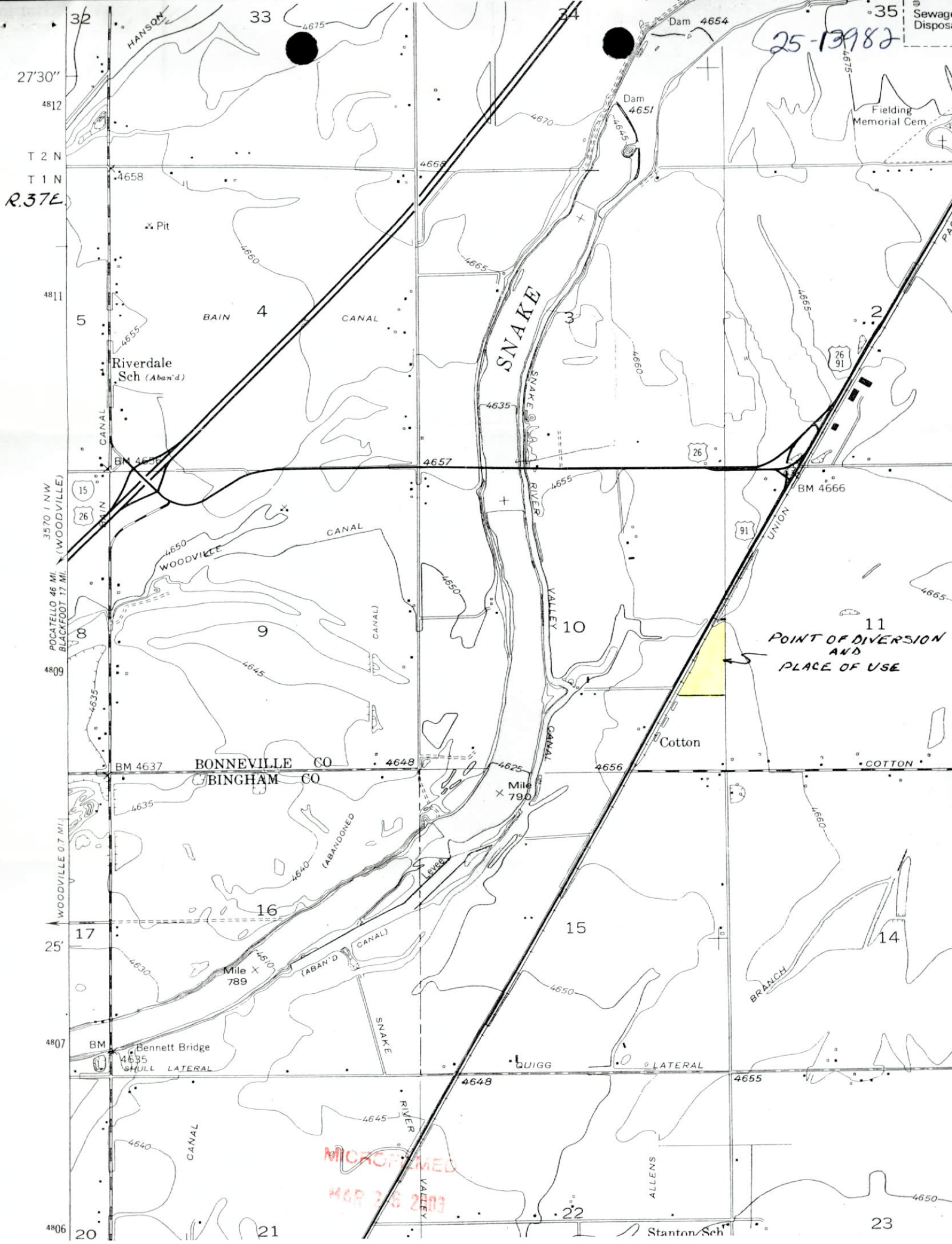




State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 25-13982

Priority: December 18, 2002

Maximum Diversion Rate: 4.50 CFS

This is to certify, that BURNS CONCRETE INC
P O BOX 1864
IDAHO FALLS ID 83403

has applied for a permit to appropriate water from:

Source: GROUND WATER

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	03/01 to 12/01	4.50 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 10, Twp 01N, Rge 37E, B.M., BONNEVILLE County

PLACE OF USE: COMMERCIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	37E	10														X			

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2008**.
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
4. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
5. The right holder shall use the full allotment of surface water rights available for commercial purposes in conjunction with ground water diverted under this right and shall only divert ground water under this right when surface water rights cannot be delivered to the right holder for commercial purposes.
6. If the surface water right(s) used in conjunction with this right is sold, transferred, leased or used on any other place of use, this right to divert groundwater shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
7. Use of water under this right shall be non-consumptive. At such time in the future as the Director determines necessary to protect the prior rights of other users, the Director may require determination of the rate of loss within the system using a procedure approved by the Director, and may require mitigation for all system losses.
8. The commercial use for this right is for gravel washing before and/or after water is available from Idaho Irrigation District each year.

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

MICROFILMED

MAR 26 2003

[Signature]
for KARL J DREHER, Director

RECEIVED
DEC 18 2002
Department of Water Resources
Eastern Region

Ident. No. 25-13982

RECEIVED

JAN 29 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Department of Water Resources

1. Name of Applicant Burns Concrete, Inc. Phone (208) 524-4000
Mailing address P.O. Box 1864, Idaho Falls, ID 83403
2. Source of water supply Groundwater which is a tributary of _____
3. Location of point of diversion is Township 1N. Range 37E. Sec. 10, in the $\frac{1}{4}$, NE $\frac{1}{4}$, SE $\frac{1}{4}$,
Govt. Lot , B.M., Bonneville County;
additional points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 4.5 cfs for COMMERCIAL Gravel Washing purposes from 3/1 to 12/1 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 4.5 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Describe type and size of devices used to divert water from the source Well and pump
 - b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet
 - c. Proposed well diameter is 10 inches; proposed depth of well is 175 feet
 - d. Is ground water with a temperature of greater than 85°F being sought? No
 - e. If well is already drilled, when? _____; Drilling firm _____;
Well was drilled for (well owner) _____; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
 - a. Hydropower; show total feet of head and proposed capacity in kW. _____
 - b. Stockwatering; list number and kind of livestock. _____
 - c. Municipal; show name of municipality. _____
 - d. Domestic; show number of households. _____
 - e. Other; describe fully. Washing gravel - see attached narrative of Kirk Burns

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MAR 26 2003

25-13982

9. Description of place of use:

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

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
1N	37E	10													C				

Total number of acres to be irrigated _____

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

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

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

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

12. Remarks: It is contemplated that this use will be nonconsumptive, but see the attached letter from Idaho Irrigation District promising to provide any mitigation needed.Kirk Burns is presidentW.J. Burns is U.P. & Sec / Treasurer13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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

[Signature] President
Signature of Applicant (and title, if applicable)

Received by HWT Date 12-18-02 Time _____ Preliminary check by _____
 Fee \$ 410.00 Received by HWT # E028388 Date 12-18-02
 Publication prepared by SC Date 1/2 & 1/9/03 Published in Post Register
 Publication approved SC Date 1/14/03

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MAR 26 2003

**NARRATIVE BY KIRK BURNS**

12/17/2002:

Proposed use:

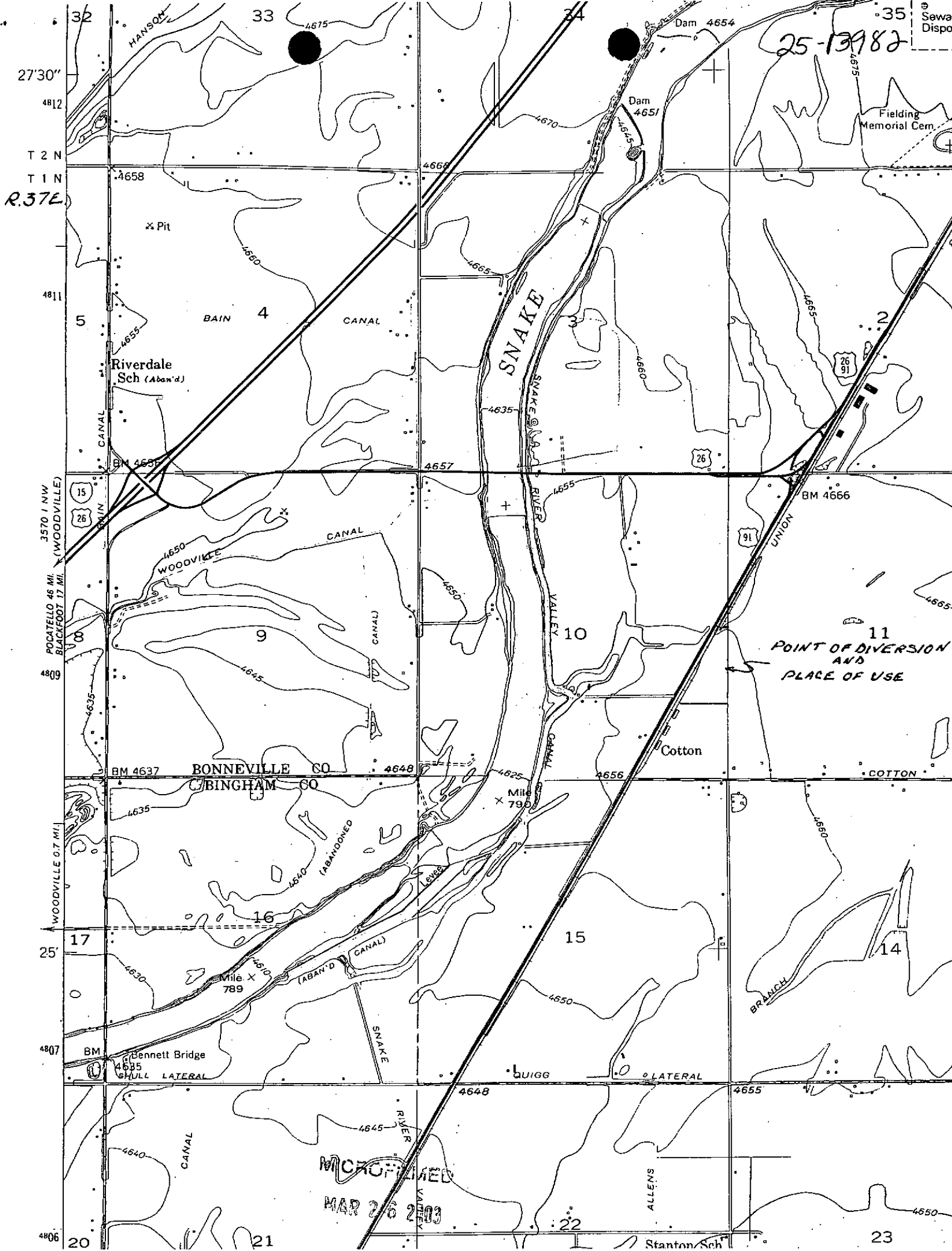
The proposed use of this application permit is for the non-consumptive use of water for the production and washing of concrete aggregates. Burns Concrete, Inc. is currently producing and washing the aggregates with their irrigation water from Idaho Irrigation Water District. Due to the seasonal nature of the irrigation water, Burns Concrete, Inc. must produce large inventories of aggregates during the limited irrigation season in order to keep Burns Concrete's operations running year round. Since the Idaho Falls market area's level of construction can fluctuate drastically during the winter season and the increasing volume of general business changes rapidly without notice, the supply of aggregate becomes critical to our business. Large projects at the INEEL site and other large commercial projects in Idaho Falls, such as Anheuser Busch and Modelo, may bid in the winter and have a scheduled start in early spring. Burns Concrete could be notified that they were the successful supplier without any lead time, which greatly affects Burns Concrete, Inc.'s ability to supply concrete to these projects when the aggregates had not been planned for or produced in the prior production run.

The proposed use of well water would be for use before and after Idaho Irrigation Water District's water is turned in and out of their system. This would allow production for an additional one to two months in both the spring and fall of the year. This will help Burns Concrete maintain reasonable washed aggregate inventories in order to support their construction needs.

The current supply of irrigation water for operations is re-circulated through the washing equipment and settling pond. Once the pond has been filled it requires very small amounts of water to maintain it. The requested cfs allows Burns Concrete to use the water directly from the well to the wash equipment until the water level is adequate in the re-circulation pond. Then the well water will be used occasionally to maintain the pond's water level. Since Burns Concrete can not produce aggregate during the coldest winter months, December through February, the pond would only need to be filled in the beginning of production in the spring of each year. The pond would already be filled with irrigation water in the fall and would only require maintenance water.

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MAR 26 2003



25-13982

11
POINT OF DIVERSION
AND
PLACE OF USE

MICROFILMED
MAR 26 2003

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
ROBERT M. FOLLETT
FREDERICK J. HAHN, III
KARL R. DECKER
THEL W. CASPER
SHAN B. PERRY
AMELIA A. SHEETS
DeANNE CASPERSON*
*Licensed in Missouri & Kansas

US BANK BUILDING
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

RECEIVED
DEC 18 2002
Department of Water Resources
Eastern Region

December 17, 2002

Ron Carlson
Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

RE: Application for Permit
Burns Concrete, Inc.

Dear Ron:

Enclosed with this letter is an Application for Permit with a narrative from Kirk Burns, a letter from Idaho Irrigation District, and a check in the amount of \$410.00 for the filing fee. We are writing directly to you in accordance with our conversation in your office on Friday, December 13, 2002. When you have had an opportunity to review the application, if there need to be any changes or adjustments, or if the filing fee is incorrect, please let us know and we will be happy to make the appropriate adjustments. Thank you very much for your kind attention to this matter.

Very truly yours,



Kent W. Foster

Enclosure

G:\WPDATA\KWF\10813 BURNS CONCRETE\Ron Carlson 121702.wpd:cdv

MICROFILMED
MAR 26 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 19, 2003

BURNS CONCRETE INC
P O BOX 1864
IDAHO FALLS ID 83403

RE: Permit No. 25-13982

Permit Approval Notice

Dear Permit Holder:

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

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

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

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

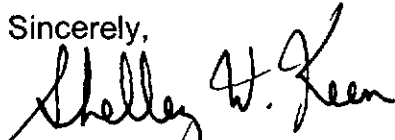
The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

MICROFILMED
MAR 26 2003

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Shelley W. Keen". The signature is fluid and cursive, with the first name "Shelley" being more prominent.

Shelley W. Keen

Water Rights Supervisor

Enclosure(s)

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MAR 26 2003

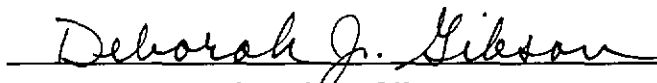
CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2003 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

25-13982

**BURNS CONCRETE INC
P O BOX 1864
IDAHO FALLS ID 83403**


**Deborah J. Gibson
Administrative Assistant**

MICROFILMED

MAR 26 2003

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

MICROFILMED
MAR 26 2003

MEMORANDUM

Date: February 18, 2003
To: Water Right File 25-13982
From: dgibson
Re: Permit Review

This permit is for groundwater for a non-consumptive gravel washing use at a gravel pit. Groundwater will be used for the washing operation when surface water provided by the Idaho Irrigation District is not available. This groundwater will allow spring and fall rinsing of gravel to meet the demands for local construction. The irrigation water is circulated through the washing equipment and a settling pond. The groundwater will be diverted into the washing system that will then drain into the pond, where the system can take it out again and circulate it through the system again.

MICROFILMED

MAR 26 2003

RECEIVED
JAN 29 2003

Dist for Staffing
Submitted for advertising 12-18-02

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT ANALYSIS

Burns Concrete
INITIAL REVIEW BY

HWT

DATE 12-18-02

APPLICATION NO.

25-13982

REQUIRED INFORMATION:

- ☒ Name (if applicant is a corporation or partnership, names must be provided for the director, officers, & other partners.) NEED OFFER FIRST DONE
- ☒ Address
- ☒ Source (See USGS Quad for names of water sources)
- ☒ Point of Diversion (10 acres for spring, lot & block descriptions for subdivision, local name, flow and/or volume)
- ☒ County
- ☒ Quantity (flow and/or volume)
- ☒ Period of Use
- ☒ Nature of proposed use (Include description of use.)
- ☒ Description of diverting works
- ☒ Time required for beneficial use of water
- ☒ Place of use or acres irrigated
- ☒ Map
- ☒ Signature (If applicant is corp., partnership, or municipality, title of signatory is required)
- ☒ Fee
- ☒ Yes ☐ No* In form to receipt
- ☒ Yes GIS completed

ADDITIONAL INFORMATION:

- ☐ Overlapping place of use (Describe source & relationship to present application on the back)
- ☐ Overlapping point of diversion
- | | | |
|------------------------------|--|--|
| ☐ Yes | ☒ No | Critical groundwater area |
| ☐ Yes | ☒ No | Groundwater management area |
| ☐ Yes | ☒ No | Send dam safety information |
| ☐ Yes | ☒ No | Send fish farm requirement letter |
| ☐ Yes | ☒ No | Power residency affidavit |
| ☐ Yes | ☒ No | Within trustwater boundary (If yes, attach trust water supplementary analysis sheet) |
| ☐ Yes | ☒ No | Public Water System |
| ☐ Yes | ☒ No | Planning section review |
| ☐ Yes | ☒ No | Moratorium Hold file |
- See reverse side for additional information

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT

Date Requested

PROCESSING:

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

SEND COPIES TO:

- | | |
|---|--|
| ☐ Id Dept of Environmental Quality | ☐ U.S. BLM |
| ☐ Id Dept of Fish & Game | ☐ U.S. Forest Service |
| ☐ Id Dept of Lands | ☐ Water District |
| ☐ Adjudication Bureau Unit | ☐ Other |

FINAL REGIONAL PROCESSING REVIEW:

☒ Yes	☐ No	Affidavit of publication received
☒ Yes	☐ No	Application published correctly. If not, record action taken
☒ Yes	☐ No	Publication dates & paper, recorded on application
☐ Yes	☒ No	Protests received
Final date for protest _____		
☐ Yes	☐ No	Protests, dates, resolution of protest, recorded on application
☐ Yes	☐ No	Recommendations attached
☐ Yes	☐ No	Measuring device required
☐ Yes	☐ No	Access port required
☐ Yes	☐ No	Will water be delivered by watermaster? If yes, what District _____
☐ Yes	☐ No	Special conditions of approval or cover letter below.

Date of priority recommend 12-18-2002
By: DOC Date: 1/24/03
STATE OFFICE REVIEW: _____

By: _____ Date: _____
ADDITIONAL INFORMATION: _____

LOCAL PUBLIC INTEREST:

Comments received from:

☐ City	☐ Id Fish & Game	☐ Irrigation District
☐ County	☐ Id Health & Welfare	☐ Canal Company
☐ Reservations	☐ Div. Of Environment	☐ Other _____

Project impacts/implications report

COMMENTS

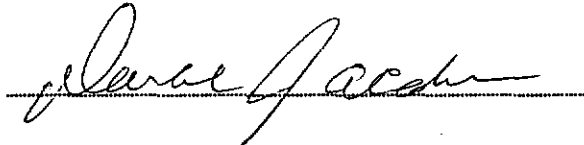
This is a non-consumptive commercial use of water. I find no reason why this application should not be approved - review Narrative of Kirk Barnes.

Proof of Publication The Post Register

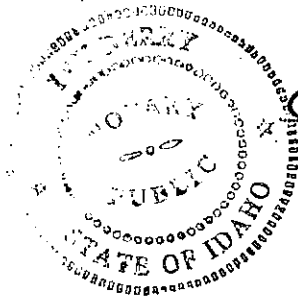
State of Idaho
County of Bonneville

I, ~~Lynn Winter~~ or Danae Jacobsen, first being duly sworn, depose and say: That I am the ~~Production Supervisor~~ or Asst. Prod. Supervisor of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post Register, a newspaper of general circulation, published daily at Idaho Falls, Idaho; said Post Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the First day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than twelve consecutive months and said Post Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post Register for 2 consecutive (days) weeks, first publication having been made on the 2ND day of JANUARY 2002, last publication having been made on the 9TH day of JANUARY 2003 at the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.



Subscribed and sworn to before me, this 15TH day of JANUARY 2003




Notary Public

My commission expires January 10, 2009

RECEIVED
JAN 26 2003
JAN 17 2003
Department of Water Resources
Eastern Region

PUBLIC NOTICE

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

25-13982

BURNS CONCRETE INC
P O BOX 1864

IDAHO FALLS ID 83403

Point(s) of Diversion NESE S10
T01N R37E, BONNEVILLE County

Source GROUND WATER

Use: COMMERCIAL

03/01 To 12/01 4.5 CFS

Total Diversion: 4.5 CFS

Date Filed: 12/18/2002

Place Of Use: COMMERCIAL

T01N R37E S10 NESE

It is contemplated that this use will be nonconsumptive, but see the attached letter from Idaho Irrigation District promising to provide any mitigation needed.

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

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before January 21, 2003. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published: January 2, 9, 2003

MICROFILMED

MAR 26 2003

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
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*Licensed in Missouri & Kansas

US BANK BUILDING
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

December 26, 2002

Harold Jones
Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

Re: Application for Permit of Burns Concrete, Inc.

Dear Harold:

Enclosed is the agreement between Burns Concrete and Idaho Irrigation District, together with a printout of the last annual report form filed by Burns Concrete Inc. with the Secretary of State's office. Kirk tells me that he and Wally Burns are the only stockholders and directors. Kirk is the President and Wally serves as the Secretary, Treasurer and Vice President. If there is anything else we can provide or assist with, please feel free to call upon us at your convenience.

Very truly yours,



Kent W. Foster

Enclosures

G:\WPDATA\KWF\10813 BURNS CONCRETE\Harold Jones ltr 122602.wpd:cdv

MICROFILMED
MAR 26 2003

RECEIVED
DEC 27 2002
Department of Water Resources
Eastern Region

IDAHO IRRIGATION DISTRICT
496 E. 14TH STREET
IDAHO FALLS, IDAHO 83404
PHONE 208-522-2356

AGREEMENT FOR MITIGATION WATER

On this 23rd day of December, 2002, IDAHO IRRIGATION DISTRICT (hereinafter "the District"); and BURNS CONCRETE, (hereinafter "Burns Concrete"); for valuable consideration which is hereby acknowledge, hereby enter into the following Agreement for Storage Water (hereinafter "Agreement"):

Burns Concrete is the owner of approximately 154 acres of real property located within the District. This property is entitled to delivery of irrigation water for use upon the Property from the canal system and water rights and contract storage rights held by the District in trust for the benefit of its landowners. (Hereinafter "water entitlement").

Burns Concrete needs to drill a well for the purpose of washing gravel in its gravel pit upon a portion of the property which will require the use of groundwater under a new water right which it intends to obtain through Idaho statutory procedures.

The District desires to enter into this Agreement to enable Burns Concrete to use its water entitlement for the District's allocation for the 20 acres where the gravel washings is done to the extent required to address any injury demonstrated by a senior water right holder resulting from depletions of groundwater by Burns Concrete. Water so used will not be available to Burns Concrete for irrigation.

IDAHO IRRIGATION DISTRICT

BURNS CONCRETE, INC.

By: William R. Hampton
President of its Board of Directors

By: [Signature]
Burns Concrete, Inc.
Its: President

Attest:

[Signature]
Secretary

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MAR 26 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION
December 20, 2002

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

BURNS CONCRETE INC
P O BOX 1864
IDAHO FALLS ID 83403

RE: Application for Permit No 25-13982

Dear Applicant(s):

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

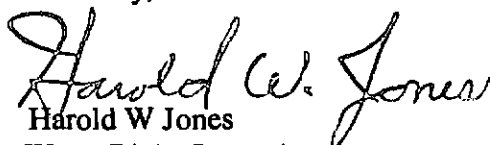
A legal notice of the application has been prepared and is scheduled for publication in the Post Register on January 2 and 9, 2003. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved.

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

Sincerely,


Harold W Jones
Water Right Supervisor

HWJ:sc

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MAR 26 2003 MAR 26 2003



State of Idaho

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EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 20, 2002

Legal Notice Department
POST-REGISTER
PO BOX 1800
IDAHO FALLS ID 83402

RE: Application for Permit No. 25-13982

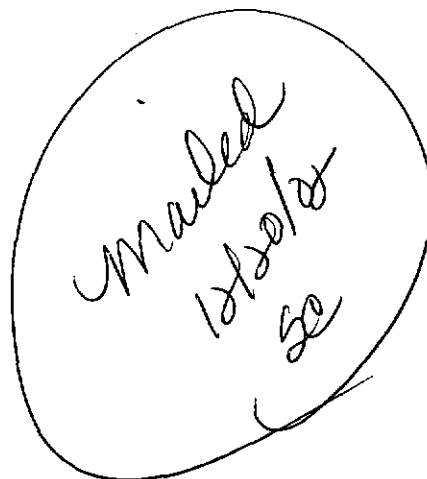
Dear Cathy Von Borstel:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before January 21, 2003. Your cooperation is appreciated.

Sincerely

Sharla Cox
Administrative Assistant



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MAR 26 2003

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

25-13982

BURNS CONCRETE INC
P O BOX 1864
IDAHO FALLS ID 83403

Point(s) of Diversion NESE S10 T01N R37E, BONNEVILLE County
Source GROUND WATER

Use: COMMERCIAL 03/01 To 12/01 4.5 CFS
Total Diversion: 4.5 CFS

Date Filed: 12/18/2002

Place Of Use: COMMERCIAL

T01N R37E S10 NESE

It is contemplated that this use will be nonconsumptive, but see the attached letter from Idaho Irrigation District promising to provide any mitigation needed.

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

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before January 21, 2003. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on January 2 and 9, 2003

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MAR 26 2003