

45-02704

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 45-02704

Priority: April 2, 1964

Maximum Diversion Rate:

0.25 CFS

Maximum Diversion Volume:

6.9 AF

This is to certify, that THOMAS E WARREN

STAR RT BOX 15

ALBION ID 83311

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated April 2, 1964; and has submitted Proof of Beneficial Use on March 30, 1976. An examination indicates that the works have a diversion capacity of 0.250 cfs of water from:

UNNAMED STREAM

tributary to MARSH CREEK

source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 06/30	0.25 CFS	6.9 AF

LOCATION OF POINT(S) OF DIVERSION:

SWSE , Sec. 11, Township 12S, Range 24E
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	24E	11	NESE 11.9	NWSE 0.6		12.5

Total number of acres irrigated: 12.5

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount that can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
6. Use of water under this water right will be regulated by the watermaster of State Water District No. 45F.

JAN 20 1996

State of Idaho
Department of Water Resources**WATER RIGHT LICENSE**

WATER RIGHT NO. 45-02704

CONDITIONS OF APPROVAL AND REMARKS

7. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for the lands above.
8. Water shall be diverted under this right only when the watermaster of State Water District No. 45F certifies that
 - a) water flowing in the source stream sinks before reaching Marsh Creek or that
 - b) water is flowing in Marsh Creek at a rate sufficient to satisfy all prior downstream rights currently calling for delivery.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 11th
day of JANUARY, 1996.


Acting for KARL J. DREHER, Director

JAN 30 1996

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO.)
45-02704 IN THE NAME OF THOMAS)
E. WARREN)
_____)

PRELIMINARY ORDER

This matter having come before the Idaho Department of Water Resources (department), the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On April 6, 1964, the department issued Permit No. 45-02704 (permit) to Thomas W. Warren (permit holder) authorizing the diversion of 4.8 cubic feet per second of water to be diverted from waste water and spring runoff for the irrigation of 240 acres in parts of Sections 11 and 12, T12S, R24E, B.M. in Cassia County, Idaho. A condition of approval required the permit holder to submit proof of construction of works and application of water to beneficial use (proof) on or before April 6, 1975.

2. On March 30, 1976, the permit holder submitted the required proof to the department.

3. On June 10, 1980, the department conducted a field examination to determine the extent of diversion and application of water to beneficial use made by the permit holder under terms of the permit.

4. On July 29, 1980, Ira Parke contacted the department and objected to the issuance of a license by the department. On September 21, 1995, A. W. Anderson, the successor-in-interest to Ira Parke advised the department that he wished to continue the protest of Ira Parke.

5. On August 17, 1995, the department conducted a second field examination to determine the extent of beneficial use of water.

CONCLUSIONS OF LAW

1. Section 42-219, Idaho Code, authorizes the department to issue a license of water right pursuant to a permit.

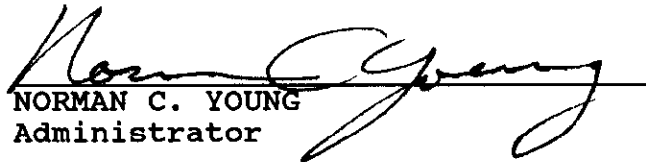
2. The department should issue a license in connection with the permit with certain conditions and limitations.

JAN 30 1986

ORDER

IT IS THEREFORE, HEREBY ORDERED that the department issues License No. 45-02704 in the name of Thomas E. Warren subject to the conditions and limitations shown on the Water Right License.

Dated this 9TH day of JANUARY, 1996.


NORMAN C. YOUNG
Administrator

JAN 30 1996

State of Idaho
Department of Water Resources

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DEC 05 1995

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 45-02704

Department of Water Resources

Date of Priority: April 2, 1964

Maximum Diversion Rate:

0.25 CFS

Maximum Diversion Volume:

6.9 AF

Comes now

THOMAS E WARREN

STAR RT BOX 15

ALBION ID 83311

and represents to the Director of the

Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 45-02704, and requests that the permit be changed as follows:

Source: UNNAMED STREAM

tributary to MARSH CREEK

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 06/30	0.25 CFS	6.9 AF

LOCATION OF POINT(S) OF DIVERSION:

SWSE , Sec. 11, Township 12S, Range 24E
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	24E	11	NESE 11.9	NWSE 0.6		12.5

Total number of acres irrigated: 12.5

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk.

Signed at Burley, Idaho, this 1 day of December, 1995.

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JAN 30 1996

V. Thomas Geary
(Signature)

State of Idaho
Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 45-02704

RECEIVED

DEC 05 1995

Department of Water Resources

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = 50.00 Received by JW #CO34048 Date 12-6-95

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, Karl J. Dreher, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 45-02704 with the following;

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount that can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
6. Use of water under this water right will be regulated by the watermaster of State Water District No. 45F.
7. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for the lands above.

Witness my hand this 9th day of

January, 1996
Karl J. Dreher
for KARL J. DREHER, Director

JAN 30 1996

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE
STATE OF IDAHO

IN THE MATTER OF EXTENDING THE PROOF DUE)
DATE IN CONNECTION WITH PERMIT NO. 45-2704) ORDER
in the name of THOMAS E. WARREN)

WHEREAS, on April 2, 1964, Thomas E. Warren applied to the Department of Water Resources (formerly the Department of Water Administration) for a permit to appropriate 4.8 cubic feet per second of water from waste water and spring runoff with one point of diversion in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 10; two points in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 11; and three points in the center of the SE $\frac{1}{4}$, Sec. 11, all in Twp. 12S, Rge. 24E, E.M., Cassia County, to be used for irrigation and domestic purposes; and,

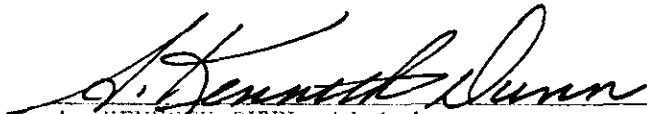
WHEREAS, on April 6, 1964, the Department approved said application and issued Permit No. 45-2704 with the condition that one-fifth (1/5) of the works be completed on or before October 6, 1966, that the whole of said work be completed on or before April 6, 1969, and that proof of beneficial use of water be made on or before April 6, 1975; and,

WHEREAS, on April 4, 1975, the Department received a request for an extension of time for said permit; and,

WHEREAS, it has been determined that under the circumstances the permit holder has been proceeding with reasonable diligence and has given good cause for delay;

IT IS, THEREFORE, HEREBY ORDERED that the time within which to submit proof of beneficial use of water under Permit No. 45-2704 be extended to April 1, 1976.

Dated this 11th day of April, 1975.


A. KENNETH DUNN, Administrator
Operations Division

BDF:JG

MICROFILMED

45-2704

Application For Permit To Appropriate the Public Waters of the State of Idaho

APPLICATION No. 39935
PERMIT No. 31813
DISTRICT No.

1. Name of Applicant: Thomas E. Warren

Postoffice address: Declo

County: Cassia

State: Idaho

I. If applicant is a corporation, give:

(a) Date and place of incorporation:

(b) Amount of capital stock:

(c) Amount paid in:

(d) Names and addresses of directors:

II. The financial resources of the applicant are:

(a) Cash on hand:

(b) Treasury stock:

(c) Bond to be issued:

(d) Other resources:

2. Quantity of water claimed: Two Hundred forty inches - 4 4/5th (4.8 cfs)
cubic feet per second.

3. Source of water supply: Waste water & spring runoff from mountain slopes
which is a tributary of

4. Location of point of diversion: (2) NE 1/4 SW 1/4 (1) P. of D. NW of SE Sect. 10, T12S., R. 24E
feet distant from the

corner of Section , T. , R. , B.M., and (3) in Center of SE 1/4

of section 11 , T. 12 S. , R. 24 E. , B. M., County of Cassia

5. Water is to be used for Irrigation & domestic use

6. If for mining, milling, power or manufacturing purposes, give:

(a) Point of use of water: feet distant from corner of Section

T. , R. , B.M., in the of Section of , T. , R. , B.M.

(b) Amount of power generated: H.P., under feet head.

(c) Water is to be returned to at a point feet

distant from the corner of Section , T. , R. , B.M., in the
of Section , T. , R. , B.M.

7. Estimated cost of works: \$ 50.00

8. Kind of works: Bank ditches, dirt diversion dams

9. Height of dam 3 feet; length of dam at top 4-5 feet; length of dam at bottom 3

feet; material used in dam: earth & rock

10. Size of headgate: Width feet; height feet.

11. Ditch: Width at bottom 3 fee; width at water line 5 feet; depth of water relative with feet;
dimensions of flume: streams

Diameter of pipe inches; length of conduit miles.

Average grade per mile feet.

12. The time required for the completion of such work is 5 years.

13. The time required for the complete application of the water to the proposed use is 6 additional years.

14. The land to be irrigated is described in the following tabulation: See remarks.

15. Existing water rights and/or valid permits appurtenant to the lands to be irrigated are:

Water from Marsh Creek on some but not all of land

16. (a) Is reservoir to be used? no If so, fill in (b) and (c) below:
 (b) Name of Reservoir and number of Storage Permit:
 (c) Date of filing of Application for Storage Permit and Name of Applicant:

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

s/ Thomas E. Warren Applicant.

By **James Annest** *Agent.*

Date of first receipt at Department of Reclamation: 2:30 P.M. April 2, 1964

Returned to applicant for correction:

Corrected application received:

Approval of State Reclamation Engineer

The number of this permit is 31813
Recorded in Book 111 Page 31813 Approved April 6, 1964
This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and
hereby approve the same, subject to the following limitations and conditions:
Bond in the sum of \$ to be filed on or before
Work to begin on or before June 6, 1964 and to continue diligently and uninterruptedly to completion,
unless temporarily interrupted by circumstances over which permit holder has no control.
One-fifth of the work above specified to be completed on or before October 6, 1966
The whole of said work to be completed on or before April 6, 1969
Beneficial use of water appropriated in accordance herewith, to be made on or before April 6, 1975

WITNESS My hand this 6th day of April, 1964

s/ CARL E. TAPPAN
State Reclamation Engineer.

IN TESTIMONY WHEREOF, We, ROBERT E. SMYLIE, Governor of the State of Idaho,
and ARNOLD WILLIAMS, Secretary of State of the State of Idaho, have caused this instrument to
be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed, this 6th
day of April, 19 64. STATE OF IDAHO

day of _____, 19____.

Countersigned:

(SEAL) By s/ ARNOLD WILLIAMS
Secretary of State.

By s/ ROBERT E. SMYLLIE
Governor.

REMARKS: The water applied for is water that wastes across applicant's land and is not used by anyone but the applicant

14.

Twp.	Range	Sec.	NE ¹ / ₄				NW ¹ / ₄				SW ¹ / ₄				SE ¹ / ₄				Totals
			NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	
12 S	24 EB	11 12	40		40	40								40		40	200 40		
																	240 approx.		



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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JANUARY 17, 1996

THOMAS E WARREN
STAR RT BOX 15
ALBION ID 83311

RE: WATER RIGHT NO. 45-02704

Dear Water Right Holder:

Enclosed is a copy of Water Right License No. 45-02704 issued in connection with the enclosed Order. The accompanying order is a "preliminary order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

JAN 30 1996

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

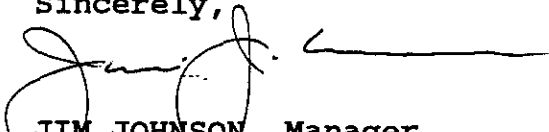
Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district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

JAN 30 1996

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

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

Sincerely,



JIM JOHNSON, Manager
Water Right Permits Section

JJ:rl

Enclosure

JAN 30 1976

Mr. Shelley Keen

I talked to you by phone
and you suggested I sign
this paper, after looking it
over.

Mr. Warren passed away
a few years ago and I now
own the ranch.

Thanks for your help.

Sincerely,

Tom Geary

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DEC 05 1995

Department of Water Resources

JAN 30 1996

MEMORANDUM

DATE: November 28, 1995

TO: File 45-02704

FROM: Shelley W. Keen *SWK*

RE: Phone call from Tom Geary

=====

Tom Geary called today to discuss our request for a licensing amendment for right 45-02704. The request was sent to Thomas Warren, who is deceased. Tom Geary said he is now the owner of the property. Mr. Geary wanted to let IDWR know that he will respond to the amendment request right away.

[Faint stamp]
JAN 30 1996



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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 8, 1995

THOMAS E WARREN
STAR RT BOX 15
ALBION ID 83311

RE: WATER RIGHT NO. 45-02704

Dear Water Right Holder(s):

The above referenced water right is in the process of being licensed. However, before a license can be issued, your permit must be amended to depict your water right as it has actually been developed.

The enclosed Application for Amendment contains information that will be included on the license when it is issued. The amendment reflects a change in the location of the point(s) of diversion and the place(s) of use description. Please review carefully and if you concur, sign the amendment and return with the \$50.00 filing fee within 14 days.

The last page of the Application for Amendment form contains a list of CONDITIONS/REMARKS proposed for the license when it is issued. These conditions/remarks may be modified upon further administrative review.

If you do not concur, or if you have any questions about this information, please contact me as soon as possible. My telephone number is (208) 327-7946.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:rl

Enclosure

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JAN 30 1996

MEMORANDUM

To: Norman C. Young
From: L. Glen Saxton 
RE: ACTION ON PERMIT 45-02704
Date: October 31, 1995

- The letter of complaint and protest filed on July 29, 1980 was not timely filed relative to requirements of Section 42-224, Idaho Code, and should have been rejected.

- Jim Stanton's letter of August 23, 1995, however, appears to lend some credibility to the 1980 complaint and protest and likely now requires some pre-license activity by the department.

- In order to issue a license, the department first needs to seek an assignment and an amendment. If received, I see no need to advertise the amendment, if the department plans to schedule a fact-finding hearing involving the new owner (Geary) and A. W. Anderson, the successor-in-interest to Ira Parke. The other four (4) complainants or their successors need not be notified of the fact-finding hearing, since they did not respond to Stanton's 1995 continuing interest letter.

- If after the fact-finding hearing is held, the department plans to issue a license, it should be for the reduced amount and should not show wastewater as a source if there is no upgradient irrigation. The source licensed should be shown tributary to Marsh Creek and subject to watermaster control so the watermaster can control it.

- This is one of those matters for which it would be nice for the SRBA to resolve the contest, except Water Allocation Bureau has separate authority and responsibility to complete action on the partially completed water appropriation procedure.

Your comments please.

MEMORANDUM

DATE: October 31, 1995

TO: Glen Saxton

FROM: Shelley W. Keen *SWK*

RE: Right No. 45-02704

=====

Allen Merritt has asked me to find out what should be done with this right. I have reviewed the file and identified some possible strategies for proceeding. The following is a summary of the primary issue and a list of my proposals.

Issue Summary

In 1980, the same year the first field examination was made, five area water users signed a letter to "enter a complaint and protest" against the issuance of a license. They argue that the entire flow of Marsh Creek and its tributaries has already been appropriated. After the second field examination in 1995, the successor in interest to one of the original "complainants" wrote to "continue the protest." The field examiner reported the diversion and beneficial use of water and recommends issuing a license.

Allen is concerned that the 1980 and 1995 letters may have some validity as protests under I.C. §42-224. He would like some guidance on how to proceed.

Possible Solutions

1) I.C. §42-224 appears to be a relic of the days when the intention to submit proof was advertised. It requires a protest against issuance of a license to be filed before proof of beneficial use is submitted. The letters relating to 45-02704 were not submitted prior to the proof of beneficial use statement. Therefore, they can probably be viewed as untimely and unacceptable protests. *Timed*

2) Right 42-02704 will need a licensing amendment. We could advertise the amendment application and act on any protests filed against it. We might even return the 1995 letter as an untimely

Memo to Glen Saxton
Re: 45-02704
October 31, 1995
Page 2

protest, but explain to the protestant that he will be able to protest the amendment. While this suggestion may follow the letter of law, it seems like red tape to make a person take back a letter and then submit it later.

3) It seems more of a stretch, but the letters might possibly be viewed as petitions for cancellation of the permit under §42-301. No!

FROM: Allen Merritt

DATE: October 13, 1995

TO: SHELLY KEEN

SUBJECT: LICENSING EXAM & PROTEST FOR 45-02704

HERE IS THE FILE WE SPOKE ABOUT TODAY IN OUR PHONE CONVERSATION.
PLEASE FOLLOW UP ON THE PROTEST OF LICENSE ISSUE.

I RECOMMEND THAT IF A LICENSE IS ISSUED THAT IT BE CONDITIONED TO
BE UNDER THE CONTROL OF THE MARSH CREEK WATERMASTER AND THAT WATER
CAN ONLY BE AVAILABLE FOR DIVERSION WHEN WATER FROM THE UNNAMED
STREAM WOULD NOT REACH MARSH CREEK PROPER BECAUSE IT WOULD SINK.

IN REALITY THIS PERMIT APPEARS TO ME TO BE WATER HISTORICALLY USED
WITH THE DECREED WATER FROM MARSH CREEK. THE WAY JIM HAS
RECOMMENDED IT, IT IS FOR THE WATER THAT COMES DOWN A DRAW AND
ENTERS A DELIVERY DITCH FROM MARSH CREEK. I WOULD CONCLUDE THAT
THIS IS HOW THE WATER HAS ALWAYS FLOWED SINCE THE DITCH WAS FIRST
CONSTRUCTED. IT MAY HAVE BEEN MORE APPROPRIATE TO CLAIM THIS WATER
AS A BENEFICIAL USE RIGHT IN THE SRBA.

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OCT 16 1995

Department of Water Resources

~~RECEIVED~~

JAN 30 1996

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
OCT 16 1995

Department of Water Resources

A. GENERAL INFORMATION

1. Owner: V. Thomas Gentry Permit No. 45-02704
Current Address: Rt. 2 Box 2231, Burley, ID 83318 Phone No. 678-5724
2. Accompanied by: Rick Gentry, Don Gunderson EXAM. DATE: 8-17-95
Address: Rick - HC 36 Box 15, Albion, ID 83311 Phone No. 673-6676
Relationship to Permit Holder: Rick - Farm operator, Don - watermaster
3. Source: Unnamed Stream tributary to Marsh Creek

B. OVERLAP REVIEW

1. Other water rights with same place of use: 45-00310 Part, 0237
_____ ☐ Copies Attached
2. Other water rights with same point of diversion: —
_____ ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☒ Alternative diagram attached

Scale: 1" = _____

2. ☒ Copy of U.S.G.S. 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 or more).
☒ Photo of Diversion and System Attached
(required for all but single household domestic groundwater, and stockwater).

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System Description (continued)

3. **Narrative:** Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

Two intermittent streams flow from the hills west of Marsh Creek. In the rare case of heavy runoff from melting snow, the ^{north} stream might run into Marsh Creek for a couple of weeks. A dirt berm blocks the south stream. An earthen ditch from the Marsh Creek R diversion crosses the south stream at the berm, running northerly around a hill above a pasture. This ditch crosses the north stream, continuing around a second hill to another pasture. A portable canvas dam would have to be put in the north stream for water to reach the second pasture.

☐ See Remarks on page 4 for continuation

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size

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

5. **Point(s) of Diversion:**

Ident. No.	Gov't. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
		SW	SW	SE	11	12S	24E	Cassia	Aerial photo

6. **Place(s) of Use:**

Indicate Method of Determination ASCS photo, dot grid

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
12S	24E	11													11.9	0.6			12.5

Do not use this space

FILED

JAN 30 1996

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

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

2. Measurements:

~~Measured 0.303 cfs at upper springs in 1980.~~
Not measured.

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method:

2. Alternate Method for Checking Purposes:

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)

Total Head: (1) + (2) = _____ (3) ; Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)

Meter Input HP: (6) x 1.34 = _____ (7)

Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Amps x .001732 = _____ (6)

Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 12.5 \times 4 = 50$

$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = 0.25 \times 14 \times 1.9835 \approx 6.9$

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

2. Volume Calculations for Other Uses:

MICROFILMED
JAN 30 1996

H. REMARKS AND OVERLAP REVIEW ANALYSIS

We visited the PD's as shown on the 1980 exam, but found only one inoperable stock tank. Water appears to flow in its natural channels until it hits the ditch from Marsh Creek. No water has been available for 10 years due to the drought. At best, this water would be available for a couple weeks in the Spring. Mr. Geary said that there was probably a 75% loss in the portion of the ditch feeding the north pasture. Because of this excessive loss, and because water in the north stream could conceivably reach Marsh Creek, I am not recommending that this P/D or P/U be included in the license. The south stream is permanently blocked (although there is an overflow pipe), & probably would never reach Marsh Creek.

~~Although~~ The 1980 measurement was not on this source. Stream is dry now. Due to the difficulty of measuring this stream (flow is very intermittent), recommend 1" acre be licensed. Ditch catches all the water that comes down. Actual diversion rate & volume are totally dependent on snowpack & runoff conditions.

I. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion	Annual Volume
	From	To	Q (cfs)	V (afa)
Irrigation	4-1	~~7-1~~ 6-30	0.25	6.9
Totals:			0.25	6.9

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

J. AUTHENTICATION

Field Examiner's Name

J E Stanton

Signature

J E Stanton

Certification Date

Field Report Preparation Date

8-22-95

CONSULTANT SEAL

K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.

JAN 30 1996



Diversion & Ditch On South Stream



Ditch Continues Across North Stream



P/U

INVESTIGATED

JAN 30 1996

45-02704

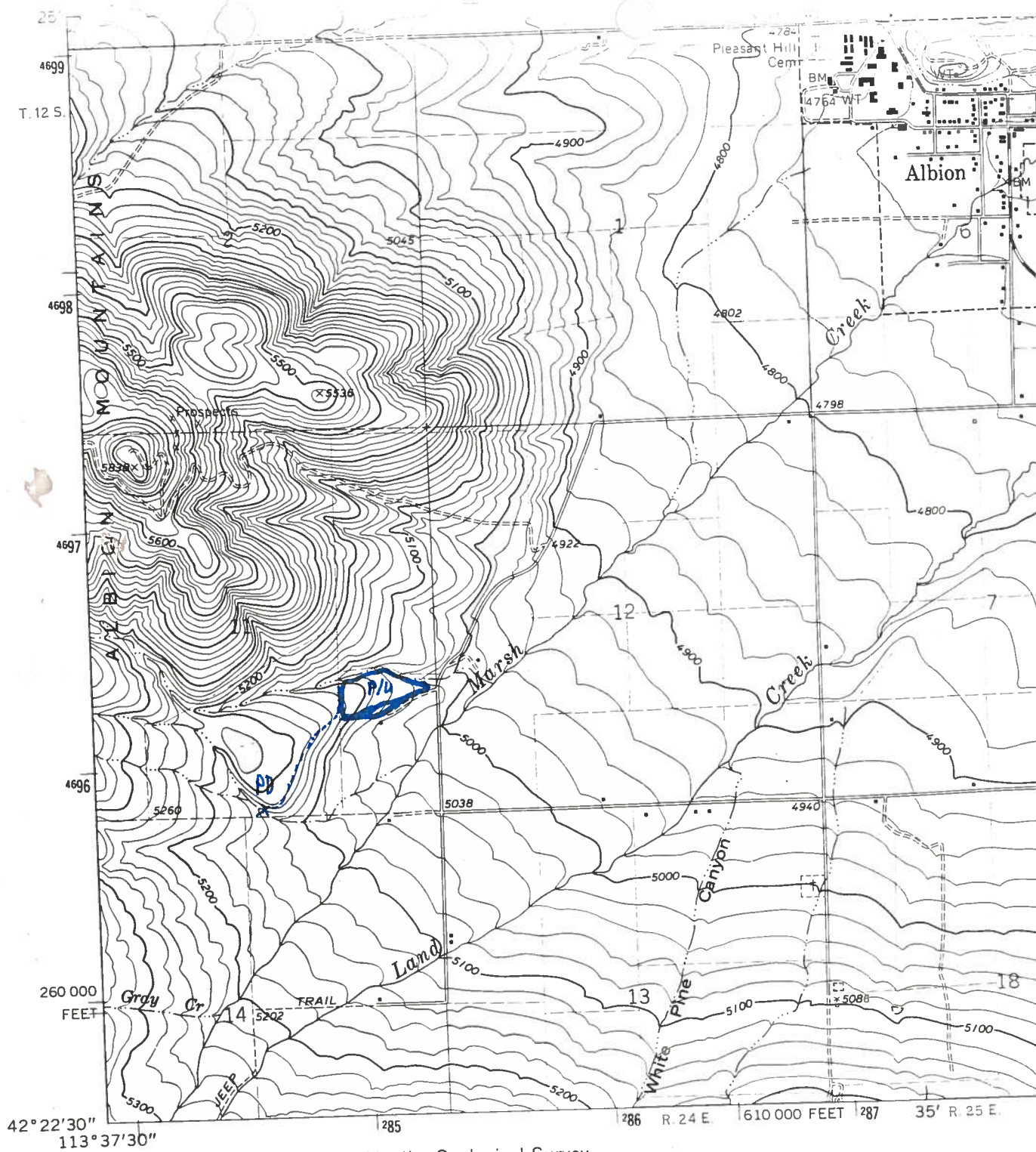


Spring Just Inside
Sec. 11 West Side,
Not Recommended
For Licensing,
System (pipeline
& trough) Not
Operable.



MINNEAPOLIS
JAN 30 1996

45-02704



(MT. HARRISON)
3268 1 SW

Mapped, edited, and published by the Geological Survey

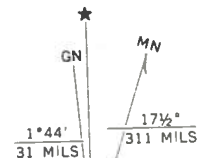
Control by USGS and USC&GS

Topography by photogrammetric methods from aerial photographs taken 1967. Field checked 1968

Polyconic projection. 1927 North American datum
10,000-foot grid based on Idaho coordinate system,
central zone

1000-meter Universal Transverse Mercator grid ticks,
zone 12, shown in blue

Fine red dashed lines indicate selected fence lines



UTM GRID AND 1968 MAGNETIC NORTH
DECLINATION AT CENTER OF SHEET

JAN 30 1996

FOR SALE

45-02704

6081-332

L

R 24

North Stream

P/U Rd
Gr. 5 Rd

South Stream

PD

Ditch
Farm
Marsh
Co.

V 20

47 H



T
HIGH
ELEV

18
T187

276 Nd

W

12 35.7

13 28.2

14 13

15 33.0

16 10.6

17 8.8

18 6

19 14.8

20 13.1

21 12.7

22 13.10

18
T187

276 Nd

W

12 35.7

13 28.2

14 13

15 33.0

16 10.6

17 8.8

18 6

19 14.8

20 13.1

21 12.7

22 13.10

RECEIVED
SEP 21 1995
Department of Water Resources
Southern Region

A. W. ANDERSON
HC 36 BOX 14
ALBION, IDAHO 83311

SEPTEMBER 20, 1995

MR. JAMES E. STANTON
SR. WATER RESOURCE AGENT
DEPARTMENT OF WATER RESOURCES
222 SHOSHONE STREET EAST
TWIN FALLS, IDAHO 83301-6105

RE: WATER PERMIT 45-02704
THOMAS GEARY

DEAR MR. STANTON:

WE ARE WRITING TO YOU TO CONTINUE THE PROTEST ENTERED BY MR. IRA PARKE IN 1980. AS THE SUCCESSOR TO MR. PARKE, WE PROTEST THE LICENSING OF THE ABOVE REFERENCED PERMIT. IT IS OUR FEELING THAT ANY WATER THAT IS TRIBUTARY TO MARSH CREEK SHOULD BE JUST THAT, AND BE USED IN THE ORDER OF 1ST IN TIME BY THE WATER USERS OF APPROPRIATE WATER RIGHTS FROM MARSH CREEK.

WE HAVE ALSO BEEN TOLD THAT THE ORIGINAL OWNERS OF THE PROPERTY (ALBERTSON) OBTAINED THE PROPERTY THRU DESERT ENTRY HOMESTEADING, WITHOUT WATER RIGHTS TO THE PROPERTY. WE ARE UNAWARE IF THIS IS FACTUAL.

ONCE AGAIN, WE PROTEST THE LICENSING OF THIS PERMIT #45-02704.

THANK YOU FOR YOUR CONSIDERATION IN THIS MATTER.

SINCERELY,



A. W. ANDERSON

AWA:sja

RECEIVED

JAN 30 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

Ronald Sorenson
PO Box 53
Albion, ID
83311

August 23, 1995

RE: Water Permit 45-02704, Thomas Geary

Dear Mr. Sorenson;

We are contacting you as the successor in interest to Harry DeNaughal. In 1980, Mr. DeNaughal protested licensing of the above-referenced permit. No action has been taken until now, so we are finally attempting to license the permit. The diversion works and irrigated land were recently re-examined, and new licensing recommendations have been made. Enclosed is a copy of a letter to Rick Geary explaining these recommendations.

If you wish to protest the licensing of this permit, please contact me in writing by September 25. If we do not hear from you by then, the protest of Mr. DeNaughal will be set aside and the license will be issued.

Watermaster Don Gunderson accompanied me on my inspection of this property. Please feel free to contact Don or myself with any questions you may have.

Sincerely,

James E. Stanton
Sr. Water Resource Agent

RECEIVED

SEP 20 1995



State of Idaho
DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

Rebecca May Meyer
Star Rt Box 9
Albion, ID
83311

August 23, 1995

RE: Water Permit 45-02704, Thomas Geary

Dear Ms. Meyer;

We are contacting you as the successor in interest to Sam Hirdanus. In 1980, Mr. Hirdanus protested licensing of the above-referenced permit. No action has been taken until now, so we are finally attempting to license the permit. The diversion works and irrigated land were recently re-examined, and new licensing recommendations have been made. Enclosed is a copy of a letter to Rick Geary explaining these recommendations.

If you wish to protest the licensing of this permit, please contact me in writing by September 25. If we do not hear from you by then, the protest of Mr. Hirdanus will be set aside and the license will be issued.

Watermaster Don Gunderson accompanied me on my inspection of this property. Please feel free to contact Don or myself with any questions you may have.

Sincerely,

James E. Stanton
Sr. Water Resource Agent

RECEIVED

JAN 30 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

Kevin Banner
PO Box 102
Albion, ID
83311

August 23, 1995

RE: Water Permit 45-02704, Thomas Geary

Dear Mr. Banner;

We are contacting you as the successor in interest to Paul Penrod. In 1980, Mr. Penrod protested licensing of the above-referenced permit. No action has been taken until now, so we are finally attempting to license the permit. The diversion works and irrigated land were recently re-examined, and new licensing recommendations have been made. Enclosed is a copy of a letter to Rick Geary explaining these recommendations.

If you wish to protest the licensing of this permit, please contact me in writing by September 25. If we do not hear from you by then, the protest of Mr. Penrod will be set aside and the license will be issued.

Watermaster Don Gunderson accompanied me on my inspection of this property. Please feel free to contact Don or myself with any questions you may have.

Sincerely,

James E. Stanton
Sr. Water Resource Agent

[Faint, illegible stamp]

[Stamp: JAN 30 1996]



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

LaVon Cunningham
PO Box 104
Albion, ID
83311

August 23, 1995

RE: Water Permit 45-02704, Thomas Geary

Dear Mr. Cunningham;

We are contacting you as the successor in interest to Don Cunningham. In 1980, Mr. Cunningham protested licensing of the above-referenced permit. No action has been taken until now, so we are finally attempting to license the permit. The diversion works and irrigated land were recently re-examined, and new licensing recommendations have been made. Enclosed is a copy of a letter to Rick Geary explaining these recommendations.

If you wish to protest the licensing of this permit, please contact me in writing by September 25. If we do not hear from you by then, the protest of Don Cunningham will be set aside and the license will be issued.

Watermaster Don Gunderson accompanied me on my inspection of this property. Please feel free to contact Don or myself with any questions you may have.

Sincerely,

James E. Stanton
Sr. Water Resource Agent

MISSING

JAN 30 1996



State of Idaho
DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

A. W. Anderson
HC 36 Box 14
Albion, ID
83311

August 23, 1995

RE: Water Permit 45-02704, Thomas Geary

Dear Mr. Anderson;

We are contacting you as the successor in interest to Ira Parke. In 1980, Mr. Parke protested licensing of the above-referenced permit. No action has been taken until now, so we are finally attempting to license the permit. The diversion works and irrigated land were recently re-examined, and new licensing recommendations have been made. Enclosed is a copy of a letter to Rick Geary explaining these recommendations.

If you wish to protest the licensing of this permit, please contact me in writing by September 25. If we do not hear from you by then, the protest of Mr. Parke will be set aside and the license will be issued.

Watermaster Don Gunderson accompanied me on my inspection of this property. Please feel free to contact Don or myself with any questions you may have.

Sincerely,

James E. Stanton
Sr. Water Resource Agent

MAILED

JAN 30 1996



State of Idaho
DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

Rick Geary
HC 36 Box 15
Albion, ID
83311

August 21, 1995

RE: Water Permit 45-02704

Dear Mr. Geary;

After re-examining the water development made under the above-referenced permit, I am recommending that the license be issued as follows. The source of water is the channel that flows into the Marsh Creek ditch on the south side of your property. The point of diversion is where the stream hits the ditch. The place of use is the 12.5-acre pasture west of your house. A flow rate of 0.25 cfs (12.5 inches) is recommended, as is an annual volume of 6.9 acre feet (12.5 inches for 14 days). The period of use is April 1 to June 30.

These recommendations probably represent the maximum amount of water that would ever be available. Please contact me by September 25 if you have comments. I will also seek comments from the watermaster. Copies of this letter will also be sent to the five water users who protested licensing of this permit in 1980. If their successors in interest can be determined, they will be notified.

Sincerely,

James E. Stanton
Sr. Water Resource Agent

[Faint, illegible stamp]

JAN 30 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

Don Gunderson
PO Box 125
Albion, ID
83311

August 21, 1995

RE: Water Permit 45-02704, Thomas Geary

Dear Don;

Attached is a copy of a letter I am sending to Rick Geary covering my licensing recommendations on the permit we examined last week. If you have any comments, please contact me by September 25.

Sincerely,

James E. Stanton
Sr. Water Resource Agent

RECEIVED

JAN 30 1996

State of Idaho
DEPARTMENT OF WATER RESOURCES
FIELD REPORT

45-2704
Permit No.

CONTACT WITH PERMIT HOLDER

	DATE	INITIALS	REMARKS
☐ Appointment letter mailed:	12-22-78	GLF	
☐ Telephone call made: (List Telephone No. used)		GLF	
☐ Appointment scheduled for: (Date, time, location)		GLF	

EXAMINATION

Date 6-10-80 Accompanied by Allen Merritt Total Q measured 0.303 C.F.S.
If source is surface water, estimate total flow of source ✓
Methods of measurement PygmyMETER Meets Permit requirements? ✓

Measurement calculations: MEAS. = 0.303 C.F.S. Allow this Amount. (See MEAS. NOTES)
Volume - 146.98 Acre Ft / ANN. = (1.98 Acre Ft) / (0.303 CFS) (245 days)

WELL/DIVERSION* NO.	HP	MOTOR MAKE	MOTOR SERIAL NO.	PUMP MAKE	PUMP SERIAL NO.	MEASURING DEVICE TYPE	CONDITION OF MEAS. DEV.	REMARKS

System Description Spring water runs into ditches which conveys the water to its place of use.

*Code with map on reverse side. Disregard code if only one.

RECOMMENDED AMOUNTS

USE	Q (cfs)	V (afa)	FROM	TO
IRRIGATION	0.303 C.F.S.	146.98	MARCH-15	NOV-15

Total 0.303 C.F.S. 146.98 MARCH-15 NOV-15
Remarks THOMAS GERRY IS THE NEW OWNER, He WAS NOT AVAILABLE FOR US TO HAVE ASSIGNMENT MADE TO HIM FROM MRS WARREN. (THOMAS WARREN IS DECEASED)

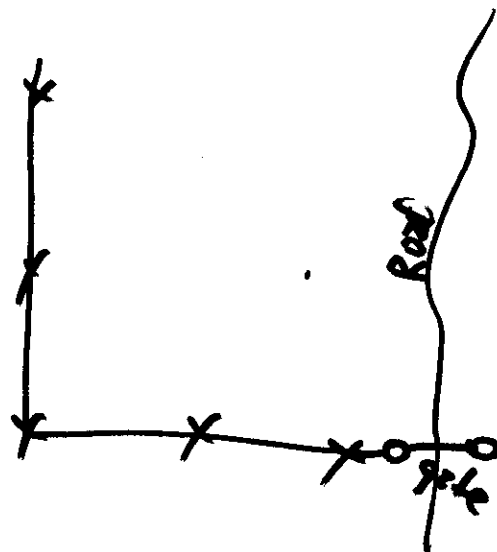
9-275
January 1952

Thomas Warren
UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
WATER RESOURCES DIVISION

Date **6/10/80**, 1980 DISCHARGE MEASUREMENT NOTES
Springs #1 River at _____

Angle coef- ficient	Dist. from initial point	Width	Depth	Observa- tion depth	Revo- lutions	Time in sec- onds	VELOCITY		Adjust- ed for hor. angle or -----	Area	Discharge
							At point	Mean in ver- tical			
	1.0	.05 E/W			—						
	1.1	.10	0.10		80	48			1.64	.010	.0164
	1.2	.15	0.15		40	40			1.00	.023	.0230
	1.4	.2	0.20		50	49			1.02	.040	.0410
	1.6	.2	0.15		30	46			.669	.030	.0201
	1.8	.2	0.15		—				0	.030	✓
	2.0	.3	0.12		20	41			.519	.036	.019
○	2.4	.3	0.10		15	41			.396	.030	.012
	2.6	.1 E/W									
	TOTAL .0131										

No. _____ of _____ Sheets. Comp. by _____ Chk. by _____



1996 8 0

Hill

9-275
January 1952

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
WATER RESOURCES DIVISION

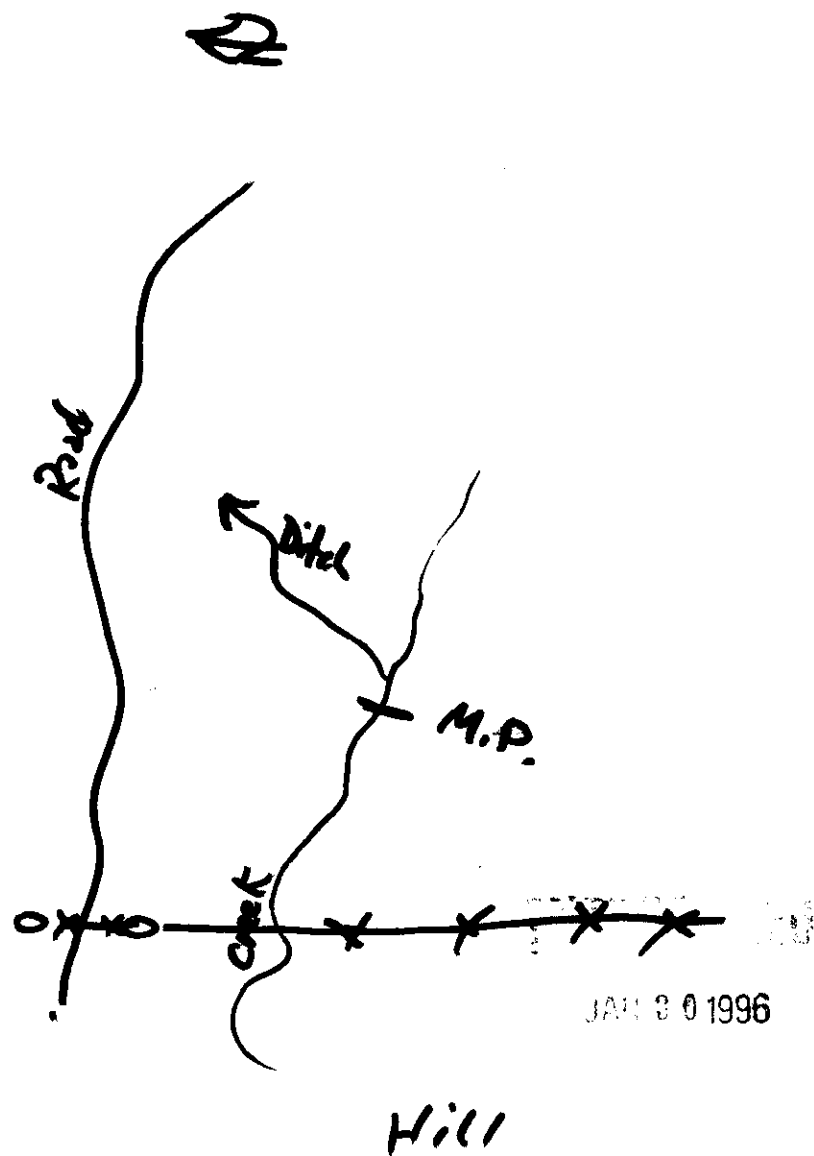
Date 6/10 80, 19 DISCHARGE MEASUREMENT NOTES
Creek above dam River at

MEAS. G.A.
Notes AOA

Angle coef- ficient	Dist. from initial point	Width	Depth	Observa- tion depth	Revo- lutions	Time in sec- onds	VELOCITY		Adjust- ed for hor. angle or	Area	Discharge
							At point	Mean in ver- tical			
	1.0	E/W	0								
	1.2	2	.14		50	47			1.06	.028	.030
	1.4	2	.15		40	42			.956	.030	.029
	1.6	2	.20		30	44			.698	.040	.028
	1.8	2	.20		60	47			1.27	.040	.051
	2.0	2	.18		40	43			.935	.036	.034
	2.2	.15	.10								.172
2.3	.05	E/W								Total	

JAN 30 1952

No. _____ of _____ Sheets. Comp. by _____ Chk. by _____



INTER-DEPARTMENT MEMO — 1

DATE 7-2⁹-80

FROM Jim Stanton

TO Loren Holmes

SUBJECT Protest of Ira Parke et al Against The Granting of License 45-2704

On this date I discussed this water right with Ira Parke of Box 615, Albion, Id. He said that the water filed on is tributary to Marsh Creek and therefore protected from later appropriation by existing court decrees. Apparently the permit holder (now deceased) has prevented this water from entering Marsh Creek, and thereby depriving decreed right holders of receiving their appropriations. Mr. Parke said that the water had never been measured by the watermaster, probably due to a lack of headgates. He thought that the water measured by Gary during the recent field exam was actually 40" of decreed water that was being delivered to the permit holder. Mr. Parke stated that, since there is no irrigation above the applicant, there can be no waste water to appropriate. It was Mr. Parke's contention that this water has been appropriated without regard to existing rights. Diversion of the runoff water instead of running it into Marsh Creek causes flooding of the Parke property. Mr. Parke was adamant that the Department not license this right, threatening a lawsuit if we do. He submitted a petition against licensing of this right. I suggest we investigate these allegations; if they are true, this license should not be granted.

JAN 30 1996


SIGNATURE

Albion, Idaho
July 26 - 1980

We the undersigned being holders of decrees for water from Marsh Creek and tributaries, do here by enter a complaint and Protest against the State of Idaho Water Administration for the appropriation of water to the Thomas Warren estate, now owned by Thomas Geary.

These waters are tributaries to Marsh Creek and all have been decreed beginning in the 1870's.

The flood and surplus waters are decreed, beginning in 1892.

Signed:

Don E. Cunningham

P. D. Perrod

Sam Heidamus

Harry E. Naugle

La. L. Poutte.

RECEIVED

JAN 30 1996

JUL 29 1980

Director of Water Resources
Northern District Office

April 9, 1976

Re: Permit No. 45-2704

Thomas E. Warren
Star Route, Box 15
Albion, ID 83311

Dear Mr. Warren:

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

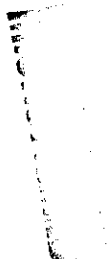
Before a license can be issued, a field examination must be made by a representative of this Department. We cannot tell during which part of the irrigation season this examination will be made, however, our examiner will try to contact you at the time he makes the exam so that you may show him the system.

If you have any questions concerning the field exam, please contact our District Office in Twin Falls.

Sincerely,

D. Darlene Reich
Water Rights Supervisor

DDR:JG



Identification No. _____

Permit No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

RECEIVED
MAY 20 1976
OK
Department of Water Resources

1. a) Name of Permit Holder Thomas E. Warren
b) Post Office Address Star Route, Box 15; Albion, Idaho. 83311
2. Permit Number 45-2704
3. Date of Priority that you are prepared to establish April 2, 1964
4. a) Source from which water was appropriated waste water and spring runoff
b) Location of the point of diversion: one NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10
Township 12S, Range 24E Boise Meridian, Other points of diversion: two
points in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 11; and three points in the center of
the SE $\frac{1}{4}$ Sec. 11; all in TWP. 12S, Rge. 24E B.M. Cassia County
5. a) The amount of water and use to which the water has been applied:
Amount 4.8 CFS for Irrigation purposes from May 1 to Nov. 15 incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)
Amount _____ for _____ purposes from _____ to _____ incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)
Amount _____ for _____ purposes from _____ to _____ incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)
b) Total amount appropriated 4.8 CFS cfs and/or acre-feet per annum
c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifications of the person making the measurement: _____

6. If the means of diversion and conveyance are owned by someone other than the Permit Holder:
a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use:
Privately owned ditches
b) Describe the agreement or understanding by which you take water from the works: _____

7. a) Briefly describe the works for diverting and conveying the water to the place of use, (if from a subterranean source, give the pump size, motor size, size of well casing, depth of well; if from surface water, give brief description of diversion structure and/or canal or ditch) _____

b) Describe the type and size of measuring device which you have installed at your point of diversion: _____

c) Give well driller's name and address and the date the well was completed: _____

8. If for other than irrigation, describe the beneficial use to which you have applied the water and the place of use: Livestock water

Exam 4-8-76 F.M.

9. Irrigation uses: describe the lands irrigated by giving the acreages irrigated within each 40 acre subdivision: _____

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
12S	24E	11				40					40	40	40	40	40				240

Total number of acres irrigated 240 Approx.

10. Remarks: _____

The above information is a true statement of the extent to which the above numbered permit has been developed.

March 29, 1976

(Date)

Thomas E. Warner

(Signature)

State of Idaho)

County of Cassia) ss.

On this 29th day of March, 19 76, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Jay F. Nelson
Notary Public residing at Albion
Idaho

My commission expires June 10, 1979

PS Form 3811, Jan. 1975

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● **SENDER:** Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one):

☐ Show to whom and date delivered..... 15¢

☐ Show to whom, date, & address of delivery.. 35¢

☐ **RESTRICTED DELIVERY.**
Show to whom and date delivered..... 65¢

☐ **RESTRICTED DELIVERY.**
Show to whom, date, and address of delivery 85¢

2. **ARTICLE ADDRESSED TO:**

MICROFILMED

3. **ARTICLE DESCRIPTION:**

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	138286	

(Sign or print signature of addressee or agent)

I have received the article described above.

☒ Signature ☐ Addressee ☐ Authorized agent

Thom Warren

4. **DATE OF DELIVERY**

FEB 2 1975

5. **ADDRESS:** Complete only if registered

6. **UNABLE TO DELIVER REASON:**

**NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES**

2-874-100-0-000-047

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.
• Complete items 1, 2, and 3 on reverse side.
• Moisten gummed ends and attach to back of article.

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



RETURN
TO



DEPARTMENT OF WATER RESOURCES

STATEHOUSE

BOISE, IDAHO 83720

January 30, 1976

CERTIFIED MAIL

138286

Re: Permit No. 45-2704

Thomas E. Warren
Albion, Idaho
83311

Dear Mr. Warren:

One of the conditions of approval of your water Permit No. 45-2704 (see last page of your approved permit) was that evidence of the extent of development be submitted as proof of application of water to beneficial use to this office on or before April 1, 1976. Enclosed is an affidavit form which must be used to submit the required proof of beneficial use.

If you have not fully completed your project, and you have not previously received an extension of time, you may request an extension of time provided the delay is for reasonable cause as indicated in Section 42-204, Idaho Code, amended. If you have been prevented from proceeding by a governmental agency or by litigation, more than one extension of time can be granted.

Either the beneficial use affidavit or a request for an extension of time must be received by this Department on or before the above mentioned date, otherwise the permit will lapse and be of no further force or effect.



R. KEITH HIGGINSON
Director

RKH:jg
Enc: Proof affidavit

cc: Parsons, Smith & Pedersen
137 West 13th St.
Burley, ID 83318

C
April 14, 1975

Re: Permit No. 45-2704

Q
Thomas E. Warren
Albion,
Idaho 83311

P
Dear Mr. Warren:

Enclosed is an Order which extends the proof due date in connection with the above referenced permit.

The time within which to submit proof of beneficial use of water has been extended to April 1, 1976.

Y
Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:JG
Enclosure

cc: Parsons, Smith & Pedersen
Attn: William A. Parsons

RECEIVED

WILLIAM A. PARSONS
RICHARD K. SMITH
KENNETH L. PEDERSEN

PARSONS, SMITH & PEDERSEN
ATTORNEYS AND COUNSELLORS AT LAW
137 WEST 13TH STREET
BURLEY, IDAHO 83318

AREA CODE 208
678-8382

RECEIVED
APR 4 1975
Department of Water Resources
P. O. BOX 910

April 3, 1975

The Department of Water Resources
Statehouse
Boise, Idaho 83720

RE: 45-2704

Gentlemen:

Mr. Thomas Warren asked me to communicate with you for an extension of time on the above permit, which formerly bore number 31813, and request a one year's extension for submitting the proof of beneficial use.

This is necessary by virtue of the fact that Mr. Warren was making the installation of some of the apparatus and illness has prevented him from accomplishing the job.

An earlier application would have been made, however, weather conditions have prevented the Warrens from seeking advice relative to these matters.

If there is additional information needed in support of the request for extension under the applicable section 42-204, please advise us and we will have the client submit the same.

Very truly yours,

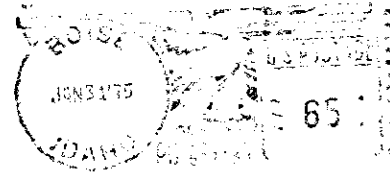
PARSONS, SMITH & PEDERSEN


William A. Parsons

WAP:rt

RECEIVED

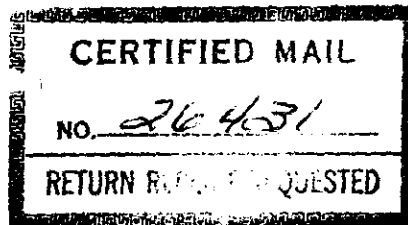
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Statehouse
Boise, Idaho 83707



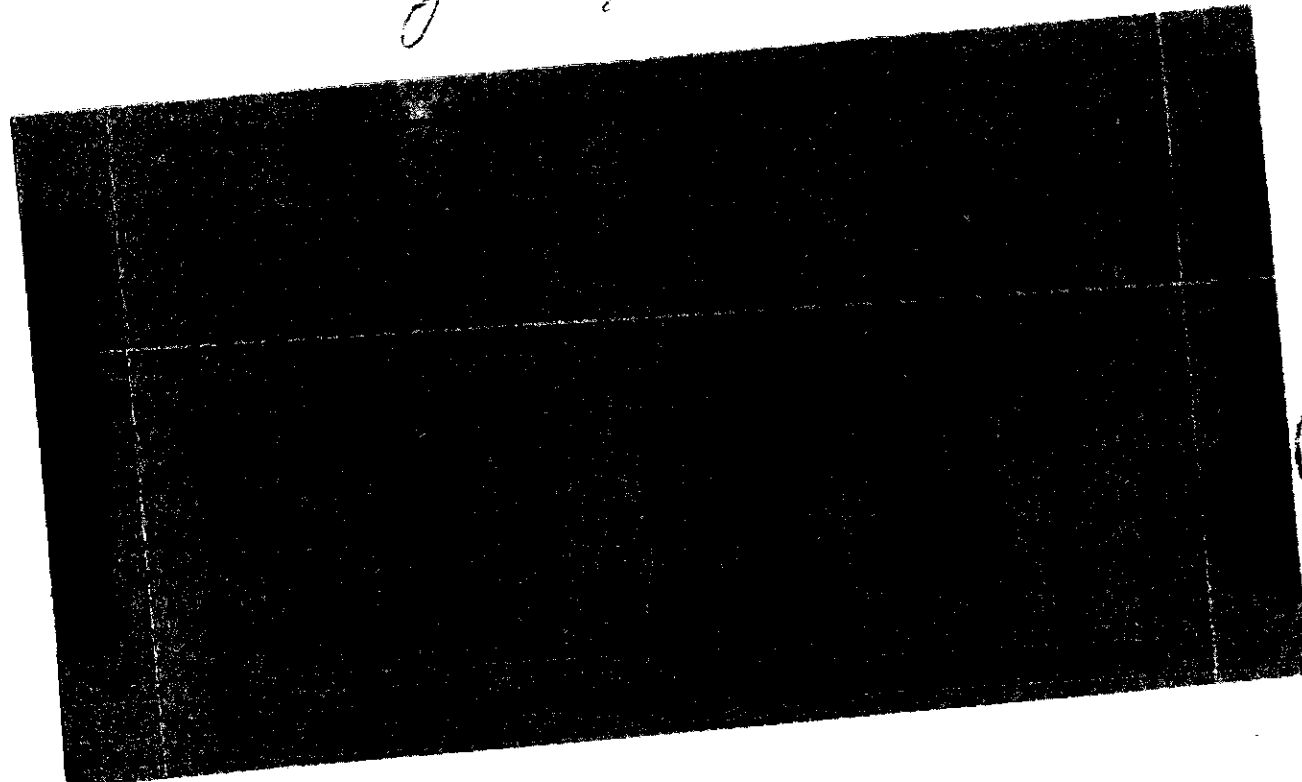
RETURNED TO SENDER

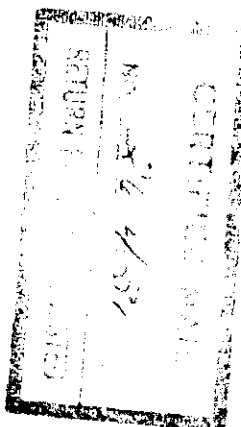
REASON CHECKED

Unclaimed ☒ Refused ☒
Addressee unknown ☒
Insufficient Address ☒
No such street ☒
No such office in S.W. ☒
Do not repeat in this office, Idaho 83323



*Re-sent to Thomas C Warren
Albion, ID
per phone conv. w/attorney
by certified # 26521*





REASON CHECKED
☒ Unclaimed
☐ Addressee
☐ Insufficient Address
☐ No such street
☐ No such office in state
☐ Do not retail in this state
☐ Number A. Warren
 Idaho 83323

PS Form 3811, Nov. 1973

● SENDER: Complete items 1 and 2. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
☐ Show to whom and date delivered..... 15¢
☐ Show to whom, date, & address of delivery.. 35¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom and date delivered..... 65¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:

3. ARTICLE DESCRIPTION:
 REGISTERED NO. CERTIFIED NO. INSURED NO.
 20431
 (Always obtain signature of addressee or agent)

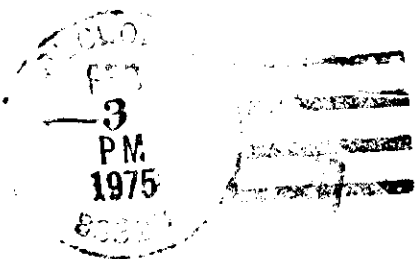
I have received the article described above.
 SIGNATURE

4. DATE OF DELIVERY POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

☆ GPO : 1974 O - 527-803



PS Form 3811, Nov. 1973

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1 and 2.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

☐ Show to whom and date delivered..... 15¢

☐ Show to whom, date, & address of delivery.. 35¢

☐ DELIVER ONLY TO ADDRESSEE and show to whom and date delivered..... 65¢

☐ DELIVER ONLY TO ADDRESSEE and show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	26521	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE

4. DATE OF DELIVERY

FEB 5 1975

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

POST OFFICE
FEB 5 1975
CLERK'S INITIALS
83311

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

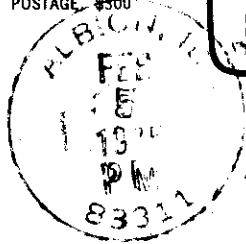
- Complete items 1 and 2 on reverse side.
- Moisten gummed ends and attach to back of article.

**RETURN
TO**



DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



January 31, 1975

CERTIFIED MAIL

#26431
Re-sent by
Cert. #26521

Re: Permit No. 45-2708 31813
(New No.) (Old No.)

Thomas A. Warren
Declo,
Idaho 83323

Dear Mr. Warren:

One of the conditions of approval of your water Permit No. 31813/45-2004 (see last page of your approved permit) was that evidence of the extent of development be submitted as proof of application of water to beneficial use to this office on or before April 6, 1975. Enclosed is an affidavit form which must be used to submit the required proof of beneficial use.

If you have not fully completed your project, and you have not previously received an extension of time, you may request an extension of time provided the delay is for reasonable cause as indicated in Section 42-204, Idaho Code, amended. If you have been prevented from proceeding by a governmental agency or by litigation, more than one extension of time can be granted.

Either the beneficial use affidavit or a request for an extension of time must be received by this Department on or before the above mentioned date, otherwise the permit will lapse and be of no further force or effect.



R. KEITH HIGGINSON
Director

RKH:jg
Enc: Proof affidavit

cc: James Annest, Attorney
1742 Overland Ave.
Burley, ID 83318

MICROFILMED

April 11, 1969

C
O
P
Y

Re: Permit No. 31813
Thomas E. Warren

James Annest
Attorney
1742 Fairview Avenue
Burley, Idaho

Dear Mr. Annest:

Enclosed please find information regarding permit no. 31813. Proof of the application of the water to beneficial use is not due until April 6, 1975. The Department shall notify the permit holder 60 days prior to this date if proof is not submitted beforehand.

We have, however, enclosed proof forms as your letter stated they were ready to make such proof. If you need further information or assistance in this matter, please contact the Department.

We have the address listed for the permit holder as being Declo, Idaho; upon forwarding these items to this address, we find that they did not reside there. Please forward to the Department their current address, so that we may reach them in the future.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:TG
Enc: order
transmittal letter
proof form
advertising package

31813

LAW OFFICE OF

JAMES ANNEST

ATTORNEY AND COUNSELOR AT LAW
AREA CODE 208 PHONE 678-7783

1742 OVERLAND AVENUE
BURLEY, IDAHO 83318
POST OFFICE BOX 686

April 8, 1969

RECEIVED

APR 9 1969

Department of Reclamation

Mr. Keith Higginson
State Reclamation Engineer
Department of Reclamation
Statehouse Annex
Boise, Idaho

RE: Permit No. 31813 and Application No. 39935

Dear Mr. Higginson:

Mr. and Mrs. Thomas E. Warren were in my office today regarding the above mentioned application and permit and advise that they have never received from your department a notice of the necessity for making final proof of completion of works and application of water to beneficial use pursuant to said permit. It is there desire to do so.

I note that the time is very short, if any time is left at all, for making of final proof. I would appreciate your advice and assistance in getting this matter sucessfully concluded.

Mr. and Mrs. Warren advise that they have completed the works and are applying the water to use and for that reason would like to complete their final proof.

Yours very truly,



JAMES ANNEST
Attorney at Law

JA:jp

31813

AFTER FIVE DAYS RETURN TO
DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707


REASON CHECKED
Unclaimed.....Refused.....
Unknown.....
Insufficient address.....
Moved, Left no address.....
No such office in state.....
No such office in this envelope.....

Thomas E. Warren

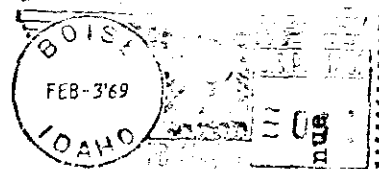
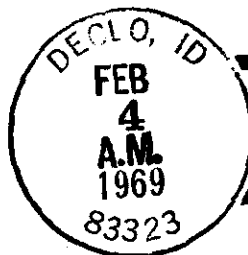
Declo, Idaho

RECEIVED

FEB 5 1969

Department of Reclamation

31813



James Annest, Attorney, 1742 Overland Avenue
Burley, Idaho

sent to:

NOTICE OF APPROVED APPLICATION FOR WATER

Notice is hereby given that Thomas E. Warren, Declo, Idaho

has received an approved permit No. 31813 to divert ~~stone~~
4.8 cubic feet per second ~~acre/feet/~~ of water from
Waste water and spring runoff

_____ . The priority to be established
under this permit is April 2, 1964 .

Water will be diverted by bank ditches and dirt diversion dams
one point within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 11;
three within the center of the SE $\frac{1}{4}$, sec. 11, and two within the
NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 10, T. 12 S., R. 24 E., B. M., Cassia County

and is to be used for irrigation and domestic purposes
in the 1/4 1/4 S 1/2 NE 1/4, NE 1/4 NE 1/4, E 1/2 SE 1/4, Sec. 11; NW 1/4 NW 1/4, Sec. 12,
T. 12 S., R. 24 E., B. M.

Any protests against the intent of the permit must be filed with the Department of Reclamation within ten days from the last date of publication of this notice.

R. KEITH HIGGINSON
State Reclamation Engineer

Published in the South Idaho Press, Burley, Idaho
on _____ and _____

31813

BEFORE THE STATE RECLAMATION ENGINEER

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 31813)
in the name of Thomas E. Warren)
Declo, Idaho)

ORDER MODIFYING REQUIREMENTS
FOR COMPLETION OF PERMIT TO
APPROPRIATE WATER

WHEREAS, the 39th Idaho Legislature made certain amendments to the Idaho Water Law; and,

WHEREAS, these changes raised questions as to the procedures to be followed by holders of permits issued prior to the effective date of the amendments, May 31, 1967; and,

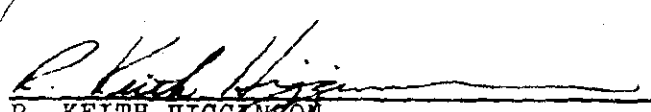
WHEREAS, on August 1, 1968, the Department of Reclamation adopted Rules of Practice and Procedures for the processing of such permits issued prior to May 31, 1967; and,

WHEREAS, Permit No. 31813 was issued previous to that date;

NOW THEREFORE, the requirements for completion of the above-numbered permit are hereby modified to conform to the adopted Rules of Practice and Procedures as follows:

1. The above-numbered permit will be completed under the terms of Title 42, Chapter 2, Idaho Code, as amended by the 39th Idaho Legislature.
2. The conditions of the above-numbered permit are modified as follows:
 - a. Notice of the issuance of the permit will be published at the permit holders expense for two weekly issues in the official newspaper of the county in which the point of diversion lies.
 - b. The permittee will not be required to submit proof of completion of works as originally specified, but will be required to submit proof to the Department of Reclamation of the application of the water to beneficial use on or before April 6, 1975. The permit holder should be aware that failure to complete one-fifth (1/5) of the works within one-half (1/2) of the time originally set for Completion of Works may be grounds for cancellation at the instance of the Department.

Dated this 22nd day of January, 1969.


R. KEITH HIGGINSON
State Reclamation Engineer

31813

February 3, 1969

Re: Permit No. 31813

Thomas E. Warren
Declo, Idaho

Dear Mr. Warren:

During the 1967 session of the Idaho Legislature, certain amendments were made in the law pertaining to the procedures for making proof of beneficial use of water. In order for the Department to comply with these changes, Rules of Practice and Procedure were adopted on August 1, 1968. Generally, these procedures and the amended law make it simpler for a person to make proof and relieve the permit holder from making separate proofs of completion of works and beneficial use of water.

The enclosed order modifies your permit to comply with these rules and regulations. As a part of the new procedure, you will be required to publish a notice at your expense for two consecutive weeks in a paper as prescribed by the Department, stating that you have been issued a permit ~~and to publish a notice for four weeks when he submitted proof under his permit.~~ Previously, a permit holder had to publish a notice for four weeks when he submitted proof under his permit.

If you will complete the enclosed forms, we will cause the notice to be published. Should you require additional forms or information, we will be glad to supply it upon request at any time.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:tg
Enc: order
advertising package

31813

April 15, 1964

Re: Permit No. 31813
Thomas E. Warren

Mr. James Annest,
Attorney at Law,
Box 686,
Burley, Idaho.

Dear Mr. Annest:

We enclose Permit No. 31813 in which we direct your attention to the limitations and conditions as given on the fourth page under approval of the State Reclamation Engineer.

~~Departmental~~ Departmental Receipt No. 32165
which was issued covering payment in the amount of \$ 6.00
for the filing fee of the above mentioned permit., was given to you while in our office.

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer
By

(MRS.) EDNA P. RULE
Chief Clerk

Encl.
EPR:pmk
cc: Thomas E. Warren
Declo, Idaho

31813

**NOTICE OF PROOF OF
COMPLETION OF WORKS**

and

**APPLICATION OF WATER
TO BENEFICIAL USE**

Notice is hereby given that on the 27th day of May 1966, at Heyburn, County of Minidoka, State of Idaho before Frank Woods, Notary Public, at Heyburn, Idaho, proof will be submitted of the completion of works for the diversion of 0.56 cubic feet per second of underground water from a well, and of the application to beneficial use of said water, in accordance with the terms and conditions of Permit No. G-31751, heretofore issued by the Department of Reclamation of the State of Idaho.

1. The name and postoffice address of the person or corporation holding said permit is J. R. Simplot Company, Heyburn, Idaho

2. Said works of diversion will be fully completed on the date for such completion, and the amount of water which said works are capable of conveying to the place of use is 0.56 cubic feet per second.

3. The use to which said water has been applied is Industrial Purposes, and the amount applied to beneficial use is 0.56 cubic feet per second.

4. The point of diversion of said water is SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec. 16, Twp. 10 S., Rge. 23 E., B.M.

5. The place where said water is used is SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec. 45, Twp. 10 S., Rge. 23 E., B.M., County of Minidoka

6. The date of priority which said user is prepared to establish is March 3, 1964.

CARL S. TAPPAN

State Reclamation Engineer

No. 641 April 21 - May 12

THE PROBATE COURT