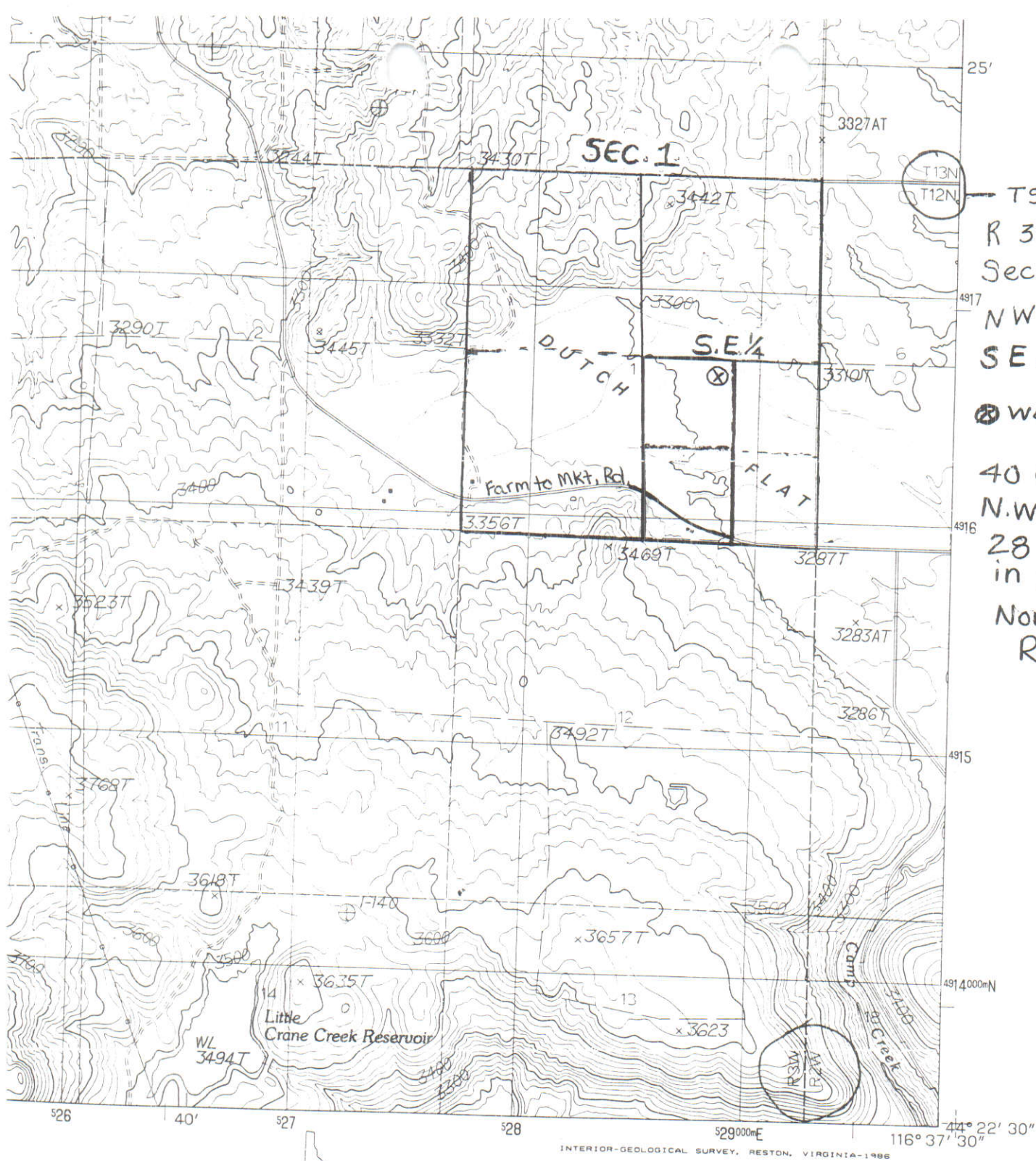
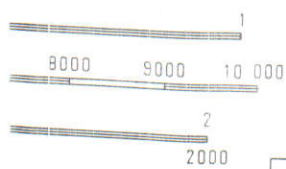




TS 12 N.
R 3 W
Sec. 1
NW 1/4 & SW 1/4
SE 1/4 North of Road
⊗ well
40 acres in
N.W. 1/4 ;
28 acres
in SW 1/4
North of
Road



QUADRANGLE LOCATION

1	2	3	1 Hooper Creek
			2 Cambridge
4		5	3 East of Cambridge
			4 Midvale Hill
			5 Hog Creek Butte
			6 Mann Creek SE
6	7	8	7 Nutmeg Flat
			8 Crane Creek Reservoir

ADJOINING 7.5' QUADRANGLE NAMES

ROAD LEGEND

Improved Road
Unimproved Road
Trail

⊖ Interstate Route ⊖ U.S. Route ⊖ State Route

MIDVALE, IDAHO
PROVISIONAL EDITION 1986

MICROFILMED

44116-D6-TF-024

OCT 02 2002

T12N R3W

MICROFILMED
OCT 02 2002

40 ac

28 ac

P/D

Nº 1353

RECEIVED

FEB 02 2001

WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
County of Washington) ss.

Sarah Bales, being duly sworn,
deposes and says:

That he/she is the Clerk of
THE WEISER SIGNAL AMERICAN, a bi-weekly news-
paper published at Weiser, in the County of Washington
and State of Idaho; that said paper has been and is in
general circulation in the county aforesaid, and in the
vicinity of Weiser; that the advertisement, a copy of which
is attached hereto, was published in said newspaper once a

week for two consecutive weeks in the regular and
entire issue of said paper during the period and time of
publication, and was published in the newspaper proper
and not in a supplement; that said paper has been estab-
lished and regularly published for more than seventy-eight
consecutive weeks prior to the date of first publication of
said advertisement.

Such notice was published in the issue beginning with
January 3, 2001, and ending
with the issue of January 10, 2001

Fees \$ 152.42
Sarah Bales

Subscribed and sworn to before me this 10
day of January, 2001.

Judith A. Parsons
Notary Public, residing at Weiser, Idaho

My commission expires 02, 02

OCT 02 2002

No. 1353
NOTICE OF APPLICATION
FOR WATER RIGHT

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

67-8060 ✓st

BEVERLY SHAFFER
R. JOSEPH SHAFFER
2963 FARM TO MARKET RD.
MIDVALE, ID 83645
Source: GROUNDWATER
Diversion Pt: NENWSE Sec 1 T 12N R 03W in
WASHINGTON County.
Use: IRRIGATION (3/15 to 10/31 1 CFS 0 AFA)
Use: STOCKWATER (1/01 to 12/31 0.02 CFS 0
AFA)
Total Diversion: (1 CFS)
Date Filed: 11/02/2000
Place of Use: IRRIGATION AND STOCKWATER
Twp 12N Rge 03W Sec 1 NWSE SWSE
Number of Acres 68

67-8061

CHARLES A. PHILLIPS
1226 MANN CR. RD.
WEISER, ID 83672
Source: GROUNDWATER
Diversion Pt: NENENW Sec 19 T 12N R 04W in
WASHINGTON County
Use: DOMESTIC (1/01 to 12/31 0.04 CFS 0 AFA)
Use: IRRIGATION (3/01 to 11/15 0.8 CFS 0 AFA)
Total Diversion (0.84 CFS)
Date Filed: 11/06/2000
Place of Use: DOMESTIC
Twp 12N Rge 04W Sec 19 NENW
Place of Use: IRRIGATION
Twp 12N Rge 04W Sec 18 SESW
Twp 12N Rge 04W Sec 19 NENW
Number of Acres 40

Permits will be subject to all prior water rights.
Protests may be submitted based on the criteria of
Sec. 42-203A, Idaho Code. Any protest against
the approval of this application must be filed with
the Director, Dept. of Water Resources, 2735 Air-
port Way, Boise, Idaho 83705-5082 together with
a protest fee of \$25.00 for each application on or
before 01/22/2001. The protestant must also send
a copy of the protest to the applicant.

KARL J. DREHER, Director
Published on January 4 and 11, 2001.

94-2S

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 67-08060

Priority: 12/01/2000

Maximum Diversion Rate: 0.10 CFS

This is to certify, that R JOSEPH SHAFFER
2963 FARM TO MARKET RD
MIDVALE ID 83645

BEVERLY SHAFFER
2963 FARM TO MARKET RD
MIDVALE ID 83645

has applied for a permit to appropriate water from:

Source: GROUND WATER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	03/15 to 10/31	0.08 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 1, Twp 12N, Rge 03W, B.M. WASHINGTON County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12N 03W 1															40.0	40.0	

Total Acres: 40

PLACE OF USE: STOCKWATER, same as Irrigation

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 1, 2006**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

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OCT 02 2002

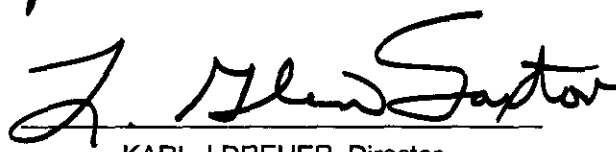
State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 67-08060

CONDITIONS OF APPROVAL

6. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
7. This right is limited to the irrigation of 5 acres within the place of use described above in a single irrigation season.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 26th day of September, 2001.


for KARL J DREHER, Director

MICROFILMED

OCT 02 2002

RECEIVED

JUL 25 2001

WATER RESOURCES
WESTERN REGION

RECEIVED

AUG 14 2001

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

(Amended) **APPLICATION FOR PERMIT**

To appropriate the public waters of the State of Idaho

Ident. No. 67-08060

1. Name of Applicant R. Joseph and Beverly Shaffer Phone 355-3326
Mailing address 2963 Farm to Market Rd. Middle, Id. 83645
2. Source of water supply groundwater (well) which is a tributary of NA
3. Location of point of diversion is Township 12 N Range 3 W Sec. 1 in the NW 1/4 of the SE 1/4, Govt. Lot Washington County;
additional points of diversion if any: NA
4. Water will be used for the following purposes:

Amount <u>0.08 cfs</u> for <u>Irrigation</u> purposes from <u>4-15</u> to <u>11-15</u> (both dates inclusive)
(cfs or acre-feet per annum)
Amount <u>0.02</u> for <u>Stock water</u> purposes from <u>4-15</u> to <u>11-15</u> (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 0.10 cubic feet per second and/or (b) _____ acre feet per annum
6. Proposed diverting works:
 - a. Describe type and size of devices used to divert water from the source 2 hp. Submersible pump with hand line or drip lines
 - b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet
 - c. Proposed well diameter is 12" inches; proposed depth of well is 282' feet
 - d. Is ground water with a temperature of greater than 85°F being sought? NO
 - e. If well is already drilled, when? 8-30-77 Drilling firm Dallas Drilling;
Well was drilled for (well owner) Geary Mitchell; Drilling Permit No. NA
7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
 - a. Hydropower; show total feet of head and proposed capacity in kW. _____
 - b. Stockwatering; list number and kind of livestock. 20 cattle and/or horses
 - c. Municipal; show name of municipality. _____
 - d. Domestic; show number of households. _____
 - e. Other; describe fully. _____

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AUG 17 2002

3. Description of place of use:

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

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

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12N	3W	1													40				40
12N	3W	1													\$	\$			\$

Total number of acres to be irrigated 5 acres at a time within the 40 specified.

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

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

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

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

12. Remarks: I plan to irrigate 5 acres using a 1/2 to 2 hp. pump and 2" hand line with 9 or 10 heads using 45 g.p.m. I need the freedom to choose which 5 acres within the 40 at any given time. The former protesters agree this should not threaten their water supply.

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

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

Joseph Shaffer
Signature of Applicant (and title, if applicable)

Received by _____ Date _____ Time _____ Preliminary check by _____
 Fee \$ _____ Receipted by _____ # _____ Date _____
 Publication prepared by _____ Date _____ Published in _____
 Publication approved _____ Date _____

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OCT 02 2002

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RECEIVED

FORM 202
12/99

MAY 08 2001

DEC 01 2000

Ident. No. 67-08060

RECEIVED

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
WATER RESOURCES
WESTERN REGION

NOV 02 2000

WATER RESOURCES
WESTERN REGION

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant R. Joseph and/or Beverly Shaffer Phone 208-355-3326
Mailing address 2963 Farm to Mkt. Rd. Midvale, Idaho 83645
2. Source of water supply ground water which is a tributary of N/A
3. Location of point of diversion is Township 12 N Range 3 W Sec. 1, in the SE NE 1/4,
NW 1/4, SW 1/4, Govt. Lot NORTH OF ROAD, B.M., Washington County;
additional points of diversion if any: _____

4. Water will be used for the following purposes:

RP Amount 75 CFS for Irrigation purposes from May 1 to Oct 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount .07 for Stockwater purposes from Jan. 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for RP .08 CFS purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) 75 CFS 1.0 and/or (b) 0 acre feet per annum
6. Proposed diverting works: 336.6 g.p.m. 1 1/2 - 2 hp. Submersible pump
- a. Describe type and size of devices used to divert water from the source 2 1/2 hp Turbine pump
with 40 hp. Diesel Power Plant. Powered by gas generator
- ☒ Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet
- ☒ Proposed well diameter is 12 inches; proposed depth of well is 282 feet
- ☒ Is ground water with a temperature of greater than 85°F being sought? N/A
- e. If well is already drilled, when? 8-30-77; Drilling firm Dallas Drilling;
Well was drilled for (well owner) George Mitchell; Drilling Permit No. None
7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
- a. Hydropower; show total feet of head and proposed capacity in kW. _____
- ☒ Stockwatering; list number and kind of livestock. 2 Horse's; Future 20 Calves
- c. Municipal; show name of municipality. _____
- d. Domestic; show number of households. _____
- e. Other; describe fully. _____

MICROFILMED

NOV 2 2002

9. Description of place of use:

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

TWP	RGE	SEC	NE				NW				SW				SE 1/4				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12N	3W	1														40	28		68
		1														5	5		

Total number of acres to be irrigated 68

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

11. a. Who owns the property at the point of diversion? R. Joseph and Beverly M. Shaffer

b. Who owns the land to be irrigated or place of use? R. Joseph and Beverly M. Shaffer

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

12. Remarks: I plan to use 1/4 mile lines to water a rotation of oat hay, Alfalfa, and pasture on 68 acres. Will use sprinklers or drip line on a few acres at a time. Irrigate corn, potatoes and fruit trees, wherever needed on the 68 acres. Alfalfa and wheat will be dry land. RJS

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8 1/2"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

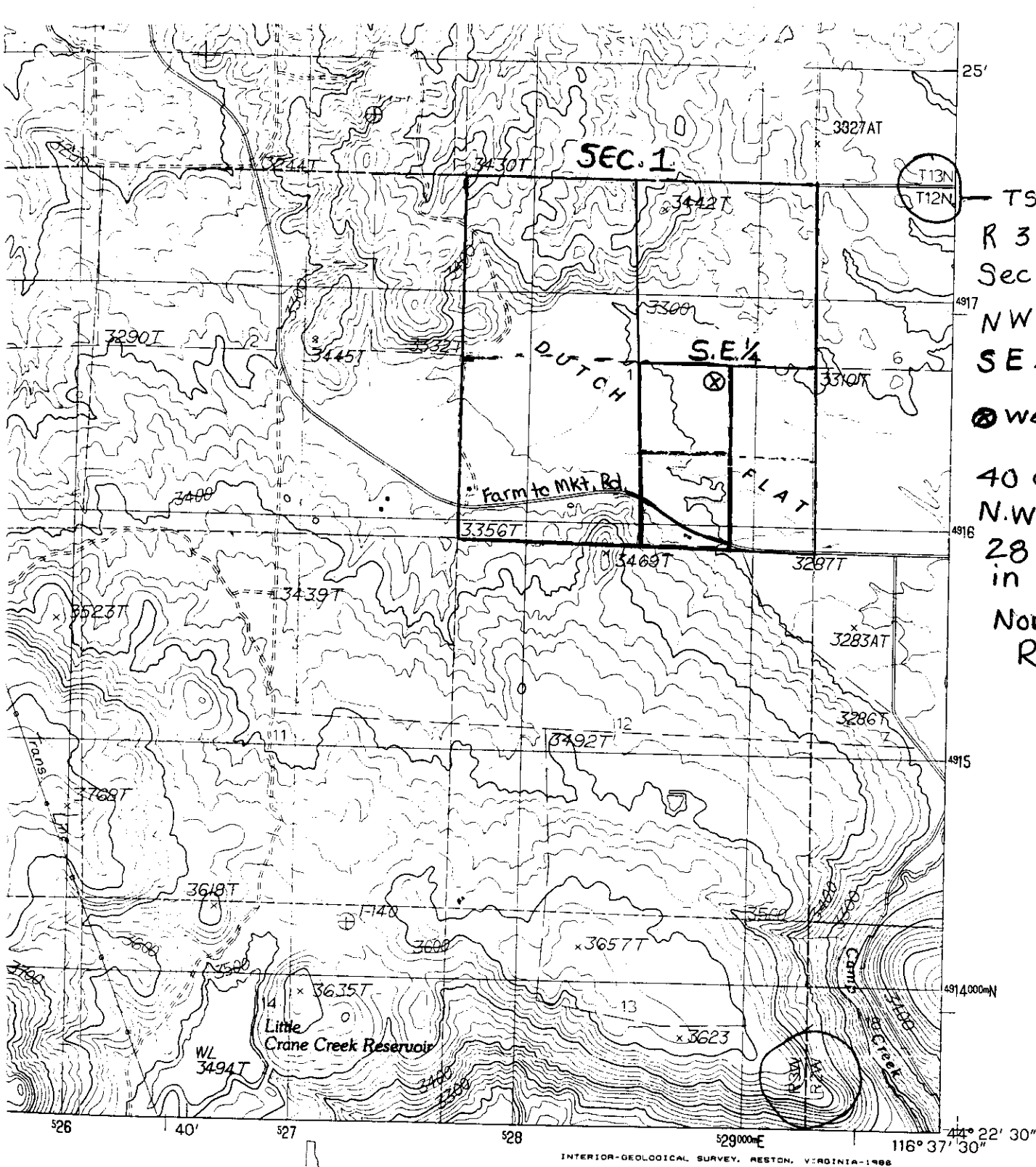
BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

R. Joseph Shaffer
Signature of Applicant (and title, if applicable)
Beverly Shaffer

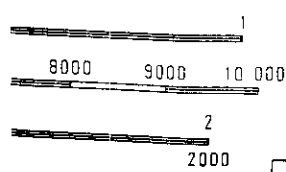
Received by [Signature] Date 11/2/00 Time 12:03 Preliminary check by [Signature]
Fee \$ 250.00 Receipted by [Signature] # W027116 Date 11/2/00
Publication prepared by [Signature] Date 12/27/00 Published in WEISER SIGNAL
Publication approved [Signature] Date 6-01 1/4 11/2009

MICROFILMED

OCT 6 2 2002



TS 12 N.
R 3 W
Sec. 1
NW 1/4 & SW 1/4
SE 1/4 North of Road
⊗ well
40 acres in N.W. 1/4;
28 acres in SW 1/4 North of Road



QUADRANGLE LOCATION

1	2	3	1 Hooper Creek
			2 Cambridge
4		5	3 East of Cambridge
			4 Midvale Hill
			5 Hog Creek Basin
6	7	8	6 Mann Creek SE
			7 Notung Flat
			8 Crane Creek Reservoir

ADJOINING 7.5' QUADRANGLE NAMES

ROAD LEGEND

- Improved Road
Unimproved Road
Trail
⊖ Interstate Route ⊖ U.S. Route ⊖ State Route

MIDVALE, IDAHO
PROVISIONAL EDITION 1986

MICROFILMED

44116-D6-TF024

901 8 2 2002

ARDS
DO 80225

RECEIVED

DEC 01 2000

Ident. No. 67-08060

RECEIVED

NOV 02 2000

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
WESTERN REGION

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant R. Joseph and/or Beverly Shaffer Phone 208-355-3326
Mailing address 2963 Farm to Mkt. Rd. Midvale, Idaho 83645

2. Source of water supply ground water which is a tributary of N/A

3. Location of point of diversion is Township 12 N Range 3 W Sec. 1, in the SE NE 1/4,
NW 1/4, SWSE 1/4, Govt. Lot NORTH OF ROAD, B.M., Washington County;
additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 75 cfs for Irrigation purposes from May 1 to Oct 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount .025 for Stock water purposes from Jan. 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) 75 cfs 1.0 and/or (b) 0
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source 25 hp Turbine pump
with 40 h.p. Diesel Power Plant.

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

☒ Proposed well diameter is 12 inches; proposed depth of well is 283 feet

☒ Is ground water with a temperature of greater than 85°F being sought? N/A

e. If well is already drilled, when? 8-30-77; Drilling firm Dallas Drilling;

Well was drilled for (well owner) George Mitchell; Drilling Permit No. None

7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)

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

a. Hydropower; show total feet of head and proposed capacity in kW. _____

☒ Stockwatering; list number and kind of livestock. 2 Horse's; Future 20 Calves

c. Municipal; show name of municipality. _____

d. Domestic; show number of households. _____

e. Other; describe fully. _____

MICROFILMED

OCT 10 2002

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: *D* for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE $\frac{1}{4}$				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12N	3W	1													40	28			68
		1													5	5			

Total number of acres to be irrigated 68

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

11. a. Who owns the property at the point of diversion? R. Joseph and Beverly M. Shaffer

b. Who owns the land to be irrigated or place of use? R. Joseph and Beverly M. Shaffer

~~12~~ If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

(12) Remarks: I plan to use 2-1/4 mile lines to water a rotation of oat hay, Alfalfa, and pasture on 68 acres.

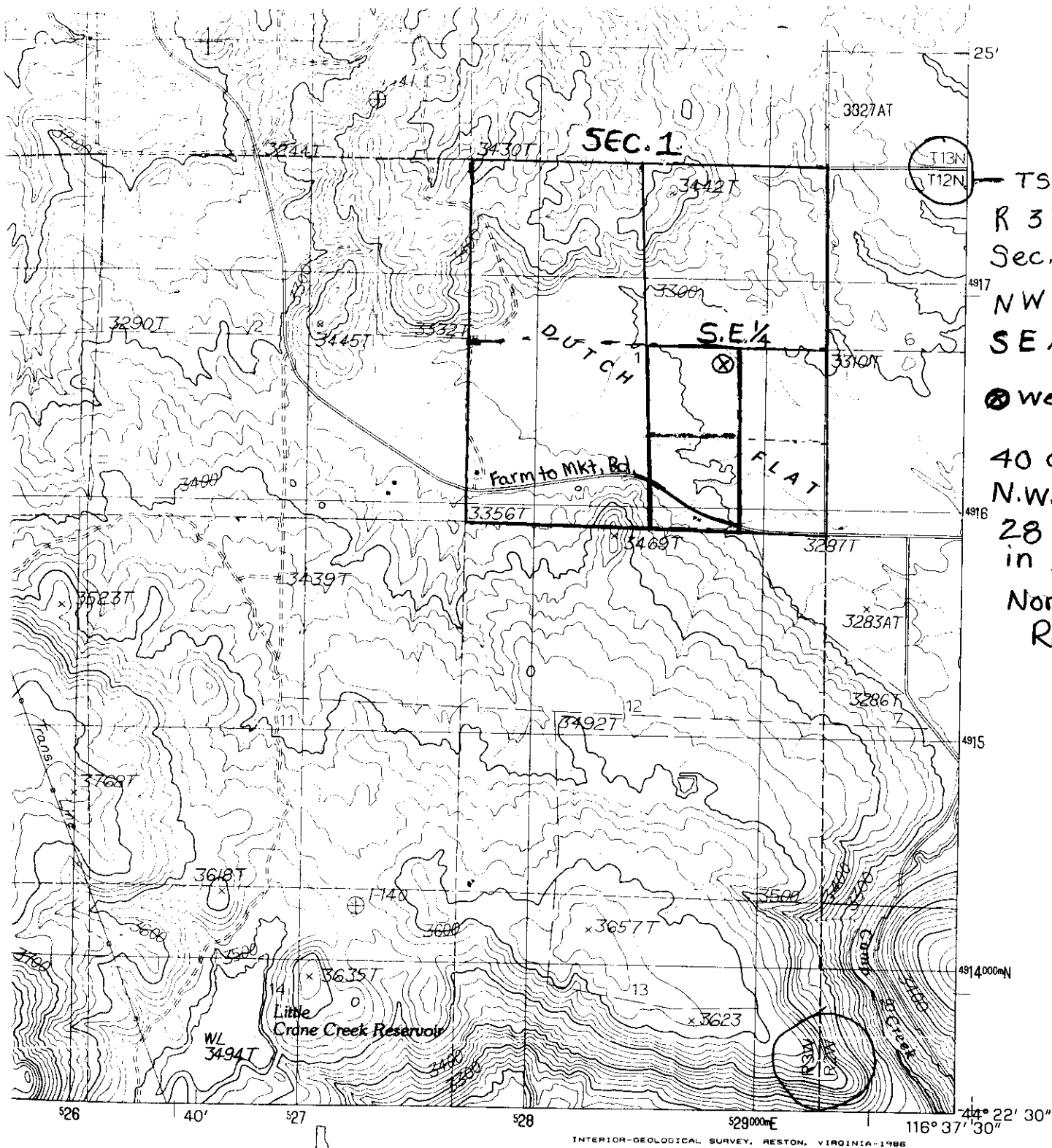
~~13~~ MAP OF PROPOSED PROJECT REQUIRED - Attach an 8 1/2"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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

R. Joseph Shaffer
Signature of Applicant (and title, if applicable)
Beverly Shaffer

MICROFILMED
OCT 6 2 2002

Received by [Signature] Date 11/2/00 Time 12:03 Preliminary check by [Signature]
 Fee \$ 250.00 Received by [Signature] # W027116 Date 11/2/00
 Publication prepared by [Signature] Date 12/27/00 Published in WEISER SIGNAL
 Publication approved [Signature] Date 2-6-01 1/4 & 11/2009



TS 12 N.
R 3 W
Sec. 1
NW 1/4 & SW 1/4
North of Road
SE 1/4
⊗ well
40 acres in
N.W. 1/4;
28 acres
in SW 1/4
North of
Road

INTERIOR-GEOLOGICAL SURVEY, RESTON, VIRGINIA-1986

ROAD LEGEND

Improved Road
Unimproved Road
Trail

○ Interstate Route ⬡ U.S. Route ○ State Route

MIDVALE, IDAHO
PROVISIONAL EDITION 1986

44116-D6-TF-024

QUADRANGLE LOCATION

1	2	3	1 Hooper Creek
			2 Cambridge
			3 East of Cambridge
4		5	4 Midvale Hill
			5 Hog Creek Butte
			6 Mamm Creek SE
6	7	8	7 Notung Flat
			8 Crane Creek Reservoir

ADJOINING 7.5' QUADRANGLE NAMES

MICROFILMED
OCT 02 2002

JARIS
DQ 80225



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 27, 2001

R JOSEPH SHAFFER
BEVERLY SHAFFER
2963 FARM TO MARKET RD
MIDVALE ID 83645

RE: Permit No. 67-8060

Permit Approval Notice

Dear Permit Holder:

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

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

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

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

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

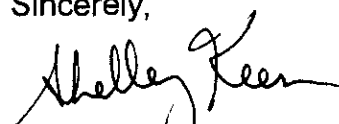
MICROFILMED

OCT 02 2002

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

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

Sincerely,

A handwritten signature in cursive script that reads "Shelley Keen".

Shelley W. Keen

Water Rights Supervisor

Enclosure(s)

MICROFILMED

OCT 02 2002

CERTIFICATE OF MAILING

I hereby certify that on September 27, 2001 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 67-8060

**R JOSEPH SHAFFER
BEVERLY SHAFFER
2963 FARM TO MARKET RD
MIDVALE ID 83645**

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

**Kari Lynn Townsend
Secretary**

MICROFILMED

OCT 02 2002

**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).

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.

MICROFILMED
OCT 17 2007

**APPLICATION FOR PERMIT
STATE OFFICE ANALYSIS**
Reviewed by Sharla Curtis on 9/19/01

No. 07-8060 Name: Shaffer Corp. Officers N/A Ad ok _____ Govt Lots _____

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

GROUNDWATER: (✓Flow Chart)

DRILLING PERMIT

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

~~WMD~~

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

LOCATION:

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

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

USES:

STORAGE - 18C-01H-01P-18B-NA
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)
> 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)
STOCKWATER - R37 (BLM/FSP) N/A (instream stock)
MINING - 054-106
HEAT/COOL - R07 (injection well)
FIRE PROT - 077
COMMERCIAL/
INDUSTRIAL - 106-R07
DAIRY - 082-WD8
POWER - 17H or 17K (+uses)-17G (under FERC)
or 17M (not FERC regulated)
025-027-R22-08A

BENEFICIAL USE DUE: 10/01/2006

MISC CONDITIONS/REMARKS:

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

SURFACE WATER: (✓Flow Chart)

F&G contacted - Yes/No Response
In/Above MSF - WB9

PLANNING REVIEW/RESPONSE

WD - R04 (WD# _____)
≤ 0.20 cfs/others - 01H, 01P or No MD
> 0.20 cfs - 01J

SPRINGS/SINK, INACTIVE WD or WD

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

RIVER BASINS: (SW special considerations)

Snake R (01) - W23, N/A
(02,03) - 007 (w/ remark WB9 if above Weiser)
Payette R (65) - W23, 047 (Payette Lake)
Salmon R (70's) - 029 (fish screens)
✓ Weiser R (67) - 086-087

USES:

MUNICIPAL

Restricted area - 022,075
Irr., GW supp to SW - 102
Future needs - 007,109
FISH PROP - 029 (70's only)-007-042-106

DOMESTIC

Surface water - WB5 (Big Wood/Boise above Star Bridge)
- 27A (Payette R)
> 1 in restricted area - 070-071-075 (no parks/common areas)
Irr separate or none allowed - WB5
GW w/irrigation from SW evident - 065-104
Moratorium approvable - W03 (2500 gpd - meets domestic def
i.e. D/convenience store)

Multiple pd's per ¼¼ - W32
Subd lot desc (pd) - W59
Subd lot desc (pu) - W60
Use definitions - W02 example - S/50 range
Pre-1997 development - 068-074 (allow 120 days for proof due)
Single p/d intended - 076

IRRIGATION SEASON 3/15 - 10/31 (Per updated map)

IRR VOLUME/ACRE 4.0

OTHER CONDITIONS/REMARKS

ppu (W27) 5 w/m 40

COMMENTS

ILLINOIS DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

INITIAL REVIEW BY: Ly DATE: 12/4/00 APPLICATION: 67-08060

REQUIRED INFORMATION

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

RECEIVED

AUG 21 2001

Department of Water Resources

Gov't. Lots:
☒ P/D
☒ P/U

ADDITIONAL INFORMATION

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

done T FLAG CHANGED TO P FLAG

YES NO

- ☒ Overlapping place of use: (Describe source & relationship to present application on next page.)
- ☒ Overlapping point of diversion.
- ☒ Critical groundwater area:
- ☒ Groundwater management area:
- ☒ 1992 moratorium:
- ☒ Surface water source, IDFG letter needed.
- ☒ Protected river or minimum flow reach, notify water planning bureau.
- ☒ E-mail to SCA staff: (perennial stream, non-pump diversion &/or any mining).
- ☒ E-mail to Dam Safety staff: (for any storage)
- ☒ Mitigation plan: Check any that apply.
- ☐ immediate = acceptable plan required and submitted.
- ☒ future = open areas, acceptance of condition of approval is in file.
- ☒ Send power requirement letter &/or fish farm requirement letter.
- ☒ Power residency affidavit:
- ☒ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres: (If yes, attach Large Diversion supplementary analysis sheet.)
- ☒ *REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT
- completed
forwarded appl, request to process

Date Requested 11/22/00 Date Response Received 12/1/00

PROCESSING

APP. NO. 7-08060

YES NO

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

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

YES NO

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

YES NO

☐ ☒ U.S. BLM
☐ ☒ U.S. Forest Service
☐ ☒ Water Dist. # _____
☐ ☒ Water Planning Bureau
☐ ☒ Other _____

FINAL REGIONAL PROCESSING REVIEW:

YES NO

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

☒ ☐ Publication dates and paper recorded on application:

☐ ☒ Final date for protest 1/22/2001

☐ ☒ Protests received.

☐ ☒ Recommendations attached:

☐ ☒ Measuring device required:

☐ ☒ Water delivered by water master? District # _____

☐ ☒ Special conditions of approval or cover letter: 046, 121

See below for additional information

Recommended Date or Priority 12/1/00

Recommended by: Gary S Date: 8/18/01

ADDITIONAL INFORMATION:

overlap: 67-07346 domestic N/A

SD-0420-2
MODIFY RECORD

Id: Department of Water Resources
Modify Comment

Date: 12/04/00
Time: 14:26:38

Water Right Number: 67-08060

Comment Date: 12/ 4/2000 User ID: LGRAVES

Subject: MORE INFO

Per Applicant: Stockwater is for 2 horses and 20 calves.

Per IDWR: Priority date advanced to date amended application and
request to process form were received.

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

Topographic map of T12N R3W. The map shows a shaded area labeled "40 ac" and "28 ac" with a point marked "P/D". The area is labeled "DUTCH FLAT". The map includes contour lines, a grid, and various spot elevations. Text on the map includes "MICROFILMED OCT 10 2002".



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

August 8, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Joseph and Beverly Shaffer
2963 Farm to Market Rd
Midvale ID 83545

Re: Amended Application for Permit No. 67-8060

Dear Mr. And Mrs. Shaffer:

This office received your amended application for permit no. 67-8060 July 25, 2001. Previously, on June 22, 2001, we received a protest withdrawal from Bob Compton based on irrigation use being amended to .08 cfs. The amended application enclosed lists irrigation use at .10 cfs and stockwater use was left blank.

If you would change irrigation use to .08 cfs and fill in stockwater use at .02 cfs, we could then process the amendment. Otherwise, if irrigation use is left at .10 cfs, we will have to contact the protestants to give them a chance to comment on the increase. Please note that total cfs will still be .10 cfs as correctly listed on no. 5.

If you have any questions, please contact me at this office. The dept. will hold your file for 14 days awaiting your response. If we have not heard from you, IDWR will act to remove your application from its records.

Respectfully,

Lori Graves
Sr. Water Resource Agent

Encl: original amended application no. 67-8060 rec'd 7/25/01

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OCT 17 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 9, 2001

R. Joseph Shaffer
2963 Farm to Market Rd.
Midvale, ID 83645

Re: Application for Water Right No. 67-08060

Dear Mr. Shaffer:

On May 8, 2001, you sent the Idaho Department of Water Resources (IDWR) an amended application for permit to appropriate water no. 67-08060. The original application was protested by a local group of water right holders concerned about the possible effect of your application on their prior uses of water. After the amended application was received, I mailed two letters to the protestants that resulted in a withdrawal of protest against your application. Nonetheless, I am continuing to carbon copy the protestants because of some confusion about your application. I will also carbon copy the protestants because they may have some expectation of placement of conditions of approval on your water right application that is not evident in their withdrawal of protest.

The original flow rate of 0.75 cfs sought by application no. 67-08060 was reduced to 0.08 cfs. A flow rate of 0.08 cfs is equal to an equivalent flow of 36 gallons per minute (g.p.m.). In part 5 of the application, you again listed 0.08 cfs, but below wrote "336.6 g.p.m." A flow rate of 0.08 cfs does not equal 336.6 g.p.m.

In addition, you significantly reduced the size of the pump and motor you intend to divert water with from the well. A 1 ½ to 2-horsepower submersible pump will probably divert 36 g.p.m., but is probably not capable of diverting 336.6 g.p.m. If you truly wish to reduce your diversion to 36 g.p.m., you need to again amend the application. With this lesser amount of water proposed for appropriation, I would not anticipate placing the long list of conditions imposed in my previous letters sent to the protestants.

Finally, if you intend to significantly reduce the flow rate, you probably should reduce the number of acres that can be irrigated. We are happy to describe the entire 68 acres as a larger boundary within which some lesser number of acres can be irrigated in a given year. A flow rate of 0.08 cfs is typically approved to irrigate approximately four acres. We can condition a water right approval that no more than four acres may be irrigated in any given year within the 68-acre place of use described. Another alternative is to simply describe the fixed number of acres that can reasonably be irrigated, probably less than 5 acres.

If you have questions about this letter, please don't hesitate to call. We will hold the application for thirty days awaiting your response. If we have not heard from you within 30 days, IDWR will act to remove your application from its records.

Respectfully,

Gary Spackman

cc: Bob Compton

MICROFILMED
OCT 12 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 25, 2001

BOB COMPTON
PO BOX 40
MIDVALE ID 83645

Re: Application for Permit No. 67-08060 in the Name of Joseph &/or Beverly Shaffer

Dear Parties:

This letter is to acknowledge the withdrawal of protest of the above referenced application for permit.

The department will now continue to process this application, subject to certain conditions of approval.

If you have any questions please call this office.

Sincerely,

Gary Spackman

GS:st

CC: JOSEPH &/OR BEVERLY SHAFFER
2963 FARM TO MARKET RD
MIDVALE ID 83645

MICROFILMED

OCT 6 2 2002

June 20, 2001

RECEIVED
JUN 22 2001
WATER RESOURCES
WESTERN REGION

✓Mr. Gary Spackman
Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Mr. Joseph Shaffer
2963 Farm To Market Rd.
Midvale, Idaho 83645

Re: Application for Water Right No. 67-08060 in the name of Joseph
and/or Beverly Shaffer (Withdrawal of Protest)

Mr. Spackman, although we did not receive a response from you
regarding the first question we asked in our June 8, 2001 letter, we
believe Mr. Shaffer is trying to work with us. Therefore, we, the
Protestants, withdraw our protest against the Shaffer application for
irrigation water right amended to .08 cfs.

Sincerely,



Bob Compton, Representative
Protestant Group
P.O. Box 40
Midvale, Idaho 83645
(208) 355-5353

MICROFILMED
OCT 9 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 13, 2001

Robert W. Compton
P.O. Box 40
Midvale, ID 83645

Re: Application for water right no. 67-08060 in the name of R. Joseph &/or Beverly Shaffer;
Proposed Conditions of Approval

Dear Mr. Compton:

I received your letter dated June 8, 2001.

At the prehearing conference conducted on March 16, 2001, you presented me with a draft settlement agreement. The draft agreement mirrored an agreement reached for withdrawal of protests by your group to applications for water rights filed by Ray Parker. I told you I had reviewed the agreement for withdrawal of protests to the Parker applications, and that I did not believe all of the provisions of the agreement could become conditions of approval for permits issued to Parker. I stated the same reservations about the draft agreement you presented. I stated I would review the draft and the Parker agreement and propose some conditions of approval that, if acceptable, might resolve the protests to the Shaffer application.

My letter of March 30, 2001, was my attempt at a proposal. The letter stated that the draft settlement agreement implies "fact finding procedures by IDWR that are extraordinary." You asked for an explanation. The draft agreement attempts to bind IDWR to perform testing, analysis, and to take actions triggered by events defined by the parties without consulting IDWR about its willingness or ability to do the work defined. These responsibilities are not normally borne by IDWR as part of a settlement agreement, particularly when IDWR has not participated in a discussion of the terms of the agreement. As a result, the proposed provisions are "extraordinary." You also asked for details about each provision deemed to be "extraordinary." You can assume I thought all provisions of the draft agreement not included in the draft conditions are extraordinary.

The draft agreement was extracted from my recommendations for approval of the Parker applications. I apologize for the reference to plural wells. It seems to me that the intent of the proposal could have been gleaned from the language, however, whether plural or singular. I also apologize for inclusion of language about a 14 day test and reference to the Parker application numbers.

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OCT 9 2002

Robert W. Compton
June 13, 2001
Page 2

The proposal for the management plan discussed in condition no. 6 would be submitted by the water users in the area. IDWR would participate in formulating the plan within its management options.

The language I proposed would become conditions placed on any water right approval. The conditions are effective against any future holder of the water right unless the conditions are amended.

Any agreement should be between the applicant and the protestants. IDWR should not be a party to the agreement. IDWR is the fact finder.

IDWR does not have an "instruction list" for drafting settlement agreements.

IDWR does not have "standard stipulations" for a 24 hour pump test. A 12 hour test might produce adequate results. There are methods of conducting pump tests acceptable to the scientific community. I assume that Terry Scanlan contemplated these methods if he encouraged a pump test.

Monthly baseline data gathering was not included because the draft agreement proposes regulation in future years based on comparison of annual pre-irrigation season water levels measured in April of each year. I didn't see the need for the monthly measurements the first year unless they will be used for comparison in future years. You could propose their inclusion if you like.

Finally, you do not have to sign any agreement containing conditions I propose. IDWR will schedule the hearing for this application within two weeks if the contested case has not been resolved, assuming that any further delay is also unacceptable to you.

Respectfully,



Gary Spackman

cc. Joseph Shaffer

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OCT 12 2002

June 8, 2001

✓ Gary Spackman
Dept of Water Resources
2735 Airport Way
Boise, Idaho 83705

RECEIVED

JUN 11 2001

**WATER RESOURCES
WESTERN REGION**

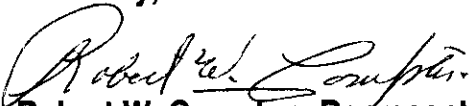
Joseph Shaffer
2963 Farm To Market Rd.
Midvale, Idaho 83645

Mr. Spackman, in response to the questions listed in your letter dated May 30, 2001, please note the following:

- Yes, the protestant group did notify all parties about our May 8th letter by serving copies.
- Yes, Joseph Shaffer did speak to the Protestant's Representative about reducing cfs in his water application.
- It is very possible that this change in cfs will satisfy the protestant group. First, however, we want to review the stipulations that IDWR will include with the Shaffer water permit. If we find monitoring of the Shaffer well and our access to those records satisfactory, we may all be in agreement.
- We continue to await your response to all our questions in the letter you received on May 8, 2001.

Please respond to these two requests in a timely manner. We find your lack of response to our previous correspondence unacceptable.

Sincerely,


Robert W. Compton, Representative
Protestant Group

Cc: Joseph Shaffer

MICROFILMED
OCT 02 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

May 30, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

BOB COMPTON
PO BOX 40
MIDVALE ID 83645

JOSEPH SHAFFER
2963 FARM TO MARKET RD
MIDVALE ID 83645

Re: Application for Water Right No. 67-08060 in the Name of Joseph &/or Beverly Shaffer

Dear Sirs:

At the end of March 2001, I distributed some draft conditions for review by the parties. I received a two-page response letter from Bob Compton on April 13, 2001, asking several questions about my proposal. On May 8, 2001, I received a letter from Joseph Shaffer and an amended application significantly reducing the amount of water sought. In reviewing the documents, I cannot determine that they were forwarded to the opposing party. Enclosed are copies of the documents, I remind you with this letter that you are responsible for serving copies of any documents sent to the Department of Water Resources (IDWR) on all other parties to the contested case.

Prior to responding to Mr. Compton's letter, I want to concentrate on the amended application filed by Joseph Shaffer. The application significantly reduces the quantity of water sought and I wonder whether this reduction satisfies the protestants and could result in a withdrawal of the protest. I also note that the acres proposed for irrigation have not been reduced. This is not absolutely necessary. Nonetheless, 0.08 cfs would probably irrigate less than five acres. It would be helpful to identify the acres that are proposed for irrigation.

Mr. Compton, would you please respond to this inquiry within 14 days of the date of this letter. If you do not, I will assume that the reduction is not sufficient to alleviate your concerns, and I will attempt to answer your questions. If matters are still unresolved, I will schedule the contested case for a hearing.

Sincerely,


Gary Spackman

GS:st
Encl.

MICROFILMED

OCT 02 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

*I changed the date because of the
14 day res. time & reran
& stamped Gary's signature,*

5-30-01

May 24, 2001
30

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

BOB COMPTON
PO BOX 40
MIDVALE ID 83645

JOSEPH SHAFFER
2963 FARM TO MARKET RD
MIDVALE ID 83645

Re: Application for Water Right No. 67-08060 in the Name of Joseph &/or Beverly Shaffer

Dear Sirs:

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Sincerely,

Gary Spackman
Gary Spackman

GS:st
Encl.

Received by...

10/1/01

RECEIVED

MAY 08 2001

WATER RESOURCES
WESTERN REGION

Dept. of Water Resources
Gary Spackman.

Sir:

I'm reference to application
for permit number 67-08060.
We are changing our request
from 1 CFS to .08 CFS or about
40 g.p.m. or the maximum output
of a 2 horse submersible pump
run by gas generator.

The reasons for the change
include: The extreme cost of
power plant and wheel line set up,
along with soil with poor drainage.
It could not use that volume of water.

I would hope with limited
hp, we could eliminate the
need for volume records.

I'm sending back my revised
copy of the application for your
inspection.

I would like to see some
action from this Dept.

R Joseph Shaffer

MICROFILMED

MAY 09 2002

April 11, 2001

Mr. Gary Spackman
Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

RECEIVED
APR 13 2001
WATER RESOURCES
WESTERN REGION

Re: Your letter of March 30, 2001 regarding Proposed Conditions of Approval;
Application for Water Right No. 67-08060

Dear Mr. Spackman,

Thank you for the list of proposed conditions you offered in an attempt to encourage an agreement between the applicants and the protestants related to Water Right Application No. 6708060.

After reading your letter, our group is needing clarification as to the meaning of some of your statements. Would you please provide answers to the questions listed below:

1. Paragraph 1: You write *"The draft settlement agreement is long and contains many provisions that imply fact-finding procedures by IDWR that are extraordinary"*.

- What exactly is meant by your use of the word "extraordinary"?
- Please list the provisions you are referring to and how each implies *"fact-finding procedures"* by IDWR.

Comment: While it is true that the agreement developed by the Protestant's group contains items that do not involve IDWR, these items are considered essential for the on site cooperation between the protestants and the applicant. We received no instructions from IDWR that the agreement should be limited to stipulations approved by IDWR. If we had been given those instructions, we could have saved ourselves thousands of dollars and many man-hours of effort. If such an instruction list does exist, please send it to us. Additionally, you use the term "water right holder" several times. Will this designate Shaffers, their heirs, assigns, etc.?

2. In Condition #2 you state, *"wells constructed pursuant to this water right . . ."*
The meaning of this statement is not clear to us.

- Which wells are you referring to? Please explain
The wells we are concerned about have already been constructed..

3. Under Condition #4) 2) *"For each well . . ."* is this just the applicant's well or does it include the protestants wells. The intent of this statement isn't clear to us.

4. In Condition # 6: Who is responsible for developing a *"management plan for all the groundwater rights in the hydrogeologic area"*?

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5. In Condition #7: You mentioned that *"The water right holder shall conduct a twenty-four hour pump test for each irrigation well completed pursuant to this water right"*.

- Since you did not stipulate what this 24 hour test entails, does IDWR have a standard set of stipulations already in place for the 24 hour test? If so, we would like a copy.

NOTE: Your conditions do not address measurements at the protestant's wells nor do they require monthly static level measurements for 2001 to establish baseline ground water levels at the irrigation well. Was this an oversight or intentional? If intentional, would you please provide an explanation?

- The applicant is applying for only one well and this well was constructed several decades ago. You seem to be implying there is more than one well. Why?

6. In Condition #8: You refer to the Parker's Water Rights application for irrigation wells. Why is this relevant to an agreement between the Shaffers and our Protestant group?

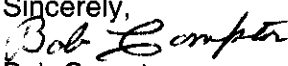
7. In # 10: You state that *"this water right is subject to an agreement between the water right holder and the protestants to the original application."*

- Are you referring to the Agreement you have proposed?
- In #10, this is the first time you specifically mention the Protestant group. Therefore, your conditions appear to be more like an agreement between IDWR and the Applicant. Is this true?

Final Comment:

Area well history and Terry Scanlan's hydrologist's report indicates that our domestic aquifer is a perched aquifer. Mr. Scanlan reaffirmed in his report that this area is only recharged by the local precipitation during the winter months. Dutch Flat sediments rest on top of a basalt layer as indicated by well records. The recharge area is about 2 1/2 miles wide by 4 miles long. The recharge is not equal to the CFS proposed for irrigation well permits in Dutch Flat. All other irrigation wells in the larger Crane Creek area are deep into the basalt at much lower depths as indicated by well records. This lower aquifer is apparently fed from distant mountain run off.

We appreciate your efforts, however, we find it reasonable to delay signing any agreement that is not entirely understandable to us and that does not clearly distinguish the parties to the agreement and their respective responsibilities.

Sincerely,

Bob Compton
Protestant's Representative
P.O. Box 40
Midvale, Idaho 83645
(208) 355-5353
Email: agricon@ruralnetwork.net

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State of Idaho

DEPARTMENT OF WATER RESOURCES

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

March 30, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

R. Joseph & Beverly Shaffer
2963 Farm to Market Rd.
Midvale, ID 83645

Robert Compton
P.O. Box 40
Midvale, ID 83645

Re: Application for Water Right No. 67-08060; Proposed Conditions of Approval

Ladies and Gentlemen:

At a prehearing conference conducted in Midvale on March 16, 2001, I agreed to propose some conditions of approval from the draft settlement agreement the parties had been negotiating. The draft settlement agreement is long, and contains many provisions that imply fact-finding procedures by IDWR that are extraordinary. As a result, I do not believe all the details and requirement should be a part of the water right. I also believe that the contract contains many more details than should become conditions to a water right approval. As a result, I recommend the following conditions of approval related to the draft agreement:

1. The right holder shall install a suitable measuring device with a sweep hand to measure instantaneous flow and a tamper proof numerical counter that will accumulate total volume diverted. The meter shall be calibrated by an independent flow measurement device in the field after installation and prior to diversion of water. Calibration information shall be submitted to the Idaho Department of Water Resources, and volumetric and flow rate readings shall be adjusted according to the calibrations.
2. Wells constructed pursuant to this water right shall be equipped with a 1-inch PVC water level sounding tube extending from the top of a well casing to approximately the top of the pumps. The right holder shall measure the static water level in any wells constructed pursuant to this water right application semi-annually, once in April before diversions of water begin, and once in October after diversions of water have ended.
3. The water right holder shall read and record the semi-annual water level measurements, and the monthly diversion volumes upon forms provided by IDWR. The water right holder shall annually submit a report of the recorded measurements on forms provided by IDWR on or before January 15 of every year.

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R. Joseph Shaffer
March 30, 2001
Page 2

4. The water right holder shall determine the cumulative water level decline in the aquifer during April of each year as follows: (a) For each well, determine the historical groundwater decline by subtracting the current April groundwater level from the initial April groundwater level measured after this water right was approved, and (b) average the historical water level declines for all irrigation wells owned by the water right holder.

5. Upon detection of a cumulative water level decline of ten (10) feet or more in April static water levels, the applicant shall immediately notify IDWR, and shall cease pumping pursuant to this water right.

6. Pumping shall not resume until a management plan for all the groundwater rights in the hydrogeologic area is proposed and approved by IDWR within the framework of existing IDWR management options.

7. The water right holder shall conduct a twenty four-hour pump test for each irrigation well completed pursuant to this water right.

8. If a well drilled under this water right is the first irrigation well drilled for water right nos. 67-08053, 67-08055, or 67-08056, the water right holder shall conduct a 14-day pump test. Details of the pump test are contained in a settlement agreement between the original water right holder and protestants to the applications.

9. Violation of conditions of this water right is cause for the director of IDWR to cancel or revoke the approval.

10. This water right is subject to an agreement between the water right holder and protestants to the original application.

The participants in the discussion on March 16, 2001 agreed to review the proposed conditions and respond with objections or comments within two weeks of receiving the draft language from me. Any comments should be sent back to me by April 20, 2001. You must send copies of any comments to all parties. I would appreciate your willingness to try to find some agreement based on the framework I have proposed. Thank you.

Sincerely,


Gary Spackman

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APR 5 2 2002

SETTLEMENT AGREEMENT

MARCH , 2001

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OCT 9 2 2002

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OCT 02 2002

1 **ROBERT L. ALDRIDGE, CHARTERED**

2 Attorney at Law

3 1209 North Eighth Street

4 Boise, Idaho 83702-4297

5 Phone: (208) 336-9880

6 Fax: (208) 336-9882

7
8 **SETTLEMENT AGREEMENT**
9

10 THIS AGREEMENT is made March _____, 2001, by and between the persons set forth
11 on Part One of Exhibit "A" hereto, hereinafter called "Applicant", and the persons set
12 forth on Part Two of Exhibit "A", hereinafter referred to as "Protestants", for, and in
13 consideration of, the following promises, covenants, and warranties, and the other
14 consideration hereinafter set forth, and for other good and sufficient consideration, the
15 receipt and sufficiency of which is hereby acknowledged. Based on such consideration,
16 the parties mutually agree as follows:
17

18 1. Water Permit Application, Protest: Applicant has filed an Application for Permit No.
19 67-08060 with the Idaho Department of Water Resources, seeking a maximum
20 diversion of 0.75 cfs (three hundred thirty six point six [336.6] gpm) of groundwater for
21 irrigation of up to sixty-eight (68) acres at a location commonly known as "Dutch Flat,
22 near Midvale, in Washington County, Idaho. Protestants own property and have
23 existing wells, or other methods of diversion of water, in the area impacted by such
24 Application. Protestants have protested the issuance of such Permits. This agreement
25 is in settlement of such protest.
26

27 2. Stipulations in Settlement of Protest: The following stipulations are made by the
28 parties in settlement of the above-described protest. Each of the stipulations are
29 independent and fundamental to such settlement. All of the stipulations must be met
30 strictly and exactly by Applicant, without exception.
31

32 Applicant acknowledges that tapping aquifers above two hundred (200) feet depth
33 increases the risk of water right curtailment due to direct well interference with
34 Protestants' wells. Applicant also acknowledges that tapping aquifers above two
35 hundred (200) feet depth increases the potential for aquifer depletion (that is, annual
36 water level declines) due to limited recharge area for the sedimentary aquifers above
37 two hundred (200) feet depth.
38
39
40

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~~b. Well construction shall meet applicable State of Idaho well construction standards to prevent interconnection of aquifers of different pressure, temperature, or chemistry.~~

b. Well shall be accepted as is.

c. Applicant and Protestants agree to a joint program of static-water-level measurement. The measurement program shall document pre-development groundwater levels. This baseline shall then be used to evaluate any changes in groundwater levels that may be attributable to pumping by Applicant. The measurement program shall include monthly measurements from March through November of 2001 prior to **or during** the start of Applicant's pumping, and also for the first year of pumping, **if applicable**. After the first year of pumping, measurements shall be conducted each April and October for **an additional four (4) years. five (5) years following the start of pumping at any new irrigation well by Applicant.** Additional measurements may be made at the reasonable request of any of the parties. Protestants shall be responsible for obtaining and paying for measurement at the wells of the Protestants and Applicant will be responsible for obtaining and paying for measurement at the Applicant's irrigation wells. The Applicant shall be provided with the opportunity to witness measurements made by, or at the request of, Protestants, and a representative of Protestants shall likewise be provided with the opportunity to witness measurements made by, or at the request of, Applicant. Measurements shall be made to the nearest inch. All measurements shall be reported to the Idaho Department of Water Resources and to each of the parties on an annual basis, or within ten (10) days of a written request by any of the parties. Each well to be monitored shall be supplied, at the expense of the owner thereof, with a water-level sounding tube (1 [one] inch PVC pipe from the top of the well casing to below static water level, which tubes shall extend to the top of the pumps if reasonably possible.

d. Upon detection of a cumulative water-level decline of ten (10) feet or more in April static-water-levels at the Applicant's irrigation well, the Applicant shall immediately notify the Idaho Department of Water Resources. The Applicant shall also then cease irrigation pumping until Applicant either:

- (i) reduces pumping to an amount that prevents additional water level decline; or,
- (ii) proves to the satisfaction of the Director of the Idaho Department of Water Resources that the water level decline is due to circumstances (such as drought) unrelated to Applicant's appropriation; or,

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(iii) proves to the satisfaction of the Director of the Idaho Department of Water Resources that the rate of water level decline will not impact existing wells or water rights.

e. Applicant and Protestants shall conduct a pumping test of each Protestant well to establish baseline static water level, pumping water level, discharge rate (gpm), and discharge pressure for each such well. Pumping tests shall be run with the existing pumps. Testing shall be conducted at normal discharge pressure (approximately 50 psi for domestic wells) and at open discharge (maximum flow rate, minimum discharge pressure). Test duration shall be thirty (30) minutes at each pumping rate, but may be shorter if pumping water level is stable (less than one inch of change in five [5] minutes). Pumping water levels shall be measure at five (5) minute intervals.

Discharge pressure can be measured with a pressure gauge attached to a hose bib, faucet, or other convenient location, with the gauge accurate to within two (2) psi. Location of the gauge shall be documented, along with the location of the discharge (frost-free hydrant, hose bib on side of house, etc.). Discharge rate can be measured with a five (5) gallon bucket and a stopwatch. The list of Protestant's wells to be tested is attached hereto as "Exhibit B".

f. Applicant agrees to mitigate any significant impacts to domestic wells that result from Applicant's pumping. A "significant impact" shall be any impact that prevents the Protestant's well and well pump from producing at seventy-five percent (75%) of the rate that was documented by test pumping as determined in e, above. The mitigation selected shall be at Applicant's option, but shall be adequate to keep Protestant's water supply "whole". This could mean reduced pumping by the Applicant, down to complete cessation of pumping if Protestant's wells do not return to baseline.

g. If Applicant is unable to mitigate identified impacts to a Protestant water supply within five (5) days of notification of the impact by a Protestant, then Applicant shall immediately cease all irrigation pumping until the impact has been mitigated. Protestants shall provide notification of impact to Applicant in writing. A copy of the notification shall be sent to the Idaho Department of Water Resources. Protestants shall also report any condition (such as declining static water level) that may eventually develop into a significant impact within a reasonable time after the condition is detected. The intent of the pre-notification is to provide Applicant with the opportunity to promptly mitigate the condition before a significant impact develops.

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h. Applicant shall conduct the following pumping tests in addition to any other tests set forth in this agreement:

- A twelve (12) hour test of the irrigation well prior to irrigation pumping. This test shall be conducted at a constant pumping rate. Water levels shall be measured every hour for the duration of the test. Following the completion of pumping, water levels shall be monitored twice daily until the water level recovers to the pre-test static level.

Test pumping rates for the foregoing shall be not less than ninety percent (90%) of the ultimate irrigation pumping rate. Applicant shall monitor water levels in the pumping well during test pumping. Protestants shall be notified prior to the start of testing. Test pumping data shall be provided to the Idaho Department of Water Resources and to the Protestants, within thirty (30) days of completion of the test. If a test demonstrates clear potential for significant impact to existing wells or water rights, Applicant shall cease development until pending impacts are mitigated to the satisfaction of the Director of the Idaho Department of Water Resources.

i. Applicant's irrigation well shall be equipped with a totalizing flow meter. Monthly **records of** pumping volume shall be reported to the Idaho Department of Water Resources and to the Protestants on an annual basis, or within ten (10) days after written request, during the permit development period.

j. Protestants shall appoint a representative, who shall be responsible for assembling Protestant measurement data, and for distributing any data received from Applicant to Protestants.

k. Applicant **and IDWR** agree that no permit shall be licensed until the well has been pumped for five (5) years, **thus allowing long-term testing of recharge capabilities of the aquifer.**

l. In the event that Applicant breaches this agreement, then Applicant agrees that the Idaho Department of Water Resources may revoke or cancel the issued permit under said Application, as the Director shall determine. Further, Applicant agrees that any such permit may be declined or revoked or canceled if the use of the permit has a significant negative impact on one or more domestic wells of Protestants without mitigation of such negative impact in a form reasonably acceptable to Protestants and to the Director of the Idaho Department of Water Resources.

m. By entering into this agreement, Protestants do not waive any rights or remedies they, or any of them, may have to seek redress for unmitigated significant impacts, injury, or damages.

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3. Forbearance: It is expressly understood and agreed that any forbearance of any kind that may be granted or allowed by one party to the other under this Agreement shall not be deemed or construed or considered as waiving or surrendering any condition or covenant of this Agreement by such party.
4. Agreement Sets Forth Entire Understanding Between The Parties: It is understood and agreed that all prior understandings and agreements between the parties to this Agreement are merged in this Agreement, which alone fully and completely expresses their agreement, and that the same is entered into after full investigation, neither party relying upon any statement or representation not embodied in this Agreement made by the other.
5. Oral Modifications: This Agreement may not be changed orally, but only by an agreement in writing, signed by the party against whom enforcement of any waiver, change, modification, or discharge is sought.
6. Binding of Heirs, etc., of the Respective Parties: The terms and conditions set forth in this Agreement are to apply to and bind the heirs, executors, administrators, personal representatives, successors, and assigns of the respective parties, and all other persons or entities claiming in any manner under, through, or because of, a party hereto.
7. Multiple Parties: If two or more persons or entities constitute either the Applicant or the Protestants, the word "Applicant" or the word "Protestant" shall be construed as if it read "Applicants" or "Protestants" whenever the sense of this Agreement so requires. As to the terms used in this Agreement, the masculine shall also refer to the feminine, the feminine to the masculine, the plural to the singular, and the singular to the plural, where applicable.

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8. Paragraph Headings: The underscored word or words appearing at the commencement of the paragraphs and/or subparagraphs of this Agreement (including its Exhibits) are included only as a guide to the contents thereof and are not to be considered as controlling, enlarging, or restricting the language or meaning of those paragraphs or subparagraphs.

9. Savings Clause: The invalidity or lack of enforceability of any provision of this Agreement shall not affect or impair the validity of any other provision or term hereof, and such provision held invalid or unenforceable shall be simply severed out of this Agreement and the remainder of said Agreement shall be fully valid and enforceable.

10. Governing Law: This Agreement shall be governed by the laws of the State of Idaho.

11. Reading of Agreement: Each of the parties has read each and every page of this Agreement and the Exhibits hereto. Each of the parties understands the terms and conditions set forth on each such page.

12. Time of Essence, Damages: Time is of the essence of this Agreement, which shall be binding on the heirs, assigns, transferees, successors in interest, personal representatives, etc., of the parties. In the event of breach of this Agreement, the breaching party agrees to pay all damages occasioned thereby, including reasonable attorney's fees and costs.

13. Waiver of Jury Trial: The parties, **excluding Joseph and Beverly Shaffer, (provided, however, that said exclusion applies only to said persons individually and not as to their transferees, successors-in-interest, etc.)** each waive the right to a trial by jury in any action or proceeding based upon, or related to, the subject matter of this agreement. This waiver is knowingly, intentionally, and voluntarily made by the parties and each acknowledges that neither party nor any person acting on behalf of either party has made any representations of fact to induce this waiver of trial by jury or in any way to modify or nullify its effect. Each party further acknowledges that it has been represented (or has had the opportunity to be represented) in the signing of this agreement and in the making of this waiver by independent legal counsel, selected of its own free will, and that it has had the opportunity to discuss this waiver with counsel. The parties further acknowledge that they have read and understand the meaning and ramifications of this waiver provision. **NOTE: Joseph, our attorney informed us that the Constitutional right to trial by jury only applies to criminal proceedings and does not include civil proceedings.**

IN WITNESS WHEREOF, the undersigned have hereunto set their hands the day and year in this Agreement first above written.

APPLICANT:

R. Joseph Shaffer

Beverly Shaffer

STATE OF IDAHO)
) ss.
COUNTY OF WASHINGTON)

On this March , 2001, before me, a Notary Public in and for said State, personally appeared R. Joseph Shaffer and Beverly Shaffer, known to me or identified to me or proved to me on the basis of satisfactory evidence to be the persons whose names are attached to the foregoing instrument and acknowledged to me that they executed the same.

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

Notary Public for Idaho
Residing at
My Commission expires on

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OCT 02 2002

PROTESTANTS:

Robert W. Compton

Patricia J. Compton

Gerald G. McLay

Barbara L. McLay

Gerald A. Hagedorn

Mary Pat Hagedorn

Brian E. Roe

Renee J. Roe

William Neckels

STATE OF IDAHO

)

)

ss.

COUNTY OF WASHINGTON

)

On this March , 2001, before me, a Notary Public in and for said State, personally appeared the persons listed above as Protestants, known or identified to me to be the persons whose names are attached to the foregoing instrument and acknowledged to me that they executed the same.

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

Notary Public for Idaho

Residing at

My Commission expires on

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EXHIBIT "A"
PARTIES

PART ONE: APPLICANT

R. Joseph Shaffer and Beverly Shaffer, husband and wife, 2963 Farm-to-Market Rd, Midvale, Idaho 83645.

PART TWO: PROTESTORS

Robert W. and Patricia J. Compton, husband and wife, 1730 Pete Kriger Road, Midvale, Idaho 83645

William H. Neckels, 1742 Pete Kriger Road, Midvale, Idaho 83645

Gerald A. and Mary Pat Hagedorn, husband and wife, 1766 Pete Kriger Road, Midvale, Idaho 83645

Gerald G. and Barbara L. McLay, husband and wife, 1670 Loney Road, Midvale, Idaho 83645

Brian E. and Renee J. Roe, husband and wife, P.O. Box 83, Midvale, Idaho 83645

EXHIBIT "B"

WELLS TO BE TEST PUMPED

<u>Map Locator #</u>	<u>Location Description</u>	<u>Owners Previous/Current</u>
4/4a	12N-2W 6 SE of NW <i>(NOTE: 4/4a is the same well)</i>	Way / Compton
5	12N-2W 6 Lot 2	Way / Neckels
7	12N-2W 6 Lot 4	Way / Hagedorn
8	12N-2W 6 NW of NE	Loney / McLay
11	12N-2W 8 NW of NW	Brian Roe

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IDAHO DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY, BOISE, IDAHO 83705

Conducted by: Gary Spackman

ADDRESS

Joseph Shaffer 2963 Farm to Market Rd Midvale, Id
Beverly Shaffer 2963 Farm to Mkt. Rd., Midvale, Id.
Bob Compton 1730 Pete Krigger Rd Midvale, Id. 83645
Bill Neckels P.O. Box 2 (1742 Petekrigger) Midvale Id 83645
Gerald Angedorn 1766 PETE KRIGGER RD Midvale Idaho 83695
Harold McRay 1670 LONEY RD Midvale, Id 83645

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OCT 6 2 2002

February 16, 2001

RECEIVED

FEB 21 2001

WATER RESOURCES
WESTERN REGION

State Dept. of Water Resources,

This letter is in reference to the protest of application for water right #67-8060, R. Joseph Shaffer and Beverly Shaffer.

For my neighbor's assurance of good will and peace of mind concerning their water wells, we will do the following; lower our request of water right to .75 cfs or 336.6 g.p.m. No more than this shall be diverted at any time, and of course, if well cannot sustain that amount because of drought or other reasons; we will pump less or shut down if necessary.

If at any time our pumping from this well causes an adverse reduction in a neighbors well, we will stop pumping at their request and would expect to be shown the problem. Burden of proof is solely the responsibility of the protestant, monitoring your own well, not ours.

We will install a volume meter for our own information and will show any neighbor or state representative at their request.

If you want this in a legal and binding agreement, be our guest, at your expense.

The only other thing that we will agree to in this matter is that the agreement would stay with the well, regardless of ownership.

Please let us know what you think about this so that we can get on with our business.
Thank you.

Sincerely,

R. Joseph Shaffer
Beverly Shaffer

R. Joseph Shaffer
Beverly Shaffer

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OCT 02 2002

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO**

**IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 67-08060 IN THE)
NAME OF R. JOSEPH &/OR BEVERLY)
SHAFFER.)
_____)**

**NOTICE OF PREHEARING
CONFERENCE**

On November 2, 2000 R. Joseph &/or Beverly Shaffer file with the Department of Water Resources (IDWR) an application for permit to appropriate the public waters of the State of Idaho. The application was protested by Robert Compton.

IDWR has scheduled a prehearing conference for the protest to be held on **Friday, March 16, 2001, at 2:00 p.m. at the Midvale Library, 70 Bridge Street, Midvale, Idaho 83645.** The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Procedure of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules of Water Appropriation of the Department of Water Resources.

The conference will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the IDWR within (10) days prior to the conference.

Dated this 16th day of February 2001.



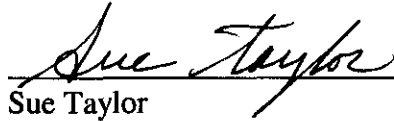
Gary Spackman

NOTICE OF PREHEARING CONFERENCE
MICROFILMED

OCT 02 2002

CERTIFICATE OF MAILING

I hereby certify that on the 20th day of February 2001, I mailed a true and correct copy, postage prepaid, of the Notice of Prehearing Conference to the applicant(s) and protestant(s) listed:



Sue Taylor
Senior Secretary

R. Joseph &/or Beverly Shaffer
2963 Farm to Market Rd.
Midvale ID 83645

Robert Compton
PO Box 40
Midvale, ID 83645

NOTICE OF PREHEARING CONFERENCE 2

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CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

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

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

BURDEN OF PROOF

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

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

PROCEDURE

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

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CONFERENCE

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

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

HEARING

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

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

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

EXHIBITS

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

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

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OCT 9 2 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

February 14, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

DR. ROBERT COMPTON
PO BOX 40
MIDVALE ID 83645

Re: Application for Permit No. 67-08060 in the Name of Joseph &/or Beverly Shaffer

Dear Protestant:

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

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

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

Enclosed is a Notice of Prehearing Conference scheduled for Friday, March 16, 2001, at 2:00 p.m. at the Midvale Library, 70 Bridge Street, Midvale, Idaho 83645.

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

At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

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

Sincerely,


MIC Gary Spackman

GS:st

CC: Application
Notice of Prehearing Conference

001 0 2 2001



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

February 13, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

R JOSEPH &/OR BEVERLY SHAFFER
2963 FARM TO MARKET RD
MIDVALE ID 83645

Re: Application for Permit No. 67-08060

Dear Applicant:

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

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

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

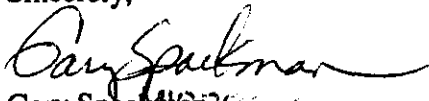
Enclosed is a Notice of Prehearing Conference scheduled for Friday, March 16, 2001, at 2:00 p.m. at the Midvale Library, 70 Bridge St., Midvale, Idaho 83645.

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

If the matter cannot be resolved at the prehearing conference, a formal hearing will be arranged for a future date.

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

Sincerely,


Gary Spackman

44-203A-011201
FILED

GS:st

Enclosure: Copy of protest(s)

Notice of Prehearing Conference

2001 5 2 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 12, 2001

MIDVALE LIBRARY
PO BOX 127
MIDVALE ID 83645

Re: Conference Room Reservation

This letter is to confirm the conference room reservation made by the Department of Water Resources for Wednesday, March 16, 2001, at 2:00 p.m.

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

Sincerely,

A handwritten signature in cursive script, appearing to read 'Sue', is written over a horizontal line.

Sue Taylor
Senior Secretary

MICROFILMED

OCT 02 2002

pd 25
WO 2 7299
1-19-01

State of Idaho
Department of Water Resources
Notice of Protest

Karl J Dreher, Director
Dept. of Water Resources, Western Region
2735 Airport Way
Boise, Idaho 83705

1. Matter being protested: Application for water right No. 67-8060 by Beverly Shaffer & R. Joseph Shaffer, 2963 Farm To Market Rd, Midvale, ID 83645.
2. Names of protestants (**see attachment**)
3. Protestant's Representative for service **Dr. Robert Compton**
4. Service mailing address **P.O.Box 40 Midvale Id 83645**
5. Service Telephone no. **PH # 208 355-5353**
6. Basis of Protest under Idaho Statute, section 42-203A Idaho Code:
 - (a) That it will reduce the quantity of water under existing water rights. This area is arid and water has never been in abundant supply. There has been a history in this area of there being times during drought periods when wells are borderline for meeting domestic needs. Several neighbors have already had to either drill deeper or new wells to find an adequate water supply.
 - (b) That the water supply itself is insufficient for the purpose for which it is sought to be appropriated. Local irrigation wells within a five-mile radius are generally three to five times the depth of the applicant's well. Although there are no irrigation wells in the immediate vicinity, all the successful irrigation wells are drawing water from fractured layers deep in the basalt. The applicant's well is drawing water from an aquifer perched upon the basalt layer. The layers are primarily clay with some layers of sand. According to the well log, the only layer containing water was a three foot layer of gravel and sand at a depth of 28-31 feet. There has been considerable controversy over the potential gpm output of this well.
 - (c) Since the applicant has the subject property and well for sale, it does appear that receipt of an irrigation permit would significantly increase the value of the property.
 - (d) That the applicants or their assigns may not have sufficient financial resources to repair any loss of water supply that the protestants might experience due to water draw down by the applicant's irrigation well. Will they or a party that might own the property in the future have sufficient financial resources for the liabilities that might be created?
 - (e) That it will conflict with the local public interest. If the applicant uses a diesel powered generator, this pump would be a concern. Two neighbors, who are included in this protest, have high sensitivity to diesel fumes and chose to move to this area for better air quality.
7. What would resolve your protest? That through the *Idaho Department of Water Resources* permit/license, the *applicant* will guarantee that the existing quantity of water for each protestant will not be infringed or decreased and to repair any loss of water supply that the protestants might experience due to water draw down by the applicant's wells.

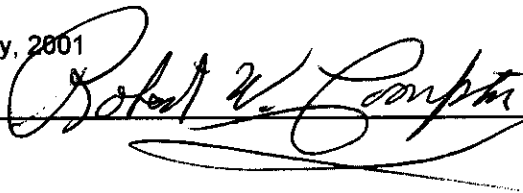
I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I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

Signed: 19th day of January, 2001

Protestants' Representative

MICROFILM

19 JAN 2001



ATTACHMENT TO NOTICE OF PROTEST

Matter being protested: Application for Water Right No. 67-8060 by Beverly Shaffer & R. Joseph Shaffer, 2963 Farm To Market Rd, Midvale, ID 83645.

Names of Protestants:

Name Robert W. Compton
(Representative)

Signature Robert W. Compton
(Representative)

Patricia Compton
Address P.O. Box 40
Midvale, ID 83645

Patricia Compton
Telephone 208-355-5353

Name MARY PAT HAGEDORN
(Alt. Representative)

Signature Mary Pat Hagedorn
(Alt. Representative)

GERALD A. HAGEDORN
Address 1706 PETE KRIEGER RD.
MIDVALE, ID 83645

Gerald A. Hagedorn
Telephone 208-355-3852

Name William H. Neckels

Signature Will H. Neckels

Address P.O. Box 2
Midvale ID 83645

Telephone 208-355-3576

Name Gerald G. McLay
Barbara McLay

Signature Gerald G. McLay
Barbara McLay

Address 1670 Lowey Rd
Midvale ID 83645

Telephone 208 355-2381

Name Brian E Roe
Renae J. Roe

Signature Brian E Roe
Renae J. Roe

Address 3115 Farm to Mkt Rd
Midvale, ID 83645

Telephone 208-355-3262

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OCT 02 2002

FEB 02 2001

**WATER RESOURCES
WESTERN REGION**

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO
County of Washington

$$\left. \begin{array}{l} \text{---} \\ \text{---} \end{array} \right\} \text{SS.}$$

Sarah Bales, being duly sworn,
deposes and says:

That he/she is the Clerk of THE WEISER SIGNAL AMERICAN, a bi-weekly newspaper published at Weiser, in the County of Washington and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Weiser; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a

week for two consecutive weeks in the regular and entire issue of said paper during the period and time of publication, and was published in the newspaper proper and not in a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

January 3, 2001, and ending
with the issue of January 10, 2001

Fees \$ 152.42 Sarah Bilo

Subscribed and sworn to before me this 10

day of January, 2001

Notary Public, residing at Weiser, Idaho

My commission expires 02, 02

OCT 02 2002

[illegible]



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

12/27/2000

Weiser Signal
PO Box 709
Weiser ID 83672

RE: Application for Permit Nos. 67-8060 and 67-8061

Dear Legal Notice Department:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before January 22, 2001. Your cooperation is appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Sue Taylor".

Sue Taylor
Secretary/Office Coordinator

Enclosure

MICROFILMED

OCT 6 1 2000

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

67-8060

BEVERLY SHAFFER
R JOSEPH SHAFFER
2963 FARM TO MARKET RD
MIDVALE ID 83645

Source: GROUND WATER

Diversion Pt: NENWSE Sec 1 T 12N R 03W in WASHINGTON
County

Use: IRRIGATION	(3/15 To 10/31	1 CFS	0 AFA	)
Use: STOCKWATER	(1/01 To 12/31	0.02 CFS	0 AFA	)
Total Diversion:	(		1 CFS	)

Date Filed: 11/02/2000

Place of Use: IRRIGATION AND STOCKWATER

Twp 12N Rge 03W Sec 1 NWSE SWSE
Number of Acres 68

67-8061

CHARLES A PHILLIPS
1226 MANN CR RD
WEISER ID 83672

Source: GROUND WATER

Diversion Pt: NENENW Sec 19 T 12N R 04W in WASHINGTON
County

Use: DOMESTIC	(1/01 To 12/31	0.04 CFS	0 AFA	)
Use: IRRIGATION	(3/01 To 11/15	0.8 CFS	0 AFA	)
Total Diversion:	(		0.84 CFS	)

Date Filed: 11/06/2000

Place of Use: DOMESTIC

Twp 12N Rge 04W Sec 19 NENW

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DEC 10 2000

Place of Use: IRRIGATION

Twp 12N Rge 04W Sec 18 SESW

Twp 12N Rge 04W Sec 19 NENW

Number of Acres 40

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, 2735 Airport Way, Boise ID 83705-5082 together with a protest fee of \$25.00 for each application on or before 01/22/2001. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on January 4 and 11, 2001.

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OCT 02 2002

REQUEST TO PROCESS

RECEIVED

DEC 01 2000

WATER RESOURCES
WESTERN REGION

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

Name of Applicant

R. JOSEPH +/OR BEVERLY SHAFER

Mailing Address

2963 FARM to MKT RD

MIDVALE ID 83645

Application No.
(if known)

 IN LOCAL PUBLIC INTEREST

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

 PROPOSE MITIGATION NOW

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

 ✓ WILL AGREE TO MITIGATION IN THE FUTURE IF NECESSARY

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

Signature

R. Joseph Shaffer
Beverly Shaffer

Date

Nov. 27th 2000

Please return this form to:

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

MICRON

DEC 1 2 2000

WELL DRILLER'S REPORT

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

[illegible]