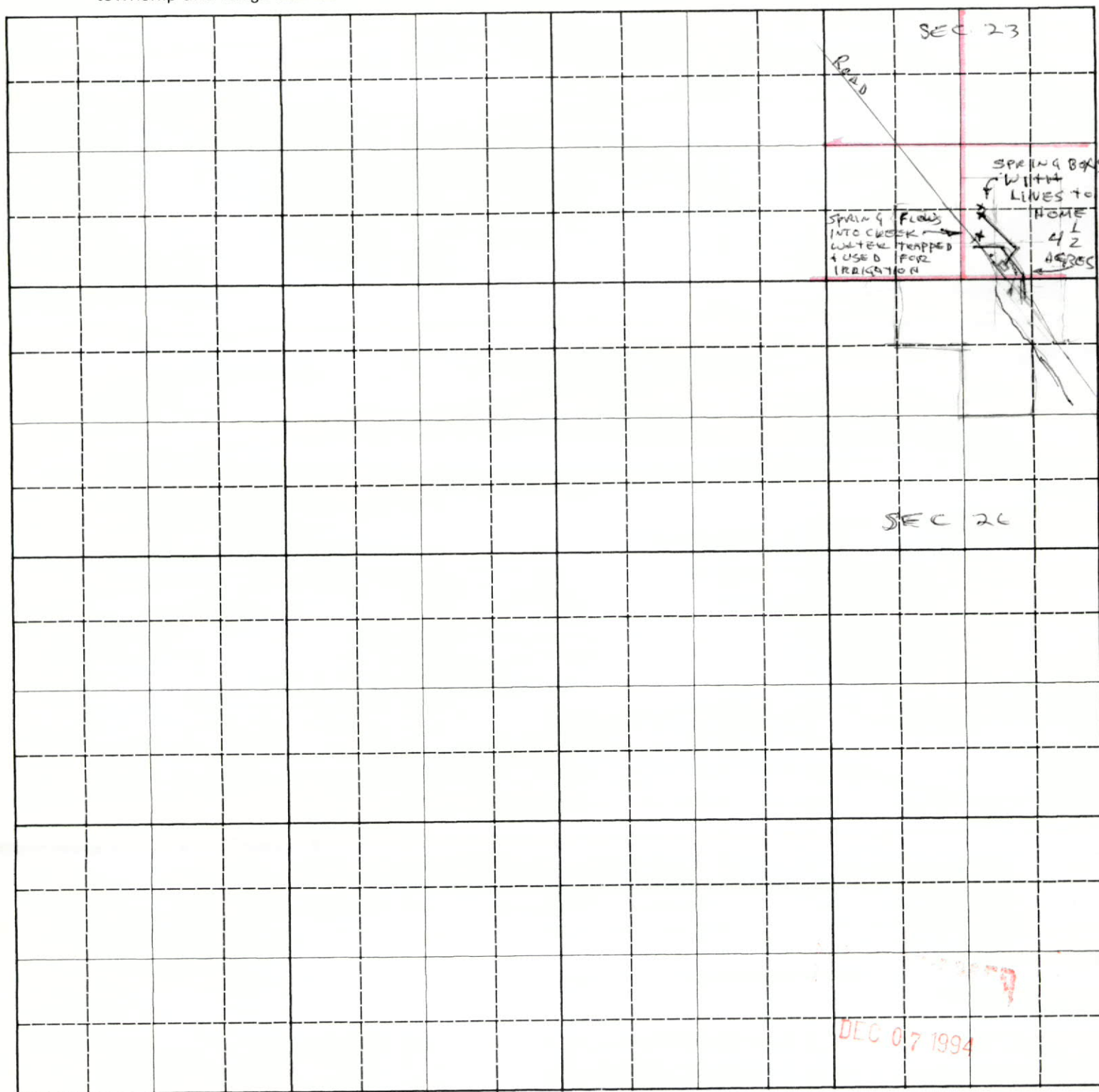


13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

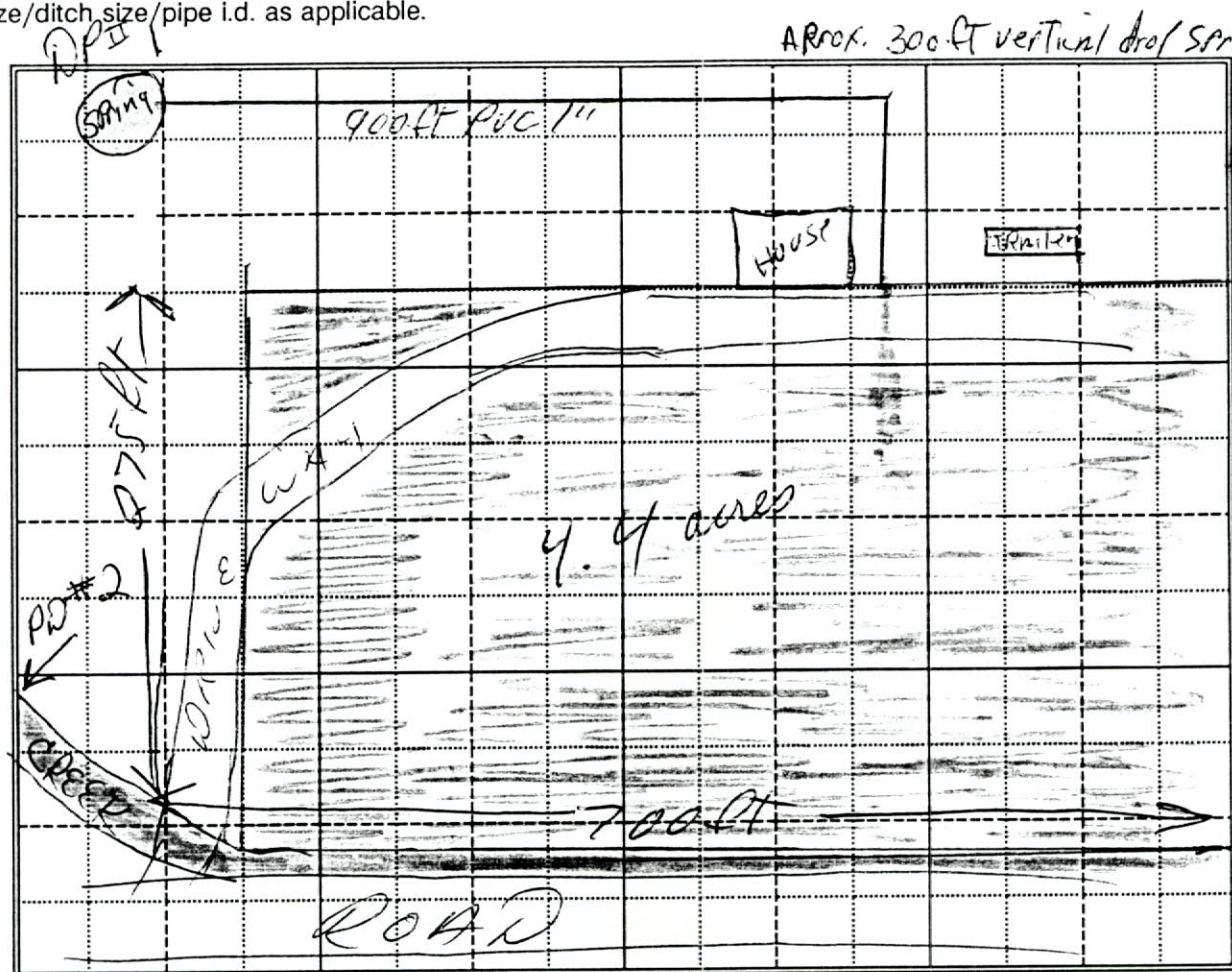


Scale: 2 inches equal 1 mile.

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.

Victor L. Thulon
(Applicant)

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



Scale: 1" = _____

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

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

____ Photo of Diversion and System Attached

4.

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

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

D. FLOW MEASUREMENTS

1.

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

2. Measurements: _____

STATE OF IDAHO

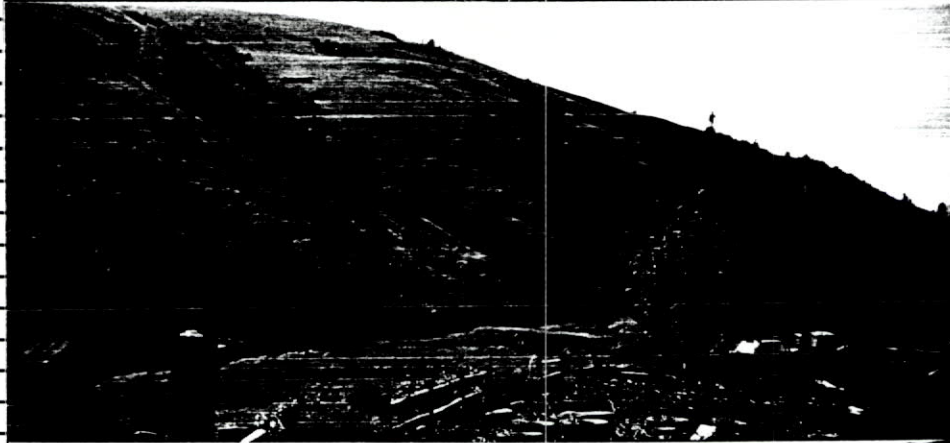
PERMIT #



#1
PR



IRR
PR



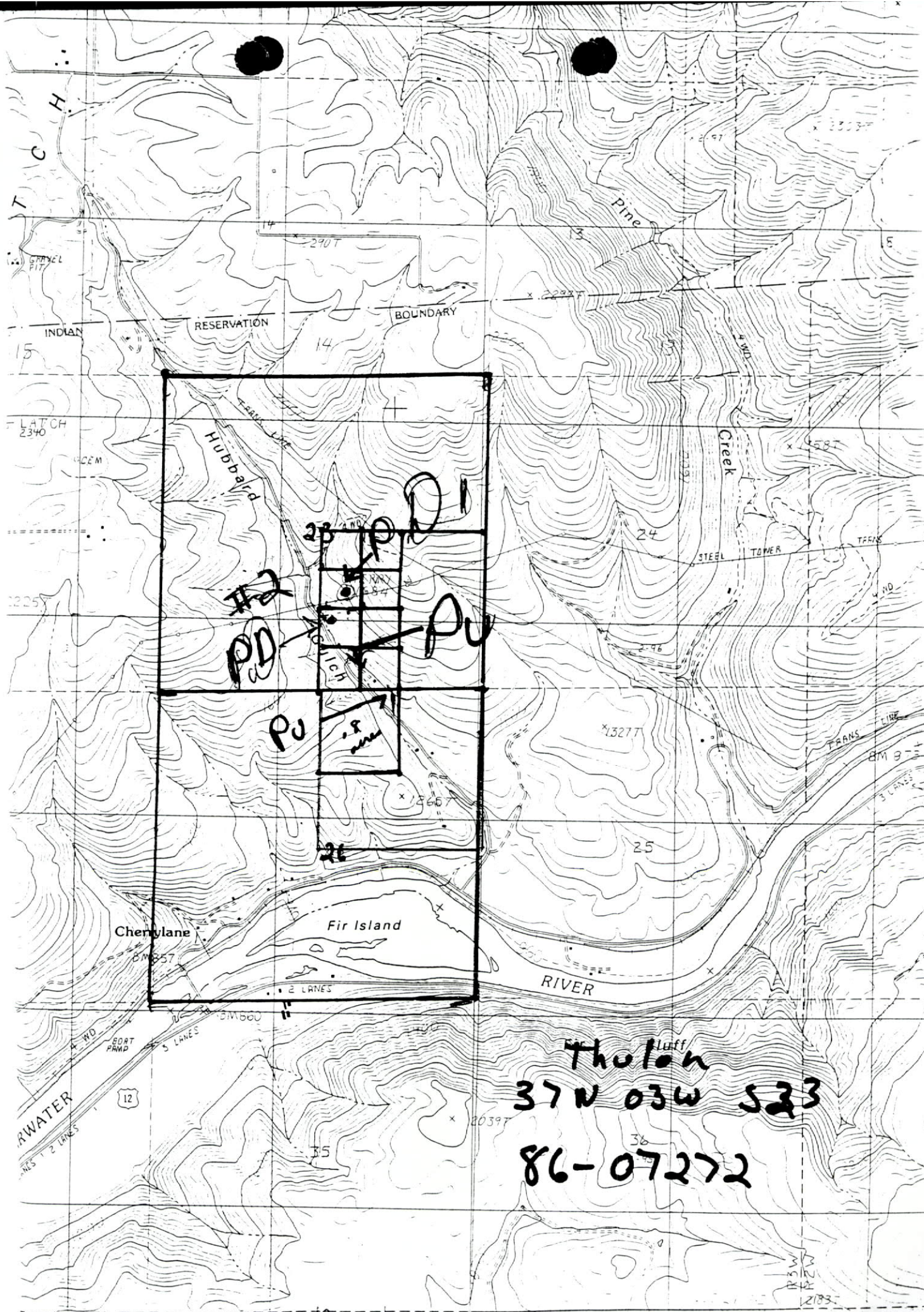
IRR
PR



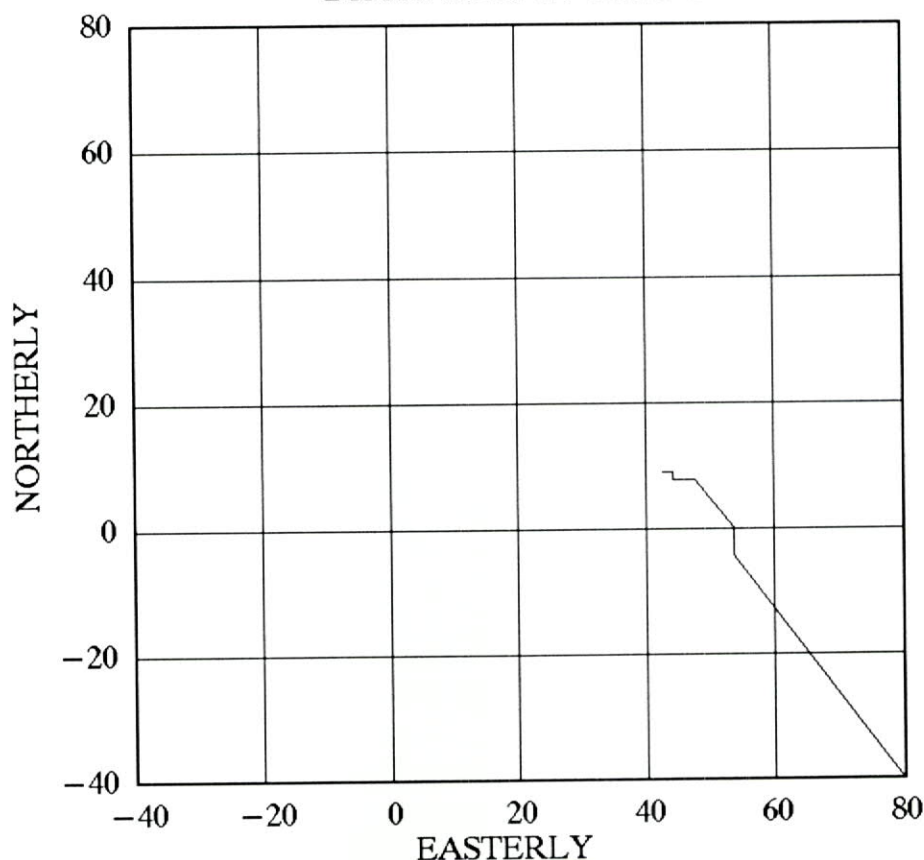
Domestic

86-07272

86-07272



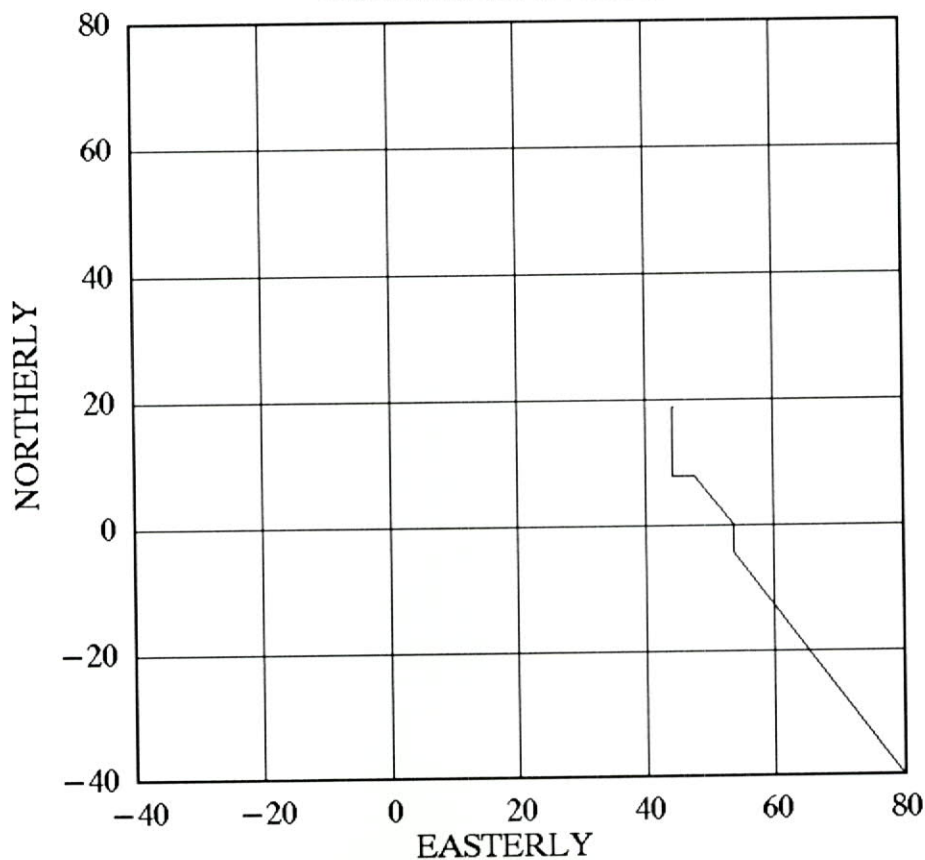
PARCEL PLOT – METES & BOUNDS
DISTANCE IS IN CHAINS



2. A one-half interest in the water from a 20-foot radius spring site, its location being a part of the

Southwest Quarter of the Southeast Quarter of Section 23, Township 37 North, Range 3 West Boise Meridian, Nez Perce County, Idaho, and the center of which is more particularly described as follows: Commencing at the southeast corner of the Northeast Quarter of Section 26 of said Township and Range; thence North $36^{\circ}20'51''$ West a distance of 2,919.36 feet to a point on the east right-of-way line of the county road; thence North a distance of 298.64 feet; thence North $38^{\circ}52'36''$ West a distance of 648.44 feet; thence West a distance of 222.77 feet; thence North a distance of 84.61 feet; thence West a distance of 97.97 feet to the center of the above-mentioned spring site.

PARCEL PLOT – METES & BOUNDS
DISTANCE IS IN CHAINS



1. A one-quarter interest in the water flowing or produced from that certain spring site situate in Nez Perce County, Idaho, and more particularly described as follows, to-wit:

A 20-foot radius spring site in the W1/2SE1/4 of Section 23 of Township 37 North, Range 3, West B.M., Nez Perce County, Idaho, the center of which is more particularly described as follows: Commencing at the Southeast corner of the NE1/4 of Section 26 of said Township and Range; thence N.36°20'51"W., a distance of 2,919.36 feet to a point on the East right-of-way line of the County Road; thence North a distance of 298.64 feet; thence N.38°52'36"W., a distance of 648.44 feet; thence West a distance of 222.77 feet; thence North a distance of 722.04 feet; thence East a distance of 13.97 feet to the center of the above-mentioned spring site.

DEC 07 1994

⊙ Spring
Not

Property sold to Thulons on
Contract - Now Owned by
Lee Heath

DEC 07 1994

Eugene Heath
Property

⊙ Spring No 2

Thulon
Property

Road

TRIBUNE PUBLISHING COMPANY, INC.
The Lewiston Morning Tribune
505 C St., P.O. Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date 072589 INVOICE No. 100169332

Account No. 96475 85-07539

Description 69332NOTIC

Times 2 Lines 49

Tab Lines _____

**LEGAL ADVERTISING
INVOICE**

\$ 49.00

SOLD TO: STATE OF IDAHO
DEPT. OF WATER RESOURCES
4055 GOVERNMENT WAY
COEURDALENE
ID 83814

RECEIVED

JUL 28 1989

NORTHERN REGION

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
Please Retain This Invoice as Your Statement Will Refer To Invoice by No. Only.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
County of Nez Perce

Sue Baumeister, being duly sworn,

deposes and says, I am the Legal Clerk
of the Tribune Publishing Company, a corporation organized and existing
under and by virtue of the laws of the State of Idaho, publishers of the
LEWISTON MORNING TRIBUNE, a newspaper of general circulation
published at Lewiston, Nez Perce County, Idaho; That the said Lewiston
Morning Tribune is an established paper and has been published regular-
ly and issued regularly at least once a day for more than 21 consecutive
years next immediately preceding the first publication of this notice, and
has been so published uninterrupted for said period; that the

NOTICE OF APPLICATION FOR

attached hereto and which is made a part of this affidavit was published in
the said Lewiston Morning Tribune, 2 time(s). Publication be-
ing on 071889 or once a
WEEK for 2 consecutive WEEKS, the first
publication thereof being on the 071889, and the last pub-
lication thereof being on the 072589, and said

NOTICE OF APPLICATION FOR

was so published in the regular and entire issue of said newspaper and
not in a supplement thereof and was so published in every issue and
number of the said paper, during the period and times of publication as
set forth above.

SUBSCRIBED AND SWORN BEFORE ME THIS THE 25

day of July 1989

Ray Road
Notary Public in and for the State of Idaho,
residing at Lewiston, therein.

**NOTICE OF APPLICATION
FOR WATER RIGHT**

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

85-07539

GILLIAM, GARY L.
RT. 1 BOX 65C
CULDESAC, ID 83524
Source: SPRING
Tributary: SINKS
Diversion Pt:
LOT 2 (SEWNNE) Sec 4 T 35N R
03W
LOT 3 (SEWNNE) Sec 4 T 35N R
03W
Use: DOMESTIC (.010 CFS)
Date Filed: 1/18/1989
In: T35N R03W S04 NWNE
86-07272

THULON, VICTOR L.
THULON, SHARON S.
RT. 1 BOX 34A
JULIAETTA, ID 83535
Source: SPRINGS
Tributary: UNNAMED STREAM
Diversion Pt:
SWNWSE Sec. 23 T 37N R 03W
NWSWSE Sec 23 T 37N R 03W
Use:
IRRIGATION (.080 CFS)
DOMESTIC (.012 CFS)
Date Filed: 1/19/1989
In: T37N R03W S23 SWSE
S26 NWNE

4.8 ACRES TOTAL

For additional information con-
cerning the property location, call
the Northern Regional Office at
765-4639.

The permit(s) will be subject to all
prior water rights. Protests must be
filed with the Director, Dept. of Wa-
ter Resources, Northern Region,
1910 Northwest Blvd., Suite 210, Co-
eur d' Alene, Idaho 83814 on or be-
fore AUGUST 7, 1989.
R. KEITH HIGGINSON, Director

DEC 07 1994

FOR OFFICE USE ONLY
 Amt. of Fee \$: 30.00
 Receipt No. 6033870
 Receipt By: SW
 Date Received: 11-9-95

RECEIVED

NOV 08 1995

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Department of Water Resources

PROOF OF BENEFICIAL USE

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

1. Permit No. 86-07272 Telephone No. 208-276-4411

2. Name(s) of Permit Holder(s): VICTOR L. THOLON & SHARON S. THOLON

3. Mailing Address: Rt 1 Box 34 A JULIETTA ID.

4. Source of Water: SURFACE If GROUNDWATER (well), Date Drilled: mo. / yr.

a. Well Driller: _____ Drilling Permit Number: - - -

b. OPTIONAL:

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

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

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

Irrigation (No. of acres): 4.8 Other: _____

6. Total rate of diversion and/or volume for which proof is submitted: 0.09 cfs OR acre feet

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)

(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required? Yes or No ☒ X

Has the measuring device been installed? — Yes — or No X

Flow Measurement Port: Is a flow measurement port required? Yes or No X

Has the measurement port been installed? Yes or No X

8. Fee Enclosed: \$ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

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

Name: Vic THULON Telephone Number: 208 276 4411

Address: Rt 1 Box 34-A JULIETTA ID 83535

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

Signature of permit holder:

(include your title, if on behalf of company or organization)

Date: 7-6-95

FEB 26 1996

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 86-07272

Proposed Priority: January 19, 1989 Maximum Diversion Rate: 0.09 CFS

This is to certify, that **VICTOR L THULON**
SHARON S THULON
RT 1 BOX 34A
JULIAETTA ID 83535
has applied for a permit to appropriate water from:

SPRINGS tributary of **CLEARWATER RIVER**

and a permit is **APPROVED** for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	03/01 to 11/30	0.08 CFS
DOMESTIC	01/01 to 12/31	0.01 CFS
Totals		0.09 CFS

LOCATION OF POINT(S) OF DIVERSION: SWNWSE , Sec. 23, Township 37N, Range 03W
NWSWSE , Sec. 23, Township 37N, Range 03W
NEZ PERCE County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
37N	03W	23	SWSE 4			4
		26	NWNE 0.8			0.8

Total number of acres irrigated: 4.8

PLACE OF USE: DOMESTIC, same as IRRIGATION use

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **December 1, 1995.**
2. Subject to all prior water rights.
3. The issuance of this right in no way grants any right-of-way or easement across the land of another.
4. Use of water under this right may be affected by an agreement between the protestant and the right holder.
5. The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.
6. Two points of diversion are located within NWSWSE, S23, T37N, R03W.
7. Domestic use is for 1 home.

DEC 07 1994

State of Idaho
Department of Water Resources**Permit To Appropriate Water**

NO. 86-07272

CONDITIONS/REMARKS:

8. This right authorizes the diversion of water from a spring located at a mean latitude of $46^{\circ}31'56.490''\text{N}$ with a mean longitude of $116^{\circ}40'14.034''\text{W}$ and from a spring located at a mean latitude of $46^{\circ}31'50.222''\text{N}$ with a mean longitude of $116^{\circ}40'15.682''\text{W}$.
9. This right does not authorize the diversion of water from the spring used by Lee Heath located at a mean latitude of $46^{\circ}31'53.936''\text{N}$ with a mean longitude of $116^{\circ}40'14.918''\text{W}$.

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

6th day of December, 1994.

R. Keith Higginson

for
R. Keith Higginson, Director

RECEIVED

DEC 07 1994

RECEIVED
AUG 22 1994

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 86-07272

Department of Water Resources To appropriate the public waters of the State of Idaho

1. Name of applicant VICTOR L & SHARON S THULON Phone 208-276-4411

Post office address Rt 1 Box 344 JULIETTA, ID 83635

2. Source of water supply SPRINGS which is a tributary of UNNAMED STREAM
FM MAP-JK

3. Location of point of diversion is NW ^{SW} $\frac{1}{4}$ of SW ^{NW} $\frac{1}{4}$ of SE $\frac{1}{4}$, Govt. Lot _____

Sec. 23 Township 37N Range 3W B.M. NE2 PER 4E County; additional

points of diversion if any: 2 P/D in NW SWSE, S23, T37N, R3W.

4. Water will be used for the following purposes:

Amount 0.08 for IRRIGATION purposes from 5-1 to 11-1 (both dates inclusive)

(cfs or acre-feet per annum)
Allow 0.07 cfs*

Amount 0.02 for DOMESTIC 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)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)

(cfs or acre-feet per annum)

Allow 0.09 cfs*

5. Total quantity to be appropriated is (a) 0.092 and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. SPRING BOXES PIPED TO HOUSE

USING GRAVITY FLOW FOR DOMESTIC & IRRIGATING

WATER TRAPPED IN CREEK USED FOR IRRIGATION

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total

reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:

_____ to _____ inclusive.

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

d. Is ground water with a temperature of greater than 90°F being sought? _____

7. Time required for the completion of the works and application of the water to the proposed beneficial use is

1 years (minimum 1 year).

DEC 07 1994

*kw 3/7/90

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

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

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: *D* for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
37N	3W	23															4		4
37N	3W	23															D		
37N	3W	26		3/4															3/4

Total number of acres to be irrigated 4 3/4

10. Describe any other water rights used for the same purposes as described above. 86-04190

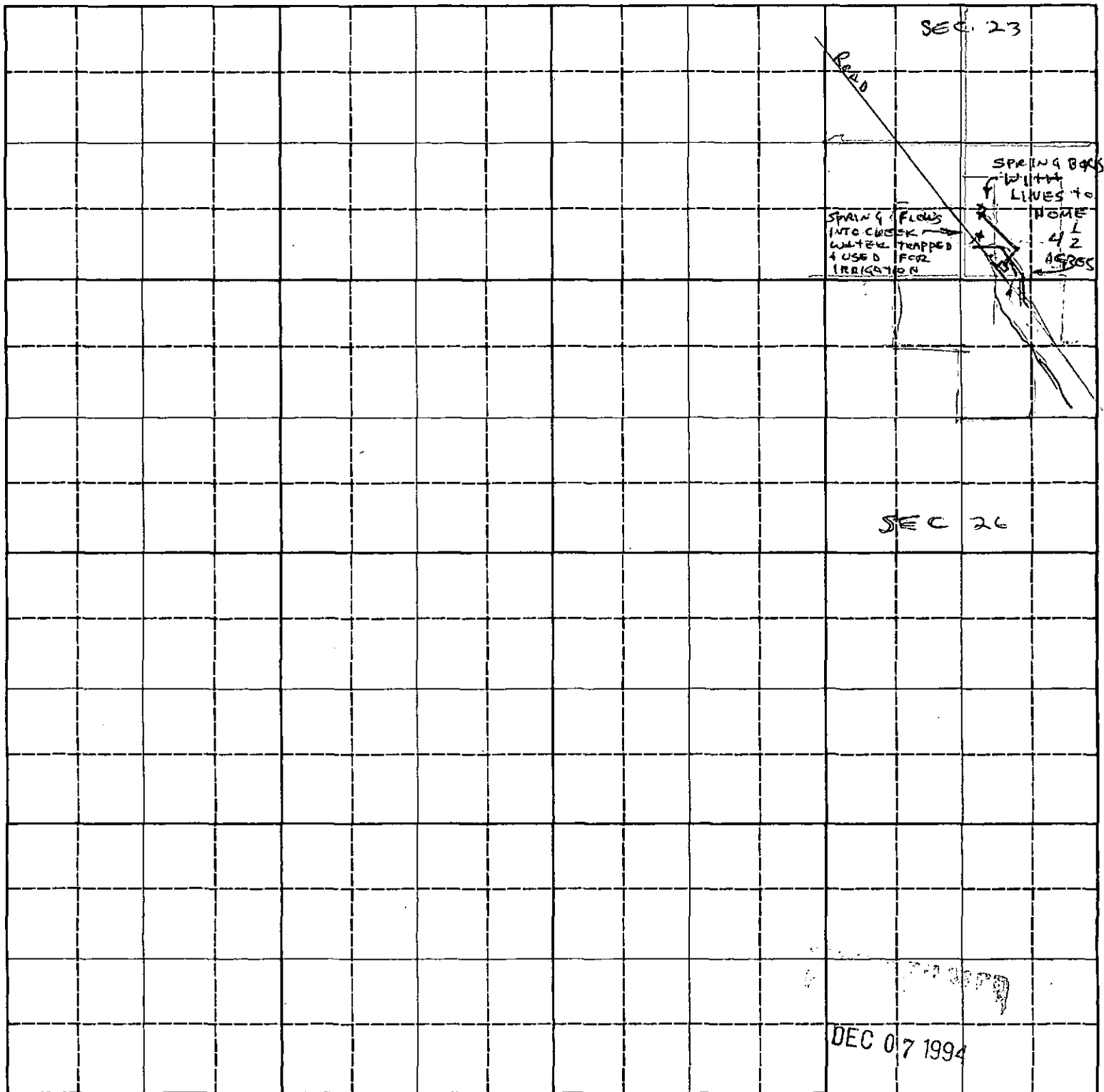
- Who owns the property at the point of diversion? EUGENE HEATH
- Who owns the land to be irrigated or place of use? VICTOR L AND SHARON S. THULON
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. SPRING AGREEMENTS GRANTING + CONVEYING

PART INTEREST OF OWNER SHIP TO ALL WATER TOGETHER WITH RIGHT TO INSTALL + IMPROVE WATER COLLECTION FACILITY + WATER LINES.

12. Remarks: _____

DEC 07 1994

13. 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.

Victor L. Shulson
(Applicant)

Received by AB Date 1-19-89 Time 9:15Am Preliminary check by JK
Fee \$ 30.00 Received by AB # M002630 Date 1-19-89
Publication prepared by [Signature] Date 7/12/89 Published in 7/20+27/89 8/18+25/89
Publication approved [Signature] Date 7/29/89

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

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

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

e. Other:

RECEIVED
DEC 07 1994

MEMORANDUM

DATE: November 5, 1997

TO: Al Beardslee

FROM: Shelley W. Keen *SWK*

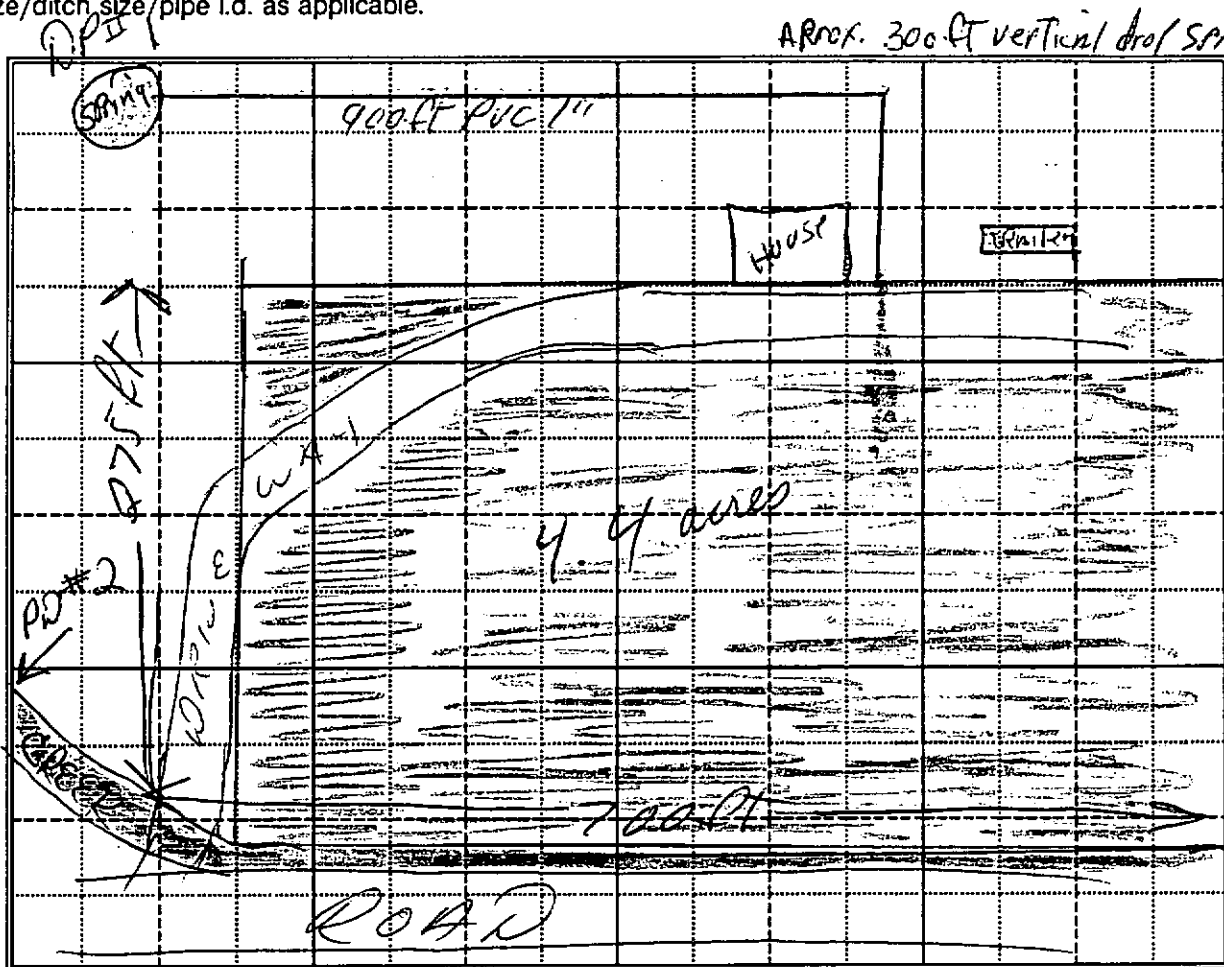
RE: Field Report for 86-07272

As we discussed, I am sending you the field report for 86-07272. I have two concerns. First, the permit was very specific about which spring in the NWSWSE could be used. Wayne's map doesn't match Bob's very well, so I am not sure Wayne looked at the right one. Second, Wayne did not see or quantify any diversion from the spring in the NWSWSE, yet he identified it as a PD without including any diversion rate from it. I doubt .03 cfs for the irrigation of four acres is satisfactory.

I appreciate your help in sorting this out.

[illegible]

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



Scale: 1" = _____

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

____ Aerial Photo Attached (required for Irrigation of 10+ acres)

____ Photo of Diversion and System Attached

4.

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

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

D. FLOW MEASUREMENTS

1.

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

2. Measurements: _____

E. NARRATIVE/REMARKS/COMMENTS

At time of exam no diversion was taking place at PD#2. No delivery system in place. Mr. Thulien told me he takes that system down for the winter?

Irrigation portion of domestic is figured in with total irrigation

Pipe from spring comes out next to house, from that point on, hoses and drip lines make up the rest of the system

Have conditions of permit approval been met? Yes ☐ no

Additional Computation Sheets Attached

5 gal bucket

5 gal in 25 sec = 12 gpm

$$\frac{12 \times .133681}{60} = .026 = .03 \text{ cfs}$$

1. Volume Calculations for Irrigation:

$$V_{I,R} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 4.4 \times 3 = 13.2$$

$$V_{DR} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = .03 \times 245 \times 1.9835 = 14.6$$

$V = \text{Smaller of } V_{IB} \text{ and } V_{DB} = 13.2$

H. RECOMMENDATIONS

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
<u>Domestic</u>	<u>01-01</u>	<u>12-31</u>	<u>.03</u>	<u>-</u>
<u>Irrigation</u>	<u>03-15</u>	<u>11-15</u>	<u>.03</u>	<u>13.2</u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Totals:			<u>.03</u>	<u>13.8</u>

___ 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

Field Examiner's Name Wayne Balch Date 5-24-96

Reviewer: _____ Date: _____

SEAL

STATE OF IDAHO

PERMIT #



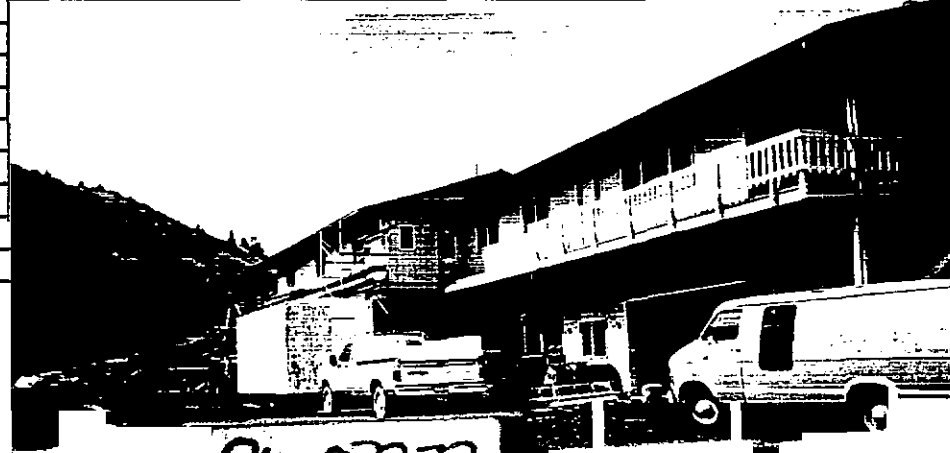
PD 1



IRR
PU



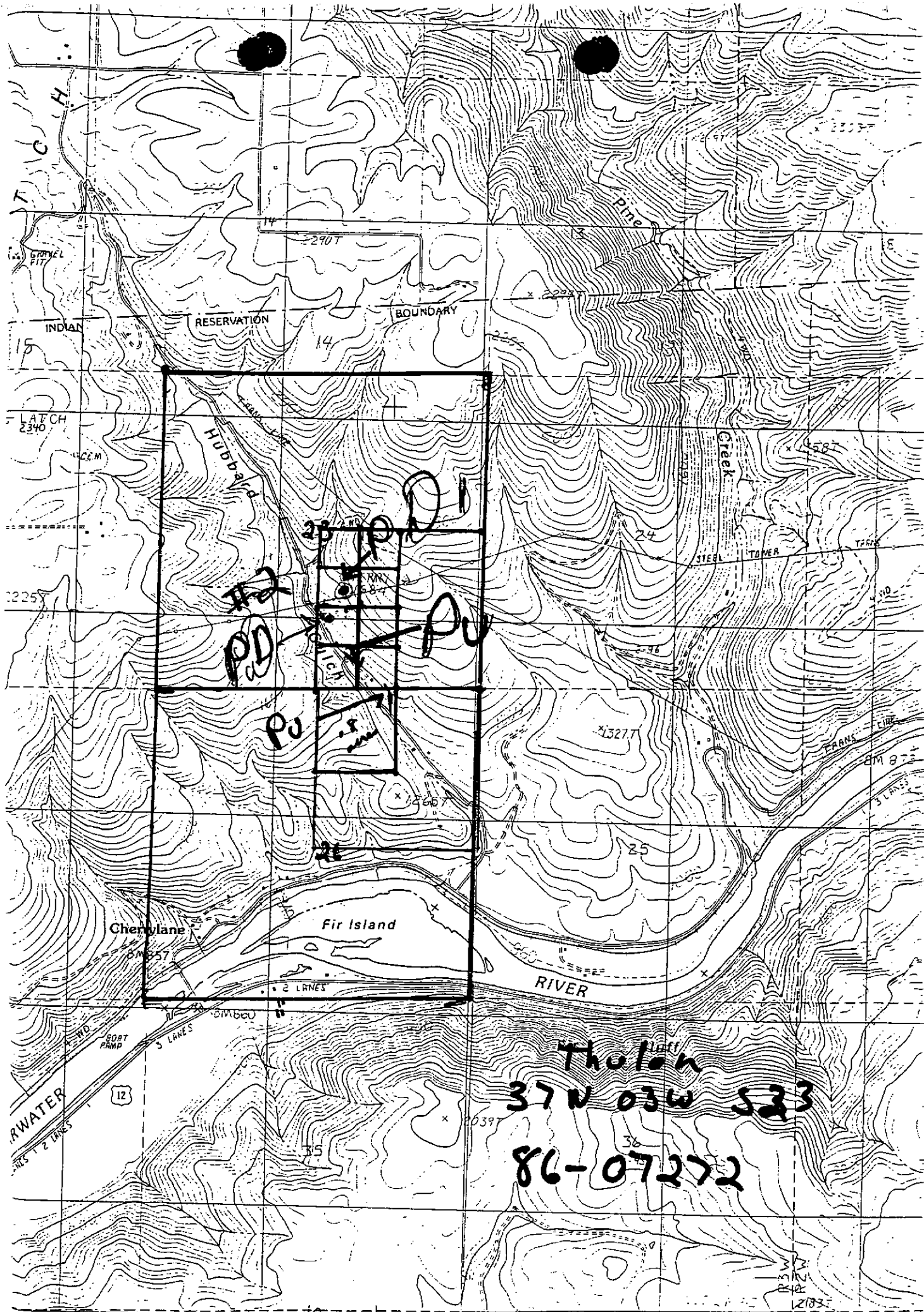
IRR
PU



Domestic

86-07272

86-07272



November 16, 1995

VICTOR L THULON
SHARON S THULON
RT 1 BOX 34A
JULIAETTA ID 83535

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 86-07272

Dear Permit Holder:

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

If you have questions concerning this matter, please feel free to contact the NORTHERN Regional Office in Coeur D' Alene at (208)769-1450.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

c: IDWR - Region

RECEIVED

FEB 26 1996

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 86-07272 Reviewed by [Signature] Date 11-16-95

GENERAL CONSIDERATIONS

yes Name same as permit?
yes Address same as permit?
yes Proof timely received?
If not, complete calculation below.

TYPES OF USE

Dom. Irr.

Correct Uses? yes

SOURCE OF WATER

☒ Surface water source

☐ Ground water source

☒ Drilling permit required?

☒ Copy in the file? Drilling Permit No. _____

☒ Amount paid for permit

☒ Well log in the file?

_____ Correct?

LICENSE EXAMINATION FEE

yes Required?
50.00 Amount Submitted
yes Correct?

MEASURING DEVICE

no Required?
/ Installed?
/ Waiver requested?

PRIORITY CALCULATION

Date proof received	_____	_____
Date proof due	_____	_____
No. of days late	_____	_____
Priority Date	_____	_____
New Priority Date	_____	_____

DEFICIENCIES OR ACTION ITEMS

Proof acceptable

DATA ENTRY

New Address _____ Proof Made 11-8-95

September 30, 1995

VICTOR L THULON
SHARON S THULON
RT 1 BOX 34A
JULIAETTA ID 83535

PROOF DUE NOTICE

RE: PERMIT NO. 86-07272

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before December 1, 1995. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

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

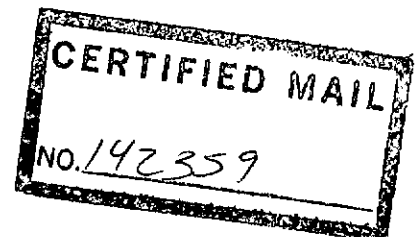
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

RECEIVED

FEB 26 1996





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

December 6, 1994

VICTOR L THULON
SHARON S THULON
RT 1 BOX 34A
JULIAETTA ID 83535

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 86-07272

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. Please be sure to thoroughly review the "CONDITIONS/REMARKS:" listing on the permit.

Enclosed is a form entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop this permit. Also enclosed is a form entitled "Proof of Beneficial Use". If your project is already completed you should complete and submit this form immediately.

Sincerely,

JIM JOHNSON, Manager
Water Right Permits Section

JJ:dc

Enclosures

RECEIVED
DEC 07 1994

MEMORANDUM

DATE: November 21, 1994
TO: File No. 86-07272
FROM: Cindy Zimmerman
SUBJECT: Telephone conversation

=====

At 8:45 am, Lee Heath telephoned concerning the draft of this permit. He asked for clarification of condition #2, "Subject to all prior water rights." and asked what the priority date would be.

I explained the priority date was the date the application was received, and that uses existing prior to that application date would be senior.

Mr. Heath said that he didn't believe there would be any problems with him on the draft permit and that he would discuss it with his brother, Gene Heath.

RECEIVED

DEC 07 1994



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

November 9, 1994

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

EUGENE HEATH
RT 1
JULIAETTA ID 83535

RE: Application for Permit No. 86-07272

Dear Mr. Heath:

A condition of your withdraw of protest on the above application in the name of Victor & Sharon Thulon was the option to review and comment on a draft of the proposed permit.

I have enclosed a copy of the draft permit for your consideration. Please review the draft permit and if you have any comments, please respond within 14 days.

If I do not receive a response from you within 14 days, I will assume you agree with the provisions and I will issue this permit.

If you have any questions, please contact me directly at (208) 327-7944.

Respectfully,

A handwritten signature in cursive script that reads 'Cindy Zimmerman'.

Cindy Zimmerman
Water Resource Agent

Enclosure

c: Lee R. Heath

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DEC 07 1994



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

November 9, 1994

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

LEE R HEATH
RT 1 BOX 38
JULIAETTA ID 83535

RE: Application for Permit No. 86-07272

Dear Mr. Heath:

A condition of your withdraw of protest on the above application in the name of Victor & Sharon Thulon was the option to review and comment on a draft of the proposed permit.

I have enclosed a copy of the draft permit for your consideration. Please review the draft permit and if you have any comments, please respond within 14 days.

If I do not receive a response from you within 14 days, I will assume you agree with the provisions and I will issue this permit.

If you have any questions, please contact me directly at (208) 327-7944.

Respectfully,

Cindy Zimmerman
Cindy Zimmerman
Water Resource Agent

Enclosure

c: Eugene Heath

DEC 07 1994

**DRAFT OF PERMIT TO APPROPRIATE WATER
NO. 86-07272**

Proposed Priority: January 19, 1989 **Maximum Diversion Rate:** 0.09 CFS

This is to certify, that **VICTOR L THULON**
SHARON S THULON
RT 1 BOX 34A
JULIAETTA ID 83535

has applied for a permit to appropriate water from:

SPRINGS tributary of **CLEARWATER RIVER**

and a permit is **APPROVED** for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	03/01 to 11/30	0.08 CFS
DOMESTIC	01/01 to 12/31	0.01 CFS
	Totals	0.09 CFS

LOCATION OF POINT(S) OF DIVERSION: SWNWSE , Sec. 23, Township 37N, Range 03W
NWSWSE , Sec. 23, Township 37N, Range 03W
NEZ PERCE County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
37N	03W	23	SWSE	4.0		4.0
		26	NWNE	0.8		0.8
Total number of acres irrigated:						4.8

PLACE OF USE: DOMESTIC, same as IRRIGATION use

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **December 1, 1995**.
2. Subject to all prior water rights.
3. The issuance of this right in no way grants any right-of-way or easement across the land of another.
4. Use of water under this right may be affected by an agreement between the protestant and the right holder.
5. The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.
6. Two points of diversion are located within NWSWSE, S23, T37N, R03W.
7. Domestic use is for 1 home.
8. This right authorizes the diversion of water from a spring located at a mean latitude of 46°31'56.490"N with a mean longitude of 116°40'14.034"W and from a spring located at a mean latitude of 46°31'50.222"N with a mean longitude of 116°40'15.682"W.
9. This right does not authorize the diversion of water from the spring used by Lee Heath located at a mean latitude of 46°31'53.936"N with a mean longitude of 116°40'14.918"W.

DEC 07 1994

APPLICATION FOR PERMIT
STATE OFFICE REVIEW
by Cindy Zimmerman

No.: 86-7272 Name: Thulon Date: 4/7/94 Correct Fee? ☒

AREA OF CONCERN? - No/Yes S/C Mor GWMA Trust/Non-trust

SYSTEM COMPLETED:

No - 26A-P17

Complete in 1 year - P16

Yes

Proof not submitted - P16

Proof submitted - NA

GROUNDWATER:

+ 0.2 cfs <FLO-CH> - T17 (new), 01K (existing), No MD

- 0.2 cfs - No MD <FLOW CHART>

Drilling Permit:

Included w/permit - Permit No. , P99

Existing well - NA (pre 7/1/87)

No WD permit? - 046-46A(Irr)-46B-P23 (post 7/1/87)

SURFACE WATER: not in WD - T17 (+.2 w/pump), No MD <FLOW CHART>

LOCATION:

Water District(~~dem~~) - WD No.

*Surface water - 005 (req) 01J-P08 <FLOW CHART>

(doesn't sink) or 01H-P01 <FLOW CHART>; No MD

Groundwater - P05 (new irrigation well)

In stream channel - 030 (stream channel alteration)

Irr Dist/Canal Co. - 023 (Twin Falls area)

Drainage Districts - 024

Flood Control Dist. - 063

Boise Front (63) - 058 (-85° GW temp only)

Swan Falls Flag - B <SEE CONDITION CODE CHART>

Trust - 051-052-053-P74 (Consumptive Uses), NA

Non Trust <1> - 048-049 (Consumptive Uses), NA

RIVER BASINS (*Surface water):

Boise R(63) - 05A (if WD), 11E (non-domestic use), NA

Payette R(65) - 064(consump. use), 047-P04(Payette Lake), NA

Snake R(01/02/03) - 11A-P04 (01), 061-P07 (02/03 No WD Cond.), NA

USE:

Fish Propagation - 07A-042 (req) & 010/06A/09E(WQ)-P10

444 (N 1000 Spr)

Irrigation - 03A/~~057~~ 803(if GW use SW 1st)(+5A PU comp), NA

Power - 08A-17K-025-027(req); 01F(MD)-P19; 09E(WQ)-P10;

+25 cfs-P18; 17G(FERC) or 17M(FERC); 18B-P09

Mining - 054 (req) & 06A/010/09E-P10

Storage(✓ 3 compo.) - 18A(multi MD in WD), 18B-P09 (+10' dam), NA

Domestic (surface) - 021(Boise R ↑ L Peak), 064(Payette R), NA

OWNERSHIP:

Non land owner - 004 (PD/PU) Engine Heath

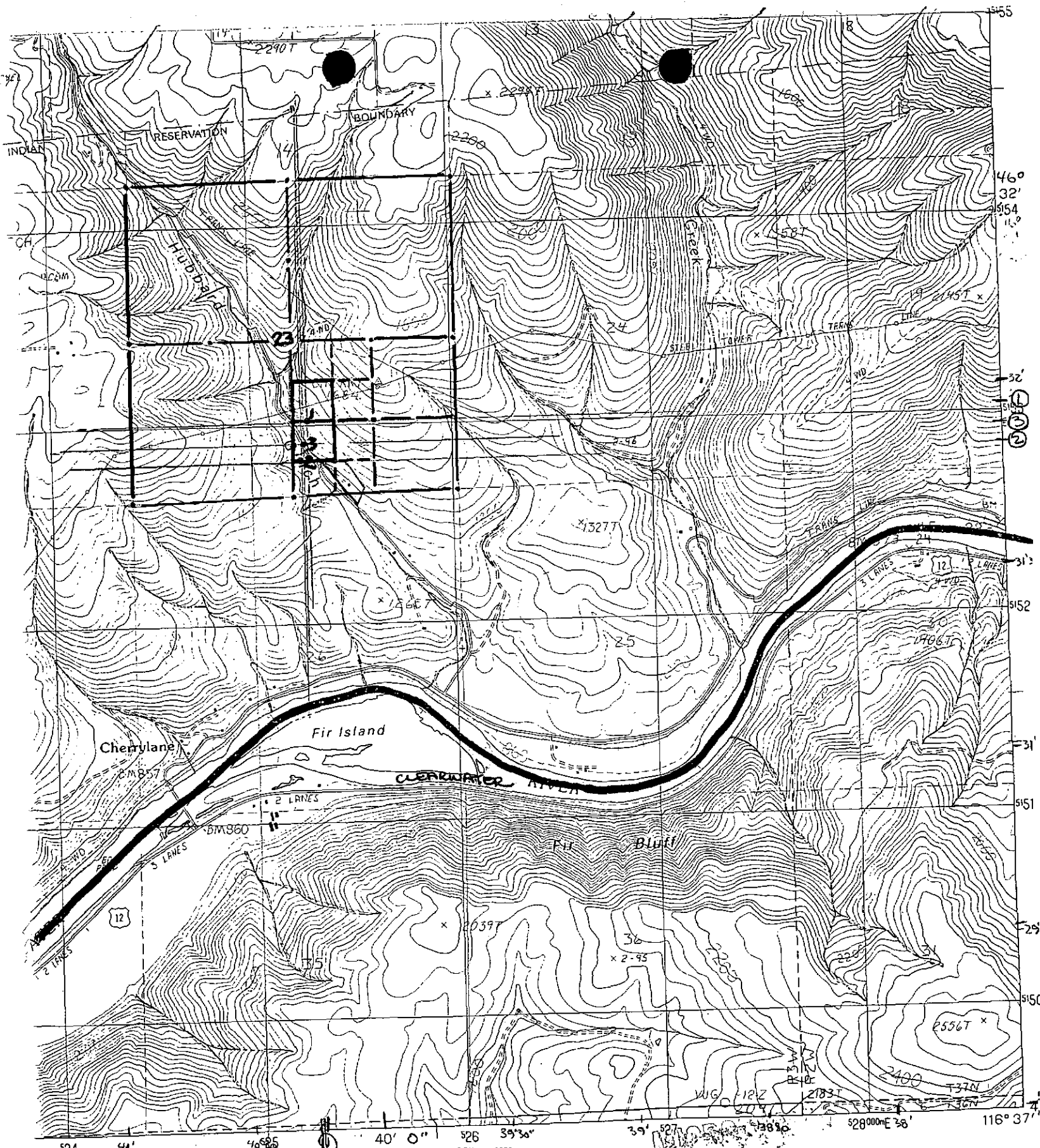
PROTESTED: - 020(Prehearing Agreement)/W19(See Order)

OTHER CONDITIONS: -

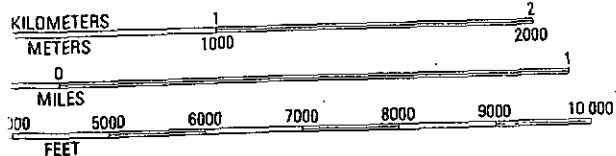
REMARKS: - 0W32 ② woi/1 ③ Spring description.

BENEFICIAL USE DUE: - 12-1-1995

COMMENTS: -



LE 1:24 000



INTERVAL 40 FEET
CONTOUR INTERVAL 20 FEET



DEC 07 1994

ROAD LEGEND

Improved Road
Unimproved Road
Trail
Interstate Route U.S. Route

1	2	3	1 Troy 2 Little Bear Ridge
---	---	---	-------------------------------

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

INITIAL REVIEW BY: JK DATE: 6/30/89 APPLICATION: 86-07272
APPLICANT: _____
REQUIRED INFORMATION

- (1). ☒ Name & Address: (If applicant is a corporation or partnership, names must be provided for the director, officers, and other partners.)
- (2). ☒ Source: (See USGS Quad for names of water sources)
- (3). ☒ Point of Diversion including county: (10 acres for spring, lot & block descriptions for Subdivisions, local name)
- (4). ☒ Quantity: (flow and/or volume)
☒ Nature of proposed use: (Include description of use)
☒ Period of use:
- (5). ☒ Total Quantity: (flow and/or volume)
- (6). ☒ Description of diverting works:
- (7). ☒ Time required for beneficial use of water:
- (8). ☒ Proposed uses
- (9). ☒ Place of use or acres irrigated:
- (10). ☒ Other Water Rights
- (11). ☒ Ownership
- (13). ☒ Map:
☒ Signature: (If applicant is corp., partnership, or municipality title of signator is required)
☒ Fee:
☒ yes ☐ No* In form to receipt:

ADDITIONAL INFORMATION

YES NO

- ☐ ☐ Overlapping place of use: (Describe source & relationship to present application on the back.)
- ☐ ☐ Overlapping point of diversion:
- ☐ ☒ Field check required: Field check by: _____
- ☐ ☒ Field report attached:
- ☐ ☒ Critical groundwater area:
- ☐ ☒ Groundwater management area:
- ☐ ☒ Send dam safety information:
- ☐ ☒ Send power requirement letter:
- ☐ ☒ Send fish farm requirement letter:
- ☐ ☒ Power residency affidavit:
- ☐ ☒ Power efficiency form:
- ☐ ☒ Within trust water boundry: (If yes, attach Trust Water Supplementary Analysis Sheet.)
- ☐ ☒ Diversion greater than 5 cfs or 500 af: (If yes, attach Large Diversion supplementary analysis sheet.)
- ☐ ☒ *REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

DATE REQUESTED: _____

Additional information on reverse side: _____

RECEIVED
AUG 22 1994

Department of Water Resources

RECEIVED
MAR 01 1990

Department of Water Resources

PROCESSING

YES NO

☒ In form for advertising:
☒ Statewide advertising:
☒ Fee amount, receipt number and date recorded on application:

SEND COPIES TO

YES NO

☐ I.D. Health and Welfare
☐ I.D. Fish and Game
☐ I.D. Lands
☐ Adjudication Bureau

YES NO

☐ U.S. BLM
☐ U.S. Forest Svc.
☐ Water District # _____
☐ Other _____

FINAL REGIONAL PROCESSING REVIEW

YES NO

☒ Affidavit of publication received:
☐ Application published correctly: If not, record action taken.

Withdrawn
☒ Publication dates and paper recorded on application:
☒ Protests received, Final date for protest 8/7/89
☒ Protests, dates, resolution of protest recorded on application:
☒ Recommendations attached:
☒ Measuring device required:
☒ Measuring port required:
☒ Water delivered by water master? District # _____
☒ Special conditions of approval or cover letter: (see additional info. below)

☒ See Below For Additional Information
Recommended Date of Priority 1/19/99 ✓
Recommended by: 26/10 Date 2/26/90

STATE OFFICE REVIEW

P16

20A(2-5-1990) 04

See below for additional information. By kw Date 3/7/90

ADDITIONAL INFORMATION

Overlap Review Conducted yes no (If no, explain) See letter from proponent and applicant for special conditions

file copy discarded

In the Matter of)
Applications NO 86-7272)
in the Name of Victor & Sharon Thulon) Agreement

We the undersigned agree to withdraw our protest based on the right to review and comment on the draft permit that will be prepared by the department. The draft permit will include:

1. Specific descriptions of the springs. The department will inventory and identify the Latitude and Longitude of the springs using GPS equipment.
2. Division of water per existing agreements will be referenced.
3. Statement that permit does not constitute a right of way or easement.
4. Permit will grant no right to use spring used by Lee Heath.

Signed
Lee R. Heath
Eugene Heath

RECEIVED

DEC 07 1994

August 18, 1994

Mr Gene Heath
Rt 1
Julietta ID 83535

Re: Field Visit to collect Geograhic Positioning Data

Dear Mr. Heath:

Enclosed are the information sheets for the data that I collected for the springs. Also enclosed is a memo to the file regarding that data. The next step will be the preparation of a draft permit for Thulon's application for your review and comment. I apologize for taking so long to get this done, but as you might imagine, it has been a very busy summer for us.

If you have anyquestions, please contact me.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RECEIVED 12/7/94

DEC 07 1994

August 18, 1994

Mr Lee Heath
Rt 1 Box 38
Juliaetta ID 83535

Re: Field Visit to collect Geograhic Positioning Data

Dear Mr. Heath:

Enclosed are the information sheets for the data that I collected for the springs. Also enclosed is a memo to the file regarding that data. The next step will be the preparation of a draft permit for Thulon's application for your review and comment. I apologize for taking so long to get this done, but as you might imagine, it has been a very busy summer for us.

If you have anyquestions, please contact me.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RECEIVED
DEC 07 1994

August 18, 1994

Mr & Mrs Victor Thulon
Rt 1 Box 34-A
Julietta ID 83535

Re: Field Visit to collect Geograhic Positioning Data

Dear Mr. & Mrs. Thulon:

Enclosed are the information sheets for the data that I collected for the springs. Also enclosed is a memo to the file regarding that data. The next step will be the preparation of a draft permit for your application for review and comment by the Heaths'. I apologize for taking so long to get this done, but as you might imagine, it has been a very busy summer for us.

If you have anyquestions, please contact me.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

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DEC 07 1994

DEC 07 1994

MEMORANDUM

To: File 86-07272

From: Bob Haynes

Date: August 18, 1994

Subject: Results of GPS inventory of Spring sites

On May 18, 1994, I conducted a field investigation of the spring sites filed on by Victor and Sharon Thulon to collect GPS data for the spring locations pursuant to an agreement to settle a protest of Thulon's application for permit to appropriate water. I was accompanied by Vic Thulon, Lee Heath and Gene Heath. The results of data collected show a mean latitude of 46 degrees, 31 minutes, 56.490 seconds North and a mean longitude 116 degrees, 40 minutes, 14.034 seconds West for Spring #1, and a mean latitude of 46 degrees, 31 minutes, 50.222 seconds North and a mean longitude 116 degrees, 40 minutes, 15.682 seconds West for Spring #2. While there, location data for a third spring used only by Lee Heath was also taken. A mean latitude of 46 degrees, 31 minutes, 53.936 seconds North and a mean longitude 116 degrees, 40 minutes, 14.918 seconds for that spring was computed.

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AUG 07 1994

	Recs	Mean	Std Dev	Minimum	Maximum
Latitude	228	46½31'56.490"N	5.087	46½31'56.075"N	46½31'56.967"N
Longitude	228	116½40'14.034"W	2.561	116½40'14.267"W	116½40'13.658"W
Altitude	228	398.029	6.848	381.759	421.262

No velocity records in file.

No DOP records in file.

Start GPS Week #749 on 05/18/94 at 17:33:31

End GPS Week #749 on 05/18/94 at 17:36:53

Datum : WGS-84
Coordinate System : Latitude/Longitude
Altitude Mode : Height Above Ellipsoid
Altitude/Distance Units : Meters
Velocity Units : Meters/Second

DEC 07 1994

	Recs	Mean	Std Dev	Minimum	Maximum
Latitude	15	46½31'50.222"N	11.412	46½31'49.740"N	46½31'50.656"N
Longitude	15	116½40'15.682"W	1.561	116½40'15.783"W	116½40'15.570"W
Altitude	15	370.596	20.539	346.911	397.460

No velocity records in file.

No DOP records in file.

Start GPS Week #749 on 05/18/94 at 17:54:43

End GPS Week #749 on 05/18/94 at 17:57:01

Datum : WGS-84
Coordinate System : Latitude/Longitude
Altitude Mode : Height Above Ellipsoid
Altitude/Distance Units : Meters
Velocity Units : Meters/Second

DEC 07 1994

SPRING #3

C:\PFPRO\DATA\BHAYNES\WGS18003.COR

Statistics Version 2.13

	Recs	Mean	Std Dev	Minimum	Maximum
Latitude	183	46½31'53.936"N	1.660	46½31'53.789"N	46½31'54.077"N
Longitude	183	116½40'14.918"W	1.646	116½40'15.112"W	116½40'14.745"W
Altitude	183	376.765	4.033	366.851	384.878

No velocity records in file.

No DOP records in file.

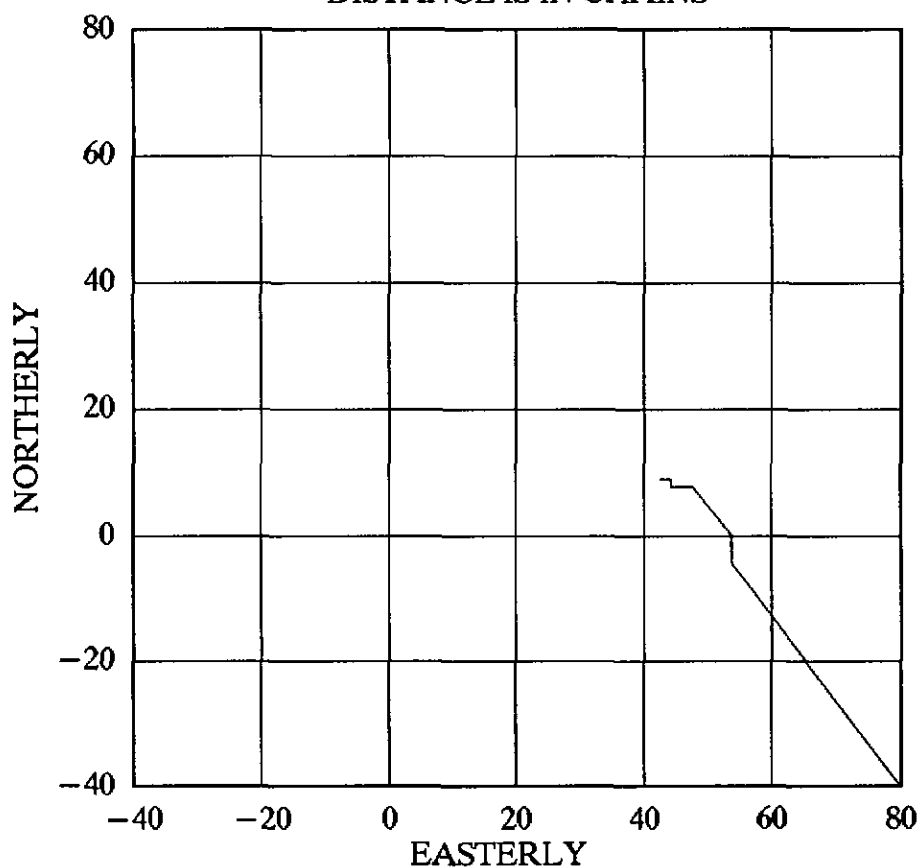
Start GPS Week #749 on 05/18/94 at 17:43:22

End GPS Week #749 on 05/18/94 at 17:45:35

Datum : WGS-84
Coordinate System : Latitude/Longitude
Altitude Mode : Height Above Ellipsoid
Altitude/Distance Units : Meters
Velocity Units : Meters/Second

DEC 07 1994

PARCEL PLOT - METES & BOUNDS
DISTANCE IS IN CHAINS

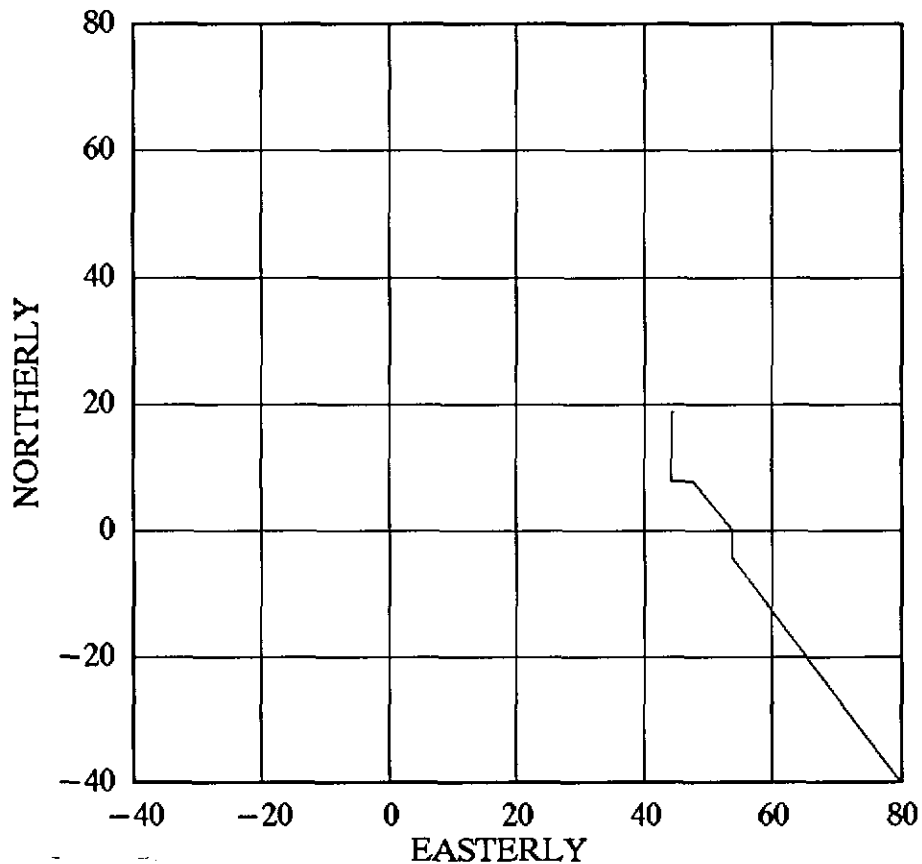


2. A one-half interest in the water from a 20-foot radius spring site, its location being a part of the

Southwest Quarter of the Southeast Quarter of Section 23, Township 37 North, Range 3 West Boise Meridian, Nez Perce County, Idaho, and the center of which is more particularly described as follows: Commencing at the southeast corner of the Northeast Quarter of Section 26 of said Township and Range; thence North $36^{\circ}20'51''$ West a distance of 2,919.36 feet to a point on the east right-of-way line of the county road; thence North a distance of 298.64 feet; thence North $38^{\circ}52'36''$ West a distance of 648.44 feet; thence West a distance of 222.77 feet; thence North a distance of 84.61 feet; thence West a distance of 97.97 feet to the center of the above-mentioned spring site.

DEC 07 1994

PARCEL PLOT - METES & BOUNDS
DISTANCE IS IN CHAINS



1. A one-quarter interest in the water flowing or produced from that certain spring site situate in Nez Perce County, Idaho, and more particularly described as follows, to-wit:

A 20-foot radius spring site in the W1/2SE1/4 of Section 23 of Township 37 North, Range 3, West B.M., Nez Perce County, Idaho, the center of which is more particularly described as follows: Commencing at the Southeast corner of the NE1/4 of Section 26 of said Township and Range; thence N.36°20'51"W., a distance of 2,919.36 feet to a point on the East right-of-way line of the County Road; thence North a distance of 298.64 feet; thence N.38°52'36"W., a distance of 648.44 feet; thence West a distance of 222.77 feet; thence North a distance of 722.04 feet; thence East a distance of 13.97 feet to the center of the above-mentioned spring site.

DEC 07 1994

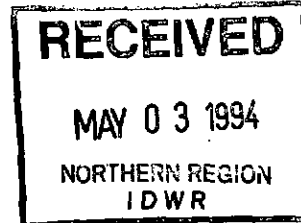
CLEMENTS, BROWN & McNICHOLS, P.A.
LAWYERS

321 13th Street
Post Office Box 1510
Lewiston, Idaho 83501
Telephone (208) 743-6536
Fax (208) 746-0753

Robert P. Brown
Jack R. Little
Michael E. McNichols
John R. Stegner
Bentley G. Stromberg
Dean Wullenwaber

Reed Clements
(Retired)
V.R. Clements
(1896-1982)

3 May 1994



Mr. Bob Haines
Idaho Department of Idaho Resources

Re: Heath/Thulon.

Dear Bob:

As a follow-up to our recent telephone conference, I have learned that the reason for the difference in the legal description for Spring No. 1 is that the legal description contained in Gene Heath's letter describes the same area but more succinctly and without reference to Lee Heath's property. The legal description in Gene Heath's letter was prepared by a land surveyor, Kay Prickett, for the express purpose of providing a legal description without having to refer to the lengthy description contained in Instrument No. 439268. For your information, Bob Brown has telephoned Kay Prickett and she is confirming that the "short form" description and the "long form" description describe the same area. I will telephone you immediately after Ms. Prickett confirms this for us.

As a second matter, Spring No. 1 is east of Spring No. 2. The diagram drawn by Lee Heath was drafted with the direction east being at the top of the diagram. Therefore, Spring No. 1 could very well be somewhat south of Spring No. 2.

As indicated, I will be in further contact with you after Ms. Prickett verifies the legal description.

Thank you for your efforts.

Very truly yours,

CLEMENTS, BROWN & McNICHOLS, P.A.


JACK R. LITTLE

JRL:J

RECEIVED
DEC 07 1994

SURVEYORS WEST

914 6th STREET

CLARKSTON, WA. 99403

[509] 758-2421

January 30, 1990

RECEIVED BY

JAN 31 1990

**CLEMENTS, BROWN,
McNICHOLS**

A 20 foot radius spring site in the $W\frac{1}{2}SE\frac{1}{4}$ of Section 23 of Township 37 North, Range 3 West, B.M., Nez Perce County, Idaho, the center of which is more particularly described as follows: Commencing at the Southeast corner of the NE $\frac{1}{4}$ of Section 26 of said Township and Range; thence N.36°20'51"W, a distance of 2919.36 feet to a point on the East right-of-way line of the County Road; thence North a distance of 298.64 feet; thence N.38°52'36"W, a distance of 648.44 feet; thence West a distance of 222.77 feet; thence North a distance of 722.04 feet; thence East a distance of 13.97 feet to the center of the above mentioned spring site.

DEC 07 19
TOTAL P.02

PUBLIC HEARING

File: 86-7272 - Victor & Sharon Thulon
Date: Wednesday, April 27, 1994, 1:00 PM
Place: Federal Courthouse, 220 E. 5th St., Moscow, Id. 83843
Latah City. 520 S. Adams.

ROSTER OF ATTENDANCE

NAME**ADDRESS**

Uli Thulon
Sharon Thulon
Jen Heath
Lee Heath
JACK R. LITTLE

Rt 1 Box 34 A Julietta Id
 Rt 1, Julietta, Id 83535
 Rt. 1 Box 34 Julietta, Id. 83535
 P.O. BOX 1510 LEWISTON ID 83501

DEC 07 1994

[illegible]

DEC 07 1934

SENDER:

- Complete items 1 and 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

MR ROBERT P BROWN
CLEMENTS BROWN & MCNICHOLS
PO BOX 1510
LEWISTON ID 83501

4a. Article Number

48285

4b. Service Type

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

Date of Delivery

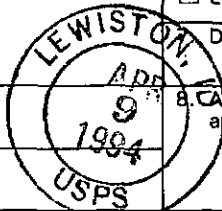
86-7272

5. Signature (Addressee)

[Signature]

6. Signature (Agent)

[Signature]

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

UNITED STATES POSTAL SERVICE

Official Business

DEC 07 1994

RECEIVED

APR 11 1994

NORTHWEST REGION
IDWR



PENALTY FOR PRIVATE
USE, \$300

Print your name, address and ZIP Code here
DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD. - SUITE 210
COEUR D'ALENE, IDAHO 83814

SENDER:

- Complete items 1 and 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

MR AND MRS VICTOR L THULON
RT 1 BOX 34A
JULIAETTA ID 83535

NOV 7 1994

86-7272

5. Signature (Addressee)

Victor L Thulon

6. Signature (Agent)**4a. Article Number**

48284

4b. Service Type

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

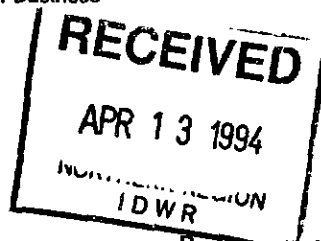
7. Date of Delivery

4-12-94 DM

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

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USE, \$300

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD. - SUITE 210
COEUR D'ALENE, IDAHO 83814



Name and Address of Sender

DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD. - SUITE 210
COEUR D'ALENE, IDAHO 83814

Indicate type of mail
☐ Registered ☐ Return Receipt
☐ Insured ☐ For Merchandise
☐ COD ☐ Int'l Recorded Del.
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Check appropriate block for Registered Mail:
☐ With Postal Insurance
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POSTMARK AND DATE OF RECEIPT

Line	Article Number	Name of Addressee, Street, and Post Office Address	Postage	Fee	Handling Charge	Act. Value (If Regis.)	Insured Value	Due Sender If COD	R. R. Fee	S. D. Fee	S. H. Fee	Rest. Del. Fee	Remarks
1	48281	MR LANCE HASEROT SECRETARY, N TOMER BUTTE W & S DIST MOSCOW ID 83843 PO BOX 9387	29c	1.00									87-7169
2	48282	MR AND MRS VICTOR GABRIEL 6819 CHILI HILL RD NEWCASTLE CA 95658	"	"					"				"
3	48283	MR AND MRS VICTOR GABRIEL PO BOX 953 POST FALLS ID 83854	"	"					"				"
4	48284	MR AND MRS VICTOR L THULON RT 1 BOX 34A JULIAETTA ID 83535	"	"					"				86-7272
5	48285	MR ROBERT P BROWN CLEMENTS, BROWN & MCNICHOLS PO BOX 1510 LEWISTON ID 83501	"	"					"				"
6													
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15													

Total Number of Pieces Listed by Sender

5

Total Number of Pieces Received at Post Office

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POSTMASTER, PER (Name of receiving employee)

RT

The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for the reconstruction of nonnegotiable documents under Express Mail document reconstruction insurance is \$50,000 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is \$500. The maximum indemnity payable is \$25,000 for registered mail, sent with optional postal insurance. See Domestic Mail Manual 913 and 914 for limitations of coverage on insured and COD mail. See International Mail Manual for limitations of coverage on international mail. Special handling charges apply only to third and fourth class parcels.

For Accountable Mail

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 86-7272 IN THE NAME OF)
VICTOR L. & SHARON S. THULON.)

NOTICE OF HEARING

On January 19, 1989, Victor L. & Sharon S. Thulon filed with the Department of Water Resources (department) application for permit no. 86-7272. The application was protested by Eugene Heath, through his attorney, Robert P. Brown, on August 4, 1989.

The department has scheduled the matter for hearing on Wednesday, April 27, 1994, at 1:00 PM, in the Federal Courthouse Jury Room (Third Floor), 220 E. 5th St., Moscow, Id. 83843. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45. A copy of the rules may be obtained from the department upon request. The presiding officer at the hearing will be Gary Spackman.

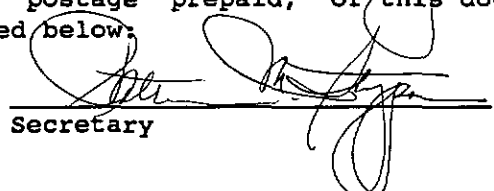
The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 8th day of April, 1994.


Regional Supervisor

I hereby certify that on the 8th day of April, 1994, I mailed a true and correct copy, postage prepaid, of this document to the applicants(s) and protestant(s) listed below:


Secretary

Certified Mail

Mr. and Mrs. Victor L. Thulon
Rt. 1 Box 34A
Juliaetta, Id. 83535

Mr. Robert P. Brown
Clements, Brown & McNichols
P.O. Box 1510
Lewiston, Id. 83501


DEC 07 1994

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

ISSUES

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

1. Will the proposed appropriation injure other water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use conflict with the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, and 6 above and must provide evidence for the department to evaluate these criteria.

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

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

DEC 07 1994

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing are available upon request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may by written stipulation waive the right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.

RECEIVED
DEC 07 1994



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450 Fax (208) 769-1454

CECIL D. ANDRUS

Governor

April 8, 1994

R. KEITH HIGGINSON

Director

Ms. Verlene Nelson
Federal Courthouse
220 E. 5th St.
Moscow, Id. 83843

Re: Jury Room Reservations.

Dear Ms. Nelson:

This is to confirm reservations for hearings to be held by this Department in your Jury Room on Wednesday, April 27, 1994, beginning at 9:30 AM and lasting until approximately 4:00 PM.

If this does not agree with your records, please notify me immediately.

Sincerely,

PATRICIA M. STYPA
Senior Secretary

RECEIVED
DEC 07 1994

August 6, 1992

Mr Victor Thulon
Rt 1 Box 34A
Juliaetta Id 83535

Re: 86-7272

Dear Mr. Thulon:

We acknowledge receipt of your letter requesting that the hearing on the above-referenced water right application be vacated until such time as you can be present.

At this time, we do not know when a hearing on this matter will take place, but we will advise you and all concerned parties when a date is again set.

If you have any questions, please do not hesitate to contact me.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

pms

RECEIVED

DEC 07 1994

August 6, 1992

Mr Robert P Brown
Clements Brown & McNichols
PO Box 1510
Lewiston Id 83501

Re: 86-7272 - Victor L. &/or Sharon S. Thulon

Dear Mr. Brown:

Please be advised that the hearing and/or conference that was set for the above-referenced water right application on Wednesday, August 12, 1992, at 9:00 AM, in the Lewiston City Council Chambers, has been vacated due to the inability of the Thulons to attend.

We will advise you when another hearing date is scheduled.

If you have any questions, please do not hesitate to contact me.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

pms

RECEIVED

DEC 07 1994

August 6, 1992

Mr John Reid Tait
PO Drawer D
Lewiston Id 83501

Re: 86-7272 - Victor L. &/or Sharon S. Thulon

Dear Mr. Tait:

Please be advised that the hearing and/or conference that was set for the above-referenced water right application on Wednesday, August 12, 1992, at 9:00 AM, in the Lewiston City Council Chambers, has been vacated due to the inability of the Thulons to attend.

We will advise you when another hearing date is scheduled.

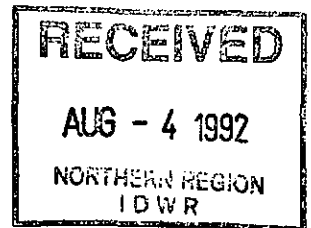
If you have any questions, please do not hesitate to contact me.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

pms

DEC 07 1994



August 3, 1992

Dear Mr. Haines:

Due to pressing family matters we will be unable to attend the hearing you have scheduled for August 12. We feel that it is imperative that we be present at the hearing, therefore, we would like to request that the hearing be vacated and moved to a later date. We will be leaving on August 6. This probably doesn't give you enough time to respond by mail, so could you please call us at 276-4414 and let us know if this can be done?

Thank you for your consideration.

Sincerely,


Vic Thulon

RECEIVED

DEC 07 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 765-4639 • Fax (208) 765-2088

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

August 3, 1992

City of Lewiston
1134 F Street
Lewiston, Id. 83501

ATTN: Sharon

Gentlemen:

This is to confirm a telephone conversation I had this morning with your office in which I cancelled the reservation I made for a conference this Department is to have in the City Council Chambers at 9 AM on Tuesday, August 11, 1992.

Please be advised that this Department will still reserve the room for the afternoon of the same day (Tuesday, August 11, 1992) and also for Wednesday, August 12, 1992, from 9 AM until noon.

If your records do not reflect this, please advise immediately.

Thank you for your cooperation.

PATRICIA M. STYPA
Secretary/Office Coordinator

PROPERTY MFD
DEC 07 1994

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST	)	
APPROVAL OF APPLICATION FOR PERMIT	)	NOTICE OF HEARING
NO. 86-7272 IN THE NAME OF VICTOR L.	)	AND/OR CONFERENCE
AND SHARON S. THULON.	)	

On January 19, 1989, Victor L. and/or Sharon S. Thulon filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On August 4, 1989, the Department received a protest against approval of said application from Attorney Robert P. Brown on behalf of Eugene Heath.

The Department has set the matter of protest for a hearing &/or conference for Wednesday, August 12, 1992, at 9 o'clock AM, in the Lewiston City Council Chambers, 1134 F Street, Lewiston, Id. 83501. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice and Procedure of the Department of Water Resources, and Rules 4 and 5 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources.

The following issues are involved in the consideration of the application and protest(s):

1. Will the proposed use reduce the quantity of water under existing water rights?

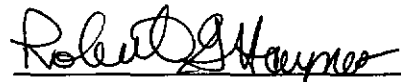
RECEIVED
DEC 7 1994

DEC 07 1994

2. Is the proposed water supply insufficient for the purpose 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?
6. Will the proposed use be contrary to the conservation of water resources within the state of Idaho?

Opportunity shall be afforded all parties of record to respond and present evidence and argument on all issues involved. Participants are required to furnish enough copies of exhibits for all parties of record.

Dated this 14th day of July, 1992.


ROBERT G. HAYNES, P. E.
REGIONAL MANAGER

I hereby certify that on the 15th day of July, 19 92, I mailed a true and correct copy, postage prepaid of this document to the applicant(s) and protestant(s) listed:


Patricia M. Stypa
Secretary/Office Coordinator

CERTIFIED MAIL

Mr. and Mrs. Victor Thulon
Rt. 1 Box 34A
Juliaetta, Id. 83535

Mr. Robert P. Brown
Clements, Brown & McNichols
P.O. Box 1510
Lewiston, Id. 83501

DEC 07 1994

NON-CERTIFIED MAIL

Mr. John Reid Tait
Keeton & Tait
P.O. Drawer E
Lewiston, Id. 83501

RECEIVED

DEC 07 1994

CONFERENCE AND HEARING INFORMATION
IN THE MATTER OF APPROVAL OF AN APPLICATION FOR PERMIT

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

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?
6. Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

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

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

PROCEDURE

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

CONFERENCE

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

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

DEC 07 1994

HEARING

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

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

The parties, by written stipulation, may waive their right to a proposed decision. The failure of either party to waive a proposed decision will not prejudice the Director's review of a party's evidence and arguments. However, such a waiver will shorten the decision-making process and may expedite substantially the issuance of a final decision. Waiver of the Section 42-1701A proposed decision will not affect a party's right to petition for a rehearing of the final decision pursuant to Rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the district court.

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

EFFECT OF FAILURE TO APPEAR AT A CONFERENCE OR HEARING

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

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DEC 10 1934

DEC 07 1934

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- Complete items 1 and 2 for additional services.
- Complete items 3, a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

MR ROBERT P BROWN
CLEMENTS BROWN & MCNICHOLS
PO BOX 1510
LEWISTON ID 83501

4a. Article Number

48186

4b. Service Type

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

7. Date of Delivery

JUL 16 1992

5. Signature (Addressee)

B. M. Gregg

6. Signature (Agent)**8. Addressee's Address (Only if requested and fee is paid)**

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JUL 17 1992

NORTHERN REGION
IDWR



PENALTY FOR PRIVATE
USE, \$300

DEC 07 1994

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
1316 NORTHWEST BLVD. - SUITE 210
COEUR D'ALENE, IDAHO 83814

SENDER:

- Complete items 1 and 2 for additional services.
- Complete items 3, and 4a and b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also ☐ to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

MR AND MRS VICTOR THULON

RT 1 BOX 34A

JULIAETTA ID 83535

DEC 07 1994

86-7272

Sharon Thulon
(5) Signature (Addressee)

6. Signature (Agent)

4a. Article Number

48185

4b. Service Type

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

7. Date of Delivery

7/16/92 gm

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

UNITED STATES POSTAL SERVICE

Official Business

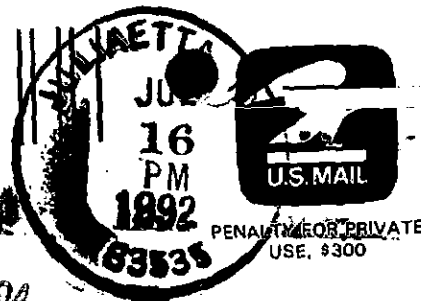
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JUL 17 1992

NORTHERN REGION
IDWR

DEC 07 1994

Print your name, address and ZIP Code here
DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD. - SUITE 210
COEUR D'ALENE, IDAHO 83814



PS Form 3877, July 1978
ACCEPTANCE OF REGISTERED, INSURED, C.O.D. AND CERTIFIED MAILNAME AND
ADDRESS
OF SENDER

DEPARTMENT OF WATER RESOURCES

1310 NORTHWEST BLVD. - SUITE 210

Indicate type of mail

- ☐
- Registered
-
- ☐
- Insured
-
- ☐
- COD
-
- ☒
- Certified

I certify that we have

- ☐
- Commercial Insurance
-
- ☐
- A deductible clause of \$

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certificate of mailing or for
additional copies of this bill.

POSTMARK AND DATE OF RECEIPT

NO.	NUMBER OF ARTICLE	NAME OF ADDRESSEE AND POST-OFFICE ADDRESS	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	48185	MR AND MRS VICTOR THULON RT 1 BOX 34A JULIAETTA ID 83535	29c	\$1.00				\$1.00				6/17/92 86-7272
2	48186	MR ROBERT P BROWN, CLEMENTS, BROWN & MCNICHOLS PO BOX 1510 LEWISTON ID 83501	"	"				"				7/17/92 "
3	48187	MS ESTELLA DUELL RT 1 BOX 161A LENORE ID 83541	"	"				"				85-7436
4	48188	SEUBERT EXCAVATORS INC PO BOX 57 COTTONWOOD ID 83522	"	"				"				86-7293 86-7294
5	48189	BURTON W SCHMIDT JESSICA E SCHMIDT PHIL E SCHMIDT 7295 N & S HWY LEWISTON ID 83501	"	"				"				"
6	48190	MR AND MRS ROY M BUSCH RT 1 BOX 44A GENESEE ID 83832	"	"				"				"
7	48191	MR BRUCE WRIGHT RT 1 BOX 122 GENESEE ID 83832	"	"				"				"
8	48192	MR MARK WHITTMAN 7200 N & S HWY LEWISTON ID 83501	"	"				"				"
9	48193	TOM SCHMIDT CARRIE L SCHMIDT CAROL M SCHMIDT 7293 N & S HWY LEWISTON ID 83501	"	"				"				"
10	48194	MS DELORES ROPE 1413 CENTRAL GRADE, LEWISTON ID 83501	"	"				"				"
11	48195	MR AND MRS CLETUS KAUFMAN 740 CENTRAL GRADE LEWISTON ID 83501	"	"				"				"
12	48196	MR AND MRS CLETUS J KAUFMAN JR 2360 LAPWAI RD LEWISTON ID 83501	"	"				"				"
13	48197	MS DORIS KAUFMAN 2265 LAPWAI RD LEWISTON ID 83501	"	"				"				"
14	48198	MR AND MRS JAMES J BUSCH RT 2 BOX 50 GENESEE ID 83832	"	"				"				"
15	48199	MR RICK KOLLER PER REPR FOR EST OF BOYD COOK W 203 PARK PL SPOKANE WA 99205	"	"				"				85-7436
TOTAL NUMBER OF PIECES LISTED BY SENDER		TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE		POSTMASTER, PER (Name of receiving employee)		The full declaration of value is required on all domestic and international registered mail. Commercial Insurance—Payment of the full registry fee is required on articles valued up to \$1,000 or the full amount of the deductible if the deductible exceeds \$1,000. The maximum indemnity payable is \$25,000 for registered mail, \$400 for COD and \$400 for insured mail. Special handling charges apply only to third- and fourth-class parcels. Special delivery service also includes special handling service.						
15		Fifteen		B. H. Grant								

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

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 765-4639 • Fax (208) 765-2088

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

July 15, 1992

City of Lewiston
1134 F Street
Lewiston, Id. 83501

ATTN: Sharon

Gentlemen:

This is to confirm reservations for hearings to be held by this office in the City Council Chambers on Tuesday, August 11, 1992, (all day) and Wednesday, August 12, 1992, (from 9 o'clock AM to noon).

If your records do not reflect this, please advise immediately.

Thank you for your cooperation.

Sincerely,

PATRICIA M. STYPA
Secretary/Office Coordinator

RECEIVED
DEC 07 1994

Name: Victor & Sharon Thulon
File: 86-7272
Place: City Council Chambers, 1134 F St., Lewiston, Id.
Date: Wednesday, August 12, 1992, 9 AM

ROSTER OF ATTENDANCE

NAME

ADDRESS

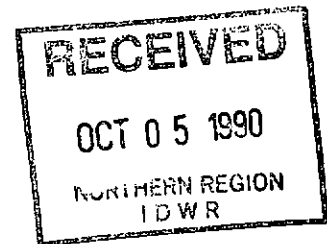
REPRESENTING

Vacated

RECEIVED

DEC 07 1994

MEMORANDUM



TO: Northern Region, Bob Haynes
FROM: Gary Spackman *Gary*
DATE: October 2, 1990

RE: Application for Permit to Appropriate Water No. 86-07272 in
the Name of Victor L. & Sharon F. Thulon

I have repeatedly tried to resolve this dispute between the parties. They apparently have not been able to settle the matter. I am returning the file to you, and request that the protest be set for hearing.

DEC 07 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

August 16, 1990

Robert P. Brown
Attorney at Law
P.O. Box 1510
Lewiston, ID 83501

John Reid Tait
Attorney at Law
P.O. Drawer E
312 Miller St.
Lewiston, ID 83501

RE: Application for Permit to Appropriate Water No. 86-07272 in
the Name of Victor & Sharon Thulon

Gentlemen:

It has been almost three months since I have spoken to
either one of you about the above numbered application. I have
heard nothing about a possible resolution.

Applications which languish in the drawers of the Department
of Water Resources never seem to get easier to resolve with the
passage of time. If I have not heard of some action to resolve
the matter within thirty (30) days, I will return the file to our
Northern Regional office in Coeur d'Alene, and ask them to set
the matter for hearing.

Sincerely,

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

cc: Victor & Sharon Thulon
Northern Region

DEC 07 1994

CLEMENTS, BROWN & McNICHOLS

LAWYERS

13TH AND IDAHO STREETS

POST OFFICE BOX 1510

LEWISTON, IDAHO 83501

TELEPHONE (208) 743-8538

V. R. CLEMENTS (1896-1982)

REED CLEMENTS

ROBERT P. BROWN

MICHAEL E. McNICHOLS

JACK R. LITTLE*

JOHN R. STEGNER

BENTLEY G. STROMBERG

*ADMITTED IN WASHINGTON AND IDAHO

FACSIMILE
(208) 746-0753

7 June 1990

RECEIVED
JUN 11 1990

Gary Spackman, Manager
Water Rights Permit Section
State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720

Department of Water Resources

Re: Victor and Sharon Thulon Application
for Permit, No. 86-07272.

Dear Mr. Spackman:

My clients have advised me that they would like to have the question of the ownership of the water and the claims to any water developed outside the 20-foot spring radius fully and finally resolved. To that end, the condition set forth in your letter would not be acceptable to Mr. Heath.

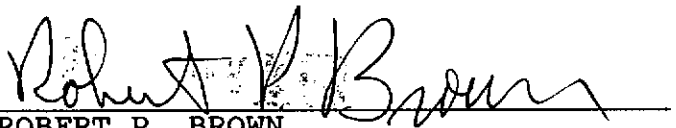
In an attempt to resolve this matter, Mr. Tait and I have met and have discussed some of the issues. I am hopeful that the parties will be able to resolve their differences by agreement. However, if they are not, I have been instructed to institute a quiet title action to quiet title to the property outside of the 20-foot radius against any claims by Mr. Thulon and to determine the ownership of the water generated by the springs within that 20-foot radius.

As you indicated in our telephone conversation, these questions are probably best determined by a court of general jurisdiction. To that end, we would appreciate having you defer any action with regard to the issuance of a permit until the matter has been resolved. We are hopeful that it can, in fact, be resolved by agreement between the parties.

If you have any questions with regard to this matter, please contact me.

Very truly yours,

CLEMENTS, BROWN & McNICHOLS


ROBERT P. BROWN

DEC 07 1994

RPB:J

CC: Mr. John R. Tait
Mr. Lee R. Heath
Mr. Eugene Heath



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

Robert P. Brown
Attorney at Law
P.O. Box 1510
Lewiston, ID 83501

John Reid Tait
Attorney at Law
P.O. Drawer E
312 Miller St.
Lewiston, ID 83501

RE: Application for Permit to Appropriate Water No. 86-07272 in
the Name of Victor & Sharon Thulon

Gentlemen:

Application for Permit to Appropriate Water No. 86-07272 is residing in the State Office of the Department of Water Resources. I have reviewed the correspondence between the parties that has been deemed as an agreement resolving the protest against the application. I conclude that there may not have been any agreement, at least as to what conditions the Department of Water Resources should use in approving the application. I particularly note the paragraph in a letter of February 22, 1990, from John Reid Tait, which states that his clients "view the language in the letter of 5 February 1990 and in particular the provisions of subparagraph 3 of that letter as simply explanatory and not as limitations or waivers of any existing rights of the Thulons." This statement questions the proposed conditions set forth in the proposal to withdraw protest from Eugene Heath. The only condition the Department could impose is one similar to the following: "The appropriation of water authorized by this permit is subject to the rights of and agreements between the permit holders and owners of property upon which the springs are located." This condition may not be satisfactory to the protestants.

I intend to recommend approval of the permit conditioned as set forth above. I will delay action for thirty (30) days, ~

DEC 07 1994

however, and ask that any objectives be submitted before that time.

Respectfully,

A handwritten signature in cursive script, reading "Gary Spackman".

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

cc: Northern Region

DEC 07 1994

Law Offices of
Keeton and Tait

P.O. DRAWER E
312 MILLER STREET
Lewiston, Idaho
83501

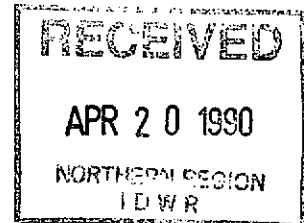
RECEIVED
MAY 04 1990

Paul C. Keeton
John Reid Tait

AREA CODE 208
743-6231

18 April 1990 Department of Water Resources

Mr. Robert G. Haynes, P.E.
Regional Manager
Department of Water Resources
1910 Northwest Boulevard, Suite 210
Coeur d'Alene, ID 83814



Re: Mr. and Mrs. Victor Thulon
Application No. 86-7272

Dear Mr. Haynes:

I would appreciate hearing from you to confirm that the above entitled matter has been settled in accordance with Robert P. Brown's letter of February 8, 1990 to you and my letter to you of 22 February 1990.

Thank you for your assistance on this.

Very truly yours,

A handwritten signature in dark ink, appearing to read "John Reid Tait".

John Reid Tait

JRT:ser

cc: Mr. and Mrs. Vic Thulon

RECEIVED
DEC 07 1994

Law Offices of
Keeton and Tait

P.O. DRAWER E
312 MILLER STREET

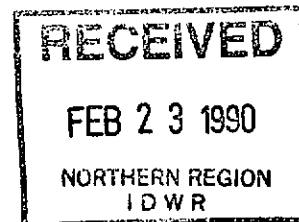
Lewiston, Idaho
83501

Paul C. Keeton
John Reid Tait

AREA CODE 208
743-6231

22 February 1990

Robert G. Haynes, P.E.
Regional Manager
State of Idaho, Department of
Water Resources, Northern Region
1910 Northwest Boulevard, Suite 210
Coeur d'Alene, ID 83814



Dear Mr. Haynes:

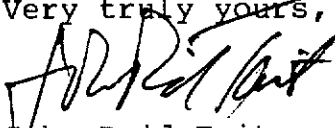
Re: Application No. 86-7272
Mr. and Mrs. Victor Thulon

I have received a copy of a letter dated 8 February 1990 from Mr. Robert P. Brown the attorney for Mr. Eugene Heath along with a copy of the letter to Mr. Eugene Heath dated 5 February 1990.

Mr. and Mrs. Victor Thulon have reviewed the above mentioned letters and have authorized me to inform you that pursuant to the earlier letter of 27 November 1989 which I wrote to you that the Thulons agree to resolve the issue of the water permit relating to the property of the Thulons and the property of the Heath family. They further agree to the terms of the letter of 5 February 1990 of Mr. Eugene Heath insofar as those terms do not alter the rights of the Thulons pursuant to the prior agreements of the Thulons with the various members of the Heath family, particularly including but not limited to those written agreements, oral agreements and those agreements arising out of the acts of the parties. Such rights as the Thulons have pursuant to the above mentioned agreements are not to be altered by the conditions stated in the letter of 5 February 1990. The Thulons view the language in the letter of 5 February 1990 and in particular the provisions of subparagraph 3 of that letter as simply explanatory and not as limitations or waivers of any existing rights of the Thulons.

I trust this will clarify the position of the Thulons and allow this matter to be resolved once and for all.

Very truly yours,


John Reid Tait

DEC 07 1994

JRT/dw

cc: Mr. and Mrs. Victor Thulon
Mr. Robert P. Brown



State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814 • (208) 765-4639

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

February 12, 1990

Mr. and Mrs. Victor L. Thulon
Rt. 1 Box 34A
Juliaetta, Id. 83535

Re: 86-7272

Dear Mr. and Mrs. Thulon:

Enclosed is a copy of Mr. Eugene Heath's withdrawal of his protest containing certain conditions. Although the language is a little different, it does appear to be consistent with other documents we have received.

Unless we hear from you within 15 days of the date of this letter, we will assume that Mr. Heath's withdrawal is satisfactory and we will proceed with the approval of the above-referenced application.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RGH/pms
Enc.

cc: Mr. Robert P. Brown
Atty. for Mr. Eugene Heath



DEC 07 1990

SPECIAL NOTE: _____

PROTEST INFORMATION SHEETProtestant(s)

NAME

ADDRESS

1 Eugene Heath

2 by Atty. Robert P. Brown Clements, Brown & McNichols, P.O. Box 1510,
Lewiston, Id. 83501

8/4/89

3

4

5

6

7

8

9

10

ATTORNEY NAME

ADDRESS

Robert P. Brown

Same as above.

Date Filed: 8/4/89

Protest Due Date: 9/5/89

Issues: Protestant is owner of spring. Applicant has 1/4 interest in spring.Total amount of water available from said spring is not yet determined.Protestant feels applicant should be limited to 1/4 of the total productionof spring and not 0.092.CFS.Applicant

ATTORNEY NAME

ADDRESS

Mr. John Reid Tait

Keeton and Tait, P.O. Drawer E, Lewiston, Id. 83501

DATE

Protest Date Entered on Computer 9/7/89

Acknowledgement Letters Sent 9/8/89

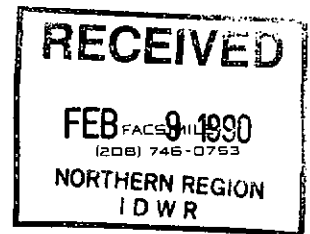
Hearing Date

(Other Dates)

Other Information: _____

DEC 07 1994

Protest information submitted to computer (following hearing): _____



CLEMENTS, BROWN & McNICHOLS
LAWYERS
13TH AND IDAHO STREETS
POST OFFICE BOX 1510
LEWISTON, IDAHO 83501
TELEPHONE (208) 743-6538

V. R. CLEMENTS (1896-1982)

REED CLEMENTS

ROBERT P. BROWN

MICHAEL E. McNICHOLS

JACK R. LITTLE*

JOHN R. STEGNER

BENTLEY G. STROMBERG

*ADMITTED IN WASHINGTON AND IDAHO

8 February 1990

Robert G. Haynes, P.E.
Regional Manager
State of Idaho, Department of
Water Resources, Northern Region
Suite 210
1910 Northwest Boulevard
Coeur d'Alene, ID 83814

Re: Application No. 86-7272;
Mr. and Mrs. Victor Thulon.

Dear Mr. Haynes:

Pursuant to our earlier telephone conversation, please find enclosed herewith Mr. Heath's letter indicating his willingness to withdraw his protest with respect to the above-referenced application on the conditions stated therein.

Very truly yours,

CLEMENTS, BROWN & McNICHOLS


ROBERT P. BROWN

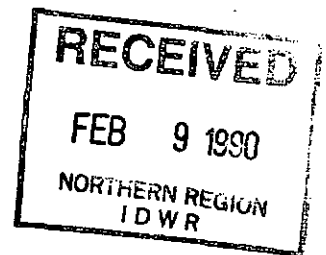
RPB:J

Enclosure

CC: Mr. Lee Heath
Mr. Gene Heath
Mr. John R. Tait

RECEIVED

DEC 07 1994



5 February 1990

Robert G. Haynes, P.E
Regional Manager
State of Idaho, Department of
Water Resources, Northern Region
Suite 210
1910 Northwest Boulevard
Coeur d'Alene, ID 83814

Re: Application No. 86-7272;
Mr. and Mrs. Victor Thulon.

Dear Mr. Haynes:

I am the protestant who filed the protest with respect to the application referred to above. I hereby agree to withdraw that protest on the condition that the permit to be issued pursuant thereto recognize only the following rights with respect to the water from the following spring site:

1. A one-quarter interest in the water flowing or produced from that certain spring site situate in Nez Perce County, Idaho, and more particularly described as follows, to-wit:

A 20-foot radius spring site in the W1/2SE1/4 of Section 23 of Township 37 North, Range 3, West B.M., Nez Perce County, Idaho, the center of which is more particularly described as follows: Commencing at the Southeast corner of the NE1/4 of Section 26 of said Township and Range; thence N.36°20'51"W., a distance of 2,919.36 feet to a point on the East right-of-way line of the County Road; thence North a distance of 298.64 feet; thence N.38°52'36"W., a distance of 648.44 feet; thence West a distance of 222.77 feet; thence North a distance of 722.04 feet; thence East a distance of 13.97 feet to the center of the above-mentioned spring site.

2. A one-half interest in the water from a 20-foot radius spring site, its location being a part of the

DEC 07 1994

Robert G. Haynes, P.E.
5 February 1990
Page 2

Southwest Quarter of the Southeast Quarter of Section 23, Township 37 North, Range 3 West Boise Meridian, Nez Perce County, Idaho, and the center of which is more particularly described as follows: Commencing at the southeast corner of the Northeast Quarter of Section 26 of said Township and Range; thence North $36^{\circ}20'51''$ West a distance of 2,919.36 feet to a point on the east right-of-way line of the county road; thence North a distance of 298.64 feet; thence North $38^{\circ}52'36''$ West a distance of 648.44 feet; thence West a distance of 222.77 feet; thence North a distance of 84.61 feet; thence West a distance of 97.97 feet to the center of the above-mentioned spring site.

3. That any permit issued to Thulons will not include the right to take water generated by springs outside either spring site (outside springs) even though such outside springs may have previously been developed by Thulons and even if such spring development causes the water from such outside springs to feed into a astern or collection box located within either of the 20-foot radius spring sites described above.

Subject to those conditions, I am willing to withdraw and do hereby withdraw my protest.

Very truly yours,


EUGENE HEATH

DEC 07 1994

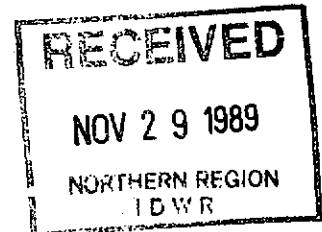
Law Offices of
Keeton and Tait
P.O. DRAWER E
312 MILLER STREET
Lewiston, Idaho
83501

Paul C. Keeton
John Reid Tait

27 November 1989

AREA CODE 208
743-6231

Mr. Robert G. Haynes, P.E.
Regional Manager
State of Idaho, Department of
Water Resources, Northern Region
Suite 210
1910 Northwest Boulevard
Coeur d'Alene, ID 38314



Re: Application No. 86-7272
Mr. and Mrs. Victor Thulon

Dear Mr. Haynes:

We represent Mr. and Mrs. Victor Thulon, Route 1, Box 34A, Juliaetta, Idaho, concerning the matter of the water permit relating to property of the Thulons and property of the Heath family. I am writing in response to the letter of November 3rd, 1989, of Mr. Robert P. Brown, attorney for the Heaths. On page 4 of the letter of Mr. Brown, he sets forth two provisions:

"(a) the specific legal descriptions of Spring No. 1 and Spring No. 2, and

(b) A provision indicating that, irrespective of the estimated quantities of water, the Thulons shall not have more than one-fourth of the water produced by Spring No. 1 and not more than one-half of the water from Spring No. 2."

My clients have reviewed those provisions and are in agreement with them. The Thulons are thus willing to accept those specific limitations which, according to Mr. Brown's letter, should be sufficient to allow the Heaths to withdraw their objection to the Thulon application.

By a copy of this letter to Mr. Robert Brown, I am requesting that he confirm the withdrawal of the objection if my understanding is correct.

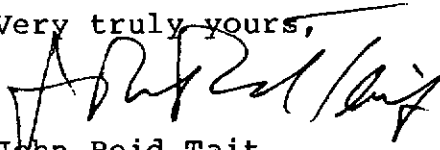
The remaining issues between the Thulons and the Heaths as noted by Mr. Brown relating to the distribution of water from the springs and the issues relating to ownership of ancillary springs and the other matters which Mr. Brown and I have been

DEC 07 1994

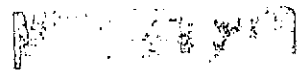
Mr. Robert G. Haynes, P.E.
27 November 1989
Page Two

corresponding about for some time will remain for the parties to resolve as they see fit. These matters should not preclude the State of Idaho from proceeding with the application for permit of the Thulons. Thank you for your assistance in this matter. If there are any further questions, please let me know.

Very truly yours,


John Reid Tait

JRT/sd
cc: Mr. Robert Brown
Mr. and Mrs. Victor Thulon


DEC 07 1994

CLEMENTS, BROWN & McNICHOLS
LAWYERS

13TH AND IDAHO STREETS
POST OFFICE BOX 1510
LEWISTON, IDAHO 83501
TELEPHONE (208) 743-6538

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(208) 746-0753

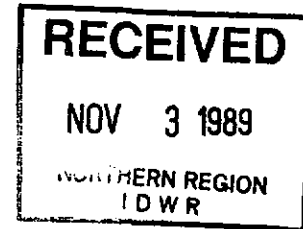
V. R. CLEMENTS (1896-1982)

REED CLEMENTS
ROBERT P. BROWN
MICHAEL E. McNICHOLS
JACK R. LITTLE
JOHN R. STEGNER

BENTLEY G. STROMBERG
*ADMITTED IN WASHINGTON AND IDAHO

3 November 1989

Robert G. Haynes, P.E.
Regional Manager
State of Idaho, Department of
Water Resources, Northern Region
Suite 210
1910 Northwest Boulevard
Coeur d'Alene, ID 83814



Re: Application No. 86-7272
Mr. and Mrs. Victor Thulon.

Dear Mr. Haynes:

I am in responding to your earlier letter and to Mr. Tait's letter of October 25th. I apologize in advance for the length of this reply but feel that I must attempt to lay out our position clearly in order that all parties may determine whether or not it is possible to resolve this matter short of a hearing.

All of the springs and the properties to which they provide water were at one time owned by Newton and Mildred Heath. Following Mr. Heath's death, portions of the property were transferred. I have enclosed a diagram showing a portion of the Heath property. The diagram is not to scale and is for illustrative purposes only. As one of the first transfers, a 3.73-acre tract was conveyed to the Heaths' son, Eugene Heath, along with a 20-foot radius spring site. The Eugene parcel is the triangular parcel in the lower left hand corner of the diagram. The spring is labeled "Spring No. 1". That conveyance was originally made in February of 1978 and was corrected by a Correction Deed, which was recorded September 11, 1980. A copy of that deed is enclosed and is marked "Document No. 1". As you will note, that deed includes a 20-foot radius spring site which was surveyed and is specifically described. At or about the same time, at least one other parcel was transferred to another son, Lee Heath, however, that transfer is not material to this controversy.

In September, 1980, Mrs. Heath sold approximately 375 acres to Mr. and Mrs. Thulon in a two-part transaction. At the time of closing, a parcel containing 3.68 acres was conveyed outright to the Thulons. The deeded Thulon property is shown on the lower right of the diagram. The remaining acreage was sold to the Thulons under a title-retaining escrow contract. This is the cross-hatched area on the enclosed diagram. As you will note from the enclosed

DEC 07 1994

Robert G. Haynes, P.E.
3 November 1989
Page 2

diagram, the Eugene Heath spring site (Spring No. 1) is surrounded by the property which Thulons were purchasing under the title-retaining escrow contract.

Another spring, which was not developed, is located on the Gene Heath property. That spring is labeled "Spring No. 2". As a part of the purchase agreement between Thulons and his mother, Gene Heath agreed to give Mr. and Mrs. Thulon a one-half interest in Spring No. 2 located on his property. That agreement was memorialized by a recorded Spring Agreement, dated September 11, 1980. A copy of that Spring Agreement is marked "Document No. 2" and is enclosed herewith.

Apparently, after determining that Spring No. 2 was not satisfactory to provide domestic water to their deeded property, Mr. and Mrs. Thulon approached Gene Heath (the owner of Spring No. 1 by virtue of Document No. 1) about obtaining water from Spring No. 1. Mr. Heath gave them a one-fourth interest in the water from the spring under a Spring Agreement dated December 10, 1980, a copy of which is enclosed herewith and marked "Document No. 3".

Subsequently, Mr. and Mrs. Thulon defaulted under the contract of purchase. In April of 1985, Mr. and Mrs. Thulon entered into a Termination Agreement with Mrs. Mildred Heath, the seller under the above-referenced escrow contract. I have enclosed herewith a copy of that Termination Agreement, marked "Document No. 4". I have also enclosed a copy of the executed and recorded Quitclaim Deed signed by Thulons pursuant thereto, which is marked "Document No. 5".

The Termination Agreement left Thulons with the 3.68 acre deeded parcel shown on the diagram and the one-quarter interest in the water from Spring No. 1. Recognizing this one-quarter interest in the water from Spring No. 1, an easement was executed as part of the termination so that Thulons would continue to maintain a pipeline from Spring No. 1 to their deeded property generally as shown on the enclosed diagram. If you examine the easement which is attached to the Termination Agreement, you will note that the spring referred to therein is Spring No. 2. This reference is incorrect and the easement should refer to Spring No. 1.

After the termination of the Heath-Thulon contract, Mr. Lee Heath, another of the children of Mildred Heath, purchased the pertinent portion of the property which Mr. and Mrs. Thulon were purchasing under the Escrow Contract. As matters now stand, Thulon owns a parcel of property shown as the Thulon property on the enclosed

DEC 07 1994

Robert G. Haynes, P.E.
3 November 1989
Page 3

diagram. Gene Heath owns the property shown as the Eugene Heath Property on the diagram and Lee Heath owns the balance of the property. Gene Heath owns the spring site for Spring No. 1 and three-quarters of the water from that spring. He also owns one-half of Spring No. 2, which is located on his property. Victor Thulon owns the remaining one-quarter of the water from Spring No. 1 and one-half of Spring No. 2.

While Thulons were in possession of the property now owned by Lee Heath as contract purchasers, they developed two additional spring sites in the vicinity of Spring No. 1 and were piping water from these springs to their property in addition to taking water from Spring No. 1. While, there has been no survey of the area after these springs were developed, we believe these ancillary spring sites are either wholly or partially outside the boundary of Spring No. 1 and are, consequently, not subject to the Spring Agreement (Document No. 3). When the contract termination papers were signed, there was no discussion with regard to reserving any rights in springs outside the 20-foot radius spring site of Spring No. 1 (in other words, the property which was the subject of the Heath to Thulon escrow contract) at the time of the termination of the Escrow Agreement. The Quitclaim Deed (Document No. 5) certainly contains no such reservation of rights, in those additional springs. To the extent that the ancillary springs are located outside the 20-foot radius spring site of Spring No. 1, they are located upon property belonging to Lee Heath and it is his position that Thulons have no right to the water, or any portion thereof, except water from springs located within the legally described boundaries of Spring No. 1. To the extent those ancillary springs are within the 20-foot radius of the spring site, the water therefrom must be shared and the Thulons are entitled to no more than one-fourth of the water therefrom.

The water available within the boundaries of Spring No. 1, the volume of water available from the ancillary springs and whether or not the development of those ancillary springs or the taking of water therefrom affects the water available from Spring No. 1 are issues which have not, as yet, been determined. So far as I know, no attempt has been made to measure the volume of water and, until recent times, the availability of water has not been an issue because only the Thulons and Gene Heath, a single man, have been using water from Spring No. 1. Now, however, Gordon Heath, another son of Mildred Heath, and his son have purchased property located to the north of the Gene Heath property and Gene Heath has agreed to give them a portion of the water from the spring. With this additional usage, it is probable that a shortage of water may

DEC 07 1994

Robert G. Haynes, P.E.
3 November 1989
Page 4

develop and it becomes necessary to make certain that none of the parties having an interest in Spring No. 1 are taking more than their share of the water produced within the 20-foot radius spring site of Spring No. 1.

It is important to my clients that any water permit issued to Thulons contain the following provisions:

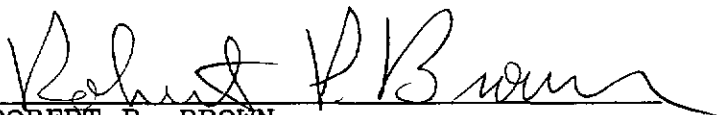
- (a) The specific legal descriptions of Spring No. 1 and Spring No. 2, and
- (b) A provision indicting that, irrespective of the estimated quantities of water, the Thulons shall not have more than one-fourth of the water produced by Spring No. 1 and not more than one-half of the water from Spring No. 2.

If the Thulons are willing to accept these specific limitations, my clients would be willing to withdraw their objection to the Thulon application. It should be understood, however, that this does not completely resolve the on-going issues with regard to the development of a system for the division and distribution of the water from Spring No. 1 and Thulons' contribution of their proportionate share of the cost for such system and any issue with regard to the ownership and/or right to draw water from the two ancillary spring developments to the extent that those works involve springs located outside of the 20-foot radius spring site of Spring No. 1.

If we may be of further assistance in resolving this mater, please contact us.

Very truly yours,

CLEMENTS, BROWN & McNICHOLS


ROBERT P. BROWN

RPB:J
Enclosures
CC: Mr. John R. Tait
Mr. Eugene Heath
Mr. Lee Heath

DEC 07 1994

Spring
Not

Property sold to Thulans on
Contract - Now Owned by
Lee Heath

DEC 07 1934

Eugene Heath
Property

Thulian
Property

Spring No 2

Road

MICROFILM No. 439268

CORRECTION DRED

RECEIVED
INDEXED
FILED
DELIVERED
MAILED

For Value Received MILDRED HEATH, a widow dealing with her sole and separate property, and MILDRED EVELYN KITTRELL HEATH, as Personal Representative of the Estate of Newton E. Heath, Deceased, the grantor, does hereby grant, bargain, sell and convey unto EUGENE HEATH, a divorced man, the grantee, whose current address is Juliaetta, Idaho, the following described premises, in Nez Perce County, State of Idaho, to-wit:

THIS IS TO CORRECT THAT DRED RECORDED FEBRUARY 1, 1978, AS INSTRUMENT NO. 411496, OF THE RECORDS OF NEZ PERCE COUNTY, STATE OF IDAHO:

That part of the Southeast Quarter of the Southwest Quarter (SE 1/4 SW 1/4) and the Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) of Section 23 of Township 37 North, Range 3 West, Boise Meridian, Nez Perce County, Idaho, more particularly described as follows: Commencing at the Southeast corner of the Northeast Quarter ONE 1/4 of Section 28 of said Township and Range; thence North 36°20'51" West a distance of 2919.36 feet to a point on the East right-of-way line of the County Road; thence North a distance of 288.84 feet; thence North 38°52'35" West a distance of 648.44 feet; thence West a distance of 222.77 feet to the true place of beginning; thence continue West a distance of 77.33 feet to a point on the East right-of-way line of the County Road; thence North 36°23'22" West along said right-of-way line a distance of 208.33 feet to a point of curve; thence continue along said right-of-way line around a curve to the right with a radius of 770.0 feet for a distance of 160.23 feet; thence North 25°47'48" West a distance of 75.57 feet to a point of curve; thence around a curve to the left with a radius of 780.0 feet for a distance of 239.57 feet; thence North 41°25'40" West a distance of 21.31 feet; thence leaving said right-of-way line East a distance of 458.64 feet; thence South a distance of 600.0 feet to the true place of beginning; containing 3.73 acres.

AND, ALSO: a 25 foot radius spring site, its location being a part of the West Half of the Southeast Quarter (W 1/2 SE 1/4) of said Section 23 and the centerline of which is more particularly described as follows: Commencing at the Northwest corner of the above described tract; thence North a distance of 122.04 feet; thence East a distance of 15.87 feet to the center of the above mentioned spring site, containing 0.03 acres.

IN WIT

and seal this

STATE OF IDAHO

County of Nez Perce

On this

undersigned, a

MILDRED HEATH

as personal repre

to me to be the pe

instrument and as

IN WIT

official seal the d



RECORDED
DEC 07 1994

RECEIVED
INDEXED
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IN WITNESS WHEREOF, the said grantor has hereunto set her hand
and seal this 9 day of September, 1980.

Mildred Heath
MILDRED HEATH, A Widow
Individually

Mildred Evelyn Kittrell Heath
MILDRED EVELYN KITTRELL HEATH
As Personal Representative of the
Estate of Newton E. Heath, Deceased.

STATE OF IDAHO)
: 38
County of Nez Perce)

On this 9th day of September, 1980, before me, the
undersigned, a Notary Public in and for the State of Idaho, personally appeared
MILDRED HEATH, a widow, individually, and MILDRED EVELYN KITTRELL HEATH,
as personal representative of the Estate of Newton E. Heath, deceased, known
to me to be the person whose name is subscribed to the within and foregoing
instrument and acknowledged to me that she executed the same.

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

Russell S. Berry
Notary Public in and for the State of Idaho,
residing at Lewiston, therein.



439268
RECORD
SAFE CO. TITLE INS. CO.
FEE 4.00
'80 SEP 11 PM 4.14

RECORDED
BY Deputy
CLERK CO. ID.

DEC 07 1994

MICROFILM No.

439274

SPRING AGREEMENT

RECEPTION
INDEXED
FILMED
DELIVERED
MAILED

THIS AGREEMENT entered into this day by and between EUGENE HEATH, a divorced man, hereinafter called "Heath", and VICTOR L. THULON and SHARON S. THULON, husband and wife, hereinafter referred to as "Thulon",

Heath is the owner of the following described spring and the land upon which it is situated. For a valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, Heath grants and conveys unto Thulon, a one-half interest in a twenty (20') foot spring site and the water produced therefrom, together with the right to install and maintain a water line over and across Heath's property to serve property owned by Thulon adjacent thereto:

One-Half interest in a 20 foot radius spring site, its location being a part of the Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) of Section 23 of Township 37 North, Range 3 West, Boise Meridian, Nez Perce County, Idaho, and the center of which is more particularly described as follows: Commencing at the Southeast corner of the Northeast Quarter (NE 1/4) of Section 26 of said Township and Range; thence North 36°20'51" West a distance of 2919.36 feet to a point on the East right-of-way line of the County Road; thence North a distance of 298.64 feet; thence North 38°52'36" West a distance of 648.44 feet; thence West a distance of 222.77 feet; thence North a distance of 84.61 feet; thence West a distance of 97.97 feet to the center of the above mentioned spring site.

This agreement shall be binding upon the heirs and assigns of the respective parties hereto.

DATED this 11th day of September, 1980.

Eugene Heath
EUGENE HEATH

Victor L. Thulon
VICTOR L. THULON

Sharon S. Thulon
SHARON S. THULON

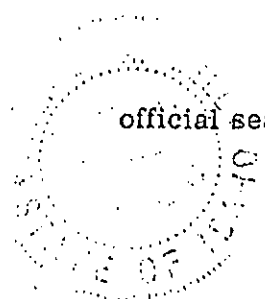
-1-

DEC 07 1994

STATE OF IDAHO)
) SS
County of Nez Perce)

On this 11th day of September, 1980, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared EUGENE HEATH, a divorced man, known to me to be the person whose name is subscribed to the within and foregoing instrument and acknowledged to me that he executed the same.

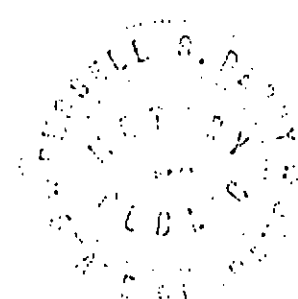
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove first written.


William A. Bell
Notary Public in and for the State of Idaho,
residing at Lewiston, therein.

STATE OF IDAHO)
) SS
County of Nez Perce)

On this 11th day of September, 1980, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared VICTOR L. THULON and SHARON S. THULON, 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 hereinabove first written.


Russell S. Berry
Notary Public in and for the State of Idaho,
residing at Lewiston, therein.

INDEXED 439274
FILED TO RECORD
FEE 4.00 BY SAFECO TITLE INS. CO.

'80 SEP 21 PM 4 14

RECORDED
BY Deputy DEPUTY

MINNEAPOLIS
DEC 07 1994

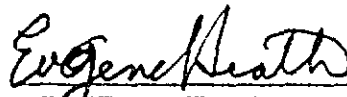
1 SPRING AGREEMENT

2 THIS AGREEMENT entered into this day by and between EUGENE
3 HEATH, a divorced man, hereinafter called "Heath", and VICTOR L.
4 THULON and SHARON S. THULON, husband and wife, hereinafter referred
to as "Thulon".

5 Heath is the owner of land upon which a spring is situated.
6 For a valuable consideration, the receipt and sufficiency whereof
7 is hereby acknowledged, Heath grants and conveys unto Thulon a one-
8 quarter ($\frac{1}{4}$) interest of any ownership he may have of all water
9 flowing or produced from said spring, together with the right to
install and/or improve the water collection facility, and to install
and maintain a water line over and across Heath's property to serve
property owned by Thulon adjacent thereto, this grant and these
rights to continue in perpetuity.

10 The location of the above-referred -to spring is set out
11 and described with more particularity in Instrument No. 439268 on
12 file in the Recorder's Office, Nez Perce County, Lewiston, Idaho,
in the last paragraph on page one (1) of said instrument.

13 IN WITNESS WHEREOF, the said grantor has hereunto set his
14 hand and seal this 10th day of December, 1980.

15
16 
17 EUGENE HEATH

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19 
20 Notary Public in and for the
21 State of Washington, residing in
Clarkston.

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TERMINATION AGREEMENT

THIS AGREEMENT, made and entered into this 2nd day of April, 1985, by and between MILDRED HEATH, also known as Mildred Evelyn Kittrell Heath, a widow, party of the first part, hereinafter designated and referred to as "HEATH", and VICTOR L. THULON and SHARON S. THULON, husband and wife, parties of the second part, hereinafter designated and referred to as "THULONS",

WITNESSETH:

WHEREAS, Heath, individually and as personal representative of the Estate of Newton E. Heath, deceased, as Seller, made and entered into an Escrow Contract with Thulons, as Buyers, wherein and whereby Heath agreed to sell unto Thulons that certain real property situate in Nez Perce County, State of Idaho, and more particularly described on "Exhibit A", attached hereto, and

WHEREAS, Heath, as sole heir, devisee and surviving spouse of Newton E. Heath, deceased, is now the owner and holder of the entire Vendor's interest under said Escrow Contract, and

WHEREAS, said Escrow Contract is evidenced of record by that certain Memorandum of Escrow Contract between the above-referenced buyers and seller, recorded September 11, 1980, as Instrument No. 4539272, records of Nez Perce County, Idaho, and such Escrow Contract is being held in escrow by Rognstad's, Inc., as escrow agent, and

WHEREAS, Thulons are in default under the terms and conditions of said Escrow Contract for failure, among other things, to timely make payments coming due thereunder, and

WHEREAS, Thulons desire to release and surrender any right, title and interest which they have in the real property described as Parcel Two on "Exhibit A", attached hereto, unto Heath; reserving, however, their interest in Parcel One described on "Exhibit A", attached hereto, which Parcel One has heretofore

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been deeded to them; said release and surrender of Parcel Two to be in exchange for a full and complete release by Heath of any liability of Thulons under the terms of said Escrow Contract and the grant by Heath of a pipeline easement as hereinafter provided,

NOW, THEREFORE, for and in consideration of the premises, the parties hereto mutually covenant contract and agree as follows, to-wit:

I.

That certain Escrow Contract dated the 11th day of September, 1980, by and between the parties hereto, and specifically including, but not limited to, the options to purchase and right of first refusal to purchase the other tracts of property in addition to Parcel Two which are contained in said Escrow Contract be, and it is hereby, terminated, canceled and held for naught. Rognstad's, Inc., as escrow agent under said Escrow Contract, is hereby directed to terminate and cancel its escrow file and to deliver all documents contained therein unto Heath.

II.

Upon execution of this agreement, Thulons shall execute and deliver unto Heath a good and sufficient Quitclaim Deed releasing and remising unto Heath any right, title and interest of Thulons in Parcel Two of the real property described on "Exhibit A", a copy of said deed being attached hereto as "Exhibit B".

III.

Upon execution of this agreement, Heath shall execute and deliver to Thulons a good and sufficient easement to maintain the existing underground pipeline which is a part of the water system serving Parcel One of the property described on "Exhibit A", a copy of said Easement being attached hereto as "Exhibit C".

IV.

Heath shall be entitled to possession of the real property hereinabove described upon the execution of this agreement

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and Thulons warrant and represent that they have not sold, transferred, assigned, leased or encumbered the real property described on "Exhibit A" of the Escrow Contract referred to herein or any interest in said real property or said Escrow Contract.

V.

The aforesaid Quitclaim Deed to be executed and delivered to Heath under Paragraph II hereof is intended to be and is an absolute conveyance of title to Parcel Two of the real property described on "Exhibit A" and is not intended as a mortgage, deed of trust or security device of any kind; that it is the intention of Thulons as grantors under said Quitclaim Deed to release, remise and convey and by said deed, does release, remise, transfer and convey to Heath all of their right, title and interest absolutely in and to said real property and that possession of said real property is likewise being transferred to Heath.

Thulons acknowledge that in the negotiation of this agreement and in the execution and delivery of said Quitclaim Deed, they have been afforded the opportunity to consult an attorney and have done so or, being apprised of their right to consult an attorney, they have elected voluntarily not to do so; that Thulons are not acting any misrepresentation as to the effect thereof and act voluntarily and freely without any coercion on the part of anyone, including Heath or any agent or employee of Heath.

That the consideration for this agreement and the deed hereinabove referred to was, and is, the satisfaction of the indebtedness existing under that certain Escrow Contract which is hereinabove referred to and, at the time of the execution of this agreement and of the deed herein referred to, Thulons believed, and now believe, that the aforesaid consideration represents the fair value of their interest in the property so deeded.

Thulons understand that this paragraph of the agreement is made for the protection and benefit of Heath, her heirs and

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assigns, and all other parties hereafter dealing with or who may acquire an interest in Parcel Two of the property described on "Exhibit A", and also for the benefit of any title insurance company which insures title to said property in reliance thereon.

VI.

Except as herein provided in this agreement, the parties hereto do hereby mutually release and discharge each other of and from any obligations or liabilities of any kind or nature arising out of or in any way connected with the Escrow Contract hereinabove referred to or the property therein described, it being expressly understood that this agreement and the documents to be executed pursuant thereto constitute a full, final and complete settlement of all claims of any kind or nature by any of the parties hereto arising out of or in any way connected with the transaction herein referred to.

VII.

This agreement shall extend to and be binding upon the heirs, estates, personal representatives, successors and assigns of the respective parties hereto. All warranties by Thulons which are herein contained shall survive the closing of this transaction.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

Mildred E. Heath (SEAL)
MILDRED E. HEATH

BY Inez Inghram (SEAL)
INEZ INGRAM, Attorney-in-fact

Victor L. Thulon (SEAL)
VICTOR L. THULON

Sharon S. Thulon (SEAL)
SHARON S. THULON

RECORDED
DEC 07 1994

STATE OF I D A H O)
: ss.
County of NEZ PERCE)

On this 3rd day of April, 1985, before me the undersigned, a notary public in and for the State of Idaho, personally appeared INEZ INGRAM, known to me to be the person whose name is subscribed to the within and foregoing instrument as attorney-in-fact of MILDRED HEATH, and acknowledged to me that she executed the same.

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

(S E A L)

Robert P. Brown
Notary Public in and for the State of
Idaho, Residing at Lewiston, therein.

3/24/89

STATE OF I D A H O)
: ss.
County of NEZ PERCE)

On this 2nd day of April, 1985, before me the undersigned, a notary public in and for the State of Idaho, personally appeared VICTOR L. THULON, known to me to be the person whose name is subscribed to the within and foregoing instrument and acknowledged to me that he executed the same.

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

(S E A L)

Robert P. Brown
Notary Public in and for the State of
Idaho, Residing at Lewiston, therein.

3/24/89

STATE OF I D A H O)
: ss.
County of NEZ PERCE)

On this 3rd day of April, 1985, before me the undersigned, a notary public in and for the State of Idaho, personally appeared SHARON S. THULON, known to me to be the person whose name is subscribed to the within and foregoing instrument and acknowledged to me that she executed the same.

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

(S E A L)

Robert P. Brown
Notary Public in and for the State of
Idaho, Residing at Lewiston, therein.

3/24/89

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EXHIBIT A

Situate in the County of Nez Perce, State of Idaho, to-wit:

PARCEL NO. ONE:

That part of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 23 of Township 37 North, Range 3 West of the Boise Meridian, Nez Perce County, Idaho, more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter (NE $\frac{1}{4}$) of Section 26 of said Township and Range; thence North 36°20'51" West a distance of 2919.36 feet to a point on the East right-of-way line of the County Road; thence North 45°07'48" West along said right-of-way line a distance of 423.30 feet to the TRUE PLACE OF BEGINNING; thence continuing North 45°07'48" West along said right-of-way line a distance of 153.68 feet to a point of curve; thence around a curve to the right with a radius of 1070.0 feet for a distance of 129.52 feet; thence North 38°11'41" West a distance of 68.78 feet to a point of curve; thence around a curve to the right with a radius of 1370.0 feet for a distance of 147.52 feet; thence North 32°01'31" West a distance of 24.14 feet to a point of curve; thence around a curve to the left with a radius of 1430.0 feet for a distance of 108.92 feet; thence North 36°23'22" West a distance of 17.99 feet; thence leaving said right-of-way line East a distance of 300.0 feet; thence South 38°52'36" East a distance of 648.44 feet; thence West a distance of 300.0 feet to the TRUE PLACE OF BEGINNING.

PARCEL NO. TWO:

The South Half of the Northwest Quarter of the Southeast Quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$), the Southwest Quarter of the Northeast Quarter of the Southeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$), the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$), the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) and the West Half of the Southeast Quarter of the Southeast Quarter (W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 23, and the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$), the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$), the West Half of the Northeast Quarter of the Northeast Quarter (W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$), and the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 26 of Township 37 North, Range 3 West of the Boise Meridian, Nez Perce County, Idaho.

EXCEPTING THEREFROM that portion of the North Half of the Northeast Quarter of said Section 26, more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 26; thence North 31°01'09" West a distance of 1528.78 feet to a point on the South line of the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section 26; thence South 89°17' West along said South line a distance of 82.32 feet to the TRUE PLACE OF BEGINNING; thence continue South 89°17' West a distance of 267.0 feet; thence North 0°43' West a distance of 107.75 feet; thence North 73°00'41" East a distance of 62.17 feet; thence North 40°48'19" West a distance of 200.0 feet; thence North

54°33'41" East a distance of 44.21 feet; thence North 40°42'19" West a distance of 290.4 feet; thence North 54°33'41" East a distance of 150.0 feet to a point on the West right-of-way line of the County Road; thence South 40°42'19" East along said County Road a distance of 290.4 feet; thence South 35°50'19" East along said County Road a distance of 258.29 feet; thence South 23°51'42" East along said County Road a distance of 82.62 feet; thence South 43°55'33" East along said County Road a distance of 139.36 feet to the TRUE PLACE OF BEGINNING.

The above described tract is subject to a 30 foot easement for ingress and egress.

EXCEPTING THEREFROM that portion of the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section 26, more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 26; thence North 31°01'09" West a distance of 1528.78 feet to a point on the South line of said Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$), said point being the TRUE PLACE OF BEGINNING; thence North 89°17' East along said South line a distance of 91.64 feet; thence North 0°16'20" West a distance of 263.15 feet; thence North 35°26'19" West a distance of 361.01 feet; thence South 54°39'46" West a distance of 240.34 feet to a point on the East right-of-way line of the County Road; thence South 35°50'19" East along said County Road a distance of 258.29 feet; thence South 23°51'42" East along said County Road a distance of 80.88 feet; thence South 43°55'33" East a distance of 188.91 feet to the TRUE PLACE OF BEGINNING;

EXCEPTING that portion of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) and the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of said Section 23 and the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section 26, more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 26; thence North 36°20'51" West a distance of 2919.36 feet to a point on the East right-of-way line of the County Road, said point being the TRUE PLACE OF BEGINNING; thence continuing North 45°07'48" West along said right-of-way line a distance of 576.98 feet to a point of curve; thence around a curve to the right with a radius of 1070.0 feet for a distance of 129.52 feet; thence North 38°11'41" West a distance of 68.78 feet to a point of curve; thence around a curve to the right with a radius of 1370.0 feet for a distance of 147.52 feet; thence North 32°01'31" West a distance of 24.14 feet to a point of curve; thence around a curve to the left with a radius of 1430.0 feet for a distance of 108.92 feet; thence North 36°23'22" West a distance of 226.31 feet to a point of curve; thence around a curve to the right with a radius of 770.0 feet for a distance of 169.23 feet; thence North 23°47'48" West a distance of 75.57 feet to a point of curve; thence around a curve to the left with a radius of 780.0 feet for a distance of 239.57 feet; thence North 41°23'40" West a distance of 21.31 feet; thence leaving said right-of-way line East a distance of 458.64 feet; thence South a distance of 600.0 feet; thence East a distance of 222.77 feet; thence South 38°52'36" East a distance of 648.44 feet; thence South a distance of 298.64 feet to the TRUE PLACE OF BEGINNING.

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EXCEPTING THEREFROM a 20 foot radius spring site, its location being a part of the West Half of the Southeast Quarter ($W\frac{1}{2}SE\frac{1}{4}$) of said Section 23 and the center of which is more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter ($NE\frac{1}{4}$) of afore described Section 26; thence North $36^{\circ}20'51''$ West a distance of 2919.36 feet; thence North a distance of 298.64 feet; thence North $38^{\circ}52'36''$ West a distance of 648.44 feet; thence West a distance of 222.77 feet; thence North a distance of 722.04 feet; thence East a distance of 13.97 feet to the center of the above mentioned spring site.

RECORDED
DEC 07 1994

QUITCLAIM DEED

THIS INDENTURE, made this day of March, 1985, by and between VICTOR L. THULON and SHARON S. THULON, husband and wife, parties of the first part, and MILDRED HEATH, also known as Mildred Evelyn Kittrell Heath, a widow, party of the second part, of

WITNESSETH:

That the said parties of the first part, for and in consideration of the sum of One Dollar (\$1), lawful money of the United States of America, to them in hand paid by said party of the second part, the receipt whereof is hereby acknowledged, do, by these presents, remise, release and forever QUITCLAIM unto the said party of the second part and to her successors and assigned, all that certain real property situate, lying and being in Nez Perce County, State of Idaho, more particularly described on "Exhibit A", attached hereto and by reference made a part hereof as though set forth herein, the purpose of this deed being to release absolutely any right, title, claim or interest of parties of the party of the first part in Parcel Two of the property described in that certain Memorandum of Escrow Contract as Instrument No. 4539272, records of Nez Perce County, Idaho.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining.

TO HAVE AND TO HOLD all and singular the said premises, together with the appurtenances, unto the party of the second part and to her successors and assigns forever.

RECEIVED
DEC 07 1994

EXHIBIT A

Situate in Nez Perce County, State of Idaho, to-wit:

The South Half of the Northwest Quarter of the Southeast Quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$), the Southwest Quarter of the Northeast Quarter of the Southeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$), the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$), the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) and the West Half of the Southeast Quarter of the Southeast Quarter (W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 23, and the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$), the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$), the West Half of the Northeast Quarter of the Northeast Quarter (W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$), and the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 26 of Township 37 North, Range 3 West of the Boise Meridian, Nez Perce County, Idaho.

EXCEPTING THEREFROM that portion of the North Half of the Northeast Quarter of said Section 26, more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 26; thence North 31°01'09" West a distance of 1528.78 feet to a point on the South line of the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section 26; thence South 89°17' West along said South line a distance of 82.32 feet to the TRUE PLACE OF BEGINNING; thence continue South 89°17' West a distance of 367.0 feet; thence North 0°43' West a distance of 107.75 feet; thence North 73°00'41" East a distance of 62.17 feet; thence North 40°48'19" West a distance of 200.0 feet; thence North 54°33'41" East a distance of 44.21 feet; thence North 40°42'19" West a distance of 290.4 feet; thence North 54°33'41" East a distance of 150.0 feet to a point on the West right-of-way line of the County Road; thence South 40°42'19" East along said County Road a distance of 290.4 feet; thence South 35°50'19" East along said County Road a distance of 258.29 feet; thence South 23°51'42" East along said County Road a distance of 82.62 feet; thence South 43°55'33" East along said County Road a distance of 139.36 feet to the TRUE PLACE OF BEGINNING.

The above described tract is subject to a 30 foot easement for ingress and egress.

EXCEPTING THEREFROM that portion of the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section 26, more particularly described as follows:

DEC 07 1994

Commencing at the Southeast corner of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 26; thence North 31°01'09" West a distance of 1528.78 feet to a point on the South line of said Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$), said point being the TRUE PLACE OF BEGINNING; thence North 89°17' East along said South line a distance of 91.64 feet; thence North 0°16'20" West a distance of 263.15 feet; thence North 35°26'19" West a distance of 361.01 feet; thence South 54°39'46" West a distance of 240.34 feet to a point on the East right-of-way line of the County Road; thence South 35°50'19" East along said County Road a distance of 258.29 feet; thence South 23°51'42" East along said County Road a distance of 80.88 feet; thence South 43°55'33" East a distance of 188.91 feet to the TRUE PLACE OF BEGINNING;

EXCEPTING that portion of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) and the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of said Section 23 and the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section 26, more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 26; thence North 36°20'51" West a distance of 2919.36 feet to a point on the East right-of-way line of the County Road, said point being the TRUE PLACE OF BEGINNING; thence continuing North 45°07'48" West along said right-of-way line a distance of 576.98 feet to a point of curve; thence around a curve to the right with a radius of 1070.0 feet for a distance of 129.52 feet; thence North 38°11'41" West a distance of 68.78 feet to a point of curve; thence around a curve to the right with a radius of 1370.0 feet for a distance of 147.52 feet; thence North 32°01'31" West a distance of 24.14 feet to a point of curve; thence around a curve to the left with a radius of 1430.0 feet for a distance of 108.92 feet; thence North 36°23'22" West a distance of 226.31 feet to a point of curve; thence around a curve to the right with a radius of 770.0 feet for a distance of 169.23 feet; thence North 23°47'48" West a distance of 75.57 feet to a point of curve; thence around a curve to the left with a radius of 780.0 feet for a distance of 239.57 feet; thence North 41°23'40" West a distance of 21.31 feet; thence leaving said right-of-way line East a distance of 458.64 feet; thence South a distance of 600.0 feet; thence East a distance of 222.77 feet; thence South 38°52'36" East a distance of 648.44 feet; thence South a distance of 298.64 feet to the TRUE PLACE OF BEGINNING.

EXCEPTING THEREFROM a 20 foot radius spring site, its location being a part of the West Half of the Southeast Quarter (W $\frac{1}{2}$ SE $\frac{1}{4}$) of said Section 23 and the center of which is more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter (NE $\frac{1}{4}$) of afore described Section 26; thence North 36°20'51" West a distance of 2919.36 feet; thence North a distance of 298.64 feet; thence North 38°52'36" West a distance of 648.44 feet; thence West a distance of 222.77 feet; thence North a distance of 722.04 feet; thence East a distance of 13.97 feet to the center of the above mentioned spring site.

RECORDED
DEC 07 1994

EASEMENT

THIS INDENTURE, made and entered into this 3rd day of April, 1985, by and between MILDRED HEATH, also known as MILDRED EVELYN KITTRELL HEATH, party of the first party, and VICTOR L. THULON and SHARON S. THULON, husband and wife, parties of the second part, of Post Office Box 34A, Juliaetta, ID 83535,

WITNESSETH:

That the said party of the first part, for and in consideration of the sum of One Dollar (\$1), lawful money of the United States of America, to her in hand paid by the parties of the second part, the receipt whereof is hereby acknowledged has bargained and sold and, by these presents, does bargain, sell, convey and transfer unto parties of the second part a permanent easement to maintain an underground water pipeline at its present location upon certain property belonging to the party of the first part located in the Southwest Quarter of the Southeast Quarter of Section 23, Township 37 North, Range 3 West, Boise Meridian, Nez Perce County, Idaho, which pipeline extends from that certain spring, the location of which is more particularly described in that certain Spring Agreement, dated the 11th day of September, 1980, between Eugene Heath and parties of the second part, recorded as Instrument No. 439274, records of Nez Perce County, Idaho, for the purpose of conveying water from said spring to the property of the parties of the second part, which property is more particularly described in that certain Warranty Deed from party of the first part to parties of the second part, dated the 11th day of September, 1980, and recorded as Instrument No. 439273, records of Nez Perce County, Idaho, together with the reasonable right to go upon the above-described property of party of the first part for the purpose of repairing and maintaining said pipeline.

RECORDED
DEC 07 1994

IN WITNESS WHEREOF, the party of the first party has hereunto set her hand and seal the day and year first above written.

BY INEZ INGRAM, attorney-in-fact (SEAL)

On this day of April, 1985, before me the undersigned, a notary public in and for the State of Idaho, personally appeared INEZ INGRAM, known to me to be the person whose name is subscribed to the within and foregoing instrument as attorney-in-fact of MILDRED HEATH, and acknowledged to me that she executed the same.

(S E A L)

Notary Public in and for the State of
Idaho, Residing at Lewiston, therein.
My Commission Expires:

DEC 07 1994

16128

①

RECORDED (✓)
INDEXED (✓)
FILED (✓)
MAILED (✓)

486172

QUITCLAIM DEED

THIS INDENTURE, made this 2nd day of April, 1985, by and between VICTOR L. THULON and SHARON S. THULON, husband and wife, parties of the first part, and MILDRED HEATH, also known as Mildred Evelyn Kittrell Heath, a widow, party of the second part, of

WITNESSETH:

That the said parties of the first part, for and in consideration of the sum of One Dollar (\$1), lawful money of the United States of America, to them in hand paid by said party of the second part, the receipt whereof is hereby acknowledged, do, by these presents, remise, release and forever QUITCLAIM unto the said party of the second part and to her successors and assigned, all that certain real property situate, lying and being in Nez Perce County, State of Idaho, more particularly described on "Exhibit A", attached hereto and by reference made a part hereof as though set forth herein, the purpose of this deed being to release absolutely any right, title, claim or interest of parties of the party of the first part in Parcel Two of the property described in that certain Memorandum of Escrow Contract as Instrument No. 439272 records of Nez Perce County, Idaho.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining.

TO HAVE AND TO HOLD all and singular the said premises, together with the appurtenances, unto the party of the second part and to her successors and assigns forever.

RECORDED
DEC 07 1994

IN WITNESS WHEREOF, said party of the first part has hereunto set his hand and seal the day and year first above written.

Victor L. Thulon (SEAL)
VICTOR L. THULON

Sharon S. Thulon (SEAL)
SHARON S. THULON

STATE OF IDAHO)
County of NEZ PERCE) ss.

On this 2nd day of April, 1985, before me the undersigned, a notary public in and for the State of Idaho, personally appeared VICTOR L. THULON and SHARON S. THULON, husband and wife, known to me to be the person 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.

Robert P. Brown
Notary Public in and for the State of
Idaho, Residing at Lewiston, therein.
3/24/89

STATE OF IDAHO)
County of NEZ PERCE) ss.

On this 3rd day of April, 1985, before me the undersigned, a notary public in and for the State of Idaho, personally appeared SHARON S. THULON, known to me to be the person whose name is subscribed to the within and foregoing instrument and acknowledged to me that she executed the same.

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

Robert P. Brown
Notary Public in and for the State of
Idaho, Residing at Lewiston, therein.
3/24/89

NEZ PERCE COUNTY TITLE CO.
INST. NO. 486172
FILED FOR RECORD
FEB 28 1985
DOWNS RECORDS
Jenny Schuler
MAY 10 8 24 3 52
DEC 07 1994

EXHIBIT A

Situate in Nez Perce County, State of Idaho, to-wit:

The South Half of the Northwest Quarter of the Southeast Quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$), the Southwest Quarter of the Northeast Quarter of the Southeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$), the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$), the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) and the West Half of the Southeast Quarter of the Southeast Quarter (W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 23, and the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$), the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$), the West Half of the Northeast Quarter of the Northeast Quarter (W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$), and the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 26 of Township 37 North, Range 3 West of the Boise Meridian, Nez Perce County, Idaho.

EXCEPTING THEREFROM that portion of the North Half of the Northeast Quarter of said Section 26, more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 26; thence North 31°01'09" West a distance of 1528.78 feet to a point on the South line of the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section 26; thence South 89°17' West along said South line a distance of 82.32 feet to the TRUE PLACE OF BEGINNING; thence continue South 89°17' West a distance of 367.0 feet; thence North 0°43' West a distance of 107.75 feet; thence North 73°00'41" East a distance of 62.17 feet; thence North 40°48'19" West a distance of 200.0 feet; thence North 54°33'41" East a distance of 44.21 feet; thence North 40°42'19" West a distance of 290.4 feet; thence North 54°33'41" East a distance of 150.0 feet to a point on the West right-of-way line of the County Road; thence South 40°42'19" East along said County Road a distance of 290.4 feet; thence South 35°50'19" East along said County Road a distance of 258.29 feet; thence South 23°51'42" East along said County Road a distance of 82.62 feet; thence South 43°55'33" East along said County Road a distance of 139.36 feet to the TRUE PLACE OF BEGINNING.

The above described tract is subject to a 30 foot easement for ingress and egress.

EXCEPTING THEREFROM that portion of the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section 26, more particularly described as follows:

RECORDED
DEC 07 1994

Commencing at the Southeast corner of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 26; thence North 31°01'09" West a distance of 1528.78 feet to a point on the South line of said Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$), said point being the TRUE PLACE OF BEGINNING; thence North 89°17' East along said South line a distance of 91.64 feet; thence North 0°16'20" West a distance of 263.15 feet; thence North 35°26'19" West a distance of 361.01 feet; thence South 54°39'46" West a distance of 240.34 feet to a point on the East right-of-way line of the County Road; thence South 35°50'19" East along said County Road a distance of 258.29 feet; thence South 23°51'42" East along said County Road a distance of 80.88 feet; thence South 43°55'33" East a distance of 188.91 feet to the TRUE PLACE OF BEGINNING;

EXCEPTING that portion of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) and the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of said Section 23 and the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section 26, more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 26; thence North 36°20'51" West a distance of 2919.36 feet to a point on the East right-of-way line of the County Road, said point being the TRUE PLACE OF BEGINNING; thence continuing North 45°07'48" West along said right-of-way line a distance of 576.98 feet to a point of curve; thence around a curve to the right with a radius of 1070.0 feet for a distance of 129.52 feet; thence North 38°11'41" West a distance of 68.78 feet to a point of curve; thence around a curve to the right with a radius of 1370.0 feet for a distance of 147.52 feet; thence North 32°01'31" West a distance of 24.14 feet to a point of curve; thence around a curve to the left with a radius of 1430.0 feet for a distance of 108.92 feet; thence North 36°23'22" West a distance of 226.31 feet to a point of curve; thence around a curve to the right with a radius of 770.0 feet for a distance of 169.23 feet; thence North 23°47'48" West a distance of 75.57 feet to a point of curve; thence around a curve to the left with a radius of 780.0 feet for a distance of 239.57 feet; thence North 41°23'40" West a distance of 21.31 feet; thence leaving said right-of-way line East a distance of 458.64 feet; thence South a distance of 600.0 feet; thence East a distance of 222.77 feet; thence South 38°52'36" East a distance of 648.44 feet; thence South a distance of 298.64 feet to the TRUE PLACE OF BEGINNING.

EXCEPTING THEREFROM a 20 foot radius spring site, its location being a part of the West Half of the Southeast Quarter (W $\frac{1}{2}$ SE $\frac{1}{4}$) of said Section 23 and the center of which is more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter (NE $\frac{1}{4}$) of afore described Section 26; thence North 36°20'51" West a distance of 2919.36 feet; thence North a distance of 298.64 feet; thence North 38°52'36" West a distance of 648.44 feet; thence West a distance of 222.77 feet; thence North a distance of 722.04 feet; thence East a distance of 13.97 feet to the center of the above mentioned spring site.

DEC 07 1994

Law Offices of
Keeton and Tait

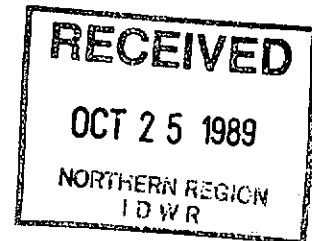
P.O. DRAWER E
312 MILLER STREET

Lewiston, Idaho
83501

Paul C. Keeton
John Reid Tait

AREA CODE 208
743-6231

24 October 1989



Mr. Robert G. Haynes, P.E.
State of Idaho
Department of Water Resources
Northern Region
Suite 210
1910 Northwest Blvd.
Coeur d'Alene, ID 83814

Dear Mr. Haynes:

Re: 86-7272
Mr. and Mrs. Victor Thulon

I am writing in response to your letter of September 8, 1989,
to Mr. and Mrs. Victor Thulon.

Mr. and Mrs. Thulon have attempted to resolve the matter
concerning the protest of the above referenced application for
permit to appropriate the public waters of the State of Idaho,
a copy of this letter is enclosed for your easy reference.
As of the date of this letter we have not had a response from
the opposing parties or their attorney and request that a
hearing be set.

If there is any information that you need please let me know.

Very truly yours,

A handwritten signature in dark ink, appearing to read "John Reid Tait".

John Reid Tait

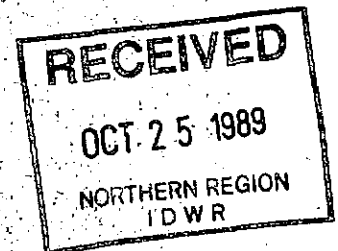
JRT/dh

Enc.

CC: Mr. and Mrs. Victor Thulon
Mr. Robert Brown

A rectangular stamp with the date "DEC 07 1994" and some illegible text above it.

DEC 07 1994



8 February 1989

COPY

Mr. Robert P. Brown
Attorney at Law
Post Office Drawer 1510
Lewiston, ID 83501

Dear Bob:

Re: Thulon - Heath

Pursuant to your recent phone call I have talked with Mr. and Mrs. Thulon. It would seem to me that we should approach this by looking at some basic questions, first as to the relationship of the parties and what they want to end up with as far as understandings and agreements concerning their respective parcels of ground and the water that is available to them both. In addition, I am enclosing a copy of a letter dated October 20, 1988 which I don't believe was mentioned earlier in either of our letters and which was just brought to my attention concerning the permission to construct a water tank on the Heath property. While Mr. and Mrs. Thulon have no present plans to build such a tank, depending on the outcome of this, they may well want to do so. I wanted to be sure you had this additional document.

It would first appear that there is no question but that the parties agreed to and intended to agree to a scheme whereby the Thulons had a one-quarter interest in a spring or water from a twenty foot radius of a spring that was described although apparently inaccurately. It is this domestic line that is of principle importance and the Thulons would like to have a new agreement prepared that clarifies the rights of the respective parties with reference to this water system. Second, there is an existing irrigation water system consisting of two springs which were developed by the Thulons on the property which they were purchasing and which has been returned to your clients. Apparently there was no specific notation as to this water system or the use of these two additional springs in the documents that terminated the purchase agreement. My clients do, however, feel that they do have a continued right to this irrigation water system consisting of two lines which run from two springs, one of which was developed with a concrete box and the other which was partially developed with piping and a clay dam to trap water. This irrigation system formerly ran to a

DEC 07 1994

Mr. Robert P. Brown
8 February 1989
Page 2

stock tank which was used by your clients. The water was cut off to this when your clients insisted that the irrigation lines be cut.

It is my understanding that your clients have developed a new stock tank which they are filling by tapping the domestic line which results in an increased demand in the domestic water line. This further results in air being sucked into my clients' system and a lack of water for them.

Finally, we have the situation of the suggestion of a newly designed system to assure proper division of the water in the domestic system. With reference to that, my clients would suggest that each propose a simple system to see if a system can be devised that all would agree upon that could be done at a minimal expense. My clients have sketched out a system which has a common water line splitting into two lines with one having a flow valve to provide one-quarter to them and the balance of the water running into a separate tank for water to be divided among your client and those with whom he is dealing. The water from the one-fourth valve would go into a holding tank for flow to my clients' house and an overflow line being available to carry the excess to your clients' holding tank so that no water is wasted. The holding tank overflow could also flow the other way from your clients' holding tank to my clients' holding tank to assure that no water is wasted. Naturally, this system would have to be reviewed by an engineer but it does seem to be feasible. Perhaps your clients have another system that would be relatively inexpensive that they would care to propose. My clients would be more than happy to review that system.

If your clients do want to have an engineer prepare a proposal for a more elaborate system, please let us know the cost estimate for the initial design so that they can decide whether they wish to participate in the share of the cost of the initial design work for such a system.

In the course of reviewing this, my clients brought to my attention the fact that the current fence between their property and your clients' property is, in fact, a fence that your clients placed along a natural area when the Thulons owned both pieces. In fact, this fence is not on the property line and is not in any way intended to be on the property line.

DEC 07 1991

Mr. Robert P. Brown
8 February 1989
Page 3

My clients do want to call this to your clients' attention so that there is no question that they have agreed to the use of their property by your clients or have in any way agreed that the existing fence is to be considered the property line.

My clients do request that in due course your clients provide an appropriate cattle fence on the actual property line to keep their cattle out and to properly indicate the actual property line. My clients are not insisting that this be done at any particular time but simply pointing out that it does need to be done in the reasonable near future so that further problems can be avoided.

Finally, I did explore with my clients the question of whether they would be willing to purchase the old parcel back or such of it as contains the existing irrigation and domestic lines to their property so that they would have ownership and so that there would be no difficulties concerning their having access to maintain these waterlines without going upon your clients' property. I understand that there was some concern on the part of Mr. Heath about my clients going on his property to repair these lines so it may be advisable to consider selling some or all of the property back to the Thulons to avoid this. Naturally they would be willing to provide any reasonable easements that might be necessary to assure that there is no difficulty in your client or others maintaining existing or needed future water lines that might run across any property that is purchased or repurchased by the Thulons. If your clients wish to explore this please let us know the description of the property and the price as it may be easier and more cost effective to resolve some of these matters through such a purchase of property through which these lines for water actually travel.

Thank you for your consideration to these matters and we look forward to your response so we can try and resolve this.

Very truly yours,

John Reid Tait

JRT/dw
cc: Mr. and Mrs. Victor Thulon

DEC 07 1984



State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814 • (208) 765-4639

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

September 8, 1989

Mr. and Mrs. Victor Thulon
Rt. 1 Box 34A
Juliaetta, Id. 83535

Re: 86-7272

Dear Mr. and Mrs. Thulon:

Enclosed is a copy of a protest filed against the approval of the above-referenced application for permit to appropriate the public waters of the State of Idaho. 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 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 Manager

RGH/pms
Enclosure

MAILED

DEC 07 1989





State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814 • (208) 765-4639

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

September 8, 1989

Mr. Robert P. Brown
Clements, Brown & McNichols
P.O. Box 1510
Lewiston, Id. 83501

Re: 86-7272 - Victor and Sharon Thulon
Protest of Eugene Heath

Dear Mr. Brown:

Your client's 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 Manager
RGH/pms



RECEIVED
DEC 07 1989

CLEMENTS, BROWN & McNICHOLS
LAWYERS

13TH AND IDAHO STREETS
POST OFFICE BOX 1510

LEWISTON, IDAHO 83501

TELEPHONE (208) 743-5538

FACSIMILE
(208) 746-0753

V. R. CLEMENTS (1896-1982)

REED CLEMENTS

ROBERT P. BROWN

MICHAEL E. McNICHOLS

JACK R. LITTLE*

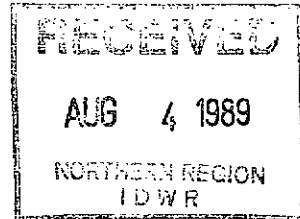
JOHN R. STEGNER

BENTLEY G. STROMBERG

*ADMITTED IN WASHINGTON AND IDAHO

3 August 1989

Director
Idaho Dept. of Water Resources
Northern Region
1910 Northwest Boulevard, Suite 210
Coeur d'Alene, ID 83814



Re: Victor and Sharon Thulon
Application No. 86-07272.

Gentlemen:

Please find enclosed herewith the original Protest of the above-referenced application, which we are filing on behalf of Eugene Heath. Please advise us if you need anything else with respect to this matter.

Thank you for your assistance herein.

Very truly yours,

CLEMENTS, BROWN & McNICHOLS


ROBERT P. BROWN

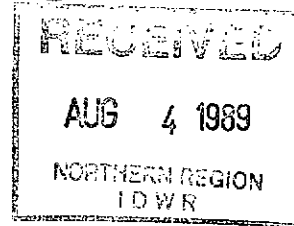
RPB:J

Enclosure

CC: Mr. Gene Heath
Mr. John R. Tait

RECEIVED

DEC 07 1994



STATE OF IDAHO, DEPARTMENT OF WATER RESOURCES

Application of	)	
	)	Application No. 86-07272
VICTOR L. THULON AND SHARON S.)	)	
THULON, Route 1, Box 34A,	)	PROTEST
Juliaetta, ID 83535	)	

The undersigned is a party having an interest in both of the springs which are described in the above-referenced Application and does hereby protest the Application for Water Permit filed by the applicants and, particularly, the portion of the application wherein applicants seek .08 cubic feet per second of water for irrigation purposes and .012 cubic feet per second for domestic purposes because the applicants' interest in the spring from which applicants seek to obtain domestic water is limited to a one-quarter ($1/4$) interest in the water from said spring and the interest of the applicants in the spring from which applicants seek to obtain irrigation water is limited to a one-half ($1/2$) interest in said water. The amount of water available from either of these springs has not yet been determined and applicants' interest therein should be limited, in any event, to one-fourth ($1/4$) of the water available from the domestic water spring and one-half ($1/2$) of the water from the irrigation water spring.

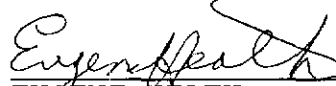
The undersigned has an interest because he is the owner of the spring described in the above-referenced application.

WHEREFORE, protestant prays that applicants' Application for a Water Permit be denied.

PROTEST

DEC 07 1994

DATED this 2nd day of August, 1989.


EUGENE HEATH

DEC 07 1994

TRIBUNE PUBLISHING COMPANY, INC.

The Lewiston Morning Tribune
505 C St., P.O. Box 957
Lewiston, Idaho 83501
(208) 743-9411

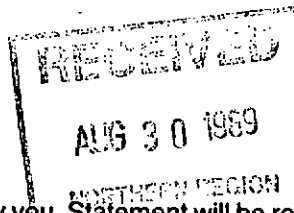
Date 082489 INVOICE No. L00172032Account No. 96475 5-07539Description 72032NOTICTimes 2 Lines 50

Tab Lines _____

**LEGAL ADVERTISING
INVOICE**

SOLD TO:

STATE OF IDAHO
DEPT. OF WATER RESOURCES
4055 GOVERNMENT WAY
COEURDALENE
ID 83814

\$ 50.00

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
Please Retain This Invoice as Your Statement Will Refer To Invoice by No. Only.

**NOTICE OF APPLICATION
FOR WATER RIGHT**

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

85-07539

GILLIAM, GARY L.

RT. 1 BOX 65C

CULDESAC, ID 83524

Source: SPRING

Tributary: SINKS

Diversion Pt:

LOT 2 (SEWNNE) Sec 4 T 35N R

03W

LOT 3 (SEWNNE) Sec 4 T 35N R

03W

Use: DOMESTIC (.010 CFS)

Date Filed: 1/18/1989

In: T35N R03W S04 NWNE

86-07272

THULON, VICTOR L.

THULON, SHARON S.

RT. 1 BOX 34A

JULIAETTA, ID 83535

Source: SPRINGS

Tributary: UNNAMED STREAM

Diversion Pt:

SWNWSE Sec 23 T 37N R 03W

NWSWSE Sec 23 T 37N R 03W

Use:

IRRIGATION (.080 CFS)

DOMESTIC (.012 CFS)

Date Filed: 1/19/1989

In:

T37N R03W S23 SWSE

T37N R03W S26 NWNE

4.8 ACRES TOTAL

For additional information concern-
ing the property location, call
the Northern Regional Office at
765-4639.

The permit(s) will be subject to all
prior water rights. Protests must be
filed with the Director, Dept. of Wa-
ter Resources, Northern Region,
1910 Northwest Blvd., Suite 210, Co-
eur d'Alene, Idaho 83814 on or be-
fore SEPTEMBER 5, 1989.
R. KEITH HIGGINSON, Director

[Handwritten signature]
8/31/89

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
County of Nez Perce

Sue Baumeister

, being duly sworn,

deposes and says, I am the Legal Clerk
of the Tribune Publishing Company, a corporation organized and existin-
under and by virtue of the laws of the State of Idaho, publishers of the
LEWISTON MORNING TRIBUNE, a newspaper of general circulation
published at Lewiston, Nez Perce County, Idaho; That the said Lewiston
Morning Tribune is an established paper and has been published regular-
ly and issued regularly at least once a day for more than 21 consecutive
years next immediately preceding the first publication of this notice, and
has been so published uninterrupted for said period; that the

NOTICE OF APPLICATION FOR

attached hereto and which is made a part of this affidavit was published in
the said Lewiston Morning Tribune, 2 time(s). Publication be-
ing on 081789

WEEK for 2 consecutive WEEKS or once a
publication thereof being on the 081789, the first
publication thereof being on the 082489, and said

NOTICE OF APPLICATION FOR

was so published in the regular and entire issue of said newspaper and
not in a supplement thereof and was so published in every issue and
number of the said paper, during the period and times of publication as
set forth above.

[Handwritten signature: Sue Baumeister]

SUBSCRIBED AND SWORN BEFORE ME THIS THE 24day of August 1989

[Handwritten signature: Sheral M. Lutz]

Notary Public in and for the State of Idaho,
residing at Lewiston, therein.

RECEIVED
DEC 07 1994

TRIBUNE PUBLISHING COMPANY, INC.
The Lewiston Morning Tribune
505 C St., P.O. Box 957
Lewiston, Idaho 83501
(208) 743-9411

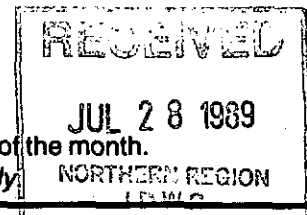
Date 072589 INVOICE No. 100169332
Account No. 96475 PS-07539
Description 69332NOTIC
Times 2 Lines 49
Tab Lines _____

**LEGAL ADVERTISING
INVOICE**

SOLD TO: STATE OF IDAHO
DEPT. OF WATER RESOURCES
4055 GOVERNMENT WAY
COEURDALENE
ID 83814

\$ 49.00

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
Please Retain This Invoice as Your Statement Will Refer To Invoice by No. Only



AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
County of Nez Perce

Sue Baumeister, being duly sworn,
deposes and says, I am the Legal Clerk
of the Tribune Publishing Company, a corporation organized and existing
under and by virtue of the laws of the State of Idaho, publishers of the
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years next immediately preceding the first publication of this notice, and
has been so published uninterrupted for said period; that the

NOTICE OF APPLICATION FOR
attached hereto and which is made a part of this affidavit was published in
the said Lewiston Morning Tribune, 2 time(s). Publication be-
ing on 071889 or once a
WEEK for 2 consecutive WEEKS, the first
publication thereof being on the 071889, and the last pub-
lication thereof being on the 072589, and said

NOTICE OF APPLICATION FOR
was so published in the regular and entire issue of said newspaper and
not in a supplement thereof and was so published in every issue and
number of the said paper, during the period and times of publication as
set forth above.

SUBSCRIBED AND SWORN BEFORE ME THIS THE 25
day of July 1989

Ray Road
Notary Public in and for the State of Idaho,
residing at Lewiston, therein.

69332
NOTICE OF APPLICATION
FOR WATER RIGHT
The Following application(s) have
been filed to appropriate the public
waters of the State of Idaho:
85-07539
GILLIAM, GARY L.
RT. 1 BOX 65C
CULDESAC, ID 83524
Source: SPRING
Tributary: SINKS
Diversion Pt:
LOT 2 (SEWNNE) Sec 4 T 35N R
03W
LOT 3 (SEWNNE) Sec 4 T 35N R
03W
Use: DOMESTIC (.010 CFS)
Date Filed: 1/18/1989
In: T35N R03W S04 NWNE
86-07272
THULON, VICTOR L.
THULON, SHARON S.
RT. 1 BOX 34A
JULIAETTA, ID 83535
Source: SPRINGS
Tributary: UNNAMED STREAM
Diversion Pt:
SWNWSE Sec. 23 T 37N R 03W
NWSWSE Sec 23 T 37N R 03W
Use:
IRRIGATION (.080 CFS)
DOMESTIC (.012 CFS)
Date Filed: 1/19/1989
In: T37N R03W S23 SWSE
S26 NWNE

4.8 ACRES TOTAL

For additional information con-
cerning the property location, call
the Northern Regional Office at
765-4639.

The permit(s) will be subject to all
prior water rights. Protests must be
filed with the Director, Dept. of Wa-
ter Resources, Northern Region,
1910 Northwest Blvd., Suite 210, Co-
eur d' Alene, Idaho 83814 on or be-
fore AUGUST 7, 1989.
R. KEITH HIGGINSON, Director

DEC 07 1994

06/28/89

MEMORANDUM TO FILE NUMBER 86-04190

FROM: ALLEN BEARDSLEE

RE: VALIDITY OF ORIGINAL CLAIM

BACKGROUND - WE RECEIVED A NEW APPLICATION FOR PERMIT THAT WAS TAKEN AT THE MOBILE CLAIMS TAKING OFFICE. UPON REVIEW OF THIS APPLICATION FOR PERMIT IT WAS FOUND THAT VICTOR AND SHARON HAD FILED A PREVIOUS STATUTORY CLAIM TO WATER RIGHTS IN 1983 (86-04190).

ACTION - I CALLED MRS. THULON 06/28/89 TO FIND OUT WHY A APPLICATION FOR PERMIT WAS FILED INSTEAD OF A CLAIM BASED ON THEIR PRIOR FILING. SHE STATED THAT AFTER SHE EXPLAINED TO THE MOBILE OFFICE AGENT THAT NO WATER HAD BEEN USED ON HER PROPERTY UNTIL 1980, SHE WAS ADVISED TO FILE A NEW APPLICATION FOR PERMIT. IT WAS EXPLAINED TO HER THAT HER USE WAS IN VIOLATION OF THE MANDATORY FILING STATUTE AND A NEW APPLICATION FOR PERMIT WAS NECESSARY TO ESTABLISH WATER RIGHTS.

DETERMINATION - IT WAS DETERMINED THAT CLAIM 86-04190 IS INVALID DUE TO NON-USE.

COPIES OF THIS NOTE TO THE FILE ARE IN THE FOLLOWING FILES; NORTHERN REGION (86-04190), STATE OFFICE (86-04190) AND NEW APPLICATION FOR PERMIT.

DEC 07 1989

86-07272

THULON, VICTOR L.
THULON, SHARON S.
RT. 1 BOX 34A
JULIAETTA, ID 83535

Source: SPRINGS

Tributary: UNNAMED STREAM

Diversion Pt: SWNWSE Sec 23 T 37N R 03W
 NWSWSE Sec 23 T 37N R 03W

Use: IRRIGATION (.080 CFS)
 DOMESTIC (.012 CFS)

Date Filed: 1/19/1989

In: T37N R03W S23 SWSE
 S26 NWNE

4.8 ACRES TOTAL

DEC 07 1994