

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 29-08234

Priority: August 24, 1999

Maximum Diversion Rate:

0.04 CFS

This is to certify, that **SUNNYSIDE DEVELOPMENT LLC**
PO BOX 476

LAVA HOT SPRINGS ID 83246

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>
-----------------------	----------------------	--------------------------

DOMESTIC

01/01 to 12/31

0.04 CFS

LOCATION OF POINT(S) OF DIVERSION: Lot 5 (SWNW), Sec. 21, Township 09S, Range 38E
BANNOCK County

PLACE OF USE: DOMESTIC

TWN RGE SEC

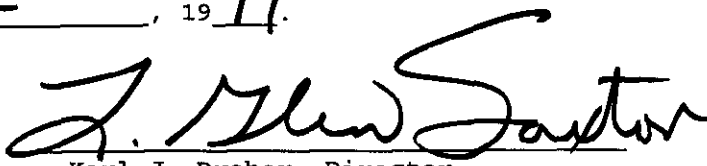
09S 38E 21 Lot 5 (SWNW)

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of application of water to beneficial use shall be submitted on or before **November 1, 2004**.
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. The daily diversion volume for the domestic use authorized under this right shall not exceed 2,500 gallons per day.
6. Domestic use is for public water in a convenience store.

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

22nd day of October, 1999.


for Karl J. Dreher, Director

MICROFILMED

NOV 10 1999

RECEIVED

OCT 16 1999

FORM 202

2/96

Department of Water Resources

Ident. No.

29-08234

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

AUG 24 1999

Department of Water Resources
Eastern Region

1. Name of Applicant Sunny side Development L.L.C. Phone 208-776-5013 ⁵⁵⁶²⁻⁶
Mailing address P.O. Box 476 Lava Hot Springs, ID 83246
2. Source of water supply ground which is a tributary of _____
3. Location of point of diversion is Township 9S Range 3E B.M. Sec. 21 in the S.W 1/4, N.W 1/4, _____ 1/4, Govt. Lot 5, B.M., Bannock County;
additional points of diversion if any: _____

4. Water will be used for the following purposes:

- Amount 0.04 cfs for Domestic purposes from Jan 1st to Dec 31 (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)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) 0.04 cfs 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
- b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet
- c. Proposed well diameter is 8 inches; proposed depth of well is 120 feet
- d. Is ground water with a temperature of greater than 85°F being sought? NO
- e. If well is already drilled, when? _____; Drilling firm _____
Well was drilled for (well owner) _____; Drilling Permit No. _____

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. a convenience Store facility
- e. Other; describe fully. customers will be using convenience Store facility *
(public water system)

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AUG 26 1999

Department of Water Resources
Eastern Region

NOV 10 1999

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	
9S	3E	21						D											

Total number of acres to be irrigated _____

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? Sunnyside L.L.C.

b. Who owns the land to be irrigated or place of use? Sunnyside L.L.C.

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: no

12. Remarks: _____

The property has water rights for irrigation already.

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.

Lisa M. Joly - member
Signature of Applicant (and title, if applicable)
Sunnyside L.L.C.

Received by HWT Date 8-24-99 Time _____ Preliminary check by _____
Fee \$ _____ Received by HWT # E025252 Date 8-30-99
Publication prepared by sc Date 9/16/99 Published in Idaho States Journal
Publication approved sc Date 10/4/99

NOV 10 1999

SD-0420-2
MODIFY RECORD

Ida: Department of Water Resources
Modify Comment

Date: 10/20/99
Time: 10:14:30

Water Right Number: P29-08234

Comment Date: 10/20/1999 User ID: SCURTIS

Subject: CORPORATE OFFICERS

This is a limited liability corporation with the two owners
being:

Steven J. Toly

Lisa M. Toly

The two partners also associated with this corporation are:

Mike Vaughan

Shelly Vaughan

This information was obtained via a phone conversation with
Steven Toly on 10/20/99.

(Enter=Continue/Exit) (Gold2=Update) (Gold3=Delete) (Gold4=Prev) (Gold5=Next)

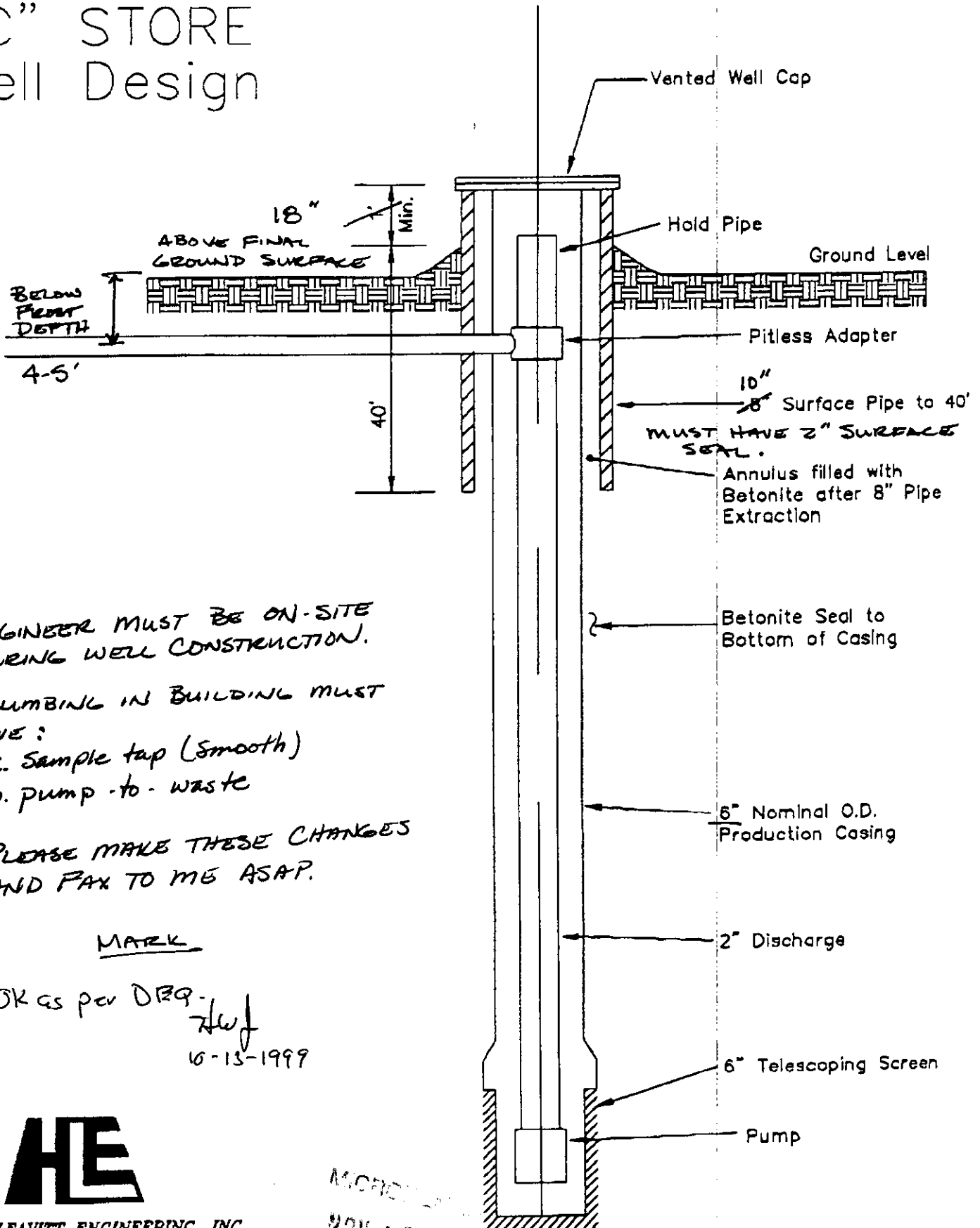
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MARK D.

LAVA HOT SPRINGS

"C" STORE

Well Design



1. ENGINEER MUST BE ON-SITE DURING WELL CONSTRUCTION.
2. PLUMBING IN BUILDING MUST HAVE:
 - a. Sample tap (Smooth)
 - b. pump-to-waste
3. PLEASE MAKE THESE CHANGES AND FAX TO ME ASAP.

MARK

OK as per DRG.

10-13-1999



HARPER-LEAVITT ENGINEERING, INC.
PROFESSIONAL ENGINEERS AND LAND SURVEYORS

300 W. ARIZONA ST., A.D. BOX 800, BLACKFOOT,
IDaho 83201 (208) 766-1977 or 800
855-4-ENGINEERING, A.D. BOX 800, BLACKFOOT,
IDaho 83201 (208) 766-1977
317 MAIN ST., A.D. BOX 800, SHALON

NOV 10 1999

LOT 5 SECTION 21
T O C R 38 F



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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

October 26, 1999

SUNNYSIDE DEVELOPMENT LLC
PO BOX 476
LAVA HOT SPRINGS ID 83246

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 29-08234

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.

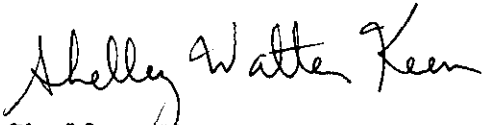
Also, please note that water right owners are required to report any change of water right ownership and/or change of mailing address to the department within 120 days of the change. Failure

NOV 10 1999

to report these changes could result in a \$100 late filing fee. Contact any office of the department or visit the department's homepage on the Internet to obtain the proper reporting form.

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

Sincerely,

A handwritten signature in cursive script that reads "Shelley W. Keen".

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosures

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NOV 10 1999

CERTIFICATE OF MAILING

I hereby certify that on the 26th day of October, 1999, 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. 29-08234

SUNNYSIDE DEVELOPMENT LLC
PO BOX 476
LAVA HOT SPRINGS ID 83246


Kari Lynn Townsend
Secretary

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NOV 10 1999

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.

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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:

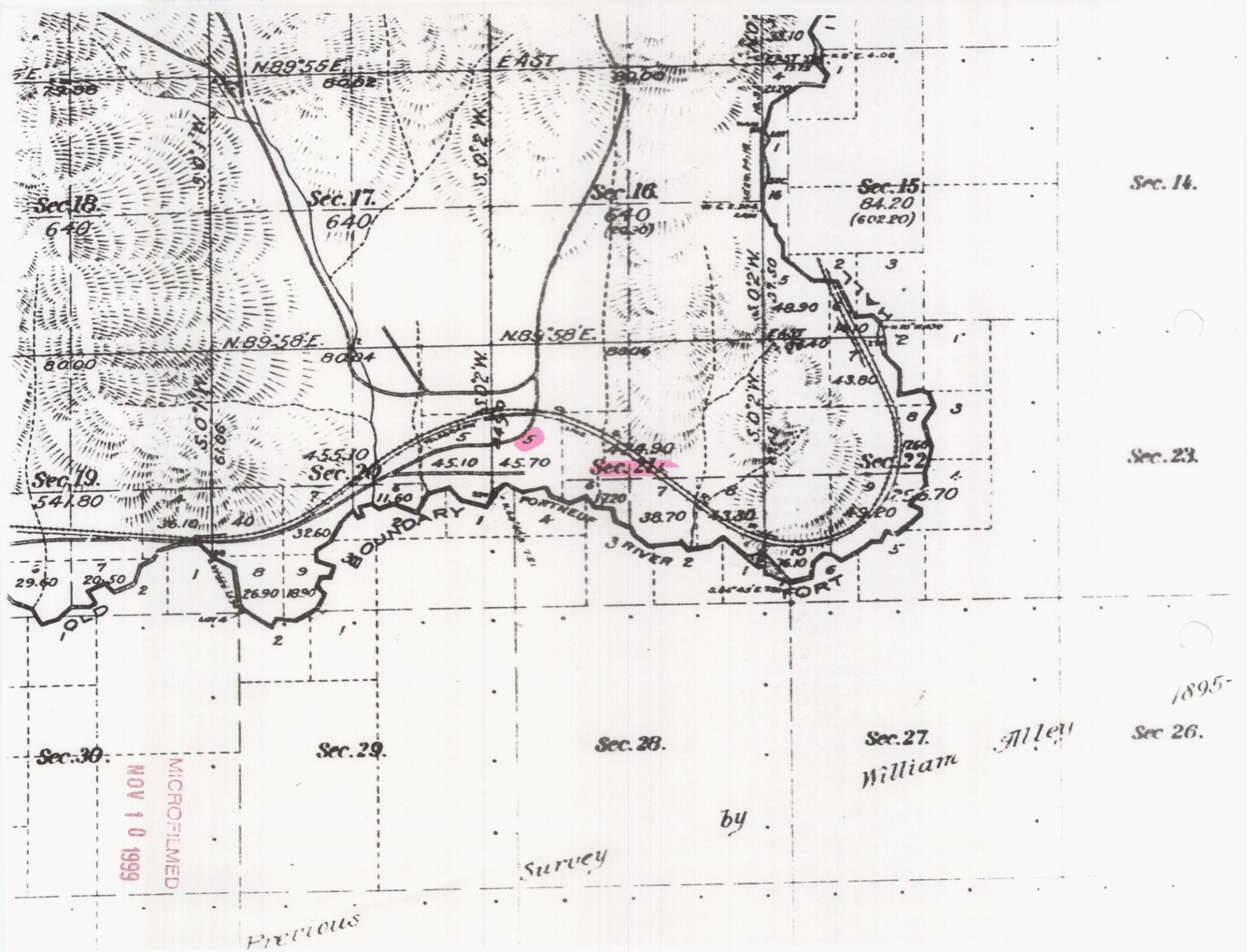
- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

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.



PROOF OF PUBLICATION

RECEIVED

SEP 24 1999

STATE OF IDAHO }
County of Bannock }

ss.

Department of Water Resources
Eastern Region

LN5613

SUSIE TUBBS

NOTICE OF APPLICATION FOR WATER RIGHT

The Following application
has been filed to appro-
priate the public waters
of the State of Idaho:

29-08234
SUNNYSIDE DEVELOP-
MENT, LLC

Source: GROUND WA-
TER

Diversion Pt: LOT 5
(SWNW) SEC 21 T 09S
R 38E in BANNOCK
County.

Use: DOMESTIC.....
(0.040 CFS)

Total Diversion.....
(0.040 CFS)

Date Filed: 9/24/1999

In: BANNOCK County
T09S R38E S21 SWNW

Any protests against the
proposed application
must be filed with the
Dept. of Water Resourc-
es, 900 N Skyline Dr.,
Ste. A, Idaho Falls ID
83402, together with a
protest fee of \$25.00 on
or before OCTOBER 4,
1999 to be considered
by the Department in its
decision to grant or
deny any part of the
proposed application.

The protestant must
also send a copy of the
protest to the applicant.

KARL J. DRENER, Direc-
tor

September 18, 23, 1999
LN5613

being first duly sworn on oath deposes and says: That SHE
was at all times herein mentioned a citizen of the United States of
America, more than 21 years of age, and the Principal Clerk of THE
IDAHO STATE JOURNAL, a daily newspaper, printed and published at
Pocatello, Bannock County, Idaho, and having a general circulation
therein.

That the document or notice, a true copy of which is attached, was
published in the said IDAHO STATE JOURNAL, on the following dates,
to-wit:

<u>SEPTEMBER 16</u>	<u>19 99</u>	<u>19</u>
<u>SEPTEMBER 23</u>	<u>19 99</u>	<u>19</u>
<u> </u>	<u>19</u>	<u>19</u>
<u> </u>	<u>19</u>	<u>19</u>
<u> </u>	<u>19</u>	<u>19</u>

That said paper has been continuously and uninterrupted published
in said County for a period of seventy-eight weeks prior to the publication
of said notice or advertisement and is a newspaper within the meaning of
the laws of Idaho.

Susie Tubbs

STATE OF IDAHO

COUNTY OF BANNOCK

On this 23RD day of SEPTEMBER in the year of 1999,
before me, a Notary Public, personally appeared

SUSIE TUBBS, 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.

Lore A. Scholt
Notary Public for Idaho

Residing at POCATELLO

My commission expires: FEBRUARY 2003

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NOV 10 1999

PROOF OF PUBLICATION

RECEIVED

SEP 24 1999

STATE OF IDAHO }
County of Bannock }

ss.

Department of Water Resources
Eastern Region

LN5613

SUSIE TUBBS

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Diversion Pt: LOT 5
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R 38E in BANNOCK
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Use: DOMESTIC.....
.....(0.040 CFS)
Total Diversion:.....
.....(0.040 CFS)
Date Filed: 8/24/1999
In: BANNOCK County
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The protestant must
also send a copy of the
protest to the applicant.
KARL J. DREHER, Direc-
tor
September 16, 22, 1999
LN5613

being first duly sworn on oath deposes and says: That SHE
was at all times herein mentioned a citizen of the United States of
America, more than 21 years of age, and the Principal Clerk of THE
IDAHO STATE JOURNAL, a daily newspaper, printed and published at
Pocatello, Bannock County, Idaho, and having a general circulation
therein.

That the document or notice, a true copy of which is attached, was
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<u>SEPTEMBER 16</u>	<u>19 99</u>	<u>19</u>
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<u>19</u>	<u>19</u>	<u>19</u>
<u>19</u>	<u>19</u>	<u>19</u>

That said paper has been continuously and uninterruptedly published
in said County for a period of seventy-eight weeks prior to the publication
of said notice or advertisement and is a newspaper within the meaning of
the laws of Idaho.

Susie Tubbs

STATE OF IDAHO

COUNTY OF BANNOCK

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before me, a Notary Public, personally appeared

SUSIE TUBBS, 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.

Lore A. Skot
Notary Public for Idaho

Residing at POCATELLO

My commission expires: FEBRUARY 2003



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

September 11, 1999

SUNNYSIDE DEVELOPMENT LLC
PO BOX 476
LAVA HOT SPRINGS ID 83246

RE: Application for Permit #29-08234

Dear Applicant:

This office is currently in the process of advertising the application in the Idaho State Journal on September 16 and 23, 1999. The advertisement will be published once a week for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

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

Sincerely,

Harold W. Jones
Water Right Supervisor

HWJ::sc

RECORDED

NOV 10 1999



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

September 11, 1999

DEPT OF ENVIRONMENTAL QUALITY
224 S ARTHUR
POCATELLO ID 83204

RE: Applications for Permit #29-08234

Dear Sir:

We are enclosing a copy of the application (s) that may be of interest to your department. Please review the application (s) and submit any comments you may have to our Department as soon as possible. The last date of protest is Oct 4, 1999, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

Harold W. Jones
Water Right Supervisor

HWJ: sc

Enc.

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NOV 10 1999



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

SEPTEMBER 8, 1999

Legal Notices Department
IDAHO STATE JOURNAL
P.O. BOX 431
POCATELLO, ID 83204

Dear Legal Dept.:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before OCTOBER 4, 1999.

Yours truly,

Sharla Cox
Senior Secretary

Encl.



RECEIVED

NOV 10 1999

NOTICE OF APPLICATION FOR WATER RIGHT

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

29-08234

SUNNYSIDE DEVELOPMENT LLC
PO BOX 476
LAVA HOT SPRINGS, ID 83246

Source: GROUNDWATER

Diversion Pt: LOT 5 (SWNW) Sec 21 T 09S R 38E in BANNOCK County.

Use: DOMESTIC (0.040 CFS)
Total Diversion: (0.040 CFS)

Date Filed: 8/24/1999

In: BANNOCK County
T09S R38E S21 SWNW

Any protests against the proposed application must be filed with the Dept. of Water Resources, 900 N Skyline Dr., Ste A, Idaho Falls ID 83402, together with a protest fee of \$25.00 on or before OCTOBER 4, 1999. to be considered by the Department in its decision to grant or deny any part of the proposed application. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director

Published: 9/16/1999 & 9/23/1999

RECORDED
NOV 10 1999