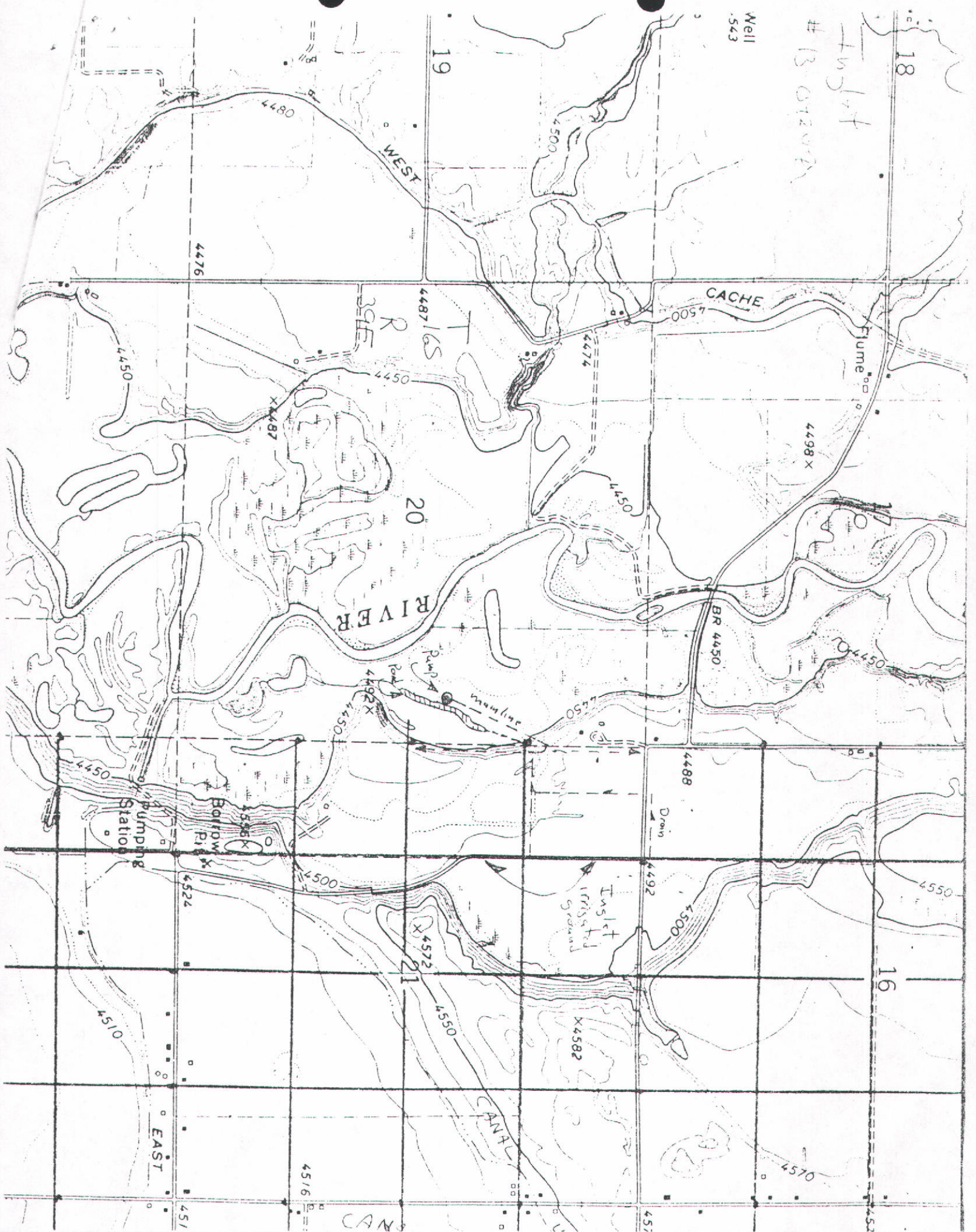




#13 012072

Well
543

18

19

16

20

RIVER

CACHE

WEST

EAST

CANAL

Inst. Irrigated Ground

Pumping Station

Borrow Pit

Drain

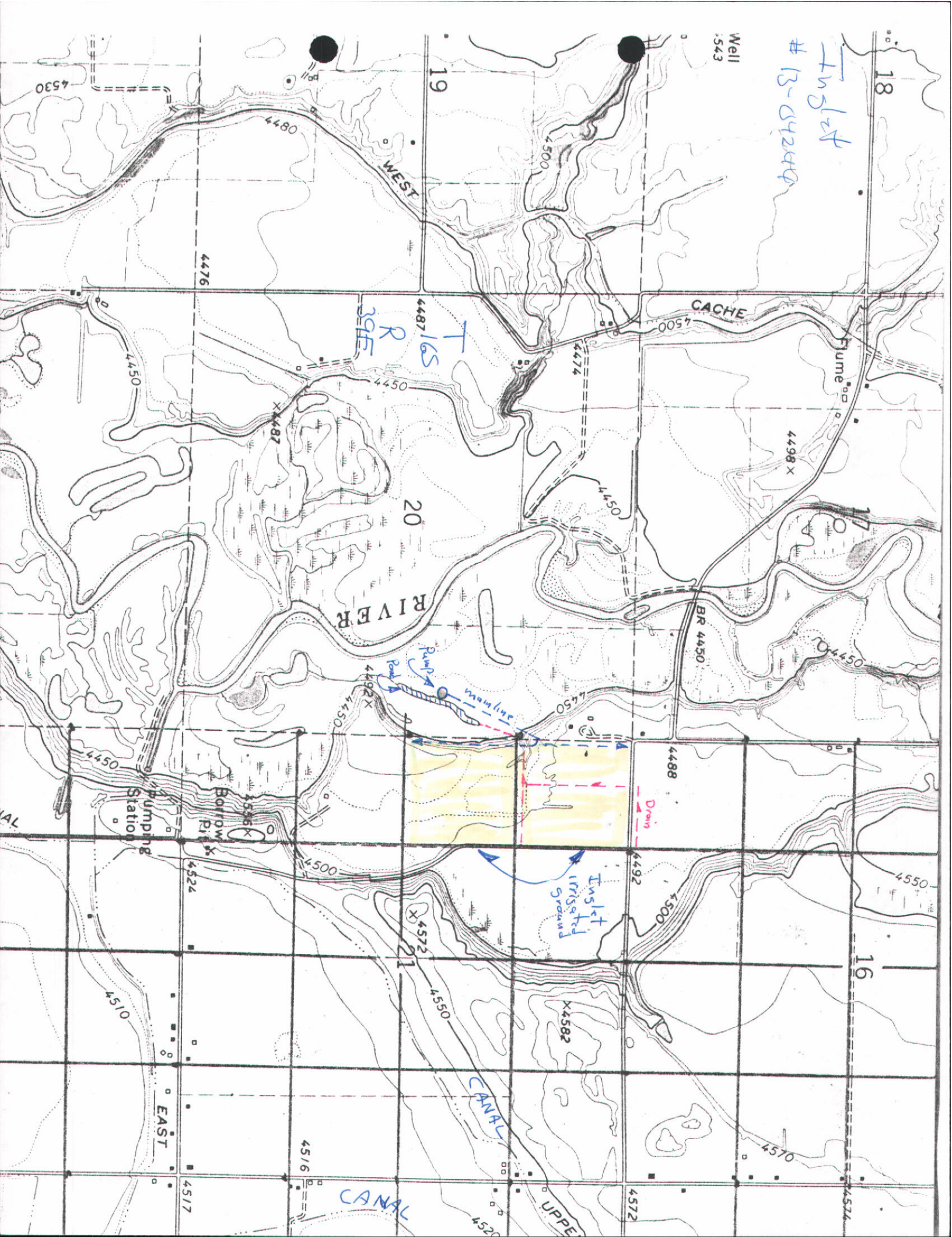
452

451

4516

451

CANAL



Inglot
13-04244



Pond (enlarged portion)





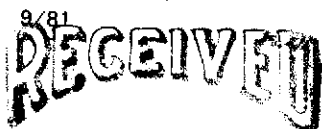
Inlet
#13-04244



Relift Pump



Pond (Narrow portion)



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES



JUN 22 1983

Department of Water Resources
Eastern District Office

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that ALEX P INGLET
(Name of Claimant)

RD#1 Box 357 Preston, Idaho 83263 Telephone No. 852-2787
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) APRIL 1951

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

UNNAMED DRAINS & SPRINGS tributary to BEAR RIVER

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

	(cfs, af)	(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
			(Mo., Day)	(Mo., Day)
Quantity	<u>1 cfs</u>	Use <u>IRRIGATION</u>	Period of Use From <u>APRIL</u>	To <u>OCT</u>
Quantity	<u>.5 cfs</u>	Use <u>STOCK</u>	Period of Use From <u>OCT</u>	To <u>APRIL</u>
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To

(4) 1.5 TOTAL QUANTITY USED.
(cfs, af)

(5) A) Point of diversion: (Location of point where water is diverted from its source)

NW 1/4 NW 1/4, Sec. 21 Twp. 16S Rge. 39E B.M., County of FRANKLIN

Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. DRAINS & Reservoir

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
16S	39	19																5	5
16S	39	20	20																20
16S	39	21					40	20											60

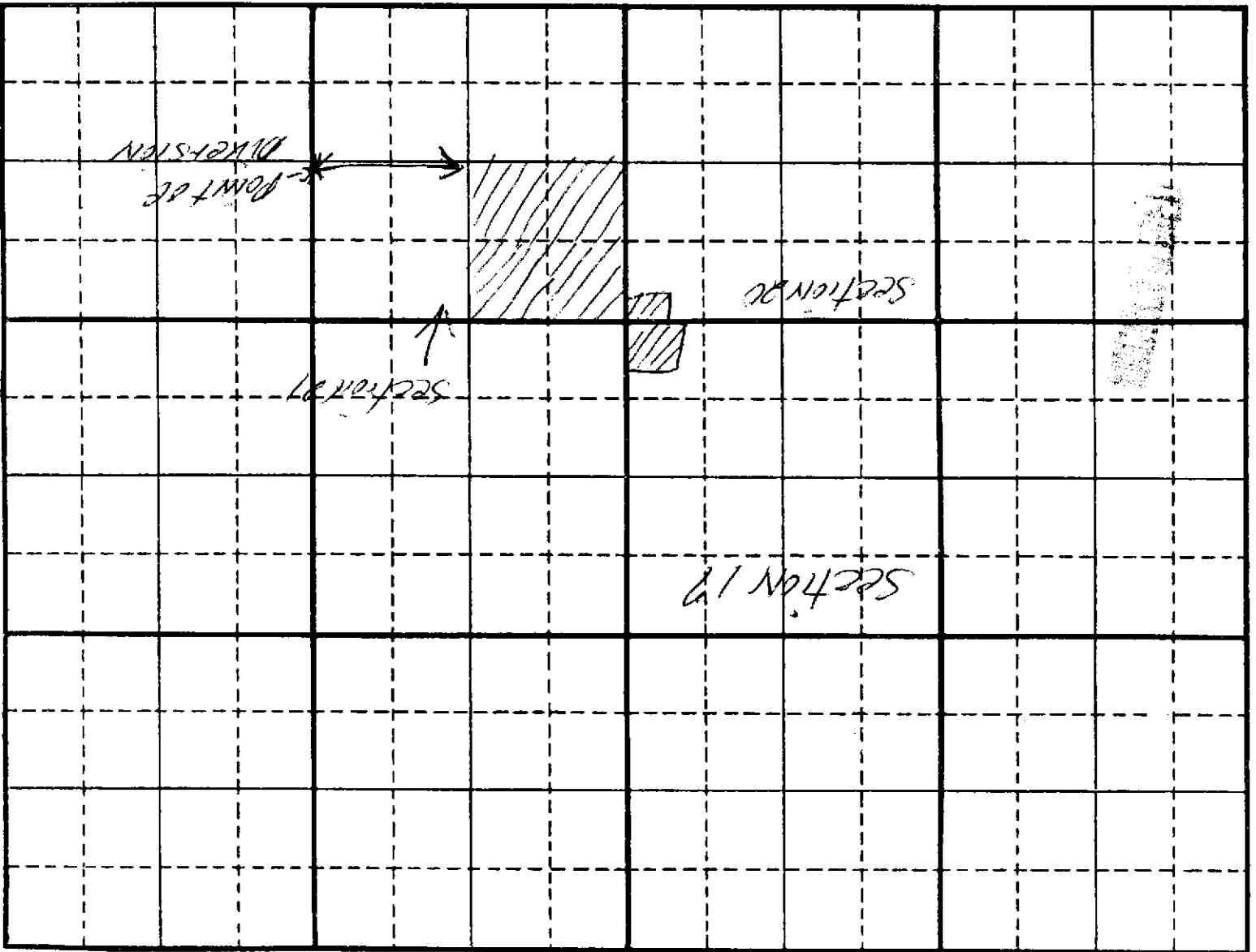
No. of acres 85

B) If water is used for other than irrigation, fully describe that use, being as specific as possible:

TO WATER YOUNG STOCK IN WINTER MONTHS

NOTE: Include here the type and number of stock watered: 50 HEAD YOUNG HOLSTEIN STOCK

(7) If you are claiming water as a member of an organization, list name of organization:



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho

County of Franklin

) ss.
)

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 13th day of June

Notary Public
Residing at Preston, Idaho
My commission expires Lifetime

FOR DEPARTMENT USE ONLY

Received by Date 6-22-85
Prelim. check by Date 6-22-85
\$30.00 fee received by Date 6-22-85
Published in Date 8/18/83
Dates 8/18/83

#875
No 1911

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Franklin } ss.

Kim HARMER

being duly sworn,

deposes and says:

That he is the SECRETARY 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

AUGUST 11, 1983, and ending
with the issue of AUGUST 18, 1983.

Kim Harmer

Fee \$ 1685

Subscribed and sworn to before me this 31ST day
of AUGUST, 1983.

Ken O. Allen

Notary Public, Residing at Preston, Idaho

My Commission Expires JUNE 6, 1986

RECEIVED

SEP 1 1983

Department of Water Resources
Eastern District Office

NOTICE OF CLAIMS TO WATER RIGHTS

The following claim(s) have been
filed on water right(s) created by
diversion and beneficial use:

13-4244

INGLET, ALEX P.
RFD No. 1, Box 357, Preston, ID
83263

Source: UNNAMED DRAINS trib. to
BEAR RIVER SPRINGS trib. to
BEAR RIVER

Priority Date: 04/01/1951

Diversion Pt: NWNW Sec 21 T 16S R
39E

Use: IRRIGATION (1.00 CFS)
STOCKWATER (0.50 CFS)

In: SESE Sec 17 T 16S R 39E NENE
Sec 20 T 16S R 39E NWNW SWNW Sec
21 T 16S R 39E for 85 acres.

Exceptions to a claim may be filed
with the Director, Dept. of Water Re-
sources, 150 Shoup Ave., Suite 15,
Idaho Falls, Idaho 83402.

KEN DUNN, Dir.

Legal No. 1911 -27L- Publish Aug.
11 and 18, 1983.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

**PHILIP E. BATT
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

August 14, 1995

Kent Foster
HOLDEN, KIDWELL, HAHN & CRAPO
Box 50130
Idaho Falls, Idaho 83301

Re: Alex Inglet

Dear Kent:

At your request, I met with Alex Inglet along with Pete Petersen, Water District 11 Watermaster, at Mr. Inglet's irrigation project near Fairview. I very much appreciated Mr. Inglet taking the time from his busy schedule to show me the system and to discuss it openly and in detail.

Mr. Inglet described that he diverts water flowing in an unnamed surface stream or drain during spring runoff to fill a natural depression that he has enlarged by dredging over the years. He then uses the water to operate sprinklers with a total of about 60 heads, for as long as the water in the pond will last, to irrigate about 100 acres. He indicated that this is typically about 10 to 12 days per year. He described that once the reservoir is drafted to the point that the pump will not operate, the level of the pond does not increase until surface flow is again diverted into the pond. Based upon these observations, Mr. Inglet believes that pumping from the pond does not affect the flow of the Bear River and that he is only taking water he has stored in the pond when the flow of the Bear River and tributaries is large enough that his claimed priority would be able to divert water.

It is important, though, that IDWR and the watermaster have information to document Mr. Inglet's observations. His situation appears very similar to others' pumping from sumps and ponds along the river controlled by the watermaster and are not allowed to pump unless river flow is adequate to satisfy all rights of earlier priority or the pumper has stored water against which the pumping can be charged. The close proximity of Inglet's pond to the Bear River, the presence of at least one coarse gravel area in the pond excavation, and the similar (from visual observation only) elevation of the pond and river water surface levels make it possible at least part of the water pumped, is subsurface water associated with river flow.

Mr. Kent Foster
Page 2
August 14, 1995

Mr. Inglet has agreed to monitor, with Pete Petersen's supervision, the pond level during and after his next pumping session. He will set a stake in the pond bank so the change in water surface can be measured. He will document the pumping times and pumping rate; estimating rate by counting sprinkler heads by nozzle diameter and pressure readings obtained with a pitot tube and pressure gauge. He indicated he would keep a diary of relevant information on pump turn on/off times, number of sprinkler heads, and pond level changes. Pond level change should be observed and noted for a period of several weeks after pumping stops. Surface flows entering the pond during the test should be noted. We asked that he notify Pete when he finishes pumping.

Based upon the information gathered, the volume of water diverted can be compared to the change in volume stored in the pond to give an indication of whether the pond is gaining or losing significantly to subsurface flows that may be associated with the river. Adjustments will need to be made for evaporation and surface inflow (hopefully negligible). Observing whether the water level in the pond recovers, after being pumped down, will provide an additional check.

If it appears the Bear River flows are affected by pumping, Mr. Inglet will need to provide stored water to cover the amount taken from the river at times that his priority is not being satisfied. Apparently, he and a neighbor share or previously shared a pump from the Bear River for which a contract for stored water from Pacific Corp. has been used in prior years. Pete Petersen will check with Pacific Corp. to determine the status of the contract and if this will be a possible source of stored water, if the test indicates that make-up water is needed.

Finally, at Mr. Inglet's request, I searched IDWR records for rights associated with the land he claims to be irrigating from the pond. Attached are computer printouts of the rights found. None of the claims accurately describe the pattern of storage of runoff/use of storage from the pond described by Mr. Inglet. The deadline has passed for filing statutory claims, but it may be possible to amend an existing claim to correct the description of source and to describe storage if the test indicates that this is the case or even partly the case. I have cautioned Mr. Inglet that it is only possible to claim uses commenced prior to 1971. It appears that the pond size has been increased in recent years and it may not be possible to claim the entire storage volume.

Kent, I have always appreciated your efforts to assist your clients to work through these matters to reach an acceptable solution. I trust that the arrangements for the simple test to check the relationship with the river is agreeable to you. If you have suggestions or want to discuss this matter, please give me a call.

Mr. Kent Foster
Page 3
August 14, 1995

Sincerely,


NORMAN C. YOUNG
Administrator

c: Alex Inglet
Pete Petersen
Harold Jones, IDWR Idaho Falls
File 13-04278

(WATER RIGHT NUMBERS THAT BEGIN WITH AN '4' ARE ADJUDICATION CLAIMS)

NAME	TYPE	STATUS	LENGTH	WIDTH	DEPTH	AREA	VOLUME	PERCENT
1304244	T16S R39E S21	UNNAMED DRAINS	:	40	20	:	:	60
1300026	CUB RIVER	:	:	:	:	:	:	:
T1300026A	CUB RIVER	:	:	:	:	:	:	:
T1300026B	CUB RIVER	:	:	:	:	:	:	:
1302066	BEAR RIVER	:	:	:	:	:	:	160
1302199	UNNAMED DR	:	40	:	:	:	:	40
1304107	BEAR RIVER	:	40	20	:	:	:	60
NO MAPPING INFO AVAILABLE								

DATE: 08/09/95
PAGE: 1

USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
04-01 11-01	2.500 CFS	
TOTAL DIVERSION:-	2.500 CFS	

Stage: STATUTORY CLAIM

FRANKLIN County

NAME _____

[illegible]

Remarks: AC. IRR. = 85.7.

Priority Date: 06/01/1926

App. Received:	Priority Date:
Proof Due Date:	Proof Made Date:
Exam Made Date:	Exam Sent to S.O.:
Licensed Date:	

Field Exam Fee:

Audit:	05/16/86	05/21/88	CONVERT
--------	----------	----------	---------

URS5809NP
No. 13-04244

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 08/09/95
PAGE: 2

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	ALEX P. INGLET RD #1, BOX 357 PRESTON ID 83263	04/01/1951	IRRIGATION STOCKWATER	04-01 10-01 10-01 04-01	1.000 CFS 0.500 CFS	
TOTAL DIVERSION:					1.500 CFS	

Water Source: UNNAMED DRAINS
SPRINGS
Tributary to: BEAR RIVER
BEAR RIVER
Stage: STATUTORY CLAIM
FRANKLIN County

Point(s) of Diversion: T16S R39E S21 MNM

Place of use Legal Description for: IRRIGATION

	NE	NW	SW	SE	SUM
T R S : Lt Ac Lt Ac Lt Ac Lt Ac Lt Ac Lt Ac Lt Ac Lt Ac Lt Ac					
16S 39E 17 :					5.0
16S 39E 20 :					20.0
16S 39E 21 :					60.0
TOTAL ACRES					85.0

Place of use location for STOCKWATER is the same location as described for: IRRIGATION

Pou County: FRANKLIN

Dates: App. Received: 04/01/1951
Proof Due Date:
Exam Made Date:
Exam Sent to S.O.:
Licensed Date:

Misc: Water District Number: Field Exam Fee:

Audit: 05/16/86 05/21/88 CONVERT

FROM H.W. JONES - Eastern

DATE 9-29-94

TO Glen Saxton - Base

SUBJECT Alex Inglet

I believe Norm turned this file (problem) over to you.
 Could you respond to Kent's most recent letter? Thanks!

Norm
 Ken Smith
 368-4282
 V 368-3144


 SIGNATURE

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

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CHARLES A. HOMER
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Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

September 28, 1994

Harold Jones
IDAHO DEPARTMENT OF
WATER RESOURCES
900 N. Skyline
Idaho Falls, Idaho 83402-1718

RECEIVED

SEP 29 1994

Department of Water Resources
Eastern District Office

Re: Alex Inglet

Dear Mr. Jones:

I see from the file that we last wrote to you on June 8, 1994. I believe we discussed the matter briefly by telephone but we have heard nothing further from anyone on this matter and wonder if we can be successful in getting someone to look into it and to give us a response. Thank you for your kind attention to this matter.

Very truly yours,



Kent W. Foster

c. Alex Inglet
G:\WPDATA\SANDRA\00ALEX01.LTR:sjw

COPY

RECEIVED

AUG 09 1993

Department of Water Resources

FROM: H.W. JONES
TO: NORM YOUNG
RE: ALEX INGLET ON-SITE EXAM

ON JULY 22, 1993 PAUL MEYER AND I MET WITH ALEX INGLET REFERENCE A COMPLAINT FROM MR. INGLET'S LAWYER, KENT FOSTER. KENT ALLEGES THAT MR. INGLET'S USE OF WATER WHICH IS REFLECTED BY CLAIM 13-04244 SHOULD NOT BE REGULATED BY THE BEAR RIVER WATER MASTER. KENT FEELS THAT THE TRUE SOURCE IS WASTE WATER WHICH COMES THROUGH MR. INGLET'S PROPERTY AND COLLECTS IN A POND BELOW HIS FIELDS.

WE FOUND IN OUR INSPECTION THAT MR. INGLET IRRIGATES THE WEST 1/2 OF THE NW 1/4 OF SECT. 21 T 16S, R 39E. HE DOES THIS BY COLLECTING WASTE/DRAIN WATER IN A POND LOCATED IN THE SENE OF SECT. 20 T 16S, R 39E. THERE ARE SEVERAL DUG DRAINS WHICH SURROUND THE INGLET PROPERTY. WE WERE TOLD THAT THESE WERE CONSTRUCTED FROM THE EARLY 1900'S ON TO ALEVIATE THE FLOODING EFFECT THAT SURROUNDING SURFACE IRRIGATION HAD ON THE INGLET FARM.

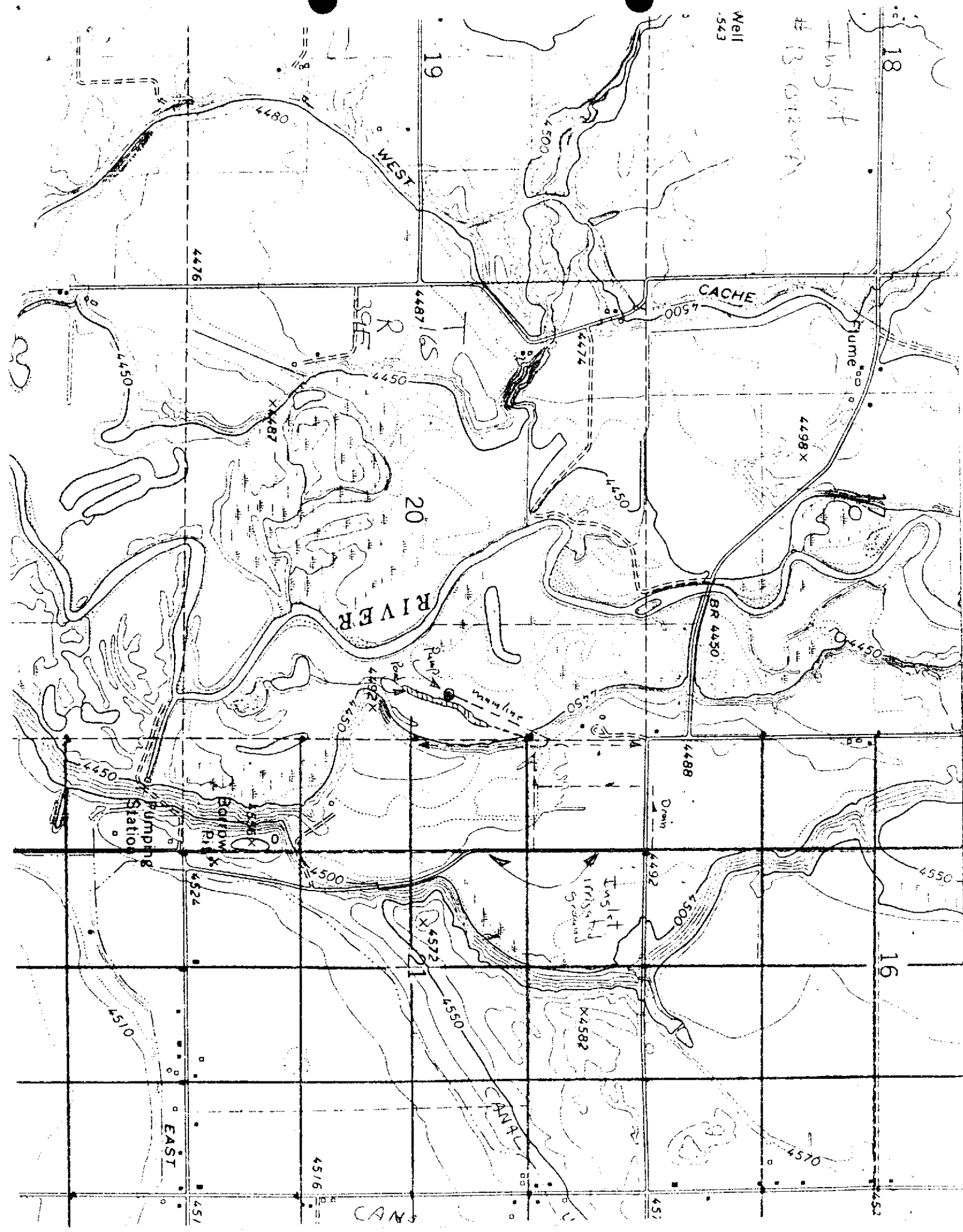
MR. INGLET STATED THAT MOST OF THE RUN OFF WATER COMES EARLY IN THE IRRIGATION SEASON WHEN THE WEST CACHE CANAL FIRST TURNS ON. HE CAN ONLY GET ENOUGH MOST YEARS TO IRRIGATE THE FIRST TWO CROPS OF HAY. WHEN WE WERE ON-SITE WE MEASURED THE CURRENT IN-FLOW AND THAT AMOUNTED TO ONLY 0.03 CFS. MR. INGLET ALSO STATED THAT AS IIRIGATION PRACTICES HAVE SWITCHED MORE TO SPRINKLER FROM FLOOD HE HAS GOTTEN LESS AND LESS WASTE WATER COMING HIS WAY.

THE COLLECTION POND IS APPROXIMATLY 1150' BY 60' WITH A BULGE AT ONE END OF 330' WIDTH. AVERAGE DEPTH RANGES FROM 8 TO 12 FEET. THE POND IS LOCATED AT ITS CLOSEST POINT WITHIN 200 YDS. OF THE BEAR RIVER AND 1/4 MILE AT IT'S FURTHEST POINT.

MR. INGLET STATES THAT BEFORE THE POND WAS EXPANDED THE LAND IN THE GENERAL AREA WAS MARSHY WETLANDS WITH NO DIRECT FLOW OF WASTE WATER TO THE BEAR RIVER.

SINCE THIS PONDED WATER CAN BE PUMPED DOWN I WOULD SPECULATE THAT THERE IS LITTLE MIGRATION OF WATER FROM THE BEAR RIVER INTO THIS FACILITY. HOWEVER OUR ON-SITE WAS VERY BRIEF AND I HAVE NO PREVIOUS EXPERIENCE WITH THIS PARTICULAR PROBLEM.

I ALSO REVIEWED THE 243 CLAIM # 13-04244 WITH MR. INGLET AND FOUND HE HAD NOT PUT THE EARLIEST PRIORITY HE HAD DOWN NOR DID HE INCLUDE WASTE WATER AS A SOURCE. HE WAS ADVISED THAT HIS CLAIM COULD BE AMENDED.



ACTION REQUIRED

6-10-94

FROM: H.W. JONES

TO: Glen Saxton - Boise

Attached is the most recent letter from Kent Foster about the Ingot use of drain water tub to the Bear River. Norm said he would give you the main file on this issue.

Hef

RECEIVED

JUN 16 1994

Department of Water Resources

13-4107 - Bear R.
13-4278 unnamed drain
13-4244 " "

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FALLS OFFICE

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BOISE, IDAHO 83702

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BOISE OFFICE

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June 8, 1994

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JUN 9 1994
Department of Water Resources
Eastern District Office

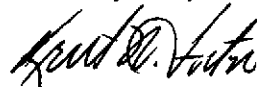
Mr. Harold Jones
IDAHO DEPARTMENT OF WATER
RESOURCES
900 N. Skyline
Idaho Falls, Idaho 83402-1718

RE: Alex Inglet

Dear Mr. Jones:

We wrote to you and sent some additional information on this matter last November. We have apparently heard nothing since and I have just received a letter from Mr. Inglet, a copy of which is enclosed. It sounds like he is intimidated by the water master, Mr. Petersen. Alex can really not afford any litigation. Is there anything that can be done to help straighten this matter out and get the water master off his back? Thank you for your kind assistance.

Yours very truly,



Kent W. Foster

Enclosure

G:\WPDATA\SANDRA\INGLET01.LTR:sjw

RECEIVED
JUN 9 1994
Department of Water Resources
Eastern District Office

RECEIVED JUN - 1 1994

Mr. Foster

HAVE NOT HEARD ANYTHING ~~to~~ from you or the state since we did the thing with my dad. WAS wondering where I stood on pumping water out of the reservoir. I let 1st crop MAY burn cause I didn't dare pump because Mr. Peterson made it very evident last fall that he would ~~probably~~ more than likely get the sheriff down I could spent some time in jail. I was within 2 or 3 days of running out of water then so I just shut down then until we could get dad's papers done & hoped that would resolve it. I can not chance spending time in jail as there is no one else to milk my cows & that would do my farm in in just 24 hours. I also now realize that I must water my crops or I will also go broke.

After working all winter & spring over this water I must reach some conclusion as my family life & businesses have really suffered. I find it very hard to function or even give a damn about most things I use to really care about. The stress is also starting to affect my health.

I always thought that a person was innocent until proven guilty. It seems to me that Pete is saying that I'm guilty & I must spend the money & time to prove my innocence! When the water was running out all over my river bottom land - flooding it - ruining it - making it worthless. They did claim the water then. Now that I've put it to good use - instead of it just going to waste - they claim it. Maybe they should have to ~~pay~~ pay me for all the years "their water" was making my ground worthless

for farming or pasture - it was just a
bunch of swamp ground. I ~~was~~ again
looked into selling the farm but found out
that it's almost ~~not~~ not worth anything without
some type of water. Besides I don't have
enough brains to make a living any other
way - especially at my age.

Thank you
for your time.

Qly

Glen — 6/10/94

This has been on my
to do list for 6 months or more.
Skip is getting calls and I still
can't give it priority for attention
Can you?

N Coz

6-10-94
Glen - Skip & Norm
talked about this -
today.
(Carolyn)

11-16-93

ACTION REQUIRED

RECEIVED

NOV 15 1993

Department of Water Resources

FROM: H.W. Jones - Eastern

TO: Norm Young - Boise

Attached is additional information that Mr. Alex Englet has submitted. I sent you an on-site inspection file ref. his claim in Basin 13 (13-04244) this past summer to determine if his drain was to be considered tributary to the Bear River & regulated accordingly. I have sent copies to the vault for file inclusion. If you still have my original report, I would ask that you include this with it.

It appears that Kint would like a response. The original answer was that the drain was part of the Bear River system & Pete Peterson was to regulate said use.



LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FALLS OFFICE

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WILLIAM S. HOLDEN
(1907-1988)

November 8, 1993

RECEIVED

NOV 09 1993

Mr. Harold Jones
IDAHO DEPARTMENT OF WATER
RESOURCES
900 N. Skyline
Idaho Falls, Idaho 83402-1718

Department of Water Resources
Eastern District Office

RE: Alex Inglet

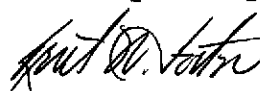
Dear Mr. Jones:

We have finally been able to obtain, and are enclosing with this letter, an affidavit of Barnard Inglet, regarding the use of Bear River water and waste water which has been made over the years on the land now operated by Alex Inglet.

From the memo from Norm Young, a copy which you furnished to us last August, I am not sure of what information you or other Idaho Department of Water Resources personnel may have gathered, but we hope this affidavit will be of assistance.

We have never understood Petersen's concerns about the impounding and use of the waste water. He has never contacted me or responded to my letter in any way. Perhaps some additional documentation would be helpful. When you have had an opportunity to review the affidavit, and perhaps your file again, would you please give me the benefit of your thoughts and any recommendations you may have.

Yours very truly,



Kent W. Foster

#0176.00/KWF:kep
Enclosure

cc: Alex Inglet

AFFIDAVIT OF BERNARD INGLET

STATE OF IDAHO)
)ss.
County of Franklin)

BARNARD INGLET, being first duly sworn, upon his oath,
deposes and states:

1. Affiant resides at 3985 South 1600 West, Preston, Idaho 83263. Affiant was born near Preston, Idaho, in 1915, and has resided his entire life on or near a farm located primarily in portions of Sections 17, 20 and 21 of Township 16 South, Range 39 East (the irrigated portions of which are described below) adjacent to the Bear River, now operated by affiant's son, Alex Inglet. Much of the farm was formerly owned and operated by affiant's father, J. Parley Inglet, and grandfather, Parley J. Inglet. Affiant has been personally familiar with water diversion and use on this land for most of his life, and knows of much of the prior history of the irrigation of the farmland from his father and grandfather.

2. In about 1901 (in support of this date supplied to affiant by his father, J. Parley Inglet, affiant has located a letter from the Mine and Smelter Supply Company, dated June 19, 1901, to a Mr. John Martin regarding this very pump, a copy of which is attached to this affidavit), affiant's father,

J. Parley Inglet, and affiant's uncle, Simpson B. Inglet, installed a pump on the east side of Bear River, on Parley's land, in the SW corner of the SE1/4 of the NE1/4 of said Section 20, and powered it by means of a gasoline engine. Water was discharged into a ditch system which carried the water to lands of Parley J. Inglet and Simpson B. Inglet. The land irrigated included approximately 15 acres of land still owned and irrigated by Alex Inglet in the SE1/4 of the NE1/4 of Section 20, Township 16 South, Range 39 East.

3. In about 1915, a steam engine from a threshing machine was substituted for the gasoline engine. The steam engine was used for the operation of the pump for three or four years and then a stationary gasoline engine was installed. With the steam engine, the pump produced about 4.0 cfs. The output of the pump decreased with the use of the gasoline engine to about 2.0 cfs, but affiant's father irrigated the same land. The second gasoline engine was used until 1937.

4. In 1937, affiant acquired an Oliver, tricycle-type, tractor. (He recalls it was two years before he was married, and he was married in 1939). The tractor was used to drive the pump until sometime between 1951 and 1956. The pump produced about 2.5 cfs when operated by the tractor. No other changes were made, except that Simpson B. Inglet did not use as much water and finally ceased using water for irrigation at all.

5. Sometime between 1951 and 1956, affiant agreed with another neighbor, Seaborn Lamont, to move the pump and tractor to the east side of (and at the bow of) a slough near the north side at about the center of the NE1/4 of the NE1/4 of Section 20. A ditch system was constructed to permit irrigation of some of Mr. Lamont's land, as well as additional land of affiant, consisting of some 10 acres in the SE1/4 of the SE1/4 and 19 acres in the NE1/4 of the SE1/4 of Section 17, 2.6 acres in the NE1/4 of the NE1/4 of Section 20, 40 acres in the NW1/4 of the NW1/4, and 20 acres in the SW1/4 of the NW1/4 of Section 20, all of which sections are in Township 16 South, Range 39 East. The tractor was used to operate the pump until sometime between 1951 and 1956, but in 1957, a new electric pump was substituted. Affiant and Mr. Seaborn Lamont had agreed to share water and expenses half and half. At that time, in 1957, the tractor and old pump were moved to the "Horseshoe Slough", a slough located in the SW corner of the NE1/4 of the NE1/4 in the NW corner of the SE1/4 of the NE1/4, as well as into the NE corner of the SW1/4 of the NE1/4 of said Section 20. From that time on, the old pump was used primarily to pump the water from the slough into the river to alleviate boggy conditions on the surrounding bottom land. The pump is still present in that location although it is no longer in use.

6. The slough on which the new electric pump was located was fed by the river, but a sandbar continued to encroach near its mouth until it was pretty much impossible to get water to the pump. Finally, by 1968, after affiant secured permission from Mr. Frank Gilbert to put the pump on the east bank of Bear River, on Mr. Gilbert's land in the NE corner of the NW1/4 of the NE1/4 of said Section 20, the pump was moved to its present location, concrete supports were poured, and a steel pipeline installed to carry water to the upper land ditch system irrigated by affiant and the Lamonts. A number of modifications have been made to overcome the sand problem. The 30-hp pump and motor have been replaced twice. The pump has always produced between 2.0 and 2.5 cfs.

7. The river bottom land located in the E1/2 of the NE1/4 of said Section 20, including the 15 or so acres in the SE1/4 of the NE1/4 irrigated as described, was normally flooded in the spring when affiant first remembers it, but after the flood waters receded, the land could be farmed and needed irrigation. Sometime, approximately during the 1930s, two men (as affiant recalls one was named Elmer Kerr and the other was Melvin Smith) constructed a drain on their lands a mile or so upgradient to the NE of affiant's land. The drain brought

water to affiant's bottom land, as well as some of affiant's land upon the bench, and all the land became increasingly more boggy. There was no channel for the water to reach the river so it ponded and flooded affiant's land and other bottom land to the south. With additional drain construction and improvements upgradient and increased waste or drain water from upland irrigation, primarily of lands under the Cub River Irrigation Company, a gully began to erode on affiant's land approximately along the east/west dividing line between the NW1/4 of the NW1/4 and the SW1/4 of the NW1/4 of Section 21, beginning near the western edge and creeping further and further east until now it is quite large and deep. Over the years, affiant has attempted to control the drainage and even to impound it to reduce the boggy conditions it produced on his lands, and to use it to irrigate portions of the farm. This activity increased until beginning in about 1978, a pond or reservoir at the base of the gully was begun in earnest. A diesel pump has been installed on the pond which now pressurizes a sprinkling system to irrigate all of the lands above described, and the water from the pump on the river (jointly owned with Lamonts) is now used primarily to augment and supplement the supply from this pond or reservoir.

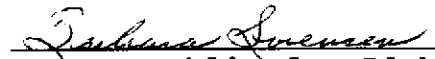
Upgradient changes in the use and operation of the waste water drains frequently increase the erosion problems or reduce the water supply.

DATED this 1st day of ~~September~~^{November}, 1993.


BARNARD INGLET

SUBSCRIBED and sworn to before me this 1st day of
~~September~~, 1993.
November

(SEAL)


Notary Public for Idaho
Residing at Swan Lake, Idaho
My Commission Expires: June 1, 1994

#0176.00
1486m/srs

THE MINE AND SMELTER

Supply Company.

DENVER ADDRESS
P.O. BOX 1543.

MACHINERY AND MINING SUPPLIES
OF ALL KINDS.
224 AND 226 WEST TEMPLE ST.

Salt Lake City, Utah.

P.O. BOX 250.

EBEN SMITH,
JOHN S. CARY,
R. J. CARY,
F. L. SMITH.

June, 19, 1901

Mr. John Martin,
Preston, Idaho.

Dear Sir:-

We are in receipt of your favor of the 13th. in regard to Mr. P.J. Englet's pumping plant. The writer understood Mr. Englet to say that the pump would stand within four feet of the water at the present time, and at no time would he have to raise water over 10 ft., in which case the #3 pump could be worked successfully without a foot valve in this altitude. However, as it is necessary for him to ^{DRAW} ~~throw~~ water from a greater height than this there is no doubt but what a foot valve would be a benefit to him, at the time of his buying the pump. I spoke to him of the power of his engine, and told him that he did not have power enough to raise water over 10 ft., but from 4 to 10 ft. that I thought he could run the pump. I regret he is having this trouble, and if there is anything that I can do to help him out we will be pleased to do. We can furnish him a 4" foot valve for \$3.65 in Salt Lake, and would be pleased to send him one should he so desire. We think this would overcome part of his difficulty.

Yours very truly,

The Mine & Smelter Supply Co.

JWG

J. W. Gates.

MEMORANDUM

To: Norman C. Young
From: L. Glen Saxton 
RE: ALEX INGLET MATTER
Date: June 23, 1994

I have read the attached letters from Kent Foster and Alex Inglet concerning use of wastewater in the Bear River drainage near Preston, Idaho.

Since this appeared to be an ongoing matter, I called Skip Jones for some background and determined the following:

- E. Region has in the past conducted a field inspection of the Alex Inglet property and is familiar with the physical layout. The report of the region's findings and recommendation is in E. Region.
- The recommendation of E. Region apparently conflicted with a similar set of facts and investigation made by the Director involving land of Floyd Jensen in the same general area. Due to these circumstances, E. Region says they turned the matter over to you so that department action on the matters would be consistent.

I have no background about what was decided or done in the Floyd Jensen matter.

Attached are two (2) profile reports showing that Inglet has filed statutory claims 13-04244 and 13-04278 with priorities in the 1950s. These rights, of course, would be shut off by a watermaster during times of scarcity. Even if the rights were represented by a decree or license, a 1950 priority would likely be shut off during most years.

I would be happy to draft a letter for you if you want and if I know the outcome of the Jensen matter.

WR5809NP
No. 13-04244

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 06/23/94
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	ALEX P. INGLET RFD #1, BOX 357 PRESTON ID 83263	04/01/1951	IRRIGATION STOCKWATER	04-01 10-01 10-01 04-01	1.00 CFS 0.50 CFS	
TOTAL DIVERSION:					1.50 CFS	

Water Source: UNNAMED DRAINS SPRINGS
Tributary to: BEAR RIVER
BEAR RIVER
Stage: STATUTORY CLAIM

FRANKLIN County

Point(s) of Diversion: T16S R39E S21 NWNW

Place of use Legal Description for: IRRIGATION

		NE		NW		SW		SE		
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac
16S	39E	17	:	:	:	:	:	:	:	SUM
16S	39E	20	:	:	:	:	:	:	:	
16S	39E	21	:	:	:	:	:	:	:	
TOTAL ACRES										85.0

Place of use location for STOCKWATER is the same location as described for: IRRIGATION

Pou County: FRANKLIN

Other Water Rights Listing Overlapping Place(s) of use:
13-04107 13-04278

Dates: App. Received: 04/01/1951
Proof Due Date: 04/01/1951
Exam Made Date: 04/01/1951
Exam Sent to S.O.: 04/01/1951

Misc: Water District Number: Field Exam Fee:

Audit: 05/16/86 05/21/88 CONVERT

OWNER CODE C NAME & ADDRESS ALEX P. INGLET RFD 1, BOX 357 PRESTON ID 83263 PRIORITY DATE 03/01/1954 WATER USE IRRIGATION STOCKWATER USE PERIOD FROM 04-01 10-01 TO 01-01 12-31 DIVERSION RATE 0.50 CFS 0.03 CFS DIVERSION VOLUME 0.50 CFS TOTAL DIVERSION: 0.50 CFS

Water Source: UNNAMED DRAIN Tributary to: BEAR RIVER Stage: STATUTORY CLAIM Point(s) of Diversion: T16S R39E S17 SESE FRANKLIN County

Place of use Legal Description for: IRRIGATION

		NE		NW		SW		SE			
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM
16S	39E	17	:	:	:	:	:	:	:	:	:
										24	16
										TOTAL ACRES	
										40.0	

Place of use location for STOCKWATER is the same location as described for: IRRIGATION

Pou County: FRANKLIN

Other Water Rights Listing Overlapping Place(s) of use: 13-04107 13-04244

Dates: App. Received: 03/01/1954 Proof Due Date: Exam Made Date: Exam Sent to S.O.: Licensed Date:

Misc: Water District Number: Field Exam Fee:

Audit: 05/16/86 05/21/88 CONVERT

TO: SKIP JONES THRU RON CARLSON

FROM: NORM *NY*

RE: ALEX INGLET USE OF WATER IN BEAR RIVER BASIN

DATE: AUGUST 19, 1993

RECEIVED

JUN 30 1994

Department of Water Resources

RECEIVED

AUG 26 1993

Department of Water Resources
Eastern District Office

I have reviewed the information submitted on this matter and discussed it with Keith. I have considered Kent Foster's argument about waste water, but it does not appear that we have the technical information to make an adequate determination between waste water that is not tributary to Bear River and the water that would naturally be tributary to Bear River if not intercepted by Mr. Inglet's drains and ponds. The close proximity of the pond to the Bear River in an area that was marshy prior to construction of the pond indicates a relationship between the water pumped from the pond and water that either comes from Bear River or would reach Bear River. We would be very hesitant to issue a new permit for such a use without substantial technical information concerning this matter. It is Mr. Inglet's responsibility to provide information to show that the water he is using is not naturally tributary to the River.

Also, if the water actually is overland flow waste water, information is needed concerning Mr. Inglet's use of this water relative to other users of water from Bear River. If the water had for a long period of time entered Bear River and was relied upon by Bear River users, I question whether a new (i.e. new in 1951) appropriator can claim the water without regard for the earlier rights on Bear River. Again, Mr. Inglet should provide the background information to address this matter.

Until the department has the information needed to make the determinations described above, Mr. Inglet's water use should be administered in priority with other uses from Bear River and tributaries.

*Norm
Young*

*Norm
It appears that the
Inglet right is much older
than 1951, perhaps 1901.
This would make a difference in
delivery Bob*

8-4-93.

ACTION REQUIRED

FROM: H.W. JONES - Eastern

TO: NORM YOUNG - Boise

The attached report needs your review. Mr. Ingle & watermaster Pete Petersen (WD 11) are at odds over use of the "drain/waste water". I believe this officer originally told Pete to regulate Mr. Ingle as a Bear River user. Attorney Kent Foster has challenged that & outlines his argument in the attached letter.

We would appreciate any help in this matter.

Huf

Keith —

Do you see this issue as being the ~~same~~ same as Froya Jensen or is it different No because inflow to pond is apparently waste water?

Ncy

RECEIVED

AUG 09 1993

Department of Water Resources

FROM: H.W. JONES
TO: NORM YOUNG
RE: ALEX INGLET ON-SITE EXAM

ON JULY 22, 1993 PAUL MEYER AND I MET WITH ALEX INGLET REFERENCE A COMPLAINT FROM MR. INGLET'S LAWYER, KENT FOSTER. KENT ALLEGES THAT MR. INGLET'S USE OF WATER WHICH IS REFLECTED BY CLAIM 13-04244 SHOULD NOT BE REGULATED BY THE BEAR RIVER WATER MASTER. KENT FEELS THAT THE TRUE SOURCE IS WASTE WATER WHICH COMES THROUGH MR. INGLET'S PROPERTY AND COLLECTS IN A POND BELOW HIS FIELDS.

WE FOUND IN OUR INSPECTION THAT MR. INGLET IRRIGATES THE WEST 1/2 OF THE NW 1/4 OF SECT. 21 T 16S, R 39E. HE DOES THIS BY COLLECTING WASTE/DRAIN WATER IN A POND LOCATED IN THE SENE OF SECT. 20 T 16S, R 39E. THERE ARE SEVERAL DUG DRAINS WHICH SURROUND THE INGLET PROPERTY. WE WERE TOLD THAT THESE WERE CONSTRUCTED FROM THE EARLY 1900'S ON TO ALEVIAE THE FLOODING EFFECT THAT SURROUNDING SURFACE IRRIGATION HAD ON THE INGLET FARM.

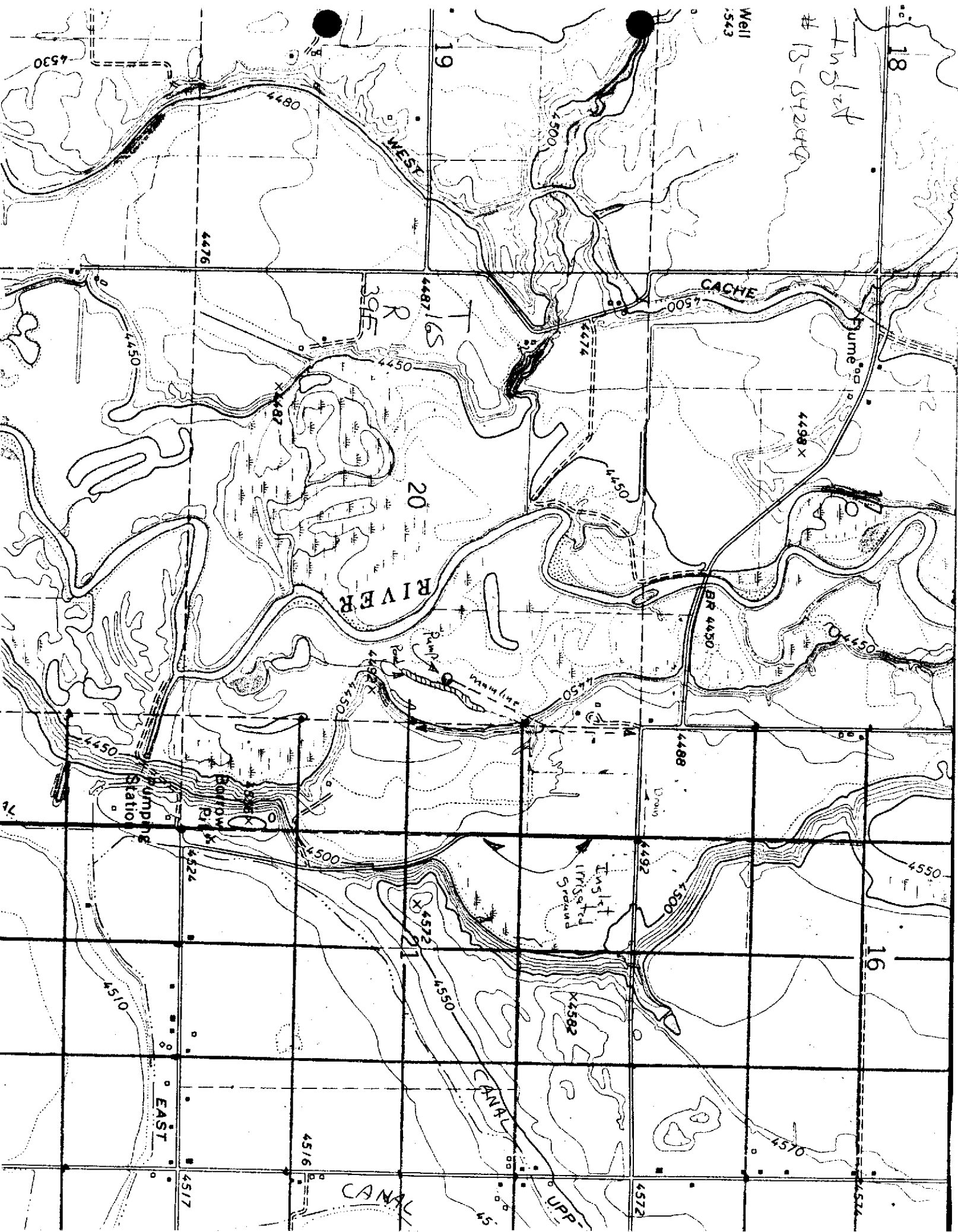
MR. INGLET STATED THAT MOST OF THE RUN OFF WATER COMES EARLY IN THE IRRIGATION SEASON WHEN THE WEST CACHE CANAL FIRST TURNS ON. HE CAN ONLY GET ENOUGH MOST YEARS TO IRRIGATE THE FIRST TWO CROPS OF HAY. WHEN WE WERE ON-SITE WE MEASURED THE CURRENT IN-FLOW AND THAT AMOUNTED TO ONLY 0.03 CFS. MR. INGLET ALSO STATED THAT AS IIRIGATION PRACTICES HAVE SWITCHED MORE TO SPRINKLER FROM FLOOD HE HAS GOTTEN LESS AND LESS WASTE WATER COMING HIS WAY.

THE COLLECTION POND IS APPROXIMATLY 1150' BY 60' WITH A BULGE AT ONE END OF 330' WIDTH. AVERAGE DEPTH RANGES FROM 8 TO 12 FEET. THE POND IS LOCATED AT ITS CLOSEST POINT WITHIN 200 YDS. OF THE BEAR RIVER AND 1/4 MILE AT IT'S FURTHEST POINT.

MR. INGLET STATES THAT BEFORE THE POND WAS EXPANDED THE LAND IN THE GENERAL AREA WAS MARSHY WETLANDS WITH NO DIRECT FLOW OF WASTE WATER TO THE BEAR RIVER.

SINCE THIS PONDED WATER CAN BE PUMPED DOWN I WOULD SPECULATE THAT THERE IS LITTLE MIGRATION OF WATER FROM THE BEAR RIVER INTO THIS FACILITY. HOWEVER OUR ON-SITE WAS VERY BRIEF AND I HAVE NO PREVIOUS EXPERIENCE WITH THIS PARTICULAR PROBLEM.

I ALSO REVIEWED THE 243 CLAIM # 13-04244 WITH MR. INGLET AND FOUND HE HAD NOT PUT THE EARLIEST PRIORITY HE HAD DOWN NOR DID HE INCLUDE WASTE WATER AS A SOURCE. HE WAS ADVISED THAT HIS CLAIM COULD BE AMENDED.



9/81

Claim No.

13 4210

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

JUN 22 1983

Department of Water Resources
Eastern District Office

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that ALEX P. DOLBEY
(Name of Claimant)

REF#1 Box 357 Preston, Idaho
(Mailing Address)

(Zip Code)

Telephone No. 852-2757

claims a right to the diversion a beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) 1951

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

tributary to SEAR RIVER

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(City)		(Domestic, Irrigation, Stock, Etc.)		(Both dates inclusive)	
Quantity	(Mo., Day)	Use	(Mo., Day)	To	(Mo., Day)
Quantity	1 KFS	Use	IRRIGATION	Period of Use From	APRIL To OCT
Quantity	5 ACS	Use	STOCK	Period of Use From	OCT To APRIL
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To

(4) 1.5 TOTAL QUANTITY USED.
(cfs. at)

(5) 4) Point of diversion: (Location of point where water is diverted from its source)
 N1/2 & N1/4, Sec. 21 Twp. 16S Rge. 37E B.M., County of Franklin
 Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. *Atkins Reservoir*

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

No. of acres 8.5

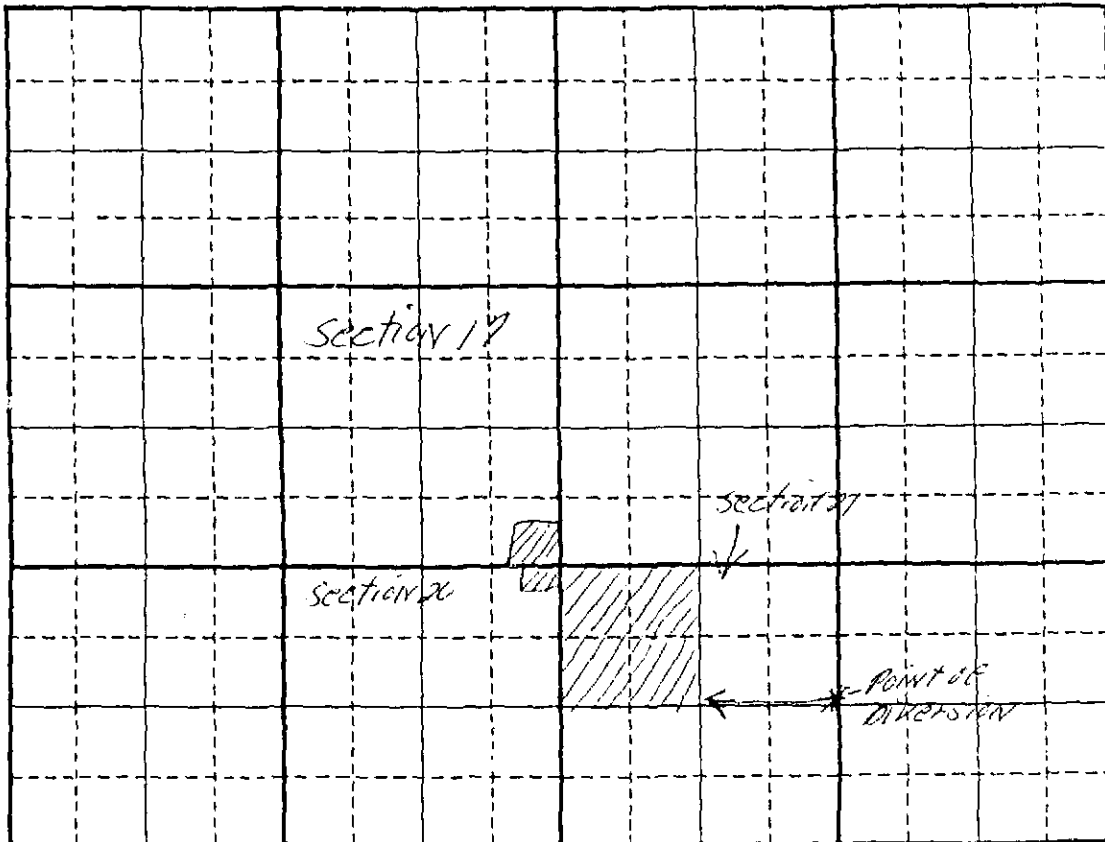
B) If water is used for other than irrigation, fully describe that use, being as specific as possible:

To water young stock in winter months

NOTE: Include here the type and number of stock watered: 50 HEAD YOUNG MIXED SEX STOCK

{7} If you are claiming water as a member of an organization, list name of organization:

(8) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho

County of

Franklin

ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 13th day of June

1963

Notary Public
Residing at

Boston, Idaho

My commission expires

Liketone

FOR DEPARTMENT USE ONLY

Received by ew

Date

6-22-83

Exception filed by:

Forwarded to

Date

Prelim. check by ew

Date

6-28-83

claimant by:

\$30.00 fee received by ew

Date

6-22-83

Pl. filed in Boston, Idaho

Dates 8/11 & 8/18/83

230657

LAW OFFICES

HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FALLS OFFICE

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
MICHAEL D. CRAPO
GAYLE A. SORENSON, P.A.
DONALD L. HARRIS
MARIE T. TYLER
JOHN G. SIMMONS
ROBERT M. FOLLETT
KUMEN L. TAYLOR
JAMES K. SLAVENS

WEST ONE BANK
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

KEY FINANCIAL CENTER
702 W. IDAHO SUITE 610
BOISE, IDAHO 83702

TELEPHONE (208) 343-0820
TELEFAX (208) 343-8078

BOISE OFFICE

WM. LYMAN BELNAP, P.A.
RANDALL B. REED
RONALD D. CHRISTIAN

ARTHUR W. HOLDEN
(1877-1967)
ROBERT B. HOLDEN
(1911-1971)
TERRY L. CRAPO
(1939-1982)
WILLIAM S. HOLDEN
(1907-1968)

June 12, 1992

Pete Peterson, Watermaster
IDAHO WATER DISTRICT #13
223 North State
Preston, Idaho 83263

COPY

RE: Alex Inglet

Dear Mr. Peterson:

We were recently contacted by Mr. Alex Inglet of Preston and asked for our analysis of a use he makes of water which comes onto his property, primarily from irrigation of a number of farms located upgradient from his land. As we understand it, you have recently raised the issue of his right to collect and apply this water for irrigation purposes.

As we understand the facts, this use was begun by Mr. Inglet's grandfather and has been continued for many years by his father and now by himself. In recent years, Mr. Inglet has attempted to improve the method of collection and diversion to protect and enhance the utility of his land.

Apparently, as irrigation developed on the lands higher than the land of Mr. Inglet's, a certain amount of water, after it had been applied to irrigation, unavoidably ran off such upper lands and some found its way to the river bottom lands owned by the Inglets. This water contributed to the wet and boggy condition of much of the river bottom land which could be used essentially only as marginal pasture. Some natural depressions, probably originally formed as part of a channel of the river, existed on the land and some of this run-off water from irrigation of the upper lands would flow into these depressions. Mr. Inglet's grandfather, several decades ago, began pumping water for irrigation of some of his lands by means of an old steam engine and then a gasoline pump. Mr. Inglet and his father often used a power take-off pump on a tractor.

Pete Peterson, Watermaster
June 12, 1992
Page 2

Over the years, this irrigation run-off water from the higher lands has been channeled in various places and has been concentrated to flow across the Inglet property primarily in a single location. Where that water drops from the bench land down to the river bottom land on the Inglet property, it has severely eroded some of the Inglet property and resulted in a substantial gully.

Because of the damage that was being done to his lower lands from the erosion and from the excess water, Mr. Inglet has, over several years, excavated a pond at the base of the hill to collect and impound the water coming through the gully. When irrigation of the upper lands occurs, there is often enough water to fill the pond, and more. Mr. Inglet advises he now has an electric pump which pumps water from this pond into his irrigation system for some of his other land. Mr. Inglet indicates that even if the water were not collected in his small reservoir, most of it, for most of the irrigation season, would not find its way through any discreet surface channel into the river. Rather, it would flow here and there on his and adjoining river bottom lands, contributing to their excessively wet and devalued condition as was common many years ago.

Assuming these facts to be essentially accurate, we have examined applicable Idaho law. It appears to us from our research that the courts have usually addressed this type of situation as either a "waste water" issue or a "tributary water" issue. The water we are dealing with in this case, to the extent it originates from the intentional acts of man by irrigating upper lands, would be classified as "waste water". While the two concepts are related, every case we have been able to find, which holds that any given water source (whether it be a stream, spring or seepage) is tributary to a larger stream or river, deals only with sources of supply which in their natural state, unmolested and unassisted by man, would reach or flow into and contribute to the supply of water in the larger stream or river. Water which has been intentionally diverted from a natural stream and is then applied to land for irrigation, but results in some amount unavoidably running off the irrigated land onto lower lands, is classified as waste water.

Pete Peterson, Watermaster
June 12, 1992
Page 3

The Idaho Supreme Court has established, in a long line of cases, that water left over after one holding a valid water right has diverted it and applied it to a beneficial use is waste water, which may be appropriated and used by another, subject always to the right of the first appropriator to cease wasting at any time. Rights to the use of waste water may be appropriated in the same manner as other rights to the use of water. This particular right would, of course, have been appropriated under the constitutional method of appropriation, which required only a diversion and application to beneficial use.

Such rights apparently can be documented in the same manner as rights to divert and use waters from a natural stream. In this case, we are unaware of any such formal documentation. However, the Idaho statute appears to confer authority upon the duly elected watermaster "to distribute the waters of the public stream, streams or water supply". Idaho Code §42-607. As we have explained above, the water supply for Mr. Inglet's pond or reservoir appears to be "waste water", not "tributary water", and hence not part of a "public stream, streams or water supply". While it may be desirable for Mr. Inglet to take action to document his right to use the waste water, it does not appear that it would be legally necessary.

Based upon our analysis of this matter, and the factual background which has been given to us, we have advised Mr. Inglet that so long as waste water continues to come from the irrigation of the upper lands into his reservoir, we know of no legal reason he cannot continue to use it for the purposes he and his predecessors have established.

If you are aware of additional relevant information, we would be pleased to hear from you at your convenience.

Yours very truly,



Kent W. Foster

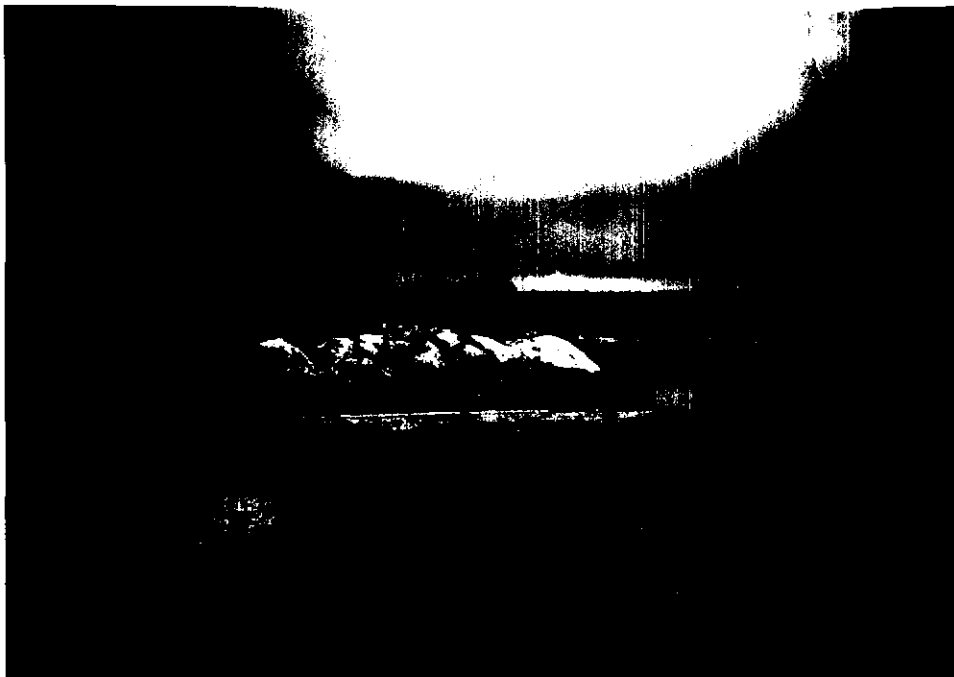
#6900.00/srs

cc: Harold Jones, Water Rights Supervisor
Mr. Alex Inglet

Inglot
13-04244



Pond (enlarged portion)





Inlet
#13-04244



Relift Pump



Pond (Narrow portion)

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FALLS OFFICE

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
GAYLE A. SORENSON, P.A.
DONALD L. HARRIS
MARIE T. TYLER
JOHN G. SIMMONS, P.A.
ROBERT M. FOLLETT
KUMEN L. TAYLOR
JAMES K. SLAVENS

WEST ONE BANK
P.O. BOX 50130
330 SHOUP AVENUE
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

KEY FINANCIAL CENTER
702 W. IDAHO SUITE 810
BOISE, IDAHO 83702

TELEPHONE (208) 343-0820
TELEFAX (208) 343-8078

BOISE OFFICE

RANDALL B. REED
FREDERICK J. HAHN III
RONALD D. CHRISTIAN

ARTHUR W. HOLDEN
(1877-1967)
ROBERT B. HOLDEN
(1911-1971)
TERRY L. CRAPO
(1939-1982)
WILLIAM S. HOLDEN
(1907-1988)

November 8, 1993

13-4244
re H. Jones
11-15-93
RECEIVED

NOV 09 1993

Mr. Harold Jones
IDAHO DEPARTMENT OF WATER
RESOURCES
900 N. Skyline
Idaho Falls, Idaho 83402-1718

Department of Water Resources
Eastern District Office

RE: Alex Inglet

Dear Mr. Jones:

We have finally been able to obtain, and are enclosing with this letter, an affidavit of Barnard Inglet, regarding the use of Bear River water and waste water which has been made over the years on the land now operated by Alex Inglet.

From the memo from Norm Young, a copy which you furnished to us last August, I am not sure of what information you or other Idaho Department of Water Resources personnel may have gathered, but we hope this affidavit will be of assistance.

We have never understood Petersen's concerns about the impounding and use of the waste water. He has never contacted me or responded to my letter in any way. Perhaps some additional documentation would be helpful. When you have had an opportunity to review the affidavit, and perhaps your file again, would you please give me the benefit of your thoughts and any recommendations you may have.

Yours very truly,



Kent W. Foster

#0176.00/KWF:kep
Enclosure

cc: Alex Inglet

AFFIDAVIT OF BERNARD INGLET

STATE OF IDAHO)
)ss.
County of Franklin)

BARNARD INGLET, being first duly sworn, upon his oath,
deposes and states:

1. Affiant resides at 3985 South 1600 West, Preston, Idaho 83263. Affiant was born near Preston, Idaho, in 1915, and has resided his entire life on or near a farm located primarily in portions of Sections 17, 20 and 21 of Township 16 South, Range 39 East (the irrigated portions of which are described below) adjacent to the Bear River, now operated by affiant's son, Alex Inglet. Much of the farm was formerly owned and operated by affiant's father, J. Parley Inglet, and grandfather, Parley J. Inglet. Affiant has been personally familiar with water diversion and use on this land for most of his life, and knows of much of the prior history of the irrigation of the farmland from his father and grandfather.

2. In about 1901 (in support of this date supplied to affiant by his father, J. Parley Inglet, affiant has located a letter from the Mine and Smelter Supply Company, dated June 19, 1901, to a Mr. John Martin regarding this very pump, a copy of which is attached to this affidavit), affiant's father,

J. Parley Inglet, and affiant's uncle, Simpson B. Inglet, installed a pump on the east side of Bear River, on Parley's land, in the SW corner of the SE1/4 of the NE1/4 of said Section 20, and powered it by means of a gasoline engine. Water was discharged into a ditch system which carried the water to lands of Parley J. Inglet and Simpson B. Inglet. The land irrigated included approximately 15 acres of land still owned and irrigated by Alex Inglet in the SE1/4 of the NE1/4 of Section 20, Township 16 South, Range 39 East.

3. In about 1915, a steam engine from a threshing machine was substituted for the gasoline engine. The steam engine was used for the operation of the pump for three or four years and then a stationary gasoline engine was installed. With the steam engine, the pump produced about 4.0 cfs. The output of the pump decreased with the use of the gasoline engine to about 2.0 cfs, but affiant's father irrigated the same land. The second gasoline engine was used until 1937.

4. In 1937, affiant acquired an Oliver, tricycle-type, tractor. (He recalls it was two years before he was married, and he was married in 1939). The tractor was used to drive the pump until sometime between 1951 and 1956. The pump produced about 2.5 cfs when operated by the tractor. No other changes were made, except that Simpson B. Inglet did not use as much water and finally ceased using water for irrigation at all.

5. Sometime between 1951 and 1956, affiant agreed with another neighbor, Seaborn Lamont, to move the pump and tractor to the east side of (and at the bow of) a slough near the north side at about the center of the NE1/4 of the NE1/4 of Section 20. A ditch system was constructed to permit irrigation of some of Mr. Lamont's land, as well as additional land of affiant, consisting of some 10 acres in the SE1/4 of the SE1/4 and 19 acres in the NE1/4 of the SE1/4 of Section 17, 2.6 acres in the NE1/4 of the NE1/4 of Section 20, 40 acres in the NW1/4 of the NW1/4, and 20 acres in the SW1/4 of the NW1/4 of Section 20, all of which sections are in Township 16 South, Range 39 East. The tractor was used to operate the pump until sometime between 1951 and 1956, but in 1957, a new electric pump was substituted. Affiant and Mr. Seaborn Lamont had agreed to share water and expenses half and half. At that time, in 1957, the tractor and old pump were moved to the "Horseshoe Slough", a slough located in the SW corner of the NE1/4 of the NE1/4 in the NW corner of the SE1/4 of the NE1/4, as well as into the NE corner of the SW1/4 of the NE1/4 of said Section 20. From that time on, the old pump was used primarily to pump the water from the slough into the river to alleviate boggy conditions on the surrounding bottom land. The pump is still present in that location although it is no longer in use.

6. The slough on which the new electric pump was located was fed by the river, but a sandbar continued to encroach near its mouth until it was pretty much impossible to get water to the pump. Finally, by 1968, after affiant secured permission from Mr. Frank Gilbert to put the pump on the east bank of Bear River, on Mr. Gilbert's land in the NE corner of the NW1/4 of the NE1/4 of said Section 20, the pump was moved to its present location, concrete supports were poured, and a steel pipeline installed to carry water to the upper land ditch system irrigated by affiant and the Lamonts. A number of modifications have been made to overcome the sand problem. The 30-hp pump and motor have been replaced twice. The pump has always produced between 2.0 and 2.5 cfs.

7. The river bottom land located in the E1/2 of the NE1/4 of said Section 20, including the 15 or so acres in the SE1/4 of the NE1/4 irrigated as described, was normally flooded in the spring when affiant first remembers it, but after the flood waters receded, the land could be farmed and needed irrigation. Sometime, approximately during the 1930s, two men (as affiant recalls one was named Elmer Kerr and the other was Melvin Smith) constructed a drain on their lands a mile or so upgradient to the NE of affiant's land. The drain brought

water to affiant's bottom land, as well as some of affiant's land upon the bench, and all the land became increasingly more boggy. There was no channel for the water to reach the river so it ponded and flooded affiant's land and other bottom land to the south. With additional drain construction and improvements upgradient and increased waste or drain water from upland irrigation, primarily of lands under the Cub River Irrigation Company, a gully began to erode on affiant's land approximately along the east/west dividing line between the NW1/4 of the NW1/4 and the SW1/4 of the NW1/4 of Section 21, beginning near the western edge and creeping further and further east until now it is quite large and deep. Over the years, affiant has attempted to control the drainage and even to impound it to reduce the boggy conditions it produced on his lands, and to use it to irrigate portions of the farm. This activity increased until beginning in about 1978, a pond or reservoir at the base of the gully was begun in earnest. A diesel pump has been installed on the pond which now pressurizes a sprinkling system to irrigate all of the lands above described, and the water from the pump on the river (jointly owned with Lamonts) is now used primarily to augment and supplement the supply from this pond or reservoir.

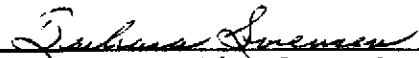
Upgradient changes in the use and operation of the waste water drains frequently increase the erosion problems or reduce the water supply.

DATED this 1st day of ~~September~~^{November}, 1993.


BARNARD INGLET

SUBSCRIBED and sworn to before me this 1st day of
~~September~~^{November}, 1993.

(SEAL)


Notary Public for Idaho
Residing at Swan Lake, Idaho
My Commission Expires: June 1, 1994

#0176.00
1486m/srs

THE MINE AND SMELTER Supply Company.

DENVER ADDRESS
P.O. BOX 1543.

MACHINERY AND MINING SUPPLIES
OF ALL KINDS.
224 AND 226 WEST TEMPLE ST.

Salt Lake City, Utah.

P.O. BOX 250.

EBEN SMITH,
JOHN S. CARY,
R. J. CARY,
F. L. SMITH.

June, 19, 1901

Mr. John Martin,
Preston, Idaho.

Dear Sir:-

We are in receipt of your favor of the 13th. in regard to Mr. P.J. Englet's pumping plant. The writer understood Mr. Englet to say that the pump would stand within four feet of the water at the present time, and at no time would he have to raise water over 10 ft., in which case the #3 pump could be worked successfully without a foot valve in this altitude. However, as it is necessary for him to ^{DRAW} ~~throw~~ water from a greater height than this there is no doubt but what a foot valve would be a benefit to him, at the time of his buying the pump. I spoke to him of the power of his engine, and told him that he did not have power enough to raise water over 10 ft., but from 4 to 10 ft. that I thought he could run the pump. I regret he is having this trouble, and if there is anything that I can do to help him out we will be pleased to do. We can furnish him a 4" foot valve for \$3.65 in Salt Lake, and would be pleased to send him one should he so desire. We think this would overcome part of his difficulty.

Yours very truly,

The Mine & Smelter Supply Co.

Ed. Gates.

JWG

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

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

AUGUST 29, 1983

RECEIVED

ALEX P. INGLET
RFD #1, BOX 357
PRESTON

ID 83263

RE: Claim No. 13-4244

Dear Claimant:

The Department of Water Resources has completed the advertising of your claim to a water right, and no further action is authorized under Section 42-243 and 42-244, IDAHO CODE. Your claim will be retained in our files and will be available at any time for use by you or the court.

The filing and advertising of the claim does not confirm the water right claimed, but will serve to record and preserve the information and the evidence which you included in your claim.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included with the claim, you may have that information or evidence added at any time. Please refer to the claim identification number when corresponding with this office.

We are enclosing a copy of your claim for your records. If you have questions, or if this office may be of further assistance, please feel free to contact us.

Yours truly,

RONALD D. CARLSON
Eastern Region Supervisor

Enclosure

RECEIVED
SEP 19 1983
Department of Water Resources



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

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

August 30, 1983

RE: Claim to a Water Right No. 13-4244 INGLET
13-4245 WILLIAMS
13-4246 GRAHAM

Preston Citizen
Box 472
Preston, ID 83263

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced application(s). The legal notice was to have been published in your paper on August 11 and 18, 1983.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

August 5, 1983

RE: Claim to a Water Right No. 11-4256 CELLAN
13-4244 INGLET

Russell Stoker, Watermaster
Water District No. 11
279 East 3rd North
Soda Springs, ID 83276

Dear Mr. Stoker:

Enclosed, for your information only, is a copy of the above referenced claim to a water right filed within your district. If you have any questions concerning this matter, please feel free to contact this office.

Very truly yours,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

State of Idaho
Department of Water Resources

CLAIM ANALYSIS SHEET

INITIAL REVIEW BY: _____

Right Number 13 4244 Applicant _____

NOTE: IF ANY OF THE ITEMS BELOW ARE MISSING, THE CLAIM IS INCOMPLETE AND MUST BE RETURNED IMMEDIATELY TO THE CLAIMANT ALONG WITH THE APPROPRIATE COVER LETTER.

CHECK:

- ☒ Name and address.
- ☒ Date of priority. (Check for a date past the mandatory filing dates.) (One date only.)
- ☒ Source.
- ☒ Quantity, use, period.
- ☒ Point(s) of diversion.
- ☒ Location of use.
- ☐ Signature/notarization/fee.

Aug 29, 1983

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received.
- ☒ Claim published correctly.
- ☐ Exceptions processed.

By *Ernest Carlson* Date *Sept. 8, 1983*

STATE OFFICE PROCESSING:

- ☒ Claim review complete.

By *Jmi* Date *9-20-83*

Ch

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

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

AUGUST 3, 1983

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 billing to this office before AUGUST 29, 1983.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

NOTICE OF CLAIMS TO WATER RIGHTS

The following claim(s) have been filed on water right(s) created by diversion and beneficial use:

Exceptions to a claim may be filed with the Director, Dept. of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402.

KEN DUNN, Dir.

Published 8/11 & 8/18/83.

13-4244-

INGLET, ALEX P.

RFD #1, BOX 357, PRESTON, ID 83263

Source: UNNAMED DRAINS trib. to BEAR RIVER
SPRINGS trib. to BEAR RIVER

Priority Date: 04/01/1951

Diversion Pt: NWNW Sec 21 T 16S R 39E

Use: IRRIGATION (1.00 CFS)
STOCKWATER (0.50 CFS)

In: SESE Sec 17 T 16S R 39E NENE Sec 20 T 16S R 39E NWNW SWNW
Sec 21 T 16S R 39E FOR 85 ACRES

*Proofed
by phone
BP 8/5/83*