

RECEIVED

MAR 16 1999

FORM 202

2/96

E024824 -UP
15-99E-0006

Department of Water Resources

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 15-07171

RECEIVED

FEB 01 1999

Department of Water Resources
Eastern Region

801-391-2037

801-731-8165

- 1716 S.
4600 W. Malad, ID 83252
1. Name of Applicant BRUCE or KELLE D. Kelly Phone 801-731-8165
Mailing address 5797 W. 950 N. Warren Utah 84404
2. Source of water supply Groundwater which is a tributary of _____
3. Location of point of diversion is Township 14 S Range 3 SE Sec. 35 in the _____ 1/4,
NW 1/4, SE 1/4, Govt. Lot _____, B.M., Oneida County;
additional points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 0.20 cfs for Irrigation purposes from 4/15 to 10/15 (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) 0.20 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 5 hp pump
b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet
c. Proposed well diameter is 8 inches; proposed depth of well is 150' to 240' feet
d. Is ground water with a temperature of greater than 85°F being sought? NO
e. If well is already drilled, when? _____; Drilling firm Mike Frandsen (208) 776-5322
Well was drilled for (well owner) _____; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
a. Hydropower; show total feet of head and proposed capacity in KW. _____
b. Stockwatering; list number and kind of livestock. _____
c. Municipal; show name of municipality. _____
d. Domestic; show number of households. _____
e. Other; describe fully. _____

9. Description of place of use:

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

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

TWP	RGE	SEC	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	
14S	3SE	35													15				15

Total number of acres to be irrigated 15

10. Describe any other water rights used for the same purposes as described above. We have a

prorated share of 15-02052A in the amt of 0.10 cfs

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: The property address is 1715 South 4600 West
Malad, Idaho

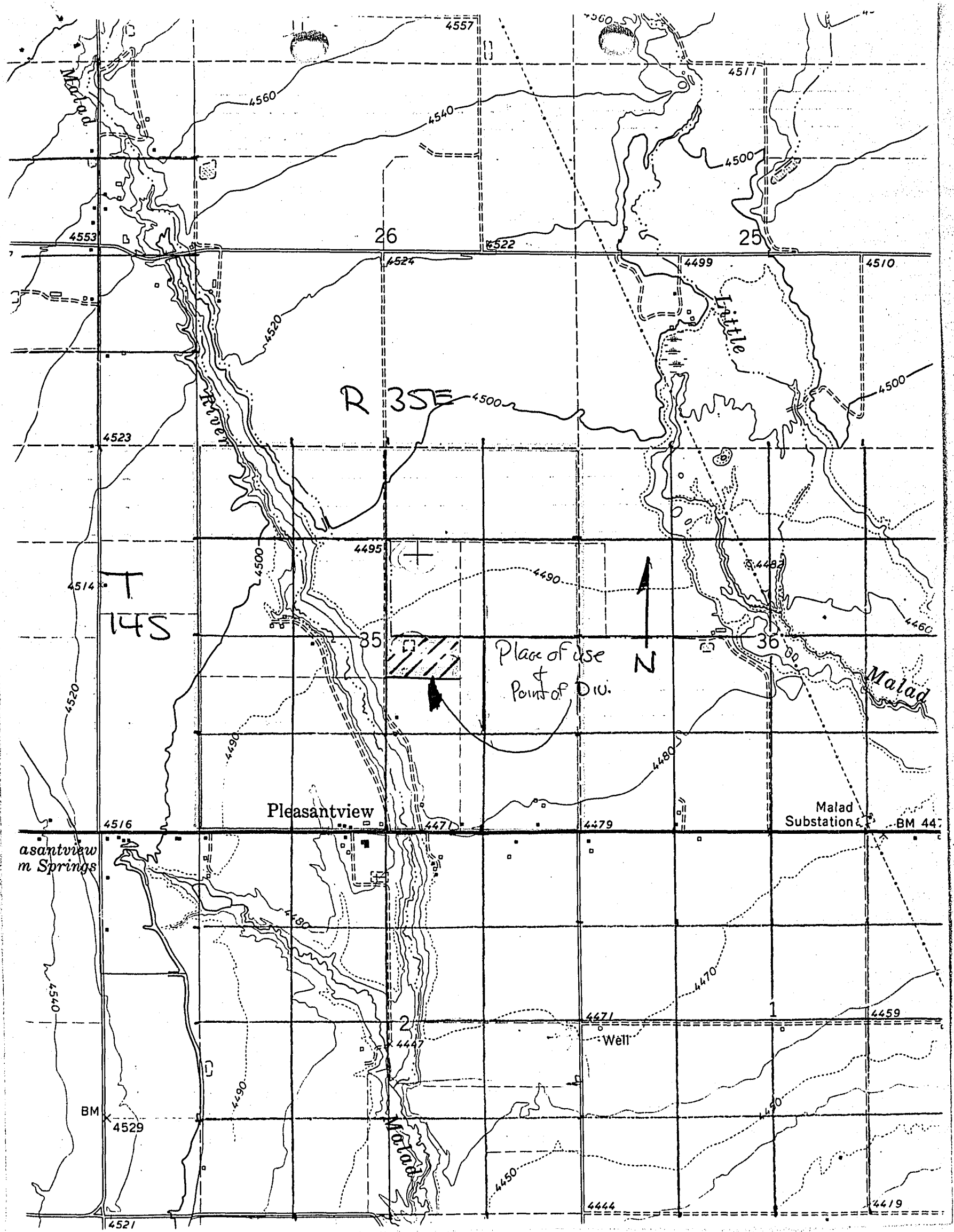
The 0.20 cfs applied for is to try & bring up
the cfs/acre to one minus inch/acre (0.02 cfs/acre)

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.

Brian Kelly
Signature of Applicant (and title, if applicable)

Receiver by HWT Date 2-1-1999 Time 2:34 pm Preliminary check by DMD
Fee \$ 100.00 Received by HWT # E024748 Date 2-1-1999
Publication prepared by SC Date 2/18 & 2/25/99 Published in Idaho Enterprise
Publication approved SC Date 3/2/99



WR5809NP
No. 15-02052A

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 02/02/99
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
P	THE LEO H BROWN FAMILY TRUST	05/28/1959	IRRIGATION	04/01 10/31	1.030 CFS	108.80 AFA
C	A H HADFIELD					
C	CARL R WILLIE					
TOTAL DIVERSION:					1.030 CFS	108.80 AFA

Water Source: GROUNDWATER

Tributary to:

Stage: LICENSE

Point(s) of Diversion:

T14S R35E S35

NWSE

ONEIDA County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE										
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM					
14S	35E	35	:																	:						
14S	35E	36	:																	:						
																			40	:	40	24	08	36	:	108.0
																				:					:	40.0
																				:					:	148.0
																				:					:	

Pou County: ONEIDA

Other Water Rights Listing Overlapping Place(s) of use:

15-02014 15-02015 15-02023 15-02024 15-02025

Dates:	App. Received:	Priority Date:	05/28/1959
	Proof Due Date:	Proof Made Date:	
	Exam Made Date:	Exam Sent to S.O.:	
	Licensed Date:		02/12/1970

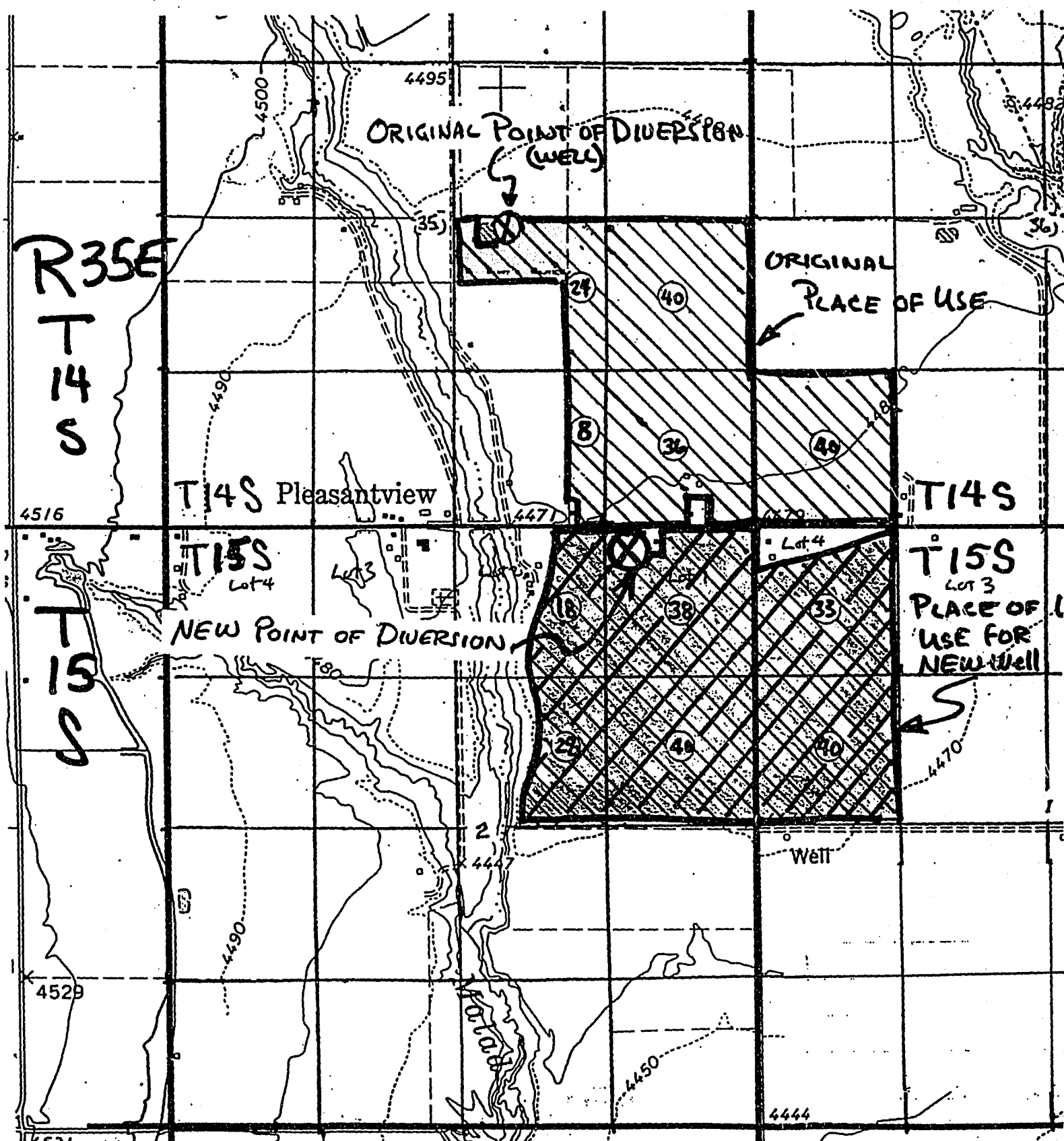
Misc: Water District Number: Field Exam Fee:

Comments: Date: 09/09/1997 User-ID: PSKAGGS Subject: TRANSFER NO. 5015
Transfer No. 5015 changes the point of diversion under a portion
of Right No. 15-02052, splitting the right into Parts A & B.

Audit: 02/24/97 RBODELL 09/09/97 PSKAGGS 09/09/97 PSKAGGS

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 15-07171

Priority: February 01, 1999

Maximum Diversion Rate: 0.20 CFS

This is to certify, that BRUCE KELLY Or KELLE D KELLY
1716 S 4600 W
MALAD CITY ID 83252

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>
IRRIGATION	04/15 to 10/15	0.20 CFS

LOCATION OF POINT OF DIVERSION:

GROUND WATER NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 35, Twp 14S, Rge 35E, B.M., ONEIDA County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14S 35E 35															15.0		15.0

Total Acres: 15

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before April 01, 2006.
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. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

Page 2

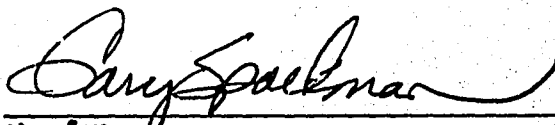
State of Idaho
Department of Water Resources

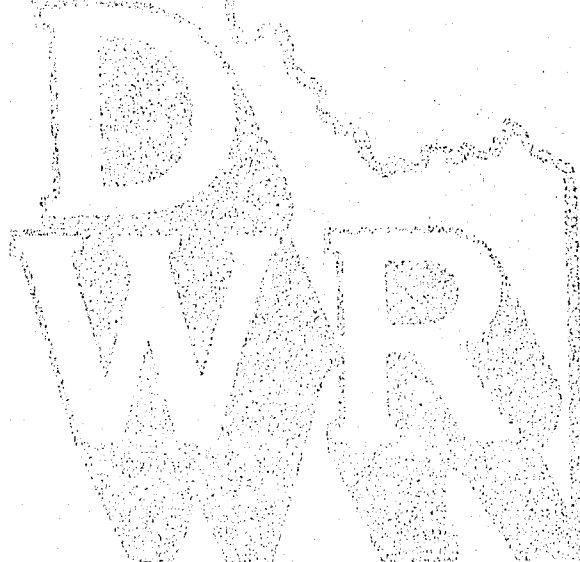
Permit to Appropriate Water

NO. 15-07171

6. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
7. Diversion and use of water under this right is subject to rules that may subsequently be promulgated for existing rights used for supplemental purposes.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 7th day of April, 2004.


Acting 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:

15-07171

KELLY, BRUCE
KELLY, KELLE D
5797 W 950 N
WARREN, UT 84404

Source: GROUNDWATER

Diversion Pt: NWSE Sec 35 T 14S R 35E in ONEIDA County.

Use: IRRIGATION (0.200 CFS)
Total Diversion: (0.200 CFS)

Date Filed: 2/ 1/1999

In: ONEIDA County
T14S R35E S35 NWSE

15.0 ACRES TOTAL

Any protest against the proposed application must be filed with the Department of Water Resources, 900 N Skyline Dr., Ste A, Idaho Falls, ID, 83402, together with a protest fee of \$25.00 on or before MARCH 8, 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: 2/18/1999 & 2/25/1999



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

FEBRUARY 10, 1999

Legal Notices Department
THE IDAHO ENTERPRISE
P.O. BOX 205
MALAD CITY, ID 83252

Gentlemen:

Enclosed you will find a legal notice 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.

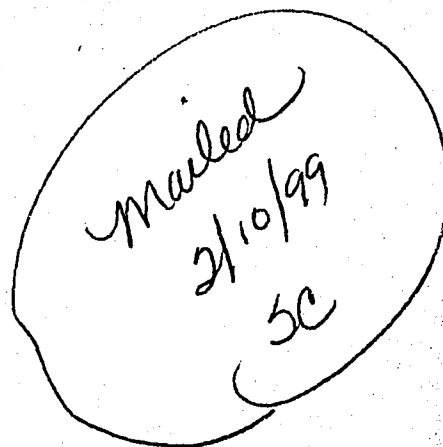
An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before MARCH 8, 1999.

Yours truly,

Sharla Cox
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
February 10, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

BRUCE OR KELLE KELLY
5797 W 950 N
WARREN UT 84404

RE: Applications for Permit #15-07171

Dear Applicant:

This office is currently in the process of advertising the application in the Idaho Enterprise on February 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

08521

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
 COUNTY OF ONEIDA)

Kristine D. Smith, begin duly sworn, deposes and says:
 That she is the publisher of *THE IDAHO ENTERPRISE*, a weekly newspaper published at Malad, in the County of Oneida and State of Idaho; that said newspaper has been and is in general circulation in the county aforesaid, and in the vicinity of Malad; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for 21 consecutive weeks in the regular and entire issue of said newspaper during the period of time of publication, and was published in the newspaper proper and not a supplement; that said newspaper 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 2-18, 1999, and ending with the issue of 2-25, 1999.

Kristine D. Smith

STATE OF IDAHO)
)
 COUNTY OF ONEIDA)

On this 26 day of February in the year of 1999
 before me, Susan J. Wittman, a Notary Public,
 personally appeared Kristine D. Smith, 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 she
 executed the same.

Susan J. Wittman
 Notary public for Idaho
 Residing at Malad, Idaho
 My commission expires: 2-9-2000

NOTICE OF APPLICATION FOR WATER RIGHT

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

15-07171
 KELLY, BRUCE
 KELLY, KELLE D.
 5797 W 950 N
 WARREN, UT 84404
 Source: GROUNDWATER
 Diversion Pt: NWSE Sec 35 T 14S
 R 35E In ONEIDA County.
 Use: IRRIGATION (0.200 CFS)
 Total Diversion: (0.200 CFS)
 Date Filed: 2/1/1999
 In: ONEIDA County
 T14S R35E S35 NWSE
 15.0 ACRES TOTAL
 Any protest against the proposed application must be filed with the Department of Water Resources, 900 N Skyline Dr., Ste A,

RECEIVED

MAR 02 1999

Department of Water Resources
 Eastern Region

RECEIVED

MAR 16 1999

Department of Water Resources

Ident. No. 15-99-E-0006-000
Well Tag No. D0006694
Water Right No. 15-07171

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR DRILLING PERMIT

1. Name: BRUCE KELLY
Address: 1716 SOUTH 4600 WEST
MALAD ID 83252

O

Name: KELLE D KELLY
Address: 1716 SOUTH 4600 WEST
MALAD ID 83252

C

2. Proposed Well Location: Township 14S, Range 35E, Sec. 35, NWSE
ONEIDA County

Street Address of Well Site: 1716 SOUTH 4600 WEST
MALAD ID

3. Proposed Use of Well: Non-Domestic Irrigation

4. Well Construction Information:

A. NEW WELL

B. Proposed Surface Diameter 8 In. Proposed Maximum Depth 200 Ft.

C. Anticipated Bottom Hole Temperature: 85 F or less (Cold water well)

(NOTE: Construction diagrams and/or other information may be requested for
monitor, low temperature geothermal, municipal and artesian wells.)

5. Construction Start Date: 3/11/1999

6. Anticipated Well Driller: MOUNTAIN WEST (No. 0543)

NOTE: The actual well driller must be identified to IDWR prior to drilling
commencement.

7. Applicant's Signature

Bruce Kelly

Date 3-10-99

Title

(Owner, Firm Representative, Other)

Fee \$ 200⁰⁰ Received by *DMD* No. E024824 Date 3/10/1999

(Continued)

Ident. No. 15-99-E-0006-000
Well Tag No. D0006694

ACTION OF THE DEPARTMENT OF WATER RESOURCES
This permit is APPROVED Date: 3/10/1999

If approved, this permit authorizes the construction or modification of a well subject to the following conditions. READ CAREFULLY!

CONDITIONS OF APPROVAL:

1. This drilling permit is valid for two (2) months from the approval date for the start of construction and is valid for one (1) year from the approval date for completion of the well unless an extension has been granted.
2. This permit does not constitute an approval of the District Health Department or the Idaho Department of Health and Welfare which may be required prior to construction of this well. The local Health Department should be contacted for septic tank/drainfield locations. Domestic wells must not be drilled closer than 100' from any drainfield and 50' from any septic tank. Public Water Supply wells must not be drilled closer than 100' from any drainfield or septic tank.
3. The well shall be constructed by a driller currently licensed in the state of Idaho who must maintain a copy of the drilling permit at the drilling site.
4. Approval of this drilling permit does not authorize trespass on the land of another party.
5. This permit does not constitute other local, county, state or federal approvals which may be required for construction of a well.
6. This drilling permit does not represent a right to divert and use the water of the State of Idaho.
7. If a bottom hole temperature of 85 Degrees F (29.44 oC) or greater is encountered, well construction shall cease and the well driller and the well owner shall contact the Department immediately.
8. Idaho Code, S 55-2201 - 55-2210 requires the applicant and/or his contractors to contact "Digline" (DigLine is a one-call center for utility notification) not less than 2 working days prior to the start of any excavation for this project. The "Dig Line " Number for your area is 1-800-342-1585.
9. EXPEDITED DRILLING PERMIT CONDITION ARE ATTACHED AND SIGNED BY THE APPLICANT.

Dennis Dunn
Signature of Authorized Dept. Representative

Sr Water Resource Agent
Title

EXTENSION OF DRILLING PERMIT

Extension Approved by: _____

Approval Date: _____
Expires On: _____



Drilling Permit No. 15-99E-0006

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

REQUEST FOR EXPEDITED ISSUANCE OF A DRILLING PERMIT

Kelle Kelly, Applicant, requests issuance of a drilling permit prior to approval of a pending Application for Permit or Application for Transfer on file with this department. The request is made for the following reasons:

We are Ready to Drill for Irrigation & Cattle
Water, to Irrigate Our 15 Acres of Alfalfa

Applicant acknowledges that by accepting a drilling permit and commencing construction he accepts all risk that the well may not ultimately be approved for use.

3-10-99
Date

Kelle Kelly
Signature

ADDENDUM TO DRILLING PERMIT

1. APPLICATIONS, AS NECESSARY, ARE ON FILE SEEKING AUTHORIZATION TO USE THE WELL FOR THE PURPOSE FOR WHICH IT IS BEING DRILLED.
2. THERE ARE NO APPARENT REASONS THAT THE PENDING APPLICATIONS WILL NOT BE APPROVED AUTHORIZING USE OF THE WELL.
3. THE APPLICANT HAS REQUESTED BY LETTER THROUGH HIS AGENT THAT EXPEDITED APPROVAL IS NEEDED FOR IMMEDIATE CONSTRUCTION.
4. THE DRILLING PERMIT IS CONDITIONED TO SHOW THAT THERE IS NO AUTHORIZATION FOR DIVERSION AND USE OF WATER UNTIL THE WATER RIGHT APPLICATION IS APPROVED.
5. THE APPLICANT BY ACCEPTING THIS DRILLING PERMIT AND COMMENCES CONSTRUCTION ACKNOWLEDGES THAT HE ACCEPTS ALL RISK THAT THE WELL MAY NOT BE APPROVED FOR USE.

Kelly Kelly
Brockley 3-18-99

MEMORANDUM

TO: File 15-07171

FROM: KAY WALKER

RE: Application for Permit Review

Date: April 5, 2004

.....
This application was found on the vault shelves last week and in trying to process it I had a few questions. I left a voice message on the Kelly's phone and received a return call this afternoon.

Mrs. Kelly stated she had purchased a portion of the ranch that used to be in the name of Karl Willie (who is Tim Willie's father). The Kelly's did not purchase any water rights with their property therefore, they filed this application. There is no overlap between their water use and the water use of Tim Willie. They also do not use any water delivered from Samaria Water & Irrigation Company.

Recommend approval without any overlapping rights condition. - use "050"
since located in Samaria's boundaries.

MEMORANDUM

TO: File 15-07171

FROM: KAY WALKER

RE: Application for Permit Review

Date: April 5, 2004

.....
This application was found on the vault shelves last week and in trying to process it I had a few questions. I left a voice message on the Kelly's phone and received a return call this afternoon.

Mrs. Kelly stated she had purchased a portion of the ranch that used to be in the name of Karl Willie (who is Tim Willie's father). The Kelly's did not purchase any water rights with their property therefore, they filed this application. There is no overlap between their water use and the water use of Tim Willie. They also do not use any water delivered from Samaria Water & Irrigation Company.

Recommend approval without any overlapping rights condition. - use "050"
since located in Samaria's boundaries.



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

April 8, 2004

BRUCE KELLY
KELLE D KELLY
1716 S 4600 W
MALAD CITY ID 83252

RE: Permit No. 15-7171

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

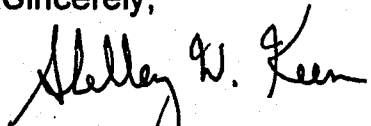
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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,



Shelley W. Keen
Water Rights Supervisor

SWK:klt

Enclosure(s)

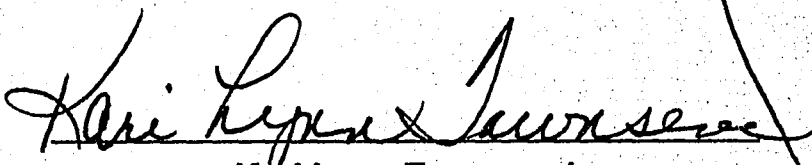
CERTIFICATE OF SERVICE

I hereby certify that on April 8, 2004 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.

15-7171

**BRUCE KELLY
KELLE D KELLY
1716 S 4600 W
MALAD CITY ID 83252**

A handwritten signature in cursive script, reading "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.