

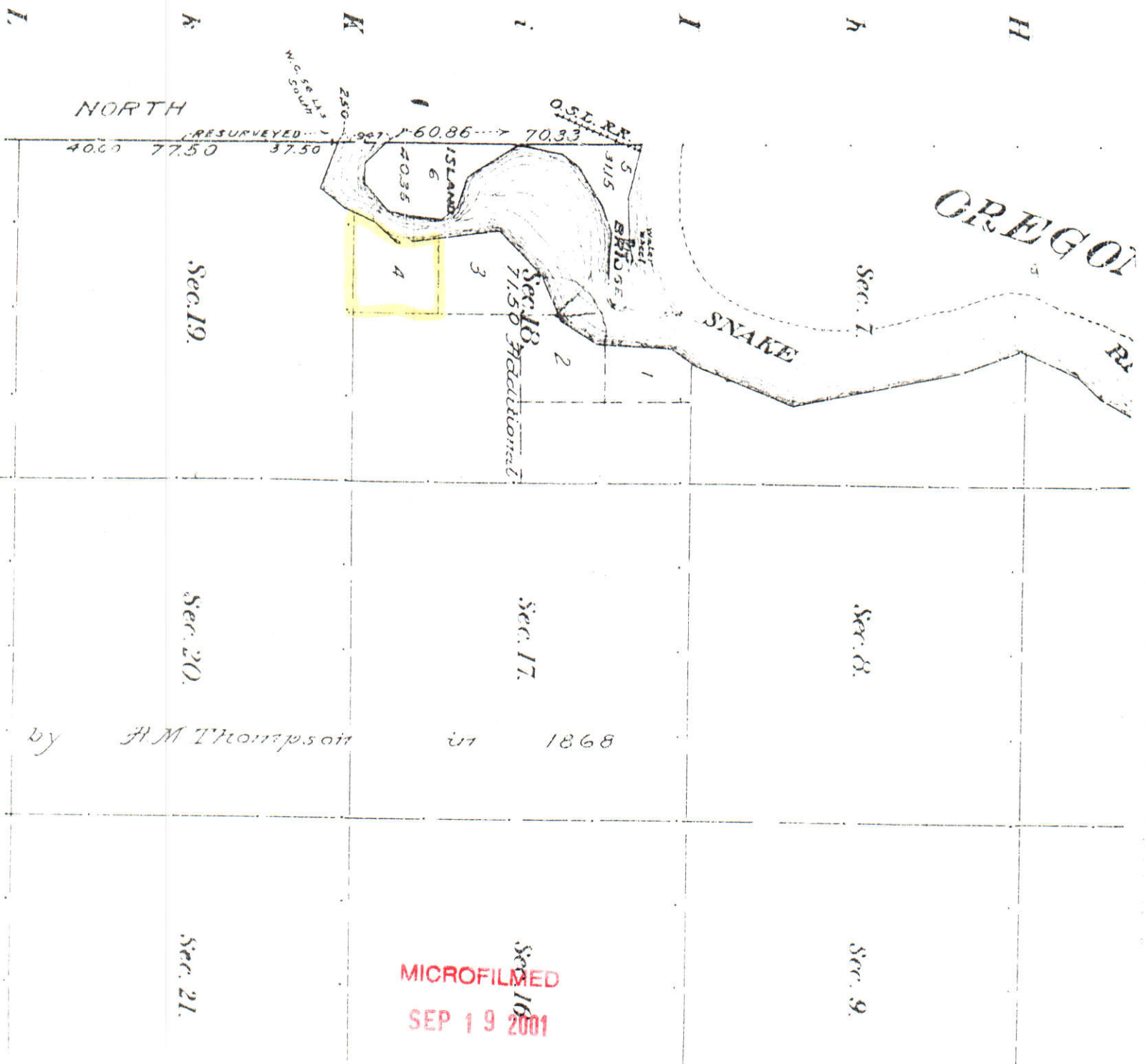


State of Idaho
DEPARTMENT OF WATER RESOURCES

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

T6N R5W 18 SESW
Box 4





AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) SS.
County of Canyon)

RECEIVED

JUL 18 2001

Department of Water Resources

PATRICIA D. ADMIRE
of Nampa, Canyon County, Idaho, being first duly
sworn, deposes and says:

1. That I am a citizen of the United States, and at all times
hereinafter mentioned was over the age of eighteen years, and
not a party to the above entitled action.

2. That I am the LEGAL Clerk of the Idaho Press-Tribune, a
daily newspaper published in the City of Nampa and Caldwell,
in the County of Canyon, State of Idaho; that the said
newspaper is in general circulation in the said County of
Canyon, and in the vicinity of Nampa and Caldwell, and has
been uninterruptedly published in said County during a period of
seventy-eight consecutive weeks prior to the first publication of
the notice, a copy of which is hereto attached.

3. That the notice, of which the annexed is a printed copy, was
published in said newspaper two times in the regular and entire
issue of said paper, and was printed in the newspaper proper,
and not in a supplement.
June 7, 14, 2001

Patricia D. Admire

STATE OF IDAHO)
County of Canyon)

On this 14th day of June in the year of 2001 before
me a Notary Public, personally appeared Patricia D. Admire,
known or identified to me to be the person whose name
subscribed to the within instrument, and being by me first
duly sworn, declared that the statements therein are true, and
acknowledge to me that she executed the same.

Janne Lusk
Notary Public for Idaho
Residing at Nampa

My Commission expires June 21st, 2003

SEP 19 2001

LEGAL NOTICE

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

63-31142

FLOYD STUTHEIT

33138 FORT LN

PARMA ID 83660

Point(s) of Diversion L4 SESW

S18 T06N R05W CANYON County

Source WASTEWATER

Point(s) of Diversion SWSE

S18 T06N R05W CANYON County

Source WASTEWATER

Use: IRRIGATION

03/01 To 11/15 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 01/11/2001

Place Of Use: IRRIGATION

T06N R05W S18 SESW Lot 4

Number of Acres 14

Remark: Applicant agrees to miti-
gate consumptive use in the future
as needed.

Permits will be subject to all prior

water rights. Protests may be sub-
mitted 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,
Western Region, 2735 Airport Wy,
Boise ID 83705 together with a pro-
test fee of \$25.00 for each applica-
tion on or before 06/25/2001. The
protestant must also send a copy of
the protest to the applicant.

KARL J DREHER, Director

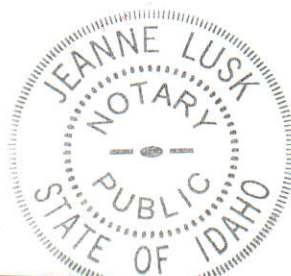
June 7, 14, 2001

4100

RECEIVED

JUN 15 2001

WATER RESOURCES
WESTERN REGION



State of Idaho
Department of Water Resources

AMENDED

Permit to Appropriate Water

AMENDED

NO. 63-31142

Priority: 01/11/2001

Maximum Diversion Rate: 0.20 CFS

This is to certify, that FLOYD STUTHEIT
33138 FORT LN
PARMA ID 83660

has applied for a permit to appropriate water from:

Source: WASTEWATER

Tributary: SNAKE RIVER

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>
IRRIGATION	03/01 to 11/15	0.20 CFS

LOCATION OF POINT(S) OF DIVERSION:

WASTEWATER	L4	SE 1/4 SW 1/4	Sec. 18, Twp 06N, Rge 05W, B.M.	CANYON County
WASTEWATER		SW 1/4 SE 1/4	Sec. 18, Twp 06N, Rge 05W, B.M.	CANYON County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	05W	18																	14.0
																			14.0

Total Acres: 14

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before May 1, 2004.
2. Subject to all prior water rights.
3. 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.
4. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
6. This right authorizes a single point of diversion.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 30th day of July, 2001.

MICROFILMED
SEP 19 2001

[Signature]
for KARL J DREHER, Director

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

IN THE MATTER OF PERMIT NO. 63-31142	)	PRELIMINARY
	)	ORDER RESCINDING
IN THE NAME OF FLOYD STUTHEIT	)	PERMIT AND ISSUING
_____	)	AMENDED PERMIT

FINDINGS OF FACT

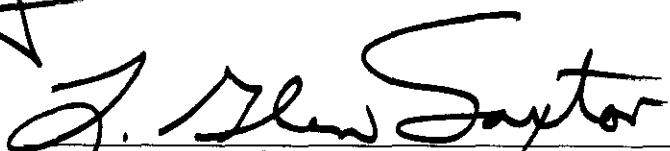
1. On January 11, 2001, Floyd Stutheit (applicant) filed Application for Permit No. 63-31142 ("application") for the diversion of 0.20 cfs of waste water from a single point in Section 18, Township 6N, Range 5W, B.M. for irrigation of 14 acres. The application identified the point of diversion as located in Payette County.
2. Section 42-203A, Idaho Code, requires that a notice of application filing be published in the newspaper within the county wherein the point of diversion lies. On February 21 and 28, 2001, notice of the application was published in the Independent Enterprise, the local paper for Payette County.
3. On May 15, 2001, the Department of Water Resources ("Department") approved Permit No. 63-31142 as filed.
4. On May 21, 2001, department personnel determined that the point of diversion and place of use of this permit are located in Canyon County rather than Payette County. The department prepared a new legal advertisement with the corrected data which was advertised in the Press-Tribune on June 7 and 14, 2001. No protests were received.

CONCLUSIONS OF LAW

1. The Department is authorized to issue Preliminary Orders changing a prior approval.
2. Advertising of the corrected data has been completed with no protests being filed. A new permit can be approved along with the issuance of a Preliminary Order correcting the May 15, 2001 permit approval.

IT IS THEREFORE HEREBY ORDERED that Permit No. 63-31142 approved on May 15, 2001 is **RESCINDED** and an amended permit shall be approved showing the correct point of diversion and place of use within Canyon County.

Dated this 30th day of July, 2001.


L. GLEN SAXTON, CHIEF
Water Allocation Bureau
SEP 19 2001

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-31142

Priority: 01/11/2001

Maximum Diversion Rate: 0.20 CFS

This is to certify, that FLOYD STUTHEIT
33138 FORT LN
PARMA ID 83660

has applied for a permit to appropriate water from:

Source: WASTEWATER

Tributary: SNAKE RIVER

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>
IRRIGATION	03/01 to 11/15	0.20 CFS

LOCATION OF POINT(S) OF DIVERSION:

WASTEWATER	L4	SE 1/4 SW 1/4	Sec. 18, Twp 06N, Rge 05W, B.M.	PAYETTE County
WASTEWATER		SW 1/4 SE 1/4	Sec. 18, Twp 06N, Rge 05W, B.M.	PAYETTE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals	
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
06N 05W 18																	14.0 L 4	14.0

Total Acres: 14

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before May 1, 2004.
2. Subject to all prior water rights.
3. 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.
4. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
6. This right authorizes a single point of diversion.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 15th day of May, 2001.

MICROFILMED

SEP 19 2001

KARL J DREHER, Director

RECEIVED

MAY - 8 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 FLOYD STUTHELT Phone 222-6393
Post Office address 33138 FORT LANE, PARMA, ID 83660
2. Source of water supply WASTEWATER which is a tributary of SNAKE RIVER
3. Location of point of diversion is 1/4 of SE 1/4 of SW 1/4, Govt. Lot 4
Sec. 18 Township 6N Range 5W B.M. RAYETTE County; additional points of diversion if any: SW SE, S. 18, T. 6N, R. 5W
4. Water will be used for the following purposes:
Amount .20 for IRRIGATION purposes from 3-1 to 11-15 (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) .20 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. CEMENT BOX COLLECTS WASTEWATER WITH PIPELINE UNDERGROUND WITH RISERS & PUMPS FOR SPRINKLER IRRIGATION.
 - b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet; period of year when water will be diverted to storage: _____ to _____ inclusive.
 - c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
 - d. Is ground water with a temperature of greater than 85°F being sought? _____
 - e. If well is already drilled, when? _____; Drilling firm _____
Well was drilled for (well owner) _____
7. Time required for completion of works and application of water to proposed beneficial use is 3 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 if 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. _____

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SEP 19 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	N E				N W				S W				S E				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	5W	18												14					14

Total number of acres to be irrigated 14

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 enable the applicant to make this filing:

12. Remarks: POINT OF DIVERSION EITHER IN SE SW OR SW SE, 5.18, T. 6N, R. 5W. ONLY ONE PT. OF DIVERSION.

13. MAP OF PROPOSED PROJECT ATTACHED X Show clearly the proposed point of diversion, place of use, section number, township and range number.

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.

Floyd Stutheit
(Applicant)

Received by [Signature] Date 1-11-01 Time 3:12 PM Preliminary check by [Signature]
 Fee \$ 100.00 Receipted by [Signature] # W027286 Date 1-11-01
 Publication prepared by [Signature] Date 2-21-01 Published in ENTERPRISE
 Publication approved [Signature] Date 3-12-01

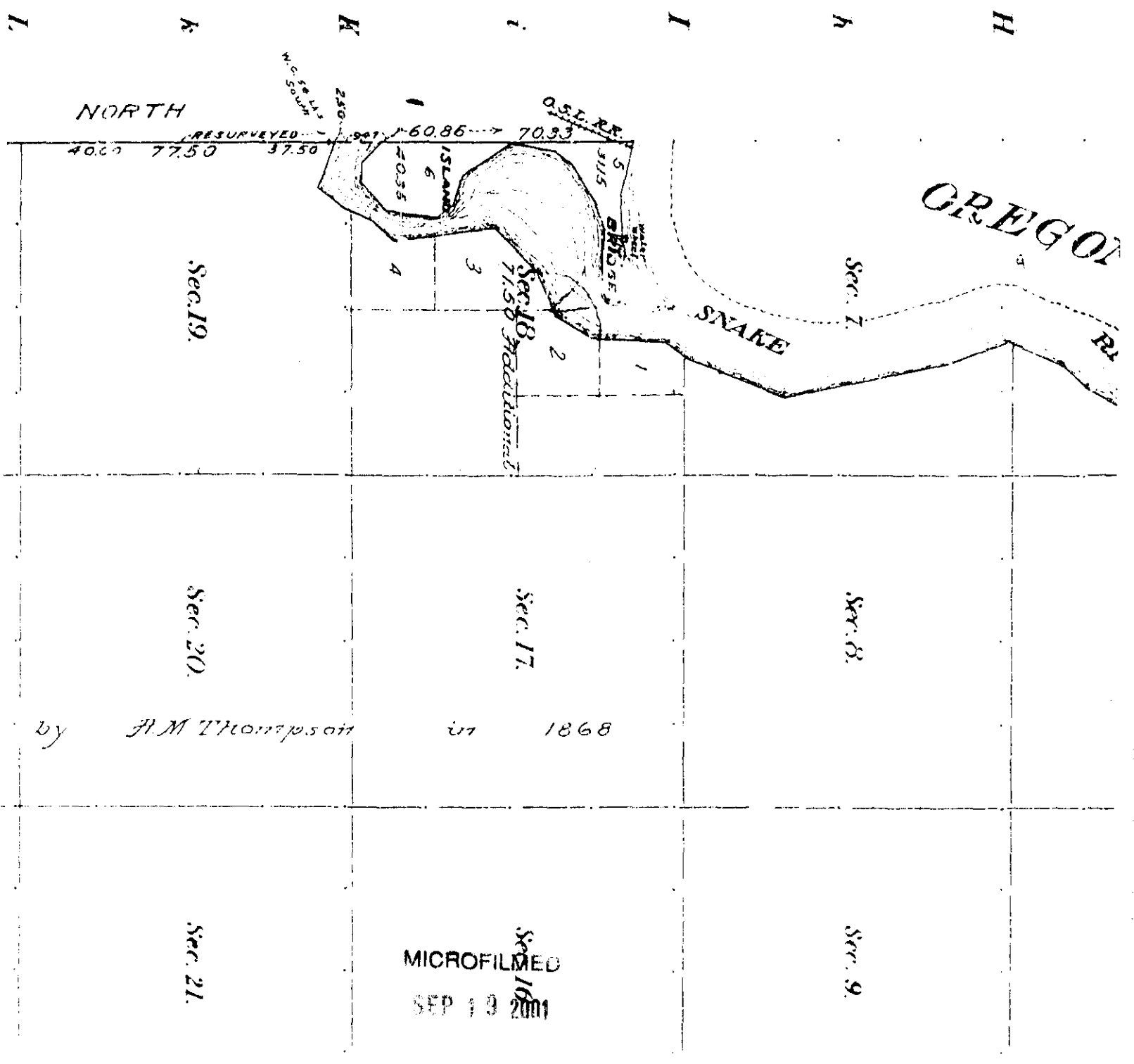
MICROFILMED
SEP 19 2001

State of Idaho
DEPARTMENT OF WATER RESOURCES

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

T6N R5W 18 SESW
Box 4





by H.M. Thompson in 1868

MICROFILMED
 SEP 19 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

August 1, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

FLOYD STUTHEIT
33138 FORT LN
PARMA ID 83660

RE: Preliminary Order in the Matter of Permit 63-31142

Dear Applicant(s):

The accompanying order 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 unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed information sheet.

Also enclosed is a copy of Amended Permit 63-31142.

If you have any questions regarding this matter, please call me at 208-327-7940.

Sincerely,


Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosures

MICROFILMED

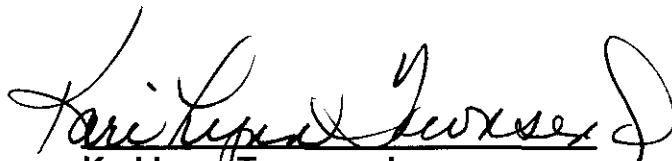
SEP 19 2001

CERTIFICATE OF MAILING

I hereby certify that on **August 1, 2001**, I mailed a true and correct copy, certified, postage prepaid, of the foregoing **PRELIMINARY ORDER** to the person(s) listed below:

RE: Preliminary Order in the Matter of Permit 63-31142

**FLOYD STUTHEIT
33138 FORT LN
PARMA ID 83660**


**Kari Lynn Townsend
Secretary**

MICROFILMED

SEP 19 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
SEP 19 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.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) SS.
County of Canyon)

RECEIVED
JUL 18 2001

PATRICIA D. ADMIRE

Department of Water Resources

of Nampa, Canyon County, Idaho, being first duly sworn, deposes and says:

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

63-31142
FLOYD STUTHEIT
33138 FORT LN
PARMA ID 83660
Point(s) of Diversion L4 SESW
S18 T06N R05W CANYON County
Source WASTEWATER
Point(s) of Diversion SWSE
S18 T06N R05W CANYON County
Source WASTEWATER
Use: IRRIGATION
03/01 To 11/15 0.2 CFS
Total Diversion: 0.2 CFS
Date Filed: 01/11/2001
Place Of Use: IRRIGATION
T06N R05W S18 SESW Lot 4
Number of Acres 14

Remark: Applicant agrees to mitigate consumptive use in the future as 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, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 06/25/2001. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director
June 7, 14, 2001

4100

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.

2. That I am the LEGAL Clerk of the Idaho Press-Tribune, a daily newspaper published in the City of Nampa and Caldwell, in the County of Canyon, State of Idaho; that the said newspaper is in general circulation in the said County of Canyon, and in the vicinity of Nampa and Caldwell, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of the notice, a copy of which is hereto attached.

3. That the notice, of which the annexed is a printed copy, was published in said newspaper two times in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

June 7, 14, 2001

Patricia D. Admire

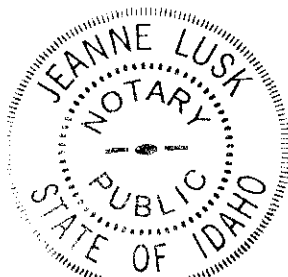
STATE OF IDAHO)
County of Canyon)

RECEIVED
JUN 15 2001
WATER RESOURCES
WESTERN REGION

On this 14th day of June in the year of 2001 before me a Notary Public, personally appeared Patricia D. Admire, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that she executed the same.

Jeanne Lusk
Notary Public for Idaho
Residing at Nampa

MICROFILMED Commission expires June 21st, 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

May 30, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

FLOYD STUTHEIT
33138 FORT LN
PARMA ID 83660

RE: Application for Permit No 63-31142

Dear Applicant(s):

The Department of Water Resources has prepared a legal notice that is re-scheduled for publication on June 7 and 14, 2001. The application was originally advertised in the Independent Enterprise because the application for permit identified Payette County as the county in which the point of diversion was located. However, the point of diversion is actually located in Canyon County and the appropriate newspaper for Canyon County is The Press-Tribune. Section 42-203A(2), Idaho Code, requires publication of the legal notice to be in the newspaper within the county wherein the point of diversion lies. As before, 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 voluntarily or the Department will conduct a conference and/or hearing on the matter. If the application is not protested, we will rescind the original approval and will issue a new permit with the correct legal description.

We apologize for any inconvenience this may cause. Please feel free to contact this office if you have any questions.

Sincerely,

Sharla Curtis
for Shelley W. Keen
Water Rights Supervisor

SWK:sc

MICROFILMED

SEP 19 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

May 29, 2001

Legal Notice Department

Press-Tribune

PO Box 9399

Nampa ID 83652

RE: Application for Permit No. 63-31142

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 06/25/2001. Your cooperation is appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Sharla Curtis".

Sharla Curtis

Senior Water Resource Agent

Enclosure

MICROFILMED

SEP 19 2001

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

63-31142

FLOYD STUTHEIT
33138 FORT LN
PARMA ID 83660

Point(s) of Diversion L4 SESW S18 T06NR05W CANYON County Source WASTEWATER
Point(s) of Diversion SWSE S18 T06NR05W CANYON County Source WASTEWATER
Use: IRRIGATION 03/01 To 11/15 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 01/11/2001

Place Of Use: IRRIGATION

T06N R05W S18 SESW Lot 4

Number of Acres 14

Remark: Applicant agrees to mitigate consumptive use in the future as 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, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 06/25/2001. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on June 7 and 14, 2001

MICROFILMED
SEP 19 2001



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

May 17, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

FLOYD STUTHEIT
33138 FORT LN
PARMA ID 83660

RE: Permit No. 63-31142

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.

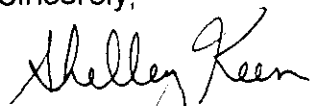
Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed a least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

MICROFILMED
SEP 19 2001

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

Sincerely,

A handwritten signature in cursive script that reads "Shelley Keen". The signature is written in dark ink and is positioned above the printed name.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

MICROFILMED

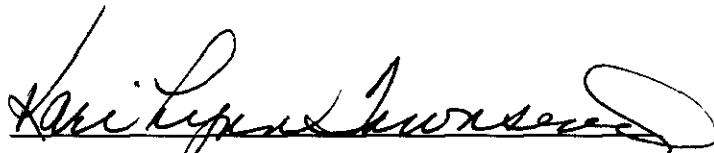
SEP 19 2001

CERTIFICATE OF MAILING

I hereby certify that on May 17, 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. 63-31142

**FLOYD STUTHEIT
33138 FORT LN
PARMA ID 83660**

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

**Kari Lynn Townsend
Secretary**

MICROFILMED

SEP 19 2001

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

APPLICATION FOR PERMIT
STATE OFFICE ANALYSIS

Reviewed by Sharla Curtis on 5/9/01

No. 63-31142 Name: Stutheit Corp. Officers N/A Ad ok ☒ Govt Lots ☒

AREA OF CONCERN: No/Yes IV-gw Moratorium only NA 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 - 18A-01H-01P-18B-NA
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)
IRR 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)
STOCKWATER - R37 (BLM/FS)
MINING - 054-106
FISH PROP - 029 (70's only)-007-042-106
HEAT/COOL - R07 (injection well)
FIRE/PROT - 077
COMMERCIAL/
INDUSTRIAL - 106-R07
DAIRY - 082-WD8

OFFICIAL USE DUE: 5/01/2004

DISC 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#)

≤ 0.20 cfs/others - 01H(P01), 01P or No MD
> 0.20 cfs - 01J

SPRINGS/SINK, INACTIVE 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) - W22, N/A
(02,03) - 007 (w/ remark WB9 if above Weiser)
Payette R (65) - W22, 047 (Payette Lake)
Salmon R (70's) - 029 (fish screens)
Weiser R (67) - 086-087

USES:

POWER

- 17H or 17K (+uses)-17G (not under FERC)
or 17M (FERC regulated >25 cfs or 500hp)
08A-025-027-01N-106-W13 (if dewatering stream)

MUNICIPAL

Restricted area - 022,075
Irr., GW supp to SW - 102

DOMESTIC

Surface water - WB5 (Big Wood or Boise above Star Bridge)
27A (Payette R)
> 1 in restricted area - 070-071-075 (no parks/common areas, etc)
Irr use listed separate
or none allowed - WB5
Moratorium approvable - W03 (2500 gpd - meets domestic definition
i.e. D/convenience store)

Multiple pd's per ¼

- 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 3/1 - 11/15 (Per updated map)

IRR VOLUME/ACRE 4.5

OTHER CONDITIONS/REMARKS

COMMENTS

IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

comment letter
see pg 2

INITIAL REVIEW BY: 6 DATE: 1/31/01 APPLICATION: 63-31142

REQUIRED INFORMATION

- ☒ Name: (If applicant is a corporation or partnership, names and addresses for the director, officers, and other partners must be included.)
- ☒ Address:
- ☒ Source: (See USGS Quad for names of water sources)
- ☒ Point of Diversion: (10 acres for spring, lot & block descriptions for Subdivisions, local name)
- ☒ 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: (show T, R, S, QQ &/or QQQ)
- ☒ Subdivision plat: (for > 1 home in restricted area. $\geq$ 5 homes in non-restricted area)
- ☒ Signature: (If applicant is corp., partnership, or municipality, title of signatory is required)
- ☒ Correct fee paid

RECEIVED

MAY - 8 2001

Department of Water Resources

Gov't. Lots:
☒ P/D
☒ P/U

ADDITIONAL INFORMATION

☒ ADVERTISE REMARK(S)
(Reviewer identify which remarks)

☐ T FLAG CHANGED TO P FLAG

YES NO

- | | | |
|-------------------------------------|-------------------------------------|---|
| ☐ | ☒ | Overlapping place of use: (Describe source & relationship to present application on next page.) |
| ☐ | ☒ | Overlapping point of diversion. |
| ☐ | ☒ | Critical groundwater area: |
| ☐ | ☒ | Groundwater management area: |
| ☐ | ☒ | 1992 moratorium: |
| ☒ | ☐ | Surface water source, IDFG letter needed. |
| ☐ | ☒ | Protected river or minimum flow reach, notify water planning bureau. |
| ☐ | ☒ | E-mail to SCA staff: (perennial stream, non-pump diversion &/or any mining). |
| ☐ | ☒ | E-mail to Dam Safety staff: (for any storage) |
| ☒ | ☐ | Mitigation plan: Check any that apply. |
| | ☐ | immediate = acceptable plan required and submitted. |
| | ☒ | future = open areas, acceptance of condition of approval is in file. |
| ☐ | ☒ | Send power requirement letter &/or fish farm requirement letter. |
| ☐ | ☒ | Power residency affidavit: |
| ☐ | ☒ | Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres: (If yes, attach Large Diversion supplementary analysis sheet.) |
| ☐ | ☒ | *REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT |

Date Requested _____ Date Response Received _____

PROCESSING

APP. NO. 31142

YES NO

☒ ☐ In form for advertising:
☐ ☒ Statewide advertising: (> 10 cfs &/or 1000 af)
☒ ☐ Fee amount, receipt number and date recorded on application:

SEND COPIES TO: NOTE IF E-MAIL COMMENT LETTER USED.

YES NO

☐ ☒ I.D. Health & Welfare
☐ ☒ I.D. District Health
☒ ☐ I.D. Fish & Game
☐ ☒ I.D. Lands

YES NO

☐ ☒ U.S. BLM
☐ ☒ U.S. Forest Service
☒ ☐ Water Dist. # 63
☐ ☒ Water Planning Bureau
☒ ☐ Other _____

FARMERS CO-OP DITCH CO
 PO BOX 420
 PARMA ID 83660

FINAL REGIONAL PROCESSING REVIEW:

YES NO

☒ ☐ Affidavit of publication received:
☒ ☐ Application published correctly: If not, record action taken.

☒ ☐ Publication dates and paper recorded on application:

☐ ☐ Final date for protest 3-12-01

☐ ☒ Protests received.

☒ ☐ Recommendations attached:

☒ ☒ Measuring device required:

☒ ☐ Water delivered by water master? District # 63

☐ ☐ Special conditions of approval or cover letter: standard
WM conditions

☐ ☒ See below for additional information

Recommended Date or Priority 1/11/01

Recommended by: Lori Bauer Date: 5/4/01

ADDITIONAL INFORMATION:

Affidavit of Publication

Copy of Notice
(First Copy)

STATE OF IDAHO,
COUNTY OF PAYETTE

ss.

63-31142

Notice of Application for Water Right
TITLE OF PUBLICATION

(STATHEIT)

SPONSOR OF PLAINTIFF

Dept. of Water Resource
PLAINTIFF OR LEGAL AGENT

I, Viola M Hawkins, being
duly sworn, deposes and says:

That She is the principal clerk of

THE INDEPENDENT-ENTERPRISE, a weekly newspaper published at Payette, in the County of Payette and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Payette; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for two consecutive weeks in the regular and entire issue of said paper during the period and time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with Feb 21, 2001, and ending with the issue of Feb 28, 2001.

STATE OF IDAHO
COUNTY OF

On this 1st day of March in the year of 2001, before me, a Notary Public, personally appeared Viola Hawkins, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Marilyn J. Kimhart
Notary Public for Idaho

Residing at Boise

PUBLIC

My commission expires: 12-1-04

STATE OF IDAHO

STATEMENT

Independent-Enterprise

PAYETTE, IDAHO

Number of Lines 23 lines x 4 columns

Number of Insertions (2) two

23 Lines @ 2.60... \$ 59.80

23 Lines @ 2.24... \$ 51.52

TOTAL COST
WILL BE \$ 111.32

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SEP 12 2001

Nº 514

Vst

NOTICE OF APPLICATION FOR WATER RIGHT

The following application(s) have been filed to appropriate the public waters of the State of Idaho:
63-31142

FLOYD STUTHEIT
33138 FORT LN
PARMA, ID 83660

Point(s) of Diversion L4	SESW	S18	T06N	R05W	PAYETTE County	Source WASTEWATER
Point(s) of Diversion SWSE		S18	T06N	R05W	PAYETTE County	Source WASTEWATER
Use:	IRRIGATION			03/01 To 11/15	0.2CFS	0 AFA
					0.2CFS	

Date Filed: 01/11/2001

Place of Use: IRRIGATION

T06N R05W S18

SESW

Number of Acres 14

Remark: Applicant agrees to mitigate consumptive use in the future as 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, Western Region, 2735 Airport Way, Boise, Idaho 83705, together with a protest fee of \$25.00 for each application on or before 03/12/2001. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director
No. 514

Feb. 21, 28

12/99

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATERMASTER**

Application No: 63-31142Applicant's Name: Floyd Stutheit

Watermaster's Recommendation:

- a) ☐ I do not oppose approval of this application.
- b) ☒ I do not oppose approval of this application if it is conditioned as follows: standard watermaster
conditions
- c) ☐ I oppose approval of this application for the following reasons:
- d) ☐ Additional Comment:

Dated this 26 day of February, 2001Water District No: 63

Lee Lucian
Watermaster's Signature
MICROFILMED

Use reverse side of page if you need more space.

SEP 19 2001



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 15, 2001

LEE SISCO
WATER DISTRICT 63
6616 OVERLAND RD
BOISE ID 83709

Re: Application for Water Right No. 63-31144 in the Name of Kurt Christensen
Application for Water Right No. 63-31143 in the Name of Kurt Christensen
Application for Water Right No. 63-31142 in the Name of Floyd Stutheit

Dear Watermaster:

Enclosed are copies of the above-referenced applications for permit. Also enclosed are forms for your recommendation concerning these applications.

Please review the applications. We must have your comments within two weeks.

If you have any questions or need information, feel free to contact this office.

Sincerely,

Gary Spackman

GS:lm

Encl: Copy of Application
Recommendation of Watermaster Form

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SEP 19 2001



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

February 15, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

STATE OF IDAHO
DEPT OF FISH & GAME
3101 S POWERLINE RD
NAMPA ID 83686

Re: Application for Water Right No. 65-22333 in the Name of Jon Powell
Application for Water Right No. 63-31144 in the Name of Kurt Christensen
Application for Water Right No. 63-31143 in the Name of Kurt Christense
Application for Water Right No. 63-31142 in the Name of Floyd Stutheit

Dear Sir:

Enclosed are copies of the above-referenced applications that the proposed use is from surface water. Please review the applications and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if your agency desires to file a formal protest against the approval of this application(s), your written protest along with the \$25.00 protest fee must be received in this office by March 12, 2001.

If you have any questions regarding the application, please contact this office.

Sincerely,

Gary Spackman

GS:lm
Encl.

MICROFILMED

SEP 19 2001



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 15, 2001

FARMERS COOP IRRIGATION CO
PO BOX 420
PARMA ID 83660

Re: Application for Water Right No. 63-31142 in the Name of Floyd Stutheit

Dear Sir or Madam:

Enclosed is a copy of the above-referenced application for permit.

Please review the application and return any comments you might have within two weeks.

If you have any questions or need information, feel free to contact this office.

Sincerely,

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

Gary Spackman

GS:lm

Encl: Copy of Application

MICROFILMED

SEP 19 2001

02/14/2001

Legal Notice Department
Independent Enterprise
PO Box 520
Payette ID 83661

RE: Application for Permit No. 63-31142

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 03/12/2001. Your cooperation is appreciated.

Sincerely

Sue Taylor

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SEP 19 2001

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

63-31142

FLOYD STUTHEIT
33138 FORT LN
PARMA ID 83660

Point(s) of Diversion L4 SESW	S18 T06N R05W PAYETTE County	Source WASTEWATER
Point(s) of Diversion SWSE	S18 T06N R05W PAYETTE County	Source WASTEWATER
Use: IRRIGATION	03/01 To 11/15 0.2 CFS	0 AFA
Total Diversion:	0.2 CFS	

Date Filed: 01/11/2001

Place Of Use: IRRIGATION

T06N R05W S18 SESW

Number of Acres 14

Remark: Applicant agrees to mitigate consumptive use in the future as 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, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 03/12/2001. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on February 21 and 28, 2001

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SEP 19 2001

REQUEST TO PROCESS

COMPLETE REQUEST IF YOU WANT YOUR APPLICATION TO BE PROCESSED USING ONE OF THE
THREE ALTERNATIVES BELOW

Name of Applicant

FLOYD STUTHEIT

Mailing Address

33138 FORT LAKE
PARMA, ID 83666

Application No.
(if known)

____ IN LOCAL PUBLIC INTEREST

Yes, I want my application processed and before it is advertised, I will amend my application to demonstrate that the proposed appropriation is in the local public interest including the need to preserve flows in the Snake River during the migration periods of anadromous fish.

____ PROPOSE MITIGATION NOW

Yes, I want my application processed and before it is advertised, I will amend my application to include proposed mitigation to offset anticipated depletions in the Snake River during periods of anadromous fish migration.

X WILL AGREE TO MITIGATION IN THE FUTURE IF NECESSARY

Yes, I want my application processed at this time, and I will accept a condition of approval that will require mitigation should the Director of the Idaho Department of Water Resources determine that mitigation is necessary to offset depletions from this appropriation to flows in the Snake River during periods of anadromous fish migration. I understand that mitigation is not required now but may be needed in the future. I also understand that the Director will not require mitigation until I have an opportunity to review the process by which the need for mitigation is established and the amount of water required is quantified.

Signature

Floyd Stutheit

Date

1-11-01

Please return this form to:

Idaho Dept. of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705-5082

MICROFILMED

SEP 19 2001