

Ident. No. 13-07561

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

RECEIVED
MAY 17 1999

Department of Water Resources

1. Name of Applicant Edwin P. Smith Phone (208) 421-6376
Mailing address 405 River Rd Grace, ID 83241
2. Source of water supply Spring which is a tributary of Smith Creek
3. Location of point of diversion is Township 11S Range 40E Sec. 8 in the SE 1/4, SE 1/4, SE 1/4, Govt. Lot , B.M., Caribou County;
additional points of diversion if any:
4. Water will be used for the following purposes:
Amount 1.80 cfs for Div. to Fish Propagation purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.1 af for Fish Propagation Storage 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)
5. Total quantity to be appropriated is (a) 1.80 cfs and/or (b) 0.1 af
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 I will divert my irrigation right # 13-00619 thru 4 concrete ponds (12'x40'x3'deep) & back to the creek.
 - 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 1 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.
 - e. Other; describe fully. Fish propagation - probably Tilapia gulf

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	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	
11S	40E	9										H							

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. NA.

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

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

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

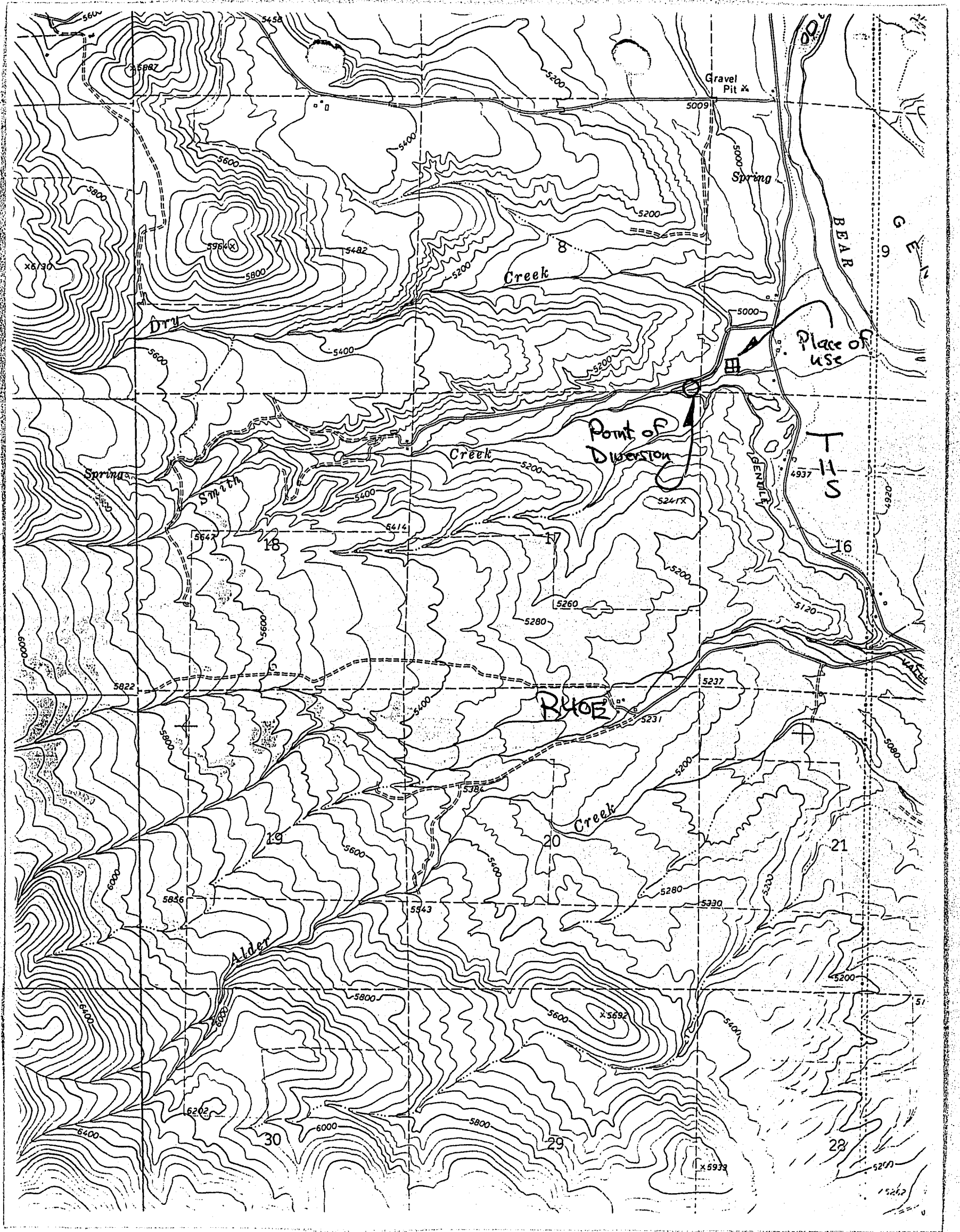
12. Remarks: _____

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.

Edwin P. Smith
Signature of Applicant (and title, if applicable)

Received by HLS Date 3-18-99 Time _____ Preliminary check by _____
Fee \$ 120.00 Receipted by [Signature] # E024840 Date 3-18-99
Publication prepared by SC Date 4/7 & 4/14/99 Published in Caribou County, Id.
Publication approved _____ Date _____



State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 13-07561

Proposed Priority: March 18, 1999

Maximum Diversion Rate:

1.80 CFS

This is to certify, that EDWIN P SMITH
405 RIVER RD
GRACE ID 83241

has applied for a permit to appropriate water from:

SPRING

tributary of SMITH CREEK

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>	<u>ANNUAL VOLUME</u>
FISH PROPAGATION	01/01 to 12/31	0.10 CFS	
FISH PROP. STORAGE	01/01 to 12/31		0.1 AF
DIVERSION TO STORAGE	04/15 to 10/15	1.80 CFS	
DIVERSION TO STORAGE	10/16 to 04/14	0.10 CFS	
	Totals	1.80 CFS	

LOCATION OF POINT(S) OF DIVERSION:

SESESE , Sec. 8, Township 11S, Range 40E
CARIBOU County

PLACE OF USE: FISH PROPAGATION

TWN RGE SEC

11S 40E 9

SWSW

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before June 1, 2000.
2. Subject to all prior water rights.
3. Use of water under this water right will be regulated by the watermaster of State Water District No. 11.
4. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
5. The right holder shall not assign or sell the permit without first securing the written approval of the Department of Water Resources.
6. The right holder shall provide the Department, upon request, information showing volume changes per hour necessary to maintain an adequate environment for the fish propagation facility. Volume changes per hour shall be based upon actual fish production.
7. Use of water under this approval shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare.

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 13-07561

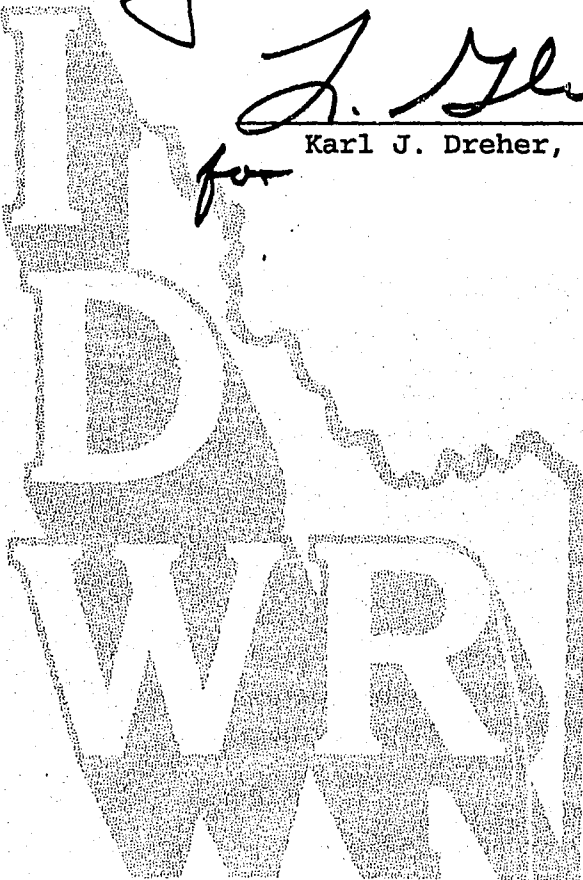
CONDITIONS OF APPROVAL AND REMARKS

8. The right holder shall comply with all fish screening requirements of the Idaho Department of Fish and Game.
9. Water shall not be diverted under this right when the water level of Bear Lake is below the established minimum lake level.

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

25th day of May, 1999.

Karl J. Dreher
for Karl J. Dreher, Director





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

March 30, 1999

PETE PETERSON
WATERMASTER # 11
2483 RIVERDALE
PRESTON ID 83263

RE: Application for Application #13-07561

Dear Pete:

Please find enclosed a copy of the above referenced application. Please review the application and submit any comments you may have to our Department by April 26, 1999.

If you have any questions, please feel free to contact us.
Thank you for your cooperation in this matter.

Respectfully submitted,

Harold W. Jones
Water Right Supervisor

HWJ:sc

enc.



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

March 30, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

EDWIN P SMITH
405 RIVER RD
GRACE ID 83241

RE: Application for Permit #13-07561

Dear Applicant:

This office is currently in the process of advertising the application in the Caribou County Sun on April 7 and 14, 1999. The advertisement 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 the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

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

Sincerely,

Harold W. Jones
Water Right 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

March 30, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

KRUSE LANDA & MAYCOCK LLC
C/O JODY WILLIAMS
50 W BROADWAY 8TH FLOOR
SALT LAKE CITY UT 84101

RE: Applications for Permit #13-07561

Dear Jody:

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 April 26, 1999, 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: sc

Enc.



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

March 30, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

FISH & GAME
1345 BARTON RD
POCATELLO ID 83201

RE: Applications for Permit #13-07561

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 April 26, 1999, 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: sc

Enc.

NOTICE OF APPLICATION FOR WATER RIGHT

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

13-07561

SMITH, EDWIN P
405 RIVER RD
GRACE, ID 83241

Source: SPRINGS

Tributary: SMITH CREEK

Diversion Pt: SESESE Sec 8 T 11S R 40E in CARIBOU County.

Use: DIVERSION TO STORAGE	(	1.800 CFS)	
FISH PROPAGATION	(	0.100 CFS)	(0.10 AF)
Total Diversion:	(	1.800 CFS)	

Date Filed: 3/18/1999

In: CARIBOU County
T11S R40E S09 SWSW

Any protests against the proposed application must be filed with the Dept. of Water Resources, 900 N Skyline Dr., Ste A, Idaho Falls ID 83402, together with a protest fee of \$25.00 on or before APRIL 26, 1999. to be considered by the Department in its decision to grant or deny any part of the proposed application. The protestant must also send a copy of the protest to the applicant.

Published: 4/ 7/1999 & 4/14/1999

KARL J. DREHER, Director



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

MARCH 30, 1999

Legal Notices Department
CARIBOU COUNTY SUN
P.O. BOX 815
SODA SPRINGS, ID 83276

Dear Legal Dept.:

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

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

Please send the affidavit of publication and publication billing to this office before APRIL 26, 1999.

Yours truly,

Sharla Cox
Senior Secretary

Encl.

*Mailed
3/31/99
SC*



IDAHO FISH & GAME
SOUTHEAST REGION
1345 Barton Road
Pocatello, Idaho 83204-1819

Dirk Kempthorne / Governor

Jerry Mallet / Interim Director

April 5, 1999

Harold Jones
Water Rights Supervisor
Idaho Department of Water Resources
900 North Skyline Drive, Suite A
Idaho Falls, Idaho 83402-1718

RECEIVED

APR 08 1999

Department of Water Resources
Eastern Region

Dear Harold,

Thank you for the opportunity to comment on Mr. Edwin Smith's water appropriation application #13-07561. The applicant would divert 1.8 cfs of water from Smith Creek into 4 concrete ponds then back into Smith Creek. Mr. Smith states that this water is his irrigation right # 13-00619. With the information provided we do not protest the proposed action. Instead some fisheries impacts concerns and fish culture regulatory information is provided for your and Mr. Smith's consideration.

Smith Creek is a tributary of the Bear River. The Bear River drainage supports native populations of Bonneville cutthroat trout. This species has been petitioned and is being reviewed by the US Fish and Wildlife Service for possible listing pursuant to the federal Endangered Species Act. The Department is of the view that Idahoans can best look out for the needs of these fish in Idaho. Our role is to serve Idaho by pointing out those things that can be done to improve conditions for the fish. Actions taken to improve conditions for the cutthroat, provides the Service with substantive reason to preclude listing. Idahoans and their native fish are better off.

Relative to the proposal of Mr. Smith we have concern that the changes may divert the water right from a greater length of the stream and greater portion of the year than with the irrigation right # 13-00619. If so then an additional impact to the stream resource may occur if the application is accepted. We are unable to assess this with the information provided. Some information needed would include:

1. What is the base flow in Smith Creek at the point of diversion for the fishpond?
2. Is this the original point of diversion for water right # 13-00619?
3. If the applied for diversion is upstream from the water right #13-00619 diversion, how many feet or miles upstream is it?

Leaving Idaho's Wildlife Legacy Better Than We Found It

208-232-4703 • Fax: 208-233-6430 • Idaho Relay (TDD) Service: 1-800-377-3529 • <http://www.state.id.us/fishgame>

4. Is water right #13-006197 a year around water right or seasonal? If only seasonal, what is the season of use for this water right?

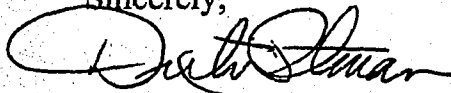
Cutthroat trout need free upstream and downstream passage from the mainstem Bear River and the Smith Creek spawning habitat. We would recommend that the new or existing diversion allow for uninterrupted up- and downstream passage of fish. The diversion should be screened to prevent loss of fish from the stream into the diversion.

Mr. Smith stated that he intends to grow Tilapia in the proposed ponds. Tilapia are tropical to sub-tropical fish that require warm water to survive, probably at least 60 F. They may need temperature considerably warmer than that to grow to harvestable size. Mr. Smith's expectations may not be realized. If these fish escape into Smith Creek and the Bear River they would only survive near thermal springs and thus would not pose a threat of forming exotic populations in conflict with native trout.

The applicant will need to apply for a private pond permit from the Idaho Department of Fish and Game if the pond is for recreation use or from the State Department of Agriculture if for commercial purposes. These agencies also issue permits to transport live fish from the supplier to the fishponds. In either case, the inlet and outlet of the ponds must be properly screened to keep native species out of the ponds and the pond owner's fish out of the creek.

Thank you for making us aware of this application. I hope our input is helpful to you. Feel free to provide a copy of our response to Mr. Smith if you choose.

Sincerely,



Dexter Pitman
Regional Supervisor

Cc: Jerome Hansen
NRPB
Wes Cannon

Affidavit of Publication

County of Caribou }
State of Idaho } ss.

Mark Steele

being first duly sworn on his
oath, states:

That he is Publisher
of the Caribou County Sun, a
newspaper of general circula-
tion in Caribou County, Idaho,
published weekly at Soda
Springs in said County that said
newspaper has been published
in said County uninterruptedly
and continuously for over sev-
enty-eight consecutive weeks,
prior to the first publication of
the annexed notice or advertise-
ment;

That the annexed notice was
published as per clipping at-
tached in the regular and entire
edition of said newspaper and
not in any supplement thereof

for 2 successive weekly
issues thereof, the date of the
first publication being the

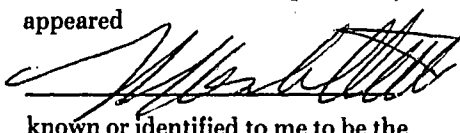
8th day of
April, 1999

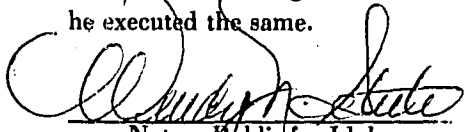
The date of the last publication
being the 15th day of

April, 1999

On this 7th day of May

in the year of 1999 before
me, a Notary Public, personally
appeared


known or identified to me to be the
person whose name subscribed to
the within instrument, and being
by me first duly sworn, declared
that the statements therein are
true, and acknowledged to me that
he executed the same.


Notary Public for Idaho
Residing at Soda Springs, Idaho
My commission expires:
March 11, 2000

PUBLIC NOTICE

First Time Published

NOTICE OF APPLICATION FOR WATER RIGHT

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

13-07561

SMITH, EDWIN P.

405 RIVER ROAD

GRACE, ID 83241

Source: SPRINGS

Tributary: SMITH CREEK

Diversion Point: SESESE Sec. 8

T11S R40E in CARIBOU County.

Use: DIVERSION TO STOR-

AGE (1.800 CFS) FISH PROPA-

GATION (0.100 CFS) (0.10AF)

Total Diversion: (1.800 CFS)

Date Filed: 3/18/1999

In: CARIBOU County T11S

R40E S09, SWSW

Any protests against the pro-
posed application must be filed
with the Department of Water
Resources, 900 North Skyline
Drive, Suite A, Idaho Falls, ID
83402, together with a protest fee
of \$25.00 on or before APRIL 26,
1999 to be considered by the
Department in its decision to grant
or deny any part of the proposed
application. The protestant must
also send a copy of the protest to
the applicant.

(s) KARL J. DREHER

Director

Published April 8 and 15, 1999
in the Caribou County Sun.

RECEIVED

MAY 12 1999

Department of Water Resources
Eastern Region

MEMORANDUM

DATE: May 21, 1999
TO: File No. 13-07561
FROM: Cindy Zimmerman
SUBJECT: Application Review

This application proposes diverting irrigation water under 13-00619 through a series of four fish propagation ponds then back to the Smith's Creek. The source of this application is springs tributary to Smith Creek.

I reviewed the overlapping right, 13-00619. The point of diversion and source identified on 13-00619 appear to be in a different drainage than this application. I called Skip Jones at Eastern for clarification. Skip said that he had talked with the users on this drainage and the watermaster. They confirmed that the source identified on this application is the source from which 13-00619 is now diverted. Water will be diverted through the ponds to the irrigated place of use under 13-00619. Apparently, an accomplished transfer has occurred. Skip did not believe a transfer would be filed unless the area went into adjudication.

This application is intended to cover raising tilapia in the ponds. The application advertisement identifies:

1.80 cfs for diversion to storage from 1/1-12/31
0.10 cfs for fish propagation from 1/1-12/31
0.1 AF for fish propagation storage from 1/1-12/31

Maximum of: 1.80 cfs.

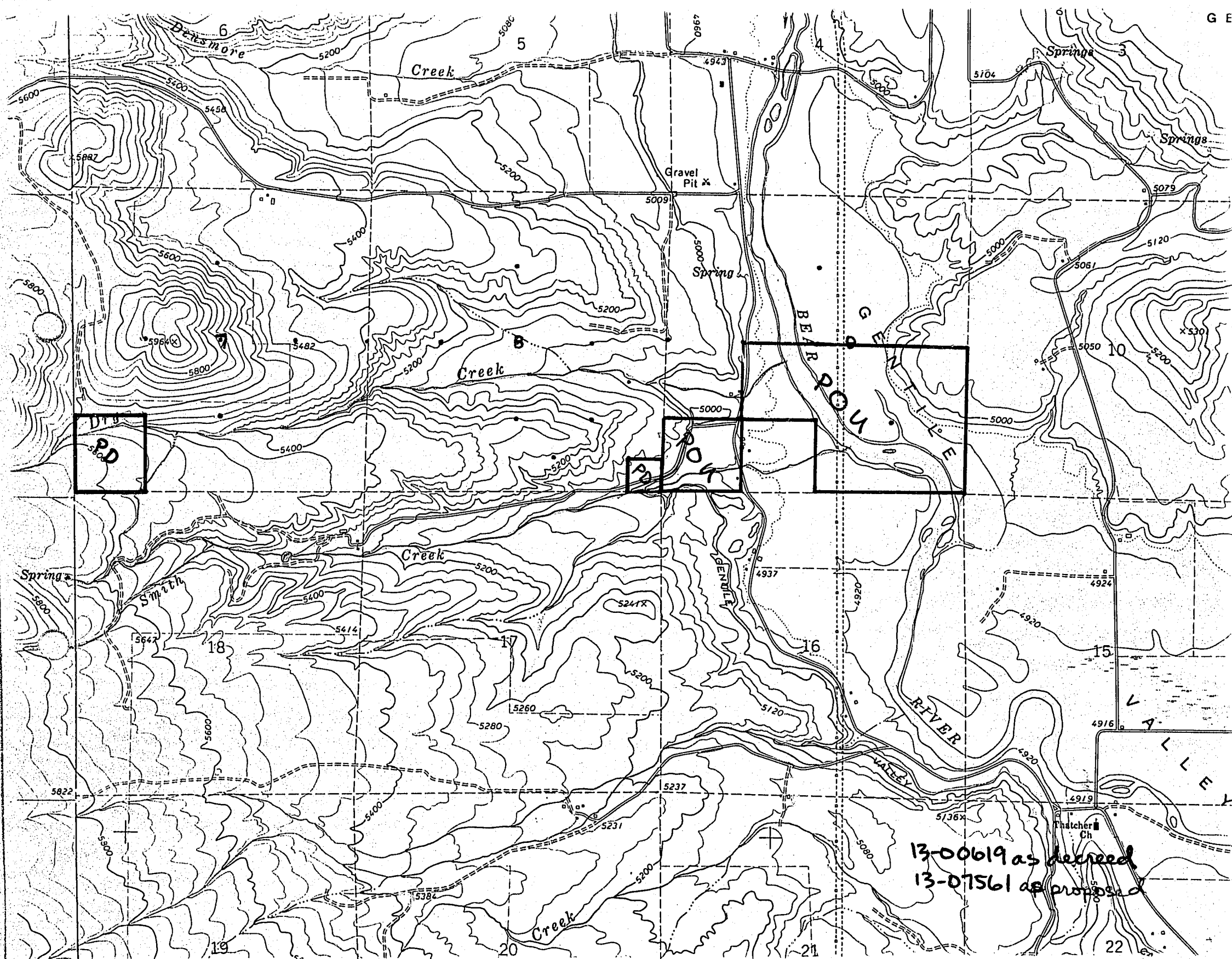
Idaho Dept. of Fish and Game in their 4/5/99 letter expressed concern that year round diversion may impact Bear River fish habitat. Skip said that Utah Power & Light was also concerned with any additional uses of water in the Bear River drainage. This application was presented to F&G and UP&L as no additional use of water, only the diversion of an existing right through ponds.

The irrigation season for that area is 4/15-10/15. Irrigation water under 13-00619 used for diversion to storage will only occur during the irrigation season. During the non-irrigation season, 0.10 cfs will be diverted for fish propagation. Skip agreed that the flow rate for diversion to storage during the non-irrigation season should be reduced to 0.10 cfs.

I have modified the application and database to reflect the following:

1.80 cfs for diversion to storage from 4/15-10/15
0.10 cfs for diversion to storage from 10/16-4/14
0.10 cfs for fish propagation from 1/1-12/31
0.1 AF for fish propagation storage from 1/1-12/31

Maximum of: 1.80 cfs.



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

May 25, 1999

DIRK KEMPTHORNE
GOVERNOR

EDWIN P SMITH
405 RIVER RD
GRACE ID 83241

KARL J. DREHER
DIRECTOR

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 13-07561

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.

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

Be sure to note the special condition requiring you to install a measuring device and lockable controlling works that will enable the watermaster to control the rate of diversion.

Please be advised that water quality is subject to regulations of the Idaho Department of Health and Welfare. We suggest that you check with them before starting construction.

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

Sincerely,

Shelley Walter Keen
Shelley W. Keen
Water Rights Supervisor

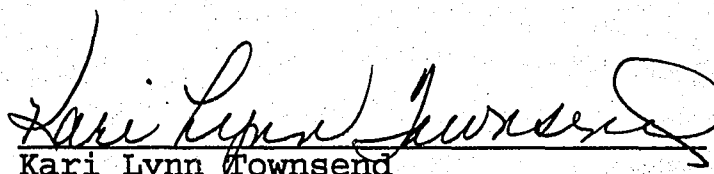
SK:klt

CERTIFICATE OF MAILING

I hereby certify that on the 25th day of May, 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. 13-07561

EDWIN P SMITH
405 RIVER RD
GRACE ID 83241


Kari Lynn Townsend
Secretary

RECEIVED

MAY 8 - 2000

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Department of Water Resources

PROOF OF BENEFICIAL USE

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

1. Permit No. 13-07561 Telephone No. (208) 427-6376
2. Name of Permit Holder(s): Edwin P. Smith + Willadene H. Smith
3. Mailing Address: 405 River Rd.
City Grace State ID Zip 83241
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): _____ Stockwater (No. and type of stock): _____
Irrigation (No. of acres): _____ Other: Fish Propagation
6. Total rate of diversion and/or volume for which proof is submitted: 1.80 cfs OR _____ acre-feet
7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)
Measuring Device: Is a measuring device required? Yes _____ or No X
Has the measuring device been installed? Yes _____ or No _____
8. Fee Enclosed: \$ 125.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)
9. Person to contact to accompany the Department representative during field examination of the water system.
Name: Edwin P. Smith Telephone Number: (208) 427-6376
Address: 405 River Rd. Grace, Idaho 83241
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: Edwin P. Smith - Willadene Smith Date: May 3, 2000
(include your title, if on behalf of company or organization)

March 31, 2000

EDWIN P SMITH
405 RIVER RD
GRACE ID 83241.

PROOF DUE NOTICE

RE: PERMIT NO. 13-07561

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before June 1, 2000.

(See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

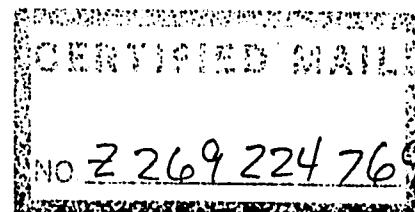
Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the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

SINCERELY,

Deborah Drew-Ellis

DEBORAH DREW-ELLIS
Administrative Assistant

Enclosures



RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

Receipt No: C049075

Date: 5/ 9/2000
Time: 09:28:04

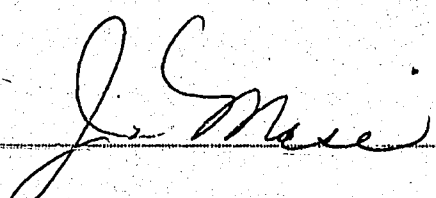
Received
From: SMITH EDWIN P OR WILLADEN

Type of Payment	Program A cct	Amount
BENEFICIAL USE # 13-07561	56104 229 21 1155	125.00

CHECK 2422

Total \$ 125.00

Region: STATE

Signature: 

ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE

Permit No. 13-07561 Reviewed by D. Ellis Date 5/16/00

GENERAL CONSIDERATIONS

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

TYPES OF USE

Fish Propagation

Correct Uses? Yes

SOURCE OF WATER

Yes Surface water source
No Ground water source

/ Drilling permit required?
/ Copy in the file? Drilling Permit No. /
/ Amount paid for permit
/ Well log in the file? / Correct?

LICENSE EXAMINATION FEE

Yes Required?
\$ 125 Amount Submitted
Yes Correct?

MEASURING DEVICE

/ Required?
/ Installed?
/ Waiver requested?

PRIORITY CALCULATION

Date proof received 5/8/00
Date proof due 6/1/00 - /
No. of days late / = /
Priority Date / + /
New Priority Date /

DEFICIENCIES OR ACTION ITEMS

Acknowledge proof.

DATA ENTRY

New Address Add/Check on Willardone Proof Made 5/8/00
H. Smith on names.



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

May 16, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

EDWIN P SMITH
WILLADENE H SMITH
405 RIVER RD
GRACE ID 83241

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 13-07561

Dear Permit Holder:

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

Be advised that Section 42-248, Idaho Code, requires you or the owner of this water right 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 concerning the field examination, please contact the Eastern Regional Office of the department in Idaho Falls at (208) 525-7161.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Drew-Ellis".

Deborah Drew-Ellis
Administrative Assistant
Water Allocation Bureau

Encl.

c: IDWR - Regional Office