

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 98-07827

Priority: July 02, 2003

Maximum Diversion Volume: 1.2 AF

This is to certify, that JEFFREY W MELLINGER
RT 1 BOX 1798
BONNERS FERRY ID 83805

has applied for a permit to appropriate water from:

Source: SPRING

Tributary: COW CREEK

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
RECREATION STORAGE	01/01 to 12/31	1.2 AF

LOCATION OF POINT(S) OF DIVERSION:

SPRING SE1/4SE1/4SE1/4 Sec. 1, Twp 61N, Rge 01E, B.M. BOUNDARY County

PLACE OF USE: RECREATION STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
61N	01E	1																	X

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2004**.
2. Subject to all prior water rights.
3. Recreational use is for fishing and swimming.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 18th day of December, 2003.


Acting for KARL J DREHER, Director

70752

Ident. No. 98-7827

RECEIVED

OCT 30 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

RECEIVED

JUL 02 2003

IDWR/North

Department of Water Resources

To appropriate the public waters of the State of Idaho

1. Name of Applicant Jeffrey W Mellinger Phone 208-267-5515

Mailing address Rt 1 Box 1798 Bonners Ferry, ID. 83805

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

3. Location of point of diversion is Township 61N Range 1E Sec. 1, in the SE 1/4, SE 1/4, Govt. Lot _____, B.M., Boundary County; additional points of diversion if any:

4. Water will be used for the following purposes:

- 1.2 Amount 1.21 for storage for recreation purposes from Jan 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) _____ and/or (b) 1.21
cubic feet per second acre feet per annum

6. Proposed diverting works: On stream pond 66'x100'x8'

a. Describe type and size of devices used to divert water from the source pond 66'x100'x8'

b. Height of storage dam 4 feet; active reservoir capacity 1.25 acre-feet; total reservoir capacity 1.5 acre-feet

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

d. Is ground water with a temperature of greater than 85°F being sought? _____

e. If well is already drilled, when? _____; Drilling firm _____

Well was drilled for (well owner) _____; Drilling Permit No. _____

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

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

- a. Hydropower; show total feet of head and proposed capacity in kW. _____
- b. Stockwatering; list number and kind of livestock. _____
- c. Municipal; show name of municipality. _____
- d. Domestic; show number of households. _____
- e. Other; describe fully. pond for recreation fishing and swimming

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	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	1E	1																~~R~~	~~70~~
																		R	

Total number of acres to be irrigated _____

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

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

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

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

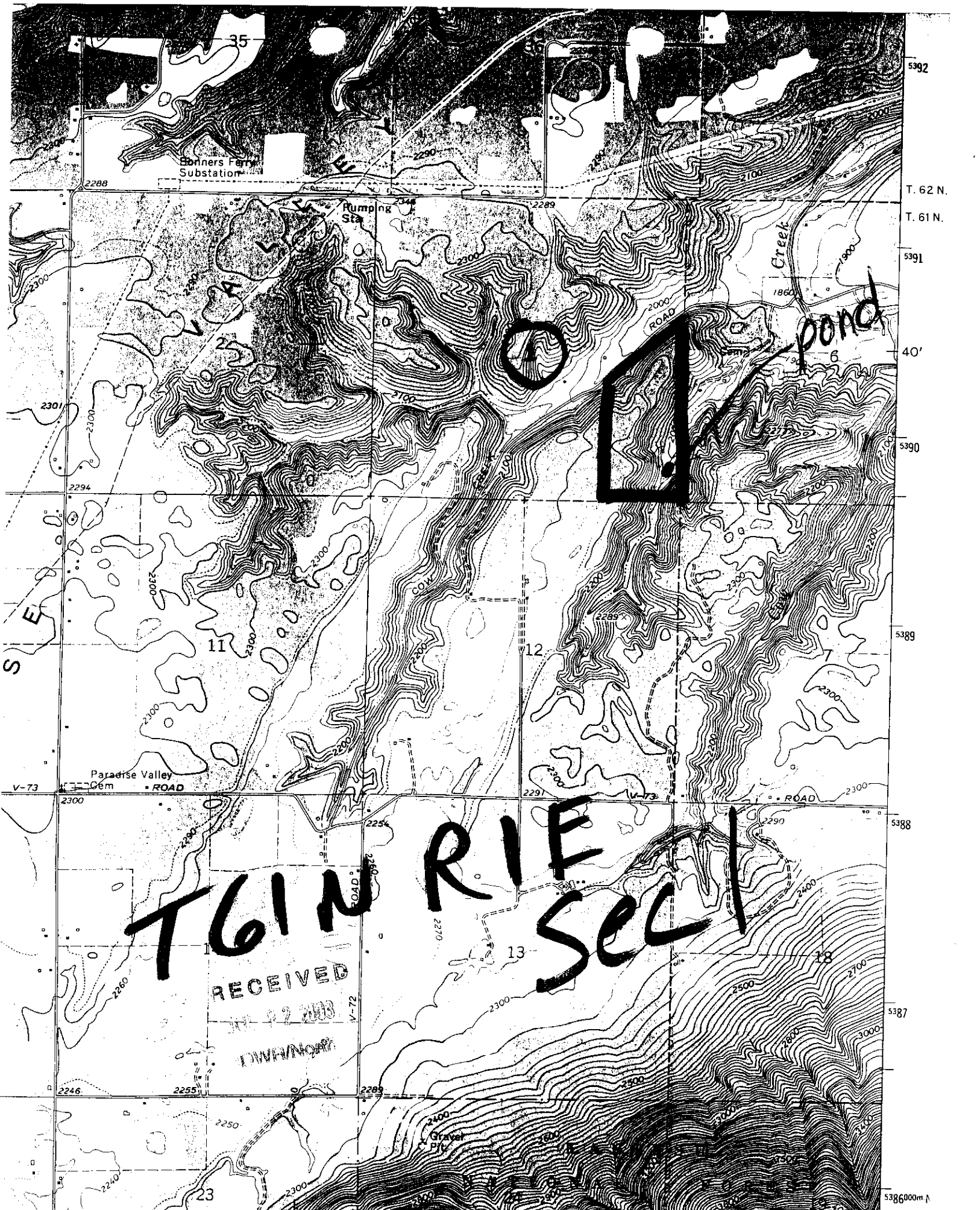
12. Remarks: _____

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

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

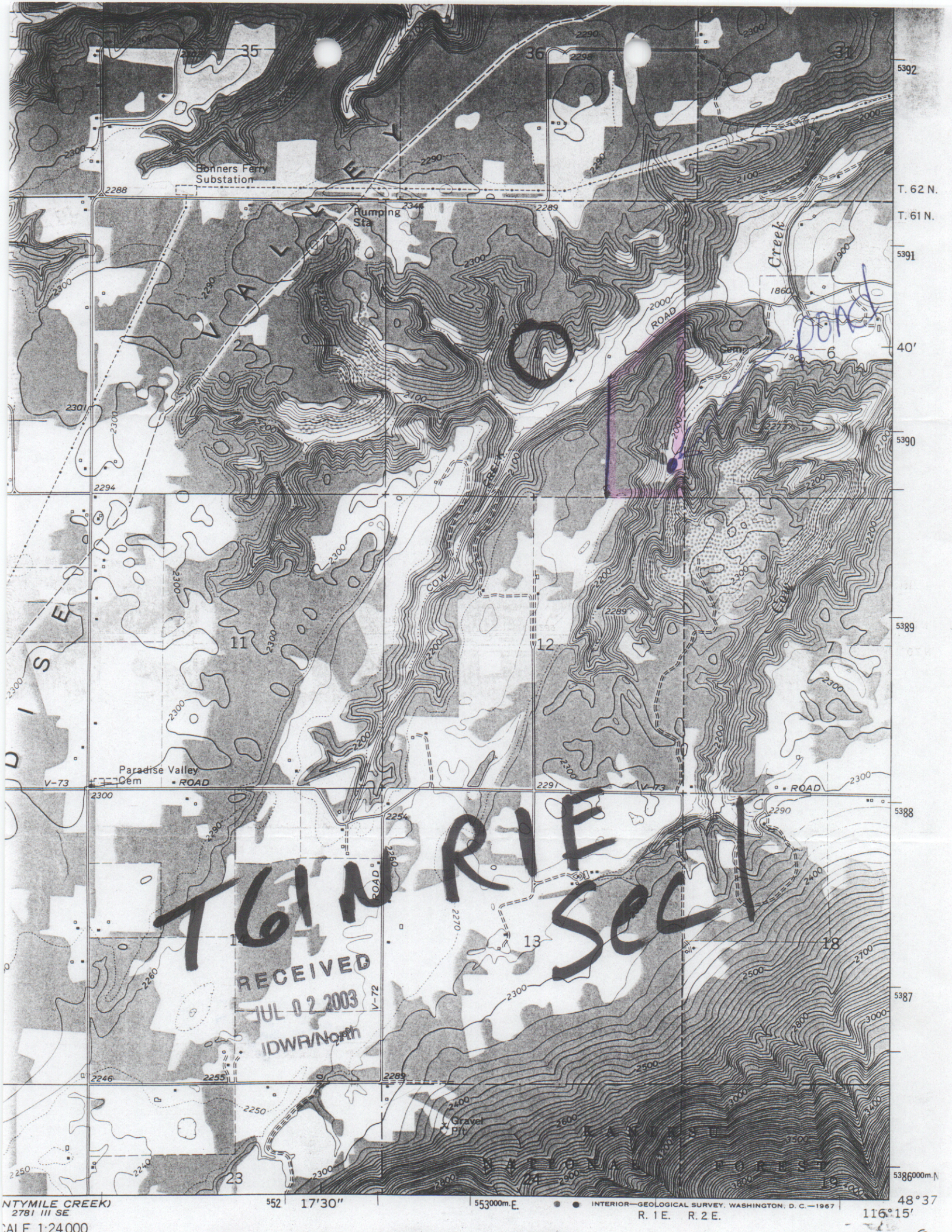
Jeffrey W. Mellinger
Signature of Applicant (and title, if applicable)

Received by ☐ Date 7/2/03 Time 12:08 P Preliminary check by _____
 Fee \$ 100.00 Received by ☐ # NO15152 Date 7/2/03
 Publication prepared by ☐ Date 8/14/03 Published in Bozeman Ferry Herald 8/21+28/03
 Publication approved ☐ Date 9/9/03



T6IN RIE SECT

RECEIVED
JUL 12 2003
TWINNONT



T61N R1E Sec 11

RECEIVED
JUL 02 2003
IDWR/North



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

December 18, 2003

JEFFREY W MELLINGER
RT 1 BOX 1798
BONNERS FERRY ID 83805

RE: Permit No. 98-7827

Permit Approval Notice

Dear Permit Holder:

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

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

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

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

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

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

Sincerely,


for Shelley W. Keen
Water Rights Supervisor

SWK:klt

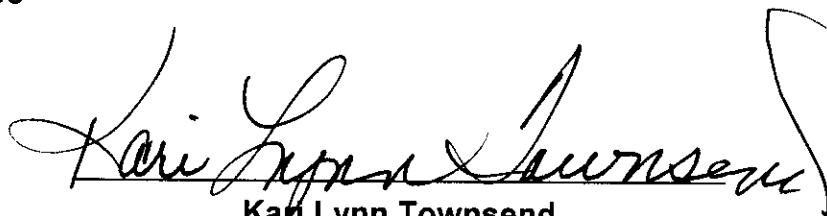
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2003 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 98-7827

**JEFFREY W MELLINGER
RT 1 BOX 1798
BONNERS FERRY ID 83805**


**Karl Lynn Townsend
Secretary**

**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.

RECEIVED

DEC 17 2003

December 12, 2003

Department of Water Resources

In reference to the IDFG letter, Re: application for permit 98-7827

First of all, about the un-named spring that was mentioned. The stream name is not mentioned because it isn't big enough to be called a stream. After talking to the IDWR about filling this application out, "of which I had no clue" they told me to put down a stream because I could see water flowing at the low end of the grassy area to which would flow into the pond along with other springs that would be underground. The water doesn't leave the property except for spring runoff, which the pond would not affect.

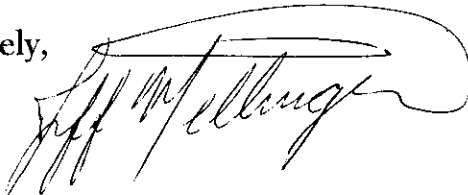
As you mentioned in the second paragraph, "if it doesn't reduce stream volume or flows below those needed to support fish and other aquatic species you have no objections." The closest stream is about 1/4 mile away, and there isn't enough water to reach that stream, it dries up before it leaves my property.

Yes, I am aware that I need a permit to put fish in this pond. Are there any programs by the IDFG to supply fish for this pond?

Finally, I understand your concerns but due to my circumstances, I think you would agree that my request does not apply to your concerns. Also, I didn't know that I needed to respond to the letter from IDFG because it did not come in, on the time frame set when it was published in the Bonners Ferry Herald, and I didn't think the concerns mentioned, applied to my situation.

Please reconsider with the info that I addressed to your concerns!!!

Sincerely,

A handwritten signature in cursive script, appearing to read "Jeff Mellinger". The signature is written in dark ink and is positioned above the printed name.

Jeff Mellinger



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

December 8, 2003

RECEIVED

DEC 17 2003

JEFFREY MELLINGER
RT 1 BOX 1798
BONNERS FERRY ID 83805

Department of Water Resources

RE: Application for Permit 98-7827

Dear Mr. Mellinger:

Upon review of your application for permit it has been brought to my attention that there has been a recommendation made by Charles E. Corsi, Regional Supervisor of Idaho Fish and Game. I have enclosed a copy of his recommendation for your review.

The Idaho Water Resource Department (IDWR) wanted to bring this to your attention and let you know that if we do not hear any comment on this issue from you within 30 days, that IDWR will not allow any on stream storage associated with your permit. I have enclosed a copy of your application for you to reference.

Thank you for your past and continued cooperation throughout this process. If you have any questions please contact me at 327-5452.

Sincerely,

A handwritten signature in black ink, appearing to read 'J F Zokan', is written over the typed name and title.

James F. Zokan
Sr. Water Resource Agent

Enclosures



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 25, 2003

JEFFREY MELLINGER
RT BOX 1798
BONNERS FERRY ID 83805

RE: Application for Permit 98-7827

Dear Mr. Mellinger:

Upon review of your application for permit it has been brought to my attention that there has been a recommendation made by Charles E. Corsi, Regional Supervisor of Idaho Fish and Game. I have enclosed a copy of his recommendation for your review.

The Idaho Water Resource Department (IDWR) wanted to bring this to your attention and let you know that if we do not hear any comment on this issue from you within 30 days, that IDWR will not allow any on stream storage associated with your permit. I have enclosed a copy of your application for you to reference.

Thank you for your past and continued cooperation throughout this process. If you have any questions please contact me at 327-5452.

Sincerely,

James F. Zokan
Sr. Water Resource Agent

Enclosures



RECEIVED

OCT 30 2003

IDAHO FISH & GAME

PANHANDLE REGION
2750 Kathleen Avenue
Coeur d'Alene, Idaho 83815

Dirk Kempthorne / Governor
Steven M. Huffaker / Director

August 29, 2003

Mr. Robert Haynes
Idaho Department of Water Resources
Northern Region
1910 Northwest Blvd, S 210
Coeur d'Alene, ID 83814

*on computer
9/11/03*

RECEIVED

SEP 11 2003

IDWR/North

Dear Mr. Haynes:

REFERENCE: #98-1827 MELLINGER WATER RIGHT APPLICATION

Jeffrey W. Mellinger has requested 1.21 acre-feet from an un-named spring for recreation. Section 6 of the application indicates that the water would be stored in an on-stream pond. The name of the stream is not provided.

We have no objection to issuing the water right if your calculations indicate that the withdrawal will not reduce stream volume or flows below those needed to support fish and other aquatic species. However, we believe that some clarification of the actual location and design of the diversion and proposed impoundment is required to fully assess the environmental impacts.

We recommend against conferring the right to construct a pond on the stream or within a seasonal channel, should you approve the water right. Even small perennial, intermittent and ephemeral streams serve many important biological functions that deserve protection. An in-stream impoundment on a stream may contribute to elevated stream temperatures, impede migrations of amphibians and other wildlife, reduce the timing or amount of recharge to downstream waters, and have other potentially adverse impacts on water quality and stream function. We recommend that the applicant should be required to provide an off-stream storage alternative.

Finally, we note that the applicant intends to create recreational storage for fish. The applicant should be informed that a permit is required prior to stocking private ponds with fish. In addition, unless the fish to be stocked are delivered by a commercial hatchery (required for trout), the applicant must acquire a fish transport permit to bring fish to the pond. Both permits are readily available from Idaho Department of Fish and Game.

Thank you for the opportunity to comment.

Sincerely,

Charles E. Corsi
Regional Supervisor

CEC:RH:kh

C: Tracey Trent, IDFG Boise
Jeffrey Mellinger (Rte 1, Box 1798, Bonners Ferry, ID 83805)

File: IDWR #96-9124 twete wr

SCANNED

NOV 18 2003

Keeping Idaho's Wildlife Heritage

AFFIDAVIT OF PUBLICATION

State of Idaho

ss

County of Boundary, Carol Arthur

_____ being first duly sworn on oath

deposes and says that he/she is ad manager

of the Bonners Ferry Herald, a newspaper printed and

published at Bonners Ferry, Boundary County, Idaho;

that the said newspaper has been continuously and the following application(s) have been filed to appropriate the public waters of the State of Idaho:

uninterruptedly published in said Boundary County during

a period of 12 months prior to the first publication of the

hereto attached notice of publication in the case of:

5098 Water Right
Mullinger

as it was published in the regular and entire issue of the

said paper for a period of 2 consecutive weeks,

commencing on 21 day of Aug, 2003

and ending on the 28 day of Aug, 2003

and that said notice was published in said newspaper.

On the 28 day of Aug in the year
of 2003, before me, a Notary Public, personally
appeared Carol A. Arthur

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.

RECEIVED

SEP 04 2003

IDWR/North

JEFFREY W MELLINGER

RT 1 BOX 1798

BONNERS FERRY ID 83805

Point(s) of Diversion SESESE S1 T61N R01E BOUNDARY County

Source SPRING

Use: RECREATION STORAGE

01/01 To 12/31

1.2 AFA

Total Diversion:

1.2 AFA

Date Filed: 07/02/2003

Place Of Use: RECREATION STORAGE T61N R01E S1 SESE

Remark: Recreation storage is for fishing and swimming.

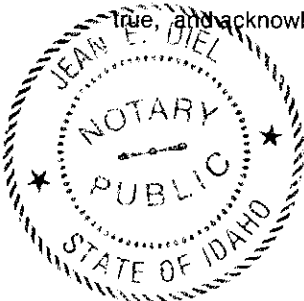
Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Northern Region, 1910 Northwest Blvd. Suite 210, Coeur D'Alene ID 83814 together with a protest fee of \$25.00 for each application on or before 09/08/2003. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Legal BFH5098

August 21, 28, 2003



Jean E. Diehl
Notary Public for Idaho

Residing at Bonners Ferry

My Commission expires: 7/22/2006

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

98-7827

JEFFREY W MELLINGER

RT 1 BOX 1798

BONNERS FERRY ID 83805

Point(s) of Diversion SESESE S1 T61N R01E BOUNDARY County
Source SPRING

Use: RECREATION STORAGE 01/01 To 12/31 1.2 AFA

Total Diversion: 1.2 AFA

Date Filed: 07/02/2003

Place Of Use: RECREATION STORAGE T61N R01E S1 SESE

Remark: Recreation storage is for fishing and swimming.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Northern Region, 1910 Northwest Blvd, Suite 210, Coeur D' Alene ID 83814 together with a protest fee of \$25.00 for each application on or before 09/08/2003. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on August 21 and 28, 2003.



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

Fax (208) 769-1454

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

PLEASE FAX PROOF PRIOR TO PUBLICATION

August 14, 2003

JEAN DIEL
LEGAL NOTICE DEPARTMENT
BONNERS FERRY HERALD
PO BOX 539
BONNERS FERRY ID 83805

FAXED TO JEAN AT 208-267-5523

RE: Application for Permit No. 98-7827

Dear Jean:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated, August 21 and 28, 2003, (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 09/08/2003. Your cooperation is GREATLY appreciated, as always.

Thanks to
"

Thank you, and have a wonderful day.

Sincerely

Dianne Ball
Administrative Assistant



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

August 14, 2003

JEFFREY W MELLINGER
RT 1 BOX 1798
BONNERS FERRY ID 83805

RE: Application for Permit No 98-7827

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right application. Please refer to the above referenced number in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the Bonners Ferry Herald on August 21 and 28, 2003. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the 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 Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved. A typical processing time for an unprotested application is about eight to twelve weeks.

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

Sincerely,

A handwritten signature in black ink that reads "Allen Beardslee". The signature is written in a cursive, flowing style.

Allen Beardslee
Senior Water Resource Agent

Enclosure(s) - Receipt No. N015752



State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615

(208) 769-1450

Fax (208) 769-1454

August 11, 2003

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

RAY HENNEKEY
STATE OF IDAHO
DEPT OF FISH & GAME
2750 KATHLEEN AVE
COEUR D ALENE, ID 83814

FAXED TO RAY 8/11/03 - 4 PAGES TOTAL

Application to Permit No. 98-7827 - Mellinger

Dear Ray:

Enclosed is a copy of the above referenced application. Please review the application, and submit your comments to this office within two weeks of receipt of this request, by August 26, 2003. If you prefer to submit requests by e-mail, my e-mail address is dball@idwr.state.id.us.

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

Sincerely,

A handwritten signature in cursive script, appearing to read 'Dianne', is written in black ink.

Dianne Ball
Administrative Assistant

Enclosure(s)