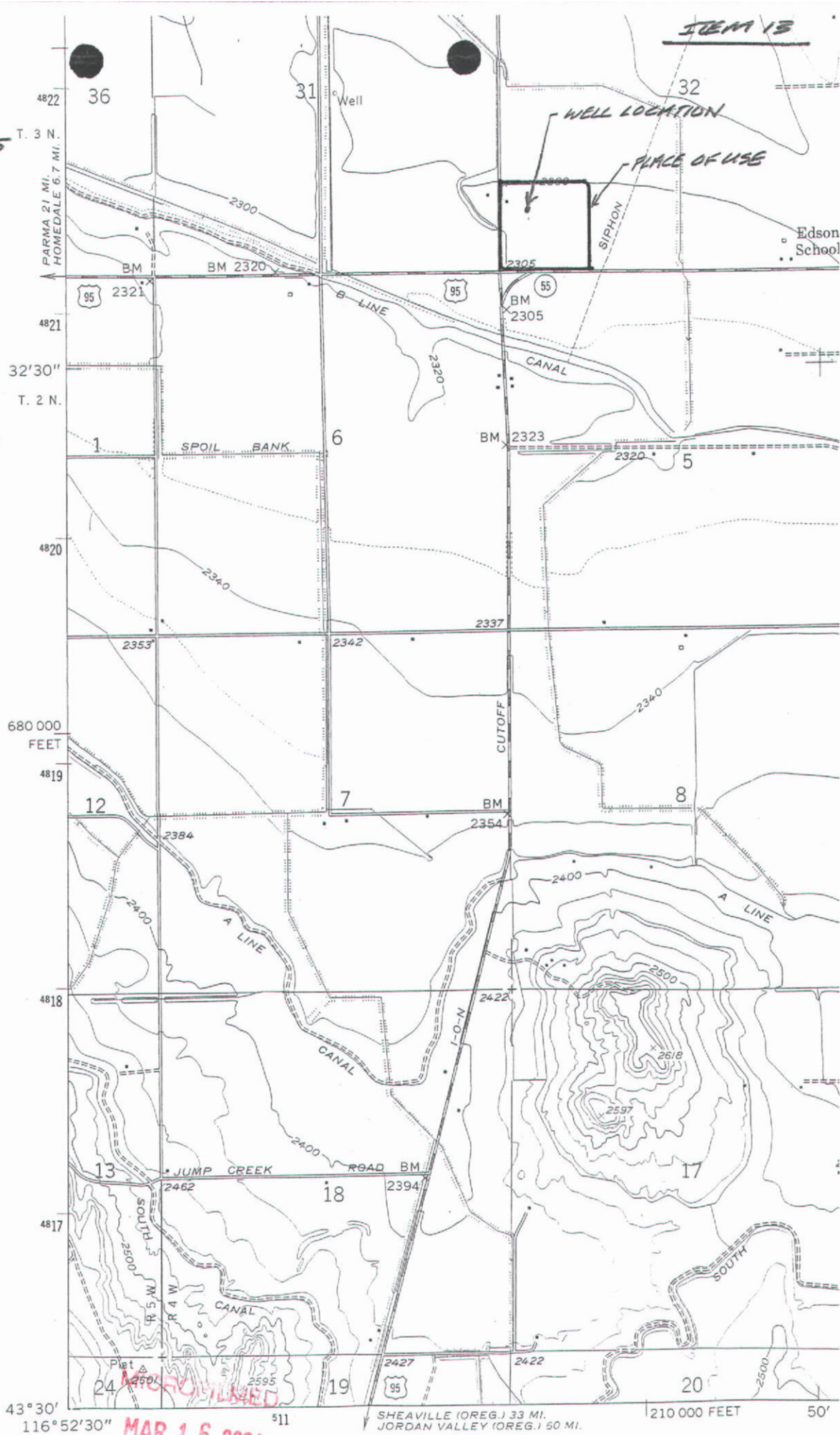


N4330-W11645/7.5

T3N, R4W, SEC 32

no Gov lts



2670 IV
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2 500

Mapped, edited, and published by the Geological Survey
Control by USGS and USC&GS

— 1. *Topographic aerial photographs by photogrammetric methods*

The Owyhee Avalanche

P.O. BOX 97 • HOMEDALE, ID 83628 • 208/337-4681

AFFIDAVIT OF PUBLICATION

RECEIVED

NOV 04 2002

WATER DIVISION
WESTERN REGION

STATE OF IDAHO)
) SS
COUNTY OF OWYHEE)

I, Joe E. Aman, being first duly sworn, depose and say:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

2. That during the time of the publication of the notice hereinafter mentioned, I was and now am the publisher of The Owyhee Avalanche, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho.

3. That the said The Owyhee Avalanche has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4. That said notice of which a printed copy, taken from said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in

said newspaper, in TWO (2)
(consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

October 16 and 23, 2002

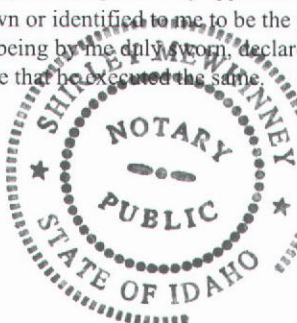
SIGNED:

STATE OF IDAHO)
COUNTY OF OWYHEE)

On this 21st day of October in the year of 2002 before me, a

Notary Public, personally appeared JOE E. AMAN

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



Shirley Newhennes
Notary Public for Idaho

Residing at Homedale, Idaho

My commission expires: 10/10/06

MAR 16 2004

APPLICATION FOR PERMIT

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

57-11618

MARVIN WALLIN
5764 HOGG RD
RT 1 BOX 222
MARSING ID 83639
Point(s) of Diversion SWSW
S32 T03N R04W
OWYHEE County
Source GROUNDWATER
Tributary To N/A
Use: COMMERCIAL 01/01
To 12/31 1 CFS
Use: FIRE PROTECTION
01/01 To 12/31 1 CFS
Total Diversion: 1 CFS
Date Filed: 09/27/2002
Place Of Use:
COMMERCIAL
T03N R04W S32
SWSW
Place Of Use: F I R E
PROTECTION
T03N R04W S32
SWSW

Remark: Applicant agrees to mitigate consumptive use in the future as needed.

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, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 11/04/2002. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER,
Director

10/16,23/02



MICROFILMED
MAR 16 2004

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 57-11618

Priority September 27, 2002

Maximum Diversion Rate. 1 00 CFS

This is to certify, that MARVIN WALLIN
5764 HOGG RD
RT 1 BOX 222
MARSING ID 83639

has applied for a permit to appropriate water from

Source: GROUND WATER

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>
COMMERCIAL	01/01 to 12/31	1 00 CFS
FIRE PROTECTION	01/01 to 12/31	1 00 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 32, Twp 03N, Rge 04W, B.M , OWYHEE County

PLACE OF USE: COMMERCIAL

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N 04W 32											X						

PLACE OF USE: FIRE PROTECTION – same as Commercial

CONDITIONS OF APPROVAL

- 1 Proof of application of water to beneficial use shall be submitted on or before **December 01, 2007**.
- 2 Subject to all prior water rights
- 3 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code
- 4 Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control
- 5 The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit
- 6 Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire
- 7 Use of water under this approval shall comply with applicable water quality standards of the Department of Environmental Quality
- 8 The commercial use of this water is for a gas station, tire shop, restaurant, and motel

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code Witness the signature of the Director, affixed at Boise, this 13th day of December, 2002

MICHAEL MED

Karl J Dreher
for KARL J DREHER, Director

Ident. No. 57-11618

RECEIVED

STATE OF IDAHO

RECEIVED

SEP 27 2002

DEPARTMENT OF WATER RESOURCES

NOV 21 2002

WATER RESOURCES
WESTERN REGION

APPLICATION FOR PERMIT

Department of Water Resources

To appropriate the public waters of the State of Idaho

1 Name of Applicant MARVIN WALLIN Phone 208-896-4626

Mailing address 5764 HOGG ROAD, MARSING, IDAHO 83639

2. Source of water supply GROUNDWATER which is a tributary of N/A

3. Location of point of diversion is Township 3N Range 4W Sec. 32, in the SW $\frac{1}{4}$, SW $\frac{1}{4}$, Govt. Lot OWYHEE, B M, OWYHEE County;

additional points of diversion if any: N/A

4. Water will be used for the following purposes:

Amount 1 CFS for DOMESTIC/COMMERCIAL purposes from JAN 1 to DEC 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 2 ACRE FT for FIRE SUPPRESSION 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)

5. Total quantity to be appropriated is (a) 1.0 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 EXISTING 10"
WELL - SEE C.I.D. AND E

b. Height of storage dam N/A feet; active reservoir capacity N/A acre-feet; total
reservoir capacity N/A acre-feet

c. Proposed well diameter is 10' inches; proposed depth of well is 300 feet

d. Is ground water with a temperature of greater than 85°F being sought? NO

e. If well is already drilled, when? 07/2001; Drilling firm TREASURE VALLEY WELL DRILLING;
Well was drilled for (well owner) MARVIN WALLIN; Drilling Permit No. 0012784

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

8. Description of proposed uses (if irrigation only, go to item 9):

a Hydropower; show total feet of head and proposed capacity in kW. N/A

b. Stockwatering, list number and kind of livestock. N/A

c Municipal; show name of municipality. N/A - HOWEVER MARSING COULD CHANGE MIN

d. Domestic; show number of households. N/A

e. Other; describe fully. DOMESTIC, COMMERCIAL USE FOUR GAS STATION, TIRE SHOP,
RESTAURANT, MOTEL, AND OTHER FUTURE USES INCLUDING FIRE SUPPRESSION

NOT RECORDED

SEP 26 2002

3 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	
3N	4W	32											C						
3N	4W	32											F						

Total number of acres to be irrigated N/A

10 Describe any other water rights used for the same purposes as described above. N/A

11 a. Who owns the property at the point of diversion? MARVIN WALLIN

b Who owns the land to be irrigated or place of use? MARVIN WALLIN

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing N/A

12. Remarks: SEE ATTACHED LETTER

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.

Marvin Wallin
Signature of Applicant (and title, if applicable)

Received by KL Date 9/27/02 Time 10:22 Preliminary check by KL
Fee \$ 25000 Received by KL # W029745 Date 9/27/02
Publication prepared by KL Date 10-16-02 Published in OWYHEE AVALANCHE
Publication approved KL Date 11-5-02

MILWAUKEE
MID : 5 2004

ITEM 13

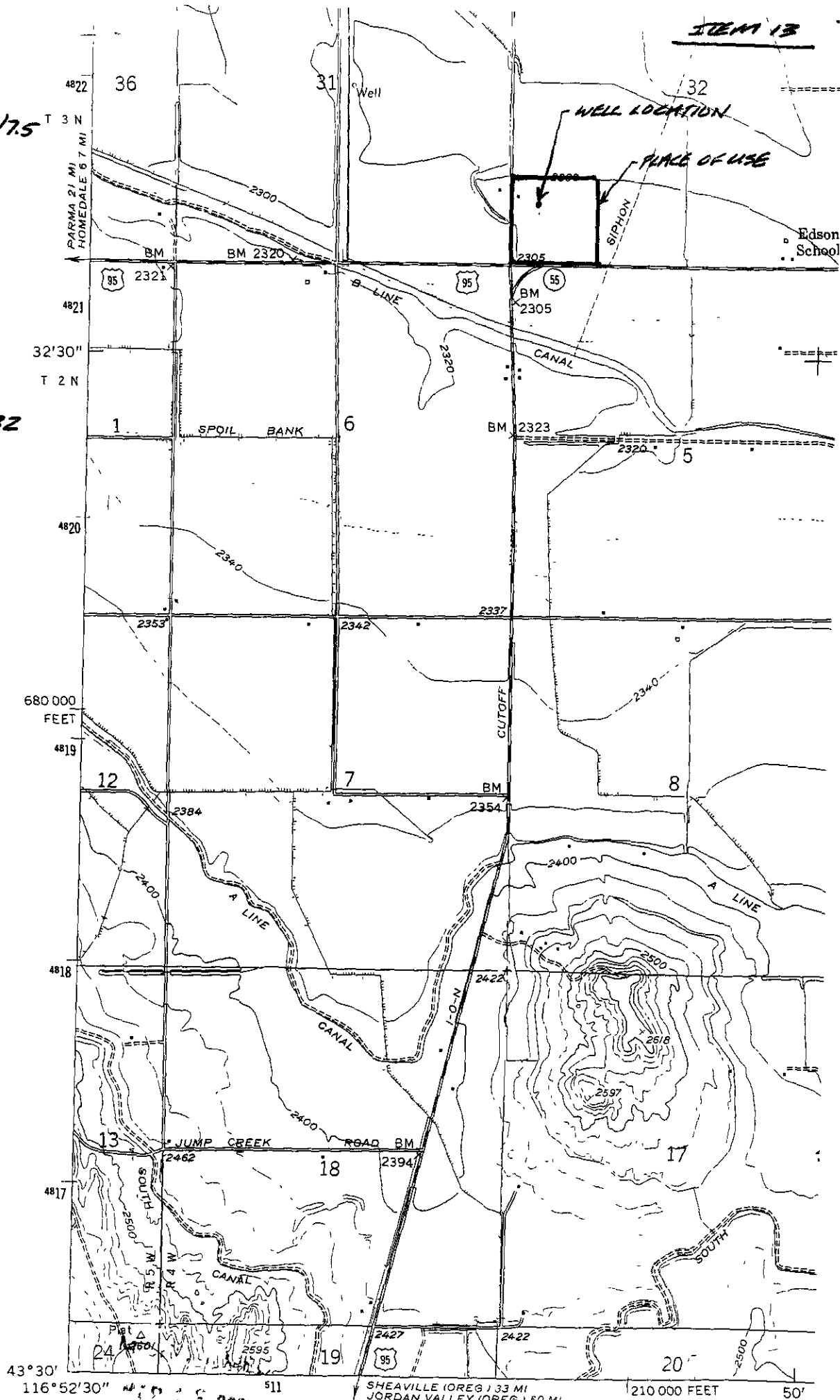
~~WELL LOCATION~~

PLACE OF USE

~~Edson
School~~

T3N, R4W, SEC 32

no Gov't



Mapped, edited, and published by the Geological Survey

Control by USGS and USC&GS

photogrammetric methods

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REQUEST TO PROCESS

COMPLETE REQUEST IF YOU WANT YOUR APPLICATION TO BE PROCESSED USING ONE OF THE
THREE ALTERNATIVES BELOW

Name of Applicant

MARVIN WALLIN

Mailing Address

5764 NOEE ROAD

MARINE, ID 83639

Application No.
(if known)



IN LOCAL PUBLIC INTEREST

Yes, I want my application processed and before it is advertised, I will amend my application to demonstrate that the proposed appropriation is in the local public interest including the need to preserve flows in the Snake River during the migration periods of anadromous fish.



PROPOSE MITIGATION NOW

Yes, I want my application processed and before it is advertised, I will amend my application to include proposed mitigation to offset anticipated depletions in the Snake River during periods of anadromous fish migration.



WILL AGREE TO MITIGATION IN THE FUTURE IF NECESSARY

Yes, I want my application processed at this time, and I will accept a condition of approval that will require mitigation should the Director of the Idaho Department of Water Resources determine that mitigation is necessary to offset depletions from this appropriation to flows in the Snake River during periods of anadromous fish migration. I understand that mitigation is not required now but may be needed in the future. I also understand that the Director will not require mitigation until I have an opportunity to review the process by which the need for mitigation is established and the amount of water required is quantified.

Signature

Marvin Wallin

Date

Sept 27/2002

Please return this form to:

Idaho Dept. of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83708-5082

Received Time Sep.27 11:22AM

TREASURE VALLEY ENGINEERS

September 24, 2002

PLEASE RUSH

Rob Whitney
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705

**RE: APPLICATION FOR WATER RIGHT PERMIT
I-O-N TRUCK PLAZA
MARSING, OWYHEE COUNTY, IDAHO**

Dear Mr. Whitney:

As we discussed on the telephone on Monday, September 23, 2002, my client, Marvin Wallin, would like to apply for water right for an existing well located on his property located on the northeast corner of Highway 55 and Highway 95 near Marsing, Idaho. The water rights would serve a proposed commercial development that may include a truck stop, gas station, restaurant, and other commercial uses. In addition the water right would also be used by the Marsing Fire District to supply their equipment for fire suppression activities in the surrounding areas.

As you know the well was originally designed and constructed with the intention of serving the proposed "I-O-N Truck Plaza" as well as being a replacement well for the City of Marsing. The water rights that were going to be used to cover this appropriation of water were to come from two wells that the City of Marsing was going to abandon and transfer the rights to this well. With this understanding the well was drilled in July 2001 by Treasure Valley Well Drilling (Drilling Permit No. 018784).

However, I now understand that recently the City of Marsing has decided not to take ownership of this well. I am not sure of the reason for the City of Marsing not accepting the well, but it means that Mr. Wallin now needs to apply for water rights for the proposed development. **Please review and process the enclosed application as quickly as possible. Feel free to call me at (208) 463-0305, if you have any questions or need additional information.**

Sincerely,



Lance Warnick, P.E.

Attachment

cc: File: 92-02

Marvin Wallin (Owner)
\\SERVER\\P\\PROJECT\\WALLIN\\2002\\CORRESP\\DWR0924.DOC

Treasure Valley Engineers, Inc.
1117 Caldwell Boulevard
Nampa, Idaho 83651

5 239
www.TreasureValleyEngineer.com

Office: (208) 463-0305
Fax: (208) 463-4391
Email: tve@mindspring.com

Plz Expedite processing
per Spackman
THX PW



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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 13, 2002

MARVIN WALLIN
5764 HOGG RD
RT 1 BOX 222
MARSING ID 83639

RE: Permit No. 57-11618

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.

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

This approval does not authorize the diversion and use of ground water for irrigation purposes. Your application did not indicate that you intend to divert ground water for irrigation, and commercial use does not automatically include the use of water for irrigation, including the watering of landscaping. If you want to divert ground water for irrigation purposes in connection with your commercial use, you may file another application for permit for a new irrigation right. While processing your application, I saw that surface water from Gem Irrigation District apparently is available to you for irrigation. Please note that when approving applications to divert ground water for irrigation purposes on land already served by surface water, IDWR requires that the surface water be retained and used as the primary source of irrigation water. The diversion of ground water for irrigation will be limited to those times when surface water is not available.

12/13/02
MAR 15 2003

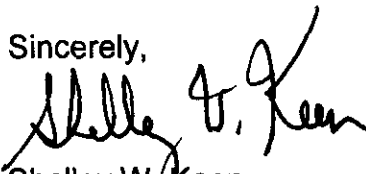
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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

Also, please note that water right owners are required to report any change of water right ownership and/or 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.

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

Sincerely,



Shelley W. Keen
Water Rights Supervisor

Enclosure(s)

MAR 15 2004

CERTIFICATE OF SERVICE

I hereby certify that on December 13, 2002 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.

57-11618

**MARVIN WALLIN
5764 HOGG RD
RT 1 BOX 222
MARSING ID 83639**


**Deborah J. Gibson
Secretary**

Marvin Wallin
425 1 5 2786

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

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 Water Resource 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.

19. SEP 2004
MAR 16 2004

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).

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.

FILED
MAR 15 2006

MEMORANDUM

Date: December 13, 2002
To: Water Right File 57-11618
From: dgibson
Re: Permit Review

During my review of this application, I found there was no provision for irrigation of landscape for this commercial development. Additionally, I found that surface water was found to be appurtenant to this place of use. I contacted the applicant and he states that he will retain shares with Gem Irrigation District for use in the case of mitigation. Additionally, the applicant stated he will have approximately 3 acres of berms when the project is completed, which is required by Canyon county. Irrigation is not a beneficial use of this water right, since the applicant did not apply for it. The permit transmittal letter will address this issue and suggest that the applicant either apply for a second water right for the irrigation portion, or use his surface water allocation.

RECEIVED

MAR 16 2004

Gibson, Deborah

From: Keen, Shelley
Sent: Thursday, December 12, 2002 4:21 PM
To: Gibson, Deborah
Subject: Irrigation on Commercial Permit

Debbie,

Let's address the irrigation associated with that commercial use by adding this paragraph to the cover letter.

This approval does not authorize the diversion and use of ground water for irrigation purposes. Your application did not indicate that you intend to divert ground water for irrigation, and commercial use does not automatically include the use of water for irrigation, including the watering of landscaping. If you want to divert ground water for irrigation purposes in connection with your commercial use, you may file another application for permit for a new irrigation right. While processing your application, I saw that surface water from Gem Irrigation District apparently is available to you for irrigation. Please note that when approving applications to divert ground water for irrigation purposes on land already served by surface water, IDWR requires that the surface water be retained and used as the primary source of irrigation water. The diversion of ground water for irrigation will be limited to those times when surface water is not available

Shelley

MICROFILM

MAY 15 2003

IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

comment

Initial review by 6 Date 10/7/02 Application # 57-11618

REQUIRED INFORMATION

- ☒ Name (If applicant is a corporation or partnership, the names and addresses for the director, officers, and other partners must be included)
- ☒ Address
- ☒ Source (See USGS Quad for names of water sources)
- ☒ Point of Diversion (10 acres for spring, lot & block descriptions for Subdivisions, local name)
- ☒ 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 (Show T, R, S, QQ &/OR QQQ)
- ☒ Subdivision plat (for > 1 home in restricted area ≥ 5 homes in non-restricted area)
- ☒ Signature (If applicant is corporation, partnership, or municipality, title of signatory is required)
- ☒ Correct fee paid
- Government Lots
☒ P/D
☒ P/U

ADDITIONAL INFORMATION

☒ **ADVERTISE REMARKS (Yes or No)**

YES NO

- ☒ Overlapping place of use (Describe source and relationship to present application on next page) *N/A*
- ☒ Overlapping point of diversion
- ☒ Critical groundwater area
- ☒ Ground water management area
- ☒ 1992 moratorium
- ☒ Surface water source, IDFG letter needed
- ☒ Protected river or minimum flow reach, notify water planning bureau
- ☒ E-mail to SCA staff (perennial stream, non-pump diversion &/or any mining)
- ☒ E-mail to Dam Safety staff (for any storage)
- ☒ Mitigation plan Check any that apply
- ☒ Immediate = acceptable plan required and submitted
- ☒ Future = open areas, acceptance of condition of approval is in file
- ☒ Send power requirement letter &/or fish farm requirement letter
- ☒ Power residency affidavit
- ☒ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres (If YES, attach Large Diversion supplementary analysis sheet)
- ☒ REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

Date Requested _____ Date Response Received _____

PROCESSINGAPPLICATION # 57-11618

YES NO

☒ ☐ In form for advertising
☐ ☒ Statewide advertising (> 10 cfs &/or 1000 af)
☒ ☐ Fee amount, receipt number, and date recorded on application

SEND COPIES TO NOTE IF E-MAIL COMMENT LETTER USED

YES NO

☒ ☐ I.D. Environmental Quality
☒ ☐ I.D. District Health
☐ ☒ I.D. Fish & Game
☐ ☒ I.D. Lands

YES NO

☐ ☒ US BLM
☐ ☒ US Forest Service
☐ ☒ Water Dist #
☐ ☒ Water Planning Bureau
☒ ☐ Other COCOA

FINAL REGIONAL PROCESSING REVIEW

YES NO

☒ ☐ Affidavit of publication received
☒ ☐ Application published correctly? If not, record action taken _____

☒ ☐ Publication dates and paper recorded on application
☐ ☐ Final date for protest 11-4-02
☐ ☒ Protests received
☐ ☒ Recommendations attached
☐ ☒ Measuring device required
☐ ☒ Water delivered by water master? District #
☒ ☐ Special conditions of approval or cover letter

121,046, Must comply with all health and environmental laws, including public water supply regulations.

Recommended Date of Priority 9/27/02Recommendation ☒ Approve ☐ Deny by Dan S Date 11/19/02**ADDITIONAL INFORMATION**☐ See attached proof report, note any Legal Notice Remarks &/or Comments☐ See attached shapefile

MEMORANDUM

To: Norm Young, Hal Anderson, Paul Castelin, Garth Newton
From: Gary Spackman *Gary*
Date: November 14, 2002

Re: Ground water Monitoring in the Marsing Area

Attached is a letter from the Citizens of Owyhee County Organized Association (COCOA) expressing concern about the ground water resources in the Marsing area. I asked COCOA to comment about application for water right no. 57-11618 filed by Marvin Wallin. COCOA refers to this application in paragraph two of the letter. The letter does not recommend any direct action related to the Wallin application. The letter requests, however, a broader review of the ground water quantity and perhaps quality in the area where the Wallin well is proposed.

The letter correctly points out that Nederend Dairy paid a civil penalty for noncompliance with the conditions of its water right. The stipulated penalty was \$10,000. The last time I checked with Debbie Allen, the Nederend civil penalty and some lesser civil penalties, were residing in the water right enforcement account that contains a balance of between \$10,000 and \$20,000. We ought to use this money for some worthwhile purpose. Perhaps the money ought to be spent in the geographical area where the violation occurred that caused payment of the penalty.

This memorandum is a request for some help in responding to the COCOA request. Paul and Garth, would you be willing to ask Ken Neeley, Shane Bendixson, and Helen Harrington to review and report on the present saturation of quantity and quality monitoring in the Marsing area and whether gathering some additional information would be useful? Could spending an additional \$10,000 enhance the data? If not, is there something productive that could be done in the local area to respond positively to COCOA's letter? After staff has reviewed the information, is it worth arranging a meeting to discuss the subject?

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MAR 16 2004

Citizens Of Owyhee County Organized Association

P.O. BOX 463 Marsing, Idaho 83639 Fax: 208-896-5295

November 11, 2001

From: COCOA

To: Gary Spackman and Lori Graves

RE: Wallen's Well and proposed Service Station/Motel, Restaurant, Office Complex and possible city well for the city of Marsing.

Dear Gary and Lori,

In 2001, the Nederend Dairy was found to be in violation of Transfer No. 5313 (water right #57-07045), conditions of transfer. Nederend Dairy was fined \$18,304 for the violation. On October 30, 1998 Transfer No. 5313 (water right # 57-07045) was issued Conditions of Approval and Remarks. That document stated that points of diversion would be equipped with inline flow meters. The meters were to be equipped with both a sweep hand indicating instantaneous rate of flow and a totalizing indicator. The meters were to be read monthly and the readings submitted to the Idaho Department of Water Resources on a monthly basis. One of COCOA's purposes for these water readings was to help establish a base line of water use prior to the start up of the dairy. Although Mr. Nederend had been operating for two (2) years, he had never complied with the conditions of the transfer.

A gas station/motel/restaurant/truck tire, wash shop, and building complex is being proposed at the junction of State Highway 55 and U.S. Highway 95 (junction to Jordan Valley, Oregon). This is adjacent to one of the dairies and 1-½ miles from the other two. The developer has completed a domestic well with a 10-inch casing and is trying to develop a well that he has drilled. Wallen has a pending application for a water right for one (1) cfs.

One of the three (3) existing dairies expanded to 4800 head. Another wants to expand at a later date. There are currently approximately 9800 cows being milked (not including spring heifers). Given the current numbers this means that we have 10000 milking cows, which are with-in a ½ mile radius and are contiguous to one another.

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MAR 16 2004

These dairies all have commercial water licenses. We believe the existing dairies have 4 commercial wells already in use. The Wallen well would be the 5th commercial well within a 1-mile radius of each other. COCOA is very concerned about the impact that these commercial wells may have to our ground water quantity, in our immediate area.

COCOA is composed of farmers and long time residents of this community. Some of the citizens are third and fourth generation farmers and have homesteaded their land. We are not against agricultural enterprises or commercial development. Owyhee County is not a county that is known neither for it's plentiful water supply nor for it's quality of water. The groundwater in our County is at risk, if a proper hydrology study is not completed.

The domestic wells in this area are mostly shallow. It is our opinion that both the existing commercial and domestic wells may be affected by water drawdowns if this new commercial well is developed.

We are asking for the Departments help. A water study is needed to insure that water quantity is protected. COCOA is a grassroots group with limited resources. We are requesting that IDWR dedicate all or a portion of the fine money levied toward a proper hydrology study in the Marsing area. The city of Marsing may be at risk as well as the rural community. COCOA would like our hydrologist to be allowed to observe and perhaps help set up the study and receive information as it is gathered. As a minimum we are recommending a monitoring system be established to see if the newly developed well will have a long-term adverse affect on water quantity levels of existing water right holders.

We believe this request is reasonable and prudent. Also, drought is having an adverse impact statewide. Owyhee County has recently received a drought declaration from the Secretary of Agriculture. If the ground water in our area is adversely impacted because of improper management, the recovery time will be devastating to the Marsing/Homedale area. It appears that we are entering a drought year once again or perhaps years, we must be good stewards and begin this study as soon as possible. COCOA had an essential part in helping IDWR discover the violation on the Nederend Dairy. We believe the fine money should be dedicated to help the area that was potentially impacted by the violator.

Thank you for your time and consideration!



Ilene Dobbin
(COCOA Executive Director))

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MAR 16 2004

The Owyhee Avalanche

P.O. BOX 97 • HOMEDALE, ID 83628 • 208/337-4681

AFFIDAVIT OF PUBLICATION

RECEIVED

STATE OF IDAHO)
) SS
COUNTY OF OWYHEE)

NOV 04 2002

I, Joe E. Aman, being first duly sworn, depose and say:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned

2. That during the time of the publication of the notice hereinafter mentioned, I was and now am the publisher of The Owyhee Avalanche, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho.

3. That the said The Owyhee Avalanche has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4. That said notice of which a printed copy, taken from said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in

said newspaper, in TWO (2)
(consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

October 16 and 23, 2002

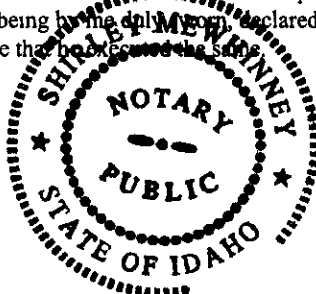
SIGNED: _____

STATE OF IDAHO)
COUNTY OF OWYHEE)

On this 21st day of October in the year of 2002 before me, a

Notary Public, personally appeared JOE E. AMAN

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



Shirley Mewhiney
Notary Public for Idaho

Residing at Homedale, Idaho

My commission expires 10/19/06

MAR 16 2004

APPLICATION FOR PERMIT

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

57-11618 ✓
MARVIN WALLIN
5764 HOGG RD
RT 1 BOX 222
MARSHING ID 83639
Point(s) of Diversion SWSW-
S32 T03N R04W
OWYHEE County
Source GROUNDWATER
Primary To N/A
Use: COMMERCIAL 01/01
To 12/31 1 CFS
Use: FIRE PROTECTION
01/01 To 12/31 1 CFS
Total Diversion: 1 CFS
Date Filed: 09/27/2002
Place Of Use:
COMMERCIAL
T03N R04W S32
SWSW
Place Of Use: F I R E
PROTECTION
T03N R04W S32
SWSW
Remark: Applicant agrees to mitigate consumptive use in the future as needed.
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, Western Region, 2715 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 11/04/2002. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER
Director

10/16/2002

MIL -

1970 1 10



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 15, 2002

CENTRAL DISTRICT HEALTH DEPT
707 N ARMSTRONG PL
BOISE ID 83704

Re: Application for Permit No. 57-11618 in the Name of Marvin Wallin.

Dear Sir or Madam:

Enclosed is a copy of the above-referenced application for permit which may be of interest to your agency. Please review the application and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if your agency desires to file a formal protest against the approval of this application, your written protest along with the \$25.00 protest fee must be received in this office by November 4, 2002.

If you have any questions regarding the application, please contact this office.

Sincerely,

Lori Graves

LG:lm

Encl: Copy of Application

MLC:CP

OCT 15 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

October 15, 2002

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

DIV OF ENV QUALITY
BOISE REGIONAL OFFICE
PO BOX 83720
BOISE ID 83706

Re: Application for Permit No. 57-11618 in the Name of Marvin Wallin.

Dear Sir or Madam:

Enclosed is a copy of the above-referenced application, which may be of interest to your agency. Please review the application and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if your agency desires to file a formal protest against the approval of this application, your written protest along with the \$25.00 protest fee must be received in this office by November 4, 2002.

If you have any questions regarding the application, please contact this office.

Sincerely,

Lori Graves

LG:lm

Encl: Copy of Application



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 11, 2002

Legal Notice Department

Owyhee Avalanche

PO Box 97

Homedale ID 83628

RE: Application for Permit No. 57-11618

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 11/04/2002. Your cooperation is appreciated.

Sincerely

Sue Taylor
Senior Secretary

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

57-11618

MARVIN WALLIN
5764 HOGG RD
RT 1 BOX 222
MARSING ID 83639

Point(s) of Diversion SWSW S32 T03N R04W OWYHEE County Source GROUNDWATER

Tributary To N/A

Use. COMMERCIAL 01/01 To 12/31 1 CFS

Use FIRE PROTECTION 01/01 To 12/31 1 CFS

Total Diversion. 1 CFS

Date Filed 09/27/2002

Place Of Use COMMERCIAL

T03N R04W S32 SWSW

Place Of Use FIRE PROTECTION

T03N R04W S32 SWSW

Remark. Applicant agrees to mitigate consumptive use in the future as needed

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, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25 00 for each application on or before 11/04/2002. The protestant must also send a copy of the protest to the applicant

KARL J DREHER, Director

Published in the Owyhee Avalanche on October 16 and 23, 2002.