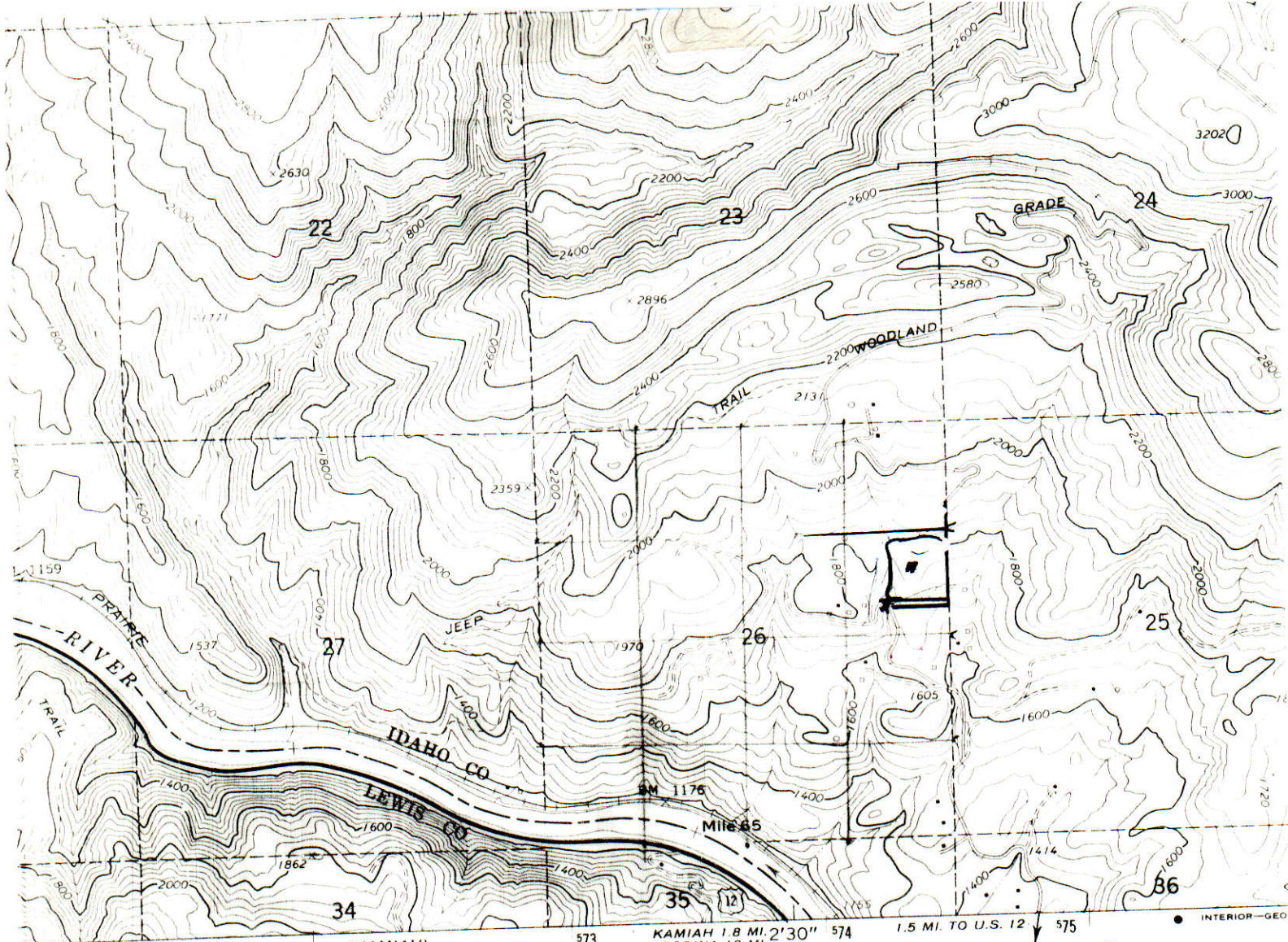




GRADE

WOODLAND

TRAIL

JEEP

IDAHO CO

LEWIS CO

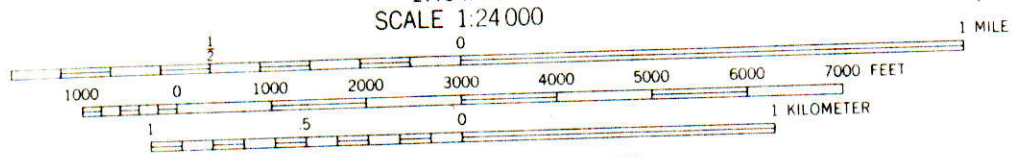
(KAMIAH)
2776 II NE

KAMIAH 1.8 MI. 2'30"
KOOSKIA 10 MI.

1.5 MI. TO U.S. 12

T34N R3E

INTERIOR-GEO



CONTOUR INTERVAL 40 FEET
DOTTED LINES REPRESENT 20-FOOT CONTOURS
DATUM IS MEAN SEA LEVEL

Heavy-duty

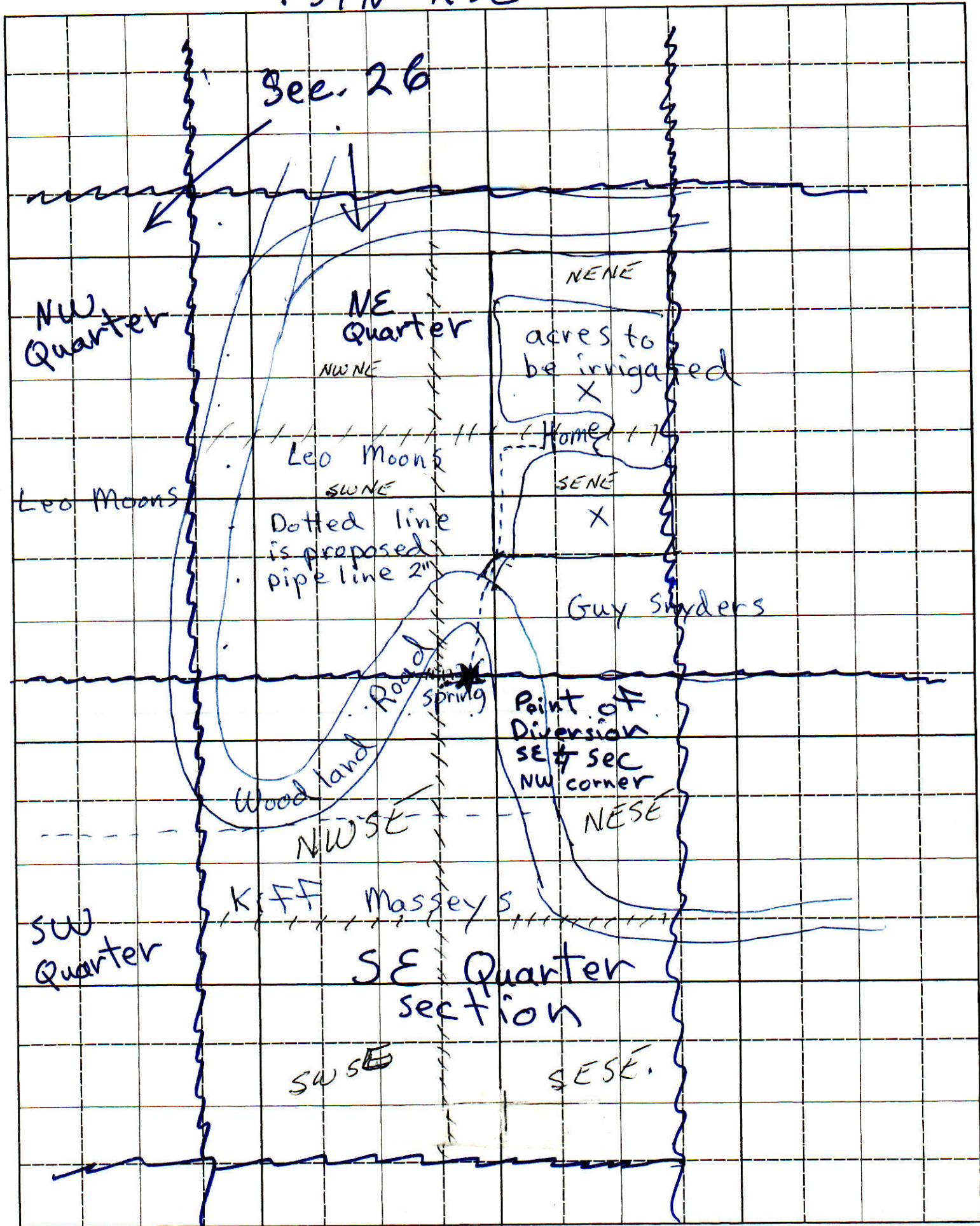
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U.S.



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

T34 N R3E



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.

William Brewer
(Applicant)

**NOTICE OF
APPLICATION FOR
WATER RIGHT**

The following applicat-
ion(s) have been filed to
appropriate the public wa-
ters of the State of Idaho:

84-7180

BREWER, WILLIAM H.
STAR RT. BOX 15,
KAMIAH, ID 83536

Source: UNNAMED

STREAM, trib. to
CLEARWATER RIVER

Date Filed: 11-30-1983

Diversion Pt: SENE Sec 26
T 34N R 03E

Use: IRRIGATION (0.02

CFS) STOCKWATER (0.01

CFS) DOMESTIC (0.01

CFS)

In: SENE Sec 26 T 34N R

03E FOR 10 ACRES.

The permit(s) will be
subject to all prior water
rights. Protests must be
filed with the Director,
Dept. of Water Resources,
4055 Gov't. Way, Coeur
d'Alene, Id. 83814 on or
before JANUARY 2, 1984.

KEN DUNN, Dir.

Published 12-14 & 12-21-83.

D14-21

AFFIDAVIT OF PUBLICATION

Nona Donaldson

being first duly
sworn, says he is the office manager
of the IDAHO COUNTY FREE PRESS, a weekly newspaper which
is published and issued weekly at Grangeville, Idaho County,
State of Idaho, and which is of general circulation in said county
and state; that the said notice, of which the one hereto attached
is a true copy, was published in said paper for 2 weeks,
being published 2 times, the first publication being
on the 14 day of December, 19 83,
and the last publication on the 21 day of
December, 19 83; and that the said notice
was published in the newspaper proper and not a supplement;
that said newspaper has been continuously and uninterruptedly
published in said county during a period of more than seventy-
eight consecutive weeks prior to the first publication of said
notice or advertisement.

Nona Donaldson

Subscribed and sworn to before me this 23 day
of December, 19 83.

[Signature]

Notary Public

for State of Idaho, residing at Grangeville, Idaho.

RECORDED

10. Other water rights on these lands None
11. Other water right diverted from same p.d. None
12. **Diversion and Delivery System Diagram:** Indicate all major components and distances between components. Indicate ditch size/pipe i.d. as applicable. Indicate on systems with measurement port the distance between the port and the nearest component/pipe bend/restriction both upstream and downstream, and the inside pipe diameter at the measurement port. On multiple diversion systems indicate how diversion systems are connected.



13. ☒ **Photo of Diversion & System Attached** ☐ **Aerial Photo of Place of Use Attached or Map of Irrigated Acreage Attached**
14. Remarks Application is for stream, but source is probably a spring beside the stream. Since Pd is from concrete rings @ stream level near the channel source could be considered as the stream.

15. Recommended Amendments

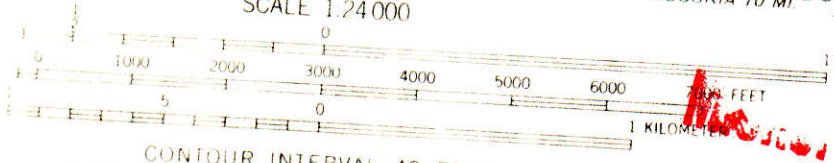
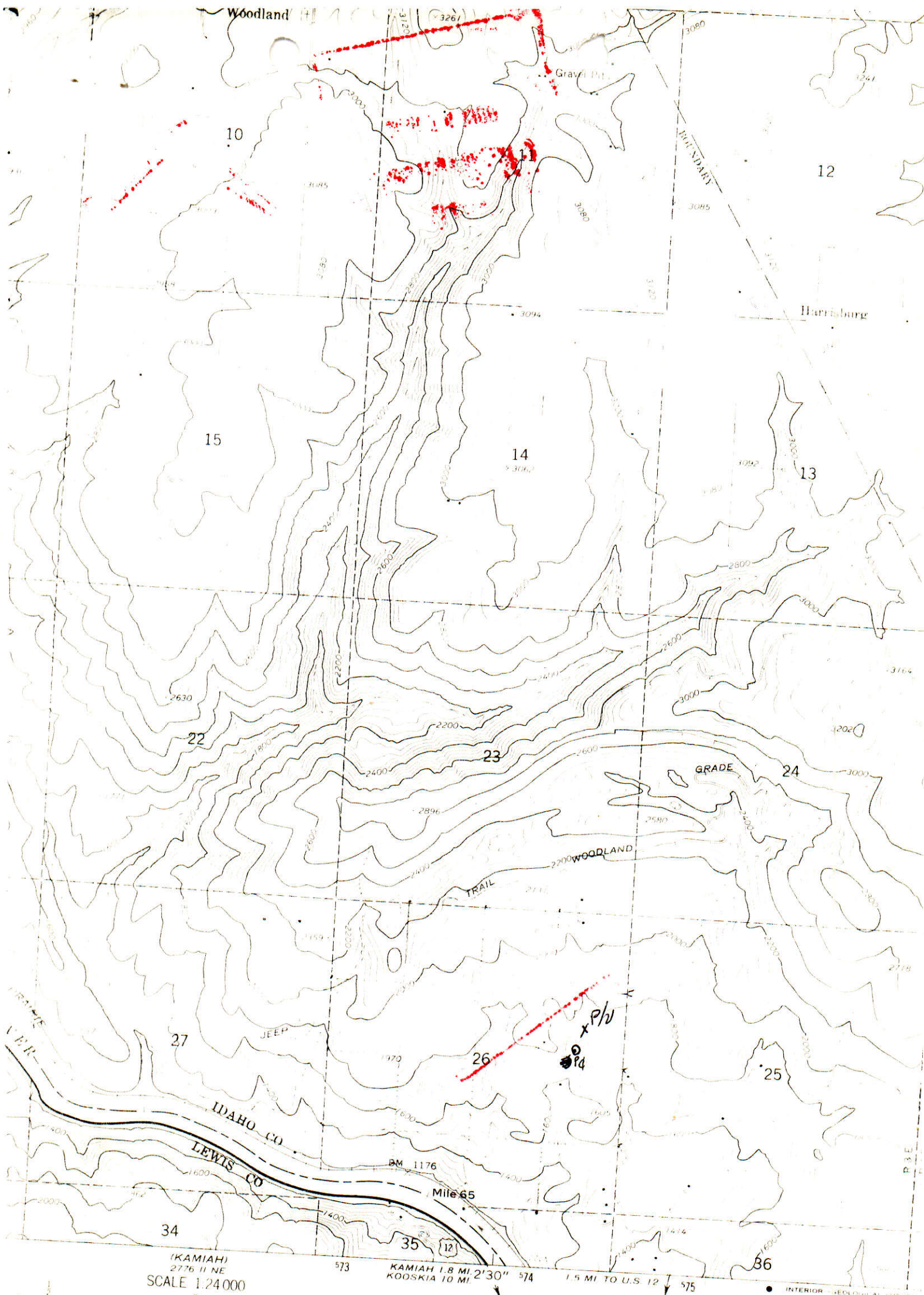
☐ Change P.D. as reflected above☐ Add P.D. as reflected above☒ None

☐ Change P.U. as reflected above☐ Add P.U. as reflected above☐ Other
16. Examiner's/Consultant's Signature L Board Date 7/17/85
- Consultant's License Number _____
- IDWR Director's Authorization to Conduct Beneficial Use Examination _____

Date

CONSULTANT SEAL

RECEIVED
MAR 18 1988



CONTOUR INTERVAL 40 FEET
DOTTED LINES REPRESENT 20-FOOT CONTOURS
DATUM IS MEAN SEA LEVEL

RECEIVED
MAR 16 1988

ROAD CLASS
Heavy-duty
Unimproved dirt
U.S. Route

TWP. 34 N RGE. 3 E SEC. 26 MAP # L-60 MAP SCALE 7 1/2
DATE OF FIELD EXAM _____ FIELD REPORT MAP PERMIT # 84-7180

9-10-81

USDA

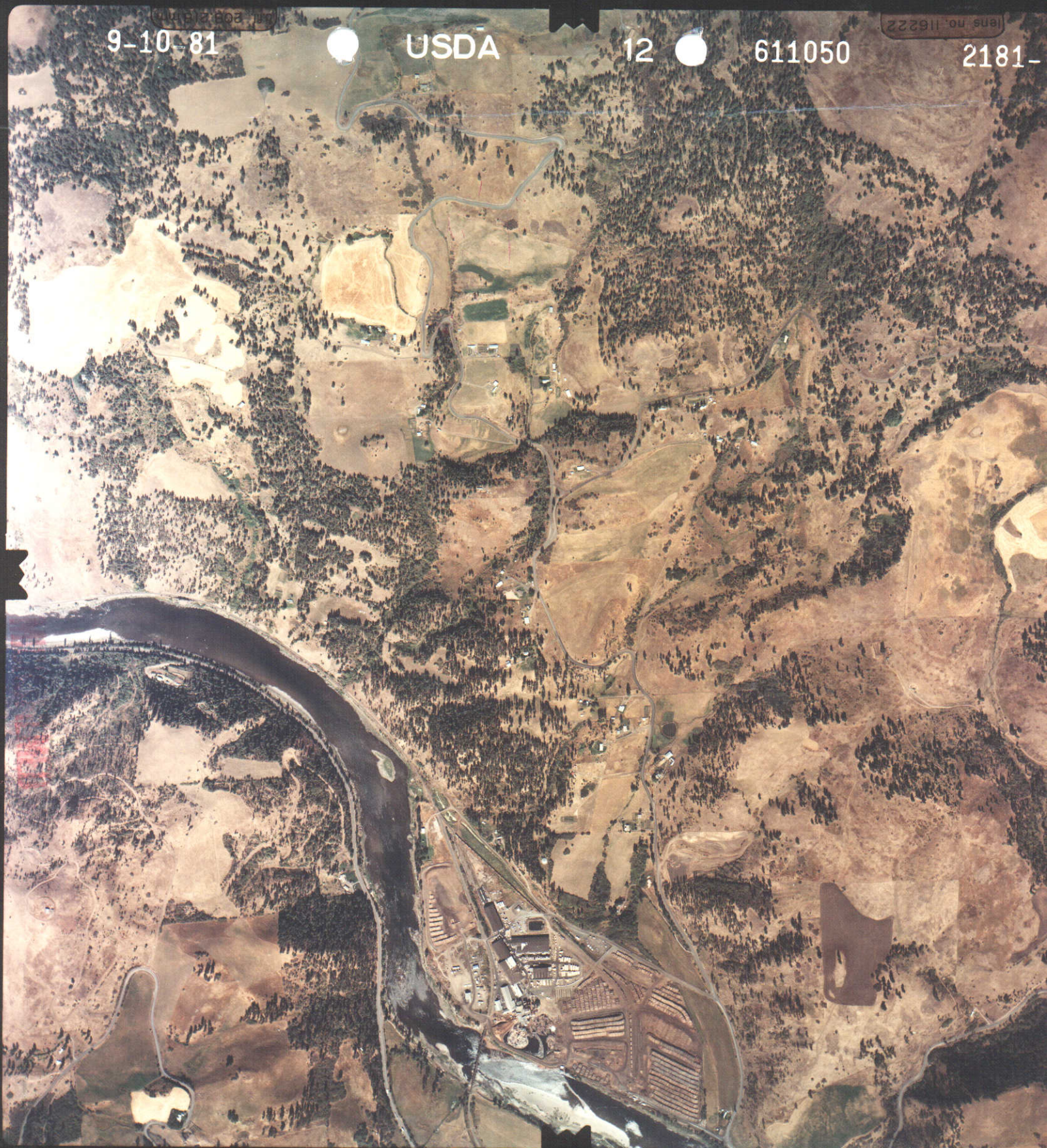
12

611050

2181-

lens no. 116222

KODAK SAFETY FILM



State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 84-7180

Priority: November 30, 1983 Amount: .04 CFS 3.4 AFA

This is to certify, that WILLIAM H. BREWER
STAR RT. BOX 15
KAMIAH, ID 83536

has complied with the terms and conditions
of the permit issued pursuant to Application for Permit dated November 30, 1983, and
has submitted proof to the Department of Water Resources on July 16, 1984, that
water has been applied to a beneficial use; an examination by the Department indicates
that the works have a diversion capacity of .04 cfs of water from;

UNNAMED STREAM tributary to CLEARWATER RIVER

and that a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>VOLUME</u>
Irrigation	06/01 to 09/30	.02 cfs	1.5 afa
Stockwater	01/01 to 12/31	.01 cfs	.7 afa
Domestic	01/01 to 12/31	.01 cfs	1.2 afa
	Totals	.04 CFS	3.4 AFA

LOCATION OF POINT OF DIVERSION(S): SENE, Sec. 26, Township 34N, Range 3E
Idaho County

PLACE OF USE: Irrigation

TWN RGE SEC

34N 3E 26 SENE

PLACE OF USE: Stockwater, same as Irrigation use

PLACE OF USE: Domestic, same as Irrigation use

CONDITIONS/REMARKS:

FEB 18 2003

1. The right to the use of the water hereby confirmed is limited to the amount which can actually be beneficially used and is restricted and appurtenant to the lands or place of use and to the purpose herein described, as provided by the laws of Idaho.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. Actual acres irrigated = .5.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 18th day
of November, 19 87.

MICROFILMED

Director

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

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF)
APPLICATION FOR PERMIT NO. 84-7180 IN THE)
NAME OF WILLIAM H. BREWER)

ORDER ADOPTING
PROPOSED MEMORANDUM
DECISION AND ORDER

WHEREAS, A. Kenneth Dunn, Director of the Department of Water Resources having issued and served a copy on the parties on May 1, 1984, a Proposed Memorandum Decision and Order in the above-captioned matter, pursuant to Idaho Code, Section 67-5211; and,

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

WHEREAS, no exceptions to that Proposed Memorandum Decision and Order have been received;

IT IS, THEREFORE, HEREBY ORDERED that said Proposed Memorandum Decision and Order be adopted and issued as the Final Decision and Order and proof of construction of works and application of water to beneficial use be submitted on or before June 1, 1985.

Dated this 22ND day of MAY, 1984.

for *Kenneth C Young*
A. KENNETH DUNN
Director

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF A PROTEST AGAINST APPROVAL	)	PROPOSED
	)	
OF APPLICATION FOR PERMIT NO. 84-7180 IN	)	MEMORANDUM DECISION
	)	
THE NAME OF WILLIAM H. BREWER	)	AND ORDER
	)	

On November 30, 1983, William H. Brewer filed with the Department of Water Resources Application for Permit No. 84-7180 for a permit to appropriate 0.04 cubic feet per second (cfs) of water from an unnamed creek tributary to the Clearwater River to be diverted within the SE1/4NE1/4, Sec. 26, Twp. 34N, Rge. 3E, B.M., Idaho County, to be used for irrigation, stock and domestic purposes.

Notice of the application was published in the Idaho County Free Press, Grangeville, Idaho on December 14 and 21, 1983.

The Department received a protest against granting of the application from Kiff Massey on December 27, 1983.

On January 31, 1984, Leo C. Moon filed a petition to intervene in the proceedings and the Department issued an order granting intervention on February 7, 1984.

A conference was held on February 14, 1984 in Lewiston, Idaho. The applicant was present and represented himself. The protestant, Kiff Massey, was present along with his wife and represented himself. The intervenor, Leo C. Moon, was not present but was represented by Glenn Simler. The major issue at the conference was that the protestant and the intervenor felt the granting of this water right would interfere with their prior water rights.

Based upon the information presented at the conference, the official files and records of the Department of Water Resources and his understanding of the law, the Hearing Officer for the Director of the Department of Water Resources proposes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

- 1) The point of diversion is located on property owned by Leo C. Moon.
- 2) Mr. Moon has refused the applicant's request for a permanent easement, but has proposed to allow the applicant the right of access to the water on his property for a maximum period of two years.
- 3) The applicant has drilled two wells on his property in an attempt to obtain a water supply, but has not been successful.

4) The applicant has measured the flow of the unnamed creek near the proposed point of diversion at 60 gallons per minute in February of 1984.

5) Protestant Massey is concerned about interference with the use of water identified by Claim to a Water Right No. 84-4001. That claim is for 0.20 cfs for the irrigation of ten acres of land with a priority of September 23, 1929. The land is irrigated by two different methods. About three acres are irrigated by gravity sprinkler very efficiently. The remaining land is irrigated by allowing ditches built on the contours to overflow and irrigate the hillside. This is an efficient use of water in relation to downstream users since any water not used returns directly to the stream channel. The colored aerial photo submitted at the conference was taken on September 10 which is late in the irrigation season. The photo shows vegetation still growing along the stream channel below Massey's place of use which indicates water has flowed in the channel during the irrigation season.

6) Intervenor Moon is concerned about interference with the use of water identified by Claim to a Water Right No. 84-4294. That claim is for 0.15 cfs for the irrigation of five acres, 0.04 cfs for domestic use and 0.0087 cfs for stockwatering. The diversion of water by intervenor Moon is above the applicant's diversion and proposed project.

7) The irrigation would occur in the same drainage as the water source and; therefore, any return flow would be available to the water users downstream while the domestic usage would occur in a different drainage.

8) The applicant's proposed irrigation consists of a garden of approximately 1/4 to 1/2 acre and 20 trees. Trees do not require irrigation on as regular a schedule or as often as row crops or pasture and may even go a month without irrigation.

CONCLUSIONS OF LAW

1) There is water available in sufficient quantities to permit the uses proposed by the applicant without interference with the protestant's existing uses.

2) The applicant is entitled to a permit to appropriate the public waters of the State of Idaho.

3) The Director of the Department of Water Resources cannot grant a right-of-way or easement for access to divert water.

4) The applicant must acquire a legal right-of-way for a water right developed for any permit issued pursuant to this Memorandum Decision to be

valid.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that Application for Permit No. 84-7180 is APPROVED subject to the following conditions:

- 1) This permit be, and is, subject to all prior water rights.
- 2) The irrigation must occur on land within the same drainage area as the point of diversion.
- 3) The issuance of this permit in no way grants any right-of-way or easement across the land of another.
- 4) Permit holder shall commence the excavation or construction of diverting works within one year of the date the permit is issued and shall proceed diligently until the project is completed.
- 5) Proof of construction of works and application of water to beneficial use shall be submitted to the Department on or before the date indicated on the final order.

Dated this 30 day of April, 1984.


BOBBY D. FLEENOR
Hearing Officer

MICROFILMED

RECEIVED
JUL 19 1983
Department of Water Resources
Boise

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 William H. Brewer Phone 935-2270
Post office address Star Pt Box 15 Kamiah, ID 83536
2. Source of water supply unnamed creek which is a tributary of Clearwater River
3. Location of point of diversion is SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 26 Township 34 N
Range 3E B.M. Idaho County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount .01 for domestic purposes from Jan 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount .02 for Irrigation purposes from June 1 to Sept 30 (both dates inclusive)
(cfs or acre-feet per annum)
Amount .01 for Stock purposes from 1-1 to 12-31 (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. .04 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. 3 horse power pump
with buried line

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 _____ inches; proposed depth of well is _____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 1 years (minimum 1 year - maximum 5 years).

8. Description of proposed uses:

a. If water is **not** for irrigation:
(1) Give the place of use of water: SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 26 Township 34 N
Range 3E 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 horses, 50 sheep

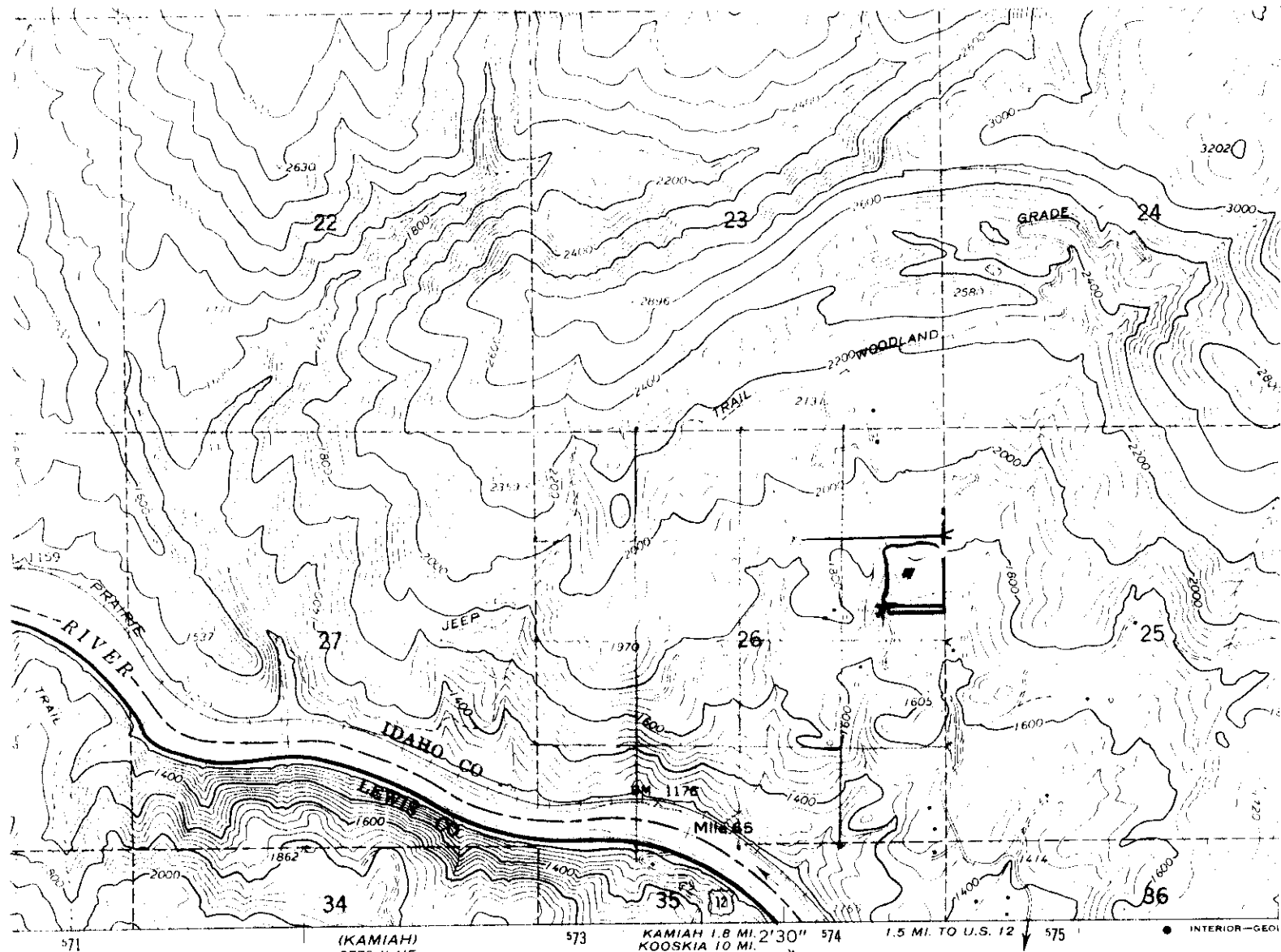
(4) Name of municipality to be served _____, or number of families to be supplied with domestic water 1 family.

(5) If water is to be used for other purposes describe: _____

MICROFILMED

SECRET

—

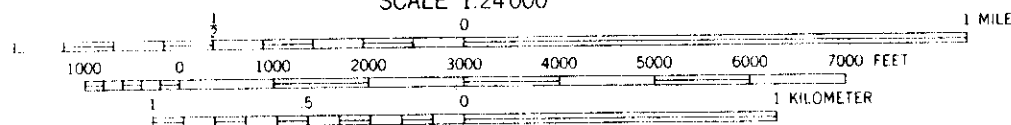


(KAMIAH)
2776 II NE
SCALE 1:24000

KAMIAH 1.8 MI. 2'30" 574
KOOSKIA 10 MI.

1.5 MI. TO U.S. 12 575

T34N R3E



CONTOUR INTERVAL 40 FEET
DOTTED LINES REPRESENT 20-FOOT CONTOURS
DATUM IS MEAN SEA LEVEL

Heavy-duty

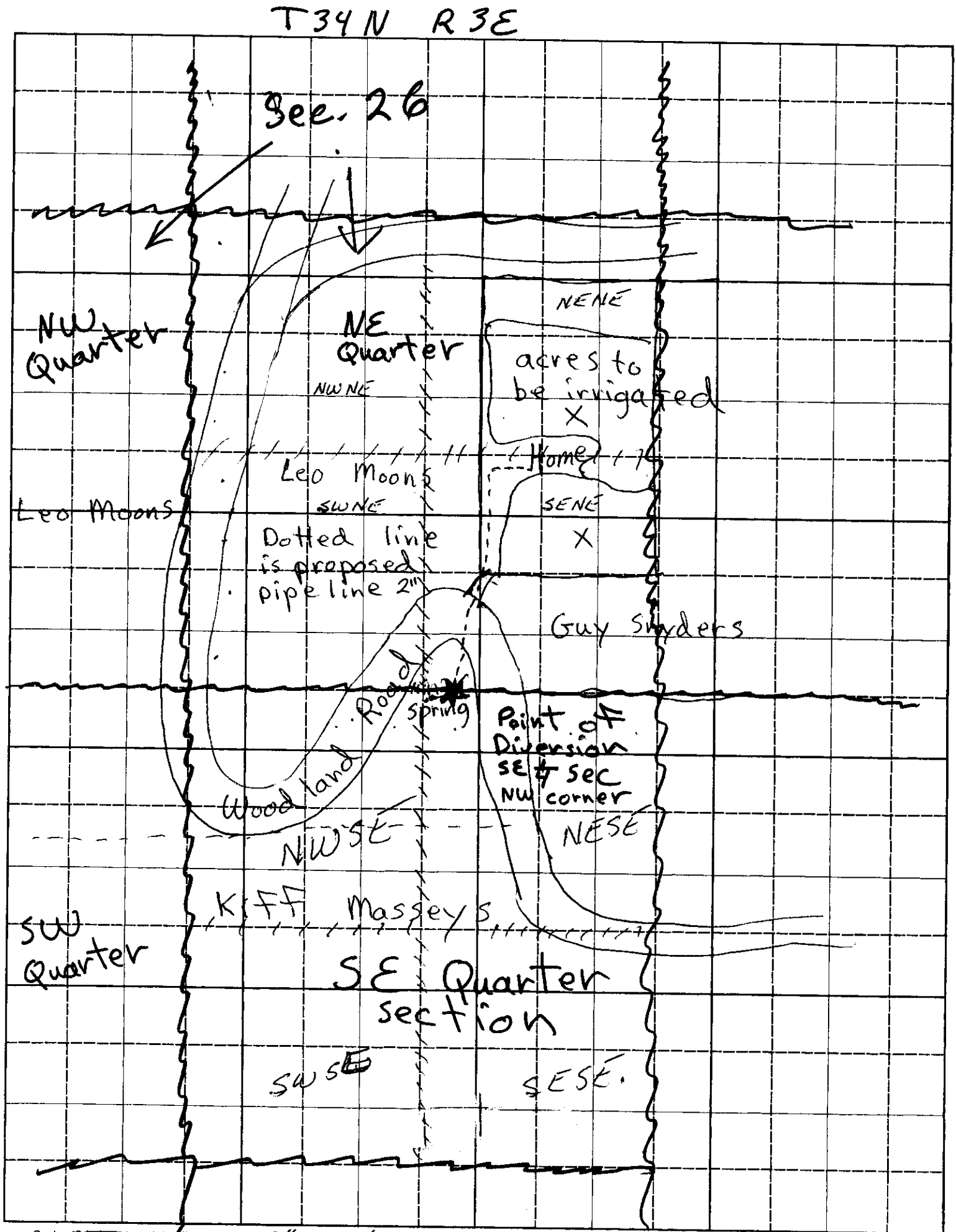
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U.S.



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



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.

William Brewer
(Applicant)

Proposed Priority: 11-30-83

Received by JK Date 8/11/83 Time 8:30 PM
Preliminary check by TK Fee \$ 30.00
Receipted by JK Date 11/30/83 (31409)
Publication prepared by JK Date 11/30/83
Published in Franklin County Star
Publication dates 12/14 & 21/83
Publication approved JK Date 1/3/84
Protests filed by: Kiff Massey 12/27/83

Copies of protests forwarded by JK 1/9/84
Hearing held by _____ Date _____
Recommended for approval denial by _____

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. 84-7180, 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 June 1, 19 85.
- 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: PURSUANT TO PROPOSED MEMORANDUM DECISION AND ORDER ADOPTING PROPOSED MEMORANDUM DECISION AND ORDER.

Dated this 22nd day of MAY, 1984.

for Norman C. Young
A. KENNETH DUNN, Director

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF A PROTEST AGAINST
APPROVAL OF APPLICATION FOR PERMIT NO.
84-7180 IN THE NAME OF WILLIAM H. BREWER

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 23rd day of May, 1984, a true and correct copy of the foregoing ORDER ADOPTING PROPOSED MEMORANDUM DECISION AND ORDER was mailed postage prepaid to:

William H. Brewer
Star Route 15
Kamiah, ID 83536

Kiff Massey
Star Route, Box 13
Kamiah, ID 83536

Leo C. Moon
7524 Shorefront Drive
Rt. 10, Box 652 M
Fort Worth, TX 76135



RITA I. FLECK
Secretary/Records Manager
Idaho Department of Water Resources

RECEIVED

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

IN THE MATTER OF A PROTEST AGAINST)	
APPROVAL OF APPLICATION FOR PERMIT)	
NO. 84-7180 IN THE NAME OF)	ORDER ISSUING
WILLIAM H. BREWER)	PROPOSED DECISION
_____)	

A. Kenneth Dunn, Director of the Department of Water Resources, having reviewed the attached proposed decision prepared by his appointee, Bobby D. FLEENOR, who conducted the hearing or who has read the record in this case, hereby approves the same as a proposal for decision pursuant to Idaho Code, § 67-5211 and orders that said proposed decision and a copy of this order be served upon each of the parties to these proceedings who appeared at the hearing on February 14, 1984, of this matter or upon their attorneys in accordance with Rule 7.3 of the Rules of Practice and Procedure of this Department.

Each party to these proceedings who appeared at the hearing is hereby afforded the opportunity, pursuant to Idaho Code §§ 42-1701A and 67-5211, to file exceptions to the attached proposed decision and to present briefs and oral arguments in accordance with the provisions of this order. Exceptions may not be filed and briefs and oral arguments may not be presented by parties who did not appear at the hearing of this case. If no timely and proper exceptions are received, an order by the Director will be entered adopting and issuing the proposed decision as his final decision.

I.
EXCEPTIONS

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

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

B. Exceptions not in compliance with the above stated requirements will not be considered and will be deemed an acceptance of the proposed decision.

II.
BRIEFS

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

B. Any party desiring to file a brief in response to any exceptions filed by any other party may do so by filing such brief with the Director on or before the 15th day following the last day any exceptions by any other party were served upon that party desiring to respond.

III.
ORAL ARGUMENTS

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

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

C. Oral arguments before the Director on exceptions to the proposal for decision shall be heard at the discretion of the Director, pursuant to Idaho Code, § 42-1701A. After all exceptions, briefs and requests for oral arguments have been received, the Director will decide whether to hear oral arguments. If oral arguments are to be heard, the Director will, within a reasonable time, set the case for oral arguments and notify each party of the place, date and hour the oral arguments will take place and of the period of time allocated for the arguments of this case. Unless the Director orders otherwise, all oral arguments shall be heard in Boise, Idaho.

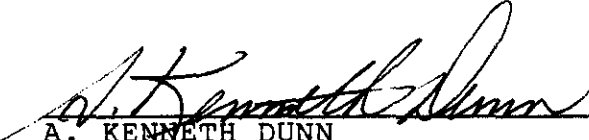
IV.
CERTIFICATION OF SERVICE

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

V.
FINAL DECISION

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

Dated this 1st day of May, 1984.


A. KENNETH DUNN
Director
Department of Water Resources

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF A PROTEST AGAINST)
APPROVAL OF APPLICATION FOR PERMIT NO.) CERTIFICATE OF MAILING
84-7180 IN THE NAME OF WILLIAM H. BREWER)
_____)

I HEREBY CERTIFY THAT ON THE 1st day of May, 1984, true and correct copies of the foregoing ORDER ISSUING PROPOSED DECISION and PROPOSED MEMORANDUM DECISION AND ORDER were mailed postage prepaid to:

William H. Brewer
Star Route 15
Kamiah, ID 83536

Kiff Massey
Star Route, Box 13
Kamiah, ID 83536

Leo C. Moon
7524 Shorefront Drive
Rt. 10, box 652 M
Fort Worth, TX 76135


RITA I. FLECK
Secretary/Records Manager
Idaho Department of Water Resources

MICROFILMED

AFFIDAVIT OF PUBLICATION

Nona Donaldson

..... being first duly
sworn, says he is the office manager
of the IDAHO COUNTY FREE PRESS, a weekly newspaper which
is published and issued weekly at Grangeville, Idaho County,
State of Idaho, and which is of general circulation in said county
and state; that the said notice, of which the one hereto attached
is a true copy, was published in said paper for 2 weeks,
being published 2 times, the first publication being
on the 14 day of December, 19 83,
and the last publication on the 21 day of
December, 19 83; and that the said notice
was published in the newspaper proper and not a supplement;
that said newspaper has been continuously and uninterruptedly
published in said county during a period of more than seventy-
eight consecutive weeks prior to the first publication of said
notice or advertisement.

Nona Donaldson

Subscribed and sworn to before me this 23 day
of December, 19 83.

[Signature], Notary Public
for State of Idaho, residing at Grangeville, Idaho.

RECEIVED
DEC 23 1983



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 13, 2002

Mr. Kiff Massey
HCR #11 Box 13
Kamiah ID 83536

RE: Bill Brewer's water right 84-07180

Dear Mr. Massey:

This letter is in response to your request for an investigation of Mr. Bill Brewer's use of water under his water right from an unnamed stream tributary to the Clearwater River, in order to protect your water rights from injury.

Department records indicate that staff from the Department's regional office in Coeur d' Alene responded to several complaints about 10 years ago that Mr. Brewer was exceeding his water right. Mr. Brewer was issued a Cease and Desist Order, dated September 3, 1991 and another dated June 3, 1992. The records do not indicate any concerns from that time until this year. However, this spring, Skyler Massey reported to Erv Ballou of this Department that he had observed in the past Mr. Brewer diverting water in excess of his water right. Mr. Ballou advised him to contact our agency when it happened again.

In response to verbal and written complaints from you and Skyler Massey, IDWR staff, Al Beardslee and Greg Taylor, conducted a field visit on July 16, 2002. At the time of the visit, Mr. Brewer was not irrigating. Department staff did, however, observe that he had been irrigating earlier in the season and probably had irrigated a larger area than his water right authorizes. At that time, a verbal warning was issued to Mr. Brewer to stay within the limits of his water right. Mr. Brewer indicated that he had finished irrigating his field for the season.

On July 25, 2002, IDWR received another complaint letter from Massey that Brewer was exceeding his water right. When Mr. Brewer was contacted via telephone by Al Beardslee, he acknowledged using water and agreed to stay within his water right. A letter confirming the limits of the right, particularly with respect to the fixed location of the area authorized to be irrigated during a season was sent to him (copy enclosed).

On August 9, 2002, staff from the regional office in Coeur d' Alene visited the area and observed that water was not being used for irrigation by Mr. Brewer.

SCANNED
FEB 18 2003

Kiff Massey
August 13, 2002
Page 2

Because of the significant distance Department staff have to travel to follow up on water use complaints in your area, we have asked local law enforcement authorities to observe use of water in the area, and to document unauthorized uses by Mr. Brewer or other water users. If an unauthorized use is documented, the Department will initiate an appropriate enforcement action.

In the meantime, you can greatly assist us by continuing to advise us of any further illegal diversions of water you observe. Please contact either Al Beardslee or Bob Haynes at the Department's regional office in Coeur d' Alene (208-769-1450), or contact me at 208-327-7910.

Sincerely,


Norman C. Young, Administrator
Water Management Division

c. Northern Region – IDWR
Tim Luke – IDWR Boise

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF THE DIVERSION	)	ORDER TO CEASE
OF SURFACE WATER BY WILLIAM H.	)	AND DESIST
BREWER.	)	
_____	)	

The Director of the Department of Water Resources (department), being charged with the duties of protecting vested water rights, enforcing specific statutes of the State of Idaho and the rules promulgated by the department, and being authorized to order the cessation of violations or attempted violations of the provisions of the law relating to all aspects of the appropriation and distribution of water, has investigated certain diversions of water being made by or under the control of William H. Brewer. Based upon the Director's investigation and his understanding of the law, the Director makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. William H. Brewer is the holder of one valid water right filing with this department, License No. 84-07180 for irrigation of 1/2 acre, domestic use (including 1/2 acre of lawn and garden irrigation) and stockwater uses.
2. The diversion point for license No. 84-07180 is located within the SENE, of Section 26, Township 34 North, Range 3 East, Idaho County.
3. Mr. Brewer has informed department staff that he intends to irrigate two acres of land.
4. Other water right holders exist below Mr. Brewer's point of diversion who assert rights that are prior in time to Mr. Brewer's water right.

CONCLUSIONS OF LAW

1. Section 42-351, Idaho Code, provides in part as follows:
 - (1) If the director of the department of water resources finds, on the basis of available information, that a person is diverting

August 2, 2002

Mr. Bill Brewer
Star Rt Box 15
Kamiah ID 83536

RE: Water Right 84-07180

Dear Mr. Brewer:

This letter is a follow up to our phone conversation on July 31, 2002, regarding your water right.

The purpose of this letter is to define the limits of your water right 84-07180. The maximum diversion rate of this filing is 0.02 CFS (9.0 gallons per minute), and not to be used for more than ½ acre of land. Furthermore, that ½ acre of irrigated property shall not be moved around a field for purposes of expanding your water right. You have the right to divert 0.01 CFS (4.5 gallons per minute) for up to ½ acre of lawn and garden. And you have the right to divert for Domestic purposes at a rate of 0.01 CFS (4.5 gallons per minute). I have enclosed a copy of your water right and also the Order issued by IDWR for this filing.

On July 16, 2002, we conducted a field visit to your property on Woodland Grade and found what appeared was more than ½ acre of irrigated property. No irrigation was occurring at the time of our visit.

If it is found that you are pumping more water than you are supposed to, enforcement action will be taken. You will be issued a Notice of Violation which carries with it a Civil Penalty of \$300.00 per acre that you are exceeding your water right. You could also be required to reduce your ability to divert more than your legal limit of water by re-installing a smaller pipeline from your source.

We suggest that you measure your sprinklers and make sure you are within your legal limits.

If I can be of further assistance, or if you have any questions regarding this letter, please do not hesitate to call me.

Sincerely,


Al Beardslee
Sr. Water Resource Agent

To _____
Date 8-21 Time 1:00 A.M.
P.M.

WHILE YOU WERE OUT

Patricia M. [unclear]

of _____

Phone 1-955 251
AREA CODE NUMBER EXTENSION

Telephoned	☐	Please call	☒
Called to see you	☐	Will call again	☐
Wants to see you	☐	Returned your call	☐

Message WILLIAM BREWER TAKES ALL OF
WATER

UNNAMED STREAM - IRAND COUNTY

84-7180 82-7178

84-7260

84-7258

Signed _____

water from a natural water course or from a ground water source without having obtained a valid water right to do so or is applying water not in conformance with the conditions of a valid right, then the director of the department of water resources may file an action seeking injunctive relief or may issue an order directing the person to cease and desist the activity or activities alleged to be in violation of applicable law or of any existing water right.

2. Mr. Brewer either is or intends to divert water on more acreage than is authorized by water right license No. 84-07180.

3. The illegal diversion of the public waters of the state of Idaho must be prohibited or mitigated to prevent injury to other water rights, to protect the water resources of the state and to assure that the allocation and use of available water supplies takes place in an orderly manner.

4. Section 42-352, Idaho Code, provides in part as follows:

(1) Any person who willfully violates any cease and desist order issued under chapter 3, title 42, Idaho Code, after the same has been served on that person shall be subject to a civil penalty to be imposed by the director of the department of water resources not to exceed one hundred dollars (\$100) per diversion for each calendar day, or any part of a calendar day, following service of the cease and desist order in which the illegal diversion or use of water occurs.

5. In order for a diversion of water to be legal, it must occur under a valid water right in accordance with the "first in time is first in right" principle.

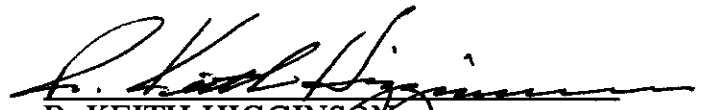
6. The director should issue a Cease and Desist Order pursuant to the authority of Section 42-351, Idaho Code.

ORDER

IT IS HEREBY ORDERED, that William H. Brewer shall immediately upon receipt of this order CEASE AND DESIST diverting water from a spring or unnamed stream tributary to the Clearwater River in the SENE, Section 26, Township 34 North, Range 3 East, Idaho County, in a manner which is not consistent with license No. 84-07180.

IT IS FURTHER ORDERED, that Mr. Brewer pay ONE HUNDRED DOLLARS (\$100) per diversion for each calendar day that illegal diversion of water occurs following the service of this Cease and Desist Order.

DATED, this 3rd day of June, 1992.


R. KEITH HIGGINSON
Director

*Order as sent
not full*

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF THE DIVERSION OF
SURFACE WATER BY WILLIAM H. BREWER.

) ORDER TO CEASE
) AND DESIST

The Director of the Department of Water Resources (Department), being charged with the duties of protecting vested water rights, enforcing specific statutes of the State of Idaho and the rules promulgated by the department, and being authorized to order the cessation of violations or attempted violations of the provisions of the law relating to all aspects of the appropriation and distribution of water, has investigated certain diversions of water being made by or under the control of William H. Brewer. Based upon the Director's investigation and his understanding of the law, the Director makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. William H. Brewer is the holder of three water right filings with this department, Application for Permit No. 84-7263 for irrigation of 1 acre; Permit No. 84-7260 for Irrigation of 1 acre, domestic and stockwater uses; and License No. 84-7180 for irrigation of 1/2 acre, domestic and stockwater uses. Application for Permit No. 84-7263 has been protested by a number of people residing in the area.
2. The diversion point for all three filings is located within the SENE, of Section 26, Township 34 North, Range 3 East, Idaho County.
3. Irrigation of acreage under 84-7180 is limited to land within the same drainage basin as the point of diversion.
4. Application for Permit No. 84-7263 has not been approved and diversion of water under this application is not authorized.
5. Using the system constructed for these filings, Mr. Brewer has irrigated two acres of land, none of which are located within the same drainage basin as the point of diversion.
6. There are other users below Mr. Brewer's point of diversion who assert rights that are prior in time to any of Mr. Brewer's filings.

CONCLUSIONS OF LAW

1. Section 42-351, Idaho Code, provides as follows:

"If the director of the department of water resources finds, on the basis of available information, that a person is diverting water from a natural water source without obtaining a valid right to do so or is applying water not in conformance with the conditions of a valid right, then the director of the department of water resources may issue an order directing the person to cease and desist the activity or activities alleged to be in violation of applicable law or of any existing water right".
2. Mr. Brewer is diverting water on more acreage and also on acreage not authorized by approved permits or licenses.
3. The illegal diversion of the public waters of the state of Idaho must be stopped or mitigated to prevent injury to other water rights, to protect the water resources of the state and to assure that the

allocation and use of available water supplies takes place in an orderly manner.

4. Section 42-352, Idaho Code, provides in part as follows:

"Any person who wilfully violates any cease and desist order issued under chapter 3, title 42, Idaho Code, after the same has been served on that person shall be subject to a civil penalty to be imposed by the director of the department of water resources not to exceed one hundred dollars (\$100) per diversion for each calendar day, following service of the cease and desist order in which the illegal diversion or use of water occurs."

5. In order for a diversion of water to be legal, it must occur under a valid water right in accordance with the "first in time is first in right" principle.

6. The Director should issue a Cease and Desist Order pursuant to the authority of Section 42-351, Idaho Code.

ORDER

IT IS HEREBY ORDERED, that Mr. William H. Brewer shall immediately upon receipt of this order CEASE AND DESIST diverting water from an unnamed stream tributary to the Clearwater River in the SENE, Section 26, Township 34 North, Range 3 East, Idaho County, in a manner which is not consistent with his approved permit and license.

IT IS FURTHER ORDERED, that Mr. Brewer pay one hundred dollars (\$100) per diversion for each calendar day that illegal diversion of water occurs following the service of this cease and desist order.

DATED, this 3rd day of September, 1991.

R. KEITH HIGGINSON
Director



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

July 26, 1991

Robert Haynes
IDWR - Northern Region
Coeur d'Alene, Idaho 83814

RE: Illegal Diversion or Use of Water

Dear Bob:

In 1987, the Department approved water right license no. 84-7180 for diversion of .04 cfs from an unnamed stream tributary to the Clearwater River despite objections from two other users of the same stream. One of the prior users, Kiff M. Massey, has written two letters complaining that William Brewer, the licensee, is diverting far in excess of his entitlement, and is causing problems for other users. I have enclosed a copy of his letters for your reference.

The next time someone is in the Kamiah area, will you ask them to stop by and visit with Mr. Massey? If our investigation shows excessive water use by Mr. Brewer, we may consider issuing a cease and desist order.

Sincerely,

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

cc: Kiff M. Massey

Kiff M Massey
HCR #11 Box 13
Kamiah, Idaho
83536

Gary Spackman Manager
Water Right Permits Section

RECEIVED
JUL 19 1991

Dear Gary

Department of Water Resources

I am writing a referral in regards to the letter I sent to you June 4, 1990 which you have in the appropriate file. I am requesting appropriate action be taken against William Brewer HCR #11 Box 15 B1 Kamiah Idaho who is wilfull. violating my water right #No 848001 Recorded at the Boise office

this year Mr Brewer is watering more land than last year and taking practically all water when he has his pump on.

I request you send your water master or you come to verify my claim against Brewer. I need your advise on how to appropriately resolve the issue the ecology of the stream is threatened by the wilful over use of the water killing all the marine life in some areas of the stream.

Water Right
84-4001
Massey

Brewer
84-7180
84-7260
84-7263

I Remain
Kiff M Massey

1-34-80

K. M. Massey
HCR #11 Box 13
Kamiah, Idaho
83536

June 4, 1990

RECEIVED
JUN 7 1990

Gary Spackman, Manager
Water Right Permit Section

Dear Mr Spackman

Department of Water Resources

You were wondering if William Brewer
Had received a copy of the letter of May 7,
1990 in regard's to his willfull violations of
Articles # 2 # 6 # 7 # 8 from pages # 1 + # 2
From final decision from the meeting in
Lewiston ^{Idaho} Feb 14, 1984. He was sent
and received a original copy of
the letter through the United States
postal service By Certified Letter
Date of Delivery May 9 1990, I have
the card sent to me from the
postal service with signature
of receiving the letter

Brew over use of the water
from stream since year 1984 has
been a serious threat to the ecology
of stream.

Sincerely

Kiff M Massey



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

June 1, 1990

Kiff M. Massey
HCR 11 Box 13
Kamiah, ID 83536

Dear Mr. Massey:

I acknowledge receipt of your letter to William H. Brewer. We will file the letter in the appropriate file but do not find that at this point in time we should take any action pertaining to your letter.

The letter you mailed to the Department was an original copy. Again, the Department will file it in its files. I wonder, however, whether Mr. Brewer has received a copy of the letter?

Sincerely,

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

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

November 22, 1987

WILLIAM H. BREWER
STAR RT. BOX 15
KAMIAH, ID 83536

RE: Permit No. 84-7180

Dear Permit Holder(s):

Enclosed herewith is a copy of the Water Right License issued on the above referenced permit.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

RECEIVED
MAR 16 1988

November 2, 1987

WILLIAM H. BREWER
STAR RT. BOX 15
KAMIAH, ID 83536

RE: Permit No. 84-7180

Dear Permit Holder(s):

Enclosed is a draft copy of the license proposed to be issued on the above referenced water right.

This right is currently being reviewed by this office for licensing. The enclosed preliminary copy is subject to change upon further administrative review.

We ask that you review the proposed license and if you do not concur with the information, please let us know within 10 days.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

MAR 16 1988

RECOMMENDED AMOUNTS

3.	Permit No.	Priority	Amount	App. Date	Date Proof Submitted	System Capacity
	84-7180	11-30-83	0.04	7/19/83		0.04

4. Permit Holder: William H Brewer

Address: Star Rt Box 15 Kamiah, Id 83536

5. Source: Unnamed stream tributary to Clearwater River

6. Beneficial Use	Period of Use From	To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
<u>Domestic</u>	<u>1/1</u>	<u>12/31</u>	<u>0.01</u>	<u>1.2</u>
<u>Stock</u>	<u>1/1</u>	<u>12/31</u>	<u>0.01</u>	<u>0.7</u>
<u>Irrigation</u>	<u>6/1</u>	<u>9/30</u>	<u>0.02</u>	<u>1.5</u>

Allowable Maximums: 0.04 3.4

7. Point(s) of Diversion:

No.	Govt. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County
			<u>SE</u>	<u>NE</u>	<u>26</u>	<u>34N</u>	<u>3E</u>	<u>Idaho</u>

8. Place(s) of Use

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
34N	3E	~~3E~~ 26				X 1/2												1/2	
Total Acres 1/2																			

9. Recommended Conditions/Remarks:

10. Recommended Amendments

- ☐ Change P.D. as reflected above
 ☐ Add P.D. as reflected above
 ☒ None

☐ Change P.U. as reflected above
 ☐ Add P.U. as reflected above
 ☐ Other

11. Examiner's Signature T Band

Checked in Regional Office by Bob Jaynes

Approved in State Office by Ron Howerton

Date 7/25/83

Date 8/5/85

Date 10-20-87

MICROFILMED
MAR 16 1988

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
LICENSING REPORT

RECEIVED

AUG 8 1985

10-06-7
84-7180
Permit No.

Department of Water Resources

1. Measurement Calculations

a) Field Measurement Calculations (Include theoretical capacities and system capacity)

domestic (1) $\rightarrow Q_{max} = 0.04 \text{ cfs}$
 $Q_{app} = 0.01 \text{ cfs}$
irrigation (1/2) $\rightarrow Q_{max} = 0.03 \text{ cfs}$
 $Q_{app} = 0.02 \text{ cfs}$
 $\therefore Q_{irr} = 0.02 \text{ cfs}$
stock (25) $Q_{max} = 0.02 \text{ cfs}$
 $Q_{app} = 0.01 \text{ cfs}$
 $\therefore Q_{stock} = 0.01 \text{ cfs}$
 $Q_T = .01 + .02 + .01 = 0.04 \text{ cfs}$

b) Volume Calculations for Irrigation:

$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 1.5 \text{ AFA}$
 $V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = 4.8$
 $V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = 1.5 \text{ AFA}$

c) Volume Calculations for Other Uses:

Domestic (1) $\rightarrow 1.2 \text{ AFA}$
Stock (25) $\rightarrow 0.7 \text{ AFA}$

2. Overlap Review

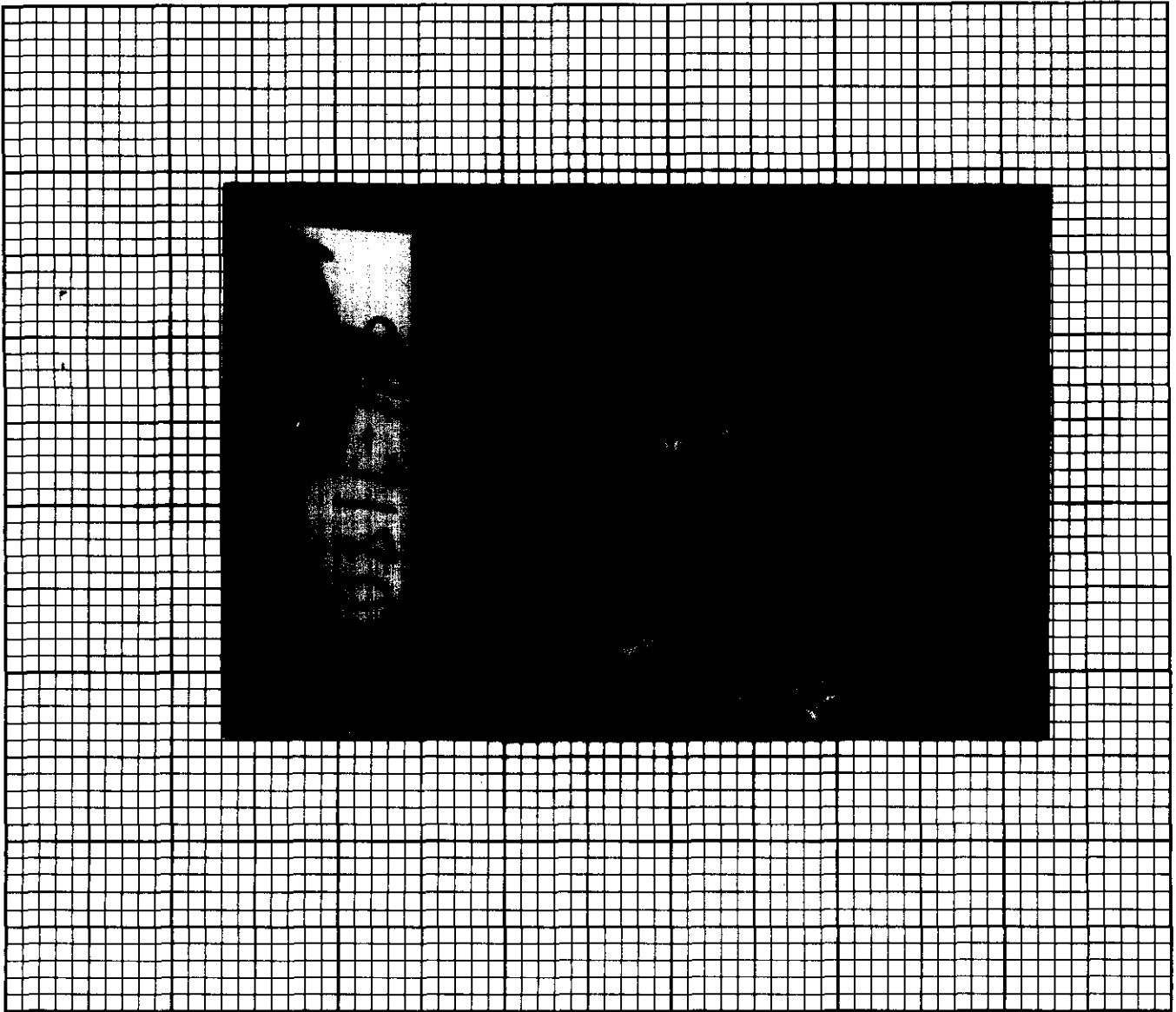
- a) Other water rights with same place of use: _____
- b) Other water rights with same point of diversion: _____
- c) Analysis: _____

MICROFILMED

MAR 16 1988

[illegible]

10. Other water rights on these lands None
11. Other water right diverted from same p.d. None
12. **Diversion and Delivery System Diagram:** Indicate all major components and distances between components. Indicate ditch size/pipe i.d. as applicable. Indicate on systems with measurement port the distance between the port and the nearest component/pipe bend/restriction both upstream and downstream, and the inside pipe diameter at the measurement port. On multiple diversion systems indicate how diversion systems are connected.



13. ☒ **Photo of Diversion & System Attached** ☐ **Aerial Photo of Place of Use Attached or Map of Irrigated Acreage Attached**

14. Remarks Application is for stream, but source is probably a spring beside the stream. Since Pd is from concrete rings @ stream level near the channel source could be considered as the stream.

15. Recommended Amendments

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

16. Examiner's/Consultant's Signature L. Board Date 7/17/85

Consultant's License Number _____

IDWR Director's Authorization to Conduct

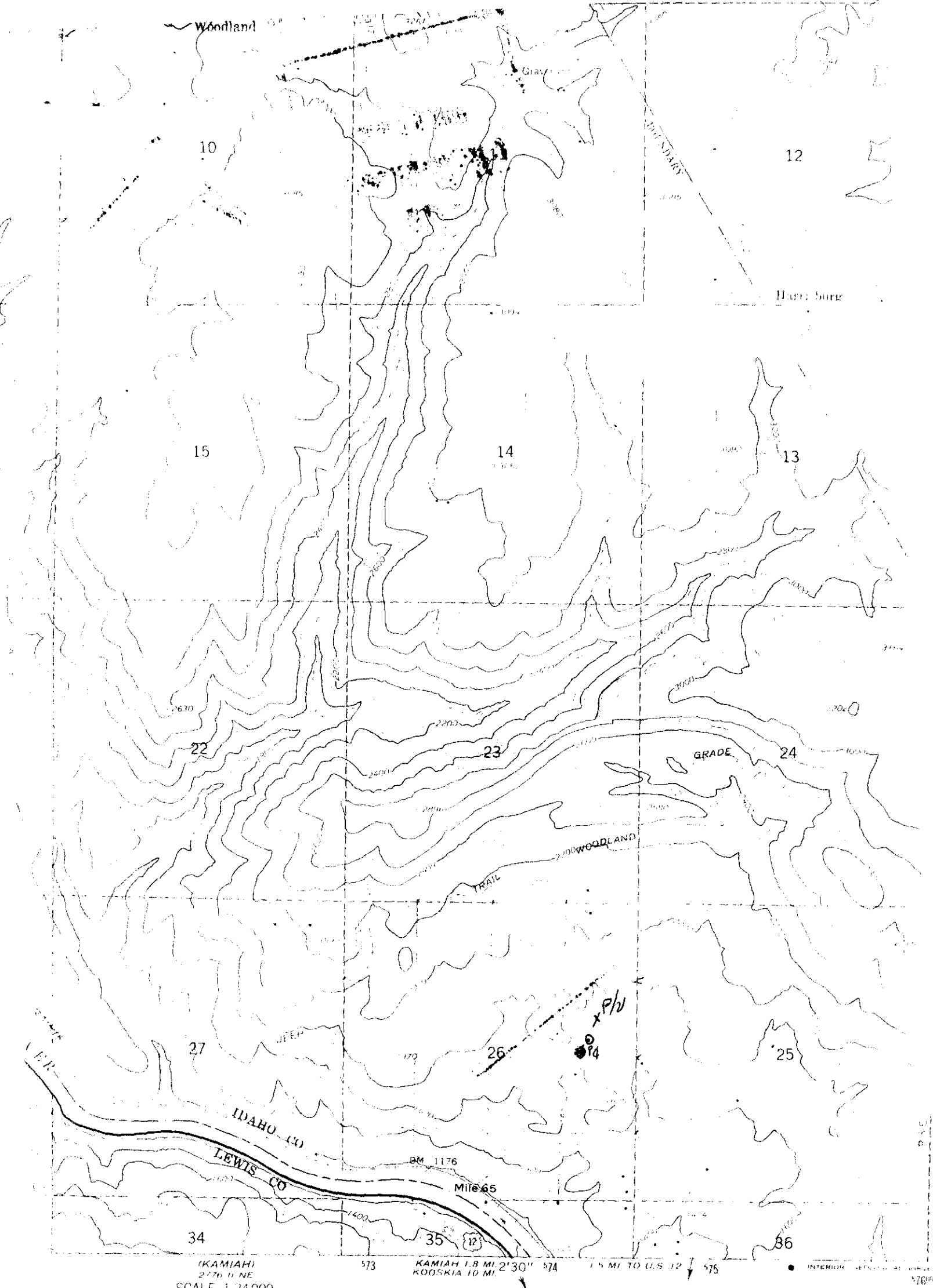
Beneficial Use Examination _____

Date

RECEIVED

MAR 16 1986

CONSULTANT SEAL



SCALE 1:24,000
CONTOUR INTERVAL 40 FEET
DOTTED LINES REPRESENT 20 FOOT CONTOURS
D.A.M. MEAN SEA LEVEL

ROAD CLASS:
Heavy-duty
Unimproved dirt
U.S. Route

FIELD REPORT MAP PERMIT # 84-7122

MAR 16 1988

TWP. 34 N RGE. 3 E SEC. 9 MAP # 2-50 MAP SCALE 1/2
DATE OF FIELD EXAM FIELD REPORT MAP PERMIT # 84-7122



STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

NORTHERN REGION

A. Kenneth Dunn
Director

Suite No. 9
4055 Government Way
Coeur d'Alene, Idaho 83814
(208) 765-4639

July 17, 1986

Mr. Leo C. Moon
7524 Shorefront Dr.
Rt. 10 Box 652 M
Ft. Worth, Tx. 76135

Re: ~~84-7180~~ 84-7180

Dear Mr. Moon:

This is in response to your letter of June 16, regarding Bill Brewer's Permit No. 84-7180. I apologize in being so tardy in responding to your letter.

Let me just review the status of Mr. Brewer's Permit. Mr. Brewer filed his permit on the 19th of July, 1983. A conference was held regarding the protested application in February of 1984. The Department of Water Resources issued a Proposed Decision approving the application of April 30, 1984, and the Director of the Department adopted the Proposed Decision on the 22nd of May, 1984. Mr. Brewer then filed his Proof of Beneficial Use stating that he was using the water in July 9 of 1984. An examiner from the Department of Water Resources then inspected and confirmed the uses in July of 1985.

A water right may not be established in trespass; however, Mr. Brewer had temporary permission from you to use the water and therefore all the requirements for creating a water right have been met.

Once a water right has been created, it can be lost in two ways. The first way can be by abandonment on the part of the right holder. Abandonment of a water right occurs when a party walks away from his use of water with not intent to use the water again and it occurs at the instant the right holder ceases to use the water. The key to abandonment is establishing the intent of never using the water again.

The second way that a right is lost is by forfeiture for non-use. Forfeiture occurs when the water is not used for a period of five consecutive years and whether the right holder intended to use the water again is of no consequence.

If you by your actions prevent Mr. Brewer from using the water, the point in time when that use stops would commence the time period for forfeiture.

Even though you now have terminated your permission for Mr. Brewer to use the water which may result in forfeiture of the right because of non-use, the Department of Water Resources will not cancel the permit because Idaho

*I sent this letter to be
filed today. I just discovered it
has the wrong #.*

*It should be filed in 84-7180. Can you find
+ be sure it gets put on the right file R*

Shake
JK

RECEIVED

MAR 16 1988

RECEIVED

JUN 01 1987

7524 Shorefront Drive
Rt. 10, Box 652 M
Fort Worth, Texas 76135
June 16, 1986

Department of Water Resources

State of Idaho
Department of Water Resources, Northern Region
4055 Government Way
Coeur d'Alene, Idaho 83814

Attn: Mr. Robert G. Haynes, Regional Supervisor

Dear Mr. Haynes:

In 1983, Mr. Bill Brewer filed a claim for water rights on my land, adjoining his property, for household use. I protested the claim because I believed: (one) that he intended to use as much water as he could get diverted to irrigate his land, (two) he would have to trespass my land to get the water, (3) he intended then to take possession and monopolize permanently an entire spring instead of taking off-flow from my property, (4) he did not want to spend the money to drill a well or otherwise obtain a source at his expense, and (5) that he fully intended to eventually claim adverse possession of the spring, and the temporary right-of-way I had given him so he could occupy his newly built house. Previous to this, Mr. Brewer had lived on my place for twelve years (while teaching at the local high school), had made offers to buy my property repeatedly, and committed some acts not beneficial to my property. All my beliefs have proven well founded with the exception of the last one, which I plan to prevent.

I am enclosing for your files, and information, copies of letter exchanges, including one just written, notarized and mailed. I believe these letters will somewhat make the situation clear.

My latest information is that Mr. Brewer has offered his property for sale. Also that he is representing his property as having plenty of water, "all you could want". The water he is referring to, of course, comes from the spring on my property, and is not run-off from the property.

Mr. Brewer does not, of course, hold a deed to any part of my property. His permission to trespass a temporary right-of-way is expired by six months. I have protested his trespass. He does not pay rental for it. ~~He~~ therefore does not have a legal right to enter my property.

I now request that the water right claim No. 84-7180 be canceled. If this cannot be done now, it must be if the land is sold. I will not, under any circumstances, renew any right of way to/on my property, for any private purpose other than as required by law.

Please notify me as to the action, other than this, that is required of me to discontinue the present status of a claim to water ON my property. Or clarify both for me and Mr. Brewer what the claim allows. I do not believe that I am required to permit trespass on my property, to my detriment, and for the profit of others. I wish to restore the clear title to my complete property.

My own claim for all the water rights of the property previous to Mr. Brewer's, and long precedence of occupying and owning the land should ~~be~~ the use of all water originating on the land, for me and/or my tenants. ~~What happens~~ from the property is not my concern, except if some one uses it, it must be picked up some other place than on my property. No guarantee of surplus water can be made, since dry seasons or years could yield little outflow.

Respectfully

Leo C. Moon

Leo C. Moon

RECEIVED
JUN 23 1986
Department of Water Resources
Northern District Office

MAILED
MAR 16 1988

RECEIVED
JUN 1 1987

7524 Shorefront Drive
Rt. 10, Box 652 M
Fort Worth, Texas 76135
June 16, 1986

RECEIVED

JUN 23 1986

Mr. Bill Brewer
Star Route Box 15B1
Kamiah, Idaho 83536

Department of Water Resources

Department of Water Resources
Northern District Office

Dear Mr. Brewer:

In December 1983, I agreed to allow you to pipe water from a spring on the far south end of my property adjoining your land, for household use, for a period of exactly two years, at no charge. You had filed a claim for a right to use surplus water emanating on my property, and running off. The State of Idaho did not, and stated that they could not authorize trespass on my land.

I specified that at the end of the two year period, December 1985, you would remove your equipment, restore the property to its previous condition, and desert from trespass. I specified that I would not have to "ask you" to do so, or take any other action to have this accomplished. You agreed to my terms, since you took advantage of the offer, installed your equipment, and did not disagree to any part of the terms. In fact, you did not even answer!

On September 28, 1985, I notified you in writing that the agreement would end as agreed, on December 31, 1985 (actually a month longer than agreed). Your reply was not satisfactory. You have not communicated again with me, although your letter stated that you wanted to "sit down with me to see if we can come to a neighborly solution"!

I have found nothing to indicate that you are interested in any solution, other than one that is entirely advantageous to you. At this time, it is extremely disadvantageous to my property and its value for me to allow this continued trespass. Your trespass is now, and since December 31, 1985, without my consent, against my protest, and is illegal. You have a right to use your share of whatever surplus water escapes from the boundaries of my land, providing you can arrange to get it after it enters someone else's property. You are no longer permitted to monopolize a spring on the property belonging to me, nor to trespass on the property.

I have not communicated with Mr. Massey since early 1983. I assume he can take care of his business satisfactorily, and that he must think I can care for mine adequately, hence no need to correspond. I have no interest in your dealings or relations with Mr. Massey. Contrary to your statement, Mr. Massey is no factor in my decision. I do consider him a good neighbor. I would appreciate it if you would not bring this up again. Whatever water is left after it leaves my land is of no concern to me, nor its use. I already have, previous to your claim, the right to all the water I can use that starts on my land, and as long as it is on my own drainage.

I don't believe it should be of concern to me, other than of passing interest, what wells you care to drill, or have drilled on your own property. It is difficult to understand why anyone would build a dwelling without first securing a positive water supply from resources on his own property, or at least have a positive supply of commercially purchased water. To assume the right to use other owner's water for irrigation purposes, over a long time basis, I should think, is some sort of imposition. Against protest makes it even worse.

Of possible interest, were you able to transpose Fort Worth near enough to use its water supply: the minimum cost (service charge per month, hook up, zero water) is \$18, then \$1.05 per 100 Cu. Ft. (750 gal.) additional. I would suspect that water is not cheap in Kamiah. In any case, any efforts and money you may expend to get a good water well should be well worthwhile.

MICROFILMED
MAR 16 1988

June 16, 1986

Mr. Bill Brewer
Kamiah, Idaho

I will expect you to have disconnected your lines, removed them and entire equipment, and to have restored the site, including removal of any structure you have emplaced on my property by July 15, 1986. I have in mind to see that this is done, or whatever action is necessary to restore the property entirely to my possession and use. I will then utilize it as I see fit. I will ask Mr. Glenn Simler to monitor since he is the present local caretaker. I also plan a visit in the not distant future.

Contrary to what you have said, this has not been a difficult decision to make since it was made and agreed upon in or before December 1983. Nor has it placed me in a difficult position. The land is mine to use as I need, and however "scrubby", its potential is mine to utilize so long as I hold the deed! I do not plan further discussion on the matter. If you wish to do so, Mr. Simler is the local contact, and my phone is (817) 237-1964.

Please keep me informed of your progress on this matter.

Leo C. Moon



Copy to: Mr. Glenn Simler
Mr. Robert C. Strom
State of Idaho, Dept. of Water Resources ✓

Dorothy Mezza
6/27/88

RECEIVED

MAR 16 1988

October 15, 1985

RECEIVED
JUN 01 1987

Leo Moon
7524 Shorefront Drive
Rt. 10, Box 652M
Fort Worth, Texas 76135

Department of Water Resources

Dear Leo:

We received your correspondence right in the middle of elk hunting, so I do apologize for the delay in answering your letter.

We have read over your letter very closely and get the feeling that the arrangement on the use of your spring has caused you discomfort. We would like to say we are sorry if this is indeed the case, and hope that a working, beneficial agreement may be reached at the earliest date.

Leo, we would like the opportunity to sit down with you and see if we can come to a neighborly solution to this water problem. We would like the opportunity to show you that our use of the water will indeed not hurt the value, or any use of your property. The spring is located on a piece of scab ground which would be unfeasible for a building site, grazing or any other practical use. Indeed, your property does have a wealth of water, which you are very fortunate to have. From our own experiences, we have found that the springs that your rental uses out of, has the capacity to not only supply domestic and livestock water, but also to completely irrigate the farm ground. I fail to see then why a reasonable solution cannot be found.

Mr. Massey seems to have a concern over our water use, which we believe is unfounded. We have used the water for domestic, livestock and irrigation. The reason we have done so is the fact that the water resource board has granted in our favor for the above uses in the amount of 18 gpm. All we have ever done was to use a small portion of what the water right board has granted. We assume that this board has the authority to make rational decisions about the use of water for the most beneficial uses.

We are not sure that you are aware of the fact that Mr. Massey does have at his disposal, several springs which run quite a large volume of water, which he has let go and not developed. To us this seems quite wasteful to allow his resources to run away while depending on the water which runs off of your place. We know this may have caused some hard feelings between Mr. Massey and ourselves. This use of water by Mr. Massey may be a factor in your decision of water use.

RECEIVED

MAR 16 1988

Leo Moon
October 15, 1985
Page 2

We sincerely hope that you will find it in your heart to sit down and talk to the concerned parties and then take time to do some thoughtful decision making.

We would like to remind you that we have already spent over \$8000 in two dry wells and have had several reliable people tell us that further drilling would also be quite fruitless. The water system that we are presently using did in fact cost us a little over \$5000. At this time in our lives it would be quite impossible to spend additional money, which we do not have, to go exploring.

Indeed you do have a difficult decision to make, which will affect many lives. We are sorry to place you in such a difficult position and hope that above all else we can still be friends and neighbors when this is all under the bridge. If indeed you would like to discuss any situation which you may not be aware of, please contact us.

Sincerely,

Bill & Kathy Brewer

Bill and Kathy Brewer

RECEIVED

MAR 16 1988

RECEIVED

JUN 01 1987

7521 Shorefront Drive
Rt. , Box 652 M
Fort Worth, Texas 76135
28 September, 1985

Mr. Bill Brewer
Star Route Box 1581
Kamiah, Idaho 83536

Department of Water Resources

Dear Bill:

Verbally, and by letter to you, I agreed to allow your trespass on the land described legally as T34N R3E Sec 26 W2E1/4NE1/4 (20 acres) to the limited extent of a water line to a spring located on the property. This was to begin about December 1, 1983, and to be for a period of 2 years.

I specified that: At the end of the period of two years starting Dec. 1, 1983, the water line and all equipment you have placed on the property must be removed, and the property restored to its previous state, without further request or other inconvenience to me.

Enclosed are two letter copies: One by myself to the State of Idaho stating that I would give you two years of such passage from Dec. 1, 1983 without further protest; and a letter from you to the State of Idaho, which indicates that you understood that agreement.

It has seemed unnecessary to make up a formal agreement with signatures and legal wording. I regard both my word and yours as good. I assume you have the same regard. Thus you have had the uncontested use of the necessary entrance for the two years promised, as of December 1, 1985.

It will be necessary to terminate the arrangement as per the agreement stated and understood by yourself and me, as of the date stated. You should understand that this permit to trespass must come to an end to prevent the permanent loss of this portion of my property, which I do not intend shall happen. I am well aware of the law on these matters, and this letter is intended to recover control of all of my land to myself and for such use as I wish to make of it. It is further a protest against any further non-lease usage or trespass on my land. While I am very much concerned that you have a water problem, I cannot sacrifice my property rights, nor jeopardize the property's clear title by ill-considered action or inaction on my part, or that of others.

I am concerned that part of the water use has been for other than domestic use, and has clearly been used for irrigation. The use of the trespass was specifically and clearly stated to be for "domestic use". I have chosen to allow this discrepancy to disappear into past history since the agreement is so near its end.

For the information of whoever it may concern, I do not intend to permit any further rights-of-way on my property in the future. The County road and the Hatch road both completely traverse my property, and yes, I do pay taxes on that lost acreage. Four other right-of-way requests have been refused.

Please notify me by Jan. 1, 1986 that you have vacated my property totally, have removed all of your equipment and have restored the site. It will then be available for my unlimited use and/or disposal. Thank you.

Leo C. Moon

Two (2) enclosures: Letter to State of Idaho, Dept. of Water Resources, signed Leo C. Moon, Jan. 25, 1984; and Letter to State of Idaho, Dept. of Water Resources signed by Bill Brewer, Feb. 8, 1984.

Copy to: Mr. Glenn Simler
Mr. Robert C. Strom

MAR 16 1988

Feb. 8, 1984

RECEIVED

JUN 01 1987

State of Idaho
Department of Water Resources
Northern Region
4055 Government Way
Coeur d'Alene, Idaho 83814

Department of Water Resources

Dear Sirs,

In reference to the petition to intervene by Leo Moon received by your office Jan. 31, 1984 we have no opposition for Mr. Leo Moon's intervention seeing how this affects his personal property. He should be aware of what's happening.

We respect his concerns for his water resources, but ~~there is not any difference between temporary and permanent placement of water rings and water lines that we can see.~~ The proposed spring ring placement would be ~~within Leo's property~~ with ~~less~~ than ~~100~~ feet of buried water line, the rest being placed under a county road for which we have an easement across and then on our own property. *1/4 - 1/2*

In regards to paragraph 4 in Mr. Moon's letter, he states we could have our fair share of the water in the SE corner of the South 20 section of his property for a ~~specific period of time~~. After talking to Mr. Massey about pumping this water up to our house, Mr. Massey said he felt he could sue Mr. Moon over an agreement they have between themselves about this water. He feels his water right entitles him to all the water coming off Mr. Moon's property and we have no claim or there is not enough water for us to have a claim on. This spring is not the only source of water for Mr. Massey's water right.

Mr. Massey's water right for Irrigation covers a specific period of time during the summer, not for the entire year. We believe that our need for ~~water for irrigation~~. Again we do not intend to take all the water that comes from this spring. We do not intend to take away anyone's water right as it has been claimed but to use what is not needed by others. This spring has never been developed and has great potential for use. We do not intend to infringe on anyone. The ground where the spring is has no livestock on it or is not continuously fenced to hold any livestock. ~~It is divided from Mr. Moon's property~~ (the lower south end of the 20 acre property) by the county road and therefore ~~hasn't been used for years~~. This doesn't mean it couldn't be used only that it hasn't been used. *Not true →* *12 years - was used before that* *15 blocks prop. - find it of company*

Again we wish to state that we do not intend to infringe upon anyone. Our desire is to obtain water ~~for our house~~ and have tried unsuccessfully to drill for water.

Would it be possible to have a copy of Mr. Moon's water right No. 84-4294 and Mr. Massey's water right No. 844001 so we could be clearer on their rights. *Handwritten: No mention of water for irrigation!*

Sincerely

Bill Brewer

MAR 16 1988

Bill Brewer
Star Rt. Box 15
Kamiah, Id 83536

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Northern Region

JOHN V. EVANS
Governor
A. KENNETH DUNN
Director

4055 Government Way
Coeur d'Alene, ID 83814
(208) 667-6484

August 30, 1984

WILLIAM H. BREWER
STAR ROUTE BOX 15
KAMIAH ID 83536

RE: Permit No. 84-7180

Dear Permit Holder:

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

Before a Water Right License can be issued, a field examination must be made by a representative of this department.

A field examiner will contact you to arrange to examine your system.

If you have any questions regarding the field examination, please contact this office by phone at 765-4639 or in person at our office.

Sincerely,

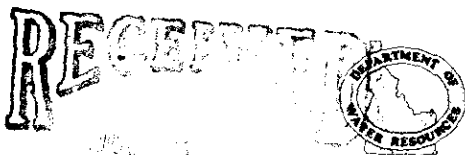
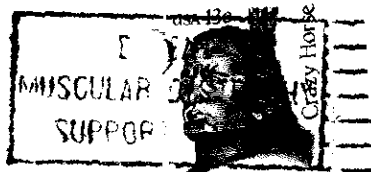
/S/
TOM D. KING
Senior Water Resource Agent

cc: IDWR - State Office

MICROFILMED

MAR 16 1988

William N. B. [unclear]
Star Rt Box 15
Kamiah Id 83536



IDAHO DEPARTMENT OF WATER RESOURCES
STATE HOUSE
BOISE, IDAHO 83720

NOT REPLIED

DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card as a statement that the permit holder(s) has completed development to the extent shown below of Permit No. 84-7183.

Name(s) of Permit Holder: William H. Brewer

Post Office Address: Star Rt Box 10

Kamela ID 8336 Tel. No. 935-2000

Source of Water: Gardner Creek NE 1/4 Sec 23 T. 34N R. 20E

Extent of Use: ☒ Domestic 1 (number of households)
☒ Stockwater 4 horse 20 sheep (number and type of stock)
☒ Irrigation 1/4 - 1/2 acre (acres)
☐ Other

Measuring Device: Required? ☐ Yes ☒ No Installed? ☐ Yes ☒ No

Access Port: Required? ☐ Yes ☒ No Installed? ☐ Yes ☒ No

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

7/5/84 Date William H. Brewer Signature of Permit Holder

7524 Shorefront Dr.
Rt. 10, Box 652 M
Fort Worth, Texas 76135
29 May, 1984

RECEIVED
JUN 4 1984

State of Idaho
Department of Water Resources
State Office, 450 W. State Street
Boise, Idaho 83720

Attn: Mr. L. Glen Saxton

Department of Water Resources

Dear Sir:

Reference your recent letter to Mr. William H. Brewer, Kamiah, Idaho
Re: Application for Permit No. 84-7180 (copy to me), please be advised that I am having prepared by my attorney a lease-right of way agreement (I am to be advised soon of the format) for Mr. Brewer to have access to the spring water supply on my property, for a maximum of two years. This access is to consist of the right to place a pipe line to the water from his property and a suitable ring or water reservoir container; all pumping equipment, power supply and other construction to be placed on his property.

It is my understanding that Mr. Brewer has already secured permission to cross the county highway right of way, and from there he will need only a few feet more (8' he says) to get to the spring.

I have previously agreed verbally to allow Mr. Brewer the access to the water which originates on or under my property for the period of two years, during which he is to provide this essential from his own resources (time to drill well or other provision). I plan to have the agreement made for one year at a time, renewable for two years, to prevent any possibility of adverse possession of any part of my land.

I believe there is one matter of clarification to be made. Mr. Brewer has asked, and had approved, a permit for water from the tiny stream flowing thru my property, and originating mostly from springs above the point from which he plans to take water. However, he is planning to take water specifically from and develop a spring at the so-called point of diversion. At the end of the two year right of way limit, I am requesting Mr. Brewer to return the site to its original condition.

Very truly



Leo C. Moon

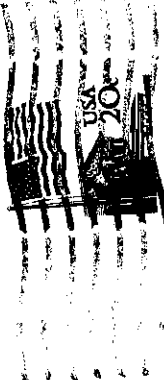
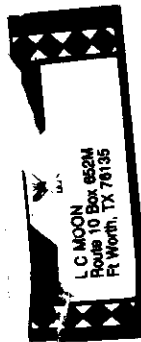
MICROFILMED

Leo E. Moon
7524 Shorefront Drive
Rt. 10, Box 652M
Fort Worth, TX 76135

RE: Permit No. 84-7180

Sincerely,

LGS:rf



STATE OF IDAHO
Department of Water Resources
State Office, 450 W. State Street
Boise, Idaho 83720

Attn: Mr. L. Glen Saxton
Chief, Operations Bureau

UNRECORDED

May 23, 1984

William H. Brewer
Star Route Box 15
Kamiah, ID 83536

Dear Mr. Brewer:

Re: Application for Permit No. 84-7180

Enclosed is a copy of the approved Application for Permit No. 84-7180 along with a copy of the Proposed Memorandum Decision and Order and a copy of the Order Adopting the Proposed Memorandum Decision and Order. Please note the conditions of approval as set forth by the orders.

Enclosed is a sheet of instructions entitled "Making Proof of Beneficial Use." Please read the instructions carefully since you must take further action to develop this permit. Also enclosed for your convenience is the statement of beneficial use postcard that must be submitted when your project is completed.

Any person who does not agree with the decision of the Department may request a rehearing before the Director within twenty (20) days, or may appeal directly to the district court within thirty (30) days of the date the decision is mailed.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

Enclosures

cc: Leo C. Moon
Kiff Massey

RECEIVED

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY: JK

APPLICATION NUMBER: 84-7180

CHECK:

- ☒ Source.
☒ Point of diversion.
☒ County.
☒ Quantity of water and period of use.
☒ Description of diverting works.
☒ Time required for beneficial use of water.
☒ Place of use or acres irrigated.
☒ Map.
☒ Signature.

Field check by: _____

Date: _____

Comments: _____

- ☐ Fee.
☐ Yes ☒ No Field check required.
☐ Yes ☒ No Critical groundwater area.
☐ Yes ☒ No Request dam safety information. Sent by: _____ Date: _____
☒ Yes ☐ No* In form to receipt.

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

SEND COPIES TO:

- ☐ Idaho State Health Department.
☐ Idaho Fish and Game Department.
☐ Idaho Department of Lands.
☐ U.S. Bureau of Land Management.
☐ U.S. Forest Service.
☐ Other _____

Copies sent by: _____ Date: _____

PROCESSING:

- ☐ Yes ☐ No Platted by: _____ Map No. _____
☐ Yes ☐ No Other rights on same place of use. _____
☒ Yes ☐ No* In form for advertising.
Final date for protests: _____
☐ Yes ☐ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: _____
☐ Application published correctly. If not, record action taken: _____
☒ Fee amount, receipt date & number, recorded on application.
☒ Publication dates and paper, recorded on application.
☒ Protests, dates, withdrawal, etc., recorded on application.
☐ Recommendation & initial, recorded on application.
☐ Yes ☒ No Measuring device required.
☐ Yes ☒ No Access port required.
☐ Yes ☒ No Will water be delivered by watermaster? If yes, what district? _____
Date of priority recommended. _____

Special conditions of approval or cover letter. _____

By: _____ Date: _____

STATE OFFICE REVIEW:

L/16 04

- ☐ See attached sheet for more information.

By: kw

Date: 4/10/84

RECEIVED
APR 09 1984

Department of Water Resources

SEP
P.M.D.
& O.

MICROFILMED

POINT OF DIVERSION AND STREAM INDEX INFORMATION

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX						

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX						

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX						

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX						

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH

IDAHO STREAM CODE INDEX						

In the Matter of Application)
No. 84-7180 in the Name) Agreement
of William H. Brewer)

We, the undersigned, agree to allow the Department
of Water Resources to render a decision on the
protest of the above referenced application
based on the information presented at the conference
at Lewiston on February 14, 1984.

Kiff M. Massey
Glen Simler for Leo C. Moon
Bill Brewer

MICROFILMED

84-7180

2-14-84

$1\frac{1}{2}$ hp = 2 in

16 gpm maximum

Irrigation -

- probably 2 sprinkler maximum -
25 psi at sprinklers

Mr. Brewer has lived there 11 years

Mr. Massey =

Condition - water shouldn't go into another drainage

Applicant Has drilled two dry holes - spent - \$2640 looking for water

Q ~~30 gal in 30 sec~~

30 gal barrel in 30 Sec. Flow in Feb at proposed P.D.

Protestant - Water always leaves the stream

Irrigation use $\rightarrow$ 20 trees - garden $\frac{1}{4}$ to $\frac{1}{2}$ acres -

Work was done ^{about 2-1-84} - Without permission of owner - work wasn't completed

Trees - Protestant's irrigates his ^{young} trees 1 time a month

Object to any use since it w

is there enough water

Massey would not object if water is taken from the spring above

MICROFILMED

Identification No. _____
Claim No. 84-4001
Map No. _____

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
CLAIM TO A WATER RIGHT
Established by Diversion and Application to Beneficial Use

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. **The filing of this claim does not confirm the water right but will serve for information purposes only.** It may, however, become the basis for future adjudication of the water right by the Court.

(Please refer to the instructions on the back of this form)

1. Name of claimant KIFF M. MASSEY
post office address Woodland Star Route, Kamiah, Idaho
2. The point of diversion is in NE $\frac{1}{4}$ of SE $\frac{1}{4}$ Section 26 - Less Lot 34 Township 34N
Range 3E B.M. located on unnamed creek
(name of source)
tributary to Clearwater River in Idaho County.

3. Dates of priority claimed: list the priority for each separate quantity that you claim. Priority dates should be based upon the earliest diversion of the water which has resulted in continued beneficial use since that time. If there has been an interval of five years or greater when the water was not beneficially used for the same purpose as originally appropriated, the priority that you claim should date from the time that the water was again beneficially applied following the period of non-use.

a. Date of priority claimed:

September 23, 1969 ¹⁹²⁹ amount: .2 c.f.s. or _____ acre feet
_____ amount: _____ c.f.s. or _____ acre feet
_____ amount: _____ c.f.s. or _____ acre feet
Total claimed .2 c.f.s. or _____ acre feet.

b. Explain the purpose for which the water has been used and the time during the year when you have used the right claimed:

use irrigation period of use from April 1 to October 31 (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive).

4. Description of diverting works:

a. Surface water diversion dam and/or headgate: material is composed of ditches through the fields from earth dam & headgate at dam; length is _____ feet; height is _____ feet; width at bottom is _____ feet; width at top is _____ feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known _____

b. Underground water diverting works: is well flowing or pumped _____; depth of well is _____; diameter of well is _____ inches; type of pump is _____; capacity of pump is _____ g.p.m.; name and address of well driller is _____

84-4001

_____ ; if so, give dates and explain _____

Please explain any changes or increase in size of conveying system since water was first appropriated, giving date and dimensions if possible. pitches through the fields, from earthen dam, and head gate at the earthen dam. Along with some gravity flow sprinkler system. This system will be used along both sides of the creek, this will be the method used to use the .2 c.f.s.

if feeder canal is used give maximum carrying capacity _____ c.f.s.; if reservoir is off stream, describe location of reservoir by 40-acre subdivisions _____

has there been any enlargement of the reservoir since it was first built NO, if so, give dates and describe _____

[illegible]

Explain any significant increase in area irrigated since first use, give dates and acreages if known _____

b. Do you get water through a ditch owned by several users? _____ If yes, give the name of the ditch _____
_____. The other users and their respective
interests in the ditch are (if known) _____

6. Where water is used for stock watering, give number of each kind of stock watered 30 Hd Cattle
2 Hd Horses

7. Where water is used for domestic or municipal purposes give number of families served _____
name of town supplied _____

8. Where water is used for other purposes not above enumerated, give the nature of use, the extent of use,
and any details regarding the initiation of the right or subsequent later expansion. Be as specific as possible,
giving dates and quantities _____

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation
THIS METHOD OF IRRIGATION HAS BEEN IN OPERATION SINCE THE EARLY 1900 ON
THIS RANCH, BUT HAS NEVER BEEN RECORDED.

This irrigation system is all located on my ranch, also all the water used
on this land under irrigation will sub back into the creek after use, this will
be a very economical use of the water.

BE IT KNOWN that the undersigned hereby makes claim to a water right as described above together with
all attached information and certifies that all statements are true and accurate to the best of his knowledge.

9/29/69
(Date)

Kiff M Mossey
(Signature of Claimant)

State of Idaho

County of Lewis } ss.

On this 29th day of Sept 1969, personally appeared before me the signer(s) of the
above instrument, who duly acknowledged to me that he (she) (they) executed the same.

David B. Haight
Notary Public residing at Bozeman, Ida.

My commission expires 4/9/71

For Department Use Only

Received by [Signature] Date 10-2-69 Exception filed by: _____ Forwarded to _____ Date _____
Prelim. check by D Date 10-2 claimant by: _____
Fee received by [Signature] Date 10-6-69 \$ _____
Approved for publication by _____
Published in [Signature] Date _____
Lee Press

MICROFILMED

9-10 81

USDA

Name: William H. Brewer
File: 84-7180
Place: Lewiston St. Office Bldg., 1118 F St., Lewiston, Id.
Date: Tuesday, February 14, 1984 at 10:00 a.m.

ROSTER OF ATTENDANCE

<u>Name</u>	<u>Address</u>	<u>Representing</u>
Bob Fleenor	Hearing Officer	
Bob Haynes	IDWR Regional Supervisor	
Kiff M Massey	Star Rte Box 13 Kamiah	
Cheryl E Massey	" " " "	
Glenn Simler	Star Rte Box 44	Leo Moon
Bill Brewer	Star Rt Box 15 Kamiah Id.	

MICROFILMED

Feb. 8, 1984

State of Idaho
Department of Water Resources
Northern Region
4055 Government Way
Coeur d'Alene, Idaho 83814

Dear Sirs,

In reference to the petition to intervene by Leo Moon received by your office Jan. 31, 1984 we have no opposition for Mr. Leo Moon's intervention seeing how this affects his personal property. He should be aware of what's happening.

We respect his concerns for his water resources, but there is not any difference between temporary and permanent placement of water rings and water lines that we can see. The proposed spring ring placement would be on Mr. Moon's property with less than 20 feet of buried water line, the rest being placed under a county road for which we have an easement across and then on our own property.

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Mr. Massey's water right for Irrigation covers a specific period of time during the summer, not for the entire year. We believe that our need for domestic water is greater. Again we do not intend to take all the water that comes from this spring. We do not intend to take away anyone's water right as it has been claimed but to use what is not needed by others. This spring has never been developed and has great potential for use. We do not intend to infringe on anyone. The ground where the spring is has no livestock on it or is not continuously fenced to hold any livestock. It is divided from Mr. Moon's property (the lower south end of the 20 acre property) by the county road and therefore hasn't been used for years. This doesn't mean it couldn't be used only that it hasn't been used.

Again we wish to state that we do not intend to infringe upon anyone. Our desire is to obtain water for our house and have tried unsuccessfully to drill for water.

Would it be possible to have a copy of Mr. Moon's water right No. 84-4294 and Mr. Massey's water right No. 844001 so we could be clearer on their rights.

Sincerely

Bill Brewer
Bill Brewer
Star Rt. Box 15
Kamiah, Id 83536
cc: Leo Moon

*Just giving
84-4294 - 84-4001
2/9/84*

MICROFILMED

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

IN THE MATTER OF REQUEST FOR LEAVE TO INTERVENE)
IN THE MATTER OF PROTESTS AGAINST APPLICATION)
FOR PERMIT NO. 84-7180 IN THE NAME OF WILLIAM H.)
BREWER, FILED BY LEO C. MOON.)

ORDER GRANTING
INTERVENTION

WHEREAS, a petition to intervene in the matter of protests against Application for Permit No. 84-7180 was filed by the above-named party with the Department of Water Resources on January 31, 1984; and,

WHEREAS, the applicant, William H. Brewer, has not responded to the petition within the time allotted for response; and,

WHEREAS, the Director of the Department of Water Resources finds that the petition to intervene alleges that the petitioner's previously filed water rights will be adversely affected by the approval of Application for Permit No. 84-7180 through trespass upon the petitioner's property to obtain permanent access to the source of water; and,

WHEREAS, it is the determination of the Director that the petitioner has satisfied the requirements for intervention in accordance with Rule 6 of the Department of Water Resources Rules of Practice and Procedure.

NOW, THEREFORE, IT IS HEREBY ORDERED that the above-named petitioner shall be allowed to intervene in the matter of Application for Permit No. 84-7180. The granting of leave to intervene shall not be construed to be a finding by the Director that the intervenor will or may be a party aggrieved by any ruling, order or decision of the Director for purposes of court review or appeal.

DATED: This 7th day of February, 1984.

MICROFILMED


A. KENNETH DUNN
Director

7524 Shorefront Drive
Rt. 10, Box 652 M
Fort Worth, Texas 76135
31 January, 1984

RECEIVED

FEB 6 1984

Department of Water Resources
Northern District Office

State of Idaho
Department of Water Resources, Northern Region
4055 Government Way
Coeur d'Alene, Idaho 83814

Attn: Mr. Robert G. Haynes, Regional Supervisor

Dear Mr. Haynes:

It is my understanding that a meeting is to be held in Lewiston, Idaho on Feb. 14, 1984, to air differences of opinion regarding Claim No. 84-7180. This claim was filed earlier by Mr. Bill Brewer.

I have on Jan. 25, 1984 written and sent to you a protest of this claim because it includes 20 acres of land to which I hold title, and which land is also the source of the water claimed.

I have appointed Mr. Glenn Simler, Star Route Box 44, Kamiah, Idaho to represent me at this meeting, and for other business pertaining to my Idaho property. He is very familiar with the situation, since he has been my representative and caretaker for over 20 years.

Will you kindly accept Mr. Simler as my representative at the subject meeting. His judgment on all matters that will be considered and discussed can be regarded as my own.

Thank you.

Respectfully yours



Leo C. Moon
7524 Shorefront Drive
Rt. 10, Box 652 M
Fort Worth, Texas 76135
817-237-1964

Copy to: Mr. Glenn Simler
Star Route
Box 44
Woodland Rt., Kamiah, Idaho 83536

RECEIVED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION

A. Kenneth Dunn
Director

Suite No. 9
4055 Government Way
Coeur d'Alene, Idaho 83814
(208) 667-6081

February 1, 1984

Mr. William H. Brewer
Star Route Box 15
Kamiah, Id. 83536

Re: 84-7180

Dear Mr. Brewer:

Enclosed is a copy of a petition to intervene in the matter of protests filed against your Application for Permit No. 84-7180.

The petition has been filed in accordance with the Department of Water Resources' Rules of Practice and Procedure, copy enclosed.

Before a decision is made whether or not to grant leave to intervene, you will be allowed five (5) days to respond to the petition.

If the request to intervene is granted, the intervenors will be allowed to participate in any conference or hearing before the Department, but will not, by the Department's granting leave to intervene, become parties to the matter for the purpose of court review of appeal.

If this office can be of further assistance, please contact us.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Supervisor

pms

Enc. - Petition
Booklet

RECEIVED
FEB 1 1984
NORTHERN REGION

7524 Shorefront Drive
Rt. 10, Box 652 M
Fort Worth, Texas 76135
25 January, 1984

RECEIVED

JAN 31 1984

State of Idaho
Department of Water Resources
Northern Region
4055 Government Way
Coeur d'Alene, Idaho 83814

Department of Water Resources
Northern District Office

Sirs:

In accordance with my recent telephone conversation with your office, I wish to confirm my entry of an intervenor of protest to Claim No. 84-7180. My reasoning is as follows.

It is my understanding that subject claim refers broadly to the SE¹/₄NE¹/₄, Sec. 26, T34N, R3E. This would include land for which I hold title and is described in the tax statement as T34N R3E Sec 26 W2SE¹/₄NE¹/₄ 20 Acres. I also own the 40 acres joining on the west. At present, I believe the rentor of the property has approximately ten acres of the tract under irrigation part of the year. The rentor is also the claimant (84-7180)

I have previously filed claim to all of the water I know of on my land, RE: Claim No. 84-4294.

I have also verbally informed my present rentor, also the claimant, that he may, using temporarily placed equipment, pump water from a spring on the far south end of the 20 acre tract described above, sufficient for household use only (no irrigation) for a period not to exceed 2 (two) years from December 1983, during which time he is to have plenty of time to obtain water for his purposes from his own sources. I reason this to be sufficient time for drilling of a well for his certain supply of water. I have refused a requested permanent easement for undefined (or otherwise) water lines to my springs, and also a verbal request to drill a well or wells on my property for his permanent water supply. This, at least, until I am able to be present on the property to properly safeguard my property interests and investment.

In the above mentioned verbal agreement, which I intend to verify in writing, all water run-off usage from my property I would approve in any case would be dependent on both the needs on my property, and the needs and wishes of the next property owner below my land, Mr. Kiff Massey. Mr. Massey had claimed for irrigation water from the run-off originating on my property or passing through, several years ago, and I have made no objection.

It is possible (I am having it checked) that a portion of one drainage passing through the 20 acre tract touches the property of the claimant. I have no objection to his usage of his fair share of such water, providing again, that it does not infringe upon the rights of other property owners who have previous rights and usages, nor requires trespass on my property by piping, ditching or otherwise. This particular drainage did, for years, furnish water for stock (cattle and hogs) at the lower (south) end of the 20 acre property, for my father. I am unable to forecast my own immediate need for the same purpose, and the water now passes on to Mr. Massey's property.

MICROFILMED

State of Idaho
Department of Water Resources, Northern Region

I purchased this property from the estate of my father, and have based its worth to me on its water and other natural resources, as well as its location. I therefore cannot treat lightly attempts to infringe upon these rights. I have had many offers to buy parts or all of the property, requests for several easements, roads, lines, etc. I intend eventually to use the property personally as a residence and small farm, and intend to resist any whittling away of its intrinsic values. I expect to be neighborly and helpful whenever possible, but that does not include giving away natural resources, permanent easements, or being disadvantaged because I am too far away at the moment to watch it.

The caretaker for this property is Mr. Glenn Simler, Star Route Box 144, Kamiah, Idaho, 83536, ph. 208-935-2363. I can be reached at ph. 817-237-1964. Please call collect to either of us, if there should be any question.

It should be understood that I have no objection to the claim (84-7180) if it becomes specific by claiming rights to waters on the claimants specific property, not originating on mine, and excluding my half of that quarter of the quarter. As the claim is now written, it does not show good faith, hence my objection. I was not notified of the claim, and became so pretty much by accident.

I should think that in such cases when property comes under a claim by another, it would be desirable, prudent and courteous if the owner of the property were notified in writing; perhaps this should be required of the claimant.

Thank you for your consideration.

Very truly yours



Leo C. Moon
Rt. 10, Box 652 M
Fort Worth, Texas 76135

MICROFILMED

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS



SENDER INSTRUCTIONS

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

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



PENALTY FOR PRIVATE
USE, \$300

RECEIVED
JAN 30 1984
U.S. DEPARTMENT OF WATER RESOURCES
NORTHWESTERN DISTRICT OFFICE

U.S. DEPARTMENT OF WATER RESOURCES
NORTHWESTERN DISTRICT OFFICE
4055 GOVERNMENT WAY, SUITE #9
COEUR D'ALENE, ID 83814
(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

84-7180

PS Form 3811, July 1982

- **SENDER:** Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO"
space on reverse.

(CONSULT POSTMASTER FOR FEES)

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

☒ Show to whom and date delivered \$☐ Show to whom, date, and address of delivery .. \$☐ **RESTRICTED DELIVERY** \$*(The restricted delivery fee is charged in addition
to the return receipt fee.)***TOTAL \$**

- 2.
- ARTICLE ADDRESSED TO:**

Mr. William H. Brewer
Star Rt. Box 15
Wamiah, Id. 83536

- 4.
- TYPE OF SERVICE:**

☐ REGISTERED☐ INSURED☒ CERTIFIED☐ COD☐ EXPRESS MAIL**ARTICLE NUMBER**

13856

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE☐ Addressee☐ Authorized agent

Kathy Brewer

- 3.
- DATE OF DELIVERY**

JAN 27 1984

POSTMARK*(may be on reverse side)*

JAN
27
1984

- 6.
- ADDRESSEE'S ADDRESS**
- (Only if changed)*

- 7.
- UNABLE TO DELIVER BECAUSE:**

EMPLOYEE'S
INITIALS

RETURN RECEIPT

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

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

**RETURN
TO**



**IDAHO DEPARTMENT OF WATER RESOURCES
NORTHERN DISTRICT OFFICE**

4055 GOVERNMENT WAY, SUITE #9

COEUR D'ALENE, ID 83814

(Street or P.O. Box)

(City, State, and ZIP Code)



PENALTY FOR PRIVATE
USE, \$300

84-7180

PS Form 3811, July 1982

- **SENDER:** Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO"
space on reverse.

(CONSULT POSTMASTER FOR FEES)

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

☒ Show to whom and date delivered \$☐ Show to whom, date, and address of delivery .. \$

- 2.
- ☐
- RESTRICTED DELIVERY**
- \$

(restricted delivery fee is charged in addition
to return receipt fee.)**TOTAL \$**

- 3.
- ARTICLE ADDRESSED TO:**

Mr. Kiff Massey

Sta. rt. Box 13

Kamiah, Id. 83536

- 4.
- TYPE OF SERVICE:**

☐ REGISTERED☐ INSURED☒ CERTIFIED☐ COD☐ EXPRESS MAIL**ARTICLE NUMBER**

13857

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

- 5.
- DATE OF DELIVERY**

JAN 27 1984

- 6.
- ADDRESSEE'S ADDRESS**
- (Only if requested)

- 7.
- UNABLE TO DELIVER BECAUSE:**

POSTMARK
(may be on reverse side)

RETURN RECEIPT

NAME AND ADDRESS OF SENDER

IDAHO DEPARTMENT OF WATER RESOURCES
NORTHERN DISTRICT OFFICE
4055 GOVERNMENT WAY, SUITE #9Indicate type of mail:
☐ Registered
☐ Insured
☐ COD
☒ CertifiedI certify that we have
☐ Commercial Insurance
☐ A deductible clause of \$

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

POSTMARK AND DATE OF RECEIPT

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	TOTAL NUMBER OF PIECES LISTED BY SENDER	TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE	POSTMASTER (Name of receiving office)	POSTAGE	FEE	Handling Charge	Actual Value (if Registered)	DUE SENDER IF C.O.D.	R.R. FEE	S.D. FEE	S.H. FEE	REST. DEL. FEE	REMARKS	
1	13846	Haywood & Associates 2109 Broadway Dr., Lewiston, Id. 83501	20c	75c											12	12	POSTMASTER (Name of receiving office)										83-7060	
2	13847	Mr. John Hossack, U. S. Forest Service, Rt. 1, Orofino, Id. 83544	"	"																							83-7060	
3	13848	Hy-Tech Co. 2109 Broadway Dr., Lewiston, Id. 83501	"	"																							83-7065	
	13849	Idaho Hydro Inc. P. O. Box 1940, Orofino, Id. 83544	"	"																							84-7145	
5	13850	Mr. Don Bellville, Box 1702, Orofino, Id. 83544	"	"																							84-7145	
6	13851	Cook's Paradise Acres, 825 10th Ave., Lewiston, Id. 83501	"	"																							86-7196	
7	13852	Ms. Estella Duell Rt. 1 Box 116A, Lenore, Id. 83541	"	"																							86-7196	
8	13853	Mr. Nick Chenoweth, Atty. at Law P. O. Box 1422, Orofino, Id. 83544	"	"																							86-7196	
9	13854	Mr. William E. Karman Rt. 2 Box 134D, Kamiah, Id. 83536	"	"																							85-7386	
10	13855	Mr. Fred Gihler Rt. 2 Box 134A, Kamiah, Id. 83536	"	"																							85-7386	
11	13856	Mr. William H. Brewer Star Rt. Box 15, Kamiah, Id. 83536	"	"																							84-7180	
12	13857	Mr. Kiff Massey Star Rt. Box 13, Kamiah, Id. 83536	"	"																							84-7180	
13																												
14																												
15																												

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

* U.S. GOVERNMENT PRINTING OFFICE: 1978 270-037

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL)

OF APPLICATION FOR PERMIT NO. 84-7180)

IN THE NAME OF WILLIAM H. BREWER.)

NOTICE OF HEARING
AND/OR CONFERENCE

_____)

On November 30, 1983, William H. Brewer
of Kamiah, Idaho, filed with the Department of Water
Resources an application to appropriate the public waters of the State of Idaho.
On December 27, 1983, the Department received a protest against approval
of said application from Kiff Massey.

The Department has set the matter of protest for hearing for Tuesday,
February 14, 1984, at 10:00 a.m. in the Lewiston State Office
Bldg., 1118 F Street, (Third Floor Conference Room),
Lewiston, Idaho. The hearing will be held in accordance with
Chapter 2, Title 42 of the Idaho Code and adopted Rules of Practice and Procedure
of the Department of Water Resources. Opportunity shall be afforded all parties to
respond and present evidence and argument on all issues involved.

Dated this 25th day of January, 1984.


ROBERT G. HAYNES, P.E.
Regional Supervisor

MICROFILMED



STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

NORTHERN REGION

A. Kenneth Dunn
Director

Suite No. 9
4055 Government Way
Coeur d'Alene, Idaho 83814
(208) 667-6041

January 24, 1984

Mr. Larry Burghart
Lewiston State Office Bldg.
1118 F Street
Lewiston, Id. 83501

Dear Mr. Burghart:

This is to confirm reservations for conferences to be held by this Department on February 14 and 15, 1984, in the third-floor conference room. We will have having conferences during the entire two days.

Sincerely,

A handwritten signature in dark ink, appearing to read "Patricia M. Stypa".

Patricia M. Stypa
Secretary - Office Coordinator

MICROFILMED

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

JOHN V. EVANS
Governor
A. KENNETH DUNN
Director

4055 Government Way
Coeur d'Alene, ID 83814
(208) 667-6484

January 9, 1984

Mr. William H. Brewer
Star Rt. Box 15
Kamiah, Id. 83536

RE: 84-7180

Dear Mr. Brewer:

Enclosed is a copy of a protest filed against the approval of a permit pursuant to the above-referenced application. The Department suggests you contact the protestants directly in an effort to determine the nature of the protest and attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Section 42-203, IDAHO CODE):

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

You will be notified at a later date of the time and place of the conference and/or hearing. If we can be of any assistance, please contact us.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Supervisor

RGH: fms

Enclosure

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

JOHN V. EVANS
Governor
A. KENNETH DUNN
Director

4055 Government Way
Coeur d'Alene, ID 83814
(208) 667-6484

January 9, 1984

Mr. Kiff Massey
Star Rt. Box 13
Kamiah, Id. 83536

RE: 84-7180

Dear Mr. Massey:

Your protest against the approval of the above-referenced application has been received and a copy has been sent to the applicant. The Department suggests that you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Section 42-203, IDAHO CODE):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculation?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?

You will be notified at a later date of the time and place of the conference and/or hearing. If we can be of any assistance, please contact us.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Supervisor

RGH: fms

Kiff M Massey
Rte Box 13
Kamiah Idaho 83536

RECEIVED

DEC 27 1983

Department of Water Resources
Northern District Office

Dept of Water Resources
4055 Gov't way
Coeur d'Alene Idaho 83814

Gentlemen:

Reference to Notice of application for water Rite Brewer
William H Star Rt Box 15 Kamiah Idaho 83536
Source unnamed stream tub to Clearwater River
Date filed 11-30-1983 Diversion at SE NE Sec 26
T 34 N R 03 E.

Use Irrigation .02 CFS
Stock water .01 CFS
Domestic .01 CFS

To SE NE Sec 26 T 34 N R 03 E For 10 acres

Notice from Idaho County Free press 12-21-83

Objection:

Kiff M Massey and family objection

Application violation to claim to water Right
No 844001 Recorded Department of Reclamation

office Boise Idaho

Also water delivered to SE NE Sec 26 T 34 N R
03 E would be taken water from ~~one~~^{on}
water drainage to another Leaving
all land below diversion high and dry
in dry summer since other drainage
is lower.

I would like to be sure that my claim
to water Right No 84-4001 is Fully
protected by your office Very truly
Kiff Massey

MICROFILMED

84-7180-

BREWER, WILLIAM H.

STAR RT. BOX 15, KAMIAH, ID 83536

Source: UNNAMED STREAM trib. to CLEARWATER RIVER

Date Filed: 11/30/1983

Diversion Pt: SENE Sec 26 T 34N R 03E

Use: IRRIGATION	(0.02 CFS)
STOCKWATER	(0.01 CFS)
DOMESTIC	(0.01 CFS)

In: SENE Sec 26 T 34N R 03E FOR 10 ACRES

NOT RECORDED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director
December 7, 1983

Suite No. 1
4055 Government Way
Coeur d'Alene, Idaho 83814
(208) 667-6484

Mr. William H. Brewer.
Star Rt. Box 15
Kamiah, Id. 83536

Re: 84-7180

Dear Mr. Brewer:

We are herewith returning your original copy of your waterline easement which you filed with the above-referenced Application for Permit.

We have retained a copy of this easement for our file.

Sincerely,

TOM D. KING
Senior Water Resource Agent

Tms

Enc. - Easement

RECEIVED

INDEXED
TRACTED
FILMED
ASSESSOR

309856

WATERLINE EASEMENT

THIS INDENTURE, made and entered into this 21 day of ~~September~~ ^{November 23}, 1983, by and between IDAHO COUNTY, IDAHO, by and through its duly elected Board of Commissioners, parties of the first part, hereinafter called the Grantors, and WILLIAM H. BREWER and CATHY BREWER, husband and wife, Star Rt. Box 15, Kamiah, Idaho County, Idaho, parties of the second part, hereinafter called the Grantees.

W I T N E S S E T H:

WHEREAS, the Grantors own and maintain that certain roadway commonly known as the Woodland Road, which crosses the SE1/4NE1/4, Section 26, Township 34 North, Range 3 East B.M., Idaho County, Idaho; and

WHEREAS, the Grantees own certain adjacent property more particularly described as follows, to-wit:

SE1/4NE1/4 Section 26, Township 34 North, Range 3 East B.M., Idaho County, Idaho; and

WHEREAS, the Grantees desire an easement to construct and maintain a waterline for a single family dwelling passing under such road at the following location:

NOW THEREFORE, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other valuable considerations, receipt whereof is hereby acknowledged, Grantors have this day bargained and sold, and by these presents to, hereby grant, bargain, sell, convey, transfer and deliver unto the Grantees a permanent easement and right-of-way over said property a distance of five feet

WATERLINE EASEMENT

-1-

Henry R. Boomer
ATTORNEY AT LAW... P. O. BOX 158
KAMIAH, IDAHO 83536

MICROFILMED

installed in strict accordance with Idaho County specifications, and the right to enter in on the property hereinbefore described and install, maintain, repair and replace said waterline if the same should become necessary, provided that, however, any damages to the Grantor's property shall be promptly and adequately repaired upon the conclusion of such installation, maintenance, repair, or replacement, in a reasonable time and manner and subject to the specifications of the Grantors.

TO HAVE AND TO HOLD the said easement, right and right-of-way unto the Grantees, their successors and assigns forever.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals in the day and year in the certificate being written.

IDAHO COUNTY BOARD OF COMMISSIONERS:

Douglas Higgins
DOUGLAS HIGGINS, Chairman

William H. Brewer
WILLIAM H. BREWER

John Koczynski
JOHN KOCZYNSKI

Kathy Brewer
KATHY BREWER

GRANTEES

Lewis Crea
LEWIS CREA

GRANTORS

STATE OF IDAHO)
COUNTY OF IDAHO) ss.

On this 15 day of September, 1983, before me the undersigned, a Notary Public in and for said State, personally appeared DOUGLAS HIGGINS, JOHN KOCZYNSKI and LEWIS CREA, as members of the IDAHO COUNTY BOARD OF COMMISSIONERS, known to me to be the persons whose names are subscribed to the within and foregoing instrument, and acknowledged to me that they executed the same.

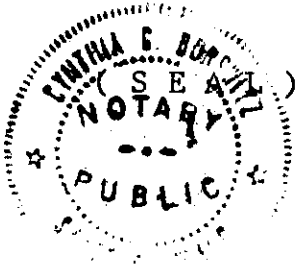
WATERLINE EASEMENT

-2-

Henry R. Boomer
ATTORNEY AT LAW... P. O. BOX 158
KAMIAH, IDAHO 83536

MICROFILMED

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

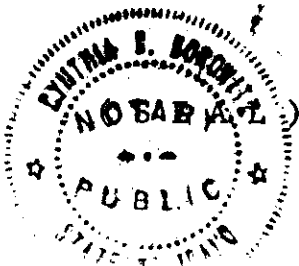


Notary Public, State of Idaho
Residing at _____, therein.

STATE OF IDAHO)
COUNTY OF) ss.

On this ____ day of September, 1983, before me the undersigned, a Notary Public in and for said State, personally appeared WILLIAM H. BREWER and CATHY BREWER, husband and wife, known to me to be the persons whose names are subscribed to the within and foregoing instrument, and acknowledged to me that they executed the same.

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



Notary Public, State of Idaho
Residing at _____, therein.

Filed and recorded at the request of Kathy Brewer
at 11:30 o'clock 2 M this 21st day of Nov. 1983

By Alberta G. Johnson
Deputy

JOYCE C. HART

Ex-Officio Auditor and Recorder
Idaho County, Idaho

Fee \$ 6.00

m/ Star Rt. Box 15
Kamiah, Ida.
83536

LEASE AGREEMENT

-3-

Henry R. Boomer
ATTORNEY AT LAW... P. O. BOX 158
KAMIAH, IDAHO 83536



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION

A. Kenneth Dunn
Director

Suite No. 9
4055 Government Way
Coeur d'Alene, Idaho 83814
(208) 667-6484

Date: Aug 3, 1983

Re: _____

Dear Bill Brewer:

This office is in receipt of your Application for a Permit and Check No. 92-308 in the amount of \$30.00 and we are returning same to you because the application cannot be formally receipted until the following information is provided:

- ☐ Item 1. Complete name and address.
- ☐ Item 2. Source of water and named body of water to which it is tributary.
- ☒ Item 3. Legal description of Point of Diversion(s).
- ☐ Item 4. Amount of water diverted in cubic feet per second or amount of water stored in acre feet, Nature of Use to which the water is to be put and the period of the year during which the water will be used.
- ☐ Item 5a. Total diversion rate in c.f.s.
- ☐ Item 5b. Total volume of stored water in A.F.
- ☐ Item 6. Description of diversion works.
- ☐ Item 7. Time required for completion of system and full use of the water.
- ☒ Item 8a1. Legal description of place of use other than irrigation.
- ☐ Item 8a4. Number of homes.
- ☒ Item 8b. Legal description of irrigated acreage.
- ☐ Item 9a, 9b or 9c. Ownership of land.
- ☒ Item 11. Map.

Signature

Fee \$

Other Map shows point of diversion in NESE, Item 3 states NWSE
Map shows irrigation in NESE, Item 8.b. states SWNE

Please note that your Application has been initialed and dated as being received on 7/19/83. If the requested information is provided within 30 days of the date of this letter, your date of priority will be maintained.

Instructions for completing an Application for Permit are included for your information. If you desire assistance, please feel free to contact this office.

Sincerely,

TOM L. KING
Senior Water Resource Agent

TDK/pms

Enc. - Application
Check
Instructions



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION

A. Kenneth Dunn
Director

Suite No. 9
4055 Government Way
Coeur d'Alene, Idaho 83814
(208) 667-6484

Date: 7/19, 1983

Re: _____

Dear Bill Bruner:

This office is in receipt of your Application for a Permit and Check No. 92-301 in the amount of \$ 30 and we are returning same to you because the application cannot be formally receipted until the following information is provided:

- ___ Item 1. Complete name and address.
- ___ Item 2. Source of water and named body of water to which it is tributary.
- ___ Item 3. Legal description of Point of Diversion(s).
- ___ Item 4. Amount of water diverted in cubic feet per second or amount of water stored in acre feet, Nature of Use to which the water is to be put and the period of the year during which the water will be used.
- ___ Item 5a. Total diversion rate in c.f.s.
- ___ Item 5b. Total volume of stored water in A.F.
- ___ Item 6. Description of diversion works.
- ___ Item 7. Time required for completion of system and full use of the water.
- ___ Item 8a1. Legal description of place of use other than irrigation.
- ___ Item 8a4. Number of homes.
- ___ Item 8b. Legal description of irrigated acreage.
- ___ Item 9a, 9b or 9c. Ownership of land.
- ☒ Item 11. Map. *Show section corners & corner or 1/4 corners. The map should agree with item # 3, 8a1 & 8b.*
- ___ Signature _____
- ___ Fee \$ _____
- ___ Other _____

Please note that your Application has been initialed and dated as being received on 7/19/83. If the requested information is provided within 30 days of the date of this letter, your date of priority will be maintained.

Instructions for completing an Application for Permit are included for your information. If you desire assistance, please feel free to contact this office.

Sincerely,

TOM D. KING
Senior Water Resource Agent

TDK/pms

Enc. - Application
Check
Instructions

WATER RIGHT
DATA ENTRY LOG

[illegible]