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JAN 16 1997

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Amt. of Fee \$: 100.00
Receipt No. CD 37624
Receipt By: Ket
Date Received: 1-16-97

STATE OF IDAHO
Department of Water Resources
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

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

1. Permit No. 37-08.365 Telephone No. 726.5945
2. Name(s) of Permit Holder(s): NORMAN FULLER
3. Mailing Address: P.O. Box 1066 SUNVALLEY, ID. 83553
4. Source of Water: ARTESIAN SPRING If **GROUNDWATER** (well), Date Drilled: mo. ____ / yr. ____
- a. Well Driller: N/A Drilling Permit Number: ____ - ____ - ____ - ____
- b. **OPTIONAL:**
Pump Horsepower: ____ Pressure (psi): ____ Dynamic pumping level (ft): ____

5. Use(s) (as authorized by the water right permit):

Domestic (No. of households): ____ Stockwater (No. and type of stock): ____

Irrigation (No. of acres): ____ Other: BUILDING HEAT & PONDS

6. Total rate of diversion and/or volume for which proof is submitted: .041 cfs OR ____ acre feet

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

Measuring Device:	Is a measuring device required?	Yes ____ or No <u>X</u>
	Has the measuring device been installed?	Yes ____ or No ____
Flow Measurement Port:	Is a flow measurement port required?	Yes ____ or No <u>X</u>
	Has the measurement port been installed?	Yes ____ or No ____

8. Fee Enclosed: \$ 100.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

9. Person to contact to accompany the Department representative during field examination of the water system.

Name: NORMAN FULLER Telephone Number: 726.5945

Address: P.O. Box 1066 SUNVALLEY IDAHO 83553

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

Signature of permit holder: [Signature] Date: 1-15-97
(include your title, if on behalf of company of organization)

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FEB 25 1997

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

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DEC 04 1995

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. 37-08365

Name(s) of Permit Holder: NORMAN FULLER

Mailing Address: P.O. Box 1066, Sun Valley, 83353

Date Proof is Due: 2-1-1996 Telephone No. (208) 7265945

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".)

(1) FLOW CONTROL OF HOTSPRINGS (2) PIPEING TO APPROVED USE LOCATIONS
(3) PLACEING OF COMMERCIAL GREEN HOUSES (4) PLACEING OF
MAINTAINCE STRUCTURE (5) PREPARATION OF FISH POND
(6) GRADEING OF AREA OF USE (7) LITIGATION DELAYS PREVIOUSLY NEEDED Costing \$ 18,000.00

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

TIME CONSTRAINTS WET & COLD WEATHER PREVENTS COMPLETION
UNTIL SPRING & SUMMER NEXT YEAR

Permit holder(s) request an extension to 2-1-97, 1997.

FEE: \$50.00

(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 February 1, 1997.

Signed this 5th day of December, 1995

Chief, Water Allocation Bureau

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 37-08365

Proposed Priority: February 7, 1989 Maximum Diversion Rate: 0.41 CFS
This is to certify, that **NORMAN E FULLER**

PO BOX 1066
SUN VALLEY ID 83353

has applied for a permit to appropriate water from: **GROUNDWATER**
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>
COMMERCIAL	01/01 to 12/31	0.14 CFS
HEATING	01/01 to 12/31	0.27 CFS
AESTHETIC	01/01 to 12/31	0.14 CFS
	Totals	0.41 CFS

LOCATION OF POINT(S) OF DIVERSION: NWNENE , Sec. 23, Township 01S, Range 17E
BLAINE County

PLACE OF USE: COMMERCIAL
TWN RGE SEC

01S 17E 13	NWSW	SWSW
23	NENE	

PLACE OF USE: HEATING
TWN RGE SEC

01S 17E 13	NWSW	SWSW
14	SESE	
23		

PLACE OF USE: AESTHETIC
TWN RGE SEC

01S 17E 13	NWSW	SWSW
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CONDITIONS/REMARKS:

1. See Order Issuing Permit for conditions of approval.
2. Aesthetic use is for recreational, private fish ponds.
3. Heating use is for 2 homes, 2 barns, and 2 greenhouses.
4. Commercial use is for 2 greenhouses.

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State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 37-08365

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

8th day of FEBRUARY

19 93.



R. Keith Higginson, Director

RECORDED

FEB 17 1993

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 37-08365 IN THE NAME)
OF NORMAN E. FULLER)
_____)

ORDER
ISSUING PERMIT

This matter having come before the Department of Water Resources (department) in the form of a protested application for permit, the department having held a hearing in the matter and having received and reviewed the post hearing information required from the applicant in connection with the proposed project, the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On December 13, 1989, the department issued a Proposed Memorandum Decision and Order conditionally approving the above referenced application.
2. On March 16, 1990, the department issued a Final Memorandum Decision and Order requiring the applicant to submit certain specified information to the department within 60 days.
3. On March 25, 1991, the department issued an Order Voiding the Application for Permit.
4. On June 13, 1991, the department issued a Proposed Order Rescinding Order Voiding Application.
5. On December 6, 1991, the department issued a Final Rescission Order and extended the time in which the applicant was allowed to submit the information described in the Final Memorandum Decision and Order dated March 16, 1990.
6. On February 10, 1992, March 26, 1992 and November 9, 1992, the applicant submitted technical data in connection with the proposed use of the low temperature geothermal water resource water.
7. The department has reviewed the data and has found it sufficient to describe use of the water.

CONCLUSIONS OF LAW

1. The department should issue a permit to the applicant with certain conditions and limitations.

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ORDER

IT IS THEREFORE, HEREBY ORDERED, that Application for Permit No. 37-08365 is **APPROVED** subject to the following conditions and limitations:

1. Use of water under the permit is subject to all prior water rights.
2. 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 the permit holder had no control.
3. A flow measurement port or other device as specified by the Department shall be installed by the permit holder to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.
4. Use of water under this permit shall be non-consumptive.
5. The issuance of this permit in no way grants any right-of-way or easement across the land of another.
6. Return flows to a natural stream or ground water source shall satisfy Idaho water quality standards.
7. Use of water under this permit is subject to control by the watermaster of State Water District No. 37, Big Wood River.
8. If the permit holder plans to enlarge, modify or reconstruct the existing well, the permit holder shall obtain a drilling permit pursuant to Section 42-235, Idaho Code. Prior to issuance of a drilling permit and before the start of any construction on the well, the permit holder shall file a drilling prospectus with the department and shall file a five thousand dollar (\$5,000) surety bond with the department pursuant to Section 42-233, Idaho Code. The drilling prospectus shall provide for the prevention of uncontrolled surface or subsurface flow from the well.
9. The permit holder shall submit proof of beneficial use of the water to the department on or before February 1, 1996.

Dated this 8th day of FEBRUARY, 1993.


R. KEITH HIGGINSON
Director

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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR	)	
	)	
PERMIT NO. 37-08365 IN THE NAME	)	FINAL RESCISSION ORDER
	)	
OF NORMAN E. FULLER	)	

No objections having been lodged to the prior proposed order issued, the Director of the Department of Water Resources finds, concludes, and orders as follows:

FINDINGS OF FACT

1. A Proposed Order Rescinding Order Voiding Application in the above-captioned matter has been issued and a copy served on the parties.
2. More than fifteen days have passed since the service of the Proposed Order.
3. No exception to the Proposed Order has been received.

ORDER

IT IS HEREBY ORDERED that the Order Voiding Application for Permit no. 37-8365, dated March 25, 1991, is RESCINDED, and permit no. 37-8365 is reinstated with its original date of priority and quantities.

IT IS FURTHER ORDERED that Mr. Fuller is granted until February, 1992, to submit the information required by the Final Memorandum Decision and Order, dated March 16, 1990. Mr. Fuller

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may request an extension of time if he can show that litigation still impedes his ability to comply with the conditions.

Dated this 6TH day of DECEMBER, 1991.


KEITH HIGGINSON, Director
Department of Water Resources

CERTIFICATE OF MAILING

I hereby certify that on the 10th day of December, 1991, I mailed a true and correct copy of the Final Order Adopting Order Voiding Application, postage prepaid, to the following individuals:

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

Janet OCrowley
Committee for Idaho's High Desert
P.O. Box 705
Picabo, ID 83348

Randall Brooks
The Wood River Journal
P.O. Box 988
Hailey, ID 83333

IDWR - Southern Region


JENNIFER SEIFERT
Secretary

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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR) PERMIT NO. 37-08365 IN THE NAME) OF NORMAN E. FULLER)	PROPOSED ORDER RESCINDING ORDER VOIDING APPLICATION
--	---

At the request of the applicant, Norman E. Fuller, a hearing was conducted in Twin Falls, Idaho, to determine whether a previous Order Voiding Application for Permit No. 37-08365 was erroneous. A hearing having been held, the hearing officer, as a representative of the Director of the Department of Water Resources, proposes the following findings, conclusions and order:

FINDINGS OF FACT

1. By order dated March 16, 1990, the applicant was required to submit design plans for his proposal which would exhibit efficient extraction of heat from the low temperature geothermal water, and also submit information establishing that his proposed use will satisfy local zoning ordinances.
2. The applicant did not submit the required information within sixty (60) days as required by the order.
3. The Department of Water Resources did not act to void the application.
4. Norman E. Fuller received notice that Proof of Beneficial Use was due for permit to appropriate water 37-8480, an unrelated permit.

NOT REFILED
FEB 17 1993

5. Mr. Fuller thought that the Department was requesting the information required for permit no. 37-08365. He submitted information pertinent to permit no. 37-08365, showing that ongoing litigation was causing uncertainty about the location of buildings and other structures. Because of the litigation, Fuller was uncertain how much land Blaine County might acquire, and requested an extension of time until the land dispute is settled.

6. All of the information pertaining to water right no. 37-8365 was placed in the wrong file, and was used to grant an extension of time for permit no. 37-8480, even though the information did not pertain to that permit.

7. Mr. Fuller did not discover his error until the Department was preparing the order to void the application.

8. Mr. Fuller sent a letter to the Department which identified his mistake, and asked that it be corrected. This request for correction was not brought to the attention of the preparer of the Order Voiding Application.

9. There are no other applications for use of the water pending with the Department at the present time.

CONCLUSIONS OF LAW

1. While Mr. Fuller did not submit the information required within the time allowed, he did submit information which was

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pertinent to right no. 37-8365 prior to the Department voiding the application.

2. The Department should have recognized that the information which Mr. Fuller submitted did not relate to permit no. 37-8480.

3. Having submitted the information, Mr. Fuller was entitled to a response from the Department prior to voiding of the application.

4. Recision of the Order Voiding Application and reinstatement of this permit will not injure other water users because there are no other applications pending.

5. Mr. Fuller should diligently pursue resolution of the pending litigation, and submit the plans and specifications.

ORDER

IT IS HEREBY ORDERED that the Order Voiding Application for Permit no. 37-8365, dated March 25, 1991, is RESCINDED, and permit no. 37-8365 is reinstated with its original date of priority and amounts.

IT IS FURTHER ORDERED that Mr. Fuller is granted ninety (90) days from the date of this order to submit the information required by the Final Memorandum Decision and Order dated March 16, 1990. Mr. Fuller, however, may request an extension of time if he can show that the litigation still impedes his ability to comply with the conditions.

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Dated this 13th day of June, 1991.



GARY SPACKMAN, Hearing Officer
Department of Water Resources

CERTIFICATE OF MAILING

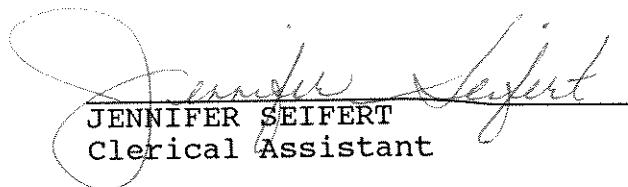
I hereby certify that on the 20th day of June, 1991, I mailed a true and correct copy of the Order Rescinding Order Voiding Application, postage prepaid, to the following individuals:

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

Randall Brooks
The Wood River Journal
P.O. Box 988
Hailey, ID 83333

Janet O Crowley
Committee for Idaho's High Desert
P.O. Box 705
Picabo, ID 83348

IDWR - Southern Region



JENNIFER SEIFERT
Clerical Assistant

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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF VOIDING OF APPLICATION)
FOR PERMIT NO. 37-08365 IN THE NAME OF) NOTICE OF HEARING
NORMAN E. FULLER)
_____)

NOTICE IS HEREBY GIVEN that, upon the request of the applicant, a hearing will be conducted regarding the propriety and validity of the Order Voiding Application for Permit, dated March 25, 1991.

IT IS HEREBY ORDERED that, pursuant to Idaho Code § 42-1701A, the hearing will be conducted on April 30, 1991, at the hour of 10:00 a.m, at the southern regional offices of the Department of Water Resources, 222 Shoshone Street East, Twin Falls, Idaho 83301.

Dated this 18th day of April, 1991.



GARY SPACKMAN, Hearing Officer
Department of Water Resources

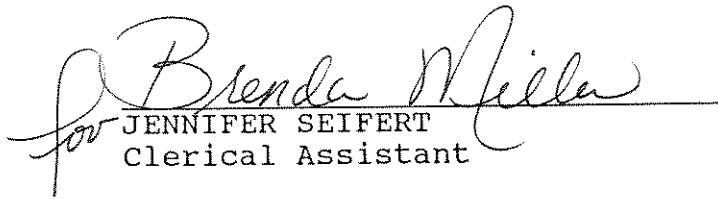
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FEB 17 1993

CERTIFICATE OF MAILING

I hereby certify that on the 18th day of April, 1991, I mailed a true and correct copy of the Notice of Hearing, postage prepaid, to the following individuals:

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

IDWR - Southern Region


for JENNIFER SEIFERT
Clerical Assistant

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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT)
)
TO APPROPRIATE WATER NO. 37-08365 IN)
)
THE NAME OF NORMAN E. FULLER)
)
_____)

ORDER VOIDING
APPLICATION FOR
PERMIT

FINDINGS OF FACT

1. On March 16, 1990, the Director of the Department of Water Resources issued a Final Memorandum Decision and Order regarding a protest filed against application for permit to appropriate water no. 37-08365.

2. The order stated that the applicant must file certain information with the Department prior to approval of the application. The information required is described below:

(a) The applicant was required to submit design plans for the proposed home, greenhouses and ponds. The design plans were to set forth locations, dimensions, sizes and a scheme for distributing the water and properly disposing of the effluent. The delivery system and the structures were to be designed for the efficient extraction of heat from the low temperature geothermal water.

(b) The applicant was required to submit information about how his proposed use will satisfy local zoning ordinances.

3. The above information was required to be submitted within sixty (60) days of the date of the Final Decision issued by the Director.

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4. The applicant has not submitted any additional information to the Department as required by the Final Memorandum Decision and Order.

CONCLUSIONS OF LAW

1. Matters to be considered by the Department to determine whether an application is in the local public interest are (a) whether it will comply with local zoning ordinances and whether the resource will be used efficiently.

2. The Department set a time frame within which information was to be submitted, and the information was not submitted.

3. An applicant has the obligation to submit requested information to the Department. Failure to submit the information is cause to void the application.

4. Failure to submit plans and specifications is an indication of inaction on the part of the applicant, and is evidence that the application is filed for purposes of speculation and delay.

5. The Department of Water Resources may reject an application because it is filed for purposes of speculation or delay, or that it is not in the public interest.

ORDER

IT IS HEREBY ORDERED that application no. 37-08365 is VOIDED because of the failure of the applicant to submit requested information.

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IT IS FURTHER ORDERED that application no. 37-08365 is also REJECTED because it is not in the public interest and is being maintained in the files of the Department of Water Resources for purposes of speculation and delay.

Dated this 25TH day of March, 1991.


R. KEITH HIGGINSON Director
Department of Water Resources

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CERTIFICATE OF MAILING

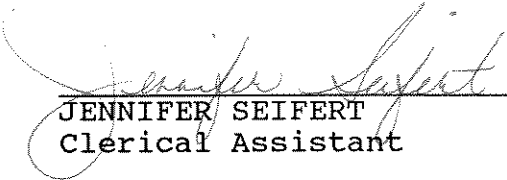
I hereby certify that on the 27th day of March, 1991, I mailed a true and correct copy of the Order Voiding Application for Permit, postage prepaid, to the following individuals:

Janet OCrowley
Committee for Idaho's High Desert
P.O. Box 705
Picabo, ID 83348

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

Randall Brooks
Region
The Wood River Journal
P.O. Box 988
Hailey, ID 83333

IDWR - Southern


JENNIFER SEIFERT
Clerical Assistant

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BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PROTESTED APPLICATION)
FOR PERMIT NO. 37-08365 IN THE NAME OF) FINAL MEMORANDUM
NORMAN E. FULLER) DECISION AND ORDER

On December 13, 1989, a Proposed Memorandum Decision and Order was issued approving application for permit to appropriate water no. 37-08365. Exceptions to the Proposed Memorandum Decision and Order were filed by the applicant, Norman E. Fuller.

The exceptions filed by Mr. Fuller address two specific subjects:

1. Mr. Fuller argues that the low temperature geothermal water he is proposing to appropriate is not tributary to Magic Reservoir, and that his proposed use of the water should not be subject to the control of watermaster of district #37, Big Wood River.

2. Mr. Fuller also objects to the requirement that information must be submitted to show that the proposal will satisfy local zoning ordinances, and that the applicant is exerting efforts toward zoning approval. Mr. Fuller states that since he does not have a commercial greenhouse, no present violation exists.

These exceptions are resolved in the following narrative,

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MAR 22 1990

and findings, conclusions and the order which are located behind the narrative analyzing the exceptions.

ANALYSIS

Source and Tributary

Mr. Fuller argues that the water now flowing into Magic Reservoir has not always flowed into Magic Reservoir, but has been contained on private land. While the water may have been contained at times, the important question is whether it flowed into Magic Reservoir (Big Wood River) prior to its containment. More specifically, does the low temperature geothermal well, now free flowing to Magic Reservoir, discharge ground waters that would not normally have been tributary to Magic Reservoir, or were the waters originally springs which discharged to the Magic Reservoir.

Throughout the record, the parties refer to the source interchangeably as wells and springs. Mr. Fuller testified that the water free flowed as springs until blasting in the area reduced the flow of the springs. Furthermore, the application and the map submitted with the application both refer to the original source as springs. Finally, Mr. Fuller refers to the source of the water as "hot springs" in his exceptions.

Although the water now free flows from a well casing, the water now flowing into Magic Reservoir was tributary to the Big Wood River prior to construction which altered the flows of the spring. The water flowing from the artesian well is tributary to the Big Wood River, or now to Magic Reservoir, and is subject to the control of the watermaster. Any consumptive use by Mr.

MAR 22 1990

Fuller must be replaced with water from another source to compensate for the loss. Replacement water could be in the form of storage water, water rights from the Big Wood River, or cold water pumped into Magic Reservoir from a well.

Commercial Nature of the Proposal

A commercial greenhouse and a possible fish propagation operation does not presently exist on the place of use, and as a result, Mr. Fuller alleged that local ordinances are not being violated. Idaho Code § 42-203A states that the applicant must file the application in good faith, and that the filing must not be for purposes of speculation or delay. In Rule 4,5,3. of the Water Appropriation Rules and Regulations, one of the tests to determine whether an application is filed in good faith and not for purposes of speculation is whether the applicant has obtained or is exerting a good faith effort toward obtaining all needed permits and approval from other entities. In addition, the Water Appropriation Rules and Regulations also state that local zoning ordinances establish a local public interest, and that an applicant must show that his project will comply with local zoning ordinances.

Proof of compliance or ability to comply is a necessary prerequisite to Department approval. Mr. Fuller must submit the zoning documentation to the Department prior to issuance of a permit.

The Proposed Memorandum Decision and Order is affirmed with minor textual corrections by this Memorandum Decision and Order,

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with an additional condition placed in the order which should read as follows:

6. Use of water under this permit shall be non-consumptive. Any consumption of water through the uses authorized by this permit shall be replaced with mitigation water to compensate for the losses.

FINDINGS OF FACT

1. On June 27, 1988, Norman E. Fuller filed an application to appropriate water from ground water tributary to Magic Reservoir. The proposed point of diversion is an existing artesian low temperature geothermal well located in the NE1/4NE1/4, Section 23, T1S, R17E, B.M.

2. The application proposed year-round diversion of 0.27 cfs for heating purposes, 0.14 cfs for commercial purposes and 0.14 for fish propagation. The application also proposed limiting the total diversion to 0.27 cfs.

3. Notice of the application was published in the Wood River Journal on November 2 and 9, 1988.

4. On February 7, 1989, the applicant amended his application, and changed the proposed uses and flow rates. The application proposed year-round use of 0.27 cfs for heating purposes, 0.14 cfs for aesthetics, and 0.14 cfs for commercial use in a greenhouse for a total diversion rate of 0.41 cfs.

5. Notice of the amended application was published in the Wood River Journal on March 8 and 15, 1989.

6. Protests were timely filed by the Friends of the Big Wood River, Inc., and Committee for Idaho's High Desert. The Department also received three identical documents signed by 18

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individuals which were titled "Protest and comment on Norm Fuller Application no. 37-08365." These documents were gathered by Committee for Idaho's High Desert.

7. A hearing was conducted on August 17, 1989, at the hour of 10:00 a.m. in Hailey, Idaho. At the hearing, Janet O'Crowley, representing Committee for Idaho's High Desert, stated that she would also represent the interests of the people who signed the petitions. The people who signed the petitions were not present at the hearing. Friends of the Big Wood River, Inc. was represented by Doug Breary. The parties stipulated at the beginning of the hearing that the issue to be addressed was the local public interest.

8. Mr. Fuller testified that the geothermal water would be used for heating a house and for greenhouse use. He also stated that the water would not be used for commercial fish propagation, but would only be used for growing fish for recreational and aesthetic purposes. Evidence about sizes and dimensions of the house, greenhouse, and fish ponds was not submitted.

9. Mr. Fuller testified that the low temperature geothermal water has a temperature of 170 degrees Fahrenheit.

10. Mr. Fuller testified that hot water was historically used by his predecessor for heating purposes.

11. Mr. Fuller testified that application no. 37-08365 was filed seeking supplemental water diverted under water right license no. 37-7179. Because of uncertainty about whether license no. 37-7179 authorized the diversion of low temperature

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geothermal water, the field examination for license no. 37-7179 was distributed to the parties following the hearing.

12. The field examination and other information contained the file for license no. 37-7179 indicates that water was pumped from the well examined, and that the water was used for culinary water. The examination does not describe a free flowing, artesian well of 170 degrees Fahrenheit temperature.

13. License no. 37-7179 authorized the use of cold water, not low temperature geothermal water, and that application no. 37-08365 is the only record of any filing seeking authorization to divert low temperature geothermal water.

14. The low temperature geothermal water arises and flows to Magic Reservoir entirely on private land.

15. Mr. Fuller testified that there has not been a public use of the low temperature geothermal water in the past, or, if the low temperature geothermal water has been used by the public, that the use was strictly by permission.

16. Mr. Fuller testified that he has sufficient financial resources to develop the water as proposed.

17. Evidence was submitted that there is ongoing litigation regarding the right of the public to use a boat launching facility on or near Mr. Fuller's property. The boat ramp is located in close proximity to the artesian low temperature geothermal well.

18. Doug Breary testified that Friends of the Big Wood River, Inc. protested the application to appropriate water for the purpose of contesting the closure of access to Magic

Reservoir in the vicinity of the low temperature geothermal well. Mr. Breary stated that Friends of the Big Wood River did not object to the appropriation of the low temperature geothermal water.

19. Janet O'Crowley testified that the proposed commercial greenhouse use violates the Blaine County planning and zoning ordinances.

20. No evidence was submitted to show how the proposed use conflicts with the zoning ordinances, however, nor was any evidence submitted showing how the applicant was attempting to satisfy zoning requirements.

21. Ms. O'Crowley testified that Mr. Fuller has not completed other projects that he started in Blaine County.

22. Ms. O'Crowley testified that temporary pools were built to trap the low temperature geothermal flows, and that she had observed public use of the pools.

23. The record is devoid of testimony regarding the extent of public use, however. No witnesses testified about continual public use or observation of continued public use of the low temperature geothermal water. No data relating to public use was submitted.

24. The petitions in the Department files state that approval of the application for fish propagation is not in the public interest because harmful effluent would damage the waters of Magic Reservoir.

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MAR 22 1990

CONCLUSIONS OF LAW

1. Idaho Code, Sec. 42-203A(5) (Supp. 1989) states in part as follows:

The director of the department of water resources shall find and determine from the evidence presented to what use or uses the water sought to be appropriated can be and are intended to be applied. In all applications whether protested or not protested, where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the department that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use; the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions.

2. Rule 4,4,2,2. of the Water Appropriation Rules and Regulations states that both the applicant and protestant have the burden of coming forward with evidence regarding public interest of which they are each most cognizant.

3. Rule 4,4,3. states that the applicant bears the ultimate burden of persuasion for all criteria considered under Idaho Code § 42-203A.

4. The local public interest criterion of Idaho Code, Sec. 42-203A(5) (Supp 1989) is defined by Rule 5,1,5. of the Water Appropriation Rules and Regulations to include:

The effect the project will have on the economy of the local area affected by the proposed use as determined by the employment opportunities, both long and short term, revenue changes to various sectors of the economy, short and long term, and the stability of revenue and employment gains;

MAR 22 1990

The effect the project will have on recreation, fish and wildlife resources in the local public area affected by the proposed use;

Compliance with applicable air, water, hazardous substance standards, and compliance with planning and zoning ordinances of local or state government jurisdictions.

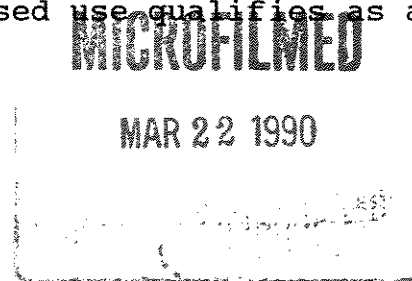
5. Mr. Fuller's testimony and the testimony of others indicated that his use of the low temperature water would not adversely affect the public interest. The uses proposed are beneficial uses, and standing alone without rebuttal, would be presumed to be in the public interest.

6. It is not in the public interest to allow a low temperature geothermal resource to flow by artesian pressure from a well and be wasted without beneficial use.

7. The heat value of low temperature geothermal water must be efficiently extracted. The evidence did not establish the amount of low temperature geothermal water necessary for the proposed uses. The applicant must provide a design plan for the proposed home, greenhouses and recreational ponds. The plans must show dimensions of the proposed structures, and discuss how the water will be used.

8. The protestants had the responsibility of raising matters of public interest, and showing that there are concerns of general local public interest.

9. Compliance with local zoning ordinances is a matter of public interest. While final zoning approval is not required before an application to appropriate water will be approved, the applicant must exhibit that his proposed use qualifies as an



acceptable use under the zoning regulations and that he is diligently pursuing zoning approval.

10. The public use of the low temperature geothermal water was temporary in nature and, at best, sporadic. Although there may be a public interest in preservation of the low temperature geothermal flows, a right to the use of the water has not been claimed or recognized.

11. The public is primarily concerned about access to a boat ramp, an issue over which this agency has no jurisdiction.

12. Mr. Fuller's completion record on other projects has very little bearing on public interest in this proposal. Mr. Fuller proposes to heat a home and some greenhouses, and also grow some fish for recreational purposes. The proposal is not a highly visible construction project. Failure to complete the proposal probably would not prompt an outcry from the general local public.

13. Finally, Mr. Fuller's retraction of his commercial fish propagation use proposal resolves questions raised about whether fish propagation is in the public interest.

ORDER

IT IS HEREBY ORDERED that application no. 37-08365 WILL BE APPROVED upon completion of the following within sixty (60) days of the issuance of a final decision by the Director of the Department:

1. The applicant shall submit design plans for the proposed home, greenhouses, and ponds. The design plan shall set forth locations, dimensions, sizes, and a scheme for distributing the

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water and properly disposing of the effluent. The delivery system and the structures shall be designed for the efficient extraction of heat from the low temperature geothermal water.

2. The applicant shall submit information about how his proposed use will satisfy local zoning ordinances. Documentation showing diligent efforts exerted toward zoning approval must also be submitted.

Failure to submit the information within sixty (60) days of the final decision issued by the Director is cause for the Director to refuse issuance of a permit on the basis that the proposed use is not in the public interest, and is filed for purposes of delay or speculation.

Upon submittal of the required information the application will be approved. The proposed flow rates and annual volumes will be adjusted based on the plans and specifications submitted and the permit will be conditioned as follows:

1. Proof of beneficial use shall be submitted on or before January 1, 1992.

2. The permit shall be subject to all prior water rights including any water right to use the water established by public beneficial use of the water.

3. Return flows to a natural stream or groundwater source shall satisfy Idaho water quality standards.

4. Use of water under the permit is subject to control by the watermaster of State Water District No. 37, Big Wood River.

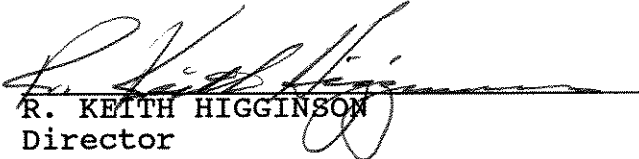
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MAR 22 1990

5. If the applicant plans to enlarge, modify or reconstruct the existing well, a drilling permit shall be obtained pursuant to Idaho Code § 42-235. Prior to issuance of the drilling permit, and before starting construction on the well: (1) A prospectus for construction of the well to prevent uncontrolled surface or subsurface flow from the well shall be filed, and (2) A \$5,000 surety bond shall be filed with the Department pursuant to Idaho Code § 42-233.

6. Use of water under this permit shall be non-consumptive. Any consumption of water through the uses authorized by this permit shall be replaced with mitigation water to compensate for the losses.

Dated this 16TH day of MARCH, 1990.


R. KEITH HIGGINSON
Director

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MAR 22 1990

CERTIFICATE OF MAILING

I hereby certify that on the 20th day of March, 1990, I mailed a true and correct copy of this Final Memorandum Decision and Order, postage prepaid, to the following individuals:

Janet O'Crowley
Committee for Idaho's High Desert
P.O. Box 705
Picabo, ID 83348

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

Randall Brooks
The Wood River Journal
P.O. Box 988
Hailey, ID 83333

IDWR - Southern Region


JENNIFER SEIBERT
Clerical Assistant

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MAR 22 1990

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Amended

To appropriate the public waters of the State of Idaho

1. Name of applicant Norman E. Fuller Phone 208 7265945

Post office address P.O. BX 1066 Sun Valley, Idaho 83353

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

3. Location of point of diversion is NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Govt. Lot _____
Sec. 23 Township 1S Range 17E B.M. Blaine County; additional
points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 0.27 for Heating purposes from JAN 1 to DEC. 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 0.14 for AESTHETICS purposes from JAN 1 to DEC. 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 0.14 for COMMERCIAL GREENHOUSE 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)

5. Total quantity to be appropriated is (a) 0.41 CFS and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. ARTESIAN HOT WATER WELL WITH CONTROL VALVE, PIPE LINE TO GREENHOUSE OVERFLOW TO AESTHETIC AREAS AND REC. FISH PONDS(PRIVATE)

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.

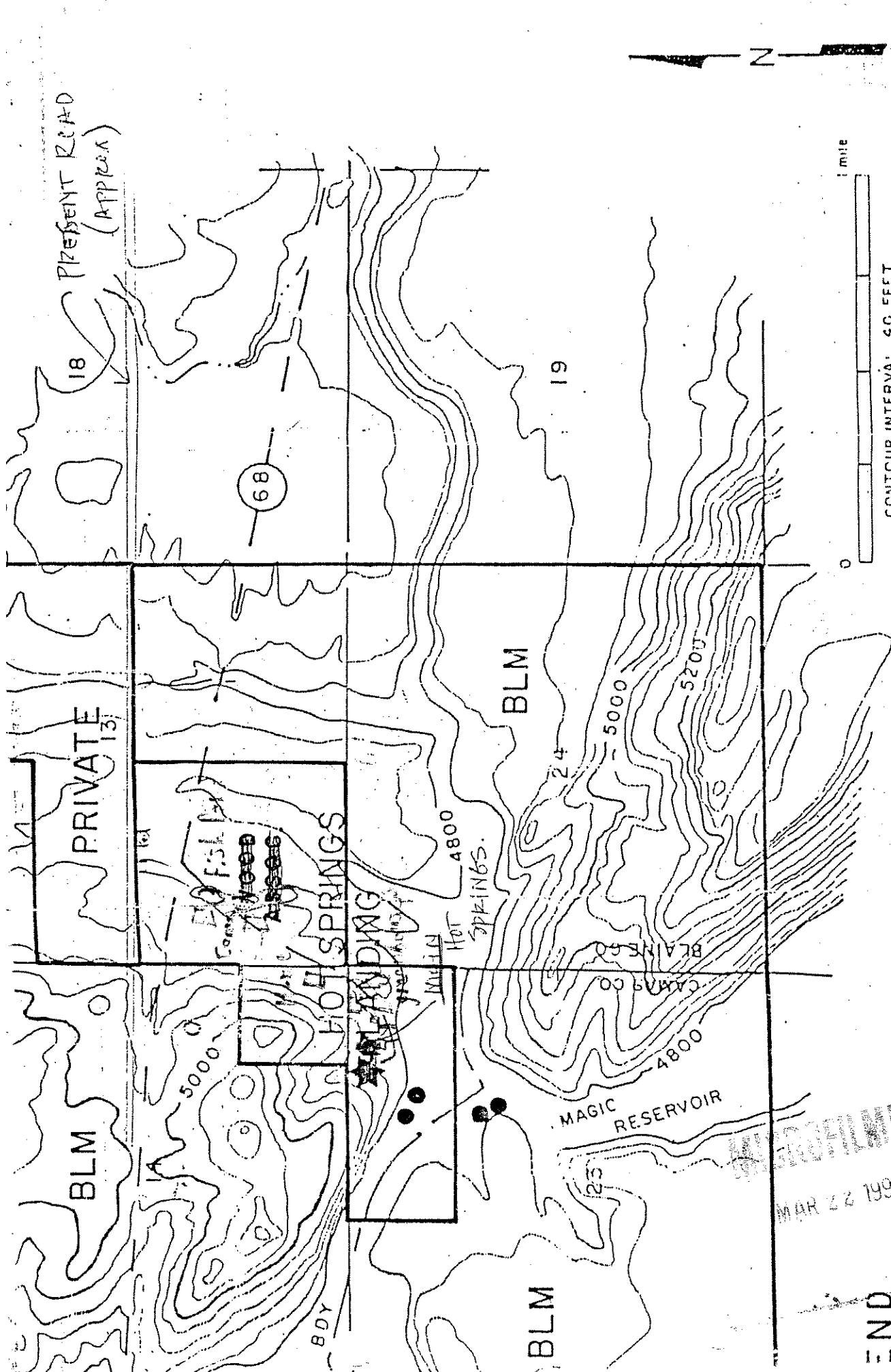
c. Proposed well diameter is 8" inches; proposed depth of well is 260 feet.

d. Is ground water with a temperature of greater than 90°F being sought? Yes

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

RECEIVED
MAR 22 1990

~~let it run to waste in to Magic Res. Amount applied for is the measured amount of fuel~~



PRESENT ROAD
(APPEN)

PRIVATE
13

BLM

68

18

19

BLM

HOT SPRINGS

BLM

Hot Springs

MAGIC RESERVOIR

BLM

1 mile

CONTOUR INTERVAL: 40 FEET

END

t springs

t artesian well

nd holdings

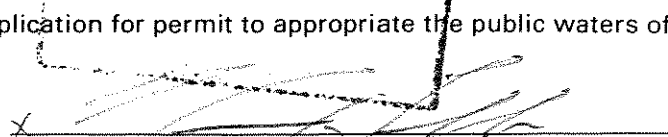
15-178

MAR 26 1990

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

Scale: 2 inches equal 1 mile.

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


(Applicant)

Received by T. Jasper Date 2/7/89 Time 1:10 Preliminary check by AS
Fee \$ 20.00 Receipted by M. Baldwin # 5006335 Date 2/21/89
Publication prepared by M. Baldwin Date 2/1/89 Published in Times News
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. 37-08365, 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.

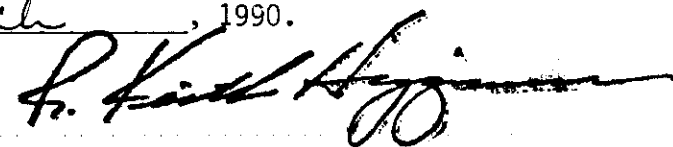
b. Proof of construction of works and application of water to beneficial use shall be submitted on or before January 1, 1992.

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: Pursuant to Final Memorandum Decision and Order

Witness my hand this 16th day of March, 1990.



R. KEITH HIGGINSON
Director

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MAR 22 1990

BEFORE THE DIRECTOR OF THE DEPARTMENT
OF WATER RESOURCES OF THE
STATE OF IDAHO

IN THE MATTER OF PROTESTED APPLICATION
FOR PERMIT NO. 37-08365 IN THE NAME OF
NORMAN E. FULLER

ORDER ISSUING
PROPOSED MEMORANDUM
DECISION

R. Keith Higginson, Director of the Department of Water Resources, having reviewed the attached proposed decision prepared by his appointee, Gary Spackman, who conducted the hearing or who has read the record in the this case, hereby approves the same as a proposed decision pursuant to Idaho Code, Sec. 67-5211.

Each party to these proceedings who appeared at the hearing is given the opportunity, pursuant to Idaho Code, Sec. 42-1701A and 67-5211, to file exceptions to the proposed decision and to present briefs and oral arguments. If no timely and proper exceptions are received, an order by the Director will be entered adopting the proposed decision as his final decision.

I.
EXCEPTIONS

A. To be considered by the Director, exceptions must:

1. be received by the Director on or before the 15th day following the day of service of this Order and the proposed decision,
2. specifically identify the portions of the proposed decision to which exceptions are made and specifically state the grounds for those exceptions, and
3. be sent to each of the parties who appeared or their attorneys.

II.
BRIEFS

A. Any briefs in support of exceptions to the proposed decision shall be filed with the Director at the same time that party's exceptions are filed with the Director.

B. All response briefs to the exceptions must be filed with the Director within 15 days after the exceptions were served upon the responding party.

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MAR 22 1990

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PROTESTED	)	
	)	
APPLICATION FOR PERMIT NO.	)	PROPOSED MEMORANDUM
	)	DECISION AND ORDER
37-08365 IN THE NAME OF	)	APPROVING APPLICATION
	)	
NORMAN E. FULLER	)	
	)	

A hearing having been held regarding protests filed against application to appropriate water no. 37-08365, the Department of Water Resources (Department) finds, concludes and orders as follows:

FINDINGS OF FACT

1. On June 27, 1988, Norman E. Fuller filed an application to appropriate water from groundwater tributary to Magic Reservoir. The proposed point of diversion is an existing artesian low temperature geothermal well located in the NE1/4NE1/4, Section 23, T1S, R17E, B.M.

2. The application proposed year-round diversion of 0.27 cfs for heating purposes, 0.14 cfs for commercial purposes and 0.14 cfs for fish propagation. The application also proposed limiting the total diversion to 0.27 cfs.

3. Notice of the application was published in the Wood River Journal on November 2 and 9, 1988.

4. On February 7, 1989, the applicant amended his application, and changed the proposed uses and flow rates. The application proposed year-round use of 0.27 cfs for heating

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purposes, 0.14 cfs for aesthetics, and 0.14 cfs for commercial use in a greenhouse for a total diversion rate of 0.41 cfs.

5. Notice of the amended application was published in the Wood River Journal on March 8 and 15, 1989.

6. Protests were timely filed by the Friends of the Big Wood River, Inc., and Committee for Idaho's High Desert. The Department also received three identical documents signed by 18 individuals which were titled as protests and comments regarding application no. 37-08365. These documents were gathered by Committee for Idaho's High Desert.

7. A hearing was conducted on August 17, 1989, at the hour of 10:00 a.m. in Hailey, Idaho. At the hearing, Janet O'Crowley, representing Committee for Idaho's High Desert, stated that she would also represent the interests of the people who signed the petitions. The people who signed the petitions were not present at the hearing. Friends of the Big Wood River, Inc. was represented by Doug Breary. The parties stipulated at the beginning of the hearing that the issue to be addressed was the local public interest.

8. Mr. Fuller testified that the geothermal water would be used for heating a house and for greenhouse use. He also stated that the water would not be used for commercial fish propagation, but would only be used for growing fish for recreational and aesthetic purposes. Evidence about sizes and dimensions of the house, greenhouse, and fish ponds was not submitted.

9. Mr. Fuller testified that the low temperature geothermal water has a temperature of 170 degrees Fahrenheit.

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10. Mr. Fuller testified that hot water was historically used by his predecessor for heating purposes.

11. Mr. Fuller testified that application no. 37-08365 was filed seeking supplemental water diverted under water right license no. 37-7179. Because of uncertainty about whether license no. 37-7179 authorized the diversion of low temperature geothermal water, the field examination for license no. 37-7179 was distributed to the parties following the hearing.

12. The field examination and other information contained in the file for license no. 37-7179 indicates that water was pumped from the well examined, and that the water was used for culinary water. The examination does not describe a free flowing, artesian well of 170 degrees Fahrenheit temperature.

13. I find that license no. 37-7179 authorized the use of cold water, not low temperature geothermal water, and that application no. 37-08365 is the only record of any filing seeking authorization to divert low temperature geothermal water.

14. The low temperature geothermal water arises and flows to Magic Reservoir entirely on private land.

15. Mr. Fuller testified that there has not been a public use of the low temperature geothermal water in the past, or, if the low temperature geothermal water has been used by the public, that the use was strictly by permission.

16. Mr. Fuller testified that he has sufficient financial resources to develop the water as proposed.

17. Evidence was submitted that there is ongoing litigation regarding the right of the public to use a boat launching

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facility on or near Mr. Fuller's property. The boat ramp is located in close proximity to the artesian low temperature geothermal well.

18. Doug Breary testified that Friends of the Big Wood River, Inc. protested the application to appropriate water for the purpose of contesting the closure of access to Magic Reservoir in the vicinity of the low temperature geothermal well. Mr. Breary stated that Friends of the Big Wood River did not object to the appropriation of the low temperature geothermal water.

19. Janet O'Crowley testified that the proposed commercial greenhouse use violates the Blaine County planning and zoning ordinances.

20. No evidence was submitted to show how the proposed use conflicts with the zoning ordinances, however, nor was any evidence submitted showing how the applicant was attempting to satisfy zoning requirements.

21. Ms. O'Crowley testified that Mr. Fuller has not completed other projects that he started in Blaine County.

22. Ms. O'Crowley testified that temporary pools were built to trap the low temperature geothermal flows, and that she had observed public use of the pools.

23. The record is devoid of testimony regarding the extent of public use, however. No witnesses testified about continual public use or observation of continued public use of the low temperature geothermal water. No data relating to public use was submitted.

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24. The petitions in the department files state that approval of the application for fish propagation is not in the public interest because harmful effluent would damage the waters of Magic Reservoir.

CONCLUSIONS OF LAW

1. Idaho Code, Sec. 42-203A(5) (Supp. 1989) states in part as follows:

The director of the department of water resources shall find and determine from the evidence presented to what use or uses the water sought to be appropriated can be and are intended to be applied. In all applications whether protested or not protested, where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the department that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use; the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions.

2. Rule 4,4,2,2. of the Water Appropriation Rules and Regulations states that both the applicant and protestant have the burden of coming forward with evidence regarding public interest of which they are each most cognizant.

3. Rule 4,4,3. states that the applicant bears the ultimate burden of persuasion for all criteria considered under Idaho Code § 42-203A.

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MAR 22 1990

4. The local public interest criterion of Idaho Code, Sec. 42-203A(5) (Supp. 1989) is defined by Rule 5,1,5. of the Water Appropriation Rules and Regulations to include:

The effect the project will have on the economy of the local area affected by the proposed use as determined by the employment opportunities, both long and short term, revenue changes to various sectors of the economy, short and long term, and the stability of revenue and employment gains;

The effect the project will have on recreation, fish and wildlife resources in the local public area affected by the proposed use;

Compliance with applicable air, water, hazardous substance standards, and compliance with planning and zoning ordinances of local or state government jurisdictions.

5. Mr. Fuller's testimony and the testimony of others indicated that his use of the low temperature water would not adversely affect the public interest. The uses proposed are beneficial uses, and standing alone without rebuttal, would be presumed to be in the public interest.

6. It is not in the public interest to allow a low temperature geothermal resource to flow by artesian pressure from a well, and be wasted without beneficial use.

7. The heat value of low temperature geothermal water must be efficiently extracted. I cannot determine, from the evidence, the amount of low temperature geothermal water necessary for the proposed uses. The applicant must provide a design plan for the proposed home, greenhouses and recreational ponds. The plans must show dimensions of the proposed structures, and discuss how the water will be used.

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MAR 22 1990

8. The protestants had the responsibility of raising matters of public interest, and showing that there are concerns of general local public interest.

9. Compliance with local zoning ordinances is a matter of public interest. While final zoning approval is not required before an application to appropriate water will be approved, the applicant must exhibit that his proposed use qualifies as an acceptable use under the zoning regulations and that he is diligently pursuing zoning approval.

10. I conclude from the evidence presented, that the public use of the low temperature geothermal water was temporary in nature and, at best, sporadic. Although there may be a public interest in preservation of the low temperature geothermal flows, a right to the use of the water has not been claimed or recognized.

11. The public is primarily concerned about access to a boat ramp, an issue over which this agency has no jurisdiction.

12. Mr. Fuller's completion record on other projects has very little bearing on public interest in this proposal. Mr. Fuller proposes to heat a home and some greenhouses, and also grow some fish for recreational purposes. The proposal is not a highly visible construction project. Failure to complete the proposal probably would not prompt an outcry from the general local public.

13. Finally, Mr. Fuller's retraction of his fish propagation use proposal resolves questions raised about whether fish propagation is in the public interest.

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MAR 22 1990

ORDER

IT IS HEREBY ORDERED that application no. 37-08365 WILL BE APPROVED upon completion of the following within sixty (60) days of the issuance of a final decision by the Director of the Department:

1. The applicant shall submit design plans for the proposed home, greenhouses, and ponds. The design plan shall set forth locations, dimensions, sizes, and a scheme for distributing the water and properly disposing of the effluent. The delivery system and the structures shall be designed for the efficient extraction of heat from the low temperature geothermal water.

2. The applicant shall submit information about how his proposed use will satisfy local zoning ordinances. Documentation showing diligent efforts exerted toward zoning approval must also be submitted.

Failure to submit the information within sixty (60) days of the final decision issued by the Director is cause for the Director to refuse issuance of a permit on the basis that the proposed use is not in the public interest, and is filed for purposes of delay or speculation.

Upon submittal of the required information the application will be approved. The proposed flow rates and annual volumes will be adjusted based on the plans and specifications submitted and the permit will be conditioned as follows:

1. Proof of beneficial use shall be submitted on or before the date set forth in the Final Memorandum Decision issued by the Director.

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MAR 22 1990

2. The permit shall be subject to all prior water rights including any water right to use the water established by public beneficial use of the water.

3. Return flows to a natural stream or groundwater source shall satisfy Idaho water quality standards.

4. Use of water under the permit is subject to control by the watermaster of State Water District No. 37, Big Wood River.

5. If the applicant plans to enlarge, modify or reconstruct the existing well, a drilling permit shall be obtained pursuant to Idaho Code § 42-235. Prior to issuance of the drilling permit, and before starting construction on the well: (1) A prospectus for construction of the well to prevent uncontrolled surface or subsurface flow from the well shall be filed, and (2) A \$5,000 surety bond shall be filed with the Department pursuant to Idaho Code § 42-233.

Dated this 13th day of December, 1989.

Gary Spackman
GARY SPACKMAN
Hearing Officer

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MAR 22 1990

CERTIFICATE OF MAILING

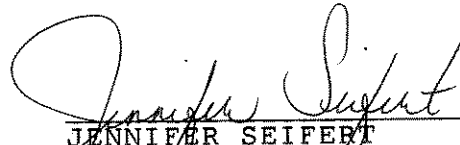
I hereby certify that on the 13th of December, 1989,
I mailed a true and correct copy of this Proposed Memorandum
Decision and Order and Order Issuing Proposed Memorandum
Decision, postage prepaid, to the following individuals:

Janet O'Crowley
Committee for Idaho's High Desert
P.O. 705
Picabo, ID 83348

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

Randall Brooks
The Wood River Journal
P.O. Box 988
Hailey, ID 83333

IDWR - Southern Region


JENNIFER SEIFERT
Clerical Assistant

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MAR 22 1990

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
AMENDED- APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant NORMAN E. FULLER Phone 726 5945
Post office address P.O. Box 1066 SUN VALLEY ID 83353
2. Source of water supply GROUNDWATER which is a tributary of MAGIC RESERVOIR
3. Location of point of diversion is NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Govt. Lot _____
Sec. 23 Township 15 Range 17E B.M. PLAIN County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 0.27 for HEATING purposes from JAN 1 to DEC 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.14 for ESTHETICS purposes from JAN 1 to DEC 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.14 for COMMERCIAL GREENHOUSES 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)
5. Total quantity to be appropriated is (a) 0.41 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. ARTESIAN HOT-WATER WELL
WITH CONTROL VALVE PIPELINES TO GREENHOUSE OVERFLOW
TO ESTHETIC AREAS & RECREATION FISH PONDS (PRIVATE)
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 8" inches; proposed depth of well is 260 feet.
d. Is ground water with a temperature of greater than 90°F being sought? YES
7. Time required for the completion of the works and application of the water to the proposed beneficial use is
FIVE years (minimum 1 year).

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8. Description of proposed use *if irrigation only, go to item 9*:

- Hydropower; show total feet of head and proposed capacity in KW. _____
- Stockwatering; list number and kind of livestock. _____
- Municipal; show name of municipality. _____
- Domestic; show number of households. _____
- Other; describe fully. heating & commercial use in greenhouses.

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- 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	
1S	17E	13										H	E	C					
		14																H	
		23	H	E															

~~F is fish propagation, C is commercial (greenhouses)~~ ESTHETICS & GREENHOUSES
H is heating of home & greenhouses 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? "

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: Original hot spring was damaged by road construction in the 60's. In 1965,
a well was drilled at the spring site. There is now an artesian well at the site.
At the request of the Dept. of Water Resources, I am attempting to put this water
to beneficial use rather than to let it flow to waste in Magic Reservoir.
Amount applied for is measured capacity of the well.

Received by JP Date 6-27-88 Time 1:56 pm Preliminary check by SJ
Fee \$ 45.00 Receipted by JP # 5000564 Date 6-27-88
Publication prepared by M. Baldwin Date 10/20/88 Published in Wood River Journal
Publication approved M. Baldwin Date 11/22/88

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, 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:

NOT FILMED

MAR 22 1990

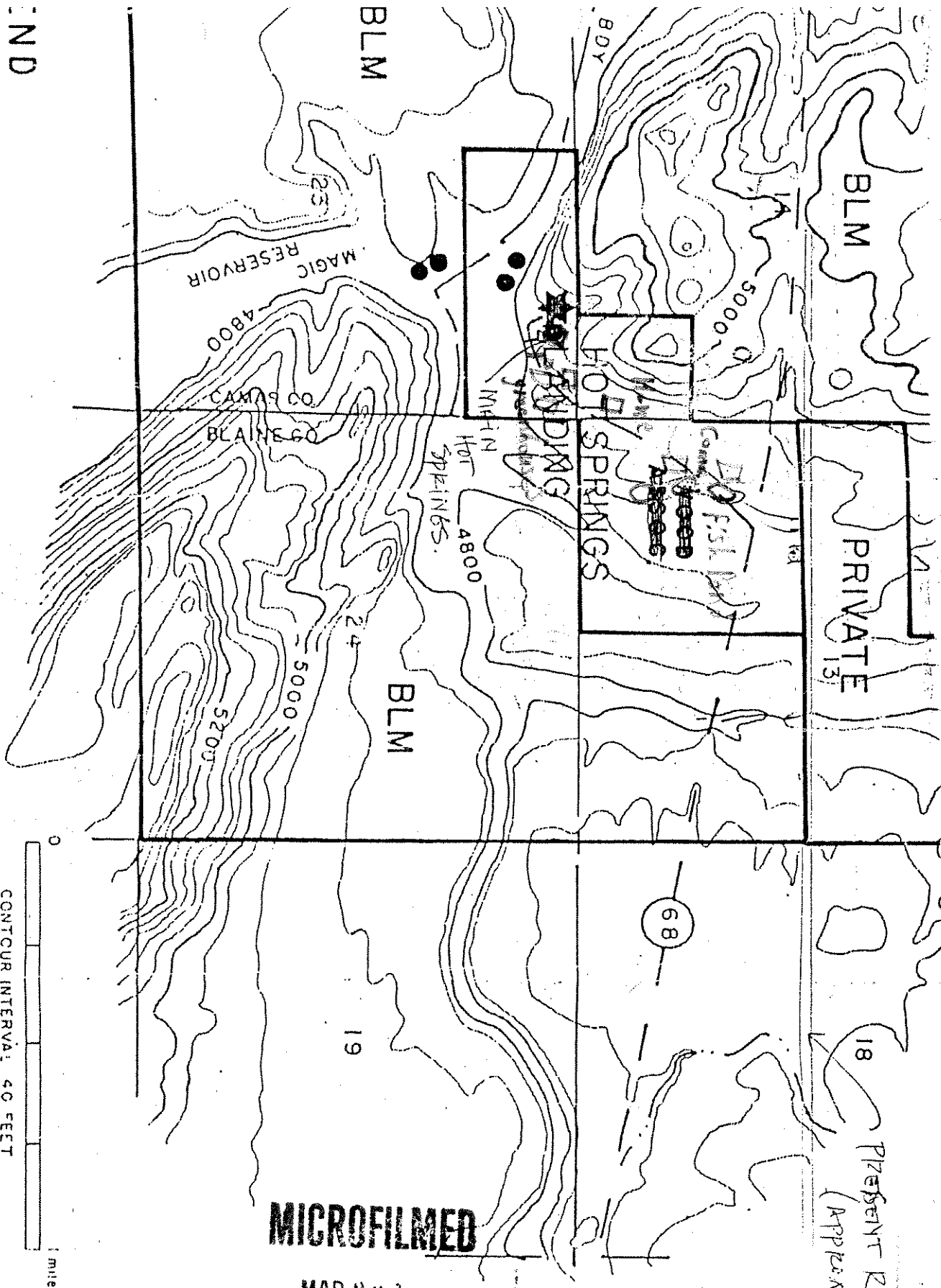
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Norman E. Fuller Phone 726-5945
Post office address P. O. Box 1066, Sun Valley, ID 83353
2. Source of water supply Groundwater which is a tributary of Magic Reservoir
3. Location of point of diversion is NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Govt. Lot _____
Sec. 23 Township 1S Range 17E B.M. Blaine County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 0.27cfs for Heating purposes from Jan 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.14cfs for Commercial purposes from Jan 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum) Zoethics
Amount 0.14cfs for Fish Prop. ☒ 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)
5. Total quantity to be appropriated is (a) 0.27 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. Artesian hot-water well with control valve, pipelines to greenhouses, overflow to fish ponds
 - 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 8 inches; ~~proposed~~ depth of well is 260 feet.
 - d. Is ground water with a temperature of greater than 90°F being sought? Yes
7. Time required for the completion of the works and application of the water to beneficial use is five years (minimum 1 year).

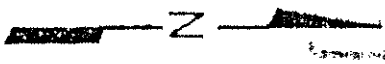
MAR 22 1990

RESERVED



0
CONTOUR INTERVAL: 40 FEET
mile

MICROFILMED
MAR 22 1950



t springs
t artesian well
nd holdings

END

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

- Hydropower; show total feet of head and proposed capacity in KW. _____
- Stockwatering; list number and kind of livestock. _____
- Municipal; show name of municipality. _____
- Domestic; show number of households. _____
- Other; describe fully. heating & commercial use in greenhouses.

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- 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	
1S	17E	13										H	F	C					
		14																H	
		23	H	C															

F is fish propagation, C is commercial (greenhouses)

H is heating of home & greenhouses

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? "

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: Original hot spring was damaged by road construction in the 60's. In 1965, a well was drilled at the spring site. There is now an artesian well at the site. At the request of the Dept. of Water Resources, I am attempting to put this water to beneficial use rather than to let it flow to waste in Magic Reservoir. Amount applied for is measured capacity of the well.

INDEXED
FILMED

MAR 22 1990

Received by JS Date 6-27-88 Time 1:56 pm Preliminary check by DF
Fee \$ 45.00 Receipted by JS # 5000564 Date 6-27-88
Publication prepared by M. Baldwin Date 10/20/88 Published in Wood River Journal
Publication approved M. Baldwin Date 11/22/88

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, 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:

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MAR 24 1989

Received by T. Jasper Date 2/7/89 Time 1:10 Preliminary check by AS
Fee \$ 20.00 Receipted by M. Baldwin # 5006335 Date 2/21/89
Publication prepared by M. Baldwin Date 3/1/89 Published in Times News
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. 37-08365, 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.

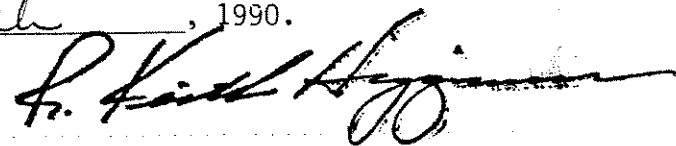
b. Proof of construction of works and application of water to beneficial use shall be submitted on or before January 1, 1992.

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: Pursuant to Final Memorandum Decision and Order

Witness my hand this 16th day of March, 1990.



R. KEITH HIGGINSON
Director

MICROFILMED

MAR 22 1990

AFFIDAVIT of PUBLICATION

RECEIVED

NOV 10 1988

State of Idaho, }
County of Blaine } SS.

Department of Water Resources
Southern Region Office

DANIEL J. GORHAM

, being first duly sworn, deposes and says that he is the printer (publisher) of the Wood River Journal, a newspaper published every week in Hailey, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the

annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first

publication of said advertisement was on the 2nd day of Nov, 19 88, and

the date of the last publication was on the 9th day of Nov, 19 88.

Daniel J. Gorham

Subscribed and sworn to before me this 9th day of Nov, 19 88.
(SEAL)

Roberta McKee

NOTARY PUBLIC

WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Number of Picas per Line _____
Number of Lines in Notice 43
Number of Insertions 2

Lines tabular at _____ 5¢/Pica
43 Lines straight at 21.29 4¢/Pica
43 Subsequent lines at 11.56 3¢/Pica
TOTAL COST 37.85

COPY OF NOTICE

(Paste Here)

Not. of Application #37-08365
TITLE OF NOTICE Fuller

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept. of Water Resources
BILL TO

Fuller files on water right

NOTICE OF APPLICATION FOR WATER RIGHT

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

37-08365

FULLER, NORMAN E.
P.O. BOX 1066
SUN VALLEY, ID 83353

Source: GROUNDWATER

Diversion Pt: NWNENE Sec 23 T
01S R 17E, Blaine County; 9 miles
South & 7 miles West of Bellevue.

Use: HEATING (.270 CFS)
COMMERCIAL (.140 CFS)
FISH PRO-
PAGATION (.140 CFS)

Date Filed: 6/27/1988

In: T01S R17E S13 NWSW,
SWSW
S14 SESE
S23 NENE

The permit(s) will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code, and/or the new public interest criteria of Sec. 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 2148 4th Avenue East, Twin Falls, Idaho 83301, on or before NOVEMBER 21, 1988.

(Idaho) R. Keith Higginson, Director

Publish: Wood River Journal-
November 2 & 9, 1988.

7-8 pt. per l.

7-8 pt. per l.

7-8 pt. per line successive insertion.....3.5/pica

MICROFILMED

No 6227

MAR 22 1990

AFFIDAVIT of PUBLICATION

State of Idaho, }
County of Blaine } SS.

RECEIVED

MAR 17 1989

Department of Water Resources
DANIEL J. GORHAM Southern Region Office

, being first duly sworn,
deposes and says that he is the printer (publisher) of the Wood River Journal, a newspaper published every week in Hailey, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the

annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first

publication of said advertisement was on the 8th day of Mar, 19 89, and

the date of the last publication was on the 15th day of Mar, 19 89.

Daniel J. Gorham

Subscribed and sworn to before me this 15th day of March, 19 89.
(SEAL)

Rubeta Mc Keecher

NOTARY PUBLIC

WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Number of Picas per Line _____
Number of Lines in Notice 40.5
Number of Insertions 2
Lines tabular at _____ 5¢/Pica
40.5 Lines straight at 20.05 4¢/Pica
40.5 Subsequent lines at 15.59 3¢/Pica
TOTAL COST 35.64

COPY OF NOTICE

(Paste Here)

Amended Application #37-08365
Fuller
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept. of Water Resources
BILL TO

Water right sought by Fuller

NOTICE OF AMENDED APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application for permit to appropriate the public waters of the State of Idaho has been amended as follows:

37-08365

Norman E. Fuller

P.O. Box 1066

Sun Valley, ID 83353

Date Amended: 2/7/89

Source: Groundwater

Diversion Pt: NW1/4NE1/4NE1/4,
Sec 23, T1S, R17E, Blaine County.

Use: Heating (0.27 cfs)
Aesthetics (0.14 cfs)
Commercial (0.14 cfs)

Total quantity to be appropriated:
0.41 cfs

In: W1/2SW1/4, Sec. 13, T1S,
R17E; SE1/4SE1/4, Sec. 14, T1S,
R17E; NE1/4NE1/4, Sec. 23, T1S,
R17E.

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Southern Region, 2148 Fourth Avenue East, Twin Falls, Idaho 83301, on or before MARCH 27, 1989.

R. Keith Higginson, Director

Publish: Wood River Journal
March 8 & 15, 1989

10 pt. per line straight....4.5/pica
7-8 pt. per line tabular....5.5/ pica
7-8 pt. per line successive insertion.....3.5/pica

MAR 22 1990

6447

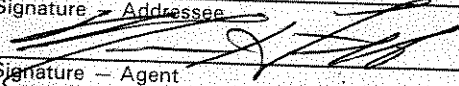
OK
JRP
3/20/89

Sargy 4/29

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in "RETURN TO" Space on the reverse side. Failure to do so will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to: NORMAN E FULLER PO BOX 1066 SUN VALLEY ID 83351	4. Article Number 33642 Type of Service: ☐ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail ☐ Return Receipt for Merchandise Always obtain signature of addressee or agent and DATE DELIVERED.
5. Signature - Addressee X 	8. Addressee's Address (ONLY if requested and fee paid) 37-8365
6. Signature - Agent X	
7. Date of Delivery APR - 1 1989	

PS Form 3811, Apr. 1989

* U.S.G.P.O. 1989-238-815

DOMESTIC RETURN RECEIPT

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RETURN
TO



Print Sender's name, address, and ZIP Code in the space below.

Water Allocation Bureau
Department of Water Resources
1301 N. Orchard St.
Boise, ID 83705

RECEIVED

APR 02 1991



Department of Water Resources

NOTED
FEB 17 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

December 10, 1991

Randall Brooks
The Wood River Journal
P.O. Box 988
Hailey, ID 83333

RE: Application for Permit to Appropriate Water No. 37-08365 in
the Name of Norman E. Fuller

Dear Mr. Brooks:

The Order Voiding Application for Permit previously issued
on March 25, 1991, on the above referenced permit, has been
rescinded. Please find enclosed the order of rescission.

Respectfully,

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

MICROFILMED

FEB 17 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

December 10, 1991

Janet O Crowley
Committee for Idaho's High Desert
P.O. Box 705
Picabo, ID 83348

RE: Application for Permit to Appropriate Water No. 37-08365 in
the Name of Norman E. Fuller

Dear Ms. O Crowley:

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on March 25, 1991, on the above referenced permit, has been
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GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

MAILED

FEB 17 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

December 10, 1991

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

RE: Application for Permit to Appropriate Water No. 37-08365 in
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A handwritten signature in cursive script that reads 'Gary Spackman'.

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

MICROFILMED

FEB 17 1993

Trial	Control	MCI	AD
1	85	75	65
2	88	78	68
3	90	80	70
4	92	82	72
5	95	85	75

Journal of Management Studies, 19(1), 67-80.

[illegible]

FEB 17 1963



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

June 20, 1991

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

RE: Application for Permit to Appropriate Water No. 37-08365 in
the Name of Norman E. Fuller

Dear Mr. Fuller:

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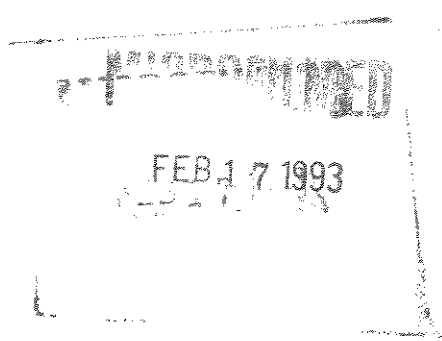
Respectfully,

A handwritten signature in cursive script that reads 'Gary Spackman'.

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

June 20, 1991

Janet O Crowley
Committee for Idaho's High Desert
P.O. Box 705
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Dear Ms. O Crowley:

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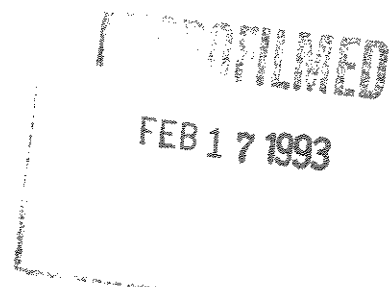
Respectfully,

A handwritten signature in cursive script that reads 'Gary Spackman'.

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

June 20, 1991

Randall Brooks
The Wood River Journal
P.O. Box 988
Hailey, ID 83333

RE: Application for Permit to Appropriate Water No. 37-08365 in
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rescinded. Please find enclosed the order of rescission.

Respectfully,

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

FILED
FEB 17 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

April 18, 1991

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

RE: Hearing for Voided Application for Permit No. 37-8365

Dear Mr. Fuller:

I received your letter by FAX dated April 1, 1991. You requested a hearing before the Department objecting to the voiding of your application. You also stated in the letter that you had erroneously sent information required by the approval of permit no. 37-8365 in response to a request for extension of time regarding permit no. 37-8480.

I have reviewed both files 37-8365 and 37-8480. The Final Memorandum Decision and Order issued for application for permit no. 37-8365 required that you submit design plans for the proposed home, greenhouses and ponds. The design plan was to have depicted locations, dimensions, sizes and a scheme for distributing the water and properly disposing of the effluent. The delivery system and the structures were to be designed for efficient extraction of heat from the low temperature geothermal water. The decision also required that you submit information about how the proposed uses will satisfy local zoning ordinances. Diligent efforts to complete the zoning process was supposed to be documented.

My review of both files does not reveal any plans or specifications which depict the information sought. Furthermore, the Department has not received any information regarding attempts to comply with local zoning ordinances. The only information in the files is a roughed out schematic of the vicinity. It certainly does not satisfy the requirement of the Final Memorandum Decision and Order.

I will be in Twin Falls the morning of April 30. I suggest if you want to pursue this matter further, that we conduct a hearing at 10:00 a.m. the morning of April 30, 1991, at the

RECEIVED
FEB 17 1993

Norman E. Fuller
April 17, 1991
Page - 2

southern regional offices of the Department of Water Resources,
222 Shoshone Street East, Twin Falls, Idaho 83301.

Respectfully,



GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

cc: Southern Region

RECORDED

FEB 17 1993

April 1, 1991

Mr. Gary Spackman
Manager, Water Rights - Permit Section
Department of Water Resources
1301 N. Orchard St.
Statehouse Mall
Boise ID 83720-9000
FAX (209) 327-7555

Re: Permit #37-08365

Dear Mr. Spackman,

I request a hearing as soon as possible to correct the issuance of the order to void the permit for the following reason. On July 3, 1990, prior to the end of the allowable time to submit beneficial use data, I erroneously responded to a request for extension for Permit #37-08480, thinking I was responding for Permit #37-08365. If you will examine that application for extension on 9/12/90 you will find all the supporting documents including legal information on the litigation with Blaine County are clearly applicable only to Permit #37-08365. It was not until I received the extension and later read the newspaper statement about the voiding of Permit #37-08365 did I realize my mistake with the permit numbers. On March 11, 1991 I sent by FAX a seven page request for correction with the above explanation to Jim Stanton at the Twin Falls office and to Rita Fleck of your office. Please assist me in this vital correction.

Sincerely,



Norman E. Fuller
PO Box 1066
Sun Valley ID 83353
FAX (208) 726-0745
Phone (208) 726-5444

MICROFILMED

FEB 17 1993

March 11, 1991

Rita I. Fleck
Department of Water Resources
FAX 327-7866 *(7) Pages*

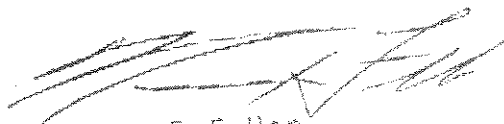
Re: Confusion on Permits 37-8480 and 37-08365

Dear Miss Fleck,

I today discovered a major error in my response to you last year on Permit 37-8480 on which you issued an extension letter dated 10/11/90. If you will look at all the copies of the responses you will discover that I replied with data expected to apply to 37-08365 including the location map. It is this permit number which has been impacted by the road litigation. I now have a notice that Permit 37-08365 may be voided due to this error on my part. Can you assist me in getting this matter cleared up? This is a very vital water permit and a disaster if I must start over. Permit 36-8480 has for more than a year been in beneficial use and proof will be supplied if you will forward the applicable form.

Thank you for your assistance

Sincerely,



Norman E. Fuller
FAX 208 726-0745
Phone 208 726-5945
PO Box 1066
Sun Valley ID 83353

MICROFILMED

FEB 17 1993



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

2

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

October 11, 1990

Norman E. Fuller
P. O. Box 1066
Sun Valley, ID 83353

Dear Mr. Fuller:

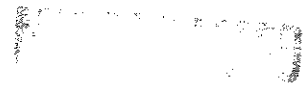
Re: Permit No. 37-8480

Enclosed is a copy of the approved request for extension of time. The time within which to submit proof of beneficial use is extended to December 1, 1993. Note that the permit has been reinstated with an advance in priority, since the extension was received after the proof of beneficial use date.

Sincerely,

BITA I. FLECK
Secretary/Records Manager

Enclosure



FEB 17 1993

July 3, 1990

Rita Fleck
Records Manager
Idaho State Dept. of Water Resources
1301 N. Orchard St.
Boise ID 83720

Re: Permit #37-08480 and your notice of 5/31/90

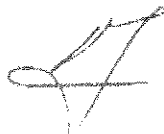
Dear Ms. Fleck,

I am confused with your notice. As I understand the permit approval (see Page 10, Para. 1) it requires me to submit the plan per my application for beneficial use by August 1, 1990, not proof of beneficial use which per my application as approved allowed me 5 years to impliment the plan. If I am correct please consider this my request per Section 42-204 for extension reason outcome of Blaine County litigation case #14602 has a bearing on the method and location of my development of the property, especially the location of buildings which will utilize permitted water. A copy of the court notice of hearing dates is attached for your reference.

Sincerely,

Norman E. Fuller
PO Box 1066
Sun Valley ID 83353

*This Should Have Been A Response To
37-08365 My Confusion.*



RECEIVED

FEB 17 1993

④

September 12, 1990

Rita J. Flock
Dept. of Water Resources
1301 N. Orchard St.
Statehouse Mail
Boise ID 83720

Re: Permit #37-8460

For your request extension application, legal document and explanation are enclosed. The attached location map indicates the legal dispute over allignment. The County is attempting by prescriptive rights claim to bisect the property and obtain a large public boat pad right adjacent to the hot water flow which materially affects how the water can be utilized and controlled as well as building locations for heating with the hot water. I have a plan if I win, which is the preferred plan, and an optional plan if I loose. Until the court decides I am forced to wait.

Norman L. Fuller
PO Box 1066
Sun Valley ID 83353
(208) 726-5945

Also My Reply Applied To 37-08365 Not 37-8480

RECEIVED
FEB 17 1993

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

If you are planning to submit a Request for Extension of Time in which to submit proof of beneficial use of water under your permit, please read the following:

Under the provisions of Section 42-204, Idaho Code, only one extension of your proof due date can be granted 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 reason to allow an extension of time.

EXCEPTIONS

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

1. If 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, or land classification such as Desert Land Entry or Carey Act.
2. If litigation related to title of the water has prevented development of the permit (evidence must be submitted with the request).
3. If the water project is of a large size--storage of more than 200,000 acre-feet, or diversion of more than 25,000 acre-feet in one irrigation season.
irrigation project of at least 5,000 acres.
4. If the permit is held by the United States of America.

FEB 17 1993

A non-refundable filing fee of \$15.00 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 at the same time. 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. A new application will then need to be submitted to the department if water right development is still planned.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

For Office Use Only
\$15 FEE Received by _____
Date _____
Receipt # _____

REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit proof
of beneficial use for a water right permit

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 in which to complete development of a water right under the provisions of Section
1-204, Idaho Code.

Permit No. 37-8480 *Should Have Been 37-08365*

Name(s) of Permit Holder: NORMAN E. FULLER

Street Office Address: P.O. Box 1066 Sun Valley Idaho 83353

Telephone No. 208 726-5945

Time Proof Is Due: AS APPLICABLE

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

CONTROL PIPE & VALVES PENDING LEGAL
OUTCOME PER ATTACHED

Costing \$ _____

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

SEE ATTACHED LEGAL ATTACHMENT

Permit holder(s) request an extension to 4-15, 1992.
UNLESS COURT ACTION UNDECIDED (yr. minimum)

\$: 115.00
*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

granted this _____ day of _____, 19____.

RECEIVED
FEB 17 1993

⑦

BLM

PRIVATE

HOT SPRINGS

LANDING

WOOD
ASPECT

BLM

BLM RESERVE

CLARK CO.
BLAIRE CO.

SPRINGS
4900

6.8

13

RECEIVED

FEB 17 1993

END

Hot Springs

Artesian Well

*GREEN LINE
IS LOCATION
BOUNDARY
FOR ROAD WITH
MICHIGAN'S PROPERTY*

*High altitude
springs
have been protected*





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 27, 1991

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

CERTIFIED MAIL #33642

RE: Application for Permit No. 37-08365

Dear Applicant:

Enclosed is a copy of the Order Voiding Permit on the above referenced application.

Please be advised that if you do not agree with the decision of the Department you may, within fifteen (15) days of receipt of the Order Voiding your application, request a hearing before the Director. Failure to timely petition the Director within fifteen days of receipt of the Order may prevent you from further contesting the voiding of your application.

Sincerely,

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

RECEIVED

FEB 17 1993

**ROUTING SHEET FOR PROTESTED APPLICATIONS
WHICH REQUIRE A MEMORANDUM DECISION AND ORDER**

Date

Activity

HEARING HELD

FILE RECEIVED AT STATE OFFICE (Cindy)

- Date stamp, label and add file to bar code system
- Attach temporary file from protest drawer
- Route to Brenda for general review

2-1-93

GENERAL APPLICATION REVIEW (Brenda)

- Create "P" file and edit per general review
- Route file to Karen

2/2/93

PREPARE PMD&O (Karen & Hearing officer)

- Log in for tracking through the decision process
- Route file for review of the decision
- Prepare order issuing PMD&O and certificate of mailing, route for signature and mail
- Hold file for 15 days - for exceptions

2/2/93

PREPARE FINAL ORDER (Karen)

- Prepare order adopting PMD&O as the final order or make needed changes to PMD&O and prepare final order
- Route final order for signature
- Route to Brenda for final permit processing

2-9-93

FINAL PERMIT PROCESSING (Brenda) BLM

- Edit and condition "P" file per signed MDO
- Update data base and prepare APPROPRIATE permit document (Use signature stamp on permit).
- Drop "P" from temporary file
- Route to Karen for final order processing

2/10/93

PREPARE FINAL ORDER (Karen)

- Route to Karen for final order processing
- Prepare cover letter and certif. of mailing
- Mail the final MD&O
- Send file to microfilm

MICROFILM

- Film the file
- Route file to vault

VAULT

- Remove out-cards from the protest drawer and hold drawer

FEB 17 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 10, 1993

Norman E Fuller
PO Box 1066
Sun Valley, ID 83353

Re: Permit No. 37-08365

Dear Permit Holder:

Enclosed is a copy of your approved permit. Also enclosed is an Order Issuing the Permit. The order and the permit list several conditions of approval. We urge you to look carefully at the conditions so that you are in compliance.

Also, please note that proof of beneficial use of the water to the Department must be submitted on or before February 1, 1996. The Department will notify you 60 days in advance of that date.

In the mean time, if you have any questions or if we can be of any further assistance, please feel free to contact the Department.

Sincerely,

L. Glen Saxton
Chief, Water Allocation Bureau

Enclosures

C: IDWR - Regional Office

RECEIVED

FEB 17 1993

APPLICATION FOR PERMIT REVIEW

Application #: 37-8365 Date: 2-1-93 Reviewer: Brenda Miller

SYSTEM COMPLETED:

No *In decision* - 26A-P17
 Complete in 1 year - P16
 Yes
 Proof not submitted - P16
 Proof submitted - N/A

AREA OF CONCERN?

YES
Big Wood River

GROUNDWATER:

GT. 0.2 cfs <flo-ch> - 01G-P03, 01C-P03 (existing well)
 - No measurement required <flow chart>
 LT. 0.2 cfs - No measurement required <flow chart>

Drilling Permit:

Approved w/permit - P99 Permit No. covered on order
 Not included - 046-46A-46B-P23 (after 7/1/87), N/A

SURFACE WATER: not in w/d - 01C-P03 (=GT.2 w/pump), NMR <flow chart>

LOCATION:

Water Districts *005* - WD No. 37
 Surface water *add* ☒ R04, R04-01H-P01(LT.2 w/pump)
 R04-01J-P08(GT.2), NMR <flow chart>
 Groundwater - P05 *covered on order*
 Irrigation Districts - 023
 Canal Co. Areas - 023
 Drainage Districts - 024
 Boise Front (63) - 058 (Groundwater)
 Swan Falls Flag - C (1, Blank or Other)
 Trust - 051-052-053-P74(Consumptive Uses)
 Non Trust <1> - 048-049

RIVER BASINS:

(Surface Water) Water District Control Condition &....
 Boise (63) - 05A & 11E
 Payette (65) - 047-P04, 059-P71
 Snake (01, 02 & 03) - 11A-P04(01), 061-P07(02/03 No W.D.Cond.)

USE:

HEATING +
 Fish Propagation - 06A, 09E-P10 & 010 (WQ/Choose One),
NOT ON APP BUT INVOLVED 042(req.), 002-P06(MD), 07A(Spec.),
 044(Policy 5G)
 Power *on order* - Use Power Review
 Mining - 06A, 010, or 09E-P10 & 054(req.)
 Storage - 18A-for multiple measuring devices(In WD),
 18B-P09(Size)
 Rec/Wildlf/Aes - 027(Non-Consumptive) *added*
 Domestic - 021 (Boise River - upstream from L Peak)
 (restricted areas) 27A (Payette River & main tributaries)

OWNERSHIP:

Non land owner - 004 *added*

PROTESTED:

Agreement - 020

Beneficial Use Due Date - 2-1-1996

Other Conditions/Remarks: - uses are for...

INTER-DEPARTMENT MEMO

TO: FILE 3708365

SUBJECT: FLOW REQUIREMENT

FROM: GEORGE AUSTIN

DATE: 1/27/93

ADJUSTED FLOW REQUIREMENTS FOR THE INCREASE IN BUILDING
SQUARE FOOTAGE ARE ATTACHED

RECEIVED
FEB 17 1993

FEB 17 1993

☒ For your information

☐ Response required

George E. Austin
signature

Adjustment to flow requirements for application 37-0 8365

These calculations account for increases in building square footage. It is assumed all other parameters are the same as the earlier analysis.

1) ESTIMATION OF SPACE HEATING LOAD

PRIMARY SITE

$$\begin{aligned}
 \text{HOUSE: } Q &= e \Delta T (0.8) A = (0.44) (90^\circ\text{F}) (0.8) (12000 \text{ ft}^2) = 380,160 \frac{\text{Btu}}{\text{hr}} \\
 \text{BARN: } Q &= e \Delta T A = (1.11) (80^\circ\text{F}) (8000 \text{ ft}^2) = 710,400 \frac{\text{Btu}}{\text{hr}} \\
 \text{GREENHOUSE: } Q &= e \Delta T A = (1.11) (90^\circ\text{F}) (4000 \text{ ft}^2) = 399,600 \frac{\text{Btu}}{\text{hr}} \\
 \text{SUBTOTAL} &= 1,490,160 \frac{\text{Btu}}{\text{hr}}
 \end{aligned}$$

SECONDARY SITE

$$\begin{aligned}
 \text{HOUSE: } Q &= (0.44) (90^\circ\text{F}) (0.8) (8000 \text{ ft}^2) = 253,440 \text{ Btu/hr} \\
 \text{BARN: } Q &= (1.11) (80^\circ\text{F}) (6000 \text{ ft}^2) = 532,800 \text{ Btu/hr} \\
 \text{GREENHOUSE: } Q &= (1.11) (90^\circ\text{F}) (2000 \text{ ft}^2) = 199,800 \text{ Btu/hr} \\
 \text{SUBTOTAL} &= 986,040 \text{ Btu/hr}
 \end{aligned}$$

2. ESTIMATION OF FLOW RATE REQUIRED

$$W = \frac{Q}{500 \Delta T_s}; \quad \Delta T_s = 0.3 (S-T)$$

PRIMARY SITE

$$\begin{aligned}
 \text{HOUSE: } W &= \frac{(380,160 \text{ Btu/hr})}{500 \{0.3 (170-70)\}} = 25.34 \text{ GPM} \\
 \text{BARN: } W &= \frac{(710,400 \text{ Btu/hr})}{500 \{0.3 (170-60)\}} = 43.05 \text{ GPM} \\
 \text{GREENHOUSE: } W &= \frac{399,600}{500 \{0.3 (170-70)\}} = 26.64 \text{ GPM} \\
 \text{SUBTOTAL} &= 95.04 \text{ GPM}
 \end{aligned}$$

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SECONDARY SIDE

$$\text{HOUSE: } W = \frac{253,440}{500 \{0.3(170-70)\}} = 16.90 \text{ GPM}$$

$$\text{BARN: } W = \frac{532,800}{500 \{0.3(170-60)\}} = 32.29 \text{ GPM}$$

$$\text{GREENHOUSE: } W = \frac{199,800}{500 \{0.3(170-70)\}} = 13.32 \text{ GPM}$$

$$\text{SUBTOTAL } 62.51 \text{ GPM}$$

NEW BUILDING

$$\text{TOTAL FLOW REQUIREMENT: } W_{\text{TOT}} = 157.55 \text{ GPM} = 0.352 \text{ CFS}$$

$$\text{EXISTING BUILDING & POOL: } W = 17.92 \text{ GPM} = 0.04 \text{ CFS}$$

$$\text{TOTAL } W_{\text{DT}} = 175.47 \text{ GPM} = \underline{\underline{0.392 \text{ CFS} \approx 0.4 \text{ CFS}}}$$

22-141 50 SHEETS
22-142 100 SHEETS
22-144 200 SHEETS



MICROFILMED

FEB 17 1993

11-9-92

MR. GEORGE AUSTIGUY ENGINEER
DEPT WATER RESOURCES
WATER MANAGEMENT DIV.
FAX # 3277866

REF YOUR 11-4-92 LETTER ON PERMIT # 37-08365

DEAR MR. AUSTIGUY,
I HEREBY CONTEST YOUR ASSUMPTIONS
BUT NOT YOUR CALCULATIONS AND REQUEST
THE PERMIT WATER AMOUNT REMAIN AS
PERMITTED AT .41 CFS FOR THE FOLLOWING
REASONS

1. THE PRIMARY & SECONDARY BUILDINGS
WERE INTENDED TO ^{BE} FOOTPRINT SQ FT.
2 STORY FOR FLOOR SQ FT ON HOUSES
DOUBLE YOUR CALCULATIONS.
2. BARN SQ FT SHOULD BE DOUBLE THAT
INDICATED (MY ERROR) AND 16' EAVE
HEIGHT TO ALLOW FOR INSIDE HAY
STORAGE & TALL MACHINERY STORAGE
& MAINTENANCE.
3. GREEN HOUSES SHOULD ALSO HAVE 16'
EAVE HEIGHT TO ALLOW FOR SPECIMEN

RECORDED
FEB 17 1993

POTTED TALL TREES STORAGE IN WINTER

4. AS THE ARTESIAN SPRING WATER CANNOT BE
REGULATED AND DEPT OF WATER RESOURCE
LETTER DATED 5-26-87 & MY REPLY 6-6-88
REQUIRES 100% BENEFICIAL USE, BUILDING
ADJUSTMENTS WILL BE MADE TO MEET PERMIT VOLUME
ETC. LHM OWNER

RECEIVED

FEB 17 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

November 4, 1992

R. KEITH HIGGINSON
DIRECTOR

Norman Fuller
P.O. Box 1066
Sun Valley, ID 83353

Dear Mr. Fuller:

Based on information which you provided I have estimated the flow requirements for the proposed buildings. My calculations indicate a flow requirement of 0.22 cfs should be sufficient for your project. Flow for the fish ponds is considered to be the return flow from the heating system. For your information I have attached a copy of my calculations.

The flow quantity on your application will be adjusted to reflect this estimate. If you wish to contest this estimate you are required to submit calculations which support your desired flow rate within 30 days.

Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "George Austiguy".

George Austiguy EIT
Water Resource Engineer
Water Management Division

MICROFILMED
FEB 17 1993

DETERMINATION OF FLOW RATE FOR
FULLER PROJECT

1) ESTIMATION OF SPACE HEATING LOAD E

ASSUME EFFICIENCY FACTORS

$$\begin{array}{ll} e = 0.44 & \text{BTU/(hr-ft}^2\text{-}^\circ\text{F)} \quad \text{HOUSE (BETTER THAN AVERAGE EFF.)} \\ e = 1.11 & \text{BTU/(hr-ft}^2\text{-}^\circ\text{F)} \quad \text{BARN \& GREENHOUSE (POOR EFF.)} \end{array}$$

TEMPERATURE GRADIENT: ASSUME DESIGN TEMP OF -20°

$$T_{IN} = 70^\circ\text{F}$$

$$T_{OUT} = -20^\circ\text{F}$$

$$\begin{array}{ll} \Delta T = 70^\circ - (-20^\circ) = 90^\circ\text{F} & \text{HOUSE \& GREENHOUSE} \\ \Delta T = 60^\circ - (-20^\circ) = 80^\circ\text{F} & \text{BARN} \end{array}$$

$$\begin{array}{ll} Q = e A T A & \text{SINGLE STORY HOUSE} \\ Q = e D T (0.8) A & \text{TWO STORY HOUSE} \end{array}$$

SECONDARY BUILDING SITE

$$\text{HOUSE: } Q = (0.44)(90^\circ\text{F})(0.8)(4000 \text{ ft}^2) = 126,720 \text{ BTU/hr}$$

$$\text{BARN: } Q = (1.11)(80^\circ\text{F})(3000 \text{ ft}^2) = 266,400 \text{ BTU/hr}$$

$$\text{GREENHOUSE: } Q = (1.11)(90)(1000) = 99,900 \text{ BTU/hr}$$

PRIMARY BUILDING SITE

$$\text{HOUSE: } Q = (0.44)(90^\circ)(6000)(0.8) = 190,080 \text{ BTU/hr}$$

$$\text{BARN: } Q = (1.11)(80^\circ)(4000) = 355,200 \text{ BTU/hr}$$

$$\text{GREENHOUSE: } Q = (1.11)(90^\circ)(2000) = 199,800 \text{ BTU/hr}$$

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FEB 17 1993

2. ESTIMATION OF FLOW RATE REQUIRED

$$W = \frac{Q}{500 \Delta T_s}$$

$$\Delta T_s = 0.3(S - T); \quad S = \text{SOURCE } T^\circ, \quad T = T^\circ \text{ REQ. BY SYSTEM}$$

SECONDARY BUILDING SITE

$$\text{HOUSE:} \quad W = \frac{(126,720)}{500 \{0.3(170^\circ - 70)\}} = 8.5 \text{ GPM}$$

$$\text{BARN:} \quad W = \frac{266,400}{500 \{0.3(170 - 60)\}} = 16.14 \text{ GPM}$$

$$\text{GREENHOUSE:} \quad W = \frac{99,900}{500 \{0.3(170 - 70)\}} = 6.66 \text{ GPM}$$

$$\text{TOTAL} \quad 31.30 \text{ GPM} = 0.07 \text{ cfs}$$

PRIMARY BUILDING SITE

$$\text{HOUSE:} \quad W = \frac{190,080}{500 \{0.3(170 - 70)\}} = 12.67 \text{ GPM}$$

$$\text{BARN:} \quad W = \frac{355,200}{500 \{0.3(170 - 60)\}} = 21.53 \text{ GPM}$$

$$\text{GREENHOUSE:} \quad W = \frac{199,800}{500 \{0.3(170 - 70)\}} = 13.32 \text{ GPM}$$

$$\text{TOTAL} \quad 47.52 \text{ GPM} = 0.1 \text{ cfs}$$

FOR BOTH BUILDING SITES

$$W_1 + W_2 = 78.82 \text{ GPM} = 0.18 \text{ cfs}$$

$$\text{EXISTING BUILDING \& POOL} = 0.04 \text{ cfs}$$

$$0.22 \text{ cfs}$$

22-141 50 SHEETS
22-142 100 SHEETS
22-144 200 SHEETS



LMED

FEB 17 1993

4-2-92

To: Mr. Spackman Ace
% Idaho Dept Water Resources
Fax # 208 327 7866

Re: Permit # 37-08365 Magic Hot Springs

Dear Mr. Spackman

The Above Is Compliance Letter Required
of Conditions of Permit Approval
is Attached

Sincerely



MICROFILMED

FEB 17 1993

Blaine County Planning & Zoning Commission

Box 142, Hailey, Idaho 83333

(208) 488-4696

762 2570 FAX 753 1376

March 24, 1992

Mr. Norm Fuller
P. O. Box 1066
Sun Valley, ID 82353

Re: Fuller Magic Hot Springs Ranch

Dear Norm:

In your March 20, 1992 letter you asked if personal (non-commercial) use of your hot water permit #37-08365 would in any way be in conflict with Blaine County ordinances. Please be advised that as long as it is for personal use, there would not be a conflict.

Any commercial use of the property or hot water would require a conditional use permit application. Depending on the proposed commercial use, a conditional use permit may or may not be approved.

If you have further questions, please let me hear from you.

Sincerely,



Ralph C. Cisco
Director

RC/dv

MICROFILMED

FEB 17 1993

March 20, 1992

Idaho Department of Water Resources
Mr. Gary Spackman, Manager
Statehouse Mail
Boise ID 83720

RECEIVED
MAR 26 1992

Department of Water Resources

Re: Permit 37-08365

Dear Mr. Spackman,

In accordance with your 2/14/92 reply letter a copy of the court's resolution of the Blaine County vs. Fuller road issue at Magic Reservoir is attached. The local ordinance compliance letter is in process to me now and will be forwarded.

With regard to the additional technical data in support of the property use and low temperature heat use the attached data should meet the reasonable requirements.

Sincerely,



Norman E. Fuller
PO Box 1066
Sun Valley ID 83353

RECEIVED

FEB 17 1993

1. The 8,000 sq. ft. of buildings on location is comprised of:

- A. Residence - 4,000 sq. ft., 2 story
- B. Farm barns - 3,000 sq. ft. (50' x 60'), Butler type
- C. Greenhouse - 1,000 sq. ft. (20' x 50') glass

2. The 12,000 sq. ft. building on location is comprised of:

- A. Residence - 6,000 sq. ft., 2 story
- B. Farm buildings - 4,000 sq. ft. (50' x 80'), Butler type
- C. Green house - 2,000 sq. ft. (25' x 40') glass

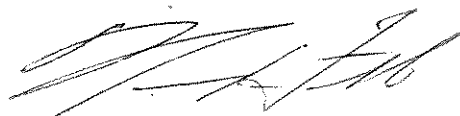
3. The water upon discharge from the buildings has dropped from 170 F. to approximately 80F when it enters the ponds. The expected fish to be placed in ponds for recreation are catfish in an first pond, and trout in a second pond where the temperature would be lower. There would be approximately 1,000 fish in each pond.

4. As to method of heat exchange, this is governed by several factors:

- A. Risk of winter freezing
- B. Contamination of transmission lines
- C. Purity of water entering fish ponds.

Therefore I have chosen to use the coiled hot water system which removes the water heat to glyocol captive lines which would circulate in the floor allowing the water to remain impacted only by temperature removal. Each building will contain a sump pond of closed concrete from which coiled tubes will be submerged. Glyocol, circulating through the tubes, would travel to the floors after heat transmission.

Sincerely,



Norman E. Fuller

MICROFILMED

FEB 17 1993

LUBOVISKI, WYGLE & FALLOWFIELD
ATTORNEYS AT LAW
205 Giacobbi Annex
P. O. Box 1172
Ketchum, Idaho 83340
(208) 726-8219

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

BLAINE COUNTY, a political
subdivision of the State of
Idaho,

Plaintiff/
Counterdefendant,

vs.

NORMAN E. FULLER,

Defendant/
Counterclaimant.

Case No. 14602

STIPULATION FOR
COMPROMISE AND
SETTLEMENT

Plaintiff, by its attorney of record, Barry J. Luboviski
of Luboviski, Wygle & Fallowfield, and Defendant, appearing
pro se, hereby agree to compromise and settle all disputes in
connection with or related to the within action as hereinafter
set forth:

RECITALS

1. Defendant owns real property in Blaine County, Idaho,
which surrounds Hot Springs Landing Road, the Hot Springs
Landing parking area, and the Hot Springs Landing boat ramp.

2. The Plaintiff has maintained that the Hot Springs

STIPULATION FOR COMPROMISE
AND SETTLEMENT/1

RECORDED

FEB 17 1993

Landing Road, the Hot Springs Landing parking lot, and the Hot Springs Landing boat ramp are public property as the result of the public use and public maintenance of that property.

3. This Court entered its Memorandum Decision and Order on February 7, 1991, wherein the Court determined that Hot Springs Landing Road is a public highway.

4. Plaintiff and Defendant have agreed to settle and compromise the present dispute in the manner and on the terms set forth below.

NOW, THEREFORE, in consideration of the settlement of the above-referenced lawsuit and the mutual releases and covenants set forth below, the parties hereto agree as follows:

1. The Defendant, Judianne Fuller, Paul Fuller and Sandra Fuller will execute a quitclaim deed to Blaine County for Hot Springs Landing Road, the Hot Springs Landing parking area, and the Hot Springs Landing boat ramp as set forth on Exhibit "A" attached hereto and incorporated herein by reference.

2. The Plaintiff will grade a storage pad which has been staked by Plaintiff's engineer and which lies west and north of the Hot Springs Landing parking area on the Defendant's property for the benefit of the Defendant. Said grading shall be completed no later than July 1, 1992.

3. The Plaintiff will move the Defendant's personal property and materials from the Hot Springs Landing parking area to the new graded storage area on the Defendant's

STIPULATION FOR COMPROMISE
AND SETTLEMENT/2

MICROFILMED

FEB 17 1993

property at its cost. Said property and materials shall be moved no later than July 1, 1992.

4. The Plaintiff shall install an eight foot chain-link fence at its own cost around the perimeter of the Hot Springs Landing parking area described in Exhibit "B" hereto in order to define the public area and the Defendant's private property. In addition, the Plaintiff shall provide an access gate in said eight foot chain-link fence in order that the Defendant may access his property by Hot Springs Landing Road and the Hot Springs Landing parking lot. Said fence and gate shall be installed no later than July 1, 1992.

5. The Plaintiff hereby grants the Defendant and his heirs and assigns the right to cross Hot Springs Landing Road and the Parking Lot as more particularly described in Exhibit "A" hereto for the placement of underground utilities and in order that Defendant may access both sides of his property from Hot Springs Landing Road.

6. The Plaintiff shall place and maintain at its sole cost a portable toilet and trash dumpster in the Hot Springs Landing parking lot and shall maintain the Hot Springs Landing parking lot in order to avoid the creation of a public nuisance. Said portable toilet and trash dumpster shall be installed no later than July 1, 1992.

7. In consideration of the granting of the above-named Quitclaim Deed, Plaintiff agrees to dismiss its complaint in the within action with prejudice. In consideration of the

STIPULATION FOR COMPROMISE
AND SETTLEMENT/3

MICROFILMED

FEB 17 1993

acts to be performed by Plaintiff as above listed, Defendant agrees to dismiss its counterclaim and concurrently with execution of this Stipulation for Compromise and Settlement, the parties will jointly stipulate for dismissal of the lawsuit with prejudice with each party to bear its own attorney's fees and costs and file the same with the Court.

8. Plaintiff hereby releases and forever discharges Defendant from and against any and all liability, claims, demands, and causes of action arising out of or related to the lawsuit. Defendant hereby releases and forever discharges Plaintiff from and against any and all liability, claims, demands, and causes of action arising out of or related to the lawsuit. Specifically, Defendant acknowledges that no further claim will be made for the property which is more particularly described in Exhibit A hereto and Plaintiff acknowledges that no claim shall be made for additional property in order to access Hot Springs Landing.

9. The rights and obligations of these mutual releases shall be binding upon and inure to the benefit of the parties, their respective successors and assigns, and any and all persons or entities claiming by or through them.

10. The parties agree to execute any documents necessary or appropriate to effect the terms of this Agreement.

11. This Agreement shall be governed by the laws of the State of Idaho.

12. In the event either party hereto retains an attorney

STIPULATION FOR COMPROMISE
AND SETTLEMENT/4

FEB 17 1993

for the purpose of enforcing any right or duty arising out of this Stipulation for Compromise and Settlement, the non-prevailing party in such dispute shall pay to the prevailing party the latter's reasonable attorney's fees, whether or not litigation is actually instituted and upon appeal.

DATED this 6th day of January, 1992.

LUBOVISKI, WYGLE & FALLOWFIELD

By Barry J. Lubovski
Barry J. Lubovski
Attorney for Plaintiff

DATED this 8th day of January, 1992.

[Signature]
Norman E. Fuller

LUBOVISKI, WYGLE
& FALLOWFIELD
ATTORNEYS AT LAW
65 The Station
P. O. Box 1172
Cetchum, Idaho 83340
(208) 726-8219

STIPULATION FOR COMPROMISE
AND SETTLEMENT/5

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FEB 17 1993

MAGIC HOT SPRINGS
AS IS ROAD DESCRIPTION
(REVISED TO GO FROM HIGHWAY NO. 20 TO HOT SPRINGS LANDING)

A parcel of land located within Sections 13, 14 and 23, T. 1S., R. 17 E., B. M., Blaine County, Idaho more particularly described as follows:

Commencing at a G. L. O. brass cap marking the Southwest Corner of said Section 13, which point lies South $0^{\circ}27'35''$ East 2646.88 feet from a G. L. O. brass cap marking the $1/4$ corner common to Sections 13 and 14;

thence North $27^{\circ}26'22''$ East 2385.76 feet to a point on the South Boundary of Idaho State Highway No. 20, which point is the REAL POINT OF BEGINNING;

thence S $35^{\circ}54'42''$ W 61.32 feet;
thence S $45^{\circ}53'23''$ W 178.81 feet;
thence S $34^{\circ}23'55''$ W 252.93 feet;
thence S $44^{\circ}01'35''$ W 176.78 feet;
thence S $36^{\circ}35'55''$ W 197.04 feet;
thence S $37^{\circ}13'37''$ W 247.29 feet;
thence S $34^{\circ}31'09''$ W 169.70 feet;
thence S $34^{\circ}51'33''$ W 112.69 feet;
thence S $37^{\circ}46'24''$ W 86.38 feet;
thence S $36^{\circ}49'19''$ W 140.47 feet;
thence S $28^{\circ}57'42''$ W 89.79 feet;
thence S $26^{\circ}51'34''$ W 200.31 feet;
thence S $30^{\circ}19'35''$ W 119.55 feet;
thence S $28^{\circ}31'33''$ W 217.61 feet;
thence S $26^{\circ}16'37''$ W 191.10 feet;
thence S $28^{\circ}38'58''$ W 158.53 feet;
thence S $29^{\circ}16'57''$ W 103.62 feet;
thence S $36^{\circ}59'53''$ W 103.54 feet;
thence S $42^{\circ}24'03''$ W 120.37 feet;
thence S $41^{\circ}43'25''$ W 87.71 feet;
thence S $44^{\circ}05'39''$ W 72.50 feet;
thence S $57^{\circ}14'06''$ W 68.71 feet;

Exhibit

MICROFILMED

FEB 17 1993

thence S 74°55'38" W 70.30 feet;
thence S 71°19'31" W 72.83 feet;
thence S 58°05'05" W 103.88 feet to the Northeast Corner of the Hot
Springs Landing Parking Area;
thence S 38°37'01" E 27.85 feet along said Parking Area;
thence N 55°43'06" E. 97.55 feet;
thence N 78°42'14" E 65.31 feet;
thence N 78°49'03" E 83.32 feet;
thence N 53°25'35" E 77.15 feet;
thence N 48°50'13" E 74.64 feet;
thence N 40°11'32" E 90.04 feet;
thence N 45°27'33" E 122.00 feet;
thence N 35°39'06" E 107.60 feet;
thence N 31°31'20" E 107.47 feet;
thence N 27°59'50" E 159.40 feet;
thence N 26°32'12" E 192.25 feet;
thence N 28°32'01" E 216.19 feet;
thence N 29°10'13" E 119.08 feet;
thence N 27°42'51" E 197.18 feet;
thence N 29°51'10" E 88.20 feet;
thence N 36°09'56" E 136.93 feet;
thence N 38°29'34" E 87.57 feet;
thence N 34°05'27" E 116.16 feet;
thence N 33°51'57" E 168.45 feet;
thence N 36°53'57" E 242.45 feet;
thence N 38°09'43" E 199.71 feet;
thence N 42°00'36" E 178.58 feet;
thence N 34°18'25" E 253.32 feet;
thence N 42°51'51" E 175.11 feet;
thence N 33°29'19" E 75.45 feet to the South boundary of said Idaho
State Highway No 20;

thence N 79°18'53" W 30.82 feet along said South boundary of
Highway No. 20 to the point of beginning, containing 3.28 acres, more
or less.

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FEB 17 1993

HOT SPRINGS LANDING
PARKING AREA DESCRIPTION

A parcel of land located within Section 23, T. 1S., R. 17E., B. M., Blaine County, Idaho, more particularly described as follows:

Commencing at a G. L. O. brass cap marking the Northeast Corner of said Section 23, which point lies South $0^{\circ}27'35''$ East 2646.88 feet from a G. L. O. brass cap marking the $1/4$ corner common to Sections 13 and 14;

thence South $61^{\circ}49'07''$ West 1515.06 feet to the Northwest Corner of the Hot Springs Landing Boat Ramp, which point is the REAL POINT OF BEGINNING;

thence North $0^{\circ}53'14''$ West 150.44 Feet;
thence North $27^{\circ}48'51''$ East 60.95 feet;
thence South $63^{\circ}14'09''$ East 71.25 feet;
thence South $79^{\circ}37'27''$ East 71.79 feet
thence South $89^{\circ}47'36''$ East 115.84 feet;
thence North $82^{\circ}45'56''$ East 91.03 feet;
thence North $72^{\circ}20'42''$ East 30.25 feet;
thence South $38^{\circ}37'01''$ East 27.85 feet;
thence South $6^{\circ}17'56''$ East 66.34 feet;
thence South $50^{\circ}17'16''$ West 151.17 feet;
thence South $89^{\circ}21'35''$ West 195.47 feet;
thence North $88^{\circ}57'41''$ West 79.11 feet;
thence North $79^{\circ}17'47''$ West 29.65 feet to the point of beginning containing 1.55 acres, more or less.

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FEB 17 1993

HOT SPRINGS LANDING
BOAT RAMP DESCRIPTION

A parcel of land located within Section 23, T. 1S., R. 17E., B. M., Blaine County, Idaho, more particularly described as follows:

Commencing at a G. L. O. brass cap marking the Northeast Corner of said Section 23, which point lies South $0^{\circ}27'35''$ East 2646.88 feet from a G. L. O. brass cap marking the $1/4$ corner common to Sections 13 and 14;

thence South $61^{\circ}49'07''$ West 1515.06 feet to the Northwest Corner of the Hot Springs Landing Boat Ramp, which point is the REAL POINT OF BEGINNING;

thence South $79^{\circ}17'47''$ East 29.65 feet to the Northeast Corner of said boat ramp;

thence South $9^{\circ}12'17''$ West 296.07 feet to the Southeast Corner of said boat ramp;

thence North $83^{\circ}54'38''$ West 24.40 feet to the Southwest corner of said boat ramp;

thence North $8^{\circ}11'28''$ East 298.22 feet to the point of beginning, containing 0.18 acres, more or less.

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FEB 17 1993

HOT SPRINGS LANDING
PARKING AREA DESCRIPTION

A parcel of land located within Section 23, T. 1S., R. 17E., B. M., Blaine County, Idaho, more particularly described as follows:

Commencing at a G. L. O. brass cap marking the Northeast Corner of said Section 23, which point lies South 0°27'35" East 2646.88 feet from a G. L. O. brass cap marking the 1/4 corner common to Sections 13 and 14;

thence South 61°49'07" West 1515.06 feet to the Northwest Corner of the Hot Springs Landing Boat Ramp, which point is the REAL POINT OF BEGINNING;

thence North 0°53'14" West 150.44 Feet;
thence North 27°48'51" East 60.95 feet;
thence South 63°14'09" East 71.25 feet;
thence South 79°37'27" East 71.79 feet;
thence South 89°47'36" East 115.84 feet;
thence North 82°45'56" East 91.03 feet;
thence North 72°20'42" East 30.25 feet;
thence South 38°37'01" East 27.85 feet;
thence South 6°17'56" East 66.34 feet;
thence South 50°17'16" West 151.17 feet;
thence South 89°21'35" West 195.47 feet;
thence North 88°57'41" West 79.11 feet;
thence North 79°17'47" West 29.65 feet to the point of beginning containing 1.55 acres, more or less.

REPRODUCED

17 1993

Exhibit



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 14, 1992

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

RE: Application for Permit No. 37-08365

Dear Mr. Fuller:

This letter acknowledges receipt of a plan you have sketched of your proposed project, and also correspondence which accompanied the plan. I will refer you back to the conditions contained in the Final Memorandum Decision and Order of the Director. I have enclosed a copy of the conditions for your reference. Condition number one required submittal of a design plan, which was to contain locations, dimensions, sizes and a scheme for distributing the water and disposing of the effluent. The delivery system and structures were to be designed for efficient extraction of the heat. In addition, the decision also required submittal of information showing that the design would satisfy local zoning ordinances.

The design plan depicts several water lines that will carry water to two buildings of 8,000 square feet and 12,000 square feet. The plan does not describe the purpose of these buildings, whether they will be residences or green houses. The method for heat exchange has not been specified. According to your plan, the water leaves the buildings and discharges into some fish ponds. These ponds will apparently not be used for commercial fish propagation. You need to specify what type of fish will be reared in the ponds, the quantity of fish and evaluate the temperature of the water to sustain the select species in the pond.

Finally, you must submit some information showing that the plan will satisfy local ordinances. Submittal of the final settlement document that resolved litigation between yourself and Blaine County would also be helpful information for our files.

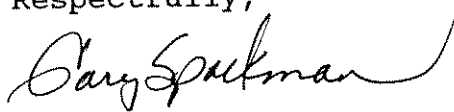
RECEIVED

FEB 17 1993

Norman E. Fuller
February 14, 1992
Page - 2

Please submit the above listed information within sixty (60) days of the date of this letter. Further delays in this matter are not warranted.

Respectfully,



GARY SPACKMAN, Manager
Water Right Permits Section

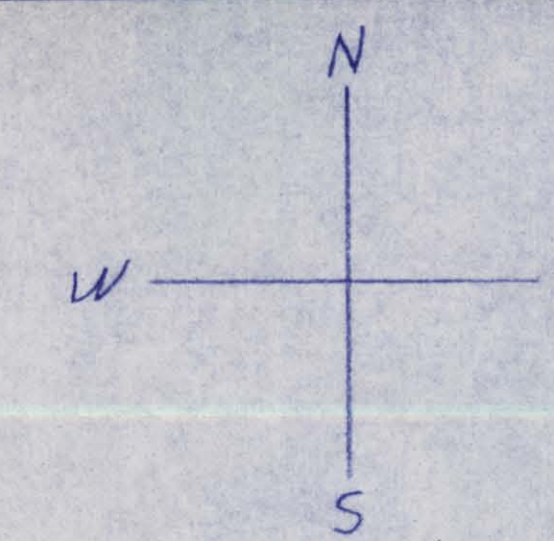
GS:js

Enclosure

cc: Southern Region

RECEIVED

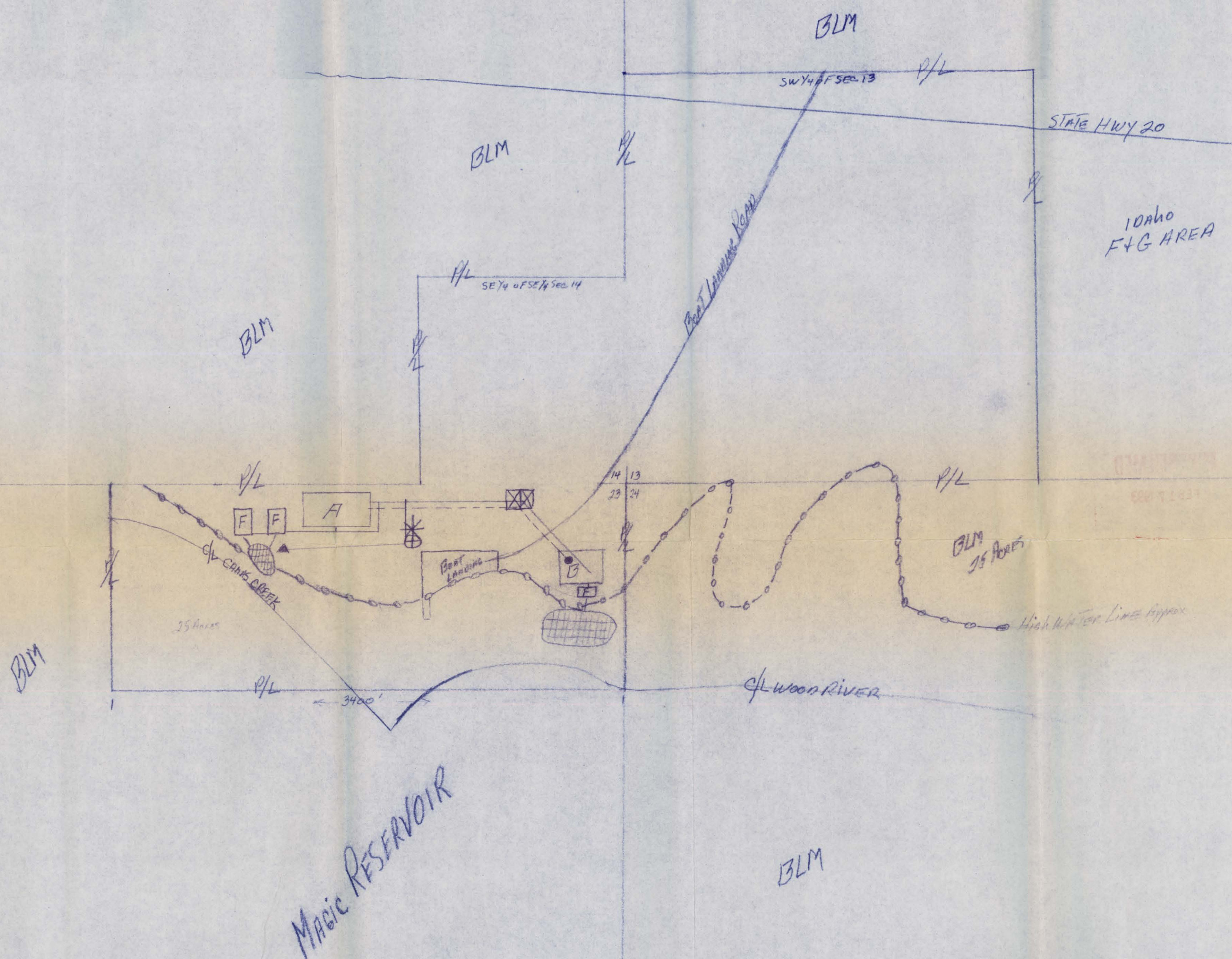
FEB 17 1993



TISRITEBM

SECTIONS 13, 14, 24, 23 Portions

- COLD WATER WELL
- * HOT SPRING SOURCE
- ⊕ SYSTEM 6'0" X 10' W X 80' L INSULATED CONCRETE
- ▲ EXISTING BUILDING & POOL .04 CFS USAGE
- 1" — HOT WATER SUPPLY LINES INSULATED
- 2" — COLD WATER SUPPLY LINES
- ⊠ 1/2 COLD 1/2 HOT STORAGE INSULATED CONCRETE
- [A] PRIMARY BUILDING SITE 13,000 SF BUILDING .13 CFS USAGE
- [B] SECONDARY BUILDING SITE .10 CFS 3,000 SF BUILDING
- [F] FISH PONDS FOR SPENT HEAT REDUCED WATER .14 CFS USAGE
- ⊗ DRAIN FIELD REPERCUSSION
- APPROXIMATE HIGH WATER LINE MAGIC RESERVOIR



MAGIC HOT SPRINGS			
SCALE: 1" = 440'	APPROVED BY:	DRAWN BY: NF	REVISED: NONE
DATE: 2-4-92	GEO Thermal Hot Springs Development Plan		
130 CFS Available for Use			
APPROVED: NORMAN FULTON / Paul Fulton			DRAWING NUMBER: 101

RECEIVED
FEB 10 1992

Department of Water Resources

February 6, 1992

State of Idaho Department of Water Resources
1301 N. Orchard St.
Statehouse Mail
Boise ID 83720-9000

Attn: Gary Spackman, Manager

RE: Permit #37-08365

Dear Mr. Spackman,

In accordance with permit requirement, the development plan for the beneficial use of the Magic Hot Springs water is herewith submitted. Blaine County litigation was settled last week. I assume the implementation period is five years from this date.

Sincerely,



Norman E. Fuller
PO Box 1066
Sun Valley ID 83353

MICROFILMED
FEB 17 1993

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 37-08365 Reviewed by Jy Date 2-6-97

GENERAL CONSIDERATIONS

yes Name same as permit?

yes Address same as permit?

yes Proof timely received?
If not, complete calculation below.

TYPES OF USE

Heating

Correct Uses? yes

SOURCE OF WATER

 Surface water source

✓ Ground water source

no Drilling permit required?

 Copy in the file? Drilling Permit No.

 Amount paid for permit Correct?

 Well log in the file?

LICENSE EXAMINATION FEE

yes Required?

100.00 Amount Submitted

yes Correct?

MEASURING DEVICE

yes Required?

no Installed?

no Waiver requested?

PRIORITY CALCULATION

Date proof received

Date proof due

No. of days late

Priority Date

New Priority Date

DEFICIENCIES OR ACTION ITEMS

*Inform of flow port condition
Proof acceptable*

DATA ENTRY

New Address Proof Made 1-16-97



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 12, 1997

NORMAN FULLER
PO BOX 1066
SUN VALLEY ID 83353

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 37-08365

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

Please be advised that one of the conditions of your water right permit requires that the permit holder install a flow measurement port to facilitate measurement of water (refer to condition # 3 of the Order Issuing Permit). This condition must be complied with before the license exam, or you can request in writing, a waiver of the condition.

If you have questions concerning the field examination, please contact the **SOUTHERN** Regional Office in Twin Falls, at (208)736-3033.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

C: IDWR - Region

MICROFILMED

FEB 25 1997

FAX 3277866

SKETCH PAGE 2 cont 1-17-97

TO: DEPARTMENT OF WATER RESOURCES
ATT: PERMIT COMPLIANCE DEPT

RE: NORMAN FULLER PERMIT # 37-08365

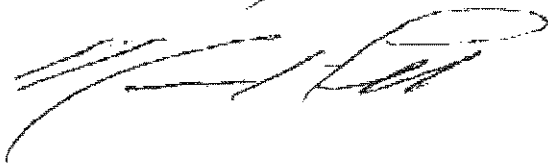
LOCATION 1517E NW 1/4 SEC 23

GENTLEMEN

UPON REVIEW OF BENEFICIAL PROOF APPLICATION COMPLIANCE
I FAILED TO INCLUDE SKETCHES OF COMPLIANCE WORK
DONE WITH THE APPLICATION & FEE SENT 1-15-97

WOULD YOU PLEASE ATTACH THESE 2 PAGES TO THE
OTHER DOCUMENT. SORRY FOR THE INCONVENIENCE.
INVESTMENT TO DATE \$75,000 IN WATER CONTROL

SINCERELY



RECEIVED

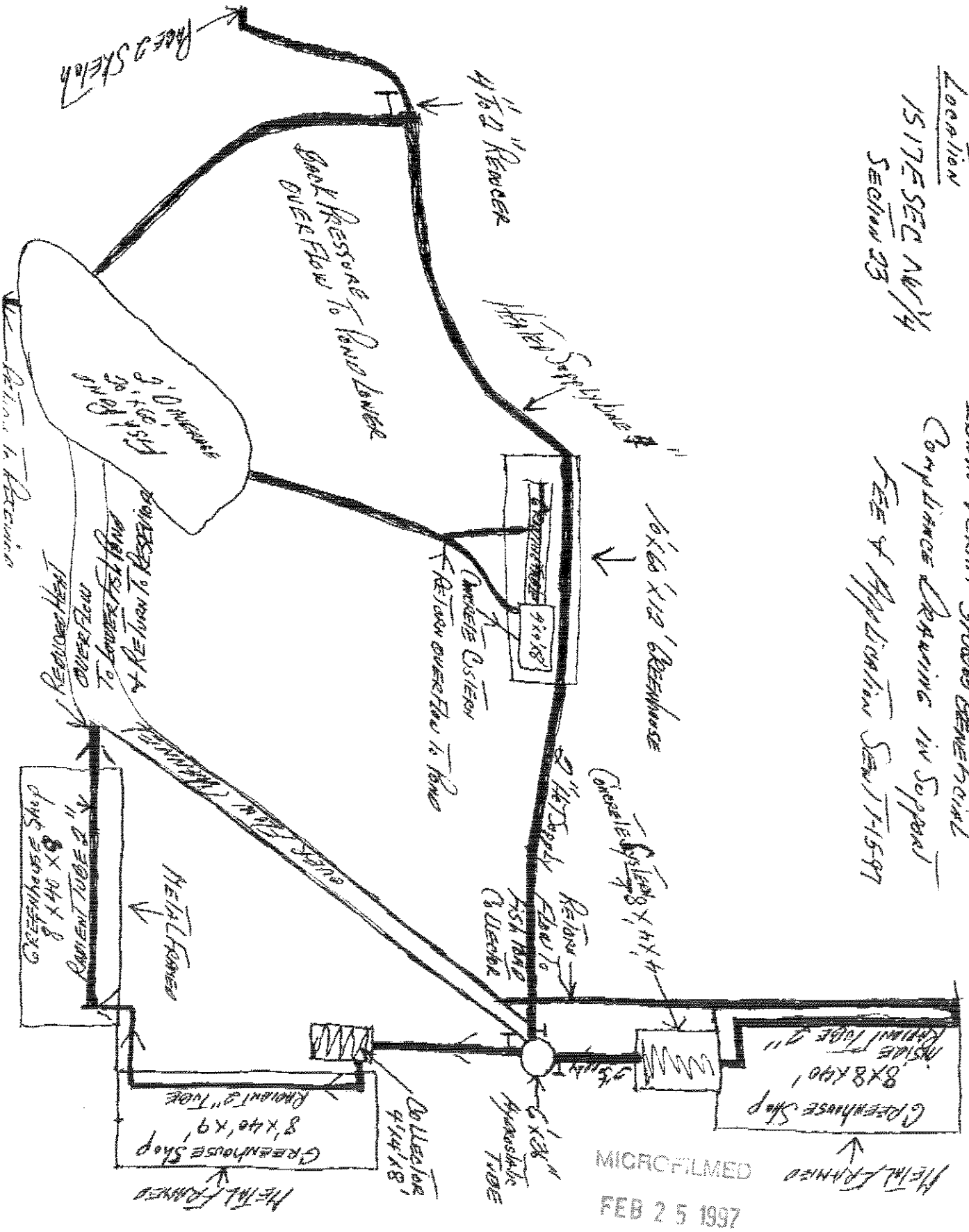
JAN 21 1997

Department of Water Resources

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1-8-97

Take Ream 1 through Green Point
Compliance Drawing in Support
Fee & Application Sent 7-15-97

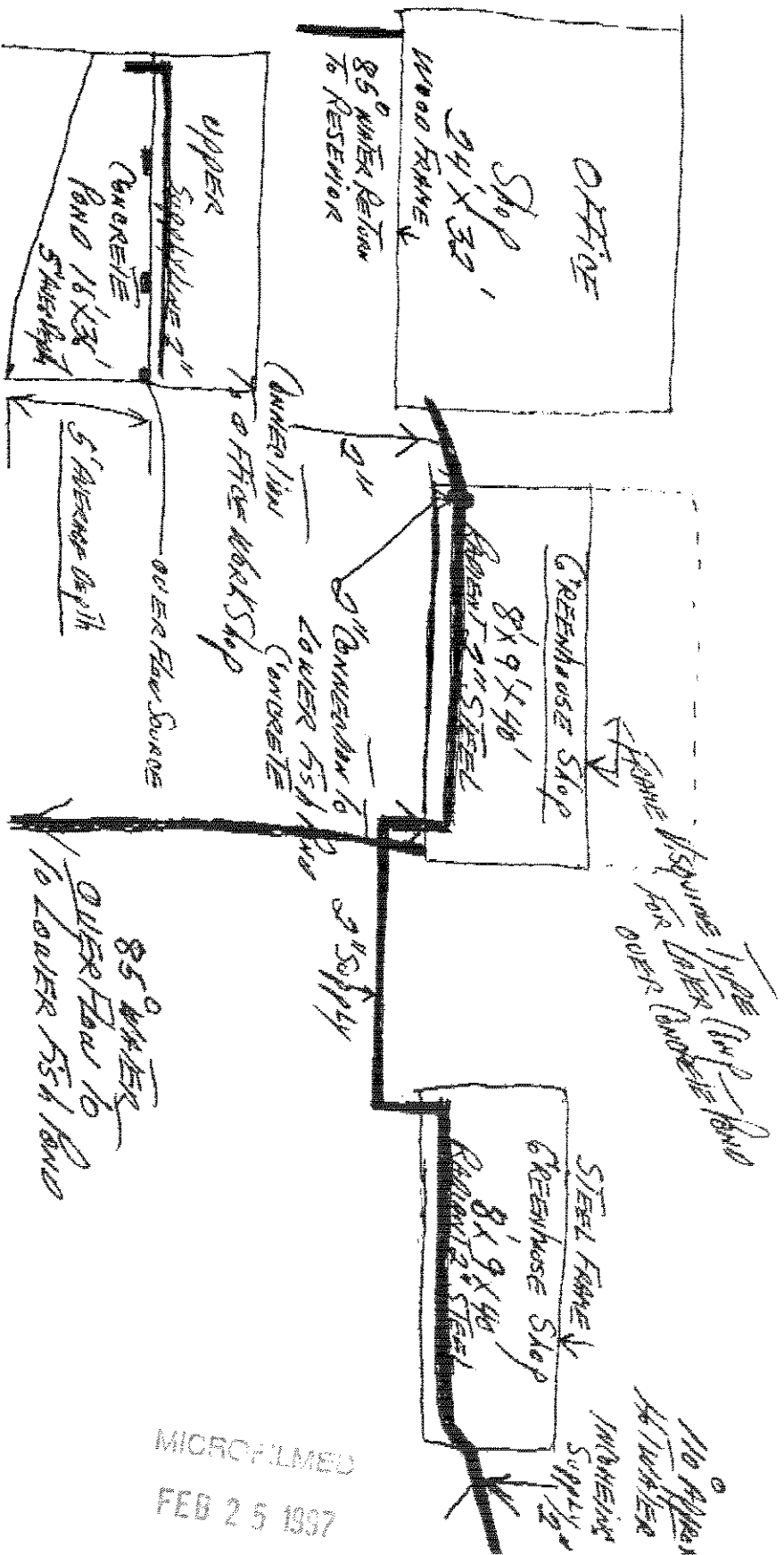


FAK 3277866

REF GENE TOWN USE REM. J-37-08365 PAGE 2 SKETCH

1-18-97

LOCATION 1517ENWYSEA 23



NOTE: ALL OPEN SUPPLY LINES TO BE FRAMES ENCLOSED 1997 FOR PLAN USED THAT EXAMPLE 1 2' x 1' FRAMES

MICROFILMED
FEB 25 1987

RECEIVED

DEC 06 1996

Department of Water Resources

MEMORANDUM

TO: File 37-08365

FROM: Corey Skinner *CS*

DATE: December 5, 1996

SUBJECT: Response to Fax

This day Sothern Region office received a fax (copy enclosed) from Norman Fuller concerning his submittal of Proof of Beneficial Use for permit 37-08365. After reviewing Mr. Fuller's fax and file 37-08365, I telephoned Mr. Fuller. Mr. Fuller was concerned with the fee amount he should submit since he was diverting water for non consumptive purposes. I told him the fee amount was based on the actual rate of diversion, regardless of use. He said he was not sure exactly how much water he was diverting. I told him that his water right permit allowed for the development of a total maximum diversion rate of 0.41 cfs. He said that he would use 0.41 cfs as the basis for his fee.

He also mentioned that the current access to the site was difficult, and that it might be springtime before we could access the site. I told Mr. Fuller that due to backlogs, it could be some time before the department investigates his particular development.

MICROFILMED
FEB 25 1997

DEC 05 1996

Department of Water Resource
Southern Region

From: NORMAN FULLER Reply FAX 7260745 12-5-96
To: Dept of WATER RESOURCES PERMIT Compliance Dept.
FAX # 736-3237

REF PERMIT # 3708365

GENTLEMEN

I HAVE JUST RECEIVED MY PERMIT REQUIRED
FILING NOTICE FOR BENEFICIAL USE VARIATION,
I AM OR WILL BE ABLE TO SUBMIT MY FORM ON
OR BEFORE THE 2-1-97 DUE DATE, IN REVIEW
OF THE FORM SEVERAL ITEMS ARE NOT APPLICABLE
CAN YOU ADVISE BY RETURN FAX ASAP

1. I DO NOT CONSUME ANY WATER FROM HOT SPRING
WHICH IS ARTESIAN I ONLY USE THE HEAT
FROM THE SPRING IN BUILDINGS & FISH HOLDING
RECREATION PONDS 100% OF ALL SPRING
FLOW ENDS UP IN MAGIC RESERVOIR.
2. THE FEE PAGE IS NOT APPLICABLE AS I
DON'T CONSUME
3. WHILE THERE IS AN OLD CASED IN PIPE 12"
FROM WHICH SPRING FLOWS & IS SUBSTANTIALLY
CONTAINED THIS WELL CASEING RESULTED
FROM GOVERNMENTAL BLASTING THAT SHUT DOWN
ARTESIAN FLOW AND REQUIRED BLAINE COUNTY
TO DRILL & OPEN CLOSED SEAM DONE IN
THE 70 OR 80'S

ADVISE DIRECTION OF FORM
MICROFILMED
OWNER
FEB 25 1997

November 30, 1996

NORMAN E FULLER
PO BOX 1066
SUN VALLEY ID 83353

PROOF DUE NOTICE

RE: PERMIT NO. 37-08365

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 February 1, 1997. (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.

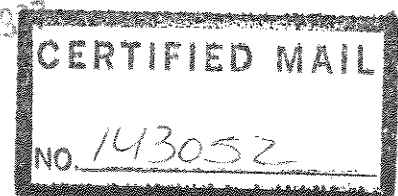
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

MICROFILMED

FEB 25 1997





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

File

RECEIVED

AUG 14 1996

Department of Water Resources

PHILIP E. BATT
Governor

KARL J. DREHER
Director

Norman Fuller
PO Box 1066
Sun Valley, ID
83353

August 12, 1996

RE: Water Permit 37-08365

Dear Mr. Fuller;

Per your request, enclosed is a proof-of-beneficial-use form and instructions. If you have further questions, feel free to contact me.

Sincerely,

James E. Stanton
Sr. Water Resource Agent

MICROFILMED

FEB 25 1997

ANALYSIS SHEET FOR EXTENSION OF TIME

Permit No. 37-08365 Reviewed by [Signature] Date 12-5-95

BASIC INFORMATION

12-4-95 Date stamp received
yes Extension received timely
yes Fee received and receipted
yes Name and signature same as permit
no 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 February 1, 1997, 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 [Signature]
Change Proof Due Date 2-1-97
Change Priority Date [Signature]



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 5, 1995

Norman Fuller
P.O. Box 1066
Sun Valley, ID 83353

RE: Permit No. 37-08365

Dear Permit Holder:

Enclosed is a copy of the approved request for extension of time. The time within which to submit proof of beneficial use is extended to **February 1, 1997**. Please note that the department has granted this extension based on **due diligence**. It is important that you work diligently toward the completion of this project during the construction period allowed since the department will not be able to grant additional extensions based on due diligence.

If you have any questions or if I can be of any assistance, please feel free to contact me at (208)327-7900.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosure

C: IDWR - Regional Office

RECEIVED

DEC 6 8 1995

November 30, 1995

NORMAN E FULLER
PO BOX 1066
SUN VALLEY ID 83353

PROOF DUE NOTICE

RE: PERMIT NO. 37-08365

Dear Permit Holder:

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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.

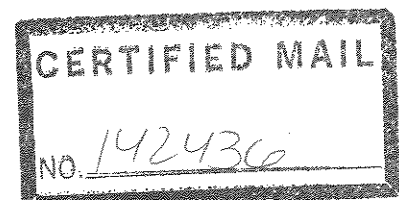
Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the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

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

DEC 08 1995





State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

May 1, 1990

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

RE: Application to Appropriate Water No. 37-08365

Dear Mr. Fuller:

You have requested a modification in the Final Memorandum Decision and Order of the Department. You have asked that the control of the watermaster be limited to a fraction of the flow of your artesian spring-well. You have also alleged facts that are not in the hearing record, and that I cannot consider at this time in reaching a decision. I must decline to seek modification of the Final Memorandum Decision and Order.

I do not know how you intended your letter of April 7, 1990, to be treated. If you have questions regarding the decision, I encourage you to pursue formally legal remedies.

Sincerely,

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

cc. Friends of the Big Wood River
Southern Region

FEB 17 1993

RECEIVED
APR 10 1990

April 7, 1990

Gary Spackman
Water rights Permits Section
State of Idaho Department of Water Resources
1301 N. Orchard St.
Statehouse Mail
Boise ID 83720

Department of Water Resources

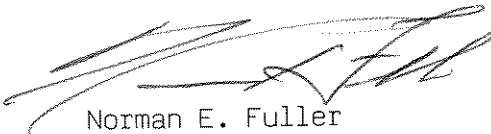
Re: Application #37-08365, Norman Fuller

Dear Mr. Spackman

Thank you for the approved permit.

I have only one concern that I would hereby request ammendment to. That is the matter of the tributary and the Bigwood Watermaster control. I can accept this provision if it is limited to amounts of original spring hot water flow which prior owners have informed me was a wet marsh out-cropping. Only when the original hot water well was drilled did it flow as it does now. When blasting and redrilling occurred the flow was further elevated to the present level. I believe tributary flow would be around .05 cfs at best.

Thank you for your evaluation of this matter.



Norman E. Fuller
PO Box 1066
Sun Valley ID 83353
(208) 726-5945

RECEIVED
FEB 17 1993



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

March 20, 1990

Janet O'Crowley
Committee for Idaho's High Desert
P.O. Box 705
Picabo, ID 83348

RE: Protested Application No. 37-08365; in the Name of Norman E. Fuller

Dear Ms. O'Crowley:

Enclosed is a copy of the Final Memorandum Decision and Order and a copy of the application on the above referenced permit. Note the conditions of approval indicated in the Memorandum Decision and Order.

Any person who does not agree with the decision of the Department may request a rehearing before the Director within twenty (20) days, or may appeal directly to the district court within thirty (30) days of service of this decision. Department rules state that service is complete upon mailing of the document.

Respectfully,

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

MICROFILMED

MAR 22 1990



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

March 20, 1990

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

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Respectfully,

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

MICROFILMED

MAR 22 1990



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

March 20, 1990

Randall Brooks
The Wood River Journal
P.O. Box 988
Hailey, ID 83333

RE: Protested Application No. 37-08365; in the Name of Norman E.
Fuller

Dear Mr. Brooks:

Enclosed is a copy of the Final Memorandum Decision and Order and a copy of the application on the above referenced permit. Note the conditions of approval indicated in the Memorandum Decision and Order.

Any person who does not agree with the decision of the Department may request a rehearing before the Director within twenty (20) days, or may appeal directly to the district court within thirty (30) days of service of this decision. Department rules state that service is complete upon mailing of the document.

Respectfully,

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

MICROFILMED

MAR 22 1990

December 26, 1989

Mr. Gary Spackman
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise ID 83720

Re: Application #37-09365

Dear Mr. Spackman,

Thank you for the application decision. I would like to notice for the record several items as indicated in the text of the decision which I believe to be incorrect. Such corrections may prevent future administration disputes.

1. Re: Page 1, Finding 1

The use of the term "tributary to Magic Reservoir" is incorrect. While the hot springs water now overflows my containments pending this application, it has not historically done so, but was contained in storage tanks and ponds. More particularly I would like to note that the springs' water originates several thousand feet below the bottom of the reservoir as per the State of Idaho geology reports. Therefore, this is not a tributary to Magic Reservoir as in the case of the Wood River.

2. Re: Page 3, item 14

While water presently flows to Magic Reservoir, it has NOT always done so. Only the present overflow condition pending this application outcome has resulted in this condition. Historical flow was to tanks for distribution to onsite structures and ponds.

3. Re: Page 3, item 17

Litigation referred to is for proscriptive road rights leading to the boat ramp.

4. Re: Page 5, item 24.

The insertion of the word "commercial" fish propagation would clarify this, as the private recreation fish ponds planned would not flow to Magic.

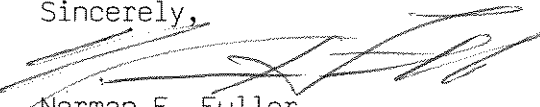
5. Re: Page 4, item 19-O'Crowley testimony on violation of county ordinance

I do not have a commercial greenhouse; therefore no violation exists and when such a structure use is to be implemented, proper application will be made to Blaine County if required.

6. Re: Page 9, item 4

If this water is not a tributary of the Big Wood River, my claim, who is the watermaster of District 37 applicable?

Sincerely,


Norman E. Fuller
PO Box 1066
Sun Valley ID 83353

12-27
re - 37-9365
no such number
Should be
37-8365
out to Gary. no
RECEIVED
DEC 27 1989

Department of Water Resources

RECEIVED

MAR 24 1990

December 13, 1989

<address>

Dear <sal>:

Please find enclosed a copy of the Proposed Memorandum Decision and Order and Order Issuing Proposed Memorandum Decision and Order for Application No. 37-08365 in the name of Norman E. Fuller.

Any party who disagrees with the Proposed Decision may file exceptions to the decision within fifteen (15) days of service of the Proposed Decision.

Respectfully,

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

MICROFILMED

MAR 24 1991

to the water connected to Hot Springs Landing on the north side of Magic Reservoir.

After hearing two hours of bitter testimony between Fuller and Janet O'Crowley, the president of the Committee for Idaho's High Country, officials from Boise agreed to make a decision within 60 days.

O'Crowley provided testimony which accused Fuller of violating more than county ordinances in his quest for hot water. O'Crowley also said Fuller was in violation of the standards set forth by the Department of Water Resources.

Fuller pleaded with the review board that many of her questions had little to do with his water application.

At one point Fuller was so annoyed by O'Crowley's prodding that he demanded proof of her position with the Committee for Idaho's High Desert and wanted to know who elected her.

Fuller owns all the acreage surrounding Hot Springs Landing and would like to use the land close to the reservoir as a recreation area.

During the proceedings Fuller said he would like to put some fishing ponds and other recreational facilities on the site and develop an area for children and adults.

This idea of development is the part of the plan which alarmed O'Crowley and many other Blaine County residents who had signed a petition hoping the Department would deny Fuller's application.

The main concern is that Fuller would begin construction at Hot Springs Landing and halt the process half way through leaving a useless structure.

Fuller is the owner of the Alpine-Rose Motel on Saddle Road adjacent to the Bigwood Golf Course, it is a structure which has been under construction since 1982 and in the last few years no progress has been made on it. O'Crowley said the building is an eyesore.

Fuller offered no explanation of his
continued on page 30

Hot water Fight

Fuller, O'Crowley Mix it Up

by Matt Patterson

Is Norm Fuller in hot water or not? That was the key question in a hearing held last week at Blaine County Courthouse.

The Idaho Department of Water Resources held a public hearing Thursday, Aug. 17, to discuss the fate of Fuller's application to achieve the rights to the water connected to Hot Springs Landing on the north side of Magic Reservoir.

After hearing two hours of bitter testimony between Fuller and Janet O'Crowley, the president of the Committee for Idaho's High Country, officials from Boise agreed to make a decision within 60 days.

O'Crowley provided testimony which accused Fuller of violating more than county ordinances in his quest for hot water. O'Crowley also said Fuller was in violation of the standards set forth by the Department of Water Resources.

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This idea of development is the part of the plan which alarmed O'Crowley and many other Blaine County residents who had signed a petition hoping the Department would deny Fuller's application.

The main concern is that Fuller

Fuller

continued from page 3
access road to Hot Springs Landing as well.

The hearing officer, Gary Spackman, basically served as a mediator of the hearing and did not provide much authority.

O'Crowley also argued the hot springs are a historic part of our county. She said the public has been enjoying the hot springs for many decades by way of permission from the previous property owners.

O'Crowley fears Fuller will get this water permit and monopolize all the public use for which the reservoir and its water was originally designed. Thus, he has a viable complaint.

Fuller is under fire regarding the

HEARING NOTES
APPLICATION FOR PERMIT NO. 37-8365

Applicant: Norman E. Fuller

Protestants: Friends of the Big Wood River, Inc.
(Bruce Linn, Pres.)

Committee for Idaho's High Desert
(Janet Crowley)

Multitudes signed petitions - (what
to do?)

Filed _____ Amended 2/7/89

Issues

1. Will the proposed use reduce quantity of
water under existing rights?
Not raised

2. Is the proposed water supply insufficient
for the purposes intended?

3. Is the application made in good faith
or for delay or speculative purposes?

4. Has the applicant sufficient financial
resources with which to complete the
proposed project?

5. Will the proposed use conflict with the
10.5 interest?

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MAR 22 1990

Mr. Fuller

Last hearing

No previous - is a water right -

Filed for Ala

37-7179 - filed in 1972

Signed in 1979 -

Clarification

1. Private property development -

extraction source is on fee property

Has adequate financial ability

History of public use - no public use in past

If enjoyed, then by permission -

Court case just sent by attorney -

not a perpetual ground -

Case on right-of-ways -

State ex rel. Haran
v. Fox, 100 Id. 140,
594 P.2d 1093 (1979)

Take the heat out - Use it for house -

\$ greenhouse use 

Fish & fowl-

Farm help or residence -

Flow is vertical flow -

- Buildings demolished in June of 1988

Flowers were used up until the time

11 6 70

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MAR 22 1990

~~The~~ No easements or access to the property →

Doug Breary ^{Friends of the} Big Wood River, Inc.

No interest in the use -
Local public interest would be harmful.
Access - to Magic 154 the issue - not
access to the hot water -

No discussion were held w/respect
to the water -

X-Exam by Ms. O'Crowley-

37-7179

→ Was it for hot water or cold water -

Question of hot or cold didn't make
any difference -

Heating, Aesthetics, & Commercial
Contain-

Commercial Use - Wants a pay to fish operation
Should the application be
cumulative total of 0.55

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MAR 22 1990

JANET O'CROWLEY - COMMITTEE FOR IDAHO'S HIGH DESERT
Purpose is to retain lands for public enjoyment
Not in public interest -

1. Proposed commercial use in violation of
Blaine Co. - recreational development -
Does commercial development proposed fit in -

2. Long term plan must be reviewed by
the Blaine Co. Commission -

Chapter 4, 5, 3, 5, 1. →

→ submit comments -

For proposals in excess of 5 Cfs -

Not aware that documents have been
submitted -

Is it a good faith intent to proceed -
Is in process of endless unfinished development -

Will use of water harm public interest -
For three generations - Blaine County
residents have used lands at invitation
of the landowner - Could not be

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MAR 22 1990

Public hot springs that can be used -
Precedent - Spokal - 109 Id. 330
Public interest should be read broadly.

Burden -

Has shown -

Discussed Fuller's application twice -

Can get minutes -

Gave authority to represent
Given authority to proceed -

Upper end of the concrete boat ramp -

Trickled down a channel -

Impounded w/ black plastic blocks -

Would public use all of the water -
So long as not given irrevocably -

Use of pools was when Dr. Packer owned
the property. Has not been used by
Fuller -

No no frespassing -

Commercial, Aesthetic -

Send copy of decision to
Wood River Journal
Randall Brooks -

MICROFILMED

MAR 22 1990

8/17/89

Heating - 37-08365 Notine Fuller

Fuller:

Existing water Rt: 37-7179 in 1972

Application is to Continue & Extend existing Rt.

Testimony on Aug 1-4 -

Division & use is on Private Property.

Sufficient Financing available.

- Has been no public use of water except at

THRESPASS.

State Ex vs. HAN V. Fox
100 FD 140

- Case Law - Public Rt to use granted by

individual does not become Perpetual Rt -

- 2 water sources on Prop.

Cold water well & Hot water well

Plan is to use heat for Home heating & Greenhouse

& then use flows for fish ponds & Recreation.

Greenhouse would be for Commercial Plant Production.

- Water Supply is amount filed on -

- for Perfect Rt within 5 Yrs

- Litigation pending on Prop. for Zone Ramps.

- Water flows into Big pond; magic Rt. on Prop. Property.

- Lic 37-7179 in water piped to existing buildings
until bldgs removed in June 1988. Water was
used in a Private Pool

- Title Policy = issued by

No Easements of Access to Public Road -

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MAR 22 1990

Doug Brearley - Friends of Big Wood R.

- Only issue is LPI - Regarding Access.

Friends does not claim interest in use of water.

- Issue is Access to Magic Res Across Pst Land.

Fuller x exam: - Classification -

NO Vested Rt for Friends of BWR.

Joan O'Connell.

- Location of Cold water well. - Marked on map.

- Cold water wells - Rts under Existing Lic 37-7129
Q = .6 cfs

- Take official Notice of 37-7129 Field exam
if it gives a Breakdown of Hot/Cold uses -

- Aesthetic use - Ponds - Wetland - Contain water
on Pst Property.

- Commercial Use: Pay fishing.

- Total Amount in Legal Notice .55 cfs - BRD?

- Property zoned for Recreational Development -
Ch. 13 - Zoning Ord.

- Zoning Ord may Prevent Proceeding w/ Project.

MICROFILMED

Fuller - x exam:

Exhibits - Applicant #1 & Pst #1 Admitted.

MAR 22 1990

- Field Exam no Juries - 30 days to Comment

Admitted LK

GALENA USAGE 1979-1988

Winter ski count	79-80	7,100	(Owner, Hamilton)
	80-81	6,825	" "
	81-82	4,000	(Fuller, owner)
	82-83	1,300	" "
	83-84	2,420	" "
	84-85	2,650	" "
	85-86	closed	" "
	86-87	3,100	" "
	87-88	7,500	(Haim, owner)

These figures provided by Sawtooth National Recreation Area. According to SNRA official, the primary use of Galena is as a destination ski touring center.

Mr. Fuller proposed a development plan for Galena that was rejected by the SNRA after public input to the effect that it was too large for the area. The recommendation was to scale the plan down by half.

BUILDING PERMITS AND PLANS for the ALPENROSE HOTEL

Opened winter 81-82. Closed from Winter 82 to Winter 85. Opened one section of old hotel Winter 85-86. Not open since. Six building permits were taken out in 1983. None has ever been completed:

#83-27	tennis complex
#83-24	entry way to penthouses and penthouses
#83-?	banquet room
#83-43	indoor pool
#83-54	west wing, conference room
#83-28	health club, lower hallway

Law requires permits some work to be done on each permit every six months, i.e. "drive a nail". Last work done on Alpenrose consisted of removing and replacing sheetrock; roof work, pouring cement, floor slab, etc. This has caused a loss to the City of user fees and option taxes. The City would like to see the project completed and has tried to cooperate with Mr. Fuller, as it is not in a position to run the project itself.

(Information from Ketchum City officials Dennis Wheeler, Building Inspector; and Jim Jacquet, City Administrator,)

MICROFILMED

MAR 22 1988



COMMITTEE FOR IDAHO'S HIGH DESERT

P.O. BOX 2863 BOISE, IDAHO 83701

8/17/89

Mr. Holmes, Ladies and Gentlemen

I am Janet OCrowley, Chairman of the Committee For Idaho's High Desert. I have been requested to represent also, in this hearing, the Friends of the Big Wood River, and numerous signatories to the original petition of protest, which I believe you have on record.

These parties do not believe it is in the best public interest to grant the application of Mr. Fuller for the water in the Hot Springs at the north end of Magic Reservoir. It is our belief that A) his proposed Commercial use would be in violation of the Zoning ordinance of Blaine County. The Hot Springs, and Mr. Fuller's surrounding property, are located in land zoned RD for recreational development. Chapter 13 of the Zoning ordinance specifies "The Recreation Development District is a special use district designated to guide recreation development adjacent to specific recreational access points." It further declares that "A Recreational Development Plan is a Master Plan consisting of both a short-term and a long-term plan. A short term plan must specify all development planned within the following 3 years. The long-term plan shall present non-detailed plans of logical maximum development within the district. Each complete plan submitted will be reviewed by the Commission..." and so forth. We recognize that the Idaho Department of Water Resources is not required to enforce County ordinances, however we submit that Mr. Fuller will most likely not be able to proceed with his development, even should the Department grant his application.

B) Mr. Fuller does not appear to have heeded the Rules and Regulations of the Department of Water Resources. We submit that the following regulations quoted from the little blue book: Department of Water Resources Rules and Regulations have not been complied with and we quote "Failure to submit the required information within the time period allowed will be cause for the director to void an application..." Regulations we believe have not been complied with are 4,5,3,5,1; 4,5,3,6,1; 4,5,3,6,5; 4,5,3,6,6. In brief, these regulations require the applicant to seek comment from the governing body of the county, Idaho Fish and Game, Health and Welfare Division of Environment and shall submit these to Water Resources. Also a project design and estimate of cost of development shall be submitted. Information specifying the source of energy for diverting and using the water, as well as instantaneous demand and total amount of energy to be used, also the efficiency and the conservation features of the project. Information concerning return flow and water conservation features are specified in these rules.

To our knowledge Mr. Fuller has not complied with these I have just listed, nor with others contained in Rule 5.

MAR 22 1990
FBI - BOISE

C) Mr. Fuller's failure to observe the State and County rules calls in question his purpose in making the application: can it be a good-faith intent of his to follow through with the project? In this connection, we would submit to the Department that Mr Fuller has taken other actions in this county to turn viable enterprises and recreational sites into a state of endless development where nothing is ever finished, the public is prevented from enjoying the facilities, and the resultant disruption at the project sites is "an eyesore". If further details relating to the Alpenrose Hotel and the Galena Lodge are desired by Mr. Holmes, these details are available. Exhibit

What this information leads to is invocation of the Chapter 42-203A which holds that granting of an application must take into account the effect upon the people, the economy and the environment should a project be abandoned, and sets a time definite for completion if an application be granted. We submit that Mr. Fuller has caused an undefined amount of damage to the county by noncompletion of at least two large and highly visible projects since 1981

D) Will granting this application for the People of the State of Idaho to grant to Mr. Fuller the full and exclusive use of their waters in the Magic Hot Springs conflict with their interest and cause irreparable harm to the People? We believe that it will. It is well known that large numbers of Blaine County citizens and those from surrounding areas have long enjoyed the use of the shoreline, and the proximity of the hot mineral waters. Historically they have done so at the express permission and invitation of previous property owners.

Mr. Holmes will learn from witnesses that there has been a restaurant and bait shop, there have been rest rooms constructed on the premises. We have learned from recollections of old timers that the Works Project Administration first constructed public facilities on this site in 1946. Over the course of years the County, with some of its own funds, and with boat registration funds from the State has constructed a boat ramp. The County has, over the years graded the road and kept it passable. We submit that it could not be otherwise than in the public interest to retain the People's use and control of this scarce resource: hot mineral water against the time when they are ready to improve the facilities for its use.

Should the Department give this water to a private party, the People would realize no gain nor improvement, but instead would suffer an irreparable loss to public recreation, and to tourist expenditures.

RECEIVED
MAY 24 1981

A precedent in application of the public interest doctrine was set in 1910 by the New Mexico Supreme Court, as cited in the Idaho case of Shokal vs Dunn: "the public interest should be read broadly in order to secure the greatest possible benefit from the public waters for the public." It is stated in 109 Idaho 330 that "in an area heavily dependent on recreation and tourism, Water Resources may give great consideration to the aesthetic and environmental ramifications of granting a permit which calls for substantial modification of the landscape."

As our final point E), we would remind Mr. Holmes that Mr. Fuller has in no way demonstrated that granting of this application would affirmatively be IN the public interest. As cited in 109 Idaho 330, by the words of Judge Schroeder, the burden of proof rests with the applicant.

MICROFILMED

MAR 22 1990

NAME	ADDRESS	REPRESENTING
[Signature]	Box 1066 SV 83353	SELF
Gary Stivers KECH	P.O.B. 2158 Ketchum 83340	KECH Radio
Jane Crowley	P.O.B. 705 Pocatello 83348	C.I.H.D.
Randall Brooks	Box 988 Hailey ID	'Wood River Journal
DEANNE THOMPSON	BOX 1330 HAILEY 83333	C.I.H.D.
Fred J. Povey	Box 404 Hailey 83333	Self
Doug BREAREY	Box 1628 Hailey ⁸³³³⁷	FRIENDS OF BIG WOOD
Ralph C Chico	Box 149 83333	Blaine Co P + Z
		MICROFILMED
		MAR 22 1990

Blaine County Recreation District

Post Office Box 297, Hailey, Idaho 83333 (208) 788-2117

August 16, 1989

Department of Water Resources
State of Idaho
Hailey, ID 83333

Re: Formal hearing in the matter of application by Norman E. Fuller for
water no. 37-08365, at Hot Springs Landing at Magic Reservoir

Dear Sirs:

There is a great deal of public interest in keeping Hot Springs Landing at Magic Reservoir open to public use for boating, fishing, reservoir access, parking and other recreational activities.

This area has always been open for public use. However, when Mr. Fuller purchased the land, he immediately tried to close public access. The matter is currently in litigation and will be decided by the courts.

The Blaine County Recreation District is a public agency interested in preserving public access and natural resources from further degradation in Blaine County. In addition, we administer the Blaine County Waterways program and know of the concern regarding open accesses and quality facilities for boating and fishing. Public boat ramps were built on the property in 1965 and public boat docks remain there for use.

Since Mr. Fuller purchased this property, it has been rendered nearly unusable with his debris and equipment. In addition, he has bulldozed the parking lot and diverted the hot water making it very difficult to drive to the boat ramps. It is obvious to us, this application is not in the public interest.

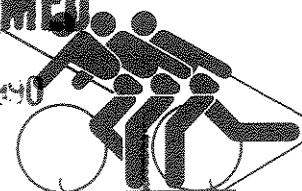
Local public interest in access, water quality, boating, fishing and recreation is in direct conflict with this application to build a commercial operation at Hot Springs Landing.

Sincerely,


Mary Austin Crofts, Director
Blaine County Recreation District

MICROFILMED

MAR 22 1990



OFFICE OF THE PROSECUTING ATTORNEY

BLAINE COUNTY
NED C. WILLIAMSON
PROSECUTING ATTORNEY
P.O. BOX 756 • HAILEY, IDAHO 83333
(208) 788-3438

August 16, 1989

Mrs. Janet O'Crowley
P. O. Box 664
Picabo, Idaho 83348

Re: Application for Hot Springs at Magic Hot Springs
Landing, #37-08365

Dear Mrs. O'Crowley:

You recently asked whether Blaine County has received any application or information from Norm Fuller for a proposed Hot Springs at Magic Hot Springs Landing. I have contacted the Blaine County Administrator, Chuck Corwin, and he has informed me that Mr. Fuller has not submitted any information to the Blaine County Board of County Commissioners, the Blaine County Planning and Zoning Office, or the Blaine County Clerk's Office. Furthermore, the Blaine County Prosecuting Attorney's Office has not received any information from Mr. Fuller about his application at the Magic Hot Springs Landing. These offices would be the only logical offices to submit any required information.

If I can be of further assistance, please contact me.

Sincerely,



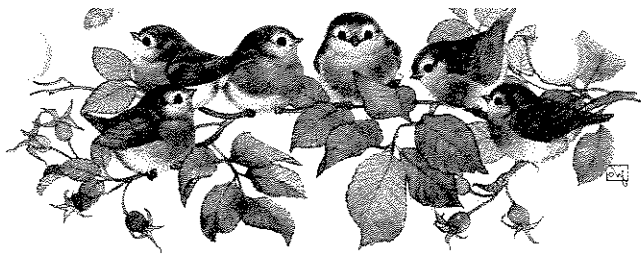
Ned Williamson
Prosecuting Attorney

NW:jr

ocrowley.civ

MICROFILMED

MAR 22 1990



My name is Ted Cutler
I was born in 1908
at Peyton Idaho
And I have lived in the
Wood River Valley for
approx 48 years
and the Hot Springs
landing has been open to
the public access to the
public up to date and
we the public most
certainly want to keep
it that way

~~My~~ me and a good
many of my friends
fished and boated there
for all my life up to date
over

RECORDED

MAR 2 1980



Signed Aug 15 = 1989

By Ted Luth

Witnessed by

Bank Chase Phillips
James Crowley.

MICROFILMED

MAR 22 1990

1-27-89

MR. GARY FUNDERBURG
DEPT OF WATER RESOURCES
2148 4th AVE EAST
TWIN FALLS, IDAHO 833301

RE YOUR REQUEST FOR READVERTISING FEE 37-08365
MAGIC HOT SPRINGS

DEAR MR. FUNDERBURG
JUST TODAY I CAME ACROSS MY NOTE TO SEND
THIS TO YOU I AM SORRY FOR THE DELAY

W. L. L. APPLICANT
P.O. Box 1066
SUN VALLEY ID 83353
PHONE 7265945

RECEIVED

JAN 30 1989

Department of Water Resources
Southern Region Office

MICROFILMED

MAR 22 1990

09-Dec-1988

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

Dear Mr. Fuller:

Please find enclosed a copy of your original application and a new application for you to complete and return back to our office. I have made the corrections on the copy in red.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Gary Funderburg
Sr. Water Resource Agent

GF:MB

Enclosures

MICROFILMED

MAR 24 1990

NOV. 21, 1988

RECEIVED

NOV 21 1988

TO: Mr. Loren Holmes, IDWR
2148 4th Ave. E
Twin Falls, ID 83348

Department of Water Resources
Southern Region Office

FROM: Recreational Users of Magic Reservoir Vicinity
% ~~Seane Thompson~~ COMMITTEE FOR IDAHO'S HIGH DESERT
~~POB 1380~~ POB 705
~~Hot Springs, ID 83348~~ PICABO, ID 83348 788-2837

RE: Norm Fuller application # 37-08365

We feel that granting Mr. Fuller a permit to use the output of the geothermal spring at Hot Springs Landing would be contrary to the law of Idaho, the regulations of the Department of Water Resources, and to public interest as briefly noted in the following paragraphs.

1) Commercial fish farming in Idaho has not so far been able to clean up the effluent to remove sediment, fish waste and food waste. We are aware of the fate of Crystal Lake filling with this mixed effluent and exhibiting hyper-eutrophication. We do not want this to happen to Magic Reservoir. We know that medication is routinely used in fish farms, and fear the effect if effluent from this project travels into Reservoir waters. In addition, there is a not unreasonable fear of fish disease organisms being flushed into the Reservoir.

2) We note that in the recent litigation between College of Southern Idaho versus Professional Investors that the final determination was put on hold for 5 years without, per the recorded words of Lloyd Walker, setting a legal determination of fish farming as a beneficial use of geothermal water. "Neither the courts nor the Law has so found, he said. We tend to believe that the Department of Idaho Water Resources should withhold action on this permit until that point can be settled definitively.

3) Recreationists from three counties have for a hundred years, and heavily in the last 20 years, relied on the shore at Magic Landing for access to the water. It is not unusual to count 30 carloads there on a weekend at peak hours. We have no accurate counts, but perhaps the BLM or Fish and Game have done traffic counts. The State of Idaho considered it important enough to install a concrete boat ramp and floating docks there. We believe that a strong conflict with fish farming would eventuate were the application to be approved.

MICROFILMED

MAR 22 1990

4) Public interest. We note the decision of the Idaho Supreme Court in case of Kootenai Environmental League vs Panhandle Yacht Club that the State holds all waters in trust for the benefit of the public and "does not have the power to abdicate its role as trustee in favor of private parties." Also that the Director has affirmative duty to assess and protect public interest, even going so far as to utilize considerable flexibility and authority. The

Judge in this case noted that both Utah and California Supreme Courts have upheld state water agencies which had granted appropriations subject to future appropriations for uses of

greater importance. As the number of hot springs around Idaho that are open to the public diminishes, those that remain unappropriated will acquire larger and larger values and more devotees. We respectfully desire the Director not to treat this as a routine application, but to consider the hot springs' outstanding values to the public for recreation and therapy, and to consider keeping the water in public ownership.

*Janet Crowley, Chair
Committee for Idaho's
High Desert.*

MICROFILMED

MAR 22 1990

RECEIVED

NOV 21 1988

Department of Water Resources
Southern Region Office

TO: Mr. Loren Holmes, I.D.W.R.
2148 4th Ave. E
Twin Falls, ID 83301

FROM: Recreation users of Magic Reservoir
~~XXXXXXXXXXXXXXXXXXXX~~ C/O COMMITTEE FOR IDAHO'S HIGH DESERT
~~XXXXXXXXXXXXXXXXXXXX~~ POB 705 PICABO, ID 83348-
Fuller

RE: Protest and comment on Norm Fuller Application 37-08365

We, the undersigned, who are all residents of Blaine County and recreational users of public land in vicinity of Magic Reservoir wish to protest the application of Mr. Norm Fuller to appropriate the water from the geothermal spring at Hot Springs Landing for the following reasons: 1) Harmful effluent of fish farm, which would flow into Magic Reservoir at the confluence of Camas Creek and Big Wood River, 2) doubtful validity of assumption that fish farming is a beneficial use of geothermal water, 3) heavy historic use of that portion of shoreline for boat-launching, picnicking, and fishing in recognition of which the state has invested in a boat-launching ramp there, 4) the strong probability that the overriding public interest would be in holding the thermal outflow of the spring for public recreation and therapy.

A more in-depth reasoning of the above points will be found in accompanying document.

MICROFILMED

MAR 22 1990

NAME	ADDRESS	TEL
Cindy Thude	Box 895 Ketchum, Id	788-4393
Jennifer Blake	Box 735 Hailey ID	788-3274
Lisa Swartz	Box 1819 Hailey, Id	788-9331
Barbara Dwyer	Box 2912 Ketchum	788-5007
Polly Reed	Box 1189 S.V.	788-3522
Valerie Barker	Box 1788 Hailey	788-2130
Bee Longley	Box 635 SV	622-3510
Robert W. Burdett II	Box 818, Wendell 83355	536-6696
Kerry Brokaw	Box 1906, Ketchum	726-5984
Jude Hawkes	Box 2487 Ketchum	726-7166
Suzanne Gilliland	Box 1971 Ketchum	726-4318
Lee Whiting	Box 1093 Ketchum 83340	788-9341

RECEIVED

NOV 21 1988

Department of Water Resources
Southern Region Office

TO: Mr. Loren Holmes, I.D.W.R.
2148 4th Ave. E
Twin Falls, ID 83301

FROM: Recreation users of Magic Reservoir
[REDACTED] C/O COMMITTEE FOR IDAHO'S HIGH DESERT
[REDACTED] POB 705, PICATO, ID 83348
Fuller

RE: Protest and comment on Norm Fuller Application 37-08365

We, the undersigned, who are all residents of Blaine County and recreational users of public land in vicinity of Magic Reservoir wish to protest the application of Mr. Norm Fuller to appropriate the water from the geothermal spring at Hot Springs Landing for the following reasons: 1) Harmful effluent of fish farm, which would flow into Magic Reservoir at the confluence of Camas Creek and Big Wood River, 2) doubtful validity of assumption that fish farming is a beneficial use of geothermal water, 3) heavy historic use of that portion of shoreline for boat-launching, picnicking, and fishing in recognition of which the state has invested in a boat-launching ramp there, 4) the strong probability that the overriding public interest would be in holding the thermal outflow of the spring for public recreation and therapy.

A more in-depth reasoning of the above points will be found in the accompanying document.

NAME	ADDRESS	TEL
<u>Barbara Heller</u>	<u>P.O. Box 669 K</u>	<u>788-4382</u>
<u>Mary Jane Martin</u>	<u>P.O. Box 545 K</u>	<u>726-3440</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
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MICROFILMED
MAR 22 1990

RECEIVED

NOV 21 1988

TO: Mr. Loren Holmes, I.D.W.R.
2148 4th Ave. E
Twin Falls, ID 83301

Department of Water Resources
Southern Region Office

FROM: Recreation users of Magic Reservoir
[REDACTED] C/O COMMITTEE FOR IDAHO'S HIGH DESERT
[REDACTED] POB 305 PICABO, ID 83348
Fuller

RE: Protest and comment on Norm Fuller Application 37-08365

We, the undersigned, who are all residents of Blaine County and recreational users of public land in vicinity of Magic Reservoir wish to protest the application of Mr. Norm Fuller to appropriate the water from the geothermal spring at Hot Springs Landing for the following reasons: 1) Harmful effluent of fish farm, which would flow into Magic Reservoir at the confluence of Camas Creek and Big Wood River, 2) doubtful validity of assumption that fish farming is a beneficial use of geothermal water, 3) heavy historic use of that portion of shoreline for boat-launching, picnicking, and fishing in recognition of which the state has invested in a boat-launching ramp there, 4) the strong probability that the overriding public interest would be in holding the thermal outflow of the spring for public recreation and therapy.

A more in-depth reasoning of the above points will be found in the accompanying document.

NAME	ADDRESS	TEL
Gm Taylor	Box 867 S.V.	726-4437
Patricia Batchelder	Box 1323 Ketchum	726-5179
KAREN McCall	Box 353 KETCHUM	726-3040

MICROFILMED

MAR 22 1990



FRIENDS OF THE BIG WOOD RIVER, INC.

RECEIVED

NOV 15 1988

Department of Water Resources
Southern Region Office

November 14, 1988

TO: Mr. Loren Holmes, I.D.W.R.
2148 4th Avenue E.
Twin Falls, ID 83301

RE: Protest on Fuller Application 37-08365

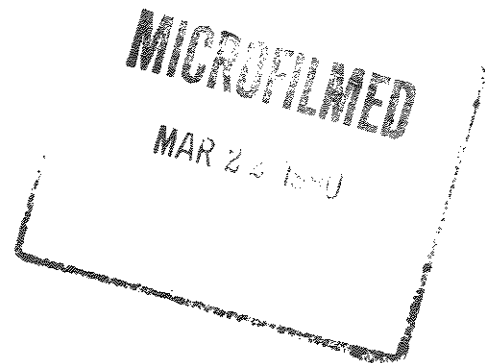
We wish to protest the application of Mr. Norm Fuller to appropriate the water from the geothermal spring at Hot Springs Landing for the following reasons:

- 1) Harmful effluent of fish farm, which would flow into Magic Reservoir at the confluence of Camas Creek and Big Wood River.
- 2) Doubtful validity of assumption that fish farming is a beneficial use of geothermal water.
- 3) Heavy historic use of that portion of shoreline for boat-launching, picnicking, and fishing in recognition of which the state has invested in a boat-launching ramp there.
- 4) The strong probability that the overriding public interest would be in holding the thermal outflow of the spring for public recreation.

Sincerely,

Bruce W. Lium, President

cc: Janet O'Crowley





FRIENDS OF THE BIG WOOD RIVER, INC.

November 14, 1988

RECEIVED

NOV 21 1988

Department of Water Resources
Southern Region Office

TO: Mr. Loren Holmes, I.D.W.R.
2148 4th Avenue E.
Twin Falls, ID 83301

RE: Protest on Fuller Application 37-08365

We wish to protest the application of Mr. Norm Fuller to appropriate the water from the geothermal spring at Hot Springs Landing for the following reasons:

- 1) Harmful effluent of fish farm, which would flow into Magic Reservoir at the confluence of Camas Creek and Big Wood River.
- 2) Doubtful validity of assumption that fish farming is a beneficial use of geothermal water.
- 3) Heavy historic use of that portion of shoreline for boat-launching, picnicking, and fishing in recognition of which the state has invested in a boat-launching ramp there.
- 4) The strong probability that the overriding public interest would be in holding the thermal outflow of the spring for public recreation.

Sincerely,

Bruce W. Lium, President

cc: Janet O'Crowley

MICROFILMED

MAR 22 1990

NOTICE OF APPLICATION FOR WATER RIGHT

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

37-08365

FULLER, NORMAN E.
P.O. BOX 1066
SUN VALLEY, ID 83353

Source: GROUNDWATER

Diversion Pt: NWNENE Sec 23 T 01S R 17E; Blaine County; 9 miles South &
7 miles West of Bellevue.

Use: HEATING	(.270 CFS)
COMMERCIAL	(.140 CFS)
FISH PROPAGATION	(.140 CFS)

Date Filed: 6/27/1988

In: T01S R17E S13

NWSW

SWSW

S14
S23

SESE
NENE

The permit(s) will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code and/or the new public interest criteria of Sec. 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 2148 4th Avenue East, Twin Falls, Idaho 83301 on or before NOVEMBER 21, 1988.

R. Keith Higginson, Director

Published 11/02/1988 & 11/09/1988

MICROFILMED

MAR 22 1990



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

01-Nov-1988

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

Re: Application for Permit No. 37-08365

Dear Mr. Fuller:

The Department of Water Resources acknowledges receipt of your application for a water right permit. The application has been assigned identification No. 37-08365. Please refer to this number in all further correspondence.

This office is currently reviewing and processing your application pursuant to Idaho statutes and the department's Rules and Regulations for Water Appropriation.

A legal notice of the application is being prepared for publication in Wood River Journal and will appear on 11/2 & 11/9/88. The last date for receiving protests against granting of the application will be November 21, 1988.

If the application is protested you will be notified and sent a copy of all protests filed.

Review of your application indicates the following additional information is required to be made part of the application file pursuant to IDAHO CODE section 42-203A and the Rules and Regulations for Water Appropriation:

- 1) Copies of deeds, leases, easements, or other information documenting that you have a possessory interest in the place of use. (Rule 4,5,3,3,1)
- 2) Copies of plans and specifications for the project works. The plans must be definite enough to allow for determination of project impacts and implications. For fish propagation facilities the plans must show the number of ponds proposed and give the length, width and depth dimensions of all ponds. (Rule 4,5,3,4,2)

MICROFILMED

MAR 22 1990

Norman E. Fuller
Page 2
01-Nov-1988

- 3) You must seek comment on the effects of the construction and operation of the proposed project from the city and/or county within which the project is to be located, the Idaho Department of Fish and Game, the Idaho Department of Health and Welfare, Division of Environment, and any irrigation district or canal company within which the project is to be located. (Rule 4,5,3,5,1) A copy of your application is enclosed for your use in seeking comments.

The required additional information must be submitted within 30 days after the final date for receiving protests (November 21, 1988). The time may be extended upon request and showing of good cause that additional time is required to submit the information.

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

Very truly yours,

Gary Funderburg
Sr. Water Resource Agent

GF:MB

MICROFILMED

MAR 22 1990

STATE OF IDAH
DEPARTMENT OF WATER RESOURCES
Southern Region
2148 4th Avenue East
Twin Falls, ID 83301
(208)734-3578

OCTOBER 20, 1988

WOOD RIVER JOURNAL
P.O. BOX 988
HAILEY, ID 83333

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 NOVEMBER 21, 1988.

Yours truly,

Mary Baldwin
Secretary/Office Coordinator

Enclosure

MICROFILMED

MAR 22 1990

Form No. 202a
1987

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY LSJ DATE 9/15/88 APPLICATION NUMBER _____

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 _____

_____ Date Requested _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

09-Feb-1989

Janet OCrowley, Chair
Committee for Idaho's High Desert
P.O. Box 705
Picabo, ID 83348

Re: Application 37-08365, Norm Fuller

Dear Ms. OCrowley:

We have received your letter indicating that you will be out of town during the month of March.

Mr. Fuller is in the process of amending his application at this time. Once a complete amended application is received we will have to advertise it and notify all parties of the amendment.

Advertising time requirements will make it impossible to have the matter ready for any conference before March.

Very Truly yours,

A handwritten signature in cursive script that reads "Loren O. Holmes".

Loren O. Holmes, P. E.
Southern Region Manager

MICROFILMED

MAR 24 1990



COMMITTEE FOR IDAHO'S HIGH DESERT

P.O. BOX 2863 BOISE, IDAHO 83701

RECEIVED

FEB 01 1989

Department of Water Resources
Southern Region Office

1/29/89

TO: Mr. Loren Holmes
Idaho Department of Water Resources

FROM: Janet OCrowley, Chair
Committee for Idaho's High Desert
POB 705, Picabo, ID 83348

RE: Application # 37-08365, Mr. Norm Fuller, Hot Springs
Landing

Dear Mr. Holmes I inquired at your office last week as to the disposition of this application. Your office girl said no meeting had yet been scheduled. It concerns me that some action might transpire while I am out of town the month of March. Is it possible to hold this in abeyance until April, or else deal with it February?

I hate to perturb your scheduling, but feel it important to represent the many people who expressed an interest in this particular application in Blaine county.

Cordially

Janet OCrowley
Janet OCrowley
788-2837

MICROFILMED

MAR 22 1990

NOTICE OF AMENDED APPLICATION FOR WATER PERMIT

Notice is hereby given that the following application for permit to appropriate the public waters of the State of Idaho has been amended as follows:

37-08365

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

Date Amended: 2/7/89

Source: Groundwater

Diversion Pt: NW1/4NE1/4NE1/4, Sec. 23, T1S, R17E; Blaine County.

Use: Heating (0.27 cfs)
Aesthetics (0.14 cfs)
Commercial (0.14 cfs)

Total quantity to be appropriated: 0.41 cfs

In: W1/2SW1/4, Sec. 13, T1S, R17E; SE1/4SE1/4, Sec. 14, T1S, R17E; NE1/4NE1/4, Sec. 23, T1S, R17E.

The permit (s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Southern Region, 2148 Fourth Avenue East., Twin Falls, ID 83301 on or before March 27, 1989.

R. Keith Higginson, Director

Published 3/8 & 3/15/89

MICROFILMED

MAR 22 1990

03-Feb-1989

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

Re: Amended Application for Permit No. 37-08365

Dear Mr. Fuller:

Enclosed please find a typed copy of the Amended Application for Permit compiled from the copy you sent in without a signature page.

Please review and if acceptable, sign the amended application at the red X on page 2. Also enclosed is your check No. 751 in the amount of \$25.00. The correct fee for an amendment is \$20.00. Please submit with the signed copy of your application.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Gary Funderburg
Sr. Water Resource Agent

GF:MB

Enclosure

MICROFILMED

MAR 22 1990

CONVERSATION MEMORANDUM

NAME OF PARTY Norman Fuller
EMPLOYEE DOUGLAS JONES

DATE 5-11-89
FILE 37-08365

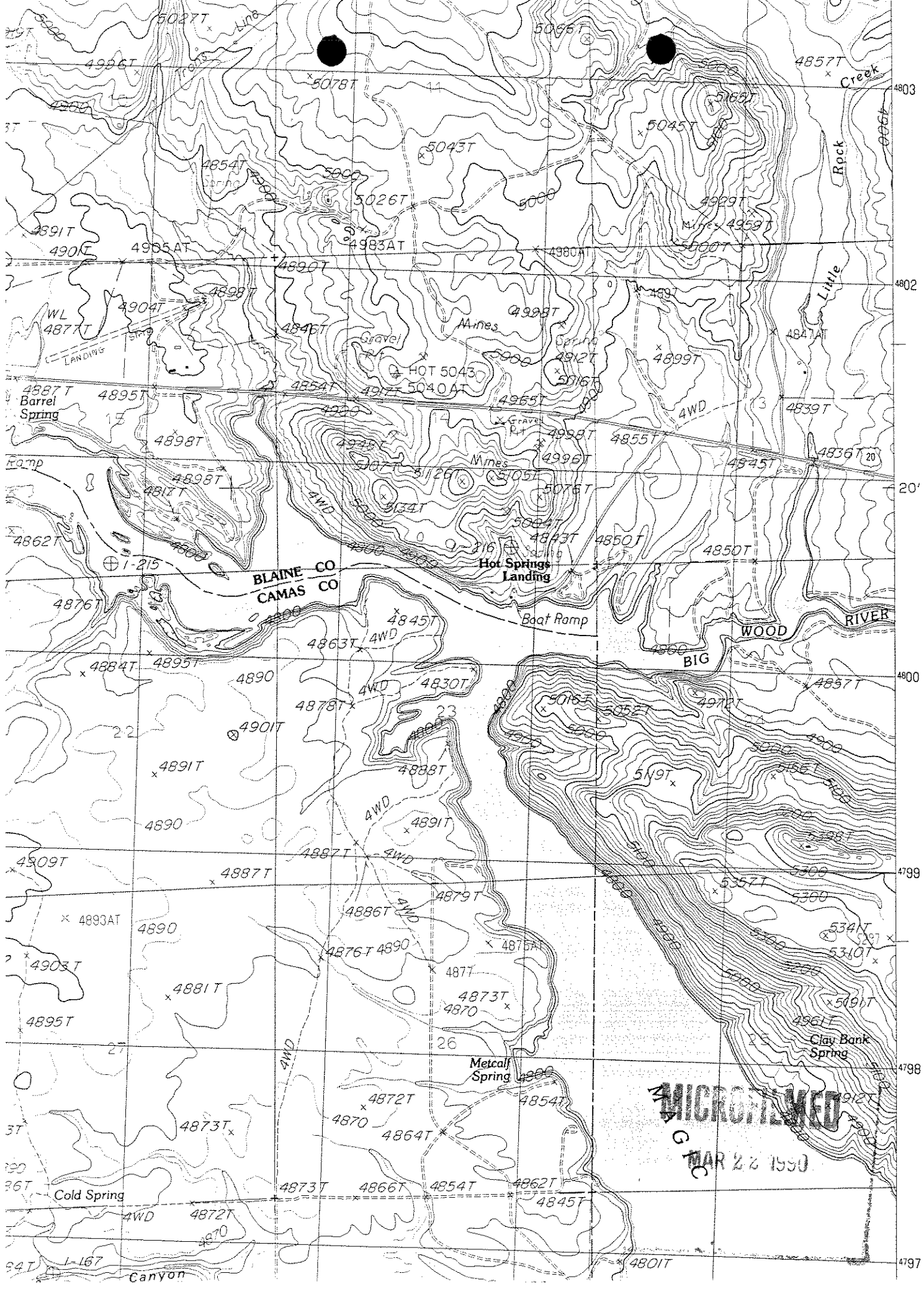
RE: June 6, 1989 conference.

Mr. Fuller called to ask Duchy a conference is scheduled when his amended application removed fish propagation from intended use? 2) He further wondered how ^{protestants} they could claim public interest in recreation when the ground is private? 3) He also wants damages for the harassment & time delay.

My responses: 1) Conference still needed to resolve the protestants concerns about "recreational fish (aesthetics)" and public interest. 2) The protestants must address the 5 items outlined in 5/9/89 letter. 3) I'm not a lawyer and exercising the statutory process ^(protest, etc.) is not unreasonable, that he should consult a lawyer.

MICROFILMED

MAR 22 1990





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

May 9, 1989

Committee for Idaho's High Desert
Janet OCrowley, Chair
P.O. Box 705
Picabo, ID 83348

Re: Application for permit No. 37-08365, Norm Fuller (Amended)

Dear Ms. OCrowley:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant. Since you initially protested the application, it has been amended by the applicant. A copy of the amended application is enclosed.

You have been designated Agent of Service for the parties who signed the petitions submitted as part of your protest. All notices in the matter will be addressed only to you.

The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

This office is tentatively scheduling the matter of protests for a pre-hearing conference for June 6, 1989. Notices formally setting the conference time and place will be mailed about May 23, 1989.

At such a conference, the following are the principal items the Department can consider in either approving or denying an application for permit (Section 42-203, IDAHO CODE):

- 1) Will the proposed use reduce the quantity of water under existing rights?
- 2) Is the proposed water supply insufficient for the purposes intended?
- 3) Is the application made in good faith or for delay or speculative purposes?
- 4) Has the applicant sufficient financial resources with which to complete the proposed project?
- 5) Will the proposed use conflict with the local public interest?

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MAR 22 1990

Page 2

Re: Application 37-08365 (Amended)

May 9, 1989

The purpose of the pre-hearing conference is to determine whether the matter can be resolved without a formal hearing and, if a hearing is required, to formulate and simplify issues, obtain admission of fact and documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses and advise parties of the procedure which will be followed at the hearing to be scheduled.

If you have any questions, or if this office can be of assistance in this matter, please contact us.

Very Truly yours,



Loren O. Holmes, P. E.
Southern Region Manager

MICROFILMED

MAR 26 1990



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

May 9, 1989

Friends of the Big Wood River Inc.
Bruce W. Lium, Pres.
P.O. Box 2679
Ketchum, ID 83340

Re: Application for permit No. 37-08365, Norm Fuller (Amended)

Dear Mr. Lium:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant. Since you initially protested the application, it has been amended by the applicant. A copy of the amended application is enclosed.

The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

This office is tentatively scheduling the matter of protests for a pre-hearing conference for June 6, 1989. Notices formally setting the conference time and place will be mailed about May 23, 1989.

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MICROFILMED

MAR 22 1990

Page 2

Re: Application 37-08365 (Amended)

May 9, 1989

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If you have any questions, or if this office can be of assistance in this matter, please contact us.

Very Truly yours,



Loren O. Holmes, P. E.
Southern Region Manager

MICROFILMED

MAR 26 1990



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

May 9, 1989

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

Re: Application for permit No. 37-08365 (Amended)

Dear Mr. Fuller:

Enclosed are copies of protests filed against the issuance of a permit pursuant to your above referenced application. The Department suggests you contact the protestants directly in an effort to determine nature of the protests and to attempt to resolve the protests.

This office is tentatively scheduling the matter of protests for a pre-hearing conference for June 6, 1989. Notices formally setting the conference time and place will be mailed about May 23, 1989.

At such a conference, the following are the principal items the Department can consider in either approving or denying an application for permit (Section 42-203, IDAHO CODE):

- 1) Will the proposed use reduce the quantity of water under existing rights?
- 2) Is the proposed water supply insufficient for the purposes intended?
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- 5) Will the proposed use conflict with the local public interest?

MICROFILMED

MAR 22 1990

Page 2

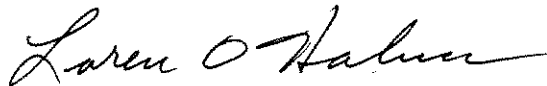
Re: Application 37-08365 (Amended)

May 9, 1989

The purpose of the pre-hearing conference is to determine whether the matter can be resolved without a formal hearing and, if a hearing is required, to formulate and simplify issues, obtain admission of fact and documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses and advise parties of the procedure which will be followed at the hearing to be scheduled.

If you have any questions, or if this office can be of assistance in this matter, please contact us.

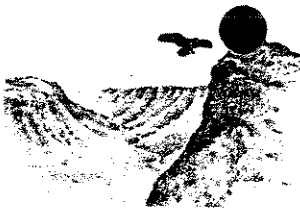
Very Truly yours,



Loren O. Holmes, P. E.
Southern Region Manager

MICROFILMED

MAR 22 1990



COMMITTEE FOR IDAHO'S
HIGH DESERT
P.O. BOX 2863 BOISE, IDAHO 83701

RECEIVED

APR 12 1989

Department of Water Resources
Southern Region Office

4/11/89

TO: Mr. Loren Holmes
Id. Dept. of Water Resources

FROM: Janet OCrowley, Chair
C.I.H.D.
POB 705, Picabo, ID 83348

RE: Fuller Application 37-08365 amendment

Dear Sir: As I notified your office in writing in advance, I was absent from the State during the month of March, and thus did not see, nor was I able to respond to the amended application of mr. Fuller within by March 27, 1989.

Therefore, I respectfully request the oportunity of viewing the amended application in detail, and formulating a response for our organization.

To this end, I request a copy of mr. Fuller's amendment (I shall be in Twin Falls on Friday, April 14 in person) and an extension of 10 days from that date to scrutinize and respond.

Sincerely

Janet OCrowley

MICROFILMED

MAR 22 1990

01-Mar-1989

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

Re: Amended Application for Permit No. 37-08365

Dear Mr. Fuller:

The Department of Water Resources acknowledges receipt of your amended application for permit as referenced above.

This office will be advertising the application in the Wood River Journal on 3/8 & 3/15/89. 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.

Enclosed please find your Receipt No. S006335 for the amount of \$20.00.

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

Very truly yours,

Gary Funderburg
Sr. Water Resource Agent

GF:MB

MICROFILMED

MAR 22 1990

01-Mar-1989

Wood River Journal
P.O. Box 988
Hailey, ID 83333

Re: Amended Application for Permit No. 37-08365

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

Mary Baldwin
Secretary/Office Coordinator

Enclosure

MICROFILMED

MAR 22 1990

NAME AND ADDRESS OF SENDER

IDWR

5/23/84

☐ Registered
☐ Insured
☐ COD
☐ Certified

 I certify that we have
☐ Commercial Insurance
☐ A deductible clause of \$

 Affix stamp here if issued as
 certificate of mailing or for
 additional copies of this bill.
 POSTMARK AND DATE OF RECEIPT

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	TOTAL NUMBER OF PIECES LISTED BY SENDER	TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE	POSTMASTER, PER (Name of receiving employee)	POSTAGE	FEE	Handling Charges	Actual Value (If Registered)	DUE SENDER IF C.O.D.	R. R. FEE	S. D. FEE	S. H. FEE	REST. DEL. F. REMARKS
1	5051	Committee for Idaho's Fish Desert																								
2	506	Norman E. Feller																								
3	507	Friends of the Big Wood River																								
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37-08365

MICROFILMED

MAR 22 1990

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN

The full declaration of value is required on all domestic and international registered mail. Commercial Insurance—Payment of the full registry fee is required on articles valued up to \$1,000 or the full amount of the deductible if the deductible exceeds \$1,000. The maximum indemnity payable is \$25,000 for registered mail, \$400 for COD and \$400 for insured mail. Special handling charges apply only to third- and fourth-class parcels. Special delivery service also includes special handling service.

37-08365 Fuller

Conference June 6 / 89 -

O'Connell — LPE — Concern about Access
to Property —
Public Right to use Geothermal Water

Fuller — Location — Private Residence
space in Greenhouse

Aesthetic — Landscape Pond etc
after heat removed

* - List of all water Rts (if any) to both Parties
- Check name "Parker"

MICROFILMED

MAR 22 1990

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT TO APPROPRIATE)
WATER NO. 37-08365)
_____)

Norman E. Fuller,)

Applicant)

Friends of the Big Wood River,)

Committee for Idaho's High)
Desert,)

Protestants)
_____)

NOTICE OF
PRE-HEARING CONFERENCE

SOURCE: Groundwater

COUNTY: Blaine

On June 27, 1988, Norman E. Fuller, applicant, filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On November 15 and 21, 1988, the Department received protests against the approval of said application from the Friends of the Big Wood River and Committee for Idaho's High Desert respectively. On February 7, 1989, Applicant filed an amended application.

The Department has set the matter of protest for conference for June 6, 1989, at 10:00 AM, in the P&Z Meeting Room of the Old Courthouse, First & Croy Streets, Hailey.

The purpose of the conference is to formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

The conference will be held in accordance with chapter 2, Title 42 of the Idaho Code and the adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded to all parties to respond and present evidence and argument on all issues involved.

Dated this 23 day of May, 1989.

MICROFILMED

MAR 22 1990

Loren O. Holmes
Loren O. Holmes
Southern Region Manager

May 12, 1989

Committee for High Desert
PO Box 705
Picabo, ID 83348

Dear Committee,

I have been informed of your protest to my water application at Magic Hot Springs, #37-08365. You may not be aware that I considered your protest and filed an amended application in February, 1989, in which I deleted the fish farming use. A public notice was made of the amendment in March. I hope this resolves your concern as the remaining uses are strictly private and non-commercial.

However, several items contained in your protest misrepresent the facts and need correction.

1. While the ground water may be controlled by the State, the land it flows from is not. There has been trespassing in the past and it will not be allowed in the future. Notices and restrictions have existed for twenty years.
2. The road and boat ramp you refer to were illegally installed without the due process extended by the Constitution for protection of private property. Only the road, not the ramp or any adjoining area, is subject to the litigation between the County and myself (re: prescriptive rights). Until the Courts rule it remains private property clear across to the otherside and I intend to protect my rights. The public has been disrespectful of my land, has left it a mess and I will stop the use.
3. You should know the water rights are considered grand-fathered to the property and only the State demand that the flowing spring be put to beneficial use or closed to all is why an application was filed in the first place. If you don't get off my case I will do just that and no one will enjoy it.
4. Current plans call for recreational controlled use for kids to have access to pond fishing to replace the fishing lost to them on the Big Wood River and the Silver Creek area (re: the new Fish and Game regulations). This is zoned for recreation and such clean, wholesome fun is envisioned.

Sincerely,

Norman E. Fuller
Owner

CC: Water Resources
Friends of the Wood River

MICROFILMED
MAR 24 1990

RECEIVED

MAY 16 1989

Department of Water Resources
Southern Region Office

37-08365

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS
Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RECEIVED

MAY 25 1989



Department of Water Resources
Southern Region Office

PENALTY FOR PRIVATE USE, \$300

RETURN TO Print Sender's name, address, and ZIP Code in the space below.

MICROFILMED

MAR 22 1990

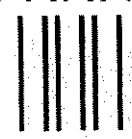
DEPARTMENT OF WATER RESOURCES

2148 4th AVENUE EAST
TWIN FALLS, IDAHO 83301

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS
Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
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MICROFILMED



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MAR 22 1990

DEPARTMENT OF WATER RESOURCES

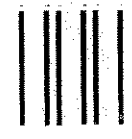
MAY 30 1989
2148 4th AVENUE EAST
TWIN FALLS, IDAHO 83301

Department of Water Resources
Southern Region Office

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

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PENALTY FOR PRIVATE USE, \$300

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MICROFILMED

RECEIVED

DEPARTMENT OF WATER RESOURCES

JUN 5 1989

2148 4th AVENUE EAST
TWIN FALLS, IDAHO 83301

Department of Water Resources
Southern Region Office

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to: 37-08365
Committee for Idaho's High Desert
Janet OCrowley, Chair
P.O. Box 705
Picabo, ID 83348

4. Article Number 505
Type of Service:
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail
Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X Janet OCrowley C/H MAR 24 1990

6. Signature — Agent
X

7. Date of Delivery

8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to: 37-08365
Friends of the Big Wood River Inc.
Bruce W. Lium, Pres.
P.O. Box 2679
Ketchum, ID 83340

4. Article Number 507
Type of Service:
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail
Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X

6. Signature — Agent
X Kay Lium MAR 24 1990

7. Date of Delivery 5-26-87

8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to: 37-08365
Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

4. Article Number 506
Type of Service:
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail
Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X

6. Signature — Agent
X Norman E. Fuller MAR 24 1990

7. Date of Delivery JUN -2 1989

8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" space on the reverse side. Failure to do so will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

37-08365
Friends of the Big
Bruce W. Lium, Pres
P.O. Box 2679
Ketchum, ID 83340

MAR 22 1990

4. Article Number

831

Type of Service:

- ☒ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and **DATE DELIVERED**.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery

8-9-89

8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Feb. 1986

DOMESTIC RETURN RECEIPT

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

MAR 24 1971
MICROFILMED



PENALTY FOR PRIVATE
USE, \$300

RETURN
TO



Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES
2148 4th AVENUE EAST
TWIN FALLS, IDAHO 83301

Line	Number of Article	Name of Addressee, Street, and Post-Office Address	Indicate type of mail			Check appropriate block for			Affix stamp here if issued as certificate of mailing or for additional copies of this bill.							
			☐ Registered	☐ Insured	☐ COD	☐ Certified	☐ Express Mail	☐ Registered Mail	☐ With Postal Insurance	☐ Without Postal Insurance	POSTMARK AND DATE OF RECEIPT	Due Sender If C.O.D.	R. R. Fee	S. D. Fee	S. H. Fee	Rest. Del. F. Remarks
1	830	Altham E. Falter														
2	831	Friends of Biswood R.														
3	832	Comm. for Idaho's High Desert														
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Total Number of Pieces Listed by Sender		Total Number of Pieces Received at Post Office	POSTMASTER, PER (Name of receiving employee)		The full declaration of value is required on all domestic and international registered and insured mail. The maximum indemnity payable for nonnegotiable documents under Express Mail is \$500,000. The maximum indemnity payable for merchandise insured under Registered Mail is \$500,000. The maximum indemnity payable for Registered Mail, \$400 for COD parcels. Special delivery service also includes special handling service.											

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN

U.S. GOVERNMENT PRINTING OFFICE: 1980-445-13

MICROFILMED

MAR 22 1990

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION
FOR PERMIT TO APPROPRIATE
WATER NO. 37-08365

NOTICE OF HEARING

Norman E. Fuller
Applicant
Committee For Idaho's High
Desert,
Friends of the Big Wood River,
Protestants

SOURCE: Groundwater

COUNTY: Blaine

On June 27, 1988, Norman E. Fuller, applicant, filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On November 15 and 21, 1988 the Department received protests from the Friends of the Big Wood River and committee for Idaho's High Desert. On February 7, 1989 the application was amended by the applicant.

A conference in the matter was held on June 6, 1989 at which it was determined that a hearing was required.

The Department has set the matter of protest for conference and/or hearing for August 17, 1989, at 10:00 AM, in the P & Z meeting room of the Old Courthouse, First and Croy Streets, in Hailey.

The hearing will be held in accordance with chapter 2, Title 42 of the Idaho Code and the adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded to all parties to respond and present evidence and argument on all issues involved.

Dated this 2 day of August, 1989


Loren O. Holmes
Southern Region Manager

MICROFILMED

MAR 22 1990

CONFERENCE AND HEARING PROCEDURE

IN THE MATTER OF A PROTESTED APPLICATION FOR PERMIT

In accordance with IDAHO CODE, Section 42-203, the following issues are involved in the consideration of the application and protest(s):

- 1) Will the proposed use reduce the quantity of water under existing rights?
- 2) Is the proposed water supply insufficient for the purposes intended?
- 3) Is the application made in good faith or for delay or speculative purposes?
- 4) Has the applicant sufficient financial resources with which to complete the proposed project?
- 5) Will the proposed use conflict with the local public interest?

PROCEDURE

The procedure normally followed by the department in arriving at a decision on the issues which must be considered is to first hold a conference in the matter and then, if necessary, hold a hearing. If a hearing is held a written decision is issued based on the hearing record.

CONFERENCE

Preliminary to holding a hearing, a pre-hearing conference is held to to familiarize the department and the parties with the matter and to determine if a resolution of the protest(s) is possible without the need for a hearing.

At the conference the department may formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

HEARING

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be issued and the parties will be afforded the opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by IDAHO CODE, Section 42-1701A.

The parties by written stipulation, may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not prejudice the director's review of a party's evidence and arguments. However, such a waiver will shorten the decision making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the District Court.

Under the provisions of the IDAHO CODE, Sections 42-1701A and 67-5215, any request for review of the department's decision on appeal shall be confined to the record created before the department.

EFFECT OF FAILURE TO APPEAR AT A CONFERENCE OR HEARING

Failure to appear at the time and place set for a conference or hearing by the applicant or protestant(s) may allow the department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

MICROFILMED

MAR 22 1990

MAR 22 1990



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

June 21, 1988

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

RE: MAGIC HOT SPRINGS WELL - NE1/4NE1/4 - SEC 23, T1S, R17E, BM.

Dear Mr. Fuller:

Returned are the two (2) partially completed applications for permit which you forwarded with your letter dated June 15, 1988. The applications need to include the legal descriptions of the points of diversion, specific quantification of the amount of water applied for in terms of cubic feet per second, a completed map and the appropriate filing fees which are based on the amount of water applied for. The source of the hot water needs to be described as groundwater.

The most expedient method to file these applications in a form in which they can be received by the department is to visit our Twin Falls office for assistance in completion of the applications. As described in my June 8, 1988 letter, the Twin Falls office is located at 2148 4th Ave. E. and can be reached by calling 734-3578.

In connection with the additional questions you have posed, I will respond in the order presented:

1. The issue of whether the water once originated as a spring but has since been cased or sought using a well probably is not significant in connection with the existence of a prior water right.
2. Department records do not show any existing water rights from either the cold or warm water source.
3. and 4. Information available does not show that the hot water is a private source of water. To the contrary, the water is subject to the mandatory permitting and licensing process.

MICROFILMED

MAR 22 1990

Page 2

In connection with the application for single family domestic use, an application for permit does not need to be submitted but you may do so if you choose. Domestic use, however, will need to be claimed in the Snake River adjudication once a commencement notice for the county is issued.

There does not appear to be any utility in your question about injecting the hot water into an adjacent well. Such a practice would require a separate injection well permit from the department and would not accomplish the end goal of the department to prevent the waste of the resource or have it used for a beneficial purpose.

The department encourages you to visit our Twin Falls office for assistance in completion of the water right application(s) at your earliest convenience.

Sincerely,



L. GLEN SAXTON
Chief, Operations Bureau

cc: Southern Region
G.W. Prot. Sec.

Enclosures - 2

MICROFILMED

MAR 22 1990



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

RECEIVED

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

June 21, 1988

JUN 28 1988

Department of Water Resources
Southern Region Office

Leah *W*

Norman E. Fuller
P.O. Box 1066
Sun Valley, ID 83353

RE: MAGIC HOT SPRINGS WELL - NE1/4NE1/4 - SEC 23, T1S, R17E, BM.

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MICROFILMED

MAR 22 1990

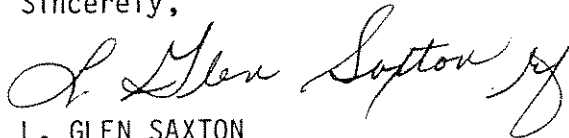
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Sincerely,



L. GLEN SAXTON
Chief, Operations Bureau

cc: Southern Region
G.W. Prot. Sec.

Enclosures - 2

MICROFILMED

MAR 22 1990