

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 94-7037

Priority: August 13, 1973 Amount: .04 CFS 1.2 AFA

This is to certify, that JOHN ELDER
1800 74TH AVE. S.E.
EVERETT, WA 98205

has complied with the terms and conditions
of the permit issued pursuant to Application for Permit dated August 13, 1973, and
has submitted proof to the Department of Water Resources on July 13, 1983, that
water has been applied to a beneficial use; an examination by the Department indicates
that the works have a diversion capacity of .04 cfs of water from;

UNNAMED STREAM tributary to ROBINSON CREEK

and that a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>VOLUME</u>
Domestic	01/01 to 12/31	.04 cfs	1.2 afa

LOCATION OF POINT OF DIVERSION(S): NWNE , Sec. 31, Township 48N, Range 1W
Kootenai County

PLACE OF USE: Domestic

TWN RGE SEC

48N 1W 30 SWSE

CONDITIONS/REMARKS:

1. The right to the use of the water hereby confirmed is limited to the amount which can actually be beneficially used and is restricted and appurtenant to the lands or place of use and to the purpose herein described, as provided by the laws of Idaho.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 18th day
of November, 19 87.

RECEIVED

MAR 17 1988

Director

State of Idaho
Department of Water Resources

RECEIVED
OCT 26 1987

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 94-7037

Department of Water Resources
APPROVED

Date of Priority: August 13, 1973

Comes now JOHN ELDER
1800 74TH AVE. S.E.
EVERETT, WA 94203

and represents to the Director of the

Idaho Department of Water Resources:

That he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho No. 94-7037, and requests that the permit be changed as follows:

Source: UNNAMED STREAM

tributary to: ROBINSON CREEK

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>VOLUME</u>
Domestic	01/01 to 12/31	.04 cfs	1.2 afa

LOCATION OF POINT OF DIVERSION(S): NWNE, Sec. 31, Township 48N, Range 1W
Kootenai County

PLACE OF USE: Domestic

TWN RGE SEC

48N 1W 30 SWSE

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk.

Signed at Everett, Wash., this 21 day of Oct., 1987.

MICROFILMED

MAR 17 1988

John M. Elder
(Signature)

State of Idaho
Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 94-7037

FOR DEPARTMENT USE ONLY

Preliminary check by kw Fee = \$20.00 ✓ Received by rg Date 10-27-87
#45400

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, R. Keith Higginson, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 94-7037 with the following;

CONDITIONS/REMARKS:

1. The right to the use of the water hereby confirmed is limited to the amount which can actually be beneficially used and is restricted and appurtenant to the lands or place of use and to the purpose herein described, as provided by the laws of Idaho.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.

Witness my hand this 18th day of November, 1987.

R. Keith Higginson
(Director)

MICROFILMED

MAR 17 1988

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF EXTENDING THE PROOF DUE
DATE IN CONNECTION WITH PERMIT NO. 94-7037
IN THE NAME OF JOHN ELDER

ORDER

WHEREAS, on August 13, 1973, John Elder applied to the Department of Water Resources for a permit to appropriate 0.20 cubic feet per second of water from Robinson Creek tributary of Coeur d'Alene River from a point within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 30, Twp. 48N, Rge. 1W B.M., Kootenai County to be used for domestic and irrigation purposes; and,

WHEREAS, on September 17, 1973, the Department approved said application and issued Permit No. 94-7037 with the condition that proof of construction of works and application of water to beneficial use be submitted to the Department on or before September 1, 1978; and,

WHEREAS, on July 13, 1978, the permit holder submitted a request for an extension of time; and,

WHEREAS, the existence of litigation has been specified as a basis for granting an extension of time in Section 42-204, Idaho Code; and,

WHEREAS, it appears that the permit holder has been prevented from proceeding with the completion of his project due to the pendency of litigation;

IT IS, THEREFORE, HEREBY ORDERED that the time within which to submit proof of beneficial use of water under Permit No. 94-7037 be extended to September 1, 1983.

Dated this 25th day of July, 1978.

L. Glen Saxton
L. GLEN SAXTON

Chief, Operations Bureau

MICROFILMED

Identification No. 94-7037

Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
APPLICATION FOR PERMIT

APPROVED

To Appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

1. Name of applicant John Elder 208 - 334 - 2805
post office address 1800 - 74th Avenue S.E., Everett, Washington
2. Source of water supply Robinson Creek which is a tributary of Coeur d'Alene River
3. a. Location of point of diversion is SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 30 Township 48N
Range 1W B.M. Kootenai County; additional points of diversion if any: _____

- b. If water is not consumed, it will be discharged into _____ at a point in _____ $\frac{1}{4}$
of _____ $\frac{1}{4}$ of Section _____ Township _____ Range _____ B.M. _____
4. Water will be used for the following purposes:
Amount 0.2 for Irrigation purpose from March 15 to Nov. 15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.04 for Domestic purpose from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 0.20 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Pump, motor, and pipeline, with
sprinklers for irrigation.

- b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir
capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use
is 5 years.
b. Estimated construction cost is \$ _____.
8. Description of proposed uses:
a. If water is **not** for irrigation:
(1) Give the place of use of water: SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 30 Township 48N
Range 1W B.M.
(2) Amount of power to be generated: _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be
supplied with domestic water one.
(5) If water is to be used for other purposes describe: _____

94 7037

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

94 7037

TWP.	RANGE	SEC.	NE ¹ / ₄				NW ¹ / ₄				SW ¹ / ₄				SE ¹ / ₄				TOTALS
			NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	
48N	1W	30															10		10

Total number of acres to be irrigated 10

c. Describe any other water rights used for the same purposes as described above.

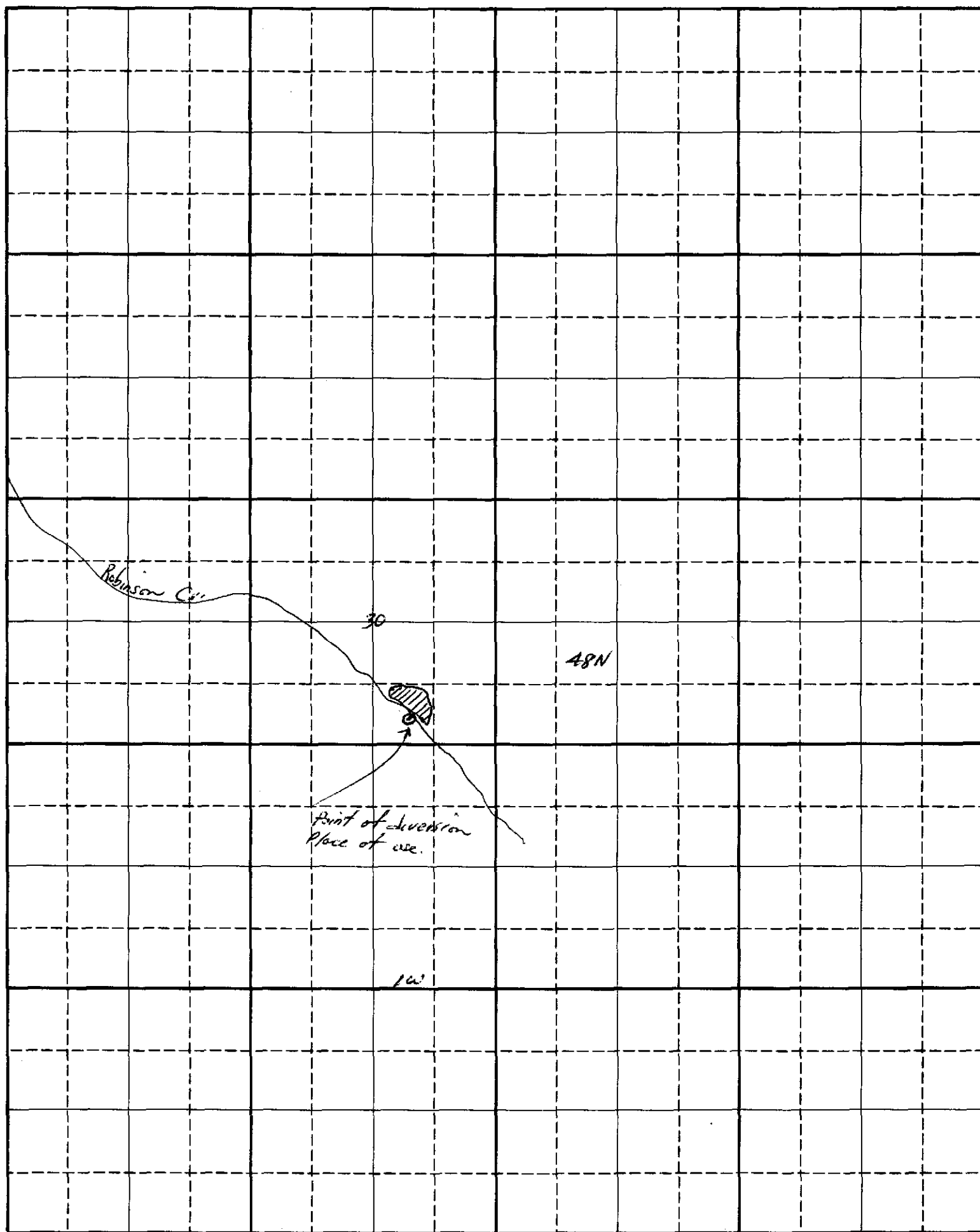
9. a. Who owns the property at the point of diversion Applicant

b. Who owns the land to be irrigated or place of use Applicant

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

10. Remarks

11. 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.

John Elder
(Applicant)

34 7037

94 7037

Received by FE Date 8/13/73 Time 3:30 p.m.

Preliminary check by FE Fee \$ 10.00

Receipted by FE Date 8/13/73 # 11854

Publication prepared by cr Date 8-16-73

Published in Coeur d'Alene Press

Publication dates 8-23 & 8-30-73

Publication approved CP Date 9-10-73

Priority ~~reduced to~~ 8-13-73 Reason _____

Protests filed by: _____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by du ~~305~~

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER ADMINISTRATION

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 94-7037, and said application is hereby APPROVED.

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 September 1, 1978.

c. Other: _____

2. Denial of said application is for the following reasons: _____

Witness my hand this 17 day of September 1973.

R. Karl Higin
Director

DEPARTMENT OF WATER ADMINISTRATION
- STAFF ANALYSIS -

Item	Initial	Date	
(1)	<u>ZE</u>	<u>8/13/73</u>	Application No. <u>94-7037</u>
(2)			☒ Source ☒ Point of Diversion ☒ County ☒ Quantity of Water and Period of Use ☒ Description of Diverting Works ☒ Time required for B/U of water ☒ Place of Use or Acres Irrigated ☒ Map ☒ Signature ☒ Fee
(3)	<u>ZE</u>	<u>8/13/73</u>	In form to receipt
			Send Copies to: ☐ Idaho State Health Department ☐ Idaho Fish and Game Department ☐ Bureau of Land Management
(4)			☐ Request Special Use Permit from U.S.F.S. ☐ Request Easement from B.L.M. ☐ Request Information from Applicant
(5)	<u>ZE</u>	<u>8/13/73</u>	In form for advertising
(6)			Located within Water District No. _____
(7)			Critical groundwater area: yes _____ no _____
(8)			Groundwater levels: ☐ Decline (comment) _____ ☐ Stable (comment) _____ ☐ Increasing (comment) _____
(9)			Comments: _____
(10)	<u>CP</u>	<u>9-10-73</u>	Affidavit of Publication received (date) <u>SEPTEMBER 6, 1973</u>
(11)	<u>CE</u>	<u>8-17-73</u>	Final date for protests <u>SEPTEMBER 10, 1973</u> Protests received: yes _____ no ☒
(12)			Date and Place of hearing _____ Decision reached at hearing _____
(13)	<u>ZE</u>	<u>9/10/73</u>	All requested information received from agencies or applicant yes ☒ no _____
(14)	<u>ZE</u>	<u>9/10/73</u>	Action recommended: ☒ Approve Priority <u>8/13/73</u> ☐ Deny Reason for Reduction _____ ☐ Measuring device required ☐ See attached sheet for additional conditions of approval ☒ No additional conditions for approval
(15)	District <u>Northern</u>	By <u>Paul C. Smith</u>	Date <u>9/10/73</u>

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
LICENSING REPORT

30-DAY

94-7037

Permit No.

1. Measurement Calculations

- a) Field Measurement Calculations (Include theoretical capacities and system capacity)

From Est. CAP AS 0.04 cfs

- b) Volume Calculations for Irrigation:

$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____

$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ _____

$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$ _____

- c) Volume Calculations for Other Uses:

Domestic 1.2 AFA

2. Overlap Review

- a) Other water rights with same place of use: _____

- b) Other water rights with same point of diversion: _____

- c) Analysis:

MICROFILMED

MAR 17 1988

RECOMMENDED AMOUNTS

3.

Permit No.	Priority	Amount	App. Date	Date Proof Submitted	System Capacity
94-7037	8-13-73	0.04 ✓	8-13-73 ✓	7-13-83 ✓	0.04 ✓

4. Permit Holder: John Elder
Address: 1800-74th Ave, S.E. - Everett, Wa. 94203

5. Source: Unnamed Stream ✓ tributary to Robinson Creek ✓

6. Beneficial Use

	Period of Use From To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
<u>DOMESTIC</u>	<u>1-1 12-31</u>	<u>0.04</u>	<u>1.2</u>

Allowable Maximums: 0.04 1.2

7. Point(s) of Diversion:

No.	Govt. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County
			NW	NE	31 ✓	48 N ✓	1 W ✓	Kootenai ✓

8. Place(s) of Use

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
48 N	1 W	30															X		
Total Acres																			

9. Recommended Conditions/Remarks: _____

FILED
MAR 17 1988

10. Recommended Amendments
☒ Change P.D. as reflected above ☐ Add P.D. as reflected above ☐ None
☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ Other _____

11. Examiner's Signature _____ Date _____
Checked in Regional Office by _____ Date _____
Approved in State Office by Ron Howerton Date 6-29-86

State of Idaho
DEPARTMENT OF WATER RESOURCES
OFFICIAL USE FIELD REPORT

94-7037
JOHN ELDER
P/D: SEC 30 TWP 48N RNG 01W
IRRIGATION? ☒

JUL 30 1984

94-7037
Permit No.

CONTACT WITH PERMIT HOLDER

DATE INITIALS Department of Water Resources REMARKS

☐ Appointment letter mailed:

☐ Telephone call made
(List Telephone No. used)

☐ Appointment scheduled for:
(Date, time, location)

EXAMINATION

Date 5/11/84 Accompanied by RGH / Permit Hold. Total Q measured

Source Robinson L. Tributary to Canyon / Wilson River Supp. annubar measurement sheet used? ☒

Unnamed Stream Robinson Creek

If source is surface water, estimate total flow of source

Methods of measurement est Meets permit requirements? yes

Measurement calculations:

One Sum. + lawn

Irrigation of lawn & fruit trees $\approx 1/3$ acre

WELL/DIV. NO.*	HP	MOTOR MAKE	MOTOR SERIAL NO.	PUMP MAKE	PUMP SERIAL NO.	MEASURING DEVICE TYPE	CONDITION OF MEAS. DEVICE	REMARKS

System Description 4" PVC from stream to 3'x4'x3' wooden catch basin with 1" pipe to home. Gravity flow

*Code with map on reverse side. Disregard code if only one.

RECOMMENDED AMOUNTS		Irrigation requirement =		AFA/Acre	
USE		Q (cfs)	V (afa)	FROM	TO
Domestic		0.04	1.2	1-1	12-31
Total		0.04	1.2		

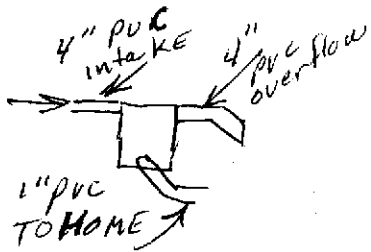
Remarks P.D. 750' South of section line
Since the filing of this permit, one other filing has been made downstream
Since the point of diversion of this permit has been moved to a tributary of
the main stem of the creek, an amendment is necessary, but the ^{adverse} will have
no effect on down other users of this creek

NOT FILMED

MAR 17 1988

SCHEMATIC DIAGRAM OF SYSTEM

(Include distance from pump to measuring device, if applicable.)



Point(s) of diversion: NW 1/4, Sec 31, T 48 N, R 1 W

Place(s) of Use

TWP.	RGE.	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
48N	1W	30															X		

NOT REPRODUCED

Recommended Amendments:

- ☒ Change P.D. as reflected above
☐ Change P.U. as reflected above

- ☐ Add P.D. as reflected above
☐ Add P.U. as reflected above

- ☐ None
☒ Other SOURCE - SEE REMARKS

MAR 17 1988

Examiner's Signature [Signature]
Checked by Bob Haynes
Approved by _____

Date 5/14/84 7/25/84
Date 7/25/84
Date _____



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MAR 17 1988

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Department of Water Resources

IN THE SUPREME COURT OF THE STATE OF IDAHO

JOHN M. ELDER and RAQUEL P.
ELDER, husband and wife,

Plaintiffs/
Respondents

Supreme Court No. 12514

vs.

NORTHWEST TIMBER COMPANY, a
division of PACK RIVER
COMPANY,

Defendant/
Appellant.

BRIEF OF RESPONDENTS

APPEAL FROM THE DISTRICT COURT OF THE
FIRST JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

HONORABLE WATT E. PRATHER, DISTRICT JUDGE, PRESIDING

W. W. Nixon
Nixon, Nixon, Lyons & Bell
Attorneys at Law
P.O. Box 1577
Coeur d'Alene, Idaho 83814

Attorney for Appellant

Scott W. Reed
Attorney at Law
P.O. Box A
Coeur d'Alene, Idaho 83814

Attorney for Respondents

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that John Elder,

1800 - 74th Avenue S.E., Everett, Washington

has on August 13, 1973 submitted Application No. 94-7037

for a permit to appropriate 0.20 cubic feet per second ~~acre feet per annum~~
of water from Robinson Creek

by means of pump, motor, pipeline, and sprinklers

within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 30, T. 48N, R. 1W, B.M., Kootenai County

to be used from Jan. 1 to Dec. 31 for domestic purposes (0.04 cfs); and from
~~xxxx~~ March 15 to Nov. 15 for the irrigation of ten acres (0.2 cfs), both uses
~~for~~

within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 30, T. 48N, R. 1W, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Administration, 401 Front Ave., Coeur d'Alene, Idaho, 83814 on or before September 10, 1973.

R. KEITH HIGGINSON

Director

Published in the Coeur d'Alene Press, Coeur d'Alene, Idaho

on August 23 and August 30, 1973

94 7037