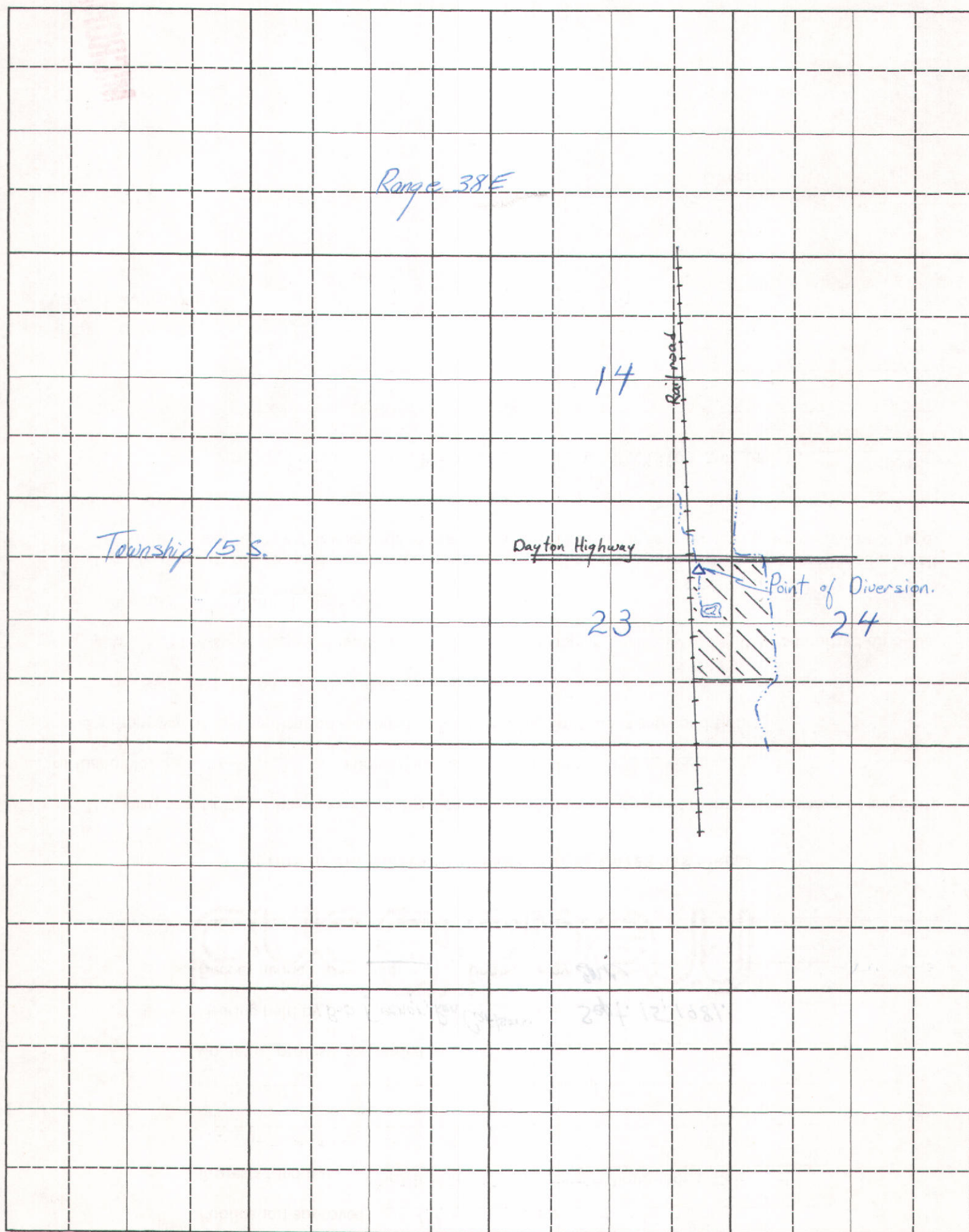


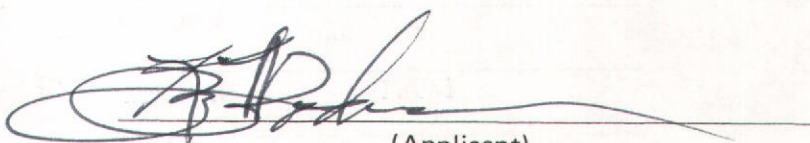


11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



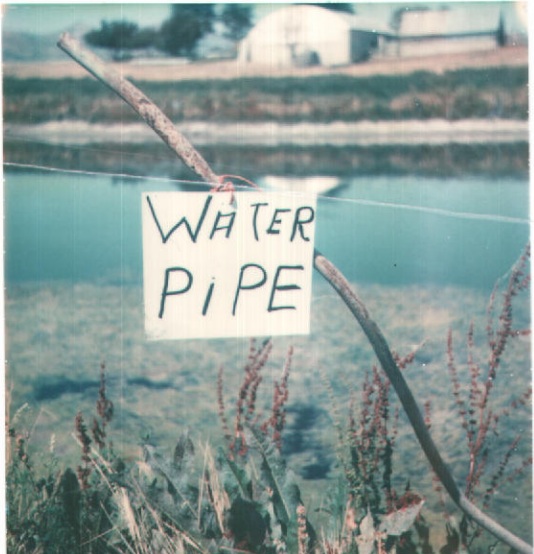
Scale: 2 inches equal 1 mile.

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.


(Applicant)

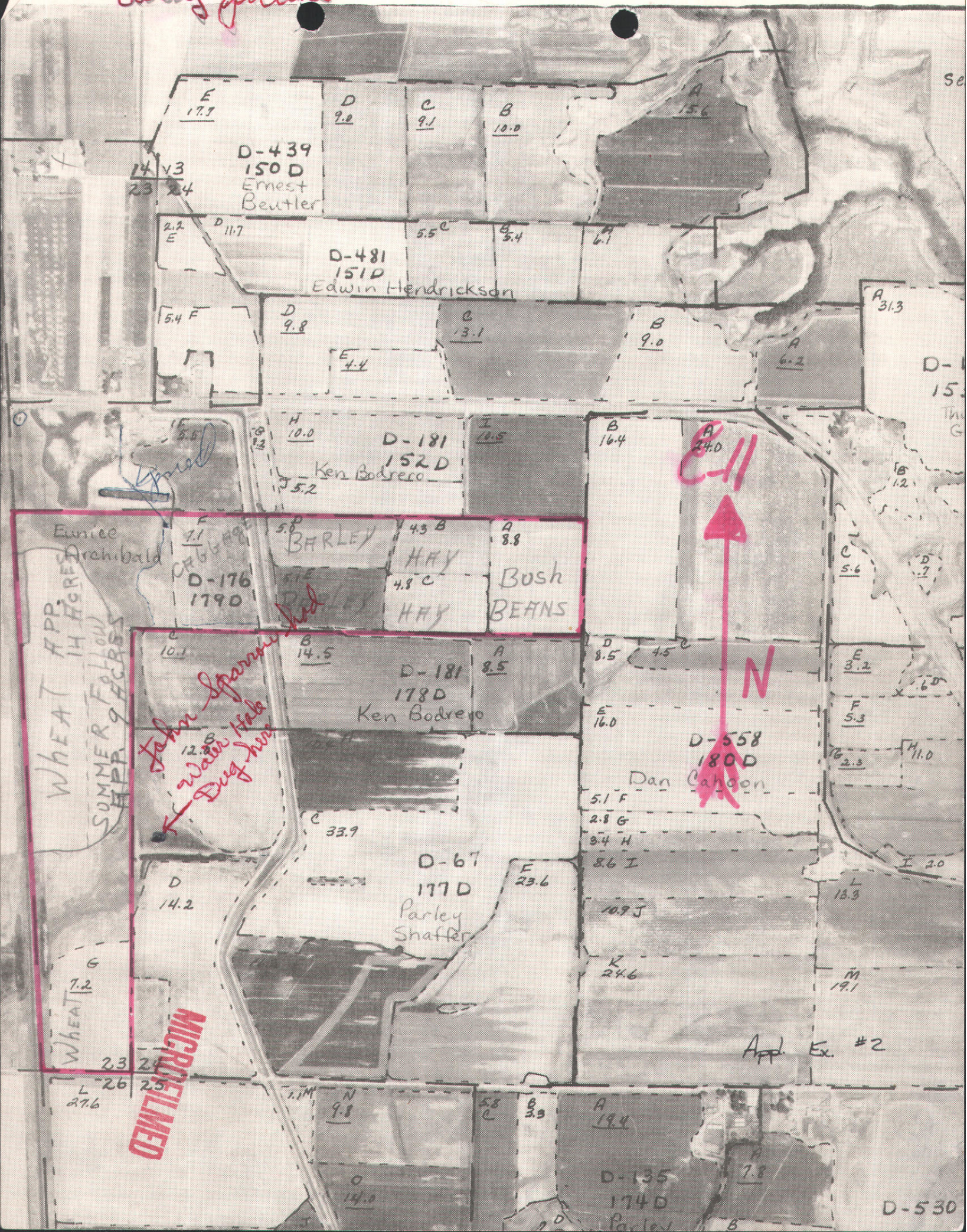
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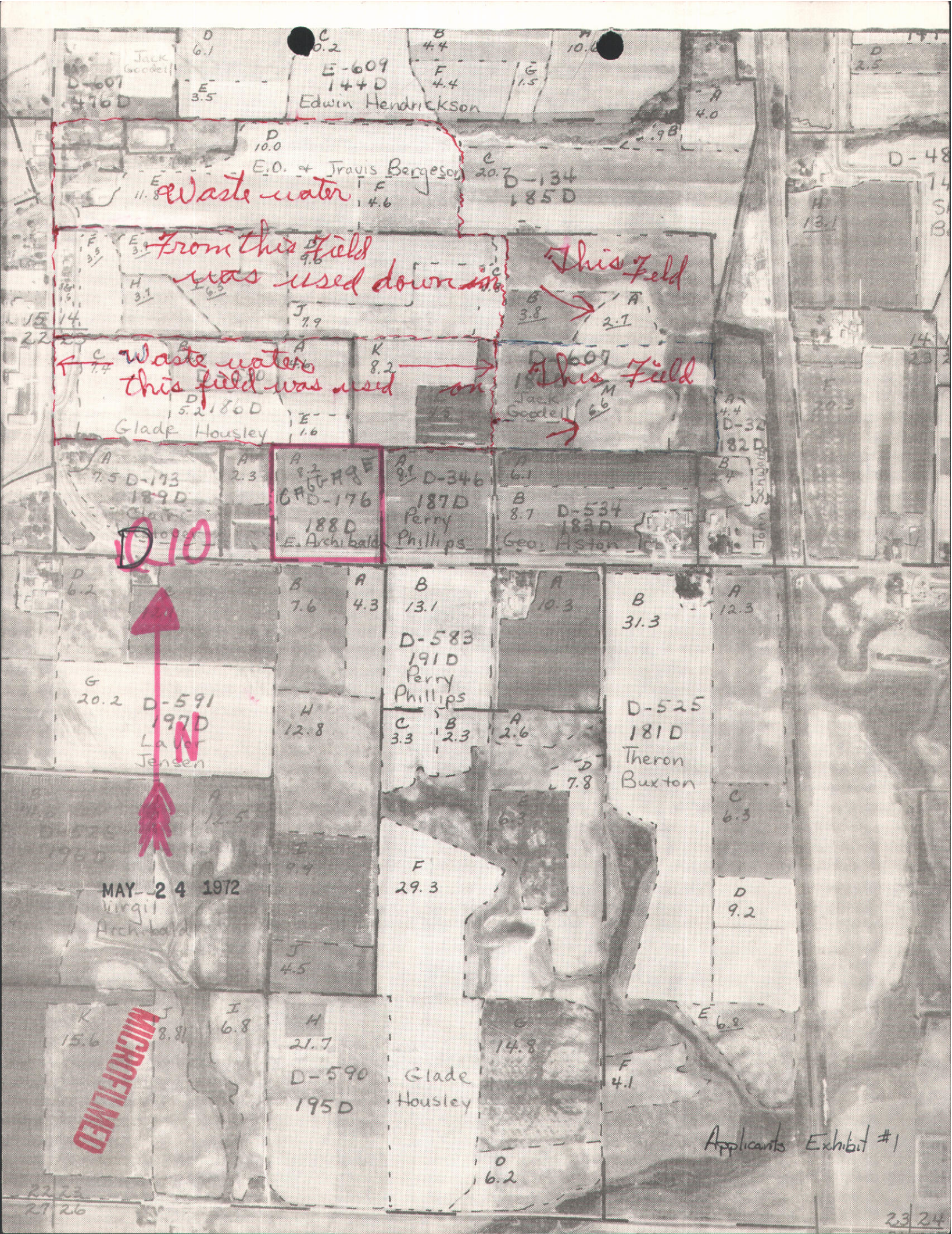


A photograph showing a body of water, possibly a reservoir or lake, with a sign in the foreground. The sign is white with black text that reads "WATER PIPE". The sign is attached to a thin, dark, diagonal pole or branch. In the background, there is a large, light-colored, dome-shaped building, likely a grain elevator, and some other structures on a hill. The foreground is filled with green and reddish-brown vegetation. The overall scene is rural and appears to be a water source or a point of interest related to water management.

WATER
PIPE

Early picture





Waste water

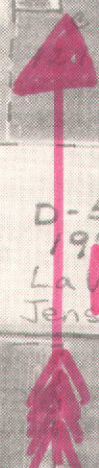
from this field
was used down in

This field

Waste water
this field was used on

This Field

10



MAY 24 1972

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Applicants Exhibit #1

STATE OF IDAHO Department of Water Administration WATER RIGHT LICENSE

20759 13-2154

Nov. 16. 1948

1.85 cfs.

H. WARD NIELSEN

Weston, Idaho

20759 13-2154

November 16, 1948

October 30, 1959

1.85 cfs

Weston-Dayton Slough

Dayton Creek

Irrigation

April 1

Nov. 1

1.85 cfs

784 acre feet or
3.5 af per acre

1.85 cfs

SE NW Sec 36

Franklin

Twp 15S Rge. 38E, D. N.

NE				NW				SW				SE			
NW	SW	SE	NE	NW	SE	NE	NW	SE	NE	NW	SW	SE	NE	NW	SW
2	20	10	40	4	40	35	10	40	40	40	40	40	40	40	361

15S 38E 36

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RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME

OCT 2 To 1988 provide additional time in which to submit proof
of beneficial use for a water right permit

Department of Water Resources

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time in which to complete development of a water right under the provisions of Section 42-204, Idaho Code.

Permit No. 13-7255

Name(s) of Permit Holder: K. L. Bodrero

Post Office Address: P.O. Box 5 Dayton, Idaho 83232

Telephone No. 208-747-3364

Date Proof is Due: March 1 1987 ✓

Describe what work has been completed toward the development of this water right:

(This must be filled out! If no work has been completed, show "none".)

Project is between 90 to 95% done. I have
all under-ground irrigation pipe installed. all
Hand and wheel line sprinkler pipe etc.

Costing spent to date with
out my work app.
\$26,000.00

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

In January 1982 my wife to ill. We have had to
spend almost all winters in Arizona to be closer to her
doctors. I have got to get her to Arizona the first of this month,
coming month, October. She will have to be in Mesa, Arizona all winter

Permit holder(s) request an extension to Sept 1, 1987.

(1 yr. minimum)

(Signature)*

FEE: \$15.00

*IF OTHER THAN PERMIT HOLDER,
POWER OF ATTORNEY MUST BE SUPPLIED.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to March 1, 1988.

Signed this 4th day of November, 19 86

J. Glen Saxton
Chief, Operations Bureau

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL)
OF APPLICATION FOR PERMIT NO. 13-7255 IN)
THE NAME OF K. L. BODRERO)

ORDER ADOPTING AMENDED
PROPOSED MEMORANDUM DECISION
AND ORDER

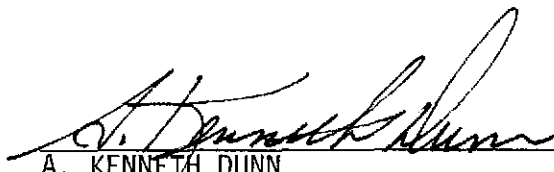
WHEREAS, A. Kenneth Dunn, Director of the Department of Water Resources having issued a copy on the parties thereto on February 10, 1982, an Amended Proposed Memorandum Decision and Order in the above-captioned matter, pursuant to Section 42-5211, Idaho Code; and,

WHEREAS, more than fifteen days have passed since the service of the Amended Proposed Memorandum Decision and Order; and,

WHEREAS, no exceptions to that Amended Proposed Memorandum Decision and Order have been received;

IT IS, THEREFORE, HEREBY ORDERED that said Amended Proposed Memorandum Decision and Order be adopted as the Final Decision and Order and that proof of construction of works and application of water to beneficial use be submitted on or before March 1, 1987.

Dated this 10 day of March, 1982.


A. KENNETH DUNN
Director

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL	)	CERTIFICATE
OF APPLICATION FOR PERMIT NO. 13-7255 IN	)	OF
THE NAME OF K. L. BODRERO	)	MAILING

I HEREBY CERTIFY That on this 12th day of March, 1982, a true and correct copy of the foregoing ORDER ADOPTING AMENDED PROPOSED MEMORANDUM DECISION AND ORDER was mailed, postage prepaid to:

K. L. Bodrero
P. O. Box 5
Dayton, ID 83232

Lowell D. Castleton
WILLIAMS & CASTLETON
P. O. Box 191
Preston, ID 83263

H. Ward Nielsen
Route 1, Box 197
Weston, ID 83286

Wes Nash
Weston, Idaho 83286

Sheldon Beutler
Weston, ID 83286

Travis Bergeson
Dayton, ID 83232



RITA I. FLECK
Sr. Secretary
Idaho Department of Water Resources

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant K. L. Bodrero Phone 747-3443
Post office address P. O. Box 5, Dayton, Idaho 83232
2. Source of water supply unnamed stream which is a tributary of Weston Dayton Slough
3. Location of point of diversion is SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 23 Township 15S
Range 38E B.M. Franklin County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 1.00 (as per telecon 7-27-79 EMC)
~~0.70~~ for Irrigation purposes from 4/1 to 11/1 (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:

1.00 (as per telecon 7-27-79 EMC)
a. ~~0.70~~ cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. portable dam diverts water into open ditch

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____
Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)
c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is five years (minimum 1 year — maximum 5 years).

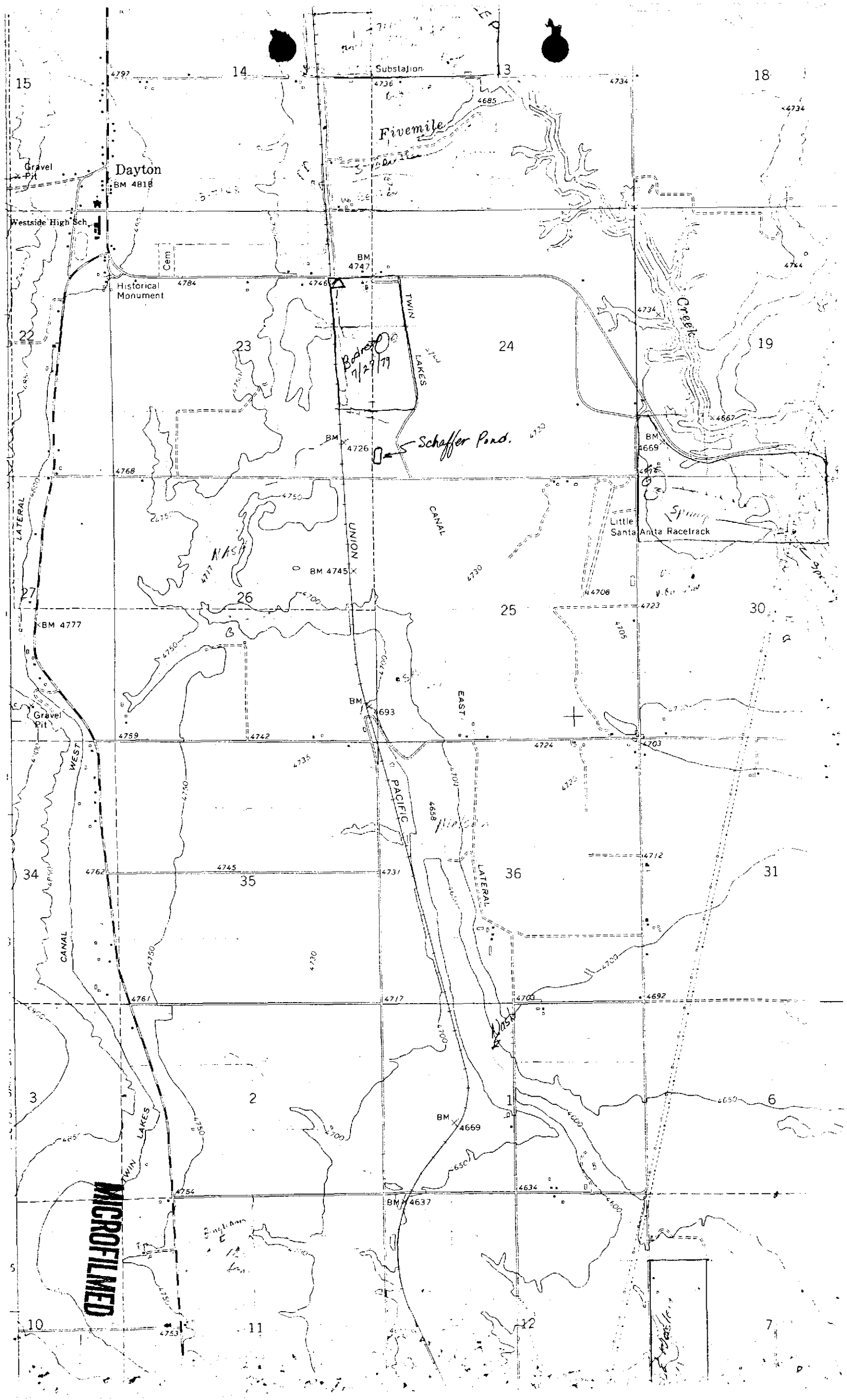
8. Description of proposed uses:

a. If water is not for irrigation:
(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M.
(2) Amount of power to be generated: _____ horsepower under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

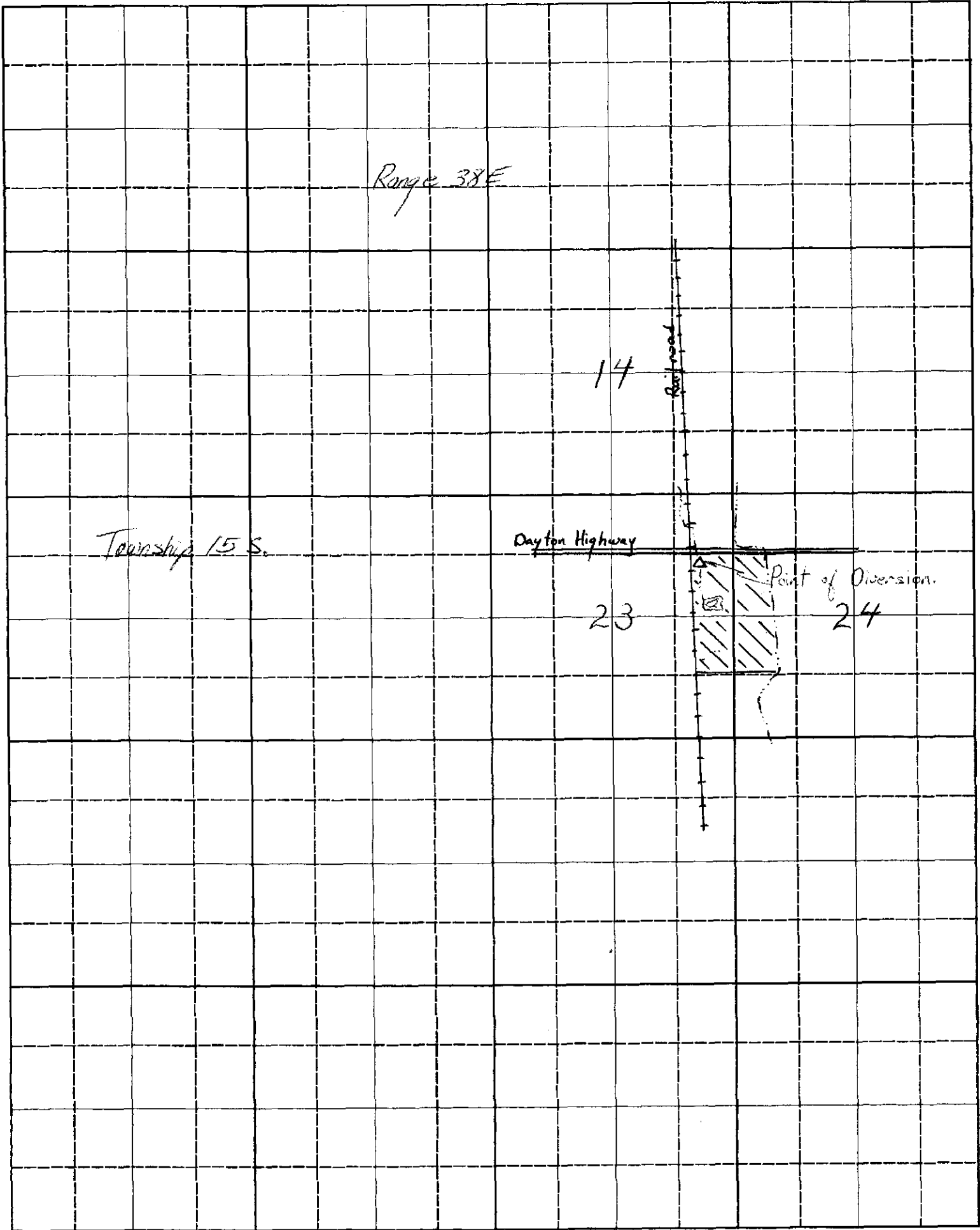
(4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____.

(5) If water is to be used for other purposes describe: _____

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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.

MICROFILMED


(Applicant)

Received by dh Date 7-27-79 Time 3:15 p.m.
Preliminary check by EMC. Fee \$ 35.00
Receipted by dh Date 7-27-79 #13621
Publication prepared by dh Date 8-3-79
Published in Preston Citizen
Publication dates August 9 & 16, 1979
Publication approved ARK Date 9-14-79
Protests filed by: Sheldon Beutler, Travis Bergeson; Wes Nash;
R. Ward Nielsen

Copies of protests forwarded by dh
B. Ficenor
Hearing held by Norm Young, Ren Carlson Date Sept. 15, 1981.
Recommended for approval denial by EMC

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 13-7255, 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 March 1, 19 87.
- 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. Other: _____

Pursuant to Amended Proposed Memorandum Decision and Order.

Witness my hand this 10th day of March, 19 82.


Director

MICROFILMED

BEFORE THE DIRECTOR OF THE DEPARTMENT
OF WATER RESOURCES OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT)	
NO. 13-7255 IN THE NAME OF K. L. BODRERO)	ORDER ISSUING AMENDED
	PROPOSED DECISION

A. Kenneth Dunn, Director of the Department of Water Resources, having reviewed the attached proposed decision prepared by his appointee, Bobby D. Fleenor, who conducted the hearing or who has read the record in this case, hereby approves the same as a proposal for decision pursuant to Idaho Code, § 67-5211 and orders that said proposed decision and a copy of this order be served upon each of the parties to these proceedings who appeared at the hearing on September 15, 1981, of this matter or upon their attorneys in accordance with Rule 7.3 of the Rules of Practice and Procedure of this Department.

Each party to these proceedings who appeared at the hearing is hereby afforded the opportunity, pursuant to Idaho Code §§ 42-1701A and 67-5211, to file exceptions to the attached proposed decision and to present briefs and oral arguments in accordance with the provisions of this order. Exceptions may not be filed and briefs and oral arguments may not be presented by parties who did not appear at the hearing of this case. If no timely and proper exceptions are received, an order by the Director will be entered adopting and issuing the proposed decision as his final decision.

I.
EXCEPTIONS

A. To be considered by the Director, exceptions must:

1. be received by the Director on or before the 15th day following the day of service of this Order and the proposed decision, and
2. specifically identify the portions of the proposed decision to which exceptions are made and specifically state the grounds for those exceptions.

B. Exceptions not in compliance with the above stated requirements will not be considered and will be deemed an acceptance of the proposed decision.

II.
BRIEFS

A. Any briefs in support of exceptions to the proposed decision shall be filed with the Director at the same time that party's exceptions are filed with the Director.

B. Any party desiring to file a brief in response to any exceptions filed by any other party may do so by filing such brief with the Director on or before the 15th day following the last day any exceptions by any other party were served upon that party desiring to respond.

Department of Water Resources
Director

A. KENNETH DUNN

DATED this 10th day of February, 1982.

A. Following the submission of all exceptions and briefs and oral arguments, if they are heard, the Director shall issue a final decision adopting, modifying or rejecting and replacing the proposed decision. Copies of the decision and order shall be served on all parties.

FINAL DECISION

V.

A. All exceptions, briefs, requests for oral arguments and other matters filed with the Director in connection with the proposed decision shall be served on all other parties to these proceedings in accordance with Rule 7.2.

CERTIFICATION OF SERVICE

IV.

C. Oral arguments before the Director on exceptions to the proposal for decision shall be heard at the discretion of the Director, pursuant to Idaho Code § 42-1701A. After all exceptions, briefs and requests for oral arguments have been received, the Director will decide whether to hear oral arguments. If oral arguments are to be heard, the Director will, within a reasonable time, set the case for oral arguments and notify each party of the place, date and hour the oral arguments will take place and of the period of time allocated for the arguments of this case. Unless the Director orders otherwise, all oral arguments shall be heard in Boise, Idaho.

B. If oral arguments have been properly requested by a party filing exceptions, any other party, upon reasonable notice to the Director, shall have the right to present oral arguments in response to the exceptions filed.

A. No oral arguments before the Director on the proposed decision will be held unless specifically requested by a party filing exceptions to the proposed decision and unless that request is filed with the Director concurrently with the filing of that party's exceptions.

ORAL ARGUMENTS

III.

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT	)	AMENDED PROPOSED MEMORANDUM
NO. 13-7255 IN THE NAME OF K. L. BODRERO	)	DECISION AND ORDER
_____	)	

On July 27, 1979, K. L. Bodrero applied to the Department of Water Resources for a permit to appropriate 1.00 cubic feet per second of water from an unnamed stream for the irrigation of 85 acres of land located within the SE1/4NE1/4 and NE1/4SE1/4, Sec. 23 and SW1/4NW1/4 and NW1/4SW1/4, Sec. 24, Twp. 15S, Rge. 38E, Franklin County.

Notice of this application was published in The Preston Citizen, Preston, Idaho on August 9 and 16, 1979. The application was subsequently protested on August 9, 1979 by Sheldon Beutler and Travis Bergeson who stated this water had been used since 1977 when it was developed by their construction of drains that created the unnamed stream. On August 10, 1979, a second protest by Wesley Nash was received indicating he had made use of the water through storage in Nash Reservoir. An additional protest was received from H. Ward Nielsen on September 14, 1979. Mr. Nielsen was advised by departmental letter that the timeliness of his protest could be considered in any action taken by the department.

On October 31, 1979, a conference was held in Preston, Idaho to consider the protests against approval of the application. The applicant was present and represented himself. The protestants, Wesley Nash and Ward Nielsen, were present and represented by Lowell D. Castleton, attorney at law. Protestant Sheldon Beutler was also present and represented himself.

The main issue identified by the protestants for consideration by the Department was that the appropriation of this water by the applicant would result in a reduction of water available to fill existing water rights in the Weston-Dayton Slough.

At the conclusion of the conference, all parties agreed to allow the Department of Water Resources to reach a decision in the matter based upon the information presented at the conference and information obtained from field examination and other pertinent information in the Department's files. It was further requested that a proposed decision be made available for review prior to

MICROFILMED

the final decision being issued.

On June 8, 1981, A. Kenneth Dunn, Director of the Department of Water Resources ordered the issuance of the Proposed Decision prepared by his appointee, Bobby D. Fleenor. No objections to the Proposed Decision were received during the fifteen (15) day appeal period and, therefore, on July 24, 1981, the Director issued an Order Adopting the Proposed Decision.

On August 13, 1981, Attorney Lowell D. Castleton petitioned for a hearing on behalf of protestant Wesley Nash to allow this matter to be brought properly before the District Court pursuant to Idaho Code, Sections 67-5215 and 67-5216. Because no record was created at the conference, the case could not be appealed to the District Court without a rehearing. On September 2, 1981, the Director approved the petition for rehearing and on September 15, 1981, a hearing in the matter was held in Preston, Idaho. Protestants Wesley Nash and H. Ward Nielsen were present and represented by Attorney Lowell D. Castleton. The applicant, K. L. Bodrero, was present and represented himself.

All of the evidence and testimony presented at the hearing was directed at a single issue, i.e. is the water developed by the Bergeson and Beutler drains part of the normal water supply available to the protestants?

Based upon the information submitted at the hearing, the Department's records, and the hearing examiner's understanding of the law, the following Findings of Fact, Conclusions of Law, and Order are hereby proposed:

REVIEW OF EVIDENCE

Exhibits and Testimony Presented at Hearing

Testimony of Record

Applicant's Witnesses

1. K. L. Bodrero (applicant)
2. Gordon Gailey
3. Eunice Archibald
4. Steven Kent
5. Walter Beulter
6. LaVar Jensen
7. Velton Martin

Applicant's Exhibits

1. Applicant's Exhibit #1 - Aerial photo (copy) identified designation D-10.

2. Applicant's Exhibit #2 - Aerial photo (copy) identified by designation E-11.

3. Applicant's Exhibits #3 and 4 - Poloroid photo of a pipe flagged "water pipe."

Protestant's Witnesses

1. Wesley Nash
2. Joel Fletcher (expert witness)

Department's Records Considered

1. Application No. 13-7255
2. Affidavit of publication dated August 29, 1979.
3. Letter protesting approval of application No. 13-7255 filed by Sheldon Beulter and Travis Bergeson on August 9, 1979.
4. Letter protesting approval of Application No. 13-7255, filed by Wesley Nash on August 10, 1979.
5. Letter protesting approval of application No. 13-7255, filed by H. Ward Nielsen on September 14, 1979.
6. Water Right License No. 13-2154 in the name of H. Ward Nielsen.
7. Water Right License No. 13-2113 and map showing points(s) of diversion and place of use - Isaac and David Nash.
8. Permit and decision issuing 13-7110, Travis Bergeson.
9. Stipulation and Agreement dated October 31, 1979.
10. Proposed Decision dated June 8, 1981.
11. Order issuing Proposed Decision dated June 9, 1981.
12. Order adopting Proposed Decision dated August 4, 1981.
13. Petition for rehearing received from Lowell Castleton on August 14, 1981.
14. Order approving petition for rehearing dated September 2, 1981.
15. U.S.G.S. Quadrangle map.

FINDINGS OF FACT

1. K. L. Bodrero owns the land he is requesting to appropriate water for by application for permit No. 13-7255.

2. On September 19, 1975, the Department of Water Resources granted permit No. 13-7110 to Travis Bergeson of Dayton, Idaho to use for irrigation

could be tending to flow to the east.

ORDER

IT IS, THEREFORE, HEREBY ORDERED and Application for Permit No. 13-7255 is hereby APPROVED subject to the following conditions:

1. This permit, be and is subject to all prior existing water rights from the Bergeson Drain.
2. The permit holder shall permanently install and maintain a measuring device as part of the diverting works.
3. Proof of construction of works and application of water to beneficial use shall be submitted on or before the date indicated on the Final Decision and Order.

Dated this 8 day of February, 1982.



BOBBY D. FLEENOR

Hearing Officer

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT)
)
NO. 13-7255 IN THE NAME OF K. L. BODRERO)
)
)
)
)
)

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 10th day of February, 1982, a true and correct copy of the foregoing ORDER ISSING AMENDED PROPOSED DECISION and AMENDED PROPOSED DECISION AND ORDER, were mailed, postage prepaid to:

K. L. Bodrero
P. O. Box 5
Dayton, ID 83232

Lowell D. Castleton
WILLIAMS & CASTLETON
P. O. Box 191
Preston, ID 83263

H. Ward Nelson
Route 1, Box 197
Weston, ID 83286

Wesley Nash
Weston, ID 83286

Sheldon Beutler
Weston, ID 83286

Travis Bergeson
Dayton, ID 83232


RITA I. FLECK
Sr. Secretary
Idaho Department of Water Resources

MICROFILMED

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL
OF APPLICATION FOR PERMIT NO. 13-7255 IN THE
NAME OF K. L. BODRERO

ORDER ADOPTING
PROPOSED MEMORANDUM DECISION
AND ORDER

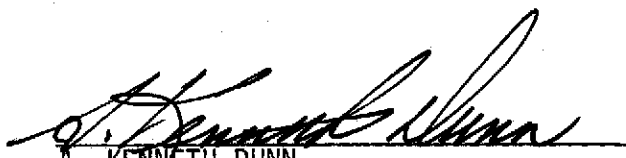
WHEREAS, A. Kenneth Dunn, Director of the Department of Water Resources having issued and served a copy on the parties thereto on June 9, 1981, a Proposed Memorandum Decision and Order in the above-captioned matter, pursuant to Idaho Code, Section 67-5211; and,

WHEREAS, more than fifteen days have passed since the service of the Proposed Memorandum Decision and Order; and,

WHEREAS, no exceptions to that Proposed Memorandum Decision and Order have been received;

IT IS, THEREFORE, HEREBY ORDERED That said Proposed Memorandum Decision and Order be adopted and issued as the Final Decision and Order.

Dated this 24 day of July, 1981.


A. KENNETH DUNN
Director

AKD:jg

MICROFILMED

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL
OF APPLICATION FOR PERMIT NO. 13-7255 IN
THE NAME OF K. L. BODRERO

PROPOSED
MEMORANDUM DECISION AND ORDER

On July 27, 1979, K. L. Bodrero filed the Department of Water Resources Application for Permit No. 13-7255 for a permit to appropriate 1.00 cubic feet per second of water from an unnamed stream tributary to Weston Dayton Slough. The water would be diverted within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 23, Twp. 15S, Rge. 38E B.M., Franklin County and used from April 1 to November 1 for the irrigation of 85 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23; SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 24, Twp. 15S, Rge. 38E B.M.

Notice of this application was published in The Preston Citizen, Preston, Idaho on August 9 and August 16, 1979. The application was subsequently protested on August 9, 1979 by Sheldon Beutler and Travis Bergeson who stated this water had been used since 1977 when it was developed by their construction of drains. On August 10, 1979, a second protest by Wesley Nash was received indicating he had made use of the water through storage in Nash Reservoir. An additional protest was received from H. Ward Nielsen on September 14, 1979. Mr. Nielsen was advised by departmental letter that the timeliness of his protest could be considered in any action taken by the department.

On October 31, 1979, a conference was held in Preston, Idaho to consider the protests against approval of the application. The applicant was present and represented himself. The protestants, Wesley Nash and Ward Nielsen were present and represented by Lowell D. Castleton, Attorney at Law. Protestant Sheldon Beutler was also present and represented himself.

The main issue identified by the protestants for consideration by the Department was that the appropriation of this water by the applicant would result in a reduction of water available to fill existing water rights in the Weston Dayton Slough.

Mr. Bodrero stated that prior to Travis Bergeson's construction of a drain in 1974, water flowing onto his property was insufficient to reach the Weston Dayton Slough after spring runoff had subsided. Now during summer months when flow from the drain is not being used by Sheldon Beutler there is an estimated 1.00 cubic foot per second of water flowing onto his property.

MICROFILMED

Mr. Castleton explained that the department's Memorandum Decision and Order recommending approval of Permit No. 13-7110 found water developed by Bergeson Drain in excess of 0.50 cubic feet per second to be tributary of Weston Dayton Slough. Therefore, the applicant's proposed development would adversely affect the Licensed Right Nos. 13-2113 and 13-2154 held by Wesley Nash and Ward Nielsen, respectively.

Mr. Beutler stated that subsequent to the installation of the drain in 1975, two other drains were constructed between 1976 and 1979.

Mr. Nash stated that after spring runoff in 1976, the maximum flow in the slough at the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 36, Twp. 15S, Rge. 38E B.M. was measured to be 1.5 cubic feet per second to 1.75 cubic feet per second.

At the conclusion of the conference, all parties agreed to allow the Director of the Department of Water Resources to reach a decision in the matter based upon the information obtained during the conference. The hearing officer having reviewed available information and based on his understanding of the law, proposes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

- 1) The applicant is the owner of those lands identified for irrigation on this application.
- 2) The Director of the Department of Water Resources found in his decision on Permit No. 13-7110 that water developed through the installation of Travis Bergeson's drain was not tributary to Weston Dayton Slough and maximum flow of the drain at the time was 0.50 cubic feet per second.
- 3) Water flowing onto the applicant's property, due to installation of two additional drains for Travis Bergeson's property since 1975, was not tributary to Weston Dayton Slough prior to the construction of the drains.

CONCLUSIONS OF LAW

- 1) Water developed by drains on Travis Bergeson's property in excess of 0.50 cubic feet is unappropriated water and is subject to appropriation.
- 2) The applicant is entitled to a permit from the Department of Water Resources.

ORDER

IT IS, THEREFORE, HEREBY ORDERED and Application for Permit No. 13-7255 is hereby APPROVED subject to the following conditions:

- 1) This permit, be and is subject to all prior existing water rights from the Bergeson Drain.

2) The permit holder shall permanently install and maintain a measuring device as part of the diverting works.

3) Proof of construction of works and application of water to beneficial use shall be submitted to the Department on or before June 1, 1986.

Dated this 8 day of June, 1981.


BOBBY D. FLEENOR

Hearing Officer

MICROFILMED

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL
OF APPLICATION FOR PERMIT NO. 13-7255 IN
THE NAME OF K. L. BODRERO

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 4th day of August, 1981, true and correct copies of the foregoing ORDER ADOPTING PROPOSED MEMORANDUM DECISION and ORDER and PROPOSED MEMORANDUM DECISION AND ORDER and Application for Permit No. 13-7255, were mailed, postage prepaid to:

K. L. Bodrero
P.O. Box 5
Dayton, ID 83232

Lowell D. Castleton
WILLIAMS & CASTLETON
P.O. Box 191
Preston, ID 83263

H. Ward Nielsen
Route #1, Box 197
Weston, ID 83286

Wes Nash
Weston,
Idaho 83286

Sheldon Beutler
Weston, ID 83286

Travis Bergeson
Dayton,
Idaho 83232


JAN GROVER
Sr. Water Resource Agent
Idaho Department of Water Resources

MICROFILMED

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL)
OF APPLICATION FOR PERMIT NO. 13-7255 IN)
THE NAME OF K. L. BODRERO)

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 9th day of June, 1981, true and correct copies of the foregoing ORDER ISSUING PROPOSED DECISION and PROPOSED MEMORANDUM DECISION AND ORDER, were mailed, postage prepaid to:

K. L. Bodrero
P. O. Box 5
Dayton, ID 83232

Lowell D. Castleton
WILLIAMS & CASTLETON
P. O. Box 191
Preston, ID 83263

H. Ward Nielsen
Route 1, Box 197
Weston, ID 83286

Wes Nash
Weston,
Idaho 83286

Sheldon Beutler
Weston, ID 83286

Travis Bergeson
Dayton,
Idaho 83232



RITA I. FLECK
Sr. Secretary
Idaho Department of Water Resources

MICROFILMED

BEFORE THE DIRECTOR OF THE DEPARTMENT
OF WATER RESOURCES OF THE
STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST	)	
	)	
APPROVAL OF APPLICATION FOR PERMIT	)	ORDER ISSUING
	)	PROPOSED DECISION
NO. 13-7255 IN THE NAME OF K. L. BODRERO	)	

A. Kenneth Dunn, Director of the Department of Water Resources, having reviewed the attached proposed decision prepared by his appointee, BOBBY D. FLEENOR, who conducted the hearing or who has read the record in this case, hereby approves the same as a proposal for decision pursuant to Idaho Code, § 67-5211 and orders that said proposed decision and a copy of this order be served upon each of the parties to these proceedings who appeared at the hearing on October 31, 1980, of this matter or upon their attorneys in accordance with Rule 7.3 of the Rules of Practice and Procedure of this Department.

Each party to these proceedings who appeared at the hearing is hereby afforded the opportunity, pursuant to Idaho Code §§ 42-1701A and 67-5211, to file exceptions to the attached proposed decision and to present briefs and oral arguments in accordance with the provisions of this order. Exceptions may not be filed and briefs and oral arguments may not be presented by parties who did not appear at the hearing of this case. If no timely and proper exceptions are received, an order by the Director will be entered adopting and issuing the proposed decision as his final decision.

I.
EXCEPTIONS

A. To be considered by the Director, exceptions must:

1. be received by the Director on or before the 15th day following the day of service of this Order and the proposed decision, and
2. specifically identify the portions of the proposed decision to which exceptions are made and specifically state the grounds for those exceptions.

B. Exceptions not in compliance with the above stated requirements will not be considered and will be deemed an acceptance of the proposed decision.

II.
BRIEFS

A. Any briefs in support of exceptions to the proposed decision shall be filed with the Director at the same time that party's exceptions are filed with the Director.

B. Any party desiring to file a brief in response to any exceptions filed by any other party may do so by filing such brief with the Director on or before the 15th day following the last day any exceptions by any other party were served upon that party desiring to respond.

III.
ORAL ARGUMENTS

A. No oral arguments before the Director on the proposed decision will be held unless specifically requested by a party filing exceptions to the proposed decision and unless that request is filed with the Director concurrently with the filing of that party's exceptions.

B. If oral arguments have been properly requested by a party filing exceptions, any other party, upon reasonable notice to the Director, shall have the right to present oral arguments in response to the exceptions filed.

C. Oral arguments before the Director on exceptions to the proposal for decision shall be heard at the discretion of the Director, pursuant to Idaho Code § 42-1701A. After all exceptions, briefs and requests for oral arguments have been received, the Director will decide whether to hear oral arguments. If oral arguments are to be heard, the Director will, within a reasonable time, set the case for oral arguments and notify each party of the place, date and hour the oral arguments will take place and of the period of time allocated for the arguments of this case. Unless the Director orders otherwise, all oral arguments shall be heard in Boise, Idaho.

IV.
CERTIFICATION OF SERVICE

A. All exceptions, briefs, requests for oral arguments and other matters filed with the Director in connection with the proposed decision shall be served on all other parties to these proceedings in accordance with Rule 7.2.

V.
FINAL DECISION

A. Following the submission of all exceptions and briefs and oral arguments, if they are heard, the Director shall issue a final decision adopting, modifying or rejecting and replacing the proposed decision. Copies of the decision and order shall be served on all parties.

DATED this 8 day of June, 1981.


A. KENNETH DUNN
Director
Department of Water Resources

MICROFILMED

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,

ss.

County of Franklin

J. Walter Ross

being duly sworn,

deposes and says:

That he is the Co-Publisher of THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for 2 consecutive weeks in the regular and entire issue of said paper during the period of time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

Aug 9, 1979, and ending
with the issue of Aug 16, 1979.

Fee \$ 2340

Subscribed and sworn to before me this 29th day
of August, 1979.

Kevin D. Allen

Notary Public, Residing at Preston, Idaho

My Commission Expires June 7, 1982.

NOTICE OF APPLICATION
FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

13-7255

BODRERO, K.L.

P.O. BOX 5, DAYTON, ID 83232

Source: UNNAMED STREAM
tributary to WESTON DAYTON
SLOUGH

Date Filed: 07/27/1979

Amount: 1.00 CFS

Diversion Point: SENE Sec. 23 T 15S
R 38E, FRANKLIN CO.

Use: IRRIGATION (1.00 CFS) from
04

01 to 11/01

Place of Use: SENE NESE Sec 23 T
15S R 38E SWNW NWSW Sec 24, T 15S
R 38E FOR 85 ACRES

Diversion Means: PORTABLE DAM,
DITCH

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho 83401 on or before AUGUST 27, 1979.

C. STEPHEN ALLRED

Director

Published 8/9 & 8/16/79.

Legal No. 923-36L — Pub. Aug. 9
and 16, 1979.

RECEIVED

SEP 10 1979

Department of Water Resources
Eastern District Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup, Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

OCTOBER 21, 1987

K.L. BODRERO
P.O. BOX 5
DAYTON ID 83232

RE: Permit No. 13-7255

Dear Permit Holder:

We acknowledge receipt of your statement submitted as proof of beneficial use for the above referenced permit.

Before a license can be issued, a field examination must be made by a representative of this department.

A field examiner will contact you to arrange to examine your system.

If you have any questions regarding the field examination, please contact this office by phone at 525-7161 or in person in the third floor State Office Building, 150 Shoup, Idaho Falls, Idaho.

Sincerely,
s/HAROLD W. JONES
Sr. Resource Agent

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
COMMENCEMENT OF WORKS

Permit No. 13-7255
Name(s) of Permit Holder(s): K. L. BODREDO
Post Office Address: P.O. Box 5
DAYTON, IDAHO 83232 Tel. No. 208-747-3443

- ☒ I hereby certify that construction of diversion works for the above referenced permit began on June 30 - 1982 (date). I understand that I must continue to develop the water system with due diligence to maintain a valid permit.
- ☐ I hereby certify that construction of diverting works on the above referenced project has not yet begun due to the following reason beyond my control*:

*Note: A financing difficulty is not an acceptable reason.

12-29-82
Date

[Signature]
Signature of Permit Holder

K. L. BODERER
P O BOX 5
DAYTON, IDA.
83232



RECEIVED



DEC 30 1982

IDAHO DEPARTMENT OF WATER RESOURCES

Department of Water Resources
STATE WAREHOUSE

BOISE, IDAHO 83720



RECEIVED

AUG 5 1987

Department of Water Resources
Eastern District Office

RECEIVED

AUG 13 1987

STATE OF IDAHO Department of Water Resources

DEPARTMENT OF WATER RESOURCES

For Office Use Only

Fee Received \$100

Date 8-5-87 8/13/87

Receipt # 44425

Receipt by [Signature]

Reviewed by [Signature]

Sent to region 87

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 13-7255

Name(s) of Permit Holder: R. L. Badreno

Post Office Address: P.O. Box 5 Dayton, ID 83232

Telephone No. 1-208-747-3364

Source of Water:

Extent of Use:

Domestic (number of households) Stockwater (number and type of stock)

Irrigation 8.5 (acres) Other/Remark water cattle pasture

Total rate and/or volume for which proof is submitted 1.00 C.F.S. acre-feet

Show the date water was first diverted and beneficially used under this permit: 7-27-79

NOTE Water flooded over my property since the 1st drains were put in, in 1975 and was put to beneficial use at that time

Measuring Device: Required? Yes No Fee enclosed \$ 100.00 (See License Examination Fee Schedule)

Installed? Yes No 3 foot wires installed

Flow Measurement Port: Required? Yes No Installed? Yes No

Person to contact to accompany the Department representative during the field examination:

(Name)

(Telephone Number)

(Address)

The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

August 4 - 1987

Date Signature of Permit Holder (and title, if appropriate)

R. L. Badreno

MICROFILMED

SEP 24 1987

● NOTE

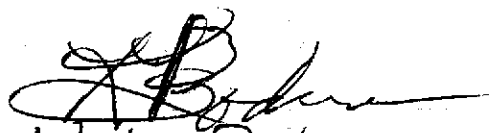
Dayton, 2d.
4-87

The drains where the water comes from varies from season to season and year to year depending on the rain and snow fall. Dry years like this year the ^{water} flow is somewhat less. The water flow like the past 3 to 5 years the flow of water was a little over .90 C.F.S. I have neighbors that will verify this statement.

I am thanking you for the help you have given to me.

MICROFILMED

Sincerely


R. L. Bodrero

P.S. If there is anything I have left out please advise

RECEIVED
AUG 13 1987

November 5, 1986

K. L. Bodrero
P. O. Box 5
Dayton, ID 83232

Dear Mr. Bodrero:

Re: Permit No. 13-7255

Enclosed is a copy of the approved request for extension of time. The time within which to submit proof of beneficial use is extended to March 1, 1988.

Enclosed is a copy of receipt No. 39900.

If you have any questions, please feel free to contact this office.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosures

STAFF REVIEW SHEET - EXTENSION OF TIME

Permit No. 13-7255Reviewed by [signature]Date 11-4-1986

BASIC INFORMATION

y Date stamp received
y Extension received timely
(not prior to 6 month before proof due date or after reinstatement period)
y Fee received and receipted
y Name and signature same as permit
N Address change (indicate on coding sheet)

BASIS FOR EXTENSION REQUEST

y Has adequate work been completed to demonstrate due diligence?
y Has the cost incurred been adequate to demonstrate an intent to complete the project?
N/A Has the permit been involved in litigation?
a. Swan Falls _____ Dismissed from Swan Falls _____
Other _____ Identify _____
b. Is supporting documentation needed to complete the file? _____
Requested _____
c. Calculate the period of delay

Date litigation completed _____

Date litigation began _____

Total period of delay = _____

Present proof due date + _____

NEW PROOF DUE DATE = _____

N/A Is delay by a government agency?Is supporting documentation needed to complete the file? _____
Requested? _____ACTION TAKEN - *Recommend approval based on due diligence for one year.*

Special conditions or remarks:

N/A Reinstatement Date extension received _____ = _____
Proof due date _____ = -
No. of days late _____ = _____
Priority date _____ = +
ADJUSTED PRIORITY DATE _____ = _____

/ Prepare coding sheet
/ Change rolodex card

Dayton, Idaho
962-86

Dear Sirs

The water project I can prob-
ably get it done by July 1987
The problem is now I have to
get my wife to Tempe Ariz.
for treatments (doctor). The
first of next month (October) 86
I want to get everything on this
water project done right. That's
why I need just a few months
more time beyond March 1, 1987

please let me know as soon
as possible if my request will
be granted.

RECEIVED

SEP 29 1986

Department of Water Resources
Eastern District Office

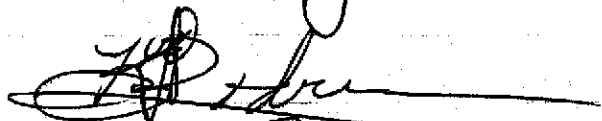
Thanks

RECEIVED

OCT 2 1986

Department of Water Resources

Sincerely


R. L. BODRERO

VERIFIED 01
8-28-85

WATER RIGHT NUMBER 13-7255

OWNER LAST NAME - BODRERO
ADDRESS LINE 1 - P. O. BOX 5
ADDRESS LINE 2 -
ADDRESS LINE 3 -
SOURCE - UNNAMED STREAM
STAGE - PERMIT
TOTAL DIV. VOLUME - .00 AFA TRFR/AMEND -
DIVERSTION POINT - SENE 23 155 38E LOT REDIY -
FROM - 04-01 TD - 11-01 USE - IRRIGATION
USE - IRRIGATION
USE - IRRIGATION
DEGREE NAME -
REMARKS -
NON IRRIG USE -
OTHER RIGHTS FOR SAME USE - SHARES IN TWIN LAKES CANAL
PROOF DUE - 03-01-1987 PERMIT/DENIED - 03-10-1982 PROTESTED - 08-09-1979 HEARING - 09-15-1981 OLD NO. -
PROOF MADE - FLD EXAM - COND. OF APPROVAL - 16 01
DIVERSTION MEANS - PORTABLE DAM, DITCH

FIRST NAME - K. L.
ADDRESS LINE 2 -
CITY - DAYTON
TRIBUTARY OF - WESTON DAYTON SLOUGH
PRIORITY - 07-27-1979 COUNTY - FRANKLIN
DLE/CAREY ACT -
WATER DIST. -
USE DIV. RATE -
PLACE OF USE - TWN 15S RNG 38E SEC 24 TRACT SWNW LOT
PLACE OF USE - TWN 15S RNG 38E SEC 23 TRACT SENE LOT
DATE -
TOTAL ACRES

ORIG OWNER -
STATE - ID ZIP CODE - 83232
TOTAL DIV. RATE - 1.0000 -CFS
RIGHT BASIS -
TOTAL DIV. VOLUME -
CFS USE DIV. VOLUME -
AC 20 TRACT NMSW LOT
AC 22 TRACT NESE LOT
AC 23
85

March 12, 1982

K. L. Bodrero
P. O. Box 5
Dayton, ID 83232

Dear Mr. Bodrero:

Re: Application for Permit No. 13-7255

Enclosed is a copy of the Order Adopting the Proposed Memorandum Decision as the Final Decision and Order of the Director together with a copy of the Proposed Memorandum Decision and Order and a copy of the application.

Be sure to note the special condition requiring you to install and maintain a measuring device at your point of diversion prior to submitting proof of beneficial use of water. We have enclosed a letter describing the different types of measuring devices accepted by this office.

Any person who does not agree with the decision of the department may request a rehearing before the Director within twenty (20) days, or may appeal directly to the district court within thirty (30) days of the date the decision is mailed.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

Enclosures

cc: See certificate of mailing

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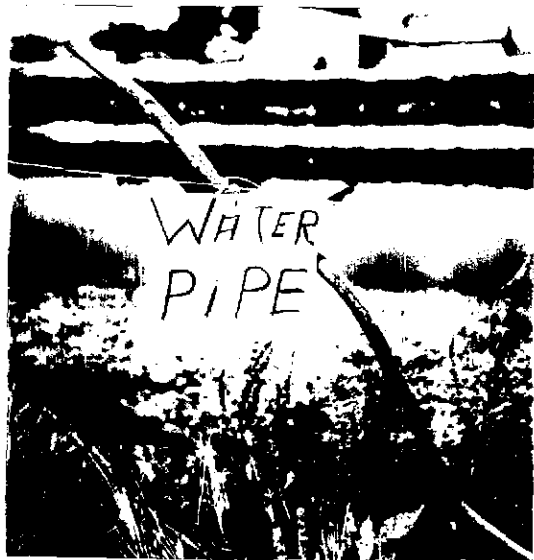
Applicant's Exhibit
No. 3

MICROFILMED

WATER
P. 01

North side of
the pond

Apr 1 Ex #4



South side
of the Pond

Apr 1 Ex #3

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT
NO. 13-7255 IN THE NAME OF K. L. BODRERO

ORDER APPROVING PETITION FOR REHEARING

WHEREAS, on July 27, 1979, K. L. Bodrero applied to the Department of Water Resources for a permit to appropriate 1.00 cubic feet per second of water from an unnamed stream tributary to Weston Dayton Slough to be diverted within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 23, Twp. 15S, Rge. 38E B.M., Franklin County and used from April 1 to November for the irrigation of 85 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23; SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 24; Twp. 15S, Rge. 38E B.M.; and,

WHEREAS, notice of the application was published in The Preston Citizen, Preston, Idaho on August 9 and August 16, 1979 and was protested by Sheldon Beutler and Travis Bergeson on August 9, 1979 and by Wesley Nash on August 10, 1979. On September 14, 1979, the Department received an additional protest from H. Ward Nielsen; and,

WHEREAS, on October 31, 1979, a conference was held in Preston, Idaho to consider these protests; and,

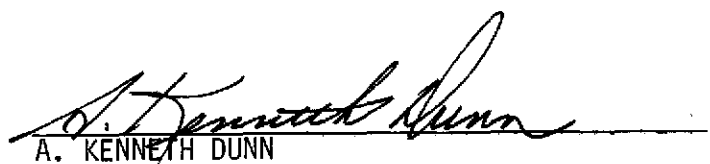
WHEREAS, on August 4, 1981, an Order Adopting the Proposed Memorandum Decision and Order which was issued on June 8, 1981, was sent to the applicant and protestants; and,

WHEREAS, on August 14, 1981, the Department received a Petition for Rehearing from Lowell D. Castleton, attorney for Wesley Nash; and,

WHEREAS, after considering the request, the Department finds that a rehearing should be held;

IT IS, THEREFORE, HEREBY ORDERED that the request for rehearing be APPROVED.

Dated this 2 day of September, 1981.


A. KENNETH DUNN
Director

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 13-7255)

IN THE NAME OF K. L. BODRERO)

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 2nd day of September, 1981, a true and correct copy of the foregoing ORDER APPROVING PETITION FOR REHEARING was mailed postage prepaid to:

K. L. Bodrero
P. O. Box 5
Dayton, ID 83232

Lowell D. Castleton
WILLIAMS & CASTLETON
P. O. Box 191
Preston, ID 83263

H. Ward Nielsen
Route 1, Box 197
Weston, ID 83286

Wesley Nash
Weston,
Idaho 83286

Sheldon Beutler
Weston, ID 83286

Travis Bergeson
Dayton, ID 83232



RITA I. FLECK
Sr. Secretary
Idaho Department of Water Resources

MICROFILMED

JOEL E. FLETCHER

Professor of Hydrology Emeritus
Utah Water Research Laboratory
Utah State University

Dated: February 1980

Date and Place of Birth

January 7, 1911, at Logan, Utah

Degrees

B.S.	Utah State University, Logan, Utah, 1934 (Chemistry)
M.S.	Utah State University, Logan, Utah, 1937 (Soil Chemistry)
	Postgraduate work at University of California, Davis, 1941, 1942; University of California, Berkeley, 1961

Professional Experience

1935	Soil Surveyor, Utah Agricultural Experiment Station, Logan, Utah
1936	Jr. Soil Expert, Soil Conservation Service, Stafford, Arizona
1937-43	Soil Technologist, Soil Conservation Service, Tucson, Arizona, and Davis, California
1943-44	Soil Scientist, and Research Project Supervisor, Soil Conservation Service, Tucson, Arizona
1944-53	Soil Conservationist, and Project Supervisor, Tucson, Arizona
1953-60	Soil Conservationist, Project Supervisor, Agricultural Research Service, Tucson, Arizona
1960-63	Soil Scientist (Physics), Watershed Engineering Center Supervisor, and Investigations Leader in Watershed Engineering, Agricultural Research Service, Boise, Idaho
1958-60	Professor of Agricultural Chemistry and Soils Teaching Courses in Hydrology at the University of Arizona, Tucson, Arizona
1963-76	Professor of Hydrology, Utah State University, Logan, Utah
1976-present	Emeritus Professor of Hydrology, Hydrologist Consultant

Major Research Projects

1936-41	Properties of soil which influence erodibility and infiltration
1936-52	Development of electrical methods for determining soil moisture
1941-42	Infiltration into frozen soils
1952-	Revegetation of desert soils, especially as influenced by moisture conditions

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1952-	Irrigation of cotton and citrus crops as influenced by growth of cover crops
1936-53	Factors affecting infiltration
1943-	Convective rainfall and its properties which influence erosion and runoff
1943-53	Electrical estimation of forage weight
1944-50	Ecology of the Sonoran Desert
1944-53	Structural deterioration of soils due to cultivation as it influences crop production and water use
1948-52	Cheap linings to prevent seepage from field ditches
1948-53	Causes of piping
1953-63	Methods of analysis of watersheds in order to synthesize hydrographs for ungaged drainages
	The effect of rain crusts on erosion, sedimentation, and nitrogen fixation
	Development of structures for measurement of sediment-laden waters
	Methods of sampling soils and vegetation for watershed studies
	Sediment movement on watersheds
1955-57	Use of nitrogen and phosphorus fertilizers on Sonoran desert grasslands
1960-63	Methods of measuring snow on an area
1963-64	Development of field equipment for measuring ultraviolet light
1964-	Development of long path hygrometer
1965-present	Atmospheric water resources of the Wasatch Mountains
1968-70	Theoretical study of infiltration into range and forest soils
1968 only	Study of the effects of packing snow on succeeding crops
1969-70	Carcinogens in the environment
1970-present	RO peaks
	Erosion
	Rainfall Characteristics
	Tracing Underground Water
1971-present	Highway hydrographs
1971-present	Estimating runoff peaks from ungaged watersheds

Consulting Experience

Braun Corporation, Los Angeles, California
 Beckman Corporation, Pasadena, California
 Western Farm Management, Phoenix, Arizona
 Kinjockity Ranch Corporation, Montezuma, Arizona
 John Jacobs Farms Incorporated, Colorado Springs, Colorado and
 Phoenix, Arizona
 Phillips Petroleum, New York, New York
 Grace Chemical Corporation, Memphis, Tennessee
 Reynolds Aluminum, Litchfield Park, Arizona
 Southwest Clinic and Research Institute, Tucson, Arizona
 Arizona Fertilizers, Inc., Phoenix, Arizona
 Utah State University, Logan, Utah

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Consulting Experience (Continued)

Thiokol Chemical Co., Ogden, Utah, and Logan, Utah
Great Salt Lake Minerals-Chemical Corp.
USFS, Ogden
USBLM, Socorro, New Mexico
Utah Power and Light
S.P. Transportation
Utah Division of Water Res.
U.S. Bureau of Reclamation
Colorado State University
UNESCO
Many Others

Scientific and Professional Societies

Soil Science Society of America
International Society of Soil Science
American Geophysical Union
American Association for the Advancement of Science-Fellow
Society of Sigma Xi-President of Arizona Chapter
Phi Lambda Upsilon
American Geological Institute
American Water Resources Association
Western Snow Conference

Patents

Condensers for soil moisture meters
Capacitance forage meters

Individual Authorship

A Quantitative Expression of Erodibility from Conservation Survey
Data. Western Soc. Soil Sci., San Diego, Calif., June 20-22, 1938.

A Preliminary Study of Erodibility of Soils on the Upper Gila Watershed,
Arizona-Laboratory Investigations. Western Soc. Soil Sci., San Diego,
Calif., June 20-22, 1938.

A Dielectric Method for Determining Soil Moisture. Proc. Soil Sci.
Soc. Amer., 4:84-88, 1939.

The Significance of Some Erosion Measurements Made by Use of the
Application of Artificial Rainfall. Western Soc. Soil Sci., Palo
Alto, Calif., June 26-28, 1939.

Methods of Determining Soil Moisture. Presented to Pac. Coast Sec.
Amer. Soc. of Agr. Engrs., Tucson, Arizona, Jan. 1941.

A Study of Some Soil Properties Affecting Relative Infiltration and
Erosion Rates of Some Red Desert Soils. Western Soc. Soil Sci.,
Pasadena, Calif., June 16-18, 1941.

MICROFILMED

Some Properties of Water Solutions that Influence Infiltration.
Trans. Amer. Geophys. Union, 30:548-554. 1949.

Re-vegetation and Reseeding of Arid Lands. Presented to Southwestern Div., AAAS, El Paso, Texas, May 2, 1951.

The Effects of a Soil Conservation Program on the Hydrology and Sediment Production of Southwestern Semi-desert Grassland Areas. Pacific Southwest Interagency Committee on Water Management. Albuquerque, New Mexico, 1956.

Sedimentation Investigations in Walnut Gulch Watershed, Ariz. Joint Sedimentation Workshop, ARS-SCS, Oxford, Miss. 1959.

Characteristics of Precipitation in the Rangelands of the Southwest. Hydrology Workshop of Soil Conservation Service, Forest Service, and Agricultural Research Service. New Orleans, La. 1960.

Summary Remarks to Symposium on Agricultural Problems in Arid and Semi-Arid Environments. Univ. of Wyo. Agr. Exp. Sta. Bul. 367. 1960.

The Effect of Plant Growth on Infiltration in the Southwest. AAAS. Southwestern and Rocky Mountain Division, Alpine, Texas. May 3, 1960. Part of a symposium on the Ecology of Water Yield.

Climate and Soils of the Southwest. Part of Symposium on Arid Land Ecology AAAS Southwestern and Rocky Mtn. Div., Las Vegas, New Mexico, Apr. 27 - May 1, 1958. Released 1961.

Some Properties of Precipitation Associated with Runoff from Walnut Gulch Watershed, Arizona. Presented to American Geophysical Union and International Conference on Meteorological Hydrology. Washington, D.C. April 18, 1961.

The Use of Capacitance to Determine Quantities of Materials in Mixtures. International Symposium on Humidity and Moisture. Washington, D.C. June 1963.

Soil Moisture Measurement in Water Supply Forecasting. Western Snow Conference. April 19, 1966. 5 p.

Atmospheric Water Resources of the Wasatch Front, Utah. Western Snow Conference, Boise, Idaho, 1967, pp. 94-98.

Weather Modification, Sci. 158:276-277, Oct. 1967.

Weather Modification, McGraw-Hill Yearbook Encyclopedia of Sci. and Technology, 1969, pp. 346-348.

Weather Modification. Rain for Sale, Grad. News and Comment Mid-winter, 1970, p. 1.

Precipitation Measurement Symposium. Water Res. Res. 8(1):1972:243.

MICROFILMED

Joint Authorship

A Study of Infiltration Capacities of Soils in the Tucson Area, with H. V. Smith and Elersley W. Stevenson. Western Soc. Soil Sci., San Diego, Calif., June 20-22, 1938.

A Comparison of the Biological, Physical, and Chemical Characteristics of Some Typical Range Soils from Mt. Graham, Arizona, with Wm. P. Martin. Prelimn. Rept. Presented to Western Soc. Soil Sci., San Diego, Calif., June 20-22, 1938.

Some Aspects of Infiltration on Certain Arizona Soils, with H. V. Smith and E. W. Stevenson. Presented to Western Branch Amer. Soc. Agron., Tucson, Arizona, August 31 - Sept. 2, 1938.

Erodibility Investigations on Some Soils of the Upper Gila Watershed, Arizona, with E. L. Beutner. USDA Tech. Bul. 794. 1941.

Soil Moisture Conditions and Phenomena in Frozen Soils, with Alfred B. C. Anderson and N. E. Edlefson. Trans. Amer. Geophys. Union, 356-371. 1942.

USDA Soil Survey Series, No. 13, Series of 1936. Soil Survey of Virgin Area, Utah, with F. O. Youngs, O. F. Bartholomew, D. S. Jennings, LeMoyne Wilson, I. D. Zobell, M. H. Wallace and William Baugh. 1942.

Vertical Zonation of Great Soil Groups on Mt. Graham, Arizona as Correlated with Climate, Vegetation, and Profile Characteristics, with Wm. P. Martin. Ariz. Agr. Exp. Sta. Tech. Bul. 99. 1943.

Some Phenomena in Rainfall-Induced Soil Crusts, with Wm. P. Martin. Proc. Soil Sci. Soc. Oregon 1944-46.

USDA Soil Survey Series 23, Series of 1936. Soil Survey Salt Lake Area, Utah, with D. S. Jennings, M. H. Wallace, LeMoyne Wilson, I. D. Zobell, F. O. Youngs, and O. F. Bartholomew. 1946.

The Problem of Choosing Proper Soils for Seeding Southwest Ranges, with Darwin Anderson. Soil Sci. Soc. Cincinnati, Ohio. 1947.

Some Effects of Algae and Molds in Rain-Crust of Desert Soils, with Wm. P. Martin. Ecology 29:95-100. 1948.

Some Properties of Soils Associated with Piping in Southern Arizona, with Paul H. Carroll. Proc. Soil Sci. Soc. of Amer. 13:545-547. 1948.

Observations on the Nodulation of Leguminous Plants of the Southwest, with Wm. P. Martin, L. N. Gooding, L. P. Hamilton, and Lyman Benson. USDA, SCS, Region 6, Bul. 107. Plant Studies, Series No. 4. 1948.

Infiltration Characteristics of Some "Slick Spot" Areas, with Wm. P. Martin. Amer. Soc. of Agr. Engrs., Salt Lake City, Utah, March 18, 1950.

RECEIVED
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Soil Piping, with Karl Harris. Progressive Agr. in Arizona, 4:2-7. 1952.

Piping, with Karl Harris, H. B. Peterson and V. N. Chandler. Trans. Amer. Geophys. Union 35:258-262. 1954.

Vegetation and Soils of a Small Watershed in Southeastern Ariz., with J. L. Gardner. Presented at AAAS Southwestern Div., Santa Fe, New Mexico. 1955.

A Capacitance Meter for Estimating Forage Weight, with Max E. Robinson. Jour. Range Mgmt. Vol. 9. 1956.

Notes on Plant-Soil Correlation in Desert Grassland, with J. L. Gardner. Presented at AAAS Southwestern and Rocky Mtn. Div., State College, New Mexico, May 2, 1956.

Vegetation Cover as Related to Soils in Desert Grassland, with J. L. Gardner. Presented to AAAS Southwestern and Rocky Mtn. Div., Tucson, Arizona. Apr. 28-30, 1957.

Nitrogen Response of a Semi Desert Grassland Area, with J. L. Gardner. Presented at AAAS Southwestern and Rocky Mtn. Div., Tucson, Ariz., April 28-30, 1957.

Runoffs from Rangelands of the Southwest, with R. V. Keppel. Presented to Rocky Mtn. Div. ASAE, Logan, Utah, Apr. 2-4, 1959.

Some Inter-relations of Plant Cover and Soils in a Desert Grassland Watershed, with J. L. Gardner. Presented to Southwestern and Rocky Mtn. Div. AAAS, Laramie, Wyoming, May 6-7, 1959.

Water in the Southwest, with R. V. Keppel. Soil Conservation 25:54-56. 1959.

Symposium on Water Improvement, with J. A. Schufle, Eds. AAAS. Tucson, Arizona. 1963.

The Role in the Arid West of Watersheds and Forests, Chap. 10, Aridity and Man, with W. G. McGinnies and A. L. McComb. Publ. by AAAS, Tucson, Arizona. 1963.

The Ecology of Groundwater in the Southwest, with Gordon L. Bender, Eds. AAAS and Arizona State University. 1964.

El Papel de los Vertientes Y Las Basques En El Oeste Arido with William G. McGinnies and Andrew L. McComb in El Hambre en las Tierras Aridos. Pub. No. 74 AAAS. 1963.

A Rapid Approximate Method for Estimating Flood Peaks, with Joye J. Davis. Rocky Mountain Sec. Am. Soc. Agricultural Engineers. 7 pages, 23 April, 1966.

MICROFILMED

Brief Abstracts of Some Papers on Seeding Agents, with Jay D. Schiffman. Report to U.S. Bureau of Reclamation from Utah Water Research Laboratory. February 1967.

Watershed Management, with R. H. Burgy and A. L. Sharp. Chapt. 59. Irrigation of Agricultural Land. Agron. Monograph No. 11. American Soc. Agron., Madison, Wisc. 1967. pp. 1089-1104.

Atomic Absorption as an Index of the Silver Concentration in Precipitation, with H. C. Millar. PRWG-30-4, Utah Water Research Laboratory. 1968. pp. 26.

Determination of Silver Using P-Dimethylaminobenzylidene-rhodanine Dissolved in Dimethylformamide as a Chromophore. Reaction Carried Out on Filter Paper, Part I, with H. C. Millar, Utah Water Research Laboratory, PRWG30-5. 1969.

A Theoretical Study of Infiltration into Range and Forest Soils, with Yehia Z. El-Shafei. PRWG-60-1, Utah Water Research Laboratory. 1970.

The Development and Integration of Cold Cloud Seeding Technology for Use in Water Management Systems, with Charles F. Chappell, George W. Reynolds, and William N. McNeill. Interim Report to USBR, Utah Water Research Laboratory. 1971.

Development of Cold Cloud Seeding Technology for Use in Precipitation Management, with Charles F. Chappell, George W. Reynolds, and William N. McNeill. PRWG80-2, Utah Water Research Laboratory. 1971.

Precipitation Characteristics of Summer Storms at High-Elevation Stations in Utah, with Eugene E. Farmer, USDA Forest Service Res. Paper Int. 110, 1971.

Rainfall Intensity-Duration-Frequency Relations for the Wasatch Mountains at Northern Utah, with Eugene E. Farmer, Water Resources Res. 8(1):266-271. 1972.

Forecasting the Level of Great Salt Lake from SCS Snow Survey Data, AWRA, The Great Salt Lake and Utah's Water Resources, pp. 87-96, November 1972.

Some Intra-Storm Characteristics of High-Intensity Rainfall Bursts, with Eugene E. Farmer, from Distribution of Precipitation in Mountainous Area, WMO/OMM No. 326:526-531. 1972.

Snowmelt Peak Flows and Antecedent Precipitation with George W. Reynolds from National Symposium on Watersheds in Transition. Ft. Collins, Colo. 1972.

Isohyetal Maps of Short Duration Rainfall in Utah, PRWG107-1, Utah Water Research Laboratory, Utah State University, Logan, Utah. 1973.

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Isohyetal Maps of Short Duration Rainfall in Utah. Utah Water Research Laboratory, PRWG107-1. 1974.

Highway Erosion Control System--An Evaluation Based on the Universal Soil Loss Equation with Eugene E. Farmer. National Soil Erosion Conference. May 1976. Lafayette, Indiana.

Erosion Control During Highway Construction. Vol. II Manual of Erosion Control Principles and Practices with C. Earl Israelsen, Calvin G. Clyde, Paul E. Packer, Eugene E. Farmer, Eugene K. Israelsen, Frank W. Haws and N. V. Rao. 103 pp. plus Appendix and Maps.

Runoff Estimates for Small Rural Watersheds and Development of a Sound Design Method. Vol. II. Design Manual. With Leon Huber, Frank Haws, and Calvin G. Clyde, Utah Water Research Laboratory, PRWG107-1. 1976.

Environmental Impact of Roosevelt Hot Springs Geothermal Energy Utilization. February 1978.

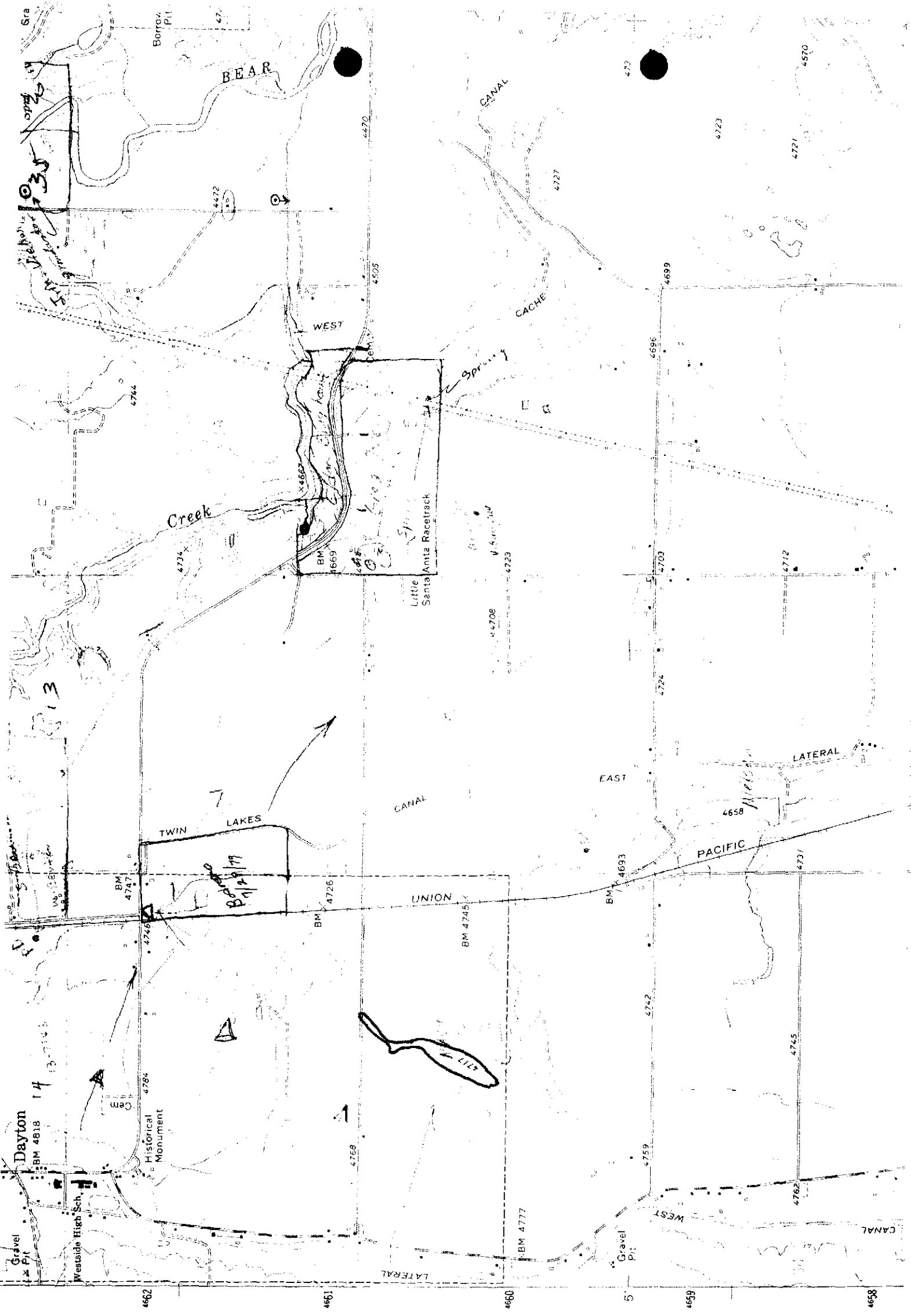
Evaluation of the Hydrology of Radioactive Waste Repositories in Rock Salt Formations. May 1978. NUS Corp.

The Environmental Impact of Cloud Seeding Agents on the High Plains of United States. For USBR Denver. 1978.

Erosional Transfer of Nitrogen in Desert Ecosystems. With D. L. Sorensen and D. B. Porcella. From Nitrogen in Desert Ecosystems, Ed. West and Skujins, pp. 171-181. 1978. Dowden, Hutchinson and Ross, Inc.

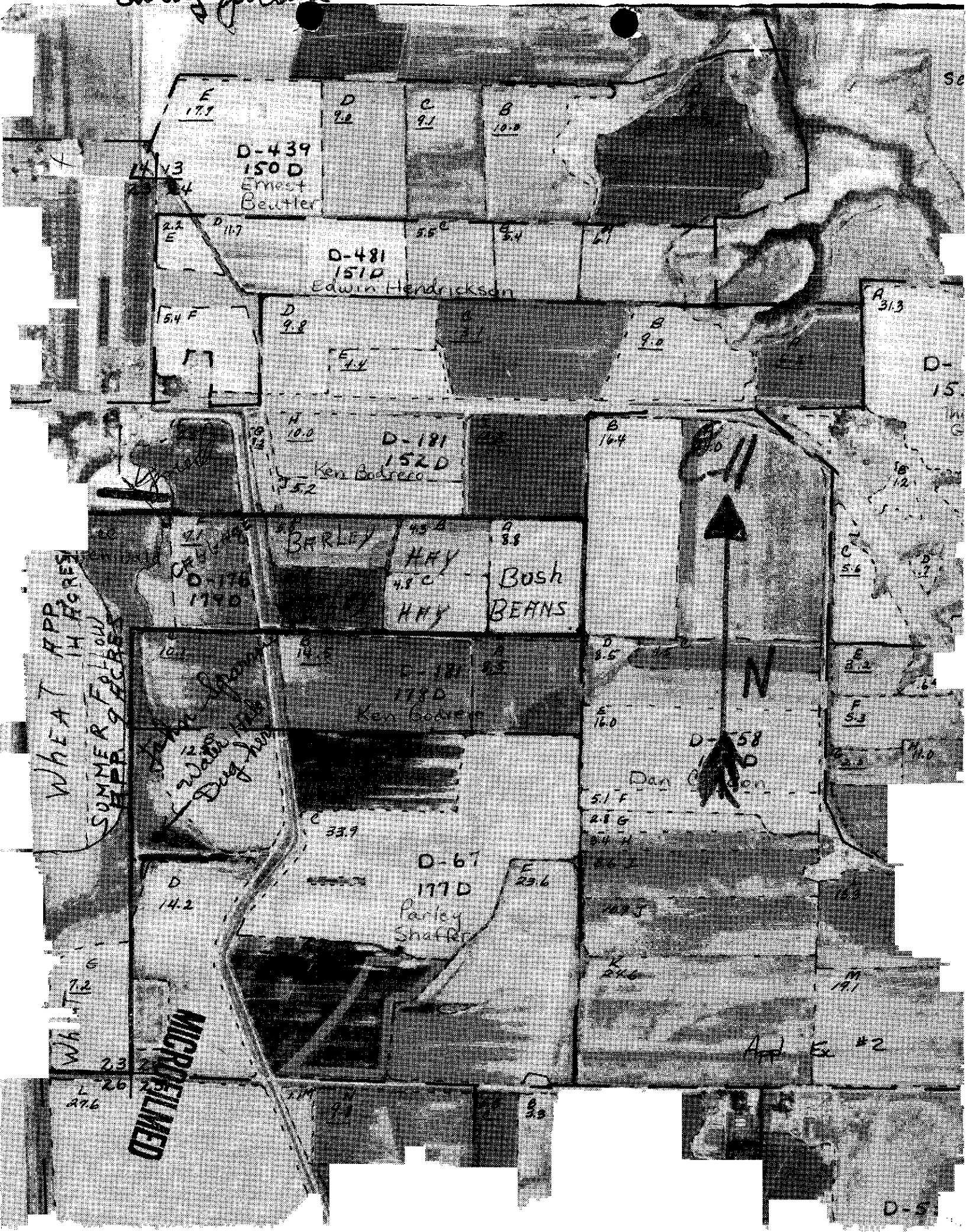
Runoff Estimates for Small Rural Watersheds and Development of a Sound Design Method. Vols. 1, 2, and 3, FHWA-RD-77-158, 159, and 160. 666 p.

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Early picture



File (RIGHT)

Staff analysis 13-7255

Data entry log

F Advertising letter 8/3/79

Protest by ^{Travis Bergeson} Sheldon Beutler - 8/9/79

" " Wesley Nash 8/10/79

F Protest letter to Bodrero

F " " " Bergeson

F " " " Beutler

F " " " Nash

Proof Reading report

" " "

Protest letter from H Ward Nielsen

Protest letter to Bodrero 9/14/79

Letter Lowell Castleton Represents Nash & Nielsen 10/8/79

" ~~K.L. Bodrero~~ transmitting copy
of protests.

" " transmitting copy
of ~~Protest~~ application 13-7110

Notice of Hrg scheduled 10/31/79

Certified register

Return receipts

Confirmation of court room

roster of attendance

Copy of Water right license 13-2154

H. Ward Nielsen

Map showing PD & PU for 13-2113

Copy of 13-2113

Copy of Memo Decision 13-7110 - Travis Bergeson

Conference Notes

Stipulation & agreement

Letter from Castleton - 4/30/80

" " " 1/16/81

request of
statutory
AP

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Memo from Ernie

" " Bob

Proposed Decision letter to Brodvero 8/4/81
Letter from Brodvero

{ Petition for Rehearing from Brodvero
{ Letter from Brodvero - re. branch draws
Petition for Rehearing

Roster of attendees for rehearing

Notice of rehearing

hearing notes

Applicants exhibits #1

" " #2

Pictures of Pipe Applicants Exhibit 3 & 4

Background report Prof. Joel E.
Fletcher

FILE (LEFT)

AFFIDAVIT OF Publication

Order issuing proposed decision

Application for permit & copy
of USGS quad map

Certified mailing verification

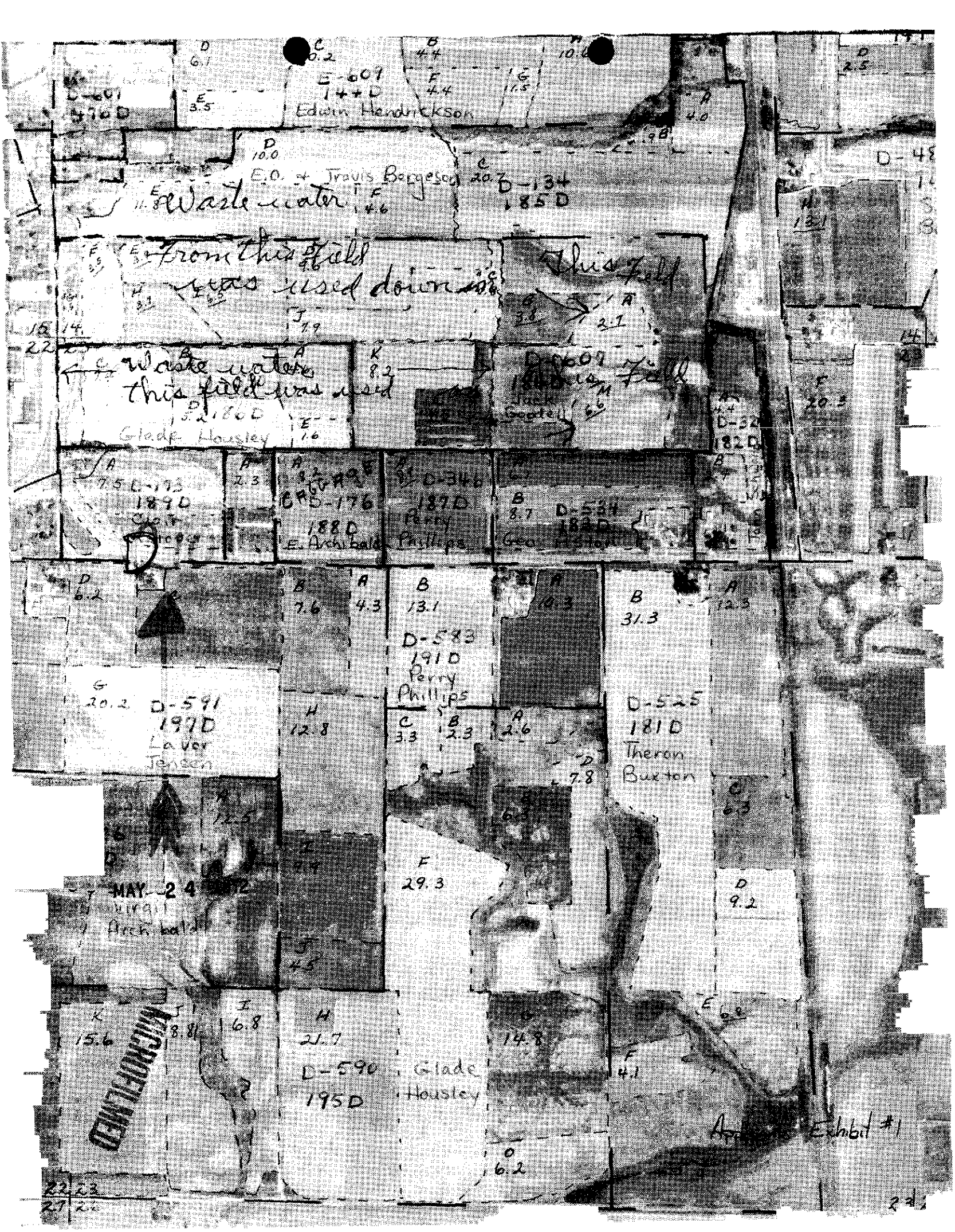
Proposed decision

Order Adopting proposed decision 7/24/81

Order Approving Petition for rehearing

Edit report.

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Waste water from this field was used down in this field

Waste water this field was used

Gladys Housley

D-591
1970
Laver Jensen

MAY 24 1972
Archibald

D-590
1950
Gladys Housley

D-525
1810
Theron Buxton

Exhibit #1

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Rehearing

13-7255

Applicant - K.L. Bodrero

Protestant

Wesley Nash - Lowell Castleton, attorney

Ward Nelson - Lowell Castleton -

Seldon Butler -

Travis Bergeson -

Prof. Joe Fletcher - Expert Witness

Issues -

Are the drains tributary -

Mr. Bodrero - statement -

History of the ~~the~~ farm -

Familiar with place since 33

Bought place in 1955?

No water ran across the R.R. track

- Question by Mr. Castleton -

Exhibit 1 - Photo D-10

Exhibit 2. Photo E-11 - Prior to 19-56

Photographs of Water Line

No water west of R.R. Track for stock water -

Bodrero constructed in 1970 - Pond - Hit water at 4 feet

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Photo 6DD 67 ~~1~~ Taken 1967

Mr. Castleton objects to chronology since pond does not show up on
later aerial photo

John Sparrow dug a water hole ~~in the pond~~
and hit water at 2 to 3 feet.

Bergesen drain built in

1974
1975

Mr. Badrera has spent \$30,000 leveling and installing
irrigating system
Levelled ^{land and picked up} about 10 acres of ground.

 Mr. Badrera began using the water since 1975
by naturally flowing thru the bottoms -

Water runs into Shafter Pond and stops there 95% of the time -

Discussion on Tributary -

This water is tributary to Nash Reservoir only when

X-exam -

Twin Lakes Water Shares 94 shares to irrigate 130

~~shares~~

Mr. Bergesen has never rented water stock to anyone else -

Ran out of water on about 26 August -

Bergesen drain is only source of water now -

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Mr. Martin

Bottom was damp

Culverts installed to carry water -

Mr. Castleman

Mr. Nash = - License 16646 = Official Notice taken -

Sec 7, 16 S 39 E Reservoir, Nash -

Affect of water use by Badrero -

Will get 25 cfs less

Shaker pond was built - and Twin Lakes water was put into the pond -

X-exam

Is Nash Short of water? -

Prof. Joe Fletcher - Testify as an expert witness -

Present - Position - Emeritus Prof of Hydrology

Worked in hydrology since 1934, has worked extensively in the Castle Valley Area -

Studied Geology of the area -

Used for illustration

~~Protestant Exhibit #~~ Map of Area -

Map showing drainage area -

There will be an affect →

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Gordon Galey
Clifton Idaho -

Water master 1954 - 1976

Eunice Archibald -

~~Yipha~~

Used to drive across the bottoms.

Stephen Kent -

Weston, Idaho

Hauled Potatoes -

Walter Beutler

Dayton, Idaho

78 years old

Seldom the water runs under highway

= Lavar Jensen -

Dayton, Idaho -

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Flath's opinion on reuse of drain water - legal opinion

X-exam -

~~Summary~~ Mr. Bodrero

~~Mr. Castleton~~

Change in 13-7110 would be needed if conclusion is
changed in this permit -

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13-7255

Sept. 15, 1981

K.L. Bodrero

Rehearing for appeal to Dist. Court

Protestant's

Wesley Nash, Ward Nielsen -

Expert witness - Joe Fletcher of U.S.U.
retired

Applicant -

Request Protestant go first

Issues -

Is water developed new water or
tributary to western Payton Slough?

Procedure -

Applicant will Proceed -

Bodrero -

History of area

Father's Cousin - owned property

Applicants EXHIBIT 1 D-10 Aerial Photo

Applicants EXHIBIT 2 E-11

" " " Photo of water Pipe ¹⁹⁵⁶

" " " " " " " "

Pond started in 1970 on dry ground
were ~~near~~^{damp} spots adjacent to Pond
Prior to it being dug.

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Applicant
witness -

1. Gordon Galley - saw potatoes from road

2. Archie Archibald - water hydrant
was installed to provide water for
cattle. Remember Potatoes grown in
bottom

3. Steven Kent - hauled potatoes
for Bodrero. in 1964. Worked for
Bodrero previous years. was 18 years
old in 1964.

4. Walter Boutler - 78 years old

5. Lavar Jensen ⁷⁰ - said blow in
Archibald's Bottoms were dry in fall
of year. Skating rink above R.R. Track

6. Mr. Martin -

Lowell Castleton

Wesley Nash -

Notice license - 16646

Says he will lose the amount of
water Bodrero proposes to use.

Shaper pond built & Twin lakes water
brought down to it

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Joe Fletcher — Expert witness.
Professor Emeritus Hydrology - since
1934
1965 Forest service map
Drains is sec 23 & 24

13-7110 - Travis Bergisson

MICROFILMED

Meeting Room, Franklin County Courthouse, Preston, Idaho

Tuesday, September 15, 1981 - 11:00 a.m.

ROSTER OF ATTENDANCE

Hearing Officer Bob Fleenor & Ron Carlson

Name	Address	Representing
Lowell D. Castleton	P.O. Box 191 Preston, ID	Wesley Nash
Joel E. Fitcher	Utah Water Res Lab	Wesley Nash
Wesley S. Nash	Rt. 1 Box 215 Weston Idaho	Wesley Nash
H. Waut Nulsen	Rt. 1 Box 197 Weston Idaho	H. Waut Nulsen
Eunice Archibald	Dayton, Idaho	K. L. Bodrero
Steven D. Kent	Weston, Idaho	K. L. Bodrero
La Ver E Jensen	Dayton Ida.	"
Jim Maylor	Weston Id.	K L Bodrero
Walter Beutler	Dayton, Idaho	"
Veldon J. Menkin	Dayton, Idaho	"
K. L. Bodrero	Dayton Ida.	my Self
Gordon Hailey	Clifton Idaho	

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF REHEARING ON
APPLICATION FOR PERMIT NO. 13-7255
IN THE NAME OF K. L. BODRERO

STIPULATION

BY THIS STIPULATION, the undersigned parties to the above-captioned case waive compliance with the requirements of Idaho Code, Section 67-5211, including the right to a proposed decision, to file exceptions to a proposed decision and to present briefs and oral arguments to the Director of the Department of Water Resources and agree that the Director may render a final decision in this case without first submitting a proposed decision.

Dated this _____ day _____, 19____.

(Notary Subscription)

MICROFILMED

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 13-7255 IN THE NAME)
OF K. L. BODRERO)

NOTICE OF HEARING

On July 27, 1979, K. L. Bodrero filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On August 9, 1979, the Department received protests against approval of said application from Sheldon Beutler and Travis Bergeson. On August 10, 1979, a protest was received from Wesley Nash, and on September 14, 1979, an additional protest was received from H. Ward Nielsen. Subsequent to the conference for considering the protests against approval of the application and issuance of an order adopting the proposed Memorandum Decision, a Petition for Rehearing was filed with the Department by Mr. Lowell Castleton, Attorney at Law, in behalf of Wesley Nash.

The Department has set the matter of protest for rehearing for Tuesday, September 15, 1981, at 11:00 a.m. in the basement Meeting Room, Franklin County Courthouse, Preston, Idaho. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved. A pre-hearing conference may be held beginning at the above set time and prior to the hearing.

In accordance with Idaho Code, Section 42-203, the following issues are involved in the consideration of the application and protest(s):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?

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5. Will the proposed use conflict with the local public interest?

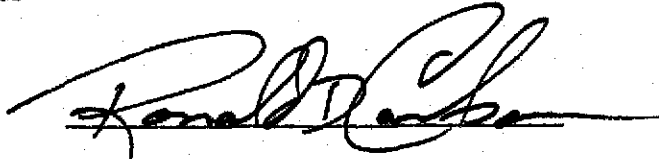
Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be submitted to the parties and the parties may be afforded an opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by Idaho Code, Section 42-1701A.

The parties by written stipulation may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not prejudice the Director's review of a party's evidence and arguments. However, such a waiver will shorten the decision-making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to Rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the district court.

Failure to appear at the time and place set for hearing by the applicant or protestant(s) may allow the Department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 31st day of August, 1981.


Regional Supervisor

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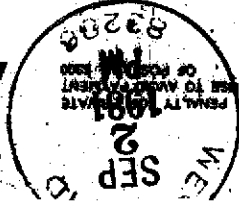
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Rt #1, Box 197
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(Street or P.O. Box)

(Name of Sender)

**EASTERN DISTRICT OFFICE
150 SHOUP AVE.
IDAHO FALLS, IDAHO 83401**



● **SENDER:** Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one)

- ☒ Show to whom and date delivered.
☐ Show to whom, date and address of delivery.
☐ RESTRICTED DELIVERY
Show to whom and date delivered.
☐ RESTRICTED DELIVERY
Show to whom, date, and address of delivery. 11/1

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

James E. L. Brown
Dayton, Ga.

3. ARTICLE DESCRIPTION:

REGISTERED NO. CERTIFIED NO.

INSURED NO.

17277

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY
James E. L. Brown

POSTMARK

5. ADDRESS (Complete)

MICROFILMED
MICROFILMED
MICROFILMED

6. UNABLE TO DELIVER REASON:

US POST OFFICE

1981

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

RECEIVED

SEP 14 1981

Department of Water Resources
Eastern District Office



RETURN
TO

(City, State, and ZIP Code)

(Street or P.O. Box)

(Name of Sender)

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE.
IDAHO FALLS, IDAHO 83401

SENDER INSTRUCTIONS
Print your name, address, and ZIP Code in the space below.
• Complete items 1, 2, and 3 on the reverse.
• Attach to front of article if space permits.
• otherwise affix to back of article.
• Endorse article "Return Receipt Requested" adjacent to number.

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS
1981

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, 300¢



SENDER: Complete Items 1, 2, and 3.
Add your address in the "RETURN TO" space on
reverse.

1. The following service is requested (check one):
- ☒ Show to whom and date delivered.....
- ☐ Show to whom, date and address of delivery.....
- ☐ RESTRICTED DELIVERY
Show to whom and date delivered.....
- ☐ RESTRICTED DELIVERY
Show to whom, date, and address of delivery.....

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO
Sheldon Butler
Wheaton, Ill

3. ARTICLE DESCRIPTION:
REGISTERED NO. 17276 INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE: *Sheldon Butler* *Sheldon Butler*

4. DATE OF DELIVERY

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER/RECALL:

CLERK'S
INITIALS



RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

SEP 11 1979

NAME AND ADDRESS OF SENDER		NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS		POSTAGE	FEE	Handling Charge	Actual Value (if Registered)	DUE SENDER IF C.O.D.	R. R. FEE	S.O. FEE	S.H. FEE	REST DEL. FEE	REMARKS
1	17266	James Smith, David Rd		18	75				60				11-7223
2	17267	Victory & Henry Blvd, Rd											"
3	17268	James J. Parker, Margaret											"
4	17269	Victory & Henry Blvd, Rd 4, Box 96, Unknown											729-225
5	17270	Mike Fisher, Box 297, Unknown											"
6	17271	Lena Private, Box 83, Unknown											"
7	17272	R. J. Roberts, P.O. Box 5, Unknown											13-225
8	17273	James Beattie, P.O. Box 191, Unknown											"
9	17274	Edward J. Wilson, P.O. Box 197, Unknown											"
10	17275	Also Park, Unknown, Rd.											"
11	17276	Sheldon Butler, Unknown											"
12	17277	James Thompson, Unknown, Rd											"
13													
14													
15													
TOTAL NUMBER OF PIECES LISTED BY SENDER		TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE											
12		12											

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN

U.S. GOVERNMENT PRINTING OFFICE: 1979-301-994

September 2, 1981

Franklin County Courthouse
Preston,
Idaho 83263

Gentlemen:

This is to confirm the use of the basement Meeting Room for conference and/or hearing to be held by this office on Tuesday, September 15, 1981 beginning at 9:00 a.m. throughout the day, and on Wednesday, September 16 beginning at 9:00 a.m.

Thank you for your cooperation in this matter.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

MICROFILMED

AUG 14 1981

Department of Water Resources

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL	}	
OF APPLICATION FOR PERMIT NO. 13-7255 IN	}	PETITION FOR REHEARING
THE NAME OF K. L. BODRERO	}	

WESLEY NASH, a party of record in this matter, does hereby, through his attorney of record, LOWELL D. CASTLETON of Williams & Castleton, Preston, Idaho, petition on the Department of Water Resources for a rehearing in this case pursuant to Rule 3.4 of the Rules of Practice and Procedure of the Department. Said Petition is made on the following grounds and for the following reasons:

1. Petitioner Nash believes that the Memorandum Decision and Order of the Department is erroneous in its Finding of Fact identified as number 3 in finding that water flowing onto the applicant's property due to the installation of two additional drains for the Travis Bergeson property was found not to be tributary to Weston Dayton Slough prior to the construction of the drains. While that finding may seem consistent with the Department's earlier finding in the decision on Permit No. 13-7110, Petitioner Nash believes a fundamental point has been overlooked since in Permit No. 13-7110 the Applicant was in essence reclaiming his own water which would otherwise have flowed or drained from his property into the Weston Dayton Slough, whereas in this case the Applicant is attempting to appropriate water flowing not from his own drains but from those of a neighbor.

2. Petitioner Nash believes that the question of whether water flowing from new drains is in fact "new" water subject to appropriation by other than an owner of the land upon which the water flowing from the drains accumulates has not been established as a principle of water law in the state of Idaho. Whereas a landowner may well have the right to water which he reclaims from his own land through the use of a drain (as in Permit No. 13-7110). Petitioner Nash believes the Department to be in error in its Conclusion of Law No. 1 in this case that water "developed" by drains on a neighbor's property is inappropriate and subject to appropriation. Rather, Petitioner Nash believes any attempt at appropriation of such water is subject to all prior rights in that stream into which water would have otherwise found its way. A slough by definition derives its water from drainage.

MICROFILMED

3. Petitioner Nash intends to present these arguments for the record and will support the same by testimony from witnesses who will testify as to the relationship of a slough and the sources from which its water is derived, drainage in the past into the Weston Dayton Slough, and the impact of the installation of new drains in property adjoining the slough.

4. Petitioner Nash further submits that a rehearing must be held in order to establish a formal record of proceedings in this case. Petitioner's attorney, Mr. Castleton, has been informed by the Department that no record was made of the informal conference held on October 31, 1979. Therefore, in order to properly bring this matter before this District Court pursuant to Idaho Code Sections 6⁷-5215 and 67-5216, a rehearing should be held and a record made so that, if necessary, the case can be submitted on appeal to the District Court without a trial de novo.

5. Certificate of Service as set forth in Rule 7.2 of the Department's Rule of Practice and Procedure is being complied with.

DATED This 13th day of August, 1981.



LOWELL D. CASTLETON
Williams & Castleton
Attorney for Wesley Nash

MICROFILMED

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL
OF APPLICATION FOR PERMIT NO. 13-7255 IN
THE NAME OF K. L. BODRERO

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 13th day of August, 1981,
true and correct copies of the foregoing Petition For Hearing was
mailed, postage prepaid to:

K. L. Bodrero
P. O. Box 5
Dayton, ID 83232

H. Ward Nielsen
Route 1, Box 197
Weston, ID 83286

Wesley Nash
Weston, ID 83286

Sheldon Beutler
Weston, ID 83286

Travis Bergeson
Dayton, ID 83232

A. Kenneth Dunn, Director
Department of Water Resources
450 West State Street
Boise, ID 83720


LOWELL D. CASTLETON
Williams & Castleton
Attorney for Wesley Nash

MICROFILMED

Dayton, Idaho

RECEIVED

AUG 19 1981

State of Idaho
Dept. of water Resources
State house
Boise Idaho 83720

Dear Sirs:

Enclosed is a photo Copy
of a letter received from Mr.
Wesley Nash in which through
his attorney Lowell D. Castleton
of Williams & Castleton of
Preston, Idaho in which
you may have already
received

They protest against
approval of application
for permit No. 13-7255 in
the Name of K. L. Bodrero
Dayton, Idaho 83232

They protest of the two

MICROFILMED

additional drains that was put in the Travis Bergeson property.

I just talked with Mr. James Naylor of Dayton, Idaho. Which his mailing address is Rt #1 Weston, Idaho 83286.

Mr. Naylor dug these two drains for Mr. Bergeson.

These two drains he dug with his backhoe was just branch drains one about 200 feet long, the other one about 300 feet long. These two branch drains drained into the main drain up ahead of the main drain outlet.

MICROFILMED

Mr Naylor told me that all there was that they drained with these two branch drains was just a couple of wet spots in the field and picked up a very small amount of water

Now therefore my application for Permit No 13A 7655 in the name of R. L. Bodrero Dayton, Idaho had already covered these two additional branch drains

Sincerely


R. L. Bodrero

MICROFILMED

APR 10 1981

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

COPY

IN THE MATTER OF PROTESTS AGAINST APPROVAL
OF APPLICATION FOR PERMIT NO. 13-7255 IN
THE NAME OF K. L. BODRERO

PETITION FOR REHEARING

WESLEY NASH, a party of record in this matter, does hereby, through his attorney of record, LOWELL D. CASTLETON of Williams & Castleton, Preston, Idaho, petition on the Department of Water Resources for a rehearing in this case pursuant to Rule 3.4 of the Rules of Practice and Procedure of the Department. Said Petition is made on the following grounds and for the following reasons:

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2. Petitioner Nash believes that the question of whether water flowing from new drains is in fact "new" water subject to appropriation by other than an owner of the land upon which the water flowing from the drains accumulates has not been established as a principle of water law in the state of Idaho. Whereas a landowner may well have the right to water which he reclaims from his own land through the use of a drain (as in Permit No. 13-7110). Petitioner Nash believes the Department to be in error in its Conclusion of Law No. 1 in this case that water "developed" by drains on a neighbor's property is inappropriate and subject to appropriation. Rather, Petitioner Nash believes any attempt at appropriation of such water is subject to all prior rights in that stream into which water would have otherwise found its way. A slough by definition derives its water from drainage.

MICROFILMED

3. Petitioner Nash intends to present these arguments for the record and will support the same by testimony from witnesses who will testify as to the relationship of a slough and the sources from which its water is derived, drainage in the past into the Weston Dayton Slough, and the impact of the installation of new drains in property adjoining the slough.

4. Petitioner Nash further submits that a rehearing must be held in order to establish a formal record of proceedings in this case. Petitioner's attorney, Mr. Castleton, has been informed by the Department that no record was made of the informal conference held on October 31, 1979. Therefore, in order to properly bring this matter before this District Court pursuant to Idaho Code Sections 62-5215 and 67-5216, a rehearing should be held and a record made so that, if necessary, the case can be submitted on appeal to the District Court without a trial de novo.

5. Certificate of Service as set forth in Rule 7.2 of the Department's Rule of Practice and Procedure is being complied with.

DATED This 13th day of August, 1981.



LOWELL D. CASTLETON
Williams & Castleton
Attorney for Wesley Nash

MICROFILMED

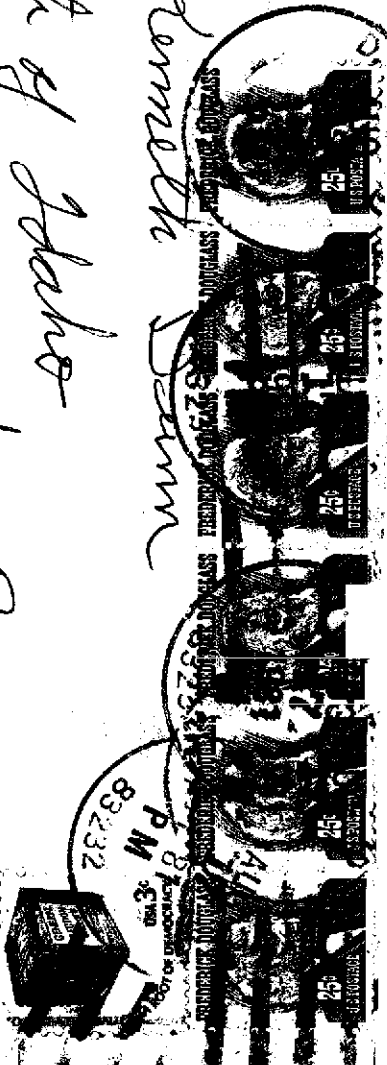
K. L. BODRERO
P. O. BOX 5
DAYTON, 10A.
83232

CERTIFIED
No. 761154

MAIL

H. Kenneth Dean
State of Idaho
Dept. of water Resources
State House
Boise, Idaho 83720

MICROFILMED



NOTE

13-7255

To the Director of the
Water Resources Board
of the State of Idaho

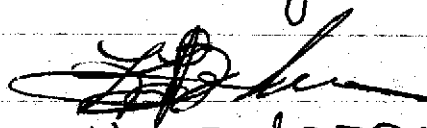
Dear Sirs:

I don't know your procure.
If you wish you can
send a copy of the enclosed
letter and letter you
received dated 8-17-81
to any or all protestants

P.S.

I am thanking you kindly for
your time in this matter

Sincerely


R. I. RODERO

MICROFILMED

Dayton, Idaho
8-20-81

Before the Director of
the Dept. of Water
Resources of the State of Idaho

For the approval of
application for permit no.
13-7255 in the name of
K. L. Bodrero

Dear Sirs

MICROFILMED

In the previous letter sent
to the Director of the Dept.
of Water Resources of the
State of Idaho dated
8-17-81 I forgot to
mention in items 2 & 3
in Mr. Wesley Nash's
petition letter sent by
his Attorney Lowell D.

Castleton of Williams and
Castleton of Preston, Idaho

I have come up with a
witness that will testify
for me. He told me that
when he was a young man
he and his father thinned
and grew sugar beets
and grain where Mr
Nash claims a slough.

Also between the years
of 1956 through 1972 I
grew potatoes, grain
Bush beans & cabbage
where Mr Nash claims
a slough. I have witnesses
who helped me harvest
these crops.

There is no way the

(3)

above mentioned crops will grow in a slough.

Also after spring run off had subsided usually in March. There is a water line that goes over to where a hydrant and a watering trough was used to water the cattle in a small pasture in the bottom land in my property where Mr. Nash claims a slough. The water pipe is still there. I have the person as a witness that watered the cattle.

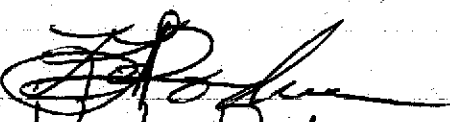
MICROFILMED

Mr. Nash gets the water from the Bergeson drain for storage in the fall & winter and

(4)

early spring months
~~in~~ this Reservoirs.

Sincerely


R. L. Bodrero

MICROFILMED

Note

amend and attach the enclosed letter 2 sent to the Water Resources Board dated 8-17-81

In the matter of case if there is another hearing.

One of my witnesses will be leaving for Arizona for the winter anytime after the 20th of September 1981

2. K. L. Bodrero will be leaving for Arizona, (if possible) the 1st of November 1981 for the winter months and will not be back until April 1982. I have to go where it is warmer for my health during the winter months.

I could or will come back if another hearing is heard during the winter months.

I understand the Director of the Water Resources Board has the right to set the name and place if any Oral Arguments are to be heard.

Whatever the Director wishes about setting place & time if another hearing is to be heard.

I will go along with his request.

I am Thanking you kindly in this matter.

Sincerely

K. L. Bodrero

K. L. BODERO
P O BOX 5
DAYTON, IOA.
83232

MICROFILMED



H. Kenneth Dunn Director

State of Alaska

Department of Water Resources

State House

450 W. State Street

Juneau Alaska 99801

August 4, 1981

Re: Application for Permit No. 13-7255

K. L. Bodrero
P.O. Box 5
Dayton, ID 83232

Dear Mr. Bodrero:

Enclosed is a copy of the approved Application for Permit No. 13-7255 along with a copy of the Proposed Memorandum Decision and Order and a copy of the Order Adopting the Proposal for Decision. We direct your attention to the conditions of approval as set forth in the Proposed Memorandum Decision and Order.

Be sure to note the special condition requiring you to install and maintain a measuring device at your point of diversion prior to submitting proof of beneficial use of water. We have enclosed a letter describing the different types of measuring devices accepted by this office.

Any person who does not agree with the decision of the Department may request a rehearing before the Director within twenty (20) days, or may appeal directly to the district court within sixty (60) days of the date the decision is filed.

Sincerely,

L. GLEN SXTON
Chief, Operations Bureau

LGS:jg

Enclosures

cc: (See Certificate of Mailing)

INTER-DEPARTMENT MEMO — 1

DATE 6-22-81

FROM Bob Fleenor

TO File 13-7255

SUBJECT 13-7255 Rehearing

Mr Castleton, attorney for the protestant called at 4:33 pm today and I returned his call at 4:50 pm.

He did not receive a copy of the proposed decision and was not aware it had been issued until a client brought a copy to him today. His client objects ^{to} ~~with~~ one portion but it is not possible, because of short time, to file an objection.

He will file a request for a rehearing after the decision has been issued so a record can be made for appeal to the District Court

Bob Fleenor

SIGNATURE

MICROFILMED

MEMO

To: Bob Fleenor through Ron Carlson

From: Ernest Carlsen

RE: Applications 13-7255 and 13-7256

In the attached decisions there are some matters which may be appurtanent but were not addressed. Example: water from the 2 additional drains on Travis Bergeson's property has been flowing in the Weston Dayton Slough drainage since 1976 and 1979. Is that a sufficient time to recognize the water as now being subject to rights in the Weston Dayton Slough which preceed development of the water? Furthermore, since neither Bodrero and Beutler own the land on which the drains are located, it was not considered private water and was subject to appropriation. Permit 13-7110 granted use of the first 0.50 cfs on Beutler's property. Bodrero has the next filing for 1.00 cfs which appears to be the total quantity developed by the drains. Beutler then filed for another 0.50 cfs as a supplemental right, bringing the total appropriation up to 2.00 cfs under the three filings. It appears the first two filings over appropriated the source. But since this was not an issue in either conference, it was not discussed.

MICROFILMED

WILLIAMS & CASTLETON

LAW OFFICES

24 NORTH STATE - P. O. BOX 191

PRESTON, IDAHO 83263

January 16, 1981

J. DENNIS "J. D." WILLIAMS
LOWELL D. CASTLETON

DALLIN J. PHILLIPS

TELEPHONE:
(208) 852-2680

Mr. Ronald D. Carlson
Supervisor Eastern Region
Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Application for Permit No. 13-7255, K. L. Bodre^o
our File No. 1397.2

Dear Ron:

I have requested repeatedly action on the part of the Department with reference to Application Number 13-7255, filed by Kenneth Bodre^o and protested by our clients, Wesley Nash and H. Ward Nielsen. This matter was heard in conference here in Preston and has been under consideration for far too long a period of time without having had a decision rendered.

Could the Department please expedite this decision and advise us accordingly. This seems especially important in view of the lack of moisture thus far this year and potential problems with reference to water rights in the summer to come. Your response will be appreciated and is expected.

Yours very truly,

WILLIAMS & CASTLETON

Lowell
LOWELL D. CASTLETON
Attorney at Law

LDC/cps

Mr. Wesley Nash
Mr. H. Ward Nielsen

RECEIVED
JAN 21 1981

Department of Water Resources
Eastern District Office

MICROFILMED

RECEIVED

WILLIAMS & CASTLETON

LAW OFFICES

24 NORTH STATE - P. O. BOX 191

PRESTON, IDAHO 83263

MAY 8 1980

J. DENNIS "J. D." WILLIAMS

LOWELL D. CASTLETON

Department of Water Resources
Eastern District Office

TELEPHONE:
(208) 852-2680

April 30, 1980

Mr. Ronald D. Carlson
Supervisor Eastern Region
Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Application for Permit No. 13-7255, K. L. Bodreo

Dear Ron:

On October 31, 1979, here in Franklin County a conference was held regarding protest filed by our clients, J. Wesley Nash and H. Ward Nielsen. At that time we were informed that a decision would be reached by the Department and communicated to all parties. As of this date we have had no response and this inquiry is as to the present status of that particular application. Our clients are anxious to know the decision of the Department of Water Resources so as to determine whether or not further action on their part is necessary. Could you advise as to the present status of the case and when we can expect a decision.

Yours very truly,

WILLIAMS & CASTLETON

Lowell

LOWELL D. CASTLETON
Attorney at Law

LDC/csp

cc: J. Wesley Nash
H. Ward Nielsen

MICROFILMED

IN THE MATTER OF APPLICATION }
FOR PERMIT #13-7255 IN THE }
NAME OF K. L. BODRERO. }

STIPULATION
&
AGREEMENT.

We hereby agree to allow the Dept. of Water Resources to reach a decision in this matter based on information presented at a conference held in Preston, Idaho on October 31, 1979 and information obtained ~~from~~ from a field examination, and other information in the Dept.'s files.

We also request that a proposed memorandum be made available for our review prior to the memorandum being issued.

Signed the 31st day of October 1979 in Soda Preston Springs, Idaho.

Lawrence Jantzen for
Wesley Nash & Ward Nielsen

Sheldon Benton
K L Bodrero

MICROFILMED

Application 13-7255.

Applicant - K.L. Bodrero.

Protestants:

N. Ward Nielson } Lowell D. Castleton, Attorney at law.
Wesley Nash. }
Sheldon Beutler.

Car

Purchased property in 1952. - During summer, water entering Bodrero property would not flow into Weston Dayton Slough prior to Travis Bargeson constructing drain. 1974-1975.

Mr. Bodrero had to construct ditches to control over flow from Bargeson Drain. Prior to that time no ditches had been constructed.

Castleton:

Travis Bargeson - 13-7110 - Max Q - 0.50 cfs - Not tributary to Weston Dayton Slough.

Review - Dept.
Memorandum
previous licenses

Clients have licensed right in Weston Dayton Slough. (Nash) 12-19-38
Nielson 13-2154 1.85 cfs. 11-16-48 # 16646 486 cfs.
13-2113

* - Development by applicant will result in reduction of water for licensed rights.

? Water developed by Bargeson Drain in excess of 0.50 cfs is tributary to Weston Dayton Slough.

Issue - The proposed use reduce the quantity of water under existing water right.

MICROFILMED

~~240~~ ~~200~~
13-7255 K. L. Badrero

Applicant - Moved into the area in 1950

This water flowed into Western Dayton Slough only during spring flows

After drain const

In 1974, 75 Mr. Berg built drains and the water began running across his property. The water began being used and spread upon his land -

Protestant

Lowell Castleton - ^{Representing} Wesley Nash and Ward Nielson -

- Take Notice of Permit 13-7110

There is an effect to the downstream rights when the drains are constructed the water will be diminished

Nash - 4.3 cfs - 16646 12-19-38

Nielson - 1.85 - 20759 13/2154 11-16-48

Applicant

The flow of the drain is not being used there is 1.00 cfs
1.00 cfs is the flow of the drains

Mr. Beutler

1974 - 4 in drain
1976 - 6 in drain
1979 - 4 in drain

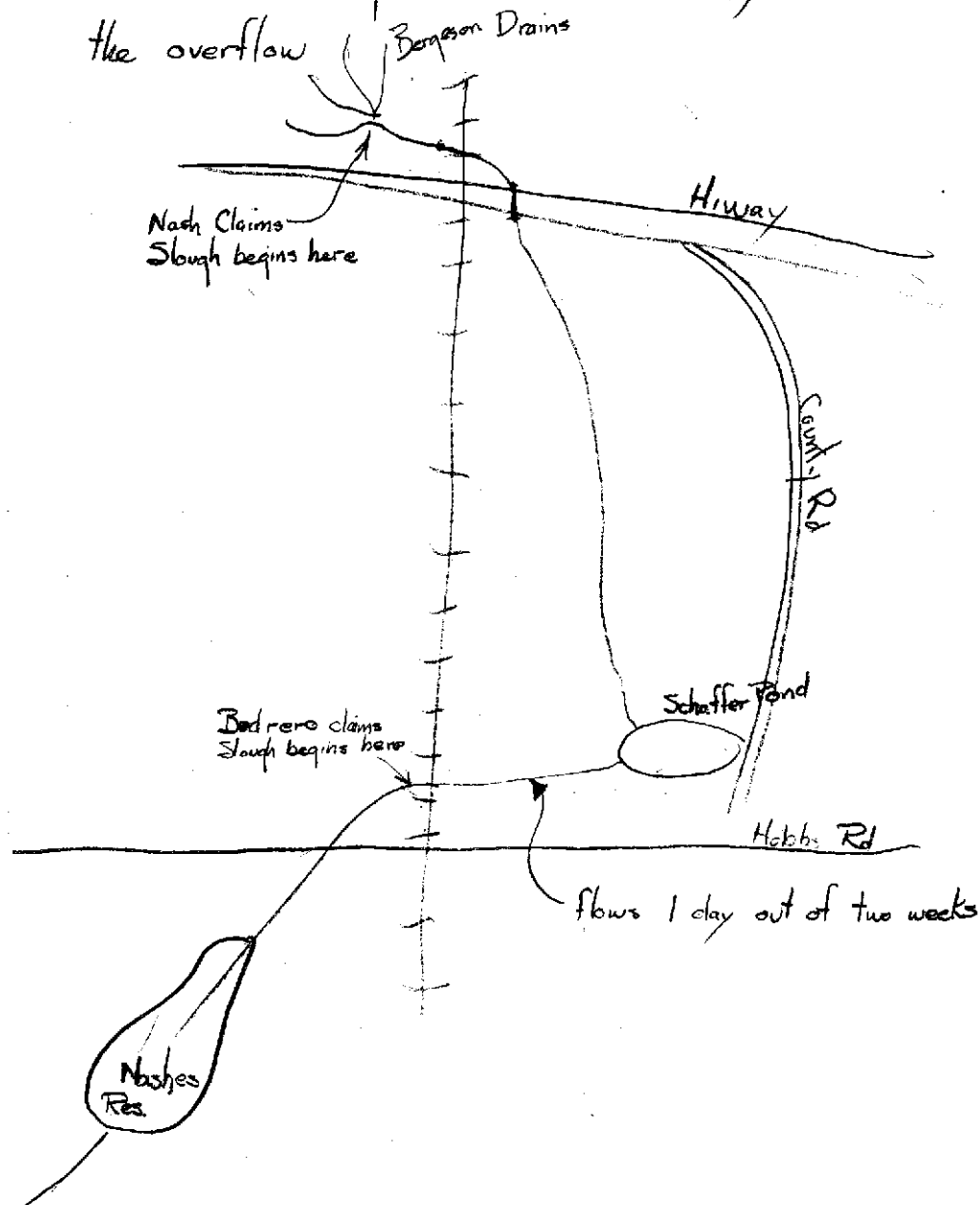
MICROFILMED

Mr. Nash

Claim the max amount of flow after spring runoff has been measured at
1.50 cfs to 1.75 cfs -

Mr. Badrero -

Water from Berg Drain flows into (illegally) ~~into~~ Schaffer's Pond
the overflow



MICROFILMED

Wes Nash - 747-3526 >

Nielsen . 3520 >

Dodrero 747-3443 >

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR
PERMIT NO. 13-7110 IN THE NAME OF
TRAVIS BERGESON

MEMORANDUM DECISION
AND ORDER

On April 24, 1975, Travis Bergeson, Dayton, Idaho, applied to the Department of Water Resources for a permit to appropriate 1.50 cubic feet per second of water from an unnamed sub-surface drain with a proposed point of diversion within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 14, Twp. 15S, Rge. 38E, B.M., Franklin County, to be used from May 1 to October 1 for the irrigation of 75 acres of land.

The Department received protests against the granting of the permit from David A. Nash, Jr., H. Ward Nielsen, Lee C. Nielsen, and Wesley S. Nash. A conference was held to consider the protests against said application on July 10, 1975, at Preston, Idaho. The protestants were present and represented by Ralph H. Jones, Attorney at Law. The applicant was present and represented himself.

Both the applicant and protestants were given an opportunity to present testimony and evidence in the matter. The applicant also reduced the amount requested on the application to 0.50 cubic feet per second since that was the maximum flow of the drain.

All parties agreed to allow the Director of the Department to reach a decision on this matter based upon the information presented at the conference.

The Department has taken the matter under consideration and after having reviewed all pertinent testimony and evidence, including that contained in the Department's records, the Director of the Department of Water Resources makes the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

- (1) In 1974, the applicant constructed sub-surface drains in an attempt to reclaim land that had historically been too wet to allow effective farming.
- (2) The maximum flow in the completed drains is 0.50 cubic feet per second of water.
- (3) The information now available in the Department's files and that presented by the protestants at the conference does not show the water being developed by the applicant's drains prior to their construction, to have been tributary to the Weston-Dayton Slough.

MICROFILMED

CONCLUSIONS OF LAW

- (1) The water developed by the applicant is unappropriated water.
- (2) The protestants failed to show probable cause of interference to their water rights that would result from the approval of this permit.
- (3) The applicant is entitled to a permit from the Department of Water Resources.

ORDER

IT IS, THEREFORE, HEREBY ORDERED and Application for Permit No. 13-7110 is hereby APPROVED subject to the following conditions:

- (1) That this permit, be and is, subject to all prior existing water rights.
- (2) That the permit holder permanently install and maintain a measuring device as part of the diverting works.
- (3) That the overflow from his system be allowed to discharge into the natural drainage of the Weston-Dayton Slough.
- (4) That proof of construction of works and application of water to beneficial use be submitted to the Department on or before October 1, 1980.

Dated this 19 day of September, 1975.


R. KEITH HIGGINSON
Director

BDF:jfr

MICROFILMED

License and Certificate of Water Right

APR 4 1980

Water License No. 16646

13-2113

Department of Water Resources Amount 4.36 second feet
Eastern District Office Priority December 19, 1938

THIS IS TO CERTIFY that ISAAC H. NASH and DAVID NASH
of Weston, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated January 29, 1927; that Permit No. 16646
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
5 second feet, was issued thereunder on February 1, 1932, showing that said works
were completed on the 29th day of January, 1932; and that on the 30th
day of December, 1944,

ISAAC H. NASH and DAVID NASH

of Preston and Weston, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of Weston Slough,
a tributary of Bear River, for the purpose of irrigation and
domestic use, under Use Permit No. 16646 of the Department of Reclamation
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is
hereby confirmed by the State Reclamation Engineer
Commissioner of Reclamation of Idaho and entered of record in Volume 7
of Licenses, at page 4276, on the 29th day of December, 1945;

The right hereby confirmed dates from December 19, 1938;

The Point of Diversion is located in Lot 3
in the 14, Sec. 1, Td. 16 S., R. 38 E., B. M. Franklin County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid,
is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 4.36
cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
15 S.	38 E.	36	NE 1/4 SW 1/4	-	11
			NW 1/4 SW 1/4	-	10
			SW 1/4 SW 1/4	-	-
			SE 1/4 SW 1/4	-	30
16 S.	38 E.	1	NE 1/4 NW 1/4	-	20
			NW 1/4 NW 1/4	-	-
16 S.	39 E.	7	SW 1/4 NW 1/4	-	38
			SE 1/4 NW 1/4	-	30
			NE 1/4 SW 1/4	-	30
			NW 1/4 SW 1/4	-	31
			SW 1/4 SE 1/4	-	10
			SE 1/4 SW 1/4	-	8
Number of acres actually irrigated				-	218

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use
herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho,
this 29th day of December, 1945

MARK R. KULP

Commissioner of Reclamation
State Reclamation Engineer

(SEAL)

WATER RECORD

13-2154

Nov. 16. 1948

1.85 cfs.

H. WARD NIELSEN

Weston, Idaho

13-2154

November 16, 1948

October 1948

1.85 cfs

Weston-Dayton Slough

Dayton Creek

Railroad Division

Water

Irrigation

April 1

Nov. 1

1.85 cfs

784 acre feet or
3.5 af per acre

1.85 cfs

SE NW Sec 36

Franklin

Twp 15S Rge. 38E. N. 1.

NE				NW				SW				SE			
NW	SW	SE	NE	NW	SE	NE	NW	SE	NE	NW	SW	SE	NE	NW	SW
15S	38E	36	2	20	10	40	4	40	35	10	40	40	40	40	40
															361

MICROFILMED

13-7255 - K. L. BODRERO

Courtroom, Franklin County Courthouse, Preston, Idaho

October 31, 1979 - 9:00 a.m.

ROSTER OF ATTENDANCE

Name	Address	Representing
Ernest Carlson.	Id. Falls.	Water Resources.
Lowell D. Castleton	P.O. Box 191 Preston, Id.	Wesley Nash Ward Nielsen
H. Ward Nielsen	Route 1 Box 197 Weston Id.	
Wesley Nash	Rt. 1 Box 215 Weston Id.	
SHELDON BEUTLER	WESTON, Idaho	SHELDON BEUTLER
K. L. Bodrero	Dayton, Idaho	K. L. Bodrero

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

October 22, 1979

Franklin County Courthouse
Franklin County Clerk
Preston, Idaho 83263

Gentlemen:

This is to confirm the use of the Courtroom for conference and/or hearing to be held by this office on Wednesday, October 31, 1979, beginning at 9:00 a.m.

Thank you for your cooperation in this matter.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

MICROFILMED

RETURNED RECEIPTS

13-7255

MICROFILMED

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

- ☒ Show to whom and date delivered.....\$
☐ Show to whom, date, and address of delivery.....\$
☐ RESTRICTED DELIVERY
☐ Show to whom and date delivered.....\$
☐ RESTRICTED DELIVERY
☐ Show to whom, date, and address of delivery.....\$
 (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

W. Ward F. Nelson
Box # 1 Box 197
Wheaton, Ill

3. ARTICLE DESCRIPTION:

REGISTERED NO. CERTIFIED NO. INSURED NO.

1337

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

W. Ward F. Nelson

DATE OF DELIVERY

10-18-79

POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S
INITIALS

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP CODE in the space below.

- Complete items 1, 2, and 3 on the reverse.
- Moisten gummed ends and attach to front of article if space permits. Otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



RECEIVED

OCT 19 1979

RETURN
Department of Water Resources
Eastern District Office



DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

1315 LINCOLN ROAD

IDAHO FALLS, IDAHO 83401

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

● SENDER: Complete items 1, 2, and 3.

Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

☒ Show to whom and date delivered. _____ ¢

☒ Show to whom, date, and address of delivery. _____ ¢

☐ RESTRICTED DELIVERY

Show to whom and date delivered. _____ ¢

☐ RESTRICTED DELIVERY

Show to whom, date, and address of delivery. \$ _____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

Lowell Castleton
P.O. Box 191
Wilmington, DE 19863

3. ARTICLE DESCRIPTION:

REGISTERED NO. | CERTIFIED NO. |

1338

INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE

☐ Addressee

☐ Authorized agent

Carol Hitchcock

DATE OF DELIVERY

10-18-79

POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S
INITIALS

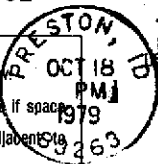
13-7255

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP CODE in the space below.

- Complete items 1, 2, and 3 on the reverse.
- Moisten gummed ends and attach to front of article if space permits. Otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to



PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE \$300



RECEIVED

OCT 19 1979

RETURN

Department of Water Resources
Eastern District Office



**DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401**

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

- ☒ Show to whom and date delivered. _____
- ☐ Show to whom and date delivered in address of delivery. _____
- ☐ RESTRICTED DELIVERY
Show to whom and date delivered. _____
- ☐ RESTRICTED DELIVERY
Show to whom, date, and address of delivery. \$ _____
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

*Wesley Nash
Weston, Id.*

3. ARTICLE DESCRIPTION:

REGISTERED NO. | CERTIFIED NO. | INSURED NO.

1340

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

Claudia Nash

DATE OF DELIVERY

10-18-79

POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S
INITIALS

13-7255

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP CODE in the space below.

- Complete items 1, 2, and 3 on the reverse.
- Moisten gummed ends and attach to front of article if space permits. Otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

PERMIT NO. 1000
PENALTY FOR PRIVATE
USE: \$300
POSTAGE, \$300



RECEIVED

OCT 19 1979

RETURN
TO
Department of Water Resources
Eastern District Office



DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

13-7253

● SENDER: Complete items 1, 2, and 3.

Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

- ☒ Show to whom and date delivered \$
☐ Show to whom, date, and address of delivery \$
☐ RESTRICTED DELIVERY
☐ Show to whom and date delivered \$
☐ RESTRICTED DELIVERY
☐ Show to whom, date, and address of delivery \$
 (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

James Bergeron
Wayton, SD.

3. ARTICLE DESCRIPTION:

REGISTERED NO. | CERTIFIED NO. | INSURED NO.

1336

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

James Bergeron

DATE OF DELIVERY

POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S
INITIALS

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP CODE in the space below.

- Complete items 1, 2, and 3 on the reverse.
- Moisten gummed ends and attach to front of article if space permits. Otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



RETURN
TO



DEPARTMENT OF WATER RESOURCES

(Name and District Office)

1515 LINCOLN ROAD

IDAHO FALLS, IDAHO 83401

(Street or P.O. Box)

(City, State, and ZIP Code)

RECEIVED

OCT 23 1979

Department of Water Resources
Eastern District Office

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

- ☒ Show to whom and date delivered.....
☐ Show to whom, date, and address of delivery.....
☐ RESTRICTED DELIVERY
 Show to whom and date delivered.....
☐ RESTRICTED DELIVERY
 Show to whom, date, and address of delivery. \$_____
 (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

R. L. Braden
P.O. Box 5
Dayton, Ill.

3. ARTICLE DESCRIPTION:

REGISTERED NO. | CERTIFIED NO. | INSURED NO.

1339

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

DATE OF DELIVERY

10-23-99

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S
INITIALS

RCL

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP CODE in the space below.

- Complete items 1, 2, and 3 on the reverse.
- Moisten gummed ends and attach to front of article if space permits. Otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RECEIVED

OCT 24 1979

RETURN

Department of Water Resources
Eastern District Office



DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

1515

INDIANAPOLIS, INDIANA 46204

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300

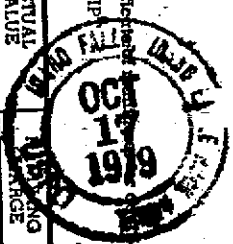


Address and sender

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

Indicate type of mail:
☐ REGISTERED
☒ CERTIFIED
☐ C.O.D.

After stamp here if issued as certified mail, copies of this bill, POSTMARK AND DATE OF RECEIPT



NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET AND POST OFFICE ADDRESS	POSTAGE	FEE	R.R. FEE	REG. DEL. FEE	ACTUAL VALUE	POSTAGE PAID	REMARKS
1336	James Ferguson, Mayhew Rd.	15	80	45				13-7255
1337	A. David Barber, Rt. 1 Box 197, Ellettsville, Ind.							"
1338	Harold D. Castles, P.O. Box 191, Ellettsville, Ind.							"
1339	K. J. Bodine, P.O. Box 15, Mayhew, Ind.							"
1340	Shirley Mack, Ellettsville, Ind.							"
1341	Shirley Butler, Ellettsville, Ind.							13-7256
1342	Thomas B. Bingham, Rt. 1 Box 3, Ellettsville, Ind.							13-7496
1343	Wendell W. Quinn, Ellettsville, Ind.							"
1344	Wendell W. Quinn, P.O. Box 123, Mayhew, Ind.							"
1345	Wendell W. Quinn, P.O. Box 176, Mayhew, Ind.							"
1346	Wendell W. Quinn, P.O. Box 135, Mayhew, Ind.							"
1347	Wendell W. Quinn, P.O. Box 161, Mayhew, Ind.							"
1348	Wendell W. Quinn, P.O. Box 176, Mayhew, Ind.							"
1349	Wendell W. Quinn, P.O. Box 176, Mayhew, Ind.							"
1350	Wendell W. Quinn, P.O. Box 135, Mayhew, Ind.							"
1351	Wendell W. Quinn, P.O. Box 176, Mayhew, Ind.							"
1352	Wendell W. Quinn, P.O. Box 176, Mayhew, Ind.							"
1353	Wendell W. Quinn, P.O. Box 176, Mayhew, Ind.							"
1354	Wendell W. Quinn, P.O. Box 176, Mayhew, Ind.							"
1355	Wendell W. Quinn, P.O. Box 176, Mayhew, Ind.							"

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

In the Matter of Protests Against)
Approval of Application for Permit)
No. 13-7255 in the Name of)
K.L. BODRERO)
_____)

NOTICE OF CONFERENCE

AND/OR HEARING

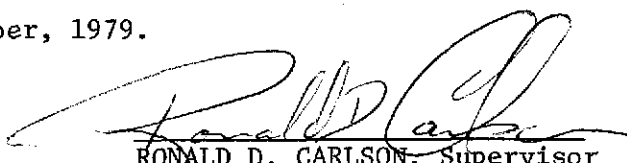
On July 27, 1979, K. L. Bodrero filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On August 9, 1979, the Department received a protest against approval of said application from Sheldon Beutler and Travis Bergeson. On August 10, 1979, a protest was received from J. Wesley Nash, and on September 14, 1979, additional protest was received from H. Ward Nielsen.

The Department has set the matter of protest for conference and/or hearing for Wednesday, October 31, 1979, at 9:00 a.m., in the Courtroom of the Franklin County Courthouse. Any hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

Failure to appear at the time and place set for hearing by the applicant or protestant may allow the Department without prejudice to dismiss the protests or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 15th day of October, 1979.


RONALD D. CARLSON, Supervisor
Eastern Region

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

October 10, 1979

RE: Application for Permit No. 13-7255 K. L. BODRERO

Mr. Lowell D. Castleton
Attorney at Law
P.O. Box 191
Preston, Idaho 83263

Dear Mr. Castleton:

Pursuant to your letter of October 8, 1979, please find enclosed a copy of the above referenced application and a copy of the protests filed against same.

I have requested a copy of Permit No. 13-7110 from our State Office and will forward it upon receipt.

Very truly yours,

COLLEEN WRAY
Sr. Secretary

Enclosures

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

October 15, 1979

RE: Permit No. 13-7110

Mr. Lowell D. Castleton
Attorney at Law
P.O. Box 191
Preston, Idaho 83263

Dear Mr. Castleton:

Pursuant to your request, please find enclosed a copy of the above referenced permit and other pertinent information.

If we may be of further assistance, please feel free to contact this office.

Very truly yours,

COLLEEN WRAY
Sr. Secretary

Enclosures

MICROFILMED

WILLIAMS & CASTLETON

LAW OFFICES

24 NORTH STATE - P. O. BOX 191

PRESTON, IDAHO 83263

J. DENNIS "J. D." WILLIAMS
LOWELL D. CASTLETON

October 8, 1979

RECEIVED

OCT 10 1979

Department of Water Resources
Eastern District Office

TELEPHONE:
(208) 852-2680

Mr. Ronald D. Carlson
State of Idaho
Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Application for Permit No. 13-7255 Bodrero
Our File No. 1397.2

Dear Ron:

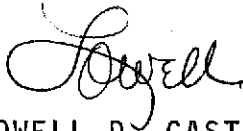
Please be advised that our firm has been retained to represent Mr. Wesley Nash in his protest against the above referenced application. Would you be so kind as to forward a copy of the application as well as a copy of our client's protest letter to us for our use in this case.

We would, of course, appreciate notice of any conferences and/or hearings being sent to this office.

I would also appreciate receiving a copy of Permit No. 13-7110 for reference purposes in this matter.

Yours very truly,

WILLIAMS & CASTLETON



LOWELL D. CASTLETON
Attorney at Law

LDC/kc

MICROFILMED: Mr. Wesley Nash
Mr. Ward Nielsen



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

October 1, 1979

H. Ward Nielsen
Route 1, Box 197
Weston, Idaho 83286

Dear Sir:

Re: App/Permit 13-7255 BODRERO

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

The timeliness of your protest may also be considered in any action taken by the Department. The final protest date for this application was August 27, 1979. Your protest was not received until September 14, 1979. If this office can be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:dh

MICROFILMED

October 2, 1979

K. L. Bodrero
P. O. Box 5
Dayton, Idaho 83232

Dear Sir:

Re: Your Protested App/Permit 13-7255

Enclosed is an additional protest filed against the approval of your above referenced application. If we may be of any assistance, feel free to contact this office.

Very truly yours,

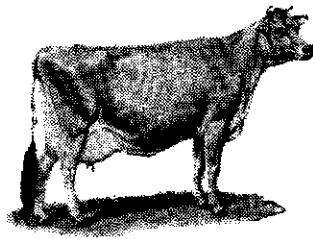
RONALD D. CARLSON
Supervisor
Eastern Region

RDC:dh

Enclosure

MICROFILMED

**HAWARDEN
JERSEYS**



Mr. and Mrs. H. Ward Nielsen
Route 1, Box 197
Weston, Idaho 83286

Telephone (208) 747-3520

Dear Sir

*I would like to protect the permit #13-7255 that
Mr. Ken Bodew has filed.*

*I along with Wesley Nash have visited Mr. Bodew
and have not been able to come to any agreement.
So we are prepared for a hearing.*

*Very Sincerely
H. Ward Nielsen*

MICROFILMED

RECEIVED

SEP 11 1979

Department of Water Resources
Eastern District Office

FIRST NAME - K. L.

OWNER LAST NAME - HODDERO
ADDRESS LINE 1 - P. O. BOX 5

CITY - DAYTON
TRIBUTARY OF - WESTON DAYTON SLOUGH

STATE - ID ZIP CODE - 83232

PRIORITY - 07-27-1979 COUNTY - FRANKLIN TOTAL DIV. RATE - 1.0000CFS

SOURCE - UNNAMED STREAM

STAGE - APPLICATION

DIVERSION POINT - SENE 23 155 38E

USE DIV. RATE - 1.0000CFS

FROM - 04-01 TO - 11-01

USE - IRRIGATION

PLACE OF USE - TWIN 155 RNC 38E SEC 23 TRACT SENE

AC 22 TRACT NESE

AC 20

USE - IRRIGATION

PLACE OF USE - TWIN 155 RNC 38E SEC 24 TRACT SNW

AC 20 TRACT NWSW

AC 23

OTHER RIGHTS FOR SAME USE - SHARES IN TWIN LAKES CANAL

DIVERSION MEANS - PORTABLE DAM, DITCH

2/2/79

2/2/79

WATER RIGHT NUMBER 13-7255

OWNER LAST NAME - BODKERO
ADDRESS LINE 1 - P. O. BOX 5
ADDRESS LINE 2 -
ADDRESS LINE 3 -
SOURCE - UNNAMED STREAM
STAGE - APPLICATION
TOTAL DIV. VOLUME - .00 AFA TRFR/AMEND -
DIVERSION POINT - SENE 23 15S 38E LOT RBDIV -
FROM - 04-01 TO - 11-01 USE - IRRIGATION
USE - IRRIGATION
USE - IRRIGATION
DEGREE NAME -
REMARKS -
NON IRRIG USE -
OTHER RIGHTS FOR SAME USE - SHARES IN TWIN LAKES CANAL
PROOF DUE -
PROOF MADE - FLD EXAM - CONG. OF APPROVAL -
DIVERSION MEANS - PORTABLE DAM, DITCH

FIRST NAME - K. L.
ADDRESS LINE 2 -
CITY - DAYTON
TRIBUTARY OF - WESTON DAYTON SLOUGH
PRIORITY - 07-27-1979
COUNTY - FRANKLIN
DLE/CAREY ACT -
RIGHT BASIS -
STATE - ID
ZIP CODE - 83232
DATE -
USE DIV. RATE - 1.0000 CFS
USE DIV. VOLUME - .00 AFA
PLACE OF USE - TWN 15S RNG 38E SEC 24 TRACT SWNW LOT AC 20 TRACT NWSW LOT AC 23
PLACE OF USE - TWN 15S RNG 38E SEC 23 TRACT SENE LOT AC 22 TRACT NESE LOT AC 20
TOTAL ACRES 85

HEARING -
OLD NO. -

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

JOHN V. EVANS
Governor
C. STEPHEN ALLRED
Director

1515 Lincoln Road
Idaho Falls, ID 83401
(208) 523-7186

August 13, 1979

Wes Nash
Weston,
Idaho 83286

RE: App/Permit 13-7255 BODRERO

Dear Sir:

Your protest against the approval of the above-referenced application has been received and a copy has been sent to the applicant. The Department suggests that you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearings. At such a conference and/or hearings, the following are the principle items the Department can consider in either approving or denying the application for permit (Section 42-203, IDAHO CODE):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculation?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?

You will be notified at a later date of the time and place of the conference and/or hearings. If we can be of any assistance, please contact us.

Sincerely,

DONALD D. CARLSON
Regional Supervisor

RDC: dh

MICROFILMED

August 13, 1979

K. L. Bodrero
P. O. Box 5
Dayton, Idaho 83232

Dear Sir:

Re: App/Permit 13-7255

Enclosed is an additional copy of a protest filed against your
above referenced application.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:dh

Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

JOHN V. EVANS
Governor
C. STEPHEN ALLRED
Director

1515 Lincoln Road
Idaho Falls, ID 83401
(208) 523-7186

AUGUST 10, 1979

Sneldon Beutler
Neslon
10200 00200

RE: APP/PERMIT 137200 SUPPERU

Dear Sir:

Your protest against the approval of the above-referenced application has been received and a copy has been sent to the applicant. The Department suggests that you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearings. At such a conference and/or hearings, the following are the principle items the Department can consider in either approving or denying the application for permit (Section 42-203, IDAHO CODE):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculation?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?

You will be notified at a later date of the time and place of the conference and/or hearings. If we can be of any assistance, please contact us.

Sincerely,

RONALD D. CARLSON
Regional Supervisor

dh

RECORDED
INDEXED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

JOHN V. EVANS
Governor
C. STEPHEN ALLRED
Director

1515 Lincoln Road
Idaho Falls, ID 83401
(208) 523-7186

August 10, 1979

Travis Bergeson
Dayton,
Idaho 83232

RE: App/Permit 13-7255 BODRERO

Dear Sir:

Your protest against the approval of the above-referenced application has been received and a copy has been sent to the applicant. The Department suggests that you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearings. At such a conference and/or hearings, the following are the principle items the Department can consider in either approving or denying the application for permit (Section 42-203, IDAHO CODE):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculation?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?

You will be notified at a later date of the time and place of the conference and/or hearings. If we can be of any assistance, please contact us.

Sincerely,

RONALD D. CARLSON
Regional Supervisor

DC: dh

MICROFILMED

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Eastern Region

JOHN V. EVANS
Governor
C. STEPHEN ALLRED
Director

1515 Lincoln Road
Idaho Falls, ID 83401
(208) 523-7186

August 10, 1979

K. L. Bodrero
P. O. Box 5
Dayton, Idaho 83232

RE: App/Permit 13-7255

Dear Sir:

Enclosed is a copy of a protest filed against the approval of a permit pursuant to the above-referenced application. The Department suggests you contact the protestants directly in an effort to determine the nature of the protest and attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearings. At such a conference and/or hearings, the following are the principle items the Department can consider in either approving or denying the application for permit (Section 42-203, IDAHO CODE):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?

You will be notified at a later date of the time and place of the conference and/or hearings. If we can be of further assistance, please contact us.

Sincerely,

RONALD D. CARLSON
Supervisor, Eastern Region

RDC:dh

Encl.

Aug-9-79

State of Idaho
Department of water Resources

I protest the application for
Ken Bodrero's NO - 13-7255.

IN Which he is applying for extra
water from Travis Bergeson drain

I would like a usage permit
filed on this water by one from

~~1974-1979~~ 1974-1979 - have
used this water through
Ken Bodrero place and have
stored in rock reservoir -

Shirley Schach
Dear Mr Carlson.

It will cause even a more
shortage on me you see we
have just about lost all 2nd
area right to any Twin Lake's
water. Because of sprinkling.

Even our spring are producing
only 1/2 what they use to...
my share of the water right

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in the waters slough are
quite short now - & when
I spent \$17,000.00 to put
a sprinkler on my farm.

I depend entirely on the
spring, drain, are about water
and spring storage in are common

We have no other source of water

Thank you

Sincerely

RECEIVED

AUG 10 1979

Department of Water Resources
Eastern District Office

MICROFILMED

WES nash
WES had
Isahr
83286

MICROFILMED

S

State of Idaho
Department of Urban Resources
1515 Lincoln Road
Idaho Falls,
Idaho

83401



RECEIVED

AUG 9 1979

Department of Water Resources
Eastern District Office

8-9-79

I wish to protest K. L. Boecker's
permit to file on the water of ~~Boecker~~
Travis Bergeron Drains
For Reasons

more Drains have been put in
since Travis first filed on the water
in 1975, so there is more water now,
~~with~~ I have been using this water since
1977 and have spent many thousands
of dollars to pipe it over to my
land. I planned on filing for more
water because of the additional Drains
being put in.

Sheldon Beuther
Travis Bergeron

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

AUGUST 3, 1979

The Preston Citizen
P. O. Box 472
Preston, Idaho 83263

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. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. 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 billings to this office before AUGUST 27, 1979.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

MICROFILMED

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the

13-7255L

BODRERO, K. L.

P. O. BOX 5, DAYTON, ID 83232

Source: UNNAMED STREAM tributary to WESTON DAYTON SLOUGH

Date Filed: 07/27/1979

Amount: 1.00 CFS

Diversion Point: SENE Sec 23 T 15S R 38E, FRANKLIN Co.

Use: IRRIGATION (1.00 CFS) from 04/01 to 11/01

Place of Use: SENE NESE Sec 23 T 15S R 38E SWNW NWSW Sec 24 T 15S R 38E
FOR 85 ACRES

Diversion Means: PORTABLE DAM, DITCH

rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho 83401 on or before AUGUST 27, 1979.

C. STEPHEN ALLRED

Director

Published 8/9 & 8/16/79.

MICROFILMED

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

13 7255

INITIAL REVIEW BY: RP

APPLICATION NUMBER: _____

CHECK:

- ☒ Source.
☒ Point of diversion.
☒ County.
☒ Description of diverting works.
☒ Time required for beneficial use of water.
☒ Place of use or acres irrigated.
☒ Map.
☒ Signature.
☒ Fee.
☐ Yes ☒ No Field check required.
☐ Yes ☒ No Critical groundwater area.
☐ Yes ☒ No Request dam safety information. Sent by: _____ Date: _____
☒ Yes ☐ No* In form to receipt.

Field check by: _____

Date: _____

Comments: _____

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

SEND COPIES TO:

- ☐ Idaho State Health Department. Copies sent by: _____ Date: _____
☐ Idaho Fish and Game Department. _____
☐ Idaho Department of Lands. _____
☐ U.S. Bureau of Land Management. _____
☐ U.S. Forest Service. _____
☐ Other _____

PROCESSING:

- ☒ Yes ☐ No Platted by: RP Map No. DD-93
☒ Yes ☐ No Other rights on same place of use. _____
☒ Yes ☐ No* In form for advertising. TWIN LAKES CANAL WATER
☒ Yes ☐ No Final date for protests: August 27, 1979
☒ Yes ☐ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: Sept 10, 1979
☒ Application published correctly. If not, record action taken: _____
☒ Fee amount, receipt date & number, recorded on application.
☒ Publication dates and paper, recorded on application.
☒ Protests, dates, withdrawal, etc., recorded on application.
☒ Recommendation & initial, recorded on application.
☒ Yes ☐ No Measuring device required.
☐ Yes ☒ No Access port required.
☐ Yes ☒ No Will water be delivered by watermaster? If yes, what district? _____
7-27-77 Date of priority recommended.
Special conditions of approval or cover letter. _____

See Amended Proposed Memorandum Decision.

By: Ernest Carlson. Date: Oct 6, 1981.

STATE OFFICE REVIEW:

See attached sheet for more information.

By: _____ Date: _____