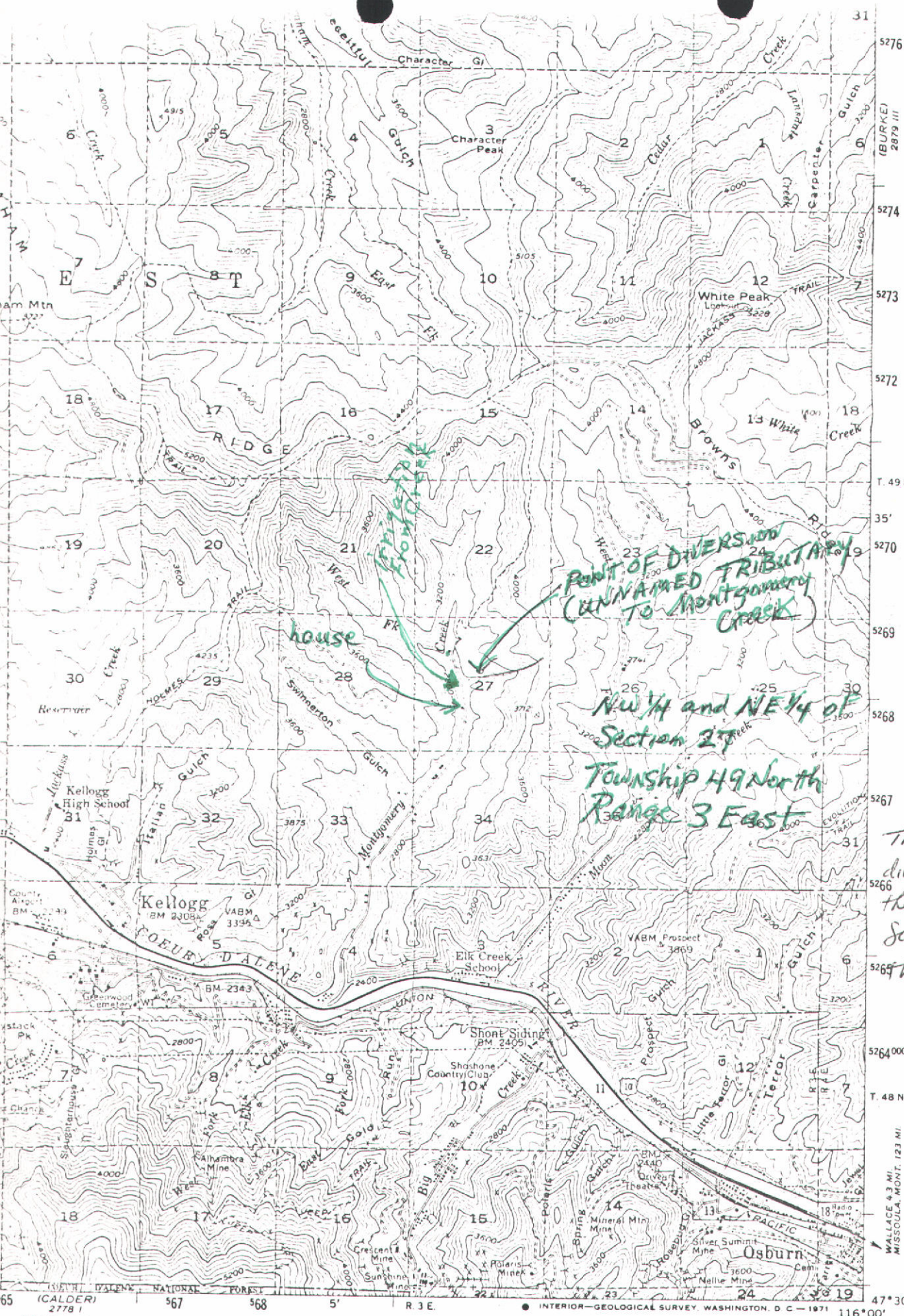




POINT OF DIVERSION
(UNNAMED TRIBUTARY
TO MONTGOMERY
CREEK)

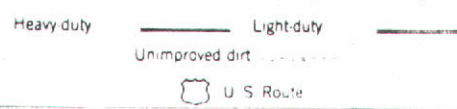
NW 1/4 and NE 1/4 of
Section 27
Township 49 North
Range 3 East

The point of
diversion is in
the NW 1/4 of
Section 27 -
the place of
use is in
the SW 1/4.

SCALE 1:62500



ROAD CLASSIFICATION



MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
AUG 4 1986
Department of Water Resources

A. GENERAL INFORMATION

1. Owner: Terry or Catherine Lininger Permit No. 94-7222 ✓
Current Address: _____ Phone No. 786-1911
2. Accompanied by: _____ EXAM. DATE: 7/23/86
Address: SAME Phone No. _____
Relationship to Permit Holder: _____
3. Source: Montgomery Creek tributary to S. Fk. Coeur d'Alene ✓

B. OVERLAP REVIEW

1. Other water rights with same place of use: NONE

☐ Copies Attached
2. Other water rights with same point of diversion: NONE

☐ Copies Attached ☐ Copies of Field Exam's Attached

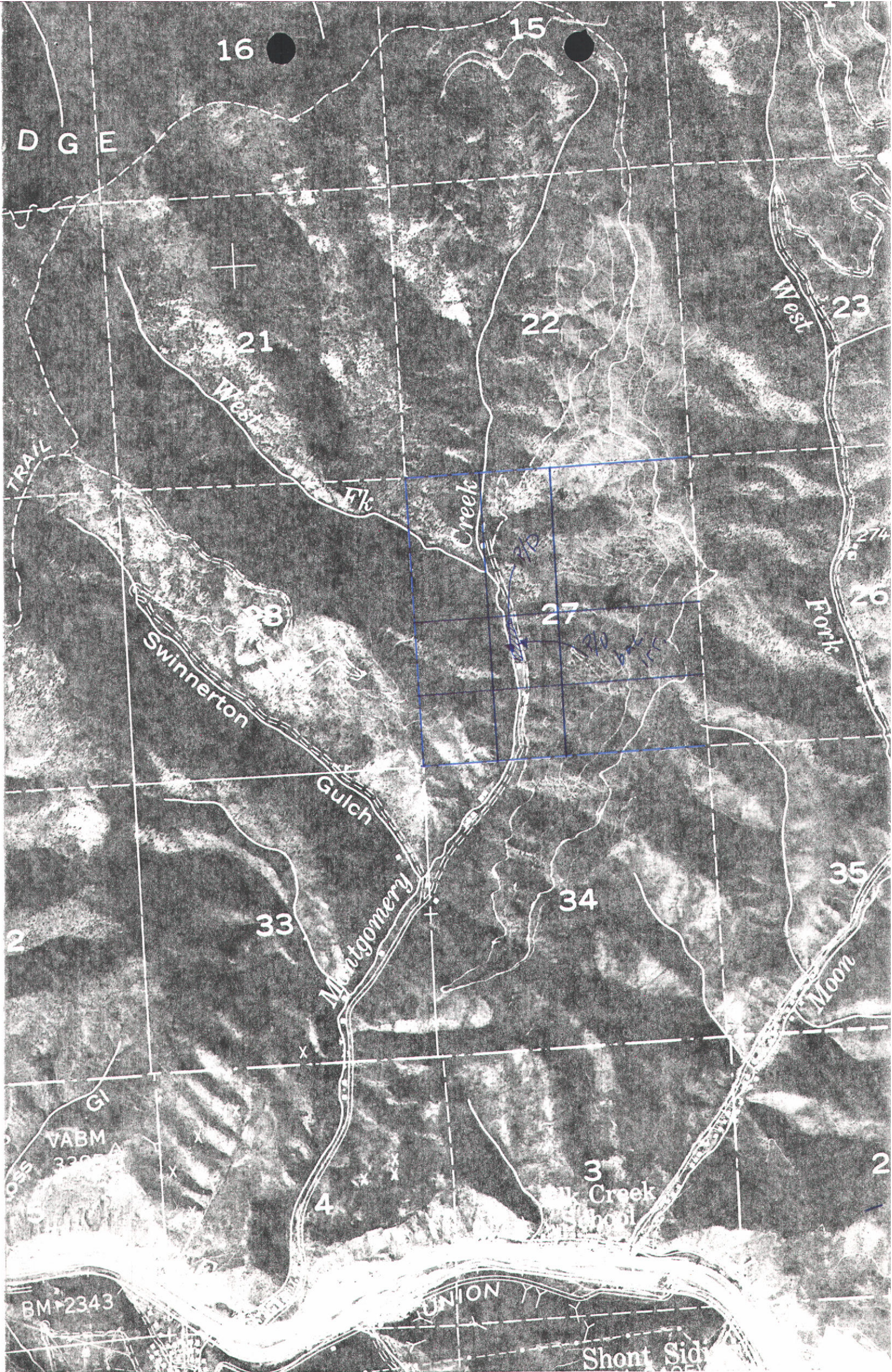
C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached



Scale: 1" = NTS

2. ☒ Copy of U.S.G.S. Quadrangle Attached ☐ Aerial Photo Attached
Showing location(s) of point(s) of diversion and (required for irrigation of 10 acres or more).
place(s) of use (required).
☒ Photo of Diversion and System Attached
(required for all but single household domestic groundwater, and stockwater).
- RECEIVED



TWP. 49N RGE. 3 E SEC. 27 MAP # F-60 MAP SCALE 7 1/2
 DATE OF FIELD EXAM 7/23/86 FIELD REPORT MAP PERMIT # 94-7222

State of Idaho
Department of Water Resources



WATER RIGHT LICENSE

License No. 94-7222 Priority July 13, 1982 Amount 0.01 CFS 4.9 AF

THIS IS TO CERTIFY that TERRY OR CATHERINE LININGER of KELLOGG, IDAHO, has complied with the terms and conditions of the permit issued pursuant to Application for Permit dated July 13, 1982, and has submitted proof to the Department of Water Resources on September 19, 1984, that water has been applied to a beneficial use; an examination by the Department indicates that the works have a capacity of 0.02 cfs of water from Montgomery Creek tributary to Coeur d'Alene River, S. Fork and that a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>VOLUME</u>
Irrigation	03/15 - 11/15	0.01 cfs	4.9 af

Location of point of diversion: NESW, Sec. 27, Twp 49N, Rge 3E, Shoshone Co.

Place of use:

TWP	RGE	SEC	NE				NW				SW				SE				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
49N	3E	27	:	:	:	:	:	:	:	:	6	:	:	:	:	:	:	:	6
			:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	
			:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	
			:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	
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			:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	
			:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	

Total number of acres irrigated:

6

NOTE: 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. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law.

This right is subject to all prior water rights and may be forfeited by five years of non-use.

Witness the seal and signature of the Director, affixed at Boise, this 23RD day of

OCTOBER, 1986.

WITNESSED BY

Acting for the Director

Norman C. Young

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT **APPROVED**

To appropriate the public waters of the State of Idaho

1. Name of applicant Terry or Catherine Lininger Phone 753 3271 days
786 9975 Evenings
Post office address P.O. Box 395 Wallace Idaho
2. Source of water supply Montgomery Creek which is a tributary of S. Fork Coeur d'Alene River
3. Location of point of diversion is NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 27 Township 49N
Range 3E B.M. Shoshone County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 0.12 for Irrigation purposes from 3/15 to 11/15 (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)

5. Total quantity to be appropriated:

a. 0.12 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Pump and pipeline
with flow irrigation

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____

Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 2 years (minimum 1 year - maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M.

(2) Amount of power to be generated: _____ horsepower under _____ feet of head.

(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____

(5) If water is to be used for other purposes describe: _____

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[illegible]

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the

Henry & Catherine (Young)

Total number of acres to be irrigated 9

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

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

A grid of graph paper with handwritten text. The text 'R3F' is located in the upper right quadrant. The text 'T49N' is located in the middle left quadrant. The text 'x 27' is located in the middle right quadrant, with 'x' and '27' on the same line and 'P1/2 P10' on the line below.

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.

Catherine A. Luriger
(Applicant)

MICROFILMED

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A. Allen Saylor
Chief, Operations Bureau

Witness my hand this 10th day of September, 1982.

- d. Other: Permit holder shall commence the excavation or construction of diverting works within one year of the date this permit is issued and shall proceed diligently until the project is complete.
The issuance of this permit in no way grants any right-of-way or easement across the land of another.
- 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.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before October 1, 19 84.
- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
1. Approval of said application is subject to the following limitations and conditions:

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 94-7222, and said application is hereby APPROVED.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

Received by	<u>AB</u>	Date	<u>7/13/82</u>	Time	<u>1:55</u>
Preliminary check by	<u>AB</u>	Fee \$	<u>30.00</u>		
Received by	<u>AB</u>	Date	<u>7/13/82</u>		
Publication prepared by	<u>George E. Green, Jr.</u>	Date	<u>7/13/82</u>		
Published in					
Publication dates			<u>7/21 - 28/82</u>		
Publication approved	<u>me</u>	Date	<u>8/3/82</u>		
Protests filed by:	<u>Just before August - 8/3/82 - with 820722</u>				
Copies of protests forwarded by	<u>me</u>	Date	<u>8/9/82</u>		
Hearing held by		Date			
Recommended for	<u>approval</u>	by	<u>AB</u>		
denial		by	<u>AB</u>		

COPY

ASSIGNMENT

THIS AGREEMENT is entered into this ____ day of November, 1981, between STEPHEN GOSS and SHELLY GOSS, husband and wife, hereinafter referred to as "Assignor," and TERRY F. LININGER and CATHERINE A. LININGER, husband and wife, hereinafter referred to as "Assignee."

WHEREAS, the Assignor did on March 4, 1980 enter into an agreement to purchase from The Bunker Hill Company of Kellogg, Idaho, the following described property, to-wit:

A parcel of land situated in the N 1/2 of the SW 1/4 of Section 27, Township 49 North, Range 3 E.B.M., and more particularly described as follows:

Beginning at the southeast corner of said tract a point marked by a 2" iron pipe whence the S 1/4 corner of Section 27, Township 49 North, Range 3 E.B.M., bears S. 27° 56.6' E., 1499.89 feet distant;

Thence N. 89° 49' W., 171.0 ft. to a point;
Thence N. 11° 19' E., 90.47 ft. to a point;
Thence N. 12° 50' W., 348.0 ft. to a point;
Thence N. 15° 00' W., 440.0 ft. to a point;
Thence N. 8° 30' W., 362.35 ft. to a point;
Thence East 288.25 ft. to a point marked by a drill steel pin;
Thence S. 1° 35' E., 209.0 ft. to a point marked by a drill steel pin;
Thence S. 11° 20' E., 641.0 ft. to a point marked by a drill steel pin;
Thence S. 5° 30' E., 214.0 ft. to a point marked by a drill steel pin;
Thence S. 14° 45' W., 167.0 ft. to the place of beginning and containing 6.818 acres more or less.

Together with easements for the purpose of constructing, reconstructing, or repairing a water tank, with the right of ingress and egress to maintain a television antenna and a water tank and the line leading from the same to the dwelling situate on said premises over and across the following described property:

Water Line & Spring Easement

Said easement to extend 10 feet on either side of the following described center line. Also said easement shall include the right of ingress and egress for pipe replacement and/or maintenance work:

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Beginning at the northeast corner of the
Homesite Tract,
Thence N 8° W 125 feet to a point; thence
N 70° E 105 feet to a concrete water
storage unit; thence N 50° E 100 feet to
the point of water intake and end of
easements.

TV Antenna & Cable Easement

Said easement to extend 10 feet on either side
of the following described center line and also
include the right of ingress and egress for
maintenance of said line and antenna:

Beginning at the log house on said Homesite
and running East 2800 feet to a point on
top of the ridge and termination of easement.

which agreement will be deposited in escrow in the First
National Bank of North Idaho, Wallace, Idaho.

AND WHEREAS, Assignee wishes to purchase said property by
way of an assignment of the agreement of March 4, 1980 from
Assignor, and Assignee wishes to assume the obligations of
Assignor under said Agreement of March 4, 1980, and the parties
wish to set up an escrow account for the purchase of Assignor's
equity in said property by Assignee.

THEREFORE, IT IS AGREED:

1. Assignment. Assignor hereby assigns to Assignee the
rights and obligations of Assignor under said March 4, 1980
Agreement between Assignor and The Bunker Hill Company.
Assignee specifically agrees to comply with all terms and
conditions of said agreement, including prompt payment of all
sums due The Bunker Hill Company under said agreement.
Assignee agrees to indemnify and hold Assignor harmless from
any and all breaches of said March 4, 1980 Agreement. A copy
of said March 4, 1980 Agreement with Addendum thereto is
attached hereto and incorporated herein.

2. Purchase Price. In addition to assuming the indebtedness
owed by Assignor to The Bunker Hill Company pursuant to the

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PROOF OF PUBLICATION

County of Shoshone,)

STATE OF IDAHO)

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application has been submitted for permit to appropriate the public waters of the State of Idaho:

94-7220-2

Name: LININGER, TERRY &/or
CATHERINE

Address: P.O. Box 395, WALLACE,
ID 83873

Date Filed: July 13, 1982

Amount: 0.12 CFS

Source: MONTGOMERY CREEK,
tributary to COEUR D'ALENE
RIVER, SOUTH FK.

Diversion Point: NESW Sec. 27 T 49
R 03E, SHOSHONE Co.

Place of Use: NESW Sec. 27 T 49 R
03E, for 6 acres.

Use: IRRIGATION (0.12 CFS) from
March 15 to Nov. 15.

Diversion Means: PUMP AND
PIPE.

If issued, the permit will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 4055 Gov't Way, Coeur d'Alene, ID. 83814 on or before AUGUST 9, 1982.

A. KENNETH DUNN
Director

7/21/28/'82

Y357

s/Gary A. Corbeill, being first duly sworn deposes and says:

THE KELLOGG EVENING NEWS, a daily newspaper of general circulation in said county, published in the City of Kellogg, in the County of Shoshone and the State of Idaho, and which has been published continuously in said county for a period of 78 weeks immediately prior to the publication of the notice hereinafter described, and that the _____

Application For Water Rights
94-7220

of which the annexed is a true copy, was published in each regular weekly/daily issue of said newspaper, and not in a supplement thereto, for a period of 2 consecutive weeks/days, the

first publication thereof being in its issue dated July 21, 1982

and the last publication thereof being in the issue dated

July 28, 1982

Gary A. Corbeill

Subscribed and sworn to before me this 2nd day of

August, 1982

Wendell R. Baim

RECEIVED
Notary Public

AUG 3 1982

Department of Water Resources
Northern District Office

2/133

2063

JK
8/3/82

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
COMMENCEMENT OF WORKS

Permit No. 94-7222
Name(s) of Permit Holder(s): Linninger Terry & Catherine
Post Office Address: Box 395 Wallace
Idaho 83873 Tel. No. 786 9975 2533271

- ☒ I hereby certify that construction of diversion works for the above referenced permit began on 8-10. I understand that I must continue to develop the water system with due diligence to maintain a valid permit.
- ☐ I hereby certify that construction of diverting works on the above referenced project has not yet begun due to the following reason beyond my control*:

*Note: A financing difficulty is not an acceptable reason.

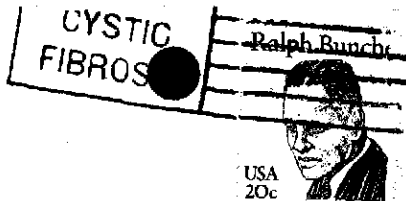
9-2-83

Date

Signature of Permit Holder

Catherine Linninger
Terry Linninger

7 066
Terry + Catherine Switzer
Box 395 Wallace
Idaho 83873



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SEP 6 1988



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DEC 27 1988

Department of Water Resources

IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 27, 1986

RE: Permit No. 94-7222

Terry or Catherine Lininger
HC 1, Box 220
Kellogg, ID 83837

Dear Mr. and Mrs. Lininger:

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

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:sc

Enclosure

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State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

September 16, 1986

RE: Permit No. 94-7222

Terry or Catherine Lininger
HC 1, Box 220
Kellogg, ID 83837

Dear Permit Holder(s):

Enclosed is a draft copy of the license proposed to be issued on the above referenced water right.

If you do not concur with the information shown on the draft license, please advise the Department within ten (10) days. If you have any questions, please let us know; otherwise, the license will be issued as identified on the draft copy.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

RECEIVED
SEP 21 1986
WATER RIGHTS SECTION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

94-7222
Permit No.

Staff Analysis Sheet
for
Beneficial Use Field Report

RECEIVED

AUG 4 1986

Department of Water Resources

A. Prior to Conducting the Exam, the File Contains:

- ☒ Blank Field Report Form
☒ Copy of Permit
☐ Copies of any Amendments/Orders with conditions of approval
☐ Computer Data Proof Report
☒ Copy of U.S.G.S. Quad
☒ Check for Government Lots. If so, make a copy of Government Plat
Check of P/D index J.A. 7/24/86 (Initial and date)

Overlap? ☐ yes ☒ no If yes: ☐ copy of exam(s) attached?
Type of Overlap? ☐ Add acres or uses to existing system
☐ Increase rate of flow or volume
☐ Other: _____

Check of P/U index J.A. 7/24/86 (Initial and date)

Overlap? ☐ yes ☒ no If yes: ☐ copy of water right(s) attached?
Type of Overlap? ☐ Increase rate of flow or volume
☐ Add P/D's
☐ Increase number of acres within tracts
☐ Other: _____

Aerial Photo

Required? ☐ yes ☒ no If yes: ☐ copy attached?

Scheduling Letter sent? _____ (Initial and date)

☒ Appointment made and telephone conversation memo attached

B. After Conducting the Exam, the File Contains:

- ☒ Fully completed and signed Field Report Form
☐ Photographs of Point of Diversion and Place of Use
☒ Corrected Computer Data Proof Report with recommended license information, and date and signature of examiner.

C. Review and Processing:

Exam Completed Jennifer Arpaques 7/24/86 (Signature of examiner and date)
Exam Reviewed by Senior Water Resource Agent E 7/29/86 (Initial and date)
Exam Reviewed by Manager of Regional Office JMA 7/29/86 (Initial and date)
Exam Date Entered in Computer 7/30/86 (Initial and date)
Exam sent to State Office 7/31/86 (Initial and date)
Copy of Staff Analysis Sheet sent to Manager of Regional Office and Original
Refiled in White File _____ (Initial and date)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

Department of Water Resources

RECEIVED
AUG 4 1986

A. GENERAL INFORMATION

1. Owner: Terry or Catherine Lininger Permit No. 94-7222 ✓
Current Address: _____ Phone No. 786-1911
2. Accompanied by: _____ EXAM. DATE: 7/23/86
Address: SAME Phone No. _____
Relationship to Permit Holder: _____
3. Source: Montgomery Creek tributary to S. Fork Coeur d'Alene ✓

B. OVERLAP REVIEW

1. Other water rights with same place of use: NONE

☐ Copies Attached
2. Other water rights with same point of diversion: NONE

☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached



Scale: 1" = NTS

2. ☒ Copy of U.S.G.S. Quadrangle Attached ☐ Aerial Photo Attached
Showing location(s) of point(s) of diversion and (required for irrigation of 10 acres or more).
place(s) of use (required).
☒ Photo of Diversion and System Attached
(required for all but single household domestic groundwater, and stockwater.

RECEIVED

System Description (continued)

3. **Narrative:** Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

Plastic
from
to

1" intake to ≈ 10 gal press tank to 1" plastic discharge along field values to hook hose to sprinkler head

☐ See Remarks on page 4 for continuation

Well or Diversion Identification No.*	Electric				
Motor Make	Wayne				
Hp	1/3				
Motor Serial No.					
Pump Make	Wayne				
Pump Serial No. or Discharge Size	1" plastic				

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

5. Point(s) of Diversion:

[illegible]

6. Place(s) of Use:

Indicate Method of Determination

[illegible]
$$= 10 + 1$$

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

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

2. Measurements:

$P_{\text{res}} = 36 \text{ psi}$

E. FLOW CALCULATIONS

☒ Additional Computation Sheets Attached

1. Measured Method:

$$Q = \frac{8.8(1.7)(1/3)}{2.31(2.23(25) + 2)} = .04 \text{ cfs}$$

$$\frac{8.8(.8)(.33)}{2.31(36) + 2} = \frac{2.32}{85.16} = 0.027 \text{ cfs}$$

USE AS CAPACITY ON LIC.

2. Alternate Method for Checking Purposes:

$$Q = .12 \text{ via permit}$$

$Q = .01 \text{ cfs}$ Alt. method attached using system charts

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)

Total Head: (1) + (2) = _____ (3)

; Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)

Meter Input HP: (6) x 1.34 = _____ (7)

Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Amps x .001732 = _____ (6)

Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 18.0 \text{ AF}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = 4.9 \text{ AF}$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = 4.9 \text{ AF}$$

2. Volume Calculations for Other Uses:

Alternate Method: Flow Cal.

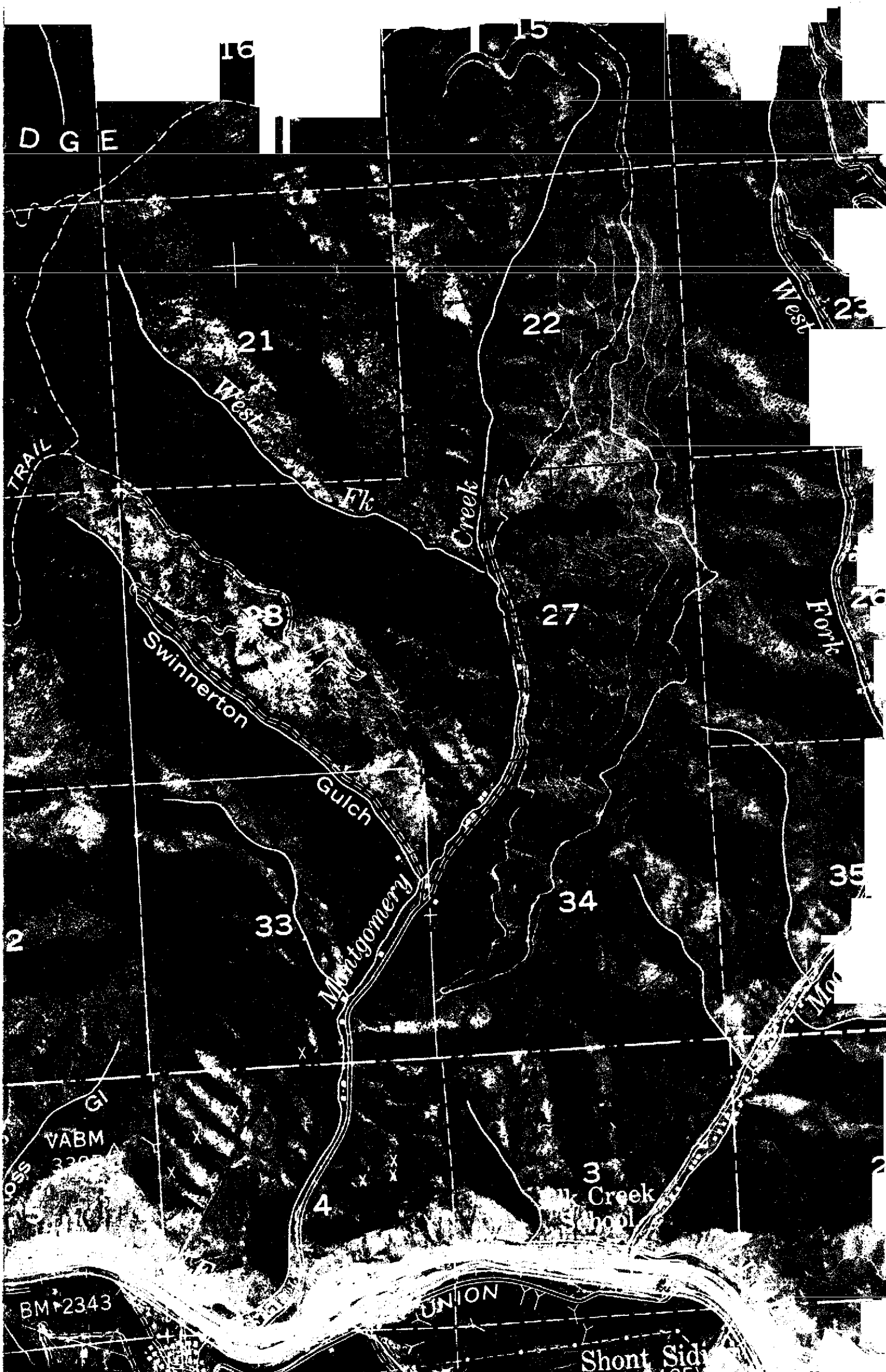
1 Rain bird $\frac{5}{32}$ "

@ press = 36 PSI

From charts

$$Q = 4.22 \text{ gpm} * \frac{2.23 \text{ cfs}}{1000 \text{ gpm}}$$

$$= .01 \text{ cfs}$$



TWP. 49N RGE. 3E SEC. 27 MAP # F-60 MAP SCALE 7 1/2
 DATE OF FIELD EXAM 7/23/86 FIELD REPORT MAP PERMIT # 94-7222



STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

NORTHERN REGION

A. Kenneth Dunn
Director

Suite No. 9
4055 Government Way
Coeur d'Alene, Idaho 83814
(208) 667-6484

May 19, 1986

Mr. Terry Lininger
HC 01 Box 220
Kellogg, Id. 83837

Re: 94-7222

Dear Mr. Lininger:

This is to acknowledge receipt of the Examination Fee Information sheet for the above-referenced permit.

Also, enclosed is your Receipt No. 32069 in the amount of \$50.00 which represents the fee for the examination of your permit.

If you have any questions, please contact me at my office.

Sincerely,

TOM D. KING
Senior Water Resource Agent

TDK/pms

Enc. - Receipt

RECEIVED



STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

NORTHERN REGION

A. Kenneth Dunn
Director

Suite No. 9
4055 Government Way
Coeur d'Alene, Idaho 83814
(208) 765-4639

May 15, 1986

Mr. Terry Lininger
HC01 Box 220
Kellogg, Id. 83837

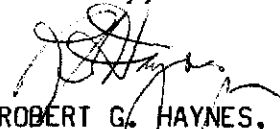
Re: 94-7222

Dear Mr. Lininger:

We are returning your Check No. 92-55 in the amount of \$50.00 and your Examination Fee Information sheet for signature.

Please sign and date the form on the bottom of the page and return with your check as soon as possible.

Sincerely,


ROBERT G. HAYNES, P.E.
Regional Supervisor

RGH/pms

Enc. - Check

Exam Information Sheet

RECEIVED

4/86

RECEIVED

MAY 22 1986

Department of Water Resources

RECEIVED

MAY 14 1986

Department of Water Resources

STATE OF IDAHO Northern District Office

DEPARTMENT OF WATER RESOURCES

EXAMINATION FEE INFORMATION

For Office Use Only

Fee Received

Date

Receipt #

Receipt by

Sent to S.O.

RECEIVED

MAY 19 1986

MAY 7 1986

1. Permit No. 94-7222

ONE OF THE FOLLOWING BOXES SHOULD BE MARKED TO DESIGNATE YOUR CHOICE. Department of Water Resources Northern District Office

☒ I choose to have the department make the field examination of this permit; attached is the examination fee. (If this box is marked, complete items 1 thru 8.)

2. Permit Holder: Terry or Catherine Lininger3. Post Office Address: HCOI Box 220 KelloggIdaho 83837 Telephone No. 208 78619114. Source of Water: Montgomery Creek

5. Extent of Use:

Domestic .04 cfs (No. of households) Stockwater .10 AFA (No. and type of stock)Irrigation 7 (acres) Other/Remark And Storage for Recreation - 10 AFADiversion to storage .10 cfs6. Total rate &/or volume for which proof is submitted .12 cfs 7 acre-feet

7. Show the date water was first diverted and beneficially used under this permit:

1952

8. Person to contact to accompany the department representative during the field examination:

Terry or Catherine LiningerHCOI Box 220 Kellogg Id. 83837 (Name)Montgomery Gulch Kellogg Id. 208-7861911 (Address) (Telephone Number)

☐ I choose to have the field examination conducted by a certified water right examiner. Attached is a statement from the certified examiner I have selected verifying that he has been retained to conduct the examination. (If this box is marked, complete items 1 thru 7.)

5-16-86

Date

Signature of Permit Holder (and title, if appropriate)



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720

94-7222
LININGER, TERRY
LININGER, CATHERINE
HC 01 BOX 220
KELLOGG, ID 83837

138164

April 30, 1986

CERTIFIED MAIL

EXAMINATION FEE NOTICE

Dear Permit Holder:

Department records show that proof of beneficial use has been submitted for the above-referenced permit, but that a field examination has not yet been conducted to determine the extent of beneficial use of the water for licensing purposes.

House Bill 671 (effective April 4, 1986) enacted by the 1986 Idaho Legislature requires the payment of a fee before this department can conduct the field examination needed to issue a license confirming use of water under the permit. This letter is notification that the license examination fee is due within sixty (60) days of the date of this letter. The examination fee information sheet (enclosed) must be returned with the fee.

As an alternative to submitting the fee, the department will accept a field examination report completed by a certified water right examiner from the private sector. If you choose to have the examination done by a certified water right examiner, you need not submit the license examination fee to the department, but you must within sixty (60) days of the date of this letter return to the department, the examination fee information sheet showing appropriate information together with a statement from the certified examiner to verify that you have retained a certified examiner to conduct the field examination. If you choose this alternative, a completed field examination report must be submitted within one year of the date of this letter. You cannot later change your decision to use this alternative and submit the fee needed for the department to conduct the field examination, but you may change to another certified examiner.

Certified water right examiners are licensed engineers, geologists, or land surveyors certified by the department to conduct water right examinations. The procedure for certifying examiners results from the recently enacted HB 671 and is being developed at this time. A listing

RECEIVED

of certified water right examiners will be available from this department when examiners have been certified.

If your permitted use, in fact, has already been examined by the department and you have not asked to have the examination repeated, the fee requirement is not applicable to your permit. If you believe this is the case, please contact the department.

The license examination fee is to be based on the amount of water you indicate you have developed, as listed in item 6 on the examination fee information sheet. The amount of water on which the examination fee is based can be less than the permitted amount, if less water has been diverted and beneficially used. The licensed amount of water, however, will not exceed the amount you claim on the examination fee information sheet. The enclosed license examination fee schedule shows a listing of applicable fees.

FAILURE TO SUBMIT WITHIN THE SIXTY (60) DAY PERIOD, THE FEE OR THE STATEMENT THAT A CERTIFIED EXAMINER HAS BEEN RETAINED TO MAKE THE FIELD EXAMINATION, WILL BE CAUSE TO ADVANCE THE PRIORITY OF THE PERMIT ONE DAY FOR EACH DAY THAT THE FEE SUBMITTAL IS LATE.

FAILURE TO SUBMIT THE FEE OR THE COMPLETED FIELD EXAMINATION REPORT WITHIN A YEAR WILL BE CAUSE TO CONSIDER THE PROOF OF BENEFICIAL USE TO BE INCOMPLETE AND TO LAPSE THE PERMIT.

The attached examination fee information sheet and the fee may be submitted to the following department offices.

Northern Region

Idaho Dept. of Water Resources
4055 Government Way
Coeur d'Alene, ID 83814
Phone: 765-4639

Eastern Region

Idaho Dept. of Water Resources
150 Shoup Ave., Suite 15
Idaho Falls, ID 83401
Phone: 525-7161

Southern Region

Idaho Dept. of Water Resources
1041 Blue Lakes Blvd. North
Twin Falls, ID 83301
Phone: 734-3578

Western Region

Idaho Dept. of Water Resources
450 W. State St., (Third Floor)
Boise, ID 83720
Phone: 334-2190

Sincerely,



L. GLEN SAXTON
Chief, Operations Bureau

Enclosures

RECORDED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Northern Region

JOHN V. EVANS
Governor
A. KENNETH DUNN
Director

4055 Government Way
Coeur d'Alene, ID 83814
(208) 667-6484

NOVEMBER 14, 1984

TERRY OF CATHERINE LININGER
POB 395
WALLACE ID 83873

RE: Permit No. 94-7222

Dear Permit Holder:

We acknowledge receipt of your statement submitted as proof of beneficial use for the above referenced permit.

Before a Water Right License can be issued, a field examination must be made by a representative of this department.

A field examiner will contact you to arrange to examine your system.

If you have any questions regarding the field examination, please contact this office by phone at 765-4639 or in person at our office.

Sincerely,

/S/
TOM D. KING
Senior Water Resource Agent

cc: IDWR - State Office

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DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card as a statement that the permit holder(s) has completed development to the extent shown below of Permit No. 94-7222.

Name(s) of Permit Holder: Terry + Catherine Liringer

Post Office Address: P.O. Box 395 Wallace, ID 83873

Change of Phone number 208 786-1911
Tel. No.

Source of Water: Creek

Extent of Use:

☐ Domestic	(number of households)
☒ Stockwater <u>horses cattle goats sheep pigs</u>	(number and type of stock)
☒ Irrigation <u>about 5</u>	(acres)
☒ Other <u>Pond</u>	

Measuring Device: Required? ☐ Yes ☒ No Installed? ☒ Yes ☐ No

Access Port: Required? ☐ Yes ☒ No Installed? ☒ Yes ☐ No

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

9-10-84 Date **MICROFILMED** Catherine Liringer Signature of Permit Holder

PLACE
13 CENT
STAMP
HERE

RECEIVED

SEP 19 1984



Department of Water Resources

IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE

BOISE, IDAHO 83720

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL

138122

LININGER, TERRY & CATHERINE
P.O. BOX 395
WALLACE, ID 83873

PROOF DUE NOTICE

JULY 31, 1984

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 94-7222 WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE OCTOBER 01, 1984. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST). ENCLOSED IS A POSTCARD WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU OR A PREVIOUS OWNER OF THIS PERMIT HAVE NOT RECEIVED A PRIOR EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME IF THE DELAY IS FOR REASONABLE CAUSE AS PROVIDED IN SECTION 42-204, IDAHO CODE. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER THE BENEFICIAL USE POSTCARD OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE DESCRIBED PROOF DUE DATE. IF NEITHER IS RECEIVED, THE DEPARTMENT WILL SEND YOU A LAPSE NOTICE. WITHIN SIXTY (60) DAYS OF THE MAILING OF THE LAPSE NOTICE, THE PERMIT WILL NO LONGER BE OF ANY FORCE NOR EFFECT.

SINCERELY,

RITA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440

LININGER, TERRY & CATHERINE
P.O. BOX 395
WALLACE, ID 83873

SEPTEMBER 28, 1982

RE: PERMIT NO. 94-7222

DEAR PERMIT HOLDER:

ENCLOSED IS A COPY OF YOUR APPROVED APPLICATION FOR PERMIT. WE DIRECT YOUR ATTENTION TO THE CONDITIONS OF APPROVAL ON THE FOURTH PAGE.

THE 1982 IDAHO LEGISLATURE ADDED A REQUIREMENT THAT THE EXCAVATION OR CONSTRUCTION OF DIVERTING WORKS MUST BE STARTED WITHIN ONE YEAR OF THE DATE THE PERMIT WAS ISSUED. THE PROJECT MUST THEN BE DILIGENTLY CONSTRUCTED UNTIL COMPLETED. TO MAINTAIN THE PERMIT IN A VALID STATUS YOU MUST COMPLETE AND RETURN THE ENCLOSED POSTCARD WHEN CONSTRUCTION IS COMMENCED, NO LATER THAN ONE YEAR FROM THE DATE OF APPROVAL OF THE PERMIT.

SINCERELY,

DAVID R. TUTHILL, JR., P.E.
SUPERVISOR, WATER ALLOCATION SECTION

ENCLOSURE

12

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY: JK

APPLICATION NUMBER: 94-122A

CHECK:

- ☒ Source.
☒ Point of diversion.
☒ County.
☒ Quantity of water and period of use.
☒ Description of diverting works.
☒ Time required for beneficial use of water.
☒ Place of use or acres irrigated.
☒ Map.
☒ Signature.
☒ Fee.
☐ Yes ☒ No Field check required.
☐ Yes ☒ No Critical groundwater area.
☐ Yes ☒ No Request dam safety information. Sent by: _____ Date: _____
☐ Yes ☒ No* In form to receipt.

Field check by: _____

Date: _____

Comments: _____

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

SEND COPIES TO:

- ☐ Idaho State Health Department.
☐ Idaho Fish and Game Department.
☐ Idaho Department of Lands.
☐ U.S. Bureau of Land Management.
☐ U.S. Forest Service.
☐ Other _____

Copies sent by: _____

Date: _____

PROCESSING:

- ☐ Yes ☐ No Platted by: _____ Map No. _____
☐ Yes ☐ No Other rights on same place of use. _____
☒ Yes ☐ No* In form for advertising. 8/9/82 ✓
☐ Yes ☒ No Final date for protests: _____
☐ Yes ☐ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: 8/3/82 ✓
☒ Application published correctly. If not, record action taken: _____
☒ Fee amount, receipt date & number, recorded on application.
☒ Publication dates and paper, recorded on application.
☒ Protests, dates, withdrawal, etc., recorded on application.
☒ Recommendation & initial, recorded on application.
☐ Yes ☒ No Measuring device required.
☐ Yes ☒ No Access port required.
☐ Yes ☒ No Will water be delivered by watermaster? If yes, what district? _____
☒ 7/13/82 Date of priority recommended.
☒ Special conditions of approval or cover letter. _____

By: RWH

Date: 8/30/82

STATE OFFICE REVIEW:

SW/LIZ

26 04

- ☐ See attached sheet for more information.

By: RWH

Date: 9/8/82

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SEP 02 1982

POINT OF DIVERSION AND STREAM INDEX INFORMATION

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
IDAHO STREAM CODE INDEX						

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
IDAHO STREAM CODE INDEX						

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
IDAHO STREAM CODE INDEX						

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
IDAHO STREAM CODE INDEX						

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
IDAHO STREAM CODE INDEX						



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION

John V. Evans
Governor

A. Kenneth Dunn
~~Executive Director~~
Director

Suite No. 1
4055 Government Way
Coeur d'Alene, Idaho 83814
(208) 667-6484

August 26, 1982

Mrs. Susan Copeland
P. O. Box 1201
Wallace, Idaho 83873

Re: 94-7222

Dear Mrs. Copeland:

This is in response to your letter received on August 20, 1982. Statutes relating to water right permits and claims are contained within Volume VIII of the Idaho Code. This volume contains more than 600 pages so I am unable to comply with your request to supply you with copies of statutes relating to claims and permits. This volume should be available at the local library.

The section of the Idaho Code which I believe you refer to is Section 42-202. It states in part:

"In case the proposed right of use is for agricultural purposes,... provided that no one shall be authorized to divert for irrigation purposes more than one cubic foot of water per second of the normal flow for each fifty (50) acres to be so irrigated..."

The interpretation that we have given is one that has been historically used for nearly eighty years and I am confident that it is the correct one.

If you have any further questions, please don't hesitate to contact this office.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Supervisor

RGH/pms

Robert Haynes, Regional Director
Department of Water Resources
State of Idaho
4055 Government Way
Coeur d'Alene, Idaho 83814

RECEIVED

AUG 20 1982

Dear Bob:

Department of Water Resources
Northern District Office

Enclosed is a copy of a letter I mailed to the Lininger's regarding their claim and application for water rights on Montgomery Creek.

Although we are reluctant to withdraw our protest we are doing so in the hopes that some people are reasonable and prudent, and a compromise can be reached.

I believe, however, your interpretation of paragraph 1.C. is in error. If you will notice on both the claim and the application the point of use is the same. This means to me that the water claimed is used on the same land as that being requested for on the application. A straight interpretation of paragraph 1.C. as written on the form clearly states that this water, if used for irrigation, when combined with all other water rights for the same land... shall not exceed .02 cfs. The Lininger's application does not meet this requirement.

MICHAEL

In order to help me understand your interpretation I am requesting a copy of the Idaho Statutes regarding applications and claims to water rights. I don't mean to be a nuisance but I honestly would like to know by reading the intent by the legislation.

I have also located the whereabouts of Mrs. Orlandini and have written a letter regarding her recollection of the installation of the cess pit. Mrs. Orlandini, I am told, is up in years and may not be of help. However, I have also written her son.

Mr. Jerry Cobb, of the Panhandle Health District, said that he's been aware of the situation for sometime. He said that cess pits were prohibited by 1970 so would guess that Orlandini had his system in place before this date.

A decision to file an writ of exception has not been made as of yet, but we would like to keep this door open if we find that it becomes necessary. We will keep you informed of our progress.

Sincerely,

Susan Copeland

RECEIVED

August 13, 1982

RECEIVED

AUG 20 1982

Mr. & Mrs. Terry Lininger
Star Route - Montgomery Gulch
Kellogg, Idaho 83837

Department of Water Resources
Northern District Office

Dear Cathy & Terry:

First, please be assured that our intent in filing a protest to your application was not to cause a refusal of water you require as reasonable citizens. You, like all of Idaho's citizens, have a right to water you can put to beneficial use; but we all have a moral obligation to share and protect our natural resources.

We both are quite fortunate in acquiring property in such a beautiful and serene area. I'm sure we want the same things from our properties and that is to be able to raise our families in a healthy environment and to instill in them that all things come from God. Because of our mutual beliefs; I'm sure we will make good neighbors, and thus be able to work together to achieve our individual goals.

Now, maybe it would help if you could understand our reasons for filing the protest.

Your application for .12 cfs along with your claim of .14 cfs represents 168,480 gallons of water per day or 61,495,200 gallons per year. When you realize that the average family of four uses only 200,000 gallons of water per year or .3% of what you say you need; you can qualify our statement as to the amount being considered excessive.

Your claim of .10 cfs to stockwater storage, we believe, is incorrect. As we both know, the pond you state as being for stockwater storage is in fact a cess pit and as such receives gray water from the house with raw sewage being discharged directly below the lower end of the pond. Since Idaho rules promulgated in 1970 prohibited the use of cess pits as disposal units, we must assume that Orlandini's installation was prior to this date. Conversations with Steve Goss last year confirm this assumption. If in fact water was diverted from Montgomery Creek for stockwater storage in the past, such a claim today is invalid because of the time lapse, i.e. prior 1970 to 1982.

Although we noted the inaccuracies in your claim we were prepared to let it stand uncontested and chose only to protest the additional diversion. We felt that if given a choice you would prefer to have a claim with a priority date of 1952 instead of one with a date of 1982.

Low flow of Montgomery Creek has been estimated to be between 1.5 and 2.0 cfs at our location. If used wisely and prudently there is no reason why either one of us would have to be without water. We are, therefore, in the process of applying for a permit to divert a total of .14 cfs from the West Fork of Montgomery Creek. [.04 cfs for domestic and .10 cfs for irrigation for 7.5 acres.] We inform you of this first hand to let you know that our plans have not changed and that we expect to begin construction of our home within the next three years.

Because of the above estimate we have reconsidered our position and by a copy of this letter to Robert Haynes, Department of Water Resources, we are requesting the withdrawal of our protest to the application.

If you wish to meet somewhere to openly discuss each others motives, please give us a call at home anytime after 5:00 p.m. It is our wish to be friends but if this is not possible from your standpoint, then we will be indifferent neighbors; but neighbors we are and neighbors we will remain. The choice is yours and the door will always be open.

Sincerely yours,

Susan & Kurt Copeland

sgc

cc: Mr. Robert Haynes, Regional Director
Department of Water Resources
State of Idaho
4055 Government Way
Coeur d'Alene, Idaho 83814

RECEIVED

AUG 2 1982

Department of Water Resources
Northern District Office

July 29, 1982

Director
Idaho Department of Water Resources
4055 Government Way
Coeur d'Alene, Idaho 83814

Dear Sir:

SUBJECT: Notice of Claim to Water Right #94-4082 and Notice of Application For Water Right #94-7220; filed by Terry &/or Catherine Lininger

On July 21, 1982 notice appeared in the Kellogg Evening News regarding an application to appropriate waters of the State of Idaho. An amount of .012 CFS to be diverted from Montgomery Creek was requested for irrigation of 6 acres.

On July 28, 1982 a notice of claims to water rights in the amounts of 0.14 CFS and 0.1 AC/FT was filed by Mr. & Mrs. Lininger. Source of this claim is a spring which is a tributary to Montgomery Creek. Priority date was established as January 1, 1952.

Water was first diverted for beneficial use in this area by Silvo Orlandini, etal. and was applied to a 160 acre division of Section 27.

In 1978 The Bunker Hill Company purchased the Orlandini homesite for timber purposes and subsequently sold off less than 7 acres to Steve Goss who in turn sold to Mr. & Mrs. Lininger. (Approximate size of area is 6.8 acres.) This year we purchased an additional 7.5 acres of the original Orlandini homesite and our property adjoins the Lininger's on the north and Bunker Hill's timber properties on the three remaining sides. This sale represents the remainder of the "usable" land for homesite purposes as the balance of the property is steep timber-covered canyon walls. We plan to develop this site for our home in the near future and will be developing a water source for domestic and irrigation purposes.

Although we consider the Lininger's claim on the spring tributary excessive as it is hard to visualize using 90,720 gallons of water a day on less than seven acres; we do not protest the validity of the claim. However, we must file a protest to the Application for Permit to appropriate an additional .12 cfs from Montgomery Creek for irrigation purposes.

Paragraph 1.c. of the Action of the Director, states "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." Since the water being claimed by the Lininger's (File #94-4082) is already in excess of this amount; further appropriations are unjustified and therefore should not be granted.

If you require any further information regarding our protest please contact the undersigned at your earliest convenience.

Sincerely yours

Kurt Copeland
Susan Copeland
Kurt & Susan Copeland
P. O. Box 1201
Wallace, Idaho 83873

sgc

Telephone: 556-6391

RECEIVED
JAN 10 1994
FBI - WALLACE

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Northern Region

JOHN V. EVANS
Governor
A. KENNETH DUNN
Director

4055 Government Way
Coeur d'Alene, ID 83814
(208) 667-6484

August 9, 1982

Mr. and Mrs. Terry Lininzer
P. O. Box 395
Wallace, Id. 83873

RE: 94-7222

Dear Mr. and Mrs. Lininzer:

Enclosed is a copy of a protest filed against the approval of a permit pursuant to the above-referenced application. 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 hearings. At such a conference and/or hearings, 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 purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?

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

Sincerely,

ROBERT G. RAYNES, P.E.
Regional Supervisor

RGH: pms

Enclosure

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Northern Region

JOHN V. EVANS
Governor
A. KENNETH DUNN
Director

4055 Government Way
Coeur d'Alene, ID 83814
(208) 667-6484

August 9, 1982

Mr. and Mrs. Kurt Copeland
P. O. Box 1201
Wallace, Id. 83873

RE: 94-7222

Dear Mr. and Mrs. Copeland:

Your 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 hearings. At such a conference and/or hearings, 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?

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

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Supervisor

RGH: PMS



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

NORTHERN REGION

John V. Evans
Governor

A. Kenneth Dunn
~~C. Stephen Arnesen~~
Director

Suite No. 1
4055 Government Way
Coeur d'Alene, Idaho 83814
(208) 667-6484

August 2, 1982

Mr. and Mrs. Kurt Copeland
P. O. Box 1201
Wallace, Id. 83873

Re: 94-4082 and 94-7222

Dear Mr. and Mrs. Copeland:

We hereby acknowledge receipt of your letter of July 29, 1982 taking exception to Claim No. 94-4082 and protesting Application for Permit No. 94-7222, both filed in the name of Terry &/or Catherine Lininger.

Your protest of Application for Permit No. 94-7222 will be processed after August 9, 1982, which is the last date for accepting protests against the above application.

Please be advised that a copy of your July 29th letter will be placed in the file with Claim No. 97-4082. However, in order for your letter to become an official exception the Liningers' claim, you must submit it in affidavit form and have it signed before a notary public.

If you have any questions, please contact me at this office.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Supervisor

pms

Aug. 17, 1982

Dear Sirs;

In reply to the protest to our water right application # 94-7222, I am sending two copies of affidavits from people living in Montgomery Gulch concerning the property we purchased. Please add these to our files.

We are also asking for a written notice of the date & time for our hearing concerning this matter, since this matter has not been resolved.

RECEIVED

AUG 17 1982

Department of Water Resources
Northern District Office

Thank You
Misty Springer
P.O. Box 395
Wallace, Idaho
83873

* P.S. These affidavits also show the length of time on our domestic water system, that it has been in use. Please note this & place with other files to # 94-4082

Note

The affidavit that Mrs Elaine Bebb wrote is notarized but the stamp does not show on the copy. I have the original.

Mrs Terry Linger

RECEIVED

AUG 17 1982

Department of Water Resources
Northern District Office



To Mr & Mrs Harry Feininger

I moved into the old Hanger station up Montgomery Gulch in March 1958. In 1970 we bought the Bayse home, also in Montgomery Gulch, where I still reside. When I moved up Montgomery in 1958 your property was owned and occupied by Zeke & Mary Orlandini. Having known Mary prior to moving up the Gulch, and her son and mine were school friends, I visited Mary frequently. At that time the pond and yard on your property was being filled and irrigated from pumping water from Montgomery Creek. There was fish in the pond but the boys were not allowed to fish there. Zeke and his brother, Bruno, had piped water from a spring on the hill west of the house. They replaced the pipes in 1964 and only left the house on that line as it was gravity fed and not enough pressure to supply every thing. They located a spring east of the road which they piped to Marys garden but the front yard and pond was still being furnished from the creek. I have not been up there since Mary moved in the spring of 1979, but do know the house was still getting water from the spring, the pipe to the garden was still flowing, Mary was still enjoying the fish and frogs in the pond and it was still being replenished with water from Montgomery Creek.

State of Idaho
County of Shoshone
Signed by Elaine Bibb this 11th
day of August 1982
Christine Brown, Notary
Public, State of Idaho.

Elaine Bibb
Sunshine Star Rt.
Kellogg, Idaho.
786-9082

To Mr. & Mrs. Terry Lininger,

I have been a resident of Montgomery Gulch off & on since 1948. Gaur property, fields & pond, have been actively irrigated & filled from the creek either by pump or gravity fill pipes ever since before 1948. We, as children, were all aware of the fish pond which we tried to fish in. Mary & Zeke Orlandini owned the property then. I lived in the old ranger station in 1948 & all the fields & pond were in use then.

Rosalie Scott
Sunshine Star Club
Tuloso, So. 83837
786-1731

Elaine Sebb
Kellogg, Idaho
3-11-86

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION

John V. Evans
Governor

A. Kenneth Dunn
~~C. Stephen Adams~~
Director

Suite No. 1
4055 Government Way
Coeur d'Alene, Idaho 83814
(208) 667-6484

August 2, 1982

Mr. and Mrs. Kurt Copeland
P. O. Box 1201
Wallace, Id. 83873

Re: 94-4082 and 94-7222

Dear Mr. and Mrs. Copeland:

We hereby acknowledge receipt of your letter of July 29, 1982 taking exception to Claim No. 94-4082 and protesting Application for Permit No. 94-7222, both filed in the name of Terry &/or Catherine Lininger.

Your protest of Application for Permit No. 94-7222 will be processed after August 9, 1982, which is the last date for accepting protests against the above application.

Please be advised that a copy of your July 29th letter will be placed in the file with Claim No. 97-4082. However, in order for your letter to become an official exception the Liningers' claim, you must submit it in affidavit form and have it signed before a notary public.

If you have any questions, please contact me at this office.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Supervisor

pms

MICROFILMED

94-7220-

LININGER, TERRY &/or CATHERINE

P.O. BOX 395, WALLACE, ID 83873

Source: MONTGOMERY CREEK tributary to COEUR D ALENE RIVER, SOUTH FK.

Date Filed: 07/13/1982

Amount: 0.12 CFS

Diversion Point: NESW Sec 27 T 49N R 03E, SHOSHONE Co.

Use: IRRIGATION (0.12 CFS) from 03/15 to 11/15

Place of Use: NESW Sec 27 T 49N R 03E FOR 6 ACRES

Diversion Means: PUMP AND PIPE.

RECEIVED
JUL 14 1982