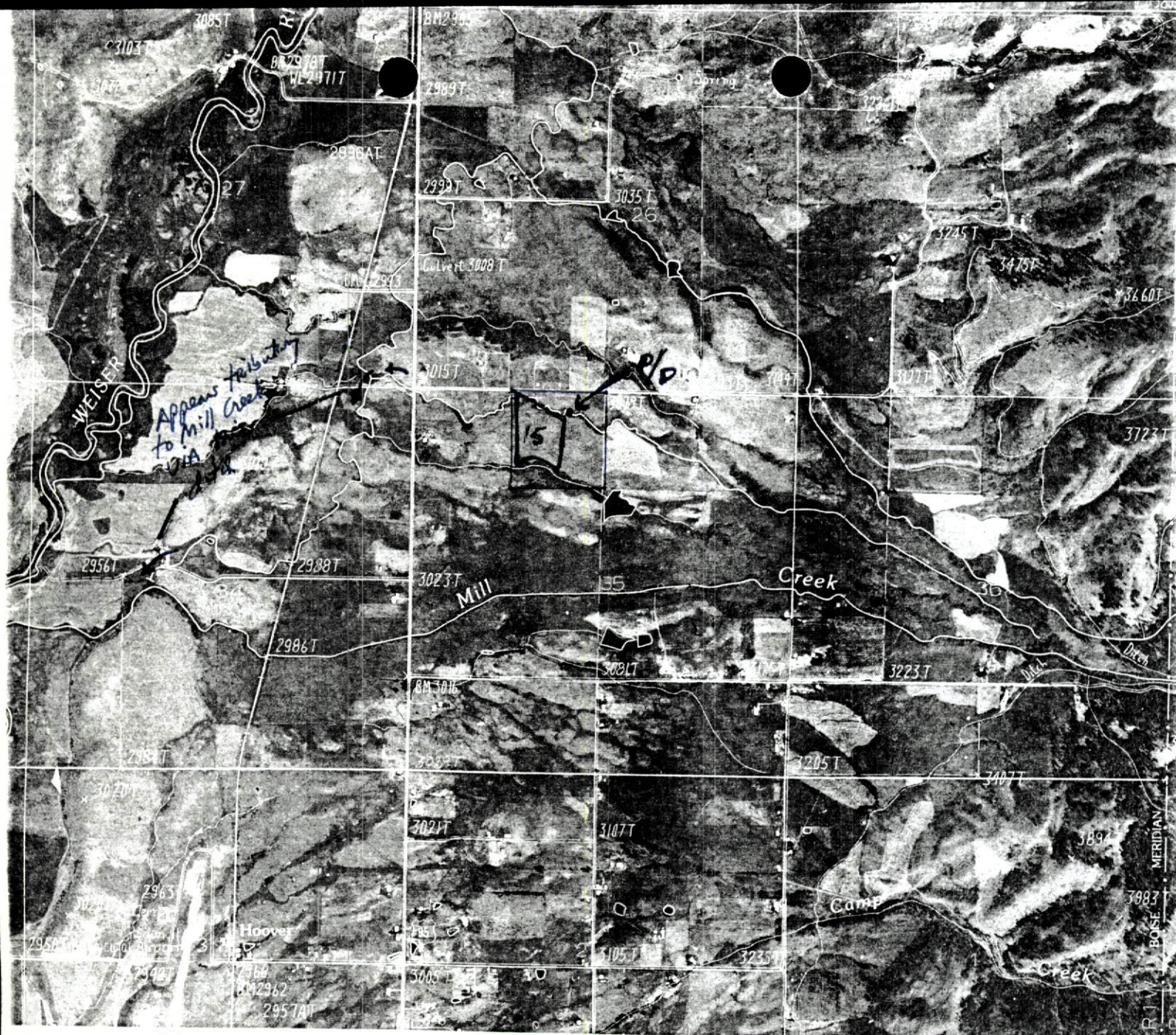


No govt lots
-SL 10/26/94

67-7977

NOV 18 239

NOV 14 1995



Ditch, Structure, + creek Bed looking East. 11

One must remember that this creek
runs dry in June ~~to~~^{or} July in 95% of
the years. This creek is supplied by the
overflows of the Mill Creek System.

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SEP 13 2000



10

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SEP 13 2000



Ditch + Structure Looking West.

9

Please see East view Photo

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SEP 13 2000



Creek Summer Flow 8
(Irrigation ditch empty) (shot off)

as reported this whole creek
runs dry - June - July depending
on water year.

older picture (no structure)

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SEP 13 2000



7

MICROFILMED

SEP 13 2000



Creek during normal seasonal
flow. 6

MICROFILMED

SEP 13 2000



creek during Flood,

5

NO. 1700915 11-02 NNNNN-
H201-5002
MICROFILMED

SEP 13 2000



2 ft. Culvert would not handle spring ³
Run-off flow, This 5'x7' Squash bottom
Installed in Spring 1999,

<No. 24>027 21+00 NNNNN-26A000050

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SEP 13 2000



4

MICROFILMED

SEP 13 2000



Creek during normal seasonal
flow.

2

MICROFILMED
SEP 13 2000



Creek during flood.

1

MICROFILMED

SEP 13 2000

QNo. 1893814 11+39 NNNNN-9920056

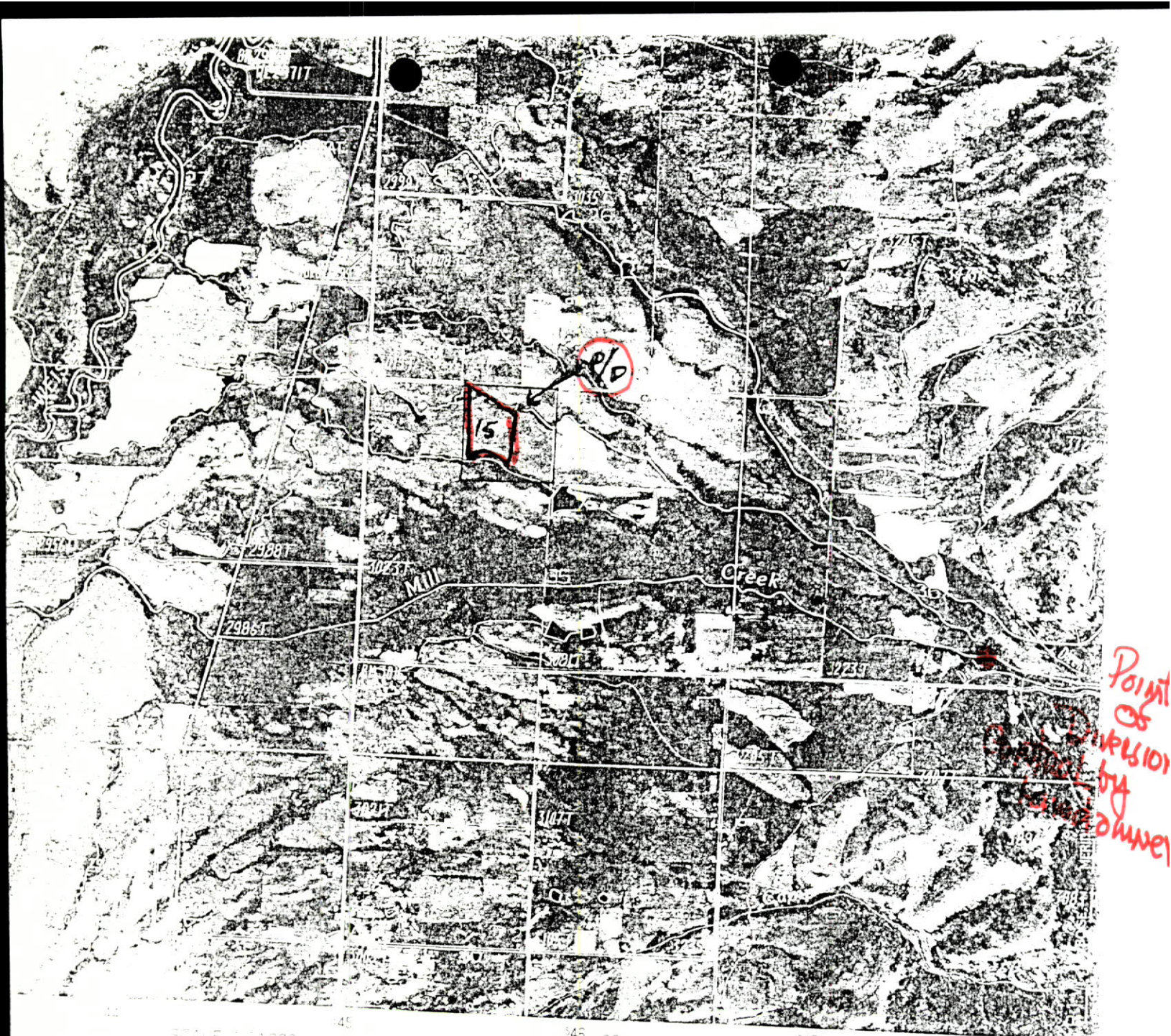
A67-11419 From Weiser River
A67-11422 to Lost Valley Res.
(Lost Creek)
Diversion in Sec 10.

17N 1W Sec 34, 35, 36
All locations & Acreages
are approximate.

A67-00261B Mill Creek
A67-11415
36 acres only
P/O

A67-11421
"Lost Chance Creek"
P/O

MICROFILMED
JAN 0 4 1999



SCALE 1:24,000



17N 1W Sec 35
NENW

67-7977

W018239



MICROFILMED
JAN 04 1999

Other Maps Can Be Obtained

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

PROOF OF BENEFICIAL USE

AUG 16 2000

Department of Water Resources

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

1. Permit No. 67-07977 Telephone No. (208) 253-6476

2. Name of Permit Holder(s): DONALD F. and DOLORES KOESTER

3. Mailing Address: 2351 LAPPIN LN.

City COUNCIL State Id. Zip 83612

4. Source of Water: Seasonal Tributary of Mill Creek If GROUNDWATER (well), Date Drilled: mo. — / yr. —

Well Driller: — Drilling Permit Number: —

5. Use(s) (as authorized by the water right permit): project completed fall 1999.

Domestic (No. of households): 0 Stockwater (No. and type of stock): 02 CFS

Irrigation (No. of acres): 15 ac Other: 30 CFS

6. Total rate of diversion and/or volume for which proof is submitted: .32 cfs OR — acre-feet

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

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

Measuring Device: Is a measuring device required?

Yes — or No X

Has the measuring device been installed?

Yes — or No X

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

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

Name: DON KOESTER Telephone Number: (208) 253-6476

Address: 2351 LAPPIN LN. COUNCIL, Id. 83612

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

Signature of permit holder: [Signature]
(include your title, if on behalf of company or organization)

Date: Aug 4, 2000

SEP 13 2000

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

NOV 24 1998

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

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

Permit No. 67-07977

Name(s) of Permit Holder: Donald + Dolores Koester

Mailing Address: 2351 Loppin Ln. Council, Id. 83612

Date Proof is Due: October 1, 1998 Telephone No. (208) 253-6476

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

- 8 acres now Terrigated
- Stream bed Erosion Control
- Stone Diversion in place
- Continuing Stream on Creek Repair for Multiple Use Costing \$ 225.00

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

- 1) 1996 + 1997 - Spring 1998 - Stream was in Flood Condition
Stream level up 8" in head - width to 40'
 - 2) Addition of silt in stream bedage planted, Hawthorn trees + Brush
Prevented stream diversion on bed stream
 - 3) The Flow of this stream is estimated between .08 CFS + 7.0 CFS
- Permit holder(s) request an extension to October 1, 2000 (over please)

FEE: \$50.00

Donald F. Koester
(Signature)*

*If other than permit holder, Power of Attorney must be supplied.

MICROFILMED

ACTION OF THE DEPARTMENT OF WATER RESOURCES

JAN 04 1999

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to October 1, 2000.

IT IS FURTHER ORDERED that the permit be REINSTATED and the date of priority is advanced to December 5, 1994.

Signed this 11 day of December, 19 98

J. Glen Sutton
Chief, Water Allocation Bureau

Item #3.

The control of water flow is controlled by the Ranches above on this stream. In flood condition they have diverted Mill Creek to this stream (97+98) either Mill Creek itself on the main diversion had washed out and the majority of flow was diverted through us. In the late spring repair was made to Mill Creek. I have never seen the diversion (weir or gate) that allows a flow in this stream. It is on private property. Our typical year is an above average flow for all Ranches through April. It then starts to diminish as the above Ranches irrigate. The flow of this stream or creek will cease, stop completely in later June or early July. We will receive water only if someone above opens their diversion.

Therefore I sincerely request that your advice be given concerning permanent construction of the diversion desired. I have previously build concrete head gates and I have no problem in doing so. I would like to leave the stream or creek in its pristine condition without building Banks or riprap.

Thank you very much.

Dou Keister

MICROFILMED

JAN 04 1999

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 67-07977

Proposed Priority: October 12, 1994 Maximum Diversion Rate: 0.32 CFS

This is to certify, that DONALD F KOESTER
DOLORES M KOESTER
1815 W FIR
SILVER SPRINGS NV 89429

has applied for a permit to appropriate water from:
WASTE WATER tributary of MILL CREEK

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	04/01 to 10/31	0.30 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS
	Totals	0.32 CFS

LOCATION OF POINT(S) OF DIVERSION: NENW , Sec. 35, Township 17N, Range 01W
ADAMS County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
17N	01W	35	NENW	15.0		15.0

Total number of acres irrigated: 15.0

PLACE OF USE: STOCKWATER, same as IRRIGATION use

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before October 1, 1998.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Use of water under this right is subject to control by the watermaster of State Water District No. 67.
5. After specific notification by the department, the right holder shall annually report the amount of water diverted to the department.
6. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works prior to diversion of water under this right.
7. The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.
8. Stockwater is for 10 range cattle.

APPROVED
NOV 14 1995

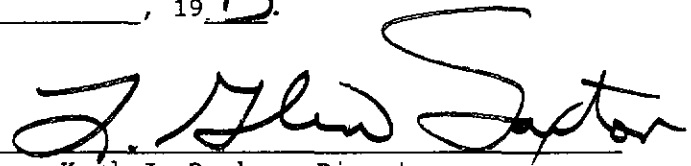
State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 67-07977

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

18 th day of October, 1995.


for Karl J. Dreher, Director

RECEIVED
OCT 18 1995

OCT 14 1995

RECEIVED
SEP 25 1995

Ident. No. 67-07977

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name: DONALD F KOESTER 702-577-2320
Address: 1815 W FIR
SILVER SPRINGS NV 89429
AND/OR
Name: DOLORES M KOESTER 702-577-2320
Address: 1815 W FIR
SILVER SPRINGS NV 89429
2. Source: WASTE WATER Trib. to: MILL CREEK
3. Location of Point of Diversion: NENW Sec. 35, Township 17N, Range 01W
ADAMS County
4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
IRRIGATION	04/01	10/31	0.300		
STOCKWATER	01/01	12/31	0.020		
5. Total quantity to be appropriated is:
0.320 CFS (and/or) AF
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc.
DIVERSION DAM TO EXISTING DITCH FOR GRAVITY IRRIGATION
 - b. Height of storage dam feet; active reservoir capacity
acre-feet; total reservoir capacity acre-feet; period of
year when water will be diverted to storage: to inclusive.
 - c. Proposed well diameter is inches; proposed depth of well is
feet.
 - d. Is groundwater with a temperature greater than 85F being sought? NO
 - e. If well is already drilled, when?
Drilling Firm
Well was drilled for
7. Time required for the completion of the works and application of
the water to the proposed beneficial use is 3 year(s).

RECEIVED

NOV 14 1995

8. Place of Use: IRRIGATION

TWN	RGE	SEC	ACRES	ACRES	ACRES	TOTAL
17N	01W	35	NENW	15		15

Total number of acres irrigated: 15

Place of Use: STOCKWATER, same as IRRIGATION use

9. a. Who owns the property at the point of diversion?
APPLICANT
b. Who owns the land to be irrigated or place of use?
APPLICANT
c. If the property is owned by a person other than the applicant,
describe the arrangement enabling the applicant to make this filing.

10. Remarks:
Stockwater is for 10 range cattle.

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

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

Donald F. Rooster
Applicant

Received by Cyt Date 10/12/94 Time 1430 Preliminary check by SL
10000 6033714 \$10/13/95

Fee \$ 50 Receipted by Cyt # W018239 Date 10/12/94

Publication prepared by SL Date 11-23-94 Published in Adams City Record

Publication approved SL Date 8-24-95

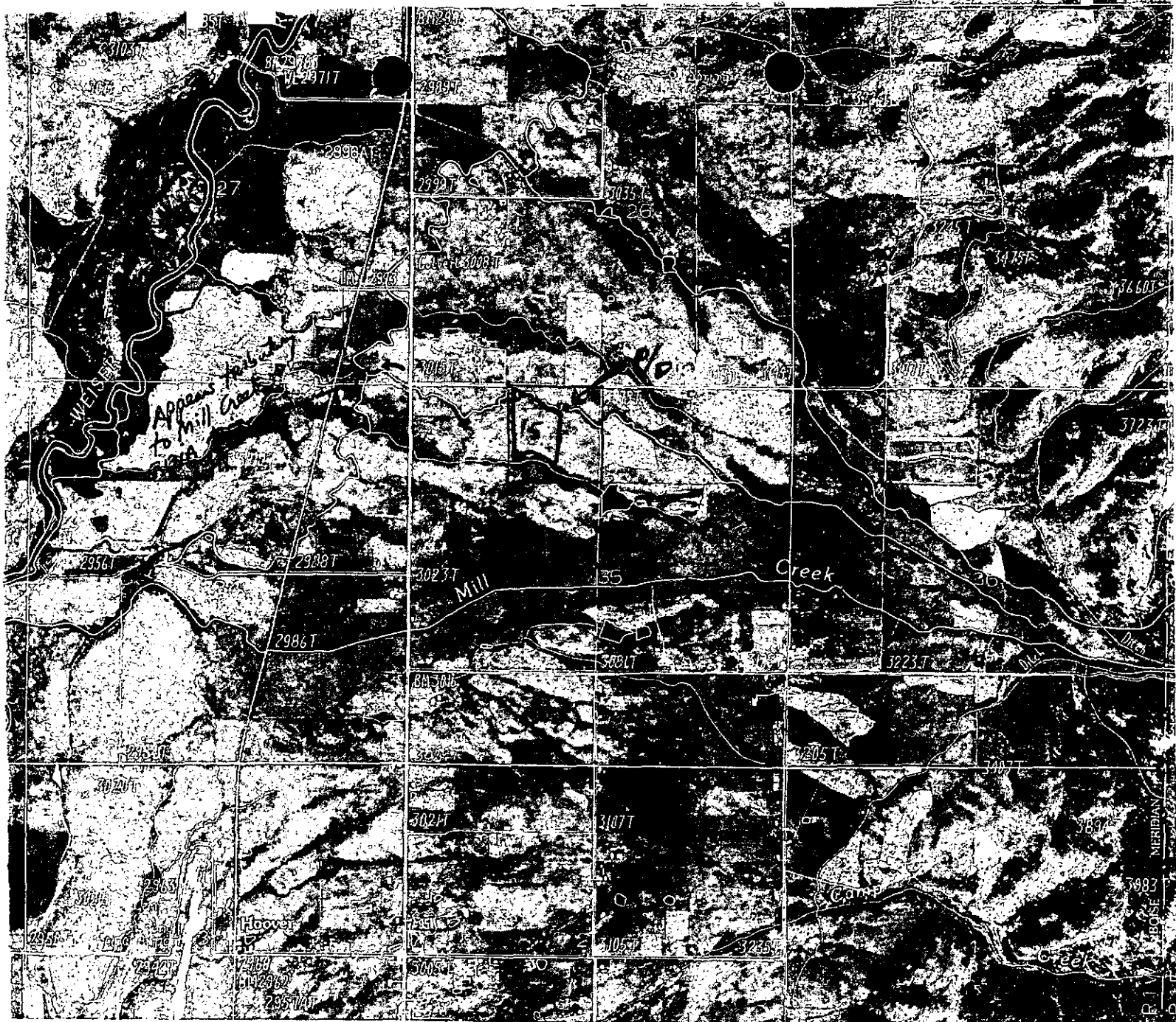
Receipt # in data entered.

-SL

* no advance in priority, dept error. 10/13/95 cz.

RECEIVED

NOV 14 1995



544

SCALE 1:24 000

545

546 25'

547

548

1 MILE

17N 1W Sec 35
NENW

0 1000 2000 3000 4000 5000 6000 7000 FEET

1 5 0 1 KILOMETER

No govt lots
-SL 10/26/94

67-7977



QUADRANGLE LOCATION

NOV 14 1995

ies Of These Maps Can Be Obtained

Comments: Date: 10/12/1994 User-ID: CHODGES

Subject:
OTHER RIGHTS

Right no. 67-00361 may have been developed on a part of this parcel, however, applicant does not know at this time how recently the right has been used. A claim may be filed at a later date.

RECEIVED

NOV 14 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

September 6, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

DONALD F KOESTER
DOLORES M KOESTER
2351 LAPPIN LANE
COUNCIL ID 83612

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 67-07977

Dear Permit Holder:

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

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

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

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encl.

c: IDWR - Regional Office

MICROFILMED
SEP 13 2000

ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE

Permit No. 67-07977 Reviewed by D. Gibson Date 9/6/00

GENERAL CONSIDERATIONS

TYPES OF USE

Yes Name same as permit?
No Address same as permit?
Yes Proof timely received?
If not, complete calculation below.

Irrigation & Stockwater
Correct Uses? Yes

SOURCE OF WATER

Yes Surface water source
No Ground water source

/ Drilling permit required?
/ Copy in the file? Drilling Permit No. /
/ Amount paid for permit
/ Well log in the file? / Correct?

LICENSE EXAMINATION FEE

MEASURING DEVICE

Yes Required?
\$100 Amount Submitted
Yes Correct?

No Required?
No Installed?
/ Waiver requested?

PRIORITY CALCULATION

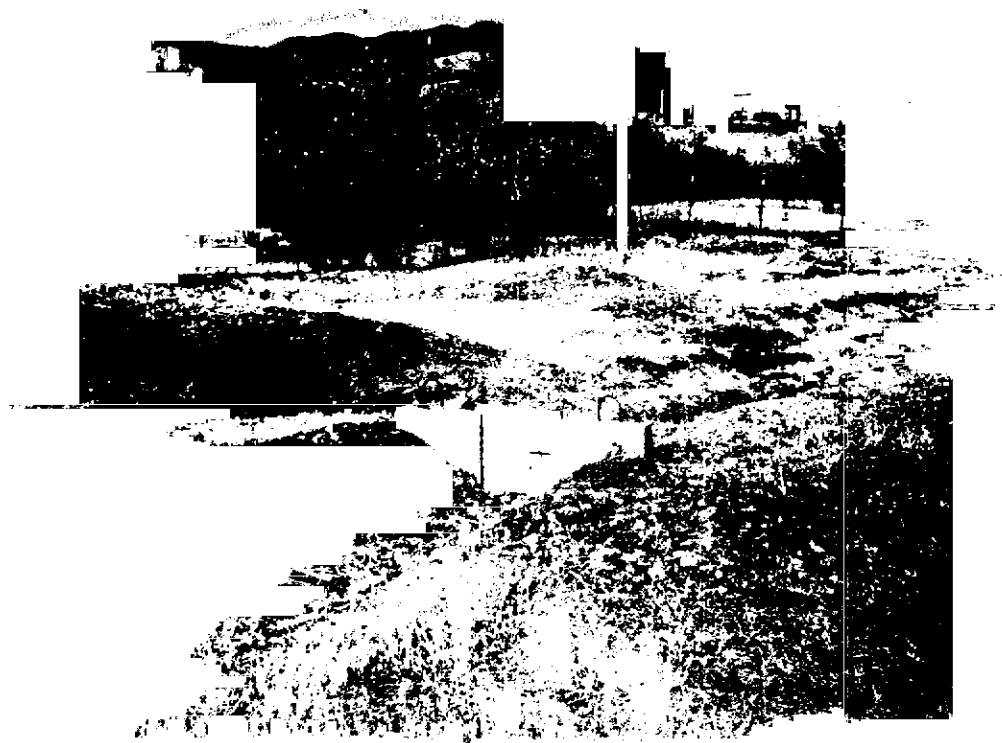
Date proof received 8/16/00
Date proof due 10/1/00
No. of days late / = /
Priority Date / + /
New Priority Date /

DEFICIENCIES OR ACTION ITEMS

Acknowledge proof.

DATA ENTRY

New Address Yes - check it. Proof Made 8/16/00



Ditch, Structure, + creek Bed looking East: //

One must remember that this creek
runs Dry in June ~~to~~^{or} July in 95% of
the years. This creek is supplied by the
overflow of the Mill Creek System.

1899/1900



10

... ..

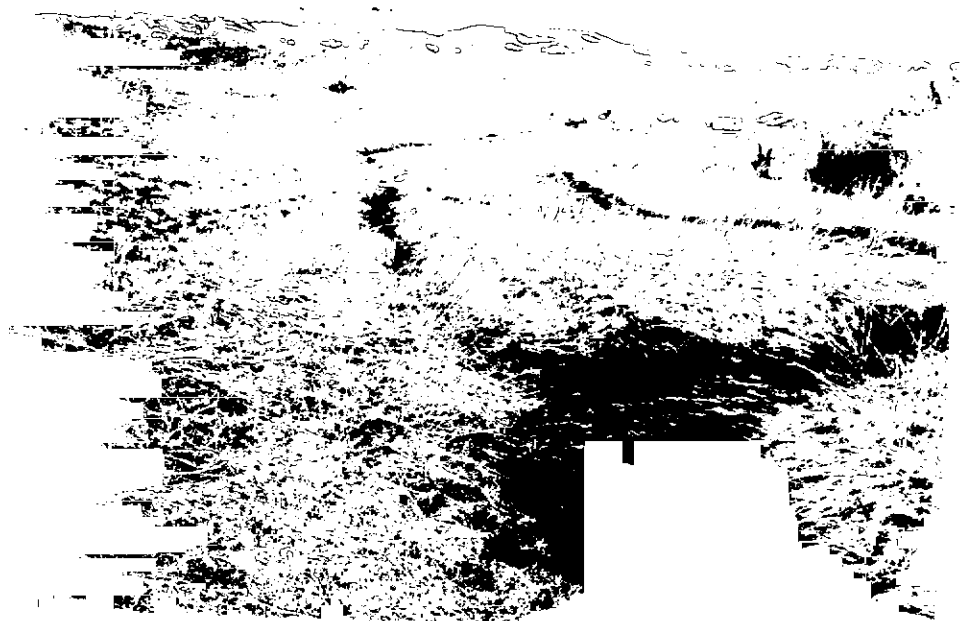


Ditch & Structure looking West.

9

Please see East view Photo

10000 1210



Creek Summer Flow ⁸
(Irrigation ditch empty) (shot off)

as reported this whole creek
runs dry June - July depending
on water year.

older picture (no structure)



7

2000 10 10



Creek during normal seasonal
flow.

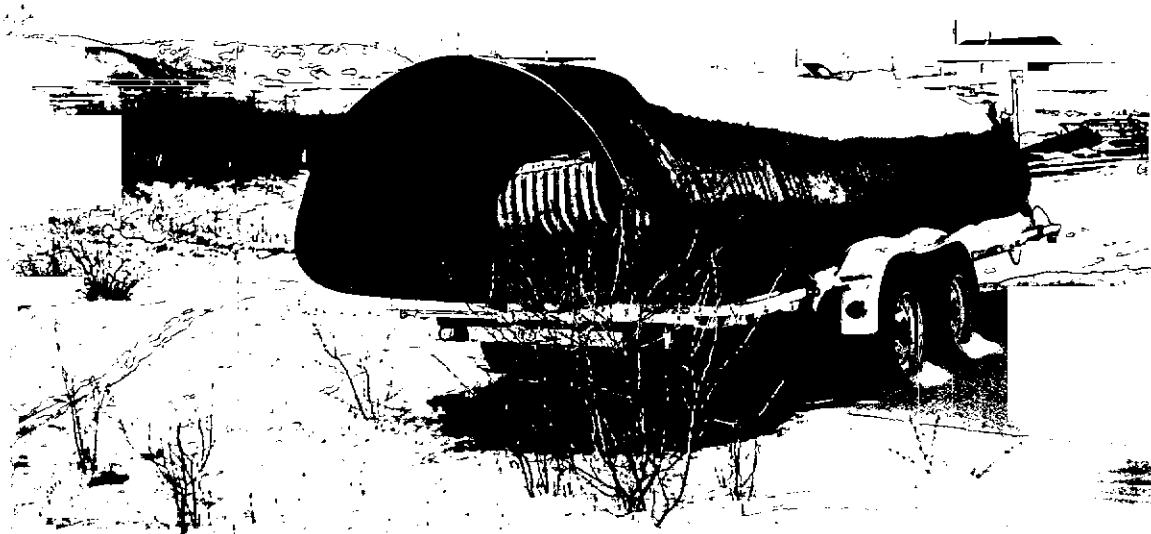
View



creek during Flood,

5

Worm



2 ft. Culvert would not handle spring 3
Run-off flow. This 5'x7' Squash bottom
Installed in Spring 1999.

NO. 24027 21+00 NNNN-26RD0050



creek during flood

4



Creek during normal seasonal
flow.

2

2000-2001



Creek during flood.

1

MICROFILM

1964

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

Receipt No: C050160

Date: 8/16/2000
Time: 15:03:40

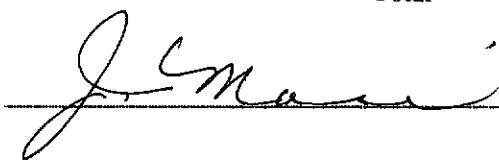
Received
From: KOESTER DONALD F

Type of Payment	Program A cct	Amount
BENEFICIAL USE #67-07977	56104 229 21 1155	100.00

CHECK 1967

Region: STATE

Total \$ 100.00

Signature: 

MICROFILMED
SEP 13 2000

July 31, 2000

DONALD F KOESTER
DOLORES M KOESTER
2351 LAPPIN LN
COUNCIL ID 183612

PROOF DUE NOTICE

RE: PERMIT NO. 67-07977

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before October 1, 2000.

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

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

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

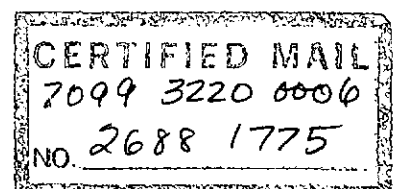
SINCERELY,

DEBORAH DREW-ELLIS
Administrative Assistant

Enclosures

MICROFILMED

SEP 13 2000



ANALYSIS SHEET FOR EXTENSION OF TIME

Permit No. 67-07977 Reviewed by Qaf Date 12-11-98

BASIC INFORMATION

11-24-98 Date stamp received
NO Extension received timely
yes Fee received and receipted
yes Name and signature same as permit
yes Address Change

BASIS FOR EXTENSION REQUEST

yes Has adequate work been completed to demonstrate due diligence?

_____ Has the permit been involved in litigation?
Is supporting documentation needed to complete the file? _____ Requested? _____

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

_____ Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?

ACTION TAKEN *Recommend extend to Oct. 1, 2000, on basis of due diligence.
Reinstate & advance priority to Dec. 5, 1994.*

PRIORITY CALCULATION

Date extension received	<u>11-24-98</u>	=	<u>328</u>
Proof due date	<u>10-1-98</u>	=	<u>274</u>
Number of days late	<u>.</u>	=	<u>54</u>
Priority date	<u>10-12-94</u>	=	<u>285</u>
New Priority Date	<u>12-5-94</u>	=	<u>339</u>

DATA ENTRY

New Address 2351 Lappin Ln., Council 83612
Change Proof Due Date 10-1-2000
Change Priority Date 12-5-94



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

December 11, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Donald and Delores Koester
2351 Lappin Ln
Council ID 83612

RE: Permit No. 67-07977

Dear Permit Holder:

Enclosed is a copy of the approved request for extension of time submitted in connection with the above referenced permit which extends the time within which to submit proof of beneficial use to **October 1, 2000**. Please note that the department has granted this extension based on **due diligence**. It is important that you work diligently toward the completion of the development during the construction period allowed since the department **will not** be able to grant additional extensions based on due diligence.

Be advised that since the extension request was received after the proof due date, it was necessary for the department to reinstate the permit and advance the date of priority to December 5, 1994.

Section 42-248, Idaho Code, which became effective on July 1, 1996, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Please contact any office of the department for the proper form to file a change of ownership of a water right and/or a change in the address of the owner.

Please contact me at (208)327-7953, if you have any questions regarding this matter

Sincerely,

JULIE L. YARBROUGH

Senior Secretary, Water Allocation Bureau

Enclosure

c: IDWR - Regional Office

MICROFILMED
JAN 04 1999



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 4, 1998

Donald and Dolores Koester
2351 Lappin Ln
Council ID 83612

RE: Lapsed Permit No. 67-07977

Dear Permit Holder:

I am receipt of your letter dated October 27, 1998, concerning the reinstatement of the above referenced water right permit. Before the permit can be reinstated, you will need to file the enclosed Proof of Beneficial Use statement and include the appropriate license examination fee. You indicate in your letter that you are not diverting much water and have a small diversion structure, however, in order to establish the right you will need to file the proof statement and the department will then make a field examination to verify your use and rate of diversion.

If you have any questions concerning the proof form, please contact me at (208)327-7953 and I will be happy to assist you.

Sincerely,

JULIE L. YARBROUGH

Senior Secretary, Water Allocation Bureau

c: IDWR - Regional Office

MICROFILMED

JAN 04 1999

RECEIVED

October 27, 1998

NOV 02 1998

Department of Water Resources

Mr. L. Glen Saxton
Chief, Water Allocation Bureau
Dept. Of Water Resources
Boise, Idaho 83720

RE: Permit No. 67-07977

Dear Mr. Saxton:

Thank you for your notification concerning our Permit To Appropriate Water. We have not received any notifications from the Department of Water Resources at any time. We have not had any contact with any person in the department nor phone conversations. We apologize if we have caused confusion within your department. There does seem to be several conflicts concerning our permit. In complying with you directions of "Conditions of Approval", we respectfully submit our plea.

- 1) Our permit is for Waste Water only. The only water that is available to us is the water that is released at this streams point of diversion. This point is at the connection of this stream and Mill Creek. (Please see the copy of your map). Our point of diversion, the point on our map, is located on the stream about 3/4 mile away. This diversion structure consists of stone rubble in conjunction with a plastic sheet.
- 2) The land owner at the head of this stream controls the gate. This water is shut off in late June or early July depending on the spring runoff. We have no need for concrete gate or weir as the stream is seasonal and is dry. The water we use for irrigation is for just one shot. We are able to irrigate just once with the waste water that is now coming from the above ranches.
- 3) The amount of water right requested was not established by the amount of available flow. The amount (0.032 cfs) was established by your office. The stockwater and irrigation water rights were given in compliance with the adjudication rules established by the Weiser River Decree. There is no structure to measure the flow, I believe, except the structure at the head at Mill Creek. Our ditch is to carry, distribute, and sub-irrigate the fields with a small (3'x 1') ditch in gravity flow.
- 4) During these last two years, the rock structures were evened out to prevent erosion. These years were the flood years. In fact during the flood Mill Creek itself washed out and the majority of the water came down our stream and even flooded across Hwy 95. As the waters subsided they dropped rock at some place around the diversion.

Please refer to the material and correspondence enclosed. Mr. Todd Nelson was shown our intention and agreed that it was marginal if we received any water. Mr. Nelson's ranch does have the earliest rights on this stream (Pre 1900). The original water rights for this ranch was deleted years ago when the original ranch was subdivided and the homestead absorbed them all. Mr. Saxton, If your department could see fit to allow my neighbor and Mr. Nelson water that they have rights for and to let us establish a permanent decreed water right, this diversion would benefit this drainage system.

Mr. Saxton, as we are not on a viable irrigation ditch with other users, and a flowing head of water would you please consider our circumstances and allow a reinstatement. We are not requesting an examination as there is nothing much to examine. You or your representatives are welcome to visit us at any time and I thank you very much for your consideration.

Sincerely,



Donald F. and Dolores Koester
2351 Lappin Ln. Council, Id. 83612

JAN 04 1999

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 67-07977

Proposed Priority: October 12, 1994

Maximum Diversion Rate:

0.32 CFS

This is to certify, that DONALD F KOESTER
DOLORES M KOESTER
1815 W FIR
SILVER SPRINGS NV 89429

Please Note -
This a possible reason for not receiving the Notice of beneficial use. We had moved in 1995.

has applied for a permit to appropriate water from:

WASTE WATER

tributary of MILL CREEK

New Address

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

*2351 Lappin Ln.
Council, Id.*

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

IRRIGATION

04/01 to 10/31

0.30 CFS

STOCKWATER

01/01 to 12/31

0.02 CFS

Totals

0.32 CFS

*83612
(208) 253-6476*

LOCATION OF POINT(S) OF DIVERSION:

NENW , Sec. 35, Township 17N, Range 01W
ADAMS County

PLACE OF USE: IRRIGATION

TWN RGE SEC

ACRES

ACRES

ACRES

TOTAL

17N 01W 35

NENW 15.0

15.0

Total number of acres irrigated:

15.0

PLACE OF USE: STOCKWATER, same as IRRIGATION use

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before October 1, 1998.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Use of water under this right is subject to control by the watermaster of State Water District No. 67.
5. After specific notification by the department, the right holder shall annually report the amount of water diverted to the department.
6. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works prior to diversion of water under this right.
7. The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.
8. Stockwater is for 10 range cattle.

MICROFILMED

JAN 04 1993

AG7-11419 From Weiser River
AG7-11422 & Lost Valley Res.
(Lost Creek)

Diversion in Sec 10.

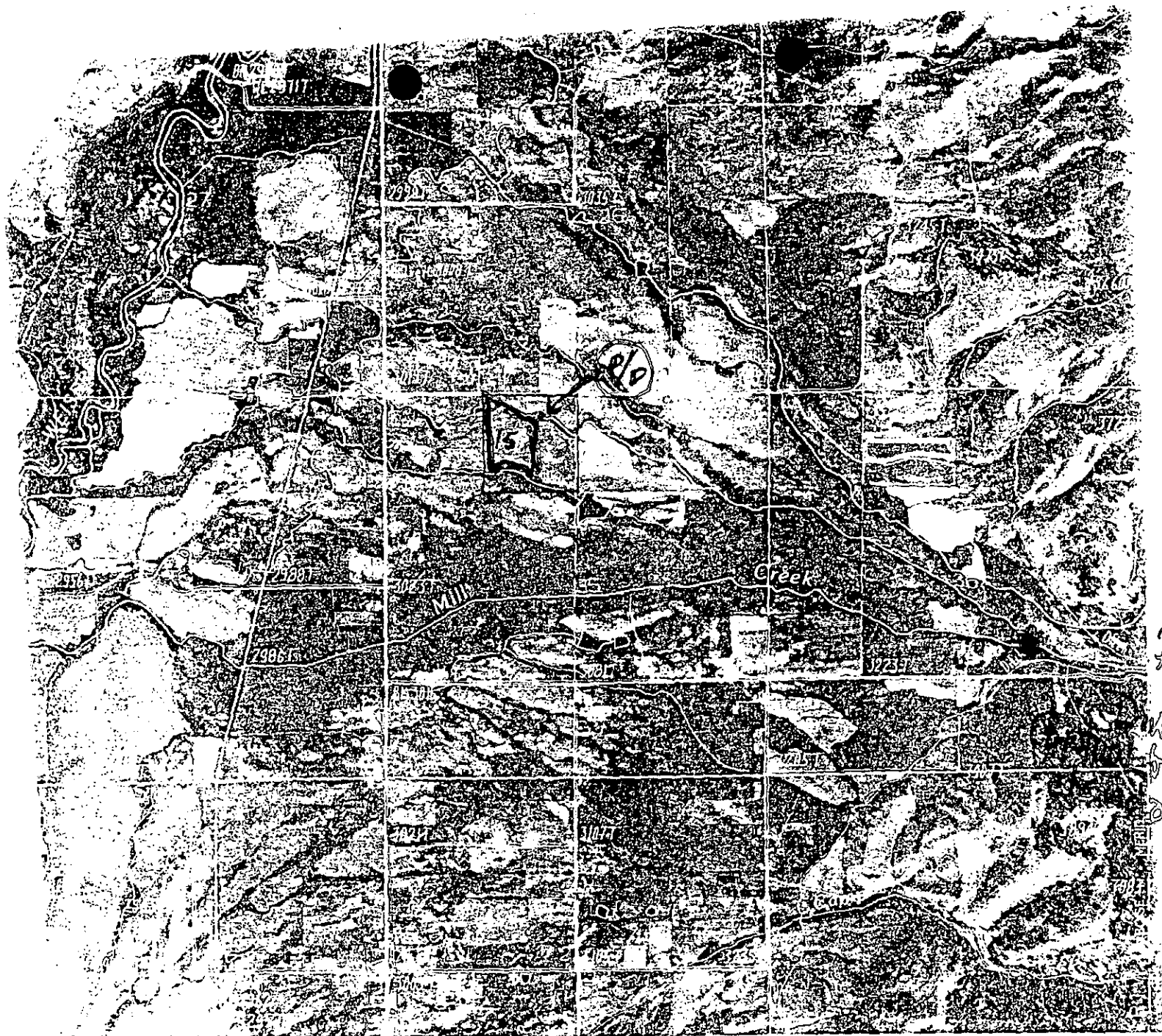
17N 14W Sec 34, 35, 36
All locations & Acreages
are approximate.

AG7-00561B Mill Creek
AG7-11415
36 acres only

P/D

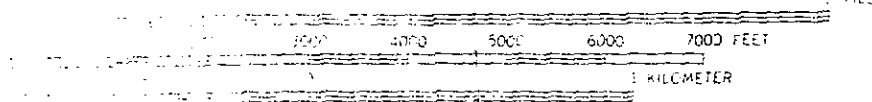
AG7-11421
"Lost Chance Creek"
P/D





Point
of
view
by
down

SCALE 1:24000



17N 1W Sec 35
NENW

67-7977

W018239



MICROFILMED
JAN 04 1999

Other Maps Can Be Obtained

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name: DONALD F KOESTER 702-577-2320
Address: 1815 W FIR
SILVER SPRINGS NV 89429
AND/OR
Name: DOLORES M KOESTER 702-577-2320
Address: 1815 W FIR
SILVER SPRINGS NV 89429
2. Source: WASTE WATER Trib. to: MILL CREEK
3. Location of Point of Diversion: NENW Sec. 35, Township 17N, Range 01W
ADAMS County
4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
IRRIGATION	04/01	10/31	0.300		
STOCKWATER	01/01	12/31	0.020		
5. Total quantity to be appropriated is:
0.320 CFS (and/or) AF
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc.
DIVERSION DAM TO EXISTING DITCH FOR GRAVITY IRRIGATION
 - b. Height of storage dam ☒ feet; active reservoir capacity ☒
acre-feet; total reservoir capacity ☒ acre-feet; period of
year when water will be diverted to storage: ☒ to ☒ inclusive.
 - c. Proposed well diameter is inches; proposed depth of well is
feet.
 - d. Is groundwater with a temperature greater than 85F being sought? NO
 - e. If well is already drilled, when?
Drilling Firm
Well was drilled for
7. Time required for the completion of the works and application of
the water to the proposed beneficial use is 3 year(s).

Completed Rock diversion + Repair - 1995
Flood - 1996
Flood - 1997

JAN 04 1999

WARNING

CANCELLED OR LAPSED

This permit has been officially CANCELLED or LAPSED.

Ninety days following the date of official action this file will be DESTROYED.

October 20, 1998

DONALD F KOESTER
DOLORES M KOESTER
COUNCIL ID 183612

LAPSE NOTICE

RE: PERMIT NO. 67-07977

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced permit has lapsed and is of no further force nor effect. The department provided the proper forms to you in our proof due notice dated July 31, 1998. No further construction or additional development is authorized under this permit unless it is reinstated.

The permit can only be reinstated if you submit an acceptable proof of beneficial use or an acceptable request for extension of time to the department within sixty (60) days of the mailing of this lapse notice. An acceptable proof of beneficial use submittal must include the examination fee or a completed field examination report. A request for extension of time must be accompanied by a fifty dollar (\$50.00) fee.

Enclosed again for your use are a proof of beneficial use form and a request for extension of time form. Please note that only one extension of time can be granted unless the project has not been completed because of lack of a necessary approval by a government agency or by litigation which may bring title to the water in question.

L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosures

MICROFILMED
JAN 04 1999

CERTIFICATION OF MAILING

I hereby certify that on 10-20-98
~~a copy~~ an original of this document was
deposited in the United States mail,
postage prepaid addressed to the
individual(s) named above.

Jay



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 31, 1998

DONALD F KOESTER
DOLORES M KOESTER
1815 W FIR
SILVER SPRINGS NV 89429

PROOF DUE NOTICE

RE: PERMIT NO. 67-07977

Dear Permit Holder:

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

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

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

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

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

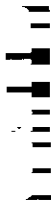
Enclosures

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Boise, Idaho 83706-2237

RECEIVED

AUG 13 1998

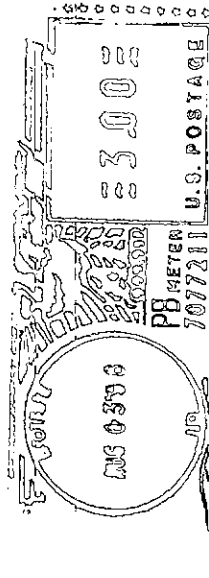
Department of Water Resources



Z 238 914 934

MAIL

Conrad, Id 83612



RECEIVED
JUL 31 1998
DEPARTMENT OF WATER RESOURCES

- For forwarding Order or Envelope
- ☒ In sufficient Address
 - ☐ In sufficient, Left No Address
 - ☐ In sufficient, Refused
 - ☐ In sufficient, Not Known
 - ☐ No Such Street
 - ☐ No Such Number
 - ☐ No Receipts
 - ☐ Decayed
 - ☐ Vacant

82706/2237

July 31, 1998

DONALD F KOESTER
DOLORES M KOESTER
1815 W FIR
SILVER SPRINGS NV 89429

PROOF DUE NOTICE

RE: PERMIT NO. 67-07977

Dear Permit Holder:

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

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

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

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

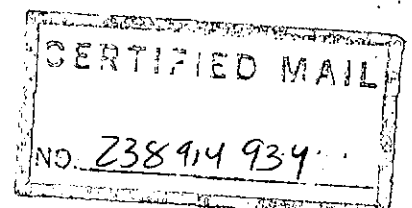
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

MICROFILMED

JAN 04 1999





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

October 18, 1995

DONALD F KOESTER
DOLORES M KOESTER
1815 W FIR
SILVER SPRINGS NV 89429

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 67-07977

Dear Permit Holder:

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

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

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

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

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:rl

Enclosures

RECEIVED

NOV 14 1995

APPLICATION FOR PERMIT
STATE OFFICE REVIEW
by Cindy Zimmerman

No.: 67-1977 Name: Koester Date: 10/16/95 Ad OK? ☒
Correct Fee? ☒ Receipt #: W018239 Priority: 10/12/94 ☒ Gvmt Lts: ☒

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

SYSTEM COMPLETED:

Yes/proof filed - NA
1 year/no proof - P16
+1 year - 26A-P17

GROUNDWATER: <☒ FLO-CH>

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

Drilling Permit:

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

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

Water District(~~dam~~) - 005 (req) WD # 67 <SEE MAP & LISTING>
+ 0.2 cfs - 028(may report)-01J(meas dev)-P08
=/- 0.2 cfs - 028(may report)-01H(lock dev)-P01 or No MD
=/+ 5 a. irr. - 028(may report)
In-WD + 0.2 cfs - 01M or No MD (in-stream)
- 0.2 cfs - No MD
=/+ 5 a. irr. - 01M

RIVER BASINS (*Surface water):

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

USE:

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

LOCATION:

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

OWNERSHIP: Non-land owner

OTHER CONDITIONS:

STANDARD REMARKS:

BENEFICIAL USE DUE:

COMMENTS:

W02/10RC

10-1-1998

Cindy -

Enclosed please find
the 50th.

Thank you very much
for the service you gave
to us during this
application time.

Don Foster

RECEIVED

OCT 12 1995

Department of Water Resources

Application 67-7977

RECEIVED
OCT 14 1995

OCT 14 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

September 29, 1995

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

DONALD F KOESTER
DOLORES M KOESTER
1815 W FIR
SILVER SPRINGS NV 89429

RE: Application for Permit No. 67-07977

Dear Mr. & Mrs. Koester:

I recently received your application for permit to divert 0.32 cfs for irrigation and stockwater uses for final review. When you filed the application on October 12, 1994, you submitted \$50.00 in filing fees. As of July 1, 1994, applications proposing a diversion of water in an amount between 0.21 to 1.0 cfs require a \$100.00 filing fee.

In order for the department to permit your application to divert 0.32 cfs, you must submit the remainder of the filing fee, \$50.00.

The department will hold action on this application for 30 days to allow you to submit the remaining filing fee.

If you have any questions, please contact me directly at (208) 327-7944.

Respectfully,

Cindy Zimmerman
Water Resource Agent

RECEIVED
NOV 14 1995

4/93

17N 1W 5.35

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

RECEIVED
SEP 25 1995

Department of Water Resources

INITIAL REVIEW BY: RLDATE: 10/26/94APPLICATION: 67-07977REQUIRED 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:
 Signature: (If applicant is corp., partnership, or municipality, title of signatory is required)
 Fee:
 Yes ☐ No* ☐ In form to receipt:

Gov't. Lots:

N P/D

P/U

ADDITIONAL INFORMATION

YES NO

☒ ☐ Overlapping place of use: (Describe source & relationship to present application on the back.)
☐ ☒ Overlapping point of diversion:
☐ ☐ Field check required: Field check by: _____
☐ ☐ Field report attached:
☐ ☐ Critical groundwater area:
☐ ☐ Groundwater management area:
☐ ☐ 1992 moratorium
☐ ☐ Copy to SCA staff (perennial stream, non-pump diversion):
☐ ☐ Send dam safety information:
☐ ☐ Send power requirement letter:
☐ ☐ Send fish farm requirement letter:
☐ ☐ Power residency affidavit:
☐ ☐ Power efficiency form:
☐ ☐ Within trust water boundary: (If yes, attach Trust Water Supplementary Analysis Sheet.)
☐ ☐ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres: (If yes, attach Large Diversion supplementary analysis sheet.)
☐ ☐ *REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

DATE REQUESTED: _____

Additional information on reverse side:

PROCESSING

APPLICATION NO.

67-07977

YES NO

☒ ☐
☐ ☒
☒ ☐

In form for advertising:

Statewide advertising: (> 10 cfs &/or 1000 af)

Fee amount, receipt number and date recorded on application:

SEND COPIES TO

YES NO

☐ ☒
☐ ☒
☐ ☒
☐ ☒

I.D. Health and Welfare

I.D. Fish and Game

I.D. Lands

Adjudication Bureau

YES NO

☒ ☐
☐ ☒
☒ ☐
☐ ☒

U.S. BLM

U.S. Forest Svc.

Water Dist. # 67

Other

FINAL REGIONAL PROCESSING REVIEW

YES NO

☒ ☐
☒ ☐

Affidavit of publication received:

Application published correctly: If not, record action taken.

Withdrawn

☒
☒
☐
☒
☐
☒
☐
☒
☐

Publication dates and paper recorded on application:

Protests received. Final date for protest 11-21-94

Protest dates, resolution of protest recorded on application:

Recommendations attached:

Measuring device required:

Measuring port required:

Water delivered by water master? District # 67, Weiser R

Special conditions of approval or cover letter:

26A (Allow 3 yrs), DIE, 05 (67, Weiser R)

See below for additional information

Recommended Date or Priority 10/12/1994

Recommended by: ERW

Date 9/20/95

STATE OFFICE REVIEW

See below for additional information. By Date

ADDITIONAL INFORMATION

Overlap - Plm 67-00361, Mill Ck, irrig. of X, same QA -

See Appl. comments & uncertainty of this right.

RECEIVED
NOV 24 1995

NOTICES OF PUBLIC INFORMATION

LEGAL NOTICE

PUBLIC NOTICE
USDA - Forest Service
Payette National Forest
Council Ranger District
Adams County, Idaho

COUNCIL - The Council Ranger District, Payette National Forest, is asking for public input by November 7, 1994 on a proposal to grant an easement for access to private land located near Paradise Flats. The easement would involve approximately 1 & 1/2 miles on a non Forest System road which turns west from the Ditch Creek Road #060 (Section T18N, R3W BM) and follow's William's Creek.

The road would be used year round and would involve some maintenance and plowing of the road for access in the winter months. Since the road dead ends at the private property line it would be gated for private use.

A cultural resource survey will be conducted for the site and also a threatened, endangered, or sensitive plant species inventory of the area to determine if any conflicts exist. If you have questions or need additional information please contact Julie King at (208) 253-4215, P.O. Box 567, Council, ID 83612.

Published in The Record 11/3/94

LEGAL NOTICE

NOTICE OF APPLICATION FOR WATER RIGHT

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

67-07977

KOESTER, DONALD F
KOESTER, DOLORES M
1815 W FIR
SILVER SPRINGS, NV 89429

Source: WASTE WATER Tributary: MILL CREEK

Diversion Pt: NENW Sec 35 T 17N R 01W in ADAMS County.

Use: IRRIGATION (.300 CFS)
STOCKWATER (.020 CFS)
Total Diversion: (.320 CFS)

Date Filed: 10/12/1994

In: ADAMS County
T17N R01W S35 NENW

15.0 ACRES TOTAL

78-07367

HENDERSON, RICHARD A
PO BOX 1253
RIGGINS, ID 83549

Source: SPRING Tributary: LITTLE SALMON RIVER

Diversion Pt: SWNESW Sec 22 T 22N R 01E in ADAMS County.
NWSESW Sec 22 T 22N R 01E in ADAMS County.

Use: DOMESTIC (.040 CFS)
Total Diversion: (.040 CFS)

Date Filed: 10/13/1994

In: ADAMS County
T22N R01E S22 NESW SESW

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705 together with a protest fee of \$25.00 on or before NOVEMBER 21, 1994. The protestant must also send a copy of the protest to the applicant.

S/R. KEITH HIGGINSON, Director

LEGAL NOTICE

NOTICE

NOTICE IS HEREBY GIVEN that a GENERAL ELECTION will be held in Adams County, Idaho, on Tuesday November 8, 1994, between the hours of eight o'clock A.M. and eight o'clock P.M. at the following polling places for each precinct within said County.

Precinct	Polling Place
Indian Valley Council	Indian Valley Community Center, Indian Valley
North Council Bear	Courthouse, Council
New Meadows	Grangehall, Council
Little Salmon River	Schoolhouse, Bear
	Methodist Church Building, New Meadows
	Little Salmon River Bible Church, Pinhurst

THAT the Indian Valley Community Center, the Grangehall, the Methodist Church Education building, and the Little Salmon River Bible church are designated as handicap polling places for said County.

NOTICE IS ALSO GIVEN that the following are the names of all persons for each office and the proper party designation who are to be voted for in the General Election:

Representative In Congress: Helen Chenoweth, Republican Larry LaRocco, Democrat	Legislative District 8 State Senator: Judith Danielson, Republican Terry A Haun, Democrat
---	--

Governor: Phil Batt, Republican Larry Echolaw, Democrat Ronald D.(Ron)Rankin, Independent	State Representative Position A: Gayle Ann Wilde, Republican
--	--

Lieutenant Governor: C L "Butch" Otter, Republican John Peavey, Democrat	State Representative Position B: Twila Hornbeck, Republican Kathy Skippen, Democrat
--	--

Secretary Of State: Pete T Cenarrusa, Republican Edith M. Stanger, Democrat	County Commissioner District 1 Larry Fry, Republican Jack Shaffer, Democrat
---	---

State Auditor: Ralph J Gines, Republican J.D. Williams, Democrat	County Commissioner District 3 Raymond Bennett, Republican
--	---

State Treasurer: Lydia Justice Edwards, Republican	Clerk of the District Court: Michael A Fisk, Republican Judy Hewitt, Democrat
---	---

Attorney General: Alan G Lance, Republican Mike Burkett, Democrat	County Treasurer: Nancy Armitage, Democrat
---	---

Superintendent of Public Instruction: Anne C. Fox, Republican Will E. Sullivan, Democrat	County Assessor: Karen Hatfield, Democrat
--	--

County Coroner:
Susan Warner, Republican

Proposition One; an act establishing state policies regarding homosexuality.

Proposition Two; an initiative establishing term limits for elected federal, state municipal, and school district officials.

S.J.R. No. 105, amending state constitution

H.J.R. No. 17, amending state constitution

H.J.R. No. 24, amending state constitution

H.J.R. No. 16, amending state constitution

S.J.R. No. 109, amending state constitution

IN WITNESS WHEREOF, I have set my hand and seal this 16th day of September, 1994.

S/ Michael A. Fisk
Clerk Of The District Court
Adams County, Idaho

FEB 17 1995

Published in The Record 10/27 and 11/3/94

PRO FABRICATION

208-253-4413
Council, ID

•Welding •Aluminum
•Any Exoctic Metal •Diesel Mechanic
•Certified Welder



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

August 14, 1995

R TODD NELSON
2301 HWY 95
COUNCIL ID 83623

Re: Application for Permit No. 67-7977 in the Name of Donald F.
&/or Delores M. Koester

Dear Protestant:

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

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

If you have any questions please call this office.

Sincerely,

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

DRT:st

CC: Applicants

RECEIVED
NOV 14 1995

W I T H D R A W A L

RECEIVED

AUG 14 1995

WATER RESOURCES
WESTERN REGION

TO WHOM IT MAY CONCERN:

I hereby withdraw my protest of
Application For Water Right to Appropriate the Public
Water of the State of Idaho, No. 67-07977.

Signed at Council, Idaho

this 31 day of July 1995.



Protestant

ATTEST:

Barney E. Johnson

AUG 14 1995

Dear Sir:

Last spring, Mr. Koester showed me what he intends to irrigate. It would be maybe 3 acres and irrigated via a gravity-flow ditch. He stated no intention to pump water higher up onto a much larger area, possibly 12 acres more. None of the ground has ever been irrigated. The ditch was put in several years ago when I was renting that land. He seemed to recognize that everyone else would have water rights prior to his. I am still concerned but am willing to withdraw my objection. However, I do hope that you will keep this protest and withdrawal in his file for reference back to just in case some misunderstandings develop in the future. Respectfully,





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 9, 1995

DONALD &/OR DELORES M KOESTER
1815 W FIR
SILVER SPRINGS NV 89429

Re: Application for Permit #67-07977

Dear Mr. & Mrs. Koester:

Enclosed is a protest withdrawal form for your signature. This form is necessary in order to process the above-referenced application.

If you have any questions please call this office.

Sincerely,

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

DRT/st

Encl.

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NOV 14 1995



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

APRIL 18, 1995

R TODD NELSON
2301 HWY 95
COUNCIL ID 83623

RE: Protested Application for Permit No. 67-7977 in the Name of
Donald &/or Delores Koester

Dear Mr. Nelson:

We received a letter from Mr. Koester stating that you had resolved all differences in regards to the above-referenced application.

Enclosed is a protest withdrawal form for your signature that we need for our file. Please complete it and return it to this office.

If you have any questions, please call this office.

Sincerely,

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

DRT/st

Encl.

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April 14, 1995

Mr. David R. Tuthill Jr. *Dr.*
Manager, Western Regional Office
Dept. of Water Resources
Boise, Id 83705-5082

Re: Protest Application for Permit #67-7977

Dear Mr. Tuthill:

This letter is responding to your instructions in consideration of the time extension in the above protest.

Mr. Nelson and I have met and resolved all differences and problems. He instructed me to contact you as to revoking his protest at this time.

We were in agreement with the problems and conditions of the system and my wife and I thoroughly enjoyed our meeting.

Mr. Tuthill, we thank you very much for your considerations and your interest in our solutions. Please give a big thanks to your staff for their help also.

Sincerely,

Donald F. Koester
Donald F. Koester

cc. Todd Nelson

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WATER RESOURCES
WESTERN REGION



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 11, 1995

DONALD F KOESTER
1815 W FIR AVE
SILVER SPRINGS NV 89429

Re: Protested Application for Permit #67-7977

Dear Mr. Koester:

This letter is to confirm the extension of time until May 1, 1995, regarding the above-referenced application. This will give you the additional time you asked for to work out the problems with your application.

If you have any further questions please don't hesitate to call.

Sincerely,

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

DRT/st

CC: Todd Nelson

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WATER RESOURCES
WESTERN REGION

January 5, 1995

Mr. David R. Tuthill, Jr.
Manager, Western Regional Office
Department of Water Resources
Boise, Idaho 83705-5082

Dear Mr. Tuthill:

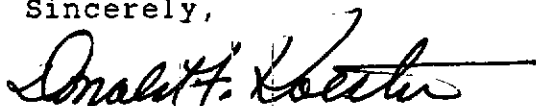
Thank you for your phone call in December, and your consideration for an extension in time for our meeting.

I have been in contact with Mr. Todd Nelson, and had a very nice conversation involving many items. He was in agreement with the idea that we cannot accomplish much until spring. He has offered that we walk the properties and see the complete situation as it now exists.

I had related to Mr. Nelson that you had stated we may have a three (3) month extension to accomplish our goals. I would like to request the possibility of a slight additional time extension. We have set a tentative date as the last week in March. Mr. Nelson at that time will have his Spring Break which will us to meet. The conditions at that time should also be desirable.

Mr. Tuthill, thank you very much for your consideration in our request.

Sincerely,



Donald F. Koester
1815 W. Fir Ave.
Silver Springs, Nv. 89429

cc: Mr. Todd Nelson

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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

December 15, 1994

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

DONALD F KOESTER
1815 W FIR AVE
SILVER SPRINGS NV 89429

RE: Mill Creek Water Rights

Dear Mr. Koester:

I have received your letter dated December 8, 1994 requesting water right information for the Mill Creek system tributary to Weiser River. Specifically, you requested information about rights held by a neighbor and the protestant of your application no. 67-07977, Mr. Todd Nelson.

I have conducted a search for water rights of record which show Mill Creek as their source. A listing of these rights is enclosed in a reporting format which shows the basic elements of each right, including date of priority, point of diversion and total rate of flow. A few of those rights show East Fork Ditch, waste water, or other tributaries as secondary source waters. I also have provided complete individual reports for five rights which are claimed by Mr. Nelson, and a map which shows the approximate boundaries of Mr. Nelson's use.

In direct response to your specific questions as presented in your letter:

1. Claims which Mr. Nelson has filed in the Snake River Basin Adjudication (SRBA) indicate that he diverts from Mill Creek at a point within SENWSE Section 36, T17N R01W. This point is at or near the head of the same drainage which flows to the north of your property and on which you have filed your application. The basis for claim A67-00361B is a portion of decreed right no. 67-00361. The claimed rate of flow is 0.5 cfs, or 25 miner's inches. The basis for claim A67-11415 is an historical ("grandfathered") use of early season floodwaters on the same lands. The claimed rate of flow is 0.72 cfs, or 36 miner's inches. (copies of both claims attached)
2. The Weiser River Decree, which includes Mill Creek, awarded 0.0125 cfs (5/8 miner's inch) as a delivered rate of flow for each irrigated acre.

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Page 2

3. It is difficult to determine the exact location of various rights from the Weiser Decree records. The Weiser Decree is ambiguous in that it does not show the number of irrigated acres per quarter-quarter tract. As uses have changed over time, the decree records may no longer be accurate. By looking at claims filed in the SRBA, it is possible to get a more recent picture of the current use under the various rights. However, until these claims are verified in the future, there can be no definite identification made of all the rights utilizing this tributary.
4. No. Again, without future SRBA verifications, there is no method of quantifying those rights which are diverting from this tributary, as compared to those which may be diverting from another tributary or from Mill Creek proper.
5. Claims A67-00361B and A67-11415 both list irrigation of 36 common acres in NENE and SENE Section 34, using the waters of Mill Creek. Other lands in the vicinity, as shown on the enclosed map, are claimed as irrigated from Last Chance Creek or from the Weiser River and Lost Valley Reservoir (Lost Creek). There may be some acres which are irrigated with more than one source.
6. The Weiser Decree was non-specific regarding irrigation season of use. All claims filed by Mr. Nelson in the SRBA have listed a period of use extending from March 15 to November 15. The Department standard season of use for irrigation in that area is April 1 to October 31 of each calendar year.
7. During SRBA verifications, it will be Mr. Nelson's responsibility to provide evidence supporting the continued use of his right and any changes made over time. In the interim, the only available identification from this office is the recorded right or the claimed portion thereof.

Because of the department's position in the protest, I of course cannot assist you in drawing any conclusions from this information. If any of the information is unclear or you need additional records, please don't hesitate to call again.

Sincerely,


Cindy Hodges

Sr. Water Resource Agent

Enclosures

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WATER RESOURCES
WESTERN REGION

December 8, 1994

Ms. C. J. Hodges
Dept. of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705-5802

Dear Ms. Hodges:

Last October, you graciously helped me in our application for a water right. Since that time, there has been a protest filed against our application. The letter from your Office was from Mr. David Tuthill and written on November 29, 1994.

Our identity number is 67-07977, an application for the waste water on an unnamed tributary of Mill Creek, Council Idaho. The intended point of diversion is located in the NE quarter of the NW quarter of Section 35, Township 17N, Range 01W in Adams County.

At the time of my application, I thought the research did not show any water rights on that tributary. Since there is a protest, may I respectfully request information I will need for our records and to fulfill the request of your department (per section 42-203 Idaho Code).

I would appreciate information on the following questions:

- 1) The amount of water right that Mr. Nelson has on record for that specific tributary, in second feet.
- 2) If you would tell me again the amount of water right allotted, to all users, by the Department of Water Resources for each irrigated acre in the Mill Creek system?
- 3) Are there any other parties which have a water right on this specific tributary?
- 4) Does your department list a definite quantity of water allocated, or average listed for this specific tributary?
- 5) The amount of water righted acres of Mr. Nelson's that is particularly assigned or connected with that specific tributary?
- 6) The specific times of the start and finish dates of Mr. Nelson's water rights?
- 7) Some form of an accurate identification that Mr. Nelson's water right is from the same specific tributary?

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Ms. Hodges, I thank you for your endeavor and time to get us this material. If there is a charge, please let us know. It is very important for us to have this information in order to speak intelligently concerning the intermittent stream and its resources.

Sincerely,

Donald F. Koester

Donald F. Koester
1815 W. Fir Ave.
Silver Springs, Nv. 89429
(702) 577-2320

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DEC 12 1994

WATER RESOURCES
WESTERN REGION

December 8, 1994

DR
Mr. David R. Tuthill, Jr.
Manager, Western Regional Office
Department of Water Resources
Boise, Idaho 83705-5082

*Responded by
telecom on 12/12/94
DR*

Delay until 4/1/95

Dear Mr. Tuthill:

Thank you very much for your letter of instruction as to your policy and process.

Enclosed please find the letter of correspondence with Mr. and Mrs. R. Todd Nelson. We do plan, with the Nelson's approval, a time of consideration to resolve this matter.

Mr. Tuthill, may I make the following request. We do appreciate the time to resolve our differences, but may we request a continuance in time from that 20-day limitation. I am in hopes that this matter can be worked out to the satisfaction for both the parties.

We do have several extenuating circumstances that need to be addressed; they are:

- 1) As of yesterday, I am now scheduled for a gallbladder operation on the 16th of December. Therefore I have no time to sufficiently communicate with Mr. Nelson within the twenty (20) day grace.
- 2) The 20-day time period encompasses the Christmas holidays, which could be a hardship on both of our families.
- 3) Winter is starting to set in and already there is over a foot of snow in Council area. We desire a continuance at least until both parties may see the ground, the watershed, and problems.
- 4) As I understand, Mr. Nelson is employed as a teacher in Jerome, Idaho. I can see the inconvenience that could be placed upon him as he might not have the freedom of time. I request consideration for Mr. Nelson and myself, if there is a problem for us both to meet in Council.

Mr. Tuthill, I requesting a continuance of time, possibly to next spring, from your office. That these differences might be resolved between the two parties. If this problem is not solved between us, your office will be notified immediately. We may then proceed with the scheduling of the conference.

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Mr. Tuthill, we thank you for your interest and the thought of reconciliation. If there is anything further you desire, please contact us.

Sincerely,

Donald H. Koester
Dolores Koester

Donald and Dolores Koester
1815 W. Fir Ave
Silver Springs, Nv. 89429
(702) 577-2320

c: R. Todd and Donna Nelson

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DEC 12 1994

WATER RESOURCES
WESTERN REGION

December 8, 1994

Mr. R. Todd Nelson
2301 Hwy 95
Council, Id. 83623

Dear Todd:

Thank you for sending us the copy of your letter to Mr. Higginson of the Department of Water Resources. I now have received the letter of instruction from Mr. David Tuthill of the regional office in Boise.

Mr. Tuthill has stated that he would like to have us resolve this matter between us. I would very much like to do this. I have called your home in Council this last weekend. I have since learned that you are teaching school in Jerome, Idaho. Todd, I know that your time is not your own in your job. If possible, I would like to meet with you during your Christmas vacation or at your convenience.

At this time I would like to explain our application. As you probably have seen, our application is being established for the waste water. This is the water that is normally in excess or the run-off from the user above the property. We do not intend to change the stream course nor enter into a heavy irrigation project. We are looking probably for a one shot irrigation from the waste water and run-off in June.

Todd, we do not intend to affect any water rights that you might possess on the stream. We intend to use the existing ditch that historically irrigated the piece before. Our major problem is the deteriorated condition of the ranch. This land is one of the three parcels of which Mrs. Brown had split, and I do not believe that the property has been irrigated since. The land had been leased out for pasture, as you know, for many years. The cowman cannot, or does not, always keep up the condition of the leased ground as he would his own property. Therefore, we must overcome the weeds, build new fences, and protect the soil.

I have written to Mr. Tuthill for a continuance in time for us to get together. I would like your approval as to even possibly go to spring. As there is now over a foot of snow on our properties, I would not be able to show you an existing situation, or plan.

We did not come into this country to disrupt nor be offensive with anyone. On the contrary, we are here because there is still an older social value of neighbors helping each other. Unfortunately, this attitude has been changing throughout the country.

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Todd, we are looking forward to meeting with you and if there is anything else you would like to discuss, please let me know.

Sincerely,

Don Koester
Dee Koester

Don and Dee Koester
1815 W. Fir Ave.
Silver Springs, Nv. 89429
(702) 577-2320

c: Mr. David Tuthill

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WATER RESOURCES
WESTERN REGION

November 26, 1994

Mr. Keith Higginson, Director
Dept. of Water Resources, Western Region
2735 Airport Way
Boise, Idaho 83705

Dear Mr. Higginson:

I have received a copy of the letter that Mr. and Mrs. Nelson have sent you in protest of our application for a water right. Very understandingly, especially in relation to our last few years of low moisture, I share Mr. Nelson's concern about water.

I am writing to you as to ask your instructions as to my direction in course. Is there to be a hearing or is the matter closed. What is the next step concerning the water right, its source or the conservation plans? As I believe what your office explained to me, this tributary, which shows the ditches that were once used, is unnamed and listed as seasonal. If I remember correctly, the lady who researched the water application, stated there were no other rights filed for the run-off.

As this ranch, once part of a large one, has not used the run-off water for quite a number of years. We, of course, would desire the most efficient use of the water. As we understand, this tributary is not considered an actual stream of the Mill Creek system. Mr. Nelson is correct in his speaking of the water running out in July. The cause as we were told is because of upstream diversions by the water righted land above us. As was stated for our application, with proper water management, we plan for the irrigation in June to make a crop.

Mr. Higginson, I do not know your policies concerning this matter, and would appreciate any instruction in procedures I need to follow.

Thank you very much for your help with this matter.

Sincerely,

Donald F. Koester

Donald F. Koester
1815 W. Fir Ave.
Silver Springs, Nv 89429
(702) 577-2320

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Answered in Nov 26 letter

DFT



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

November 29, 1994

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

DONALD F &/OR DOLORES KOESTER
1815 W FIR
SILVER SPRING NV 89429

Re: Application for Permit No. 67-7977

Dear Applicant:

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

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

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

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

Sincerely,

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

Enclosure: Copy of protest(s)

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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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

November 30, 1994

R TODD &/OR DONNA K NELSON
2301 HWY 95
COUNCIL ID 83623

Re: Application for Permit No. 67-7977 in the Name of Donald
F. &/or Dolores M. Koester

Dear Protestant:

This office acknowledges receipt of your protest to the issuance of a permit pursuant to the above referenced application. The Department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At such a conference, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

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

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

Sincerely,

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

DRT/st

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2301 HWY 95
Council, ID 83623
Nov. 20, 1994

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WATER RESOURCES
WESTERN REGION

Mr. Keith Higginson, Director
Dept. of Water Resources, Western Region
2735 Airport Way
Boise, Idaho 83705

Dear Sir:

This letter is to protest the application for water right #67-07977 made by Donald F. and Dolores M. Koester. Our ranch lies due west of their land and down stream. In a good water year, it is hard to find enough water to fill our water right. During these past years of drought, there has not even been near that much water. Historically, we can expect that the water for our land will run out around the fourth of July. After that, even stock water is not available. The Koester land does not have a history of being irrigated. It has been a dry land hill used mostly for early spring pasture.

Respectfully,

R. Todd Nelson
Donna K. Nelson

R. Todd Nelson
Donna K. Nelson

cc/Donald F Koester & Dolores M. Koester

MIC

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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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

October 27, 1994

GERALD MYERS
HC 70 BOX 2010
MIDVALE ID 83645

Re: Application for Water Right No. 67-7977 in the Name of Donald
&/or Dolores Koester

Dear Sir:

Enclosed is a copy of the above referenced application for
water right.

Please review the application and return any comments you might
have within two weeks. If you have questions or need
information, feel free to contact this office.

Sincerely,

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

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

DRT:st

Enclosure: Copy of Application

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