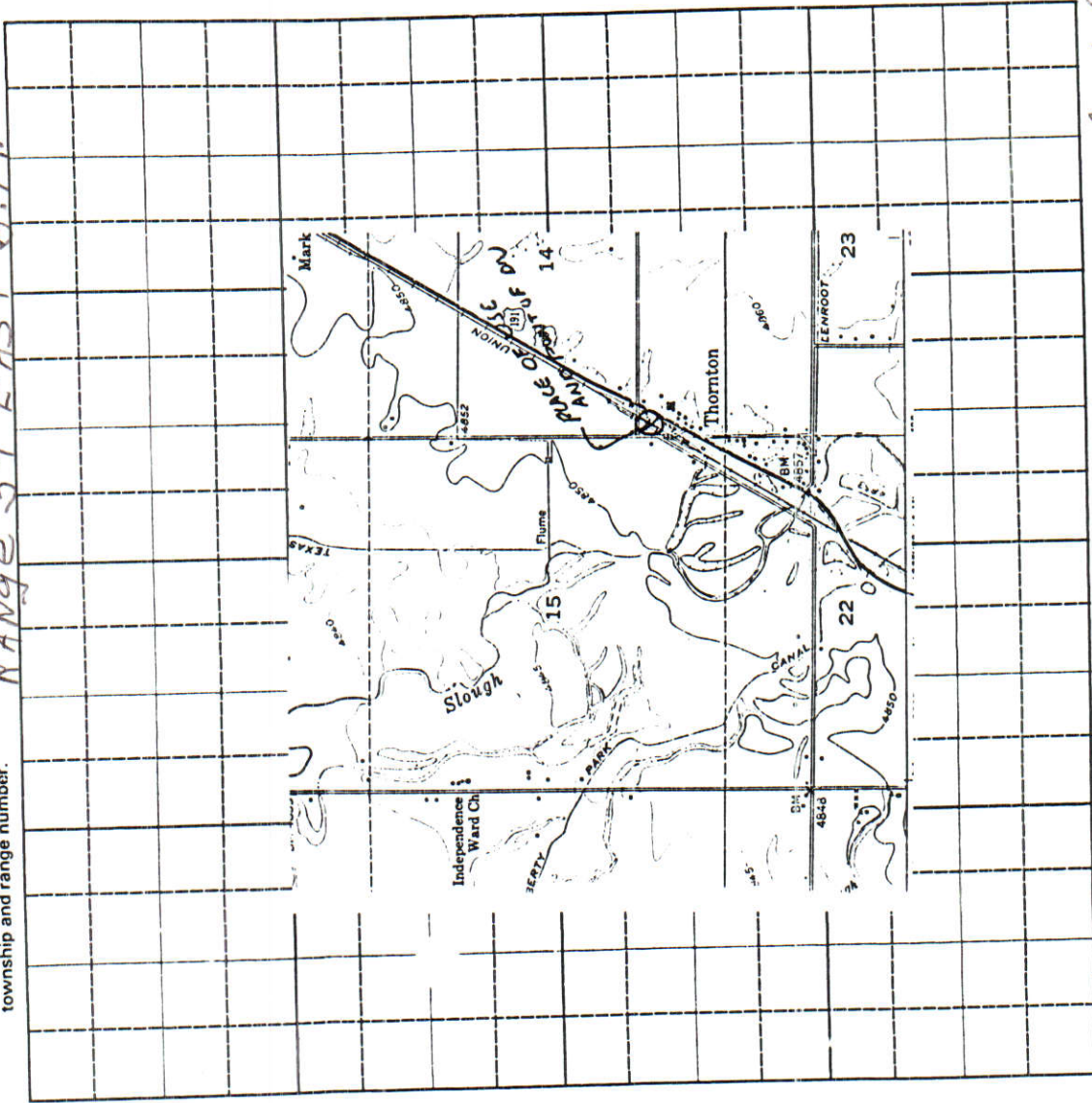


SW 1/4 of SW 1/4 Section 14 Township 5 North  
 13. Map of proposed project show clearly the proposed point of diversion, place of use, section number,  
 township and range number. RANGE 39 EAST B.M.

MADISON  
 Co.



Scale: 2 inches equal 1 mile.

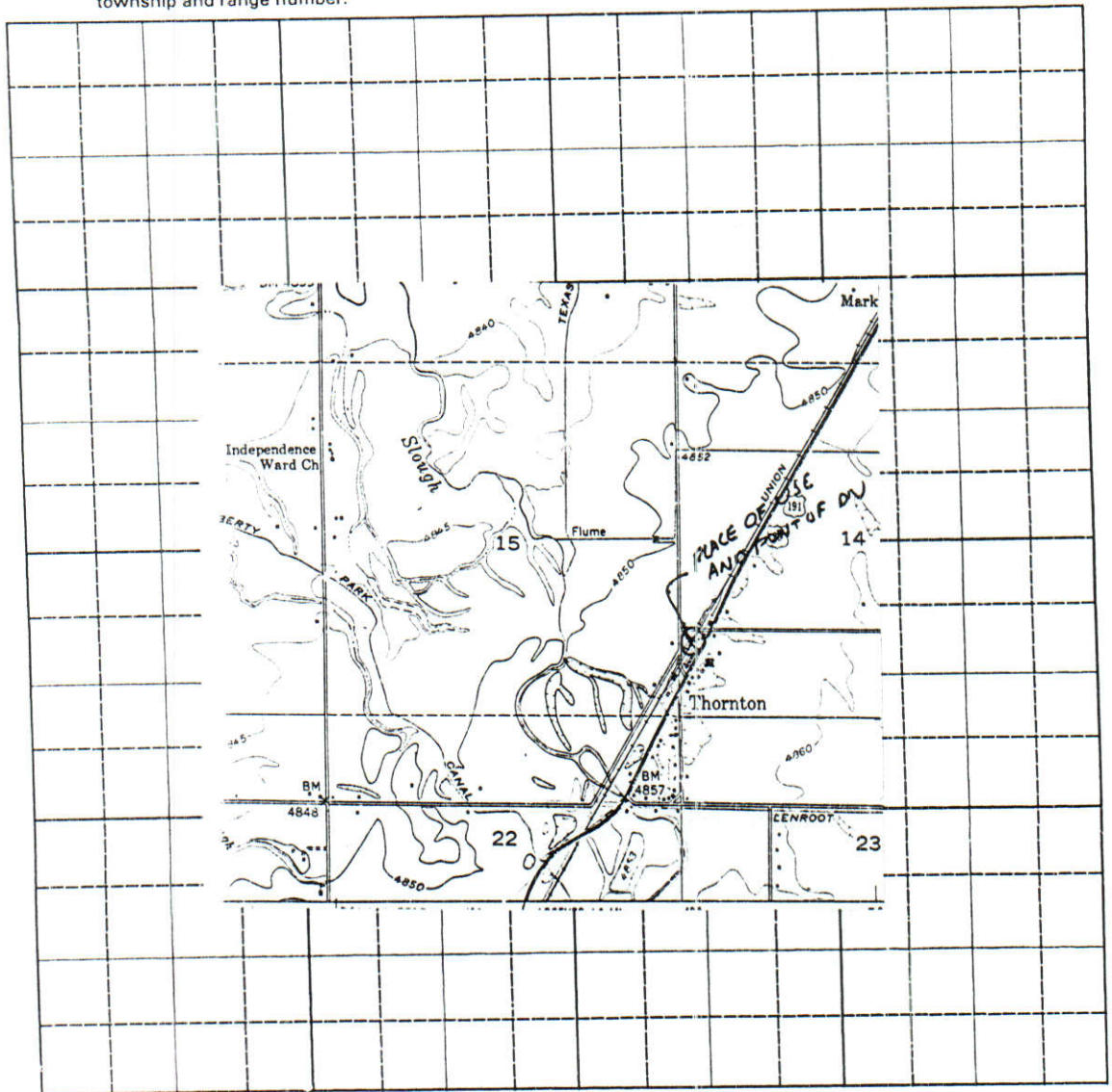
BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Bench Mark Potato Co.

*[Signature]* Lee H. Sutton  
 (Applicant)  
*[Signature]* by V. Pres.

MICROFILMED  
 FEB 24 1997

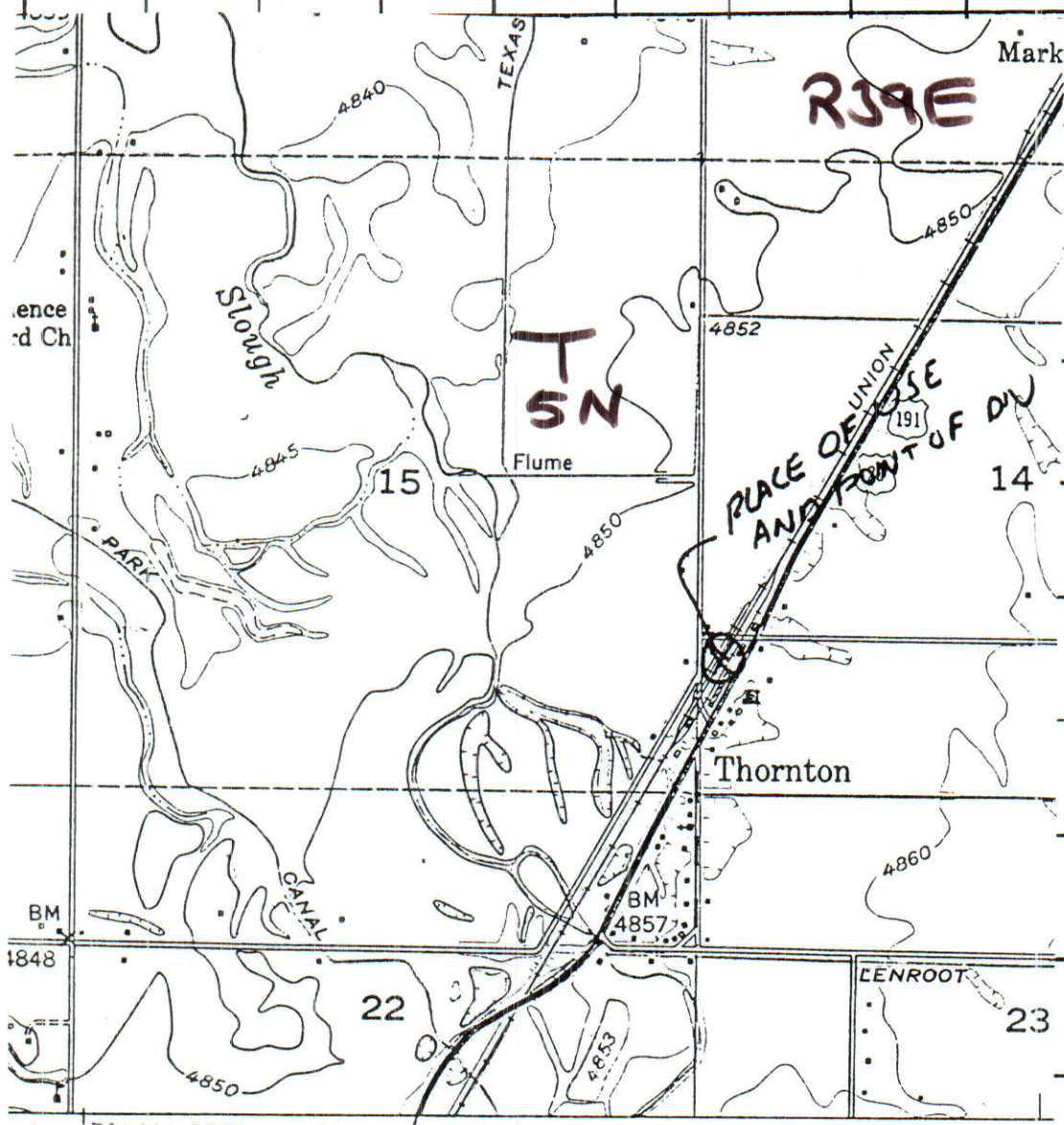
13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



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.

*Allen Arnold*  
 (Applicant)  
 PART OWNER



REPROFILMED  
FEB 24 1957



Original well system in Basement  
of Plant



New well in front of plant

22-07534

MICROFILMED  
FEB 24 1997

22-



Main office + plant



Plant site

MICROFILMED  
FEB 24 1997

22-07534

State of Idaho  
Department of Water Resources

# WATER RIGHT LICENSE

WATER RIGHT NO. 22-07534

Priority: October 28, 1996

Maximum Diversion Rate:

0.16 CFS

Maximum Diversion Volume:

3.4 AF

This is to certify, that BENCH MARK POTATO CO

4799 S HWY 191

REXBURG ID 83440

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated February 29, 1988; and has submitted Proof of Beneficial Use on October 28, 1996. An examination indicates that the works have a diversion capacity of 0.160 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>RATE OF DIVERSION</u> | <u>ANNUAL VOLUME</u> |
|-----------------------|----------------------|--------------------------|----------------------|
| COMMERCIAL            | 01/01 to 12/31       | 0.16 CFS                 | 3.4 AF               |

LOCATION OF POINT(S) OF DIVERSION:

SWSW , Sec. 14, Township 05N, Range 39E  
MADISON County

PLACE OF USE: COMMERCIAL

TWN RGE SEC

05N 39E 14

SWSW

## CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Commercial use is for a potato packing plant.
6. Two points of diversion located in SWSW, S14, T5N, R39E.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 16<sup>TH</sup> day of MAY, 1997.

MICROFILMED

MAY 20 1997

Acting for

  
KARL J. DREHER, Director

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**AMENDMENT OF PERMIT**  
PERMIT NO. 22-07534

This is to certify, that

BENCH MARK POTATO CO  
4799 S HWY 191  
REXBURG ID 83440

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-211, Idaho Code. The approved amendment of permit is described as follows:

SOURCE

GROUNDWATER

Priority: 10/28/1996

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

COMMERCIAL

01/01 to 12/31

0.20 CFS

LOCATION OF POINT(S) OF DIVERSION:

SWSW , Sec. 14, Township 05N, Range 39E  
MADISON County

PLACE OF USE: COMMERCIAL

TWN RGE SEC

05N 39E 14

SWSW

CONDITIONS OF APPROVAL AND REMARKS

1. The issuance of this right does not grant any right-of-way or easement across the land of another.
2. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
3. Commercial use is for a potato packing plant.
4. Two points of diversion located in SWSW, S14, T5N, R39E.

Witness my hand this 7<sup>th</sup> day of

February, 1997.  
J. Glen Saxon  
Chief, Water Alloc. Bureau

MICROFILMED

FEB 24 1997

RECEIVED

OCT 28 1996

Receipt No. 4064250  
Received By CC  
Date 10-28-96

Department of Water Resources

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

## APPLICATION FOR AMENDMENT OF A PERMIT

Applicant Bench Mark Potato Co Phone 208-356-9295  
Address 4799 S Hwy 191 Rexburg, Idaho 83440I am the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 22-07534 and request that the permit and permit map be amended and/or changed as follows:Purpose of Amendment: Change point of diversion ☒ Add point of diversion  
Change place of use Change nature of use Change period of use Other1. Point of diversion: 1/4 SW 1/4 SW 1/4, Section 14, Township 5 North, Range 39 East T.M.,  
County of MADISON. Other points of diversion We wish to drill a new well  
50' from the old well which was drilled in the 40's and keep the old well as a2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.) BACK UP TO ensure constant  
water supply.Amount 0.20 for COMMERCIAL purposes from 1-1 to 12-31 (both dates inclusive)  
(cfs or acre feet per annum) (water use) (Begin month) (End month)Amount            for            purposes from            to            (both dates inclusive)  
(cfs or acre feet per annum) (water use) (Begin month) (End month)Amount            for            purposes from            to            (both dates inclusive)  
(cfs or acre feet per annum) (water use) (Begin month) (End month)

3. Place of use or land to be irrigated:

| T<br>w<br>p | R<br>g<br>e | S<br>e<br>c | NE 1/4 |    |    |    | NW 1/4 |    |    |    | SW 1/4 |    |    |    | SE 1/4 |    |    |    | TOTALS |
|-------------|-------------|-------------|--------|----|----|----|--------|----|----|----|--------|----|----|----|--------|----|----|----|--------|
|             |             |             | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE |        |
|             |             |             |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|             |             |             |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|             |             |             |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|             |             |             |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|             |             |             |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|             |             |             |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|             |             |             |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |

Total number of acres to be irrigated =           4. a. Who owns the property at the point of diversion? UNION PACIFIC RAILROADb. Who owns the land to be irrigated at the place of use? 11c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Property is leased from Union Pacific  
Rail Road. Bench Mark Potato Co. has a potato warehouse  
we use the well and water to wash potatoes which are  
then packaged and sold.

MICROFILMED

FEB 24 1997

Show 1/4 1/4, section, township, range and ditches. (the smallest subdivision represents 40 acres)

[illegible]

I hereby request approval of this change subject to the fact that no one will be injured by the change, and that the change will be made at my own risk.

Signed this 24 day of October, 19 96.

Bench MARK Potatoes Co.  
By Lee H. Sutton V. Pres.  
Permit Holder

Preliminary check by \_\_\_\_\_ Publication prepared by \_\_\_\_\_ Date \_\_\_\_\_

| Published in                    | Publication dates |
|---------------------------------|-------------------|
| Journal of Management Education | 2000-2001         |
| Journal of Management Education | 2002-2003         |
| Journal of Management Education | 2004-2005         |
| Journal of Management Education | 2006-2007         |
| Journal of Management Education | 2008-2009         |
| Journal of Management Education | 2010-2011         |
| Journal of Management Education | 2012-2013         |
| Journal of Management Education | 2014-2015         |
| Journal of Management Education | 2016-2017         |
| Journal of Management Education | 2018-2019         |
| Journal of Management Education | 2020-2021         |
| Journal of Management Education | 2022-2023         |
| Journal of Management Education | 2024-2025         |

I, \_\_\_\_\_, of the Department of Water Resources hereby

**MICROFILMED**

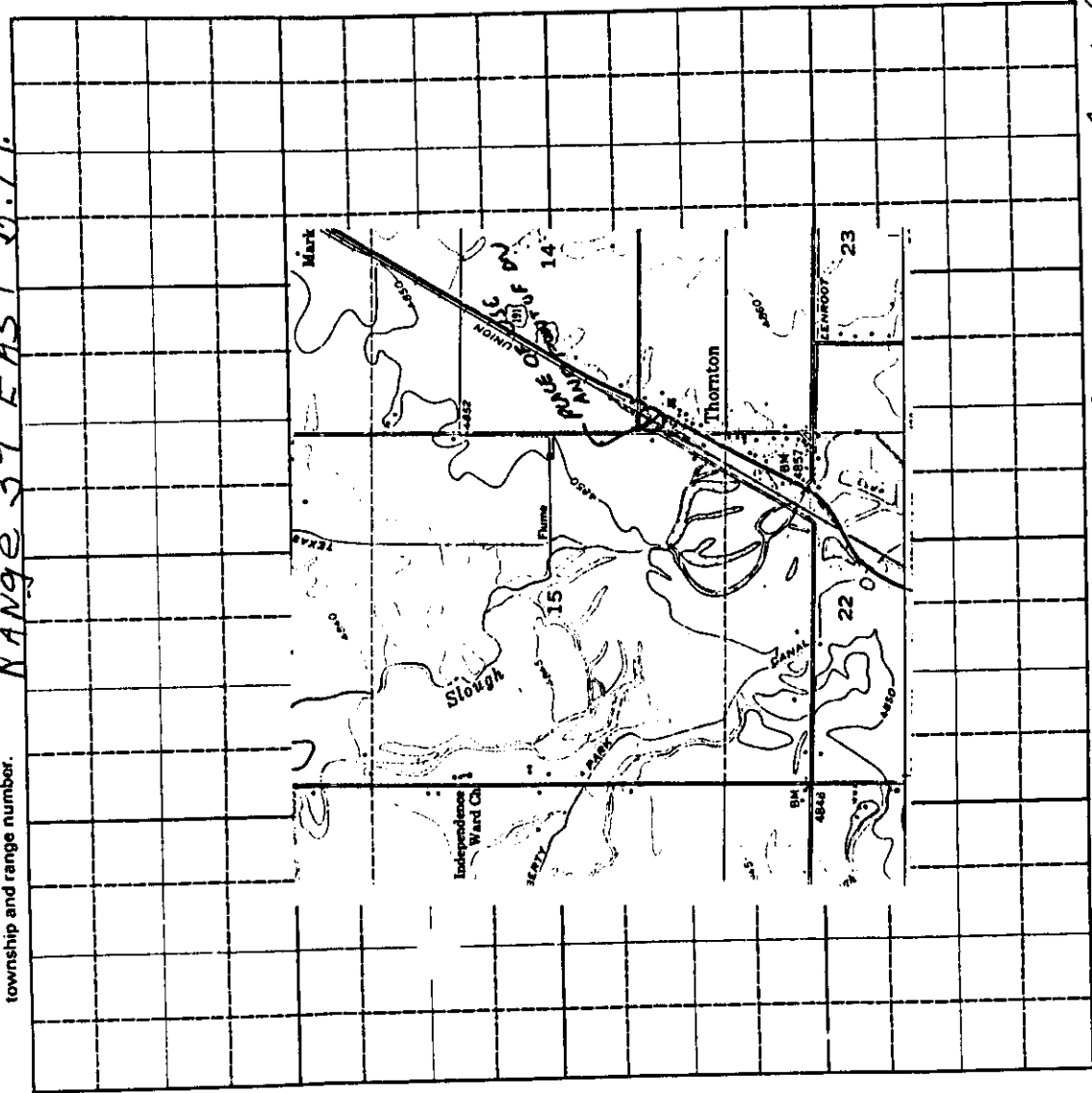
FEB 24 1997

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

**SIGNATURE**

SW 1/4 of SW 1/4 Section 14 Township 5 North  
 Range 39 East 6. M.

13. Map or 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.

Bench Mark Potato Co.

*[Signature]* Lee H. Sutton  
 (Applicant)  
*[Signature]* V. Prosser

MADISON Co.

MICROFILMED  
 FEB 24 1977

IN THE MATTER OF PERMIT NO. 22-07534 )  
 )  
IN THE NAME OF BENCH-MARK POTATO CO. ) **ORDER OF**  
 ) **REINSTATEMENT**  
 )

FEB 24 1997

since the 1940's and was in operation during the authorized development period of the permit. The permit holder further explained that a former stock holder in the company filed the application for permit in 1988, and for unknown reasons, never followed through with the proof due process.

#### CONCLUSIONS OF LAW

1. The permit holder has submitted proof of beneficial use along with supporting evidence which establishes that water was in fact beneficially used within the authorized development period.

2. The permit holder has shown sufficient cause why the proof of beneficial use was not submitted in a timely manner.

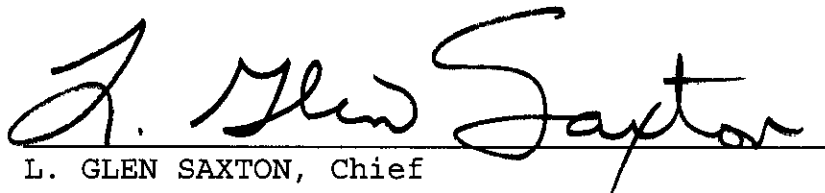
3. The department should reinstate the permit with the date of priority advanced to the date proof of beneficial use and supporting information was received by the Department.

#### ORDER

IT IS HEREBY ORDERED that Permit No. 22-07534 is **REINSTATED**.

IT IS FURTHER ORDERED that the priority date is advanced to October 28, 1996.

Dated this 4<sup>th</sup> day of December, 1996.

  
L. GLEN SAXTON, Chief  
Water Allocation Bureau

RECEIVED

OCT 28 1996

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

Department of Water Resources

PROOF OF BENEFICIAL USE

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

1. Permit No. 22-07534 Telephone No. 208-356-9295
2. Name(s) of Permit Holder(s): BENCH MARK POTATO CO.
3. Mailing Address: 4799 S. Hwy 191 Rexburg Idaho 83440
4. Source of Water: Well If GROUNDWATER (well), Date Drilled: mo. APR yr. 1992
- a. Well Driller: NOT KNOWN Drilling Permit Number: - - -
- b. OPTIONAL:  
Pump Horsepower: 2 hp. Pressure (psi): 50 Dynamic pumping level (ft): 30'
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: COMMERCIAL

6. Total rate of diversion and/or volume for which proof is submitted: .20 cfs OR                      acre feet

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)  
(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required? Yes            or No X  
Has the measuring device been installed? Yes            or No X  
Flow Measurement Port: Is a flow measurement port required? Yes            or No X  
Has the measurement port 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: LEE H. SUTTON Telephone Number: 208-356-9295  
208-390-7490  
Address: 1577 E 10,000 So. Rexburg Ida  
83440

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

Signature of permit holder: Bench Mark Potato Co., FEB 24 1997  
By Lee H. Sutton V. P. Date: 10-16-96  
(include your title, if on behalf of company or organization)

# NOTICE

This file has been REPRODUCED  
from MICROFICHE ~~because~~:

For Reinstatement

---

---

Douglas J. Block  
Person Recreating File

OCT. 31, 1996  
Date

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho **APPROVED**

1. Name of applicant Bench-Mark Potato Company Phone 356-6416  
Post office address 3047 South 2000 West, Rexburg, Idaho 83440
2. Source of water supply Groundwater which is a tributary of \_\_\_\_\_
3. Location of point of diversion is \_\_\_\_\_  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of SW  $\frac{1}{4}$ , Govt. Lot \_\_\_\_\_  
Sec. 14 Township 5North Range 30 East B.M. Madison County; additional  
points of diversion if any: \_\_\_\_\_
4. Water will be used for the following purposes:  
Amount 0.20 for Commercial purposes from 1 - 1 to 12 - 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 is (a) 0.20 and/or (b) \_\_\_\_\_  
cubic feet per second acre feet per annum
6. Proposed diverting works:
  - a. Description of ditches, flumes, pumps, headgates, etc. Well with pump to washing system in potato cellar.
  - 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.  
Existing
  - c. ~~Proposed~~ well diameter is 8 inches; proposed depth of well is 90 feet.
  - d. Is ground water with a temperature of greater than 90°F being sought? \_\_\_\_\_
7. Time required for the completion of the works and application of the water to the proposed beneficial use is 2 years (minimum 1 year).

- 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. Commercial use in a potato packing plant

- 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.

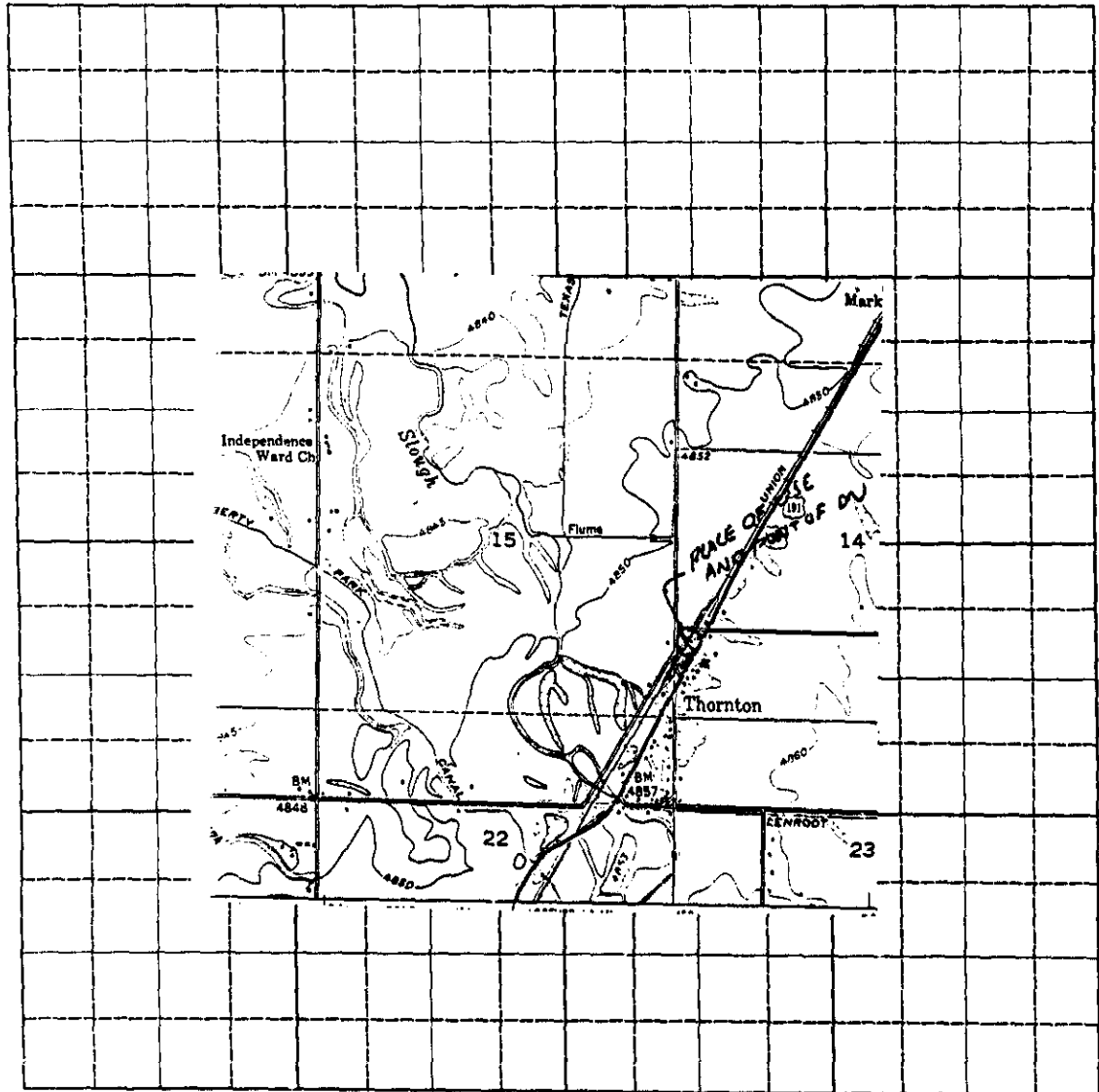
[illegible]

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? Union Pacific Railroad Co.  
 b. Who owns the land to be irrigated or place of use? " " " "  
 c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. Lease Agreement is attached.

12. Remarks: Well was drilled in the 1930's

13. 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.

*Alvin Arnold*  
(Applicant)  
*PART OWNER*

2/29/88  
Received by dag Date 2-29-88 Time 1:00pm Preliminary check by \_\_\_\_\_  
Fee \$ 30<sup>00</sup> Received by dag # 46470 Date 3-10-88  
Publication prepared by dag Date 3-30-88 Published in Standard Journal  
Publication approved UW Date 5-2-88

**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. 22-7534, 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 June 1, 19 89.

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

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

e. Other:

The issuance of this permit in no way grants any right-of-way or easement across the land of another.

Witness my hand this 16<sup>th</sup> day of May, 1988.

R. V. [Signature]  
Director



## 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

May 19, 1997

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

BENCH MARK POTATO CO  
4799 S HWY 191  
REXBURG ID 83440

RE: WATER RIGHT NO. 22-07534

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed license confirming that a water right has been established in accordance with the permit referenced above. The license 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 unless a party petitions for reconsideration or files an exception and/or brief 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 twenty-one (21) 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. Otherwise, this preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

RECEIVED

MAY 21 1997

### ORAL ARGUMENT

If the Department grants a petition to review the preliminary order, the Department 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 Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department 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 Department in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

### FINAL ORDER

The Department 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 Department 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.

MICROFILMED

MAY 20 1997

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.

Sincerely,

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

Shelley W. Keen  
Water Rights Supervisor

SK:ph

Enclosure

MICROFILMED

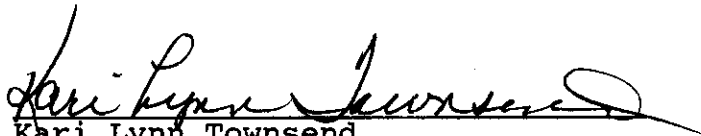
MAY 20 1997

CERTIFICATE OF MAILING

I hereby certify that on the 19th day of May, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

Water Right No. 22-07534

BENCH MARK POTATO CO  
4799 S HWY 191  
REXBURG ID 83440

  
Kari Lynn Townsend  
Secretary

MICROFILMED

MAY 20 1997

## MEMORANDUM

**TO: File 22-07534**

**FROM: Sharla Curtis**

**DATE: May 12, 1997**

**RE: Recommendation Adjustment(s)**

The final license recommendations for Permit No. 22-07534 are based on the following:

### H. RECOMMENDATIONS

|            |             |          |         |
|------------|-------------|----------|---------|
| Commercial | 1/1 - 12/31 | 0.16 cfs | 3.4 afa |
|------------|-------------|----------|---------|

The examiner indicates there are two wells used. The original well appears to be filed under SRBA Claim No. A22-10749, however, there is no reason not to include both wells on this license. The rate of diversion reflects both wells and a remark will be added to show two points of diversion within the SWSW, S14.

Examiner: H. W. Jones  
Exam Date: January 24, 1997

MICROFILMED

MAY 20 1997

# LICENSE REVIEW CHECKLIST

PERMIT NO. 23-07534

DATE 5/6/97

REVIEWER: SHARLA

NAME Change OK

Address Change NO

SOURCE Change OK

Is change/clarification of originally intended source? NO

POINT OF DIV Change OK

If not, prepare Notice of Intent to Void NO  
Amendment required NO

PLACE OF USE Change OK

Amendment required NO

Does map agree with written description? yes no

OVERLAPS P/D P/U

## RATE OF DIV

Permitted Rate .20 cfs

Fee limit .20 ~~1.0~~ cfs \$50<sup>00</sup>

Measured — cfs

Theoretical .09 cfs new well .07 old well

Recommended Total Div Rate .16 cfs

ANNUAL VOLUME/  
NATURE OF USES — ✓

Use

Comm.

Volume Calculation

3.4 af

— af

— af

— af

SUBTOTAL 3.4 af

5000 gpd x (5 x 44 wks/yr)  
= 1,100,000 gal.

Flow rate .16 cfs X 220 days X 1.9824 = 69.70.0 af

Total volume recommended 3.4 af

(SUBTOTAL or Flow Rate, whichever is less)

REMARKS

2 pld in SWSW, S14.

CONDITIONS Watermaster Control WD#

GW Measurement/Measuring Device

Overlap

Use-specific conditions

Advancement of Priority Date Required yes no

SRBA Claim Filed N/A

1st Amend Letter N/A

Adjustment Memo rate 2nd well

2nd Amend Letter N/A





**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

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

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

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

February 11, 1997

BENCH MARK POTATO CO.  
4799 S HWY 191  
REXBURG ID 83440

RE: Permit No. 22-07534

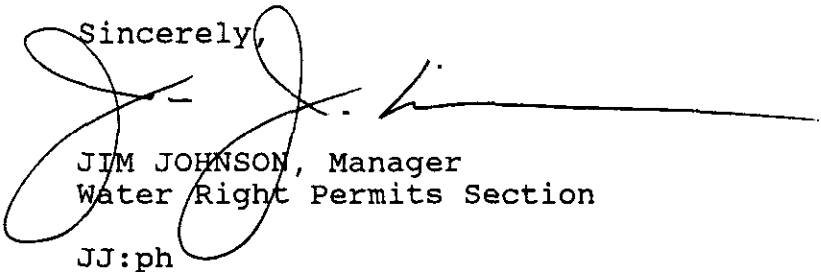
Dear Water Right Holder(s):

Enclosed is a copy of your Amendment of Permit No. 22-07534 which adds another well. If you have any questions concerning this document, please contact me at (208) 327-7946.

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

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

Sincerely,



JIM JOHNSON, Manager  
Water Right Permits Section

JJ:ph

Enclosure

MICROFILMED

FEB 24 1997

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**BENEFICIAL USE FIELD REPORT**

RECEIVED

FEB 06 1997

Department of Water Resources

**A. GENERAL INFORMATION**

Permit No. 22-07534

1. Owner: BENCH-MARK POTATO COMP Phone No. (208) 356-9295

Current Address: 4799 S. Hwy 191 Rexburg ID

2. Accompanied by: Kent Sutton EXAM DATE: 1-24-1997

Address: Same as above Phone No. \_\_\_\_\_

Relationship to Permit Holder: owner- Partner

3. Source: Groundwater tributary to \_\_\_\_\_

**B. OVERLAP REVIEW**

1. Other water rights with the same place of use: A22-10749

2. Other water rights with the same point of diversion: \_\_\_\_\_

**C. DIVERSION AND DELIVERY SYSTEM**

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

| Ident No. | Gov't Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County  | Method of Determination/Remarks |
|-----------|-----------|-----|-----|-----|------|------|------|---------|---------------------------------|
|           |           |     | SW  | SW  | 14   | 5N   | 39E  | Madison |                                 |
|           |           |     |     |     |      |      |      |         |                                 |
|           |           |     |     |     |      |      |      |         |                                 |
|           |           |     |     |     |      |      |      |         |                                 |

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

Indicate Method of Determination

| TWP | RGE | SEC | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 5N  | 39E | 14  |    |    |    |    |    |    |    |    |    |    | C  |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |

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3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable.

Scale: 1" = \_\_\_\_\_

\_\_\_\_\_ Copy of USGS 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)

\_\_\_\_\_ Photo of Diversion and System Attached

4.

| Well or Diversion Identification No.* | Motor Make | Hp | Motor Serial No. | Pump Make | Pump Serial No. or Discharge Size |
|---------------------------------------|------------|----|------------------|-----------|-----------------------------------|
|                                       |            |    |                  |           |                                   |
| NEW                                   |            | 3  |                  |           |                                   |
|                                       |            |    |                  |           |                                   |

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

#### D. FLOW MEASUREMENTS

1.

| Measurement Equipment | Type | Make | Model No. | Serial No. | Size | Calib. Date |
|-----------------------|------|------|-----------|------------|------|-------------|
|                       |      |      |           |            |      |             |
|                       |      |      |           |            |      |             |

2. Measurements: \_\_\_\_\_

\_\_\_\_\_

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E. NARRATIVE/REMARKS/COMMENTS

Original well + pump (2hp @ 90') and 3 pressure tanks in place to potato wash + Flume line + then to 1000 gallon recirculation tank. Original well in basement.

The new well is in place outside of plant south of the office. This has a 3hp motor with a 118' deep well.

The plant runs a single 8hr shift, 5 days a week for 10 months of the year. The 1000 gallon recirculation tank receives all of the days water + is emptied several times a day. Use maximum of 5000 gallons per day in of computation as per Kent Sutton.

PARTNERS: Kent Sutton  
Lee Sutton  
Lee Miller  
Layne Arnold  
Todd Smith

\* It appears that the amendment to add a second well is unnecessary as the original well falls under claim A22-10749 and this permit accounts for the new well in front of the office.

Thy

Have conditions of permit approval been met? ☒ yes ☐ no

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## F. FLOW CALCULATIONS

Additional Computation Sheets Attached

Measured Method:

Theoretical

$$\frac{3hp \times 8.814 \times 0.7 \text{ eff}}{118' \text{ lift} + (2.308 \times 35 \text{ psi})} = \frac{18.509}{198.78} = 0.09 \text{ capacity}$$

## 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:

$$5000 \text{ gpd} \times 22 \text{ days/month} \times 10 \text{ months/year} = 3.4 \text{ afg}$$

## H. RECOMMENDATIONS

### 1. Recommended Amounts

| Beneficial Use | Period of Use |       | Rate of Diversion<br>Q (cfs) | Annual Volume<br>V (afg) |
|----------------|---------------|-------|------------------------------|--------------------------|
|                | From          | To    |                              |                          |
| Commercial     | 1-1           | 12-31 | 0.09 cfs                     | 3.4 afg                  |
|                |               |       |                              |                          |
|                |               |       |                              |                          |
|                |               |       |                              |                          |
|                |               |       |                              |                          |
| Totals:        |               |       | 0.09 cfs                     | 3.4 afg                  |

### 2. Recommended Amendments

☐ Change P.D. as reflected above    ☐ Add P.D. as reflected above    ☒ None  
☐ Change P.U. as reflected above    ☐ Add P.U. as reflected above    ☐ Other

## I. AUTHENTICATION

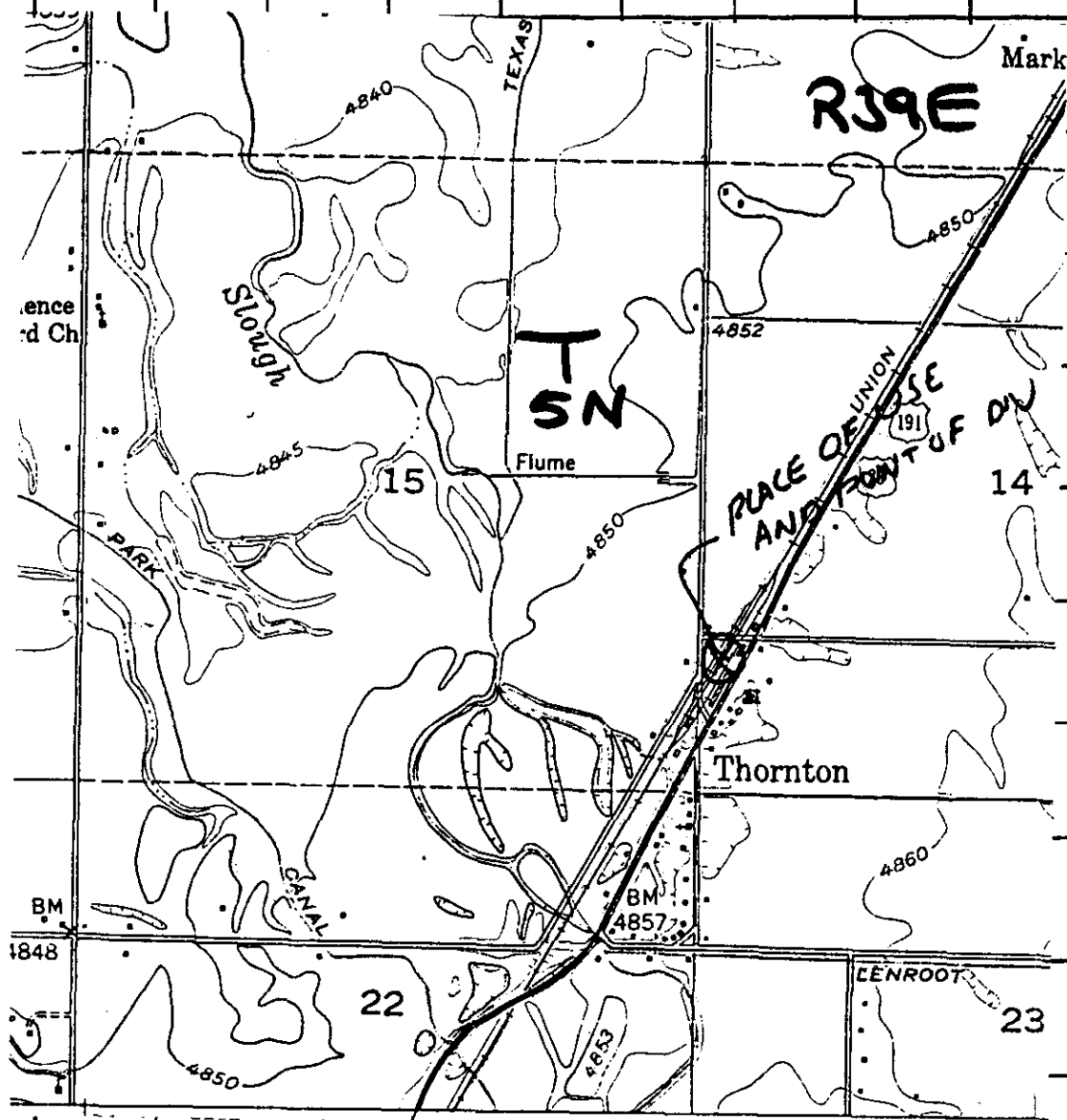
Field Examiner's Name H. Wilson Date 1-28-97

Reviewer \_\_\_\_\_ Date \_\_\_\_\_

SEAL

MICROFILMED

FEB 24 1997

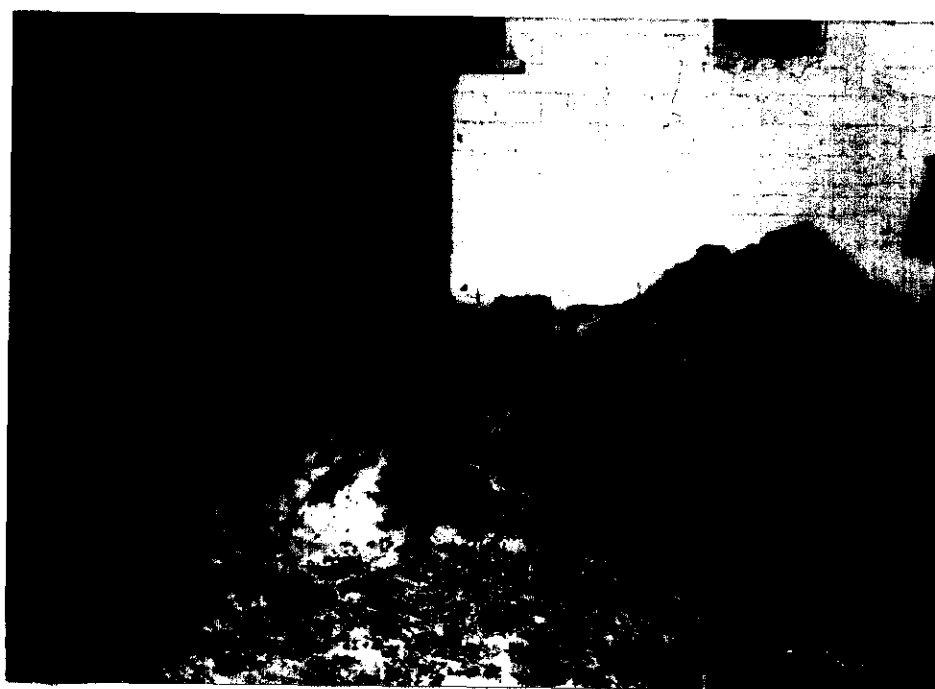


22-07534

EX-1000  
8/24/07

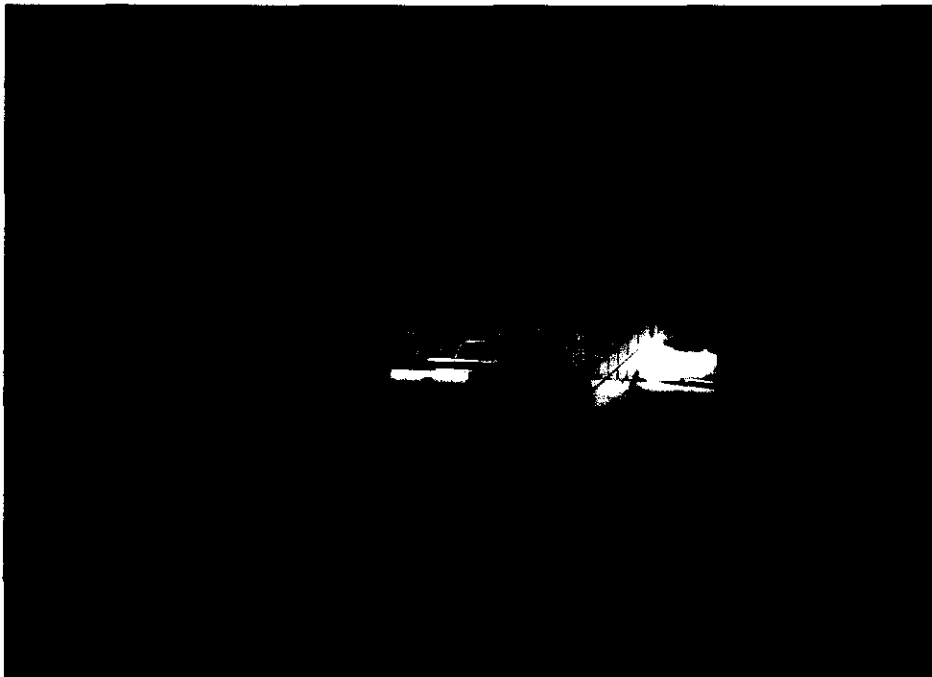


Original well system in Basement  
of Plant



New well in front of plant

22-07534



Main office + plant



Plant site

22-07534



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

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

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

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

January 14, 1997

BENCH MARK POTATO COMPANY  
4799 S HWY 191  
REXBURG ID 83440

RE: AMENDMENT OF PERMIT NO. 22-07534

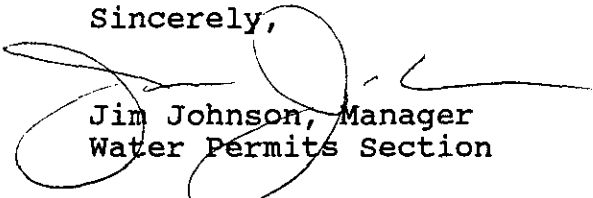
Dear Sir:

I am in receipt of your application to amend Permit No. 22-07534. The department will hold the application without approval until a field examination can be scheduled to verify the extent of water developed under the permit.

I am requesting our Eastern Region staff to put top priority on conducting this examination to avoid further delays.

If you have any questions, please feel free to contact me.

Sincerely,

  
Jim Johnson, Manager  
Water Permits Section

JJ:ph

MICROFILMED  
FEB 24 1997

AMENDMENT OF PERMIT REVIEW

Review Date 12/5/96

PERMIT NO. 22-07534 NAME Bench Mark Potato Co.

TYPE: A = AMENDED E = CHANGE N/U I = CHANGE P/D & P/U  
B = CHANGE P/D F = CHANGE Per/U J = ADD P/D & CHANGE P/U  
C = ADD P/D G = OTHER  
D = CHANGE P/U H = CHANGE P/D & + P/D

AREA OF CONCERN: Not GWMA Trust/Non-trust 5N, 39E, 14

PROOF OF B/U RECEIVED? Yes/No Due < 6 months? Yes/No - exam not yet made  
*just outside boundaries of Non-Trust & ESPRA*

GROUNDWATER:

Drilling Permit No. - - - - -; NONE FOUND - 1<sup>st</sup> well drilled  
Drilled        in the '30's according to app.

Swan Falls Flag -

cond. amendment approval to  
comply w/ drilling permit requirements

Conditions of Approval: 004, 046

Remarks/Comments 2 pld in SWSW, S14, T6N, R39E.

SC



**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

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

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

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

December 4, 1996

BENCH MARK POTATO CO  
4799 S HWY 191  
REXBURG ID 83440

**PROOF ACKNOWLEDGMENT LETTER**

**RE: PERMIT NO. 22-07534**

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit.

Enclosed is an order reinstating your permit since proof was submitted after the proof due date of June 1, 1989. Please note that the priority date has been advanced to October 28, 1996.

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

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. If you have questions concerning the field examination, contact the **EASTERN** Regional Office in Idaho Falls at (208)525-7161.

Sincerely,

JULIE L. YARBROUGH  
Senior Secretary

Enclosure

C: IDWR - Region

MICROFILMED

FEB 24 1997

10-24-96

RECEIVED

OCT 28 1996

Department of Water Resources

To Whom It May Concern.

My name is Lee H Sutton, I am a stock holder in Bench Mark Potato Co. an Idaho Corporation. I bought into Bench Mark in 1993. When I bought into the Corporation I assumed since the well was there and the Building had been used as a potato warehouse and that I knew to wash and package potatoes since 1967 until 1993 ~~that~~ that there was a valid water Right.

I am now aware that Glen Arnold did apply for Application for Permit on 2-29-88 and for whatever reason a field inspection and Final approval was never granted.

We at Bench Mark Potato Co. now wish to formally apply and have a field inspection made and have our Lapsed application for water permit to pump ~~water~~ water approved so we can have a valid right to pump Water.

By Lee H Sutton  
V. Pres.

Bench Mark Potato Co.

4799 S. Hwy 191

Rexburg Idaho

Phone 83440

208-356-9295

MICROFILMED

FEB 24 1997

0-17-96

RECEIVED

OCT 28 1996

Department of Water Resources

To Whom it May Concern

It appears that Glen Arnold a  
Former Stockholder of Bench Mark Potato  
Co. Filed application for a Water Permit  
on 2-29-1988. I am certain that  
this application was made because of Adjucation  
and to prove all water Rights. For Whatever  
reason it appears ~~that~~ Mr Arnold didnot  
meet with Water Officials to complete  
a Field examination Report. This  
situation arose because the Potatoe  
Ware house was not running at this time. For  
a couple of Years and in this time frame  
Mr. Arnold turned over his interest in  
Bench Mark Potato Co. to his Son, Lane  
Arnold.

MICROFILMED

FEB 24 1987

Lee H. Sutton

RECEIVED  
OCT 28 1996  
Department of Water Resources

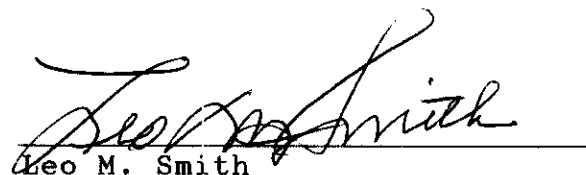
2437 West 4700 South  
Rexburg, ID 83440

October 24, 1996

To Whom it may Concern:

The potato warehouse located in Thornton, Idaho now called BENCHMARK POTATO WAREHOUSE was built in 1942. In 1974 I bought into the warehouse as a partner. At that time the original well that was drilled in 1942 was in operation and as far as I know it is the same well that is still in operation today.

I was involved in the operation of the warehouse from 1974 until 1988 when I turned my interest over to my son Todd. During the time I was involved the well was used every year, as it was necessary to operate the warehouse.

  
Leo M. Smith

MICROFILMED  
FEB 24 1997

# NOTICE

This file has been REPRODUCED  
from MICROFICHE ~~because:~~

For Reinstatement

---

---

Darla S. Block  
Person Recreating File

Oct 31, 1996  
Date

I certify that file No. 22-7534 has been  
reviewed and is ready to be MICROFILMED  
and DESTROYED.

Kay Walker  
Signature

2-13-90  
Date

June 7, 1989

BENCH-MARK POTATO CO.  
3047 S. 2000 W.  
REXBURG, ID 834400000

LAPSE NOTICE

RE: PERMIT NO. 22-07534

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced water permit has lapsed. This office did not receive either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time. You were provided the proper form in our proof due notice to you dated March 31, 1989.

Your permit cannot be reinstated unless you submit proof of beneficial use or submit an extension of time request showing reasonable cause for delay. Either the completed proof of beneficial use submittal (including the examination fee or a completed field examination report) or the extension request form together with the \$15 fee must be received by this department within sixty days of the date of mailing of this lapse notice or the permit will no longer be of any force or effect.

A proof of beneficial use form and a request for extension of time form are again enclosed for your use. 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 governmental agency or by litigation which might bring title to the water in question.

L. GLEN SAXTON  
Chief, Water Allocation Bureau

Enclosures

LGS:RF

CERTIFICATION OF MAILING  
Permit No. 22-07534  
Date 6-9-1989  
By [Signature]  
[Signature]

BENCH-MARK POTATO CO.  
3047 S. 2000 W.  
REXBURG, ID 834400000

March 31, 1989

138045

PROOF DUE NOTICE

RE: PERMIT NO. 22-07534

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 1, 1989. (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

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

STATEHOUSE  
BOISE, IDAHO 83720  
(208) 334-4440  
MAY 19, 1983

BENCH-MARK POTATO COMPANY  
3047 SOUTH 2000 WEST  
REXBURG, ID 83440

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 22-7534

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.

YOU SHOULD BE AWARE THAT THE GROUNDWATER YOU PROPOSE TO DIVERT IS LOCATED WITHIN A DRAINAGE BASIN WHERE SURFACE WATERS ARE REGULATED DURING THE MONTHS OF LOW FLOW. IT IS POSSIBLE THAT DIVERSION OF GROUNDWATER MAY HAVE AN ADVERSE IMPACT ON THESE SURFACE WATER FLOWS. INFORMATION AVAILABLE TO US AT THIS TIME DOES NOT WARRANT REFUSING TO ISSUE PERMITS IN YOUR AREA, BUT WE DO CAUTION THAT DIVERSIONS OF GROUNDWATER ARE NOT ALLOWED TO DEplete FLOWS AVAILABLE FOR SURFACE WATER USERS WITH EARLIER PRIORITY DATES. SITING YOUR WELL AS FAR FROM SURFACE SOURCES AS POSSIBLE AND CASING OUT UPPER WATER PRODUCING ZONES MAY REDUCE THE POTENTIAL OF INTERFERENCE.

WE HAVE ENCLOSED A FORM ENTITLED "INSTRUCTIONS FOR PROOF OF BENEFICIAL USE". PLEASE READ THE INSTRUCTIONS CAREFULLY SINCE YOU MUST TAKE FURTHER ACTION TO DEVELOP THIS PERMIT. ALSO ENCLOSED FOR YOUR CONVENIENCE IS THE STATEMENT OF BENEFICIAL USE FORM THAT MUST BE SUBMITTED WHEN YOUR PROJECT IS COMPLETED.

SINCERELY,

GARY SPACKMAN  
SUPERVISOR, WATER ALLOCATION SECTION

GS: SC  
ENCLOSURES



State of Idaho  
**DEPARTMENT OF WATER RESOURCES**  
Eastern Region

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

Mailing Address:  
150 Shoup Ave., Suite 15  
Idaho Falls, Idaho 83402  
(208) 325-7161

April 26, 1988

The Standard Journal  
P.O. Box 10  
Rexburg, Idaho 83440

RE: Application No. 22-7534, Bench-Mark Potato

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced applications. The legal notices were to have been published in your paper on April 7, and 14, 1988.

Your cooperation in this matter is greatly appreciated.

Sincerely,

Deena Green  
Office Secretary



State of Idaho  
**DEPARTMENT OF WATER RESOURCES**  
Eastern Region

CECIL D. ANDRUS  
Governor

A. KEITH HIGGINSON  
Director

Mailing Address:  
150 Shoup Ave., Suite 15  
Idaho Falls, Idaho 83402  
(208) 525-7161

April 4, 1988

Dept. of Health & Welfare  
Division of Environment  
150 North 3rd  
Pocatello, Idaho 83201

RE: Application for Permit No. 35-8662, Groveland Water & Sewer  
District; 22-7534, Bench-Mark Potato Co.

Dear Sirs:

This office is currently in the process of publishing notices that the above application was filed with the Department of Water Resources. Since the application may be of interest to you, a copy is enclosed for your examination. Comments concerning the application should be addressed to the applicant with a copy forwarded to this office. Protests objecting to granting the permit should be directed to this Department and received no later than April 25, 1988. Final action will be taken by this office shortly after this date, provided there are no protests lodged against the application.

Respectfully submitted,

Ernest Carlsen  
Water Rights Supervisor

EC/dg  
Enclosure



State of Idaho  
DEPARTMENT OF WATER RESOURCES  
Eastern Region

CECIL D. ANDRUS  
Governor

A. KEITH HIGGINSON  
Director

Mailing Address:  
150 Shoup Ave., Suite 15  
Idaho Falls, Idaho 83402  
(208) 523-7161

April 4, 1988

Bench-Mark Potato Co.  
3047 South 2000 West  
Rexburg, Idaho 83440

RE: Application for Permit No. 22-7534

Dear Water Right Applicant:

The Department of Water Resources acknowledges receipt of your water right application for permit. The application has been assigned identification No. 22-7534. Please refer to this number in all further correspondence.

This office is currently in the process of advertising the application in the Standard Journal. The advertisement will be published 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.

If the application is not protested, it will be forwarded to our state office in about five weeks. State office personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is approximately 10 weeks.

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

Sincerely,

Ernest Carlsen  
Water Rights Supervisor

EC/dg

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
Eastern Region

---

150 Shoup Suite 15  
Idaho Falls, Idaho 83402  
(208) 525-7161

MARCH 30, 1988

The Standard Journal  
P. O. Box 10  
Rexburg, Idaho 83440

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. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. 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 APRIL 25, 1988.

Yours truly,

Deana Green  
Office Secretary

Encl.

NOTICE OF APPLICATION

FOR WATER RIGHT

The following applications have been filed to appropriate the public waters of the State of Idaho:

The permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code and/or the new public interest criteria of Sec. 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 on or before April 25, 1988.

R. Keith Higginson

Director

Published April 7 and 14, 1988.

22-7534

BENCH-MARK POTATO COMPANY

3047 SOUTH 2000 WEST, REXBURG, ID 83440

Source: GROUNDWATER

Division Pt. SWSW Sec 14 T 05N R 39E

Use: COMMERCIAL (0.2 CFS)

Date Filed: 02/29/1988

In. SWSW Sec 14 T 05N R 39E



State of Idaho  
**DEPARTMENT OF WATER RESOURCES**  
Eastern Region

CECIL D. ANDRUS  
Governor

A. KEITH HIGGINSON  
Director

Mailing Address:  
150 Shoup Ave., Suite 15  
Idaho Falls, Idaho 83402  
(208) 525-7161

March 3, 1988

Glen Arnold  
C/O Bench-Mark Potato Company  
3047 South 2000 West  
Rexburg, Idaho 83440

Dear Mr. Arnold:

Per our telephone conversation, I am returning your check #4548 for \$45.00 which you submitted with a water right application. As we discussed, the fee for the 0.20 cfs you applied for is \$30.00 rather than the \$45.00 you submitted. Please return another check for \$30.00 and we will begin processing your application.

Also, please submit a list of the company officials along with their position in the company and their addresses. Please state your title in the company as well.

Your prompt attention is appreciated. We will hold further action on the application for 30 days or until we receive the above requested information. If you have any questions, please contact our office.

Sincerely,

A handwritten signature in dark ink, appearing to read "Eric S. Verner", is written over a horizontal line.

Eric S. Verner  
Sr. Water Resource Agent

Enclosure

ADDENDUM TO APP FOR PERMIT 2/27/88

BENCH-MARK POTATO COMPANY

OWNER LIST:

- LEO SMITH  
2511 W. 4700 SOUTH  
REXBURG 356-5143
- GARY SMITH  
1829 MEADOWVIEW AVE.  
REXBURG 356-5240
- BLAINE SMITH  
2082 W 5200 SOUTH  
REXBURG 356-3510
- GLEN ARNOLD  
3047 SOUTH 2000 WEST  
REXBURG 356-6416

INFORMATION PER TELECON W/ GLEN ARNOLD  
3/11/88 BY ESS

WATER WELL - EXISTING

A. The Lessee is granted the right, subject to the terms of this Lease, to maintain and operate the water well on the Premises in the location shown on the attached plat. The water well shall be maintained, repaired and operated at the expense of the Lessee, and all work in connection therewith shall be done under the supervision of and in accordance with plans approved by the Lessor. It is understood and agreed that any improvements to the water well which are made by the Lessee shall become the property of the Lessor.

The right hereby granted by the Lessor to the Lessee to maintain and operate the water well on the Premises shall be without prejudice to any rights of the Lessor and shall not constitute any consent by the Lessor to the acquiring by the Lessee of any water rights in waters underlying the Premises and shall not constitute any consent to the acquiring by the Lessee of any right to use the water well, or any part thereof, for the transmission of water from the water well to the surface of the Premises for use on any premises whatsoever, except during the term hereof. It is further specifically understood and agreed that upon the termination of the Lease howsoever the Lessee shall have no rights whatsoever in and to water under the Premises.

B. The Lessee hereby agrees, at its sole cost and expense, to obtain all federal, state or other governmental permits or authority necessary for the maintenance and operation of the water well and for the use of underground water taken from the water well. The Lessee agrees to comply with all federal, state or other governmental laws, rules and regulations governing the maintenance and operation of the water well and the Lessee shall hold the Lessor harmless from any and all liens, fines, damages, penalties, forfeitures or judgments in any manner accruing by reason of the Lessee's failure to comply with any such federal, state or other governmental laws, rules and regulations.

C. The Lessee shall indemnify and hold harmless the Lessor, its officers, agents and employees, against and from any and all liability, loss, damage, claims, demands, costs and expenses of whatsoever nature, including court costs and attorney's fees, which may result from injury to or death of persons whomsoever or damage to or loss or destruction of property whatsoever (including damage to the roadbed, tracks, equipment or other property of the Lessor or property in its care or custody), when such injury, death, loss, destruction or damage grows out of or arises because of the Lessee's operation or maintenance of the water well, or the contents therein or therefrom, or the contamination of underground water. The Lessee does hereby release the

Lessor, its officers, agents and employes from all liability for damages on account of injury to the water well from any cause whatsoever.

D. The Lessor does not guarantee the Lessee a continuous or uninterrupted supply of water hereunder, and the Lessor shall not, in any way, be liable for any loss or damage of any character due to the failure or limitation, from whatsoever cause, of the supply of water which the Lessee may take from the water well.

E. It is expressly understood and agreed that the Lessor has not made, and does not make, any representations, promises or warranties with respect to the quality or fitness for any particular purpose of the water to be taken by the Lessee hereunder, and the Lessee hereby assumes the risk of any and all impurities and deleterious substances which are or may be contained in the water and agrees to indemnify and save harmless the Lessor, its officers, agents and employes, against and from any and all claims, demands, or causes of action arising or resulting from the consumption or use of water taken by the Lessee hereunder.

UNION PACIFIC RAILROAD COMPANY

REAL ESTATE DEPARTMENT



ROOM 300  
1418 DODGE STREET  
OMAHA, NEBRASKA 68179

FEB 11 1988

873-42

Bench-Mark Potato Company  
Route 3  
Rexburg, ID 83440

Attached is new Lease Agreement, Audit No. 873-42 covering use of a portion of the Railroad Company's property at or near Thornton, Idaho for a potato cellar, warehouse and water usage.

The Railroad Company has authorized the installation of fiber optic cable facilities on its property in certain areas. Prior to using the Railroad Company's property covered herein, you should thoroughly review the terms and conditions of this document and contact the Railroad Company at 1-800-336-9193 to determine if a fiber optic cable is buried on the subject property.

Sincerely yours,

*R. W. Christensen*  
R. W. CHRISTENSEN  
Manager-Real Estate Contracts

THE STANDARD-JOURNAL  
Rexburg, Idaho  
AFFIDAVIT OF PUBLICATION

STATE OF IDAHO  
County of Madison

I, Terry Weatherston being first duly sworn, depose and say, that I am the printer of THE STANDARD-JOURNAL, a semi-weekly newspaper printed and published semi-weekly at Rexburg, Madison county, Idaho; and I do solemnly swear that the

Notice of Application a copy of which notice appears attached hereto, was published in the regular and entire issue of said newspaper, and not in any supplement issue thereof for Two consecutive issues, the first publication having been made on April 7, 1988 and the last publication having been made on April 14, 1988.

Further, that said newspaper is one of general circulation in said county; that it is a legal newspaper, conforming to legal specifications under the Idaho Statutes; that it has at least two hundred bona fide subscribers living within the county of publication; and that it has been continuously and uninterruptedly published in said county during a period of seventy eight consecutive weeks prior to the first publication of the said notice.

*Terry Weatherston*

Subscribed to and sworn to before me

This April 15, 1988

(SEAL)

*Joseph L. Anderson*  
Notary Public.

My commission expires June 8, 1993

RECEIVED  
MAY 2 1988

Department of Water Resources  
Eastern District Office

NOTICE OF APPLICATION  
FOR WATER RIGHT

The following applications have been filed to appropriate the public waters of the State of Idaho:

25-1534  
BENCH MARK POTATO COMPANY  
8047 S. 2000 W. Rexburg, Idaho 83440  
Source: GROUNDWATER  
Diversion Pt: SWSW Sec 14 T46N R 30E C  
Use: COMMERCIAL (2.2 CFS)  
Date Filed: 02/29/1988  
In: SWSW Sec 14 T46N R 30E C  
The permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 45-503A, IDAHO CODE and/or the new public interest criteria of Sec. 45-503C, IDAHO CODE. Protests must be filed with the Director, Dept. of Water Resources, 100 Group Ave., Suite 18, Idaho Falls, Idaho 83402 on or before April 28, 1988.

25-1534 R. KEITH HOGGINS  
Director  
Filed April 7 and 14, 1988