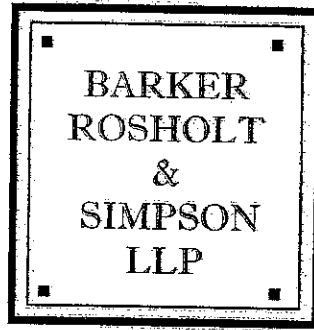


John A. Rosholt
Albert P. Barker
John K. Simpson
Travis L. Thompson
Shelley M. Davis



John A. Rosholt
jar@idahowaters.com

113 Main Avenue West, Suite 303
P.O. Box 485
Twin Falls, ID 83303-0485
(208) 733-0700 telephone
(208) 735-2444 facsimile
jar@idahowaters.com

205 North 10th Street Suite 520
Post Office Box 2139
Boise, ID 83701-2139
(208) 336-0700 telephone
(208) 344-6034 facsimile
brs@idahowaters.com

July 22, 2005

Dave Carlson
IDWR Eastern
900 North Skyline Dr., Suite A
Idaho Falls, ID 83402

Re: 13-7127 – Miller Family Real Estate

Dear Dave:

Following our telephone conversation of July 7th, I most recently transmitted Notice of Change in Water Right Ownership forms for 13-7127 and 13-925 on behalf of Miller Family Real Estate, LLC.

During the course of our telephone conversation we talked of a proper process to change 13-7127 to year around storage. I suggested that Millers would be happy to convert the irrigation feature to reservoir storage as mitigation. You suggested that a proper procedure would be to get 13-7127 licensed and then deal with the changes in a transfer application. I have now discussed your idea with my clients and they are anxious for IDWR to investigate as to 13-7127 and to proceed with the licensing process. We're hopeful this could be accomplished soon so we might get on with the transfer.

I indicated on the phone that I would try to put together copies of relevant documents that I have, even though your file is probably more complete. In any event, I enclose copies of the following:

- 1) Application #13-7127 dated 2/17/76 with memo decision order of 10/27/76.
- 2) Beneficial use proof of 8/18/80.
- 3) Approved amendment of 13-7127 dated 3/22/83.
- 4) IDWR printout of 13-7127.
- 5) Application for permit for additional uses filed 4/14/03.
- 6) IDWR letter of Harold W. Jones to applicant of 4/24/03 advising of the issues.
- 7) Renewal of Dam Safety Certificate dated 9/17/03.

- 8) Tim Luke identified a glitch in his 11/12/2002 letter to Bosen. (This is what started the dialogue that ends with the Miller Family Trust acquiring all of Bosen's rights per the Notice of Change in ownership most recently filed. This was one of the reasons for the application identified in Paragraph (5) hereof).
- 9) Basic simple lawyer's type map.
- 10) Recently we put together another draft application before our conversation of July 7. It essentially sets out what we'd like to end up with, while preserving the 1976 priority of 13-7127 to the extent possible.

I am unsure as to whether the check that accompanied the application in 2003 (#5 herein) was returned. It probably went back to Mr. Tingey, but I don't know that.

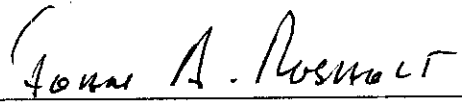
As I said on the phone, we are anxious for IDWR's visit and will cooperate in any way on that regard.

Please call me or Jim Rush at 524-2353 with any questions. Thanks for your help in this matter.

Regards,

BARKER, ROSHOLT & SIMPSON LLP

By:



John A. Rosholt

cc: Greg Miller
Robert Tingey
Jim Rush

Exhibit 1

13 7127

Identification No. _____
Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

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

APPROVE!

- Blair Greaves, Clair Bosen,
1. Name of applicant Don Rigby Phone: Greaves - 852-2012
post office address 404 East Valley View Drive, Preston, Idaho 83263
2. Source of water supply runoff/Current Creek which is a tributary of Stockton Creek
3. a. Location of point of diversion is SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 33 Township 12S
Range 39 E. B.M. Bannock County: additional points of diversion if any:
SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 33, T 12S, R 39E, Bannock County
- b. If water is not consumed, it will be discharged into Current Creek or a point in SE $\frac{1}{4}$
of SW $\frac{1}{4}$ of Section 33 Township 12S Range 39 E. B.M. Bannock County
4. Water will be used for the following purposes:
Amount 2.4 for irrigation purpose from April 1 to Nov. 1 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 600 for storage / for irrigation purpose from April 1 to April 1 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated,
a. _____ cubic feet per second and/or
b. 600 acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. 150 h.p. engine and pump with
1.5 c.f.s. capacity; one-half mile 8" mainline; four quarter-
mile 4" laterals with risers and heads,
- b. Height of storage dam 40 feet, active reservoir capacity 600 acre feet; total reservoir
capacity 750 acre feet, materials used in storage dam: Earth-fill, concrete abutments
Period of year during which storage will occur Nov. 1 to April 1 inclusive
(Mo. Day) (Mo. Day)
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use
is 3 years.
b. Estimated construction cost is \$26,500.00
8. Description of proposed uses:
a. If water is not for irrigation:
(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M. _____
(2) Amount of power to be generated: _____ hp under _____ feet of head
(3) List number of each kind of livestock to be watered: _____
(4) Name of municipality to be served: _____ or number of families to be
supplied with domestic water: _____
(5) If water is to be used for other purposes describe: _____

Application
Hint: Become
an Approved
Permit

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

TWP	RANGE	SEC	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
125	30E	33															20		20
135	30E	4	35				30												100
			30	35															
			(Changes made per telecon w/ L.D. Castleton)																

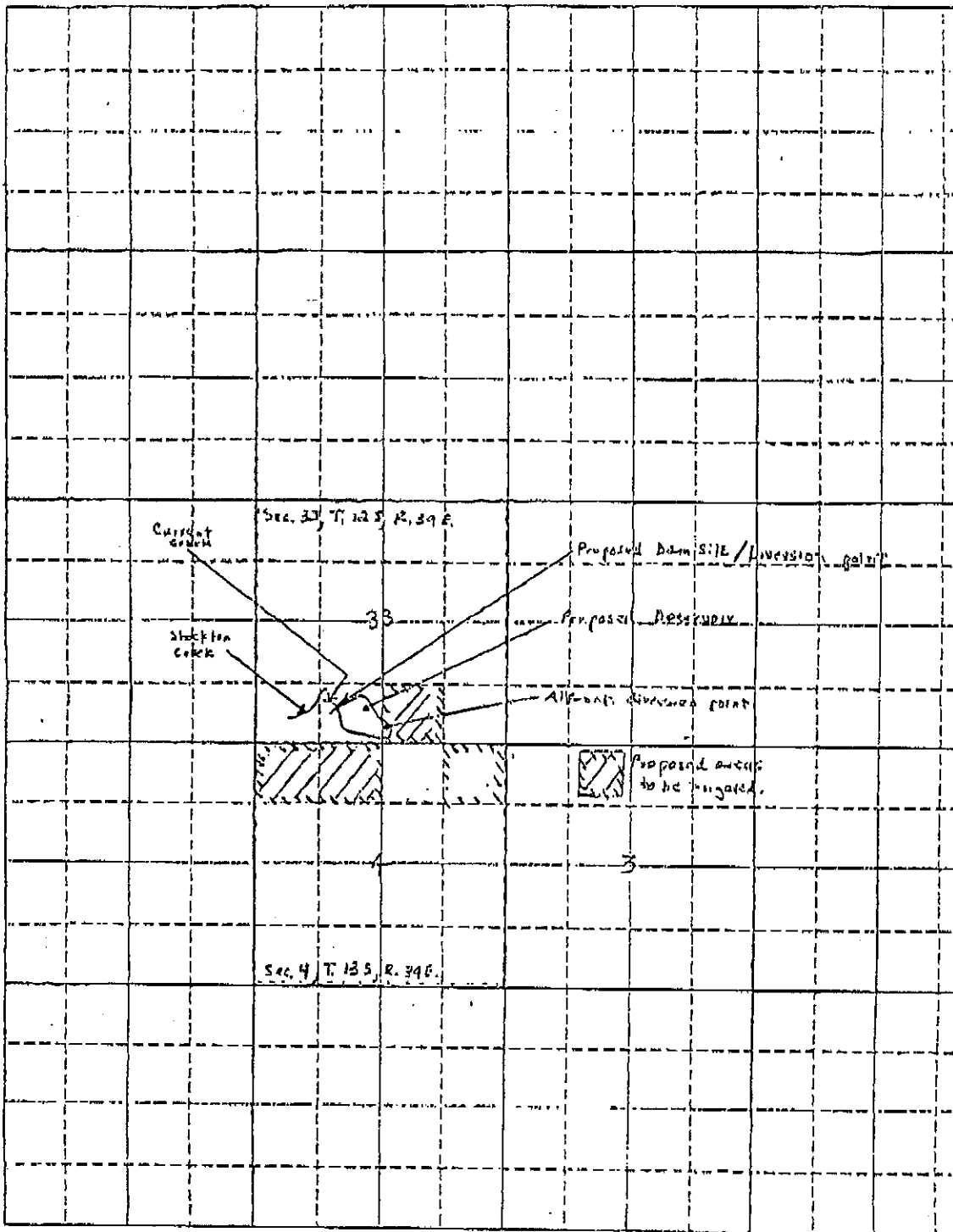
Total number of acres to be irrigated 120

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

- Who owns the property at the point of diversion. Applicants Greaves, Rigby, and Bosen.
- Who owns the land to be irrigated or place of use. Applicants Greaves, Rigby, and Bosen.
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing.

10. Remarks Applicant's intentions are to divert for storage purposes up to 600 acre feet of water in the proposed reservoir during the non-irrigation season, to the extent existing water rights during that period are not endangered.
Then, during the irrigation season applicants propose to divert for irrigation purposes the stored water, allowing water to flow downstream as in the past to meet all existing water rights.

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



Scale: 2 inches equal 1 mile

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

(Signature)
13610887
2/2/02
L. H. Miller

Processed by 2-17-76

Received by CC Date 2-17-76 Time 11:25 AM

Preliminary check by J Fee \$ 70.00

Received by Paul Date 2-18-76 11:23

Publication prepared by Paul Date 2-18-76

Published in Slack 5/11/76

Publication date: Feb 26 & March 4, 1976

Publication approved Paul Date 2-28-76

Priority reduced to _____ Reason _____

Protests filed by: James R. Ricketts

Robert James Mitchell

Robert J. Ricketts

Copies of protests forwarded by Paul

Hearing held by _____ Date _____

Recommended for approval denial by _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 13-7127, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions.

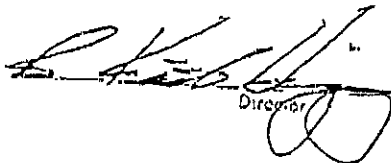
a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before November 1, 1979.

c. Other: Pursuant to Memorandum Decision and Order of this date.

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

Witness my hand this 25 day of October, 1976


Director

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

IN THE MATTER OF APPLICATION FOR PERMIT NO. 13-7127
IN THE NAME OF BLAIR GREAVES, CLAIR BOSEN & DON RIGBY

MEMORANDUM DECISION
AND ORDER

On February 17, 1976, Blair Greaves, Clair Bosen and Don Rigby applied to the Department of Water Resources for a permit to appropriate 600.00 acre feet of water from Current Creek, tributary to Stockton Creek, to be diverted with the SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 33, Twp. 12S, Rge. 39E, B.M., Bannock County, to be used for irrigation and storage for irrigation.

Notice of this application was published in the Idaho State Journal on February 26 and March 4. Protests against the approval of this application were received from Leo G. Burkett, James Abbott, Lewis G. Roberts, Brent Abbott and Lynn H. Merrill.

On April 9, 1976, a conference was held in Pocatello, Idaho. The applicants were present and represented by Lowell G. Castleton, Attorney at Law, and the protestants were present and represented themselves. The arguments of all parties were heard at the conference and it was agreed that before the Department made a decision in the matter, there would be an opportunity for both sides to submit written arguments.

On April 19, 1976, written arguments were submitted on behalf of the protestants by Lamont Jones, Attorney at Law, and on April 30, arguments were submitted on behalf of the applicants by their attorney, Lowell G. Castleton.

The Department of Water Resources has taken the matter under consideration and based upon the information presented at the conference, subsequent written arguments and pertinent material contained in the Department's official files, the Director of the Department of Water Resources makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Current Creek is tributary to Stockton Creek.
2. The water of Stockton Creek was decreed by Judge Joseph C. Rich on April 28, 1899.
3. Protestants James Abbott, Lynn H. Merrill and Leo G. Burkett are successors in interest to rights, or portions of rights, decreed to Richard Hadley, Joseph Vaness and Alphonse Grossard.

4. The decree specifies that the parties named in the decree, their successors and assignees shall "have the continuous uninterrupted flow ..., of the waters of Stockton Creek during all of each and every year."

5. The protestants have never made beneficial use of all the waters of Stockton Creek during the period November 1 to April 1.

CONCLUSIONS OF LAW

1. Section 42-104, Idaho Code, states "The appropriation must be for some useful or beneficial purpose, and when the appropriator or his successor in interest cease to use it for such purpose, the right ceases."

2. There is water in Current Creek during certain periods of the year that is not used beneficially and, is therefore, available for appropriation.

3. The diversion of water not needed to fill prior downstream water rights from Current Creek into the applicant's proposed reservoir during the period starting November 1 and ending April 1, would not interfere with the water rights of the protestants.

4. The applicants are entitled to a permit from the Department of Water Resources to appropriate unappropriated water.

ORDER

IT IS, THEREFORE, HEREBY ORDERED and Application for Permit No. 13-7127 is APPROVED subject to the following conditions:

1. It shall be subject to all prior existing water rights.
2. That measuring devices of a type approved by the Department of Water Resources shall be permanently installed and maintained upstream to measure the inflow and downstream to measure the outflow of the reservoir pool.
3. Any dam built for the impoundment of water under this permit shall be constructed pursuant to Section 42-1712, Idaho Code, and the appropriate Rules and Regulations of the Department of Water Resources.
4. Proof of construction of works and application of water to beneficial use shall be submitted to the Department on or before November 1, 1979.
5. That the permit is subject to the control of the watermaster of State Water District No. 11, Bear River.

Dated this 25 day of October, 1976.


R. KEITH HIGGINSON
Director

Exhibit 2

RECEIVED

SEP 8 1980

Department of Water Resources
Eastern District Office

DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card as a statement that the permit holder(s) has completed development to the extent shown below of Permit No. 13-7127.

Name(s) of Permit Holder: CLAIR D. BOSEN, Blackfoot, IDAHO

Post Office Address: Box 167, Presho, IDAHO 83263

Tel. No. 882-1711

Source of Water: runoff / Current Creek

Extent of Use: ☐ Domestic (number of households)
☒ Stockwater (number and type of stock)
☒ Irrigation 400 (acres)
☐ Other Recreational

Measuring Device: Required? ☒ Yes ☐ No Installed? ☒ Yes ☐ No
Access Port: Required? ☒ Yes ☐ No Installed? ☒ Yes ☐ No

The above information is a true statement of the extent to which the above numbered permit has been developed.

8/18/80

Date


Signature of Permit Holder

Exhibit 3

Total number of acres to be irrigated = 120

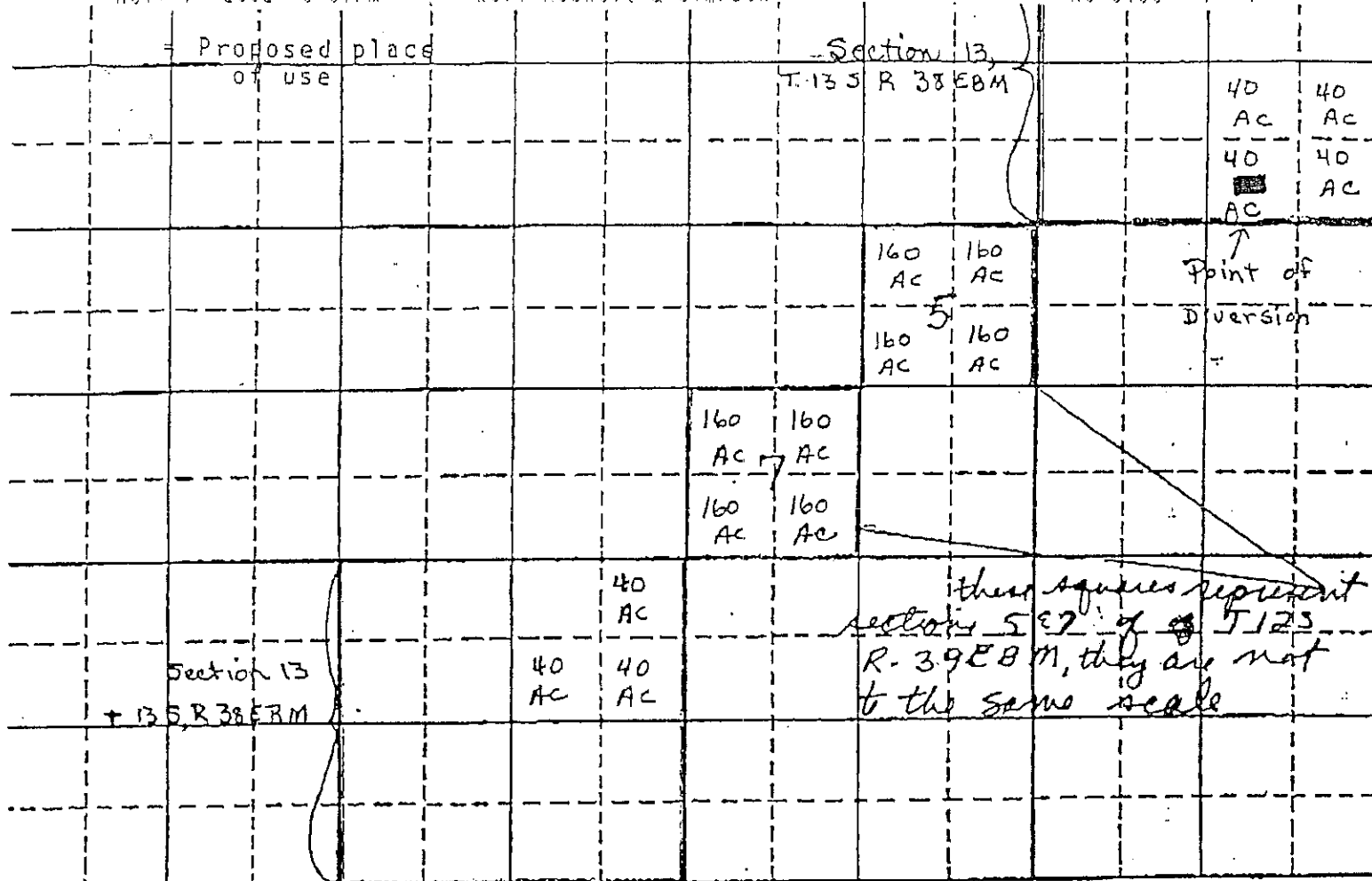
4. a. Who owns the property at the point of diversion? B-G-R Corporation
- b. Who owns the land to be irrigated or the place of use? Clair D. Bosen
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Clair D. Bosen is the sole shareholder of B-G-R Corporation

Nov. 7. 2002- 3:37PM

ker, Rosholt & Simpson

No. 3403

P. 4



scale: 2 inches equal 1 mile.

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

Signed at Preston, Idaho, this 9th day of June, 19 82.

X [Signature]
(Signature)

FOR DEPARTMENT USE ONLY

Preliminary check by SM Fee = \$20.00Received by BP Date 6-29-82 # 22345Publication prepared by bp Date _____Published in Idaho State JournalPublication dates July 8 and 15, 1982

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

I, L. GLEN SAXTON, of the Department of Water Resources hereby

APPROVE the above Application for Amendment of Permit No. 13-7127.

Witness my hand this 22nd day of March, 19 83.

Exhibit 4



IDAHO DEPARTMENT OF WATER RESOURCES
Water Permit Report

11/01/2002

WATER RIGHT NO. 13-7127

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DON C RIGBY PO BOX 187 BANCROFT, ID 83217 (208)648-7872
Current Owner	CLAIR BOSEN
Current Owner	BLAIR GREAVES PO BOX 167 PRESTON, ID 83263

Priority Date: 02/29/1976

Status: Active

<u>Source</u>	<u>Tributary</u>
CURRENT CREEK	STOCKTON CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/01	11/01	2.4 CFS	
IRRIGATION STORAGE	11/01	4/01		600 AFA
Total Diversion			2.4 CFS	

Location of Point(s) of Diversion:

CURRENT CREEK	SESW	Sec. 33	Township 12S	Range 39E	BANNOCK County
CURRENT CREEK	SWSE	Sec. 33	Township 12S	Range 39E	BANNOCK County

IRRIGATION STORAGE Use:

Acre Limit: 120

Place(s) of use:

Place of Use Legal Description: IRRIGATION BANNOCK County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
13S	38E	13		NENE	40		SWNE	40		SENE	40			

Total Acres: 120

Conditions of Approval:

1.	005	Use of water under this right is subject to control by the watermaster of State Water District No. 11 .
2.	016	See remarks for additional conditions of approval. .
3.	18A	The right holder shall install/maintain permanent measuring devices in such a manner that the amount of water entering the reservoir and the amount of water released from the reservoir can be measured.

Remarks:

1.	General	REINSTATED 11-26-1979. ANY DAM BUILT FOR THE IMPOUNDMENT OF WATER UNDER THIS PERMIT SHALL BE CONSTRUCTED PURSUANT TO SEC. 42-1712, IDAHO CODE, & THE APPROPRIATE RULES & REGULATIONS OF THE IDWR.
----	---------	---

Dates:

Proof Due Date: 11/01/1980

Proof Made Date: 01/01/1900

Approved Date: 10/25/1976

Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Application Received Date:

Protest Deadline Date:

Exhibit 5

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant LARRY H MILLER CORPORATION Phone (801) 563-4100
Mailing address 9350 SOUTH 150 EAST SUITE 1000 SANDY UT 84070
2. Source of water supply COTTONWOOD, STOCKTON & CURRENT CREEKS which is a tributary of OXFORD SLOUGH
3. Location of point of diversion is Township 12S Range 39E Sec. 33, in the SE $\frac{1}{4}$, SW $\frac{1}{4}$, Govt. Lot _____, B.M., BANNOCK County;
additional points of diversion if any: SW1/4 SE1/4, SEC 33, T12S, R39E, BANNOCK COUNTY
4. Water will be used for the following purposes:
Amount 2.4/600 for W.F.J.R purposes from 01/01 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)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 2.40 and/or (b) 600
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 RUNOFF FROM COTTONWOOD CREEK, STOCKTON CREEK, AND CURRENT CREEK INTO CURRENT CREEK RESERVOIR
 - b. Height of storage dam 40' feet; active reservoir capacity _____ acre-feet; total reservoir capacity 600 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 _____ 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. THE RESERVOIR IS PRESENTLY MAINTAINED AND WATER STORED NOV.1 TO APR.1 OF EACH YEAR, AND LATER RELEASED FOR IRRIGATION UNDER PERMIT 13-7127, BETWEEN APR.1 AND NOV.1. THE ISSUANCE OF A PERMIT PURSUANT TO THIS APPLICATION WOULD ALLOW THE RESERVOIR TO ALSO BE OPERATED AND MAINTAINED FOR NON-CONSUMPTIVE BENEFICIAL USES OF FISH, WILDLIFE, RECREATION, AND AESTHETICS BY THE PROPERTY OWNER.

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	
12S	39E	33												*			*		

Total number of acres to be irrigated _____

* F,W,R,J

10. Describe any other water rights used for the same purposes as described above. 13-7127

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

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

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

12. Remarks: APPLICANT OWNS THE PROPERTY WHERE THE RESERVOIR IS LOCATED. THIS PERMIT IF ISSUED WOULD BE SUBORDINATE TO THE PRIORITY AND USES BY THE OWNER OF PERMIT 13-7127. AGREEMENTS BETWEEN THE APPLICANT AND THE OWNER OF PERMIT 13-7127 OUTLINE THE PARTIES RESPONSIBILITIES TO KEEP RESERVOIR LEVEL CONSTANT TO EXTENT POSSIBLE. THIS APPLICATION WOULD VALIDATE THE BENEFICIAL USES OF THE WATER IN THE RESERVOIR NOT HELD FOR IRRIGATION PURPOSES UNDER 13-7127.

THIS APPLICATION SHALL BE SUBJECT TO ALL PRIOR EXISTING WATER RIGHTS.
13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"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.

LARRY H MILLER CORPORATION

Signature of Applicant (and title, if applicable)

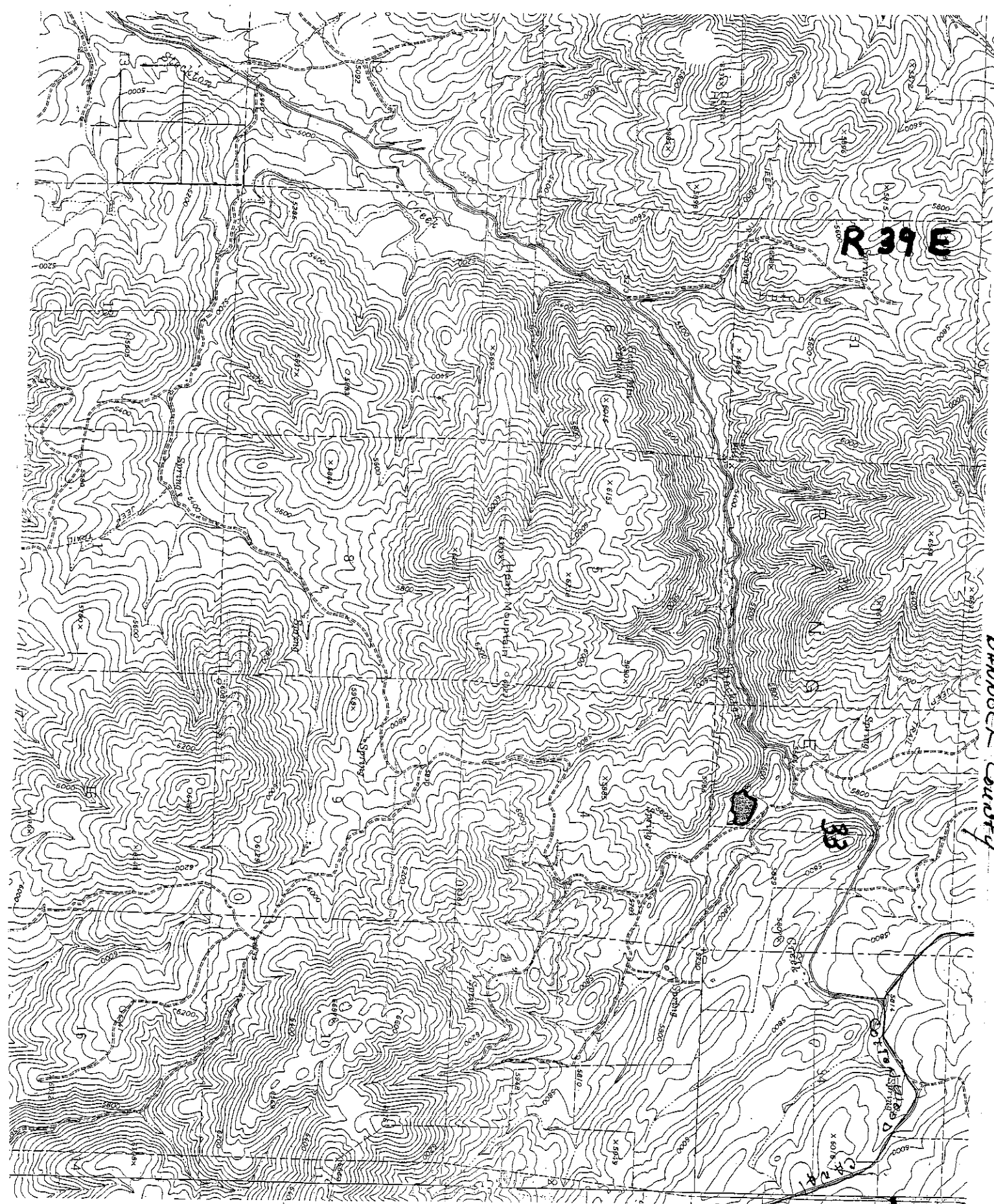
by: ROBERT D. TINGEY, GENERAL COUNSEL

Received by _____ Date _____ Time _____ Preliminary check by _____

Fee \$ _____ Received by _____ # _____ Date _____

Publication prepared by _____ Date _____ Published in _____

Publication approved _____ Date _____

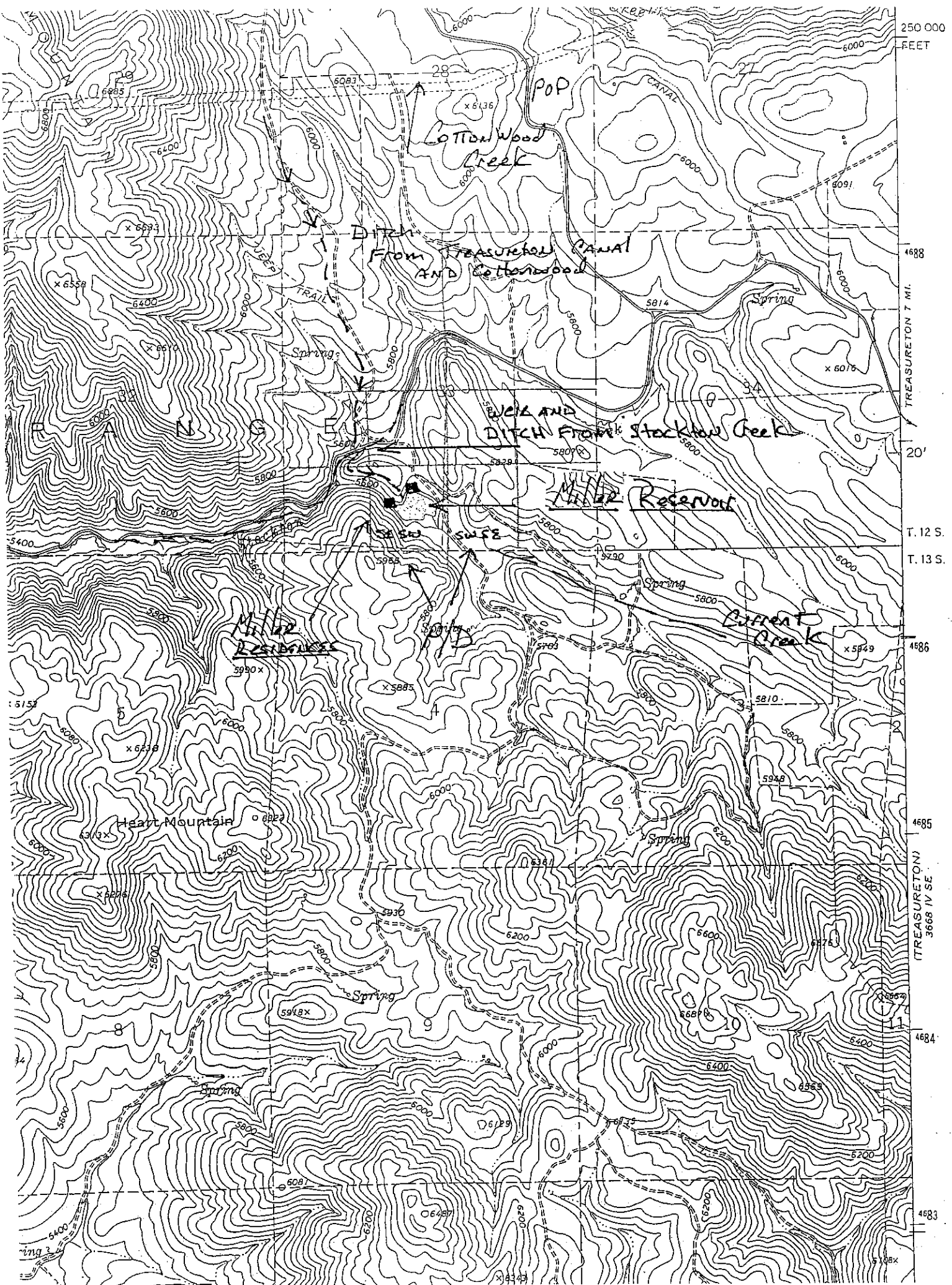


R39E

Barnock County

33

T12S



250 000
FEET

4688

TREASURETON 7 MI.

20'

T. 12 S.

T. 13 S.

4586

4685

(TREASURETON)
3668 IV SE

4684

4683

Exhibit 6

April 24, 2003

Larry Miller Management Company
C/O Robert Tingey
9350 S 150 E Ste 1000
Sandy UT 84070

Mr. Tingey:

I received the water right application for the Larry Miller Corporation that you sent to this office. You need to be aware that this application is for a water source in the Bear River Basin.

Since 1982 we have not approved surface water applications in the Bear River Basin for projects including consumptive use. Some projects such as small domestic, stockwater and recreation ponds of ½ acre surface area have been approved. These have been deemed de minimus in their impact and therefore allowed to go forward.

Since permit 13-7127 already allows for storage from Nov1 to April 1 of each year, this new application would then be for recreational storage during the irrigation season. It is my view that this increase in storage could then lead to increased evaporation and loss during the summer months. Also this application would have an April 21, 2003 priority date. I don't see how there could possibly be water available for such a late priority in a Basin that is regularly short of water.

You may have an opportunity to re-visit this application by proposing mitigation to make up for water taken for this project but until that time I will take no further action on this application. I think it could help if you gave me a call on this issue so I can better explain the options available.

Sincerely,

Harold W Jones
Water Right Supervisor

HWJ:sc

Exhibit 7

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

DAM AND RESERVOIR CERTIFICATE OF APPROVAL

This is to certify that *CURRENT CREEK Dam and Reservoir*, located in SE1/4, SW1/4, Section 33, Township 12S, Range 39E, B.M., Bannock County, State of Idaho has been inspected by the Department of Water Resources of the State of Idaho, as provided in Title 42 Chapter 17, Idaho Code, and approval is hereby given to impound water in accordance with and subject to the following terms and conditions: THE DAM AND RESERVOIR SHALL BE OPERATED IN ACCORDANCE WITH THE APPROVED OPERATION PLAN

This certificate shall remain valid until revoked or modified by the Department of Water Resources or until the 1st day of November, 2003.



This certificate has been issued and the seal of the Director affixed at Boise, Idaho this

22ND day of MARCH 2002.

Norm C. Young
Administrator, Water Management Division

MAY 03 2002

MICROFILMED

Exhibit 8



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 12, 2002

Clair Bosen
PO Box 468
Preston, ID 83263

Re: Potential Unauthorized Diversion of Water from Cottonwood Creek and Stockton Creek to
Current Creek Reservoir, Water Right Permit No. 13-7127

Dear Mr. Bosen,

Our records show that you are the current owner of water permit number 13-7127 which authorizes the diversion of water from Current Creek for irrigation storage in Current Creek Reservoir. Current Creek is tributary to Stoddard Creek. Our office has recently learned that you divert water from a canal diversion off of Cottonwood Creek that is re-diverted to Stockton Creek and then re-diverted again for storage in Current Creek Reservoir. The Department has also received information that water may be diverted to the reservoir for purposes other than irrigation storage and that water may be diverted for storage outside of the permitted storage season that is limited from November 1 to April 1.

Please be advised that Current Creek is the only source of water that is authorized for diversion of water to Current Creek Reservoir under water right 13-7127. Please also be advised that uses under the permit are limited to irrigation storage between November 1 and April 1, and irrigation from storage from April 1 to November 1. The Department can find no other records that authorize diversion of water from Cottonwood Creek or Stoddard Creek for storage of water in Current Creek Reservoir.

Since no other water rights appear to provide for diversion of water from Cottonwood Creek or Stockton Creek for storage in Current Creek Reservoir, this office requests your cooperation in:

- Identifying any water rights that authorize diversion of water from Cottonwood Creek and Stockton Creek for storage in Current Creek Reservoir.
- Cease and desist further diversion of water from Cottonwood and Stockton Creeks for storage in Current Creek Reservoir.
- Obtain valid water rights or approved water right transfers to cover diversion and storage of water to Current Creek Reservoir from Cottonwood and Stockton Creeks.

Please respond to our office within 15 days of the date of this letter regarding your use of water from Cottonwood and Stockton Creeks for storage in Current Creek Reservoir.

Nov. 18. 2002 5:47PM

Barker, Rosholt & Simpson

2088523 No. 3524

P. 7 6/ 5

11-10-02 3:30PM JAY

ACREN416 C-7

Nov-15-02 03:40P bosen Land and Livestock 208-852-1591

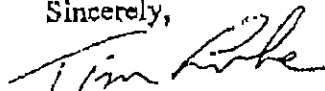
P. 02

Please note that diversion of water in Idaho without a valid water right is illegal pursuant to Section 42-351, Idaho Code and subject to civil penalties outlined in Section 42-1701B, Idaho Code that provide for \$50 per 0.1 cfs per day up to a maximum of \$50,000 per year.

Our office has also learned that there may be have been some recent change in the ownership of the reservoir and water right 13-7127 involving a Mr. Larry Miller. Again, our records show no formal assignment or change in ownership of permit 13-7127. Section 42-248, Idaho Code requires that a notice of ownership change be filed with the Department for all ownership changes of water rights or permits that have occurred since June 30, 2000.

If you have questions concerning this matter please contact me at this office or contact Harold Jones at our Eastern Regional Office in Idaho Falls (208-525-7161).

Sincerely,



Tim Luke

Water Distribution Section

Cc: Harold Jones, IDWR Eastern Region
Alex Hudson, Cottonwood Creek Watermaster
Treasureton Irrigation Co.
IDWR Dam Safety Section

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RECEIVED

SEP 8 1980

Department of Water Resources
Eastern District Office

DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card as a statement that the permit holder(s) has completed development to the extent shown below of Permit No. 13-7127.

Name(s) of Permit Holder: CLAIR DIBOSEN, Black Gravel, Don High

Past Office Address: Box 167, Preston, IDAHO 83263

Tel. No. 852-1711

Source of Water: runoff / Current Creek

Extent of Use: ☐ Domestic (number of households)
☒ Stockwater (number and type of stock)
☒ Irrigation 400 (acres)
☐ Other Recreational

Measuring Device: Required? ☒ Yes ☐ No Installed? ☒ Yes ☐ No

Access Port: Required? ☒ Yes ☐ No Installed? ☒ Yes ☐ No

I certify the above information is a true statement of the extent to which the above numbered permit has been developed.

8/18/80
Date

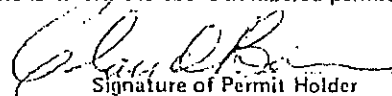

Signature of Permit Holder

Exhibit 9

-
- Measuring Dam
- Current Creek
- Moderate to Heavy Flow
- Spilling Channels
- Dam
- Measuring Device
- this from the 87 Exam?

Is this from
the 87 Exam?

- ☐
- Aerial Photo of Place of Use Attached
-
- or Map of Irrigated Acreage Attached

14. Remarks Reservoir 1/2 mile + long and 1/4 mile + wide, depth to 50'

Need slide overflights - Preston or Poky, ASCS

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

