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OCT 20 2005  
DEPARTMENT OF WATER RESOURCES

Permit No: 45-7608

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STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No: 45-7608

Exam Date: 8/14/1991

(NEVER FINISHED?)

1. Current Owner: BENNIE SMYER  
PO BOX 573  
ALBION ID 83311  
(208)678-8206

2. Accompanied by: *BENNIE SMYER (NUMEROUS VISITS OVER THE YEARS)*

Phone No: *SAME*

Address: *SAME*

Relationship to Permit Holder: *SAME*

3. SOURCE

UNNAMED STREAM

TRIBUTARY

SUMMIT CREEK

B. OVERLAP REVIEW

1. Other water rights with the same place of use: None
2. Other water rights with the same point of diversion: None

C. DIVERSION AND DELIVERY SYSTEM

1. LOCATION OF POINT(S) OF DIVERSION:

|                |                 |          |          |               |
|----------------|-----------------|----------|----------|---------------|
| UNNAMED STREAM | NE1/4NW1/4SW1/4 | Sec. 15, | Twp 12S, | Rge 25E, B.M. |
| CASSIA County  |                 |          |          |               |
| UNNAMED STREAM | SE1/4NW1/4SW1/4 | Sec. 15, | Twp 12S, | Rge 25E, B.M. |
| CASSIA County  |                 |          |          |               |
| UNNAMED STREAM | SE1/4NW1/4SW1/4 | Sec. 15, | Twp 12S, | Rge 25E, B.M. |
| CASSIA County  |                 |          |          |               |
| UNNAMED STREAM | SE1/4NW1/4SW1/4 | Sec. 15, | Twp 12S, | Rge 25E, B.M. |
| CASSIA County  |                 |          |          |               |

Method of Determination: ARCVIEW

2.

PLACE OF USE: WILDLIFE STORAGE

| 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 | 25E | 15  |    |    |    |    |    |    |    |    |    | X  | X  |    |    |    |    |    |        |

PLACE OF USE: RECREATION STORAGE

| 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 | 25E | 15  |    |    |    |    |    |    |    |    |    | X  | X  |    |    |    |    |    |        |

**PLACE OF USE:** STOCKWATER STORAGE

| 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 | 25E | 15  |    |    |    |    |    |    |    |    |    | X  | X  |    |    |    |    |    |        |

Method of Determination: ARCVIEW

3. ☒ Delivery System Diagram Attached (required). Indicate all major components and distances between components. Indicate weir size/pipe as applicable.
- ☒ Map Attached Showing Location(s) of point(s) of diversion and place(s) of use (required). Scale must be 1:24,000 or greater.
- ☒ Aerial Photo Attached (required for irrigation of 10+ acres).
- ☒ Photo of Diversion and System Attached

4. *N/A*

| <u>Well or Diversion ID No.*</u> | <u>Motor Make</u> | <u>Hp</u> | <u>Motor Serial No.</u> | <u>Pump Make</u> | <u>Pump Serial No. or Discharge Size</u> |
|----------------------------------|-------------------|-----------|-------------------------|------------------|------------------------------------------|
|                                  |                   |           |                         |                  |                                          |

\*Code to correspond with No. on map and aerial photo

**D. FLOW MEASUREMENTS** *N/A (ONSTREAM STORAGE)*

1.

| <u>Measurement Equipment</u> | <u>Type</u> | <u>Make</u> | <u>Model No.</u> | <u>Serial No.</u> | <u>Size</u> | <u>Calib. Date</u> |
|------------------------------|-------------|-------------|------------------|-------------------|-------------|--------------------|
|                              |             |             |                  |                   |             |                    |
|                              |             |             |                  |                   |             |                    |

2. Measurements:

**E. FLOW CALCULATIONS** *N/A*

\_\_\_\_ Additional Computation Sheets Attached

Measured Method:

**F. VOLUME CALCULATIONS** *SEE NARRATIVE/REMARKS/COMMENTS*

1. Volume Calculations for Irrigation:

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

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

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

2. Volume Calculations for Other Uses

**G. NARRATIVE/REMARKS/COMMENTS**

Application for Permit 45-7608 was filed by Bennie Smyer on February 26, 1987 for the diversion of 0.20 cfs for storage and 15 acre-feet of stockwater, recreation, and wildlife storage. The application listed the source of water as an unnamed stream and a spring both tributary to Summit Creek. The application appears to have been intended to cover the storage of water behind Smyer West Dam (IDWR Dam Safety file D45-7608). The application also indicates that the dam will "allow diversion of water into reservoir on Summit Creek (D45-7605). The application was subsequently approved, and a permit was issued on April 30, 1987.

Since beginning work with the Department in 1995, I have visited the Smyer property numerous times over the years performing dam inspections for the Department and have become quite familiar with the dams located on the property. Mr. Smyer has six embankments located on two channels on his property. Two of the embankments are located on Summit Creek, and four other embankments are located on an unnamed stream tributary to Summit Creek. The two embankments on Summit Creek include Smyer East Dam (IDWR Dam Safety file D45-7605) and a small diversion embankment intended to route Summit Creek flow around Smyer East Dam. Note that Mr. Smyer does not have a water right to impound water on Summit Creek (Application for permit 45-7605 is protested and held in the moratorium), but operates the two embankments in accordance with a July 12 1996 Agreement and Consent Order entered into after the issuance of a Notice of Violation in May of 1996. Other than permit 45-7608, and the previously mentioned 45-7605 application, there are no water right or SRBA filings for storage use on Mr. Smyer's property.

The four embankments on the unnamed stream tributary to Summit Creek have been in existence prior to when I first visited the property in October of 1995. The most downstream of these four embankments consists of a dam that used to be regulated by IDWR's Dam Safety Section (Smyer West Dam IDWR Dam Safety File D45-7608). This dam was removed from IDWR's active inventory in 1998 after Mr. Smyer constructed a spillway at the dam reducing the dam's capacity to an amount below the Department's Dam Safety jurisdiction. Note that this action occurred after IDWR filed suit against Mr. Smyer in District Court in 1997 for violating the State's Dam Safety Act relating to the construction and operation of his two dams (Smyer East and Smyer West Dams).

Examination of the Department's Dam Safety File for Smyer West Dam (D45-7608) reveals that in 1997, Smyer West Dam had a storage capacity of 13.55 acre-feet (see 4/18/1997 memo). After performing the work in 1998, the storage capacity was reduced to approximately 9.5 acre-feet (see 5/7/1998 memo identifying maximum storage elevation at 5094.25 feet, msl and capacity table in 4/18/1997 memo). Using ARCVIEW, and 2004 NAIP aerial photography, the three other embankments on the unnamed stream have reservoir surface areas of 0.71 acres, 0.14 acres, and 0.30 acres. Some of my undated field notes from some time ago from the region's dam safety files indicates that the average depth of these three reservoirs are approximately 5.0 feet, 4.0 feet, and 3.0 feet. This would indicate that these three reservoirs have storage capacities of 3.55 ac-ft, 0.56 ac-ft, and 0.9 ac-ft respectively.

Application for Permit 45-7608 was initially filed for one storage reservoir on an unnamed stream with a capacity of 15 acre-feet that was built having a storage capacity of 13.55 ac-ft and then reduced to a capacity of 9.5 ac-ft in 1998. Three additional reservoirs having a total combined additional capacity of 5.01 ac-ft ( $3.55 + 0.56 + 0.9$ ) were also constructed on the same unnamed stream. All four embankments are within 0.20 mile of each other. It seems like the license for 45-7608 could be issued for one embankment for 13.6 ac-ft of storage, but this facility now only stores 9.5 ac-ft. However, by examining the historical development, it appears that about 18.6 ac-ft ( $13.55 + 5.01$ ) was actually developed in four separate reservoirs, but the total capacity has now been reduced to about 14.5 ac-ft ( $9.5 + 5.01$ ). Since the permit allowed for 15 ac-ft of storage, it seems more reasonable to issue the license for 15 ac-ft of total storage, but in four different reservoirs. The 15 ac-ft allowance can be justified because over 15 ac-ft was historically developed and the current capacity of about 14.5 ac-ft could very easily be rounded to 15 ac-ft to account for approximate reservoir depths on the upper three reservoirs. However, this would require a licensing amendment to allow for four separate diversions (embankments) and to allow for some storage in an adjacent forty-acre tract resulting from the upper reservoir.

One other item relating to the licensing of permit 45-7608 relates to the condition that upstream and downstream measuring devices be installed. To my knowledge, there are no upstream or downstream measuring devices installed on the unnamed stream where the four embankments are located. The unnamed stream is more or less a small draw that does not really have a defined channel. It appears that the reservoirs fill primarily during high surface runoff events (spring snowmelt and rainstorms). The upper reservoir seems to have been constructed in a natural "springy" area that also may help fill the reservoirs. In addition, waste water irrigation runoff from land to the west of the reservoirs may also contribute to their storage. Examination of old photos (March 1987) in the dam safety file, prior to the embankments being constructed, do not appear to indicate the existence of any riparian vegetation in the draw below where the dams were constructed. Since 1995, I can only recall one time when I ever saw any water below the lower of the four embankments and it was after an early snow melt in February of 1997. This water may have been seepage through the foundation of the lowest embankment or just standing water from snowmelt. It does not seem practical, and I cannot think of any appropriate locations for the installation of measuring devices, above or below the four reservoirs. In summary, I think this particular condition relating to upstream and downstream measuring devices should be waived.

Have conditions of permit approval been met? ☒ Yes ☐ No (REMOVE CONDITION 18A)

**H. RECOMMENDATIONS****1. Recommended Amounts**

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>DIVERSION RATE</u> | <u>ANNUAL VOLUME</u> |
|-----------------------|----------------------|-----------------------|----------------------|
| WILDLIFE STORAGE      | 01/01 to 12/31       |                       | 15.00 AF             |
| RECREATION STORAGE    | 01/01 to 12/31       |                       | 15.00 AF             |
| STOCKWATER STORAGE    | 01/01 to 12/31       |                       | 15.00 AF             |
| <u>Totals:</u>        |                      |                       | 15.00 AF             |

**2. Recommended Amendments**

☐ Change P.D. as reflected above ☒ Add P.D. as reflected above ☐ None

☐ Change P.U. as reflected above ☒ Add P.U. as reflected above ☐ Other

**I. AUTHENTICATION**

Field Examiner's Name

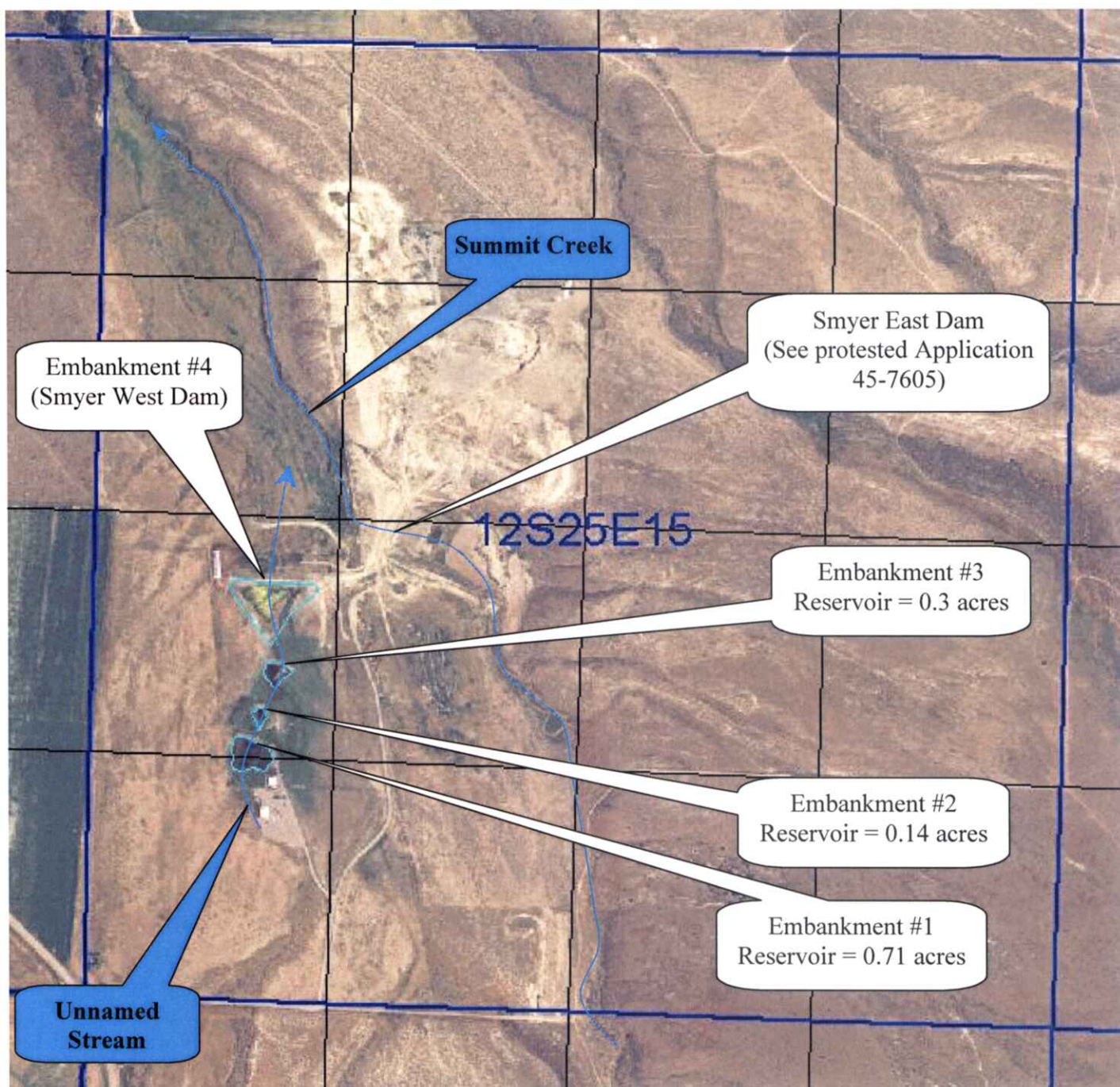


Date

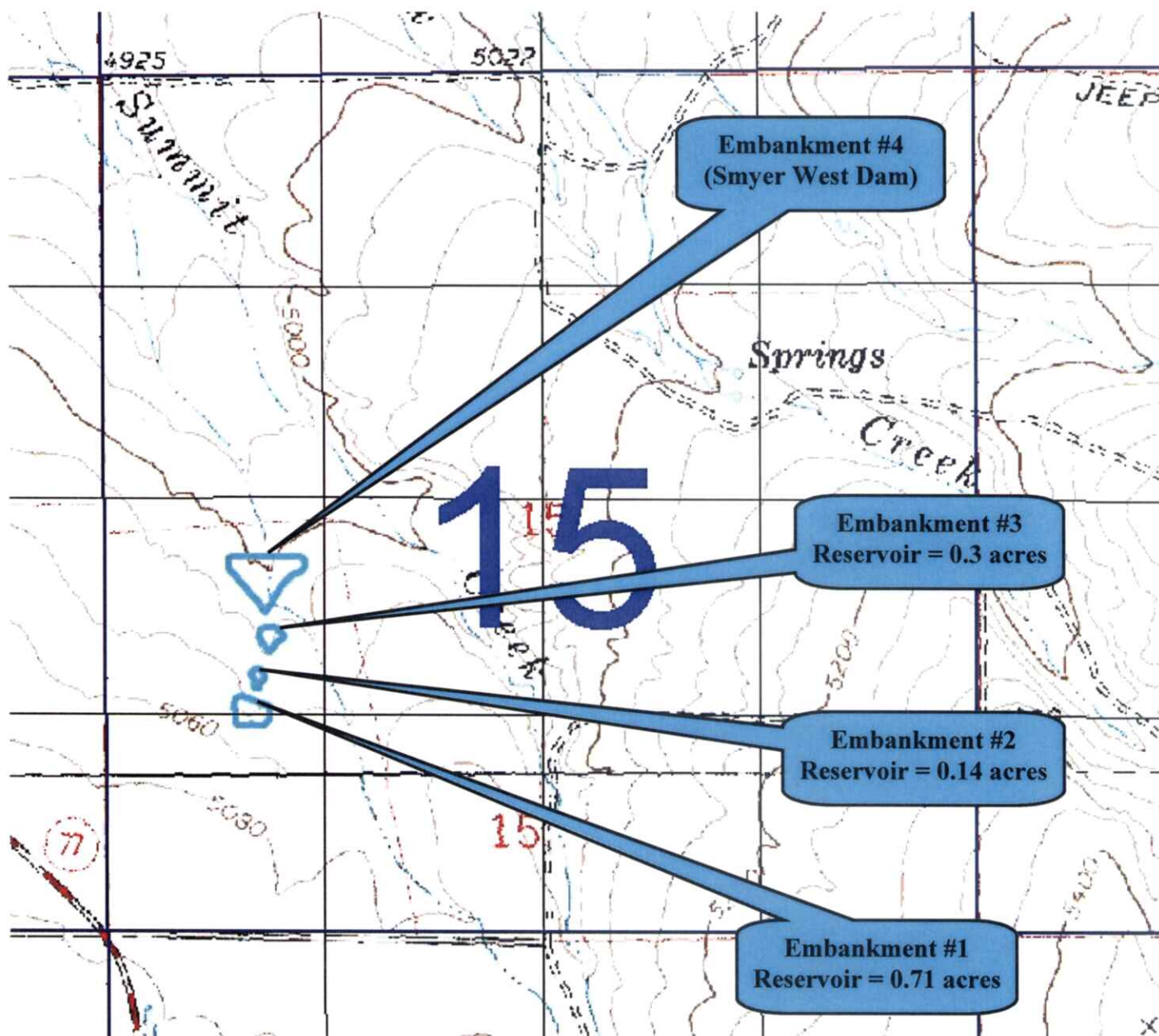
6/13/2005

Reviewer

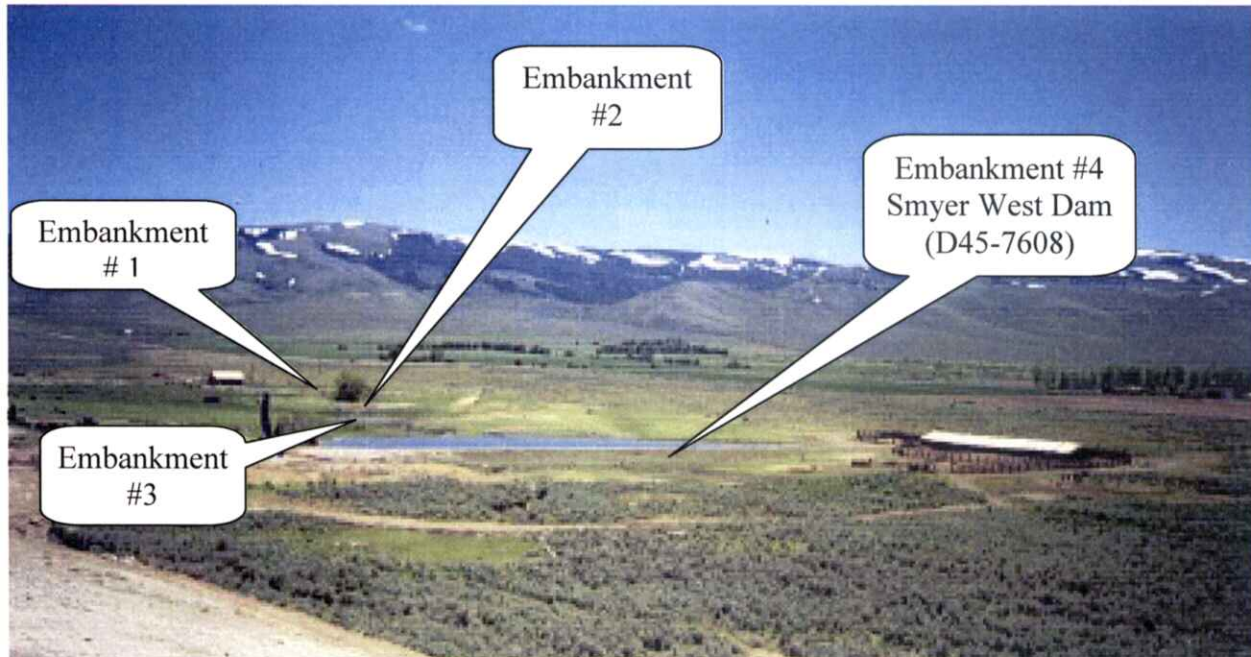
Date



**Licensing Exam for Permit 45-7608**  
**2004 Cassia County NAIP Photography**



Licensing Exam for Permit 45-7608  
USGS Quadrangle (CC30 & CC80)

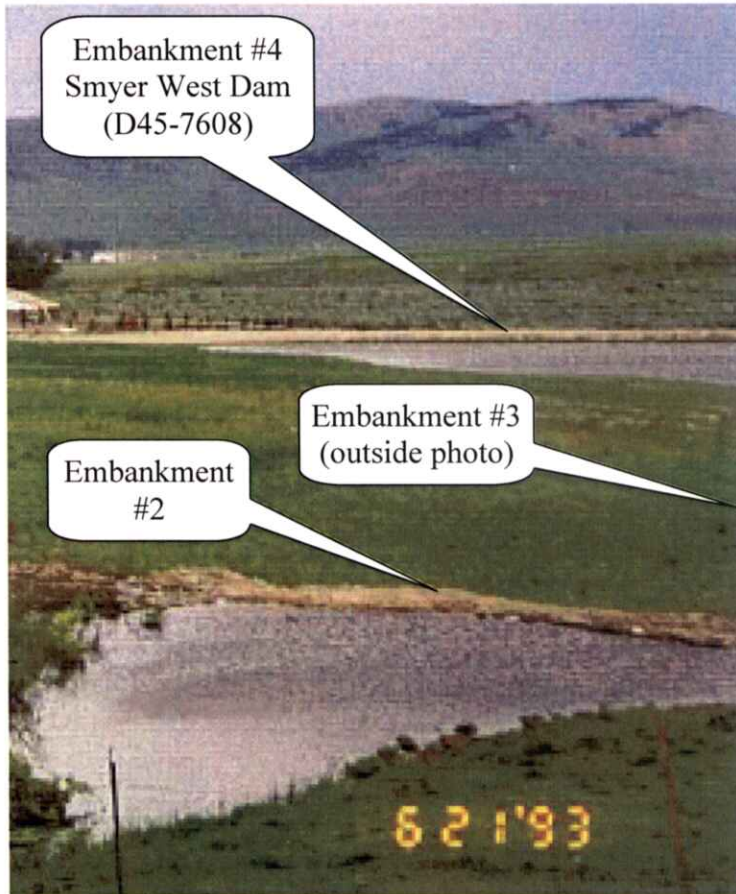


**ABOVE:** View showing the location of the four embankments used to create ponds. Photo, taken on June 1, 1998, was copied from Smyer West Dam IDWR Dam Safety File (D45-7608).

**BELOW:** View showing "Embankment #3". Photo, taken on April 2, 1993, was copied from Smyer West Dam IDWR Dam Safety File (D45-7608).



**Licensing Exam Photos for Permit 45-7608**



**LEFT:** View showing embankment #2, and embankment #4 (Smyer West Dam) in background. Photo, taken on June 21, 1993, was copied from Smyer West Dam IDWR Dam Safety File (D45-7608).

**BELOW:** View showing the upper most embankment, #1, of the four embankments. Photo, taken on April 27, 1993, was copied from Smyer West Dam IDWR Dam Safety File (D45-7608).



**Licensing Exam Photos for Permit 45-7608**

MEMORANDUM

TO: FILES NO. D45-7605 & D45-7608

FROM: MIKE STUBBLEFIELD

RE: INSPECTION OF SMYER EAST AND SMYER WEST DAMS

DATE: May 7, 1998

=====

On May 6th, Corey Skinner and I met with Bennie Smyer and inspected and surveyed Smyer East and Smyer West Dams. The following conditions were found at Smyer West Dam:

The spillway that was staked in January was completed. The crest elevation was at 94.35 ft, according to our survey datum, which is below the 94.5 ft elevation required. The spillway was approximately 15 ft wide and was adequately constructed. Since the dam now stores less than 10 ac-ft, and is located in a low risk area, it is exempt from IDWR regulation under the Safety of Dams Statutes. I indicated to Mr. Smyer that we would look at the dam and downstream area every 5 years to determine if the downstream risk has changed.

Mr. Smyer indicated he plans to place riprap in the spillway channel to prevent it from eroding. Also, at the time of inspection, Mr. Smyer was in the process of putting in a new road across the lower end of the spillway channel, for access to the west side of the West Dam. He had placed 4 pipes under the road fill, which was about 2.5 to 3 ft high. Corey and I surveyed the fill and pipes to determine if it would interfere with discharge through the spillway. The road fill is located about 100 ft downstream from the spillway crest, and the base of the fill is at elevation 90.4 ft, or about 4 ft lower than the spillway crest. The road elevation was at about 93.5 ft and should not interfere with spillway flows. The 4-12" pipes under the roadway should handle all but flood flows, which would overtop the roadway.

Next Corey and I inspected the East Dam and found the following:

Mr. Smyer had added 20 ft of pipe to extend the downstream end of the outlet. The slope had been flattened but was still very steep for about 10 vertical feet above the pipe. Mr. Smyer indicated he planned to place riprap in this area to stabilize the slope and prevent erosion from surface runoff from occurring. I indicated this would be satisfactory and would need to be completed by the May 15th deadline.

No other work had been completed at the East Dam. Mr. Smyer indicated that he had not lowered the spillway at the dam because of the wet conditions, and trucks were still using the

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road to haul gravel from the pit located on the east side of the dam. I told Mr. Smyer that he needed to also complete this work by May 15th.

Mr. Smyer was diverting water into the reservoir, because he felt that the silt load in the creek would plug the diversion pipe. It was noted that considerable silt had been deposited in the pool behind the diversion dam and in the upper reservoir area. The flow in the creek and into the reservoir was still quite high. The reservoir outlet was open and releasing storage. I could not determine the water depth in the reservoir, but estimated it was no deeper than 5 feet at its maximum depth. Because of the water being diverted into the reservoir and subsequent ponding, the work to flatten the upstream slope had not been completed. Corey and I staked both abutments to show a 3:1 slope, but it does not appear that this work can be completed for quite sometime. Mr. Smyer was very adamant about not using the diversion pipe at this time and said that it may be another month before the flows would be low enough to divert. I indicated that flattening the upstream slope was a high priority and was to be completed by the May 15th deadline; however, Mr. Smyer felt that there was no way possible to complete the work until after the flows could be diverted and the reservoir area dries out. This could take several months, if not longer.

I gave Mr. Smyer a copy of the order and went over it point by point. The first 4 points, dealing with the West Dam have been complied with. Points 5 through 9, dealing with the East Dam have not been completed. I told Mr. Smyer that he needs to complete as much of this work as possible by the May 15th deadline. At that time, we will re-inspect the dam to determine what parts of the order have been complied with and what parts have not.

I tried to explain point 10 of the order, dealing with the diversion structure, diversion of water into the reservoir and cooperation between Mr. Smyer and the Watermaster. Mr. Smyer did not seem to grasp the importance of this part of the order. I explained that in order to divert water into the reservoir, he needed the approval of the watermaster. Mr. Smyer indicated that the watermaster had not been called on yet and that, as indicated earlier, he did not want to use the diversion pipe for fear it would plug up with silt and that he planned to continue diverting water into the reservoir and would keep the diversion shut. Corey indicated he would send a copy of the order to the watermaster, Mr. Gunderson.

I next went over point 11, which indicates that Mr. Smyer shall not commence any repairs, maintenance or construction at the East Dam without IDWR approval. Mr. Smyer seemed to be willing to comply

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with this and indicated he would first contact the Department before doing any work on the dam. I indicated that he has our approval to modify the upstream slope, repair the erosion on the downstream slope and enlarge the spillway, as staked previously.

Mr. Smyer indicated that he wanted to utilize the concrete drop inlet spillway structure, that drops into the main outlet, to regulate the reservoir level, once his water right is approved. Corey and I surveyed the concrete slab, and found the elevation of the top of the slab to be approximately 1.2 feet higher than the elevation of the concrete control structure in the main spillway. Mr. Smyer plans to excavate under the concrete slab and weld a horizontal pipe to the vertical standpipe to act as an overflow. I indicated to Mr. Smyer that it would be a lot easier just to remove the concrete slab, but he did not want to do that. I told Mr. Smyer that as long as the concrete control structure in the main spillway remained as the control point for flows through the main spillway, I did not care if he pursued modifying and utilizing the vertical standpipe.

Corey took several pictures of both dams and the diversion structure.

CC: IDWR - SOUTHERN REGION

JOHN HOMAN

MEMORANDUM

TO: FILE NO. D45-7608

FROM: MIKE STUBBLEFIELD

RE: INSPECTION AND SURVEY OF SMYER WEST DAM

DATE: April 18, 1997

On Tuesday, April 15, 1997, Sonny Horbaker, Corey Skinner and I inspected and surveyed Smyer West Dam. The survey indicated the dam has a structural height of 13.9 ft. Although a spillway cut has been excavated on the right (east) abutment of the dam, the elevation of the spillway crest is 0.4 ft higher than the lowest elevation along the crest of the dam embankment. Therefore, the spillway (as constructed) does not provide any protection against overtopping, and the hydraulic height of the dam is equal to the structural height, which is 13.9 feet.

On April 16th, I planimetered the topographic map of the reservoir area, that was done by Desert West Land Surveys. Based on the survey of the dam and the bypass channel, the elevation of the downstream toe of the dam is 5082.3 ft. The slope of the terrain is approximately 0.026 ft/ft based on the profile of the bypass channel; therefore, the approximate elevation of the upstream toe of the embankment is 5084.3 ft. The following area-capacity table was made from planimetering the topographic map of the reservoir:

| <u>Elevation</u><br><u>(ft, msl)</u> | <u>Area</u><br><u>(acres)</u> | <u>Ave. Area</u><br><u>(acres)</u> | <u>Capacity</u><br><u>(ac-ft)</u> | <u>Accum. Capacity</u><br><u>(ac-ft)</u> |
|--------------------------------------|-------------------------------|------------------------------------|-----------------------------------|------------------------------------------|
| 5084.3                               | 0                             |                                    | 0                                 | 0                                        |
|                                      |                               | 0.5715                             |                                   |                                          |
| 5090.6 <sup>1</sup>                  | 1.143                         | 1.3055                             | 3.60                              | 3.60                                     |
| 5092.0                               | 1.468                         | 1.6890                             | 1.83                              | 5.43                                     |
| 5094.0                               | 1.910                         |                                    | 3.38                              | 8.81                                     |
| 94.35*<br>5095.0                     | 1.986*<br>2.127               | 2.0185                             | 2.02                              | 9.52*<br>10.83                           |
|                                      |                               | 2.2385                             |                                   |                                          |
| 5096.0                               | 2.350 <sup>3</sup>            | 2.3750                             | 2.24                              | 13.07                                    |
|                                      |                               |                                    |                                   |                                          |
| 5096.2 <sup>2</sup>                  | 2.40 <sup>3</sup>             |                                    | 0.48                              | 13.55                                    |

<sup>1</sup> - Reservoir level at time topographic survey was made (2/28/97).

<sup>2</sup> - Elevation of top of dam.

<sup>3</sup> - Estimated, based on the average difference between each foot of elevation change.

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\* from 5/6/1998 Survey (see 5/7/1998 memo)

Based on the area capacity curve, the capacity at elevation 5094.5 ft, is approximately 9.8 ac-ft. Therefore, in order for the dam and reservoir to be too small for our jurisdiction, the spillway crest needs to be lowered to below elevation 5094.5 feet. If the spillway crest is lowered to elevation 5094.5 ft, and is constructed with a minimum basewidth of 10 feet and sideslopes of 2:1, the inflow design flood (IDF), which is  $Q_{50} = 55$  cfs, can be passed with approximately 0.3 ft of freeboard. Assuming no erosion, the spillway capacity at the top of the dam would be about 80 cfs. The spillway would not meet the Safety of Dams criteria however, since the rules require the dam to be capable of passing the IDF with a minimum of 2.0 ft of freeboard.

If the spillway is lowered as indicated above, the dam would be placed on the 5-yr listing, since it would still have a hydraulic height of greater than 10 ft. The dam would be inspected every 5 years to check the downstream risk. If the risk below the dam were to change to significant, because of development downstream, the dam would then be under our jurisdiction again, and would need to be modified to meet the Safety of Dams rule requirements, in particular, the freeboard requirement.

ANONCE - 11/11/11

APR 11 1987

UNDATED FIELD  
NOTES FROM  
VISIT TO SMYER  
WEST DAM.

*Ray Shinn*

four ponds creating Smyer  
west dam

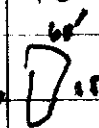
West  
dam



100'  $\bar{d} \approx 3'$  sh = 7-8'

review  
3 acres

.9 ac-ft



60'  $\bar{d} \approx 4'$  sh = 7-8'

.14 acres

.56 ac-ft



$\bar{d} \approx 5'$

sh  $\approx$  7-10'

.71 acres

3.55 ac-ft

5 ac-ft



N