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SEP 30 1993

Department of Water Resources

OFFICE USE ONLY

Amt. of Fee \$ 100.00

Date 10-14-93

Receipt No. C029783

Receipt by gwl

STATE OF IDAHO
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 a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 45 01678 Telephone No. 208-673 6683
2. Name(s) of Permit Holder(s): PAUL/ALTA PENROD
3. Mailing Address: PO Box 102 Albion Idaho 83311
4. Source of Water: GROUNDWATER

If GROUNDWATER, Well Driller's Name: STAN LLOYD - ALMO Date Drilled: OCT 1977
IDA Start well

OPTIONAL:

Pump horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft.): _____

5. Extent of Use (as authorized by the permit):

Domestic _____ (No. of households) Stockwater _____ (No. and type of stock)

Irrigation 33.7 (No. of acres) Other _____

6. Total rate and/or volume for which proof is submitted 0.60 cfs OR _____ acre/feet

7. Refer to the approval conditions on your permit and respond accordingly:

Measuring device: Required? Yes No Installed? Yes No

OR

Flow Measurement Port: Required? Yes No Installed? Yes No

8. Fee Enclosed: \$ 1 (See License Fee Schedule on back of Instruction Sheet)

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

Name Mrs Paul (ALTA) PENROD Telephone No. 208 673 6683

Address PO Box 102 Albion Idaho 83311

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

OCT 28 1993

9/28/93
Date

Alta Penrod
Signature (and title, if on behalf of a company or organization)

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 45-07678)
IN THE NAME OF KEVIN & KATHERINE BANNER) ORDER OF
REINSTATEMENT)

WHEREAS, the Department issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted on or before October 1, 1993; and,

WHEREAS, the Department notified the permit holder by certified mail that proof was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use; and,

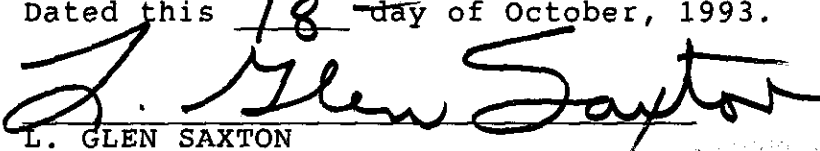
WHEREAS, the Department notified the permit holder that the permit had lapsed for failure to submit the proof of beneficial use; and,

WHEREAS, Section 42-218a of the Idaho Code provides that a permit may be reinstated upon a showing of reasonable cause within sixty days of the date of the notice of lapsing; and,

WHEREAS, the permit holder has provided a reasonable showing why the permit should be reinstated by submitting proof of beneficial use on October 14, 1993;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 45-07678 be REINSTATED with an advance in priority to September 24, 1990.

Dated this 18th day of October, 1993.


L. GLEN SAXTON
Chief, Water Allocation Bureau

OCT 28 1993



State of Idaho DEPARTMENT OF WATER RESOURCES

1301 N. Orchard St., Statehouse Mall, Boise ID 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

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OCT 14 1993

Department of Water Resources

ASSIGNMENT OF PERMIT

I, ALTA PENROD, hereby assign to KEVIN OR KATHERINE
of, 1000 102 Albion - IDA 83311 BAKKER Banner
(Full Address)

All my right, title, and interest in and to Permit No. 450768
to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to
Permit No. 450768 to appropriate the public waters of the State of Idaho.

Describe portion of the permit assigned listing the number of acres in each 40 acre
subdivision, point of diversion location, and the amount of water in cubic feet per
second.

30 acres

Made this _____ day of _____, 19____.

Alta Penrod
Applicant

State of Idaho)
County of Cassia)
SS

On this 12th day of October, 1993, personally appeared before me
the signer of the above instrument, duly acknowledged to me that he/she/they executed the same.

SEAL

Aileen G. Beckenbury
Albion Idaho Notary Public 83311

OCT 22 1993

Signature

My commission expires: 10/1/99

6/93

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 45-07678

Proposed Priority: September 11, 1990 Maximum Diversion Rate: 0.60 CFS
This is to certify, that PAUL PENROD
ALTA PENROD
PO BOX 102
ALBION ID 83311

has applied for a permit to appropriate water from: GROUNDWATER
and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	03/15 to 11/15	0.60 CFS

LOCATION OF POINT(S) OF DIVERSION: Lot 6(NWSW), Sec. 6, Township 12S, Range 25E
CASSIA County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
12S	25E	6	Lot 6(NWSW)	30		30

Total number of acres irrigated: 30

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before October 1, 1993.
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. A flow measurement port or other device as specified by the Department shall be installed by the right holder to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.
5. The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.
6. This right subject to all conditions of the Proposed Memorandum Decision and Order dated November 22, 1991.

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

15th day of January, 19 92.

JAN 23 1992


R. Keith Higginson, Director

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT
TO APPROPRIATE WATER NO. 45-7678 IN THE
OF PAUL OR ALTA PENROD

)
)
) ORDER ADOPTING
) PROPOSED MEMORANDUM
) DECISION AND ORDER
)

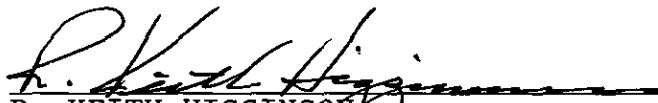
The Proposed Memorandum Decision and Order in the above captioned matter was issued and served upon the parties;

WHEREAS, more than fifteen days have passed since the service of the Proposed Memorandum Decision and Order; and,

WHEREAS, no exception to that Proposed Memorandum Decision and Order has been received;

IT IS, THEREFORE, HEREBY ORDERED that said Proposed Memorandum Decision and Order be adopted and issued as the Final Decision and Order and that the Department issue a permit to the applicant.

Dated this 15TH day of January, 1992.


R. KEITH HIGGINSON
Director

RECORDED
JAN 23 1992

CERTIFICATE OF MAILING

I hereby certify that on this 16th day of January, 1992, I mailed a true and correct copy of the Order Adopting Proposed Memorandum Decision and Order, postage prepaid, to the following individuals:

Jim Jones
Box 2225
Boise, ID 83701

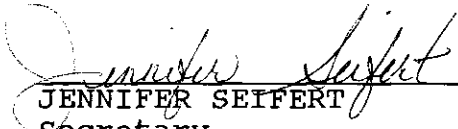
Paul and Alta Penrod
Box 102
Albion, ID 83311

Don Merrill
Box 486
Albion, ID 83311

Richard Adams
Hwy 77
Albion, ID 83311

Don Danner
Watermaster
Box 116
Albion, ID 83311

Stan Lloyd
HC 61
Box 1510
Elba, ID 83326


JENNIFER SEIFERT
Secretary

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

IN THE MATTER OF APPLICATION FOR PERMIT
TO APPROPRIATE WATER NO. 45-7678 IN THE NAME
OF PAUL OR ALTA PENROD

ORDER ISSUING
PROPOSED MEMORANDUM
DECISION

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

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

I.
EXCEPTIONS

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

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

II.
BRIEFS

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

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

JAN 23 1992

III.

A. No oral arguments before the Director on the proposed decision will be held unless specifically requested by a party filing exceptions to the proposed decision and unless that request is filed with the Director concurrently with the filing of that party's exception.

B. If oral arguments have been properly requested by a party filing exceptions, any other party, upon reasonable notice to the Director, shall have the right to present oral argument in response to the exceptions filed.

C. Oral arguments before the Director on exceptions to the proposed decision shall be heard at the discretion of the Director, pursuant to Idaho Code, Sec. 42-1701A. If oral arguments are to be heard, the Director will, within a reasonable time, notify each party of the place, date and hour the oral arguments will take place and of the period of time allocated for the arguments of this case. Unless the Director orders otherwise, all oral arguments shall be heard in Boise, Idaho.

IV.

CERTIFICATE OF SERVICE

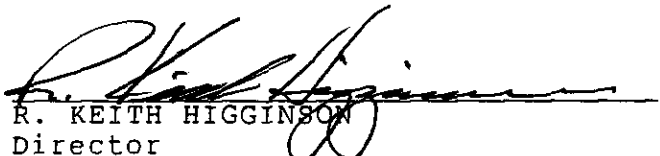
All exceptions, briefs, requests for oral argument and other matters filed with the Director in connection with the proposed decision shall be served on all other parties to these proceedings in accordance with Rule 7.2.

V.

FINAL DECISION

Following the submission of all exceptions, briefs and oral arguments, if they are heard, the Director shall issue a final decision adopting, modifying or rejecting and replacing the proposed decision. Copies of the decision and order shall be served on all parties.

Dated this 25TH day of NOVEMBER, 19 91.


R. KEITH HIGGINSON
Director

RECORDED
JAN 23 1992

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT	)	
	)	
TO APPROPRIATE WATER NO. 45-7678 IN THE	)	PROPOSED MEMORANDUM
	)	DECISION AND ORDER
NAME OF PAUL OR ALTA PENROD	)	
	)	

A hearing was held on October 2, 1991, as a result of protests against application for permit to appropriate water no. 45-7678. Testimony and evidence having been received by the Department of Water Resources, the hearing officer, as a representative of the Director of the Department of Water Resources, proposes the following findings, conclusions and order:

FINDINGS OF FACT

1. Application for permit to appropriate water no. 45-7678 proposes to divert 0.60 cubic feet per second (cfs) from ground water for irrigation of 30 acres, located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 6, T12S, R25E, B.M. The point of diversion is also located on the property.

2. Penrods own an 1875 water right which cannot be delivered during the mid-to-late summer of many years. This application is sought to supplement their existing surface water right.

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3. Notice of the application was properly printed in a newspaper of local circulation and the application was protested by Donald G. Merrill (Merrill) and Richard Adams (Adams).

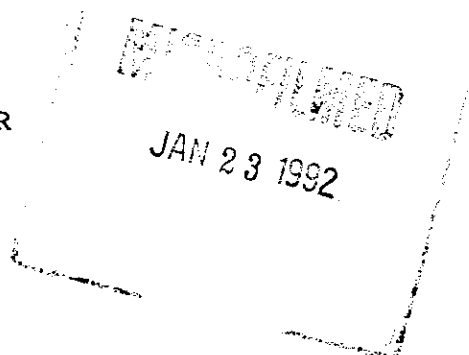
4. Merrill owns a well located one-quarter to one-half mile west of the proposed Penrod well. Adams owns an existing well located approximately one mile southwest of the proposed point of diversion.

5. Penrods propose to install a larger pump in an existing 8-inch diameter stockwater well. They anticipate that the well will only discharge 0.34 cfs (17 miner's inches) of water.

6. Both Merrill and Adams claim that increased diversion from the Penrod well will reduce the water level in their wells, and will cause a corresponding reduction in the output of their wells.

7. The direction of ground water flow in the Marsh Creek drainage moves generally in a northeasterly direction. The wells owned by Merrill and Adams are both located up-gradient from the Penrod well.

8. At least two wells with larger diversion capacity than Penrods' well are located up-gradient of and closer to the protestants' wells. Ron Sorenson owns a well located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12, T12S, R24E, B.M. George Kelly owns a well located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, T12S, R25E, B.M.



9. Adams testified that pumping from his well must be curtailed in the late part of the irrigation season because his pump begins to draw air when pumping at full capacity.

10. The bowls of Adams' are set at a depth of 75 feet. Adams does not know the static water level in his well, nor does he know the pumping water level in his well. Adams' late summer well production may be caused by pump bowls set at insufficient depth. When there is a fairly insignificant drop in water level, the pump may begin drawing air.

11. Well logs in the area show static water levels in the area at a depth between 10 feet and 40 feet. None of the well logs show a static water level approaching 75 feet.

12. No evidence of pumping drawdowns was submitted.

13. Declines in production could also be attributed to local interference from nearby wells or to a general lowering of water levels caused by drought and pumping.

14. Merrill recently reconstructed his wells and set the pump bowls at sufficient depth so he can pump at full capacity for the entire year. He testified that discharge from his well does not fluctuate during the irrigation season.

15. Another neighboring well owner, Sorenson, also testified that the flows from his well decline late in the irrigation season. The testimony does not establish whether Sorenson's production problem is related to local interference, general declines in water levels, or whether his pump is not set deep

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enough to draw the pumping elevation down to the level necessary to draw sufficient water.

16. The Kelly well is located within one-quarter mile of Sorenson. Sorenson testified that the operation of the Kelly well does not affect his well, even though it is located approximately one-quarter mile from his well.

17. Penrods have not experienced reduction in the flow rate of their stockwater well.

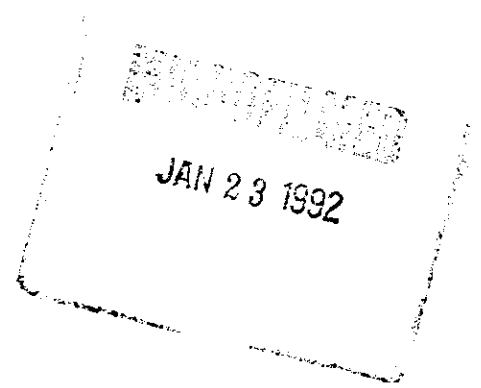
18. The Sorenson, Adams, and Kelly wells are all located within a quarter-mile of each other. Both Sorenson and Adams are experiencing reductions in pumping capacity.

19. Merrills and Penrods are not experiencing reductions in pumping rates from their wells during late summer. The characteristics of their wells are dissimilar to the Adams and Sorenson wells.

20. The applicants can pay for the renovation.

21. The applicants intend, on approval of this application, to immediately renovate the well.

22. The parties, particularly Merrill and Penrods, have been embroiled in a dispute of delivery of surface water rights from Marsh Creek for a long period of time. Penrods felt that Merrill diverts and uses more surface water than he is entitled to use. Merrill feels that he has only diverted that water to which he is entitled.



23. The approval of this application, and the use of ground water to supplement irrigation of Penrods' land, would alleviate a long standing dispute between the parties, and would allow Penrods to irrigate their pasture after the surface water is no longer available.

24. The sprinkler system proposed by Penrods is consistent with practices of conservation of water within the State of Idaho.

25. This application proposes the diversion of trustwater.

26. Withdrawal of water approved by this application will not cause a significant reduction in flows of the Snake River at Murphy Gauge.

CONCLUSIONS OF LAW

1. Idaho Code § 42-203A(5) states in part as follows:

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

JAN 29 1992

2. Rule 4,4,2,1. of the Water Appropriation Rules and Regulations states that the applicant shall bear the initial burden of coming forward with evidence of the evaluation of criteria (a) through (d) of Idaho Code § 42-203A.

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

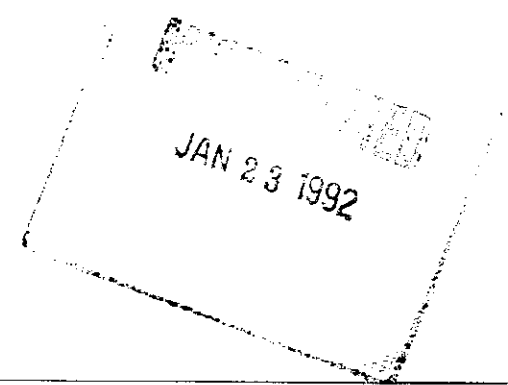
4. The water levels of the Penrod and Merrill wells do not fluctuate as the level of the Adams and Sorenson wells fluctuate, and appear to have a remote hydrologic connection. The Penrod application seeks diversion of a small quantity of supplemental water which likely will not affect nearby wells.

5. Testimony from Penrods established that there is sufficient water at the location of their existing well for the use proposed.

6. The applicant has sufficient financial resources to complete the project.

7. This application is not filed for purposes of speculation and delay.

8. The use of ground water to supplement surface water supply for the latter months will improve the productivity of the applicant's pasture, and will also resolve the long standing water delivery controversy between Merrills and Penrods.



9. The proposal by the applicants is consistent with principles of conservation of the water of the State of Idaho.

10. The use of water proposed by this application satisfies the provisions of Sections 42-203C and 42-203D, Idaho Code.

ORDER

IT IS HEREBY ORDERED that application for permit to appropriate water no. 45-7678 is APPROVED with the following conditions:

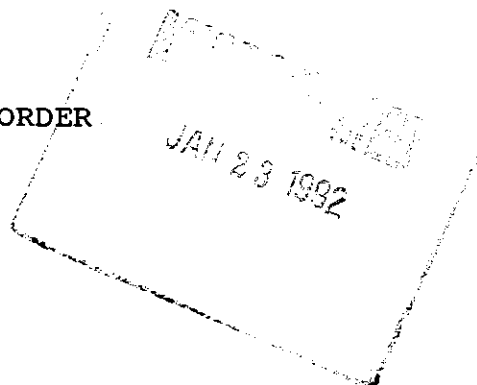
1. Proof of construction of works and application of water to beneficial use shall be submitted on or before October 1, 1993.

2. Use of water under the permit is subject to all prior water rights.

3. Permit holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

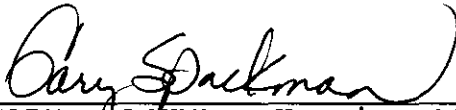
4. The Director retains jurisdiction of the permit and any license subsequently issued to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and ground water rights.

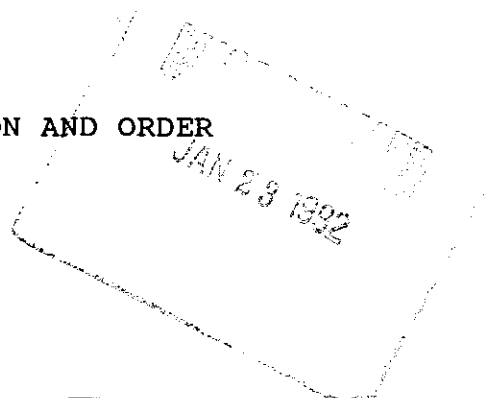
5. Any license issued by IDWR pursuant to the permit or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.



6. Diversion and use of trustwater under this right is subject to an annual fee if rules are subsequently promulgated which provide for the submittal of the fee.

Dated this 22nd day of November, 1991.


GARY SPACKMAN, Hearing Officer
Department of Water Resources



CERTIFICATE OF MAILING

I hereby certify that on the 25th day of November, 1991, I mailed a true and correct copy of the Proposed Memorandum Decision and Order, and the Order Issuing Proposed Memorandum Decision, postage prepaid, to the following individuals:

Jim Jones
Box 2225
Boise, ID 83701

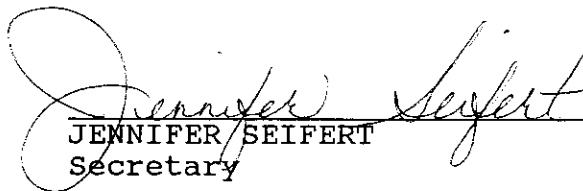
Paul and Alta Penrod
Box 102
Albion, ID 83311

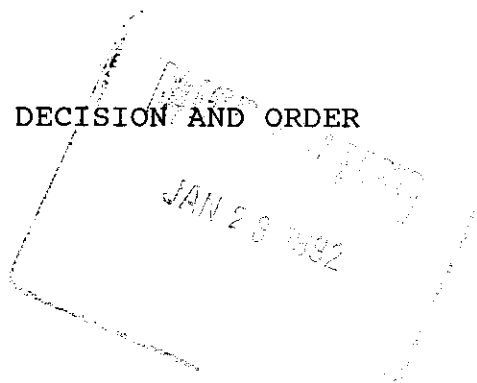
Don Merrill
Box 486
Albion, ID 83331

Richard Adams
Hwy 77
Albion, ID 83311

Don Danner
Watermaster
Box 116
Albion, ID 83311

Stan Lloyd
HC 61
Box 1510
Elba, ID 83326


JENNIFER SEIFERT
Secretary



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant MR OR MRS (ALTA) PENROD Phone 673-6683
Post office address PO Box 102 Albion IDA 83311
2. Source of water supply Groundwater which is a tributary of _____
3. Location of point of diversion is _____ ¼ of ^{NW}~~NE~~ ¼ of SW ¼, Govt. Lot 6
Sec. 6 Township 12S Range 25E B.M. Cassia County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 0.60 for Irrigation purposes from 3/15 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) 0.60 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. Existing Well, pump, mainline
to sprinklers to be installed
 - b. Height of storage dam N/A 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~~ ^{Existing} well diameter is 8" inches; ~~proposed~~ ^{Existing} depth of well is 165 feet.
 - d. Is ground water with a temperature of greater than 90°F being sought? No
7. Time required for the completion of the works and application of the water to the proposed beneficial use is
2 years (minimum 1 year).

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

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

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	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
12S	25E	6										Lot 6 30							30

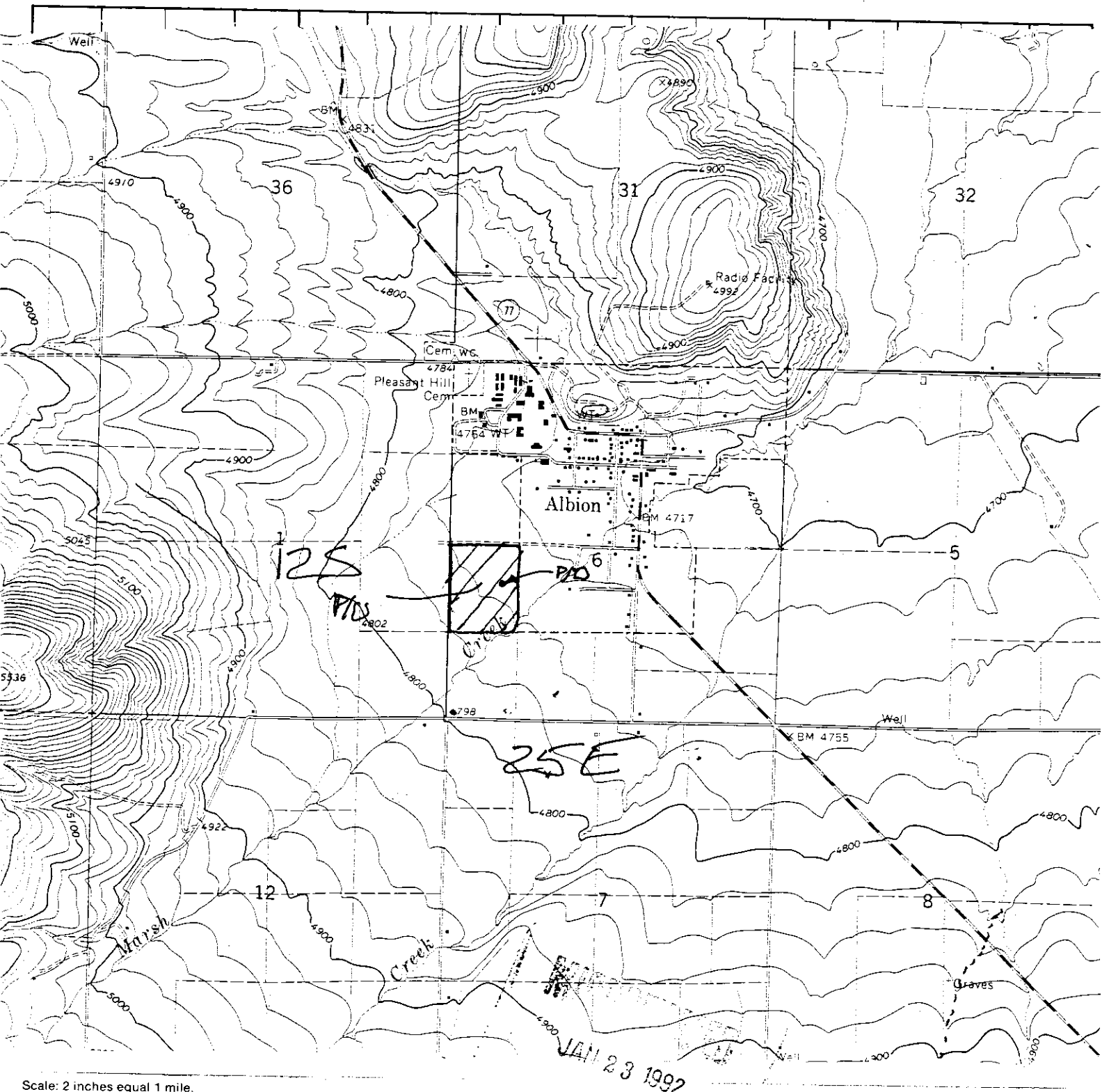
Total number of acres to be irrigated 30

10. Describe any other water rights used for the same purposes as described above. 45-030813

11. a. Who owns the property at the point of diversion? Applicant
- b. Who owns the land to be irrigated or place of use? Applicant
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: Well was drilled in 1977 for stockwater, this irrigation will supplement decreed water

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



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

Mrs. Paul (Gita) Durod
(Applicant)

Received by DRJ Date 9/11/90 Time 10:10 Preliminary check by JF Stanton
Fee \$ 45.00 Receipted by DRJ # 5012648 Date 9/11/90
Publication prepared by BLM Date 4-24-91 Published in Smiths Falls Press
Publication approved TJA Date 5-16-91

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 ____.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
- e. Other:

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JAN 23 1992

SOUTH IDAHO PRESS

BURLEY, IDAHO

AFFIDAVIT OF PUBLICATION

NOTICE OF APPLICATION FOR TRUST WATER RIGHT

45-07678

PENROD, PAUL

PENROD, ALTA

P.O. BOX 102

ALBION, ID 83311

Source: GROUNDWATER

Division Pt: LOT 6 (NWSW) Sec 6 T 12S R

25E

Use: IRRIGATION (.600 CFS)

Total Diversion: (.600 CFS)

Date Filed: 9/11/1990

In: T12S R25E S06 Lot 6 (NWSW)

30.0 ACRES TOTAL

The permit(s) will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code and/or the new public interest criteria of Sec. 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 222 Shoshone St. East, Twin Falls, Idaho 83301 on or before MAY 20, 1991.

/s/ R. Keith Higginson, Director
Published in the South Idaho Press on May 3 and 10, 1991.

County of Cassia,
STATE OF IDAHO }

ss.

MONIQUE SORNS being first
duly sworn, deposes and says that She
is the CLERK of the South
Idaho Press, a daily newspaper published
at Burley, Idaho, in the county aforesaid
and that the paper is of general circulation
therein. Deponent further states that the
printed notice attached hereto was duly
published according to law in the regular
editions of The South Idaho Press for two
consecutive weeks, commencing with the
issue dated May 3 19 91, and
ending with the issue dated May 10,
19 91. Monique Sorns

STATE OF IDAHO

COUNTY OF CASSIA }

On this 15 day of May in the year of 1991, before me,
a Notary Public, personally appeared _____,
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.

Dolores Mahay
Notary Public for Idaho

Residing at Burley ID

My commission expires: 2/4/93

Cost of Publication: 25.92

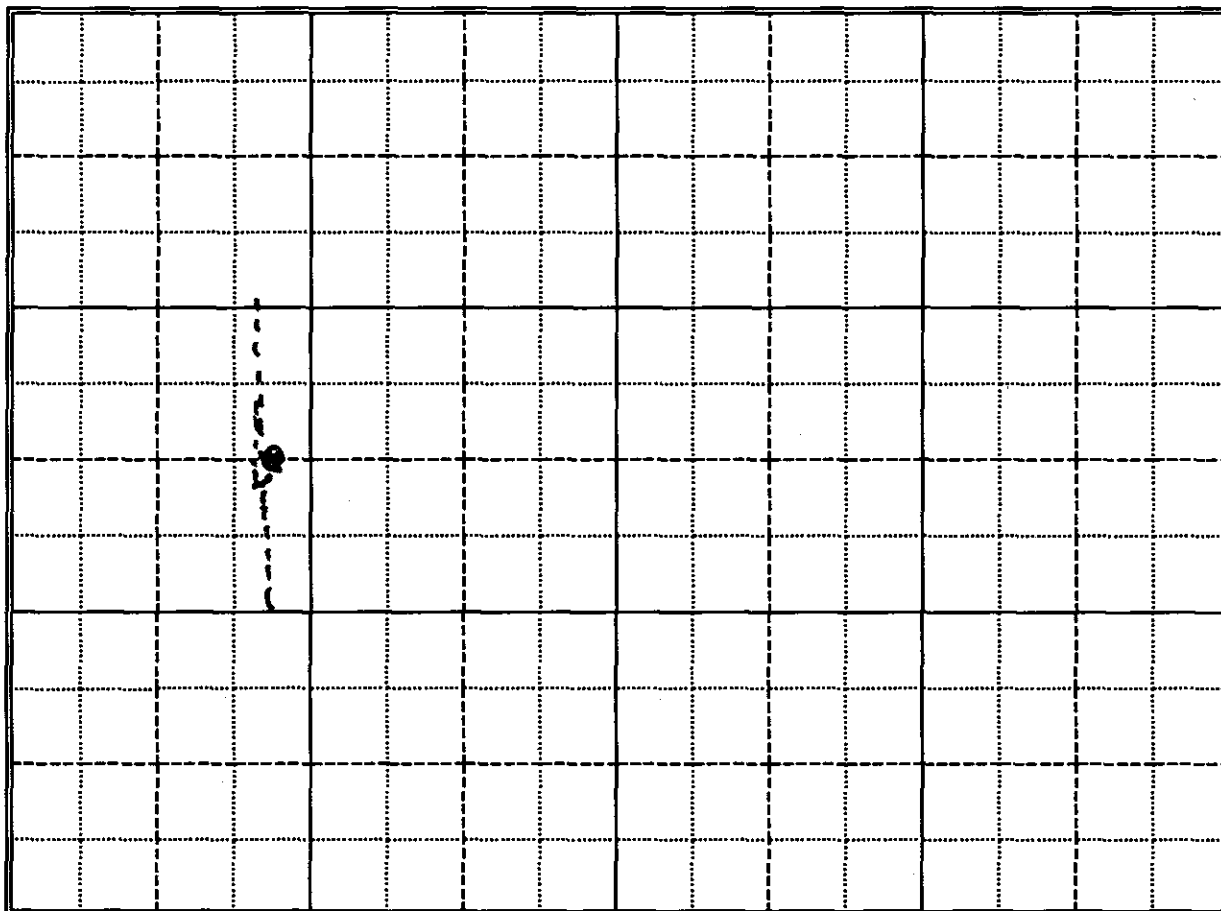
Notary Fee: .50

Total Cost: 26.42

JAN 22 1992

[illegible]

3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable.



Scale: 1" = _____

☒ Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

☒ Aerial Photo Attached (required for irrigation of 10+ acres)

☒ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	Franklin	20	?	Gould	Model 225H20-6

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements: Not measured. Pump rated for ³¹⁰~~220~~ gpm at ~~205'~~ ^{45 psi} TDH (pumping level about 60') per Funk Irrigation Co. of American Falls.

E. NARRATIVE/REMARKS/COMMENTS

Well, submersible motor & pump, mainline to handlines w/ Rainbird sprinklers. Land is in pasture grass instead of row crops. Lot 6 is 33.7 acres. All but about 1 acre is irrigated. Permit is for 30 acres, so 30 acres is recommended as the place of use. Well supplements Marsh Creek decreed water, which is often cut off in mid-summer. or 0.02 cfs/acre

Not to exceed ~~4.0~~ 4.0 AFA/acre for all rights combined on this land. Watermaster has stated that this property would have surface water available for at least 90 days each year, and often more. Thirty inches of water for 90 days = 107.1 AFA. With only 120 AFA allowable for 30 acres, it appears that the well is not used very much. Therefore, any proposed transfer of this well to other property would probably constitute an expansion. Mr. Banner has not had this property long enough to establish a long-term usage pattern for this well, he is a dentist, not a farmer. The original owner (Mr. Penrod) is deceased.

Have conditions of permit approval been met? ☒ yes ☐ no

F. FLOW CALCULATIONS

Measured Method:

Pump rated 0.69 $\frac{\text{cfs}}{\text{sec}}$ ☒ Additional Computation Sheets Attached

Not measured. ~~Theoretical capacity is 1.10 cfs. Allow 30 gcs x 0.02 cfs/gc~~
= 0.60 cfs.

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 30 \times 4 = 120$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = 0.60 \times 214 \times 1.9835 = 254.7$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = 120.0 \text{ AFA}$$

2. Volume Calculations for Other Uses:

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
Irrigation	4-1	10-31	0.60	120.0
Totals:			0.60 cfs	120.0 AFA

2. Recommended Amendments

☐ Change P.D. as reflected above ☐ Add P.D. as reflected above ☒ None
☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ Other

I. AUTHENTICATION

Field Examiner's Name JE Stanton Date 10-17-95

Reviewer _____ Date _____

SEAL

Albion, Idaho
5-13-91

Director R. Keith Higginson,
Dept. of Water Resources

RECEIVED

MAY 15 1991

Department of Water Resources
Southern Region Office

We the undersigned wish to make a
protest against the filing for ground
water application # 45-07678 for Paul
and Alta Penrod.

We feel it could lower the water level
on our existing wells.
They have an 1875 water right for 26" on
30 acres on Marsh Creek.

Donald G Merrill
Box 486
Albion, Idaho
83311

Lillian J. Colman

HY W. 77.

ALBION, IDA.

45-7678

orig sent to S.O. 5/15/91

RECEIVED

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

NOV 26 1991

Department of Water Resources
Southern Region Office

IN THE MATTER OF APPLICATION FOR PERMIT
TO APPROPRIATE WATER NO. 45-7678 IN THE NAME
OF PAUL OR ALTA PENROD

ORDER ISSUING
PROPOSED MEMORANDUM
DECISION

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

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

I.
EXCEPTIONS

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

1. be received by the Director on or before the 15th day following the day of service of this Order and the proposed decision,

2. specifically identify the portions of the proposed decision to which exceptions are made and specifically state the grounds for those exceptions, and

3. be sent to each of the parties who appeared or their attorneys.

II.
BRIEFS

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

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

45-7678

III.

A. No oral arguments before the Director on the proposed decision will be held unless specifically requested by a party filing exceptions to the proposed decision and unless that request is filed with the Director concurrently with the filing of that party's exception.

B. If oral arguments have been properly requested by a party filing exceptions, any other party, upon reasonable notice to the Director, shall have the right to present oral argument in response to the exceptions filed.

C. Oral arguments before the Director on exceptions to the proposed decision shall be heard at the discretion of the Director, pursuant to Idaho Code, Sec. 42-1701A. If oral arguments are to be heard, the Director will, within a reasonable time, notify each party of the place, date and hour the oral arguments will take place and of the period of time allocated for the arguments of this case. Unless the Director orders otherwise, all oral arguments shall be heard in Boise, Idaho.

IV.

CERTIFICATE OF SERVICE

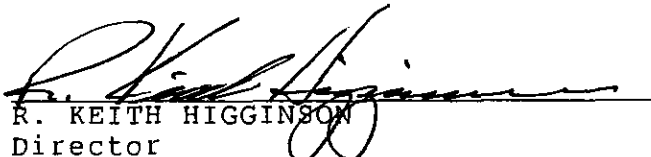
All exceptions, briefs, requests for oral argument and other matters filed with the Director in connection with the proposed decision shall be served on all other parties to these proceedings in accordance with Rule 7.2.

V.

FINAL DECISION

Following the submission of all exceptions, briefs and oral arguments, if they are heard, the Director shall issue a final decision adopting, modifying or rejecting and replacing the proposed decision. Copies of the decision and order shall be served on all parties.

Dated this 25TH day of NOVEMBER, 19 91.


R. KEITH HIGGINSON
Director

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT	)	
	)	
TO APPROPRIATE WATER NO. 45-7678 IN THE	)	PROPOSED MEMORANDUM
	)	DECISION AND ORDER
NAME OF PAUL OR ALTA PENROD	)	
	)	

A hearing was held on October 2, 1991, as a result of protests against application for permit to appropriate water no. 45-7678. Testimony and evidence having been received by the Department of Water Resources, the hearing officer, as a representative of the Director of the Department of Water Resources, proposes the following findings, conclusions and order:

FINDINGS OF FACT

1. Application for permit to appropriate water no. 45-7678 proposes to divert 0.60 cubic feet per second (cfs) from ground water for irrigation of 30 acres, located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 6, T12S, R25E, B.M. The point of diversion is also located on the property.

2. Penrods own an 1875 water right which cannot be delivered during the mid-to-late summer of many years. This application is sought to supplement their existing surface water right.

3. Notice of the application was properly printed in a newspaper of local circulation and the application was protested by Donald G. Merrill (Merrill) and Richard Adams (Adams).

4. Merrill owns a well located one-quarter to one-half mile west of the proposed Penrod well. Adams owns an existing well located approximately one mile southwest of the proposed point of diversion.

5. Penrods propose to install a larger pump in an existing 8-inch diameter stockwater well. They anticipate that the well will only discharge 0.34 cfs (17 miner's inches) of water.

6. Both Merrill and Adams claim that increased diversion from the Penrod well will reduce the water level in their wells, and will cause a corresponding reduction in the output of their wells.

7. The direction of ground water flow in the Marsh Creek drainage moves generally in a northeasterly direction. The wells owned by Merrill and Adams are both located up-gradient from the Penrod well.

8. At least two wells with larger diversion capacity than Penrods' well are located up-gradient of and closer to the protestants' wells. Ron Sorenson owns a well located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12, T12S, R24E, B.M. George Kelly owns a well located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, T12S, R25E, B.M.

9. Adams testified that pumping from his well must be curtailed in the late part of the irrigation season because his pump begins to draw air when pumping at full capacity.

10. The bowls of Adams' are set at a depth of 75 feet. Adams does not know the static water level in his well, nor does he know the pumping water level in his well. Adams' late summer well production may be caused by pump bowls set at insufficient depth. When there is a fairly insignificant drop in water level, the pump may begin drawing air.

11. Well logs in the area show static water levels in the area at a depth between 10 feet and 40 feet. None of the well logs show a static water level approaching 75 feet.

12. No evidence of pumping drawdowns was submitted.

13. Declines in production could also be attributed to local interference from nearby wells or to a general lowering of water levels caused by drought and pumping.

14. Merrill recently reconstructed his wells and set the pump bowls at sufficient depth so he can pump at full capacity for the entire year. He testified that discharge from his well does not fluctuate during the irrigation season.

15. Another neighboring well owner, Sorenson, also testified that the flows from his well decline late in the irrigation season. The testimony does not establish whether Sorenson's production problem is related to local interference, general declines in water levels, or whether his pump is not set deep

enough to draw the pumping elevation down to the level necessary to draw sufficient water.

16. The Kelly well is located within one-quarter mile of Sorenson. Sorenson testified that the operation of the Kelly well does not affect his well, even though it is located approximately one-quarter mile from his well.

17. Penrods have not experienced reduction in the flow rate of their stockwater well.

18. The Sorenson, Adams, and Kelly wells are all located within a quarter-mile of each other. Both Sorenson and Adams are experiencing reductions in pumping capacity.

19. Merrills and Penrods are not experiencing reductions in pumping rates from their wells during late summer. The characteristics of their wells are dissimilar to the Adams and Sorenson wells.

20. The applicants can pay for the renovation.

21. The applicants intend, on approval of this application, to immediately renovate the well.

22. The parties, particularly Merrill and Penrods, have been embroiled in a dispute of delivery of surface water rights from Marsh Creek for a long period of time. Penrods felt that Merrill diverts and uses more surface water than he is entitled to use. Merrill feels that he has only diverted that water to which he is entitled.

23. The approval of this application, and the use of ground water to supplement irrigation of Penrods' land, would alleviate a long standing dispute between the parties, and would allow Penrods to irrigate their pasture after the surface water is no longer available.

24. The sprinkler system proposed by Penrods is consistent with practices of conservation of water within the State of Idaho.

25. This application proposes the diversion of trustwater.

26. Withdrawal of water approved by this application will not cause a significant reduction in flows of the Snake River at Murphy Gauge.

CONCLUSIONS OF LAW

1. Idaho Code § 42-203A(5) states in part as follows:

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

2. Rule 4,4,2,1. of the Water Appropriation Rules and Regulations states that the applicant shall bear the initial burden of coming forward with evidence of the evaluation of criteria (a) through (d) of Idaho Code § 42-203A.

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

4. The water levels of the Penrod and Merrill wells do not fluctuate as the level of the Adams and Sorenson wells fluctuate, and appear to have a remote hydrologic connection. The Penrod application seeks diversion of a small quantity of supplemental water which likely will not affect nearby wells.

5. Testimony from Penrods established that there is sufficient water at the location of their existing well for the use proposed.

6. The applicant has sufficient financial resources to complete the project.

7. This application is not filed for purposes of speculation and delay.

8. The use of ground water to supplement surface water supply for the latter months will improve the productivity of the applicant's pasture, and will also resolve the long standing water delivery controversy between Merrills and Penrods.

9. The proposal by the applicants is consistent with principles of conservation of the water of the State of Idaho.

10. The use of water proposed by this application satisfies the provisions of Sections 42-203C and 42-203D, Idaho Code.

ORDER

IT IS HEREBY ORDERED that application for permit to appropriate water no. 45-7678 is APPROVED with the following conditions:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before October 1, 1993.

2. Use of water under the permit is subject to all prior water rights.

3. Permit holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

4. The Director retains jurisdiction of the permit and any license subsequently issued to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and ground water rights.

5. Any license issued by IDWR pursuant to the permit or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.

6. Diversion and use of trustwater under this right is subject to an annual fee if rules are subsequently promulgated which provide for the submittal of the fee.

Dated this 22nd day of November, 1991.



GARY SPACKMAN, Hearing Officer
Department of Water Resources



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

January 16, 1992

RECEIVED

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

JAN 27 1992

Department of Water Resources
Southern Region Office

Paul and Alta Penrond
Box 102
Albion, ID 83311

RE: Application for Permit to Appropriate Water No. 45-7678 in
the Name of Paula or Alta Penrod

Dear Mr. and Mrs. Penrod:

Please find enclosed a copy of the Order Adopting Proposed
Memorandum Decision and Order on the above referenced permit.

Any party who disagrees with the decision of the Director
may request a rehearing before the Director within twenty (20)
days or may appeal to the district court within thirty (30) days
from the date this decision is mailed.

Sincerely,

Gary Spackman

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

45-7678

RESOURCES RECEIVED

JAN 17 1992

Department of Water Resources
Southern Region Office

ORDER ADOPTING
PROPOSED MEMORANDUM
DECISION AND ORDER

Dated this 15TH day of January, 1992.


R. KEITH HIGGINSON
Director

CERTIFICATE OF MAILING

I hereby certify that on this 16th day of January, 1992, I mailed a true and correct copy of the Order Adopting Proposed Memorandum Decision and Order, postage prepaid, to the following individuals:

Jim Jones
Box 2225
Boise, ID 83701

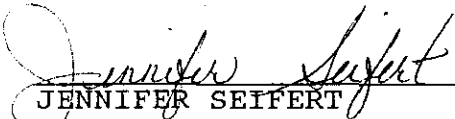
Paul and Alta Penrod
Box 102
Albion, ID 83311

Don Merrill
Box 486
Albion, ID 83311

Richard Adams
Hwy 77
Albion, ID 8331

Don Danner
Watermaster
Box 116
Albion, ID 83311

Stan Lloyd
HC 61
Box 1510
Elba, ID 83326


JENNIFER SEIFERT
Secretary

GROUNDWATER MEASUREMENT REQUIREMENT ANALYSIS

FILE: 45-07678
DATE: 10-4-75
BY: JE Stanton

THEORETICAL RATE OF FLOW: $Q = \frac{(8.8) \times (\text{H.P.}) \times (\text{EFF.})}{\text{TDH}}$

Q = CFS
H.P. = Total Brake Horsepower of pumping plant (including booster)
EFF. = Pumping plant efficiency (ASSUME 70% OR 0.70)
TDH = total dynamic head = [(LIFT) + (PSI X 2.31)]
LIFT = depth to water in FEET from land surface to pumping water level
PSI = pumping pressure measured in psi near pump (if open discharge assume zero [0])

$Q = \frac{(8.8) (\text{20}) (0.70)}{[(\text{36 60}) + (\text{45} \times 2.31)]}$ = 0.75 337 gpm
1.10 cfs

LIFT FROM:	PSI FROM:	NOTES ON PUMP:
measurement (x)	measurement ()	Motor Make, Serial or ID
owner ()	owner ()	
area estimate ()	estimate ()	Pump Make, Serial or ID, rating
well logs (w)	owner gage (x)	
Booster (Y) (N)		

REMARKS Pump rated 310 gpm under above conditions.

ANNUAL VOLUME ANALYSIS

POTENTIAL Acre Feet/Acre/Annum = $\frac{(\text{DAYS IN SEASON}) \times (1.98) \times (Q)}{(\text{RECOMMENDED ACRES IRRIGATED})}$

(season)	(days)	
3/15 - 11/15	246	
4/1 - 11/1	215	
4/15 - 10/15	184	
3/1 - 12/1	276	

POTENTIAL = $\frac{(\text{214}) \times (1.98) \times (\text{0.67})}{(\text{30})}$

POTENTIAL = 9.8

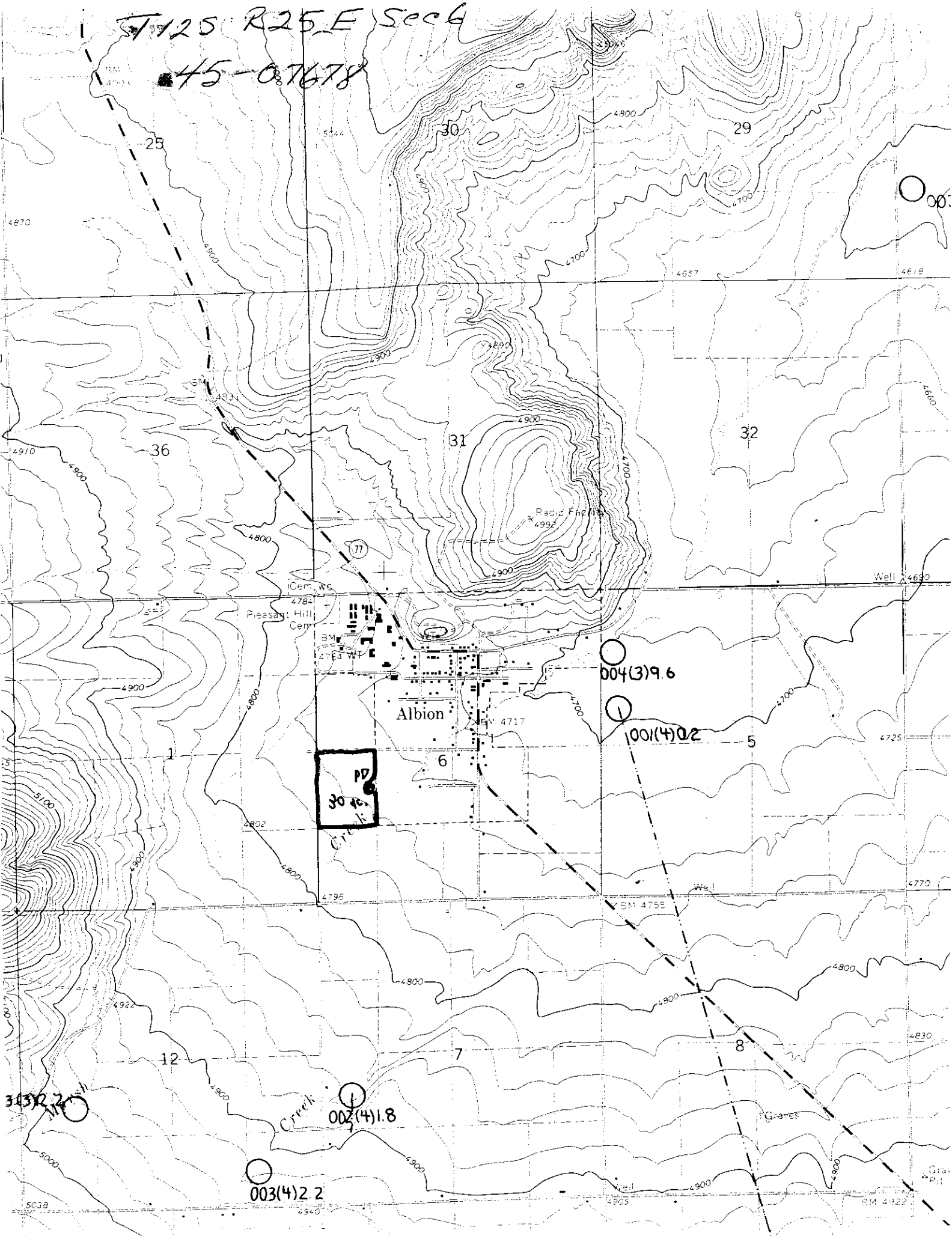
REQUIRED Acre Feet/Acre/Annum = 4.0
(AF/Ann/Ac irrigation requirement from chart for area)

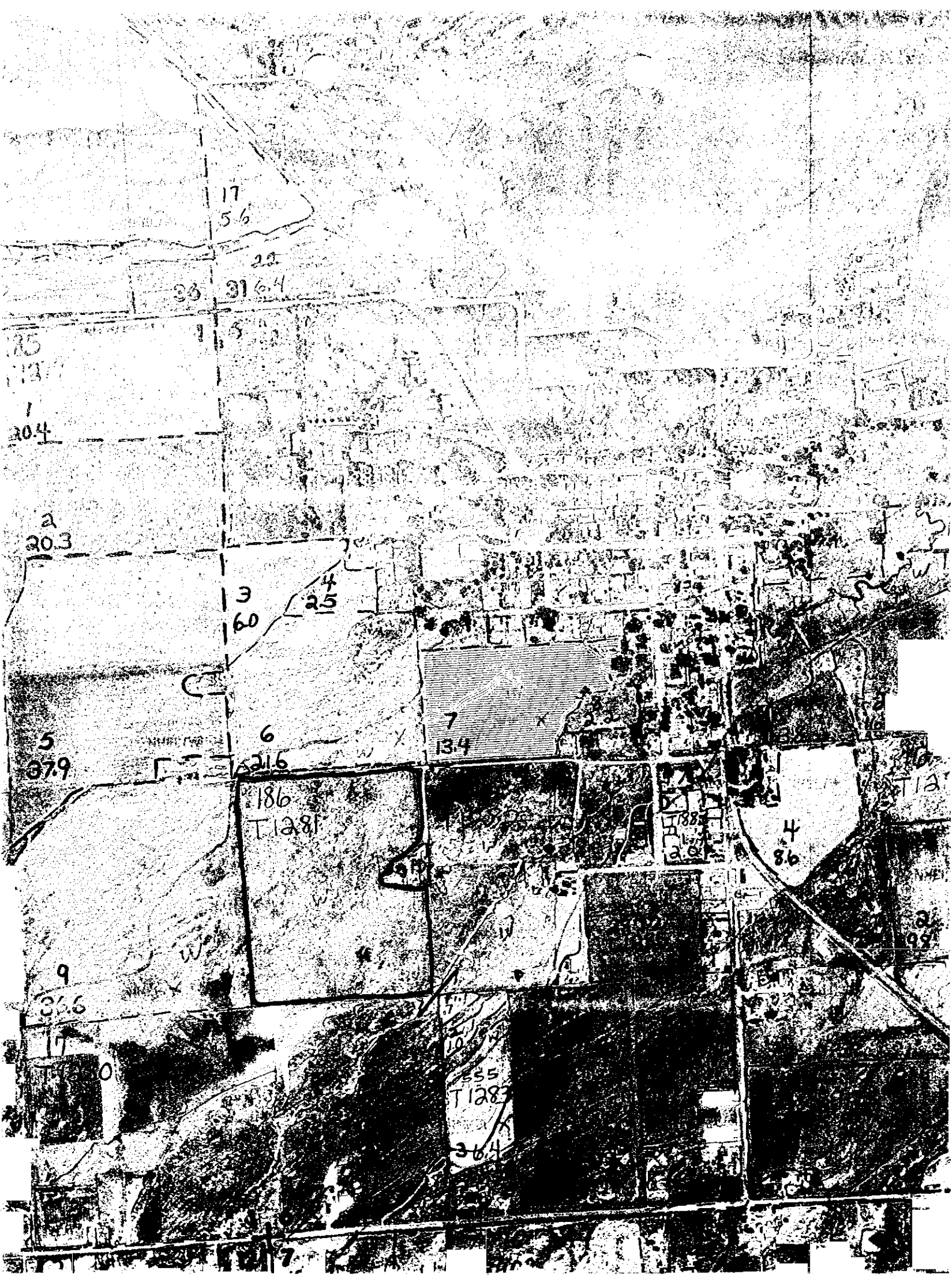
NOTE that this is NOT Consumptive use

IF POTENTIAL IS GREATER THAN REQUIRED THEN NO MEASUREMENT NECESSARY ()

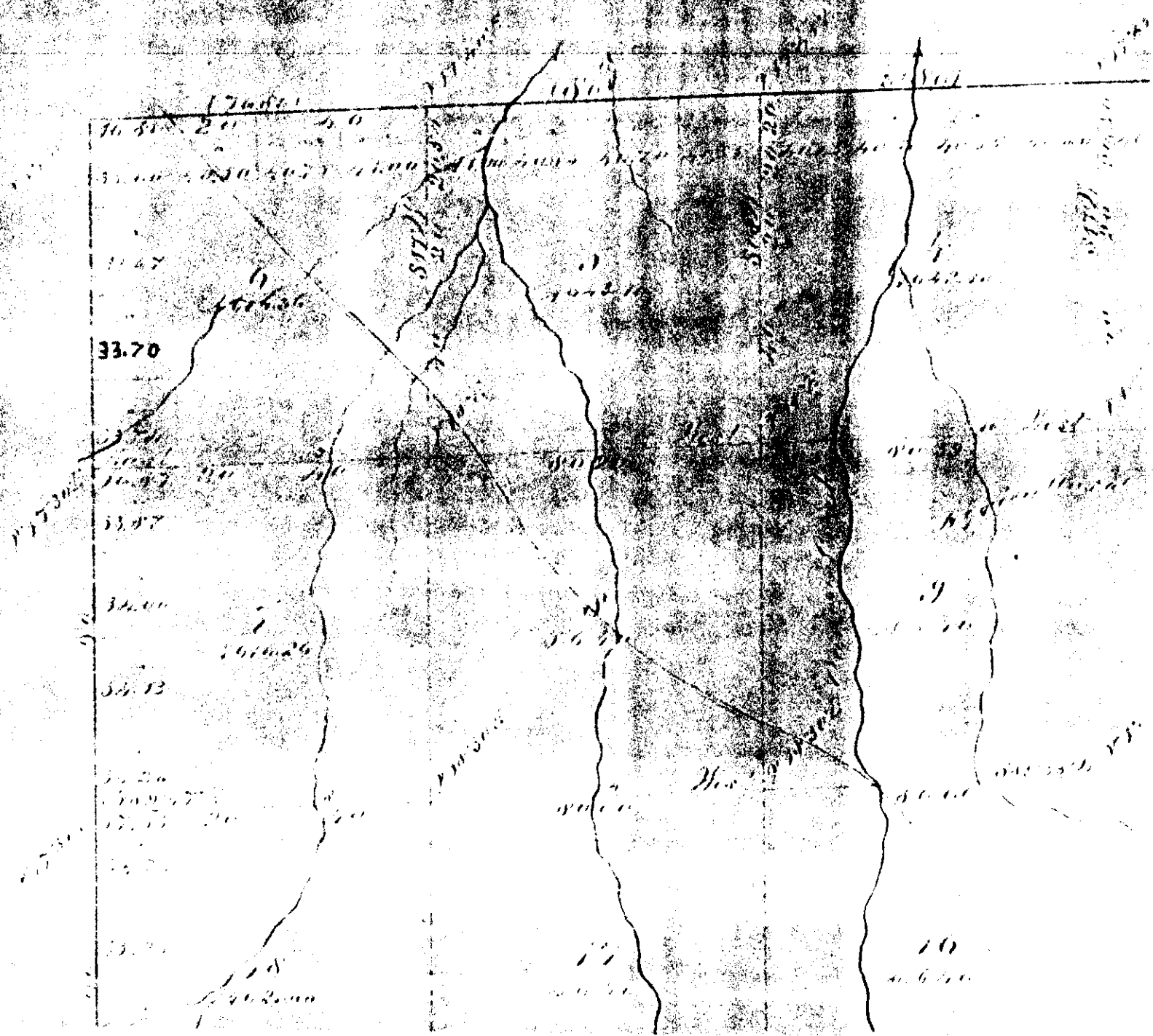
IF POTENTIAL IS LESS THAN REQUIRED THEN MEASUREMENT IS NECESSARY ()

45-07678





Township 12/2 South Range



45-07678

P/D



P/U



45-7678

October 22, 1993

KEVIN BANNER
KATHERING BANNER
PO BOX 102
ALBION ID 83311

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 45-07678

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. Enclosed is an order advancing the priority of the permit since the proof was received after the proof due date. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

I note that the permit issued to you by the department requires the installation of a flow measurement port to allow the department to determine the rate of diversion. The proof which you submitted does not show that you have installed this equipment.

The installation of the flow measurement port must be complete by the time the department representative conducts the examination of your system unless the department has rescinded the requirement prior to the field examination. In some cases, the equipment requirement can be rescinded because the equipment cannot be physically installed, is not appropriate or can be accommodated with other measuring methods.

If you have questions concerning this matter, please feel free to contact the SOUTHERN Regional Office in Twin Falls at (208)736-3033.

Sincerely,

Karen L. Gustafson
Senior Secretary

1040
OCT 28 1993

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 45-07678

Reviewed by Klg Date 10/15/93

GENERAL CONSIDERATIONS

TYPES OF USE

yes Name same as permit?
yes Address same as permit?
no Proof timely received? Correct Uses? yes
If not, complete calculation below.

SOURCE OF WATER

 Surface water source
 ✓ Ground water source
 NA Drilling permit required?
10/17 / Copy in the file? Drilling Permit No.
 / Amount paid for permit Correct?
 / Well log in the file?

LICENSE EXAMINATION FEE

yes Required?
100 Amount Submitted
yes Correct?

MEASURING DEVICE

yes Required?
no Installed?
no Waiver requested?

PRIORITY CALCULATION

Date proof received 10/14/93 287
Date proof due 10/1/93 - 274
No. of days late = 13
Priority Date 9/11/90 + 254
New Priority Date 9/24/90 267

DEFICIENCIES OR ACTION ITEMS

proof acceptable

flow & order

DATA ENTRY

New Address

Proof Made 10/14/93 10/22/93 Klg



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

October 15, 1993

Kevin and Katherine Banner
PO Box 102
Algion, ID 83311

Re: Permit No. 45-07678

Dear Permit Holder:

The Department acknowledges receipt of the correspondence and assignment of permit form transferring ownership of the above referenced water right to you. The Department has modified our computer records to reflect this change in ownership.

If you have any questions or if I can be of any further assistance, please feel free to contact me.

Sincerely,

Karen L. Gustafson
Senior Secretary

C: IDWR - Regional Office

RECEIVED

OCT 28 1993

October 6, 1993

PAUL PENROD
ALTA PENROD
PO BOX 102
ALBION ID 83311

LAPSE NOTICE

RE: PERMIT NO. 45-07678

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced permit has lapsed and is of no further force nor effect. The department provided the proper forms to you in our proof due notice dated July 31, 1993. No further construction or additional development is authorized under this permit unless it is reinstated.

The permit can only be reinstated if you submit an acceptable proof of beneficial use or an acceptable request for extension of time to the department within sixty (60) days of the mailing of this lapse notice. An acceptable proof of beneficial use submittal must include the examination fee or a completed field examination report. A request for extension of time must be accompanied by a fifteen dollar (\$15) fee.

Enclosed again for your use are a proof of beneficial use form and a request for extension of time form. Please note that only one extension of time can be granted unless the project has not been completed because of lack of a necessary approval by a government agency or by litigation which may bring title to the water in question.

L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosures

CERTIFICATION OF MAILING

I hereby certify that on 10/6/93
~~a copy~~ an original of this document was
deposited in the United States mail,
postage prepaid addressed to the
individual(s) named above.

RECEIVED

OCT 28 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

October 4, 1993

Paul & Alta Penrod
PO Box 1020
Albion, ID 83311

Re: Permit No. 45-07678

Dear Permit Holder:

Returned is the proof of beneficial use you submitted to this office. Unfortunately, it is unacceptable as filed. In order for the Department to complete processing, further information is required. You failed to complete #6 (total rate and/or volume) properly. Since the Department cannot determine from this information exactly how much water you are diverting, we can only inform you of the amount appropriated on your permit. Your permit was issued for 0.60 cfs. I have enclosed a copy of your permit in case you have misplaced the original that was mailed to you on January 22, 1992.

When you divert more than 0.04 cfs, a license examination fee applies. A \$100 license examination fee applies to a water right which diverts 0.60 cfs. I have enclosed a copy of the license examination fee schedule for your convenience.

Furthermore, you indicate in your correspondence to the Department, that you have sold the property to another party. Do you wish this party to obtain the water rights as well? If so, you will need to complete the enclosed assignment form so that the new owner of the property will also be the owner of the water right. If you wish to retain ownership of the water right, simply discard the enclosed assignment form.

Since your permit lapsed on October 1, 1993, it is imperative that you return the properly completed form and applicable fee as soon as possible. Your permit will be of no further force nor effect on December 1, 1993.

RECEIVED

OCT 28 1993

If you have any questions or if I can be of any further assistance,
please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Karen L. Gustafson".

Karen L. Gustafson
Senior Secretary

Enclosure

OCT 28 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

RECEIVED

SEP 30 1993

Department of Water Resources

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

July 31, 1993

PAUL PENROD
ALTA PENROD
PO BOX 102
ALBION ID 83311

PROOF DUE NOTICE

RE: PERMIT NO. 45-07678

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before October 1, 1993. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

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

SINCERELY,

Karen L. Gustafson

Karen L. Gustafson
Secretary/Records Manager

Enclosures

1993

On May 10th/12th the
33.7 acre was sold
to Kevin Banner DDS
1010 E Main
BORLEY-Idaho
83318

Am an abundance of
creek water the sprinkler can y

Dear Ms Gustafson:
My husband Paul Bernadacci
away May 12-1992
Enclosing copy of the well testing
and cost of sprinkler system -
Mike Mathews of Deb rented the pasture
in 1992 - used the sprinkler from July 20-92
to Sept-1992 -

OCT 28 1993

PO Box 102
Alta, Ida
9/28/93

July 31, 1993

PAUL PENROD
ALTA PENROD
PO BOX 102
ALBION ID 83311

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Karen L. Gustafson
Secretary/Records Manager

Enclosures



OCT 28 1993



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CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 22, 1992

PAUL PENROD
ALTA PENROD
PO BOX 102
ALBION ID 83311

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 45-07678

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. We direct your attention to the conditions of approval on the final page.

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. You will receive a "Proof Due Notice" from this Department approximately 60 days prior to the completion date requiring you to file either a Proof of Beneficial Use form stating that the project has been completed or file a Request for an Extension of Time in which to file the proof statement.

Be sure to note the special condition requiring you to install a measuring device. Enclosed, for your reference, is a list of of measuring device options.

Section 42-235, Idaho Code, requires that a "drilling permit" must be obtained from the department for all wells constructed after July 1, 1987. A drilling permit is a separate permit that must be issued in addition to your permit to appropriate water. Commencement of well construction or diversion of water under your permit to appropriate water is prohibited unless a drilling permit is obtained.

This permit authorizes the appropriation of trust water. Trust water is defined as that portion of a particular hydropower water right which exceeds certain minimum stream flows established by state action, and is held in trust by the State of

3 1992

Idaho for the use and benefit of the people within the state.
Conditions pertaining to a term review, annual use fee and
jurisdiction of the permit are trust water conditions.

Sincerely,

PAMELA SKAGGS
Technical Records Specialist

PS:blm

Enclosures

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JAN 23 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

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CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 16, 1992

Jim Jones
Box 2225
Boise, ID 83701

RE: Application for Permit to Appropriate Water No. 45-7678 in
the Name of Paula or Alta Penrod

Dear Mr. Jones:

Please find enclosed a copy of the Order Adopting Proposed
Memorandum Decision and Order on the above referenced permit.

Any party who disagrees with the decision of the Director
may request a rehearing before the Director within twenty (20)
days or may appeal to the district court within thirty (30) days
from the date this decision is mailed.

Sincerely,

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

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

RECEIVED
JAN 28 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 16, 1992

Don Merrill
Box 486
Albion, ID 83311

RE: Application for Permit to Appropriate Water No. 45-7678 in
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Dear Mr. Merrill:

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CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 16, 1992

Don Danner
Watermaster
Box 116
Albion, ID 83311

RE: Application for Permit to Appropriate Water No. 45-7678 in
the Name of Paula or Alta Penrod

Dear Mr. Danner:

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GS:js

Enclosure

MAILED

JAN 23 1992



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CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 16, 1992

Paul and Alta Penrond
Box 102
Albion, ID 83311

RE: Application for Permit to Appropriate Water No. 45-7678 in
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Dear Mr. and Mrs. Penrod:

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GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

RECORDED

JAN 23 1992



State of Idaho

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CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 16, 1992

Richard Adams
Hwy 77
Albion, ID 83311

RE: Application for Permit to Appropriate Water No. 45-7678 in
the Name of Paula or Alta Penrod

Dear Mr. Adams:

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Water Right Permits Section

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CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 16, 1992

Stan Lloyd
HC 61
Box 1510
Elba, ID 83326

RE: Application for Permit to Appropriate Water No. 45-7678 in
the Name of Paula or Alta Penrod

Dear Mr. Lloyd:

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Water Right Permits Section

GS:js

Enclosure

JAN 27 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

November 25, 1991

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

Don Danner
Watermaster
Box 116
Albion, ID 83311

Dear Mr. Danner:

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

Respectfully,

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

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

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State of Idaho

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November 25, 1991

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R. KEITH HIGGINSON
DIRECTOR

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Hwy 77
Albion, ID 83311

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November 25, 1991

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

Don Merrill
Box 486
Albion, ID 83311

Dear Mr. Merrill:

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DIRECTOR

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Albion, ID 83311

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GARY SPACKMAN, Manager
Water Right Permits Section

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GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

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JAN 23 1992

JAN 23 1952

Penrod Hearing
45-7678
October 2, 1991

Jones

Alta Penrod

Pasture is 33.7 acres in size
Owned property since 1947 - owned ever since
26" of March, 1875 water -
Received water when -

Stock well drilled in 1977

1981 — Ten years ago - Snyder asked to remove water
from Marsh Creek Channel .

was when
records
changed

Depth to water -

Want to run 25 sprinklers - can water the
pasture - so they can rent the pasture -
Used only when deuced water will be shut off -
Stanley Lloyd of Elba drilled the well -
\$7400 for the well -

Plan to move ahead with project -
Will complete quickly -

Has money to drill the well

Well has produced for stock -

Pasture is called the slaughterhouse pasture
Have a 12 foot deep pasture -

JAN 23 1992

How much does
stock well
pump

How much
does it
draw down

Merrill well is just less than $\frac{1}{2}$ mile
west of the proposed well.

(locate)

Adams well is $\frac{1}{2}$ mile south of the
Merrill well -

Sorensen well is one mile southwest
of the Perrod well -

Tom Asher has another well -
has no objection to the well -

No problem with Dick Adams -

Root of problem 1975 water is shut off
Merrill irrigates land he's not entitled to.
~~that~~ Wants to be done with the conflict -

starts surging
40-58 inches
of
bowls at
240 feet

Ron Sorenson $\longleftrightarrow$

Half mile south of Dick Adams -

Irrigates 120 acres -

1987 redrilled

Kyle DeNaughel Roy, Utah - well log
would be in this named

well was 320 feet deep -

drilled to 720? feet deep -

Follows the surface water -

22 feet in the summer

pump is set at 40 feet of depth
When house well drilled

How deep
is water
level -
80 inches
at start
48-50
inches at
the end

WIND FILLED

JAN 23 1992

No objection to Perrod applications -

George Kelley's well - 1963 -
42 acres -

Deepened the well - 1987 or 1988

Improved -

Well $\frac{1}{4}$ mile SE of of Sorenson
well -

Didn't notice difference between the well -
Land Creek flows between -
1979 priority for his well

Stanley Lloyd - Elba Idaho - Well driller
rancher as well drilling for 27-28 years -

Experience in area - not much in Albion -

Well of Perrods - 8" in diameter

165 feet deep 153 feet case unperforated

& static level 34 feet -

70 gpm - 4 feet of drawdown -

45-139 feet was best water bearing zone -

~~Perrods~~

Reasonable \$7393 for reconstructing well

Cost estimate is pump & accessories -

One new wire -

Eight year contract -

JAN 23 1992

Amount of water needed 144 gal/min.
or 17 inches - 0.34 cfs

No test over 70 gpm - but he thinks
it will do it -

Water structure in area - valleys in
various places are similar -

No or very little effect on other wells -
Area may be somewhat isolated -

Affect at distance would be minimal -

Adams X Exam

Minimum effect -

Isn't there in the ~~spring~~ fall - is there
in the fall -

165 feet deep -

Wells might draw down -

Wells in mountain valleys often draw down
Pumps two wells at his place -

Near the mountains - glacial clay till
stream channels cut in valley produce water
better -

MICROFILMED

JAN 23 1992

[Don Merrill -

Applied for a new well -

would have drilled in SW corner -

would be enlarging beyond an inch -

water cut off at times

Should be divided equally -

Draw wells down

Well pump last fall - new bowls -

X-Exam

Sorensen's well & Kelly may be affecting his well -

First crack at water - under his property first -

Get the conflict over - measured water

53-54 priority -

drilled 400 feet deep -

26 inches -

July 19, 1991 →

35-40 feet - static water level -
construction during spring

No fluctuation that he has notice -

Bowls set at 135 feet -

Does not know drawdown

Perforated casing -

RECORDED

JAN 23 1992

Well tested in 1961 or 1962 -
Not tested in 1988 or 1990

1990 - 20 inches of water $\leftrightarrow$

Dick Adams

Good water in spring - drops off -
- 1976 priority - 179 feet deep -

Sherm Couch -

Bowls 75 feet deep $\rightarrow$

Pumping at 75 feet in the fall
starts dropping birds off -

22 inches when well first drilled -

No measurement of water.

Perforated casing -

3/16 inch -

Jones statement -

Located downgradient -

Downgradient folks downstream won't affect
others

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JAN 23 1992

1111

0007 Preliminary Recitations
 0144 Jones - Direct Exam - Alta Pentad
 0898 Adams - Cross Exam
 0983 Mettill - " "
 1100 Jones - Direct Exam - Ron Sotenson
 1260 Htg officer Q -
 1412 Jones - Direct - Stan Lloyd
 1688 Adams - Cross Exam " "
 Mettill " " " "
 1759 Jones Re-Direct " "
 1900 Htg off. Questions " "
 1990 Direct Testimony - Don Mettill
 2088 Jones - Cross Exam " "
 2224 Htg officer Questions " "
 Jones - Questions " "
 2492 Direct Testimony - Adams
 2540 Htg officer Questions "
 2736 " " " Stan Lloyd
 2775 " " " Alta Pentad.
 2821 Jones closing statement

MICROFILMED

JAN 23 1992



45-7373
Seri Sorensen
3.68 CAs
2/22/1979

45-4235
45-7434
45-10560

45-2679

Exhibit (2)

SO BX10
ALBION
83311
9/25/91

Jim Jones - City -

Dear Mr. Jones -

Enclosed are the maps
obtained from HSC officer at
Barley.

Tom Asher - T1288

- Red Dot Represents
Asher's well.

Asher's well approx $\frac{1}{4}$ mile
from Penrod's well.

PAD Penrod's

T 1281

JAN 23 1992

- Blue/Black Dot Penrod's well
on 2 maps

Don Merrill

T 1279

- Orange Dot Merrill's well - Penrod
Not quite $\frac{1}{2}$ mile apart
on 2 maps

Penrod
#2.

Dick Adams # T 1250

- Green Dot Adams well
Adams on a map.

Rev Sorensen/HARRY DeNAUGHEL
T 1277

DO NOT KNOW EXACT LOCATION
OF WELL BUT WOULD SAY
IT IS NEAR LETTERS NHE 11.1

For some there is another
well located between Asher and
Penrod - WAS DRILLED when
JAY Nielsen was "TOP MAN" AT the
D. L. EVAN'S BANK in Albion
Drilled jointly by Nielsen JAN 23 1892
AND MAX HUBER - WAS NOT
USED UNTIL 2 yrs ago when
Leo Bell LEASED the LAND
AND Tom McKenzie of Albion
either Drilled deeper or CLEANED
AND Cased - property has been
purchased - BUT DO NOT KNOW

Penrod
3

The Name of new owner -
well handles about 15 to 20
sprinklers.

This well is approx half
way between Asher & Penrod.

Have not been able to talk
with Asher or Ron Sorenson.

Ron has no objection to
Penrod developing the well.

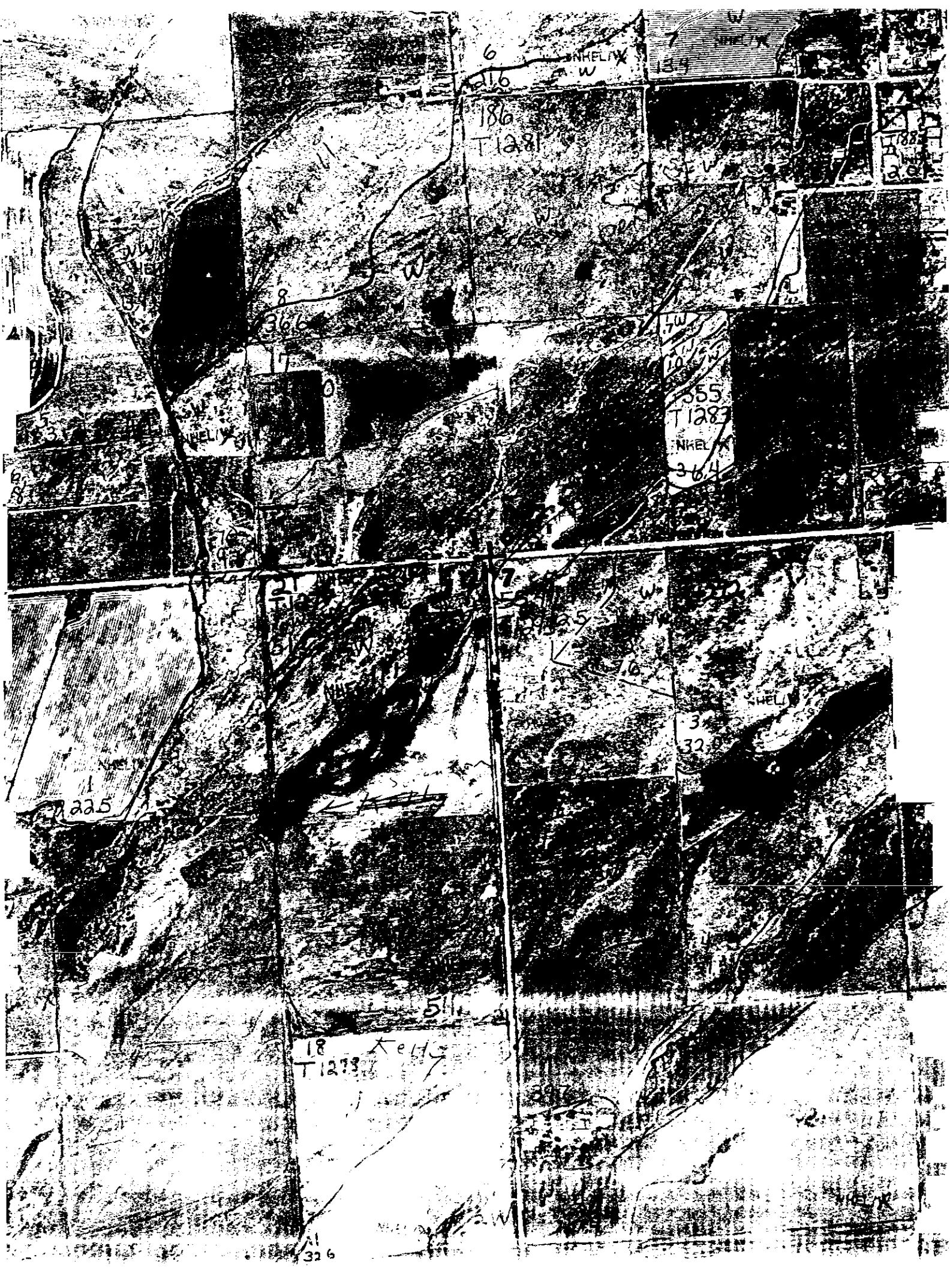
the blue mark is not
correct - a black circle -

Thank you

Gita Jensen

Ron said he will attend the
hearing.

JAN 23 1992



Hearing tape & Exhibits
for file # 45-7678 in the
name of Paul & Alta Perrod

RECEIVED

JAN 23 1992

STATE OF IDAHO
DEPT. OF WATER RESOURCES
1301 N. ORCHARD
BOISE, IDAHO 83706

45-7678

Paul Penrod and/or Alta Penrod
P.O. Box 102
Albion, ID 83311

45-7678

Jim Jones, Attorney
P.O. Box 2225
Boise, ID 83701

45-7678

Donald G. Merrill
P.O. Box 486
Albion, ID 83311

45-7678

Richard Adams
Hwy 77
Albion, ID 83311

MICROFILMED

JAN 23 1992

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

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

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

3. Article Addressed to:

45-7678

PAUL &/OR ALTA PENROD
PO BOX 102
ALBION ID 83311

Alta Penrod

2651 82 NOV

4. Article Number

1188

Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery

9/23/91

8. Addressee's Address (ONLY if requested and fee paid)

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

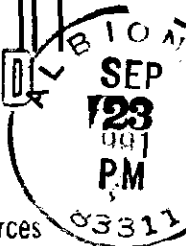
Print your name, address and ZIP Code in the space below.

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

RECEIVED

SEP 24 1991

Department of Water Resources
Southern Region Office



PENALTY FOR PRIVATE
USE, \$300

RETURN

TO

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

JAN 23 1992

IDAHO DEPT. OF WATER RESOURCES
SOUTHERN REGION
222 S. 2nd Street East
Twin Falls, ID 83301

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

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

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

3. Article Addressed to: 45-7678

JIM JONES ATTORNEY
PO BOX 2225
BOISE ID 83701

JAN 23 1992

4. Article Number

1189

Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt
for Merchandise

Always obtain signature of addressee
or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery
SEP 23 1991

Addressee's Address (ONLY if
requested and fee paid)

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OFFICIAL BUSINESS

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

RECEIVED

SEP 24 1991

Department of Water Resources
Southern Region Office



PENALTY FOR PRIVATE
USE, \$300

RETURN

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

TO

JAN 23 1992

DEPT OF WATER RESOURCES

2201 N. 1st Street
Boise, ID 83701

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

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

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

3. Article Addressed to 45-7678

DONALD G MERRILL
PO BOX 486
ALBION ID 83311

JAN 23 1992

RECEIVED

4. Article Number

1190

Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED

5. Signature - Addressee

X Donald G Merrill

6. Signature - Agent

X

7. Date of Delivery

9/24/91

8. Addressee's Address (ONLY if requested and fee paid)

RECEIVED

SEP 25 1991

Department of Water Resources

Southern Region Office
DOMESTIC RETURN RECEIPT

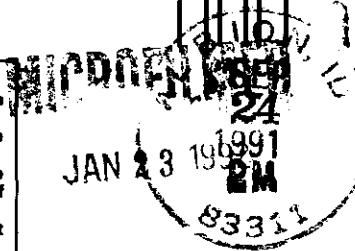
UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

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



PENALTY FOR PRIVATE
USE, \$300

**RETURN
TO**



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

PHILADELPHIA OFFICIAL RESOURCES
622 S. 10th St. 1st Fl.
Twin Falls, ID 83801

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

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

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

3. Article Addressed to: 45-7678

RICHARD ADAMS

HWY 77

ALBION ID 83311

JAN 23 1992

RECEIVED

4. Article Number

1191

Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X

Mary Yeaman

7. Date of Delivery

9-23-91

8. Addressee's Address (ONLY if requested and fee paid)

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

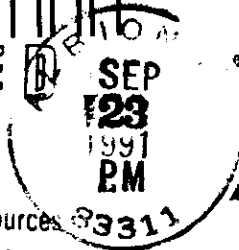
Print your name, address and ZIP Code in the space below.

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- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RECEIVED

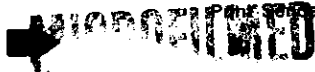
SEP 24 1991

Department of Water Resources
Southern Region Office



POSTAGE AND FEE
USE, \$300

RETURN
TO



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

IDAHO DEPT. OF WATER RESOURCES
SOUTHERN REGION
222 Shoshone Street East
Twin Falls, ID 83301

NAME AND
ADDRESS
OF SENDER

Indicate type of mail
☐ Registered
☐ Insured
☐ COD
☒ Certified ☐ Express Mail

Check appropriate block for
Registered Mail:
☐ With Postal Insurance
☐ Without Postal Insurance

Affix stamp here if issued as
certificate of mailing or for
additional copies of this bill.

POSTMARK AND DATE OF R

Line	Number of Article	Name of Addressee, Street, and Post-Office Address	Postage	Fee	Handling Charge	Act. Value (if Regis.)	Insured Value	Due Sender if C.O.D.	R. R. Fee	S. D. Fee	S. H. Fee
1	1187	SHIRMAN CONSTRUCTION 210 W. 1st St. S.W. Burley ID 83318	.29	1.00	1.00	2.29					
2	1188 ✓	Paul/Alta Penrod 45-7678/24 9-20-91	.29	1.00	1.00	2.29					
3	1189 ✓	Jim Jones, Atty.									
4	1190 ✓	Ronald Merrill, WM									
5	1191 ✓ (4)	Richard Adams									
6											
7											
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11											
12											
13											
14											
15											
Total Number of Pieces Listed by Sender		Total Number of Pieces Received at Post Office	POSTMASTER, PER (Name of receiving employee)			The full declaration of value is required on all domestic and international. The maximum indemnity payable for nonnegotiable documents under Ex- ment reconstruction insurance is \$50,000 per piece subject to a limit o occurrence. The maximum indemnity payable on Express Mail merchand \$500. The maximum indemnity payable is \$25,000 for Registered Mail, \$4 \$400 for Insured Mail. Special handling charges apply only to Third- an parcels. Special delivery service also includes special handling service.					

PS Form 3877, Feb. 1991 REGISTERED, INSURED, C.O.D., CERTIFIED, AND EXPRESS MAIL

JAN 23 1992

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

★ U.S. GOVERNMENT PRINTING OFFICE:

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

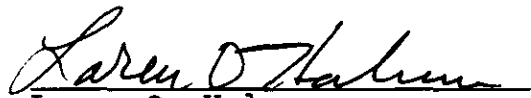
IN THE MATTER OF APPLICATION	)	NOTICE OF HEARING
FOR PERMIT TO APPROPRIATE	)	
WATER NO. 45-07678	)	
Paul Penrod and/or Alta Penrod,	)	
Applicants	)	SOURCE: Groundwater
Donald G. Merrill,	)	COUNTY: Cassia
Richard Adams,	)	
Protestants	)	

On September 11, 1990, Paul Penrod and/or Alta Penrod, applicants, applied to the Department of Water Resources to appropriate the public waters of the State of Idaho. On May 15, 1991, the Department received a protest against the approval of said application from Donald G. Merrill and Richard Adams.

The Department has set the matter of protest for conference and/or hearing for Wednesday, October 2, 1991, at 1:00 PM, at the Albion City Hall, Albion.

The hearing will be held in accordance with chapter 2, Title 42 of the Idaho Code and the adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded to all parties to respond and present evidence and argument on all issues involved.

Dated this 20 day of September, 1991.


Loren O. Holmes
Southern Region Manager

MICROFILMED

JAN 23 1992

IN THE MATTER OF A PROTESTED APPLICATION FOR PERMIT

In accordance with IDAHO CODE, Section 42-203, the following issues are involved in consideration of the application and protest(s):

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

BURDEN OF PROOF

The Applicant has the initial burden of proof on issues 1,2,3,4,& 6 above, that is, the applicant has the burden of coming forward with evidence for evaluation of those criteria.

The initial burden of proof on issue 5, local public interest, lies with the both the applicant and protestant as to factors which they are most knowledgeable and cognizant of. The applicant has the ultimate burden of persuasion with respect to this issue.

PROCEDURE

The procedure normally followed by the department in arriving at a decision on the issues which must be considered is to first hold a conference in the matter and then, if necessary, hold a hearing. If a hearing is held a written decision is issued based on the hearing record.

CONFERENCE

Preliminary to holding a hearing, a pre-hearing conference is held to familiarize the department and the parties with the matter and to determine if a resolution of the protest(s) is possible without the need for a hearing.

At the conference the department may formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

HEARING

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be issued and the parties will be afforded the opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by IDAHO CODE, Section 42-1701A.

The parties by written stipulation, may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not prejudice the director's review of a party's evidence and arguments. However, such a waiver will shorten the decision making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the District Court.

Under the provisions of the IDAHO CODE, Sections 42-1701A and 67-5215, any court review of the department's decision on appeal shall be confined to the record created before the department.

EFFECT OF FAILURE TO APPEAR AT A CONFERENCE OR HEARING

Failure to appear at the time and place set for a conference or hearing by the applicant or protestant(s) may allow the department to dismiss without prejudice the protest(s) on the application. Any and all cost incurred by reason of such non-appearance may be assessed against the non-appearing party.

JAN 23 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

06-Sep-1991

R. KEITH HIGGINSON
Director

Paul Penrod and/or Alta Penrod
P.O. Box 102
Albion, ID 83311

Re: Tentative hearing date for application 45-7678

Dear Mr. And Mrs. Penrod:

The parties in this matter have indicated a desire to waive the normal pre-hearing conference and proceed directly with a hearing.

I am tentatively scheduling the hearing for October 2, 1991 in Albion.

Notices will be served about September 20 unless I am advised of a conflict.

Sincerely,

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

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

Encl: Copy of protest

RECEIVED

SEP 23 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

06-Sep-1991

R. KEITH HIGGINSON
Director

Jim Jones, Attorney
P.O. Box 2225
Boise, ID 83701

Re: Tentative hearing date for application 45-7678

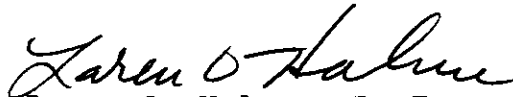
Dear Mr. Jones:

The parties in this matter have indicated a desire to waive the normal pre-hearing conference and proceed directly with a hearing.

I am tentatively scheduling the hearing for October 2, 1991 in Albion.

Notices will be served about September 20 unless I am advised of a conflict.

Sincerely,


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

Encl: Copy of protest

RECEIVED

JAN 23 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

06-Sep-1991

R. KEITH HIGGINSON
Director

Donald G. Merrill
P.O. Box 486
Albion, ID 83311

Re: Tentative hearing date for application 45-7678

Dear Mr. Merrill:

The parties in this matter have indicated a desire to waive the normal pre-hearing conference and proceed directly with a hearing.

I am tentatively scheduling the hearing for October 2, 1991 in Albion.

Notices will be served about September 20 unless I am advised of a conflict.

Sincerely,

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

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

RECEIVED

JAN 23 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

06-Sep-1991

R. KEITH HIGGINSON
Director

Richard Adams
Hwy 77
Albion, ID 83311

Re: Tentative hearing date for application 45-7678

Dear Mr. Adams:

The parties in this matter have indicated a desire to waive the normal pre-hearing conference and proceed directly with a hearing.

I am tentatively scheduling the hearing for October 2, 1991 in Albion.

Notices will be served about September 20 unless I am advised of a conflict.

Sincerely,

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

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

MISSING
FILED

JAN 23 1992

Of Counsel
Benoit, Alexander, Sinclair
Doerr, Harwood & High
126 2nd Avenue North
Twin Falls, Idaho 83301
(208) 734-3345

Jim Jones
Attorney
960 Broadway, Suite 310
Boise, Idaho 83706
(208) 385-9200

Mailing Address:
P.O. Box 2225
Boise, Idaho 83701
Fax: (208) 385-9599

September 4, 1991

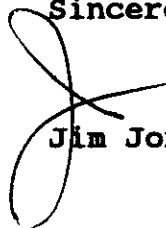
Mr. Loren O. Holmes, P.E.
Southern Region Manager
Idaho Department of Water Resources
222 Shoshone Street East
Twin Falls, ID 83301

Re: Application of Paul and Alta Penrod for Trust Water
Right (45-07678)

Dear Loren:

I have spoken with Donald Merrill, one of the protestants with respect to the above-noted application, and he indicates that a conference between the parties would do no good. Therefore, I would request that the conference option be dispensed with and that this matter go directly to a contested hearing. On behalf of the Penrods, I would request, additionally, that the matter be set for hearing at an early date. Your assistance is much appreciated.

Sincerely,



Jim Jones

JTJ/tg

RECEIVED

SEP 05 1991

Department of Water Resources
Southern Region Office

RECEIVED

JAN 23 1992

Albion, Idaho
5-13-91

Director R. Keith Heggins,
Dept. of Water Resources

RECEIVED

MAY 15 1991

Department of Water Resources
Southern Region Office

We the undersigned wish to make a
protest against the filing for ground
water application # 45-07678 for Paul
and Alta Penrod.

We feel it could lower the water level
on our existing wells.

They have an 1875 water right for 26" on
30 acres on Marsh Creek.

Donald & Merrill
Box 486
Albion, Idaho
83311

Lickens Adams

HY W. 77.

ALBION, IDA.

MICROFILMED

JAN 23 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
State Office
1301 North Orchard St.

Statehouse Mail
Boise, Idaho 83720
(208) 327-7900

APRIL 24, 1991

South Idaho Press
Box 190
Burley, ID 83318

Dear Legal Dept.:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before MAY 20, 1991.

Yours truly,

BRENDA L. MILLER
Clerical Specialist

Encl.

RECEIVED

JAN 23 1992

NOTICE OF APPLICATION FOR TRUST WATER RIGHT

45-07678

PENROD, PAUL
PENROD, ALTA
P.O. BOX 102
ALBION, ID 83311

Source: GROUNDWATER

Diversion Pt: LOT 6 (NWSW) Sec 6 T 12S R 25E

Use: IRRIGATION (.600 CFS)
Total Diversion: (.600 CFS)

Date Filed: 9/11/ 1990

In: T12S R25E S06 Lot 6 (NWSW)

30.0 ACRES TOTAL

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code and/or the public interest criteria of Sec. 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, Statehouse Mail, Boise, Idaho 83720 on or before MAY 20, 1991.

R. KEITH HIGGINSON, Director

Published 5/ 3/1991 & 5/10/1991

RECORDED
JAN 23 1992

MEMORANDUM

TO: FILE

FROM: TIM LUKE

RE: APP. NO. 45-7678/Trust Water Processing

DATE: 4-16-91

The above application has come up for sequential trust water processing. The applicant returned the trust water questionnaire and states that the project represented by the application has not been developed, but that the groundwater source will be supplemental to surface water diversions and decreed rights.

I am personally familiar with the applicants decreed surface water rights as a result of a long ongoing dispute between the applicant and other users on the Vaughn Ditch. I know that the 30 acres owned by the applicant and described in this groundwater application has been continuously irrigated with the decreed rights. Since the new application is a supplemental filing, the acreage will not count as trust acreage.

RECEIVED

JAN 28 1991



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

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

RECEIVED
CECIL DEAN DRUS
GOVERNOR
R. KEITH MAGINSON
DIRECTOR

April 10, 1991

APR 15 1991

RE: APPLICATION FOR PERMIT NO. 45-7678

Dear APPLICANT:

Department of Water Resources

Due to the Swan Falls litigation and subsequent backlog of pending applications, Department approval of the enclosed application may have been delayed. The Department is presently reviewing your application and may authorize the proposed development.

The purpose of this letter is to determine: (1) if you are still interested in developing the project, and (2) the extent of development, if any, that has already occurred under the application. Enclosed are two forms requesting information which will help the Department expedite the processing of the application.

1. If you have abandoned or have no interest in continuing with your plans for development of the project, please complete the enclosed withdrawal form and return it to the Department. If you request a withdrawal of the application and the application was not previously advertised, the department will refund your original filing fee.

2. If you wish to continue with your proposed development plans, or have completed all or a portion of the proposed development before October 1, 1984, then you must complete and return the enclosed questionnaire. You may use the questionnaire and enclosed application to make any comments &/or amendments concerning the application. Your completion of the questionnaire will expedite processing and help the department determine if the water diverted under the application is public water or trust water. Approved trust water applications may be subject to additional conditions.

Failure to return either of the above forms within thirty (30) days of the date of this letter is cause for the Department to void the application.

Please be further advised that if any undeveloped portion of your proposed project is greater than 200 acres, or if the application proposes diversion of more than 5.0 cfs, the department will issue a notice requesting additional information as required by Water Appropriation Rule 4,5. (copy enclosed). In particular, rules 4,5,3. through 4,5,3,5. apply to your project if it is more than 200 acres. If necessary, the rule 4,5. information notice will be sent to you after you return the questionnaire.

RECORDED
JAN 23 1992

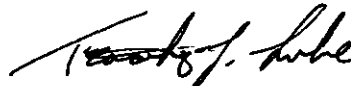
Page 2

If you have questions concerning the content of this letter or about completing the forms, please contact Tim Luke at the address below or by calling directly at 327-7864. The enclosed forms and all other relative information must be returned within thirty (30) days to:

Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720-9000
Attn: Tim Luke

Please note that a copy of your application is enclosed. The application number is also shown on the enclosed questionnaire.

Sincerely,



TIM LUKE
Sr. Water Resource Spec.

Enclosures

PO Box 102
Albion IDA
83311
4/12/91

To Tim Luke:

Dear Sir

Mr. Luke:

The Senrads do not wish to
withdraw the application for permit 45-7678.

There has been no development on
this tract ~~which~~ toward an irrigation well.

JAN 23 1992

Thank you

Mrs Paul (Alta) Senrad



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

April 10, 1991

RE: APPLICATION FOR PERMIT NO. _____

Dear APPLICANT:

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The purpose of this letter is to determine: (1) if you are still interested in developing the project, and (2) the extent of development, if any, that has already occurred under the application. Enclosed are two forms requesting information which will help the Department expedite the processing of the application.

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Please be further advised that if any undeveloped portion of your proposed project is greater than 200 acres, or if the application proposes diversion of more than 5.0 cfs, the department will issue a notice requesting additional information as required by Water Appropriation Rule 4,5. (copy enclosed). In particular, rules 4,5,3. through 4,5,3,5. apply to your project if it is more than 200 acres. If necessary, the rule 4,5. information notice will be sent to you after you return the questionnaire.

RECEIVED

JAN 23 1992

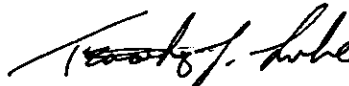
Page 2

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Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720-9000
Attn: Tim Luke

Please note that a copy of your application is enclosed. The application number is also shown on the enclosed questionnaire.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tim Luke", is written over a horizontal line.

TIM LUKE
Sr. Water Resource Spec.

Enclosures

MICROFILMED

JAN 23 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

19-Sep-1990

R. KEITH HIGGINSON
Director

PAUL &/OR ALTA PENROD
P.O. BOX 102
ALBION ID 83311

Re: Application for permit No. 45-07678

Dear Mr. & Mrs. Penrod:

The Department of Water Resources acknowledges receipt of your water right application for permit. The application has been assigned the above referenced identification number. Please refer to this number in all further correspondence.

Because your application proposes to appropriate water which has been identified as "trust water" in the Swan Falls agreement, it will be processed under rules and regulations for water appropriation that have been adopted as required by law.

Under the rules, applications will be processed at a rate which allows development of 20,000 acres per year. The oldest applications will be processed first, provided that applicants are willing and able to proceed.

For this reason, it is not possible to estimate at this time when action will be taken on your application.

Enclosed please find Receipt No. S012648 for the \$45.00 you paid in filing fees for the above referenced application for permit.

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

Very truly yours,

Douglas Jones, E. I. T.
Water Resources Engineer

RECEIVED

DJ:MB

JAN 23 1992