

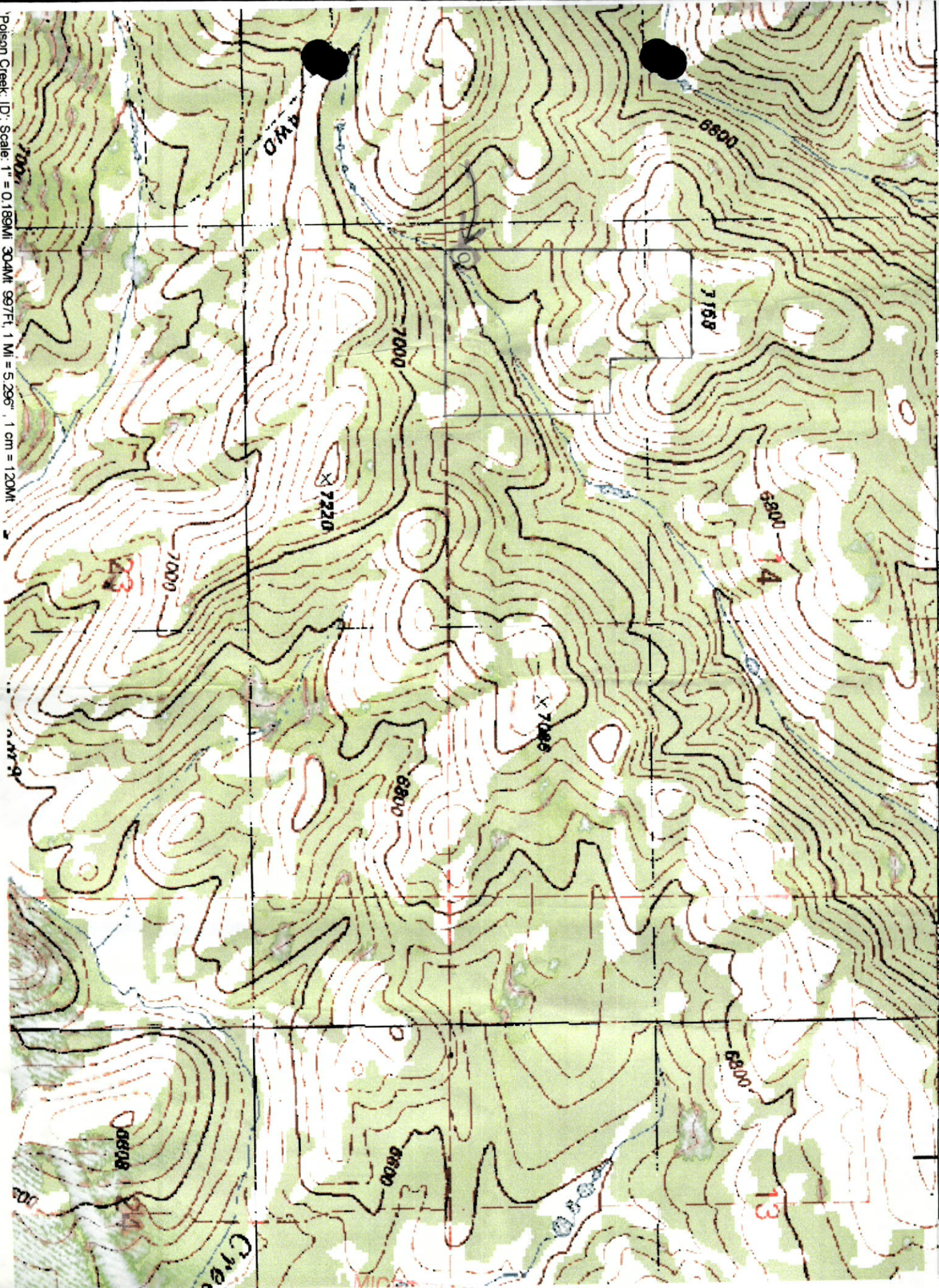
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2839E Section 14 SW SW
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765-4070

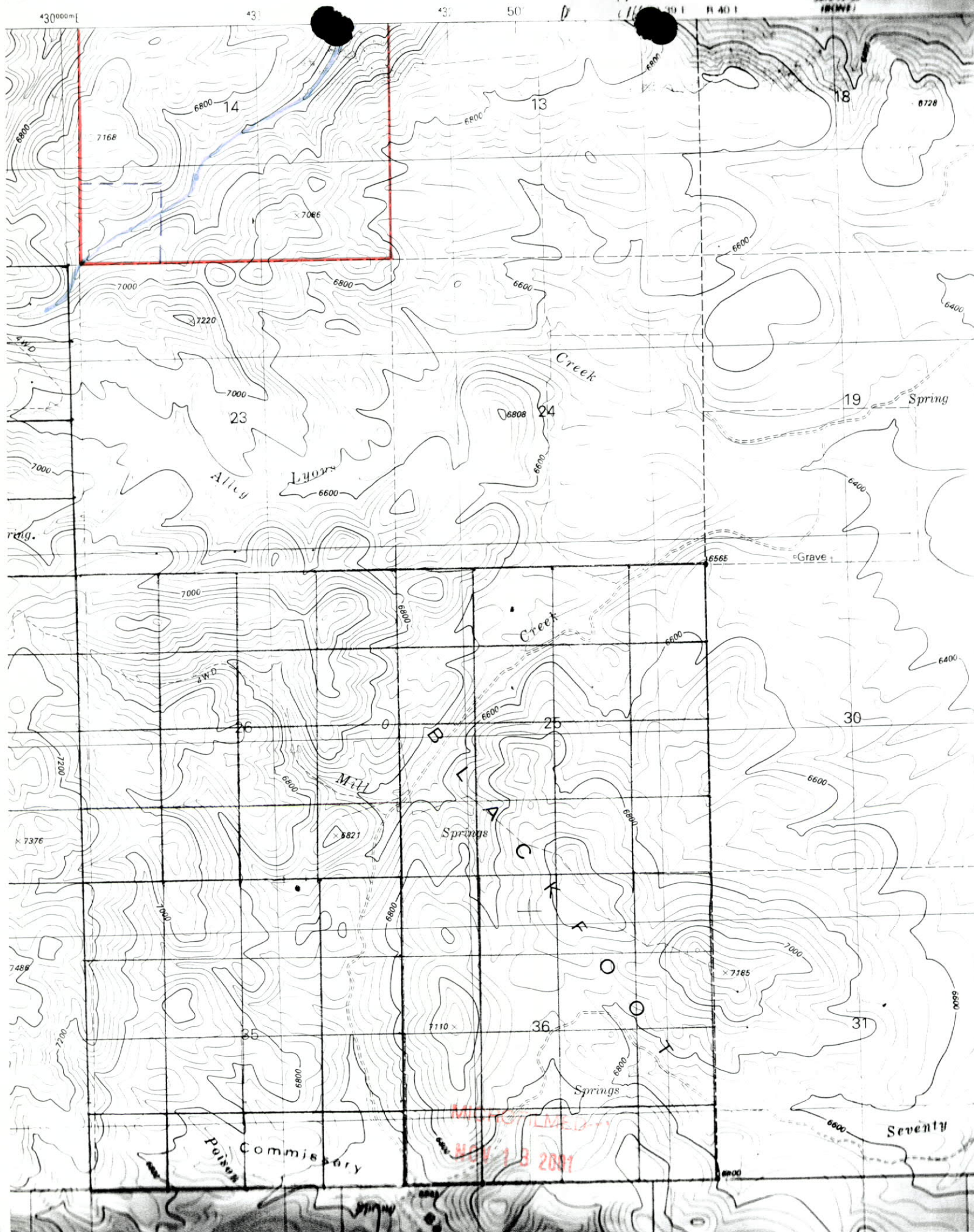


Poisson Creek, ID, Scale: 1" = 0.189MI 304M 997Ft, 1 MI = 5,280', 1 cm = 120M

MICROFILMED

NOV 13 2001

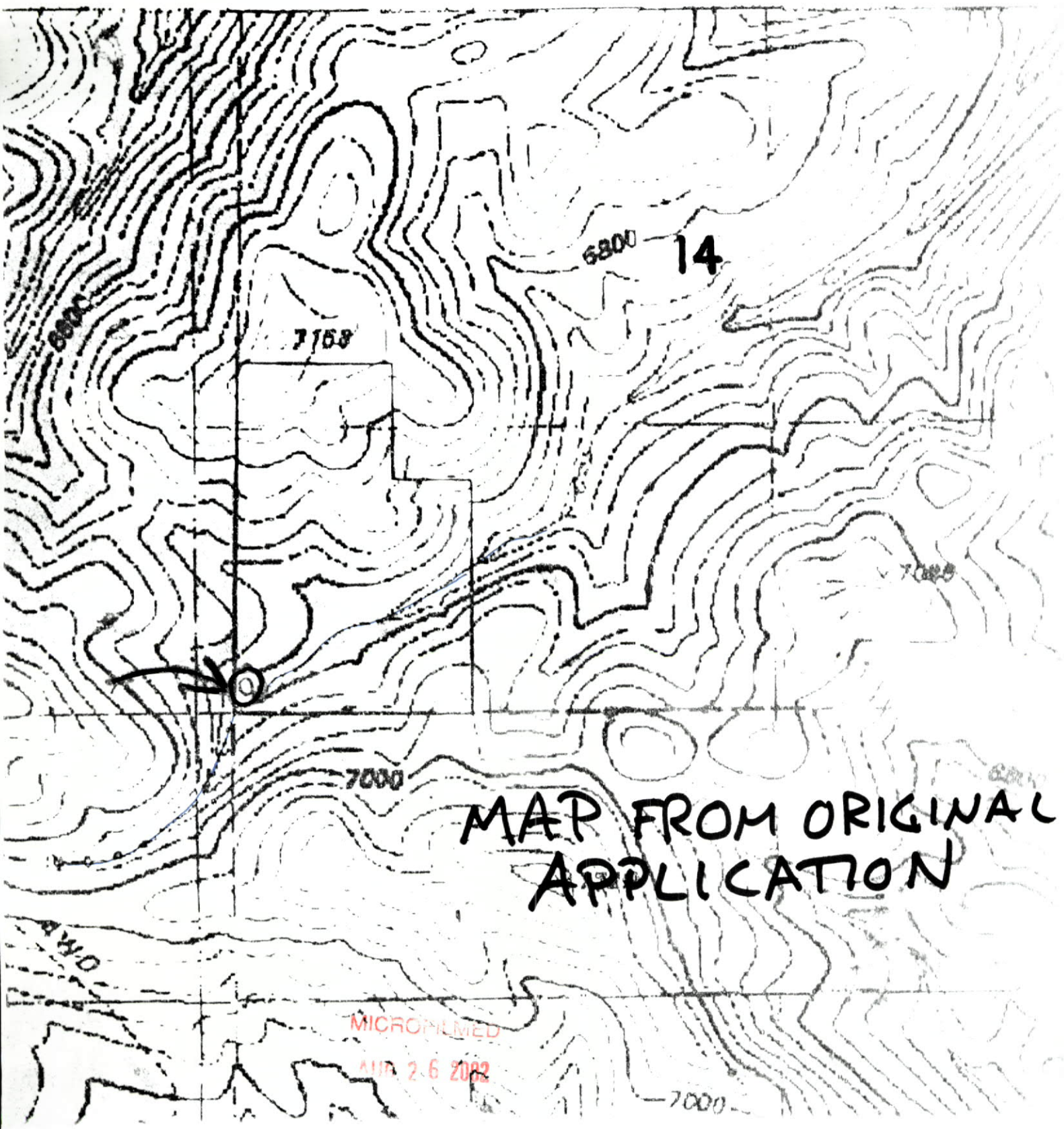
ICAL SURVEY



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MICHAEL

AUG 11 2002

DEPT. OF WATER RESOURCES

900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402-1718
(208) 525-7161
Fax: (208) 525-7177

(5218)
Pub.: 9/6, 13

Director

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

25-13972

CHURCH OF JESUS CHRIST OF
LATTER DAY SAINTS
SHELLEY STAKE
179 S. Milton
Shelley, Idaho 83274

Point(s) of Diversion: SWSW, S14;
T02S, R39E, BINGHAM County.

Source: UNNAMED STREAM,
Tributary to SELLARS CREEK

Use: RECREATION STORAGE 01/01
to 12/31 0.3 AFA

Use: DIVERSION TO STORAGE 01/01
to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 08/23/2001

Place Of Use: DIVERSION TO
STORAGE

T02S, R39E, S14, SWSW

Place Of Use: RECREATION
STORAGE

T02S, R39E, S14, SWSW

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 Drive,
Suite A, Idaho Falls, Idaho, 83402,
together with a protest fee of \$25.00 for
each application on or before
September 24, 2001. The protestant
must also send a copy of the protest to
the applicant.

KARL J. DREHER

RECEIVED

SEP 18 2001

Department of Water Resources
Eastern Region

Legals

AFFIDAVIT OF PUBLICATION

County of Bingham)

SS

State of Idaho)

I, Jacqueline Graham do solemnly
swear that I am the Legal
Coordinator of The Morning News,
which is a daily newspaper of
general circulation, published each
day except Sunday at Blackfoot,
Bingham County, Idaho, said
newspaper having been so published
at Blackfoot, aforesaid for more than
one year past; that said newspaper
heretofore complied with all the
provisions of Chapter 154 of the
Sessions Laws of Idaho of 1911,
approved March 11, 1911, and duly
designated, pursuant to law, a
particular day of the week as the day
on which legal notices required by
law or by the order of any Court of
competent jurisdiction within the
State of Idaho shall be published to-
wit: of each week; that the notice
attached hereto and which is a part
of this affidavit and part of the proof
of publication was published in said
issue of said

newspaper 2 consecutive Weeks
the first publication having been
made on the 6 day of Sept
2001, and the last publication having
been made on the 13 day of Sept
2001; that said notice was
published in the regular and entire
issue of every number of the paper
as aforesaid during the period and
time of publication, and that notice
was published, in the newspaper and
not in a supplement.

On this 13 day of Sept; in
the year of 2001, before me a Notary
Public of the State, personally
appeared Jacqueline Graham,
known or identified to me to be the
person whose name is subscribed to
the within instrument, and being by
me the first duly sworn, declared that
the statements therein are true, and
acknowledged to me that the
executed the same.

Notary Public for the State of Idaho
Residing at Blackfoot, Idaho
My Commission Expires:
June 19, 2004
Affidavit Processing Fee.....\$5.00

MICROFILMED

NOV 13 2001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

AUG 21 2002

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.

1. Permit No. 25-13972 Telephone No. 357-7469

2. Name of Permit Holder(s): Church of Jesus Christ of Latter Day Saints - Shelley Stake

3. Mailing Address: 179 S. Milton

City Shelley State ID Zip 83274

4. Source of Water: Spring / Creek ^{Marie} If GROUNDWATER (well), Date Drilled: mo. _____ / yr. _____

Well Driller: _____ Drilling Permit Number: _____ - _____ - _____ - _____

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: Recreation

6. Total rate of diversion and/or volume for which proof is submitted: .04 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 X
Has the measuring device been installed? Yes _____ or No X

8. Fee Enclosed: \$ 50.00 (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: Mark Seale Telephone Number: 526-5454 Work
357-7469 Home

Address: 1482 N 800 E Shelley, ID 83274

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

Signature of permit holder: Mark Seale 2nd Counselor Stake Date: 6-30-02
(include your title, if on behalf of company or organization)

* The requirement to install a measuring device was waived by both Shelley Keene & Ron Carlson via telephone conversations.

MICROFILMED
AUG 26 2002

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 25-13972)	ORDER GRANTING PETITION
IN THE NAME OF CHURCH OF JESUS)	TO REMOVE MEASURING
CHRIST LATTER DAY SAINTS)	DEVICE REQUIREMENT
_____)	

This matter having come before the Department of Water Resources (Department) as a petition to remove a measuring device requirement and lockable controlling works, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On October 29, 2001, the Department issued Permit 25-13972 (permit) to Church of Jesus Christ Latter Day Saints (permit holder) with a condition of approval requiring the installation of a measuring device and lockable controlling works as part of the diversion works.
2. On July 22, 2002, the Department received the permit holder's petition to remove the measuring device and lockable controlling works requirement.
3. On August 9, 2002, the Department received the recommendation of the watermaster of Water District No. 01 that permit holder's petition be granted.
4. Installation of a measuring device and lockable controlling works for the permit are not necessary at this time but may be necessary in the future.

CONCLUSIONS OF LAW

1. Beneficial Use Examination Rule 35.02.d. (IDAPA 37.03.02.35.02.d.) provides for the waiver of a measuring device requirement by the Department.
2. The Department should waive the measuring device and lockable controlling works requirement until such time as they are necessary for regulation of the water right.

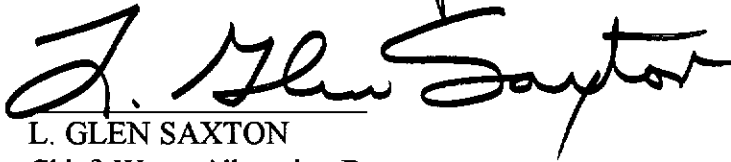
MICROFILMED
AUG 26 2002

ORDER

On Permit No. 25-13972, approval condition no. 5, which requires the permanent installation of a measuring device and lockable controlling works as part of the diversion works for the permit, is **MODIFIED** as follows:

Upon specific notification by the Department, the right holder shall install a measuring device and lockable controlling works of a type acceptable to the Department in a manner that will provide the watermaster suitable control of the diversion.

Dated this 15th day of August, 2002.



L. GLEN SAXTON

Chief, Water Allocation Bureau

MICROFILMED
AUG 26 2002

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 25-13972

Priority: 08/22/2001

Maximum Diversion Rate: 0.04 CFS

This is to certify, that CHURCH OF JESUS CHRIST LATTER DAY SAINTS
SHELLEY STAKE
179 S MILTON
SHELLEY ID 83274

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM

Tributary: SELLARS CREEK

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
DIVERSION TO STORAGE	01/01 to 12/31	0.04 CFS	
RECREATION STORAGE	01/01 to 12/31		0.3 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 14, Twp 02S, Rge 39E, B.M. BINGHAM County

PLACE OF USE: RECREATION STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
02S	39E	14											X						

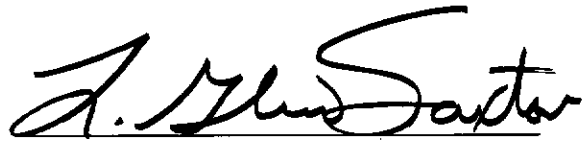
CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **November 1, 2002**.
2. Subject to all prior water rights.
3. Use of water under this right shall be non-consumptive.
4. Use of water under this water right will be regulated by the watermaster of State Water District No. 01.
5. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
6. The Director retains jurisdiction of this right to require streamflow augmentation or other action determined to be appropriate to protect prior surface water or ground water rights. Such stream flow augmentation or other action will be required only upon a determination of need and applicability by the Director.
7. The right holder shall monitor the pond for seepage and shall line the pond prior to submittal of proof of beneficial use if determined by the department to be necessary.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 29th day of October, 2001.

MICROFILMED

NOV 13 2001


for KARL J DREHER, Director

RECEIVED

Ident. No. 25-13972

OCT 15 2001

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 Shelley Stake - Church of Jesus Christ of Latter Day Saints Phone (208) 357-7469 (mark)
- Mailing address 179 South Milton Shelley, ID 83274
2. Source of water supply unnamed stream which is a tributary of aka Sellars Creek
3. Location of point of diversion is Township 2 South Range 39 East Sec. 14, in the SW 1/4, SW 1/4, Govt. Lot Bingham County;
- additional points of diversion if any: _____
4. Water will be used for the following purposes: Diversion for
- | |
|---|
| Amount <u>0.04 cfs</u> for <u>recreation/aesthetics</u> purposes from <u>1/1</u> to <u>12/31</u> (both dates inclusive) |
| (cfs or acre-feet per annum) |
| Amount <u>0.30 afy</u> for <u>recreation storage</u> purposes from <u>1-1</u> to <u>12-31</u> (both dates inclusive) |
| (cfs or acre-feet per annum) |
| Amount _____ for _____ purposes from _____ to _____ (both dates inclusive) |
| (cfs or acre-feet per annum) |
| Amount _____ for _____ purposes from _____ to _____ (both dates inclusive) |
| (cfs or acre-feet per annum) |
| Amount _____ for _____ purposes from _____ to _____ (both dates inclusive) |
| (cfs or acre-feet per annum) |
5. Total quantity to be appropriated is (a) 0.04 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source divert part of stream
using headgate
- b. Height of storage dam (avg) 4' feet; active reservoir capacity 13,640 cubic ft or acre-feet; total
reservoir capacity 3 acre-feet 0.3 acre-feet
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet
- d. Is ground water with a temperature of greater than 85°F being sought? _____
- e. If well is already drilled, when? _____; Drilling firm _____
Well was drilled for (well owner) _____; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
- 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. aesthetics - stream will flow in and back out
of pond for swimming

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NOV 13 2001

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	
2S	39E	14											A R						A

Total number of acres to be irrigated A

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

11. a. Who owns the property at the point of diversion? Shelley State - Church of Jesus Christ of Latter Day Saints
 b. Who owns the land to be irrigated or place of use? Same

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: The stream will run into the pond, and then when its full will run out via an over flow back into the source.

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

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

MICROFILMED
NOV 13 2001

Mark Search for Shelley State
Signature of Applicant (and title, if applicable)

Received by AN Date Aug 22, 2001 Time 8:35 AM Preliminary check by _____

Fee \$ 100.00 Received by DN # ED27041 Date 8/22/2001
 Publication prepared by SC Date 9/6 & 9/13/01 Published in Morning News
 Publication approved SC Date 9/18/01

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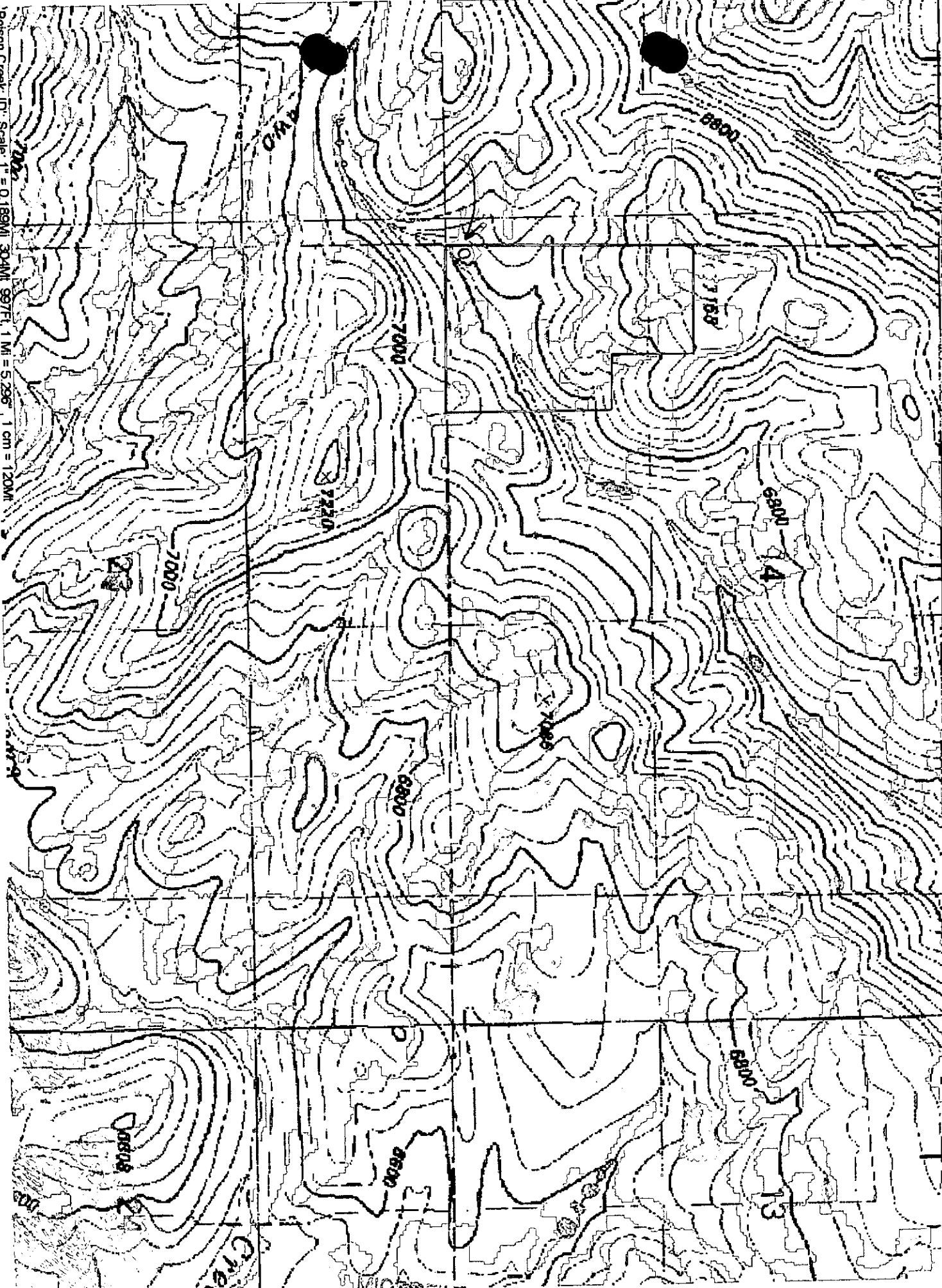
2839E Section 14 SW SW

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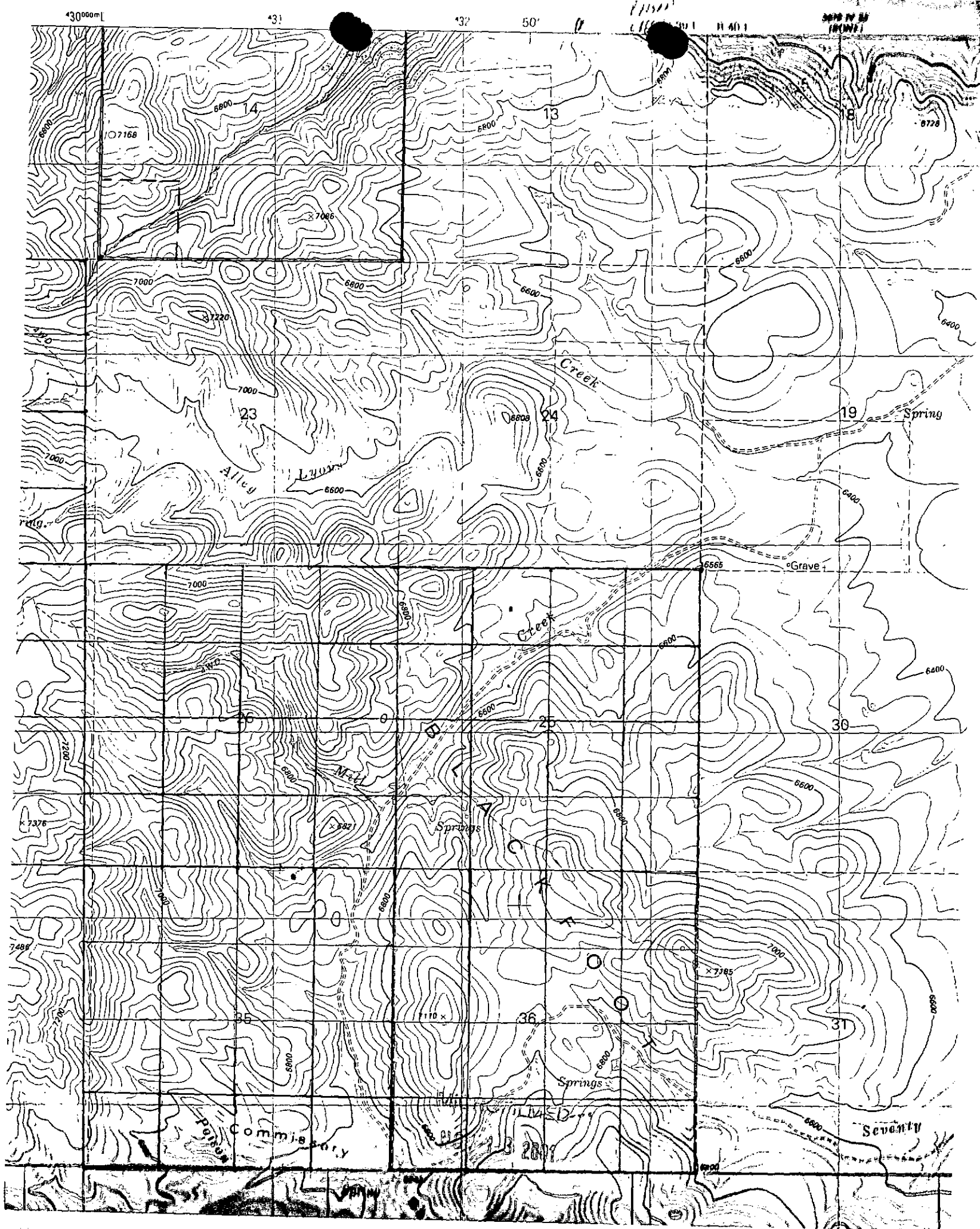


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Poisgn Creek, ID; Scale: 1" = 0.189mi 304m 997ft, 1 Mi = 5,280', 1 cm = 120m

MICROFILMED

ICAL SURVEY





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

August 22, 2002

CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS
SHELLEY STAKE
179 S MILTON
SHELLEY ID 83274

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 25-13972

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 contact you to schedule a field examination to determine and confirm the use being made of the water, and that it meets the permitted beneficial use.

Be advised that Section 42-248, Idaho Code, requires you or the owner of these water rights to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

If you have questions, please contact the **Eastern** Regional Office of the department in Idaho Falls at (208) 525-7161.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encl.

c: IDWR - Regional Office (w/encl.)

MICROFILMED
AUG 26 2002

ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No.: 25-13972

Reviewed By: dgibson

Date: August 21, 2002

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Proof received timely?	X		Drilling permit required?		X
License examination fee required?	X		Drilling permit No.:		
Appropriate fee submitted?	X		Drilling permit upgrade needed?		
Receipt No.:	E027041, C064102		Well driller's report filed?		X
Additional Amount Due:			Measuring device required?		X
Name and address same as permit?	X		Measuring device installed?		
Are the water uses correct?	X		Measure device waiver requested?		

Priority Calculation

Date proof received	08/21/2002
Date proof due	- 11/01/2002
Lapse notice sent	-
No. of days late	= 0
Holiday allowance	+
Priority date	+ 08/22/2001
New priority date	= 08/22/2001

Deficiencies of Actions Items

Acknowledge proof.



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

August 19, 2002

CHURCH OF JESUS CHRIST LATTER DAY SAINTS
SHELLEY S TAKE
179 S MILTON
SHELLEY ID 83274

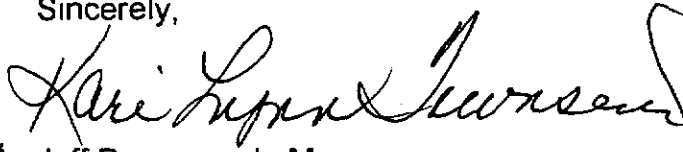
RE: Order In the Matter of Permit 25-13972

Dear Water Right Holder(s):

Enclosed please find Order Granting Petition to Remove Measuring Device
Requirement issued by the department in reference to the above listed information.

If you have any questions regarding this matter, please call me at 327-7940.

Sincerely,

for 
Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosure

MICROFILMED
AUG 26 2002

MEMORANDUM

DATE: August 1, 2002
TO: Jeff Peppersack
FROM: Ron Carlson *RDC*
RE: Measuring Device Requirement 25-13972

RECEIVED

AUG - 9 2002

Department of Water Resources

At the request of Mark Searle I have reviewed the physical setting for permit 25-13972 and find that the required measuring device is not a reasonable condition for the licensing of this permit. In my opinion the measuring device will never be used after the licensing exam is completed. It will not be used for purposes of regulation. It is my recommendation that the department waive this condition and allow the applicant to submit proof.

MICROFILMED

AUG 26 2002

July 18, 2002

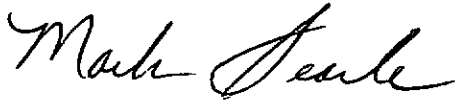
Ron Carlson
Department of Water Resources
900 N Skyline
Idaho Falls, ID 83402

Dear Mr. Carlson:

As discussed today in our telephone conversation, one of the requirements we received by the DWR for permit #25-13972 was to install a water metering device. However, in discussions with Shelley Keen and yourself, it appears that this requirement has become unnecessary. Please notify us if this understanding is correct.

Thank you for your assistance in this matter.

Sincerely,



Mark Searle
1482 N 800 E
Shelley, ID 83274

MICROFILMED
AUG 26 2002

RECEIVED
JUL 22 2002
Department of Water Resources
Eastern Region

TO: Ron Carlson

August 1, 2002

From: Keith C. Wilson

RE: Conditions on permit 25-13972

Conditions permit 25-13972

1. 01J Prior to diversion of water under this right, the right holder shall install and maintain a measuring device & lockable controlling works of a type acceptable to the Department as part of the diverting works.

Original application:

Item 8.e - "stream will flow in and back out of pond for swimming"

Item 12 - "The stream will run into the pond, and then when it's full will run out via an over flow back into the source."

Note:

Location of the pond appears to be along side the stream. Any overflow or seepage would flow back into the stream. Contour lines on the USGS Map are close together indicating steep terrain (see attached map)

Point of Diversion & Place of use for this permit is 1½ mile from the confluence of this unnamed stream and Sellers Creek. The diversion of 0.04 cfs in the SW¼SW¼ Sec 14, T02S, R39E, could not be measured at the confluence with Sellers Creek in the NE¼SW¼ Sec 12, T02S, R39E.

The only other diversion from the stream appears to be right 25-12311 (in-stream stock water)

SW¼SW¼SW¼ Sec. 14, Twp 02S, Rge 39E, (Beginning of Reach)

SE¼NE¼NE¼ Sec. 14, Twp 02S, Rge 39E, (Ending of Reach)

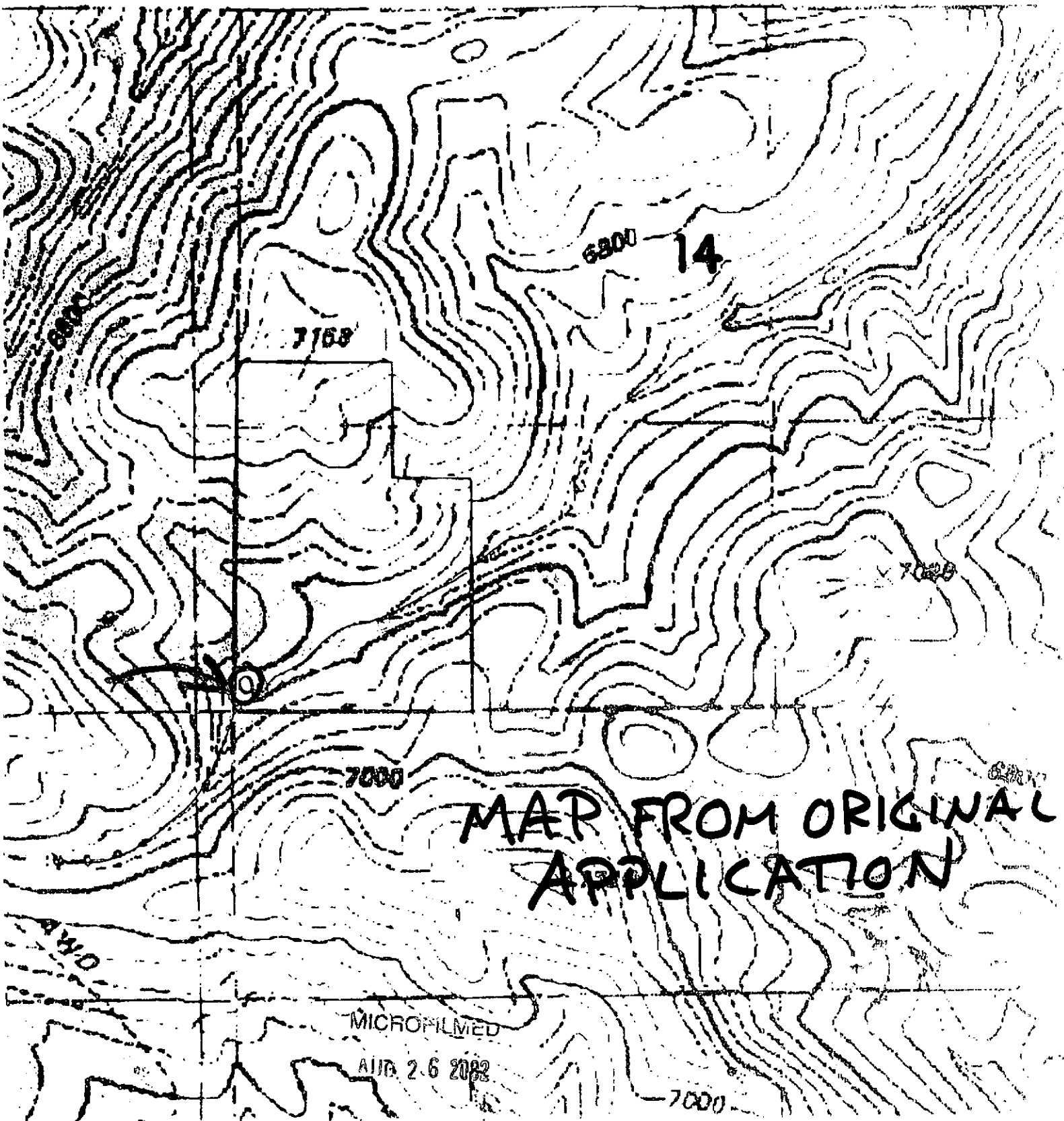

Keith C. Wilson
Senior Resource Agent

MICROFILMED

AUG 26 2002

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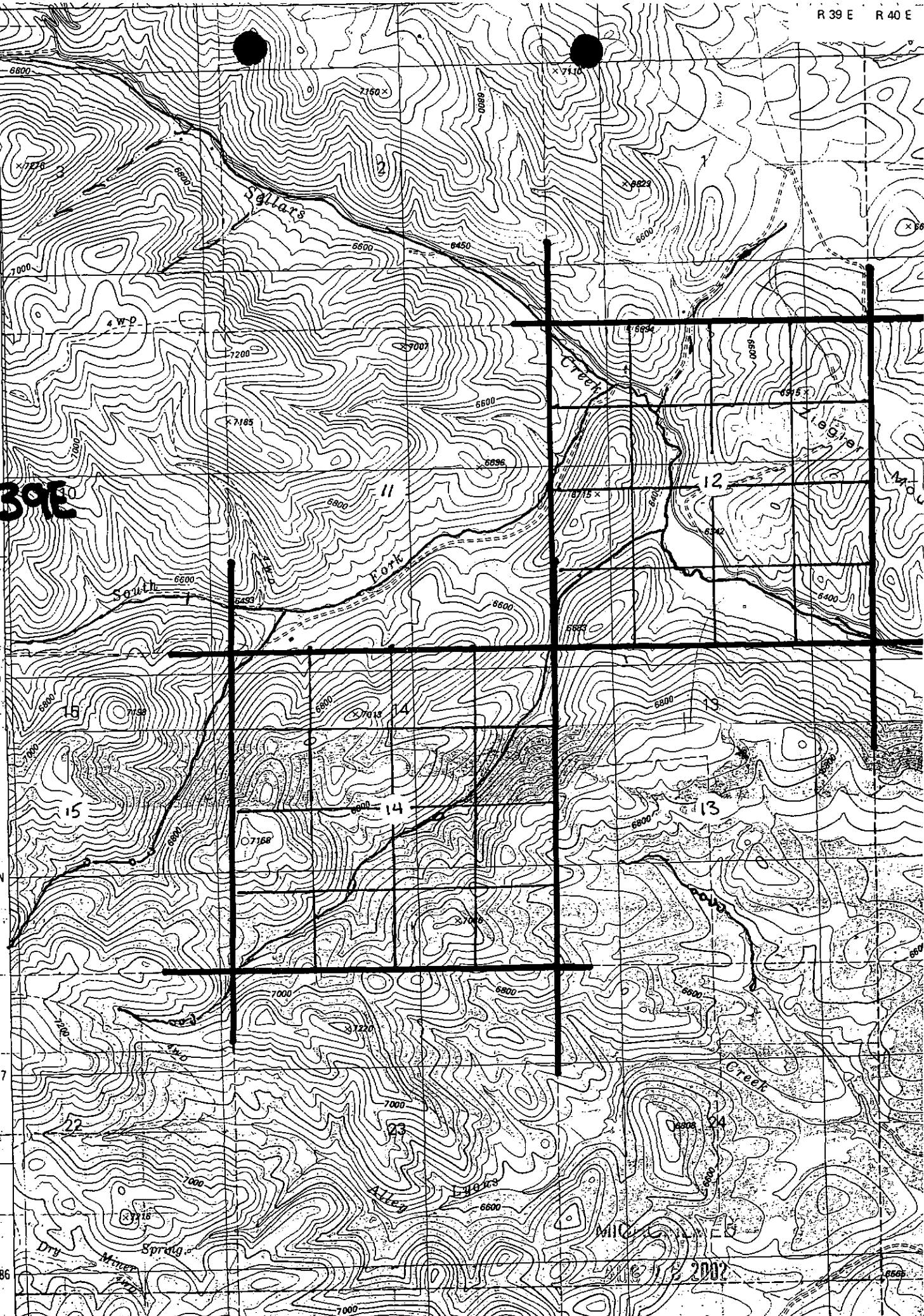
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State of Idaho

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

October 30, 2001

CHURCH OF JESUS CHRIST LATTER DAY SAINTS
SHELLEY STAKE
179 S MILTON
SHELLEY ID 83274

RE: Permit No. 25-13972

Permit Approval Notice

Dear Permit Holder:

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

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

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

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

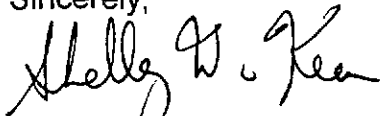
Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's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

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NOV 13 2001

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Shelley W. Keen".

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

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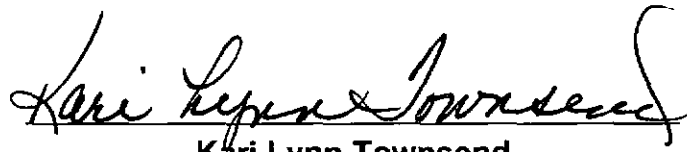
NOV 13 2001

CERTIFICATE OF MAILING

I hereby certify that on October 30, 2001 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. 25-13972

**CHURCH OF JESUS CHRIST LATTER DAY SAINTS
SHELLEY STAKE
179 S MILTON
SHELLEY ID 83274**

A handwritten signature in cursive script, reading "Kari Lynn Townsend", written over a horizontal line.

**Kari Lynn Townsend
Secretary**

MICROFILMED

NOV 13 2001

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

MICROFILMED
NOV 13 2001

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
NOV 13 2001

RECEIVED

OCT 29 2001

October 25, 2001

Shelley Keen
Department of Water Resources
1301 North Orchard Street
Boise, ID 83706

Department of Water Resources

Re: Application for Permit No. 25-13972

Dear Mr. Keen:

I am responding to your request for additional information concerning Permit No. 25-13972. It must be noted that the permit stated year-round usage, but actual usage will be from June through August only. You inquired concerning 1) mitigating seepage from the pond and 2) diversion.

1. We have contacted Sorenson Engineering for assistance in mitigating seepage from the pond. At this point, we are unsure at what rate, if any, seepage will occur. However, if it becomes a problem, we will line the pond with a Polyvinylchloride (PVC) liner which prohibits seepage and will basically result in non-consumption.
2. After talking with Harold Jones on October 24, 2001, he agreed that the .04 cfs rate of diversion will be adequate for the size of the pond we're proposing. (It's about 50' X 60' X 4'). With mitigating the seepage issue and due to the small size of the pond, maintenance of the pond should not be a problem. The diversion rate will be controlled via a head gate.

If you have any further questions, please contact me. Thank you for your timely review of this permit.

Sincerely,



Mark Searle

MICROFILMED

NOV 13 2001

**APPLICATION FOR PERMIT
STATE OFFICE ANALYSIS**
Reviewed by Sharla Curtis on 10/29/01

No. 25-13972 Name: LDS Church Corp. Officers NA Ad ok ☒ Govt Lots

AREA OF CONCERN: No/Yes? ESPA Moratorium GWMA TRUST/NON-TRUST

GROUNDWATER: (✓Flow Chart)

DRILLING PERMIT

All wells - 046
Basin 34 - 084 (if necessary)
WMD - North/East/West
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 067

WMD

Supp irr (irr = only use) - 065-104
Supp irr (+ other uses) - 100-105
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 01M

LOCATION:

Boise Front LoGeo - 058 (<85 GW)
Mitigation - 121

Trust - 051 (consumptive uses)
Non-Trust - 048-049 (consumptive uses or non-cons. > 1.0 cfs)

USES:

STORAGE - 18C-01H-01P-18B-NA
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)
> 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)
STOCKWATER - R37 (BLM/FS)-111 (instream stock)
MINING - 054-106
HEAT/COOL - R07 (injection well)
FIRE PROT - 077
COMMERCIAL/
INDUSTRIAL - 106-R07
DAIRY - 082-WD8
POWER - 17H or 17K (+uses)-17G (under FERC)
or 17M (not FERC regulated)
025-027-R22-08A

BENEFICIAL USE DUE: 11/01/2002

MISC CONDITIONS/REMARKS:

Protested - 020-W19
Development Period
> 1 yr - 26A
Ownership - 004
Non-consumptive - 027
Water Quality - 106-R07

SURFACE WATER: (✓Flow Chart)

F&G contacted - Yes/No Response
In/Above MSF - WB9

PLANNING REVIEW/RESPONSE

WD - R04 (WD# 01)
≤ 0.20 cfs/others - 01H, 01P or No MD
> 0.20 cfs - 01J

SPRINGS/SINK, INACTIVE WD or WD

≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 01M or No MD

RIVER BASINS: (SW special considerations)

SNAKE R (01) - W23, N/A
(02,03) - 007 (w/ remark WB9 if above Weiser)
Payette R (65) - W23, 047 (Payette Lake)
Salmon R (70's) - 029 (fish screens)
Weiser R (67) - 086-087

USES:

MUNICIPAL

Restricted area - 022,075
Irr., GW supp to SW - 102
Future needs - 007,109
FISH PROP - 029 (70's only)-007-042-106
DOMESTIC
Surface water - WB5 (Big Wood/Boise above Star Bridge)
- 27A (Payette R)
>1 in restricted area - 070-071-075 (no parks/common areas)
Irr separate or none allowed - WB5
GW w/irrigation from SW evident - 065-104
Moratorium approvable - W03 (2500 gpd - meets domestic def
i.e. D/convenience store)

Multiple pd's per ¼¼ - W32
Subd lot desc (pd) - W59
Subd lot desc (pu) - W60
Use definitions - W02 example - S/50 range
Pre-1987 development - 068-074 (allow 120 days for proof due)
Single pd intended - 076

IRRIGATION SEASON _____ - _____ (Per updated map)

IRR VOLUME/ACRE _____

OTHER CONDITIONS/REMARKS _____

COMMENTS _____

October 25, 2001

Shelley Keen
Department of Water Resources
1301 North Orchard Street
Boise, ID 83706

Re: Application for Permit No. 25-13972

Dear Mr. Keen:

I am responding to your request for additional information concerning Permit No. 25-13972. It must be noted that the permit stated year-round usage, but actual usage will be from June through August only. You inquired concerning 1) mitigating seepage from the pond and 2) diversion.

1. We have contacted Sorenson Engineering for assistance in mitigating seepage from the pond. At this point, we are unsure at what rate, if any, seepage will occur. However, if it becomes a problem, we will line the pond with a Polyvinylchloride (PVC) liner which prohibits seepage and will basically result in non-consumption.
2. After talking with Harold Jones on October 24, 2001, he agreed that the .04 cfs rate of diversion will be adequate for the size of the pond we're proposing. (It's about 50' X 60' X 4'). With mitigating the seepage issue and due to the small size of the pond, maintenance of the pond should not be a problem. The diversion rate will be controlled via a head gate.

If you have any further questions, please contact me. Thank you for your timely review of this permit.

Sincerely,

Mark Searle

Mark Searle

Attn: Shelley Keen

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NOV 13 2001



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

October 24, 2001

CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS
SHELLEY STAKE
179 S MILTON
SHELLEY ID 83274

RE: Application for Permit No. 25-13972

Dear Applicant:

Application for Permit No. 25-13972 has been forwarded from our Idaho Falls office to Boise for final action. In the application, you propose to divert 0.04 cubic feet per second ("cfs") from an unnamed tributary of Sellars Creek for year-round recreation storage use. The Idaho Falls office has identified the following items that you need to address before the application can be approved.

- Sellars Creek has been fully appropriated since 1888. This means there is no water for a new appropriation unless it is non-consumptive or it is mitigated so that existing water rights will not be injured. Normally, a use like the one you propose results in seepage and/or evaporation losses from the reservoir. Will your proposed use be non-consumptive, or do you propose to mitigate the resulting losses? If so, what is your proposal?
- The rate of diversion proposed on the application is 0.04 cfs, or about 18 gallons per minute. This is about the amount two (2) garden hoses would discharge. At this low diversion rate, will it be possible to maintain your proposed reservoir? Also, how do you intend to limit your diversion rate to no more than 18 gallons per minute?

Please provide detailed responses to these items. In accordance with §42-204, *Idaho Code*, and Water Appropriation Rule 40.05 (IDAPA 37.03.0840.05), please submit the requested information within 30 days. Failure to respond timely shall be cause for the application to be voided.

If you have questions, please contact me.

Sincerely,

Shelley Keen
Water Rights Supervisor

c: IDWR Eastern Region -- Ron Carlson

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NOV 13 2001

RECEIVED

OCT 15 2001

Department of Water Resources

MEMORANDUM

DATE: October 1, 2001

FILE: Application for Permit 25-13972

FROM: Ron Carlson

RE: Department Action

The above referenced application seeks a permit to divert water from Sellers Creek and into a pond to provide a swimming pond for members of the LDS church. While the proposed pond is small it raises some interesting issues.

First – I do not believe that the pond will be maintained with a 0.04 cfs diversion rate. Particularly since they specify that the intent is to install a headgate to divert water from the stream and into the pond. In fact, it appears that they intend to divert the stream into the pond and the regulation will be done on the outlet. It is clear to me that the intent is to divert significantly more than 18 gpm into the pond which makes that amount requested more an effort to reduce filing fees than an indicator of what is actually intended by the project.

Second – From a water rights stand point the water in Sellers Creek has been fully appropriated since 1888. This means that the only hope the church would have of being able to divert water would be if the watermaster ignores them. This gets back to the amount. "It is such a small amount that it will never be missed." While I recognize that this is exactly what we do with domestic and stock uses, there are cumulative effects of many small diversions. They are more problematic because policing becomes impossible and typically watermasters simply throw their hands in the air and mumble because they know small diversions are much more difficult (impossible) for them to regulate than a canal carrying 250 cfs.

Third – In many of the high elevation streams we have seen benefits associated with beaver activity. Are small ponds different from a beaver dam? We keep wondering if it is possible to set some standards for evaluating applications to construct ponds. We would probably recommend the application be denied because of what we see as a requested amount that is inadequate for the purpose intended. There are, however a number of other issues that should be considered and consequently we are sending this over without making a recommendation.

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NOV 13 2001

Scud Copy
Dist. for staffing
Submitted for advertising 8-23-01

Form No. 202
4/87

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATIONS FOR PERMIT ANALYSIS PERMIT

LDS Church
INITIAL REVIEW BY AWJ DATE 8-12-01 APPLICATION NO. 25-13972
#69356

REQUIRED INFORMATION

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

* This is a problem area
with Sellers Creek etc

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 _____

____ City
____ County
____ Reservations

Idaho Fish & Game
Idaho Health & Welfare
Division of Environment

_____ Irrigation District
_____ Canal Company
_____ Other _____

COMMENTS

[illegible]

DEPT. OF WATER RESOURCES
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402-1718
(208) 525-7161
Fax: (208) 525-7177

(5218)
Pub.: 9/6, 13

Director

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

25-13972

CHURCH OF JESUS CHRIST OF
LATTER DAY SAINTS
SHELLEY STAKE
179 S. Milton
Shelley, Idaho 83274

Point(s) of Diversion: SWSW, S14;
T02S, R39E, BINGHAM County.
Source: UNNAMED STREAM,
Tributary to SELLARS CREEK
Use: RECREATION STORAGE 01/01
to 12/31 0.3 AFA
Use: DIVERSION TO STORAGE 01/01
to 12/31 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 08/23/2001
Place Of Use: DIVERSION TO
STORAGE
T02S, R39E, S14, SWSW
Place Of Use: RECREATION
STORAGE
T02S, R39E, S14, SWSW
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 Drive,
Suite A, Idaho Falls, Idaho, 83402,
together with a protest fee of \$25.00 for
each application on or before
September 24, 2001. The protestant
must also send a copy of the protest to
the applicant.

KARL J. DREHER

RECEIVED

SEP 18 2001

Department of Water Resources
Eastern Region

Legals

AFFIDAVIT OF PUBLICATION

County of Bingham)

SS

State of Idaho)

I, Jacqueline Graham do solemnly
swear that I am the Legal
Coordinator of The Morning News,
which is a daily newspaper of
general circulation, published each
day except Sunday at Blackfoot,
Bingham County, Idaho, said
newspaper having been so published
at Blackfoot, aforesaid for more than
one year past; that said newspaper
heretofore complied with all the
provisions of Chapter 154 of the
Sessions Laws of Idaho of 1911,
approved March 11, 1911, and duly
designated, pursuant to law, a
particular-day of the week as the day
on which legal notices required by
law or by the order of any Court of
competent jurisdiction within the
State of Idaho shall be published to-
wit: of each week; that the notice
attached hereto and which is a part
of this affidavit and part of the proof
of publication was published in said
issue of said newspaper 2 consecutive weeks
the first publication having been
made on the 6 day of Sept
2001, and the last publication having
been made on the 13 day of Sept
2001; that said notice was
published in the regular and entire
issue of every number of the paper
as aforesaid during the period and
time of publication, and that notice
was published, in the newspaper and
not in a supplement.

On this 13 day of Sept, in
the year of 2001, before me a Notary
Public of the State, personally
appeared Jacqueline Graham,
known or identified to me to be the
person whose name is subscribed to
the within instrument, and being by
me the first duly sworn, declared that
the statements therein are true, and
acknowledged to me that the
executed the same.

Notary Public for the State of Idaho
Residing at Blackfoot, Idaho
My Commission Expires:
June 19, 2004
Affidavit Processing Fee.....\$5.00

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NOV 13 2001



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

August 28, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

CHURCH OF JESUS CHRIST LATTER DAY SAINTS
SHELLEY STAKE
179 S. MILTON
SHELLEY ID 83274

RE: Application for Permit No 25-13972

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 Morning News on September 6 and 13, 2001. 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.

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

Sincerely,


Harold W Jones
Water Right Supervisor

HWL:sc

MICROFILMED

NOV 13 2001



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

August 28, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Legal Notice Department
MORNING NEWS
PO BOX 70
BLACKFOOT ID 83221

RE: Application for Permit No. 25-13972

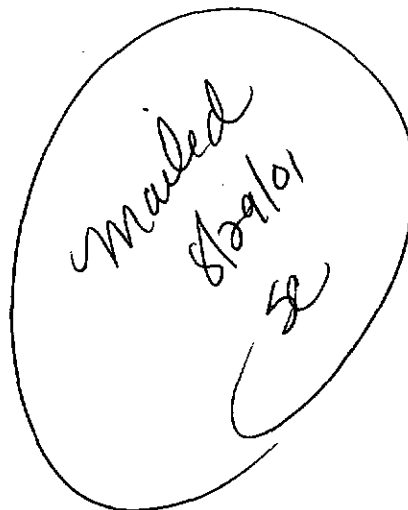
Dear LEGAL NOTICE DEPARTMENT:

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 September 24, 2001. Your cooperation is appreciated.

Sincerely

Sharla Cox
Administrative Assistant



MICROFILMED

NOV 13 2001

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

25-13972

CHURCH OF JESUS CHRIST LATTER DAY SAINTS
SHELLEY STAKE
179 S. MILTON
SHELLEY ID 83274

Point(s) of Diversion: SWSW S14 T02S R39E, BINGHAM County

Source UNNAMED STREAM, Tributary To SELLARS CREEK

Use: RECREATION STORAGE 01/01 To 12/31 0.3 AFA

Use: DIVERSION TO STORAGE 01/01 To 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 08/23/2001

Place Of Use: DIVERSION TO STORAGE

T02S R39E S14 SWSW

Place Of Use: RECREATION STORAGE

T02S R39E S14 SWSW

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 September 24, 2001. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on September 6 and 13, 2001

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NOV 13 2001

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State of Idaho
DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

August 29, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Idaho Fish & Game
1345 Barton Rd
Pocatello ID 83201

RE: Applications for Permit #25-13972

Dear Sir:

We are enclosing a copy of the application (s) that may be of interest to your department. Please review the application (s) and submit any comments you may have to our Department as soon as possible. The last date of protest is September 24, 2001, and we are required to take final action shortly thereafter.

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

Respectfully submitted,

Harold W. Jones
Water Right Supervisor

HWJ: sc

Enc.

NOV 13 2001
MICROFILMED

NOV 13 2001
~ Celebrating Our Centennial Year of Service to Idaho 1895-1995 ~