

RECEIVED

JUN 9 - 2000

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. 15-07179

RECEIVED

APR 10 2000

Department of Water Resources
Eastern Region

1. Name of Applicant M.J. Davis Memorial Limited Partnership Phone 719-593-0240
Mailing address 2525 Hinsleya Ct Colorado Sprng Co 80919
2. Source of water supply Groundwater which is a tributary of N/A
3. Location of point of diversion is Township 15 S Range 35 E Sec. 23, in the NE 1/4, NW 1/4, Govt. Lot _____, B.M., ONEDA County;
additional points of diversion if any: _____
4. Water will be used for the following purposes:
 Amount 0.04 cfs for Domestic purposes from Jan 1 to Dec 31 (both dates inclusive)
 (cfs or acre-feet per annum)
 Amount 0.14 cfs for irrigation purposes from March 15 to Nov 15 (both dates inclusive)
 (cfs or acre-feet per annum) 4-1 to 10-31
 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) 0.18 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 5-75 Hp pump to raise groundwater to the surface
 - b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet
 - c. Proposed well diameter is 10 (ten) inches; proposed depth of well is 200 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. 1 (one)
 - e. Other; describe fully. _____

8. 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	
15S	35E	23					7												
15S	35E	23					D												

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. 1/4 share Samaria water + irrigation company

11. a. Who owns the property at the point of diversion? M. J. Davis Memorial Limited Partnership

b. Who owns the land to be irrigated or place of use? M. J. Davis Memorial Limited Partnership

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

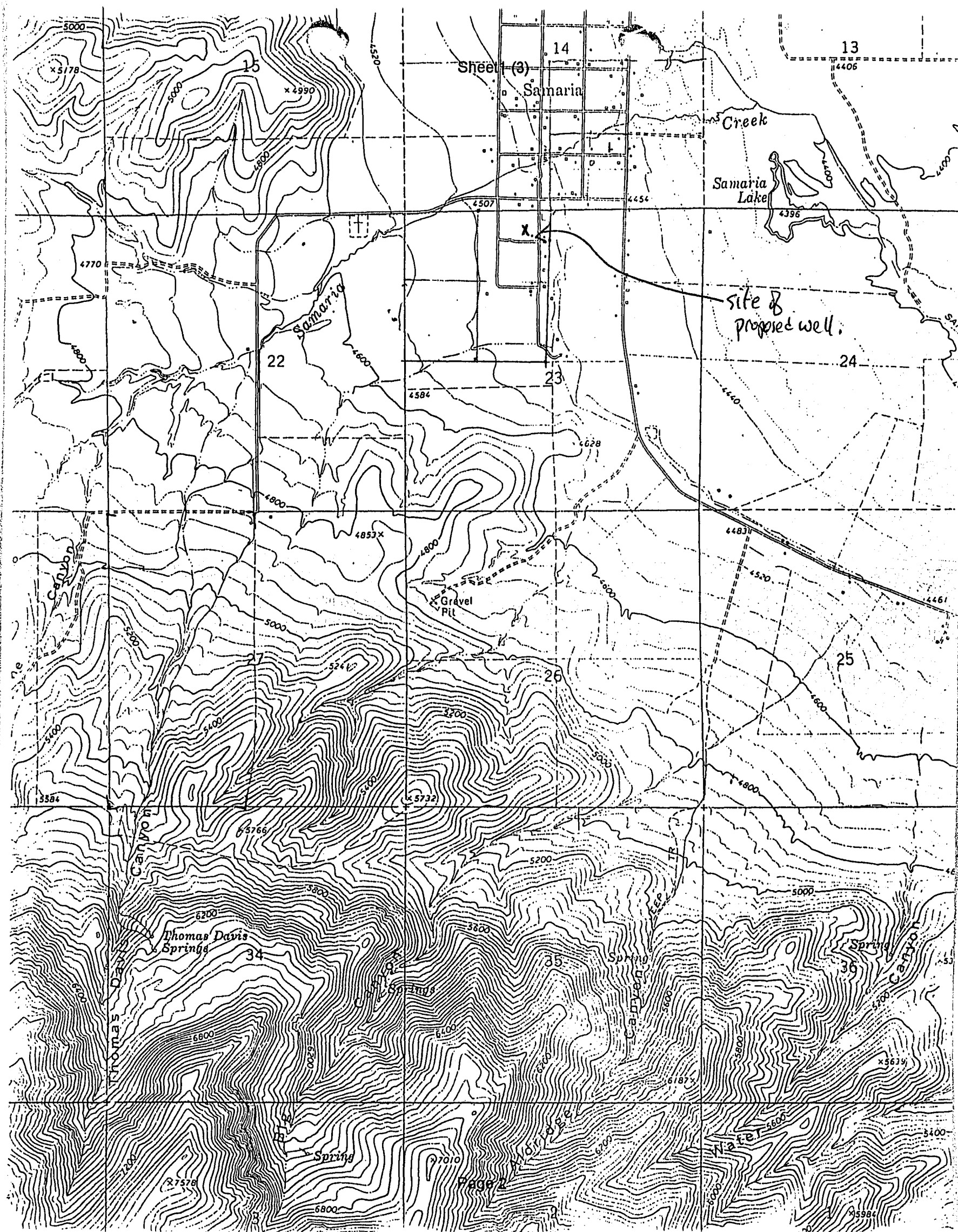
12. Remarks: _____

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8 1/2"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.

M. J. Davis (Partner - General)
Signature of Applicant (and title, if applicable)

Received by HWT Date 4-10-00 Time _____ Preliminary check by _____
Fee \$ 50.00 Receipted by HWT # E025144 Date 4-12-00
Publication prepared by SC Date 5/4 & 5/11/00 Published in Idaho Enterprise
Publication approved SC Date 6/5/00



State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 15-07179

Priority: April 10, 2000

Maximum Diversion Rate:

0.18 CFS

This is to certify, that MJ DAVIS MEMORIAL LTD PARTNERSHIP
2525 HIMALAYA CT
COLORADO SPRINGS CO 80919

has applied for a permit to appropriate water from: 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	04/01 to 10/31	0.14 CFS
DOMESTIC	01/01 to 12/31	0.04 CFS
	Totals	0.18 CFS

LOCATION OF POINT(S) OF DIVERSION:

NENW , Sec. 23, Township 15S, Range 35E
ONEIDA County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
15S	35E	23	NENW	7.0		7.0

Total number of acres irrigated: 7.0

PLACE OF USE: DOMESTIC, same as IRRIGATION use

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of application of water to beneficial use shall be submitted on or before June 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. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted for irrigation purposes under this right and shall only divert groundwater under this right for irrigation purposes when water from the appurtenant surface water rights cannot be delivered to the right holder.

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 15-07179

CONDITIONS OF APPROVAL AND REMARKS

6. If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert groundwater shall not be used for irrigation purposes without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
7. 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.
8. 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.
9. 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

19th day of June, 2000.

Karl J. Dreher
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:

15-07179

MJ DAVIS MEMORIAL LTD PARTNERSHIP
2525 HIMALAYA CT
COLORADO SPRINGS, CO 80919

Source: GROUNDWATER

Diversion Pt: NENW Sec 23 T 15S R 35E in ONEIDA County.

Use: DOMESTIC	(	0.040 CFS)
IRRIGATION	(	0.140 CFS)
Total Diversion:	(	0.180 CFS)

Date Filed: 4/10/2000

In: ONEIDA County
T15S R35E S23 NENW

7.0 ACRES TOTAL

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 MAY 22, 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: 5/ 4/2000 & 5/11/2000



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

APRIL 25, 2000

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

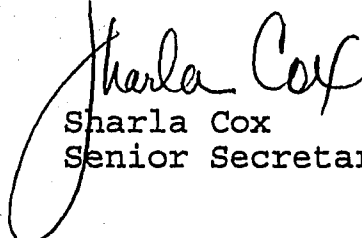
Dear Legal Dept.:

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 MAY 22, 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

April 25, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

M.J. DAVIS MEMORIAL LIMITED PARTNERSHIP
2525 HIMALAYA CT
COLORADO SPRINGS CO 80919

RE: Application for Permit #15-07179

Dear Applicant:

This office is currently in the process of advertising the application in the Idaho Enterprise on May 4 and 11, 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

2639

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
the issue of 5-4-2000, and ending with
5-11-2000

Kristine D. Smith

STATE OF IDAHO)
)
COUNTY OF ONEIDA)

On this 1 day of June in the year of 2000,
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: 2-9-2006

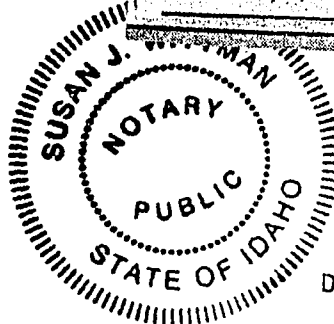
15-07184

NOTICE OF APPLICATION FOR WATER RIGHT

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

15-07179
MJ DAVIS MEMORIAL LTD PARTNERSHIP
2525 HIMALAYA CT
COLORADO SPRINGS, CO 80919
Source: GROUNDWATER
Diversion Pt: NENW Sec 23 T 15S R 35E In ONEIDA County.
Use: DOMESTIC (0.040 CFS)
IRRIGATION (0.140 CFS)
Total Diversion: (0.180 CFS)
Date Filed: 4/10/2000
In: ONEIDA County
T15S R35E S23 NENW
7.0 ACRES TOTAL
15-07180
JOHN F FREDRICKSON CO
C/O LOYD BRIGGS, MGR
PO BOX 5
MALAD CITY, ID 83252
Source: GROUNDWATER
Diversion Pt: SWNWNE Sec 9 T 12S R 35E In ONEIDA County
Use: IRRIGATION (9.660 CFS)
Total Diversion: (9.660 CFS)
Date Filed: 4/17/2000
In: ONEIDA County
T12S R35E S08 NENE
SENE
S09 NENE NWNE SWNE
SENE NENW NWNW
S10 NENE NWNE SWNE
SENE
NENW NWNW SWNW

part of the proposed application. The protestant must also send a copy of the protest to the applicant.
KARL J. DREHER, Director
Published: 5/4/2000 & 5/11/2000
L # 2639 5/4-5/11/2000-2T



RECEIVED
JUN 05 2000

Department of Water Resources
Eastern Region

2639

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 27 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 5-4-2000, and ending with the issue of 5-11-2000

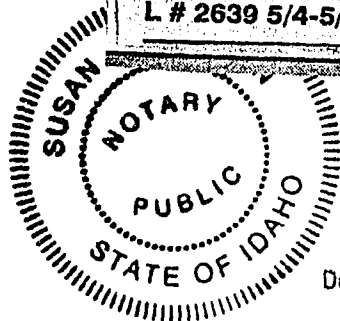
Kristine D. Smith

STATE OF IDAHO)
)
COUNTY OF ONEIDA)

On this 1 day of June in the year of 2000, 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: 2-9-2006

15-07184
JOHN F. FREDRICKSON CO.
C/O LOYD BRIGGS, MGR
PO BOX 5
MALAD CITY, ID 83252
Source: GROUNDWATER
Diversión Pt: SENENW Sec 21 T
14S R 35E in ONEIDA County.
Use: IRRIGATION (4.760 CFS)
Total Diversión: (4.760 CFS)
Date Filed: 4/17/2000
In: ONEIDA County
T14S R35E S21 NENE NWNE
NWNW SWNW SENW NESW
NWSW
S22 NWNW
238.0 ACRES TOTAL
15-07185
JOHN F. FREDRICKSON CO
C/O LOYD BRIGGS, MGR
PO BOX 5
MALAD CITY, ID 83252
Source: GROUNDWATER
Diversión Pt: SENWNE Sec 27 T
13S R 35E in ONEIDA County.
Use: IRRIGATION (4.480 CFS)
Total Diversión: (4.480 CFS)
Date Filed: 4/17/2000
In: ONEIDA County
T13S R35E S27 NENW
NWNW SWNW SENW
NESW NWSW SWSW SESW
S28 NENE SENE
224.0 ACRES TOTAL
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 MAY 22, 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: 5/4/2000 & 5/11/2000
L # 2639 5/4-5/11/2000-2T



RECEIVED
JUN 05 2000

Department of Water Resources
Eastern Region

**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

June 20, 2000

DIRK KEMPTHORNE
GOVERNOR

MJ DAVIS MEMORIAL LTD PARTNERSHIP
2525 HIMALAYA CT
COLORADO SPRINGS CO 80919

KARL J. DREHER
DIRECTOR

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 15-07179

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.

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 right were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Groundwater Protection Section located here at this office or our regional office nearest you.

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

Sincerely,

Shelley W. Keen

for Shelley W. Keen
Water Rights Supervisor

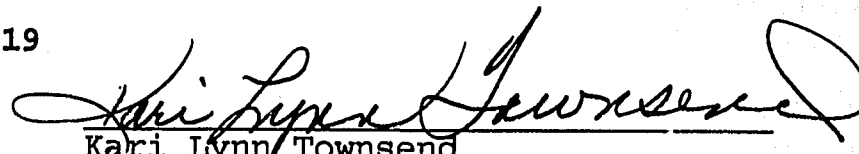
SK:klt
Enclosures

CERTIFICATE OF MAILING

I hereby certify that on the 20th day of June, 2000, 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. 15-07179

MJ DAVIS MEMORIAL LTD PARTNERSHIP
2525 HIMALAYA CT
COLORADO SPRINGS CO 80919


Kari Lynn Townsend
Secretary