

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**APPLICATION FOR PERMIT**  
To appropriate the public waters of the State of Idaho

RECEIVED  
AUG - 9 2002

Department of Water Resources

1. Name of Applicant Andrew ~~and~~ Bybee Phone 547-0180  
Mailing address 1790 Cedar View Road, Soda Springs, Idaho 83276

2. Source of water supply Groundwater which is a tributary of \_\_\_\_\_

3. Location of point of diversion is Township 15S Range 35E Sec. 2, in the NW  $\frac{1}{4}$ ,  
SW  $\frac{1}{4}$ , \_\_\_\_\_  $\frac{1}{4}$ , Govt. Lot \_\_\_\_\_, B.M., Onada County;  
additional points of diversion if any: \_\_\_\_\_

4. Water will be used for the following purposes:  
Amount 1.68 for Irrigation purposes from 4-1 to 10-31 (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) 1.68 cubic feet per second and/or (b) \_\_\_\_\_ 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 a sprinkler system

b. Height of storage dam \_\_\_\_\_ feet; active reservoir capacity \_\_\_\_\_ acre-feet; total reservoir capacity \_\_\_\_\_ acre-feet

c. Proposed well diameter is 12" inches; proposed depth of well is 300' 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 \_\_\_\_\_;  
Well was drilled for (well owner) \_\_\_\_\_; Drilling Permit No. \_\_\_\_\_

7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)

8. Description of proposed uses (if irrigation only, go to item 9):  
a. Hydropower; show total feet of head and proposed capacity in kW. \_\_\_\_\_  
b. Stockwatering; list number and kind of livestock. \_\_\_\_\_  
c. Municipal; show name of municipality. \_\_\_\_\_  
d. Domestic; show number of households. \_\_\_\_\_  
e. Other; describe fully. \_\_\_\_\_

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			
15S	35E	2										10	34				10			84	

Total number of acres to be irrigated 84

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

15-2023/2024/2025/2024/2025 -

- 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 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.

Andrew Blane  
 Signature of Applicant (and title, if applicable)

Received by HWT Date 6-14-02 Time \_\_\_\_\_ Preliminary check by \_\_\_\_\_  
 Fee \$ 290 Received by HWT # EO27859 Date 6-14-02  
 Publication prepared by SC Date 7/4 & 7/11/02 Published in Idaho Enterprise  
 Publication approved \_\_\_\_\_ Date \_\_\_\_\_

When measuring this farm: use 1/4" scale

3  
36.9  
100.2  
11.2

4  
37.6

5  
16.2

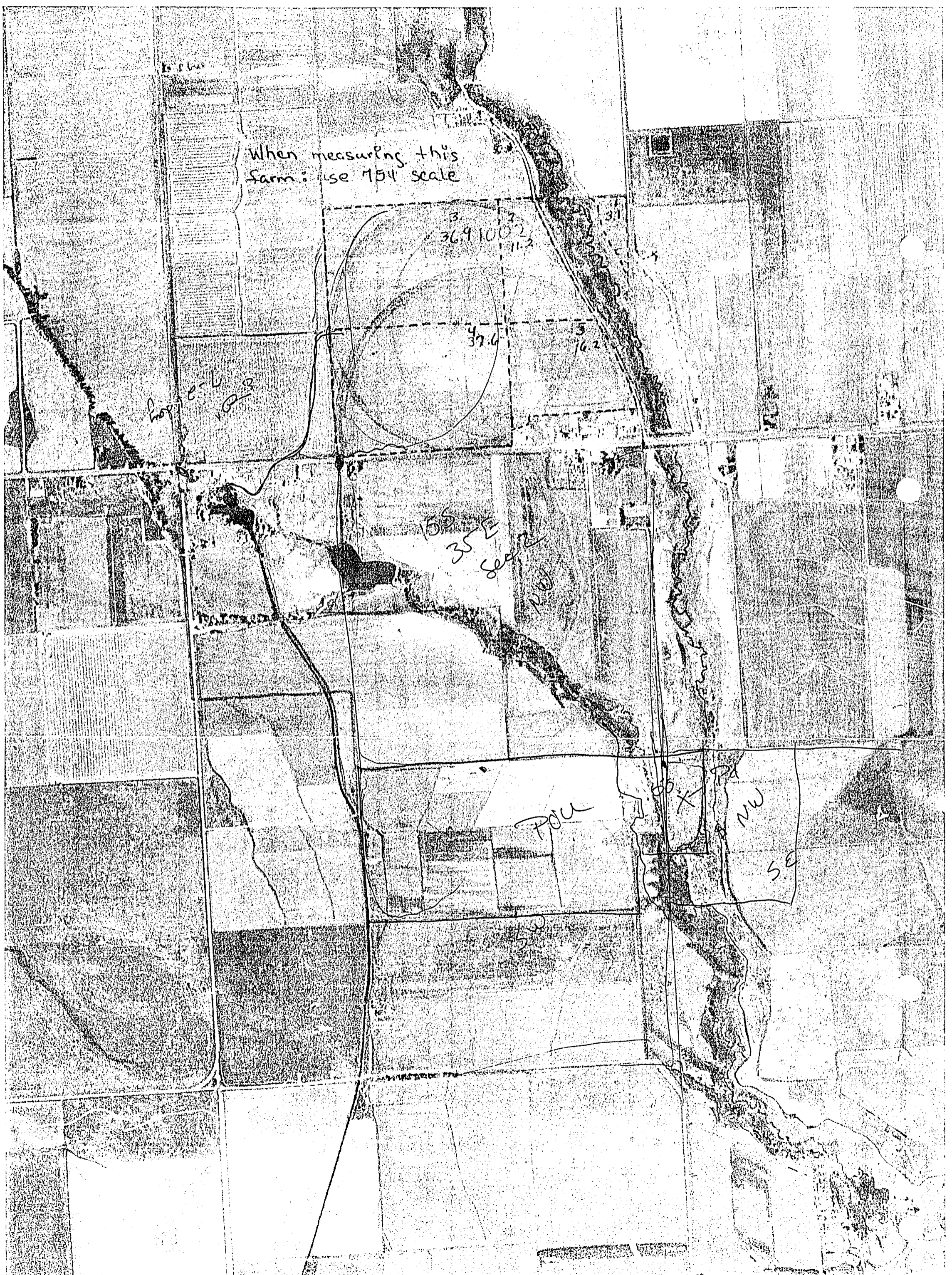
100  
100

155  
35 E  
SE 1/4

POU

X  
NW  
SE

150



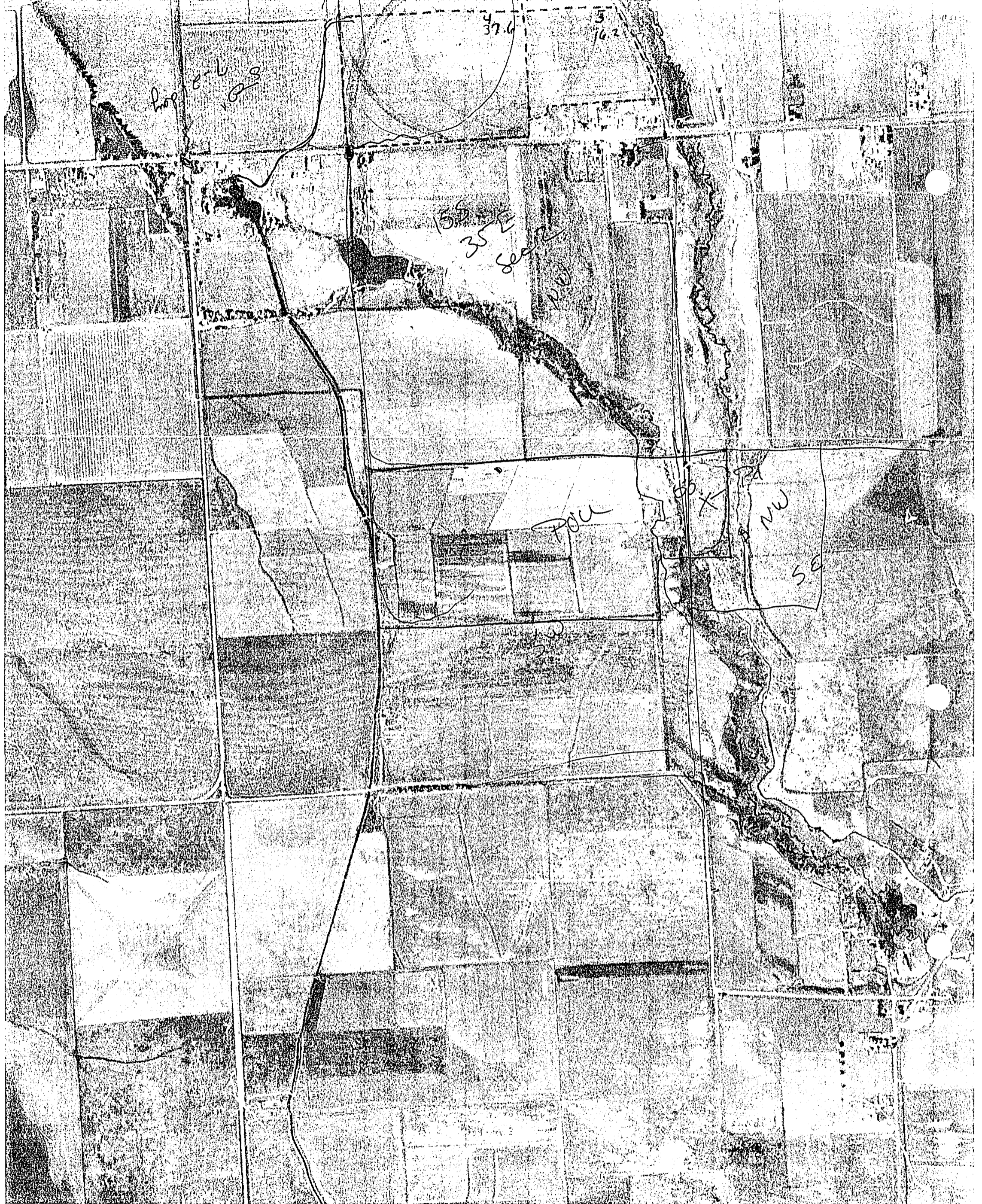
hope e-l 8

4 37.6  
5 16.2

15 S  
35 E  
sec 2

POU

X  
NW  
SE



State of Idaho  
 Department of Water Resources  
**Permit to Appropriate Water**

NO. 15-07229

Priority: 06/14/2002

Maximum Diversion Rate: 1.68 CFS

This is to certify, that: ANDREW BYBEE  
 1790 CEDAR VIEW RD  
 SODA SPRINGS ID 83276

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	04/01 to 10/31	1.68 CFS

LOCATION OF POINT OF DIVERSION:

GROUND WATER NW $\frac{1}{4}$ SW $\frac{1}{4}$  Sec. 2, Twp 15S, 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	
15S	35E	2										40.0	34.0					10.0	84.0

Total Acres: 84

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before August 1, 2007.
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
4. 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.
5. 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.
6. 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.

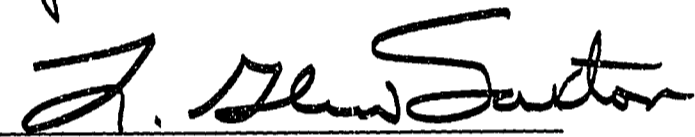
Page 2

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**

NO. 15-07229

7. 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 without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
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.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 15<sup>th</sup> day of August, 2002

  
for  
KARL J DREHER, Director



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

15-7229

ANDREW BYBEE, 1790 CEDAR VIEW RD, SODA SPRINGS ID 83276

Point(s) of Diversion: NWSW S2 T15S R35E, ONEIDA County  
Source GROUND WATER

Use: IRRIGATION	04/01 To 10/31	1.68 CFS
	Total Diversion:	1.68 CFS

Date Filed: 06/14/2002

Place Of Use: IRRIGATION

T15S R35E S2 NWSW SWSW NWSE

Number of Acres 84

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 22, 2002. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on July 4 and 11, 2002



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 26, 2002

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

**Legal Notice Department**  
Idaho Enterprise  
PO Box 205  
Malad City ID 83252

RE: Application for Permit No. 15-7229

**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 22, 2002. Your cooperation is appreciated.

Sincerely

Sharla Cox  
Administrative Assistant

*Mailed  
6/26/02  
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 26, 2002

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

ANDREW BYBEE  
1790 CEDAR VIEW RD  
SODA SPRINGS ID 83276

RE: Application for Permit No 15-7229

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 Idaho Enterprise on July 4 and July 11, 2002. Submittal of protests to this application will be allowed for a period ending ten days (July 22, 2002) 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

# 2898

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.

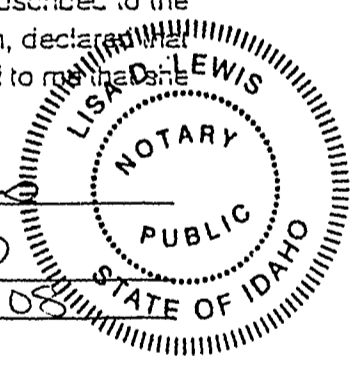
Such notice was published in the issue beginning with 7-4 2002 and ending with the issue of 7-11 2002.

Kristine D. Smith

STATE OF IDAHO )  
 )  
COUNTY OF ONEIDA )

On this 3 day of July in the year of 2002 before me, Lisa D Lewis, a Notary Public, personally appeared Kristine 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.

Lisa D Lewis  
Notary public for Idaho  
Residing at Malad ID  
My commission expires: 2-05-08



**NOTICE**  
The following application(s) have been filed to appropriate the public waters of the State of Idaho:  
15-7229  
ANDREW BYBEE, 1790 CEDAR VIEW RD, SODA SPRINGS IN 83276  
Point(s) of Diversion: NWSW S2 T15S R35E, ONEIDA County  
Source GROUND WATER  
Use: IRRIGATION 04/01 To 10/ 311.68 CFS  
Total Diversion: 1.68 CFS  
Date Filed: 06/14/2002  
Place Of Use: IRRIGATION T15S R35E S2 NWSW SWSW NWSE  
Number of Acres 84  
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 22, 2002. The protestant must also send a copy of the protest to the applicant.  
KARL J DREHER, Director  
Published on July 4 and 11, 2002  
L. #2898 7/4/02-7/11/02-2T

Received  
7/19/02  
sc

**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, 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](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

August 15, 2002

ANDREW BYBEE  
1790 CEDAR VIEW RD  
SODA SPRINGS ID 83276

RE: Permit No. 15-7229

**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.

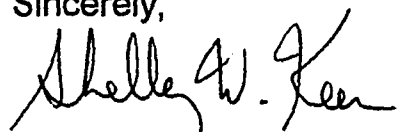
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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:kit

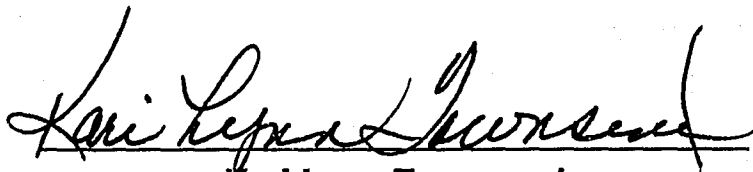
Enclosure(s)

**CERTIFICATE OF SERVICE**

I hereby certify that on August 15, 2002 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. 15-7229**

**ANDREW BYBEE  
1790 CEDAR VIEW RD  
SODA SPRINGS ID 83276**



**Kari Lynn Townsend  
Secretary**