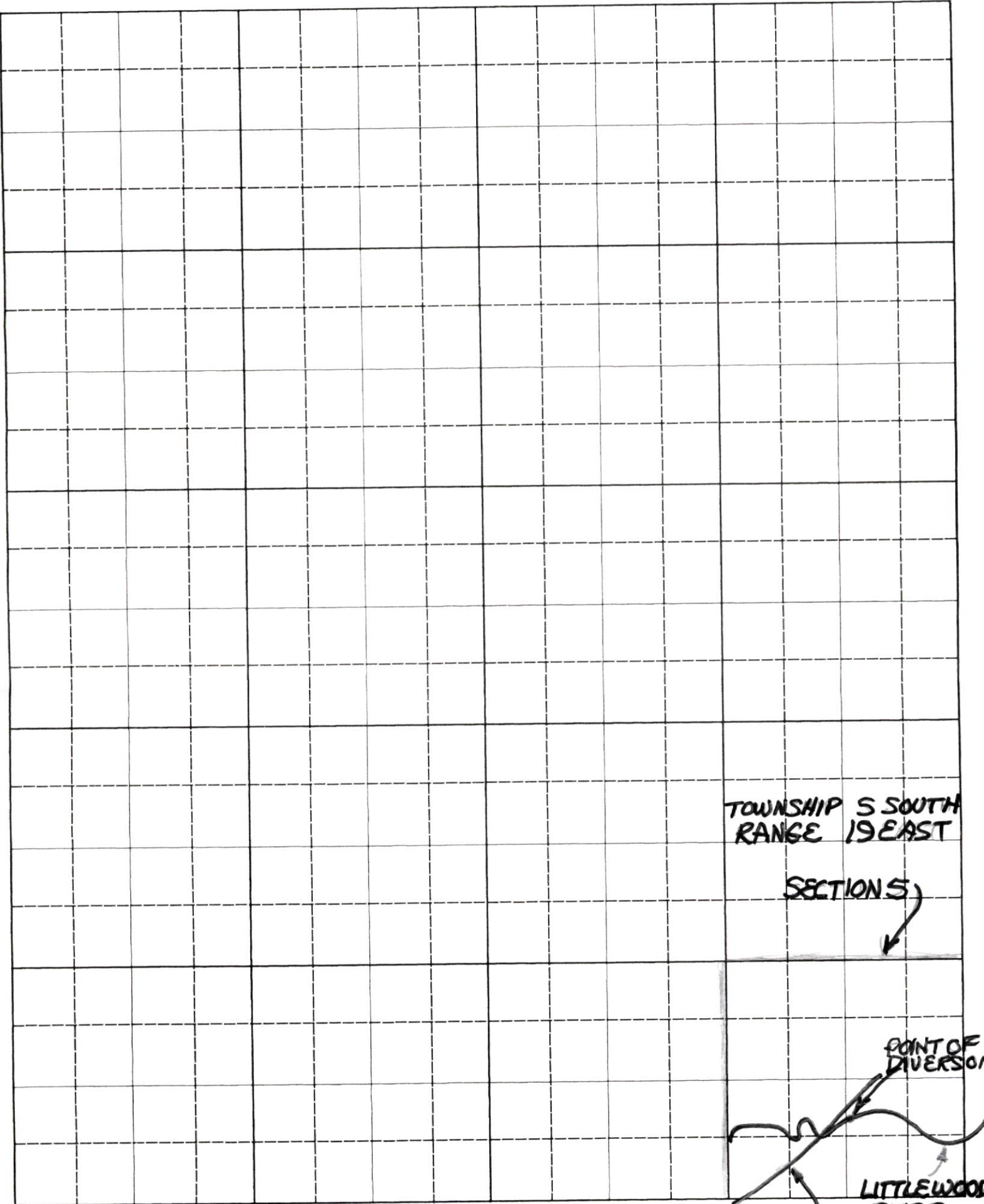


11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

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

Gary L. Kissler
(Applicant)

**NOTICE OF APPLICATION
FOR WATER RIGHT**

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

37-7826

KISSLER, GARY L.
P.O. BOX 134, SHOSHONE,
ID 83352

Source: LITTLE WOOD
RIVER tributary to MALAD
RIVER

Date Filed: 05/20/1980

Amount: 10.00 CFS

Diversion Point: NWSE Sec
05 T 05S R 19E, LINCOLN
Co.

Use: POWER (10.00 CFS)
from 01/01 to 12/31

Place of Use: NWSE Sec 05 T
05S R 19E

Diversion Means: DAM,
PENSTOCK & TURBINE

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301 and received on or before JUNE 29, 1980.

/s/ C.STEPHEN ALLRED
Director

Pub: 6-12, 19

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

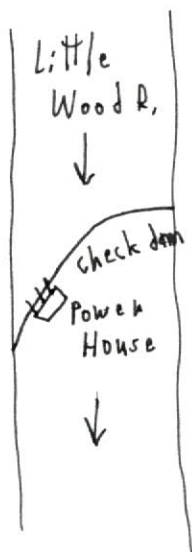
Permit No. 37-7826
Phone No. 487-2253
1. Owner: Gary L. Kissler
Current Address: Box 134, Shoshone, ID 83352
2. Accompanied by: Mr. Kissler EXAM. DATE: 6-23-89
Address: _____ Phone No. _____
Relationship to Permit Holder: _____
3. Source: Little Wood R. tributary to Malad R.

B. OVERLAP REVIEW

1. Other water rights with same place of use: _____
_____ ☐ Copies Attached
2. Other water rights with same point of diversion: _____
_____ ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached



MICROFILMED
OCT 19 2001

Scale: 1" = _____

2. ☒ Copy of U.S.G.S. Quadrangle Attached
Showing location(s) of point(s) of diversion and
place(s) of use (required). ☐ Aerial Photo Attached
(required for irrigation of 10 acres or more).
☒ Photo of Diversion and System Attached
(required for all but single household domestic groundwater, and stockwater).

37-7826

Power house, measuring
device looking downstream

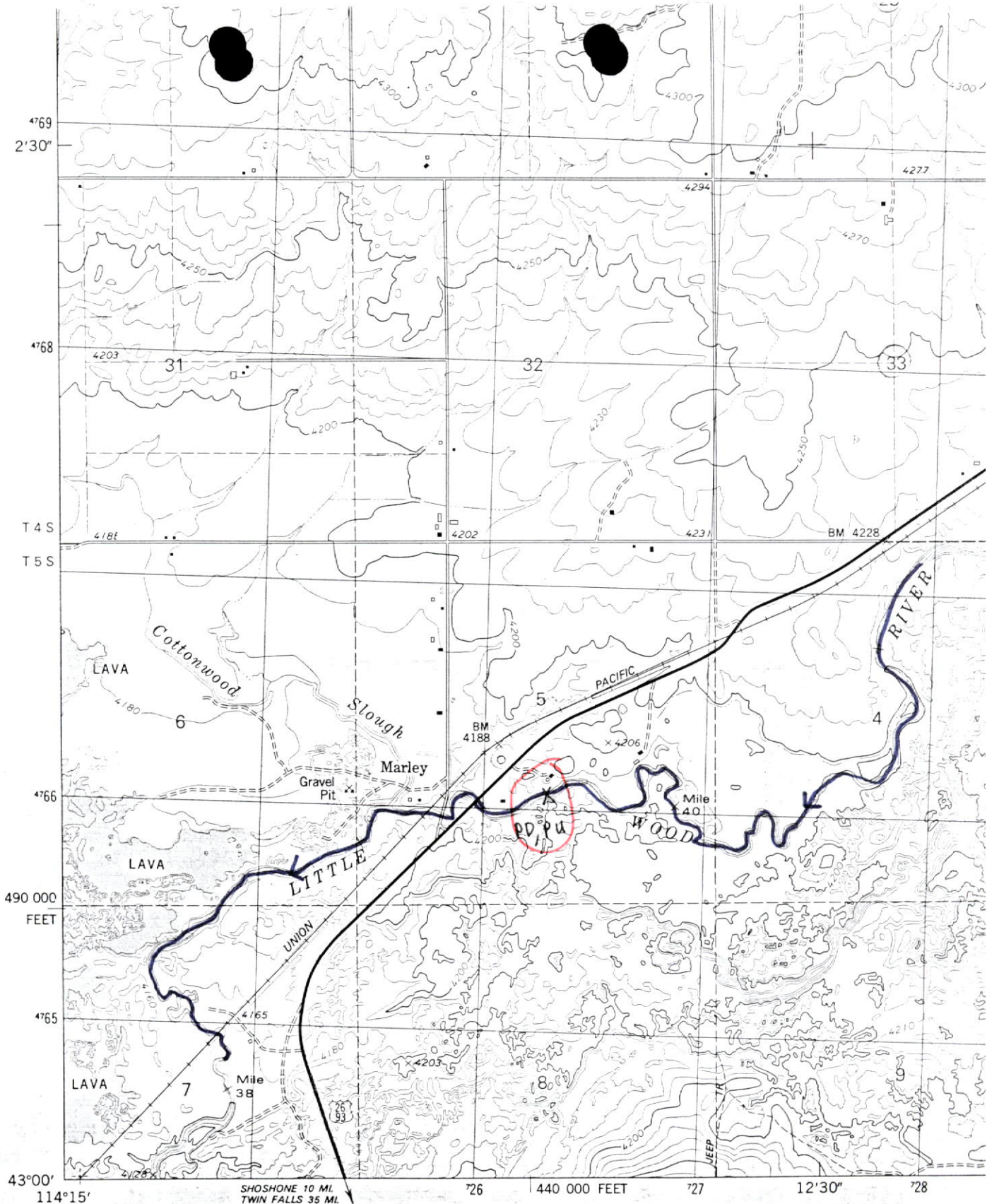


Generator

MICROFILMED
OCT 19 2001



Power house looking
upstream



Mapped, edited, and published by the Geological Survey

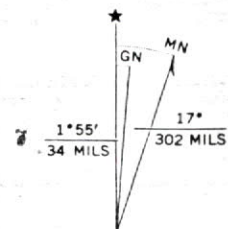
Control by USGS and NOS/NOAA

Topography by photogrammetric methods from aerial photographs taken 1971. Field checked 1973
Map edited 1979

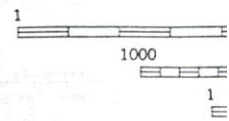
Projection and 10,000-foot grid ticks: Idaho coordinate system, central zone (transverse Mercator)
1000-meter Universal Transverse Mercator grid, zone 11
1927 North American datum

To place on the predicted North American Datum 1983
move the projection lines 13 meters north and
71 meters east as shown by dashed corner ticks

Fine red dashed lines indicate selected fence and field lines



UTM GRID AND 1979 MAGNETIC NORTH
DECLINATION AT CENTER OF SHEET



THI
FOR SALE BY U.S. G

11/99

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

For Office Use Only
\$25 filing fee
Receipt # 5029264
Date 8/22/01
RECEIVED

AUG 22 2001

Department of Water Resources
Southern Region

ASSIGNMENT OF PERMIT
To change the ownership of a permit

I, Gary L. Kissler, hereby assign to Brock Weaver, David W. Lunte Julie Ann Lunte
of, 1411 East 4400 North Buhl, Id 83316 and Todd J. Burkhart
(Full Address) (Phone)

All my right, title, and interest in and to Permit No. 37-07826 to
appropriate the public waters of the State of Idaho.

RECEIVED

AUG 28 2001

Department of Water Resources

OR (for partial assignments)

The following described portion of my right, title, and interest in and to for
Permit No. _____ to appropriate the public waters of the State of Idaho.
(Describe portion of the application for permit assigned, listing the number of acres in each 40 acre
subdivision, point of diversion location, and amount of the water in cubic feet per second.)

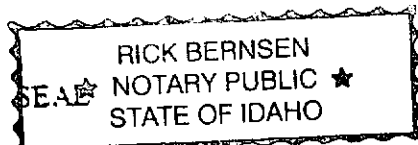
Made this 30th day of July, 2001

Gary L. Kissler
Permit Holder(s) Gary L. Kissler

State of Idaho)
County of Jerome)ss

On this 30th day of July, 20____, personally appeared before me the signer(s) of the above
instrument, who duly acknowledged to me that he (she) (they) executed the same.

[Signature]
Notary Public residing at _____



RESIDING AT JEROME, ID
My commission expires: 7-20-03

MICROFILMED

SEP 13 2001

SCANNED
NOV 1 2001

WARRANTY DEED

#L-30294

170700

For Value Received

GARY L. KISSLER, a single man

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

BROCK WEAVER, an unmarried man AND
DAVID W. LUNTE and JULIE ANN LUNTE, husband and wife
J. TODD BURKHART, an unmarried man
Address: 1411 East 4400 North Buhl, Idaho 93316

STATE OF IDAHO COUNTY OF LINCOLN Recorded at the request of <i>Jerome Land Title Co.</i>	
JUN 22 2001	
at <u>25</u> minutes past <u>22</u> (M)	recorded by <u>Shirley B. B.</u>
Fee: <u>6.00</u>	Return to: <u>Dame Co. 0122</u>

Hereinafter called the Grantee, the following described premises situated in LINCOLN County, Idaho, to-wit:

See Attached Schedule A

SUBJECT TO:

All reservations in patents or deeds in the chain of title.

TOGETHER WITH all water and water rights, ditches and ditch rights used thereon or appurtenant thereto including but not limited to 18 shares of Big Wood Canal Company

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the successors heirs and assigns of the Grantee forever. The Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: June 21, 2001

Gary L. Kissler
GARY L. KISSLER

STATE OF IDAHO)
) ss.
COUNTY OF JEROME)

On this 26TH day of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared GARY L. KISSLER, known or identified to me to be the person whose name IS subscribed to the within instrument, and acknowledged to me that SHE executed the same.

[Signature]
Notary Public
Residing at: _____
My Commission expires: _____

RICK BERNSEN
★ NOTARY PUBLIC ★
STATE OF IDAHO

RESIDING AT JEROME, ID
MY COM. EXPIRES 7-30-03

MICROFILMED
OCT 19 2001

SCHEDULE A

Order Number: L-30294

PARCEL NO. 1

TOWNSHIP 5 SOUTH, RANGE 19 EAST OF THE BOISE MERIDIAN,
LINCOLN COUNTY, IDAHO

Section 5: That part of the $W\frac{1}{2}SE\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$, and $NE\frac{1}{4}SW\frac{1}{4}$ lying South and East of Right of Way of U.S. Highway No. 26 and 93.

PARCEL NO. 2

TOWNSHIP 5 SOUTH, RANGE 19 EAST OF THE BOISE MERIDIAN,
LINCOLN COUNTY, IDAHO

Section 5: That part of the $SW\frac{1}{4}NE\frac{1}{4}$ lying South and East of the Right of Way of U.S. Highway No. 26 and 93.

MICROFILMED

OCT 13 2001

Form 204
RECEIVED

AUG 7 1986

Department of Water Resources
Southern District Office

Identification No. 37-7826

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME

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

RECEIVED

AUG 8 1986

Department of Water Resources

GARY L. Kissler of Box 134 Shoshone, ID, 83352
(Name) (Address)

State of IDAHO, deposes and says:

That he is the holder, or the duly authorized agent of the holder*, of Permit to Appropriate the Public Waters of the State of Idaho No. 37-7826.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before October 1, 1986.

That he has heretofore performed the following work described under said permit: Concrete diversion dam is in place

Costing \$ 5000⁰⁰

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit: Delay in starting construction waiting for FERC's Exemption was not granted until winter of 1983

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to October 1, 1991.

Gary L. Kissler
(Signature)*

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

Signed this 22nd day of October, 1986.

J. Glen Saxton
Chief, Operations Bureau

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

RECORDED

received \$15.00 8-11-86 #38911 tg

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Ident. No. 37-7826

RECEIVED

APPROVED

APPLICATION FOR PERMIT

MAY 20 1980

To appropriate the public waters of the State of Idaho

Department of Water Resources
Southern District Office

1. Name of applicant GARY L. KISSLER Phone 487-2253
Post office address BOX 134 SHOSHONE, IDAHO, 83352
2. Source of water supply LITTLE WOOD RIVER which is a tributary of SNAKE
3. Location of point of diversion is NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 5 Township 5 SOUTH
Range 19E B.M. LINCOLN County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 10 CFS for POWER 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)

5. Total quantity to be appropriated:

a. 10 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. CIRCULAR ARCH DAM
CONTAINING PENSTOCK AND TURBINE

b. Height of storage dam 6 feet, active reservoir capacity LESS THAN 1 acre-feet; total reservoir capacity LESS THAN 1 acre-feet, materials used in storage dam: CONCRETE

Period of year when water will be diverted to storage A to — inclusive.
(Month/Day) (Month/Day)

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

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

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 5 Township 5 SOUTH
Range 19E B.M.

(2) Amount of power to be generated: 7.5 horsepower under 6 feet of head.

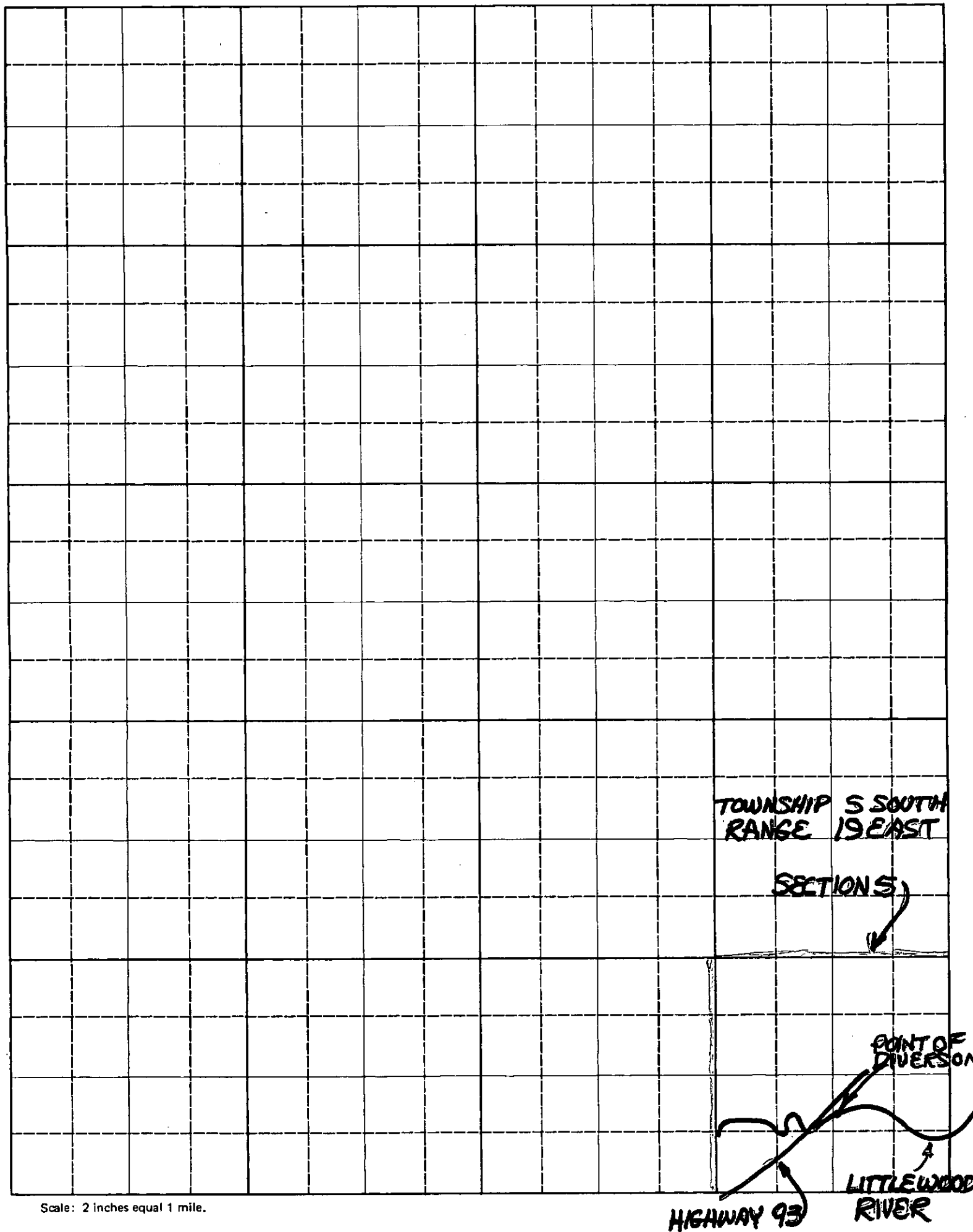
(3) List number of each kind of livestock to be watered —

(4) Name of municipality to be served —, or number of families to be supplied with domestic water —.

(5) If water is to be used for other purposes describe: —

7/2/80

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



Scale: 2 inches equal 1 mile.

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

Gray L. Kissler
(Applicant)

5/20/1980

Received by TGB Date 5-20-80 Time 4:00pm

Preliminary check by [signature] Fee \$ 125.00 apt # 16447

Receipted by TGB Date 5-20-80

Publication prepared by man Date 6/4/80

Published in Lincoln County Journal

Publication dates 6/12 + 6/19/80

Publication approved _____ Date _____

Protests filed by: withdwn 6/5/81
Department of Fish & Game - 6-27-80

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by LH [signature]

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. 37-7826, and said application is hereby APPROVED.

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

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before October 1, 19 86.
- 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. Other: A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works.

Use of water under this permit is subject to control by the watermaster of State Water District No. 37M, Little Wood River.

This permit is subject to the provisions of Sections 42-205 through 42-210, Idaho Code, restricting the sale, transfer, assignment, or mortgage of this permit. Failure to comply with these provisions is cause for immediate cancellation of this permit.

This project shall be operated in a manner that will not conflict or interfere with the future diversion of water for irrigation or other beneficial consumption.

This permit does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.

Witness my hand this 19th day of October, 1981.

L. Glen Saxton
Chief, Operations Bureau

Dave

RECEIVED

Ident. No. 37-7826

AUG 10 1981

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
AFFIDAVIT FOR WATER RIGHTS TO BE USED
FOR POWER PURPOSES

RECEIVED
AUG 6 1981

Department of Water Resources
Southern District Office

Ownership of Facilities: (To be completed for hydropower projects only)

The hydropower facility to be developed pursuant to the attached Application for
Permit:

☒ Will not utilize existing man-made irrigation facilities such as a dam or a canal.

(check one)

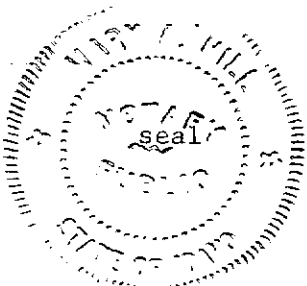
☐ Will utilize existing man-made irrigation facilities such as a dam or a canal, and permission of the owner is documented in an affidavit attached hereto.

☐ Will utilize existing man-made irrigation facilities such as a dam or a canal and the owner of the facilities is the signee of this affidavit.

Gary L. Kissler
Applicant

State of Idaho)
County of Twin Falls) ss.

On this 6 day of August, 1981, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged
to me that he (~~she~~) (~~they~~) executed the same.



Mary A. Hill
Notary Public residing at

Twin Falls, id 83301

My commission expires:

Life

RECEIVED

Individual Owner

AFFIDAVIT TO ESTABLISH RESIDENCE

I, GARY L. KISSLER of LINCOLN, County , State of Idaho, being duly sworn, do hereby certify that I am a bona fide resident of the State of Idaho.

/s/ Gary L. Kissler

Subscribed and sworn to before me this 20th day of MAY, 19 80

/s/ Loren O. Halmer

Notary Public
Residence TWIN FALLS, ID
My Commission Expires LIFE

Corporation or Association

AFFIDAVIT TO ESTABLISH RESIDENCE
OR QUALIFICATIONS TO DO BUSINESS UNDER THE LAWS OF
IDAHO...

I, _____ of _____, County of _____, State of Idaho, being first duly sworn, depose and say: That I am the designated statutory agent of the _____, that as such I am in charge of the registered office of the said _____, as provided by Section 30-143, Idaho Code, at _____, Idaho, wherein are kept the records provided by Section 30-144, Idaho Code, and that _____ is a legal _____ qualified to do business in the State of Idaho under the laws of the State of Idaho.

/s/ _____

Subscribed and sworn to before me this _____ day of _____, 19 _____

/s/ _____

Notary Public
Residence _____
My Commission Expires _____

NOTARY PUBLIC
IDAHO

AFFIDAVIT of PUBLICATION

State of Idaho, }
County of Lincoln } SS.

Melba Thorne, being first duly sworn, deposes and says that he is the printer (publisher) of the Lincoln County Journal, a newspaper published every week in Shoshone, Lincoln County, State of Idaho; 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 13 day of June, 1980, and the date of the last publication was on the 19 day of June, 1980.

Melba Thorne
Subscribed and sworn to before me this 19 day of June, 1980.
(SEAL)

Maylene Hagen
NOTARY PUBLIC

LINCOLN COUNTY JOURNAL Shoshone, Idaho COST OF PUBLICATION

Number of Lines in Notice
Number of Insertions
Lines tabular at 315c
48 Lines straight at 21c 10.08
48 Subsequent lines at 15c 6.75
TOTAL COST 16.83

MICROFILMED

COPY OF NOTICE

(Paste Here)

Water Right
TITLE OF NOTICE

37-7826 Kissler
PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

BILL TO

Dept of Water Resources

PUBLICATION RATES		
(Idaho Code, Rev. Statutes 1971)		
7 pt. per line, straight		21c
7 pt. per line, tabular		315c
7 pt. per line, successive insertions		15c

RECEIVED

JUN 20 1980
No. 3233
Department of Water Resources
Southern District Office

**NOTICE OF APPLICATION
FOR WATER RIGHT**

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

37-7826

KISSLER, GARY L.
P.O. BOX 134, SHOSHONE,
ID 83352

Source: LITTLE WOOD
RIVER tributary to MALAD
RIVER

Date Filed: 05/20/1980

Amount: 10.00 CFS

Diversion Point: NWSE Sec
05 T 05S R 19E, LINCOLN
Co.

Use: POWER (10.00 CFS)
from 01/01 to 12/31

Place of Use: NWSE Sec 05 T
05S R 19E

Diversion Means: DAM,
PENSTOCK & TURBINE

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301 and received on or before JUNE 29, 1980.

/s/ C.STEPHEN ALLRED
Director

Pub: 6-12, 19



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 28, 2001

BROCK WEAVER
DAVID W LUNTE
JULIE ANN LUNTE
TODD J BURKHART
1411 E 4400 N
BUHL ID 83316

RE: Change of Ownership for Water Right 37-7826

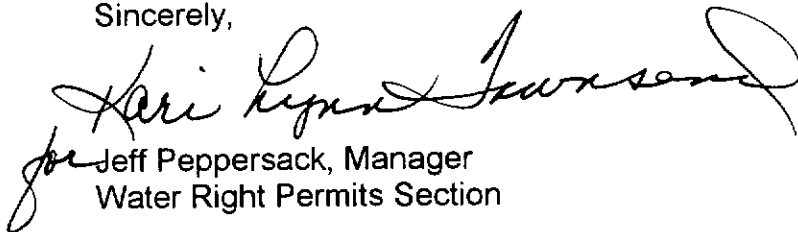
Dear Water Right Holder(s):

The department acknowledges receipt of correspondence changing ownership of the above referenced water right to you. The department has modified its records to reflect the change in ownership and has enclosed a computer-generated report for your records.

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 of the owner of a water right to the department. Notice of the change must be provided to the department within 120 days of the change. Change reporting forms are available from any office of the department.

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

Sincerely,


Jeff Peppersack, Manager
Water Right Permits Section

JP:kit

Enclosure

MICROFILMED

OCT 19 2001

SCANNED
NOV 11 2003



IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
1341 FILLMORE ST STE 200
TWIN FALLS ID 83301-3380
(208) 736-3033

Copy sent to S.O. 29 Sept 99

DIRK KEMPTHORNE
GOVERNOR

RECEIVED

KARL J DREHER
DIRECTOR

SEP 30 1999

RECEIVED

Department of Water Resources

CHANGE IN ADDRESS

SEP 29 1999

Department of Water Resources
Southern Region

☐ Water Right Number(s):

37-04117 WE2 updated
37-07826 9-30-99 Met
37-10031

☐ Old Mailing Address:

BOX 134
Shoshone, Ida 83352

☐ New Mailing Address:

Box 156
RICHFIELD, IDAHO 83344

☐ New Telephone Number:

(208) 487 2253

☐ Signature of Claimant(s):

Gary L. Krueger

Date:

29 SEPT 1999

FOR IDWR USE ONLY

Initial Review and Data Entry

Date: By:

Further Action Needed:

Further Action Taken

Date: By:

Final Review and Data Entry

Date: By:

MICROFILMED

OCT 19 2001

RECEIVED

JUN 01 1993

Department of Water Resources

27 May 1993

L. Glen Saxton
Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720-9000

Re: Water assessment 37-07826

Mr. Saxton:

After reading your letter to me on this matter, and studying the mentioned sections of the Idaho Code, I have come to the conclusion that a final hearing in this matter would be of no purpose. I hereby withdraw my request for such a hearing.

Gary L. Kissler

Gary L. Kissler
Box 134
Shoshone, Idaho 83352

MICROFILMED

OCT 19 2001



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

May 24, 1993

Gary L. Kissler
P.O. Box 134
Shoshone, Idaho 83352

RE: PETITION CONTESTING ASSESSMENT OF WATER DISTRICT 37 AND 37M

Dear Mr. Kissler:

I have reviewed your letter of May 16, 1993 responding to the request for the nature and quantity of new or additional information that could be presented at a formal hearing on this matter. I agree that you have a right to a hearing on the issue, but simply want to clarify that unless there are unresolved matters specifically relevant to the issues that can be considered under Section 42-605A, Idaho Code, a formal hearing may be without purpose. I am enclosing a copy of Section 42-605A, Idaho Code. Note that a petition filed under the provisions of this statute is for the specific purpose of contesting an assessment and to request a hearing on that issue. The hearing is to be held pursuant to Section 42-1701A (copy enclosed).

IDWR has adopted rules and regulations providing that an informal conference can be held prior to setting the formal hearing to clarify the issues and if possible resolve the matter without the need for the formal hearing. The meeting held on April 12, 1993, in the watermaster's office in Shoshone was the informal conference on your petition. The review of the watermaster's delivery and billing records that occurred at the conference resulted in the department and watermaster revising your billings for 1991 through 1993 to the minimum billing assessed for anyone having a water right and maintaining a diversion within the water district. It would, thus, appear that any issue regarding the proper amount of the assessment has become moot. This minimum charge is set by resolution passed by the water users at the annual meeting in accordance with Section 42-612, Idaho Code.

Given that the watermaster had reduced your billings to the minimum authorized, the purpose of my letter to you of May 5, 1993, was to inquire if there are any other issues relevant to Section 42-605A, Idaho Code, that are left unresolved. I thought, perhaps, that you were contesting the application of the minimum charge to your

MICROFILMED

OCT 19 2001

account. It appears from your response that you are trying to pursue issues that are not relevant to the petition filed under Section 42-605A, Idaho Code, and that can only be pursued under actions filed under other provisions of the Code. For example, issues concerning the actions of the watermaster relative to the delivery of water are addressed under Section 42-604(7), Idaho Code. Actions to recover money for damages resulting from actions of the watermaster or other employees of IDWR are handled under the Tort Claims Act.

Again, you have a right to a hearing and the Department will schedule such a hearing if there are any relevant issues remaining. I am reluctant to spend tax money collected from all Idaho citizens and to waste your time and money to hold a hearing if there are no issues that properly can be heard. With this explanation, please advise me whether there are relevant issues that need to be heard and specifically describe what those issues are.

You are correct that Section 42-605A, Idaho Code, provides that refunds of over assessments "determined by a final order of the director" are to be credited against future assessments. It is apparent that it would take a number of years at the rate of the minimum assessment to credit your account fully. I have reviewed this question with the Deputy Attorney General that works on water related matters. He indicated, informally, that Section 42-605A, Idaho Code, need not be considered as providing an exclusive procedure for making the refund. In this case, where the use was charged at a rate for an incorrect use classification, direct reimbursement is appropriate. If your concern is that cashing the checks will prejudice your ability to continue your objections in this matter, IDWR will stipulate to not raise that as an issue.

Please respond to the Department within twenty (20) days of the date of this mailing.

Sincerely,



L. Glen Saxton
Hearing Officer

cc: Lee Peterson
Loren Holmes

MICROFILMED

OCT 19 2001

RECEIVED

MAY 18 1993

Department of Water Resources

16 May 1993

L. Glen Saxton
Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720-9000

Re: Water assessment 37-07826

Mr. Saxton:

I have three reasons for requesting a final hearing in this matter:

1) Two hearings were listed in the procedure outlined in a letter written by Loren Holmes dated 25 March 1993 which scheduled the preliminary hearing. At the end of the preliminary hearing I was told that it was my option to request a final hearing. In a letter to me from Loren Holmes dated 20 April 1993 Mr. Holmes made his recommendations based upon the preliminary hearing and asked me if I wanted a final hearing. I consider it poor administrative practice to be instructed to exercise my option and then to be told that it is not my option. If Mr. Holmes felt the matter was completely resolved he should have told me so instead of asking if I wanted a final hearing. It is interesting to note that at the preliminary hearing I was told that the time for me to speak on the matter would be at the final hearing. Now I am told that there may not be a final hearing. Such procedure could be interpreted by some as a device to prevent me from speaking at my own hearing.

2) I wanted to call to the attention of the Department of Water Resources that this entire matter has been handled in a most unprofessional manner by both Mr. Peterson and Mr. Holmes. Lee refused to discuss the matter with me and defended his overcharge for 450 days. Loren received my request for a hearing on the matter and did not act on the matter for nearly a year. I received no acknowledgment of the receipt of the request, and indeed, it was only at a meeting on a different matter held in Shoshone on 11 March 1993 that Mr. Holmes stood and remarked to about 30 water users that: "Yes, I have had Mr. Kissler's request on my desk for several months, but I have had more important things to do." I suggest that Mr. Holmes does not, nor

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should he have, more important things to do than to attend to administrative procedures as provided by law. I also consider this to be a most unprofessional remark to make to the water users.

3) I had assumed, and it may be that the assumption was unjustified, that an administrative review of an overcharge would address such matters as how the overcharge occurred, how the matter was handled, and how such an overcharge could be avoided in the future. I would like the following issues addressed by the Department of Water Resources:

A) Mr. Holmes has insisted in treating this whole matter as a simple bookkeeping error. I maintain that once the Watermaster was informed by registered letter that I would not accept his decision to charge me at a rate which was many times the legal rate, and he refused to charge the proper rate, that the charge became a deliberate act of policy by the Watermaster. He was at that time violating state law which specifies how non-consumptive rights are charged.

B) It was stipulated at the preliminary hearing that I was charged about seven times what every other hydro user in the district was charged. I am well aware that state law does not address the area of economic feasibility of a water project, but I find it hard to believe that the Idaho Department of Water Resources would make it a policy not to recognize that an assessment of seven times the proper rate would make many water rights unuseable. In my case the charge of seven times amounted to many times what the power produced was worth. Therefore, for over a year now, I have been unable to either use or to continue to develop the water right. Until this matter was resolved, I had no way of knowing if the project was feasible. Please note that the issue here is not minimum charge. The project uses ten or more cubic feet per second. The minimum charge shows up because I was forced by economic reality to turn the water off as soon as I learned of this excessive assessment.

C) After I requested a hearing in this matter as provided by law, Mr. Peterson became angry and refused to deliver my other water rights, and ordered me to drain my small hydro power reservoir. This placed all of my diversion facilities above water line so that I could not use them. Is it Department Policy to

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allow Watermasters to use such vindictive and intimidating practices?

D) What assurance do I have that this sort of overcharge will not occur again? Noting Mr. Peterson's reactions to the problem so far, he may feel free to repeat this sort of charge. It concerns me that one Watermaster can cause such long term economic havoc to a water project by such a casual and arbitrary act. I feel that I have the right under State Law to be charged fairly and in the same manner as other similar water rights.

E) This may be a minor point, but I notice that Idaho Code 42-605 A (5) provides that the excessive assessment be credited in the succeeding year after the final order of the director. Mr. Peterson sent me two checks for the excessive assessment. I fear I am getting confused about Idaho State Law. Is it really law or just guidelines to be used if the Watermaster finds it convenient? What would be so terrible if everyone concerned merely followed what the law says in this matter? I would like to be advised if I can legally cash the checks or not.

Now, having called your attention to these details, let me say that if-- the Idaho Department of Water Resources is not going to address these questions, then-- I agree that a final hearing in this matter would be a waste of every one's time, and I hereby withdraw my request for a final hearing, and I will pursue this matter using other means.

Gary L. Kissler

Gary L. Kissler
Box 134
Shoshone, Idaho 83352

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State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

May 5, 1993

Gary L. Kissler
P.O. Box 134
Shoshone, ID 83352

RE: WATER DELIVERY ASSESSMENT - HYDROPOWER USE - 37-07826

Dear Mr. Kissler:

Your letter dated April 27, 1993 in connection with the above referenced matter has been referred to me for response.

I understand from Loren Holmes that the assessments in connection with water right no. 37-07826 have been reduced to the minimum of \$20 for each of the years 1991, 1992, and 1993 and that any assessment in excess of those amounts has been refunded to you. Based on the revised assessments, it is not clear what purpose a hearing would serve.

After reviewing the rules of Practice and Procedure and the water distribution statutes, please advise me in writing within twenty (20) days of the nature and quantity of new or additional information you plan to provide if the department does grant a hearing.

If you do not timely provide the information or do not provide sufficient information as determined by the department to justify a hearing, the department will set aside the request for hearing.

Feel free to contact the department if you have questions.

Sincerely,

A handwritten signature in black ink, reading 'L. Glen Saxton'.

L. GLEN SAXTON, Chief
Water Allocation Bureau

c: IDWR - L. Holmes

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APR 30 1993

Department of Water Resources

RECEIVED

APR 30 1993

Department of Water Resources
Southern Region Office

27 April 1993

Mr. Loren O. Holmes
Southern Region Manager
Department of Water Resources
222 Shoshone Street East
Twin Falls, Idaho 83301

I have received your letter of 20 April 1993, including your recommendation for the contested assessment on Water Right 37-7826.

After reviewing this information and conferring with those who advise me in this matter, I have decided to proceed with a hearing in this matter. Please schedule this hearing and let me know when it is.

Gary L. Kissler

Gary L. Kissler
Box 134
Shoshone, Idaho 83352

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

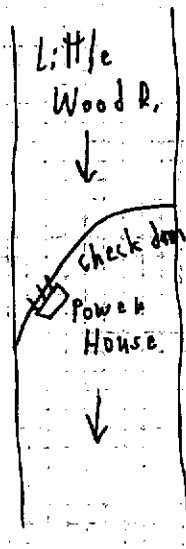
Permit No. 37-7826
1. Owner: Gary L. Kissler Phone No. 487-2253
Current Address: Box 134, Shoshone, ID 83352
2. Accompanied by: Mr. Kissler EXAM. DATE: 6-23-89
Address: _____ Phone No. _____
Relationship to Permit Holder: _____
3. Source: Little Wood R. tributary to Malad R.

B. OVERLAP REVIEW

1. Other water rights with same place of use: _____ ☐ Copies Attached
2. Other water rights with same point of diversion: _____ ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached



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Scale: 1" = _____

2. ☒ Copy of U.S.G.S. Quadrangle Attached ☐ Aerial Photo Attached
Showing location(s) of point(s) of diversion and (required for irrigation of 10 acres or more).
place(s) of use (required).
☒ Photo of Diversion and System Attached
(required for all but single household domestic groundwater, and stockwater).

System Description (continued)

3. **Narrative:** Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

Concrete diversion dam backs water up so it runs thru drop structures to turn Winco Generator Model 4K54PC-3/B (4000 Watts at 1800 rpm). Power is for personal use, not commercial sale.

☐ See Remarks on page 4 for continuation

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size

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

5. **Point(s) of Diversion:**

Ident. No.	Gov't. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
		SW	NW	SE	5	5S	19E	Lincoln	

6. **Place(s) of Use:**

Indicate Method of Determination _____

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
5S	19E	5														P			

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
30" W x 20" h						
submerged orifice						

2. Measurements:

Upstream side = 1.98', Downstream side = 2.26 = 0.28' head. Measured from water level to top of 4" x 6" timber on top of orifice (same method used by watermaster);
2.5' x 1.67' = 4.175 sq. ft. area of orifice.

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method:

0.28' head = 2.589 cfs / sq. ft. of orifice. $2.589 \times 4.175 \text{ sq. ft.} = 10.81 \text{ cfs}$. Allow 10.0 cfs permitted

2. Alternate Method for Checking Purposes:

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)

Total Head: (1) + (2) = _____ (3); Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)

Meter Input HP: (6) x 1.34 = _____ (7)

Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Amps x .001732 = _____ (6)

Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____

$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ _____

$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$ _____

2. Volume Calculations for Other Uses:

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H. REMARKS AND OVERLAP REVIEW ANALYSIS

Water never leaves the river channel; it is simply rerouted thru the generator. before continuing in the natural river channel at a natural drop site behind Mr. Kissler's house. The concrete structure was built to house additional generators should they be needed in the future. One generator is in use now. There was probably 30 or 40 cfs in the river, judging by the effect opening the orifice had on river flows. Operation of this system appears to have absolutely no effect on other water users.

I. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
Power	1-1	12-31	10,0 cfs	

Totals: _____

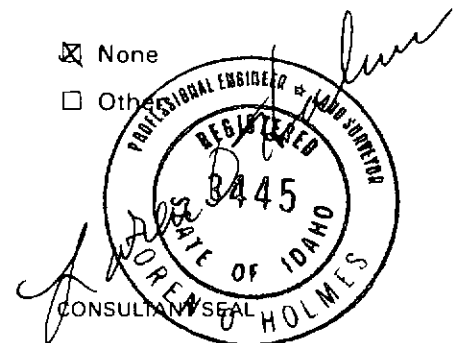
2. Recommended Amendments

- | | |
|---|--|
| ☐ Change P.D. as reflected above | ☐ Add P.D. as reflected above |
| ☐ Change P.U. as reflected above | ☐ Add P.U. as reflected above |

- ☒ None
☐ Other _____

J. AUTHENTICATION

Field Examiner's Name J. E. Stanton
Signature J. E. Stanton
Certification Date 4/10/21
Field Report Preparation Date 6-23-89

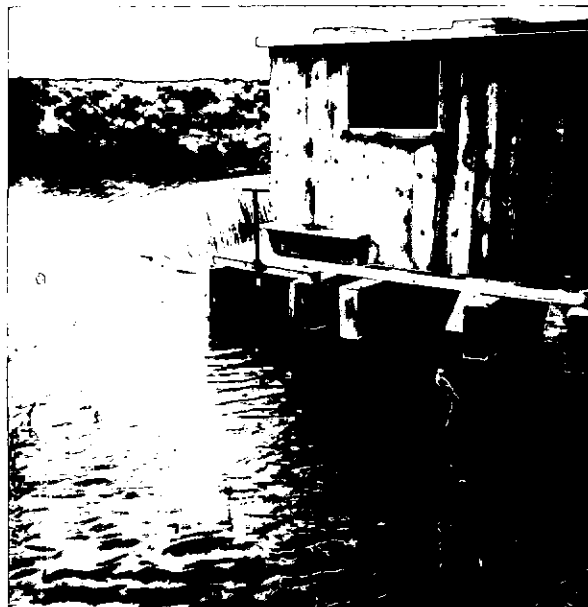


K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.

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37-7826

Power house, measuring
device looking downstream

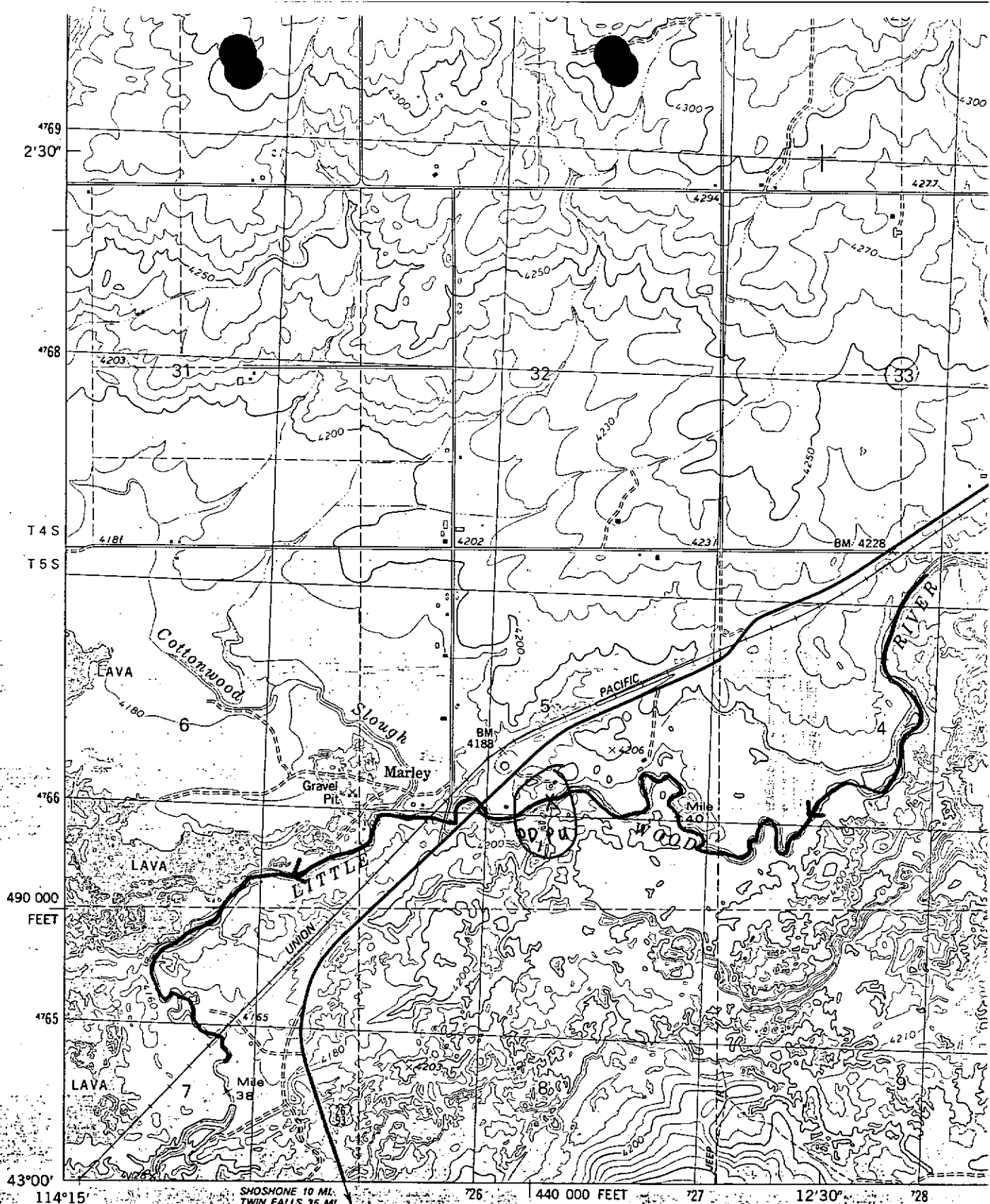


Generator

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Power house looking
upstream



Mapped, edited, and published by the Geological Survey

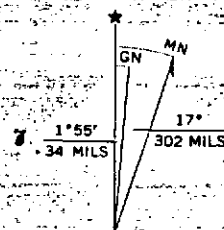
Control by USGS and NOS/NOAA

Topography by photogrammetric methods from aerial photographs taken 1971. Field checked 1973.
Map edited 1979

Projection and 10,000-foot grid ticks: Idaho coordinate system, central zone (transverse Mercator)
1000-meter Universal Transverse Mercator grid, zone 11
1927 North American datum

To place on the predicted North American Datum 1983 move the projection lines 13 meters north and 71 meters east as shown by dashed corner ticks

Fine red dashed lines indicate selected fence and field lines



UTM GRID AND 1979 MAGNETIC NORTH DECLINATION AT CENTER OF SHEET

THIS
FOR SALE BY U.S. G

Table 29.—Discharge of standard submerged rectangular orifice in second-feet. Computed from the formula $Q=0.61 A\sqrt{2gH}$. (See sec. 57.)—Continued

Head H , feet	Cross-sectional area A of orifice, square feet							
	0.25	0.5	0.75	1.0	1.25	1.5	1.75	2.0
.26	.624	1.247	1.871	2.494	3.117	3.741	4.365	4.988
.27	.638	1.270	1.906	2.541	3.176	3.811	4.446	5.082
.28	.646	1.284	1.942	2.589	3.236	3.883	4.530	5.178
.29	.659	1.319	1.978	2.655	3.297	3.956	4.616	5.276
.30	.670	1.339	2.009	2.678	3.347	4.017	4.687	5.356
.31	.681	1.363	2.045	2.726	3.407	4.089	4.771	5.452
.32	.692	1.382	2.073	2.754	3.453	4.146	4.837	5.528
.33	.703	1.405	2.103	2.810	3.503	4.218	4.917	5.624
.34	.713	1.426	2.130	2.845	3.549	4.278	4.991	5.704
.35	.724	1.446	2.169	2.892	3.615	4.358	5.061	5.784
.36	.734	1.467	2.201	2.934	3.667	4.401	5.135	5.868
.37	.745	1.488	2.232	2.976	3.720	4.464	5.208	5.952
.38	.754	1.508	2.262	3.016	3.770	4.524	5.278	6.032
.39	.764	1.527	2.291	3.054	3.818	4.582	5.345	6.109
.40	.774	1.547	2.321	3.094	3.867	4.641	5.415	6.188
.41	.783	1.567	2.350	3.133	3.917	4.700	5.483	6.266
.42	.792	1.585	2.377	3.170	3.962	4.754	5.547	6.339
.43	.802	1.604	2.406	3.208	4.010	4.812	5.614	6.416
.44	.811	1.622	2.433	3.244	4.055	4.866	5.677	6.488
.45	.820	1.640	2.461	3.281	4.101	4.921	5.741	6.562
.46	.829	1.659	2.489	3.318	4.147	4.977	5.807	6.636
.47	.839	1.678	2.517	3.356	4.195	5.035	5.874	6.713
.48	.847	1.695	2.542	3.389	4.237	5.084	5.931	6.788
.49	.856	1.712	2.568	3.424	4.280	5.136	5.992	6.849
.50	.865	1.729	2.594	3.458	4.323	5.188	6.052	6.917
.51	.873	1.746	2.620	3.493	4.366	5.239	6.112	6.986
.52	.882	1.763	2.645	3.527	4.409	5.290	6.172	7.054
.53	.890	1.780	2.670	3.560	4.451	5.341	6.231	7.121
.54	.898	1.797	2.695	3.593	4.491	5.390	6.288	7.186
.55	.907	1.813	2.719	3.626	4.533	5.439	6.345	7.252
.56	.915	1.830	2.745	3.660	4.575	5.490	6.405	7.320
.57	.923	1.846	2.769	3.692	4.615	5.538	6.461	7.384
.58	.931	1.862	2.794	3.725	4.656	5.587	6.518	7.450
.59	.939	1.879	2.818	3.757	4.697	5.636	6.575	7.514
.60	.947	1.895	2.842	3.790	4.737	5.684	6.632	7.579
.61	.955	1.910	2.865	3.820	4.775	5.730	6.685	7.640
.62	.963	1.925	2.887	3.850	4.812	5.775	6.737	7.704
.63	.971	1.941	2.911	3.882	4.853	5.823	6.793	7.764
.64	.978	1.956	2.934	3.912	4.890	5.868	6.846	7.824
.65	.986	1.972	2.958	3.944	4.930	5.916	6.902	7.888
.66	.993	1.987	2.980	3.974	4.967	5.960	6.954	7.947
.67	1.001	2.002	3.003	4.004	5.005	6.006	7.007	8.008
.68	1.008	2.016	3.024	4.032	5.040	6.048	7.056	8.064
.69	1.016	2.032	3.048	4.064	5.080	6.096	7.112	8.128
.70	1.023	2.046	3.069	4.092	5.115	6.133	7.161	8.184
.71	1.031	2.062	3.093	4.124	5.155	6.186	7.217	8.248
.72	1.038	2.076	3.114	4.152	5.190	6.228	7.266	8.304
.73	1.045	2.090	3.135	4.180	5.225	6.270	7.315	8.360
.74	1.052	2.104	3.158	4.210	5.260	6.311	7.369	8.421
.75	1.059	2.118	3.178	4.237	5.296	6.355	7.413	8.475
.76	1.066	2.132	3.198	4.264	5.330	6.396	7.462	8.528
.77	1.072	2.145	3.217	4.290	5.362	6.434	7.507	8.579
.78	1.080	2.160	3.240	4.320	5.400	6.480	7.560	8.640
.79	1.087	2.174	3.261	4.348	5.435	6.522	7.609	8.696
.80	1.094	2.188	3.282	4.376	5.470	6.564	7.658	8.752

Table 30.—Coefficient C to be applied to an orifice discharge given by table 29 to obtain the discharge of the same orifice suppressed. Computed from the formula $C=1+0.15r$. (See sec. 60.)

Size of orifice			Bottom suppressed		Bottom and sides suppressed	
D , feet	L , feet	A , square feet	r	C	r	C
0.25	1.0	0.25	0.40	1.06	0.60	1.09
.25	2.0	.50	.44	1.07	.56	1.08
.25	3.0	.75	.46	1.07	.54	1.08
.25	4.0	1.0	.47	1.08	.53	1.08
.25	5.0	1.25	.48	1.08	.52	1.08
.5	1.5	.75	.37	1.06	.63	1.09
.5	2.0	1.00	.40	1.06	.60	1.09
.5	2.5	1.25	.42	1.06	.58	1.09
.5	3.0	1.50	.43	1.06	.57	1.09
.5	3.5	1.75	.44	1.06	.56	1.09
.5	4.0	2.00	.45	1.06	.55	1.09
.75	1.67	1.25	.34	1.05	.66	1.10
.75	2.00	1.50	.36	1.05	.64	1.10
.75	2.33	1.75	.38	1.06	.62	1.09
.75	2.67	2.00	.39	1.06	.61	1.09

Note: C is approximately 1.06 for bottom suppressed orifices and 1.09 for bottom and sides suppressed orifices.

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1/88

PROOF OF BENEFICIAL USE

ANALYSIS SHEET

Permit No. 37-7826

Date: 10/13/88

General Considerations:

Y Name same as permit
Y Signature the same as permit holder
N Address change _____ If yes, prepare a data entry
Y Proof received timely
_____ Reinstated

Source of Water:

Y Surface water
_____ Groundwater
_____ 1. well log in file
_____ 2. drilling permit
_____ A. amount of drilling fee paid for proposed uses

Extent of Use and Rate of Diversion:

Y Rate of diversion appropriate for uses
Y Is rate or volume and fee appropriate?
Y Has permit holder indicated when water was first put to a beneficial use?

Measuring Device:

Y Is a measuring device or access port required?
Y Has one been installed?
N/A Waiver or modification of measuring device requested

Remarks:

Proof acceptable

N/A

Priority Calculation:

Date proof received	_____	_____
Date proof due	_____	_____
No. of days late	_____	_____
Priority date	_____	+
NEW PRIORITY DATE	_____	_____

SEND FILES TO DATA ENTRY AND THEN TO MICROFILM

RECEIVED

SEP 27 1988

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

Department of Water Resources

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has 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 or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 37 07826-Name(s) of Permit Holder: GARY L. KISSLER-Post Office Address: Box 134-SHOSHONE, IDAHO 83352 Telephone No. 487-2253Source of Water: LITTLE WOOD RIVER-

Extent of Use:

Domestic _____ (number of households) Stockwater _____ (number and type of stock)

Irrigation _____ (acres) Other/Remark PRODUCTION OFPOWERTotal rate and/or volume for which proof is submitted 10 cfs _____ acre-feetShow the date water was first diverted and beneficially used under this permit: Sept 15, 1988-Measuring Device: Required? ☒ Yes ☐ No
Installed? ☒ Yes ☐ NoFee enclosed \$ 350⁰⁰ 325⁰⁰ -
(See License Examination Fee Schedule)Flow Measurement Port: Required? ☐ Yes ☐ No
Installed? ☐ Yes ☐ No

Person to contact to accompany the Department representative during the field examination:

GARY L. KISSLER

(Name)

487-2253

(Telephone Number)

1187 EAST HIGHWAY 26, SHOSHONE, IDA.

(Address)

The above information 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.

25 Sept 1988

Date

Gary L. Kissler

Signature of Permit Holder (and title, if appropriate)

DEC 01 1988

October 7, 1988

Gary L. Kissler
P. O. Box 134
Shoshone, ID 83352

RE: Permit No. 37-7826

Dear Mr. Kissler:

Returned is your check no. 1497 (92-6/1241) in the amount of \$350 received in this office on September 27, 1988.

We received, in replacement, your check of \$325 for the examination fee on October 6, 1988. Thank you for your prompt response.

The department will continue processing the proof by notifying the regional office that a field inspection is needed.

If you have any question, please feel free to contact this office.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

c: Acct. Sec.

*- Have Christa receipt & send it
along.*

RECEIVED

DEC 07 1988

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Statehouse
Boise, Idaho 83720
(208) 334-7900
Certified Mail
July 31, 1988

138181

GARY L. KISSLER
P.O. BOX 134
SHOSHONE, ID 83352

PROOF DUE NOTICE

RE: PERMIT NO. 37-07826

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, 1988. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

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

SINCERELY,

Rita Fleck
Secretary/Records Manager

Enclosures

[Handwritten signature]

DEC 07 1988

October 23, 1986

Gary L. Kissler
Box 134
Shoshone, ID 83352

Dear Mr. Kissler:

Re: Permit No. 37-7826

Enclosed is a copy of the approved request for extension of time. The time within which to submit proof of beneficial use is extended to October 1, 1988.

The department would like to call to your attention that the permit may be subject to the review requirements of Sec. 42-203D, Idaho Code.

If you have any questions concerning your water right, please feel free to contact this office.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosure

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
COMMENCEMENT OF WORKS

Permit No. ~~H-1117~~ 37-7826
Name(s) of Permit Holder(s): GARY L. KISSLER
Post Office Address: BOX 134
DINOSHORE, Tel. No. 487-2253

☐ I hereby certify that construction of diversion works for the above referenced permit began on _____ (date) _____ I understand that I must continue to develop the water system with due diligence to maintain a valid permit.

☒ I hereby certify that construction of diverting works on the above referenced project has not yet begun due to the following reason beyond my control:

Waiting on Federal Energy Regulatory Commission

*Note: A financing difficulty is not an acceptable reason.

4-10-83
Date

Gary L. Kissler
Signature of Permit Holder

GARY L. KISSLER

Box 134

SHOSHONE, IDAHO 83352



DEC 07 1988

RECEIVED

APR 13 1983

IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

Box 134

Shoshone, Idaho 83352

Rita I. Fleck
Records Manager
Department of Water Resources
State House
Boise, Idaho 83720

RECEIVED
OCT 7 1986

Department of Water Resources

RE: Permit No. 37-7826

In reply to your letter to me dated August 18, 1986, I can not supply you with a copy of the FERC exemption. I called the FERC office in San Fransico to ask for some information, and they stated at that time that because of the size of my project and that the electricity was not going to be used anywhere except on my private land that they were claiming no jurisdiction over my project. It was on the basis of that phone call that I stopped gathering information to comply with their regulations. As near as I can recall that was in the winter of 1983, perhaps December of 1983. I know it was past the building season, so I was unable to start construction until the summer of 1984.

Let me know if I can supply you with any more information on this problem.

Gary L. Kissler

Gary L. Kissler

RECEIVED

STAFF REVIEW SHEET - EXTENSION OF TIME

Permit No. 37-7826Reviewed by [Signature]Date 8-18-1986

BASIC INFORMATION

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

BASIS FOR EXTENSION REQUEST

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

Date litigation completed _____

Date litigation began _____

Total period of delay = _____

Present proof due date + _____

NEW PROOF DUE DATE = _____

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

ACTION TAKEN - 1. Request copy of FERC
 2. Recommend approval based on delay by a governmental agency, for 2 years

Special conditions or remarks:

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

_____ Prepare coding sheet
 _____ Change rolodex card

not to be filmed (DOB)



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

August 18, 1986

Gary L. Kissler
Box 134
Shoshone, ID 83352

Dear Mr. Kissler:

Re: Permit No. 37-7826

This office received the request for extension of time submitted on Aug. 7, 1986 in our Eastern Regional office.

Before I recommend action on the request for extension of time, more information is needed. Specifically, can you send me a copy of the FERC exemption showing the date it was issued.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rita I. Fleck".

RITA I. FLECK
Secretary/Records Manager

RECEIVED
AUG 22 1986
MEO



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

EXTENSION OF TIME

August 13, 1986

Gary L. Kissler
P. O. Box 134
Shoshone, ID 83352

PERMIT NO. 37-7826

We are in receipt of the \$15 extension fee for Extension(s) of Time to provide additional time in which to submit proof of beneficial use on a water right permit.

Your request for extension(s) of time is being reviewed by staff. You will be informed of our decision when review has been completed.

Enclosed is our receipt No. 38911.

Roberta Garrett
Records Supervisor

Enclosure

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL
JULY 31, 1986

KISSLER, GARY L.
P.O. BOX 134
SHOSHONE, ID 83352

138959

PROOF DUE NOTICE

RE: PERMIT NO. 37-7826

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, 1986. (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 COMPLETED FIELD EXAMINATION REPORT PREPARED BY A CERTIFIED WATER RIGHT EXAMINER MAY BE USED TO SUBMIT THE REQUIRED PROOF.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU OR A PREVIOUS OWNER OF THIS PERMIT HAVE NOT RECEIVED A PRIOR EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME IF THE DELAY IS FOR REASONABLE CAUSE AS PROVIDED IN SECTION 42-204, IDAHO CODE. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION WHICH MIGHT BRING TITLE TO THE WATER IN QUESTION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER AN ACCEPTABLE PROOF OF BENEFICIAL USE SUBMITTAL OR AN ACCEPTABLE REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE DESCRIBED PROOF DUE DATE. IF NEITHER IS RECEIVED, THE DEPARTMENT WILL SEND YOU A LAPSE NOTICE. WITHIN SIXTY (60) DAYS OF THE MAILING OF THE LAPSE NOTICE, THE PERMIT WILL NO LONGER BE OF ANY FORCE NOR EFFECT.

SINCERELY,

RITA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES

RECEIVED



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

SEPTEMBER 1, 1985

DEAR PERMIT HOLDER:

ACCORDING TO OUR RECORDS, YOU ARE THE HOLDER OF A WATER PERMIT ON WHICH PROOF OF BENEFICIAL USE OF WATER WAS NOT SUBMITTED BEFORE JULY 1, 1985, WHICH INDICATES YOUR PROJECT IS NOT COMPLETE. THEREFORE, YOU NEED TO BE AWARE OF CHANGES IN IDAHO LAW, EFFECTIVE JULY 1, 1985, WHICH IMPACT ALL WATER PERMITS ISSUED BY THIS DEPARTMENT.

SPECIFICALLY, PURSUANT TO SECTION 42-203D, IDAHO CODE, THE DEPARTMENT MUST REVIEW ALL PERMITS FOR WHICH DEVELOPMENT OF WATER USE WAS NO COMPLETED ON OR BEFORE JULY 1, 1985, TO DETERMINE IF THEY MEET THE NEW REQUIREMENTS OF CHAPTER 2, TITLE 42, IDAHO CODE. RULES AND REGULATIONS GOVERNING THE RE-EVALUATION OF PERMITS ARE NOT YET FINALIZED. HOWEVER, IF YOU COMPLETED THE DEVELOPMENT UNDER YOUR PERMIT BEFORE JULY 1, 1985, YOU SHOULD SUBMIT A PROOF OF BENEFICIAL USE STATEMENT, STATING THAT THE PROJECT WAS COMPLETED BEFORE JULY 1, 1985 SO THAT YOUR PERMIT WILL NOT BE SUBJECT TO THE REVIEW REQUIREMENTS OF SECTION 42-203D, WHICH READS AS FOLLOWS:

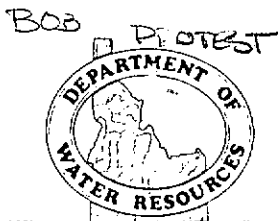
42-203D. REVIEW OF PERMITS - OPPORTUNITY FOR HEARING. - (1)THE DEPARTMENT SHALL REVIEW ALL PERMITS ISSUED PRIOR TO THE EFFECTIVE DATE [JULY 1, 1985] OF THIS SECTION, EXCEPT TO THE EXTENT A PERMIT HAS BEEN PUT TO BENEFICIAL USE PRIOR TO JULY 1, 1985, TO DETERMINE WHETHER THEY COMPLY WITH THE PROVISIONS OF CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PROPOSED USE DOES NOT SATISFY THE CRITERIA OF CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL EITHER CANCEL THE PERMIT OR IMPOSE THE CONDITIONS REQUIRED TO BRING THE PERMIT INTO COMPLIANCE WITH CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PERMIT SATISFIES THE CRITERIA ESTABLISHED IN CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL ENTER AN ORDER CONTINUING THE PERMIT. (2)THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR HEARING IN ACCORDANCE WITH SECTION 42-1701A, IDAHO CODE, AND SECTIONS 67-5209 THROUGH 67-5215, IDAHO CODE, FOR EACH HOLDER OF A PERMIT THAT IS PROPOSED EITHER TO BE CANCELLED OR MADE SUBJECT TO NEW CONDITIONS.

YOU MAY OBTAIN PROOF OF BENEFICIAL USE FORMS FROM THE DEPARTMENT. IF YOU HAVE ANY QUESTIONS, PLEASE LET US KNOW.

SINCERELY,

L. GLEN SAXTON
CHIEF, OPERATIONS BUREAU

RECEIVED
MAY 1986



of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

Copy

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

37-7826

July 24, 1981

RE: Application for Permit No.

Dear Applicant:

The 1981 Idaho Legislature made a change in Section 42-205, Idaho Code, that may affect the above referenced application. The change requires that if a proposed hydropower project will use existing irrigation facilities, the approval of the owner of the facilities must be obtained before an application for permit to develop a water right can be approved.

Please find enclosed an affidavit which we must receive before we can complete the review of your application. Please complete the affidavit, sign it before a notary, and return it to this office at your earliest convenience, no later than August 15, 1981.

Sincerely,

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

Enclosure

RECEIVED
JUL 27 1981
WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440

KISSLER, GARY L.
P.O. BOX 134
SHOSHONE, ID 83352

OCTOBER 29, 1981

RE: PERMIT NO. 37-7826

DEAR PERMIT HOLDER:

ENCLOSED IS A COPY OF YOUR APPROVED APPLICATION FOR PERMIT. WE DIRECT YOUR ATTENTION TO THE CONDITIONS OF APPROVAL ON THE FOURTH PAGE.

BE SURE TO NOTE THE SPECIAL CONDITION REQUIRING YOU TO INSTALL AND MAINTAIN A MEASURING DEVICE AT YOUR POINT OF DIVERSION. WE HAVE ENCLOSED A DESCRIPTION OF THE DIFFERENT TYPES OF MEASURING DEVICES ACCEPTED BY THIS OFFICE.

WE HAVE ENCLOSED A FORM ENTITLED "MAKING PROOF OF BENEFICIAL USE". PLEASE READ THE INSTRUCTIONS CAREFULLY SINCE YOU MUST TAKE FURTHER ACTION TO DEVELOP THIS PERMIT INTO A LICENSE.

SINCERELY,

DAVID R. TUTHILL, JR., P.E.
SUPERVISOR, WATER ALLOCATION SECTION

ENCLOSURE

RECEIVED
OCT 31 1981
WATER RESOURCES

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

KISSLER, Gary L.

INITIAL REVIEW BY: J. E. Hunter

APPLICATION NUMBER: 37-7826

CHECK:

- ☒ Source.
☒ Point of diversion.
☒ County.
☒ Description of diverting works.
☒ Time required for beneficial use of water.
☒ Place of use or acres irrigated.
☒ Map.
☒ Signature.
☒ Fee.
☒ Yes ☐ No Field check required.
☒ Yes ☐ No Critical groundwater area.
☐ Yes ☒ No Request dam safety information. Sent by: _____ Date: _____
☒ Yes ☐ No* In form to receipt.

Field check by: T.G.B.
Date: 5-21-80
Comments: Applicant is below mouth of Silver Cr. therefore the minimum stream flow is more than sufficient for his proposal. There should be very little if any loss. if any measurable loss, it would come from bedrock. The water up and increasing percolation & evaporation. Should not affect any prior rights.

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

✓ Affidavit
✓ Calculations

SEND COPIES TO:

- ☐ Idaho State Health Department. Copies sent by: _____ Date: _____
☒ Idaho Fish and Game Department. mercy 5/27/80
☐ Idaho Department of Lands. _____
☐ U.S. Bureau of Land Management. _____
☐ U.S. Forest Service. _____
☒ Other Rid Newby mercy 5/27/80

PROCESSING:

- ☐ Yes ☒ No Platted by: J Map No. AA-25
☐ Yes ☒ No Other rights on same place of use. _____
☒ Yes ☐ No* In form for advertising. 6/30/80 ✓
☒ Yes ☐ No Final date for protests: _____
☒ Yes ☐ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: 6/20/80 ✓
☒ Application published correctly. If not, record action taken: _____
☒ Fee amount, receipt date & number, recorded on application.
☒ Publication dates and paper, recorded on application.
☒ Protests, dates, withdrawal, etc., recorded on application.
☒ Recommendation & initial, recorded on application.
☐ Yes ☐ No Measuring device required.
☐ Yes ☒ No Access port required.
☒ Yes ☐ No Will water be delivered by watermaster? If yes, what district? 37-M
Date of priority recommended. _____
Special conditions of approval or cover letter. OLE, 05, 08A

THIS PERMIT DOES NOT CONSTITUTE IDAHO PUBLIC UTILITIES COMMISSION
OR FEDERAL ENERGY REGULATORY COMMISSION APPROVAL THAT MAY BE REQUIRED.

By: Loren O'Halloran Date: 6/18/81

STATE OFFICE REVIEW:

32W/102 01, 05 (37M Little Wood R) 08A, 17
☐ See attached sheet for more information.
By: R. E. Jensen Date: 7/8/81
Approve Jim
Applicant does not appear to
be selling power produced
Department of Water Resources

POWER CALCULATIONS FOR APPLICATION NO.

37-7826

P = Kilowatts .74 X hp

Q = cfs

H = feet

e = efficiency

proposed

5.55KW

10.0 cfs

6 ft

?

$$e = \frac{P(11.8)}{QH} = \frac{5.55(11.8)}{10 \times 6} = \frac{65.49}{60} = 1.09 \text{ or } 109\%$$

Based on the above calculations the proposed project must have an 109 % efficiency.

RC $\frac{7/8}{81}$

$$P = \frac{QH e}{11.8} = \frac{10(6)(.8)}{11.8} = 4.07 \text{ KW} = 5.49 \text{ HP}$$

APPROVED FOR CONSTRUCTION
DATE: 11/11/11
BY: [Signature]



STATE OF IDAHO

DEPARTMENT OF FISH AND GAME

Region 4
868 East Main - Box 428
JEROME, IDAHO 83338

June 4, 1981

Mr. Loren O. Holmes
Southern Region Supervisor
Department of Water Resources
1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301

RECEIVED
JUN 5 1981
Department of Water Resources
Southern District Office

Re: Application No. 37-7826, Gary L. Kissler for Diversion of
Little Wood River for Power Generation

Dear Loren:

The Department of Fish and Game withdraws their protest of June 25, 1980 regarding the above named application. Mr. Kissler has tentatively agreed to screening and laddering and minimum flows which will be required by the Department.

Sincerely,


H. L. Carroll
Acting Regional Supervisor

HLC:ar

cc: Bureau of Program Coordination

RECEIVED
JUN 19 1981
Department of Water Resources

DEPT. OF FISH & GAME
JUN 10 1981

RECEIVED

APPLICATION FOR PERMIT TO A WATER RIGHT

NO. 37-7826

JUN 1 1980

Department of Water Resources
Southern District Office

RECOMMENDATION OF WATERMASTER

I, Reid J. Newby, watermaster of Little Wood River,
of Water District No. 37M, County of Lincoln, State of Idaho,
whose address is Box T Shoshone, Idaho 83352
have read the attached copy of the application for permit for _____
Gary L. Kissler, and to the best of my knowledge believe the
(name)
application to be true.

A. I hereby endorse the above numbered Application for Permit and re-
commend that the Director of the Department of Water Resources approve the
Application subject to the following reasons: That this Arch dam has
spill-way and will be installed in such a way as to not
increase the problem of flooding on the Little Wood River and
that a measuring device and means of control are constructed.
OR

B. I do not endorse approval of the above numbered Application for
Permit as requested for the following reasons: _____

Dated at Shoshone, Idaho, this 29th day of May, 1980.

RECEIVED

Reid J. Newby
(signature) Watermaster

Please use reverse side if needed.

3/79

IDENT. NO.

37-7826I D A H O D E P A R T M E N T O F W A T E R R E S O U R C E SWATER RIGHT
DATA ENTRY LOGInitialsDateItemM.M.6-1-80

Original form entered

mccoy6-5-80

Edit Report Correct

Date Protested

Date of Hearing

Date Approved/Denied

(Proof due date, stage and/or status,
conditions of approval, water district)

Record Verified

Amendment Approved

Extension Approved

Partial Proof

Proof Complete

Field Exam Received

Field Exam Accepted
and changes entered

License Signed

Transfer Approved

Keypunched by State Office



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

C. Stephen Allred
Director

May 27, 1981

William E. Webb - Regional Supervisor
Department of Fish & Game
Region #4
P. O. Box 428
Jerome, Idaho 83338

Re: Application for Permit 37-7826

Dear Bill:

The above referenced application to divert water from the Little Wood River for power purposes was set for hearing August 19, 1980.

The hearing was cancelled and it was indicated that Fish & Game may withdraw its protest.

Since then I have received no correspondence regarding the application and therefore I am tentatively scheduling it for hearing during the month of July, 1981 if it is not resolved before that time.

Very truly yours,

Loren O. Holmes
Southern Region Supervisor

LOH:marya

cc: Gary Kissler



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

IN THE MATTER OF PROTEST(S) AGAINST APPROVAL)
OF THE APPLICATION FOR PERMIT NO. 37-7826
IN THE NAME OF Gary L. Kissler

NOTICE OF CONFERENCE
AND/OR HEARING

On May 20, 1980, Gary L. Kessler filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On June 27, 1980, the Department received a protest against approval of said application from the Department of Fish and Game, William E. Webb, Regional Supervisor.

The Department has set the matter of protest for conference and/or hearing for Tuesday, August 19, 1980, at 1:00 p.m., in the Conference Room of the Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho. Any hearing will be held in accordance with provisions of Chapter 2, Title 42, and Chapter 52, Title 67, of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

In accordance with Idaho Code, Section 42-203, the following issues are involved in the consideration of the application and protest(s).

- 1) Will the proposed use reduce the quantity of water under existing water rights?
- 2) Is the proposed water supply insufficient for the purpose 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 conflict with the local public interest?

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be submitted to the parties and the parties will be afforded an opportunity to file exceptions to the proposed

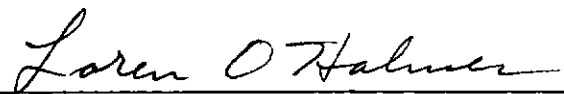
decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by Idaho Code, Section 67-5211.

By written stipulation, the parties may waive compliance with Idaho Code, Section 67-5211. If the hearing is conducted by a hearing officer, the hearing officer will ask the parties at the close of the hearing whether they would like to make such a stipulation.

Failure to waive compliance with Idaho Code, Section 67-5211 will not prejudice the Director's review of a party's evidence and arguments. However, such a waiver will shorten the decision-making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 67-5211 is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to Rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the District Court.

Failure to appear at the time and place set for hearing by the applicant or protestant(s) may allow the Department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 6 day of August, 1980.


LOREN O. HOLMES
Southern Region Supervisor

03/11/1980

37-7826 - GARY L. KESSLER

Conference Room - Department of Water Resources - Twin Falls, Idaho

Tuesday, - August 19, 1980, - 1:00 p.m.

ROSTER OF ATTENDANCE

Name	Address	Representing
------	---------	--------------

RECEIVED

37-7826 - Kessler

PS Form 3811, Jan 1979

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.								
1. The following service is requested (check one.) ☒ Show to whom and date delivered. c ☐ Show to whom, date and address of delivery. c ☐ RESTRICTED DELIVERY Show to whom and date delivered. c ☐ RESTRICTED DELIVERY. Show to whom, date, and address of delivery. \$ ____								
(CONSULT POSTMASTER FOR FEES)								
2. ARTICLE ADDRESSED TO: Wm E Webb - Regional Supervisor Dept Fish & Game - Region 4 Bx 428 - Jerome, ID 83338								
3. ARTICLE DESCRIPTION: <table border="1"> <tr> <td>REGISTERED NO.</td> <td>CERTIFIED NO.</td> <td>INSURED NO.</td> </tr> <tr> <td></td> <td>355</td> <td></td> </tr> </table>			REGISTERED NO.	CERTIFIED NO.	INSURED NO.		355	
REGISTERED NO.	CERTIFIED NO.	INSURED NO.						
	355							
(Always obtain signature of addressee or agent)								
I have received the article described above. SIGNATURE ☐ Addressee ☐ Authorized agent <i>Ardeella Pinko</i>								
4. DATE OF DELIVERY 7-7-80 <i>WB</i>	POSTMARK JEROME ID AUG 1 8 1980 USPO							
5. ADDRESS (Complete only if requested)								
6. UNABLE TO DELIVER BECAUSE:		CLERK'S INITIALS						

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, and 3 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



**RETURN
TO**



IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN DISTRICT OFFICE
1041 BLUE LAKES BLVD. NORTH
TWIN FALLS, IDAHO 83301

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

37-7826

KESSLER

PS Form 3811, Jan. 1979

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.		
1. The following service is requested (check one.) ☒ Show to whom and date delivered..... ☐ Show to whom, date and address of delivery..... ☐ RESTRICTED DELIVERY Show to whom and date delivered..... ☐ RESTRICTED DELIVERY. Show to whom, date, and address of delivery.\$ ____		
(CONSULT POSTMASTER FOR FEES)		
2. ARTICLE ADDRESSED TO: Gary L. Kissler Box 134 Shoshone, Idaho 83352		
3. ARTICLE DESCRIPTION:		
REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	354	
(Always obtain signature of addressee or agent)		
I have received the article described above. SIGNATURE ☐ Addressee ☐ Authorized agent		
4. DATE OF DELIVERY 8/8/80		
5. ADDRESS (Complete only if requested)		
6. UNABLE TO DELIVER BECAUSE:		POSTMARK SHOSHONE AUG 1980 CLERK'S INITIALS

UNITED STATES POSTAL SERVICE
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SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, and 3 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



**RETURN
TO**



DEPARTMENT OF WATER RESOURCES
SOUTHERN DISTRICT OFFICE
1041 BLUE LAKE BLVD. NORTH
TWIN FALLS, IDAHO 83301

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP-Code)



NAME AND ADDRESS OF SENDER

8/6
Gary L. Resiles 37-7826

Indicate type of mail
☐ REGISTERED ☐ COD
☐ INSURED ☐ CERTIFIED

I certify that we have
☐ Commercial Insurance
☐ A deductible clause of \$

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.
POSTMARK AND DATE OF RECEIPT

NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	Handling Charge	Actual Value (If Registered)	DUPLICATE SENDER IF C.O.D.	R. R. FEE	S. D. FEE	S. H. FEE	REST. DEL. FEE	REMARKS
1	354 - Gary L. Resiles	15	40	85							
2	355 - Dept. of Soc. & Game	15	40	85							
3	Wm. E. Smith										
4											
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RECEIVED
AUG 10 1976

TOTAL NUMBER OF PIECES LISTED BY SENDER	TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE	POSTMASTER, PER (Name of receiving employee)	The full declaration of value is required on all domestic and international registered mail. Commercial Insurance—Payment of the full registry is required on articles valued up to \$1,000 or the full amount of the deductible if the deductible exceeds \$1,000. The maximum indemnity payable is \$10,000 for registered mail, \$300 for COD and \$200 for insured mail. Special handling charges apply only to third- and fourth-class parcels. Special delivery service also includes special handling service.
2			



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

August 13, 1980

Gary L. Kessler
Box 134
Shoshone, Idaho 83352

Re: Hearing - Application for Permit 37-7826

Dear Mr. Kessler:

This letter confirms cancellation of the conference and/or hearing previously scheduled for August 19, 1980 on the above referenced application.

The matter will be re-scheduled for a later date and notification will be sent to all parties prior to that time.

Very truly yours,

LOREN O. HOLMES
Southern Region Supervisor

LOH:mmm





STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

August 13, 1980

Mr. William E. Webb, Regional Supervisor
Department of Fish & Game
Region 4
P.O. Box 428
Jerome, Idaho 83338

Re: Hearing - Application for Permit 37-7826

Dear Mr. Webb:

This letter confirms cancellation of the conference and/or hearing previously scheduled for August 19, 1980 on the above referenced application.

The matter will be re-scheduled for a later date and notification will be sent to all parties prior to that time.

Very truly yours,

LOREN O. HOLMES
Southern Region Supervisor

LOH:mm





STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

July 1, 1980

Gary L. Kessler
Box 134
Shoshone, Idaho 83352

Re: Application for Permit No. 37-7826

Dear Mr. Kessler:

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to your Application No. . The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, 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 conflict with the local public interest?

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

Very truly yours,

LOREN O. HOLMES
Southern Region Supervisor

LOH:marya

Encl:

RECEIVED
JUL 1 1980



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

July 1, 1980

Mr. William E. Webb, Regional Supervisor
Department of Fish & Game
Region 4
P. O. Box 428
Jerome, Idaho 83338

Re: Application for Permit No. 37-7826

Dear Mr. Webb:

Your protest against the approval of the above-referenced application has been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, 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 purpose 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 conflict with the local public interest?

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

Very truly yours,

LOREN O. HOLMES
Southern Region Supervisor

LOH:marya



NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

37-7826

KISSLER, GARY L.

P.O. BOX 134, SHOSHONE, ID 83352

Source: LITTLE WOOD RIVER tributary to MALAD RIVER

Date Filed: 05/20/1980

Amount: 10.00 CFS

Diversion Point: NWSE Sec 05 T 05S R 19E, LINCOLN Co.

Use: POWER (10.00 CFS) from 01/01 to 12/31

Place of Use: NWSE Sec 05 T 05S R 19E

Diversion Means: DAM, PENSTOCK & TURBINE.

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301 and received on or before JUNE 30, 1980.

C. STEPHEN ALLRED

Director

Published 6/12 & 6/19/80.

RECEIVED
JUN 12 1980
IDaho DEPT. OF WATER RESOURCES
TWIN FALLS, IDAHO

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region

1041 Blue Lakes Blvd N.
Twin Falls, Idaho 83301
(208) 734-3578

JUNE 5, 1980

Lincoln County Journal
P. O. Box 704
Shoshone, Idaho 83352

Gentlemen:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before JUNE 30, 1980.

Yours truly,

Mary A. Hill
Secretary

Encl.

THOMAS H. HILL
JUN 10 1980



STATE OF IDAHO

DEPARTMENT OF FISH AND GAME

June 25, 1980

Region 4
868 East Main
Box 428

Jerome, Idaho 83338

RECEIVED

JUN 27 1980

Department of Water Resources
Southern District Office

Mr. Loren O. Holmes
Southern Region Supervisor
Department of Water Resources
1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301

Re: Application No. 37-7826, Gary L. Kissler for diversion of Little Wood River for power generation

Dear Loren:

The Department of Fish and Game protests the granting of Application for Permit No. 37-7826, for diversion of 10 cfs from Little Wood River for power generation.

This portion of the Little Wood River contains excellent brown trout populations and very good numbers of wild rainbow. Some of the brown trout in the area reach weights exceeding six pounds and browns over two pounds are relatively common. Wild rainbow up to and exceeding four pounds are also found within the area.

Little Wood River downstream from Little Wood Reservoir is being managed as a wild trout fishery and does not receive plantings of catchable rainbow.

Construction of a six foot high circular arch dam across the Little Wood River at the site requested could be detrimental to the spawning migration and general movement of brown and rainbow trout through the area. Experience with dams on other rivers and streams has shown us even if fishways are installed there is no guarantee they will work properly.

It is the Department's opinion installation of this dam on the Little Wood River would definitely not be in the best public interest. High quality wild trout streams of this nature are becoming increasingly scarce and should be preserved in as near their present state as possible.

Sincerely,

DEPARTMENT OF FISH AND GAME
Jerry M. Conley, Director

Robert J. Bell

William E. Webb, Regional Supervisor
by Robert J. Bell, Regional Fishery Manager

WEW:pkk

cc: Program Coordination

EQUAL OPPORTUNITY EMPLOYER



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

Mr. Bob Bell, Regional Fisheries Biologist
Idaho Fish & Game Department
Region #4
P. O. Box 428
Jerome, Idaho 83338

Re: Application for Permit No.

Dear Mr. Bell:

Please find enclosed a copy of the above referenced application for permit for your information and files.

Sincerely,

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

Encl:

RECEIVED
JUN 10 1971
SOUTHERN REGION



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

C. Stephen Allred
Director

May 27, 1980

Mr. Reid Newby
Watermaster District 37
Box T
Shoshone, Idaho 83352

Re: Application for Permit No. 37-7826

Dear Mr. Newby:

Enclosed is a copy of the above referenced Application for Permit.
Please review the application and submit any comments you may have.

If you have questions regarding the application, please contact this
office.

Sincerely,

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

Encl:

DEPT. OF WATER RESOURCES
SOUTHERN REGION
TWIN FALLS, IDAHO