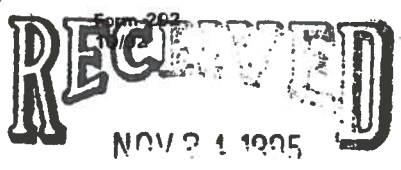


217538

Ident. No. _____



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Department of Water Resources

1. Name of applicant Sawtelle Mountain Resort c/o Granger Chatterton Phone 529-1900

Post office address 1925 Malibu Idaho Falls, ID 83404

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

3. Location of point of diversion is _____ 1/4 of NE 1/4 of SW 1/4, Govt. Lot _____

Sec. 24 Township 14N Range 43E B.M. Premont County; additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 0.44 cfs for Commercial purposes from 1-1 to 12-31 (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)

5. Total quantity to be appropriated is (a) 0.44 cubic feet per second and/or (b) _____ acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. 2 wells + pumps to 60 room motel + irrigation of landscaping. In addition there would be a store, restaurant + snowmobile shop.

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet; period of year when water will be diverted to storage: _____ to _____ inclusive.

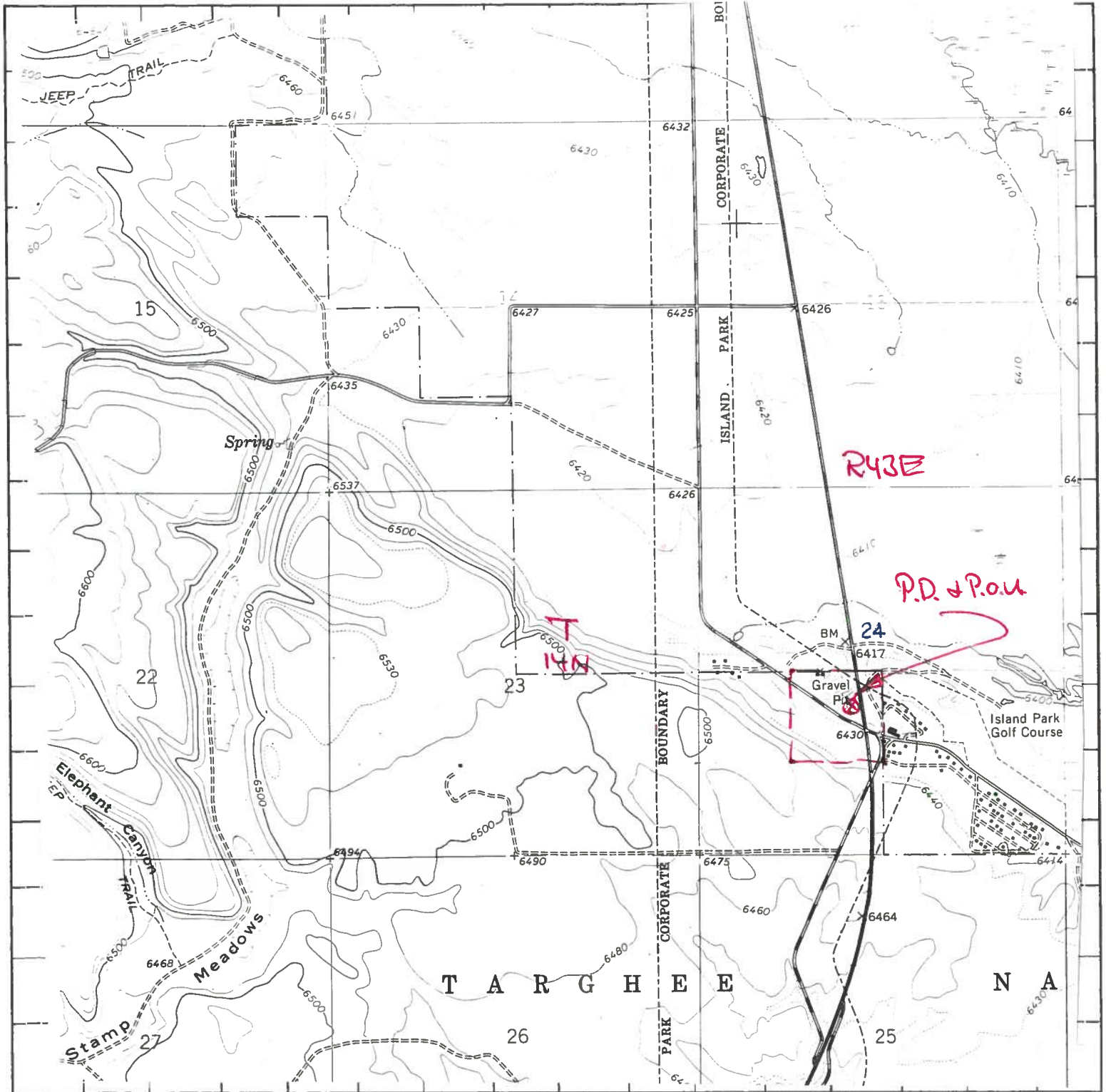
c. Proposed well diameter is 10 inches; proposed depth of well is 110 feet.

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

e. If well is already drilled, when? NO; Drilling firm _____; Well was drilled for (well owner) _____

7. Time required for the completion of the works and application of the water to be proposed beneficial use is 4 years (minimum 1 year).

13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

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

Steve S. Chatterton
 (Applicant) Partner

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

Received by HUT Date 5-25-95 Time 4:16 pm Preliminary check by _____
Fee \$ 45.00 Received by HUT # EA18628 Date 5-25-95
Publication prepared by RB Date 10-5-95 Published in Boards Chronicle
Publication approved RB Date 11-6-95

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of

Idaho No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19_____.

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

e. Other: _____



COMMERCIAL RECREATION LEASE
No. M800016
SAWTELLE MOUNTAIN RESORT, LLC

SUMMARY OF LEASE PROVISIONS:

Lessor: STATE OF IDAHO
 By and through the State Board of Land Commissioners
 300 North 6th Street, Suite 103
 PO Box 83720
 Boise ID 83720-0050

Lessee: Sawtelle Mountain Resort, LLC
 Attn: Kris Wright
 1355 E Lincoln
 Idaho Falls, ID 83401

Lease Term: Commencement Date: January 1, 2011
 Expiration Date: December 31, 2019

Rent: The annual rent payment is due on January 1st of each year.
 Rent terms are more particularly described in *Section 1. Rent* of the Lease Provisions.

Annual Base Rent shall be **THREE THOUSAND DOLLARS AND NO CENTS (\$3,000.00)** for the first year of the Lease as outlined below. Rent is adjusted annually by **the rate of 3 %**. Rent terms are more particularly described in *Section 1. Rent* of the Lease Provisions.
USE: RV Park

<u>Year</u>	<u>Annual Base Rent</u>	<u>Year</u>	<u>Annual Base Rent</u>
<u>1/1/11 through 12/31/11</u>	<u>\$3,000.00</u>	<u>1/1/15 through 12/31/15</u>	<u>\$3,824.54</u>
<u>1/1/12 through 12/31/12</u>	<u>\$3,500.00</u>	<u>1/1/16 through 12/31/16</u>	<u>\$3,939.28</u>
<u>1/1/13 through 12/31/13</u>	<u>\$3,605.00</u>	<u>1/1/17 through 12/31/17</u>	<u>\$4,057.46</u>
<u>1/1/14 through 12/31/14</u>	<u>\$3,713.15</u>	<u>1/1/18 through 12/31/18</u>	<u>\$4,179.18</u>
		<u>1/1/19 through 12/31/19</u>	<u>\$4,304.56</u>

Legal Description of Leased Premises: Lessor, in consideration of the rent paid and the covenants, conditions and restrictions hereinafter set forth, in the Lease (including all Attachments), does hereby lease and demise unto Lessee the lands described in Attachment B of this Lease for the uses specified herein.

See Attachment B of this Lease.

Use of Leased Premises: **RV Park**
 See Section 2. Use of Premises of the Lease Provisions

Bond: **\$5,000.00** bond as specified in Section 4. Bond within the Lease Provisions

Liability Insurance: **\$1,000,000** Commercial General Liability
 See Section 13. Insurance of the Lease Provisions.

Lease Index: SUMMARY OF LEASE PROVISIONS
 LEASE PROVISIONS
 SIGNATURE PAGE
 ATTACHMENT A – SPECIAL TERMS AND CONDITIONS
 ATTACHMENT B – LEGAL DESCRIPTION OF LEASED PREMISES
 ATTACHMENT C – SITE MAP(S)
 ATTACHMENT D – REPORTS
 ATTACHMENT E – EXISTING IMPROVEMENTS

This is to certify that this is a true and correct copy of this document, the original of which is on file with the Idaho Department of Lands (IDL).
 IDL Representative [Signature] Date 7/14/11

LEASE PROVISIONS

1. Rent.

All rent shall be paid in lawful money of the United States of America directly to the Lessor on or before January 1 of each successive year unless otherwise directed by the Lessor in writing. Lessee shall pay the Lessor, as rent for the Leased Premises, amounts as detailed in this document or any attachments hereto, determined and payable in the manner and at the time set forth herein, without abatement, offset or deduction of any kind unless allowed by this Lease:

- A. Annual Rent Subject to Modification. Lessor reserves the right to increase or decrease the annual rent to be paid by the Lessee. Any increase for the year shall be effective as of January 1 and payable by January 1. Lessor shall provide Lessee written notification one hundred and eighty (180) calendar days prior to the increase in the annual rental amount.
- B. Late Payment Charge. If annual rental is not paid in full by the due date, the Lessor may declare a default and terminate the Lease upon thirty (30) days written notice to Lessee. In the event any rent due hereunder is not paid in full when due, Lessee shall pay, in addition to such rent, a late charge in the first calendar month of such delinquency the amount of Twenty Five Dollars (\$25.00) or one percent (1%) of the unpaid rent, whichever is greater. For each subsequent calendar month of such delinquency, Lessee shall pay an additional late charge equal to one percent (1%) of the then unpaid rent, plus interest. The parties acknowledge and agree that the late charge described herein is a reasonable attempt to estimate and to compensate Lessor for higher administration costs associated with administering such late payments and is not intended as a penalty. By assessing this late charge, Lessor does not waive any right to declare a breach and to pursue any right or remedy available to Lessor by reason of such breach, after expiration of any applicable notice or cure period.
- C. Extensions of Time to Pay. Lessee may make application to extend the time for paying rent in accordance with the then existing statutes, rules and policy applicable to state endowment lands. If an extension is requested and approved by Lessor before the deadline for paying rent, then the Lessee shall not be required to pay a late payment fee, but shall be required to pay interest, in addition to such rent, at the then existing rate established by the Lessor.
- D. Lien. The amount of the unpaid rent, late charge, and interest shall be a lien on the Lessee's improvements and other property on the Leased Premises.

2. Use of Premises.

- A. The Lease Premises shall be used for RV Park.
- B. Any new or change of use of the Leased Premises requires Lessor's prior written consent. Any new or additional use by Lessee without the authorization of Lessor is prohibited and is grounds for termination of the Lease as defined herein.
- C. Lessee agrees to not commit, nor permit any damage to or waste upon the Leased Premises or upon any of the improvements, nor permit any unlawful use of the Leased Premises, nor permit any use thereof except for the purposes stated herein.
- D. Lessee shall acquire and maintain all necessary permits and comply with all applicable laws, rules, or regulations or other provisions regarding outdoor advertising within the State of Idaho.
- E. Technical Reports. When requested by the Lessor, the Lessee will furnish technical information concerning the equipment located on the Leased Premises.

3. Lease Terms and Conditions.

By April 30 of the year of expiration of the Lease, Lessee may apply to renew for another lease term. Lessee understands and agrees that the Lessor has the sole discretion relating to the lease provisions and any special terms and conditions offered in any renewed lease and understands and agrees that the lease provisions and any special terms and conditions in a new lease may be materially different than this Lease. The Lessor will consider a lease renewal(s) only when the Lessee has complied with all of the Lease Provisions and any Special Terms and Conditions of this Lease and fully and faithfully performed all duties and obligations herein. If Lessor and Lessee cannot successfully negotiate the rent and terms of the new lease prior to the expiration date hereof, Lessee agrees

to vacate the premises in accordance with the Lease Provisions and any Special Terms and Conditions, and prior to the expiration date, of this Lease.

4. **Bond.**

Concurrent to the execution of this Lease by the Lessee, the Lessee will furnish a good and sufficient bond in the amount specified in the Summary of Lease Provisions in the favor of the State of Idaho to protect the state against loss due to violation of any clause of this Lease. The period of liability of any bond shall not be determined until all lease terms and conditions have been fulfilled and the bond is released in writing by the Director. Said written release shall occur no later than one year after the expiration of the Lease, unless otherwise agreed.

5. **Sublease and Assignment.**

- A. No Sublease or Assignment Without Consent. Lessee shall not sublease all or any part of the Leased Premises, or sublease all or any part of Lessee's improvements, or assign this Lease, or take out a mortgage or deed of trust without first obtaining the written consent of Lessor.
- B. Necessary Forms. Any request for approval of a sublease, assignment, mortgage, or deed of trust must be in writing, on forms provided by the Lessor and accompanied by a processing fee. Any attempt by Lessee to sublease Lessee's interest in all or any part of the land or all or any part of the Lessee's improvements, or to assign this Lease, or to take out a mortgage or deed of trust, without the prior written consent of Lessor, shall be void and shall constitute a breach of this Lease.
- C. Good Standing Required. No request for Lessor's approval of any assignment or sublease will be considered unless all rent due, late payment fees, and interest have been paid in full, and Lessee is in good standing under the terms of the Lease.
- D. Assignment Subject to Terms. Any assignment shall be subject to all of the terms and provisions of this Lease.
- E. Specific Transaction Only. Any consent by Lessor herein contained or hereafter given to any act or assignment, mortgage, pledge, or encumbrance shall be held to apply only to the specific transaction hereby or thereby approved.
- F. Proof of Assignment. In cases of assignment due to sale of the Lessee's interest, Lessee must provide to Lessor one copy of the purchase agreement or contract of sale signed and acknowledged by the buyer (Assignee) and seller (Assignor). In the case of assignment without a sale, appropriate documentation must be provided to the Lessor establishing that the Lease should be assigned. This may include, but not be limited to, a letter from Lessee indicating the transfer of the Lease as a gift; a divorce decree; a copy of will or probate order. Lessor may require additional proof as necessary.
- G. Lessee may sublease, provided that each such sublease shall be subject to all terms of this Lease, including termination of Lessee's interest under this Lease. Any such sublease shall be subject to and subordinate to the rights of the Lessor under this Lease, and any such sublease shall include, but not be limited to, the following:
 - i. No sublease shall relieve Lessee of its responsibility to pay and perform all of its obligations under this Lease to Lessor.
 - ii. The term of the sublease may not exceed the term of this Lease.
 - iii. The Lessor is not liable for acts or omissions of the Lessee.
 - iv. The Sublessee will abide by all terms of this Lease.
 - v. The Lessor is not liable for pre-payment, security deposits or other pre-paid charges made to Lessee by sublessees should this Lease be terminated.

The Lessor may impose additional requirements as a condition of approving the sublease request.

6. **Lessee's Compliance with Applicable Laws and Rules.**

- A. Full Compliance. Lessee's use of the Leased Premises and all improvements constructed thereon, shall fully comply with all statutes, ordinances, rules, regulations and laws of applicable federal, state and local

governmental authorities. Lessee shall comply with all applicable rules and regulations and standards currently in effect or hereafter adopted by Lessor.

- B. No Waste or Nuisance. Lessee shall not use the Leased Premises in any manner that would constitute waste, nor shall the Lessee allow the same to be committed thereon. The Lessee shall not do anything or allow any action which will create a nuisance or a danger to persons or property.
- C. Noxious Weeds. It is understood and agreed that the Lessee shall take measures to control noxious weeds within the Leased Premises, in accordance with Title 22, Chapter 24, Idaho Code. The Lessee shall cooperate with state and other agencies authorized to undertake programs for control and/or eradication of noxious weeds. Failure to comply will be considered a breach of this Lease and shall be considered a default pursuant to the Lease Provisions, Section 17 herein.

7. Environmental, Safety, and Sanitary Requirements.

- A. Sanitary Requirements. Lessee shall at all times keep the Leased Premises in a clean and sanitary condition, free of trash, noxious weeds, garbage and litter, so that the Leased Premises is maintained in as nearly natural state as possible. Lessee shall not dispose of sewage except in conformity with applicable federal, state, and local law, rules and regulations pertinent to Lessee's use. The Lessee shall store and dispose of all trash and garbage in conformity with all legal requirements. Lessee is responsible for all costs associated with sewage, garbage and litter disposal.
- B. Fire and Safety Regulations. Lessee shall comply with all applicable state laws and the rules for fire protection and prevention of fire. Lessee agrees to keep the Leased Premises free from fire hazards. Lessee is prohibited from burning garbage or household trash. The burning of wood or other debris requires the prior written permission of Lessor and must comply with applicable federal, state, or local law, regulation, rule, or ordinance.
- C. No Hazardous Materials. Lessee shall neither use nor permit upon the Leased Premises the use, placement, transport or disposal of any hazardous waste or any other substance that is or is suspected to be a hazardous substance or material except as provided by federal, state or local law, regulation or ordinance of manufacture. Lessee shall be responsible, at its own expense, for removing or taking other appropriate remedial action regarding such wastes, substances, or materials which Lessee may cause to be introduced, in accordance with applicable federal, state, or local law, regulation, or ordinance.

8. No Warranty of Suitability.

- A. No Warranty. Lessee acknowledges that neither the Lessor, nor any agent or designee of the Lessor, has made any representation or warranty with respect to the Lease Premises or concerning the suitability of the Leased Premises for the uses intended by the Lessee. Lessee acknowledges that it has accepted the Leased Premises in an "AS IS CONDITION," and accepts liability for its condition.
- B. Quiet Enjoyment. Lessor agrees that the Lessee, upon payment of the rent and performing the terms of this Lease, may quietly have, hold, and enjoy the Leased Premises during the term hereof.

9. Payment of Taxes and Assessments.

On or before any due dates, the Lessee agrees to pay any and all real or personal property taxes, assessment or fees that may be assessed or levied by a governmental authority asserting such authority over the Leased Premises or its improvements. Lessee shall make such payment directly to the taxing authority and hold Lessor harmless from any claim or assessment.

10. Construction and Improvements.

- A. Water Development. Lessee shall not drill new water wells, use existing water wells, nor develop any use of any water source without first obtaining the prior written consent of the Lessor and the applicable governmental authorities responsible for adjudicating and developing water rights. Lessee agrees that all water rights shall be in the name of the State of Idaho.
- B. Construction and Repair of Improvements. No construction of improvements upon or over the Leased Premises is allowed without prior consent of the Lessor.

- C. Liens or Encumbrances. Lessee has no authority to and shall not place a lien upon or encumber the Leased Premises, other state land or state owned improvements. The Lessee shall not place a lien upon or encumber the Lease or Lessee owned improvements unless given prior written consent by the Lessor.
- D. Treatment of Existing Improvements. Existing improvements, as of the date of execution of this Lease, are attached hereto and incorporated herein in Attachment E. Upon Lease expiration without renewal; Lease termination; or upon default of the Lessee:
- i. Lessor shall have the right to require Lessee to remove all improvements, placed upon the Leased Premises, and to require Lessee to restore the Leased Premises, as nearly as is reasonably practical, to its natural or previous condition, all at Lessee's sole cost and expense.
 - ii. Lessor has the right to enter the Leased Premises and remove any of the improvements, or otherwise dispose of such improvements, and charge the cost of removal and/or disposal and restoration to Lessee. Lessee shall also be responsible for all collection costs, including legal fees and interest.
 - iii. Lessee shall quietly surrender the Leased Premises to Lessor.
 - iv. Lessor shall reserve the right to purchase existing improvements from Lessee at a reasonable market value, as defined in Section 10.F. of the Lease Provisions, as of the date of expiration.
- E. Treatment of Improvements Upon Abandonment. If such removal or purchase as described herein, has not occurred by the date that the Lease expires and has not been renewed, has been terminated, or at the date of Lessee default, all rights, title and interest of the Lessee to any of the improvements, shall upon thirty (30) days written notice to Lessee, or at a date determined at the sole discretion of the Lessor but not less than thirty (30) days, be deemed to revert to the State of Idaho, and shall be considered abandoned in place by the Lessee.
- F. Market Value. Market value is defined in this Lease as "The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms for which the specified improvement(s) should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest and assuming that neither is under undue duress."
- G. Disputes arising out of a determination of Market Value of the improvements shall follow these procedures:
- i. The approved improvements shall be valued by a qualified employee of Lessor or by an independent licensed appraiser hired by and at the cost of the Lessor. All valuations shall be administered and controlled by Lessor, and all appraisers shall use appraisal instructions provided by the Lessor. The Lessor reserves the right to accept or reject any valuation at its discretion. The valuation of the improvements shall be as of the date of the expiration or termination or non-renewal or default of the Lessee.
 - ii. The Lessee has sixty (60) days to review said appraisal. If the valuation is not acceptable to the Lessee, the Lessee may, within this timeframe, provide relevant, authenticated information for Lessor's review and consideration that may support a different improvement valuation.
 - iii. The Lessee and Lessor shall meet to review the circumstances and try to resolve the differences in the valuation within 15 business days of the end of the sixty (60) day review period described above.
 - iv. If the differences in this valuation cannot be resolved, then the Lessor may appoint a three (3) person panel to make recommendations to the Director of the Department of Lands. All information shall be reviewed by this panel as to the market value of the improvements. The Lessee is responsible for any additional expenses incurred by the Lessor and the Lessee during the process defined in Section 10.G.i., Section 10.G.ii., Section 10.G.iii. and Section 10.G.iv. of these Lease Provisions.
- H. Treatment of Non-approved Improvements at any time during the Lease and upon Lease expiration without renewal, or termination, or default under the Lease.
- i. Lessor shall have the right to require Lessee to remove all non-approved improvements placed, or caused to be placed upon the Leased Premises, and to require Lessee to restore the Leased Premises, as nearly as is reasonably practical, to its natural or previous condition, all at Lessee's sole cost and expense. If removal as described above has not occurred by the date that the Lease expires and the Lease has not been renewed, has been terminated, or at the date of the Lessee default, all rights to title and interest of the Lessee to any of the non-approved improvements shall upon thirty (30) days written notice to the Lessee, or

at a date determined at the sole discretion of the Lessor, but not less than thirty (30) days, be deemed to revert to the State of Idaho, and shall be considered abandoned in place by the Lessee.

- ii. Any non-approved improvements not removed by the Lessee may be removed by the Lessor at the Lessee's sole cost and expense. Any attorney fees and collection costs incurred by the Lessor shall also be the Lessee's responsibility. Lessor has the right to enter the Leased Premises and remove any of the improvements, or otherwise dispose of such improvements, and charge the cost of removal and/or disposal and restoration to the Lessee. Lessee shall also be responsible for all collection costs including, but not limited to, attorneys fees and interest.

11. Sale, Exchange or Change in Use of Leased Premises

- A. **Sale.** Lessor may sell all or any portion of the Leased Premises during the term of this Lease. Lessor will notify Lessee that the Leased Premises are being considered for sale at the time the proposed sale is scheduled for submission to Lessor for approval. Lessee will be notified of a scheduled sale at least thirty (30) calendar days prior to sale date. Lessee shall deliver immediate possession of the land sold unto Lessor, or to the person or party as may be specified in writing by Lessor or Lessor's designee, unless the land remains subject to the Lease, or unless Lessee is to be permitted to harvest a growing crop before surrendering possession. When creditable improvements are present, and Lessee delivers possession of the land, Lessor shall value them in accordance with Idaho Code § 58-313, or the then existing applicable statute or rule, and Lessee shall be paid for the improvements by the purchaser on the day of sale. Lessee shall have the rights provided by Section 10 of the Lease Provisions, and the then existing statutes or rules with respect to compensation for permitted improvements placed upon the Leased Premises by Lessee.
- B. **Consent To Land Exchange.** Lessee acknowledges that the Leased Premises, or any portion thereof, may be the subject of a future land exchange by Lessor, and Lessee hereby consents to the inclusion of any such land, or portion thereof, in any land exchange deemed necessary or appropriate by Lessor. This consent is given in compliance with Idaho Code § 58-138. In the event Lessor chooses to include the Leased Premises, or any portion thereof, in any proposed land exchange in the future, Lessor shall provide Lessee with at least thirty (30) days written notice. Upon the consummation of the proposed land exchange, that portion of lands included within the exchange shall be deleted from this Lease, and Lessee's Lease payment obligation for the ensuing year shall be reduced proportionately. Lessee shall be entitled to continue to use the lands included within any such exchange for the balance of the year in which the exchange occurs unless otherwise notified in writing by Lessor, in which event the Lease payment for such year shall be prorated.
- C. **Change in Use.** The Lease may be cancelled in whole or in part upon one hundred eighty (180) calendar days written notice by Lessor if the use of the Leased Premises is to be changed to any other use that is incompatible with the use authorized by this Lease, as designated by Lessor. In the event of early cancellation due to change in land use, Lessee will be entitled to a prorata refund of the premium bid for a conflicted lease.

12. Relations of the Parties.

Lessee is not an officer, employee, or agent of the Lessor. Lessee covenants that it will satisfy and hold Lessor harmless against any lien, judgment, or encumbrance filed or made against the Leased Premises at the Lessee's sole and separate cost or expense.

13. Insurance.

Lessee shall purchase and keep in force all insurance required by this Lease, including business interruption insurance, if required by the Lessor, to assure payment of the annual rent. Any failure to comply with any of the terms of this section shall be grounds for immediate termination of this Lease.

- A. **Commercial General Liability.** Lessee shall obtain, at Lessee's expense, and keep in effect during the term of this Lease, Commercial General Liability Insurance covering bodily injury and property damage. This insurance shall include personal injury coverage, contractual liability coverage for the indemnity provided under this lease. Coverage shall be combined single limit per occurrence, which shall not be less than One Million Dollars (\$1,000,000), or the equivalent. Each annual aggregate limit shall not be less than One Million Dollars (\$1,000,000), when applicable.
- B. **Property Insurance.** Lessee shall throughout the term of this Lease at its own expense, keep and maintain in full force and effect, property insurance for what is commonly referred to as "All Risk" coverage, excluding earthquake and flood, on Lessee's improvements and personal property.

- C. **Workers' Compensation.** Lessee shall maintain all required coverage's including Employer's Liability.
- D. **Additional Insured.** The liability insurance coverage required for performance of the Lease shall include the State of Idaho, the Board of Land Commissioners, and the Department of Lands, its officers, agents, and employees as Additional Insured's, but only with respect to the Lessee's activities arising during the performance of this Lease. There shall be no cancellation, material change, potential exhaustion of aggregate limits or intent not to renew insurance coverage's without thirty (30) calendar day's written notice from the Lessee or its insurer to Lessor. Any failure to comply with the reporting provisions of this insurance, except for the potential exhaustion of aggregate limits, shall not effect coverage's provided to the State of Idaho, the Board of Land Commissioners and the Department of Lands, its officers and employees.
- E. **Insurance Policy Requirements.** All insurance required under this paragraph shall be with companies approved by Lessor. No insurance policy required under this section shall be cancelled or reduced in coverage except after thirty (30) calendar day's prior written notice to Lessor. All insurers shall have a Bests' rating of A- or better and be authorized to do business in the State of Idaho. Lessee shall deliver to Lessor prior to occupancy and at least annually thereafter, copies of policies of such insurance or certificates evidencing the existence of the minimum required insurance and evidencing Lessor as Additional Insured thereunder. In no event shall the limits of any insurance policy required under this section be considered as limiting the liability of Lessee under this Lease.
- F. Lessee shall provide certificates of insurance or other documentation certifying Lessee's possession of insurance policies required herein to Lessor within ten (10) days of Lessor's written request.

14. Indemnification.

Lessee shall indemnify, defend, and hold harmless the Lessor, the State of Idaho, its officers, agents, and employees from and against any liability, claims, damages, losses, debts, obligations, judgments, expenses or actions, including reasonable attorneys' fees caused by or arising out of any act or omission of Lessee, or Lessee's agents, employees or invitees, or any act or omission arising out of or connected with the use or occupation of the Leased Premises or arising from the Lessee or Lessee's agents, or employees' failure to comply with any applicable law. If it becomes necessary for the Lessor to defend any action seeking to impose any such liability, the Lessee will pay the Lessor all costs of court and attorneys' fees incurred by the Lessor in effecting such defense in addition to all other sums that the Lessor may be called upon to pay by reason of the entry of a judgment against it in the litigation in which such claim is asserted. This indemnification shall survive the termination or expiration of this Lease.

15. Inspection and Audit Rights.

- A. **Inspection by Lessor.** Lessee shall permit Lessor or Lessor's authorized agent or designee to inspect and enter the Leased Premises and any improvements at any reasonable time.
- B. **Audit Rights.** The Lessor shall have the right to audit, in such a manner, and at all reasonable times as it deems appropriate, all activities of the Lessee arising in the course of its operation under this Lease. Lessee must maintain its books, records, documents, and other evidence of accounting in accordance with generally accepted accounting principles so as to properly reflect its business. At sole discretion of the Lessor an audit of the Lessee's books or the supporting tax documents that have been filed with the Internal Revenue Service or the State Sales Tax Report may be performed by a Certified Public Accountant or agent of the Department of Lands. If gross receipts is applicable under this Lease, and if an audit of gross receipts shows a discrepancy of ten percent (10%) or more of any amounts due under this Lease, any additional rental owed, all late fees calculated from the date the additional rent would have been due and the entire cost of the audit, shall be paid to the Lessor within thirty (30) days written notice to Lessee, unless otherwise agreed upon in writing by Lessor.

16. Reservations by Lessor.

The Lessor expressly reserves and excepts the following rights from the Lease:

- A. All timber rights, rights for oil and gas, geothermal rights, mineral rights, easements and rights-of-way, fee title to the Leased Premises, and title to all appurtenances and improvements placed thereon by the Lessor.
- B. The right to grant easements over the Leased Premises, providing said easements do not conflict in a material way with the approved improvements installed and maintained or operated by the Lessee upon the Leased Premises.

- C. The right to require that changes be made to the sanitation or other facilities for the protection of public health, safety or preservation of the Leased Premises.
- D. The right to issue leases for exploration and development of oil, gas, geothermal and mineral resources or any other lease, so long as such other use does not materially interfere with the authorized use under this Lease.
- E. To reserve, as its sole property, any and all water from any source arising on state land and to hold the water rights for any beneficial use that may develop as a result of this Lease.
- F. Right of ingress and egress over and across the herein described premises for itself and its assigns on existing roads or suitable alternative roads provided by the Lessee.

17. Lessee's Default.

- A. Lessee's breach of any of the terms of this Lease is a default and is a basis for termination of the Lease. Lessor shall provide Lessee written notice of the breach or violation and, if applicable, the corrective action required of Lessee. The notice shall specify the reasonable time to make a correction or cure the violation or breach. If the corrective action or cure is not taken within the specified time or does not occur, then the Lessor shall cancel the Lease effective on the date specified for the corrective action or cure to have taken place.
- B. Lessee agrees to relinquish possession of the Leased Premises upon cancellation of the Lease with all permanent improvements thereon in good order and condition. In addition to the rights and remedies specifically granted to Lessor under this Lease, Lessor shall have such other rights and remedies as against Lessee as may be available at law or in equity, and Lessor's pursuit of any particular remedy for breach or default shall not, in and of itself, constitute a waiver or relinquishment of any other available claim of Lessor against Lessee.

18. Notices.

- A. All notice(s) including, but not limited to, a change in address, given in connection with the Lease shall reference the Lease number, shall be in writing and shall be delivered either by hand or by regular United States Mail to Lessor at the address listed in the Summary of Lease Provisions, and to Lessee at the address listed in Summary of Lease Provisions.
- B. Any notice or correspondence mailed to Lessee at the last identified address shall be deemed effective delivery. It is the Lessee's duty to notify Lessor, in writing, of any change in Lessee's mailing address.

19. Waiver.

The waiver by the Lessor of any breach of any term, covenant, or condition of this Lease shall not be deemed to be a waiver of any past, present, or future breach of the same or any other term, covenant, or condition of this Lease. The acceptance of rent by the Lessor hereunder shall not be construed to be a waiver of any term of this Lease. No payment by the Lessee of any amount less than that due and owing, according to the terms of this Lease shall be deemed or construed to be other than a partial payment on account of the most recent rent due, nor shall any endorsement or statement of any check or letter accompanying any payment be deemed to create an accord and satisfaction.

20. Attorneys Fees and Costs.

In the event either party to this Lease shall institute a lawsuit of any kind under this Lease or action is taken by either party to obtain performance of any kind under this Lease, the unsuccessful party to such litigation agrees to pay to the prevailing party all costs and expenses, including reasonable attorneys fees, accountants fees and appraisers fees and fees of other experts, incurred therein by the prevailing party, including all such costs and expenses incurred with respect to an appeal and such may be included in the judgment entered in such action.

21. Officials, Agents and Employees Not Personally Liable.

In no event shall any official, officer, employee or agent of the State be in any way personally liable or responsible for any covenant or obligation contained in this Lease, express or implied, nor for any statement, representation or warranty made in connection herewith.

22. Miscellaneous.

- A. Modification. The Lease Provisions, excluding the rent adjustments, may be modified only by the prior written consent of the authorized representatives of the Lessor and Lessee.
- B. Complete Statement of Terms. No other understanding, whether oral or written, whether made prior to or contemporaneously with this Lease, shall be deemed to enlarge, limit, or otherwise effect the operation of this Lease.
- C. Lessee's Non-Discrimination. Lessee shall not discriminate against any person because of race, creed, religion, color, sex, national origin or disability.
- D. Paragraph Headings. The paragraph headings, titles, and captions used in this Lease are not to be construed as interpretations, but are inserted for convenience and reference only.
- E. Entire Agreement. This Lease (including the Summary of Lease Provisions, Lease Provisions, Signature Pages and all Attachments) contain the entire agreement between the parties as of the date executed concerning the subject matter hereof and supersedes all prior agreements. The execution of this Lease has not been induced by either party, or any agent of either party, by representations, promises, or undertakings whatsoever between the respective parties concerning this Lease except those which are expressly contained herein.
- F. Governing Law and Forum. This Lease shall be construed in accordance with and governed by the laws of the State of Idaho and the parties consent to the jurisdiction of Idaho State Courts located in Ada County in the event of any dispute with respect to this Lease.
- G. Binding on Heirs and Successors. It is understood and agreed that all terms, covenants, and conditions hereof shall be binding upon the approved subleases, approved assignees and Lessee's heirs or successors in interest.
- H. Severability. In the event any provision of this Lease shall be held invalid or unenforceable according to law, for any reason whatsoever, then the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired.
- I. License/Authorizations. Lessee shall be responsible for paying any fees for any license or authorizations that may be required from other entities as required in the course of doing business as it relates to this Lease.

This Lease (including the Summary of Lease Provisions, Lease Provisions, Signature Pages, and all Attachments) is made and entered into by and between the State of Idaho, acting by and through the Lessor, and Lessee.

LESSOR SIGNATURES

COUNTERSIGNED: STATE BOARD OF LAND COMMISSIONERS OF THE STATE OF IDAHO

Ben Ysursa
Secretary of the State of Idaho

C. L. Butch Otter
President of the State Board of Land Commissioners and Governor of the State of Idaho

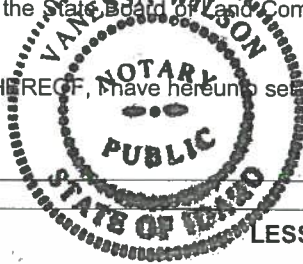


George B. Bacon
Director of the Department of Lands

STATE OF IDAHO)
:S
COUNTY OF ADA)

On this 13th day of July, in the year 2011, before me, a Notary Public in and for said State, personally appeared C. L. "Butch" Otter, known to me to be the president of the State Board of Land Commissioners of the State of Idaho and the Governor of the State of Idaho; and Ben Ysursa, known to me to be the Secretary of the State of Idaho and George B. Bacon, known to me to be the Director, that executed the within instrument, and acknowledged to me that the State Board of Land Commissioners of the State of Idaho and the State of Idaho executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.



Notary Public: Vanessa Wilson
Commission Expiration: 8-11-2014

LESSEE SIGNATURE(S)

x [Signature]
(Lessee/Company)

x _____
(Lessee/Company)

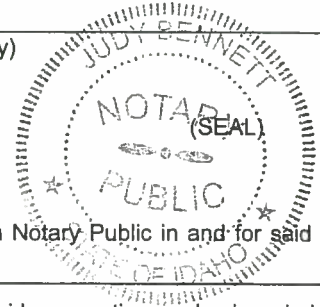
x _____
(Lessee/Company)

x _____
(Lessee/Company)

STATE OF Idaho)
:S
COUNTY OF Bonneville)

On this 23 day of May, in the year 2011, before me, a Notary Public in and for said State, personally appeared Kris H. Poiright known to me to be the Lessee or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.



Notary Public: Judy Bennett
Commission expires: 3-05-16

ATTACHMENT A

SPECIAL TERMS AND CONDITIONS

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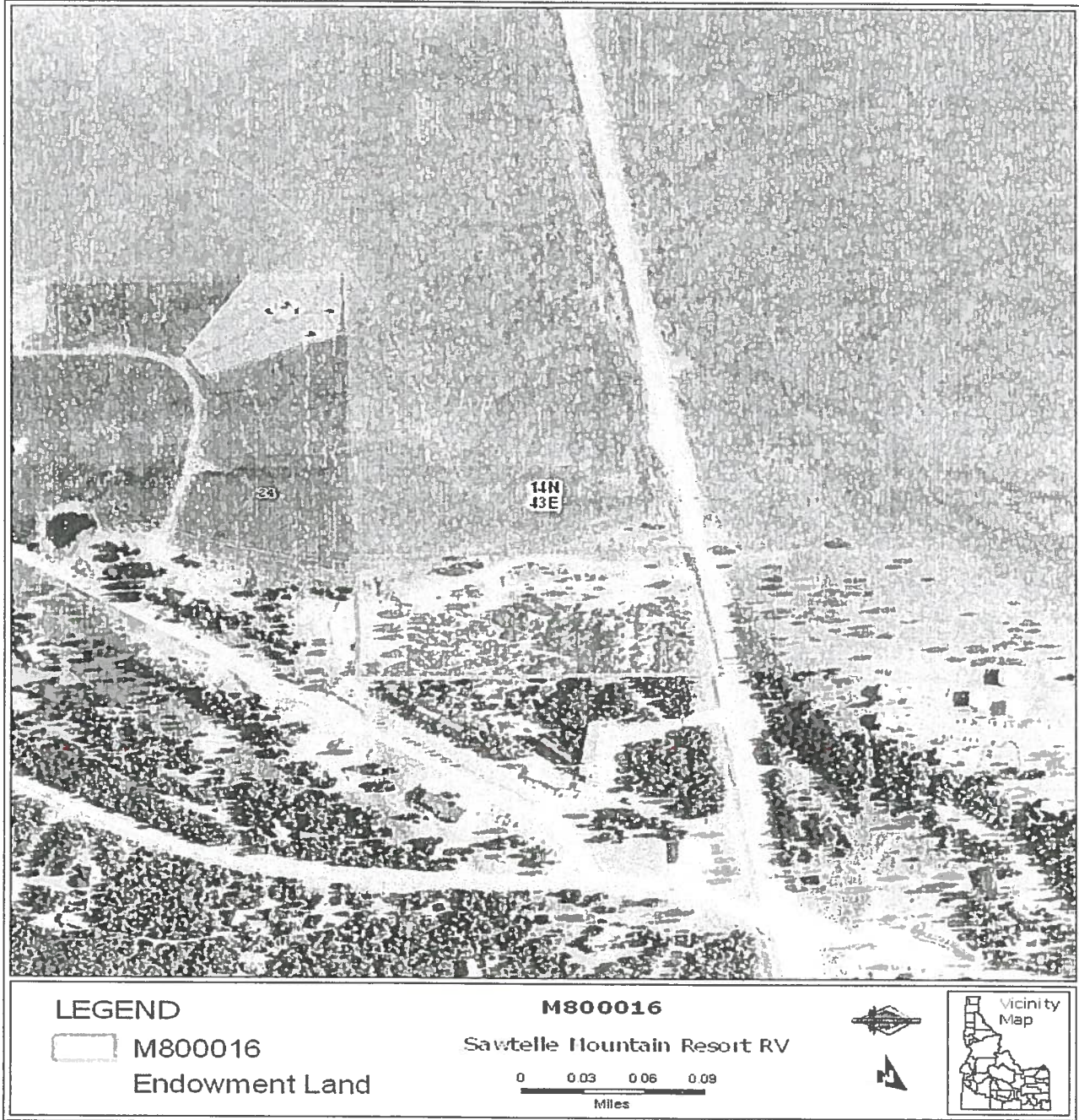
ATTACHMENT B

LEGAL DESCRIPTION OF LEASED PREMISES

Township, Range, Section	Legal Description	County	Endowment	Acres
14N 43E 24	Pt S2SEW (west of road)	Fremont	PS	10

ATTACHMENT C

Site Map(s)



ATTACHMENT D
GROSS RECEIPTS REPORT

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RECEIVED

DEC 04 1995

MEMORANDUM

Department of Water Resources

TO: SHELLEY KEEN
FROM: H. W. JONES
RE: APPLICATION #21-07538 - SAWTELLE MOUNTAIN RESORT

Applicant Chatterton came into our office on May 25, 1993 and got drilling permit #21-93E-0019. We were told this was for domestic use but in reality he hooked up the resort to this well prior to any approval of permit 21-07538. We were not aware of this until the sequence written by Dennis Dunn (attached) began in 1995. At that time, we realized that the existing well had to be replaced to avoid further contamination. Since the resort was built, functioning and heavily mortgaged by the Chatterton family, we wanted to find a way to approve permit 21-07538, with conditions where necessary.

Dennis tells me that a condition of in-house use only would cover the existing usage since there is only a small lawn/flower area (room size).

Sawtelle Resort

1. End of June / 1st of July Chatterton gets a positive test for total & fecal coliform.
2. The first individuals become ill around July 15.
3. The first of August CDC & District Health are notified that there is a problem at Sawtelle Resort & Subdivisions - 20 August - sawtelle placed on Boil order (Island - park)
4. 22 August IDWR & DEQ are notified of the outbreak by District Health.
5. 24 & 25 August Greg Eiger (DEQ) & I review the well logs & do a site inspection of the resort and subdivision.
6. 30 August, Meet with DEQ, Dist 7 Health Dept, C.D.C. & Fremont County & Bob Fleener
7. 31 August - On site visit with Bob Fleener & DEQ.
8. 12 Sept. GPS All of the wells in the subdivision
9. 13 Sept & 14 Sept - Survey in wells & get depths to groundwater
- 9a. 22 Sept - Sawtelle starts new well (2193E-0070)
10. 27. Sept. Survey in additional well East of highway & pond 1.4 miles north.
11. 13. October - Resort well is open -
7'6" to Tylolite
no seal.
∴ fraudulent log submitted
12. 17 October - Unable to obtain water levels on the upper wells due to cascading water.
13. 1 October - Sawtelle well is completed to 110' -
12 inch overbore -
8' casing set to 110' -
pressure grouted until positive displacement observed at sur;
Grout is set for 48 hours -
well drilled (8") to 165'
Pump set & well is chlorinated for 24 hours
pumping & testing starts on 9 October 1995
tests continue to show contamination -
9 Nov - based on residual chlorine testing I determine that there is a cross connection between the two wells.
14 Nov - casing removed from old well, 8' yards of neat cement used in old well. pumping ceases in new well to allow concrete in old well a chance to set up -

14 Nov - work starts on installing the new lines to the hotel & chlorination system.

1 Dec. Craig DeYoung informs me that the lines are in, the pressure tanks installed & the chlorination system is in. the system is superchlorinated at 500 ppm.

2 Dec - Pumping will start at 250 gpm & continue until Monday morning when the rate will be reduced to 50 gpm. Testing will resume Monday morning.

The resort needs four consecutive clean tests before the boil order will be lifted. - if these are obtained & the order lifted - random testing will continue for 3 months.

In late April or May pumping will be increased to 250 gpm & testing of the Deep aquifer will resume.

- late October testing of wells in Subdivision show that they still have a contamination problem. Source of contamination has not been found - the problem is still there.

INTER-DEPARTMENT MEMO

TO: Basco - Cindy Zimmerman

SUBJECT: File 21-07538

FROM: H. W. JONES - Eastern

DATE: 11-16-95

1. 30 rooms -
2. "Bunkhouse holds 30 folks"
3. Trailer Park has 53 trailer & tent sites
4. Engineer says max use is about 250 gpm during the summer.

RECEIVED
NOV 24 1995
Department of Water Resources

The above is the actual use of the Sawtelle Resort well. Static water levels are at 10 Feet. System is hooked up to Island Park Sewerage Treatment system which is then land applied in adjacent National Forest ground. System "is" in place & working. Please approve! IF not, call me.

For your information

Response required

AMD
signature

35

Drilling Permit No. 21-93-E-019
Water Right Permit No. _____
Injection Permit No. _____

WELL DRILLER: PLEASE COMPLETE FOR VERBALS
IDWR Employee Issuing Verbal: _____
Verbal Issued Date: _____ Time: _____

COPY
RECEIVED
DEC 04 1995

State of Idaho
Department of Water Resources

Department of Water Resources

APPLICATION FOR DRILLING PERMIT

1. Applicant (please print): Sawtelle Mt. Resort c/o Grover Chatterton

2. Mailing Address: 1925 Malibu Idaho Falls, ID

City & State ID Falls, ID Zip Code 83404 Telephone 529-1900

Well Owner [] Well Operator [] Contractor or Other, specify _____

3. Proposed Well Location: Twp. 14N, Rge. 43E, Sec. 24, NE 1/4 SW 1/4

Gov't Lot No. _____ County Fremont

Street Address of Well Site _____

Lot, block and subdivision Lot 1, Block 1 (commercial) Sawtelle Mt. Subdivision

4. Proposed Use of Well:

DOMESTIC: The use of water for homes, organization camps, public campgrounds, livestock (1,000 head or less) and for any other purpose in connection therewith, including irrigation of up to 1/2 acre of land, if the total use is not in excess of 13,000 gpd; or any other uses, if the total use does not exceed a diversion rate of 0.04 cfs and a diversion volume of 2500 gpd.

Domestic does not include water for multiple ownership subdivisions, mobile home parks, commercial or business establishments, unless the use does not exceed a diversion rate of 0.04 cfs and a diversion volume of 2500 gpd.

NON-DOMESTIC: [] Irrigation [] Municipal [] Industrial
[] Stock [] Test [] Other _____
(Over 1,000 Head) (Describe)

[] INJECTION

[] MONITORING: A well bore schematic and map is required for each blanket permit.
No. of proposed wells: _____

5. Well Construction Information:

A. New well [] Modify (Deepen or Enlarge) [] Replace - See Condition 9

B. Proposed Casing Diameter 10" Proposed Maximum Depth 110'

C. Anticipated bottom hole temperature:

85°F or less (Cold Water Well) [] 85°F to 212°F (Low Temp. Geo. Well) [] 212° F. or more (Geothermal Well)

6. Construction Start Date: 5-27-93

7. Anticipated Well Driller: Brad Findley
NOTE: The actual well driller must be identified prior to drilling.

8. Applicant's Signature _____ Date 5-25-93

Title Mr. G. Chatterton - Partner
Signature _____ (Owner, Firm Representative, Other)

ACTION OF THE DEPARTMENT OF WATER RESOURCES

This Permit is Approved

Date 5-25-93

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

GENERAL CONDITIONS:

1. The well must be constructed in compliance with the applicable statutes, specific conditions of approval shown on the water right permit, injection well permit, transfer or amendment and the rules and regulations of the Department for water appropriation, injection wells and well construction standards.
2. This drilling permit is valid for two (2) months from the above 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.
3. This permit does not constitute an approval of the District Health Department or the Idaho Department of Health and Welfare which may be required before construction of this well.
4. 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.
5. Approval of this drilling permit does not authorize trespass on the land of another party.
6. This permit does not constitute other local, county, state or federal approvals which may be required for construction of a well.
7. This drilling permit does not represent a right to divert and use the water of the State of Idaho.
8. If a bottom hole temperature of 85° or greater is encountered, well construction shall cease and the well driller and the well owner shall contact the Department immediately.
9. If this permit is for a replacement well, the well being replaced must be abandoned in accordance with Department Rules and Regulations.

SPECIFIC CONDITIONS:

Applicants state this well will be used for commercial purposes where no more than 2500 gallons per day is utilized and a rate not to exceed 0.04 cfs as per Section 42-211, Idaho Code.

H. W. Jones for Ron D. Carlson
Signature of Authorized Department Representative

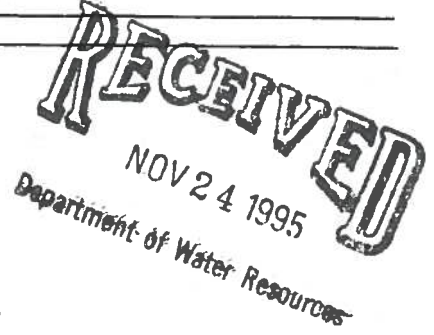
Eastern Reg. Mgr.
Title

Receipt No. EO18628 Received by HWS Fee 35.00 Date 5-25-93

EXTENSION OF DRILLING PERMIT

Extension approved by _____ Approval Date CUWA

This extension expires: _____



WELL DRILLER: PLEASE COMPLETE FOR VERBALS
IDWR Employee Issuing Verbal: _____
Verbal Issued Date: _____ Time: _____

COPY

State of Idaho
Department of Water Resources

APPLICATION FOR DRILLING PERMIT
(FOR THE CONSTRUCTION OF A WELL)

1. Applicant (please print): Sawtooth Mt Resort c/o Grover Chatterton

2. Mailing Address: 1925 Malibu

City & State Idaho Falls, Idaho Zip Code 83404 Telephone (208) 529-1900

Well Owner Well Operator Contractor or Other, specify _____

3. Proposed Well Location: Twp. 14N, Rge. 43E, Sec. 24, NE 1/4 SW 1/4

Gov't Lot No. _____ County Fremont

Street Address of Well Site _____ City _____
Give at least name of road + Distance to Road or Landmark

Lot, block and subdivision _____

4. Proposed Use of Well:

DOMESTIC: The use of water for homes, organization camps, public campgrounds, livestock (1,000 head or less) and for any other purpose in connection therewith, including irrigation of up to 1/2 acre of land, if the total use is not in excess of 13,000 gpd; or any other uses, if the total use does not exceed a diversion rate of 0.04 cfs and a diversion volume of 2500 gpd.

Domestic does not include water for multiple ownership subdivisions, mobile home parks, commercial or business establishments, unless the use does not exceed a diversion rate of 0.04 cfs and a diversion volume of 2500 gpd.

NON-DOMESTIC: Irrigation Municipal Industrial
 Stock Test Other Resort
(Over 1,000 Head) (Describe)

INJECTION

MONITORING: A well bore schematic and map is required for each blanket permit.
No. of proposed wells: _____

5. Well Construction Information:

A. New well Modify Replace

B. Proposed Casing Diameter 10" Proposed Maximum Depth 200'

C. Anticipated bottom hole temperature:
 85° F or less (Cold Water Well) 85° F to 212° F (Low Temp. Geo. Well) 212° F. or more (Geothermal Well)

6. Construction Start Date: 9-23-1995

7. Anticipated Well Driller: Andrew Well Drilling Driller's Lic. No. _____
NOTE: The actual well driller must be identified prior to drilling.

8. Applicant's Signature Grover E. Chatterton Date _____

Title owner
(Owner, Firm Representative, Other)

ACTION OF THE DEPARTMENT OF WATER RESOURCES

This Permit is Approved

Date 9-22-95

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

GENERAL CONDITIONS:

1. This drilling permit is valid for two (2) months from the above 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 before construction of this well. All wells must be drilled a minimum distance of 100 feet from a drain field. Domestic and Public Water Supply wells must be drilled a minimum of 50 feet and 100 feet respectively from a 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° or greater is encountered, well construction shall cease and the well driller and the well owner shall contact the Department immediately.

SPECIFIC CONDITIONS:

[Signature]
Signature of Authorized Department Representative

Eastern Reg. Mgr.
Title

Receipt No. E021538 Received by HWJ Fee \$ 35.00 Date 9-22-95

EXTENSION OF DRILLING PERMIT

Extension approved by _____ Approval Date _____

This extension expires: _____



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

SEPTEMBER 26, 1995

HERALD CHRONICLE
P.O. BOX 10
REXBURG, ID 83440

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 OCTOBER 23, 1995.

Yours truly,

Rita Bodell
Secretary

Encl.

CONDITIONS FOR DRILLING PERMITS IN ISLAND PARK

1. The well must be fully overbored and cased to the depth from which water will be obtained.
2. An overbore will be at least 2 inches greater than the casing that is to be used.
3. The annular space shall be fully sealed with grout or bentonite, from the drive shoe to the surface.
4. Water from different levels in a well will not be allowed to intermingle. This means that only one water source shall be utilized.
5. All of the tools that were used in the hole must be disinfected with a chlorine (bleach) solution of 100 ppm prior to leaving the job site.
6. No exceptions - these are for domestic, stock, irrigation - you may have to pump test the well before deciding if an adequate source of water exists. If not, you will have to drill deeper and seek another source of water. However, you may not perforate and co-mingle two sources of water.

(7) The well being replaced must have casing removed and be filled with bentonite or grout