

This is a topographic map of the Poverty Valley area. The map features a grid system with horizontal and vertical lines. Contour lines are drawn to show elevation, with labels such as 5000, 5100, 5200, and 5300. The map includes several water bodies: the River, Wood River, and a 'CANAL'. Handwritten annotations in blue ink are present, including 'T.N. RIBE. FLAT', 'P/D #1', 'P/D #2', and 'P/U'. The map also shows various landmarks and features, such as 'Gravel Pit', 'Well', and 'MABEL'. The map is oriented with North at the top.

JAN 23 1957

HEATH-MARSHALL, INC. / Don S. Marshall Sec.
(Applicant) TRK

37-08856

RECEIVED

AUG 20 1996

Department of Water Resources
Southern Region

AFFIDAVIT of PUBLICATION

State of Idaho, }
County of Blaine } SS.

On this 14 day of Aug, in the year 19 96, before me a Notary Public of said State, personally appeared **DANIEL J. GORHAM**, known or identified to me to be the person whose name is subscribed to be the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same. As the publisher of the Wood River Journal, he/she attests that said newspaper has been continuously and and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 7 day of Aug, 19 96, and the date of the last publication was on the 14 day of Aug, 19 96.

Daniel J. Gorham
Subscribed and sworn to before me this 16 day of August, 19 96.
(SEAL)

Kelli L Young
NOTARY PUBLIC

10193

WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Number of Picas per Line 11.5
Number of Lines in Notice 65.000
Number of Insertions 2
Lines tabular at 65.000 6¢ / Pica
Lines straight at 37.375 5¢ / Pica
Subsequent lines at 29.900 4¢ / Pica
TOTAL COST +5 \$72.28

**COPY OF NOTICE
(Paste Here)**

Permit Ap. No 37-08856
TITLE OF NOTICE

PLAINTIFF ATTORNEY

**Application for
Water Permit**

**NOTICE OF APPLICATION
FOR WATER PERMIT**

The following application has been filed to appropriate the public waters of the State of Idaho:

HEATH-MARSHALL INC
C/O JAMES P SPECK ESQ
HOGUE SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

Application for Permit No. 37-08856

Source: groundwater
Diversion Pt: NE1/4SW1/4, SE1/4SW1/4, S13, T1N, R18E; Blaine County.

Use:
Industrial (1.15 cfs) 1/1-12/31
Date Filed: 7/15/96
In: NE1/4SW1/4, SW1/4SW1/4, SE1/4SW1/4, S13, T1N, R18E.
The application proposes to divert groundwater from the "Eastern Snake Plain Aquifer" presently under a moratorium order dated April 30th, 1993. The order allows the Director to consider on a case-by-case basis applications if it can be shown the development will have no effect on prior surface and groundwater rights because of its location, insignificant consumption, or mitigation by the applicant to offset injury to other rights. The applicant has submitted a mitigation plan as part of the application. The permit, if approved, will be subject to all prior water rights and to the mitigation plan. Any protest must be filed with the Director, Dept. of Water Resources, Southern Region, 222 Shoshone Street East, Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before August 26, 1996. The protestant must also send a copy of the protest to the applicant.
Karl J. Dreher, Director

Published in the Wood River Journal on 8/7 & 8/14/96.

OK MB MICROFILMED
8/23/96 JAN 23 1997

RECEIVED

OCT 22 1999

FOR OFFICE USE ONLY

Amt. of Fee \$: 125.00
Receipt No. 046944
Receipt By: J. Marshall
Date Received: 11-22-99

RECEIVED

OCT 27 1999

Department of Water Resources

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Department of Water Resources

PROOF OF BENEFICIAL USE

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

1. Permit No. 37-08856 Telephone No. 208-233-1121

2. Name(s) of Permit Holder(s): HEATH-MARSHALL, INC

3. Mailing Address: PO BOX 250, POCATELLO, ID, 83204

4. Source of Water: WELL If **GROUNDWATER** (well), Date Drilled: mo. 6 / yr. 1997

a. Well Driller: WOOD RIVER DRILLING & PUMP, INC Drilling Permit Number: 37-975-0013-000

b. **OPTIONAL:**
Pump Horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft): _____

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

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

Irrigation (No. of acres): _____ Other: INDUSTRIAL

6. Total rate of diversion and/or volume for which proof is submitted: 1.15 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 X or No _____

Has the measuring device been installed? Yes _____ or No _____

Flow Measurement Port: Is a flow measurement port required? Yes _____ or No X

Has the measurement port been installed? Yes _____ or No _____

8. Fee Enclosed: \$ 125.00 (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: STACY WALTERS Telephone Number: 208-788-7989
~~HEATH-MARSHALL, INC - GLEN S. MARSHALL~~

Address: WALTERS READY MIX - ADJACENT TO WELL

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

HEATH-MARSHALL, INC

Signature of permit holder: Glen S. Marshall Date: 10-18-99
(include your title, if on behalf of company or organization)

MICROFILMED

JAN 28 2000

State of Idaho
Department of Water Resources

****AMENDED****

Permit To Appropriate Water

****AMENDED****

NO. 37-08856

Proposed Priority: July 15, 1996

Maximum Diversion Rate:

1.15 CFS

This is to certify, that **HEATH MARSHALL INC**
C/O JAMES P SPECK ESQ
HOGUE SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340-0987

has applied for a permit to appropriate water from: **GROUNDWATER**

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

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

INDUSTRIAL

01/01 to 12/31

1.15 CFS

LOCATION OF POINT(S) OF DIVERSION:

NESW , Sec. 13, Township 01N, Range 18E

SESW , Sec. 13, Township 01N, Range 18E

BLAINE County

PLACE OF USE: INDUSTRIAL

TWN RGE SEC

01N 18E 13

NESW

SWSW

SESW

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **December 1, 1999**.
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. 37.
5. After specific notification by the department, the right holder shall annually report the amount of water diverted to the department.
6. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
7. The right holder shall comply with Idaho well construction standards when constructing a well pursuant to this right.
8. Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
9. Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.

MICROFILMED

JAN 23 1997

State of Idaho
Department of Water Resources****AMENDED******Permit To Appropriate Water******AMENDED****

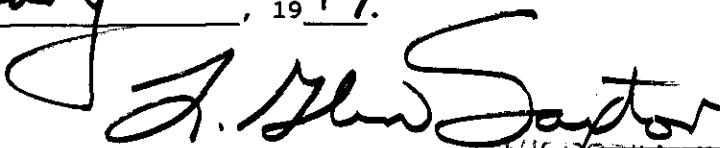
NO. 37-08856

CONDITIONS OF APPROVAL AND REMARKS

10. The Director retains jurisdiction over this right and may change, add, or remove any requirement as determined to be appropriate.
11. The use of water under this right is contingent upon the implementation of the following three measures to mitigate potential impacts to prior surface and groundwater rights:
 - a. The right holder shall discontinue the irrigation of one acre within the NWSE, S13, T01N, R18E, under Rights 37-00235A, 37-00236, and 37-00308.
 - b. The water normally diverted for the irrigation of the one acre, currently estimated by the applicant to be 0.224 cfs, shall be diverted into a gravel pit located in Sec. 13 to compensate for the annual consumption of approximately 2.5 acre feet of water under this right.
 - c. Diversion and use of water under this right may occur only if the right holder has annually diverted 2.5 AF of water to the gravel pit under rights 37-00235A, 37-00236, and 37-00308 as mitigation for the industrial use.
12. For purposes of regulating this right with respect to other groundwater rights, the priority of this right shall be July 15, 1996.
13. The Director retains jurisdiction over the use of water under this right to adjust the mitigation.
14. Prior to the diversion of water under this right, the right holder shall install and maintain a totalizing measuring device and lockable controlling works on each point of diversion. The right holder shall obtain prior approval of the department relative to the type of totalizing measuring device and lockable controlling works.
15. Industrial use is for an asphalt batch plant and concrete batch plant.
16. This approval does not confirm the validity or extent of rights 37-00235A, 37-00236, or 37-00308.
17. The right holder shall cease diversion under this right if the right holder cannot perpetually provide suitable mitigation, as determined by the department.

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

9th day of January, 1997.


for Karl J. Dreher, Director

JAN 23 1997

State of Idaho
Department of Water Resources
Permit To Appropriate Water
NO. 37-08856

Proposed Priority: July 15, 1996

Maximum Diversion Rate:

1.15 CFS

This is to certify, that **HEATH MARSHALL INC**
C/O JAMES P SPECK ESQ
HOGUE SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340-0987

has applied for a permit to appropriate water from: **GROUNDWATER**

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>
INDUSTRIAL	01/01 to 12/31	1.15 CFS

LOCATION OF POINT(S) OF DIVERSION:

NESW , Sec. 13, Township 01N, Range 18E
SESW , Sec. 13, Township 01N, Range 18E
BLAINE County

PLACE OF USE: INDUSTRIAL

TWN RGE SEC

01N 18E 13

NESW

SWSW

SESW

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **December 1, 1999.**
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. 37.
5. After specific notification by the department, the right holder shall annually report the amount of water diverted to the department.
6. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
7. The right holder shall comply with Idaho well construction standards when constructing a well pursuant to this right.
8. Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
9. Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.

JAN 14 1997

State of Idaho
Department of Water Resources**Permit To Appropriate Water**

NO. 37-08856

CONDITIONS OF APPROVAL AND REMARKS

10. The Director retains jurisdiction over this right and may change, add, or remove any requirement as determined to be appropriate.
11. The use of water under this right is contingent upon the implementation of the following three measures to mitigate potential impacts to prior surface and groundwater rights:
 - a. The right holder shall discontinue the irrigation of one acre within the NWSE, S13, T01N, R18E, under Rights 37-00235A, 37-00236, and 37-00308.
 - b. The water normally diverted for the irrigation of the one acre, currently estimated by the applicant to be 0.224 cfs, shall be diverted into a gravel pit located in Sec. 13 to compensate for the annual consumption of approximately 2.5 acre feet of water under this right.
 - c. Diversion and use of water under this right may occur only as long as the Big Wood River can supply water to Rights 37-00235A, 37-00236, and 37-00308, under their respective priorities.
12. For purposes of regulating this right with respect to other groundwater rights, the priority of this right shall be July 15, 1996.
13. The Director retains jurisdiction over the use of water under this right to adjust the mitigation.
14. Prior to the diversion of water under this right, the right holder shall install and maintain a totalizing measuring device and lockable controlling works on each point of diversion. The right holder shall obtain prior approval of the department relative to the type of totalizing measuring device and lockable controlling works.
15. Industrial use is for an asphalt batch plant and concrete batch plant.
16. This approval does not confirm the validity or extent of rights 37-00235A, 37-00236, or 37-00308.
17. The right holder shall cease diversion under this right if the right holder cannot perpetually provide suitable mitigation, as determined by the department.

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

11th day of December, 1996

Karl J. Dreher
for Karl J. Dreher, Director

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JAN 23 1997

RECEIVED

RECEIVED

SEP 24 1996

JUN 20 1996

Form 202
10/92Department of Water Resources
Southern Region

Department of Water Resources

Ident. No. 37-08856

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

- Name of applicant Heath - Marshall, Inc. Phone 208/726-4421
Post office address c/o James P. Speck, Hogue Speck & Aanestad P.O. Box 987 Ketchum, ID 83340
- Source of water supply ground water which is a tributary of Big Wood River
- Location of point of diversion is 1/4 of NE 1/4 of SW 1/4, Govt. Lot
Sec. 13 Township 1N Range 18E B.M. Blaine County; additional
points of diversion if any: SE 1/4 SW 1/4, S. 13, T. 1 N., R. 18E., B.M., Blaine County
- Water will be used for the following purposes:
Amount 1.15 for industrial 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)
- Total quantity to be appropriated is (a) 1.15 and/or (b) _____
cubic feet per second acre feet per annum
- Proposed diverting works:
 - Description of ditches, flumes, pumps, headgates, etc. 2 wells, pumps, pipelines to asphalt
hot mix plant and concrete plant
 - Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.
 - Proposed well diameter is (10) TEN inches; proposed depth of well is 200. feet.
 - Is ground water with a temperature of greater than 85°F being sought? No
 - If well is already drilled, when? N/A; Drilling firm _____
Well was drilled for (well owner) _____
- Time required for the completion of the works and application of the water to be proposed beneficial use is
5 years (minimum 1 year).

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

- a. Hydropower; show total feet of head and proposed capacity in KW. _____
- b. Stockwatering; list number and kind of livestock. _____
- c. Municipal; show name of municipality. _____
- d. Domestic; show number of households. _____
- e. Other; describe fully. Industrial. See Addendum

9. Description of place of use:

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

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1N	18E	13									I		I	I					----

Total number of acres to be irrigated ----

10. Describe any other water rights used for the same purposes as described above. None

11. 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. _____

12. Remarks: See Addendum

10/20/2013

10/20/2013

Received by JEH Date 7-9-96 Time 10 am Preliminary check by JS
Fee \$ 120⁰⁰ Received by JP # 5019329 Date 7-15-96
Publication prepared by MB Date 7/26/96 Published in Wood River Journal
Publication approved MB Date 8/23/96

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

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

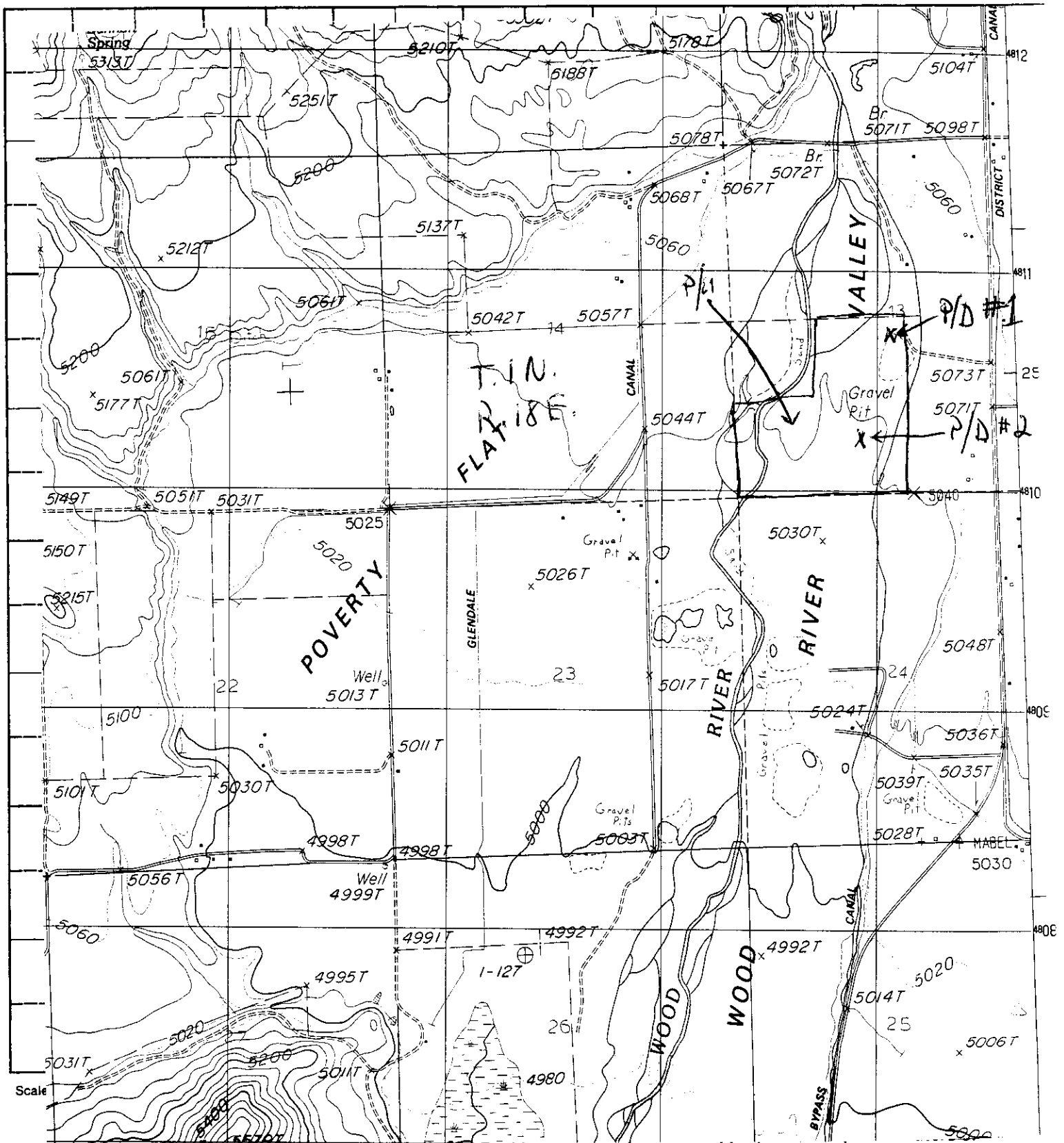
c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

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

e. Other:

RECORDED
MAY 13 1997

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



the State of Idaho as herein set forth.

HEATH-MARSHALL, INC. / *Don P. Marshall* Sec/
(Applicant) *Revs*

37-08856

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JUN 20 1996

Department of Water Resources
Southern Region

ADDENDUM TO
APPLICATION FOR PERMIT
BY
HEATH - MARSHALL, INC.

The following is an Addendum to the Application for Permit submitted by HEATH - MARSHALL, INC.:

12. **Remarks:** This Application seeks a permit to divert ground water for industrial purposes within the Big Wood River Ground Water Management Area (the "Area"). The proposed points of diversion (two (2) wells) are within the Big Wood River Basin as defined in section I,A of the Management Policy for the Area (the "Policy"). Under section III of the Policy, approval of this Application may be granted if it is determined the water supply is adequate and other water rights will not be injured by the new diversion to a consumptive use. Applicant proposes the following plan of mitigation to satisfy these requirements.

MITIGATION PLAN

I. THE CONSUMPTIVE USE.

The water will be used for two different industrial purposes. First, approximately 100 gpm (0.23 cfs) will be diverted from one well to be used in an asphalt hot mix plant. This process removes moisture from the aggregate rock and burns hydrocarbon fuel, both of which result in an increase in the amount of water exiting the process over that required for the input. Thus, this use is truly non-consumptive. Second, approximately 400 gpm (0.92 cfs) is required for the production of concrete in an adjoining facility. This flow will be provided by the outflow from the asphalt hot mix plant operation and additional diversions from the second well. It is estimated that approximately 30 gallons of water is entirely consumed in the production of one (1) yard of concrete mix. The plant will produce approximately 10,000 yards per year, thus consuming approximately 300,000 gallons of water.

II. THE MITIGATION RIGHT.

Applicant is the owner of the following "stacked" irrigation water rights: 0.58 cfs of 37-00235A, 2.32 cfs of 37-00236 and 0.92 cfs of 37-00308, used for the irrigation of seventeen (17) acres. Applicant proposes to use those portions of these stacked water rights which irrigate one (1) acre as the "Mitigation Rights".

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JUN 23 1996

37-08856

**ADDENDUM TO
APPLICATION FOR PERMIT
BY
HEATH - MARSHALL, INC.**

III. EXCHANGE OF WATER RIGHTS.

The Mitigation Rights have historically irrigated the following lands:

<u>TWSHP</u>	<u>RANGE</u>	<u>SECTION</u>	<u>1/41/4</u>	<u>IRRIGATED ACRES</u>
1N	18E	13	NW ¹ / ₄ SE ¹ / ₄	14.5
1N	18E	13	SW ¹ / ₄ SE ¹ / ₄	2.5

Total number of irrigated acres: 17

One (1) acre within the NW¹/₄SE¹/₄ will no longer be irrigated by the Mitigation Rights. Applicant proposes to "exchange" that portion of the Mitigation Rights used to irrigate one (1) acre pursuant to the provisions of I.C. § 42-105 in return for the consumptive ground water diversion under the permit and license sought by this Application (the "Ground Water Right") on the following terms and conditions:

1. That portion of the Mitigation Rights used to irrigate one (1) acre shall remain in the Big Wood River to compensate for depletion of the Big Wood River flows available for diversions pursuant to valid water rights and for the supply of water to Magic Reservoir.

2. The Ground Water Right shall have the same priority date as the most senior of the Mitigation Rights (June 15, 1883) for the conjunctive administration of ground water and surface water diversions from the Big Wood River and its tributaries.

3. The Ground Water Right shall have a priority date of the date this Application is received by the Department for its administration solely with respect to other ground water rights,

4. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as a part of the diverting works for the Ground Water Right prior to any diversion thereunder.

5. Diversion of ground water pursuant to the Ground Water Right shall be administered by the watermaster of Water District 37, Big Wood River.

6. The maximum instantaneous diversion rate under the Ground Water Right

**ADDENDUM TO
APPLICATION FOR PERMIT
BY
HEATH - MARSHALL, INC.**

shall be 1.15 cfs.

7. The annual consumptive use of the Ground Water Right shall be limited to 2.5 acre feet.

8. Upon approval of this Application and issuance of the permit for the Ground Water Right, Applicant may file a claim for the Ground Water Right in the Snake River Basin Adjudication. The provisions of this "exchange" shall be incorporated into the Director's recommendations for the Mitigation Right and the Ground Water Right in the Director's Report for Basin 37 to be filed in the Snake River Basin Adjudication.

The consumptive use of that portion of the Mitigation Rights used to irrigate one (1) acre is approximately 2.5 acre feet per year, which is more than 2.5 times the amount of water projected to be consumed by the two industrial uses under the Ground Water Right. The Mitigation Right will be "left in the river", so that neither the total consumptive use of the water diverted from the interconnected ground water and surface flow resource shall not increase over the present uses. Thus, there will not be any injury to other surface water rights in the Big Wood River or its tributaries, or to the storage rights in Magic Reservoir. Finally, it should be noted that any return flows from the Mitigation Right are presently to the Big Wood River and not to Silver Creek. Thus, this proposal will not affect in any way the surface flows of Silver Creek or its tributary aquifer.

ALLEN!

*TO CLARIFY - THE 400
GPM INCLUDES A WASH
PLANT (WHICH IS A NON-
CONSUMPTIVE USE) ~
THEREFORE, 400 GPM FLOW
BUT 300 GPM CONSUMED.
CLEAN*



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

January 18, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

HEATH MARSHALL INC
PO BOX 250
POCATELLO ID 83204

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 37-08856

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form ("proof") 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.

The proof you submitted indicates that you have not installed a totalizing measuring device and lockable controlling works on your point of diversion as required by condition #14 of your permit. The installation must be complete by the time the examination is conducted in order to keep the permit in good standing.

If you have questions concerning the field examination or the timing of it, please feel free to contact the Southern Regional Office of the department in Twin Falls at (208) 736-3033.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

c: IDWR - Regional Office

MICROFILMED

JAN 28 2000

ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE

Permit No. 37-08856 Reviewed by WJA Date 1-12-00

GENERAL CONSIDERATIONS

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

TYPES OF USE

indust
yes Correct Uses?

SOURCE OF WATER

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

LICENSE EXAMINATION FEE

yes Required?
125 Amount Submitted
yes Correct?

MEASURING DEVICE

yes Required?
? Installed?
 Waiver requested?

PRIORITY CALCULATION

Date proof received	<u> </u>	<u> </u>
Date proof due	<u> </u>	<u> </u>
No. of days late	<u> </u>	<u> </u>
Priority Date	<u> </u>	<u> </u>
New Priority Date	<u> </u>	<u> </u>

DEFICIENCIES OR ACTION ITEMS

needs to install totalizing meas device. card #14

DATA ENTRY

New Address Box 250 Proof Made 10-22-99
Pocatello, ID 83204

September 30, 1999

HEATH MARSHALL INC
C/O JAMES P SPECK ESQ
HOGUE SPECK & AANESTAD
PO BOX 987
KETCHUM ID 833400987

PROOF DUE NOTICE

RE: PERMIT NO. 37-08856

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before December 1, 1999.

(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.

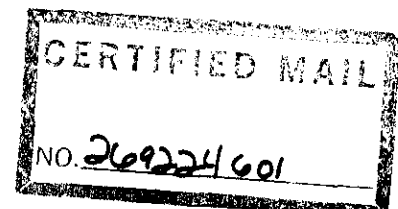
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

MICROFILMED

JAN 28 2000





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

January 10, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

HEATH MARSHALL INC
C/O JAMES P SPECK ESQ
HOGUE SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340-0987

AMENDED PERMIT APPROVAL NOTICE

RE: PERMIT NO. 37-08856

Dear Permit Holder:

Enclosed is a copy of your amended permit. Please be sure to thoroughly review the "Conditions of Approval and 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.

If a well has not already been constructed you are required to obtain a "drilling permit" from the department. The right to drill a well is not a part of this permit to appropriate water.

This permit authorizes the appropriation of trust water. Trust water is defined as that portion of a particular hydropower water right which exceeds certain minimum stream flows established by state action, and is held in trust by the State of Idaho for the use and benefit of the people within the state. Conditions pertaining to a term review, annual use fee and jurisdiction of the permit are trust water conditions.

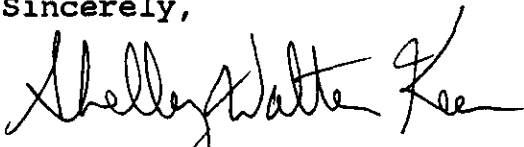
Also, please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address to the department. If you have acquired

MAILED
JAN 23 1997

a water right or have changed your mailing address PRIOR TO July 1, 1996, you have until July 30, 1998, to notify the department. If you acquire a water right or change your mailing address AFTER July 1, 1996, you must notify the department within 120 days of the change.

Failure to report these changes could result in a \$100 late filing fee. Contact any office of the department to obtain the proper reporting form.

Sincerely,

A handwritten signature in cursive script, reading "Shelley W. Keen". The signature is written in dark ink and is positioned above the typed name and title.

Shelley W. Keen
Water Rights Supervisor

SK:ph

Enclosures

MICROFILMED
JAN 23 1997

MEMORANDUM

To: Jim Johnson 
From: L. Glen Saxton 
RE: CONDITIONS OF PERMIT APPROVAL
Date: January 9, 1997

I agree with you that we should either eliminate condition 11.c. or change it to read something like the following;

c. Diversion and use of water under this right may occur only if the right holder has annually diverted 2.5 AF ~~X~~ of water to the gravel pit under rights 37-00325A, 37-00236 and 37-00308 as mitigation for the industrial use.

235A

MEMORANDUM

Trust

Date: January 9, 1997

To: Glen

From: Jim Johnson

Subject: Conditions on Permit 37-08856

=====

I have spoken to Jim Speck regarding workable language on this permit that we could both agree on.

Jim is willing to divert the annual volume for one acre (3.5 acft) even though the actual consumptive volume of the concrete plant is only 1.0 acre foot.

His concern is with condition 11.c. which does not include any provision for volume credit diverted prior to a priority cut on the mitigation rights.

I believe we could remove the condition entirely because if the water master were to deliver the 0.224 cfs to the gravel pit it would only take a little over 2 days to supply the 300,000 gallons consumed by the concrete plant for the whole year. I don't believe a priority cut would be made on the mitigation rights within two days of regulation.

If this option is not agreeable to you then we need to reconfigure condition 11.c. to reflect the volume diverted into the pond prior to a priority cut. In this case, if the diversion of the mitigation right was only one day and the volume diverted into the gravel pit was 144,776 gallons then the concrete plant should be allowed to operate until the volume was consumed even though the mitigated right was cut off.

If we assume the 300,000 gallons were evenly consumed during the year then the daily volume consumption would be 822 gallons (300,000/365) if 144,776 gallons were diverted in one day then the plant could be operated for 176 days.

I propose we remove the condition and get on with more important matters.

FAX TRANSMISSION**HOGUE, SPECK & AANESTAD, P.A.**

120 EAST AVENUE

P. O. Box 987

KETCHUM, ID 83340

1-208-726-4421

FAX: 1-208-726-0752

TO: Jim Johnson **DATE:** December 17, 1996
FAX #: (208) 327-7866 **PAGES:** 1, including cover sheet
FROM: James P. Speck
SUBJECT: Heath-Marshall/Permit 37-08856

Jim -

Thanks for your fax. I've gone through our original application and proposed mitigation plan and have the following thoughts:

1. The permit should be for two (2) separate industrial uses. The first, 0.23 cfs for the asphalt hot mix plant, is non-consumptive. Perhaps this should be identified as a separate beneficial use subject to the condition that the use always be non-consumptive.

2. The second use is 0.92 cfs for the concrete production plant. This use is projected to consume approximately 300,000 gallons per year. Mitigation should be required only for this use.

3. The "mitigation rights" are subject to a total annual diversion volume limitation of 3.5 acre-feet. The diversion of the total annual diversion volume for these rights into the gravel pit should replace the amount consumed by the concrete plant. The portion of the concrete plant diversion - limited to 0.92 cfs each day during the year - not consumed in the concrete produced is also returned to the aquifer. Therefore, there should not be an annual diversion volume restriction on either portion of this right.

Please call with your comments. Thanks.


$$\begin{array}{r} .23 \\ .92 \\ \hline 1.15 \end{array}$$

THE INFORMATION CONTAINED IN THIS FAX TRANSMISSION IS CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE ABOVE-NAMED RECIPIENT AND MAY BE THE SUBJECT OF ATTORNEY/CLIENT PRIVILEGE. IF THE READER OF THIS MESSAGE IS NOT THE ABOVE-NAMED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISTRIBUTION, DISSEMINATION, COPYING OR OTHER USE OF THIS COMMUNICATION IS STRICTLY PROHIBITED AND NO PRIVILEGE IS WAIVED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE. THANK YOU.

- 1 -

MICROFILMED

JAN 23 1997

MEMORANDUM

Date: December 16, 1996

To: Glen

From: Jim Johnson

Subject: Responses to Jim Speck

=====

I recommend the following.

Modify condition 11.c. to read;

The diversion of water from this right may not exceed the volume annually delivered to the gravel pit, or up to a maximum of 2.5 acre feet. All of the volume delivered, by the three decreed rights identified herein, to the gravel pit, must be supplied during the irrigation season.

Remove condition 12.

MEMORANDUM

OK as changed
NY

Date: December 16, 1996

To: Glen

From: Jim Johnson

Subject: Responses to Jim Speck

I recommend the following.

Modify condition 11.c. to read;

The diversion from this right may not exceed the volume annually delivered to the gravel pit, up to a maximum of 2.5 acre feet. All of the volume delivered, by the three decreed rights identified herein, to the gravel pit, must be supplied during the irrigation season.

✓ Remove condition 12.

OK

726 0752

1.0

Jim J. —
- OK as changed
- Call Speck to
see if OK,
- If OK, we'll
issue a
permit
12-16

MEMORANDUM

To: Jim Johnson
From: L. Glen Saxton 
RE: JIM SPECK'S CONCERNS
Date: December 16, 1996

I don't think we should suggest that the filing of an application for transfer is appropriate at this point.

It appears that Speck has a legitimate concern about Condition of Approval No. 11.c. Perhaps the condition could be changed to provide that diversion and use of water under the permitted right could occur as long as the permit holder can show that he has annually diverted 2.5 AF of water to the gravel pit for mitigation purposes.

Let's discuss.

RECEIVED

DEC 18 1996

Department of Water Resources

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340
(208) 726-4421
FAX (208) 726-0752

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
TRACY DUNLAP
MICHELE C. MESKE

HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567
FAX (208) 788-4230

December 13, 1996

VIA FACSIMILE - 1-208-327-7866
ORIGINAL TO FOLLOW BY MAIL

Mr. Glen W. Saxton
Idaho Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise ID 83720-9000

RE: Permit 37-08856 - Heath-Marshall, Inc.

Dear Glen:

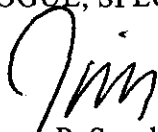
I have now reviewed Permit No. 37-08856 issued December 11, 1996 to Heath-Marshall, Inc. and have two concerns about Condition 11,c. First, the "mitigation rights" are stacked irrigation water rights, so the priority for purposes of "conjunctive management" with the surface rights in the Big Wood River and its tributaries should be the priority of the most senior of these rights, i.e. June 15, 1883. The condition as presently worded would prohibit diversion under the Permit as soon as the most junior of these rights is "cut".

Second, the Permit season of use is January 1 through December 31. The condition would effectively reduce this to the "irrigation season". As you know, the consumptive use of the mitigation rights is significantly more than the consumptive use under the Permit. Shouldn't we have the benefit of this and be allowed to divert during the non-irrigation season with the June 15, 1883 priority?

Please call me next week to discuss these issues. Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD


James P. Speck

JPS/j

cc: Glen Marshall
Larry Anderson
Jerry Rigby, Esq.

RECORDED

DEC 18 1996

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION

Attorneys at Law

120 East Avenue

Post Office Box 987

Ketchum, Idaho 83340

Phone: (208) 726-4421

FAX: (208) 726-0752

FAX MEMO/COVER SHEET

DATE: December 13, 1996
PAGE 1 OF 2
TO: Mr. Glen W. Saxton
FAX NO: (208) 327-7866
SUBJECT: Permit 37-08856 -- Health-Marshall, Inc.
FROM: James P. Speck

The information contained in this fax is confidential information intended only for the use of the recipient named above and may be subject of attorney/client privilege. If the reader of this message is not the named recipient, you are hereby notified that any distribution, dissemination, copying or other use of this communication is strictly prohibited and no privilege is waived. If you have received this message in error, please immediately notify us by telephone. Thank you.

RECEIVED

DEC 23 1996

HOGUE, SPECK & AANESTADA PROFESSIONAL ASSOCIATION
ATTORNEYSTERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
TRACY DUNLAP
MICHELE C. MESKE120 EAST AVENUE
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(208) 726-4421
FAX (208) 726-0752HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567
FAX (208) 788-4230

December 13, 1996

VIA FACSIMILE - 1-208-327-7866
ORIGINAL TO FOLLOW BY MAILMr. Glen W. Saxton
Idaho Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise ID 83720-9000***RE: Permit 37-08856 - Heath-Marshall, Inc.***

Dear Glen:

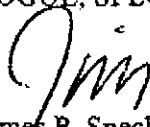
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Second, the Permit season of use is January 1 through December 31. The condition would effectively reduce this to the "irrigation season". As you know, the consumptive use of the mitigation rights is significantly more than the consumptive use under the Permit. Shouldn't we have the benefit of this and be allowed to divert during the non-irrigation season with the June 15, 1883 priority?

Please call me next week to discuss these issues. Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD


James P. Speck

JPS/j

cc: Glen Marshall
Larry Anderson
Jerry Rigby, Esq.MICROFILMED
JAN 23 1997



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 11, 1996

HEATH MARSHALL INC
C/O JAMES P SPECK ESQ
HOGUE SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340-0987

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 37-08856

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. Please be sure to thoroughly review the "Conditions of Approval and 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.

If a well has not already been constructed you are required to obtain a "drilling permit" from the department. The right to drill a well is not a part of this permit to appropriate water.

This permit authorizes the appropriation of trust water. Trust water is defined as that portion of a particular hydropower water right which exceeds certain minimum stream flows established by state action, and is held in trust by the State of Idaho for the use and benefit of the people within the state. Conditions pertaining to a term review, annual use fee and jurisdiction of the permit are trust water conditions.

MICROFILMED

10W 2 3 1017

Also, please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address to the department. If you have acquired a water right or have changed your mailing address PRIOR TO July 1, 1996, you have until July 30, 1998, to notify the department. If you acquire a water right or change your mailing address AFTER July 1, 1996, you must notify the department within 120 days of the change.

Failure to report these changes could result in a \$100 late filing fee. Contact any office of the department to obtain the proper reporting form.

Sincerely,

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

Shelley W. Keen
Water Rights Supervisor

SK:ph

Enclosures

MICROFILMED
JAN 2 9 1997

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION

Attorneys at Law

120 East Avenue

Post Office Box 987

Ketchum, Idaho 83340

Phone: (208) 726-4421

FAX: (208) 726-0752

FAX MEMO/COVER SHEET**DATE:** November 26, 1996**PAGE 1 OF 2****TO:** Glen Saxton
Idaho Department of Water Resources**FAX NO:** (208) 327-7866**SUBJECT:** Heath-Marshall -- Application for Permit No. 37-08856**FROM:** James P. Speck

The information contained in this fax is confidential information intended only for the use of the recipient named above and may be subject of attorney/client privilege. If the reader of this message is not the named recipient, you are hereby notified that any distribution, dissemination, copying or other use of this communication is strictly prohibited and no privilege is waived. If you have received this message in error, please immediately notify us by telephone. Thank you.

MICROFILMED

JAN 28 1997

HOGUE, SPECK & AANESTADA PROFESSIONAL ASSOCIATION
ATTORNEYSTERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
TRACY DUNLAP
MICHELE C. MESKE120 EAST AVENUE
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16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567
FAX (208) 788-4230

November 25, 1996

**VIA FACSIMILE - 1-208-327-7866
ORIGINAL TO FOLLOW BY MAIL**Mr. Glen W. Saxton
Idaho Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise ID 83720-9000***RE: Heath - Marshall Application for Permit No. 37-08856***

Dear Glen:

This letter will constitute an amendment to the proposed mitigation plan for the above-referenced Application for Permit No. 37-08856. The "Mitigation Rights", which are those portions of water rights nos. 37-00235A, 37-00236 and 37-00308 used to irrigate one (1) acre of the total of seventeen (17) acres irrigated by such rights, will be delivered to the place of use described in the Application and then diverted into a gravel pit where it will sink directly into the aquifer. The prior proposal was to simply leave these rights in the Big Wood River.

I understand with this change the Permit will now be issued and my client can then proceed to obtain the required drilling permits for the wells. Please call me immediately if there are any further questions. Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD



James P. Speck

JPS/j

cc: Glen Marshall
Larry AndersonMICROFILMED
12-13-96

MEMORANDUM

To: Jim Johnson
From: L. Glen Saxton *LGS*
RE: MITIGATION
Date: November 26, 1996

I discussed the matter of mitigation with Norm the other day. He indicated that something more than leaving a surface water right undiverted in the river would be needed for mitigation. On October 20, 1996, I contacted Jim Speck who submitted the attached letter advising that the applicant proposes to sink the water in an adjacent gravel pit.

It seems to me that with appropriate conditions of approval, the department can issue the permit.

If you disagree, please discuss with me.

MICROFILMED

JAN 28 1997

**APPLICATION FOR PERMIT
STATE OFFICE REVIEW**
by Cindy Zimmerman

No.: 37-8856 Name: Heath-Marshall Inc Date: 10/4/96 Ad OK? ☒
Correct Fee? ☒ Receipt #: 5019329 Priority: 7/15/96 ☒ Gvmt Lts: ☒

AREA OF CONCERN? - No/Yes ESRP Mor Big Wood RGWMA 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~~ 028
=- 0.2 cfs - No MD
=/+ 5 a. - 01M, 065 (if GW use SW 1st)
Drilling Permit:
Existing well - NA (pre 7/1/87)
Included w/permit - Permit No. _____, P99
No WD permit? - 046-46B-P23 (post 7/1/87)
irr. in WD - P05 (new well)
SURFACE WATER <✓ FLO-CH> (Surface water that doesn't sink is regulated):
Water District (~~dem~~) - 005 (req) WD # _____ <SEE MAP & LISTING>
+ 0.2 cfs - 01J (meas dev) - P08
=- 0.2 cfs - 01H (lock dev) - P01 or No MD
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-irr) - 007-P07 (w/remark WB9-† Weiser), 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) - *WB5 (Boise R † Star Bridge); 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-025-027-028-01F (P19) - 09E (P10);
+25 cfs-P18; 17G (FERC) or 17M (FERC); 18B-P09
Storage (✓ 3 compo.) - 18A (multi MD in WD), 18B-P09 (+10' dam), *W07
LOCATION:
42-248 area - In 20/30/40/50/60/70/80 (87) basin? P84
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 - 7 <SEE CODE CHART>
Trust - 051-052-053-P74 (Consumptive Uses), NA
Non-Trust <1> - 048-049 (Consumptive Uses), NA
OWNERSHIP: Non-land owner - 004 (PD/PU)
OTHER CONDITIONS: _____
STANDARD REMARKS: - * End / gravel asphalt batch plant & concrete plant
BENEFICIAL USE DUE: - 10-1-_____
COMMENTS: - _____

MEMORANDUM

DATE: September 25, 1996
TO: Shelley Keen
FROM: Cindy Zimmerman
SUBJECT: Review of application 37-08856 and mitigation plan

=====

This application proposes to divert 1.15 cfs from groundwater for year round industrial use in an asphalt batch plant and a concrete batch plant. The application is located within the Eastern Snake River Plain Moratorium area and the Big Wood River Groundwater Management Area. The Big Wood River GWMA has a management policy in effect.

0.23 cfs will be diverted from well #1 to the asphalt plant. Due to the method of batching, 0.23 cfs will also exit the plant.

0.92 cfs (400 gpm) will be diverted to the concrete plant. Of that 0.92 cfs, 0.23 cfs comes from the waste of the asphalt plant, the remaining 0.69 cfs is diverted from well #2. 30 gallons of water is required per cubic yard of concrete, this water is totally consumed. 10,000 cubic yards of concrete will be produced each year, or, about 32 cubic yards per day. Total yearly consumption is expected to be 300,000 gallons (0.92 AF).

The applicant has proposed a mitigation plan whereby 0.224 cfs and 2.5 AF of irrigation rights 37-00235A, 37-00236, and 37-00308 will remain undiverted in the Big Wood River and land irrigated under these rights will be reduced by 1 acre.

I have questions concerning this application.

1. Shouldn't the maximum rate of diversion be 0.92 cfs given the proposed diversion system?
2. The mitigation plan addresses only the proposed consumptive use. The total diversion rate and annual volume diverted have not been addressed.
 - a. Of the total diversion rate of 0.92 cfs identified on the application, the plan will offer 0.224 cfs, 2.5 AF, and reduction of 1 acre of irrigation for recharge. Is this high rate per acre acceptable to use for mitigation?
 - b. What about the remaining 0.696 cfs, is it recharging the aquifer on site?
 - c. What is the annual volume proposed? How many hours per day, days per week, weeks per year is the maximum rate of diversion being diverted? At 0.92 cfs for 8 hours per day, 6 days per week, 52 weeks per year, the maximum annual volume diverted could be up to 189.8 AF.

MICROFILMED

JAN 23 1997

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
TRACY DUNLAP
MICHELE C. MESKE

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340
(208) 726-4421
FAX (208) 726-0752
September 17, 1996

HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567
FAX (208) 788-4230

Mr. Allen Merritt, P.E.
Southern Region Manager
Department of Water Resources
222 Shoshone St. East
Twin Falls, Idaho 83301-6106

RECEIVED

SEP 24 1996

Department of Water Resources

RECEIVED
SEP 18 1996
Department of Water Resources
Southern Region

Re: *Heath-Marshall Application for Permit No. 37-08856*

Dear Allen:

Confirming our telephone conversation of September 10, 1996, the pro-rata amount of each of the 3 water rights used to irrigate 1 acre of the 17 acres shall remain in the river as part of the mitigation plan. These amounts are as follows:

<u>WATER RIGHT NO.</u>	<u>AMOUNT</u>
37-00235A	0.034 cfs
37-00236	0.136 cfs
37-00308	0.054 cfs
	0.224 cfs

You will receive directly from Health-Marshall, Inc. a signed request for the withdrawal of Application for Transfer No. 4756.

I understand that upon receipt of this information, you will complete your regional review recommending conditions for approval of the transfer and forward it on to Boise for final processing. Thank you once again for your cooperation and assistance in these matters.

Sincerely yours,

HOGUE, SPECK & AANESTAD


James P. Speck

JPS:jal
pc: Mr. Glen S. Marshall
Mr. Larry Anderson
Mr. Jerry Rigby

MICROFILMED

JAN 23 1997

FROM: Allen Merritt

AM

DATE: September 16, 1996

TO: File: Application for Permit 37-08856

SUBJECT: Review & Recommendation

The application proposes to develop two wells for industrial use of an asphalt batch plant and a cement batch plant. As background this use was first attempted to be covered by transfer 4756 which was protested. (See Transfer 4756 File) This transfer has since been withdrawn. This application was advertised with no protests.

The wells are located in an area presently covered by the "Eastern Snake Plain Moratorium" as well as the "Big Wood River Groundwater Management area". The application was processed since the applicant offered a mitigation plan.

Recommendation:

I recommend that the application be approved subject to the following conditions:

1. A measuring device with totalizing meter shall be installed at both wells. It is recommended that the wells have air lines installed as part of the construction to report water levels. The wells must also have lockable means of control.
2. Both wells authorized under this permit must comply with the drilling permit requirement and meet IDWR well construction standards.
3. Subject to all county, state & federal permits that may be required.
4. The use of this permit and mitigation of the use is under the control of watermaster of District 37.
5. Use subject to annual mitigation plan as proposed. As mitigation 1/17th of the rights listed in part II of the mitigation plan shall be kept in the Big Wood River and not be allowed to be diverted by other users. This flow shall be allowed to sink in the river or be offered for future recharge projects. The irrigation of 1 acre within the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 13, Twp.1N, Rge.18E, B.M. shall cease and the other portions of the rights shall provide for no more than irrigation of 16 acres. If mitigation is not provided then use of this permit shall cease.
6. The mitigation rights and remaining portions of rights are subject to SRBA review.

MICROFILMED

JAN 23 1997

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY HEATH MARSHALL DATE 24 JULY, 1996
APPLICATION NO. 37-08856 INC.

REQUIRED INFORMATION

☐ Name (If applicant is a corporation or partnership, names must be provided for the director, officers, & other partners.)
☒ Address
☒ Source (see USGS quad for names of water sources)
☒ Point of diversion (10 Acres for spring, lot & block descriptions subdivisions, local name, flow &/or volume.)
☒ County
☒ Quantity (flow &/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, of signator is required)
☒ Fee
☒ Yes ☐ No* In form to receipt

MITIGATION PLAN
SUBMITTED W/ APPLICATION

PROPOSED PRIORITY DATE
15 July, 1996

ADDITIONAL INFORMATION SEE NEXT PG.

☒ Overlapping place of use (Describe source & relationship to press application on the back.)
☒ Overlapping point of diversion. SEE ATTACHED MEMOS
☒ Yes ☐ No Field check required DATED: 04 JAN 96
☒ Yes ☐ No Field check by 19 APRIL 96
☐ Yes ☒ No Field report attached
☐ Yes ☒ No Critical Ground water area
☒ Yes ☒ No Groundwater management area
☐ Yes ☒ No Send Dam safety information
☐ Yes ☒ No Send power requirement letter
☐ Yes ☒ No Send fish farm requirement letter
☐ Yes ☒ No Power residency affidavit.
☐ Yes ☒ No Power efficiency form
☐ Yes ☒ No Within trustwater boundary (If yes, attach trustwater supplementary analysis sheet.)
☐ Yes ☒ No Diversion greater than 5 cfs or 500 acre ft. (If yes attach large diversion supplementary analysis sheet)

See reverse side for additional information.

* REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT:

PROVIDE NAMES OF DIRECTOR, OFFICERS &/OR PARTNERS

Date Requested _____, 19____

Rec
9/4/96

PROCESSING ☒ Yes ☐ No In form for Advertising
☒ Yes ☒ No Statewide Advertising
☒ Yes ☐ No Fee amount, receipt date & No. recorded on app.

SEND COPIES TO: _____ Idaho Dept of Health & Welfare _____ USDI BLM
_____ Idaho Dept of Fish & Game _____ USFS
_____ Idaho Dept of Lands _____ Water Dist.
_____ Adjudication Bureau Unit _____ Other _____

FINAL REGIONAL PROCESSING REVIEW

☒ Yes ☐ No Affidavit of publication received.
☒ Yes ☐ No Application published correctly. If not, record action taken.

☒ Yes ☐ No Publication dates and paper, recorded on App.

☐ Yes ☒ No Protests received

Final date for Protest _____

☒ Yes ☐ No Protests, dates, resolution of protest, recorded on app.

☒ Yes ☐ No Recommendations attached

☒ Yes ☐ No Measuring device required

☐ Yes ☒ No Access port required

☒ Yes ☐ No Will water be delivered by watermaster? If yes, what dist. 37

☐ Yes ☐ No Special conditions of approval or cover letter below. _____

See below for additional information _____

Date of priority recommended 7/15, 19 96

By AD Date 9/16, 19 96

STATE OFFICE REVIEW

See below for additional information _____

By _____ Date _____, 19 _____

ADDITIONAL INFORMATION:

NOTE: Transfer #4756 Needs to be amended or withdrew prior to recommending permit.

PLEASE NOTE

See Attached Memo dated
9/16/96 for Recommendations

AD



State of Idaho
DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

September 12, 1996

PHILIP E. BATT
Governor

KARL J. DREHER
Director

GLEN S MARSHALL SEC/TREAS
HEATH-MARSHALL INC
PO BOX 250
POCATELLO ID 83204

Re: Application for Transfer No. 4756 (37-00235E, et al)

Dear Mr. Marshall:

This office acknowledges receipt of your request to withdraw the above referenced application.

This action classifies the Application as null, void and of no further consideration by the Idaho Department of Water Resources.

By copy of this letter, the protestants, Cindy and Gregg Mann, have been informed of this action.

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

Very truly yours,

Allen D. Merritt, P.E.
Regional Manager

AM:MB

cc: Cindy & Gregg Mann, PO Box 269; Bellevue, ID 83313
Complimentary copy: Jim Eakin, Box 296; Bellevue, ID 83313

RECEIVED
JAN 23 1997

HEATH-MARSHALL, INC., - P.O. BOX 250 - POCA TELLO, IDAHO, - 83204

RECEIVED

September 11, 1996

SEP 12 1996

Allen D. Merritt, P.E., Regional Manager
State of Idaho Department of Water Resources, Southern Region
222 Shoshone St. East,
Twin Falls, ID., 83301-6105

Department of Water Resources
Southern Region

Re: Application for Transfer No. 4756, Claims A37-00235A, 00236, 00308

Dear Allen:

Please accept this letter as the request of the corporation to withdraw the application dated 1995 for transfer of water rights, above referenced.

As you are aware, we have filed a new application for industrial wells which will be more applicable for our need.

Thank you for your service and assistance.

Very truly yours,

HEATH-MARSHALL, INC.,



Glen S. Marshall, Secretary/Treasurer

cc; Jim Speck, Attorney

MICROFILMED

JAN 23 1997

9/20/94

COMMUNICATION DOCUMENTATION

File No. Application 37-08856
and associated decreed rights

This form is to be used to document public record information requests regarding any SRBA claim or other water right. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request.

ADM
IDWR Employee/Agent Allen Merritt Date September 11, 1996

Contact person(s) James Speck

Nature of Contact He called regarding my inquiry about Heath-Marshall transfer and application for permit.

Substance of Communication: He indicated that it was his intent to have Heath-Marshall withdraw the transfer application and that with regards to the mitigation plan that the amount of water being offered would be 1/17th of the decrees that are on the property.

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JAN 23 1997



State Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

September 9, 1996

James Speck
PO Box 987
Ketchum, ID 83340

RE: Heath-Marshall Application for Transfer #4756
Heath-Marshall Application for Permit 37-08856

Dear Mr. Speck:

As we discussed in our phone conversation last Friday, our office has completed advertising of the above referenced application for permit 37-08856. Additionally our office holds transfer #4756 pending resolution of the protests which have been lodged against its approval. Since both of these applications are related in that they attempt to secure a water right for commercial uses of an asphalt plant and concrete batch plant, please inform our office which process you wish to proceed with. It appears that the transfer needs to be withdrawn. Additionally we need further clarification of the application for permit's mitigation plan. Specifically we need to know how much of the water rights associated with the irrigation of the 1 acre will be offered as mitigation. At this point I can only speculate that it would be 1/17th of the rights irrigating the presently irrigated 17 acres.

Please find enclosed a withdrawal form for your use if you so desire. Since the transfer action was not prepared by you, please also include a power of attorney for this action if you act as attorney for Heath-Marshall. Otherwise, one of the officers of Heath-Marshall will need to sign the withdrawal if that is the way you decide to proceed.

If you have questions, please feel free to contact our office.

Sincerely,


Allen Merritt, PE
Southern Region Manager

CC: Heath-Marshall

MICROFILMED

SEP 13 1997

MARSHALL REALTY

COMMERCIAL AND INDUSTRIAL REAL ESTATE

BOX 250 (208) 233-1121 • POCATELLO, IDAHO 83204

September 3, 1996

RECEIVED

SEP 04 1996

State of Idaho, Department of Water Resources
Twin Falls, ID., 83301-6105

Department of Water Resources
Southern Region

Attention: Georgia Satterlee L.S.I.T.

Re: Application for Permit No. 37-08856(Heath-Marshall, Inc.)

As per our phone conversation of this date, you advised that no protests have been filed during the allowed protest period, We trust that the application will proceed as outlined in your letter of 7-6-96.

As requested, we list the information regarding owners and officers of Heath-Marshall, Inc., an Idaho Corporation:

John F. Heath, President, 3809 South West Temple St, SLC, UT., 84115

Loretta Heath, Vice-President, " " " " " " "

Glen S. Marshall, Secretary-Treasurer, P.O. Box 250, Pocatello, ID.83204

Margaret L. Marshall, P.O. Box 250, Pocatello, ID., 83204 is a director as well as all of the officers above listed.

John P. Marshall, Registered Agent, 480 Tewa Ave, Pocatello, ID., 83204.

Thank you for your service.

Very truly yours,

Glen S. Marshall

Glen S. Marshall, Sec/Treas.
for Heath-Marshall, Inc.

cc - Jim Speck, Larry Anderson, David Walters, John F. Heath.

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JAN 13 1997



State of Idaho
DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

August 28, 1996

PHILIP E. BATT
Governor

KARL J. DREHER
Director

JAMES P SPECK ESQ
HOGUE SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

RE: APPLICATION FOR PERMIT NO. 37-08856 (Heath-Marshall, Inc.)

SECOND REQUEST

Dear Mr. Speck:

Legal advertising has been completed on the above referenced application with no protests filed against the application.

In order to complete our regional review, we need a list of officers as requested in our correspondence dated July 26, 1996.

We will continue to hold the application until the requested information is received.

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

Sincerely,

Mary A. Baldwin
Senior Secretary

MB

Enclosure

MAILED

AUG 28 1996

RECEIVED

AUG 20 1996

Department of Water Resources
Southern Region

AFFIDAVIT of PUBLICATION

State of Idaho, }
County of Blaine } SS.

On this 14 day of Aug, in the year 1996, before me a Notary Public of said State, personally appeared **DANIEL J. GORHAM**, known or identified to me to be the person whose name is subscribed to be the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same. As the publisher of the Wood River Journal, he/she attests that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 7 day of Aug, 1996, and the date of the last publication was on the 14 day of Aug, 1996.

Daniel J. Gorham

Subscribed and sworn to before me this 16 day of August, 1996.
(SEAL)

Kellen L. Young

NOTARY PUBLIC

10193

WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Number of Picas per Line 11.5
Number of Lines in Notice 65.000
Number of Insertions 2
Lines tabular at 65.000 6c / Pica
Lines straight at 37.375 5c / Pica
Subsequent lines at 29.900 4c / Pica
TOTAL COST +5 \$72.28

COPY OF NOTICE
(Paste Here)

Permit Ap. No 37-08856
TITLE OF NOTICE

PLAINTIFF ATTORNEY

Water Permit

NOTICE OF APPLICATION FOR WATER PERMIT

The following application has been filed to appropriate the public waters of the State of Idaho:

**HEATH-MARSHALL INC
C/O JAMES P SPECK ESQ**

BOCHUM

BLAINE COUNTY

BLAINE COUNTY

BLAINE COUNTY

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BLAINE COUNTY

**NOTICE OF APPLICATION
FOR WATER PERMIT**

The following application has been filed to appropriate the public waters of the State of Idaho:

**HEATH-MARSHALL INC
C/O JAMES P SPECK ESQ
HOGUE SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340**

Application for Permit No. 37-08856

Source: groundwater

**Diversion Pt: NE1/4SW1/4,
SE1/4SW1/4, S13, T1N, R18E;
Blaine County.**

Use:

Industrial (1.15 cfs) 1/1-12/31

Date Filed: 7/15/96

**In: NE1/4SW1/4, SW1/4SW1/4,
SE1/4SW1/4, S13, T1N, R18E.**

The application proposes to divert groundwater from the "Eastern Snake Plain Aquifer" presently under a moratorium order dated April 30th, 1993. The order allows the Director to consider on a case-by-case basis applications if it can be shown the development will have no effect on prior surface and groundwater rights because of its location, insignificant consumption, or mitigation by the applicant to offset injury to other rights. The applicant has submitted a mitigation plan as part of the application. The permit, if approved, will be subject to all prior water rights and to the mitigation plan. Any protest must be filed with the Director, Dept. of Water Resources, Southern Region, 222 Shoshone Street East, Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before August 26, 1996. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

**Published in the Wood River
Journal on 8/7 & 8/14/96.**

APR 23 1996
1996 2 3 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

July 29, 1996

PHILIP E. BATT
Governor

KARL J. DREHER
Director

WOOD RIVER JOURNAL
PO BOX 988
HAILEY ID 83333

Gentlemen:

Enclosed you will find a legal notice which we wish to have published in your newspaper. We have inserted the required publication dates. If time allows, please submit a galley proof for review before publication.

We have attempted to submit this legal as camera ready. Please call me at your earliest convenience and prior to your staff re-typing the legal if it does not meet your specifications so I can possibly make adjustments.

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

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

Mary Baldwin
Sr. Secretary

Enclosure

RECEIVED

JAN 28 1997

NOTICE OF APPLICATION FOR WATER PERMIT

The following application has been filed to appropriate the public waters of the State of Idaho:

HEATH-MARSHALL INC
C/O JAMES P SPECK ESQ
HOGUE SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

Application for Permit No. 37-08856

Source: groundwater

Diversion Pt: NE1/4SW1/4, SE1/4SW1/4, S13, T1N, R18E; Blaine County.

Use: Industrial (1.15 cfs) 1/1-12/31

Date Filed: 7/15/96

In: NE1/4SW1/4, SW1/4SW1/4, SE1/4SW1/4, S13, T1N, R18E.

The application proposes to divert groundwater from the "Eastern Snake Plain Aquifer" presently under a moratorium order dated April 30th, 1993. The order allows the Director to consider on a case-by-case basis applications if it can be shown the development will have no effect on prior surface and groundwater rights because of its location, insignificant consumption, or mitigation by the applicant to offset injury to other rights. The applicant has submitted a mitigation plan as part of the application. The permit, if approved, will be subject to all prior water rights and to the mitigation plan. Any protest must be filed with the Director, Dept. of Water Resources, Southern Region, 222 Shoshone Street East, Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before August 26, 1996. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the Wood River Journal on 8/7 & 8/14/96.

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JAN 23 1997

S. Region
3/96

Application No. 37-08856

ADDITIONAL INFORMATION REQUIREMENTS
FOR APPLICATIONS IN THE NAME OF A CORPORATION,
COMPANY, OR PARTNERSHIP

In reviewing the application for compliance with the requirements of the Department's Rules and Regulations for Water Appropriations, we have determined that the following information is required to make the Application complete for processing.

- 1) If the Application is filed in the name of a corporation, the names and addresses of its directors and officers shall be provided. If the application is filed by or in behalf of a partnership or joint venture, the application shall provide the names and addresses of all partners and shall designate the managing partner, if any. (Rule 035.03.b, i)

Because the required information does not appear in the legal notice, we are proceeding with advertising of your Application. If the required information is received within ten (10) days of the second publication date, no additional delay should be incurred in processing.

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JAN 23 1997



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

July 26, 1996

PHILIP E. BATT
Governor

KARL J. DREHER
Director

JAMES P SPECK ESQ
HOGUE SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

Re: Application for Permit No. 37-08856 (Heath-Marshall, Inc.)

Dear Mr. Speck:

The Department of Water Resources acknowledges receipt of the water right application for permit on behalf of your client. The application has been assigned the above referenced identification number. Please refer to this number in all further correspondence.

This office has scheduled advertising the application in the Wood River Journal for 8/7 & 8/14/96. A period of ten days following the second publication will be allowed for the submittal of protests.

If an application is protested you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If an application is not protested, it will be forwarded to our State Office in about five weeks. State office personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks. Please see attached list for additional information requirement.

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

Very truly yours,

Georgia Satterlee L.S.I.T.
Water Resource Agent

GS:mb

cc: Heath-Marshall, Inc.

100 13 1997

MARSHALL REALTY

COMMERCIAL AND INDUSTRIAL REAL ESTATE

BOX 250 (208) 233-1121 • POCA TELLO, IDAHO 83204

RECEIVED

July 8, 1996

JUL 09 1996

Idaho Department of Water Resources
222 Shoshone St
Twin Falls, ID., 83301-6105

Department of Water Resources
Southern Region

Re: Application for new well permit for Heath-Marshall, Inc.

Att: James E. Stanton, Sr. Water Resources Agent

Dear Jim:

As per our conversation of this date, we enclose FIB Money Order #1610928 in the amount of \$120.00 for the application fee. This application was prepared by Jim Speck, Attorney, and no fee for Form 202 was indicated.

We will appreciate your processing the application at the earliest date.

Very truly yours,



Glen S. Marshall, for Heath-Marshall, Inc.

cc: Jim Speck

Anderson Asphalt

Walters Ready-Mix

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JAN 23 1997

37 08856

MARSHALL REALTY

COMMERCIAL AND INDUSTRIAL REAL ESTATE

BOX 250 (208) 233-1121 • POCA TELLO, IDAHO 83204

June 19, 1996

Mr. Allen D. Merritt, P.E.
Water Rights Supervisor
Idaho Department of Water Resources
222 Shoshone St East
Twin Falls, ID., 83301

RECEIVED

JUN 20 1996

Department of Water Resources
Southern Region

Re: Addendum to our application for Heath-Marshall, Inc.

Dear Allen:

Due to the absence of James P. Speck from his office, we are forwarding the following documents for your processing:

- Addendum to Application for permit by Heath-Marshall, Inc.
- Application for permit (Form 202).
- Copy of Jim Speck's letter concerning the application.

We will appreciate your placing same on your agenda for the earliest processing.

Thank you for your assistance.

Very truly yours,

Glen S. Marshall

Glen S. Marshall, Sec/Treas for
Heath-Marshall, Inc.

encl - 3

cc-Hogue, Speck & Aanestad, P.A.
cc-Larry Anderson, Anderson Asphalt Co
cc-Walters Readymix

MICROFILMED

16W 7 3 1997

37-08856

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
TRACY DUNLAP
MICHELE C. MESKE

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340
(208) 726-4421
FAX (208) 726-0752

HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567
FAX (208) 788-4230

June 11, 1996

Mr. Glen S. Marshall
Marshall Realty
Post Office Box 250
Pocatello, Idaho 83204

Re: Application for Permit for New Industrial Groundwater Right

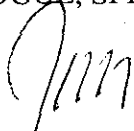
Dear Glen:

Enclosed you will find an Application for Permit which I have prepared to obtain the right to divert groundwater from two new wells on your property for industrial purposes to serve Larry Anderson's asphalt hot mix plant and the proposed concrete plant to be operated by Walters. Please note that we must add in paragraph 6c the proposed well diameter and depth. You may simply write this in, sign on page 3 and return the application to my office. I will then file it with IDWR.

I will be out of the office until August 12, 1996. If any questions arise about this application during my absence, please contact my associate, Michele Meske. Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD, P.A.



James P. Speck

JPS/rb

enc.

pc: Larry Anderson (w/enc.)

Jerry Rigby (w/enc.)

MEMORIAL

JAN 23 1997

37-08856

FROM: Allen Merritt *AM*

DATE: April 19, 1996

TO: Transfer File #4756 in the name of Heath-Marshall (H-M)

SUBJECT: Pre-Hearing conference and subsequent developments

On 4/9/96 I conducted a pre-hearing conference at Hailey, ID in the Commissioner's Rm in the Blaine County Courthouse. The conference was prompted by Ken Smith and the desire to get a well drilled for the asphalt plant needs. The attached roster of attendance documents who attended. Both applicant and protestant were in attendance.

Mr. Marshall (applicant) described what he was attempting to do with the transfer. After his explanation it appeared that the application did not reflect what he was wanting to do. His explanation indicated that he did not want to irrigate from Bypass canal but would remain in the District canal where the water is presently diverted. We discussed the need for the application to be modified to correctly represent the intent. Mrs. Mann (protestant) described her concern about development of new water use and concern that there would be a resulting over appropriation of water of just a few acres and also a concern that the water may have been lost or not used. Mr. Eakin (manager of District canal) expressed his concern of taking the water out of the canal since the rights share the loss in the ditch.

I commented that in the transfer process or ultimately in the SRBA review the department must consider issues of forfeiture and also issues about the burden of use on the water for the acres being irrigated. I indicated in our analysis we must consider issues of loss in delivery ditches and injury issues. I passed out the handout about the specific issues we could consider in approving or denying a transfer. Mr. Marshall indicated that they had always called for their water and paid the assessment and when they irrigated the whole ranch they needed all the water.

In review of the file it appears the ranch has been split up and water divided up. As a result H-M has kept a large share of the water and large share of the land. The problem appears that the land kept by H-M is mostly gravel riverbottom which historically has not or cannot be irrigated. The land sold off has the lion share of the irrigated land but it did not go with it's share of the water. We discussed this problem and there appeared to be understanding that if not straightened out the water rights could be lost. The applicant seemed to want to redistribute the water back on the irrigated land and talked of selling it to Jim Walker who bought much of the irrigated land. It was also revealed that the gravel & asphalt operation was already using water and had done so for several years. We talked about them looking into claiming an accomplished transfer to record this use.

We discussed the need of the asphalt plant and the possibility

MICROFILMED

JAN 23 1997

37-08856

their use was non-consumptive and maybe they should file an application for permit. I told them that they would have to demonstrate what the consumptive use would be to see if a permit could be processed. We also discussed that if the use was consumptive they could still file for a permit and offered a mitigation plan. The mitigation could be provided by transfer of existing rights but may only need to mitigate the consumptive use projected.

We ended the conference on the note that Mr. Marshall was going to re-think his transfer and that there may be alternatives for the asphalt plant to explore. Mr. Marshall was going to call and get an appointment to see me about doing something with the filing &/or SRBA claims.

A day or so later Mr. Marshall phoned and made an appointment for 5/2. On 4/17 he called and left word to cancel the appointment since he had turned the matter over to Jim Speck. On this day Mr. Speck has called and requested copies of related water rights files.

I plan to hold file until instructed otherwise by applicant's attorney.

To <u>Allen</u>		
Date <u>4-17</u>	Time <u>9:36</u>	☒ AM ☐ PM
WHILE YOU WERE OUT		
M <u>Glenn Marshall</u>		
of _____		
Phone () _____		
Area Code	Number	Extension
TELEPHONED	☒	PLEASE CALL
CALLED TO SEE YOU	☐	WILL CALL AGAIN
WANTS TO SEE YOU	☐	URGENT
RETURNED YOUR CALL ☐		
Message <u>please cancel appt</u> <u>on May 2 @ 10 am.</u> <u>Has hired Jim Speck to</u> <u>handle his water problems</u>		
Operator <u>th</u>		

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JAN 23 1997

LET'S
GET
BACK
TO
BASICS

#71100

MEMORANDUM

TO: Heath-Marshall Transfer File (37-00235A, 37-00236 & 37-00308)
FROM: Corey Skinner *CS*
DATE: January 4, 1996
SUBJECT: Staff Review

A summary of what is being accomplished with this transfer would be as follows...

Heath-Marshall owns a portion of rights 37-00235A, 37-00236, and 37-00308 obtained through an unrecorded transfer done before 1971. These portions are summarized in part B of part(s) 2 of this transfer application (17 acres in the W $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 13, T01N, R18E with various amounts of water). These portions of rights 37-00235A, 37-00236, and 37-00308 are what Heath-Marshall is attempting to change through this transfer.

The Big & Little Wood Decree Book 1995 (watermaster records) showed Glen Marshall, who signed this transfer application, as the owner of portions of decrees 37-00235 (0.58 cfs), 37-00236 (2.32 cfs), and 37-00308 (0.92 cfs). In addition, Jim Stanton of our department determined the place of use for these rights (the 17 acres listed in part B of part(s) 2 of this transfer application) while preparing this transfer.

There appears to be no significant problems with this particular transfer application. However, the period of use is being attempted to be lengthened in the irrigation to industrial change, but the diversion volumes are very similar. A check for overlapping water rights in the area involved with this transfer did not reveal anything of great significance, and Jim Stanton did not observe any overlapping rights when he visited the site. However, Heath-Marshall has a domestic well (SRBA claim A37-12996 for a dwelling and an office) at the proposed location for the new industrial section of the right(s).

Since Jim Stanton determined the place of use for the Heath-Marshall rights that are being changed in this transfer, and the watermaster's records agreed with the amount(s) of water and the point(s) of diversion, I found no need to visit the site on my own.

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