

DEC 14 1999

Department of Water Resources

100

Ident. No.

13-07576

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant Robert Timmons or Lou Clayton Phone 303-475-8763
Mailing address P.O. Box 32 Thatcher, ID 83283
2. Source of water supply Maple Grove Hot Springs which is a tributary of Bear River
3. Location of point of diversion is Township 13S Range 41E Sec. 7, in the SW 1/4, NE 1/4, Govt. Lot _____, B.M., Franklin County;
additional points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 0.80 cfs for Commercial 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) 0.80 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 pipeline to soaking
pools + river
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 5 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. Commercial use of Hot water for hot tubs and/or
pools.

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	
13S	41E	7			C														

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? Applicant

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

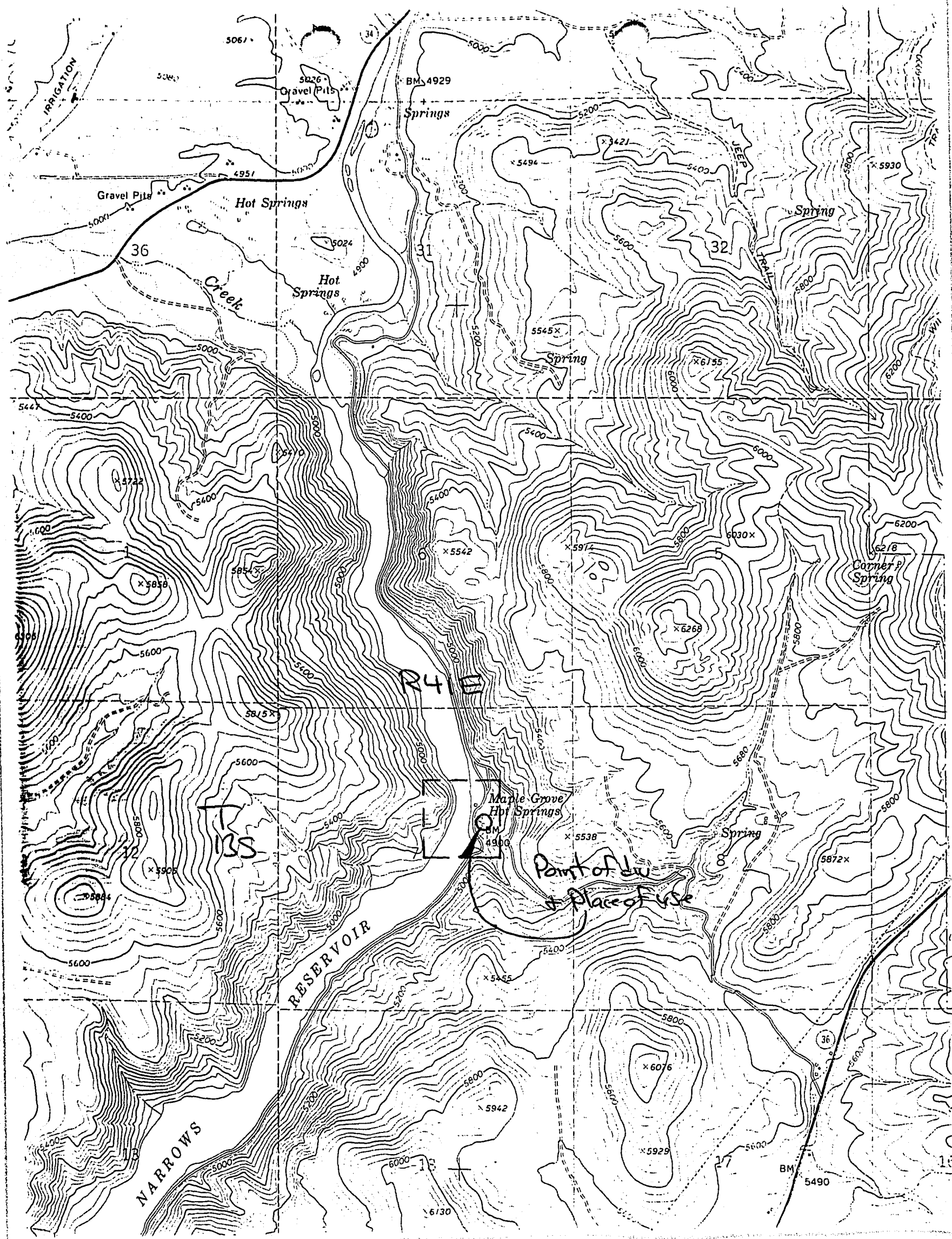
12. Remarks: _____

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.

[Signature]
Signature of Applicant (and title, if applicable)

Received by [Signature] Date 11-4-99 Time _____ Preliminary check by _____
Fee \$ 100.00 Received by [Signature] # E025440 Date 11-4-99
Publication prepared by SC Date 11-18 & 11-25-99 Published in Preston Citizen
Publication approved [Signature] Date 11/30/99



State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 13-07576

Priority: November 4, 1999

Maximum Diversion Rate:

0.80 CFS

This is to certify, that ROBERT TIMMONS
LOU CLAYTON
PO BOX 32
THATCHER ID 83283

has applied for a permit to appropriate water from:
MAPLE GROVE HOT SPRINGS tributary of BEAR RIVER

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>
COMMERCIAL	01/01 to 12/31	0.80 CFS

LOCATION OF POINT(S) OF DIVERSION:

SWNE , Sec. 7, Township 13S, Range 41E
FRANKLIN County

PLACE OF USE: COMMERCIAL

TWN RGE SEC

13S 41E 7

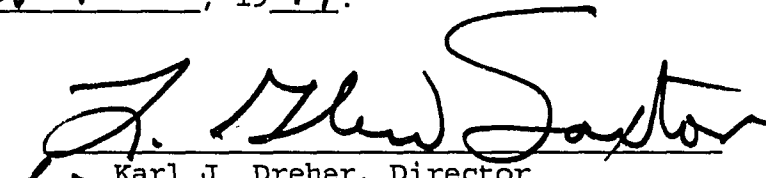
SWNE

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of application of water to beneficial use shall be submitted on or before January 1, 2005.
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. Use of water under this water right will be regulated by the watermaster of State Water District No. 11.
5. 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.
6. Commercial use is for hot tubs and pools.

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

17th day of December, 1999.


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

November 9, 1999

FISH & GAME
JEROME HANSEN
1345 BARTON RD
POCATELLO ID 83201

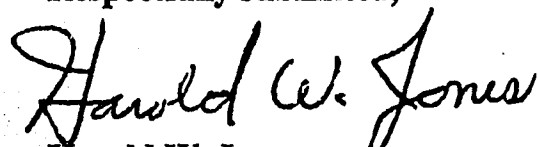
RE: Applications for Permit # 11-07450, 13-07576, and 13-07577

Dear Jerome:

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 December 6, 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

**DIRK KEMPTHORNE
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

November 9, 1999

**ROBERT TIMMONS OR LOU CLAYTON
PO BOX 32
THATCHER ID 83283**

RE: Claim to a Water Right #13-04347, Applications for Permit #13-07576 and #13-07577

Dear Applicant:

This office is currently in the process of advertising the application in the Preston Citizen on November 18 and 25, 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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

November 9, 1999

JODY L WILLIAMS ESQ
KRUSE LANDA & MAYCOCK LLC
50 W BROADWAY 8TH FLOOR
SALT LAKE CITY UT 84101

RE: Applications for Transfer #5596, Claim to a Water Right #13-04347, Applications for Permit # 11-07450, 13-07576, and 13-07577

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 December 6, 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:

13-07576

CLAYTON, LOU
TIMMONS, ROBERT
PO BOX 32
THATCHER, ID 83283

Source: MAPLE GROVE HOT SPRINGS

Tributary: BEAR RIVER

Diversion Pt: SWNE Sec 7 T 13S R 41E in FRANKLIN County.

Use: COMMERCIAL (0.800 CFS)
Total Diversion: (0.800 CFS)

Date Filed: 11/ 4/1999

In: FRANKLIN County
T13S R41E S07 SWNE

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 DECEMBER 6, 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.

KARL J. DREHER, Director

Published: 11/18/1999 & 11/25/1999



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

NOVEMBER 10, 1999

Legal Notices Department
THE PRESTON CITIZEN
P.O. BOX 472
PRESTON, ID 83263

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.

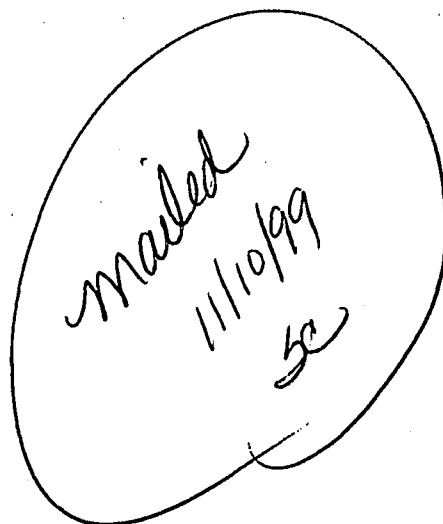
An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before DECEMBER 6, 1999.

Yours truly,

Sharla Cox
Senior Secretary

Encl.



875

4911

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Franklin } ss.

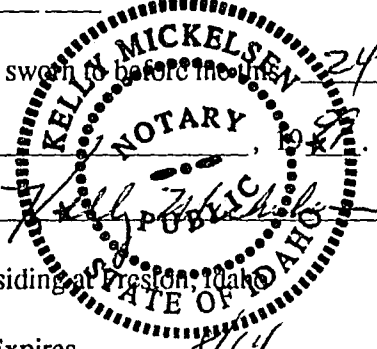
Robert W. Marshall
being duly sworn,

deposes and says:
That he is the PUBLISHER of THE PRESTON
CITIZEN, a weekly newspaper published at Preston, in the County of
Franklin and State of Idaho; that said paper has been and is in general
circulation in the county aforesaid, and in the vicinity of Preston; 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 of 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
11/17, 1999, and ending
with the issue of 11/24, 1999
Robert W Marshall
Fee \$ 74.62

Subscribed and sworn to before me this 24 day
of Nov
Kelly Mickelsen
Notary Public, Residing at Preston, Idaho
My Commission Expires 8/14, 192001.



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

13-07576
CLAYTON, LOU
TIMMONS, ROBERT
PO BOX 32
THATCHER, ID 83283

Source: MAPLE GROVE HOT
SPRINGS
Tributary: BEAR RIVER
Diversion Pt: SWNE Sec 7 T 13S R
41E in FRANKLIN County.
Use:
COMMERCIAL (0.800 CFS)
Total Diversion: (0.800 CFS)
Date Filed: 11/4/99
In: FRANKLIN County
T13S R41E S07 SWNE

13-07577
CLAYTON, LOU
TIMMONS, ROBERT
PO BOX 32
THATCHER, ID 83283

Source: MAPLE GROVE HOT
SPRINGS
Tributary: BEAR RIVER
Diversion Pt: SWNE Sec 7 T 13S R
41E in FRANKLIN County.
Use:
POWER (0.450 CFS)
Total Diversion: (0.450 CFS)
Date Filed: 11/4/99
In: FRANKLIN County
T13S R41E S07 SWNE

Any protests against the pro-
posed application must be filed
with the Department of Water Re-
sources, 900 N. Skyline Dr., Ste. A,
Idaho Falls, ID 83402, together
with a protest fee of \$25.00 on or
before DECEMBER 6, 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 appli-
cant.

KARL J. DREHER, Director
Legal No. 4911 - Publish Nov.
17 and 24, 1999.

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

December 20, 1999

DIRK KEMPTHORNE
GOVERNOR

LOU CLAYTON
ROBERT TIMMONS
PO BOX 32
THATCHER ID 83283

KARL J. DREHER
DIRECTOR

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 13-07576

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.

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.

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

Sincerely,

Shelley W. Keen
Water Rights Supervisor

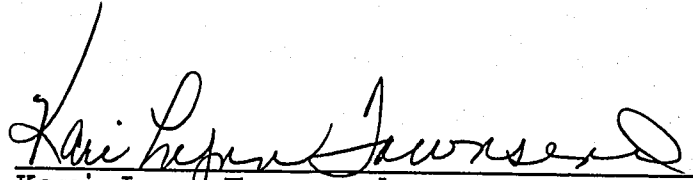
SK:klt
Enclosures

CERTIFICATE OF MAILING

I hereby certify that on the 20th day of December, 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. 13-07576

ROBERT TIMMONS
LOU CLAYTON
PO BOX 32
THATCHER ID 83283


Kari Lynn Townsend
Secretary