

RECEIVED

DEC 17 2001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

Ident. No. 11-7476

RECEIVED

OCT 29 2001

Department of Water Resources
Eastern Region

Department of Water Resources

1. Name of Applicant Marilyn Matton Payne / and Gary J. Payne Phone 801 561 3669
Mailing address 8439 S 1275 E, Sandy UT 84094

2. Source of water supply Spring which is a tributary of Smiles

3. Location of point of diversion is Township 15S Range 43E Sec. 28, in the NE 1/4,
NW 1/4, SE 1/4, Govt. Lot _____, B.M., Bear Lake County;
additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 0.04 cfs for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) 0.04 cfs and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source Collection tank mainline
to domestic home

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

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

d. Is ground water with a temperature of greater than 85°F being sought? _____

e. If well is already drilled, when? _____; Drilling firm _____
Well was drilled for (well owner) _____; Drilling Permit No. _____

7. Time required for completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year)

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

- a. Hydropower; show total feet of head and proposed capacity in kW.
- b. Stockwatering; list number and kind of livestock.
- c. Municipal; show name of municipality.
- d. Domestic; show number of households. (1)
- e. Other; describe fully. _____

9. Description of place of use:

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

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15 S	43 E	28														D			

Total number of acres to be irrigated _____

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

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

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

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

12. Remarks: Spring also under 11-7022 (stockwater/irrigation)

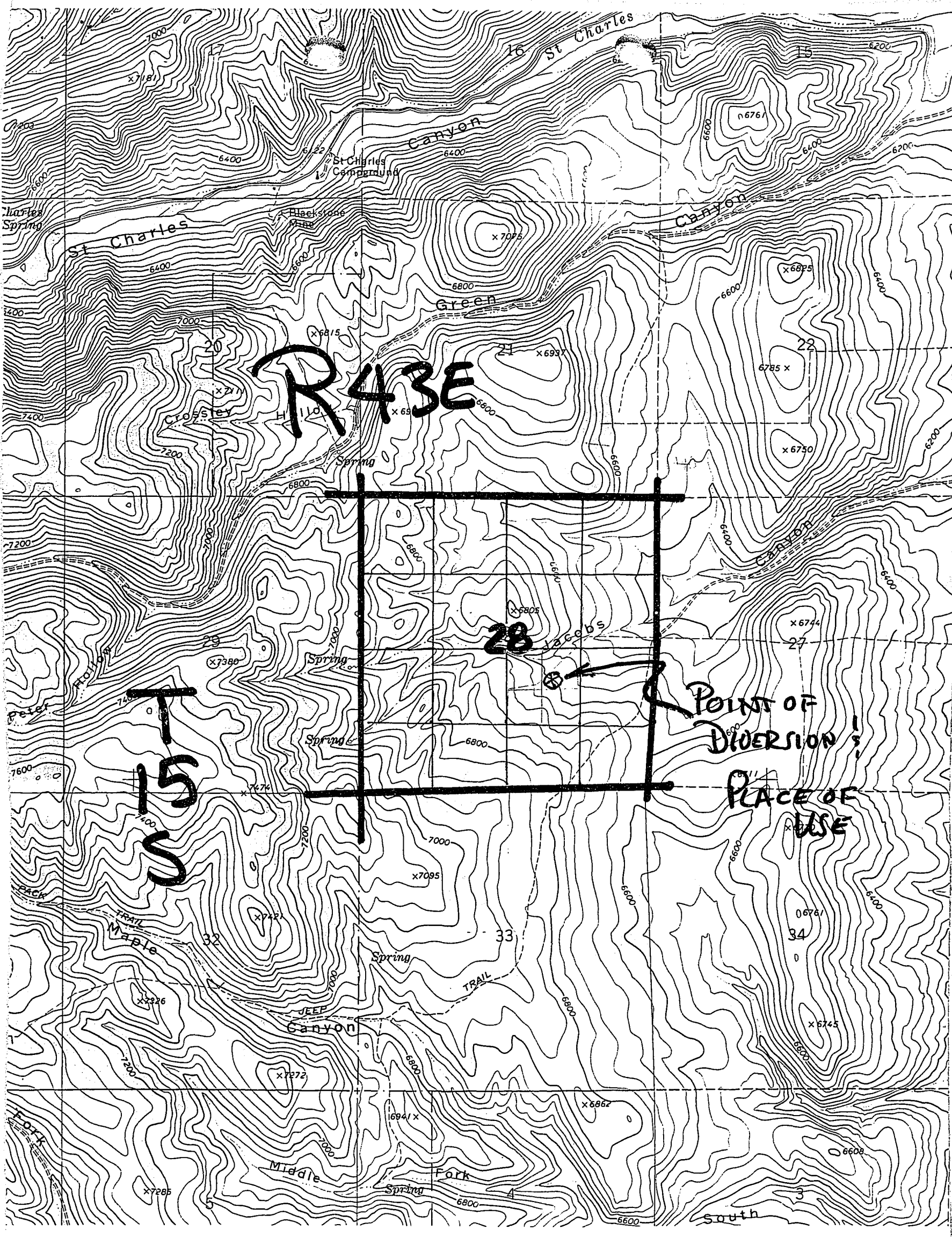
13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8 1/2"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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.

Marilyn Matheson Payne Mary J. Payne
Signature of Applicant (and title, if applicable)

Received by _____ Date _____ Time _____ Preliminary check by _____

Fee \$ 100.00 Received by HWS # E027229 Date 10-29-01
Publication prepared by SC Date 11/21/01 Published in News Examiner
Publication approved SC Date 12/11/01





airial view of
Spring & Coln
Coln is 100 ft from Spring



F17

27/26
34/35

905
1/6

27/26
34/35

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 11-07476

Priority: 10/30/2001

Maximum Diversion Rate: 0.04 CFS

This is to certify, that GARY PAYNE
8439 S 1275 E
SANDY UT 84094

And/Or

MARILYN PAYNE
8439 S 1275 E
SANDY UT 84094

has applied for a permit to appropriate water from:

Source: SPRING

Tributary: SINKS

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>
DOMESTIC	01/01 to 12/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 28, Twp 15S, Rge 43E, B.M. BEAR LAKE County

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE	NW	SW	SE	Totals
15S	43E	28	X				

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **January 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. Domestic use is for 1 home and does not include lawn, garden, landscape, or other types of irrigation.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of

the Director, affixed at Boise, this 20 day of December, 2001.

Karl J Dreher
for
KARL J DREHER, Director

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

11-7476

GARY PAYNE
MARILYN PAYNE
8439 S 1275 E
SANDY UT 84094

Point(s) of Diversion: NENWSE S28 T15S R43E, BEAR LAKE County

Source SPRING, Tributary To SINKS

Use: DOMESTIC 01/01 To 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 10/30/2001

Place Of Use: DOMESTIC

T15S R43E S28 NWSE

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before December 10, 2001. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on November 21 and 28, 2001



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 14, 2001

Legal Notice Department
NEWS-EXAMINER
PO BOX 278
MONTPELIER ID 83254

RE: Application for Permit No. 11-7476

Dear LEGAL NOTICE DEPARTMENT:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before December 10, 2001. Your cooperation is appreciated.

Sincerely

Sharla Cox
Administrative Assistant

Mauleed
11/14/01
SC



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 14, 2001

GARY PAYNE
MARILYN PAYNE
8439 S 1275 E
SANDY UT 84094

RE: Application for Permit No 11-7476

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right application. Please refer to the above referenced number in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the News Examiner on November 21 and 28, 2001. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

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

Sincerely,

Harold W. Jones
Harold W Jones
Water Resources Supervisor

HWJ:sc

No 6278

AFFIDAVIT OF PUBLICATION

RECEIVED

DEC 11 2001

Department of Water Resources
Eastern Region

STATE OF IDAHO,

County of Bear Lake

ss.

Rosa S. Moosman
being duly sworn,

deposes and says:

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

Such notice was published in the issue beginning with

November 21, 2001, and ending

with the issue of November 28, 2001

Rosa S. Moosman

Fees, 67.40

Subscribed and sworn to before me this 6th day of December, 19 2001

Notary Public, Residing at Montpelier, Idaho

My Commission Expires August 28, 2003

LEGAL NOTICE

The following application(s) have been filed to appropriate the public waters of the State of Idaho:
11-7476
GARY PAYNE
MARILYN PAYNE
8439 S 1275 E
SANDY UT 84094

Point(s) of Diversion: NEN
WSE S28 T15S R43E, BEAR
LAKE County
Source SPRING, Tributary To
SINKS
Use: DOMESTIC
01/01 To 12/31 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 10/30/2001
Place of Use: DOMESTIC
T15S R43E S28 NWSE

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before December 10, 2001. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher
Director

Publish Nov. 21 & 28, 2001 —
Legal No. 6278.

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 21, 2001

GARY PAYNE
MARILYN PAYNE
8439 S 1275 E
SANDY UT 84094

RE: Permit No. 11-7476

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources 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 the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date 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.

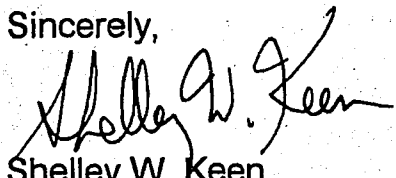
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed a least sixty days prior to the commencement of work in the stream.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

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

Sincerely,



Shelley W. Keen
Water Rights Supervisor

SWK:klt

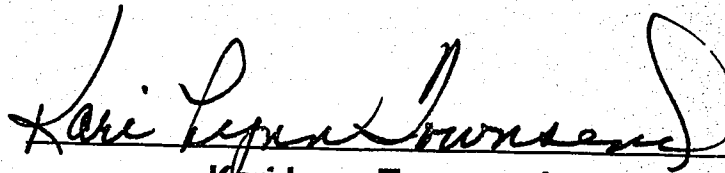
Enclosure(s)

CERTIFICATE OF MAILING

I hereby certify that on December 21, 2001 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 11-7476

**GARY PAYNE
MARILYN PAYNE
8439 S 1275 E
SANDY UT 84094**

A handwritten signature in cursive script, reading "Kari Lynn Townsend", is written over a horizontal line.

**Kari Lynn Townsend
Secretary**

Form No. 217
6/00

RECEIVED
JUL 09 2003
Department of Water Resources
Eastern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

FOR OFFICE USE ONLY
Amt. of Fee \$: 50⁰⁰
Receipt No. E028972
Receipt By: KCW
Date Received: 7-9-03

RECEIVED
JUL 17 2003

Department of Water Resources

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

1. Permit No. 11-07476 Telephone No. (cell 801 598 4499) 801 561 3669
2. Name of Permit Holder(s): ~~8439 S 1275E~~ Gary or Marilyn Payne
3. Mailing Address: 8439 S 1275E
City Sandy State UT Zip 84094
4. Source of Water: SPRING If GROUNDWATER (well), Date Drilled: mo. / yr.
Well Driller: Drilling Permit Number:
5. Use(s) (as authorized by the water right permit):
Domestic (No. of households): 1 Stockwater (No. and type of stock):
Irrigation (No. of acres): Other:
6. Total rate of diversion and/or volume for which proof is submitted: 0.04 cfs OR acre-feet
7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)
Measuring Device: Is a measuring device required? Yes or No ✓
Has the measuring device been installed? Yes or No ✓
8. Fee Enclosed: \$ 50⁰⁰ (See Fee Schedule on back of the instructions for filing proof of beneficial use)
9. Person to contact to accompany the Department representative during field examination of the water system.
Name: SAME AS ABOVE Telephone Number:
Address:
10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: Marilyn M. Payne Date: 7-9-03
(include your title, if on behalf of company or organization)



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 18, 2003

GARY PAYNE
MARILYN PAYNE
8439 S 1275 E
SANDY UT 84094

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 11-7476

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to contact you to schedule a field examination to determine and confirm the use being made of the water, and that it meets the permitted beneficial use.

Be advised that Section 42-248, Idaho Code, requires you or the owner of these water rights to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

If you have questions, please contact the **Eastern** Regional Office of the department in Idaho Falls (208) 525-7161.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encl.

c: IDWR - Regional Office (w/encl.)