putting the stream channel-- I guess we can do it
4 this way. Excuse my artistic ability. It's nonexistent.

5 Q. The logging road when it crossed the existing
6 stream, did it go right down to the bottom of the stream, or
7 was there some fill or road bed there?

8 A. There was fill material across there.

9 Q. Was there a culvert or mechanism for the water to
10 get through?

11 A. I don't know. I didn't see one.

12 Q. Are there approved methods for logging roads to
13 cross streams of that size?

14 A. Probably not. This is not a perennial stream.
15 But I'm not that familiar with the Forest Protection Act so--

16 Q. That would be covered by the Forest Protection
17 Act?

18 A. Right.

19 Q. Can you just describe then when the water starts
20 coming down the existing channel what happened that moved it
21 over to the new channel?

22 A. Well, if there is an existing culvert, it
23 exceeded the capacity of that culvert and/or blocked the
24 culvert. Or if there wasn't a culvert, the water became
25 impounded behind the road up to the depth of the road fill

1 and then ran over the top of that fill at a new location.

2 Q. In your opinion would the stream have moved from
3 the old to the new stream bed had it not been for a road
4 crossing there?

5 A. I don't know. Probably not. But I wasn't there
6 watching. I don't know.

7 Q. Did you have any conversations with any member of
8 the Stott family about whether or not permits were needed to
9 do any remedial work on the little no-name stream?

10 A. I sent Gerald Stott a letter on September 24th of
11 '93.

12 Q. And the gist of that letter?

13 A. I recently talked to Mr. Finney about the repair
14 of the stream channel below his dam. He stated he was still
15 waiting for word from our department that the repair work
16 didn't require our approval.

17 I had assumed that our telephone conversation
18 earlier would be sufficient. But Mr. Finney stated that he
19 preferred our answer in writing since the stream in question
20 upstream from the confluence of Carlin Creek is intermittent.
21 It means, it doesn't flow year around. The stream channel
22 operation permit is not required. You and Mr. Finney may
23 proceed as you wish to repair any damages.

24 Then I just told him that he couldn't work in
25 Carlin Creek without a permit.

1 MR. PAUL: Okay, thank you.

2 MR. WATSON: I have no further questions.

3 (Thereupon, the deposition concluded, and
4 signature required.)
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ORIGINAL

25

CORRECTION SHEET

PAGE LINE EXPLANATION

I have read the foregoing 24 pages of my
testimony and believe the same to be true, except for the
corrections noted above. Dated this 4 day
of January, 1994, at Coeur d'Alene, Idaho.

David W. LePard
DAVID LePARD, Deponent.

Subscribed and sworn to before me this ____ day
of _____, 1994.

Notary Public

Gilbertson Reporting Service

408 SHERMAN / SUITE 209
COEUR D'ALENE, ID 83814
(208) 667-8536

REPORTER'S CERTIFICATE

STATE OF IDAHO)
) ss.
 COUNTY OF KOOTENAI)

I, Richard W. Gilbertson, CSR, and a duly
 commissioned Notary Public, State of Idaho, do hereby
 certify:

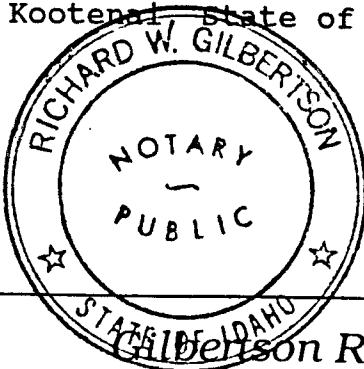
That I reported the taking of the deposition of the
 witness, DAVID LePARD, commencing on Tuesday, December 20,
 1994 at the hour of 10:05 a.m.

That prior to being examined, the witness was by me
 duly sworn to testify to the truth, the whole truth and
 nothing but the truth.

That I thereafter transcribed my Stenograph notes
 into typewriting and that the typewritten transcript of said
 deposition is a complete, true and accurate transcription of
 my said shorthand notes.

I further certify that I am not a relative or
 employee of any attorney or counsel involved in said action,
 nor a person financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and
 affixed my official seal in my office in the County of
 Kootenai, State of Idaho, this 21st day of December, 1994.



Richard W. Gilbertson
 Richard W. Gilbertson, CSR and
 Notary Public

Gilbertson Reporting Service

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Of Counsel

HOWARD A. ANDERSON
ROBERT F. EWING

February 13, 1995

Norm Young
Idaho Department of Water Resources
1301 N. Orchard
Boise, ID 83706

RECEIVED

FEB 17 1995

Department of Water Resources

Re: Stott-Dougall v. Finney

Dear Mr. Young:

This will simply confirm the scheduling of your deposition in this matter for March 3, 1995, commencing at 9:00 a.m. Mountain Time. Enclosed is a copy of our deposition notice for your reference.

Very truly yours,

HUPPIN EWING ANDERSON & PAUL, P.S.



STACIA L. SOUKUP
Legal Assistant to
Irving "Buddy" Paul

:sls

cc: R.D. Watson
Attorney for Plaintiffs

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FEB 17 1995

Department of Water Resources

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Attorneys for Defendants

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

MILDRED STOTT, by and through her)
legal guardian JOYCE DOUGALL,)

Plaintiffs,)

vs.)

PAUL FINNEY and SUE FINNEY,)
husband and wife,)

Defendants.)

Case No. CV-94-2079

NOTICE OF INTENTION TO
TAKE TELEPHONIC DEPOSITION
OF NORM YOUNG

TO THE ABOVE-NAMED PLAINTIFFS;

AND TO YOUR ATTORNEY R.D. WATSON

You and each of you will take notice that the oral examination of NORM YOUNG will be taken telephonically on the 3RD day of March, 1995, at the offices of M & M COURT REPORTING, 421 WEST FRANKLIN STREET, BOISE, IDAHO, before a member of the firm of M & M COURT REPORTING, Official Court Reporters and Notaries Public in and for the State of Idaho, residing at Boise, commencing at the hour of 9:00 o'clock A.M., Mountain Time, and to bring with you all documents, papers, matters and things in your possession or under your control relating to the above entitled lawsuit, including but not limited to one clear and legible copy of all files, charts, memoranda, reports, correspondence, notes and/or any and all

NOTICE OF DEPOSITION -1-

AUG 28 1995

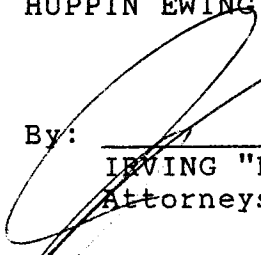
documentation relating to the above entitled lawsuit, and if not completed on that day, the taking of same will be continued thereafter from day to day and from time to time until fully taken.

Counsel for defendants will initiate the conference call.

The taking of said deposition is in accordance with Civil Rule 30, et seq. of the Idaho Rules of Civil Procedure.

DATED this 15 day of FEBRUARY, 1995.

HUPPIN EWING ANDERSON & PAUL, P.S.

By: 

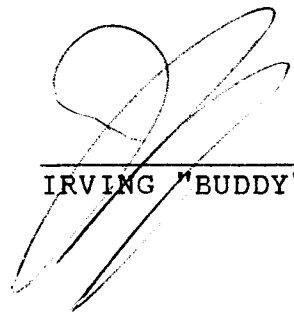
IRVING "BUDDY" PAUL
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice Of Intention To Take Telephonic Deposition Of NORM YOUNG was mailed to the following counsel of record, addressed as follows, on this

the 17 day of February, 1995.

R. D. Watson
Attorney at Law
408 Sherman Ave., Suite 202
Coeur d'Alene, ID 83814


IRVING "BUDDY" PAUL

RECEIVED
AUG 28 1995

June 6, 1994

PAUL FINNEY
16300 S ASBURY RD
HARRISON ID 83833

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 95-08802

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

If you have questions concerning this matter, please feel free to contact the NORTHERN Regional Office in Coeur D' Alene at (208)769-1450.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

c: IDWR - Region

SEP 12 1994



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

May 12, 1994

PAUL FINNEY
16300 S ASBURY RD
HARRISON ID 83833

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 95-08802

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. Please be sure to thoroughly review the "CONDITIONS/REMARKS:" listing on the permit.

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

If the diversion dam is 10 feet or more in height, or has an impounding capacity of 50 acre-feet or more, certain dam safety requirements must be met. Please contact the regional office nearest you for details.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:dc

Enclosures

SEP 12 1994

95-08802

FINNEY, PAUL
16300 S ASBURY RD
HARRISON, ID 83833

Source: UNNAMED STREAM

Tributary: CARLIN CREEK

Diversion Pt: LOT 3 (SENW) Sec 8 T 48N R 03W in KOOTENAI County.

Use: WILDLIFE STORAGE	(9.00 AF)
RECREATION STORAGE	(9.00 AF)
Total Diversion:	(9.00 AF)

Date Filed: 3/30/1993

In: KOOTENAI County
T48N R03W S08 SENW

SEP 12 1994

Application No. 95-8802

SPECIAL NOTE: _____

PROTEST INFORMATION SHEET

Protestant(s)

	NAME	ADDRESS	PROTEST DATE
1	Jeffrey A. Child, Atty for	105 N 4th St. Ste. 301, CDA, Id.	83814 5/3/93
2	Mildred Stott, Joyce Dougall,		
3	Tom Stott, & Jarrold Stott		
4			
5			
6			
7			
8			
9			
10			

ATTORNEY _____ ADDRESS _____

DATE FILED: 5/3/93

PROTEST DUE DATE: 5/3/93

ISSUES: A previous dam that Mr. Finney built failed and ruined protestants
property, in conflict with local public interest, is contrary to conservation
& water supply is insufficient for Mr. Finney's purposes, in derogation of fisheries
resources.

Applicant

ATTORNEY _____

ADDRESS _____

	DATE
Protest Date Entered on Computer	<u>6/1/93</u>
Acknowledgment Letters Sent	<u>6/1/93</u>
Hearing Date	<u>1/25/94</u>

(Other Dates)

Other Information: _____

Protest information submitted to computer (following hearing): _____

SEP 12 1994



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

April 26, 1994

Mr. R. D. Watson
Watson Law Offices
P.O. Box 1085
Coeur d'Alene, Id. 83814

Re: 95-8802 - Paul Finney

Dear Mr. Watson:

We wish to acknowledge receipt of the withdrawal of your clients' protest to the above-referenced Water Right Application.

By copy of this letter, we are notifying Mr. Finney of your withdrawal and forwarding a copy to him. The Application for Permit will now be sent to our State Office for further processing.

If you have any questions, please contact this office.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RGH/pms

c Mr. Paul Finney - w/enc.

SEP 12 1994

WATSON LAW OFFICES

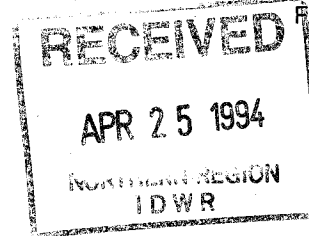
R.D. WATSON *
JOHN REDAL - ASSISTANT

* LICENSED IN IDAHO AND WASHINGTON

408 SHERMAN AVENUE, SUITE 215
POST OFFICE BOX 1085
COEUR D'ALENE, IDAHO 83816-1085

TELEPHONE (208) 664-0500
FAX (208) 765-5079

April 21, 1994



Bob Haynes
Department of Water Resources
Northern Regional Office
1910 Northwest Blvd., Ste. 210
Coeur d'Alene, ID 83814

RE: PAUL FINNEY

Dear Bob:

Pursuant to our discussions in the above referenced matter, I am writing to advise you that my clients are under the impression that Mr. Finney's impoundment structure meets the criteria imposed by the Department of Water Resources. As the result of the department's representations that the structure is currently safe and will not pose any threat to my clients, we will be withdrawing our objection to the Finney petition and request a diversion herein.

If you should have any questions in this matter, please feel free to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "R.D. Watson", written over the word "Sincerely,".

R.D. Watson

tmc

pc: client

A faint, rectangular stamp, possibly a "RECEIVED" or "FILED" stamp, located at the bottom right of the page.

SEP 12 1994

SENDER:

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

3. Article Addressed to:

MR JEFFREY A CHILD
105 N 4TH STE 301
COEUR D ALENE ID 83814

95-8802

5. Signature (Addressee)**6. Signature (Agent)**

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

1. ☐ Addressee's Address2. ☐ Restricted Delivery

Consult postmaster for fee.

4a. Article Number

48268

4b. Service Type

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

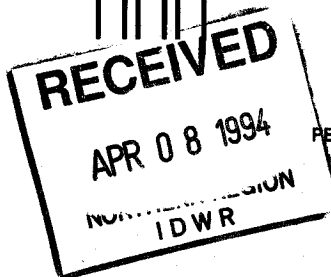
7. Date of Delivery

4-7-94

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

UNITED STATES POSTAL SERVICE

Official Business



PENALTY FOR PRIVATE
USE, \$300

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD. - SUITE 210
2 1994 COEUR D'ALENE, IDAHO 83814

SENDER:

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

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

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

Consult postmaster for fee.

3. Article Addressed to:

MR PAUL FINNEY

16300 S ASBURY RD

HARRISON ID 83

4a. Article Number

48267

4b. Service Type

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

7. Date of Delivery

4-11-94

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

PS Form 3811, November 1990 *U.S. GPO: 1991-287-066

DOMESTIC RETURN RECEIPT

UNITED STATES POSTAL SERVICE

Official Business

RECEIVED

APR 13 1994

NORTHWEST REGION
IDWR

SEP 12 1994



PENALTY FOR PRIVATE
USE, \$300

Print your name, address and ZIP Code here

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

Name and Address of Sender

DEPARTMENT OF WATER RESOURCES

1910 NORTHWEST BLVD. - SUITE 210

COEUR D'ALENE, IDAHO 83814

Indicate type of mail
☐ Registered ☐ Return Receipt
☐ Insured ☐ For Merchandise
☐ COD ☐ Int'l Recorded Del.
☒ Certified ☐ Express Mail

Check appropriate block for Registered Mail:
☐ With Postal Insurance
☐ Without Postal Insurance

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.

POSTMARK AND DATE OF RECEIPT

Line	Article Number	Name of Addressee, Street, and Post Office Address	Postage	Fee	Handling Charge	Act. Value (If Regis.)	Insured Value	Due Sender If COD	R. R. Fee	S. D. Fee	S. H. Fee	Rest. Del. Fee	Remarks
1	48267	Mr. Paul Finney 16300 S Ashbury Rd., Harrison, Id. 83833	29c	\$1.00					\$1.00				95-8802
2	48268	Mr. Jeffrey A. Child 105 N. 4TH ST, STE 301, CDA, Id. 83814	"	"					"				"
3	48269	Mr. Randall Day P.O. BOX 918, BONNERS FERRY ID 83805	"	"					"				98-7714
4	48270	MR AND MRS SCOTT A PETERSON HCR 01 BOX 395, NAPLES ID 83847	"	"					"				"
5													
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14													
15													

SEP 12 1994

Total Number of Pieces Listed by Sender 4	Total Number of Pieces Received at Post Office 4	POSTMASTER, PER (Name of receiving employee) [Signature]	The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for the reconstruction of nonnegotiable documents under Express Mail document reconstruction insurance is \$50,000 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is \$500. The maximum indemnity payable is \$25,000 for registered mail, sent with optional postal insurance. See Domestic Mail Manual 913 and 914 for limitations of coverage on insured and COD mail. See International Mail Manual for limitations of coverage on international mail. Special handling charges apply only to third and fourth class parcels.
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For Accountable Mail

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 95-8802)
IN THE NAME OF PAUL FINNEY.)

NOTICE OF HEARING

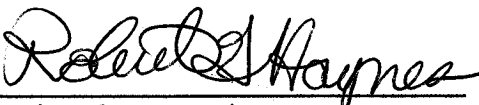
On March 30, 1993, Paul Finney filed with the Department of Water Resources (department) application for permit no. 95-8802. The application was protested by Mildred Stott, Joyce Dougall, Tom Stott and Jarrold Stott, through their attorney, Jeffrey A. Child on May 3, 1993. The conference held by the department on January 20, 1994, did not resolve the matter of protest.

The department has scheduled the matter for hearing on 7:30 AM on Tuesday, April 26, 1994, in the Department of Water Resources Northern Regional Office Conference Room, 1910 Northwest Blvd., Suite 210, Coeur d'Alene, Id. 83814. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45. A copy of the rules may be obtained from the department upon request. The presiding officer at the hearing will be Gary Spackman.

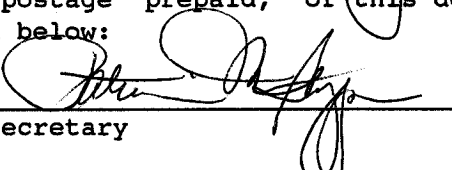
The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.

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

Dated this 6th day of April, 1994.


Regional Supervisor

I hereby certify that on the 6th day of April, 1994, I mailed a true and correct copy, postage prepaid, of this document to the applicants(s) and protestant(s) listed below:


Secretary

Certified Mail

Mr. Paul Finney
16300 South Asbury Rd.
Harrison, Id. 83833

Mr. Jeffrey A. Child
105 N. 4th St., Ste. 301
Coeur d'Alene, Id. 83814

SEP 12 1994

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

ISSUES

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

1. Will the proposed appropriation injure other water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use conflict with the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?

BURDEN OF PROOF

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

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

PROCEDURE

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

SEP 12 1994

CONFERENCE

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

HEARING

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

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

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

EXHIBITS

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

AMERICANS WITH DISABILITIES ACT

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

SEP 12 1994

Place: IDWR Northern Regional Office, Coeur d'Alene, Id.

ADDRESS

1231 DALTON AVE CDA 83814

SEP 12 1994

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 95-8802 IN THE)
NAME OF PAUL FINNEY.)
_____)

NOTICE OF CONFERENCE

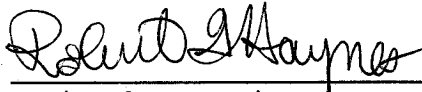
On March 30, 1993, Paul Finney filed with the Department of Water Resources (department) application for permit no. 95-8802. The application was protested by Jeffrey A. Child, attorney for Mildred Stott, Joyce Dougall, Tom Stott and Jarrold Stott on May 3, 1993.

The department has scheduled the matter for conference on Thursday, January 20, 1994, at 3:30 PM, in the Idaho Department of Water Resources Northern Regional Office Conference Room, 1910 Northwest Blvd., Suite 210, Coeur d'Alene, Id. 83814. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45. A copy of the rules may be obtained from the department upon request. The presiding officer at the conference will be Robert G. Haynes.

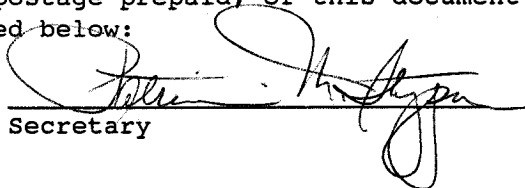
The conference will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the department within (10) days prior to the conference.

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

Dated this 22nd day of December, 1993.


Regional Supervisor

I hereby certify that on the 22nd day of December, 1993, I mailed a true and correct copy, postage prepaid, of this document to the applicants(s) and protestant(s) listed below:


Secretary

Certified Mail

Mr. Paul Finney
16300 South Asbury Rd.
Harrison, Id. 83833

Mr. Jeffrey A. Child
105 N. 4th St. Ste. 301
Coeur d'Alene, Id. 83814

SEP 12 1994

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

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

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

3. Article Addressed to:

MR JEFFREY A CHILD

105 N 4TH ST STE 301

COEUR D ALENE ID 83814

95-8802

SEP 12 1994

4. Article Number

48252

Type of Service:

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

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature + Address

X *C. Hendrix*

6. Signature - Agent

X

7. Date of Delivery

12-29

8. Addressee's Address (ONLY if requested and fee paid)

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

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

RETURN
TO



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

~~DEPARTMENT OF WATER RESOURCES~~
~~1500 NORTHWEST BLVD. - SUITE 210~~
COEUR D'ALENE, IDAHO 83814



POSTMARKED

SEP 12 1994



PENALTY FOR PRIVATE
USE, \$300

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

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

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

3. Article Addressed to:

MR PAUL FINNEY

16300 S ASBURY RD

HARRISON ID 83833

95-8802

RECEIVED

JAN 3 1994

NORTHWEST REGION
IDWR

4. Article Number

48251

Type of Service:

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

Always obtain signature of addressee present and DATE DELIVERED.

5. Signature — Address

X

6. Signature — Agent

X

7. Date of Delivery

J. Finney 12/31/93

8. Addressee's Address (ONLY if requested and fee paid)

SEP 12 1994

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

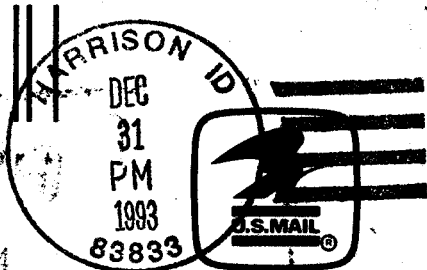
- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

**RETURN
TO**



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

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



PENALTY FOR PRIVATE
USE, \$300

CONFERENCE AND HEARING PROCEDURE

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SEP 12 1994

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SEP 12 1994

PS Form 3877, July 1978
ACCURACY OF REGISTERED, INSURED, C.O.D. AND CERTIFIED MAILNAME AND
ADDRESS
OF SENDER

DEPARTMENT OF WATER RESOURCES

Indicate type of mail

- ☐
- Registered
-
- ☐
- Insured
-
- ☐
- COD
-
- ☒
- Certified

I certify that we have

- ☐
- Commercial Insurance
-
- ☐
- A deductible clause of
-
- \$

Affix stamp here if issued as
certificate of mailing or for
additional copies of this bill.

POSTMARK AND DATE OF RECEIPT

LINE	NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	Handling Charge	Actual Value (If Registered)	DUE SENDER IF C.O.D.	R. R. FEE	S.D. FEE	S. H. FEE	REST. DEL. FEE	REMARKS
1	48239	Mr. & Mrs. Brian L. Dockins Rt. 2 Box 372A, Oldtown, Id. 83822	29¢	\$1.00				\$1.00				96-8736
2	48240	Mr. and Mrs. William Wilcox P. O. Box 246, Groveland, Ca. 95321	"	"				"				"
3	48241	Ms. Jennifer Alexander 13967 Olive Grove Ln., Sylmar, Ca. 91342	"	"				"				"
4	48242	Mr. Michael Wilcox 3420 Coach Ln., Ste. 6, Cameron Park, Ca. 95682	"	"				"				"
5	48243	Mr. Arley Lawrence P.O. Box 1931, Oldtown, Id. 83822	"	"				"				"
6	48244	Canyon Mineral Inc. P.O. Box 112, Colburn, Id. 83865	"	"				"				96-8741
7	48245	Department of Fish & Game 2320 Government Way, Coeur d'Alene, Id. 83814	"	"				"				92-7202 & 96-8699
8	48246	Ms. Kathy Evans E. 7000 Bunco Rd., Athol, Id. 83801	"	"				"				96-8681
9	48247	Mr. and Mrs. Stephen H. Craun, III N. 24575 McCoy Rd., Athol, Id. 83801	"	"				"				"
10	48248	Jaime Namson E 12100 Parks Rd., Athol, Id. 83801	"	"				"				96-8699
11	48249	Mr. Don Gary Young P.O. Box 18, Plummer, Id. 83851	"	"				"				95-8828
12	48250	Ms. Mildred Socha Rt. 1 Box 82H Coon Creek, St. Maries, Id. 83861	"	"				"				"
13	48251	Mr. Paul Finney 16300 S. Asbury Rd., Harrison, Id. 83833	"	"				"				95-8802
14	48252	Mr. Jeffrey A. Child 105N. 4th St. Ste. 301, Coeur d'Alene, Id. 83814	"	"				"				"
15	48253	Mr. Gordon I. James Rt. 4 Box 208F, St. Maries, Id. 83861	"	"				"				92-7202
TOTAL NUMBER OF PIECES LISTED BY SENDER		TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE	POSTMASTER. PER (Name of receiving employee)		The full declaration of value is required on all domestic and international registered mail. Commercial Insurance—Payment of the full registry fee is required on articles valued up to \$1,000 or the full amount of the deductible if the deductible exceeds \$1,000. The maximum indemnity payable is \$25,000 for registered mail, \$400 for COD and \$400 for insured mail. Special handling charges apply only to third- and fourth-class parcels. Special delivery service also includes special handling service.							
15		15										

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

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



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

Governor
June 1, 1993

R. KEITH HIGGINSON
Director

Mr. Jeffrey A. Child
Child and Fisher
105 N. 4th St. Ste. 301
Coeur d'Alene, Id. 83814

Re: Water Right No. 95-8802 - Paul Finney

Dear Mr. Child:

Your clients' protest against the approval of the above-referenced application has been received and a copy has been sent to the applicant. The Department suggests that you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

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

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

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

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager
RGH/pms

SEP 12 1994



State of Idaho
DEPARTMENT OF WATER RESOURCES

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CECIL D. ANDRUS

Governor
June 1, 1993

R. KEITH HIGGINSON
Director

Mr. Paul Finney
16300 S. Asbury Rd.
Harrison, Id. 83833

Re: 95-8802

Dear Mr. Finney:

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

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

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

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

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager
RGH/pms
Enclosure

SEP 12 1994

CHILD AND FISHER

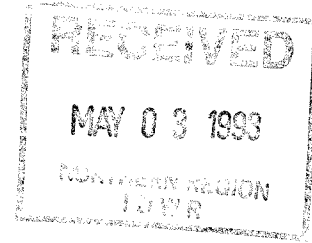
Attorneys at Law

Jeffrey A. Child
Heidi L. Fisher

May 3, 1993

HAND DELIVERY

R. Keith Higginson
Director
Department of Water Resources
Northern Region
1910 Northwest Boulevard, Suite 210
Coeur d'Alene, ID 83814



RE: Protest against application for water right #95-08802
Paul Finney, Applicant

Dear Mr. Higginson:

I represent Mildred Stott and Joyce Dougall, Tom Stott, and Jarrold Stott, her children. On behalf of my clients, I hereby protest Mr. Finney's application for a water right to divert and store waters of a tributary to Carlin Creek.

This protest is made for the reason that Mr. Finney previously built a dam and impounded a substantial amount of water. This dam failed, resulting in a torrent of water cascading down property owned by Mildred Stott. The natural course of the pre-existing stream was altered, creating a substantial amount of erosion of soil and rock with the resultant destruction or injury to a great number of trees. Additionally, the course of the tributary stream was altered such that the outflow location at its confluence with Carlin Creek now floods portions of Mildred Stott's land, which previously was not flooded. A large amount of silt and other debris has been deposited onto Mildred Stott's land and has settled into the streambed of Carlin Creek. Additionally, a large volume of silt was washed into Carlin Bay.

The resulting ravine from the runoff will make access to the region more difficult when the property is logged. Further erosion is anticipated due to the nearly vertical walls of the present ravine.

My clients have received no assurance that Mr. Finney intends to remedy the damage done, and no assurances that the dam won't fail again. My clients believe that Mr. Finney's proposed impoundment of water is in conflict with the local public interest, is contrary to conservation of water resources within the state, that the water supply is insufficient for Mr. Finney's

Suite 301, Wiggett Building
105 North Fourth Street
Coeur d'Alene, Idaho 83814
Telephone: (208) 667-4571

RECEIVED 1993

SEP 12 1994

Finney
May 3, 1993
Page 2

purposes and will reduce the quantity of water flowing through the tributary creek, in derogation of fisheries resources.

My clients request a hearing on this protest.

Very truly yours,

A handwritten signature, likely "Jeffrey A. Child", is enclosed within a hand-drawn oval.

Jeffrey A. Child

JAC:vh
cc: Joyce Dougall

SEP 12 1994



State of Idaho
DEPARTMENT OF WATER RESOURCES

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CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

May 26, 1993

Mr. Paul Finney
16300 S. Asbury Rd.
Harrison, Id. 83833

Re: 95-8802

Dear Mr. Finney:

Enclosed is a letter dated April 29, 1993, from the Idaho Department of Fish & Game offering their recommendations on your above-referenced water right application.

This correspondence is forwarded to you for your information. If you have any questions, please feel free to contact this office.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Allen Beardslee'.

ALLEN BEARDSLEE
Senior Water Resources Agent

AB/pms

Enc. - Correspondence

SEP 12 1994



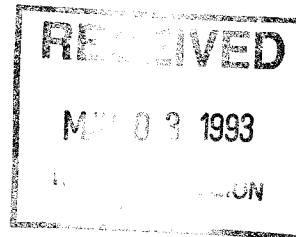
IDAHO FISH & GAME

REGION 1

2320 Government Way
Coeur d'Alene, ID 83814-3683
(208) 765-3111

April 29, 1993

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



Dear Bob:

REFERENCE: 95-08802 FINNEY/CARLIN CREEK TRIBUTARY

As you are aware, Mr. Finney's first attempt at placing a dam at this site resulted in failure of the dam and damage to downstream aquatic habitat.

We have no objection to construction of a pond at this site, provided the dam is properly engineered to prevent a repeat failure. We recommend design work be completed or at least reviewed by a licensed engineer with experience in designing small dams. Consultation with the Soil Conservation Service would likely address this issue.

Also, we encourage Mr. Finney to contact our Department for design criteria to benefit wildlife. John Nigh is the Habitat Improvement Program Coordinator for the Carlin Creek area, and can be reached at 689-3453.

Thanks for the opportunity to comment.

Sincerely,

David W. Ortmann
Regional Supervisor

DWO:CEC:kh

C: Paul Hanna
John Nigh
US Army Corp of Engineers, Cd'A
Division of Environmental Quality
Natural Resource Policy Bureau

Cecil D. Andrus / Governor
Jerry M. Conley / Director

Equal Opportunity Employer



Working for wildlife - since 1938

SEP 18 1993

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Kootenai, } ss.

Keri Alexander

being first duly sworn

upon oath deposes and says:

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

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

3. The *legal notice*

of which the annexed is a printed copy, was published in the regular *THURS.* issue of said newspaper for *2* consecutive *work* days commencing on the *15th* day of *April*, 19*93*, and ending on the *22nd* day of *April*, 19*93*, and such publication was made as often during said period as said *daily* newspaper was regularly issued.

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

Keri Alexander

Subscribed and sworn to before me this *22nd* day of *April*, 19*93*.

Roberta Manley

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

ROBERTA MANLEY
My commission expires *9-5-99*

NOTICE OF APPLICATION FOR WATER RIGHT

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

95-08802

FINNEY, PAUL
16300 S ASBURY RD
HARRISON, ID 83833
Source: UNNAMED STREAM
Tributary: CARLIN CREEK
Diversion Pt: LOT 3 (SENW) Sec 8 T 48N
R 03W in KOOTENAI County.
Use: WILDLIFE STORAGE (9.00 AF)
RECREATION STORAGE (9.00 AF)
Total Diversion: (9.00 AF)

Dated Filed: 3/30/1993
In: KOOTENAI County
T48N R03W S08 SENW
95-08744

HANEY, NATHAN D
HANEY, DORCAS A
PO BOX 3463
HAYDEN LAKE, ID 83835
Source: GROUNDWATER
Diversion Pt: NWSW Sec 14 T 53N R 03W
in KOOTENAI County.
Use: STOCKWATER (020 CFS)
DOMESTIC (110 CFS)
Total Diversion: (110 CFS)

Dated Filed: 4/5/1993
In: KOOTENAI County
T53N R03W S14 NWSW SWSW
For additional information concerning the property location, call the Northern Regional Office at 765-4639.
The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Northern Region, 1910 Northwest Blvd., Suite 210, Coeur d'Alene, Idaho 83814 on or before MAY 3, 1993.

R. KEITH HIGGINSON, Director

Legal 132
Apr. 15, 22, 1993

APR 23 1993

NORTHERN REGION
IDWR



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
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CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

April 7, 1993

Mr. Paul Finney
16300 S. Asbury Rd.
Harrison, Id. 83833

Dear Mr. Finney:

Re: 95-8802

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

Your appropriation application is currently being prepared for advertising in the county newspaper. This advertisement will be published for two consecutive weeks followed by a waiting period of ten days to allow for the submittal of protests.

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

If your application is for groundwater and unless you are using a well that was constructed prior to July 1, 1987, it will be necessary for you to apply for a well drilling permit upon approval of the appropriation application. Well drilling permits can be issued by this office only to holders of approved appropriation permits.

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

Sincerely,

ALLEN BEARDSLEE
Senior Water Resources Agent

AB/pms

APR 12 1993