

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Permit No. 13-7640

RECEIVED

AUG 18 2003

Department of Water Resources

1. Name of Applicant Topaz Marketing L.P. % Dennis Lower Phone 801-479-8844
Mailing address 7818 E. Highway 36 Preston, ID 83263
2. Source of water supply Groundwater which is a tributary of _____
3. Location of point of diversion is Township 13 S Range 41 E Sec. 16 in the _____ 1/4,
SE 1/4, NW 1/4, Govt. Lot _____, B.M., Franklin County;
additional points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 0.04 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 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 well + pump to one
home
b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet
c. Proposed well diameter is 6 inches; proposed depth of well is _____ feet
d. Is ground water with a temperature of greater than 85°F being sought? NO
e. If well is already drilled, when? 11/6/01; Drilling firm Nat. Man Drilling Lava, ID;
Well was drilled for (well owner) Topaz Marketing L.P.; Drilling Permit No. 000021623
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. one
e. Other; describe fully. _____

RECEIVED

MAY 29 2003

Department of Water Resources
Eastern Region

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	
13S	41E	16								D									

Total number of acres to be irrigated _____

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

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: _____

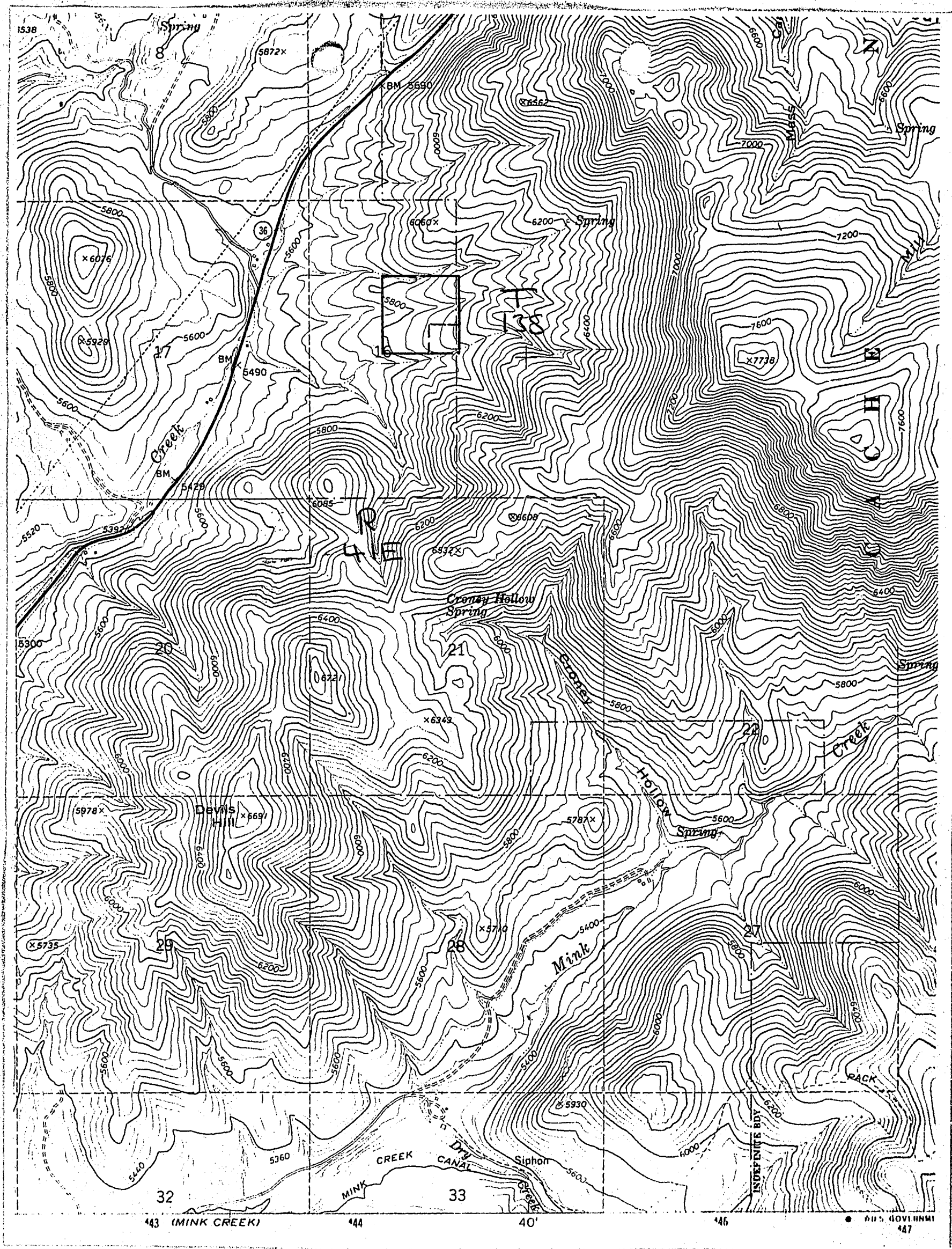
13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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.

Topaz Marketing L.P.
[Signature]
 Signature of Applicant (and title, if applicable)

Received by _____ Date _____ Time _____ Preliminary check by _____

Fee \$ 100.00 Received by _____ # C069152 Date 5-19-03
 Publication prepared by SC Date 7-2 & 7-9-03 Published in Preston Citizen
 Publication approved SC Date 8-7-03



State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 13-07640

Priority: May 19, 2003

Maximum Diversion Rate: 0.04 CFS

This is to certify, that TOPAZ MARKETING L P
C/O DENNIS LOWER
7818 E HWY 36
PRESTON ID 83263

has applied for a permit to appropriate water from:

Source: GROUND WATER

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 OF DIVERSION:

GROUND WATER SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 16, Twp 13S, Rge 41E, B.M., FRANKLIN County

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE	NW	SW	SE	Totals
13S 41E 16	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	
			X		

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before August 01, 2004.
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
4. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 20th day of August, 2003.

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:

13-7640

TOPAZ MARKETING L P
C/O DENNIS LOWER
7818 E HWY 89
PRESTON ID 83263

Point(s) of Diversion: SENW S16 T13S R41E, FRANKLIN County
Source GROUND WATER

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

Date Filed: 06/19/2003

Place Of Use: DOMESTIC

T13S R41E S16 SENW

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 July 21, 2003. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on July 2 and 9, 2003



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

June 25, 2003

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Legal Notice Department
PRESTON CITIZEN
PO BOX 472
PRESTON ID 83263

RE: Application for Permit No. 13-7640

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 July 21, 2003. Your cooperation is appreciated.

Sincerely

Sharla Cox
Administrative Assistant

*Mailed
6/25/03
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
June 25, 2003

DIRK KEMPTHORNE
Governor
KARL J. DREHER
Director

TOPAZ MARKETING L P
C/O DENNIS LOWER
7818 E HWY 89
PRESTON ID 83263

RE: Application for Permit No 13-7640

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 Preston Citizen on July 2 and 9, 2003. 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.

If the application is not protested, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved.

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

Sincerely,

Harold W Jones
Water Right Supervisor

HWJ:sc

No 5586
AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Franklin } ss.

Rodney Brown
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

July 2, 2003, and ending
with the issue of July 9, 2003

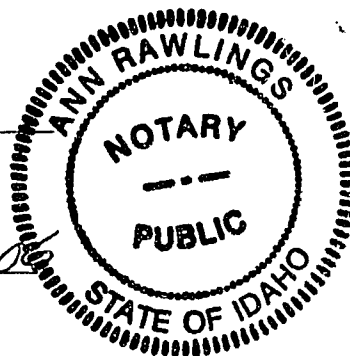
R Brown
Fee \$ 81.44

Subscribed and sworn to before me this 23rd day

of July, 2003.
Ann Rawlings

Notary Public, Residing at Preston, Idaho

My Commission Expires 10/26, 2004



RECEIVED
AUG 04 2003
ACCTS PAYABLE

PUBLIC WATER APPLICATION

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

13-7640

TOPAZ MARKETING LP
C/O DENNIS LOWER
7818 E HWY 89
PRESTON ID 83283

Point(s) of Diversion: SENW
S16 T135 R41E, FRANKLIN
County

Source GROUND WATER
Use: DOMESTIC 01/01 To
12/31 0.04 CFS

Total Diversion: 0.04 CFS
Date Filed: 08/19/2003
Place Of Use: DOMESTIC
T135 R41E S16 SENW

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 July 21, 2003. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER
DIRECTOR

Legal No. 5586 - Publish
July 2 and 9, 2003.

Received
8/7/03
SC

Receipt Details for ID C069152

Status	Adjustment Type	Version
		2

General Information:

Date Received	Date Deposited	Region	Total Amount	Payment Type
5/19/2003 1:58:08 PM	5/20/2003 1:27:35 PM	STATE	\$150.00	Check
Payer		TOPAZ MARKETING		

Account Information:

Check #	Account #	Credit Card Name	Authorization #
1021			
Card Expiration Date	Credit Card Transaction #		

Comment WATER RIGHT 13-7607

Fee Detail:

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$50.00	EXTENSIONS	56103	0229	21		1155
\$100.00	PERMITS	56103	0229	21		1155

Refund(s):

Amount	Payee	Date	Document Number
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priority date
should be
5/19/03 -
nothing in
file to show
why there's a
difference
FW
8/18/03

Comment Report

13-7640

1. kwalker 8/18/2003 Priority date

Comment: This app was receipted at State Office on 5/19/2003. Eastern Region gave it a date received as 6/19/03. Was advertised as received 8/19/03. There is not anything in file to show why it is different than date received and receipted. Recommend approval with 5/19/03 priority date.



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 21, 2003

TOPAZ MARKETING L P
C/O DENNIS LOWER
7818 E HWY 36
PRESTON ID 83263

RE: Permit No. 13-7640

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.

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.

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

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,

A handwritten signature in cursive script that reads "Shelley W. Keen".

Shelley W. Keen

Water Rights Supervisor

SWK:klt

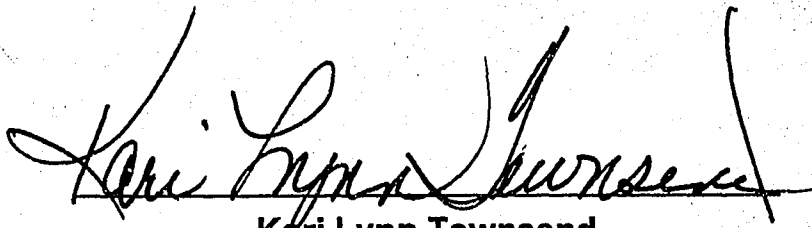
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on August 21, 2003 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. 13-7640

**TOPAZ MARKETING L P
C/O DENNIS LOWER
7818 E HWY 36
PRESTON ID 83263**

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

**Kari Lynn Townsend
Secretary**

**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.