

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 15-7241
Application 70439

RECEIVED

FEB 13 2003

Department of Water Resources
Eastern Region

RECEIVED

- MAY 21 2003
1. Name of Applicant Albert M. Shepherd Phone 208 766 4857
Mailing Address 6331 North Old Highway 191 Malad Idaho 83252
 2. Source of water supply Groundwater which is a tributary of _____
 3. Location of point of diversion is Township 13S Range 36E Sec. 24, in the _____ 1/4,
NW 1/4, SE 1/4, Govt. Lot _____, B.M., Owieda County;
additional points of diversion if any: _____
 4. Water will be used for the following purposes:
Amount .30 for Irrigation purposes from 4-1 to 10-31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount .04 for Aesthetic/Recreation purposes from 1 Jan to 31 Dec (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) .30 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 10 inch well 200 foot deep pump and sprinkler system for irrigation, pond for recreation
 - b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet
 - c. Proposed well diameter is 10" inches; proposed depth of well is 200' 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. recreation/aesthetic pond. 1/2 acre in size. 5 to 6 feet in depth - it was an old gravel pit.

9. Description of place of use:

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

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S	36E	24									1/2					1/2			15

Total number of acres to be irrigated 15

10. Describe any other water rights used for the same purposes as described above. None

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

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

12. Remarks: _____

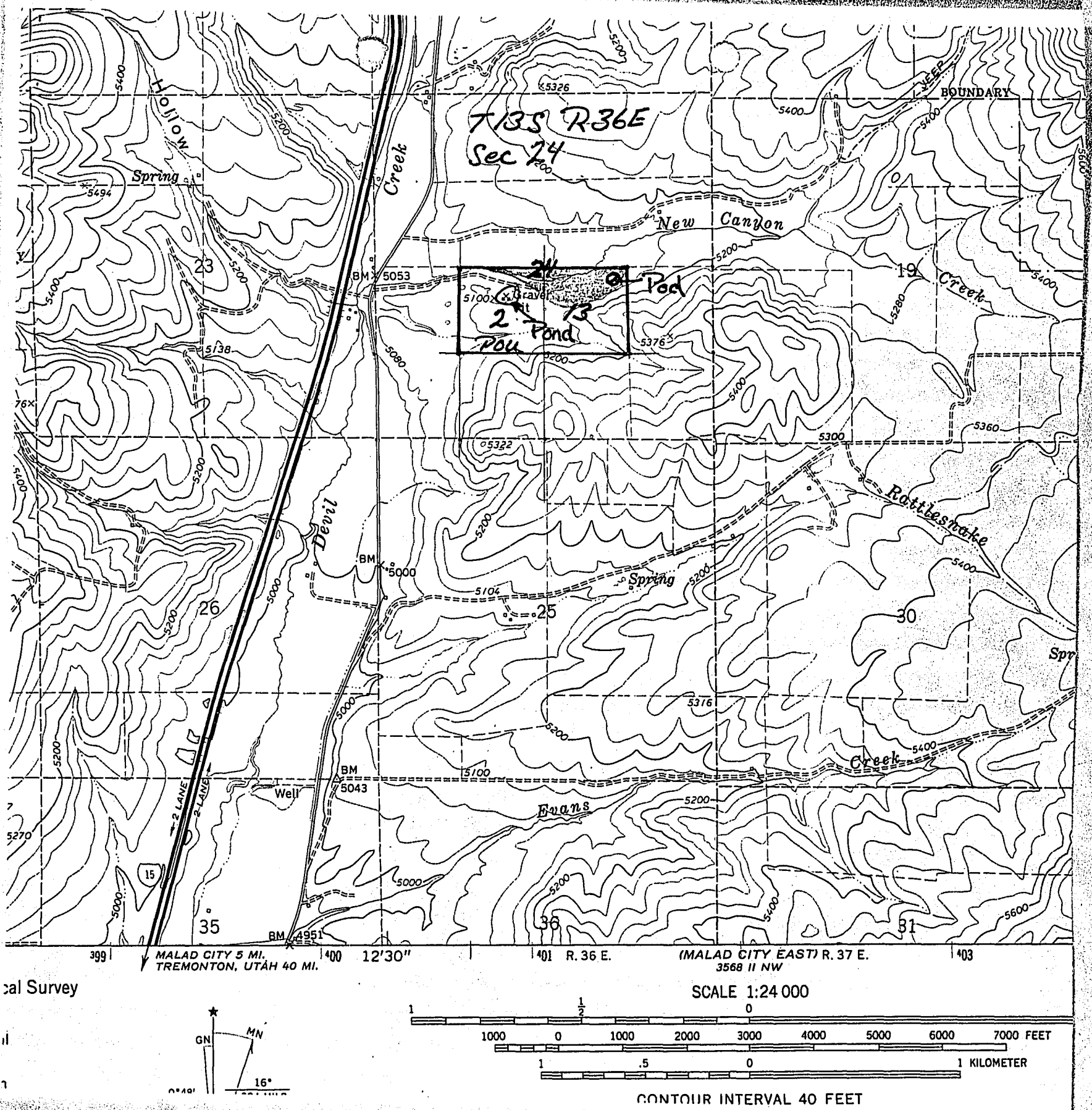
13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

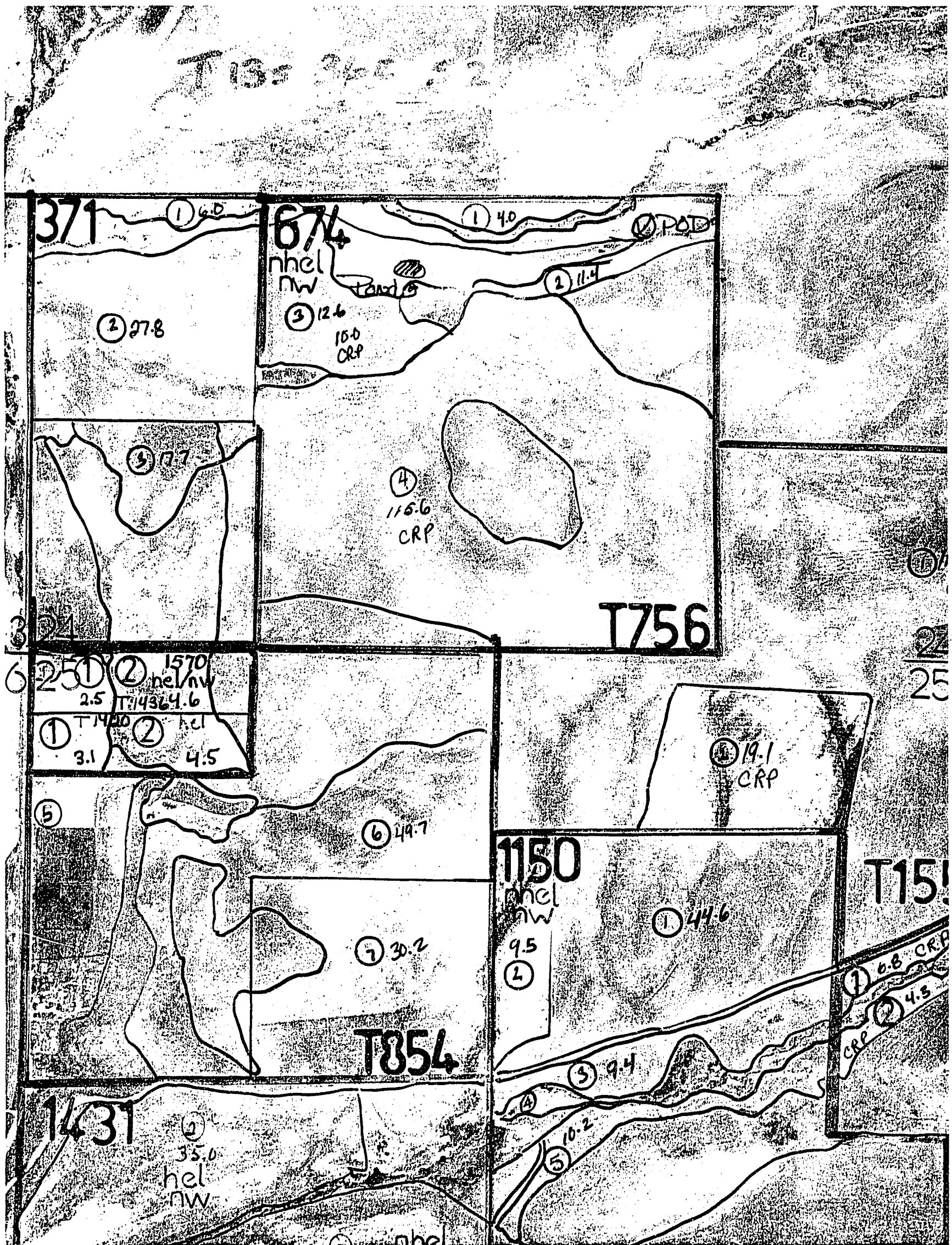
BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Albert M. Shepherd
 Signature of Applicant (and title, if applicable)

Received by DMD Date 13 Feb 2003 Time 12:00 Preliminary check by DMD

Fee \$ 250 Received by DMD # E028492 Date 14 Feb 2003
 Publication prepared by SC Date 4/3 & 4/10/03 Published in Idaho Enterprise
 Publication approved SC Date 5/1/03





State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 15-07241

Priority: February 13, 2003

Maximum Diversion Rate: 0.30 CFS

This is to certify, that ALBERT M SHEPHERD
6331 N OLD HWY 191
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>	<u>ANNUAL VOLUME</u>
RECREATION	01/01 to 12/31	0.04 CFS	
IRRIGATION	04/01 to 10/31	0.30 CFS	
DIVERSION TO STORAGE	01/01 to 12/31	0.04 CFS	
RECREATION STORAGE	01/01 to 12/31		3.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 24, Twp 13S, Rge 36E, B.M. ONEIDA County

PLACE OF USE: RECREATION

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
13S 36E 24									X								

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
13S 36E 24									2.0						13.0		15.0

Total Acres: 15

PLACE OF USE: RECREATION STORAGE, same as Recreation

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 01, 2008**.
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.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 15-07241

CONDITIONS OF APPROVAL

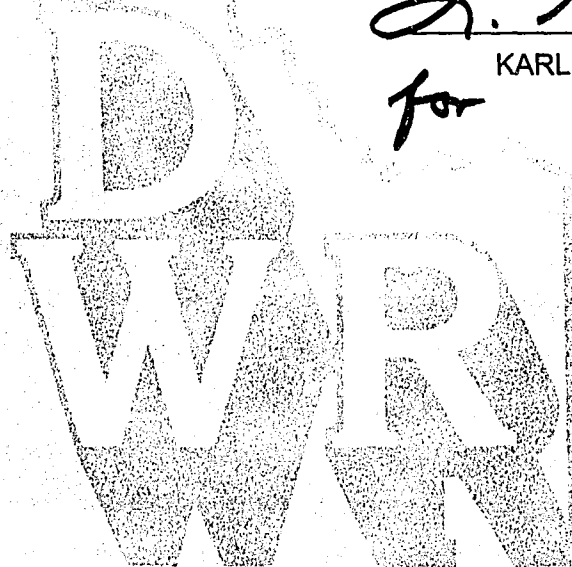
5. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
6. Water used under this right when discharged into a natural channel shall meet applicable water quality standards of the Department of Environmental Quality.
7. 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.
8. Recreation storage is for a fishing pond.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 30th day of June, 2003.

K. J. Dreher

for

KARL J DREHER, Director



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

15-7241

ALBERT M SHEPHERD
6331 N OLD HWY 191
MALAD CITY ID 83252

Point(s) of Diversion NWSE S24 T13S R36E, ONEIDA County

Source GROUND WATER

Use: IRRIGATION 04/01 To 10/31 0.3 CFS

Use: RECREATION 01/01 To 12/31 0.04 CFS

Total Diversion: 0.3 CFS

Date Filed: 02/13/2003

Place Of Use: IRRIGATION

T13S R36E S24 NESW NWSE

Number of Acres 15

Place Of Use: RECREATION

T13S R36E S24 NESW

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

KARL J DREHER, Director

Published on April 3 and 10, 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

March 26, 2003

Legal Notice Department

Idaho Enterprise

PO Box 205

Malad City ID 83252

RE: Application for Permit No. 15-7241

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 April 21, 2003. Your cooperation is appreciated.

Sincerely

Sharla Cox
Administrative Assistant



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
March 26, 2003

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

ALBERT M SHEPHERD
6331 N OLD HWY 191
MALAD CITY ID 83252

RE: Application for Permit No 15-7241

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 April 3 and 10, 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
Harold W Jones
Water Right Supervisor

HWJ:sc

2993

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 4-3 to 4-10 in the year of 2003 and ending with the issue of 4-10 to 4-17 in the year of 2003

Kristine D. Smith

STATE OF IDAHO)

COUNTY OF ONEIDA)

On this 5 day of May 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
My commission expires: 2-9-2006

NOTICE

The following application(s) have been filed to appropriate the public waters of the State of Idaho: 15-7241

ALBERT M SHEPHERD
6331 N OLD HWY 191
MALAD CITY ID 83252
Point(s) of Diversion NWSE S24
T13S R36E, ONEIDA County
Source: GROUND WATER
Use: IRRIGATION 04/01 To 10/31 0.3 CFS
Use: RECREATION 01/01 To 12/31 0.04 CFS

Total Diversion: 0.3 CFS
Date Filed: 02/13/2003
Place Of Use: IRRIGATION
T13S R36E S24 NESW NWSE
Number of Acres 15
Place Of Use: RECREATION
T13S R36E S24 NESW

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

KARL J DREHER, Director
Published on April 3 and 10, 2003

L. #2993 4/3-4/10/03-2T

Received
5/7/03

MEMORANDUM

Date: June 19, 2003
To: Water Right File 15-7241
From: Sharla
Re: Water Uses

The applicant originally filed for recreation use with a flow rate. In a telephone conversation with the applicant, he explained that he intends to divert water from the well to the pond continually to oxygenate the pond. The ponds outlet is the conveyance system for the irrigation component of the permit; the conveyance channel empties into the Oxford Springs drainage.. During the non-irrigation season, the water will flow through the pond and continue all the way to the springs.

Because the source is a well, the additional uses of diversion to storage and recreation storage are also appropriate. I discussed this with the applicant and he agreed to the modification. The permit will be issued accordingly.

A condition of approval concerning water quality standards will also be added due to the permit holder's intention to allow overflow from the fishing pond to flow into a natural channel (spring area).

This addition of recreation storage should not be viewed as a change to the application. Rather, it is a clarification of the original intent of the applicant.

*S. Keen
6/26/03*



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

June 30, 2003

ALBERT M SHEPHERD
6331 N OLD HWY 191
MALAD CITY ID 83252

RE: Permit No. 15-7241

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.

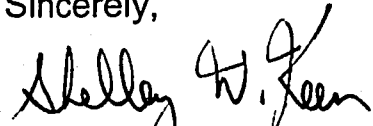
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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

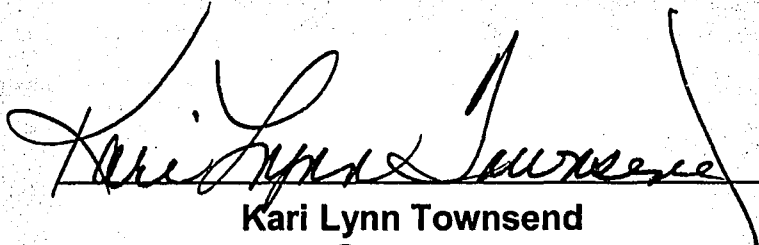
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on June 30, 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. 15-7241

**ALBERT M SHEPHERD
6331 N OLD HWY 191
MALAD CITY ID 83252**


**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.