

Ident. No. 13-07585

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

OCT 11 2000

Department of Water Resources
Eastern Region

1. Name of Applicant Lloyd Whitehead Phone 208-852-0077
Mailing address 76 West 3 North Preston, ID 83263
2. Source of water supply Spring which is a tributary of Sinks
3. Location of point of diversion is Township 16S Range 39E Sec. 10, in the SE 1/4, SE 1/4, Govt. Lot , B.M., Franklin County;
additional points of diversion if any:
4. Water will be used for the following purposes:
- | | |
|--|---|
| Amount <u>0.04 cfs</u> for <u>Domestic</u> | purposes from <u>1-1</u> to <u>12-31</u> (both dates inclusive) |
| (cfs or acre-feet per annum) | |
| Amount <u> </u> for <u> </u> | purposes from <u> </u> to <u> </u> (both dates inclusive) |
| (cfs or acre-feet per annum) | |
| Amount <u> </u> for <u> </u> | purposes from <u> </u> to <u> </u> (both dates inclusive) |
| (cfs or acre-feet per annum) | |
| Amount <u> </u> for <u> </u> | purposes from <u> </u> to <u> </u> (both dates inclusive) |
| (cfs or acre-feet per annum) | |
| Amount <u> </u> for <u> </u> | purposes from <u> </u> to <u> </u> (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 Jet pump
- 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):
- Hydropower; show total feet of head and proposed capacity in kW.
 - Stockwatering; list number and kind of livestock.
 - Municipal; show name of municipality.
 - Domestic; show number of households. one
 - 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	
16S	39E	10																D	

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.

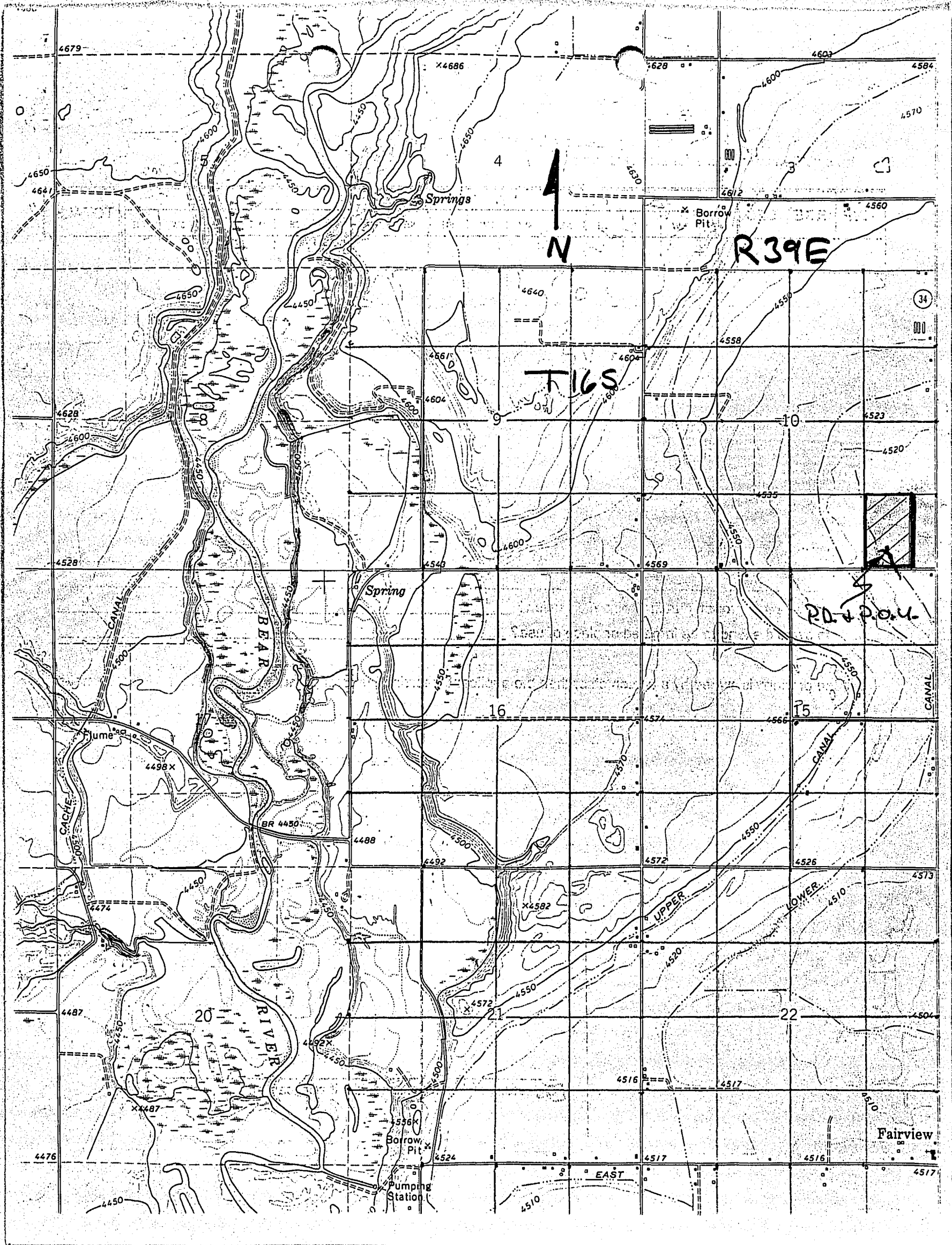
Lloyd Shutehead
Signature of Applicant (and title, if applicable)

Received by HWT Date 10-11-00 Time _____ Preliminary check by _____

Fee \$ 100.00 Received by SC # E026226 Date 10/4/00

Publication prepared by SC Date 11/28 11/9/00 Published in Preston Citizen

Publication approved SC Date 12/6/00



174908

QUITCLAIM DEED

For Value Received URSULA BEINS, a widow

do hereby convey, release, remise and forever quit claim unto

LLOYD WHITEHEAD,

the following described premises, to-wit:

Township 16 South Range 39 East, Boise Meridian, Franklin County;

Beginning at a point 28 rods West of the Southeast corner of the Southeast quarter of Sec. 10, thence running North 80 rods; thence West 52 rods; thence South 80 rods; thence East 52 rods to the place of beginning.

together with their appurtenances.

Dated: MARCH 5, 1987

Ursula Beins

Ursula Beins

STATE OF IDAHO, COUNTY OF Franklin
On this 5th day of March, 1987,
before me, a notary public in and for said State, personally
appeared

Ursula Beins

known to me to be the person who name
subscribed to the within instrument, and acknowledged to
me that executed the same.

James B. Smith
Notary Public

Residing at Franklin, Idaho
Comm. Expires Sept. 12, 1992

Witness at the request of

Ray Taylor

a.m. MAR 5 1987 3:35 p.m.

CORRIE L. KELLER, RECORDER

Debra Johnson Dep
FRANKLIN COUNTY, IDAHO

Furnished by the POCAHONTO TITLE CO.

FOR OFFICE USE ONLY
Amt. of Fee \$: 50.00
Receipt No. 053458
Receipt By: [Signature]
Date Received: 5-10-01

RECEIVED

FEB 20 2001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

Department of Water Resources

PROOF OF BENEFICIAL USE

MAY 10 2001

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. 13-07585 or 13-57585 Telephone No. 208 852 0077
2. Name of Permit Holder(s): Lloyd & Mary Whitehead
3. Mailing Address: 76 W 3 N
City Preston State Id Zip 83763
4. Source of Water: Spring If GROUNDWATER (well), Date Drilled: mo. NOV Yr. 98
Well Driller: None Drilling Permit Number: None
5. Use(s) (as authorized by the water right permit):
Domestic (No. of households): 1 Household Stockwater (No. and type of stock): Horses & Cows
Irrigation (No. of acres): Lawn garden Other: None
6. Total rate of diversion and/or volume for which proof is submitted: None cfs OR None 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: \$ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)
9. Person to contact to accompany the Department representative during field examination of the water system.
Name: Lloyd Whitehead Telephone Number: 208 852 0077
Address: 76 W 3 N Preston Id 83763
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: Lloyd & Mary Whitehead Date: 2/14/2001
(include your title, if on behalf of company or organization)

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 13-07585

Priority: 10/11/2000

Maximum Diversion Rate: 0.04 CFS

This is to certify, that LLOYD WHITEHEAD
76 W 3 NORTH
PRESTON ID 83263

has applied for a permit to appropriate water from:

SPRING tributary to **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 SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 10, Twp 16S, Rge 39E, B.M. FRANKLIN County

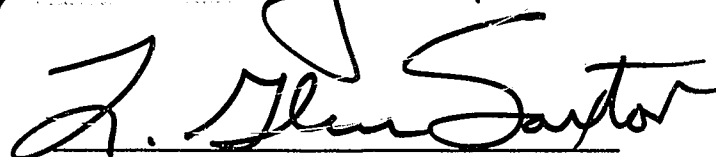
PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16S 39E 10																	X

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before February 01, 2002.
2. Subject to all prior water rights.
3. 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 8th day of February 2001.


for KARL J DREHER, Director

NOTICE OF APPLICATION FOR WATER RIGHT

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

13-07585

WHITEHEAD, LLOYD
76 W 3 NORTH
PRESTON, ID 83263

Source: SPRING

Tributary: SINKS

Diversion Pt: SESE Sec 10 T 16S R 39E in FRANKLIN County.

Use: DOMESTIC (0.040 CFS)
Total Diversion: (0.040 CFS)

Date Filed: 10/11/2000

In: FRANKLIN County
T16S R39E S10 SESE

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 NOVEMBER 20, 2000. 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/ 2/2000 & 11/ 9/2000



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 24, 2000

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.

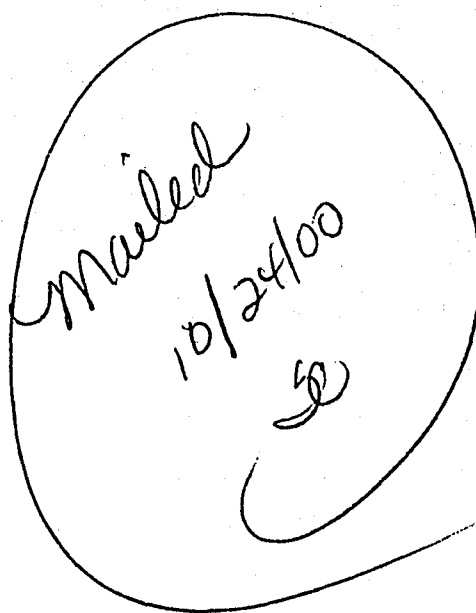
An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before NOVEMBER 20, 2000.

Yours truly,

Sharla Cox
Senior Secretary

Encl.





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 25, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Jody L Williams
Kruse Landa & Maycock
50 W Broadway 8th Floor
Salt Lake City UT 84101

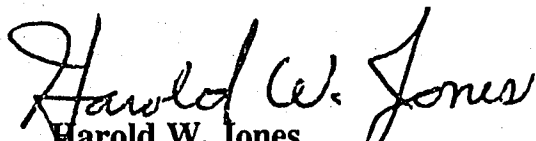
RE: Application for Transfer #5856 and Application for Permit 13-07585

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 November 20, 2000, 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

October 25, 2000

Lloyd Whitehead
76 W 3 North
Preston ID 83263

RE: Applications for Permit #13-07585

Dear Applicant:

This office is currently in the process of advertising the application in the Preston Citizen on November 2 and 9, 2000. 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

Receipt # EO 20322

Protest

RECEIVED RECEIVED
DEC 12 2000 NOV 14 2000
Department of Water Resources Eastern Region

November 09, 2000

Department of Water Resources
900 North Skyline, Drive, Ste. A.
Idaho Falls, ID 83402

RE: Application for water rights. (13-07585)
By Whitehead, Lloyd
73 West 3 North
Preston, ID 83263

To Whom It May Concern:

The source of the water spoken of in this application is tile drainage water from our farm ground rather than spring water. Our understanding is that the water is going to be used for home use. We do not object to them using the water for that purpose. However, we spread manure and commercial fertilizer on our farm ground where the tile lines are. In the past at times irrigation water has gotten into the tile water, which could contaminate it. We do not want to be responsible or liable if contamination by our farm operation is to happen in the future.

Sincerely,

Cleve J. Bodily
Cleve J. Bodily, Owner

602 W. 3200 South
Preston, ID 82363

CC: Karl J. Dreher, Director
Lloyd Whitehead



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 27, 2000

Lloyd Whitehead
76 West 3 North
Preston, Idaho 83263

Mr. Whitehead:

I am working with your application #13-07585 for Domestic use. I need to specifically know if your intent is to use this spring/drain source for in-house use and culinary water.

I will need you to respond in writing within 14 days.

Sincerely,

A handwritten signature in dark ink, appearing to read 'H. W. Jones'.

Harold W. Jones
Water Resource Supervisor

HWJ/ck

RECEIVED

NOV 27 2000

Department of Water Resources
Eastern Region

Dept. of Water Resources

900 N. Skyline drive. St. A.

Idaho Falls Id, 83402

Dear H.W. Jones,

11,22,00

The water I have field on will be used
for culinary uses, watering stock and house &
plants. We have used it and drank it for 25 years.

The water will be piped into the house
for the culinary purposes. This water
tested good, but another will be sent
off Monday.

Thank you Sincerley,

Lloyd Whithead

November 08 2000

Harold H Jones
Water Resources Supervisor

RECEIVED

NOV 30 2000

Department of Water Resources
Eastern Region

In Response to your letter.
Yes I am going to use this
Spring drain source for in
house use and Callinony water for me.
Thank You

Sincerely
Lloyd Whithead



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

December 4, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Cleve J Bodily
602 W 3200 South
Preston ID 83263

RE: Application for Permit No. 13-07585

Dear Protestant:

Your protest against approval of the above referenced application has 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):

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?
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?

Page 2

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
Water Rights Supervisor

HWJ: sc

cc: IDWR - State Office



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

December 4, 2000

Lloyd Whitehead
76 West 3 North
Preston ID 83263

RE: Application for Permit No. 13-07585

Dear Applicant:

Enclosed are copies of a protest filed against the issuance of the above referenced applications. 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.

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 protests. At a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Idaho Code ' 42-203):

1. Will the proposed use reduce the quantity of water under existing water 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?
5. Will the proposed use conflict with the local public interest?
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

Page 2

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

Enclosure

HWJ:sc

cc: IDWR - State Office

No 5099

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Franklin } ss.

RECEIVED

DEC 06 2000

Department of Water Resources
Eastern Region

Necia Seamons
being duly sworn,

deposes and says:

That he is the Editor 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

Nov. 1, 2000, and ending
with the issue of Nov. 8, 2000

Necia Seamons
Fee \$ 70.50

Subscribed and sworn to before me this 4th day

of Nov. 1, 2000.

Ann Rawlings
NOTARY PUBLIC
Notary Public, Residing at Preston, Idaho
My Commission Expires 10/26/06

NOTICE OF APPLICATION FOR WATER RIGHT

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

13-07585
WHITEHEAD, LLOYD
76 W 3 NORTH
PRESTON, ID 83263

Source: SPRING
Tributary: SINKS
Diversion Pt: SESE Sec 10 T 16S R
39E in FRANKLIN County.

Use:
DOMESTIC (0.040 CFS)
Total Diversion: (0.040 CFS)

Date Filed: 10/11/2000
In: FRANKLIN County
T16S R39E S10 SESE

Any protest 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
NOVEMBER 20, 2000, to be consid-
ered by the Department in its deci-
sion to grant or deny any part of the
proposed application. The protes-
tant must also send a copy of the
protest to the applicant.

KARL J. DREHER, Director
Legal No. 5099 - Publish Nov. 1
and 8, 2000.



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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 12, 2000

Cleve J. Bodily
602 W. 3200 South
Preston, ID 82363

RE: APPLICATION FOR PERMIT NO. 13-07585 – LLOYD WHITEHEAD

Dear Mr. Bodily:

Our Eastern Regional office in Idaho Falls has forwarded the above referenced application to this office for review and further action.

If you recall, on November 14, 2000, you filed a protest against approval of an application to appropriate water filed by Lloyd Whitehead. The application seeks the use of 0.04 cubic feet per second of ground water to be used year-round for domestic purposes. In your letter you state that you do not object to the proposed use of water by Lloyd Whitehead but state that you do not want to be responsible or liable if your farm operations contaminate water in the tile drain.

It seems that your purpose in filing the protest was to place information in the record of your concern. It also seems there is no purpose in scheduling a hearing in the matter, since you do not oppose the use of water by Mr. Whitehead. Your letter is a part of the water right record and is available for future reference. Hence, I will consider that you do not want a hearing in the matter unless you advise me differently within 14 days of the date of this letter. If I don't hear from you within this time period, the department will review the application for further action.

If you have questions, please feel free to contact me.

Sincerely,

L. GLEN SAXTON, P.E.
Chief, Water Allocation Bureau

c: Lloyd Whitehead
IDWR - E. Region
Harold Jones

**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, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

February 8, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

LLOYD WHITEHEAD
76 W 3 NORTH
PRESTON ID 83263

RE: Permit No. 13-7585

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.

Please note that the Department is dismissing the protest of Cleve J. Bodily on the basis of the Department's December 12, 2000 letter to him. A petition for reconsideration may be filed in connection with either the dismissal of the protest or the issuance of the permit.

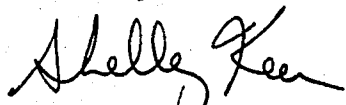
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should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

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:kl
Enclosure(s)

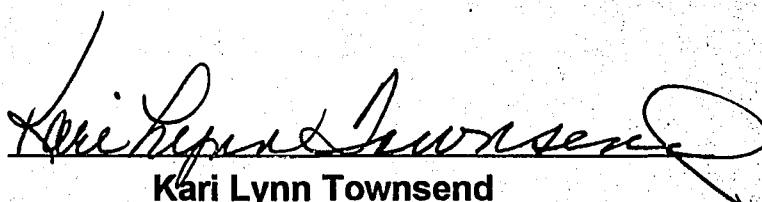
cc: Cleve J. Bodily

CERTIFICATE OF MAILING

I hereby certify that on February 8, 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. 13-7585

**LLOYD WHITEHEAD
76 W 3 NORTH
PRESTON ID 83263**


**Kari Lynn Townsend
Secretary**

FOR OFFICE USE ONLY

Amt. of Fee \$: _____
Receipt No: _____
Receipt By: _____
Date Received: _____

RECEIVED

FEB 20 2001

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. 13-07585 or 13-7585 Telephone No. 208 852 0077

2. Name of Permit Holder(s): Lloyd & Mary Whitehead

3. Mailing Address: 76 W 3 N

City Preston State Id Zip 83763

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 Household Stockwater (No. and type of stock): Horses & Cows

Irrigation (No. of acres): Lawn garden Other: None

6. Total rate of diversion and/or volume for which proof is submitted: None cfs OR None 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: \$ _____ (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: Lloyd Whitehead Telephone Number: 208 852 0077

Address: 76 W 3 N Preston Id 83763

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: Lloyd & Mary Whitehead Date: 2/14/2001
(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

February 26, 2001

LLOYD WHITEHEAD
76 W 3 N
PRESTON ID 83263

RE: PERMIT NO. 13-07585

Dear Permit Holder:

Enclosed is a copy of the Proof of Beneficial Use (proof) statement you submitted in connection with the above referenced water right permit. Before the department can accept your proof, it must be accompanied by the appropriate license examination fee. Please return the enclosed copy of the proof form along with the \$50.00 license examination fee to my attention at the above mailing address.

Upon completion of the Proof of Beneficial Use, the next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water, and that it meets the permitted beneficial use. However, according to the proof you submitted with IDWR I need to clarify two questions. I have enclosed a copy of your permit for reference regarding these questions.

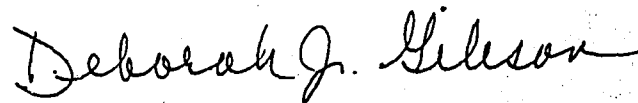
1. According to your Permit to Appropriate Water (permit) issued on February 8, 2001, paragraph 3 states: "Domestic use is for 1 home and does not include lawn, garden, landscape, or other types of irrigation." I understand from speaking to IDWR's Eastern Region, that water right applications in your area are being protested by Utah Power if there are any provisions for consumptive use such as irrigation. On that basis your permit allows only in-house culinary use.
2. Paragraph No. 6 of your proof asks for the "Total rate of diversion and/or volume..." (the "rate of diversion" is the measurement of water you are permitted to use under this right.) The proof you filed states that "none" is being used. If that is correct, is it appropriate to file proof at this time? If you have not completed the water diversion system for your home, you have until February 1, 2002 to complete the system and apply it to a

February 26, 2001
Page 2

beneficial use. The appropriate time to file Proof of Beneficial Use is at the time of completion of your water system.

If you have any questions regarding the Proof of Beneficial Use, please contact me at (208)327-7953, or, if you have any questions regarding the limitations of your permit, please call the Eastern Regional Office in Idaho Falls at (208)525-7161.

Sincerely,



Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosures

c: IDWR- Region



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

May 11, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

LLOYD WHITEHEAD
76 WEST 3 NORTH
PRESTON ID 83263

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 13-07585

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 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,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encl.

c: IDWR - Regional Office