

TWIN FALLS QUADRANGLE
IDAHO
7.5 MINUTE SERIES (TOPOGRAPHIC)

3169 III NW
ALLS CITY) 11 25' 390 000 FEET R 17 E. R 18 E 14 15 114° 22'



RECEIVED

DEC 1 1978

Sources

NOTICE OF APPLICATION
FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho.

47-7492

Name: KESTLER, MICHAEL
Address: ROUTE 3 TWIN FALLS, ID 83301
Source: GROUNDWATER
Date Filed: 10/11/1978
County: TWIN FALLS
Amount: 0.31 CFS
Point of Diversion: LOT 01 S01 T10S R17E
LOT 04 S06 T10S R18E

Use: HEATING from 01/01 to 12/31
COMMERCIAL from 01/01 to 12/31
IRRIGATION from 03/15 to 11/15
Place of Use: LOT 01 S01 T10S R17E LOT 04
S06 T10S R18E FOR 6 ACRES

Means: WELL AND CONTROL VALVE
If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301 on or before
C. STEPHEN ALLRED NOVEMBER 13, 1978.

Director
PUBLISH: Thursday, Nov. 23, and 30, 1978.

MICROFILMED

Affidavit of Publication

STATE OF IDAHO,)
COUNTY OF TWIN FALLS) ss.

No 7820

I, Nola St. Hughlin being first duly sworn upon oath, depose and say that I am Print Clerk of the TIMES-NEWS, published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two consecutive Thursdays, commencing with the issue dated November 23, 1978, and ending with the issue dated November 30, 1978.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

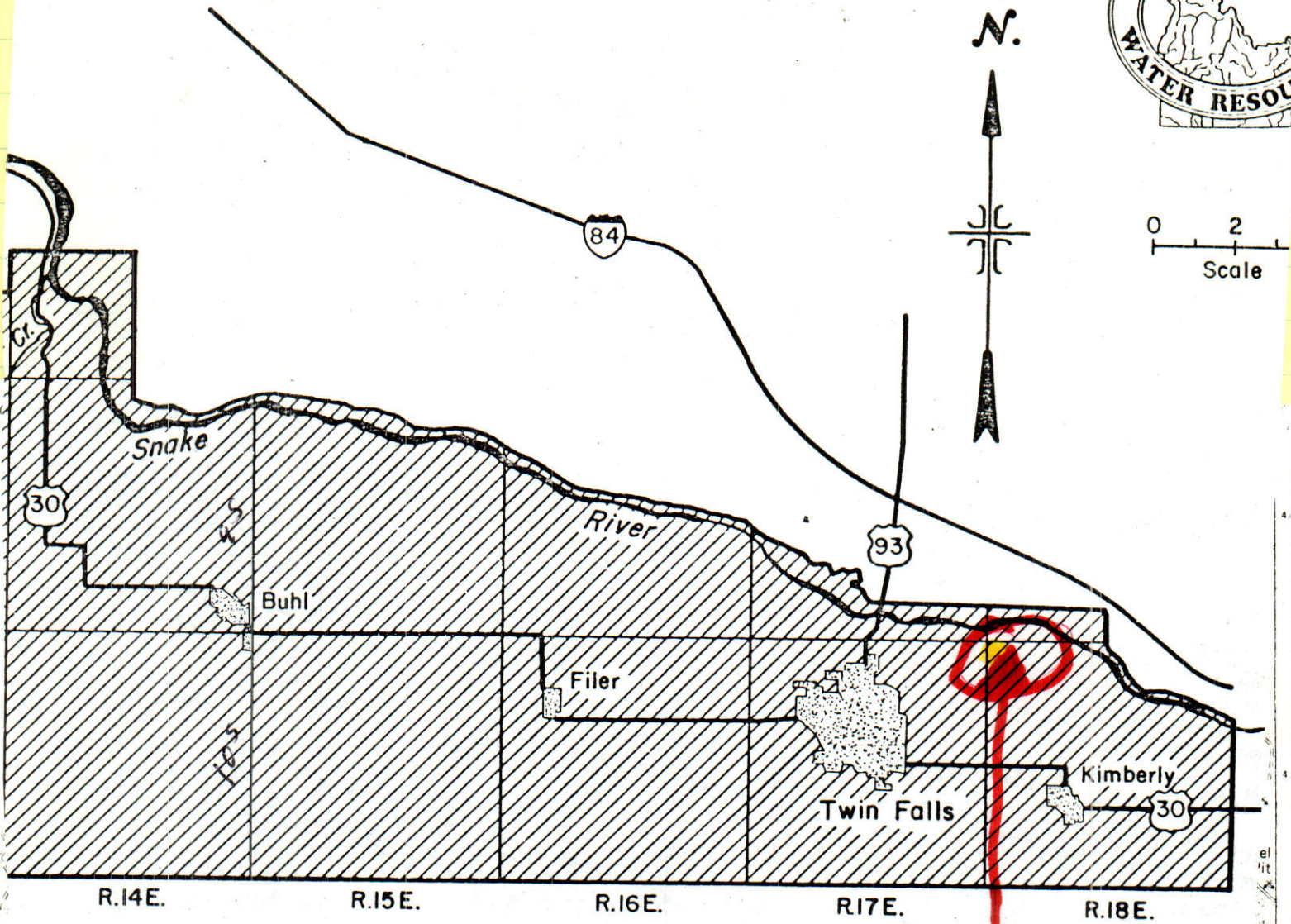
And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

Nola St. Hughlin
Subscribed and sworn to before me on this 30th day of

November, 1978.

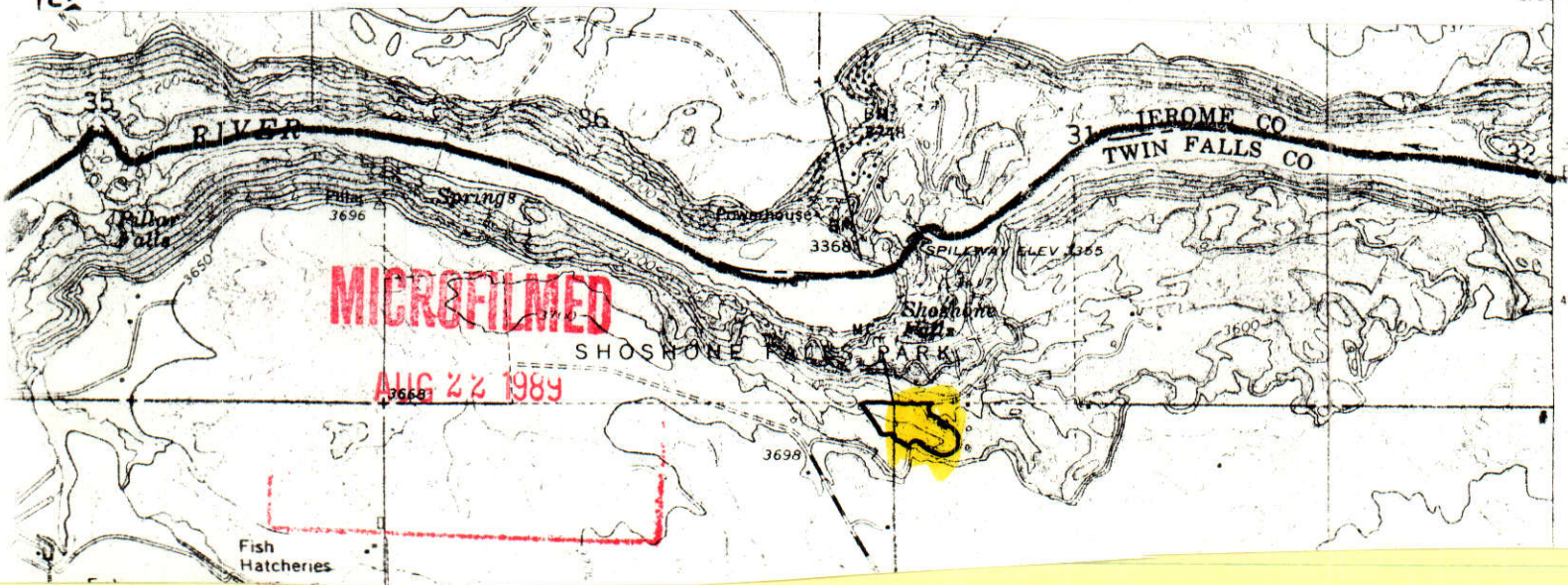
Larry L. Macey
Notary Public in and for the County of Twin Falls,
State of Idaho, residing at Twin Falls, Idaho

TWIN FALLS GROUNDWATER MANAGEMENT AREA



(Designated Jan. 11, 1984)

47-7492



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JUL 03 1995

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Department of Water Resources

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 47-2492 Telephone No. 234-2388

2. Name(s) of Permit Holder(s): Michael Kestler

3. Mailing Address: Route 3, Twin Falls, Id. 83301

4. Source of Water: Well If **GROUNDWATER** (well), Date Drilled: mo. Jan. / yr. 1982

a. Well Driller: Doley & Henry Drilling Permit Number: 47-2-4-9-2

b. **OPTIONAL:**

Pump Horsepower: _____ Pressure (psi): 78 Dynamic pumping level (ft): _____

5. Use(s) (as authorized by the water right permit):

Domestic (No. of households): 1 (see attachment) Stockwater (No. and type of stock): _____

Irrigation (No. of acres): _____ Other: _____

6. Total rate of diversion and/or volume for which proof is submitted: .75 cfs OR _____ acre feet

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required? Yes _____ or No X
Has the measuring device been installed? Yes _____ or No X

Flow Measurement Port: Is a flow measurement port required? Yes _____ or No X
Has the measurement port been installed? Yes _____ or No X

8. Fee Enclosed: \$ 100.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

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

Name: Lloyd J. Walker Telephone Number: 234-2388

Address: 131 Second Street West P.O. Box 1923 Twin Falls ID 83301

10. The information given on this form 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.

Signature of permit holder: Lloyd J. Walker, attorney Date: 6/30/95
(include your title, if on behalf of company or organization)

AUG 09 1995

4/86

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

JAN 13 1989

For Office Use Only

\$15 FEE Received by JS

Date 7-10-1989

Receipt # C008119

DEC 29 1988

REQUEST FOR EXTENSION OF TIME

Department of Water Resources

Department of Water Resources
Southern Region OfficeTo provide additional time in which to submit proof
of beneficial use for a water right permit

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time in which to complete development of a water right under the provisions of Section 42-204, Idaho Code.

Permit No. 47-01492Name(s) of Permit Holder: Michael KestlerPost Office Address: Route #3, Twin Falls, Idaho 83301Telephone No. 734-2388Date Proof Is Due: January 1, 1989

Describe what work has been completed toward the development of this water right: The well was completed
(This must be filled out! If no work has been completed, show "none".)

together with a 6 in. casing on December 31, 1986. It was cased with a controlled
device. Within sixty (60) days, the house and two shops located on the property
were heated by the natural hot water from the well together with a green house
and a hot tub. There has been developed for use and in Costing \$28,500.00
(cont. on back)

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

The balance of the work intended to be completed is the installation of the
swimming pool with completion of additional green houses. The additional work
and completion of the utilization of the water has been stopped by the filing of
(cont. on back)

Permit holder(s) request an extension to 19
(1 yr. minimum)

Michael R Kestler
(Signature)*

FEE: \$15.00

*IF OTHER THAN PERMIT HOLDER,
POWER OF ATTORNEY MUST BE SUPPLIED.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to July 1, 1995.

AUG 22 1989

Signed this 2nd day of August, 1989.

J. Glen Saylor
Chief, Water Allocations Bureau

Work completed...cont.

use, for the purposes listed above, 70 gallons of water per minute.

The point of diversion of the water is as listed in the well application with a head pressure of 78 lbs.

The head pressure, in this instance, is considered as the point of diversion.

Unable to complete work... cont.

the lawsuit, CSI v. Idaho Department of Water Resources, Twin Falls County, civil # 37293 and the Moratorium Order issued by the Department of Water Resources on the 24th of July, 1987.

Permit holder request an extension to three years beyond completion of the Moratorium, which would be July 24, 1995. If the Moratorium is lifted prior to that time, the period would be shorter.

MICROFILMED

AUG 22 1989

47-7492

- N O T I C E -

BEFORE TAKING ACTION ON THIS FILE, PLEASE REFER TO THE
"MORATORIUM AGREEMENT" DATED JULY 22, 1987, COPIES OF WHICH HAVE
BEEN PLACED IN WATER RIGHT FILES 36-7130 AND 47-7606.

10-03-88 lgs

MICROFILMED

AUG 22 1989

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MAR 5 1984

Department of Water Resources
Seaboard Market Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit
proof of beneficial use on a water right permit

For Office Use Only
Fee Received 15.00
Date 3-8-84
Receipt # 33821

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MAR 8 1984

Department of Water Resources

Michael Kestler of Route #3, Twin Falls
(Name) (Address)

State of Idaho, deposes and says:

That he is the holder, or the duly authorized agent of the holder*, of Permit to Appropriate the Public Water of the State of Idaho No. 47-7492.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before January 1, 1984.

That he has heretofore performed the following work described under said permit: _____
(This must be filled out! If no work has been completed put none.)

Dr. Charles Brockway has been retained and has investigated the groundwater geology of the area in order to determine the feasibility of developing the proposed hot-water well. The well site has been cleared so that drilling can begin. /Letter/ of
_____ Costing \$ 500.

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit:
Lack of information on the geothermal potential of the area has prevented construction of the well. The proposed site is within 400' of the Shoshone Falls fault, indicating the possibility of unusual underground conditions at the site. Letter of verification of these reasons is available from Dr. Brockway if needed.

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to January 1, 1989.
(1 yr. minimum, 5 yrs. maximum)

NOTE
AS OF JULY 1, 1980,
THERE IS A \$15.00
CHARGE FOR REQUESTS
FOR EXTENSION OF
TIME.

Michael R Kestler
(Signature)*
*IF OTHER THAN HOLDER, Power of Attorney must be supplied.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVE and the time within which to submit the statement of beneficial use is extended to January 1, 1989.

IT IS FURTHER ORDERED that the permit be REINSTATED and the priority advanced to December 13, 1978, pursuant to Section 42-218a, Idaho Code.

The Department reserves jurisdiction of this permit for the purpose of adding any applicable conditions to protect the public interest.

Dated this 15th day of June, 1984.

L. Glen Saxton
Chief, Operations Bureau

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant Michael Kestler Phone 734-2388

Post office address Route 3, Twin Falls, Idaho 83301

2. Source of water supply ground water which is a tributary of _____

3. Location of point of diversion is _____ $\frac{1}{4}$ of Lot 1 $\frac{1}{4}$ of Section 1 Township 10S

Range 17E B.M. Twin Falls County, additional points of diversion if any: _____

Lot 4 Sec. 6 T. 10S R. 18E

4. Water will be used for the following purposes:

Amount 0.31cfs for home heating purposes from Jan 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 0.31cfs for commercial purposes from Jan 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 0.13cfs for irrigation purposes from Mar 15 to Nov 15 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 0.31 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Well, control valve

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____

Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)

c. Proposed well diameter is 8 inches; proposed depth of well is 1100 feet.

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 — maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation: Same as irrigation use

(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M. _____

(2) Amount of power to be generated: _____ horsepower under _____ feet of head.

(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____

(5) If water is to be used for other purposes describe: Commercial use is for hot baths and swimming pool. Heating is for two homes and garage.

RECEIVED

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
10S	17E	1	Lt1 1.3																1.3
	18E	6					Lt4 5												5

Total number of acres to be irrigated 6.3

c. Describe any other water rights used for the same purposes as described above. none

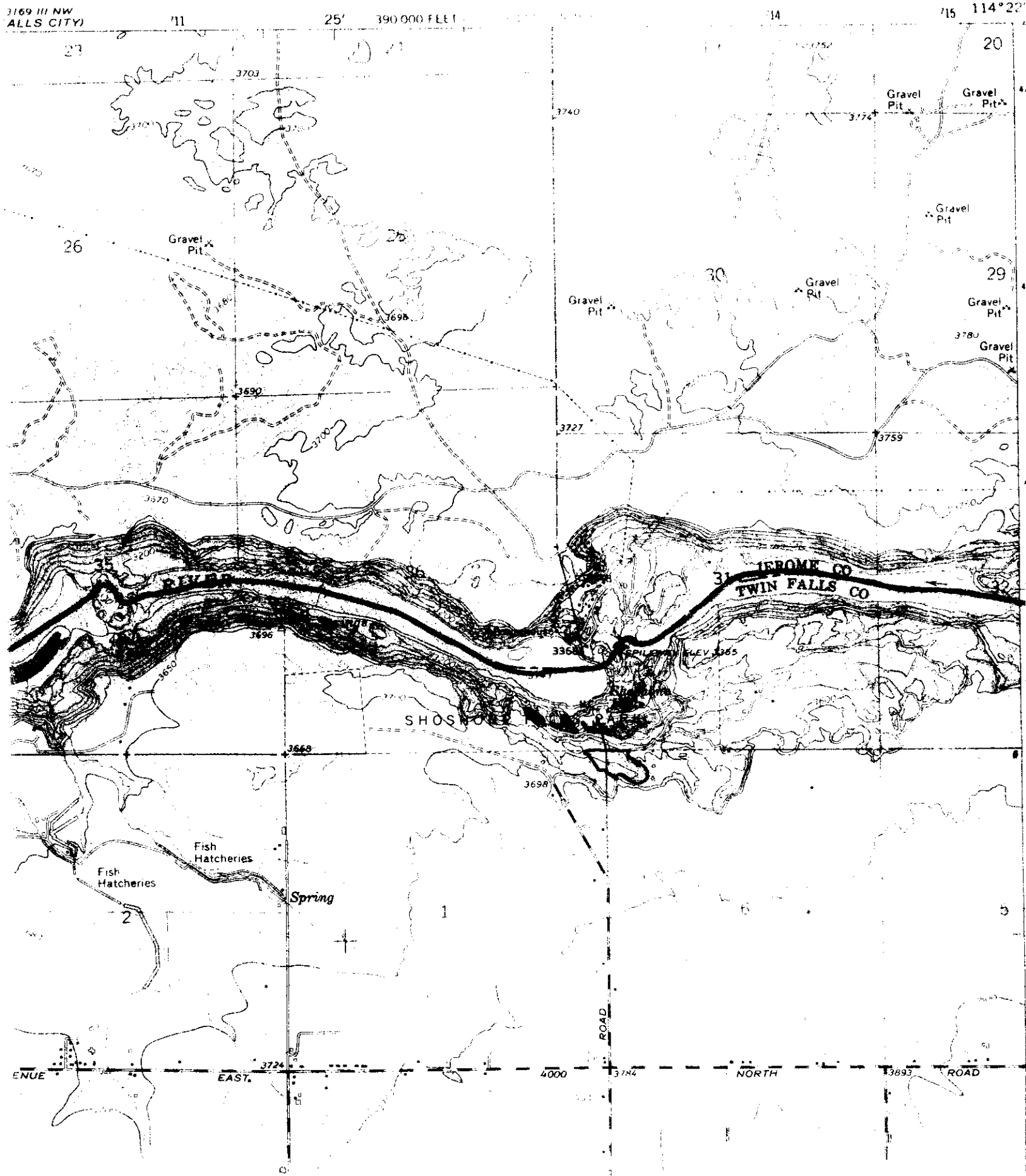
9. a. Who owns the property at the point of diversion Applicant

b. Who owns the land to be irrigated or place of use "

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing

10. Remarks

TWIN FALLS QUADRANGLE
IDAHO
7.5 MINUTE SERIES (TOPOGRAPHIC)



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

[illegible]

Scale: 2 inches equal 1 mile.

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.

Michael R. Kestel
(Applicant)

Proposed Priority 10-11-78

Received by LT Date 10-11-78 Time 4:30 PM

Preliminary check by ADM Fee \$ 35.00 # 10592

Receipted by maria Date 10/11/78

Publication prepared by maria Date 10/16/78

Published in times news

Publication dates 10/26/78 + 11/2/78 11/23 + 11/30/78

Publication approved maria Date 12/1/78

Protests filed by: _____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by ADM SS

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. 47-7492, 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 January 1, 19 84.
- 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. Other: Return water shall be treated to insure that the effluent meets
intrastate stream water quality standards.

Witness my hand this 9th day of January, 1979.

J. Glen Saxton

Chief, Operations Bureau

RECEIVED

DEF 1 1978
1985

Affidavit of Publication

No 7820

STATE OF IDAHO,
COUNTY OF TWIN FALLS } ss.

I, Nola A. Hughtin being first duly sworn upon oath, depose and say that I am Print Clerk of the TIMES-NEWS, published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two consecutive Thursdays, commencing with the issue dated November 23, 19 78, and ending with the issue dated November 30, 19 78.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

Subscribed and sworn to before me on this 30th day of

November, 19 78.

Ray E. Mares
Notary Public in and for the County of Twin Falls,
State of Idaho, residing at Twin Falls, Idaho

MICROFILMED

ok
mays
12/1/78

August 1, 1995

MICHAEL KESTLER
ROUTE 3
TWIN FALLS ID 83301

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 47-07492

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

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

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

c: IDWR - Region

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AUG 09 1995

* 1 household. The house is 1400 sq. ft. and there are heated shops of 3,000 sq. ft. Four acres are being land scaped which includes at least 60 adult trees and 40 young trees with more being added. A greenhouse will be built.

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JUN 09 1995

April 30, 1995

MICHAEL KESTLER
ROUTE 3
TWIN FALLS ID 83301

PROOF DUE NOTICE

RE: PERMIT NO. 47-07492

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 July 1, 1995.

(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.

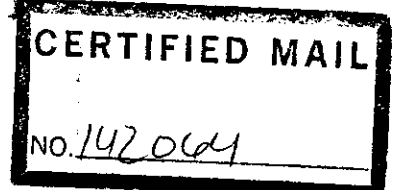
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

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AUG 09 1995





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

47-7492

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

M E M O R A N D U M

DATE: JULY 31, 1992 139339
TO: WATER RIGHT HOLDERS AND APPLICANTS IN TWIN FALLS
LOW-TEMPERATURE GEOTHERMAL MORATORIUM AREA
FROM: NORM YOUNG
RE: EXTENSION OF MORATORIUM

Enclosed is a copy of an order extending the order designating the Twin Falls Low-Temperature Geothermal Moratorium Area. I appreciated the attendance of many of the users at the public information meeting on this matter held in Twin Falls last week. I understood those in attendance favored an extension of the moratorium, and some of the users were encouraging that the size of the area be increased and that additional actions be taken to protect artesian pressures. I indicated at the meeting that the moratorium would be extended without modification to keep its continuity and that IDWR will schedule as time and resources permit a review of the following matters:

- Expansion of the area.
- The need for repair or reconstruction of wells in and adjacent to the area.
- Evaluate the adequacy of the agreement to manage pumpage to prevent withdrawal in excess of the average rate of recharge or to maintain artesian pressures in the public interest.
- Review need for and adequacy of monitoring programs.

With respect to monitoring, the data recorded by the USGS from the well at the Nazarene Church is an important part of the information now being collected. The Church will soon be finished and will be using water from the well. Data from an unused well is more reliable for evaluating aquifer conditions. USGS and IDWR are evaluating alternatives for replacing this source of data. If you are aware of a well that is finished into the low-temperature geothermal aquifer and is not being used, please call Loren Holmes, IDWR Regional Manager at Twin Falls, a call at 736-3033.

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AUG 09 1995

LLOYD J. WALKER
ATTORNEY AT LAW
131 SECOND STREET WEST
POST OFFICE BOX 1923
TWIN FALLS, IDAHO 83303-1923
TELEPHONE (208) 733-3083

LLOYD J. WALKER

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APR 14 1992

Department of Water Resources
Twin Falls, Idaho

April 13, 1992

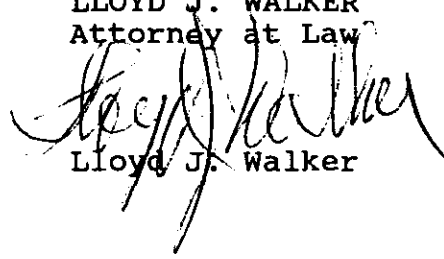
Loren O. Holmes, P. E.
Southern Region Manager
Department of Water Resources
222 Shoshone St. East
Twin Falls, ID 83301

IN RE: Permit No. 47-7492 - Michael Kestler

Dear Mr. Holmes:

I thank you for the acknowledgement of the letter that I received from you concerning the ground water management area. I am quite familiar of the use of the moratorium to allow the data to be collected upon which some final decisions can be made. However, as to this underground aquifer, I continue to be concerned about the description of the word moratorium. Generally speaking that means that the aquifer would not be burdened further until such time as the evaluation is made. In this instance the City of Twin Falls has commenced the utilization of its swimming facilities and C.S.I. has commenced to pump, these are distinct changes in relation the utilization of the water in the underground aquifer during the period of the moratorium. Is this a conditional moratorium and will the added burdens affect the evaluation.

Sincerely yours,
LLOYD J. WALKER
Attorney at Law


Lloyd J. Walker

LJW:vl

RECORDED

AUG 09 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

01-Apr-1992

R. KEITH HIGGINSON
Director

LLOYD J WALKER
P O BOX 1923
TWIN FALLS ID 83303-1923

Re: Permit No. 47-7492 - Michael Kestler

Dear Mr. Walker:

I have reviewed your letter dated March 2, 1992 in connection with the use of the low temperature geothermal water in the Twin Falls area. As you know, on July 24, 1987, the department issued a five year moratorium in connection with a portion of the Twin Falls Groundwater Management Area. The use of low temperature geothermal water was specifically targeted in the moratorium. The authority for the designation is provided in Section 42-1805(8), Idaho Code, and Water Appropriation Rule 7.

Since the 5 year moratorium is about up, the department is evaluating information which has become available during the last 5 years and reviewing appropriate action in connection with the moratorium area. Actions could include extending or rescinding the moratorium, developing and issuing a management plan for the area or taking other regulatory action. The department will seek user input in connection with future designations or actions by the department. This input likely will be obtained by scheduling a meeting.

Thank you for your interest in this matter.

Sincerely,

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

c: IDWR - State Office
W.R. Permits Section
File 47-7492 —

AUG 09 1995

Date

Lloyd J. Walker
131 Second Street West
P. O. Box 1923
Twin Falls, ID 83303-1923

RE: PERMIT NO 47-7492 - MICHAEL KESTLER

Dear Mr. Walker:

I have reviewed your letter dated March 2, 1992 in connection with the use of the low temperature geothermal water in the Twin Falls Area. As you know, on July 24, 1987, the department issued a Five Year Moratorium in connection with a portion of the Twin Falls Ground Water Management Area. The use of low temperature geothermal water was specifically targeted in the moratorium. The authority for the designation is provided in Section 42-1805(8), Idaho Code, and Water Appropriation Rule 7.

Since the 5 year moratorium is about up, the department is evaluating information which has become available during the last 5 years and reviewing appropriate action in connection with the moratorium area. Actions could include extending or rescinding the moratorium, developing and issuing a management plan for the area or taking other regulatory action. The department will seek user input in connection with future designations or actions by the department. This input likely will be obtained by scheduling a meeting.

Thank you for your interest in this matter.

Sincerely,

LOREN HOLMES
Regional Manager

c: IDWR - State Office
W.R. Permits Section
File 47-7492

DRAFT
Forwarded to Loren H
on 3-23-92
WLF

APR 1 1992
9 1995

Phil
Glen
LLOYD J. WALKER

LLOYD J. WALKER
ATTORNEY AT LAW
131 SECOND STREET WEST
POST OFFICE BOX 1923
TWIN FALLS, IDAHO 83303-1923
TELEPHONE (208) 733-3083

RECEIVED
MAR 3 1992

Department of Water Resources

March 2, 1992

Glen please draft a
response
NCG
Department of Water Resources
Southern Region
222 Shoshone East
Twin Falls, ID 83301

IN RE: C.S.I. Hot Water aquifer

Dear Mr. Holmes:

47-7492
Recently I saw an article in the Twin Falls Times News stating that C.S.I had commenced pumping water from the hot water aquifer. The aquifer has been declining and the artesian pressure has now been lowered by overuse. If you check your records you will recall that Michael Kestler did not execute the agreement which purported to redistribute the water among the users by contract. In representing Mr. Kestler it was my opinion and continues to be that the contract was of no force and effect in that water users by agreement cannot possibly distribute a natural resource which belongs to the people of the State of Idaho.

The agreement further recognizes that certain licenses were valid even though there had been no history of beneficial use of the water on the license then owned by Professional Investors. Further, beneficial use of hot water has never really been established by law. The licenses of the three big users were not validated by that agreement.

Now that the pressure and water level are declining it would seem time for some management plan to be developed which would be in compliance with the law as distinguished from some self serving agreement.

All of the issues in the Golden Valley litigation seem to be re-asserting themselves by commencing to pump from an artesian source without permission.

C.S.I could very well be mining the aquifer. The reasonable pumping level in an artesian source of water may well be the pressure that was experienced when water was first removed.

I am requesting that the State Water Resources Department prepare some sort of proposed plan for development which recognizes the case and statutory law that has developed. The data is

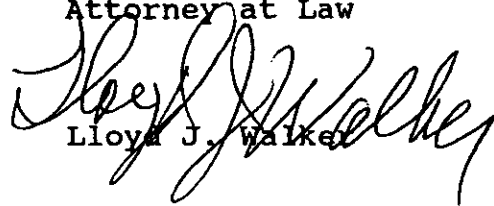
AUG 09 1995

Letter to Mr. Holmes
March 2, 1992
Page 2

commencing to be developed now which the Department of Water Resources should review.

The decline in pressure and water availability from this aquifer creates a factual situation which must now be recognized. I hope that the Department of Water Resources will do that without further litigation. Mr. Kestler was not a party to The C.S.I. agreement and considers it of no force and effect.

Sincerely yours,
LLOYD J. WALKER
Attorney at Law



Lloyd J. Walker

LJW:vl

cc. Keith Higginson--Boise Water Resources
Dr. Charles Brochway--Agricultural Research Service
President Meyerhoffer--C.S.I.
J. A. McCollum--Canyon Springs Golf Course
School District 411

RECEIVED
AUG 09 1995

LLOYD J. WALKER

LLOYD J. WALKER
ATTORNEY AT LAW
131 SECOND STREET WEST
POST OFFICE BOX 1923
TWIN FALLS, IDAHO 83303-1923
TELEPHONE (208) 733-3083

RECEIVED
MAY 03 1990

Department of Water Resources

May 2, 1990

Glen Saxton
State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

RE: Permit No. 47-7492
Michael Kestler

Dear Mr. Saxton:

We have recently received a cost assessment for the monitoring well, all of which seems quite appropriate, and the check will be mailed.

Again, however, the form disturbs me in that a copy is sent to John Rosholt. I do not understand any reason for that copy to Mr. Rosholt unless, again, the Department is taking the position that CSI controls this aquifer.

As a result of that letter, which I am enclosing a copy, I read again your letter of April the 18th. I am attaching hereto the second paragraph of that letter which I find extremely disturbing. You refer to the lawsuit as filed by CSI. Very frankly, that lawsuit was a total dud; it accomplished nothing and was dismissed because it had accomplished nothing. Just how the Department of Water Resources intends to penalize an applicant and proper license holder because they refuse to execute an illegal agreement escapes my knowledge.

I will repeat again. CSI does not own the aquifer. CSI does not administer the aquifer. A moratorium is a moratorium. It cannot be a moratorium to some and not to others. I must insist at this point that I be furnished with an attorney general's opinion which reviews this entire file, the lawsuit upon which it was based, the concerns that I have had about the agreement, the agreement itself, but most of all

RECORDED

AUG 09 1995

Letter to Glen Saxton
May 2, 1990
Page #2

how that agreement can be utilized to penalize some and benefit others without some court adjudication. The lawsuit accomplished absolutely nothing as far as creating law was concerned. Its only function was to cost CSI a great deal of money. The agreement, as any legal basis for conduct by the Department of Water Administration, must be explained or I must have it explained in court.

Sincerely yours,
LLOYD J. WALKER
Attorney at Law



Lloyd J. Walker

LJW/jkl
3212a
Encl.
cc: Keith Higginson
John Rosholt

AUG 09 1995



State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

27-Apr-1990

Michael Kestler
Rt. 3
Twin Falls, ID 83301

COPY

Re: Cost assesment for monitoring geothermal wells

Dear Mr. Kestler:

Please consider this letter a bill for your estimated share of the cost of monitoring water use from the Twin Falls Geothermal Aquifer.

As you will recall, you were a party in a legal action which was resolved by a 1987 agreement which included a provision that the charges incurred by the department in collecting and evaluating water use data were to be borne by the water users in proportion to their water use.

The department is currently contracting with the U.S. Geological Survey for collection and reporting of the data at a cost of \$1000.00 for 1990. The cost is being distributed based on estimates of use during the calendar year 1990. Actual cost based on recorded water use will be calculated at the end of the year and your account will be adjusted when making the 1991 assesment.

Your cost assesment for 1990 is: \$4.10

Based on an estimated use of 30 acre-feet under water right 47-7492 at a unit cost of \$0.1365 per acre-ft.

Please make checks payable to Department of Water Resources.

Very Truly yours,

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

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

cc: John Rosholt

AUG 09 1995

LLOYD J. WALKER

LLOYD J. WALKER
ATTORNEY AT LAW
131 SECOND STREET WEST
POST OFFICE BOX 1923
TWIN FALLS, IDAHO 83303-1923
TELEPHONE (208) 733-3083

RECEIVED
APR 20 1990

Department of Water Resources

April 19, 1990

Glen Saxton
State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

RE: Permit No. 47-7492
Michael Kestler

Dear Mr. Saxton:

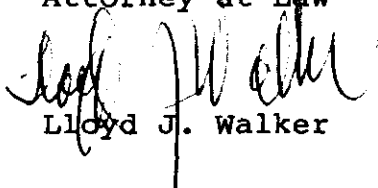
Thank you very much for your response. It has been difficult to receive a response from the Department of Water Resources in relation to the hot water permit.

If you reviewed the file on Mr. Kestler, you are well aware of the fact that I do not think that Idaho water can be distributed pursuant to an agreement, which is illegal in nature, or any agreements as far as that is concerned. These waters are public and must be distributed according to the law.

It is my opinion that Mr. Kestler should file suit against the Department of Water Resources to have the agreement by which you are now operating declared invalid. I am quite aware that C.S.I. has had political clout, but I don't think they have that much legal clout.

Sincerely yours,

LLOYD J. WALKER
Attorney at Law


Lloyd J. Walker

LJW:agw
3212a

RECEIVED

AUG 09 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

April 18, 1990

Lloyd J. Walker
131 Second Street West
P.O. Box 1923
Twin Falls, ID 83303-1923

RE: PERMIT 47-7492 - MICHAEL KESTLER

Dear Mr. Walker:

The department has received your letter dated April 5, 1990 in which you returned a trust water information questionnaire in connection with the above referenced permit. We have also received the twenty (\$20) readvertisement fee which was sent under separate cover dated April 11, 1990.

As you know, Mr. Kestler did not sign the Agreement dated July 22, 1987 which involved certain users of a low temperature geothermal aquifer near Twin Falls. For this reason Mr. Kestler is not entitled to further development under the permit until the moratorium is lifted. The department will readvertise the permit, however, pursuant to the provisions of section 42-203D, Idaho Code, but will not issue a continuation order until and if the moratorium is lifted.

A review of the permit shows that the permit was issued in January 1979 authorizing a maximum rate of diversion of 0.31 cfs. The alleged "clerical error" referred to in your letter apparently is based on the fact that the individual uses shown on the permit are not mathematically additive. It is quite common that applicants will submit an application in which the individual rates of diversion are not additive and for the department to issue a permit accordingly. Such is the apparent case of the permit in question.

As a point of information, the beneficial use of the heat in the low temperature geothermal water resource water was one of the major issues in the College of Southern Idaho water controversy and law suit. The department's position in this regard is that the low temperature geothermal water resource may only be used for irrigation purposes after it has been used for some other use which utilizes the heat in the water. This principle applies to the Kessler permit.

RECEIVED
AUG 09 1995

Lloyd J. Walker

-2-

April 18, 1990

With regard to your request for an opinion concerning the legal status of the well with respect to the established moratorium, please feel free to contact Mr. Phil Rassier of this office who is likely the most familiar with the background and provisions of the agreement, a copy of which was forwarded to you on September 18, 1989 at your request.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Glen Saxton". The signature is fluid and cursive, with the first name "L." being a simple monogram and "Glen Saxton" written in a more elaborate script.

L. GLEN SAXTON, Chief
Water Allocation Bureau

c: Phil Rassier
IDWR - S. Region

RECEIVED
AUG 09 1995

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

Receipt No: C016243

Date: 04/12/90
Time: 09:32:41

Received

From: WALKER, LLOYD J.

Type of Payment	Program Acct Class	Amount
APPLICATION FOR AMENDMENT (477492) <i>TRUST WATER RE-ADJ Fee.</i> <i>(ReADV/adj/segment)</i>	0610199 1238 6390 <i>6490</i>	\$20.00
Total		\$20.00

CHECK 7814

Idaho Department of Water Resources

Region: STATE

Signature: C. Hong

RECEIVED
AUG 09 1995

LLOYD J. WALKER

LLOYD J. WALKER
ATTORNEY AT LAW
131 SECOND STREET WEST
POST OFFICE BOX 1923
TWIN FALLS, IDAHO 83303-1923
TELEPHONE (208) 733-3083

RECEIVED
APR 12 1990

Department of Water Resources

April 11, 1990

State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720
Attn: Tim Luke

RE: Permit No. 47-7492

Dear Mr. Luke:

Through my error, a check for Twenty Dollars (\$20.00) was not enclosed in the form and letter returned to you yesterday.

The check is enclosed with this letter. I am sorry for any inconvenience it may have caused you.

Sincerely yours,
LLOYD J. WALKER
Attorney at Law

Lloyd J. Walker
Lloyd J. Walker

LJW/jkl
3212a
Encl.
cc: Mike Kestler

AUG 09 1995

LLOYD J. WALKER

LLOYD J. WALKER
ATTORNEY AT LAW
131 SECOND STREET WEST
POST OFFICE BOX 1923
TWIN FALLS, IDAHO 83303-1923
TELEPHONE (208) 733-3083

RECEIVED
APR 10 1990

Department of Water Resources

April 5, 1990

State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720
Attn: Tim Luke

RE: Permit No. 47-7492

Dear Mr. Luke:

I am returning the form signed by Mr. Kestler under Application No. 47-7492.

I am still somewhat confused as to the impact of the moratorium which has been established in the hot water aquifer area where this well is located. The confusion arises from the ability to proceed with the development of water in relation to the permit application and its issuance. It was my understanding in the beginning that the moratorium meant just that and there could be no further development until the moratorium was lifted. Then I received a statement from the Department of Water Resources that the City of Twin Falls was able to proceed with filling the new city swimming pool because one could proceed within the limitations of the permits issued. I presume this position is based upon the so-called agreement for use of water between some of the permit holders and the State.

Mr. Kestler stated to you over the phone and has stated constantly that the Permit .31 feet is inaccurate and that it should be .75. On inquiry previously, I have been informed that there will be no ability to entertain even a petition to correct this clerical error during the period of the moratorium.

Mr. Kestler has been utilizing water since the well was brought in, in 1987, as to landscaping on the six (6) acres. This use is increasing each year and will include pasturage and full utilization of the six (6) acres.

RECEIVED
AUG 09 1995

RECEIVED
APR 10 1990

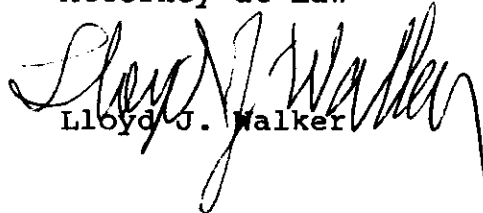
Letter to Tim Luke
April 5, 1990
Page #2

Department of Water Resources

I would appreciate an opinion as to the actual legal status of this well in relation to the moratorium, the ability to correct the clerical error involved in its issuance and the ability to develop additional waters during the period of the moratorium.

Thank you very much for your help.

Sincerely yours,
LLOYD J. WALKER
Attorney at Law


Lloyd J. Walker

LJW/jkl
3212a
Encl.
cc: Mike Kestler

RECEIVED
AUG 09 1995

IDAHO DEPARTMENT OF WATER RESOURCES
TRUST WATER INFORMATION QUESTIONNAIRE

Application No. 47-7492

IF YOU ARE NOT INTERESTED IN HAVING YOUR APPLICATION PROCESSED,
PLEASE COMPLETE AND RETURN THE ENCLOSED RELINQUISHMENT FORM.

INSTRUCTIONS: Please answer the following questions as
thoroughly as possible and submit the \$20.00 readvertisement
fee if applicable.

1. Did irrigation occur on the lands identified under your
application prior to October 1, 1984? Yes _____ No X

If yes, you are requested to submit clear evidence that shows the
number and location of acres irrigated.

Aerial photographs taken prior to October 1, 1984, located in area
ASCS offices, are best forms of evidence. Photos submitted to the
the Department must be accompanied by a signed statement from an
ASCS representative which verifies the photo date and that the
lands were irrigated prior to October 1, 1984. If ASCS does not
have photos for the land and/or time in question, you must have the
ASCS provide the Department with a statement that photos are not
available and then proceed to submit other forms of suitable evidence.

2. Please state the number of acres you have irrigated under this
application since October 1, 1984. See comment

3. If you have not irrigated lands under this application, please
state the number of acres you plan to complete. See comment

NOTE: You must submit the \$20.00 readvertisement fee if any or all
of the lands were not irrigated before October 1, 1984.

4. If the application is a supplemental filing please identify
other water rights which are used on the same land.

Use the reverse side of this form if you wish to add any comments.

I hereby assert that the responses provided above are true to the
best of my knowledge. I understand that any willful misrepresentations
may result in voiding of the application.

Applicant Mike Kett

Date April 9, 1990

RECEIVED
AUG 09 1995

IDAHO DEPARTMENT OF WATER RESOURCES
TRUST WATER INFORMATION QUESTIONNAIRE

5. REMARKS/COMMENTS:

Mr. Kestler stated to you over the phone and has stated constantly that the
Permit .31 feet is inaccurate and that it should be .75. On inquiry previously,
I have been informed that there will be no ability to entertain even a petition
to correct this clerical error during the period of the moratorium.

Mr. Kestler has been utilizing water since the well was brought in, in 1987,
as to landscaping on the six (6) acres. This use is increasing each year and
will include pasturage and full utilization of the six (6) acres.

See enclosed letter.

RECEIVED
AUG 09 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

March 26, 1990

Michael Kestler
Rt. 3
Twin Falls, ID 83301

Re: Permit No. 47-7492

Dear Permit Holder(s):

NOTICE OF PENDING ORDER CANCELLING PERMIT

On January 9, 1979, the Department of Water Resources (Department) issued Permit No. 47-7492 which authorized the diversion of .13 cubic feet per second from groundwater for the irrigation of 6.3 acres.

The Department mailed a letter and questionnaire to you on February 20, 1990 in connection with the permit. The letter provided notice that the Department was reviewing the permit in connection with development which was not complete prior to July 1, 1985.

This letter also requested that you return the Department's questionnaire concerning any prior development under the permit and/or your plans for pursuing completion of the proposed project. The correspondence further requested that you submit with the questionnaire either a re-advertisement fee in the amount of twenty dollars (\$20) and/or evidence showing that development under the permit was complete prior to July 1, 1985. Finally, the letter notified you that failure to submit the required fee or information within thirty (30) days of the date of the letter was cause for the Department to cancel the permit.

The purpose of this letter is to provide a second and final opportunity for you to submit the requested information. If you fail to respond to this inquiry within fifteen (15) days of the date of this letter, the Department will issue an order cancelling the permit pursuant to Water Appropriation Rule 4,2,3,4.

If no development has been completed as authorized by the permit, and you are no longer interested in pursuing the development, please complete and return the enclosed relinquishment form.

Please feel free to contact me if you have any questions concerning this matter.

Sincerely,

TIM LUKE
Sr. Water Resource Agent

Enclosure
cc: Region

RECEIVED
AUG 09 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

February 20, 1990

RE: PERMIT NO. 47-7492

Dear PERMIT HOLDER:

Due to the Swan Falls litigation, development proposed by the enclosed permit may have been delayed. The Department is presently reviewing the permit and may authorize completion of development proposed under the permit.

The purpose of this letter is to determine: (1) the extent of development under the permit, and (2) your continued interest in developing or completing development under the permit. Enclosed are two forms which will help the Department expedite the reprocessing of the permit.

Please complete and return the enclosed questionnaire if you wish to continue with your plans of development or have completed all or a portion of your development before July 1, 1985.

Please complete the enclosed relinquishment form and return it to the Department if you have abandoned or have no interest in continuing with your plans for development of the project.

If the entire project was not completed prior to July 1, 1985, and you still wish to proceed with your plans of development, then you must submit a \$20.00 re-advertisement fee to the Department as required by Water Appropriation Rule 4,2,3. and Section 42-221F, Idaho Code.

Failure to return the questionnaire and pay any required re-advertisement fee within thirty (30) days of the date of this letter is cause for the Department to cancel the permit.

RECEIVED
AUG 09 1995

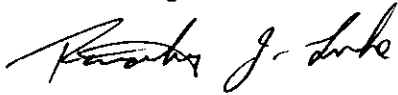
Page 2

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

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

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

Sincerely,



TIM LUKE
Sr. Water Resource Agent

Enclosures

cc: Region

AUG 09 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

September 18, 1989

Lloyd J. Walker
131 Second Street West
P.O. Box 1923
Twin Falls, ID 83303-1923

RE: AGREEMENT SIGNED JULY 22, 1987 - LOW TEMPERATURE GEOTHERMAL
WATER RESOURCE NEAR TWIN FALLS

Dear Mr. Walker:

Pursuant to your request, please find enclosed a copy of the agreement which involved certain low temperature geothermal uses in the College of Southern Idaho area.

If you have additional questions, please contact Mr Phil Rassier of this office who is likely the most knowledgeable department employee relative to the background and execution of the enclosed copy of the agreement.

Sincerely,

A handwritten signature in dark ink, reading 'L. Glen Saxton'. The signature is fluid and cursive, with the first name 'L.' being small and the last name 'Saxton' being larger and more prominent.

L. GLEN SAXTON, Chief
Water Allocation Bureau

c: Phil Rassier
IDWR - S. Region

Encl: 1

RECORDED

AUG 09 1995

- 47- 7492 ?

LLOYD J. WALKER
ATTORNEY AT LAW
131 SECOND STREET WEST
POST OFFICE BOX 1923
TWIN FALLS, IDAHO 83303-1923
TELEPHONE (208) 733-3083

LLOYD J. WALKER

RECEIVED

SEP 7 1989

Department of Water Resources
Southern Region Office

September 6, 1989

RECEIVED

SEP 11 1989

Department of Water Resources

L. Glen Saxton, Chief
Water Allocation Bureau
2148 4th Avenue East
Twin Falls, Idaho 83301

Dear Mr. Saxton:

Your response confuses me only further. My file does not indicate that an executed agreement was ever delivered to me on behalf of Mr. Kestler. My recollection, which is all I have since I have no agreement, was that the State would not sign unless all parties did.

My position has not changed. The agreement does not comply, in almost any respect, with the Water Laws of the State of Idaho. You have correspondence from me indicating that position.

There is little question that a group of people, regardless of who they are, can determine in advance the proper allocation of a resource, the extent of which is unknown. From your response and the fact that you consider the development, since the moratorium, as being within the terms of the agreement, the State has taken the position that the designated amounts as to each applicant are proper.

Why then the moratorium? The only reason for a moratorium is to block development when there is a lack of data as to the water available for use. Once that data becomes available, then the development can take place which is binding in the future. In the event it is determined after the study that there isn't sufficient water to meet the demands as established by the agreement, what happens? Is the agreement binding or does the law then take over?

I refer you again to the Golden Valley Litigation and the subsequent litigation that took place in front of Mr. Higginson.

Mr. Kestler is not bound by the agreement nor by an unenforceable order. If the State of Idaho continues to allow

RECEIVED

AUG 09 1995

Mr. L. Glenn Saxton
September 6, 1989
Page Two

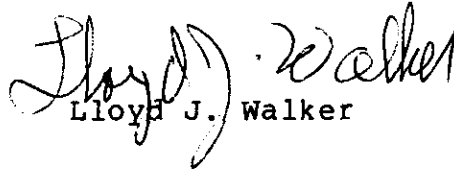
further development within the amounts allocated by that agreement, then litigation will have to develop. It would be much too late five years or ten years from now if the study determined that there isn't enough water to fulfill the claims.

CSI does not really have the ability to allocate the use of a natural resource, the extent of which is unknown. It would be better to allocate this resource on a responsible and legal basis now rather than perhaps require the city to close down the swimming pool five or ten years from now.

I would very much appreciate a copy of the executed agreement.

Sincerely yours,

LLOYD J. WALKER
Attorney at Law


Lloyd J. Walker

LJW:agw
2989a
cc: Mike Kestler

RECEIVED

AUG 09 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

August 30, 1989

Lloyd J. Walker
131 Second Street West
P.O. Box 1923
Twin Falls, ID 83303-1923

Dear Mr Walker:

The department has reviewed your letter dated August 3, 1989 in connection with the Agreement signed July 22, 1987 (agreement) and the use of low temperature geothermal water in the Twin Falls area.

On July 24, 1987, the Director of the department did issue an Order Establishing a Five Year Moratorium for a portion of the Twin Falls Ground Water Management Area. Enclosed for your information is a copy of the order. Note that the order does provide that some qualified development can occur.

The use and development of water by CSI up to the amount of water authorized by the agreement under permit 47-7606 does not appear to conflict with the moratorium or the agreement.

The City of Twin Falls likely diverted and used water under permit 47-7969 since the city has filed proof of beneficial use under permit 47-7969 showing a swimming pool use. This use also does not appear to conflict with the moratorium or agreement. To the department's knowledge, water was not diverted from the well of the school district under application 47-7964 to fill the city pool.

I hope this letter answers your questions. Please feel free to contact the department if you have additional questions.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Encl: 1

c: S. Region
47-7964
47-7969
47-7606

RECEIVED

AUG 09 1989

August 9, 1989

Michael Kestler
Rt. 3
Twin Falls, ID 83301

Dear Mr. Kestler:

Re: Permit No. 47-7492

Enclosed is a copy of the approved request for extension of time. The time within which to submit proof of beneficial use is extended to July 1, 1995.

If you have any questions, please feel free to contact this office.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosure

Michael Kestler
AUG 22 1989

June 19
~~May~~ 23, 1989

Michael Kestler
Rt. 2
Twin Falls, ID 83301

Dear Mr. Kestler:

Re: Permit No. 47-7492

In anser to the the October 31, 1988 proof due notice, the department received a request for extension of time form. The department is preparing to take action on this request.

I note that the \$15 filing fee has not been paid. Please remit the filing fee soon.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

INDEXED

AUG 22 1989

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Boise, Idaho 83706-2237

Sent
letter again
to Rt. 2, Twin
Falls, ID on
6-19-89

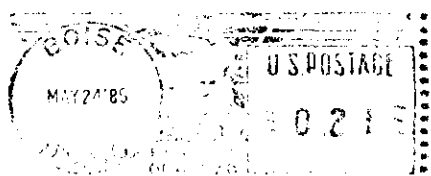
MICROFILMED
AUG 24 1989



NOT KNOWN
5-26-89

celebrate
IDAHO

REGISTERED
FIRST CLASS



47-7492

Michael Kestler
Rt. 2
Twin Falls, ID 83301

RECEIVED

MAY 26 1989

Department of Water Resources

TO: Glen Saxton
FROM: Phil Rassier *PJR*
RE: Kestler Permit 47-7492
DATE: May 17, 1989

This permit is subject to the 5 year moratorium order entered on July 24, 1987 for a portion of the Twin Falls Ground Water Management Area.

The permit is for .31 cfs. Under the Agreement of July 22, 1987, between the water users of the geothermal aquifer and the department Kestler would have been entitled to develop the full permitted right during the pendency of the moratorium. However, since Kestler did not sign the Agreement he is not entitled to further develop his right during the pendency of the moratorium.

Since Kestler is not entitled to develop during the 5 year moratorium period, he is entitled to an extension of time which would allow him a reasonable amount of time to complete his development after the moratorium is lifted. Unless extended, the moratorium will expire on July 24, 1992. The permit holder has requested a three-year extension until July 24, 1995 to complete work under the permit. The extension should be conditioned to extend until July 24, 1995, or three years after the lifting of the moratorium, which ever comes first. } 2

A potential future difficulty with this right may arise if water rights junior to Kestler's are developed pursuant to the Agreement during the moratorium period. The result could be a lack of water available for Kestler to complete his development after the moratorium is lifted. Kestler might then be required to challenge the validity of the Agreement to acquire a supply of water to complete his development.

MICROFILMED

AUG 22 1989

MICROFILMED

AUG 22 1969

DATE 1-09-89

FROM Glen

TO Phil

SUBJECT

- This permit is one which was involved in the CSI matter.

- It appears we should grant a 5 yr extension ending 5 yrs after the date the moratorium was signed.

- Comment or suggested conditions of approval or lang for the transmittal letter?

SIGNATURE

TJg

LLOYD J. WALKER, P.A.
ATTORNEYS AND COUNSELORS AT LAW
131 SECOND STREET WEST
POST OFFICE BOX 1923
TWIN FALLS, IDAHO 83303-1923
TELEPHONE (208) 733-3083

LLOYD J. WALKER

RECEIVED
JAN 03 1989

Department of Water Resources

December 28, 1988

Mr. L. Glen Saxton, Chief
Water Allocation Bureau
2148 4th Avenue East
Twin Falls, ID 83301

RE: Permit No. 47-07492

Dear Mr. Saxton:

I have again reviewed the letter written by you concerning the extension of time to the School District No. 411 of Twin Falls, Idaho, on their permit application. Very frankly, I have difficulty understanding the letter and its legal significance.

As you are aware, on my advice, Michael Kestler did not sign the proposed agreement of July 22, 1987. It was my opinion, and it continues to be my opinion, that the agreement is unenforceable, in particular paragraph two of that agreement which is set out in the order of moratorium. Parties by agreement cannot violate water law established by the State legislature and case law. No one can give up their rights by agreement to enforce that law. No one can agree that a well's production, which is in fact in violation of the law, can be made legitimate by agreement. It is extremely confusing as to the application of the moratorium by the State.

It is my understanding that both the CSI and the City of Twin Falls have continued developing water during this period of moratorium. It was in the newspaper, not long ago, that the City of Twin Falls had just now filled the new city swimming pool and that CSI has continued to install additional pipes and equipment for the development and utilization of the natural hot water.

In Mr. Kestler's Motion for an Extension, it has clearly been stated that his point of diversion includes a well head pressure. This pressure is measurable and monitored. If it commences to decline during the period of moratorium because of the development of water in violation of the moratorium, an action will be brought to stay any further development until the State establishes properly the amount of water available and the optimum pumping level or the proper point of diversion which would include well head pressure.

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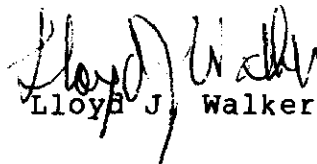
AUG 22 1989

Mr. L. Glen Saxton, Chief
December 28, 1988
Page Two

I will again repeat, and it's on record in your office, that I consider the CSI agreement to be of no force and effect and in violation of State's statutes and case law. That violation cannot be cured by approval of the State Director. Further, it should be made of record that Mr. Kestler was again invited to participate in the "settlement" of the lawsuit, which only CSI signed. It is again to be understood that our position is that that agreement is in violation of State Water Law and established no rights of any kind in the aquifer. It is my hope that the state enforces its moratorium equally and properly against all permit holders in the aquifer.

Sincerely yours,

LLOYD J. WALKER, P.A.


Lloyd J. Walker

LJW:agw
2357a

cc: Mike Kestler
Chuck Brockway

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AUG 22 1989

MICHAEL KESTLER
ROUTE 3
TWIN FALLS, ID 83301

October 31, 1988

138 691

PROOF DUE NOTICE

RE: PERMIT NO. 47-07492

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 January 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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AGREEMENT

This Agreement, made and entered into this ____ day of _____, 1987, by and among THE IDAHO DEPARTMENT OF WATER RESOURCES, an executive agency of the State of Idaho (hereinafter "IDWR"); COLLEGE OF SOUTHERN IDAHO, a junior college district (hereinafter "CSI"); PROFESSIONAL INVESTORS LIFE INSURANCE COMPANY, a corporation with principal offices in Tulsa, Oklahoma (hereinafter "Professional"); J.D. McCOLLUM and JEAN McCOLLUM, husband and wife, of Twin Falls County, Idaho (hereinafter "McCollum"); SCHOOL DISTRICT 411, an instrumentality of the State of Idaho (hereinafter "411"); **MICHAEL KESTLER**, an individual of Twin Falls County, Idaho (hereinafter "Kestler"); GARY STONE, an individual of Twin Falls County, Idaho (hereinafter "Stone"); FIRST CHURCH OF THE NAZARENE (hereinafter "Nazarene"); HYDROTUBE OF IDAHO (hereinafter "Hydrotube"); ARNOLD ELSING and RONALD ELSING, individuals of Twin Falls County, Idaho (hereinafter "Elsing"); MAGIC GARDENS (hereinafter "M.G."); and the CITY OF TWIN FALLS, IDAHO (hereinafter "City");

Whereas, the Director of the Department of Water Resources will consider this Agreement as limiting for the purpose of implementing Idaho Code 42-1805(7) which authorizes the Director to suspend further development of existing water rights; and

Whereas, the parties hereto (except IDWR) are the holders of valid water permits and licenses issued by IDWR, or have filed applications which IDWR has not yet approved for the purpose of diverting and beneficially using hot water from a common hot water aquifer that underlies portions of Twin Falls and Jerome Counties in the vicinity of the City of Twin Falls, Idaho; and

Whereas, the parties hereto are desirous of entering into an agreement amongst themselves and IDWR setting forth their respective rights and obligations as to the hot water, for the purpose of resolving the interfaces between the parties, and securing the dismissal of the pending lawsuit; and

Whereas, the parties are concerned that the hot water be used for the heat resource and not as a substitute where cold water is adequate for a particular beneficial use and the parties are concerned about their rights to use the hot water in the future, and are agreeable to limit their rates of

NOT RECORDED

AUG 22 1989

6. **Kestler** is the holder of Permit No. **47-7492** providing for the development of .31 cfs. In consideration for this Agreement, Kestler agrees that his diversions from the common hot water aquifer shall be limited to .31 cfs for beneficial uses which utilize the heat resource of the water.

7. **Stone** is the holder of Permit No. **47-7714** providing for the development of 2 cfs. In consideration for this Agreement, Stone agrees that his diversions from the common hot water aquifer shall be limited to .5 cfs for beneficial uses which utilize the heat resource of the water.

8. **Nazarene** is the holder of Permit No. **47-7745** providing for the development of .70 cfs. In consideration for this Agreement, Nazarene agrees that its diversions from the common hot water aquifer shall be limited to .70 cfs for beneficial uses which utilize the heat resource of the water.

9. **Hydrotube** is the holder of Application No. **47-7872** providing for the development of .20 cfs. In consideration for this Agreement, Hydrotube agrees that its diversions from the common hot water aquifer shall be limited to .10 cfs for beneficial uses which utilize the heat resource of the water.

10. **Elsing** is the holder of Permit No. **47-7875** providing for the development of .30 cfs. In consideration for this Agreement, Elsing agrees that his diversions from the common hot water aquifer shall be limited to .15 cfs for beneficial uses which utilize the heat resource of the water.

11. **M.G.** is the holder of Application No. **47-7966** providing for the development of 1 cfs. In consideration for this Agreement, M.G. agrees that its diversions from the common hot water aquifer shall be limited to .5 cfs for beneficial uses which utilize the heat resource of the water.

12. **City** is the holder of Permit No. **47-7969** providing for the development of 1.92 cfs. While this Agreement is in no way intended to bind IDWR as to the status of the permit, City agrees that if its permit is not cancelled and remains in good standing, its diversions from the common hot water aquifer shall be limited to .95 cfs for beneficial uses which utilize the heat resource of the water.

13. **Sun Ventures, LTD.** is the holder of Application No. **36-8137** providing for the development of 48 cfs. The parties hereto (except IDWR and Professional) acknowledge that

MICHAEL KESTLER

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this _____ day of _____, 1987, before me,
a Notary Public, in and for said County and State, personally
appeared MICHAEL KESTLER, known or identified to me to be the
individual whose name is subscribed to the within instrument,
and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my official seal the day and year in this certificate
first above written.

NOTARY PUBLIC FOR IDAHO
Residing at: _____
My commission expires: _____

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AUG 22 1989



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

July 24, 1987

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

CERTIFIED MAIL

Attached Service List

Re: Order Establishing a Five Year Moratorium for a Portion
of the Twin Falls Ground Water Management Area

Dear Water Right Holder:

Enclosed is a copy of the order of the Department of Water Resources establishing a five year moratorium for a portion of the Twin Falls Ground Water Management Area which I issued July 24, 1987. The order generally limits the approval of new applications and further development under existing permits to appropriate thermal water within the affected area except in accordance with the Agreement of July 22, 1987, which I executed on behalf of the Department and which has been or will be executed by some or all of the parties to Twin Falls County Civil Case No. 37298 entitled College of Southern Idaho v. The Idaho Department of Water Resources, et al.

Paragraph 20 of the agreement provides:

20. The parties hereto agree that the amounts of the diversions as set out in paragraphs 2 through 12 are reasonable and each agrees not to protest, seek abandonment or forfeiture, or otherwise contest the amount of the agreed diversions of the other parties hereto during the term of this moratorium or any extension thereof, so long as the water is beneficially applied to use.

The Department hereby agrees to recognize the provisions of paragraph 20 as to all potential parties to the agreement through August 21, 1987 in order to allow adequate time for all potential parties to review and execute the agreement. Thereafter, the rights of potential parties that have not executed the agreement will be subject to the types of action described in paragraph 20.

I believe that the agreement and the moratorium address the problems within the thermal ground water area in a fair and reasonable manner and urge all parties to execute the agreement.

Sincerely,

A. Kenneth Dunn
A. KENNETH DUNN
Director

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SERVICE LIST
(Certified Mail to Right Holders)

July 24, 1987 letter from A. Kenneth Dunn

Re: Order Establishing a Five Year Mortorium for a Portion
of the Twin Falls Ground Water Management Area

<u>Water Right Number</u>	<u>Persons Served</u>
36-7130	Professional Investors Life Insurance Company Box 2888 Tulsa, OK 74101
Attorney:	Robert C. Weaver, Esq. WEAVER & DYKAS 130 North Broadway Buhl, ID 83316
47-7478	CSI
47-7606	P.O. Box 1238 Twin Falls, ID 83301
Attorney:	John A. Rosholt, Esq. Mr. Terry T. Uhling NELSON, ROSHOLT, ROBERTSON, TOLMAN & TUCKER P.O. Box 1906 Twin Falls, ID 83303-1906
47-7758	J. D. McCollum
47-7813	Box 112 Twin Falls, ID 83301
Attorney:	Don A. Olowinski, Esq. HAWLEY, TROXELL, ENNIS & HAWLEY P.O. Box 1617 Boise, ID 83701
47-7964	Mr. Carl Snow Twin Falls School District 411 201 Maine Avenue West Twin Falls, ID 83301
Attorney:	Fritz Wonderlich, Esq. BENOIT, ALEXANDER, SINCLAIR, HARWOOD & HIGH P.O. Box 366 Twin Falls, ID 83303-0366

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47-7492 Michael Kestler
Route 3
Twin Falls, ID 83301

Attorney: Lloyd J. Walker, Esq.
P.O. Box 1923
Twin Falls, ID 83301

47-7714 Gary Stone
Route 1
Kimberly, ID 83341

47-7745 First Church of the Nazarene
401 Sixth Avenue North
Twin Falls, ID 83301

Represented by: Dr. Charles Brockway
Snake River Conservation
Research
Rt. 1, Box 186
Kimberly, ID 83341

47-7872 Hydrotube of Idaho
2285 Addison Avenue East
Twin Falls, ID 83301

47-7875 Arnold Elsing
Ronald Elsing
Box 919
Twin Falls, ID 83301

47-7969 Mr. Doug Vollmer, Mayor
City of Twin Falls
Box 1907
Twin Falls, ID 83301

Attorney: Shane O. Bengoechea, Esq.
City Attorney
P.O. Box 1907
Twin Falls, ID 83301-1907

47-7966 Mr. Dave Wuthrich
Magic Gardens
560 Filer Avenue
Twin Falls, ID 83301

36-8137 Sun Ventures, Ltd.
Route 3, Box 50
Buhl, ID 83316

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AUG 22 1989

1

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF THE TWIN FALLS) GROUND WATER MANAGEMENT AREA) 	)	ORDER ESTABLISHING A FIVE YEAR MORATORIUM
--	---	--

WHEREAS, on January 11, 1984, the director of the Idaho Department of Water Resources (IDWR) designated an area in Twin Falls and Jerome Counties as a ground water management area pursuant to Section 42-233B, Idaho Code, because the thermal-artesian ground water system appeared to be approaching the conditions of a critical ground water area; and

WHEREAS, a portion of the area so designated in and around the city of Twin Falls has continued to experience significant interference between wells as evidenced by a continued decline in artesian pressures; and

WHEREAS, hydrogeologic data is not available to adequately evaluate the rate that thermal ground water is recharged to aquifers in the area; and

WHEREAS, the director of the IDWR finds that the agreement of the 22nd day of July, 1987, and this order are in the public interest; and

WHEREAS, Section 42-1805(8), Idaho Code, and Rule 7 of the IDWR Water Appropriation Rules and Regulations provide for a moratorium on the approval of applications in a designated geographic area and the cancellation or modification of permits to the extent that development has not been completed on such

RECORDED

AUG 22 1989

ORDER

permits as needed to protect existing water rights and insure compliance with provisions of Chapter 2, Title 42, Idaho Code:

NOW, THEREFORE, pursuant to Section 42-1805(8), Idaho Code, and Rule 7 of the adopted rules and regulations for water appropriation, it is hereby ordered that:

(1) Applications proposing the diversion and use of thermal ground water (water from a well with a bottom hole temperature of 85°F or greater) will be held without action to approve unless the application is included in the agreement dated the 22nd day of July, 1987, entered into by IDWR and all those holding or seeking to hold water rights to divert and use the thermal ground water in the area herein designated. Approval of applications included in said agreement will be only in accordance with the provisions of the agreement.

(2) Development authorized under all existing permits to divert thermal water in the area as herein designated shall cease except as provided by the agreement dated the 22nd day of July, 1987, entered into by IDWR and all those holding or seeking to hold water rights to divert and use the thermal ground water resources.

(3) If development is allowed by IDWR outside the aquifer area as described in paragraph (5) hereof and as shown on the map attached hereto as Exhibit 1, and said development affects diversions or pressure of the wells within said aquifer, IDWR agrees to act in accordance with law to restrict said development so that neither the pressure ~~of the diversions~~ of the

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wells which are the subject of the comprehensive agreement of the 22nd day of July, 1987, shall be adversely affected.

(4) The provisions of this order are effective for five years from the date issued unless rescinded or modified by order of a court of competent jurisdiction or unless extended by order of the director.

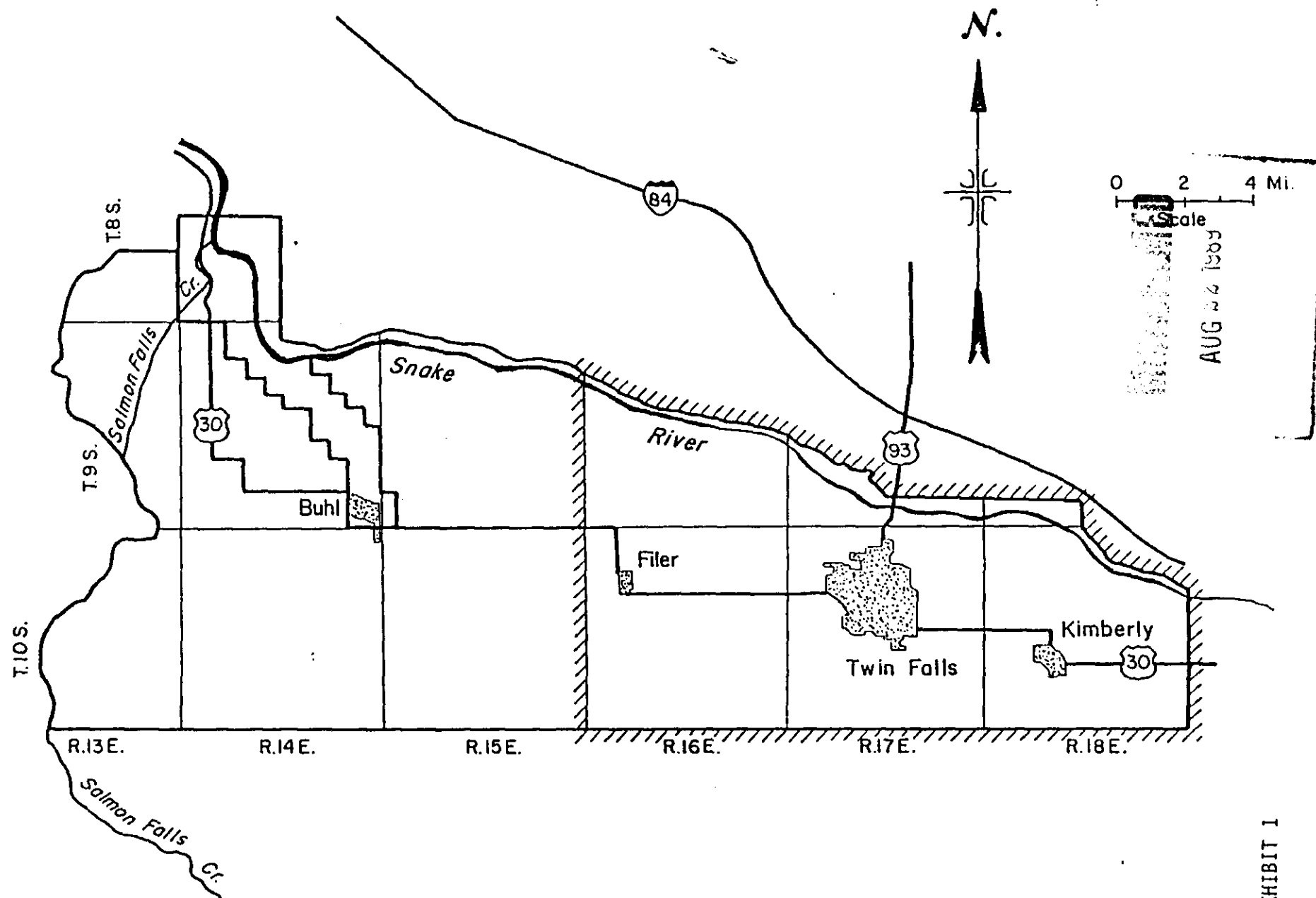
(5) The provisions of this order are effective only in the area designated within the Twin Falls ground water management area lying within Townships 9 & 10 South and Ranges 16, 17 and 18 East of Boise Meridian.

DATED this 24 day of July, 1987.


A. KENNETH DUNN, Director
Department of Water Resources

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TWIN FALLS GROUNDWATER MANAGEMENT AREA



Moratorium Area - //////////////

MEMORANDUM

TO: Glen & Norm
FROM: John Beal *JB*
DATE: February 19, 1987
SUBJ: Hot Well - Twin Falls GWMA

We approved a drilling plan for this well in 1986. Please note that plan and actual varied only in the amount of cement used.

Plan called for 100 bags cement or about 100% of annular space. As-built was 60 sacks or 60%.

My comments:

1. The well is probably okay. Hot and cold waters should be adequately isolated.
2. Per Boley's request for surface seal waiver, I have no problem with that.
3. I am suggesting we require more cement in the future. See letter.

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AUG 22 1989



CECIL D. ANDRUS

~~JOHN E. BEAL~~

Governor

A. KENNETH DUNN

Director

State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

February 25, 1987

Blaine Boley
Boley & Henry Well Drilling
Murtaugh, ID 83344

RE: Mike Kestler Well/47-7492

Dear Blaine:

The Department has received and reviewed your well log and information for the Kestler well. The surface seal and casing waiver you requested is granted.

Your original drilling plan called for 100 bags of cement. You only used 60 bags. For all future wells involving hot artesian water, plan to provide cement to fill (theoretically) 100 percent of the annular space. In this case 100 bags would have been correct.

Sincerely,

JOHN E. BEAL, Manager
Groundwater Protection Section

JEB:ldt

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AUG 22 1989

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JAN 12 1987

Department of Natural Resources
Southern Region Office

This is a request for Waiver for a well being constructed for Mike Kestler,
NW1/4 of NW1/4, Sec. 6, T10S, R18E.

We would like to set a 8 foot casing and waiver the 20 foot requirement.

There is solid basalt rock down to 110 feet. We will cement the casing into
the ground.

Thank you

Blaine Boley

Blaine Boley

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BLAINE BOLEY, JR.
TELEPHONE 543-2441

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JAN 16 1987

BOLEY & HENRY
WELL DRILLING
MURTAUGH, IDAHO 83344

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FRED HENRY
TELEPHONE 432-5581

JAN 12 1987

Department of Water Resources

Department of Water Resources
SOUTHERN REGION OFFICE

Additional information on Mike Kestler well.

Casing was set in and cemented at 1173 feet using the Haliburton Method. 60 bags of cement with 6 gallons of water per bag were used. At 1180' we had a very small flow. At 1220 we began encountering numerous small flows by 1250 the flow is up to 60 G.P.M. with a temp. of 102°F. At 1255 the flow picks up to 100 G.P.M. and the temp to 107°F. At 1260 we had our best single flow, the temp came up to 108°F. After 1260' we encountered numerous small flows but nothing very big, the temp stays the same. There were no additional flows from 1285 to 1300'.

We have put a small valve on the T for your dept to check the shut in pressure.

Blaine Boley Jr.

Blaine Boley 6/1

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AUG 22 1989

Form 136-1
9/85
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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

USE TYPEWRITER OR
BALLPOINT PEN

WELL DRILLER'S REPORT

JAN 12 1987

JAN 16 1987

State law requires that this report be filed with the Director, Department of Water Resources
within 30 days after the completion or abandonment of the well.

1. WELL OWNERS

Name Mike Kestlen
Address NE 8 City, Twin Falls, Id.
Owner's Permit No. 47-7492

7. WATER LEVEL

Static water level _____ feet below land surface.
Flowing? ☒ Yes ☐ No G.P.M. flow 200 (est.)
Artesian closed-in pressure 78 p.s.i.
Controlled by: ☒ Valve ☐ Cap ☐ Plug
Temperature 108 °F. Quality good
Describe artesian or temperature zones below.

2. NATURE OF WORK

- ☒ New well ☐ Deepened ☐ Replacement
☐ Abandoned (describe abandonment procedures such as materials, plug depths, etc. in lithologic log)

8. WELL TEST DATA

☐ Pump ☐ Bailer ☐ Air ☐ Other _____

Discharge G.P.M.	Pumping Level	Hours Pumped

3. PROPOSED USE

- ☐ Domestic ☐ Irrigation ☐ Test ☐ Municipal
☐ Industrial ☐ Stock ☐ Waste Disposal or Injection
☐ Other geothermal (specify type)

4. METHOD DRILLED

- ☐ Rotary ☐ Air ☐ Hydraulic ☐ Reverse rotary
☒ Cable ☐ Dug ☐ Other _____

5. WELL CONSTRUCTION

Casing schedule: ☒ Steel ☐ Concrete ☐ Other _____

Thickness	Diameter	From	To
<u>250</u> inches	<u>10</u> inches	<u>1 1/2</u> feet	<u>6 1/2</u> feet
<u>188</u> inches	<u>8</u> inches	<u>1</u> feet	<u>149</u> feet
<u>1250</u> inches	<u>6</u> inches	<u>2</u> feet	<u>1173</u> feet

Was casing drive shoe used? ☒ Yes ☐ No
Was a packer or seal used? ☐ Yes ☒ No
Perforated? ☐ Yes ☒ No
How perforated? ☐ Factory ☐ Knife ☐ Torch
Size of perforation _____ inches by _____ inches

Number	From	To
_____ perforations	_____ feet	_____ feet
_____ perforations	_____ feet	_____ feet
_____ perforations	_____ feet	_____ feet

Well screen installed? ☐ Yes ☒ No

Manufacturer's name _____

Type _____ Model No. _____

Diameter _____ Slot size _____ Set from _____ feet to _____ feet

Diameter _____ Slot size _____ Set from _____ feet to _____ feet

Gravel packed? ☐ Yes ☒ No ☐ Size of gravel _____

Placed from _____ feet to _____ feet

Surface seal depth 6 1/2 Material used in seal: ☒ Cement grout

☐ Bentonite ☐ Puddling clay ☐ _____

Sealing procedure used: ☐ Slurry pit ☐ Temp. surface casing

☒ Overbore to seal depth

Method of joining casing: ☐ Threaded ☒ Welded ☐ Solvent

Weld

☐ Cemented between strata

Describe access port _____

9. LITHOLOGIC LOG

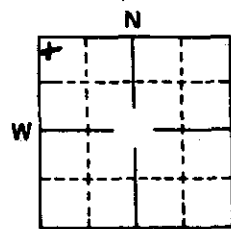
Bore Diam.	Depth		Material	Water	
	From	To		Yes	No
12"	0	1	Brown clay		X
"	1	30	Grey basalt		
"	30	36	Light clay		
"	36	50	Brown basalt		
"	50	64	Grey basalt		
"	64	66	Brown clay		
"	66	72	Red-brown basalt		
"	72	110	Grey basalt		
"	110	125	Grey silty clay & gravel	X	
"	125	130	Brown basalt		X
"	130	135	Basalt (slightly green)		X
12"	135	150	Gravel, silt & sand	X	
8"	150	167	Decomposed Rhyolite		X
"	167	369	Brown rhyolite		X
"	369	385	Grey-brown rhyolite		
"	385	445	Grey rhyolite		
"	445	465	Grey-brown rhyolite		
"	465	492	Brown rhyolite		
"	492	503	Grey rhyolite		
"	503	507	Dark sand	X?	
"	507	518	Black Rock (soft & shiny)		X
"	518	537	Rock & clay in layers		
"	537	546	Brown clay		
"	546	550	Brown Rhyolite		
"	550	553	Brown clay		
"	553	598	Grey Rhyolite		
"	598	602	Red-brown clay		
"	602	626	Black Rhyolite		
"	626	631	Red-brown clay		
"	631	635	Brown rhyolite		
"	635	656	Tan & green shale		
"	656	745	Andesite (very hard)		
"	745	779	Black rhyolite & grey clay in layers		
"	779	783	Brown clay (sticky)		

10.

Work started 20 Aug 1986 finished 7 Jan 1987

6. LOCATION OF WELL

Sketch map location must agree with written location.



Subdivision Name MICROFILMED

Lot No. _____

Block No. _____

County Twin Falls

NW 1/4 NW 1/4 Sec. 6, T. 10 N, R. 18 E

11. DRILLERS CERTIFICATION

I/We certify that all minimum well construction standards were
complied with at the time the rig was removed.

Name Boley & Henry Firm No. 86

Address Muntzugh, Id. Date 8 Jan 1987

Signed by (Firm Official) Blaine Boley Jr

and
(Operator) Blaine Boley Jr

WELL DRILLER'S REPORT

JAN 12 1987

State law requires that this report be filed with the Director, Department of Water Resources
within 30 days after the completion or abandonment of the well.

JAN 16 1987

1. WELL OWNER'S Office

Name Mik Kestlew

Address _____

Owner's Permit No. _____

2. NATURE OF WORK

- ☐ New well ☐ Deepened ☐ Replacement
☐ Abandoned (describe abandonment procedures such as materials, plug depths, etc. in lithologic log)

3. PROPOSED USE

- ☐ Domestic ☐ Irrigation ☐ Test ☐ Municipal
☐ Industrial ☐ Stock ☐ Waste Disposal or Injection
☐ Other _____ (specify type)

4. METHOD DRILLED

- ☐ Rotary ☐ Air ☐ Hydraulic ☐ Reverse rotary
☐ Cable ☐ Dug ☐ Other _____

5. WELL CONSTRUCTION

Casing schedule: ☐ Steel ☐ Concrete ☐ Other _____

Thickness	Diameter	From	To
_____ inches	_____ inches	_____ feet	_____ feet
_____ inches	_____ inches	_____ feet	_____ feet
_____ inches	_____ inches	_____ feet	_____ feet
_____ inches	_____ inches	_____ feet	_____ feet

Was casing drive shoe used? ☐ Yes ☐ NoWas a packer or seal used? ☐ Yes ☐ NoPerforated? ☐ Yes ☐ NoHow perforated? ☐ Factory ☐ Knife ☐ Trench

Size of perforation _____ inches by _____ inches
Number _____ From _____ To _____
_____ perforations _____ feet
_____ perforations _____ feet
_____ perforations _____ feet

Well screen installed? ☐ Yes ☐ No

Manufacturer's name _____

Type _____ Model No. _____

Diameter _____ Slot size _____ Set from _____ feet to _____ feet

Diameter _____ Slot size _____ Set from _____ feet to _____ feet

Gravel packed? ☐ Yes ☐ No ☐ Size of gravel _____

Placed from _____ feet to _____ feet

Surface seal depth _____ Material used in seal: ☐ Cement grout☐ Bentonite ☐ Puddling clay ☐ _____Sealing procedure used: ☐ Slurry pit ☐ Temp. surface casing☐ Overbore to seal depthMethod of joining casing: ☐ Threaded ☐ Welded ☐ Solvent

Weld

☐ Cemented between strata

Describe access port _____

7. WATER LEVEL

Static water level _____ feet below land surface

Flowing? ☐ Yes ☐ No G.P.M. flow _____

Artesian closed-in pressure _____ p.s.i.

Controlled by: ☐ Valve ☐ Cap ☐ Plug

Temperature _____ OF. Quality _____

Describe artesian or temperature zones below.

8. WELL TEST DATA

☐ Pump ☐ Bailor ☐ Air ☐ Other _____

Discharge G.P.M.

Pumping Level

Hours Pumped

9. LITHOLOGIC LOG

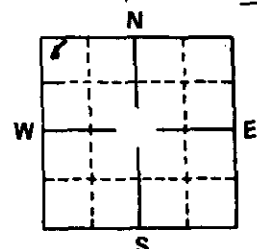
Bore Diam.	Depth		Material	Water	
	From	To		Yes	No
8"	783	880	Andesite + grey clay layered (very hard)		X
	880	893	Grey clay + shale		
	893	915	Andesite + grey clay layered (very hard)		
	915	920	Brown clay		
	920	955	Andesite (very hard)		
	955	958	Brown clay		
	958	989	Grey rhyolite		
	989	995	Grey clay (sticky)		
	995	1034	Grey rock + clay seams		
	1034	1040	Brown clay		
	1040	1043	Grey rhyolite		
	1043	1050	Brown clay		
	1050	1065	Tan clay		
	1065	1137	Greenish-grey shale/clay		
	1137	1150	Black rhyolite		
	1150	1168	Clay + sand layers		X
	1168	1190	Black Rhyolite (1180 first flow - very small)		X
	1190	1235	Black Rhyolite w/ thin layers of grey shale		X
	1235	1300	Grey - Black Rhyolite		X

10.

Work started _____ finished _____

6. LOCATION OF WELL

Sketch map location must agree with written location.



Subdivision Name _____

Lot No. _____ Block No. _____

County Twin FallsNW 1/4 NW 1/4 Sec. 6, T. 10, S. R. 18 E. 1/2

11. DRILLERS CERTIFICATION

I/We certify that all minimum well construction standards were
complied with at the time the rig was removed.Firm Name Boley & Henry Firm No. 86Address Murfreesboro, Ind Date 8 Jan 1987Signed by (Firm Official) Blaine Boley Jrand
(Operator) Blaine Boley Jr

To: Joe B.

Mike Heister. T10s R 18E Sec 6 NW 1/4 NW 1/4

1173' of 6" ID. casing set in 8" bore of which 149' of 8" ID. casing

Volume of annular space between 6.5" OD casing and 8" bore

$$(8^2 - 6.5^2) .005454 = \text{cu ft/lin. ft.} = .1186 \text{ cu ft/lin. ft.} \times 1173' = 139 \text{ cu ft}$$

Placed 60 bags of Class A-B cement .47940 cu ft/bag dry 6 gal. $H_2O = .801 \text{ cu ft} =$

$$1.28 \text{ cu ft Bag slurry} \times 60 = 76.82 \text{ cu ft.}$$

assuming a perfect well bore seal would extend 647'
or approx to 525.

If this seal flowed up the annular space for approx 150'
it would probably not even be ad To isolate the producing
zone from upper thief zone based on lithology, possibly even 25'
would do.

I have no problem with surface seal again.

JDC 2/17/07

MICROFILMED

AUG 22 1989

RECEIVED

INTER-DEPARTMENT MEMO — 1

FEB 03 1987

DATE

Department of Water Resources

MICROFILMED

AUG 22 1985

FROM Leah Street

TO John Bial

SUBJECT Kestler and Sanbury Wells

I really don't have any specific comments on these logs. I told Bob and Henry several times while they were drilling this well and they also saved some cuttings for me. The photographs look good based on what I've seen. The 8" casing is not cemented. Blaine's "Haliburton Method" is to dump the cement into the well and pump the column's amount of water into the well and this forces the grout into the well. He said that Sid Carson taught him how to do it. I am sure you have any questions let me know.

SIGNATURE



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

October 8, 1986

Blaine Boley
Boley & Henry Well Drilling
Murtaugh, ID 83344

RE: Mike Kestler Well
47-7492

Dear Blaine:

The Department has reviewed your drilling plan for the Kestler well to be located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 6, T10S, R18E. Your proposal is approved realizing that you may encounter a warm or hot resource well above or below the 1,000 feet level.

Please keep us informed as you proceed. The Department reserves the right to require casing and pressure grouting to a greater depth if drilling conditions warrant.

Mr. Kestler should be aware that his water permit is still subject to review in accordance with Section 42-203D of Idaho Code.

If you or Mr. Kestler have any questions, you may contact either someone in the Twin Falls Office or me.

Sincerely,

JOHN E. BEAL, Manager
Groundwater Protection Section

JEB:ldt

CC: Loren Holmes/Leah Street
Michael Kestler

MICROFILMED

AUG 22 1989

10 / 8

Leak Street indicated -
Well has been started - is now
at $\approx 700'$

Water level $\approx 100'$ - temp is
increasing but still not
very hot.
JBD

MICROFILMED

AUG 22 1989

BOLEY & HENRY
WELL DRILLING
MURTAUGH, IDAHO 83344
26 Sept. 1986

RECEIVED
SEP 30 1986

State of Idaho
Dept. of Water Resources

Department of Water Resources

This is a prospectus on a geothermal well being drilled for Mike Kestler near Shoshone Fall. Permit number 47-7492 NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec 6 T10S R14E. We expect to drill this well eight inches in diameter to about 1000 feet then install 1000 feet of 6" casing. This will be cemented in place with cement grout. We expect to dump about 100 bags of cement mixed with 6 gallons of water to the bag into the hole. Grout to be delivered by a ready mix truck, then pressure pumping the amount of water into the casing to completely displace the volume of the casing. The exact amount of cement grout will be determined by the way the hole drills, whether it drills to size or ravel and drills big. We expect to use somewhere around 100 bags of cement. After cementing we will attach the T with cap, valve and outlet for your pressure gauge.

We may cement in the casing at a lesser or greater depth than the 1000 feet mentioned above. This will depend on where we get through the cold water and according to the formation and how the temperature in the hole picks up. We expect to have this checked by the Twin Falls office, so we will be working closely with them. Since there are no other deep wells close by we will just have to go by past experience and common sense. Mr. Kestler is aware that a substantial amount of casing will be needed to prevent the waste of the lower warm water up into the upper cold water.

MICROFILMED

AUG 22 1989

Sincerely;
Boley & Henry

Blair B. Boley

BLAINE BOLEY, JR.
TELEPHONE 432-5448

FRED HENRY
TELEPHONE 432-5581

BOLEY & HENRY

WELL DRILLING
MURTAUGH, IDAHO 83344
26 Sept. 1986

RECEIVED

SEP 30 1986

Dept. of Water Resources
Boise, Idaho

Department of Water Resources

Attn. John Deal

Dear John:

I have enclosed a prospectus on a geothermal well being drilled for Mike Kestler. I have also sent a copy to your Twin Falls office. We will be in close contact with them. Ms Street seems very interested and is going to help us keep track of the temperature.

Also we have been working on the old Banbury Well. *Hot springs. By name* I believe I sent you a letter on it some time ago. At any rate it's an old well, drilled in 1926 there is no log on it. It flowed about 10 gallons per minute and was pumped. Several years ago we tried to deepen it with out much luck. This time we did manage to get 320 feet of 6 inch casing in and cemented with 35 bags of cement up the out side of the 6 inch casing. I feel good about the seal. We are now waiting for some 4 inch casing for a liner. Our present depth is 460 feet. We then expect to finish the well 4 inch. We have about 10 gallons per minute flowing out of the 6 inch casing. We are all set up with the T etc.

Sincerely,
Boley & Henry
Well Drilling

By Blaine Boley Jr.

MICROFILMED

AUG 22 1989

BOLEY & HENRY
WELL DRILLING
MURTAUGH, IDAHO 83344
26 Sept. 1986

RECEIVED
SEP 30 1986

State of Idaho
Dept. of Water Resources

Department of Water Resources

This is a prospectus on a geothermal well being drilled for Mike Kestler near Shoshone Fall. Permit number 47-7492 NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec 6 T10S R18E. We expect to drill this well eight inches in diameter to about 1000 feet then install 1000 feet of 6" casing. This will be cemented in place with cement grout. We expect to dump about 100 bags of cement mixed with 6 gallons of water to the bag into the hole. Grout to be delivered by a ready mix truck, then pressure pumping the amount of water into the casing to completely displace the volume of the casing. The exact amount of cement grout will be determined by the way the hole drills, whether it drills to size or ravel and drills big. We expect to use some where around 100 bags of cement. After cementing we will attach the T with cap, valve and outlet for your pressure gauge.

We may cement in the casing at a lesser or greater depth than the 1000 feet mentioned above. This will depend on where we get through the cold water and according to the formation and how the temperature in the hole picks up. We expect to have this checked by the Twin Falls office, so we will be working closely with them. Since there are no other deep wells close by we will just have to go by past experience and common sense. Mr. Kestler is aware that a substantial amount of casing will be needed to prevent the waste of the lower warm water up into the upper cold water.

MICROFILMED

AUG 26 1989

Sincerely;
Boley & Henry

Blair Boley

47-7492

From John Beal

I am aware of no existing hot water uses in this area (within 2-3 miles).

Well logs show cold water wells are < 300 ft. in depth water levels vary from 16 - 250 feet with most being 150 - 200 feet. Most holes are open below 20 feet.

MICROFILMED

AUG 22 1969

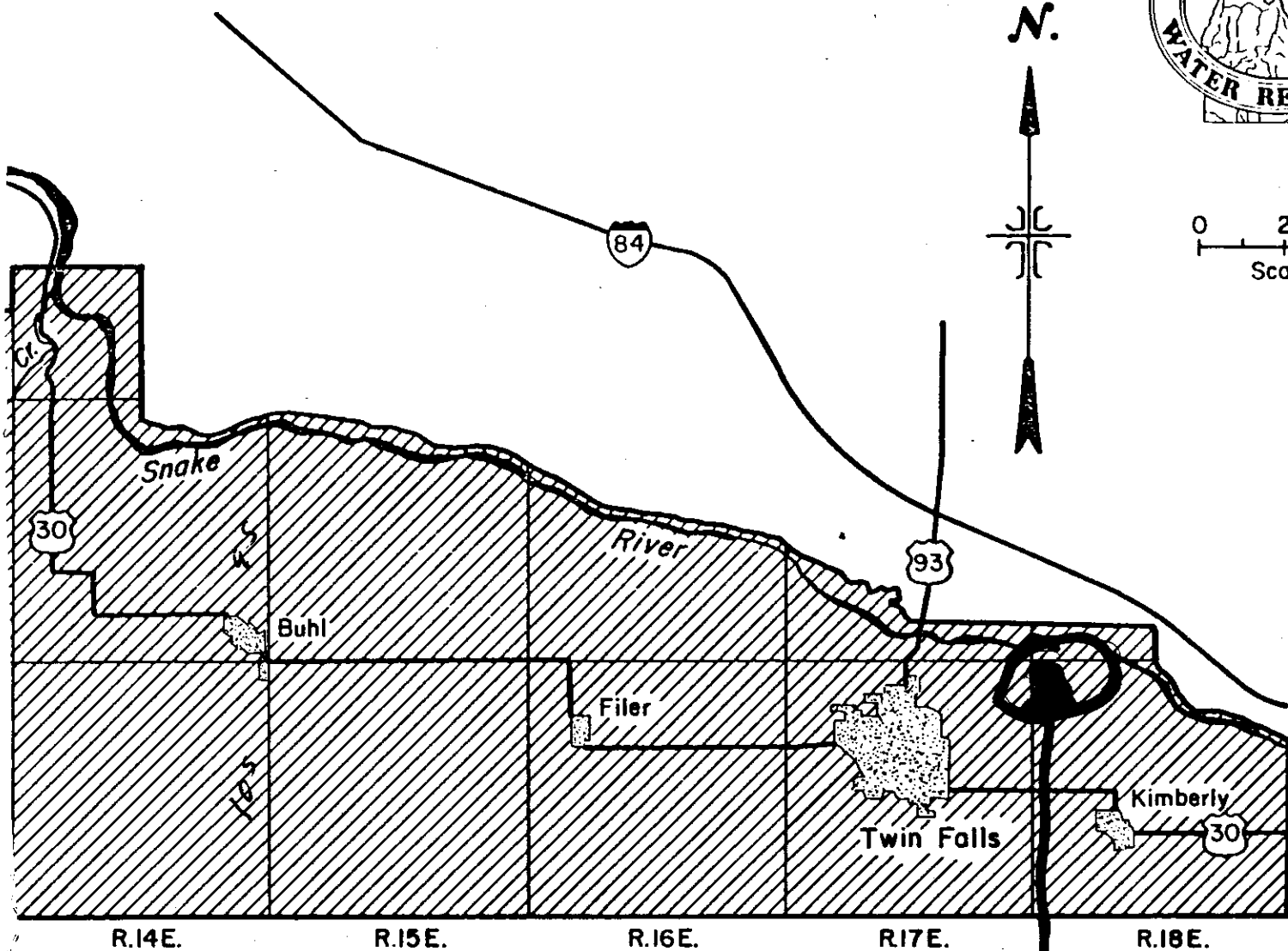
TWIN FALLS GROUNDWATER MANAGEMENT AREA



N.

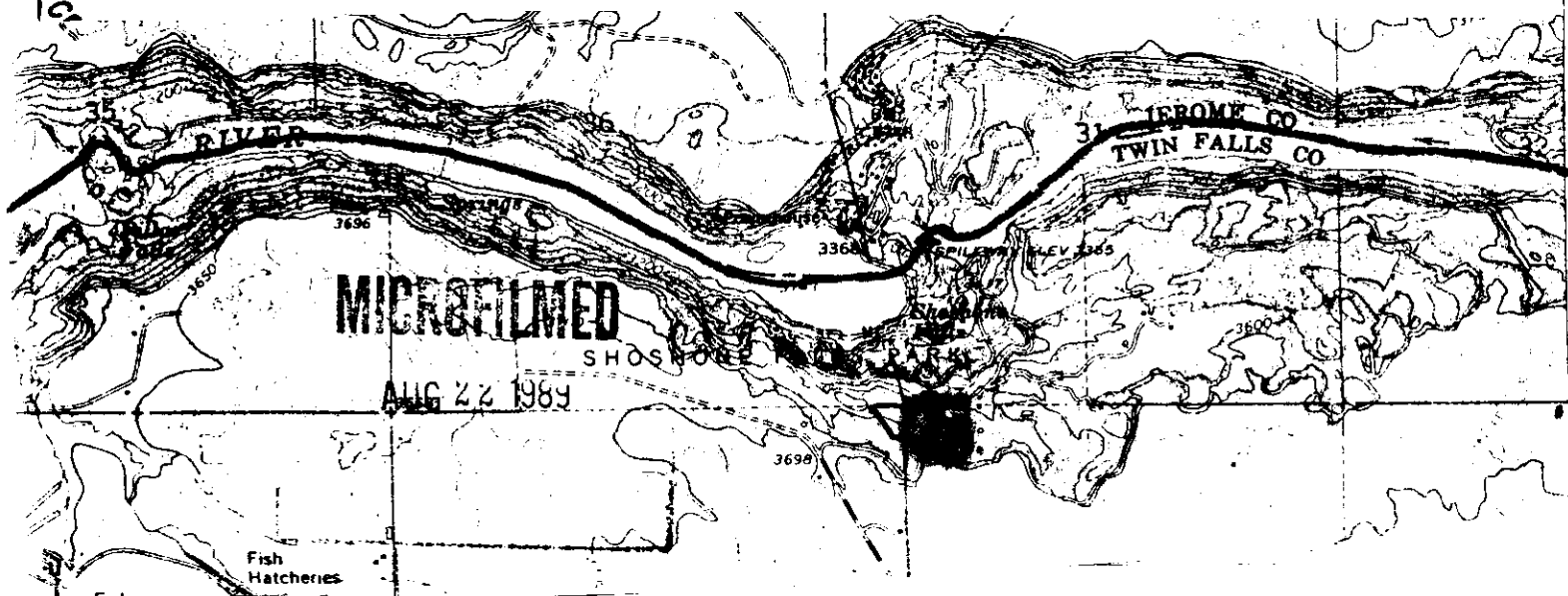


0 2
Scale



(Designated Jan. 11, 1984)

47-7492



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
COMMENCEMENT OF WORKS

Permit No. 47-7492
Name(s) of Permit Holder(s): MIKE KESTLER
Post Office Address: RR 3 TWIN FALLS ID
83301 File No. 208-7342388

☒ I hereby certify that construction of diversion works for the above referenced permit began on 8/23/86. I understand that I must continue to develop the water system with due diligence to maintain a valid permit.

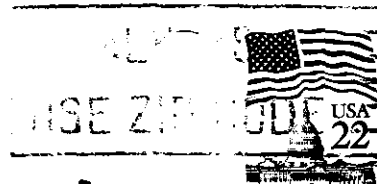
☐ I hereby certify that construction of diverting works on the above referenced project has not yet begun due to the following reason beyond my control*:

*Note: A financing difficulty is
not an acceptable reason.

8/23/86
Date

[Signature]
Signature of Permit Holder

MIKE K-TR
RR 3
TWIN FALLS ID 83301



RECEIVED
AUG 29 1988

IDAHO DEPARTMENT OF WATER RESOURCES
STATE HOUSE
BOISE, IDAHO 83720

MICROFILMED

AUG 22 1988

Department of Water Resources



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

SEPTEMBER 1, 1985

DEAR PERMIT HOLDER:

ACCORDING TO OUR RECORDS, YOU ARE THE HOLDER OF A WATER PERMIT ON WHICH PROOF OF BENEFICIAL USE OF WATER WAS NOT SUBMITTED BEFORE JULY 1, 1985, WHICH INDICATES YOUR PROJECT IS NOT COMPLETE. THEREFORE, YOU NEED TO BE AWARE OF CHANGES IN IDAHO LAW, EFFECTIVE JULY 1, 1985, WHICH IMPACT ALL WATER PERMITS ISSUED BY THIS DEPARTMENT.

SPECIFICALLY, PURSUANT TO SECTION 42-203D, IDAHO CODE, THE DEPARTMENT MUST REVIEW ALL PERMITS FOR WHICH DEVELOPMENT OF WATER USE WAS NO COMPLETED ON OR BEFORE JULY 1, 1985, TO DETERMINE IF THEY MEET THE NEW REQUIREMENTS OF CHAPTER 2, TITLE 42, IDAHO CODE. RULES AND REGULATIONS GOVERNING THE RE-EVALUATION OF PERMITS ARE NOT YET FINALIZED. HOWEVER, IF YOU COMPLETED THE DEVELOPMENT UNDER YOUR PERMIT BEFORE JULY 1, 1985, YOU SHOULD SUBMIT A PROOF OF BENEFICIAL USE STATEMENT, STATING THAT THE PROJECT WAS COMPLETED BEFORE JULY 1, 1985 SO THAT YOUR PERMIT WILL NOT BE SUBJECT TO THE REVIEW REQUIREMENTS OF SECTION 42-203D, WHICH READS AS FOLLOWS:

42-203D. REVIEW OF PERMITS - OPPORTUNITY FOR HEARING. - (1)THE DEPARTMENT SHALL REVIEW ALL PERMITS ISSUED PRIOR TO THE EFFECTIVE DATE [JULY 1, 1985] OF THIS SECTION, EXCEPT TO THE EXTENT A PERMIT HAS BEEN PUT TO BENEFICIAL USE PRIOR TO JULY 1, 1985, TO DETERMINE WHETHER THEY COMPLY WITH THE PROVISIONS OF CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PROPOSED USE DOES NOT SATISFY THE CRITERIA OF CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL EITHER CANCEL THE PERMIT OR IMPOSE THE CONDITIONS REQUIRED TO BRING THE PERMIT INTO COMPLIANCE WITH CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PERMIT SATISFIES THE CRITERIA ESTABLISHED IN CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL ENTER AN ORDER CONTINUING THE PERMIT. (2)THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR HEARING IN ACCORDANCE WITH SECTION 42-1701A, IDAHO CODE, AND SECTIONS 67-5209 THROUGH 67-5215, IDAHO CODE, FOR EACH HOLDER OF A PERMIT THAT IS PROPOSED EITHER TO BE CANCELLED OR MADE SUBJECT TO NEW CONDITIONS.

YOU MAY OBTAIN PROOF OF BENEFICIAL USE FORMS FROM THE DEPARTMENT. IF YOU HAVE ANY QUESTIONS, PLEASE LET US KNOW.

SINCERELY,

L. GLEN SAXTON
CHIEF, OPERATIONS BUREAU

MICROFILMED

AUG 22 1989

March 8, 1985

Michael Kestler
Rt. 3
Twin Falls, ID 83301

Dear Mr. Kestler:

Re: Permit No. 47-7492

The Department has recently received inquiries from water right permit holders in the Twin Falls area relative to development or continued development of their projects seeking to use the warm ground-water resource in the area. In addition, the Department recently noticed an editorial in the Times News urging taxpayer support for a swimming pool bond issue.

The Department would like to call to the attention of undeveloped water right permit holders as well as to others in the area that there are potential resource problems that should be carefully considered in the decision to proceed with development.

In direct response to reports of declining pressures and temperatures from the warm water resource in the area, on January 11, 1984 the Department created the Twin Falls Groundwater Management Area. The area is roughly described as extending from Salmon Falls Creek on the western boundary to the Kimberly area on the east. The northern boundary is approximately the location of the Snake River and extends southerly averaging from 5 to 15 miles in depth.

A groundwater management area (GWMA) is defined as any groundwater basin or part thereof which may be approaching the conditions of a critical ground water area. Applications for permit in a GWMA may only be approved after it has been determined on an individual basis that sufficient water is available and that other right holders will not be injured. The Director of the Department of Water Resources is also authorized by statute to require water right holders in a GWMA to report withdrawals of ground water and other information for the purpose of assisting him in determining available ground water supplies and their usage.

The Department has in fact monitored and will continue to monitor

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select wells for pressure and temperature with the express intent of future management and/or regulation of the resource if appropriate. Depending on the findings of the monitoring, it is possible that the Department would limit withdrawal of water from the resource, require reinjection of water diverted for various permitted uses or impose other regulatory criteria. The Department has recently ordered the owners of a well in the area to repair the well in order that flow may be adequately controlled.

With the monitoring data gathered so far by the Department, it is premature to predict what, if any, action the Department may pursue; however, it would only be prudent for undeveloped water right permit holders to carefully consider their potential investment before making a commitment.

Data gathered from the monitoring effort may be reviewed at the Department's regional office in Twin Falls or in the state office in Boise.

Sincerely,

NORMAN C. YOUNG, Administrator
Administration Resource Division

cc: Southern Region

MICROFILMED

WATER RIGHT NUMBER 47-7492

OWNER LAST NAME - KESTLER

FIRST NAME - MICHAEL

ORIG OWNER -

ADDRESS LINE 1 - ROUTE 3

ADDRESS LINE 2 -

ADDRESS LINE 3 - CITY - TWIN FALLS

STATE - ID ZIP CODE - 83301

SOURCE - GROUNDWATER

TRIBUTARY OF -

STAGE - PERMIT

STATUS -

PRIORITY - 12-13-1978 COUNTY - TWIN FALLS TOTAL DIV. RATE - .3100 -CFS

TOTAL DIV. VOLUME - .00 AFA TRFR/AMEND -

WATER DIST. - DLE/CAREY ACT -

RIGHT BASIS -

DIVERSION POINT - NENE 01 10S 17E LOT 01 REDIV -

0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0

NWNW 06 10S 18E LOT 04 REDIV -

0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0

FROM - 01-01 TO - 12-31 USE - HEATING

USE DIV. RATE - .3100 CFS USE DIV. VOLUME - .00 AFA

FROM - 01-01 TO - 12-31 USE - COMMERCIAL

USE DIV. RATE - .3100 CFS USE DIV. VOLUME - .00 AFA

FROM - 03-15 TO - 11-15 USE - IRRIGATION

USE DIV. RATE - .1300 CFS USE DIV. VOLUME - .00 AFA

USE - IRRIGATION

PLACE OF USE - TWN 10S RNG 18E SEC 06 TRACT NWNW LOT 04 AC 05

USE - IRRIGATION

PLACE OF USE - TWN 10S RNG 17E SEC 01 TRACT NENE LOT 01 AC 01

DECREE NAME -

DATE -

TOTAL ACRES

6

REMARKS - REINSTATED 6-15-1984.

AC. IRR. = 6.3.

THE DEPT. RESERVES JURISDICTION OF THIS PERMIT FOR THE PURPOSE OF

ADDING ANY APPLICABLE CONDITIONS TO PROTECT THE PUBLIC INTEREST. ✓

NON IRRIG USE - C/HOT BATHS & SWIMMING POOL.

OTHER RIGHTS FOR SAME USE -

PROOF DUE - 01-01-1989 PERMIT/DENIED - 01-09-1979 PROTESTED -

HEARING -

OLD NO. -

PROOF MADE - FLD EXAM - COND. OF APPROVAL - 09 16

DIVERSION MEANS - WELL AND CONTROL VALVE

2000-01-30

June 15, 1984

Michael Kestler
Route 3
Twin Falls, ID 83301

Dear Mr. Kestler

Re: Extension of Time for Permit No. 47-7492

Enclosed is the approved extension of time in connection with the above referenced permit. The time within which to submit the statement of beneficial use is extended to January 1, 1989. The request has been approved with the following condition:

"The Department reserves jurisdiction of this permit for the purpose of adding any applicable conditions to protect the public interest."

Such conditions may be necessary due to statutory or regulatory changes occurring after the date of the extension and before the date that beneficial use is made. However, if conditions are added to your permit, you will be given an opportunity to object to them.

The department has been holding the extension of time request without action because of the ongoing Swan Falls litigation. Even though that dispute has not been settled, it has been determined that a decision is now necessary on your request for extension to clarify for you and all other parties to the Idaho Power lawsuit the status of the permit you hold. If the permit is valid, the extension request can be approved under existing law, but development and continued use of water under terms of the permit may be adversely affected when the Swan Falls litigation is ultimately resolved.

Approval of this extension of time should not be considered as encouraging you to commence construction. The Swan Falls litigation is still pending and there are inherent risks in making expenditures on a project

MICROFILMED

that is subject to litigation. Pending litigation will be considered as a cause for applying for and receiving additional extensions of time for potential project construction and proof submittal if the Swan Falls matter is not resolved in the near future.

If you have questions on this extension approval, please feel free to contact the department.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

Enclosure

RECEIVED

March 22, 1984

Re: Permit No. 47-7492

Michael Kestler
Route 3
Twin Falls, ID 83301

Dear Mr. Kestler:

This office has received the request for extension of time which you submitted in connection with the above-referenced permit. Since the extension request indicates that development of a water right under the permit has not been started and since the proposed use of water is hydraulically upstream of the Swan Falls Dam on the Snake River, the Department will delay action on the request for extension of time.

As background information, in November of 1982, the Idaho Supreme Court held that Idaho Power Company's use of Snake River water at Swan Falls Dam for power generation purposes was not subordinated to later-in-time upstream uses as was previously thought. Although certain issues in the case still need to be determined at the district court level, several potential implications of the case need to be carefully considered. It is possible that unless use of water began prior to the November 1982 ruling, development of a new water right cannot occur even though a permit has been issued by the Department. It is also possible that the Department will not issue any new water right permits for consumptive uses upstream from Swan Falls Dam in the Snake River drainage including tributary groundwater. It is also possible that compensation may have to be paid to Idaho Power Company by later in time waterusers in the impact area for depletion of Snake River flows used by Idaho Power Company to generate power at Swan Falls and at other dams along the Snake River.

Due to these concerns, the Department will hold your request for extension of time without action until the impacts of the Swan Falls issue have been determined.

If you have questions, please feel free to contact the Department.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

cc: Regional Office

RECEIVED
MAR 23 1984
ID



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

EXTENSION OF TIME

March 8, 1984

Michael Kastler
Route #3
Twin Falls, ID 83301

PERMIT NO. 47-7492

We are in receipt of the \$15 extension fee for Extension(s) of Time to provide additional time in which to submit proof of beneficial use on a water right permit.

Your request for extension(s) of time is being reviewed by staff. You will be informed of our decision when review has been completed.

Enclosed is our receipt No. 33821.

Roberta Garrett
Records Supervisor

Enclosure

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WARNING

CANCELLED OR LAPSED

This permit has been officially CANCELLED or LAPSED.

Ninety days following the date of official action this file will be DESTROYED.

S T A T E O F I D A H O
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440

KESTLER, MICHAEL
ROUTE 3
TWIN FALLS, ID 83301

LAPSE NOTICE

JANUARY 04, 1984

DEAR PERMIT HOLDER:

YOU ARE HEREBY NOTIFIED THAT UNDER THE PROVISIONS OF SECTION 42-218A OF THE IDAHO CODE, PERMIT NO. 47-7492 HAS LAPSED. THIS OFFICE DID NOT RECEIVE EITHER AN ACCEPTABLE NOTICE THAT YOU HAVE COMPLETED THE PROJECT (PROOF OF BENEFICIAL USE) BY THE DATE REQUIRED ON YOUR PERMIT OR AN ACCEPTABLE REQUEST FOR AN EXTENSION OF TIME. YOU WERE PROVIDED THE PROPER FORMS IN OUR PROOF DUE NOTICE TO YOU DATED OCTOBER 31, 1983.

YOUR PERMIT CANNOT BE REINSTATED UNLESS YOU SUBMIT THE STATEMENT OF BENEFICIAL USE POSTCARD OR SUBMIT AN EXTENSION OF TIME REQUEST SHOWING REASONABLE CAUSE FOR DELAY. EITHER THE COMPLETED POSTCARD OR THE EXTENSION REQUEST MUST BE RECEIVED BY THIS OFFICE WITHIN SIXTY DAYS OF THE DATE OF THIS LAPSE NOTICE OR THE PERMIT WILL NO LONGER BE OF ANY FORCE OR EFFECT.

A STATEMENT OF BENEFICIAL USE POSTCARD AND A REQUEST FOR EXTENSION OF TIME FORM ARE AGAIN ENCLOSED FOR YOUR USE. PLEASE NOTE THAT A FEE OF \$15.00 MUST ACCOMPANY AN EXTENSION OF TIME REQUEST AND THAT ONLY ONE EXTENSION OF TIME CAN BE GRANTED UNLESS THE PROJECT HAS NOT BEEN COMPLETED BECAUSE OF LACK OF A NECESSARY APPROVAL BY A GOVERNMENTAL AGENCY OR BY LITIGATION.

L. GLEN SAXTON
CHIEF, OPERATIONS BUREAU

ENCLOSURES

LGS:RF

CEIVED
1-25-1984
I hereby certify
a copy of this
document has been
deposited in the
postage paid
individual
[Signature]

MICROFILMED

S T A T E O F I D A H O
D E P A R T M E N T O F W A T E R R E S O U R C E S

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL

138142

KESTLER, MICHAEL
ROUTE 3
TWIN FALLS, ID 83301

P R O O F D U E N O T I C E

OCTOBER 31, 1983

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 47-7492 WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE JANUARY 01, 1984. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST). ENCLOSED IS A POSTCARD WHICH 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, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER THE BENEFICIAL USE POSTCARD OR A 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

MICROFILMED

ACT
ION

L STAGE - PERMIT

PROOF DUE - 01-01-1984 PERMIT/DENIED - 01-09-1979

COND. OF APPRVL - 09

ACT
ION
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PROOF DUE - 01-01-1984 PERMIT/DENIED - 01-09-1979

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FILE NO. 47-7492

I D A H O D E P A R T M E N T O F W A T E R R E S O U R C E S

DATA ENTRY LOG

[illegible]



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 384-2215

January 9, 1979

Permit No. 47-7492

Michael Kestler
Route 3
Twin Falls, Idaho 83301

Dear Mr. Kestler:

Your approved copy of your Application for Permit is enclosed and we direct your attention to the conditions of approval on the fourth page.

The exercise of this permit may also be affected by the court's determination of water rights in the case of Idaho Power Company v. State of Idaho, et al., Civil No. 62237, currently pending before the District Court of Ada County.

Idaho Power officials tell us that because of Case No. U-1006-124 filed before the Idaho Public Utilities Commission, Idaho Power Company is asking the District Court of Ada County to determine whether the Power Company's water rights on the Snake River are protected against subsequent upstream appropriations in the waters of the Snake River and surface and subterranean tributaries between Milner Dam and Hells Canyon.

Since the use of water under your permit may affect the flows in this reach of the Snake River, the final decision in Idaho Power Company v. State of Idaho, et al. (Ada County Civil No. 62237) may determine to what extent the exercise of your permit may be subject to the water rights of Idaho Power.

While the Ada County court is examining this question, Idaho Power Company has not filed a specific protest to your permit. However, the Department of Water Resources has been advised that the Power Company is not waiving any of its rights to contest or limit the exercise of your permit or a subsequent license or water right.

If you have any questions, please let us know.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:kw
Enclosure

STAFF REVIEW - STATE OFFICE

- | | |
|---|---|
| 1. <u>✓</u> Name vs. Signature | 7. <u>✓</u> Place of Use for other than irrig. |
| 2. <u>W</u> Source | 8. <u>✓</u> Place of Use for irrigation (add acres) |
| 3. <u>✓</u> Point of Diversion | 9. <u>A</u> Property Owner at Pt. <u>✓</u> of Div. & Pl. of Use |
| 4. <u>✓</u> Amnt. & Period of Use | 10. <u>✓</u> Map |
| 5. <u>✓</u> Descrip. of Diverting Wrks. | 11. <u>35</u> Fee & Rec't. No. |
| 6. <u>5</u> Time req. for Proof of B/U | |

Copies Sent To:

<u>NO</u> Idaho Health Department	<u>NO</u> U.S.F.S.
<u>NO</u> Idaho Fish & Game Dept.	<u>NO</u> Dept. of Lands
<u>NO</u> Bureau of Land Management	<u>NO</u> Other

Dam Safety Information N/A (Goes to Permit Section)

Check:

Critical G.W. Area yes ✓ no

Other rights on same land None plotted

N/A Withdrawals of all protests received yes no

Conditions:

ID Power Co. Letter - Snake R. NO

ID Power Co. Letter - G.W. & Tribs. Yes

Snake River Condition NO

Payette River Letter NO

Priority Date 10/11/78

Water Quality #16 NO

Water Quality #10 Yes
intrastate interstate X

Meas. Dev. or Sc. Meas. NO

Totalizing meter NO

Supplemental NO

Right-of-Way Cond. NO

Watermaster Cond. NO
Wtr. Dist No. NO

Meas. Dev. Cond. for apps within a Water Dist. NO

Jim Reviewer
12/28/78 Date

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

47-2492-

Name: KESTLER, MICHAEL

Address: ROUTE 3, TWIN FALLS, ID 83301

Source: GROUNDWATER

Date Filed: 10/11/1978

County: TWIN FALLS

Amount: 0.31 CFS

Point of Diversion: LOT 01 S01 T10S R17E LOT 04 S06 T10S R18E

Use: HEATING	from 01/01 to 12/31
COMMERCIAL	from 01/01 to 12/31
IRRIGATION	from 03/15 to 11/15

Place of Use: LOT 01 S01 T10S R17E LOT 04 S06 T10S R18E FOR 6 ACRES

Means: WELL AND CONTROL VALVE

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301 on or before

C. STEPHEN ALLRED NOVEMBER 13, 1978.

Director

Published in the Times News
on October 26, 1978 and November 2, 1978.

RECEIVED
NOV 13 1978

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region

1041 Blue Lakes Blvd. N.
Twin Falls, Idaho 83301
(208) 734-3578

OCTOBER 16, 1978

Times News
P. O. Box 548
Twin Falls, Idaho 83301

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. 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. IN ORDER TO RECEIVE PAYMENT, THE FOLLOWING CERTIFICATION MUST APPEAR ON THE BILL:

"I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due after allowing all just credits and that no part of the same has been paid."

(Signature of Claimant)

Please send the affidavit of publication and publication billing to this office before NOVEMBER 13, 1978.

Yours truly,

Mary A. Hill
Secretary



42-2491-

Name: HALLOWS, RALPH W.

Address: ROUTE 4, BOX 158, BUHL, ID 83316

Source: UNNAMED STREAM tributary to SNAKE RIVER

Date Filed: 10/03/1978

County: TWIN FALLS

Amount: 0.20 CFS

Point of Diversion: SESE S10 T09S R15E

Use: IRRIGATION	from 03/15 to 11/15
RECREATION	from 01/01 to 12/31

Place of Use: SESE S10 T09S R15E FOR 3 ACRES

Means: PONDS, PUMP, AND PIPELINE

WATER RIGHT NUMBER 47-7492

ACT
ION

BB 73 ✓

N OWNER LAST NAME - KESTLER
N ADDRESS LINE 1 - ROUTE 3

FIRST NAME - MICHAEL

N
N SOURCE - GROUNDWATER

CITY - TWIN FALLS

STATE - ID ZIP CODE - 83301

N STAGE - APPLICATION

PRIORITY - 10-11-1978 COUNTY - TWIN FALLS TOTAL DIV. RATE -

.3100CFS

N DIVERSION POINT - 01 10S 17E LOT 01

06 10S 18E LOT 04

** R ** NO INPUT DATA FROM PRECEEDING RECORD

N

** R ** NO INPUT DATA FROM PRECEEDING RECORD

N FROM - 01-01 TO - 12-31 USE - HEATING

USE DIV. RATE - .3100CFS

N FROM - 01-01 TO - 12-31 USE - COMMERCIAL

USE DIV. RATE - .3100CFS

N FROM - 03-15 TO - 11-15 USE - IRRIGATION

USE DIV. RATE - .1300CFS

N USE - IRRIGATION PLACE OF USE - TWN 10S RNG 17E SEC 01

LOT 01 AC 01

N USE - IRRIGATION PLACE OF USE - TWN 10S RNG 18E SEC 06

LOT 04 AC 05

N REMARKS - COMMERCIAL USE FOR HOT BATHS AND PUCL

HEATING USE FOR 2 HOMES AND GARAGE

N DIVERSION MEANS - WELL AND CONTRLL VALVE

BB 73