

BZO

4520

NW 5-12

SESE 5-11

SWSW 5-12

T346 continues ON MAP BZO

T348

EXISTING well

New well

EXISTING well

NW NW 5-13

T-7N
R-3W

NO
WOOD
LOTS
DAN
7-31-00

SILVER LEAF

T1431

MICROFILMED
NOV 26 2005

SANDY

T8

T343

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-13961

Priority June 29, 2000

Maximum Diversion Rate

0.90 CFS

This is to certify, that TERRY A JONES
5888 SANDY AVE
EMMETT ID 83617

has applied for a permit to appropriate water from.

Source: GROUND WATER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
STOCKWATER	01/01 to 12/31	0.63 CFS
COMMERCIAL	01/01 to 12/31	0.27 CFS

LOCATION OF POINTS OF DIVERSION:

GROUND WATER	SW $\frac{1}{4}$ SW $\frac{1}{4}$	Sec 12, Twp 07N, Rge 03W, B M., GEM County
GROUND WATER	NW $\frac{1}{4}$ NW $\frac{1}{4}$	Sec. 13, Twp 07N, Rge 03W, B M., GEM County
GROUND WATER	NW $\frac{1}{4}$ NW $\frac{1}{4}$	Sec 13, Twp 07N, Rge 03W, B M., GEM County

PLACE OF USE: STOCKWATER and 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	
07N 03W 11													X				X
07N 03W 12							X	X	X	X	X				X		
07N 03W 13						X											

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2008**.
2. Subject to all prior water rights
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department
4. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control
5. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department
6. 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.

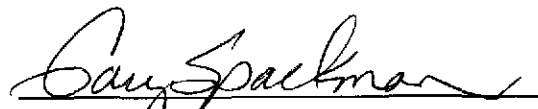
MICROFILMED

JUL 14 2000

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 65-13961

7. Use of water under this right may be affected by an agreement between the protestant and the right holder.
8. Failure of the right holder to comply with any condition of approval is cause for the Director to void this permit.
9. Stockwater use is for 1300 dairy cattle
10. Commercial use is for a dairy
11. The place of commercial use authorized by this approval includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this approval shall not be used for irrigation unless the water is first used in the dairy as authorized by this water right

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


KARL J DREHER, Director

MICROFILMED

NOV 26 2003

RECEIVED

SEP 30 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

JUN 29 2000

WATER RESOURCES
WESTERN REGION

Department of Water Resources

To appropriate the public waters of the State of Idaho

1. Name of Applicant Terry A. Jones Treasure Valley Land & Cattle Co. Phone 208-365-3707
Post Office address 5888 Sandy Ave Emmett Id 83617
2. Source of water supply Ground Water which is a tributary of _____
3. Location of point of diversion is _____ 1/4 of SW 1/4 of SW 1/4, Govt. Lot _____
Sec. 12 Township 7N Range 3W B.M. Crem County; additional points of
diversion if any: NW NW Sec 13 7N 3W (2 existing wells)
4. Water will be used for the following purposes:
Amount .27 CFS for Commercial purposes from 01/01 to 12/31 (both dates inclusive);
(cfs or acre-feet per annum)
Amount 163 CFS for Stock Water purposes from 01/01 to 12/31 (both dates inclusive);
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive);
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive);
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) .90 CFS and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Pump To Holding Tank
b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.
c. Proposed well diameter is 6 inches; proposed depth of well is 100 feet.
d. Is ground water with a temperature of greater than 85°F being sought? NO
e. If well is already drilled, when? UNKNOWN Drilling firm UNKNOWN
Well was drilled for (well owner) UNKNOWN
7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
a. Hydropower; show total feet of head and proposed capacity if 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. 750 milkens - 250 Drys - 300 calves
Dairy operation

MICROFILMED

NOV 26 2003

9. Description of place of use:

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

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

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	3W	12											D						
									C	C	C	C	C				C		
7N	3W	11													C			C	
7N	3W	13						C											

D = Dairy C = Land App.

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. 65-13176 A

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

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

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

12. Remarks: _____

13. MAP OF PROPOSED PROJECT ATTACHED X Show clearly the proposed point of diversion, place of use, section number, township and range number.

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]
(Applicant)

Received by 6 Date 6/29/00 Time 3 PM Preliminary check by DAN
 Fee \$ 100 Received by 6 # W026680 Date 6/29/00
 Publication prepared by ST Date 8-2-00 Published in MESSANGER INDEX
 Publication approved ST Date 8-24-00

MICROFILMED

NOV 25 2003

T 348

new well

34

MICROFILMED

NOV 26 2007

$$25.2$$

343

DOZENS

REQUEST TO PROCESS

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

Name of Applicant

Terry A. Jones

Mailing Address

5888 Sandy Ave
Emmett ID 83617

Application No.
(if known)

___ IN LOCAL PUBLIC INTEREST

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

___ PROPOSE MITIGATION NOW

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

☒ WILL AGREE TO MITIGATION IN THE FUTURE IF NECESSARY

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

Signature

Terry A. Jones

Date

6-29-00

Please return this form to:

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

MICROFILMED

NOV 26 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 2, 2003

TERRY A JONES
5888 SANDY AVE
EMMETT ID 83617

RE: Permit No. 65-13961

Permit Approval Notice

Dear Permit Holder:

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

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

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

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

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

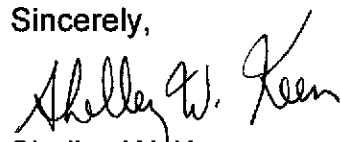
MICROFILMED

OCT 2 5 2003

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 cursive script that reads "Shelley W. Keen".

Shelley W. Keen

Water Rights Supervisor

Enclosure(s)

SWK:klt

cc: DAVID V & JANEEN Y KIPPER
LARY WALKER

MICROFILMED

NOV 26 2003

CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2003 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

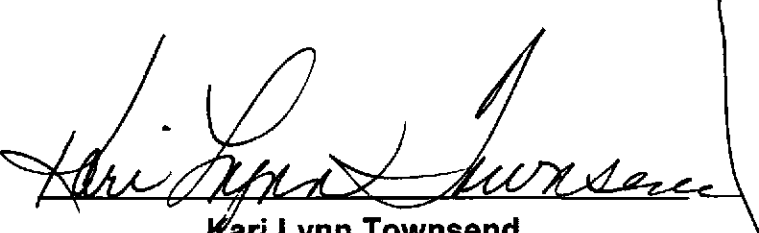
RE: WATER RIGHT NO.

65-13961

**TERRY A JONES
5888 SANDY AVE
EMMETT ID 83617**

**DAVID V KIPPER
JANEEN Y KIPPER
5555 SANDY AVE
EMMETT ID 83617**

**LARY WALKER
ATTORNEY AT LAW
PO BOX 828
WEISER ID 83672**



**Kari Lynn Townsend
Secretary**

MICROFILMED

NOV 26 2003

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

**MICROFILMED
NOV 26 2003**

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

ILLINOIS DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

RECEIVED
SEP 30 2003
Department of Water Resources

INITIAL REVIEW BY: DAN DATE: 7-21-00 APPLICATION: 05-13961

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:
ND P/D
ND P/U

ADDITIONAL INFORMATION

YES ADVERTISE REMARK(S)
(Reviewer identify which remarks)

X T FLAG CHANGED TO P FLAG

YES NO

- ☒ ☐ Overlapping place of use: (Describe source & relationship to present application on next page.)
- ☒ ☐ 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

Date Requested _____ Date Response Received _____

PROCESSING

APP. NO.

13961

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. #
☒ Water Planning Bureau
☒ Other

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 8-21-00

☒ Protests received.

☒ Recommendations attached:

☒ Measuring device required:

☒ Water delivered by water master? District #

☒ Special conditions of approval or cover letter: See letter dated 7/18/03
by Gary Spackman. Conditions are contained therein.

See below for additional information

Recommended Date or Priority

6/29/00

Recommended by: Gary

Date: 9/29/03

ADDITIONAL INFORMATION:

AN application FOR PERMIT FOR IRRIGATION
has been Filed in the same area,
BUT they are for different use and
different well 65-13176A is used for
this dairy. This ~~area~~ application is to
expand the dairy.

Ident. No. 65-13961

Comments: Date: 7/24/2000 User-ID: DNELSON

Subject: ADDITIONAL INFORMATION

APPLICANT: The dairy will be located in the SWSW S12. The remaining commercial use is for land application of dairy waste. The dairy will consist of 750 milk cows, 250 dry cows, 300 calves for a dairy operation. Water right 65-13176A is current water right for dairy. This permit is for expansion of the dairy. IDWR: Water right 65-13176A overlaps dairy use and point of diversion. An irrigation application has also been applied for that overlaps lands where dairy waste will be land applied. Canal water also overlaps some of the lands where the dairy waste will be applied. There will be 3 wells for this dairy. One well in S12 location and 2 existing wells in S13 location.

PROTEST INFORMATION SHEET

APPLICANT: Terry Jones

WATER RIGHT NO: 65-13960, 61

DATE FILED: 6-29-00 **PROTEST DATE:** 8-21-00

PROTESTANT(S) NAME & ADDRESS:

David &/or Janeen Kipper
5555 Sandy Ave.
Emmett ID 83617

208-365-2676

Attorney Name & Address: Issues:

Applicant - Attorney - Name & Address:

Dates:

Acknowledgement Letters: _____

Hearing Notice: _____

Hearing Date: _____

Room Confirmation Letter _____

Other: _____

MICROFILMED

NOV 26 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

July 18, 2003

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Terry A. Jones
5888 Sandy Ave
Emmett ID 83617

Janeen Kipper
5555 Sandy Ave
Emmett ID 83617

Re: Application to Appropriate Water No. 65-13961 in the Name of Terry Jones

Dear Mr. Jones & Mrs. Kipper:

On March 27, 2003, I sent you a letter stating the following:

On October 23, 2002, the Idaho Department of Water Resources (IDWR) received an executed document titled "Withdrawal of Protest and Settlement Agreement re. Terms and Conditions." The document was intended to resolve protests against application to appropriate water nos. 65-13960 and 65-13961 filed by Terry Jones. Based on this document, IDWR considers the protest of Janeen Kipper to be withdrawn.

IDWR processed application for permit no. 65-13960 and the application has been approved as a permit. IDWR sought additional information relative to application no. 65-13961, proposing diversion of ground water for commercial and stockwater use. Terry Jones submitted the additional information requested. Terry Jones stated that he also submitted the information to Janeen Kipper. I conclude that there is sufficient information in IDWR files to process application no. 65-13961.

IDWR has determined that it will not incorporate the language of the settlement agreement as conditions of water right permit no. 65-13961. IDWR will permit application no. 65-13961 with the following conditions:

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

2. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.

MICROFILMED

NOV 26 2003

Jones & Kipper

Page -2-

July 18, 2003

3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.

4. 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.

5. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

6. Use of water under this right may be affected by an agreement between the protestant and the right holder.

7. Failure of the right holder to comply with any condition of approval is cause for the Director to void this permit.

8. 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.

When permit no. 65-13960 is issued, the parties will be served with a copy of the approval document containing the conditions of approval. If the parties object to any portion of the permit, including the exclusion of the language upon which Kipper conditioned her withdrawal of protest, the parties may petition for reconsideration, file exceptions, and request a hearing. These possible remedies will be explained in the documentation enclosed with the approval document.

Respectfully,



Gary Spackman

cc. Lary Walker
Terrence S. Jones
Jeff Peppersack

MICROFILMED

NOV 26 2003

May 9, 2003

Daniel A Nelson
Department of Water Resources
Western Region
2735 Airport Way
Boise, ID, 83705

Dear Mr. Nelson

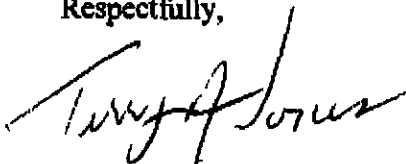
Application on permit #65-13961 is at the request of the Department of Dairying within the Idaho Department of Agriculture. Idaho dairies when they grow past 350 cows are required to change there well from domestic to commercial status. This dairy has been in existence for over 23years. Marv Patton head of the Dairy Dept. has been contacted on this permit request and agrees with my need for a commercial status.

I have contacted the Gem County Planning and Zoning and they stated that they have no regulation with regards to this issue and are willing to provide me with a letter stating this. Letter is attached.

If further information is needed please contact me I will comply with your request.

Thank you for your consideration in this matter.

Respectfully,



Terry A Jones
5888 Sandy Ave.
Emmett, ID, 83617
208-365-3707

Cc: David & Janeen Kipper

MICROFILMED
NOV 26 2003

GEM COUNTY DEVELOPMENT SERVICES DEPARTMENT
109 SO. MCKINLEY AVE.
EMMETT, IDAHO 83617

OFFICE OF THE ADMINISTRATOR
PLANNING COMMISSION
ZONING COMMISSION



PH. (208) 365-5144
FAX (208) 365-2499
E-MAIL dsd@gemcountypz.com
WEB PAGE www.gemcountypz.com

May 7, 2003

Terry Jones
5888 Sandy Ave
Emmett, ID 83617

Re: Well on the property at 5888 Sandy Ave, Tax parcel #498300

The dairy situated on this parcel is in compliance with zoning ordinance. Both commercial and domestic dairies and feedlots are allowed in the A-1 Zone. Well use is not addressed in Gem County Ordinance.

If we can be of any further assistance, please feel free to call the Planning and Zoning office.

Sincerely,

Debra K. Lish
Planning and Zoning Administrator

DISCLAIMER:

The Zoning Administrator IS NOT AN ATTORNEY NOR AN ADVISOR to applicants. The Administrator's Duty is to Advise an Interested Person of the Zoning Ordinance provisions and to aid applicants in the preparation of required applications. It is the Applicant's responsibility to obtain accurate legal advice on Land Use Restrictions as they pertain to specific parcels. Interpretations of land splits and qualifications for permits are legal opinions to be given by Attorneys.

All building and zoning permits are subject to current Gem County Zoning Ordinance requirements, current Uniform Building Code requirements and must have approval from Southwest District Health Department for any septic.

ATT: 5-9-03
Danie L
Nelson

MICROFILMED
NOV 26 2003

Filed
Terry Jones



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

April 4, 2003

TERRY A. JONES
5888 SANDY AVE
EMMETT ID 83617

RE: TERRY A. JONES APPLICATION FOR PERMIT 65-13961

Dear Mr. Jones:

The protests for application for permit 65-13961 have been withdrawn. In order for our office to make an informed decision on the approval/denial of your application for permit we will need the following additional information. When reviewing applications, our office is required by Idaho Code § 42-203A – section 5 to consider the following information whether the application is protested or not:

(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, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho

The information in the application suggest that conservation measures will be employed in a modern dairy, that you have sufficient financial resources to complete the project, and that this application has been made in good faith. The other factors that must be considered by IDWR are not addressed by the application are as follows:

Our review presumes that this new use should not affect any other users, however if there are wells within a ½ mile not owned by the applicant, please review the impact of this application to that well.

Water right applications related to the construction and operation of large dairies have sparked significant controversy in recent years.

Please report the status of any application required by the local governments responsible for granting permission for the dairy and whether local residents have had the opportunity to participate.

MICROFILMED

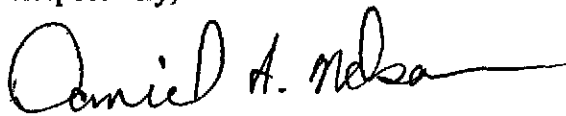
NOV 26 2003

Page 2
Jones Let

Please report on the review/approval of your proposed dairy by the Idaho Department of Agriculture and/or the Idaho Division of Environmental Quality (DEQ).

Please submit the above information within (30) days from the date of this letter. Even though the protests were withdrawn, the Protestants are still a party in this application. They may choose to file a petition for reconsideration if they do not agree with the conditions incorporated into the final document. Therefore, you will need to send a copy of your response to this letter to each of the former Protestants. If the information is not timely submitted, IDWR will remove the application from its records.

Respectfully,

A handwritten signature in black ink, appearing to read "Daniel A. Nelson", with a long horizontal flourish extending to the right.

Daniel A. Nelson
Sr. Water Right Agent

Cc: David and Janeen Kipper
Terrence S. Jones, Attorney at Law
Lary C. Walker, Attorney at Law

MICROFILMED
NOV 26 2007



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

March 27, 2003

Lary Walker
Attorney at Law
P.O. Box 828
Weiser ID 83672

Terrence S. Jones
Attorney at Law
P.O. Box 519
Boise ID 83791-0519

Re: Application to Appropriate Water Nos. 65-13960 & 65-13961 in the Name of Terry Jones

Gentlemen:

On October 23, 2002, the Idaho Department of Water Resources (IDWR) received an executed document titled "Withdrawal of Protest and Settlement Agreement re. Terms and Conditions." The document was intended to resolve protests against application to appropriate water nos. 65-13960 and 65-13961 filed by Terry Jones. Based on this document, IDWR considers the protest of Janeen Kipper to be withdrawn.

There is presently insufficient information to process application no. 65-13961, proposing diversion of ground water for commercial and stockwater use. IDWR will continue to gather additional information for final approval. IDWR will send correspondence directly to Janeen Kipper to apprise her of information requests to Terry Jones from IDWR. When responding, Terry Jones should send copies of the responses to Janeen Kipper. If the attorneys want to directly represent their clients in the matter, they should file a notice of appearance.

I conclude that there is sufficient information in IDWR files to process application no. 65-13960, proposing diversion of ground water for irrigation.

IDWR has determined that it will not incorporate the language of the settlement agreement as conditions of water right permit no. 65-13960. IDWR will permit application no. 65-13960 with the following conditions:

Use of water under this water right may be affected by an agreement between the protestant and the water right holder.

The right holder shall measure and report diversion of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.

Failure of the right holder to comply with any condition is cause for the Director to void this permit.

MICROFILMED

NOV 26 2003

Lary Walker & Terrence Jones
March 27, 2003
Page 2

When permit no. 65-13960 is issued, the parties will be served with a copy of the approval document containing the conditions of approval. If the parties object to any portion of the permit, including the exclusion of the language upon which Kipper conditioned her withdrawal of protest, the parties may petition for reconsideration, file exceptions, and request a hearing. These possible remedies will be explained in the documentation enclosed with the approval document.

Respectfully,

A handwritten signature in cursive script, reading "Gary Spackman".

Gary Spackman

cc. Terry Jones
Janeen Kipper

MICROFILMED

NOV 26 2003

LAW OFFICE
QUANE SMITH LLP

SIXTEENTH FLOOR
U.S. BANK PLAZA
101 S. CAPITOL BOULEVARD
P. O. BOX 519
BOISE, IDAHO 83701-0519
TELEPHONE (208) 345-8600
FACSIMILE (208) 345-8660
www.quanesmith.net
email info@quanesmith.net

OFFICES IN
COEUR D'ALENE, IDAHO 83816-1758
250 NORTHWEST BOULEVARD, SUITE 206
P. O. BOX 1758
TELEPHONE: (208) 664-9281
FACSIMILE: (208) 664-5380

IDAHO FALLS, IDAHO 83402-2948
2325 WEST BROADWAY, SUITE B
TELEPHONE (208) 529-0000
FACSIMILE (208) 529-0005

*ADMITTED TO PRACTICE IN
IDAHO AND WYOMING

**ADMITTED TO PRACTICE IN
WASHINGTON ONLY

March 24, 2003

RECEIVED

MAR 25 2003

WATER RESOURCES
WESTERN REGION

JEREMIAH A. QUANE
E B SMITH (1896-1975)
BRUCE R. McALLISTER
RANDALL R. ADAMS
RICHARD L. STUBBS
DONALD F. CAREY*
DAVID W. KNOTTS
DAVID S. PERKINS
MICHAEL L. HAMAN
LESLIE S. WEYBRIGHT
ROBERT D. WILLIAMS*
TERRENCE S. JONES
HANS A. MITCHELL
JONATHAN W. HARRIS
MATTHEW F. McCOLL
TYRA H. STUBBS
WILLIAM G. POPE
JENNIFER A. SWARTZ
DARI M. HUSKEY
JENNIFER D. GAFFANEY**

WITH ATTORNEYS ADMITTED
TO PRACTICE LAW IN IDAHO,
OREGON, WASHINGTON AND
WYOMING

Gary Spackman
State of Idaho
Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705-5082

Re: Application for Water Rights Nos. 65-13960 and 65-13961;
Proposed Settlement Agreement for Withdrawal of Protest

Dear Mr. Spackman:

I am writing in response to our discussion in November, wherein you explained your concerns regarding the Department's ability and willingness to enforce the terms and conditions of the Stipulation which at that time had been executed by the parties. After discussions with my client, I have worked to remove and revise each of the concerns you identified. In this regard, enclosed please find a copy of the revised Stipulation for your review.

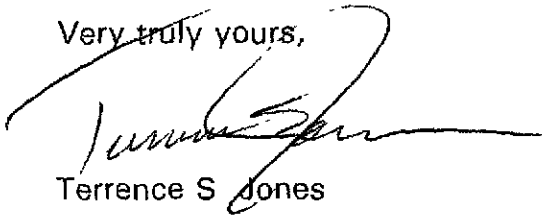
This proposed Stipulation has yet to be approved by the Protestant. However, in order to avoid the problem of completing and executing another Stipulation only to run into further concerns raised after the fact by the Department, I am seeking advance tacit approval that the Department would accept the revised Stipulation as it is presently written. Please give me a call to discuss your thoughts and impressions on this revised Stipulation at your earliest convenience.

MICROFILMED
NOV 26 2003

Gary Spackman
March 24, 2003
Page 2

I thank you in advance for your professional courtesies as we work to resolve this matter short of a contested hearing.

Very truly yours,

A handwritten signature in black ink, appearing to read "Terrence S. Jones", written over the typed name.

Terrence S. Jones

TSJ:lb
Enclosure

cc: Terry A. Jones (w/encl.)

MICROFILMED

NOV 26 2003

BEFORE THE IDAHO DEPARTMENT
OF WATER RESOURCES

RECEIVED

MAR 25 2003

WATER RESOURCES
WESTERN REGION

IN THE MATTER OF APPLICATION
FOR PERMIT NOS. 65-13960 AND
65-13961 IN THE NAME OF TERRY
A. JONES

WITHDRAWAL OF PROTEST AND
SETTLEMENT AGREEMENT RE
TERMS AND CONDITIONS

WHEREAS, Terry A. Jones (hereinafter "Jones") having submitted two permit applications for water rights identified as permit application numbers 65-13960 and 65-13961 with the Idaho Department of Water Resources seeking to appropriate ground water for irrigation and commercial and stock water uses; and

WHEREAS, David V. Kipper (now deceased) and Janeen Y. Kipper (hereinafter "Kipper") have an existing well identified by S.R.B.A. partial decreed water right number 65-03404, (hereinafter referred to as the "Kipper well") for both domestic purposes and for use in their dairy farming operation having submitted a protest to said permit applications; and

WHEREAS, Kipper as the Protestants, agree to abide by the following terms and conditions and accordingly withdraw their protest to the approval of the applications; and

WHEREAS, Jones as the Applicant, agrees to abide by the following terms and conditions in approval of the above referenced applications for permit; and

WHEREAS, Jones and Kipper agree that this document, once executed, shall become a binding contract on the parties as outlined herein; and

WHEREAS, in order to resolve the above protest that Jones and Kipper agree that any permits to be issued by the Idaho Department of Water Resources for water right applications numbers 65-13960 and 65-13961 shall, with respect to this withdrawal of protest, reflect only the statement that "the use of these water rights may be subject to a private agreement between the water right holder and any protestant to the original application;"

THE UNDERSIGNED PARTIES HEREBY STIPULATE AND AGREE
THAT: this matter shall be fully and finally settled and resolved upon the following terms and conditions:

1. Jones shall measure the static water level of the Kipper well and the rate of flow diverted by the Kipper well pump. These measurements shall be made prior to any new well construction or any diversion of water under water rights numbers 65-13960 and 65-13961 (hereinafter "new water rights"). These measurements shall be construed as the historical static water level and quantity of water for the Kipper well in the absence of more reliable historical data such as area well logs. Measurements shall be made by a qualified and competent person. Copies of said measurements shall be provided to Kipper, Jones and the Director of the Idaho Department of Water Resources (hereinafter "Director"). By entering into this agreement, Kipper agrees to allow reasonable access to his/her property and wells for the purpose of taking these measurements. Current and complete copies of said measurements shall be provided to the foregoing individuals upon execution of this agreement and thereafter on a biannual basis until the terms and conditions of this private agreement no longer apply as outlined below.

2. When well construction under the new water rights is completed and prior to any use of the new water rights, Jones shall conduct an aquifer test to determine impacts on the Kipper well of pumping from any of his new water rights. The test shall be at least 48 hours long and shall be conducted by a qualified and competent person. Copies of said test results shall be provided to Kipper, Jones and the Director. Kipper agrees to allow reasonable access to his/her property and wells for the purpose

of conducting this aquifer test.

3. Jones shall be responsible to ensure pumping under the new water rights does not cause a direct and significant decline in the historical pumping level or the quantity of water associated with the Kipper well. If a decline significant under the law does occur to the Kipper well caused by the use of the new Jones water rights, Jones shall provide reasonable compensation or mitigation to Kipper for the reduced water level or water quantity pursuant to any procedures provided under Idaho law. This may include, but is not necessarily limited to, *deepening of the Kipper well* sufficiently to restore Kipper's water supply.

4. *Before Kipper may be entitled to any recourse against Jones as outlined above, Kipper must first submit to an inspection as to the status and current condition of the Kipper well by a competent and qualified well inspector. Said inspection is intended to verify current compliance by the Kipper well with any and all applicable federal, state and local rules and standards governing the maintenance of a well for use in dairy farming applications. Said inspection must occur within six months after the parties enter into this agreement and shall be considered a material term of this agreement. Because Kipper is required to meet such standards in order to presently maintain a dairy operation in the state of Idaho, any expenses associated with the inspection, and any improvements or upgrades required by said inspection in order to bring the Kipper well into compliance with current operating standards necessary for use in a dairy application, shall be the sole responsibility of Kipper. Copies of all inspection documents shall be provided to Kipper, Jones and the Director.*

5. Jones shall not be responsible for the reasonable and customary maintenance of the Kipper well, well pump or any other items associated with the Kipper well. Prior to seeking any compensation or mitigation under this agreement, Kipper shall provide such evidence as may be required under the law that well interference at the Kipper well is not due to maintenance issues, other routine functions associated with the Kipper's system or other water users and/or wells located within the

Kipper well's zone of influence. Said zone of influence shall include all wells currently existing or subsequently drilled which are located within 1.5 miles of the Kipper well described herein.

6. The static water level of the Kipper well shall be measured at least once per calendar year quarter after Jones begins use of the new rights for a period of five years or until two years after Jones has reached the maximum diversion rate for both new water rights, which ever occurs last. Measurements shall be made at least during the months of February, May, August, and November. Measurements shall be made by a qualified and competent person. Copies of said measurements shall be provided to Kipper, Jones and the Director on a biannual basis. Jones shall be responsible for the reasonable expenses associated with taking such measurements and either Jones or his agent may be present when such measurements are taken. By entering into this agreement, Kipper agrees to allow reasonable access to his/her property and well(s) for the purpose of taking these measurements.

7. The terms and conditions of this agreement do not in any way alter or affect the respective rights of the parties or their successors in interest which may exist as provided under Idaho law, nor does this agreement in way alter the existing water rights of Kipper under water right no. 65-03404.

8. If after the new water rights have been in place and operating at their intended maximum diversion rate for a period of five years there has been no significant decline in the historical pumping level or the quantity of water associated with the Kipper well, as provided under Idaho law, this private agreement between the parties shall expire and have no further force or effect. The parties agree that the terms and conditions of this private agreement shall not apply to any successors in interest to the Jones and Kipper properties described by water rights numbers 65-03404, 65-13960 and 65-13961.

9. The undersigned agree that this Withdrawal of Protest and Settlement Agreement shall be construed and interpreted according to the laws of the state of Idaho.

10. The undersigned warrant that no other person or entity has or has had any interest in the protest or causes of action referred to in this agreement and that the undersigned have the sole right and exclusive authority to execute and enter into this agreement.

11. The parties acknowledge that this agreement has been drafted and/or modified by both parties to this agreement, that it represents a private agreement between the Applicant and the Protestants which is not to be recited, referred to or recorded on any subsequent permit application or water right except as specifically and expressly identified and permitted herein.

12. The undersigned acknowledge that they have read the foregoing WITHDRAWAL OF PROTEST AND SETTLEMENT AGREEMENT RE TERMS AND CONDITIONS and fully understand and voluntarily accept the terms and conditions outlined within it. The undersigned further acknowledge that the information he/she possesses regarding the aforementioned matter is sufficient enough to enter into this agreement and the undersigned hereby expressly waives any claims that this agreement is not fairly entered into and knowingly made.

Dated this __ day of _____, 2003.

Janeen Y. Kipper, individually and on behalf
of David V. Kipper, deceased.

STATE OF _____)
: ss.
County of _____)

On this _____ day of _____, 2003, before me, a Notary
Public for the State of _____, personally appeared **JANEEN Y.
KIPPER**, known or identified to me to be the person whose name is subscribed to the
within and foregoing instrument, and acknowledged to me that he voluntarily executed
the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
official seal the day and year in this certificate first above written.

Notary Public for _____
Residing at _____
Commission expires _____

Dated this ____ day of _____, 2003

Terry A. Jones

STATE OF _____)
: ss.
County of _____)

On this _____ day of _____, 2003, before me, a Notary Public for the State of _____, personally appeared **TERRY A. JONES**, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he voluntarily executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for _____
Residing at _____
Commission expires _____

MEMORANDUM

To: Jeff Peppersack, Shelley Keen
From: Gary Spackman
Date: March 14, 2003

Re: Application to Appropriate Water Nos. 65-13960 & 65-13961 in the Name of Terry A. Jones

Application to appropriate water no. 65-13960 was filed by Terry Jones, proposing diversion of ground water for irrigation. Application to appropriate water no. 65-13961 was also filed by Terry Jones, proposing diversion of ground water for use in a dairy (stockwater and commercial use). Dave and Janeen Kipper protested the applications. I've worked hard to encourage a negotiated settlement between the parties. In June of 2002, I received a draft agreement from Lary Walker, an attorney representing Kippers. I wrote a letter back to Walker suggesting some abbreviated conditions and objecting to some of the language. In October of 2002, I received an executed agreement that removed some of the objectionable terms, but included much of the language I felt was problematic. I again wrote a letter suggesting the same abbreviated conditions and calling attention to the objectionable language. Since my second letter, I've conversed with Terrence Jones, an attorney representing Terry Jones, about possible changes.

Because this office asks for additional information about the proposed dairy use beyond what has been provided during the pendency of the protest against application no. 65-13861, I've given the file back to staff for further information gathering.

Based on present procedures for writing approval conditions for applications after protests have been withdrawn, I recommend the following conditions for approval of application to appropriate water no. 65-13960:

(020) Use of water under this water right may be affected by an agreement between the protestant and the water right holder.

(067) The right holder shall measure and report diversion of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.

(069) Failure of the right holder to comply with any condition is cause for the Director to void this permit.

Enclosed is a draft letter I have written to the parties that the exact language agreed to will not be incorporated into the permit. Perhaps the letter is not necessary because the parties will be served with a copy of the permit, will have an opportunity to review the permit language, and may petition for reconsideration, file exceptions, and request a hearing. If, however, the letter is appropriate, I will sign and mail the letter, or I've transmitted an electronic copy for your review if you want to modify and send it from the state office.

MICHOH MED
NOV 26 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

November 13, 2002

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

TERRENCE S JONES
ATTORNEY AT LAW
PO BOX 519
BOISE ID 03701-0519

LARY C WALKER
ATTORNEY AT LAW
PO BOX 828
WEISER ID 83672

Re: Application for Water Right Nos. 65-13960 and 65-13961

Gentlemen:

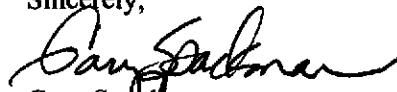
I received a letter from Terrence S. Jones on October 23, 2002 that transmitted a copy of an executed agreement for settlement and withdrawal of protest against application for water right nos. 65-13960 and 65-13961. I reviewed the provisions of the settlement agreement. The agreement is very similar to a draft agreement I reviewed during June 2002. I wrote a letter regarding my review on July 5, 2002. Enclosed is a copy of the letter.

Some of the language I expressed concern about has been changed. Most of the language reads verbatim with the earlier draft.

In my letter dated July 5, 2002 I suggested some abbreviated conditions that I thought adequately described those matters within the direct jurisdiction of IDWR that were addressed in the agreement. Not having received a response to my letter, am I to assume that the proposed conditions are not acceptable to the parties? If so, how can the concerns I raised in the letter be addressed? As an example, although not written in the letter, condition no. one states that "Kipper agrees to allow reasonable access to his/her property and wells for the purpose of taking these measurements." In an approval of a water right for Terry Jones, an administrative agency such as the Department of Water Resources has no authority to determine access by a person other than the applicant. This is a matter of private agreement between the parties. There are other portions of the agreement that are clumsy for IDWR to incorporate into a permit approval.

I renew my proposed conditions of approval in the enclosed letter. I ask that you, as representatives of the parties, respond whether the proposed conditions would satisfy your concerns. Thank you.

Sincerely,



Gary Spackman

GS/st
Encl.

CC: Terry Jones
David &/or Janeen Kipper

MICROFILMED
NOV 26 2003

LAW OFFICE
QUANE SMITH LLP

SIXTEENTH FLOOR
U. S. BANK PLAZA
101 S. CAPITOL BOULEVARD
P. O. BOX 519

BOISE, IDAHO 83701-0519
TELEPHONE (208) 345-8600
FACSIMILE (208) 345-8660

www.quanesmith.net
email info@quanesmith.net

OFFICES IN
COEUR D'ALENE, IDAHO 83816-1758
250 NORTHWEST BOULEVARD, SUITE 206
P. O. BOX 1758
TELEPHONE (208) 664-9281
FACSIMILE (208) 664-5380

IDAHO FALLS, IDAHO 83402-2948
2325 WEST BROADWAY, SUITE B
TELEPHONE (208) 529-0000
FACSIMILE (208) 529-0005

*ADMITTED TO PRACTICE IN
IDAHO AND WYOMING

JEREMIAH A. QUANE
E. B. SMITH (1896-1975)
BRUCE R. McALLISTER
RANDALL R. ADAMS
RICHARD L. STUBBS
DONALD F. CAREY*
DAVID W. KNOTTS
DAVID S. PERKINS
MICHAEL L. HAMAN
LESLIE S. WEYBRIGHT
ROBERT D. WILLIAMS*
TERRENCE S. JONES
HANS A. MITCHELL
JONATHAN W. HARRIS
MATTHEW F. McCOLL
TYRAH STUBBS
WILLIAM G. POPE
JENNIFER A. SWARTZ
DARIM HUSKEY

WITH ATTORNEYS ADMITTED
TO PRACTICE LAW IN IDAHO,
OREGON, WASHINGTON AND
WYOMING

October 22, 2002

RECEIVED

OCT 23 2002

WATER RESOURCES
WESTERN REGION

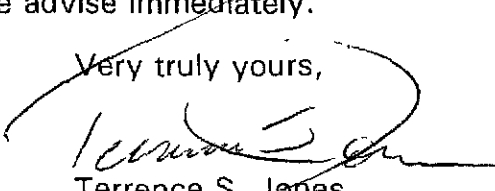
Gary Spackman
State of Idaho
Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705-5082

Re: Application for Water Rights Nos. 65-13960 and 65-13961;
Proposed Settlement Agreement for Withdrawal of Protest

Dear Mr. Spackman:

As you are aware, the parties have been working for some time now to resolve the protest filed by Janeen Kipper. To that end, enclosed please find the original of the Withdrawal of Protest and Settlement Agreement Re Terms and Conditions which the parties have now entered into regarding these permit applications. As efforts to informally resolve this protest have now taken over a year, Mr. Jones would appreciate a prompt response from the Department regarding these permit applications. If anything further needs to be done in order for the Department to issue these two permits, please advise immediately.

Very truly yours,


Terrence S. Jones

TSJ:lb
Enclosure

cc: Lary C. Walker (w/encl.)
Terry A. Jones (w/encl.)

MICROFILMED
NOV 26 2003

BEFORE THE IDAHO DEPARTMENT
OF WATER RESOURCES

RECEIVED

OCT 23 2002

WATER RESOURCES
WESTERN REGION

IN THE MATTER OF APPLICATION
FOR PERMIT NOS. 65-13960 AND
65-13961 IN THE NAME OF TERRY
A. JONES

WITHDRAWAL OF PROTEST AND
SETTLEMENT AGREEMENT RE
TERMS AND CONDITIONS

WHEREAS, Terry A. Jones (hereinafter "Jones") having submitted two permit applications for water rights identified as permit application numbers 65-13960 and 65-13961 with the Idaho Department of Water Resources seeking to appropriate ground water for irrigation and commercial and stock water uses; and

WHEREAS, David V. Kipper (now deceased) and Janeen Y. Kipper (hereinafter "Kipper") have an existing well identified by S.R.B.A. partial decreed water right number 65-03404, (hereinafter referred to as the "Kipper well") for both domestic purposes and for use in their dairy farming operation having submitted a protest to said permit applications; and

WHEREAS, Kipper as the Protestants, agree to abide by the following terms and conditions and accordingly withdraw their protest to the approval of the applications; and

WHEREAS, Jones as the Applicant, agrees to abide by the following terms and conditions to be included in approval of the above referenced applications for permit;

THE UNDERSIGNED PARTIES HEREBY STIPULATE AND AGREE
THAT: this matter shall be fully and finally settled and resolved upon the following terms and conditions:

WITHDRAWAL OF PROTEST AND SETTLEMENT AGREEMENT

Page 1 of 6

MICROFILMED
NOV 26 2003

1. Jones shall measure the static water level of the Kipper well and the rate of flow diverted by the Kipper well pump. These measurements shall be made prior to any new well construction or any diversion of water under water rights numbers 65-13960 and 65-13961 (hereinafter "new water rights"). These measurements shall be construed as the historical static water level and quantity of water for the Kipper well in the absence of more reliable historical data such as area well logs. Measurements shall be made by a qualified party subject to approval by Jones, Kipper and the Director of the Idaho Department of Water Resources (hereinafter "Director"). Consent to the selection of such qualified party shall not be unreasonably withheld by any party. Kipper agrees to allow reasonable access to his/her property and wells for the purpose of taking these measurements.

2. When well construction under the new water rights is completed and prior to any use of the new water rights, Jones shall conduct an aquifer test to determine impacts on the Kipper well of pumping from any of his new water rights. The test shall be at least 48 hours long and shall be conducted by a licensed professional engineer or geologist or by an otherwise qualified party subject to approval by Jones, Kipper and the Director. Consent to the selection of such qualified party shall not be unreasonably withheld. Copies of said test results shall be provided to Kipper, Jones and the Director. Kipper agrees to allow reasonable access to his/her property and wells for the purpose of conducting this aquifer test.

3. Jones shall be responsible to ensure pumping under the new water rights does not cause a direct and significant decline in the historical pumping level or the quantity of water associated with the Kipper well. If a decline significant under the law does occur to the Kipper well caused by the use of the new water rights, Jones shall provide reasonable compensation or mitigation to Kipper for the reduced water level or water quantity as determined by the Director and pursuant to any procedures provided under Idaho law. This may include, but is not necessarily limited to, deepening of the Kipper well sufficiently to restore Kipper's water supply.

MICROFILMED
NOV 26 2003

4. Before Kipper may be entitled to any recourse against Jones as outlined above, Kipper must first submit to an inspection as to the status and current condition of the Kipper well by the Idaho Department of Water Resources and the Idaho Department of Dairying. Said inspection is intended to verify current compliance by the Kipper well with any and all applicable federal, state and local rules and standards governing the maintenance of a well for use in dairy farming applications. Said inspection must occur within six months after the parties enter into this agreement and shall be considered a material term of this agreement. Because Kipper is required to meet such standards in order to presently maintain a dairy operation in the state of Idaho, any expenses associated with the inspection, and any improvements or upgrades required by said inspection in order to bring the Kipper well into compliance with current operating standards necessary for use in a dairy application, shall be the sole responsibility of Kipper. Copies of all inspection documents shall be provided to Kipper, Jones and the Director.

5. Jones shall not be responsible for the reasonable and customary maintenance of the Kipper well, well pump or any other items associated with the Kipper well. Prior to seeking any compensation or mitigation under this agreement, Kipper shall provide such evidence as may be required under the law that well interference at the Kipper well is not due to maintenance issues, other routine functions associated with the Kipper's system or other water users and/or wells located within the Kipper well's zone of influence. Said zone of influence shall include all wells currently existing or subsequently drilled which are located within 1.5 miles of the Kipper well described herein.

6. The static water level of the Kipper well shall be measured at least once per calendar year quarter after Jones begins use of the new rights for a period of five years or until two years after Jones has reached the maximum diversion rate for both new water rights, which ever occurs last. Measurements shall be made at least during the months of February, May, August, and November. Measurements shall be made by a qualified party acceptable to Jones, Kipper and the Director. Consent to the selection

MICROFILMED
NOV 26 2003

of such qualified party shall not be unreasonably withheld by any party. Copies of said measurements shall be provided to Kipper, Jones and the Director. Jones shall be responsible for the reasonable expenses associated with such measurements and either Jones or his agent may be present when such measurements are taken. Kipper agrees to allow reasonable access to his/her property and well(s) for the purpose of taking these measurements.

7. The terms and conditions of this agreement do not in any way alter or affect the respective rights of the parties or their successors in interest which may exist as provided under Idaho law, nor does this agreement in way alter the existing water rights of Kipper under water right no. 65-03404.

8. If after the new water rights have been in place and operating at their intended maximum diversion rate for a period of five years there has been no significant decline in the historical pumping level or the quantity of water associated with the Kipper well, as determined within the reasonable discretion of the Director, this agreement shall expire and have no further force or effect. The terms and conditions of this agreement, however, shall not apply to any successors in interest to the Jones and Kipper properties described by water rights numbers 65-03404, 65-13960 and 65-13961, but in no event shall this alter the rights of either party under Idaho law.

9. The undersigned acknowledge that they have read the foregoing WITHDRAWAL OF PROTEST AND SETTLEMENT AGREEMENT RE TERMS AND CONDITIONS and fully understand and voluntarily accept the terms and conditions outlined within it. The undersigned further acknowledge that the information he/she possesses regarding the aforementioned matter is sufficient enough to enter into this agreement and the undersigned hereby expressly waives any claims that this agreement is not fairly entered into and knowingly made. This agreement has been drafted and/or modified by both parties to this agreement.

Dated this ___ day of July, 2002.

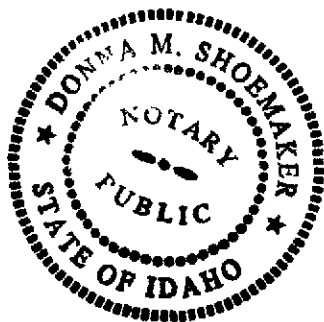
Janeen Y. Kipper

Janeen Y. Kipper, individually and on behalf
of David V. Kipper, deceased.

STATE OF Idaho)
: ss.
County of Gem)

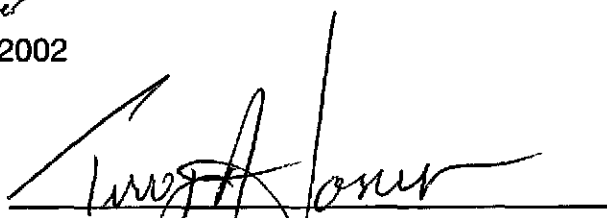
On this 4th day of October, 2002, before me, a Notary
Public for the State of Idaho, personally appeared **JANEEN Y.
KIPPER**, known or identified to me to be the person whose name is subscribed to the
within and foregoing instrument, and acknowledged to me that he voluntarily executed
the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
official seal the day and year in this certificate first above written.



Donna M. Shoemaker
Notary Public for Idaho
Residing at Emmett Idaho
Commission expires 10/10/07

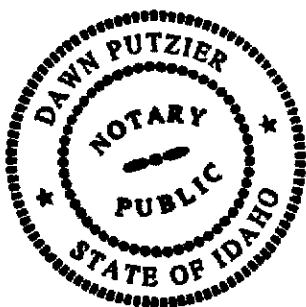
Dated this 16th day of ^{October}~~July~~, 2002

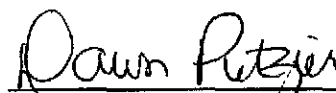

Terry A. Jones

STATE OF Idaho)
: ss.
County of Gem)

On this 16th day of October, 2002, before me, a Notary Public for the State of Idaho, personally appeared **TERRY A. JONES**, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he voluntarily executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




Notary Public for Idaho
Residing at Emmett, ID
Commission expires 11-11-05



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

July 5, 2002

LARY WALKER
ATTORNEY AT LAW
PO BOX 828
WEISER ID 83672

TERRY JONES
TREASURE VALLEY LAND & CATTLE LLC
5888 SANDY AVE
EMMETT ID 83617-9663

Re: Application for Water Right nos. 65-13960 & 65-13961; Proposed Settlement Agreement for
Withdrawal of Protest

Gentlemen:

Lary Walker faxed to me a copy of a draft agreement for settlement of protests against water right nos. 65-13960 & 65-13961. I reviewed the draft agreement and offer some comments.

I do not interpret the agreement to require that the provisions of the agreement be included verbatim in any approval by the Idaho Department of Water Resources (IDWR). Furthermore, the numbered paragraphs of the agreement are not written so IDWR could incorporate them as conditions of approval. I suggest the following abbreviated conditions of approval based on the agreement:

1. Use of water under this water right may be subject to a private agreement between the water right holder and protestants to the original application.
2. All measurement and testing must be conducted by a qualified person. If the credentials of a person measuring or testing are questioned by the permit holder by Jancien Kipper or her successors in interest (Kipper), a description of the procedures for measurement and testing shall be submitted to IDWR. IDWR will determine whether the procedures proposed for measurement or testing are adequate.
3. Prior to well construction or any diversion of water under this water right, the permit holder shall measure the flow rate and depth to water level in the well owned by Kipper.
4. After completion of the well authorized by this permit, and prior to beneficial use of any water from the well, the permit holder shall conduct an aquifer test to determine the impacts of pumping the well on the Kipper well and other wells in the area. The test shall be at least 48 hours long. The permit holder must submit a plan of the proposed test to IDWR and Kipper prior to the test. The plan must be approved by IDWR before the test is conducted.
5. Jones shall measure the static water level in the Kipper well beginning after first use of water under this water right for a period of five years or until two years after Jones has reached the

MICROFILMED

NOV 26 2003

Lary Walker
Terry Jones
July 5, 2002
Page -2-

maximum diversion rate for both new water rights, whichever occurs last. The water levels shall be measured quarterly in February, May, August, and November. Measurement data shall be submitted to IDWR annually by January 31 of the year following the year of measurement.

6. This water right permit is subject to water rights bearing dates of priority earlier than the priority date of this permit, including any water rights owned by Kipper bearing dates of priority earlier than the priority date of this permit.

7. Failure to comply with the conditions of this permit is cause for IDWR to cancel the permit.

I purposely did not include other language in the proposed agreement. If signed, the agreement will bind the parties to its provisions. If the language of the agreement is included verbatim as conditions, however, it would create obligations or uncertainties for IDWR. I will discuss some of these concerns.

Paragraph 3, page 2, would require that Jones not cause a "direct and significant decline in the historical pumping level or the quantity of water associated with the Kipper well." It also states that if Jones causes a "significant decline," Jones must provide "reasonable compensation or mitigation to Kipper for the reduced water level or water quantity as determined by the Director." It also refers to procedures provided under Idaho law. There is no definition of "direct and significant" in the agreement. The condition would create a new standard of review for IDWR in determining interference, injury, and need for regulation. Although there is a general reference to Idaho law, the agreement calls for a determination by IDWR without identifying the forum or proceeding in which the determination should be made.

Paragraph 4, page 2, states that Kipper must submit to an "inspection and certification" of her dairy well by IDWR. I am unaware of any inspection or certification of dairy wells by IDWR.

Paragraph 5, page 3, state that, prior to seeking compensation or mitigation from Jones, Kipper must "provide clear and convincing evidence that well interference at the Kipper well" is not the result of maintenance or problems with the Kipper system or interference from other wells. It does not impose a responsibility on the director to make this determination, but does not describe who will consider and determine whether Kipper's initial burden has been satisfied.

Several paragraphs require approval by Jones, Kippers, and IDWR whenever water is being measured or a test is being conducted. If approval is necessary, I prefer that the condition require only approval of the measurement and testing procedures by IDWR.

I am happy to visit with the parties simultaneously about my comments.

Sincerely,


Gary Spackman

MICROFILMED
NOV 26 2003

WALKER LAW OFFICE

Lary C. Walker
Attorney at Law

232 East Main St.
P.O. Box 828
Weiser, ID 83672
Telephone (208) 414-0390
FAX (208) 414-0404
Email: walker_law@justice.com

Delton L. Walker
Associate Attorney

FAX COVER SHEET

DATE: 6/19/02

TIME:

DELIVER TO: GARY SPACKMAN

Phone Number:

Fax Number:

334-2348

RE: withdrawal of protest and settlement agreement
Re: terms and conditions

COMMENTS:

NUMBER OF PAGES BEING TRANSMITTED:
(INCLUDING COVER SHEET)

6

FOR ASSISTANCE CALL:

Jones

NOTE:

The information contained in this facsimile communication is privileged and/or confidential information intended only for the use of the individual or entity named above. If the reader of this cover page is not the intended recipient, you are hereby notified that any use, distribution, or copying of this communication is prohibited. If you have received this communication in error, we would appreciate it if you would notify us immediately by telephone and return this facsimile to us at the above address via U.S. Postal Service. Thank You.

MICROFILMED
NOV 26 2003

BEFORE THE IDAHO DEPARTMENT
OF WATER RESOURCES

IN THE MATTER OF APPLICATION
FOR PERMIT NOS. 65-13960 AND
65-13961 IN THE NAME OF TERRY
A. JONES

WITHDRAWAL OF PROTEST AND
SETTLEMENT AGREEMENT RE
TERMS AND CONDITIONS

WHEREAS, Terry A. Jones (hereinafter "Jones") having submitted two permit applications for water rights identified as permit application numbers 65-13960 and 65-13961 with the Idaho Department of Water Resources seeking to appropriate ground water for irrigation and commercial and stock water uses; and

WHEREAS, David V. Kipper (now deceased) and Janeen Y. Kipper (hereinafter "Kipper") have an existing well identified by SRBA partial decreed water right number 65-03404, (hereinafter referred to as the "Kipper well") for both domestic purposes and for use in their dairy farming operation having submitted a protest to said permit applications; and

WHEREAS, Kipper as the Protestants, agree to abide by the following terms and conditions and accordingly withdraw their protest to the approval of the applications; and

WHEREAS, Jones as the Applicant, agrees to abide by the following terms and conditions to be included in approval of the above referenced applications for permit;

THE UNDERSIGNED PARTIES HEREBY STIPULATE AND AGREE
THAT: this matter shall be fully and finally settled and resolved upon the following terms and conditions:

1. Jones shall measure the static water level of the Kipper well and the rate of flow diverted by the Kipper well pump. These measurements shall be made prior to any new well construction or any diversion of water under water rights numbers 65-13960 and 65-13961 (hereinafter "new water rights"). These measurements shall be construed as the historical static water level and quantity of water for the Kipper well in the absence of more reliable historical data such as area well logs. Measurements

MICROFILMED
NOV 26 2003

shall be made by a qualified party subject to approval by Jones, Kipper and the Director of the Idaho Department of Water Resources (hereinafter "Director"). Consent to the selection of such qualified party shall not be unreasonably withheld by any party. Kipper agrees to allow reasonable access to his/her property and wells for the purpose of taking these measurements.

2. When well construction under the new water rights is completed and prior to any use of the new water rights, Jones shall conduct an aquifer test to determine impacts on the Kipper well of pumping from any of his new water rights. The test shall be at least 48 hours long and shall be conducted by a licensed professional engineer or geologist or by an otherwise qualified party subject to approval by Jones, Kipper and the Director. Consent to the selection of such qualified party shall not be unreasonably withheld. Copies of said test results shall be provided to Kipper, Jones and the Director. Kipper agrees to allow reasonable access to his/her property and wells for the purpose of conducting this aquifer test.

3. Jones shall be responsible to ensure pumping under the new water rights does not cause a direct and significant decline in the historical pumping level or the quantity of water associated with the Kipper well. If a significant decline to the Kipper well does occur caused by the use of the new water rights, Jones shall provide reasonable compensation or mitigation to Kipper for the reduced water level or water quantity as determined by the Director and pursuant to any procedures provided under Idaho law. This may include, but is not necessarily limited to, deepening of the Kipper well sufficiently to restore Kipper's water supply.

4. Before Kipper may be entitled to any recourse against Jones as outlined above, Kipper must first submit to an inspection and certification of the Kipper well by the Idaho Department of Water Resources and the Idaho Department of Dairying. Said inspection and certification is intended to verify current compliance by the Kipper well with any and all applicable federal, state and local rules and standards governing the maintenance of a well for use in dairy farming applications. Said inspection and subsequent certification must occur within six months after the parties enter into this agreement and shall be considered a material term of this agreement. Because Kipper is required to meet such standards in order to presently maintain a dairy operation in the state of Idaho, any expenses associated with the inspection, and

what is a direct decline?

making significant reduction in pumping level analysis

does the contract Dept for the mon

MICROFILMED

NOV 26 2003

any improvements or upgrades required by said inspection in order to bring the Kipper well into compliance with current operating standards necessary for certification in a dairy application, shall be the sole responsibility of Kipper. A copy of said certification shall be provided to Kipper, Jones and the Director.

5. Jones shall not be responsible for the reasonable and customary maintenance of the Kipper well, well pump or any other items associated with the Kipper well. Prior to seeking any compensation or mitigation under this agreement, Kipper shall provide clear and convincing evidence that well interference at the Kipper well is not due to maintenance issues, other routine functions associated with the Kipper's system or other water users and wells located within the Kipper well's zone of influence. Said zone of influence shall include all wells currently existing or subsequently drilled which are located within 1.5 miles of the Kipper well described herein.

6. The static water level of the Kipper well shall be measured at least once per calendar year quarter after Jones begins use of the new rights for a period of five years or until two years after Jones has reached the maximum diversion rate for both new water rights, whichever occurs last. Measurements shall be made at least during the months of February, May, August, and November. Measurements shall be made by a qualified party acceptable to Jones, Kipper and the Director. Consent to the selection of such qualified party shall not be unreasonably withheld. Copies of said measurements shall be provided to Kipper, Jones and the Director. Jones shall be responsible for the reasonable expenses associated with such measurements and either Jones or his agent may be present when such measurements are taken. Kipper agrees to allow reasonable access to his/her property and wells for the purpose of taking these measurements.

7. The terms and conditions of this agreement do not in any way alter or affect the respective rights of the parties or their successors in interest which may exist as provided under Idaho law, nor does this agreement in any way alter the existing water rights of Kipper under water right no. 65-03404.

8. If after the new water rights have been in place and operating at their intended maximum diversion rate for a period of five years there has been no significant decline in the historical pumping level or the quantity of water associated with the

MICROFILMED

NOV 26 2003

Kipper well, as determined within the reasonable discretion of the Director, this agreement shall expire and have no further force or effect. The terms and conditions of this agreement, however, shall not apply to any successors in interest to the Jones and Kipper properties described by water rights numbers 66-03404, 65-13960 and 65-13961.

9. The undersigned acknowledge that they have read the foregoing WITHDRAWAL OF PROTEST AND SETTLEMENT AGREEMENT RE TERMS AND CONDITIONS and fully understand and voluntarily accept the terms and conditions outlined within it. The undersigned further acknowledge that the information he/she possesses regarding the aforementioned matter is sufficient enough to enter into this agreement and the undersigned hereby expressly waives any claims that this agreement is not fairly entered into and knowingly made.

Dated this ___ day of May, 2002.

Janeen Y. Kipper, individually and on behalf
of David V. Kipper, deceased.

STATE OF _____)
: ss.
County of _____)

On this _____ day of _____, 2001, before me, a Notary Public for the State of _____, personally appeared JANEEN Y. KIPPER, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he voluntarily executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for _____
Residing at _____
Commission expires _____

MICROFILMED

NOV 26 2003

Terry A. Jones

STATE OF _____)
 : ss.
 County of _____)

On this _____ day of _____, 2001, before me, a Notary Public for the State of _____, personally appeared TERRY A. JONES, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he voluntarily executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for _____
 Residing at _____
 Commission expires _____

MICROFILMED

NOV 26 2003

WALKER LAW OFFICE

Lary C. Walker
Attorney at Law

232 East Main St.
P.O. Box 828
Weiser, ID 83672
Telephone (208) 414-0390
FAX (208) 414-0404
E-Mail: walker_law@justice.com

Delton L. Walker
Associate Attorney

May 14, 2002

RECEIVED

MAY 15 2002

WATER RESOURCES
WESTERN REGION

State of Idaho
Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705-5082

RE: Application for Water RightsNos. 65-13960 and 65-13961 in the name of Terry Jones

Dear Gary:

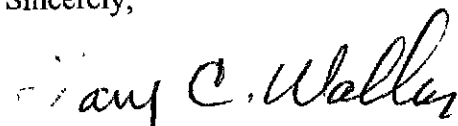
I received your letter of April 17th 2002 concerning the above water rights. You indicated that we should send the necessary documents to withdrawal within 30 days or you will schedule a hearing on this matter.

We have had negotiations between the Jones and my plants and believe that we are making progress. In fact I have drafted a proposed agreement and my client has reviewed the same and it is now in the hands of the Jones is for their review. They called me with some changes, clarifications and modifications, which I am presenting my client for their review.

For your reference I am enclosing a copy of that proposed agreement and would invite your comments which may help clarify and stabilize the situation between our clients in terms of status quo, future development of other wells in the area, and other areas of concern which you may have.

I would also requested to allow us a little additional time, as long as we are making progress before you set a hearing. I will wait here from you.

Sincerely,



LARY C. WALKER
Walker Law Office

MICROFILMED

MAY 26 2003



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

April 17, 2002

LARY WALKER
ATTORNEY AT LAW
232 E MAIN
WEISER ID 83672

Re: Application for Water Right Nos. 65-13960 and 65-13961 in the Name of Terry Jones

Dear Mr. Walker:

Terry Jones filed application for water right no. 65-13960 and 65-13961 with the Idaho Department of Water Resources (IDWR), seeking to appropriate ground water for irrigation and commercial and stock water uses. The applications were protested by David &/or Janeen Kipper. A hearing for the contested case was scheduled for January 15, 2002. Approximately one day prior to the hearing, I spoke with you and Gary Thomas, a close friend of Kippers, about a possible settlement of the protest. During the conversation, you stated that you represent Kippers, and that the parties had reached a tentative verbal agreement to settle the contested case. You stated that you would be submitting a withdrawal of protest document with stipulative conditions to this office.

As of this date, I have not received any information from you regarding the Kipper protest to the Jones' applications. The purpose of this letter is to request that you prepare and send the necessary documents to withdraw Kipper's protest. If the information is not submitted to this office within thirty (30) days of the date of this letter, I will reschedule the contested matter for hearing.

Sincerely,

Gary Spackman

GS:st

CC: Gary Thomas
David &/or Janeen Kipper
Terry Jones

MICROFILMED

NOV 26 2003

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

**IN THE MATTER OF APPLICATION)
FOR PERMIT OF WATER RIGHT)
NOS. 65-13960 AND 65-13961 IN THE)
NAME OF TERRY A. JONES)**

**NOTICE OF CANCELLATION
AND RESCHEDULING OF
HEARING**

On June 29, 2000, Terry A. Jones filed with the Idaho Department of Water Resources (IDWR) application for permit nos. 65-13960 and 65-13961. The applications were protested by David &/or Janeen Kipper.

IDWR scheduled the matter for hearing on Wednesday, November 28, 2001. The hearing was cancelled and is now rescheduled for **Tuesday, January 15, 2002, at 9:00 a.m. at the Emmett Ranger District, 1805 Highway 16, #5, Emmett, Idaho 83617.** The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code and the adopted Rules of Procedure of the Department. A copy of the rules may be obtained from IDWR upon request. The presiding officer at the hearing will be Gary Spackman.

If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01.606 requires that you provide a copy of exhibits to each party and to the presiding officer.

The hearing will be conducted in a facility that 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 ten (10) days prior to the hearing.

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 19th day of November, 2001.



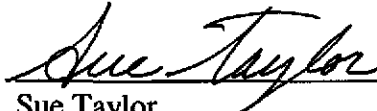
GARY SPACKMAN

NOTICE OF CANCELLATION AND RESCHEDULING OF HEARING

**MICROFILMED
NOV 26 2003**

CERTIFICATE OF MAILING

I hereby certify that on the 20th day of November, 2001, I mailed a true and correct copy, postage prepaid, of this Notice of Cancellation and Rescheduling of Hearing to the persons listed:



Sue Taylor
Senior Secretary

CERTIFIED MAIL

TERRY A JONES
5888 SANDY AVE
EMMETT ID 83617

DAVE &/OR JANEEN KIPPER
5555 SANDY AVE
EMMETT ID 83617

MICROFILMED
NOV 26 2003

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

**IN THE MATTER OF APPLICATION)
FOR PERMIT NOS. 65-13960 AND)
65-13961 IN THE NAME OF TERRY)
JONES.)
_____)**

**CORRECTION TO NOTICE
OF HEARING**

Notice is hereby given that the hearing for the above-referenced matter is scheduled for Tuesday, November 28, 2001, at 9:00 a.m. at the Emmett Ranger District in Emmett, Idaho. The address given in the original Notice of Hearing was incorrect. The correct address is **1805 Highway 16, #5, Emmett, Idaho 83617.**

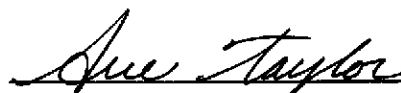
Dated this 18th day of October, 2001.



Gary Spackman

CERTIFICATE OF MAILING

I hereby certify that on the 19th day of October, 2001, I mailed a true and correct copy, postage prepaid, of this Amended Notice of Hearing to the applicant(s) and protestant(s) listed:



Sue Taylor
Senior Secretary

CERTIFIED MAIL

TERRY JONES
5888 SANDY AVE
EMMETT ID 83617

MICROFILMED
NOV 26 2003

DAVE &/OR JANEEN KIPPER
5555 SANDY AVE
EMMETT ID 83617



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 17, 2001

EMMETT RANGER DISTRICT
1805 HIGHWAY 16, #5
EMMETT ID 83617

Re: Conference Room Reservation

This letter is to confirm the conference room reservation made by the Department of Water Resources for Tuesday and Wednesday, November 27 and 28, 2001.

If you have any questions please call me at 334-2190, Western Region of the Department of Water Resources.

Sincerely,

Sue Taylor
Senior Secretary

MICROFILMED

NOV 26 2003

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT OF WATER RIGHT) **NOTICE OF HEARING**
NOS. 65-13960 AND 65-13961 IN THE)
NAME OF TERRY A. JONES)
_____)

On June 29, 2000, Terry A. Jones filed with the Idaho Department of Water Resources (IDWR) application for permit nos. 65-13960 and 65-13961. The applications were protested by David &/or Janeen Kipper. The pre-hearing conference held by IDWR on Thursday, October 5, 2000, did not resolve the matter of protest.

The Department has scheduled the matter for hearing on **Wednesday, November 28, 2001, at 9:00 a.m. at the Emmett Ranger District, 1648 N. Washington, Emmett, Idaho 83617**. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code and the adopted Rules of Procedure of the Department. A copy of the rules may be obtained from IDWR upon request. The presiding officer at the hearing will be Gary Spackman.

If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01.606 requires that you provide a copy of exhibits to each party and to the presiding officer.

The hearing will be conducted in a facility that 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 ten (10) days prior to the hearing.

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

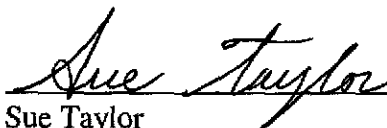
Dated this 14th day of September, 2001.



GARY SPACKMAN

CERTIFICATE OF MAILING

I hereby certify that on the 14th day of September, 2001, I mailed a true and correct copy, postage prepaid, of this Notice of Hearing to the applicant(s) and protestant(s) listed:



Sue Taylor
Senior Secretary

CERTIFIED MAIL

TERRY A JONES
5888 SANDY AVE
EMMETT ID 83617

DAVE &/OR JANEEN KIPPER
5555 SANDY AVE
EMMETT ID 83617

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

- 1) Will the proposed appropriation injure other water rights?
- 2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?
- 3) Was the application made in good faith or for delay or speculative purposes?
- 4) Does the applicant have sufficient financial resources with which to complete the proposed project?
- 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?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

MICROFILMED

NOV 26 2003

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter.

At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may, by written stipulation, waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled 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 ten (10) days prior to the hearing.

MICROFILMED
NOV 26 2003



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

September 4, 2001

TERRY A JONES
5888 SANDY AVE
EMMETT ID 83617

Re: Application for Permit Nos. 65-13960 and 65-13961

Dear Mr. Jones:

Thank you for your letter of August 20, 2001 regarding the above referenced applications protested by David and Janeen Kipper. You wrote in response to the draft settlement agreement we discussed last fall. You suggested several changes to or deficiencies of the agreement. I appreciate your thoughtful attention to these details.

Communication of this sort in a protested matter must include all parties to the protested matter. Your letter does not indicate if the Kippers were properly served a copy of the letter. Please be sure you always include all parties in your correspondence and note your letters accordingly to avoid possible exclusion of a party from the discussion.

The six month extension of time in these applications expired on June 12, 2001. The parties were notified that a hearing would be scheduled if the protests were not resolved by then. The department should schedule a hearing for your applications. The points you raise in your letter can be addressed in the hearing. A notice of hearing will be sent to the parties as soon as a hearing can be scheduled.

Please let me know if you need more information in this regard.

Sincerely,

Steve Lester
Water Rights Supervisor

CC: David and Janeen Kipper with copy of Jones' 8-20-01 letter

MICROFILMED

NOV 26 2003



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

December 12, 2000

TERRY A JONES
5888 SANDY AVE
EMMETT ID 83617

Re: Application for Permit Nos. 65-13960 and 65-13961

Dear Mr. Jones:

Your request for an interruption in processing of the above referenced applications is granted. An extension of up to six months can be recognized to allow more time to review details of a settlement agreement.

If the parties reach an agreement sufficient to allow the protest to be withdrawn prior to June 12, 2001, please provide the written agreement to this office. The agreement should be signed by the applicant and the protestants. A hearing will be scheduled after June 2001 if a successful agreement is not reached.

For future notice, please be aware that all correspondence from any party regarding these applications should be provided to all the parties. The parties include the applicant, the protestant and the Idaho Department of Water Resources. I enclosed a copy of your December 8 letter in the copy of today's letter sent to the protestants.

Thank you for your prompt attention to the request for more time. Please contact me at 334-2190 if you need more information.

Sincerely,

A handwritten signature in cursive script that reads "Steve Lester".

Steve Lester
Water Rights Supervisor

Cc: David and Janeen Kipper with enclosure

MICROFILMED

NOV 26 2001

December 8, 2000

Steve Lester 
Dept. of Water Resources
Western Region
2735 Airport Way
Boise, Idaho, 83705

RECEIVED

DEC 11 2000

WATER RESOURCES
WESTERN REGION

Re. Application for Permit Nos 65-13960 and 65-13961

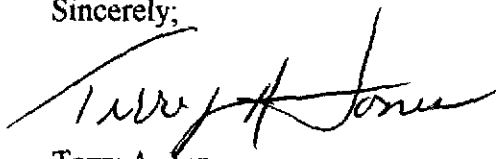
Dear Sir:

As per our telephone conversation [11-20-00] and your kind reminder I wish to request an extension in review time for the proposed draft settlement. Due to the demands of my personal calendar and the holiday season I find that I am unable to give due diligence to this draft with out an extension.

The most reasonable time frame available to me is the weeks of March 5-9 and 12-16.

Thank you for your consideration in this matter.

Sincerely,



Terry A. Jones
5888 Sandy Ave.
Emmett, Idaho, 83617
208-365-3707

MICROFILMED

NOV 26 2003



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

December 6, 2000

TERRY A JONES
5888 SANDY AVE
EMMETT ID 83617

Re: Application for Permit Nos. 65-13960 and 65-13961

Dear Mr. Jones:

You telephoned me on November 20, 2000, regarding the above referenced water right applications. You expressed an interest in more time to review the draft settlement agreement mailed by this office on October 25, 2000. I understood that you planned to make a written request for more time.

Water Appropriation Rule No. 40 provides for a written request to interrupt application processing for up to six months. Please submit your written request for more time to this office.

If the written request is not made within thirty (30) days of the date of this letter, the applications will be voided and removed from the records of this agency. Thank you for your attention to these matters.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Steve Lester'.

Steve Lester
Water Rights Supervisor

Cc: David and Janeen Kipper

MICROFILMED

NOV 16 2003



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

October 25, 2000

TERRY A JONES
5888 SANDY AVE
EMMETT ID 83617

DAVID & JANEEN KIPPER
5555 SANDY AVE
EMMETT ID 83617

Re: Application for Permit Nos. 65-13960 and 65-13961

Dear Applicant and Protestants:

Enclosed is an agreement for your consideration to resolve protests to the above referenced applications. Please feel free to visit with each other or with legal counsel as you review the document. Also enclosed is a list of consultants you might want to contact.

If the agreement is acceptable, please return one completed form to me. The completed form should be signed by all of you. Notarized signatures are needed. Application processing will resume upon completion of this step. The applications will be approved with conditions of approval reflecting the agreement. This office will work with you to carry out the agreement. Coordinated efforts can be made by contacting me once the applications are approved.

If the protest is not withdrawn or otherwise resolved within thirty (30) days of the date of this letter, the next step will be scheduling a hearing to resolve the matter. The hearing is a more formal process as we discussed during the October 5, 2000, prehearing conference in Emmett.

I will be glad to answer any questions or provide other help. Thank you for your attention to these matters.

Sincerely,

Steve Lester
Water Rights Supervisor

Enclosure

MICROFILMED

NOV 2 1999



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

August 24, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

TERRY A JONES
5888 SANDY RD
EMMETT ID 83617

Re: Application for Permit Nos. 65-13960 and 65-13961

Dear Applicant:

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to the above-referenced applications.

The following are the criteria the department must consider in either approving or denying an application for permit (per Section 42-203A, Idaho Code):

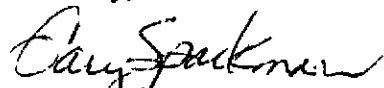
1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

Enclosed is a Notice of Prehearing Conference scheduled for October 5, 2000 at the Gem County Courthouse in Emmett. At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

The department suggests you contact the protestant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest. Direct, sincere conversation between the parties prior to initiation of formal proceedings can often resolve a protest.

Please contact this office if you have questions regarding this procedure.

Sincerely,


Gary Spackman

GS:st

MICROFILMED

SEP 25 2000

Enclosure: Copy of protest(s)
Notice of Prehearing Conference



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

August 23, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

DAVID &/OR JANEEN KIPPER
5555 SANDY DR
EMMETT ID 83617

Re: Application for Permit Nos. 65-13960 and 65-13961 in the Name of Terry A. Jones

Dear Protestant:

This office acknowledges receipt of your protest to the issuance of a permit pursuant to the above referenced applications.

The following are the criteria the department must consider in either approving or denying an application for permit (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 purposes 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 under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

Enclosed is a Notice of Prehearing Conference scheduled for October 5, 2000 at the Gem County Courthouse in Emmett. At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

The department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest prior to the prehearing conference. Direct, sincere conversation between the parties prior to initiation of formal proceedings can often resolve a protest.

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

Sincerely,

MICROFILMED
NOV 3 5 2003


Gary Spackman

GS:st

CC: Application
Notice of Prehearing Conference

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NOS. 65-13960 AND)
65-13961 IN THE NAME OF TERRY)
JONES.)

**NOTICE OF PREHEARING
CONFERENCE**

On June 29, 2000, Terry Jones filed with the Department of Water Resources (IDWR) application for permit nos. 65-13960 and 65-13961. The applications were protested by and David and Janeen Kipper.

IDWR has scheduled a conference for the protest to be held on **Thursday, October 5, 2000, at 10:00 a.m. at the Gem County Courthouse, jury room, 415 E. Main, Emmett, Idaho 83617.** The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Procedure of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources.

The conference will be conducted in a facility that satisfies 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 IDWR within (10) days prior to the conference.

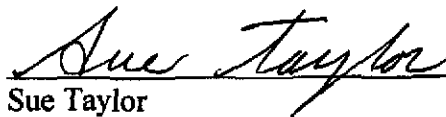
Dated this 24th day of August 2000.



Gary Spackman

CERTIFICATE OF MAILING

I hereby certify that on the 24th day of August 2000, I mailed a true and correct copy, postage prepaid, of the Notice of Prehearing Conference to the applicant(s) and protestant(s) listed:



Sue Taylor
Senior Secretary

Terry A. Jones
5888 Sandy Ave
Emmett, ID 83617

David &/or Janeen Kipper
5555 Sandy Ave
Emmett, ID 83617

NOTICE OF PREHEARING CONFERENCE 2

MICROFILMED

NOV 28 2003

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

- 1) Will the proposed appropriation injure other water rights?
- 2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?
- 3) Was the application made in good faith or for delay or speculative purposes?
- 4) Does the applicant have sufficient financial resources with which to complete the proposed project?
- 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?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

MICHAEL

NOV 26 2003

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter.

At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may, by written stipulation, waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled 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 ten (10) days prior to the hearing.

MICAC

NOV 25 2003



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

August 23, 2000

GEM COUNTY COURTHOUSE
415 E MAIN
EMMETT ID 83617

Re: Conference Room Reservation

This letter is to confirm the conference room reservation made by the Department of Water Resources for Thursday, October 5, 2000, at 10:00 a.m.

If you have any questions please call me at 334-2190, Western Region of the Department of Water Resources.

Sincerely,

A handwritten signature in cursive script that reads 'Sue'.

Sue Taylor
Senior Secretary

MICROFILM

NOV 26 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

AUG 15 2000

WATER RESOURCES
WESTERN REGION

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested 65-13960 65-13961
2. Name of protestant David V. Kipper and/or Janeen Y. Kipper
3. Protestant's Representative for service (If different than protestant)

4. Service mailing address 5555 Sandy Ave Emmett ID 83617
5. Service telephone no. 208-365-2676
6. Basis of protest (including statement of facts and law upon which the protest is based)
Fruter Well problems

(additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? agreement to take care of problem

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 15 day of Aug, 2000.

David V. Kipper
Protestant

Protestant's Representative

MICHAEL J. JONES

NOV 25 2003

NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37 01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
 2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
 3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
 4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
-

FOR DEPARTMENT USE ONLY

Received by Ly Date 8/15/00 Time 2 PM
\$25.00 fee Receipted by Ly # W026854 Date 8/15/00

MICROFILMED
AUG 25 2003

RECEIVED

AUG 10 2000

WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
SS.
COUNTY OF GEM,

Dixie L. Thome, being first
duly sworn, on her oath deposes and
says that she is the clerk of the Mes-
senger Index, a legal weekly news-
paper published at Emmett, in Gem
County, Idaho; that said newspaper
is in general circulation in said
county and has been published unin-
terruptedly and continuously for
more than 78 weeks prior to the
first publication of the annexed
document; and that the document
notice, process, or advertisement
hereunto annexed was published in
the regular edition of Messenger
Index for Two

consecutive weekly issues thereof,
beginning with the issue of
August 20, 2000,
and ending with the issue of

August 20, 2000

Subscribed and sworn to me this
9th day of

August, 2000

MacFarlane
Notary Public
Residing at Emmett, Idaho

My Commission Expires 2-4-2005

MICROFILMED

NOV 25 2003

NOTICE OF APPLICATION FOR WATER RIGHT

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

65-13959

BERGGREN, LEON E
BERGGREN, MARGARET L
PO BOX 126
SWEET, ID 836700126

Source: TIMBER CREEK

Tributary: SQUAW CREEK

Diversion Pt: SWNENE Sec 14 T 08N R 01E in GEM County.

Use: IRRIGATION	(	0.60 CFS)	
IRRIGATION STORAGE			{ 0.90 AF
IRRIGATION FROM STORAGE			
DIVERSION TO STORAGE		0.60 CFS)	0.90 AF)
Total Diversion:		0.60 CFS)	

Date Filed: 7/13/2000

In: GEM County
T08N R01E S14 NWNW

2.0 ACRES TOTAL

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

65-13960

JONES, TERRY A
5888 SANDY AVE
EMMETT, ID 83617

Source: GROUNDWATER

Diversion Pt: NWNW Sec 13 T 07N R 03W in GEM County.

Use: IRRIGATION	(	3.600 CFS)
Total Diversion:		3.600 CFS)

Date Filed: 6/29/2000

In: GEM County
T07N R03W S11 NESE SESE
S12 SWNW SENW NESW NWSW
SWSW SWSE

180.0 ACRES TOTAL

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

65-13961

JONES, TERRY A
5888 SANDY AVE
EMMETT, ID 83617

Source: GROUNDWATER

Diversion Pt: SWSW Sec 12 T 07N R 03W in GEM County
NWNW Sec 13 T 07N R 03W in GEM County.

Use: STOCKWATER	(	0.630 CFS)
COMMERCIAL		0.270 CFS)
Total Diversion:		0.900 CFS)

Date Filed: 6/29/2000

In: GEM County
T07N R03W S11 NESE SESE
S12 SWNW SENW NESW NWSW
S13 SWSW SWSE
NWNW

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 Resources, Western
Region, 2735 Airport Way, Boise, Idaho 83705 together with a protest fee of \$25.00
for each application on or before AUGUST 21, 2000. The protestant must also send
a copy of the protest to the applicant.

KARL J. DREHER, Director

Pub: 8-2, 9, 2000

Legal Notice No: 4020
Published in the Messenger Index

65-13961

JONES, TERRY A
5888 SANDY AVE
EMMETT, ID 83617

Source: GROUNDWATER

Diversion Pt: SWSW Sec 12 T 07N R 03W in GEM County.
 NWNW Sec 13 T 07N R 03W in GEM County.

Use: STOCKWATER (0.630 CFS)
 COMMERCIAL (0.270 CFS)
 Total Diversion: (0.900 CFS)

Date Filed: 6/29/2000

In: GEM County
 T07N R03W S11 NESE SESE
 S12 SWNW SENW NESW NWSW
 S13 SWSW SWSE

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

MICRO

NOV 25 2001