

* Springs
1 & 2 from
65-07903
Exam in
1988 - ARE
joined by
pipeline

//// = NEW
springs to
develop

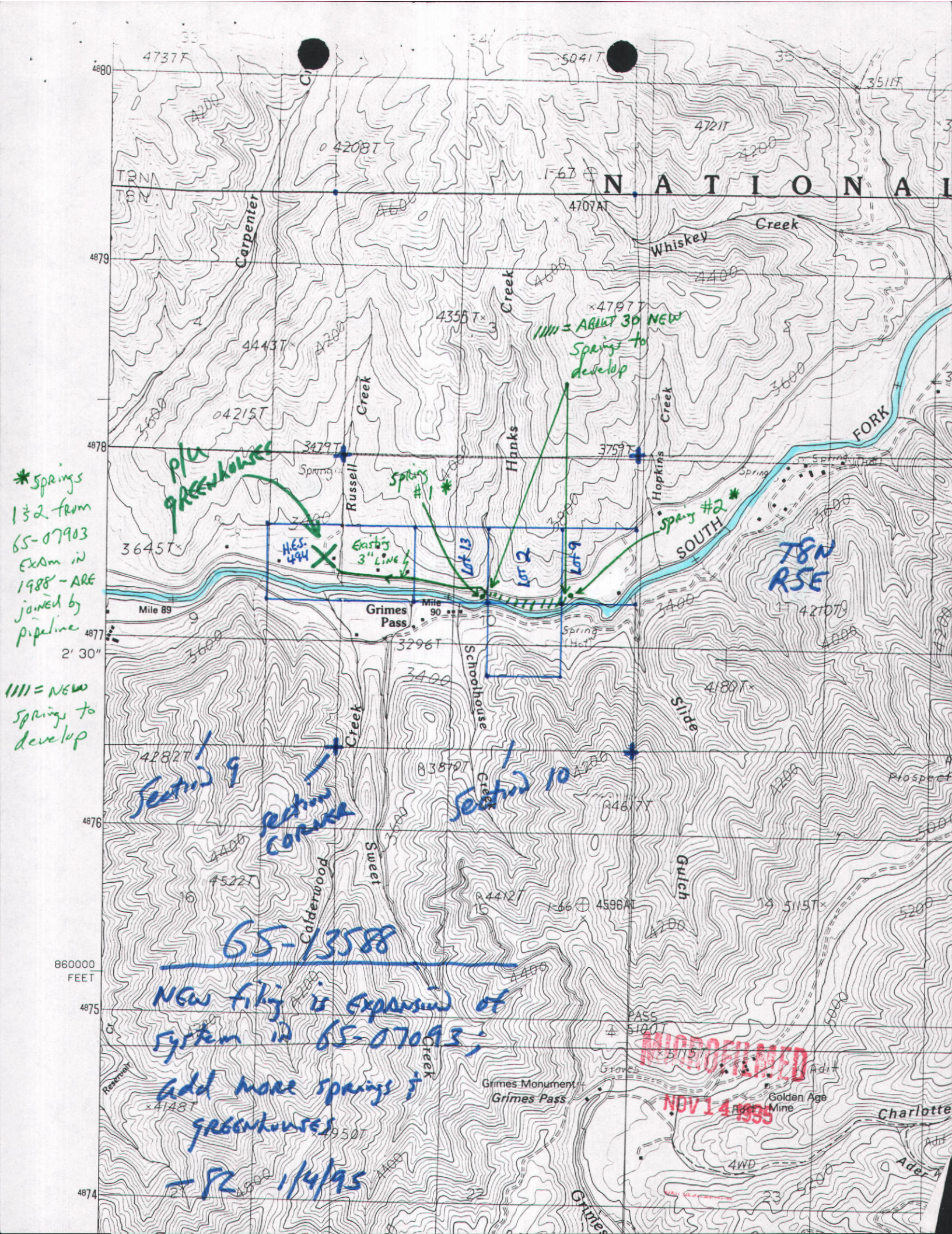
p/u
GREENHOUSE

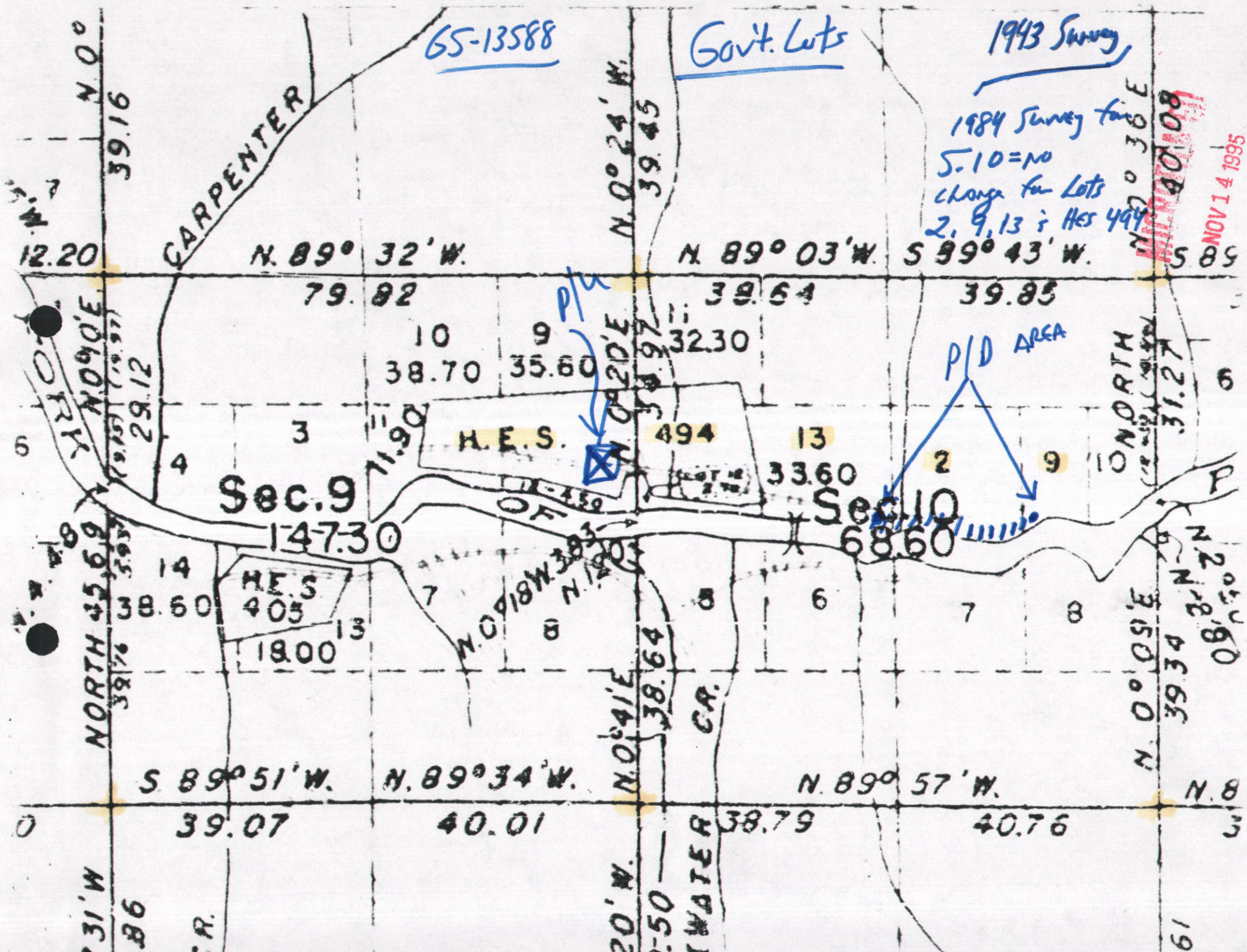
//// = ABOUT 30 NEW
springs to
develop

Section 9
Section 10
Section 11

65-13588
New filing is expansion of
system in 65-07903;
add more springs &
greenhouses
- PR 1/4/95

RECORDED
NOV 14 1995





ABT 30 Springs between
#1 & 2 of 65-07903 with
estimated flow shown.
TO BE DEVELOPED

50 mm

30 PM

1000 001

210A

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lid A. 09

10
5
5
5

210A

1. Land

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lid A. 09

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5
5

Fork →

South

W J R

520

749

~~pump~~
~~Horse~~

9-5-0-59
part 2

to 65-07103
#112
(= #312)
65-07103

pipe line

$T \propto \rho / \mu$ $\uparrow$

NOV 14 1995
A PM
JAN 14 1996

30 APR 1964

RECEIVED

FEB 21 1995

WATER RESOURCES
WESTERN REGION

The Idaho World

P O Box 99
Garden Valley, ID 83622
208 462-3487

State of Idaho >

County of Boise >

Deanna Stevenson, being duly sworn, deposes and says: that she is the Editor of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with Jan 1, 1995 and ending with the issue of Jan 8, 1995.

Deanna Stevenson

State of Idaho >

County of Boise >

On this 16 day of Feb in the year 1995, before me, a notary public, personally appeared Deanna Stevenson known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

L. Cadotte
Notary Public for Idaho
Residing at Garden Valley, Idaho

My commission expires 6-25-2000

NOTICE OF APPLICATION FOR WATER RIGHT

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

65-13588 *set*

WARD, JACK D
DBA WARD'S GREENHOUSE
HC 77 BOX 3912
#15 LOWMAN RD
GARDEN VALLEY, ID 83622

Source: SPRINGS

Tributary: PAYETTE RIVER, SOUTH FORK

Diversion Pt: LOT 2 (SWSWNE) Sec 10 T 08N R 05E in BOISE County.
LOT 2 (SESWE) Sec 10 T 08N R 05E in BOISE County.
LOT 9 (SWSENE) Sec 10 T 08N R 05E in BOISE County.
LOT 13 (SESENE) Sec 10 T 08N R 05E in BOISE County.
LOT 2 (NENWSE) Sec 10 T 08N R 05E in BOISE County.
LOT 2 (NWNWSE) Sec 10 T 08N R 05E in BOISE County.

Use: COMMERCIAL (1,160 CFS)
Total Diversion: (1,160 CFS)

Dated Filed: 1/9/1995

In: BOISE County
T08N R05E S09SENE

Multiple springs are located on north side of South Fork Payette River.

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 on or before FEBRUARY 21, 1995. The protestant must also send a copy of the protest to the applicant.

R. KEITH HIGGINSON, Director

Published in The Idaho World January 1 and 8, 1995.

NOV 14 1995

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OCT 28 1998

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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OCT 28 1998

Department of Water Resources

PROOF OF BENEFICIAL USE

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

1. Permit No. 65-13588 Telephone No. (208) 462-3846
2. Name(s) of Permit Holder(s): JACK D. WARD
3. Mailing Address: 1722 Banks Lowman Rd Garden Valley
4. Source of Water: Hot Springs If GROUNDWATER (well), Date Drilled: mo. 8 / yr. 83 622
- a. Well Driller: - Drilling Permit Number: -
- b. OPTIONAL:
Pump Horsepower: 3 Pressure (psi): 80 Dynamic pumping level (ft): 110 feet

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

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

Irrigation (No. of acres): Other: Greenhouse heating

6. Total rate of diversion and/or volume for which proof is submitted: 128 cfs OR acre feet

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

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

Measuring Device:	Is a measuring device required?	Yes <u> </u>	or	No <u>X</u>
	Has the measuring device been installed?	Yes <u> </u>	or	No <u>X</u>
Flow Measurement Port:	Is a flow measurement port required?	Yes <u> </u>	or	No <u>X</u>
	Has the measurement port been installed?	Yes <u> </u>	or	No <u>X</u>

8. Fee Enclosed: \$ 100.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

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

Name: JACK D. WARD Telephone Number: (208) 462-3846

Address: 1722 Banks Lowman Rd. Garden Valley Idaho 83622

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

Signature of permit holder: JACK D. WARD Owner Date: NOV 27 1998
(include your title, if on behalf of company or organization)

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 65-13588

Proposed Priority: January 9, 1995

Maximum Diversion Rate:

1.16 CFS

This is to certify, that JACK D WARD

DBA WARD'S GREENHOUSE

HC 77 BOX 3912

#15 LOWMAN RD

GARDEN VALLEY ID 83622

has applied for a permit to appropriate water from:

SPRINGS

tributary of PAYETTE RIVER, SOUTH FORK

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
COMMERCIAL	01/01 to 12/31	1.16 CFS

LOCATION OF POINT(S) OF DIVERSION:

Lot 2(SWSWNE), Sec. 10, Township 08N, Range 05E
Lot 2(SESWE), Sec. 10, Township 08N, Range 05E
Lot 9(SWSENE), Sec. 10, Township 08N, Range 05E
Lot 13(SESENW), Sec. 10, Township 08N, Range 05E
Lot 2(NENWSE), Sec. 10, Township 08N, Range 05E
Lot 2(NWNWSE), Sec. 10, Township 08N, Range 05E

BOISE County

PLACE OF USE: COMMERCIAL

TWN RGE SEC

08N 05E 9

SENE

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before November 1, 1998.
2. Subject to all prior water rights.
3. 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.
4. Use of water under this right is subject to control by the watermaster of State Water District No. 65.
5. After specific notification by the department, the right holder shall annually report the amount of water diverted to the department.
6. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works prior to diversion of water under this right.
7. When water is not available to fill this right, the right holder shall cease diversion or shall rent water from the Payette River Rental Pool.

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State of Idaho
Department of Water Resources

Permit To Appropriate Water

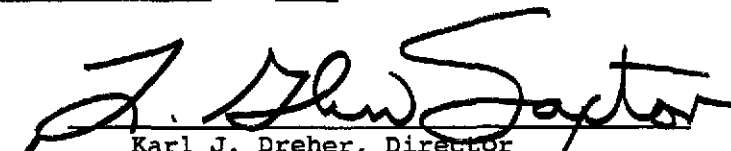
NO. 65-13588

CONDITIONS OF APPROVAL AND REMARKS

8. The issuance of this right does not grant any right-of-way or easement across the land of another.
9. The right shall not be assigned or sold without first securing the written approval of the Department of Water Resources.
10. Multiple points of diversion located in SWNE, SENE, SENW and NWSE, S10, T08N, R05E.
11. Place of Use is within H.E.S. #494.
12. Commercial use is for greenhouses covering eight acres.

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

23 day of October, 1995.


for Karl J. Dreher, Director

NOV 14 1995

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OCT 20 1995

Ident. No. 65-13588

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name: JACK D WARD 208-462-3486
Address: DBA WARD'S GREENHOUSE
HC 77 BOX 3912
#15 LOWMAN RD
GARDEN VALLEY ID 83622

2. Source: SPRINGS Trib. to: PAYETTE RIVER, SOUTH FORK
3. Location of Point of Diversion: Lot 2 (SWSWNE), Sec. 10, Township 08N, Range 05E
Lot 2 (SESWE), Sec. 10, Township 08N, Range 05E
Lot 9 (SWSNE), Sec. 10, Township 08N, Range 05E
Lot 13 (SESENE), Sec. 10, Township 08N, Range 05E
Lot 2 (NENWSE), Sec. 10, Township 08N, Range 05E
Lot 2 (NWNWSE), Sec. 10, Township 08N, Range 05E
BOISE County

4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
COMMERCIAL	01/01	12/31	1.160		

5. Total quantity to be appropriated is:
1.160 CFS (and/or) AF

6. Proposed diverting works:

- Description of ditches, flumes, pumps, headgates, etc.
EXISTING SPRINGS + ADDED SPRINGS, PUMPS TO COMMON PIPELINE TO P/U
- 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.
- Proposed well diameter is inches; proposed depth of well is
feet.
- Is groundwater with a temperature greater than 85F being sought? NO
- If well is already drilled, when?
Drilling Firm
Well was drilled for

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

Michael Allen

NOV 14 1995

8. Place of Use: COMMERCIAL

TWN RGE SEC
08N 05E 9 SENE

9. a. Who owns the property at the point of diversion?
STATE OF IDAHO
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 enabling the applicant to make this filing.
RIGHT OF WAY AGREEMENT (SEND COPY OF APPLICATION TO ID DEPT. OF LANDS)

10. Remarks:

Multiple points of diversion located in SWNE, SENE, SENW and
NWSE, S10, T08N, R05E.

Commercial use is for greenhouses covering eight acres.

Place of Use is within H.E.S. #494.

This right provides additional volume overlooked in right no.
65-07903 (for 1.5 acres of greenhouse complex) plus volume for
additional development initiated after 1988. The additional
volume issue for right no. 65-07903 can be addressed at the time
of the licensing examination of right no. 65-13588.

11. Map of proposed point of diversion and place of use attached? ☒

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

See original
Applicant

Received by SL Date 1/9/95 Time 1:50 Preliminary check by
← D.O.P. signed Application received.

Fee \$ 120.00 Received by SL #W018484 Date 1/4/1995

Publication prepared by SL Date 1-25-95 Published in Old World

Publication approved SL Date 2-23-95

NOV 14 1995

See Comments

65-13588

Comments: Date: 1/ 9/1995 User-ID: SLESTER

Subject:
OVERLAP & VOLUME

This right is filed on previously developed springs in 2 QQ's plus about 30 additional ⁴srings found between the 2 sites. All of the springs are on the north side of the river. Advertising of the filing should include "Multiple springs are located on north side of South Fork Payette River" to reduce concerns of land owners on south side of river.

This right will provide multiple uses of water (all uses are covered by Commercial) for some existing & proposed greenhouses. The proposed facility limit is about 8 acres as reflected in the Remarks - an important limit to show intent of this project.

There are now about 4 acres under greenhouses where only 1.5 ac. were found in exam of system in 1988 (65-07903 & 07904 exams). So new application will cover expansion from 1988 through 1994 and additional growth up to 8 acre area.

A number of rights already serve up to 1.5 acres of greenhouses developed by 1988 but different b.u. terms have been used: comm., industrial & irrigation (in & around greenhouse, e.g. tree farm).

The point of all this is to introduce the following suggested condition of approval for the new filing: "Water used for greenhouses is limited to an eight acre facility under this right and right nos. 65-00503 -00509 -07167 -07903 -07904". These all cover the Ward business site in question; some rights include other QQ but all existing & proposed greenhouses are in SENE S09. Most if not all of the new springs to be used are hot springs.

NOV 14 1995

continual

65-13588 (continued)

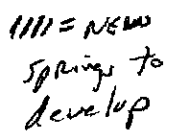
The applicant included a diagram showing estimated gpm/spring based on recent 5-gallon bucket measurements by non-IDWR folk.

One intent of the application is to provide additional volume for the 1.5 acres of greenhouses licensed in 65-07903 from springs in SESENW & SWSENE (labeled # 1 & 2 on topo; #1 is same as #3 of 65-07904). Owner thinks volume for 7903 is too low & is working on information to show more realistic afa value. This can perhaps be completed in licensing of new filing. Thus, application will cover "mistaken" volume from 7903 plus volume from new springs for 6.5 additional acres of greenhouses.

Regarding gov't lots, be sure to use 1943 or 1984 surveys (no change between the two) instead of earlier surveys since lot #'s changed. This was discovered in exam of 65-07903 & 7904 & led to some confusion when looking at older rights with gov't lot #'s that did not match up ok until I figured this out. See overlap info in 7904 for details if needed.

MICROFILMED

NOV 14 1985



plus greenhouses

11

Garbaj
3" 1/2"

13

2

b7c

3

200



SW



42827

petting
corner

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65-13588

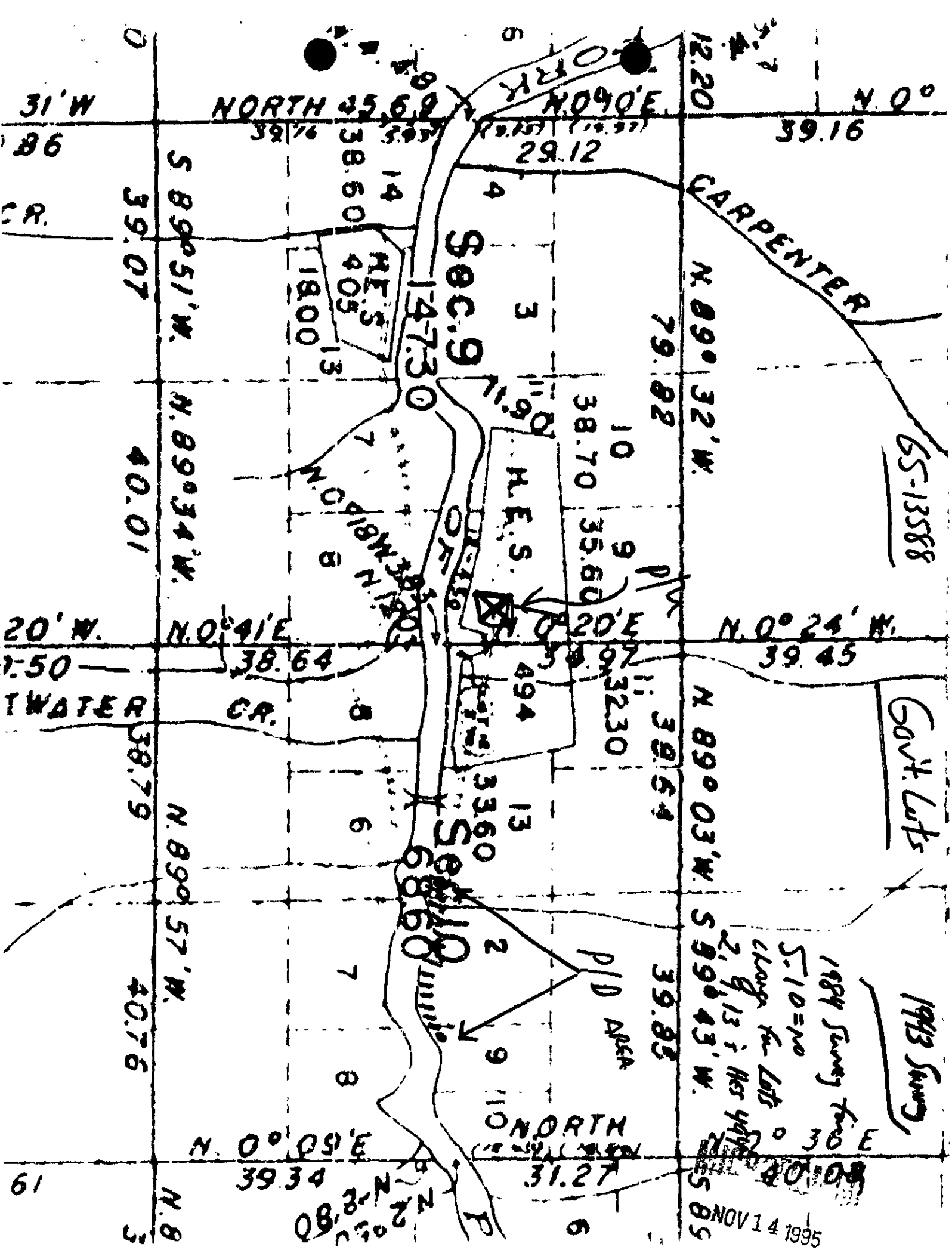
New filig is expressed of system is 65-07093;

add more springs &
gabentuses

- PR 1/4/95

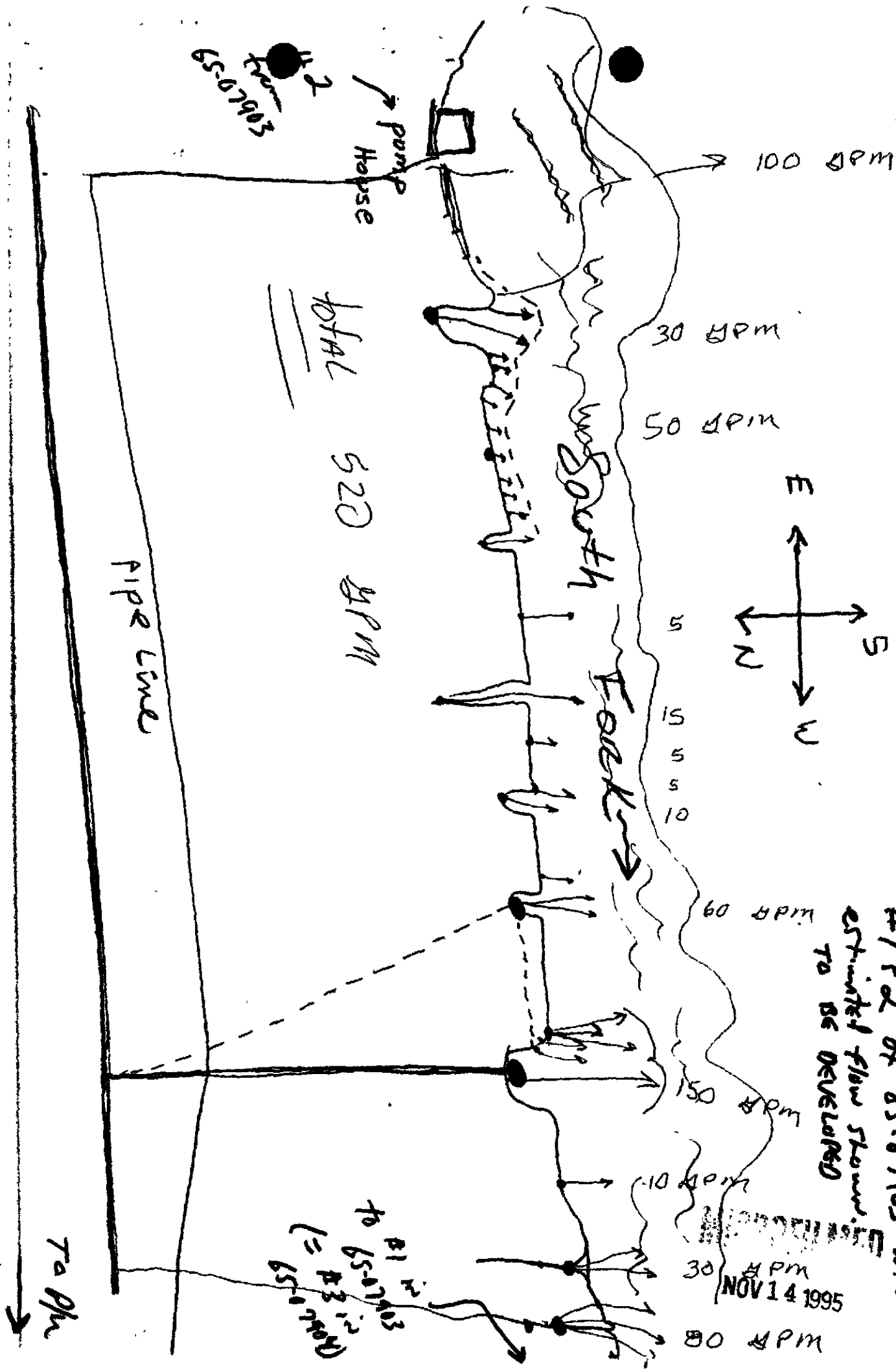
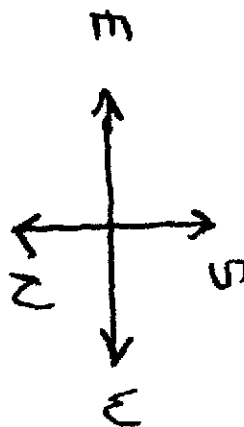
NOV 14 1995

Charlotte



65-13588

About 30 springs between
#1 & 2 of 65-07903 with
estimated flow shown.
To be developed



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident No 65-13588

RECEIVED

JAN 09 1995

WATER RESOURCES
WESTERN REGION

To appropriate the public waters of the State of Idaho

1. Name of applicant Jack D. Ward (dba Ward's Greenhouse) Phone 462-3486
Post office address HC77 Box 3912 #15 Lowman Rd. Garden Valley ID 83622
2. Source of water supply Springs which is a tributary of Payette River, South Fork
3. Location of point of diversion is SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of NE $\frac{1}{4}$, Govt Lot 02
Sec 10 Township 8N Range 5E B.M. Bose County; additional
points of diversion if any: Lot 2 (SESWNE), Lot 9 (SWSENE), Lot 13 (SESENW), Lot 2 (NENWSE and NWNWSE), S. 10, T8N, R5E. (SEE REMARKS)
4. Water will be used for the following purposes.
Amount 1.16 for Commercial purposes from 1/1 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)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 1.16 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
- a. Description of ditches, flumes, pumps, headgates, etc Existing Springs #1 & 2 from 65-07903
plus c 30 more springs, common pipeline to c 8 Acres of greenhouses.
Pumps will augment deliver water from springs to greenhouses.
- 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 N/A
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
- d. Is ground water with a temperature of greater than 85°F being sought? _____
- e. If well is already drilled, when? _____; Drilling firm _____
Well was drilled for (well owner) _____
7. Time required for the completion of the works and application of the water to be proposed beneficial use is
5 years (minimum 1 year).

ORIGINAL
NOV 14 1995

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

a. Hydropower, show total feet of head and proposed capacity in KW _____

b. Stockwatering; list number and kind of livestock _____

c. Municipal, show name of municipality _____

d. Domestic, show number of households _____

e. Other; describe fully Commercial: greenhouses to cover 6 1/2 Acres Expanded from 1 1/2 Acre facility licensed in 65-07903; also, to provide add'l. volume from springs #1 & #2 since believe that commercial volume in previous license underestimates need for system as found in 1988 exam of 65-07903.

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	RANGE	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
8N	5E	9				X													—

PLACE OF USE within H.E.S. 494

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above 65-07903 for 1 1/2 Acres of 8 Acre complex; that right covers springs 1 & 2 only

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

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 enabling the applicant to make this filing. Right of way Agreement.

12. Remarks Multiple points of diversion up to approx 32 springs maximum located in each 1/4-1/4-1/4 described in item 3.

All development is located north of S. Fr. Payette River NOV 14 1906
most if not all of the springs are hot water.

Under this right, springs 1 & 2 will provide added volume not found in license for 1 1/2 Acres of greenhouses found in 65-07903. Springs 1 & 2 plus c 30 more springs between 1 & 2 will provide water to about 8 Acres of greenhouses when development is completed (need c 5 yrs. to complete).

13 Map of proposed project show clearly the proposed point of diversion, place of use, section number, township and range number

See attached maps (topo plus
govt lots) and diagrams. ~~See~~

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NOV 14 1995

Scale 2 inches equal 1 mile

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

James L. [Signature]
(Applicant)

D.O.P. - signed Appl. Rec'd.

Received by SR Date 1/9/95 Time 1:50 Preliminary check by _____
Fee \$ 120 Received by SR # W018484 Date 1/4/95 (fee paid
12/30/94 but
not able to
Receipt & not
1/4/95)
Publication prepared by _____ Date _____ Published in _____
Publication approved _____ Date _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

a. SUBJECT TO ALL PRIOR WATER RIGHTS

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 _____

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land

d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit

e. Other.

NOV 14 1995

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 65-13588 Reviewed by [Signature] Date 11-16-98

GENERAL CONSIDERATIONS

TYPES OF USE

yes Name same as permit?
no Address same as permit?
yes Proof timely received? Correct Uses? yes
If not, complete calculation below.

SOURCE OF WATER

☒ Surface water source
☐ Ground water source
☐ Drilling permit required?
☐ Copy in the file? Drilling Permit No. _____
☐ Amount paid for permit _____ Correct?
☐ Well log in the file?

LICENSE EXAMINATION FEE

MEASURING DEVICE

yes Required?
100 - Amount Submitted
yes Correct?
yes Required?
no Installed?
no Waiver requested?

PRIORITY CALCULATION

Date proof received	_____	/	_____
Date proof due	_____		_____
No. of days late	_____		_____
Priority Date	_____		_____
New Priority Date	_____		_____

DEFICIENCIES OR ACTION ITEMS

Proof Acceptable

DATA ENTRY

New Address 1722 Banks Lower Rd Proof Made 10-28-98
Garden Valley



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 17, 1998

Jack D Ward
1722 Banks Lowman Rd
Garden Valley ID 83622

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 65-13588

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

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

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

Sincerely,

JULIE L. YARBROUGH

Senior Secretary, Water Allocation Bureau

c: IDWR - Regional Office

MICROFILMED
NOV 27 1998

August 31, 1998

JACK D WARD
DBA WARD'S GREENHOUSE
HC 77 BOX 3912
#15 LOWMAN RD
GARDEN VALLEY ID 83622

PROOF DUE NOTICE

RE: PERMIT NO. 65-13588

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before November 1, 1998.

(See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

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

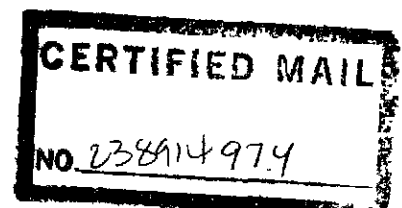
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

MICROFILMED

NOV 27 1998





State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

October 23, 1995

JACK D WARD
DBA WARD'S GREENHOUSE
HC 77 BOX 3912
#15 LOWMAN RD
GARDEN VALLEY ID 83622

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 65-13588

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. Please be sure to thoroughly review the "CONDITIONS/REMARKS:" listing on the permit.

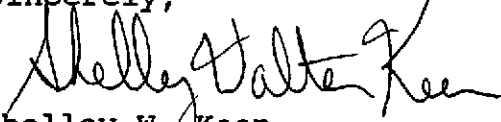
As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

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.

Be sure to note the special condition requiring you to install a measuring device and lockable controlling works that will enable the watermaster to control the rate of diversion.

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

Sincerely,


Shelley W. Keen
Water Rights Supervisor

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NOV 14 1995

APPLICATION FOR PERMIT
STATE OFFICE REVIEW
by Cindy Zimmerman

No.: 65-13588 Name: Jack Ward Date: 10/20/95 Ad OK? ✓
Correct Fee? ✓ Receipt #: W018484 Priority: 1/9/95 ✓ Gvmt Lts: ✓

AREA OF CONCERN? - No/Yes Mor GWMA Trust/Non-trust
PROTESTED: unconditional WD 020(Protest Agr) or W19(See Final/Prelim Order)
SYSTEM COMPLETED:

Yes/proof filed - NA
1 year/no proof - P16
+1 year - ~~NA~~-P17

GROUNDWATER: <✓ FLO-CH>

+ 0.2 cfs - 01M
=/- 0.2 cfs - No MD
=/+ 5 a. - 01M, 065(if GW use SW 1st)

Drilling Permit:

Existing well - NA (pre 7/1/87)
Included w/permit - Permit No. , P99
No WD permit? - 046-46B-P23 (post 7/1/87)
irr. in WD - P05 (new well)

SURFACE WATER <✓ FLO-CH> (Surface water that doesn't sink is regulated):

Water District(~~dem~~) - 005 (req) WD 005 <SEE MAP & LISTING>
+ 0.2 cfs - 028(may report) 01J(meas dev) ~~P08~~
=/- 0.2 cfs - 028(may report)-01H(lock dev)-P01 or No MD
=/+ 5 a. irr. - 028(may report)
~~In~~ WD + 0.2 cfs - 01M or No MD (in-stream)
- 0.2 cfs - No MD
=/+ 5 a. irr. - 01M

RIVER BASINS (*Surface water):

Snake R (01) - 11A-P04, NA
(02/03) - 007-P07 (w/remark WB9), NA
Boise R (63) - 05A (if WD), 11E (not 42-111 use), NA
Payette R (65) - 064(regulated uses), 047-P04(Payette Lake), NA

~~USE~~

Domestic (surface) - 021(Boise R + L Peak); 27A(Payette R); NA
Fish Propagation - 07A-042(rq)-010/06A/09E(WQ)-P10; 044(N 1000 Spr)
Irr <POU> =/- 5 a - 057 (0.03 cfs/A)
+ 5 a - 03A (0.02 cfs/A)
Mining - 054 (req) & 06A/010/09E-P10
Power - 08A-17K-025-027-01M-01F(P19)-09E(P10);
+25 cfs-P18; 17G(FERC) or 17M(FERC); 18B-P09
Storage(✓ 3 compo.) - 18A(multi MD in WD), 18B-P09 (+10' dam), NA

LOCATION:

Boise Front LoGeo - 058 (-85° GW temp only)
In-stream dev. - P52 (stream channel alteration)
Irr Dist/Canal Co. - 023 (Twin Falls area)
Swan Falls Flag - B <SEE CODE CHART>
Trust - 051-052-053-P74 (Consumptive Uses), NA
Non-Trust <1> - 048-049 (Consumptive Uses), NA

OWNERSHIP: Non-land owner - 004 (PD/PU) State

OTHER CONDITIONS: -

STANDARD REMARKS: - ① Comm/greenhouse

BENEFICIAL USE DUE: - 11-1-1992000

COMMENTS: -

1/95

RECEIVED
OCT 20 1995STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEETDepartment of Water Resources
INITIAL REVIEW BY: CytDATE: 1/20/94APPLICATION: 65-13588REQUIRED 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. ≥ 5 homes in non-restricted area)

Signature: (If applicant is corp., partnership, or municipality, title of signatory is required)

Fee:

Yes ☐ No* In form to receipt:

Gov't. Lots:

☒ P/D☒ P/U

Attached

ADDITIONAL INFORMATION

YES NO

Overlapping place of use: (Describe source & relationship to present application on the back.)

Overlapping point of diversion:

Field check required: Field check by: _____

Field report attached:

Critical groundwater area:

Groundwater management area:

1992 moratorium:

Copy to SCA staff: (perennial stream, non-pump diversion)

Copy to Dam Safety staff: (for any storage)

Basin 63 mitigation plan: (where ground water replaces surface water for irrigation, request additional information &/or mitigation plan to address reduced aquifer recharge)

Send power requirement letter:

Send fish farm requirement letter:

Power residency affidavit:

Power efficiency form:

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: _____

Additional information on reverse side:

PROCESSING

APPLICATION NO. 65-13588

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

YES NO

☐ ☒ I.D. Health and Welfare
☐ ☒ I.D. District Health
☒ ☒ I.D. Fish and Game
☐ ☒ I.D. Lands
☐ ☒ Adjudication Bureau

YES NO

☐ ☒ U.S. BLM
☐ ☒ U.S. Forest Svc.
☐ ☒ Water Dist. # _____
☐ ☒ 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:
Protests received. Final date for protest 2-21-95
Protest dates, resolution of protest recorded on application:

Recommendations attached: Approve, DWR

Measuring device required:

Measuring port required:

Water delivered by water master? District # 65, Payette R.

Special conditions of approval or cover letter: _____

05 (65, Payette River), 04, OIE

See below for additional information

Recommended Date or Priority 1/9/1995

Recommended by: DWR Date 10/10/1995

STATE OFFICE REVIEW

See below for additional information. By _____ Date _____

ADDITIONAL INFORMATION

Multiple P/D overlaps; P/A overlaps mostly with applicants'
other rights for same facility. See additional
comments in database comments.

Note also recommended condition of approval.

Facility is limited to an 8-acre complex.



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

September 22, 1995

JOHN E FEND
CASCADE AREA MANAGER
BUREAU OF LAND MGMT
3948 DEVELOPMENT AVE
BOISE ID 83705-5389

Re: Application for Permit No. 54-13588 in the Name of Jack D.
Ward

Dear Protestant:

This letter is to acknowledge your withdrawal of protest against
the above-referenced application for water right.

The Department now will continue to process the application,
subject to certain conditions of approval.

If you have any questions please call this office.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:st

CC: Applicant

NOV 14 1995



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Lower Snake River Ecosystem
Boise District Office
3948 Development Avenue
Boise, Idaho 83705-5389

See
RECEIVED
SEP 15 1995
WATER RESOURCES
WESTERN REGION

In Reply Refer To:

(3200SWM)

SEP 12 1995

Dnr
David R. Tuthill
Manager, Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Application for Permit No. 65-13588 in the name of Jack D. Ward

Dear Mr. Tuthill:

This letter is to **withdraw our protest** of the above-referenced application for additional water rights associated with hot springs along the South Fork of the Payette River east of Garden Valley.

The points of diversion are hot springs and seeps that issue from numerous joints and fractures in granodiorite located along the stream bed on Forest Service surface/Federal minerals subsurface ownership lands in: T. 8 N., R. 5 E., sec. 10, lots 2, 9, and 13. Hot water is conveyed by pipeline from these springs and seeps to Ward's Greenhouses on private land T. 8 N., R. 5 E., sec. 9, HES 494 (within SE $\frac{1}{4}$ NE $\frac{1}{4}$).

Background

On February 15, 1995, your office notified BLM of the subject application, requesting a review and comments of the subject application. On February 17, 1995, Bureau of Land Management Boise District (BLM) filed a protest of these water rights application to allow time to consider the need for a Federal Geothermal lease for this direct-use geothermal resource pursuant to 43 CFR 3200. BLM administers leasable minerals (including geothermal resources) on all Federal land including Forest Service land. A further letter from the IDWR to BLM dated Feb. 23, 1995 urged BLM to resolve the protest. On March 22, 1995 BLM sent a response letter

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NOV 14 1995

recommending making water rights issuance contingent on application of a Federal geothermal lease with BLM. BLM received a letter dated May 4, 1995 from Bill Ringert, attorney representing Jack Ward, asking for our reconsideration of the protest, based on several legal points.

We further investigated the intent of the Geothermal Steam Act, State versus Federal jurisdiction along navigable streams, reviewed stream-flow data from the South Fork of the Payette River, and visited the site on three occasions. The Geothermal Steam Act is somewhat vague on direct-use, low-temperature utilization and can be a source of controversy. However, it is generally interpreted to consider resources used for such greenhouse operations leasable, if **heat** is being removed from Federal lands.

Key elements in determining State or Federal jurisdiction are "navigability" and the position of the "ordinary high-water mark." At the time of the state's admission to the Union, navigable bodies of water were segregated from public lands below the ordinary high-water mark. Lands in the stream bed below the ordinary high-water mark are under the jurisdiction of the State of Idaho. Federal Lands above the ordinary high-water mark are under jurisdiction of the Federal Government, and in this case the surface is managed by the Forest Service. Furthermore, the **mineral rights** (including geothermal resources) are included in the navigable waters title to the state (*Charles B. Reynolds*, 56 LD 60 (1937)). Numerous Federal Court decisions support the concept of state sovereignty over beds of navigable rivers.

The first consideration was if the South Fork of the Payette River is considered "navigable." The South Fork of the Payette River has abundant white-water and is only passable by skilled rafters and kayakers. The state of Idaho has listed the S. Fork of the Payette River as an administratively navigable upstream through T. 9 N., R. 9 E. (verbal communication with Mark Smirnov, BLM, Idaho S.O.; Idaho Dept. of Water Resources Operational memorandum 1700, 5/13/86). The minimum criteria for navigability is demonstrated by the Gulkana River case (*State of Alaska v. Athna, Inc.*, 891 F.2d 1401 (9th Circuit Court 1989)), *cert. den.*, 110 S.Ct. 1949. In this case, the lower limit of navigability is associated with certain types of small boats, including inflatable rafts and canoes. These types of craft commonly negotiate white water on the South Fork of the Payette River. Therefore, for these purposes, **the South Fork of the Payette is considered for legal purposes "navigable."**

The "ordinary high-water mark" is a line which the water impresses on the soil or rock by covering it with water for sufficient times to cause a lack of vegetation. In the case of the steep and rocky canyon along the subject area, the line can be noted by lack of lichens on the rock above the mark. After several years of drought, the normal high-water line was difficult to ascertain relative to the spring locations. Also, because of the steepness of the canyon the river level fluctuates several feet proportional to the stream flow, with the highest annual flow during spring runoff.

Several field visits to the area of spring diversion were made by our geologist Steve Moore to observe location of the springs relative to stream level. On March 1, 1995, a few of the seeps were above the stream level, while some were underwater. On June 12, 1995, the South Fork of

14 1995

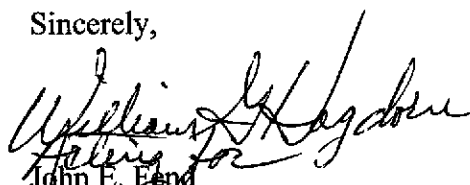
the Payette River was gauged at 3,532 cubic feet per second (cfs) at Lowman, upstream from the area of hot spring diversion. At this flow rate, nearly all of the springs and seeps were under water and the highest water mark as indicated by the level of increasing lichen on the rocks was about 6 feet above the river level. This approximate level is also evident on the wood siding of the upper spring pumphouse. A few days earlier, on June 5, 1995, the water level was much higher (@ stream flow of 4,830 cfs) and earlier forced Jack Ward to disconnect pump at the Upper Spring, which is usually done during peak spring runoffs.

Conclusion

Therefore, it is our current opinion that hot springs presently utilized by Mr. Ward and the new springs applied for are under the jurisdiction of the State of Idaho and subject to their water rights and geothermal rules. A federal geothermal lease is not required at this time. If later development of the greenhouse operation is expanded to require geothermal well development and other resource development in the area above the mean-high water line, a geothermal lease will be required. Authorization for modification and further development of diversion structures on National Forest lands can be obtained through the U.S. Forest Service, Emmett Ranger District.

We request that BLM's protest of water rights application 65-13588 be lifted. If you have any further questions, please contact Steve Moore at (208) 384-3365.

Sincerely,


John E. Fend
Cascade Area Manager

cc: Jack Ward - HC 77, Box 3912, Garden Valley, ID 83622
Bill Ringert - Ringert-Clark, P.O. Box 2773, Boise, ID 83701
Steve Moore, BLM
Julia Cannon/Judy Phelps, BLM, ID-943

4 1995

**RINGERT
CLARK**
CHARTERED
LAWYERS

COPY

✓ One
Protest File

May 4, 1995

RECEIVED

MAY 05 1995

WATER RESOURCES
WESTERN REGION

William F. Ringert
D. Blair Clark
James G. Reid
Jeffrey R. Christenson
James P. Kaufman
Laura E. Burri
Ailyn L. Sweeney
Patrick D. Furey
Michael J. Doolittle
David Hammerquist
Daniel V. Steenson
Steven C. Mahaffy

Samuel Kaulman (1921-1986)

Mr. John E. Fend
Cascade Area Manager
Bureau of Land Management
Boise District Office
3948 Development Avenue
Boise, ID 83705-5389

Re: Application for Permit No. 65-13588 in the name of
Jack C. Ward

Dear Mr. Fend:

Jack C. Ward, proprietor of Ward's Greenhouse, and applicant for Water Permit No. 65-13588, has asked me to look into the matter of your protest, on behalf of the Bureau of Land Management, as set forth in your letter of February 17, 1995 to Mr. David Tuthill, Jr., Manager of the Western Regional Office of the Idaho Department of Water Resources.

To obtain preliminary background information I discussed the matter by telephone with Mr. Steve Moore of your office, and with Mr. Steve Lester of the IDWR Western Regional Office. I also reviewed the statutory provisions in 43 U.S.C. §§ 1001-1026 (1994), and the pertinent regulations in 43 C.F.R. Part 3200 (1992).

There are three items of concern that I ask the BLM to consider in connection with its protest against the application. The first is land ownership, the second is the lack of a well and the third is the absence of stream at the proposed point of diversion.

Mr. Ward advises me that the proposed point of diversion is below the ordinary high-water mark of the South Fork of the Payette River. I have not had an opportunity to check the BLM Master Title Plat for the township where the land is located, but previous work on matters involving the South Fork of the Payette River leads me to believe that the stream is navigable. If that assumption is correct, title to the stream channel below the ordinary high-water mark was vested in the state of Idaho upon its admission to the Union, and the land at the proposed point of diversion would not be under the jurisdiction of the BLM or the U.S. Forest Service, and therefore not available for leasing under the Federal Geothermal Leasing Act.

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NOV 14 1995

Mr. John E. Fend
May 4, 1995
Page 2

The provisions of 30 U.S.C. § 1002 limit lands subject to geothermal leasing to those (1) administered by the BLM, including public, withdrawn, and acquired lands, (2) Forest Service or other lands administered through the Forest Service, including public, withdrawn, and acquired lands, and (3) lands which have been conveyed by the United States subject to a reservation of the geothermal steam and associated geothermal resources thereof.

With respect to the second point, although 30 U.S.C. § 1001(c) defines "geothermal steam and associated geothermal resources" to include (i) hot water, and (iii) heat or other associated energy found in geothermal formations, 30 U.S.C. § 1005 clearly contemplates that commercial production of geothermal steam is the objective of the Act, and production or utilization of geothermal resources in commercial quantities is defined as "the completion of a well producing geothermal steam in commercial quantities." 30 U.S.C. § 1005(d) (1994 Supplement).

X It is significant that the commercial production which would authorize continuation of a geothermal lease after exploration of the primary term of ten years, is limited to the production of "geothermal steam." Since the water that Mr. Ward seeks to appropriate is not "indigenous" steam or hot water, and is not steam or hot water resulting from "water, gas, or other fluids artificially introduced into geothermal formations", or "heat or other associated energy found in geothermal formations" (emphasis added), it ~~does not~~ seems to me that the water which Mr. Ward seeks to appropriate falls outside the purview of the Federal Geothermal Leasing Act.

I believe it is significant, also, that the water that Mr. Ward seeks to appropriate flows by natural means into the South Fork of the Payette River, and thereby becomes part of the water of a river which Congress declared in 1877 (43 U.S.C. § 321) to remain and be held free for the appropriation and use of the public for irrigation and manufacturing purposes.

The provisions of 30 U.S.C. § 1022(b) should be considered in determining the scope of the Federal Geothermal Leasing Act. That subsection provides that rights to develop and utilize "geothermal steam and associated geothermal resources underlying lands owned by the United States may be acquired solely in accordance with the provisions of this chapter." (Emphasis added). The use of the conjunctive, "and", and the descriptive term "associated," indicate that Congress intended geothermal steam to be the focal point and to include other geothermal resources only when incidental to the presence and production of steam.

NOV 14 1995

Mr. John E. Fend
May 4, 1995
Page 3

The use of the term "underlying" is significant in two respects. First, it indicates that Congress contemplated only production from subsurface geothermal sources. Otherwise Congress would have included language such as "or rising to the surface on lands owned by the United States." Second, the language used indicates a clear purpose to limit the application of the Act to geothermal resources "underlying" lands owned by the United States, which would exclude geothermal resources underlying lands owned by the state of Idaho or by private parties.

I hope the foregoing analysis will be sufficient to enable the BLM to withdraw its protest against the application. If not, Mr. Ward and I would be glad to meet with Mr. Moore or other BLM representatives at a mutually convenient time. In the meantime, please contact me if further information is required for your evaluation of this matter.

Yours very truly,



W. F. Ringert

WFR:am
cc: Jack Ward
Dave Tuthill✓

67-11-1000
1773



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Lower Snake River Ecosystem
Boise District Office
3948 Development Avenue
Boise, Idaho 83705-5389

RECEIVED

MAR 27 1995

WATER RESOURCES
WESTERN REGION

In Reply Refer To:

3200

MAR 24 1995

Mr. David R. Tuthill, Jr., P.E. *DR*
Idaho Department of Water Resources
Western Region Office
2735 Airport Way
Boise, Idaho 83705-5082

Re: Application for permit no. 65-13588 in the name of Jack D. Ward

Dear Mr. Tuthill:

This letter is in response to your letter of February 23, 1995 concerning this office's protest of the above application. As we discussed on the telephone on March 15, 1995, BLM's major concern in this case is that the use of Federally owned geothermal resources (in this case, on U.S. Forest Service managed lands) is properly authorized. This authorization is necessary for hot springs currently used for space heating of Ward's greenhouse operation as well as the additional springs proposed for utilization. The acquisition of water rights does not authorize the use of the geothermal resources, a Federal lease will still be required.

To resolve the protest, we recommend making issuance of these water rights contingent on successful application for a Federal geothermal lease with the BLM pursuant to 43 CFR 3200. Mr. Ward may contact Julia Cannon at the Idaho State Office at 3380 Americana Terrace, Boise to submit a geothermal lease application. Julia Cannon's phone number is 384-3032. Once successful application is made, the protest can be lifted.

If you have further questions regarding this matter, please contact Steve Moore at 384-3365.

Sincerely,

John E. Fend
Cascade Area Manager

- cc: 1. Jack D. Ward
HC 77, Box 3912
Garden Valley, Idaho 83622
2. Julia Cannon, ID-943
3. John Thorton
U.S. Forest Service, Boise National Forest
1750 Front
Boise, ID 83705

RECEIVED

NOV 14 1995



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 23, 1995

JACK D WARD
DBA WARD'S GREENHOUSES
HC 77 BOX 3912
#15 LOWMAN RD
GARDEN VALLEY ID 83622

Re: Application for Permit No. 65-13588

Dear Applicant:

Enclosed is a copy of a protest(s) filed against the issuance of a permit pursuant to the above-referenced application. The Department suggests that you contact the protestant(s) and attempt to resolve the protest(s).

If this office has not been advised within twenty (20) days that the protest(s) has been resolved, the matter will be scheduled for a conference. At such a conference, the following are the principle items the Department will review (per Section 42-203, 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?

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

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

Enclosure: Copy of protest(s)

NOV 14 1995



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

February 23, 1995

PHILIP E. BATT
GOVERNOR

JOHN E FEND
BUREAU OF LAND MANAGEMENT
3948 DEVELOPMENT AVE
BOISE ID 83705-5389

R. KEITH HIGGINSON
DIRECTOR

Re: Application for Permit No. 65-13588 in the Name of Jack D.
Ward

Dear Protestant:

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

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At such a conference, the following are the principle items the Department can consider in either approving or denying an application or permit (Section 42-1203, 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?

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

Sincerely,

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

DRT/st

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United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Lower Snake River Ecosystem
Boise District Office
3948 Development Avenue
Boise, Idaho 83705-5389

In Reply Refer To:

7250

FEB 17 1995

Mr. David Tuthill, Jr.
Idaho Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705

Re: Application for permit number 65-13588 in the name of Jack D. Ward.

Dear Mr. Tuthill:

The purpose of this letter is to protest the above Application for Permit and to request that it not be approved. Pursuant to 43 CFR 3200, a geothermal lease from the Bureau of Land Management (BLM) is required for the use of any geothermal resources on public lands administered by either the Forest Service or the BLM. A geothermal lease must be established with the Bureau of Land Management before we can withdraw this protest.

If you have questions regarding this protest, please contact Steve Moore at 384-3365 or Effie Schultsmeier at 384-3357.

Sincerely,

John E. Fend
Cascade Area Manager

cc: Jack D. Ward
HC 77, Box 3912
Garden Valley, Idaho 83622
enclosures for Mr. Ward: geothermal lease information

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FEB 21 1995

WATER RESOURCES
WESTERN REGION

The Idaho World

P O Box 99
Garden Valley, ID 83622
208 462-3487

State of Idaho >

County of Boise >

Deanna Stevenson, being duly sworn, deposes and says: that she is the Editor of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with Jan 1, 1995 and ending with the issue of Jan 8, 1995.

Deanna Stevenson

State of Idaho >

County of Boise >

On this 16 day of Feb in the year 1995, before me, a notary public, personally appeared Deanna Stevenson known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

[Signature]
Notary Public for Idaho
Residing at Garden Valley, Idaho

My commission expires 6-25-2000

NOTICE OF APPLICATION FOR WATER RIGHT

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

65-13588 et

WARD, JACK D
DBA WARD'S GREENHOUSE
HC 77 BOX 3912
#15 LOWMAN RD
GARDEN VALLEY, ID 83622

Source SPRINGS Tributary, PAYETTE RIVER, SOUTH FORK

Diversion Pt. LOT 2 (SWSWNE) Sec 10 T 08N R 05E in BOISE County.
LOT 2 (SESWNE) Sec 10 T 08N R 05E in BOISE County.
LOT 9 (SWSENE) Sec 10 T 08N R 05E in BOISE County.
LOT 13 (SESENW) Sec 10 T 08N R 05E in BOISE County.
LOT 2 (NENWSE) Sec 10 T 08N R 05E in BOISE County.
LOT 2 (NWNWSE) Sec 10 T 08N R 05E in BOISE County.

Use: COMMERCIAL (1,160 CFS)
Total Diversion: (1,160 CFS)

Dated Filed. 1/9/ 1995

In: BOISE County
T08N R05E S09SENE

Multiple springs are located on north side of South Fork Payette River

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 on or before FEBRUARY 21, 1995. The protestant must also send a copy of the protest to the applicant.

R. KEITH HIGGINSON, Director

Published In The Idaho World January 1 and 8, 1995.

NOV 14 1995

United States
Department of
Agriculture

Forest
Service

Boise
National
Forest

Emmett Ranger District
05 HWY 16, Room 5
Emmett, ID 83617

Reply to: 2540, 2710

Date: January 13, 1995

Mr. Jack D. Ward
HC 77, Box 3912
Garden Valley, ID 83622

65-13588

RECEIVED

JAN 18 1995

WATER RESOURCES
WESTERN REGION

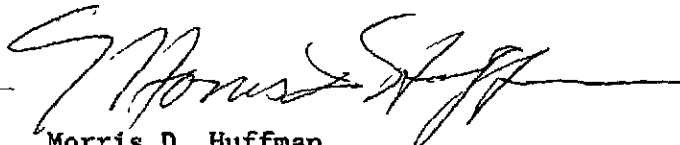
Dear Jack;

Your water right application filed with the Idaho Department of Water Resources has been reviewed by the Emmett Ranger District. In the application, you state that you wish to obtain right to approximately 30 springs in addition to previously acquired springs "No. 1 and 2" (Permit 65-07903).

If the proposed point of diversion is below the normal high water elevation, appropriation is under the jurisdiction of the State of Idaho. The land above the normal high water elevation is National Forest. Geothermal resources on National Forest lands are administered by the Bureau of Land Management and a geothermal lease would be necessary to appropriate these waters. In either case, development of diversion structures on National Forest lands would require an application for a special use permit or an amendment to your existing permit.

Fill out the enclosed SUP application and we will review. If the proposal appears acceptable we will schedule an analysis to make the decision on whether or not to allow your proposed use as described in the application. Please contact Dave Hale at Emmett if you have any questions.

Sincerely,



Morris D. Huffman
Emmett District Ranger

cc: Effie Schultsmeier - BLM
✓cc: Steve Lester - Idaho DWR



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 15, 1995

BUREAU OF LAND MANAGEMENT
BOISE DISTRICT OFFICE
3948 DEVELOPMENT AVE
BOISE ID 83705

Re: Application for Permit No. 65-13588 in the Name of Jack D.
Ward

Dear Sir:

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

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter, however, if your agency desires to file a formal protest against the approval of this application(s), your written protest must be received in this office by February 21, 1995.

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

Sincerely,

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

DRT:st

Enclosure(s): License Nos. 65-07903, 65-07904

NOV 14 1995



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 27, 1995

ID DEPT OF LANDS
BUREAU OF NAVIGABLE WATERS
STATEHOUSE MAIL
BOISE ID 83720

Re: Application for Permit No. 65-13593 in the Name of Jack D. Ward

Dear Sir:

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

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter, however, if your agency desires to file a formal protest against the approval of this application(s), your written protest must be received in this office by February 21, 1995.

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

Sincerely,

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

DRT:st

Enclosure(s):

NOV 14

65-13588

WARD, JACK D
DBA WARD'S GREENHOUSE
HC 77 BOX 3912
#15 LOWMAN RD
GARDEN VALLEY, ID 83622

Source: SPRINGS

Tributary: PAYETTE RIVER, SOUTH FORK

Diversion Pt: LOT 2 (SWSWNE) Sec 10 T 08N R 05E in BOISE County.
LOT 2 (SESWNE) Sec 10 T 08N R 05E in BOISE County.
LOT 9 (SWSENE) Sec 10 T 08N R 05E in BOISE County.
LOT 13 (SESENE) Sec 10 T 08N R 05E in BOISE County.
LOT 2 (NENWSE) Sec 10 T 08N R 05E in BOISE County.
LOT 2 (NWNWSE) Sec 10 T 08N R 05E in BOISE County.

Use: COMMERCIAL (1160 CFS)
Total Diversion: (1160 CFS)

Date Filed: 1/ 9/ 1995

In: BOISE County
T08N R05E S09 SENE

Multiple springs are located on north side of South Fork Payette River.