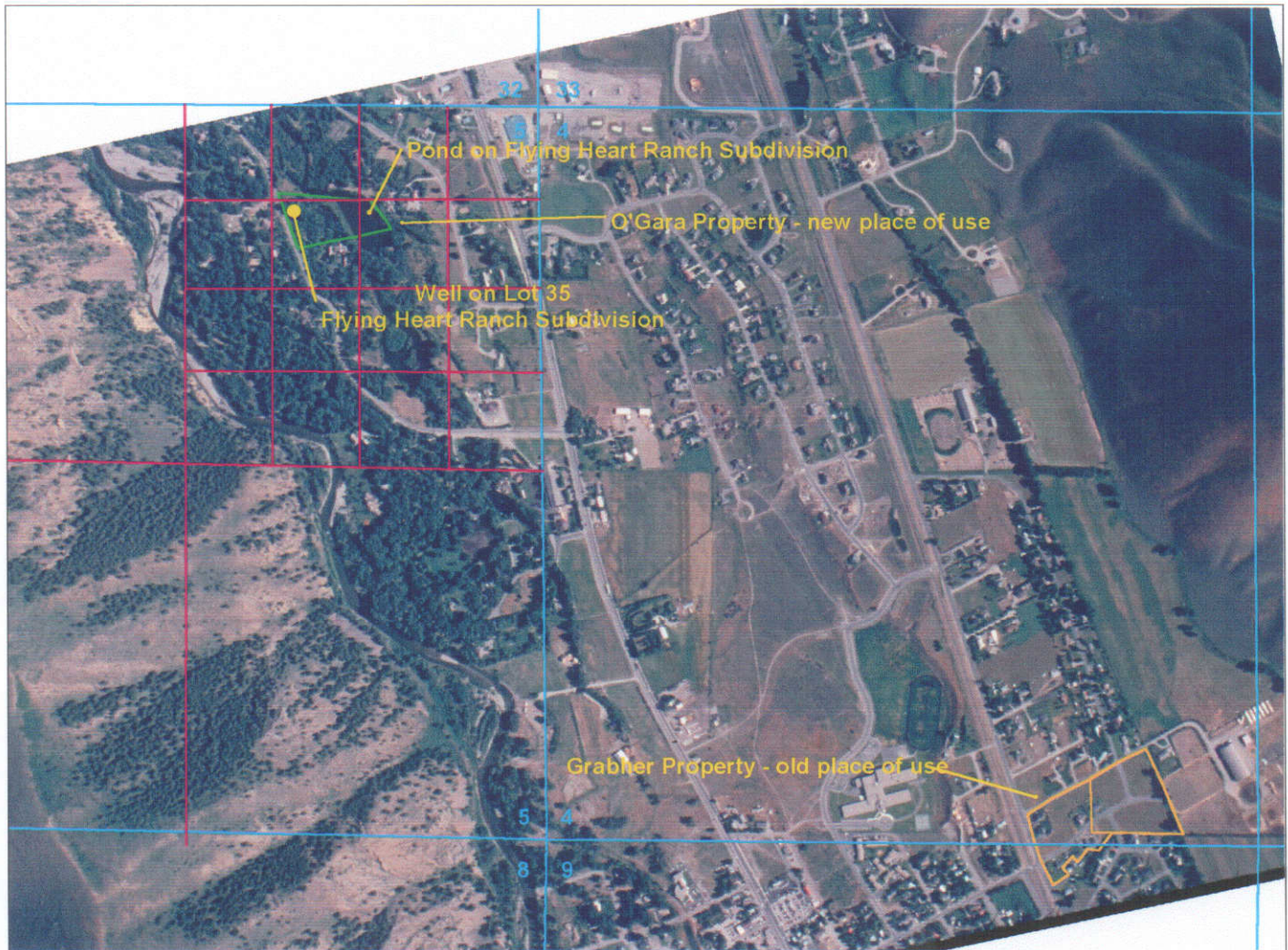


O'Gara - Grabher Transfer

Section 5, T2N, R18E



SCALE 1:15,840
One inch = 1320 feet

2000 0 2000 4000 Feet

EXPLANATION

- Quarter Section Divisions
- Section Divisions
- O'Gara's - Place of Use = Lot 35 of the
Flying Heart Ranch Subdivision
- Grabher - Place of Use



FSA Aerial Photo, 2000
Brockway Engineering, PLLC
Revised - May, 2001

MICROFILMED

APR 03 2002

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 37-20400

Priority: 05/04/2001

Maximum Diversion Rate: 0.06 CFS

This is to certify, that EDWARD F O'GARA FAMILY TRUST
415 CROYDEN DR
SPRING CREEK NV 89815

has applied for a permit to appropriate water from:

Source: GROUND WATER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	04/15 to 10/31	0.06 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER L2 SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 5, Twp 02N, Rge 18E, B.M. BLAINE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N 18E 5		3.0															3.0
		L 2															

Total Acres: 3

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before April 1, 2005.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. 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.
6. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
7. Right 37-20402 serves as mitigation for use of ground water under this permit. The right holder shall retain ownership of Right 37-20402 and 0.06 cfs of that right shall be released by the watermaster of Water District 37 into the Hiawatha Canal and shall remain undiverted from the canal to prevent injury to canal users; the remainder of the right (0.22 cfs) shall remain undiverted in the Big Wood River, otherwise, the right holder is not authorized to divert and use ground water under this permit.
8. Point of diversion and place of use are located within Lot 35, Flying Heart Subdivision.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 29th day of March, 2002

MICROFILMED

[Signature]
for KARL J DREHER, Director

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

SEP 17 2001

APPLICATION FOR PERMIT

MAY 04 2001

DEPARTMENT OF WATER RESOURCES

To appropriate the public waters of the State of Idaho

Department of Water Resources
Southern Region

1. Name of applicant E. O'Gara Family Trust ⁵⁻²⁸⁻⁰¹ Phone (208) 788-9828
Post Office address 415 Croydon Dr., Spring Creek, NV 89815

2. Source of water supply Groundwater which is a tributary of _____

3. Location of point of diversion is SE 1/4 of NW 1/4 of NE 1/4, Govt. Lot 2
Sec. 5 Township 02N Range 18E B.M. Blaine County; additional
points of diversion, if any: _____

4. Water will be used for the following purposes:

Amount 0.06/10.5 for Irrigation purposes from 4/15 to 11-1 10-15 ⁵⁻²⁸⁻⁰¹ (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) ⁵⁻¹⁶⁻⁰¹

5. Total quantity being appropriated is (a) 0.06 and/or (b) _____
cubic feet per second acre-feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Well to underground sprinkler system.

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.

c. Proposed well diameter is 6 inches; proposed depth of well is _____ feet

d. Is groundwater with a temperature of greater than 85 degrees being sought? No

e. If well is already drilled, when? 1995; Drilling firm Wood River Drilling and Pump;
Well was drilled for (well owner) _____ ⁵⁻²⁸⁻⁰¹

7. Time required for completion of works and application of water to proposed beneficial use is 3 years (minimum 1 year)

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

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

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; show name of municipality. _____

d. Domestic; show number of households _____

e. Other; describe fully. _____

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SEP 17 2001

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	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	
02N	18E	5		3.0															3.0*
				172															

* Land irrigated is within Lot 35, Flying Heart Subdivision Total number of acres to be irrigated 3.0*

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

11. a. Who owns the property at the point of diversion? 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: Groundwater pumped under this right would be mitigated by allowing a 3.0-acre proportional amount of surface water right 37-00004 to remain in the Big Wood River, pursuant to recent preference by the director of IDWR regarding mitigation procedures. See the attached cover letter and hydrologic analysis.

13. MAP OF PROPOSED PROJECT ATTACHED show clearly the proposed point of diversion, place of use, section number, township and range number.

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

MICROFILMED

Ann L. Blum Power of Atty.
(Applicant)

Received by *J. E. Linton* Date *5-4-01* Time *11 am* Preliminary check by *JS*

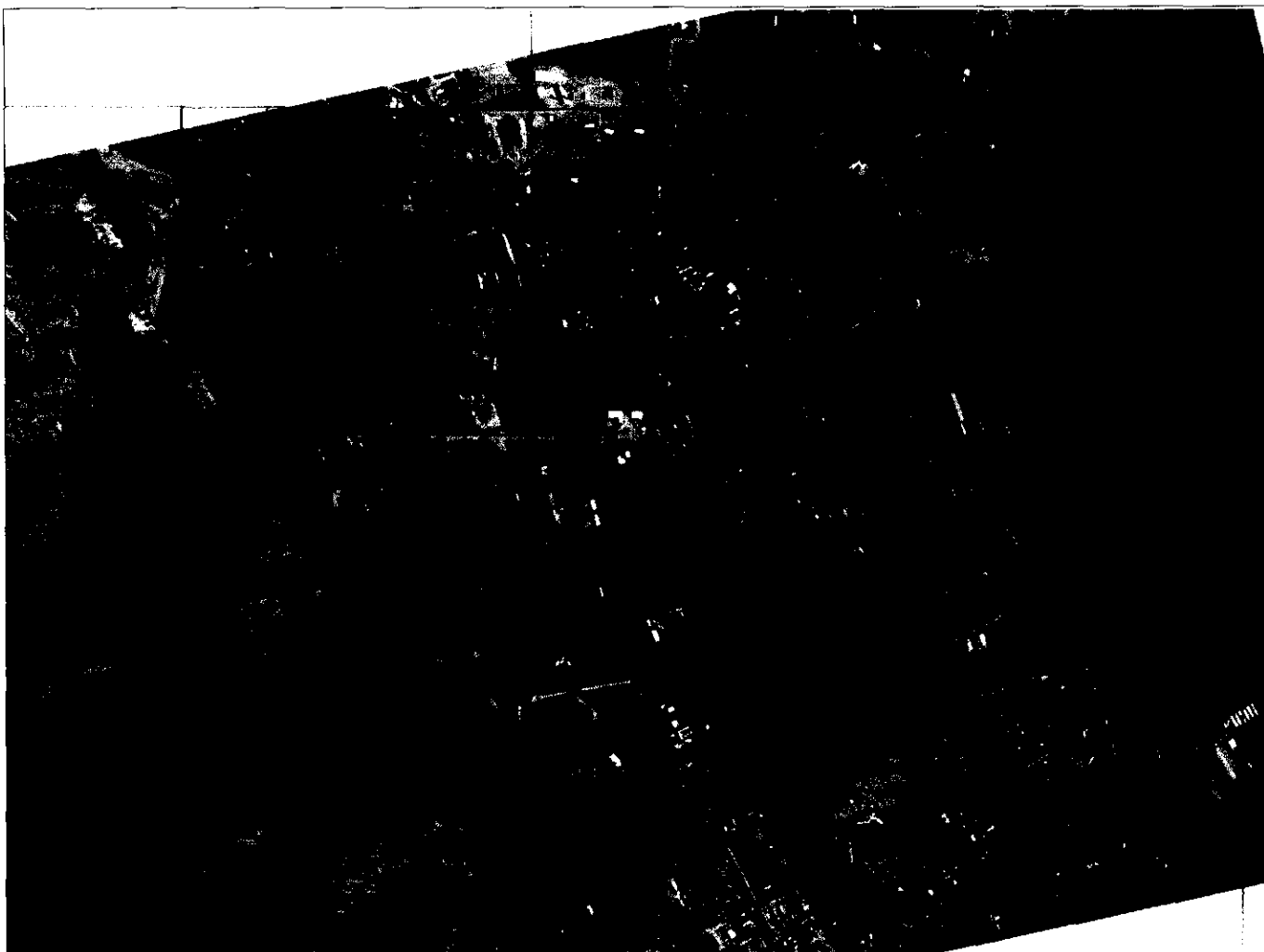
Fee \$ *100.* Received by *MB* # *5023926* Date *5-8-01*

Publication prepared by *MB* Date *7/9/01* Published in *Wood River Journal*

Publication approved *MB* Date *7/31/01*

O'Gara - Grabher Transfer

Section 5, T2N, R18E



SCALE 1:15,840
One inch = 1320 feet



EXPLANATION



- Quarter Section Divisions
- Section Divisions
- O'Gara's - Place of Use = Lot 35 of the
Flying Heart Ranch Subdivision
- Grabher - Place of Use

FSA Aerial Photo, 2000
Brockway Engineering, PLLC
Revised - May, 2001

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2000 5 2 2001

Report on a Groundwater Model developed for the Big Wood Aquifer from Gimlet to Hailey

Brockway Engineering, PLLC
Charles G. Brockway, P.E.
December 4, 2000

This narrative provides a brief description of an idealized groundwater model developed for the alluvial aquifer between Gimlet and Hailey, Idaho. The model was developed to provide supplemental hydrologic information for water right applications proposing to withdrawal water from the aquifer and mitigate with surface water rights from the Big Wood River.

The model is characterized as "idealized" because the available data regarding aquifer properties and aquifer-river interactions is sparse, and no additional field data was collected for this study. However, the model should allow reasonably accurate determinations of the relative impact of groundwater depletions on the aquifer and reach gains in the Big Wood River.

GENERAL SETTING

The aquifer under examination is an unconfined alluvial system comprised chiefly of sand, gravel, and silt. The width of the aquifer is approximately one mile. The depth to the water table ranges from a few feet to 50 feet, and the saturated depth of alluvium ranges from 150 to 250 feet. The aquifer generally yields highly productive wells, and has been developed for agricultural, municipal, commercial, and domestic uses.

The aquifer is interconnected with the Big Wood River throughout the domain of study. Throughout its course, the river may lose water to the aquifer, or may gain water from the aquifer. Because of the interaction of groundwater and surface water, depletion of the aquifer at any point may be realized as a decrease in river reach gain or an increase in river reach loss.

The reach from Gimlet to Hailey has been shown to be a gaining reach, but estimates of the magnitude of reach gain have considerable variability. Brockway and Luttrell (1984) estimated a gain from groundwater of 109 cfs from Gimlet to Hailey in September 1983 (17.3 cfs/mile), and a gain of 84 cfs from Ketchum to Hailey in March 1984 (7.5 cfs/mile). Magnitudes and locations of river gains and losses are expected to change seasonally as river and aquifer

MICHAEL J. LUTTRELL
2000-12-04

levels fluctuate, and with long-term climatic trends that may affect natural recharge to the aquifer.

MODEL DOMAIN AND BOUNDARY CONDITIONS

The north boundary of the model domain is located at the narrowing of the Big Wood River valley just south of the Greenhorn area. The south boundary is located at Hailey. The model boundaries on the west and east coincide with the contact point between bedrock and the alluvium, as implied from topographic maps.

At the south boundary, a constant-head condition was imposed. The model calculates the underflow through this boundary based on up-gradient inflows and outflows. A constant-flow condition was imposed at the north boundary to simulate underflow into the system. Other boundaries include tributary inflow from Deer Creek and Indian Creek, and a river boundary conditions representing the Big Wood River.

The model is a steady-state model, since insufficient data on aquifer levels and river levels exists to warrant simulation of seasonal fluctuations.

OBSERVED WATER LEVELS

Very little systematic water level data is available in the Big Wood valley. The best available data is a set of mass measurements made by the USGS in April 1986 (USGS, 1989). These measurements were used to develop a very approximate contour map of observed water elevation (see attached map). These contours provided the target levels in the model calibration.

AQUIFER PROPERTIES

The bottom of the aquifer was assumed to be the bedrock underlying the alluvium. Average bottom elevation was estimated to the extent possible using drilling records, or assumed where insufficient geologic information was available. The bottom elevation increases from south to north.

The hydraulic conductivity of the aquifer was chosen as 450 ft/day. This is within the range of research estimates, and results in an acceptable calibration to observed water levels.

Michael

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INFLOWS AND OUTFLOWS

Research estimates of the volume of water flowing through the aquifer at Hailey range from 13,000 ac-ft/year to 40,000 ac-ft/year. The figure utilized in the recent University of Idaho model study of the Big Wood and Silver Creek aquifers was 34,800 ac-ft/year. A reasonable target value for underflow at Hailey for the present study was assumed to be 30,000 ac-ft/year.

Underflow into the model domain occurs at three locations: at the north model boundary, from the Deer Creek alluvial aquifer, and from the Indian Creek alluvial aquifer. The two tributary inflows were computed using Darcy's law with estimated hydraulic properties and water table gradients. The underflow at the north model boundary was chosen so that the underflow leaving the domain at Hailey is approximately 30,000 ac-ft/year.

Irrigation recharge is a significant component of inflow to the model domain. Infrared aerial photos from the summer of 1987 were used to delineate areas irrigated with surface water. Recharge in these areas was assumed to average 0.0045 ft/day (1.64 ft/year), based on typical crop ET values from Allen and Brockway (1983) and an average irrigation efficiency of 60%.

Evapotranspiration from trees and other riparian vegetation near the river was included in the model. These areas have water tables generally 48 inches or less below ground, so that the vegetation uses water directly from the aquifer. ET was chosen as 0.0067 ft/day (2.45 ft/year).

Several domestic subdivisions are located within the model domain. These subdivisions typically consist of small lots (0.5 to 2.0 acres), each with an individual well. Rather than model each well separately, these areas were treated as a zone of uniform depletion from the aquifer. Depletion for these zones was chosen as 0.0081 ft/day (2.96 ft/year).

One large irrigation well was included in the model. This well is located on the 130-acre Peregrine Ranch 1.5 miles north of Hailey, east of Highway 75. This land is irrigated approximately 50% with surface water and 50% with groundwater from the well. Appropriate recharge values and well withdrawal volumes were chosen to model this property. No other large irrigation wells are known to be present within the model domain.

As noted above, the Big Wood River gains water from the aquifer in this reach. Water surface elevations in the river were estimated from the USGS quadrangle map, with interpolation employed where necessary. The bed conductance (a composite parameter incorporating bed thickness and the hydraulic conductivity of the bed material) was chosen as 200 ft/day. This value is in accordance with typical values for gravel-bed stream of this size. The resulting modeled reach

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gain through the domain is 56.6 cfs (11.1 cfs/mile), which is in reasonable agreement with the available reach gain measurements by Brockway and Luttrell (1984).

In some areas, dug canals may act as drains, collecting water from the aquifer at certain times of the year. No data is available to verify or quantify this effect, so it was not included in the model. Also, no seepage from canals or ditches was included in the model.

RESULTS OF STEADY-STATE CALIBRATION

Following is a summary of the model inputs and results for the calibrated steady-state model developed for this study. Also note the attached sheet showing the overall water balance in various flow units, and the map showing modeled and observed (approximate) groundwater contours. The agreement between observed and modeled groundwater levels is very good.

Hydraulic conductivity 450 ft/day throughout the domain

Underflow:

North boundary underflow	61495 ac-ft/year
Ohio Gulch tributary underflow	2011 ac-ft/year
Deer Creek tributary underflow	5373 ac-ft/year
Indian Creek tributary underflow	2237 ac-ft/year
Underflow at Hailey (outflow from system)	29753 ac-ft/year

External flows:

Irrigation recharge	1925 ac-ft/year
Net leakage from aquifer to river	40954 ac-ft/year (56.1 cfs)
ET from phreatophytes and subdivisions	2106 ac-ft/year
Well withdrawal (Peregrine Ranch)	227 ac-ft/year

MICHAEL J. ...

... 12/4/00

Impact of Proposed Groundwater Withdrawal on Big Wood River Reach Gain

Applicant: Ed O'Gara

Brockway Engineering, PLLC
C. G. Brockway, P.E.
April 27, 2001

It is proposed to use a well on Lot 35, Flying Heart Subdivision, to irrigate 3.0 acres on this lot. The Big Wood aquifer model from Gimlet to Hailey, developed by Brockway Engineering, was utilized to determine the impact of this withdrawal on reach gain in the Big Wood River.

A seasonal ET value of 2.90 ac-ft for pasture was used for the well withdrawal based on Allen and Brockway (1983). With an irrigation efficiency of 75%, the withdrawal at the wells will be 3.87 ac-ft per year. The remainder (0.97 ac-ft) will return to the aquifer as incidental recharge at nearly the same location as the groundwater withdrawal.

With these stresses on the system, the model indicates that all of the depletion of the groundwater is realized as a reduction in river gain in a reach extending from Deer Creek Road to a point approximately 1/8 mile north of the Hailey city limits. Within this three-mile reach, the average annual reduction in river gain will be 0.0117 cfs (5.3 gpm). The average seasonal (180-day) depletion will be 0.0238 cfs (10.7 gpm). This flow reduction does not occur at a point; rather, it is dispersed by the alluvial aquifer so that different points within the river are impacted to different degrees. The attached plot shows the distribution of the flow reduction as a function of river distance, illustrating the reach within which the impact is predicted to occur.

The model was also utilized in a quasi-transient mode with a 30.5-day time step to estimate a time-varying impact of the proposed well withdrawal. The underlying flow field calculated by the steady-state model was used as an initial condition. None of the model inputs were varied over time, except the water usage from the well was assumed to follow a monthly pattern based on Allen and Brockway (1983) monthly crop ET values.

The results of this model run are illustrated on the attached plot. Pertinent indications from the model are as follows:

1. The time lag between depletion of the groundwater and depletion of the river gain is very small – in fact it is not apparent at all using the model with a

McGraw-Hill
Engineering & Construction
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monthly time step. This indicates that the time lag is significantly less than one month. Because the time lag is small, diverting from the well is nearly equivalent to diverting from the river in terms of overall timing and magnitude of impact. However, the depletion is dispersed spatially rather than being an discontinuous reduction as in the case of diverting to a canal.

2. There is no carryover effect of the well water usage to the next irrigation season.
3. The peak monthly reduction of river gain coincides with the peak crop water usage in July, and is estimated as 2538 cubic feet per day (0.0294 cfs, or 13.2 gpm).

Because of the very direct relationship between the groundwater usage at the O'Gara well and the river gain decrease, the most appropriate mitigation would be to leave the water under the surface water right in the river rather than diverting it into the Hiawatha Canal. Leaving the water in the canal cannot mitigate for the river gain reduction in the affected reach identified by the model.

The minimal time lag also means that there are no significant late-season residual impacts of the groundwater depletion that could affect deliveries of water rights with earlier priorities.

The surface right currently authorizes 0.092 cfs for 1.0 acre, but the transfer application proposes a peak rate of 0.060 cfs for 3.0 acres. If it is assumed that the peak instantaneous reduction in river gain is also equal to 0.060 cfs (a very conservative assumption), leaving water in the river would provide more mitigation than necessary to completely mitigate for the river gain reduction.

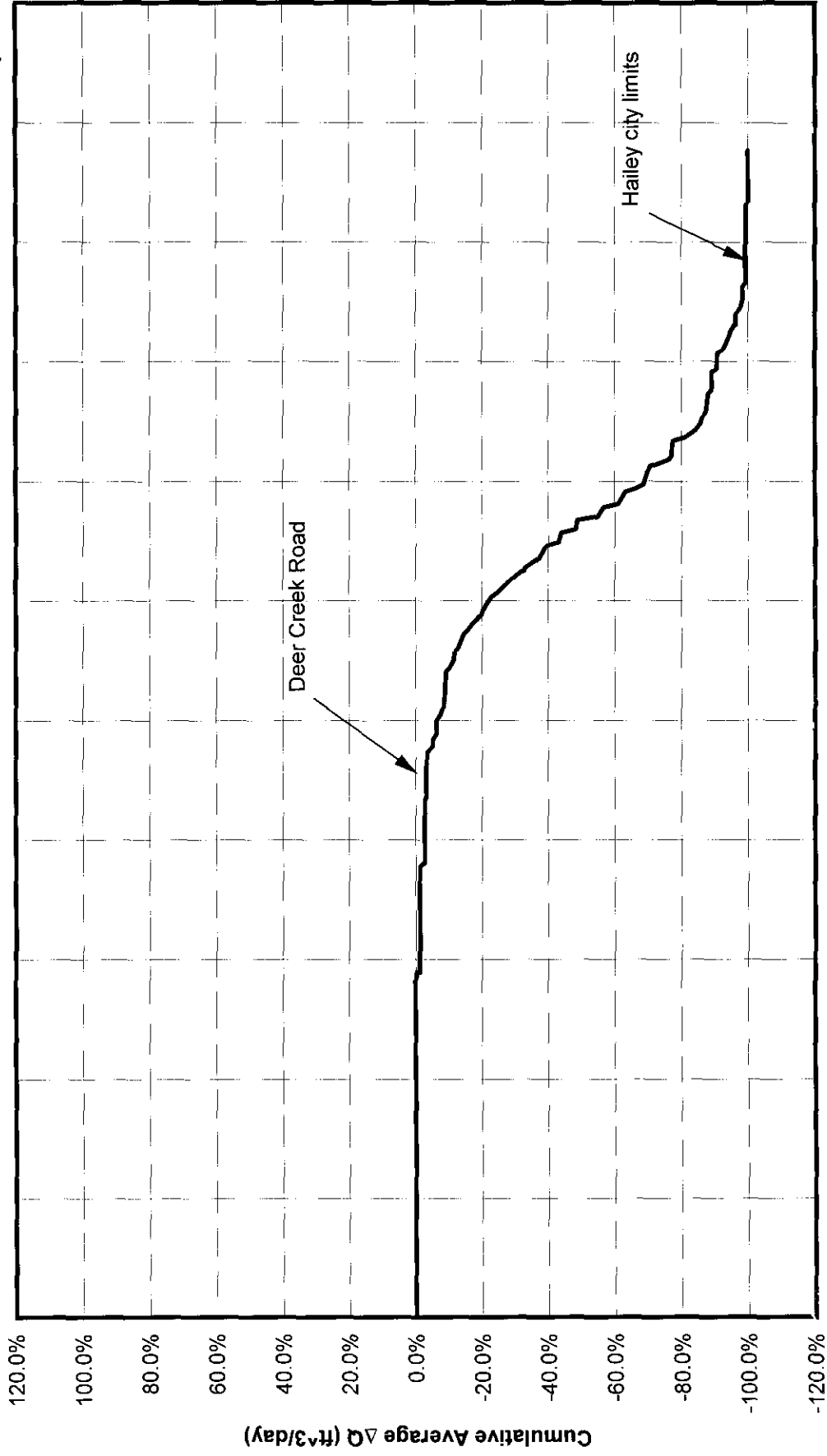
Based on the groundwater modeling and analysis, the applicant proposes to leave in the Hiawatha Canal a reasonable amount of water that can be attributed to conveyance losses, and to leave the remainder in the river as mitigation. The conveyance losses in the canal have not been determined.

MICHAEL

10/10/10

Streamwise Distribution of Average Change in River Gain due to Proposed Cross Creek Trust Water Transfer

Brockway Engineering, PLLC
C. G. Brockway, P.E.



LIMITED POWER OF ATTORNEY

KNOWN ALL MEN BY THESE PRESENTS:

I, Edward F. O'Gara Family Trust Dated May 24, 1982, hereby nominate and appoint
Charles G. Brockway As my attorney-in-fact with full authority to act for and
on my behalf to undertake any and all acts or matters pertaining to this water right transfer before
The Idaho Department of Water Resources for the following water right 37-00004C
and the concurrent Permit Application in Blaine County, Idaho. Additionally, I hereby ratify and
confirm any and all such acts on matters as contemplated herein.

My agent is hereby authorizing to sign, seal and deliver, as my act in deed, those said
instruments of writing that may be necessary or proper to carry into execution and effect the
applications, and transfers above-mentioned. Further, I hereby declare that each and every
application, transfer, agreement, receipt, or payment which shall be by my said agent given,
made or done for the aforesaid purposes shall be as good, valid, and effectual as if they had
been signed, sealed, and delivered by me in my own proper person; and I hereby undertake at all
times to ratify whatsoever my said agent shall lawfully do or cause to be done in or concerning
the said premises by virtue of these presents. This Limited Power of Attorney will become void
upon approval, denial or withdrawal of the above referenced applications.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal

Dated this 12 day of April 2001.

[Signature]

Signature

State of Idaho)

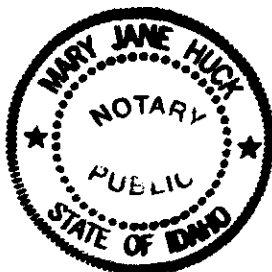
County of Blaine)

ss.

On this 4th Day of April, 2001, before me, a Notary Public in and
for said County and State, personally appeared E F O'Gara, known
or identified to me to be the individual whose name and subscription to the within instrument, and
acknowledged to me that he executed the same.

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

S
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A
L



Mary Jane Huck

Notary Public

In and for said State and County

2-12-07

My Commission Expires



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

April 1, 2002

EDWARD F O GARA FAMILY TRUST
415 CROYDEN DR
SPRING CREEK NV 89815

RE: Permit No. 37-20400

Permit Approval Notice

Dear Permit Holder:

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

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

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

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

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

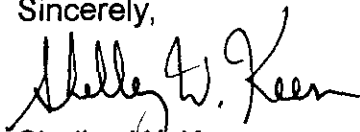
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Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact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

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

Sincerely,



Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

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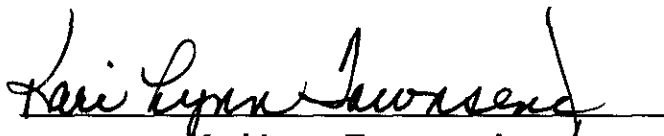
SEP 9 3 2007

CERTIFICATE OF SERVICE

I hereby certify that on April 1, 2002 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 37-20400

**EDWARD F O GARA FAMILY TRUST
415 CROYDEN DR
SPRING CREEK NV 89815**


Kari Lynn Townsend
Secretary

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2002-04-01

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

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IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

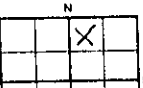
Use Typewriter
or
Ball Point Pen

1. DRILLING PERMIT NO. 37-95-S-0157-000
Other IDWR No. _____

2. OWNER: EDWARD & VICKIE O'GARA
Name _____
Address PO BOX 580
City HALEY State MD Zip 83333

3. LOCATION OF WELL by legal description:

Sketch map location must agree with written location.



Twp. 2 North ☒ or South ☐
 Rge. 18 East ☒ or West ☐
 Sec. 5 $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$
 Gov't Lot _____ County BLAINE $\frac{10}{100}$ acres $\frac{40}{100}$ acres $\frac{100}{100}$ acres

Address of Well Site 153 ASPEN LAKES DRIVE City HAILEY
 (Give at least name of road - Distance to Road or Landmark)

Lt. 35 Blk. _____ Sub. Name FLYING HEART FAULT #2

4. PROPOSED USE:

PROPOSED USE:

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

5. TYPE OF WORK

3. TYPE OF WORK ☒ New Well ☐ Modify or Repair ☐ Replacement ☐ Abandonment

6. DRILL METHOD

☐ Mud Rotary ☒ Air Rotary ☐ Cable ☐ Other

7. SEALING PROCEDURES

7. SEALING PROCEDURES				METHOD
SEAL/FILTER PACK			AMOUNT Sacks or Pounds	
Material	From	To		
Beltonite	0	20	12.5K	OVERPORE

Was drive shoe used? ☒ Y ☐ N Shoe Depth(s).

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

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
6	1 1/2	80	750	STEEL	☒	☐	☒	☐
					☐	☐	☐	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS

(c) Perforations

Method

Screens

Screen Type

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

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:

6 ft. below ground Artesian pressure _____ lb.

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

11. WELL TESTS:

☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal/min.	Drawdown	Pumping Level	Time
150		60	1

Water Temp. _____ Bottom hole temp _____

Water Quality test or comments:

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

[illegible]

13. DRILLER'S CERTIFICATION

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

Firm Name 1 BELLEVUE ID 83313 Firm No. 265

Firm Official Ken Smith Date 9-18-91

and
Supervisor or Operator ROD McQuay Date 9-18-95
(Sign once if Firm Official & Operator)

FORWARD WHITE COPY TO WATER RESOURCES

5018434 #3500

MICROFILMED

**APPLICATION FOR PERMIT
STATE OFFICE ANALYSIS**

Reviewed by Sharla Curtis on 9/21/01
3/18/02

No. 37-20400 Name: O'Hara-fam Corp. Officers ✓ Ad ok ✓ Govt Lots

AREA OF CONCERN: No/Yes ESPA Trust Moratorium Big Wood GWMA TRUST/NON-TRUST

GROUNDWATER: (✓Flow Chart)

DRILLING PERMIT

All wells - 046
Basin 34 - 084 (if necessary)
WMD - North/East/West
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 067
~~WMD~~
Supp irr (irr = only use) - 065-104
Supp irr (+ other uses) - 100-105
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 01M

LOCATION:

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

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

USES:

STORAGE - 18C-01H-01P-18B-NA
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)
 > 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)
STOCK WATER - R37 (BLM/FS)-111 (instream stock)
MINING - 054-106
HEAT/COOL - R07 (injection well)
FIRE PROT - 077
COMMERCIAL/
INDUSTRIAL - 106-R07
DAIRY - 082-WD8
POWER - 17H or 17K (+uses)-17G (under FERC)
 or 17M (not FERC regulated)
 025-027-R22-08A

BENEFICIAL USE DUE: 10/01/2009

MISC CONDITIONS/REMARKS:

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

SURFACE WATER: (✓Flow Chart)

F&G contacted - Yes/No Response
In/Above MSF - WB9
PLANNING REVIEW/RESPONSE
WD - R04 (WD#)
≤ 0.20 cfs/others - 01H, 01P or No MD
> 0.20 cfs - 01J

SPRINGS/SINK, INACTIVE WD or WD

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

RIVER BASINS: (SW special considerations)

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

USES:

MUNICIPAL
Restricted area - 022,075
Irr., GW supp to SW - 102
Future needs - 007,109
FISH PRO - 029 (70's only)-007-042-106
DOMESTIC
Surface water - WB5 (Big Wood/Boise above Star Bridge)
 - 27A (Payette R)
 > 1 in restricted area - 070-071-075 (no parks/common areas)
Irr separate or none allowed - WB5
GW w/irrigation from SW evident - 065-104
Moratorium approvable - W03 (2500 gpd - meets domestic def
 i.e. D/convenience store)

IRRIGATION SEASON 4/15 - 10/31 (Per updated map)

IRR VOLUME/ACRE 3.5

OTHER CONDITIONS/REMARKS

COMMENTS Process w/ T. 69165 (37-20402) when it arrives @ S.O.

STATE OF IDAHO
IDWR SOUTHERN REGION
APPLICATION FOR PERMIT ANALYSIS SHEET

RECEIVED

SEP 17 2001

DEPARTMENT OF WATER RESOURCES

INITIAL REVIEW BY J. Stanton DATE 5-16-01

REQUIRED INFORMATION (Ck if OK)

- ☒ 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 for 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, title of signator is required)
- ☒ Fee
- ☒ Yes ☐ No* In form to receipt?

++++PROPOSED PRIORITY DATE 5-4-01

ADDITIONAL INFORMATION

- ☐ Overlapping place of use(Describe source & relationship to present application on the back.
- ☐ Overlapping point of diversion.
- ☐ Yes ☒ No Is Source Surface Water?
- ☐ If Yes Send Copy to F&G.
- ☐ If Yes Field check/memo required.
- ☐ Field check/memo by _____
- ☐ Yes ☐ No Field report attached?
- ☐ Yes ☒ No Critical Ground water area?
- ☒ Yes ☐ No Groundwater management area?
- ☒ Yes ☐ No Measurement District or Groundwater District?
- ☐ What District? Big Wood River GWM
- ☐ Yes ☐ No Send Dam safety information?
- ☐ Yes ☒ No Send power requirement letter?
- ☐ Yes ☒ No Send fish farm requirement letter?
- ☐ Yes ☒ No Power residency affidavit attached?
- ☐ 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.
- ☐ Yes ☒ No Is Application made to record Pre Nov 1987 Development?
- ☐ If Yes then request clear evidence of when use started.

* REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT:

Date Requested _____

Date Sent Comments Received

SEND COPIES TO:

☐ Idaho Dept of Health & Welfare	_____	_____
☐ USDI BLM	_____	_____
☐ Idaho Dept of Fish & Game	_____	_____
☐ USFS	_____	_____
☐ Idaho Dept of Lands	_____	_____
☒ Water Dist. No. <u>37</u>	_____	_____
☐ Adjudication Bureau Unit	_____	_____
_____	_____	_____
_____	_____	_____

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

☒ Yes ☐ No Has all requested additional information been received?
If not, describe action taken: _____

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?

Final date for protest: _____

☒ Yes ☐ No Protests received?

☒ Yes ☐ No Protested?

Describe Resolution: _____

☒ 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 codes:

☒ Yes ☐ No Is Evaluation Memo Attached?

If yes; date of Memo _____

Date of priority recommended: _____

COMMENTS:

RECOMMEND

☒ Approval

☐ Denial

By

AD~

Date

9/13/01

RECEIVED

SEP 17 2001

Department of Water Resources

MEMO

FROM: Allen Merritt *Am*

DATE: September 13, 2001

TO: Transfer File No. T69165 of portion of 37-00004C
Application for Permit 37-20400

In the name of: Edward F. O Gara Family Trust

SUBJECT: Review and Recommendation

This transfer is one of many where Grabher is selling ***off portions of his water right 37-00004C. The applicant has purchased 0.280 cfs or enough for irrigation of 3 acres. The applicant proposed to transfer the water to mitigate for ground water permit 37-20400. The mitigation will leave some water in the Hiawatha Canal to mitigate for potential injury and the remainder to be left un-diverted in the Big Wood River.

***Note that currently 5 transfers including this one have been or are being processed for splitting up the Grabher right. Photos of Grabher property and Jim Stanton's analysis is found in T5877 file. In a memo prepared by Jim Stanton dated 10/20/2000 he describes his field review of the Grabher property finding that the water has not been used and in his 10/31/2000 memo he describes that the base right has an extension of time to avoid forfeiture until 4/1/2003.

Grabher's 37-00004C for 1.10 cfs for irrigation of 12 acres.

T5734 (66101) for 0.092 cfs for 1 acre	37-00004F	(Approved)
T5842 (68525) for 0.184 cfs for 2 acre	37-00004H	(Approved)
T5877 (68560) for 0.183 cfs for 2 acre	37-00004K	(Pending in SO)
T69165 for 0.28 cfs for 3 acre	37-20402	(This application)
T69282 for 0.092 cfs for 1 acre	37-20440	(Being Processed in Region)

Grabher's remaining portion not yet transferred is approximately 0.28 cfs on 3 acres.

Do to issues about conveyance loss in the Hiawatha canal which have surfaced for other pending transfers I conducted an evaluation which is summarized in a letter to parties dated 2/12/2001 found in T5734 & T5842 files. I evaluated this transfer in the same manner after accounting for the approved transfers (See attached printout) My review finds that at least 0.055 cfs of the right should be retained in the Hiawatha canal for mitigation to the other users for allowing this transfer. The remainder of right (0.280 - 0.055) 0.225 cfs is to remain in the Big Wood River to mitigate for the issuance of permit 37-20400.

The transfer and companion application for permit were processed without protest.

No GIS work has been done for the transfer portion of this but I attempted to put the shape Jim Stanton generated into SDE thru workflow. If I didn't get it right Jim's shape is saved on GISData

MICROSOFT

SEP 17 2001

on AS02 /transfer shapes/b37/Jim's transfers/t69165

Recommendation

I recommend that this transfer and application for permit be approved subject to the following conditions:

37-20400

- Under control of Watermaster of District 37.
- This right is predicated on mitigation by right 37-20402. Diversion is only allowed as long as the priority of right 37-20402 is deliverable.
- Use limited to irrigation of no more than 3 acres.
- Approval does not allow drilling of additional well. Applicant must pay

37-20402

- Under control of Watermaster of District 37.
- This right is to provide mitigation for use of permit 37-20400.
- Maintain adequate measuring at the diversion to Hiawatha Canal and at the point of re-diversion from the Hiawatha Canal.
- Portion of right (0.055 cfs shall) remain in Hiawatha canal to prevent injury to canal users. The remainder of right (0.225 cfs) shall remain in Big Wood River to mitigate impact to users as a result of pumping under permit 37-20400.

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APR 11 1983

JUL 30 2001

Department of Water Resources
Southern Region

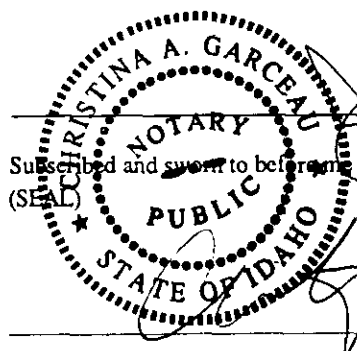
AFFIDAVIT of PUBLICATION

State of Idaho,

County of Blaine

} SS.

On this 25 day of July, in the year 2001, before me a Notary Public of said State, personally appeared _____, 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 18 day of July 2001 and the date of the last publication was on the 25 day of July 2001

Subscribed and sworn to before me this 25 day of July 2001

NOTARY PUBLIC

#12730

WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

11.5

Number of Picas per Line _____
 Number of Lines in Notice 100
 Number of Insertions 2
100 Lines tabular at _____ 7¢ / Pica
100 Lines straight at 7.43 6¢ / Pica
 Subsequent lines at _____ 5¢ / Pica
 TOTAL COST 148.00

COPY OF NOTICE

(Paste Here)

Four applications for

TITLE OF NOTICE

Water rights

PLAINTIFF ATTORNEY

DEFENDANT

#2594 #24620

PLAINTIFF

Id. Dept. of Water

BILL TO

resources

Publication Rates
As of 1997

(Idaho code,
Rev. Statutes 1984)
 7.8 pt./line straight: .06 / pica
 7.8 pt./line tabular: .07 / pica
 7.8 pt./line successive
 insertion: .05 / pica

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12730

Four applications for water rights

NOTICE OF APPLICATIONS

The following four applications have been filed in BLAINE COUNTY; one to appropriate the public waters of the State of Idaho and three to modify existing water rights as follows:

EDWARD O'GARA FAMILY TRUST, 415 CROYDON DR; SPRING CREEK NV 89815, has filed Application for Permit 37-20400 and companion Application for Transfer No. 69165. Application 37-20400 proposes irrigation of 3 acres from ground water; the transfer dries up 3 acres and leaves the water in the Big Wood River and Hiawatha Canal as mitigation.

TRANSFER NO. 69165 changes the following water right recorded as:

Right No. 37-4C
Priority: 3/24/1883
Source: BIG WOOD RIVER
Use: IRRIGATION (1.10 CFS)
Point(s) of Diversion: NESENE S19 T03N R18E
Place of Use: 12 acres within S4 and S9 T02N R18E

The purpose of the transfer is to change a portion of the above rights as follows:

Proposed Right No. 37-20402 (split from Parent Right No. 37-4C)
Priority: 3/24/1883
Source: BIG WOOD RIVER
Use: IRRIGATION (0.28 CFS/10.5 AFA)
Point(s) of Diversion: SESWNW S20 T03N R18E
Place of Use: 3 acres within S5 T02N R18E

APPLICATION FOR PERMIT 37-20400
Point(s) of Diversion: Lot 2 (SEWNW) S5 T02N R18E
Source: GROUND WATER
Use: 04/01 To 11/01
Irrigation: (0.06 CFS)
Date Filed: 05/04/2001
Place Of Use: 3 acres within Lot 2

(NWNE) S5 T02N R18E

PATRICIA JORGENSEN, PO BOX 875; KETCHUM ID 83340 has filed Application No. 69215 for changes to the following water Rights:

Right No. 37-12805
Priority: 12/31/1971
Source: GROUND WATER
Use: DOMESTIC (0.04 CFS)
Point(s) of Diversion and Place of Use: NWNE S13 T04N R17E

The purpose of the transfer is to change (correct) the legal description of point of diversion and place of use as follows:

Point(s) of Diversion & Place of Use: SESW S12 T04N R17E

RICHARD H BERBY, PO BOX 2805; SUN VALLEY ID 83353 has filed Application No. 69216 for changes to the following water Rights:

Right No. 37-12334
Priority: 12/31/1971
Source: GROUND WATER
Use: DOMESTIC (0.04 CFS)
Point(s) of Diversion & Place of Use: NWNE S13 T04N R17E

The purpose of the transfer is to change (correct) the legal description of point of diversion and place of use as follows:

Point(s) of Diversion & Place of Use: SESW S12 T04N R17E

Applications for Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code. Protests of Proposed Transfers may be submitted based on the criteria of Sec 42-222, Idaho Code. Any protest against the proposed change must be filed with the Department of Water Resources, Southern Region, 1341 Fillmore St, Suite 200, Twin Falls ID 83301 together with a protest fee of \$25.00 for each application on or before August 06, 2001. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Publish: Wood River Journal—July 18 & 25, 2001.

RECORDED

JUL 18 2001

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APPLICATION FOR PERMIT 37-20400
Point(s) of Diversion: Lot 2 (SEWNW) S5 T02N R18E
Source: GROUND WATER
Use: 04/01 To 11/01
Irrigation (0.06 CFS)
Date Filed: 05/04/2001
Place Of Use: 3 acres within Lot 2 (NWNE) S5 T02N R18E

PATRICIA JORGENSEN, PO BOX 875; KETCHUM ID 83340 has filed Application No. 69215 for changes to the following water Rights:

Right No. 37-12605
Priority: 12/31/1971
Source: GROUND WATER
Use: DOMESTIC (0.04 CFS)
Point(s) of Diversion and Place of Use: NWNE S13 T04N R17E

The purpose of the transfer is to change (correct) the legal description of point of diversion and place of use as follows:

Point(s) of Diversion & Place of Use: SESW S12 T04N R17E

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APR 2 1987

RICHARD H BERBY, PO BOX 2805; SUN VALLEY ID 83353 has filed Application No. 69216 for changes to the following water

Rights:

Right No. 37-12334

Priority: 12/31/1971

Source: GROUND WATER

Use: DOMESTIC (0.04 CFS)

Point(s) of Diversion & Place of Use: NWNE S13 T04N R17E

The purpose of the transfer is to change (correct) the legal description of point of diversion and place of use as follows:

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KARL J DREHER, Director

Published in the Wood River Journal on 7/18 & 7/25/01.

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APR 5 2001

IDAHO DEPARTMENT OF WATER RESOURCES
1341 FILLMORE STREET-STE# 200
TWIN FALLS ID 83301

Phone: 736-3033

Fax#: 736-3037

July 9, 2001

ATTN WAYNE-LEGALS
WOOD RIVER JOURNAL
PO BOX 988
HAILEY ID 83333

Dear Wayne:

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

If you cannot publish the notice on the proposed dates, please contact us immediately at 736-3033.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before August 6, 2001. Your cooperation is appreciated.

Sincerely

Mary A. Baldwin
Administrative Assistant

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1998-10-17