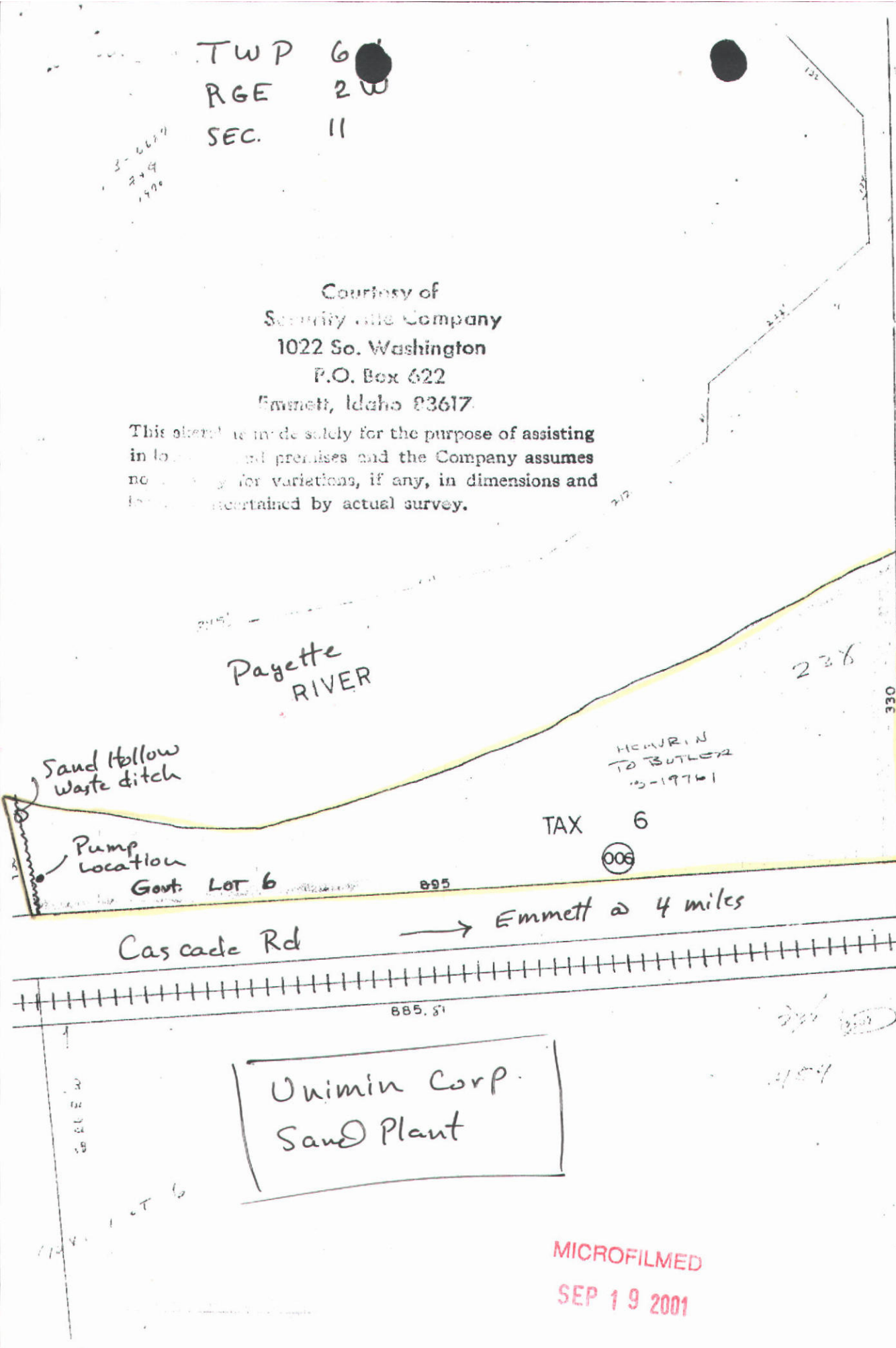


TWP 6
RGE 2W
SEC. 11

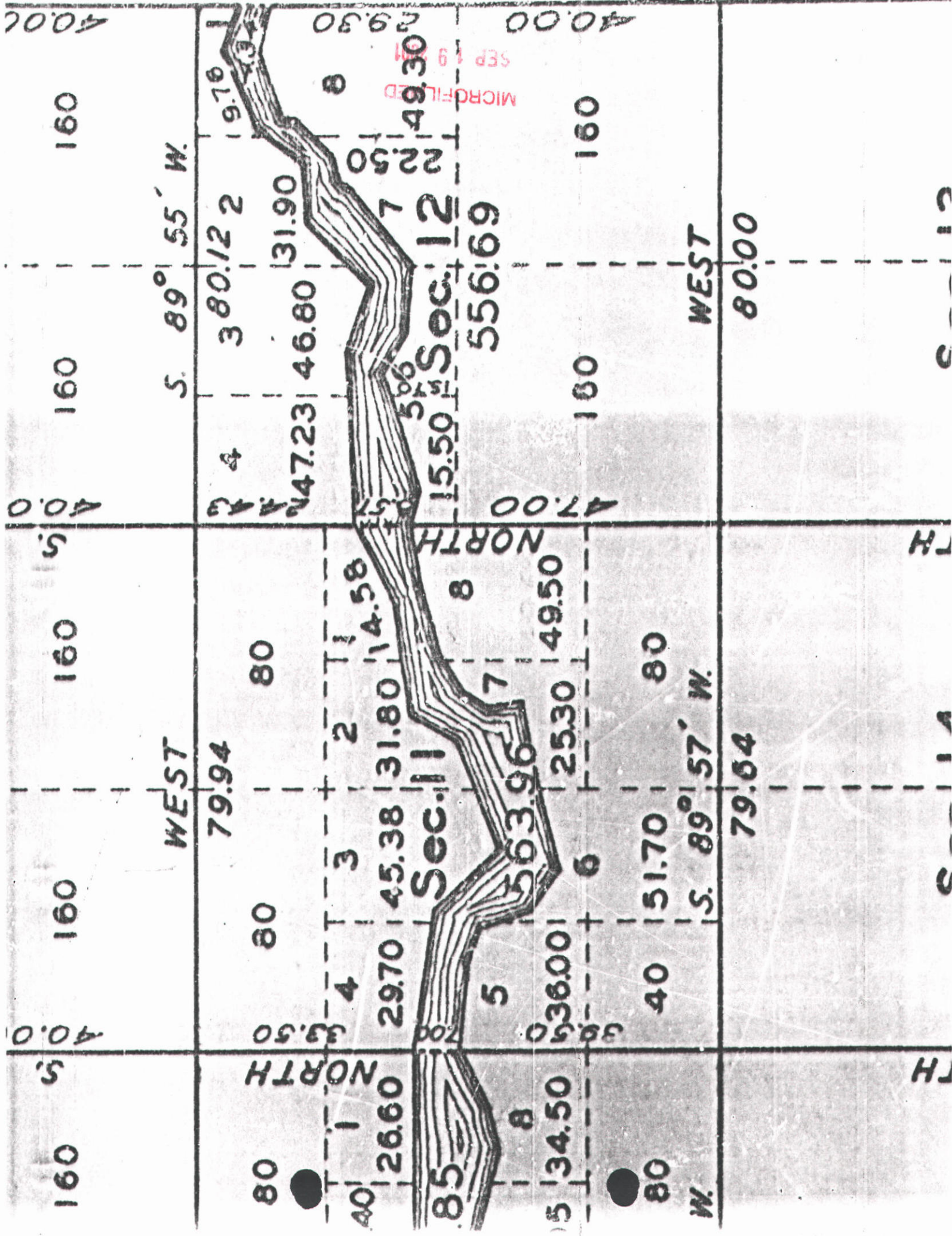
3-6614
249
1970

Courtesy of
Security Life Company
1022 So. Washington
P.O. Box 622
Emmett, Idaho 83617

This plan is made solely for the purpose of assisting
in locating land premises and the Company assumes
no liability for variations, if any, in dimensions and
location ascertained by actual survey.



MICROFILMED
SEP 19 2001



T6N R2W

11

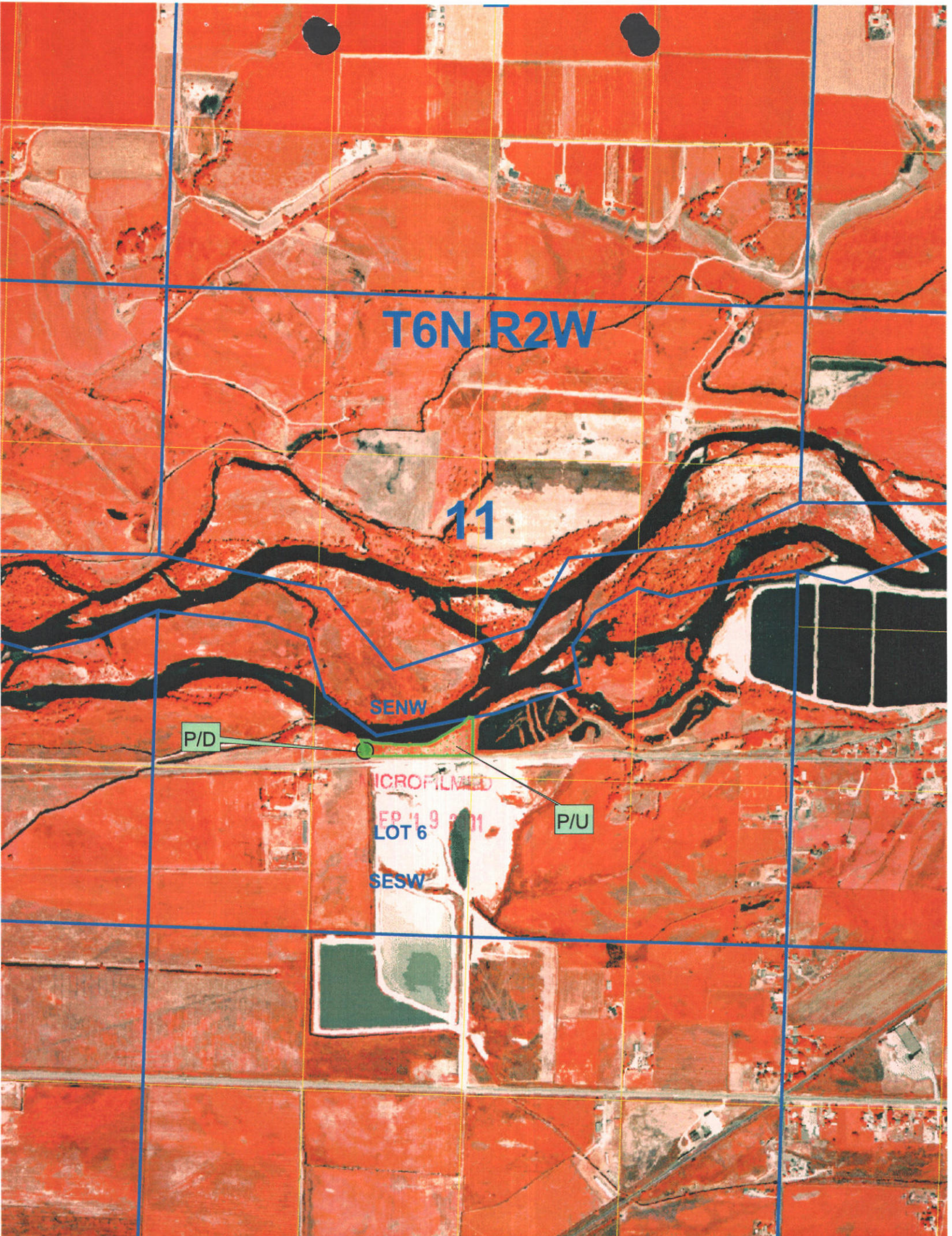
SENW

P/D

MICROFILMED
EP 19 201
LOT 6

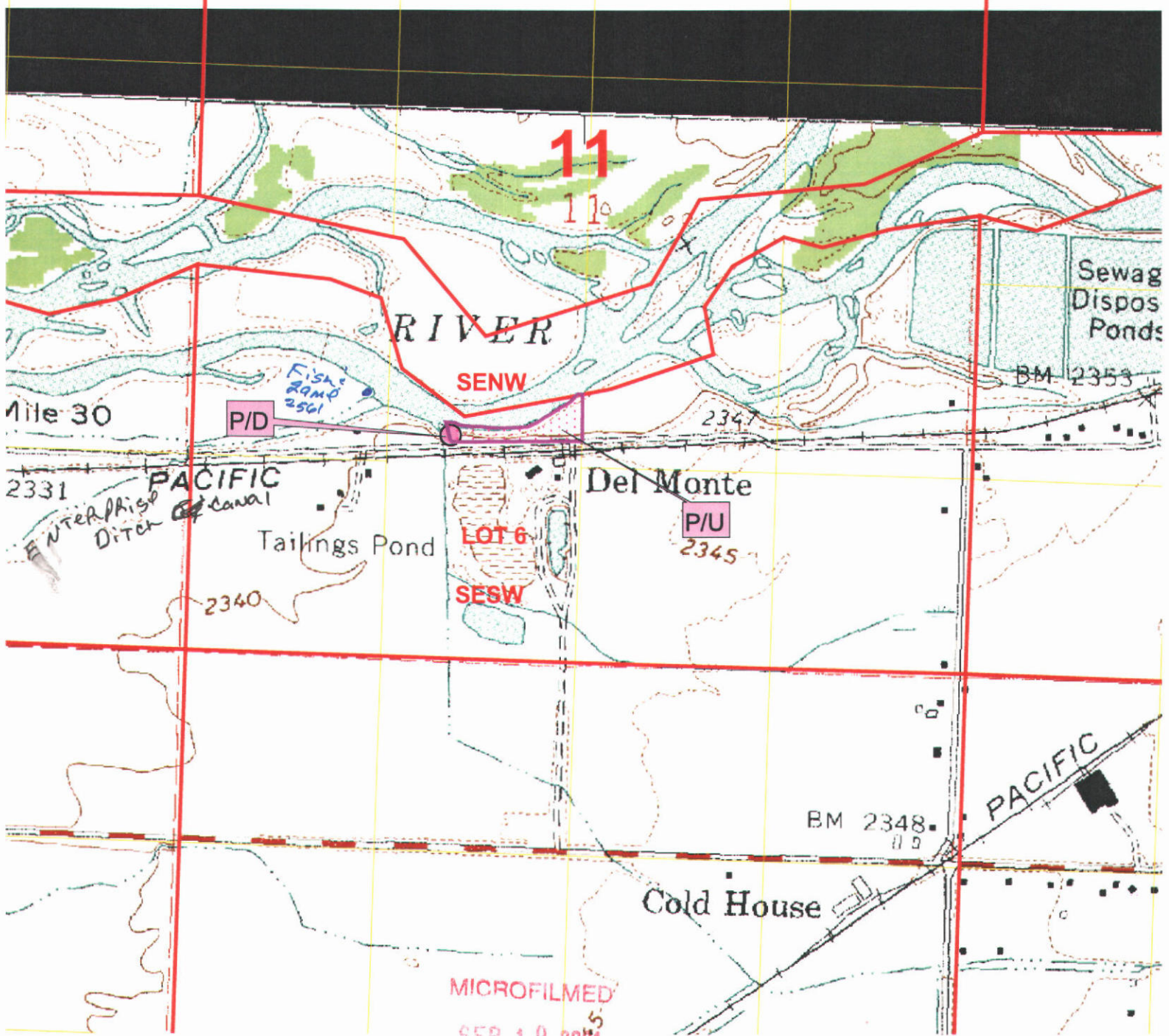
SESW

P/U





T6N R2W



APPLICATION FOR PERMIT
STATE OFFICE ANALYSIS

Reviewed by Sharla Curtis on 7/5/01

No. 65-22384 Name: Butler Corp. Officers N/A Ad ok ☒ Govt Lots ☐

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

GROUNDWATER: (✓Flow Chart)

DRILLING PERMIT

All wells - 046
Basin 34 - 084 (if necessary)
WMD - North/East/West
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 067

WMD

Supp irr (irr = only use) - 065-104
Supp irr (+ other uses) - 100-105
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 01M

LOCATION:

Boise Front LoGeo - 058 (<85 GW)
Mitigation - 121

Trust - 051 (consumptive uses)
Non-Trust - 048-049 (consumptive uses or non-cons. > 1.0 cfs)

USES:

STORAGE - 18C-01H-01P-18B-NA
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)
> 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)
STOCKWATER - R37 (BLM/FS)-111 (instream stock)
MINING - 054-106
HEAT/COOL - R07 (injection well)
FIRE PROT - 077
COMMERCIAL/
INDUSTRIAL - 106-R07
DAIRY - 082-WD8
POWER - 17H or 17K (+uses)-17G (not under FERC)
or 17M (FERC regulated >25 cfs or 500hp)

BENEFICIAL USE DUE: 7/01/2002

MISC CONDITIONS/REMARKS:

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

SURFACE WATER: (✓Flow Chart)

F&G contacted - Yes/No Response
In/Above MSF - WB9
PLANNING REVIEW/RESPONSE
WD - R04 (WD# 65)
≤ 0.20 cfs/others - 01H(P01), 01P or No MD
> 0.20 cfs - 01J

SPRINGS/SINK, INACTIVE WD or WD

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

RIVER BASINS: (SW special considerations)

Snake R (01) - W22, N/A
(02,03) - 007 (w/ remark WB9 if above Weiser)
Payette R (65) - W22, 047 (Payette Lake)
Salmon R (70's) - 029 (fish screens)
Weiser R (67) - 086-087

USES:

MUNICIPAL
Restricted area - 022,075
Irr., GW supp to SW - 102
Future needs - 007,109
FISH PROP - 029 (70's only)-007-042-106
DOMESTIC
Surface water - WB5 (Big Wood/Boise above Star Bridge)
- 27A (Payette R)
>1 in restricted area - 070-071-075 (no parks/common areas)
Irr separate or none allowed - WB5
GW w/irrigation from SW evident - 065-104
Moratorium approvable - W03 (2500 gpd - meets domestic definition
i.e. D/convenience store)

IRRIGATION SEASON 3/15 - 11/15 (Per updated map)

IRR VOLUME/ACRE 4.5

OTHER CONDITIONS/REMARKS

COMMENTS

FOR OFFICE USE ONLY
Amt. of Fee \$ 50.00
Receipt No. 2062909
Receipt By [Signature]
Date Received 6-24-02

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

JUN 24 2002

PROOF OF BENEFICIAL USE

Department of Water Resources

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

1. Permit No. 65-22384 Telephone No. 208-365-2497 365-1002

2. Name of Permit Holder(s): Michelle Butler + David Butler

3. Mailing Address: 1008 E. Main

City Emmett State Id. Zip 83617

4. Source of Water: Waste water If GROUNDWATER (well), Date Drilled: mo. _____ / yr. _____

Well Driller: _____ Drilling Permit Number: _____ - _____ - _____ - _____

5. Use(s) (as authorized by the water right permit):

Domestic (No. of households): _____ Stockwater (No. and type of stock): _____

Irrigation (No. of acres): 3 Other: _____

6. Total rate of diversion and/or volume for which proof is submitted: .09 cfs OR _____ acre-feet

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)

(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required? Yes _____ or No X
Has the measuring device been installed? Yes _____ or No _____

8. Fee Enclosed. \$ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

9. Person to contact to accompany the Department representative during field examination of the water system.

Name: David Butler Telephone Number: 208-365-2497

Address: 1008 E. Main Emmett, Idaho 83617 365-1002
850-5169

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: [Signature] Date: 6-21-02
(include your title, if on behalf of company or organization)

MICROFILMED

JUN 24 2002

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-22384

Priority 05/07/2001

Maximum Diversion Rate: 0.09 CFS

This is to certify, that DAVID BUTLER And/Or
MICHELLE BUTLER
1008 E MAIN
EMMETT ID 83617

has applied for a permit to appropriate water from

Source: WASTE WATER

Tributary: PAYETTE 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	03/15 to 11/15	0.09 CFS

LOCATION OF POINT(S) OF DIVERSION:

WASTE WATER L6 SE~~1~~/~~4~~SW~~1~~/~~4~~ Sec. 11, Twp 06N, Rge 02W, 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	
06N 02W 11																	30
																	L6

Total Acres 3

CONDITIONS OF APPROVAL

- 1 Proof of application of water to beneficial use shall be submitted on or before July 1, 2002.
- 2 Subject to all prior water rights.
- 3 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.
- 4 Use of water under this water right will be regulated by the watermaster of State Water District No 65
- 5 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
- 6 This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

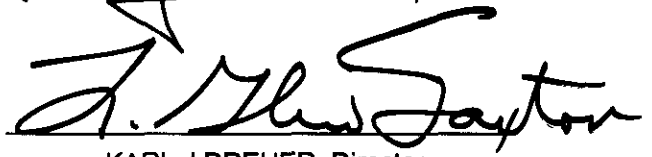
MICROFILMED
SEP 19 2001

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-22384

- 7 When water is not available to fill this right, the right holder shall cease diversion or shall rent water from the Payette River Rental Pool

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 5th day of July, 2001.


for
KARL J DREHER, Director

MICROFILMED

SEP 19 2001

Ident. No. 65-22384

App ID# 69121

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

APR 13 2001

APPLICATION FOR PERMIT

JUN 26 2001

WATER RESOURCES
WESTERN REGION

To appropriate the public waters of the State of Idaho

Department of Water Resources

1. Name of Applicant David & Michelle Butler Phone 208-365-2497
Mailing address 1008 E. Main Emmett, Idaho 83617
2. Source of water supply DWB Waste Water Small hollow waste ditch which is a tributary of Payette River
3. Location of point of diversion is Township 6N Range 2 West Sec. 11 in the NE $\frac{1}{4}$, SW $\frac{1}{4}$, Govt. Lot 6 (legal descrip. attached), S.M., Gem County;
additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount .09 for Irrigation purposes from Mar 15 to Nov 15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) .09 .09 CFS and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

- a. Describe type and size of devices used to divert water from the source 7 1/2 Hp Surface Pump
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 85°F being sought? _____
e. If well is already drilled, when? _____; Drilling firm _____
Well was drilled for (well owner) _____; Drilling Permit No. _____

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

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

- a. Hydropower; show total feet of head and proposed capacity in kW. _____
b. Stockwatering; list number and kind of livestock. _____
c. Municipal, show name of municipality. _____
d. Domestic, show number of households _____
e. Other; describe fully _____

MICROFILMED

SEP 13 2001

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	
6N	2W	11									3	(Govt. Lot 6)							3

Total number of acres to be irrigated 3

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? David + Michelle Butler

b. Who owns the land to be irrigated or place of use? David + Michelle Butler

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

12. Remarks: Ditch also known as Sand Hollow waste ditch

This diversion is less than 120' from the River with no one diverting below me.

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7 5 minute topographic quadrangle map is preferred)

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

David B Butler

Signature of Applicant (and title, if applicable)

Michelle Butler

Received by KG Date 4/13/01 Time 11:06 Preliminary check by DAW
 Fee \$ 100.00 Received by KG # W027568 Date 4/13/01
 Publication prepared by KG Date 5-16-01 Published in km Date 5-16-01
 Publication approved _____ Date 5-16-01 **MESSENGER INDEX**

MICROFILMED

SEP 10 2001

TWP 6-
RGE 2W
SEC. 11

3-6617
249
1970

Courtesy of
S. [unclear] Company
1022 So. Washington
P.O. Box 622
Emmett, Idaho 83617

This statement is solely for the purpose of assisting
in [unclear] and the Company assumes
no [unclear] variations, if any, in dimensions and
contained by actual survey.

Payette
RIVER

236

330

HEAVEN
TO BUTLER
13-19761

TAX 6

006

895

Cascade Rd

→ Emmett 2 4 miles

885.51

Unimin Corp.
Sand Plant

MICROFILMED
SEP 13 2001

COMMITMENT FOR TITLE INSURANCE

File No.: 3-19761

SCHEDULE A (Continued)

Legal Description (continued)

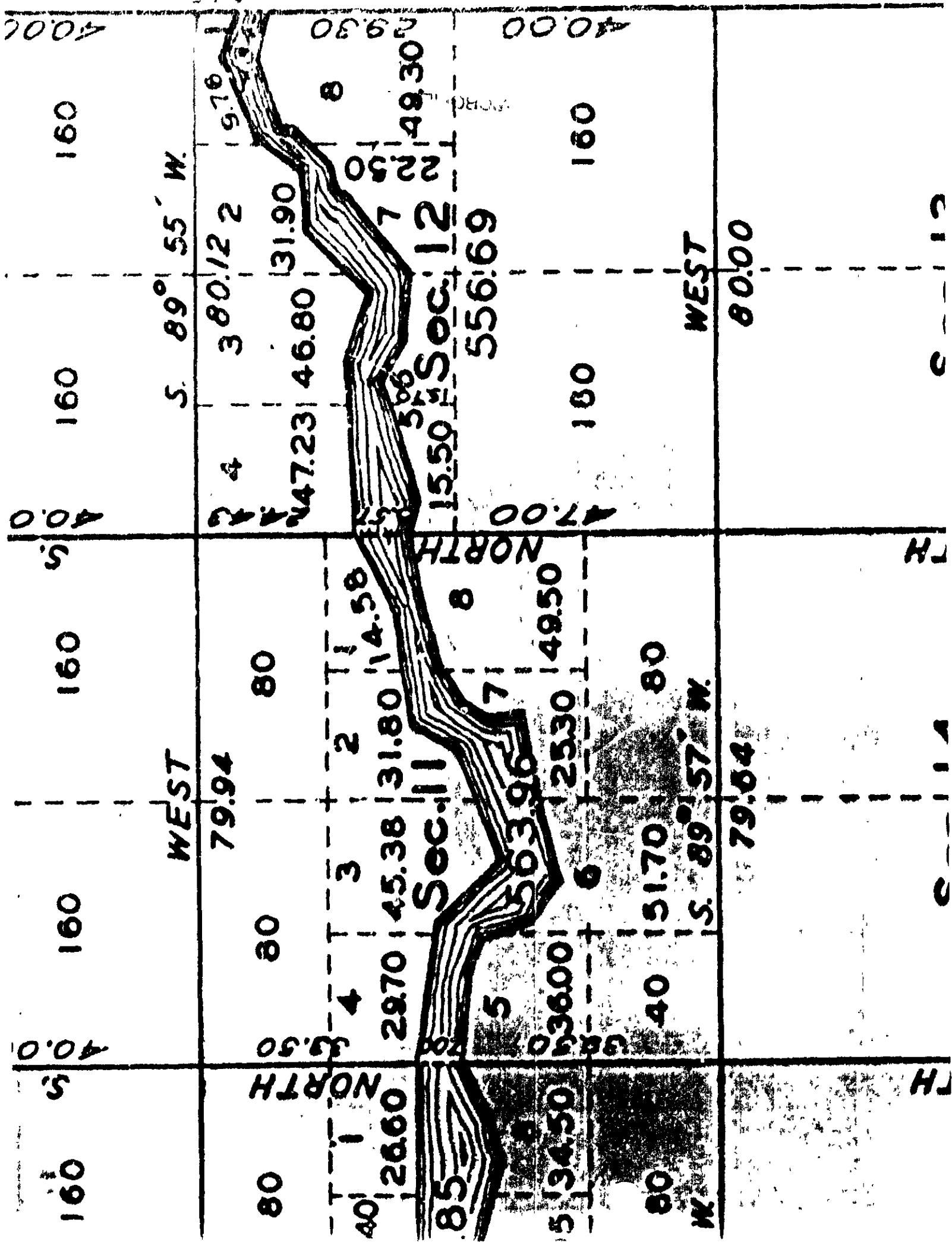
TOWNSHIP 6 North, Range 2 West, B.M., Gem County, Idaho:

Section 11: That part of Government Lot 6, described s follows:

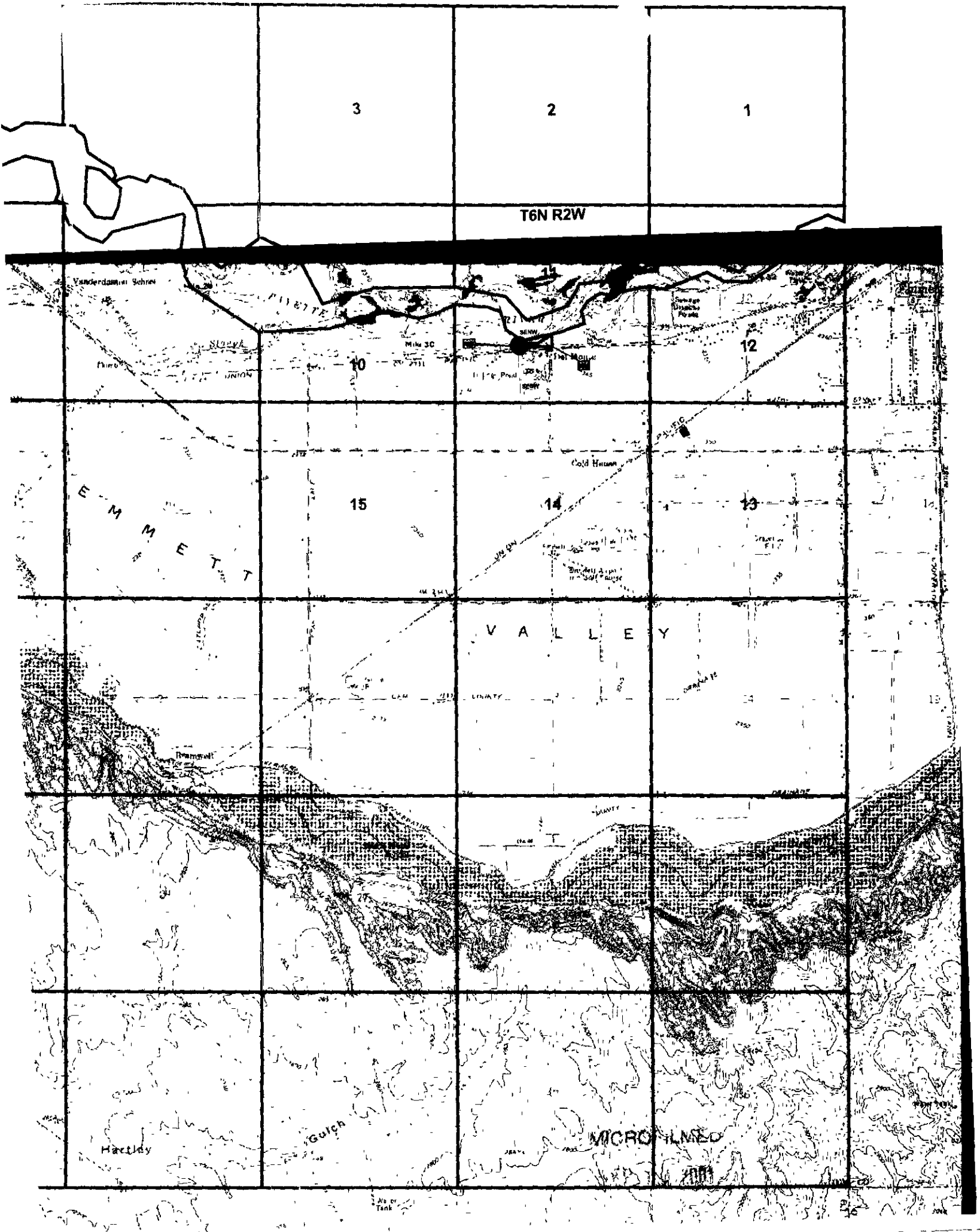
BEGINNING at the Southwest corner of said Lot 6; thence
North on the West line of said Lot 6, a distance of 1400 feet to
the North line of the County Road; thence
North 84°30' East on the North line of said County Road 423 feet,
to the West bank of Sand Hollow Waste Ditch and the REAL POINT OF
BEGINNING; thence
North 13°30' West upon the West bank of said Waste Ditch 130
feet, more or less, to the South bank of the Payette River;
thence
Easterly along the South bank of the Payette River to the East
line of said Lot 6; thence
South on the East line of said Lot 6 to the County Road; thence
Westerly along the North line of said County Road to the REAL
POINT OF BEGINNING.

EXCEPT right of way for Sand Hollow Waste Ditch.

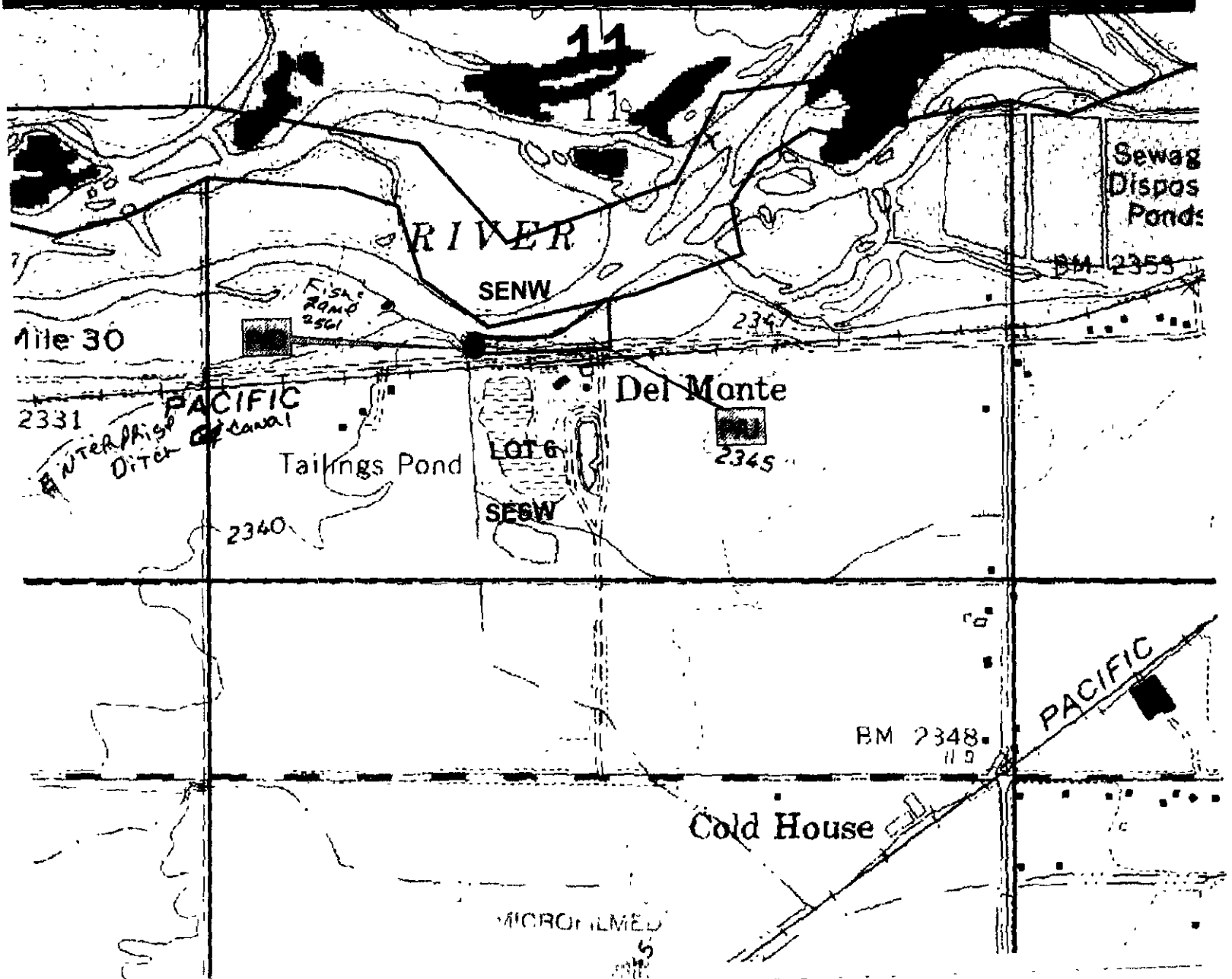
MICROFILMED
SEP 19 2001







T6N R2W





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

July 3, 2002

MICHELLE BUTLER
DAVID BUTLER
1008 E MAIN
EMMETT ID 83617

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 65-22384

Dear Permit Holder:

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

Be advised that Section 42-248, Idaho Code, requires you or the owner of these water rights to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

If you have questions, please contact the **Western** Regional Office of the department in Boise at (208) 334-2190.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encl.

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

MICROFILMED

JUL 10 2002

ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No 65-22384

Reviewed By. dgibson

Date. July 2, 2002

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Proof received timely?	X		Drilling permit required?		X
License examination fee required?	X		Drilling permit No		
Appropriate fee submitted?	X		Drilling permit upgrade needed?		
Receipt No.		W027568, C062909	Well driller's report filed?		X
Additional Amount Due.			Measuring device required?		X
Name and address same as permit?	X		Measuring device installed?		
Are the water uses correct?	X		Measure device waiver requested?		

Priority Calculation

Date proof received	06/24/2002
Date proof due	- 07/01/2002
Lapse notice sent	-
No of days late	= 0
Holiday allowance	+
Priority date	+ 05/07/2001
New priority date	= 05/07/2001

Deficiencies of Actions Items

Acknowledge proof

April 30, 2002

MICHELLE BUTLER
DAVID BUTLER
1008 E MAIN
EMMETT, ID 83617

PROOF DUE NOTICE

RE: PERMIT NO. 65-22384

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before July 01, 2002. (See last page of your approval permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a completed field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

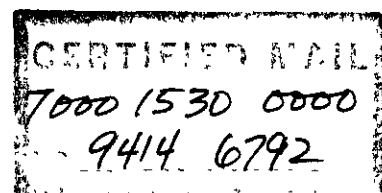
Sincerely,

MICROFILMED

JUL 10 2002

Deborah J. Gibson, Admin. Assistant
Water Allocation

Enclosures





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

July 10, 2001

MICHELLE BUTLER
DAVID BUTLER
1008 E MAIN
EMMETT ID 83617

RE Permit No 65-22384

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 at least sixty days prior to the commencement of work in the stream.

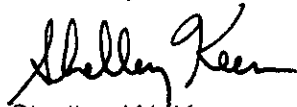
Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's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

MICROFILMED

SEP 19 2001

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

Sincerely

A handwritten signature in cursive script, appearing to read "Shelley Keen".

Shelley W. Keen
Water Rights Supervisor

SWK klt

Enclosure(s)

MICROFILMED

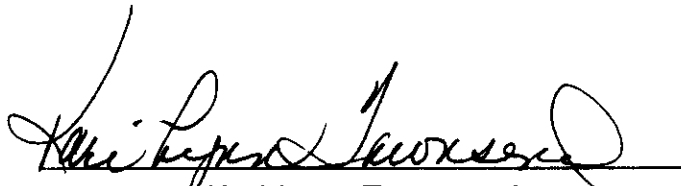
SEP 19 2001

CERTIFICATE OF MAILING

I hereby certify that on July 10, 2001 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. 65-22384

MICHELLE BUTLER
DAVID BUTLER
1008 E MAIN
EMMETT ID 83617



Kari Lynn Townsend
Secretary

MICROFILMED

SEP 19 2001

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

MICROFILMED
SEP 19 2001

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.

EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

MICROFILMED
SEP 19 2001

APPLICATION FOR PERMIT
STATE OFFICE ANALYSIS

Reviewed by Sharla Curtis on 7/5/01

No 65-22384 Name Butler Corp. Officers N/A Ad ok ☒ Govt Lots ☐

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

GROUNDWATER: (✓ Flow Chart)

DRILLING PERMIT

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

LOCATION:

Boise Front LoGeo - 058 (<85 GW)
Mitigation ~~0121~~

Trust - 051 (consumptive uses)
Non-Trust - 048-049 (consumptive uses or non-cons > 1.0 cfs)

USES:

STORAGE - 18C-01H-01P-18B-NA
≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)
> 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)
STOCKWATER - R37 (BLM/FS)-111 (unstream stock)
MINING - 054-106
HEAT/COOL - R07 (injection well)
FIRE PROT - 077
COMMERCIAL/
INDUSTRIAL - 106-R07
DAIRY - 082-WD8
POWER - 17H or 17K (+uses)-17G (not under FERC)
or 17M (FERC regulated >25 cfs or 500hp)

BENEFICIAL USE DUE: 7/1/01 12002

MISC CONDITIONS/REMARKS:

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

SURFACE WATER: (✓ Flow Chart)

F&G contacted - Yes/No Response
In/Above MSF - WB9
PLANNING REVIEW/RESPONSE
WD - R04 (WD# 65)
≤ 0.20 cfs/others - 01H(P01), 01P or No MD
> 0.20 cfs - 01J

SPRINGS/SINK, INACTIVE WD or WD

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

RIVER BASINS: (SW special considerations)

SNAKE R (01) - W22, N/A
(02,03) - 007 (w/ remark WB9 if above Weiser)
Payette R (65) - W22, 047 (Payette Lake)
Salmon R (70's) - 029 (fish screens)
Weiser R (67) - 086-087

USES:

MUNICIPAL
Restricted area - 022,075
Irr, GW supp to SW - 102
Future needs - 007,109
FISH PROP - 029 (70's only)-007-042-106
DOMESTIC
Surface water - WB5 (Big Wood/Boise above Star Bridge)
- 27A (Payette R)
> 1 in restricted area - 070-071-075 (no parks/common areas)
Irr separate or none allowed - WB5
GW w/irrigation from SW evident - 065-104
Moratorium approvable - W03 (2500 gpd - meets domestic definition
i.e. D/convenience store)

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

IRRIGATION SEASON 3/15 - 11/15 (Per updated map)

IRR VOLUME/ACRE 4.5

OTHER CONDITIONS/REMARKS _____

COMMENTS _____

January 2001

IL IO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

COMMENT
LETTERS

INITIAL REVIEW BY: DAW DATE: 5-2-01 APPLICATION: 65-22384

APP ID # 69121

REQUIRED INFORMATION

- ☒ Name: (If applicant is a corporation or partnership, names and addresses for the director, officers, and other partners must be included.)
- ☒ Address:
- ☒ Source: (See USGS Quad for names of water sources)
- ☒ Point of Diversion: (10 acres for spring, lot & block descriptions for Subdivisions, local name)
- ☒ County:
- ☒ Quantity: (flow and/or volume)
- ☒ Period of use:
- ☒ Nature of proposed use: (Include description of use)
- ☒ Description of diverting works:
- ☒ Time required for beneficial use of water:
- ☒ Place of use or acres irrigated:
- ☒ Map: (show T, R, S, QQ &/or QQQ)
- ☒ Subdivision plat: (for > 1 home in restricted area, $\geq$ 5 homes in non-restricted area)
- ☒ Signature: (If applicant is corp., partnership, or municipality, title of signatory is required)
- ☒ Correct fee paid

Gov't. Lots:

yes P/D

yes P/U

RECEIVED

JUN 26 2001

Department of Water Resources

ADDITIONAL INFORMATION

yes ADVERTISE REMARK(S)

(Reviewer identify which remarks)

YES NO

- ☒ Overlapping place of use: (Describe source & relationship to present application on next page.) THERE IS OVERLAP BUT NONE SEEM SIGNIFICANT
- ☒ Overlapping point of diversion.
- ☒ Critical groundwater area:
- ☒ Groundwater management area:
- ☒ 1992 moratorium:
- ☒ Surface water source, IDFG letter needed.
- ☒ Protected river or minimum flow reach, notify water planning bureau.
- ☒ E-mail to SCA staff: (perennial stream, non-pump diversion &/or any mining).
- ☒ E-mail to Dam Safety staff: (for any storage)
- ☒ Mitigation plan: Check any that apply.
- ☐ immediate = acceptable plan required and submitted.
- ☒ future = open areas, acceptance of condition of approval is in file.
- ☒ Send power requirement letter &/or fish farm requirement letter.
- ☒ Power residency affidavit:
- ☒ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres: (If yes, attach Large Diversion supplementary analysis sheet.)
- ☒ *REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

Need source corrected and Request to Process Form.

Also need to verify P/U & P/D.

Date Requested 5-4-2001 Date Response Received 5-7-2001

PROCESSING

APP. NO. _____

YES NO

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

SEND COPIES TO: NOTE IF E-MAIL COMMENT LETTER USED.

YES NO

_____ ☒ I.D. Health & Welfare
 _____ ☒ I.D. District Health
☒ _____ I.D. Fish & Game
 _____ ☒ I.D. Lands

YES NO

_____ ☒ U.S. BLM
 _____ ☒ U.S. Forest Service
☒ _____ Water Dist. # 65
 _____ ☒ Water Planning Bureau
☒ _____ Other BUREAU OF RECLAMATION
ATTN: RUTH PAGE

FINAL REGIONAL PROCESSING REVIEW:

YES NO

☒ _____ Affidavit of publication received:
☒ _____ Application published correctly: If not, record action taken.

☒ _____ Publication dates and paper recorded on application:

☒ _____ Final date for protest 6-4-01

_____ ☒ Protests received.

_____ ☒ Recommendations attached:

☒ _____ Measuring device required:

☒ _____ Water delivered by water master? District # 65

_____ Special conditions of approval or cover letter: STANDARD CONDITIONS,
WATER MASTER CONTROL, DOES NOT GRANT EASEMENT;

See below for additional information

Recommended Date or Priority 4-13-2001Recommended by: Daniel A. Nelson Date: 6-21-01ADDITIONAL INFORMATION:

State of Idaho
Department of Water Resources

RECEIVED

JUN 15 2001

WATER RESOURCES
WESTERN REGION

RECOMMENDATION OF WATERMASTER

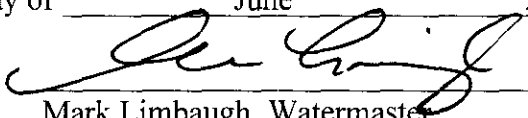
Application No 65-22384Applicant's Name David and/or Michelle Butler

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 control of Watermaster for Water District
No. 65.
- c) ☐ I oppose approval of this application for the following reasons:
- d) Additional Comment:

Dated this 13th day of June, 2001

Water District No. 65


Mark Limbaugh, Watermaster

Use reverse side of page if you need more space

MICROFILMED

following application(s) have been filed to appropriate the public waters of the State of Idaho:
65-22382

GUINN FAMILY TRUST
4909 W IDAHO BLVD
EMMETT ID 83617

Point(s) of Diversion L5 NWSW S4 T06N R02W GEM County Source WASTEWATER

Use: STOCKWATER 01/01 To 12/31 0.07 CFS
Total Diversion: 0.07 CFS

Date Filed: 04/10/2001
Place Of Use: STOCKWATER

T06N R02W S4 NWSW Lot 5

The following application(s) have been filed to appropriate the public waters of the State of Idaho:
65-22383

JOSEPH &/OR CHRISTINE BRYSON
PO BOX 5
SWEET ID 83670

Point(s) of Diversion NWSW S26 T08N R01 E GEM County Source GROUND WATER

Use: IRRIGATION 03/01 To 11/15 0.2 CFS
Use: DOMESTIC 01/01 To 12/31 0.04 CFS
Total Diversion 0.2 CFS

Date Filed: 04/17/2001
Place Of Use: IRRIGATION

T08N R01E S26 NESW NWSW

Number of Acres 10

Place Of Use: DOMESTIC

T08N R01E S26 NWSW

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

The following application(s) have been filed to appropriate the public waters of the State of Idaho:
65-22384

DAVID &/or MICHELLE BUTLER
1008 E MAIN
EMMETT ID 83617

Point(s) of Diversion L6 NESW S11 T06N R02W GEM County Source WASTE WATER

Use: IRRIGATION 03/15 To 11/15 0.09 CFS
Total Diversion: 0.09 CFS

Date Filed: 05/07/2001

Place Of Use: IRRIGATION

T06N R02W S11 NESW

Number of Acres 3

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

Permittee must file and pay prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 05/04/2001. The protest must also send a copy of the protest to the applicant.

Pub: 5-16, 23, 2001

KARL J DREHER, Director

Legal Notice No: 4296
Published in the Messenger Index

AFFIDAVIT OF PUBLICATION

RECEIVED

MAY 24 2001

STATE OF IDAHO)

) SS.

County of Gem)

WATER RESOURCES
WESTERN REGION

DIXIE THOME

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:
May 16, 23, 2001

Dixie L. Thome

STATE OF IDAHO)

County of Gem)

On this 23rd day of May in the year of 2001 before me a Notary Public, personally appeared Dixie Thome known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declare that the statements therein are true, and acknowledge to me that she executed the same.

M. L. Barry
NOTARY PUBLIC
Notary Public Idaho
Residing in Emmett
My Commission Expires
February 1, 2005

MICROFILMED



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 10, 2001

MARK LIMBAUGH
102 N MAIN
PAYETTE ID 83661

Re: Application for Water Right No. 65-22371 in the Name of Scott &/or Connie Harris.
Application for Water Right No. 65-22374 in the Name of Dale Myers &/or Suzanne Howell.
Application for Water Right No. 65-22376 in the Name of Rex Lanham.
Application for Water Right No. 65-22377 in the Name of Rex Lanham.
Application for Water Right No. 65-22375 in the Name of Clarence &/or Lorna Link.
Application for Water Right No. 65-22378 in the Name of Clarence &/or Lorna Link.
Application for Water Right No. 65-22379 in the Name of Clarence &/or Lorna Link.
Application for Water Right No. 65-22380 in the Name of Clarence &/or Lorna Link.
Application for Water Right No. 65-22381 in the Name of Guinn Family Trust.
Application for Water Right No. 65-22382 in the Name of Guinn Family Trust.
Application for Water Right No. 65-22384 in the Name of David &/or Michelle Butler.

Dear Mr. Limbaugh:

Enclosed are copies of the above-referenced applications for permit. Also enclosed are forms for your recommendation concerning these applications.

Please review the applications. We must have your comments within two weeks.

If you have any questions or need information, feel free to contact this office.

Sincerely,

Gary Spackman

GS:lm

Encl: Copy of Application

MICROFILMED



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

May 10, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

STATE OF IDAHO
DEPT OF FISH & GAME
3101 S POWERLINE RD
NAMPA ID 83686

Re: Application for Water Right No. 65-22371 in the Name of Scott &/or Connie Harris.
Application for Water Right No. 65-22374 in the Name of Dale Myers &/or Suzanne Howell.
Application for Water Right No. 65-22376 in the Name of Rex Lanham.
Application for Water Right No. 65-22377 in the Name of Rex Lanham.
Application for Water Right No. 65-22375 in the Name of Clarence &/or Lorna Link.
Application for Water Right No. 65-22378 in the Name of Clarence &/or Lorna Link.
Application for Water Right No. 65-22379 in the Name of Clarence &/or Lorna Link.
Application for Water Right No. 65-22380 in the Name of Clarence &/or Lorna Link.
Application for Water Right No. 65-22381 in the Name of Guinn Family Trust.
Application for Water Right No. 65-22382 in the Name of Guinn Family Trust.
Application for Water Right No. 65-22384 in the Name of David &/or Michelle Butler.

Dear Sir:

Enclosed are copies of the above-referenced applications that the proposed use is from surface water. Please review the applications and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if your agency desires to file a formal protest against the approval of this application(s), your written protest along with the \$25.00 protest fee must be received in this office by June 4, 2001.

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

Sincerely,

Gary Spackman

GS:lm
Encl.

MICROFILMED



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 10, 2001

RUTH PAGE
BUREAU OF RECLAMATION
ATT 310
1150 N CURTIS SUITE 100
BOISE ID 83706

Re: Application for Water Right No. 65-22371 in the Name of Scott &/or Connie Harris.
Application for Water Right No. 65-22384 in the Name of David &/or Michelle Butler.

Dear Sir:

Enclosed is a copy of the above referenced application for transfer, which may be of interest to your agency. The proposed use of this application is from surface water. Please review the application and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if your agency desires to file a formal protest against the approval of this application(s), your written protest along with the \$25.00 protest fee must be received in this office by June 4, 2001.

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

Sincerely,

A handwritten signature in cursive script that reads "Gary Spackman".

Gary Spackman

GS:lm

Encl. Copy of Application

MICROFILMED



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

May 10, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Legal Notice Department
Messenger-Index
PO Box 577
Emmett ID 83617

RE: Application for Permit Nos. 65-22374, 65-22376, 65-22377, 65-22381, 65-22382,
65-22383 and 65-22384

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find seven 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 notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 06/04/2001. Your cooperation is appreciated.

Sincerely

Sue Taylor

Senior Secretary

MICROFILMED

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

65-22384

DAVID &/or MICHELLE BUTLER
1008 E MAIN
EMMETT ID 83617

Point(s) of Diversion L6 NESW S11 T06N R02W GEM County Source WASTE WATER

Use: IRRIGATION 03/15 To 11/15 0.09 CFS

Total Diversion: 0.09 CFS

Date Filed: 05/07/2001

Place Of Use: IRRIGATION

T06N R02W S11 NESW

Number of Acres 3

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

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

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 06/04/2001. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Messenger Index on May 26 and 23, 2001.

REQUEST TO PROCESS

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

Name of Applicant

David and/or Michelle Butler

Mailing Address

1008 E MainEmmett, Idaho 83617Application No.
(if known)

RECEIVED

MAY 09 2001

WATER RESOURCES
WESTERN REGION

IN LOCAL PUBLIC INTEREST

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

PROPOSE MITIGATION NOW

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

☒ WILL AGREE TO MITIGATION IN THE FUTURE IF NECESSARY

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

Signature

David Butler

Date

5-4-01

Please return this form to:

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

MICROFILMED