

RECEIVED

JUL 26 2004

WATER RESOURCES
WESTERN REGION

RECORD OF SURVEY

OF A PORTION OF GOVERNMENT LOT 1, IN SECTION 14,
TOWNSHIP 7 NORTH, RANGE 1 EAST, BOISE MERIDIAN,
GEM COUNTY, IDAHO.

Portion of Lot 1
Section 14
Township 7 N R 1 E

BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE
WEST LINE OF GOVERNMENT LOT 1, IN SECTION 14,
TOWNSHIP 7 NORTH, RANGE 1 EAST, BOISE MERIDIAN,
AS SHOWN ON INSTR. NO. 189227, RECORDS OF
GEM COUNTY, IDAHO, I.E. N0°11'00"E.

LEGEND:

- FOUND BRASS CAP MONUMENT
- FOUND 5/8" IRON PIN
- FOUND 1/2" IRON PIN
- SET 1/2" IRON PIN w/ PLASTIC CAP PLS 8532

NOTE:

TRI COUNTY SURVEYING, INC. ASSUMES NO LIABILITY FOR
PRESENT OR FUTURE COMPLIANCE OR NON-COMPLIANCE WITH
COUNTY PLANNING AND ZONING ORDINANCE RESTRICTIONS AS
THEY PERTAIN TO BUILDING PERMITS AND THE ISSUANCE THEREOF.

SURVEY FOR:

MORRIS J. HYDE
10675 N. HWY. 52
SWEET, ID 83617
(208) 380-3408

TRI COUNTY SURVEYING, INC.

PROFESSIONAL LAND SURVEYORS
P.O. Box 974
703 No. WASHINGTON AVE.
Emmett, Idaho 83617
Phone: (208) 365-7470

Instr. No.:

STATE OF IDAHO }
COUNTY OF GEM }

Record of the request of
Tri County Surveying, Inc.

Date:

Instr. No.:

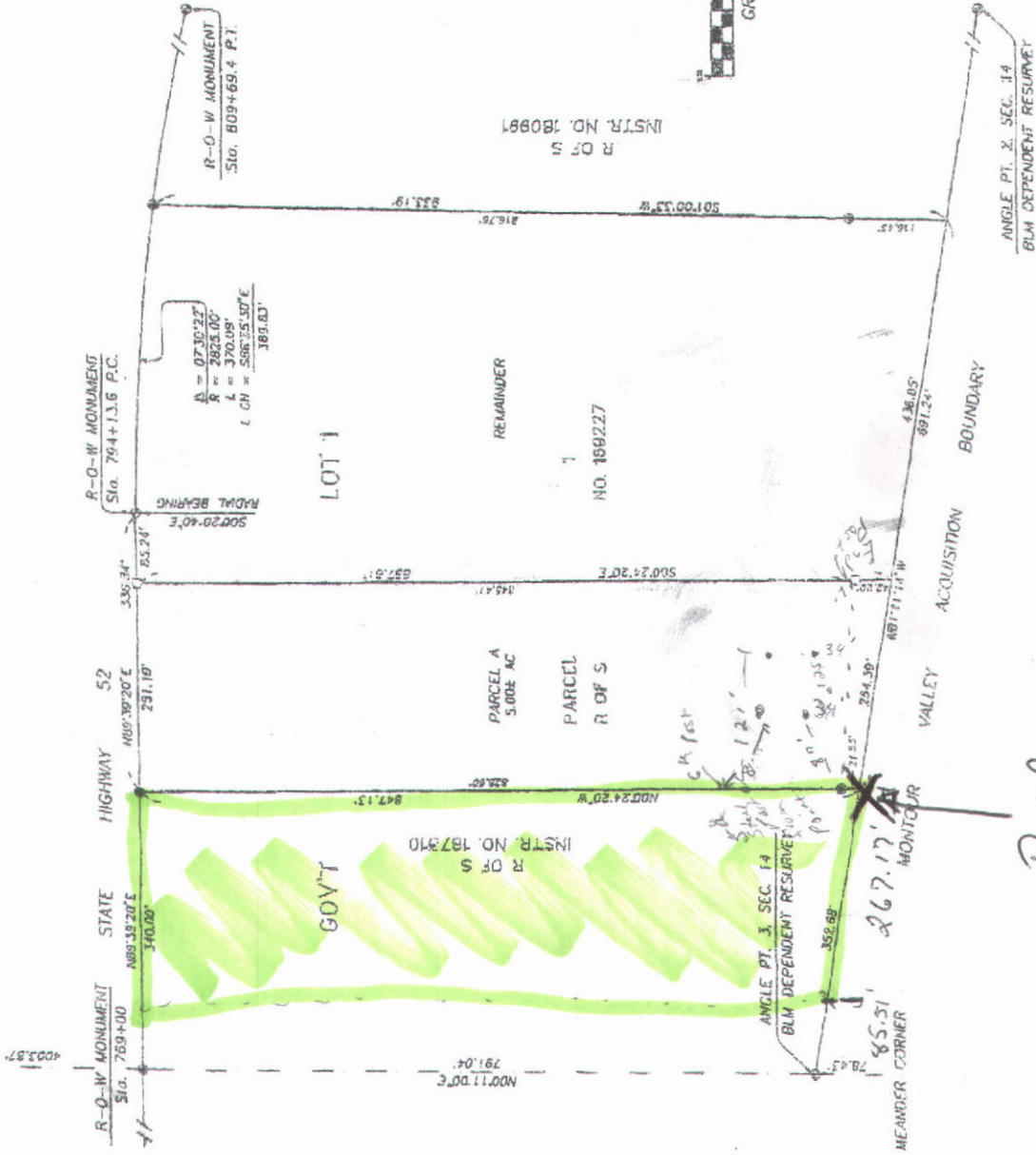
Recorded as a Survey

Susan K. Howard, Clerk

Emmett, Idaho

Fee: \$35.00

Reply:



Pump
Location

19° 53' W.

70.92

5-3

0225

70	25.75	20.80
----	-------	-------

2

EAST

79.29

2

30	33.75	36.50
----	-------	-------

NORTH

80.60

N. 89° 34' W.

79.66

Sec. 14

535100

১৫০০

—

WEST 79.87 61.00

750

NORTH

NC

N. $89^{\circ} 46'$ W.

80.00

561-3

430

ت

S. 89° 48' W.

22.80

79

6.78

20.20

9

4

54.50	49.73	58.08
-------	-------	-------

3040

ۛ

18.87

RIVER

T7N
R1E

RECEIVED
AUG 26 2004
WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
County of Gem) SS.

ANTHONY M. CLARK
of Emmett, Gem County, Idaho, being first duly sworn,
deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.

2. That I am the Principal Clerk of the Messenger Index, a weekly newspaper published in the City of Emmett in the County of Gem, State of Idaho; that the said newspaper is in general circulation in the said County of Gem, and in the vicinity of Emmett, and has been uninterruptedly published in said County during a period of fifty-two consecutive weeks prior to the first publication of the notice, a copy of which is hereto attached.

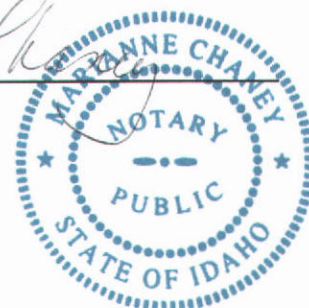
3. That the notice, of which the annexed is a printed copy, was published in the newspaper two times in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

4. That said notice was published the following:
August 18, 25, 2004

STATE OF IDAHO)
County of Gem)

On this 25th day of August in the year of 2004 before me a Notary Public, personally appeared. Anthony M. Clark known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he executed the same.

Notary Public for Idaho
Residing at Emmett
My Commission expires
February 1, 2005



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

65-22900

BLAINE BERGIN
10665 N HWY 52
HORSESHOE BEND ID 83629
KIMBERLEE BERGIN
10665 N HWY 52
HORSESHOE BEND ID 83629

Point(s) of Diversion L1 (SWSW) S14 T07N R01E
GEM County Source PAYETTE RIVER
Tributary To SNAKE RIVER

Use: IRRIGATION 03/01 To 11/15 0.1 CFS
Total Diversion: 0.1 CFS

Date Filed: 06/16/2004
Place Of Use: IRRIGATION
T07N R01E S14 SWSW Lot 1
Number of Acres: 5

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

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

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 09/07/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Pub: 8-18, 25, 2004

Legal Notice No. 5598
Published in the Messenger Index

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-22900

Priority. June 16, 2004

Maximum Diversion Rate: 0.10 CFS

This is to certify, that BLAINE BERGIN And/Or KIMBERLEE BERGIN
10665 N HWY 52
HORSESHOE BEND ID 83629

have applied for a permit to appropriate water from

Source: PAYETTE RIVER

Tributary: SNAKE 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>
IRRIGATION	03/01 to 11/15	0.10 CFS

LOCATION OF POINT OF DIVERSION:

PAYETTE RIVER L1 (SW $\frac{1}{4}$ SW $\frac{1}{4}$) Sec. 14, Twp 07N, Rge 01E, B.M., GEM County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N 01E 14												50					50
												L 1					

Total Acres. 5

CONDITIONS OF APPROVAL

- 1 Proof of application of water to beneficial use shall be submitted on or before **September 01, 2005**.
- 2 Subject to all prior water rights
- 3 Use of water under this right 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, this water right is within State Water District No. 65
- 4 Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
- 5 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
- 6 When water is not available to fill this right, the right holder shall cease diversion, shall rent water from the Payette River Rental Pool, or shall otherwise mitigate the depletion of water caused by this water use

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 65-22900

- 7 The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 10th day of September, 2004


for KARL J DREHER, Director

P. 06

SEP 10 2004

FORM 202
12/99

DEPARTMENT OF
WATER RESOURCES
STATE OF IDAHO

Ident No

65-22900

agree to the following
application changes
7-14-04 Date.

DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

JUN 16 2004

WATER RESOURCES
WESTERN REGION

1. Name of Applicant Blaine & Kimberlee Bergen Phone (208) 880-5851 WATER
Mailing address 10665 N Hwy 52 Horseshoe Bend ID 83629 WASTE

2. Source of water supply Payette River which is a tributary of Snake River

3. Location of point of diversion is Township 7N Range 1E Sec 14, in the SW 1/4, SW
NO 18, S10 1/4, Govt. Lot 1, B.M. Gem County;

additional points of diversion if any 0

[illegible]

5 Total quantity to be appropriated is (a) 1 CFS and/or (b) 20.00 AFS
cubic feet per second acre feet per annum

6. Proposed diverting works.

a Describe type and size of devices used to divert water from the source 5 hp pump to a 4-inch
line run to place of irrigation

5. 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

Is ground water with a temperature of greater than 85°F being sought? _____

If well is already drilled, when? _____ Drilling firm _____
 Well was drilled for (well owner) _____ : Drilling Permit No. _____

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

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

a. Hydropower; show total feet of head and proposed capacity in kW. _____

b. Stockwatering, list number and kind of livestock. _____

c. Municipal, show name of municipality. _____

d. Domestic; show number of households _____

e. Other; describe fully _____

9 Description of place of use

a. If water is for irrigation indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (example D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	1E	14				Inst	NO		1873	0			5						85
													41						

Total number of acres to be irrigated 85

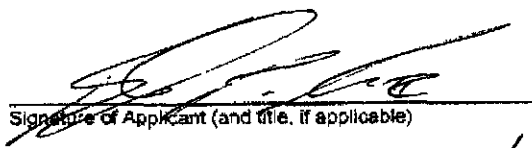
10. Describe any other water rights used for the same purposes as described above

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

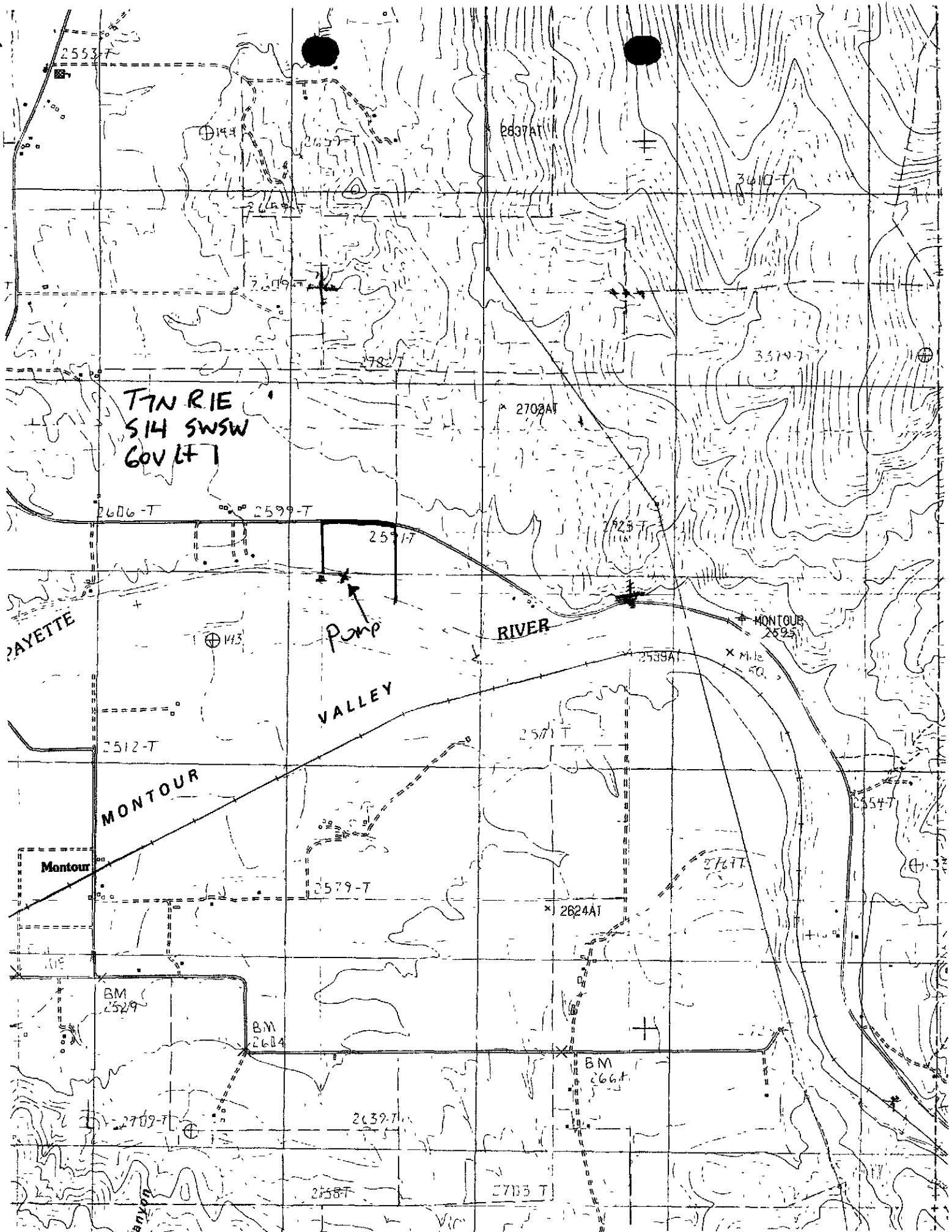
12. Remarks: Water will be used to irrigate pine tree farm & field grass for wild animals

13 MAP OF PROPOSED PROJECT REQUIRED - Attach an 8 1/2"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.


 Signature of Applicant (and title, if applicable)

Received by sk Date 6-16-04 Time 10:50 Preliminary check by 6
 Fee \$ 100 Received by sk # W031839 Date 6-16-04
 Publication prepared by sk Date 6-19-04 Published in MESSANGER INDEX
 Publication approved sk Date 9-7-04



65-22900

RECEIVED

JUL 26 2004

WATER RESOURCES
WESTERN REGION

BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE
WEST LINE OF CONVEYMENT LOT 1, IN SECTION 14,
TOWNSHIP 7 NORTH, RANGE 1 EAST, BOISE MERIDIAN,
AS SHOWN ON INSTR. NO. 180227, RECORDS OF
GEN. COUNTY (DAVID, I.G. NOTI) 100E

LEGEND:

- FOUND BRASS CAP MONUMENT
- FOUND 5/8" IRON PIN
- FOUND 1/2" IRON PIN
- SET 1/2" IRON PIN W/PLASTIC CAP PLS 0532

NOTE:

TRC COUNTY SURVEYING, INC. ASSUMES NO LIABILITY FOR
PRESENT OR FUTURE CONSEQUENCES OF NON-COMPLIANCE WITH
COUNTY PLANNING AND ZONING ORDINANCE RESTRICTIONS AS
THEY PERTAIN TO BUILDING PERMITS AND THE ASSURANCE THEREOF.

SURVEY FOR:

NORRIS J AYDE
10875 N HWY 52
SWEET, ID 83617
(208) 584-3468

TRC COUNTY SURVEYING, INC.
PROFESSIONAL LAND SURVEYORS

P.O. Box 974
703 No. WASHINGTON AVE.
ETTERNE, IDAHO 83617
Phone (208) 365-2270

INSU. No. _____
STATE OF IDAHO } as
COUNTY OF GEN }
Recorded at the request of
Tr. County Surveyors, Inc.
Date _____
Instr. No. _____
Recorded as a Survey
Susan K. Howard, Clerk
E-Office Recorder
Fee \$75.00

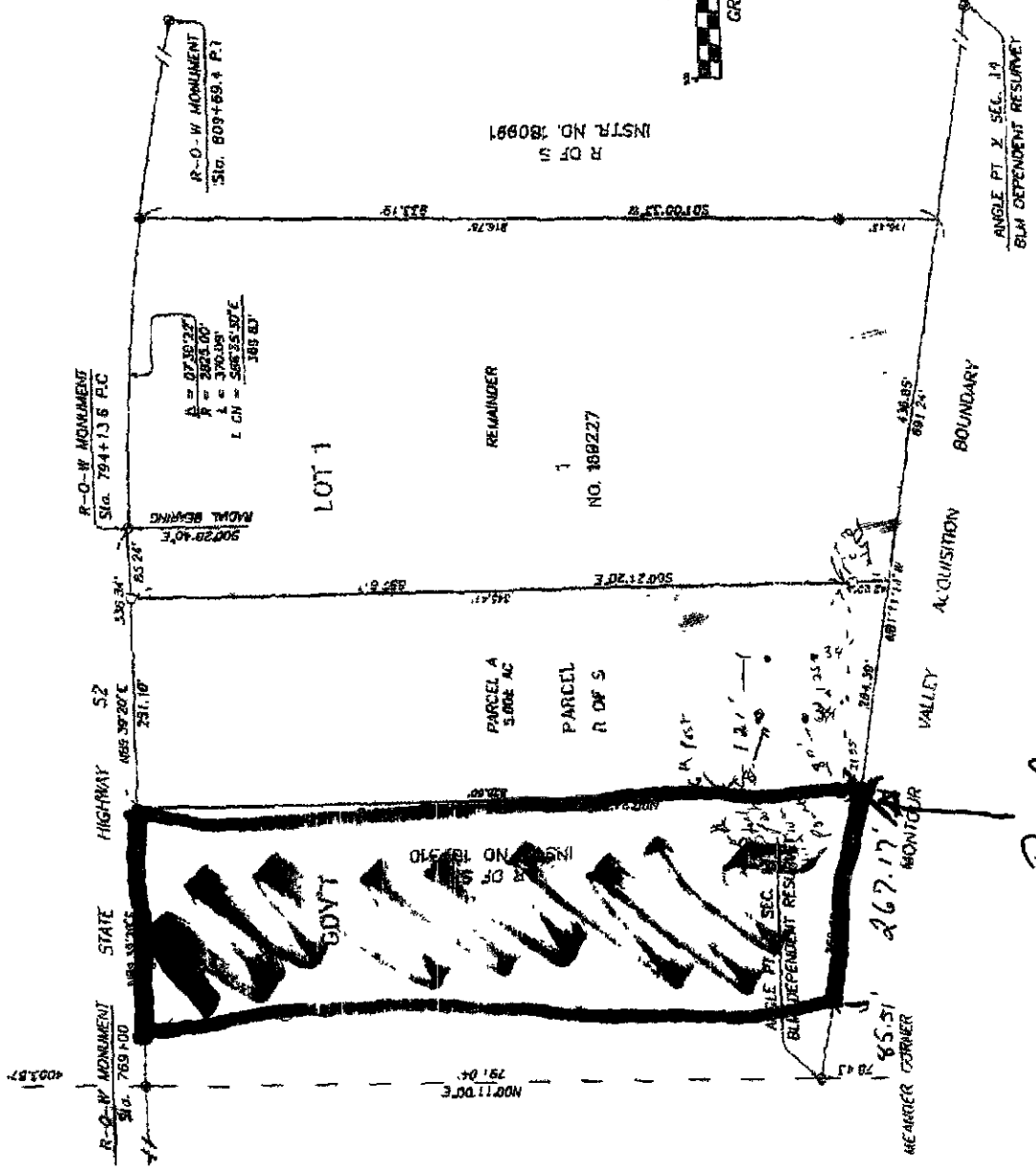


RECORD OF SURVEY

OF A PORTION OF CONVEYMENT LOT 1, IN SECTION 14
TOWNSHIP 7 NORTH, RANGE 1 EAST, BOISE MERIDIAN,
GEN. COUNTY, IDAHO.

Portion of Lot 1
Section 14
Twp 7 N R 1 E

10 11 CPAT NO
15 14 145685



Pump Location

RECEIVED

JUL 26 2004

WATER RESOURCES
WESTERN REGION

REQUEST TO PROCESS

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

Name of Applicant

BLAINE +/or KIMBERLEE BERGIN

Mailing Address

10665 N HWY 52

HORSESHOE BEND ID 83629

Application No.
(if known)

 IN LOCAL PUBLIC INTEREST

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

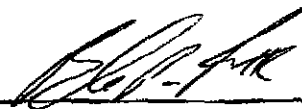
 PROPOSE MITIGATION NOW

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

X WILL AGREE TO MITIGATION IN THE FUTURE IF NECESSARY

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

Signature



Date

7-14-04

Please return this form to:

Idaho Dept. of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705-5082

A Parcel of land situated in U.S. Government Lot 1 of Section 14, T.7 N., R.1 E., B.M. Gem County, Idaho, being Parcel "A" of Record of Survey recorded November 20, 1995 as Inst. No. 187310, more particularly described as follows:

Commencing at the corner common to Sections 10, 11, 14, and 15; thence S.0°11'W., 4003.87 feet along the line common to said Sections 14 and 15 to a found 5/8 inch steel pin in the southerly right-of-way line of State Highway No. 52, thence, N.89°39'20"E., 76.28 feet along said right-of-way line to a set 1/2 inch steel pin marking the northwest corner of said Parcel "A" and the **POINT OF BEGINNING**; thence,

- 1) N.89°39'20"E., 263.72 feet along said right-of-way line to a found 1/2 inch steel pin; thence,
- 2) S.00°24'20"E., 825.60 feet along the easterly line of said parcel to found 1/2 inch steel pin witnessing the southeasterly corner of said parcel; thence,
- 3) continuing S.00°24'20"E., 21.53 feet to said corner on the Meander Line between Angle Points 2 and 3 of Section 14, as shown on the Dependent Resurvey of T.7 N., R.1 E., B.M., by the U.S. Bureau of Land Management dated May 14, 1979, thence,
- 4) N.81°11'57"W., 267.17 feet along said Meander Line to the southwest corner of said Parcel "A"; thence,
- 5) N.00°24'20"W., 26.66 feet along the westerly line of said Parcel to a set 1/2 inch steel pin witnessing said southwest corner; thence,
- 6) continuing N.00°24'20"W., 336.07 feet to a set 1/2 inch steel pin; thence,
- 7) continuing N.00°24'20"W., 441.94 feet to **THE POINT OF BEGINNING**.

RESERVING THEREFROM: a 50.00 foot wide easement for ingress and egress lying 25.00 feet on each side of the following described centerline; **BEGINNING** at a point on the westerly line of the above described Parcel "A" that bears N.00°24'20"W., 212.79 feet from the southwesterly corner thereof; thence,

- 1) N.65°15'05"E., 62.07 feet to the beginning of a tangent curve to the left and having a radius of 40.00 feet; thence,
- 2) along said curve an arc length of 104.73 feet, through a central angle of 150°00'56", and a long chord of N.09°45'23"W., 77.28 feet; thence,
- 3) tangent from said curve N.84°45'51"W., 44.21 feet to a point on said westerly line that bears N.00°24'20"W., 106.18 feet from the Point of Beginning, said point being the **POINT OF TERMINATION**.

The sidelines of said easement shall be lengthened or shortened so as to begin and terminate in the westerly line of said Parcel "A".

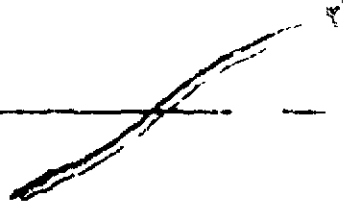
SAID PARCEL "A" CONTAINING: 5.00 Acres, more or less.

SUBJECT TO all Covenants, Rights, Rights-of-way and Easements of Record.

portion of Government Lot 1 of Section 14, Township 7 North, Range 1 East, B.M., Gem County, Idaho, described as follows:

BEGINNING at the Northwest corner of Section 14, T. 7 N., R. 1 E., B.M., Gem County, Idaho; thence
h 00°11'00" West, 4003.87 feet, along the West line of said Section 14, to a point on the Southerly right-
of-way line of State Highway 52, marked by a 5/8" iron pin; thence
h 89°39'20" East, 340.00 feet, along said right-of-way, to a found 1/2" iron pin at the Northwest corner of
Parcel 1 of Record of Survey No. 169227, records of Gem County, Idaho and being the REAL POINT OF
BEGINNING; thence continuing
h 89°39'20" East, 251.10 feet to a set 1/2" iron pin with plastic cap PLS 6552; thence
h 00°24'20" East, 887.61 feet to a point on the Montour Valley Acquisition Boundary; thence
h 81°11'14" West, 254.39 feet, along said boundary to the Southwest corner of said Parcel 1; thence
h 00°24'20" West, 847.13 feet, along the West line of said Parcel 1, to the REAL POINT OF
BEGINNING.

Exhibit A



19° 53' W.

78.92

c. 15

02.25

NORTH

80.00

NC

N. 89° 34' W.

79.66

Sec. 14

635.80

NC

NORTH

T7N
R1E

N. 89° 46' W.

80.00

Sec. 13

70

2

25.75

20.80

35.80

1

WEST 79.87

61.00

6.78

22.80

79.

48' W.

79.

22.00

EAST

79.29

3

30.40

54.50

49.73

58.08

20.20

22.80

79.

22.00

79.

22.00

79.

22.00

79.

22.00

2

33.75

36.50

30.40

54.50

49.73

58.08

20.20

22.80

79.

22.00

79.

22.00

79.

22.00

79.

22.00

79.

30

33.75

36.50

30.40

54.50

49.73

58.08

20.20

22.80

79.

22.00

79.

22.00

79.

22.00

79.

22.00

79.

22.00

79.

30

33.75

36.50

30.40

54.50

49.73

58.08

20.20

22.80

79.

22.00

79.

22.00

79.

22.00

79.

22.00

79.

22.00

79.



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

September 13, 2004

BLAINE BERGIN
KIMBERLEE BERGIN
10665 N HWY 52
HORSESHOE BEND ID 83629

RE: Permit No. 65-22900

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

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

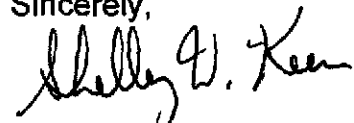
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should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

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

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

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

Sincerely,

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

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

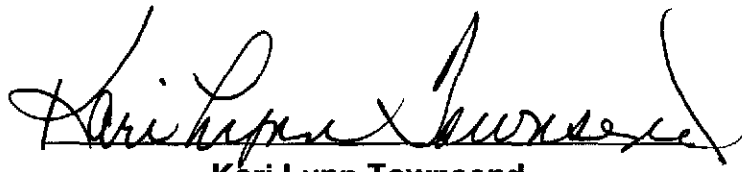
CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2004 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

65-22900

**BLAINE BERGIN
KIMBERLEE BERGIN
10665 N HWY 52
HORSESHOE BEND ID 83629**

A handwritten signature in black ink, appearing to read "Kari Lynn Townsend", written over a horizontal line.

**Kari Lynn Townsend
Secretary**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

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

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Comment Report

65-22900

1. scurtis 7/29/2004 Legal Notice Remarks

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

2. kwalker 9/10/2004 Permit Review

Comment: Recommend approval as suggested by region.

RECEIVED

SEP 10 2004

Form No 202a
April 2004DEPARTMENT OF
WATER RESOURCESIDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEETInitial review by 6

Date

7/8/04

Application #

65-22900REQUIRED INFORMATION

- ☒ Name (for corporation or partnership, names & addresses for director, officers, &/or other partners must be included)
- ☒ Address
- ☒ Source (see USGS quad for source names)
- ☒ P/D (10 acres for spring, lot & block descriptions for subdivisions, local name)
- ☒ County
- ☒ Quantity (flow & /or volume)
- ☒ Period of use
- ☒ Nature of use (list details in appl. Item 8 if non-irrigation)
- ☒ Description of diverting works
- ☒ Time required for beneficial use of water
- ☒ P/U
- ☒ Map (show T, R, S, QQ &/OR QQQ)
- ☒ Subdivision plat (if > 1 home restricted area ≥ 5 homes non-restricted area)
- ☒ Signature (if corporation, partnership, municipality, need title of signatory)
- ☒ Correct fee paid

Government Lots

Y P/DY P/UADDITIONAL INFORMATIONADVERTISE REMARKS☒ YES ☐ NO

YES NO

- ☒ ☐ P/D overlap (explain)
- ☒ ☐ P/U overlap (explain)
- ☒ ☐ Critical groundwater area (send letter)
- ☒ ☐ Ground water management area (send letter)
- ☒ ☐ Drilling concern area (send letter)
- ☒ ☐ 1992 moratorium (send letter)
- ☒ ☐ Surface water source, IDFG comment letter
- ☒ ☐ Protected river or minimum flow reach, notify water planning bureau
- ☒ ☐ E-mail to Dam Safety staff (if any storage)
- ☒ ☐ Mitigation plan: "request to process form" in file:
- ☐ Immediate = closed areas, acceptable plan required & submitted
- ☒ Future = open areas, plan not required
- ☒ ☐ Send power requirement letter &/or fish farm requirement letter
- ☒ ☐ Power residency affidavit
- ☒ ☐ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres (if YES, attach large diversion supplementary analysis sheet)

☒ REQUEST ADDITIONAL INFORMATION FROM APPLICANTare clarification, map, request to processDate Requested 7/8/04

Date Response Received

7/26/04

PROCESSINGAPPLICATION # 65-22900

YES NO

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

COMMENT LETTERS

YES NO

☒ ☐ IDEQ
☒ ☐ IDFG
☒ ☐ IDL
☒ ☐ IDWR Water Planning
Bureau

YES NO

☐ ☒ US BLM
☐ ☒ US Forest Service
☒ ☐ Water Dist # 65
☐ ☒ Other - list here or attach information

FINAL REGIONAL PROCESSING REVIEW

YES NO

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

☒ ☐ Publication dates & paper recorded on application
☐ ☒ Final date for protest 9-7-04
☐ ☒ Protests received
☒ ☐ Recommendations attached see attached WR recommendation
☒ ☐ Measuring device required
☒ ☐ Water delivered by water master? District # 65
☐ ☐ Special conditions of approval or cover letter

standards + X23 (cease, rent or mitigate when
H₂O unit available in Payette)

Recommended Date of Priority 6/16/04Recommendation ☒ Approve ☐ Deny by Loi Gruener Date 9/8/04**ADDITIONAL INFORMATION**☒ See attached proof report, note Legal Notice Remarks &/or Comments☒ Shapefile completed (optional: attach with proof report)

IDAHO DEPARTMENT OF WATER RESOURCES

Water Application Report 65-22900

WATER RIGHT NUMBER: 65-22900

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	BLAINE BERGIN 10665 N HWY 52 HORSESHOE BEND, ID 83629 (208)880-5851
Current Owner	KIMBERLEE BERGIN 10665 N HWY 52 HORSESHOE BEND, ID 83629 (208)880-5851

Priority Date: 06/16/2004

Basis:

Status: Active

<u>Source</u>	<u>Tributary</u>
PAYETTE RIVER	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	0.100 CFS	
	<u>Total Diversion:</u>	0.100 CFS	

Location of Point(s) of Diversion

PAYETTE RIVER	L1 (SW1/4SW1/4)	Sec. 14, Twp 07N, Rge 01E, B.M.
GEM County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N	01E	14																	5.0
																			L 1

Total Acres: 5

Remarks:Comments:

1. scurtis 7/29/2004 Legal Notice Remarks
 Comment. Applicant agrees to mitigate consumptive use in the future as needed.

Dates and Other Information:

Application Received Date: 6/16/2004
 Owner Name Connector: AND/OR
 Water District Number: 65
 Application Type: New Appropriation
 Applicant Remarks: Water will be used to irrigate the pine tree farm and field grass for wild animals.
 Other Water Rights:
 Time to Complete Works: 1

RECEIVED

AUG 26 2004

WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
County of Gem) SS.

ANTHONY M. CLARK
of Emmett, Gem County, Idaho, being first duly sworn,
deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.

2. That I am the Principal Clerk of the Messenger Index, a weekly newspaper published in the City of Emmett in the County of Gem, State of Idaho; that the said newspaper is in general circulation in the said County of Gem, and in the vicinity of Emmett, and has been uninterrupted published in said County during a period of fifty-two consecutive weeks prior to the first publication of the notice, a copy of which is hereto attached.

3 That the notice, of which the annexed is a printed copy, was published in the newspaper two times in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

4. That said notice was published the following:
August 18, 25, 2004

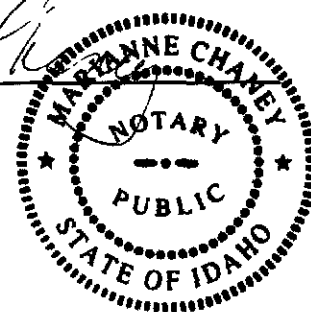
Anthony M. Clark

STATE OF IDAHO)
County of Gem)

On this 25th day of August in the year of 2004 before me a Notary Public, personally appeared. Anthony M. Clark known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he executed the same.

Marianne Chaney

Notary Public for Idaho
Residing at Emmett
My Commission expires
February 1, 2005



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

65-22900

BLAINE BERGIN
10665 N HWY 52
HORSESHOE BEND ID 83629
KIMBERLEE BERGIN
10665 N HWY 52
HORSESHOE BEND ID 83629

Point(s) of Diversion L1 (SWSW) S14 T07N R01E
GEM County Source PAYETTE RIVER
Tributary To SNAKE RIVER

Use: IRRIGATION 03/01 To 11/15 0.1 CFS
Total Diversion: 0.1 CFS

Date Filed: 06/16/2004
Place Of Use: IRRIGATION
T07N R01E S14 SWSW Lot 1
Number of Acres: 5

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

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

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Way, Boise ID 83706 together with a protest fee of \$25.00 for each application on or before 09/07/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Pub: 8-18, 25, 2004

Legal Notice No 5598
Published in the Messenger Index

AUG 17 2004

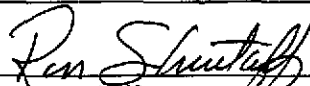
WATER RESOURCES
WESTERN REGION**RECOMMENDATION OF WATERMASTER**Application No: 65-22900Applicant's Name: Blaine, and/or Kimberlee Bergin

Watermaster's Recommendation:

- a) ☐ I do not oppose approval of this application.
- b) ☒ I do not oppose approval of this application if it is conditioned as follows: Under the control of Water District No. 65 and
subject to the Annual Assessments and Rental Pool Fees.
- c) ☐ I oppose approval of this application for the following reasons:
- d) Additional Comment:

Dated this 16th day of August, 2004

Water District No. 65


Ron Shurtleff, Watermaster

Kreger (Taylor), Sue

From: Kreger (Taylor), Sue
Sent: Thursday, August 12, 2004 12.56 PM
To: 'Waterdist65@srvinet.com'
Subject: comment letter

IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

August 12, 2004

RON SHURTLEFF
WATER DISTRICT 65
102 N MAIN
PAYETTE ID 83661

Re: Application(s) for Water Right

Dear Ron:

Attached are copies of one or more applications. Also attached is a form for your recommendation concerning these application(s).

Please review the application(s) that are in your area. We must have your comments within two weeks. If you have any questions or need information, feel free to contact this office at 334-2190.

Sincerely,

Sue Kreger
(208) 334-2190
Id Dept Water Resources
skreger@idwr.state.id.us



65-22900.pdf



Copy of
commendation of Wa

Kreger (Taylor), Sue

To: eleitzin@idfg.state.id.us
Subject: comment letter

IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

August 12, 2004

ERIC LEITZINGER, IDFG
PO BOX 25
BOISE ID 83707

Re: Applications for Permit

Dear Eric:

There are copies of one application this time. Please review the application(s) and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if your agency desires to file a formal protest against the approval of any of these applications, your written protest along with the \$25.00 protest fee for each application protested, must be received in this office by September 7, 2004.

If you have any questions regarding these applications, please contact this office at 334-2190.

Sincerely,

Sue Kreger
(208) 334-2190
Id Dept Water Resources
skreger@idwr.state.id.us



65-22900.pdf

**IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705**

August 11, 2004

Legal Notice Department
MESSENGER-INDEX
PO BOX 577
EMMETT ID 83617

RE: Application No. 63-31966 and 65-22900

Dear LEGAL NOTICE DEPARTMENT:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before September 7, 2004. Your cooperation is appreciated.

Sincerely

Sue Kreger
Administrative Assistant

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

65-22900

BLAINE BERGIN
10665 N HWY 52
HORSESHOE BEND ID 83629
KIMBERLEE BERGIN
10665 N HWY 52
HORSESHOE BEND ID 83629

Point(s) of Diversion L1 (SWSW) S14 T07N R01E GEM County Source PAYETTE RIVER
Tributary To SNAKE RIVER

Use IRRIGATION 03/01 To 11/15 0.1 CFS

Total Diversion. 0.1 CFS

Date Filed 06/16/2004

Place Of Use IRRIGATION

T07N R01E S14 SWSW Lot 1

Number of Acres 5

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

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

Any protest against the approval of this application must be filed with the Director, Dept of Water Resource, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 09/07/2004. The protestant must also send a copy of the protest to the applicant

KARL J DREHER, Director

Published in the Messenger Index on August 18 and 25, 2004.

December 17, 2003

APPLICATION RESEARCH

Completed by Pharla Date 6/22/04

Add reviewer's initials Lori to APPS/LIS and SAVE, forward file to reviewer after research completed.

Check items #1 through #4 unless otherwise noted.

RESEARCH ITEMS

1. N/A Corporation, partnership or other business entity: conduct Business Entity search at ID Sec. of State website and list results:

_____ registration # _____ not registered

2. _____ Gov't Lots, attach results if any in the entire section(s). Use most recent survey found on microfiche.

3. ✓ P/D overlap, existing/proposed site(s). Attach results or summarize here.

✓ none _____ see attached

4. ✓ P/U overlap, existing/proposed site(s). Attach results or summarize here.

_____ none _____ see attached

65-13372A (Hyde) 7 ac.
B (Bergin) 5 ac. (DAD)
separate

Additional Notes to Reviewer

_____ SRBA N/A _____ SRBA Reviewer for AJ Record in "active" basin