

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 29-08084

Priority: March 6, 1992

Maximum Diversion Rate: 0.10 CFS
Maximum Diversion Volume: 10.4 AF

This is to certify, that KENT L YOST
PO BOX 4987

POCATELLO ID 83205

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated March 6, 1992; and has submitted Proof of Beneficial Use on November 15, 1994. An examination indicates that the works have a diversion capacity of 0.100 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	0.06 CFS	8.0 AF
DOMESTIC	01/01 to 12/31	0.10 CFS	2.4 AF
	Totals	0.10 CFS	10.4 AF

LOCATION OF POINT(S) OF DIVERSION:

NENE , Sec. 27, Township 05S, Range 34E
BANNOCK 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>
05S	34E	27	NENE	2		2

Total number of acres irrigated: 2

PLACE OF USE:

DOMESTIC, same as IRRIGATION use

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. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.

RECORDED
1994

State of Idaho
Department of Water Resources

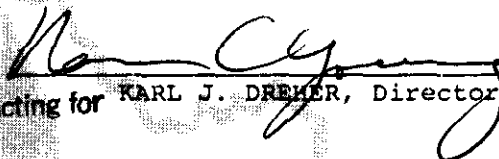
WATER RIGHT LICENSE

WATER RIGHT NO. 29-08084

CONDITIONS OF APPROVAL AND REMARKS

6. The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
7. Diversion and use of water under this right is subject to rules that may subsequently be promulgated for the use of existing rights used for supplemental purposes.
8. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for the lands above.
9. Domestic use is for 4 homes and does not include lawn, garden, landscape, or other types of irrigation.

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 26TH day of FEBRUARY, 1997.


Acting for KARL J. DREHER, Director

RECORDED
MAR 10 1997

RECEIVED

NOV 15 1994

Department of Water Resources

STATE OF IDAHO
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. 29-08084 Telephone No. (208) 233-5000
2. Name(s) of Permit Holder(s): Kent L. Yost
3. Mailing Address: P.O. Box 4987, Pocatello Id. 83205
4. Source of Water: Well If **GROUNDWATER** (well), Date Drilled: mo. Existing / yr. 1970 Existing - Approval
 - a. Well Driller: Existing Drilling Permit Number:
 - b. **OPTIONAL:**
Pump Horsepower: 5 Pressure (psi): 60 Dynamic pumping level (ft): 140
5. Use(s) (as authorized by the water right permit):
Domestic (No. of households): 4 Stockwater (No. and type of stock):
Irrigation (No. of acres): Other:
6. Total rate of diversion and/or volume for which proof is submitted: .16 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 <u> </u> or No <u>X</u>
Has the measuring device been installed?	Yes <u> </u> or No <u>X</u>
Flow Measurement Port: Is a flow measurement port required?	Yes <u> </u> or No <u>X</u>
Has the measurement port been installed?	Yes <u> </u> or No <u>X</u>
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: Kent Yost Telephone Number: (208) 233-5000
13826 N Moonglow
Address: Pocatello Id. 83205

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:

Kent Yost

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

NOV 29 1994

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPROVED PERMITS)
FOR THE APPROPRIATION OF GROUND)
WATER FROM THE EASTERN SNAKE RIVER)
PLAIN AQUIFER FOR WHICH PROOF OF)
BENEFICIAL USE HAS NOT BEEN)
SUBMITTED AND IS NOT PAST DUE)

**ORDER FOR TEMPORARY
STAY OF DEVELOPMENT AND
NOTICE OF FORMAL PROCEEDINGS**

The Director of the Idaho Department of Water Resources (Director), having responsibility for the administration of the appropriation of the water of the state of Idaho, the protection of rights to the use of water within the state, the protection of the public interest in the waters of the state and the conservation of the water resources of the state enters the following Findings of Fact, Conclusions of Law and Order for temporary stay; and provides the following notice of formal proceedings:

FINDING OF FACTS

1. On May 15, 1992, the Director issued an order establishing a moratorium on the processing and approval of applications for permit to appropriate water from all surface and ground water sources upstream from the USGS Gauge on the Snake River near Weiser, Idaho. On April 30, 1993, the Director issued an Amended Moratorium Order covering the Eastern Snake River Plain Aquifer. The 1994 session of the Idaho Legislature enacted section 42-1806, Idaho Code, requiring that the moratorium relating to the the Eastern Snake River Plain area shall continue in effect until December 31, 1997.

2. The state of Idaho has experienced seven (7) recent years of drought conditions resulting in lowered ground water levels and decreased discharge from surface water sources. The Idaho Legislature has authorized a study to examine the implications of these changes and the relationships between surface and ground water resources. The study is expected to be completed in approximately two (2) years.

3. Delivery calls have been made by the holders of senior-priority surface and ground water rights against the holders of junior-priority ground water rights from the Eastern Snake Plain Aquifer which could result in the curtailment of diversion and use of water under junior-priority ground water rights including rights which might otherwise be developed under permits which are the subject of this order and notice.

RECEIVED

NOV 29 1994

CONCLUSIONS OF LAW

1. Section 42-1805, Idaho Code, provides in part as follows:

In addition to other duties prescribed by law, the director of the department of water resources shall have the following powers and duties:

...

(7) After notice, to suspend the issuance or further action on permits or applications as necessary to protect existing vested water rights or to ensure compliance with the provisions of chapter 2, title 42, Idaho Code, or to prevent violation of minimum flow provisions of the state water plan.

2. Water Appropriation Rule 55.02. of the Department of Water Resources (IDAPA 37.03.08055.02) provides as follows:

02. PERMITS

a. To the extent a permit has not been developed, the director may cancel, or modify permits for which proof of beneficial use has not been submitted in a designated geographical area as an extension of Rule 55.01.

b. Notice of the director's action to cancel or modify permits shall be by:

i. Summary Order served by certified mail upon the affected permit holders in the designated area.

ii. Publication of the order for three (3) consecutive weeks in a newspaper or newspapers of general circulation in the area.

c. Objections to the director's action shall be considered under the department's adopted rules of procedure and applicable law.

3. Rule of Procedure 104 of the Department of Water Resources (IDAPA 37.01.01104) provides in part as follows:

Formal proceedings may be initiated by a document from the agency informing the party(ies) that the agency has reached an informal determination that will become final in the absence of further action by the person to whom the correspondence is addressed, provided that the document complies with the requirements of Rules 210 through 280.

4. Protection of prior rights to the diversion and use of surface and ground water of the Eastern Snake River Plain Aquifer

NOV 29 1994

and the Snake River may require that the further development of water under existing undeveloped permits be suspended indefinitely to assure that the effects and conditions caused by drought, changes in irrigation practices and resulting aquifer recharge, and diversion and use of ground water from the aquifer under prior established water rights are properly evaluated.

5. Section 42-204, Idaho Code, provides in part as follows:

Every holder of a permit which shall be issued under the terms and conditions of an application filed hereafter appropriating twenty-five (25) cubic feet or less per second must, within one (1) year from the date upon which said permit issues from the office of the department of water resources, commence the excavation or construction of the works by which he intends to divert the water, and must prosecute the work diligently and uninterruptedly to completion, unless temporarily interrupted through no fault of the holder of such permit by circumstances, over which he has no control.

ORDER

IT IS THEREFORE, HEREBY ORDERED as follows:

1. The owners of all permits to appropriate ground water within the boundaries of the Eastern Snake Plain Aquifer, as that area is defined by Rule 50 of the rules for Conjunctive Management of Surface and Ground Water Resources (IDAPA 37.03.11), shall, effective immediately upon receipt of this order, temporarily stop further development under the permit until the Director authorizes further development.

2. The owners of all permits for appropriation of ground water within the boundaries of the Eastern Snake River Plain Aquifer shall on or before February 1, 1995, either:

A. File proof of beneficial use to cover the extent of diversion and beneficial use of water that has been accomplished prior to receipt of this order; or

B. File a response with the Director in this proceeding to satisfy the requirements of either subparagraph 1) or 2) below:

1) Document with supporting information that a "substantial investment" has been made, prior to receipt of this order, in facilities to divert and beneficially use water under the permit that merits the granting of additional time to complete all or part of the project. Substantial investment means an actual expenditure or written commitment for development of the project which meets the following requirements:

NOV 29 1994

- a) The actual expenditure or written commitment for the diversion and related equipment must equal or exceed the amount of fifteen thousand dollars (\$15,000) or exceed twenty five (25) percent of the estimated cost of the system for diverting and beneficially using the water, whichever is less; and
- b) The actual expenditure or written commitment must have been made before receipt of this order.

2) Request an indefinite stay in the development period for the project, or any part of the project for which a substantial investment has not been made, until the conditions that resulted in this order have been alleviated if such should ever occur. Upon approval of any such stay, no further development is to occur until such time as the department has issued an extension of time setting a date for completion of the project.

3. Failure to submit either proof of beneficial use or a satisfactory response shall result in cancellation of the permit without further notice.

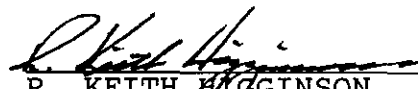
4. Before receiving approval for either additional time to complete a project under subparagraph 2.B.1) or a stay under subparagraph 2.B.2) above, the owner of the permit shall provide information to demonstrate compliance with the provisions of Sections 42-204, Idaho Code, with respect to commencing and diligently proceeding to develop the project authorized under the permit.

5. This order does not prevent the Director from reviewing continued development of a permit on a case-by-case basis if,

a. The Director determines that protection and furtherance of the public interest justifies continued development of a permit; or

b. The Director determines that continued development and use of water will have no effect on prior water rights because of its location, insignificant consumption of water or mitigation provided by the permit holder to offset injury to other rights.

Dated this 9TH day of NOVEMBER, 1994.


R. KEITH MCGINNISON
Director


NOV 29 1994

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 29-08084

Proposed Priority: March 6, 1992 Maximum Diversion Rate: 0.16 CFS

This is to certify, that **KENT L YOST**
PO BOX 4987
POCATELLO ID 83205

has applied for a permit to appropriate water from: **GROUNDWATER**
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	04/01 to 10/31	0.06 CFS
DOMESTIC	01/01 to 12/31	0.10 CFS
	Totals	0.16 CFS

LOCATION OF POINT(S) OF DIVERSION:

NENE , Sec. 27, Township 05S, Range 34E
BANNOCK 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>
05S	34E	27	NENE	2		2

Total number of acres irrigated: 2

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 June 3, 1996.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
6. The Director retains jurisdiction of the right and any license subsequently issued to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
7. The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.03 cubic feet per second for each acre of land.

MICROFILMED

JUN 10 1992

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 29-08084

CONDITIONS/REMARKS:

8. Domestic use is for 4 homes.

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

20th day of May, 1992

R. Keith Higginson
for R. Keith Higginson, Director

MICROFILMED

JUN 10 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Kent L. Yost Phone 233-5000
Post office address P.O. Box 4987, Pocatello Id. 83205
2. Source of water supply Groundwater which is a tributary of _____
3. Location of point of diversion is _____ ¼ of NE ¼ of NE ¼, Govt. Lot _____
Sec. 27 Township 5S Range 34E B.M. Bannock County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 0.10 for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.06 for Irrigation purposes from 4/1 to 10/31 (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)
5. Total quantity to be appropriated is (a) 0.16 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. well pump mainline to 4
single domestic homes
 - 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 6 inches; proposed depth of well is 140 feet.
 - d. Is ground water with a temperature of greater than 90°F being sought? NO
7. Time required for the completion of the works and application of the water to the proposed official use is
5 years (minimum 1 year).

MICROFILMED
JUN 10 1992

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

- a. Hydropower; show total feet of head and proposed capacity in KW. _____
- b. Stockwatering; list number and kind of livestock. _____
- c. Municipal; show name of municipality. _____
- d. Domestic; show number of households. 4
- e. Other; describe fully. _____

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. 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	
5S	34E	27	D/4																
			2																2

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. Fort Hall Irr.

Sharer

11. a. Who owns the property at the point of diversion? Applicant

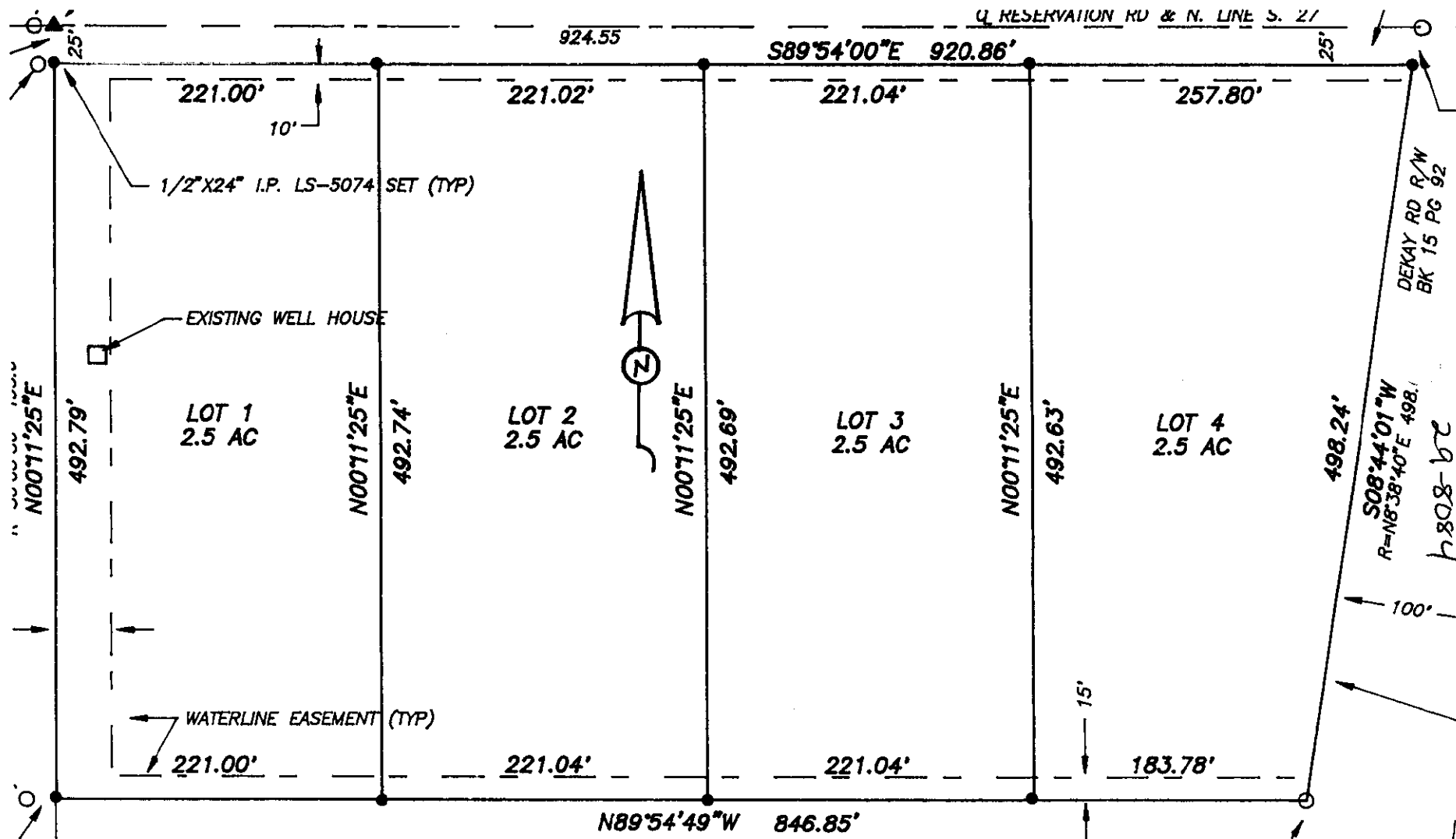
b. Who owns the land to be irrigated or place of use? "

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

12. Remarks: Item #7 5 years is being requested so that there will be sufficient time to construct four homes.

MICROFILMED

JUN 10 1992

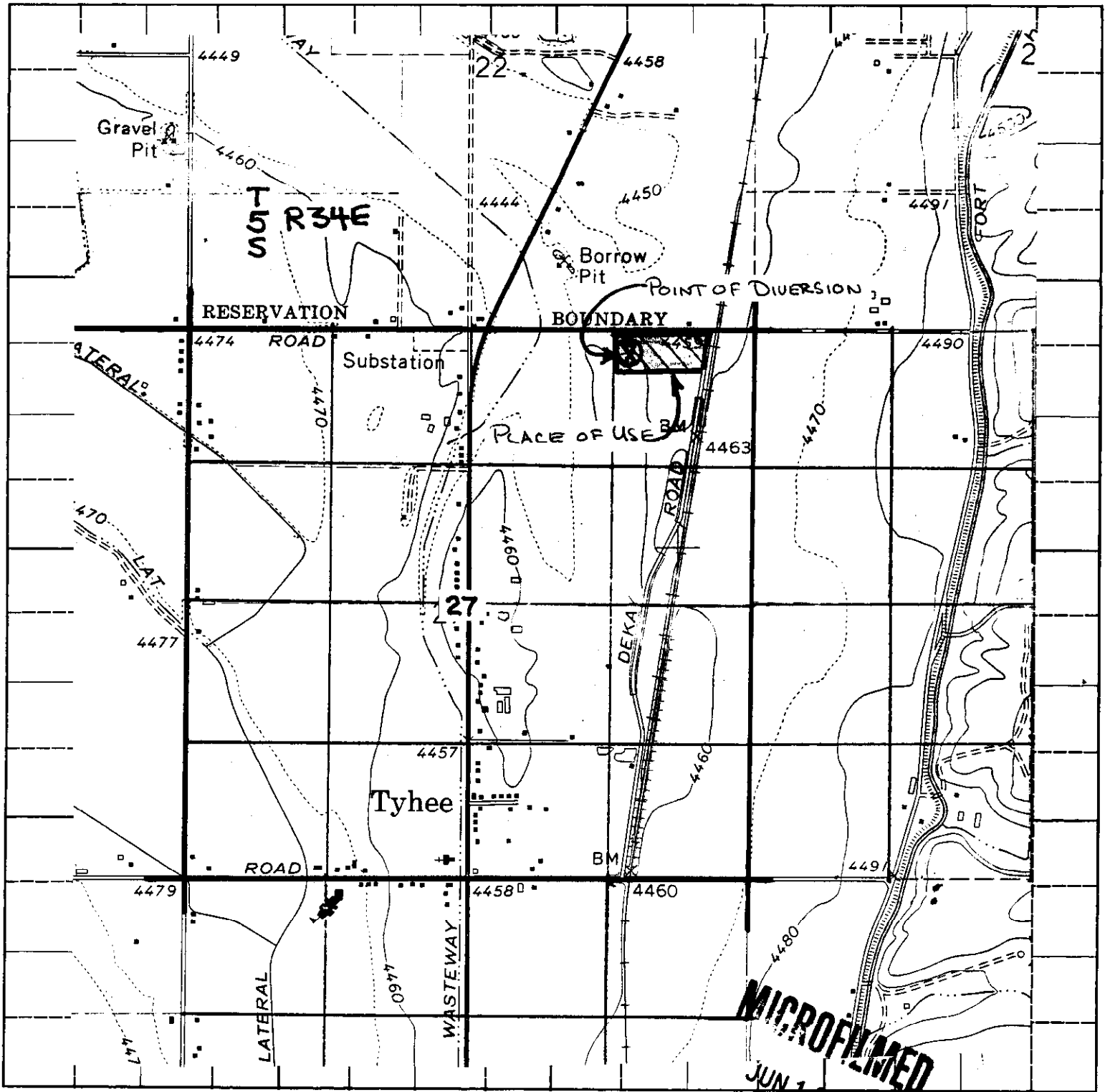


RECORDED
JUN 10 1999

US R 34E

29-8084

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.

Keith [Signature]
(Applicant)

Assisted by Kaw
Received by _____ Date 6 Mar 92 Time 1130hrs Preliminary check by AMM
Fee \$ 30⁰⁰ Receipted by Kaw # E017007 Date 6 March 1992
Publication prepared by LB Date 4-21-92 Published in Idaho State Journal
Publication approved LB Date 4-22-92

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:

MICROFILMED

JUN 10 1992

PROOF OF PUBLICATION

RECEIVED
JUN 13 1992

STATE OF IDAHO
County of Bannock

SS.

Department of Water Resources
Eastern District Office

LORI A SEKOT

NOTICE OF APPLICATION FOR WATER RIGHT
The Following application(s) have been filed to appropriate the public waters of the State of Idaho:

29-08084
YOST, KENT L.
PO BOX 4987
POCATELLO, ID 83205
Source: GROUNDWATER
Diversion Pt: NENE
Sec 27 T 05S R 34E in
BANNOCK County.
Use: IRRIGATION
(.060 CFS)
DOMESTIC (.100 CFS)
Total Diversion: (.160 CFS)
Date Filed: 3/6/ 1992
In: BANNOCK County
T05S R34E S27 NENE
2.0 ACRES TOTAL
29-08085

LAVA CEMETARY DISTRICT
12258 AVERY DR
LAVA HOT SPRINGS
ID 83246
Source: GROUNDWATER
Diversion Pt: NENW
Sec 33 T 09S R 38E in
BANNOCK County
Use: IRRIGATION
(.120 CFS)
Total Diversion: (.120 CFS)
Date Filed: 3/9/1992
In: BANNOCK County
T09S R38E S33 NENW
6.0 ACRES TOTAL
The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Eastern Region, 150 Shoup Avenue, Suite 15, Idaho Falls, Idaho 83402 on or before APRIL 20, 1992.
R. KEITH HIGGINSON, Director
April 2, 9, 1992
LN551

being first duly sworn on oath deposes and says: That _____ she _____
was at all times herein mentioned a citizen of the United States of America, more than 21 years of age, and the Principal Clerk of THE IDAHO STATE JOURNAL, a daily newspaper, printed and published at Pocatello, Bannock County, Idaho, and having a general circulation therein.

That the document or notice, a true copy of which is attached, was published in the said IDAHO STATE JOURNAL, on the following dates, to-wit:

April 2	1992	19
April 9	1992	19
	19	19
	19	19
	19	19

That said paper has been continuously and uninterruptedly published in said County for a period of seventy-eight weeks prior to the publication of said notice or advertisement and is a newspaper within the meaning of the laws of Idaho.

Lori A. Sekot

STATE OF IDAHO

COUNTY OF Bannock

On this 9th day of April in the year of 1992, before me, a Notary Public, personally appeared LORI A SEKOT, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Qui L. Larson
Notary Public for Idaho

Residing at Pocatello

My commission expires: July, 1997

MICROFILMED
JUN 10 1992



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

February 27, 1997

KENT L YOST
PO BOX 4987
POCATELLO ID 83205

RE: WATER RIGHT NO. 29-08084

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed license confirming 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 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 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.

MICROFILMED

MAR 10 1997

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.

If you have questions, please contact me at (208) 327-7946.

Sincerely,

A handwritten signature in cursive script that reads "Shelley W. Keen".

Shelley W. Keen
Water Rights Supervisor

c: Eastern Region

Enclosures

3 MICROFILMED
MAR 10 1987

CERTIFICATE OF MAILING

I hereby certify that on the 27th day of February, 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. 29-08084

**KENT L YOST
PO BOX 4987
POCATELLO ID 83205**



Sharla Curtis
Water Resource Agent

MICROFILMED
MAR 10 1997

MEMORANDUM

TO: File 29-08084

FROM: Sharla

DATE: February 21, 1997

RE: Recommendation Adjustment(s)

The final license recommendations for Right 29-08084 are based on the following:

H. RECOMMENDATIONS

Irrigation	4/1 - 10/31	0.06 cfs	8.0 afa
Domestic	1/1 - 12/31	0.10 cfs	2.4 afa
	TOTALS	0.10 cfs	10.4 afa

The examiner states that all lots are plumbed in; there only happened to be three homes built as of January, 1997. The license can be issued for all four lots.

The irrigation of lawn/garden areas are covered in the irrigation component. The volume for domestic has been calculated for in-house use only. The remainder of the lots (minus the 1/2 acre lawn/garden areas around each home) is irrigated with Fort Hall shares.

Examiner: Steve Mueller
Exam Date: August 2, 1995

MICROFILMED

MAR 10 1997

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED

JAN 16 1997

Department of Water Resources

A. GENERAL INFORMATION

Permit No. 29-8084

1. Owner: Kent Yost Phone No. (208) 233-5000

Current Address: P.O. Box 4987, Pocatello, ID 83205

2. Accompanied by: Kent Yost EXAM DATE: 8-2-95

Address: Same Phone No. (208) 233-5000

Relationship to Permit Holder: Same

3. Source: Groundwater tributary to

B. OVERLAP REVIEW

1. Other water rights with the same place of use: Yes Fort Hall Water Hiline Canal

2. Other water rights with the same point of diversion: NONE

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			NE	NE	27	5S	34E	Bannock	USGS / on site

2. Place(s) of Use:

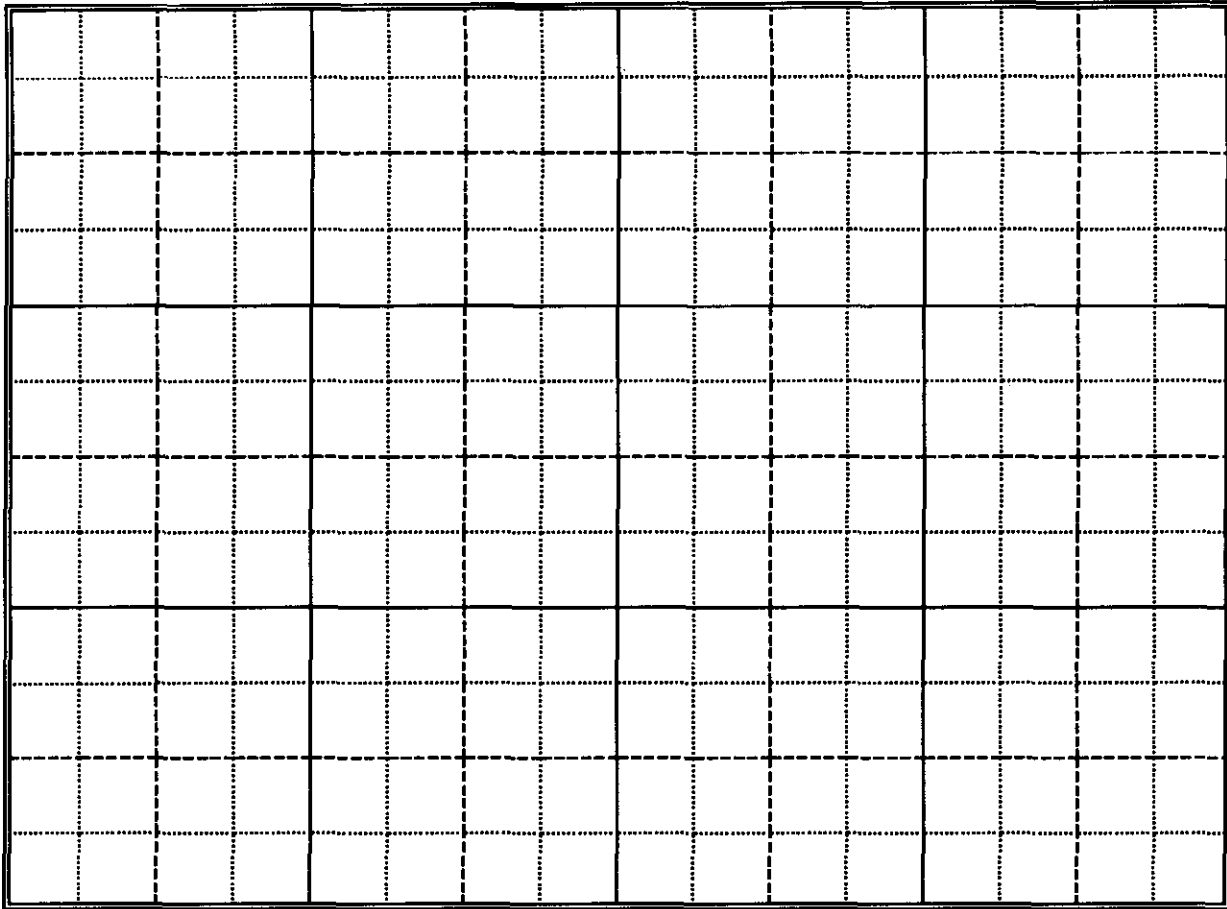
Indicate Method of Determination

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5S	34E	27	D ₃																
			2																2

MICROFILMED

MAR 10 1997

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
Submersible	Franklin Elec	3	2823028110		

*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
PSI Gauge		Campbell			0-100	

2. Measurements: Well depth 140

RECEIVED

MAR 10 1937

E. NARRATIVE/REMARKS/COMMENTS

The pumping pressure was 40 turn on and 60 shut off.

The well casing comes up in the basement of the well house.
Of the four lots on this system, there is one home that is occupied and one under construction. All lots have water lines plumbed in.

3 homes present DC 1/97

The static water level in neighboring wells is 65 ft
as of 1989-1991 See permit # V29-88-E-033

Theoretical cal.

$$CFS = \frac{(HP)(6.16)}{DP' + PSI(2.31)} = \frac{3(6.16)}{65 + (50)(2.31)} = \frac{18.5}{180.5} = 0.10 CFS$$

DP = 65' PSI = 50

HP = 3

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

MICROFILMED
MAR 10 1997

F. FLOW CALCULATIONS

_____ Additional Computation Sheets Attached

Measured Method:

*a Theoretical flow is recommended.***G. VOLUME CALCULATIONS**

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = \underline{2 \times 4 = 8}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = \underline{0.06(214)1.9835 = 25.5 \text{ AF}}$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = \underline{8}$$

2. Volume Calculations for Other Uses:

*Domestic 3 homes (1.2 AF) = 3.6 AF***H. RECOMMENDATIONS**

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
<i>IRR</i>	<i>4/01</i>	<i>10/31</i>	<i>.06</i>	<i>8</i>
<i>DOMESTIC</i>	<i>01/01</i>	<i>12/31</i>	<i>.10</i>	<i>3.6</i>
Totals:			<i>0.10</i>	<i>11.6</i>

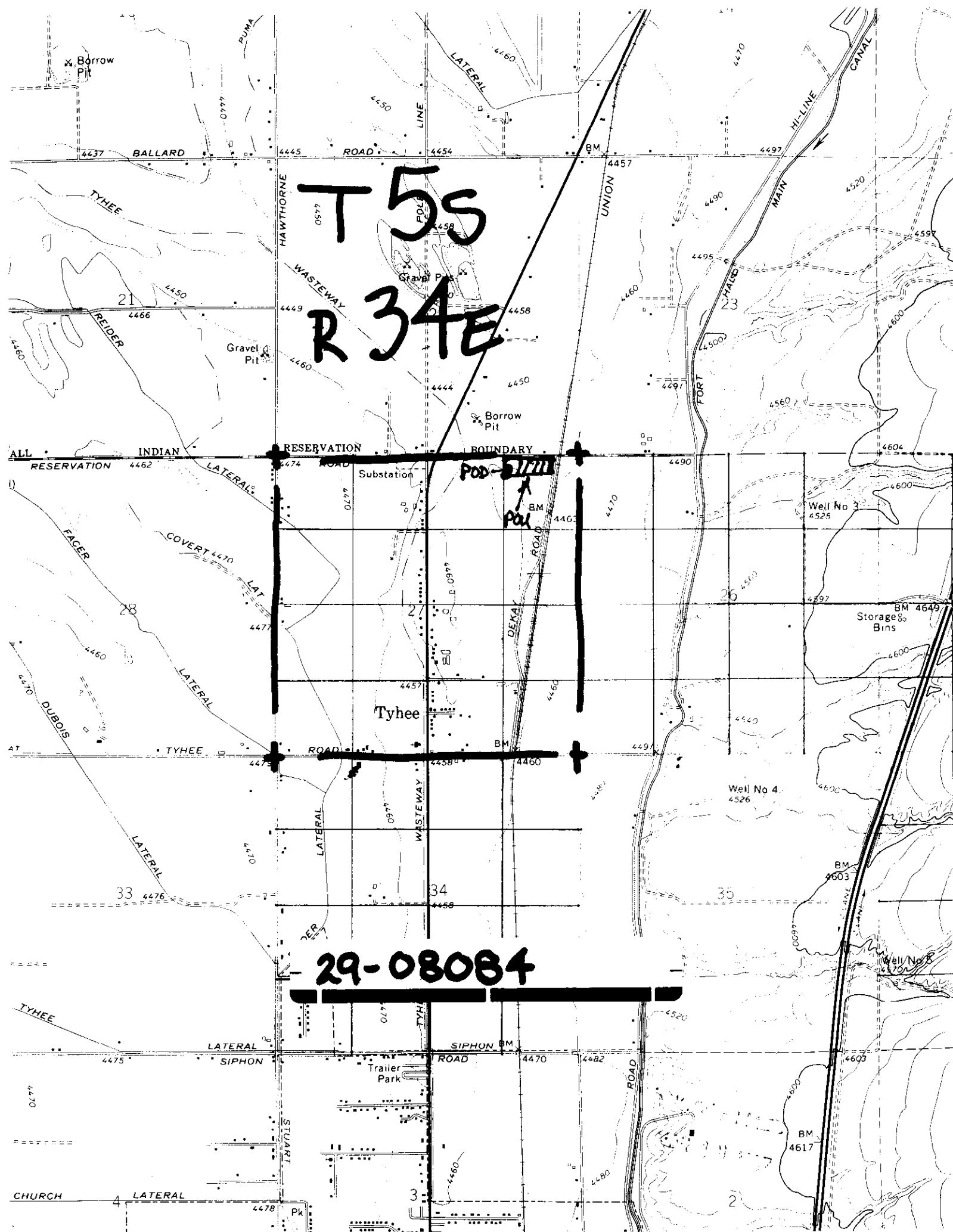
2. Recommended Amendments

___ 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 Steve Mueller Date 8-2-95Reviewer DAVE CARLSON Date 12/2/96

SEAL

MICROFILMED
JUN 10 1997



Q. RESERVATION RD & N. LINE S. 21

RESERVATION ROAD

S89°54'00"E 920.86'

25'

221.00'

221.02'

221.04'

257.80'

10'

1/2 X 24 I.P. LS-5074 SET (TYP)
HOME

HOME

EXISTING WELL HOUSE

LOT 1
2.5 AC

N00°11'25"E

492.74'

LOT 2
2.5 AC

N00°11'25"E

492.69'

LOT 3
2.5 AC

N00°11'25"E

492.63'

LOT 4
2.5 AC

HOME

498.24'

S00°00'00"E 498.1'
R=N8°38'40"E 498.1'

25808-67

25808-67

S00°00'00"E 498.1'

R=N8°38'40"E 498.1'

100'

WATERLINE EASEMENT (TYP)

221.00'

221.04'

221.04'

183.78'

N89°54'49"W 846.85'

15'

LOT R34E

HOME

please for
Survey
11/20/04

T5S
R34E

Road
27
28

27

POD

POW

27

29-08084

27

50

38.7

Roosevelt Brown

T7669
Lyle #580
Anderson

T59
Cedar Mtn.
Farms #25

T259
R1
#1093

NHE

8.0

16.0

3

1

2

1

1

1

1

1

1

1

1

1

1

1

1

1

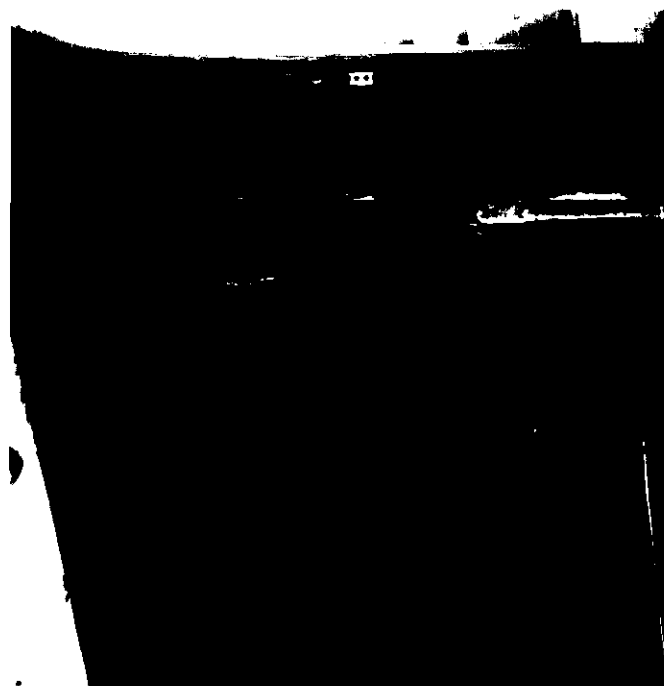
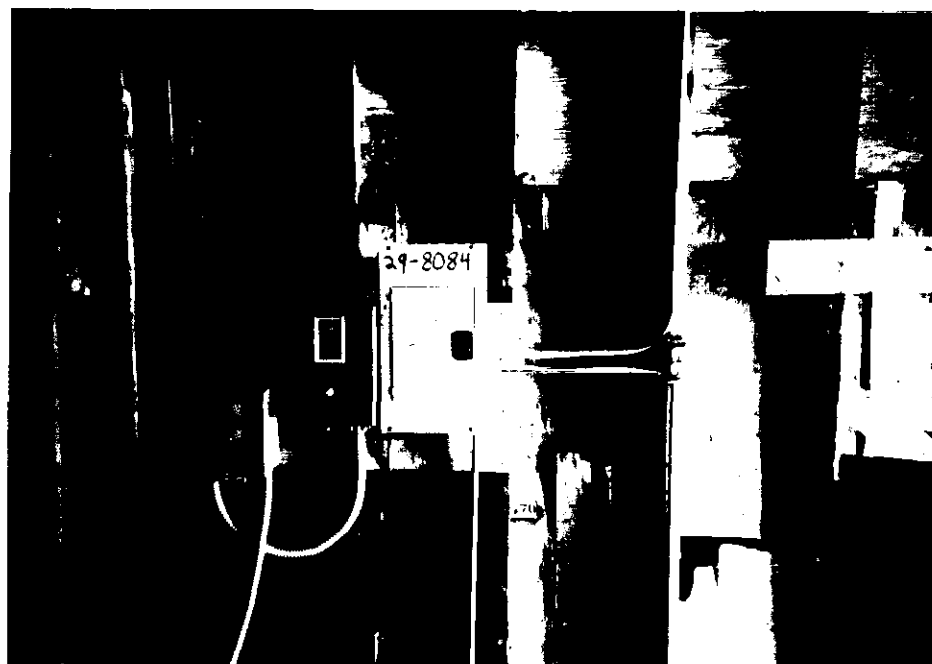
1

1

1

1

Control Panel



P.O.D.

Well casing

29-8084

November 22, 1994

KENT L YOST
PO BOX 4987
POCATELLO ID 83205

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 29-08084

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 EASTERN Regional Office in Idaho Falls at (208)525-7161.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

c: IDWR - Region

NOV 29 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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

November 9, 1994

KENT L YOST
PO BOX 4987
POCATELLO ID 83205

RE: Water Right No. 29-08084

Certified Mail No. 141744

Dear Water Right Holder(s):

Enclosed is a copy of an Order for Temporary Stay of Development and Notice of Formal Proceedings in connection with the above referenced water right permit. Also enclosed is a form and instructions for filing proof of beneficial use of water.

If you have questions related to the order and its effect upon your permit, please feel free to contact the department.

Sincerely,

A handwritten signature in cursive script that reads "L. Glen Saxton".

L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosures

NOV 29 1994

RECEIVED
MAY 27 1992

MORATORIUM EXEMPTION QUESTIONNAIRE

Department of Water Resources

IF YOUR APPLICATION PROPOSES AN IRRIGATION USE, PLEASE
COMPLETE AND RETURN THE FOLLOWING: MY APPLICATION IS FOR DOMESTIC

USE. ONLY THE GROUNDS IMMEDIATELY SURROUNDING THE RESIDENCES WOULD
BE IRRIGATED.

Has ALL the land you propose to irrigate been irrigated
with surface water in the past? THE FULL TEN ACRES

HAS BEEN IRRIGATED WITH FORT HALL WATER
WITH THE EXCEPTION OF THE GRASS SURROUNDING ONE
MOBILE HOME. THE TEN ACRES WOULD CONTINUE TO
BE IRRIGATED WITH FORT HALL WATER, WITH THE EXCEPTION
OF GRASS SURROUNDING MOBILE HOMES.

- Do you summer fallow any of your irrigated land? If
so, how many acres? No -

- List the water right(s) you have used to irrigate the
land listed on the application. If you have received
water from a canal company or water district, please
identify the name of canal or water district.

THE TEN ACRES HAS BEEN AND WILL CONTINUE
TO BE IRRIGATED WITH FORT HALL WATER.

- During the last ten years, how many years has your
surface irrigation water been available for the entire
irrigation season?

FORT HALL WATER HAS BEEN AVAILABLE AND
BEEN APPLIED DURING ALL OF THE LAST
TEN YEARS.

- What crops have you grown in the past ten years?

DURING LAST SIX YEARS - ALFALFA
DURING PREVIOUS FOUR YEARS - PASTURE

I understand if my proposed diversion of groundwater is
approved as a supplemental use, that I can only use my well
during periods of drought, when a full supply of water is not
available. I also agree that my surface water will be fully used
to the extent available, will not be sold or used on other lands,
and that a change in use of my surface water may result in
revocation of any groundwater right granted pursuant to my
application for supplemental water.

Dated this 26 day of MAY, 1992.

MICROFILMED

JUN 10 1992

(Please sign)

Kent R. [Signature]

29-08084



Jones, Yost & Hatt

CERTIFIED PUBLIC ACCOUNTANTS

P.O. BOX 4987

Pocatello, Idaho 83205

SCOTT N. JONES, CPA — Partner
KENT L. YOST, CPA, JD — Partner
MORGAN J. HATT, CPA — Partner

MEMBERS OF
American Institute of
Certified Public Accountants
Idaho Society of
Certified Public Accountants

May 26, 1992

Gary Spackman
State of Idaho
Department of Water Resources
1301 North Orchard St.
State Mailhouse
Boise, Idaho 83720

Re: Permit #29-08084

Dear Mr. Spackman:

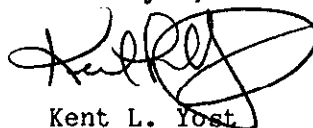
This letter documents our telephone discussion held earlier today regarding your moratorium letter dated May 21, 1992.

As discussed my application is for domestic use only. I have, with the assistance of Keith Wilson in your Idaho Falls office, identified on the application a use of .06 for irrigation purposes, which was intended only to be used for the immediate grounds surrounding the residences.

I am developing ten acres into four lots of two and one-half acres. Based upon domestic use, I concluded after meeting with Mr. Wilson that my application would be granted. I have now invested over \$75,000 into the ten acres and feel extremely threatened by this moratorium. However, I believe that my proposed use qualifies for an exception. The ten acres is presently being irrigated by Fort Hall Water (from the Blackfoot Reservoir). This water source has existed for as far back as the Fort Hall system has been operating. I have as part of the development provided to the lot purchasers a complete pumping system with underground mainline to facilitate the continued use of Fort Hall irrigation water. There is a preexisting (approximate 15 years) culinary well which in the past has provided domestic water to a mobile home, that with the addition of pressure tanks will serve the four lots. With the help of Keith Wilson I made application for a permit to use this preexisting well to service the domestic water needs of all four lots. As part of my improvements the domestic system has been completed.

Based upon your letter and upon my discussions I believe that my circumstances qualify for an exemption from the moratorium. Such exception is hereby requested.

Thank you,


Kent L. Yost

MICROFILMED
JUN 10 1992



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

May 22, 1992

KENT L YOST
PO BOX 4987
POCATELLO ID 83205

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 29-08084

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. We direct your attention to the conditions of approval on the final page.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under Condition No. 1 is the date when the project must be completed. You will receive a "Proof Due Notice" from this Department approximately 60 days prior to the completion date requiring you to file either a Proof of Beneficial Use form stating that the project has been completed or file a Request for an Extension of Time in which to file the proof statement.

Section 42-235, Idaho Code, requires that a "drilling permit" must be obtained from the department for all wells constructed after July 1, 1987. A drilling permit is a separate permit that must be issued in addition to your permit to appropriate water. Commencement of well construction or diversion of water under your permit to appropriate water is prohibited unless a drilling permit is obtained.

Sincerely,

BRENDA MILLER
Technical Records Specialist

BLM:cz

Enclosure

MAILED
JUN 10 1992

APPLICATION FOR PERMIT REVIEW

Application #: 29-8084
Date: 5-19-92

Reviewer: Brenda Miller

Brenda

SYSTEM COMPLETED:

- No - 26A-P17
- Complete in 1 year - P16
- Yes
 - Proof not submitted - P16
 - Proof submitted - N/A

GROUNDWATER:

- GT. 0.2 cfs <flo-ch> - 01G-P03, 01C-P03 (existing well)
- NMR <fl ch>, A of C
- LT. 0.2 cfs - No measurement required <flow chart>
- Drilling Permit:
 - Approved w/permit - P99
 - Not included - 046-P23 (existing wells-7/1/87 to present)
- SURFACE WATER: not in w/d - 01C-P03 (=GT.2 w/pump), NMR <flow chart>

LOCATION:

- Water Districts - WD No. 01
- Surface water - 005, 005-01H-P01 (LT.2 w/pump)
- Groundwater ^{EXISTING} - 005-01J-P08 (GT.2), NMR <flow chart>
- Irrigation Districts - P05
- Canal Co. Areas - 023
- Drainage Districts - 023
- Boise Front (63) - 024
- Swan Falls Flag - 058 (Groundwater)
- Trust - 1 (1, Blank or Other)
- Non Trust <1> - 051-052-053-P74 (Consumptive Uses)
- 048-049

RIVER BASINS:

- (Surface Water) Water District Control Condition &....
- Boise (63) - 05A & 11E
- Payette (65) - 047-P04, 059-P71
- Snake (01, 02 & 03) - 11A-P04 (01), 061-P07 (02/03 No W.D.Cond.)

USE:

- Fish Propagation - 06A, 09E-P10 & 010 (WQ/Choose One), 042(req.), 002-P06 (MD), 07A (Spec.), 044 (Policy 5G)
- Power - Use Power Review
- Mining - 06A, 010, or 09E-P10 & 054 (req.)
- Storage - 18A-for multiple measuring devices (In WD), 18B-P09 (Size)
- Rec/Wildlf/Aes - 027 (Non-Consumptive)
- Domestic - 021 (restricted areas)

OWNERSHIP:

- Non land owner - 004

PROTESTED:

- Agreement - 020

Beneficial Use Due Date: 06-03-1992

Other Conditions Recommended

sk for

30-Mar-1992

KENT L YOST
PO BOX 4987
POCATELLO ID 83205

RE: Application No. 29-8084

Dear Water Right Applicant:

The Department of Water Resources acknowledges receipt of your water right permit. This office is currently in the process of advertising the application in the Idaho State Journal on 4-2 & 9-92. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our state office in about five weeks. State office personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

HAROLD W. JONES
Water Rights Supervisor

HWJ/rb

MICROFILMED
JUN 10 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region
150 Shoup Ave., Suite 15

Idaho Falls, Idaho 83402
(208) 525-7161

MARCH 25, 1992

IDAHO STATE JOURNAL
P.O. BOX 431
POCATELLO, ID 83204

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before APRIL 20, 1992.

Yours truly,

Rita Bodell
Secretary

Encl.

MICROFILMED
JUN 10 1992

NOTICE OF APPLICATION FOR WATER RIGHT

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

RECEIVED

JUL 10 1992

29-08084

YOST, KENT L
PO BOX 4987
POCATELLO, ID 83205

Source: GROUNDWATER

Diversion Pt: NENE Sec 27 T 05S R ~~38E~~ in BANNOCK County.

Use: IRRIGATION (.060 CFS)
DOMESTIC (.100 CFS)
Total Diversion: (.160 CFS)

Date Filed: 3/ 6/1992

In: BANNOCK County
T05S R34E S27 NENE

2.0 ACRES TOTAL

*Paper made correction
4-3-92*

*Received
10 10 1992*