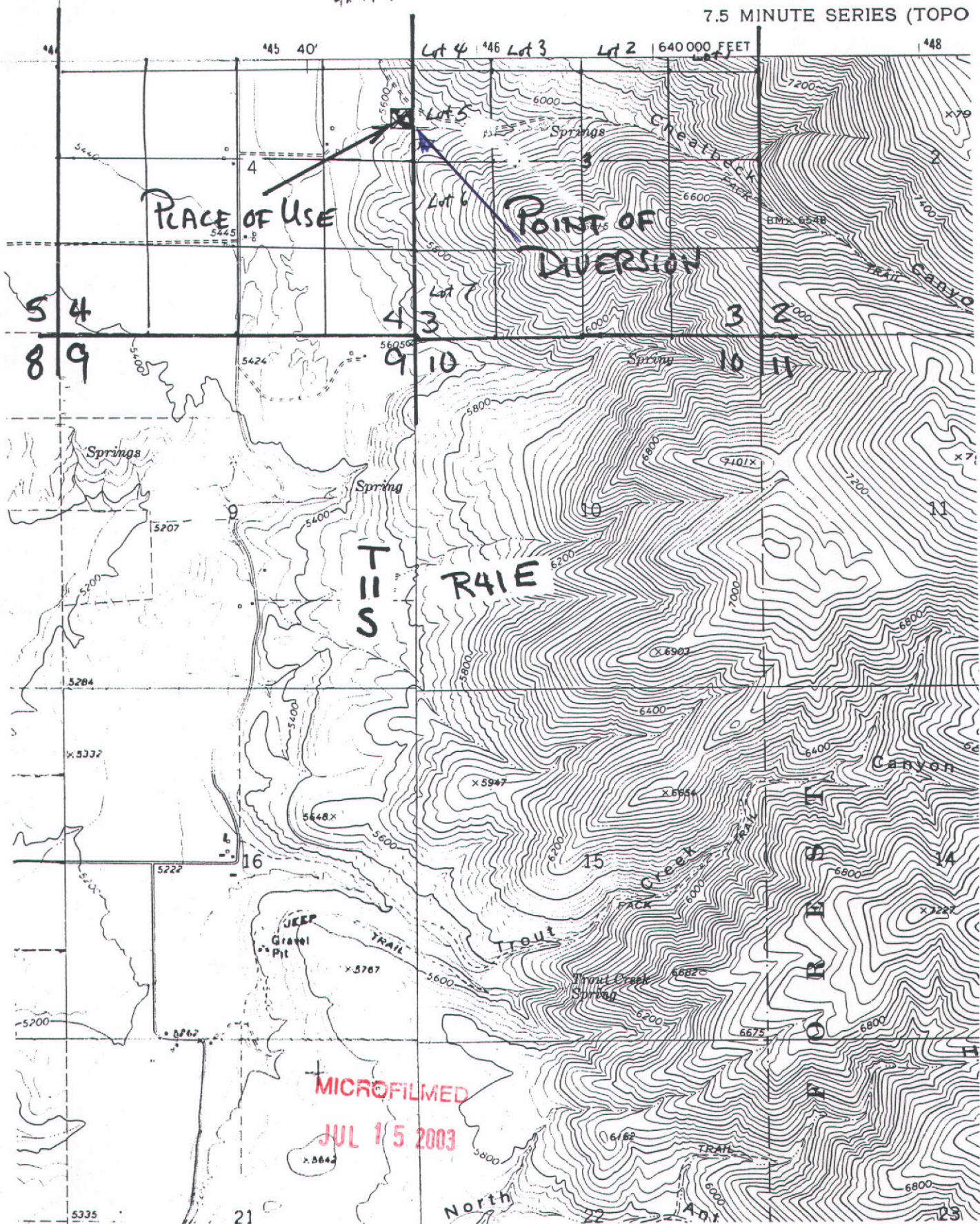


THATCHER QUADRA  
IDAHO

7.5 MINUTE SERIES (TOPO)

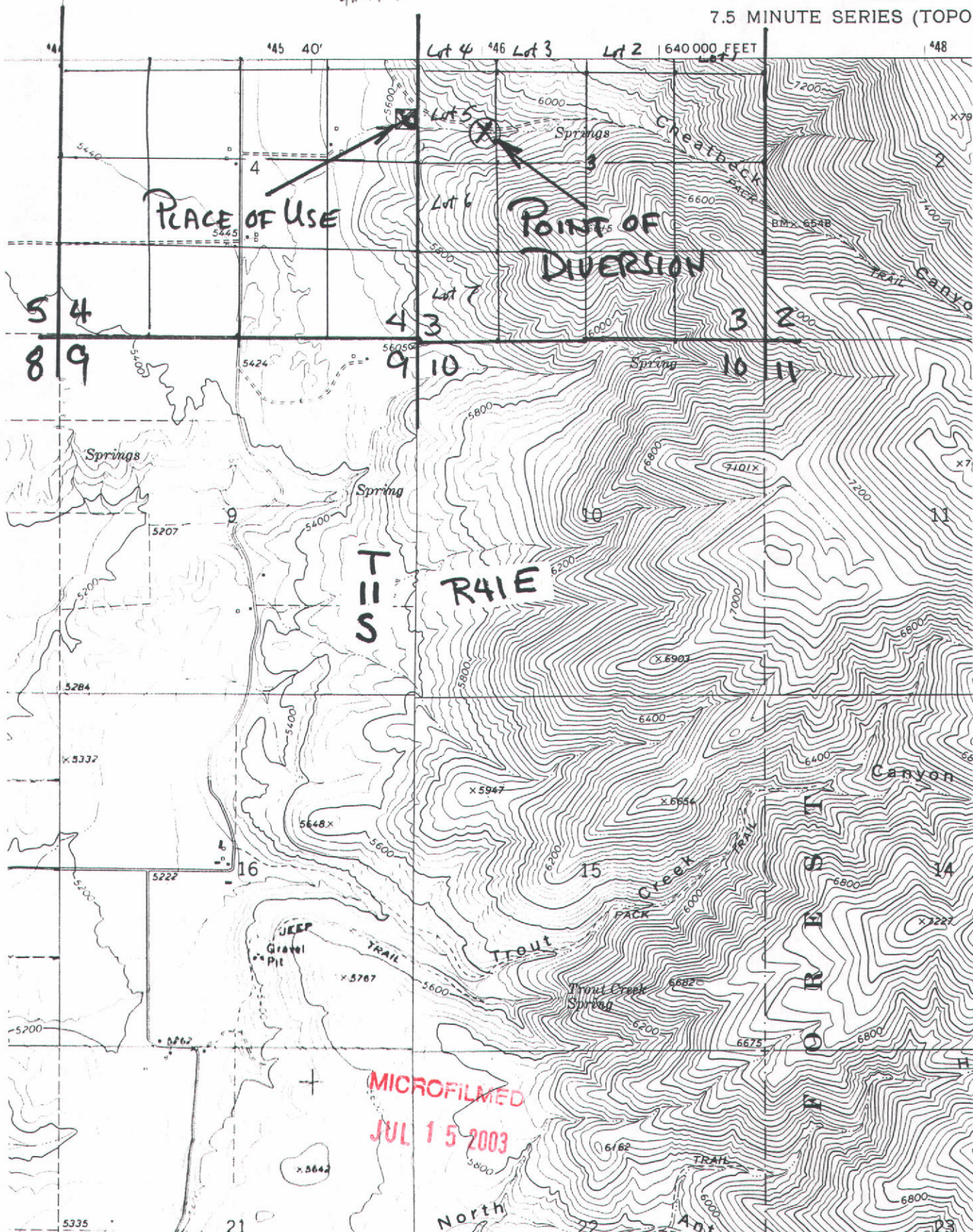
4x4x30 TANK

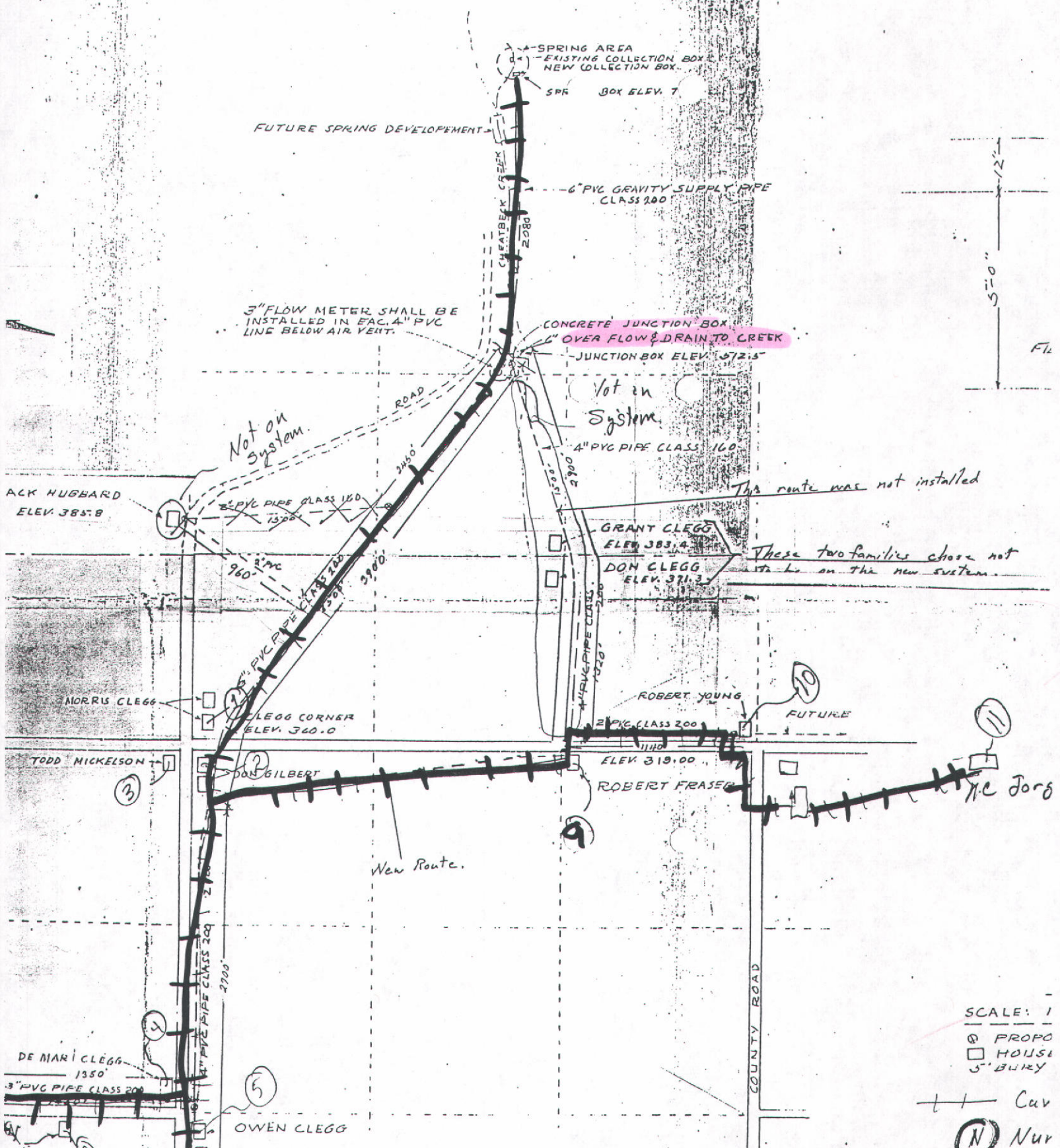


MICROFILMED  
JUL 15 2003

4x4x30 Tank

THATCHER QUADRA  
IDAHO  
7.5 MINUTE SERIES (TOPO)





SCALE: 1" = 100'

(P) PROPOSED  
 (H) HOUSE  
 (S) 5' BURY

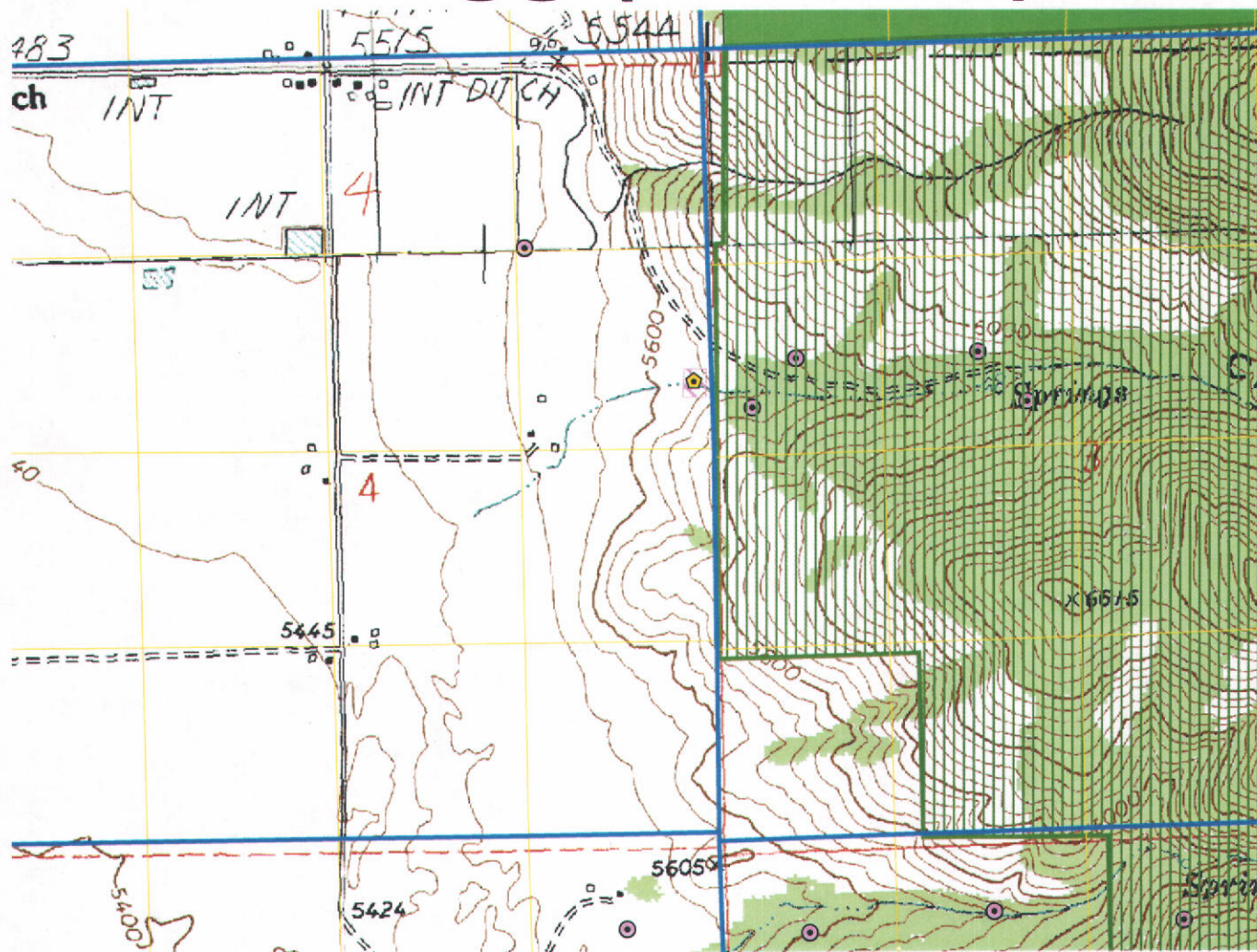
+ + + Cur  
 (N) Nur

MICROFILMED  
AUG 23 1999

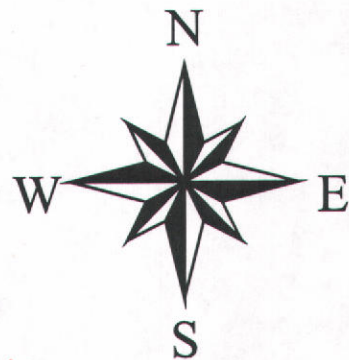
MICROFILMED  
JUL 15 2003

13-07347

# Clegg (13-7601)



0.3 0 0.3 0.6 Miles



**MICROFILMED**

JUL 15 2003

# Affidavit of Publication

## PUBLIC NOTICE

### First Time Published

The following application(s) have been filed to appropriate the public waters of the State of Idaho:  
**13-7601**

KENT CLEGG  
550 BENCH LAGO ROAD  
GRACE, ID 83241  
Point(s) of Diversion: SENE S3  
T11S R41E, CARIBOU COUNTY  
Source: UNNAMED STREAM  
Tributary To: SINKS  
Use: FISH PROPAGATION  
01/01 to 12/31 0.5 CFS  
Total Diversion: 0.5 CFS  
Date Filed: 10/01/2001  
Place Of Use: FISH PROPAGATION

T11S R41E S4 SENE

The Point of Diversion has been amended to reflect the site on the applicants property.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Eastern Region, 900 North Skyline Drive, Ste. A, Idaho Falls, ID 83402 together with a protest fee of \$25.00 for each application on or before April 8, 2002. The protestant must also send a copy of the protest to the applicant.

(s) KARL J. DREHER

Director

Published on March 21, and 28, 2002 in the Caribou County Sun.

County of Caribou } ss.  
State of Idaho }

Mark Steele

being first duly sworn on his oath, states:

That he is publisher of the Caribou County Sun, a newspaper of general circulation in Caribou County, Idaho, published weekly at Soda Springs in said County that said newspaper has been published in said County uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement;

That the annexed notice was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof for two

successive weekly issues thereof, the date of the first publication being the

21st day of March, 2002

The date of the last publication being the 28th day of March, 2002

On this 29th day of March

in the year of 2002, before me, a Notary Public, personally appeared

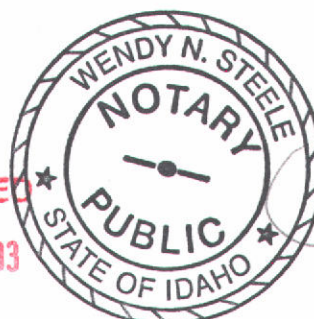
*[Signature]*  
known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

*[Signature]*  
Notary Public for Idaho  
Residing at Soda Springs, Idaho  
My commission expires:

March 11, 2006

RECEIVED  
MAR 29 2002  
Department of Water Resources  
Eastern Region

MICROFILMED  
JUL 15 2003



RECEIVED  
SEP 19 2003

Department of Water Resources  
Eastern Region

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
PROOF OF BENEFICIAL USE

RECEIVED  
SEP 24 2003

Department of Water Resources

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

1. Permit No. 13-07601 Telephone No. 208-425-3071
2. Name of Permit Holder(s): KENT CLEGG
3. Mailing Address: 550 Bench Lago Rd  
City GRACE State Id Zip 83241
4. Source of Water: unnamed Stream If **GROUNDWATER** (well), Date Drilled: mo. \_\_\_\_\_ / yr. \_\_\_\_\_  
Well Driller: \_\_\_\_\_ Drilling Permit Number: \_\_\_\_\_
5. Use(s) (as authorized by the water right permit):  
Domestic (No. of households): \_\_\_\_\_ Stockwater (No. and type of stock): \_\_\_\_\_  
Irrigation (No. of acres): \_\_\_\_\_ Other: Recreation
6. Total rate of diversion and/or volume for which proof is submitted: .50 cfs OR \_\_\_\_\_ acre-feet
7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)  
(This question is **not optional**. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)  
Measuring Device: Is a measuring device required? Yes \_\_\_\_\_ or No X  
Has the measuring device been installed? Yes \_\_\_\_\_ or No \_\_\_\_\_
8. Fee Enclosed: \$ 100<sup>00</sup> (See Fee Schedule on back of the instructions for filing proof of beneficial use)
9. Person to contact to accompany the Department representative during field examination of the water system.  
Name: Kent Clegg Telephone Number: 208-425-3071  
Address: 550 Bench Lago Rd GRACE Id 83241
10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: \_\_\_\_\_

(Include your title, if on behalf of company or organization)

Date: Sept 19, 2003

MICROFILMED

JAN 15 2004

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**

NO. 13-07601

Priority: March 12, 2002

Maximum Diversion Rate: 0.50 CFS

This is to certify, that KENT CLEGG  
550 BENCH LAGO RD  
GRACE ID 83241

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM      Tributary: SINKS

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> |
|-----------------------|----------------------|--------------------------|
| RECREATION            | 01/01 to 12/31       | 0.50 CFS                 |

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM      SE $\frac{1}{4}$ NE $\frac{1}{4}$       Sec. 4, Twp 11S, Rge 41E, B.M. CARIBOU County

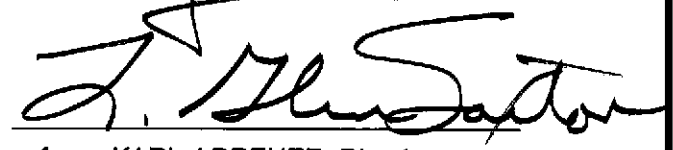
PLACE OF USE: RECREATION

| Twp Rge Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    |        |
|-------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|             | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 11S 41E 4   |    |    |    | X  |    |    |    |    |    |    |    |    |    |    |    |    |        |

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before May 1, 2004.
2. Subject to all prior water rights.
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
4. Recreation use is for a fishing pond not to exceed a total of 1.0 acre feet in storage capacity.
5. Source is known locally as Cheatbeck Creek.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 1st day of May, 2003.

  
for KARL J DREHER, Director

MICROFILMED  
JUL 15 2003

\$50<sup>xx</sup> fee

RECEIVED

APR 23 2002

Page 1

Ident. No. 13-7601  
Department of Water Resources

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

AMENDED APPLICATION FOR PERMIT AMENDED

To appropriate the public water of the State of Idaho

1. Name: KENT CLEGG  
550 BENCH LAGO RD  
GRACE ID 83241  
(208) 425-3071

2. Source: UNNAMED STREAM Tributary to: SINKS

3. Location of Point of Diversion:

#1 UNNAMED STREAM SE1/4NE1/4  
CARIBOU County

Sec. 3, Twp 11S, Rge 41E, B.M.

4. Water will be used for the following purposes:

| Purpose          | From To        | RATE OF DIVERSION | ANNUAL VOLUME |
|------------------|----------------|-------------------|---------------|
| FISH PROPAGATION | 01/01 to 12/31 | 0.50 CFS          |               |

5. Total quantity to be appropriated is: 0.50 CFS

6. Proposed diverting works:

POINT OF DIVERSION #1

a. Type and size of devices used to divert water from the source: 6 " PIPE CONNECTED TO DOMESTIC OVER FLOW SYSTEM TO 1/2 ACRE SURFACE AREA FISH POND.

b. Height of storage dam \_\_\_\_\_ feet;  
Active reservoir capacity \_\_\_\_\_ acre-feet;  
Total reservoir capacity \_\_\_\_\_ acre-feet;

c. Proposed well diameter is \_\_\_\_\_ inches;  
Proposed depth of well is \_\_\_\_\_ feet.

d. Is ground water with a temperature of greater than 85F being sought?

e. If well is already drilled, when? \_\_\_\_\_;  
Drilling Firm \_\_\_\_\_;  
Drilling Permit No. \_\_\_\_\_.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 1 year(s).

8.

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JUL 15 2003

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR PERMIT**

To appropriate the public water of the State of Idaho

**PLACE OF USE:** FISH PROPAGATION

| Twp Rge Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
| 11S 41E 4   | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
|             |    |    |    | X  |    |    |    |    |    |    |    |    |    |    |    |    |        |

9a. Who owns the property at the point of diversion? If other than applicant, describe the arrangement enabling the applicant to make this filing.

APPLICANT

9b. Who owns the land to be irrigated or place of use? If other than applicant, describe the arrangement enabling the applicant to make this filing.

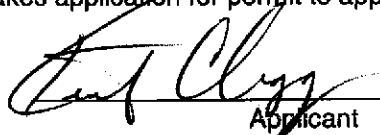
APPLICANT

10. Remarks:

Domestic system already exists. See Claim 13-4348 for Cheapbeck Domestic system. The place of use will be a pond of no more than 1/2 acre surface area.

11. Map of proposed point of diversion and place of use attached? ☐

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.

  
Applicant

Received by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_ Preliminary check by \_\_\_\_\_  
Publication prepared by Se Date 3/21 & 3/27/02 Published in Caribou Co. Sun  
Publication approved \_\_\_\_\_ Date \_\_\_\_\_

Receipt No. E027145 + E027527  
Date: 5-12-02  
Receipted by: [Signature]

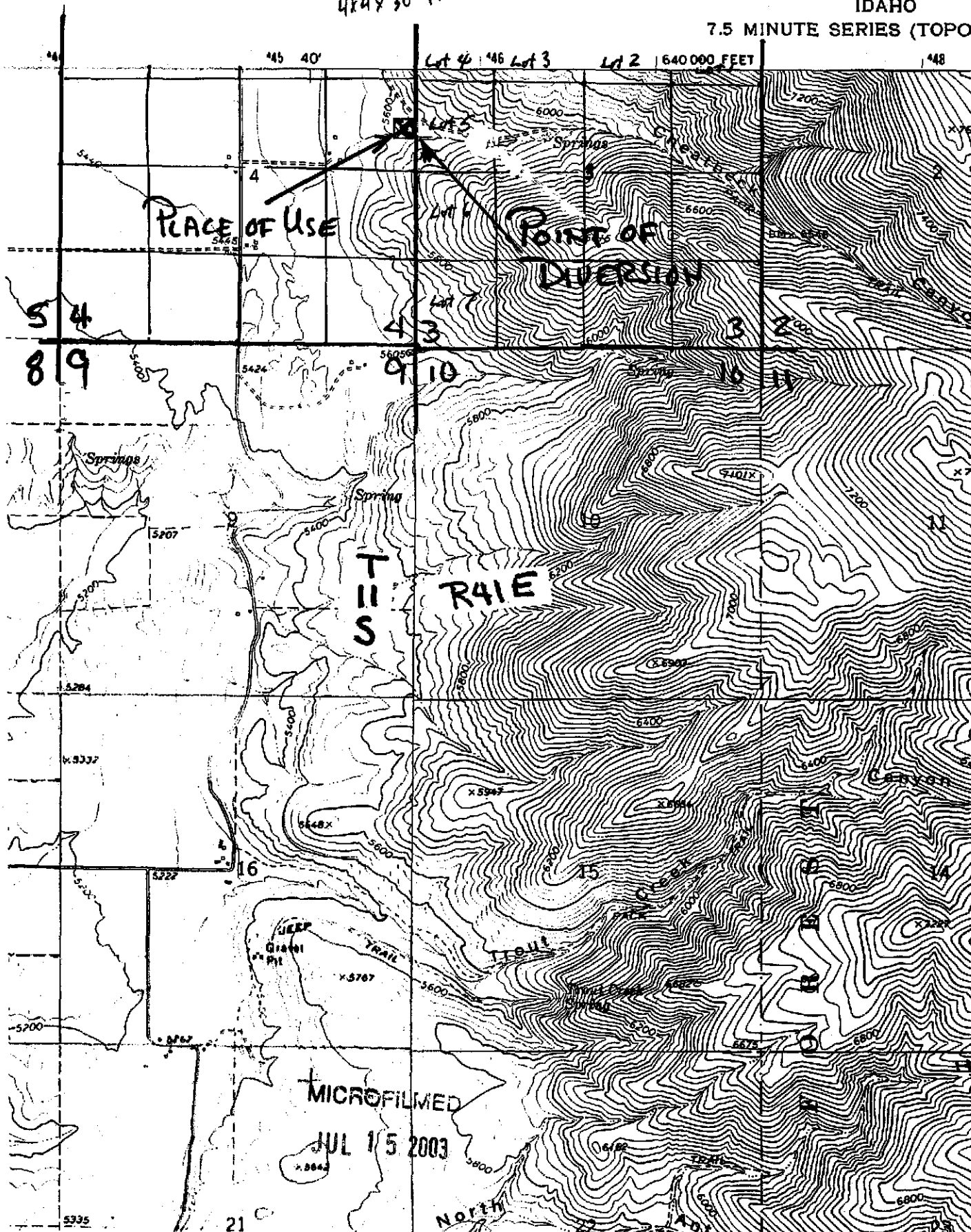
MICROFILMED

JUL 15 2002

THATCHER QUADRA  
IDAHO

7.5 MINUTE SERIES (TOPO)

4x4x30 Tank



13-7601

**To appropriate the public waters of the State of Idaho**

VOID

1. Name of Applicant Kent Clegg Phone 208-425-3071  
Mailing address 550 Bench Lago Rd GRACE, Idaho 83241
2. Source of water supply ~~San Joaquin~~ Spring which is a tributary of Sinks
3. Location of point of diversion is Township 11S Range 41E Sec. 3, in the SE 1/4, SW 1/4, NW 1/4, Govt. Lot 5, B.M., Caribou County;  
additional points of diversion if any: -
4. Water will be used for the following purposes:
- Amount 0.5 cfs for fish propagation purposes from Jan 1 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) 0.50 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 6" pipe connected to  
Domestic over-Flow system to fish tank (3600 gal)
- b. Height of storage dam N/A feet; active reservoir capacity \_\_\_\_\_ acre-feet; total  
reservoir capacity \_\_\_\_\_ acre-feet
- c. Proposed well diameter is \_\_\_\_\_ inches; proposed depth of well is \_\_\_\_\_ feet
- d. Is ground water with a temperature of greater than 85°F being sought? N/A
- 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 1 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.
- e. Other; describe fully. fish propagation

MICROFILMED  
JUL 15 2003

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 | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | TOTALS |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 11S | 41E | 4   |    |    |    | H  |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |

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? BLM

b. Who owns the land to be irrigated or place of use? Kent Clegg

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Use Permit

12. Remarks: Domestic system already exist - Connecting 6" pipe to divert overflow through fish tank -

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.

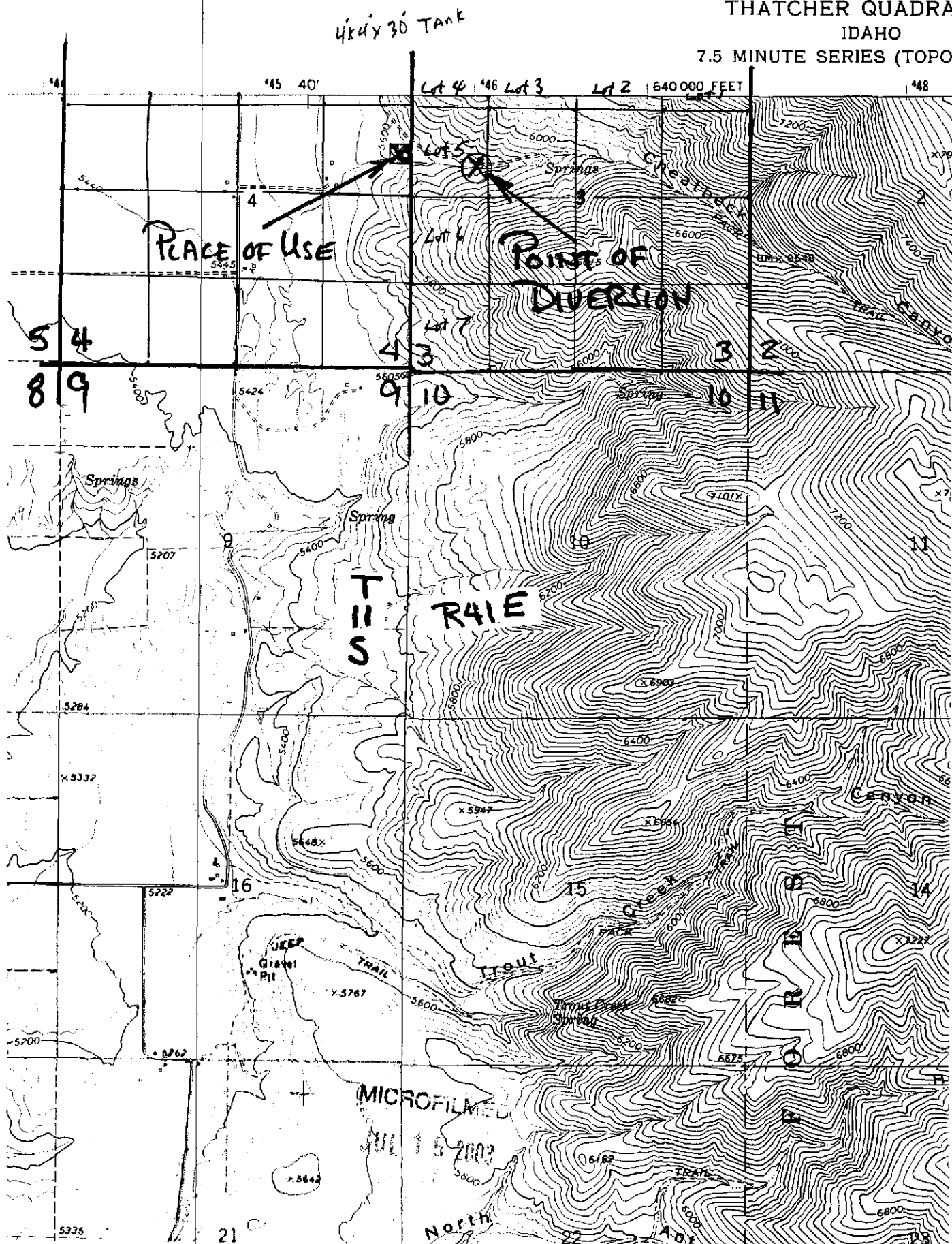
Kent Clegg - (owner) MICROFILMED  
Signature of Applicant (and title, if applicable) JUL 15 2003

Received by KCW Date 9/27/2001 Time 1500h Preliminary check by \_\_\_\_\_

Fee \$ 250<sup>00</sup> Receipted by KCW # E027145 Date 9/27/2001

Publication prepared by SC Date 10/17 & 10/24/01 Published in Carbon County Sun  
Publication approved \_\_\_\_\_ Date \_\_\_\_\_

## 7.5 MINUTE SERIES (TOPO)





State of Idaho

**DEPARTMENT OF WATER RESOURCES**

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098  
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

January 8, 2004

KENT CLEGG  
550 BENCH LAGO RD  
GRACE ID 83241

**PROOF ACKNOWLEDGMENT LETTER**

**RE: PERMIT NO. 13-7601**

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to contact you to schedule a field examination to determine and confirm the use being made of the water, and that it meets the permitted beneficial use.

Be advised that Section 42-248, Idaho Code, requires you or the owner of these water rights to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office, or at the department's website at: [www.idwr.state.id.us](http://www.idwr.state.id.us).

If you have questions, please contact the **Eastern** Regional Office of the department in Idaho Falls (208) 525-7161.

Sincerely,

Deborah J. Gibson  
Administrative Assistant  
Water Allocation Bureau

Encl.

c: IDWR - Regional Office (w/encl.)

**MICROFILMED**

**JAN 15 2004**

## ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No.: 13-7601

Reviewed By: dgibson

Date: January 7, 2004

|                                   | <u>Yes</u> | <u>No</u>          |                                  | <u>Yes</u> | <u>No</u> |
|-----------------------------------|------------|--------------------|----------------------------------|------------|-----------|
| Proof received timely?            | X          |                    | Drilling permit required?        |            | X         |
| License examination fee required? | X          |                    | Drilling permit No.:             |            |           |
| Appropriate fee submitted?        | X          |                    | Drilling permit upgrade needed?  |            |           |
| Receipt No.:                      |            | E027145,<br>E29218 | Well driller's report filed?     |            |           |
| Additional Amount Due:            |            |                    | Measuring device required?       |            | X         |
| Name and address same as permit?  | X          |                    | Measuring device installed?      |            |           |
| Are the water uses correct?       | X          |                    | Measure device waiver requested? |            |           |

### Priority Calculation

|                     |              |
|---------------------|--------------|
| Date proof received | 09/18/2003   |
| Date proof due      | - 05/01/2004 |
| Lapse notice sent   | -            |
| No. of days late    | = 0          |
| Holiday allowance   | +            |
| Priority date       | + 03/12/2002 |
| New priority date   | = 03/12/2002 |

### Deficiencies of Actions Items

Acknowledge proof.



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

May 1, 2003

KENT CLEGG  
550 BENCH LAGO RD  
GRACE ID 83241

RE: Permit No. 13-7601

**Permit Approval Notice**

Dear Permit Holder:

The Department of Water Resources 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 the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

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

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed a least sixty days prior to the commencement of work in the stream.

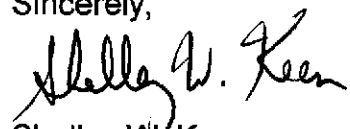
Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

**MICROFILMED**

MAY 15 2003

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

Sincerely,

A handwritten signature in black ink, appearing to read "Shelley W. Keen". The signature is fluid and cursive, with the first name "Shelley" being more prominent.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

MICROFILMED

JUL 9 5 2003

# **CERTIFICATE OF SERVICE**

I hereby certify that on May 1, 2003 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

**RE: WATER RIGHT NO.**

**13-7601**

**KENT CLEGG  
550 BENCH LAGO RD  
GRACE ID 83241**



**Kari Lynn Townsend  
Secretary**

**MICROFILMED**

**JUL 15 2003**

**EXPLANATORY INFORMATION  
TO ACCOMPANY A  
PRELIMINARY ORDER**

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing 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 this 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 fourteen (14) 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 this 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 with the Director. Otherwise, this preliminary order will become a final order of the agency.

**REQUEST FOR HEARING**

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

**ORAL ARGUMENT**

If the Director grants a petition to review the preliminary order, the Director 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 Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director 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 Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

MICROFILMED  
JUL 15 2003

### FINAL ORDER

The Director 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 Director 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.

## MEMORANDUM

**Date:** April 30, 2003  
**To:** Water Right File 13-7601  
**From:** Sharla  
**Re:** Permit Review

---

On March 19, 2003 I spoke with Mr. Clegg about his application. The use of water that he described on the application as fish propagation is actually for a recreational fish pond. Mr. Clegg had no problem with changing the use to recreation.

The amended application shows the point of diversion in the SENE, S3, but the map clearly shows the point of diversion and place of use within the SENE, S4 and the whole purpose of amending the application was to place the point of diversion on Mr. Cleggs property which is in Section 4, not Section 3. The permit will be issued accordingly.

Information in the file states that the diversion works consist of a pipeline connected to a domestic overflow system. The domestic system refers to a license (13-7347) and a statutory claim (13-4348) in the name of Cheapbeck Water Co. The claim contains exactly the same figures as the license except there is an added irrigation component and the point of diversion descriptions are different for each right. A photo submitted with the field exam for 13-7347 shows the collection box emptying into the "overflow" channel and it is this source (called an unnamed stream by this point) that Mr. Clegg has tapped into at the edge of his property. GIS data confirms that all of Section 3 is BLM owned, with the exception of the SWSW and a small portion of the SESW, S3. Because of BLMs insistence on the point of diversion being on his own property, Mr. Cleggs identification of the pod in Section 4 is appropriate.

The pond is a flow-through system and a condition limiting the pond size to 1.0 af in storage capacity will be included on the permit since the diversion rate is only capable of producing 1 af in 24 hrs.

MICROFILMED  
JUL 15 2003

**APPLICATION FOR PERMIT  
STATE OFFICE ANALYSIS**  
Reviewed by Sharla Curtis on 4/29/02

No. 13-7601 Name: Clegg Corp. Officers N/A Ad ok \_\_\_\_\_ Govt Lots \_\_\_\_\_

AREA OF CONCERN: No/Yes \_\_\_\_\_ Moratorium \_\_\_\_\_ GWMA \_\_\_\_\_ TRUST/NON-TRUST \_\_\_\_\_

**GROUNDWATER: (✓Flow Chart)**

**DRILLING PERMIT**

All wells - 046  
Basin 34 - 084 (if necessary)  
WMD - North/East/West  
≤ 0.24 cfs/5 acres - No MD  
> 0.24 cfs/5 acres - 067  
~~WMD~~  
Supp irr (irr = only use) - 065-104  
Supp irr (+ other uses) - 100-105  
≤ 0.24 cfs/5 acres - No MD  
> 0.24 cfs/5 acres - 01M

**LOCATION:**

Boise Front LoGeo - 058 (<85 GW)  
Mitigation - 121  
  
Trust - 051 (consumptive uses)  
Non-Trust - 048 (consumptive uses or non-cons. > 1.0 cfs)

**USES:**

STORAGE - 18C-01H-01P-18B-NA  
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)  
> 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)  
STOCKWATER - R37 (BLM/FS)-111 (instream stock)  
MINING - 054-106  
HEAT/COOL - R07 (injection well)  
FIRE PROT - 077  
COMMERCIAL/  
INDUSTRIAL - 106-R07  
DAIRY - 082-WD8  
POWER - 17H or 17K (+uses)-17G (under FERC )  
or 17M (not FERC regulated)  
025-027-R22-08A

BENEFICIAL USE DUE: 5/01/2003 <sup>2004</sup>

**MISC CONDITIONS/REMARKS:**

Protested - 020-W19  
Development Period  
> 1 yr - 26A  
Ownership - 004  
Non-consumptive - 027  
Water Quality - 106-R07

**SURFACE WATER: (✓Flow Chart)**

F&G contacted - Yes/No Response  
In/Above MSF - WB9

**PLANNING REVIEW/RESPONSE**

WD - R04 (WD# \_\_\_\_\_)  
≤ 0.20 cfs/others - 01H, 01P or No MD  
> 0.20 cfs - 01J

**SPRINGS/SINK, INACTIVE WD or WD**

≤ 0.24 cfs/5 acres - No MD  
> 0.24 cfs/5 acres - 01M or No MD

**RIVER BASINS: (SW special considerations)**

Snake R (01) - W23, N/A  
(02,03) - 007 (w/ remark WB9 if above Weiser)  
Payette R (65) - W23, 047 (Payette Lake)  
Salmon R (70's) - 029 (fish screens)  
Weiser R (67) - 086-087

**USES:**

**MUNICIPAL**

Restricted area - 022,075  
Irr., GW supp to SW - 102  
Future needs - 007,109  
~~FISH PROP~~ - 029 (70's only) ~~007-122-106~~  
**DOMESTIC**  
Surface water - WB5 (Big Wood/Boise above Star Bridge)  
- 27A (Payette R)  
>1 in restricted area - 070-071-075 (no parks/common areas)  
Irr separate or none allowed - WB5  
GW w/irrigation from SW evident - 065-104  
Moratorium approvable - W03 (2500 gpd - meets domestic def  
i.e. D/convenience store)

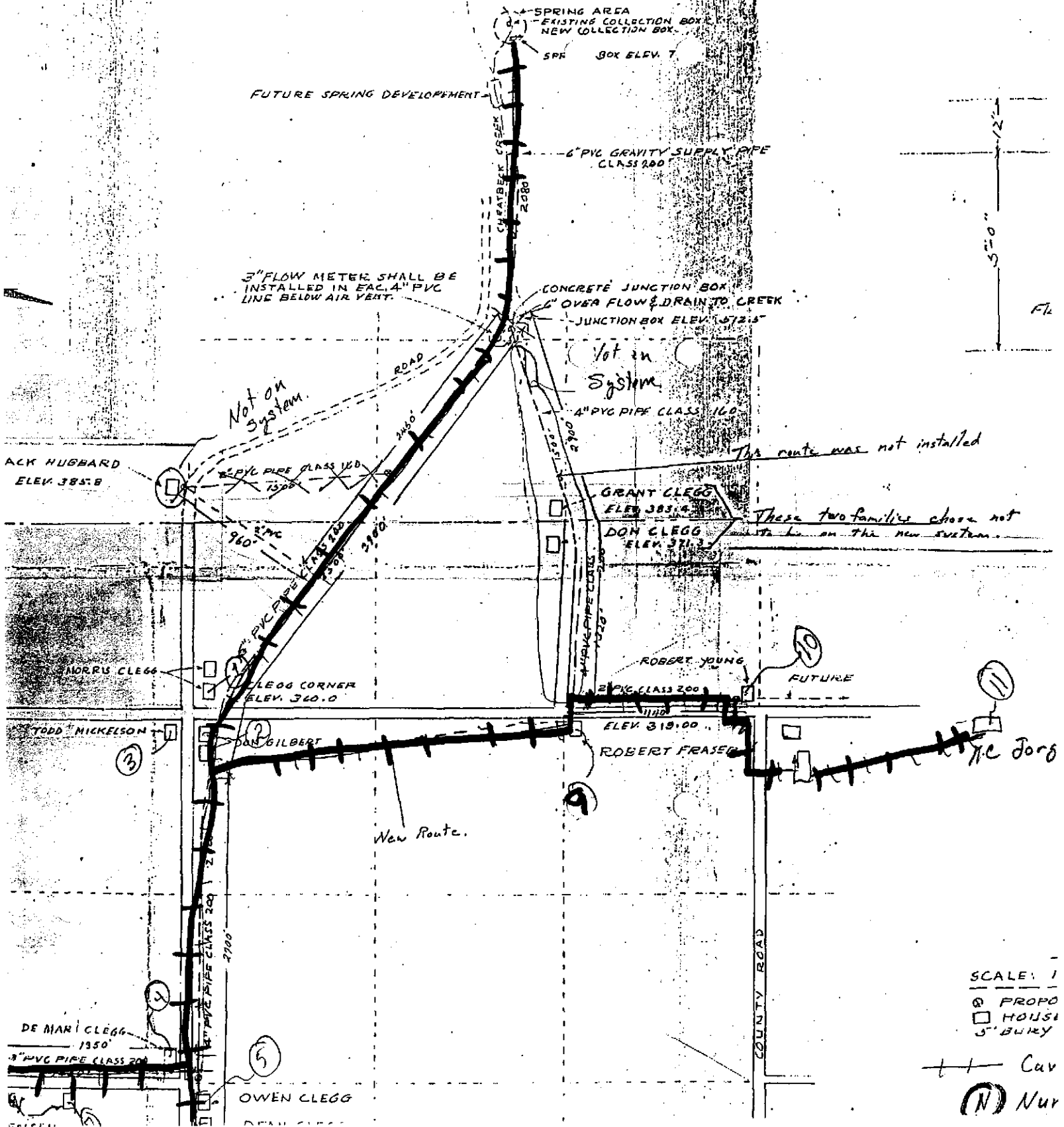
Multiple pd's per ¼¼ - W32  
Subd lot desc (pd) - W59  
Subd lot desc (pu) - W60  
Use definitions - W02 example - S/50 range  
Pre-1987 development - 068-074 (allow 120 days for proof due)  
Single p/d intended - 076

IRRIGATION SEASON \_\_\_\_\_ - \_\_\_\_\_ (Per updated map)

IRR VOLUME/ACRE \_\_\_\_\_

OTHER CONDITIONS/REMARKS Source known locally as Cheatback Creek

COMMENTS \_\_\_\_\_

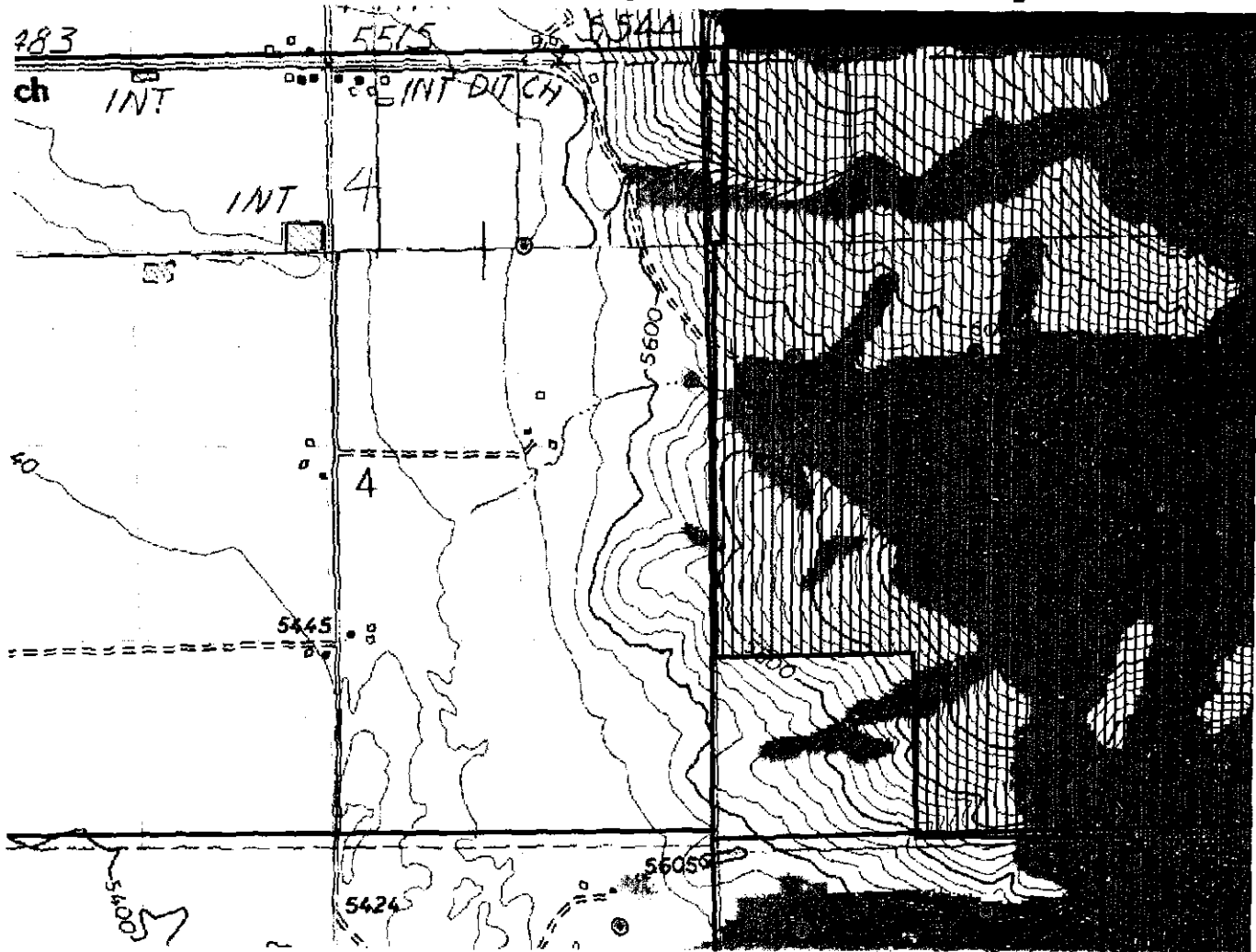


MICROFILMED  
AUG 23 1999

MICROFILMED  
JUL 15 2000

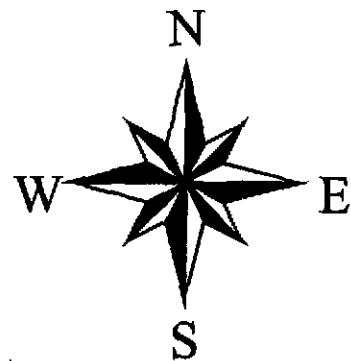
13-07347

# Clegg (13-7601)



0.3 0 0.3 0.6 Miles

|||| B.L.M.



MICROFILMED

JUL 15 2003

## MEMORANDUM

**To: File 13-7601**

**From: Sharla**

**Date: September 27, 2002**

**Re: Tank v. Pond**

In response to my letter of 8/15, Mr. Clegg called me on September 9<sup>th</sup> and explained to me that BLM made him remove the 35' of pipe and the storage tank because they encroached on BLM lands. I told him I would need something from BLM showing their acceptance of the pond as the new proposed diversion works.

On September 20<sup>th</sup>, Becky Lazdauskas (Realty Specialist) from BLM called and told me that once Mr. Clegg moved his diversion works and delivery system off BLM lands, they had no further problems with whatever Mr. Clegg intended to use as a diversion and delivery system.

There were two other protestants, Bear River Water Users Assn. and PacifiCorp. Mr. Clegg told me in a phone conversation on September 26 that he had meetings with the protestant's attorneys and they were all informed about the pond proposal and had no further concerns about the approval of such.

MICROFILMED

JUL 15 2003



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098  
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

August 15, 2002

**DIRK KEMPTHORNE**  
Governor

**KARL J. DREHER**  
Director

**KENT CLEGG**  
550 BENCH LAGO RD  
GRACE ID 83241

RE: Application for Permit 13-7601

Dear Mr. Clegg:

The original application form you filed in September of last year identified a diversion system comprised of a 6" pipe connected to domestic overflow system to a 3600 gallon fish tank for fish propagation purposes; the source of water identified was a spring tributary to sinks.

The application was protested by several entities and those protests were eventually resolved after discussions between yourself and the protestants. In letters from the protestants, they state that their withdrawals of the protests were based on the use being non-consumptive with the diverting works consisting of the 3600 gallon fish tank with return flow to the creek. Further, the withdrawals were based on the assumption that any proposed Fish and Game project that materializes in the future involving additional ponds would be supplied water via an approved transfer of other decreed rights from the North Fork of Trout Creek.

In March of this year, you amended the application to identify the source as an unnamed stream tributary to sinks and the diversion system from the domestic overflow going to a 1/2 acre surface area fish pond. There is nothing in the file explaining why this amendment occurred nor is there anything indicative of the changes having been reviewed by the original protestants.

Please provide IN WRITING an explanation for the changes to the application and evidence of the protestants' knowledge and approval of the changes. I will hold the application for 30 days to allow you to respond to this request. If I have not received a written response within that time period, the department will initiate action to void the application for failure to submit requested additional information.

MICROFILMED

JUL 15 2003

Kent Clegg  
August 15, 2002  
Page 2

Please call me if you have any questions. I look forward to hearing from you.

Sincerely,

A handwritten signature in cursive script that reads "Sharla Curtis".

SHARLA CURTIS  
Sr. Water Resource Agent

MICROFILMED

JUL 15 2003

RECEIVED

APR 23 2002

State of Idaho  
Department of Water Resources

Department of Water Resources

AMENDMENT ANALYSIS SHEET

INITIAL REVIEW BY: HWT

Right Number 13-7601 Applicant Rent Cogs

Purpose of Amendment: ☒ Change point of diversion. ☐ Add diversion point(s).

☐ Increase amount. ☐ Change place of use. ☐ Other \_\_\_\_\_

CHECK:

- ☒ Description of amended point(s) of diversion.
- ☒ Amount, nature and period of use. If increased, delay date of priority.
- ☒ Description of amended places of use. If expanded, delay date of priority.
- ☒ Ownership of point of diversion and place of use.
- ☒ Map.
- ☒ Signature (must be permit holder).
- ☒ Fee.
- ☒ Existing water rights from the same source, amended place of use.
- ☒ Right number(s) \_\_\_\_\_
- ☒ Yes ☐ No Should amendment be advertised?
- ☐ Yes ☒ No Should date of priority be delayed? If yes, to what date? \_\_\_\_\_

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received.
- ☒ Amendment published correctly.
- ☒ Protests processed.
- ☒ Approve.
- ☐ Deny.

Conditions Limited to 1/2 acre surface area

By [Signature] Date 4-18-02

STATE OFFICE PROCESSING:

- ☐ Amendment correct and complete. By \_\_\_\_\_ Date \_\_\_\_\_
- ☐ Approved copy sent to applicant and to Region. By \_\_\_\_\_ Date \_\_\_\_\_



State of Idaho

## DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION  
April 16, 2002

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

KENT CLEGG  
550 BENCH LAGO RD  
GRACE ID 83241

**RE: Withdrawal of protest on Amended Application for Permit No. 13-07601**

**Dear Sir:**

**This Department has received a withdrawal of protest from Bureau of Land Management.**

**Our office will continue to process your application.**

**If you have any questions, please call our office.**

Sincerely,

Harold W Jones  
Water Rights Supervisor

HWJ:sc

MICROFILMED  
JUL 15 2003



State of Idaho

## DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

April 16, 2002

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

United States Department of Interior  
Jeff S Steele  
Bureau of Land Management  
1111 N 8<sup>th</sup> Ave  
Pocatello ID 83201-5789

**RE: Withdrawal of protest on Amended Application for Permit No.: 13-07601**

**Dear Protestants:**

This Department has received the withdrawal of protest against the application for Kent Clegg.

We will continue to process this application.

If you have any questions, please call our office.

Sincerely,

  
Harold W Jones  
Water Rights Supervisor

HWJ:sc

MICROFILMED

JUL 15 2003

# Affidavit of Publication

## PUBLIC NOTICE

### First Time Published

The following application(s) have been filed to appropriate the public waters of the State of Idaho:  
**13-7601**

KENT CLEGG  
550 BENCH LAGO ROAD  
GRACE, ID 83241  
Point(s) of Diversion: SENE S3  
T11S R41E, CARIBOU COUNTY  
Source: UNNAMED STREAM  
Tributary To: SINKS  
Use: FISH PROPAGATION  
01/01 to 12/31 0.5 CFS  
Total Diversion: 0.5 CFS  
Date Filed: 10/01/2001  
Place Of Use: FISH PROPAGATION

T11S R41E S4 SENE

The Point of Diversion has been amended to reflect the site on the applicants property.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Eastern Region, 900 North Skyline Drive, Ste. A, Idaho Falls, ID 83402 together with a protest fee of \$25.00 for each application on or before April 8, 2002. The protestant must also send a copy of the protest to the applicant.

(s) KARL J. DREHER  
Director

Published on March 21, and 28, 2002 in the Caribou County Sun.

County of Caribou } ss.  
State of Idaho }

Mark Steele

being first duly sworn on his oath, states:

That he is publisher of the Caribou County Sun, a newspaper of general circulation in Caribou County, Idaho, published weekly at Soda Springs in said County that said newspaper has been published in said County uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement;

That the annexed notice was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof for two

successive weekly issues thereof, the date of the first publication being the

21st day of March, 2002

The date of the last publication being the 28th day of March, 2002

On this 29th day of March

in the year of 2002, before me, a Notary Public, personally appeared

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.

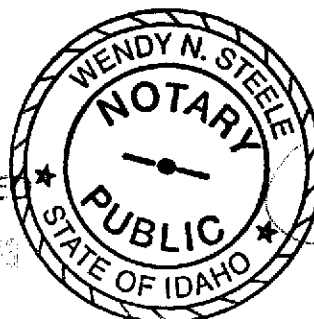
Wendy N. Steele  
Notary Public for Idaho  
Residing at Soda Springs, Idaho  
My commission expires:

March 11, 2006

RECEIVED  
MAR 29 2002  
Department of Water Resources  
Eastern Region

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JUL 15 2003





# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Upper Snake River District  
Pocatello Field Office  
1111 North 8th Avenue  
Pocatello, Idaho 83201-5789

In Reply Refer To:  
7520

March 20, 2002

RECEIVED

MAR 22 2002

Department of Water Resources  
Eastern Region

Harold Jones  
Idaho Department of Water Resources  
Eastern Regional Office  
900 N. Skyline Drive, Suite A  
Idaho Falls, Idaho 83402

RE: Application Number #13-07601

Dear Mr. Jones:

This office wishes to drop our protest to the water right application #13-07601 filed by Kent Clegg. Since he has changed the Point of Diversion to his own property, we no longer have a concern.

Please direct questions to Geoff Hogander at (208) 478-6345.

Sincerely,

Jeff S. Steele  
Field Office Manager

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JUL 15 2003



State of Idaho

## DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

March 15, 2002

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

Jeff Hogander  
C/O BLM  
111 North 8<sup>th</sup> Ave.  
Pocatello, Idaho 83201-5789

Mr. Hogander:

Enclosed is an amended version of application 13-7601. As you can see from the attached map, Mr. Clegg has changed the point of diversion to his property.

This should resolve the BLM protest of his application. I would need a written withdrawal from the BLM so I can continue processing Mr. Clegg's application.

Sincerely,

Harold W. Jones  
Water Resources Supervisor

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JUL 15 2003



State of Idaho

## DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

March 13, 2002

KENT CLEGG  
550 BENCH LAGO RD  
GRACE ID 83241

RE: Application for Permit No 13-7601

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right application. Please refer to the above referenced number in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the Caribou County Sun on March 21 and March 28, 2002. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

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

Sincerely,

A handwritten signature in cursive script that reads "Harold W. Jones".

Harold W Jones  
Water Right Supervisor

HWJ:sc

MICROFILMED

JUL 15 2003



State of Idaho

# DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

March 13, 2002

Legal Notice Department  
CARIBOU COUNTY SUN  
PO BOX 815  
SODA SPRINGS ID 83276

RE: Application for Permit No. 13-7601

**Dear LEGAL NOTICE DEPARTMENT:**

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). 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. Please send the affidavit and bill to this office before April 8, 2002. Your cooperation is appreciated.

Sincerely

Sharla Cox  
Administrative Assistant

*Mailed  
3/13/02  
SC*

MICROFILMED

JUL 15 2003

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

13-7601

KENT CLEGG  
550 BENCH LAGO RD  
GRACE ID 83241

Point(s) of Diversion: SENE S3 T11S R41E, CARIBOU County

Source UNNAMED STREAM

Tributary To SINKS

Use: FISH PROPAGATION 01/01 To 12/31 0.5 CFS

Total Diversion: 0.5 CFS

Date Filed: 10/01/2001

Place Of Use: FISH PROPAGATION

T11S R41E S4 SENE

The Point of Diversion has been amended to reflect the site on the applicants property.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before April 8, 2002. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on March 21 and 28, 2002

MICROFILMED

JUL 15 2003

Dist. for staffing \_\_\_\_\_  
Submitted for advertising \_\_\_\_\_

Form No. 202  
4/87

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATIONS FOR PERMIT ANALYSIS PERMIT

INITIAL REVIEW BY WJ DATE 6-1-02 APPLICATION NO. 13-2601

#69431

REQUIRED INFORMATION

- ☒ Name (If applicant is a corporation or partnership, names must be provided for the director, officers, & other partners.)  
☒ Address  
☒ Source (See USGS Quad for names of water sources)  
☒ Point of Diversion (10 acres for spring, lot & block descriptions for subdivisions, local name, flow and/or volume)  
☒ County  
☒ Quantity (flow and/or volume)  
☒ Period of Use  
☒ Nature of proposed use (Include description of use.)  
☒ Description of diverting works  
☒ Time required for beneficial use of water  
☒ Place of use or acres irrigated  
☒ Map  
☒ Signature (If applicant is corp., partnership, or municipality, title of signatory is required)  
☒ Fee  
☒ Yes \_\_\_\_\_ No\* In form to receipt

ADDITIONAL INFORMATION

- \_\_\_\_\_ Overlapping place of use (Describe source & relationship to present application on the back.)  
☒ Overlapping point of diversion - 13-04348  
\_\_\_\_\_ Yes \_\_\_\_\_ ☒ No Field check required  
\_\_\_\_\_ Field check by \_\_\_\_\_  
\_\_\_\_\_ Yes \_\_\_\_\_ No Field report attached  
\_\_\_\_\_ Yes \_\_\_\_\_ No Critical groundwater area  
\_\_\_\_\_ Yes \_\_\_\_\_ No Groundwater management area  
\_\_\_\_\_ Yes \_\_\_\_\_ No Send dam safety information  
\_\_\_\_\_ Yes \_\_\_\_\_ No Send power requirement letter  
\_\_\_\_\_ Yes \_\_\_\_\_ No Send fish farm requirement letter  
\_\_\_\_\_ Yes \_\_\_\_\_ No Power residency affidavit  
\_\_\_\_\_ Yes \_\_\_\_\_ No Power efficiency form  
\_\_\_\_\_ Yes \_\_\_\_\_ No Within trustwater boundary (If yes, attach trust water supplementary analysis sheet.)  
\_\_\_\_\_ Yes \_\_\_\_\_ ☒ No Diversion greater than 5 cfs or 500 acre ft. (If yes, attach large diversion supplementary analysis sheet.)

See reverse side for additional information

\*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT \_\_\_\_\_

\_\_\_\_\_ Date Requested \_\_\_\_\_

|                       |                                         |                    |                             |
|-----------------------|-----------------------------------------|--------------------|-----------------------------|
| <u>SEND COPIES TO</u> | Idaho Dept. of Health & Welfare         | X                  | U.S. BLM - <i>Pocatello</i> |
|                       | X <u>Idaho Dept. of Fish &amp; Game</u> | - <i>Pocatello</i> | U.S. Forest Service         |
|                       | Idaho Dept. of Lands                    |                    | Water District              |
|                       | Adjudication Bureau Unit                | X                  | Other <i>Jody Williams</i>  |

+ Randy Dudge  
P.O. Box 1391  
Decatur, IO 85204-  
1391

\_\_\_\_\_  
Date of priority recommended \_\_\_\_\_  
By \_\_\_\_\_ Date \_\_\_\_\_

See below for additional information

By \_\_\_\_\_ Date \_\_\_\_\_

### ADDITIONAL INFORMATION

LOCAL PUBLIC INTEREST

Comments received from

|                                |                                           |                                       |
|--------------------------------|-------------------------------------------|---------------------------------------|
| <u>          </u> City         | <u>          </u> Idaho Fish & Game       | <u>          </u> Irrigation District |
| <u>          </u> County       | <u>          </u> Idaho Health & Welfare  | <u>          </u> Canal Company       |
| <u>          </u> Reservations | <u>          </u> Division of Environment | <u>          </u> Other _____         |

Project impacts/implications report

COMMENTS

[illegible]

**KRUSE, LANDA & MAYCOCK, L.L.C.**

EIGHTH FLOOR, BANK ONE TOWER  
50 WEST BROADWAY (300 SOUTH)  
SALT LAKE CITY, UTAH 84101-2034  
E-mail: jwilliams@klmlaw.com  
www.klmlaw.com

MAILING ADDRESS  
Post Office Box 45561  
Salt Lake City, Utah 84145-0561

RECEIVED

JAN 30 2002

Department of Water Resources  
Eastern Region

TELEPHONE: (801) 531-7090  
TELECOPY: (801) 531-7091  
(801) 359-0388

JODY L. WILLIAMS

WRITER'S VOICE MAIL  
(801) 531-7090 ext. 234

January 22, 2002

Harold Jones  
Idaho Department of Water Resources,  
Eastern Region  
900 No. Skyline Dr.  
Idaho Falls, Idaho 83402-1718

Re: Kent Clegg  
13-07601

Dear Mr. Jones:

Based upon the representations from the Bear River Water Users Association in a letter dated January 14, 2002, PacifiCorp hereby withdraws its Protest to the above referenced application.

Very truly yours,

KRUSE, LANDA & MAYCOCK, L.L.C.



Jody L. Williams

JLW:bjw

cc: Kent Clegg                      Jim Kimbal  
Brent Rose, Esq.                  Cheryl C. Williss, Chief  
Randall C. Budge, Esq.          Claudia Conder  
Bear River Water Users Association

MICROFILMED

JUL 15 2003

LAW OFFICES OF

**RACINE, OLSON, NYE, BUDGE & BAILEY  
CHARTERED**

LOUIS F. RACINE, JR.  
WILLIAM D. OLSON  
W. MARCUS W. NYE  
RANDALL C. BUDGE  
JOHN A. BAILEY, JR.  
JOHN R. GOODELL  
JOHN B. INGELSTROM  
DANIEL C. GREEN  
BRENT O. ROCHE  
KIRK B. HADLEY  
FRED J. LEWIS  
MITCHELL W. BROWN  
ERIC S. HUNN  
DAVID E. ALEXANDER  
LISA M. CHRISTON  
RICHARD A. HEARN, M.D.  
ERIC L. OLSEN  
LANE V. ERICKSON  
PATRICK N. GEORGE  
SCOTT J. SMITH

CENTER PLAZA-CORNER FIRST & CENTER  
POST OFFICE BOX 1391  
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101  
FACSIMILE (208) 232-6109

SENDER'S E-MAIL ADDRESS: rcb@racinelaw.net

**received**  
1-16-02

BOISE OFFICE

CONRAD J. AIKEN

101 SOUTH CAPITOL  
BOULEVARD  
U.S. BANK PLAZA, SUITE 202  
BOISE, IDAHO 83702  
TELEPHONE: (208) 395-0011  
FACSIMILE: (208) 433-0167

January 14, 2002

Harold Jones  
Idaho Department of Water Resources  
Eastern Division  
900 N. Skyline Drive  
Idaho Falls, Idaho 83402

Re: *Application No. 13-07601 - Kent Clegg*

Dear Harold:

To confirm our phone conversation, on behalf of Protestant Bear River Water Users Association ("Association"), we have met with the applicant Kent Clegg for the purpose of reviewing Application No. 13-07601 and resolving the pending protest.

It is our understanding that the application is for 0.5 cfs of water in Cheapbeck Creek for fish propagation purposes. Further, that the use would be nonconsumptive with the diverting works consisting of a 3600 gallon fish tank with return flow to the creek. Accordingly, any evaporation would be minimal, with no measurable impact on prior rights.

Mr. Clegg has also represented that if a proposed Idaho Department of Fish & Game project materializes which could involve additional ponds up to 5 acres, that the water would be supplied by means of a transfer of other decreed water rights he owns in the North Fork of Trout Creek.

**MICROFILMED**

JAN 15 2003

Harold Jones  
January 14, 2002  
Page 2

---

Based on the foregoing, the Association hereby withdraws its protest. By copy of this letter we are advising the other Protestants, PacifiCorp and the BLM of the foregoing for their information and so that they might also consider withdrawing their protests.

Sincerely,

RANDALL C. BUDGE

RCB:rr

cc: Kent Clegg  
Jody L. Williams/PacifiCorp  
Jeff Steele, Manager, BLM  
Bear River Water Users Association  
Marc Gibbs  
Brent Rose

MICROFILMED  
JUL 15 2003



State of Idaho

## DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

January 30, 2002

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

Kent Clegg  
550 Bench Lago Rd  
Grace ID 83241

**RE: Withdrawal of protest on Application for Permit No. 13-07601**

Dear Sir:

This Department has received a withdrawal of protest from Jody L Williams fro Kruse Landa & Maycock.

Our office will continue to hold your application due to other protests.

If you have any questions, please call our office.

Sincerely,

A handwritten signature in cursive script that reads "Harold W. Jones".

Harold W Jones  
Water Rights Supervisor

HWJ:sc

MICROFILMED

JUL 15 2003



State of Idaho

## DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

January 30, 2002

Kruse Landa & Maycock  
Jody L Williams  
50 West Broadway 8<sup>th</sup> Floor  
Salt Lake City UT 84101-2034

RE: Withdrawal of protest on Application for Permit No.: 13-07601

Dear Protestants:

This Department has received the withdrawal of protest against the application for Kent Clegg. We will continue to hold this application due to other protests.

If you have any questions, please call our office.

Sincerely,

  
Harold W Jones  
Water Rights Supervisor

HWJ:sc

MICROFILMED

JUL 15 2003



State of Idaho

## DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

January 16, 2002

Kent Clegg  
550 Bench Lago Rd  
Grace ID 83241

**RE: Withdrawal of protest on Application for Permit No. 13-07601**

Dear Sir:

This Department has received a withdrawal of protest from Bear River Water Users Association.

There are still other protests for this application. Our office will continue to hold your application.

If you have any questions, please call our office.

Sincerely,

A handwritten signature in cursive script that reads "Harold W. Jones".

Harold W Jones  
Water Rights Supervisor

HWJ:sc

MICROFILMED

JUL 15 2003



State of Idaho

## DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

January 16, 2002

Racine Olson Nye Budge & Bailey  
PO Box 1391  
Pocatello ID 83204-1391

**RE: Withdrawal of protest on Application for Permit No.: 13-07601**

**Dear Protestants:**

**This Department has received the withdrawal of protest against the application for Kent Clegg. We will continue to hold this application due to other protests.**

**If you have any questions, please call our office.**

**Sincerely,**

A handwritten signature in cursive script that reads "Harold W. Jones".

**Harold W Jones  
Water Rights Supervisor**

**HWJ:sc**

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JUL 15 2003

RECEIVED

JAN 15 2002

Department of Water Resources  
Eastern Region

BOISE OFFICE

CONRAD J. AIKEN

101 SOUTH CAPITOL  
BOULEVARD  
U.S. BANK PLAZA, SUITE 202  
BOISE, IDAHO 83702  
TELEPHONE: (208) 335-0011  
FACSIMILE: (208) 433-0167

LAW OFFICES OF

**RACINE, OLSON, NYE, BUDGE & BAILEY  
CHARTERED**

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POST OFFICE BOX 1391  
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101  
FACSIMILE (208) 232-6109

SENDER'S E-MAIL ADDRESS: rcb@racinelaw.net

LOUIS F. RACINE, JR.  
WILLIAM D. OLSON  
W. MARCUS W. NYE  
RANDALL C. BUDGE  
JOHN A. BAILEY, JR.  
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RICHARD A. HEARN, M.D.  
ERIC L. OLSEN  
LANE V. ERICKSON  
PATRICK N. GEORGE  
SCOTT J. SMITH

January 14, 2002

Harold Jones  
Idaho Department of Water Resources  
Eastern Division  
900 N. Skyline Drive  
Idaho Falls, Idaho 83402

Re: *Application No. 13-07601 - Kent Clegg*

Dear Harold:

To confirm our phone conversation, on behalf of Protestant Bear River Water Users Association ("Association"), we have met with the applicant Kent Clegg for the purpose of reviewing Application No. 13-07601 and resolving the pending protest.

It is our understanding that the application is for 0.5 cfs of water in Cheapbeck Creek for fish propagation purposes. Further, that the use would be nonconsumptive with the diverting works consisting of a 3600 gallon fish tank with return flow to the creek. Accordingly, any evaporation would be minimal, with no measurable impact on prior rights.

Mr. Clegg has also represented that if a proposed Idaho Department of Fish & Game project materializes which could involve additional ponds up to 5 acres, that the water would be supplied by means of a transfer of other decreed water rights he owns in the North Fork of Trout Creek.

MICROFILMED

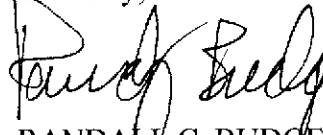
JUL 15 2002

Harold Jones  
January 14, 2002  
Page 2

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Based on the foregoing, the Association hereby withdraws its protest. By copy of this letter we are advising the other Protestants, PacifiCorp and the BLM of the foregoing for their information and so that they might also consider withdrawing their protests.

Sincerely,



RANDALL C. BUDGE

RCB:rr

cc: Kent Clegg  
Jody L. Williams/PacifiCorp  
Jeff Steele, Manager, BLM  
Bear River Water Users Association  
Marc Gibbs  
Brent Rose

MICROFILMED  
JUL 15 2003



State of Idaho

## DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

November 23, 2001

Kent Clegg  
550 Bench Lago Road  
Grace ID 83241

RE: Application for Permit No. 13-07601

Dear Applicant:

Enclosed are copies of a protest filed against the issuance of the above referenced applications. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protests. At a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Idaho Code ' 42-203):

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 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?
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

MICROFILMED

JUL 15 2003

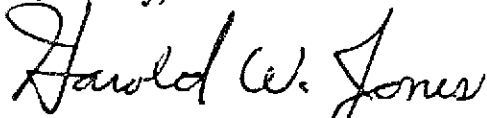
Page 2

The protestant must be prepared to present proof of allegations involving one or more of the six items.

In addition, Rule 302 of the Department's Rules of Procedure requires a protestant to send a copy of the protest to the applicant in question.

If this office can be of further assistance, please contact us.

Sincerely,

A handwritten signature in cursive script that reads "Harold W. Jones".

HAROLD W. JONES  
Water Rights Supervisor

HWJ: sc

cc: IDWR - State Office

MICROFILMED

JUL 15 2003



State of Idaho

## DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE  
Governor

November 23, 2001

KARL J. DREHER  
Director

Bureau of Land Management  
Upper Snake River District  
111 N 8<sup>th</sup> Avenue  
Pocatello ID 83201-5789

RE: Application for Permit No. 13-07601

Dear Protestant:

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

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At such a conference and/or hearing, the following are the principle items the Department can consider in their approving or denying the application (Idaho Code ' 42-203):

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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 under this permit conflict with the local public interest?
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

MICROFILMED

JUN 15 2003

**Page 2**

**The protestant must be prepared to present proof of allegations involving one or more of the six items.**

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**If this office can be of further assistance, please contact us.**

**Sincerely,**

A handwritten signature in cursive script that reads "Harold W. Jones".

**HAROLD W. JONES  
Water Rights Supervisor**

**HWJ: sc**

**cc: IDWR - State Office**

**MICROFILMED**

**JUL 15 2003**



State of Idaho

## DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

November 23, 2001

Kruse Land & Maycock  
50 W Broadway 8<sup>th</sup> Floor  
PO Box 45561  
Salt Lake City UT 84145-0561

RE: Application for Permit No. 13-07601

Dear Protestant:

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

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JUL 15 2003

**Page 2**

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**If this office can be of further assistance, please contact us.**

**Sincerely,**

  
**HAROLD W. JONES**  
**Water Rights Supervisor**

**HWJ: sc**

**cc: IDWR - State Office**

**MICROFILMED**

**JUL 15 2003**



State of Idaho

## DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

November 23, 2001

Racine Olson Nye Budge & Bailey  
PO Box 1391  
Pocatello ID 83204-1391

RE: Application for Permit No. 13-07601 – Kent Clegg

Dear Protestant:

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

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At such a conference and/or hearing, the following are the principle items the Department can consider in their approving or denying the application (Idaho Code ' 42-203):

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5. Will the proposed use under this permit conflict with the local public interest?
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MICROFILMED

JUL 15 2003

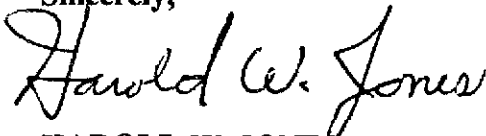
**Page 2**

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**Sincerely,**

A handwritten signature in cursive script that reads "Harold W. Jones".

**HAROLD W. JONES  
Water Rights Supervisor**

**HWJ: sc**

**cc: IDWR - State Office**

**MICROFILMED**

**JUL 15 2000**



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Upper Snake River District  
Pocatello Field Office  
1111 North 8th Avenue  
Pocatello, Idaho 83201-5789

RECEIVED

NOV 20 2001

Department of Water Resources  
Eastern Region

In Reply Refer To:

7520

November 19, 2001

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

7001 0360 0002 3320 9093

Harold Jones  
Idaho Department of Water Resources  
Eastern Regional Office  
900 N. Skyline Drive, Suite a  
Idaho Falls, Idaho 83402

RE: Application Number #13-07601

Dear Mr. Jones:

This office wishes to formally protest the water right application #13-07601 filed by Kent Clegg. The basis for this protest is that Mr. Clegg does not have a right-of-way for the diversion and pipeline across the public land and it is BLM policy not to authorize new diversions on public land. We also are concerned that his use of the water might diminish the U.S. Government's water right #13-7268.

We would withdraw this protest of Mr. Clegg constructed the diversion at the public land boundary on his property.

Please direct questions to Geoff Hogander at (208) 478-6345.

Sincerely,

Jeff S. Steele  
Field Office Manager

MICROFILMED

JUL 15 2003

# E027295

**KRUSE, LANDA & MAYCOCK, L.L.C.**

50 WEST BROADWAY (300 SOUTH)  
EIGHTH FLOOR, BANK ONE TOWER  
SALT LAKE CITY, UTAH 84101-2034

JODY L. WILLIAMS

WRITER'S E-MAIL  
jwilliams@klmlaw.com

MAILING ADDRESS:  
Post Office Box 45561  
Salt Lake City, Utah 84145-0561

TELEPHONE: (801) 531-7090  
TELECOPY: (801) 531-7091  
(801) 359-3954

WRITER'S VOICE MAIL  
Extension 234

**RECEIVED**

**NOV 19 2001**

Department of Water Resources  
Eastern Region

November 13, 2001

Idaho Dept. Water Res.  
Eastern Region  
900 No. Skyline Dr.  
Idaho Falls, Idaho 83402-1718

Attention: Ron Carlson  
Harold Jones

**Re: Water Application No. 13-07601  
Kent Clegg**

Gentlemen:

Enclosed please find PacifiCorp's protest to the above-referenced application together with the check for \$25.00 to cover the cost of filing.

Thank you.

Very truly yours,

KRUSE, LANDA & MAYCOCK, L.L.C.

*Jody L. Williams /bjw*  
Jody L. Williams

JLW:bjw  
Enclosures

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JUL 15 2003

# E027288

Receipt # EO 27288

Department of Water Resources  
Eastern Region

JUL 15 2003

2. Protestant owns water rights in the Bear River and Bear Lake decreed in the matter of *Utah Power & Light Company v. The Last Chance Canal Company, Limited, et al*, in Equity No. 203, July 14, 1920, and *Utah Power & Light Company v. Richmond Irrigation Company, et al*, February 21, 1922, as well as other rights in the Bear River below Applicant's proposed point of diversion.

3. The application is for a spring, tributary of the sinks, which is tributary to Bear River. Protestant believes that this use of surface water would interfere with the senior surface water rights of others downstream.

4. Protestant has entered into many contracts with irrigators in Idaho and Utah along the Bear River, some of whom may be Protestants in this matter, for supply of supplemental storage water from Bear Lake when the natural flow of the Bear River is insufficient to satisfy existing water rights. However, during drought periods, high irrigation demands cause the level of Bear Lake to drop significantly, endangering Protestant's ability to continue to deliver supplemental irrigation water pursuant to its contracts.

5. Granting the application of Applicant would adversely affect Protestant's water rights by decreasing the amount of Bear River natural flows used by PacifiCorp and its contract holders. When less water is available in Bear River, the contract holders must use more Bear Lake storage water.

6. In addition to diminishing the quantity of Bear River water available to satisfy prior existing water rights, Protestant believes that granting the above-referenced application could conflict with the local public interest in the three following areas by reducing groundwater inflow into the Bear River: First, increased reliance by existing users on supplemental irrigation water delivered from Bear Lake to make up the depletion from Bear River natural flow will

MICROFILMED

JUL 15 2000

stress Protestant's ability to supply the full amount of Bear Lake water already allocated to existing water users. Second, when the level of Bear Lake drops, recreation and other non-consumptive uses at the lake are adversely affected. The Idaho State Parks & Recreation boat launch becomes unusable; the State park receives little use due to its distance from the water; facilities built with State funds are unusable, and visitor days and the attendant revenue they produce for the State plummet. The local economy at the lake suffers. Third, traditional habitat for indigenous fish in Bear Lake may be decreased. Other wildlife species which depend on the lake may have similar problems due to habitat loss. The spread of noxious weeds and tamarisk is accelerated along the lake shore.

WHEREFORE, Protestant respectfully protests the above-referenced application and requests that it be denied.

DATED this 14<sup>th</sup> day of November, 2001.

PACIFICORP, dba  
UTAH POWER & LIGHT COMPANY

By Jody L. Williams  
Jody L. Williams, Attorney  
Kruse, Landa & Maycock, L.L.C.  
50 West Broadway, Suite 800  
Salt Lake City, Utah 84101  
Telephone: (801) 531-7090

## MAILING CERTIFICATE

On this 14<sup>th</sup> day of November, 2001, I mailed a true and correct copy of the foregoing Protest, postage prepaid, to:

Idaho Department of Water Resources  
Eastern Division  
900 North Skyline Drive  
Idaho Falls, Idaho 83402

Jim Kimbal  
P.O. Box 145  
St. Charles, Idaho 83272

Claudia Conder  
Water Rights Administrator  
PacifiCorp  
1407 W No Temple Suite 110  
Salt Lake City, Utah 84140

Randall C. Budge, Esq.  
Racine, Olson, Nye, Cooper & Budge  
P O Box 1391  
Pocatello, ID 83204-1391

Kent Clegg  
550 Bench Lage Road  
Grace ID 83241

Bear River Water Users Association  
c/o J. Kent Horton  
597 Wasatch Blvd.  
Smithfield, Utah 84335

Brent Rose, Esq.  
Clyde, Snow & Swenson  
201 South Main Suite 1300  
Salt Lake City, Utah 84111

Cheryl C. Williss, Chief  
Division of Water Resources  
P.O. Box 25486  
Denver Federal Building Mail Stop 60189  
Denver, Colorado 80225



# Affidavit of Publication

County of Caribou } ss.  
State of Idaho }

## PUBLIC NOTICE

### First Time Published

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

13-7601

KENT CLEGG  
550 BENCH LAGO ROAD  
GRACE, ID 83241

Point(s) of Diversion:  
SESWNW S3 T11S R41E, CARIBOU COUNTY

Source: SPRING, Tributary to  
SINKS

Use: FISH PROPAGATION  
01/01 to 12/31 0.5 CFS

Total Diversion: 0.5 CFS

Date Filed: 10/01/2001

Place of Use: FISH PROPAGATION

T11S R41E S4 SENE

Permits will be subject to all  
prior water rights. Protests may be  
submitted based on the criteria of  
Sec. 42-203A, Idaho Code.

Any protest against the approval  
of this application must be filed  
with the Director, Dept. of Water  
Resource, Eastern Region, 900 N.  
Skyline Drive, Ste. A, Idaho Falls,  
ID 83402 together with a protest  
fee of \$25.00 for each application  
on or before November 5, 2001.  
The protestant must also send a  
copy of the protest to the applicant.

KARL J. DREHER,  
Director

Published on Oct. 18 and 25,  
2001 in the Caribou County Sun.

Mark Steele

being first duly sworn on his  
oath, states:

That he is publisher  
of the Caribou County Sun, a  
newspaper of general circulation  
in Caribou County, Idaho, pub-  
lished weekly at Soda Springs in  
said County that said newspaper  
has been published in said  
County uninterruptedly and con-  
tinuously for over seventy-eight  
consecutive weeks, prior to the  
first publication of the annexed  
notice or advertisement;

That the annexed notice was  
published as per clipping  
attached in the regular and entire  
edition of said newspaper and  
not in any supplement thereof for

two

successive weekly issues there-  
of, the date of the first publica-  
tion being the

18th day of

October, 2001

The date of the last publication

being the 25th day of

October, 2001

On this 26th day of Oct.

in the year of 2001, before  
me, a Notary Public, personally  
appeared

*Mark Steele*  
known or identified to me to be  
the person whose name sub-  
scribed to the within instrument,  
and being by me first duly  
sworn, declared that the state-  
ments therein are true, and  
acknowledged to me that he ex-  
ecuted the same.

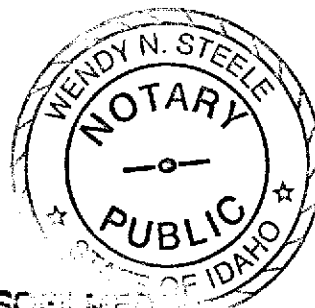
*Wendy N. Steele*  
Notary Public for Idaho  
Residing at Soda Springs, Idaho  
My commission expires:

March 11, 2006

RECEIVED

NOV 15 2001

Department of Water Resources  
Eastern Region



MICROFILMED

NOV 15 2001

LAW OFFICES OF

**RACINE, OLSON, NYE, BUDGE & BAILEY  
CHARTERED**

LOUIS F. RACINE, JR.  
WILLIAM D. OLSON  
W. MARCUS W. NYE  
RANDALL C. BUDGE  
JOHN A. BAILEY, JR.  
JOHN R. GOODELL  
JOHN B. INGELSTROM  
DANIEL C. GREEN  
BRENT O. ROCHE  
KIRK B. HADLEY  
FRED J. LEWIS  
MITCHELL W. BROWN  
ERIC S. HUNN  
DAVID E. ALEXANDER  
LISA M. CHRISTON  
RICHARD A. HEARN, M.D.  
ERIC L. OLSEN  
LANE V. ERICKSON  
PATRICK N. GEORGE  
SCOTT J. SMITH

CENTER PLAZA-CORNER FIRST & CENTER  
POST OFFICE BOX 1391  
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101  
FACSIMILE (208) 232-6109

SENDER'S E-MAIL ADDRESS: rcb@racinelaw.net

BOISE OFFICE

CONRAD J. AIKEN

101 SOUTH CAPITOL  
BOULEVARD  
U.S. BANK PLAZA, SUITE 202  
BOISE, IDAHO 83702  
TELEPHONE: (208) 395-0011  
FACSIMILE: (208) 433-0167

October 16, 2001

RECEIVED

OCT 18 2001

Department of Water Resources  
Eastern Region

Idaho Department of Water Resources  
Eastern Division  
900 N. Skyline Drive  
Idaho Falls, Idaho 83402

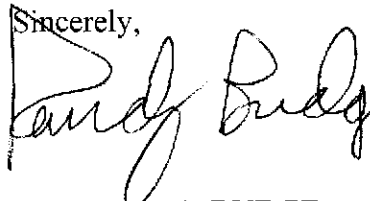
Attention: Ron Carlson  
Harold Jones

**Re: Application No. 13-07601/Kent Clegg**

Dear Ron and Harold:

Enclosed for filing please find Protest of Bear River Water Users Association, together with our check in the amount of \$25 for filing fee.

Sincerely,



RANDALL C. BUDGE

RCB:rr

Enclosures

cc: D. Brent Rose  
Bear River Water Users' Association  
Applicant

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JUL 19 2003

# 10/18/01  
E027203 (50)

LAW OFFICES OF

**RACINE, OLSON, NYE, BUDGE & BAILEY  
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October 16, 2001

RECEIVED

OCT 18 2001

Department of Water Resources  
Eastern Region

Kent Clegg  
550 Bench Lago Road  
Grace, Idaho 83241

Re: *Application for Permit No. 13-07601*

Dear Kent:

Enclosed please find a copy of the Protest filed on behalf of the Bear River Water Users Association ("BRWUA") to the recent Application for Permit No. 13-07601 you filed with the Idaho Department of Water Resources. You can expect that similar protests will be filed shortly by PacifiCorp and perhaps other groups seeking to protect their water rights in Bear Lake and/or Bear River.

I believe you will find the basis of this protest explained in the Protest document, but feel free to give me a call if you have any questions or wish to discuss it. I attempted to reach you by phone to give you advance notice and discuss this protest but was unable to get through. Generally speaking, the new appropriation would result in a depletion of Bear River water, either because the surface water springs or the ground water source which they contribute to are hydrologically connected to the Bear River. Accordingly any new depletions in the Bear River in Idaho and Utah would adversely affect prior and existing water right holders since the river is fully appropriated and there is no new water available for appropriation.

Additionally, the Idaho Department of Water Resources has recently established a new ground water management area on the Bear River and its tributaries which precludes new water right development unless mitigation is provided to protect senior surface water rights.

BRWUA, PacifiCorp and others do not protest domestic wells and other small uses that divert less than 0.04 cfs. Your Application seeks to use 0.5 cfs for fish propagation. However, I note

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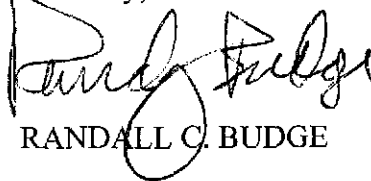
Kent Clegg  
October 16, 2001  
Page 2

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that is a non-consumptive use. Given the fish tank system which you describe to be 3600 gallons, we would question that you would actually consume or utilize the 0.5 cfs you have applied for. This is because it would seem that the only consumptive nature of your water right is for evaporation. Evaporation would appear to be very minimal for a small fish tank of that size. I would suggest you call Senior Water Resource Agent Harold Jones at the Department's office in Idaho Falls, 525-7161, to further discuss this.

Feel free to contact me if you have any questions.

Sincerely,



RANDALL C. BUDGE

RCB:rr

Enclosure

cc: Harold Jones  
Bear River Water Users Association  
Brent Rose  
Jody Williams

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JUL 15 2003

Randall C. Budge  
RACINE, OLSON, NYE, COOPER &  
BUDGE, CHARTERED  
P.O. Box 1391; 201 E. Center  
Pocatello, Idaho 83204-1391  
Telephone: 208-232-6101  
Fax: 208-232-6109

D. Brent Rose  
Clyde, Snow & Swenson, P.C.  
One Utah Center, Suite 1000  
201 South Main Street  
Salt Lake City, Utah 84111-2208  
Telephone: 801-322-2516

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OCT 18 2001  
Department of Water Resources  
Eastern Region

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
STATE OF IDAHO**

|                                  |   |                                 |
|----------------------------------|---|---------------------------------|
| IN THE MATTER OF THE APPLICATION | ) | <b>PROTEST OF BEAR RIVER</b>    |
| FOR PERMIT FILED BY              | ) | <b>WATER USERS' ASSOCIATION</b> |
| KENT CLEGG, Applicant,           | ) |                                 |
| Application No. 13-07601         | ) |                                 |
| _____                            | ) |                                 |

Bear River Water Users' Association, by and through its legal counsel, Randall C. Budge of Racine, Olson, Nye, Budge & Bailey, Chartered, and D. Brent Rose of the firm Clyde, Snow & Swenson, P.C., hereby protests the granting of the above-described Application for Permit (the "Application"). In support of its protest, the Association hereby states as follows:

1. Bear River Water Users' Association (the "Association") is a non-profit corporation and cooperative association organized in 1994 to represent Bear River Basin water users for the purpose, among other things, of monitoring, protecting and defending their respective decreed and appropriated water rights and other contract rights and common interests in and to the natural flow of water in the Bear River and its tributaries and irrigation storage water in Bear Lake. The prior vested rights of the Association's members must be protected and preserved inviolate from interference and impairment.

2. The Association's membership includes the Last Chance Canal Company, West Cache Canal Company and Cub River Irrigation Company and approximately 22 irrigation pumpers in Idaho, and Bear River Canal Company and approximately 81 irrigation pumpers in Utah. Collectively, the Association's members represent approximately 3000 family farms having a combined irrigated acreage of approximately 151,000 acres in Idaho and Utah.

3. Members of the Association hold decreed and other appropriated rights under the respective laws of the States of Idaho and Utah for the diversion and use of the natural flow of water in the Bear River and its tributaries, for irrigation, stockwatering and other purposes. The direct flow rights of the Association's members are all supplemented with water which is held in storage in Bear Lake and released to them for use pursuant to contracts executed by and between each of the individual members and Utah Power and Light Company, a subsidiary of PacifiCorp.

4. The diversion and use of water by the Applicant pursuant to the proposed Application will adversely impair the decreed and appropriated water rights of the Association's members by diminishing the amount of water flowing naturally in the Bear River and its tributaries to which the Association's members have the prior vested right.

5. Further, when the natural flow of the Bear River is insufficient to satisfy the water rights of the Association's members, the members of the Association depend upon the supplemental water supply delivered out of storage in Bear Lake by PacifiCorp in satisfaction of its contractual obligations. The diversion and use of water by the Applicant pursuant to the proposed Application thus adversely impairs the contractual rights of the Association's members. The decrease in the natural flow of the Bear River and its tributaries resulting from new appropriations in the Bear River Basin correspondingly increases the already unsustainable demand on Bear Lake storage water which PacifiCorp is obligated to deliver pursuant to its supplemental irrigation water contracts with the Association's members.

6. In light of the foregoing, authorizing the diversion and use of water as proposed in the Application is inconsistent with the best interest of the public. Any action which serves to decrease the supply of water in storage in Bear Lake is detrimental, not only on the irrigators who depend on the stored water supply in the lake for their livelihood, but it is likewise detrimental to

the local economy of the communities surrounding Bear Lake as well as those having non-consumptive uses and interests in Bear Lake including recreation, wildlife and fish habitat.

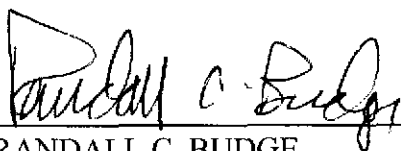
7. Finally, the Association asserts that the source of supply from which Applicant seeks a right as described in the Application is fully appropriated and has been applied to beneficial use by the members of the Association and others; and as such, there is no unappropriated water in the source.

WHEREFORE, in consideration of the foregoing, the Association respectfully protests the granting of the Application. In the event a hearing is scheduled in connection with the Application, the Association requests notice and an opportunity to participate as a party in the proceedings.

In the event the Idaho Department of Water Resources grants the Application, the Association alternatively requests that such approval be issued subject to appropriate conditions, including conditions clearly specifying that the right to divert and use water under the Application is subject to all prior rights to the use of groundwater and surface water hydrologically connected to the Applicant's source of supply, that the Department of Water Resources will conjunctively manage groundwater and surface water withdrawals in accordance with Idaho law which may require curtailment and/or mitigation by junior priority rights, in full or in part, as necessary to protect prior rights in times of shortage.

DATED this 17<sup>th</sup> day of October, 2001.

RACINE, OLSON, NYE, BUDGE &  
BAILEY, CHARTERED

  
\_\_\_\_\_  
RANDALL C. BUDGE

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 17<sup>th</sup> day of October, 2001, I mailed a true and complete copy of the foregoing document, postage prepaid, to the following:

Idaho Department of Water Resources  
Eastern Division  
900 N. Skyline Drive  
Idaho Falls, Idaho 83402

Marcus J. Gibbs, President  
BRWUA  
632 Highway 34  
Grace, Idaho 83241

Jody Williams  
8th Floor, Bank One Tower  
50 West Broadway (300 South)  
Salt Lake City, Utah 84101-2034

Jim Kimball  
Bear Lake Watch, Inc.  
P.O. Box 145  
St. Charles, ID 83272

Bear River Water Users Association  
c/o Dave Styer, Manager  
Bear River Canal Co.  
275 N. 1600 E.  
Tremonton, Utah 84337

Love Bear Lake  
c/o Eulalie Langford  
333 N. 2<sup>nd</sup>  
Montpelier, Idaho 83254

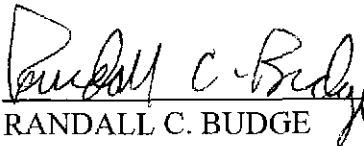
Reagan Wheeler, Manager  
Cub River Irrigation Co.  
P.O. Box 215  
2530 W. 2000 S.  
Lewiston, Utah 84320

Joseph Larsen, President  
West Cache Canal Company  
5397 W. 7200 N.  
Newton, Utah 84327

James T. Watterson  
Utah Pumpers Association  
4705 W. 3800 N.  
Benson, Utah 84335

Jerry C. Simmonds  
Idaho Pumpers Association  
47 W. 1200 N.  
Trenton, Utah 84338

Kent Clegg  
550 Bench Lago Road  
Grace, Idaho 83241

  
\_\_\_\_\_  
RANDALL C. BUDGE



**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**

**October 11, 2001**

**DIRK KEMPTHORNE**  
GOVERNOR

**KARL J. DREHER**  
DIRECTOR

**Idaho Fish & Game  
1345 Barton Rd  
Pocatello ID 83201**

**RE: Applications for Permit #13-07601**

**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 November 5, 2001, 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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**JUL 15 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**

**October 11, 2001**

**DIRK KEMPTHORNE**  
GOVERNOR

**KARL J. DREHER**  
DIRECTOR

**Bureau of Land Management  
1111 N 8<sup>th</sup> St  
Pocatello ID 83201**

**RE: Applications for Permit #13-07601**

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Water Right Supervisor**

**HWJ: sc**

**Enc.**

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JUL 15 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

October 11, 2001

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

Randall C Budge  
PO Box 1391  
Pocatello ID 83204-1391

RE: Applications for Permit #13-07601

Dear Sir:

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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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JUL 15 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

**October 11, 2001**

**Jody L Williams**  
50 W Broadway 8<sup>th</sup> Floor  
Salt Lake City UT 84101

**RE: Applications for Permit #13-07601**

**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 November 5, 2001, 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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JUL 15 2001



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

October 10, 2001

KENT CLEGG  
550 BENCH LAGO ROAD  
GRACE ID 83241

RE: Application for Permit No 13-7601

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right application. Please refer to the above referenced number in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the Caribou County Sun on October 17 and 24, 2001. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

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

Sincerely,

  
Harold W Jones  
Water Right Supervisor

HWJ:sc

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OCT 15 2001



**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

October 10, 2001

**Legal Notice Department**  
CARIBOU COUNTY SUN  
PO BOX 815  
SODA SPRINGS ID 83276

RE: Application for Permit No. 13-7601

**Dear LEGAL NOTICE DEPARTMENT:**

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). 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. Please send the affidavit and bill to this office before November 5, 2001. Your cooperation is appreciated.

Sincerely

Sharla Cox  
Administrative Assistant

*mailed  
10/10/01  
SC*

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OCT 16 2001

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

13-7601

KENT CLEGG

550 BENCH LAGO ROAD

GRACE ID 83241

Point(s) of Diversion: SESWNW S3 T11S R41E, CARIBOU County

Source SPRING, Tributary To SINKS

Use: FISH PROPAGATION 01/01 To 12/31 0.5 CFS

Total Diversion: 0.5 CFS

Date Filed: 10/01/2001

Place Of Use: FISH PROPAGATION

T11S R41E S4 SENE

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before November 5, 2001. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on October 17 and 24, 2001

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JUL 13 2003