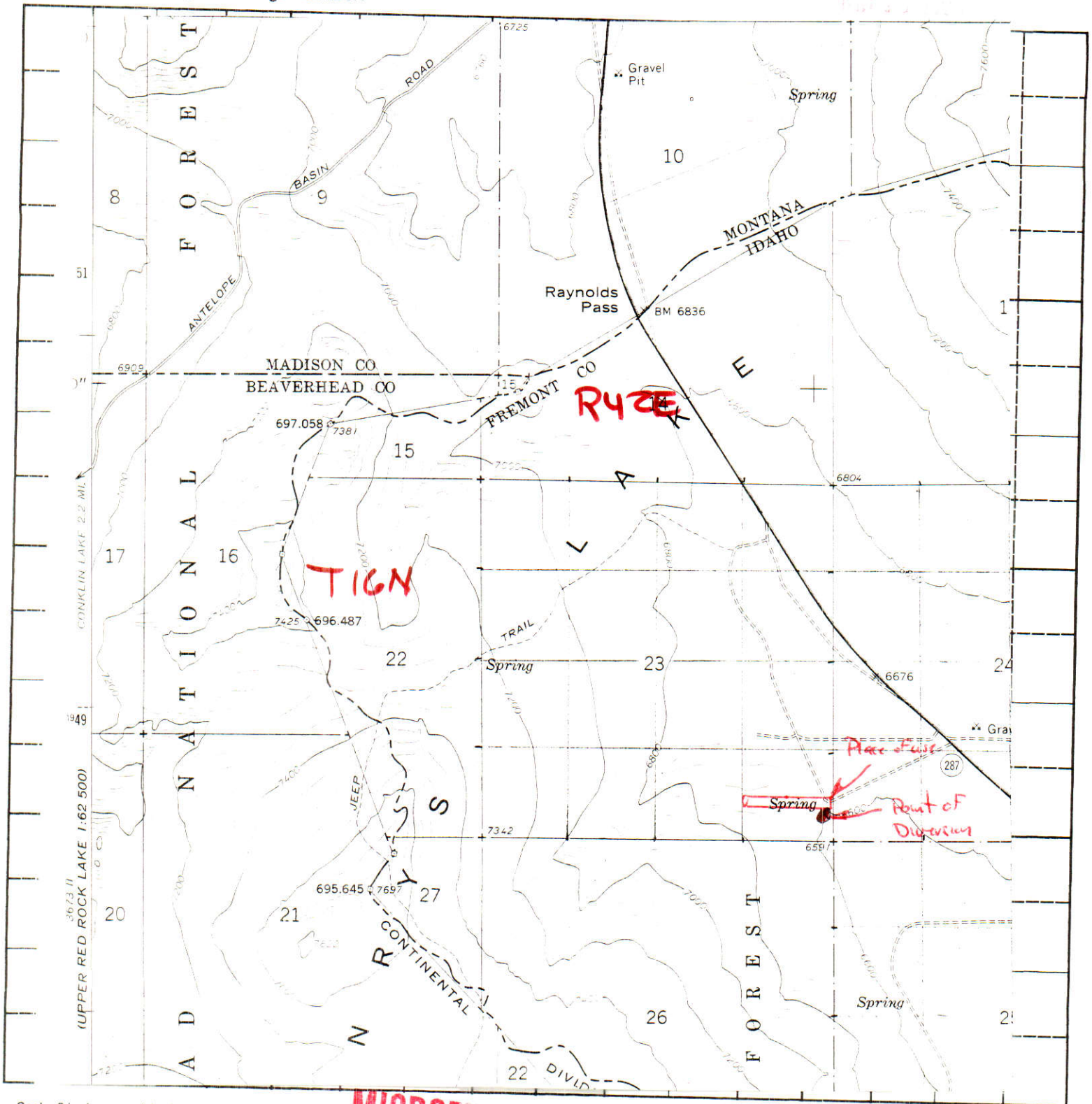


13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



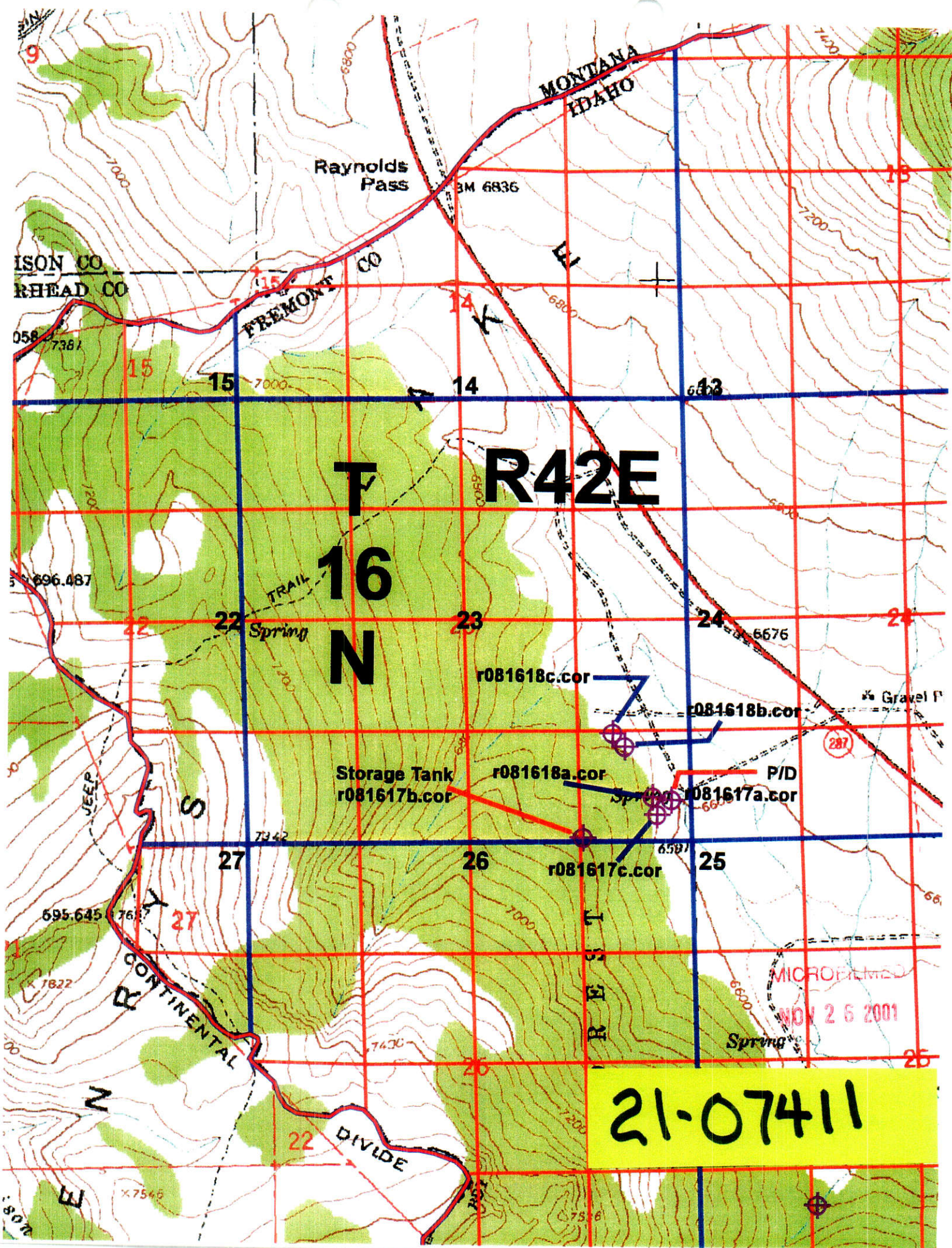
Scale: 2 inches equal 1 mile.

MICROFILMED

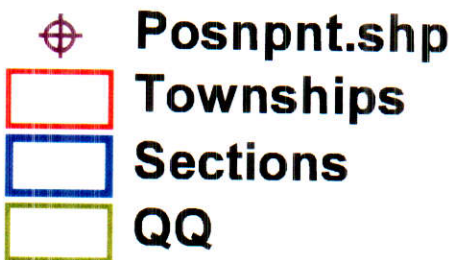
BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

JUN 12 1989

X Bruce Baker
(Applicant)

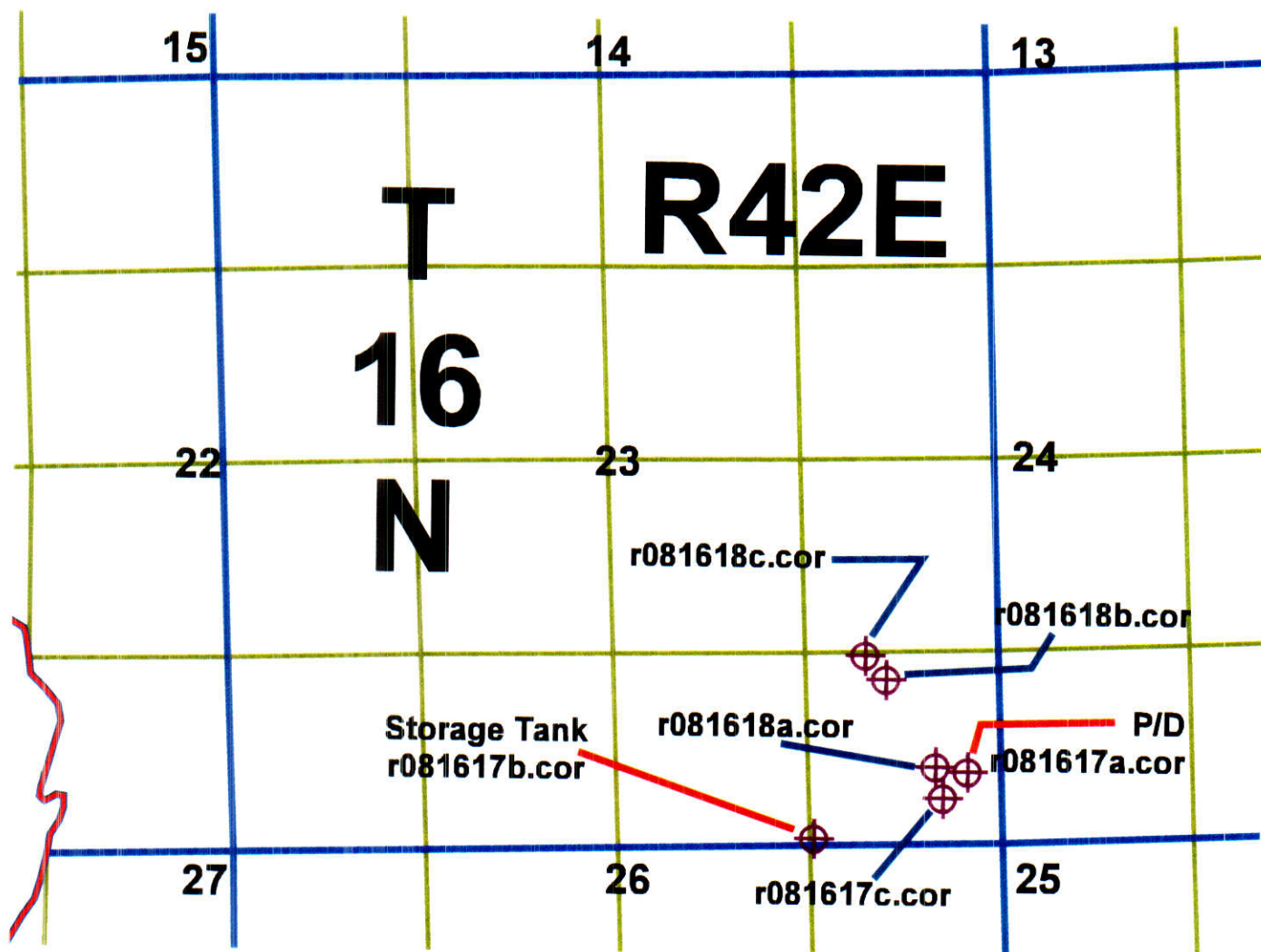


21-07411



MICRO-2000

NOV 26 2001



21-07411

MICROFILMED

NOV 26 2001



Inside pump house



POD # 21-7411

MICHAEL J. LEE
NOV 23 2001



Cistern # 21-7411



4 of 5 cabins sites are visible

MICROFILMED

SEP 26 2007



Brion Kahn's home 21-7411
& guest cabin to right.

MAICHO, JIM

AUG 26 2001

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 21-07411

Priority: February 14, 1989

Maximum Diversion Rate: 0.04 CFS
Maximum Diversion Volume: 0.6 AF

It is hereby certified that SANDRA DAL POGGETTO Or
BRIAN KAHN
430 MONROE AVE
HELENA MT 59601 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated February 14, 1989; and has
submitted Proof of Beneficial Use on July 24, 1989. An examination indicates that the works have a
diversion capacity of 0.04 cfs of water from:

SOURCE

SPRING

Tributary: TIMBER CREEK

and a water right has been established as follows:

BENEFICIAL USE

DOMESTIC

PERIOD OF USE

01/01 to 12/31

DIVERSION RATE

0.04 CFS

**ANNUAL
DIVERSION VOLUME**

0.6 AF

LOCATION OF POINT(S) OF DIVERSION:

SPRING SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 23, Twp 16N, Rge 42E, B.M. FREMONT County

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N 42E 23																	X

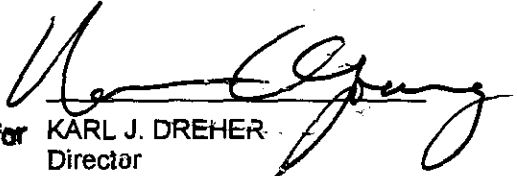
CONDITIONS OF APPROVAL

- Domestic use is for 1 home and does not include lawn, garden, landscape, or other types of irrigation.
- Use of water under this water right will be regulated by the watermaster of State Water District No. 01.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 20th day of NOVEMBER, 2001.

MICROFILMED
NOV 26 2001

Acting for 
KARL J. DREHER
Director

RECEIVED

JUL 24 1989

not enclosed K&L
Department of Water Resources

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

For Office Use Only
Fee Received _____
Date _____
Receipt # _____
Receipt by _____
Reviewed by _____
Sent to region _____

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

Permit No. 21-07411

Name(s) of Permit Holder: BRIAN KAHN & SANDRA DAL POGETTO

Post Office Address: 705 STATE ST.

HELENA, MT 59601 Telephone No. 406-443-0303

Source of Water: SPRING

Extent of Use:

Domestic 1 (number of households) Stockwater _____ (number and type of stock)

Irrigation _____ (acres) Other/Remark _____

Total rate and/or volume for which proof is submitted 0.04 cfs 4 acre-feet

Show the date water was first diverted and beneficially used under this permit: 1983

Measuring Device: Required? ☐ Yes ☒ No
Installed? ☐ Yes ☒ No
Fee enclosed \$ 0
(See License Examination Fee Schedule)

Flow Measurement Port: Required? ☐ Yes ☒ No
Installed? ☐ Yes ☒ No

Person to contact to accompany the Department representative during the field examination:
BRIAN KAHN 406-682-4561 406-449-4129 or 443-0303
(Name) (Telephone Number)

705 STATE ST. HELENA, MT 59601
(Address)

The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

MICROFILMED

AUG 21 1989

7/12/89
Date

Brian Kahn
Signature of Permit Holder (and title, if appropriate)

RECEIVED
MAR 10 1989

21-7411

Ident. No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

406-449-4129

406-682-4561

406-443-0303 (office)

1. Name of applicant Brian Kahn or Sandra Dal Poggetto Phone _____
Post office address Highway Junction, Cameron, MT 59720

2. Source of water supply Spring which is a tributary of Timber Creek

3. Location of point of diversion is SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Govt. Lot _____
Sec. 23 Township 16N Range 42E B.M. Fremont County; additional
points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 0.04 for Domestic 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) 0.04 and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Pump from spring to storage tank to
5 homes. As per 1971 mutual water system agreement. This application is for
water supply for our home only.

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

c. Proposed well diameter is _____ inches; proposed depth of well is _____ 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
1 years (minimum 1 year).

MICROFILMED

JUN 12 1989

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. Idaho Falls
- d. Domestic; show number of households. 1
- e. Other; describe fully. _____

9. Description of place of use:

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

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
16N	42E	23																D	
																		i	
																		units	

Total number of acres to be irrigated _____

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

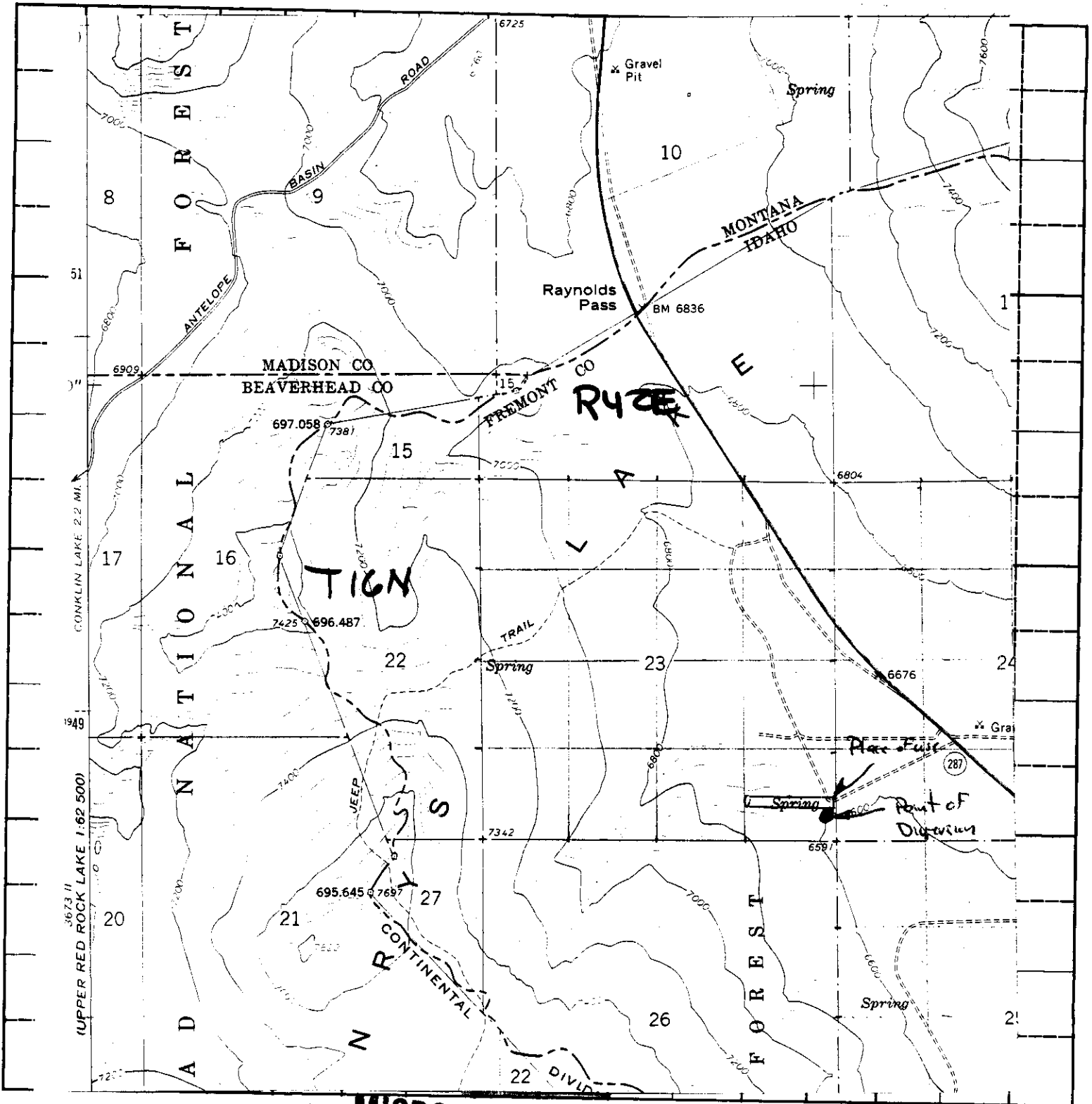
11. a. Who owns the property at the point of diversion? E. J. Steinke, Idaho Falls
- b. Who owns the land to be irrigated or place of use? Applicants
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. Mutual pump/storage agreement signed in 1971 by our predecessors.

12. Remarks: _____

RECEIVED

JUN 12 1989

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.

MICROFILMED

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.

JUN 12 1989

X Bruce Baker
(Applicant)

Proposed Priority 2/14/89 3-21-89 11:55 A
Received by CC Date 2-14-89 Time 12:10 pm Preliminary check by HWS
Fee \$ 30⁰⁰ Receipted by HWS # EG05773 Date 2-14-89
Publication prepared by RB Date 3-17-89 Published in 4-6-13 1989
Herald Chronicle
Publication approved CC Date 4-18-89

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. 21-7411, 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 July 1, 19 90.

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 right to the use of water acquired under this permit shall not give rise to any right or claim against the holder of a senior right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.

The Director retains jurisdiction of the permit and any license subsequently issued to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.

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

Use of water under this permit is subject to control by the watermaster of State Water District No. 01, Snake River.

Witness my hand this 7th day of June, 1989.

J. Blaw Saylor

MICROFILMED

JUN 12 1989

0010
0010

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. _____

To appropriate the public waters of the State of Idaho

1. Name of applicant BRIAN KAHN & SANDRA DAL POGETTO Phone 406-682-4561
406-443-0303
Post office address HINAY JUNCTION, CAMERON, MT 59720
2. Source of water supply UNNAMED SPRING which is a tributary of TIMBER CREEK
3. Location of point of diversion is N 1/2 of N 1/2 of S 1/2 of SE 1/4 of SE 1/4, Govt. Lot _____
Sec. 23 Township 16 N Range 42 E B.M. FREMONT County; additional
points of diversion if any: _____

4. Water will be used for the following purposes:

Amount .04 for DOMESTIC USE purposes from JAN 1 to DEC 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount .02 for STOCKWATER purposes from JAN 1 to DEC 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) .06 and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. PUMP AT MOUTH OF
SPRING PUMPS WATER TO TANK, WHICH SUPPLIES FIVE
HOUSES ON MUTUAL GRAVITY FEED WATER SYSTEM AS PER 1971
MUTUAL WATER SYSTEM AGREEMENT.

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

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

d. Is ground water with a temperature of greater than 90°F being sought? NO

7. Time required for the completion of the works and application of the water to the proposed beneficial use is

NEARLY 5 years (minimum 1 year).

WORKS ARE
(COMPLETE AND IN PLACE.)

MICROFILMED

JUN 12 1989

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. 2 HORSES
- c. Municipal; show name of municipality. _____
- d. Domestic; show number of households. WE ARE 1 OF 5 HOUSEHOLDS ON SYSTEM
- e. Other; describe fully. _____

9. Description of place of use:

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

TWP	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
16N	42E	23																5	
																		S	
																		D	

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? E.J. STEINKE, IDAHO FALLS

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

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. MUTUAL PUMP/STORAGE AGREEMENT, SIGNED

BY OUR PREDECESSORS IN INTEREST, DATED 1971 AND CREATING A MUTUAL WATER SYSTEM.

12. Remarks: LEGAL DESCRIPTION OF PARCEL ON WHICH WATER IS USED : 5 1/2 N 1/2 N 1/2 SE 1/4 SE 1/4 S23 TWP 16N, RANGE 42; E. BOISE MERIDIAN.

JUN 12 1989

This image shows a full page of blank graph paper. The grid consists of 20 columns and 20 rows of squares, formed by thin black lines. There are some dark smudges or artifacts at the top center and bottom center of the page, but otherwise, it is completely empty.

_____ (Applicant)
Husband & wife

Received by CW Date 2-14-89 Time 12:10p Preliminary check by _____
Fee \$ 30.00 Received by HWS # E005773 Date 2-14-89
Publication prepared by _____ Date _____ Published in _____
Publication approved _____ Date _____

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. _____, and said application is hereby _____.

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 _____, 19 ____.

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:

MICROFILMED

JUN 12 1989

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

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO
County of Fremont

Department of Agriculture
Eastern District Office

I, Terry 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 in
Fremont County, Idaho; and I do solemnly
swear that the Water Rights #21-07397
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 6, 1989

and the last publication having been
made on April 13, 1989

Further, that said newspaper is one
of general circulation in said county;
that it is a legal newspaper, conforming
to legal specifications under 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 said notice.

Terry Weatherston

STATE OF IDAHO)
COUNTY OF MADISON)

On this 14th day of April
in the year of 1989, 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.

Geoffrey C. Jones

Notary Public for Idaho
Residing at Rexburg, Idaho
My commission expires: June 8, 1993

USE OF APPLICATION
FOR WATER RIGHT

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

21-07397

U.S. DEPT. OF AGRI.
FOREST SERVICE
FEDERAL BLDG.
324 25TH ST.

OGDEN, UT 84401

Source: DUCK CREEK Tributary:
HENRY'S LAKE

Diversion Pt: SESENE Sec 23 T 15N R
42E

Use: STOCKWATER STORAGE (.10
AF) DIVERSION TO STORAGE (.050
CFS)

Date Filed: 12/20/1988

In: T15N R42E S23 SESE

21-07411

KAHN, BRIAN
POGGETTO, SANDRA DAL
HWY. JUNCTION
CAMERON, MT 59720

Source: SPRING Tributary: TIMBER
CREEK

Diversion Pt: SESENE Sec 23 T 16N R
42E

Use: DOMESTIC (.040 CFS)

Date Filed: 2/14/1989

In: T16N R42E S23 SESE

21-07412

FALL RIVER TRADING POST
P.O. BOX 153
CHESTER, ID 83421

Source: GROUNDWATER

Diversion Pt: SESESW Sec 24 T 08N R
41E

Use: COMMERCIAL (.020 CFS)
DOMESTIC (.040 CFS)

Date Filed: 3/01/1989

In: T08N R41E S24 SESW

21-07414

BROWN, ROBERT L.
HARRISON, STEVE
JOCKUMSON, WILLIAM
PARDONNET, L.D.

RICKS, NATHAN

WHITE, JACK

RIRIE, ID 83443

Source: GROUNDWATER

Diversion Pt: NWSENE Sec 27 T 15N R
43E

Use: DOMESTIC (.110 CFS)

Date Filed: 3/08/1989

In: T15N R43E S27 SESE

21-07415

GREENLINE EQUIPMENT COMPANY
INC.

P.O. BOX 787

ASHTON, ID 83420

Source: GROUNDWATER

Diversion Pt: SESE Sec 35 T 09N R
42E

Use: COMMERCIAL (.500 CFS)

Date Filed: 3/08/1989

In: T09N R42E S35 SESE

21-07416

ROSEBOROUGH, ZITA
RT. 1, BOX 179

ST. ANTHONY, ID 83445

Source: GROUNDWATER

Diversion Pt: SESWSW Sec 33 T 08N R
41E

Use: DOMESTIC (.060 CFS)

Date Filed: 3/09/1989

In: T08N R41E S33 SWSW

22-07633

VALLEY BANK

501 BROADWAY

P.O. BOX 279

IDAHO FALLS, ID 83405

Source: GROUNDWATER

Diversion Pt: NENENE Sec 5 T 07N R
41E

Use: COMMERCIAL (.040 CFS)

Date Filed: 3/02/1989

In: T07N R41E S05 NENE

MICROFILMED

JUN 12 1989



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

November 20, 2001

SANDRA DAL POGGETTO
BRIAN KAHN
430 MONROE AVE
HELENA MT 59601

RE: License No. 21-7411 - Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

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

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

Sincerely,

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

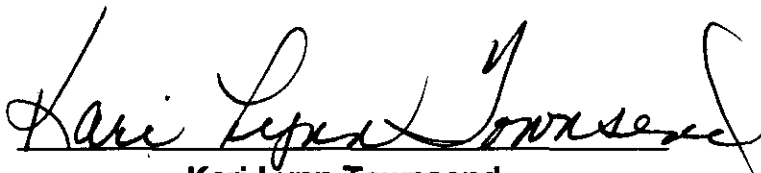
MICROFILMED
NOV 26 2001

CERTIFICATE OF MAILING

I hereby certify that on November 20, 2001 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO. 21-7411

**SANDRA DAL POGGETTO
BRIAN KAHN
430 MONROE AVE
HELENA MT 59601**


**Kari Lynn Townsend
Secretary**

**MICROFILMED
NOV 26 2001**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

Comment Report

21-7411

1. skeen 11/15/2001 License Review

Comment: License review and data entry by S. Keen on 11/15/2001.

The field examiner found 7 homes on the system. License will indicate one home because that is what the permit holders indicated on their application and on the proof of beneficial use statement.

Today I spoke with the Fremont County assessors office to find out if this permit covers the same use as decreed right 21-10245. What I found out is that E. J. Steinke Ranches, Inc., the holder of right 21-10245, owns parcel RP16N42E239300. Robert G. and Sherry J. Essig own parcel RP16N42E239001, which used to be owned by Sandra Dal Pogetto, the holder of this permit. Because there are two parcels, I am concluding that the two rights do not cover the same use. It is unclear whether the two rights share a point of diversion.

The address for Robert F. and Sherry J. Essig is 521 S. 5th, Bozeman, MT, 59715.

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NOV 26 2001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED

NOV - 2 2001

Department of Water Resources

A. GENERAL INFORMATION

Permit No. 21-74111. Owner: Brian Kahn or Sandra Dal Poggetto Phone No. (406) 449-4129Current Address: 430 Monroe Ave, Helena, MT 596012. Accompanied by: X Pete Stavros EXAM DATE: 8-16-01Address: HC 66 Box 5670, Island Park ID 83429 Phone No. (406) 682-7846

Relationship to Permit Holder: _____

3. Source: Spring tributary to _____

B. OVERLAP REVIEW

1. Other water rights with the same place of use: No

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
		SE	SE	SE	23	16N	42E	Premont	GPS R081617A

2. Place(s) of Use:

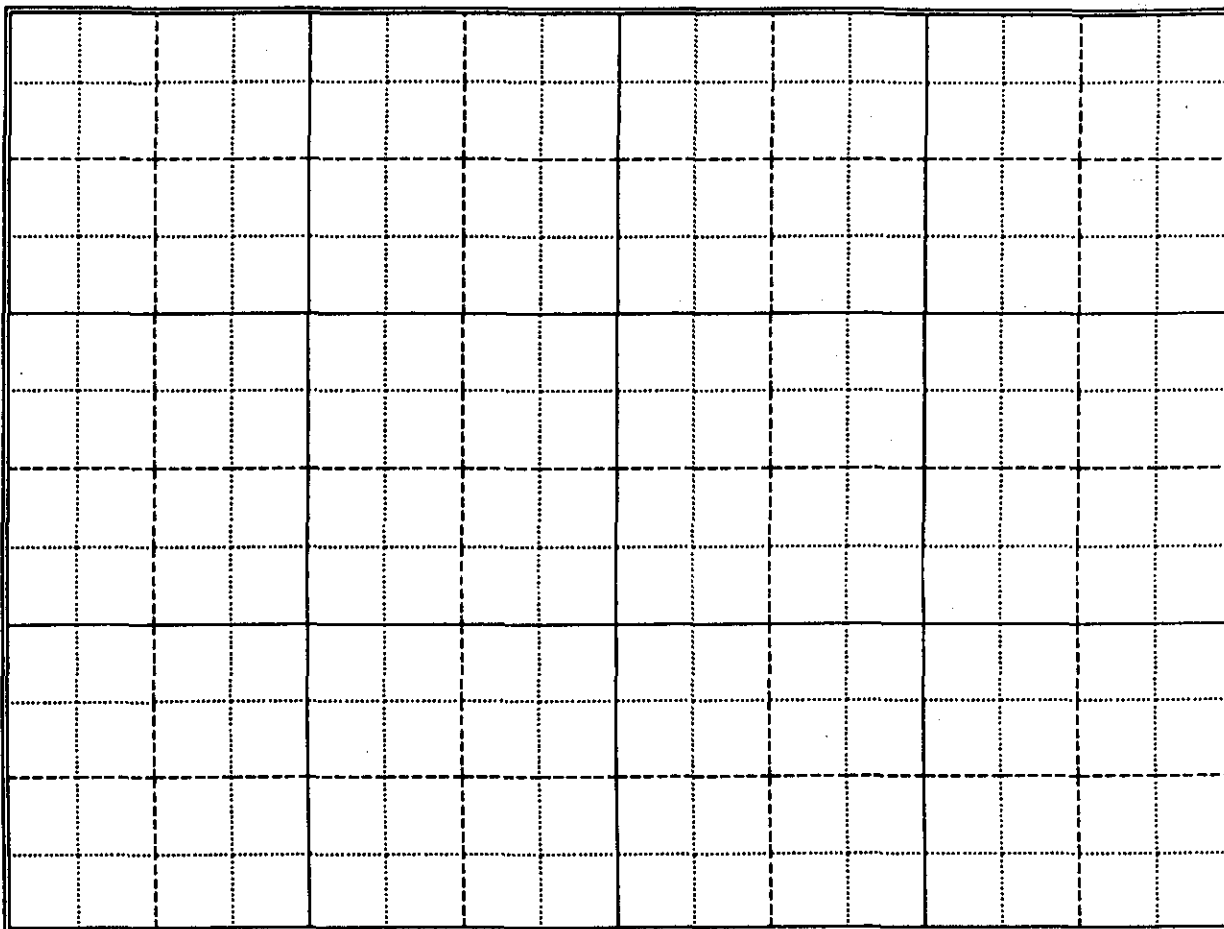
Indicate Method of Determination SEE REMARKS (GPS)

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	42E	23																D	

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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

*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: De minimus amount

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Original filing under EJ Steinke

R081617B Cistern on hill above homes

2" PVC leads to cistern.

Cistern is around 200 ft higher than spring.

R081617C ~~Brian~~ Pete Stavros home lies 20 ft to south

R081618A Virginia ? home lies 40 ft northwest

R081618B Brian Kahn's Cabin

Brian Kahns Guest Cabin is about 200 ft West

R081618C Clement's Cabin 30 ft south

Clement's Guest Cabin 30 ft Southwest

There is another cabin between Virginia's and Kahns.

Pete Stavros to look for information on pump.

Actually there are seven cabins on system.

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

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F. FLOW CALCULATIONS

Additional Computation Sheets Attached

Measured Method:

Deminimus

$$Q = 0.04 \text{ cfs}$$

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = \underline{\hspace{2cm}}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = \underline{\hspace{2cm}}$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = \underline{\hspace{2cm}}$$

2. Volume Calculations for Other Uses:

$$V_{DOM} = (0.6) 4 = 2.4 \text{ cfs}$$

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
<i>Domestic (Sunits)</i>	<i>1/1</i>	<i>12/31</i>	<i>0.04</i>	<i>2.4</i>
Totals:			<i>0.04 cfs</i>	<i>2.4</i>

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

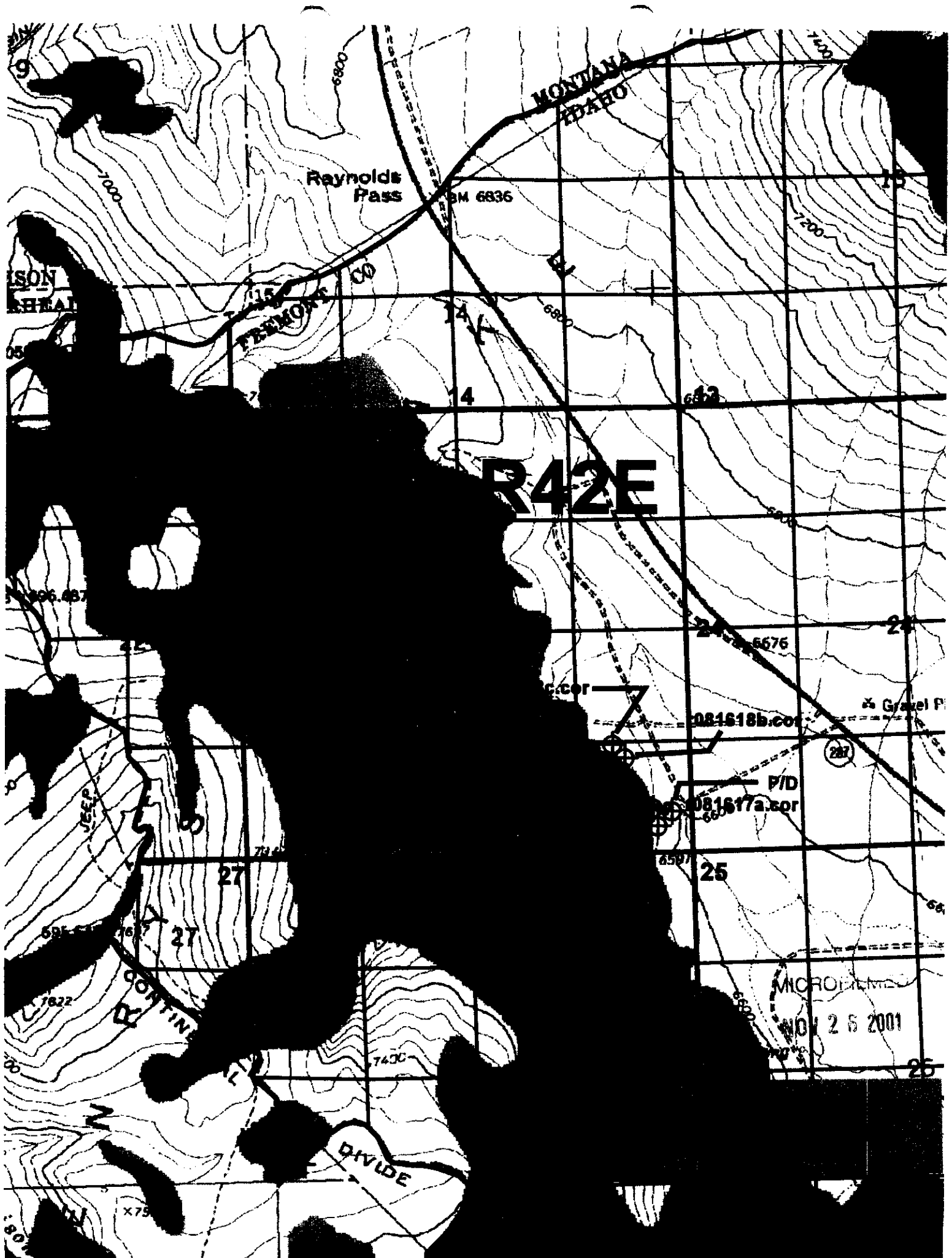
I. AUTHENTICATION

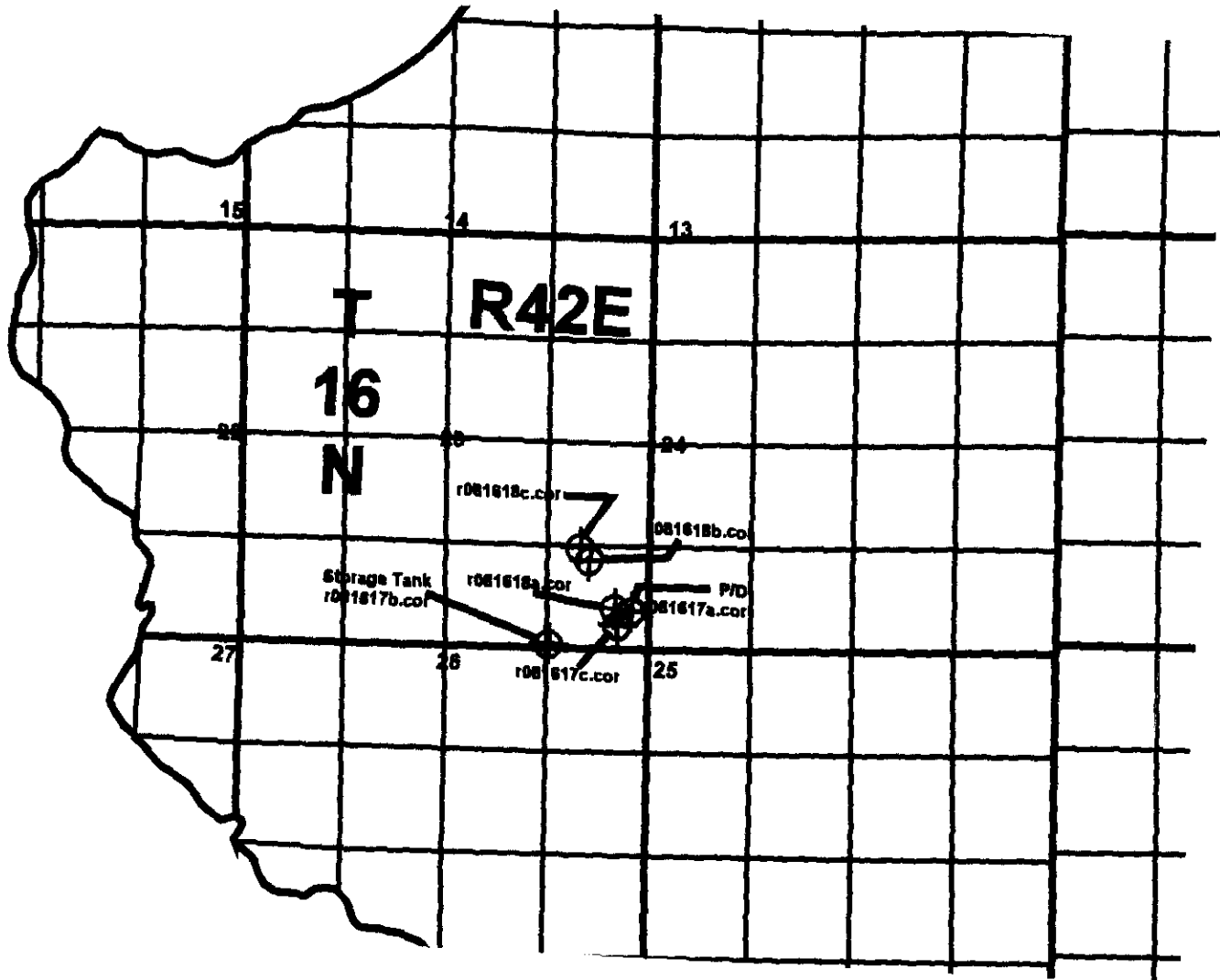
Field Examiner's Name *Steve Mueller* Date *8/16/2001*

Reviewer _____ Date _____

SEAL

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NOV 26 2001



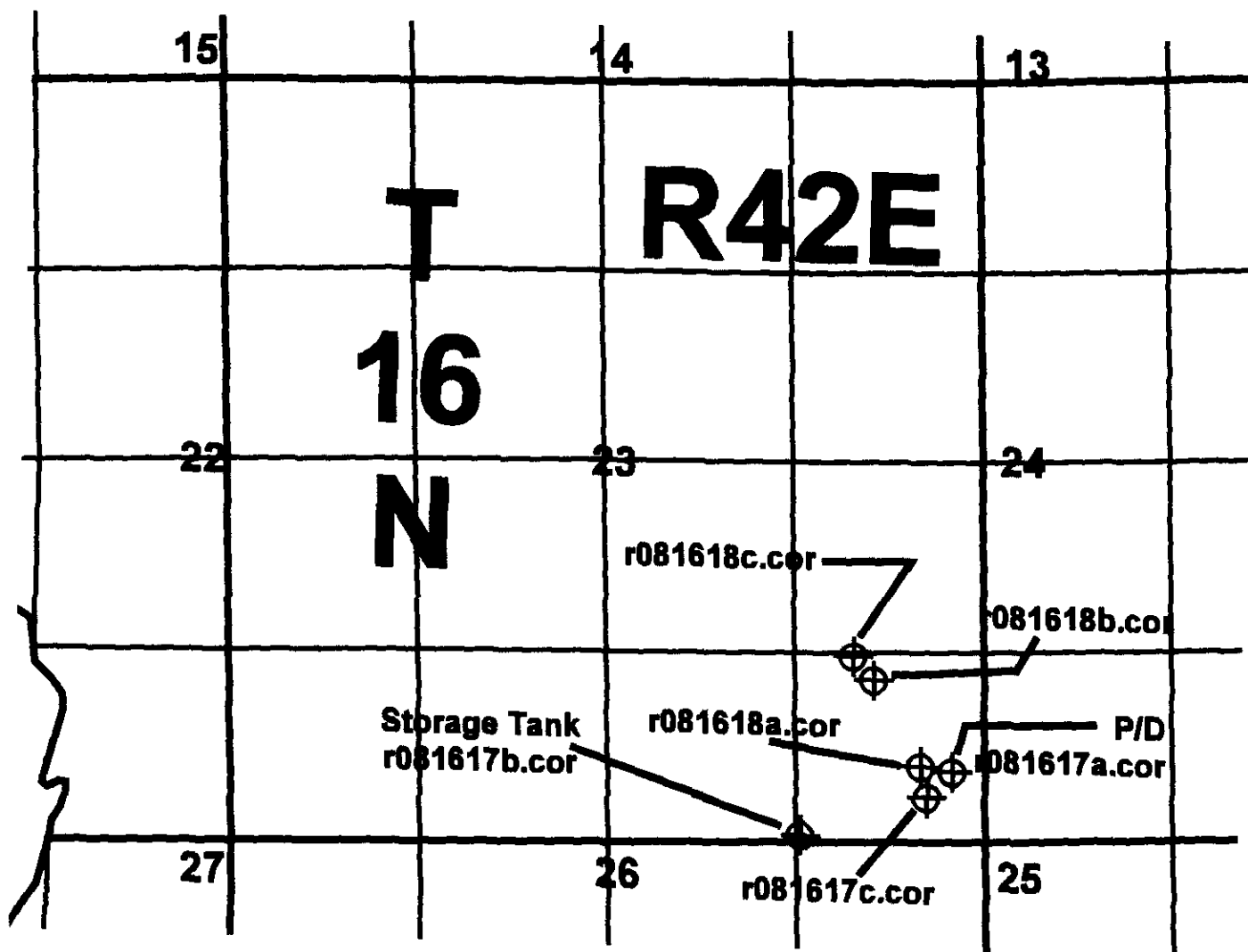


- ⊕ Posnpnt.shp
- Townships
- Sections
- QQ

21-07411

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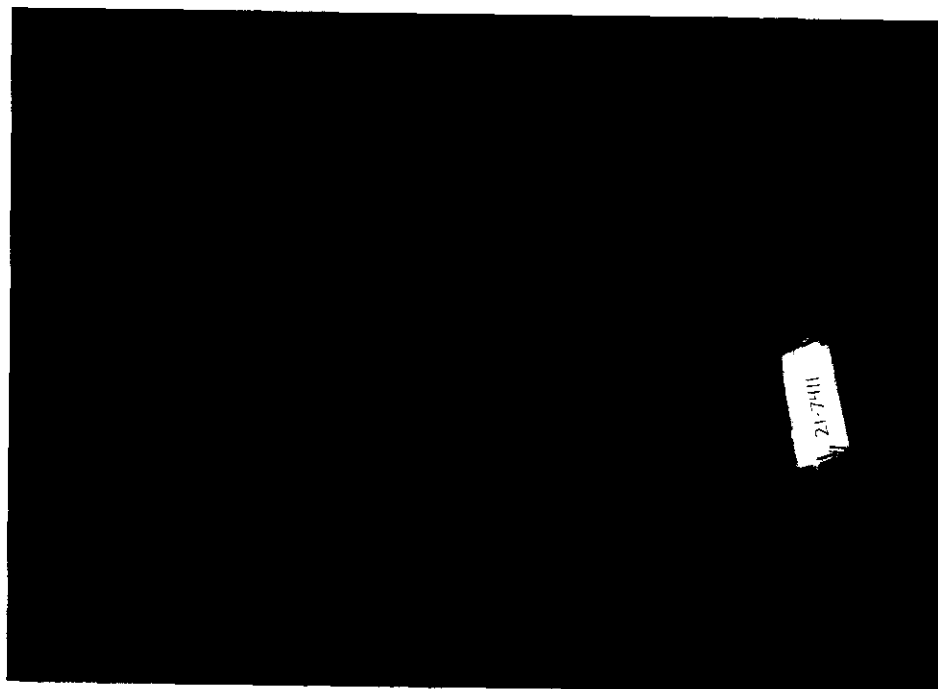
21-07411

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NOV 26 2001



Inside pump house



POD # 21-7411

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NOV 28 2001



Cistern # 21-7411



4 of 5 cabins sites are visible

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JUN 26 2001



Brian Kahn's home 21-7411
& guest cabin to right.

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JUN 26 2001

September 13, 1989

Permit No. 21-07411

Brian Kahn & Sandra Dal Poggetto
705 State St.
Helena, MT 59601

Dear Permit Holder:

We acknowledge receipt of your statement submitted as proof of beneficial use for the above referenced permit.

Before a license can be issued, a field examination must be made by a representative of this Department.

A field examiner will contact you to arrange to examine your system.

If you have any questions regarding the field examination, please contact this office by phone at 525-7161, or in person in the third floor State Office Building, 150 Shoup, Idaho Falls, Idaho.

Sincerely,

KEITH C. WILSON
Sr. Resource Agent

KCW:lk

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NOV 26 2001

1/88

PROOF OF BENEFICIAL USE

ANALYSIS SHEET

Permit No. 21-7411

Date: 8/11/89

General Considerations:

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

Source of Water:

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

Extent of Use and Rate of Diversion:

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

Measuring Device:

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

Remarks:

Proof Acceptable - address change

Priority Calculation:

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

SEND FILES TO DATA ENTRY AND THEN TO MICROFILM

S T A T E O F I D A H O
D E P A R T M E N T O F W A T E R R E S O U R C E S

Statehouse
Boise, Idaho 83720
(208) 334-7900
June 7, 1989

BRIAN KAHN
SANDRA DAL POGGETTO
HWY. JUNCTION
CAMERON, MT 59720

P E R M I T A P P R O V A L N O T I C E

RE: PERMIT NO. 21-07411

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. We direct your attention to the conditions of approval on the final page.

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 a form entitled "Proof of Beneficial Use" that must be submitted to the Department when your project is completed. If development is complete, you may submit proof of beneficial use immediately.

Sincerely,

GARY SPACKMAN, Supervisor
Water Right Permits Section

GS: SC
Enclosures

Microfilmed
JUN 12 1989

Form No. 202a
/87STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT ANALYSIS SHEET

21 7111

INITIAL REVIEW BY HWS DATE 3-10-89 APPLICATION NUMBER Wahn

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 signator 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
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

Source Copy Comst backDate Requested MAY 02 1989

Department of Water Resources

RECEIVED

PROCESSING

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

END COPIES TO

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

FINAL REGIONAL PROCESSING REVIEW

☒ Yes ☐ No Affidavit of publication received
☒ Yes ☐ No Application published correctly. If not, record action taken.

☒ Yes ☐ No Publication dates & paper, recorded on application
☐ Yes ☒ No Protests received
Final date for protest 4-11-89
☐ Yes ☐ No Protests, dates, resolution of protest, recorded on application
☐ Yes ☒ No Recommendations attached
☐ Yes ☒ No Measuring device required
☐ Yes ☒ No Access port required
☒ Yes ☐ No Will water be delivered by watermaster? If yes, what Dist. 01
☐ Yes ☐ No Special conditions of approval or cover letter below.

☐ See below for additional information
Date of priority recommended 2-14-89
By HWS Date 4-30-89

STATE OFFICE REVIEW

P116 04 05 (01, Snake River) 48 49
☐ See below for additional information
By KW Date 5/25/89

ADDITIONAL INFORMATION

App. in NON-TRUST area-

March 29, 1989

Brian Kahn or Sandra Dal Poggetto
Hwy. Junction
Cameron, MT 59720

Application for Permit No. 21-7411

Dear Water Right Applicant:

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

This office is currently in the process of advertising the application in the Herald Chronicle. 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 about eight weeks.

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

Sincerely,

HAROLD W. JONES
Water Rights Supervisor

HWJ/rb

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JUN 12 1989

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region
150 Shoup Ave., Suite 15

Idaho Falls, Idaho 83402
(208) 525-7161

MARCH 29, 1989

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 APRIL 24, 1989.

Yours truly,

Rita Bodell
Secretary

Encl.

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JUN 12 1989

NOTICE OF APPLICATION FOR WATER RIGHT

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

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JUN 12 1989

21-07411

^{1A}
KAHN, BRAIN
POGGETTO, SANDRA DAL
HWY. JUNCTION
CAMERON, MT 59720

Source: SPRING

Tributary: TIMBER CREEK

Diversion Pt: SESESE Sec 23 T 16N R 42E

Use: DOMESTIC (.040 CFS)

Date Filed: 2/14/1989

In: T16N R42E S23 SESE

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JUN 12 1989

The permit(s) will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-3A, 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 24, 1989.

R. Keith Higginson, Director

Published 4/06/1989 & 4/13/1989

INDEXED

JUN 12 1989

ACTION REQUIRED

2-15-89

FROM: H.W. JONES IDWR

TO: Brian Kahn

Attached is a retyped copy of your recent application.
I believe it more correctly expresses the intent of the original.
Please review this application & if you agree please sign it
& send it back to the Idaho Falls office to my
attention.

Harold W. Jones

Amount _____
(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) 0.06 and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed d

a. Descript

5 homes

b. Height

reservoir

c. Proposi

d. Is grou

7. Time required for the completion of the works and appropriation of the _____
1 years (minimum 1 year).

Send to:

Brian Kahn

125 E. Spain

Sonoma, CA 95676

storage tank to

acre-feet; total

ted to storage:

feet.

sed beneficial use is

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JUN 12 1989