

**STARTING
LEFT
SIDE OF
FILE**

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 97-07395

Priority: August 25, 1999

Maximum Diversion Rate:

0.03 CFS

This is to certify, that **HOWARD TOLY**
E 1224 FRONT AVE
SPOKANE WA 99202

has applied for a permit to appropriate water from: **GROUNDWATER**

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>
IRRIGATION	04/01 to 10/31	0.03 CFS
DOMESTIC	01/01 to 12/31	0.03 CFS
	Totals	0.03 CFS

LOCATION OF POINT(S) OF DIVERSION: Lot 7 (SWNE), Sec. 32, Township 56N, Range 04W
BONNER County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
56N	04W	32	Lot 7 (SWNE)	3.0		3.0

Total number of acres irrigated:

3.0

PLACE OF USE: DOMESTIC, same as IRRIGATION use

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of application of water to beneficial use shall be submitted on or before **February 1, 2005**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
6. Domestic use is for 7 homes and does not include lawn, garden, landscape, or other types of irrigation.

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FEB 04 2000

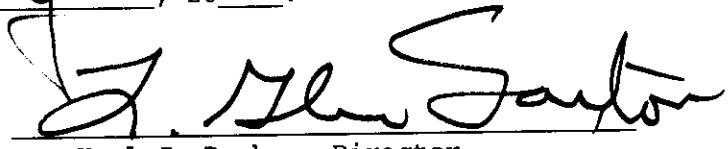
State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 97-07395

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

24th day of January, 2000


for
Karl J. Dreher, Director

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FEB 04 2000

Ident. No. 97-07395

RECEIVED

JAN 18 2000

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Department of Water Resources

1. Name of Applicant Howard Toly Phone 509-535-1636
Mailing address E 1224 Front Ave Spokane WA 99204
2. Source of water supply Groundwater which is a tributary of _____
3. Location of point of diversion is Township 56N Range 4W Sec. 32, in the _____ 1/4,
SW 1/4, NE 1/4, Govt. Lot 7, B.M., Bonner County;
additional points of diversion if any: _____
4. Water will be used for the following purposes:
Amount .03 for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount .03 for Irrigation purposes from 3/5 4/1 to 11/1/15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) .03 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Describe type and size of devices used to divert water from the source Well & Pump
 - b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet
 - c. Proposed well diameter is 6 inches; proposed depth of well is 200 feet
 - d. Is ground water with a temperature of greater than 85°F being sought? _____
 - e. If well is already drilled, when? 1998; Drilling firm Wood Drilling
Well was drilled for (well owner) Howard Toly; Drilling Permit No. Tag D 3791
7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
 - a. Hydropower; show total feet of head and proposed capacity in KW. _____
 - b. Stockwatering; list number and kind of livestock. _____
 - c. Municipal; show name of municipality. _____
 - d. Domestic; show number of households. 7
 - e. Other; describe fully. _____

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9. Description of place of use:

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

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

TWP	RGE	SEC	N E				N W				S W				S E				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
56N	4W	32			LT D						~~SW~~								
56N	4W	32			3						~~SW~~								3

Total number of acres to be irrigated 3

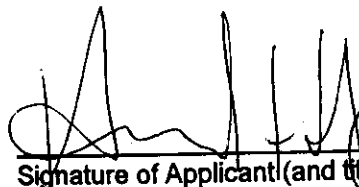
10. Describe any other water rights used for the same purposes as described above. None

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

12. Remarks: _____

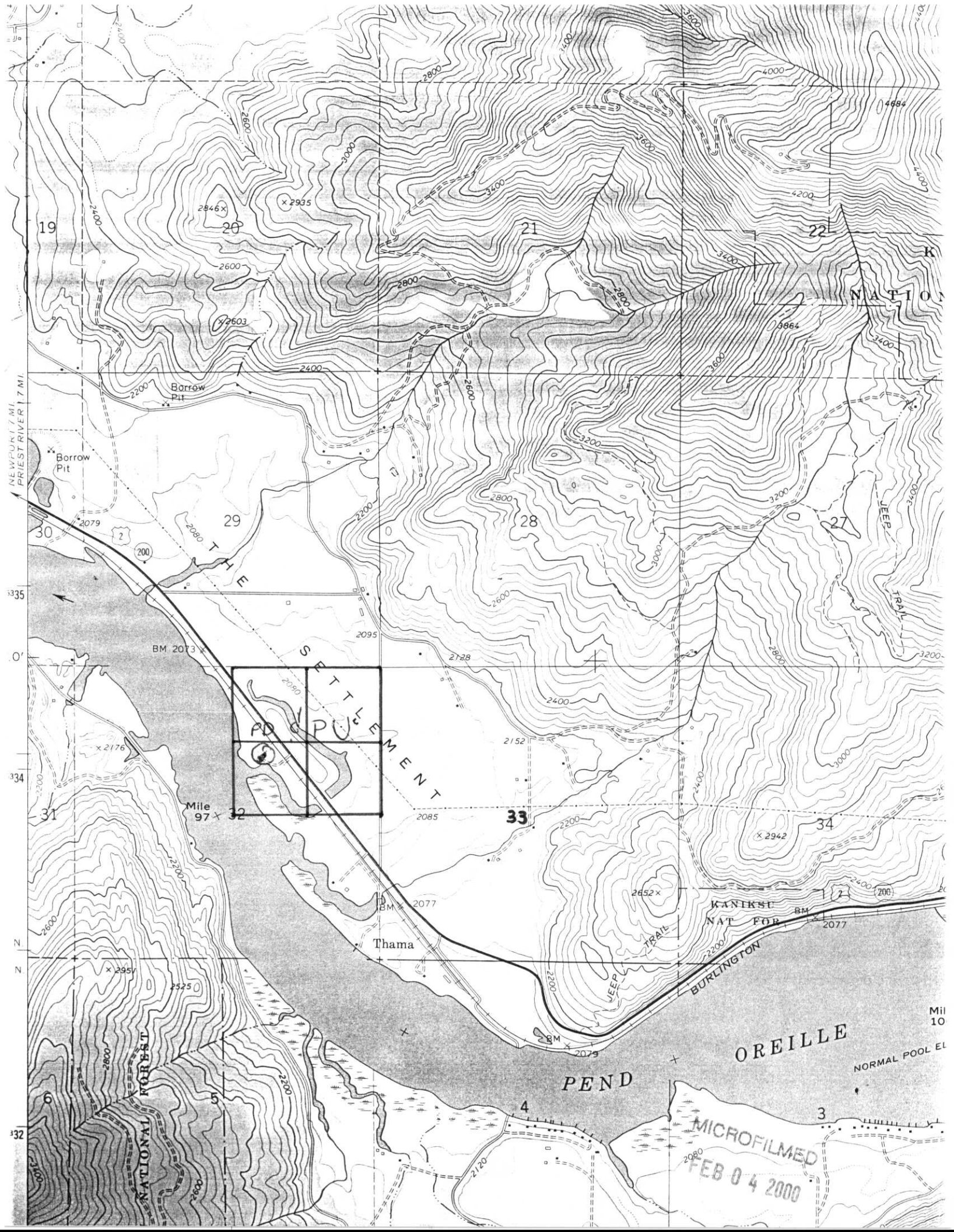
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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


Signature of Applicant (and title, if applicable)

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FEB 04 2000

Received by RJA Date 8/25/99 Time 3:35 PM Preliminary check by AB
Fee \$ 50.00 Receipted by RJA # 2013174 Date 8-25-99
Publication prepared by de Date 9/28/99 Published in Idaho River Times 10/6 & 13/99
Publication approved de Date 11/15/99



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NEWPORT 7 MI.
PRIEST RIVER 7 MI.

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Borrow Pit

Borrow Pit

BM 2073

Mile 97 x 32

Thama

BM 2077

BM 2079

BM 2077

NATIONAL FOREST

KANIKSU
NAT FOR

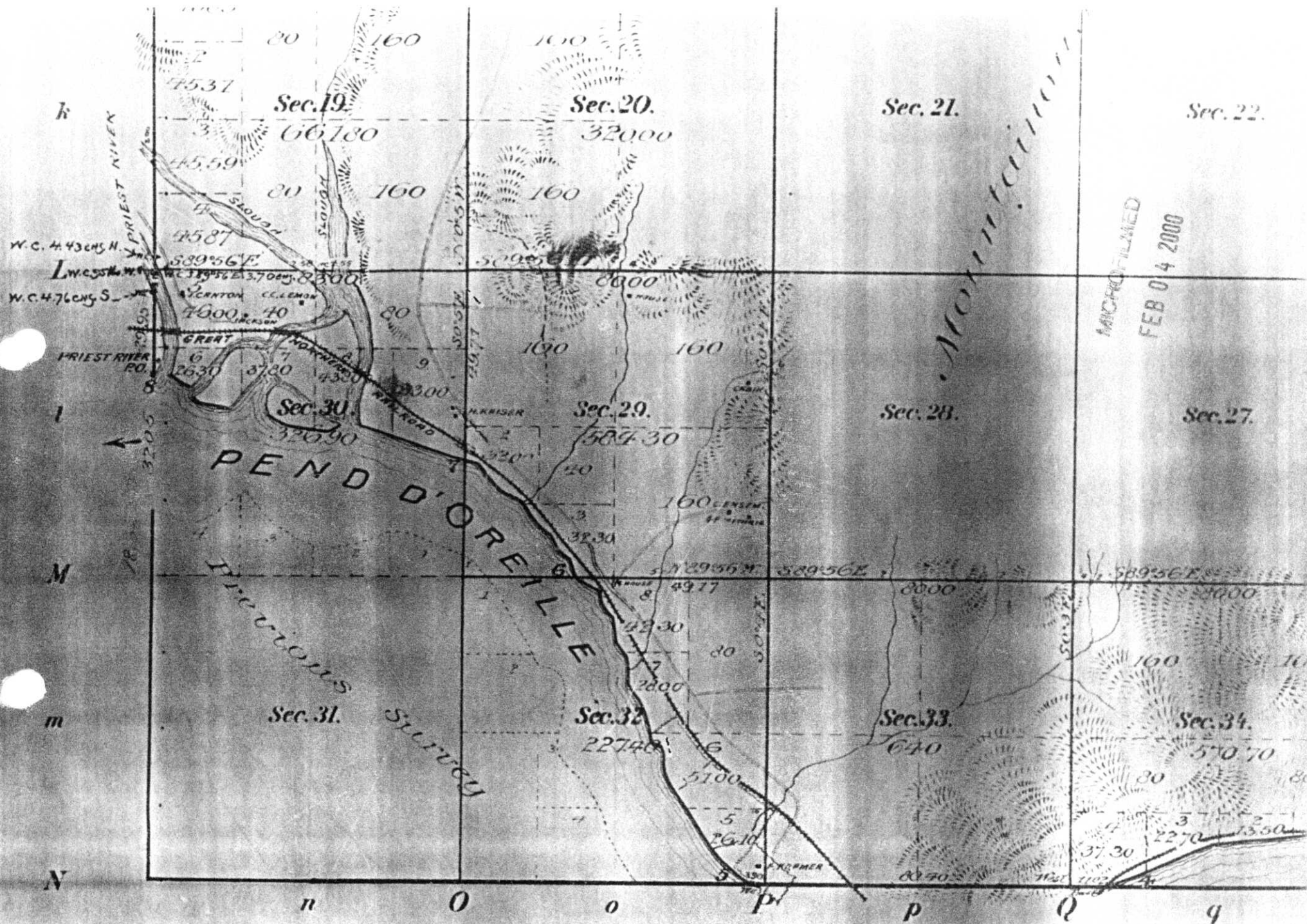
BURLINGTON

PEND

OREILLE

NORMAL POOL EL

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FEB 04 2000



Total number of Acres 9574.27 (addition)

Surveys Designated	By Whom Surveyed	Date of Contract	Amount of Survey M. Ch. Lk.	When Surveyed	Mean Direction
	Amos D. Robinson	1944			

**NOW
STARTING
RIGHT
SIDE OF
FILE**



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

January 24, 2000

DIRK KEMPTHORNE
GOVERNOR

HOWARD TOLY
E 1224 FRONT AVE
SPOKANE WA 99202

KARL J. DREHER
DIRECTOR

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 97-07395

Dear Permit Holder:

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

The permit is a preliminary order issued by IDWR pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by IDWR unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

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

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

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

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

Sincerely,

Shelley W. Keen
Water Rights Supervisor

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FEB 04 2000

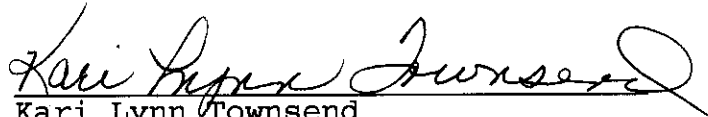
SK:klt

CERTIFICATE OF MAILING

I hereby certify that on the **24th** day of **January, 2000**, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER (Approved Permit)** to the person(s) listed below:

Water Right No. 97-07395

HOWARD TOLY
E 1224 FRONT AVE
SPOKANE WA 99202


Kari Lynn Townsend
Secretary

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FEB 04 2000

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief as further described below:

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

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FEB 04 2000

AFFIDAVIT OF PUBLICATION

State of Idaho

ss. Jeannie Sheridan
County of Bonner,

_____ being first duly sworn on oath

deposes and says that he/she is Bookkeeper

of the Priest River Times, a newspaper printed and

published at Priest River, Bonner County, Idaho; that the

said newspaper has been continuously and uninterruptedly

published in said Bonner County during a period of 12

months prior to the first publication of the hereto attached

notice of publication in the case of:

Notice of Application

as it was published in the regular and entire issue of the

said paper for a period of 2 consecutive weeks,

commencing on 6 day of October, 1999

and ending on the 13 day of October, 1999

and that said notice was published in said newspaper.

On this 4th day of November in the year
of 1999, before me, a Notary Public, personally

appeared Jeannie Sheridan,

known or identified to me to be the person whose name

subscribed to the within instrument, and being by me

first duly sworn, declared that the statements therein are

true, and acknowledged to me that he executed the same.

Paula S. Russell
Notary Public for Idaho

Residing at Priest River

My Commission expires: 5/24/04

RECEIVED
NOV 10 1999
IDWR/North

NOTICE OF APPLICATION FOR WATER RIGHT

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

97-07395

TOLY, HOWARD
E 1224 FRONT AVE
SPOKANE, WA 99202
Source: GROUNDWATER
Diversion Pt: LOT 7 (SWNE)
Use: IRRIGATION
DOMESTIC

Sec 32 T 56N R 04W in BONNER County.

(0.030 CFS)
(0.030 CFS)
(0.030 CFS)

Total Diversion:

Date Filed: 8/25/1999
In: BONNER County
T56N R04W S32 Lot 7 (SWNE)
3.0 ACRES TOTAL

For additional information concerning the property location, call the Northern Regional Office at (208) 769-1450.

The permit(s) will be subject to all prior water rights. Protests must be filed with the applicant and with the Director, Dept. of Water Resources, Northern Region, 1910 Northwest Blvd., Suite 210, Coeur d'Alene, Idaho 83814, together with a protest fee of \$25.00 on or before OCTOBER 25, 1999.

KARL J. DREHER, Director

PRT Legal 2635
October 6, 13, 1999

MICROFILMED

2000

97-07395

TOLY, HOWARD
E 1224 FRONT AVE
SPOKANE, WA 99202

Source: GROUNDWATER

Diversion Pt: LOT 7 (SWNE) Sec 32 T 56N R 04W in BONNER County.

Use: IRRIGATION	(	0.030 CFS)
DOMESTIC	(	0.030 CFS)
Total Diversion:	(	0.030 CFS)

Date Filed: 8/25/1999

In: BONNER County
T56N R04W S32 Lot 7(SWNE)

3.0 ACRES TOTAL

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FEB 04 2000

September 29, 1999

Howard Toly
E 1224 Front Ave
Spokane WA 99202

Re: Water Appropriation Application No. 97-07395

Dear Mr. Toly:

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 local 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. Normal processing time is approximately 3 to 4 months, if the application is not protested.

If the application is not protested, it will be forwarded to Boise to be considered for approval by the Director. State office personnel will then conduct a complete review, and you will be notified by mail of the outcome. 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. 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.

You will receive your approved Application for Permit and instructions on filing the Proof of Beneficial Use from our State office in Boise.

If your source is groundwater, a Well Drilling Permit is required for all wells constructed after July 1, 1987.

A "Domestic" well drilling permit should be obtained for a rate of diversion of up to 18 gallons per minute (0.04 CFS) and a daily volume of up to 2,500 gallons per day. The cost for this permit is \$75.00. For any other use, including multiple homes, or municipal, etc., the Drilling Permit fee is \$200. These Permits can be obtained by your driller, also. It is sometimes possible to upgrade an existing Domestic Drilling Permit by submitting a fee for the difference. This, however, depends on the individual well.

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:db

MAILED
FEB 04 2000