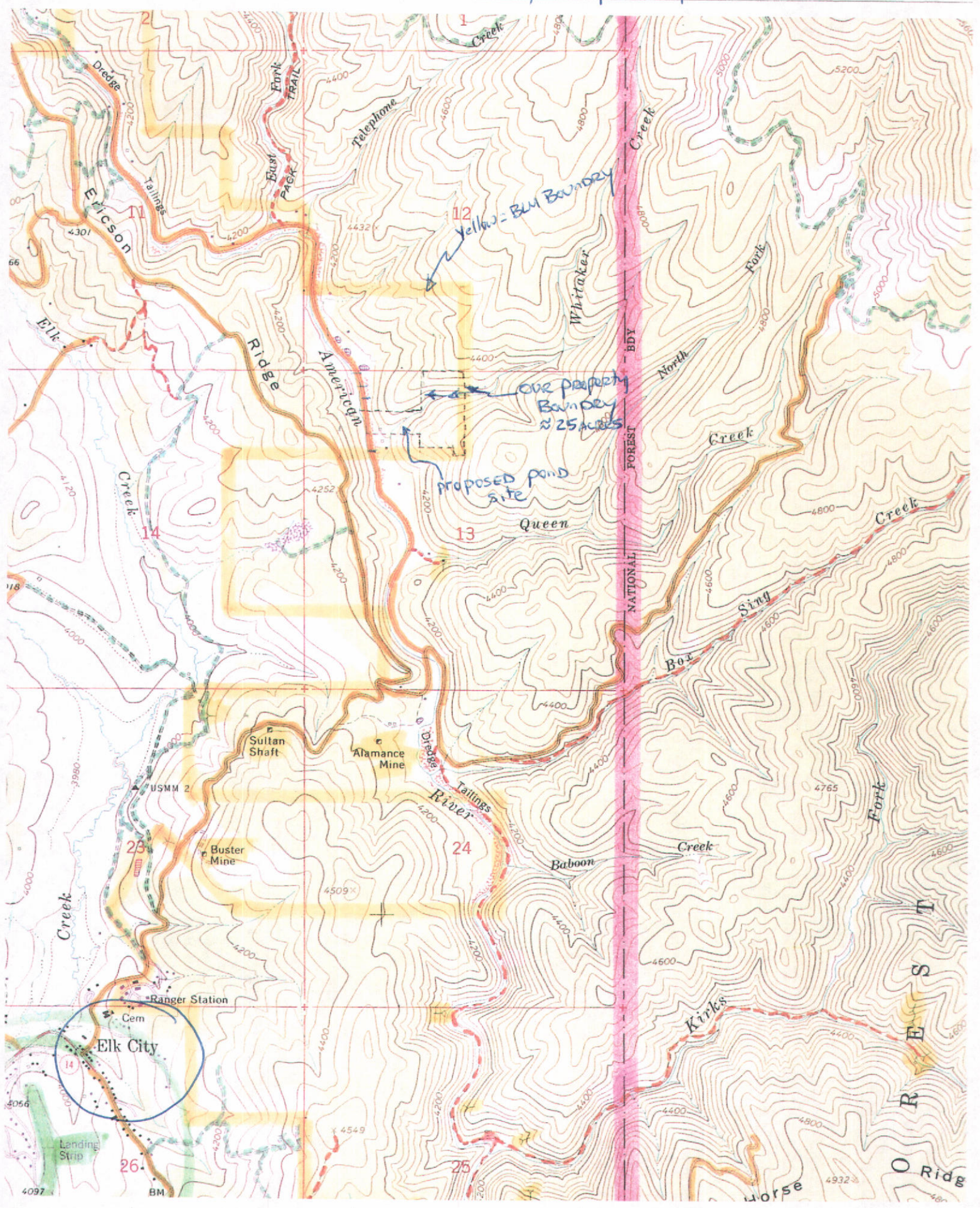
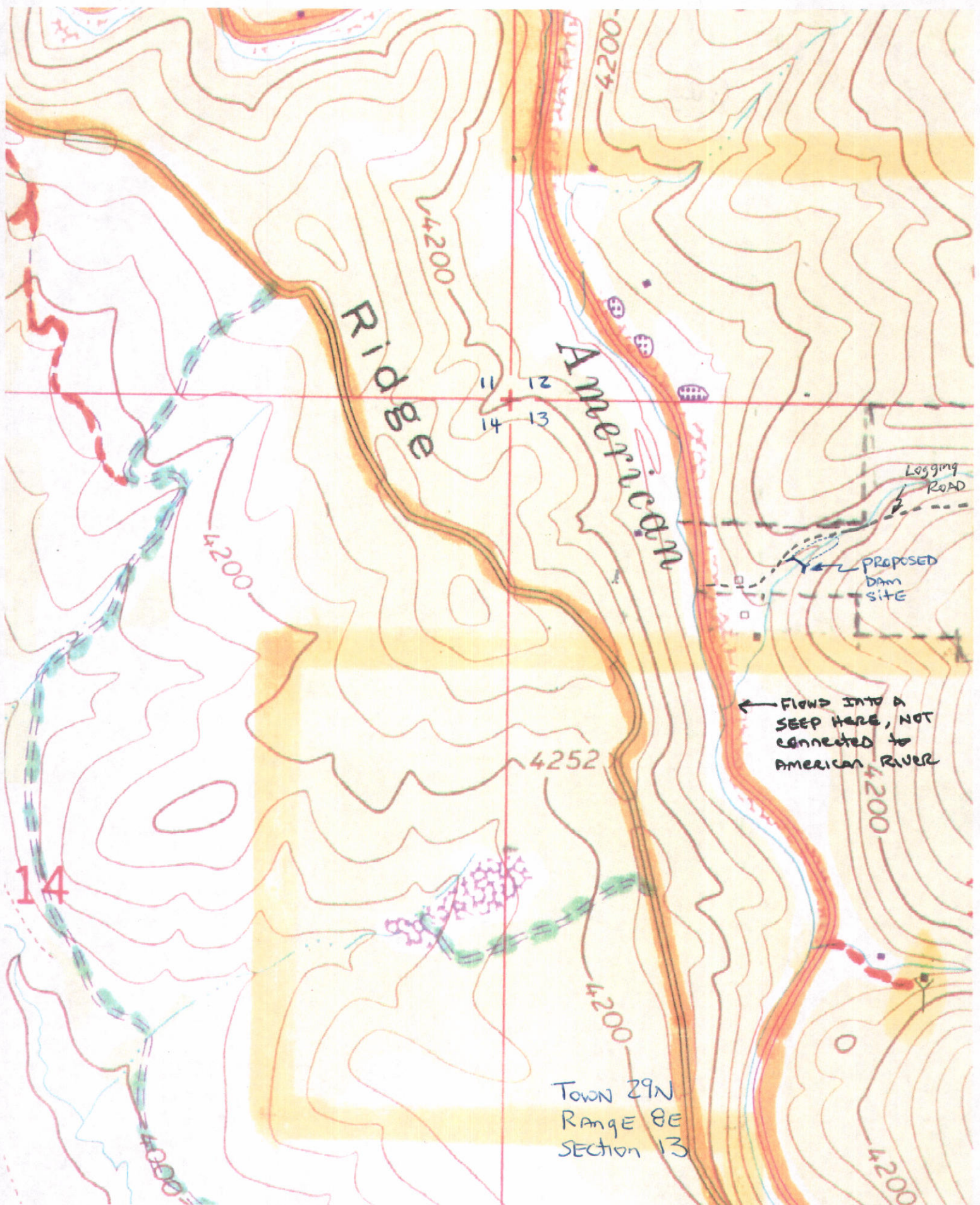
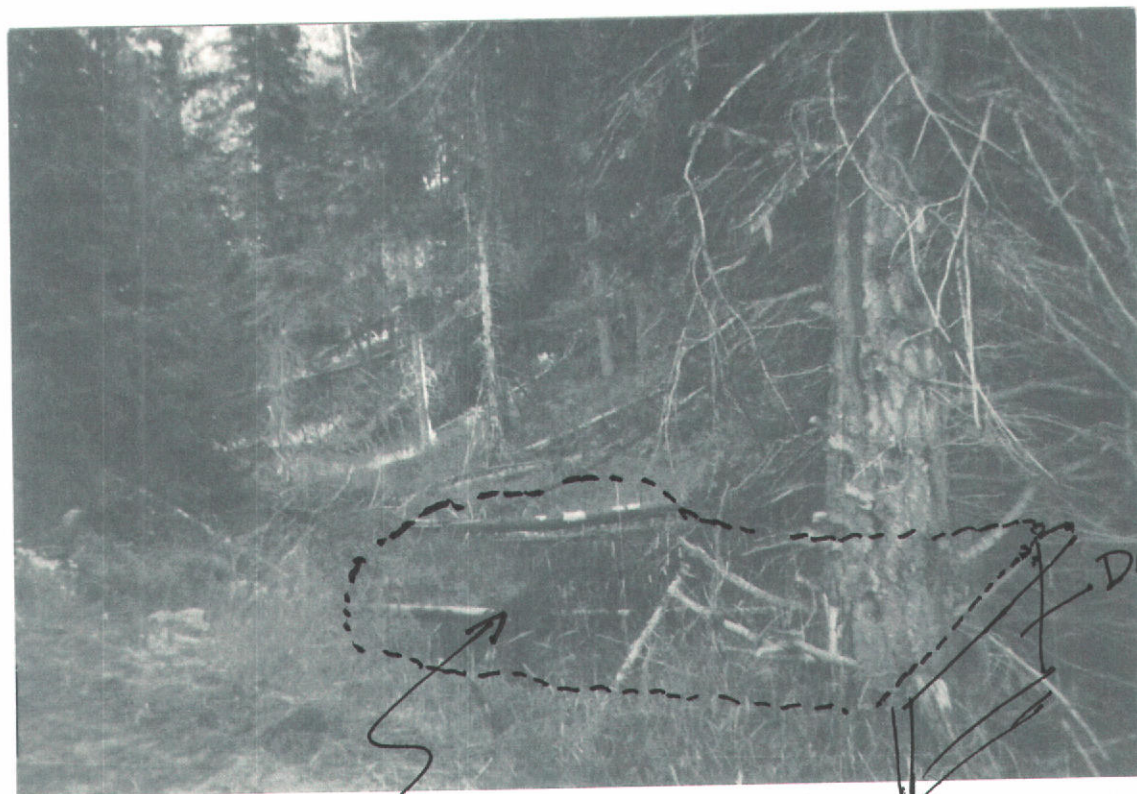


TOWN 29N, Range 8E, Section 13



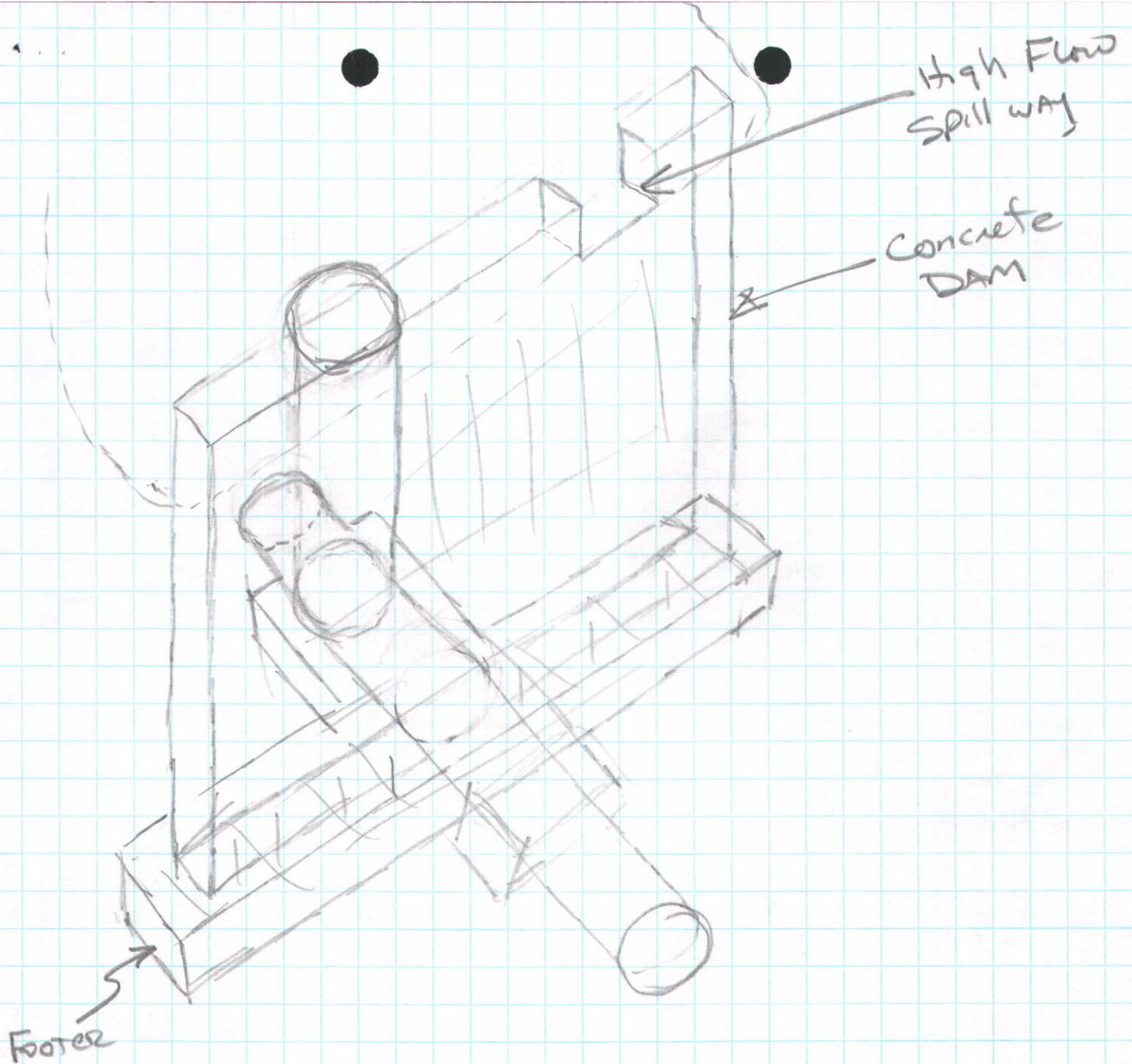


DAM location
near BASE
of large
Tree.



Proposed
Pond
Area

DAM



BASIC DRAWING, Concrete DAM,

Could use earth Behind concrete
if additional strength is needed.
with a gentle slope to Down side
stream Bed.

This would help any Frogs, insects, Bugs
or any other living creature traverse up and
own stream Bed.

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 82-12237

Priority: August 05, 2005

Maximum Diversion Volume: 0.1 AF

This is to certify, that GARY BOWLING
3366 N CROFT WAY
EAGLE ID 83616

has applied for a permit to appropriate water from:

Source: WHITAKER CREEK **Tributary:** AMERICAN RIVER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
FIRE PROTECTION STORAGE	01/01 to 12/31	0.1 AF

LOCATION OF POINT OF DIVERSION:

WHITAKER CREEK NE¼ NW¼ Sec. 13, Twp 29N, Rge 08E, B.M. IDAHO County

PLACE OF USE: FIRE PROTECTION STORAGE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
29N 08E 13					X												

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2007**.
2. Subject to all prior water rights.
3. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish passage requirements of the Idaho Department of Fish and Game.
4. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
5. Water shall not be diverted from storage for fire protection use under this right except to fight or repel an existing fire.
6. Failure of the right holder to comply with any condition of approval is cause for the Director to void this permit.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 21st day of November, 2005.


FOR KARL J DREHER, Director

RECEIVED

NOV 18 2005

FORM 202
12/99

Ident. No. 82-12237

Department of Water Resources

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

72188
RECEIVED

AUG 05 2005

IDWR/North

1. Name of Applicant GARY BOWLING Phone 208-794-1682
Mailing address 3366 N. CROFT WAY, EAGLE, ID 83616
2. Source of water supply WHITAKER CREEK which is a tributary of AMERICAN RIVER T.C.
3. Location of point of diversion is Township 29N Range 8E Sec. 13 in the ADAMS NE 1/4 2nd NW 1/4, 1/4, Govt. Lot Idaho County; G.B.
- additional points of diversion if any: _____
4. Water will be used for the following purposes:
 Amount .11 AF for FIRE PROTECTION STORAGE purposes from 1/1 to 12/31 (both dates inclusive)
 (cfs or acre-feet per annum)
 Amount .11 AF for FIRE PROTECTION STORAGE purposes from 1/1 to 12/31 (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)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) _____ and/or (b) .11
 cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Describe type and size of devices used to divert water from the source IN STREAM DAM (EARTH & CONCRETE)
 - b. Height of storage dam 8 feet; active reservoir capacity .11 acre-feet; total reservoir capacity .11 acre-feet
 - c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet
 - d. Is ground water with a temperature of greater than 85°F being sought? _____
 - e. If well is already drilled, when? _____; Drilling firm _____
 Well was drilled for (well owner) _____; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
 - a. Hydropower; show total feet of head and proposed capacity in kW. _____
 - b. Stockwatering; list number and kind of livestock. _____
 - c. Municipal; show name of municipality. _____
 - d. Domestic; show number of households. _____
 - e. Other; describe fully. _____

3. Description of place of use:

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

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
29N	8E	13					Fish												

Total number of acres to be irrigated _____

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

11. a. Who owns the property at the point of diversion? _____

GARY BOWLING

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

GARY BOWLING

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

12. Remarks: WATER STORAGE RECOMMENDED BY FOREST SERVICE INSPECTION (ATTACHED)
WHITTAKER CREEK FLOWS INTO A SEEP APPROX 240 YARDS DOWN STREAM FROM
DAM SITE, IT DOES NOT CONNECT TO AMERICAN RIVER (SEE MAP ATTACHED)
WHITTAKER CREEK HAS NO SALMON OR BULL TROUT PER FOREST SERVICE
ANALYSIS, ONLY FISH FOUND IN ELECTROFISHING WERE CUTTHROAT & BROWN TROUT.
PRELIMINARY DAM DRAWINGS AND PICTURES OF AREA ATTACHED

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8 1/2"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Signature of Applicant (and title, if applicable)

Received by db Date 8/5/05 Time _____ Preliminary check by _____
 Fee \$ 100.00 Receipted by db # ND17093 Date 8/5/05
 Publication prepared by db Date 9/1/05 Published in Idaho Falls 9/17 & 14/05
 Publication approved db Date 9/20/05

Approx. pond dimensions are 20 feet wide / 50 feet long.
 Average depth would be from 0 to 6 feet, see sketch attached.

Location is in a ravine surrounded by trees, very little sunlight would reach water, trees and vegetation around location would remain as is.

(over)

Additional Benefits of this pond, would Be for
winter, moose, elk in area, and during summer
low flow, provide a place for fish to survive,
whitaker creek almost dries up some years, and
has very few if any deeper areas for fish
to hold up.

Fish migration would Be minimally impacted, since
whitaker creek "ends" approx. 200 yds below
dam. If this is a major problem, a Fish Ladder
can Be added.

Additional Benefits of this pond, would Be for
winter, moose, elk in area, and during summer
low flow, provide a place for fish to survive,
Whitaker creek almost dries up some years, and
has very few if any deeper areas for fish
to hold up.

Fish migration would Be minimally impacted, since
Whitaker creek "ends" approx. 200 yds below
dam. IF this is a major problem, a fish ladder
can Be added.

REQUEST TO PROCESS

COMPLETE REQUEST IF YOU WANT YOUR APPLICATION TO BE PROCESSED USING ONE OF THE
THREE ALTERNATIVES BELOW

Name of Applicant

GARY BOWLING

Mailing Address

3366 N. CROFT WAY

Eagle ID 83416

Application No.
(if known)

 IN LOCAL PUBLIC INTEREST

Yes, I want my application processed and before it is advertised, I will amend my application to demonstrate that the proposed appropriation is in the local public interest including the need to preserve flows in the Snake River during the migration periods of anadromous fish.

 PROPOSE MITIGATION NOW

Yes, I want my application processed and before it is advertised, I will amend my application to include proposed mitigation to offset anticipated depletions in the Snake River during periods of anadromous fish migration.

 X WILL AGREE TO MITIGATION IN THE FUTURE IF NECESSARY

Yes, I want my application processed at this time, and I will accept a condition of approval that will require mitigation should the Director of the Idaho Department of Water Resources determine that mitigation is necessary to offset depletions from this appropriation to flows in the Snake River during periods of anadromous fish migration. I understand that mitigation is not required now but may be needed in the future. I also understand that the Director will not require mitigation until I have an opportunity to review the process by which the need for mitigation is established and the amount of water required is quantified.

Signature

G. Bowling

Date

2 AUG 05

Please return this form to:

Idaho Dept. of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705-5082

Copy of Forest Service Report

Homeowner Urban Interface Worksheet-Forest Service

Resident Owner: Gary Bowling Date: 7/22/03

(ELK-CITY) (BOISE) CCL *

Phone #: 842- 2910 or 208 939-8355 or cell 208 794-1682;
3366 N. Croftway, Eagle, ID 83616

Directions to residence:

1. Second house on the right going up American River

Lat./Long: 45 51.330 x 115 25.079

Physical Address: 3100 American River Road

Access (road condition, year around access, turn around points, pull offs, one ways, etc.)

Good access with sufficient turn around space.

Roof Type: Metal Roofing on all buildings

House building materials (log, boards, aluminum siding, etc.):

Wood siding with wooden deck.

Type of water sources (well, springs, streams, etc.):

Spring water with plans for digging a well. — prohibitive cost

Whitaker Crk. in backyard as well as American River across main road in

front. Has a pump that could be used in American River - NOT NEAR ENOUGH

Noted Hazards:

Hazmat is located in outbuildings; barbeque propane on front deck

HOSE to Reach House
in event of fire & no
water right on Amer.
River.

Improvement suggestions:

- ✓ 1. Remove the three trees that are against front of home
- ✓ 2. Clear all lodge pole pine out of yard and away from house
3. Screen in front porch and skirt in around back deck. (next year)
- ✓ 4. Limb fir trees in front lawn (10ft. from base) and thin to a spacing of 10ft. between trees.

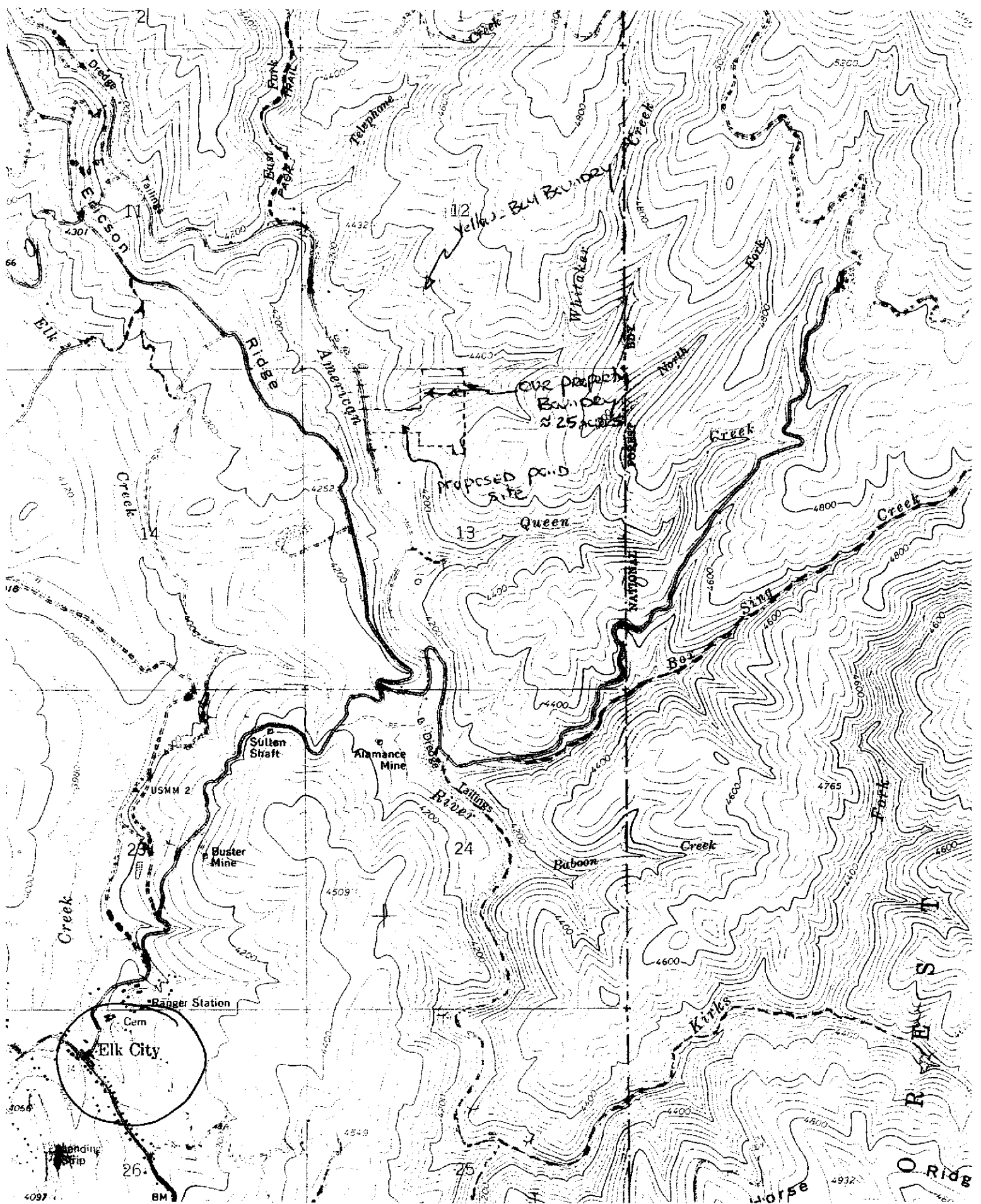
Possible Equipment Needs:

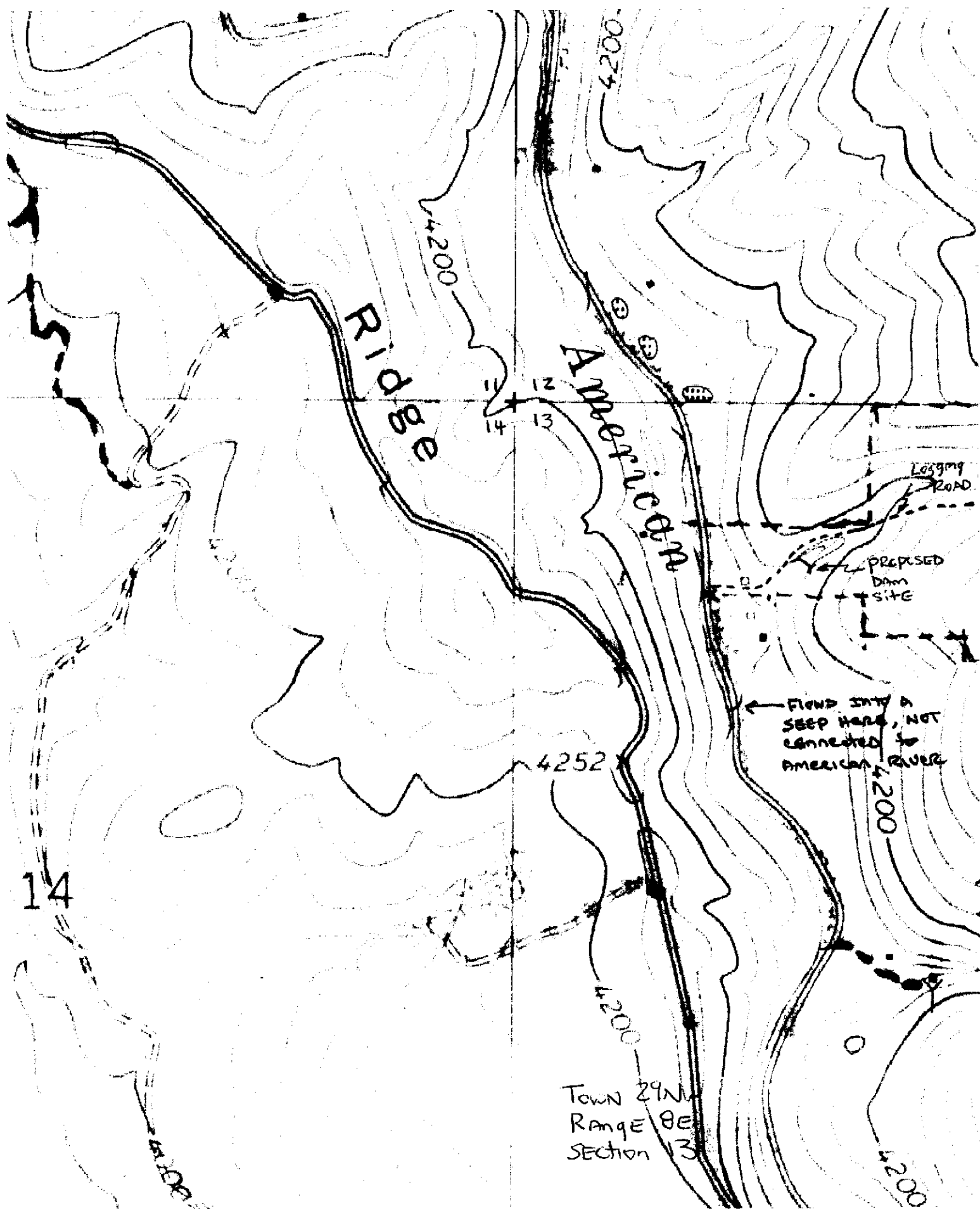
Water holding system in Whitaker Crk. to create gravity feed capabilities.

Evaluator's Name: Jill Wilson

Date: 07/20/03

TOWN 29N, Range 8E, SECTION 13





Greg Taylor

Northern Region 769-1450

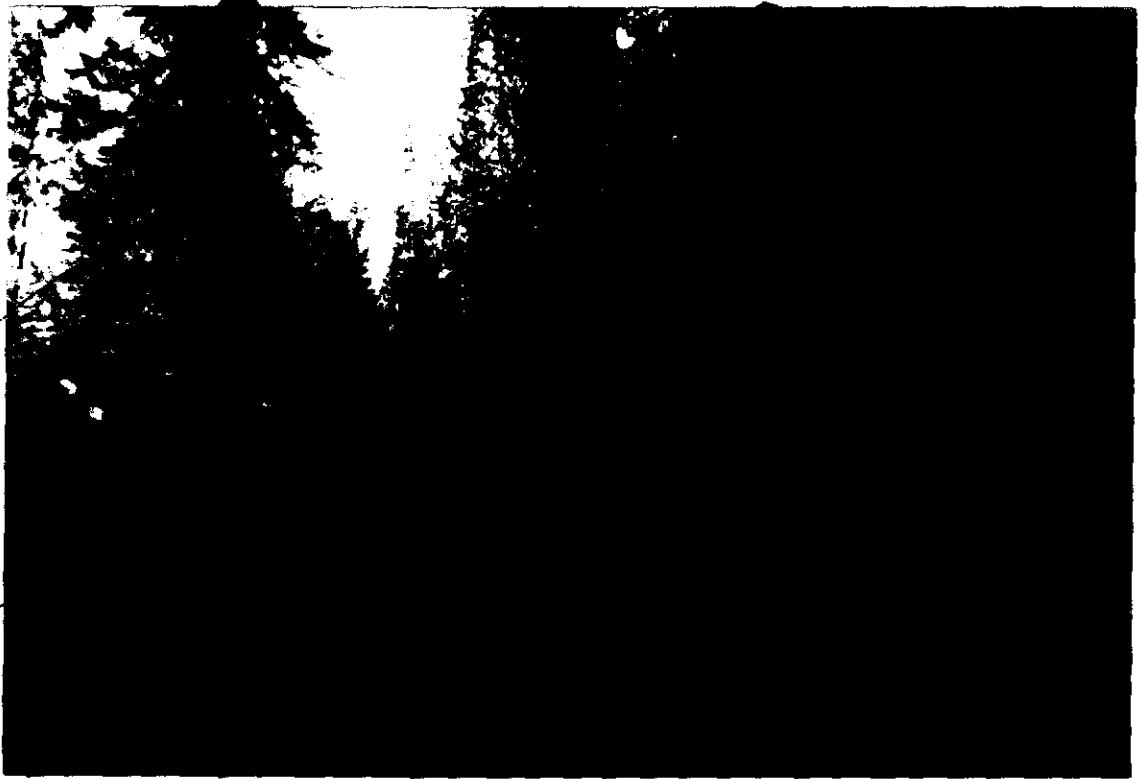
DPT Water Res

1910 Northwest Blvd

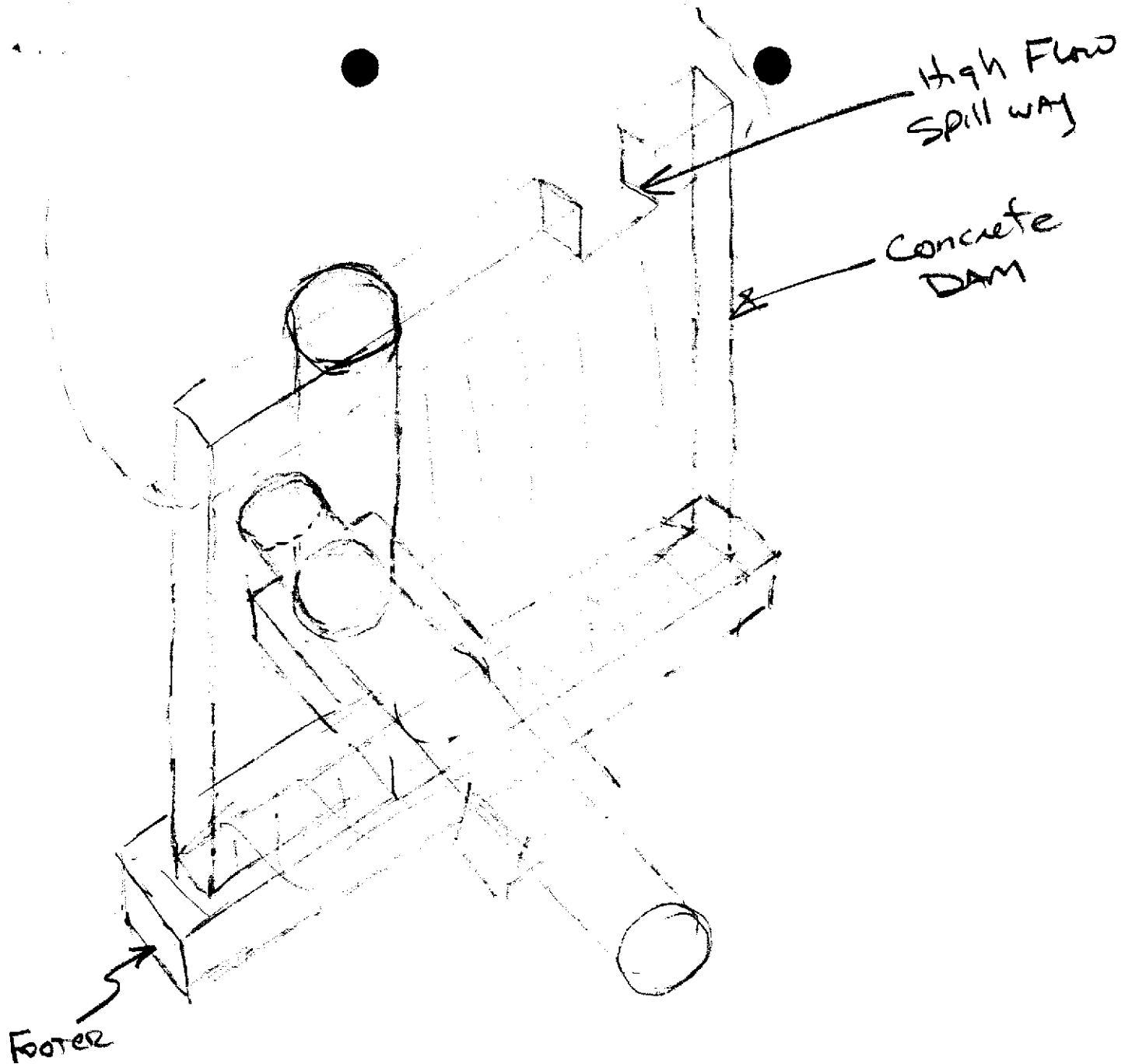
Room 210

Coeur d'Alene, ID 83814-2615

DAM LOCATION
NEAR BASE
OF LARGE
TREE.



PROPOSED
POND
AREA



BASIC DRAWING, Concrete DAM.

COULD use earth Behind concrete
IF ADDITIONAL strength IS needed.
with a gentle slope to Down side
stream Bed.

THIS would help any Frogs, insects, Bugs
or any other living creature traverse up and
own stream Bed.

MEMORANDUM

Date: November 30, 2005
To: Water Right File 82-12237
From: pskaggs
Re: Moratoriums Rescinded Correspondence

Gary Bowling called in response to receiving the correspondence sent out to Application holders subject to the Salmon-Clearwater &/or Wilderness Moratoriums. A response was required for continued processing. This right was approved as a Permit on the same date as the correspondence on 11-21-2005 & is not subject to the requirements of the moratorium correspondence. The Permit authorizes development of the right & the right holder wants to continue the process.



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 22, 2005

GARY BOWLING
3366 N CROFT WAY
EAGLE ID 83616

RE: Permit No. 82-12237

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

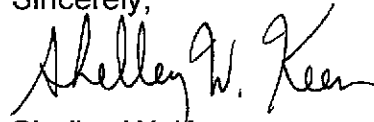
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-287-4947.

Sincerely,

A handwritten signature in black ink, appearing to read "Shelley W. Keen". The signature is fluid and cursive, with the first name "Shelley" being more prominent.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

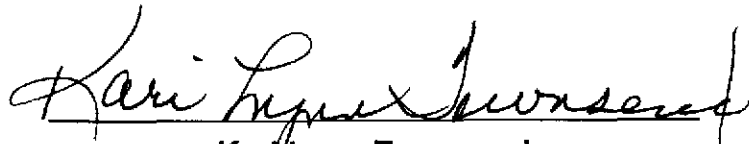
CERTIFICATE OF SERVICE

I hereby certify that on November 22, 2005 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

82-12237

**GARY BOWLING
3366 N CROFT WAY
EAGLE ID 83616**

A handwritten signature in cursive script, reading "Karl Lynn Townsend", written over a horizontal line.

**Karl Lynn Townsend
Secretary**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of, or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

Date: November 18, 2005
To: Water Right File 82-12237
From: eretelle
Re: permit review

No WD or moratorium.
Wild & Scenic area.

No overlap.
Fish & Game bypass required.

Recommend approval as suggested by IDWR Northern.

RECEIVED

NOV 18 2005

Department of Water Resources

MEMO

To: File #82-12237
From: Greg Taylor
Date: 11/11/05
Re: Fish & Game Letter

The United States Forest Service did not comment on this application after we solicited comments from them.

This stream goes subsurface 200 yards downstream from the dam and there is no surface flow to the American River because of past mining practices. Recommend that this Permit be conditioned that it allow fish passage per Idaho Code 36-906. The applicant, with the IDFG input, can decide on the best course of action to allow fish passage.

Recommend this Permit be **Approved**.

**IDaho DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET**

W.R. # 82- 12237

APPLICATION ID # 72188
INITIAL REVIEW

ENT. AF-BCA ^{4/19} OK to Publish ^{8/19/05}
6

APPLICANT: BOWLING BY: AF DATE: 8 / 9 / 05

ITEM REQUIRED INFORMATION

1. ☒ Name and Address
2. ☒ Source
3. ☒ Point of Diversion & County
4. ☒ Quantity
5. ☒ Nature of Proposed Use
6. ☒ Period of Use
7. ☒ Total Quantity
8. ☒ Description of diverting works
9. ☒ Time required for b/u
10. ☒ Proposed use
11. ☒ Place of use or acres irrigated
12. ☒ Other water Rights
13. ☒ Ownership
14. ☒ Map
15. ☒ Signature
16. ☒ Fee (Amt, receipt, acknowledgement)

PROCESSING

(Yes)(No) PRIORITY DATE: 8 / 5 / 2005

☒ (Include Moratorium Remark)

☒ Statewide Advertising: (Diversion rate greater than 10 cfs or 1,000 af).

ADVERTISE IN: Idaho County

LETTERS SENT REQUESTING:

☐ Dam Information ☐ Fish Information
☐ Power Information ☐ Other: _____

INFORMATION RECEIVED:

☐ Dam Information ☐ Fish Information
☐ Power Information ☐ Other: _____

ADDITIONAL INFORMATION

(Yes)(No)

☒ Shape File Created Date 8-9-05 By: AF
____ Field check: by _____
____ Field report attached
____ Analysis Supp. attached(>5cfs/500af)
____ Water delivered by water master? Water District # _____

GROUNDWATER SECTION

WD Permit No.'s:	Tag #	Type:	Fees	Receipt No.	Upgrade Needed?
_____	_____	Dom. Non-Dom.	Paid \$ _____	_____	Y () N ()
_____	_____	Dom. Non-Dom.	Paid \$ _____	_____	Y () N ()
_____	_____	Dom. Non-Dom.	Paid \$ _____	_____	Y () N ()

- ____ Groundwater management area
____ Critical ground water area
____ Well Drilling Permit required
____ Well Drilling Application and Fees received
____ Well Drilling Application approved?

Remarks: _____

FINAL REGIONAL PROCESSING/REVIEW

(Yes)(No)

____ Notice of pending void order issued. Final order response date: ____/____/____
____ Further information required from applicant
9/19 ☒ Affidavit of publication received
☒ Application published correctly. If not, record action taken: _____

9/1 ☒ Publication dates and paper recorded on application
____ Protests received, Final protest date: 9 126 105 Sr. Agent initial _____
____ Measuring device required
____ Measuring port required
____ Special conditions: _____
____ Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by: _____ Date: ____/____/____

TO: Gregory Taylor

FROM: Gary Bowling

REF: App. # 82-12237

THIS Report Received 7 Feb 04

U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE
CLEARWATER RANGER DISTRICT
ROUTE 2 BOX 475
GRANGEVILLE, ID 83530-9699

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300

Received 7 Feb 04

Final Report

Interagency Agreement No. YA-515-IA7-15

SURVEY OF STREAMS IN THE EMERALD EMPIRE
AND
COTTONWOOD RESOURCE AREAS OF IDAHO

by

R.R.Ringe, J.R.Lukens, P.D.Hiebert and W.D.Horton
Idaho Cooperative Fishery Research Unit
University of Idaho
Moscow, Idaho 83843

Submitted to
Bureau of Land Management
Boise, Idaho

January, 1978

Whitaker Creek

General: Whitaker Creek, a second order stream, enters the American River approximately 2 miles northeast of Elk City, Idaho and is 2.5 miles long. The gradient for the lower mile averages 460 feet per mile and 293 feet on the upper 1.5 miles. When surveyed on August 19, 1977, discharge was estimated at 10 gallons per minute (gpm). The stream flows through a shallow V-shaped canyon with gentle sloping sides. The lower drainage was lightly forested with coniferous trees and had a dense understory of low shrubs. We found no aquatic vegetation. Low shrubs formed complete cover throughout the stream length and banks were well vegetated with grasses, ferns, forbs and few conifers.

Accessibility: Access to the mouth is by foot trail along the American River and additional access upstream is by foot trail only.

Area Surveyed and Location of BLM Ownership: We surveyed the lower 0.5 mile of this creek. The lower 2 miles of Whitaker Creek flows across BLM property.

Weather: Weather on August 19, 1977 and the previous 5 days was clear and warm.

Fish Sampled: In 110 seconds of electrofishing, we found 24 cutthroat trout, 8 brook trout, 1 dace and 2 sculpin (Cottus confusus [Bailey]) as identified by Dr. Wallace.

Migration Barriers: The mouth of this stream has been sealed off with dredge tailings and stream flow is subterranean at the mouth, even during high spring flows. Continual low flow barriers exist throughout the stream length but the barrier at the mouth is the only significant barrier that exists during normal or higher water flows. A local resident said she had not seen water flow over the barrier at the mouth for 35 years.

Spawning Habitat: Spawning habitat was rated fair. Most areas of suitable gravel, presently exposed by low flows, probably would be available in the spring and fall. Debris and overhanging vegetation provide good hiding cover. A large number of fines was present in the substrate.

Comments: Dredging has occurred and large amounts of fines in the stream suggest that some degradation has occurred upstream, probably from mining or logging activity. We believe this stream provides a unique opportunity to study a population of cutthroat trout which has been isolated since the dredging operations in the 1930's. If decided, cutthroat trout are not the only desirable species; the stream could be used for resident and/or anadromous fish spawning and rearing after upstream degradation was corrected to stop the flow of fines into the creek.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 1910 Northwest Blvd. Suite 210, Coeur d'Alene, Idaho 83814-2615

Phone: (208) 769-1450

Fax: (208) 769-1454

Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 27, 2005

GARY BOWLING
3366 N CROFT WY
EAGLE ID 83616

RE: Application for Permit No. 82-12237

Dear Mr. Bowling:

In the remarks section of your Application for Permit you mentioned "Forest Service analysis" and "electrofishing" Whitaker Creek. We are requesting that you submit the Forest Service analysis to us. Please submit the information as soon as possible so we can review the data and continue processing your application.

Sincerely,

Gregory J. Taylor
Sr. Water Resource Agent



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 1910 Northwest Blvd. Suite 210, Coeur d'Alene, Idaho 83814-2615

Phone: (208) 769-1450

Fax: (208) 769-1454

Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 27, 2005

Elk City Ranger Station
P.O. Box 416
Elk City, ID 83525

Re: Water Permit Application No. 82-12237

Dear Sir or Madam:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application follows for your reference.

We are sending this to you for your comments, and would appreciate receiving your comments by no later than **October 14, 2005**. If we do not hear from you by that date, we will assume you have no objection to, concerns about, or conditions pertaining to the issuance of this permit.

You may send comments by regular mail to the address above, by FAX to 769-1454, or by e-mail to Greg.Taylor@idwr.idaho.gov.

Please contact this office if you have any questions regarding the application.

Sincerely,

Gregory J. Taylor
Sr. Water Resource Agent



IDAHO FISH & GAME

CLEARWATER REGION
1540 Warner Avenue
Lewiston, Idaho 83501-5699

Dirk Kempthorne / Governor
Steven M. Huffaker / Director

September 12, 2005

Mr. Robert Haynes
Idaho Department of Water Resources
Northern Region
1910 Northwest Blvd, S 210
Coeur d'Alene, ID 83814

Dear Mr. Haynes:

REFERENCE: #82-12237 BOWLING WATER RIGHT APPLICATION

Gary Bowling has requested a permit for .11 acre-feet per annum of water for fire protection from Whitaker Creek, a tributary to American River. The applicant proposes to excavate the stream channel and construct a concrete dam to create a pond for storage for the proposed use.

We have no objection to issuing the water right if your calculations indicate that the withdrawal will not reduce stream volume or flows below those needed to fully support fish, other aquatic species, wildlife and riparian habitat in Whitaker Creek or waters downstream.

However, we oppose permitting construction of a pond on the stream. The proposed pond will provide no apparent benefits to either fish or wildlife. On the contrary, an in-stream impoundment is likely to contribute to elevated stream temperatures, may impede migrations of fish, amphibians and other wildlife and have other potentially adverse impacts on flow, water quality and stream function. If the water right is approved, IDFG recommends that the applicant should be required either to withdraw water from the creek on an as-needed basis or install storage off-stream for the desired use.

If IDWR elects to permit an in-stream impoundment, the applicant should be made aware that any structure intended to impound water must be designed, installed and maintained to allow fish passage per Idaho Code 36-906. The dam design submitted with the application does not provide for fish passage. Whitaker Creek supports brook trout and cutthroat trout. Although Whitaker Creek goes subsurface about 200 yards below the proposed dam site as a result of past mining practices, fish passage to and from that reach must be provided. IDFG would be pleased to discuss alternatives to pond construction that will help protect stream habitat.

Thank you for the opportunity to comment.

Sincerely,

Cal Groen
Clearwater Regional Supervisor

CG/rh/ss

c: Tracey Trent
Gary Bowling

*See on computer
9/19/05
b*

RECEIVED
SEP 16 2005
IDWR/North

RECEIVED
SEP 19 2005
IDWR/Northern

AFFIDAVIT OF PUBLICATION

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

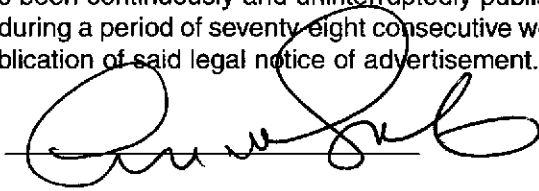
82-12237

GARY BOWLING
3366 N CROFT WAY
EAGLE ID 83616
Point(s) of Diversion: NENW S13
T29N R08E IDAHO County
Source WHITAKER CREEK Tributary
To AMERICAN RIVER
Use: FIRE PROTECTION STORAGE
01/01 To 12/31 0.1 AFA
Total Diversion: 0.1 AFA
Date Filed: 08/05/2005
Place Of Use: FIRE PROTECTION
STORAGE
T29N R08E S13 NENW
Remark: Reservoir surface area is less
than half an acre.
Permits will be subject to all prior water
rights. Protests may be submitted based
on the criteria of Sec 42-203A, Idaho
Code.
Any protest against the approval of this
application must be filed with the Direc-
tor, Dept. of Water Resource, Northern
Region, 1910 Northwest Blvd, Suite
210, Coeur D' Alene ID 83814 together
with a protest fee of \$25.00 for each ap-
plication on or before 09/26/2005. The
protestant must also send a copy of the
protest to the applicant.
KARL J DREHER, Director Published
September 7 & 14, 2005

S7-14

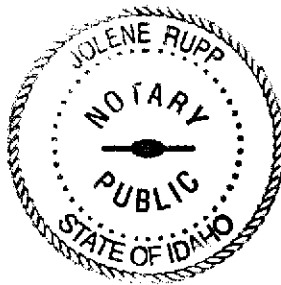
STATE OF IDAHO
County of Idaho - ss.

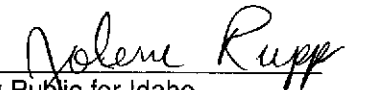
Andrew J. McNab, being first duly sworn, says he is the Publisher of the IDAHO COUNTY FREE PRESS, a weekly news-
paper published and issued weekly at Grangeville, Idaho County,
State of Idaho, and is of general circulation in said county and
state, that the said legal notice, of which the one hereto attached
is a true copy, was published in said paper for two weeks, being
published two times, the first publication being on the 7th
day of September, 2005; and the last publication on the 14th
day of September, 2005; and that the said legal notice was pub-
lished in the newspaper proper and not a supplement; that said
newspaper has been continuously and uninterruptedly published
in said county during a period of seventy eight consecutive weeks
prior to the publication of said legal notice of advertisement.



STATE OF IDAHO)
COUNTY OF IDAHO)

On this 14th day of September in the year of 2005, before me a
Notary Public personally appeared Andrew J. McNab, known or
identified to me to be the person whose name subscribed to the
within instrument, and being by me first duly sworn, declared that
the statements therein are true, and acknowledged to me that he
executed the same.




Notary Public for Idaho
Residing at Grangeville, ID
My commission expires: 1-29-07

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

82-12237

GARY BOWLING
3366 N CROFT WAY
EAGLE ID 83616

Point(s) of Diversion NENW S13 T29N R08E IDAHO County
Source WHITAKER CREEK Tributary To AMERICAN RIVER
Use: FIRE PROTECTION STORAGE 01/01 To 12/31 0.1 AFA
Total Diversion: 0.1 AFA

Date Filed: 08/05/2005

Place Of Use: FIRE PROTECTION STORAGE

T29N R08E S13 NENW

Remark: Reservoir surface area is less than half an acre.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Northern Region, 1910 Northwest Blvd, Suite 210, Coeur D' Alene ID 83814 together with a protest fee of \$25.00 for each application on or before 09/26/2005. The protestant must also send a copy of the protest to the applicant.
KARL J DREHER, Director Published September 7 & 14, 2005



State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

September 01, 2005

~~Please fax a proof copy before publication~~

Thanks, Dianne

NONA DONALDSON
LEGAL NOTICE DEPARTMENT
IDAHO COUNTY FREE PRESS
PO BOX 690
GRANGEVILLE ID 83530

e-mailed to Nona 9/1/05

RE: Application for Permit No. 82-12237

Dear Nona:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated, September 7 and 14, 2005, (once a week for two consecutive weekly issues). 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. Please send the affidavit and bill to this office before 09/26/2005. Your cooperation is GREATLY appreciated, as always.

Thank you very much,

Sincerely

Dianne

Dianne Ball
Administrative Assistant

Ball, Dianne

From: Ball, Dianne
Sent: Thursday, September 01, 2005 11:10 AM
To: Legal Notices-ID CO Free Press (E-mail)
Subject: Legal Notice for publication September 7 and 14, 2005

Good morning, Nona,

Attached is our cover letter requesting publication of a legal notice on September 7 and 14, 2005. The legal notice is also attached.

I you have ANY questions, please call me at 208-769-1450.

Please FAX A PROOF COPY to me at 208-769-1454 - prior to publication so I can check layout and make sure tabs didn't screw up the layout.

Thank you VERY much and have a marvelous day. It's always super to work with you.

Dianne

Dianne Ball
Administrative Assistant
Idaho Dept of Water Resources
1910 Northwest Blvd., Suite 210
Coeur d'Alene, ID 83814
Phone (208)769-1450 FAX (208)769-1454



CoverLetter
09-01-05 IC e-mail..



LegalNotice
09-01-05 IC e-mail..



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 1910 Northwest Blvd. Suite 210, Coeur d'Alene, Idaho 83814-2615

Phone: (208) 769-1450

Fax: (208) 769-1454

Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 01, 2005

GARY BOWLING
3366 N CROFT WAY
EAGLE ID 83616

RE: Application for Permit No 82-12237

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right application. Please refer to the above referenced number in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the Idaho County Free Press on September 7 and 14, 2005. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved. A typical processing time for an unprotested application is about eight to twelve weeks.

Please feel free to contact this office if you have any questions.

Sincerely,

Gregory J. Taylor
Senior Water Resource Agent

Enclosure(s) – Receipt No. N017093



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 1910 Northwest Blvd. Suite 210, Coeur d'Alene, Idaho 83814-2615

Phone: (208) 769-1450

Fax: (208) 769-1454

Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 19, 2005

RAY HENNEKEY
IDAHO DEPARTMENT OF FISH & GAME
1540 WARNER
LEWISTON, ID 83501

FAXED TO RAY 8/19/05

1 page total

Re: Water Permit Application No. 82-12237

Dear Ray:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application follows for your reference.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.



We are sending this to you for your comments, and would appreciate receiving your comments by no later than **September 16, 2005**. If we do not hear from you by that date, we will assume that no comment from you means you have no objection to, concerns about, or conditions pertaining to the issuance of this permit.

You may send comments by regular mail to the address above, by FAX to 769-1454, or by e-mail to Dianne.Ball@idwr.idaho.gov.

Please contact this office if you have any questions regarding the application.

Sincerely,

Robert G. Haynes, P.E.
Regional Manager

By: Dianne Ball
Administrative Assistant

MEMORANDUM

Date: August 18, 2005
To: Water Right File 82-12237
From: gtaylor
Re: Legal Notice Remarks

Reservoir surface area is less than half an acre.