

FORM 202

2/96

RECEIVED

OCT 29 1999

Department of Water Resources

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NOV 29 1996

STATE OF IDAHO

Department of Water Resources
Eastern District Office

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 11-2437

RECEIVED

NOV 22 1996

Department of Water Resources

- Name of Applicant CITY OF MONTPELIER Phone 208-847-0824
Mailing address 534 WASHINGTON MONTPELIER ID. 83254
- Source of water supply GROUNDWATER which is a tributary of _____
- Location of point of diversion is Township 13 S. Range 44 E. Sec. 10, in the SE 1/4, NW 1/4, NW 1/4, Govt. Lot _____, B.M., Bear Lake County;
additional points of diversion if any: * Change as per tele-con with Mayor on 10-21-1999
- Water will be used for the following purposes:
Amount 0.88 cfs for Municipal purposes from JAN 1 to DEC 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 2.67 cfs for DOMESTIC 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)
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)
- Total quantity to be appropriated is (a) 0.88 cfs and/or (b) _____
cubic feet per second acre feet per annum
- Proposed diverting works:
 - Describe type and size of devices used to divert water from the source 100 hp, 1200 gpm WELL
 - Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet
 - Proposed well diameter is 16" inches; proposed depth of well is 450' + or - feet
 - Is ground water with a temperature of greater than 85°F being sought? NO
 - If well is already drilled, when? _____; Drilling firm _____
Well was drilled for (well owner) _____; Drilling Permit No. _____
- Time required for completion of works and application of water to proposed beneficial use is 6.8 years (minimum 1 year)
- Description of proposed uses (if irrigation only, go to item 9):
 - Hydropower; show total feet of head and proposed capacity in KW. _____
 - Stockwatering; list number and kind of livestock. _____
 - Municipal; show name of municipality. MONTPELIER
 - Domestic; show number of households. 1025
 - 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.

City of Montpelier

TWP	RGE	SEC	N E				N W				S W				S E				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. ~~11-02-96~~

11. a. Who owns the property at the point of diversion? CITY OF MONTPELIER

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

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

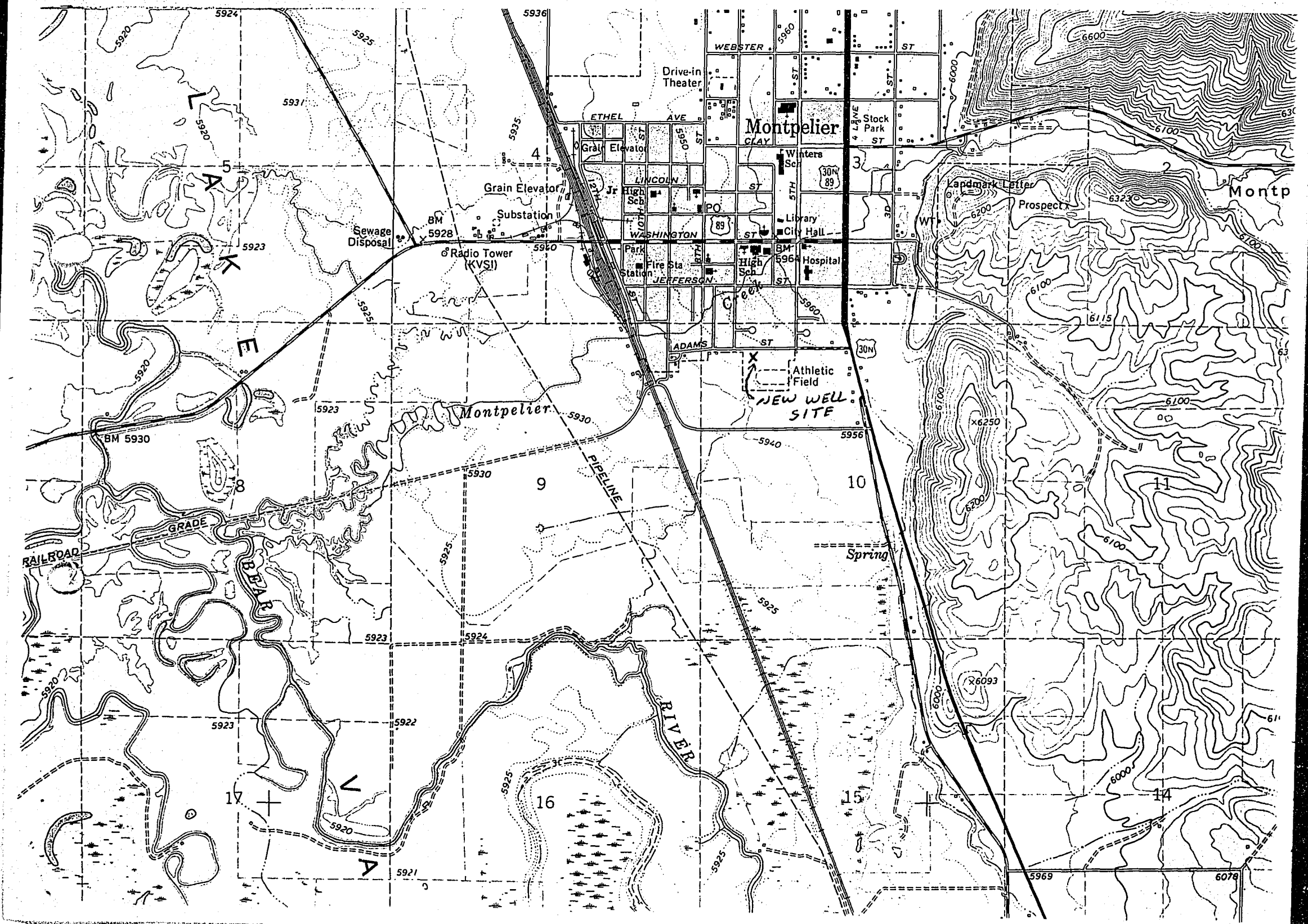
12. Remarks: _____

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Donald B. Toomey
Signature of Applicant (and title, if applicable)

Received by RLT Date 11-22-96 Time _____ Preliminary check by WDA S S 1832
Fee \$ 370.00 Receipted by RLT # 0037043 Date RECEIVED
Publication prepared by RB Date 12-19-96 Published in Times-Examiner
Publication approved RB Date 1-7-97



INTER-DEPARTMENT MEMO

TO: Debbie Allen-Boise

SUBJECT: _____

FROM: H.W. Jones - Eastern

DATE: _____

The City of Montpelier overpaid the fee on their newest application. The total needed for 2.67 cfs is \$140. They paid \$380 so they are due \$240 in refund. Thanks!

☒ For your information

☐ Response required

H.W. Jones
signature

CHECK

008308

Total

\$

380.00

Region: STATE

Signature: Kari Anne Jones

\$140 needed

\$240 returned

H.W.

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 11-07437

Priority: November 22, 1996

Maximum Diversion Rate:

0.88 CFS

This is to certify, that CITY OF MONTPELIER
534 WASHINGTON
MONTPELIER ID 83254

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>
MUNICIPAL	01/01 to 12/31	0.88 CFS

LOCATION OF POINT(S) OF DIVERSION:

NWNW , Sec. 10, Township 13S, Range 44E
BEAR LAKE County

PLACE OF USE: See Remarks

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of application of water to beneficial use shall be submitted on or before November 1, 2004.
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. Use of water under this right may be affected by an agreement between the protestant and the right holder.
6. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
7. Place of use is within the city limits of Montpelier.

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

15th day of November, 1999

Karl J. Dreher
for Karl J. Dreher, Director



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 13, 1996

CITY OF MONTPELIER
534 WASHINGTON
MONTPELIER ID 83254

RE: Notice of Application for Permit No. 11-07437

Dear Applicant:

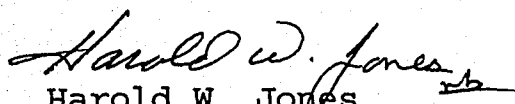
The Department of Water Resources acknowledges receipt of your water right application. This office is currently in the process of advertising the application in the News Examiner on Dec. 19 & 26, 1996. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If an 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 an 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 applications 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 twelve weeks.

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

Sincerely,


Harold W. Jones
Water Right Supervisor

HWJ/rb



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 23, 1996

CITY OF MONTPELIER
534 WASHINGTON
MONTPELIER ID 83254

RE: Notice of Application for Permit No. 11-07437

Dear Applicant:

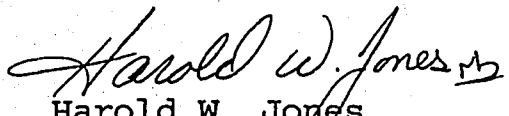
The Department of Water Resources acknowledges receipt of your water right application. This office is currently in the process of advertising the application in the News Examiner on January 19 & 26, 1996. The advertisements will be published once a week for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If an 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 an 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 applications 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 twelve weeks.

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

Sincerely,


Harold W. Jones
Water Right Supervisor

HWJ/rb



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 24, 1996

ID DEPT OF HEALTH & WELFARE
POCATELLO FIELD OFFICE
224 S ARTHUR
POCATELLO ID 83204

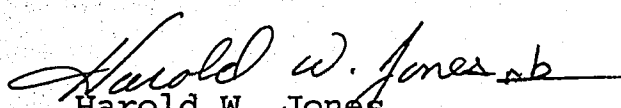
RE: Application No. 11-07435, 11-07436, & 11-07437

Dear Sir:

We are enclosing a copy of the application (s) that may be of interest to your department. Please review the application (s) and submit any comments you may have to our Department as soon as possible. The last date of protest is January 6, 1997, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,


Harold W. Jones
Water Right Supervisor

HWJ/rb
enc.

Receipt # E022845

Randall C. Budge
RACINE, OLSON, NYE, COOPER &
BUDGE, CHARTERED
P.O. Box 1391; 201 E. Center
Pocatello, Idaho 83204-1391
Telephone: 208-232-6101
Fax: 208-232-6109

RECEIVED
DEC 27 1996

Department of Water Resources
Eastern Region

D. Brent Rose
Clyde, Snow & Swenson, P.C.
One Utah Center, Suite 1000
201 South Main Street
Salt Lake City, Utah 84111-2208
Telephone: 801-322-2516

BEFORE THE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF THE APPLICATION	)	PROTEST OF BEAR RIVER
TO APPROPRIATE WATER FILED BY	)	WATER USERS' ASSOCIATION
CITY OF MONTPELIER, Applicant,	)	
Application No. 11-07437	)	

Bear River Water Users' Association, by and through its legal counsel, Randall C. Budge of Racine, Olson, Nye, Cooper & Budge, Chartered, and D. Brent Rose of the firm Clyde, Snow & Swenson, P.C., hereby protests the granting of the above-described Application to Appropriate (the "Application"). In support of its protest, the Association hereby states as follows:

1. Bear River Water Users' Association (the "Association") is a non-profit corporation and cooperative association organized in 1994 to represent Bear River Basin water users for the purpose, among other things, of monitoring, protecting and defending their respective decreed and appropriated water rights and other contract rights and common interests in and to the natural flow of water in the Bear River and its tributaries and irrigation storage water in Bear Lake. The

prior vested rights of the Association's members must be protected and preserved inviolate from interference and impairment.

2. The Association's membership includes the Last Chance Canal Company, West Cache Canal Company and Cub River Irrigation Company and approximately 22 irrigation pumpers in Idaho, and Bear River Canal Company and approximately 81 irrigation pumpers in Utah. Collectively, the Association's members represent approximately 3000 family farms having a combined irrigated acreage of approximately 151,000 acres in Idaho and Utah.

3. Members of the Association hold decreed and other appropriated rights under the respective laws of the States of Idaho and Utah for the diversion and use of the natural flow of water in the Bear River and its tributaries, for irrigation, stockwatering and other purposes. The direct flow rights of the Association's members are all supplemented with water which is held in storage in Bear Lake and released to them for use pursuant to contracts executed by and between each of the individual members and Utah Power and Light Company, a subsidiary of PacifiCorp.

4. The diversion and use of water by the Applicant pursuant to the proposed Application will adversely impair the decreed and appropriated water rights of the Association's members by diminishing the amount of water flowing naturally in the Bear River and its tributaries to which the Association's members have the prior vested right.

5. Further, when the natural flow of the Bear River is insufficient to satisfy the water rights of the Association's members, the members of the Association depend upon the supplemental water supply delivered out of storage in Bear Lake by PacifiCorp in satisfaction of its contractual obligations. The diversion and use of water by the Applicant pursuant to the proposed Application thus adversely impairs the contractual rights of the Association's members. The decrease in the natural flow of the Bear River and its tributaries resulting from new appropriations in the Bear River Basin correspondingly increases the already unsustainable demand on Bear Lake storage water which PacifiCorp is obligated to deliver pursuant to its supplemental irrigation water contracts with the Association's members.

6. In light of the foregoing, authorizing the diversion and use of water as proposed in the Application is inconsistent with the best interest of the public. Any action which serves

to decrease the supply of water in storage in Bear Lake is detrimental, not only on the irrigators who depend on the stored water supply in the lake for their livelihood, but it is likewise detrimental to the local economy of the communities surrounding Bear Lake as well as those having non-consumptive uses and interests in Bear Lake including recreation, wildlife and fish habitat.

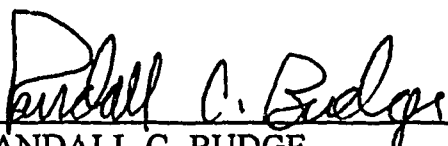
7. Finally, the Association asserts that the source of supply from which Applicant seeks a right as described in the Application is fully appropriated and has been applied to beneficial use by the members of the Association and others; and as such, there is no unappropriated water in the source.

WHEREFORE, in consideration of the foregoing, the Association respectfully protests the granting of the Application. In the event a hearing is scheduled in connection with the Application, the Association requests notice and an opportunity to participate as a party in the proceedings. The Association further requests that the Idaho Department of Water Resources impose a formal moratorium on new applications to appropriate water in Cache Valley and in other areas determined to be hydrologically connected to the Bear River and its tributaries.

In the event the Idaho Department of Water Resources grants the Application, the Association alternatively requests that such approval be issued subject to appropriate conditions, including conditions clearly specifying that the right to divert and use water under the Application is subject to all prior rights to the use of groundwater and surface water hydrologically connected to the Applicant's source of supply, that the Department of Water Resources will conjunctively manage groundwater and surface water withdrawals in accordance with Idaho law which may require curtailment and/or mitigation by junior priority rights, in full or in part, as necessary to protect prior rights in times of shortage.

DATED this 26th day of December, 1996.

RACINE, OLSON, NYE, COOPER &
BUDGE, CHARTERED



RANDALL C. BUDGE

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 26th day of December, 1996, I mailed a true and complete copy of the foregoing document, postage prepaid, to the following:

Idaho Department of Water Resources
Eastern Division
900 N. Skyline Drive
Idaho Falls, Idaho 83402

Marcus J. Gibbs, President
Last Chance Canal Company, Ltd.
632 Highway 34
Grace, Idaho 83241

Jody Williams
8th Floor, Bank One Tower
50 West Broadway (300 South)
Salt Lake City, Utah 84101-2034

Jim Kimnball
Bear Lake Watch, Inc.
P.O. Box 145
St. Charles, ID 83272

Bear River Water Users Association
c/o Dave Styer, Manager
Bear River Canal Co.
275 N. 1600 E.
Tremonton, Utah 84337

Randall M. Weiner
Land & Water Fund of the Rockies
2260 Baseline Road, Suite 200
Boulder, Colorado 80302

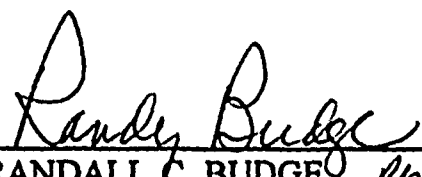
Reagan Wheeler, Manager
Cub River Irrigation Co.
P.O. Box 215
2530 W. 2000 S.
Lewiston, Utah 84320

Joseph Larsen, President
West Cache Canal Company
5397 W. 7200 N.
Newton, Utah 84327

James T. Watterson
Utah Pumpers Association
4705 W. 3800 N.
Benson, Utah 84335

Jerry C. Simmonds
Idaho Pumpers Association
47 W. 1200 N.
Trenton, Utah 84338

City of Montpelier
534 Washington
Montpelier, Idaho 83254



RANDALL C. BUDGE *PK*

Receipt # E022046

RECEIVED

DEC 30 1996

Department of Water Resources
Eastern Region

Jody L. Williams, Esq.
Kruse, Landa & Maycock, L.L.C.
50 West Broadway, 8th Floor
Salt Lake City, Utah 84101
Telephone: (801) 531-7090

Steven S. Dunn, Esq.
Merrill & Merrill
P.O. Box 991
Pocatello, Idaho 83204
Telephone: (208) 232-2286

Attorneys for PacifiCorp dba Utah Power and Light

BEFORE THE
DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO

In the Matter of
Application for Permit
No. 11-07437
City of Montpelier

)
)
)
)
)
)

Protest of PacifiCorp,
an Oregon Corporation, dba
Utah Power & Light Company,
Protestant

1. PacifiCorp Electric Operations, an Oregon corporation doing business in Idaho as Utah Power & Light Company, Hydro Engineering 1407 West North Temple, Suite 270, Salt Lake City, Utah 84140, hereby files this protest before the Department of Water Resources in the above-referenced proceeding.

2. Protestant owns water rights in the Bear River decreed in the matter of *Utah Power & Light Company v. The Last Chance Canal Company, Limited, et al*, in Equity No. 203, July 14, 1920, and *Utah Power & Light Company v. Richmond Irrigation Company, et al*, February 21, 1922, as well as other rights in the Bear River above and below the applicant's proposed point of diversion.

3. Protestant believes that withdrawals of groundwater in Bear Lake County, Idaho, such as that proposed by the applicant, will diminish the groundwater inflow contribution to the surface flow of the Bear River, to which Protestant and many other Idaho and Utah water users have prior existing water rights.

4. Protestant has entered into many contracts with irrigators in Idaho and Utah along the Bear River, some of whom may be Protestants in this matter, for supply of supplemental storage water from Bear Lake when the natural flow of the Bear River is insufficient to satisfy existing water rights. However, during drought periods, high irrigation demands cause the level of Bear Lake to drop significantly, endangering Protestant's ability to continue to deliver supplemental irrigation water pursuant to its contracts.

5. Granting the application of Applicant would adversely affect Protestant's water rights by decreasing the amount of Bear River natural flow water it could use for generation at its Bear River hydroelectric plants, as well as increase the already unsustainable demand on Protestant's Bear Lake storage water pursuant to the supplemental irrigation water contracts.

6. Protestant's supplemental storage water supply from Bear Lake is fully allocated, and Protestant will not offer a new supplemental storage water contract to Applicant. Even if some water is available from time to time to satisfy Applicant's proposed uses, the supply under such a late priority would be sporadic at best, probably usable for a short time only in the spring, and not adequate to sustain Applicant's needs throughout its requested annual period of use.

7. In addition to diminishing the quantity of Bear River water available to satisfy prior existing water rights, Protestant believes that granting the above-referenced application would conflict with the local public interest in the three following areas by reducing groundwater inflow into the Bear River: First, increased reliance by existing users on supplemental irrigation

water delivered from Bear Lake to make up the depletion from Bear River natural flow will stress Protestant's ability to supply the full amount of Bear Lake water already allocated to existing water users. Second, when the level of Bear Lake drops in extended droughts, recreation and other non-consumptive uses at the lake are adversely affected. The new Idaho State Parks & Recreation boat launch becomes unusable; the new State park receives little use due to its distance from the water; facilities built with State funds are unusable, and visitor days and the attendant revenue they produce for the State plummet. The local economy at the lake suffers. Third, traditional habitat for indigenous fish in Bear Lake is decreased. Other wildlife species which depend on the lake will have similar problems due to habitat loss. The spread of noxious weeds and tamarisk is accelerated along the lake shore.

WHEREFORE, Protestant respectfully protests the above-referenced application and requests that it be denied.

DATED this 27th day of December, 1996.

PACIFICORP, dba
UTAH POWER & LIGHT COMPANY

By Jody L. Williams
Jody L. Williams, Attorney
Kruse, Landa & Maycock, L.L.C.
50 West Broadway, 8th Floor
Salt Lake City, Utah 84101
Telephone: (801) 531-7090

MAILING CERTIFICATE

On this 27th day of December, 1996, I mailed a true and correct copy of the foregoing Protest, postage prepaid, to:

Idaho Department of Water Resources
Eastern Division
900 North Skyline Drive
Idaho Falls, Idaho 83402

City of Montpelier
534 Washington
Montpelier, Idaho 83254

Carly Burton
PacifiCorp
1407 West North Temple, Room 199
Salt Lake City, Utah 84140

Randall C. Budge, Esq.
Racine, Olson, Nye, Cooper & Budge
Corner First & Center
P.O. Box 1391
Pocatello, Idaho 83204

Brent Rose, Esq.
Clyde, Snow & Swenson
201 South Main, Suite 1000
Salt Lake City, Utah 84111

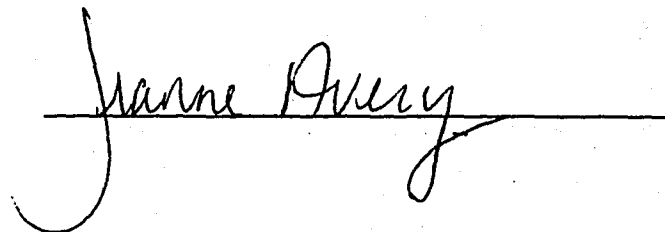
Bear River Water Users Association
c/o J. Kent Horton
587 Wasatch Blvd.
Smithfield, Utah 84335

Randall M. Weiner
Land & Water Fund of the Rockies
2260 Baseline Road, Suite 200
Boulder, Colorado 80302

Jim Kimbal
P.O. Box 145
St. Charles, Idaho 83272

Thomas Graf, Esq.
Office of the Solicitor
Rocky Mountain Region
755 Parfet Street, Suite 151
Lakewood, Colorado 80215

Cheryl C. Williss, Chief
Division of Water Resources
P.O. Box 25486
Denver Federal Building Mail Stop 60189
Denver, Colorado 80225


Joanne Avery

KRUSE, LANDA & MAYCOCK, L.L.C.

EIGHTH FLOOR, BANK ONE TOWER
50 WEST BROADWAY (300 SOUTH)
SALT LAKE CITY, UTAH 84101-2034

JODY L. WILLIAMS

TELEPHONE: (801) 531-7090
TELECOPY: (801) 359-3954
(801) 531-7091

WRITER'S VOICE MAIL
(801) 531-7090 ext. 234

December 27, 1996

Idaho Department of Water Resources
Eastern Division
900 North Skyline Drive
Idaho Falls, Idaho 83402

RECEIVED

DEC 30 1996

Department of Water Resources
Eastern Region

Re: Protest to applications to appropriate water

Dear Idaho Department of Water Resources:

Enclosed for filing please find PacifiCorp's protest to the following applications to appropriate water in the Bear River basin.

11-07435 and 11-07436
11-07437

Norman D. Mecham, Lake Vista Properties, L.L.C.
City of Montpelier

Checks are also enclosed representing the protest filing fees.

If you have any questions or need further information, please contact me at the telephone number listed above.

Very truly yours,

KRUSE, LANDA & MAYCOCK, L.L.C.

Jody Williams, Jr.
Jody L. Williams

JLW:ja

Enclosures

cc: Carly Burton
Mike Winslow

Recapt # E022845

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
JOHN B. INGELSTROM
DANIEL C. GREEN
REED W. LARSEN
BRENT O. ROCHE
FRED J. LEWIS
KIRK B. HADLEY
MITCHELL W. BROWN
ERIC S. HUNN
DAVID E. ALEXANDER

*ALSO MEMBER IL & WY BARS

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE
AREA CODE 208
232-6101
—
FAX
208-232-6109

December 26, 1996

Idaho Department of Water Resources
Eastern Division
900 N. Skyline Drive
Idaho Falls, Idaho 83402

Attention: Ron Carlson
Harold Jones

Re: Application No. 11-07437
Applicant: City of Montpelier

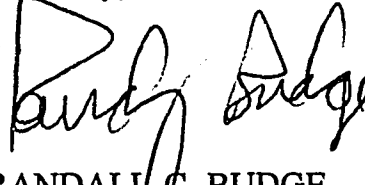
RECEIVED
DEC 27 1996

Department of Water Resources
Eastern Region

Dear Ron and Harold:

Enclosed for filing you will find Protest of Bear River Water Users' Association to the above-captioned Application. Also enclosed is our check in the amount of \$25 for filing fee.

Sincerely,


RANDALL C. BUDGE

RCB:rr

cc: Bear River Water Users' Association



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 7, 1997

RANDALL C BUDGE
RACINE OLSON NYE COOPER &
BUDGE CHARTERED
PO BOX 1391
POCATELLO ID 83204-1391

RE: Application for Permit No. 11-07435, 11-07436, & 11-07437
NORMAN D MECHAM & THE CITY OF MONTPELIER

Dear Protestant:

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

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At such a conference and/or hearing, the following are the principle items the Department can consider in their approving or denying the application (Idaho Code § 42-203) the following are the principle items the Department can consider in either approving or denying the applications for (Idaho Code § 42-203):

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

Page 2

5. Will the proposed use under this permit conflict with the local public interest?

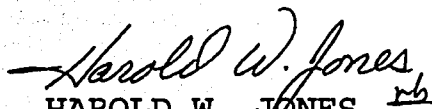
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

The protestant must be prepared to present proof of allegations involving one or more of the six items.

In addition, Rule 302 of the Department's Rules of Procedure requires a protestant to send a copy of the protest to the applicant in question.

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

Sincerely,


HAROLD W. JONES *rh*
Water Rights Supervisor

HWJ:rb
pc: IDWR - State Office



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 7, 1997

D BRENT ROSE
CLYDE SNOW & SWENSON PC
ONE UTAH CENTER STE 1000
201 S MAIN ST
SALT LAKE CITY UT 84111-2208

RE: Application for Permit No. 11-07435, 11-07436, & 11-07437
NORMAN D MECHAM & THE CITY OF MONTPELIER

Dear Protestant:

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

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At such a conference and/or hearing, the following are the principle items the Department can consider in their approving or denying the application (Idaho Code § 42-203) the following are the principle items the Department can consider in either approving or denying the applications for (Idaho Code § 42-203):

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

Page 2

5. Will the proposed use under this permit conflict with the local public interest?

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

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Sincerely,



HAROLD W. JONES
Water Rights Supervisor

HWJ:rb
pc: IDWR - State Office



**State of Idaho
DEPARTMENT OF WATER RESOURCES**

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 7, 1997

JODY L WILLIAMS ESQ
KRUSE LANDA & MAYCOCK LLC
50 W BROADWAY STE 800
SALT LAKE CITY UT 84101

RE: Application for Permit No. 11-07435, 11-07436, & 11-07437
NORMAN D MECHAM & THE CITY OF MONTPELIER

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State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 7, 1997

STEVEN S DUNN ESQ
MERRILL & MERRILL
PO BOX 991
POCATELLO ID 83204

RE: Application for Permit No. 11-07435, 11-07436, & 11-07437
NORMAN D MECHAM & THE CITY OF MONTPELIER

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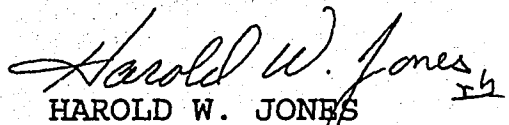
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Sincerely,


HAROLD W. JONES
Water Rights Supervisor

HWJ:rb

pc: IDWR - State Office



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

January 7, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

DONALD B TOOMER
CITY OF MONTPELIER
534 WASHINGTON
MONTPELIER ID 83254

RE: Application for Permit No. 11-07437

Dear Applicant:

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

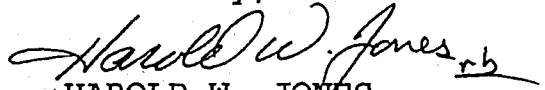
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6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

The applicant must be prepared to present evidence and/or testimony addressing each of the six items. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

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

Sincerely,


HAROLD W. JONES
Water Rights Supervisor
HWJ:rb



Petition to Intervene

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Mountain-Prairie Region

IN REPLY REFER TO:

BA WTR
WR UT
Mail Stop 60189

MAILING ADDRESS:
Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225-0486

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228-1800

RECEIVED

JAN 10 1997

Idaho Department of Water Resources
Eastern Region
900 North Skyline Drive
Idaho Falls, Idaho 83402

JAN 06 1997

Department of Water Resources
Eastern District Office

Dear Sir or Madam:

The Fish and Wildlife Service protests the following Applications to
Appropriate Water:

11-07435 for 0.72 cfs, filed by Norman D. Mehan
11-07436 for 1.50 cfs, filed by Norman D. Mehan
11-07437 for 2.67 cfs, filed by City of Montpelier

It is the position of the Service that the increased depletion will
adversely affect the water supply for the Bear Lake National Wildlife
Refuge and the Bear River Migratory Bird Refuge.

Enclosed is a Money Order in the amount of \$25 to cover the required
protest fee.

If you have questions or require further information, please contact me
at (303) 236-5321 extension 223.

Sincerely,

Cheryl C. Williss

Cheryl C. Williss
Chief, Division of Water Resources

Enclosure

Receipt # E022882

Receipt # E022912

11-07437

CITY OF MONTPELIER
534 WASHINGTON
MONTPELIER, ID 83254

Source: GROUNDWATER

Diversion Pt: NWNW Sec 10 T 13S R 44E in BEAR LAKE County.

Use: MUNICIPAL	(	2.670 CFS)
Total Diversion:	(	2.670 CFS)

Date Filed: 11/22/1996

In:
City of Montpelier

The permit(s) will be subject to all prior water rights. Protests must be filed with the applicant and the Director, Dept. of Water Resources, along with a \$25.00 filing fee, Eastern Region, 900 N Skyline, Idaho Falls, Idaho 83402 on or before JANUARY 6, 1997.

KARL J. DREHER, Director

Published: 12/19/1996 & 12/26/1996

No 5303

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Bear Lake

ss.

Rosa S. Moorman
being duly sworn

deposes and says:

That he is the Editor
NEWS-EXAMINER, a weekly newspaper published in
pelier, in the County of Bear Lake and State of Idaho
said paper has been and is in general circulation
county aforesaid, and in the vicinity of Montpelier;
advertisement, a copy of which is attached hereto, v
lished in said newspaper once a week for 2
secutive weeks in the regular and entire issue of sa
during the period and time of publication, and was p
in the newspaper proper and not a supplement; t
paper has been established and regularly published
than seventy-eight consecutive weeks prior to the
first publication of said advertisement.

Such notice was published in the issue beginning

December 18, 1996 and

with the issue of December 25

Rosa S. Moorman
#6669
Fees, 66.69

Subscribed and sworn to before me this 26th day

of December, 1996

Harry Brown
Notary Public, Residing at Montpelier, Idaho

My Commission Expires August 15, 1997

NOTICE OF APPLICATION
FOR WATER RIGHT

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

11-07435

MECHAM, NORMAN D.
LAKE VISTA PROPERTIES LLC
2126 S. BEAR LAKE BLVD
GARDEN CITY, UT 84028

Source: GROUNDWATER.

Diversion Pt: NWNW, Sec 15 T
16S R 43E in BEAR LAKE County.

Use: DOMESTIC (0.0720 CFS);

Total Diversion: (0.0720 CFS).

Date Filed: 11/25/1996.

In: BEAR LAKE County. T16S
R43E S10 SWSW SESW S15
NENW NWNW SWNW SENW.

11-07436

MECHAM, NORMAN D.
LAKE VISTA PROPERTIES LLC
2126 S. BEAR LAKE BLVD
GARDEN CITY, UT 84028

Source: GROUNDWATER.

Diversion Pt: NWSW Sec 15 T
16S R 43E in BEAR LAKE County.

Use: DOMESTIC (1.500 CFS).

Total Diversion: (1.500 CFS).

Date Filed: 11/25/96.

In BEAR LAKE County T16S
R43E S15 SWNE SWNW NESW
NWSW SWSW SESW NWSE
SWSE.

11-07437

CITY OF MONTPELIER
534 WASHINGTON
MONTPELIER, ID 83254

Source: GROUNDWATER.

Diversion Pt: NWNW Sec 10 T
13S R 44E in BEAR LAKE County.

Use: MUNICIPAL (2.670 CFS)

Total Diversion: (2.670 CFS)

Date Filed: 11/22/1996.

In: City of Montpelier.

The permit(s) will be subject to
all prior water rights. Protests
must be filed with the applicant
and the Director, Dept. of Water
Resources, along with a \$25.00 fil-
ing fee, Eastern Region, 900 N
Skyline, Idaho Falls, Idaho 83402
on or before JANUARY 6, 1997.

KARL J. DREHER
Director

Legal No. 5303 — Publish Dec.
18 and Dec. 25, 1996.

No 5303

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Bear Lake

ss.

Rosa S. Moos
being duly sworn

deposes and says:

That he is the Editor
NEWS-EXAMINER, a weekly newspaper published in
pelier, in the County of Bear Lake and State of Ida
said paper has been and is in general circulation
county aforesaid, and in the vicinity of Montpelier;
advertisement, a copy of which is attached hereto, v
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secutive weeks in the regular and entire issue of sa
during the period and time of publication, and was p
in the newspaper proper and not a supplement; t
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with the issue of December 25

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Fees, \$66.69

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Date Filed: 11/25/1996.

In: BEAR LAKE County. T16S
R43E S10 SWSW SESW S15
NENW NWNW SWNW SENW.

11-07436

MECHAM, NORMAN D.
LAKE VISTA PROPERTIES LLC
2126 S. BEAR LAKE BLVD
GARDEN CITY, UT 84028

Source: GROUNDWATER.

Diversion Pt: NWSW Sec 15 T
16S R 43E in BEAR LAKE County.

Use: DOMESTIC (1.500 CFS).

Total Diversion: (1.500 CFS).

Date Filed: 11/25/96.

In BEAR LAKE County T16S
R43E S15 SWNE SWNW NESW
NWSW SWSW SESW NWSE
SWSE.

11-07437

CITY OF MONTPELIER
534 WASHINGTON
MONTPELIER, ID 83254

Source: GROUNDWATER.

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Use: MUNICIPAL (2.670 CFS)

Total Diversion: (2.670 CFS)

Date Filed: 11/22/1996.

In: City of Montpelier.

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Resources, along with a \$25.00 fil-
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Skyline, Idaho Falls, Idaho 83402
on or before JANUARY 6, 1997.

KARL J. DREHER
Director

Legal No. 5303 — Publish Dec.
18 and Dec. 25, 1996.

Receipt # E222881

RECEIVED

JIM KIMBAL
BEAR LAKE WATCH, INC.
P.O. BOX 145
ST. CHARLES, IDAHO 83272
Telephone: (208)945-2375

Petition to Intervene

JAN 13 1997

Department of Water Resources
Eastern District Office

Representative for Bear Lake Watch, Inc.

BEFORE THE
DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO

In The Matter of	)	Protest of
Application for Permit	)	Bear Lake Watch, Inc.
No. 11-07437	)	Protestant
City of Montpelier	)	

1. Bear Lake Watch, Inc. is a Utah non-profit corporation which was organized in 1994 to protect and restore the environment and waters of Bear Lake. Bear Lake Watch is seeking to assure that the public interest is served when decisions are made that have an impact on the allocation and utilization of Bear Lake's water.

2. The approximately 280 members of Bear Lake Watch live and/or have businesses in the Bear River basin and have a direct and substantial interest in the proceeding.

3. Bear Lake Watch, Inc. believes that the requested groundwater in the County of Bear Lake, such as that proposed by the Applicant, will affect it and it's members by reducing the contribution of groundwater to the surface flow of the Bear River below Bear Lake.

4. Indeed, many of the members of Bear Lake Watch, Inc. have already been directly and negatively impacted by low water levels in Bear Lake, which have resulted, in part, from the huge demand for water from those currently entitled to water in the Bear River basin. As a result, more water may be removed from Bear Lake to meet those downstream demands, thereby lowering Bear Lake further than it would have been without the proposed withdrawals.

5. Further lowering of Bear Lake will greatly impact the members of Bear Lake Watch. It will result in lower property values, negatively affect habitat of five species of indigenous fish, reduce fishing opportunities, cause additional boating problems, reduce business ventures derived from the tourists who flock to a stable and healthy lake environment but stay away from a marshy and mosquito infested waterfront.

6. The Protestant understands the Applicant intends to abandon the current water lines in Montpelier Canyon in favor of a less costly source of groundwater. The Applicant should be encouraged to restore their existing water transmission lines to a serviceable condition thereby conserving the requested groundwater. There is currently no suitable upstream water storage facility to capture the abandoned surface water which will ultimately go to waste during the none irrigation season.

WHEREFORE, Bear Lake Watch, Inc. respectfully moves to intervene and protests this application and requests that it be denied.

DATED this 9 day of January, 1997.

BEAR LAKE WATCH, INC.

By


Jim Kimball, Board Member & Representative
P.O. Box 145
St. Charles, Idaho 83272
Telephone: (208)945-2375

MAILING CERTIFICATE

On this 9 day of January, 1997, I mailed a true and correct copy of the foregoing Protest, postage prepaid, to:

Idaho Department of Water Resources
Eastern Division
900 North Skyline Drive
Idaho Falls, Idaho 83402

City of Montpelier
534 Washington
Montpelier, Idaho 83254

Carly Burton
PacifiCorp
1407 West North Temple, Room 199
Salt Lake City, Utah 84140

Randall C. Budge, Esq.
Racine, Olson, Nye, Cooper & Budge
Corner First & Center
P.O. Box 1391
Pocatello, Idaho 83204

Brent Rose, Esq.
Clyde, Snow & Swenson
201 South Main, Suite 1000
Salt Lake City, Utah 84111

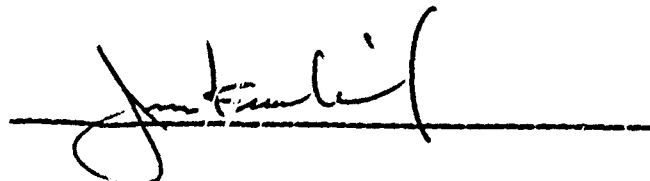
Bear River Water Users Association
c/o J. Kent Horton
587 Wasatch Blvd.
Smithfield, Utah 84335

Randall M. Weiner, Esq.
Land & Water Fund of the Rockies
2260 Baseline Road, Suite 200
Boulder, Colorado 80302

Jody L. Williams, Esq.
Kruse, Landa & Maycock
50 West Broadway
Eighth Floor
Salt Lake City, Utah 84101

Cheryl C. Williss
Chief, Division of Water Resources
U.S. Fish & Wildlife Service
P.O. Box 25486
Mail Stop: 60189
Denver Federal Center
Denver, CO 80225

Thomas Graf, Esq.
Office of the Solicitor
Rocky Mountain Region
755 Parfet St. Suite 151
Lakewood, CO 80215



Petition to Intervene

Jim Kimbal, Board Member & Representative
BEAR LAKE WATCH, INC.
P.O. Box 145
St. Charles, ID 83272
Telephone: (208)945-2375

January 9, 1997

RECEIVED

JAN 13 1997

Department of Water Resources
Eastern District Office

Director, Idaho Department of Water Resources
Eastern Division
900 North Skyline Drive
Idaho Falls, Idaho 83402

Re: Protest to application to appropriate water
City of Montpelier - No. 11-07437

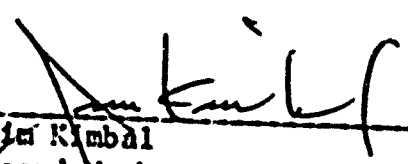
Dear Director:

On behalf of BEAR LAKE WATCH, INC., a citizen's group comprised of homeowners and recreationalists on Bear Lake, enclosed please find our petition to intervene and protest the above referenced application.

Also enclosed is our check in the amount of \$25.00 to cover the costs of our protest.

Please do not hesitate to contact me if I can be of assistance in this matter.

Respectfully,


Jim Kimbal
Board Member & Representative
BEAR LAKE WATCH, INC.

enclosures



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 4, 1997

JIM KIMBAL
BEAR LAKE WATCH INC
PO BOX 145
ST CHARLES ID 83272

RE: Applications for Permit
11-07435 Norman D. Mecham
11-07436 Norman D. Mecham
11-07437 City of Montpelier

Dear Protestant:

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

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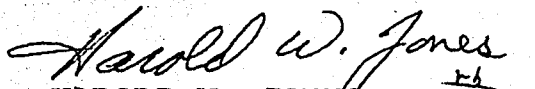
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In addition, Rule 302 of the Department's Rules of Procedure requires a protestant to send a copy of the protest to the applicant in question.

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

Sincerely,


HAROLD W. JONES
Water Rights Supervisor

HWJ:rb
pc: IDWR - State Office



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 4, 1997

CHERYL C WILLISS
UNITED STATES DEPT OF THE INTERIOR
FISH & WILDLIFE SERVICE
PO BOX 25486
DENVER CO 80225-0486

RE: Applications for Permit
11-07435 Norman D. Mecham
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11-07437 City of Montpelier

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Sincerely,

Harold W. Jones rb
HAROLD W. JONES
Water Rights Supervisor

HWJ:rb
pc: IDWR - State Office



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION
February 4, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

CITY OF MONTPELIER
534 WASHINGTON
MONTPELIER ID 83254

RE: Application for Permit No. 11-07437

Dear Applicant:

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The applicant must be prepared to present evidence and/or testimony addressing each of the six items. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

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

Sincerely,

Harold W. Jones
HAROLD W. JONES
Water Rights Supervisor
HWJ:rb



Mayor:
GEORGE W. LANE

Council:
HAMMOND BRINTON
SHERREL BURGOYNE
BRENT KUNZ
IVAN LEONHARDT
STEPHEN PHELPS
WILLIAM R. WAITE

Clerk-Treasurer:
RENEE BIRD

City of Montpelier

534 Washington Street
Montpelier, Idaho 83254
Telephone (208) 847-0824

February 7, 1997

United States Department of Interior
Fish and Wildlife Service
P O Box 25486
Denver Federal Center
Denver, Colorado 80225-0486

RECEIVED

FEB 10 1997

Department of Water Resources
Eastern Region

Gentlemen:

The City of Montpelier certainly recognizes the importance of the water and water rights in the Bear Lake Valley. We recognize the importance of the flows in Bear River as they pertain to the effects upon Utah Power and Light Company's operation. We also recognize the intent and value of the Bear River Compact and all the other interests in the Bear River drainage. We recognize the input and effort from the Bear River Water Users Association pertaining to the entire Bear River Basin.

In response to your protests to our application for an additional well through Idaho Department of Water Resources, we submit the following information and justifications:

Montpelier is in the process of a major renovation of our culinary water system. We are just now starting into the second year of a five-year program that will replace all our old, leaking, undersized, corroded pipe lines. Many of our lines are up to 80 years old. We will also upgrade our storage facilities with the addition of a 1,000,000 (one million) gallon storage tank and the addition of one more well (as per application).

Our present system, including lines, storage and pumping capability are woefully inadequate. We cannot provide culinary water with

even pressure flows throughout the city and our fire protection capability is far below minimum requirements. We could not maintain adequate pumping pressures for anything over about a 2 to 3 hour requirement for a major fire.

As would be expected, our peak water usage comes during the summer months. This is also our critical fire season. Any major fire during this time would be a disaster.

We maintain and enforce rigid outdoor watering schedules during summer months to conserve the water we do have. If one of our present wells fails during this time we have to curtail outdoor watering.

Another well will alleviate a lot of the inadequacies that now exist. We will still maintain the present water restrictions and schedules to prevent any waste of this valuable resource as much as possible.

We have had two different engineering studies of our total water system. One was conducted by Valley Engineering, of Logan, Utah in 1981 and another by Sunrise Engineering of Afton, Wyoming in 1994. Forsgren Associates also did a partial study that resulted in some improvements in 1988.

All of the engineering firms made the same basic recommendations that we are trying to implement now. Namely, replacement of old outdated lines, addition of fire hydrants in accessible locations (fed by adequate sized lines), replacement of old inoperative valves, and more pumping and storage capability.

Also, DEQ has required that we abandon the springs in Home Canyon as part of our culinary system. The springs were determined to be influenced by surface water. The cost of adequate new containment boxes at the springs and new water lines with all the treatment facilities required make it cost prohibitive. These springs have been taken out of the system completely. In August of 1994 the maximum output from the springs was measured at 60 gallons per minute.

The new well we have applied for will not substantially increase our water usage volume but it will be an important part of our overall plan with the other improvements we are making.

Upon completion of the rebuilding phase of the water system, we are projecting ahead to include further improvements to save and better utilize the culinary water. Plans include a low pressure sprinkler system for the Municipal Golf Course, Bear Lake High School, Montpelier Cemetery and Wells C. Stock Park. These will utilize water from the irrigation shares owned by the City. Water meters will be required and installed as finances permit and in an orderly phase in schedule.

We anticipate these additions and changes will save even more water and in turn save pumping costs. These are all future projections however and do not eliminate the need for an additional well in our system.

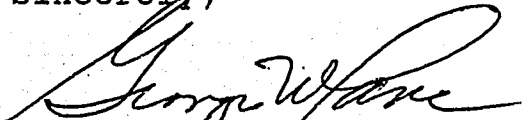
In response to the concerns expressed pertaining to the effects of this well on the flows of Bear River and subsequent loss of water in Bear Lake and to downstream water concerns, the amount of water produced by this well is very minuscule compared to the water flow in Bear River that is currently being lost as it flows into Salt Lake.

Some additional storage below Bear Lake would provide a huge increase in available water for peak time irrigation and protests of this nature would not be necessary.

In the letters of protest "in the public interest" is mentioned. I feel this plan is very much in the public interest and is necessary for the City of Montpelier and its 3,000 plus citizens. The City of Montpelier is doing all of these current improvements without the benefits or requests for grants or loans. We do not want to spend much needed funding in hearings or in litigation.

We would further ask Utah Power & Light Company and Bear River Water Users Association and other protestants to withdraw their protests to this application.

Sincerely,


Mayor George W. Lane

GWL/rb

cc: Idaho Department of Water Resources
Harold W. Jones
Eastern Division
900 N. Skyline Drive
Idaho Falls, ID 83402



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MAR 04 1997

Department of Water Resources
Eastern Region

Mayor:
GEORGE W. LANE

Council:
HAMMOND BRINTON
SHERREL BURGOYNE
BRENT KUNZ
IVAN LEONHARDT
STEPHEN PHELPS
WILLIAM R. WAITE

Clerk-Treasurer:
RENEE BIRD

City of Montpelier

534 Washington Street
Montpelier, Idaho 83254
Telephone (208) 847-0824

February 24, 1997

Jody L. Williams
Kruse, Landa & Maycock, L.L.C.
Eighth Floor, Bank One Tower
50 West Broadway
Salt Lake City, UT 84101-2034

RE: REPLY TO YOUR LETTER DATED FEBRUARY 18, 1997

The city presently has three wells operating for culinary use. We also have one well operating to supply water for the cemetery and golf course. The well and pump capacities are as follows:

1	500 gpm	
1	1200 gpm	
1	1000 gpm	
1	1200 gpm	golf course/cemetery

The three wells in the city system operate on a computer controlled system that rotates the on-off cycle of the pumps with pressure variations. These wells are all tied in to the water level in the storage tank also.

We do not have springs involved in our system any longer. The springs were surface influenced and DEQ required their removal or complete restructuring. Replacing approximately six miles of line with all the treatment facilities required was completely out of reason for the small amount of water involved.

The city has shares in the Montpelier Irrigation Company that will be used as soon as possible to water the cemetery, golf course, the Allinger Park, the Bear Lake County Fair Grounds and Wells Stock Park. These areas will be converted to a low-pressure system as funding allows over the next 3-5 year period.

We project an average growth rate of 1.5 - 2 percent over the next 10 years. In the past year we have had a 48-unit motel, a new office-museum complex, an assisted living center with 12 units, and 9 new residences added to the water system.

We have completed a sprinkler system on the Lincoln Street Park and are in the process of developing a new city park on Adams Street (approximately 12 acres). Our cemetery will soon require some expansion also. A new 13 lot subdivision is under development and all 12 lots in the Miller Development have been sold. Bear Lake Memorial Hospital is expanding and adding an office complex and will develop another 16 room assisted living unit.

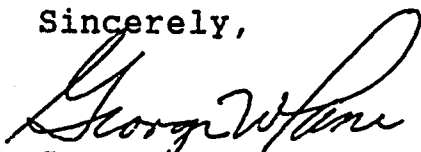
The well request is for the areas that include the new park and is also in the area with the poorest pressure control and delivery capability.

When we complete the changes and revision to the system at the cemetery and golf course the pump presently in use will be re-plumbed and added into the culinary water system.

With projected growth figures the changes in our system should then be adequate for many years. We realize that could change with an unforeseen huge influx or expansion. We do not anticipate such a change however. We hope this projected system will be adequate for many years.

We appreciate your consideration in this matter.

Sincerely,



George W. Lane
Mayor

GWL/rb

cc: US Fish & Wildlife Service
Bear Lake Watch, Inc.
Bear River Water Users' Assoc
Idaho Dept. of Water Resources



Mayor:
GEORGE W. LANE

Council:
HAMMOND BRINTON
SHERREL BURGOYNE
BRENT KUNZ
IVAN LEONHARDT
STEPHEN PHELPS
WILLIAM R. WAITE

Clerk-Treasurer:
RENEE BIRD

City of Montpelier

534 Washington Street
Montpelier, Idaho 83254
Telephone (208) 847-0824

November 28, 1997

State of Idaho
Department of Water Resources
900 North Skyline Drive
Idaho Falls, ID 83402-1718

Re: Well Permits

Gentlemen:

We are enclosing copies of the information we have on our existing wells.

We are sending these copies for your files so they will be there in case you reopen applications for well permits in the future.

Thank you for your consideration in this matter.

Sincerely,


George W. Lane,
Mayor
GWL/rb

Enclosures

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DEC 01 1997
Department of Water Resources
Eastern Region

11-07457 file

MONTPELIER, IDAHO.
DECEMBER 7, 1931.

FINAL ESTIMATE
MONTPELIER WATER WORKS SYSTEM.

To the Honorable Mayor and Town Council,
Montpelier, Idaho.

Gentlemen:

I herewith submit final estimates of the cost of the proposed waterworks system for the Town of Montpelier. All the feasible plans have been worked out as to the cost of installation. Both plans as submitted are sound in engineering principle and not much difference in cost so that the decision of Council relative to which plan to proceed on would meet with the approval of the writer.

I have included in the total cost of the improvement the amount of money already expended for water development.

MONEY ALREADY EXPENDED

Well No. 1. (Canyon)	3,272.35
Well No. 2.	4,740.00
Springs in Tame Canyon	1,435.72
Engineering	1,100.96
	<u>10,549.03</u>

Pipe on hand

436' 4" C \$1.50 ----	\$644.80
162' 10" C \$1.75 ----	\$283.75
30' 12" C \$2.60 ----	\$75.00
	<u>\$1013.55</u>

Contemplated Improvements.

1000' - 14" Pipe C \$2.25	\$225.00
3000' - 10" " C \$1.70	\$510.00
2800' - 8" " C \$1.60	\$448.00
6000' - 6" " C \$1.30	\$780.00
6000' - 4" " C \$1.00	\$600.00
	<u>\$2563.00</u>

Valves

4" C \$12.00	} ----- \$ 2000.00
6" C \$33.10	
8" C \$36.00	
10" C \$55.00	
14" C \$108.00	

Special Fittings- X's-T's & Fls ----- \$ 1000.00

Secretary of State of the State of Idaho, have caused this instrument to be executed in the name of the State of Idaho, and have caused the Great Seal of the State of Idaho to be hereunto affixed, this 4th day of January 19 40

Countersigned:

STATE OF IDAHO

(SEAL

By

GEO. H. CURTIS

Secretary of State.

By

C. A. BOTTOLESEN

Governor.

Remarks: Points of diversion of said water are as follows:

1. Tunnel Spring- Bears N. 47°47' E. 12,878 ft. distant from SW cor. Sec. 31, T. 12 S., R. 45 E., and is in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 29, T. 12 S., Range 45 E., B.M.

(Continued below)

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
F. RKS	(Continued)		2. Rocky Hollow Spring- Bears N. 48°03' E. 12,748 ft. distant from S.E. corner Sec. 31, T. 12 S., R. 45 E., and is in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 29, T. 12 S., Range 45 E., B.M.																
			5. Big Springs- Bears N. 45°54' E. 12,420 ft. distant from SW corner Sec. 31, T. 12 S., R. 45 E., and is in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 29, T. 12 S., R. 45 E., B. M.																
			4. Hillside Springs- Bears N. 46°33' E. 11,931 ft. distant from S. W. corner Sec. 31, T. 12 S., R. 45 E., and is in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 29, T. 12 S., R. 45 E., B.M.																
			5. Narrows Springs - Bears N. 36°46 $\frac{1}{2}$ ' E. 8923.6 ft. from S.W. corner Sec. 31, T. 12 S., R. 45 E., B.M., and is in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 29, T. 12 S., R. 45 E., B.M.																
			6. O'Connor Spring - Bears N. 9°49 $\frac{1}{2}$ ' E. 8605.2 ft. from SW corner Sec. 31, T. 12 S., R. 45 E., B.M., and is in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 32, T. 12 S., R. 45 E., B.M.																
			7. Reservoir Spring- Bears N. 10°25' E. 3504.6 ft. from SW corner Sec. 31, T. 12 S., R. 45 E., B.M., and is in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 31, T. 12 S., R. 45 E., B.M.																

APPLICATION FOR PERMIT
TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

Nº 18924

11-2096

Application No. 26331
Permit No. 18924
District No.

F. M. Williams, Mayor
City of Montpelier,
Montpelier, Idaho

1. Name of Applicant: CITY OF MONTPELIER, a municipal corporation
Postoffice address: Montpelier County: Bear Lake State: Idaho

I. If applicant is a corporation, give:

- (a) Date and place of incorporation:
(b) Amount of capital stock:
(c) Amount paid in:
(d) Names and addresses of directors:

II. The financial resources of the applicant are:

- (b) Treasury stock:
(d) Other resources:

- (a) Cash on hand:
(c) Bonds to be issued:

2. Quantity of water claimed: 583 gal. per minute or 1.3 cubic feet per second.

3. Source of water supply: Natural springs in Home Canyon which is a tributary of

4. Location of point of diversion: (See Remarks) feet distant from the

corner of Section , T. , R. , B. M., and is the

of Section , T. , R. , B. M., County of Bear Lake

5. Water is to be used for: City and domestic purposes

6. If for mining, milling, power or manufacturing purposes, give:

(a) Point of use of water: feet distant from corner of Section

T. , R. , B. M., in the of Section , T. , R. , B. M.

UNITED STATES FIDELITY AND GUARANTY COMPANY
BALTIMORE, MARYLAND

(A Stock Company)

PERFORMANCE BOND

BOND NUMBER 69423-12-919-60

KNOW ALL MEN BY THESE PRESENTS:

That NORMAN A. BJORKMAN D/B/A SODA SPRINGS SHEET METAL

Soda Springs, Idaho, as Principal,
hereinafter called Contractor, and UNITED STATES FIDELITY AND GUARANTY COMPANY, a corporation
organized and existing under the laws of the State of Maryland, as Surety, hereinafter called Surety, are held and
firmly bound unto CITY OF MONTPELIER, BEAR LAKE COUNTY, IDAHO,

as Obligor, hereinafter called Owner,

in the amount of FIVE THOUSAND TWO HUNDRED AND NO/100

Dollars (\$5,200.00),
for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors
and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated June 6, 1960

entered into a contract with Owner for installation of deep well turbine pump with
50 ft. shaft & column 1500 gallons per minute, as per alternate
Bid to Schedule II, hereinafter referred to

in accordance with drawings and specifications prepared by WENDELL H. SMITH

Route #2, Preston, Idaho, which contract is by reference made a part
hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall
promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall
remain in full force and effect.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having
performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

(1) Complete the Contract in accordance with its terms and conditions, or

(2) Obtain a bid or bids for submission to Owner for completing the Contract in accordance with its
terms and conditions, and upon determination by Owner and Surety of the lowest responsible bidder, arrange
for a contract between such bidder and Owner and make available as work progresses (even though there
should be a default or a succession of defaults under the contract or contracts of completion arranged under
this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not
exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set
forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall
mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto,
less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from date on which final
payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the
Owner named herein or the heirs, executors, administrators or successors of Owner.

Signed and sealed this 30th day of June A. D. 1960

In the presence of:

SODA SPRINGS SHEET METAL

By *Norman A. Bjorkman* (Seal)
Principal

UNITED STATES FIDELITY AND GUARANTY COMPANY

By *John M. Cat* (Seal)
Attorney-in-Fact

Montpelier - Description of Water Supply

Main source of water is from thirteen springs which are located in Home and Montpelier Canyons east of the city. All of the springs are in rock outcroppings and are enclosed by concrete slabs. In some cases spring boxes are covered with soil. Minimum flow of springs has been increased so that a well is rarely used in wintertime. Water flows from the springs into a concrete covered rectangular reservoir of 280,000 gallons capacity. The old diversion line from Montpelier Creek has been removed. Chlorine and fluorides are added to the spring water in a building located just below 280,000 gallon reservoir. These feeders are actuated from an orifice plate which is also used for water flow measurement and recording. Detention time in the line between the chlorinator house and the city is estimated to be at least one hour. A 600,000 gallon steel reservoir rides on the system. The line to the steel reservoir is connected to the line from the springs just before the line enters the city. Five summer cabins, one home and a campground located in Home Canyon are furnished water from the spring line above the chlorinator building. Three wells also furnish water to the distribution system.

1. Well No. 1 is located on the east side of Highway 30 North and has the capacity of 700 gallons per minute. A 75 HP motor drives a deepwell Pomona pump. Pump is located in a pit with a concrete floor 5 feet below ground surface. The area surrounding the well has been cleaned and is used as a park. Irrigation water runs by the well in a pipe located 30 feet away. Well is used intermittently in winter.
2. Well No. 2 is also located on east side of Highway 30 North and has a capacity of 900 gallons per minute. A 100 HP motor drives a deepwell Pomona pump. Well casing terminated in a pit but the pump is located on ground level. Top of casing is not sealed around pump drop pipe. A Sparling meter is installed to operate a fluoride feeder. Well is not being used at this time.
3. Well No. 3 was drilled in 1960 and is located on North Tenth Street. Well is 450 feet deep with a 16-inch casing from ground surface to bottom. A 20-inch casing runs from surface to 40 feet. Casing is perforated from 111 to 450 feet. Static level of water 16 feet below surface. A drawdown of 9 to 13 feet is obtained at 1500 gallons per minute and 115 pounds per square inch. A 125 HP Fairbanks motor drives a 14 inch Fairbanks Morse pump set at 50 feet. Casing and concrete pedestal for pump base extends 2 feet above ground level. The Simplex Recorder to control a Wallace-Tiernan fluoride feeder is installed but not used because of the power demand. A concrete block pumphouse has been constructed with a floor drain connected to a pit 35 feet away. Automatic controls on the pump operate between 80 to 100 pounds per square inch pressure. Normal flow from well 1400 gallons per minute at 100 pounds per square inch.

STATE OF IDAHO
BOARD OF HEALTH
Division of Public Health
Engineering and Sanitation

BOISE

REPORT OF WATER SUPPLY

Year 1964
Place Montpelier County Bear Lake Census Population 3146
Ownership Municipal Wells Stock, Mayor
Supply used by Public Mrs. June Bunderson, City Clerk
Information from Robert Woolfsenhume, Utilities Supt. Population served 3200

FIELD SURVEY DATA

DESCRIPTION OF SUPPLY: Give a brief description of the source and the main features of treatment, pumping equipment, storage available, adequacy of system, distribution or direct pumping, supervision of additions and extensions from a public health viewpoint, adequacy of pressures, separation between sewers and water mains, laboratory and related controls of quality. If supply is untreated or chlorinated only, describe protection against entrance of contamination. Attach additional sheets if necessary.

See attached sheet.

PUBLIC HEALTH DEFECTS: Describe briefly the sanitary defects such as by-passes, cross connections, emergency intakes to unsafe supplies, inadequate protection against sources of pollution, inadequacy of treatment, defective structural features, possibility of flooding, deficient operating practices, inadequate sanitary control of additions or extensions to system, lack of proper plumbing regulations and enforcement, inadequate control of water in distribution system. Attach additional sheets if necessary.

1. Casings of Wells 1 and 2 terminate in a pit so that wells can be flooded.
2. Fluoride feeder not operated on Well No. 3 causing low fluoride levels in some areas of the city.
3. Manhole covers of concrete reservoir receiving spring water are flush with the ground level. In case of flooding surface water could enter reservoir.

Engineer Howard L. Burkhardt Date of investigation July 17, 1964
cc Federal Housing Administration
Veterans Administration (Loan Division)
C. P. Maughan
Engineering and Sanitation - Pocatello

PHONE 847-0391

Depth 245

DEPTH		MATERIAL										REMARKS
		Clay	Silt	Sand	Gravel	Cobbles	Boulders	Hardpan	Conglomerate	Bedrock	Other	
150'	162'	X			X							80% GRAVEL
162'	174'	X			X							70% CLAY
174'	180'				X							
180'	184'	X			X							1/2 x 1/2
184'	186'	X										
186'	189'				X							
189'	198'	X										
198'	203'	X			X							1/2 x 1/2
203'	218'	X										
218'	227'	X			X							1/2 x 1/2
227'	241'				X							
241'	244'	X										
244'	245'	X			X							1/2 x 1/2
TESTED		1350 GPM 58' LIFT 18' OF DRAW DOWN										
CASING PERFORATED FULL LENGTH		150 TO 245										
260 SLOTS		1/4 x 6"										
10" CASING 25% WALL												

SETTLEMENT AGREEMENT

This AGREEMENT is made this 22 day of ^{July}~~June~~, 1999, by and between CITY OF MONTPELIER, a municipality created under the laws of the State of Idaho, Montpelier, Idaho, ("City"), and PACIFICORP, an Oregon Corporation doing business in Idaho ("PacifiCorp").

WHEREAS, the City diverts up to 7.12 cfs of culinary water from three wells (the "Well Water Rights") pursuant to statutory claims under Idaho Code §42-243 and irrigates the golf course with a fourth well; and

WHEREAS, the City has diverted up to 1.3 cfs of water from springs in Home Canyon under Permit No. 11-02096 (the "Springs Permit"), a portion of which is presently used in five homes by four individual homeowners; and

WHEREAS, the City has assigned 0.04 cfs of the Springs Permit to each of the five homes for use by their respective homeowners, and requested the Idaho Department of Water Resources ("IDWR") to license and allocate a total of 0.2 cfs of the Springs Permit between the four homeowners; and

WHEREAS, the City has prepared and filed a statutory claim with a 1940 priority date pursuant to Idaho Code §42-243 on 0.88 cfs of water from the Springs Permit, (the "Springs Statutory Claim"); and 11-04364 (withdrawn)

WHEREAS, the City has relinquished any remaining interest it may have in the Springs Permit to the State of Idaho; and

WHEREAS, the City has acquired shares in Montpelier Irrigation Company which are authorized for irrigation use; and

WHEREAS, PacifiCorp owns licensed and decreed water rights in Bear Lake, which it uses to supply supplemental irrigation water to irrigators in Idaho and Utah, and in the Bear River, which it uses for power generation; and

WHEREAS, on November 22, 1996, the City filed new Application No. 11-07437 (the "New Application") to appropriate 2.67 cfs of ground water in the Bear River Basin, which application was protested by PacifiCorp and others; and

WHEREAS, ground water and surface water in the Bear River Basin may be hydrologically interrelated, and new applications to appropriate and consumptively use ground water could in some years, impair prior appropriated surface rights and result in increased storage water withdrawal from Bear Lake; and

WHEREAS, the Parties now wish to settle the protests to the City's New Application and cooperate in providing the City with a secure future water supply, without increasing depletions to the Bear River Basin.

NOW THEREFORE, in and for the mutual promises of the Parties and other good and valuable consideration, the Parties agree as follows:

1. After completion of IDWR advertising on the Springs Statutory Claim, the City will amend the New Application to divert 0.88 cfs of ground water instead of 2.67 cfs, and then withdraw its Springs Statutory Claim. ✓
2. Upon the amendment of the New Application and withdrawal of the Springs Statutory Claim, PacifiCorp will withdraw its protest to the New Application. PacifiCorp will use its best efforts to secure withdrawal of the remaining protests to the New Application.
3. Upon execution of this Settlement Agreement, the City will file a Transfer Application with IDWR, consolidating its Well Water Rights and permitting their diversion from the City's four existing wells.

4. The City will file a second Transfer Application with IDWR when the New Application is licensed to make all of its water rights appurtenant to all of its points of diversion.

5. PacifiCorp will not protest the City's Transfer Applications described in this Settlement Agreement, and will use its best efforts to persuade other potential Protestants not to file protests.

6. The City will provide IDWR and PacifiCorp with any relevant information from its Sunrisc Engineering Study together with any records of flow data made subsequent to the study or other information requested by IDWR, to expedite filing and approval of the statutory claims, licenses and transfers described herein.

7. The City agrees that the combined flow of all of its wells will at no time exceed the authorized flow of water under its Well Water Rights, together with the New Application once it is permitted. Presently, the authorized flow of the Well Water Rights is 7.12 cfs. After the New Application is permitted, the authorized flow from all City water sources will be 8.0 cfs.

8. The City agrees to use its shares in Montpelier Irrigation Company to irrigate the golf course and school, and for other City uses after installation of the City's secondary irrigation system and when the existing fourth well presently used for these purposes is converted to culinary use.

9. When executed, the Parties agree to forward a copy of this Settlement Agreement to IDWR for filing in the New Application file.

10. Each Party agrees to cooperate with the other in good faith and prepare and file necessary documents, or take other actions, to promptly achieve the purposes of this Settlement Agreement.

EXECUTED on the date first above written.

CITY OF MONTPELIER

By: *George W. Lane*

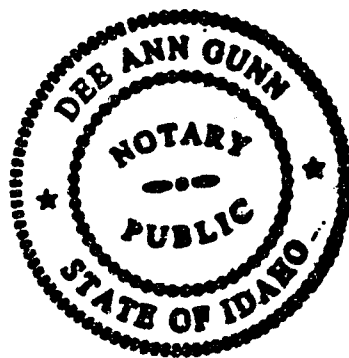
Its: *Mayor*

Attest: *Dee Ann Gunn* 7-22-99

PACIFICORP

By: *Wm. J. [Signature]*

Its: *Sr Business Planner*



KRUSE, LANDA & MAYCOCK, L.L.C.

JODY L. WILLIAMS
WRITER'S E-MAIL
jwilliams@kmlaw.com

50 WEST BROADWAY (300 SOUTH)
EIGHTH FLOOR, BANK ONE TOWER
SALT LAKE CITY, UTAH 84101-2034

MAILING ADDRESS:
Post Office Box 45561
Salt Lake City, Utah 84145-0561

TELEPHONE: (801) 531-7090
TELECOPY: (801) 531-7091
(801) 358-3954

WRITER'S VOICE MAIL
Extension 234

August 31, 1999

RECEIVED

SEP 03 1999

Harold Jones
Idaho Department of Water Resources
Eastern Region
900 No. Skyline Dr.
Idaho Falls, Idaho 83402-1718

Department of Water Resources
Eastern Region

VIA FACSIMILE: (208) 525-7177

Re: Application No. 11-07437

Dear Mr. Jones

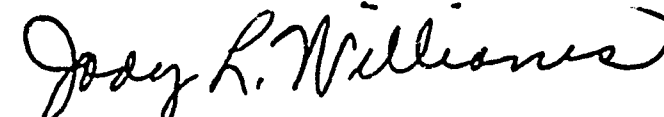
Enclosed please find an executed copy of an agreement outlining a procedure to settle PacifiCorp's protest to the above referenced application. PacifiCorp will withdraw its protest to Application No. 11-07437 upon Montpelier City's (a) amendment of the application from 2.67 cfs to 0.88 cfs, and (b) its withdrawal of Statutory Claim No. 11-04364.

The next step outlined in the Settlement Agreement is for Montpelier City to file a Transfer Application consolidating its existing well statutory claims for diversion from any or all of its wells. PacifiCorp will not protest the Transfer Application if consistent with the Settlement Agreement.

By copy of this letter to the other protestants, PacifiCorp is requesting them to withdraw their protests to Application No. 11-07437 upon satisfaction of the conditions outlined herein.

Please place the copy of the attached Settlement Agreement in the permanent file for Permit No. 11-07437.

Very truly yours,
KRUSE, LANDA & MAYCOCK, L.L.C.



Jody L. Williams

JLW:bjw

cc: Mayor George Lane

MAILING CERTIFICATE

On this 1st day of September 1999, I mailed a true and correct copy of
the foregoing letter, postage prepaid, to:

Harold Jones
Idaho Department of Water Resources
Eastern Region
900 No. Skyline Dr.
Idaho Falls, Idaho 83402-1718

Mayor George Lane
City of Montpelier
534 Washington
Montpelier, ID 83254

Bear River Water Users Ass.
c/o J. Kent Horton
597 Wasatch Blvd.
Smithfield, UT 84335

Randall M. Weiner
Ecological Consultants for the Public
Interest
1942 Broadway, Suite 408
Boulder, CO 80302

Brent Rose
Clyde, Snow, Sessions & Swenson
201 South Main, Suite 1300
Salt Lake City, UT 84111

Randall C. Budge
Racine, Olson, Nyc, Cooper & Budge
P.O. Box 1391
Pocatello, ID 83204-0391

Cheryl C. Williss
Chief, Division of Water Resources
U. S. Fish & Wildlife Service
P.O. Box 25486
Mail Stop: 60189
Denver, CO 80225

Jim Kimbal
Bear Lake Watch
P.O. Box 145
St. Charles, ID 83272

Barbara Wallin

KRUSE, LANDA & MAYCOCK, L.L.C.

50 WEST BROADWAY (300 SOUTH)
EIGHTH FLOOR, BANK ONE TOWER
SALT LAKE CITY, UTAH 84101-2034

MAILING ADDRESS:
Post Office Box 45561
Salt Lake City, Utah 84145-0561

TELEPHONE: (801) 531-7090
TELECOPY: (801) 531-7091
(801) 359-3954

WRITER'S VOICE MAIL
Extension 234

JODY L. WILLIAMS

WRITER'S E-MAIL
jwilliams@kmlaw.com

September 1, 1999

Cheryl C. Williss
Chief, Division of Water Resources
U. S. Fish & Wildlife Service
P.O. Box 25486
Mail Stop: 60189
Denver, CO 80225

Jim Kimbal
Bear Lake Watch
P.O. Box 145
St. Charles, ID 83272

Randall C. Budge
Racine, Olson, Nye, Cooper & Budge
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Salt Lake City, UT 84111

Randall M. Weiner
Ecological Consultants for the Public
Interest
1942 Broadway, Suite 408
Boulder, CO 80302

Bear River Water Users Ass.
c/o J. Kent Horton
597 Wasatch Blvd.
Smithfield, UT 84335

Re: Application No. 11-7437

Dear Protestants:

Enclosed please find a copy of the fully executed Settlement Agreement on the Montpelier protest and PacifiCorp's withdrawal of protest. PacifiCorp is convinced that approving the application with the protections afforded by the Settlement Agreement will not expand water use in the Bear River basin and encourages you to withdraw your protest.

Very truly yours,

KRUSE, LANDA & MAYCOCK, L.L.C.

Jody L. Williams
Jody L. Williams

JLW:bjw

Enclosures

cc: Mayor George Lane

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
JOHN B. INGELSTROM
DANIEL C. GREEN
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
MITCHELL W. BROWN
ERIC S. HUNN
DAVID E. ALEXANDER**
JAMES P. PRICE***
LISA M. CHRISTON****
RICHARD A. HEARN, M.D.*****
ERIC L. OLSEN

*ALSO MEMBER IL & WY BARS
**ALSO MEMBER MO BAR
***ALSO MEMBER CO BAR
****ALSO MEMBER IL BAR
*****ALSO MEMBER D.C. BAR

LAW OFFICES OF
RACINE, OLSON, NYE, BUDGE & BAILEY
CHARTERED

CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FAX (208) 232-6109

ASSOCIATED WITH
McGRATH, SMITH
& ASSOCIATES
414 SHOUP
P. O. BOX 50731
IDAHO FALLS, ID 83405
TEL (208) 524-0731
FAX (208) 529-4166

STEPHEN J. McGRATH
BRYAN D. SMITH†
NEAL S. RANDALL
†ALSO ADMITTED IN CA

September 21, 1999

RECEIVED
OCT 29 1999
Department of Water Resources

Harold Jones
Idaho Department of Water Resources
Eastern Division
900 N. Skyline Drive
Idaho Falls, Idaho 83402

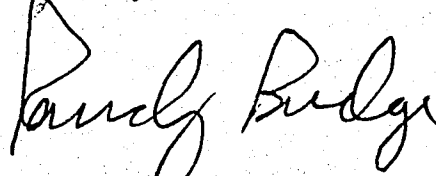
RECEIVED
SEP 22 1999
Department of Water Resources
Eastern Region

Re: Application No. 11-07437/City of Montpelier

Dear Harold:

Please be advised that ~~the Protest to the above-referenced Application filed by the Bear River Water Users Association may be considered withdrawn~~, conditional upon the City of Montpelier first completing all requirements set forth in the Settlement Agreement dated July 27, 1999, between the City of Montpelier and PacifiCorp.

Sincerely,


RANDALL C. BUDGE

RCB:rr

cc: Jody Williams
D. Brent Rose
Bear River Water Users' Association
Mayor George Lane
Cheryl C. Williss
Jim Kimbal
Randall M. Weiner



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Mountain-Prairie Region



BA WTR
WR ID
Mail Stop 60189

MAILING ADDRESS:
Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228

SEP 20 1999

RECEIVED
SEP 27 1999

RECEIVED

OCT 29 1999

Department of Water Resources

Mr. Harold W. Jones
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, ID 83402-1718

Dear Mr. Jones:

The Fish and Wildlife Service will withdraw its protest to Application for Permit No. 11-07437, filed by the City of Montpelier, upon satisfaction of the conditions outlined in the Settlement Agreement between the City and PacifiCorp. Approval of this application with the protections afforded by the Settlement Agreement will not expand water use in the Bear River basin.

If you have questions, please contact me at (303) 236-5321 ext. 223.

Sincerely,

Cheryl C. Willis
Chief, Division of Water Resources

cc: Mayor George Lane
City of Montpelier
534 Washington
Montpelier, ID 83254



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

October 22, 1999

RACINE OLSON NYE BUDGE & BAILEY
%RANDY BUDGE
PO BOX 1391
POCATELLO ID 83204-1391

RECEIVED
OCT 29 1999
Department of Water Resources

RE: Withdrawal of protest on Permit No.: 11-07437

Dear Protestants:

This Department has received your withdrawal of protest against the application of City of Montpelier.

If you have any questions, please call our office.

Sincerely,

Harold W. Jones

Harold W Jones
Water Rights Supervisor

HWJ/sc



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

October 22, 1999

UNITED STATE DEPARTMENT OF INTERIOR
FISH AND WILDLIFE SERVICE
PO BOX 25486
DENVER CO 80225

RECEIVED
OCT 29 1999
Department of Water Resources

RE: Withdrawal of protest on Permit No.: 11-07437

Dear Protestants:

This Department has received your withdrawal of protest against the application of City of Montpelier.

If you have any questions, please call our office.

Sincerely,

Harold W. Jones

Harold W Jones
Water Rights Supervisor

HWJ/sc



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

October 22, 1999

JODY L WILLIAMS
KRUSE, LANDA, & MAYCOCK LLC
50 W BROADWAY STE 800
SALT LAKE CITY UT 84101

RECEIVED
OCT 29 1999
Department of Water Resources

RE: Withdrawal of protest on Permit No.: 11-07437

Dear Protestants:

This Department has received your withdrawal of protest against the application of City of Montpelier.

If you have any questions, please call our office.

Sincerely,

Harold W Jones
Water Rights Supervisor

HWJ/sc



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

October 22, 1999

**CITY OF MONTPELIER
534 WASHINGTON
MONTPELIER ID 83254**

RECEIVED

OCT 29 1999

Department of Water Resources

**DIRK KEMPTHORNE
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

RE: Withdrawal of protest on Applications of Permit No. 11-07437

Dear Sir:

**This Department has received withdrawals of protest from Jody L Williams, United States
Dept of Interior and Racine, Olson, Nye, Budge, & Bailey.**

Our office will continue to process your applications.

If you have any questions, please call our office.

Sincerely,

Harold W. Jones
**Harold W Jones
Water Rights Supervisor**

HWJ/sc

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. A preliminary order 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 the 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 a 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, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a 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 a 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 a 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.



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

November 16, 1999

DIRK KEMPTHORNE
GOVERNOR

CITY OF MONTPELIER
534 WASHINGTON
MONTPELIER ID 83254

KARL J. DREHER
DIRECTOR

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 11-07437

Dear Permit Holder:

The Department of Water Resources (IDWR) has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a preliminary order issued by IDWR pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by IDWR unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

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.

The Department will send you a "Proof Due Notice" approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this right were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Groundwater Protection Section located here at this office or our regional office nearest you.

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

Sincerely,

Shelley W. Keen
Water Rights Supervisor

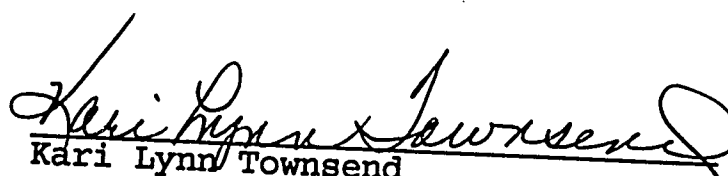
SK:klt

CERTIFICATE OF MAILING

I hereby certify that on the 16th day of November, 1999, I mailed
a true and correct copy, postage prepaid, of the foregoing
PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

Water Right No. 11-07437

CITY OF MONTPELIER
534 WASHINGTON
MONTPELIER ID 83254


Kari Lynn Townsend
Secretary