

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Ident. No. 15-7240

RECEIVED
MAR 27 2003

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED
JAN 29 2003
Department of Water Resources
Eastern Region

1. Name of Applicant Asay Bros. Mike and Bill Asay Phone 208 766 4117
Mailing address 1850 N. 5600 W. MALAN, ID. 83252

2. Source of water supply ground water which is a tributary of _____

3. Location of point of diversion is Township 14S Range 35E Sec. 15, in the NE 1/4,
of the NW 1/4, _____ 1/4, Govt. Lot _____, B.M., ONEIDA Co. County;

additional points of diversion if any: Existing well in the same point of diversion

4. Water will be used for the following purposes: 2 points of diversion permit # 15-02051

Amount 2.0 for irrigation purposes from Mar 15 to Nov 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) 2.0 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 irr. well into existing
main line with sprinklers.

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

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet

d. Is ground water with a temperature of greater than 85°F being sought? NO

e. If well is already drilled, when? 1997; Drilling firm Vollmer Drilling
Well was drilled for (well owner) _____; Drilling Permit No. 15-97-E-0005

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	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14S	35E	15		40					40			29							
					40				38		40								
							30												
							4												261

Total number of acres to be irrigated 261

10. Describe any other water rights used for the same purposes as described above. water shares in the ST John IRR Company

11. a. Who owns the property at the point of diversion? Mike Asay
b. Who owns the land to be irrigated or place of use? Mike Asay and Bill Asay

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: 3 1/12 shares of St Johns
1 share = 200" for 96 hours

GENERALLY WATER IS AVAILABLE FOR CALL JUNE THROUGH JULY.

PUMPED INTO SPRINKLER SYSTEM

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.

Mike Asay
Signature of Applicant (and title, if applicable)

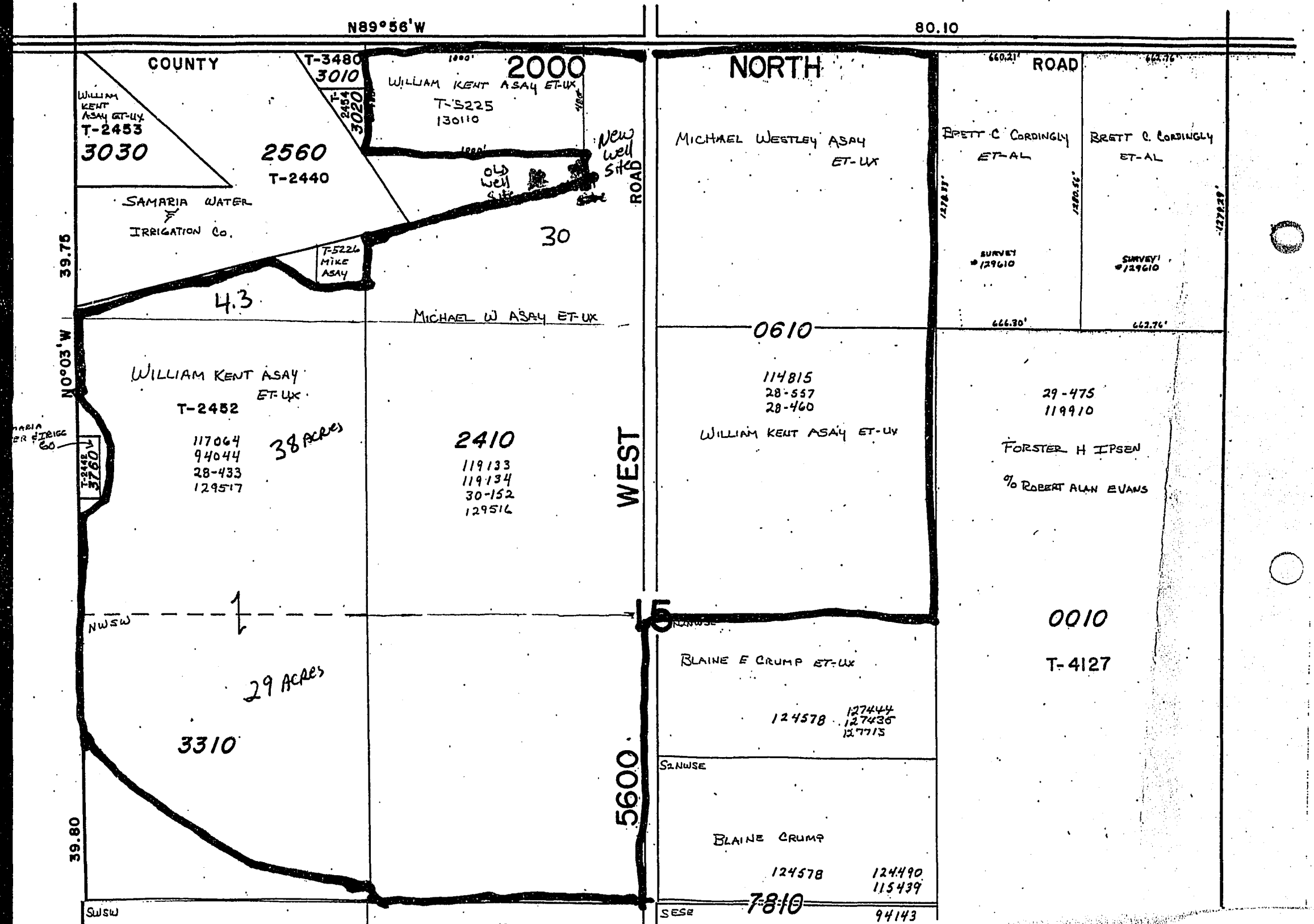
Received by DC Date 1/29/2003 Time _____ Preliminary check by DC

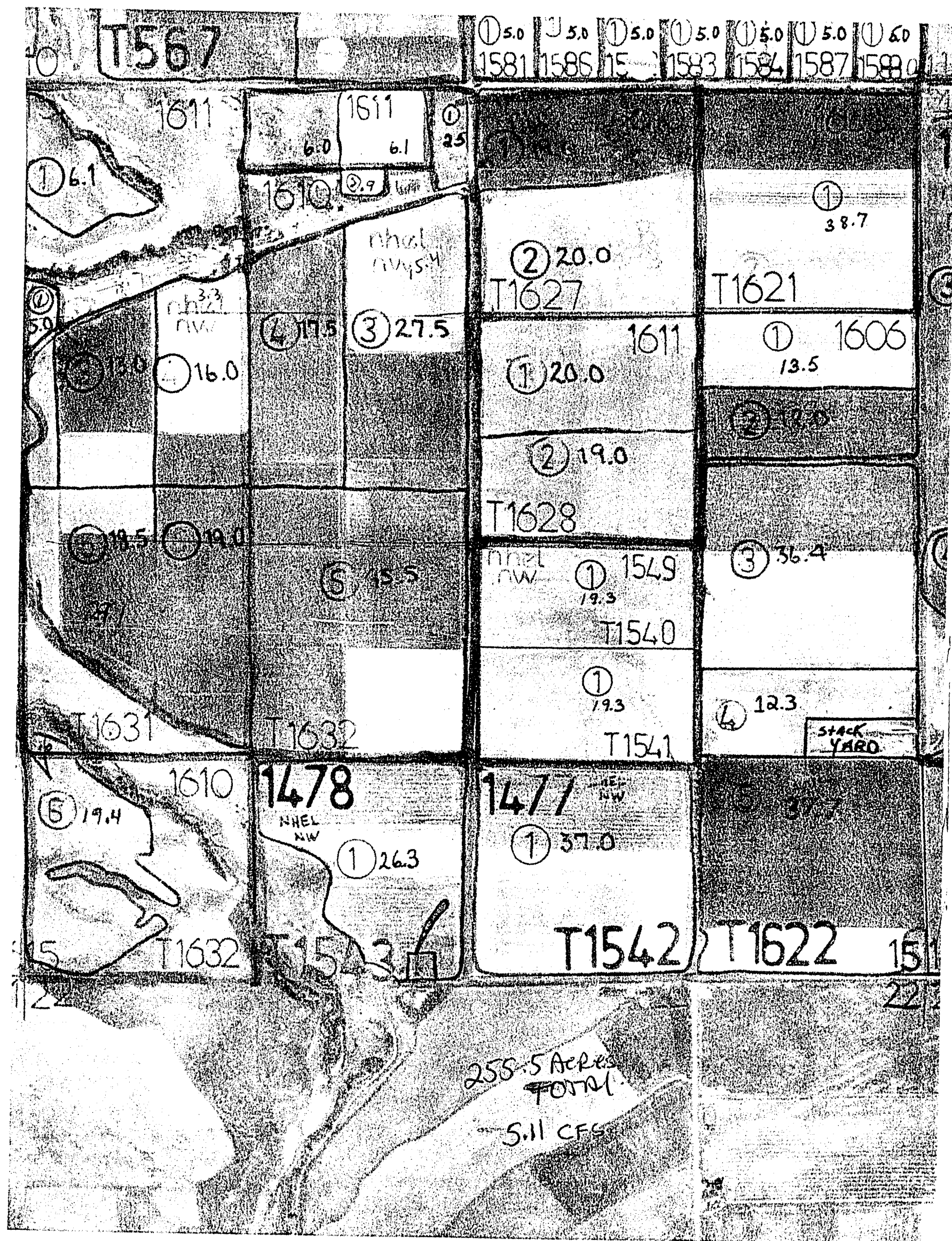
Fee \$ 290 Received by DC # E028460 Date 1/29/2003

Publication prepared by SL Date 2/20 & 2/27/03 Published in Idaho Enterprise

Publication approved SL Date 3/7/03

SECTIONS 15 & 22, T14S, R35E, B.M.





State of Idaho

Department of Water Administration

WATER RIGHT LICENSE

RECEIVED

JUN 19 1974

Department of Water Administration
Eastern District Office

License of Water Right No. 27817/15-2051 Priority March 9, 1959 Amount 1.04 cfs

THIS IS TO CERTIFY, that Delmar Asay & Kent Asay
of Malad, Idaho, have ~~not~~ complied with the terms and conditions of Permit
No. 27817/15-2051 issued pursuant to Application for Permit dated March 9, 1959,
and has submitted proof to the Department of Water Administration on March 16, 1961,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 1.04 cfs of water from a ground water source,
tributary to _____, and that the permit holder has applied to a beneficial use &
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Stockwater</u> from <u>Jan. 1</u> to <u>Dec. 31</u> at <u>1.04</u> cfs and			<u>0.4 acre feet</u>
<u>Irrigation</u> from <u>April 1</u> to <u>Nov. 1</u> at <u>1.04</u> cfs and			<u>441 acre feet or</u>
_____ from _____ to _____ at _____ cfs and			<u>3.5 af per acre</u>

(both dates inclusive)

Subject, however, to the condition that no more than 1.04 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
441.4 acre feet per year, said waters to be diverted within the NE¹4NW¹4 of Sec. 15,
Twp. 14 S, Rge. 35 E, B.M. in the County of Oneida

Description and location of place of use:

Twp.	Range	Sec.	NE ¹ 4				NW ¹ 4				SW ¹ 4				SE ¹ 4				Totals
			NE ¹ 4	NW ¹ 4	SW ¹ 4	SE ¹ 4	NE ¹ 4	NW ¹ 4	SW ¹ 4	SE ¹ 4	NE ¹ 4	NW ¹ 4	SW ¹ 4	SE ¹ 4	NE ¹ 4	NW ¹ 4	SW ¹ 4	SE ¹ 4	
14 S	35 E	15					20	4	32	40	40	25		8					169

Total number of acres irrigated 169

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 15-07240

Priority: January 29, 2003

Maximum Diversion Rate: 2.00 CFS

This is to certify, that MIKE ASAY
BILL ASAY
1850 N 5600 W
MALAD 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	04/01 to 10/31	2.00 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 15, Twp 14S, Rge 35E, B.M., ONEIDA County
GROUND WATER NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 15, Twp 14S, Rge 35E, B.M., ONEIDA County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
14S	35E	15	40.0	40.0			30.0	4.0	38.0	40.0	40.0	29.0							261.0
																			Total Acres: 261.0

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2005**.
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. 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 make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.

State of Idaho
Department of Water Resources

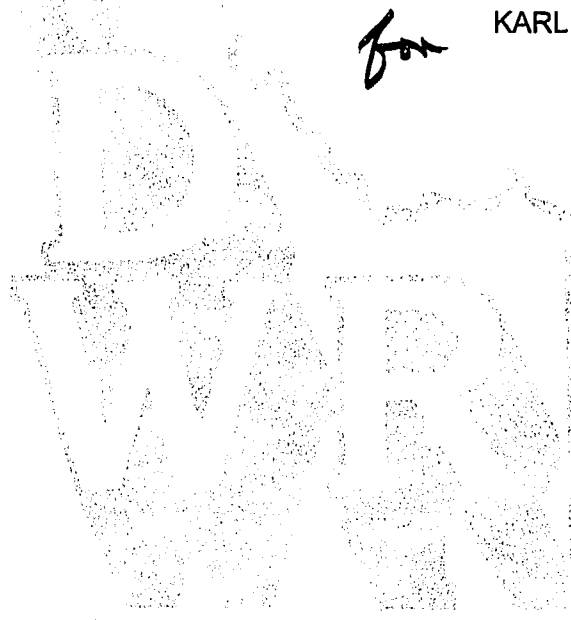
Permit to Appropriate Water

NO. 15-07240

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 25th day of April, 2003.


for KARL J DREHER, Director



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

15-7240

MIKE ASAY
BILL ASAY
1850 N 5600 W
MALAD ID 83252

Point(s) of Diversion: NENW S15 T14S R35E and NENW S15 T14S R35E, ONEIDA County
Source GROUND WATER

Use: IRRIGATION 04/01 To 10/31 2 CFS

Total Diversion: 2 CFS

Date Filed: 01/29/2003

Place Of Use: IRRIGATION

T14S R35E S15 NWNE SWNE NENW NWNW SWNW SENW NESW NWSW

Number of Acres 261

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 March 10, 2003. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on February 20 and 27, 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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 12, 2003

Legal Notice Department

Idaho Enterprise
PO Box 205
Malad City ID 83252

RE: Application for Permit No. 15-7240

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 March 10, 2003. Your cooperation is appreciated.

Sincerely

Sharla Cox
Administrative Assistant

*mailed
2/12/03
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
February 12, 2003

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

MIKE ASAY
BILL ASAY
1850 N 5600 W
MALAD ID 83252

RE: Application for Permit No 15-7240

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 February 20 and 27, 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

2976

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 25 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 2-20-2003 and ending with 2-27-2003

Kristine D. Smith

STATE OF IDAHO)
)
COUNTY OF ONEIDA)

On this 28 day of February in the year of 2003
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
Commission expires: 2-9-2006

NOTICE

The following application(s) have
been filed to appropriate the public
waters of the State of Idaho:
15-7240

MIKE ASAY
BILL ASAY
1850 N 5600 W
MALAD ID 83252
Point(s) of Diversion: NENW S15
T14S R35E and NENW S15
T14S R35E, ONEIDA County
Source GROUND WATER
Use: IRRIGATION 04/01 To
10/31 2 CFS
Total Diversion: 2 CFS
Date Filed: 01/29/2003
Place Of Use: IRRIGATION
T14S R35E S15 NWNE SWNE
NENW NWNW SWNW SENW
NESW NWSW
Number of Acres 261
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 applica-
tion on or before March 10, 2003.
The protestant must also send a
copy of the protest to the appli-
cant.
KARL J DREHER, Director
Published on February 20 and
27, 2003
L: #2976 2/20/03-2/27/03-2T

RECEIVED

MAR 07 2003

Department of Water Resources
Eastern Region

MEMORANDUM

Date: April 25, 2003
To: Water Right File 15-7240
From: dgibson
Re: Permit Review

This application is for the same point of diversion as licensed water right 15-2051. This permit is for supplemental water in connection with surface water rights for the same location. The right holder currently has 3 11/12 shares and 1 share that equals 200 inches for 96 hours with St. Johns Irrigation Co. The right holder commented that this water is generally available for call June through July and pumped into the sprinkler system.

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

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 Water Resource 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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 29, 2003

MIKE ASAY
BILL ASAY
1850 N 5600 W
MALAD ID 83252

RE: Permit No. 15-7240

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.

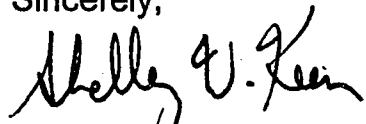
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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

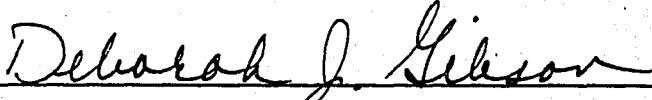
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 29, 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. 15-7240

**BILL ASAY
MIKE ASAY
1850 N 5600 W
MALAD CITY ID 83252**


**Deborah J. Gibson
Administrative Assistant**