

Dept. of Water Resources - St.

THE OWYHEE AVALANCHE

P.O. BOX 97 • HOMEDALE, ID 83628 • 208/337-4681

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
)ss
COUNTY OF OWYHEE)

I, Joe E. Aman, being first duly sworn, depose and say:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

2. That during the time of the publication of the notice hereinafter mentioned, I was and now am the publisher of **The Owyhee Avalanche**, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho.

3. That the said **The Owyhee Avalanche** has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4. That said notice of which a printed copy, taken from said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in said

newspaper, in two (2)

(consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

August 1 & 8, 1990

Signed Joe E. Aman

Subscribed and sworn to before me this 8th day of August A.D., 1990

Chris Barker

Notary Public in and for the State of Idaho
Residing at Homedale, Idaho
Commission expires April 1996

NOTICE OF EXISTING WATER RIGHT PERMIT Presently recorded as follows:

57-07015
JOLLEY, TONY J.
JOLLEY, NORMA C.
RT. B BOX 174
BRUNEAU, ID 83604
Source: GROUNDWATER
Division Pt: NWNW Sec 33
T 07S R 05E
Use: IRRIGATION (6.400
CFS)
STOCKWATER (.040 CFS)
DOMESTIC (.040 CFS)
Total Diversion: (6.400
CFS)
Priority: 3/13/1968
In: T07S R05E S28 SWSW
SESW
S33 NWNW SWNE NENW
NWNW
SWNW SENW
320.0 ACRES TOTAL

Permits not developed by
July 1, 1985, are being
reprocessed in compliance
with Section 42-203D, Idaho
Code. Protests against the
continuance of permits must
be filed with the Director,
Dept. of Water Resources,
Statehouse Mail, Boise,
Idaho 83720 on or before
AUGUST 20, 1990. Protests
must be based on the public
interest criteria of Section
42-203C, Idaho Code, only.

R. KEITH HIGGINSON,
Director

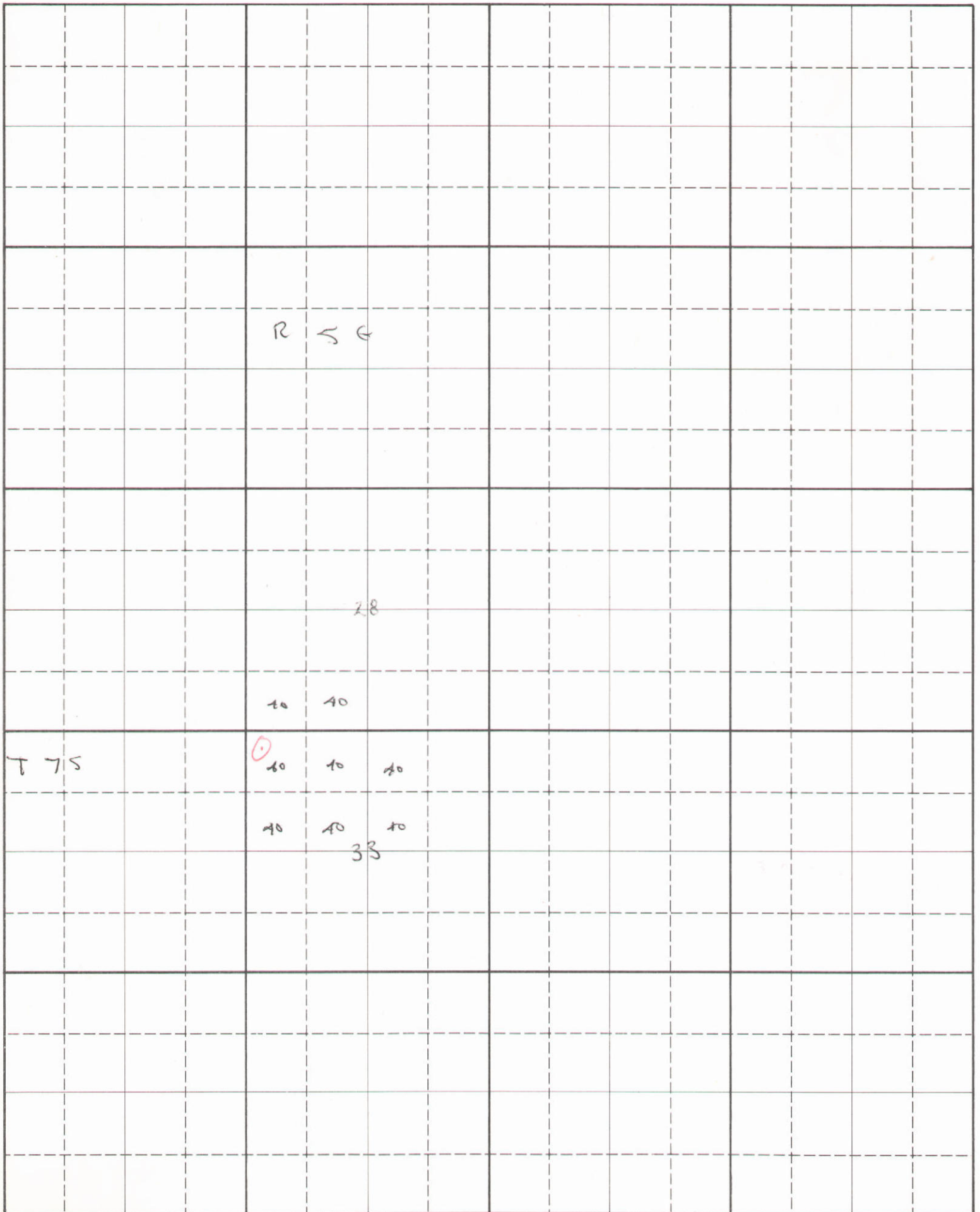
Published August 1 & 8, 1990

OK Tjz

MICROFILMED

OCT 19 1990

11. Map of proposed project:



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.

Tony Solley
(Applicant)

51 7015

PROOF OF PUBLICATION

STATE OF IDAHO }
County of Owyhee } S.S.

I, RODNEY A. HAWES, being first duly sworn, on oath says that he is the Publisher of the OWYHEE NUGGET, a newspaper of general circulation, published weekly by Rodney A. Hawes, publisher and printer thereof, at Marsing, County of Owyhee, State of Idaho;

That the annexed notice was published in said newspaper once each week and every week for 2 consecutive weeks, the first publication being on the 7 day of March, 1968, and the last publication being on the 14 day of March, 1968;

That the said newspaper has been published continuously and uninterruptedly in said county during a period of more than seventy-eight consecutive weeks prior to the first publication of the attached notice.

Rodney A. Hawes
PUBLISHER

Subscribed and sworn to before me this 15 day of March, 1968.

Leon S. Hawes
NOTARY PUBLIC

My commission expires 9-10-68

(SEAL)

RECEIVED

MAR 22 1968

Department of Reclamation

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that Tony J. Jolley, Box 167, Bruneau, Idaho, has on February 23, 1968, applied for permit to divert 6.4 cubic feet per second of water from a subterranean source under application No. 51-7015. Water will be diverted by a well, pump and sprinklers within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 33, T. 7 S., R. 5 E., B. M., Owyhee County, and is to be used from April 1 to October 31 for irrigation and from January 1 to December 31 for stock water and domestic use in the S $\frac{1}{2}$ -SW $\frac{1}{4}$, Sec. 28; and W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, Sec. 33, T. 7 S., R. 5 E., B. M.

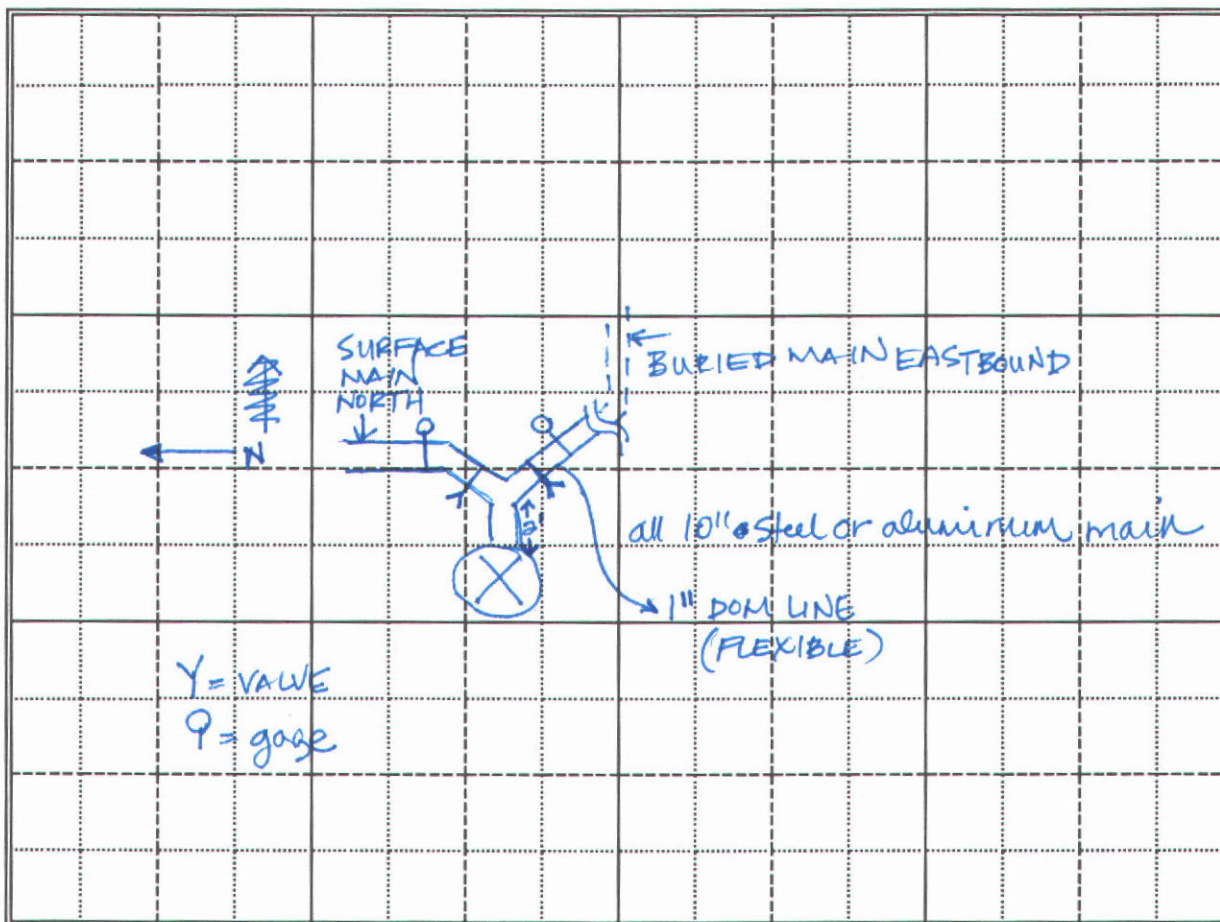
Any protest against this application must be filed with the Department of Reclamation within ten days from the last date of publication of this notice.

R. KEITH HIGGINSON,
State Reclamation Engineer
Published in the Owyhee Nugget, Marsing, Idaho, on March 7, and March 14, 1968.

51 7015

all submitted 3/22/68

3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe I.D. as applicable.



Scale: 1" = NCS

☒ Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

☒ Aerial Photo Attached (required for irrigation of 10+ acres)

☒ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	GE	400	EP517011	Layne	10"

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

MICROFILMED

DEC 19 1996

2. Measurements: 45-50 psi @ wellhead (bore 250 PWL ~ 200)
 Layne pump
 Theoretical calculation
 Does not match log for SWL-PWL TDH-582'
 6 stage Setting 460' 10" column
 (work done for Mike Reynolds from Layne)



P/B
view to east

water line to
domestic
use



mainline on 28/33
Section line. view to
east w/ P/U.

End of pivot visible

MICROFILMED
DEC 19 1996

51-7015



Place of use
 (from well)
 ← view to east/NE, 1/4 mile
 low pressure pivot

view to SE from well.
 MICROFILMED
 ↓
 DEC 19 1996



51-7015

Note: rough map
Drawing Not
accurate.

See USDA
photo.

S. Corner
Marker

P/D

DEM
USE

Garden
w/3n
Line

Surface
Main

Buried
Main

T7S

T8S

400 000
FEET

MICROFILMED
DEC 19 1996

PERMIT 51-7015 INIT gh
T. R. S. Q/Q
P/D TS SE 33
SCALE 1:24K
PHOTO ID. AAGZ 1974

CURVE NO.

18-751X

08-1-80

97' / stage

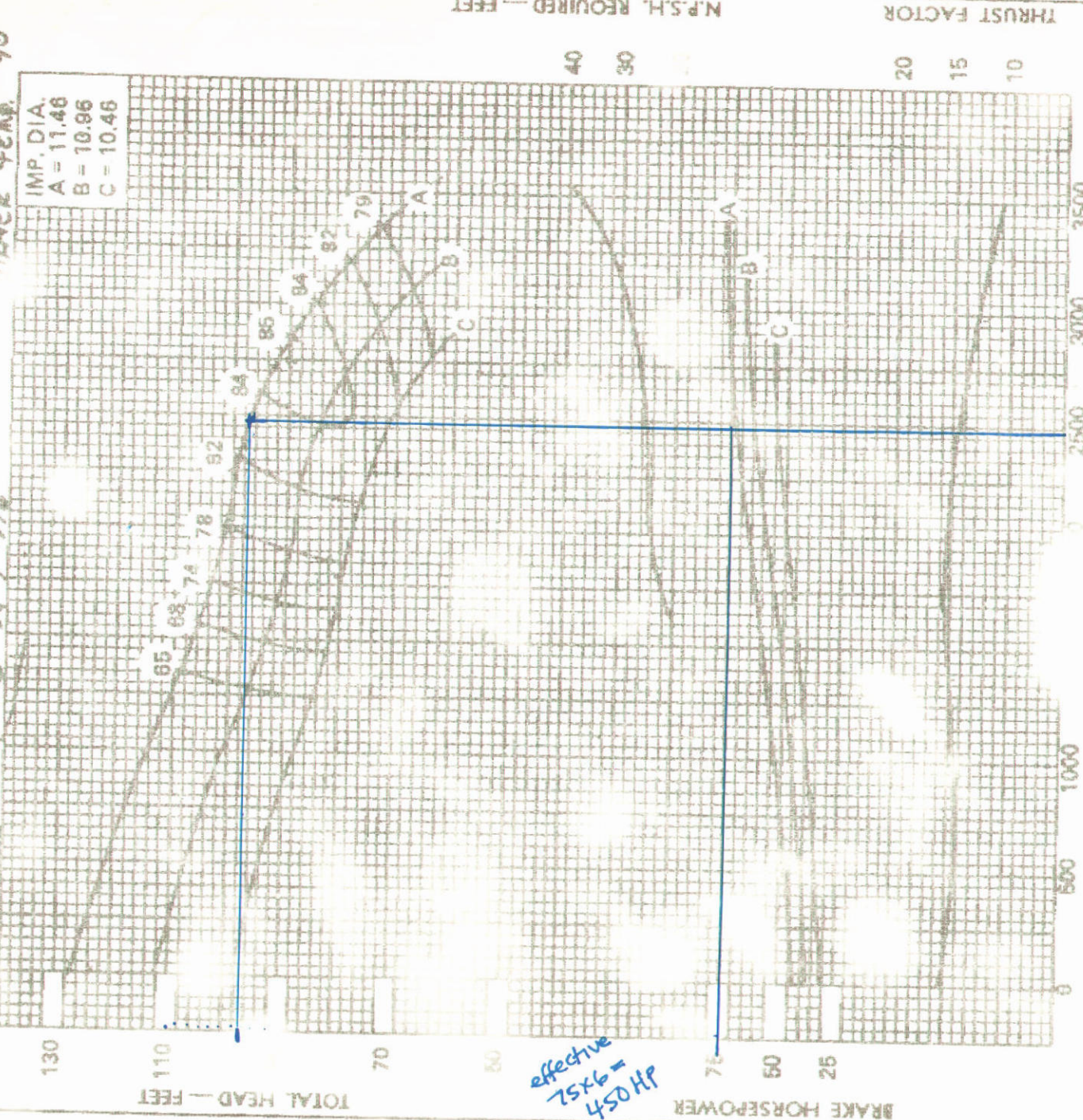
ONE 16 2250 6977

CUSTOM PERFORMANCE

011

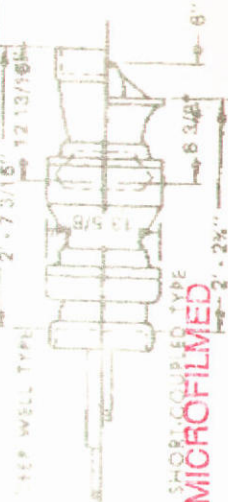
Water temp. 95°

IMP. D/A
A = 11.48
B = 10.96
C = 10.48



effective
75x6 =
450 HP

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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SHORT-COUPLED TYPE
MICROFILMED

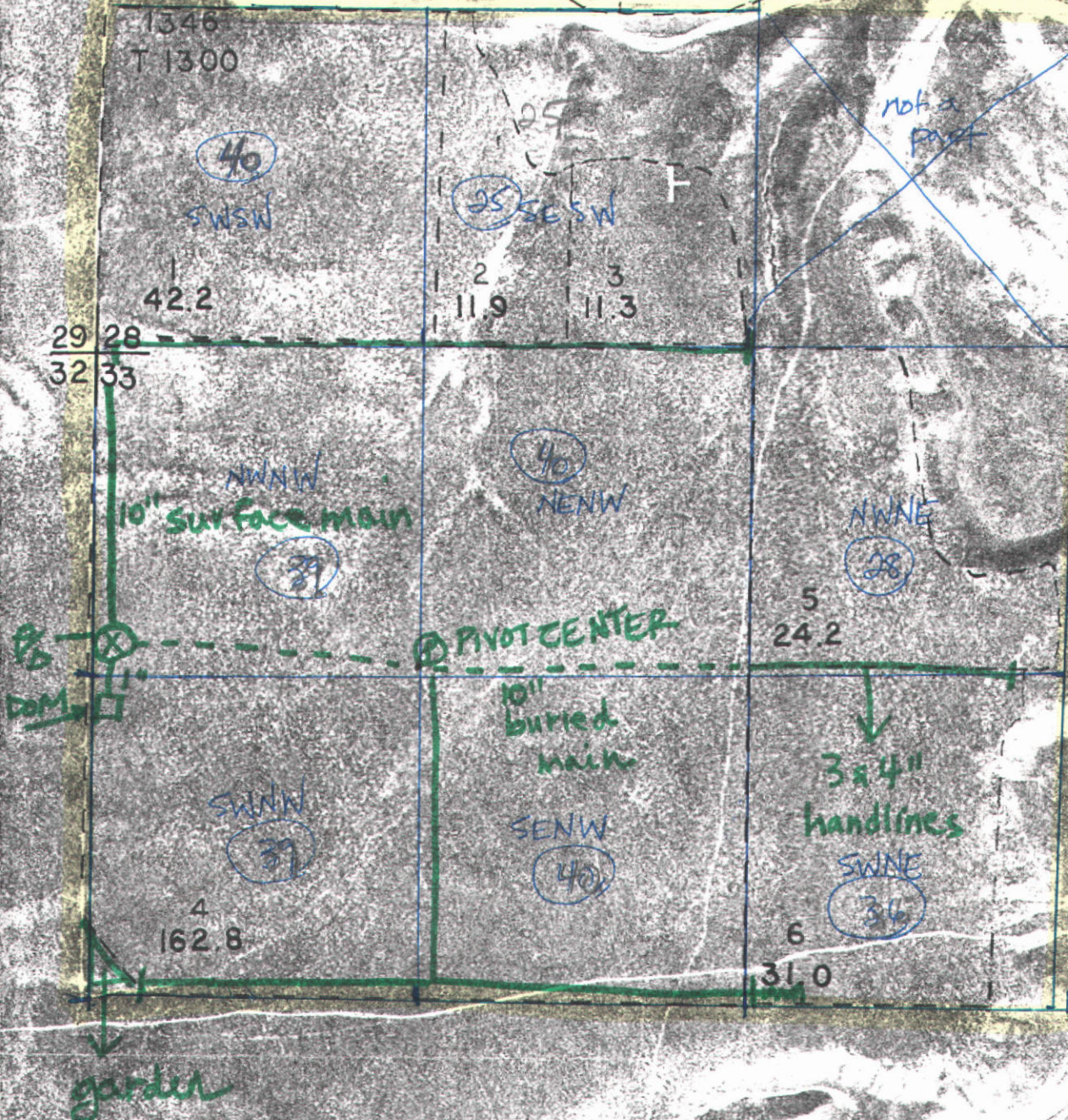
DEC 19 1996

39.4

17

41.5

NHSL



Plotted acres 283.4

Garden

(not plotted)

3.0

286.4 ~ 287

TOTAL
ACRES

MICROFILMED

DEC 19 1955

51-7015

March 1, 1968

Re: Application No. 51-7015
Tony J. Jolley

Owyhee Nugget
Marsing, Idaho

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted assuming the notice is correct. If we have any corrections, we will notify you before the first publication date. If you can not publish the notice on the proposed dates please contact us immediately.

An affidavit of publication must be submitted to the Department of Reclamation, along with the publication bill. In order to receive payment, the following certification must appear on the bill:

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of same has been paid.

(Do not sign letter)

Signature of claimant

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:ks

Enclosure: legal notice

**NOTICE OF APPLICATION
FOR WATER**

Notice is hereby given that Tony J. Jolley, Box 167, Bruneau, Idaho, has on February 23, 1968, applied for permit to divert 6.4 cubic feet per second of water from a subterranean source under application No. 51-7015. Water will be diverted by a well, pump and sprinklers within the NW 1/4 NW 1/4, Sec. 33, T. 7 S., R. 5 E., B. M., Owyhee County, and is to be used from April 1 to October 31 for irrigation and from January 1 to December 31 for stock water and domestic use in the S 1/2 SW 1/4, Sec. 28, and W 1/2 NE 1/4, NW 1/4, Sec. 33, T. 7 S., R. 5 E., B. M.

Any protest against this application must be filed with the Department of Reclamation within ten days from the last date of publication of this notice.

R. KEITH HIGGINSON,
State Reclamation Engineer
Published in the Owyhee Nugget, Marsing, Idaho, on March 7, and March 14, 1968.

51 7015

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 51-07015

Priority: March 13, 1968

Maximum Diversion Rate: 5.57 CFS

Maximum Diversion Volume: 1148.6 AF

This is to certify, that ANTHONY J & NORMA C JOLLEY FAMILY TRUST

PO BOX 641

BRUNEAU ID 83604-0641

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated February 23, 1968; and has submitted Proof of Beneficial Use on September 27, 1994. An examination indicates that the works have a diversion capacity of 5.570 cfs of water from:

GROUND WATER

source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/01 to 11/15	5.57 CFS	1148.0 AF
DOMESTIC	01/01 to 12/31	0.04 CFS	0.6 AF
	Totals	5.57 CFS	1148.6 AF

LOCATION OF POINT(S) OF DIVERSION:

NWNW , Sec. 33, Township 07S, Range 05E
OWYHEE County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
07S	05E	28	SWSW 40	SESW 25		65
		33	NWNE 28	SWNE 36	NENW 40	
			NWNW 39	SWNW 39	SESW 40	222

Total number of acres irrigated: 287

PLACE OF USE: DOMESTIC

TWN RGE SEC

07S 05E 33 SWNW

CONDITIONS OF APPROVAL AND REMARKS

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
2. This water right is associated with Desert Land Entry #I-6474.
3. Domestic use is for 1 home and does not include lawn, garden, landscape, or other types of irrigation.
4. The right holder shall comply with the requirements of Sections 42-222 and 42-233, Idaho Code, when proposing any future changes to the use of water under this right.

MICROFILMED

AUG 22 2000

State of Idaho
Department of Water Resources

Water Right License

WATER RIGHT NO. 51-07015

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Signed and sealed this 22nd day of JUNE, 2000.


Acting for KARL J. DREHER, Director

MICROFILMED
AUG 22 2000

WATER RIGHT SUMMARY

<u>ACTION</u>	<u>RIGHT NO.</u>	<u>NAME</u>	<u>AMOUNT CFS</u>
~~ORIGINAL APPLICATION~~	~~51-07015~~	~~JOLLEY, TONY J~~	~~6.4~~
~~FULL ASSIGNMENT~~	~~51-07015~~	~~JOLLEY LAND & LIVESTOCK LLC~~	~~6.4~~
FULL ASSIGNMENT	51-07015	ANTHONY J & NORMA C JOLLEY FAMILY TRUST	6.4

MARCH 3, 1998

RECEIVED
APR 16 1998

\$25.00 FEE
RECEIPT # C 241364
2-4-98 K.S.

State of Idaho
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF PERMIT

To change the ownership of a permit

I, JOLLEY LAND & LIVESTOCK LLC, hereby assign to ANTHONY J. AND NORMA C. JOLLEY FAMILY TRUST
(Permit Holder)
 of P.O. Box 641 BRUNEAU ID 83604-0641
(Full Address)

All my right, title, and interest in and to Permit No. 51-07015
 to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

~~The following described portion of my right, title, and interest in and to
 Permit No. _____ to appropriate the public waters of the State of Idaho.~~

~~Describe portion of the permit assigned listing the number of acres in each 40 acre subdivision,
 point of diversion location, and the amount of water in cubic feet per second.~~

Made this 4th day of FEBRUARY, 1998.

Tony Jolley
Permit Holder(s)

State of Idaho)
 County of Ada) ss

On this 4th day of February, 1998, personally appeared before me
 the signer of the above instrument, duly acknowledged to me that he/she/they executed the same.

Sharla R. Curtis

Notary Public

SEAL

Sharla R. Curtis

Signature

My commission expires: 10-6-2006 MICROFILMED

APR 16 1998

\$25 fee required

#44-7070

State of Idaho
DEPARTMENT OF WATER RESOURCES

RECEIVED

NOV 27 1996

ASSIGNMENT OF PERMIT
To change the ownership of a permit

Department of Water Resources

I, Tony J. &/or Norma Jolley, hereby assign to Jolley Land & Livestock L.L.C.
of HC 88, Box 174 Bureau Id. 83604 208-845-2733
(Post Address)

All my right, title, and interest in and to Permit No. 51-07015
to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to
Permit No. _____ to appropriate the public waters of the State of Idaho.

Describe portion of the permit assigned listing the number of acres in each 40 acre subdivision,
point of diversion location, and the amount of water in cubic feet per second.

Made this 27th day of November, 19 96.

Tony Jolley
Permit Holder(s)

State of Idaho)
County of Ada) ss

On this 27th day of November, 199 6, personally appeared before me
the signer of the above instrument, duly acknowledged to me that he/she/they executed the same.

Sharlack R Curtis (Sharlack R Curtis)
Notary Public

SEAL

Sharlack R Curtis
Signature

My commission expires: 12-6-96

MICROFILMED
DEC 19 1996

STATE OF IDAHO
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. 51-07015 Telephone No. 845-2733
2. Name(s) of Permit Holder(s): Norma & Tony Jolley
3. Mailing Address: Rt. 13 Box 174, Bruner Id. 83604
4. Source of Water: Groundwater If GROUNDWATER (well), Date Drilled: mo. _____ / yr. _____
 - a. Well Driller: Carl Drilling Permit Number: 51-93-C-0002
 - b. **OPTIONAL:**
Pump Horsepower: _____ Pressure (psi): Hicky Dynamic pumping level (ft): _____
5. Use(s) (as authorized by the water right permit):
Domestic (No. of households): 1 Stockwater (No. and type of stock): 10,000
Irrigation (No. of acres): 320 Other: _____
6. Total rate of diversion and/or volume for which proof is submitted: 6.4 cfs OR _____ acre feet
7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device:	Is a measuring device required?	Yes ☒	or	No ☐
	Has the measuring device been installed?	Yes ☐	or	No ☒
Flow Measurement Port:	Is a flow measurement port required?	Yes ☐	or	No ☒
	Has the measurement port been installed?	Yes ☐	or	No ☒
8. Fee Enclosed: \$ 250.00 (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: Same Telephone Number: _____
Address: _____
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: Tony Jolley Date: 9/27/94
(Include your title, if on behalf of company or organization)

OCT 21 1994

RECEIVED

APR 28 1992

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

For Office Use Only
\$15 FEE Received by DB
Date 4/28/92
Receipt # 0023053
23053

Department of Water Resources

REQUEST FOR EXTENSION OF TIME

TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time in which to complete development of a water right under the provisions of Section 42-204, Idaho Code.

Permit No. 51-07015

Name(s) of Permit Holder: Tony & Norma Jolley

Post Office Address: Rt. 1B Box 174 Bruneau, ID 83604

Telephone No. 845-2733

Date Proof Is Due: 10/1/92

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

cleared the brush

Costing \$ _____

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

Several years of litigation with the BLM. Case was finally settled in 10/90. Have not had sufficient time to develop since settlement of the case.

Permit holder(s) request an extension to October 1, 1995. Tony Jolley
(1 yr. minimum) (Signature)*

FEE: \$15.00

IF OTHER THAN PERMIT HOLDER,
POWER OF ATTORNEY MUST BE SUPPLIED.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

MICROFILMED

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED MAY 18 1992
and the time within which to submit proof of beneficial use is extended to
November 1, 1994.

Signed this 8th day of May, 19 92.

J. Glen Saylor
Chief, Water Allocation Bureau

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT)
NO. 51-7015 IN THE NAME) CONTINUATION ORDER
OF TONY and NORMA JOLLEY)
_____)

This matter having come before the Idaho Department of Water Resources (IDWR) as a requirement of Section 42-203D, Idaho Code, the Department Finds, Concludes and Orders as follows:

FINDINGS OF FACT

1. Section 42-203D, Idaho Code, directs IDWR to review all permits issued prior to July 1, 1985, located within the Swan Falls Trust Water Area, to determine if water was beneficially used prior to said date.

2. If water was not beneficially used until after July 1, 1985, Section 42-203D further directs IDWR to review the permit under the provisions of Section 42-203C, Idaho Code.

3. Section 42-203C requires IDWR to determine whether diversion of water under a permit issued prior to July 1, 1985, causes a significant reduction of trust water available for power production and, if there is a significant reduction, to determine whether the reduction is in the public interest.

4. Permit No. 51-7015 (permit) was issued to Tony J. Jolley (permit holder) authorizing the diversion of 6.4 cfs of groundwater for irrigation of 320 acres.

MICROFILMED

OCT 19 1990

5. Information submitted by the permit holder shows that the irrigation of the 320 acres authorized under this permit did not occur prior to July 1, 1985.

6. The development and use of water authorized under this permit does not cause a significant reduction of trust water.

CONCLUSIONS OF LAW

1. The water authorized for diversion under Permit No. 51-7015 is trust water.

2. The use of water under the permit satisfies the provisions of Sections 42-203C and 42-203D, Idaho Code.

3. An order continuing the permit should be issued.

ORDER

IT IS HEREBY ORDERED that Permit No. 51-7015 is valid and may CONTINUE as provided in Section 42-203D, Idaho Code, subject to the following additional conditions and limitations:

1. Proof of construction of works and application of water to beneficial use shall be submitted to IDWR on or before October 1, 1992

2. The use of trust water authorized by this right is subject to review 20 years after the date of this order to determine availability of trust water and to reevaluate the public interest.

3. The construction of diversion works must be commenced within one (1) year of the date of this order and shall proceed diligently and uninterruptedly to completion unless

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OCT 19 1990

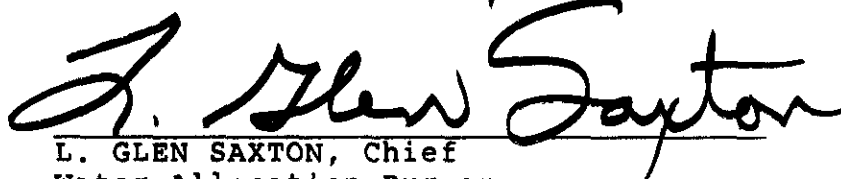
temporarily interrupted by circumstances over which the permit holder has no control.

4. Diversion and use of trust water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.

5. The Director retains jurisdiction of this right to change, add or remove any requirement as determined to be appropriate.

6. All conditions of approval contained in Permit No. 51-7015 are incorporated into and made part of this order.

Dated this 25th day of September, 1990.


L. GLEN SAXTON, Chief
Water Allocation Bureau

MICROFILMED

OCT 19 1990

OCT 28 1988

For Office Use Only
\$15 FEE Received by
Date 10-28-88
Receipt # C005097

Chief, Water Allocation Bureau

Dept. of Water Resources - St.

THE OWYHEE AVALANCHE

P.O. BOX 97 • HOMEDALE, ID 83628 • 208/337-4681

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
)ss
COUNTY OF OWYHEE)

I, Joe E. Aman, being first duly sworn, depose and say:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

2. That during the time of the publication of the notice hereinafter mentioned, I was and now am the publisher of **The Owyhee Avalanche**, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho.

3. That the said **The Owyhee Avalanche** has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4. That said notice of which a printed copy, taken from said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in said

newspaper, in two (2)

(consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

August 1 & 8, 1990

Signed *Joe E. Aman*

Subscribed and sworn to before me this 8th day of August A.D., 1990

Chub Bahren

Notary Public in and for the State of Idaho
Residing at Homedale, Idaho
Commission expires April 1996

MICROFILMED

OCT 19 1990

OK Tjz

RECEIVED
NOV 18 1983

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

For Office Use Only
Fee Received <u>16</u>
Date <u>11/18/83</u>
Receipt # <u>32502</u>

Department of Water Resources
Western Regional Office

REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit
proof of beneficial use on a water right permit

Tony Jolley and Norma Jolley of RT. B, 174 BRUNEAV, IDA. 83604
(Name) (Address)

State of IDAHO, deposes and says

That ~~we~~ he is the holder, or the duly authorized agent of the holder*, of Permit to Appropriate the Public Water of
the State of Idaho No 51-7015

That under the terms and conditions of said permit, work thereunder was required to be completed on or before
DEC. 1, 1983

That he has heretofore performed the following work described under said permit: _____

(This must be filled out! If no work has been completed put none)

NONE

Costing \$ _____

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit.

B.L.M. HAS NOT ALLOWED THE LAND, HOWEVER THEY
HAVE DONE ALL THE REQUIRED STUDIES AND IS NOW BEING
HELD UP DUE TO THE IDAHO POWER MORATORIUM.
(DLE # I-6474)

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations
under said permit to DEC. 1, 1988
(1 yr minimum, 5 yrs maximum)

NOTE
AS OF JULY 1, 1980,
THERE IS A \$15.00
CHARGE FOR REQUESTS
FOR EXTENSION OF
TIME

Tony Jolley
Norma Jolley
(Signature*)

*IF OTHER THAN HOLDER, Power of Attorney must be supplied

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within
which to submit the statement of beneficial use is extended to December 1, 1988.

The Department reserves jurisdiction of this permit for the purpose of adding any
applicable condition to protect public interest.

Signed this 15th day of June, 19 84

A. Glen Saxton
Chief, Operations Bureau

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit
proof of beneficial use on a water right permit

Department of Water Resources

Tony J. and/or Norma C. Jolley of Route B, Box 174, Bruneau,
(Name) (Address)

State of Idaho, deposes and says:

That he is the holder, or the duly authorized agent of the holder*, of Permit to appropriate the Public Waters of the State of Idaho No. 51-7015.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before December 1, 19 78.

That he has heretofore performed the following work described under said permit: I have prepared an access road and cleared some of the land. I was stopped by BLM.

Costing \$ 12,000

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit: In 1976, BLM passed the Organic Act which affects this land. Early in 1979, the BLM should have the rules and regulations governing land under this act prepared and the land should be released by April, 1979. I hope to start further development on land by summer. (DLE # I-6474).

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to December 1, 19 83.

Tony J. Jolley
(Signature)*

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within which to submit proof of beneficial use of water is extended to December 1, 1983.

Signed this 16th day of November, 19 78.

J. Glen Saxton
Chief, Operations Bureau

State of Idaho
Department of Water Resources

RECEIVED
NOV 23 1978

ASSIGNMENT OF PERMIT

I, Tony J. Jolley, hereby assign to Tony J. Jolley and/or Norma C. Jolley
of Route b, Box 174, Bruneau, ID 83604
Address

CHECK ONE

☒ All my right, title, and interest in and to Permit No. 51-7015
to appropriate the public waters of the State of Idaho.

☐ The following described portion of my right, title, and interest in and to Permit
No. _____ to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within
each 40 acre subdivision, the point of diversion and the amount of water in cubic
feet per second for direct diversion, or acre feet for storage)

Made this 13th day of November, 19 78.

Tony J. Jolley
Permit Holder

Spouse of Permit Holder

State of Idaho)
County of Ada) ss.

On this 13th day of November, 19 78, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.

Rita Bendele

seal

Notary Public residing at
Boise, ID

My commission expires:
March 8, 1980

RECORDED
n

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF CHANGING THE MEASURING
DEVICE REQUIREMENT FOR PERMIT NO. **51-7015**

ORDER

WHEREAS, the above numbered permit was approved with the condition that a measuring device of a type approved by the Department be permanently installed and maintained as part of the diverting works; and,

WHEREAS, on July 1, 1978, the Department adopted a new water measurement condition which states: "An access port or other device as specified by the Department shall be installed by the permit holder to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department"; and,

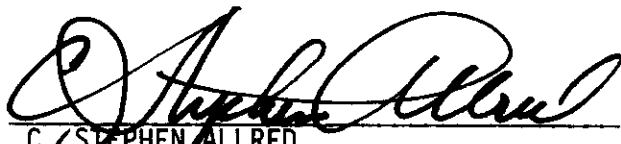
WHEREAS, the former condition required the permit holder to purchase and install a measuring device or hire a professional engineer to certify the rate of diversion; and,

WHEREAS, the measuring device condition effective July 1, 1978, requires less capital expenditure by the permit holder; and,

WHEREAS, to be equitable to holders of permits issued prior to July 1, 1978, the new condition should be retroactive;

NOW THEREFORE, it is hereby ordered that the condition of approval of this permit related to water measurement is hereby changed as follows: "The permit holder shall either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department".

Dated this 18th day of August, 1978.


C. STEPHEN ALLRED
Director

1, 1978

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

APPLICATION FOR EXTENSION OF TIME

RECEIVED

DEC 19 1973

Department of Water Administration

State of Idaho)
County of Ada)

Permit No. 51-7015

Tony J. Jolley of Star Rt B, Box 174, Brunan, Idaho
(name) (address) 83604

State of Idaho, being first duly sworn, upon his oath deposes and says:

That he is the holder, or the duly authorized agent of the holder *, of Permit to appropriate the Public Waters of the State of Idaho No. 51-7015.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before December 1, 19 73.

That he has heretofore performed the following work described under said permit:

160 Acres Cleared with Access roads

Costing \$ 1200.00

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit: Financing was not available for the first three years of the permit. Financing was available the fourth year & Applicant had completed the above mentioned work when he experienced a heart attack. Because of his health the entry was refiled in his wife's name (Entry # I-67A) & has not yet been allowed.

Wherefore, he asks that the Department of Water Administration extend the time for the completion of obligations under said permit to Dec 1, 19 78.

Tony J. Jolley
(signature) *

Subscribed and sworn before me this 19 day of December, 19 73.

seal

My commission expires May 26, 1974 Boise Idaho
(notary public)

ACTION OF THE DEPARTMENT OF WATER ADMINISTRATION

I, A. KENNETH DUNN Deputy, Director of the Idaho Department of Water Administration, State of Idaho, hereby approve the above application for extension of time for Permit No. 51-7015 to December 1, 1978.

Witness my hand this 26th day of December, 19 73.

A. Kenneth Dunn
Deputy Director

* IF OTHER THAN HOLDER, Power of Attorney must be supplied. Forms are available through the Department of Water Administration, Statehouse - Annex 2, Boise, Idaho, 83707.

51 7015

BEFORE THE DEPARTMENT OF WATER ADMINISTRATION

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 51-7015)

IN THE NAME OF TONY J. JOLLEY)

ORDER OF REINSTATEMENT

WHEREAS, on February 23, 1968, Tony J. Jolley filed with the Department of Water Administration (formerly the Department of Reclamation) an application for permit to appropriate 6.4 cubic feet per second of water from a ground water source to be diverted within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 33, Twp. 7S, Rge. 5E, B.M., Owyhee County, to be used for irrigation, stockwater, and domestic purposes; and,

WHEREAS, on December 6, 1968, the Department approved said application and issued Permit No. 51-7015 with the condition that proof of construction of works and application of water to beneficial use be submitted to the Department on or before December 1, 1973; and,

WHEREAS, on October 1, 1973, the Department notified the permit holder by certified mail that proof of beneficial use was due and instructed the permit holder as to the steps to make said proof; and,

WHEREAS, on December 5, 1973, the Department notified the permit holder that Permit No. 51-7015 had lapsed for failure to submit the required proof; and,

WHEREAS, Section 42-218a of the Idaho Code provides that a permit may be reinstated upon a showing of reasonable cause within 60 days from the date of the notice of lapsing; and,

WHEREAS, on December 19, 1973, the permit holder provided a reasonable showing as to why said permit should be reinstated;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 51-7015 be REINSTATED and the priority advanced to March 13, 1968.

Dated this 27th day of December, 1973.


A. KENNETH DUNN
Deputy Director

BDF:JC

51 7015

Identification No. 51-7015
Application No. 42322

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
APPLICATION FOR PERMIT

APPROVED

To Appropriate the Public Waters of the State of Idaho

1. Name of applicant Tony J. Jolley
post office address Star Route B, Box ¹⁷⁴~~167~~, Bruneau, Idaho 83604
2. Source of water supply Subterranean which is a tributary of N. A.
3. a. Location of point of diversion is NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 33 Township 7 S
Range 5 E B.M. Owyhee County; additional points of diversion if any: _____

b. If water is not consumed, it will be discharged into _____ at a point in _____ $\frac{1}{4}$
of _____ $\frac{1}{4}$ of Section _____ Township _____ Range _____ B.M.
4. Quantity to be appropriated:
a. 6.4 cubic feet per second and/or
b. _____ acre feet per annum will be stored.
5. Water will be used for the following purposes:
irrigation purpose from April 1 to October 31 (both dates inclusive)
stock water purpose from January 1 to December 31 (both dates inclusive)
domestic purpose from January 1 to December 31 (both dates inclusive)
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Electric verticle turbine pump,
sprinkler system

b. Height of storage dam _____ feet; active reservoir capacity _____ acre feet; total reservoir
capacity _____ acre feet, materials used in storage dam: _____

c. Proposed well diameter is 24 inches; proposed depth of well is 1400 feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use
is 5 years.
b. Estimated construction cost is \$ 63,355.
8. Description of proposed uses.
a. If water is **not** for irrigation:
(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M.
(2) Amount of power to be generated _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be
supplied with domestic water _____.
(5) If water is to be used for other purposes describe: _____

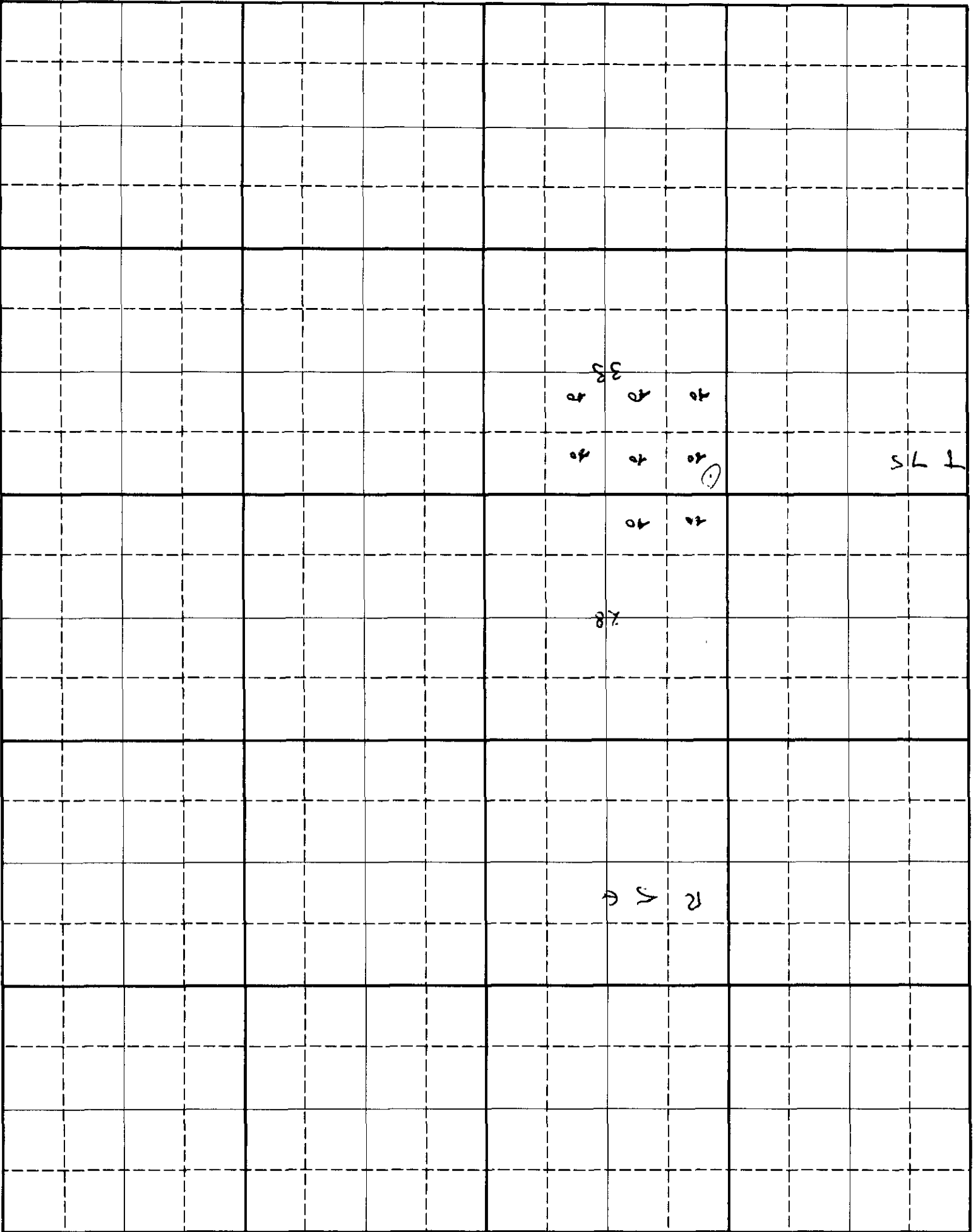
[illegible]

c. Describe any other water rights used for the same purposes: None

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

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.



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.

[Signature]
(Applicant)

Received by ef Date 2-23-68 Time 1:45pm BLM COPY
Preliminary check by DR Fee \$ 51.00
Receipted by ef Date 2-23-68 - lett #558 given
Publication prepared by KS Date 3-1-68
Published in Cumference Nugget
Publication dates 3-7 & 14-68
Publication approved KS Date 3-5-68
Priority reduced to _____ Reason _____

Protests filed by: none

Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by AK AD DD DD

APPROVED

ACTION OF STATE RECLAMATION ENGINEER

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 51-7015, and said application is hereby APPROVED.

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 December 1, 19 73.
- c. Other: The applicant shall permanently install a measuring device of a type approved by the department as part of the diverting works.

2. Denial of said application is for the following reasons: _____

Witness my hand this 6th day of December, 19 68.

R. Keith Higgins
State Reclamation Engineer

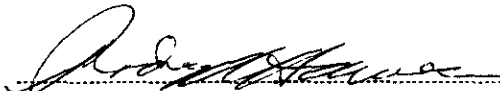
PROOF OF PUBLICATION

STATE OF IDAHO }
County of Owyhee } s.s.

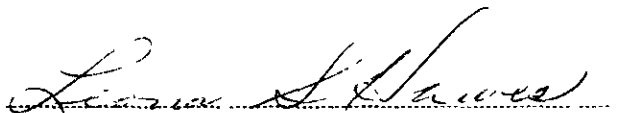
I, RODNEY A. HAWES, being first duly sworn, on oath says that he is the Publisher of the OWYHEE NUGGET, a newspaper of general circulation, published weekly by Rodney A. Hawes, publisher and printer thereof, at Marsing, County of Owyhee, State of Idaho;

That the annexed notice was published in said newspaper once each week and every week for 2 consecutive weeks, the first publication being on the 7 day of March, 1968, and the last publication being on the 14 day of March, 1968;

That the said newspaper has been published continuously and uninterruptedly in said county during a period of more than seventy-eight consecutive weeks prior to the first publication of the attached notice.


PUBLISHER

Subscribed and sworn to before me this 15 day of March, 1968.


NOTARY PUBLIC

My commission expires 9-10-68

(SEAL)

RECEIVED

MAR 22 1968

Department of Reclamation

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that Tom J. Jolly, Box 187, Brunson, Idaho, has on February 28, 1968, applied for permit to divert 20 cubic feet per second of water from a subterranean source under application No. 51-100. Water will be diverted at a new pump and sprinkler system on the NW 1/4, Sec. 24, T. 2 S., R. 3 E., Owyhee County, and is to be used from August 1 to October 31 for irrigation and from January 1 to December 31 for stock water and domestic use in the NW 1/4, Sec. 24, T. 2 S., R. 3 E., Owyhee County, Idaho.

Protest against this application must be filed with the Department of Reclamation within ten days from the last date of publication of this notice. R. E. HARRIS, State Reclamation Engineer. Published in the Owyhee Nugget, Marsing, Idaho, on March 7, 1968.

51 7015

Bill submitted 3/22/68

L:VBS
I-2132

Idaho Land Office
Room 334, Federal Bldg.
550 West Fort Street
Boise, Idaho 83702

November 18, 1968

Mr. Tony Jolley
Bruneau, Idaho 83604

Dear Mr. Jolley:

On October 2, 1968, the Boise District Manager issued an "Initial Decision" approving your desert land petition I-2132.

According to your plan of development, water for irrigation is to be obtained from a well to be drilled. You must submit evidence of your right to appropriate and use the water. The evidence should consist of a copy of a State water permit approved by the State Reclamation Engineer. Attached is an extra copy of this letter. The copy should be submitted to the State Department of Reclamation at the time you apply for a permit. Unless they have knowledge that the land of the desert land application has been classified as suitable for entry, they may decline to issue the water permit. You should make arrangements with the State Reclamation Engineer to have a copy of the permit sent to this office.

We would appreciate receiving a copy of the permit as soon as possible. Also please advise us when you apply for the permit.

Sincerely yours,

~~Mr.~~ ORVAL G. HADLEY

Orval G. Hadley
Manager, Land Office

Encl.

TO: Bruneau-Grandview Ground Water Management District File

FROM: Norm Young

DATE: December 7, 2000

Tony Jolley, owner of right No. 51-07015 asked that a note be included in the file indicating his interest in serving as a board member when openings arise.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
AUG 23 2000
DEPARTMENT OF WATER RESOURCES

CHANGE IN ADDRESS

This form can be used to notify the Department of a change in
address of the owners of record for the listed water rights.
(Please print or type)

[] Water Right Number(s): 51-07015

[] Name(s): ANTHONY J⁹ & NORMA C JOLLEY FAMILY TRUST

[] Old Mailing Address: PO Box 641
BRUNEAU
ID 83604-0641

[] New Mailing Address: HC 86 Box 10
THE LAST FRONTIER RD
BRUNEAU ID 83604

Telephone Number: (208) 845 - 2733

[] Signature(s) of Owner(s) Tony Jolley

(Include your title if on behalf of company or organization)

Date: 8.23.00



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

June 26, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

ANTHONY J & NORMA C JOLLEY FAMILY TRUST
PO BOX 641
BRUNEAU ID 83604-0641

RE: WATER RIGHT NO. 51-07015

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed license confirming that a water right has been established in accordance with the permit referenced above. The license 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 unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

Also, please note that water right owners are required to report any change of water right ownership and/or change of 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 reporting form.

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

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosure

MICROFILMED

AUG 22 2000

CERTIFICATE OF MAILING

I hereby certify that on the 26th day of June, 2000, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER (Approved License)** to the person(s) listed below:

Water Right No. 51-07015

ANTHONY J & NORMA C JOLLEY FAMILY TRUST
PO BOX 641
BRUNEAU ID 83604-0641


Kari Lynn Townsend
Secretary

MICROFILMED
AUG 22 2000

**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).

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AUG 22 2000

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.

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AUG 22 2000

SD-0420-2
MODIFY RECORD

Idaho Department of Water Resources
Modify Comment

Date: 06/22/00
Time: 08:49:11

Water Right Number: L51-07015

Comment Date: 6/22/2000 User ID: SKEEN

Subject: Licensing Review

Licensing review and data entry by S. Keen on 6/22/2000. No overlapping rights. No govt. lots. New standard season of use recommended. Water is low temperature geothermal, but pre-dates Sec. 42-233, Idaho Code, requirements. Should be held to 42-233 requirements if/when a transfer is proposed.

(Enter=Continue/Exit) (Gold2=Update) (Gold3=Delete) (Gold4=Prev) (Gold5=Next)

MICROFILMED
AUG 22 2000

MEMORANDUM

TO: SHELLEY KEEN
FROM: NORM YOUNG *NY*
RE: REQUEST TO LICENSE 51-07015
DATE: June 19, 2000

Tony Jolley visited this office today because he needed a copy of license 51-07015. It appears that a license has not yet been issued. He appears to need a license to meet the requirements to participate in the Bruneau Snail recovery grant program. Can we expedite a license for him?

MICROFILMED

AUG 22 2000



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

March 4, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

ANTHONY J JOLLEY
NORMA C JOLLEY
HC 85 BOX 174
BRUNEAU ID 83604

RE: ASSIGNMENT OF PERMIT 51-07015

Dear Water Right Holder(s):

We acknowledge receipt of the correspondence changing the ownership of the above referenced water right to Anthony J & Norma C Jolley Family Trust.

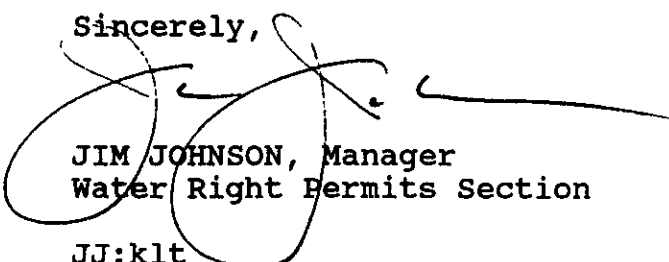
We have modified our computer records to reflect this change in ownership.

Also, please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address to the department. If you have acquired a water right or have changed your mailing address **PRIOR** TO July 1, 1996, you have until July 30, 1998, to notify the department. If you acquire a water right or change your mailing address **AFTER** July 1, 1996, you must notify 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 to obtain the proper reporting form.

If you have any questions, please feel free to contact us.

Sincerely,


JIM JOHNSON, Manager
Water Right Permits Section

JJ:klt

MICROFILMED
APR 16 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

December 3, 1996

JOLLEY LAND & LIVESTOCK LLC
HC 85, BOX 174
BRUNEAU ID 83604

RE: PERMIT NO. 51-07015

Dear Water Permit Holder:

We acknowledge receipt of the correspondence changing ownership of the above referenced water right to Jolley Land and Livestock LLC. We have modified our computer records to reflect this change in ownership.

If you have any questions regarding this matter, please feel free to contact us.

Also, please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address to the department. If you have acquired a water right or have changed your mailing address **PRIOR** TO July 1, 1996, you have until July 30, 1998, to notify the department. If you acquire a water right or change your mailing address **AFTER** July 1, 1996, you must notify 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 to obtain the proper reporting form.

Sincerely,

JIM JOHNSON, Manager
Water Right Permits Section

JJ:ph

MICROFILMED

DEC 19 1996

WR0749NP
No. 51-07015

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 12/03/96
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	JOLLEY LAND & LIVESTOCK LLC HC 85 BOX 174 BRUNEAU ID 83604	03/13/1968	IRRIGATION STOCKWATER DOMESTIC	04/01 10/31 01/01 12/31 01/01 12/31	6.400 CFS 0.040 CFS 0.040 CFS	
TOTAL DIVERSION:					6.400 CFS	

Water Source: GROUNDWATER

Tributary to:

Stage: PERMIT

Point(s) of Diversion: T07S R05E S33

NWNW

OWYHEE County

Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE												
T	R	S		NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM
				Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		
07S	05E	28	:					:					:			40	40	:					:	80.0
07S	05E	33	:		40		40	:		40		40	:					:					:	240.0
TOTAL ACRES																							320.0	

Place of use location for STOCKWATER is the same location as described for: IRRIGATION

Place of use location for DOMESTIC is the same location as described for: IRRIGATION

Pou County: OWYHEE

Conditions of Approval:

- 001 - A measuring device of a type approved by the Department shall
- be permanently installed and maintained as part of the diverting
- works.

Remarks: DLE #I-6474.

Dates: App. Received: 02/23/1968 Priority Date: 03/13/1968
Proof Due Date: 11/01/1994 Proof Made Date: 09/27/1994
Exam Made Date: 06/04/1996 Exam Sent to S.O.: 07/16/1996
Licensed Date:

Misc: Water District Number: Field Exam Fee: R (Received)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED

JUL 22 1996

Department of Water Resources

A. GENERAL INFORMATION

Permit No. 51-7015

1. Owner: TONY & NORMA JOLLEY

Phone No. 845-2733

Current Address: HC 85-174 BRUNEAU 83604

2. Accompanied by: TONY

EXAM DATE: 6/6/96

Address: _____

Phone No. _____

Relationship to Permit Holder: _____

3. Source: ground water

tributary to _____

B. OVERLAP REVIEW

1. Other water rights with the same place of use: NONE

2. Other water rights with the same point of diversion: NONE

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			AW	AW	33	7S	5E	Owyhee	Site Visit, Map

2. Place(s) of Use:

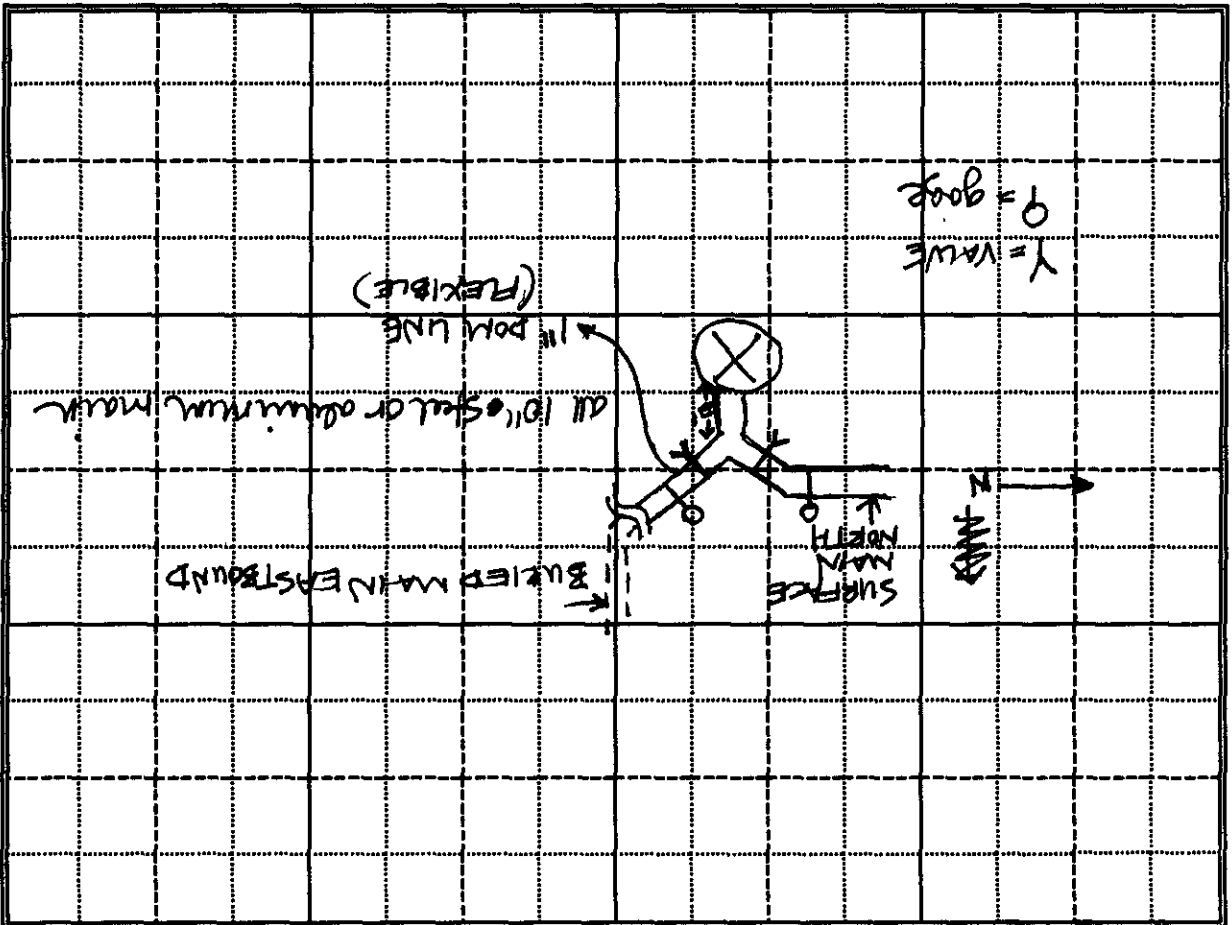
Indicate Method of Determination CPSA photo

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7S	5E	28											40	25					65
		33			28	36			40	39	39	40							222
																			287

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DEC 19 1996

3. Delivery System Diagram: Indicate all major components and distances between components. Indicate well size/ditch size/pipe l.d. as applicable.



Scale 1" = 100'

Copy of USGS Quadrangle Showing location(s) of point(s) of diversion and place(s) of use (required).

Aerial Photo Attached of 10+ acres (required for irrigation of 10+ acres)

Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	HP	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	GE	400	EP517011	layne	10"

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
						DEC 19 1996

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2. Measurements:

45-50 PSI @ wellhead (pump 250 PWT-200)

Does not match log

Layne Pump

Theoretical calculation

for SWL-PWL

Port down for Mike Ray (DS) from layne

6 stage setting 460' 10" column

T04-58a

E. NARRATIVE/REMARKS/COMMENTS

(See also below)

Operating @ exam: low pressure pivot plus ^{ent} gun
w/ handlines (1 1/4 in, 3 @ 12 @ 15) all → 1/8"

D-1 home fr. top on mainline (1" external line)

NO STOCK yet - DO NOT INCLUDE

Single well, 10" discharge to buried or surface main.

A low-pressure pivot operates w/in NW Sec 33; corners are irrigated w/ solid & movable set handlines of varying lengths. Mainline extensions into W 1/2 NE S33 & S 1/2 SW S28 service 1/4 mile lines on balance. A 3-ac future homestead in SWSW NW Sec 33 has been planted to trees and garden and is irrigated off the southernmost mainline extension via a 3" flex line to various users.

This acreage is included.

Domestic use is a mobile home for seasonal employees.

Currently diversions do not extend into the non-irr season for domestic use. A second, domestic well has already been constructed on the permanent homestead. This well is not being used but will likely replace the large well eventually for domestic service to the mobile home.

No overlaps. No SRPA req'd or filed. This land acquired via DLE.

Geothermal Source: See letter from K. Higginson, 1/4/94, waiver requested from applicant for this use, determined exempt because permit approval pre-dates statute 42.233.

* No meas device. Point of discharge or theoretical measurement is possible.

Have conditions of permit approval been met? ☐ yes ☒ no *

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DEC 19 1996

DEC 19 1996
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Field Examiner's Name Gudry/Hodges Date 6/18/96
Reviewer _____ Date _____

I. AUTHENTICATION

Change P.D. as reflected above _____
Change P.U. as reflected above _____
Add P.D. as reflected above _____
Add P.U. as reflected above _____
None ☒ Other _____

2. Recommended Amendments

Beneficial Use	From	To	Rate of Diversion	Annual Volume
IRRIGATION	4/1	10/31	5.57	1148.0
DOMESTIC	4/1	10/31	.04	.6
Totals:			5.57	1148.6

1. Recommended Amounts

H. RECOMMENDATIONS

Dr Home 1.6 AFA internal use. * Note: even though water cannot be diverted for domestic use from this system during non-irr season, I see no reason to limit domestic volume.

2. Volume Calculations for Other Uses:

$$V_{IR} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 287 \times 4.0 = 1148 \text{ AFA}$$

$$V_{DR} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = 5.57 \times 214 \times 1.9835 = 2364 \text{ AFA}$$

$$V = \text{Smaller of } V_{IR} \text{ and } V_{DR} = 1148$$

1. Volume Calculations for Irrigation:

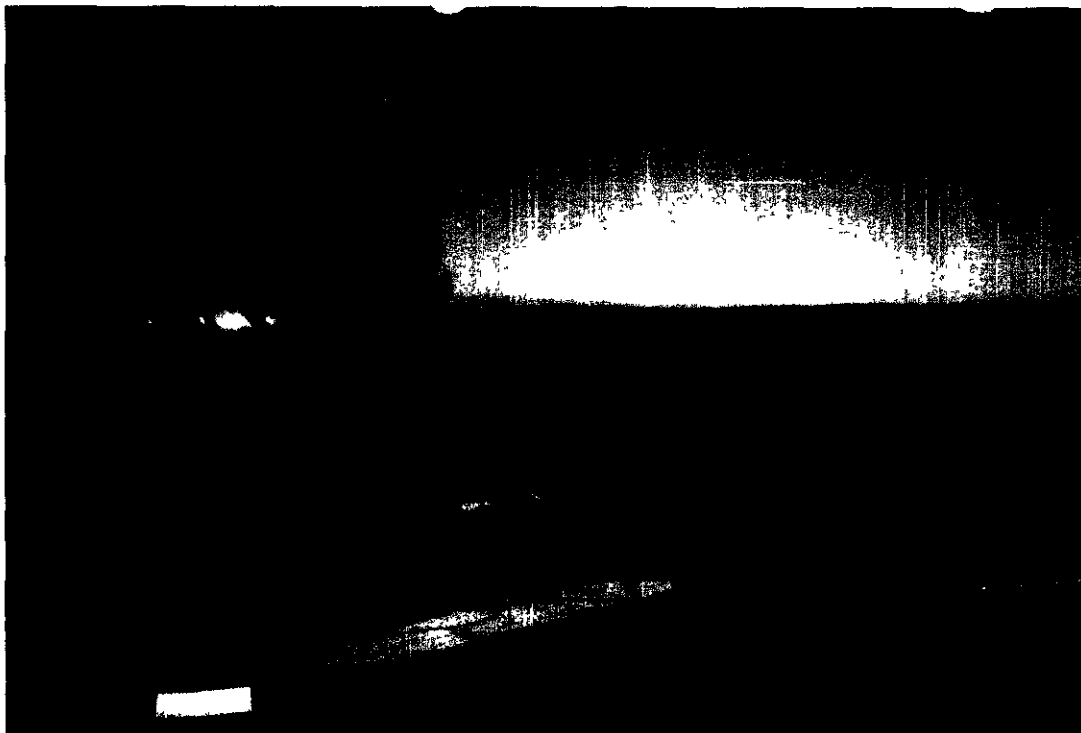
G. VOLUME CALCULATIONS
pump curve: 2500 gpm or 5.57 cfs = system capacity (effective HP = 450)
as installed per Layne Pump.

$$\text{HP equation: } 400 \times 8.8 \times 1.7 = \frac{582}{4.23 \text{ cfs (estimate)}} \quad (\text{700 ft. Layne pump})$$

F. FLOW CALCULATIONS

Measured Method:

Additional Computation Sheets Attached



P/B
view to east

water line to
domestic
use



mainline on 28/33
Section line. view to
east w/ P/U.

End of pivot visible

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DEC 19 1955

51-7015

Place of Use

← view to east/NE, 1/4 mile
(from well)
low pressure pivot

view to SE from well.
MCDONALD
NEC 13 1000

51-7015

IDAHO DEPARTMENT OF WATER RESOURCES

WELL INSPECTION FORM

1. DRILLING PERMIT NO: SI-93-C-0002-000 OTHER APPLICABLE NO: 51-7015

2. OWNER: JOLLEY, TONY Phone: 845-2733
Address: _____

3. WELL LOCATION: Twp 7S, Rge. 5E, Sec. 33, NW 1/4 NW 1/4
County Owyhee (Provide sketch map and photo on reverse.)

4. DRILLER: HICKEY Lic. No. 160
When Drilled? 5/25/94

5. WELL CONSTRUCTION:

Casing Diameter 20 inches Water tight cap? ☒ Yes ☐ No Access Port: ☒ Yes ☐ No

Casing $\geq$ 12 inches above ground? ☒ Yes ☐ No - Describe _____

Depth of Casing _____ ft. Method Drilled _____

Condition of Well Casing: ☒ Good ☐ Fair ☐ Poor Describe _____

Control Valve? ☒ Yes ☐ No Pressure Gauge: ☒ Yes ☐ No 50 psi

Condition of Piping and Valving _____

Auger to a depth of _____ ft. Evidence of Annular Seal ☐ Yes ☐ No

Are there obvious construction problems that may be a source for contamination or waste of water?
☐ Yes ☒ No (Describe in Remarks and Attach Photo - On Reverse)

6. HYDROLOGIC INFORMATION:

Depth to Static Water 264 ft. Water Temperature 95 °F

Flowing Artesian ☐ Yes ☒ No Pressure: _____ (psi)

Water Sample Taken? ☐ Yes ☒ No If yes, describe purpose _____

Water Quality Measurements/Observations (Describe) _____

7. WELL USE:

☒ Domestic ☒ Irrigation ☐ Stock
☐ Test ☐ Municipal ☐ Industrial
☐ Abandoned ☐ Waste Disposal/Injection ☐ Not Used
☐ Other: _____

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DEC 19 1996

8. POSSIBLE CONTAMINATION SOURCES:

Is there evidence of Chemigation? ☐ Yes ☐ No

If yes, is there a check-valve present? ☐ Yes ☒ No

Is there a possible source of contamination nearby? ☐ Yes ☒ No

If yes, what Type? _____

How far away from the well is this source? _____

9. REMARKS: Low-temp geothermal used for irrigation.

C. Hodge

Signature of Dept. Representative & Title

6/6/96

Inspection Date

PHOTOS, DRAWINGS, OTHER ATTACHMENTS:

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DEC 19 1995

C

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Use Typewriter
or
Ball Point Pen

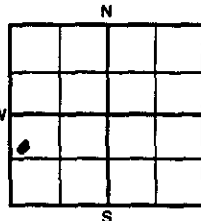
pg 1 of 2

1. DRILLING PERMIT NO. 51-93-6000-200
Other IDWR No. WATER RIGHT # 51-07015

2. OWNER:
Name TONY & NORMA JOLLEY
Address HC 35-174
City BRUNEAU State ID Zip 83647

3. LOCATION OF WELL by legal description:

Sketch map location must agree with written location.



Twp 7 North ☐ or South ☒
Rge 5 East ☒ or West ☐
Sec. 33 SW 1/4 SW 1/4 SW 1/4
Gov't Lot _____ County OWY HISE

Address of Well Site Hwy 51
City _____
(Give at least name of road + Distance to Road or Landmark)

Lt. _____ Blk _____ Sub. Name _____

4. PROPOSED USE:

- ☐ Domestic ☐ Municipal ☐ Monitor ☒ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK

- ☒ New Well ☐ Modify or Repair ☐ Replacement ☐ Abandonment

6. DRILL METHOD

- ☐ Mud Rotary ☐ Air Rotary ☒ Cable ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK		AMOUNT		METHOD
Material	From	To	Sacks or Pounds	
CEMENT	0	40	9 YRDS	PUT IN

Was drive shoe used? ☒ Y ☐ N ☐
Was drive shoe seal tested? ☐ Y ☒ N ☐ How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
20"	1	40	28	STEEL	☒	☐	☒	☐
16"	1	44	25	STEEL	☒	☐	☒	☐
					☐	☐	☐	☐

Length of Headpipe NA Length of Tailpipe NA

9. PERFORATIONS/SCREENS

- ☐ Perforations Method NA
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:

264 ft below ground Artesian pressure _____ lb.
Depth flow encountered NA ft. Describe access port or control devices: NA 1 1/2" Pipe on 45°

11. WELL TESTS:

- ☐ Pump ☐ Bailor ☐ Air ☐ Flowing Artesian

Yield gal./min	Drawdown	Pumping Level	Time
1830	129'	393'	57 HR

Water Temp. 95° Bottom hole temp. 97°

Water Quality test or comments: GOOD

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia	From	To	Remarks: Lithology, Water Quality & Temperature	Water	Y	N
24"	0	3	SURFACE			
20"	3	40	SAND & CLAY			
	40	79	SAND & CLAY			
	79	172	SAND, GRAVEL & CLAY			
	172	198	BASALT			
	198	280	BRN CLAY, SOME SAND			
	280	310	BRN RED CLAY - GRAVEL/SAND			
	310	320	RED CLAY/RIVER ROCK			
	320	323	SAND STONE			
	323	330	GRAVEL / SOME CLAY			
	330	391	CLAY			
	391	407	BASALT			
	407	422	CONSOLIDATED CONGLOMERATE			
	422	423	OPEN			
	423	447	CONSOLIDATE CONGLOMERATE			
16"	447	455	BASALT			
	455	456	OPEN			
	456	490	BASALT (VIEW CUTTINGS)			
	490	494	CINDER/TALC			
	494	512	BLK BASALT			
	512	514	CINDER/TALC			
	514	556	BASALT (DECOMPOSED)			
	556	580	BASALT			
	580	614	BASALT (DECOMPOSED)			
	614	647	BASALT			
	647	671	HARD BRN LAVA			
	671	672	OPEN			
	672	697	HARD BRN LAVA			
	697	699	SOLIDIFIED CINERS			
	699	722	BRN LAVA			
	722	723	SAND STONE			
	723	726	GREY BASALT			
	726	741	HARD GREY BASALT			

RECEIVED

Completed Depth _____ (Measurable)
Date Started _____ Completed _____

13. DRILLER'S CERTIFICATION

JUN 22 1994
WATER RESOURCES
WESTERN REGION

I certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name CARL HICKIE DRILLING Firm No. 160

Firm Official Carl Hickie Date 6-15-94

Supervisor or Operator _____ Date _____

(Sign once if Firm Official & Operator)

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORTUse Typewriter
or
Ball Point Pen

Pg 2 of 2

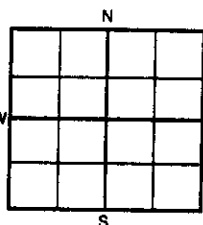
1. DRILLING PERMIT NO. 51-93-C-0002-000
Other IDWR No. Water Right 51-07015

2. OWNER:

Name _____
Address _____
City _____ State _____ Zip _____

3. LOCATION OF WELL by legal description:

Sketch map location must agree with written location

Twp 7 North ☐ or South ☒
Rge. 5 East ☒ or West ☐
Sec. 33 SW 1/4 NW 1/4 SW 1/4 1/4
Gov't Lot _____ County Owyhee 10 acres 40 acres 160 acres

Address of Well Site _____

City _____

(Give at least name of road + Distance to Road or Landmark)

Lt. _____ Blk _____ Sub. Name _____

4. PROPOSED USE:

☐ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK

☐ New Well ☐ Modify or Repair ☐ Replacement ☐ Abandonment

6. DRILL METHOD

☐ Mud Rotary ☐ Air Rotary ☐ Cable ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK		AMOUNT		METHOD
Material	From	To	Sacks or Pounds	

Was drive shoe used? Y ☐ N ☐Was drive shoe seal tested? Y ☐ N ☐ How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe MICROFILMED

9. PERFORATIONS/SCREENS

☐ Perforations Method _____
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
						☐	☐
						☐	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:

_____ ft below ground Artesian pressure _____ lb.
Depth flow encountered _____ ft. Describe access port or control devices: _____

11. WELL TESTS:

☐ Pump ☐ Bailor ☐ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Pumping Level	Time

Water Temp _____ Bottom hole temp. _____

Water Quality test or comments: _____

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Water
				Y N
	741	749	VERY FEW CUTTINGS (CINDERS)	✓
	749	757	HARD BRN LAVA	
	757	759	DRY CINDERS	
12"	759	776	HARD BRN LAVA	
12"	776	777	OPEN	
	777	848	RHYOLITE (WITH QUARTZ)	
	848	874	RHYOLITE	
	874	912	BRKN RHYOLITE	
	912	943	RHYOLITE / CLAY	
	943	976	DEEP BRN ROCK	
	976	1008	VERY FEW CUTTINGS	✓
	1008	1042	BASALT / STREAKS OF CLAY	
	1042	1047	BASALT / RED BRN ROCK	
	1047	1068	BASALT	
	1068	1130	BASALT / BRN ROCK	
	1130	1197	CONSOLIDATED CONGLOMERATE	
8"	1197	1225	BASALT / CINDERS / CONSOLIDATED	
	1225	1231	COARSE BLK BASALT	
	1231	1248	RED ROCK CLAY	
	1248	1251	HARD BASALT	
	1251	1259	BASALT / BRN ROCK	
	1259	1268	BLK CINDERS / SOME CLAY	✓
	1268	1273	BLK LAVA (BASALT)	
	1273	1278	LOST CUTTINGS	✓
	1278	1283	BRN ROCK	
	1283	1294	BRN ROCK	
	1294	1296	HARD RED ROCK	
	1296	1319	RED ROCK	
	24"	To 40'	8" TO 1319'	
	20"	To 444'		
	16"	To 765'		
	12"	To 1180'		

Completed Depth 1319' (Measurable)Date Started 2/4/94 Completed 5/25/94

13. DRILLER'S CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed

Firm Name CARL HILKEY DRILLING Firm No 160

Firm Official _____ Date _____

and _____

Supervisor or Operator _____ Date _____

(Sign once if Firm Official & Operator)

FORWARD WHITE COPY TO WATER RESOURCES



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 4, 1994

Mr. Tony Jolley
Rt 1B Box 174
Bruneau, Idaho 83604

Reference: Water Right #51-07015; Drilling Permit #51-93-C-0002-000
Request for waiver for Low Temperature Geothermal well

Dear Mr. Jolley,

The drilling permit required for construction of a well to develop low temperature geothermal waters has not yet been approved. The drilling permit #51-93-C-0002-000 was issued for the drilling of a cold water well. A new or revised permit is required. The fee already submitted will be applied to this new or revised permit.

The statutes require the following accompany the application for a drilling permit for low temperature geothermal well construction:

- 1] Drilling Prospectus describing the proposed construction of the well, which you have submitted.
- 2] A \$20,000. bond is required of the well owner for any Low Temperature Geothermal well drilled deeper than 1,000 feet. This bond can be established as either surety or cash bond pledge on forms provided by the Department. These forms are attached.

Your prospectus describes the installation of 16 inch casing to 700 feet in a 20 inch borehole. However, your letter dated December 28, 1993 says you have located 1,000 feet of 24 inch casing. If your intention is to use 24 inch casing instead of the 16 inch casing as described in your prospectus you need to resubmit a new prospectus describing the proper well construction materials and procedures.

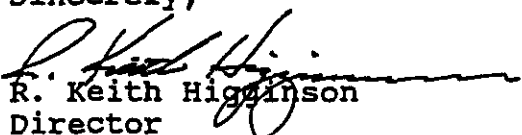
The Department has also reviewed your request to use low temperature geothermal waters for irrigation which is prohibited by Section 42-233, Idaho Code without a waiver. It has been determined that since your water right permit was approved prior to

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Page 2 of2; Tony Jolley-request for waiver

the enactment of these statutes that you are exempt from the statute requirement and no action is required on your request for a waiver to use these previously appropriated waters.

Sincerely,


R. Keith Higginson
Director

MICROFILM
11.17.11

C

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
PERMIT TO DRILL A WELL
NO. 51-93-C-0002-000

1. This is to certify, that

TONY JOLLEY
NORMA JOLLEY
HC85-174
BRUNEAU ID 83604

O
O
Receipt No. C026917

has applied for a permit on 5/11/1993 to drill a well and a permit is
APPROVED for construction as follows:

2. Proposed Well Location: Township 07S, Range 05E, Sec. 33, NWNW
OWYHEE County

Street Address of Well Site: HIWAY 51--2 MILES EAST
ID

3. Proposed Use of Well: Non-Domestic Irrigation

4. Well Construction Information:

- A. New Well
B. Proposed Surface Diameter 26 In. Proposed Maximum Depth 1500 Ft.
C. Anticipated Bottom Hole Temperature: 85 F or less (Cold water well)

5. Construction Start Date: 6/15/1993

6. Anticipated Well Driller:

PETE COPE DRILLING CO INC

NOTE: The actual well driller must be identified prior to drilling.

GENERAL CONDITIONS:

1. This well shall not be drilled more than 10% deeper than the proposed total depth or enlarged without prior authorization.
2. The well must be constructed or modified in compliance with the applicable statutes; specific conditions of approval shown on the water right permit, transfer, amendment, or injection well permit; and the rules and regulations of the Department for water appropriation, injection wells, and well construction.
3. This drilling permit is valid for two (2) months from approval date for the start of drilling.
4. This permit does not constitute any other local, county, state or federal approvals which may be required for construction or operation of a well. All wells must be drilled a minimum distance of 100 feet from a drain field. Domestic and Public Water Supply wells must be drilled a minimum distance of 50 feet and 100 feet respectively from a septic tank.

(Continued)

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DEC 11 1993

DRILLING PERMIT CONDITIONS

PERMIT: 51-93-C-0002-000 5/11/1993

FOR: TONY AND NORMA JOLLEY

10. The department will be notified at least 48 hours prior to the commencement of drilling and prior to the setting and cementing of any casing strings so that department personnel or a representative of the department may be on site.

11. Return drilling fluid temperatures shall be monitored and recorded down to 1000' below land surface at 100' intervals. Below 1000' return drilling fluid temperatures shall be monitored at 30' intervals, Down hole temperatures shall be monitored at 1000' and at total depth with a down hole temperature measuring device.

12. A minimum of forty feet of conductor pipe shall be installed and cemented solid to the surface and shall be flanged at the surface to accept a gate valve if the director should require it.

13. The surface casing or production string, if over 500' in length will have a minimum annular space of 4 inches and shall be cemented solid to the surface from the bottom up in one continuous operation with the bottom terminating in an aquitard with low permeability.

Any additional casing strings required or warranted by drilling conditions will be cemented to the surface or between the 50' overlap within another casing string.

A 50% excess of seal materials shall be on hand in the event of lost circulation, and if the seal material does not make it back to the surface perforation and squeezing or tremieing at the top of the tagged seal shall be undertaken in as many steps as necessary to get cement returns back to the surface.

14. Cement grout additives will be used to control fluid losses and shrinkage. Mix water quality and quantity shall follow manufacturers specifications paying close attention to cement grind and water ratios, eliminating free H₂O. The use of bentonite to reduce hydraulic conductivity shall not exceed 4% and shall be prehydrated prior to mixing. Silica flour or 200 mesh silica sand shall be used in a ratio of 30-50% to reduce permeability and increase the stability of the grout. The use of 2% NACL by volume will be used to reduce fluid loss.

15. The screened, perforated, filterpacked or otherwise open and commingled strata shall not exceed 25% of the total well depth as measured from the bottom of the open interval(s) to the top of the open interval(s). If however through geophysical logging of the well it can be demonstrated that the aquifers to be produced from

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1993

are under similar hydraulic head and quality, this may be waived and a greater open (screened or filterpacked section) may be approved.

16. Groundwater temperatures with a temperature variance of more than 25 degrees Fahrenheit shall not be commingled in the well without the Directors prior approval.

17. If this well has a hydrostatic head above land surface, artesian flow shall be controlled with a Department approved valve and fitted with a valved connector for a pressure gauge.

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Form 233-1
4/88State of Idaho
Department of Water ResourcesLOW TEMPERATURE GEOTHERMAL RESOURCE WELL
CASH BOND PLEDGETo: West One Bank, Idaho

(Bank or Savings and Loan Association)

Address: P.O. Box 1420 Mountain Home, Id 83647

(Must be in Idaho)

FOR VALUE RECEIVED, I Mike Reynolds do hereby assign, set over and pledge to the Director, Idaho Department of Water Resources (Director) as a cash bond, or cash deposit the sum of 20,000.00 dollars in an account carried in the name of Mike Reynold and Idaho Dept. of Water being Account No. 0002743442 C/D 2033641 Resources

This pledge is given in lieu of a Surety Bond to insure the construction, operation and maintenance of a low temperature geothermal resource well located in T. 7 South, R. 5 East, BM Section 28, S 1/2, SW 1/4, Section 33, W. 1/2, NE 1/4, NW 1/4 (Legal Description)

in compliance with Chapter 2 and Chapter 40, Title 42, Idaho Code, and the rules and regulations promulgated pursuant thereto by the Director, said pledge to remain in full force and effect until one year after completion of the well construction or until released in writing by the Director, whichever occurs first.

The interest paid on the account shall be paid to account holder Mike Reynolds, this assignment and pledge being only for the principal amount.

Dated at Monday this 24 day of January, 19 94.

Mike Reynolds
Account Holder

State of Idaho)
County of Elmore) ss

On this 24th day of January, 1994, personally appeared before me the signer of the above instrument, who duly acknowledged to me that he be executed the same.

R. C. C. J.
Notary Public residing

at Butte, Idaho

My commission expires: 5-22-98

NOTARIAL
STAMP

I, Penny Meyers
(Name)

Customer Ser. Rep.
(Title)

do hereby acknowledge that Mike Reynolds and Idaho Dept of Water Resources
has on deposit 20,000.00 dollars which has been
assigned to the Director, which shall remain in force and effect until released
by the Director.

Penny Meyers
(Bank or Savings & Loan Official)

State of Idaho

County of Elmore

) ss

Acknowledged on this 24th day of January, 1994, before me:

R. C. C.
Notary Public residing at:

Boise, Idaho

My commission expires:

5-22-98

RECORDED

1-27-94

Fixed Rate Time Deposit Receipt and Agreement

New Saving

WEST ONE
BANK

Account Number

This certifies that * * * * * Mike Reynolds and Idaho Dept of Water Resources * * * * * , the depositor(s),

has deposited the sum of \$ 20,000.00 in the Mountain Home Office

of West One Bank, Idaho, on January 24, 19 94

In this Receipt and Agreement, the words you and your mean the depositor(s) named above; we, us, our, and the Bank mean the West One Bank named above. This is your receipt for the deposit shown above; you need not present it at maturity when you wish to withdraw your funds. This Receipt represents a specific type of time deposit; specific rules regarding renewal, maturity, and/or interest rates are shown below and on accompanying literature (if any). Any accompanying disclosures, documents, addenda, or schedules are deemed to be a part of this Receipt and Agreement. By depositing your money with us, you agree to all of the terms and conditions set forth in this document and any accompanying documents.

About Your Time Deposit

Interest Rate 2.45	Annual Percentage Yield 2.47	Maturity Date This time deposit will mature on March 25, 1994
Term 60 Days	Renewal/Maturity Type ☐ Automatic Renewal ☒ Straight Maturity	
You must maintain a minimum balance of \$ 5,000.00 in your account every day to earn the Annual Percentage Yield shown above.		
Compounding and Crediting of Interest Interest will be compounded and credited: ☐ Quarterly ☒ At Maturity ☐ Monthly (*restricted) ☐ Semi-Annually ☐ Annually		
Interest Payment Method ☒ Interest will be added to your time deposit as shown above. ☐ Interest will be paid directly to you or to another West One Bank checking or savings account		

Accountholder Information

1. Name Mike Reynolds	☒ Existing Customer	Customer Number 291745	Taxpayer Identification Number 519-74-1384
Address 235 Carrie Dr Mountain Home, Id 83647		City, State, Zip	
Primary Phone 208-587-2994	Secondary Phone	Birthdate/In Business Since	Mother's Maiden Name
2. Name Idaho Dept of Water Resources	☐ Existing Customer	Customer Number	Taxpayer Identification Number
3. Name	☐ Existing Customer	Customer Number	Taxpayer Identification Number

Signatures. By depositing my money with you, I agree to all of the terms and conditions set forth in this document and in any accompanying documents.

Signature (Name 1) X Mike Reynolds	Signature (Name 3) X Penny Meyer
Signature (Name 2) X Alan B. Bliff, Esq.	Bank Authorized Signature X Penny Meyer

Time Deposit Information

Interest Plan 515	Maturity Term 0 6 0 ☐ Months ☒ Days	R/A Option	Class 40	Account Type 050
Interest Payment ☐ Mail Check ☐ Hold Check ☒ Add - On ☐ To Account # ☐ Rate Exception				Rate Exception Approved By
Payment Frequency 0 6 0 ☐ Months ☒ Days ☐ Cycle ☐ At Maturity				Secondary Officer
CIS Use Only: Input				Verified



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

May 19, 1995

Mike Reynolds
235 Carrie Dr.
Mountain Home, ID 83647

RE: Release of Low Temperature Surety Bond, # 5772628 D.P.
51-93-C-0002-000, W.R. 51-007015.

Dear Mr. Reynolds:

The Department of Water Resources has received your request for release of the above referenced bond. The well construction appears to meet Department standards, with field inspection during the construction supporting this decision. Therefore your Surety Bond Pledge in the amount of \$20,000, # 5772628, with Safeco Insurance Company Of America is hereby released. We have sent a release letter (copy attached) to Higgins and Rutledge Insurance (resident Idaho agent) P.O. Box 8567 Boise, ID 83707.

Sincerely,


Mark Slifka, Manager
Groundwater Protection Section

cc: Tony Jolley



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

May 19, 1995

Higgins & Rutledge Insurance
C/O Audery
P.O. Box 8567
Boise, ID 83707

RE: Tony Jolley (Mike Reynolds dba Reynolds Farms) - Surety
Bond Pledge #5772628 under D.P. 51-93-C-0002-000, W.R.
51-07015.

Dear Sirs:

As requested, The Idaho Department of Water Resources requests release of the \$20,000 Surety Bond pledged for the drilling of a Low Temperature Geothermal Well as required under Title 42, Chapter 2 Idaho Code 42-233. The Surety Bond number is 5772628.

Please contact me if you have any questions.

Sincerely,

Mark Slifka, Manager
Groundwater Protection Section

Enclosure

cc: Tony Jolley
Mike Reynolds

RECEIVED



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

June 21, 1996

TONY JOLLEY
HC 85 BOX 174
BRUNEAU ID 83604

S.O. COPY

Assignment pending?

RE: Assignment of Permit, 51-07015

Dear Tony:

I apologize that I did not remember your request for an assignment of permit form when you visited my office last week. Accordingly, enclosed is the form you may use to assign the above permit into the name of the family trust.

Please note that the assignment document requires a notarized signature and a \$25.00 processing fee. The form may be returned to either of our offices.

Feel free to contact me whenever you are ready to pursue the application for transfer which you are researching.

Sincerely,

Cindy Hodges

Cindy Hodges
Sr. Water Resource Agent

Enclosure

RECEIVED

DEC 15 1996

Note: rough map
Drawing Not
accurate.
See USDA
photo.

S. Corner
Marker

P/D

Garland
W/31
Live

T7S

400 000
FEET

T8S

MICROFILMED
DEC 19 1974

PERMIT SI-1015 INIT cjh
T. R. S. Q/Q
P/D 15 33
SCALE 1:24K
PHOTO ID. AA62 1974

RVE NO.
9-151X
6-1-80

97'/stage

STAGE	IMP.	CHARGE
1	IMP - CI	
2	IMP - NI-R	
3	BOWL - BRZ	
4	BOWL - NI-R	

LAB PERFORMANCE WITH STANDARD
EFFICIENCY SHOWN FOR 2 OR MORE
POWER SHOWN FOR ONE STAGE BASED
ON EFFICIENCY CORRECTIONS SHOULD BE
AND MATERIAL

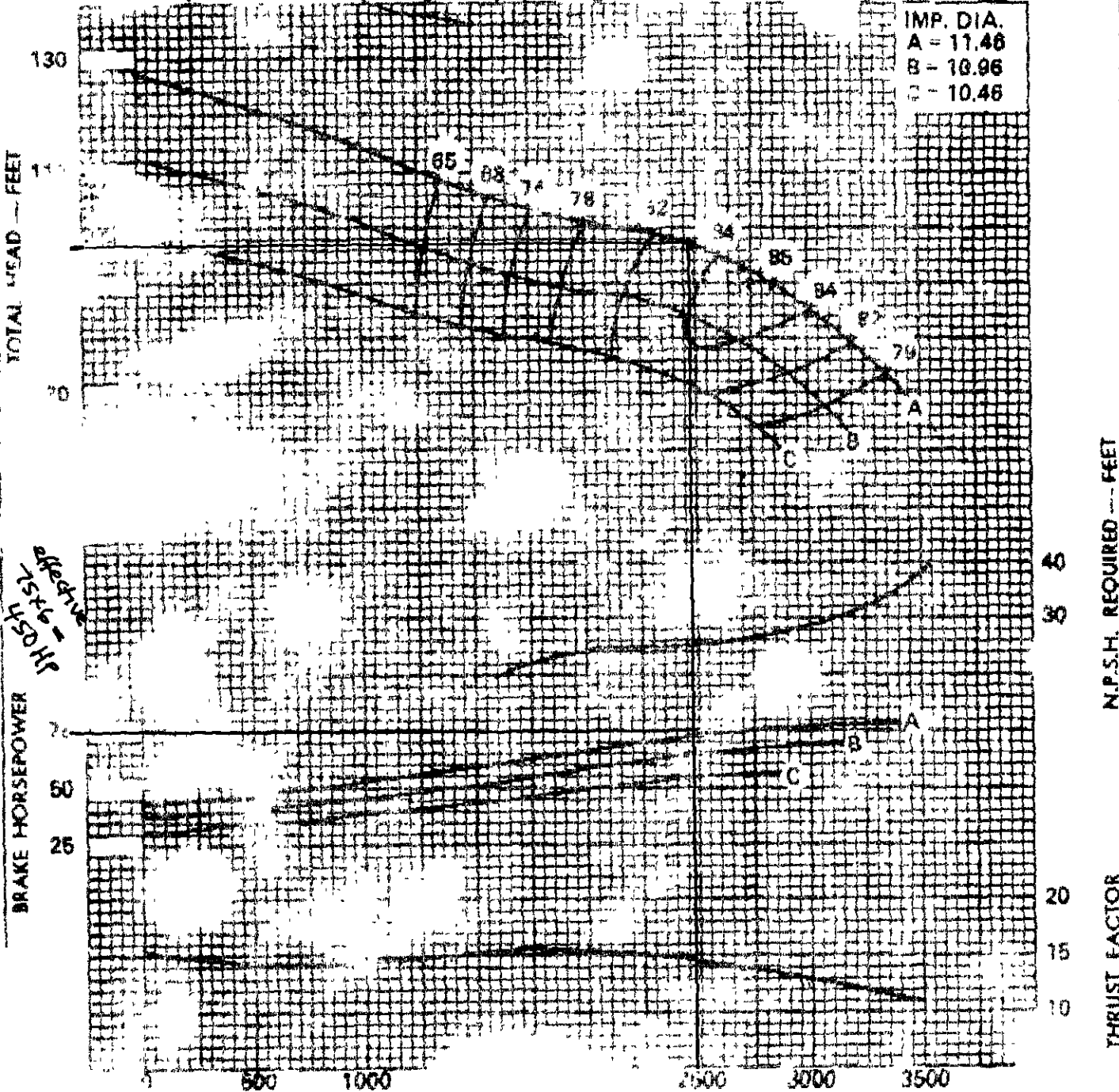
1170 R.P.M.

ONE
STAGE

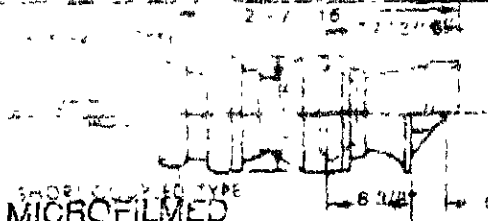
2250 GPM
460' x 10" x 3" x 1 1/2"

500' TDH

water temp. 95°



WHEEL AREA - SQ. IN.	2001	IMPELLER WT. LB.	418
VR PER IMPELLER	4.15	NO. STAGE WT. LB.	437
MAX. SPHERE SIZE	1.26	NO. STAGE WT. LB.	164
MAX. NO. STD. STAGES		IMPELLER NUMBER	7717
MAX. OPERATING P.S.I.		DISCH. SIZE	3.12
TD. LATERAL	9	SUCTION SIZE	10
TD. SHAFT DIA.	1.937	MAX. LATERAL	1.26
MAX. SHAFT DIA.	2.187	BOWL CONN. FLANGED - COLLET	
MIN. SUBMERGENCE	47	ADD 13" PER ADDITIONAL STAGE	



DEC 19 1936

394

41.5

NHEL

29 20

32 30

not plan

MICROFIL

1985

Use Typewriter
or
Ball Point Pen

Pg 1 of 2

1. DRILLING PERMIT NO. 51-93-(0002)-000
Other IDWR No WATER RIGHT 51-07015

2. OWNER:

Name TONY & NORMA JOLLEY
Address HC 85 - 174
City BOUNEAU State ID Zip 83647

3. LOCATION OF WELL by legal description:

Sketch map location must agree with written location

Twp 7 North ☐ or South ☒
 Rge 5 East ☒ or West ☐
 Sec. 33 SW 1/4 SW 1/4 SW 1/4
10 acres 40 acres 160 acres
 Gov't Lot _____ County Dwy HSE
 Address of Well Site Hwy 51
 _____ City _____
 (Give at least name of road + Distance to Road or Landmark)

Li Blk Sub Name

4. PROPOSED USE:

☐ Domestic ☐ Municipal ☐ Monitor ☒ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK

☒ New Well ☐ Modify or Repair ☐ Replacement ☐ Abandonment

6. DRILL METHOD

☐ Mud Rotary ☐ Air Rotary ☒ Cable ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK			AMOUNT	METHOD
Material	From	To	Sacks or Pounds	
CEMENT	0	40	9 YRDS	SUTTER POURED

Was drive shoe used? Y ☒ N ☐

Was drive shoe seal tested? Y ☐ N ☒ How?

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
20"	1	40	25	STEEL	☒	☐	☒	☐
16	1	44	25	STEEL	☒	☐	☒	☐
					☐	☐	☐	☐

Length of Headpipe NA Length of Tailpipe NA

9. PERFORATIONS/SCREENS

☐ Perforations Method NA
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material
				<i>N/A</i>	

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:

264 ft below ground Artesian pressure _____ lb.
Depth flow encountered NA ft. Describe access port or
control devices NA 1 1/2" Pipe on 45°

11. WELL TESTS:

☐ Pump ☐ Bailer ☐ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Pumping Level	Time
1830	129'	393'	57 HRS

Water Temp 95° Bottom hole temp 97°

Water Quality test or comments. Good

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Water

Bore Dia	From	To	Remarks: Lithology, Water Quality & Temperature	Y	N
24"	0	3	SURFACE		
20"	3	40	SAND & CLAY		
	40	79	SAND & CLAY		
	79	172	SAND, GRAVEL & CLAY		
	172	198	BASALT		
	198	280	BRN CLAY, SOME SAND		
	280	310	BRN RED CLAY - GRAVEL/SAND	✓	
	310	320	RED CLAY / RIVER ROCK	✓	
	320	323	SANDSTONE		
	323	330	GRAVEL / SOME CLAY	✓	
	330	391	CLAY		
	391	407	BASALT		
	407	422	CONSOLIDATED CONGLOMERATE		
	422	423	OPEN		✓
	423	447	CONSOLIDATE CONGLOMERATE		
16"	447	455	BASALT		
	455	456	OPEN		
	456	490	BASALT (VIEW CUTTINGS)	✓	
	490	494	CINDERS / TALC	✓	
	494	512	BLK BASALT		
	512	514	CINDERS / TALC	✓	
	514	556	BASALT (DECOMPOSED)	✓	
	556	580	BASALT		
	580	644	BASALT (DECOMPOSED)		
	644	647	BASALT		
	647	671	HARD BRN LAVA		
	671	672	OPEN		
	672	697	HARD BRN LAVA		
	697	699	SOLIDIFIED CINDERS	✓	
	699	722	BRN LAVA		
	722	723	SANDSTONE		
	723	726	GREY BASALT		
✓	726	741	HARD GREY BASALT : 1905		

Completed Depth _____ (Measurable)

Date: Started _____ Completed _____

13. DRILLER'S CERTIFICATION

☐ Casing
☐ Liner
☐ 13. DRILLER'S CERTIFICATION
☐ We certify that all minimum well construction standards were complied with at
☐ the time the rig was removed.
☐

Firm Name CARL HICKLEY DRILLING Firm No 160

Firm Official Louis M. Kelly, Date 6-10-79

and $\checkmark$

Supervisor or Operator _____ Date _____

(Sign once if Firm Official & Operator)

FORWARD WHITE COPY TO WATER RESOURCES

1. DRILLING PERMIT NO. 51-93-C-0002-000
Other IDWA No. WATER Right 51-07015

2. OWNER:

Name _____
Address _____
City _____ State _____ Zip _____

3. LOCATION OF WELL by legal description:

Sketch map location must agree with written location.

N
 W E
 S
 Twp. 7 North ☐ or South ☒
 Rge 5 East ☒ or West ☐
 Sec. 33 SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$
 Gov't Lot _____ County Owney
 10 acres 40 acres 160 acres

Address of Well Site _____

(Give at least name of road + Distance to Road or Landmark)

Lt. _____ Blk. _____ Sub. Name _____

4. PROPOSED USE:

☐ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other

5. TYPE OF WORK

☐ New Well ☐ Modify or Repair ☐ Replacement ☐ Abandonment

6. DRILL METHOD

☐ Mud Rotary ☐ Air Rotary ☐ Cable ☐ Other

7. SEALING PROCEDURES

SEAL/FILTER PACK			AMOUNT	METHOD
Material	From	To	Sacks or Pounds	

Was drive shoe used? Y ☐ N ☐

Was drive shoe seal tested? Y ☐ N ☐ How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS

☐ Perforations Method _____

☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
						☐	☐
						☐	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:

ft. below ground Artesian pressure lb.

Depth flow encountered _____ ft. Describe access port or control devices:

11. WELL TESTS:

☐ Pump ☐ Bailer ☐ Air ☐ Flowing Artesian[illegible]

Water Temp. _____ Bottom hole temp. _____

Water Quality test or comments:

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Y	N
	741	749	VERY FEW CUTTINGS (CINDERS)	✓	
	749	751	HARD BRN LAVA		
	751	753	DRY CINDERS		
42"	759	776	HARD BRN LAVA		
12"	776	777	OPEN		
	777	848	RHYOLITE (WITH QUARTZ)		
	848	874	RHYOLITE		
	874	912	BRKN RHYOLITE		
	912	943	RHYOLITE / CLAY		
	943	976	DEEP BRN ROCK		
	976	1008	VERY FEW CUTTINGS	✓	
	1008	1042	BASALT / STREAKS OF CLAY		
	1042	1047	BASALT / RED BRN ROCK		
	1047	1068	BASALT		
	1068	1130	BASALT / BRN ROCK		
Y	1130	1197	CONSOLIDATED CONGLOMERATE		
8"	1197	1225	BASALT KINOSKI / CONSOLIDATED		
	1225	1231	COARSE BLK BASALT		
	1231	1249	RED RCK CLAY		
	1249	1251	HARD BASALT		
	1251	1259	BASALT / BRN ROCK		
	1259	1268	BLK CINERIAL / SOME CLAY	✓	
	1268	1273	BLK LAVA (MOUNT)		
	1273	1278	LOST CUTTINGS	✓	
	1278	1283	BRN ROCK		
	1283	1294	BRN ROCK		
	1294	1296	HARD RED ROCK		
✓	1296	1319	RED ROCK		
	24'	TO	40'	8" TO 13 1/4'	
	20"	TO	444'	MICROFILMED	
	16"	TO	765'		
	12'	TO	1180'	DEC 19 1955	
Completed Depth			1319'	(Measurable)	
Date: Started			2/4/94	Completed	5/25/94

13. DRILLER'S CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed

Firm Name CARL HILKE, DRILLING Firm No. 160

Firm Official _____ Date _____

Supervisor or Operator _____ Date _____

(Sign once if Firm Official & Operator)

FORWARD WHITE COPY TO WATER RESOURCES

Permit No. 51-07015 Reviewed by [Signature] Date 10/12/94

TYPES OF USE

Correct Uses? yes

Surface water source

✓

Ground water source

yes Drilling permit required?

yes Copy in the file? Drill

200 Amount paid for permit

no Well log in the file?

Drilling Permit No. 51-93 C-0002-000
 Permit YLS Correct?

MEASURING DEVICE

yes Required?
250.00 Amount Submitted
yes Correct?

yes Required?
no Installed?
no Waiver requested?

Date proof received _____
 Date proof due _____ - _____
 No. of days late _____ = _____
 Priority Date _____ + _____
 New Priority Date _____

Proof acceptable

New Address _____ Proof Made 9-27-94

October 13, 1994

NORMA C. JOLLEY
TONY J. JOLLEY
RT. B BOX 174
BRUNEAU ID 83604

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 51-07015

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.

If you have questions concerning this matter, please feel free to contact the WESTERN Regional Office in Boise at (208)334-2190.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

c: IDWR - Region

PROCESSED

OCT 21 1994

August 31, 1994

NORMA C. JOLLEY
TONY J. JOLLEY
RT. B BOX 174
BRUNEAU ID 83604

PROOF DUE NOTICE

RE: PERMIT NO. 51-07015

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, 1994. (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.

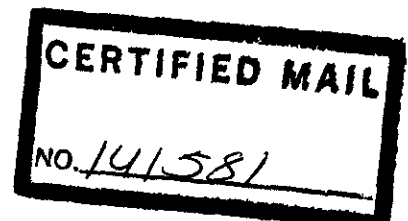
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

RECEIVED

OCT 21 1994



Ident. No. 51-93-C-0002-000
Water Right No. 51-07015

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR DRILLING PERMIT

1. Name: TONY JOLLEY O 208-845-2733
Address: HC85-174
BRUNEAU ID 83604

Name: NORMA JOLLEY O 208-845-2733
Address: HC85-174
BRUNEAU ID 83604

2. Proposed Well Location: Township 07S, Range 05E, Sec. 33, SWNWNW
OWYHEE County

Street Address of Well Site: HIWAY 51--2 MILES WEST OF WELL
ID

3. Proposed Use of Well: Non-Domestic Irrigation

4. Well Construction Information:

- A. New Well
 - B. Proposed Surface Diameter 26 In. Proposed Maximum Depth 1500 Ft.
 - C. Anticipated Bottom Hole Temperature: 85 F or less (Cold water well)
- (NOTE: Construction diagrams and/or other information may be requested for monitor, low temperature geothermal, municipal and artesian wells.)

5. Construction Start Date: 6/15/1993

6. Anticipated Well Driller: PETE COPE DRILLING CO INC
NOTE: The actual well driller must be identified prior to drilling.

7. Applicant's Signature Tony Jolley Date 8/4/94
Title by Mike Reynolds (Tenant)
(Owner, Firm Representative, Other)

Fee \$ 200.00 Received by _____ No. C026917 Date 3/ 8/1993

(Continued)

RECEIVED

OCT 21 1994

ACTION OF THE DEPARTMENT OF WATER RESOURCES

This permit is APPROVED

Date: 5/11/1993

If approved, this permit authorizes the construction or modification of a well subject to the following conditions. READ CAREFULLY!

CONDITIONS OF APPROVAL:

1. This drilling permit is valid for two (2) months from the approval date for the start of construction and is valid for one (1) year from the approval date for completion of the well unless an extension has been granted.
2. This permit does not constitute an approval of the District Health Department or the Idaho Department of Health and Welfare which may be required before construction of this well. The local Health Department should be contacted for septic tank/drainfield location. Domestic well must not be drilled closer than 100' from any drainfield and 50' from any septic tank.
3. The well shall be constructed by a driller currently licensed in the state of Idaho who must maintain a copy of the drilling permit at the drilling site.
4. Approval of this drilling permit does not authorize trespass on the land of another party.
5. This permit does not constitute other local, county, state or federal approvals which may be required for construction of a well.
6. This drilling permit does not represent a right to divert and use the water of the State of Idaho.
7. FOR ADDITIONAL CONDITIONS 7 THRU 15 SEE ATTACHED PAGES.

R. Karl Hjogheim
Signature of Authorized Dept. Representative

Director
Title

EXTENSION OF DRILLING PERMIT

Extension Approved by:

R. Karl Hjogheim

Approval Date: 2/ 1/1994

Expires On: 11/ 1/1994

RECEIVED

OCT 21 1994



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

DRILLING PERMIT CONDITIONS

PERMIT: 51-93-C-0002-000 2/3/1994

FOR: TONY AND NORMA JOLLEY

7. This Drilling Permit is issued with the understanding that when the 85 degree bottom hole temperature is reached, drilling will cease. The Department will be contacted with the data obtained through testing of all aquifers encountered to the depth attained thus far. Prior to the commencement of deepening in pursuit of additional and presumably warmer waters, consideration will be given to options such as additional wells located solely within the cold water aquifer, should the testing reveal the cold water (<85o F) resource is suitable (adequate).

8. If a sufficient quantity of water is revealed by bail down testing, a pump test will be performed to determine specific yield.

9. If it is feasible (formations encountered will stay open) only the forty feet of conductor pipe is required to be set to this point in drilling. Any temporary casing placed in the well during construction or testing must be removed from the well prior to abandonment.

10. The department will be notified at least 48 hours prior to the commencement of drilling, testing and prior to the setting and cementing of any casing strings so that department personnel or a representative of the department may be on site.

11. Return drilling fluid temperatures shall be monitored and recorded down to 1000' below land surface at 100' intervals. Below 1000' return drilling fluid temperatures shall be monitored at 30' intervals. Down hole temperatures shall be monitored at 1000', at total depth or when return fluid temperatures dictate, with a down hole temperature measuring device.

12. A minimum of forty feet of conductor pipe shall be installed and cemented solid to the surface and shall be flanged at the surface to accept a gate valve as the director may require. This is not required if the hole is for a small diameter (6-8 inch) exploratory well which may be reamed or abandoned.

13. The surface casing or production string, if over 500' in length will have a minimum annular space of 4 inches and shall be cemented solid to the surface from the bottom up in one continuous operation with the bottom terminating in an aquitard with low permeability.

continued

REV 5/91

OCT 21 1994

Any additional casing strings required or warranted by drilling conditions will be cemented to the surface or between the 50' overlap within another casing string. A 50% excess of seal materials shall be on hand in the event of lost circulation, and if the seal material does not make it back to the surface perforation and squeezing or tremieing at the top of the tagged seal shall be undertaken in as many steps as necessary to get cement returns back to the surface.

14. Cement grout additives will be used to control fluid losses and shrinkage. Mix water quality and quantity shall follow manufacturers specifications paying close attention to cement grind and water ratios, eliminating free H₂O. The use of bentonite to reduce hydraulic conductivity shall not exceed 4% and shall be prehydrated prior to mixing. Silica flour or 200 mesh silica sand shall be used in a ratio of 30-50% to reduce permeability and increase the stability of the grout. The use of 2% NaCl by volume will be used to reduce fluid loss.

15. The screened, perforated, filterpacked or otherwise open and commingled strata shall not exceed 25% of the total well depth as measured from the bottom of the open interval(s) to the top of the open interval(s). If however through geophysical logging of the well it can be demonstrated that the aquifers to be produced from are under similar hydraulic head and quality, this may be waived and a greater open (screened or filterpacked section) may be approved.

16. Groundwater temperatures with a temperature variance of more than 25 degrees Fahrenheit shall not be commingled in the well without the Directors prior approval.

17. If this well has a hydrostatic head above land surface, artesian flow shall be controlled with a Department approved valve and fitted with a valved connector for a pressure gauge.

OCT 21 1984



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

July 9, 1993

Mr. Tony Jolley
HC85-174
Bruneau, Idaho 83604

Reference: Drilling Permit 51-93-C-0002-000

Dear Mr. Jolley,

We have approved your request for an extension on the drilling permit described above. The permit is extended until May 1, 1994.

Please read through the conditions to the drilling permit. Give a copy of this information to your driller to avoid any violations of this drilling permit or related delays or penalties. Monitoring of bottom hole temperatures with borehole geophysical equipment is required by condition No. 12 and should be planned ahead of drilling. It would be in your best interest to have the borehole logged with geophysical tools to identify the aquifers and to analyze their respective water quality, porosity, temperature and thickness.

Any questions regarding the drilling permit should be addressed to myself or Mr. John Carlson at 327-7900.

Sincerely,

Mark Slifka, Manager
Ground Water Protection Section

OCT 21 1994



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 4, 1994

Mr. Tony Jolley
Rt 1B Box 174
Bruneau, Idaho 83604

Reference: Water Right #51-07015; Drilling Permit #51-93-C-0002-000
Request for waiver for Low Temperature Geothermal well

Dear Mr. Jolley,

The drilling permit required for construction of a well to develop low temperature geothermal waters has not yet been approved. The drilling permit #51-93-C-0002-000 was issued for the drilling of a cold water well. A new or revised permit is required. The fee already submitted will be applied to this new or revised permit.

The statutes require the following accompany the application for a drilling permit for low temperature geothermal well construction:

- 1] Drilling Prospectus describing the proposed construction of the well, which you have submitted.
- 2] A \$20,000. bond is required of the well owner for any Low Temperature Geothermal well drilled deeper than 1,000 feet. This bond can be established as either surety or cash bond pledge on forms provided by the Department. These forms are attached.

Your prospectus describes the installation of 16 inch casing to 700 feet in a 20 inch borehole. However, your letter dated December 28, 1993 says you have located 1,000 feet of 24 inch casing. If your intention is to use 24 inch casing instead of the 16 inch casing as described in your prospectus you need to resubmit a new prospectus describing the proper well construction materials and procedures.

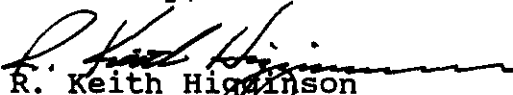
The Department has also reviewed your request to use low temperature geothermal waters for irrigation which is prohibited by Section 42-233, Idaho Code without a waiver. It has been determined that since your water right permit was approved prior to

OCT 21 1994

Page 2 of2; Tony Jolley-request for waiver

the enactment of these statutes that you are exempt from the statute requirement and no action is required on your request for a waiver to use these previously appropriated waters.

Sincerely,


R. Keith Higginson
Director

RECEIVED

OCT 21 1994

WR. 51-07015
D.P. 51-93-C-0002

FLANGE

GROUND SURFACE

20" CASING

GROUT SEAL

40' 24" BORE

FROM 100' - 230' SOME WATER -
85° or less

350' SOME WATER - 85° or less

500' SOME WATER - 85° or less

600' SOME WATER - 85° or less

GROUT SEAL

700' 16" CASING

700' 20" BORE

800' SOME WATER - TEMP ?

APPROVED BY
Tony Galley

Carl Hilkey Well Drilling
Carl Hilkey

BETWEEN 900' & 1500' SHOULD
FIND WATER WITH TEMP
105° or less

OCT 21 1994

16" BORE 1500'

December 28, 1993

R. Keith Higginson
Idaho Department of Water Resources
1301 N. Orchard Street
Statehouse Mail
Boise, ID 83720-9000

Reference: Drilling Permit #51-93-c-0002-000

Dear Mr. Higginson,

I wasn't aware of some things that I should have in my drilling permit until a well-driller pointed them out to me. I would like to remedy all possible misunderstandings. I'm asking the Department to amend my approved drilling permit under provision of Idaho code 42-223.

It was pointed out to me that there would not be sufficient water in the cold water aquifer to irrigate the land. Since these aquifers are domestic wells, I will case these so they won't be contaminated by the warm water below. I will construct the well to meet all department standards and have agreed with the driller to do such.

If permitted to drill to the deeper, warmer aquifer, I will not encounter any opposition because there is no public interest in the water in this area except for agricultural use. There were no restrictions at the time I filed for water rights or when it was approved.

Because of the elevation, this well will not flow. I will have to pump at 150 feet. This pump cost would eliminate any other feasible use except for high yield crop use.

Since Idaho is an agricultural state, this would be to the best interest of the public because of the taxes that would be paid on the well and for the jobs it would create, both directly and indirectly.

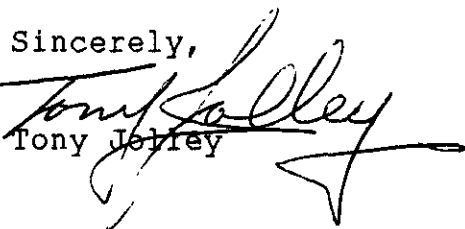
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I've now located 1000 feet of 24" 3.75 wall-thickness pipe for

NOV 21 1993
OCT 21 1994

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Sincerely,


Tony Jelley



OCT 21 1994



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 4, 1994

Mr. Tony Jolley
Rt 1B Box 174
Bruneau, Idaho 83604

Reference: Water Right #51-07015; Drilling Permit #51-93-C-0002-000
Request for waiver for Low Temperature Geothermal well

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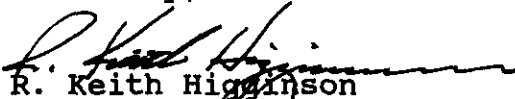
RECEIVED

OCT 21 1994

Page 2 of2; Tony Jolley-request for waiver

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Sincerely,


R. Keith Higginson
Director

100-100000

OCT 21 1994



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 4, 1994

Mr. Tony Jolley
Rt 1B Box 174
Bruneau, Idaho 83604

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OCT 21 1994

Page 2 of2; Tony Jolley-request for waiver

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Sincerely,


R. Keith Higginson
Director

107-61827

OCT 21 1994



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 4, 1994

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Bruneau, Idaho 83604

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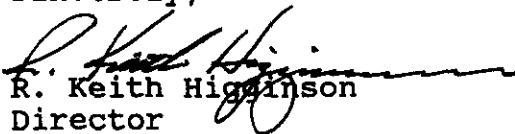
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OCT 21 1994

Page 2 of2; Tony Jolley-request for waiver

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Sincerely,


R. Keith Higginson
Director


OCT 21 1994



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 4, 1994

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Rt 1B Box 174
Bruneau, Idaho 83604

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OCT 21 1994

Page 2 of2; Tony Jolley-request for waiver

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Sincerely,


R. Keith Higginson
Director

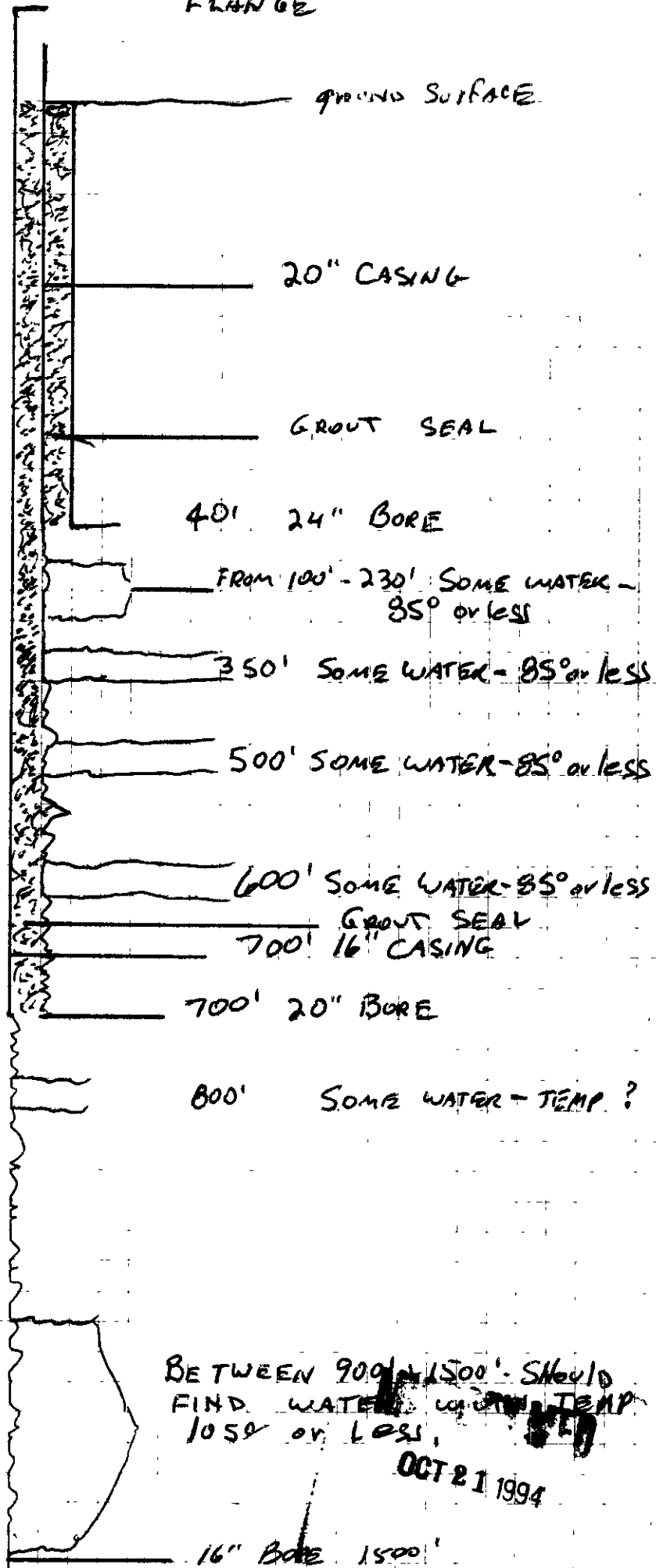
OCT 21 1994

FLANGE

Grout will be comprised
of 30% Portland, 65%
#60 mesh masonry sand,
and 5% bentonite.

Grout will be pumped
through a 2 7/8
in. tubing to the bottom
of the well and circ.
to the surface. 16"

Casing will be maintained
full of water to contain
pressure of grout.



APPROVED BY
Tony Galley

Carl Hilkey Nall Drilling
Carl Hilkey

December 28, 1993

R. Keith Higginson
Idaho Department of Water Resources
1301 N. Orchard Street
Statehouse Mail
Boise, ID 83720-9000

Reference: Drilling Permit #51-93-c-0002-000

Dear Mr. Higginson,

I wasn't aware of some things that I should have in my drilling permit until a well-driller pointed them out to me. I would like to remedy all possible misunderstandings. I'm asking the Department to amend my approved drilling permit under provision of Idaho code 42-223.

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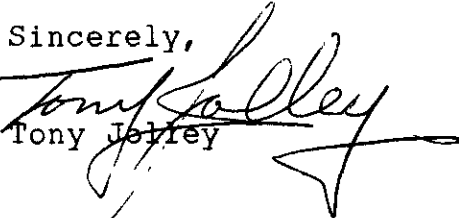
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RECEIVED
OCT 21 1994

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Sincerely,


Tony Jeffrey


OCT 21 1994



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

July 9, 1993

Mr. Tony Jolley
HC85-174
Bruneau, Idaho 83604

Reference: Drilling Permit 51-93-C-0002-000

Dear Mr. Jolley,

We have approved your request for an extension on the drilling permit described above. The permit is extended until May 1, 1994.

Please read through the conditions to the drilling permit. Give a copy of this information to your driller to avoid any violations of this drilling permit or related delays or penalties. Monitoring of bottom hole temperatures with borehole geophysical equipment is required by condition No. 12 and should be planned ahead of drilling. It would be in your best interest to have the borehole logged with geophysical tools to identify the aquifers and to analyze their respective water quality, porosity, temperature and thickness.

Any questions regarding the drilling permit should be addressed to myself or Mr. John Carlson at 327-7900.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Mark Slifka'.

Mark Slifka, Manager
Ground Water Protection Section

A faint, rectangular stamp, possibly a date or administrative mark, located in the lower right area of the page.

OCT 21 1994

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
PERMIT TO DRILL A WELL
NO. 51-93-C-0002-000

1. This is to certify, that

TONY JOLLEY

NORMA JOLLEY

HC85-174

BRUNEAU ID 83604

O

O

Receipt No. C026917

has applied for a permit on 5/11/1993 to drill a well and a permit is
APPROVED for construction as follows:

2. **Proposed Well Location:** Township 07S, Range 05E, Sec. 33, NWNW
OWYHEE County

Street Address of Well Site: HIWAY 51--2 MILES EAST

ID

3. **Proposed Use of Well:** Non-Domestic Irrigation

4. **Well Construction Information:**

A. New Well

B. Proposed Surface Diameter 26 In. Proposed Maximum Depth 1500 Ft.

C. Anticipated Bottom Hole Temperature: 85 F or less (Cold water well)

5. **Construction Start Date:** 6/15/1993

6. **Anticipated Well Driller:**

PETE COPE DRILLING CO INC

NOTE: The actual well driller must be identified prior to drilling.

GENERAL CONDITIONS:

1. This well shall not be drilled more than 10% deeper than the proposed total depth or enlarged without prior authorization.
2. The well must be constructed or modified in compliance with the applicable statutes; specific conditions of approval shown on the water right permit, transfer, amendment, or injection well permit; and the rules and regulations of the Department for water appropriation, injection wells, and well construction.
3. This drilling permit is valid for two (2) months from approval date for the start of drilling.
4. This permit does not constitute any other local, county, state or federal approvals which may be required for construction or operation of a well. All wells must be drilled a minimum distance of 100 feet from a drain field. Domestic and Public Water Supply wells must be drilled a minimum distance of 50 feet and 100 feet respectively from a septic tank.

(Continued)

MO...
OCT 31 1994

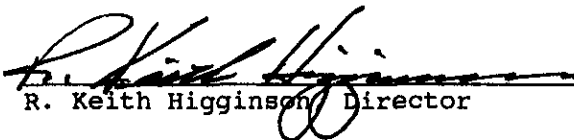
5. The well shall be constructed by a driller licensed in the State of Idaho.
6. Approval of this drilling permit does not authorize trespass on the land of another party.
7. This drilling permit does not represent a right to divert and use the water of the State of Idaho.
8. If a bottom hole temperature of 85 F or greater is encountered, well construction shall cease and the well driller and the well owner shall contact the Department immediately.
9. If this permit is for a replacement well, the well being replaced must be abandoned in accordance with Department Rules and Regulations.

SPECIFIC CONDITIONS:

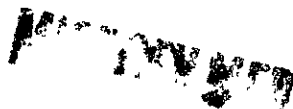
SEE ATTACHED CONDITIONS 10 THRU 17.

This permit is issued pursuant to the provisions of Section 42-235, Idaho Code, Witness the signature of the Director, or his authorized agent, this

11TH day of MAY, 1993.


R. Keith Higginson, Director

EXTENSION OF DRILLING PERMIT: Approved by Mark S. Dipe
Approval Date: 7-9-93 This extension expires: May 1, 1994


OCT 21 1994

DRILLING PERMIT CONDITIONS

PERMIT: 51-93-C-0002-000 5/11/1993

FOR: TONY AND NORMA JOLLEY

10. This Drilling Permit is issued for development of the cold water resource (less than 85 degrees F.) If the bottom hole temperature reaches 86 degrees or more, drilling will cease immediately and the department will be contacted so that a surety or cash bond of \$5,000 to \$20,000 (amount to be determined by the Director) may be secured and submitted to the department. Casing and sealing requirements will also be reviewed.

11. The department will be notified at least 48 hours prior to the commencement of drilling and prior to the setting and cementing of any casing strings so that department personnel or a representative of the department may be on site.

12. Return drilling fluid temperatures shall be monitored and recorded down to 1000' below land surface at 100' intervals. Below 1000' return drilling fluid temperatures shall be monitored at 30' intervals, Down hole temperatures shall be monitored at 1000' and at total depth with a down hole temperature measuring device.

13. A minimum of forty feet of conductor pipe shall be installed and cemented solid to the surface and shall be flanged at the surface to accept a gate valve if the director should require it.

14. The surface casing or production string, if over 500' in length will have a minimum annular space of 4 inches and shall be cemented solid to the surface from the bottom up in one continuous operation with the bottom terminating in an aquitard with low permeability.

Any additional casing strings required or warranted by drilling conditions will be cemented to the surface or between the 50' overlap within another casing string.

A 50% excess of seal materials shall be on hand in the event of lost circulation, and if the seal material does not make it back to the surface perforation and squeezing or tremieing at the top of the tagged seal shall be undertaken in as many steps as necessary to get cement returns back to the surface.

15. Cement grout additives will be used to control fluid losses and shrinkage. Mix water quality and quantity shall follow manufacturers specifications paying close attention to cement grind and water ratios, eliminating free H2O. The use of bentonite to reduce hydraulic conductivity shall not exceed 4% and shall be prehydrated prior to mixing. Silica flour or 200 mesh silica sand shall be used in a ratio of 30-50% to reduce permeability and increase the stability of the grout. The use of 2% NaCl by volume

001 21 1994

OCT 21 1994

- will be used to reduce fluid loss.
16. The screened, perforated, filterpacked or otherwise open and commingled strata shall not exceed 25% of the total well depth as measured from the bottom of the open interval(s) to the top of the open interval(s). If however through geophysical logging of the well it can be demonstrated that the aquifers to be produced from are under similar hydraulic head and quality, this may be waived and a greater open (screened or filterpacked section) may be approved.
17. Groundwater temperatures with a temperature variance of more than 25 degrees Fahrenheit shall not be commingled in the well without the Directors prior approval.
18. If this well has a hydrostatic head above land surface, artesian flow shall be controlled with a department approved valve and fitted with a valved connector for a pressure gauge.

Kieth Higginson
Dept of Water Resources

RECEIVED
JUL 09 1993
Department of Water Resources

8 July, 1993

Dear Mr. Higginson:

I am unable to meet the deadline you set on my drilling permit for the following reasons.

1. The driller is in Winnemucca, Nev. at the present time, drilling, and has not given me a definite date when he could start drilling for me.

2. I was going to pipe water a mile from the adjoining ranch to supply water to the rotary drilling rig. After visiting with you this week it may be necessary to find another source. I would have to discuss this with Pete Cope to find out exactly how much volume is necessary and see if we could truck it in in sufficient supply.

3. Since I am going to use 1000 to 1200 foot of casing starting with 24 to 30 inch I have not located an immediate supply of this casing.

Because of these reasons, and I don't want to be under pressure of a deadline so close I am requesting an extension of time on my drilling permit to 1 May 1944.

Sincerely Yours

Norma Jolley
Tony Jolley

Norma and Tony Jolley

HC 85 Box 174

Bruneau, Idaho 83604

OCT 21 1994

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
PERMIT TO DRILL A WELL
NO. 51-93-C-0002-000

1. This is to certify, that

TONY JOLLEY

NORMA JOLLEY

HC85-174

BRUNEAU ID 83604

O

O

Receipt No. C026917

has applied for a permit on 5/11/1993 to drill a well and a permit is
APPROVED for construction as follows:

2. **Proposed Well Location:** Township 07S, Range 05E, Sec. 33, NWNW
OWYHEE County

Street Address of Well Site: HIWAY 51--2 MILES EAST

ID

3. **Proposed Use of Well:** Non-Domestic Irrigation

4. **Well Construction Information:**

A. New Well

B. Proposed Surface Diameter 26 In. Proposed Maximum Depth 1500 Ft.

C. Anticipated Bottom Hole Temperature: 85 F or less (Cold water well)

5. **Construction Start Date:** 6/15/1993

6. **Anticipated Well Driller:**

PETE COPE DRILLING CO INC

NOTE: The actual well driller must be identified prior to drilling.

GENERAL CONDITIONS:

1. This well shall not be drilled more than 10% deeper than the proposed total depth or enlarged without prior authorization.
2. The well must be constructed or modified in compliance with the applicable statutes; specific conditions of approval shown on the water right permit, transfer, amendment, or injection well permit; and the rules and regulations of the Department for water appropriation, injection wells, and well construction.
3. This drilling permit is valid for two (2) months from approval date for the start of drilling.
4. This permit does not constitute any other local, county, state or federal approvals which may be required for construction or operation of a well. All wells must be drilled a minimum distance of 100 feet from a drain field. Domestic and Public Water Supply wells must be drilled a minimum distance of 50 feet and 100 feet respectively from a septic tank.

(Continued)

NOTED

OCT 21 1994

5. The well shall be constructed by a driller licensed by the State of Idaho.
6. Approval of this drilling permit does not authorize trespass on the land of another party.
7. This drilling permit does not represent a right to divert and use the water of the State of Idaho.
8. If a bottom hole temperature of 85 F or greater is encountered, well construction shall cease and the well driller and the well owner shall contact the Department immediately.
9. If this permit is for a replacement well, the well being replaced must be abandoned in accordance with Department Rules and Regulations.

SPECIFIC CONDITIONS:

SEE ATTACHED CONDITIONS 10 THRU 17.

This permit is issued pursuant to the provisions of Section 42-235, Idaho Code, Witness the signature of the Director, or his authorized agent, this

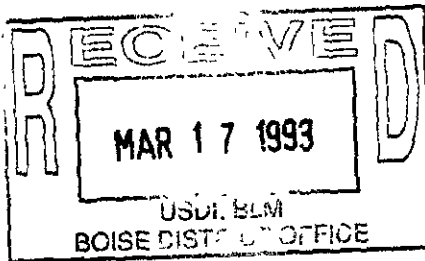
11TH day of MAY, 1993.


R. Keith Higginson, Director

EXTENSION OF DRILLING PERMIT: Approved by _____
Approval Date: _____ This extension expires: _____



C 1 1994



UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Idaho State Office
3380 Americana Terrace
Boise, Idaho 83706-2500

RECEIVED

APR 15 1993

Department of Water Resources

In Reply Refer To:
2520 (943)
IDI-6474

Memorandum

MAR 16 1993

To: District Manager, Boise

From: State Director

Subject: Norma C. Jolly, Desert Land Entry (DLE) (IDI-6474)

You have requested guidance as to whether or not the BLM is required to consult with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act after a DLE Notice of Allowance has been issued.

Instructions provided by Instruction Memorandum ID No. 93-018, dated November 16, 1992, indicates that Section 7 consultation requirements are centered around whether or not the BLM has discretionary authority to grant, modify, or amend provisions of an existing authorization.

Our review of 43 CFR 2450.7 finds that a DLE entryman is granted the rights to possess and use his entry (public land) after a Notice of Allowance has been issued. In this case, the BLM issued a Notice of Allowance to Norma C. Jolly on October 9, 1990. Furthermore, 43 CFR 2521.6 clearly indicates that the BLM's only remaining action is to insure compliance with the entryman's plan of development and the Final Proof requirements.

Based upon the above facts, it is our opinion that the BLM does not have discretion in the Norma C. Jolly DLE case. Therefore, the BLM does not have Section 7 consultation requirements.

Should you have any questions, please contact Jimmie Buxton at 384-3160.

Jim W. Sept
for
Delmar D. Vail

cc:
Ken Sebby, Office of the Field Solicitor

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OCT 21 1994

INFORMATION ONLY	
(Routed To)	
1	District Manager <i>JS</i>
2	Assoc. DM <i>JS</i>
	PIO
	LEO Officer
	Safety Officer
3	ADM Resources <i>BA</i>
	ADM Operations
	ADM Admin.
	Ch. PEA
	AM Bruneau
	AM Cascade
	AM Jarbidge
	AM Owyhee
4	Del Bala <i>DB</i>
	Action
	Comments

3-25-93

The Application for Drilling
Permit is in the possession
of Mark Slitka. No
Drilling Permit has been
issued.

M. Slitka



OCT 21 1994

LARRY E. CRAIG
IDAHO

HART SENATE OFFICE BUILDING
(202) 224-2752

AGRICULTURE, NUTRITION
AND FORESTRY
ENERGY AND NATURAL
RESOURCES
SPECIAL COMMITTEE
ON AGING

United States Senate

WASHINGTON, DC 20510-1203

March 16, 1993

Mr. and Mrs. Tony Jolley
Route B, Box 174
Bruneau, ID 83604

Dear Tony and Norma:

Thank you for contacting me and sending a copy of the petition to review and set aside the USFWS decision. I applaud your efforts and appreciate being informed of your actions.

I am deeply concerned about the recent listing of the Bruneau Hot Springsnail as endangered. I am particularly troubled by the data which served as the basis for listing this specie. Research was hurried because a federal judge established a specific time frame for the U.S. Fish and Wildlife Service (USFWS) to decide whether the snail should be listed. Without careful studies, there is no guarantee that mistakes were not made and critical information was not overlooked. I am outraged that the USFWS listed the Bruneau Hot Springsnail as endangered without sound scientific data to support its decision. However, while it is shameful that an agency would base its decisions on emotion rather than on science, it is tragic that our laws and lawmakers have made it possible for this type of situation to occur.

As many families and communities in the Pacific Northwest are painfully aware, the Endangered Species Act (ESA) neglects to consider what the impacts of listing a species may do to a business or individual until it is too late. I simply cannot support legislation that tells a family, "you must sacrifice your job, your way of life, the security you planned for your family for the sake of preserving a species based on conflicting and sometimes biased scientific data." I simply will not tolerate families becoming endangered species, themselves.

The listing of this snail as endangered concerns me for another reason. If wells are shut down in Owyhee County for the preservation of the snail, it will constitute a federal taking of water rights. I am adamantly opposed to federal takings without just compensation. This is not a novel belief. Government taking of private property for public use without just compensation is unconstitutional.

The ESA is scheduled for reauthorization in 1993. The listing of the Bruneau Hot Springsnail serves as an excellent example why

Congress must take a hard, long look at how effective the ESA has been and what modifications need to be made (including the economic and social implications of listing a species). Rest assured, I will do all I can to ensure that man's and nature's needs are considered in any discussion of the ESA.

You ask for assistance. I would be glad to send you legislation and background information regarding the ESA and the Bruneau Hot Springsnail. Don't hesitate to contact my Washington, D.C. office at (202) 224-2752 or my Boise regional office at (208) 342-7985.

Again, thank you for contacting me. I welcome your continued correspondence.

Sincerely,



LARRY E. CRAIG
U.S. Senator

LEC\ljw

MAILED 327

OCT 21 1994



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

May 8, 1992

Tony and Norma Jolley
Route 1 B Box 174
Bruneau, ID 83604

Re: Permit No. 51-07015

Dear Permit Holder:

Enclosed is a copy of the approved request for extension of time. The time within which to submit proof of beneficial use is extended to November 1, 1994. Please note that the department has granted this extension based on due diligence. It is important that you work diligently toward the completion of this project during the construction period allowed. The department may not be able to grant additional requests.

If you have any questions or if I can be of any further assistance, please feel free to contact this office.

Sincerely,

Karen L. Gustafson
Karen L. Gustafson
Secretary/Records Manager

Enclosure

C: IDWR-Regional Office

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MAY 18 1992

**ANALYSIS SHEET
FOR
EXTENSION OF TIME**

Permit No. 51-07015 Reviewed by Klg Date 4/29/92

BASIC INFORMATION

4/28/92 Date stamp received
yes Extension received timely
yes Fee received and receipted
yes Name and signature same as permit
no Address Change

BASIS FOR EXTENSION REQUEST

yes Has adequate work been completed to demonstrate due diligence?
Has the permit been involved in litigation?
Is supporting documentation needed to complete the file? Requested?
yes Is delay by a government agency?
Is supporting documentation needed to complete the file? yes Requested?
Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir? .

ACTION TAKEN

*Request copy of Settlement 1st - Received
approve Based on due diligence
extend to 10/1/95*

PRIORITY CALCULATION

Date extension received	<u>NA</u>	=	_____
Proof due date	<u>/</u>	=	_____
Number of days late	<u>/</u>	=	_____
Priority date	<u>/</u>	=	_____
New Priority Date	<u>/</u>	=	_____

DATA ENTRY

New Address _____
Change Proof Due Date 5/11/92 Klg
Change Priority Date _____



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE, IDAHO 83706



IN REPLY REFER TO

IDI-6474 (943)

OCT 9 1990

Norma C. Jolly
Star Route 174
Bruneau, Idaho 83604

Dear Mrs. Jolly:

Enclosed is the Notice of Allowance for your desert land entry IDI-6474 along with regulation Circular No. 2291.

You should keep in mind the requirement for doing annual improvement work (see pages 5-6 of circular). This must be done in order to keep your entry in good standing. You will not be sent advance requests for submitting annual proof, but you will be notified if you are in default. Forms for filing annual proof statements are available from this office on request.

Information on final proof (pages 6-9) explains in detail the requirements in order to receive patent to the lands. Final proof must be made within four years from the date the entry is allowed. When you are ready, you should file a notice of intention to make proof. A form for this notice is also available from this office on request.

We wish you good luck and success in the development and completion of your entry.

Sincerely,

William E. Ireland
William E. Ireland, Chief
Realty Operations Section

Enclosures

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MAY 18 1992



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE, IDAHO 83706



IN REPLY REFER TO

IDI-6474 (943)

NOTICE OF ALLOWANCE

Norma C. Jolly
Star Route 174
Bruneau, Idaho 83604

Serial No. IDI-6474

320 Acres

T. 7 S., R. 5 E., B.M.
sec. 28, S1/2SW1/4;
sec. 33, W1/2NE1/4, NW1/4.

Your application for desert land entry for the above-described land has this day been approved and allowed, subject to any valid existing rights and your further compliance thereto with the applicable laws and regulations. The acceptability of final proof will be contingent upon substantial compliance with the requirements of the Desert Land Act of March 3, 1877 (19 Stat. 377; 43 U.S.C. 321-323) as amended and supplemented, and the appropriate rules and regulations of 43 CFR, Part 2520. The development and reclamation of the land must be basically in accordance with your approved plan of development which is on file in the Idaho State Office. At the time of final proof, you must show that you have in good faith, substantially reclaimed, irrigated, and cultivated the land in the entry in a manner calculated to produce profitable results. At the same time you must also show that you have a completely developed source and supply of irrigation water that is adequate to permanently irrigate all the irrigable acres in the entry and that you have a legal right to the use of this water. Any substantial change in your source of water or deviation in the construction of the irrigation facilities as shown by your approved plan of development must have prior approval of the Bureau of Land Management. The irrigable acreage of this entry has been determined to be approximately 310 acres. In correspondence relating to this entry, always refer to the serial number shown above.

Allowance of this entry is subject to the Act of July 17, 1914, which requires all oil and gas deposits are reserved to the United States.

Reservation of Right-of-Way BL-056038 granted to Fred King for a reservoir under the Act of March 3, 1891.

MAILED
MAY 18 1992

Allowed this 9th day of
October, 1990.

William E. Ireland
Chief, Realty Operations Section

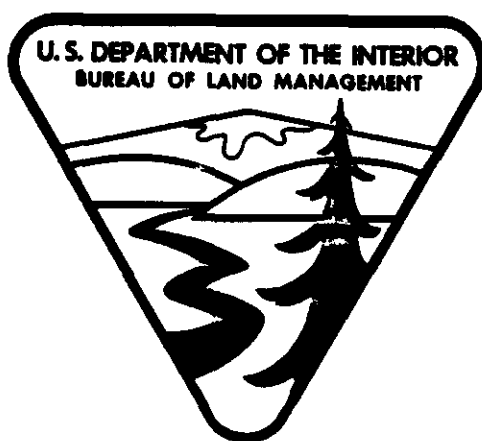
Circular No. 2291

REGULATIONS PERTAINING TO:

DISPOSITION; OCCUPANCY AND USE

DESERT LAND ENTRIES

43 CFR 2520



REPROFILMED
MAY 18 1992

Reprint
JULY 9, 1971

PART 2520—DESERT LAND ENTRIES

Subpart 2520—Desert Land Entries: General

- Sec.
- 2520.0-1 Purpose
- 2520.0-3 Authority.
- 2520.0-5 Definitions
- 2520.0-7 Cross references
- 2520.0-8 Land subject to disposition.
- Subpart 2521—Procedures
- 2521.1 Who may make desert-land entry.
- 2521.2 Petitions and applications.
- 2521.3 Assignment.
- 2521.4 When lands may be sold, taxed, or mortgaged.
- 2521.5 Annual proof.
- 2521.6 Final proof.
- 2521.7 Amendments.
- 2521.8 Contests.
- 2521.9 Relinquishments.

Subpart 2522—Extensions of Time To Make Final Proof

- 2522.1 General acts authorizing extensions of time.
- 2522.2 Procedure on applications for extensions of time, where contests are pending.
- 2522.3 Act of March 28, 1908.
- 2522.4 Act of April 30, 1912.
- 2522.5 Act of February 25, 1925.
- 2522.6 Service fees.

Subpart 2523—Payments

- 2523.1 Collection of purchase money and fees; issuance of final certificate.
- 2523.2 Amounts to be paid.

Subpart 2524—Desert Land Entries Within a Reclamation Project

- Sec.
- 2524.1 Conditions excusing entryman from compliance with the desert-land laws.
- 2524.2 Annual proof.
- 2524.3 Time extended to make final proof.
- 2524.4 Beginning of period for compliance with the law.
- 2524.5 Assignment of desert-land entries in whole or in part.
- 2524.6 Desert-land entryman may proceed independently of Government irrigation.
- 2524.7 Disposal of lands in excess of 160 acres.
- 2524.8 Cancellation of entries for non-payment of water-right charges.

Subpart 2520—Desert Land Entries—General

§ 2520.0-1 Purpose.

(a) It is the purpose of the statutes governing desert-land entries to encourage and promote the reclamation, by irrigation, of the arid and semiarid public lands of the Western States through individual effort and private capital, it being assumed that settlement and occupation will naturally follow when the lands have thus been rendered more productive and habitable.

§ 2520.0-3 Authority.

The act of March 3, 1877 (19 Stat. 377; 43 U.S.C. 321-323) as amended by the act of March 3, 1891 (26 Stat. 1098; 43 U.S.C. 321, 323, 325, 327-329), provides for the making of desert-land entries in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

§ 2520.0-5 Definitions.

(a) As used in the desert-land laws and the regulations of this subpart:

(1) "Reclamation" requires conducting water in adequate amounts and quality to the land so as to render it available for distribution when needed for irrigation and cultivation.

(2) "Cultivation" requires the operation, practice, or act of tillage or preparation of land for seed, and keeping the ground in a state favorable for the growth of crops.

(3) "Irrigation" requires the application of water to land for the purpose of growing crops.

(4) "Crop" includes any agricultural product to which the land under consideration is generally adapted and which would return a fair reward for the expense of producing it.

(5) "Water supply", to be adequate, must be sufficient to irrigate successfully and to reclaim all of the irrigable land embraced in an entry.

(6) "Water right" means the authority, whether by prior ownership, contract, purchase, or appropriation in accordance with state law, to use water on the land to be irrigated.

§ 2520.0-7 Cross references:

(a) For assignment of desert-land entries within Government reclamation projects, see § 2524.5(a).

(b) For provisions under Appeals and Hearings see Parts 1840 and 1850 of this chapter.

(c) For relinquishments, in general, see Subpart 1825 of this chapter.

(d) For residence and cultivation requirements under the homestead laws, see §§ 2511.-4-2(a).

§ 2520.0-8 Land subject to disposition.

(a) Land that may be entered as desert land. (1) As the desert-land law requires the artificial irrigation of any land entered thereunder, lands which are not susceptible of irrigation by practicable means are not deemed subject to entry as desert lands. The question as to whether any particular tract sought to be entered as desert land is in fact irrigable from the source proposed by the applicant will be investigated and determined before the application for entry

MICROFILMED
MAY 18 1992

is allowed. In order to be subject to entry under the desert-land law, public lands must be not only irrigable but also surveyed, unreserved, unappropriated, non-mineral (except lands withdrawn, classified, or valuable for coal, phosphate, nitrate, potash, sodium sulphur, oil, gas or asphaltic minerals, which may be entered with a reservation of such mineral deposits, as explained in Subpart 2093 nontimbered, and such as will not, without artificial irrigation, produce any reasonably remunerative agricultural crop by the usual means or methods of cultivation. In this latter class are those lands which, one year with another for a series of years, will not without irrigation produce paying crops, but on which crops can be successfully grown in alternate years by means of the so-called dry-farming system. (37 L.D. 522 and 42 L.D. 524.)

(2) Applications to make desert-land entries of lands embraced in applications, permits, or leases under the act of February 25, 1920 (41 Stat. 437), if in all other respects complete, will be treated in accordance with §§ 2093.0-3 to 2093.0-7. Applications to make desert-land entries of lands within a naval petroleum reserve must be rejected, as no desert-land entry may be allowed for such lands.

(3) Land that has been effectually reclaimed is not subject to desert land entry.

(b) *Quantity of lands that may be entered.* An entry of lands under the act of March 3, 1877, is limited to 320 acres, subject to the following additional limitations:

(1) An entry of lands within an irrigation district which the Secretary of the Interior or his delegate has approved under the act of August 11, 1916 (39 Stat. 506; 43 U.S.C. 621-630), is limited to 160 acres.

(2) An entryman may have a desert-land entry for such a quantity of land as, taken together with all land acquired and claimed by him under the other agricultural land laws since August 30, 1890, does not exceed 320 acres in the aggregate, or 480 acres if he shall have made an enlarged homestead entry of 320 acres (acts of August 30, 1890; 26 Stat. 391; 43 U.S.C. 212; and of February 27, 1917; 39 Stat. 946; 43 U.S.C. 330).

(c) *Entries restricted to surveyed lands.* Unsurveyed public land withdrawn by Executive Orders Nos. 6910 and 6964 of November 26, 1934, and February 5, 1935, respectively, is not subject to appropriation, under the desert-land laws, until such appropriation has been authorized by classification. (See Parts 2410, 2420, and 2430.)

(d) *Economic unit requirements compactness.* (1) One or more tracts of public lands may be included in a desert land entry and the tracts so entered need not be contiguous. All the tracts entered, however, shall be sufficiently

close to each other to be managed satisfactorily as an economic unit. In addition, the lands in the entry must be in as compact a form as possible taking into consideration the character of available public lands and the effect of allowance of the entry on the remaining public lands in the area.

(2) In addition to the other requirements of the regulations in this part, applicants for desert land entry must submit with their applications information showing that the tracts applied for are sufficiently close to each other to be managed satisfactorily as an economic unit and that the lands in the application are as compact as possible in the circumstances.

(3) In determining whether an entry can be allowed in the form sought, the authorized officer of the Bureau of Land Management will take into consideration such factors as the topography of the applied for and adjoining lands, the availability of public lands near the lands sought, the private lands farmed by the applicant, the farming systems and practices common to the locality and the character of the lands sought, and the practicability of farming the lands as an economically feasible operating unit.

Subpart 2521—Procedures

§ 2521.1 Who may make desert-land entry.

(a) *Citizenship.* (1) Any citizen of the United States 21 years of age, or any person of that age who has declared his intention of becoming a citizen of the United States, and who can truthfully make the statements specified in paragraphs 2520.0-8(c) and 2521.2(a) can make a desert-land entry. Thus, a woman, whether married or single, who possesses the necessary qualifications, can make a desert-land entry, and, if married, without taking into consideration any entries her husband may have made.

(2) At the time of making final proof claimants of alien birth must have been admitted to citizenship, but evidence of naturalization need not be furnished if it has already been filed in connection with the original declaration or with the proof of an assignment of the entry.

(b) *Second and additional entries.* A person's right of entry under the desert-land law is exhausted either by filing an allowable application and withdrawing it prior to its allowance or by making an entry or by taking an assignment of an entry, in whole or in part, except under the conditions described in subparagraphs (1) and (2) of this paragraph.

(1) Under the act of September 5, 1914 (38 Stat. 712; 43 U.S.C. 182), if a person, otherwise duly qualified to make a desert-land entry, has previously filed an allowable application, or made such entry or entries and through no fault of

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his own has lost, forfeited, or abandoned the same, such person may make another entry. In such case, however, it must be shown that the prior application, entry, or entries were made in good faith, and were lost, forfeited, or abandoned because of matters beyond the applicant's control, and that the applicant has not speculated in his right, nor committed a fraud or attempted fraud in connection with such prior entry or entries. As the assignment of an entry involves no loss, forfeiture, or abandonment thereof, but carries a benefit to the assignor, it is held to exhaust his right of entry under the desert-land law. Hence, no person who has assigned such entry, in whole or in part, will be permitted to make another entry or to take one or any part thereof by assignment except where subparagraph (2) of this paragraph applies.

(2) The act of June 16 1955 (69 Stat. 138) authorizes any person who prior to June 16, 1955, made a valid desert-land entry on lands subject to the acts of June 22, 1910 (36 Stat. 583; 30 U.S.C. 33-85), or of July 17, 1914 (38 Stat. 509; 30 U.S.C. 121-123), if otherwise qualified to enter as a personal privilege not assignable, an additional tract of desert land, providing such additional tract shall not, together with the original entry, exceed 320 acres. Applicants and entrymen under the act of June 16, 1955, are subject to, and must comply with, all the regulations of this part, including the acreage limitations of § 2520.0-8(b).

§ 2521.2 Petitions and applications.

(a) *Filing and fees.* (1) A person who desires to enter public lands under the desert land laws must file an application together with a petition on forms approved by the Director properly executed. However, if the lands described in the application have been already classified and opened for disposition under the desert land laws, no petition is required. The documents must be filed in the proper land office (see § 1821.2-1 of this chapter).

(2) All applications must be accompanied by an application service fee of \$15 which is not returnable, and the payment of 25 cents per acre for the lands therein described as required by law.

(b) *Post-office addresses of applicants and witnesses.* Applicants and witnesses must in all cases state their places of actual residence, their business or occupation, and their post-office addresses. It is not sufficient to name only the county or State in which a person lives, but the town or city must be named also; and where the residence is in a city the street and number must be given. It is especially important to claimants that upon changing their post-office addresses they promptly notify the manager of such change, for in case of failure to do so their entries may be canceled upon notice sent to the address of record but not received by them.

(c) *Execution of applications and proofs; time for filing of applications.*

(1) Applications and proofs, except final proofs required by R.S. 2294 (43 U.S.C. 234), must be signed by the applicants but need not be under oath. Final proofs may be executed before any officer authorized to administer oaths in public land cases, as explained by § 1821.3-2 of this chapter.

(2) An application to make desert-land entry is not acceptable if dated more than 10 days before its filing at the land office.

(d) *Evidence of water rights required with application.* No desert-land application will be allowed unless accompanied by evidence satisfactorily showing either that the intending entryman has already acquired by appropriation, purchase, or contract a right to the permanent use of sufficient water to irrigate and reclaim all of the irrigable portion of the land sought, or that he has initiated and prosecuted, as far as then possible, appropriate steps looking to the acquisition of such a right, or, in States where no permit or right to appropriate water is granted until the land embraced within the application is classified as suitable for desert-land entry or the entry is allowed, a showing that the applicant is otherwise qualified under State law to secure such permit or right. If applicant intends to procure water from an irrigation district, corporation, or association, but is unable to obtain a contract for the water in advance of the allowance of his entry, then he must furnish, in lieu of the contract, some written assurance from the responsible officials of such district, corporation, or association that, if his entry be allowed, applicant will be able to obtain from that source the necessary water. The manager will examine the evidence submitted in such applications and either reject defective applications or require additional evidence.

§ 2521.3 Assignment.

(a) *Lands which may be assigned.* While by the act of March 3, 1891 (26 Stat. 1096; 43 U.S.C. 329), assignments of desert-land entries were recognized, the Department of the Interior, largely for administrative reasons, held that a desert-land entry might be assigned as a whole or in its entirety, but refused to recognize the assignment of only a portion of an entry. The act of March 28, 1908, however, provides for an assignment of such entries, in whole or in part, but this does not mean that less than a legal subdivision may be assigned. Therefore no assignment, otherwise than by legal subdivisions, will be recognized. The legal subdivisions assigned must be contiguous.

(b) *Qualifications of assignees.* (1) The act of March 28, 1908, also provides that no person may make a desert-land entry by assignment unless he is qualified to enter the tract so assigned to

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him. Therefore, if a person is not at least 21 years of age and, excepting Nevada, a resident citizen of the State wherein the land involved is located; or if he is not a citizen of the United States, or a person who has declared his intention to become a citizen thereof; or, if he has made a desert-land entry in his own right and is not entitled under § 2521.1 to make a second or an additional entry, he cannot take such an entry by assignment. The language of the act indicates that the taking of an entry by assignment is equivalent to the making of an entry, and this being so, no person is allowed to take more than one entry by assignment, unless it be done as the exercise of a right of second or additional entry.

(2) A person who has the right to make a second or additional desert-land entry may exercise that right by taking an assignment of a desert-land entry, or part of such entry, if he is otherwise qualified to make a desert-land entry for the particular tract assigned.

(3) The act of March 28, 1908, also provides that no assignment to or for the benefit of any corporation shall be authorized or recognized.

(c) *Showing required of assignees; recognition of assignments.* (1) As evidence of the assignment there should be transmitted to the manager the original deed of assignment or a certified copy thereof. Where the deed of assignment is recorded a certified copy may be made by the officer who has custody of the record. Where the original deed is presented to an officer qualified to take proof in desert-land cases, a copy certified by such officer will be accepted.

(2) An assignee must file with his deed of assignment, a statement on a form approved by the Director, showing his qualifications to take the entry assigned to him. He must show what applications or entries, if any, have been made by him or what entries assigned to him under the agricultural public land laws, and he must also show his qualifications as a citizen of the United States; that he is 21 years of age or over; and also that he is a resident citizen of the State in which the land assigned to him is situated, except in the State of Nevada, where citizenship of the United States only is required. If the assignee is not a native-born citizen of the United States, he should also furnish a statement as to his citizenship status in accordance with Subpart 1811 of this chapter. If the assignee is a woman, she should in all cases state whether she is married, and if so, she must make the showing required by Subpart 1811 of this chapter. Desert-land entries are initiated by the payment of 25 cents per acre, and no assignable right is acquired by the application prior to such payment. (6 L.D. 541, 33 L.D. 152.) An assignment made on the day of such payment,

or soon thereafter, is treated as suggesting fraud, and such cases will be carefully scrutinized. The provisions of law authorizing the assignment of desert entries, in whole or in part, furnish no authority to a claimant under said law to make an executory contract to convey the land after the issuance of patent and thereafter to proceed with the submission of final proof in furtherance of such contract. (34 L.D. 383) The sale of land embraced in an entry at any time before final payment is made must be regarded as an assignment of the entry, and in such cases the person buying the land must show that he possesses all the qualifications required of an assignee. (29 L.D. 453.) The assignor of a desert-land entry may execute the assignment before any officer authorized to take acknowledgements of deeds. The assignee must furnish a statement on a form approved by the Director as to his qualifications.

(3) No assignments of desert-land entries or parts of entries are conclusive until examined in the land office and found satisfactory and the assignment recognized. When recognized, however, the assignee takes the place of the assignor as effectively as though he had made the entry, and is subject to any requirement that may be made relative thereto. The assignment of a desert-land entry to one disqualified to acquire title under the desert-land law, and to whom, therefore, recognition of the assignment is refused by the manager, does not of itself render the entry fraudulent, but leaves the right thereto in the assignor. In such connection, however, see 42 L.D. 90 and 48 L.D. 519.

(4) All applications for recognition of assignment of desert-land entries must be accompanied by an application service fee of \$10 which will not be returnable.

§ 2521.4 When lands may be sold, taxed, or mortgaged.

(a) After final proof and payment have been made the land may be sold and conveyed to another person without the approval of the Bureau of Land Management, but all such conveyances are nevertheless subject to the superior rights of the United States, and the title so contained would fall if it should be finally determined that the entry was illegal or that the entryman had failed to comply with the law.

(b) Lands embraced in unperfected desert-land entries are not subject to taxation by the State authorities, nor to levy and sale under execution to satisfy judgments against the entrymen, except as hereinafter set forth in this section.

(c) Lands embraced in desert-land entries within an irrigation district which the Secretary of the Interior has approved under the act of August 11, 1916 (39 Stat. 506; 44 USC 621-630).

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may be taxed and otherwise dealt with as provided by said act, and lands in desert-land entries within irrigation projects constructed under the Reclamation Act may be taxed as provided for by the act of June 13, 1930 (46 Stat. 581; 43 U.S.C. 455, 455a-455c).

(d) A desert-land entryman may, however, mortgage his interest in the entered land if, by the laws of the State in which the land is situated, a mortgage of land is regarded as merely creating a lien thereon and not as a conveyance thereof. The purchaser at a sale had for the foreclosure of such mortgage may be recognized as assignee upon furnishing proof of his qualifications to take a desert-land entry by assignment. Transferees, after final proof, mortgagees, or other encumbrancers may file in the proper land office written notice stating the nature of their claims, and they will thereupon become entitled to receive notice of any action taken by the Bureau of Land Management with reference to the entry.

(e) The filing of all notices of recordation of claim by transferees, mortgagees or other encumbrancer under this section must be accompanied by a service charge of \$10 which will not be returnable.

§ 2521.5 Annual proof.

(a) *Showing required.* (1) In order to test the sincerity and good faith of claimants under the desert-land laws and to prevent the segregation for a number of years of public lands in the interest of persons who have no intention to reclaim them, Congress, in the act of March 3, 1891 (26 Stat. 1096; 43 U.S.C. 327, 328) made the requirement that a map be filed at the initiation of the entry showing the mode of contemplated irrigation and the proposed source of water supply, and that there be expended yearly for 3 years from the date of the entry not less than \$1 for each acre of the tract entered, making a total of not less than \$3 per acre, in the necessary irrigation, reclamation, and cultivation of the land, in permanent improvements thereon, and in the purchase of water rights for the irrigation thereof, and that at the expiration of the third year a map or plan be filed showing the character and extent of the improvements placed on the claim. Said act, however, authorizes the submission of final proof at an earlier date than 4 years from the time the entry is made in cases wherein reclamation has been effected and expenditures of not less than \$3 per acre have been made.

(2) Yearly or annual proof of expenditures must consist of the statements of "two or more credible witnesses," each of whom must have general knowledge that the expenditures were made for the purpose stated in the proof. Annual proofs must contain itemized statements showing the manner in which expenditures were made.

(b) *Acceptable expenditures.* (1) Expenditures for the construction and maintenance of storage reservoirs, dams, canals, ditches, and laterals to be used by claimant for irrigating his land; for roads where they are necessary; for erecting stables, corrals, etc.; for digging wells, where the water therefrom is to be used for irrigating the land; for stock or interest in an approved irrigation company, or for taxes paid to an approved irrigation district through which water is to be secured to irrigate the land; and for leveling and bordering land proposed to be irrigated, will be accepted. Expenditures for fencing all or a portion of the claim, for surveying for the purpose of ascertaining the levels for canals, ditches, etc., and for the first breaking or clearing of the soil are also acceptable.

(2) The value to be attached to, and the credit to be given for, an expenditure for works or improvements is the reasonable value of the work done or improvement placed upon the land, according to the market price therefor, or for similar work or improvements prevailing in the vicinity, and not the amount alleged by a claimant to have been expended nor the mere proof of expenditures, as exhibited by checks or other vouchers. (*Bradley v. Vasold*, 36 L.D. 106.)

(c) *Expenditures not acceptable.* (1) Expenditures for cultivation after the soil has been first prepared may not be accepted, because the claimant is supposed to be compensated for such work by the crops to be reaped as a result of cultivation. Expenditures for surveying the claim in order to locate the corners of same may not be accepted. The cost of tools, implements, wagons, and repairs to same, used in construction work, may not be computed in cost of construction. Expenditures for material of any kind will not be allowed unless such material has actually been installed or employed in and for the purpose for which it was purchased. For instances, if credit is asked for posts and wire for fences or for pump or other well machinery, it must be shown that the fence has been actually constructed or the well machinery actually put in place. No expenditures can be credited on annual proofs upon a desert-land entry unless made on account of that particular entry, and expenditures once credited can not be again applied. This rule applies to second entries as well as to original entries, and a claimant who relinquishes his entry and makes second entry of the same land under the act of September 5, 1914, cannot receive credit on annual proofs upon the second entry for expenditures made on account of the former entry. (41 L.D. 601 and 72 L.D. 523.)

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(2) Expenditures for the clearing of the land will not receive credit in cases where the vegetation or brush claimed to have been cleared away has not been actually removed by the roots. Therefore, expenditures for clearing, where as a matter of fact there has been only crushing, or rolling, or what is known in some localities as ralling the land will not be accepted.

(3) No expenditures for stock or interest in an irrigation company, through which water is to be secured for irrigating the land, will be accepted as satisfactory annual expenditure until a field examiner, or other authorized officer, has submitted a report as to the resources and reliability of the company, including its actual water right, and such report has been favorably acted upon by the Bureau of Land Management. The stock purchased must carry the right to water and it must be shown that payment in cash has been made at least to the extent of the amount claimed as expenditure for the purchase of such stock in connection with the annual proof submitted, and such stock must be actually owned by the claimants at the time of the submission of final proof.

(d) *Procedure where proof is not made when due.* Managers will examine their records frequently for the purpose of ascertaining whether all annual proofs due on pending desert-land entries have been made, and in every case where the claimant is in default in that respect they will send him notice and allow him 60 days in which to submit such proof. If the proof is not furnished as required the entry will be canceled. During the pendency of a Government proceeding initiated by such notice the entry will be protected against a private contest charging failure to make the required expenditures, and such contest will neither defeat the claimant's right to equitably perfect the entry as to the matter of expenditures during the 60 days allowed in the notice nor secure to the contestant a preference right in event the entry be canceled for default under said notice.

(e) *Desert land entry in more than one district.* When a desert-land entry embraces land in more than one district, the required annual proofs may be filed in either district, provided proper reference is made to the portion of the entry in the adjoining district, and the entryman must notify the manager of the adjoining district by letter of the date when the annual proof is filed.

(f) *Extensions of time.* (1) The law makes no provision for extensions of time in which to file annual proof becoming due subsequent to December 31, 1936, on desert-land entries not embraced within the exterior boundaries of any withdrawal or irrigation project under the Reclamation Act of June 17, 1902 (32 Stat. 388), and extensions for said purpose cannot therefore be granted.

However, where a township is suspended from entry for the purpose of resurvey thereof the time between the date of suspension and the filing in the local office of the new plat of survey will be excluded from the period accorded by law for the reclamation of land under a desert entry within such township and the statutory life of the entry extended accordingly (40 L.D. 223). During the continuance of the extension the claimant may, at his option, defer the making of annual expenditures and proof thereof.

(2) Extensions of time for making desert-land proofs were authorized by the acts of June 16, 1933 (48 Stat. 274; 43 U.S.C. 256a), July 26, 1935 (49 Stat. 504; 43 U.S.C. 256a), and June 16, 1937 (50 Stat. 303; 43 U.S.C. 256a). Such acts affect only proofs becoming due on or before December 31, 1936. For that reason, the regulations which were issued thereunder have not been included in this chapter.

(g) *Submission of proof before due date.* Nothing in the statutes or regulations should be construed to mean that the entryman must wait until the end of the year to submit his annual proof because the proof may be properly submitted as soon as the expenditures have been made. Proof sufficient for the 3 years may be offered whenever the amount of \$3 an acre has been expended in reclaiming and improving the land, and thereafter annual proof will not be required.

§ 2521.6 Final proof.

(a) *General requirements.* The entryman, his assigns, or, in case of death, his heirs or devisees, are allowed 4 years from date of the entry within which to comply with the requirements of the law as to reclamation and cultivation of the land and to submit final proof, but final proof may be made and patent thereon issued as soon as there has been expended the sum of \$3 per acre in improving, reclaiming, and irrigating the land, and one-eighth of the entire area entered has been properly cultivated and irrigated, and when the requirements of the desert-land laws as to water rights and the construction of the necessary reservoirs, ditches, dams, etc., have been fully complied with.

(1) Where the proof establishes that the entryman cannot effect timely compliance with the law, the entry must be canceled unless statutory authority permits the granting of an extension of time or other relief.

(b) *Notice of intention to make final proof.* When an entryman has reclaimed the land and is ready to make final proof, he should apply to the manager for a notice of intention to make such proof. This notice must contain a complete description of the land, give the number of the entry and name of the claimant, and

must bear an endorsement specifically indicating the source of his water supply. If the proof is made by an assignee, his name, as well as that of the original entryman, should be stated. It must also show when, where and before whom the proof is to be made. Four witnesses may be named in this notice, two of whom must be used in making proof. Care should be exercised to select as witnesses persons who are familiar, from personal observation, with the land in question, and with what has been done by the claimant toward reclaiming and improving it. Care should also be taken to ascertain definitely the names and addresses of the proposed witnesses, so that they may correctly appear in the notice.

(c) *Publication of final-proof notice.* The manager will issue the usual notice for publication. This notice must be published once a week for five successive weeks in a newspaper of established character and general circulation published nearest the lands (see 38 L.D. 131; 43 L.D. 216). The claimant must pay the cost of the publication but it is the duty of managers to procure the publication of proper final-proof notices. The date fixed for the taking of the proof must be at least 30 days after the date of first publication. Proof of publication must be made by the statement of the publisher of the newspaper or by someone authorized to act for him.

(d) *Submission of final proof.* On the day set in the notice (or, in the case of accident or unavoidable delay, within 10 days thereafter), and at the place and before the officer designated, the claimant will appear with two of the witnesses named in the notice and make proof of the reclamation, cultivation, and improvement of the land. The testimony of each claimant should be taken separately and apart from and not within the hearing of either of his witnesses, and the testimony of each witness should be taken separately and apart from and not within the hearing of either the applicant or of any other witness, and both the applicant and each of the witnesses should be required to state, in and as a part of the final-proof testimony given by them, that they have given such testimony without any actual knowledge of any statement made in the testimony of either of the others. In every instance where, for any reason whatever, final proof is not submitted within the 4 years prescribed by law, or within the period of an extension granted for submitting such proof, a statement should be filed by claimant, with the proof, explaining the cause of delay.

The final proof may be made before any officer authorized to administer oaths in public land cases, as explained in § 1821.3-2 of this chapter.

(e) *Showing as to irrigation system.* The final proof must show specifically the source and volume of the water supply and how it was acquired and how it is maintained. The number, length, and carrying capacity of all ditches, canals, conduits, and other means to conduct water to and on each of the legal subdivisions must also be shown. The claimant and the witnesses must each state in full all that has been done in the matter of reclamation and improvements of the land, and must answer fully, of their own personal knowledge, all of the questions contained in the final-proof blanks. They must state plainly whether at any time they saw the land effectually irrigated, and the different dates on which they saw it irrigated should be specifically stated.

(f) *Showing as to lands irrigated and reclaimed.* While it is not required that all of the land shall have been actually irrigated at the time final proof is made, it is necessary that the one-eighth portion which is required to be cultivated shall also have been irrigated in a manner calculated to produce profitable results, considering the character of the land, the climate, and the kind of crops being grown. (Alonzo B. Cole, 38 L.D. 420.) The cultivation and irrigation of the one-eighth portion of the entire area entered may be had in a body on one legal subdivision or may be distributed over several subdivisions. The final proof must clearly show that all of the permanent main and lateral ditches, canals, conduits, and other means to conduct water necessary for the irrigation of all the irrigable land in the entry have been constructed so that water can be actually applied to the land as soon as it is ready for cultivation. If pumping be relied upon as the means of irrigation, the plant installed for that purpose must be of sufficient capacity to render available enough water for all the irrigable land. If there are any high points or any portions of the land which for any reason it is not practicable to irrigate, the nature, extent, and situation of such areas in each legal subdivision must be fully stated. If less than one-eighth of a smallest legal subdivision is practically susceptible of irrigation from claimant's source of water supply and no portion thereof is used as a necessary part of his irrigation scheme, such subdivision must be relinquished. (43 L.D. 269.)

(g) *Showing as to tillage of land.* As a rule, actual tillage of one-eighth of the land must be shown. It is not sufficient to show only that there has been a marked increase in the growth of grass or that grass sufficient to support stock has been produced on the land as a result of irrigation. If, however, on

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account of some peculiar climatic or soil conditions, no crops except grass can be successfully produced, or if actual tillage will destroy or injure the productive quality of the soil, the actual production of a crop of hay of merchantable value will be accepted as sufficient compliance with the requirements as to cultivation. (32 L.D. 456.) In such cases, however, the facts must be stated and the extent and value of the crop of hay must be shown, and, as before stated, that same was produced as a result of actual irrigation.

(h) *Showing as to water right.* (1)

In every case where the claimant's water right is founded upon contract or purchase the final proof must embrace evidence which clearly establishes the fact and legal sufficiency of that right. If claimant's ownership of such right has already been evidenced in connection with the original entry or some later proceeding, then the final proof must show his continued possession thereof. If the water right relied on is obtained under claimant's appropriation, the final proof, considered together with any evidence previously submitted in the matter, must show that the claimant has made such preliminary filings as are required by the laws of the State in which the land is located, and that he has also taken all other steps necessary under said laws to secure and perfect the claimed water right. In all cases the water right, however it be acquired, must entitle the claimant to the use of a sufficient supply of water to irrigate successfully all the irrigable land embraced in his entry, notwithstanding that the final proof need only show the actual irrigation of one-eighth of that area.

(2) In those States where entrymen have made applications for water rights and have been granted permits but where no final adjudication of the water right can be secured from the State authorities owing to delay in the adjudication of the watercourses or other delay for which the entrymen are in no way responsible, proof that the entrymen have done all that is required of them by the laws of the State, together with proof of actual irrigation of one-eighth of the land embraced in their entries, may be accepted. This modification of the rule that the claimant must furnish evidence of an absolute water right will apply only in those States where under the local laws it is impossible for the entryman to secure final evidence of title to his water right within the time allowed him to submit final proof on his entry, and in such cases the best evidence obtainable must be furnished. (35 L.D. 305.)

(3) It is a well-settled principle of law in all of the States in which the desert land acts are operative that actual application to a beneficial use of water appropriated from public streams measures the extent of the right to the water, and that failure to proceed with reasonable diligence to make such application to beneficial use within a reasonable

time constitutes an abandonment of the right. (Wiel's Water Rights in the Western States, sec. 172.) The final proof, therefore, must show that the claimant has exercised such diligence as will, if continued, under the operation of this rule result in his definitely securing a perfect right to the use of sufficient water for the permanent irrigation and reclamation of all of the irrigable land in his entry. To this end the proof must at least show that water which is being diverted from its natural course and claimed for the specific purpose of irrigating the lands embraced in claimant's entry, under a legal right acquired by virtue of his own or his grantor's compliance with the requirements of the State laws governing the appropriation of public waters, has actually been conducted through claimant's main ditches to and upon the land; that one-eighth of the land embraced in the entry has been actually irrigated and cultivated; that water has been brought to such a point on the land as to readily demonstrate that the entire irrigable area may be irrigated from the system; and that claimant is prepared to distribute the water so claimed over all of the irrigable land in each smallest legal subdivision in quantity sufficient for practical irrigation as soon as the land shall have been cleared or otherwise prepared for cultivation. The nature of the work necessary to be performed in and for the preparation for cultivation of such part of the land as has not been irrigated should be carefully indicated, and it should be shown that the said work of preparation is being prosecuted with such diligence as will permit of beneficial application of appropriated water within a reasonable time.

(4) Desert-land claimants should bear in mind that a water right and a water supply are not the same thing and that the two are not always or necessarily found together. Strictly speaking, a perfect and complete water right for irrigation purposes is confined to and limited by the area of land that has been irrigated with the water provided thereunder. Under the various State laws, however, an inchoate or incomplete right may be obtained which is capable of ripening into a perfect right if the water is applied to beneficial use with reasonable diligence. A person may have an apparent right of this kind for land which he has not irrigated, and which, moreover, he never can irrigate because of the lack of available water to satisfy his apparent right. Such an imperfect right, of course, cannot be viewed as meeting the requirements of the desert-land law which contemplates the eventual reclamation of all the irrigable land in the entry. Therefore, and with special reference to that portion of the irrigable land of an entry not required to be irrigated and cultivated, final proof an incomplete (though a perfect right will not be acceptable if its completion appears to be impossible because there is no actual supply of water available under the appropriation in question.

(i) *Showing where water supply is derived from irrigation project.* (1) Where the water right claimed in any final proof is derived from an irrigation project it must be shown that the entryman owns such an interest therein as entitles him to receive from the irrigation works of the project a supply of water sufficient for the proper irrigation of the land embraced in his entry. Investigations by field examiners as to the resources and reliability, including particularly the source and volume of the water supply, of all irrigation companies, associations, and districts through which desert-land entrymen seek to acquire water rights for the reclamation of their lands are made, and it is the purpose of the Bureau of Land Management to accept no annual or final proofs based upon such a water right until an investigation of the company in question has been made and report thereon approved. The information so acquired will be regarded as determining, at least tentatively, the amount of stock or interest which is necessary to give the entryman a right to a sufficient supply of water; but the entryman will be permitted to challenge the correctness of the report as to the facts alleged and the validity of its conclusions and to offer either with his final proof or subsequently such evidence as he can tending to support his contentions.

(2) Entrymen applying to make final proof are required to state the source of their water supply, and if water is to be obtained from the works of an irrigation company, association, or district the manager will endorse the name and address of the project upon the copy of the notice to be forwarded to the State Director. If the report on the company has been acted upon by the Bureau of Land Management and the proof submitted by claimant does not show that he owns the amount of stock or interest in the company found necessary for the area of land to be reclaimed, the manager will suspend the proof, advise the claimant of the requirements made by the Bureau of Land Management in connection with the report, and allow him 30 days within which to comply therewith or to make an affirmative showing in duplicate and apply for a hearing. In default of any action by him within the specified time the manager will reject the proof, subject to the usual right of appeal.

(j) *Final-proof expiration notice.* (1) Where final proof is not made within the period of 4 years, or within the period for which an extension of time has been granted, the claimant will be allowed 90 days in which to submit final proof. (44 L.D. 364.)

(2) Should no action be taken within the time allowed, the entry will be canceled. The 90 days provided for in this section must not be construed as an extension of time or as relieving the claimant from the necessity of explaining why the proof was not made within the statutory period or within such extensions of that period as have been specifically granted.

(k) *Requirements where township is suspended for resurvey.* No claimant will be required to submit final proof while the township embracing his entry is under suspension for the purpose of resurvey. (40 L.D. 223.) This also applies to annual proof. In computing the time when final proof on an entry so affected will become due the period between the date of suspension and the filing in the local office of the new plat of survey will be excluded. However, if the claimant so elects, he may submit final proof on such entry notwithstanding the suspension of the township.

§ 2521.7 Amendments.

(a) *To enlarge area of desert-land entry.* Amendment for the purpose of enlarging the area of a desert-land entry will be granted under and in the conditions and circumstances now to be stated.

(1) In any case where it is satisfactorily disclosed that entry was not made to embrace the full area which might lawfully have been included therein because of existing appropriations of all contiguous lands then appearing to be susceptible of irrigation through and by means of entryman's water supply, or of all such lands which seemed to be worthy of the expenditure requisite for that purpose, said lands having since been released from such appropriations.

(2) Where contiguous tracts have been omitted from entry because of entryman's belief, after a reasonably careful investigation, that they could not be reclaimed by means of the water supply available for use in that behalf, it having been subsequently discovered that reclamation thereof can be effectively accomplished by means of a changed plan or method of conserving or distributing such water supply.

(3) Where, at the time of entry, the entryman announced, in his declaration, his purpose to procure the cancellation, through contest or relinquishment, of an entry embracing lands contiguous to those entered by him, and thereafter to seek amendment of his entry in such manner as to embrace all or some portion of the lands so discharged from entry.

(b) *Conditions governing amendments in exercise of equitable powers; amendments involving homestead and desert-land entries of adjoining lands.* Applications for amendment presented pursuant to § 1821.6-5(a) of this chapter will not be granted, except where at least one legal subdivision of the lands originally entered is retained in the amended entry, and any such application must be submitted within 1 year next after discovery by the entryman of the existence of the conditions relied upon as entitling him to the relief he seeks, or within 1 year succeeding the date on which, by the exercise of reasonable diligence, the existence of such conditions might have been discovered: *Provided, nevertheless,* That where an applicant for amendment has made both homestead and desert land entries for contiguous lands, amendment may be granted whereby to transfer the desert-land entry, in its

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entirety, to the land covered by the homestead entry, and the homestead entry, in its entirety, to the land covered by the desert-land entry, or whereby to enlarge the desert-land entry in such manner as that it will include the whole or some portion of the lands embraced in the homestead entry, sufficient equitable reason for such enlargement being exhibited, and the area of the enlarged entry in no case exceeding 320 acres. Applications for such amendments may be made under §§ 1821.6-1 to 1821.6-5 of this chapter and on the prescribed form, in so far as the same are applicable. A supplemental statement should also be furnished, if necessary, to show the facts.

(c) *Evidence of water-right to accompany application to amend desert-land entry.* Application to amend desert-land entries by the addition of a new and enlarged area or by transferring the entry to lands not originally selected for entry must be accompanied by evidence of applicant's right to the use of water sufficient for the adequate irrigation of said enlarged area or of the lands to which entry is to be transferred. Such evidence must be in the form prescribed by § 2521.2.

§ 2521.8 Contests.

(a) Contests may be initiated by any person seeking to acquire title to or claiming an interest in the land involved against a party to any desert-land entry because of priority of claim or for any sufficient cause affecting the legality or validity of the claim not shown by the records of the Bureau of Land Management.

(b) Successful contestants will be allowed a preference right of entry for 30 days after notice of the cancellation of the contested entry, in the same manner as in homestead cases, and the manager will give the same notice and is entitled to the same fee for notice as in other cases.

§ 2521.9 Relinquishments.

A desert-land entry may be relinquished at any time by the party owning the same. Conditional relinquishments will not be accepted.

Subpart 2522—Extensions of Time To Make Final Proof

§ 2522.1 General acts authorizing extensions of time.

(a) There are five general acts of Congress which authorize the allowance, under certain conditions, of an extension of time for the submission of final proof by a desert-land claimant. Said acts are the following: June 27, 1906 (Sec. 5, 34 Stat. 520; 43 U.S.C. 448); March 28, 1908 (Sec. 3, 35 Stat. 52; 43 U.S.C. 333); April 30, 1912 (37 Stat. 106; 43 U.S.C. 334); March 4, 1915 (Sec. 5, 38 Stat. 1161; 43 U.S.C. 335); and February 25, 1925 (43 Stat. 982; 43 U.S.C. 336). The act of June 27, 1906, is applicable only to entries embraced within the exterior limits of some withdrawal or irrigation project under the Reclamation Act of June 17, 1902 (32 Stat. 388).

(b) In addition to the acts cited in this section, extensions of time for making desert-land proofs were authorized by the acts of June 16, 1933 (48 Stat. 274; 43 U.S.C. 256a), July 26, 1935 (49 Stat. 504; 43 U.S.C. 256a), and June 16, 1937 (50 Stat. 303; 43 U.S.C. 256a). Such acts affect only proofs becoming due on or before December 31, 1936. For that reason, the regulations which were issued thereunder have not been included in this chapter.

§ 2522.2 Procedure on applications for extensions of time, where contest is pending.

(a) A pending contest against a desert-land entry will not prevent the allowance of an application for extension of time, where the contest affidavit does not charge facts tending to overcome the prima facie showing of right to such extension. (41 L.D. 603.)

(b) Consideration of an application for extension of time will not be deferred because of the pendency of a contest against the entry in question unless the contest charges be sufficient, if proven, to negative the right of the entryman to an extension of time for making final proof. If the contest charges be insufficient, the application for extension, where regular in all respects, will be allowed and the contest dismissed subject to the right of appeal, but without prejudice to the contestant's right to amend his charges.

§ 2522.3 Act of March 28, 1908.

Under the provisions of the act of March 28, 1908 (35 Stat. 52; 43 U.S.C. 333), the period of 4 years may be extended, in the discretion of the authorized officer, for an additional period not exceeding 3 years, if, by reason of some unavoidable delay in the construction of the irrigating works intended to convey water to the land, the entryman is unable to make proof of reclamation and cultivation required within the 4 years. This does not mean that the period within which proof may be made will be extended as a matter of course for 3 years. Applications for extension under said act will not be granted unless it be clearly shown that the failure to reclaim and cultivate the land within the regular period of 4 years was due to no fault on the part of the entryman but to some unavoidable delay in the construction of the irrigation works for which he was not responsible and could not have readily foreseen. (37 L.D. 332.) It must also appear that he has complied with the law as to annual expenditures and proof thereof.

§ 2522.4 Act of April 30, 1912.

(a) Under the provisions of the act of April 30, 1912 (37 Stat. 106; 43 U.S.C. 334), a further extension of time may be granted for submitting final proof, not exceeding 3 years, where it is shown that, because of some unavoidable delay in the construction of irrigation works intended to convey water to the land embraced in his entry, the claimant is, without fault on his part, unable to make proof of the

reclamation and cultivation of said lands within the time limited therefor, but such further extension cannot be granted for a period of more than 3 years nor affect contests initiated for a valid existing reason.

(b) An entryman who has complied with the law as to annual expenditures and proof thereof and who desires to make application for extension of time under the provisions of the act of March 28, 1908, should file with the manager a statement setting forth fully the facts, showing how and why he has been prevented from making final proof of reclamation and cultivation within the regular period. This statement must be corroborated by two witnesses who have personal knowledge of the facts.

§ 2522.5 Act of February 25, 1925.

Applications for further extension of time under the act of April 30, 1912, and February 25, 1925 (43 Stat. 982; 43 U.S.C. 336), may be made in the same manner, and the same procedure will be followed with respect to such applications as under the act of March 28, 1908, and the act of March 4, 1915 (38 Stat. 1161; 43 U.S.C. 335), as amended.

§ 2522.6 Service fees.

All applications for extension of time made under the acts of March 28, 1908, April 30, 1912, or February 25, 1925, must be accompanied by an application service fee of \$10 which will not be returnable.

Subpart 2523—Payments

§ 2523.1 Collection of purchase money and fees; issuance of final certificate.

(a) At the time of making final proof the claimant must pay to the manager the sum of \$1 per acre for each acre of land upon which proof is made. This, together with the 25 cents per acre paid at the time of making the original entry, will amount to \$1.25 per acre, which is the price to be paid for all lands entered under the desert land law.

(b) If the entryman is dead and proof is made by anyone for the heirs, no will being suggested in the record, the final certificate should issue to the heirs generally, without naming them; if by any one for the heirs or devisees, final certificate should issue in like manner to the heirs or devisees.

(c) When final proof is made on an entry made prior to the act of March 28, 1908 (35 Stat. 52; 43 U.S.C. 324, 326, 333), for unsurveyed land, if the land is still unsurveyed and such proof is satisfactory, the manager will approve same without collecting the final payment of \$1 an acre and without issuing final certificate. Fees for reducing the final-proof testimony to writing should be collected and receipt issued therefor if the proof is taken before the manager. As soon as the plat or plats of any township or townships previously unsurveyed are filed in the land office the manager will examine his records for the purpose of determining, if possible, whether or not,

prior to the passage of the act of March 28, 1908, any desert-land entry of unsurveyed land was allowed in the locality covered by the said plats; and if any such entries are found intact, he will call upon the claimants thereof to file a statement of adjustment, corroborated by two witnesses, giving the correct description, in accordance with the survey of the lands embraced in their respective entries.

(d) If the final proof has been made upon any desert-land entry so adjusted and the records show that such proof has been found satisfactory and no conflicts or other objections are apparent, the manager will allow claimant 60 days within which to make final payment for the land.

§ 2523.2 Amounts to be paid.

No fees or commissions are required of persons making entry under the desert land laws except such fees as are paid to the officers for taking the affidavits and proofs. Unless the entry be perfected under the act of February 14, 1934 (48 Stat. 349; 43 U.S.C. 339), the only payments made to the Government are the original payment of 25 cents an acre at the time of making the application and the final payment of \$1 an acre, to be paid at the time of making the final proof. On all final proofs made before the manager, or before any other officer of the Bureau of Land Management authorized to take proofs, the claimant must pay to the manager the costs of reducing the testimony to writing, as determined by the manager. No proof shall be accepted or approved until all charges have been paid.

Subpart 2524—Desert-Land Entries Within a Reclamation Project

§ 2524.1 Conditions excusing entrymen from compliance with the desert-land laws.

By section 5 of the act of June 27, 1906 (34 Stat. 520, 43 U.S.C. 448), it is provided that any desert-land entryman who has been or may be directly or indirectly hindered or prevented from making improvements on or from reclaiming the lands embraced in his entry, by reason of the fact that such lands have been embraced within the exterior limits of any withdrawal under the Reclamation Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 372 et seq.) will be excused during the continuance of such hindrance from complying with the provisions of the desert-land laws.

(b) *Persons excused from compliance with the desert-land laws.* Section 5 of the act of June 27, 1906, applies only to persons who have been, directly or indirectly, delayed or prevented, by the creation of any reclamation project, or by any withdrawal of public lands under the reclamation law, from improving or reclaiming the lands covered by their entries.

(c) *Statement required to warrant excuse.* No entryman will be excused under this act from a compliance with all of the requirements of the desert-land law until he has filed in the land office for the district in which his lands are situated a statement showing in detail all of the facts upon which he claims the right to be excused. This statement must show when the hindrance began, the nature, character, and extent of the same, and it must be corroborated by two disinterested persons, who can testify from their own personal knowledge.

§ 2524.2 Annual proof.

(a) *Extension of time.* Inasmuch as entrymen are allowed 1 year after entry in which to submit the first annual proof of expenditures for the purpose of improving and reclaiming the land entered by them, the privileges of the act of June 27, 1906, are not necessary in connection with annual proofs until the expiration of the years in which such proofs are due. Therefore, if at the time that annual proof is due it can not be made, on account of hindrance or delay occasioned by a withdrawal of the land for the purpose indicated in the act, the applicant will file his statement explaining the delay. As a rule, however, annual proofs may be made, notwithstanding the withdrawal of the land, because expenditures for various kinds of improvements are allowed as satisfactory annual proofs. Therefore an extension of time for making annual proof will not be granted unless it is made clearly to appear that the entryman has been delayed or prevented by the withdrawal from making the required improvements; and, unless he has been so hindered or prevented from making the required improvements, no application for extension of time for making final proof will be granted until after all the yearly proofs have been made.

(b) *When application for extension of time should be filed.* An entryman will not need to invoke the privileges of the act of June 27, 1906, in connection with final proof until such final proof is due, and if at that time he is unable to make the final proof of reclamation and cultivation, as required by law, and such inability is due, directly or indirectly, to the withdrawal of the land on account of a reclamation project, the statement explaining the hindrance and delay should be filed in order that the entryman may be excused for such failure.

§ 2524.3 Time extended to make final proof.

When the time for submitting final proof has arrived and the entryman is unable, by reason of the withdrawal

of the land, to make such proof, upon proper showing, he will be excused and the time during which it is shown that he has been hindered or delayed on account of the withdrawal of the land will not be computed in determining the time within which final proof must be made.

§ 2524.4 Beginning of period for compliance with the law.

If, after investigation the irrigation project has been or may be abandoned by the Government, the time for compliance with the law by the entryman shall begin to run from the date of notice of such abandonment of the project and of the restoration to the public domain of the lands which had been withdrawn in connection with the project. If, however, the reclamation project is carried to completion by the Government and a water supply has been made available for the land embraced in such desert-land entry, the entryman must, if he depends on the Government's project for his water supply, comply with all provisions of the reclamation law, and must under the act of June 6, 1930 (46 Stat. 562; 43 U.S.C. 448), relinquish or assign in not less than 2 years after notice all the land embraced in his entry in excess of one farm unit, and upon making final proof and complying with the regulations of the Department applicable to the remainder of the irrigable land of the project and with the terms of payment prescribed in the reclamation law, he shall be entitled to patent as to such retained farm unit, and final water-right certificate containing lien as provided for by the act of August 9, 1912 (37 Stat. 265; 43 U.S.C. 541-546), act of August 26, 1912 (37 Stat. 610; 43 U.S.C. 547), and the act of February 15, 1917 (39 Stat. 920; 43 U.S.C. 541), or to patent without a lien if provision therefor shall have been made as provided for by the act of May 15, 1922 (42 Stat. 541; 43 U.S.C. 511-513).

§ 2524.5 Assignment of desert-land entries in whole or in part.

(a) *Act of July 24, 1912.* Under the act of July 24, 1912 (37 Stat. 200; 43 U.S.C. 449), desert-land entries covering lands within the exterior limits of a Government reclamation project may be assigned in whole or in part, even though water-right application has been filed for the land in connection with the Government reclamation project, or application for an extension of time in which to submit proof on the entry has been submitted, under the act of June 27, 1906 (34 Stat. 520; 43 U.S.C. 502), amended by the act of June 6, 1930 (46 Stat. 562; 43 U.S.C. 448), requiring reduction of the area of the entry to one farm unit.

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(b) *Amendment of farm-unit plat after partial assignment.* Where it is desired to assign part of a desert-land entry which has been designated as a farm unit, application for the amendment of the farm-unit plat should be filed with the official in charge of the project, as in the case of assignments of homestead entries. (See § 2515.5(a) (3) to (5).) The same disposition of amendatory diagrams will be made and the same procedure followed as provided for assignments of homestead entries.

§ 2524.6 Desert-land entryman may proceed independently of Government irrigation.

Special attention is called to the fact that nothing contained in the act of June 27, 1906 (34 Stat. 520; 43 U.S.C. 448), shall be construed to mean that a desert-land entryman who owns a water right and reclaims the land embraced in his entry must accept the conditions of the reclamation law, but he may proceed independently of the Government's plan of irrigation and acquire title to the land embraced in his desert-land entry by means of his own system of irrigation.

§ 2524.7 Disposal of lands in excess of 160 acres.

Desert-land entrymen within exterior boundaries of a reclamation project who expect to secure water from the Government must relinquish or assign all of the lands embraced in their entries in excess of one farm unit in not less than 2 years after notice through the land office, must reclaim one-half of the irrigable area covered by their water right in the same manner as private owners of land irrigated under a reclamation project, and also comply with the regulations of the Department applicable to the remainder of the irrigable land of the project.

§ 2524.8 Cancellation of entries for non-payment of water-right charges.

All homestead and desert-land entrymen holding land under the reclamation law must, in addition to paying the water-right charges, reclaim the land as required by the reclamation law. Homestead entrymen must reside upon, cultivate, and improve the lands embraced in their entries for not less than the period required by the homestead laws. Desert-land entrymen must comply with the provisions of the desert-land laws as amended by the reclamation law. Failure to make payment of any water-right charges due for more than 1 year, will render the entry subject to cancellation and the money paid subject to forfeiture, whether water-right application has been made or not.

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This circular replaces Circulars Nos. 1991, 2011, 2103 & 2227.



IN REPLY REFER TO:

United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS INTERIOR BOARD OF LAND APPEALS

4015 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22203



29 1990

NORMA C. JOLLEY

IBLA 88-522

Decided March 12, 1990

Appeal from a decision of the Boise, Idaho, District Office, Bureau of Land Management, rejecting desert land entry application I-6474.

Set aside and remanded.

1. Desert Land Entry: Applications

A decision to reject a desert land entry application because the lands identified in the entry cannot be farmed as an economically feasible operating unit will be set aside and the case remanded where there is no support in the record for the soil classification information utilized by BLM in its computer analysis which formed the basis for its decision, and where utilization of the soil classification information for which there is record support dramatically favors the applicant's position.

APPEARANCES: Rudy Barchas, Esq., Boise, Idaho, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Norma C. Jolley has appealed from a decision of the Boise, Idaho, District Office, Bureau of Land Management (BLM), dated June 6, 1988, rejecting her desert land entry (DLE) application I-6474 for 320 acres described as the S $\frac{1}{2}$ SW $\frac{1}{4}$ sec. 28 and the W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ sec. 33, T. 7 S., R. 5 E., Boise Meridian, Idaho. The rejection was based on BLM's determination, in accordance with 43 CFR 2520.0-8(d)(3), that it would be impractical to farm the lands sought in the entry as an economically feasible operating unit.

These same lands had been the subject of a DLE application filed in 1968 by appellant's husband, Tony Jolley. BLM classified the lands as suitable for desert land entry, and on December 19, 1968, it allowed Tony Jolley's application. Correspondence in the record indicates that because of illness, Tony Jolley relinquished the entry in 1972 so that his wife could apply for the land, which she did on December 27, 1972.

In her application, appellant proposed to cultivate 160 acres each of potatoes and grain using a sprinkler system with water pumped from

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underground well to be drilled on the land. She estimated a net income from the land of \$93,990.

In a memorandum to the file dated September 14, 1977, a BLM realty specialist reported that in 1976 a soil survey had been conducted on the lands described in appellant's application by a former Soil Conservation Service (SCS) soil scientist, and that the survey showed that the lands consisted of the following soil types: 6.53 acres of class II soil, 293.87 acres of class III soil, and 9.80 acres each, of class VI and VII soils. The BLM realty specialist also stated that (1) based on the soil survey, BLM conducted an economic analysis determining that a farming operation would be marginal, having an annual profit of \$4,038; (2) the analysis was sent to the Denver Service Center for review and comment; (3) the Denver Service Center commented that the analysis had not utilized updated farm costs; (4) employing those costs resulted in a net annual loss of \$1,680.29; (5) Tony Jolley submitted an economic feasibility report for I-6474, which contained a soil classification completed by a soil scientist showing 220 acres of class I soil, 70 acres of class II soil, and 30 acres of class VI soil, and which indicated an annual net return of \$24,489.72. The BLM realty specialist concluded his memorandum by recommending that action on the application be postponed pending further development of the economic analysis procedure by the Denver Service Center.

In a letter to appellant dated November 14, 1980, BLM stated that it was commencing analysis of DLE applications and that

[b]ecause of the uncertain farm economic outlook and the current shortage of power for irrigation purposes, and because it is recognized that only the "best" lands (those with mostly Class I and Class II soils along with low water lifts) might be economically sound for new development, these "best" lands will be used as a guide for our initial application processing effort.

BLM attached a sheet of questions, including whether the applicant was still interested in pursuing the application.

On December 11, 1980, appellant filed her response indicating she desired to pursue her application; that the land contained "mostly class I soil"; and that she had an approved water right, power, and fuel. She stated also that her water "lift" was "only 150 feet from an artesian strata of very good water." 1/

1/ The file contains Idaho State Department of Water Resources Permit No. 51-7015, approved Dec. 6, 1968, allowing the Jolleys to appropriate subterranean water by means of an electric turbine pump and sprinkler system. The Idaho State Department of Water Resources twice extended the time for the Jolleys "to submit proof of beneficial use of water." The last extension allowed until Dec. 1, 1983. The file does not disclose that proof was ever submitted or the present status of the Jolleys' right to appropriate water.

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On May 18, 1981, appellant filed a revised plan of development for her application in which she proposed to devote 100 acres each to corn and grain, and 120 acres to potatoes. She projected a net annual income of \$148,198.76.

Thereafter, BLM undertook a new economic analysis to determine the practicality of farming the lands described in appellant's application. BLM sought to determine if the land applied for constituted an economically feasible operating unit in accordance with 43 CFR 2520.0-8(d) (3). The analysis consisted of running figures for projected costs, revenues, and other variables for a standardized crop distribution through a computer model developed by BLM and the Idaho Department of Water Resources. BLM stated that the analysis utilized data obtained from appellant's application, from the University of Idaho, local extension agents, fertilizer companies, and local bank agricultural specialists, among others.

In its computer analysis of I-6474, dated March 1, 1988, BLM utilized a figure of 310 farmable acres with a soil classification of 3 percent class III and 97 percent class IV soils. The analysis concluded that there would be an annual net loss from the operation of \$73,444.20.

The case record shows that on March 15, 1988, BLM ran a second computer analysis of I-6474, substituting a figure of 290 farmable acres with a soil classification of 3 percent class II and 97 percent class III soils. 2/ That analysis concluded that there would be an annual net loss of \$5,863.07.

By notice dated March 22, 1988, BLM informed appellant that as a result of its economic analysis it had determined that appellant's operation would result in an annual net loss of \$73,444.20, and that based on its analysis her proposals did not meet the requirements of 43 CFR 2520.0-8(d). However, BLM allowed her 30 days within which to present new or additional information to dispute the results of the analysis. No mention was made in the decision of the results of the second computer run.

On April 13, 1988, Tony Jolley visited the BLM office and asked for 30 days to prepare a response to BLM's analysis. BLM granted that request and although no information was filed directly by appellant or her husband, on May 12, 1988, the Owyhee County Extension Agricultural Agent, University of Idaho Cooperative Extension Service, submitted information regarding crop yield data for sugar beets, barley, winter wheat, and potatoes. He utilized county figures for the years 1985 and 1986 for the first three crops and for the years 1983 and 1984 for potatoes. The estimated yields utilized by BLM were lower for all those crops and for sugar beets, barley, and winter wheat significantly lower than those submitted by the agent, who, in his cover letter accompanying the data, stated, "I believe the indicated yields are reasonable for the land Mr. Jolly wishes to have

2/ These percentages approximate the acreage totals from the 1976 soil classification, although the total acres of class II and III soils from the 1976 survey were 300.40 acres. In the second computer run, BLM entered a figure of 290 acres into the computer.

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evaluated." 3/ In addition, he also presented a 1987 Southwestern Idaho Crop Enterprise Budget for alfalfa hay production. That budget showed estimated production of 5 tons per acre. BLM's estimate was 4.55 tons per acre. On the budget the agent noted, "This is a conservative estimate for the area in question." 4/

In its June 6, 1988, decision, BLM rejected appellant's application explaining that the source of the data received from the University Extension Service had been examined during the preparation of BLM's feasibility analysis, and that this data was not used because it represented county averages, whereas the data in BLM's computer model was keyed to soil types. The decision further stated:

The county averages are based on yields from soils that are generally better than those available for Desert Land Applications. Therefore, we used current soils data on each Desert Land Application and the yield figures appropriate to them.

Recently, new information was inserted in the computer model regarding production costs. We reran the analysis for your application to see if the results would be more favorable. There was an improvement, but the analysis still shows a loss of \$53,245.

BLM concluded that the proposed entry would not be an economic farm unit and that "the lands applied for will not be classified as suitable for entry." 5/

Appellant argues on appeal that the land was classified as suitable for farming; farming is economically feasible; BLM's expense figures are "disproportionately high"; and its production and income figures are "exceedingly low." Appellant also asserts that the land applied for is near similar land which is being successfully farmed.

[1] Section 1 of the Desert Land Entry Act of 1877, as amended, 43 U.S.C. § 321 (1982), provides for the patenting of tracts of desert land not exceeding 320 acres to persons who make satisfactory proof of reclamation of the land and pay the required purchase price. The statute states

3/ Those figures are as follows:

<u>CROP</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>BLM</u>
SUGAR BEETS (tons)			24.6	29.6	12.39
BARLEY (bu)			94.0	103.9	60.90
WINTER WHEAT (bu)			110.4	99.2	56.20
POTATOES (cwt)	336	330			302.25

4/ He also provided information concerning yields for alfalfa hay establishment and dry beans.

5/ Despite this statement, there is no evidence in the record that the 1968 classification of this land as suitable for desert land entry was ever revoked. Without a revocation of that classification, the land remains open to desert land entry.

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deteriorate the physical or chemical properties of the soil over a 15 to 20-year period. Applicant should submit testimonies/ expert opinions from SCS, county agents, or other experts with credentials acceptable to IDWR [Idaho Department of Water Resources] and BLM on the reasonableness and sustainability of their proposed rotation. [Emphasis in original.]

109 IBLA at 239-40. The Board also identified cost-saving elements inherent in the applicant's proposal that had not been considered by BLM, as well as noting the conflicting appraisals of the soils on the tract and the failure of the record to disclose "the limitation the soils on this tract pose for the crops appellant proposes to plant or of the productivity of those crops on these soils." 109 IBLA at 240.

As we have noted in our decisions involving desert land entries, the ultimate burden of establishing the economic feasibility of farming the land rests with the applicant. G. V. (Pete) Cope, 109 IBLA at 240, Frederic C. Tullis, 102 IBLA at 223. Although appellant's statement of reasons consists of conclusory assertions and is unaccompanied by any further data to dispute the data utilized by BLM, the present record does not support BLM's decision.

In the decision under appeal, in which it dismisses the viability of the crop yield data submitted by the University Extension Service, BLM states that its computer model is "keyed to soil type." Although BLM asserts that it utilized "current soil data" in its computer analysis, the only soil classification information in the case file is the results of the 1976 classification set forth in the September 14, 1977, memorandum to the file. That classification showed the vast majority of soil in I-6474 to be of class III, and when BLM ran its model using 97 percent class III soils, it showed an annual net loss of \$5,863.07. However, BLM did not employ that soil data in the computer analysis cited as the basis for rejection of appellant's application; it used 3 percent class III and 97 percent class IV. Nowhere in the record is there any explanation of the reasons for such a change. 6/

Clearly, such a change is critical in this case. When BLM first used its revised soil classification data in the computer, it resulted in an annual net loss for the operation of \$73,444.20. However, utilizing that same information, but inserting new production cost information in its computer model resulted in a reduction in the annual net loss of more than \$20,000 to \$53,245. If BLM had applied the new production cost figures to the model, while retaining the original soil classification data,

6/ Nor does the record contain any analysis by BLM of the soils information included in the undated "Economics and Project Feasibility Report," submitted by appellant and apparently prepared by one Adrian Nelson who represented that he was a soil scientist. That information, including a map, showed 220 acres of class I soil, 70 acres of class II soil and 30 acres of class VI soil.

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that the entered tracts of land shall be "managed satisfactorily as an economic unit." 43 U.S.C. § 321 (1982). Accordingly, the applicable regulation, 43 CFR 2520.0-8(d)(3), provides that, in determining whether to allow a desert land entry, the authorized BLM officer will take into account various factors, including the "practicability of farming the lands as an economically feasible operating unit."

The question of economic feasibility, according to the BLM Manual at 2520.0-6(A)(4) (Oct. 21, 1974), quoted in Sally Ann Lana Henderson, 107 IBLA 193, 195 (1989), is whether the land

can be developed into a profitable operation on a "permanent" basis. The value of the increased production of a given tract of land must be sufficient to provide a profit after all costs have been deducted. This profit must be large enough to ensure the expectation of continued cultivation. * * * The concern is with the stability of the farming operation.

Where the evidence has established that the land sought cannot be farmed as an "economically feasible operating unit," we have affirmed BLM's rejection of a desert land entry based on that rationale. Id.; see Roger K. Ogden, 77 IBLA 4, 90 I.D. 481 (1983). However, in circumstances where BLM's decisions have been based on the use of computer analysis as an aid in projecting economic viability, we have stated that BLM must also "ensure that its decision is supported by a rational basis and that such basis is stated in the written decision and demonstrated in the record." Roger K. Ogden, supra at 7-8, 90 I.D. at 483-84; see David V. Udy, 81 IBLA 58, 60-61 (1984).

Also, the Board has set aside BLM decisions rejecting DLE applications where review of the record has shown that BLM failed to give proper consideration to the specific plans for development presented by the applicant. G. V. (Pete) Cope, 109 IBLA 226 (1989); Leroy R. Davis, 107 IBLA 204 (1989); Frederic C. Tullis, 102 IBLA 215 (1988). In Leroy R. Davis, the Board criticized BLM for relying "totally on its computer analysis to reach its conclusion that the application is unacceptable because the land cannot be farmed as an economically feasible operating unit," without taking into consideration "the specific crops appellant proposed to cultivate." 107 IBLA at 208. In G. V. (Pete) Cope, the Board stated that BLM relied "too heavily on its computer model in arriving at its decision." 109 IBLA at 236. In that case, we found that BLM should have considered the crop rotation proposed by the applicant, citing Appendix 1 of the Idaho State Office User's Manual H-2520-1, Economic Feasibility Analysis of Desert Land Applications, which stated that

"[i]f the application is found not to be feasible, analyze the application using the rotation proposed by the applicant if such rotation is determined to be reasonable and suitable [sic]." 16/

16/ "Reasonableness means that crops used in such rotation have been proven to be adaptable to the soil and the climate in the project area. Sustainable [not "suitable"] means that such proposed rotation will not excessively mine the fertility of the soils, promote erosion, stimulate plant disease build-up, or

MAILED
MAY 18 1992

appellant's operation would apparently have shown a profit. We cannot affirm BLM's decision on the basis of the present record.

Where an applicant for a DLE has waited more than 15 years for adjudication of the DLE application, it is incumbent on BLM to evaluate all aspects of the applicant's proposal, and the record must support that adjudication upon challenge and review by this Board. Since BLM's decision is not supportable on this record, it must be set aside and remanded. On remand, BLM must determine the proper soil classification for the land in question and that classification must be supported by record documentation. 7/ If, on the basis of BLM's computer analysis with that information, BLM determines that the operation is not feasible, the record must reflect that BLM has taken the action required by Appendix 1 of the Idaho State Office User's Manual H-2520-1, as quoted, supra, from G. V. (Pete) Cope.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is set aside and remanded for action consistent with this opinion and issuance of a new decision.

Bruce R. Harris

Bruce R. Harris
Administrative Judge

I concur:

C. Randall Grant, Jr.

C. Randall Grant, Jr.
Administrative Judge

7/ The file contains an unsigned, undated note attached to a computer data worksheet dated Jan. 14, 1988, setting forth the soil classification of I-6474 as class III--9 acres and class IV--211 acres. That note states "Tony has already been to the W.O. [BLM Washington Office] with this better explain the soil difference (classification) from the 1977 (John Jorenby Memo) [Sept. 14, 1977, memorandum] and now." This warning was not heeded.

MICROFILMED
MAY 18 1992



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

April 30, 1992

Tony and Norma Jolley
Route 1B Box 174
Bruneau, ID 83604

Re: Permit No. 51-07015

Dear Mr Jolley:

The Department is in receipt of your request for extension of time filed in connection with the above referenced permit.

Since your reason for requesting the extension is the litigation involved with the BLM, and since you indicate the case was finally settled in October of 1991, I would like to request a copy of the dated settlement agreement.

As soon as you have forwarded a copy of the agreement, I will continue processing your request for an extension of time.

If you have any questions or if I can be of any further assistance, please feel free to contact me.

Sincerely,

Karen L. Gustafson
Karen L. Gustafson
Secretary/Records Manager

MICROFILMED

MAY 18 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

September, 25, 1990

RE: Permit No. 51-7015

Tony and Norma Jolley
Rt. 1 B Box 174
Bruneau, ID 83604

Dear Permit Holder(s):

Enclosed is an order that authorizes you to continue development under Permit to Appropriate Water No. 51-7015. Please note in condition #1., page five of the order that you must develop your system and beneficially use the water prior to October 1, 1992. Failure to beneficially use the water before October 1, 1992, could result in a loss of your water right permit.

Also enclosed is a copy of the approved extension of time request. Please be advised that the department has granted this extension of time based on due diligence. It is important that you work diligently toward the completion of this project during the construction period allowed. The department may not be able to grant additional requests.

Please note the conditions of approval contained in the continuation order. You must comply with the conditions to fully complete beneficial use.

Sincerely,

TIM LUKE
Sr. Water Resource Agent

TL:blm

Enclosures

MICROFILMED

OCT 19 1990

STAFF REVIEW SHEET - EXTENSION OF TIME

Permit No. 51-7015Reviewed by [Signature]Date 9-7-90

BASIC INFORMATION

y Date stamp received
y Extension received timely (not too early not too late)
y Fee received and receipted
y Name and signature same as permit
N Address change

BASIS FOR EXTENSION REQUEST

_____ Has adequate work been completed to demonstrate due diligence?
_____ Has the cost incurred been adequate to demonstrate an intent to complete the project?
_____ Has the permit been involved in litigation?
a. Swan Falls _____ Dismissed from Swan Falls _____
Other _____ Identify _____
b. Is supporting documentation needed to complete the file? _____
Requested _____
c. Calculate the period of delay

Date litigation completed _____

Date litigation began _____

Total period of delay = _____

Present proof due date + _____

NEW PROOF DUE DATE = _____

4 Is delay by a government agency?
Is supporting documentation needed to complete the file? _____
Requested? _____

ACTION TAKEN

*Project is under BLM's Desert
Land Entry. Allow 2 years based on
delay by gov. agency*

[Signature] Reinstate Date extension received _____ = _____
Proof due date _____ = -
No. of days late _____ = _____
Priority date _____ = +
ADJUSTED PRIORITY DATE _____ = _____

DATE ENTRY

_____ Change proof due date _____ Address change
_____ Priority date change

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
State Office
1301 North Orchard St.

Statehouse Mail
Boise, Idaho 83720
(208) 327-7900

JULY 24, 1990

Owyhee Avalanche
P.O. Box 97
Homedale, ID 83628

Dear Legal Dept.:

Enclosed you will find legal notices which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. 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. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before AUGUST 20, 1990.

Yours truly,

SHARLA CURTIS
Secretary

Encl.

MICROFILMED

OCT 19 1990

NOTICE OF EXISTING WATER RIGHT PERMIT

Presently recorded as follows:

51-07015

~~JOLLEY, TONY J.~~
JOLLEY, TONY J.
JOLLEY, NORMA C.
Rt. B Box 174
BEAUNE, ID 83604
Source: GROUNDWATER

Diversión Pt: NWNW Sec 33 T 07S R 05E

Use: IRRIGATION (6.400 CFS)
STOCKWATER (.040 CFS)
DOMESTIC (.040 CFS)
Total Diversión: (6.400 CFS)

Priority: 3/13/ 1968

In: T07S R05E S28	SWSW	SESW		
S33	NWNE	SWNE	NENW	NWNW
	SWNW	SENW		

320.0 ACRES TOTAL

Permits not developed by July 1, 1985, are being reprocessed in compliance with Section 42-203D, Idaho Code. Protests against the continuance of permits must be filled with the Director, Dept. of Water Resources, Statehouse Mail, Boise, Idaho 83720 on or before AUGUST 20, 1990. Protests must be based on the public interest criteria of Section 42-203C, Idaho Code, only.

R. KEITH HIGGINSON, Director

Published 8/ 1/1990 & 8/ 8/1990

MICROFILMED

OCT 19 1990

MEMORANDUM

TO: FILE/PERMIT NO. 51-7015

FROM: TIM LUKE

RE: SWAN FALLS PROCESSING/RULE 4,5,3. INFORMATION

DATE: 7-16-90

=====

Although Rule 4,5,3 states that additional information must be submitted for permits being reprocessed for trust water, the information submitted is relevant only to the review criteria of Section 42-203A(5)(a), which is applicable only to applications, and not permits. It is therefore questionable as to whether the information should be requested for permits being reprocessed for trust water.

Due to the above analysis, which resulted from discussions with Gary Spackman, I recommend that the Department waive the additional information requirements for this permit.

MICROFILMED

OCT 19 1990

- Post Water
Re-Ad Fee

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRUST WATER INFORMATION QUESTIONNAIRE

APPLICATION NO. 51-7015

INSTRUCTIONS: IF YOU ARE NOT INTERESTED IN HAVING THE APPLICATION PROCESSED, PLEASE COMPLETE AND RETURN THE ENCLOSED WITHDRAWAL FORM.

IF YOU WISH TO HAVE THE APPLICATION PROCESSED, PLEASE ANSWER THE FOLLOWING QUESTIONS AS THOROUGHLY AS POSSIBLE. FAILURE TO RETURN EITHER THE WITHDRAWAL FORM OR QUESTIONNAIRE IS CAUSE FOR THE DEPARTMENT TO VOID THE APPLICATION.

1a. Are you the current owner of the land or place of use described under this application? Yes _____ No DLE

b. If you are not the propoerty owner, please describe the arrangement enabling you to develop the proposed project.

2a. Has the source of water listed on this application been used to irrigate any of the land described under this same application prior to October 1, 1984? Yes _____ No ✓

b. If yes, please describe the extent of development and number of acres irrigated. (Note: Uses developed after October, 1984 are considered trust water diversions and may be subject to certain restrictions and/or conditions. You may be asked to verify uses established prior to October, 1984.)

3. If you answered NO to ques #2a, please state the number of acres you have irrigated with this source after October 1, 1984. NONE

4. If you have not irrigated lands under this application, please state the number of acres you plan to complete. 320

5. If the permit is a supplemental filing please identify other water rights which are used on the same land.

Use the reverse side of this form if you wish to add any comments. You may mark changes on the enclosed application to designate any proposed amendments. (Note: Proposed changes which result in an expansion of use will not be considered by the department.)

I hereby assert that the responses provided above are true to the best of my knowledge. I understand that any willful misrepresentations may result in voiding of the application.

Applicant Tony Jolley

Date 7/16/90

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OCT 19 1990



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

July 6, 1990

RE: APPLICATION FOR PERMIT NO. 51-7015

Dear APPLICANT:

Due to the Swan Falls litigation, Department approval of the enclosed application may have been delayed. The Department is presently reviewing your application and may authorize the proposed development.

The purpose of this letter is to determine: (1) if you are still interested in developing the project, and (2) the extent of development if any, that has already occurred under the application. Enclosed are two forms requesting information which will help the Department expedite the processing of the application.

1. If you have abandoned or have no interest in continuing with your plans for development of the project, please complete the enclosed withdrawal form and return it to the Department. If you request a withdrawal of the application and the application was not previously advertised, the department will refund your original filing fee.

2. If you wish to continue with your proposed development plans, or have completed all or a portion of the proposed development before October 1, 1984, then you must complete and return the enclosed questionnaire. You may use the questionnaire and enclosed application to make any comments &/or amendments concerning the application. Your completion of the questionnaire will expedite processing and help the department determine if the water diverted under the application is public water or trust water. Approved trust water applications may be subject to additional conditions.

Failure to return either of the above forms within thirty (30) days of the date of this letter is cause for the Department to void the application.

Please be further advised that if any undeveloped portion of your proposed project is greater than 200 acres, the Department will issue a notice requesting additional information as required by Water Appropriation Rule 4,5. (in particular, Rules 4,5,3. thru 4,5,3,5, apply to your project if it is more than 200 acres).

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OCT 19 1990

Page 2

If you have questions concerning the content of this letter or about completing the forms, please contact Tim Luke at the address below or by calling directly at 327-7864. The enclosed forms and all other relative information must be returned within thirty (30) days to:

Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720
Attn: Tim Luke

Please note that a copy of your application is enclosed. The application number is also shown on the enclosed questionnaire.

Sincerely,



TIM LUKE
Sr. Water Resource Agent

Enclosures

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OCT 19 1990



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE, IDAHO 83706



IN REPLY REFER TO

IDI-6471 (943)

JUN 20 1990

Norma C. Jolley
Star Route #174
Bruneau, Idaho 83604

Dear Mrs. Jolley:

Your Desert Land Application file has been forwarded to this office for allowance of your Desert Land Entry. Before this can be done we must have an approved water permit from the Idaho Department of Water Resources.

If you have any questions please contact Larry Lievsay at 334-1735.

Sincerely,

William E. Ireland
William E. Ireland, Chief
Realty Operations Section

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OCT 19 1990

SERIAL REGISTER PAGE

AS OF: 7/19/88
PRINTED: 7/19/88

03-03-1877;019STAT0377;43USC321-323,325, CASE TYPE SERIAL NUMBER
DESERT LAND ACT 252000 IDI 6474

NAME AND ADDRESS

JOLLEY NORMA C
STAR RT 174
BRUNEAU ID 83604
APPLICANT 100.00000 %

51-7015

DESCRIPTION OF LAND

T. 7 S. R. 5 E. BOISE MFR
BOISE DISTRICT BRUNEAU COUNTY, ID
SEC. 28: SPSW RESOURCE AREA
SEC. 33: NW, W2NE
320.000 ACRES

ACTIONS

DATE	CODE	TAKEN	REMARKS
12/27/1972	124	APLN RECD	10:31AM JAC
1/04/1973	600	RECORDS NOTED	
2/05/1973	911	REPORT RECEIVED	USGS
*****		PENDING ACTION: BRUNEAU REFC AREA	
8/18/1983	896	CONFLICT IDENTIFIED	SWAN FALLS ISSUE IAC
*****		PENDING ACTION: STATE & LOCAL ENTITIES	
3/22/1988	104	ADDTL INFO ROST	INFO ON ECONOMICS SD
*****		PENDING ACTION: INDIVIDUAL	
6/06/1988	393	DEC ISSUED	APLN REJECTED MD
6/29/1988	120	APPEAL FILED	MD
7/01/1988	042	CASE SENT	TO IRLA MD
*****		PENDING ACTION: INT BOARD OF LND APPEALS	
7/18/1988	103	ADDTL INFO RECD	DUCKET IRLA 88-522 SC
		**** CONTINUED ****	

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OCT 19 1990

PCN: 06216P1
FORM 1274-18

DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

PAGE: 2

SERIAL REGISTER PAGE

AS OF: 7/19/88
PRINTED: 7/19/88

03-03-1877;019STAT0377;43USC321-323,325, CASE TYPE SERIAL NUMBER
DESERT LAND ACT 252000 IDI 6474

GENERAL REMARKS

- 01 BRUNFAU RA, CLASSIFIED SUIT 1-2132 (TONY'S)
- 02 WATER APLN 51-7015

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OCT 19 1990

51-7015

Desert Land Application, Act 3-3-1877

2.0

I-2132

Tony Jolley
Bruneau, Idaho 83604

T. 7 S., R. 5 E., B. M., Idaho
Sec. 28: S₁SW₄
Sec. 33: NW₄, W₁NE₄

TO:

Map

Map
Spr. Sheet

Bruneau
Owyhee County
320 acres

Feb. 23, 1968

Application filed. Sect. #77753 - \$95.00 filing fee and
1st payment of 1/5. cc of SR to GS and DM I-1 and Area
Engineer BR.

March 20-68 - File received for Land Classification

Oct 7-68 - Initial Decision favorable

Nov 12-68 - Dec 1971 and case closed

Dec 19-68 Notice of Allowance

12-16-76 File res'd for info only -

12-19-72 Appln. relinquished

RECEIVED

DEC 1 1971

December 23, 1988

Tony and Norma Jolley
Rt. B, Box 174
Bruneau, ID 83604

RE: PERMIT NO. 51-7015 - REQUEST FOR EXTENSION OF TIME

Dear Mr. and Mrs. Jolley:

The department has reviewed the request for extension of time submitted in connection with the above referenced permit. Since the permit is within the Swan Falls trust water area and has been named in Ada County Civil Case No. 81375 and not dismissed, the department will hold the request without action until the permit is reprocessed in compliance with the provisions of section 42-203D, Idaho Code.

The issuance of an order on March 25, 1988 by the Federal Energy Regulatory Commission (order effective May 24, 1988) made the Swan Falls Agreement effective. As a result of the order, the department is determining which permits can be reprocessed in a given year up to the 20,000 acres per year limitation.

When development under the permit can be authorized, the department will consider the request for extension of time and will advise you accordingly of our action.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

c: Region

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OCT 19 1990

I-6474 - Talley

T 75, R 5E

Sec 28 - S²SW

33 - NW, W²NE } 32000

~~6-06-88~~

~~app rec'd - 12-27-72~~

12-27-72 - app rec'd

8-18-83 - held up - Snow Falls issue

3-22-88 - Econ. info requested

6-06-88 - Dec issued / rejecting app.

6-29-88 - appeal filed

7-01-88 - Case sent to IBLA ←

Water app 51-7015 (Board of Land Appeals)

11/8
Dec 86

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OCT 19 1990

STAFF REVIEW SHEET - EXTENSION OF TIME

Permit No. 51-7015Reviewed by lyDate 11-7-88

BASIC INFORMATION

ly Date stamp received
ly Extension received timely
(not prior to 6 month before proof due date or after reinstatement period)
ly Fee received and receipted
ly Name and signature same as permit
N Address change (indicate on coding sheet)

BASIS FOR EXTENSION REQUEST

 Has adequate work been completed to demonstrate due diligence?
 Has the cost incurred been adequate to demonstrate an intent to complete the project?

ly Has the permit been involved in litigation?

a. Swan Falls ly Dismissed from Swan Falls NO

Other yes Identify Fed. Gov. Regarding DLE

b. Is supporting documentation needed to complete the file?
Requested

c. Calculate the period of delay

Date litigation completed

Date litigation began -

Total period of delay =

Present proof due date +

NEW PROOF DUE DATE =

 Is delay by a government agency?

Is supporting documentation needed to complete the file?
Requested?

ACTION TAKEN - Recommend holding for review under 42-203D

Review status of lawsuit with fed. gov. before further action
Special conditions or remarks:

N/A Reinstatement Date extension received =
Proof due date = -
No. of days late =
Priority date = +
ADJUSTED PRIORITY DATE =

 Prepare coding sheet
 Change rolodex card

November 21, 1988

Tony Jolley
Rt. B, Box 174
Bruneau, ID 83604

Dear Mr. Jolley:

Re: Permit No. 51-7015

Returned is the request for extension of time form submitted to this office on October 28, 1988. During our conversation, I neglected to have you sign the document.

Please sign and return.

I apologize for any inconvenience.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosure

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OCT 19 1990

TONY J. JOLLEY
NORMA C. JOLLEY
RT. B BOX 174
BRUNEAU, ID 83604

September 30, 1988

138493

PROOF DUE NOTICE

RE: PERMIT NO. 51-07015

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 December 1, 1988. (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,

Rita Fleck
Secretary/Records Manager

Enclosures

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OCT 19 1990

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

51-7015

COMMENCEMENT OF WORKS

Permit No. _____

Name(s) of Permit Holder(s): TONY ZILLEY AND NORMA ZILLEY

Post Office Address: RT. B. 174

BRUNEAU, IDAHO 83604 834-2264

☐ I hereby certify that construction of diversion for the above referenced permit began on _____ I understand that I must
(date)

continue to develop the water system with due diligence to maintain a valid permit.

☒ I hereby certify that construction of diverting works on the above referenced project has not yet begun due to the following reason beyond my control:

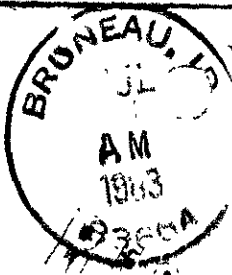
LAND HAS NOT BEEN ALLOWED BY B.L.M.

*Note: A financing difficulty is
not an acceptable reason

Date

Signature of Permit Holder

Tony J. Alley
Bruneau, Idaho
83604



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OCT 19 1990



UNRECORDED
JUL 3 1983

IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

SERIAL REGISTER PAGE

AS OF: 8/25/86
PRINTED: 8/26/86ACT 3-3-1677; 43USC321-323,325,327-329 CASE TYPE SERIAL NUMBER
DESERT LAND ACT 252000 IDI 6474-----
NAME AND ADDRESSJOLLY NORMA C
STAR HT 174
BRUNEAU ID 83604
APPLICANT 100.00000 %-----
DESCRIPTION OF LANDT. 7 S, R. 5 E, BOISE MER
BOISE DISTRICT BRUNEAU COUNTY, ID
SEC. 28: S28N RESOURCE AREA
SEC. 33: E4, A2 NE

320.000 ACRES

ACTIONS

DATE	CODE	TAKEN	REMARKS
12/27/1972	124	APL RECD	10:31AM JAC
1/04/1973	500	RECORDS NOTED	
2/05/1973	911	REPORT RECEIVED	USGS
*****	PENDING ACTIONS: BRUNEAU RESC AREA		

GENERAL REMARKS01 BRUNEAU RA, CLASSIFIED SUIT I-2132 (TONY'S)
02 WATER APLD 51-7015**MICROFILMED**

OCT 19 1990

June 15, 1984

Tory and Norma Jolley
Rt. 8, Box 174
Bruneau, ID 83604

Dear Mr. and Mrs. Jolley

Re: Extension of Time for Permit No. 51-7015

Enclosed is the approved extension of time in connection with the above referenced permit. The time within which to submit the statement of beneficial use is extended to December 1, 1988. The request has been approved with the following condition:

"The Department reserves jurisdiction of this permit for the purpose of adding any applicable conditions to protect the public interest."

Such conditions may be necessary due to statutory or regulatory changes occurring after the date of the extension and before the date that beneficial use is made. However, if conditions are added to your permit, you will be given an opportunity to object to them.

The department has been holding the extension of time request without action because of the ongoing Swan Falls litigation. Even though that dispute has not been settled, it has been determined that a decision is now necessary on your request for extension to clarify for you and all other parties to the Idaho Power lawsuit the status of the permit you hold. If the permit is valid, the extension request can be approved under existing law, but development and continued use of water under terms of the permit may be adversely affected when the Swan Falls litigation is ultimately resolved.

The Swan Falls litigation is still pending and there are inherent risks in making expenditures on a project that is subject to litigation. Pending litigation will be considered as a cause for applying for and receiving additional extensions of time for potential project construc-

MICROFILMED

tion and proof submittal if the Swan Falls matter is not resolved in the near future.

If you have questions on this extension approval, please feel free to contact the department.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

Enclosure

RECEIVED

INTER-DEPARTMENT MEMO — 1

FROM Rita Fleck

DATE 6-6-84

TO File 51-7064

SUBJECT Status BLM Desert Land Entry Permit - I-6474

The status of the above referenced Desert Land Entry is that the permit is pending action from the Bruneau Resource Area, pursuant to a telephone conversation with BLM on this date.

MICROFILMED



SIGNATURE

STAFF REVIEW OF REQUESTS FOR EXTENSION OF TIME

Permit Number 51-7015

- Y Date received stamp
- Y Fee received and receipted
- Y Name on request same as on permit
- Y Address same permit as on latest correspondence
- Y Proof due date within six months of due date
- Y Signature same as permit
- Y Source of water the same
- Y Review conditions of approval
- Y Extensions previously approved
- Y Proceed diligently
- Y Is delay caused by litigation: Y Swan Falls

Date lit. completed _____

Date lit. began _____

Period of delay _____

New proof due date _____

ACTION: *Approve based on litigation*

Y Is the extension timely received?

N Reinstate: Extension received _____

Proof due date _____

Days late _____

Priority date _____

Adjusted priority date _____

X Is there commencement of works?

_____ Cover letter

_____ Coding sheet

_____ Rolodex card updated and refiled

Reviewed by *[Signature]* Date: 6-6-1984

MICROFILMED

November 28, 1983

Re: Permit No. 51-7015

Tony and Norma Jolley
Rt. B, Box 174
Bruneau, ID 83604

Dear Mr. and Mrs. Jolley:

This office has received the request for extension of time which you submitted in connection with the above-referenced permit. Since the extension request indicates that development of a water right under the permit has not been started and since the proposed use of water is hydraulically upstream of the Swan Falls Dam on the Snake River, the Department will delay action on the request for extension of time.

As background information, in November of 1982, the Idaho Supreme Court held that Idaho Power Company's use of Snake River water at Swan Falls Dam for power generation purposes was not subordinated to later-in-time upstream uses as was previously thought. Although certain issues in the case still need to be determined at the district court level, several potential implications of the case need to be carefully considered. It is possible that unless use of water began prior to the November 1982 ruling, development of a new water right cannot occur even though a permit has been issued by the Department. It is also possible that the Department will not issue any new water right permits for consumptive uses upstream from Swan Falls Dam in the Snake River drainage including tributary groundwater. It is also possible that compensation may have to be paid to Idaho Power Company by later in time waterusers in the impact area for depletion of Snake River flows used by Idaho Power Company to generate power at Swan Falls and at other dams along the Snake River.

Due to these concerns, the Department will hold your request for extension of time without action until the impacts of the Swan Falls issue have been determined.

If you have questions, please feel free to contact the Department.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

cc: Regional Office

STAFF REVIEW OF REQUESTS FOR EXTENSION OF TIME

Permit Number 51-7015

Y Date Received stamp

Y Fee receipted

Y Name on request same as on permit

Y Address same as on permit

Y Proof due date correct

ok Period of request correct - ~~4~~ 5 yrs - New proof due date;

ok Signature same as on permit

12-1-88

No First extension request - 1st ext. Because of DLE non-approval

Y Permit holder named as defendant in 1983 Idaho Power lawsuit

Y Is extension filed before proof due date?

Date extension received _____

Proof due date _____

Days late _____

Priority date _____

Adjusted priority date _____

N/A

Y Is delay caused by litigation? - and Lack of BLM Approval

Date litigation began _____

Date litigation completed _____

Period of delay _____

New proof due date _____

N Is there commencement of works?

____ Cover letter number

____ Rolodex card updated

Remarks:

Hold action? permit is upstream from Suen
fall -

Reviewed by: _____

Date: _____

Jeni
11-22-83

UNRECORDED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL

138023

JOLLEY, TONY J. & NORMA C.
RT. 8 BOX 174
BRUNEAU, ID 83604

PROOF DUE NOTICE

SEPTEMBER 30, 1983

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 51-7015 WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE DECEMBER 01, 1983. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST). ENCLOSED IS A POSTCARD WHICH 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, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER THE BENEFICIAL USE POSTCARD OR A 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,

RITA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES

MICROFILMED

November 16, 1978

Tony J. &/or Norma C. Jolley
Route B, Box 174
Bruneau, ID 83608

Dear Mr. and Mrs. Jolley:

Please be advised that the department has changed its records to show the permit in your name as well as your wife's.

Enclosed is a copy of the request for extension of time. The time within which to submit proof of beneficial use is extended to December 1, 1983.

Sincerely,

JAN GROVER
Water Rights Supervisor

JG:rf

Enc: 1

MICROFILMED

INTER-DEPARTMENT MEMO — 1

FROM

Jan

DATE

11/16/78

TO

File (51-7015)

SUBJECT

DLE

Talked with BLM & the Desert Cntry
first filed was allowed (I-2132)
and then relinquished by applicant.
They filed another DLE I-~~2174~~ and it
covers the same land as this permit
& is still in the application stage
BLM's main office.

MICROFILMED
SIGNATURE



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 384-2215

CERTIFIED MAIL

100226

September 30, 1978

Re: Permit No. 51-7015

Tony J. Jolley
Star Route B, Box 174
Bruneau, ID 83604

Dear Mr. Jolley:

One of the conditions of approval of your water Permit No. 51-7015 (see last page of your approved permit) was that evidence of the extent of development be submitted as proof of application of water to beneficial use to this office on or before December 1, 1978. Enclosed is an affidavit form which must be used to submit the required proof of beneficial use.

If you have not fully completed your project, and you have not previously received an extension of time, you may request an extension of time provided the delay is for reasonable cause as indicated in Section 42-204, Idaho Code, amended. If you have been prevented from proceeding by a governmental agency or by litigation, more than one extension of time can be granted.

Either the beneficial use affidavit or a request for an extension of time must be received by this Department on or before the above mentioned date, otherwise, the permit will lapse and be of no further force or effect.

RITA FLECK
Water Rights

Encl: Proof affidavit

RECEIVED



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 384-2215

9/6/78

Dear Wateruser:

The enclosed Order changes the measuring device condition of approval on your water right permit.

The changed condition should be less restrictive and provide more flexibility to you in the development of your water right system. The specifications related to the size and location of the access port will be available upon request from the Department, as soon as the Department's measuring equipment is obtained.

If you have questions regarding this matter, please contact this office or our regional offices.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON
Chief, Operations Bureau

LGS:JG:kw

Enclosure

RECEIVED

December 28, 1973

Re: Permit No. 51-7015

Tony J. Jolley
Star Route B, Box 174
Bruneau, Idaho 83604

Dear Mr. Jolley:

Enclosed is an Order of Reinstatement; please note that the priority has been advanced to March 13, 1968. Also enclosed is a copy of the approved application for extension of time in connection with the above referenced permit.

The time within which to submit proof of beneficial use of water has been extended to December 1, 1978.

If you have any questions regarding these matters, please contact us.

Sincerely,

BOBBY D. FLEENOR
Assistant Director

BDF:JC

Enc: Order of Reinstatement
Copy of extension

51 7015

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

Cecil D. Andrus
Governor

Statehouse - Annex 2
Boise, Idaho 83707
(208) 384-2215

R. Keith Higginson
Director



Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection

December 5, 1973

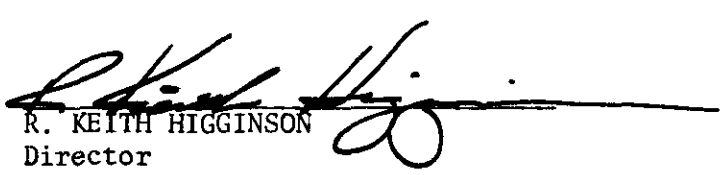
Re: Permit No. 51-7015

Tony J. Jolley
Star Route B, Box 167
Bruneau, Idaho 83604

Dear Mr. Jolly:

You are hereby notified that under the provisions of Section 42-218a of the Idaho Code, Permit No. 51-7015 has lapsed.

You are further advised that the Department cannot reinstate the permit except upon a showing of reasonable cause within 60 days from the date of this notice of lapsing.


R. KEITH HIGGINSON
Director

51 7015

1

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S).
REQUIRED FEE(S) PAID.

☐

Show to whom, date and address
where delivered

☐

Deliver ONLY
to addressee

RECEIPT

Received the numbered article described below.

REGISTERED NO.

SIGNATURE OR NAME OF ADDRESSEE (*Much always be filled in*)

CERTIFIED NO.

28861

INSURED NO.

DATE DELIVERED

1
2
SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

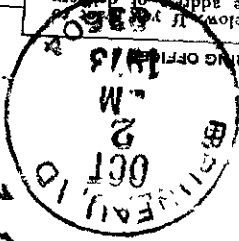
3
SHOW WHERE DELIVERED (*only if requested*)

51 7015

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

PS-16-71548-11

POD Form 3811 Apr. 1963



Print your name and address below. If you have the address of delivery, or to have the address of delivery shown on this receipt, check block(s) on other side. Moistened gummed ends and attach this card to back of article.

POSTMARK OF DELIVERING OFFICE

DEPARTMENT OF WATER ADMINISTRATION

STATEHOUSE - ANNEX #2

BOISE, IDAHO 83702

RETURN
TO

PENALTY FOR PRIVATE USE TO AVOID
PAYMENT OF POSTAGE \$300

51 1005

October 1, 1973

CERTIFIED MAIL

#24861

Re: Permit No. 51-7015

Tony J. Jolley
Star Route 3, Box 167
Bruneau, Idaho 83604

Dear Mr. Jolly:

One of the conditions of approval of your water Permit No. 51-7015 (see last page of your approved permit) was that evidence of the extent of development be submitted as proof of application of water to beneficial use to this office on or before December 1, 1973. Enclosed is an affidavit form which must be used to submit the required proof of beneficial use.

If you have not fully completed your project, and you have not previously received an extension of time, you may request an extension of time provided the delay is for reasonable cause as indicated in Section 42-204, Idaho Code, amended. If you have been prevented from proceeding by a governmental agency or by litigation, more than one extension of time can be granted.

Either the beneficial use affidavit or a request for an extension of time must be received by this Department on or before the above mentioned date, otherwise the permit will lapse and be of no further force or effect.



R. KEITH HIGGINSON
Director

Enc: Proof affidavit

51 7015



51-7015

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Idaho Land Office

IN REPLY REFER TO.

L:VSS
I-2132

NOTICE OF ALLOWANCE

Tony Jolley
Bruneau, Idaho 83604

State Dept of Reclamation

Serial No. I-2132

320 Acres

T. 7 S., R. 5 E., Boise Mer., Idaho
Sec. 28: S $\frac{1}{2}$ SW $\frac{1}{4}$
Sec. 33: NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$

Your desert land application for the above described land has this day been approved and allowed, subject to any valid existing rights and your further compliance with laws and regulations applicable thereto. The acceptability of final proof is contingent upon development and reclamation of the land in accordance with your plan of development which is on file in the Boise Land Office. Any substantial change in source of water or deviation in the construction of the irrigating facilities must have the approval of the Bureau of Land Management. The irrigable acreage of this entry has been determined to be approximately 290 acres. In correspondence relating to this entry, always refer to the serial number shown above.

Subject to the Act of July 17, 1914, which will require the reservation of all oil and gas deposits to the United States.

Also subject to right-of-way Blackfoot 056038 issued to Fred King for an irrigation ditch on NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 33.

IN WITNESS WHEREOF, I have hereunto set
my hand and seal this 19th
day of December, 19 68

cc: State Dept of Reclamation

ORVAL G. HADLEY

MANAGER, LAND OFFICE
BOISE, IDAHO

DON SAMUELSON
GOVERNOR



R KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

December 10, 1968

Re: Permit Nos. 02-7022, 02-7023, 36-7042, 36-7041, 36-7044,
47-7036, 61-7015, 51-7027, 51-7031, 51-7032,
57-7023, 61-7043, 61-7045, 61-7047, & 63-7160

Land Office
Bureau of Land Management
P.O. Box 2237
Federal Building
Boise, Idaho

Gentlemen:

Enclosed are copies of the above referenced permits which have
been accepted for desert land entries.

Very truly yours,

C. Stephen Allred, Assistant
State Reclamation Engineer

CSA:kh

Enclosures

51 7015

December 9, 1968

Re: Permit No. 51-7015

**Mr. Tony J. Jolley
Star Route B, Box 167
Bruneau, Idaho 83604**

Dear Mr. Jolley:

We enclose a copy of your approved application for permit 51-7015
in which we direct your attention to the limitations and conditions as given
on the fourth page under approval of the State Reclamation Engineer.

Very truly yours,

C. Stephen Allred, Assistant
State Reclamation Engineer

CSA:ch

**Enclosures: Copy of application
2 informational letters**

51 7015

April 16, 1968

Re: Application No. 5197015

Tony J. Jolley
Star Route B, Box 167
Bruneau, Idaho 83604

Dear Mr. Jolley:

Please be advised that your application for permit has been processed. However, since your application is filed in connection with a desert land entry with the Bureau of Land Management, the Department of Reclamation will take no further action until such time as evidence that your desert entry has been allowed is submitted to the department in writing.

Please contact us if we may be of further assistance.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:ks

McC.
11-21-68

51 7015

March 1, 1968

Re: Application No. 51-7015
Tony J. Jolley

Owyhee Nugget
Marsing, Idaho

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted assuming the notice is correct. If we have any corrections, we will notify you before the first publication date. If you can not publish the notice on the proposed dates please contact us immediately.

An affidavit of publication must be submitted to the Department of Reclamation, along with the publication bill. In order to receive payment, the following certification must appear on the bill:

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of same has been paid.

(Do not sign letter)

Signature of claimant

Very truly yours,

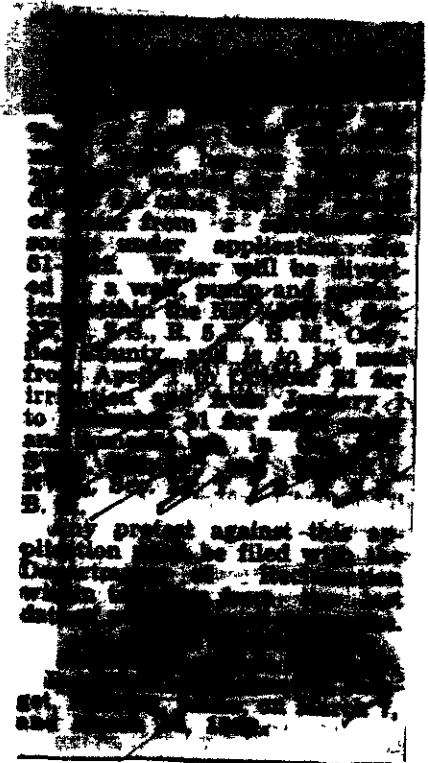
Donald W. McEldowney
Appropriation Examiner

DWM:ks

Enclosure: legal notice

51 7015

Form 3



NOTICE OF APPLICATION FOR WATER

Notice is hereby given that Tony J. Jolley, Box 167, Bruneau, Idaho
has on February 23, 1968
applied for permit to divert ~~step/~~ 6.4 cubic feet per second ~~step/~~
of water from a subterranean source
under application No. 51-7015. Water will be diverted by a well,
pump and sprinklers within the NW¹/₄ NW¹/₄, sec. 33, T. 7 S., R. 5 E,
B.M., Owyhee County
and is to be used from April 1 to October 31 for irrigation and from
January 1 to December 31 for stock water and domestic use
in the S¹/₂ SW¹/₄, sec. 28; and W¹/₂ NE¹/₄, NW¹/₄, sec. 33, T. 7 S., R. 5 E, B.M.

Any protest against this application must be filed with the Department of Reclamation within ten days from the last date of publication of this notice.

R. KEITH HIGGINSON
State Reclamation Engineer

Published in the Owyhee Nugget, Marsing, Idaho,
on march 7 and march 14.