

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 94-07394

Priority: October 23, 2003

Maximum Diversion Rate: 0.20 CFS

This is to certify, that KEN SMITH
S 15170 BULL RUN RD
CATALDO ID 83810

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>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.04 CFS	
IRRIGATION	03/15 to 11/15	0.20 CFS	
DIVERSION TO STORAGE	01/01 to 12/31	0.20 CFS	
RECREATION STORAGE	01/01 to 12/31		9.2 AF

LOCATION OF POINT OF DIVERSION:

GROUND WATER L11 (SE¼NW¼) Sec. 4, Twp 48N, Rge 01W, B.M., SHOSHONE County

PLACE OF USE: DOMESTIC & RECREATION STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
48N 01W 4								X									
								L 11									

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
48N 01W 4								6.0	2.0						2.0		10.0
								L 11	L 12								

Total Acres: 10

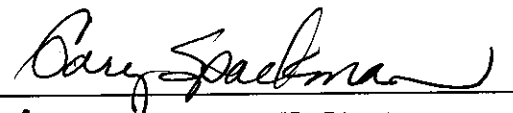
CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2005**.
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. Domestic use is for 1 home. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the lands above.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 94-07394

6. Water stored under this right is subject to fluctuations of the water table caused by changes in the flow of local streams and by diversions under prior ground water rights. This right does not guarantee the maintenance of any particular ground water level.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 5th day of February, 2004.


Acting for KARL J DREHER, Director

~~\$~~ 100 FEE page 1

FORM 202
12/99

70888

Ident. No. 94-7394

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant Ken Smith Phone 208-682-4558
Mailing address S. 15170 Bull Run Road Cataldo Idaho 83810

2. Source of water supply GROUNDWATER which is a tributary of _____

3. Location of point of diversion is Township 48N Range 16W Sec. 4, in the _____ 1/4,
SE 1/4, NW 1/4, Govt. Lot 11, B.M., 5 HOSHONE County;

additional points of diversion if any:

4. Water will be used for the following purposes:

Amount 0.04 for DOMESTIC purposes from 4/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.20 for IRRIGATION purposes from 3/15 to 11/15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.20 for DIVERSION TO STORAGE purposes from 4/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 9.2 for STORAGE FOR RECREATION purposes from 4/1 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)

5. Total quantity to be appropriated is (a) 1.2 cubic feet per second and/or (b) 9.2 acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source _____

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet

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

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

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

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

a. Hydropower; show total feet of head and proposed capacity in kW. _____
b. Stockwatering; list number and kind of livestock. _____
c. Municipal; show name of municipality. _____
d. Domestic; show number of households. 1 HOME
e. Other; describe fully. STORAGE FOR RECREATION IS FOR FISH

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	
48N	1W	4								6	2					2			10
										D									
										~~6~~									

Total number of acres to be irrigated 10

X = DIVERSION TO STORAGE + STORAGE FOR RECREATION.

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

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

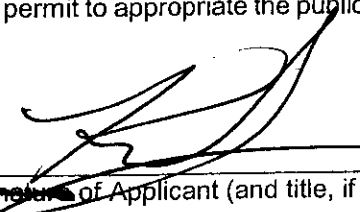
b. Who owns the land to be irrigated or place of use? "

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

12. Remarks:

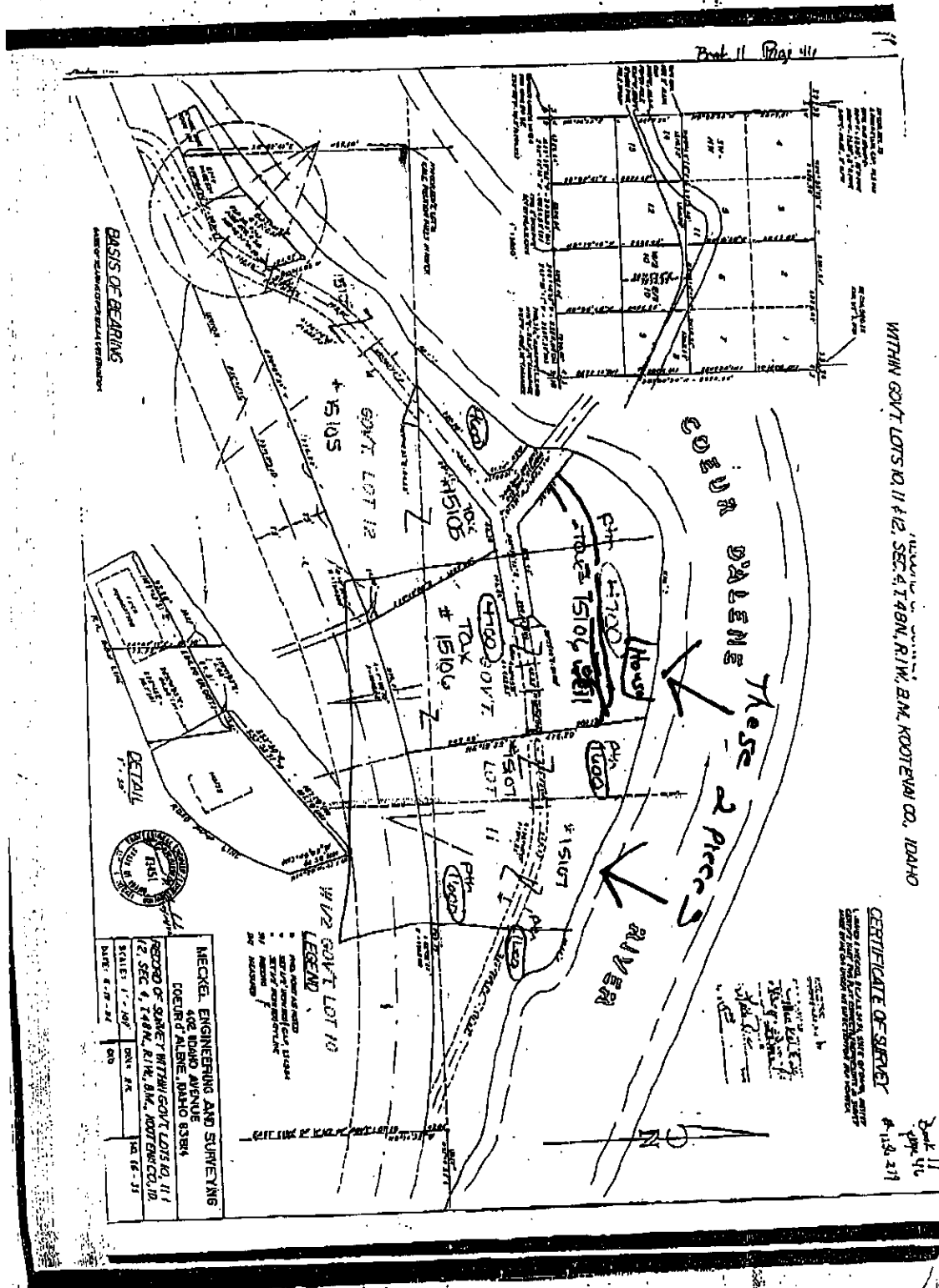
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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

X 
Signature of Applicant (and title, if applicable)

Received by cm Date 10-23-03 Time 1:40 pm Preliminary check by
Fee \$ 100.00 Receipted by cm # 1015981 Date 10-23-03
Publication prepared by ph Date 11/12/03 Published in Shoshone Co News Press 11/20 & 27/03
Publication approved ph Date 12/1/03

Ken Smith
S. 15170 Bull Run Road
Cataldo Idaho
83810



**NOW
STARTING
RIGHT
SIDE OF
FILE**



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

February 5, 2004

KEN SMITH
S 15170 BULL RUN RD
CATALDO ID 83810

RE: Permit No. 94-7394

Permit Approval Notice

Dear Permit Holder:

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

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

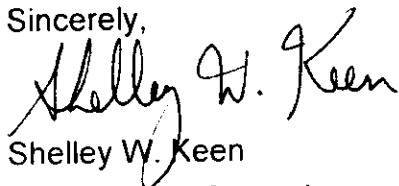
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should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

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.

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

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

Sincerely,

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

Shelley W. Keen

Water Rights Supervisor

SWK:klit

Enclosure(s)

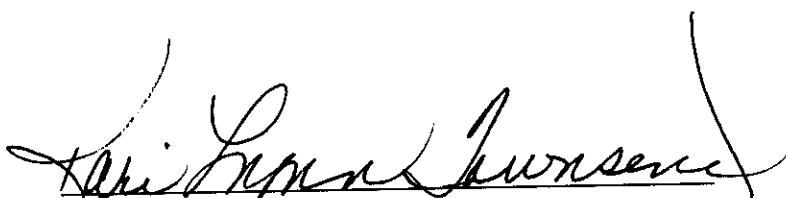
CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2004 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

94-7394

**KEN SMITH
S 15170 BULL RUN RD
CATALDO ID 83810**

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

**Kari Lynn Townsend
Secretary**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

PROOF OF PUBLICATION

RECEIVED
DEC 01 2003
IDWR/North

) DEPT. OF WATER RESOURCES
) 1910 NORTHWEST BLVD. SUITE 210
) COEUR D ALENE, ID 83814
)

s/ Daniel C. Drewry, being first duly sworn deposes and says:
SHOSHONE NEWS-PRESS, a daily newspaper of general circulation in said
county, published in the city of Kellogg, in the County of Shoshone and
the State of Idaho, and which has been published continuously in said
county for a period of 78 weeks immediately prior to the publication of this
notice hereinafter described, and that the

LEGAL NOTICE

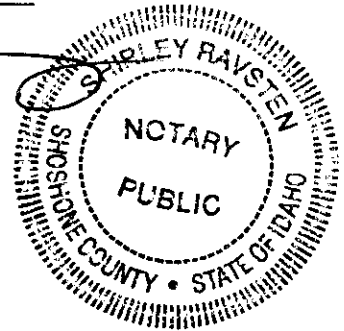
#070

of which the annexed is a true copy, was published in each regular
weekly/daily issue of said newspaper, and not in supplement thereto, for
a period of two (2) consecutive weeks/days, the first
publication thereof being in the issue dated 11/20, 27/03

STATE OF IDAHO

COUNTY OF

)
)
)
) Shoshone
)



On this 28th day of November in the year of 2003,
before me a Notary Public, personally appeared Daniel C. Drewry 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 he executed the same.

A handwritten signature of Shirley Ravsten in cursive script, written over a horizontal line.

Notary Public for Idaho
Residing in Kellogg, Idaho
My Commission expires:
09/14/07

RECEIVED
DEC 01 2003
IDWR/North

ok per RGH

KEN SMITH
S. 15170 BULL RUN RD.
CATALDO, ID 83810
Point(s) of Diversion L11 (SENW) S4 T48N R01W SHOSHONE County
Source GROUND WATER
Use: IRRIGATION 03/15 To 11/15 0.20 CFS
Use: DOMESTIC 01/01 To 12/3 0.04 CFS
Use: RECREATION STORAGE 01/01 To 12/31 9.2 AFA
Use: DIVERSION TO STORAGE 01/01 To 12/31 0.20 CFS
Total Diversion: 0.20CFS
Date Filed: 10/23/2003
Place Of Use: IRRIGATION T48N R01W S4 SENW Lot 11, NESW Lot 12,
NWSE
Number of Acres 10
Place Of Use: DOMESTIC T48N R01W S4 SENW Lot 11
Place Of Use: RECREATION STORAGE same as DOMESTIC
Remark: Domestic use is for 1 home.
Recreation storage is for fish.
Permits will be subject to all prior water rights. Protests may be submitted
based on the criteria of Sec 42-203A, Idaho Code.
Any protest against the approval of this application must be filed with the
Director, Dept. of Water Resource, Northern Region, 1910 Northwest Blvd,
Suite 210, Coeur D'Alene ID 83814 together with a protest fee of \$25.00 for each
application on or before 12/08/2003. The protestant must also send a copy of
the protest to that applicant.
KARL J. DREHER, Director
Legal #SHO070
2x11-20/27/2003



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

Fax (208) 769-1454

November 12, 2003

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

---PLEASE FAX PROOF PRIOR TO PUBLICATION---

LEGAL NOTICE DEPARTMENT
SHOSHONE COUNTY NEWS PRESS
PO BOX 149
KELLOGG ID 83837

FAXED TO 784-6791 - 11/12/03
2 PAGES TOTAL

RE: Application for Permit No. 94-7394

Dear LEGAL NOTICE DEPARTMENT:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 12/08/2003. Your cooperation is GREATLY appreciated, as always.

Sincerely,

A handwritten signature in cursive script that reads "Dianne Ball". The signature is written in dark ink and is positioned above the typed name and title.

Dianne Ball
Administrative Assistant

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

94-7394

KEN SMITH
S 15170 BULL RUN RD
CATALDO ID 83810

Point(s) of Diversion L11 (SENW) S4 T48N R01W SHOSHONE County

Source GROUND WATER

Use: IRRIGATION	03/15 To 11/15	0.20 CFS	
Use: DOMESTIC	01/01 To 12/31	0.04 CFS	
Use: RECREATION STORAGE	01/01 To 12/31		9.2 AFA
Use: DIVERSION TO STORAGE	01/01 To 12/31	0.20 CFS	
Total Diversion:		0.20 CFS	

Date Filed: 10/23/2003

Place Of Use: IRRIGATION T48N R01W S4 SENW Lot 11, NESW Lot 12, NWSE

Number of Acres 10

Place Of Use: DOMESTIC T48N R01W S4 SENW Lot 11

Place Of Use: RECREATION STORAGE same as DOMESTIC

Remark: Domestic use is for 1 home.

Recreation storage is for fish.

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

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Northern Region, 1910 Northwest Blvd, Suite 210, Coeur D'Alene ID 83814 together with a protest fee of \$25.00 for each application on or before 12/08/2003. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on November 20 and 27, 2003.



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

Fax (208) 769-1454

November 12, 2003

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

KEN SMITH
S 15170 BULL RUN RD
CATALDO ID 83810

RE: Application for Permit No 94-7394

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right application. Please refer to the above referenced number in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the Shoshone County News Press on November 20 and 27, 2003. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

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

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

Sincerely,

A handwritten signature in cursive script, appearing to read 'Al Beardslee'.

Al Beardslee
Senior Water Resource Agent

ATB.1 127774 48N01W-04-4700
 6000 *PRIME* 04 48N 01W
 MORTON, RONALD E
 W 715 E BULL RUN RD
 CATALDO, ID 83810
 TX #15106 (IN NW-SW)

REAL REGULAR ROLL for 1995 11 APR 1995
 Code Area 040-000 16:33:50
 thru SOURCE ONE MORTGAGE C
 Loan# 12097623-4

Last Year's Market: \$13,850 LAND
 115,353 IMPROVEMENTS
 -50,872 EXEMPTIONS
 \$78,331 Total

NOTICE DATE:

Category	Note	Acres	Front Ft	Market	Blt	Apprd	Init	Factor
05 DRY GRAZING	GF	3.782		2,080		0390		1.000
10 HOMESITE	RSITE	1.000		11,770		0390		1240*T
19 WASTE	WASTE	0.211						1.000
31 RES IMPROV/CAT 10	H1			98,263	88	0390	RH	1240*T
32 IMPROVMNT/CAT 1-9	GPB1			15,752		0390	RH	1240*T
32 IMPROVMNT/CAT 1-9	S1			1,338		0390		1240*T
90 HOMEOWNERS EXEMPT	31			-49,132		1088	CSM	
93 AG EXEMPTION	05			-1,740				*T
		4.993	0.000	78,331				

481

1.24

1.24

Date Bat Act RefNo
 12-19-94 914 R90 429974
 - END - 2 OTHERS - - *

Amount Penalty Interest WC+DC SF
 1,299.04-

"None"

78.1 134193 48N01W-04-1600
 6000 04 48N 01W
 MORTON, RONALD E ETUX TRUSTEE
 W 715 E BULL RUN RD
 CATALDO, ID 83810
 TX #15107

REAL REGULAR ROLL for 1995 11 APR 1995
 Code Area 040-000 16:35:13
 thru SOURCE ONE MORTGAGE C
 Loan# 12097623-4

Last Year's Market: \$2,439 LAND
 -2,040 EXEMPTIONS
 #399 Total

NOTICE DATE:

Category	Note	Acres	Front Ft	Market	St Apprd	Init Factor
05 DRY GRAZING	GF	4.435		2,439	0390	1.000
19 WASTE	WASTE	0.753				
93 AG EXEMPTION	05	5.188	0.000	-2,040 399		*T

SPECIAL ASSESSMENTS	Code	Amount	Acres	Amount	Acres
CATALDO FOR PRO	451	11.24	3.180		
CATALDO FPA	481	1.24			
*** 1989 *** Code/SA		Levied	Adjust	Paid	Balance
040-000		198.16		198.16	

481

1.24

1.24

Date	Bat Act	RefNo	Amount	Penalty	Interest	WC+DC	SF
12-20-93	432 R90	374040	19.16-				

*** 1994 *** Code/SA	Levied	Adjust	Paid	Balance
040-000	6.10		6.10	
451	11.24		11.24	
481	1.24		1.24	

Date	Bat Act	RefNo	Amount	Penalty	Interest	WC+DC	SF
12-19-94	914 R90	429974	18.58-				

- END - *