

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 45-7608

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant Bennie Smyer Phone 673-6642
Post office address P.O. Box 573, Albion, Idaho 83311
2. Source of water supply Spring & runoff from Pine & Antone Creeks which is a tributary of Summit Creek
3. Location of point of diversion is NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Govt. Lot _____
Sec. 15 Township 12 S Range 25 E B.M. Cassia County; additional points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 0.20 for Div. to Storage purposes from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 15.0 for Stockwater Storage purposes from " to " (both dates inclusive)
(cfs or acre-feet per annum)
Amount 15.0 for Wildlife Storage purposes from " to " (both dates inclusive)
(cfs or acre-feet per annum)
Amount 15.0 for Recreation Storage purposes from " to " (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 0.20 and/or (b) 15.0
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. Earthen dam below spring to store water and raise water level to allow diversion of water into Reservoir on Summit Creek (D45-7605)
 - b. Height of storage dam 19 ± feet; active reservoir capacity 15 ± acre-feet; total reservoir capacity 15 ± acre-feet; period of year when water will be diverted to storage: Jan. 1 to Dec. 31 inclusive.
 - c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
 - d. Is ground water with a temperature of greater than 90°F being sought? _____
7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 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. 200 range cattle
- c. Municipal; show name of municipality. _____
- d. Domestic; show number of households. _____
- e. Other; describe fully. Wildlife & Recreation Storage will cover uses of pond created behind dam which include duck & geese habitat, swimming & boating, ect.

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	15										S W R							

S Stockwater
W wildlife
R Recreation

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. None

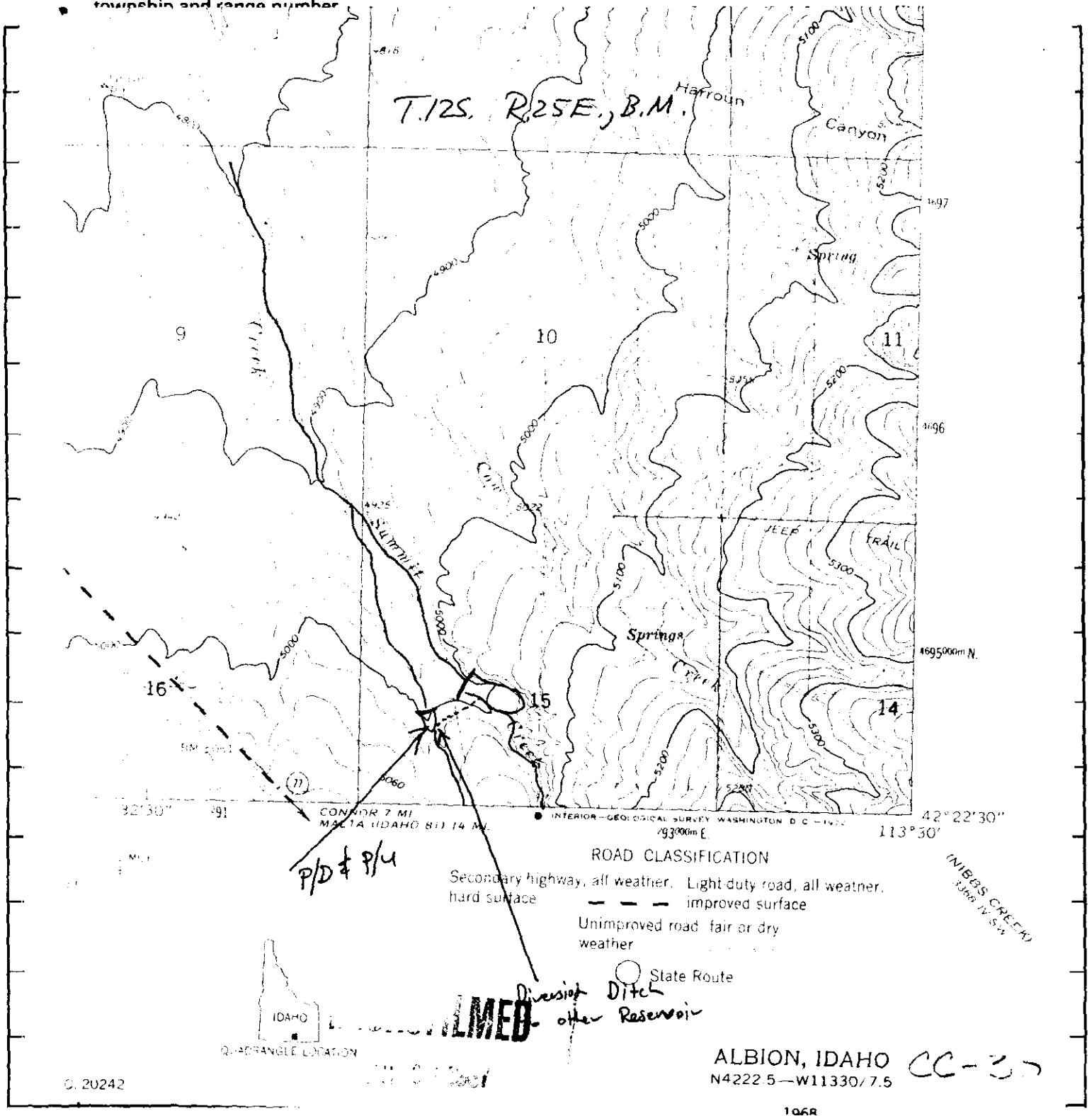
11. a. Who owns the property at the point of diversion? Applicant
- b. Who owns the land to be irrigated or place of use? Applicant
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: The dam is mainly being built to provide erosion control on stream bed, 2nd channel below.

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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.

Bernie Snyder
(Applicant)

Proposed Priority 2/26/87

Received by ADM Date 2/26/87 Time 3:30 pm Preliminary check by 47

Fee \$ 30.00 Received by ADM # 40694 Date 2/26/87
3/19 & 3/26/87

Publication prepared by M. Baldwin Date 3/12/87 Published in South Id Press

Publication approved M. Baldwin Date 4/8/87

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. 45-7608, and said application is hereby APPROVED.

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

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before May 1, 19 89.

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: Permit holder shall commence the excavation or construction of diverting works within one year of the date this permit is issued and shall proceed diligently until the project is complete.

Permanent measuring devices must be installed in such a manner that the amount of water entering the reservoir and the amount of water released from the reservoir can be measured.

The storage of water under this permit is contingent upon the certification of the dam and authorization of storage per the dam safety provisions of the Idaho Code.

Use of water under this permit is subject to control by the watermaster of State Water District No. 45F, Marsh Creek.

Witness my hand this 30th day of April, 1987.

L. Glen Saxton
Chief, Operations Bureau

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SOUTH IDAHO PRESS

BURLEY, IDAHO

AFFIDAVIT OF PUBLICATION

County of Cassia,)
STATE OF IDAHO) ss.

MARGE BARENDREGT being first
duly sworn, deposes and says that She is the

CLERK of the South Idaho
Press, a daily newspaper published at Bur-
ley, Idaho, in the county aforesaid and that
the paper is of general circulation therein.
Deponent further states that the printed no-
tice attached hereto was duly published
according to law in the regular editions of

The South Idaho Press for two (2)
consecutive weeks, commencing with the issue
dated Mar 19 1986, and ending
with the issue dated Mar 26, 1987.

Marge Barendregt

Subscribed and sworn to before me

this 7th day of April
1987.

Betty Staker Notary Public

Cost of Publication 22.88

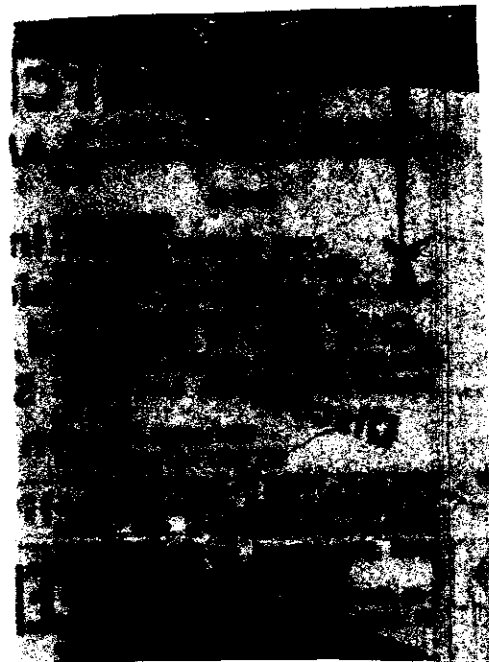
Notary Fee .50

Total Cost 23.38

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OK
MB
4/8/87



RECEIVED

APR 8 1987

Department of Water Resources
Southern Region Office

SOUTH IDAHO PRESS

BURLEY, IDAHO

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consecutive weeks, commencing with the issue
dated Mar 19 1986, and ending
with the issue dated Mar 26 1987.

Subscribed and sworn to before me

this 27 day of April
1987.

Patty J. Miller Notary Public

Cost of Publication 2.00

Notary Fee 0.00

Total Cost 2.00

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JUL 05 1987

OK
MB
4/8/87

87-93

NOTICE OF APPLICATION FOR
WATER RIGHT

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

45-7608

SMYER, BENNIE

P.O. BOX 573, ALBION, ID 83311

Source: SPRING trib. to SUMMIT CREEK

Diversion Pt: NENSW Sec. 15 T 12S R 25E; 4
miles South & 4 miles East of Albion.

Use: DIVERSION TO STORAGE (0.2 CFS);
STOCKWATER STORAGE (15.0 AF); WILDLIFE
STORAGE (15.0 AF); RECREATION STORAGE
(15.0 AF)

Dated Filed: 02/26/1987

In: NWSW Sec 15 T 12S R 25E

The permit(s) will be subject to all prior
water rights. Protests must be filed with the
Director, Dept. of Water Resources, Southern
Region, 2148 4th Ave. East Twin Falls, Idaho
83301 on or before APRIL 6, 1987.

KEN DUNN, Dir.

Published in the South Idaho Press March 19
and 26, 1987.

RECEIVED

APR 8 1987

Idaho Department of Water Resources
Southern Region Office

13-Jul-1989

Bennie Smyer
Box 128
Albion, Idaho 83311

Re; Permit No. 45-07608

Dear Mr. Smyer,

We acknowledge receipt of the affidavit submitted as proof of beneficial use for the above referenced permit.

Before a license can be issued, a field examination must be made by a representative of this Department. We cannot tell just when this examination will be made, but our examiner will try to contact you at the time he makes the examination so that you may show him the system.

Field examinations must be done while the system is in operation. For this reason we concentrate on irrigation permits during the summer months and do examinations on permits for other uses during the non-irrigating months.

If you have any questions regarding the field examination, please contact our office.

Very truly yours,

Lloyd Payne
Clerk

Encl:

RECEIVED
APR 22 1989

RECEIVED

APR 25 1989

STATE OF IDAHO

Department of Water Resources

DEPARTMENT OF WATER RESOURCES

For Office Use Only

Fee Received 15.00 35.00
Date 4/25/89 6/1/89
Receipt # 10010493 50078
Receipt by R. J. Young DR
Reviewed by _____
Sent to region _____

PROOF OF BENEFICIAL USE

Department of Water Resources

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has 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 or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 45-07608

Name(s) of Permit Holder: BENNIE SMYER

Post Office Address: ALBION IDA BOX 128 83311

Telephone No. 673 6642

Source of Water: PINE AND ANTONE AND NO NAME SPRING

Extent of Use: (up to 200)

Domestic X (number of households) Stockwater 75 COW 3 HORSE (number and type of stock)

Irrigation 58 (acres) Other/Remark HAVE WATER WEIGHT

ON SAND 160 PLUS NEW WELL AND FISH POND

Total rate and/or volume for which proof is submitted .2 cfs 15 acre-feet

Show the date water was first diverted and beneficially used under this permit: JULY 1988

Measuring Device: Required? Yes X No
Installed? Yes X No
Fee enclosed 15.00 35.00 (Total 50.00)
(See License Examination Fee Schedule)

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

Person to contact to accompany the Department representative during the field examination:
BENNIE SMYER 673 6642
(Name) (Telephone Number)

ALBION IDA
(Address)

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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.

JUL 17 1989

4-22-89 Bennie Smyer
Date Signature of Permit Holder (and title, if appropriate)

MEMORANDUM

DATE: May 11, 1989

TO: File 45-7608

FROM: Rita Fleck 

RE: Proof Submittal

I reviewed the proof form along with the water right file. There are some discrepancies. The extent of use does not match. I then contacted Mr. Smyer by phone.

It appears that Mr. Smyer has several dams in the area on these creeks. From talking with Mr. Smyer, it was difficult to determine what the extent of use was and whether he needed an extension of time form or to submit the proof form.

After some discussion, it became apparent that regional office personnel were acquainted with this water right for storage in association with the construction of the dam(s). I decided to contact the regional office and ask Doug Jones to review the matter with Mr. Smyer when he did his next dam construction inspection in the next couple of weeks.

I forwarded to Doug a copy of the permit and the original proof of beneficial use form. He will determine if an extension is needed or amend the original proof and collect the additional \$35 licensing exam fee.

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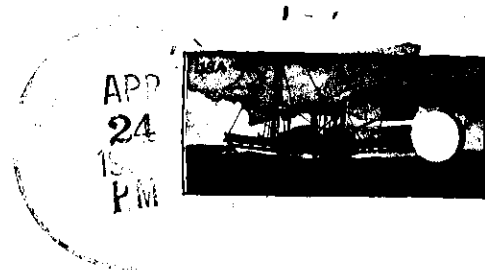
JUL 17 1989



Bennie R. Smyer
P. O. Box 128
Albion, Idaho 83311

MAILED
JUL 17 1989

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard St.
Statehouse Mail
Boise, Idaho 83720



BENNIE SMYER
P.O. BOX 573
ALBION, ID 833110000

February 28, 1989

138017

PROOF DUE NOTICE

RE: PERMIT NO. 45-07608

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 May 1, 1989. (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,

Rita Fleck
Secretary/Records Manager

Enclosures

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JUL 17 1989



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

May 12, 1987

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

RE: Permit No. 45-7608

Bennie Smyer
Box 573
Albion, ID 83311

Dear Permit Holder(s):

Enclosed is a copy of your approved Application for Permit. We direct your attention to the conditions of approval on the fourth page.

If the diversion dam is 10 feet or more in height, or has an impounding capacity of 50 acre-feet or more, certain dam safety requirements must be met. Please contact the regional office nearest you for details. Also, we remind you of the need for a low level outlet to pass the natural flow to prior downstream water users and to drain the reservoir in an emergency situation as specified in our correspondence of 3/11/87.

Please note the requirement that as a permit holder you must commence the excavation or construction of diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The enclosed blue card must be completed and returned to this office as soon as you commence construction, no later than one year from the date the permit was approved.

If you have already used the water on the land, you may wish to submit the statement of beneficial use now (also enclosed) rather than waiting until it is due. We have enclosed a form entitled "Instructions for Proof of Beneficial Use".

Sincerely,

GARY SPACKMAN
Supervisor, Water Allocation Section

GS:sc
Enclosures

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JUL 06 1987

FROM Dave LePar d - Dam Safety

DATE 4/29/87

TO Kay Walker

SUBJECT Smyer Dam (proposed) water right 45-9608

Dam Safety completed its review of the proposed dam in early March and did not find any major problems except for the lack of a low level outlet. Our last correspondence (copy attached) indicated that we could approve the project only with an outlet and once the water right was approved.

It would help us considerably if you would add a paragraph reminding Mr. Smyer of the need for the low level outlet. Thanks


SIGNATURE



DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

March 11, 1987

Bennie Smyer
P.O. Box 573
Albion, ID 83311

RE: Smyer No.2 Dam

D45-7608

Dear Mr. Smyer:

The Department has completed the review of your proposed small dam located on Antone Creek. The application to construct the dam appears adequate except for a low level outlet as required by the Departments rules and regulations. A low level outlet is needed to pass the natural flow to prior downstream water users, and to drain the reservoir in an emergency situation.

The Department can not approve construction at this time, however, due to the lack of an approved water right for the project. The water right is currently in the process of being advertised by our Southern Regional Office. Once the water right is approved and you notify the Department of the type of low level outlet you propose for the reservoir, we can proceed with the processing of your application.

If you have any questions please contact either Allen Merritt (phone 734-3578) in our Southern Regional office or David LePard (phone 334-4490) in the Dam Safety Section.

Very truly yours,

L. Glen Saxton
L. GLEN SAXTON, Chief
Operations Bureau

CC: IDWR - Southern Region

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JUL 06 1987

e. Operations, Bureau Chief

f. Admin., Resource Admin. Div.

PRE-PERMIT EXAM

Applic. No: 45-7608

Date: 3/31/87

Source: Spring #

Trib. to: Summit Creek → Moss

Stream flow data: Spring flow only, est. to be
10 inches.

Other uses in general area: Stockwater on streams
and decreed irrigation rights.

Special considerations: Decreed water rights on
drainage below

Water District or Canal Company which may have jurisdiction: 45F

Explain: _____

Do all items on application appear to be correct? Yes ☒ No _____

Explain: _____

Recommendation and other comments: Approve subject to
prior rights. Dam should have
inlet & outlet mass devices.

Signed: ADN

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JUL 06 1987

Persons present during review of site:

Bennie Smyer



State of Idaho
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

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

March 12, 1987

Albert Smith, Watermaster
Water District #45-F
Box 484
Albion, ID 83311

Re: Application for Permit, No.45-7608

Dear Mr. Smith:

Enclosed is a copy of an Application for Permit for a Water Right within your District for your information and files.

If you have any questions about the application, please contact this office or the applicant.

Very truly yours,

Loren O. Holmes
LOREN O. HOLMES
Southern Region Supervisor

LOH:MB

Encl:

NOT RECORDED

JUL 06 1987

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region

2148 4th Avenue East
Twin Falls, Idaho 83301
(208) 734-3578

MARCH 12, 1987

South Idaho Press
Box 190
Burley, ID 83318

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. 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 APRIL 6, 1987.

Yours truly,

Mary A. Baldwin
Secretary/Office Coordinator

Encl.

RECORDED

JUL 06 1987

Off Rec. 4/8/87

NOTICE OF APPLICATION FOR WATER RIGHT

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

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Diversion Pt: NENWSW Sec 15 T 12S R 25E; 4 miles South & 4 miles East of Albion.

Use: DIVERSION TO STORAGE	(0.2 CFS)
STOCKWATER STORAGE	(15.0 AF)
WILDLIFE STORAGE	(15.0 AF)
RECREATION STORAGE	(15.0 AF)

Date Filed: 02/26/1987

In: NWSW Sec 15 T 12S R 25E

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Southern Region, 2148 FVA Ave. E, ~~1041 Blue Lakes Blvd.~~ N. Twin Falls, Idaho 83301 on or before APRIL 6, 1987.

KEN DUNN, Dir.

Published 3/19 & 3/26.

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JUL 06 1987

87-93

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STORAGE (15.0 AF); RECREATION STORAGE
(15.0 AF)

Dated Filed: 02/26/1987

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KEN DUNN, Dir.

Published in the South Idaho Press March 19
and 26, 1987.

RECEIVED

MAR 18 1987

Department of Water Resources
Southern Region Office

ok
mb
3/19/87

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JUL 06 1987

STAFF ANALYSIS SUPPLEMENT

1) Water District 45-F Basin # 45

2) Local Description: (of one P/D)

☐

At the above street address

☐4 miles ~~N~~/S S and 4 miles ~~S~~/W E
of Albion (City or landmark).☐

Other (describe) _____

REPROFILMED

JUL 06 1987