

Randall C. Budge (ISB #: 1949)
Carol Tippi Jarman (ISB#: 6371)
Joseph G. Ballstaedt (ISB#: 9426)
RACINE, OLSON, NYE,
BUDGE & BAILEY, CHARTERED
P.O. Box 1391
Pocatello, Idaho 83204-1391
Telephone: (208)232-6101
Fax: (208)232-6109

Attorneys for Plaintiffs

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF POWER**

ABERDEEN-SPRINGFIELD CANAL
COMPANY, an Idaho Corporation, Jeffrey and
Chana Duffin, individual, as stockholders, and as
husband and wife,

Plaintiffs,

vs.

IDAHO DEPARTMENT OF WATER
RESOURCES, an executive department of the
State of Idaho,

Defendants,

and

A&B IRRIGATION DISTRICT, AMERICAN
FALLS RESERVOIR DISTRICT #2, BURLEY
IRRIGATION DISTRICT, MILNER
IRRIGATION DISTRICT, MINIDOKA
IRRIGATION DISTRICT, NORTH SIDE
CANAL COMPANY, and TWIN FALLS
CANAL COMPANY,

Defendant-Intervenors.

Case No. CV-2014-165

**AFFIDAVIT OF
RANDALL C. BUDGE**

STATE OF IDAHO)
 ss.
County of BANNOCK)

RANDALL C. BUDGE, being first duly sworn under oath, deposes and states that the following facts are true and correct to the best of my knowledge, information and belief.

1. I am a duly licensed and practicing attorney in the State of Idaho in good standing, holding license number 1949. I am a member of the firm Racine Olson Nye Budge & Bailey, Chartered, attorneys of record for Plaintiff Aberdeen-Springfield Canal Company ("ASCC") or ("Company").
2. Attached hereto as Exhibit A and B are true and correct copies of ASCC's Application for Drilling Permit for a Recovery Well under IC 42-228, together with Drilling Permit No. 869329 issued by the State of Idaho to ASCC which are part of the records of the Company maintained in the ordinary course of business. The same were previously produced to the Defendants in response to discovery requests.

FURTHER YOUR AFFIANT SAITH NAUGHT.

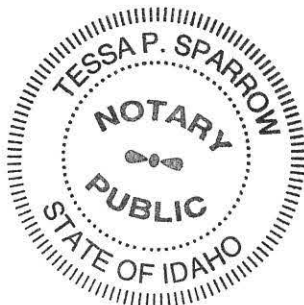
Dated this 17th day of March, 2015.

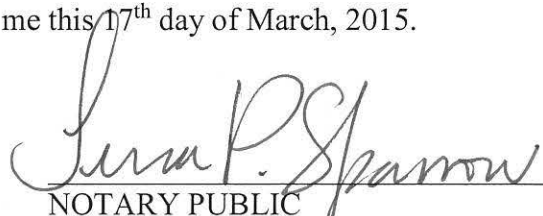


RANDALL C. BUDGE

SUBSCRIBED AND SWORN to before me this 17th day of March, 2015.

(SEAL)

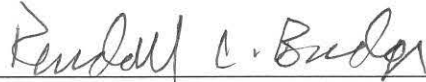




NOTARY PUBLIC
Residing at Bannock County, Idaho
My Commission Expires 10/05/2015

CERTIFICATE OF SERVICE

I certify that on this 17th day of March, 2015, the foregoing document was served on the following persons in the manner indicated.



Signature of person mailing form

<p>Clerk of the District Court Snake River Basin Adjudication P.O. Box 2707 253 Third Avenue North Twin Falls, Idaho 83303-2707</p>	<p><input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-mail</p>
<p>John K. Simpson Travis L. Thompson Paul L. Arrington Barker Rosholt & Simpson LLP P.O. Box 485 Twin Falls, Idaho 83303-0485 tlt@idahowaters.com jks@idahowaters.com pla@idahowaters.com</p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>
<p>W. Kent Fletcher Attorney at Law P.O. Box 248 Burley, Idaho 83318 wkf@pmt.org</p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>
<p>John Homan Garrick Baxter Meghan Carter Deputy Attorneys General Idaho Department of Water Resources P.O. Box 83720 Boise, Idaho 83720-0098 john.homan@idwr.idaho.gov Garrick.baxter@idwr.idaho.gov Meghan.carter@idwr.idaho.gov</p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>

James Cefalo
Water Master
900 N. Skyline Dr., Ste A
Idaho Falls, Idaho 83402
james.cefalo@idwr.idaho.gov

- ☐ U.S. Mail/Postage Prepaid
- ☐ Facsimile
- ☐ Overnight Mail
- ☐ Hand Delivery
- ☒ E-mail

Exhibit A

Application for Drilling Permit

Form 235-1
09/2010

RECEIVED

JUL 08 2013

DEPARTMENT OF
WATER RESOURCES

Drilling Permit No.

Drilling Permit I.D. Tag No.

Water Right Permit No.

Injection Permit No.

869326

D0020824

State of Idaho
Department of Water Resources
APPLICATION FOR DRILLING PERMIT
(FOR THE CONSTRUCTION OF A WELL)

1. Property Owner (please print): Aberdeen-Springfield Canal Company

2. Current Mailing Address: P.O. Box 857

City: Aberdeen State: ID Zip Code: 83210-0857 Telephone: (208) 397-4192

3. Proposed Well Location: Twp. 5 South, Rge. 31 East, Sec. 20, SE 1/4 SE 1/4 NE 1/4

Gov't Lot No. County Bingham Lat. 42d58m30.47s N Long. 112d50m53.5s W

Street Address of Well Location approx. 1530 N Powerline Rd.

Give at least name of road + Distance to Nearest Road or Landmark

Lot, block and subdivision

4. Proposed Use of Well: (Note: Any well drilled for a Public Water Supply requires prior DEQ approval.)

☐ DOMESTIC (42-111a): The use of water for homes, organization camps, public campgrounds, livestock 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.

☐ DOMESTIC (42-111b): Any other use if the diversion rate does not exceed 0.04 cfs (18 gpm) and a diversion volume of 2500 gpd.

NON-DOMESTIC: ☐ Irrigation ☐ Municipal ☐ Industrial ☐ Public Water Supply

☐ Commercial

☒ Other Recovery (IC 42-228)

(Describe)

☐ INJECTION

☐ MONITORING: A well bore schematic and map is required. No. of proposed wells: _____

5. Well Construction Information:

A. ☒ New well ☐ Modify ☐ Deepening ☐ Replace Previous Well # _____

B. Proposed Casing Diameter 24" Proposed Maximum Depth 150'

C. Anticipated bottom hole temperature:

☒ 85°F or less
(Cold Water Well)

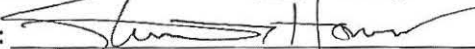
☐ 85°F to 212°F
(Low Temp. Geo. Well)

☐ 212°F or more
(Geothermal Well)

6. Construction Start Date: July 1, 2013

7. Drilling Company Name: Vollmer Well Drilling Driller's Lic. No. 383

NOTE: The actual well driller must be identified prior to drilling.

8. Applicant's Signature:  Date: June 14, 2013

Title: General Manager

Address (if different than owner): _____

City: _____ State: _____ Zip Code: _____ Telephone: _____



Aberdeen-Springfield Canal Company

144 South Main

PO BOX 857

Aberdeen, ID 83210

www.ascanal.org

Tel (208) 397-4192 Fax (208) 397-4510

RECEIVED

JUL 08 2013

DEPARTMENT OF
WATER RESOURCES

June 14, 2013

Idaho Department of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls, ID 83402-1718

Re: Supplementary information for Application for Drilling Permit.

Aberdeen-Springfield Canal Company (ASCC) is responsible for providing irrigation water to nearly 62,000 acres of crop land through 190 miles of surface canals and laterals. Irrigation on the system began in the early 1900's and since the beginning deliveries to shareholders have been measured, as have diversions and spills. For approximately the first 20 years of operation, system transmission loss was estimated at 30-40%. By the late 1920's, transmission loss rates had climbed to 50% and the Company and its shareholders formed the South Bingham Drainage District to begin constructing drains to alleviate system-wide sub-water problems. For the past 25 years, transmission loss rates have increased to 55-60%. Over the last 25 years, ASCC's average annual loss is 184,945 acre-feet/year.

ASCC began measuring the depth-of-surface in local wells in 1942 as part of its effort to locate drain projects. Depth-of-surface measurements were taken monthly by the Company's General Manager, a practice that did not end until 1992. Over the years, a total of 82 wells were measured ranging in depth from 50-225'. The composite hydrology developed from this data clearly (and statistically significantly) showed the positive response in depth-of-surface measurements in all wells (regardless of depth) in response to bringing water into the ASCC system. In 2007, ASCC began development of a GIS-based ground-water response model using this historical well data. That development culminated in a statistically valid model that was used to estimate relative loss rates by reach of canal (Holder, C.B. 2009, *Characterization, Modeling and Mapping of Canal Seepage from Ground Water Elevation Responses*, Master's Thesis, Idaho State University). Soon thereafter, ASCC entered into a Memorandum of Agreement with the Idaho Department of Water Resources to further the calibration of the State's ESPA ground-water model. This memorandum included the placement of pressure-transducer dataloggers in some of the wells that produced ASCC's historical data. ASCC began collecting data in 2010 and started including this data in its model.

Briefly, ASCC's ground-water response model creates a three-dimensional ground-water elevation surface under about 70% of the Company's service area for every day of the year. Modern data is consistent with historical response patterns. This method (Kriging) allows statistically valid determination of ground-water response to ASCC loss for virtually any point on the modeled surface, as well as providing an estimate for the average depth-of-surface of ground-water for that point.

One of ASCC's most problematic laterals is 'J' lateral located north of Aberdeen (Figure 1). 'J' lateral is a sub-system of the Company's Highline canal and stretches approximately 2.3 miles with an average fall of 0.013% (8 inches per mile). This lateral not only experiences loss rates above 65%, its low flow rate is conducive to the growth of Flowering Rush, one of ASCC's most problematic aquatic weeds. The result of the high loss rates and low flow rates is difficulty delivering sufficient water to serve the acres attached to 'J' lateral, particularly the approximately 320 acres served from the end of the lateral.

ASCC proposes to construct a recovery well, as authorized by IC 42-228, at the terminal end of 'J' lateral to supplement delivery to approximately 320 acres served by ASCC Head Gates J-2-2a, J-2-3, J-2-4, J-2-6, and J-2-8. ASCC's ground-water surface model shows a strong response to bringing water into the system at this location (approximately in the NE corner of the SESENE of Section 20, Township 5 South, Range 31 E.B.M.) (Figure 2).

Steven T. Howser,
General Manager

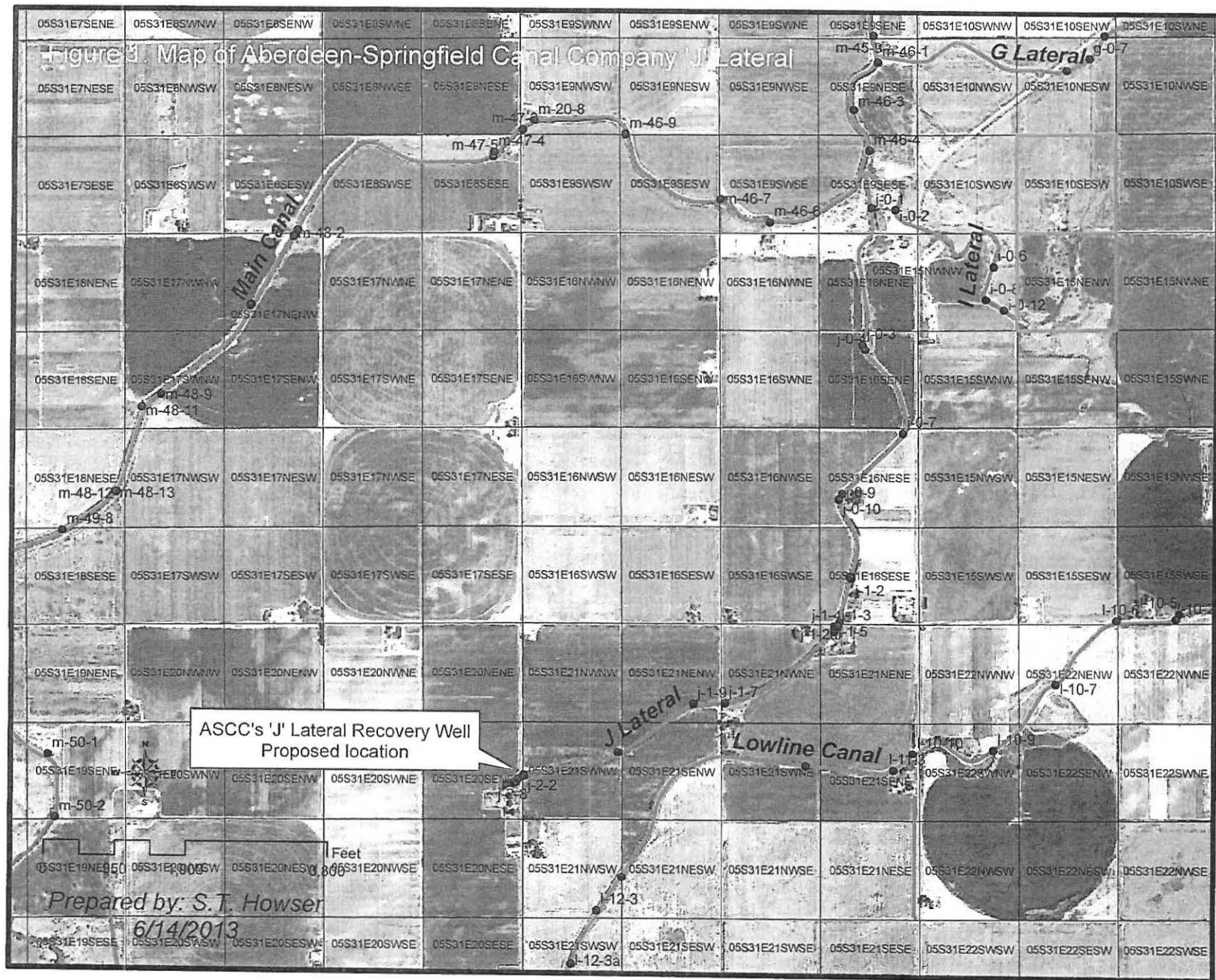


Figure 2.
GROUND WATER LEVEL: J lateral at 42°58'30.47"W 112°50'53.5"N

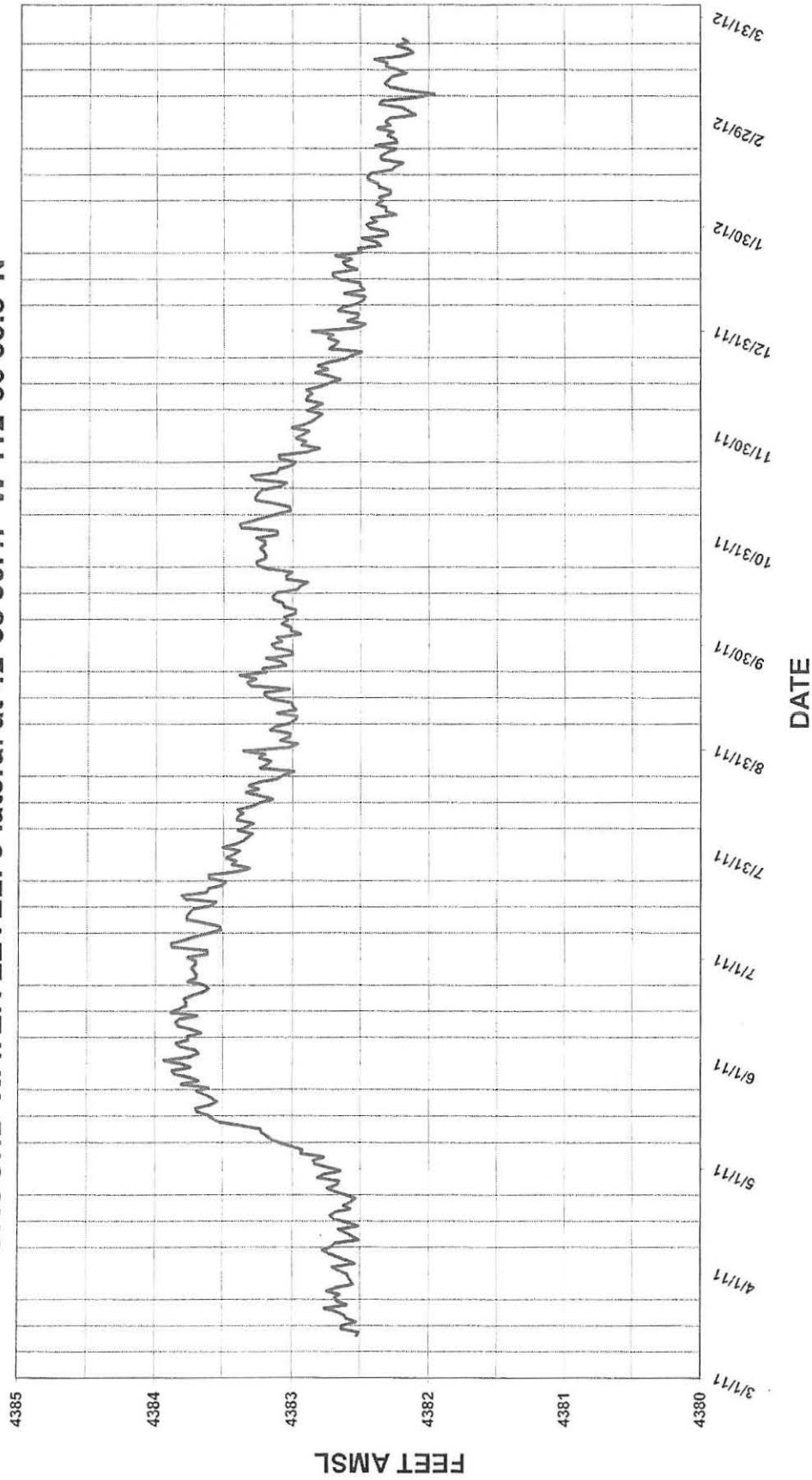


Exhibit B

Drilling Permit No. 869329

Drilling Permit No.: 869326
Receipt No.: C097460

Well ID: 435516
Printed: 10/16/2013

Metal Tag No.: D0020824
Approved Date: 10/16/2013

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Well Drilling Permit**

Owner Type: Owner/Operator
Name: ABERDEEN SPRINGFIELD CANAL CO
Address: PO BOX 857
ABERDEEN, ID, 83210

Phone: (208)397-4192

Water Right No.:

Proposed Well Location: T: 05S, R: 31E, S: 20, QQQ: , QQ: SE, Q: NE
Latitude 42° 58.508' Longitude -112° 50.891'
County: BINGHAM

Street Address of Well Site: 1530 POWERLINE RD
ABERDEEN, ID

Lot: Block:
Subdivision:

Proposed Use of Well: Other

Well Construction Information:

Activity: New Well
Proposed Surface Diameter: 24 Inches
Proposed Depth: 150 Feet
Anticipated Bottom Hole Temperature: 85F and less° F

Proposed Construction Start Date: 2/1/2014
Well Drilling Company: VOLLMER WELL DRILLING (No. 383)

Applicant's Signature: see original application

Date June 14, 2013

Title: _____

Drilling Permit No.: 869326
Receipt No.: C097460

Well ID: 435516
Printed: 10/16/2013

Metal Tag No.: D0020824
Approved Date: 10/16/2013

If approved, this permit authorizes the construction or modification of a well subject to the following conditions:

- 1) Total depth of the well cannot exceed 150 ft below land surface, or extend beneath the confining layer that delineates the shallow aquifer that is responsive to seasonal irrigation deliveries from the 'J' Lateral canal from deeper regional aquifers, whichever is shallower in depth.
- 2) The well will be drilled in February or March when the static water level is at its lowest point as indicated in application for drilling permit attachment Figure 2.
- 3) Perforated casing or well screen cannot extend below the static water level encountered during drilling and cannot extend more two (2) feet above that level.
- 4) Blank casing shall extend below the perforated casing to the total depth of the well.
- 5) The bottom of the casing shall be permanently capped with a 1/4 inch steel welded plate or plugged with cement grout.
- 6) Blank casing will be installed with a minimum two-inch annular space and be sealed with approved seal material over its entire length.
- 7) Static water level in a minimum of three (3) wells within one-half mile of the recovery well will be measured weekly and reported to IDWR and the watermaster annually.
- 8) ASCC will propose for the Department's approval the wells to be monitored for static water level measurements or will drill and install wells to satisfy the monitoring requirements of this permit. Wells designated for monitoring must be completed in, and inform upon, the shallow aquifer from which recovery water will be pumped.
- 9) Diversion of ground water from the recovery well shall cease when the water levels in any well within one-half mile of the recovery well decreases below the static water level of that well as measured on April 1 of each year.
- 10) Water will be diverted from the well from May 1 to October 1 only. ✓
- 11) The well will be equipped with a flow meter approved by the Department.
http://www.idwr.idaho.gov/WaterManagement/WaterMeasurement/PDFs/Approved_flow_meter_list.pdf
- 12) The well will be used for the sole purpose of recovering water that seeps into the shallow aquifer as a result of irrigation water deliveries by Aberdeen Springfield Canal Company in their 'J' Lateral canal as indicated in application for drilling permit attachment Figure 2
- 13) The applicant will be required to measure all water diverted into and out of the 'J' Lateral canal on a daily basis during the irrigation season. At no time can the in-season cumulative ground water diversions from the recovery well exceed the in-season cumulative seepage losses from the 'J' Lateral canal, along its entirety. Seepage losses will be defined as the 24-hour volume of water diverted into the 'J' Lateral canal at the head gate less the combined 24-hour volume of water from all irrigational diversions from the 'J' Lateral canal.

Drilling Permit No.: 869326
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- 14) The applicant is required to compile an annual report summarizing diversion records into and out of the 'J' Lateral canal, estimated seepage losses from the 'J' Lateral canal, ground water levels in the monitoring well(s), ground water level model predictions, and ground water diversion records from the recovery well. The report should summarize all monitoring data and confirm that annual ground water diversions did not exceed annual estimated seepage losses and that ground water surface elevations in the monitoring well(s) were never below preseason baseline conditions when ground water diversion from the recovery well was occurring. A copy of the report shall be provided to the Department by December 31 following the end of every irrigation season.
- 15) This drilling permit is valid from February 1, 2014 through March 31, 2014 for completion of the well unless an extension has been granted.
- 16) 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 the 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.
- 17) The well shall be constructed by a driller currently licensed in the State of Idaho who must maintain a copy of the drilling permit and the well ID tag at the drilling site.
- 18) Approval of this drilling permit does not authorize trespass on the land of another party.
- 19) This permit does not constitute other local, county, state, or federal approvals which may be required for construction of a well.
- 20) This drilling permit does not represent a right to divert and use the water of the State of Idaho. If the well being drilled is associated with approved water right(s) use of the well must comply with conditions of said water right(s).
- 21) If a bottom hole temperature of 85°F (29.44 Degrees C) or greater is encountered, well construction shall cease and the well driller shall contact the Department immediately.
- 22) If the well is in an area known to have Low Temperature Geothermal water, bottom hole temperature must be measured and recorded on the Driller's Log, and reported on the Well Driller's Report.
- 23) Idaho Code, S 55-2201 - 55-2210 requires the applicant and/or his contractors to contact "Digline" (DigLine is a one-call center for utility notification) not less than 2 working days prior to the start of any excavation for this project. The "DigLine" Number for your area is 1-800-342-1585.
- 24) Please be advised that this drilling permit should be considered and treated as a preliminary permit. If you are in disagreement with this preliminary permit you have fourteen (14) days of the service date of this permit to petition the Idaho Department of Water Resources for reconsideration, pursuant to Section 67-5243, Idaho Code.
- 25) The stainless steel I. D. tag must be securely and permanently attached to the well casing by the Driller upon completion of the well, and prior to removing the drill rig from the drill site and must remain permanently attached above ground level for the life of the well. The well tag shall be attached by welding at least 3 sides or using four (4) stainless steel, closed-end pop rivets.

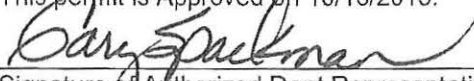
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Metal Tag No.: D0020824
Approved Date: 10/16/2013

- 26) Any well being replaced by a new well shall be properly abandoned by the well driller prior to removing the drilling equipment, unless otherwise authorized by the department.

This permit is Approved on 10/16/2013.


Signature of Authorized Dept Representative

10/16/2013
Title