

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES


The Idaho Department of Water Resources ("Department") has examined this application for temporary approval to use water under the provisions of Idaho Code § 42-202A and has determined that:

- ☐ A. The application for temporary approval should be denied because \_\_\_\_\_
- ☒ B. The application for temporary approval should be approved, since
1. The temporary approval can be properly administered.
  2. Other water sources are not readily available.
  3. The approval is in the public interest.
  4. The approval will not injure known public values associated with the water source or any known water rights.
  5. If the temporary approval is within a water district, the Department has sought and considered the recommendations of the watermaster.

This application is therefore hereby:

- ☐ A. DENIED
- ☒ B. APPROVED, subject to the following conditions:
1. Diversion and use of water under this approval is subject to all valid existing water rights.
  2. The applicant assumes all risk of the use of the water under this approval.
  3. This approval authorizes a maximum diversion volume of 4.7 AF and a maximum rate of diversion of 0.94 cfs.
  4. This approval does not grant a right-of-way across the land of another.
  5. The Department may cancel or reduce the rate of flow or volume authorized by this approval. For example, the Department may cancel or reduce this approval if it concludes the water use is injuring other water rights or adversely affecting fish, wildlife or other public values.
  6. The applicant shall not divert water when downstream minimum flow water rights are not being satisfied.
  7. This approval does not create a continuing right to use water.
  8. A temporary approval for ground water recharge or prevention of flood damage shall be an opportunistic use of surplus water and shall not interfere with the filling of surface water reservoirs.
  9. For a temporary approval authorizing ground water recharge or ground water or surface water remediation, the applicant shall measure and record the weekly quantity of water diverted and report the diversion data to the Department upon request.
  10. Water intakes should be screened to prevent entrainment or impingement of fish or other aquatic life. The maximum screen mesh size should be 0.25 inches; approach velocities should not exceed 0.5 ft/second.
  11. This temporary approval is not an authorization for the described water use to be used as mitigation or credit for any other purpose.
  12. Direct discharge of waste water/slurry is not authorized under this approval.
  13. A copy of the approved permit MUST be with pump when diverting.
  14. Other: \_\_\_\_\_
  15. This approval expires on 8 MAY 2021.

Signed this 25th day of June, 2020.

  
Adam Frederick, Water Right Supervisor



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N MINERAL DR STE 100 • COEUR D ALENE, ID 83815-7763

Phone: (208)762-2800 • Fax: (208)769-2819 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

June 25, 2020

NOBLE EXCAVATING INC  
PO BOX 1592  
LIBBY MT 59923-1592

SIMON WILSON  
PO BOX 1592  
LIBBY MT 59923-1592

RE: Application for Temporary Approval of Water Use: TP-96-120

Dear Applicant(s):

Your application for temporary water appropriation has been approved and is enclosed. The approval authorizes the temporary use of water and does not grant trespass or other activity on public land or on private property.

Please review the **conditions of approval on page 2 of the Application for Temporary Approval form** to understand the limitations associated with the temporary use of water.

This temporary approval **expires on May 08, 2021**. The expiration date cannot be extended under this temporary approval.

If you have any questions, please feel free to contact this office, and any of our agents will be able to assist you. If you require additional information regarding this matter, please call me at (208) 762-2800 or email me at [Luke.Bates@idwr.idaho.gov](mailto:Luke.Bates@idwr.idaho.gov)

Sincerely,

Luke Bates

Water Resource Agent.

Enclosure(s) Copy of Application

## Bates, Luke

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**From:** Chantilly.Higbee@deq.idaho.gov  
**Sent:** Thursday, June 18, 2020 8:14 AM  
**To:** Bates, Luke  
**Subject:** RE: IDWR Temp Approval

Luke,

I have no comment on the application.

Thanks for the opportunity.

Chantilly



**Chantilly Higbee | Water Quality Compliance Officer**  
Idaho Department of Environmental Quality  
2110 Ironwood Parkway  
Coeur d'Alene, Idaho 83814  
Office: (208) 666-4605  
<http://www.deq.idaho.gov/>

*Our mission is to protect human health and the quality of Idaho's air, land, and water.*

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**From:** Bates, Luke [mailto:Luke.Bates@idwr.idaho.gov]  
**Sent:** Thursday, June 18, 2020 7:31 AM  
**To:** Chantilly Higbee; merritt.horsmon@idfg.idaho.gov  
**Subject:** IDWR Temp Approval

Dear Interested Agencies:

The Department of Water Resources is seeking comment and/or recommendation from your agency, regarding an application to temporarily appropriate 4.7 acre-feet of water from Lake Pend Oreille for dust suppression along a haul route, by Simon Wilson (Noble Excavating, Inc.). A copy of the application is attached for your reference.

The applicant did not fill out step 5.c. on his original application, but provided Maximum Volume of the duration of request on a follow-on email (see attached).

Would you please submit your comments no later than **May 25, 2020**. If we do not hear from you by that date, we will assume that no comment from you means you have no objection to, concerns about, or conditions pertaining to the issuance of this permit.

Please send comments to Luke Bates by FAX to 208-762-2819 or by e-mail to [luke.bates@idwr.idaho.gov](mailto:luke.bates@idwr.idaho.gov).

Thank you,  
Luke Bates  
Water Resource Agent  
Idaho Dept. of Water Resources  
Northern Regional Office  
P: (208) 762-2800  
F: (208) 762-2819  
[Luke.bates@idwr.idaho.gov](mailto:Luke.bates@idwr.idaho.gov)

## Bates, Luke

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**From:** Simon Wilson <SWilson@NobleExcavating.com>  
**Sent:** Wednesday, June 17, 2020 9:01 PM  
**To:** Bates, Luke  
**Subject:** Re: IDWR App for Temp Approval of Water Use

Hi Luke, thanks for the follow up conversation this afternoon.

The maximum volume over the duration of the request would be 1,536,000 gallons.

Thanks,  
Simon

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**From:** Bates, Luke <Luke.Bates@idwr.idaho.gov>  
**Sent:** Wednesday, June 17, 2020 5:16:26 PM  
**To:** Simon Wilson <SWilson@NobleExcavating.com>  
**Subject:** IDWR App for Temp Approval of Water Use

Good afternoon Simon,

IDWR has received your application for temporary approval of water use, and I note that question 5.c. has been left blank (Maximum volume over the duration of the request).

This information is required to consider the application complete for processing purposes. I note a Maximum daily volume equal to 4,800 gallons, and a duration of diversion from 6/22/2020 – 5/8/2021. Please reply by email and provide a figure designating Maximum volume over the duration of the request (in gallons). Once I have that, I can process your application.

Please give me a call if you've any questions.

Regards,

Luke Bates  
Water Resource Agent  
Idaho Dept. of Water Resources  
Northern Regional Office  
P: (208) 762-2800  
F: (208) 762-2819  
Luke.bates@idwr.idaho.gov

RECEIVED

ID No. TP96-120

JUN 17 2020

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCESIDWR / ~~NO~~ APPLICATION FOR TEMPORARY APPROVAL OF WATER USEFor a use not intended to become an established water right and not to exceed one (1) year in duration in accordance with [Idaho Code § 42-202A](#).

Name of applicant SIMON WILSON (NOBLE EXCAVATING, INC) Phone (406) 293-1591  
 Mailing address PO BOX 1592 City LIBBY  
 State MT Zip 59923 Email swilson@nobleexcavating.com

1. Source of water LAKE PEND OREILLE tributary to N/A  
 2. Location of point(s) of diversion. If more than two, attach a [Point of Diversion/Place of Use Supplement](#). ☐

TWP	RGE	SEC	GOVT LOT	1/4	1/4	1/4	County	Source	Local name or tag #
57N	2W	26	1		NW	NW	BONNER	LAKE PEND OREILLE	EAST ALGOMA
								48.251293, -116.523966	

3. Location of place of use. If more rows are needed, attach a [Point of Diversion/Place of Use Supplement](#). ☒

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
57N	2W	26																	
																		X	
																		623	

4. Proposed use of water:

a. ☐ Prevention of flood damage ☐ Ground water recharge ☐ Ground water or surface water remediation

☒ Other (Limited to a diverted volume of 5 acre-feet.) Describe: DUST SUPPRESSION ALONG HAUL ROUTE

b. Attach a detailed description of how the proposal will accomplish the intended objective, such as prevention of flood damage.  
DUST SUPPRESSION BY WATER TRUCK WILL BE LIMITED TO DAYS WITH VISIBLE DUST ON HAUL ROUTE.

5. Amount of water. Complete all three: ONLY ENOUGH WATER TO APPLY CONTROL DUST WILL BE APPLIED.

a. Maximum rate of diversion: \_\_\_\_\_ cfs; or 423 gpm.

b. Maximum daily volume: \_\_\_\_\_ AF; or 4800 gallons. (SOME DAYS WILL BE 6 GALLONS USED).

c. Maximum volume over the duration of the request: \_\_\_\_\_ AF; or \_\_\_\_\_ gallons.

6. Duration of diversion: from JUNE 22<sup>ND</sup> (month-day) to MAY 8<sup>TH</sup> (2021) (month-day).

7. Describe proposed diverting works: PORTABLE 4" PUMP FITTED WITH SCREEN ON INTAKE PUMPING INTO WATER TRUCK

8. a. Who owns the property at the requested point of diversion? ALL WORK WITHIN BNSF PROPERTY  
 b. Who owns the facilities that will convey water to the place of use? BNSF CONTRACTOR - NOBLE EXCAVATING, INC.  
 c. Who owns the land to be irrigated or place of use? BNSF

d. If any of the items above is owned by a person or entity other than the applicant, describe the arrangement allowing access and attach written evidence of the arrangement. BNSF CONTRACTOR - NOBLE EXCAVATING, INC. OWNS THE PUMP, HOSES & WATER TRUCK.

9. Attach an 8 1/2" x 11" map identifying the water source, point(s) of diversion, place(s) of use and conveyance system.

I hereby acknowledge that I assume all risk of the diversion and use of the water under this approval. I certify this is a temporary use and is not intended to become an established water right.

Signature of Applicant

Title, if any

Date

06/17/2020

Received by

Date

Time

\$50.00 fee receipted by

#

Date

Watermaster comments received?

Date



STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

Ident. No. \_\_\_\_\_

**Point of Diversion/Place of Use Supplement**

Attachment to: ☐ Application for Permit to Appropriate Water    ☐ Application for Transfer\*\*    ☐ Adjudication Claim  
☐ Application for Amendment of Permit    ☐ Beneficial Use Field Report    ☐ Statutory Claim

**Location of points of diversion (POD):**

New POD?	Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or well/diversion tag #
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										

**Description of place of use (POU):**

- 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.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
57N	02W	25											X						
													GL5						
57N	02W	36						X	X			X							
								GL1	GL2			GL3							



0 0.175 0.35 0.7 Miles

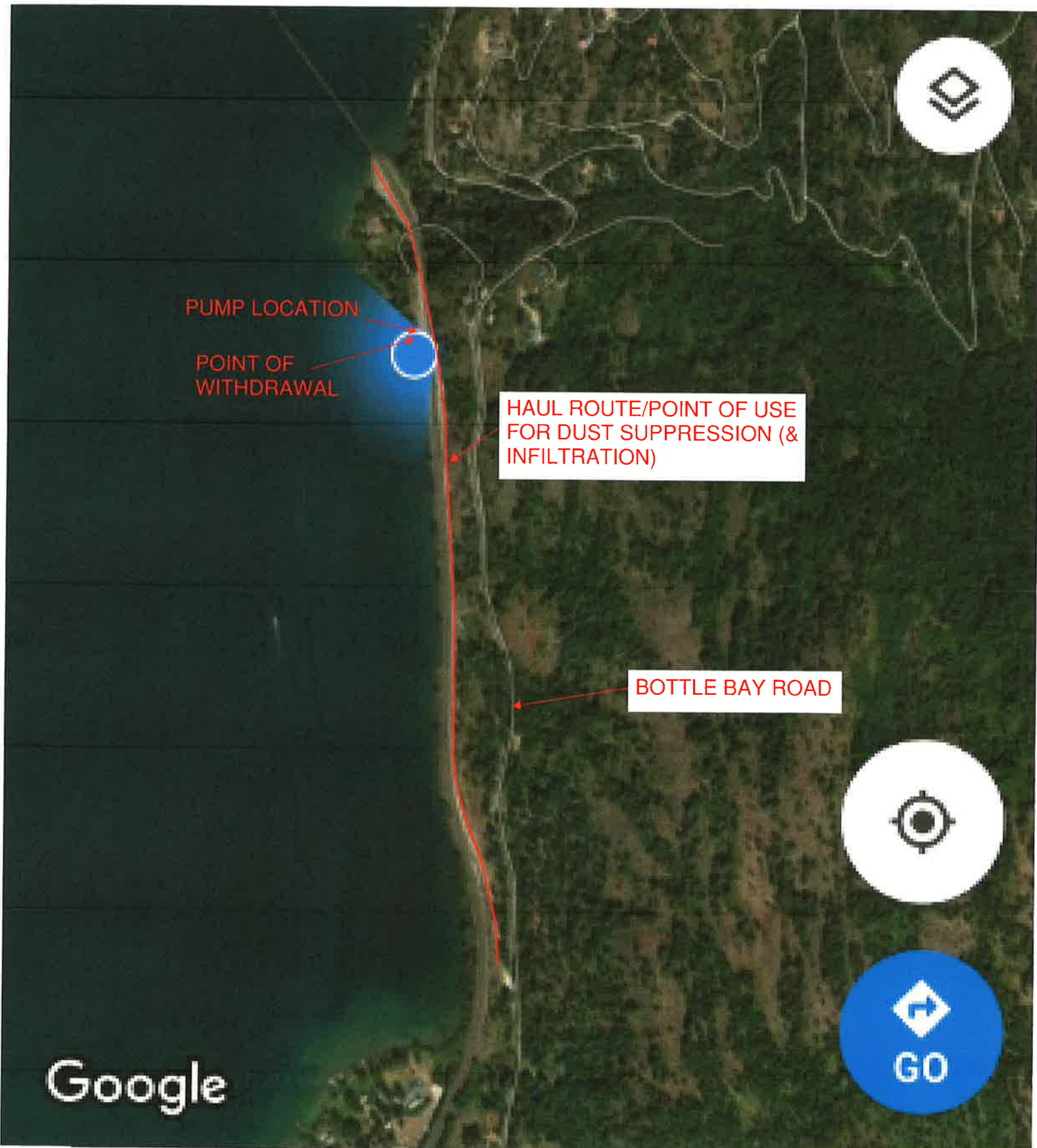
### Legend

- Township/Range
- Sections
- QQ





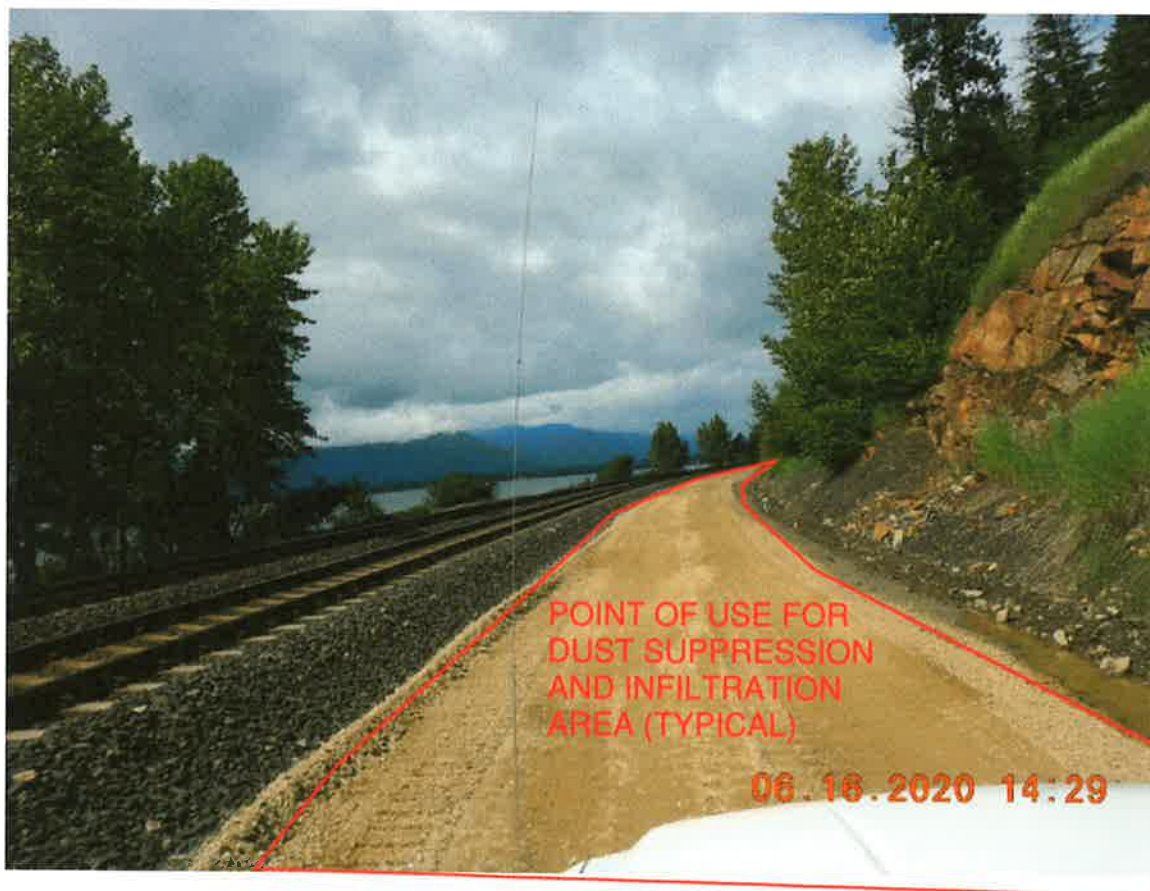
SITE OVERVIEW





**NOBLE EXCAVATING, INC. APPLICATION FOR TEMPORARY APPROVAL OF WATER USE**

**PHOTOS OF KEY WORK AREAS AND EQUIPMENT TO BE USED**



**NOBLE EXCAVATING, INC. APPLICATION FOR TEMPORARY APPROVAL OF WATER USE**

**PHOTOS OF KEY WORK AREAS AND EQUIPMENT TO BE USED**



**WATER TRUCK WITH 2400 GALLON CAPACITY TANK**



**FISH SCREEN AT PUMP INTAKE**