

R43E

T A R G

R43E

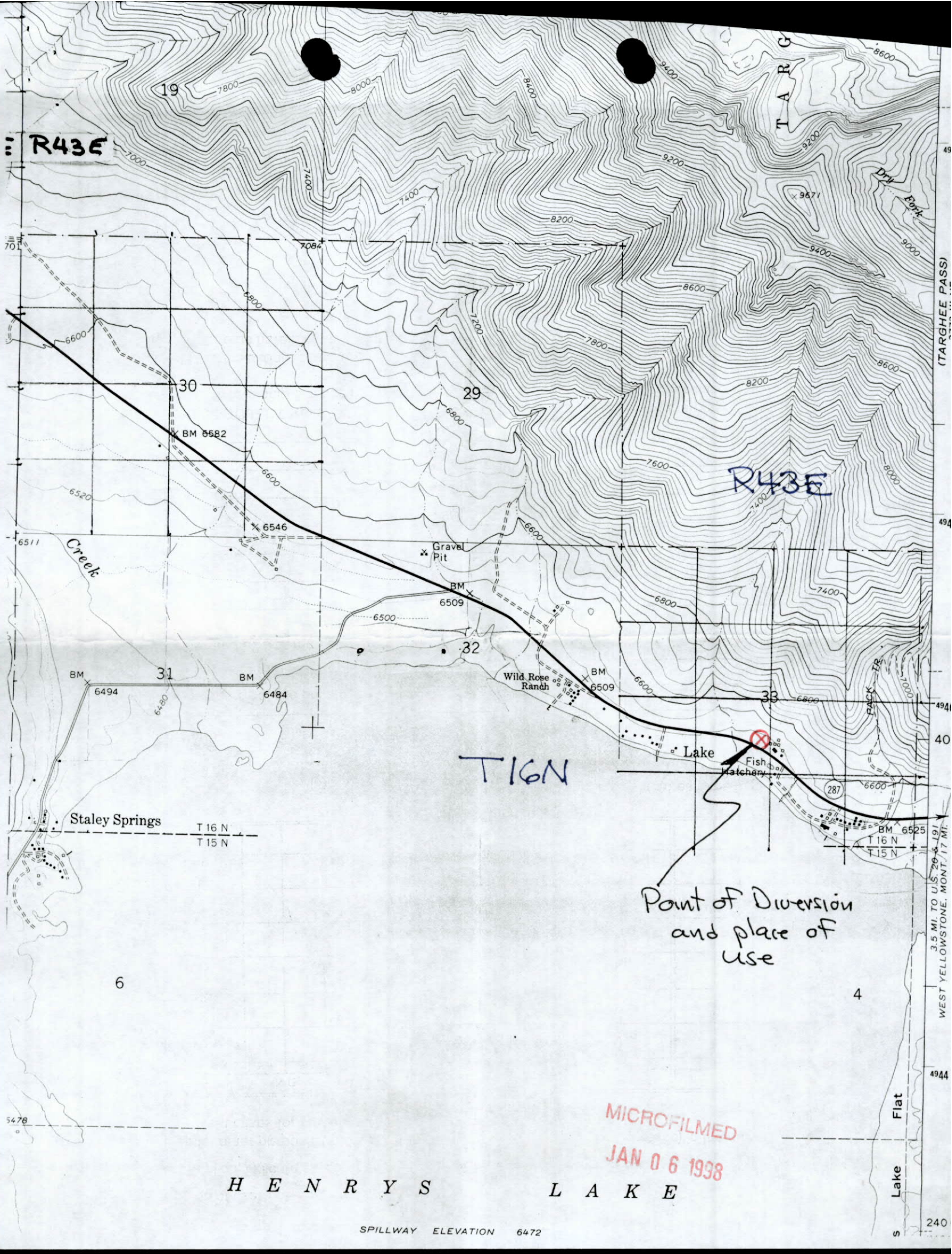
T16N

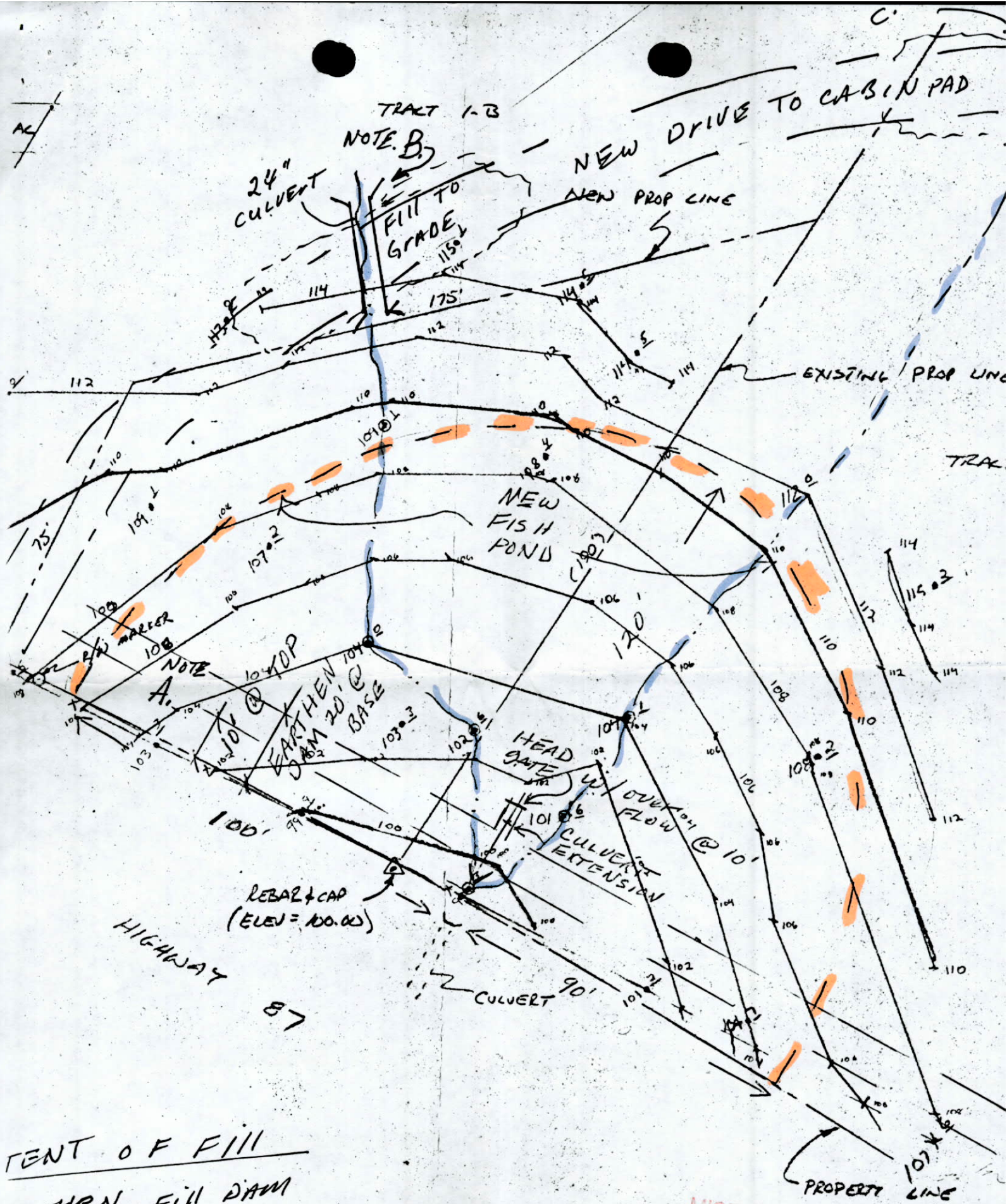
Point of Diversion
and place of
use

MICROFILMED
JAN 06 1938

H E N R Y S L A K E

SPILLWAY ELEVATION 6472





TENT OF FILL

RTHEN FILL DAM
 250' LONG, TO RUN JUST N. OF THE S.
 PERTY LINE. DAM TO BE 20' @ BASE &
 THE DEEPEST PART @

MICROFILMED
 JAN 06 1938

THE FREMONT COUNTY HERALD-CHRONICLE
St. Anthony, Idaho
Ashton, Idaho

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO
County of Fremont

I, TERRY T. WEATHERSTON being first duly sworn, depose and say, that I am the printer of THE FREMONT COUNTY HERALD-CHRONICLE, a semi-weekly newspaper printed and published semi-weekly in Fremont County, Idaho; and I do solemnly swear that the NOTICE APPLICATION WATER RIGHT -STEVE BURKE 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 NOVEMBER 20, 1997 and the last publication having been made on NOVEMBER 27 1997 .

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 T. Weatherston

STATE OF IDAHO)
COUNTY OF MADISON)

On this 28TH day of NOVEMBER in the year of 1997 before me, a Notary

Public, personally appeared Terry Weatherston, 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 therein are true, and acknowledged to me that he executed the same.

Notary Public for Idaho
Residing at Rexburg, Idaho
My commission expires: May 21, 1999

NOTICE OF APPLICATION
FOR WATER RIGHT

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

21-07569

BURKE, STEVE

BURKE, CAROL

979 E EVENING STAR LN

TEMPE, AZ 85283

Source: UNNAMED STREAMS

Tributary: HENRYS LAKE

Diversion Pt.: NESW Sec 33 T 16N R 43E in FREMONT County.

Use: RECREATION (3.50 AF) Total

Diversion: ((3.500 CFS) Should be 3.50 AF

Date Filed: 11/10/1997

In: FREMONT County T16N R43E S33 NESW

The permit(s) will be subject to all prior water rights. Protests must be filed with the applicant and the Director, Dept. of Water Resources, along with a \$25 filing fee, Eastern Region, 900 N Skyline, Idaho Falls, Idaho 83402 on or before DECEMBER 8, 1997.

KARL J. DREHER
Director

Publ. Nov. 20 and 27, 1997HC.

not fatal.
12/18/97

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RECEIVED

NOV 21 2003

Department of Water Resources

For Office Use Only
\$50 Fee Received by J. Masi
Date 11-21-03
Receipt No. 6071708

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
REQUEST FOR EXTENSION OF TIME
TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT

RECEIVED

NOV 10 2003

Department of Water Resources

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time under the provisions of Section 42-204, Idaho Code in which to complete development of a water right.

Permit No. 21-7569
Name(s) of Permit Holder: Steven Burk, Carol Burk
Address: 1920 Malibu Drive City Idaho Falls State ID Zip 83404
Telephone No. 208-542-6382 Date Proof is Due: Jan. 01, 2004
Cell Ph. 208-521-9560

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

The Terracing and the retaining walls have been started on the uphill side and adjacent to the proposed pond. The earthwork around the pond area has also been started to define the shape of the pond.

Costing \$ _____

The permit holder(s) has been unable to complete the remainder of the work for the following reasons: The preservation of the historical Bldg. & the removal of 110 years of trash & fallen buildings has been the priority & was necessary before work on the scope of this permit could be started. The preservation & removal priority has been far more time consuming & more expensive than originally evaluated. Also, due to the weather restrictions in the winter-we only have about 4 mos. a year to

Permit holder(s) request an extension to January 1, 2009 do our work:
(5 years)

(Signature)*

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be

APPROVED and the time within which to submit proof of beneficial use is extended to January 1, 2006.

Signed this 9th day of January, 2004

Gary Spackman
GARY SPACKMAN

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
INSTRUCTIONS FOR EXTENSION OF TIME REQUEST
TO SUBMIT PROOF OF BENEFICIAL USE

If the water right development authorized by your permit is not complete and you need more time to submit proof of beneficial use of water under your permit, please read the following:

Under the provisions of Section 42-204, Idaho Code, the department can extend the proof due date of your permit only once, and then only if you can demonstrate that you have been pursuing development of the permit with due diligence.

The Request for Extension of Time form requires that you indicate the extent of development that has occurred, the cost, and the reason(s) the work has not been completed. This information must be provided in enough detail to show due diligence. Examples of work performed are: well drilled, pump installed, 10 acres now irrigated, fish propagation ponds constructed, sprinkler system purchased, etc.

If no work has been accomplished, the statutes provide that the Request for Extension of Time must be denied. **Lack of financial resources, the state of the economy or personal illness usually cannot be considered adequate reasons to approve a Request for Extension of Time.**

EXCEPTIONS TO ONLY ONE EXTENSION

The proof due date for a permit that has not been developed for one of the following reasons may be granted one or more extensions of time even though no work has been accomplished:

- When there is a lack of a required consent or final approval from a federal government agency (**evidence of delay must be submitted with the request**), i.e. right-of-way easement or land classification such as Desert Land Entry or Carey Act.
- When litigation related to title of the water has prevented development of the permit (**evidence must be submitted with the request**).
- When the water project is of a large scale -- storage of more than 10,000 acre-feet or diversion of more than 25,000 acre-feet in one irrigation season for an irrigation project of at least 5,000 acres.
- When the water right permit is held by the United States of America (**reason for request must be submitted**).

A non-refundable filing fee of \$50.00 must accompany the Request for Extension of Time form.

***NOTE** that in no case should a Proof of Beneficial Use form and a Request for Extension of Time form both be submitted. If your water development project is completed, then the proof of beneficial use form should be completed and returned. If the project is started but not completed, then the Request for Extension of Time form should be completed and returned in compliance with the guidelines above. If the project has not been initiated and does not fit into one of the exceptions listed above, then neither form should be returned and the permit will lapse and become of no further force nor effect.*

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

REQUEST FOR EXTENSION OF TIME ¹⁹⁹⁹

TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT Department of Water Resources

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time under the provisions of Section 42-204, Idaho Code in which to complete development of a water right.

Permit No. 21-07569

Name(s) of Permit Holder: Steve or Carol Burke

Mailing Address: 1920 Malibu DR. Idaho Falls, Id 83404

Date Proof is Due: January 1, 2000 Telephone No. 208 542-6382

Describe what work has been completed toward the development of this water right:

(This must be filled out! If no work has been completed, show "none".)

Oct. 6, 1998 D.E.R. authorized water quality certificate was granted
Aug. 10, 1998 U.S. Dept of Army Corps of Engineers granted permit
for water diversion NW 1/4 No. 973102230, concrete block & dirt fill
has been started on East side of pond. Costing \$ 500⁰⁰

The permit holder(s) has been unable to complete the remainder of the work for the following reasons: Reference above
Army Corps of Engineers & D.E.R. approval to be in compliance.

Earthwork and landscape on the east side of pond has had to be
cleaned and filled to insure no contaminants would leach
into pond, clean up of old historic building also necessary for
the same reason.

Permit holder(s) request an extension to January 1, 2005.

FEE: \$50.00

Steve Burke
(Signature)*

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to January 1, 2004.

Signed this 8th day of December, 19 99

J. Glen Saylor
Chief, Water Allocation Bureau

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 21-07569

Proposed Priority: November 10, 1997

Maximum Storage Volume: 3.5 AF

This is to certify, that **STEVE BURKE**
CAROL BURKE
979 E EVENING STAR LN
TEMPE AZ 85283

has applied for a permit to appropriate water from:
UNNAMED STREAMS tributary of **HENRYS LAKE**

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
RECREATION STORAGE	01/01 to 12/31		3.5 AF

LOCATION OF POINT(S) OF DIVERSION: NESW , Sec. 33, Township 16N, Range 43E
FREMONT County

PLACE OF USE: RECREATION STORAGE

TWN RGE SEC

16N 43E 33

NESW

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before January 1, 2000.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Use of water under this water right will be regulated by the watermaster of State Water District No. 01.
5. The right holder shall install/maintain permanent measuring devices in such a manner that the amount of water entering the reservoir and the amount of water released from the reservoir can be measured.
6. The storage of water under this right is contingent upon the certification of the dam and authorization of storage per the dam safety provisions of the Idaho Code.
7. Water shall not be diverted under this right when flows in the Henry's Fork are below established minimum stream flows.
8. Recreation storage use is for a private fish pond.

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JAN 06 1998

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 21-07569

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

22 day of December, 1997.



Karl J. Dreher, Director

for



MICROFILMED

JAN 06 1998

\$ 50 Fee

FORM 202
2/96

Ident. No. 21-7569

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED
DEC 12 1997

Department of Water Resources
820-6561

1. Name of Applicant Steve or Carol Burke Phone (602) 820-4566
Mailing address 979 E. Evening Star Ln Tempe, AZ 85283
2. Source of water supply Unnamed Streams which is a tributary of Henry's Lake
3. Location of point of diversion is Township 16N Range 43E Sec. 33 in the NE 1/4, SW 1/4, Govt. Lot , B.M., Fremont County;
additional points of diversion if any:
4. Water will be used for the following purposes:
Amount 3.50 afy for Recreation (pond) 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)
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) and/or (b) 3.50
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 250' Long earth dam
with overflow pipe @ 10' high. Overflow goes into Henry's Lake
b. Height of storage dam 14' feet; active reservoir capacity 3.5 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 2 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. Recreation fish pond

JAN 06 1998

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

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

TWP	RGE	SEC																
16N	43E	33	NE				NW				SW				SE			
			N				NW				SW				SE			
			S				NW				SW				SE			
			TOTALS				S E				S W				TOTALS			

Total number of acres to be irrigated

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

None

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

Applicant

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

Applicant

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

12. Remarks: Applicant will pursue a fish pond permit from Idaho Fish & Game if application is approved. Surface area is 1/2 acre or less.

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8 1/2"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)

Steve Smith Owner

Preliminary check by

Date 11-10-97 Time

Received by HUS

E003259

Date 11-20-97 Published in

Publication prepared by

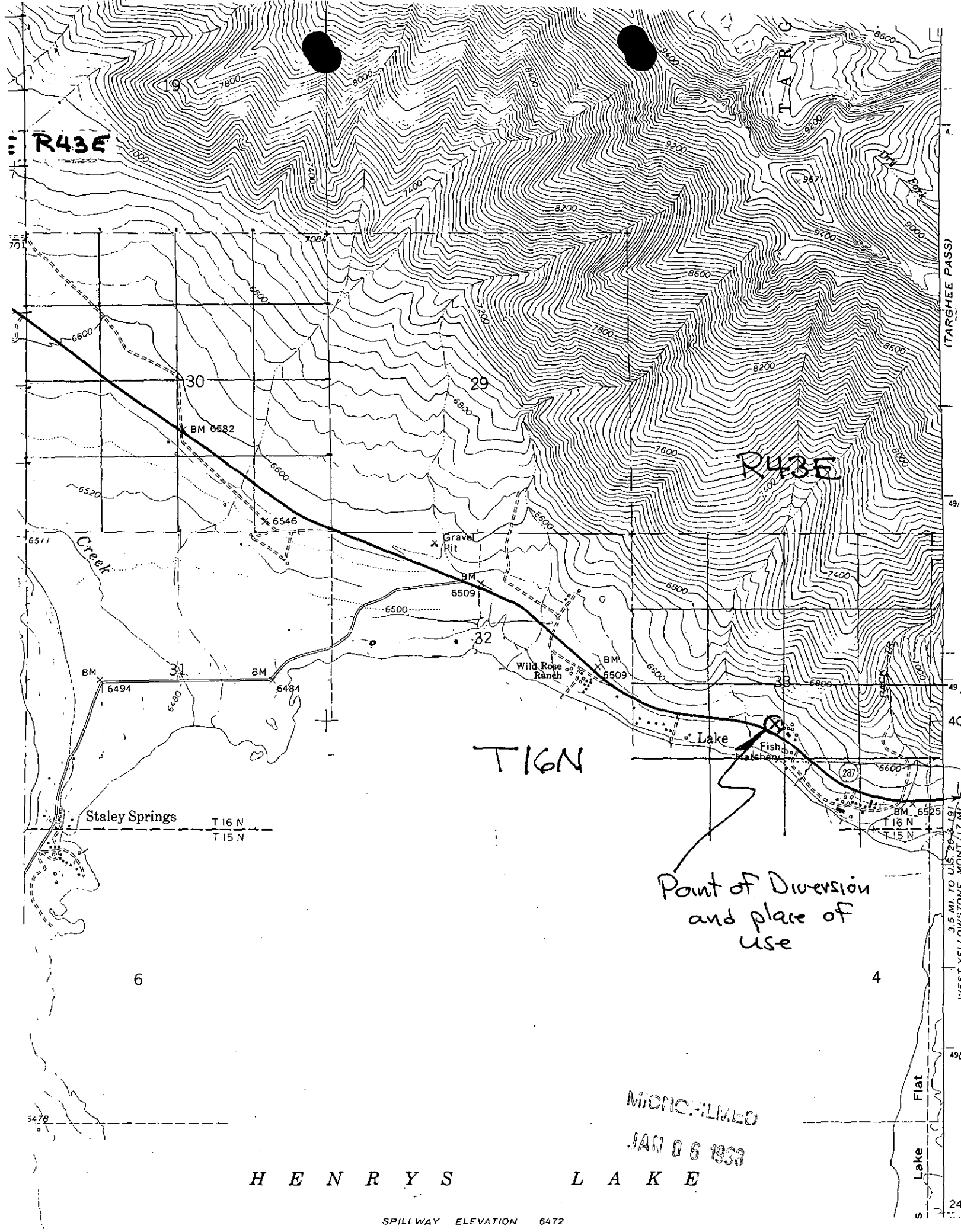
Publication approved

Date

11-10-97

DEC 15 1997

JAN 06 1998

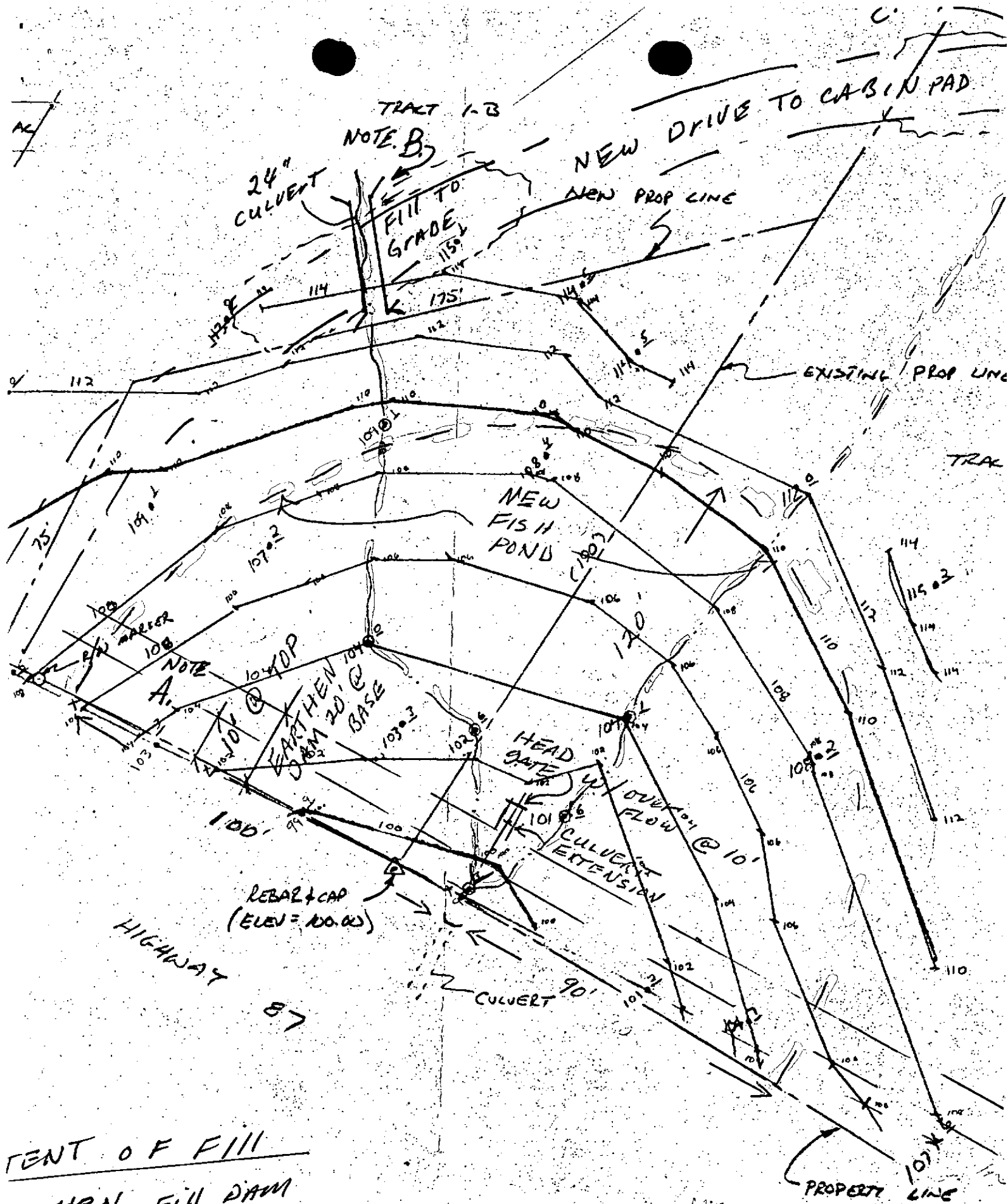


H E N R Y S L A K E

MICROFILMED
JAN 06 1953

SPILLWAY ELEVATION 6472

3.5 MI. TO U.S. 20 191
WEST YELLOWSTONE, MONT. 17 MI.



TENT OF FILL

EARTHEN FILL DAM
 250' LONG, TO RUN JUST N. OF THE S.
 PROPERTY LINE. DAM TO BE 20' @ BASE &
 THE DEEPEST PART @

MICROFILMED
 JAN 06 1968

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name: STEVE BURKE 602-820-4566
Address: 979 E EVENING STAR LN
TEMPE AZ 85283
OR
Name: CAROL BURKE 602-820-4566
Address: 979 E EVENING STAR LN
TEMPE AZ 85283
2. Source: UNNAMED STREAMS Trib. to: HENRYS LAKE
3. Location of Point of Diversion: NESW Sec. 33, Township 16N, Range 43E
FREMONT County
4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
RECREATION	01/01	12/31			3.50
5. Total quantity to be appropriated is:
3.500 CFS (and/or) AF
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc.
 - b. Height of storage dam 14 feet; active reservoir capacity 3.50
acre-feet; total reservoir capacity acre-feet; period of
year when water will be diverted to storage: to inclusive.
 - c. Proposed well diameter is inches; proposed depth of well is
feet.
 - d. Is groundwater with a temperature greater than 85F being sought? NO
 - e. If well is already drilled, when?
Drilling Firm
Well was drilled for
7. Time required for the completion of the works and application of
the water to the proposed beneficial use is 2 year(s).

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JAN 06 1938

8. Place of Use: RECREATION

TWN RGE SEC
16N 43E 33 NESW

9. 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.

10. Remarks:

11. Map of proposed point of diversion and place of use attached? []

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.

Applicant

Received by _____ Date _____ Time _____ Preliminary check by _____

Fee \$ 50.00 Receipted by _____ #E023759 Date 11/10/1997

Publication prepared by _____ Date _____ Published in _____

Publication approved _____ Date _____

RECORDED
JAN 06 1998



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

January 12, 2004

STEVEN BURK
CAROL BURK
1920 MALIBU DR
IDAHO FALLS ID 83404

RE: PERMIT NO. 21-7569

Dear Permit Holder:

I have enclosed a copy of the approved Request for Extension of Time ("request") you submitted to the department in connection with the above referenced permit, which extends the time to submit proof of beneficial use to **January 1, 2006**. Please note that the department granted this extension based on evidence of **due diligence**. It is important that you work diligently toward the completion of this project during the construction period allowed, since the department may not be able to grant an additional extension request based on this category.

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. 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. Additionally, these forms can be found on our website at: www.idwr.state.id.us

If you have any questions regarding this matter, contact me at (208) 327-7953.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosure

c: IDWR - Regional Office

ANALYSIS SHEET FOR EXTENSION OF TIME

Permit No.: 21-7569

Reviewed By: dgibson

Date: December 11, 2003

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Request received timely?	X		Is delay by a government agency?		X
Appropriate fee	X		Is supporting documentation needed to support the file?		
Additional Amount Due:					
Receipt No.:	C071708		Has the permit been involved in litigation?		X
Name and signature same as permit?	X		Is supporting documentation needed to support the file?		
Is address same as permit?		X	Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?		
Has adequate work been completed to demonstrate due diligence?	X				

Priority Calculation

Extension request received	11/21/2003	New proof due date	01/01/2006
Date proof due	- 01/01/2004		
Lapse notice sent	-		
No. of days late	= 0		
Holiday allowance	+		
Priority date	+ 11/10/1997		
New priority date	= 11/10/1997		

Action Taken

Permit holder has applied for a second extension requesting five years. The permit holder has had a total of 8 years for development of this permit since issuance of the permit in December of 1997. I can only grant another 2 years. There was some involvement with Corp of Engineers and DEQ in the beginning, but no evidence was provided that they delayed the project.



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

November 17, 2003

KARL J. DREHER
Director

STEVEN BURK
CAROL BURK
1920 MALIBU DR
IDAHO FALLS ID 83404

RE: Permit No. 21-7569

Dear Permit Holder:

Returned is the original Request for Extension of Time ("extension"), which you submitted to the department in connection with the above referenced water right. In order for the department to take action on this extension request, it must be accompanied by a \$50.00 filing fee.

Therefore, please return the enclosed original extension along with the filing fee, addressed to my attention. It is important that I receive your filing fee before the proof of beneficial use deadline of **January 1, 2004** to avoid affecting the priority date of this permit.

Please contact me at (208) 327-7953 if you have any questions regarding this matter.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
REQUEST FOR EXTENSION OF TIME

RECEIVED
NOV 10 2003

TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT

Department of Water Resources

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time under the provisions of Section 42-204, Idaho Code in which to complete development of a water right.

Permit No. 21-7569
Name(s) of Permit Holder: Steven Burk, Carol Burk
Address: 1920 Malibu Drive City Idaho Falls State ID Zip 83404
Telephone No. 208-542-6382 Date Proof is Due: Jan. 01, 2004
Cell Ph. 208-521-9560

Describe what work has been completed toward the development of this water right:

(This must be filled out! If no work has been completed, show "none".)

The Terracing and the retaining walls have been started on the uphill side and adjacent to the proposed pond. The earthwork around the pond area has also been started to define the shape of the pond.

Costing \$ _____

The permit holder(s) has been unable to complete the remainder of the work for the following reasons: The preservation of the historical Bldg. & the removal of 110 years of trash & fallen buildings has been the priority & was necessary before work on the scope of this permit could be started. The preservation & removal priority has been far more time consuming & more expensive than originally evaluated. Also, due to the weather restrictions in the winter - we only have about 4 mos. a year to
Permit holder(s) request an extension to January 1, 2009 do our work.
(5 years)

Steven Burk
(Signature)*

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be

Signed this _____ day of _____, 20____.

October 31, 2003

STEVEN BURKE
CAROL BURK
1920 MALIBU DR
IDAHO FALLS, ID 83404

PROOF DUE NOTICE

RE: PERMIT NO. 21-7569

Dear Permit Holder:

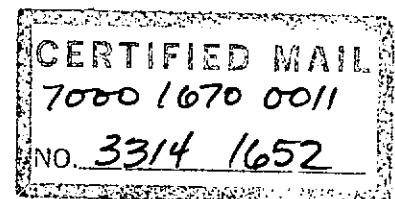
One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before January 01, 2004. (See last page of your approval permit or your last approved extension request.) Enclosed is a form which when accompanied 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, Administrative Assistant
Water Allocation Bureau
Enclosures



ANALYSIS SHEET FOR EXTENSION OF TIME

Permit No 21-07569 Reviewed by Jef Date 12-8-99

BASIC INFORMATION

11-19-99 Date stamp received
yes Extension received timely
yes Fee received and receipted
yes Name and signature same as permit
yes Address Change

BASIS FOR EXTENSION REQUEST

yes Has adequate work been completed to demonstrate due diligence?
_____ Has the permit been involved in litigation?
Is supporting documentation needed to complete the file? _____ Requested? _____
_____ Is delay by a government agency?
Is supporting documentation needed to complete the file? _____ Requested? _____
_____ Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?

ACTION TAKEN *Recommend extend to Jan. 1, 2004, on basis of due diligence.*

PRIORITY CALCULATION

Date extension received	_____	=	_____
Proof due date	_____	=	_____
Number of days late	_____	=	_____
Priority date	_____	=	_____
New Priority Date	_____	=	_____

DATA ENTRY

New Address 1920 Malibu cr. Id. Falls 83404
Change Proof Due Date 1-1-2004
Change Priority Date X



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

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

DIRK KEMPTHORNE
GOVERNOR

December 8, 1999

KARL J. DREHER
DIRECTOR

Steve and Carol Burke
1920 Malibu Dr
Idaho Falls ID 83404

RE: Permit No. 21-07569

Dear Permit Holder:

I have enclosed a copy of the approved request for extension of time submitted in connection with the above referenced permit, which extends the time within which to submit proof of beneficial use to **January 1, 2004**. Please note that the department granted the extension based on due diligence. It is important that you work diligently towards completion of this project since the department **will not** be able to grant additional extension requests based on due diligence.

Section 42-248, Idaho Code, which became effective 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 this office or any regional 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.

Please contact me at (208)327-7953, if you have any questions regarding this matter.

Sincerely,

JULIE L. YARBROUGH, Administrative Assistant
Water Allocation Bureau

Enclosure

c: IDWR - Regional Office

October 31, 1999

STEVE BURKE
CAROL BURKE
979 E EVENING STAR LN
TEMPE AZ 85283

PROOF DUE NOTICE

RE: PERMIT NO. 21-07569

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 January 1, 2000.

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

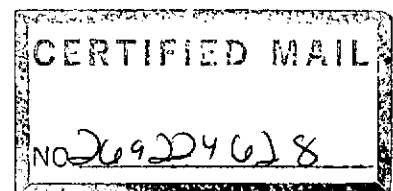
If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental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

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

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures





State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 22, 1997

STEVE BURKE
CAROL BURKE
979 E EVENING STAR LN
TEMPE AZ 85283

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 21-07569

Dear Permit Holder:

The Department of Water Resources (IDWR) 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 IDWR pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by IDWR unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

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

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

If the diversion dam is 10 feet or more in height, or has an impounding capacity of 50 acre-feet or more, certain dam safety requirements must be met. Please contact the regional office nearest you for details.

Also, please note that water right owners are required to report any change of water right ownership and/or change of 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 reporting form.

JAN 06 1998

Please note that a separate stream channel alteration permit must be obtained from the IDWR 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 at least sixty days prior to the commencement of work in the stream.

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

Sincerely,

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

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosures

MICRO-FILMED

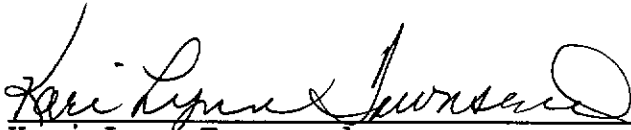
JAN 06 1988

CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of December, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

Water Right No. 21-07569

STEVE BURKE
CAROL BURKE
979 E EVENING STAR LN
TEMPE AZ 85283


Kari Lynn Townsend
Secretary

MICROFILMED

JAN 06 1998

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. A preliminary order 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 the 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 a 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, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a 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.

ORAL ARGUMENT

If the Department grants a petition to review a 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.

FILED

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Department in connection with a 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.

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.

RECEIVED

JAN 06 1997 Page 2

APPLICATION FOR PERMIT STATE OFFICE REVIEW

by *Cindy Lou*

No.: 21-7569 Name: Burke Date: 12/18/97 Ad OK? ✓ / Gvmt Lts: ✓

AREA OF CONCERN: 1/2 ac surface area No/Yes: ESRP Mor/ GWMA / Trust / Non-trust
PROTESTED: - 020 (Protest Agreement) or *W19 (Order)

SYSTEM COMPLETED:

1 year/no proof
☒ >1 year

- P16
☒ 26A P17

GROUNDWATER: (✓ FLO-CH)

WMD (✓ MAP)

>0.24 cfs/5 acres
 ≤ 0.24 cfs/5 acres

- 067 or No MD (in-stream stock or power)
 - No MD

WMD

>0.24 cfs/5 acres
 Supplemental use
 ≤ 0.24 cfs/5 acres

- 01M (report when notified)
 - 065-079 (if GW use SW 1st-statewide)-(cannot move SW off)
 - No MD

DRILLING PERMIT:

Existing well
 Included w/permit

- NA (pre 7/1/87; ✓ WDQ3)
 - Permit No. - - - - , P99

No drilling permit?

irr. in WD

- 046-46B-P23 (post 7/1/87)
 - P05 (new well location)

SURFACE WATER: (✓ FLO-CH) (Surface water that doesn't sink is regulated):

IN/ABOVE MIN. STR. FLOW (✓ MAP)

- *WB9 Hennys Fork

WD (✓ MAP & LISTING)

- R04 (WD # 81) - 01J-P08 (MD)

Pumped >0.20 cfs

- 01H-P01 (LD & MD) or No MD (in-stream stock)

WMD (✓ MAP)

> 0.24 cfs/5 acres
 ≤ 0.24 cfs/5 acres

- 067 or No MD (in-stream stock or power)
 - No MD

SPRINGS/SINK, INACTIVE WD & REST OF STATE

> 0.24 cfs/5 acres
 ≤ 0.24 cfs/5 acres

- 01M or No MD (in-stream stock or power)
 - No MD

RIVER BASINS: (*Surface water):

Snake R (01)

- *W22 -P04, NA

(02/03-irr)

- 007 (w/ remark *WB9 if above Weiser), NA

Payette R(65)

- *W22 (regulated uses), 047-P04 (Payette Lake), NA

Salmon R (70's)

- 029 (fish screens), NA

USE:

Domestic surface
 >1 in rest. area

- *WB5 (Big Wood R or Boise R ↑ Star Bridge); 27A (Payette River); NA
 - 071-070

Fish Propagation

- 029-007-042(req)-081 (WQ)-P10

Heating/Cooling

- R07 (injection well)

Irr ≤ 5 acres

- R66/R67/R68/R69 (0.03 cfs/acre + 3.0/3.5/4.0/4.5 AF)

> 5 acres

- R62/R63/R64/R65 (0.02 cfs/acre + 3.0/3.5/4.0/4.5 AF)

Mining

- 054(req) -081-P10

Municipal

- 022, 075, 004 (+memo?), NA (not in restricted area)

Power

- 17H/17K(+uses)-08A-025-01N-028-081(P10)-027 (if no other cons. use);
 17G (FERC) or 17M (FERC); 18B-P09; >25 cfs-P18

Stock

- R37 (BLM/USFS); NA

Storage (✓ 3 compo.)

- 18A (in & out MD for on-stream storage), 18B-P09 (>10' dam), NA

LOCATION:

42-248 area

- P84 (in 20/30/40/50/60/70/80 (87) basin)

Boise Front LoGeo

- 058 (<85° GW temp only)

In-stream dev.

- P52 (stream channel alteration)

Irr Dist/Canal Co.

- 023 (Twin Falls area)

SWAN FALLS FLAG (See Code Chart)

Trust

- 1
 - 051-052-053-P74 (Consumptive Uses), NA

Non-Trust (1)

- 048-049 (Consumptive Uses); NA

OWNERSHIP:

- 004 (PD/PU)

OTHER CONDITIONS:

STANDARD REMARKS:

- WB9 2 Rec Sta / fish pond

BENEFICIAL USE DUE:

- 12/1/2000

COMMENTS:

JAN 05 1998

RECEIVED

DEC 12 1997

DEPARTMENT OF WATER RESOURCES

Dist. for staffing

Submitted for advertising

11-10-97

Form No. 202

4/87

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATIONS FOR PERMIT ANALYSIS PERMIT

21 7569

INITIAL REVIEW BY HWT DATE 11-10-97 APPLICATION NO. _____

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 subdivisions, 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 Field check required
- _____ Yes _____ No Field check by _____
- _____ Yes _____ No Field report attached
- _____ Yes _____ No Critical groundwater area
- _____ Yes _____ No Groundwater management area
- _____ Yes _____ No Send dam safety information
- _____ Yes _____ No Send power requirement letter
- _____ Yes _____ No Send fish farm requirement letter
- _____ Yes _____ No Power residency affidavit
- _____ Yes _____ No Power efficiency form
- _____ Yes _____ No Within trustwater boundary (If yes, attach trust water supplementary analysis sheet.)
- _____ Yes ☒ No Diversion greater than 5 cfs or 500 acre ft. (If yes, attach large diversion supplementary analysis sheet.)

See reverse side for additional information

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT _____

_____ Date Requested _____

PROCESSING

<u>✓</u> Yes	<u><del> </del></u> No
<u> </u> Yes	<u>✓</u> No
<u><del> </del></u> Yes	<u> </u> No

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

SEND COPIES TO

<u> </u> Idaho Dept. of Health & Welfare	<u> </u> U.S. BLM
<u> X </u> Idaho Dept. of Fish & Game	<u> </u> U.S. Forest Service
<u> </u> Idaho Dept. of Lands	<u> </u> Water District
<u> </u> Adjudication Bureau Unit	<u> </u> Other

FINAL REGIONAL PROCESSING REVIEW

<u> </u>	Yes	<u> </u>	No	Affidavit of publication received
<u> </u>	Yes	<u> </u>	No	Application published correctly. If not, record action taken

<u> </u>	<u> </u>	<u> </u>	Yes	<u> </u>	No	Publication dates & paper, recorded on application
<u> </u>	<u> </u>	<u> </u>	Yes	<u> </u>	No	Protests received
<u> </u>	<u> </u>	<u> </u>		<u> </u>		Final date for protest <u>12-8-97</u>
<u> </u>	<u> </u>	<u> </u>	Yes	<u> </u>	No	Protests, dates, resolution of protest, recorded on application
<u> </u>	<u> </u>	<u> </u>	Yes	<u> </u>	No	Recommendations attached
<u> </u>	<u> </u>	<u> </u>	Yes	<u> </u>	No	Measuring device required
<u> </u>	<u> </u>	<u> </u>	Yes	<u> </u>	No	Access port required
<u> </u>	<u> </u>	<u> </u>	Yes	<u> </u>	No	Will water be delivered by watermaster? If yes, what Dist. <u> </u>
<u> </u>	<u> </u>	<u> </u>	Yes	<u> </u>	No	Special conditions of approval or cover letter below.

Date of priority recommended 11/10/97
By: HWS by C2. per telecon Date: 12/18/97

STATE OFFICE REVIEW

By _____ Date: _____

ADDITIONAL INFORMATION

LOCAL PUBLIC INTEREST

Comments received from

_____ City	_____ Idaho Fish & Game	_____ Irrigation Dist.
_____ County	_____ Idaho Health & Welfare	_____ Canal Company
_____ Reservations	_____ Div. of Environment	_____ Other _____

Project impacts/implications report

COMMENTS

[illegible]

THE FREMONT COUNTY HERALD-CHRONICLE
St. Anthony, Idaho
Ashton, Idaho

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO
County of Fremont

I, TERRY T. WEATHERSTON being first duly sworn, depose and say, that I am the printer of THE FREMONT COUNTY HERALD-CHRONICLE, a semi-weekly newspaper printed and published semi-weekly in Fremont County, Idaho; and I do solemnly swear that the NOTICE APPLICATION WATER RIGHT -STEVE BURKE 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 NOVEMBER 20, 1997 and the last publication having been made on NOVEMBER 27 1997.

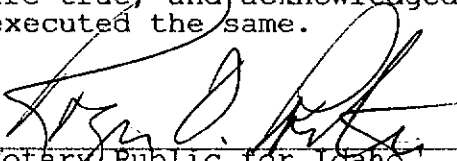
Further, that said newspaper is one of general circulation in said county; that it is a legal newspaper, conforming to legal specifications under the Idaho Statutes; that it has at least two hundred bona fide subscribers living within the county of publication; and that it has been continuously and uninterruptedly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



STATE OF IDAHO)
COUNTY OF MADISON)

On this 28TH day of NOVEMBER in the year of 1997 before me, a Notary

Public, personally appeared Terry Weatherston, 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 therein are true, and acknowledged to me that he executed the same.



Notary Public for Idaho
Residing at Rexburg, Idaho
My commission expires: May 21, 1999

NOTICE OF APPLICATION
FOR WATER RIGHT

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

21-07569

BURKE, STEVE
BURKE, CAROL
979 E EVENING STAR LN
TEMPE, AZ 85283

Source: UNNAMED STREAMS
Tributary: HENRYS LAKE

Diversion Pt.: NESW Sec 33 T 16N R 43E in FREMONT County.

Use: RECREATION (3.50 AF) Total
Diversion: (3.500 CFS) should be 3.50 AF
Date Filed: 11/10/1997

In: FREMONT County T16N R43E S33 NESW not fatal.

The permit(s) will be subject to all prior water rights. Protests must be filed with the applicant and the Director, Dept. of Water Resources, along with a \$25 filing fee, Eastern Region, 900 N Skyline, Idaho Falls, Idaho 83402 on or before DECEMBER 8, 1997.

KARL J. DREHER
Director

Publ. Nov. 20 and 27, 1997HC.

MICROFILMED
JAN 06 1998



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 2, 1997

IDAHO DEPT OF FISH & GAME
REGION 6
1515 LINCOLN RD
IDAHO FALLS ID 83401

RE: Application for Permit No. 21-07569

Dear Sir:

We are enclosing a copy of the application (s) that may be of interest to your department. Please review the application (s) and submit any comments you may have to our Department as soon as possible. The last date of protest is December 8, 1997, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,


Harold W. Jones
Water Right Supervisor

HWJ/rb
enc.

MICRO-11125
JAN 06 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

NOVEMBER 17, 1997

Legal Notices Department
HERALD CHRONICLE
P.O. BOX 10
REXBURG, ID 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. 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 DECEMBER 8, 1997.

Yours truly,

Rita Bodell
Secretary

Encl.

*Forwarded
11-17-97
10:30*

MICROFILMED

JAN 06 1998

21-07569

BURKE, STEVE
BURKE, CAROL
979 E EVENING STAR LN
TEMPE, AZ 85283

Source: UNNAMED STREAMS

Tributary: HENRYS LAKE

Diversion Pt: NESW Sec 33 T 16N R 43E in FREMONT County.

Use: RECREATION (3.50 AF)
Total Diversion: (3.500 CFS)

Date Filed: 11/10/1997

In: FREMONT County
T16N R43E S33 NESW

MICROFILMED
JAN 06 1953

The permit(s) will be subject to all prior water rights. Protests must be filed with the applicant and the Director, Dept. of Water Resources, along with a \$25.00 filing fee, Eastern Region, 900 N Skyline, Idaho Falls, Idaho 83402 on or before DECEMBER 8, 1997.

KARL J. DREHER, Director

Published: 11/20/1997 & 11/27/1997

MICROFILMED

JAN 06 1998