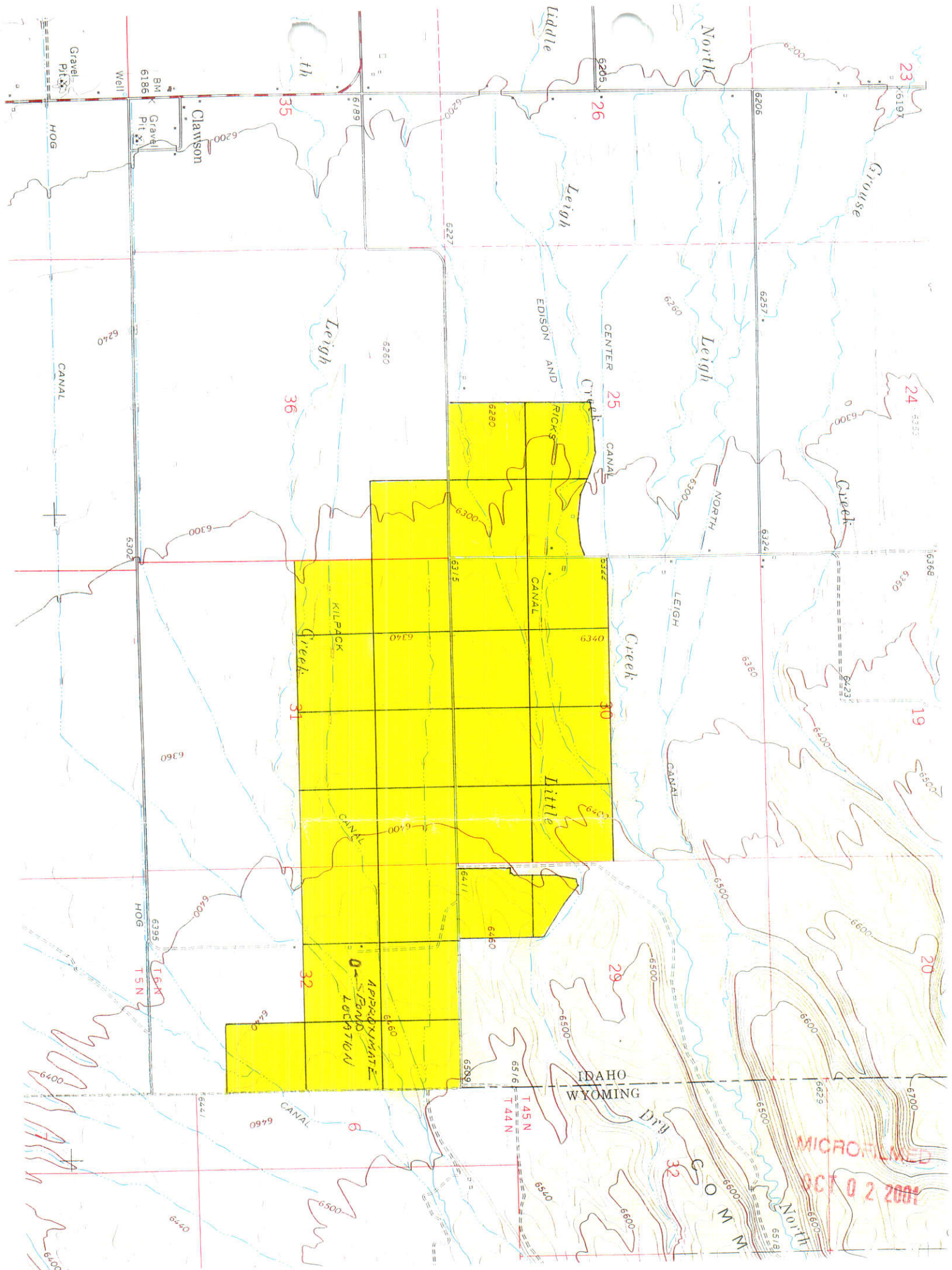






1. Proposed pond site. Area surrounding pond to be filled and regraded where flood damage has occurred. Existing elevation to be maintained.



2. Close-up of flood damage due to landclearing by previous owner of ranch.

MICROFILMED
OCT 02 2001

POND - AS PROPOSED - 1/30/2001

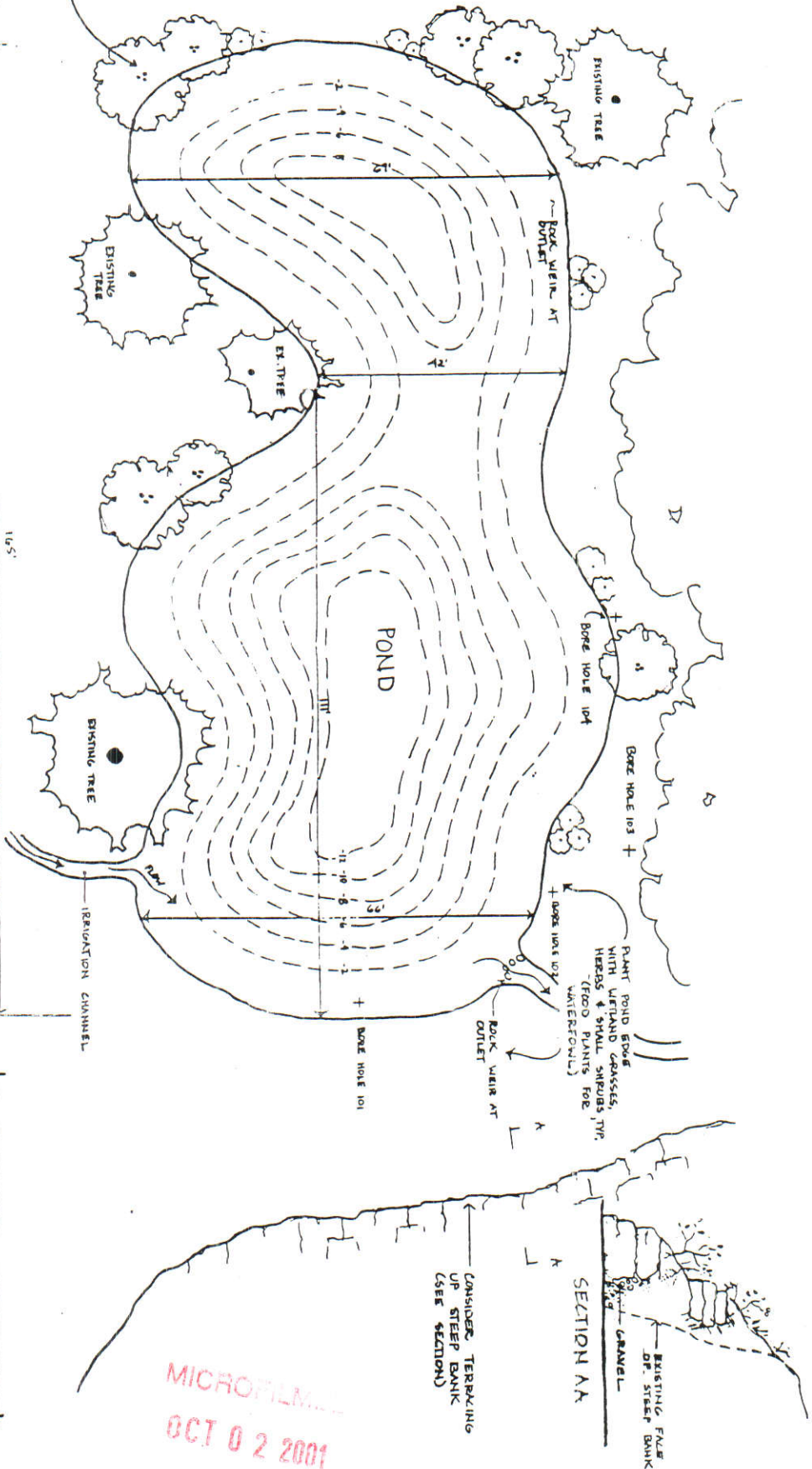
SCALE: 1" = 10'-0"
REDUCED - NO SCALE

* 165' x 66' = 1/4 acre Surface Area

POND DESIGN
FOR: BOYD SMITH ON TETON RANCH
TETON, ID. - JUNE 4, 2000
LOVE GOOSE ENVIRONMENTAL, LLC

TRANSPLANT SMALL
BRAIN TREES FROM
POND SITE TO POND
PERIMETER
NOTE: ALL DIMENSIONS
ARE APPROXIMATE
(FROM ORIGIN POINTS)

POND LENGTH
165'



MICROFILM
OCT 02 2001

RECEIVED

JUN 19 2002

Form No. 217
8/00

Department of Water Resources

FOR OFFICE USE ONLY

Amt. of Fee \$: 100.00

Receipt No. 106282

Receipt By: [Signature]

Date Received: 6-19-02

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
PROOF OF BENEFICIAL USE

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

1. Permit No. 22-13159 Telephone No. 208-523-0820
 2. Name of Permit Holder(s): Boyd C. and Jill J. Smith Trust
 3. Mailing Address: C/O Holden, Kildwell, Hahn & Crapo, P.L.L.C., P.O. Box 50130
City Idaho Falls State ID Zip 83405
 4. Source of Water: Seepage or waste water from Kilgus Ditch If GROUNDWATER (well), Date Drilled:
mo. ____ / yr. ____
Well Driller: _____ Drilling Permit Number: _____
 5. Use(s) (as authorized by the water right permit):
Domestic (No. of households): _____ Stockwater (No. and type of stock): _____
Irrigation (No. of acres): _____ Other: Aesthetics
 6. Total rate of diversion and/or volume for which proof is submitted: _____ cfs OR One (1) acre-foot
 7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)
Measuring Device: Is a measuring device required? Yes _____ or No X
Has the measuring device been installed? Yes _____ or No X
 8. Fee Enclosed: \$ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)
 9. Person to contact to accompany the Department representative during field examination of the water system.
Name: Delmar Scroughams Telephone Number: (208) 456-2010
Address: P.O. Box 68, Driggs, Idaho 83422
 10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.
- Signature of permit holder: [Signature] Date: 13 June 2002
(Include your title, if on behalf of company or organization)

MICROFILMED

JUN 19 2002

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO.)
22-13159 IN THE NAME OF)
BOYD C. & JILL J. SMITH TRUST)

)

REINSTATEMENT ORDER

WHEREAS, the Department issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted to the Department on or before June 1, 2002; and,

WHEREAS, the Department notified the permit holder on March 31, 2002, by certified mail that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use or an extension of time request; and,

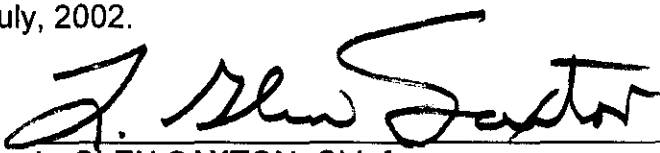
WHEREAS, the Department sent the permit holder a lapse notice on June 5, 2002, since the department had not received an acceptable proof of beneficial use statement or extension of time; and,

WHEREAS, Section 42-218a, Idaho Code, provides that the Department may reinstate a permit upon a showing of reasonable cause by the permit holder within sixty days of the date of the notice of lapsing; and,

WHEREAS, the permit holder has provided a reasonable showing why the permit should be reinstated by submitting acceptable proof of beneficial use on June 19, 2002;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 22-13159 is **REINSTATED** with an advance in priority to **April 2, 2001**.

DATED this 2nd day of July, 2002.



L. GLEN SAXTON, Chief
Water Allocation Bureau

MICROFILMED
JUL 10 2002

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 22-13159

Priority: 03/15/2001

Maximum Diversion Volume: 1.0 AF

This is to certify, that **BOYD C & JILL J SMITH TRUST**
C/O HOLDEN KIDWELL
HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

has applied for a permit to appropriate water from:

Source: WASTE WATER

Tributary: SINKS

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31	1.0 AF

LOCATION OF POINT(S) OF DIVERSION:

WASTE WATER NW¼SE¼NW¼ Sec. 32, Twp 06N, Rge 46E, B.M. TETON County

PLACE OF USE: AESTHETIC STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N 46E 32								X									

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **June 1, 2002**.
2. Subject to all prior water rights.
3. This approval does not authorize a call for water delivery or the prevention of improvements to Kilpack Ditch that may eliminate or diminish the amount of waste water available to the permit holder.
4. Aesthetic storage is for a pond.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 5th day of June, 2001.


for **KARL J DREHER, Director**

MICROFILMED

OCT 02 2001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

RECEIVED
MAR 14 2001

Department of Water Resources
Eastern Region

1. Name of Applicant Boyd C. and Jill J. Smith Trust Phone _____
Mailing address c/o Holden, Kidwell, Hahn & Crapo, PLLC, P.O. Box 50130, Idaho Falls, ID 83405
2. Source of water supply Seepage or waste water from Kilpack Ditch which is a tributary of sinks
3. Location of point of diversion is Township 6N Range 46E Sec. 32, in the NW $\frac{1}{4}$,
SE $\frac{1}{4}$, NW $\frac{1}{4}$, Govt. Lot _____, B.M., Teton County;
additional points of diversion if any: _____
4. Water will be used for the following purposes:
0.2 cfs
Amount 1.0 acre foot for Aesthetic purposes from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 0.20 and/or (b) 1.0
cubic feet per second acre feet per annum
6. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source Seepage or waste water from Kilpack Ditch collects in swale and forms small stream which flows about $\frac{1}{2}$ mile and sinks. Pond will be excavated in swale and rocks placed at outlet to retard and control out flow.
- b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet
- d. Is ground water with a temperature of greater than 85°F being sought? _____
- e. If well is already drilled, when? _____; Drilling firm _____;
Well was drilled for (well owner) _____; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 1 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. Aesthetics (old trees were cut by applicant's predecessor and high water has eroded and created unsightly area. Excavated material from pond will be used to fill eroded areas. Pond and surrounding area will be made attractive.

RECEIVED
DEC 02 2001

Description of place of use:

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

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	46E	32								A									

Total number of acres to be irrigated _____

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

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

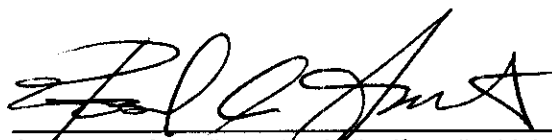
b. Who owns the land to be irrigated or place of use? Applicant

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

12. Remarks: See accompanying map, photograph and site design drawing

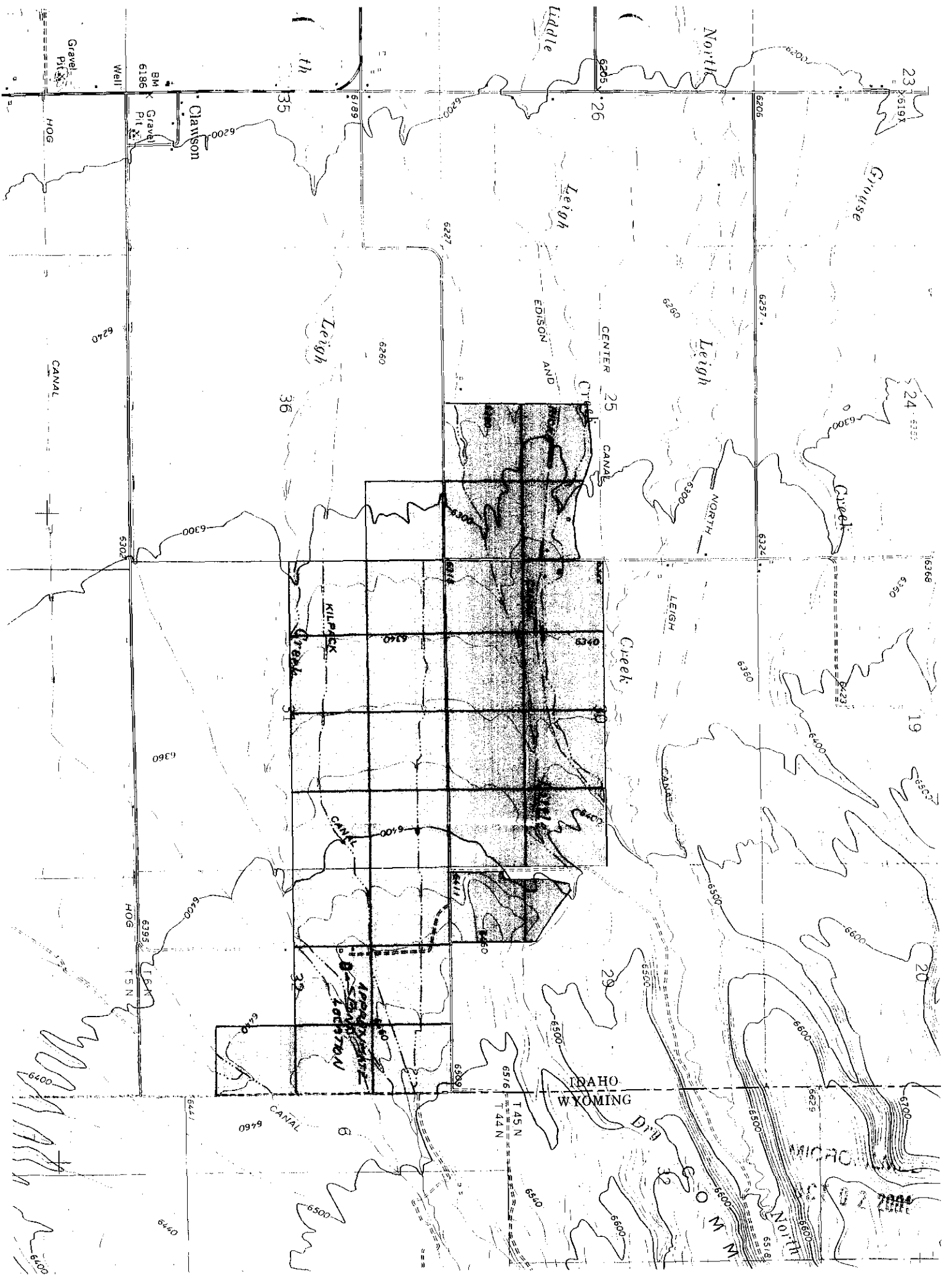
13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

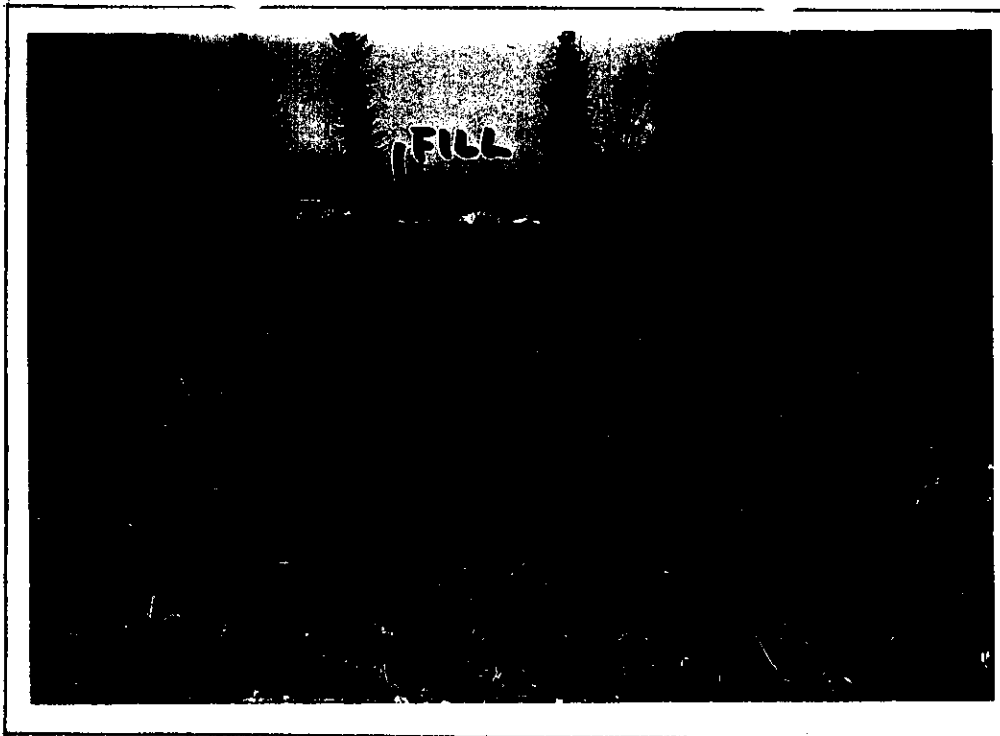
BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.


Signature of Applicant (and title, if applicable)

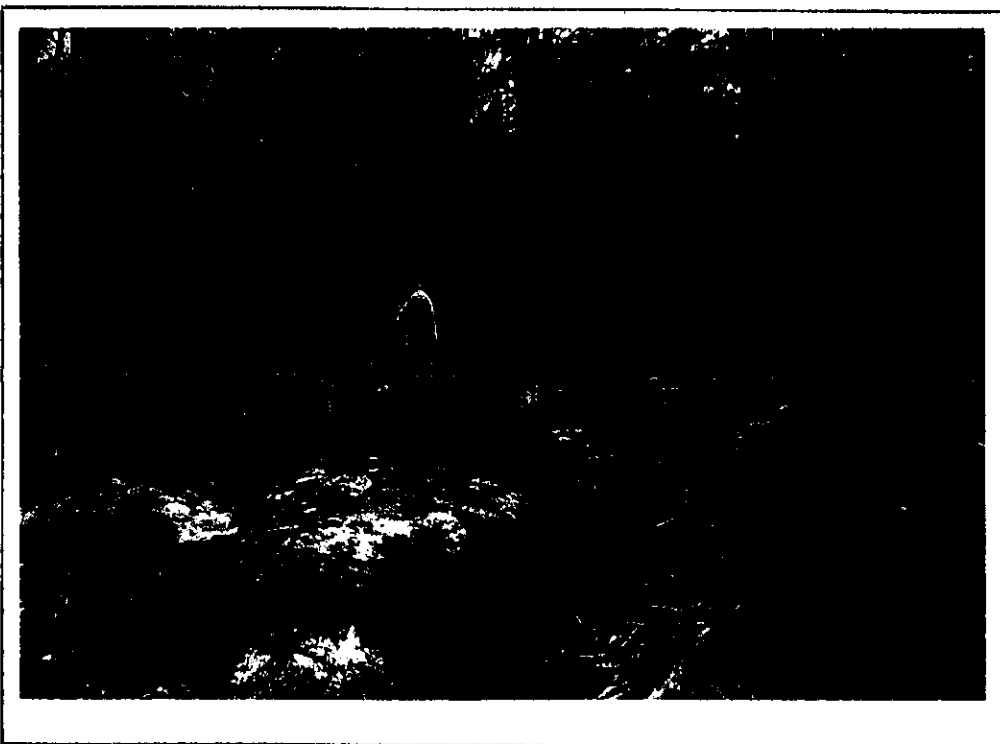
Received by HWT Date 3-14-01 Time _____ Preliminary check by _____
 Fee \$ 100.00 Received by HWT # E026543 Date 3-14-01
 Publication prepared by SC Date 4/5/01 Published in Teton Valley News
 Publication approved SC Date 5/8/01

MICROFILMED
SEP 12 2001





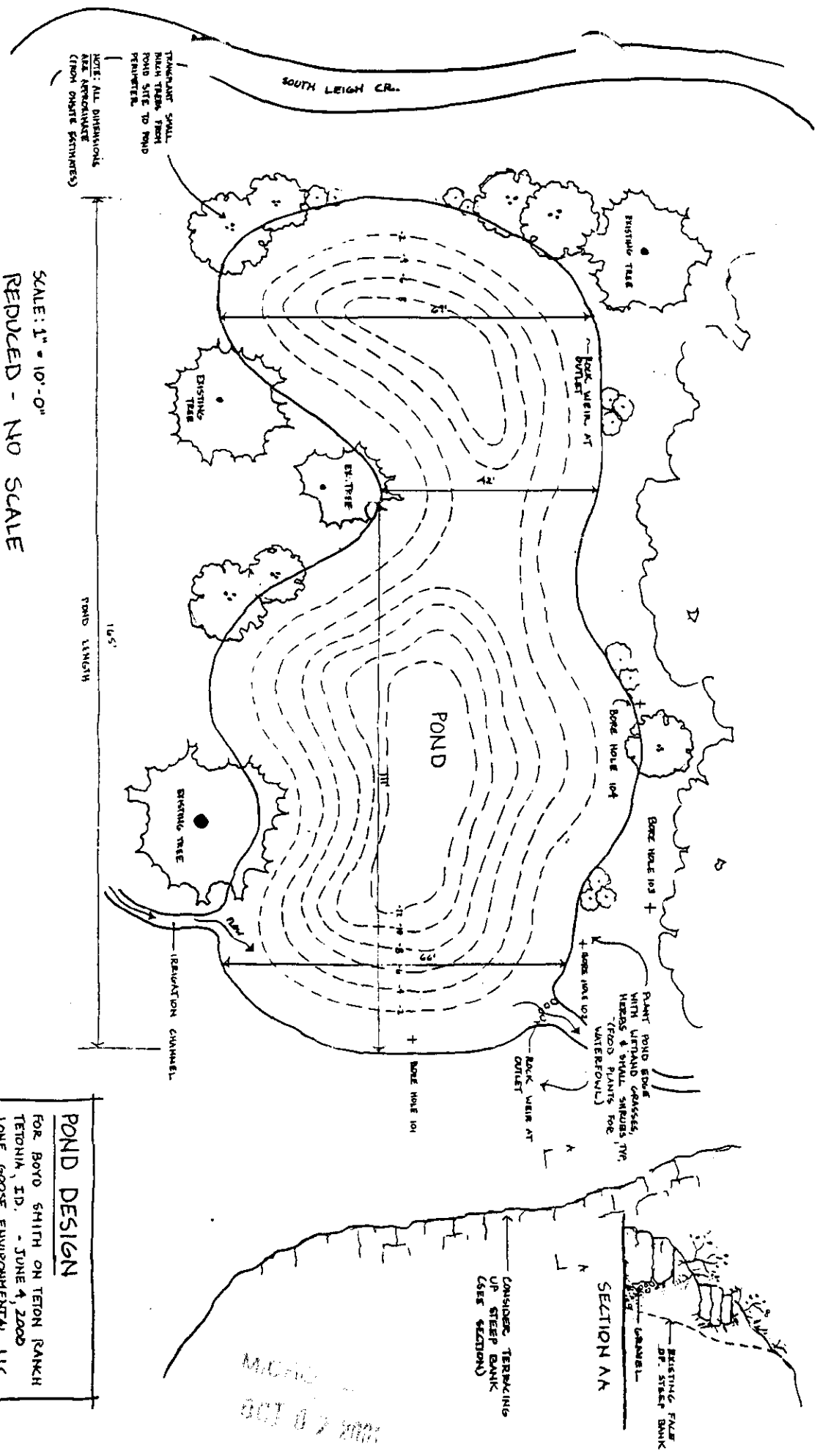
1. Proposed pond site. Area surrounding pond to be filled and regraded where flood damage has occurred. Existing elevation to be maintained.



2. Close-up of flood damage due to landclearing by previous owner of ranch.

MICRO...

SEP 02 1987



POND - AS PROPOSED - 1/30/2001

SCALE: 1" = 10'-0"
REDUCED - NO SCALE

* 165' x 66' = 1/4 acre Surface area

POND DESIGN
FOR BOYD SMITH ON TETON RANCH
TETONIA, ID. - JUNE 4, 2000
LOVE GOOSE ENVIRONMENTAL, LLC

MAILED
OCT 07 2001

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
ROBERT M. FOLLETT
FREDERICK J. HAHN, III
THEL W. CASPER
SHAN B. PERRY
AMELIA A. SHEETS

U.S. BANK BUILDING
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

March 13, 2001

RECEIVED
MAR 14 2001

Department of Water Resources
Eastern Region

Idaho Department of Water Resources
Attn: Mr. Harold W. Jones
900 North Skyline Drive
Idaho Falls, ID 83402

Re: Boyd C. Smith - South Leigh Pond

Dear Mr. Jones:

We are enclosing with this letter an Application for a Permit for storage in the small pond to be constructed on Mr. Smith's South Leigh Creek property. We have also enclosed our check in the amount of \$100.00 for the filing fee and will appreciate it if you will let us know what else we might do be of assistance and keep us posted on the developments in the matter.

Very truly yours,



Kent W. Foster

Enclosures

cc. Boyd Smith

G:\WPDATA\KWF\8527\bs0313.ltr.wpd

MICROFILMED
OCT 11 2001



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

July 3, 2002

KENT W FOSTER
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

PROOF ACKNOWLEDGEMENT LETTER

RE: PERMIT NO. 22-13159
Boyd C. & Jill J. Smith Trust

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form and examination fee submitted for the above referenced permit. Enclosed is an order reinstating the permit advancing the priority since proof was submitted after the proof due date.

I am returning the Request for Extension of Time you filed with the department. The request is unnecessary since you filed the proof. Either a proof or request is appropriate for reinstatement within the 60-day period after a Lapse Notice is issued. When the 60-day period is past, only a proof is appropriate for reinstatement. Therefore, with this letter I am requesting our Fiscal department to refund you the \$50.00 you paid.

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

The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water. The regional office staff will contact you when that examination is to be conducted. If you have questions concerning the field examination, please contact the **Eastern** Regional Office of the department in Idaho Falls at (208) 525-7161.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

MICROFILMED

Enclosure

c: IDWR - Region (w/encl.)
Fiscal (w/encl.)

JUL 9 2002

ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No.: 22-13159

Reviewed By: dgibson

Date: July 2, 2002

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Proof received timely?		X	Drilling permit required?		X
License examination fee required?	X		Drilling permit No.:		
Appropriate fee submitted?	X		Drilling permit upgrade needed?		
Receipt No.:		E026543, C062828	Well driller's report filed?		X
Additional Amount Due:			Measuring device required?		X
Name and address same as permit?	X		Measuring device installed?		
Are the water uses correct?	X		Measure device waiver requested?		

Priority Calculation

Date proof received		06/19/2002
Date proof due	-	06/01/2002
Lapse notice sent	-	
No. of days late	=	18
Holiday allowance	+	
Priority date	+	03/15/2001
New priority date	=	04/02/2001

Deficiencies of Actions Items

Acknowledge proof, reinstate permit and advance priority date to 4/2/2001. Return Request for Extension of Time and \$50.00 of the \$100 filing fee, since the request for extension is not necessary.

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
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Arthur W. Holden
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Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

RECEIVED
JUN 17 2002
Department of Water Resources

June 14, 2002

Mr. L. Glenn Saxton, Chief
Water Allocation Bureau
Idaho Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706

RE: Permit No. 22-13159/Lapse notice

Dear Mr. Saxton:

Enclosed with this letter is a completed Proof of Beneficial Use form with Mr. Boyd C. Smith's signature which was faxed to us on June 13. We have also enclosed our check in the amount of \$100.00, \$50.00 for the examination fee and the \$50.00 fee for the Request for Extension of Time. Finally, we have enclosed a Request for Extension of Time because of the delay.

Our office received the Proof Due Notice on the first day of April of this year and on that same date sent a Proof of Beneficial Use form and a copy of the letter to Mr. Smith at his California office requesting he review it, sign it and return it to us so that we could get it filed. Apparently about the time it arrived in California, the husband of his long time personal secretary passed away and in the ensuing confusion caused in his office by the absence of his secretary, the Proof of Beneficial Use form got buried and ignored.

The work has all been completed and is ready for the field examination when that is convenient.

MICROFILMED

JUN 19 2002

Mr. L. Glen Saxton

June 14, 2002

Page 2 of 2

Thank you for kind assistance in this matter.

Very truly yours,



Kent W. Foster

Enclosures

G:\WPDATA\KWF\8527 BOYD SMITH\CORRESPONDENCE\Glen Saxton ltr.61402.wpd:cdv

MICROFILMED

JUL 10 2002

June 5, 2002

BOYD C & JILL J SMITH TRUST
C/O HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS, ID 83405

LAPSE NOTICE

RE: PERMIT NO. 22-13159

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced permit has lapsed and is of no further force nor effect. The department provided the proper forms to you in the proof due notice dated March 31, 2002. No further construction or additional development is authorized under this permit unless it is reinstated.

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

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

Sincerely,

L. Glen Saxton, Chief
Water Allocation Bureau

Enclosures

CERTIFICATION OF MAILING
I hereby certify that on 6/5/02
a copy of this document was
deposited in the United States mail,
postage prepaid addressed to the
individual(s) named above.

MICROFILMED

JUN 10 2002

March 31, 2002

BOYD C & JILL J SMITH TRUST
C/O HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS, ID 83405

PROOF DUE NOTICE

RE: PERMIT NO. 22-13159

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 June 01, 2002. (See last page of your approval 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.

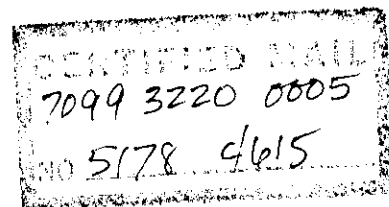
If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental 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,

Deborah J. Gibson, Admin. Assistant
Water Allocation Bureau

Enclosures



MICROFILMED

JUL 10 2002



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

June 6, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

BOYD C & JILL J SMITH TRUST
C/O HOLDEN KIDWELL
HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

RE: Permit No. 22-13159

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.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

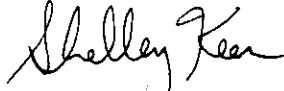
Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed a least sixty days prior to the commencement of work in the stream.

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.

MICROFILMED
OCT 02 2001

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

Sincerely,

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

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

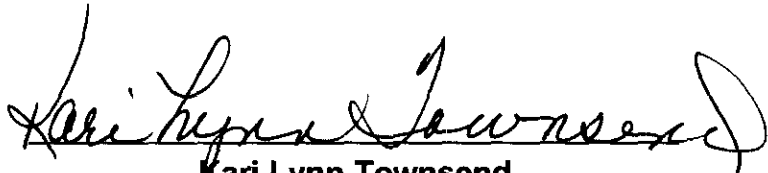
MICROFILM
OCT 3 2 2005

CERTIFICATE OF MAILING

I hereby certify that on June 6, 2001 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 22-13159

**BOYD C & JILL J SMITH TRUST
C/O HOLDEN KIDWELL
HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405**

A handwritten signature in cursive script, reading "Kari Lynn Townsend".

**Kari Lynn Townsend
Secretary**

MAILED
JUN 9 2 2001

**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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APPLICATION FOR PERMIT
STATE OFFICE ANALYSIS

Reviewed by Sharla Curtis on 5/30/01

No. 22-13159 Name: Smith Trust Corp. Officers N/A (trustee) Ad ok ☒ Govt Lots _____

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

non-cons.

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) N/A

USES:

STORAGE - 18A-01H-01P-18B-NA
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)
> 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)
STOCKWATER - R37 (BLM/FS)
MINING - 054-106
FISH PROP - 029 (70's only)-007-042-106
HEAT/COOL - R07 (injection well)
FIRE PROT - 077
COMMERCIAL/
INDUSTRIAL - 106-R07
DAIRY - 082-WD8

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(P01), 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) - W22, N/A
(02,03) - 007 (w/ remark WB9 if above Weiser)
PAYETTE R (65) - W22, 047 (Payette Lake)
SALMON R (70's) - 029 (fish screens)
WEISER R (67) - 086-087

USES:

POWER - 17H or 17K (+uses)-17G (not under FERC)
or 17M (FERC regulated >25 cfs or 500hp)
08A-025-027-01N-106-W13 (if dewatering stream)

MUNICIPAL

Restricted area - 022,075

Irr., GW supp to SW - 102

DOMESTIC

Surface water - WB5 (Big Wood or Boise above Star Bridge)
27A (Payette R)

>1 in restricted area - 070-071-075 (no parks/common areas, etc)

Irr use listed separate

or none allowed - WB5

Moratorium approvable - W03 (2500 gpd - meets domestic definition
i.e. D/convenience store)

BENEFICIAL USE DUE: 6/1/01 12002

MISC CONDITIONS/REMARKS:

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

Multiple pd's per 1/4 - W32
Subd lot desc (pd) - W59
Subd lot desc (pu) - W60
Use definitions - W02 example - S/50 range
Pre-1987 development - 068-074 (allow 120 days for proof due)
Single pd intended - 076

IRRIGATION SEASON _____ (Per updated map)

IRR VOLUME/ACRE _____

OTHER CONDITIONS/REMARKS

Leath storage for a pond

COMMENTS

Special cond from region

Dist for Staffing _____
Submitted for advertising 3-15-01

Boyd Smith

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT ANALYSIS PERMIT

INITIAL REVIEW BY HWS DATE 3-14-01 APPLICATION NO. 22-13159
68961

REQUIRED INFORMATION:

- ☒ Name (if applicant is a corporation or partnership, names must be provided for the director, officers, & other partners.)
☒ Address
☒ Source (See USGS Quad for names of water sources)
☒ Point of Diversion (10 acres for spring, lot & block descriptions for subdivision, local name, flow and/or volume)
☒ County
☒ Quantity (flow and/or volume)
☒ Period of Use
☒ Nature of proposed use (Include description of use.)
☒ Description of diverting works
☒ Time required for beneficial use of water
☒ Place of use or acres irrigated
☒ Map
☒ Signature (If applicant is corp., partnership, or municipality, title of signatory is required)
☒ Fee
☒ Yes _____ No* In form to receipt

ADDITIONAL INFORMATION:

- _____ Overlapping place of use (Describe source & relationship to present application on the back)
_____ Overlapping point of diversion
_____ Yes _____ No Critical groundwater area
_____ Yes _____ No Groundwater management area
_____ Yes _____ No Send dam safety information
_____ Yes _____ No Send fish farm requirement letter
_____ Yes _____ No Power residency affidavit
_____ Yes _____ No Within trustwater boundary (If yes, attach trust water supplementary analysis sheet)
_____ Yes _____ No Public Water System
_____ Yes _____ No Planning section review
_____ Yes _____ No Moratorium Hold file
_____ See reverse side for additional information

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT

_____ Date Requested _____

PROCESSING:

- ☒ Yes _____ No In form for advertising
☒ Yes _____ No Statewide advertising
☒ Yes _____ No Fee amount, receipt date & No. recorded on application

SEND COPIES TO:

- _____ Id Dept of Health & Welfare _____ U.S. BLM
_____ Id Dept of Fish & Game _____ U.S. Forest Service
_____ Id Dept of Lands _____ Water District
_____ Adjudication Bureau Unit _____ Other _____

FINAL REGIONAL PROCESSING REVIEW:

☒ Yes	☐ No	Affidavit of publication received
☒ Yes	☐ No	Application published correctly. If not, record action taken
☒ Yes	☐ No	Publication dates & paper, recorded on application
☐ Yes	☒ No	Protests received
☐ Yes	☐ No	Final date for protest
☐ Yes	☐ No	Protests, dates, resolution of protest, recorded on application
☐ Yes	☐ No	Recommendations attached
☐ Yes	☐ No	Measuring device required
☐ Yes	☐ No	Access port required
☐ Yes	☐ No	Will water be delivered by watermaster? If yes, what District
☒ Yes	☐ No	Special conditions of approval or cover letter below.

Date of priority recommended

3-14-01

By: Stuf

Date:

5-23-01

STATE OFFICE REVIEW:

By:

Date:

ADDITIONAL INFORMATION:

LOCAL PUBLIC INTEREST:

Comments received from:

☐ City	☐ Id Fish & Game	☐ Irrigation District
☐ County	☐ Id Health & Welfare	☐ Canal Company
☐ Reservations	☐ Div. Of Environment	☐ Other

Project impacts/implications report

COMMENTS

CONDITIONS - Applicants cannot demand water or prevent Kilpack Ditch from improvements in flow system that eliminates waste water supplying Permit 22-13159

This water flows thru property ordinarily. Applicant wants to reclaim eroded area caused by predecessor. Water sinks as a matter of course. Stuf

AFFIDAVIT OF PUBLICATION

State of Idaho)
)ss
County of Teton)

I, Judy Lou Davis, being first duly sworn, depose and say that I am the Office Manager of the Teton Valley News, a newspaper as defined by Idaho Codes Annotated, Section 58-106, as amended, and that said newspaper is a weekly newspaper printed and published at Driggs, in Teton County, Idaho, having a general circulation in said county, and that said newspaper has been printed in said county for more than 78 consecutive weeks prior to the first publication of the attached notice, advertisement, or publication of Notice of Application for Water Right.

And affiant further says that said attached notice, advertisement, or publication, as per clipping attached, was published in said newspaper, in the regular and entire issue thereof, and not in any supplement issue thereof, for 2 consecutive issues thereof; first publication having been made on the 5th day of April, 2001. And affiant further says that at the times herein mentioned said newspaper was made up of at least eight pages of at least five columns each, printed from typed matter, of at least sixteen inches deep.

Judy Lou Davis
Signature

State of Idaho)
)
County of Teton)

On this 4 day of May, 2001, before me, a Notary Public, personally appeared JUDY LOU DAVIS known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements there-in are true, and acknowledged to me that he/she executed the same.

Caren R. Nye
Notary Public for Idaho
Residing at Driggs Idaho
My commission expires 03/20/06

CAREN R. NYE
Notary Public
State of Idaho

RECEIVED

MAY 08 2001

Department of Water Resources
Eastern Region

NOTICE OF APPLICATION
FOR WATER RIGHT

The following application(s) have been filed to appropriate the public waters of the State of Idaho: 22-13159.

BOYD SMITH
JILL J. SMITH
P.O. BOX 50130
IDAHO FALLS, ID 83405
Points(s) of Diversion NWSNWS32
T06N R46E, TETON County
Source WASTE WATER
Use: AESTHETIC, 01/01 to 12/31,
0.2 CFS, 1 AFA

Total Diversion: 0.2 CFS

Date Filed: 03/15/2001

T06N R46E S32 SENW

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Eastern Region, 900 N Skyline Dr. Ste. A, Idaho Falls, ID 83402 together with a protest fee of \$25.00 for each application on or before April 23, 2001. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director

Published in the Teton Valley News on
April 5 & 19, 2001.

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OCT 02 2001



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

March 20, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Boyd or Jill J Smith
PO Box 50130
Idaho Falls ID 83405

RE: Applications for Permit #22-13159

Dear Applicant:

This office is currently in the process of advertising the application in the Teton Valley News on April 5 and 12, 2001. The advertisement will be published once a week for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

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

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

Sincerely,


Harold W. Jones
Water Right Supervisor

HWJ::sc

MICRO. J.M.L.L.

SEP 2 2001



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

March 28, 2001

Legal Notice Department
Teton Valley News
PO Box 509
Driggs ID 83422

RE: Application for Permit No. 22-13159

Dear LEGAL NOTICE DEPARTMENT:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before April 23, 2001. Your cooperation is appreciated.

Sincerely

Sharla Cox
Administrative Assistant



MICRO FILM

APR 3 7 2001

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

22-13159

BOYD SMITH

JILL J SMITH

P O BOX 50130

IDAHO FALLS ID 83405

Point(s) of Diversion NWSNW S32 T06N R46E, TETON County

Source WASTE WATER

Use: AESTHETIC

01/01 To 12/31

0.2 CFS 1 AFA

Total Diversion:

0.2 CFS

Date Filed: 03/15/2001

Place Of Use: AESTHETIC

T06N R46E S32

SENW

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before April 23, 2001. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on April 5 and 12, 2001

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