

MILWAUKEE LAND CO.

1/4 corner

175
OUT LOT
W. Thereill's

Sec. 28

WITHERELL'S

11581

N 1/2

OUT LOT 175
OUT LOT f

SPRING

500 gal TANK

Pipe
500'

W. Thereill's

HOUSE

BLK
10

BLK
11

BLK
12

TITLE
CARPENTERS
4 LOTS

TITLE
W. Thereill's

TITLE
WITHERELL'S

91 2027

TITLE
DON
MARTEN

SW 1/4 NW 1/4
Sec 28 T46N. R16E M

732'
(ST. JOE CITY)

NAME OF APPLICANT

FRANK Witherell

Sec. 28 T. 46 N. R. 15 E

Form No. 0

20

21

22

29

P.D. spring
28

27

32

33

34

Permit Map No. 31143

As Approved JUL 3 1963

Ralph W. Thomas
Deputy State Reclamation Engineer

Office copy

State of Idaho
Department of Water Administration

LICENSE OF WATER RIGHT

License of Water Right No. 31143/91-2027 Priority March 2, 1968 Amount 0.12 cfs
(late proof)

THIS IS TO CERTIFY, that FRANK WITHERELL
of St. Maries, Idaho, has complied with the terms and conditions of Permit
No. 31143/91-2027 issued pursuant to Application for Permit dated May 27, 1963,
and has submitted proof to the Department of Water Administration on March 9, 1971,
that he has applied water to a beneficial use; an examination by the Department indicates that the
works have a capacity of 0.12 cfs, and that the water has in fact been applied to a
beneficial use; a right to the use of water from an unnamed spring
tributary of _____, is hereby confirmed in the following amounts:

Amount 0.12 cfs for Domestic from Jan. 1 to Dec. 31 (both dates inclusive)

Amount _____ for _____ from _____ to _____ (both dates inclusive)

Amount _____ for _____ from _____ to _____ (both dates inclusive)

Subject, however, to the condition that no more than 0.12 cfs of water be diverted at
any one time, said waters to be diverted within the _____

SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 28, Twp. 46 N, Rge. 1 E, B.M.

in the county of Benewah; and that the amount of water so diverted and to which such
right is entitled and confirmed is for the purposes aforesaid and is limited to the amount which can
actually be beneficially used and shall not exceed 3.6 acre feet per year ~~or~~

~~exceed per acre.~~

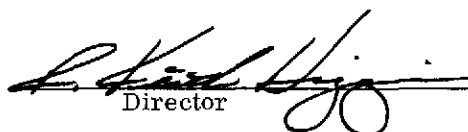
Description and location of place of use:

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
46 N	1 E	28						X											

Total number of acres irrigated _____

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands
or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 3rd day of
January, 19 74.


Director

91-2027

BEFORE THE DEPARTMENT OF WATER ADMINISTRATION
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 31143/91-2027)
In the name of FRANK WITHERELL)

ORDER

WHEREAS, on May 27, 1963, Frank Witherell applied to the Department of Water Administration (formerly the Department of Reclamation) for a permit to appropriate 2.0 cubic feet per second of water from an unnamed spring within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 28, T. 46N, R. 1E, B.M., Benewah County, to be used for domestic purposes; and,

WHEREAS, on June 3, 1963, the Department approved the application and issued Permit No. 31143 with the condition that one-fifth of the work be completed on or before June 3, 1964; and that the whole of said work be completed on or before June 3, 1965; and that the water to appropriated to a beneficial use on or before June 3, 1966; and,

WHEREAS, proof of completion of works was made on May 26, 1965; and,

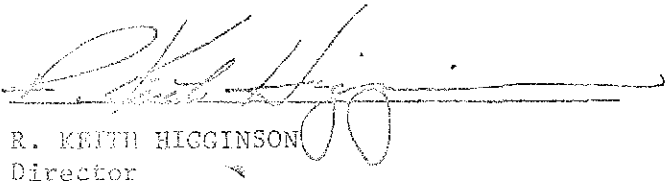
WHEREAS, on January 4, 1971, the Department notified the permit holder that Permit No. 31143/91-2027 was subject to cancellation for failure to submit proof of beneficial use of water on or before June 3, 1966; and,

WHEREAS, proof of beneficial use of water was received by the Department on March 9, 1971; and,

WHEREAS, Section 42-218a of the Idaho Code provides that in the event that proof of beneficial use is submitted after the deadline set forth in the conditions of approval, the priority date of such permit shall be advanced the same number of days that said proof is late;

THEREFORE, IT IS HEREBY ORDERED that the priority under Permit No. 31143/91-2027 be advanced to March 2, 1968.

Dated this 15th day of March, 1971.


R. KEITH HIGGINSON
Director

RECEIVED

MAR 9 1971

Department of Water Administration

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

Application No. 39235
Identification No. 39235

Permit No. 31143/91-2027

RECEIVED

FEB 16 1971

Department of Water Administration

1. a) Name of Permit Holder FRANK WITHERELL
b) Post Office Address ROUTE #3
2. Permit Number 31143
3. Date of Priority that you are prepared to establish JUNE 3-1963
4. a) Source from which water was appropriated SPRING
b) Location of the point of diversion: SW 1/4 NW 1/4, Section 28
Township 46N, Range 1E Boise Meridian, Other points of diversion: _____

5. a) The amount of water and use to which the water has been applied: (year around)
amount 50 miners inch for Domestic purposes from _____ to _____ incl.
(cfs and/or acre feet per annum) (Month-Day) (Month-Day)
amount _____ for _____ purposes from _____ to _____ incl.
(cfs and/or acre feet per annum) (Month-Day) (Month-Day)
amount _____ for _____ purposes from _____ to _____ incl.
(cfs and/or acre feet per annum) (Month-Day) (Month-Day)
b) Total amount appropriated _____ cfs and/or acre feet per annum
c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifications of the person making the measurement: _____

6. If the means of diversion and conveyance are owned by someone other than the Permit Holder:
a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use: _____
b) Describe the agreement or understanding by which you take water from the works: PIPE

7. a) Briefly describe the works for diverting and conveying the water to the place of use, (If from a subterranean source, give the pump size, motor size, size of well casing, depth of well; if from ^{SPRING} surface water, give brief description of diversion structure and/or canal or ditch) located 500' from house with 3 inch plastic pipe. from a 4' sq. wooden structure then by pipe its run into 500 gallon metal tank for small storage supply.
b) Describe the type and size of measuring device which you have installed at your point of diversion: _____
c) Give well drillers name and address and date the well was completed _____

Exam typed 5-21-71. (R)

91 2027

8. If for other than irrigation, describe the beneficial use to which you have applied the water and the place of use _____

9. Irrigation uses: Describe the lands irrigated by giving the acreages irrigated within each 40 acre subdivision: _____

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
				20				21				22							
				29				28				27							

Total number of acres irrigated _____
10. Remarks: We have done this work ourselves, and the
spring is used for domestic purposes, and located
on our own land.

The above information is a true statement of the extent to which the above numbered permit has been developed.

Feb 12 / 1971
(Date)

Frank Wittnell Cecelia Wittnell
(Signature)

State of Idaho)
County of Benewah) ss.

On this sixth day of March, 19 71, personally appeared before me the
signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Marjorie C. Smith
Notary Public residing at St. Maries, Idaho

My commission expires 2-19-75

91 2023

Jan 18 - 1971

Dear Sirs:

This is to Certify the
Completion of Water Works of
Permit 3143/91-2027 S $10\frac{1}{2}$ NW
 $\frac{1}{4}$ Sec 28 T. 46 N. R. 1 E. B.M.
for 1.0 cubic feet per second
(Minors inch)

The spring is located 500'
from our house (with $\frac{3}{4}$ inch Plastic Pipe)

We have a 4' sq wooden
structure then by pipe it is
then run into a 500 gallon
metal tank for a small storage
supply.

Signed.

Mrs. Frank Littleall

Subscribed and sworn to before me this 30th
day of January, 1971.

Margaret C. Smith
Notary Public for Idaho,
residing at St. Maries, Idaho
My commission expires 2-19-75

MILLWALKER LAND CO.

1/4 corner

175' OUTLOT
WITHERELL'S

Sec. 28

1158'

OUTLOT 175
OUT LOT f

SPRING

500 GAL TANK

2162'
500'

WITHERELL'S

HOUSE

BLK
10

BLK
11

BLK
12

WITHERELL'S
4 lots

TITLE
WITHERELL'S

TITLE
WITHERELL'S

91 2027

TITLE
DON
MARTEN

SW 1/4 NW 4
Sec 28 T46N. R1E3M (ST. JOE CITY)

See 28: TWP. 46 N. 15. 1 E

NAME OF APPLICANT

FRANK Withersell

Form No. 0

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Affidavit of Publication

STATE OF IDAHO

County of Benewah, ss.

JoJane Hammes, being first duly sworn on oath, deposes and says that she is co-publisher and business manager of the St. Maries Gazette Record, a weekly newspaper printed and published at St. Maries, Benewah County, State of Idaho; the St. Maries Gazette Record is a newspaper having general circulation in Benewah county, State of Idaho, and has been continuously and uninterruptedly published in Benewah County, State of Idaho, during a period of more than seventy-eight consecutive weeks prior to the first publication of the notice of advertisement hereon.

That the notice, of which the one hereto attached is a true copy, was published in said newspaper for a period of two... issues, the first publication being on the 20th day of April, 1971, and the last on the 15th day of April, 1971.

That said newspaper was regularly distributed to its subscribers during the time of the same period; that said notice was published in the regular and entire issue of said paper.

Subscribed and sworn to before me this 16th day of April, 1971.

Notary Public in and for Benewah County, Idaho
Residing at St. Maries, Idaho

NOTICE OF EXISTING
WATER PERMIT

Notice is hereby given that Frank Witherell, Route 3, St. Maries, Idaho, has received an approved Permit No. 31143 91-2027 issued by the Idaho Department of Water Administration authorizing the diversion of 1.0 cubic feet per second of water from an unnamed spring. The priority to be established under this permit is March 2, 1968, and the permit was approved June 3, 1963.

Water is to be diverted by pipe from a point within the SW 1/4 NW 1/4 Sec. 28, T. 46N, R. 1E, B.M., Benewah County, to be used for domestic purposes in the SW 1/4 NW 1/4 Sec. 28, T. 46N, R. 1E, B.M.

Proof of the application of the water to beneficial use was submitted to the Department on March 9, 1971. Any protests against the issuance of the license for the above referenced permit should be filed with the Idaho Department of Water Administration Statehouse, Boise, Idaho, within ten (10) days of the last date of publication of this notice.

R. Keith Higginson,
Director

Published in the St. Maries Gazette Record, St. Maries, Idaho, on April 7th and April 14th, 1971.
No. 3579

**Application For Permit
To Appropriate the Public Waters of the State of Idaho**

APPLICATION No. 39235
PERMIT No. 31143
DISTRICT No.

1. Name of Applicant: Frank Witherell

Postoffice address: Route #3

County: Benewah

State St. Maries, Idaho

I. If applicant is a corporation, give:

(a) Date and place of incorporation:

(b) Amount of capital stock:

(c) Amount paid in:

(d) Names and addresses of directors:

II. The financial resources of the applicant are:

(a) Cash on hand:

(b) Treasury stock:

(c) Bond to be issued:

(d) Other resources:

2. Quantity of water claimed: 50 miners inches (1.0) cubic feet per second.

3. Source of water supply: Spring which is a tributary of

4. Location of point of diversion: feet distant from the

corner of Section , T. , R. , B.M., and is in the SW $\frac{1}{4}$ NW $\frac{1}{4}$

of section 28 , T. 46 N., R. 1 E. , B. M., County of Benewah

5. Water is to be used for Domestic purposes

6. If for mining, milling, power or manufacturing purposes, give:

(a) Point of use of water: feet distant from corner of Section

T. , R. , B.M., in the of Section of , T. , R. , B.M.

(b) Amount of power generated: H.P., under feet head.

(c) Water is to be returned to at a point feet

distant from the corner of Section , T. , R. , B.M., in the
of Section , T. , R. , B.M.

7. Estimated cost of works: \$ 80.00

8. Kind of works: Pipe

9. Height of dam feet; length of dam at top feet; length of dam at bottom

feet; material used in dam:

10. Size of headgate: Width feet; height feet.

11. Ditch: Width at bottom fee; width at water line feet; depth of water feet;
dimensions of flume:

Diameter of pipe inches; length of conduit miles.

Average grade per mile feet.

12. The time required for the completion of such work is 2 years.

13. The time required for the complete application of the water to the proposed use is 1 additional years.

14. The land to be irrigated is described in the following tabulation: See remarks.

15. Existing water rights and/or valid permits appurtenant to the lands to be irrigated are:

16. (a) Is reservoir to be used? If so, fill in (b) and (c) below:
(b) Name of Reservoir and number of Storage Permit:
(c) Date of filing of Application for Storage Permit and Name of Applicant:

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

s/ Willis F. Strode
Notary Public for the State of Idaho
Residing at Coeur d'Alene, Idaho
My commission expires May 7, 1967 (SEAL)
Date of first receipt at Department of Reclamation: 8:00 A.M. May 27, 1963

s/ Frank Witherell Applicant.
s/ Catherine Witherell

By ~~APPROX~~

Returned to applicant for correction:

Corrected application received:

Approval of State Reclamation Engineer

The number of this permit is 31143
Recorded in Book 109 Page 31143 Approved June 3, 1963
This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:
Bond in the sum of \$ to be filed on or before
Work to begin on or before August 3, 1963 and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.
One-fifth of the work above specified to be completed on or before June 3, 1964
The whole of said work to be completed on or before June 3, 1965
Beneficial use of water appropriated in accordance herewith, to be made on or before June 3, 1966

WITNESS My hand this 3rd day of June, 1963

s/ RALPH W. THOMAS, Deputy
State Reclamation Engineer.

IN TESTIMONY WHEREOF, WE, ROBERT E. SMYLLIE, Governor of the State of Idaho, and ARNOLD WILLIAMS, Secretary of State of the State of Idaho, have caused this instrument to be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed, this 3rd

day of June, 1963.
Countersigned:

(SEAL) By s/ ARNOLD WILLIAMS
Secretary of State.

By s/ ROBERT E. SMYLLIE
Governor.

REMARKS: We are the owners of said land and this is a spring on this property, and to be used for domestic purposes.

14.

Twp.	Range	Sec.	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	Totals
			NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$	NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$	NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$	NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$	
			Permit No. 31143 ✓ CERTIFICATE OF COMPLETION OF WORKS				
			TO ALL WHOM IT MAY CONCERN:				
			This is to certify that Frank Witherell of St. Maries, County of Benewah, and State of Idaho, the holder of Permit No. 31143, issued upon Application No. 39235 bearing date of priority of May 27, 1963, authorizing the diversion of 1.0 second feet of waters of a spring County of Benewah, State of Idaho, for domestic purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use 1.0 second feet of the waters of a spring that the point of diversion of said waters SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, T. 46N., R. 1 E.B.M. and that the lands proposed to be irrigated by the use or place of use of said water are described as follows, to-wit:				
			Domestic purposes in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, T. 46N., R. 1 E.B.M.				
			Witness my hand this 2nd day of June, A.D. 1965				
			/s/ RALPH W. THOMAS Deputy State Reclamation Engineer				
			Proof of Completion of Works Made: May 26, 1965				

RECEIVED JUN 12 1963
STATE OF IDAHO
DEPT. OF RECLAMATION

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION



Cecil D. Andrus
Governor
R. Keith Higginson
Director

614 State Street
Statehouse - Annex 2
Boise, Idaho 83720
(208) 384-2190

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection

January 4, 1974

Re: Permit No. 31143/91-2027

Frank Witherell
Route 3
St. Maries, Idaho 83861

Dear Mr. Witherell:

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

Sincerely,

BOBBY D. FLEENOR
Assistant Director

jfr

Enclosure

91-2027

December 14, 1973

Re: Permit No. 31143/91-2027

Frank Witherell
Route 3
St. Maries, Idaho 83861

Dear Mr. Witherell:

A representative of this Department has made an examination of the works covered by your Permit No. 31143/91-2027 and has found the following:

Quantity of water diverted: 0.12 cfs

Amount of water that can be recognized as beneficially used under Idaho law: 0.12 cfs

The maximum quantity diverted shall not exceed 3.6 acre feet per year.

Beneficial use: For domestic purposes within the SW 1/4, Sec. 28, Twp. 46 N, Rge. 1 E

Point of diversion: SW 1/4, Sec. 28, Twp. 46 N, Rge. 1 E, B.M.

Priority date established: March 2, 1968 (late proof)

If you do not concur with these findings, please advise us within 10 days; otherwise, a license will be issued as set forth in this letter.

Sincerely,

BOBBY D. FLEENOR
Assistant Director

jfr

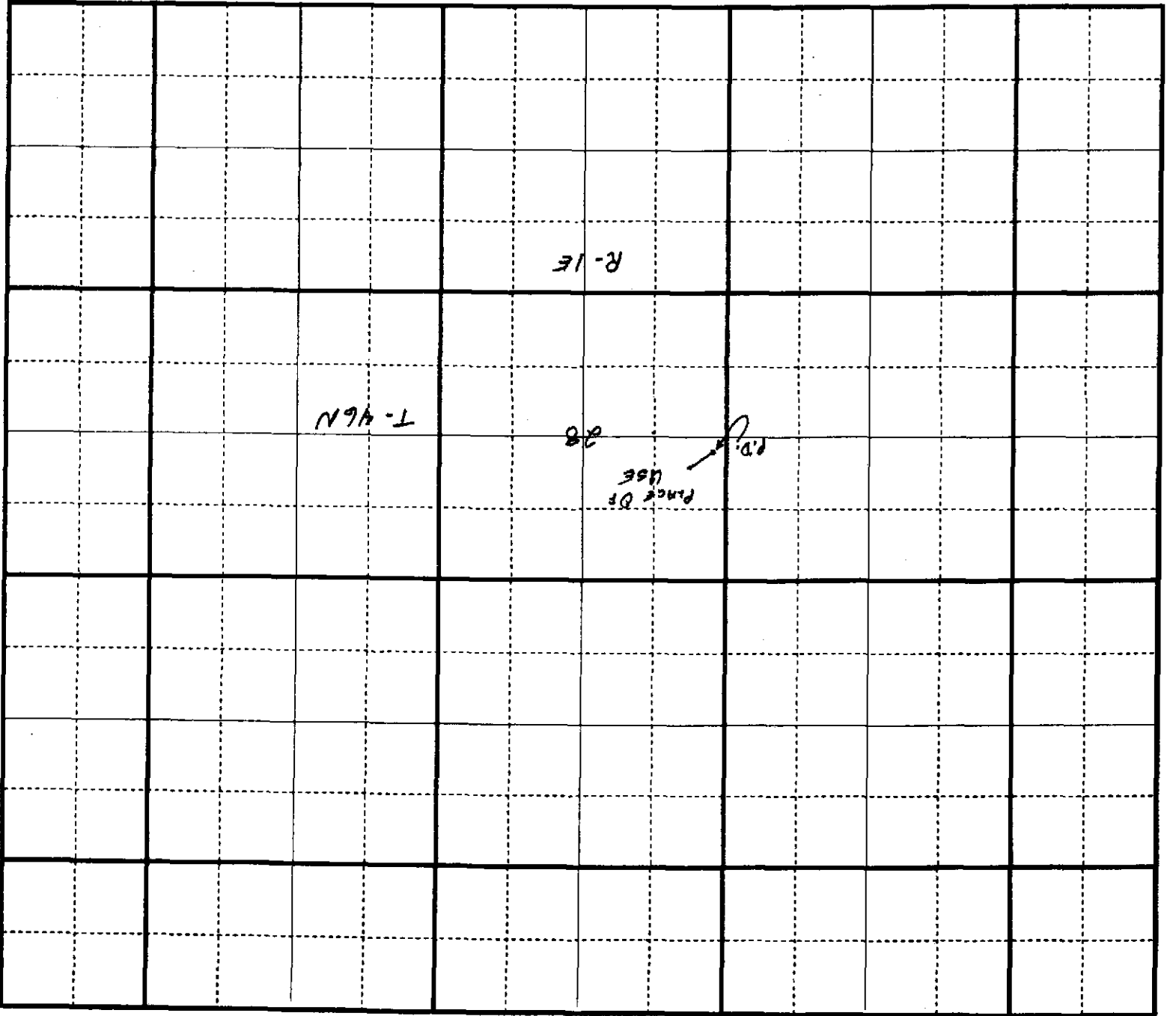
91-2027

FIELD REPORT

- TOTAL ACREAGE**

Permit No. 31143/91-2027
Examination for B/U

Diagram of System



by:

DATE OF EXAM 7/6/73

by:

ACREAGE

Found _____

Recommended _____

by:

Irrigation Requirement _____ Ac Ft/Ac _____

USE

Irrigation Q= _____ c.f.s. V= _____ AF/Ann. from _____ to _____

Domestic Q= 0.12 c.f.s. V= ~~1.2~~ 3.6 AF/Ann. from JAN 1 to DEC 31

Livestock Q= _____ c.f.s. V= _____ AF/Ann. from _____ to _____

Is water co-mingled? yes _____ no X

Name source: _____

twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____

County

Exchange? yes _____ no X

Name source exchanged with: _____

twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____

County

Point of injection:

twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____

County

Point of exchange:

twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____

County

Total Q measured 0.12 Method of measurement ESTIMATEDTotal Q recommended 0.12 Meter No. — Type _____ Condition _____Total V recommended ~~1.2~~ 3.6 ACFT

Recommended Amendments:

P.D. _____

Place of Use _____

Other _____

None _____

MEASUREMENT CALCULATION:

$$0.04 \text{ cfs} \times 3 = .12$$

$$1.20 \text{ ACFT} \times 3 = 3.6 \text{ ACFT}$$

SYSTEM DESCRIPTION:

COLLECTION BOX AT SPRING. A 500 GALLON RESERVOIR TANK
APPROXIMATELY 100 FT BELOW THE SPRING WITH A 600 FOOT
PIPELINE TO A TRAILER HOUSE AND TWO CABINS

REMARKS:

Examiner's Signature [Signature] Date 7/6/73Checked by [Signature] Date 7/13/73

Approved by _____ Date _____

1

May 10, 1971

Re: Permit No. 31143/91-2027

Mr. Frank Witherell
Route 3
St. Maries, Idaho 83861

Dear Mr. Witherell:

We acknowledge receipt of the affidavit of publication submitted in connection with the above referenced permit. We are herewith returning the receipt from the newspaper for your records.

Before a license can be issued, a field examination must be made by a representative from this Department. We cannot tell just when this examination will be made, but our examiner will try to contact you at the time he makes the examination so that you may show him the system.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:DR
Enclosure

91 2027

March 26, 1971

Re: Permit No. 31143/91-2027

Mr. Frank Witherell
Route #3
St. Maries, Idaho 83861

Dear Mr. Witherell:

The legal notice for the above-referenced permit is being published in the
St. Maries Gazette Record, St. Maries on April 7th

and April 14th, 1971.

You will be required to submit an affidavit of publication to this department.
The affidavit may be obtained from the above-mentioned newspaper upon payment of
the bill of publication.

Thank you for your cooperation in this matter.

Very truly yours,

Donald W. McElowney
Appropriation Supervisor

DWM/BB

March 26, 1971

Re: Permit No. 31143/91-2027 - Frank Witherell

St. Maries Gazette Record
P.O. Box 367
St. Maries, Idaho 83861

Gentlemen:

Enclosed is a legal notice which we wish to have published for two consecutive weekly issues of your newspaper. We have inserted the publication dates, allowing ample time for you to submit to us a galley proof for our review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication date. If you cannot publish the notice on the proposed dates, please contact the Department of Water Administration immediately.

The expense of the publication is to be paid by Frank Witherell,
St. Maries, Idaho 83861, to whom you should furnish
an affidavit of publication.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM/bb
Enc: legal notice

91 2027

March 16, 1971

Re: Permit No. 31143/91-2027

Mr. Frank Witherell
Route 3
St. Maries, Idaho 83861

Dear Mr. Witherell:

We acknowledge receipt of your affidavit submitted as proof of beneficial use in connection with the above referenced permit. Enclosed you will find an Order which advances the priority under this permit to March 2, 1968.

We are also enclosing an order which modifies your permit to comply with the rules and regulations adopted by the Department on August 1, 1968. Along with this order please find the advertising authorization for your signature. Upon receipt of the completed authorization, we will cause the legal notice to be published in the newspaper at your expense.

If you have any questions regarding the above matter or if we may be of further assistance, please feel free to call upon us.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:DR

Enc: Orders (2)
Adv. authorization

91 2027

BEFORE THE DEPARTMENT OF WATER ADMINISTRATION
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 31143/91-2027)
in the name of FRANK WITHERELL)
_____)

ORDER MODIFYING REQUIREMENTS
FOR COMPLETION OF PERMIT TO
APPROPRIATE WATER

WHEREAS, the 39th Idaho Legislature made certain amendments to the Idaho Water Law; and,

WHEREAS, these changes raised questions as to the procedures to be followed by holders of permits issued prior to the effective date of the amendments, May 31, 1967; and,

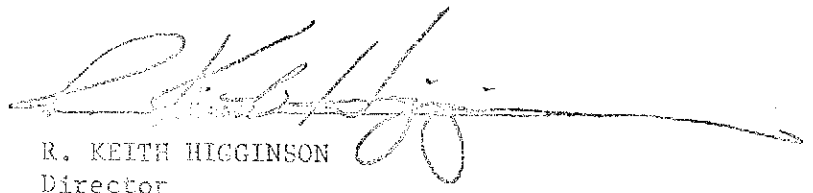
WHEREAS, on August 1, 1968, the Department of Water Administration adopted Rules of Practice and Procedure for the processing of such permits issued prior to May 31, 1967; and,

WHEREAS, Permit No. 31143 was issued previous to that date;

NOW THEREFORE, the requirements for completion of the above numbered permit are hereby modified to conform to the adopted Rules of Practice and Procedure as follows:

1. The above numbered permit will be completed under the terms of Title 42, Chapter 2, Idaho Code, as amended by the 39th Idaho Legislature.
2. The conditions of the above numbered permit are modified as follows:
 - a. Notice of the issuance of the permit will be published at the permit holders expense for two weekly issues in the official newspaper of the county in which the point of diversion lies.

Dated this 15th day of March, 1971.


R. KEITH HIGGINSON
Director

EDF:DR

91 2027

February 25, 1971

Re: Permit No. 31143/91-2027

Mr. Frank Witherell
Route 3
St. Maries, Idaho 83861

Dear Mr. Witherell:

Please be advised that before we can accept your affidavit submitted as proof of beneficial use, it must be notarized by a notary public.

We are herewith returning your affidavit along with the maps, etc. and also a new affidavit for your use. Please submit the notarized affidavit as soon as possible.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:DR
Enclosures

91 2027

Feb 12 - 1971
FEB 16 1971

Dear Mr. McElowne, [Department of Water Administration]

Thank you for sending us the form on "Proof of Application of Water to Beneficial Use" and also the copy of our permit for our records.

I enclosed the maps etc & also the Affidavit for resubmitting.

Thank you, for your patience with us. and I hope this is satisfactory now. and will be awaiting the legal notice that we are to publish for 2 consecutive weeks.

Thank you again.
Mr. & Mrs. Frank Withall
Route #3
St. Maris, Idaho

February 4, 1971

Re: Permit No. 31143/91-2027

Frank Witherell
Route 3
St. Maries, Idaho 83861

Dear Mr. Witherell:

During the 1967 session of the Idaho Legislature, certain amendments were made in the law pertaining to the procedures for making proof of beneficial use of water. Generally, these procedures and the amended law make it simpler for a permit holder to make proof of beneficial use.

We are enclosing a proof affidavit for your use in submitting proof of beneficial use. As a part of the new procedure, you will be required to publish a notice at your expense for two consecutive weeks in a newspaper as prescribed by the Department. Upon receipt of your proof affidavit, we will send you a copy of the legal notice that is to be published in the newspaper for your authorization.

We are returning the maps, etc., which you may resubmit with your proof affidavit. We are also returning your check #2007 in the amount of \$5.00, as this fee is no longer required.

Please submit your proof affidavit as soon as possible in order to prevent the cancelling of your permit. If you need assistance in completing the proof affidavit, please feel free to contact us. We are enclosing a copy of your permit 31143/91-2027 for your records.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:DR
Enc: Maps, etc.
Check #2007
Copy of permit

91 2027

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION

Statehouse - Annex 2

Boise, Idaho 83707

(208) 384-2215



R. Keith Higginson
Director

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Flood Plain Management
Irrigation and
Flood Control Districts

January 4, 1971 CERTIFIED MAIL

Re: Permit No. 31143 (New No. 91-2027)

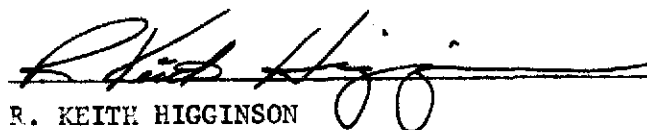
Frank Witherell
Route 3
St. Maries, Idaho 83861

Dear Mr. Witherell:

It appearing to the Department of Water Administration that the terms and conditions of Permit 31143/91-2027 to appropriate the public waters of the State of Idaho have not been complied with as to failure to submit proof of beneficial use of water due on June 3, 1966,

you are hereby notified that under the provisions of Section 42-311, Idaho Code, as amended, said permit is hereby held for cancellation, and you are required to show cause before the Director of the Department of Water Administration on or before February 13, 1971, why said permit should not be cancelled.

Permit 31143/91-2027 claims the use of 1.0 cubic feet per second of water, the point of diversion was to be located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 28, T. 46N,
R. 1E, B.M. and the permit was approved June 3, 1963.


R. KEITH HIGGINSON
Director

(over)

91 2027

Jan. 30 1971

Dear Sirs:

Thank you for bringing this to our Attention.
I have completed the map to the best of our Ability &
had it motorized also enclosed is a ck. of \$5.25
I hope it is satisfactory

yours Truly
Mrs. Frank Withnell

RECEIVED
FEB 3 1971

Department of Water Administration

91 2027

January 4, 1971 CERTIFIED MAIL #30667

Re: Permit No. 31143 (New No. 91-2027)

Frank Witherell
Route 3
St. Maries, Idaho 83861

Dear Mr. Witherell:

It appearing to the Department of Water Administration that the terms and conditions of Permit 31143/91-2027 to appropriate the public waters of the State of Idaho have not been complied with as to failure to submit proof of beneficial use of water due on June 3, 1966,

you are hereby notified that under the provisions of Section 42-311, Idaho Code, as amended, said permit is hereby held for cancellation, and you are required to show cause before the Director of the Department of Water Administration on or before February 13, 1971, why said permit should not be cancelled.

Permit 31143/91-2027 claims the use of 1.0 cubic feet per second of water, the point of diversion was to be located within the SW 1/4, Sec. 28, T. 46N, R. 1E, B.M. and the permit was approved June 3, 1963.


R. KEITH HIGGINSON
Director

*Card not
returned*

91 2027

June 3, 1965

Re: Perm it Np. 31143

Mr. Frank Witherell
Route #3
St. Maries, Idaho

Dear Mr. Witherell:

Enclosed is the Certificate of Completion of
Works issued on the above numbered permit.

Also enclosed is Departmental Receipt #32796
in the amount of \$5.00 covering the fees.

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule

EPR:ew

Enc Certificate
Receipt

31143

Permit No.

31143

STATE OF IDAHO
Department of Reclamation

RECEIVED

JUN 1 1965

Department of Reclamation

Proof of Completion of Works

AFFIDAVIT OF HOLDER

STATE OF IDAHO

County of

Benawak

ss.

Frank Witherell

being first duly sworn, upon his oath deposes and says:

First: That he is the holder and owner of Permit to appropriate the Public Waters of the State of Idaho, No. 31143, and that his postoffice address is Route #3, St. Maries State of Idaho.

Second: That the name of the stream from which said water is to be diverted is Spring

Third: That the point of diversion of said water is SW of NW Sec 28 T. 46 N

Fourth: That under the terms and conditions of said permit, construction thereunder was required to be completed by June 3, 1965.

Fifth: That the use for which said water is intended is domestic

Sixth: That on the date above mentioned, the works constructed under said permit were (or were not) fully completed and consisted of the following:

I. Kind of Works: Pipe from a reservoir (previous)

(RESERVOIR, DAM, DITCH, FLUME, PIPE OR OTHERWISE)

II. Dimensions of work: Not known - covered by prior owner

(a) Height of dam _____ feet, length of dam at top _____ feet, length of dam at bottom _____ feet. Material used in construction _____

(STATE WHETHER WOOD, EARTH STONE OR CONCRETE)

(b) Capacity of reservoir _____ acre feet.

(c) Size of headgate: Width _____ feet, height _____ feet.

(d) Conduit _____ width at bottom _____ feet, width at water line _____

(STATE WHETHER DITCH, FLUME OR PIPE)

feet, depth of water _____ feet; diameter of pipe _____ inches, average grade per mile is _____ feet. Length of conduit is _____ miles.

Seventh: That said works are capable of conducting to the place of intended use _____

minors inches second feet of water.

Eighth: That water appropriated under said permit is available for _____ acres of land described as follows: domestic use

Ninth: Remarks:—That water is for domestic use

Frank A. Witherell

(SIGN HERE)

Subscribed and sworn to before me this 26 day of May, 1965

Ray A. Bower

NOTARY PUBLIC for the State of Idaho

City of St. Maries, Idaho

My commission expires Feb. 21, 1969

NOTARY PUBLIC

My commission expires

31143

6

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

INSTRUCTIONS

PROOF OF COMPLETION OF WORKS

Boise, Idaho

April 1, 1965

Re: Permit No. 31143

Frank Witherell
Route #3
St. Maries, Idaho

Dear Mr. Witherell:

Under the terms of your Permit No. 31143 you are required to complete your diversion works on or before June 3, 1965. I enclose blank affidavit to be filled out, sworn to by you before a Notary Public, or a Justice of the Peace, and returned to this office on or before the above date, or within ten days thereafter, for the purpose of making proof of completion under the permit. Upon receipt of this affidavit in this office, provided the same satisfactorily shows the completion of the works substantially in accordance with the terms of the permit, together with a fee of \$5.00, a Certificate of Completion will be issued to you.

The certificate to be issued under this proof will not give a perpetual right to the use of water for which application was made, as it only confirms the completion of works of a capacity to divert and convey to the place of intended use a certain amount of water. The law requires that another proof be submitted when the water has been fully applied to a beneficial use, at which time license is issued for the amount of water actually in use. Information in regard to this last proof will be furnished on request.

Very truly yours,

Carl E. Hoffman
State Reclamation Engineer

Enc. Form 6

31143

The enclosed letter was sent to you at St. Joe
and was returned as unclaimed.

31143

AFTER FIVE DAYS RETURN TO
DEPARTMENT OF RECLAMATION
ROOM 107, STATE HOUSE
BOISE, IDAHO

RETURNED
TO
WRITER

REASON CHECKED

Unknown ☒ Refused ☒

Insufficient address ☐

Moved, Left no address ☐

No such post office in state ☐

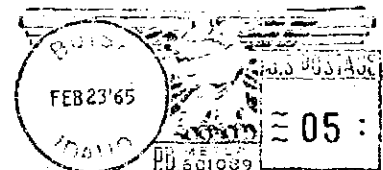
Do not remail in this envelope

~~Darryl Phillips~~
~~St. Maries, Idaho~~

31143



AFTER FIVE DAYS RETURN TO
DEPARTMENT OF RECLAMATION
ROOM 107, STATE HOUSE
BOISE, IDAHO



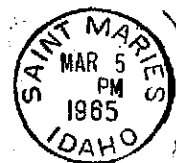
RETURNED TO WRITER
REASON CHECKED
Unclaimed.....
Unknown.....
Insufficient address.....
Moved, Left no address.....
No such post office in state.....
Do not remail in this area.....
Darryl Phillips
St. Joe, Idaho

MAR 7 1965

St. Marie

*Letter sent to
St. Marie*

31143



ROBERT E. SMYLLIE
Governor



CARL E. TAPPAN
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
107 STATE HOUSE
BOISE, IDAHO 83701

February 23, 1965

RE: Permit No. 31143
Frank Witherell

Darryl Phillips
St. Joe, Idaho

Dear Mr. Phillips:

Permit No. 31143 has been issued to Frank Witherell pursuant to application filed May 27, 1963. The permit claims 1.0 c.f.s. from a spring in the SE corner, Block 13 of St. Joe for use on lots in said Block 13. Which lots are included is not shown. The spring is on his property.

Very truly yours,

A handwritten signature in cursive script that reads 'Ralph W. Thomas'.

RALPH W. THOMAS
Deputy State Reclamation Engineer

RWT:mr

31143

February 23, 1965

RE: Permit No. 31143
Frank Witherell

Darryl Phillips
St. Joe, Idaho

Dear Mr. Phillips:

Permit No. 31143 has been issued to Frank Witherell pursuant to application filed May 27, 1963. The permit claims 1.0 c.f.s. from a spring in the SE corner, Block 13 of St. Joe for use on lots in said Block 13. Which lots are included is not shown. The spring is on his property.

Very truly yours,

RALPH W. THOMAS
Deputy State Reclamation Engineer

RWT:mr

C
O
P
Y

31143

31143

RECEIVED

FEB 23 1965

Dear Sir:

Department of Reclamation

I am interested about the water on lots 8 to 12 in Blk 10. in St. Joe City, Idaho. I would like to know if there is any water ~~rights~~ on this land? If not the land behind it owned by Withells, ~~then~~ do they have water ~~rights~~ on there place.

This water is a spring on Withells land.

If you could help me I would sure appreciate it.

Yours Truly
Harry Phillips

31143

September 12, 1963

31143

Mr. & Mrs. Frank Witherell
Route #3
St. Maries, Idaho

Dear Mr. & Mrs. Witherell:

Your letter of September 9th, gives your land description by lots and blocks. We need the government subdivision in 40 acre tracts showing place of use, and point of diversion.

Enclosed find forms for making your application.

Very truly yours,

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:RH:ew

31143

Dear Sir:

Sept 9-1963
St. Joe Idaho.

We received your letter & am
sorry we left out the information
of legal description.

First we have purchased 10 lots in
block 13. St. Joe Idaho.

We are in Sec. 28 T. 46 N R 1 E.

The water is located at S.E. Corner of
Block 13. and is a spring.

We would like to place a plastic
pipe and use water for a Cabin
on said land for domestic use.

Thank You.

Mr. & Mrs. Frank Wickersell
Route 3

St. Maries, Idaho.

RECEIVED

Sept 10 1963

31143

September 5, 1963

Mr. & Mrs. Frank Witherell
Route #3
St. Maries, Idaho

Dear Mr. & Mrs. Witherell:

Your letter of August 28, omitted information about the source of the domestic water you wish to file on.

Please write us explaining if the water is from a spring, stream, well, etc. and legal description of point of diversion.

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer

By:

H. PETRI
State Water Rights Clerk

HP:vj

31143

Aug 28, 1963
St. Maries, Id.

Dear Sir,

Would you please send
me an application for
Water Rights, as we would
like to file an application
for domestic water.

"Thank you".

Mr & Mrs. Frank Withnell
Route #3

St. Maries, Idaho

31143

June 6, 1963

Re: Permit No. 31143

Mr. Frank Witherell,
Route #3,
St. Maries, Idaho.

Dear Mr. Witherell:

We enclose Permit No. 31143 in which we direct your attention to the limitations and conditions as given on the fourth page under approval of the State Reclamation Engineer.

We also enclose Departmental Receipt No. 31571 which was issued covering payment in the amount of \$ 5.00 for the filing fee of the above mentioned permit.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

(Mrs.) Edna P. Rule
Chief Clerk

EPR:pmk
Encl. --

31143

20

21

22

29

27 ← P.D. spring

28

27

32

33

34

31143
JUN 3 1963
Reputy *Robert Thomas*
Reclamation Engineer

Office copy