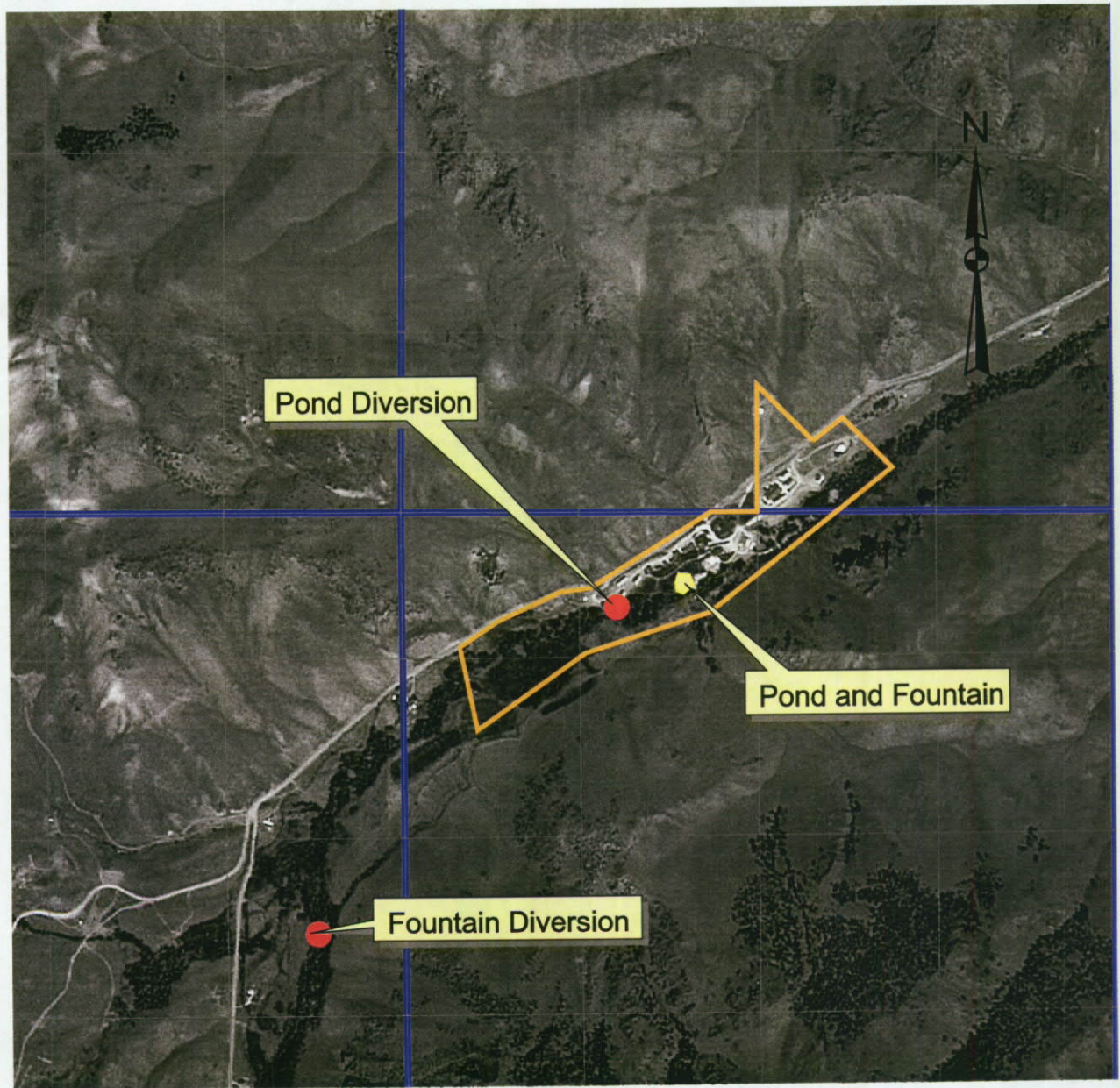
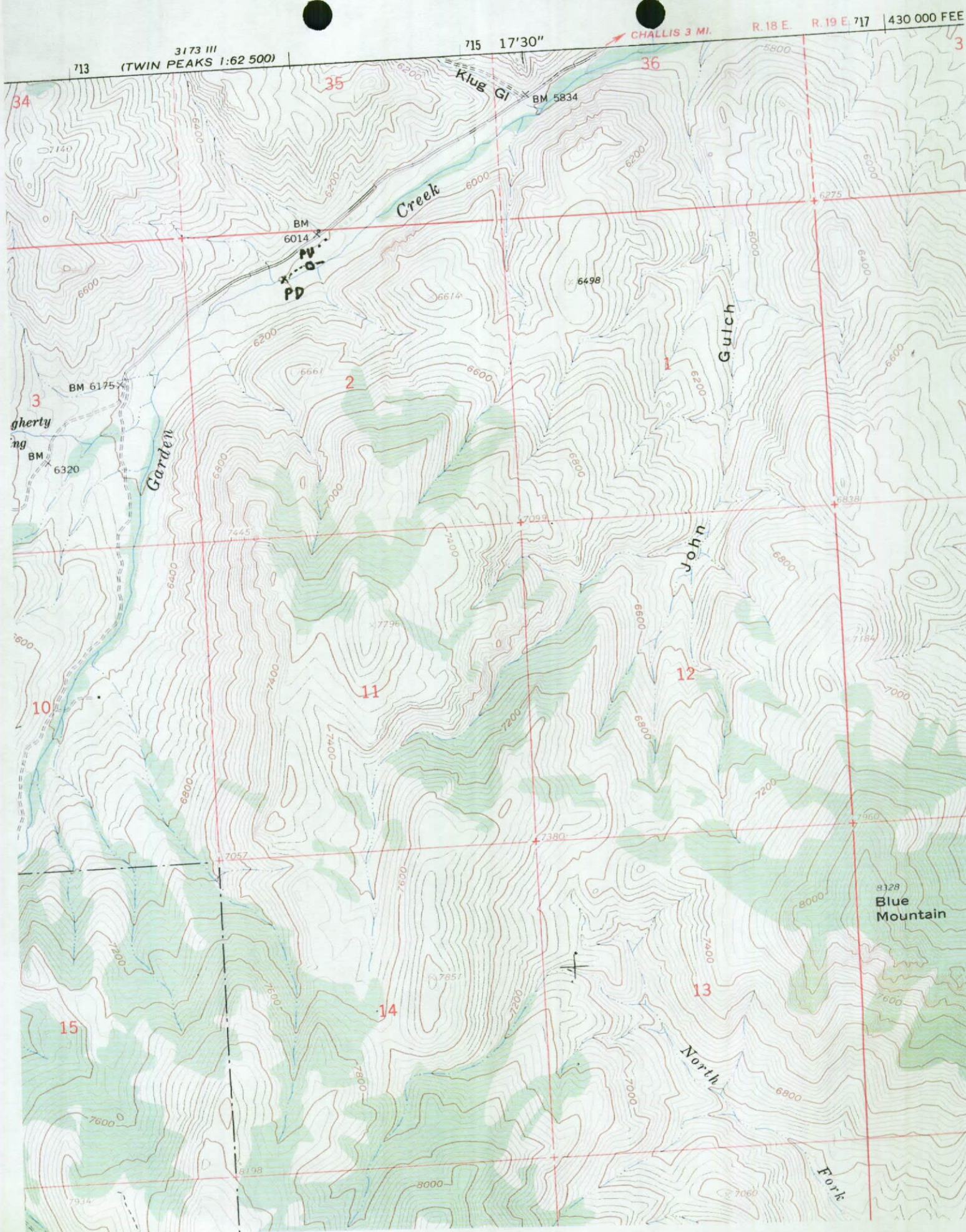
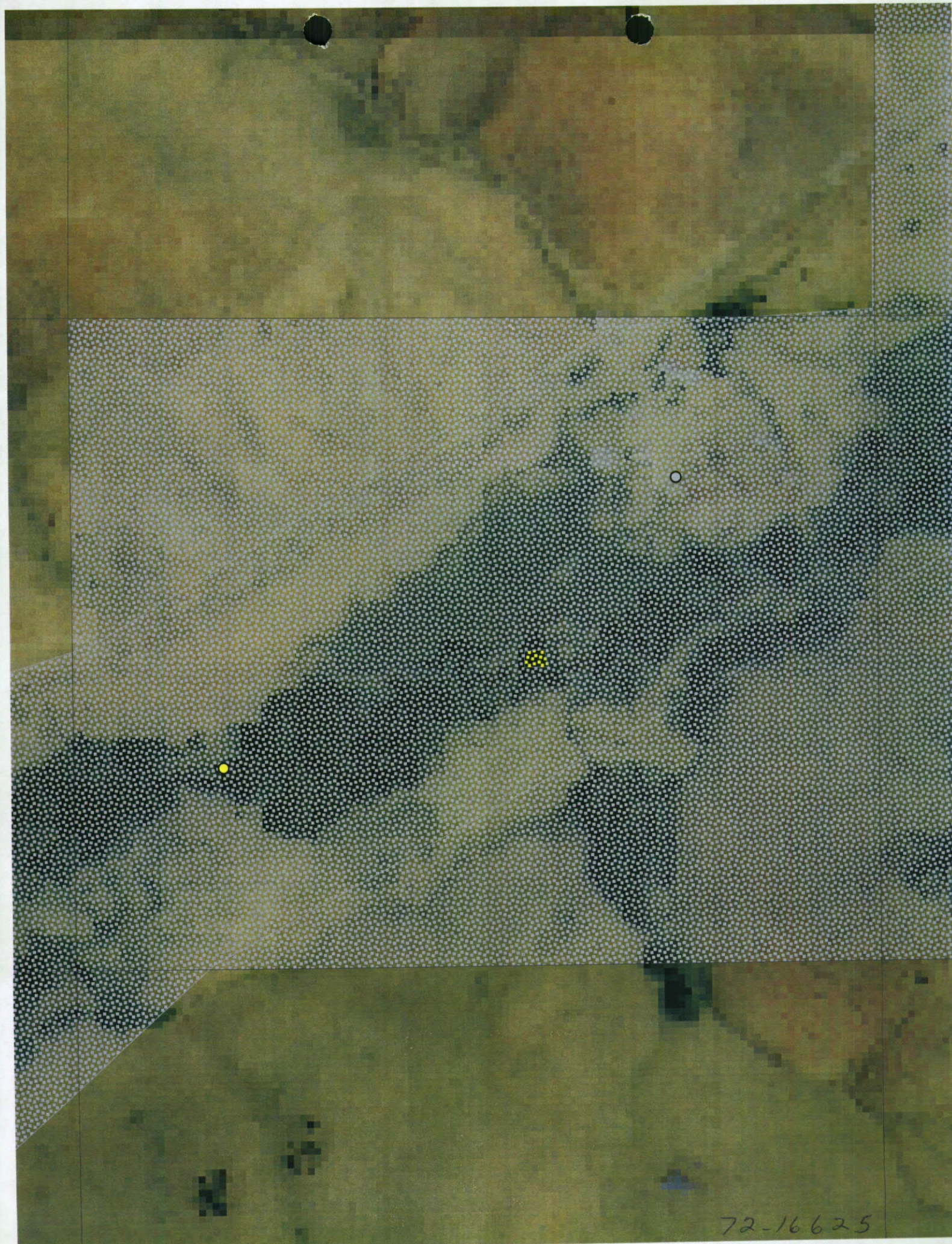


Amended Application 72-16625





72-16625



72-16625

Figure 1. Decreed Irrigation Rights

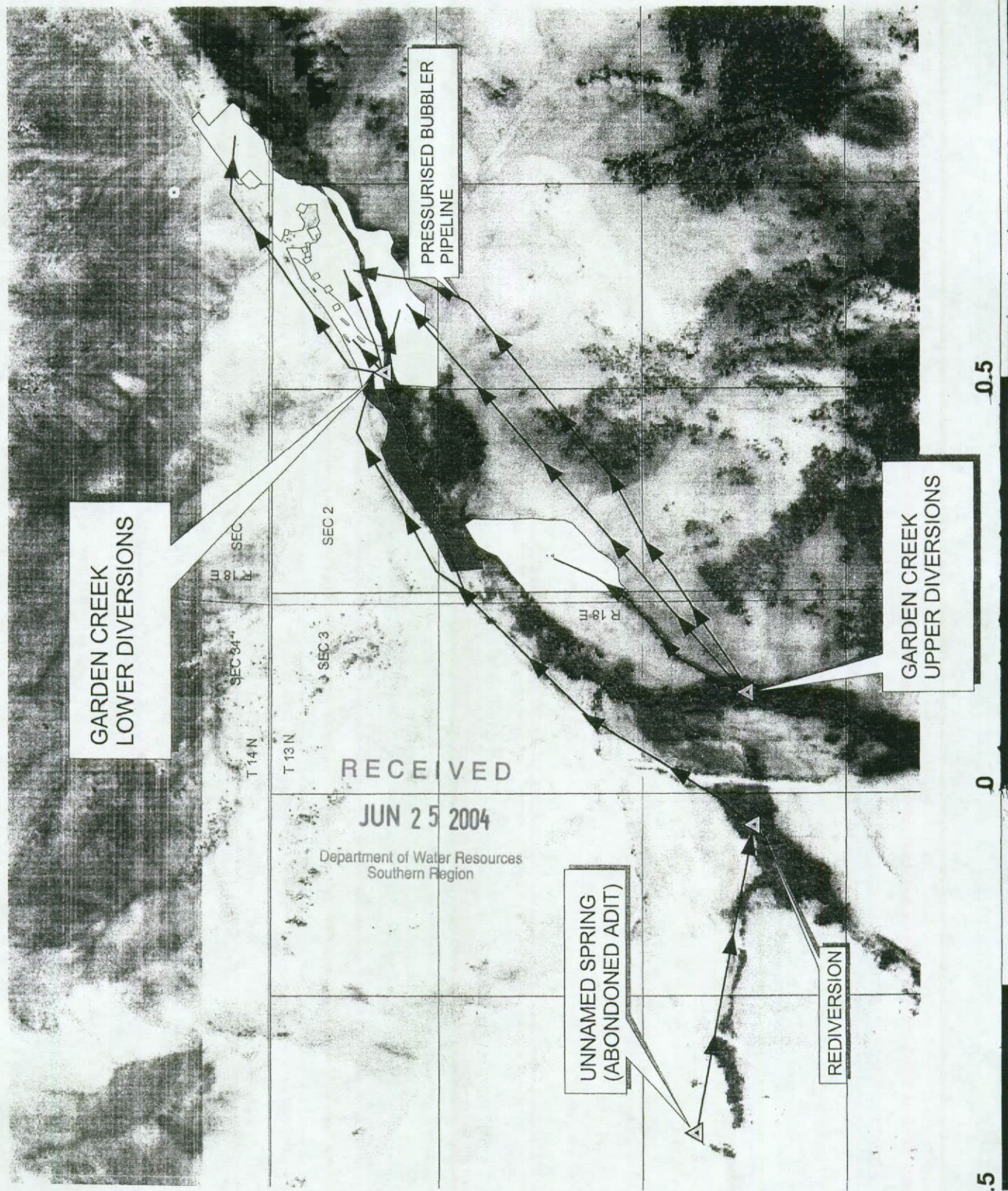
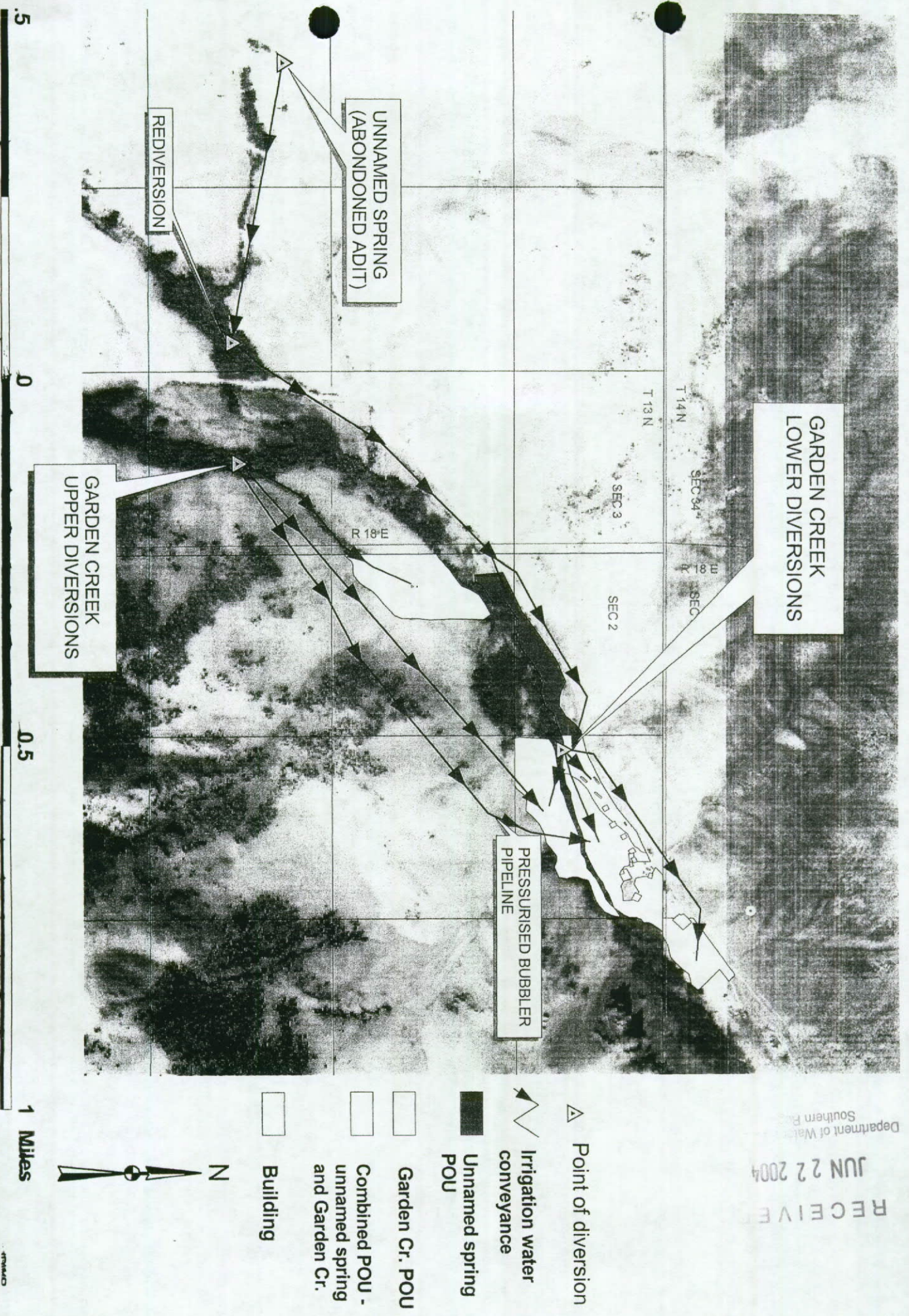


Figure 1. Decreed Irrigation Rights



RECEIVED
JUN 22 2004
Department of Water
Southern Region

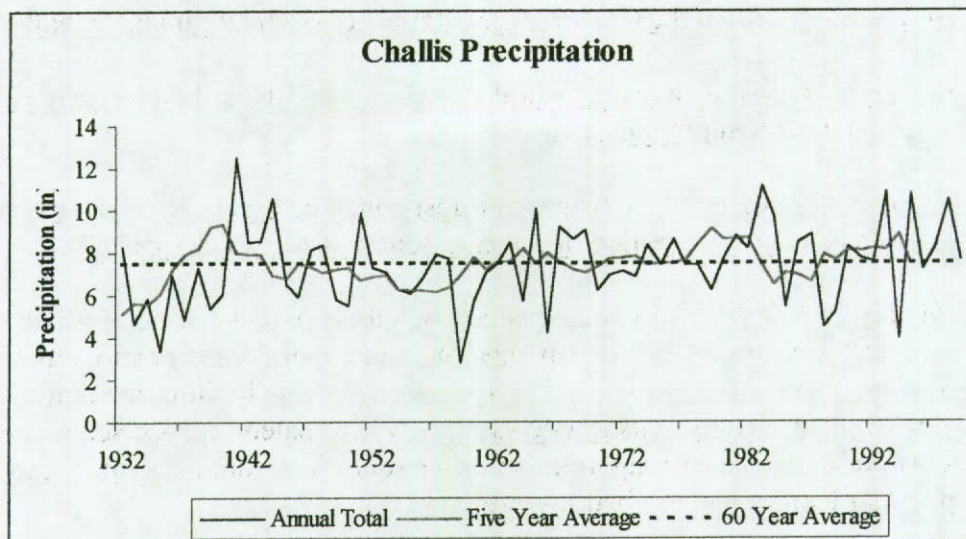
Protest:
Application for Water Right 72-16624

RECEIVED

MAR 23 2004

Department of Water Resources
Southern Region**1. LONG-TERM RECORD OF PRECIPITATION FOR CHALLIS**

- Periodic historic multi-year droughts, with current period of drought extending from 1999 to present, impact the aquifer.
- 1993, 1995, & 1998 had substantially more precipitation than during previous decade.

**2. GARDEN CREEK HYDROLOGY REPORTS**

- ***Brockway et al. (1999): Protestant's Exhibit A***

"Yields from wells in the aquifer are low, ranging from 4 gpm to 20 gpm. The aquifer is not suitable for high-demand uses such as irrigation, and is marginally suitable for domestic residences and other low-use facilities."

"The above analysis was performed during a period of above-average water years. During extended drought periods, basin recharge declines and the groundwater discharge could be substantially reduced."

"The total groundwater discharge through the aquifer is estimated to be 14,900 gallons per day, or 16.7 acre-feet per year."

"The daily water demand for the facility [Living Waters Ranch] is approximately 14,750 gpd at maximum capacity after full build-out, which is significantly more than 5000 gpd design capacity of the sewage disposal system."

RECEIVED

MAR 23 2004

Department of Water Resources
Southern Region

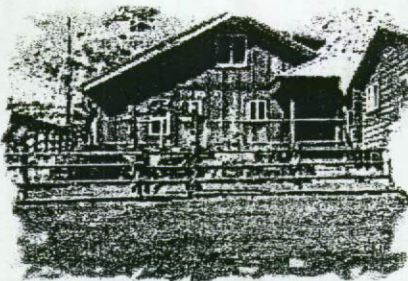
WELCOME TO...

Living Waters Ranch

CONFERENCE AND RETREAT CENTER

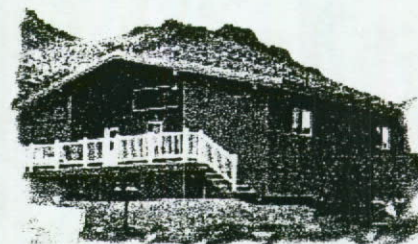
- ▶ HOME
- ▶ ABOUT US
- ▶ RANCH FACILITIES
- ▶ RECREATION
- ▶ CAMP CUISINE
- ▶ RANCH RATES
- ▶ RESERVATIONS
- ▶ LOCATE US
- ▶ LWR NEWSLETTER
- ▶ LWR NEWSWIRE
- ▶ CONTACT US

Ranch Facilities



White Pine Chalet

2 Queen Bedrooms
1 Loft Bedroom w/5 twin beds



Hosanna House

Mini Lodge
with 8 bedrooms/ 8 baths



Blue Spruce & Evergreen Chalets

Upstairs:
2 Queen Bedrooms
Kitchen/Living Room/Bathroom



Blue Spruce & Evergreen Chalets

Downstairs:
1 Queen Bedroom
1 Bedroom w/2 sets of bunks



Motels

2 Twin Beds w/bath



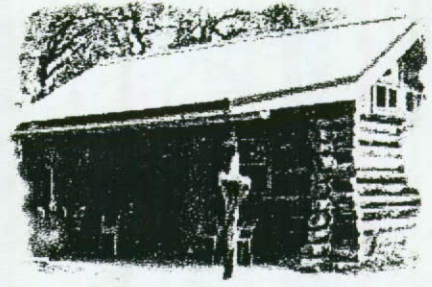
Tent / RV Sites

Bunk Facilities



Shiloh Lodge

Sleeps 50 in bunks



Ponderosa Log Cabin

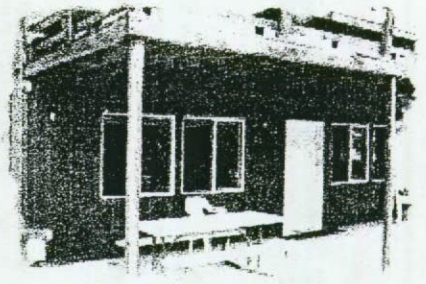
2 Room Log Cabin

Sleeps 24 in bunks



**Appaloosa &
Bayhorse Bunk Houses**

2 rooms sleep 15 each



Eagle's Nest

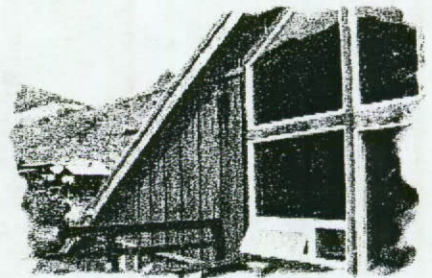
Bunk Room sleeps 32

Meeting Rooms



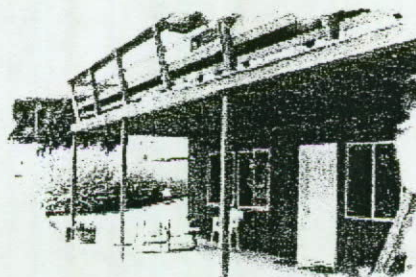
Celebration Hall

Accommodates groups over 400

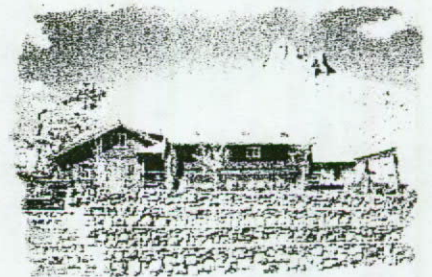


The Upper Room

Accommodates groups up to 75



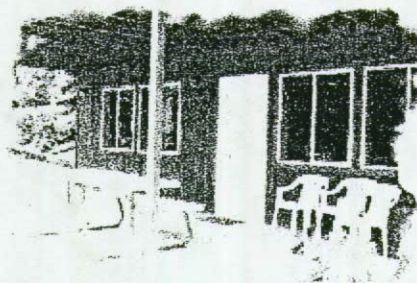
Eagle's Nest



Stone Amphitheater

Accommodates groups under 50

Outdoor meeting area



Lion's Den
Recreation Room

[Home](#) | [About Us](#) | [Ranch Facilities](#) | [Recreation](#) | [Camp Cuisine](#) | [Ranch Rates](#)
[Reservations](#) | [Locate Us](#) | [LWR Newsletter](#) | [LWR Newswire](#) | [Contact Us](#)

© 2002 Living Waters Ranch, Christopher and Debbie James

Site developed by: [Brieanna Korb](#)



Protestant Exhibit M



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GovernorKARL J. DREHER
Director

July 21, 2003

Christopher James
PO Box 610
Challis, ID 83226

RE: App For Permit T2-16624; My Letter Dated 11-14-2002

Dear Mr. James,

You have not responded to my letter of last fall in which I sent you a corrected application for your signature. I also requested a written release from the Bureau of Land Management allowing you to use the well on their property. Please submit these documents by September 8 or your application will be recommended for denial. Another copy of the corrected application is enclosed for your use.

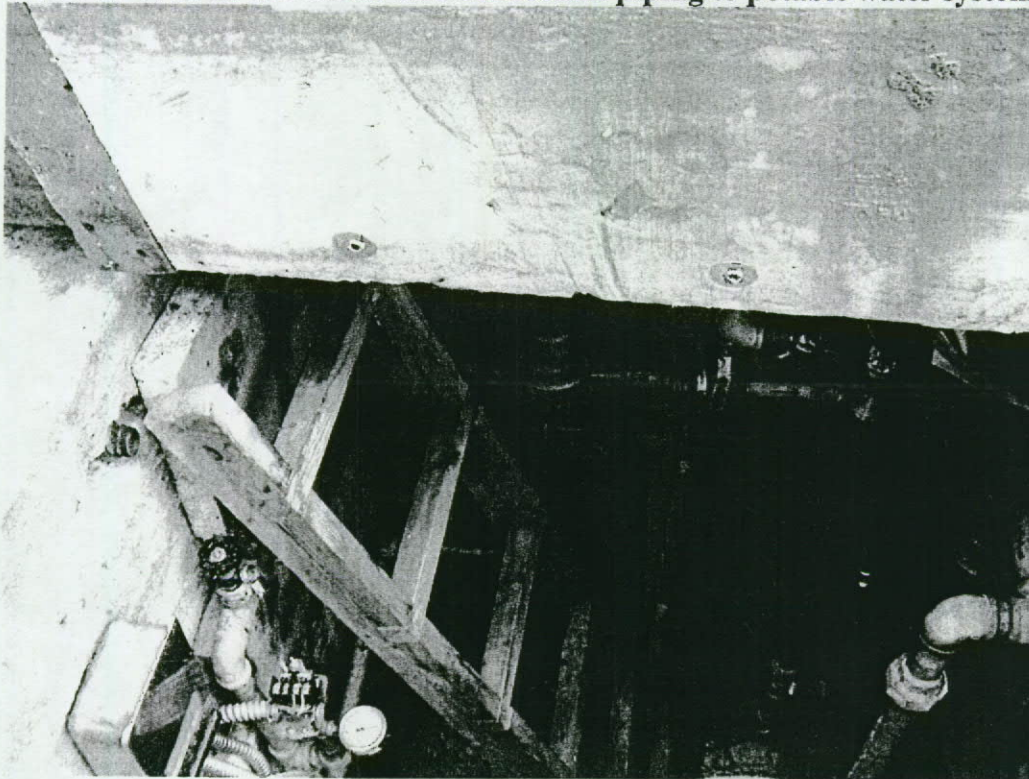
Regards,

James E. Stanton
Sr. Water Resource Agent

SUMMARY OF WELL DRILLING PERMITS (continued):

Name:	Domestic Well for Residence	Domestic Well for Residence
Permit No:	740219	740227
Well ID #:	287895	287904
Location:	T13N R18E Sec. 2 SWNW	T13N R18E Sec. 2 SWNW
Use of Well:	Domestic-Single Residence	Domestic-Single Residence
Const Dates:	Jul 07, 08 1994	Jul 08, 09 1994
Completed Depth:	205 FT	200 FT
Production Rate:	1 GPM	10 GPM
Static Water Level:	100 FT	80 FT
Status:	Abandoned	In-Use

Photo 1. Well #1 flowmeter and connection piping to potable water system.



RECEIVED

NOV 12 2003

Department of Water Resources
Southern Region

Photo 2. Well #2 flowmeter and connection piping to potable water system.



RECEIVED

NOV 12 2003

Department of Water Resources
Southern Region

Figure 1. Decreed Irrigation Rights

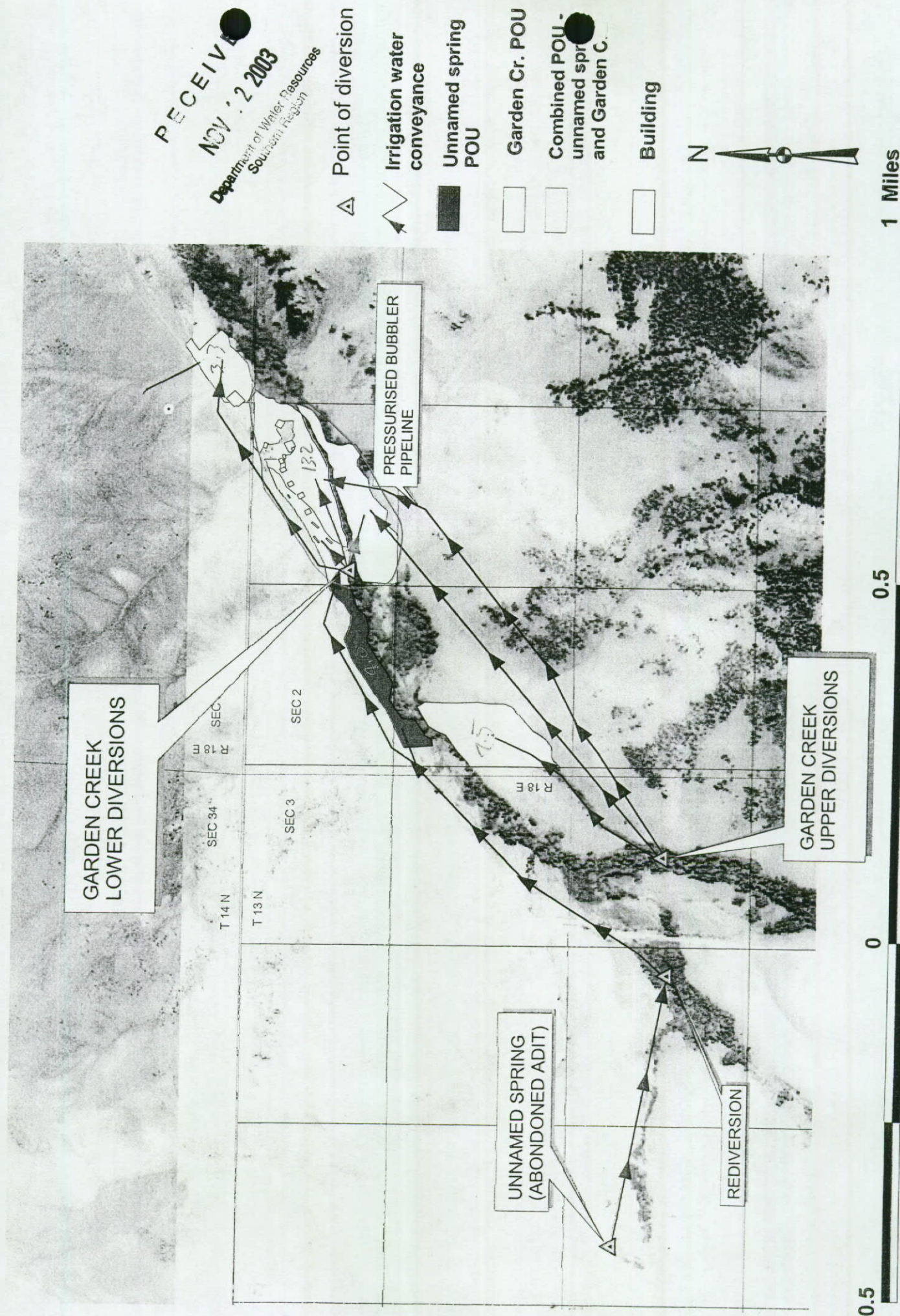


Figure 2. Potable Water and Other Domestic System Features

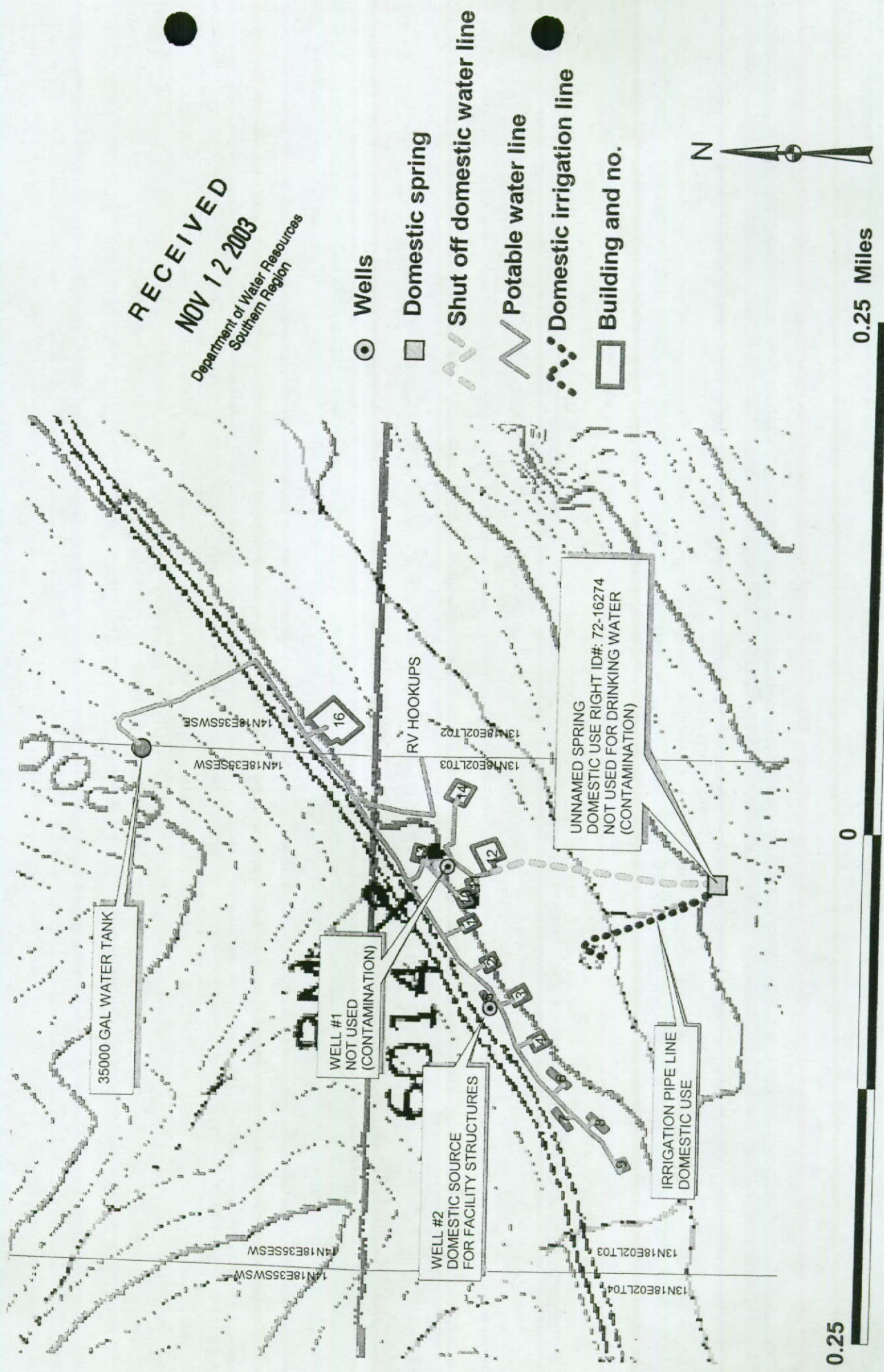
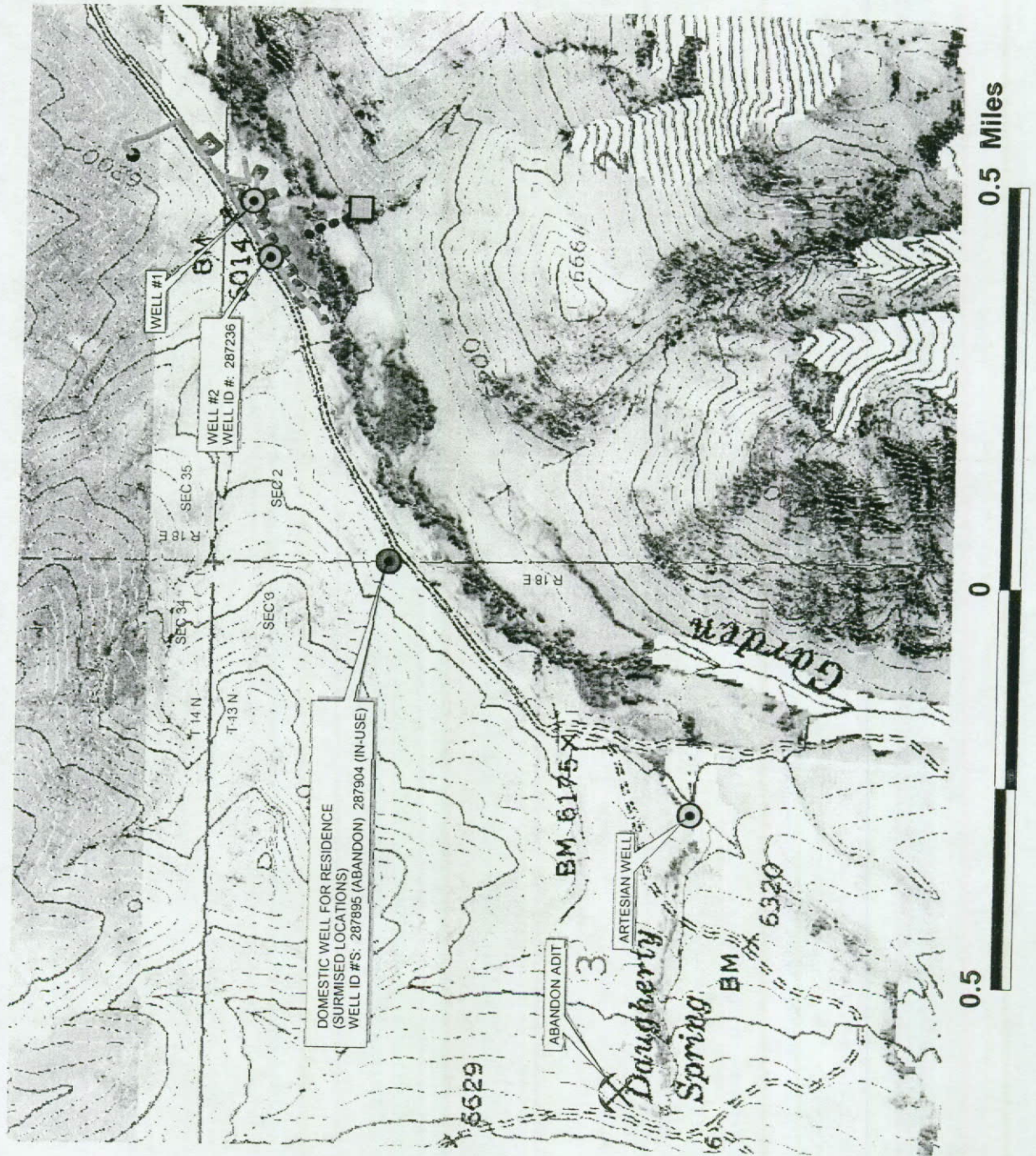


**FIGURE 3. ARTESIAN AND DOMESTIC
RESIDENCE WELL LOCATIONS**



AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, Ruth E. Burchill, representing the
Challis Messenger, a weekly newspaper, pub-
lished at Challis, Idaho, do solemnly swear that
the notice hereto attached and made a part here-
of, was published in the regular and entire issue
of the Challis Messenger for 2
consecutive weeks, commencing with the issue
dated NOV 21 2002 and ending with
the issue dated NOV 28 2002.

Ruth E Burchill

STATE OF IDAHO

COUNTY OF CUSTER

On this 2nd day of Dec. in the
year of 2002 before me, a Notary Public,
personally appeared Ruth E. Burchill
known or identified to me to be the person
whose name subscribed to the within instru-
ment, and being by me first duly sworn, declared
that the statements therein are true, and ac-
knowledge to me that he executed the same.

Ethel M. Peck
Notary Public for Idaho

Residing at Challis

My commission expires: 3-19-04

RECEIVED

DEC 04 2002

Department of Water Resources

PUBLIC NOTICE

The following application has
been filed to appropriate the pub-
lic waters of the State of Idaho,
Custer County:

72-16625

FIRSTFRUITS FOUNDATION
CHRISTOPHER W. JAMES
TRUST

PO BOX 510
CHALLIS ID 83226

Point of Diversion & Place Of
Use: L3 (SWNENW) S02 T13N
R18E

Source: GARDEN CREEK Tribu-
tary To SALMON RIVER

Use: 04/01 to 10/31

AESTHETIC 0.4 CFS

Date Filed: 10/15/2002

Remark: This application pro-
poses to legalize the use of Garden
Creek water in an old stock pond
that was converted to aesthetic
use in 1999. The pond covers
about 0.1 acres, and there is a
measuring device on the diversion
works. If emptied, the pond would
fill in less than 1 day, so no stor-
age is involved. The pond is locat-
ed on the Living Waters Ranch 4
1/2 miles SW of Challis. 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 appli-
cation must be filed with the Di-
rector, Dept. of Water Resource,
Southern Region, 1341 Fillmore
St, Suite 200, Twin Falls, ID
83301 together with a protest fee
of \$25.00 for each application on
or before 12/10/2002. The protes-
tant must also send a copy of the
protest to the applicant.

KARL J DREHER, Director

Published 11/21 & 11/28/02

OK
MB
12/12/02

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 72-16625

Priority: October 15, 2002

Maximum Diversion Rate: 0.40 CFS

This is to certify, that FIRSTFRUITS FOUNDATION
PO BOX 510
CHALLIS ID 83226

CHRISTOPHER W JAMES TRUST
CHRISTOPHER JAMES TRUSTEE
PO BOX 510
CHALLIS ID 83226

has applied for a permit to appropriate water from:

Source: GARDEN CREEK

Tributary: SALMON RIVER

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>
AESTHETIC	04/01 to 10/31	0.40 CFS

LOCATION OF POINTS OF DIVERSION:

GARDEN CREEK L3 (SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) Sec. 2, Twp 13N, Rge 18E, B.M., CUSTER County

GARDEN CREEK SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 3, Twp 13N, Rge 18E, B.M., CUSTER County

PLACE OF USE: AESTHETIC

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
13N 18E 2					X												
					L 3												

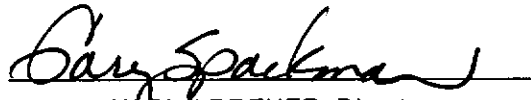
CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2006**.
2. Subject to all prior water rights.
3. Prior to diversion of water under this right, the right holder shall install and maintain measuring devices and lockable controlling works of a type acceptable to the Department as part of the diversion and conveyance works or shall otherwise provide for the measurement of the water diverted, as approved by the Department. The devices or measuring method shall be adequate to determine the rate of diversion from Garden Creek and to quantify losses associated with the aesthetic use of water in the right holders pond.
4. Prior to diversion of water under this right, the right holder shall submit to the Department for review and approval a written plan describing how the right holder will mitigate losses attributable to diversion and use of water under the aesthetic use.
5. The diversion rate under this right shall not exceed 0.20 cfs.
6. Use of water is for aesthetic use in connection with a church camp/conference center.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 72-16625

7. Use of water rights held by the applicant will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, the water rights of the applicant are within State Water District 72-B.
8. At such times in the future as may be necessary to protect prior rights of other water users, the Director may require determination of the actual rate of loss within the system and may require additional mitigation for all system losses.
9. This permit does not constitute a new appropriation of water from Garden Creek and instead authorizes an additional use to be made of water (for aesthetic purposes) that is diverted for use under the applicants existing water rights provided that applicant mitigates the evaporative loss from the pond.
10. The right holder is not authorized to divert water to its pond for aesthetic purposes when the applicants irrigation rights are not being delivered unless the applicant provides suitable mitigation to compensate for system losses.
11. Failure to comply with these conditions of approval is cause for the Director to void the permit.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 4th day of October, 2004.


KARL J DREHER, Director

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

IN THE MATTER OF APPLICATION)
FOR PERMIT NOS. 72-16624 AND)
72-16625 IN THE NAME OF)
FIRSTFRUITS FOUNDATION AND)
CHRISTOPHER W. JAMES TRUST)
_____)

**AMENDED
PRELIMINARY ORDER**

On April 23, 2004, the hearing officer for the Idaho Department of Water Resources ("Department" or "IDWR") issued a Preliminary Order in connection with the above captioned matter. The parties subsequently filed petitions for reconsideration and exceptions to the Preliminary Order.

Before the Department issued a Final Order in the matter, Firstfruits Foundation and Christopher W. James Trust filed an application for amendment of each application for permit. On June 7, 2004, the Director of the Department remanded the matter to the hearing officer to take additional testimony relative to the applications for amendment.

After conducting the second hearing on remand in the matter, the hearing officer enters the following Findings of Fact, Conclusions of Law and Amended Preliminary Order:

FINDINGS OF FACT

1. On October 15, 2002, Firstfruits Foundation and Christopher W. James Trust ("applicant") submitted Application for Permit No. 72-16624 ("application") to the Department proposing the diversion of 0.20 cubic feet per second ("cfs") of ground water to be used year-round for domestic purposes. The location of the point of diversion is within NW1/4SE1/4 Section 3, T13N, R18E, B.M., Custer County, Idaho and the proposed place of use is within lots 2, 3 and 4, S1/2 NW1/4 Section 2, T13N, R18E, B.M. and SW1/4SE1/4 Section 35, T14N, R18E, B.M.

(Note: The "1/4" designations will be omitted from subsequent legal descriptions in this order).

2. On October 15, 2002, the applicant also submitted Application for Permit No. 72-16625 ("application") to the Department proposing the diversion of 0.40 cfs of water from Garden Creek tributary to the Salmon River to be used from April 1 to October 31 for aesthetic purposes. The location of the point of diversion and place of use are within lot 3 Section 2, T13N, R18E, B.M., Custer County, Idaho.

3. The applicant subsequently submitted an application to amend application 72-16624 by adding a point of diversion located in NENW Section 2, T13N, R18E, B.M. known as Well #2 and by adding property referred to as the Mountain View Acquisition located in SWSE Section 14, T18E, B.M. as part of the place of use. The applicant also submitted an application to amend application 72-16625 by adding a second point of diversion in the NESE Section 3, T13N, R18E, B.M.

4. The Department published notice of application 72-16624 and its amendment that were protested by Bonnie Rowles, Jeffrey J. Yeo, and the city of Challis. Application 72-16625 and its amendment were protested by Dee Keppner on behalf of Water District 72-B and by the city of Challis.

5. On April 6, 2004 and on August 10, 2004, the Department conducted hearings in the matter in Challis, Idaho. Christopher W. James was present and represented the applicant. Protestants Bonnie Rowles and Jeffrey J. Yeo were present and represented themselves although Jeffrey J. Yeo did not appear at the August 10 hearing. Don Rowles, a member of the Water District 72-B advisory committee was present on behalf of protestant Water District 72-B. Marion McDaniel appeared for the city of Challis.

6. Issues the Department can consider under section 42-203A, Idaho Code, in this matter are as follows:

- a. Whether the appropriation will reduce the quantity of water under existing water rights;
- b. Whether the water supply itself is insufficient for the purpose for which it is sought to be appropriated;
- c. Whether the application is made in good faith, or is made for delay or speculative purposes;
- d. Whether the applicant has sufficient financial resources with which to complete the work involved therein;
- e. Whether the proposed appropriation will conflict with the local public interest;
- f. Whether the proposed appropriation is contrary to conservation of water resources within the state of Idaho; and
- g. Whether the proposed use will adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates.

7. Exhibits premarked, offered or accepted as a part of the record are as follows:

Applicant's Exhibits:

1. Letter dated March 1, 2004, from Christopher W. James with the following attachments in connection with Application No. 72-16624:

1. Water measurement readings for Well #2 for 2001, 2002 and 2003
2. Letter dated September 5, 2003, to Karl Dreher and Jim Stanton from Christopher W. James
3. Financial statement from Wells Fargo Bank Northwest for Firstfruits Foundation
- 4a. Letter dated March 3, 2003, to Gloria Jakovak from William Teuscher
- 4b. Letter dated February 14, 2003, to Gloria Jakovak from Kellye Eager
5. Letter dated May 29, 2002, to Catherine Becker from Corey Skinner
6. Schematic of Living Waters Ranch
2. Letter dated March 1, 2004, from Christopher W. James with Attachment 1 in connection with Application for Permit No. 72-16625
3. Letter dated July 30, 2004, to Firstfruits Foundation/Christopher W. James Trust from Allen Merritt and a letter dated August 9, 2004, to L. Glen Saxton from Christopher W. James
4. Letter dated July 20, 2004, to Interested Parties from Mark Bryan, a plan view sketch of the aesthetic pond and a photograph of the pond
5. Meter readings for Well #2
6. Calculations of water volume in the aesthetic pond

Protestant's Exhibits:

- A. Report titled Hydrologic Investigation of the Garden Creek Watershed and Aquifer prepared by Brockway Engineering - February 11, 1999
- B. Report titled Hydrogeologic Analysis of the Water Supply for the Community of Challis, Custer County, Idaho prepared by Idaho Water Resources Research Institute – February 25, 2003 (Preliminary Draft)
- C. Protest of Jeffrey Yeo
- D. Protest of Bonnie Rowles
- E. Letter dated May 21, 2002, to Department of Water Resources from Catherine Becker
- F. Letter dated July 10, 2003, to Custer County Commissioners from Catherine Becker
- G. Letter dated July 22, 2003, to Garden Creek Association from Catherine Becker
- H. Letter to Betty Horn from Don Munkers (Not dated)
- I. Living Waters Ranch Well #1 Meter Readings – 2003, 2002 and 2001
- J. Information from Living Waters Ranch website
- K. Letter dated August 1, 2000, to Mark Dietrich from Christopher W. James and letter dated August 17, 2000, to Charles G. Brockway from Christopher James
- L. Application for Permit (draft)
- M. Letter dated July 21, 2003, to Christopher James from James E. Stanton
- N. Phase 1 Sewer System Log – Living Waters Ranch
- O. Summary by Garden Creek Water District of Factors Pertaining to Application for Permit no. 72-16625

- P. Letter dated September 30, 2003, to Steve Adams from William Teuscher
- Q. Letter dated December 19, 2003, to Steve Adams from William Teuscher
- R. Letter dated July 24, 2004, to Department of Environmental Quality from Bonnie Rowles
- S. Drinking Water Protection Plan for the City of Challis - Draft
- T. Schematic drawing - Elevation view of aesthetic pond

The hearing officer officially noticed the following information:

- Administrative rules of the Department of Water Resources
- Administrative rules of the Department of Environmental Quality for public drinking water systems identified as IDAPA 58.01.08
- Well driller reports in Department files including the report for the domestic well drilled in 1997 for protestant Jeffrey Yeo
- IDWR Administrator's Memorandum - Transfer Processing No. 24 - Re: Transfer Processing Policies and Procedures - dated October 30, 2002

8. The applications seek the use of water in connection with a church camp/conference center ("church camp") that is located about 4 miles west of the city of Challis, Idaho in the Garden Creek drainage. Existing facilities at the church camp include an 8,500 square foot chapel designed to accommodate 450 people, a 5,000 square foot lodge with a sleeping capacity of 50 persons, 9 chalets, two mini lodges, 12 motel units, a shop, a powerhouse, a manager's residence, a shower house, RV sites some with facilities and some without facilities, and a tent camping area. The applicant plans additional development such as a cafeteria, an activities building and more individual rental units. The applicant can sleep about 236 people at the church camp.

9. Presently the church camp receives water from a well identified as Well #2 (aka the mechanical building well) that was drilled in 1997 to a depth of 63 feet. The well provides about 15 gallons per minute ("gpm") of water. A 35,000 gallon elevated water storage tank is part of the water distribution system and is used to stabilize fluctuating water demands and to provide water for fire protection. The applicant wants to cease use of this well and to use the artesian well described in application 72-16624 in order to minimize contamination problems that the applicant has experienced using Well #2. The applicant, however, wishes to retain the use of Well #2 for as a backup well for the church camp. There is not a recorded water right for use of Well #2.

10. The applicant does not have other ground water rights for domestic use for the church camp other than perhaps an unrecorded, unquantified domestic use from a well on the Mountain View property that the applicant has acquired.

11. The new well sought for use under application 72-16624 is an existing artesian well located about 0.8 miles upgradient from the church camp. The depth of the well is about 400 feet below land surface. Although the rate of flow available from the well is disputed, the applicant has pumped 40 gpm from the well in excess of 3

hours with a draw down of about 20 feet.

12. The applicant owns several water rights diverted from Garden Creek that are used for the irrigation of the applicant's land. The irrigated lands include a 7.5 acre tract furthest upstream, a 13.2 acre tract upstream and adjacent to the church camp and a 3.3 acre tract downstream from the church camp.

13. Existing development in the Garden Creek drainage, not counting the applicant's development, includes about 12 single-family residences up gradient from the church camp and about 8 or 9 residences down gradient. Ground water generally is not used for irrigation in the drainage.

14. The total annual surface water yield from the Garden Creek drainage is estimated to be 13,530 acre feet ("AF") of which the estimated amount of ground water discharge is 16.7 AF per year. Garden Creek gains water in some reaches and loses water in other reaches. (See Protestant's Exhibit A).

15. Ground water and surface water in the Garden Creek drainage upstream from Challis are hydraulically connected. Depletion of ground water will decrease the amount of surface water available in Garden Creek. (See Protestant's Exhibit A).

16. Protestant's Exhibit A, prepared in connection with the applicant's facility concludes that "The aquifer is ... marginally suitable for domestic residences and other low-use facilities." The report also concludes that depletion of ground water at the facility will result in decreased discharge of Garden Creek with the long-term impact on the aquifer being a lowering of the water table and a corresponding decrease in reach gains and an increase in reach losses.

17. Water level measurements taken from the city of Challis's municipal wells suggest that depletion from the aquifer is increasing over time and that the city "... should closely monitor upstream water use in order to assess potential sources of contamination ...". (See Protestant's Exhibit B).

18. Garden Creek is within Water District 72-B where water deliveries are administered during times of water shortage by a watermaster. Water delivery records of Water District 72-B show that water delivery to junior users on Garden Creek is curtailed at times during most water years due to diminishing flow available to provide water to all water rights.

19. Using a total demand of 13,000 gallons per day, the amount of water diverted by the applicant under application 72-16624 would be about 14.6 AF per year. Assuming the diversion of ground water results in a depletion to the flow of Garden Creek of 25%, in terms of irrigation, the amount of water depleted would be about 3.7 AF per year that is approximately the amount of water needed to irrigate 1.5 acres of land based on a consumptive use of 2.5 AF/acre. (See Protestant's Exhibit A).

20. The applicant has offered to mitigate consumption described in Finding 19 above by ceasing to use water rights associated with the irrigation of 1.5 acres located in Lots 2 and 3, Section 2, T13N, R18E, B.M. Most of this land is located in Lot 3 and is further described as the area on which Shiloh Lodge and associated parking lot is located, land associated with the shop and the bone yard east of the shop and land associated with the basketball and volleyball courts consisting of a total of about 67,750 square feet.

21. Protestants Bonnie Rowles and Jeffrey Yeo were concerned that use of water by the applicant would injure existing water rights and is not in the local public interest.

22. Bonnie Rowles owns a bed and breakfast in Challis and receives water from the city of Challis. She does not use water from a private well in the Garden Creek drainage.

23. Jeffrey Yeo owns a domestic well located within NESE Section 3, T13N, R18E, B.M. that is about ¼ mile from the artesian well sought for use by the applicant. The Yeo well was drilled in 1997 to a depth of 104 feet with the static water level in the well about 20 feet below land surface.

24. Protestant city of Challis is generally concerned about maintaining an adequate safe water drinking supply for its citizens.

25. The aesthetic pond proposed under application 72-16625 is an existing pond located on a ditch that delivers water for irrigation to church camp property. The pond was originally used to water stock and has been converted to aesthetic use. The size of the pond is about 59' x 110' and averages about 5 feet deep. The pond has a surface area of about 0.15 acre, holds about 0.7 AF and is located close to Garden Creek. (See Applicant's Exhibit 6).

26. In the past, when water was delivered for irrigation it passed through the pond. In recent years, the water has been used the same way, but some watermasters have shut off the diversion of irrigation water from Garden Creek to the pond when the priorities of the applicant's irrigation rights (1888 and 1890) could not be filled and other watermasters have allowed the diversion to the pond to continue.

27. On behalf of protestant Water District 72-B, Don Rowles expressed the concern that there was no water available for a new appropriation from Garden Creek and that the rate of diversion requested to fill the aesthetic pond is excessive.

CONCLUSIONS OF LAW

1. Section 42-203A, Idaho Code, provides in pertinent part as follows:

In all applications whether protested or not protested where the proposed use is such (a) that it will reduce the quantity of water under existing water

rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest as defined in section 42-202B, Idaho Code, or (f) that it is contrary to conservation of water resources within the state of Idaho; or (g) that it will adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates; the director of the department of water resources may reject such application and refuse issuance of a permit therefor... .

2. Section 42-111, Idaho Code, provides in pertinent part as follows:

(1) For purposes of sections 42-221, 42-227, 42-230, 42-235, 42-237a, 42-242, 42-243 and 42-1401A, Idaho Code, the phrase "domestic purposes" or "domestic uses" means:

(a) The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or

....
(3) Multiple water rights for domestic uses or domestic purposes, as defined in this section, shall not be established or exercised in a manner to satisfy a single combined water use or purpose that would not itself come within the definition of a domestic use or purpose under this section. The purpose of this limitation is to prohibit the diversion and use of water, under a combination of domestic purposes or domestic uses as defined in this section, to provide a supply of water for a use that does not meet the exemption of section 42-227, Idaho Code, and is required to comply with the mandatory application and permit process for developing a right to the use of water pursuant to chapter 2, title 42, Idaho Code.

3. Section 42-211, Idaho Code, provides in pertinent part as follows:

In connection with any application on which permit has not been issued, amendments may be made by endorsement by the applicant or his agent on the original application, which indorsement shall be initialed and dated. If the amendment will result in the use of more water than originally asked, the priority of the right shall be changed to the date of said amendment. ... If

amendment is made after publication of notice of the original application, said notice shall be republished following amendment, upon payment by the applicant of the statutory fee for republication as in this act provided.

4. The court's finding in *Hardy v. Higginson*, 123 Idaho 485, 849 P.2d 946 (1993) authorizes the Director of the department to consider whether a proposed amendment is in the local public interest.

5. IDAPA 58.01.08.550.03.p (Public Drinking Water Rule 550.03.p) provides in pertinent part as follows:

New community water systems served by ground water and constructed after July 1, 1985, or existing community water systems served by ground water that are substantially modified after July, 2002, shall have a minimum of two (2) sources if they are intended to serve more than twenty-five (25) homes or equivalent. ...

6. Article XV, section 3 of the Idaho Constitution provides as follows:

The right to divert and appropriate the unappropriated waters of any natural stream to beneficial uses, shall never be denied, except that the state may regulate and limit the use thereof for power purposes. Priority of appropriation shall give the better right as between those using the water; but when the waters of any natural stream are not sufficient for the service of all those desiring the use of the same, those using the water for domestic purposes shall (subject to such limitations as may be prescribed by law) have preference over those claiming for any other purpose; and those using the water for agricultural purposes shall have preference over those using the water for manufacturing purposes. And in any organized mining district those using the water for mining purposes or milling purposes connected with mining, shall have preference over those using the same for manufacturing or agricultural purposes. But the usage by such subsequent appropriators shall be subject to such provisions of law regulating the taking of private property for public and private use, as referred to in section 14 of article I of this Constitution.

7. The church camp qualifies for inclusion among the "domestic uses" described in Section 42-111(1)(a), Idaho Code, and may divert up to 13,000 gallons per day from ground water for the church camp without the necessity of filing an application for permit. The use of water from all wells in connection with the "domestic uses" of the church camp, however, cannot exceed a combined total of 13,000 gallons per day under the exemption.

8. The community water system of the applicant requires two wells. (See IDAPA 58.01.08.550.03.p).

9. There is no evidence to indicate that there is an upper aquifer and a lower aquifer that are separated by a confining layer in the Garden Creek drainage. Hence, ground water depletion in the drainage by the applicant will decrease the amount of surface water available in Garden Creek, since the surface water and ground water are interconnected. (See Protestant's Exhibit A).

10. Use of water by the applicant for the church camp has increased since 1999 and likely will further increase based on the applicant's testimony that he plans to construct additional facilities at the church camp including a cafeteria, activities building and more individual rental units. The applicant has also acquired additional property in the Garden Creek drainage.

11. Diversion of 14.6 AF per year from the aquifer in the Garden Creek drainage for domestic use at the church camp as proposed in application 72-16624 will result in some depletion of ground water and will decrease surface water discharge in Garden Creek. The applicant has offered sufficient mitigation for consumption of water under its domestic use by ceasing to irrigate 1.5 acres of land that has valid water rights from Garden Creek that were recently decreed in the Snake River Basin Adjudication. The use will not reduce the quantity of water under existing water rights.

12. Use of water as proposed in application 72-16625 will result in an evaporative depletion of about 0.4 AF ($2.5 \text{ AF/acre} \times 0.15 \text{ acre}$) of water per year in Garden Creek.

13. Use of water as proposed in application 72-16624 will reduce the quantity of water under existing water rights if the applicant does not mitigate the depletion attributable to the aesthetic use.

14. Although there are water shortages in the Garden Creek drainage nearly every year, the water supply itself is sufficient for the purposes intended if the applicant mitigates the uses.

15. Some of the facilities proposed in the applications have already been constructed and are in use. The applications are made in good faith and not for delay or speculative purposes.

16. The applicant has sufficient financial resources with which to complete the projects.

17. The applications do not conflict with the local public interest if the uses are adequately mitigated.

18. The applications are not contrary to the conservation of water resources within Idaho if the uses are adequately mitigated.

19. The proposed uses are not outside of the watershed or local area where the source of water originates and will not adversely affect the local economy of the watershed or local area due to watershed location changes.

20. The Department should approve the applications with conditions requiring the applicant to mitigate depletions associated with the applications.

ANALYSIS

In February 1999, the Department conducted a hearing for application 72-7562 filed in the name of Living Waters Ranch for essentially the same proposal as application 72-16624 and issued a recommended order in the matter. Before the Department issued a final order, however, the applicant withdrew the application and subsequently filed applications 72-16624 and 72-16625.

The applicant's present use of water for domestic purposes at the church camp is less than 13,000 gallons per day. Application 72-16224 represents a recording of the total domestic use of water associated with the camp and when licensed will have a priority as of the date of filing of the application. The domestic "exemption" associated with Sections 42-111 and 42-227, Idaho Code, relates to whether the filing of an application for permit is required, not that there is a grant of so much water for domestic use.

Statements of the applicant appear to indicate that the applicant believes it has an "entitlement" to 13,000 gallons per day for its church camp use without regard to other water rights and uses. This is not correct, since the domestic use or any other use of water under a water right is subject to all other prior water rights without respect to the nature of use. The oldest water right is the best water right and in times of shortage is delivered before junior water rights. A preference for domestic use, however, is provided in Article XV, section 3 of the Idaho Constitution as described in the Conclusions of Law above.

Even though there is not unappropriated water in a source for a new use, an applicant should have the opportunity to mitigate a new use in a manner that will not decrease the amount of water available in the drainage for prior water rights. Mitigation of a junior priority water right with an older water right essentially has the effect of treating the junior right as if it had the older priority when water is distributed. This assumes of course that the older water right is deliverable to the right holder.

Evaporative losses associated with the applicant's aesthetic pond are small but are real and will reduce the amount of water available to earlier water rights during periods of water shortage. Some flow through the pond is needed to prevent stagnation of the pond, but a flow rate of 0.40 cfs is excessive for this purpose. A flow rate of 0.20 cfs is sufficient to provide turnover of water in the pond and is a more reasonable rate of flow.

The Moratorium Order issued by the Department on October 26, 1999, stopped the processing of applications for permit to appropriate surface water or ground water within and tributary to the Selway-Bitterroot Wilderness Area, the Gospel-Hump Wilderness and the Frank Church-River on No Return Wilderness area. The moratorium order, however, allowed the Department to consider an application if the use of water pursuant to the application would have no effect on other water rights due to mitigation provided by an applicant.

ORDER

IT IS THEREFORE hereby ORDERED as follows:

Application for Permit No. **72-16624** in the name of Firstfruits Foundation and Christopher W. James Trust is **APPROVED** subject to the following conditions:

1. Proof of construction of works and application of water to beneficial use shall be submitted to the Department on or before September 1, 2006.
2. The quantity of water diverted under this right shall not exceed 13,000 gallons per day and 14.6 AF per year.
3. To mitigate for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official record for the following water right(s) will be changed to show that diversion and use of water is not authorized because the rights, or portion(s) thereof, are being dedicated to mitigation purposes.

Right No.	Use Changed to Mitigation	Mitigation Rate	Mitigation Acres
72-106J	Irrigation	0.06	1.5
72-109J	Irrigation	0.06	1.5
72-4174C	Irrigation	0.03	1.5
72-10486C	Irrigation	0.06	1.5

The land that will no longer be irrigated under these rights is located within Govt. Lot 3 (NE¼NW¼), Section 2, Township 13 North, Range 18 East, B.M.

If the specified mitigation rights, or portions thereof, are sold, transferred, leased, used on any place of use, or are not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this permit shall be reduced by the same proportion as the reduction to the mitigation rights.

4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code, and applicable Well Construction Rules of the Department.

5. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality standards of the Department of Environmental Quality.

6. Water diverted under this right shall not be used for irrigation purposes.

7. Prior to diversion of water under this right, the right holder shall install and maintain suitable measuring devices at the points of diversion to measure the rate of diversion and volume of water diverted and shall report the amounts to the Department at a frequency determined by the Department.

8. Use of water is for domestic purposes in connection with a church camp/conference center.

9. The issuance of this right does not grant any right-of-way or easement across the land of another.

10. The permit holder shall allow access by the watermaster of State Water District 72-B to the measuring devices installed at the points of diversion.

11. Failure to comply with these conditions of approval is cause for the Director to void the permit.

IT IS FURTHER hereby ORDERED as follows:

Application for Permit No. **72-16625** in the name of Firstfruits Foundation and Christopher W. James Trust is **APPROVED** subject to the following conditions:

1. Proof of construction of works and application of water to beneficial use shall be submitted to the Department on or before September 1, 2006.

2. Prior to diversion of water under this right, the right holder shall install and maintain measuring devices and lockable controlling works of a type acceptable to the Department as part of the diversion and conveyance works or shall otherwise provide for the measurement of the water diverted, as approved by the Department. The devices or measuring method shall be adequate to determine the rate of diversion from Garden Creek and to quantify losses associated with the aesthetic use of water in the right holder's pond.

3. Prior to diversion of water under this right, the right holder shall submit to the Department for review and approval a written plan describing how the right holder will mitigate losses attributable to diversion and use of water under the aesthetic use.

4. The diversion rate under this right shall not exceed 0.20 cfs.

5. Use of water is for aesthetic use in connection with a church camp/conference center.

6. Use of water rights held by the applicant will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, the water rights of the applicant are within State Water District 72-B.

7. At such times in the future as may be necessary to protect prior rights of other water users, the Director may require determination of the actual rate of loss within the system and may require additional mitigation for all system losses.

8. This permit does not constitute a new appropriation of water from Garden Creek and instead authorizes an additional use to be made of water (for aesthetic purposes) that is diverted for use under the applicant's existing water rights provided that applicant mitigates the evaporative loss from the pond.

9. The right holder is not authorized to divert water to its pond for aesthetic purposes when the applicant's irrigation rights are not being delivered unless the applicant provides suitable mitigation to compensate for system losses.

10. Failure to comply with these conditions of approval is cause for the Director to void the permit.

Signed this 3rd day of September, 2004.


L. GLEN SAXTON, P.E.
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3 day of September, 2004, the above and foregoing, was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

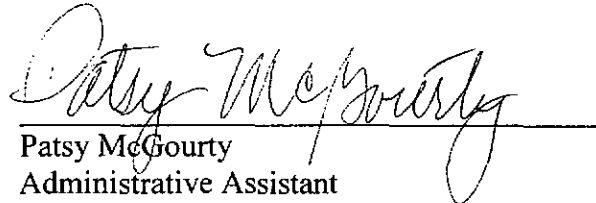
FIRSTFRUITS FOUNDATION
C/O CHRISTOPHER W. JAMES
PO BOX 510
CHALLIS ID 83226

BONNIE ROWLES
PO BOX 1087
CHALLIS ID 83226

JEFFREY J. YEO
PO BOX 299
CHALLIS ID 83226

BOB ANDREWS
WATER DISTRICT 72
PO BOX 1141
CHALLIS ID 83226

CITY OF CHALLIS
C/O MARION MCDANIEL
PO BOX 587
CHALLIS ID 83226


Patsy McGourty
Administrative Assistant
Idaho Department of Water Resources

Page 1

Ident No. 72-15525

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

1. Name: FIRSTFRUITS FOUNDATION
PO BOX 510
CHALLIS ID 83226
(208)879-4560

CHRISTOPHER W JAMES TRUST
CHRISTOPHER JAMES TRUSTEE
PO BOX 510
CHALLIS ID 83226
(208)879-4560

AMENDED

2. Source: GARDEN CREEK Tributary to: SALMON RIVER

3. Location of Point of Diversion:

- #1 GARDEN CREEK SE1/4NE1/4SE1/4 Sec. 3, Twp 13N, Rge 18E, S.M.
CUSTER County
#2 GARDEN CREEK L3 (SW1/4NE1/4NW1/4) Sec. 2, Twp 13N, Rge 18E, S.M.
CUSTER County

4. Water will be used for the following purposes:

Purpose	From To	RATE OF DIVERSION	ANNUAL VOLUME
AESTHETIC	04/01 to 10/31	~~0.20 CFS~~	0.40 CFS
5. Total quantity to be appropriated is:		~~0.20 CFS~~	0.40 CFS

6. Proposed diverting works:

POINT OF DIVERSION #1

a. Type and size of devices used to divert water from the source: EXISTING DIVERSION TO PIPELINE USED FOR IRRIGATION. PIPELINE USED TO SUPPLY WATER TO FOUNTAIN FROM THIS DIVERSION.

- 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. _____

Page 2

Ident. No. 72-16625

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

POINT OF DIVERSION #2

a. Type and size of devices used to divert water from the source: CHECK DAM & DITCH TO POND, DITCH BACK INTO STREAM

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.

PLACE OF USE: AESTHETIC

Trp Rgs Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Total
13N 18E 2					X												1.3

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

Point of Diversion #1: LINDA M NORRIS - Long Established Irrigation diversion for decreed rights.

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:

The existing diversion was used for irrigation until 1999, when it was channeled into an existing stock pond. Stock have been removed from the area, and the pond has been landscaped for aesthetic purposes. A fountain has been installed in the center of the pond, which covers no more than 1/8 of an acre. The pond is part of the Living Waters Ranch convention center/camping complex.

Page 3

Ident. No. 72-15625

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

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 _____ Date _____ Published in _____
Publication approved _____ Date _____

Receipt No. S025269

Date: _____

Received by: _____

RECEIVED
Form 211 05/03

JUN 22 2004

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Fee 50.00
Receipt 5026858
Received by _____
Date _____

Department of Water Resources
Southern Region

APPLICATION FOR AMENDMENT OF A PERMIT

Name of Applicant FirstFruits Foundation & Christopher W. James Trust Phone 208-879-4560
Mailing address PO Box 510, Challis, ID 83226

I am the owner and the holder of Permit to Appropriate the Public Waters of the State of Idaho No. 72-16625, and request that the permit and permit map be amended and/or changed as follows:

Purpose of Amendment: _____ Change point of diversion ☒ Add point of diversion
_____ Change place of use _____ Change nature of use _____ Change period of use _____ Other
1. Point of diversion: NW 1/4 SE 1/4, Section 3, Township 13N, Range 18E, B.M.,
County of Custer. Other points of diversion LWR's Pond - NE 1/4, NW 1/4, Sec 2,
TWP 13N, Rge 18E B.M. Custer County

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)
Amount 0.06 cfs for AESTHETIC purposes from MARCH to Nov. (both dates inclusive)
(cfs or acre-feet per year) (water use) (Begin Month) (End month)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year) (water use) (Begin Month) (End month)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year) (water use) (Begin Month) (End month)

3. Place of use or land to be irrigated:

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
<u>13N</u>	<u>18E</u>	<u>2</u>					☒												

Total number of acres to be irrigated _____

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

Complete the following map by showing land and point of diversion as proposed by this amendment.
Show $\frac{1}{4}$ $\frac{1}{4}$, section, township, range and ditches. (The smallest subdivision represents 40 acres.)

Scale: 2 inches equal 1 mile

I hereby request approval of this change subject to the fact that no one will be injured by the change, and that the change will be made at my own risk.

Signed this 21 day of June, 20 04

Firstfruit Foundation
Christopher W. Jones, Trustee
Permit Holder Signature (and title, if for a company or organization)

ACTION OF THE DEPARTMENT OF WATER RESOURCES

Preliminary check by _____ Publication prepared by MB Date 6/28/04

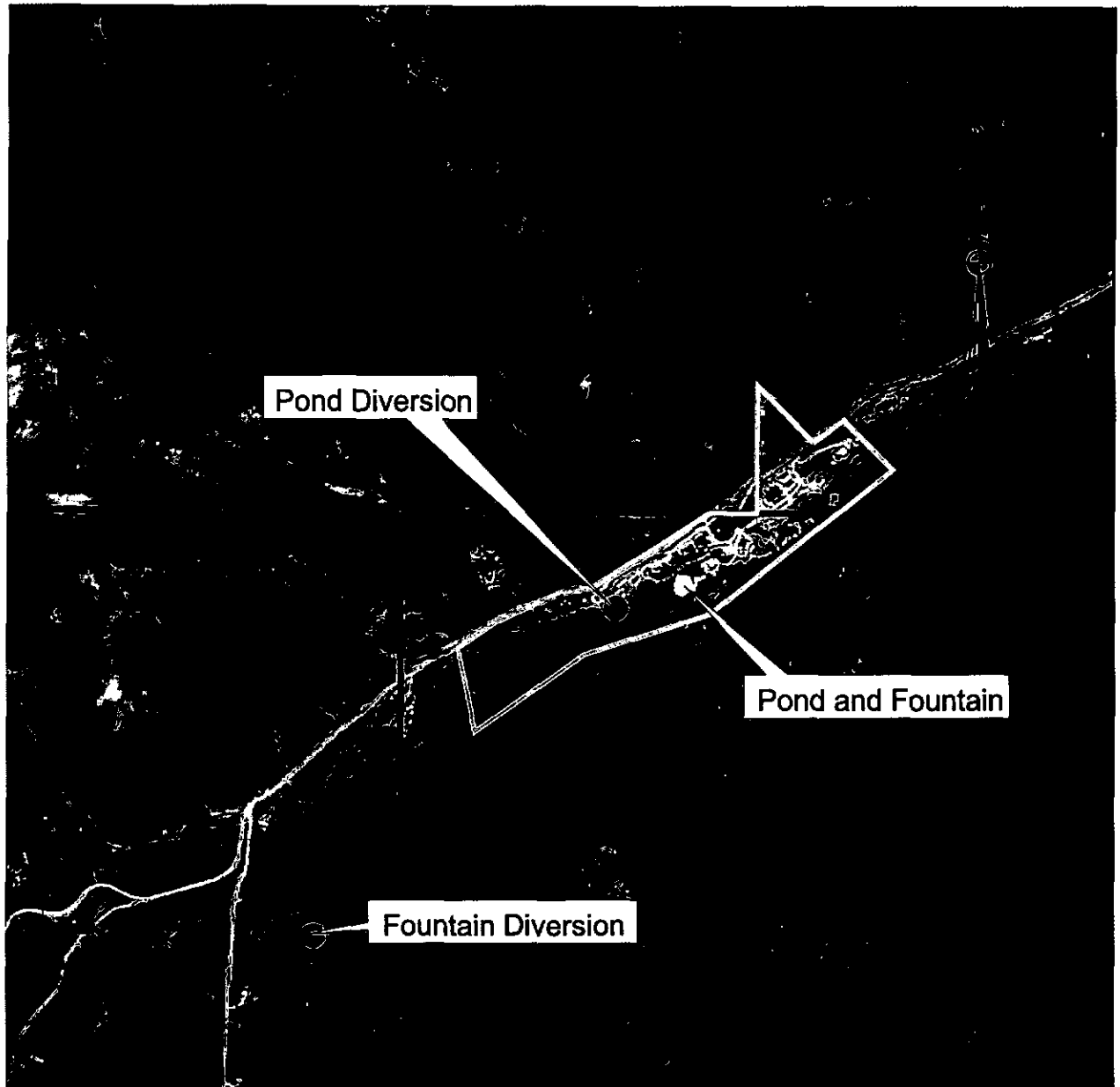
Published in Challis Messenger Publication dates 7/8 & 7/15/04

I, _____, of the Department of Water Resources hereby

Witness my hand this _____ day of _____, 20 _____

SIGNATURE

Amended Application 72-16625



**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

1. Name: FIRSTFRUITS FOUNDATION
PO BOX 510
CHALLIS ID 83226
(208)879-4560

CHRISTOPHER W JAMES TRUST
CHRISTOPHER JAMES TRUSTEE
PO BOX 510
CHALLIS ID 83226
(208)879-4560

2. Source: GARDEN CREEK Tributary to: SALMON RIVER

3. Location of Point of Diversion:

#1 GARDEN CREEK L3 (SW1/4NE1/4NW1/4) Sec. 2, Twp 13N, Rge 18E, B.M.
CUSTER County

4. Water will be used for the following purposes:

<u>Purpose</u>	<u>From</u> <u>To</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
AESTHETIC	04/01 to 10/31	0.40 CFS	

5. Total quantity to be appropriated is: 0.40 CFS

6. Proposed diverting works:

POINT OF DIVERSION #1

a. Type and size of devices used to divert water from the source: CHECK DAM & DITCH TO POND, DITCH BACK INTO STREAM

- 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. _____.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

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

8.

PLACE OF USE: AESTHETIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13N 18E 2					X												L 3

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:

The existing diversion was used for irrigation until 1999, when it was channeled into an existing stock pond. Stock have been removed from the area, and the pond has been landscaped for aesthetic purposes. A fountain has been installed in the center of the pond, which covers no more than 1/8 of an acre. The pond is part of the Living Waters Ranch convention center/camping complex.

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.

Charlton W. James, Trustee
for *Trust Funds Foundation*
Applicant

Received by *JL* Date 10-15-02 Time 2:15 Preliminary check by *JL*
Publication prepared by *MB* Date 11/15/02 Published in *Challis Pressinger*
Publication approved _____ Date _____

Receipt No. S02527⁶⁹
Date: 10-15-02

Page 3

Ident. No. 72-16625

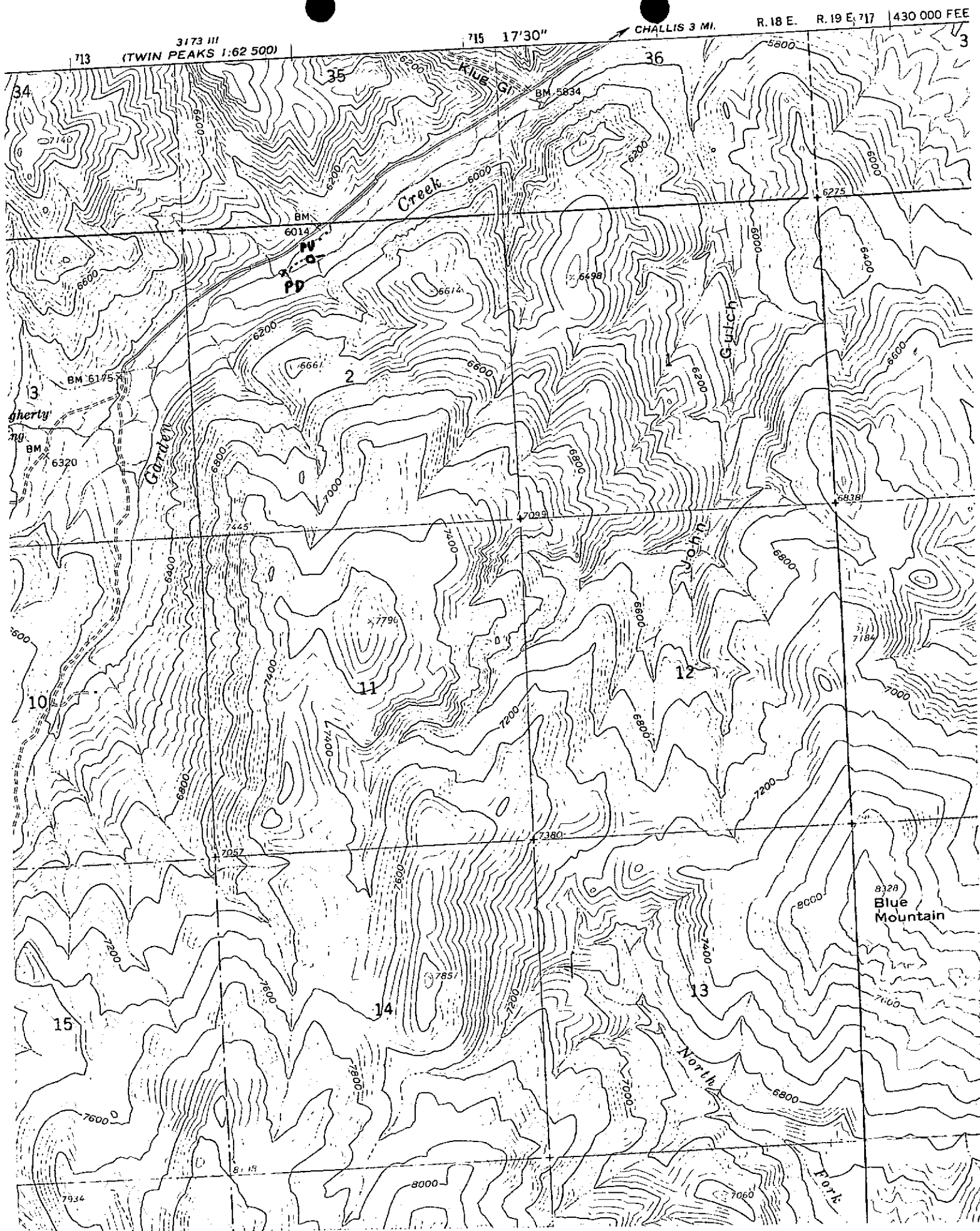
**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

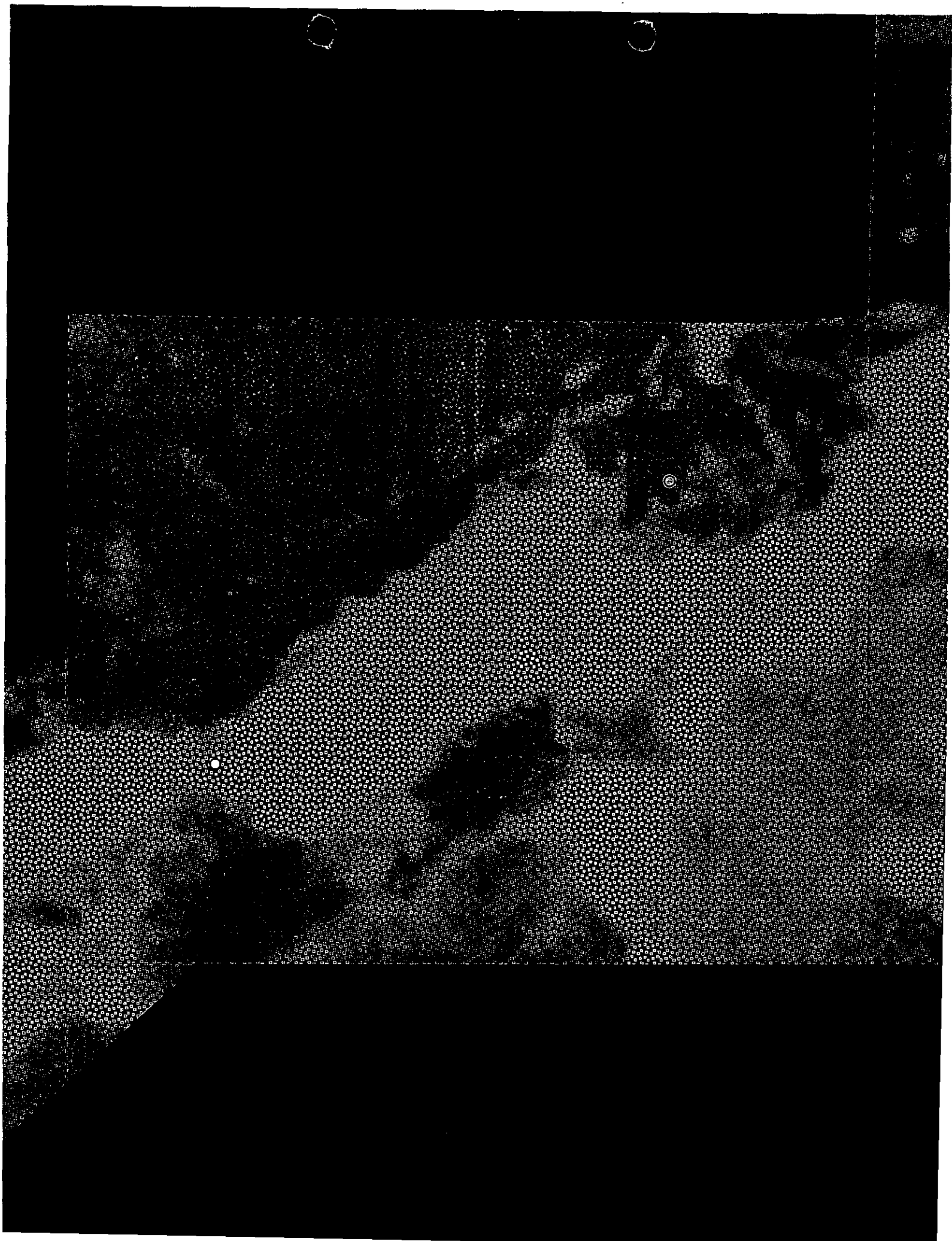
APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

Received by: _____

A handwritten signature, possibly reading "J. S.", is written over the horizontal line of the "Received by:" field.





Comment Report

72-16625

1. jstanton 11/14/2002 3:43:54 PM Special Administration Area Notes

Comment: Special Administration Areas : Water District 72-B

Exempt: N

Reason:

Doc Attached:

Explanation:

2. jstanton 11/14/2002 3:51:01 PM Additional Information Supporting Application

Comment: Residency affidavit for hydropower development: N/A

Additional hydropower project information: N/A

Additional fish propagation project information: N/A

Appropriation Rule 40.05.c information: N/A

Mitigation Plan or acceptance form: N/A

Evidence of Pre-1987 development: N/A

3. jstanton 11/14/2002 Comment/Analysis

Comment: According to applicant, this pond is about 50 feet by 80 feet by 4 feet average depth (about 0.4 acre feet). The flow into the pond is measured through a 1 foot partial flume at a depth of 3 inches; this is the basis for the requested flow rate. Crunching the numbers shows that the pond would fill in 12 hours, so no storage is involved. Therefore, the application should be processed as a non-consumptive use outside the wilderness moratorium.

4. jstanton 11/14/2002 Legal Notice Remarks

Comment: This application proposes to legalize the use of Garden Creek water in an old stock pond that was converted to aesthetic use in 1999. The pond covers about 0.1 acres, and there is a measuring device on the diversion works. If emptied, the pond would fill in less than 1 day, so no storage is involved. The pond is located on the Living Waters Ranch 4 1/2 miles SW of Challis.



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 25, 2004

CHRISTOPHER W JAMES TRUST
CHRISTOPHER JAMES TRUSTEE
FIRSTFRUITS FOUNDATION
PO BOX 510
CHALLIS ID 83226

RE: Permit 72-16625

Dear Permit Holder:

I have enclosed the permit issued in accordance with the Amended Preliminary order dated September 3, 2004.

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.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SWK:klt

Enclosure

FORM NO.202A
REVISED 7/31/98

APPLICATION NO. 72-16625

STATE OF IDAHO
IDWR SOUTHERN REGION
APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY J. Edenton DATE 11-14-02

REQUIRED INFORMATION (Ck if OK)

- ☒ 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 &/or volume.
- ☒ County
- ☒ Quantity (flow &/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 signator is required)
- ☒ Fee
- ☒ Yes ☐ No* In form to receipt?

++++PROPOSED PRIORITY DATE 10-15 19,2002

ADDITIONAL INFORMATION

- ☐ Overlapping place of use(Describe source & relationship to present application on the back.
- ☐ Overlapping point of diversion.
- ☒ Yes ☐ No Is Source Surface Water?
- ☐ If Yes Send Copy to F&G.
- ☐ If Yes Field check/memo required.
- ☐ Field check/memo by _____
- ☐ Yes ☐ No Field report attached?
- ☐ Yes ☒ No Critical Ground water area?
- ☐ Yes ☒ No Groundwater management area?
- ☐ Yes ☒ No Measurement District or Groundwater District?
- ☐ What District? _____
- ☐ Yes ☒ No Send Dam safety information?
- ☐ Yes ☒ No Send power requirement letter?
- ☐ Yes ☒ No Send fish farm requirement letter?
- ☐ Yes ☒ No Power residency affidavit attached?
- ☐ Yes ☒ No Power efficiency form?
- ☐ Yes ☒ No Within trustwater boundary?(If yes, attach trustwater supplementary analysis sheet.
- ☐ Yes ☒ No Diversion greater than 5 cfs or 500 acre ft? (If yes,attach large diversion supplementary analysis sheet.
- ☐ Yes ☒ No Is Application made to record Pre Nov 1987 Development?
- ☐ If Yes then request clear evidence of when use started.

* REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT:

Date Requested _____

Date Sent Comments Received

SEND COPIES TO:

☐ Idaho Dept of Health & Welfare	_____	_____
☐ USDI BLM	_____	_____
☐ Idaho Dept of Fish & Game	_____	_____
☐ USFS	_____	_____
☐ Idaho Dept of Lands	_____	_____
☒ Water Dist. No. <u>72-B</u>	_____	_____
☐ Adjudication Bureau Unit	_____	_____
_____	_____	_____
_____	_____	_____

PROCESSING ☒ Yes ☐ No In form for Advertising?
☐ Yes ☒ No Statewide Advertising?
☒ Yes ☐ No Fee amount, receipt date & No. recorded?

☒ Yes ☐ No Has all requested additional information been received?
If not, describe action taken: _____

FINAL REGIONAL PROCESSING REVIEW

☐ Yes ☐ No Affidavit of publication received?
☐ Yes ☐ No Application published correctly? If not, record action taken.

_____ ☐ Yes ☐ No Publication dates and paper recorded?

Final date for protest: _____

_____ ☐ Yes ☐ No Protests received?

_____ ☐ Yes ☐ No Protested?

Describe Resolution: _____

_____ ☐ Yes ☐ No Measuring device required?

_____ ☐ Yes ☐ No Access port required?

_____ ☐ Yes ☐ No Will water be delivered by watermaster? If yes, what dist? _____

_____ ☐ Yes ☐ No Special conditions codes: _____

_____ ☐ Yes ☐ No Is Evaluation Memo Attached?

If yes; date of Memo _____

Date of priority recommended: _____

COMMENTS:

RECOMMEND _____ Approval _____ Denial

By _____ Date _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 30, 2004

FIRSTFRUITS FOUNDATION/CHRISTOPHER W JAMES TRUST
CHRISTOPHER JAMES TRUSTEE
PO BOX 510
CHALLIS ID 83226

RE: Application Nos. 72-16624 & 72-16625

Dear Mr. James:

Enclosed is a copy of an additional protest filed against the above referenced applications. The Department suggests you contact the protestant(s) &/or their legal counsel directly to determine the exact nature of the protest(s) and, if possible, to resolve the matter.

At the **Hearing scheduled for 9:00 a.m. on August 10, 2004 at the Custer County Courthouse**, the following are the principal items the Department will consider in either approving or denying an application for amendment of a permit (Section 42-211, IDAHO CODE):

- 1) Will the change result in the diversion and use of more water than originally permitted?
- 2) Will the rights of others be adversely affected by the change?
- 3) Is the proposed change in the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

A handwritten signature in black ink, appearing to read 'A. D. Merritt', is written over a horizontal line.

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 30, 2004

ATTN MARION MC DANIEL
CITY OF CHALLIS
PO BOX 587
CHALLIS ID 83226

RE: Application Nos. 72-16624 & 72-16625 (FirstFruits Foundation/Christopher W. James Trust)

Dear Protestant(s):

Your protests against the approval of the above referenced applications have been received and a copy has been sent to the applicant.

Please note that the application is considered a contested case and subject to the Rules of Procedure adopted by the Department.

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

<http://www.idwr.state.id.us/apalidapa37/0101.htm>

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

A Joint Hearing has been scheduled for 9:00 a.m. on August 10, 2004 at the Custer County Courthouse for the purpose of conducting an additional hearing to take additional evidence on the protested applications, including the Applications for Amendment filed by the applicants.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

CITY OF CHALLIS

P.O. Box 587
211 Main Street
Challis, Idaho 83226

RECEIVED

JUL 15 2004

Department of Water Resources
Southern Region

Mayor: Catherine Becker

Clerk: Betty Horn

Phone: (208) 879-2386

Fax: (208) 879-5288

July 13, 2004

Idaho Department of Water Resources Joint Hearing

RE: Application No. 72-16624
Application No. 72-16625
Firstfruits Foundation / Christopher W. James

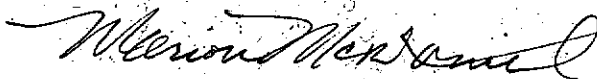
The purpose of this letter is to protest the amended applications for permit within Custer County.

Application No. 72-16624, adding a point of diversion and changing the place of use.

Application No. 72-16625, adding a point of diversion.

The City of Challis must protect the health and welfare of the citizens; this includes our abundant supply of clean, safe drinking water.

Sincerely,



City Council President, Marion McDaniel

cc: Firstfruits Foundation / Christopher W. James

Receipt # 5026908

7/15/04

m.

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, Ruth E. Burchill, representing the
Challis Messenger, a weekly newspaper, pub-
lished at Challis, Idaho, do solemnly swear that
the notice hereto attached and made a part here-
of, was published in the regular and entire issue
of the Challis Messenger for 2
consecutive weeks, commencing with the issue
dated July 8 ~~2003~~ and ending with
the issue dated July 15 ~~2004~~.

Ruth E. Burchill

STATE OF IDAHO

COUNTY OF CUSTER

On this 19th day of July in the
year of 2004 before me, a Notary Public,
personally appeared Ruth E. Burchill
known or identified to me to be the person
whose name subscribed to the within instru-
ment, and being by me first duly sworn, declared
that the statements therein are true, and ac-
knowledgeed to me that he executed the same.

Lura H. Baker
Notary Public for Idaho
Residing at Clayton, ID
My commission expires: 12-12-09

RECEIVED

JUL 20 2004

Department of Water Resources
Southern Region

Notice of Applications

Notice is hereby given that two
Amended Applications for Permit
have been filed with the Idaho De-
partment of Water Resources by
Firstfruits Foundation/Christo-
pher W. James Trust, PO Box 510;
Challis ID 83226 concerning appli-
cations within Custer County:

Application No. 72-16624

Date Amended: 6/03/2004

Source: ground water

Diversion Pt: NWSE, S03 and
NENW, S02; all T13N, R18E.

Use: 1/1-12/31

Domestic (0.20 cfs)

Place of Use: Lot 2 (NWNE); Lot 3
(NENW); Lot 4 (NWNW), SWNW;
S02, T13N, R18E and SWSE, S35,
T14N, R18E.

The proposed change is to add a
point of diversion and change
place of use.

Application No. 72-16625

Date Amended: 6/25/2004

Source: Garden Creek tributary
to Salmon River

Diversion Pt: SENESE, S03 and
Lot 3 (SWNENW), S02; all T13N,
R18E.

Use: 04/01-10/31

Aesthetic (0.40 cfs)

Place of use: Lot 3 (NENW), S02,
T13N, R18E.

The proposed change is to add a
point of diversion.

Any protest against the Amend-
ed Applications must be filed with

the Department of Water Resourc-
es, Southern Region, 1341 Fill-
more St., Suite 200; Twin Falls, ID
83301 together with a protest fee
of \$25.00 on or before July 26,
2004. The protestant must also
send a copy of the protest to the
applicant. A Joint Hearing has
been scheduled for 9:00 a.m. on
August 10, 2004 at the Custer
County Courthouse for the pur-
pose of conducting an additional
hearing to take additional evi-
dence on the protested applica-
tions including the Applications
for Amendment filed by the above
referenced applicants.

Karl J. Dreher, Director

Published 7/8 & 7/15/04.

OK
MB

7/27/04

LURA H. BAKER
NOTARY PUBLIC
STATE OF IDAHO



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 29, 2004

BONNIE ROWLES
PO BOX 1087
CHALLIS ID 83226

BOB ANDREWS
WATER DISTRICT 72
PO BOX 1141
CHALLIS ID 83226

JEFFREY J. YEO
PO BOX 299
CHALLIS ID 83226

JON WINEGARNER, WATERMASTER
PO BOX 1032
CHALLIS ID 83226

Re: Amended Applications for Permit No. 72-16624 & 72-16625 (FirstFruits Foundation/Christopher W. James Trust)

Ladies and Gentlemen:

Since you filed a protest against the initial applications, the purpose of this letter is to inform you that the above referenced applications have been AMENDED and a copy is enclosed for your reference.

This office will be advertising the Amended applications in the Challis Messenger on 7/8 & 7/15/04. A period of ten days following the second publication will be allowed for the submittal of protests. (July 26, 2004)

As you are aware, a Joint Hearing has been scheduled for 9:00 a.m. on August 10, 2004 at the Custer County Courthouse for the purpose of conducting an additional hearing to take additional evidence on the protested applications including the Applications for Amendment filed by the above referenced applicants.

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

Very truly yours,



Allen D. Merritt, P.E.
Regional Manager

AM:MB

Enclosures

IDAHO DEPARTMENT OF WATER RESOURCES
1341 FILLMORE STREET-STE# 200
TWIN FALLS ID 83301
Phone: 736-3033, Fax#: 736-3037

June 28, 2004

Legal Notice Department
Custer Publishing Co
PO Box 405
Challis ID 83226

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in the Challis Messenger 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. Your cooperation is appreciated.

Sincerely

Mary A. Baldwin
Administrative Assistant

Notice of Applications

Notice is hereby given that two Amended Applications for Permit have been filed with the Idaho Department of Water Resources by Firstfruits Foundation/Christopher W. James Trust, PO Box 510; Challis ID 83226 concerning applications within Custer County:

Application No. 72-16624

Date Amended: 6/03/2004

Source: ground water

Diversion Pt: NWSE, S03 and NENW, S02; all T13N, R18E.

Use: 1/1-12/31

Domestic (0.20 cfs)

Place of Use: Lot 2 (NWNE), Lot 3 (NENW), Lot 4 (NWNW), SWNW; S02, T13N, R18E and SWSE, S35, T14N, R18E.

The proposed change is to add a point of diversion and change place of use.

Application No. 72-16625

Date Amended: 6/25/2004

Source: Garden Creek tributary to Salmon River

Diversion Pt: SENESE, S03 and Lot 3 (SWNENW), S02; all T13N, R18E.

Use: 04/01-10/31

Aesthetic (0.40 cfs)

Place of use: Lot 3 (NENW), S02, T13N, R18E.

The proposed change is to add a point of diversion.

Any protest against the Amended Applications must be filed with the Department of Water Resources, Southern Region, 1341 Fillmore St., Suite 200; Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before July 26, 2004. The protestant must also send a copy of the protest to the applicant. A Joint Hearing has been scheduled for 9:00 a.m. on August 10, 2004 at the Custer County Courthouse for the purpose of conducting an additional hearing to take additional evidence on the protested applications including the Applications for Amendment filed by the above referenced applicants.

Karl J. Dreher, Director

Published in the Challis Messenger on 7/8 & 7/15/04.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 28, 2004

FIRSTFRUITS FOUNDATION/
CHRISTOPHER W. JAMES TRUST
PO BOX 510
CHALLIS ID 83226

Re: Amended Applications for Permit No. 72-16624 & 72-16625

Dear Applicants:

The Department of Water Resources acknowledges the changes to your applications for permit as referenced above.

This office will be advertising the Amended Applications in the Challis Messenger on 7/8 & 7/15/04. A period of ten days following the second publication will be allowed for the submittal of protests. (July 26, 2004)

If An Amended Application is protested you will be sent a copy of the protest. Whether protested or not, this Department will conduct a conference and/or hearing on this matter as scheduled on August 10th, 2004.

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

Sincerely,

Allen D. Merritt
Regional Manager

Living Waters Ranch / Firstfruits Foundation

P O Box 510, Challis, ID 83226

208-879-2729, fax 879-4902

June 28, 2004

Allen Merritt
Idaho Department of Water Resources
1341 Filmore Street, Suite 200
Twin Falls, ID 83301-3380

RE: Amendment to Permit No. 72-16625

Dear Allen,

Mark and I have come to the conclusion that we need to go back to our original request for 0.4 cfs for the non-consumptive aesthetic water use for the pond. The reason for this is that we found that the pond was starting to fill up with algae with even 0.36 cfs of water. The weir on the north side of Garden Creek was open to 2.1" by my measurement or .21", which converts to 0.3 cfs. The fountain was pouring forth approximately 0.06 cfs from our bubbler irrigation. We're trusting the extra 0.04 cfs of water will keep the water clean.

All the while, we believe that the water for the pond is non-consumptive. A slightly larger amount of surface through the pond versus the creek is making a slightly larger amount of evaporation. Since the pond is approximately 6 or 7 feet above the level of the water table, the water is subbing back into the aquifer.

The other part of this amendment is that we have amended the point of diversion for the pond to include water coming from the bubbler irrigation system, the upper Garden Creek diversion. The net request is for 0.06 cfs coming from the bubbler plus 0.34 coming from the lower Garden Creek diversion for a total of 0.4 cfs. For clarification sake, I suggest that we all make a trip up to the pond on August 10th as part of the hearing.

Yours Truly,



Christopher W. James, Trustee of Firstfruits Foundation

Enclosures: Amendment of a Permit and Check for \$50.

Cc: L. Glen Saxton
Bonnie Rowles
Jeffrey Yeo
Bob Andrews

Living Waters Ranch
PO Box 1190
Challis, ID 83226
208-879-2888

RECEIVED
JUN 25 2004
Department of Water Resources
Southern Region

Idaho Department of Water Resources
Attn. Allen Merritt
1341 Fillmore St., Suite 200
Twin Falls, ID 83301-3380

June 22, 2004

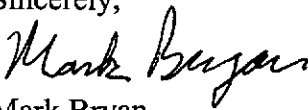
Mr. Merritt,

This letter and amendment application for Permit No. 72-16625 is to clarify the use of a fountain in the aesthetic and non-consumptive pond. Under Permit No. 72-16625 we were granted up to 0.20 cfs of water for our aesthetic pond. We have a fountain in the middle of the pond that is fed from our upper diversion through our pressurized bubbler pipeline. We would like to amend Permit No. 72-16625 to add 0.06 cfs to the upper diversion for the use of the fountain. This would mean that if the fountain was **not** in use we would be allowed to use 0.20 cfs through the lower diversion. If the fountain was **in** use we would be allowed to use 0.06 cfs through the upper diversion, and 0.14 cfs through the lower diversion for a total of 0.20 cfs for aesthetic purposes.

Our history has been that in the winter time the channel to the pond freezes and the water in the pond subs out leaving a large hole. In the spring time we open the lower diversion to fill the pond. In early summer when we start watering vegetation we have been able to use the fountain with the wastewater from our pressurized system. In the late summer as the creek gets lower our priority has been to our vegetation and we turn off the fountain. The intent of Permit No. 72-16625 was to keep water in the pond as much as possible. We thought that the additional water from the fountain going into the aesthetic and non-consumptive pond, would be both an aesthetic value to our guests and send more water down to those residences below us. Since the development of the fountain we have communicated with our water masters both the source and the function of the fountain.

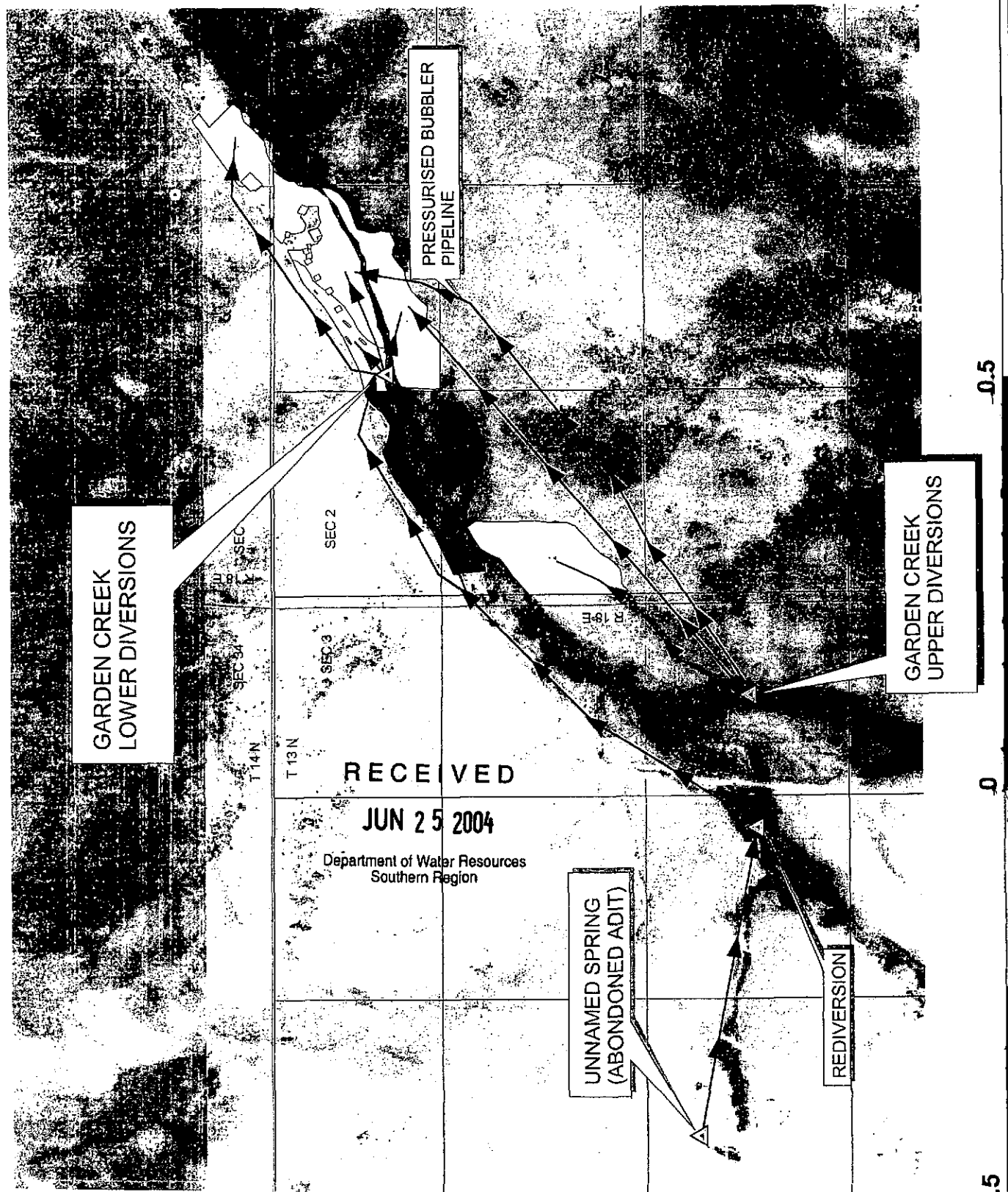
There have been questions raised as to why the fountain was not discussed at the past hearing. There are several months each year that the flow to the pond is active and the fountain is not. Our intent of the permit was to keep water in the pond as much as possible. We were also not aware that we needed to classify the use of our pressurized system, which this amendment will do. If there are any questions or further information that is needed please let me know.

Sincerely,



Mark Bryan
Manager, Living Waters Ranch

Figure 1. Decreed Irrigation Rights



Merritt, Allen

From: Mark Bryan [lwinc@custertel.net]

Sent: Tuesday, June 22, 2004 6:12 PM

To: amerritt@idwr.state.id.us

Subject: Letter Correction

Hi Allen,

This is Mark Bryan with Living Waters Ranch. I mailed the amendment application on Monday but needed to make corrections and additions to my cover letter. I will send you an attachment with this email. Please replace the cover letter with this letter dated June 22.

Also I was not sure if I needed to send a copy of my letter and application to the Rowles?

Is there anything else you suggest or need that I should address or submit?

Thanks

Mark Bryan

Living Waters Ranch

6/23/2004

Living Waters Ranch
PO Box 1190
Challis, ID 83226
208-879-2888

Idaho Department of Water Resources
Attn. Allen Merritt
1341 Fillmore St., Suite 200
Twin Falls, ID 83301-3380

June 22, 2004

Mr. Merritt,

This letter and amendment application for Permit No. 72-16625 is to clarify the use of a fountain in the aesthetic and non-consumptive pond. Under Permit No. 72-16625 we were granted up to 0.20 cfs of water for our aesthetic pond. We have a fountain in the middle of the pond that is fed from our upper diversion through our pressurized bubbler pipeline. We would like to amend Permit No. 72-16625 to add 0.06 cfs to the upper diversion for the use of the fountain. This would mean that if the fountain was **not** in use we would be allowed to use 0.20 cfs through the lower diversion. If the fountain was **in** use we would be allowed to use 0.06 cfs through the upper diversion, and 0.14 through the lower diversion for a total of 0.20 cfs.

Our history has been that the in the winter time the channel to the pond freezes and the water in the pond subs out leaving a large hole. In the spring time we open the lower diversion to fill the pond. In early summer when we start watering vegetation we have been able to use the fountain with the wastewater from our pressurized system. In the late summer as the creek gets lower our priority has been to our vegetation and we turn off the fountain. The intent of Permit No. 72-16625 was to keep water in the pond as much as possible. We thought that the additional water from the fountain going into the aesthetic and non-consumptive pond, would be both an aesthetic value to our guests and send more water down to those residences below us. Since the development of the fountain we have communicated with our water masters both the source and the function of the fountain.

There have been questions raised as to why the fountain was not discussed at the past hearing. There are several months each year that the flow to the pond is active and the fountain is not. Our intent of the permit was to keep water in the pond as much as possible. We were also not aware that we needed to classify the use of our pressurized system, which this amendment will do. If there are any questions or further information that is needed please let me know.

Sincerely,

Mark Bryan
Manager, Living Waters Ranch

RECEIVED

JUN 22 2004

Department of Water Resources
Southern Region

Living Waters Ranch
PO Box 1190
Challis, ID 83226
208-879-2888

Idaho Department of Water Resources
Attn. Allen Merrit
1341 Fillmore St., Suite 200
Twin Falls, ID 83301-3380

June 21, 2004

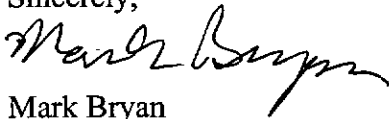
Mr. Merrit,

This letter and amendment application for Permit No. 72-16624 is to clarify the use of a fountain in the aesthetic and non consumptive pond. Under Permit No. 72-16624 we were granted up to 0.20 cfs of water for our aesthetic pond. We have a fountain in the middle of the pond that is fed from our upper diversion through our pressurised bubbler pipeline. We would like to amend Permit No. 72-16624 to add 0.06 cfs of the 0.20 cfs permitted for the pond to the upper diversion for the use of a fountain. This would mean that if the fountain were not in use we would be allowed 0.20 cfs through the lower diversion. If the fountain were in use we would be allowed 0.06 cfs through the upper diversion, and 0.14 through the lower diversion for a total of 0.20 cfs.

Our history has been that the in the winter time the channel to the pond freezes and the water in the pond subs out leaving a large hole. In the spring time we open the lower diversion to fill the pond. In early summer when we start watering vegetation we have been able to use the fountain. In the late summer as the creek gets lower our priority has been to our vegetation and we turn off the fountain. The intent of Permit No. 72-16624 was to keep water in the pond as much as possible. We thought that the additional water from the fountain going into the aesthetic and non consumptive pond, would be both an aesthetic value to our guests and send more water down to those residence below us.

If there are any questions or further information that is needed please let me know.

Sincerely,



Mark Bryan
Manager, Living Waters Ranch

LIVING WATERS RANCH

FACSIMILE TRANSMITTAL SHEET

TO: ALLEN MERRITT FROM: MARK BRYAN
FAX NUMBER: DATE: 6-23-04
COMPANY: TOTAL NO. OF PAGES INCLUDING COVER: 3
PHONE NUMBER: SENDER'S REFERENCE NUMBER:
RE: YOUR REFERENCE NUMBER:

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

HI ALLEN,

HERE IS THE CORRECTED
APPLICATION. DOES IT LOOK
ALRIGHT? PLEASE VERIFY AND
THEN I WILL MAIL YOU
THE ORIGINAL

THANKS
MARK

Form 211 05/03

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Fcc _____
Receipt _____
Received by _____
Date _____

SEE ATTACHED
LETTER AND
MAP

APPLICATION FOR AMENDMENT OF A PERMIT

Name of Applicant Firstfruits Foundation & Christopher W. James Trust phone 208-879-4560

Mailing address PO Box 510, Challis, ID 83226

I am the owner and the holder of Permit to Appropriate the Public Waters of the State of Idaho No. 72-16625, and request that the permit and permit map be amended and/or changed as follows:

Purpose of Amendment: _____ Change point of diversion ☒ Add point of diversion

Change place of use _____ Change nature of use _____ Change period of use _____ Other _____

Point of diversion: SW 1/4 NE 1/4 NW 1/4, Section _____, Township 13N, Range 18E, B.M.,

County of Custer Other points of diversion (UPPER DIVERSION) SE, NE, SE
SECTION 3, TOWNSHIP 13N, RANGE 18E, COUNTY OF CUSTER, GARDEN CREEK

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount 0.20 cfs for AESTHETIC purposes from MARCH to NOV. (both dates inclusive)
(cfs or acre-feet per year) (water use) (Begin Month) (End month)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year) (water use) (Begin Month) (End month)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year) (water use) (Begin Month) (End month)

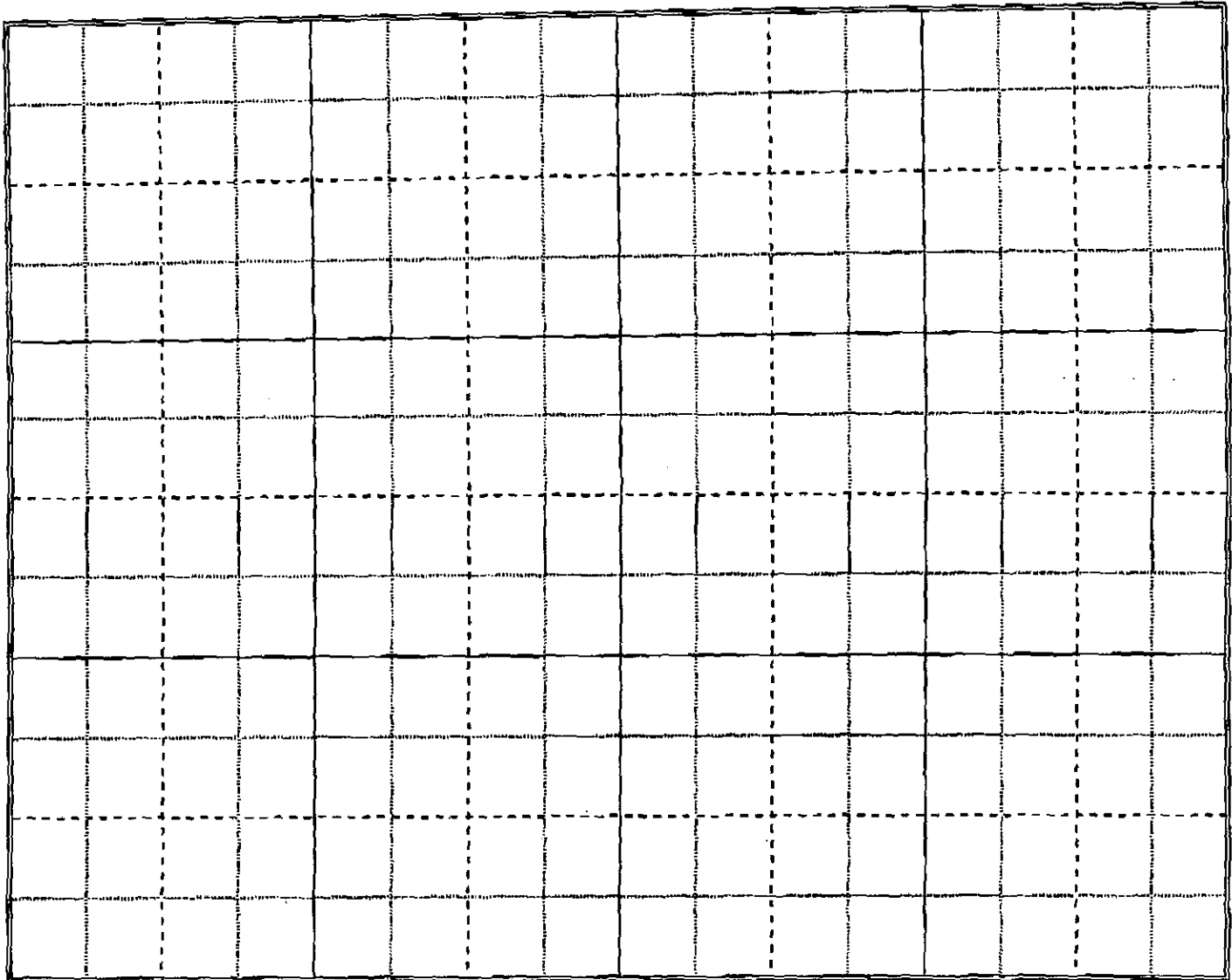
3. Place of use or land to be irrigated: POND

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
<u>13N</u>	<u>18E</u>	<u>2</u>					☒												

Total number of acres to be irrigated _____

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

Complete the following map by showing land and point of diversion as proposed by this amendment.
Show $\frac{1}{4}$ section, township, range and ditches. (The smallest subdivision represents 40 acres.)



Scale: 2 inches equal 1 mile

I hereby request approval of this change subject to the fact that no one will be injured by the change, and that the change will be made at my own risk.

Signed this 21 day of June, 20 04.

Frederick's Foundation
Christopher W. Jones, Trustee
Permit Holder Signature (and title, if for a company or organization)

ACTION OF THE DEPARTMENT OF WATER RESOURCES

Preliminary check by _____ Publication prepared by _____ Date _____

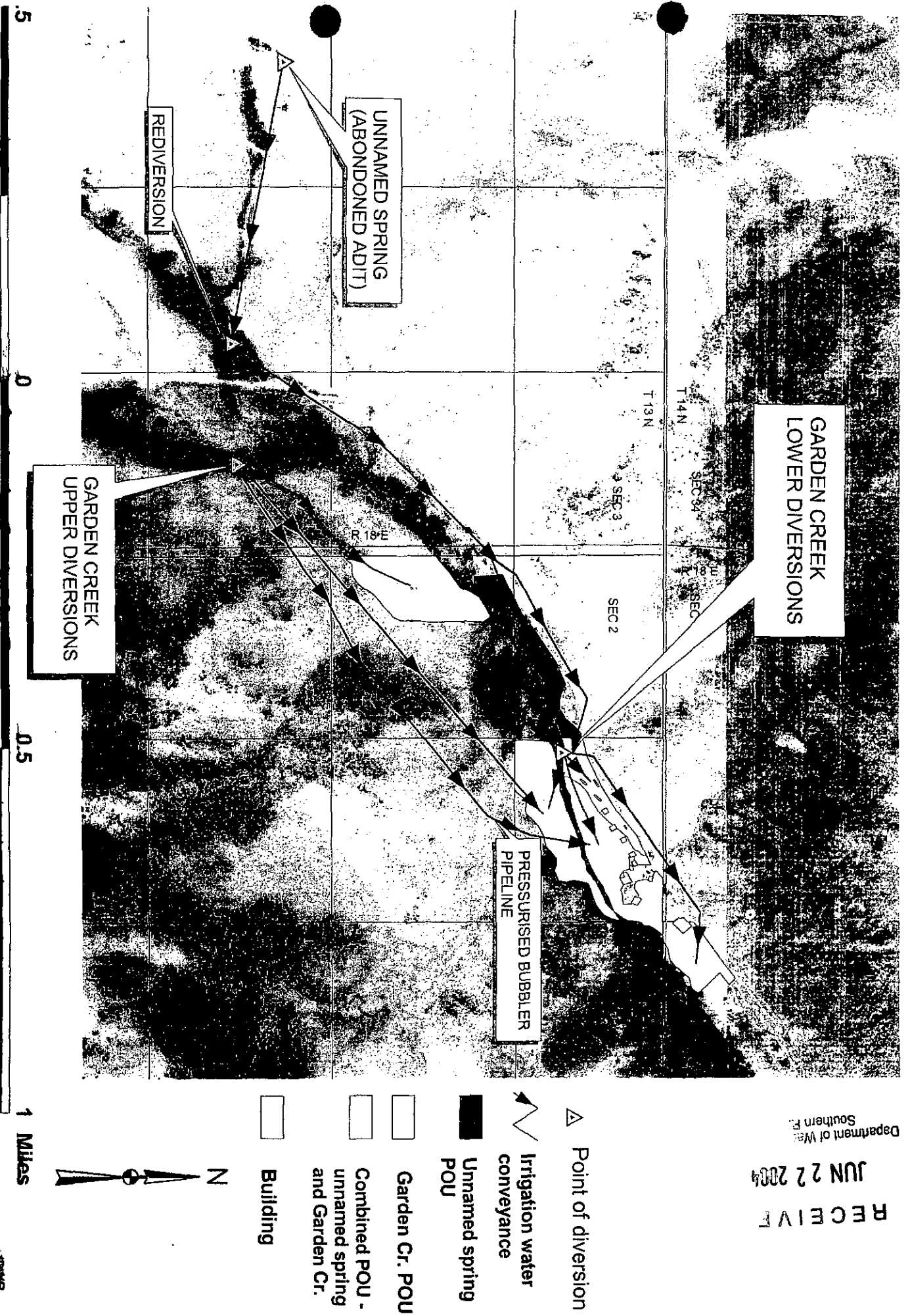
Published in _____ Publication dates _____

I, _____, of the Department of Water Resources hereby

Witness my hand this _____ day of _____, 20 _____

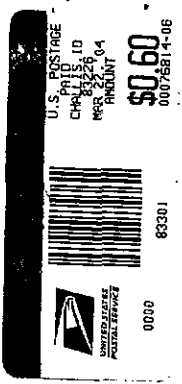
SIGNATURE

Figure 1. Decreed Irrigation Rights



RECEIVED
JUN 22 2004
Department of Water
Southern P.

Garden Creek Water District
PO Box 1153
Challis Id 83226



Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, Id 83301-3380

Re: Application for Permit: 72-16625

RECEIVED
MAR 23 2004
Department of Water Resources
Southern Region

Date Sent to S.O.
MAR 23 2004

**Summary by Garden Creek Water District of factors pertaining to
Application For Permit 72-16625**

NOTE: THE EXHIBITS REFERENCED ARE THE SAME AS REFERENCED IN THE Protestant's Exhibit D re: Application For Permit 72-16624. For administrative purpose both applications have been consolidated for this hearing, therefore the exhibits referenced here in were submitted as evidence with Protestant's Exhibit D re: Application For Permit 72-16624

RECEIVED
MAR 23 2004
Department of Water Resources
Southern Region

NOTE: Christopher James states in the application in the applicant's remarks "The existing diversion was used for irrigation until 1999 when it was channeled into an existing stock pond. Stock have been removed from the area, and the pond has been landscaped for aesthetic purposes. A fountain has been installed in the center of the pond, ... The pond is part of Living Waters Ranch..." This application also states that this is a new appropriation.

1. Will the proposed appropriation injure other water rights?

- Protestant's Exhibit A: Hydrologic investigation of the Garden Creek watershed and aquifer, Brockway Engineering, P.L.L.C., 1999.
- Protestant's Exhibit B: Hydro geologic analysis of the water supply for the community of Challis, Idaho Water Resources Research Institute, 2003.
- Protestant's Exhibit G: Letter from The City of Challis to Mr. Don Rowles, President, Garden Creek Water Association. This letter is to serve as an official complaint regarding the City's water supply.

SUMMARY: Yes, the proposed appropriation likely will injure existing water rights. According to all Hydrological reports, all water in the Garden Creek basin is appropriated. IDWR is aware that the City of Challis and the Custer County Commissioners have concerns that any substantial building or new appropriations for a water right could cause a direct impact on existing water rights, and possible infringement on the water right of The City of Challis.

2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?

- The application is for .4CFS which equates to 258,508 gals per day. (1 CFS = 448.8 gpm; $448.8 * 60\text{min} * 24\text{hrs} * .4$)
- The application states the "...covers no more than 1/8 of an acre..." This approximates to 5445 sq feet and calculates to have a surface approximately 84 feet in diameter. Assuming the pond is no more than 6 feet deep and forms the shape of frustum with a surface radius of 42ft and a bottom radius of 10 feet then the total gallons needed to fill the pond is 14,350.
- Protestant's Exhibit G: Letter from The City of Challis to Mr. Don Rowles, President, Garden Creek Water Association. This letter is to serve as an official complaint regarding the City's water supply.

SUMMARY: No, Based on existing water shortages there is no water available for a new appropriation. Even if there was water available, the application request for .4CFS is approximately 18 times more than what is needed for the pond according to the information on the application.

3. Was the application made in good faith or for delay or speculative purpose?

- Original application was made October 15, 2002. Application states in the applicant's remarks "The existing diversion was used for irrigation until 1999 when it was channeled into an existing stock pond. Stock have been removed from the area, and the pond has been landscaped for aesthetic purposes. A fountain has been installed in the center of the pond, ... The pond is part of Living Waters Ranch..."
- Idaho Administrative Code, Department of Water Resources Rule 35 Application Requirements, 01 – General Provisions, Part a states: "No person shall commence the construction of any project works or commence the diversion of the public water or trust water of the state of Idaho from any source or change the point of diversion, place, period or nature of use of any existing water right without first having filed an application for permit to appropriate the water or other appropriate form with the department and received approval from the director, unless exempted by these rules or by statute."
- The amount of requested diversion .4CFS is approximately 18 times more than what is needed for the requested use.

SUMMARY: No, We believe that the application was not made in good faith and was for speculative purposes. The water has been diverted and used for up to 3 years prior to submitting an application. The applicant's substantive actions as listed above and underlying intention of asking for 18 times the water need would lead a prudent person to question the good faith of the application.

4. Does the applicant have sufficient financial resources with which to complete the proposed project?

- Yes, according to his records.

5. Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?

- There is no evidence that having this 'Aesthetic' use will benefit the local economy though either short and long term employment, increased revenues to various sectors of the local economy nor add to the stability of these sectors in the short or long term.

- The City of Challis was founded in approximately 1876. The Custer County Seat is located in the City of Challis. There are over 900 residents of Challis and over 75 businesses in Challis that are dependent on the Challis water supply. Failure of this water supply in any way, may in fact have an adverse affect on the local economy both in the short and long term, and would affect the revenues of various sectors of the local economy and thus create substantial instability to the short and long term economy.
- LWR may be an asset to the community of Challis, but so are all the other businesses and citizens in the City of Challis.
- Garden Creek runs through Challis and is an interregnal part of the aesthetics of the City, businesses and residences along the creek. Inadequate water supplies in Garden Creek result in several months in the summer (height of tourist season) where there is very little or no water even reaching the city limits.

SUMMARY: No, the proposed appropriation is not in the local public interest. The points made above, in addition to the conclusions of both the hydrology reports, clearly show that additional appropriations of water from the Garden Creek watershed for whatever purpose does not benefit the local public interest through increased economic growth or enhanced recreation.

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

- Marginal sources of water need to be monitored very closely and its beneficial use evaluated carefully for its overall affect on the natural resources available.
- The most valuable natural resource for the City of Challis is an abundant supply of clean, safe drinking water. By taking a proactive stance, we help safeguard our water source.

CONCLUSION:

- As a member of the advisory committee and Chairman of the Garden Creek Water Association representing Water District 72-B, we request that IDWR not grant the above application for permit, according to Section 42-222, Idaho Code.
- We also request that IDWR not grant any new appropriation of water rights in the Garden Creek basin, according to the Supreme Court ruling regarding the Federal Government's water rights in the wilderness areas.

PROTESTANT'S EXHIBITS

NOTE: THE EXHIBITS AND WITNESSES BELOW (with the exception of Exhibit I) ARE REFERENCED AND ARE THE SAME AS REFERENCED IN THE Protestant's Exhibit D re: Application For Permit 72-16624. For administrative purpose both applications have been consolidated for this hearing, therefore the following exhibits were submitted as evidence with Application For Permit 72-16624

- Exhibit A: Hydrologic investigation of the Garden Creek watershed and aquifer. 1999. Brockway, C.E., C.G. Brockway, and J.S. Rau. Twin Falls, Idaho.
- Exhibit B: Hydro geologic analysis of the water supply for the community of Challis, Custer County, Idaho. 2003. Otto, B.R., A. Wylie, and M. Martin. Idaho Water Resources Research Institute, University of Idaho, Moscow, Idaho.
- Exhibit G: Letter from The City of Challis to Mr. Don Rowles, President, Garden Creek Water Association. This letter is to serve as an official complaint regarding the City's water supply.
- Exhibit I: Summary by Garden Creek Water District of factors pertaining to the Application for Permit 72-16625.

PROTESTANT'S WITNESS LIST

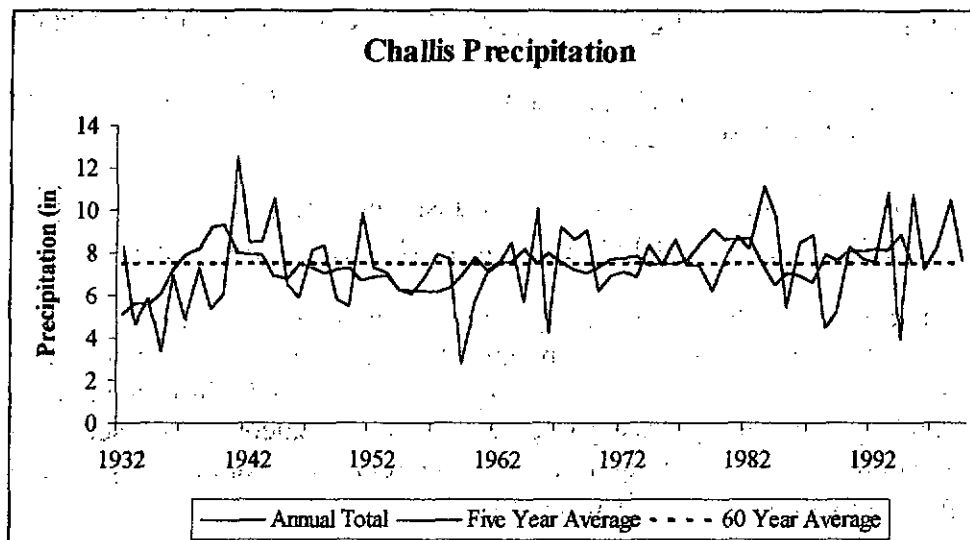
Bonnie Rowles
Don Rowles, President of Garden Creek Water District 72-B
Jeff Yeo
Jerry Moss, engineer, City of Challis
Marion McDaniel, president, Challis City Council

Protest:
Application for Water Right 72-16624

RECEIVED
MAR 23 2004
 Department of Water Resources
 Southern Region

1. LONG-TERM RECORD OF PRECIPITATION FOR CHALLIS

- Periodic historic multi-year droughts, with current period of drought extending from 1999 to present, impact the aquifer.
- 1993, 1995, & 1998 had substantially more precipitation than during previous decade.



2. GARDEN CREEK HYDROLOGY REPORTS

- *Brockway et al. (1999): Protestant's Exhibit A*

"Yields from wells in the aquifer are low, ranging from 4 gpm to 20 gpm. The aquifer is not suitable for high-demand uses such as irrigation, and is marginally suitable for domestic residences and other low-use facilities."

"The above analysis was performed during a period of above-average water years. During extended drought periods, basin recharge declines and the groundwater discharge could be substantially reduced."

"The total groundwater discharge through the aquifer is estimated to be 14,900 gallons per day, or 16.7 acre-feet per year."

"The daily water demand for the facility [Living Waters Ranch] is approximately 14,750 gpd at maximum capacity after full build-out, which is significantly more than 5000 gpd design capacity of the sewage disposal system."

- ***Idaho Water Resources Research Institute (2003): Protestant's Exhibit B***

Challis West Well-2 has historically provided good water production. There is evidence based on recent static level measurements, however, that the water level in the well may be decreasing by as much as 6 feet per year. If true, this indicates that the water is being removed from this aquifer at a faster rate than the aquifer is being recharged.

"The available unappropriated water [for the Garden Creek basin], found by subtracting the amount of diverted water (municipal, domestic, and agricultural) from the basin yield, is about zero. This implies that nearly all water in the basin is appropriated. New upstream water use within the Garden Creek drainage will likely impact Challis."

"During certain parts of an average year the community [Challis] presently utilizes it's entire available [water supply] capacity."

"The city of Challis should closely monitor upstream water use in order to assess potential sources of contamination or infringement on their water right."

"Two factors impact the quality and quantity of Garden Creek surface water: upstream domestic and agricultural development, and the amount of annual precipitation. Monitoring of new upstream water use, suggested above, will allow accurate understanding of impacts to this fragile supply. Due to paleo-lakebed sediments that provide natural clay lining along much of the Garden Creek drainage, any upstream contamination will travel rapidly downstream."

3. CONCLUSIONS

- Two independent hydrological reports, coupled with precipitation records, demonstrate the very limited supply of water in the Garden Creek aquifer and Garden Creek. There is not sufficient water available for new appropriations and the aquifer possibly is being depleted under current use.
- The City of Challis and Custer County currently are developing water protection plans and land use plans. Simple prudence recommends that these planning processes be allowed to move forward without precluding future options by granting additional water rights in a watershed obviously already experiencing overuse.
- Christopher James does not need a new water right; currently he has 4 wells on his property (as well as 18 existing water rights) which combined are more than adequate for his business use. James can deepen existing wells on his property and/or install filtration systems to mitigate repeated contamination of his wells.
- **Therefore, IDWR should not grant Christopher James any new water rights, and should allow the City of Challis and Custer County to finish planning processes to determine sustainable development for the watershed.**

Re: Application For Permit 72-16624

RECEIVED
MAR 23 2004
Department of Water Resources
Southern Region

NOTE: Christopher James states in his letter regarding this application that "The purpose of Firstfruits Foundation/LWR in applying for this water right is to transfer the use to it's allowed 13,000 gpd as allowed by state law." **This application is not a transfer of an existing water right owned by Firstfruits Foundation/LWR, it is for a new appropriation. There is no recorded beneficial use.**

1. Will the proposed appropriation injure other water rights?

- Protestant's Exhibit A: Hydrologic investigation of the Garden Creek watershed and aquifer, Brockway Engineering, P.L.L.C., 1999.
- Protestant's Exhibit B: Hydrogeologic analysis of the water supply for the community of Challis, Idaho Water Resources Research Institute, 2003.
- Protestant's Exhibit E: Letter from The City of Challis to IDWR, asking for their evaluation on the impact to the city water supply, due to the development of LWR.
- Protestant's Exhibit F: Letter from The City of Challis to The Custer County Commissioners, requesting a moratorium on any substantial development on Garden Creek.
- Protestant's Exhibit G: Letter from The City of Challis to Mr. Don Rowles, President, Garden Creek Water Association. This letter is to serve as an official complaint regarding the City's water supply.
- Protestant's Exhibit H: Letter from Don Munkers, CEO, Idaho Rural Water Association.

SUMMARY: Yes, the proposed appropriation likely will injure existing water rights. According to all Hydrological reports, all water in the Garden Creek basin is appropriated. IDWR is aware that the City of Challis and the Custer County Commissioners have concerns that any substantial building or new appropriations for a water right could cause a direct impact on existing water rights, and possible infringement on the water right of The City of Challis.

The City of Challis is working with Idaho Rural Water Association to develop a Drinking Water Protection Plan. The Custer County Commissioners and the City of Challis are working together to determine what lands are within the city's area of impact. IDWR should allow the City of Challis and the Custer County Commissioners to finish the planning process in the Garden Creek watershed.

2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?

- Protestant's Exhibit I: Water Meter Reading
- Protestant's Exhibit J: Living Waters Ranch brochure and News Letter
- Protestant's Exhibit K: Letter from Living Waters Ranch to DEQ

- Idaho Statutes, Title 42, Domestic Purposes Defined: The use of water for "organization camps," is not in excess of thirteen thousand (13,000) gallons per day.
- Water meter readings provided by Christopher James are only on one well. The majority of LWR domestic water flows through a 35,000-gallon storage tank and is not connected to a flow meter. The spring south of Garden Creek feeds several 1,000-gallon storage tanks that are not connected to a flow meter. Christopher James/ Firstfruits Foundation/ LWR have 13 irrigation water rights, 2 stock water rights, 1 domestic spring, 2 domestic wells and possibly 1 additional domestic well on recently purchased property. The Garden Creek Water Master monitors all irrigation and stock water. Only one well is monitored. If not monitored, LWR has excess to more than 1.8 million gallons of water per day.
- According to LWR brochures and newsletters, they can sleep 300 people per day. There are twenty-two buildings. These consist of several motels, chalets, lodges, bunkhouses, tent and RV sites, shop, laundry, shower house and a commercial kitchen that can seat 250 people. The Celebration Hall seats 500, the Upper Room seats 75, Eagle's Nest seats 50, and the Shilo Dining Room seats 110 people. An expansion is planned in the near future for a 14-room motel and a convenience store.

TABLE 1. Potential water usage (gallons/day) at Living Waters Ranch under conditions of full occupancy.

Occupancy	Gallons/Person	Gallons/Day
300 overnight guests	52.65 ^a	15,795
500 day visitors for Celebration Hall	5 ^b	2,500
75 day visitors for Upper Room	5	375
50 day visitors for Eagle's Nest	5	250
110 day visitors for Shilo	5	550
Potential Total Water Usage ^c		19,470

^a Figure comes from Christopher James' records for water usage by overnight guests.

^b Five gallons/day is less than IDWR's figures (15 gal/day) for water usage by day visitors.

^c This does not include water usage from the existing shower house, tent and RV sites, laundry facilities or employees. Also, does not include proposed 14-room motel and convenience store.

SUMMARY: No, under proposed full occupancy, the water supply is not sufficient. Christopher James' allowed use is 13,000 gpd. His potential maximum use is greater than 19,470 gpd. This is a difference of 6,470 gpd. According to Christopher James, the artesian well is currently producing 10 gpm, which computes to 14,400 gpd. Therefore, based on his figures, that is 5,070 gpd short.

3. Was the application made in good faith or for delay or speculative purpose?

Protestant's Exhibit L: Original Application 72-16224

Protestant's Exhibit M: Letter from IDWR to Christopher James

- Original application was made November 14, 2002, for commercial use. Application states, "water may be sold for commercial resale; we are filing for commercial use at this time to cover future possibilities."
- July 21, 2003 IDWR wrote Christopher James that he had not responded to their letter the previous fall. The letter requested a written release from BLM allowing LWR to use the well on their property.
- According to BLM records there is no written release allowing Christopher James to use the well or connect power to it. BLM was told after the fact that he had power connected to the site. Christopher James has had the power disconnected.

SUMMARY: Yes, I believe that the application was made for speculative purposes.

4. Does the applicant have sufficient financial resources with which to complete the proposed project?

- Yes, according to his records.

5. Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?

Protestant's Exhibit N: Living Waters Ranch Sewage System Logs

- The City of Challis was founded in approximately 1876. The Custer County Seat is located in the City of Challis. There are over 900 residents of Challis and over 75 businesses in Challis that are dependent on the Challis water supply.
- LWR may be an asset to the community of Challis, but so are all the other businesses in the City of Challis.
- DEQ and DSHD should help LWR research why their wells are the only wells in the Garden Creek basin contaminated on a regular basis. LWR was pumping, into one of its leach fields approximately an additional 963 gpd of affluent (sewage) over and above the 2,500 gpd for which it was designed. DEQ should require ground water monitoring according to TGM requirements. Identifying their source of contamination and implementing treatment efforts could successfully prevent further contamination occurrences.

SUMMARY: No, the proposed appropriation is not in the local public interest. The points made above, in addition to the conclusions of both the hydrology reports, clearly show that additional appropriations of water from the Garden Creek watershed and the demonstrated contamination of ground threaten the City of Challis's drinking water supply and water quality.

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

- The most valuable natural resource for the City of Challis is an abundant supply of clean, safe drinking water. By taking a proactive stance, we help safeguard our water source.

CONCLUSION:

- As a property owner and business owner in the City of Challis, I request that IDWR not grant the above application for permit, according to Section 42-222, Idaho Code.
- I also request that IDWR not grant any new appropriation of water rights in the Garden Creek basin, according to the Supreme Court ruling regarding the Federal Government's water rights in the wilderness areas.

PROTESTANT'S EXHIBITS

- Exhibit A: Hydrologic investigation of the Garden Creek watershed and aquifer. 1999. Brockway, C.E., C.G. Brockway, and J.S. Rau. Twin Falls, Idaho.
- Exhibit B: Hydrogeologic analysis of the water supply for the community of Challis, Custer County, Idaho. 2003. Otto, B.R., A. Wylie, and M. Martin. Idaho Water Resources Research Institute, University of Idaho, Moscow, Idaho.
- Exhibit C: Summary by Jeff Yeo of long-term precipitation records for Challis and summary of conclusions of hydrology reports for the Garden Creek watershed.
- Exhibit D: Summary by Bonnie Rowles of factors pertaining to IDWR Application for Permit Issues.
- Exhibit E: Letter from The City of Challis to IDWR, asking for their evaluation on the impact to the city water supply, due to the development of LWR.
- Exhibit F: Letter from The City of Challis to The Custer County Commissioners, requesting a moratorium on any substantial development on Garden Creek.
- Exhibit G: Letter from The City of Challis to Mr. Don Rowles, President, Garden Creek Water Association. This letter is to serve as an official complaint regarding the City's water supply.
- Exhibit H: Letter from Don Munkers, CEO, Idaho Rural Water Association.

PROTESTANT'S WITNESS LIST

Bonnie Rowles
Don Rowles
Jeff Yeo
Jerry Moss, engineer, City of Challis
Marion McDaniel, president, Challis City Council

RECEIVED

MAR 23 2004

Department of Water Resources
Southern Region

CITY OF CHALLIS

P.O. Box 587

211 Main Street

Challis, Idaho 83226

RECEIVED

MAY 22 2002

Department of Water Resources
Southern Region

Mayor: Catherine Becker

Clerk: Betty Horn

Phone: (208) 879-2386

Fax: (208) 879-5288

May 21, 2002

Idaho Department of Water Resources
ATTN: Allen Merritt
1341 Fillmore, Suite 200
Twin Falls, ID 83301

Dear Mr. Merritt;

The City of Challis is asking for your evaluation of the impact on the City water supply due to the development of the Living Waters Ranch, formerly a small one dwelling ranch. This ranch is located approximately four miles West of the City of Challis on Garden Creek. The Living Waters Ranch is now a retreat that resembles a small community. It is our understanding this facility has the ability to serve six hundred plus guests at any given time. There is a lodge, celebration hall, several condos, motel units, an RV campsite with hookups, and three or more homes.

The City is presently in the process of obtaining a geological/hydrogeological study through Idaho Water Resources Research Institute. There is an obvious concern pertaining to the excessive decline in water available at our main source of water, West Well #2.

We appreciate your assistance in reviewing the status of, and helping protect, the quantity/quality of our municipal water source. For further information please contact Jerry Moss at (208) 879-4616 or the city office at (208) 879-2386.

Sincerely,



Catherine Becker, Mayor

CITY OF CHALLIS

P.O. Box 587
211 Main Street
Challis, Idaho 83226

RECEIVED

MAR 23 2004

Department of Water Resources
Southern Region

Mayor: Catherine Becker
Clerk: Betty Horn

Phone: (208) 879-2386

Fax: (208) 879-5288

July 10, 2003

Custer County Commissioners
P.O. Box 385
Challis, Idaho 83226

Custer County Commissioners;

In September 2002, Idaho Water Resources Research Institute, University of Idaho completed a project summary report on the city water system. In this report the recommendation was to "closely monitor upstream water use in order to assess potential sources of contamination or infringement on the Cities water right".

In the absence of county planning and zoning, the City Council is requesting that the County Commissioners assert their authority through your building permits and impose a moratorium on any substantial development on Garden Creek.

We appreciate your assistance on this issue.

Sincerely,



Catherine Becker
Mayor

CITY OF CHALLIS

P.O. Box 587
211 Main Street
Challis, Idaho 83226

RECEIVED

MAR 23 2004

Department of Water Resources
Southern Region

Mayor: Catherine Becker
Clerk: Betty Horn

Phone: (208) 879-2386

Fax: (208) 879-5288

July 22, 2003

Garden Creek Association
P.O. Box 1087
Challis, ID 83226

Attention: Mr. Don Rowles, President

Dear Mr. Rowles:

This letter is to serve as an official complaint regarding the City's water supply from Garden Creek. We have a water right for a full 79 inches and that is what we should be receiving. Please instruct your water master to cease diverting water to anyone else until our water right is met.

Attached you will find a list of water rights to assist you in assessing who has what rights and in what chronological order they are to legally receive water. Your assistance will be greatly appreciated.

Sincerely,



Catherine Becker
Mayor

enclosures

cc: Idaho Department of Water Resources
City Council
Dee Keppner, Water Master

Idaho Rural Water
Association

RECEIVED

MAR 23 2004

Department of Water Resources
Southern Region

Ms. Betty Horn, Clerk Treasurer
City of Challis
PO Box 587
Challis, Idaho 83226

Dear Ms Horn:

I take this opportunity to first congratulate the City of Challis for taking the initiative to develop a drinking water protection program in the effort to protect the quality and quantity of its drinking water. Idaho Rural Water Association looks forward to assisting you in this endeavor. You will be very pleased with Melinda Harper IRWA Drinking Water Protection Specialist. She will do a great job in assisting you.

Secondly as you progress throughout the process it is imperative that you establish a program that protects the public health of your citizens and visitors to Challis. Every avenue of potential contamination to the water supply of the city must be addressed. This will of course include either ground water or the surface water that you use from Garden Creek. Any potential contamination that affects the quality and or the quantities of these drinking water sources needs to be carefully addressed. This would include housing developments, septic draining and increased water usage from the sources that supply Challis.

Thirdly you have discussed with me the usage of water by a development in your area of impact. If indeed the user of this water is over taxing his wastewater capacity and the drain fields are in close proximity to your water drinking it is, as described a potential contamination to your system. In addition if the development is over extending its wastewater capacity I do not believe that that development can secure additional water usage until it can guarantee that it has the capacity to handle the wastewater. Regardless of the senior junior water rights issue I believe that potential contamination to your water system and the ensuing affect on the public health is an issue that must be taken into consideration. It is hoped that nothing will be decided until a total evaluation is made and the city has established its area of impact and has a protection program in place. If annexation into the city is a potential resolve to wastewater collection and treatment and supply of water that avenue needs to be addressed also.

IRWA is committed to working with you, the city of Challis and all interested parties to bring this protection area to an equitable resolve for all concerned.

Sincerely,



Don Munkers, CEO
Idaho Rural Water Association

Living Waters Ranch
Well #1 Meter Reading - 2003

RECEIVED
MAR 23 2004
Department of Water Resources
Southern Region

Jan 03	8478320 - 8329550 =	148,770 gal
Feb 03	8643160 - 8478320 =	164,840 gal
March 03	8802950 - 8643160 =	159,790 gal
April 03	8957150 - 8802950 =	154,200 gal
May 03	9150310 - 8957150 =	193,160 gal
June 03	9346000 - 9150310 =	195,690 gal
Total		1,016,450 gal

Living Waters Ranch
Well #1 Meter Readings – 2002

Jan 02	6679710 – 6543330 =	136,380 gal
Feb 02	6791760 – 6679710 =	112,050 gal
March 02	6833480 – 6791760 =	41,720 gal
April 02	7032680 – 6833480 =	199,200 gal
May 02	7191440 – 7032680 =	158,760 gal
June 02	7355470 – 7191440 =	164,030 gal
July 02	7531530 – 7355470 =	176,060 gal
Aug 02	7682910 – 7531530 =	151,380 gal
Sept 02	7837750 – 7682910 =	154,840 gal
Oct 02	7984640 – 7837750 =	146,890 gal
Nov 02	8157060 – 7984640 =	172,420 gal
Dec 02	8329550 – 8157066 =	172,484 gal
Total		1,786,214 gal

Living Waters Ranch
Well #1 Meter Readings – 2001

Jan 01	4887775 – 4784320 =	103,455 gal
Feb 01	5028050 – 4887775 =	140,275 gal
March 01	5171430 – 5028050 =	143,380 gal
April 01	5344270 – 5171430 =	172,840 gal
May 01	5474680 – 5344270 =	130,410 gal
June 01	5627520 – 5474680 =	152,840 gal
July 01	5825560 – 5627520 =	198,040 gal
Aug 01	6011100 – 5825560 =	185,540 gal
Sept 01	6137530 – 6011100 =	126,430 gal
Oct 01	6270290 – 6137530 =	132,760 gal
Nov 01	6432610 – 6270290 =	162,320 gal
Dec 01	6543330 – 6432610 =	110,720 gal
	Total	1,759,010 gal

RECEIVED
MAR 23 2004Department of Water Resources
Southern Region

WELCOME TO...

Living Waters Ranch

CONFERENCE AND RETREAT CENTER

- ▶ HOME
- ▶ ABOUT US
- ▶ RANCH FACILITIES
- ▶ RECREATION
- ▶ CAMP CUISINE
- ▶ RANCH RATES
- ▶ RESERVATIONS
- ▶ LOCATE US
- ▶ LWR NEWSLETTER
- ▶ LWR NEWSWIRE
- ▶ CONTACT US

Ranch Facilities



White Pine Chalet

2 Queen Bedrooms
1 Loft Bedroom w/5 twin beds



Hosanna House

Mini Lodge
with 8 bedrooms/ 8 baths



Blue Spruce & Evergreen Chalets

Upstairs:
2 Queen Bedrooms
Kitchen/Living Room/Bathroom



Blue Spruce & Evergreen Chalets

Downstairs:
1 Queen Bedroom
1 Bedroom w/2 sets of bunks

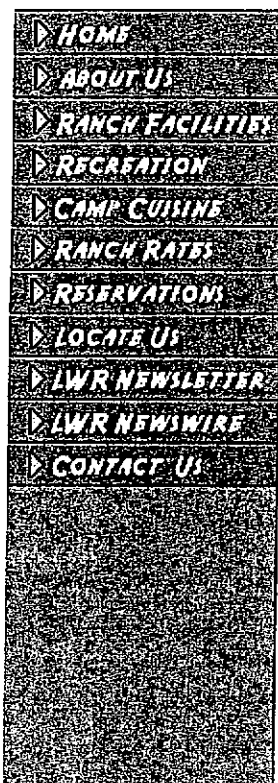


Motels

2 Twin Beds w/bath



Tent / RV Sites



WELCOME TO...



Living Waters Ranch

CONFERENCE AND RETREAT CENTER

About Us

Living Waters Ranch serves the Body of Christ offering a unique haven apart from the hustle and bustle of everyday life. This non-denominational Christian conference and retreat center is smoke and alcohol free and is well suited for individuals, families, and church groups. Small groups of church personnel can enjoy a planning retreat and large groups will find plenty of activities for all ages.

Christopher and Debbie James built Living Waters Ranch as a labor of love to God, and consider it a place of rest and restoration for the body and soul. They believe "God gave us our very best by giving us His Son and we, too, should give our very best." Living Waters Ranch is a first class conference and retreat center, but more importantly they believe the presence of the Holy Spirit will renew your spirit and give you new strength.

Living Waters Ranch is a fulfillment of the purpose of Firstfruits Foundation. Firstfruits Foundation had its conception in 1986. Its prime purpose is to promote the Gospel of Jesus Christ by assisting, encouraging, and empowering various faithful ministries. Part of its call is to provide a meeting and refreshment station for His ministries. Today that vision is being fulfilled in Living Waters Ranch.

Living Waters Ranch is located on 142 acres near Challis, Idaho. It runs 3/4 of a mile along Garden Creek surrounded by a beautiful mountain view. The ranch accommodates guests with a variety of sleeping and meeting facilities. Food service is available for groups of 25 or more. Smaller groups staying in Chalets or Hosanna House can do their own cooking in fully equipped kitchens.

The staff at Living Waters Ranch looks forward to ministering to as you "come apart" from your daily activities to better seek the Lord. Ministers and lay people alike will find opportunities for relaxation, enjoyment, fellowship and spiritual growth. For more information visit our website, or call reservations to reserve your spot on our calendar. A deposit is required with your reservation.

[Home](#) | [About Us](#) | [Ranch Facilities](#) | [Recreation](#) | [Camp Cuisine](#) | [Ranch Rates](#)
[Reservations](#) | [Locate Us](#) | [LWR Newsletter](#) | [LWR Newswire](#) | [Contact Us](#)

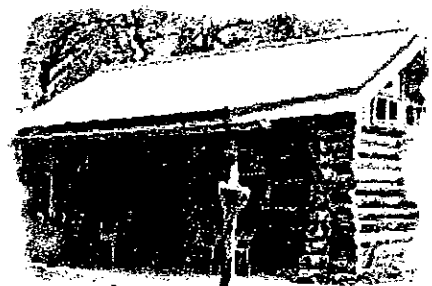
© 2002 Living Waters Ranch, Christopher and Debbie James

Bunk Facilities



Shiloh Lodge

Sleeps 50 in bunks



Ponderosa Log Cabin

2 Room Log Cabin

Sleeps 24 in bunks



**Appaloosa &
Bayhorse Bunk Houses**

2 rooms sleep 15 each



Eagle's Nest

Bunk Room sleeps 32

Meeting Rooms



Celebration Hall

Accommodates groups over 400



The Upper Room

Accommodates groups up to 75



Eagle's Nest



Stone Amphitheater

Accommodates groups under 50

Outdoor meeting area



Lion's Den
Recreation Room

[Home](#) | [About Us](#) | [Ranch Facilities](#) | [Recreation](#) | [Camp Cuisine](#) | [Ranch Rates](#)
[Reservations](#) | [Locate Us](#) | [LWR Newsletter](#) | [LWR Newswire](#) | [Contact Us](#)

© 2002 Living Waters Ranch, Christopher and Debbie James

Site developed by: [Brieanna Korb](#)

Living Waters Ranch Newsletter

12-2-03
Fall and Winter of 2003

Greetings from Living Waters Ranch and its staff from high-high in the central mountains of Idaho!

May the Presence of Jesus fill you fully. May the shaking of the world and the perilous times not cause you to break stride as you move forward to a closer relationship with the Lord. May you be firmly planted on the Rock of your Salvation. And in all things may Jesus be glorified.

Ranch Happenings

We have just finished our 2003 Season and God blessed us with a good increase. We are most grateful. More importantly the Presence of Holy Spirit is growing. Almost every time that Debbie and I introduce ourselves to our guests I tell them of how we have prepared in prayer for them. We pray for the Lord to move in their individual lives to heal and refresh and we pray for the groups to unite and bond. Holy Spirit is really answering those prayers. Holy Spirit is telling me that the prayers are cumulative. The Presence of the LORD is growing and we are more than grateful; we are awed.

We'd like to thank our excellent staff that has so well served our guests. Mark Bryan, our manager, has represented Christ excellently as he has unselfishly served all. His wife, Julie, performing an excellent job has headed up our house cleaning and backed up our cooking staff. Daughters, Alicia, Michelle, and Rebekah have done the laundry. From town Flo, Diane, and Victoria have handled the majority of the housecleaning with Julie. For your interest Mark, Julie, and their family have been here for 5 years as of this last August. Debbie has planned and delivered wonderful meals, besides answering our reservations line. Sharlene and Marsha have prepared the meals with excellence while praying joy and blessing into the food. Wayne has continued to head up our maintenance well with help from our chief landscaper, John. Aren't the grounds well-kept and the rooms clean? Alicia and Gary were part of John's landscaping team. Bob and Joanne have joined us the last 2 summers to help wherever needed. All in all the spirit of our staff is excellent and poised to serve our guests well for the coming year.

Hallelujah House, our second 8 bedroom, 8 bath mini-lodge opened in April. It seems our 2 mini-lodges are our most popular lodging facilities. They both have private bedrooms with their own baths opening into a large common room for living and dining. They are perfect for elders and pastors groups, family reunions, and the like. A good number of folks used our 1, 2, and 3 bedroom units in Trinity House. Our 3 bedroom A Frame, Mountain View, was well used. It is really beautiful with the vaulted ceilings and the windows looking west to the 10,000 foot mountains. The planned 14 unit Majestic View Motel was placed on hold until permitting issues can be resolved.

We have bookings from the end of January through the first weekend of March, but we have plenty of room to accommodate more. This would be a good time for smaller groups to schedule so we can cook for you. Our standard policy is to cook for groups of 25 or more, but we make exceptions for pastors and elders groups. There are still a few open weekends for the coming year where we could handle 200 to 300 people. There is often plenty of room for additional groups and/or individuals for the other dates. Call Debbie for the particulars. Our meeting rooms and capacity are: Celebration Hall - 500, the Upper Room - 75, and Eagle's Nest - 50. On one occasion we converted Shiloh's dining room into 110+ meeting room.

A point of prayer is that we are still wrestling with some government agencies. To insure best quality and quantity of waters we are planning to put in a 4,000+ feet of pipeline. We have had permit applications in with the Idaho Dept of Water Resources and BLM for over a year now. We are also working with Idaho Dept of Environmental Quality and District 7 Health to enhance and expand our septic system. A few people have protested our proposals, but LWR is well received in the community. Yours prayers for us are appreciated.

Enclosed is our new fee schedule. We are increasing the price/meal \$1, making it \$6, \$7, and \$9. Taxes will be extra - 6% sales tax plus 2% lodging tax. We have tried to be competitive in pricing with other conference and retreat centers, while providing quality facilities and food. We have kept a close ear to our guests comments. A great percentage of our guests say we don't charge enough. These rates will be in force for years 2004 and 2005. We again will finish the year expending more money than taking in. The margin has shrunk considerably.

A WORD for TODAY

Have you gone through some difficult times this year? Have you felt that you couldn't do anything right? Have you lost confidence in yourself? This is how I have felt. The Lord has shown me that He was using this for my good to help mature me and better prepare me as a clean vessel for His service.

Most all of us know the verse in James 1 that says, "Brethren, count it all joy when you fall into various trials, knowing that the testing of your faith produces patience. But let patience have its perfect work, that you be perfect and complete, lacking nothing."

At first I thought it was my age. I would forget where I had left things. Then I felt real confusion that my mind was spinning with no ability to quiet it down. There were attacks on the ranch claiming that we were or could pollute Challis' drinking water. There were extended delays with government agencies to permit us to put in a pipeline to insure quality waters coming to the ranch. After a year we still have no permit.

Finally a dear friend said, "Christopher I see you shackled on the ankles and wrists, but the Lord is soon to touch you." I wondered how could things get worse, then I realized that was where I was – I was already shackled.

This last week I heard Chuck Swindoll on the radio speaking that afflictions were not bad. The Lord uses all things for the good. He mentioned verses 67, 71, and 75 in Psalm 119. "It is good that I have been afflicted, that I may learn Your statutes." "...in faithfulness You have afflicted me." Hebrews 12 speaks of God chastening His real sons. Psalm 34 says twice that many are the afflictions of the righteous, but the Lord delivers us from them all.

He says, "Wait on the Lord and you will gain new (supernatural) strength." "Look up for deliverance is near." Dear friend, the Lord is in control. He is preparing us for His service. Be blessed in Jesus!

FUTURE CONFERENCES

May 28-31, 2004 We have no definite plans as of yet. Five and a half years ago we had Steve Thompson of MorningStar Ministries, David Alsobrook of SureWord Ministries, and David Demian of Watchman Int'l for a conference over Memorial Day weekend. I'm trying for a repeat.

June 17-20, 2004 Michael Schwartz and LWR are co-hosting a conference. Our confirmed speaker is David Ravenhill. We have invited Conrad Lampan, Sergio Scalacpini, and Archbishop Onuigbo. Conrad and Sergio were instrumental in the Argentine revival some 12-15 years ago. Archbishop Onuigbo and Conrad spoke at our Father's Heart Conference last year with phenomenal impact.

Call us at 208-879-2729 or email us at jameslwr@custertel.net for a brochure or visit our website, www.livingwatersranch.org.

Blessings to You All in Christ Jesus,

Christopher and Debbie James

$39,070 \div 5 \text{ days} = 7,814 \text{ gpd}$

$7,814 \div 200 \text{ people} = 39.07 \text{ gpperson}$

Protestants & Heretics, K

LIVING WATERS RANCH

P O Box 1190, Challis, ID 83226
Office 208-879-2888; fax 208-879-2182

400 people for 1 day = 39,070

in 15,880.00 gpd water

He does have holding tank for camping

Mark Dietrich

Division of Environmental Quality

900 North Skyline, Suite B

Idaho Falls, ID 83402-1718

RECEIVED
MAR 23 2004
Department of Water Resources
Southern Region

$39,070 = 12 \text{ days this would last}$

$39,070 \div 5 \text{ days} = 7,814 \text{ gpd}$

$200 \text{ people} \div 7,814 \text{ gpd} = 3.9 \text{ gpperson}$

August 1, 2000

Re: DEQ No. 98-3-19

Dear Mark,

an energy-save toilet uses 5.7 gpperson
SO NO ONE took a shower
" " DID ANY dishes even though 250 people ate 3 meals per day
NO one washed their HANDS or DRINK any water

21 months of data has been gathered so that there is a good amount of data to evaluate our water and septic system. The water usage was as follows:

PER DSHD LWR WAS NOT READING METER CORRECTLY BY DECEMBER 1999

November 1998 - 5,093 gals. 50,930
December 1998 - 15,578 gals. 155,780
January 1999 - 45,907 gals. 459,070
February 1999 - 49,848 gals.
March 1999 - 55,719 gals.
April 1999 - 6,424 gals.
May 1999 - 19,141 gals.
June 1999 - 8,792 gals.
July 1999 - 13,014 gals.
August 1999 - 11,809 gals.

September 1999 - 13,259 gals.
October 1999 - 10,668 gals.
November 1999 - 10,928 gals.
December 1999 - 12,309 gals.
January 2000 - 12,401 gals.
February 2000 - 15,373 gals.
March 2000 - 14,887 gals.
April 2000 - 13,943 gals.
May 2000 - 15,710 gals.
June 2000 - 14,432 gals.
July 2000 - 19,517 gals.

Should be
from daily
use 13 days -
NOT AVERAGE

11 per day # of guests x # of nights they stayed = camper days

$195,170 \div 31 \text{ days} = 6,295.8 \text{ gpd}$

is way over 2500 gpd need WAS IDEQ
should have required

The large usage of water from January 1999 through March 1999 was due to a leak in our water line that we identified and solved.

From July 12 to July 16 we had between 200 and 250 people at Living Waters Ranch for a large family camp. The number varied per night. We served 3 meals a day plus ran a snack shack in the evening. 200 of those people stayed at the ranch. We were filled to capacity. It included tent campers and RVers. Approximately 40 to 50 stayed in town. However, all the people ate with us and met in our large Celebration Hall. We used only 3,907 gals. of water for the 5 days and 4 nights. For July, the ranch used 19,517 gals. Our total camper days for the month of July were approximately 1440. In June our camper days were 800, whereas we used 14,432 gals. In any case the tables that show standard use of water were far from the actual fact for our facility.

if off by DEQ MINE
7440 x 135.5
give us # of people
camper
not days

$1440 \div 107 = 13.5 \text{ gpd per person}$

For the trailing 12 months, the ranch used 165,236 gals. of water for an average monthly use of 13,769 gals. 13,769 gals/month divided by 30 days equals 459 gals/day. A normal household can use up to 500 gals/day. Even if our business increased 10 fold, our daily use would be less than 5,000 gals/day.

We have kept the record for the septic system, but I am not able to glean a total or average daily gals. dosage figure. I don't believe we can measure it in gals. Nevertheless, I assume that our treated water being dosed into our leach field would be 80 or 90% of our water usage. In any case the septic system is rated up to 10 times the current usage.

Our 2 septic systems have worked wonderfully. We give thanks to Joe Chester and Jack Hammond. All the systems are working wonderfully.

Our request for a drilling permit was tabled due to the Idaho Supreme Court's ruling. Our drilling permit's request for 100 inches of water was only for refilling of our water tank in an emergency and to secure water from a deeper source which would have less impact on surface waters. Is there any reason that the permit cannot be revisited and issued? I will be writing separately to the IDWR on the matter. *Because we only need 13,000 gpd that is all that is allowed*

In summary, our water and septic systems are functioning well and afford the potential of increasing use with little impact to the Garden Creek watershed. Currently, our septic system is operating at less than 10% of our rated capacity. That is our daily use divided by our rated capacity (<459 gals/day divided by 5,000 gals/day). Our water system is withdrawing less than 4% of what we are allowed. That is our daily use divided by our allowed daily consumption (459 gals/day divided by 13,000 gals/day). Therefore, Living Waters Ranch's impact to the Garden Creek watershed is minimal. Living Waters Ranch operates more than 4,000 feet of frontage on Garden Creek and is currently dosing less than 500 gals/day into its leach fields.

Thank you for all your help in helping Living Waters Ranch to comply with the rules. Hopefully, our neighbors are appreciating the beauty of the facility and the detail to which we have gone to bless the ground and not foul it.

Yours Truly,

Christopher W. James, President of Living Waters Ranch, Inc.

Cc: Steve Adams, Norm Semanko, Charles Brockway, Paris Almond

LIVING WATERS RANCH

P O Box 1190, Challis, ID 83226

Office 208-879-2888; fax 208-879-2182

August 17, 2000

Charles G. Brockway
2016 N. Washington St., Ste. 4
Twin Falls, ID 83301

RE: Living Waters Ranch Drilling Permit No. 72-07562

Dear Charles,

Thank you for your letter. It made me rethink the numbers in what could have possibly caused the unusually low amount of water used for those 4 nights and 5 days, which really encompassed 4 – 24 hour periods.

The cause of the unusually low figure was the water tank's sensors for low and high water that can leave as much as 4,000 gallons disparity. Our measuring before the group's arrival must have happened right after the tank called for filling. And the measuring after the group must have happened before the sensor called for pumping. I believe that caused the unusually low figure.

The water usage for the trailing 12 months could only be mistaken up to 4,000 gallons. That still would only affect the daily use a little, giving us an average of still less than 500 gallons/day.

Thank you again for your help.

Yours Truly,

Christopher James, Living Waters Ranch

Cc: Mark Dietrich, Allen Merritt.

PROTESTANT OFFICIAL: L

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

RECEIVED
MAR 23 2004
Department of Water Resources
Southern Region

1. Name: FIRSTFRUITS FOUNDATION
PO BOX 510
CHALLIS ID 83226
(208)879-4560

CHRISTOPHER W JAMES TRUST
CHRISTOPHER JAMES TRUSTEE
PO BOX 510
CHALLIS ID 83226
(208)879-4560

2. Source: GROUND WATER

3. Location of Point of Diversion:

#1 GROUND WATER
CUSTER County

NW1/4SE1/4

Sec. 3, Twp 13N, Rge 18E, B.M.

4. Water will be used for the following purposes:

<u>Purpose</u>	<u>From</u>	<u>To</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01	to 12/31	0.20 CFS	
COMMERCIAL	01/01	to 12/31	0.20 CFS	

5. Total quantity to be appropriated is: 0.20 CFS

6. Proposed diverting works:

POINT OF DIVERSION #1

a. Type and size of devices used to divert water from the source: EXISTING ARTESIAN WELL, CONTROLLING WORKS & BURIED PIPELINE TO BE INSTALLED, LINE 0.8 MI LONG TO CHURCH CAMP

- 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? NO

- e. If well is already drilled, when? _____ 1964 _____;
Drilling Firm _____ Domestic Power Corp. _____;
Drilling Permit No. _____.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

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

8.

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13N 18E 2		X			X	X	X	X									
		L 2			L 3	L 4											
14N 18E 35															X		

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	
13N 18E 2						X											
						L 4											

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

Point of Diversion #1: BUREAU OF LAND MANAGEMENT - annual lease of well site

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:

Firstfruits Foundation is a non-profit organization under federal law. The camp serves various denominations as a conference center and retreat.

If it appears feasible, water may be sold for commercial resale; we are filing for commercial use at this time to cover future possibilities.

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

Christopher W. James, Trustee
Christopher W. James, Trustee
Christopher W. James Trust

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

Received by JS Date 10-15-02 Time 2pm Preliminary check by _____
Publication prepared by _____ Date _____ Published in _____
Publication approved _____ Date _____

Receipt No. 5025267 + 25270

Date: 10-15-02

Received by: JS

20'

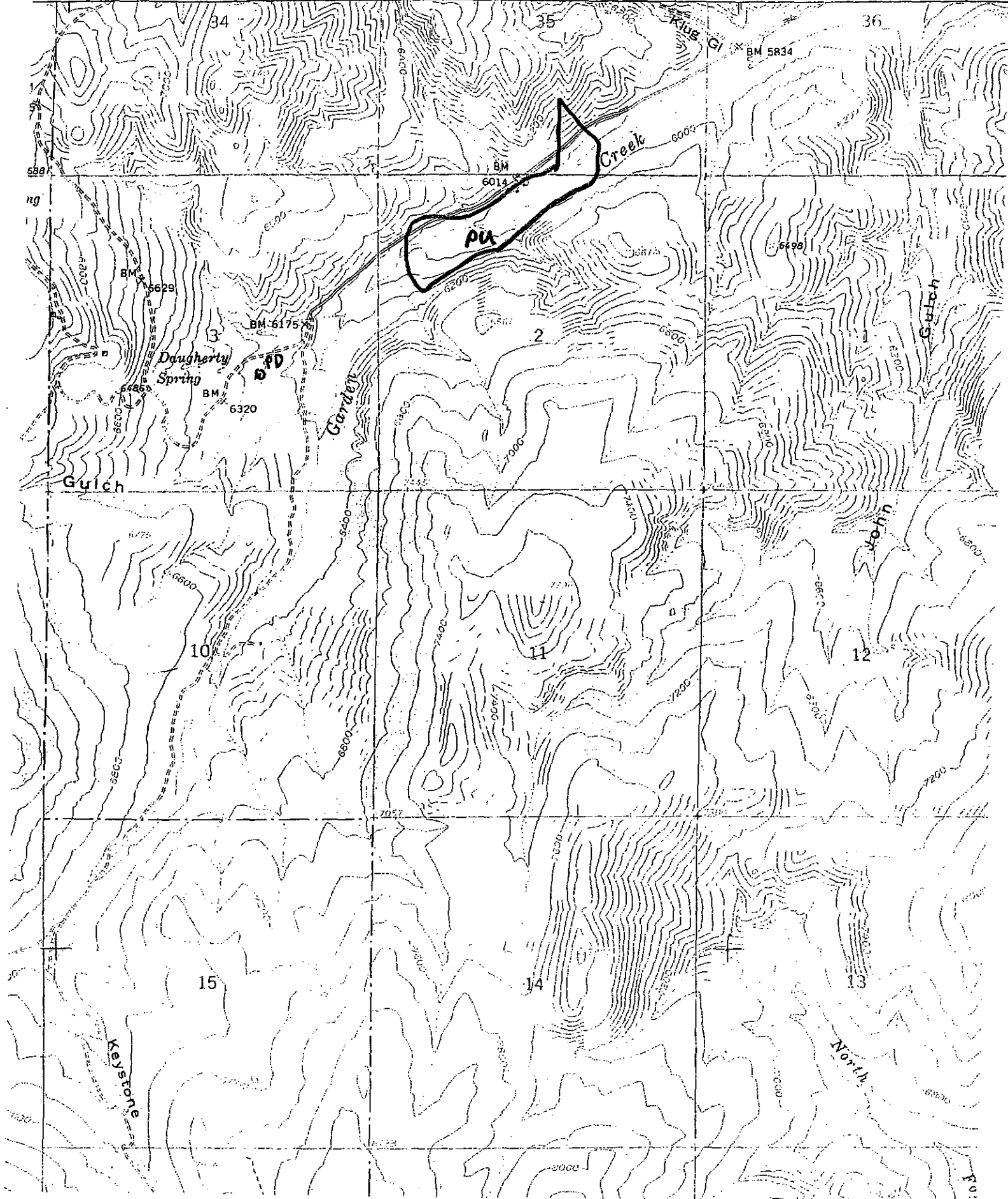
13

3173 III
(TWIN PEAKS 1:62 500)

15 17'30"

CHALLIS 3 MI.

R.18





State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK CUMPTHORNE
GovernorKARL J. BREWER
Director

July 21, 2003

Christopher James
PO Box 510
Challis ID 83228

RE: Application Permit 12-10024-100 Letter Dated 11-14-2002

Dear Mr. James:

You have not responded to my letter of July 11, in which I sent you a corrected application for permit signature. I also received a letter from the Director of Land Management on July 11, 2003, advising you to stop the use of this property. Please submit these documents by September 8, or your application will be recommended for denial. A final copy of the corrected application is enclosed for your use.

Respectfully,

James E. Shannon
S. Water Resources Advisor

RECEIVED

MAR 23 2004

Department of Water Resources
Southern Region

Living Waters Ranch
Phase I Sewer System Log

DATE	INVERT ELEVATION	ELAPSED TIME METER	HIGH LEVEL ALARM	INIT.	COMMENTS
2-10-03	1. 001673	0021732			
2-10	2. 001708	0024275	000082	W/K.	
2-13	1. 001681	0021849			
2-13	2. 001715	0024375	000082	W/K.	
2-17	1. 001686	0021924			
2-17	2. 001720	0024450	000082	W/K.	
2-20	1. 001693	0022023			
2-20	2. 001728	0024569	000082	W/K.	
2-27	1. 001708	0022244			
2-27	2. 001742	0024777	000082	W/K.	
2-27	1. 001720	0022416			
2-27	2. 001754	0024956	000082	W/K.	
2-27	1. 001727	0022517			
2-27	2. 001761	0025060	000082	W/K.	
2-27	1. 001740	0022702			
2-27	2. 001774	0025253	000082	W/K.	
2-27	1. 001761	0023015			
2-27	2. 001796	0025580	000082	W/K.	
2-27	1. 001764	0023056			
2-27	2. 001798	0025610	000082	W/K.	
2-27	1. 001773	0023189			
2-27	2. 001808	0025759	000082	W/K.	
2-27	1. 001786	0023383			
2-27	2. 001821	0025952	000082	W/K.	
2-27	1. 001792	0023464			
2-27	2. 001827	0026032	000082	W/K.	
2-27	1. 001797	0023535			
2-27	2. 001832	0026101	000082	W/K.	
2-27	1. 001800	0023580			
2-27	2. 001834	0026130	000082	W/K.	
2-27	1. 001802	0023609			
2-27	2. 001837	0026166	000082	W/K.	
2-27	1. 001806	0023667			
2-27	2. 001840	0026204	000082	W/K.	
2-27	1. 001808	0023696			
2-27	2. 001843	0026242	000082	W/K.	

Living Waters Ranch Phase I Sewer System Log

DATE	INVERT COUNT	ELAPSED TIME METER	HIGH LEVEL ALARM	INIT.	COMMENTS
(2) 4-13					
4-14	1. 001816 2. 001851	0023816 0026361	000082	WIK	
4-21	1. 001823 2. 001857	0023919 0026450	000082	WIK	
4-25	1. 001826 2. 001860	0023961 0026495	000082	WIK	
4-28	1. 001833 2. 001867	0024062 0026599	000082	WIK	
5-2	1. 001837 2. 001872	0024121 0026671	000082	WIK	
5-5	1. 001845 2. 001880	0024240 0026790	000082	WIK	
5-9	1. 001854 2. 001888	0024367 0026909	000082	WIK	
5-17	1. 001856 2. 001891	0024397 0026951	000082	WIK	
5-21	1. 001858 2. 001902	0024563 0027114	000082	WIK	
5-29	1. 001875 2. 001910	0024667 0027224	000082	WIK	
5-23	1. 001879 2. 001913	0024723 0027269	000082	WIK	
5-26	1. 001888 2. 001922	0024856 0027402	000082	WIK	
5-30	1. 001890 2. 001924	0024884 0027432	000082	WIK	
6-2	1. 001892 2. 001927	0024913 0027471	000082	WIK	
6-5	1. 001895 2. 001929	0024956 0027500	000082	WIK	
6-9	1. 001906 2. 001940	0025116 0027663	000082	WIK	
6-16	1. 001917 2. 001952	0025279 0027816	000082	WIK	
6-20	1. 001924 2. 001959	0025378 0027911	000082	WIK	

Living Waters Ranch
Phase I Sewer System Log

DATE	EVENT COUNTER	ELAPSED TIME METER	HIGH LEVEL ALARM	INIT.	COMMENTS
(2003)	1. 001934	0025525			
6-23	2. 001918	0028045	000082	WIK	
	1. 001945	0025688			
6-27	2. 001980	0028222	000082	WIK	
	1. 001954	0025821			
6-30	2. 001988	0028341	000082	WIK	
	1. 001964	0025969			
7-2	2. 001998	0028489	000082	WIK	
	1. 001971	0026073			
7-7	2. 002006	0028602	000082	WIK	
	1. 001984	0026265			
7-11	2. 002018	0028780	000082	WIK	
	1. 001993	0026028			
7-14	2. 002039	0028928	000082	WIK	
	1. 002000	0026034			
7-16	2. 002050	0029017	000082	WIK	
	1. 002014	0026708			
7-21	2. 002048	0029224	000082	WIK	
	1. 002025	0026871			
7-25	2. 002059	0029381	000082	WIK	
	1. 002032	0026974			
7-28	2. 002066	0029484	000082	WIK	
	1. 002044	0027152			
7-31	2. 002078	0029662	000082	WIK	
	1. 002053	0027995			
8-4	2. 002087	0029795	000082	WIK	
	1. 002059	0027366			
8-7	2. 002092	0029869	000082	WIK	
	1.				
	2.		000082	WIK	
	1.				
	2.		000082	WIK	
	1.				
	2.		000082	WIK	
	1.				
	2.		000082	WIK	

Living Waters Ranch
Phase 1 Wastewater System – 2002

Jan 02	Pump #1	14600 – 14372 =	228 min
	Pump #2	17136 – 16891 =	<u>245 min</u>
	(1/5 – 2/2) 29 Days		473 min @ 41 gpm = 19,393 gal 668 gpd
Feb 02	Pump #1	14875 – 14600 =	275 min
	Pump #2	17427 – 17136 =	<u>291 min</u>
	(2/2 – 2/28) 26 Days		566 min @ 41 gpm = 23,206 gal 892 gpd
March 02 and April 02	Pump #1	15543 – 14875 =	668 min
	Pump #2	18063 – 17427 =	<u>636 min</u>
	(2/28 – 4/29) 61 Days		1,304 min @ 41 gpm = 53,464 gal 876 gpd
May 02	Pump #1	16310 – 15543 =	767 min
	Pump #2	18799 – 18063 =	<u>736 min</u>
	(4/29 – 5/27) 28 Days		1,503 min. @ 41 gpm = 61,623 gal 2,200 gpd
June 02	Pump #1	17380 – 16310 =	1,070 min
	Pump #2	19881 – 18799 =	<u>1,082 min</u>
	(5/27 – 6/28) 31 Days		2,152 min @ 41 gpm = 88,232 gal 2,846 gpd
July 02	Pump #1	18706 – 17380 =	1,326 min
	Pump #2	21174 – 19881 =	<u>1,293 min</u>
	(6/28 – 7/29) 31 Days		2,619 min @ 41 gpm = 107,379 gal 3,463 gpd
Aug 02	Pump #1	19344 – 18706 =	638 min
	Pump #2	21814 – 21174 =	<u>640 min</u>
	(7/29 – 8/30) 31 Days		1,278 min @ 41 gpm = 52,398 gal 1,690 gpd

Sept. 02	Pump #1	20070 - 19344 =	726 min
	Pump #2	22582 - 21841 =	<u>741 min</u>
	(8/30 - 9/30) 31 Days		1,467 min @ 41 gpm = 60,147 gal 1,940 gpd
Oct 02	Pump #1	20809 - 20070 =	739 min
	Pump #2	23345 - 22582 =	<u>763 min</u>
	(9/30 - 11/1) 33 Days		1,502 min @ 41 gpm = 61,582 gal 1,924 gpd
Nov 02	Pump #1	21343 - 20809 =	534 min
	Pump #2	23862 - 23345 =	<u>517 min</u>
	(11/1 - 11/25) 24 Days		1,051 min @ 41 gpm = 43,091 gal 1,795 gpd
Dec 02	Pump #1	21617 - 21343 =	274 min
	Pump #2	24141 - 23862 =	<u>279 min</u>
	(11/25 - 12/30) 35 Days		553 min @ 41 gpm = 22,673 gal 647 gpd

142 802 2002

Living Waters Ranch Phase I Sewer System Log

DATE	EVENT COUNTER	ELAPSED TIME METER	HIGH LEVEL ALARM	INIT.	COMMENTS
2/20	1. 001134	0014372			
1/5	2. 001139	0016891	000059	R.B.	
	1. 001177	0014510			
1/21	2. 001169	0017056	000064	RB	
	1. 001183	0014600			
2/21	2. 001175	0017136	000064	RB	
	1. 001276	0015256			
2/19	2. 000170	0000233	000064	RB	
	1. 001200	0014830			
2/26	2. 001191	0014888	000064	RB	
	1. 001203	0014976			
2/28	2. 001195	0017427	000064	RB	
	1. 001211	0014976			
3/1	2. 001203	0017544	000064	RB	
	1. 001234	0015292			
4/18	2. 001234	0017839	000064	WIK	(NEW EMPLOYEE)
	1. 001241	0015394			
4/22	2. 001230	0017928	000064	WIK	
	1. 001242	0015408			
4/24	2. 001231	0017943	000064	WIK	
	1. 001251	0015543			
4/29	2. 001239	0018063	000064	WIK	
	1. 001256	0015678			
5/3	2. 001245	0018151	000064	WIK	
	1. 001264	0015738			
5/6	2. 001253	0018270	000064	WIK	
	1. 001266	0015770			
5/9	2. 001254	0018285	000064	WIK	
	1. 001276	0015970			
5/12	2. 001267	0018478	000064	WIK	
	1. 001293	0016074			
5/16	2. 001272	0018553	000064	WIK	
	1. 001292	0016209			
5/20	2. 001282	0018692	000064	WIK	
	1. 001296	0016265			
5/24	2. 001333	0018758	000084	WIK	

Living Waters Ranch Phase I Sewer System Log

DATE	INVENT COUNTNER	ELAPSED TIME METER	HIGH LEVEL ALARM	INIT.	COMMENTS
2/20/01	1. 001299	0016310			
5/27	2. 001336	0018799	000074	W/K	
	1. 001303	0016369			
6/3	2. 001340	0018853	000082	W/K	
	1. 001324	0016373			
6/7	2. 001342	0018859	000082	W/K	
	1. 001315	0016536			
6/10	2. 001353	0019022	000082	W/K	
	1. 001341	0016907			
6/13	2. 001378	0019394	000082	W/K	
	1. 001356	0017055			
6/21	2. 001378	0019540	000082	W/K	
	1. 001360	0017188			
6/24	2. 001397	0019673	000082	W/K	
	1. 001373	0017380			
6/28	2. 001411	0019881	000082	W/K	
	1. 001392	0017514			
7/1	2. 001419	0019999	000082	W/K	
	1. 001393	0017677			
7/8	2. 001431	0020168	000082	W/K	
~~7/11~~	~~1. 001411~~	~~0019881~~	~~000082~~	~~W/K~~	
~~7/11~~	~~2. 001411~~	~~0019881~~	~~000082~~	~~W/K~~	
7/15	1. 001415	0018002			
	2. 001452	0020479	000082	W/K	
	1. 001437	0018328			
7/22	2. 001474	0020805	000082	W/K	
	1. 001452	0018617			
7/26	2. 001488	0021089	000082	W/K	Lot of water run in and pumped out for test - Night before
	1. 001458	0018706			
7/29	2. 001494	0021174	000082	W/K	
	1. 001468	0018054			
8/2	2. 001503	0021307	000082	W/K	
	1. 001475	0018957			
8/5	2. 001511	0021425	000082	W/K	
	1. 001479	0019007			
8/9	2. 001514	0021461	000082	W/K	

2002
**Living Waters Ranch
Phase I Sewer System Log**

DATE	INVENT COUNTER	ELAPSED TIME METER	HIGH LEVEL ALARM	INIT.	COMMENTS
2002					
8/12	1. 001481	0019036			
	2. 001577	0021501	000082	WIK	
8/15	1. 001484	0019081			
	2. 001520	0021537	000082	WIK	
8/19	1. 001493	0019205			
	2. 001528	0021656	000082	WIK	
8/26	1. 001499	0019283			
	2. 001534	0021745	000082	WIK	
8/30	1. 001504	0019344			
	2. 001539	0021814	000082	WIK	
9/1	1. 001507	0019389			
	2. 001543	0021871	000082	WIK	
9/6	1. 001512	0019463			
	2. 001548	0021945	000082	WIK	
9/9	1. 001519	0019561			
	2. 001553	0022019	000082	WIK	
9/13	1. 001525	0019684			
	2. 001562	0022153	000082	WIK	
9/18	1. 001536	0019795			
	2. 001570	0022271	000082	WIK	
9/20	1. 001539	0019827			
	2. 001573	0022316	000082	WIK	
9/23	1. 001545	0019916			
	2. 001579	0022404	000082	WIK	
9/27	1. 001547	0019937			
	2. 001581	0022434	000082	WIK	
9/30	1. 001556	0020070			
	2. 001591	0022582	000082	WIK	
10/4	1. 001566	0020217			
	2. 001600	0022666	000082	WIK	
10/9	1. 001578	0020395			
	2. 001613	0022909	000082	WIK	
10/11	1. 001579	00204109			
	2. 001614	0022916	000082	WIK	
10/14	1. 001586	0020513			
	2. 001621	0023020	000082	WIK	

Living Waters Ranch **Phase I Sewer System Log**

DATE	EVENT COUNTER	ELAPSED TIME METER	HIGH LEVEL ALARM	INIT.	COMMENTS
2002					
10/18	1. 001594	0020625			
	2. 001628	0023124	000082	WIC	
10/21	1. 001597	0020662			
	2. 001631	0023168	000082	WIC	
10/25	1. 001601	0020711			
	2. 001635	0023228	000082	WIC	
11/1	1. 001608	0020809			
	2. 001643	0023345	000082	WIC	
11/4	1. 001616	0020927			
	2. 001651	0023460	000082	WIC	
11/8	1. 001618	0020957			
	2. 001653	0023481	000082	WIC	
11/11	1. 001621	0021001			
	2. 001655	0023511	000082	WIC	
11/18	1. 001631	0021149			
	2. 001665	0023656	000082	WIC	
11/25	1. 001638	0021343			
	2. 001670	0023862	000082	WIC	
12/2	1. 001649	0021409			
	2. 001684	0023927	000082	WIC	
12/9	1. 001652	0021450			
	2. 001686	0023957	000082	WIC	
12/11	1. 001654	0021480			
	2. 001689	0023992	000082	WIC	
12/22	1. 001660	0021551			
	2. 001694	0024066	000082	WIC	
12/30	1. 001665	0021617			
	2. 001699	0024141	000082	WIC	
	1.				
	2.				
	1.				
	2.				
	1.				
	2.				
	1.				
	2.				

Living Waters Ranch
Phase 2 Wastewater System – 2003

1/03	Pump #1	19249 - 19060 =	189 min
	Pump #2	2164 - 1974 =	<u>190 min</u>
	(12/30/02 - 1/27/03) 28 Days		379 min @ 40 gpm = 15,160 gal 541 gpd
2/03	Pump #1	19403 - 19249 =	154 min
	Pump #2	2321 - 2164 =	<u>157 min</u>
	(1/27 - 2/27) 31 Days		311 min @ 40 gpm = 12,440 gal 401 gpd
3/03	Pump #1	19521 - 19403 =	118 min
	Pump #2	2440 - 2321 =	<u>119 min</u>
	(2/27 - 3/28) 29 Days		237 min @ 40 gpm = 9,480 gal 326 gpd
4/03	Pump #1	19807 - 19521 =	286 min
	Pump #2	2724 - 2440 =	<u>284 min</u>
	(3/28 - 4/29) 32 Days		570 min @ 40 gpm = 22,800 gal 712 gpd
5/03	Pump #1	20201 - 19807 =	394 min
	Pump #2	3119 - 2724 =	<u>395 min</u>
	(4/29 - 5/30) 31 Days		789 min @ 40 gpm = 31,560 gal 1,018 gpd
6/03	Pump #1	20630 - 20201 =	429 min
	Pump #2	3549 - 3119 =	<u>430 min</u>
	(5/30 - 6/30) 31 Days		859 min @ 40 gpm = 34,360 gal 1,108 gpd

Living Waters Ranch **Phase II Sewer System Log**

DATE	EVENT NUMBER	ELAPSED TIME METER	HIGH LEVEL ALARM	INT.	COMMENTS
(2003)	1. 014094	0019085			
1-6	1. 014145	0002000	000044	WLC	
	1. 014125	0019113			
1-13	1. 014165	0002027	000044	WLC	
	1. 014124	0019138			
1-17	1. 014154	0002053	000044	WLC	
	1. 014117	0019195			
1-20	1. 014138	0002112	000044	WLC	
	1. 014207	0019249			
1-27	1. 014567	0002164	000044	WLC	
	1. 014235	0019287			
2-6	1. 014596	0002203	000044	WLC	
	1. 014235	0019327			
2-10	2. 014627	0002244	000044	WLC	
	1. 014284	0019352			
2-17	2. 014646	0002270	000044	WLC	
	1. 014302	0019376			
2-24	2. 014664	0002294	000044	WLC	
	1. 014322	0019403			
2-27	2. 014684	0002321	000044	WLC	
	1. 014343	0019431			
3-3	2. 014701	0002350	000044	WLC	
	1. 014362	0019457			
3-10	2. 014725	0002376	000044	WLC	
	1. 014382	0019483			
3-17	2. 014744	0002401	000044	WLC	
	1. 014401	0019509			
3-24	2. 014763	0002427	000044	WLC	
	1. 014410	0019521			
3-28	2. 014773	0002440	000044	WLC	
	1. 014439	0019560			
4-1	2. 014802	0002479	000044	WLC	
	1. 014477	0019611			
4-7	2. 014840	0002530	000044	WLC	
	1. 014496	0019636			
4-11	2. 014859	0002555	000044	WLC	

**Living Waters Ranch
Phase II Sewer System Log**

DATE	EVENT COUNTER	ELAPSED TIME METER	HIGH LEVEL ALARM	INT.	COMMENTS
(2003)					
4-14	1. 014511	0019657			
	2. 011823	0002574	000044	WIC	
4-21	1. 014535	0019689			
	2. 001898	0002607	000044	WIC	
4-25	1. 014535	0019689			
	2. 001898	0002607	000044	WIC	
5-2	1. 014623	0019807			
	2. 011915	0002724	000044	WIC	
5-2	1. 014642	0019833			
	2. 0022005	0002750	000044	WIC	
5-5	1. 014711	0079926			
	2. 002074	0002843	000044	WIC	
5-9	1. 014721	0020018			
	2. 002144	0002937	000044	WIC	
5-12	1. 014820	0020044			
	2. 002163	0002963	000044	WIC	
5-14	1. 014834	0020090			
	2. 002197	0003008	000044	WIC	
5-19	1. 014878	0020148			
	2. 002240	0003066	000044	WIC	
5-23	1. 014896	0020172			
	2. 002258	0003090	000044	WIC	
5-26	1. 014918	0020201			
	2. 002280X	0003119	000044	WIC	
5-30	1. 014918	0020201			
	2. 002286	0003119	000044	WIC	
6-2	1. 014938	0020228			
	2. 002301	0003146	000044	WIC	
6-5	1. 014938	0020228			
	2. 002301	0003146	000044	WIC	
6-9	1. 015258	0020389			
	2. 002421	0003308	000044	WIC	
6-16	1. 015152	0020515			
	2. 002515	0003434	000044	WIC	
6-20	1. 015152	0020515			
	2. 002515	0003434	000044	WIC	

**Living Waters Ranch
Phase II Sewer System Log**

DATE	EVENT COUNTER	ELAPSED TIME METER	HIGH LEVEL ALARM	INIT.	COMMENTS
(2003)	1. 015171	0020541			
6-23	2. 002535	0003460	000044	WIK	
	1. 015195	0020573			
6-27	2. 002559	0003493	000044	WIK	
	1. 015238	0020630			
6-30	2. 002601	0003549	000044	WIK	
	1. 015262	0020662			
7-3	2. 002626	0003582	000044	WIK	
	1. 015289	0020699			
7-7	2. 002652	0003617	000044	WIK	
	1. 015310	0020726			
7-11	2. 002672	0003644	000044	WIK	
	1. 015329	0020691			
7-14	2. 0020751	0003669	000044	WIK	
	1. 015329	0020691			
7-16	2. 0020751	0003669	000044	WIK	
	1. 015384	0020824			
7-21	2. 002745	0003742	000044	WIK	
	1. 015401	0020846			
7-25	2. 002762	0003764	000044	WIK	
	1. 015442	0020900			
7-28	2. 002803	0003819	000044	WIK	
	1. 015474	0020943			
7-31	2. 002825	0003864	000044	WIK	
	1. 015492	0020967			
8-4	2. 002853	0003887	000044	WIK	
	1. 015492	0020967			
8-7	2. 002853	0003887	000044	WIK	
	1.				
	2.		000044	WIK	
	1.				
	2.		000044	WIK	
	1.				
	2.		000044	WIK	
	1.				
	2.		000044	WIK	

Living Waters Ranch
Phase 2 Wastewater System – 2002

Jan 02	Pump #1	15055 – 14910 =	145 min
	Pump #2	233 – 233 =	<u>0 min</u>
	(1/5 – 2/2) 28 Days		145 min @ 40 gpm = 5,800 gal 207 gpd
Feb 02	Pump #1	15379 – 15055 =	324 min
	Pump #2	233 – 233 =	<u>0 min</u>
	(2/2 – 2/28) 26 Days		324 min @ 40 gpm = 12,960 gal 498 gpd
March 02	Pump #1	15978 – 15379 =	599 min
And	Pump #2	233 – 233 =	<u>0 min</u>
April 02	(2/28 – 4/29) 60 Days		599 min @ 40 gpm = 23,960 gal 399 gpd
May 02	Pump #1	16496 – 15978 =	518 min
	Pump #2	234 – 233 =	<u>1 min</u>
	(4/29 – 5/27) 28 Days		519 min @ 40 gpm = 20,760 gal 741 gal
June 02	Pump #1	17348 – 16496 =	852 min
	Pump #2	260 – 233 =	<u>27 min</u>
	(5/27 – 6/28) 32 Days		879 min @ 40 gpm = 35,160 gal 1,098 gpd
July 02	Pump #1	17789 – 17348 =	441 min
	Pump #2	700 – 260 =	<u>440 min</u>
	(6/28 – 7/29) 31 Days		881 min @ 40 gpm = 35,240 gal 1,136 gpd
Aug 02	Pump #1	17945 – 17789 =	156 min
	Pump #2	857 – 700 =	<u>157 min</u>
	(7/29 – 8/30) 32 Days		313 min @ 40 gpm = 12,520 gal 391 gpd

Sept 02	Pump #1	18355 - 17945 =	410 min
	Pump #2	1268 - 857 =	<u>411 min</u>
	(8/30 - 9/30) 31 Days		821 min @ 40 gpm = 32,840 gal 1,059 gpd
Oct 02	Pump #1	18699 - 18355 =	344 min
	Pump #2	1612 - 1268 =	<u>344 min</u>
	(9/30 - 11/1) 31 Days		688 min @ 40 gpm = 27,520 gal 887 gpd
Nov 02	Pump #1	18982 - 18699 =	283 min
	Pump #2	1897 - 1612 =	<u>285 min</u>
	(11/1 - 11/25) 24 Days		568 min @ 40 gpm = 22,720 gal 946 gpd
Dec 02	Pump #1	19060 - 18982 =	78 min
	Pump #2	1974 - 1897 =	<u>77 min</u>
	(11/25 - 12/30) 35 Days		155 min @ 40 gpm = 6,200 gal 40 gpd

Living Waters Ranch Phase II Sewer System Log

DATE	EVENT COUNTER	ELAPSED TIME METER	HIGH LEVEL ALARM	INIT.	COMMENTS
2/20/1					
1/2	1 011017	0014910			
	2 022120	0020233	000041	RB	
1/21	1 011056	0014926			
	2 020170	0000233	000041	RB	
2/11	1 011126	0015055			
	2 020170	0000233	000041	RB	
2/17	1 021197	0014794			
	2 021198	0017323	000041	RB	
2/26	1 021316	0015310			
	2 020170	0000233	000041	RB	
2/28	1 021347	0015379			
	2 020170	0000233	000041	RB	
3/11	1 011407	0015432			
	2 020170	0000233	000041	RB	
4/13	1 001570	0015680			
	2 020170	0000233	000041	WIK	
4/22	1 011636	0015738			
	2 020170	0000233	000041	WIK	
4/26	1 011639	0015742			
	2 020170	0000233	000041	WIK	
4/29	1 011814	0015978			
	2 020170	0000233	000041	WIK	
5/3	1 011814	0015978			
	2 020170	0000233	000041	WIK	
5/11	1 011980	0016201			
	2 020170	0000233	000041	WIK	
5/14	1 011985	0016208			
	2 020170	0000233	000041	WIK	
5/13	1 012072	0016324			
	2 020170	0000233	000041	WIK	
5/15	1 012146	0016424			
	2 020170	0000233	000041	WIK	
5/20	1 012146	0016424			
	2 020170	0000233	000041	WIK	
5/24	1 012200	0016496			
	2 020177	0000234	000044	WIK	

Living Waters Ranch Phase II Sewer System Log

DATE	INVERT ELEVATION	ELAPSED TIME METER	HIGH LEVEL ALARM	INIT.	COMMENTS
2/2/2	1. 012200	0016496			
5/37	2. 012207	0000234	000044	WIK	
	1. 012240	0016550			
6/3	2. 012217	0000234	000044	WIK	
	1. 012286	0016603			
6/7	2. 012277	0000234	000044	WIK	
	1. 0122450	00176831			
6/11	2. 012277	0000234	000044	WIK	
	1. 012286	0017283			
6/11	2. 012277	0000234	000044	WIK	
	1. 0122818	0017323			
6/21	2. 012279	0000235	000044	WIK	
	1. 0122818	0017323			
6/24	2. 012279	0000235	000044	WIK	
	1. 012273	000198			
6/28	2. 012279	0000260	000044	WIK	
	1. 012272	0017395			
7/1	2. 012233	0000307	000044	WIK	
	1. 012289	0017418			
7/3	2. 012250	0000329	000044	WIK	
7/15	1. 012928	0017469			
	2. 012289	0000381	000044	WIK.	
7/22	1. 013028	0017602			
	2. 012289	0000515	000044	WIK	
7/26	1. 013052	0017634			
	2. 012412	0000546	000044	WIK.	water ~~dumped~~ pumped
7/29	1. 013143	0017789			
	2. 012503	0000700	000044	WIK	water dumped in and pumps checked Night before
8/2	1. 013194	0017857			
	2. 012556	0020771	000044	WIK	
8/5	1. 013217	0017887			
	2. 012578	0020801	000044	WIK.	
8/9	1. 013217	0017887			
	2. 012578	0020801	000044	WIK.	

**Living Waters Ranch
Phase II Sewer System Log**

DATE	INVERT COUNT	ELAPSED TIME METER	HIGH LEVEL ALARM	INIT.	COMMENTS
8/12	1. 013717	0017887			
	2. 000578	0000801	000044	WIK	
8/15	1. 013217	0017887			
	2. 000578	0000801	000044	WIK	
8/17	1. 013317	0017887			
	2. 000578	0000801	000044	WIK	
8/26	1. 013217	0017887			
	2. 000578	0000801	000044	WIK	
8/30	1. 013234	0017945			
	2. 000594	0000857	000044	WIK	
9/2	1. 013347	0018097			
	2. 000707	0001009	000044	WIK	
9/11	1. 013347	0018097			
	2. 000707	0001009	000044	WIK	
9/19	1. 013335	0018121			
	2. 000724	0001032	000044	WIK	
9/23	1. 013384	0018146			
	2. 000744	0001059	000044	WIK	
9/26	1. 013405	0018174			
	2. 000764	0001086	000044	WIK	
9/28	1. 013405	0018174			
	2. 000764	0001086	000044	WIK	
9/30	1. 013474	0018267			
	2. 000834	0001180	000044	WIK	
9/27	1. 013492	0018291			
	2. 000851	0001203	000044	WIK	
9/30	1. 013540	0018355			
	2. 000849	0001268	000044	WIK	
10/4	1. 013537	0018378			
	2. 000917	0001291	000044	WIK	
10/9	1. 013548	0018433			
	2. 000958	0001346	000044	WIK	
10/11	1. 013619	0018462			
	2. 000979	0001374	000044	WIK	
10/14	1. 013697	0018566			
	2. 001057	0001479	000044	WIK	

Living Waters Ranch **Phase I Sewer System Log**

DATE	EVENT NUMBER	ELAPSED TIME METER	HIGH LEVEL ALARM	INT.	COMMENTS
2002					
10/18	1. 013703	0018574			
	2. 021043	0001487	000044	W.K.	
10/21	1. 013759	0018649			
	2. 021119	0001563	000044	W.K.	
10/25	1. 013776	0018672			
	2. 021137	0001587	000044	W.K.	
11/1	1. 013796	0018699			
	2. 021156	0001612	000044	W.K.	
11/3	1. 013841	0018759			
	2. 021201	0001673	000044	W.K.	
11/8	1. 013856	0018779			
	2. 021316	0001693	000044	W.K.	
11/11	1. 013899	0018837			
	2. 021259	0001751	000044	W.K.	
11/18	1. 013939	0018958			
	2. 021350	0001873	000044	W.K.	
11/25	1. 014007	0018982			
	2. 021368	0001897	000044	W.K.	
11/27	1. 014026	0019007			
	2. 021326	0001921	000044	W.K.	
12/1	1. 014044	0019031			
	2. 021404	0001945	000044	W.K.	
12/16	1. 014047	0019036			
	2. 021407	0001949	000044	W.K.	
12/23	1. 014065	0019060			
	2. 021425	0001972	000044	W.K.	
12/30	1. 014065	0019060			
	2. 021425	0001974	000044	W.K.	
	1.				
	2.				
	1.				
	2.				
	1.				
	2.				
	1.				
	2.				



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

March 11, 2004

RECEIVED
MAR 15 2004
Department of Water Resources
Southern Region

Firstfruits Foundation
Christopher W. James Trust
P.O. Box 510
Challis, ID 83226

RE: APPLICATION FOR PERMIT NOS. 72-16624 AND 72-16625

Dear Mr. James:

I have received the documents and proposed exhibits that you submitted to the Department and to the protestants in the above referenced matter. The purpose of this letter is to ask that, prior to the hearing, you determine the identification that you want assigned to each of the proposed exhibits so the exhibits can be marked for reference during the course of the hearing. For example, each document that you offer as part of the hearing record needs to be identified as "Applicant's Exhibit ____." Your first exhibit should be identified as Applicant's Exhibit 1, the next as "Applicant's Exhibit 2" and so on.

If the protestants offer exhibits, their exhibits will be marked as "Protestant's Exhibit A", "Protestant's Exhibit B" and so on.

By predetermining exhibit identification, the hearing will be more efficient and less time consuming.

Sincerely,


L. GLEN SAXTON, P.E.
Hearing Officer

c: Bonnie Rowles
Jeffrey J. Yeo
Dee Keppner
Allen Merritt - IDWR



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

March 5, 2004

Firstfruits Foundation
Christopher W. James Trust
P.O. Box 510
Challis, Idaho 83226

Jeffrey J. Yeo
Watermaster
P.O. Box 299
Challis, Idaho 83226

Bonnie Rowles
P.O. Box 1087
Challis, Idaho 83226

Dee Keppner,

Water District #72-B
P.O. Box 1153
Challis, Idaho 83226

RECEIVED
MAR 09 2004
Department of Water Resources
Southern Region

RE: APPLICATION FOR PERMIT NO. 72-16624 AND 72-16625

Dear Interested Parties:

Enclosed for your information and review is a report entitled, Hydrologic Investigation of the Garden Creek Watershed and Aquifer dated February 11, 1999, that was prepared by Brockway Engineering. The purpose of this letter is to advise you that I intend to take official notice of this report, at the hearing, scheduled in the above referenced matter in Challis, Idaho on April 6, 2004, and to provide you the opportunity to review the report prior to the hearing.

Sincerely,

L. Glen Saxton, P.E.
Hearing Officer

Encl: 1
c: Allen Merritt (w/o enclosure)

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT)
NOS. 72-16624 and 72-16625)

Firstfruits Foundation and Christopher W. James Trust,)
Applicant)

Water District # 72-B, Bonnie Rowles, Jeffrey Yeo,)
Protestants)

NOTICE OF HEARING

SOURCE: Ground water and
Garden Creek

COUNTY: Custer

On October 15, 2002, Firstfruits Foundation and Christopher W. James Trust, (applicant), filed with the Department of Water Resources Application No. 72-16624 to appropriate the public waters of the State of Idaho, with a proposed diversion from a ground water source. The application was subsequently AMENDED on July 28, 2003. The Department has received protests against the approval of said application from Bonnie Rowles and Jeffrey Yeo.

On October 15, 2002, Firstfruits Foundation and Christopher W. James Trust, (applicant), filed with the Department of Water Resources Application No. 72-16625 to appropriate the public waters of the State of Idaho, with a proposed diversion from Garden Creek. The Department has received a protest against the approval of said application from Water District # 72-B, c/o Dee Keppner, Watermaster.

On December 2, 2003, the Department conducted a pre-hearing conference in Challis. On January 20, 2004, the Department conducted a telephone conference. All parties were represented at these conferences. The parties did not resolve the protests at these conferences.

The Department has set the matter of protests for a joint hearing on **Tuesday, April 6, 2004 at 9:00 a.m. in the Courtroom of the Custer County Courthouse, Challis ID.**

The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, IDAPA 37.01.01 (Rules of Procedure) of the department and IDAPA 37.03.08 (Water Appropriation Rules) Rule 40 and 45. (Please find enclosed a copy of these rules for your references.) The presiding officer at the hearing will be **Glen Saxton** whose address is: Idaho Department of Water Resources, PO Box 83720, Boise, ID, 83720-0098.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.

IT IS HEREBY ORDERED, pursuant to Rule of Procedure 37.01.01513 (Rule of Procedure 513) that each party will mail to the hearing officer at the above address and to the other parties of record the

following information as prescribed below:

Postmarked on or before March 5, 2004, an initial list of witnesses, including expert witnesses the party will call or rely on and copies of documents and proposed exhibits the party may offer at hearing.

Postmarked on or before March 22, 2004, a final list of witnesses, including expert witnesses the party will call or rely on and copies of documents and proposed exhibits the party may offer at hearing that have not already been disclosed.

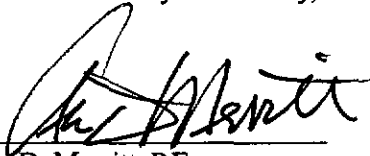
All parties to these matters will have the opportunity to respond and present information and argument on all issues involved at the hearing. **The hearing officer may limit consideration to only witnesses or exhibits properly disclosed prior to the hearing.**

IT IS FURTHER HEREBY ORDERED as follows:

Postmarked on or before March 12, 2004, the parties may request any subpoenas the party wishes the Director to issue.

Failure to comply with this order may be cause for the hearing officer to issue a Notice of Proposed Default to dismiss a party's pleading as provided in IDAPA 37.01.01700 (Rule of Procedure 700).

Dated this 27th day of January, 2004.

A handwritten signature in black ink, appearing to read "Allen D. Merritt", is written over a horizontal line.

Allen D. Merritt, P.E.
Regional Manager

CERTIFICATE OF MAILING

I hereby certify that on the 27th day of January, 2004, a true and correct copy of the above and foregoing Notice of Hearing was sent by Certified Mail to the parties listed:

Mary Baldwin
Secretary

FIRSTFRUTTS FOUNDATION
CHRISTOPHER W. JAMES TRUST
PO BOX 510
CHALLIS ID 83226

BONNIE ROWLES
PO BOX 1087
CHALLIS ID 83226

JEFFREY J. YEO
PO BOX 299
CHALLIS ID 83226

DEE KEPPNER, WATERMASTER
WATER DISTRICT # 72-B
PO BOX 1153
CHALLIS ID 83226



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 27, 2004

ATTN KYLA MORETTI
CUSTER COUNTY COURTHOUSE
PO BOX 160
CHALLIS ID 83226

Dear Ms. Moretti:

This is a follow-up to our telephone conversation to confirm the reservation of the Court Room for a hearing to be held by this office on **Tuesday - April 6, 2004 from 9:00 a.m.- 5:00 p.m.**

If you have any questions please feel free to contact me or Allen Merritt, Southern Regional Office Manager.

Thank you very much for your assistance in this matter.

Sincerely,

Mary A. Baldwin
Administrative Assistant

MB

JOINT CONFERENCE via Telephone

RE: Applications for Permit No. 72-16624 and 72-16625

PLACE: Idaho Department of Water Resources Office, 1341 Fillmore Street; Twin Falls ID

DATE: Tuesday - January 20, 2004 at 4:00 p.m.

CONFERENCE OFFICER: Allen D. Merritt

ASSISTED BY: *Nohe*

ROSTER OF ATTENDANCE

[illegible]

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT)
NOS. 72-16624 and 72-16625)

Firstfruits Foundation and Christopher W. James Trust,)
Applicant)

Water District # 72-B, Bonnie Rowles, Jeffrey Yeo,)
Protestants)

NOTICE OF JOINT PRE-HEARING

TELEPHONE CONFERENCE

SOURCE: Ground water and
Garden Creek

COUNTY: Custer

On October 15, 2002 Firstfruits Foundation and Christopher W. James Trust, (applicant), filed with the Department of Water Resources Application No. 72-16624 to appropriate the public waters of the State of Idaho, with a proposed diversion from a ground water source. The application was subsequently AMENDED on July 28, 2003. The Department has received protests against the approval of said application from Bonnie Rowles and Jeffrey Yeo.

On October 15, 2002 Firstfruits Foundation and Christopher W. James Trust, (applicant), filed with the Department of Water Resources Application No. 72-16625 to appropriate the public waters of the State of Idaho, with a proposed diversion from Garden Creek. The Department has received a protest against the approval of said application from Water District # 72-B, c/o Dee Keppner, Watermaster.

On December 2, 2003 the Department held a pre-hearing conference in Challis. During that meeting the matters of the protests were not resolved. At that time the applicant was not prepared to discuss scheduling a hearing.

The Department has been informed by the applicant that they are now prepared to go to hearing.

For the purpose of scheduling a hearing the Department has arranged for a telephone conference call for **Tuesday, January 20 at 4:00 p.m.** To participate in the conference call please dial **(646) 441-1006**. **Once connected to the service you will also need to dial in a participation code of 386859.** If you have trouble connecting please call our office at (208) 736-3033.

The purpose of the conference is to schedule the formal hearing, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, and advise the parties of the procedure which will be followed at any subsequent hearing.

The conference will be held in accordance with Chapter 2, Title 42, of the Idaho Code and the adopted Rules of Practice and Procedure of the Department of Water Resources.

Dated this 30th day of December, 2003.



Allen D. Merritt, P.E.
Regional Manager

CERTIFICATE OF MAILING

I hereby certify that on the 30th day of December, 2003 a true and correct copy of the above and foregoing Notice of Joint Pre-Hearing Conference was forwarded with all required charges prepared, by regular U.S. Mail to the parties listed below:

Mary Baldwin
Secretary

FIRSTFRUITS FOUNDATION
CHRISTOPHER W. JAMES TRUST
PO BOX 510
CHALLIS ID 83226

BONNIE ROWLES
PO BOX 1087
CHALLIS ID 83226

JEFFREY J. YEO
PO BOX 299
CHALLIS ID 83226

DEE KEPPNER, WATERMASTER
WATER DISTRICT # 72-B
PO BOX 1153
CHALLIS ID 83226

JOINT CONFERENCE

RE: Applications for Permit No. 72-16624 and 72-16625

PLACE: Commissioners Rm - Custer County Courthouse; Challis ID

DATE: Tuesday - December 2, 2003 at 1:00 p.m.

CONFERENCE OFFICER: Allen D. Merritt

ASSISTED BY:

ROSTER OF ATTENDANCE

NAME	ADDRESS	REPRESENTING
Jeffrey Yeo	PO Box 299 Challis	myself
Donna Powell	PO Box 1087 Challis	myself
Arda Carlisle	PO Box 1266 Challis	Self
J. Dean Angph	P.O. Box 848 Challis	Self
Cathy Bayless	P.O. Box 1301 Challis	City of Challis
Marion McDonald	P.O. Box 793 Challis	City Council
Ken Kemery	Box 621 Challis	Myself
John Van Allen	P.O. Box 1390 Challis	Myself
Don Rowles	PO Box 1087 Challis	Self
Jack S. Hammond, P.E.	P.O. Box 1070 Challis	HECO, Inc. & LWR
MARK BAYAN	PO Box 1122 Challis	Self
Laura Means	Box 405 Challis	Challis Messenger
Christopher James	Box 510	Challis ID
Debbie James	"	"
* Cliff Hanson		

Regarding: Water Right Application # 72-16624

The application was made by Firstfruits Foundation, the owner of the land and the water rights. Firstfruits Foundation leases the property and its water rights to Living Waters Ranch, Inc. For the sake of clarification when Living Waters Ranch is mentioned in the following, it also is inclusive of Firstfruits Foundation.

The purpose of Firstfruits Foundation / LWR in applying for this water right is to transfer and use up to its allowed 13,000 gpd as allowed by state law. The quality of the water is more than suspect. For the last couple of seasons LWR has had to treat its water for the 2 lean summer months. With increased water use, a small water treatment unit will need to be added. As a solution, the artesian well source will provide both the quality and the quantity of water to meet the needs of LWR.

1. Will the proposed appropriation injure other water rights?

Living Waters Ranch (LWR) currently uses Well #2 as its water supply. Its average daily use is approximately 5,000 gpd, while LWR is allowed by state law to use 13,000 gpd. Please see Attachment #1. When the proposed pipeline from the artesian well is completed, LWR will abandon Well #2. Currently, the artesian well is spilling on the ground 14,000 gpd. That spillage would cease with the overage being kept in the aquifer. The effect to local water rights is miniscule. An argument can be made that they are improved by the 7,000 gpd that are not being spilt on the ground. For the water rights downstream there is no change. Approximately 60% of the water used is returned to the aquifer through LWR's leach fields.

Please Attachment#2, which speaks of LWR's 5,000 gpd current usage as compared to Garden Creek's flow of 3,200,000 gpd. That works out to less than 2/10 of 1% of its flow. Our use is insignificant.

2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?

The artesian well currently flows at a rate slightly above the maximum rate allowed for LWR's use. LWR's state allowed use is 13,000 gpd. The artesian well is currently pouring out more than 10 gpm, which computes to 14,400 gpd.

3. Was the application made in good faith or for delay or speculative purposes?

This application was made in good faith. At approximately the same time last November, LWR made application with the BLM for a permit to transport the water to the ranch. LWR also activated electric service to the site and solicited bids for construction.

RECEIVED

DEC 02 2003

Department of Water Resources
Southern Region

4. Does the applicant have sufficient financial resources with which to complete the proposed project?

Please see Attachment #3, which shows a balance of \$169,303.06 in its Wells Fargo Savings account. Firstfruits Foundation has additional accounts.

5. Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?

DEQ and District 7 Health have strongly suggested that LWR secures a better drinking water source than the shallow 63' Well #2. Over the last 2 years LWR has had to treat our water to keep it within the Public Water Supply requirements. (See Attachment #3)

The neighbors just west or above the ranch are the Klefmans. Wayne is employed year round, while his wife, Sharlene, is employed full time during the season. The ranch's total expenses are slightly above \$300,000. The majority of those monies are spent locally. Its payroll is in excess of \$125,000. LWR employed this last year 22 people. LWR contributes much to the economy of the community. LWR had more than 3,000 visitors this last year. They spend money coming and going. The merchants, the golf course, gas stations, the markets, the Hot Springs and many businesses benefit from the people.

Many of LWR and its staff make considerable contributions of time, talent, and money to the community. Such contributions are Challis Volunteer Ambulance Service, North Custer Hospital District board, Challis Assisted Living Facility, Challis Arts Council, North Custer Historical Society, Challis Volunteer Fire Department, District 181 School Board, Custer Assembly of God, Calvary Outreach, and much more.

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

LWR has approximately 4,000 feet on Garden Creek. Let's convert that to 10 ranchettes having 400 feet of creek frontage. Each ranchette would be allowed a maximum of 5,000 gpd. Instead of potentially having a maximum usage of 50,000 gpd (10 x 5,000 gpd), LWR has a maximum usage of 13,000 gpd.

Please see attachment #4 for my letter in response to Mr. Yeo's protest. I addressed the % of water LWR was currently using to the whole flow of Garden Creek. It worked out to less than 2/10th of 1% and remember that approximately 60% to 70% of our water use is returned to the aquifer through LWR's excellent septic system.

RECEIVED

DEC 02 2003

Department of Water Resources
Southern Region

In conclusion, I believe that LWR request for the water right on the Artesian Well will benefit the ranch's quality and quantity of water. This, in turn, will benefit the community by insuring the jobs and economic base that LWR provides.

Yours truly,

A handwritten signature in cursive script, appearing to read "Christopher W. James".

Christopher W. James, trustee of Firstfruits Foundation and president of LWR, Inc.

RECEIVED
DEC 02 2003
Department of Water Resources
Southern Region

Living Waters Ranch
Well #2 Meter Reading – 2003

Jan 03	8478320 – 8329550 =	148,770 gal
Feb 03	8643160 – 8478320 =	164,840 gal
March 03	8802950 – 8643160 =	159,790 gal
April 03	8957150 – 8802950 =	154,200 gal
May 03	9150310 – 8957150 =	193,160 gal
June 03	9346000 – 9150310 =	195,690 gal

Total 1,016,450 gal

RECEIVED

DEC 02 2003

Department of Water Resources
Southern Region

Living Waters Ranch
Well #2 Meter Readings – 2002

Jan 02	6679710 – 6543330 =	136,380 gal
Feb 02	6791760 – 6679710 =	112,050 gal
March 02	6833480 – 6791760 =	41,720 gal
April 02	7032680 – 6833480 =	199,200 gal
May 02	7191440 – 7032680 =	158,760 gal
June 02	7355470 – 7191440 =	164,030 gal
July 02	7531530 – 7355470 =	176,060 gal
Aug 02	7682910 – 7531530 =	151,380 gal
Sept 02	7837750 – 7682910 =	154,840 gal
Oct 02	7984640 – 7837750 =	146,890 gal
Nov 02	8157060 – 7984640 =	172,420 gal
Dec 02	8329550 – 8157066 =	172,484 gal

Total 1,786,214 gal

RECEIVED
DEC 02 2003
Department of Water Resources
Southern Region

Living Waters Ranch
Well #2 Meter Readings – 2001

Jan 01	4887775 – 4784320 =	103,455 gal
Feb 01	5028050 – 4887775 =	140,275 gal
March 01	5171430 – 5028050 =	143,380 gal
April 01	5344270 – 5171430 =	172,840 gal
May 01	5474680 – 5344270 =	130,410 gal
June 01	5627520 – 5474680 =	152,840 gal
July 01	5825560 – 5627520 =	198,040 gal
Aug 01	6011100 – 5825560 =	185,540 gal
Sept 01	6137530 – 6011100 =	126,430 gal
Oct 01	6270290 – 6137530 =	132,760 gal
Nov 01	6432610 – 6270290 =	162,320 gal
Dec 01	6543330 – 6432610 =	110,720 gal
	Total	1,759,010 gal

RECEIVED
DEC 02 2003
Department of Water Resources
Southern Region

Attachment 2

Firstfruits Foundation
dba Living Waters Ranch
P O Box 510, Challis, ID 83226
208-879-4560, fax 879-4902, cell (IF) 339-4560

RECEIVED
DEC 02 2003
Department of Water Resources
Southern Region

September 5, 2003

Karl Dreher, Director
Idaho Department of Water Resources
1301 N Orchard
Boise, ID 83706

Jim Stanton
Idaho Dept. of Water Resources
1341 Fillmore St, Suite 200
Twin Falls, ID 83301-3380

Regarding: Letter of Protest from Jeffrey J. Yeo, Dated 9/1/03

Dear Mr. Dreher and Mr. Stanton:

This letter is in response to Mr. Yeo's Protest dated 9/1/03. I will be following the outline of his letter and will address points he made, respectively.

The study that Charles Brockway prepared for Paris Almond spoke of the finite nature of the Garden Creek Aquifer. That is true. Mr. Brockway addressed the Garden Creek Annual Runoff; he measured its Flow; he computed Aquifer Runoff. He did not attempt to estimate the Total Amount of Water in the Aquifer. Both the Total Amount of Water in the Aquifer and the measurement of the creek's Flow are most important as to determining how much water there is in the drainage to support people, livestock, and its wildlife.

Mr. Brockway recorded flows on Garden Creek for 3 different dates from Sept 1998 to Jan 1999. I believe this is fairly representative of the creek for that time of the year. At the various measuring points he measures a low near 5 cfs to a high of 8 cfs. 5 cfs is equal to 2250 gpm or 3,240,000 gallons/day. At Living Waters Ranch we are still pumping less than 6,000 gpd when we are allowed 13,000 gpd. Our 6,000 gpd represents less than 2/10ths of 1% (6,000/3,240,000) of the lower recorded flow for Garden Creek.

Many studies have been done for equating the return of water back to the aquifer from leach fields. I am not sure of the exact figure. It most likely varies. If I remember correctly, 60% of the water going into a leach field passes through into the aquifer. If that is true, there is a 40% loss of water through evaporation. But how much of that water would have been evaporated naturally through its runoff and the various beaver ponds along the creek. Currently on Garden Creek there are beaver ponds that take up 2 to 3 acres. How much evaporation is lost through those beaver ponds? The point here is less than half of the water for human use is lost; the majority returns to the aquifer.

A good question is how many people could Garden Creek support? The normal daily water usage for a person is 100 gpd. Let's divide the daily Flow by 100 gpd. That is 3,240,000 gallons divided by 100 gpd. Does that mean that Garden Creek could support 32,400 people? Those measurements were for the fall and winter after the first big freeze that forces the trees into hibernation. Right now in early September the creek flow is at the lowest of the year. I would guess the flow to be 2 ½ to 3 cfs. This would translate to half as many people (16,200) to use up all the flow. Of course, that would take all the water out of the creek. However, if 60% is returned to the aquifer (and the creek) through the leach fields, then there would probably be more than enough water for Challis and Round Valley.

My reasoning is likely flawed in some way, but the principle is correct. Personally, I do not advocate that the Garden Creek Drainage plan to accommodate over several thousand people. However, the point made is that our drainage could easily support more people. Curbs on development would serve only a small vocal number of isolationists.

One problem that our county has not faced is adopting state-mandated Planning and Zoning. This is to our shame. There has been a committee that has worked hard to develop a comprehensive plan. I do not know what has happened to that. I only know that nothing has been adopted.

In the third paragraph Mr. Yeo spoke of "Water being pumped continuously onto the ground from the well for weeks afterward." The water was not being pumped. It had been flowing freely for years since its abandonment in the early 1980s. Rex Berry did install an electric meter. The well was tested by Joe Chester for its capabilities. Joe also collared the old well head with a 1" line to move the artesian runoff away from the well head. I have done nothing illegal. Firstfruits Foundation and I own the Dougherty Spring water right that runs next to the artesian well. I own the mineral rights to the property in question and the old mine site. I believe I have not only a right to oversee and evaluate the property, but also a responsibility to do so.

For your interest I am enclosing 2 letters that suggest that LWR would be wise to secure a better water source than its 75' well. In summary, I believe the Protest is without merit and would appreciate your OK'ing the application for the water right.

Thank you very much.

Yours Truly,

RECEIVED
DEC 02 2003
Department of Water Resources
Southern Region

Christopher W. James, Firstfruits Foundation, and Living Waters Ranch.

Enclosures: Letter from William Teuscher, Idaho Falls office of IDEQ, March 3, 2003;
letter from Kellye Eager, District 7 Health dated 2/14/03
Cc: Jeffrey J Yeo



DISTRICT SEVEN HEALTH DEPARTMENT

PROMOTING THE HEALTH OF PEOPLE AND THEIR ENVIRONMENT

Main Office

254 E Street
Idaho Falls, ID 83402-3597
Phone (208) 522-0310
Fax (208) 525-7063

February 14, 2003

Gloria Jakovak
BLM Land Specialist
South US 93 Highway
Salmon, ID 83467

RE: Living Waters Ranch Public Water System

Dear Ms. Jakovak:

I have been asked to contact you by Mark Bryan, Manager of Living Water Ranch, about their request to run a water transmission line through BLM property. We support water systems like Living Waters Ranch to obtain the highest water quality source possible.

Living Waters Ranch has a history of contamination with its current water supply. Since being activated as a public water system in 1998, the system has accrued seven Maximum Contaminant Level (MCL) violations due to bacteriological contamination.

Because the system must meet drinking water standards set by the Environmental Protection Agency (EPA), we support the Living Waters Ranch efforts in securing an easement for the water transmission line to better their public water supply.

Our file for the system is open for public review. Please contact our office for record assistance or if you have any questions. The number is (208) 523-5382.

Sincerely,


Kellye Eager
REHS

Cc: Richard Horne, Environmental Health Director
Willie Teuscher, DEQ- Idaho Falls
Christopher James, President- Living Waters Ranch
Mark Bryan, Manager- Living Waters Ranch

RECEIVED

DEC 02 2003

Department of Water Resources
Southern Region



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

900 North Skyline, Suite B • Idaho Falls, Idaho 83402-1718 • (208) 528-2650

March 3, 2003

Dirk Kempthorne, Governor
C. Stephen Allred, Director

Gloria Jakovak
BLM Land Specialist
South US 93 Highway
Salmon ID 83467

RECEIVED

DEC 02 2003

Department of Water Resources
Southern Region

RE: Living Waters Ranch Public Water System

Dear Ms. Jakovak:

I have been asked to contact you by Mark Bryan, Manager of Living Water Ranch, about their request to run a water transmission line through BLM property. We support water systems like Living Waters Ranch to obtain the highest water quality source possible.

Living Waters Ranch has a history of contamination with its current water supply. Since being activated as a public water system in 1998, the system has had water quality issues and has been in violation.

Because the system must meet drinking water standards set by the Environmental Protection Agency (EPA), we support the Living Waters Ranch efforts in securing an easement for the water transmission line to better their public water supply.

Please contact our office if you have any question (208) 528-2650.

Sincerely,

A handwritten signature in cursive script, appearing to read "William Teuscher".

William Teuscher PE
DEQ IFRO

Cc: Richard Horne/Kellye Eager D7H IF.
Christopher James, President- Living Waters Ranch PO Box 510 Challis, ID 83226
Mark Bryan, Manager- Living Waters Ranch

Regarding: Water Right Application # 72-16625

The application was made by Firstfruits Foundation, the owner of the land and the water rights. Firstfruits Foundation leases the property and its water rights to Living Waters Ranch, Inc. For the sake of clarification when Living Waters Ranch is mentioned in the following, it also is inclusive of Firstfruits Foundation.

The request of the water right was to put water into an old waste water pond that has been reconditioned to make the grounds more attractive. The old waste water pond has been there for more than 25 years.

1. Will the proposed appropriation injure other water rights?

By running water from the old northern diversion into the pond, it will add approximately 3,000 sf. of surface to the natural creek bed area. There will be a minimal amount of evaporation loss.

One to one and half miles below the pond on a neighbor's property, a number of beavers have constructed ponds that cause 40 to 50 times more evaporation than LWR's proposed pond.

2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?

Yes, it is.

3. Was the application made in good faith or for delay or speculative purposes?

This application was made in good faith. To prove the minimal loss of water, LWR went to the effort of building a weir below the waterfall coming from the pond.

4. Does the applicant have sufficient financial resources with which to complete the proposed project?

Please see Attachment #2 for the previous water right application, which shows a balance of \$169,303.06 in its Wells Fargo Savings account.

5. Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?

LWR served more than 3,000 guests this last year. Not only those staying at LWR were blessed by the pond, but also many people from town. This last year LWR gratuitously sponsored a fund-raising dinner for the CALF. LWR hosted 2 other locally sponsored dinners, plus hosted a funeral. All those using the facility were blessed by the pleasant and attractive landscaping.

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

No, I do not believe so.

In conclusion, I believe that LWR request for the water right for the pond will benefit the ranch's beauty. This, in turn, will benefit the community by drawing more people to the community to support economic base.

Yours truly,

Christopher W. James, trustee of Firstfruits Foundation and president of LWR, Inc.

Merritt, Allen

From: Burrell, Steve
Sent: Monday, December 01, 2003 10:34 AM
To: Merritt, Allen
Cc: Luke, Tim
Subject: Living Waters Ranch additional info

Some additional information gleaned from feild notes and perusal of Grundfo's web site:

Pump type is Grundfo's model 16S07-8 (I mis-noted it as 16507-8) in well #2, which supplies the campus facilities with potable water. The pump curve for this unit jibes with our measured flow (15 gpm) for the total system static head (~ 173 feet) from the bottom of well #2 to the base of the 35 gallon storage tank upon the hillside. Losses would be minor in the system because pipe sizes are huge (up to 8").

The system pressure at the service lines to buildings would be closer to 40-50 psi. At the submersible pump in Well #2, pressures would be the 80 psi reported by the Owner/Manager.

Mrs. Rowles mentioned in a recent phone call to Tim that the spring south of Garden Creek (spring with decreed domestic right) was connected to the domestic system of Well #2, and not isolated by a shut-off valve as the Manager/Owner showed us. This spring is located at an elevation of a little over 6000' as estimated from USGS quad. The 35K gal. storage tank is located at about 6140' elevation from USGS quad. Without a booster pump, which we did not observe, the domestic spring would need an artesian pressure of 140' to be capable of supplying any water to the campus facility system. Our observation of the overflow pipe from the spring indicated an artesian head of maybe 10' at the most.

Also, regarding Mrs. Rowles claims of the Mr. James residence well being connected to the system, ground penetrating radar would easily show any pipes under the road from his house to the LWR facility. Some INEEL contractors undoubtedly have the GPR capability, if Mrs. Rowles is willing to hire them.

Sorry for the short notice before hearing tomorrow. Call if you have questions.

Steve Burrell
IDWR Hydrologist
208-327-5407



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

November 7, 2003

RECEIVED
NOV 12 2003
Department of Water Resources
Southern Region

Christopher James
Living Waters Ranch
P.O. Box 1190
Challis, ID 83226-1190

Re: Transmittal of Trip Report of Visit to Living Waters Ranch and Potential Illegal Expansion

Dear Mr. James,

Thank you for accommodating Mr. Foster and myself and providing unrestricted access to your facilities during our visit on October 15, 2003 to acquire information about the Living Waters Ranch potable and domestic water supply systems. Please find attached a report summarizing our findings.

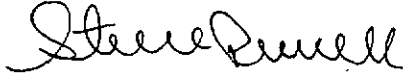
IDWR (Idaho Department of Water Resources) is providing a copy of this report to Mrs. Bonnie Rowles of Challis, who initially contacted us regarding concerns of the impact of your facility on the Garden Creek watershed. The attached report does not make any conclusions regarding impacts to Garden Creek, and is only intending to provide factual information about the Living Waters Ranch domestic and irrigation water use systems.

As we discussed in an earlier phone conversation, a finding of the attached report is that use of the water from domestic right no. 72-16274 to supplement irrigation of the places of use of partially decreed Garden Creek irrigation rights constitutes an illegal expansion. Use of the water from the unnamed spring source of right no. 72-16274 is limited to the decreed place of use in Lot 3, Section 2, T13N, R18E, B.M., and irrigation of a maximum of ½ acre. This maximum acreage limit for domestic use rights is defined in Idaho Code § 42-111(a). Irrigation use is further qualified in the remarks of right no. 72-16274 as the lawn appurtenant to two cabins and a shower house.

If conditions arise in the future creating a need to use the unnamed domestic spring water source for irrigating other places of use, such as Garden Creek right no.'s 72-106J, 72-109J, 72-4174C, or 72-10486C, a transfer application should be filed with our Southern Region Office in Twin Falls. This application could be used for transferring a portion of the Garden Creek right flows to the unnamed spring currently licensed for domestic use.

Please call me at 208-327-5407 if you have questions, and thanks again for your full cooperation and assistance with this matter.

Sincerely,



Steve Burrell, P.E.
Hydrologist

Attachment /1/

cc: Bob Foster, IDWR Salmon w/
Allen Merritt, IDWR Southern RO, Twin Falls w/
Dee Ray Keppner, Water District 72B Watermaster, P.O. Box 1153, Challis, ID 83226-1153 w/o

RECEIVED

NOV 12 2003

Department of Water Resources
Southern Region

TRIP REPORT

RECEIVED
NOV 12 2003
Department of Water Resources
Southern Region

DATE: November 7, 2003

PREPARED BY: S. C. Burrell **LOCATION:** State Office

DISTRIBUTION: Tim Luke, Allen Merritt
cc: Bob Foster
Christopher James
Bonnie Rowles

TRAVELED TO: Living Waters Ranch, north of Challis

DATE (S) OF TRAVEL: 10/15/2003

PERSONS CONTACTED: Christopher James, Owner; Mark Bryan, Manager

PURPOSE OF TRIP: Gather information about Living Waters Ranch irrigation and domestic water systems

Idaho Department of Water Resources (IDWR) employees Steve Burrell and Bob Foster visited the Living Waters Ranch (LWR) and met with the Owner and Manager listed above. An inventory of points of diversion for potable water and other domestic water system features was done. An intensive inventory of irrigation diversions and irrigation places of use was not undertaken because this work was already accomplished during the adjudication.

SURFACE WATER IRRIGATION

A summary of irrigation and stockwater rights owned by LWR is shown below. Figure 1 shows schematically the points of diversion, and places of use for these rights. Figure 1 was produced based on information from the LWR Manager and discussions with Kelly Christenson of IDWR Southern region.

The water source for the unnamed spring (shown on Figure 1) is from a collection pool inside the abandoned, collapsed adit (horizontal mine shaft) located on a mining claim. Mr. James owns the mining claim; BLM owns the land within the claim. Water is piped out of the adit into a ditch that crosses under Garden Creek road to the place of use. This unnamed spring is separate from Daugherty Springs.

All other water is taken from Garden Creek for irrigation and stockwater use, as shown on Figure 1. A fishpond is also located on the property and is filled with water from Garden Creek rights, except during winter months. The upper Garden Creek diversion feeds a ditch upon a hillside that flows into pressurized bubbler system for irrigation of the LWR grounds.

IRRIGATION WATER RIGHTS FOR UNNAMED SPRING AT ABANDON MINE ADIT:		
Identification No:	72-4174A	72-4174C
Priority:	05/20/1914	05/20/1914
Use:	Stockwater, Irrigation	Stockwater, Irrigation
Season of Use:	4/01 to 10/31	4/01 to 10/31
Rate of Diversion:	0.100 CFS	0.370 CFS
Total Acres:	4	9.2
Remarks, Place of Use:		COMBINED TOTAL LIMIT OF 13.2 ACRES - RIGHT NOS.: 72-00106J, 72-00109J, 72-04174C, & 72-10486C.

IRRIGATION WATER RIGHTS FOR GARDEN CREEK			
Identification No:	72-106F	72-106J	72-106H
Priority:	05/15/1890	05/15/1890	05/15/1890
Use:	Irrigation	Irrigation	Irrigation
Season of Use:	4/01 to 10/31	4/01 to 10/31	4/01 to 10/31
Rate of Diversion:	0.320 CFS	0.520 CFS	0.040 CFS
Total Acres:	7.5	13.2	3.3
Remarks, Place of Use:		COMBINED LIMIT TOTAL OF 13.2 ACRES, RIGHT NOS.: 72-00106J, 72-00109J, 72-10486C & 72-04174C.	

IRRIGATION WATER RIGHTS FOR GARDEN CREEK (CONTINUED):				
Identification No:	72-109F	72-109J	72-10486A	72-10486C
Priority:	05/15/1888	05/15/1888	05/20/1914	05/20/1914
Use:	Irrigation	Irrigation	Irrigation	Irrigation
Season of Use:	04/01 to 10/31	04/01 to 10/31	04/01 to 10/31	04/01 to 10/31
Rate of Diversion:	0.320 CFS	0.520 CFS	0.180 CFS	0.290 CFS
Total Acres:	7.5	7.5	7.5	13.2
Remarks, Place of Use:	COMBINED LIMIT OF 7.5 ACRES RIGHT NOS.: 72-00106F, 72-00109F, AND 72-10486A	COMBINED LIMIT OF 13.2 ACRES RIGHT NOS.: 72-00106J, 72-00109J, 72-10486C AND 72-04174C.	COMBINED LIMIT OF 7.5 ACRES RIGHT NOS.: 72-00106F, 72-00109F AND 72-10486A.	COMBINED LIMIT OF 13.2 ACRES RIGHT NOS.: 72-00106J, 72-00109J, 72-10486C AND 72-04174C.

DOMESTIC SURFACE WATER

Figure 2 depicts schematically the domestic and potable water systems. A spring south of Garden Creek has been developed and several tanks are used for storing water. A decreed water right for domestic use exists as follows:

Identification No: 72-16274
Source: Unnamed spring tributary to Garden Creek
Priority: June 1, 1965

RECEIVED
NOV 12 2003
Department of Water Resources
Southern Region

RECEIVED
NOV 12 2003
Department of Water Resources
Southern Region

Rate of diversion: 0.04 cfs
Point of diversion: SENW Section 3, T13N, R18E, B.M.
Use: Domestic
Season of use: Year-round
Place of use: Lot 3, Section 2, T13N, R18E, B.M.
Remarks: Two cabins, one shower house and lawn

A pipeline from this spring goes to Building 12 where it connects to the potable water system through a valve. The valve is closed since the spring is too contaminated for drinking water use (Findings of Fact, Permit No. 72-07526 permit appl.). Mr. James, the Owner, also stated that the spring was not used for potable water because of contamination.

Another water line from the spring goes down to Garden Creek with gate valve on its end. This line can be attached to a pump to connect and supplement the pressurized bubbler irrigation system from Garden Creek. The spring was reported to produce about 25 gallons per minute (Findings of Fact, Permit No. 72-07526 permit appl.), and is currently allowed to flow into Garden Creek from a vent pipe on the irrigation water line.

The owner reported that this supplemental irrigation water from the domestic spring has only been used once in the last 5 years. IDWR personnel verbally instructed Mr. James that expanding a domestic right to irrigation use is illegal, as the domestic rights are limited to ½ acre for irrigation purposes. A written correspondence will be sent to Mr. James and the Water District 72 watermaster warning to not commingle domestic and irrigation water rights, and suggesting measures to remedy the situation through the transfer process.

A bunkhouse across Garden Creek south of the main camp area will accommodate 24 children, has a chemical toilet, and gas or electric heat. No potable water service is available in the bunkhouse, the Manager reported.

DOMESTIC GROUNDWATER

Well #1 (shown on Figure 2) near the welcome center is not used because of excess bacteria contamination, the Owner reported. No drilling log or drilling permit could be located in IDWR files. This well is estimated to be over 40 years old, the depth is unknown, and the production rate is 10 gpm (Findings of Fact, Permit No. 72-07526 permit appl.). This well has a submersible pump and is connected to the LWR potable system in the Ranch House well house (below grade) shown in Photo 1. A Neptune flowmeter is installed on the feed line from this Well #1 upstream of the connection to the camps domestic system.

Well #2 (mechanical building well) next to building 5 (shown on Figure 2) includes a Grundfos submersible pump (model unknown) that is connected to a Neptune totalizing flowmeter, 1" model T-10 (Photo 2). The Panametrics PT868 portable ultrasonic flow meter was used to test the Neptune flowmeter accuracy, and an average flow reading for 10 minutes was 15 gpm. The totaled volume from the flow meter timed for 10 minutes was 134 gallons, or a flow rate of 13.4 gpm. Thus, the flowmeter under reports with an error of -10.7%, or a calibration factor of 1.11 should be applied to reported values from this meter. Applying the calibration factor to past reported average maximum daily volumes from LWR would increase the value to 7,400 gallons per day, and is still less than the allowed average maximum of 13,000 gallons per day.

All of the potable water for LWR is derived from Well #2, per the Owner. Well #2 supplies water to a 35,000-gallon storage tank through one main pipe line (shown on Figure 2) that is also used for

potable water service to church camp facility buildings and fire protection. Thus, water may flow in both directions through this one main pipe line. It was not known by the Owner or Manager if a booster pump was needed in addition to the submersible Grundfos pump when filling the 35,000 gallon storage tank. The owner reported the potable water system has a continuous pressure of 80 p.s.i.

The Owner agreed verbally to allow periodic inspections by IDWR personnel of the flowmeter readings on well #2 as an independent verification of the information LWR provides to DEQ as part of the wastewater monitoring program. If it proves difficult for IDWR employees to make periodic visits to the LWR, it will be discussed with the Owner to have the watermaster for district 72-C read the flowmeter on a periodic basis instead.

ARTESIAN WELL

An artesian well is located downhill from the unnamed spring at the adit (Figure 3). No information was available from IDWR records about this well. Previous testing showed a capacity of 30 gpm without reduction in pressure, the Manager reported. Currently water flowing from the well is allowed to run out onto the ground through a piece of poly pipe. It was not observed during this visit as to where this water ultimately ends up, and would require another site visit to determine.

This artesian well was already constructed when the mining claim was purchased by Mr. James in the 1980's. As a result of the Borah Peak earthquake, the mine became too unsafe to work. The BLM owns the land where the artesian well is located. This well is described as the POD for water right application 72-16624.

WELL DRILLING PERMITS

Four well drilling permits have been issued for LWR and/or the Owner, Mr. James and are summarized below. An additional well was proposed by Mr. James in 1997, but was never permitted because of ramifications stemming from a federal lawsuit over wilderness water use. Two wells were drilled for Mr. James' residence. One of these domestic-use wells was abandoned. The locations of these domestic wells for Mr. James' residence shown of Figure 3 were estimated by interpreting drilling log information. Well # 2, shown of Figure 3, is another of the four permits issued. Well #2 is the well used for the LWR church camp facilities.

One permit appears to have never been drilled, and by location information, could have been for a planned residence in 1991. No information was obtained from the Owner or Manager regarding the 1991 well permit.

SUMMARY OF WELL DRILLING PERMITS:

Name(s):	Well #2, Mechanical Bldg. Well, Bldg. 5 Well	N/A
Permit No:	740325	740116
Well ID #:	287236	287781
Location:	T13N R18E Sec. 2 NENW Lot 002 003	T13N R18E Sec. 2 SWNW
Use of Well:	Domestic-Single Residence	Domestic-Single Residence
Const Dates:	Oct 23, 24 1997	(1991)
Completed Depth:	63 FT	0 FT
Production Rate:	11 GPM (driller rept) 15 GPM (IDWR measure)	0 GPM
Static Water Level:	38 FT	0 FT
Status:	In-Use	Not drilled

RECEIVED

NOV 12 2003

Department of Water Resources
Southern Region

SUMMARY OF WELL DRILLING PERMITS (continued):

Name:	Domestic Well for Residence	Domestic Well for Residence
Permit No:	740219	740227
Well ID #:	287895	287904
Location:	T13N R18E Sec. 2 SWNW	T13N R18E Sec. 2 SWNW
Use of Well:	Domestic-Single Residence	Domestic-Single Residence
Const Dates:	Jul 07, 08 1994	Jul 08, 09 1994
Completed Depth:	205 FT	200 FT
Production Rate:	1 GPM	10 GPM
Static Water Level:	100 FT	80 FT
Status:	Abandoned	In-Use

Photo 1. Well #1 flowmeter and connection piping to potable water system.



RECEIVED

NOV 12 2003

Department of Water Resources
Southern Region

Photo 2. Well #2 flowmeter and connection piping to potable water system.



RECEIVED

NOV 12 2003

Department of Water Resources
Southern Region

Figure 1. Decreed Irrigation Rights

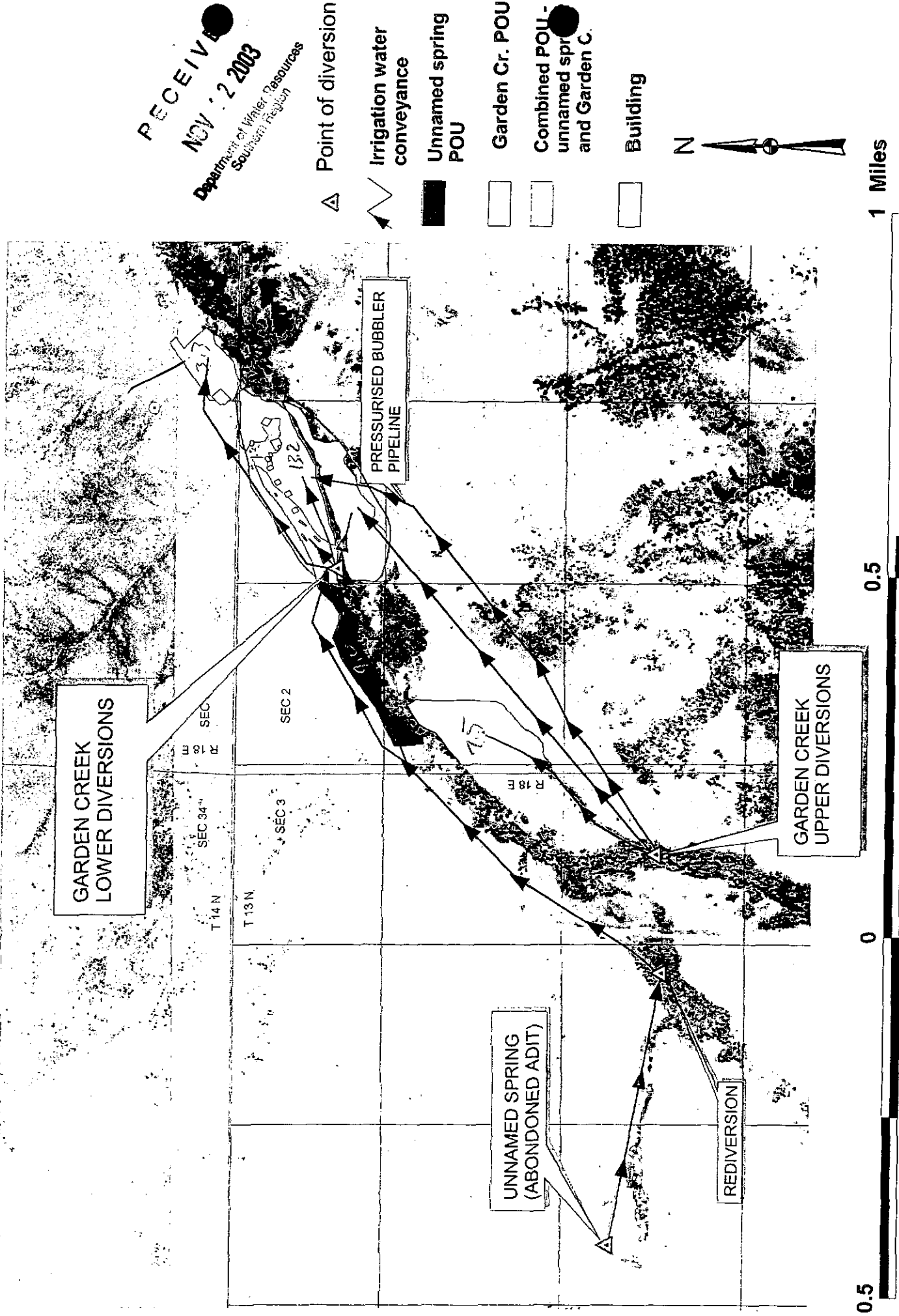


Figure 2. Potable Water and Other Domestic System Features

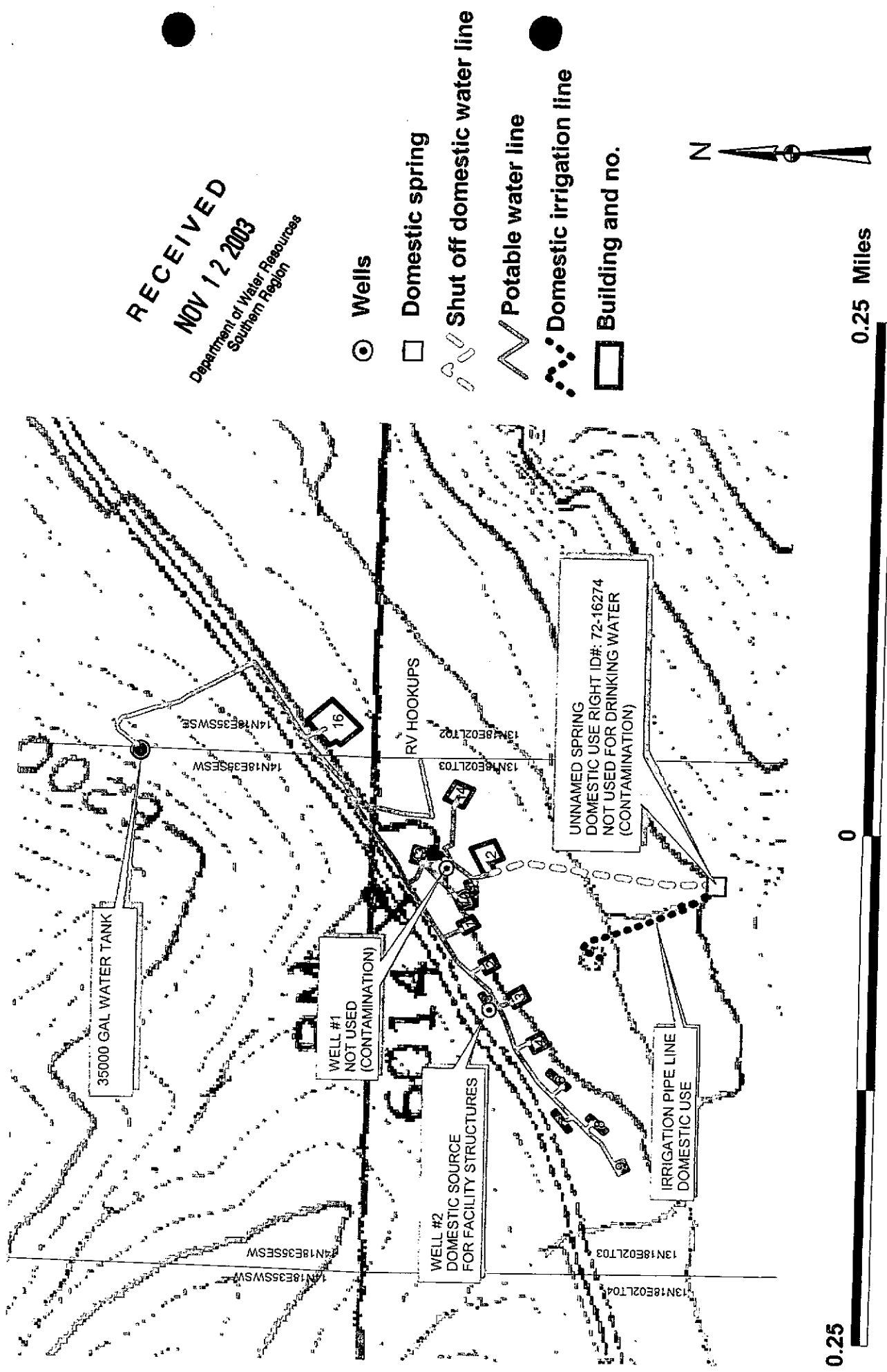
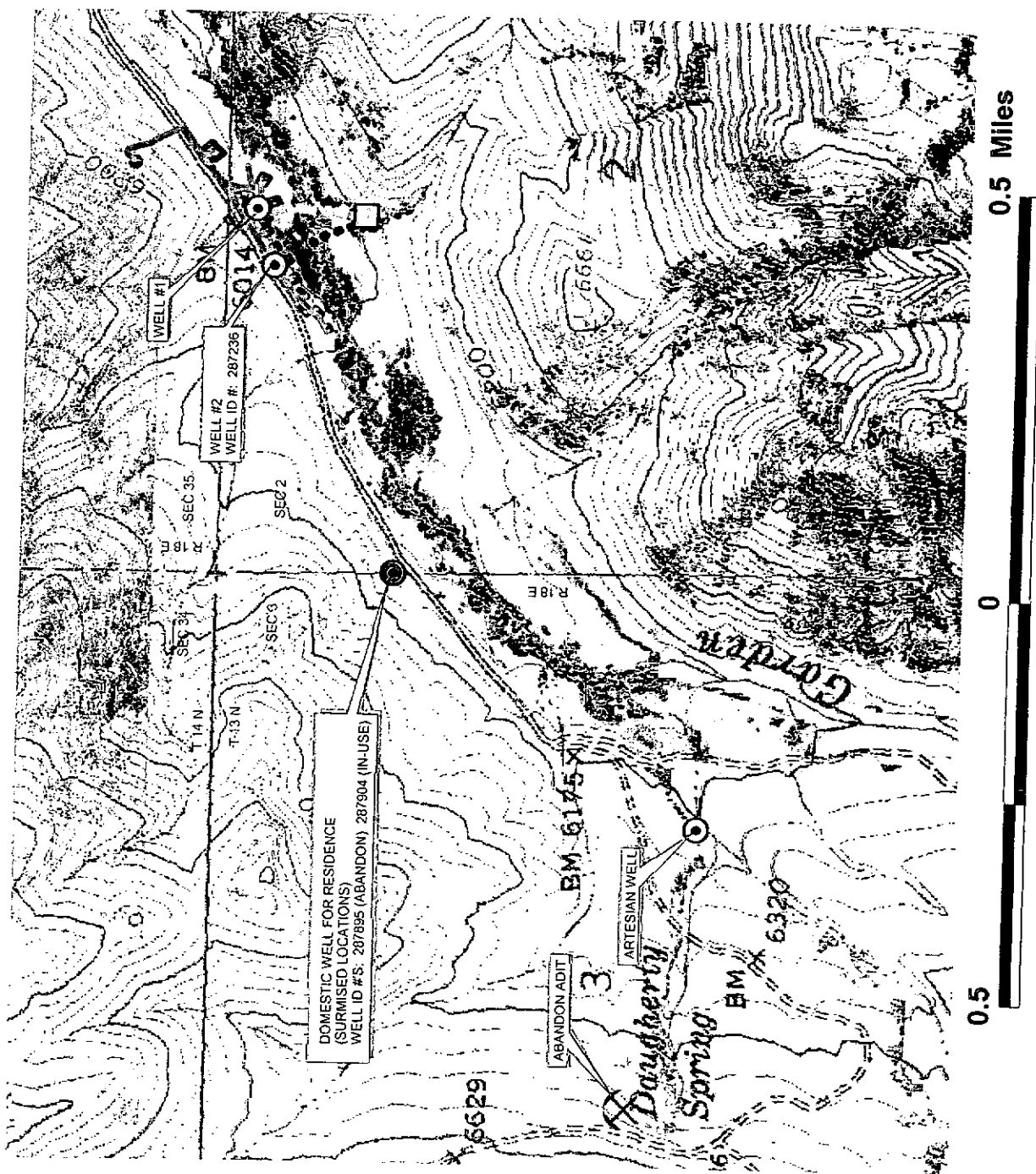


**FIGURE 3. ARTESIAN AND DOMESTIC
RESIDENCE WELL LOCATIONS**



RECEIVED
NOV 12 2003
Department of Water Resources
Southern Region

- Wells
- Domestic spring
- Potable Water Pipe
- Building



BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT)
NOS. 72-16624 and 72-16625)

Firstfruits Foundation and Christopher W. James Trust,)
Applicant)

Water District # 72-B, Bonnie Rowles, Jeffrey Yeo,)
Protestants)

NOTICE OF JOINT PRE-HEARING

CONFERENCE

SOURCE: Ground water and
Garden Creek

County: Custer

On October 15, 2002 Firstfruits Foundation and Christopher W. James Trust, (applicant), filed with the Department of Water Resources Application No. 72-16624 to appropriate the public waters of the State of Idaho, with a proposed diversion from a ground water source. The application was subsequently AMENDED on July 28, 2003. The Department has received protests against the approval of said application from Bonnie Rowles and Jeffrey Yeo.

On October 15, 2002 Firstfruits Foundation and Christopher W. James Trust, (applicant), filed with the Department of Water Resources Application No. 72-16625 to appropriate the public waters of the State of Idaho, with a proposed diversion from Garden Creek. The Department has received a protest against the approval of said application from Water District # 72-B, c/o Dee Keppner, Watermaster.

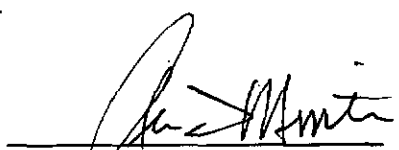
The Department has set the matter of protests for a joint conference on **Tuesday, December 2, 2003 at 1:00 p.m. in the Commissioners Room, Custer County Courthouse, Challis ID.**

The purpose of the conference is to formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

The conference will be held in accordance with Chapter 2, Title 42, of the Idaho Code and the adopted Rules of Practice and Procedure of the Department of Water Resources.

The conference will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the department within (10) days prior to the conference.

Dated this 6th day of November, 2003.


Allen D. Merritt, P.E.
Regional Manager

CERTIFICATE OF MAILING

I hereby certify that on the 6th day of November, 2003 a true and correct copy of the above and foregoing Notice of Joint Pre-Hearing Conference was forwarded with all required charges prepared, by regular U.S. Mail to the parties listed below:

Mary Baldwin
Secretary

FIRSTFRUITS FOUNDATION
CHRISTOPHER W. JAMES TRUST
PO BOX 510
CHALLIS ID 83226

BONNIE ROWLES
PO BOX 1087
CHALLIS ID 83226

JEFFREY J. YEO
PO BOX 299
CHALLIS ID 83226

DEE KEPPNER, WATERMASTER
WATER DISTRICT # 72-B
PO BOX 1153
CHALLIS ID 83226



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 6, 2003

ATTN Lura Baker
CUSTER COUNTY COURTHOUSE
PO BOX 160
CHALLIS ID 83226

Dear Lura:

This is a follow-up to our telephone conversation of yesterday to confirm the reservation of the Commissioners' Room for a meeting to be held by this office on **Tuesday, December 2, 2003 from 1:00 - 5:00 p.m.**

If you have any questions please feel free to contact me or Allen Merritt, Southern Regional Office Manager.

Thank you very much for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Mary Baldwin". The signature is written in dark ink and is positioned above the printed name and title.

Mary A. Baldwin
Administrative Assistant

MB



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 17, 2002

CHRISTOPHER JAMES TRUSTEE
FIRSTFRUITS FOUNDATION
PO BOX 510
CHALLIS ID 83226

Application for Permit No. 72-16625

Dear Applicant(s):

Enclosed is a copy of a protest filed against approval of the above referenced application. The Department suggests that you contact the protestant(s) directly to determine the nature of the protest and, if possible, to resolve the matter without action by the Department.

In our experience, informal discussion between the parties prior to initiation of formal proceedings often leads to resolution of the protest. If the protest cannot be resolved informally, the matter will be scheduled for conference and/or hearing.

The following are criteria the Department must consider in either approving or denying the application (Section 42-203A, Idaho Code).

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or 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. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?

Please contact this office if you have any questions regarding this procedure or if you wish to schedule a conference and/or hearing.

Sincerely,

Allen D. Merritt, P.E.
Regional Manager

Enclosures



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 17, 2002

DEE KEPPNER, WATERMASTER
WATER DISTRICT # 72-B
PO BOX 1153
CHALLIS ID 83226

RE: APPLICATION FOR PERMIT NO. 72-16625

Dear Protestant(s):

This office acknowledges receipt of your recent protest. Even though it did not contain specific reference to the above referenced application number, we are assuming you desire to file a protest against said application which is in the name of Firstfruits Foundation and Christopher W. Trust. Your letter of protest did mention Mr. James by name and was filed within the appropriate protest period. A receipt for the filing fee is enclosed.

A copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

Please note that the application is considered a contested case and subject to the Rules of Procedure adopted by the Department.

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

<http://www.idwr.state.id.us/apa/idapa37/0101.htm>

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosures

RECEIVED

DEC 04 2002

Department of Water Resources
Southern Region

November 30, 2002

To whom it may concern,

I am protesting under Sec 42-203A Idaho Code against Christopher W. James.

My reasoning for this protest is that there is not enough water to fill the water rights on the creek enen on a good water year.

As long as there is water to fill his 1888 or 1894 degrees the pond can stay full. But when his degrees are shut off the pond should remain as is with no more incoming water.

A concerned water user of Dist.72-B,


Dee Keppner

Watermaster of 2002

Water rights identification numbers:

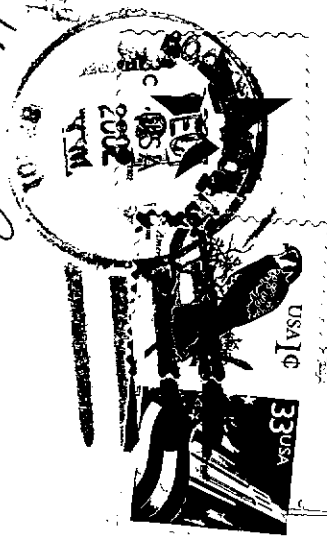
00109C

00106B

KEPNER
P.O. Box 281 / PO Box 1153
Challis, ID. 83226

Dept. of Water Rights, Southern Region
1341 Selmore St. Suite 200
Juniata, Idaho
83301

RECEIVED UNPAID AD
PO BOX 1153
CHALLIS, ID. 83207



RECEIVED
DEC 04 2002
Department of Water Resources
Southern Region

RECEIVED

DEC 04 2002

AFFIDAVIT OF PUBLICATION

Department of Water Resources

PUBLIC NOTICE

The following application has been filed to appropriate the public waters of the State of Idaho, Custer County:

72-16625

FIRSTFRUITS FOUNDATION
CHRISTOPHER W. JAMES
TRUST

PO BOX 510
CHALLIS ID 83226
Point of Diversion & Place Of
Use: L3 (SWNENW) S02 T13N
R18E

Source: GARDEN CREEK Tribu-
tary To SALMON RIVER

Use: 04/01 to 10/31

AESTHETIC 0.4 CFS

Date Filed: 10/15/2002

Remark: This application pro-
poses to legalize the use of Garden
Creek water in an old stock pond
that was converted to aesthetic
use in 1999. The pond covers
about 0.1 acres, and there is a
measuring device on the diversion
works. If emptied, the pond would
fill in less than 1 day, so no stor-
age is involved. The pond is locat-
ed on the Living Waters Ranch 4
1/2 miles SW of Challis. 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 appli-
cation must be filed with the Di-
rector, Dept. of Water Resource,
Southern Region, 1341 Fillmore
St, Suite 200, Twin Falls, ID
83301 together with a protest fee
of \$25.00 for each application on
or before 12/10/2002. The protes-
tant must also send a copy of the
protest to the applicant.

KARL J DREHER, Director

Published 11/21 & 11/28/02

OK
MB
12/12/02

State of Idaho, County of Custer, ss:

I, Ruth E. Burchill, representing the
Challis Messenger, a weekly newspaper, pub-
lished at Challis, Idaho, do solemnly swear that
the notice hereto attached and made a part here-
of, was published in the regular and entire issue
of the Challis Messenger for 2
consecutive weeks, commencing with the issue
dated NOV 21 2002 and ending with
the issue dated NOV 28 2002.

Ruth E. Burchill

STATE OF IDAHO

COUNTY OF CUSTER

On this 2nd day of Dec. in the
year of 2002 before me, a Notary Public,
personally appeared Ruth E. Burchill
known or identified to me to be the person
whose name subscribed to the within instru-
ment, and being by me first duly sworn, declared
that the statements therein are true, and ac-
knowledge to me that he executed the same.

E. J. Peck
Notary Public for Idaho
Residing at Challis

My commission expires: 3-19-04



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 20, 2002

JAY HORTON WATERMASTER
WATER DISTRICT #72-B
PO BOX 106
MAY ID 83253

Re: Application for Permit No. 72.16625 - Application for Permit filed in the name of Firstfruits Foundation

Dear Mr. Horton:

Enclosed is a copy of an Application for Permit within your District.

We also have enclosed a Watermaster's Recommendation Form for your comment and/or recommendation.

Regional review of an un-protested application can be completed as soon as the final protest period is past; therefore, your prompt response to this request is appreciated.

If you have any questions about an application, please contact this office or the applicant.

Very truly yours,

Mary A. Baldwin
Administrative Assistant

Enclosure(s)



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

November 20, 2002

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

CHRISTOPHER JAMES TRUSTEE
PO BOX 510
CHALLIS ID 83226

RE: Application for Permit No. 72-16625 (FIRSTFRUITS FOUNDATION)

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 for publication in the **Challis Messenger** on 11/21 & 11/27/02. Submittal of protests to the application will be allowed for a period ending ten days after the second publication. **(December 10, 2002)**

If an 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.

If an application is not protested, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved. A typical processing time for an unprotested application is about eight weeks.

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

Sincerely,

Mary A. Baldwin
Administrative Assistant I

Baldwin, Mary

From: Baldwin, Mary
Sent: Wednesday, November 20, 2002 3:25 PM
To: Blau, Terry
Cc: Baldwin, Mary; Troxell, Liz
Subject: NEW app

FYI &/or comment, Firstfruits Foundation has filed app. for permit 72-16625 on Garden Creek for Aesthetic uses.

IDAHO DEPARTMENT OF WATER RESOURCES
1341 FILLMORE STREET-STE# 200
TWIN FALLS ID 83301

Phone: 736-3033
Fax#: 736-3037

November 15, 2002

Legal Notice Department
Custer Publishing Co
PO Box 405
Challis ID 83226

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in the Challis Messenger 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. Your cooperation is appreciated.

Sincerely

A handwritten signature in cursive script that reads "Mary Baldwin".

Mary A. Baldwin
Administrative Assistant

The following application has been filed to appropriate the public waters of the State of Idaho, Custer County:

72-16625

FIRSTFRUITS FOUNDATION
CHRISTOPHER W. JAMES TRUST
PO BOX 510
CHALLIS ID 83226

Point of Diversion & Place Of Use: L3 (SWNENW) S02 T13N R18E
Source: GARDEN CREEK Tributary To SALMON RIVER
Use: 04/01 to 10/31
AESTHETIC 0.4 CFS
Date Filed: 10/15/2002

Remark: This application proposes to legalize the use of Garden Creek water in an old stock pond that was converted to aesthetic use in 1999. The pond covers about 0.1 acres, and there is a measuring device on the diversion works. If emptied, the pond would fill in less than 1 day, so no storage is involved. The pond is located on the Living Waters Ranch 4 1/2 miles SW of Challis..

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, Southern Region, 1341 Fillmore St, Suite 200, Twin Falls ID 83301 together with a protest fee of \$25.00 for each application on or before 12/10/2002. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Challis Messenger on 11/21 & 11/28/02.