

Canyon

1670 000
FEET

SUPPLEMENTAL
EXAM
10/22/96

T34

T33

5120

5119

5118

12' 30"

SEC. 18

NE 1/4 SW 1/4 NW 1/4

5116

ATERN

85-07222

5115

T. 33N., R. 4W

Creek

JEEP

TRAIL

12

7

SPRING
HOME

18

Red Bird
3996

"SUPPLEMENTAL EXAM"

PERMIT # PS-07222

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
FIELD REPORT SUPPLEMENT

PHOTOGRAPHS

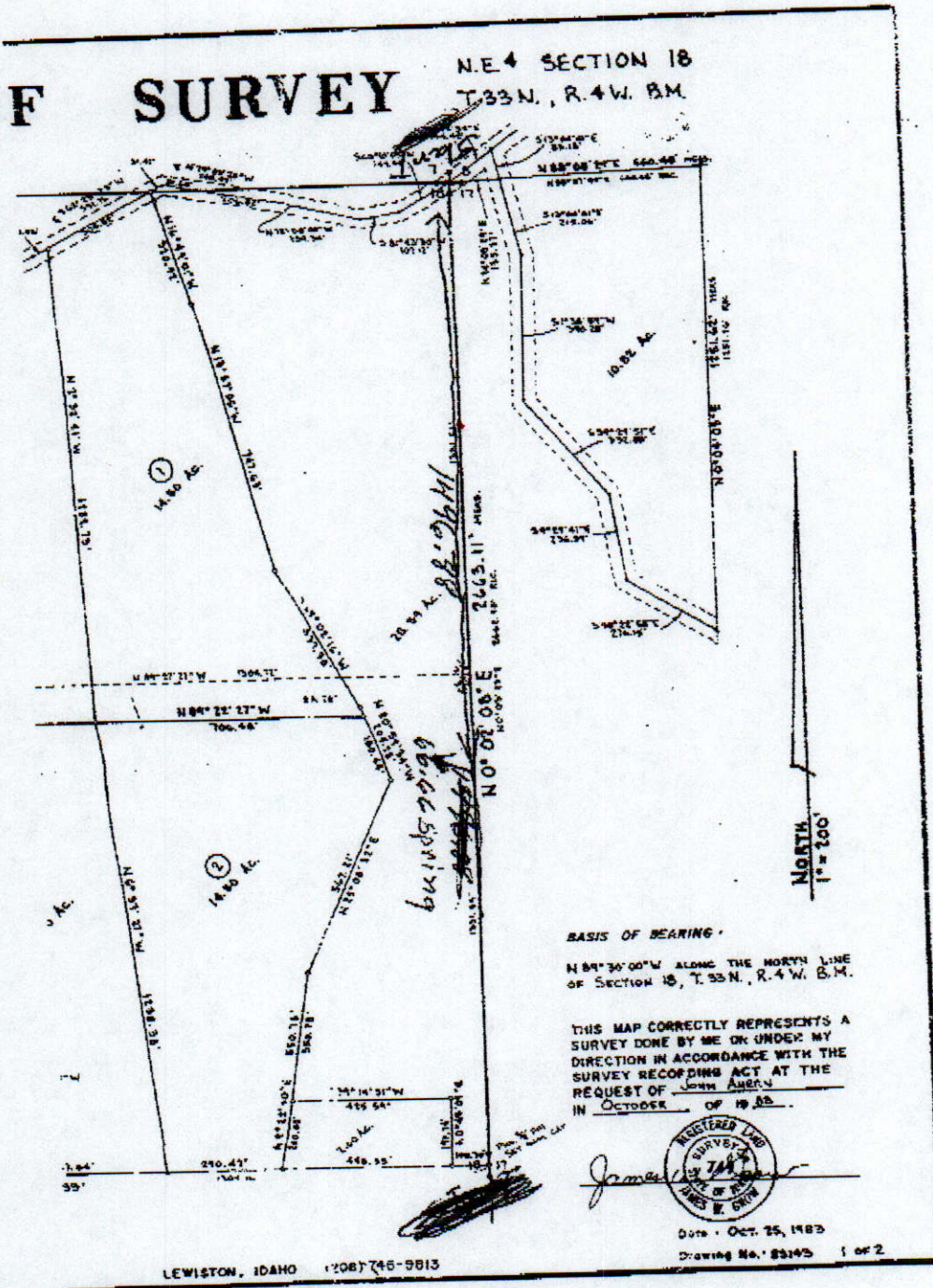


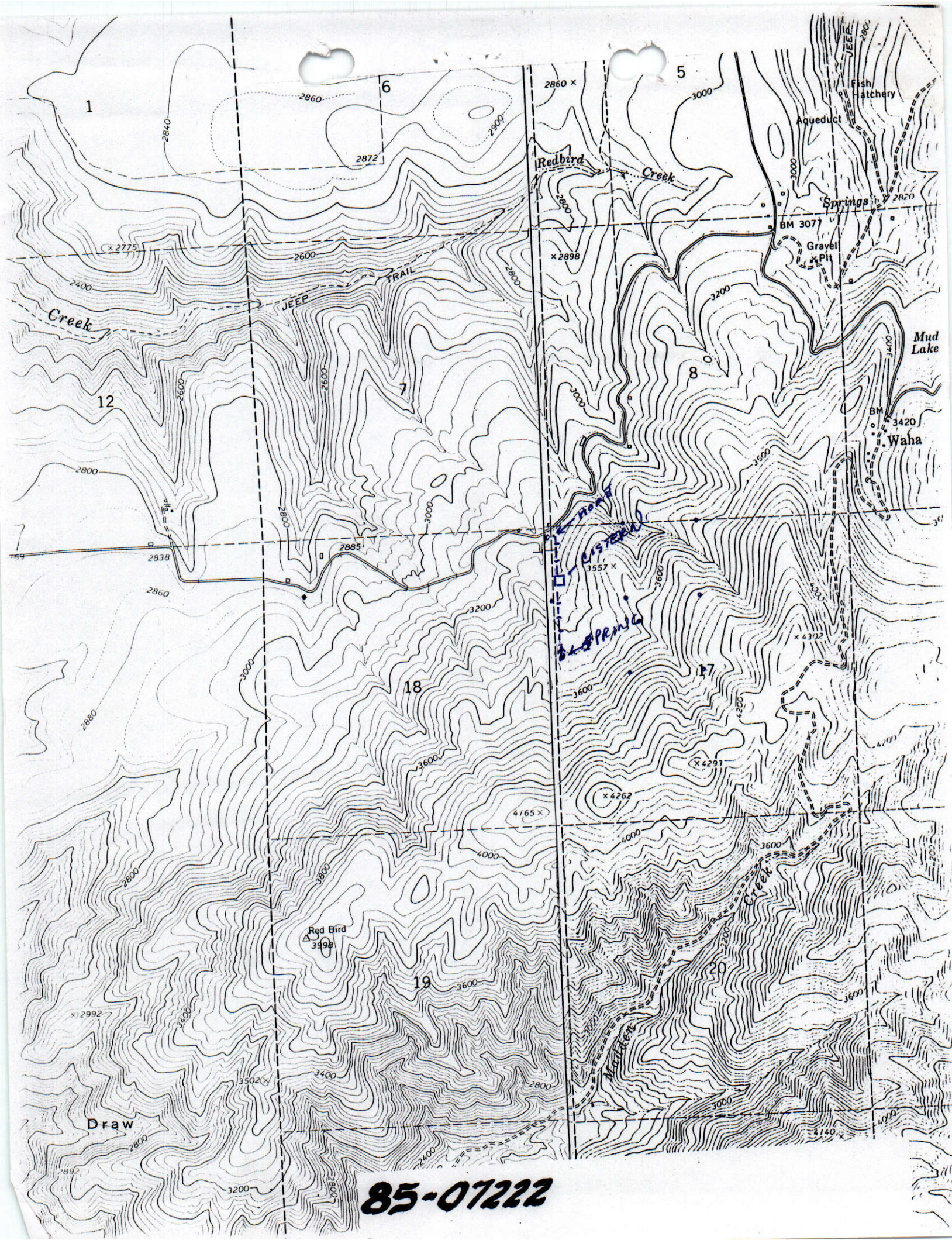
CISTERN ↑



SPRING ↑
P.O.P.

- PHOTO OF HOME
DID NOT DEVELOP -
HOME + STOCK EXIST,
HOWEVER. *[Signature]*





85-07222

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 85-07222

Priority: April 5, 1980

Maximum Diversion Rate:

0.04 CFS

Maximum Diversion Volume:

1.2 AF

This is to certify, that JOHN J AHERN

C/O MARGARET AHERN

1705 REDBIRD RD

LEWISTON ID 83501

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated February 29, 1980; and has submitted Proof of Beneficial Use on May 6, 1985. An examination indicates that the works have a diversion capacity of 0.040 cfs of water from:

SPRING

tributary to REDBIRD CREEK

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.04 CFS	1.2 AF

LOCATION OF POINT(S) OF DIVERSION: Lot 2 (NESWNW), Sec. 18, Township 33N, Range 04W
NEZ PERCE County

PLACE OF USE: DOMESTIC

TWN RGE SEC

33N 04W 18 Lot 2 (SWNW)

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Domestic use is for 1 home.

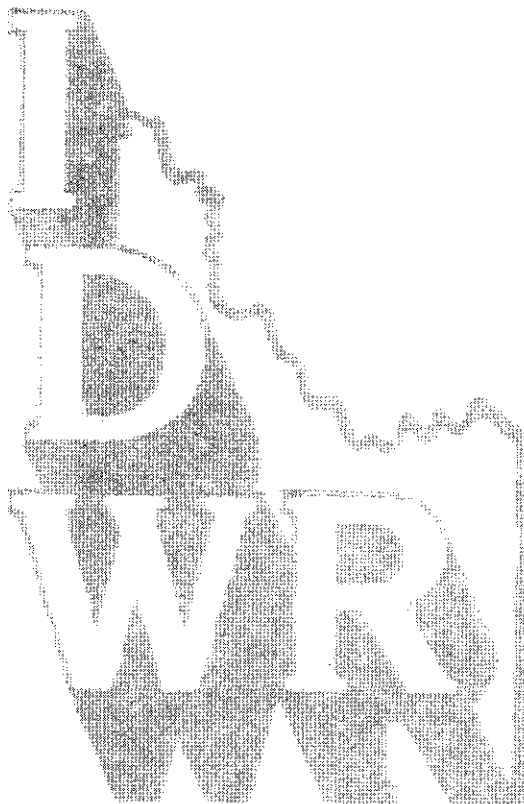
State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 85-07222

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 30TH
day of June, 19 87.


Acting for KARL J. DREHER, Director



BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT)
NO. 85-07222 IN THE NAME OF)
JOHN J. AHERN, C/O)
MARGARET AHERN)
_____)

**ORDER GRANTING PETITION
FOR RECONSIDERATION AND
RESCINDING PRELIMINARY
ORDER TO VOID PERMIT**

This matter having come before the Department of Water Resources (Department) as a petition to reconsider the order to void a permit to appropriate water, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On September 4, 1996, the Department issued a preliminary order to void water right permit no. 85-07222 (permit), issued in the name of John J. Ahern C/O Margaret Ahern (permit holder), because the permit holder did not file the Application for Amendment of Permit determined to be necessary according to the field inspection conducted on September 26, 1990.

2. On September 11, 1996, the Department received a timely petition for reconsideration of the preliminary order from the permit holder.

3. On October 22, 1996, Department staff conducted a field inspection and determined the permit holder had established a water use in accordance with the permit and that an Application for Amendment of Permit is not required before a water right license can be issued.

CONCLUSIONS OF LAW

1. Section 67-5243(3), *Idaho Code*, provides in pertinent part as follows:

Unless otherwise provided by statute or rule, any party may file a motion for reconsideration of a recommended order or a preliminary order within fourteen (14) days of the issuance of that order. The presiding officer shall render a written order disposing of the petition.

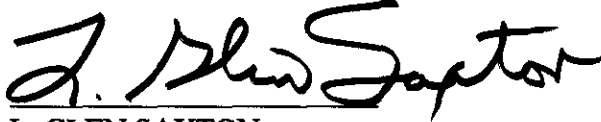
2. The permit holder filed a timely petition for reconsideration of the preliminary order to void the permit.

3. The permit holder has established a water use in accordance with the permit.
4. The Department should grant the petition for reconsideration of the permit pursuant to Section 67-5243(3), *Idaho Code*.
5. The Department should rescind the preliminary order to void the permit.

ORDER

IT IS HEREBY ORDERED that the petition for reconsideration of the preliminary order to void water right permit no. 85-07222 submitted by Margaret Ahern is **GRANTED** pursuant to Section 67-5243(3), *Idaho Code*. IT IS FURTHER ORDERED that the preliminary order to void permit no. 85-07222 is **RESCINDED** and the permit is **REINSTATED**.

Dated this 30th day of June, 1997.

A handwritten signature in black ink, appearing to read "L. Glen Saxton", written over a horizontal line.

L. GLEN SAXTON
Chief, Water Allocation Bureau

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT	)	
	)	
NO. 85-07222 IN THE NAME	)	PRELIMINARY ORDER
	)	TO VOID PERMIT
OF JOHN J. AHERN	)	
_____	)	

This matter having come before the Department of Water Resources as a result of an investigation by the Department to determine the extent of beneficial use of water, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On February 29, 1980, John J. Ahern applied to the Department of Water Resources for a permit to appropriate 0.04 cubic feet per second from a spring that is a tributary to Red Bird Canyon Creek, within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, Township 33N, Range 04 West, B.M., Nez Perce County, to be used for domestic purposes.

2. On April 8, 1980, the Department approved the Application for Permit.

3. On May 6, 1985, the Department received Proof of Beneficial Use for the permit.

4. On September 26, 1990, the Department conducted a field examination and found that a water use had been developed at a different legal description than authorized by the permit.

5. On June 27, 1996, the Department sent notice and an Application for Amendment to the permit holder stating that the permit has to be amended before the Department can issue a water right license.

6. On July 17, 1996, the Department sent a second notice to the permit holder stating that the permit has to be amended before the Department can issue a water right license.

7. The Department has not received the Application for Amendment of the permit.

8. On August 13, 1996, the Department sent a Notice of Pending Order to Void Permit. The Department has not received a response from the permit holder.

9. The provisions of Section 42-219, Idaho Code, authorize the Director of the Department of Water Resources to void permits for which the applicant has not fully complied with the law and the conditions of the permit.

CONCLUSIONS OF LAW

1. Section 42-219, Idaho Code, states:

In the event that the Department shall find that the applicant has not fully complied with the law and the conditions of the permit, it may issue a license for that portion of use which is in accordance with the permit, or may refuse issuance of a license and void the permit.

2. Development of the water as listed on the permit was a condition of the permit, and compliance with the condition was required prior to perfection of a water right.

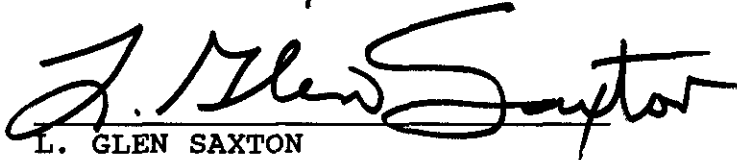
3. The permit holder could have amended the permit, but the permit holder has not filed the appropriate Application for Amendment.

4. A license should not be issued on this permit and the permit should be voided pursuant to Section 42-219, Idaho Code.

ORDER

IT IS HEREBY ORDERED that Permit No. 85-07222 is **VOIDED** and issuance of a license is **REFUSED** under Section 42-219, Idaho Code.

Dated this 4th day of September, 1996.


L. GLEN SAXTON
Chief, Water Allocation Bureau

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 85-7222 IN THE
NAME OF JOHN J. AHERN

ORDER OF REINSTATEMENT

WHEREAS, the Department has issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use be submitted on or before April 1, 1985; and,

WHEREAS, the Department has notified the permit holder by certified mail that proof was due and instructed the permit holder as to the steps to be taken to make said proof; and,

WHEREAS, on April 1, 1985 the permit lapsed for failure of the permit holder to submit proof of beneficial use; and,

WHEREAS, Section 42-218a of the Idaho Code provides that a permit may be reinstated upon a showing of reasonable cause within sixty days of the date of lapsing; and,

WHEREAS, the permit holder has provided a reasonable showing as to why said permit should be reinstated by submitting proof of beneficial use on May 6, 1985;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 85-7222 be REINSTATED and the priority advanced to April 5, 1980.

Dated this 22nd day of July, 1985.


L. GLEN SAXTON
Chief, Operations Bureau

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant John J. Ahern Phone 746-0715
Post office address 1705 Redbird Rd. Lewiston, Id.
2. Source of water supply Spring which is a tributary of Red Bird Canyon Creek
3. Location of point of diversion is SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 18 Township 33N
Range 4W B.M. Reg Pence County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 0.04 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)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 0.04 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Developed Spring
with pipeline to home
b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____
Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)
c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

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

8. Description of proposed uses:

a. If water is not for irrigation:
(1) Give the place of use of water: SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 18 Township 33N
Range 4W B.M.
(2) Amount of power to be generated: _____ horsepower under _____ feet of head.
(3) List number of each kind of livestock to be watered _____
(4) Name of municipality to be served _____, or number of families to be supplied with domestic water 1.
(5) If water is to be used for other purposes describe: _____

RECEIVED
JAN 10 1986
IDAHO DEPT. OF WATER RESOURCES

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

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres to be irrigated _____

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

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

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

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

10. Remarks _____

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

*-P.W. $\frac{1}{2}$ Place of Use

Sec 18

T33N R4W

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.

x John J. Alkern
(Applicant)

Proposed Priority 2/29/80
Received by TK Date 2/29/80 Time 12:30 PM
Preliminary check by KK Fee \$ 20.00
Receipted by me Date 2/29/80 (16845)
Publication prepared by me Date 3/24/80
Published in Lewiston Morning Tribune
Publication dates 3/13-20/80
Publication approved me Date 3/24/80
Protests filed by: none

Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by MS

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. 85-7222 , and said application is hereby approved .

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

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before April 1 , 19 85 .
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. Other: _____

Witness my hand this 8th day of April , 19 80 .

J. Glen Saxton
Chief, Op. _____ Bureau

PUBLISHER'S AFFIDAVIT OF PUBLICATION

NOTICE OF APPLICATION FOR WATER RIGHT

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

86-7108

Matchey, Edwin T., 1502 15th Avenue, Lewiston, ID 83501. Source: Spring tributary to Potlatch Creek, Potlatch Creek tributary to Clearwater River. Date Filed: 03-03-1980. Amount: 0.20 CFS. Diversion Point: SWNW Sec. 21 T 37N R 03W, Nez Perce County. Use: Irrigation (0.20 CFS) from 03-15 to 11-15. Place of use: SWNW Sec. 21 T 37N R 03W for 10 acres. Diversion means: Spring, pump and pipeline.

85-7222

Ahern, John J., 1705 Redbird Road, Lewiston, ID 83501. Source: Spring tributary to Redbird Canyon Creek. Date filed: 02-29-1980. Amount: 0.04 CFS. Diversion point: SWNW Sec 18 T 33N R 04W, Nez Perce County. Use: Domestic (0.04 CFS) from 01-01 to 12-31. Place of use: SWNW Sec 18 T 33N R 04W. Diversion means: Developed spring and pipeline.

85-7223

Ahern, John J., 1705 Redbird Road, Lewiston, ID 83501. Source: Spring tributary to Redbird Canyon Creek. Date filed: 02-29-1980. Amount: 0.04 CFS. Diversion point: SESW Sec 07 T 33N R 04W, Nez Perce County. Use: Recreation (0.04 CFS) from 01-01 to 12-31. Domestic (0.04 CFS) from 01-01 to 12-31. Place of use: SESW Sec 07 T 33N R 04W.

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 4055 Gov't. Way, Coeur d'Alene, ID 83814, on or before March 31, 1980.

C. STEPHEN ALLRED
Director

STATE OF IDAHO, }
County of Nez Perce } ss.

Roxie Edmonson

, being duly sworn deposes and says, I am the Classified Bookkeeper 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 regularly and issued regularly at least once a day for more than 20 consecutive years immediately preceding the first publication of this notice, and has been so published uninterruptedly for said period; that the Notice of Application attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, once a week for two consecutive weeks, the first publication thereof being on the 13th day of March, A. D. 19 80, and the last publication thereof being on the 20th day of March, A. D. 19 80, and said Notice of Application was so published in the regular and entire issue of the 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 TO BEFORE ME THIS THE
20th day of March, 19 80

Paula J. Hamilton

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

MICROFILMED



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098

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

July 1, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JOHN J. AHERN
C/O MARGARET AHERN
1705 REDBIRD RD
LEWISTON ID 83501

RE: WATER RIGHT NO. 85-07222

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed license along with an order granting your petition for reconsideration and rescinding the preliminary order to void permit that was issued September 4, 1996. The license confirms that a water right has been established in accordance with the permit referenced above. The license is a preliminary order issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as further described below:

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

Sincerely,



Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosure

CERTIFICATE OF MAILING

I hereby certify that on the 1st day of July, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

Water Right No. 85-07222

JOHN J AHERN
C/O MARGARET AHERN
1705 REDBIRD RD
LEWISTON ID 83501


Kari Lynn Townsend
Secretary



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098

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

June 17, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MARGARET AHERN
1705 REDBIRD RD
LEWISTON ID 83501

RE: Water Rights

Dear Ms. Ahern:

Al Beardslee and I met in Coeur D'Alene last week and took the opportunity to discuss your water right filings. In the following paragraphs I will summarize Al's findings and explain the necessary course of action, if any, for each of your water right filings.

Water Right Records

- Licensed right 85-07203 is for irrigation and fish propagation from a spring located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 18, T33N, R4W. It has a June 29, 1979, priority. According to Al, the license appears to be accurate and no course of action is necessary.
- Licensed right 85-07223 is for domestic and recreation purposes from a spring in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, Township 33 North, Range 4 West. It has a February 29, 1980, priority. Al reported that there is no domestic or recreation use at the licensed location. He thinks, as you have suggested, that this right was probably intended to describe the use of water from a spring located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 18, T33N, R4W, for domestic purposes in your home in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17. He reported that this spring is the same one that is the source for the irrigation and fish propagation uses licensed on 85-07203. I am looking into the possibility of amending license 85-07223 to match Al's findings, but it may be necessary for you to file an application for transfer to correct the point of diversion and place of use for the water right. I will let you know what I find out.
- Al reported that voided permit 85-07222 is for domestic purposes in "the Moore house." The source is a spring in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 18. I have recommended that IDWR rescind the order voiding the permit and issue a water right license for this use. I hope to have the license in the mail to you soon.
- Statutory claim 85-04133 is for stock watering purposes from a spring in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, T33N, R4W. Al reported that this claim appears to be correct. No action is recommended.

Margaret Ahern
June 17, 1997
Page 2

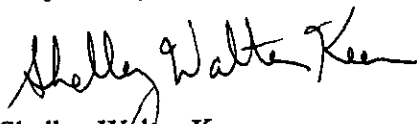
- Statutory claim 85-04134 is for stock watering purposes from a spring in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, T33N, R4W. AI reported that this claim is accurate. No action is recommended.

Snake River Basin Adjudication Claims

- SRBA claim A85-07203 is for licensed right 85-07203, but for some reason the claimed point of diversion does not match the licensed point of diversion. AI believes that the licensed point of diversion, which is the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, is correct. I have passed this information to IDWR's Adjudication Bureau. You may be asked if you wish to amend your claim.
- SRBA claim A85-04133 claims the same water use as statutory claim 85-04133. It appears to be correct and no action is necessary.
- SRBA claim A85-04134 claims the same water use as statutory claim 85-04134. It appears to be correct and no action is necessary.
- SRBA claim A85-11214 is a beneficial use claim for stock watering purposes from a spring in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, T33N, R4W. AI reported that he did not see a spring at the claimed location. He suggested that the claim should be for the stockwater use from spring located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18. The spring is near, but is not the same as, the spring source for licensed right 85-07203. I have passed this information to IDWR's Adjudication Bureau. You may be asked if you wish to amend your claim.
- SRBA claim A85-112145 is a beneficial use claim for stock watering purposes from a spring in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 18, T33 North, R4W. AI reported that he did not see a spring at the claimed location. He suggested that the claim should be for the stockwater use from the two springs piped to the stock trough located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18. I have passed this information to IDWR's Adjudication Bureau. You may be asked if you wish to amend your claim.

I hope this information is helpful to you. You should be hearing from me again soon. If you have any questions, please contact me at 208-327-7946.

Respectfully,



Shelley Walter Keen
Water Rights Supervisor

WR0749NP
No. L85-07222

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 06/16/97
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	JOHN J AHERN C/O MARGARET AHERN 1705 REDBIRD RD LEWISTON ID 83501	04/05/1980	DOMESTIC	01/01 12/31	0.040 CFS	1.20 AFA
TOTAL DIVERSION:					0.040 CFS	1.20 AFA

Water Source: SPRING

Tributary to: REDBIRD CREEK

Stage: LICENSE

Point(s) of Diversion Capacity: 0.040 CFS

Point(s) of Diversion: T33N R04W S18 Lot 02(NESWNW)

NEZ PERCE County

Place of use Legal Description for: DOMESTIC

NE				NW				SW				SE			
NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R	S	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac	: Lt Ac Lt Ac Lt Ac Lt Ac
33N 04W 18 :															

Pou County: NEZ PERCE

Remarks: Domestic use is for 1 home.

Dates: App. Received: 02/29/1980 Priority Date: 04/05/1980 (Priority Date Advanced.)
Proof Due Date: 04/01/1985 Proof Made Date: 05/06/1985 (Proof Received Late.)
Exam Made Date: 09/26/1990 Exam Sent to S.O.: 02/08/1996
Licensed Date:

Misc: Water District Number: Field Exam Fee: N (Not Required)

"SUPPLEMENTAL EXAM"

RECEIVED

JUN 16 1997

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No. 85-07222

1. Owner: MARGARET AHERN Phone No. 746-0715

Current Address: 1705 REDBIRD RD LEWISTON ID 83501

2. Accompanied by: MRS. AHERN + MR. MOORE EXAM DATE: 10/22/96

Address: _____ **Phone No.** _____

Relationship to Permit Holder: OWNER / BUYER RESPECTIVELY

3. Source: SPRING tributary to RED BIRD CREEK

B. OVERLAP REVIEW

1. Other water rights with the same place of use: NA

2. Other water rights with the same point of diversion: *N/A*

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

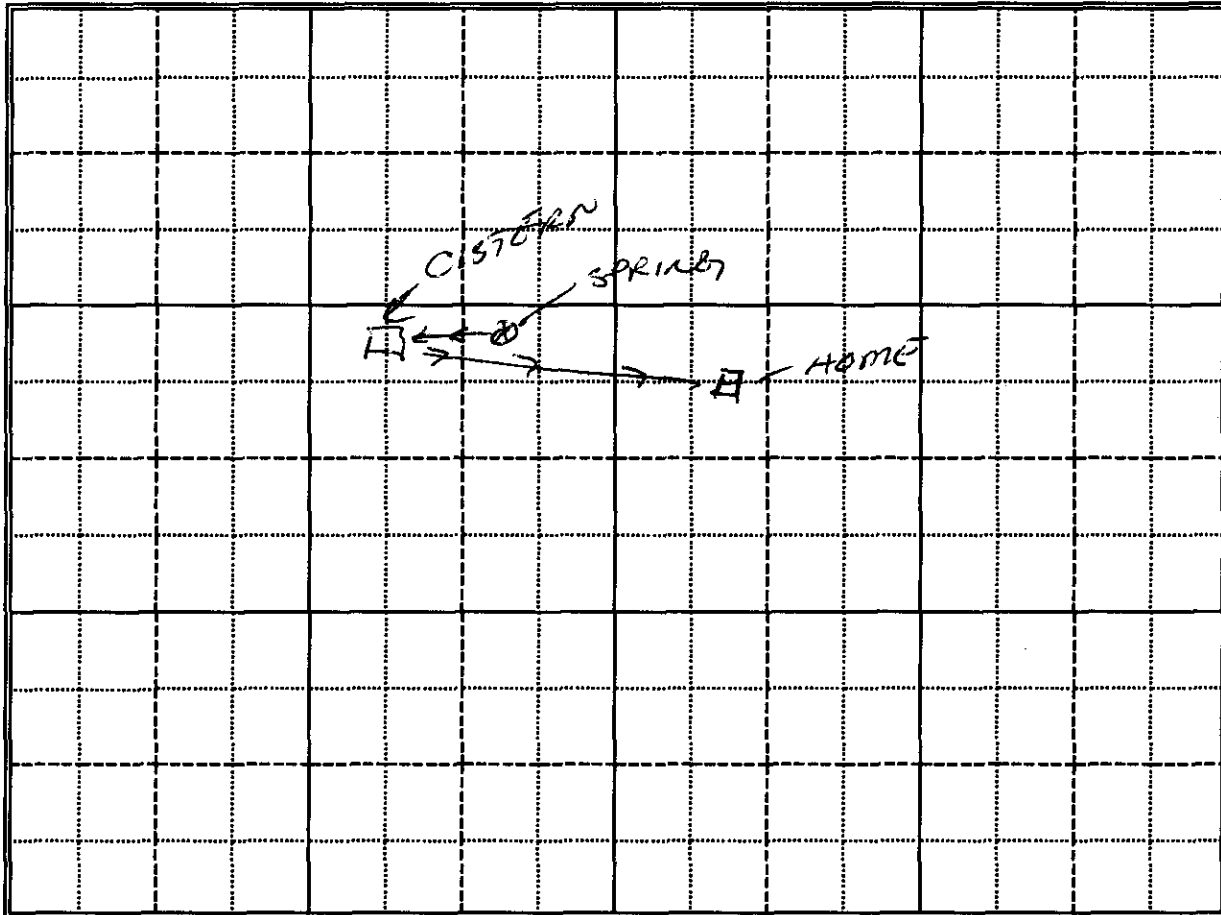
[illegible]

2. Place(s) of Use:

Indicate Method of Determination

[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" = NTS

____ 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.

EXACT PUMP IDENTIFICATION WAS NOT POSSIBLE DURING EXAM. OWNER DID NOT KNOW FOR SURE THE H.P., BUT THOUGHT IT WAS 3/4 H.P.

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

2. Measurements: NONE

E. NARRATIVE/REMARKS/COMMENTS

WATER IS PIPED FROM SPRING BY GRAVITY FLOW TO CISTERN. A 3/4 H.P. PUMP IS USED TO PUMP WATER FROM CISTERN TO HOME.

THIS EXAMINATION WAS CONDUCTED TO VERIFY THAT THIS FILING WAS SUBMITTED FOR THE "MOORE'S HOUSE". IT WAS ORIGINALLY FILED BY THE AHERN'S AND THE PROPERTY WAS SOLD TO THE MOORE'S.

Same spring as 85-04134

Have conditions of permit approval been met? ☒ yes ☐ no

F. FLOW CALCULATIONS

_____ Additional Computation Sheets Attached

Measured Method:

G. VOLUME CALCULATIONS**1. Volume Calculations for Irrigation:** $V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____ $V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ _____ $V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$ _____**2. Volume Calculations for Other Uses:**

STANDARD VOL. OF 1.2 AFA FOR 1 HOME WITH LAWN
AND GARDEN.

H. RECOMMENDATIONS**1. Recommended Amounts**

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
DOMESTIC	1/1	12/31	0.04	1.2
Totals:				

2. Recommended Amendments

___ Change P.D. as reflected above ___ Add P.D. as reflected above ___ None
___ Change P.U. as reflected above ___ Add P.U. as reflected above ___ Other

I. AUTHENTICATIONField Examiner's Name Allen B. Bensch Date 10/22/96

Reviewer _____ Date _____

SEAL

Canyon

1670000
FEET

T34

SUPPLEMENTAL
EXAM
10/22/96

5120

T33

5119

SUPPLEMENTAL
EXAM

5118

Creek

JEEP

TRAIL

12

27

12' 30"

SEC. 18

NE 1/4 SW 1/4 NW 1/4

SPRING
HOME

18

5116

AHERN

85-07222

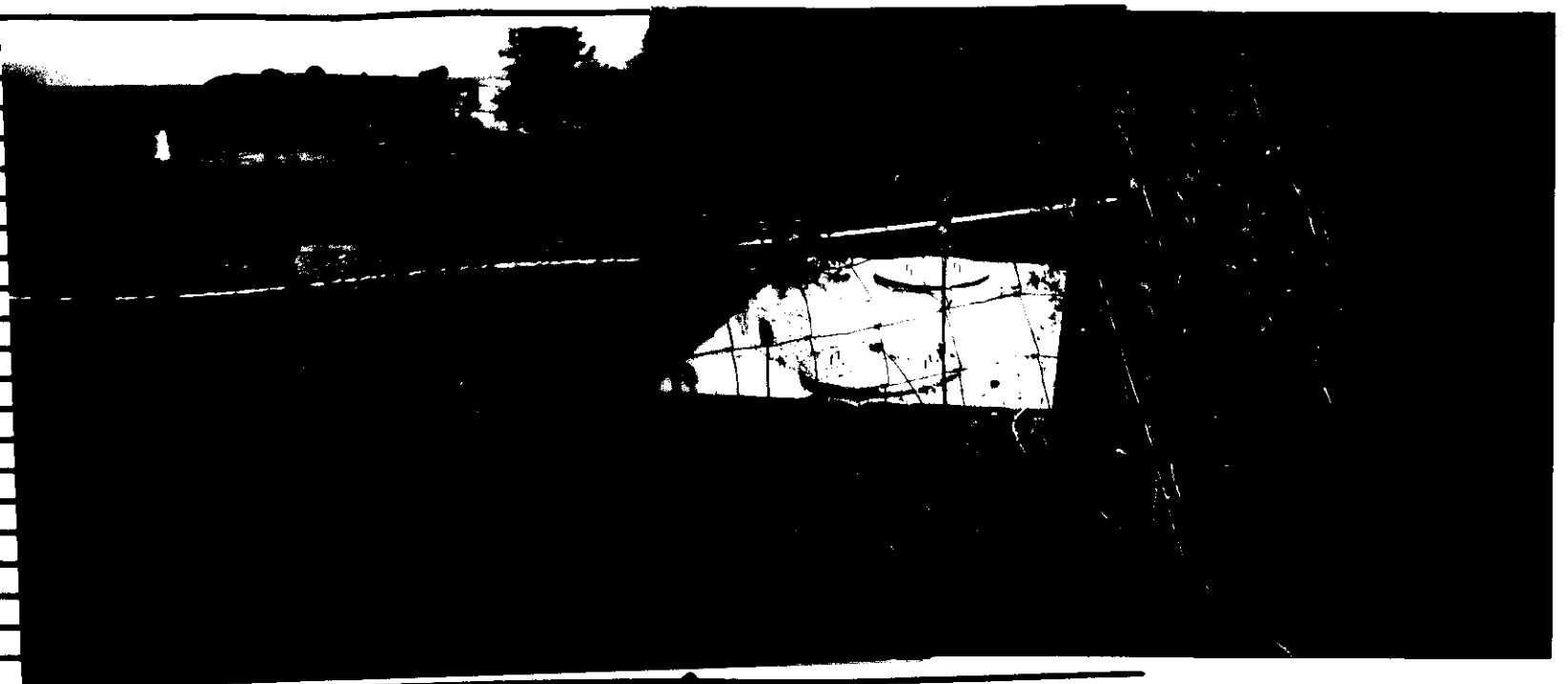
T. 33N., R. 4W

"SUPPLEMENTAL EXAM"

PERMIT # **PS-07222**

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
FIELD REPORT SUPPLEMENT

PHOTOGRAPHS



CISTERN ↑



**SPRING ↑
P.O.P.**

- PHOTO OF HOME
DID NOT DEVELOP -
HOME + STORR EXIST,
HOWEVER. *[Signature]*

MEMORANDUM

DATE: October 9, 1996

TO: Allen Beardslee

FROM: Shelley W. Keen *swk*

RE: Margaret Ahern Water Rights

*Al,
The map + claim forms are
in the mail. This is
an advance copy of the
memo for you.
S.W. Keen*

I really appreciate your offer to field check this for me. I wish I were in a position to do it myself.

The following is a summary of Margaret Ahern's filings and what I think needs to be done. I have also attached a 1:24000 map that shows the information Mrs. Ahern submitted to me. I think that you will be able to quickly get enough information to verify her SRBA claims as well as check the accuracy of the field exams for 85-07222 and 85-07223. I told Mrs. Ahern you would contact her mid-morning on Tuesday, October 15. Her phone number is 208-746-0715. If you have any questions before, during, or after your visit with her, please call me.

Water Right Records

I found five water right records in our water appropriations database.

- Licensed right 85-07203 is for irrigation and fish propagation from a spring in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 18, Township 33 North, Range 4 West. This appears to have been licensed correctly. This is apparently the same spring she diverts for domestic use for her own house.
- Licensed right 85-07223 is for domestic and recreation purposes from a spring in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, Township 33 North, Range 4 West. The field exam report (Jennifer Argraves) contains a photo of a one-story house with a flat roof. Mrs. Ahern says the photo is of her house in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17. Therefore, I suspect this should have been licensed for the domestic use at Mrs. Ahern's house in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17. Based on information submitted to me by Mrs. Ahern, the point of diversion appears to be in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18 (see 85-07203). I need you to confirm that there is no domestic use in Section 7 and that the house is Mrs. Ahern's in Section 17. If I am right, we will have to pursue an amended license. If Norm won't amend the license, Mrs. Ahern will have to file a transfer application. Also, after we get the WR record corrected, Mrs. Ahern will have to claim this right in the SRBA.

- Voided permit 85-07222 is for domestic purposes from a spring in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, Township 33 North, Range 4 West. This is the one that started the whole thing. We are trying to get it reinstated, corrected, and licensed. Tom King tried to match this one up with Mrs. Ahern's house in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17. Apparently it should be matched up with what Mrs. Ahern calls "the Moore house" in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 18. If you find that there is a spring serving "the Moore house," please complete a supplemental exam report for 85-07222. We will then rescind the preliminary order voiding the permit and issue a license.
- Statutory claim 85-04133 is for stock watering purposes from a spring in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, Township 33 North, Range 4 West. This appears to have been claimed correctly. If you check it, we should be able to verify the corresponding SRBA claim.
- Statutory claim 85-04134 is for stock watering purposes from a spring in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, Township 33 North, Range 4 West. This appears to have been claimed correctly. If you check it, we should be able to verify the corresponding SRBA claim.

Snake River Basin Adjudication Claims

I found five SRBA claims in Mrs. Ahern's name.

- SRBA claim A85-07203 is for licensed right 85-07203. Again, it appears that this right was licensed correctly. If you double-check on the accuracy of the license, we can probably prepare and R-record for this claim.
- SRBA claim A85-04133 appears to claim the same water use as statutory claim 85-04133.
- SRBA claim A85-04134 appears to claim the same water use as statutory claim 85-04134.
- SRBA claim A85-11214 is a beneficial use claim for stock watering purposes from a spring in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, Township 33 North, Range 4 West. Based on Mrs. Ahern's map, it appears that this duplicates claim A85-04134. I suggest amending this claim to cover the spring in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18 (300' north of the spring used for domestic purposes). I have enclosed an amended claim form that you can get her to sign. (Are you still a notary?)
- SRBA claim A85-11215 is a beneficial use claim for stock watering purposes from a spring in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 18, Township 33 North, Range 4 West. Apparently there is no spring at this location. I suggest amending this claim to cover the stockwater spring in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18 (near the bend in the road). I have enclosed an amended claim form that you can get Mrs. Ahern to sign.

Again, I appreciate your help. Please give my regards to Mrs. Ahern.

RECEIVED

OCT 0, 1996

Department of Water Resources

attention Shelley Keen Oct 3, 1996
Clewiston 3d.
83581

This is what we came up with
on the water

Section (18)

85-07203 stock water spring is approx.
300 feet due north of spring 85-11215

Section (18) -

85-11215. Spring I surveyed and sent you
thy house water & fish pond.

Section (18)

85-11214 -

85-07222

85-04134

I thought was all one spring
at the most two. it all comes
out of the same place
used for domestic & stock water

Section (7).

85-04133 - ss for stock water.

Section (7)

85-07223 = should not be there.
Maybe the one that is missing
in section 18 at the point
I marked on the maps

MEMORANDUM

DATE: October 2, 1996

TO: File 85-07222

FROM: Shelley W. Keen *SWK*

RE: Phone call from Margaret Ahern

Yesterday Margaret Ahern called to discuss the letter I faxed to her last week. She thinks that there may be some errors in her water right filings, especially with licensed right 85-07223. Ms. Ahern is having a surveyor prepare of map of her property showing the locations of the springs and the places of use for the diversions from each spring. She intends to send me the map so I can compare it to her water right filings to determine if they are in order.

Ms. Ahern explained to me that she diverts from five springs. Water from one spring is used for domestic, irrigation, stockwater, and recreational fish pond purposes. This is apparently the spring associated with rights 85-07203 and 85-07222. There is another spring on or near the line between Sections 17 and 18 that is diverted for stockwater. She also has two stockwater springs in Section 18 and one in Section 7.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

September 26, 1996

MARGARET AHERN
1705 REDBIRD RD
LEWISTON ID 83501

RE: Water Rights

Post-It® Fax Note	7671	Date	9/26/96	# of pages	4
To	Margaret Ahern	From	S.W. Keen		
Co./Dept.		Co.	IDWR		
Phone #		Phone #	(208) 327-7946		
Fax #	(208) 798-8216	Fax #	(208) 327-7866		

Dear Ms. Ahern:

Thank you for faxing the survey information to me. The metes and bounds description and the map identify a location in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 18, Township 33 North, Range 4 West, B. M. The notes, however, point to the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 18. Because the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18 is adjacent to Section 17, I think it is probably the correct location for your spring. If so, an amendment of your permit is still required before it can be licensed. I am including a revised amendment form with this letter. Please remember that the amendment fee is \$50.

As we also discussed, I will summarize and explain the water right filings you have on record with IDWR.

Water Right Records

I found five water right records in our water appropriations database.

- OK* • Licensed right 85-07203 is for irrigation and fish propagation from a spring in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 18, Township 33 North, Range 4 West. It has a June 29, 1979, priority.
- Probably not right* • Licensed right 85-07223 is for domestic and recreation purposes from a spring in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, Township 33 North, Range 4 West. It has a February 29, 1980, priority.
- OK* • Voided permit 85-07222 is for domestic purposes from a spring in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, Township 33 North, Range 4 West. It has a February 29, 1980, priority. This is the one we are trying to get reinstated, corrected, and licensed.
- OK* • Statutory claim 85-04133 is for stock watering purposes from a spring in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, Township 33 North, Range 4 West. It has a 1961 priority.

Sent via fax

Margaret Ahern
September 26, 1996
Page 2

- or • Statutory claim 85-04134 is for stock watering purposes from a spring in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, Township 33 North, Range 4 West. It has a 1960 priority.

Please note that unlike licenses, statutory claims do not represent water rights that have been investigated and confirmed by IDWR. Prior to 1963 for ground water and 1971 for surface water, a right could be established by diverting water and applying it to a beneficial use without obtaining a permit from IDWR. Statutory claims, or "beneficial use claims", represent water rights people believe they have established by this method.

Snake River Basin Adjudication Claims

The Snake River Basin Adjudication (SRBA) is a court proceeding intended to result in a court decree confirming water rights in existence prior to November 19, 1987. People with existing licensed, permitted, and decreed rights, and people believing they have beneficial use water rights, including statutory claims, were required to file notices of claim with IDWR and to be joined in the adjudication process. As part of the SRBA process, IDWR will investigate your claims and include its findings in a report to the SRBA court. Because the SRBA efforts are focused in other parts of the state right now, the investigation of your claims will probably not occur for a few years. I found five SRBA claims in your name.

- SRBA claim A85-07203 is for licensed right 85-07203.
- SRBA claim A85-04133 appears to claim the same water use as statutory claim 85-04133.
- SRBA claim A85-04134 appears to claim the same water use as statutory claim 85-04134.
- SRBA claim A85-11214 is a beneficial use claim for stock watering purposes from a spring in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, Township 33 North, Range 4 West. You have claimed a 1960 priority. This appears to be for another spring located near the one described in A85-04134.
- SRBA claim A85-11214~~5~~ is a beneficial use claim for stock watering purposes from a spring in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 18, Township 33 North, Range 4 West. You have claimed a 1961 priority.

I hope this information is helpful to you. If you have any questions, please contact me at 208-327-7946.

Respectfully,



Shelley Walter Keen
Water Rights Supervisor

MEMORANDUM

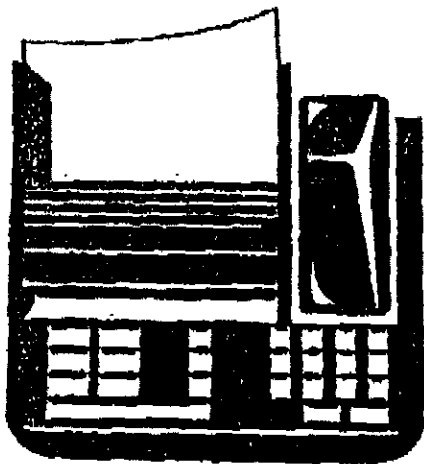
DATE: September 26, 1996

TO: File 85-07222

FROM: Shelley W. Keen *SWK*

RE: Phone call to Nez Perce Co. assessor

This morning I spoke with Shirley at the the Nez Perce County assessor's office (208-799-3010). She told me that Margaret Ahern owns a parcel at $W\frac{1}{2}W\frac{1}{2}NW\frac{1}{4}$, Section 17, Township 33 North, Range 4 West, that contains a home (1705 Redbird Rd.). She said there is no home in the $NE\frac{1}{4}$ of Section 18.



HERE'S THE FAX

No. of pages 2
(including cover sheet)

Date: 9-11-96 From: Margaret Osburn
To: Shelby Keen Office: Lewiston Branch
Office: Dept. of Water Resources Phone: (208) 746-2611
Fax: (208) 337-7866 Fax: (208) 798-8216

Message:

could you please fax me back
a return answers at this fax #



Key Bank of Idaho
A KeyCorp Bank

Lewiston Office
P.O. Box 1208
Lewiston, Idaho 83501
(208) 746-2611

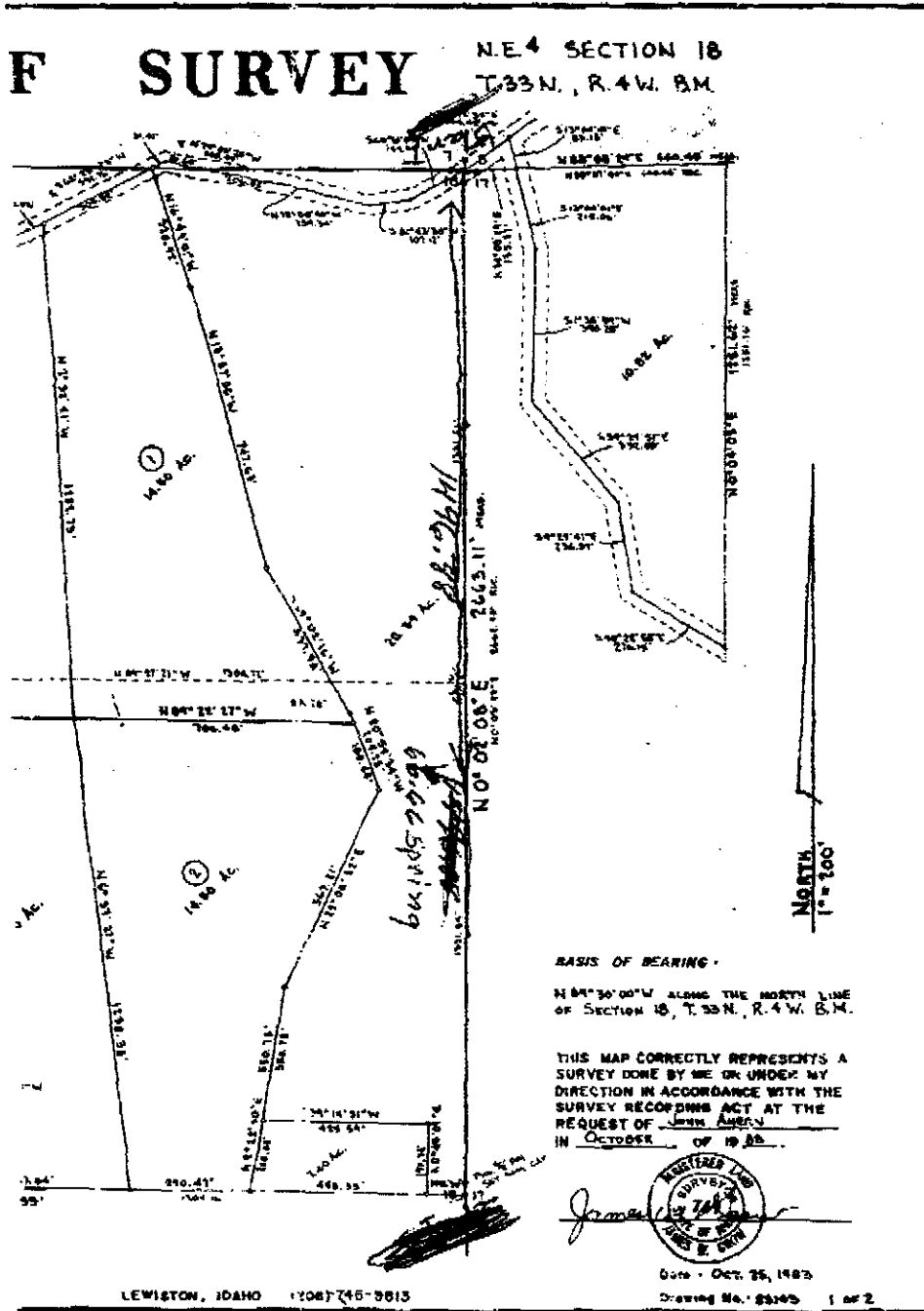
John J. Ahern
C/O Margaret J. Ahern

Township 33 North, Range 4 West, Boise Meridian, Nez Perce County, Idaho.

Section 18 - W1/2 SW1/4 NW1/4.

A Spring Located in above said section 18 and more particularly described to Wit:

Beginning at Section Corner 7,8,17 and 18, A Brass Cap and Pipe; Thence $500^{\circ}03'23''$ W,
Along the Section Line Between Sections 17 and 18 1496.88 feet; Thence West, 66.66 Feet to
A existing spring



MEMORANDUM

DATE: September 20, 1996

TO: File 85-07222

FROM: Shelley W. Keen *SWK*

RE: Call from Margaret Ahern

Margaret Ahern called this morning to say that she will send me the results of the survey that she had done earlier this week to determine the location of her point of diversion and place of use.

Ms. Ahern also said that she is confused by all the water right and SRBA filings she has. I offered to write her a letter to explain the significance of each filing.

MEMORANDUM

DATE: September 12, 1996

TO: File 85-07222

FROM: Shelley W. Keen 

RE: Phone call from Margaret Ahern

This morning Margaret Ahern called to say that she received my fax. She is concerned that the place of use and point of diversion locations reported by the field examiner may be inaccurate because they are so close to the section line. Therefore, she will have the locations surveyed early next week. She said I can expect to hear from her during the first half of next week.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

TRANSMITTAL COVER SHEET

FAX NUMBER: (208) 327-7866

DATE: 9/11/96

TO: Margaret Ahern
(208) 798-8216

FROM: Shelley Keen
IDWR

DOCUMENT DESCRIPTION: 1-Map, 2-page Appl. for Amendment,
1-letter

COVER SHEET + 4 PAGES

CONTACT: 327-7946 IF YOU DO NOT RECEIVE ALL THE PAGES

THANK YOU!

Margaret - I got your fax. I'm sending you the letter
I sent in June, the Amendment App., and the
map from the field examiner's report.

Shelley



HERE'S THE FAX

No. of pages 2
(including cover sheet)

Date: 9-11-96 From: Margaret Ahern
To: Shelley Keen Office: Lewiston Branch
Office: Dept. of Water Resources Phone: (208) 746-2611
Fax: (208) 337-7866 Fax: (208) 798-8216

Message:

would you please fax me back
a return answers. at this fax no.



Key Bank of Idaho
A KeyCorp Bank

Lewiston Office
P.O. Box 1208
Lewiston, Idaho 83501
(208) 746-2611

September 11, 1996

Attention:

Shelley Keen

Department of Water Resources

Boise, Idaho

I, Margaret J. Ahern, am requesting a reconsideration of your preliminary order on my water permit no. 85-07222.

Would there be any chance of talking to the person that said this was wrong so we could get this straightened out.

Thank You

John J. Ahern

c/o Margaret J. Ahern

MEMORANDUM

DATE: September 10, 1996

TO: File 85-07222

FROM: Shelley W. Keen 

RE: Phone call from Margaret Ahern

This morning Margaret Ahern called in response to the preliminary order sent to her. She said that she has not received any of the correspondence I sent her this summer. She did not receive my telephone message either. She did say that 1705 Redbird Road is her correct address and (208) 746-0715 is her phone number.

Ms. Ahern said that she would send a petition for reconsideration of the order. Meanwhile, I will send her the amendment request again. Once we have received both the petition and the amendment, we should be able to set aside the order and issue the license.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

September 4, 1996

JOHN J. AHERN
C/O MARGARET AHERN
1705 REDBIRD RD
LEWISTON ID 83501

RE: Permit No. 85-07222

Dear Permit Holder:

The accompanying order is a "preliminary order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

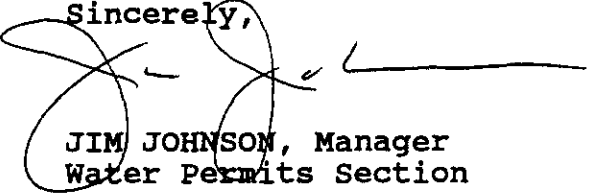
APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

Sincerely,



JIM JOHNSON, Manager
Water Permits Section

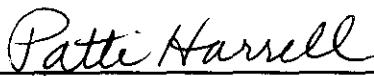
JJ:ph

Enclosure

CERTIFICATE OF MAILING

I hereby certify that on the 3rd day of September, 1996, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER TO VOID PERMIT** to the person(s) listed below:

JOHN J AHERN
C/O MARGARET AHERN
1705 REDBIRD RD
LEWISTON ID 83501



Patti Harrell
Secretary



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

August 13, 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JOHN J AHERN
C/O MARGARET AHERN
1705 REDBIRD RD
LEWISTON ID 83501

RE: Water Right No. 85-07222

Notice of Pending Order to Void Permit

Dear Mr. Ahern:

On May 6, 1985, the Department of Water Resources (IDWR) received the Proof of Beneficial Use statement you submitted for Permit 85-07222, which authorized you to develop water from a spring for domestic purposes in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, Township 33 North, Range 4 West, B.M., in Nez Perce County. The final step in the water appropriation process is the issuance of a Water Right License. By issuing a license, IDWR recognizes that you have met the requirements for establishing a water right.

Before a license is issued, however, IDWR must verify your water use and confirm that you have met the conditions of your permit. On September 26, 1990, IDWR personnel conducted an examination and found that your water use had been developed at a different legal description than authorized by the permit. Because the actual location does not match your permit, the permit must be amended before a water right license can be issued.

On June 27, 1996, I sent you an Application for Amendment and a letter stating that your permit has to be amended before IDWR can issue a water right license. On July 17, 1996, I sent you a second notice. On August 1, 1996, I telephoned you and left a message on your answering machine. To date, I have not received the Application for Amendment from you. Please send me your Application for Amendment with the \$50.00 filing fee within fourteen days. If I do not hear from you within fourteen days, I will assume you no longer have any interest in establishing a water right and I will take action to void your permit.

If you are no longer interested in your permit, you can shorten the voiding process by signing and returning the enclosed relinquishment form.

If you have any questions, please call me at 208-327-7946.

Respectfully,

Shelley Walter Keen
Water Rights Supervisor

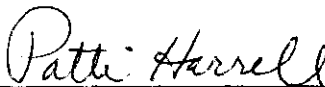
Enclosure

M:\NAMELTRS\AHERN.DOC

CERTIFICATE OF MAILING

I hereby certify that on the 13th day of August, 1996, I mailed a true and correct copy, postage prepaid, of the foregoing PENDING ORDER TO VOID PERMIT to the person(s) listed below:

JOHN J AHERN
C/O MARGARET AHERN
1705 REDBIRD RD
LEWISTON ID 83501



Patti Harrell
Secretary

MEMORANDUM

DATE: August 12, 1996

TO: File 85-07222

FROM: Shelley W. Keen (svk)

RE: Phone call to the permit holder

On August 1, 1996, at 2:30 p.m. I called 208-746-0715 and left a message for John and/or Margaret Ahern on the answering machine. I wanted to ask if they had received my letters and to find out if they had any questions I could answer. I have received no response.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 17, 1996

JOHN J. AHERN
C/O MARGARET AHERN
1705 REDBIRD RD
LEWISTON ID 83501

RE: WATER RIGHT NO. 85-07222

Dear Water Right Holder(s):

I previously forwarded to you an Application for Amendment so that you could amend your permit to depict your water right as it has been actually developed.

As of this date, I have not received the amendment. If I do not receive it within fourteen (14) days, I will assume you no longer have any interest in the permit and cancellation proceedings will begin. Enclosed for your convenience is another amendment form in the event the first one was misplaced. Please note that the filing fee for this amendment is \$50.00.

If you have any questions, please call me at (208) 327-7946

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:rl

Enclosure



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 27, 1996

JOHN J. AHERN
C/O MARGARET AHERN
1705 REDBIRD RD
LEWISTON ID 83501

RE: WATER RIGHT NO. 85-07222

Dear Water Right Holder(s):

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

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

The last page of the Application for Amendment form contains a list of Conditions of Approval and Remarks proposed for the license when it is issued. These conditions of approval and remarks may be modified upon further administrative review.

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

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:rl

Enclosure

LICENSE REVIEW CHECKLIST

PERMIT NO. 85-07222

DATE 6/18/96

REVIEWER: S H A R L A

NAME Change OK

Address Change No c/o Margaret Ahern
Personal rep.

SOURCE Change OK

Is change clarification of originally intended source? Yes
If not, prepare Notice of Intent to Void

POINT OF DIV Change OK

Amendment required Yes

PLACE OF USE Change OK

Amendment required Yes

Does map agree with written description? Yes no

OVERLAPS N/A P/U

Contact assessor's
office for
confirmation

RATE OF DIV

Permitted Rate .04 cfs

~~Fee limit~~ N/A cfs

Measured / cfs

Theoretical / cfs

gravity flow

Recommended Total Div Rate .04 cfs

ANNUAL VOLUME/ NATURE OF USES

Yes

Use

43

Volume Calculation

1.2

af

af

af

af

SUBTOTAL

1.2

af

Flow rate .04 cfs X 365 days X 1.9835 = 29.0 af

Total volume recommended 1.2 af

(SUBTOTAL or Flow Rate, whichever is less)

REMARKS

D/I home.

CONDITIONS

Watermaster Control WD# N/A

GW Measurement/Measuring Device

Overlap

Use-specific conditions

Advancement of Priority Date Required yes no

SRBA Claim Filed 85-11215

Adjustment Memo 7

1st Amend Letter

2nd Amend Letter

P37 P38
P47

MEMORANDUM

TO: File 85-07222

FROM: Sharla

DATE: June 20, 1996

RE: License Review

In reviewing this file for licensing, a check was made of the other water rights in the name of Ahern. The examiner had indicated that the system under this permit was the same system as Right 85-07203 and that a picture of the home listed for domestic use under this right could be found in Right 85-07223.

The domestic use licensed under 85-07223 was shown in the SESW, Section 7. The permit to be licensed is for domestic use in the NWNW, Section 17. A contact was then made with the Nez Perce County Assessor's office. Personnel there verified that Ahern's own property as follows:

- Sections 7 - 273.94 acres in W½SW, SESW, SE¼, no domestic dwelling, out buildings only
- Section 17 - 27.887 acres in W½W½NW, 1 home
- Section 18 - 90.93 acres in E½NW, NE¼, no buildings

With this information, the license for Right 85-07222 can be prepared as proposed by the examiner. A licensing amendment will be solicited to change the point of diversion and place of use to Section 17.

The SRBA claim filed for 85-07203 has been filed showing the same point of diversion description as the right being licensed, which agrees with the statement of the examiner mentioned above. The field exam for 85-07203 measured the maximum spring flow at 0.05 cfs; this is the capacity shown for license 85-07222.

The claim filed on 85-07222 (under Claim No. 85-11215) matches the legal description used for licensing. No claim has been filed on Right 85-07223. The point of diversion and place of use descriptions on that license are in error; perhaps the right has not been claimed because no use exists in Section 7.

Page 2

Permit No. 85-07222

June 20, 1996

The only loose end left is in regard to an SRBA claim filed on 85-04134 for stockwater use. The p/d and p/u descriptions are SWNW, Section 18. The assessor's office does not show property ownership by Ahern in that ¼¼. Further review of this matter will be required by adjudication staff.

Examiner: Jon Kunz

Exam date: June 22, 1994

WR0749NP
No. L85-07222

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 06/27/96
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	JOHN J AHERN C/O MARGARET AHERN 1705 REDBIRD RD LEWISTON ID 83501	04/05/1980	DOMESTIC	01/01 12/31	0.040 CFS	1.20 AFA
TOTAL DIVERSION:					0.040 CFS	1.20 AFA

Water Source: SPRING

Tributary to: REDBIRD CREEK

Stage: LICENSE

Point(s) of Diversion Capacity: 0.050 CFS

Point(s) of Diversion: T33N R04W S17 SWSWNW NEZ PERCE County

Place of use Legal Description for: DOMESTIC

NE								NW								SW								SE																																							
NENE				NWNE				SWNE				SENE				NENW				NWNW				SWNW				SENW				NESW				NWSW				SWSW				SESW				NESE				NWSE				SWSE				SESE			
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:																				

33N 04W 17 :																																																															
: D :																																																															

Pou County: NEZ PERCE

Other Water Rights with Same Point(s) of Diversion and Source:
85-07207

Other Water Rights Listing Overlapping Place(s) of use:
85-07203

Remarks: Domestic use is for 1 home.

Dates: App. Received: 02/29/1980 Priority Date: 04/05/1980 (Priority Date Advanced.)
Proof Due Date: 04/01/1985 Proof Made Date: 05/06/1985 (Proof Received Late.)
Exam Made Date: 09/26/1990 Exam Sent to S.O.: 02/08/1996
Licensed Date:

Misc: Water District Number: Field Exam Fee: N (Not Required)

Audit: 06/19/96 SCURTIS 06/20/96 SCURTIS 06/27/96 SCURTIS

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
FEB 12 1996
Department of Water Resources

A. GENERAL INFORMATION

Permit No. 85-7222

1. Owner: MRS. JOHN L. AHERN

Phone No. 746-0715

Current Address: 1705 RED BIRD RD LEWISTON ID. 83501

2. Accompanied by: SAME

EXAM. DATE: 9/26/89

Address: _____

Phone No. _____

Relationship to Permit Holder: _____

3. Source: SPRING tributary to RED BIRD CREEK ^{TR}

B. OVERLAP REVIEW

1. Other water rights with same place of use: 85-07203

☐ Copies Attached

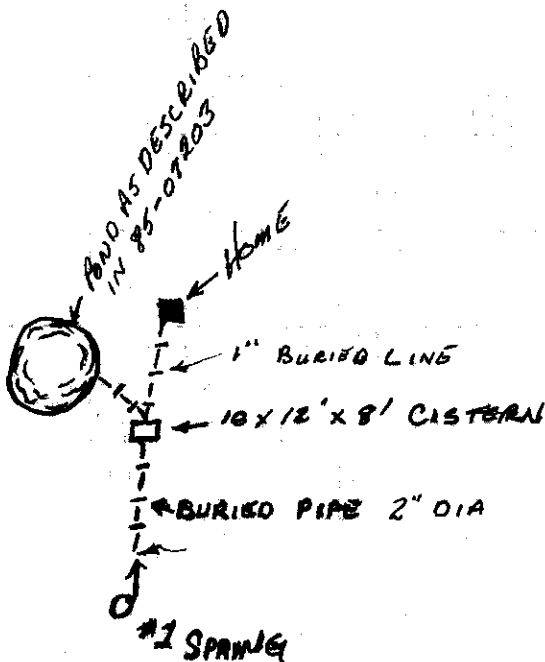
2. Other water rights with same point of diversion: _____

☐ Copies Attached

☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

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



Scale: 1" = NTS

2. ☒ Copy of U.S.G.S. Quadrangle Attached
Showing location(s) of point(s) of diversion and
place(s) of use (required).

☐ Aerial Photo Attached
(required for irrigation of 10 acres or more).

☒ Photo of Diversion and System Attached SEE 85-07223
(required for all but single household domestic groundwater, and stockwater).

System Description (continued)

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

3 DEVELOPED SPRING WITH 2" GRAVITY FLOW PIPE TO 10' X 8' X 12 FOOT
CISTERN THE GRAVITY FLOW TO HOME. WATER FROM
SPRING ALSO SPRING & CISTERN ALSO SUPPLIES WATER
AS DESCRIBED IN 85-07203

☐ See Remarks on page 4 for continuation

4.

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

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

5. Point(s) of Diversion:

Ident. No.	Gov't. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
		SW	SW	NW	17	33N	4W	NEZ PERCE	MAP

6. Place(s) of Use:

Indicate Method of Determination MAP

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
33N	4W	17						D											

Do not use this space

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

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

2. Measurements:

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method:

ONE HOME .04

2. Alternate Method for Checking Purposes:

F. PUMP EFFICIENCY DATA (Optional)

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

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

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

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

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

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

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

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

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

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

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

2. Volume Calculations for Other Uses:

ONE HOME 1.2

H. REMARKS AND OVERLAP REVIEW ANALYSIS

SYSTEM Common WITH 85-07203

THIS SYSTEM WAS PREVIOUSLY EXAMINED & LICENSE IN
ERROR AS 85-07223

PICTURE OF HOME IN FILE # 85-07223

FILED AS A85-11215 IN SRBA

I. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
Domestic	1-1	12-31	0.04	1.2
Totals:			0.04	1.2

2. Recommended Amendments

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

J. AUTHENTICATION

Field Examiner's Name Tam D. King

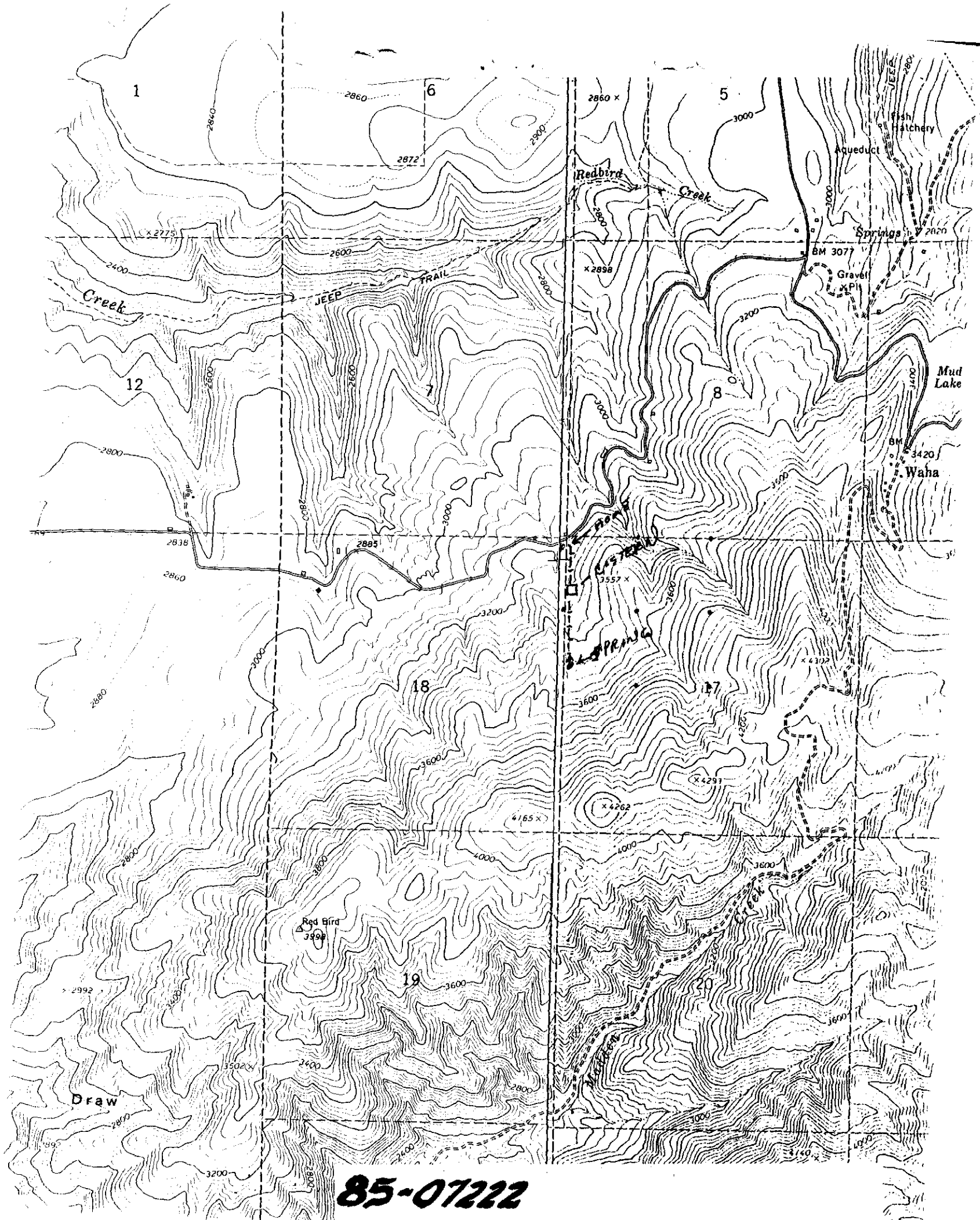
Signature Tam D. King

Certification Date _____

Field Report Preparation Date 1/21/92

CONSULTANT SEAL

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



85-07222

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
COMMENCEMENT OF WORKS

Permit No. 85-7-222
Name(s) of Permit Holder(s): John J. and Margaret J. Chern
Post Office Address: 1705 Pine Road
Jerusalem Idaho 83501 Tel. No. 208-746-0715

- ☐ I hereby certify that construction of diversion works for the above referenced permit began on Completed (date) . I understand that I must continue to develop the water system with due diligence to maintain a valid permit.
- ☐ I hereby certify that construction of diverting works on the above referenced project has not yet begun due to the following reason beyond my control*:

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

7/13/82
Date

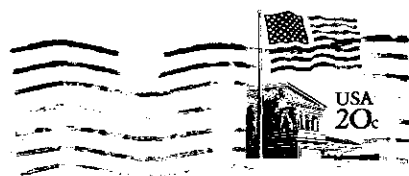
John J. Chern
Signature of Permit Holder

JOHN • MIDGE AHERN

176 RED BIRD ROAD

LEWISTON, ID 83501

208-746-0715



Department of Water Resources

JUL 8 1982



RECEIVED

IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

RECEIVED

JUN 16 1988

Department of Water Resources

INTER OFFICE MEMORANDUM

TO: Gary Spackman

Date: June 14, 1988

FM: Tom King

SUBJECT: EXAM # ~~85-7222~~ AND # 85-7223

I have again contacted Mrs. Ahern. I believe that Jenny and I both misunderstood the system. Please ~~return~~ both ~~exams~~ to this office and I will attempt to get this mess straightened out.

Attached

*Copy attached,
this pt. has already
been licensed &
ready for microfilm
so we have to keep the
original exam.*

*EXAM RETURNED
TO REGION
6/20/88*



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

May 17, 1988

Tom King
Northern Region

Re: Permit to Appropriate Water No. 85-7222

Dear Tom:

You conducted a field examination for the above referenced permit in 1987. A field examination was forwarded to the state office recommending that we void the permit for failure to develop. As a result, I mailed a notice of pending order voiding permit to the permit holder, John J. Ahern.

Mr. Ahern called me after receiving the letter, and disputed that the right had not been developed. I informed him that I would have you contact him to resolve the dispute.

Would you please contact Mr. Ahern, and verify the status of development. Once you have visited with Mr. Ahern, I would appreciate your submitting additional information to me.

Sincerely,

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

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:jf

CC: John J. Ahern



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 1301 North Orchard Street Boise, Idaho 83706-2237 • (208) 334-4440

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

March 16, 1988

John J. Ahern
1705 Redbird Rd.
Lewiston, ID 83501

RE: Permit to Appropriate Water No. 85-7222

Dear Permit Holders:

NOTICE OF PENDING ORDER VOIDING PERMIT

On April 8, 1980 the Department of Water Resources approved an application to appropriate water, numbered 85-7222, from a spring tributary to Red Bird Canyon Creek, for domestic purposes located in the SWNW, Sec. 18, T33N, R4W, Nez Perce County, B.M.

Based on a field inspection conducted by a representative of our Department it has come to our attention that you have not developed the system you intended under this permit.

The purpose of this letter is to request that you relinquish your permit or explain why the Department should not void the permit. Enclosed is a relinquishment form that should be signed and returned to this office, unless you have some explanation that would prevent the Department from voiding your permit.

If you fail to respond to this notice within thirty (30) days of the date of mailing of this letter, the Department will act to void your permit. The permit will be voided on the grounds that you failed to divert and beneficially use the water that you were permitted to develop.

If you have any questions in regard to this matter, please feel free to contact our office.

Respectfully,

GARY SPACKMAN
Supervisor, Water Allocation Section

I hereby certify that on this 17th day of March, 1988, I sent the original copy of this letter, postage prepaid, to the person and address listed above.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Northern Region

JOHN V. EVANS
Governor
A. KENNETH DUNN
Director

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

NOVEMBER 18, 1985

MARGARET AHERN
1705 RED BIRD RD.
LEWISTON ID 83501

RE: Permit No. 85-7222

Dear Permit Holder:

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

Enclosed please find a copy of an order involving your permit.

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

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

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

Sincerely,

/S/
TOM D. KING
Senior Water Resource Agent

cc: IDWR - State Office

ENCLOSURE



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

November 26, 1985

RE: Water Rights

Margaret J. Ahern
1705 Redbird Rd.
Lewiston, ID 83501

Dear Ms. Ahern:

We are in receipt of your letter requesting information on your water rights. Be advised that we have found five water rights belonging to you. They are listed below for your information.

Claim 85-4133 - This claim is filed on a spring with a priority date of 1961; to be used for stockwater in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 7, Twp 33N, Rge 4W. The amount claimed on this document is 0.04 cfs.

Claim 85-4134 - This claim is filed on a spring with a priority of 1960; to be used for stockwater within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 18, Twp 33N, Rge 4W. The amount claimed is 0.02 cfs.

Permit 85-7203 - This permit is filed on four springs and an unnamed stream; to be used for irrigation and fish propagation. The amount filed on is 0.20 cfs. Our office has conducted a field examination on this system, and will license it in the near future.

Permit 85-7222 - This permit is filed on a spring to be used for domestic purposes. The amount filed on is 0.04 cfs. We have received your proof of beneficial use. The next step will be for an examiner from our Coeur d'Alene office to inspect this system.

Permit 85-7223 - This permit is filed on a spring to be used for domestic and recreation purposes. The amount filed on is 0.04 cfs. We have received your proof of beneficial use of this permit also.

We find that you have met all the requirements necessary to license your permits. The completion of these rights is now up to the Department.

Page 2

If you have any further questions regarding your water rights, or if you need a copy of one or more of the above mentioned rights, please do not hesitate to contact our office.

Sincerely,

KAY WALKER
Technical Records Specialist

KW:sc

Sorry I never received your permit for signature. Now am concerned about my other permits.

I called Boise about a year ago concerning them. And there was a field man out.

I have two more springs that he had filed on and I can't seem to get any information on them. Could you please tell me what I do if they haven't been filed on.

RECEIVED

SEP 30 1985

Department of Water Resources

Thank you
Margaret J. Ahern
1705 Red Bird Rd
Lewiston, Idaho 83501

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
PROOF OF BENEFICIAL USE

RECEIVED
MAY 6 1985

Department of Water Resources

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed development under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below:

Permit No. 8.5-7922-~~85783~~

Name(s) of Permit Holder: John J. A. Herne By Margaret J. A. Herne
Administrator & Surviving Tenant

Post Office Address: 1705 Red Bird Rd

Sewiston Idaho 83501 Telephone No. 746-0715

Source of Water: Spring

Extent of Use:

Domestic one (number of households)

Stockwater little (number and type of stock)

Irrigation 10 (acres)

Other/Remarks Fish Pond

Indicate the date water was first diverted and beneficially used under this permit: _____

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

Flow Measurement Port: Required? ☐ Yes ☒ No
Installed? ☐ Yes ☐ No

Person to contact to accompany the Department representative during the field examination:

Margaret J. A. Herne (Name)

1705 Red Bird Rd (Address)

746-0715 (Telephone Number)

MICROFILMED

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

May 1 - 1985 Date
Margaret J. A. Herne, Surviving Tenant Signature of Permit Holder (and Title, if appropriate)

Margaret J. Olsen
1705 Red Bird Rd
Lewiston Idaho 83501



Idaho Department of Water Resources
Statehouse Mail
Boise, ID 83720

^ALCULATION OF NEW PRIORITY DATE

FROM: RITA FLECK

TO: FILE # 85-7222

DATE: 7/15/85

Date proof received

126

5/6/85

Proof due

- 91

4/1/85

Number of day proof late

35

Priority date

+ 60

2/29/80

New priority date

95

4/5/80

Remarks:

MICROFILMED

RECEIVED

JUN 12 1985

Department of Water Resources

JONES & JONES, LAWYERS
Garry W. Jones
1304 Idaho Street, P. O. Box 854
Lewiston, Idaho 83501
(208) 743-3591

2:30 P.M.
JUN 13 1985
JAMES L. JONES

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

In the Matter of the Estate

of

JOHN J. AHERN, also known as
JOHN JOSEPH AHERN,

Deceased.

) NO. 54479
)
) LETTERS TESTAMENTARY
)
)
)
)

MARGARET J. AHERN is hereby appointed Personal Representative of
the Will and Estate of JOHN J. AHERN, also known as JOHN JOSEPH
AHERN, deceased, under informal proceedings.

WITNESS:

Judge of the District Court, County of Nez Perce, State of Idaho,
with the Seal of the Court affixed this 23rd day of August, 1984.

JUDGE

MICROFILMED

STATE OF IDAHO)
 : ss
County of Nez Perce)

I hereby accept the duties of Personal Representative of the Estate of JOHN J. AHERN, a/k/a JOHN JOSEPH AHERN, deceased, and do solemnly swear that I will perform, according to law, the duties of Personal Representative.

Margaret J. Ahern
MARGARET J. AHERN

SUBSCRIBED AND SWORN to before me this 23rd day of August, 1984.

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

I, James T. Jones, Notary Public for the State of Idaho, do hereby certify that the foregoing Letters Testamentary is a true and correct copy of the original as the same appears in the public records on file with me.
WITNESS my hand and seal this 23rd day of August, 1984.
JAMES T. JONES
By Deane Schmal Deputy

June 5, 1985

Margaret J. Ahern
1705 Redbird Rd.
Lewiston, ID 83501

Dear Ms. Ahern:

Re: Permit Nos. 82-7222 and 82-7223

The Department received the Proof of Beneficial Use forms for the above-referenced permits.

The water right permits are in the name of John J. Ahern, deceased, and since a permit is considered personal property, only a permit holder or authorized agent can take action on the permit. I understand that you are the administrator of the estate, so to make our records complete and to further process the proofs, I need a copy of the Appointment of Personal Representative for Mr. Ahern's estate. Upon receipt of this document, you will have met the requirement of beneficial use. Please send me a copy by July 1.

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

Sincerely,

RITA I. FLECK
Secretary/Records Manager

MICROFILMED

WARNING

CANCELLED OR LAPSED

This permit has been officially CANCELLED or LAPSED.

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

~~ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED~~

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

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440

AHERN, JOHN J.
1705 REDBIRD ROAD
LEWISTON, ID 83501

LAPSE NOTICE

APRIL 04, 1985

DEAR PERMIT HOLDER:

YOU ARE HEREBY NOTIFIED THAT UNDER THE PROVISIONS OF SECTION 42-218A OF THE IDAHO CODE, PERMIT NO. 85-7222 HAS LAPSED. THIS OFFICE DID NOT RECEIVE EITHER AN ACCEPTABLE NOTICE THAT YOU HAVE COMPLETED THE PROJECT (PROOF OF BENEFICIAL USE) BY THE DATE REQUIRED ON YOUR PERMIT OR AN ACCEPTABLE REQUEST FOR AN EXTENSION OF TIME. YOU WERE PROVIDED THE PROPER FORMS IN OUR PROOF DUE NOTICE TO YOU DATED JANUARY 31, 1985.

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

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

L. GLEN SAXTON
CHIEF, OPERATIONS BUREAU

ENCLOSURES

LGS:RF

CERTIFICATION OF MAILING

I hereby certify that on 4-29-1985
a copy and original of this document was
deposited in the United States mail,
postage prepaid addressed to the
individual(s) named above.

[Signature]

MICROFILMED

WATER RIGHT NUMBER 85-7222

OWNER LAST NAME - AHERN FIRST NAME - JOHN J. ORIG OWNER -
ADDRESS LINE 1 - 1705 REDBIRD ROAD ADDRESS LINE 2 -
ADDRESS LINE 3 - CITY - LEWISTON STATE - ID ZIP CODE - 83501 -
SOURCE - SPRING TRIBUTARY OF - REDBIRD CANYON CREEK
STAGE - PERMIT STATUS - PRIORITY - 02-29-1980 COUNTY - NEZ PERCE TOTAL DIV. RATE - .0400 -CFS
TOTAL DIV. VOLUME - .00 AFA TRFR/AMEND - WATER DIST. - DLE/CAREY ACT - RIGHT BASIS -
DIVERSION POINT - SWNW 18 33N 04W LOT REDIV - 272.0 54.0 1.3 0.0 0.0 0.0 0.0 0.0 0.0 0.0 1.2
FROM - 01-01 TO - 12-31 USE - DOMESTIC USE DIV. RATE - .0400 CFS USE DIV. VOLUME - .00 AFA
USE - DOMESTIC PLACE OF USE - TWN 33N RNG 04W SEC 18 TRACT SWNW LOT AC
DECREE NAME - DATE - TOTAL ACRES 0
REMARKS -
NON IRRIG USE -
OTHER RIGHTS FOR SAME USE -
PROOF DUE - 04-01-1985 PERMIT/DENIED - 04-08-1980 PROTESTED - HEARING - OLD NO. -
PROOF MADE - FLD EXAM - COND. OF APPROVAL -
DIVERSION MEANS - DEVELOPED SPRING AND PIPELINE.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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

138684

AHERN, JOHN J.
1705 REDBIRD ROAD
LEWISTON, ID 83501

PROOF DUE NOTICE

JANUARY 31, 1985

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 85-7222 WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE APRIL 01, 1985. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST). ENCLOSED IS A POSTCARD WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU OR A PREVIOUS OWNER OF THIS PERMIT HAVE NOT RECEIVED A PRIOR EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME IF THE DELAY IS FOR REASONABLE CAUSE AS PROVIDED IN SECTION 42-204, IDAHO CODE. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER THE BENEFICIAL USE POSTCARD OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE DESCRIBED PROOF DUE DATE. IF NEITHER IS RECEIVED, THE DEPARTMENT WILL SEND YOU A LAPSE NOTICE. WITHIN SIXTY (60) DAYS OF THE MAILING OF THE LAPSE NOTICE, THE PERMIT WILL NO LONGER BE OF ANY FORCE NOR EFFECT.

SINCERELY,

RITA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES

MICROFILMED



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

C. STEPHEN ALLRED

Director

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

April 15, 1980

John J. Ahern
1705 Redbird Rd.
Lewiston, Idaho 83501

Dear Mr. Ahern,

RE: Permit No. 85-7222

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

Sincerely,

DAVID R. TUTHILL, JR.
Supervisor, Water Allocations Section

DRT:mr

Enclosure

MICROFILMED

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY: JK

APPLICATION NUMBER: 85-7222

CHECK:

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

Field check by: _____

Date: _____

Comments: _____

☐ Yes ☒ No Field check required.

☐ Yes ☒ No Critical groundwater area.

☐ Yes ☒ No Request dam safety information. Sent by: _____ Date: _____

☒ Yes ☐ No* In form to receipt.

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

85-7222
Ahern, John J., 1705 Redbird
Road, Lewiston, ID 83501. Source:
Spring tributary to Redbird
Canyon Creek. Date filed: 02-29-
1980. Amount: 0.04 CFS.
Diversion point: SWNW Sec 18 T
33N R 04W, Nez Perce County.
Use: Domestic (0.04 CFS) from
01-01 to 12-31. Place of use:
SWNW Sec 18 T 33N R 04W.
Diversion means: Developed spr-
ing and pipeline.

SEND COPIES TO:

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

PROCESSING:

☐ Yes ☐ No Platted by: _____ Map No. _____

☐ Yes ☐ No Other rights on same place of use. _____

☒ Yes ☐ No* In form for advertising.

Final date for protests: 3/31/80

☐ Yes ☒ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

☒ Affidavit of publication received. Date: 3/21/80

☒ Application published correctly. If not, record action taken: _____

☒ Fee amount, receipt date & number, recorded on application.

☒ Publication dates and paper, recorded on application.

☒ Protests, dates, withdrawal, etc., recorded on application.

☒ Recommendation & initial, recorded on application.

☐ Yes ☒ No Measuring device required.

☐ Yes ☒ No Access port required.

☐ Yes ☒ No Will water be delivered by watermaster? If yes, what district? _____

2/29/80 Date of priority recommended.

Special conditions of approval or cover letter. _____

By: [Signature] Date: 3/31/80

STATE OFFICE REVIEW:

S.L. w/a card

☐ See attached sheet for more information.

By: [Signature] Date: 4/8/80

85-2222-

AHERN, JOHN J.

1705 REDBIRD ROAD, LEWISTON, ID 83501

Source: SPRING tributary to REDBIRD CANYON CREEK

Date Filed: 02/29/1980

Amount: 0.04 CFS

Diversion Point: SWNW Sec 18 T 33N R 04W, NEZ PERCE Co.

Use: DOMESTIC (0.04 CFS) from 01/01 to 12/31

Place of Use: SWNW Sec 18 T 33N R 04W

Diversion Means: DEVELOPED SPRING AND PIPELINE.