

Beneficial Use Field Exam Summary
Permits 11-7339 and 11-7343

Report prepared by James Cefalo on September 6, 2013

A field exam for the two permits referenced above was conducted by IDWR employee Cindy Bird in May 2007. Ms. Bird was accompanied by Stephany Wuthrich, secretary for Utah Process Agency Inc., the listed owner of the permits at the time of the exam. Ms. Bird found that two springs had been developed on the property for irrigation purposes.

The location of the points of diversion differs from those listed on the permits. The diversion from Spring #1 (associated with Permit 11-7339) is located in the SWSWSW (L4) of Section 30, T09S, R42E. The diversion from Spring #2 (associated with Permit 11-7343) located in the NESWSW (L4) of Section 30, T09S, R42E. Because the two permits share the same priority date, it does not matter which permit is associated with which spring. An Amendment for licensing purposes was filed by the current owner, John Franson, in August 2013 to correct the points of diversion.

Both permits listed domestic, stockwater, and irrigation as proposed uses. Ms. Bird found that irrigation was the only beneficial use developed under the water rights. There was no physical evidence of diversion for domestic or stockwater use.

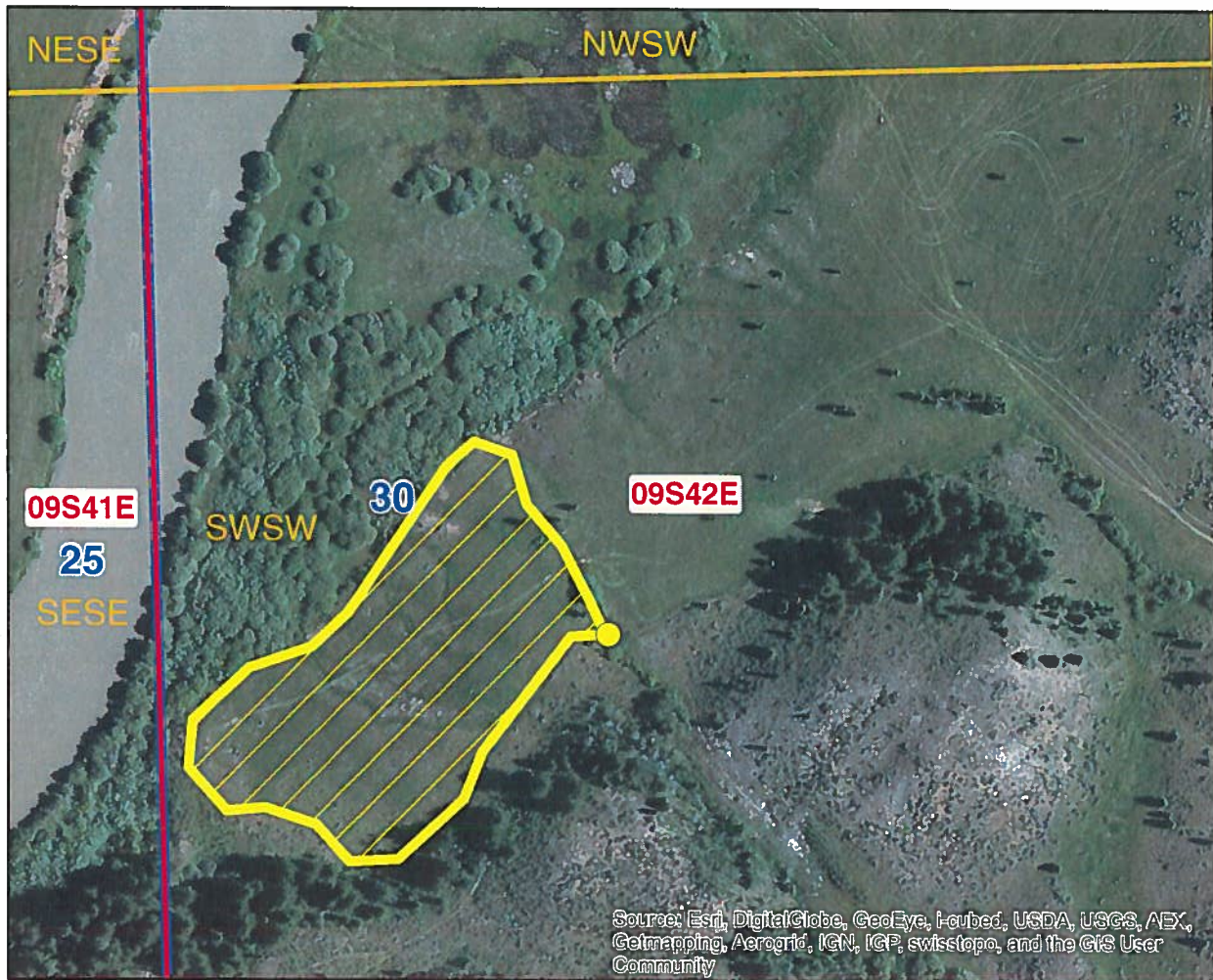
The flow from the springs was limited due to drought conditions. Ms. Bird measured each of the springs by using a tarp to capture all of the spring flow and running the flow through a 4 inch pvc pipe. The field exam report prepared by Ms. Bird is vague. It is unclear where the springs were actually measured and which spring is associated with which measurement. Further, the measurement method employed by Ms. Bird has a high risk of error. Therefore, the measurements conducted by Ms. Bird are unreliable and have been disregarded for purposes of licensing.

Ms. Bird reported the following: "[Spring #1] was measured . . . where it flows into a ditch. There is a small ditch that goes in a southwesterly direction [from Spring #1] below the hill towards the end of the property between sections 30 and 25. The ditch is located in the SWSW of section 30." "The ditch [from Spring #2 (Permit 11-7343)] intersects [the flow from Spring #1] . . ."

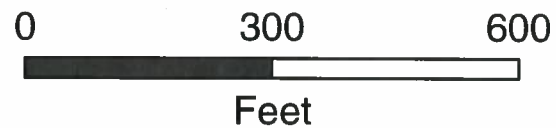
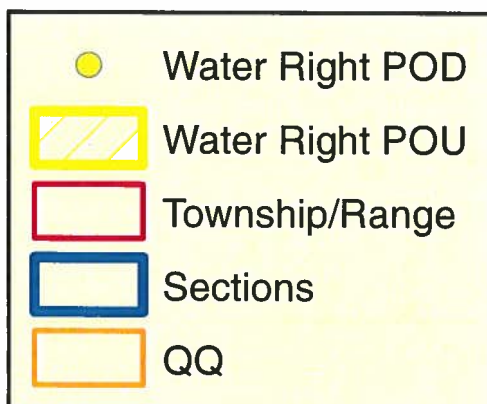
Using aerial photography as a reference (ditches are visible), it appears that water from Spring #1 (Permit 11-7339) can be used to irrigate 2.9 acres. Because of the topography of the land, water from Spring #2 can be used to irrigate 6.8 acres, which includes the 2.9 acres under Permit 11-7339. Water from the Spring #2 ditch flows to the southwest and can flow into the Spring #1 ditch. The condition of the ditches at the time of the exam and aerial photography indicate that the ditches were likely developed in the 1980s. IDWR does not have any conclusive proof that the ditches were not in place in the mid-1980s. Licenses will be issued for both water rights as follows:

Right 11-7339:	Diversion Rate = 0.06 cfs Annual Diversion Volume = 10.2 af (2.9 acres x 3.5 af/acre = 10.2 af) POD = Spring located in the SWSWSW (L4) Sec. 30, T09S, R42E POU = 2.9 acres located in the SWSW (L4) Sec. 30, T09S, R42E
Right 11-7343:	Diversion Rate = 0.14 cfs Annual Diversion Volume = 23.8 af (6.8 acres x 3.5 af/acre = 23.8 af) POD = Spring located in the NESWSW (L4) Sec. 30, T09S, R42E POU = 6.8 acres located in the SWSW (L4) Sec. 30, T09S, R42E
Combined Limits (11-7339 and 11-7343):	Total Irrigated POU = 6.8 acres Combined Diversion Rate = 0.14 cfs Combined Annual Diversion Volume = 23.8 af

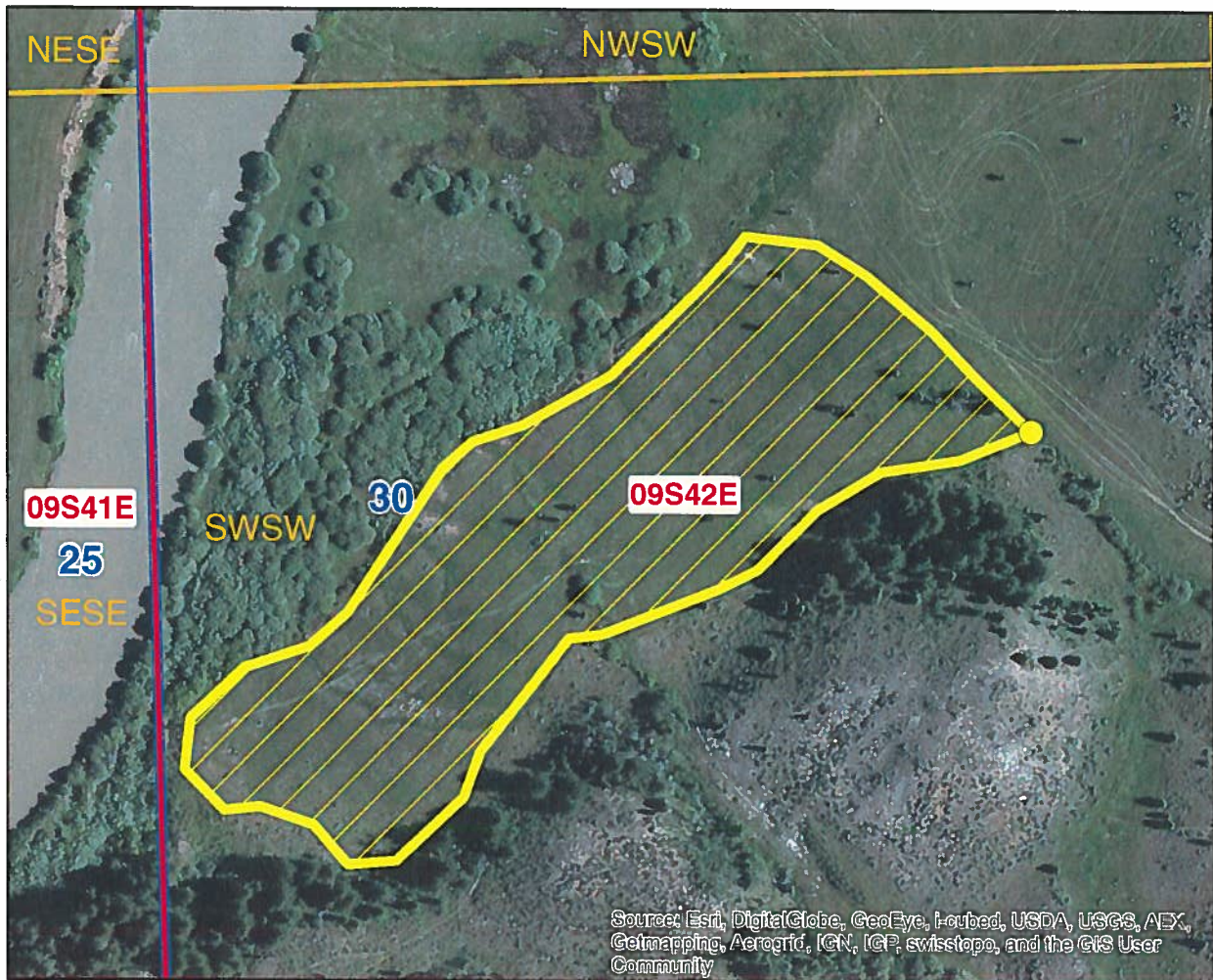
Water Right License 11-7339 (Franson)



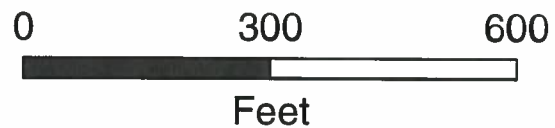
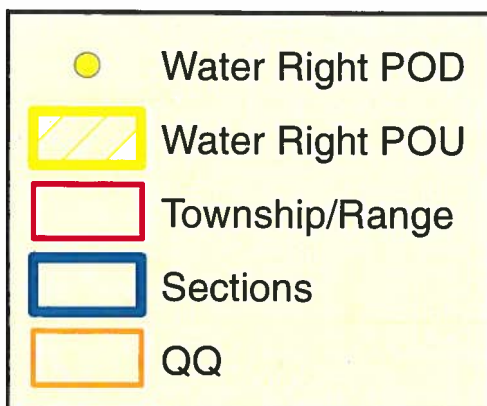
2010 Aerial Photography



Water Right License 11-7343 (Franson)



2010 Aerial Photography



Narrative/remarks/comments for permits: 11-7339 and 11-7343
Prepared by: Cindy Bird, field examiner *CB*
Report date: May 10, 2007

On May 1, 2007 Stephany Wuthrich, secretary of Utah Process Agency, Inc., on a field examination for permits 11-7339 and 11-7343, accompanied me. Stephany met with me first in the Soda Springs office to discuss some issues on these permits. I have spent a considerable amount of time trying to explain the permitting process to Stephany and what the consequences are for not putting the water to beneficial use prior to the land being put into the set-aside program (CRP).

We did not have enough time this day to also measure the flows from the springs and Stephany asked if I could come out a different day and make the measurements without her present.

She showed me the two springs under these two permits and the ground where the water was intended to be used. The issue that has occurred with these permits as well as permit 11-4342 was that Gayle Hunt put the land in CRP in 1987 before completing the conditions of the permit but still filed proof in 1989.

Permit: 11-7339:

POD:

The POD listed on the permit is SESW of section 30, T9S, R42E of B.M. No development has occurred in the quarter-quarter.

POU:

Under this permit the applicant applied for domestic, stock and irrigation for 6 house lots: defined as the following: irrigation of 7 acres in section 30: 1 acres in the NESW, 1 acre in the NWSW, 2 acres in the SWSW and 1 acre in the SESW with domestic and stockwater the same as irrigation, all within T9S, R42E of the B.M.

CAPACITY OF THE SPRING:

AREA:

Both spring flows were very small. I tried initially to clean out the ditch a little and to install the ramped flume in the ditch to measure the flow under permit 11-7339 but the attempt failed because the ditch was too small and the flows too low. So I collected the water with a tarp and captured it in a 5-foot long, 4-inch piece of PVC pipe. The water measured from the spring under permit 11-7339 was 2-inches of water in the 4-inch pipe.

$A_p = \pi * r^2$ where $r = 2$ inches or 0.1667 ft Given: A_p is the area of the pipe.

$A_p = \pi * (0.1667 \text{ ft})^2$

$A_p = 0.087266 \text{ ft}^2$

Ratio: area of the water vs area of the pipe

$R = \text{depth of water in the pipe} / \text{depth of pipe}$

$R = 2/4$ or 0.5

$A_w = R * A_p$ Where A_w is the area of water in the pipe.
 $A_w = 0.5 (0.087266 \text{ ft}^2)$
 $A_w = 0.0436 \text{ ft}^2$

VELOCITY:

The velocity was measured using the 5 foot pipe and a stopwatch with three trials to reduce the error of the measurement. The velocity was measured at 0.625 ft/sec.

$$V = 0.625 \text{ ft/s}$$

FLOW: Using the continuous flow equation $Q = VA$

$$Q = V * A$$

$$Q = 0.625 \text{ ft/s} * 0.0436 \text{ ft}^2$$

$$Q = 0.027 \text{ ft}^3/\text{s} \text{ or } 0.03 \text{ cfs.}$$

$$Q = 0.03 \text{ cfs (permit 11-7339)}$$

The spring was measured on May 8th, 2007 where it flows into a ditch. There is a small ditch that goes in a southwesterly direction below the hill towards the end of the property between sections 30 and 25. The ditch is located in the SWSW of section 30. It is approximately 900 feet long. Walking the ditch and scaling it on the 2004 imagery determined the length of the ditch. The water under this spring flows approximately 288 feet in the ditch before flowing out on the ground in a northerly direction.

Head of the spring was GPS'd on May 1st, 2007 and site tag A0012019 was attached to a vertical pipe. The head of the spring was overgrown and no development had been done. Coordinated of the spring are: N42° 36.338' W111° 35.810': GPS filename: 11-7339

Permit 11-7343:

POD:

The ditch intersects the second spring under permit 11-7343 at approximately 495 feet to the west. At which point no water was found to be entering the ditch from the second source. The second spring continued in a northerly direction towards the wetlands and Bear River. The ditch/spring intersection here would require some work to get the water into the ditch.

This spring was GPS'd where it should enter the ditch. Coordinated are: N42° 36.417' W111° 36.117' time 15:24 on 5/8/2007. No site tag was attached. This would put it in the SWSWSW of section 30, T9S, R42E of the Boise Meridian (B.M.). The PODs under the permit was claimed as NWNW of section 31, and the SWSW of section 31 all within T9S, R42E of the B.M. No development has occurred in the NWNW of section 31.

POU:

Under this permit the applicant applied for domestic, stock and irrigation for 7 house lots: defined as the following: irrigation of 7 acres in section 30: 3 acres in the NESW, 3 acres in the SWSW and 1 acre in the SESW with domestic and stockwater the same as irrigation, all within T9S, R42E of the B.M.

Michael Ciscell registered for me two years of landsat imagery: 1986 and 1988. Although the imagery is pixelly in comparison to our 2004 and 2006 imagery it does not appear that the ground under these permits was being irrigated during the development period.

CAPACITY OF THE SPRING:

I used the same method for measuring the water and equations as I did in the previous example:

FLOW:

The depth of water in the pipe was 1.75 inches or 0.1458 ft. and the velocity was measured at 1.36 ft/s.

Therefore: Using the continuous flow equation $Q=V \cdot A$

$$Q = 1.36 \text{ ft/sec} \cdot 0.03817 \text{ ft}^2$$

$$Q = 0.05 \text{ cfs. (permit 11-7343)}$$

Comments by current owner:

Stephany Wuthrich during our visit to the site on May 1st, 2007 stated the following: "my father was a naturalist, he believed in allowing the water to flow out onto the ground."

The only evidence of a conveyance system on the day of the field examination was this ditch. She went on to say "the pipes, a trough and the siphon hoses were all stolen." No police report was ever filed by Stephany or the family.

Stephany also stated during the field examination that she did not understand the issues because "the water would not go to waste because they plan to use it in the future and did not want to loose these permit."

I again tried explaining the permitting process to Stephany. That under the conditions of the permit we could only license the water that had been put the beneficial use prior to it going into CRP and that an undeveloped permit is not protected under the law unless they filed an extension of time on filing proof. She thought that was done automatically when they put the land into CRP. The she proceeded to ask who she needed to contact in order to file the extension of time? I explained that her dad had already filed proof of beneficial use with the Department back in 1989.

IN CONCLUSION:

I think Gayle Hunt intended on developing these permits by subdividing the land with multiple home sites but due to health problems he did not complete the project. Instead he placed the ground into CRP. I don't know if he thought that would protect the permits or not. I **cannot** confirm beneficial use of the water under these permits for the purpose claimed. Therefore, I'm recommending both permits be **voided**.

FIELD EXAM ON: May 1, 2007
PERMIT 11-7339
Prepared by: Cbird

RECEIVED

MAY 22 2009

DEPARTMENT OF
WATER RESOURCES



photo 1534 5/1/07 3:19pm.

Looking in a
southeasterly direction
at the head of the Spring
site tag A00.12019

N42° 36.338'

W111° 35.810'

GPS filename: 117339



ditch.

photo 1535 5/1/07 3:53pm.

Looking in a westerly
direction from the
start of the ditch.



photo 1536

5/1/07 3:53pm

This is approximately 288' down (west) or the beginning of the ditch where the water runs out on the ground.



photo 1538

5/1/2007 3:54pm.

Looking North-easterly at what Steptany stated was irrigated. No ditch or development found.