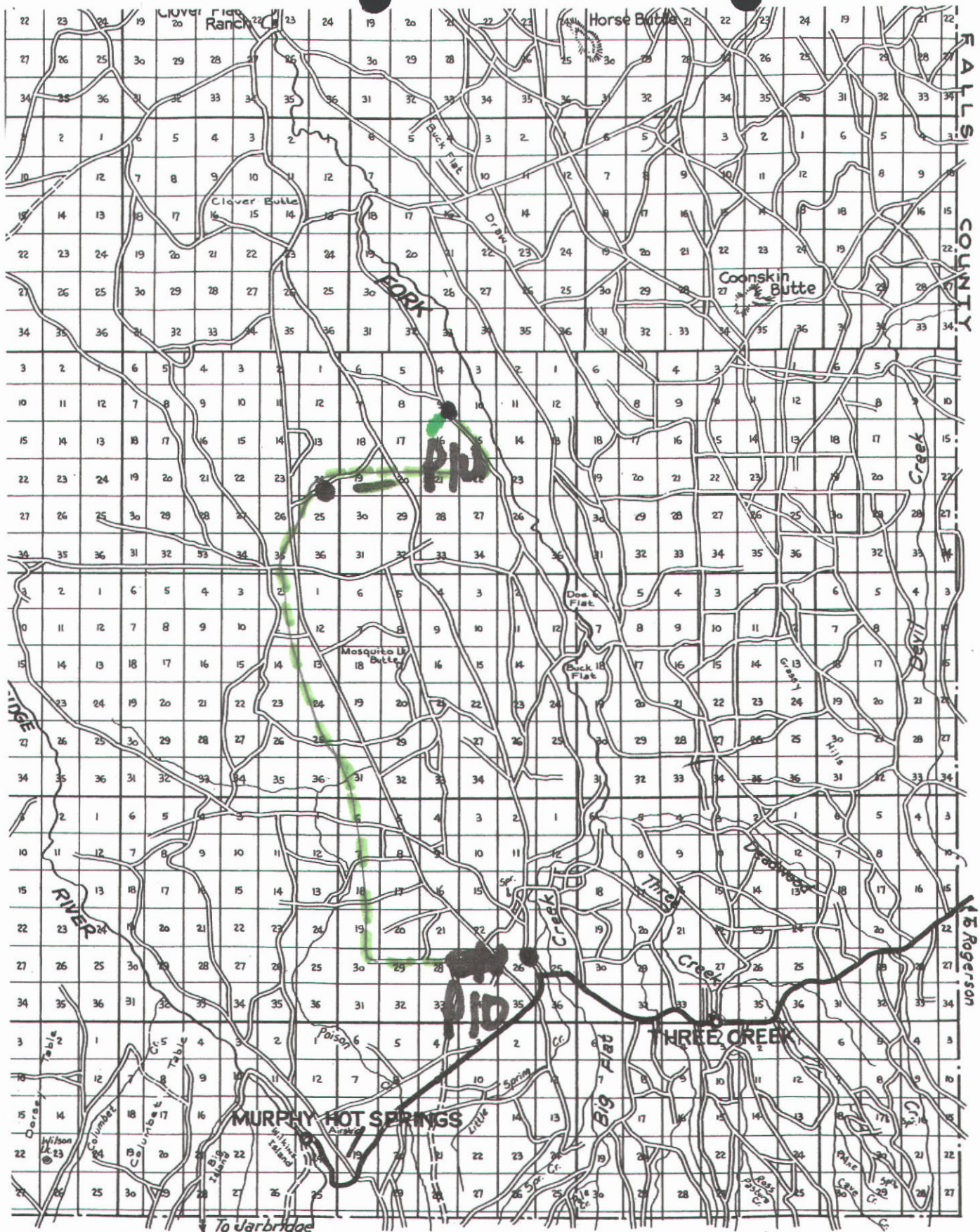




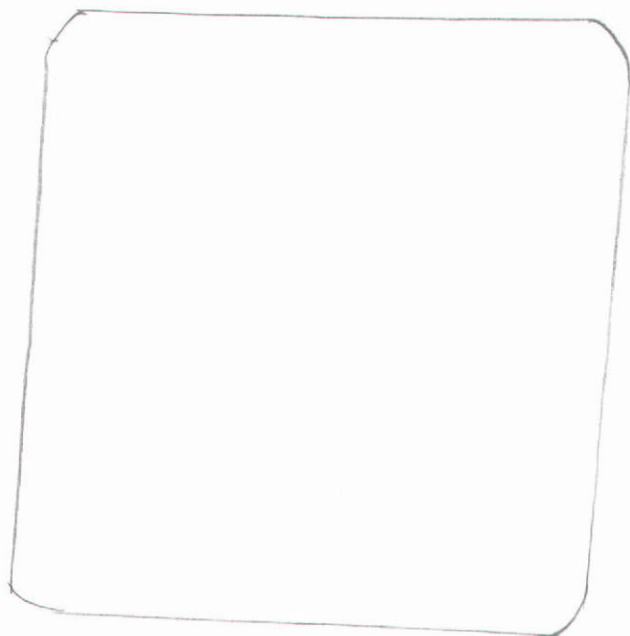
U.S. T. 12 S. T. 13 S. T. 14 S. T. 15 S. T. 16 S.

E. R. 9 E. R. 10 E. R. 11 E. R. 12 E.

NO GOVT LOTS
FOR P10 or P14

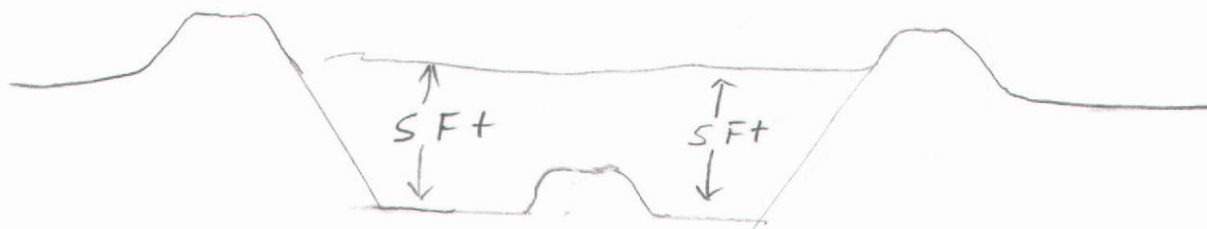
MICROFILMED
MAR 16 2004

200 Ft



-200 Ft

top view



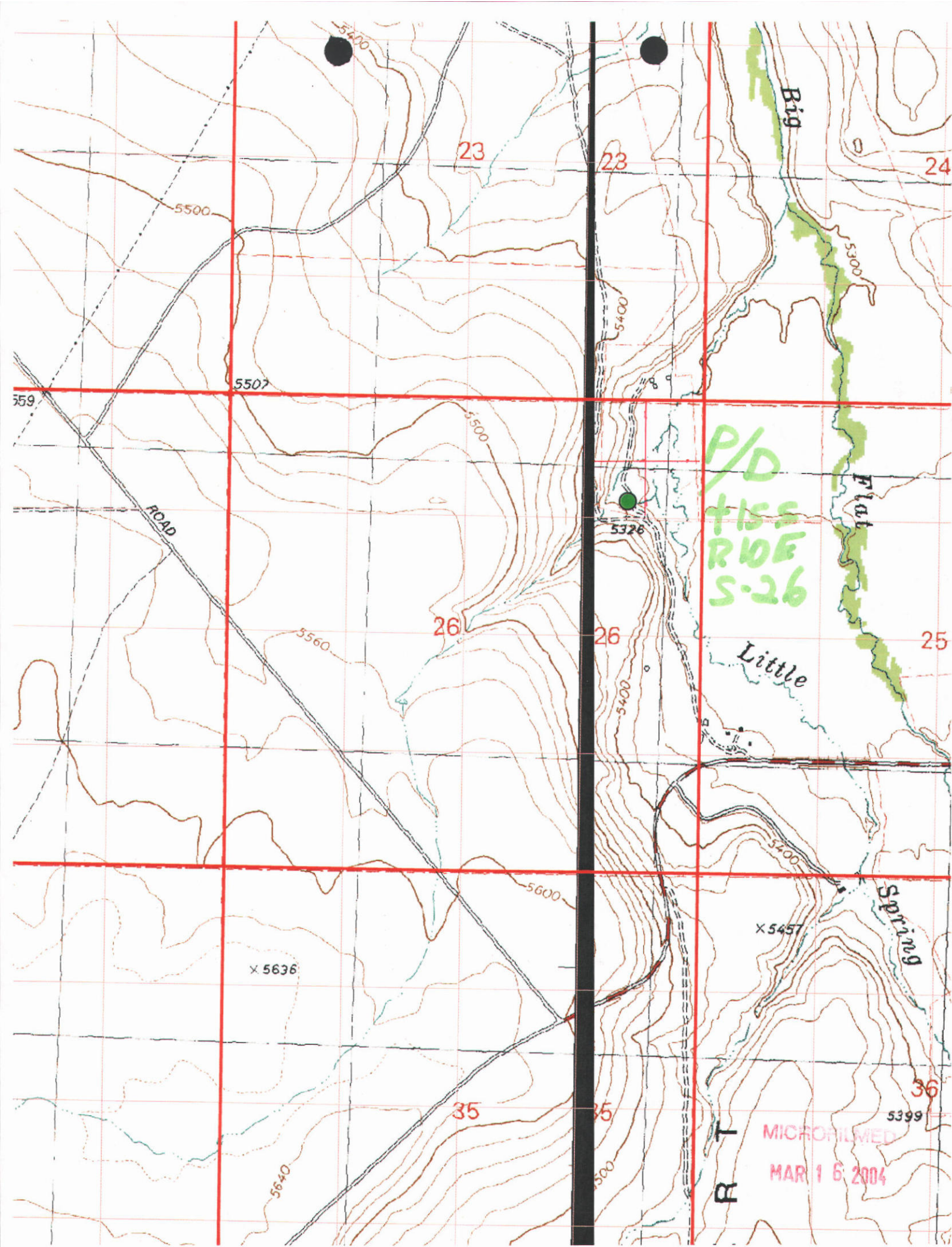
Side view

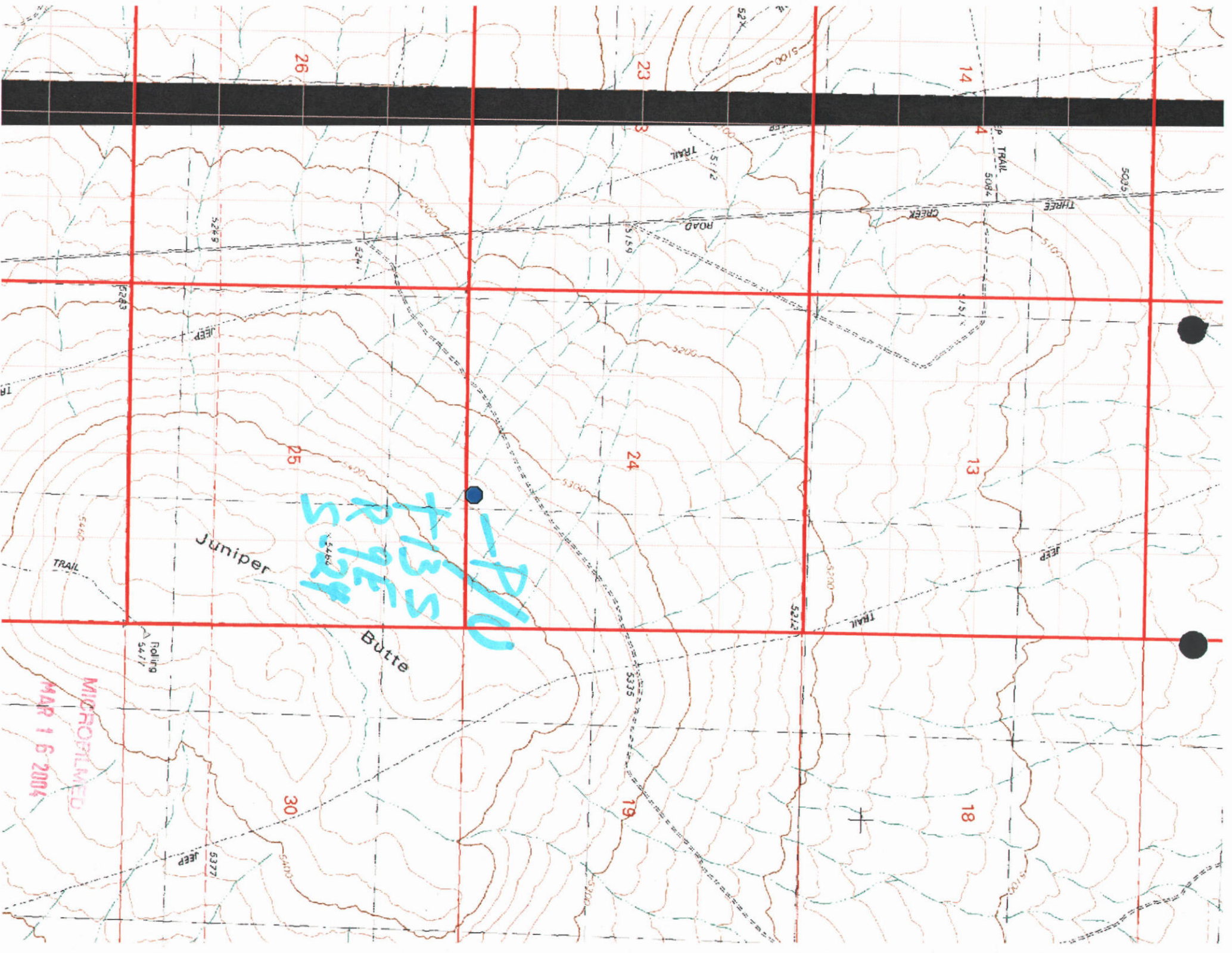
$$200 \times 200 \times 5 \text{ ft} = 4.6 \text{ Acre Ft. Approx}$$

(not to scale)

MICROFILMED

MAR 16 2004





T-135
R 9E
S 24
180

Juniper

Butte

CREEK

ROAD

TRAIL

THREE

JEOP

Rolling
A 5477

JEOP

TRAIL

18

19

24

30

25

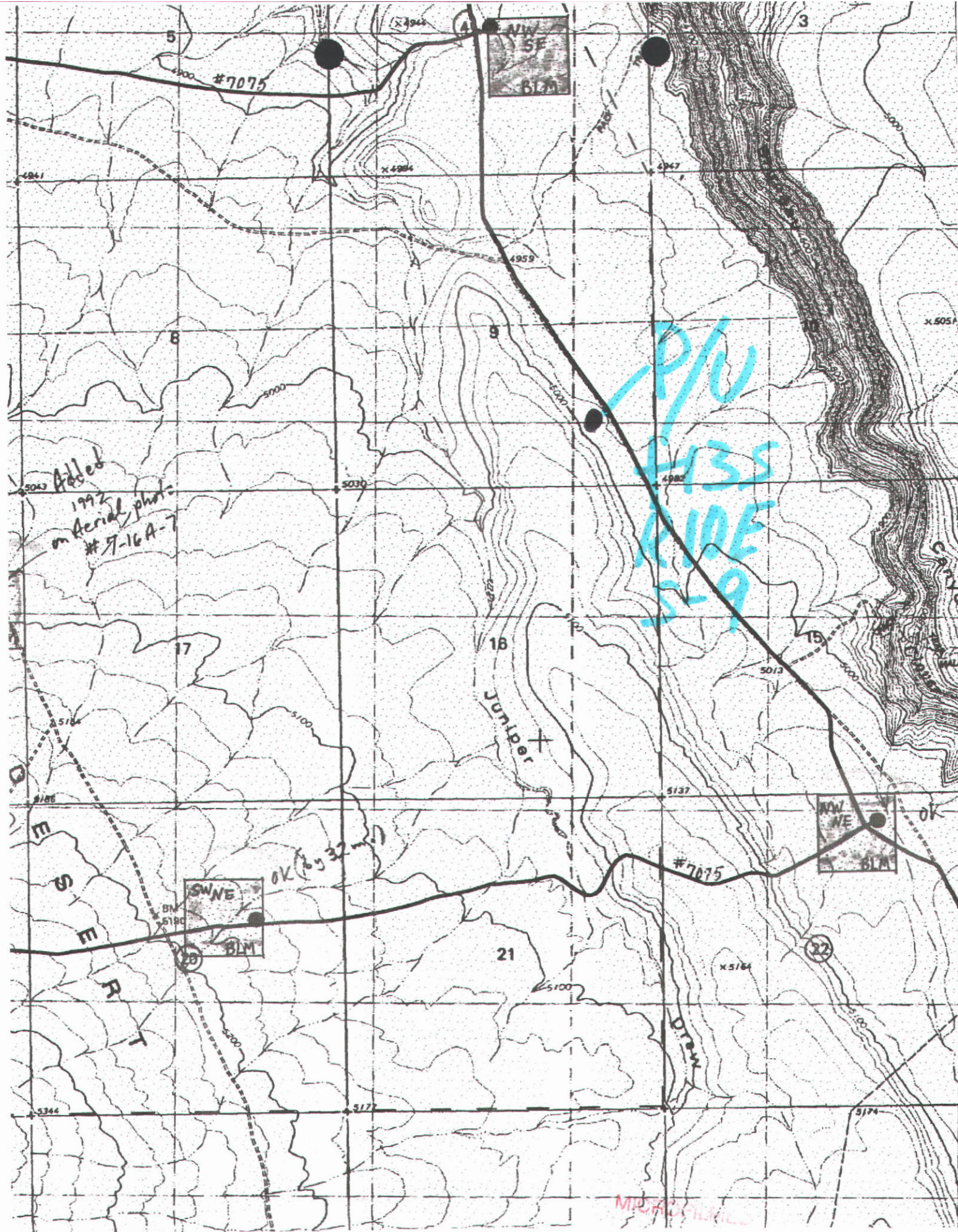
23

26

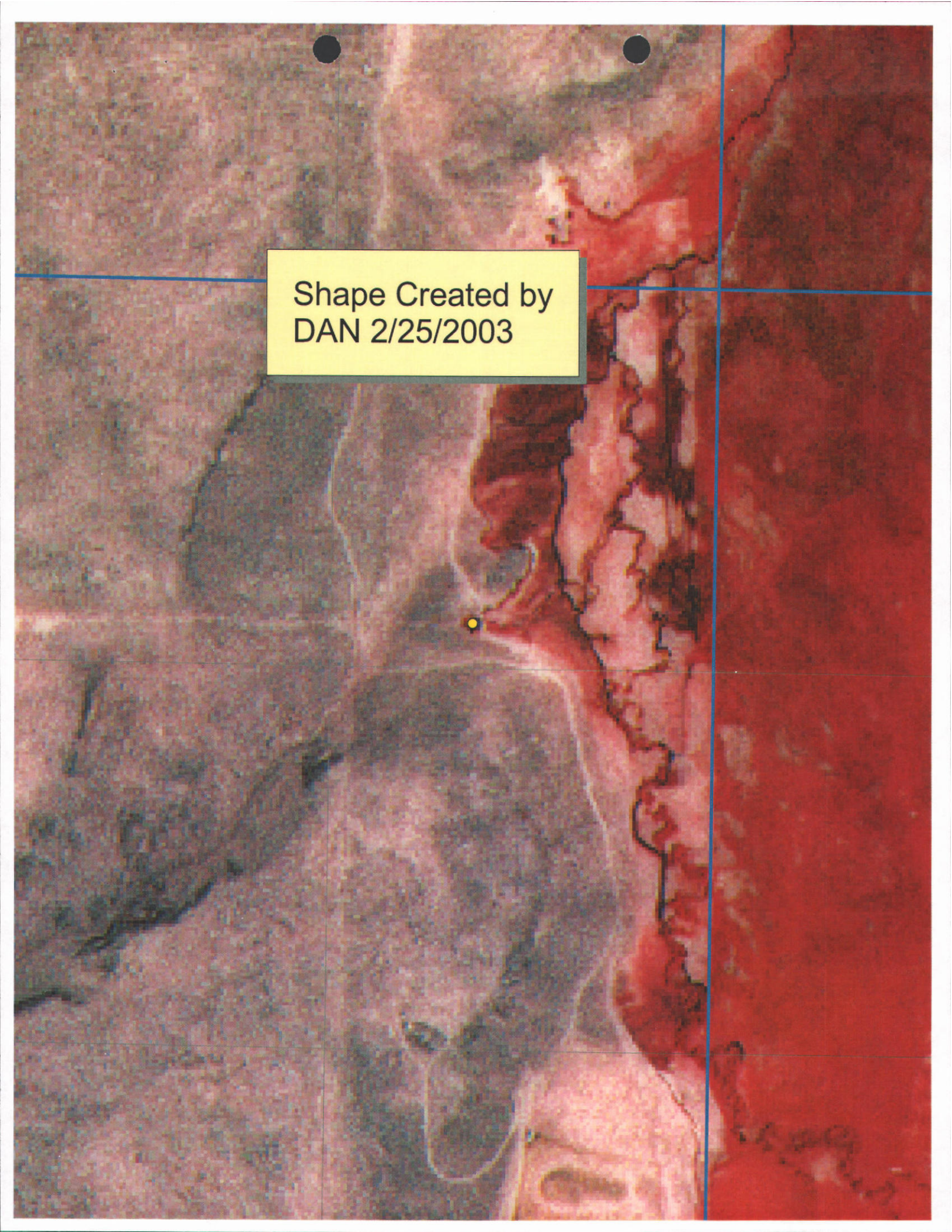
14

13

MICROFILMED
MAR 15 2004

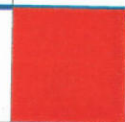


MICROFILMED
MAR 16 2004

An aerial photograph of a coastal region, likely a bay or estuary, showing various land and water features. A yellow dot is placed on a narrow, winding waterway or channel. A yellow text box with a black border is overlaid on the image, containing the text "Shape Created by DAN 2/25/2003". The background is a complex pattern of brown, tan, and blue, representing land, water, and possibly vegetation or urban areas. Two black circular marks are visible at the top of the page, possibly from a binder.

Shape Created by
DAN 2/25/2003

Shape Created by
DAN 2/25/2003



The Owyhee Avalanche

P.O. BOX 97 • HOMEDALE, ID 83628 • 208/337-4681

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

RECEIVED

MAR 31 2003

RESOURCES
WESTERN REGION

I, Joe E. Aman, being first duly sworn, depose and say:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

2. That during the time of the publication of the notice hereinafter mentioned, I was and now am the publisher of The Owyhee Avalanche, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho.

3. That the said The Owyhee Avalanche has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4. That said notice of which a printed copy, taken from said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in

said newspaper, in TWO (2)
(consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

MARCH 5, 12, 2003

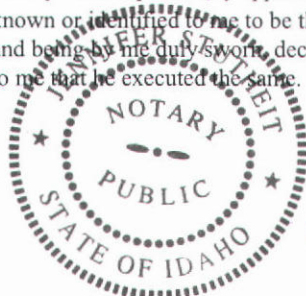
SIGNED:

STATE OF IDAHO)
COUNTY OF OWYHEE)

On this 12th day of March in the year of 2003 before me, a

Notary Public, personally appeared JOE E. AMAN

known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.



Notary Public for Idaho

Residing at Homedale, Idaho

My commission expires: 1-3-2009

MICROFILMED
MAR 16 2004

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

51-12983 ✓

BERT BRACKETT
FLAT CREEK RANCH
ROGERSON ID 83302

Point(s) of Diversion SWNENE
S26 T15S R10E OWYHEE County
Source PENCE SPRING

Tributary To LITTLE SPRING
CREEK

Use: STOCKWATER 01/01 To 12/
31 0.23 CFS

Use: STOCKWATER STORAGE
01/01 To 12/31 5 AFA

Use: FIRE PROTECTION 01/01
To 12/31 0.23 CFS

Use: FIRE PROTECTION 01/01
To 12/31 5 AFA
STORAGE

Use: FIRE PROTECTION FROM
01/01 To 12/31 5 AFA
STORAGE

Use: DIVERSION TO STORAGE
01/01 To 12/31 0.23 CFS

Total Diversion: 0.23 CFS

Date Filed: 12/13/2002

Place Of Use: STOCKWATER

T13S R09E S24 SWSE

T13S R10E S9 SESE

Place Of Use: STOCKWATER
STORAGE

T13S R09E S24 SWSE

Place Of Use: FIRE PROTECTION

T13S R09E S24 SWSE

Place Of Use: FIRE PROTECTION
STORAGE

T13S R09E S24 SWSE

Place Of Use: FIRE PROTECTION
FROM STORAGE

T13S R09E S24 SWSE

Remark: Applicant agrees to
mitigate consumptive use in the
future as needed.

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, Western Region, 2735
Airport Wy, Boise ID 83705
together with a protest fee of \$25.00
for each application on or before
03/24/2003. The protestant must
also send a copy of the protest to the
applicant.

KARL J DREHER, Director

3/5,12/03

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 51-12983

Priority: December 13, 2002

Maximum Diversion Rate 0.23 CFS

This is to certify, that BERT BRACKETT
FLAT CREEK RANCH
ROGERSON ID 83302

has applied for a permit to appropriate water from

Source: PENCE SPRING

Tributary: LITTLE SPRING CREEK

and a permit is APPROVED for development of water as follows

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
DIVERSION TO STORAGE	01/01 to 12/31	0.23 CFS	
STOCKWATER	01/01 to 12/31	0.23 CFS	
STOCKWATER STORAGE	01/01 to 12/31		5.0 AF
FIRE PROTECTION	01/01 to 12/31	0.23 CFS	
FIRE PROTECTION STORAGE	01/01 to 12/31		5.0 AF
FIRE PROTECTION FROM STORAGE	01/01 to 12/31		5.0 AF

LOCATION OF POINT(S) OF DIVERSION:

PENCE SPRING SW¼NE¼NE¼, Sec. 26, Twp 15S, Rge 10E, B.M., OWYHEE County

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
13S 09E 24															X		
13S 10E 9																X	

PLACE OF USE: STOCKWATER 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
13S 09E 24															X		

PLACE OF USE: FIRE PROTECTION, FIRE PROTECTION STORAGE, and FIRE PROTECTION FROM STORAGE same as Stockwater Storage

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 51-12983

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2008**.
2. Subject to all prior water rights.
3. 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 permit holder had no control
4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
5. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit
6. Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire
7. Right 51-12957 is also diverted through the point(s) of diversion described above.
8. Rights 51-12957 and 51-12983 when combined shall not exceed a total diversion rate of 0.23 cfs
9. Stockwater use is for 1,000 range cattle

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 1st day of May, 2003.


for KARL J DREHER, Director

APR 22 2003

FORM 202
12/99

Department of Water Resources

Ident. No. 51-12983

RECEIVED

DEC 13 2002

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

- Name of Applicant Bert Brackett Phone 208-857-2217
- Mailing address Flat Co Ranch, Rogerson, Idaho 83302
- 2 Source of water supply Peuce Spring which is a tributary of Little Spring Creek
- 3 Location of point of diversion is Township 15S Range 10E Sec 26 in the SW $\frac{1}{4}$,
NE $\frac{1}{4}$, NE $\frac{1}{4}$, Govt. Lot _____, B.M., Oxyhee County;
additional points of diversion if any: _____
- 4 Water will be used for the following purposes.
- | | | | |
|------------------------------|---|--|------------------------|
| Amount <u>3</u> | for <u>Diversion to Storage</u> | purposes from <u>1-1</u> to <u>12-31</u> | (both dates inclusive) |
| (cfs or acre-feet per annum) | | | |
| Amount <u>23</u> | for <u>Stockwater</u> | purposes from <u>1-1</u> to <u>12-31</u> | (both dates inclusive) |
| (cfs or acre-feet per annum) | | | |
| Amount <u>5 AF</u> | for <u>Stockwater storage</u> | purposes from <u>1-1</u> to <u>12-31</u> | (both dates inclusive) |
| (cfs or acre-feet per annum) | | | |
| Amount <u>23</u> | for <u>Fire protection</u> | purposes from <u>1-1</u> to <u>12-31</u> | (both dates inclusive) |
| (cfs or acre-feet per annum) | | | |
| Amount <u>5 AF</u> | for <u>Fire protection storage</u> | purposes from <u>1-1</u> to <u>12-31</u> | (both dates inclusive) |
| (cfs or acre-feet per annum) | | | |
| Amount <u>5 AF</u> | for <u>Fire protection from storage</u> | purposes from <u>1-1</u> to <u>12-31</u> | (both dates inclusive) |
| (cfs or acre-feet per annum) | | | |
- 5 Total quantity to be appropriated is (a) .23 cubic feet per second and/or (b) 5 AF acre feet per annum
- 6 Proposed diverting works
- a. Describe type and size of devices used to divert water from the source. 3HP pump through Buried pipeline to open discharge in pond and buried pipeline to water trough
- b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet, total reservoir capacity _____ 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 5 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 1,000 Range cows
- c. Municipal, show name of municipality _____
- d. Domestic, show number of households _____
- e. Other, describe fully. Fire protection Rangeland

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	
13S	9E	24															S/F		
13S	10E	9															S		

Total number of acres to be irrigated _____

10 Describe any other water rights used for the same purposes as described above 51-12957, 51-12893A
51-12896A, 51-12897A, 51-12898A use same place line.

11 a Who owns the property at the point of diversion? Brackett Livestock Inc.
b Who owns the land to be irrigated or place of use? USAF

c If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Juniper Butte Range Withdrawal act Agreement

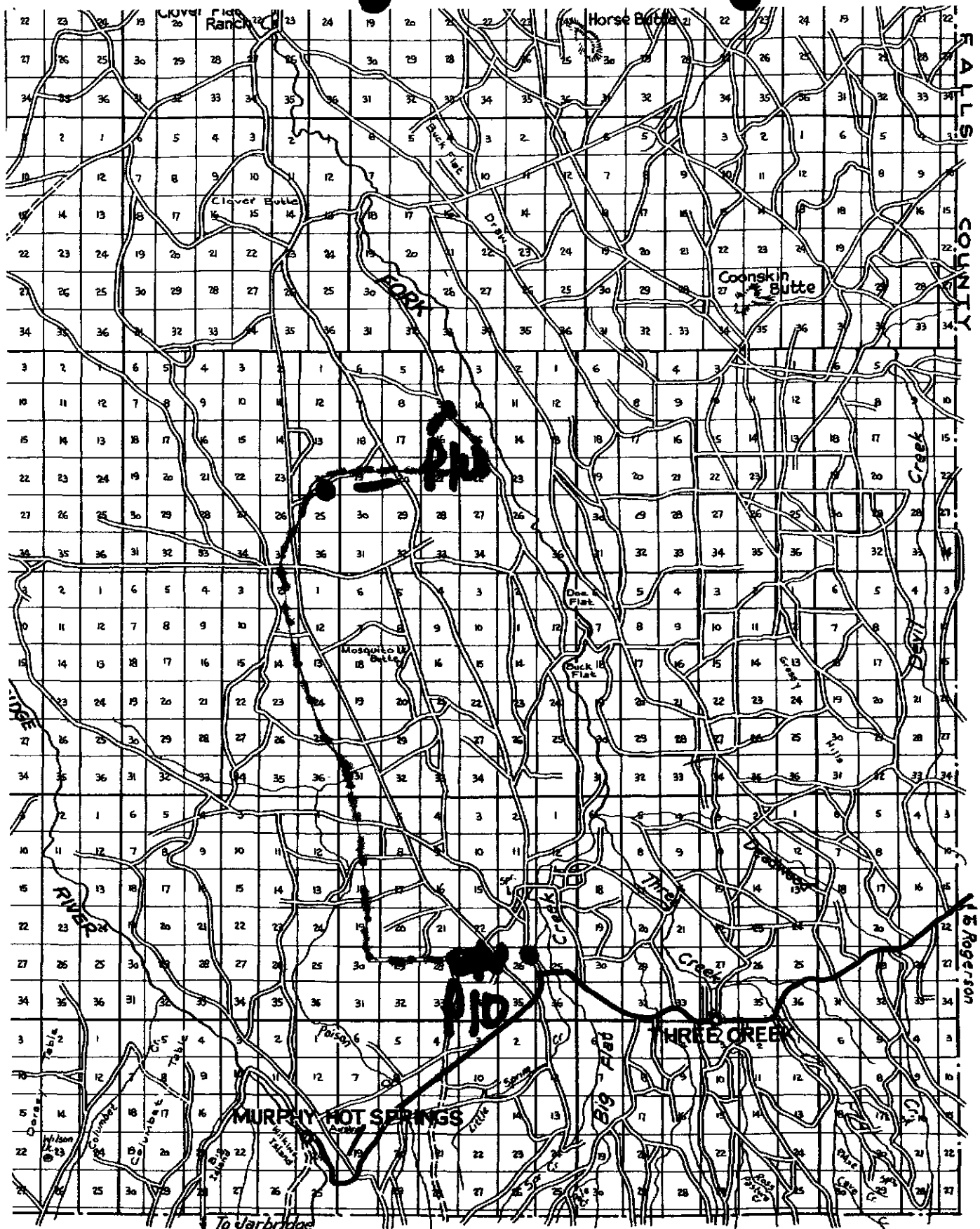
12. Remarks: _____

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.

Deit Brackett
Signature of Applicant (and title, if applicable)

Received by AK Date 12/13/02 Time 10:58 Preliminary check by DAW
Fee \$ 250.00 Receipted by AK # 10029924 Date 12/13/02
Publication prepared by AK Date 3-5-03 Published in OWYHEE AVALANCHE
Publication approved AK Date 4-2-03

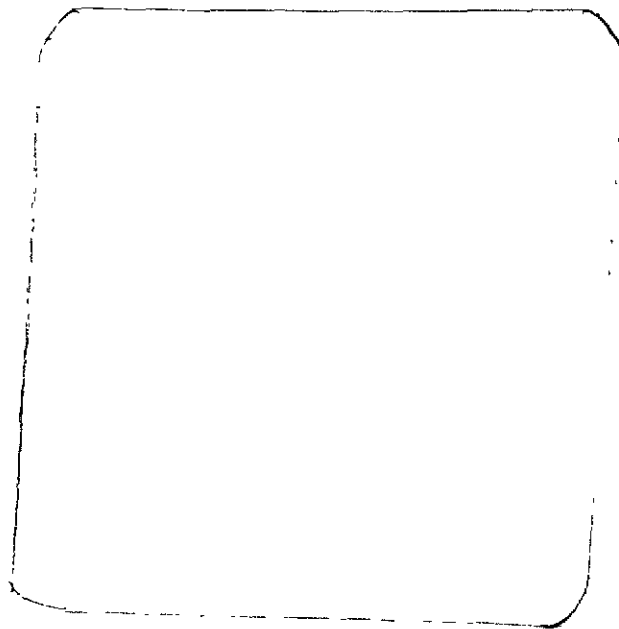


T. 12 S. T. 13 S. T. 14 S. T. 15 S. T. 16 S.
 R. 9 E. R. 10 E. R. 11 E. R. 12 E.

PRINTING BY METSKER THE MAP MAN.

NO GOVT LOTS
 FOR P10 or P14

200 Ft



200 Ft

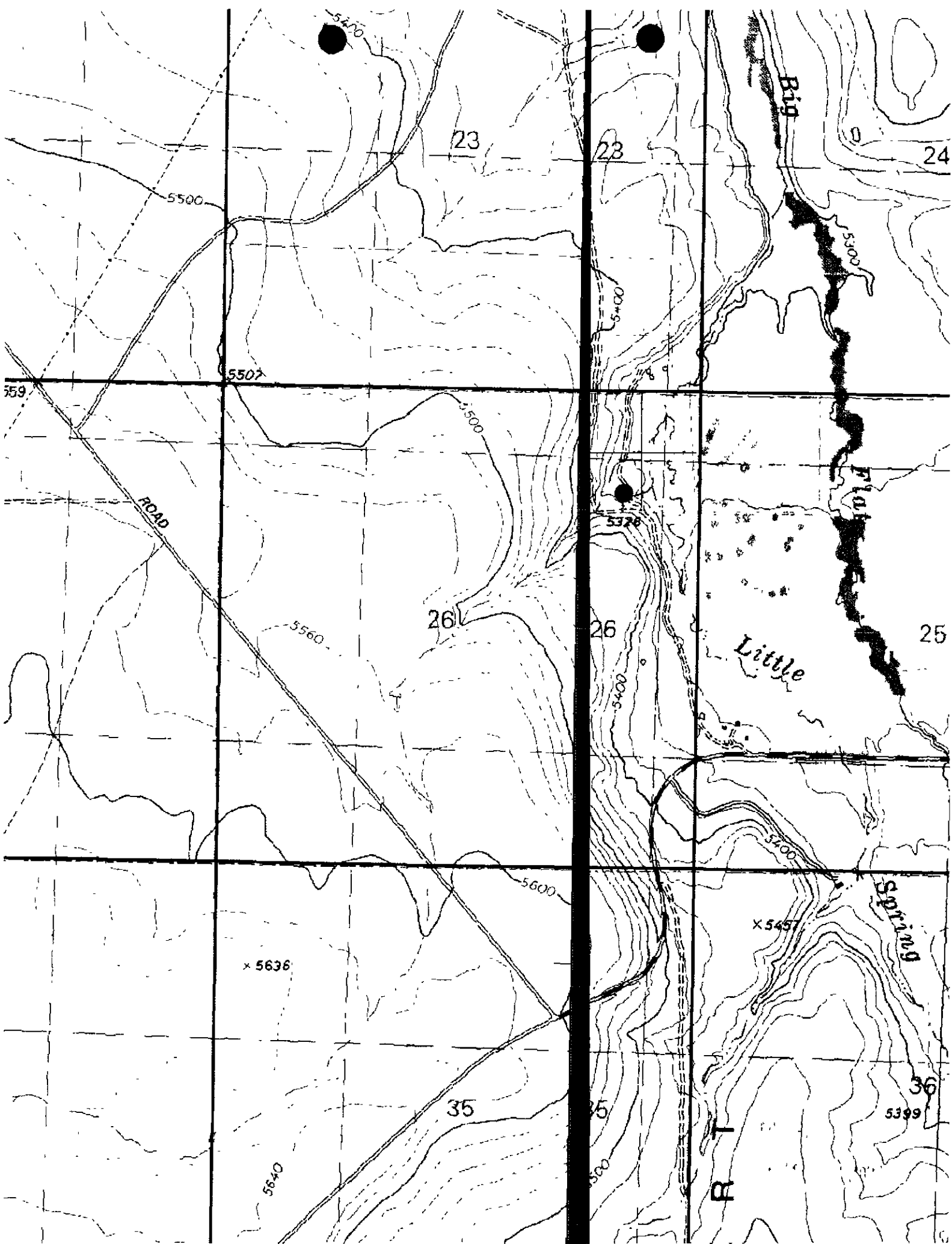
top view

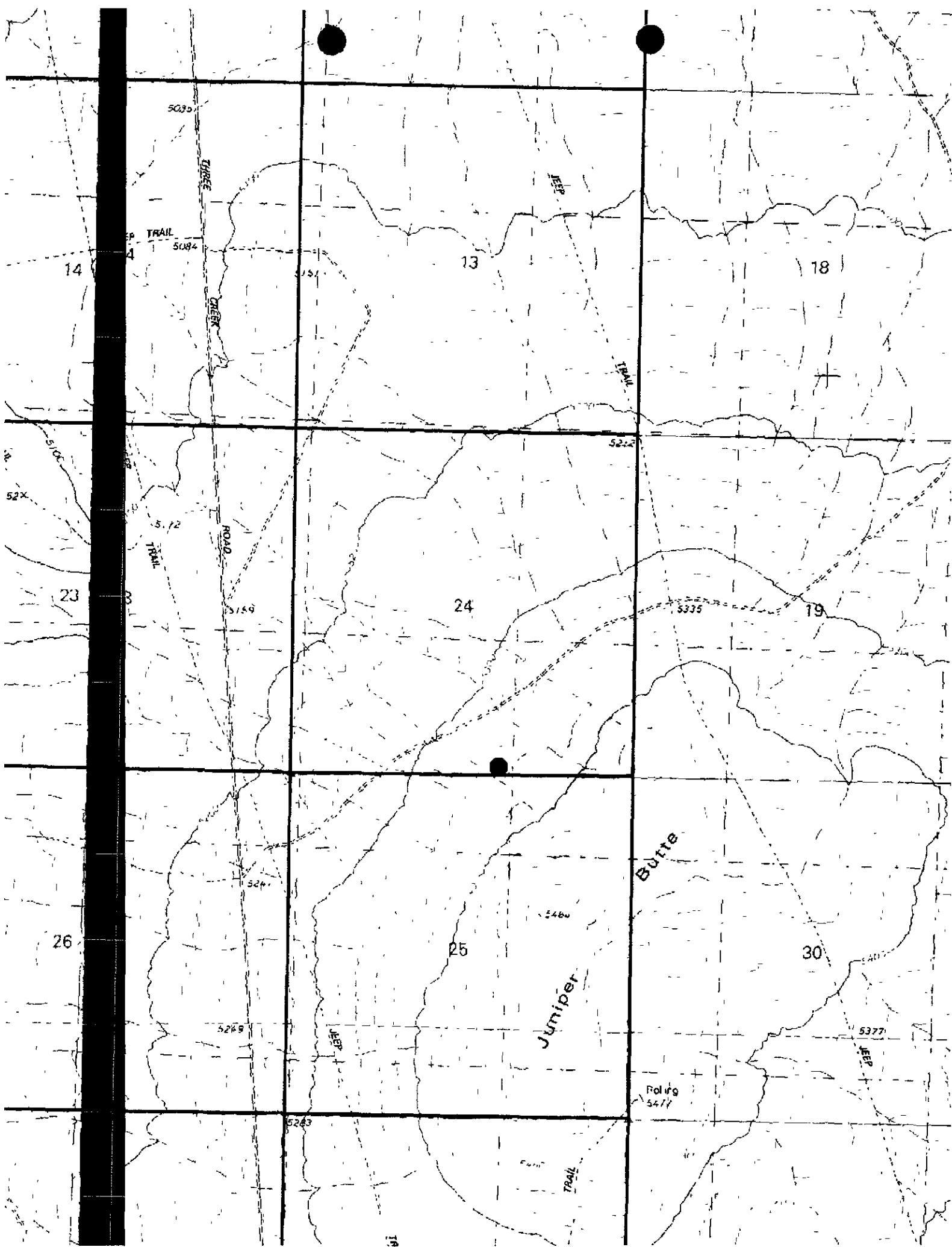


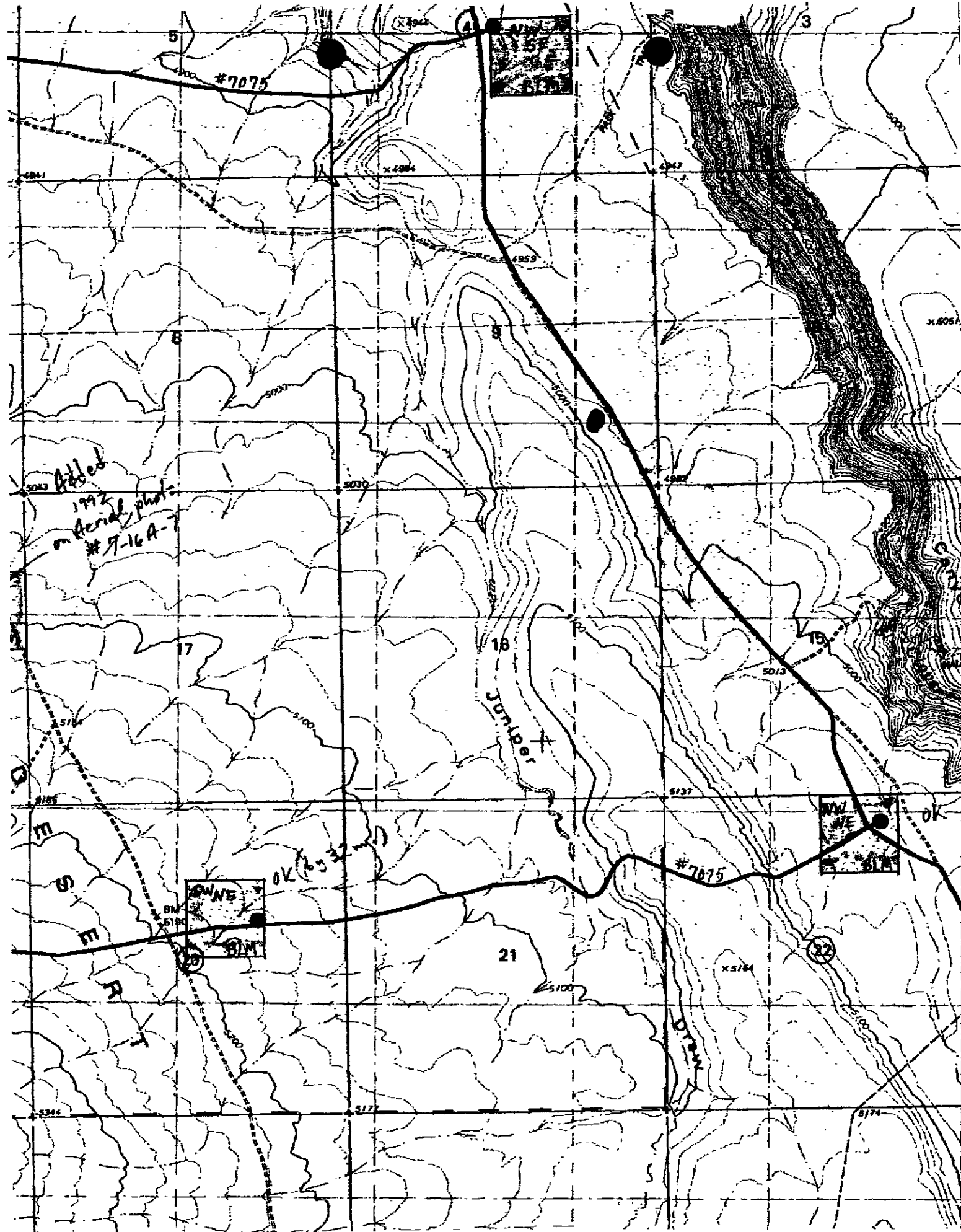
Side View

$$200 \times 200 \times 5 \text{ Ft} = 4.6 \text{ Acre Ft. Approx}$$

(not to scale)







REQUEST TO PROCESS

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

Name of Applicant

Bert Brackett

Mailing Address

Flat Creek Ranch

Rogerson, Idaho 83302

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.

☒ 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

Date



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

May 2, 2003

BERT BRACKETT
FLAT CREEK RANCH
ROGERSON ID 83302

RE: Permit No. 51-12983

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.

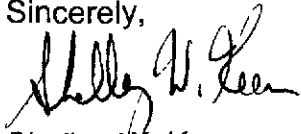
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 a 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 208-327-7946.

Sincerely,

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

Shelley W. Keen

Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on May 2, 2003 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.

51-12983

**BERT BRACKETT
FLAT CREEK RANCH
ROGERSON ID 83302**

A handwritten signature in cursive script, reading "Deborah J. Gibson", is written over a horizontal line.

**Deborah J. Gibson
Administrative Assistant**

**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: May 01, 2003
To: Water Right File 51-12983
From: dgibson
Re: Permit Review

The region requested that a condition be added to this permit to limit the maximum diversion rate to 0.23 cfs, for all appurtenant points of diversion for this right, however only one decreed right (51-12957) was found with 0.02 cfs rate. The others were Adjudication Recommended rights (51-12895A - 51-12898A) and were not recognized as valid rights with existing influence on this right. See permit condition paragraphs no. 7 & 8

MICROFILMED

May 16 2003

IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

Initial review by DAN Date 2-24-03 Application # 51-12983

REQUIRED INFORMATION

- ☒ Name (If applicant is a corporation or partnership, the names and addresses for the director, officers, and other partners must be included)
- ☒ Address
- ☒ Source (See USGS Quad for names of water sources)
- ☒ Point of Diversion (10 acres for spring, lot & block descriptions for Subdivisions, local name)
- ☒ County
- ☒ Quantity (Flow and/or Volume)
- ☒ Period of use
- ☒ Nature of proposed use (Include description of use)
- ☒ Description of diverting works
- ☒ Time required for beneficial use of water
- ☒ Place of use or acres irrigated
- ☒ Map (Show T, R, S, QQ &/OR QQQ)
- ☒ Subdivision plat (for > 1 home in restricted area ≥ 5 homes in non-restricted area)
- ☒ Signature (if applicant is corporation, partnership, or municipality, title of signatory is required)
- ☒ Correct fee paid

Government Lots

NO P/D
NO P/U

ADDITIONAL INFORMATION

yes **ADVERTISE REMARKS (Yes or No)**

YES NO

- ☒ Overlapping place of use (Describe source and relationship to present application on next page) 65-12895A AS A WATER TRUCK IN GARDEN TRACT.
- ☒ Overlapping point of diversion 51-12983, 12895A, 12896A, 12897A
- ☒ Critical groundwater area 12898A ALL USE THE SAME P/D AND
- ☒ Ground water management area SAME PIPELINE TO TRANSPORT THE
- ☒ 1992 moratorium WATER.
- ☒ Surface water source, IDFG letter needed
- ☒ Protected river or minimum flow reach, notify water planning bureau
- ☒ E-mail to SCA staff (perennial stream, non-pump diversion &/or any mining)
- ☒ E-mail to Dam Safety staff (for any storage)
- ☒ Mitigation plan Check any that apply
- ☒ Immediate = acceptable plan required and submitted
- ☒ Future = open areas, acceptance of condition of approval is in file
- ☒ Send power requirement letter &/or fish farm requirement letter
- ☒ Power residency affidavit
- ☒ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres (If YES, attach Large Diversion supplementary analysis sheet)
- ☒ REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

Date Requested _____ Date Response Received _____

PROCESSINGAPPLICATION # 51-

YES NO

☒ ☐ In form for advertising
☐ ☒ Statewide advertising (> 10 cfs &/or 1000 af)
☒ ☐ Fee amount, receipt number, and date recorded on application

SEND COPIES TO NOTE IF E-MAIL COMMENT LETTER USED

YES NO

☐ ☒ I.D. Environmental Quality
☐ ☒ I.D. District Health
☒ ☐ I.D. Fish & Game
☐ ☒ I.D. Lands

YES NO

☐ ☒ US BLM
☐ ☒ US Forest Service
☐ ☒ Water Dist #
☐ ☒ Water Planning Bureau
☒ ☐ Other

~~UNITED STATES AIR FORCE~~

US DEPT. OF DEFENSE

DEPT. OF AIR FORCE.

366 CES/CEU 1100 LIBERATOR
MOUNTAIN HOME AFB ID
83648-5426.

STREET

FINAL REGIONAL PROCESSING REVIEW

YES NO

☒ ☐ Affidavit of publication received
☒ ☐ Application published correctly? If not, record action taken

☒ ☐ Publication dates and paper recorded on application

☐ ☒ Final date for protest 3-24-03

☐ ☒ Protests received

☐ ☒ Recommendations attached

☐ ☒ Measuring device required

☐ ☒ Water delivered by water master? District #

☒ ☐ Special conditions of approval or cover letter

121, All rights combined limited to 0.23 cfs.

Recommended Date of Priority 12/13/02Recommendation ☒ Approve ☐ Deny by Davis Date 4/24/03**ADDITIONAL INFORMATION**☐ See attached proof report, note any Legal Notice Remarks &/or Comments☐ See attached shapefile

IDAHO DEPARTMENT OF WATER RESOURCES

Water Application Report 51-12983

WATER RIGHT NUMBER. 51-12983

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	BERT BRACKETT FLAT CREEK RANCH ROGERSON, ID 83302 (208)857-2217

Priority Date: 12/13/2002

Basis:

Status. Active

<u>Source</u>	<u>Tributary</u>
PENCE SPRING	LITTLE SPRING CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
DIVERSION TO STORAGE	01/01 to 12/31	0.230 CFS	
STOCKWATER	01/01 to 12/31	0.230 CFS	
STOCKWATER STORAGE	01/01 to 12/31		5.00 AF
FIRE PROTECTION	01/01 to 12/31	0.230 CFS	
FIRE PROTECTION STORAGE	01/01 to 12/31		5.00 AF
FIRE PROTECTION FROM STORAGE	01/01 to 12/31		5.00 AF
	<u>Total Diversion</u>	0.230 CFS	

Location of Point(s) of Diversion

PENCE SPRING	SW1/4NE1/4NE1/4	Sec. 26, Twp 15S, Rge 10E, B M
OWYHEE County		

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S	09E	24															X		
13S	10E	9																X	

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	
13S	09E	24															X		

IDAHO DEPARTMENT OF WATER RESOURCES
Water Application Report 51-12983

FIRE PROTECTION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
13S	09E	24	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
																	X		

FIRE PROTECTION STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
13S	09E	24	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
																	X		

FIRE PROTECTION FROM STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
13S	09E	24	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
																	X		

Conditions of ApprovalRemarks:Comments:

1. dnelson 2/25/2003 Legal Notice Remarks

Comment: Applicant agrees to mitigate consumptive use in the future as needed

2. dnelson 2/25/2003 Comment/Analysis

Comment: This application is for a small pond to supply stockwater for a 1000 head of cattle on Mr. Bracketts range lease, and supply fire protection for the air force on their training range south of mountain home. There is an agreement that requires Mr. Brackett to build and construct the pond in order for him to graze his animals on the training range. The diversion and pipeline are described in water rights 51-12957, 51-12895A, 51-12896A, 51-12897A, and 51-12898A. The applicant is planning to extend the existing water system to include another water trough and the pond. There will be no additional diversion rate. The only addition to the system will be the volume to maintain the pond and the new water trough. If approved a condition should be added to limit the combined diversion rate of this application and the existing rights to 0.23 cfs

IDAHO DEPARTMENT OF WATER RESOURCES

Water Application Report 51-12983

Dates and Other Information

Application Received Date: 12/13/2002

Application Denied Date:

Last Date of Beneficial Use:

Extension End Date:

Protest Deadline Date:

Number of Protests 0

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Application Type: New Appropriation

Applicant Remarks:

Other Water Rights 51-12957, 51-12893A, 51-12896A, 51-12897A, and 51-12898A us same pipeline and point of diversion

Time to Complete Works 5

Transfer Affected Description:

Transfer Affected Contracts:

Old Transfer Number:

Transfer Reason:

Transfer Return Flows:

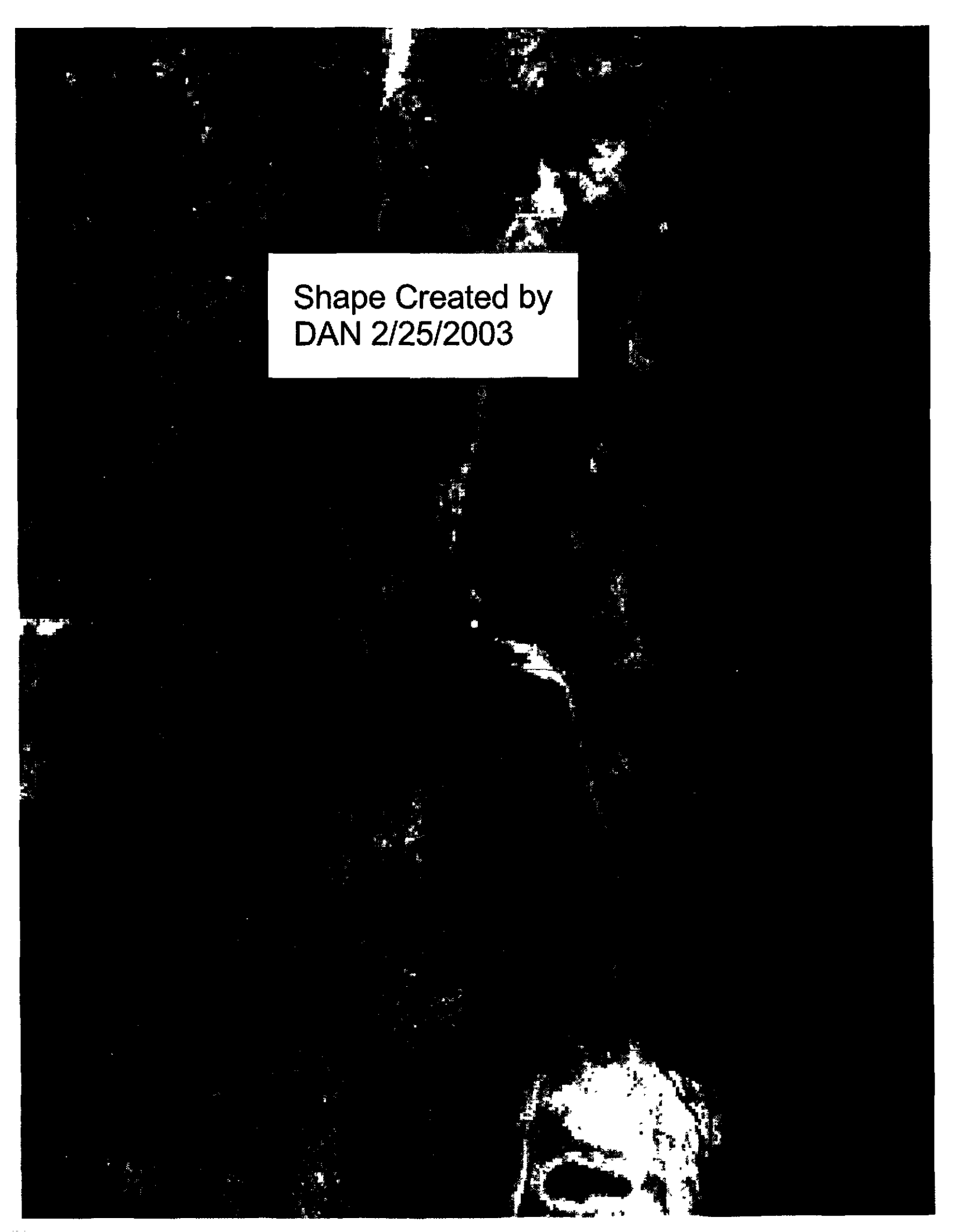
Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False



Shape Created by
DAN 2/25/2003

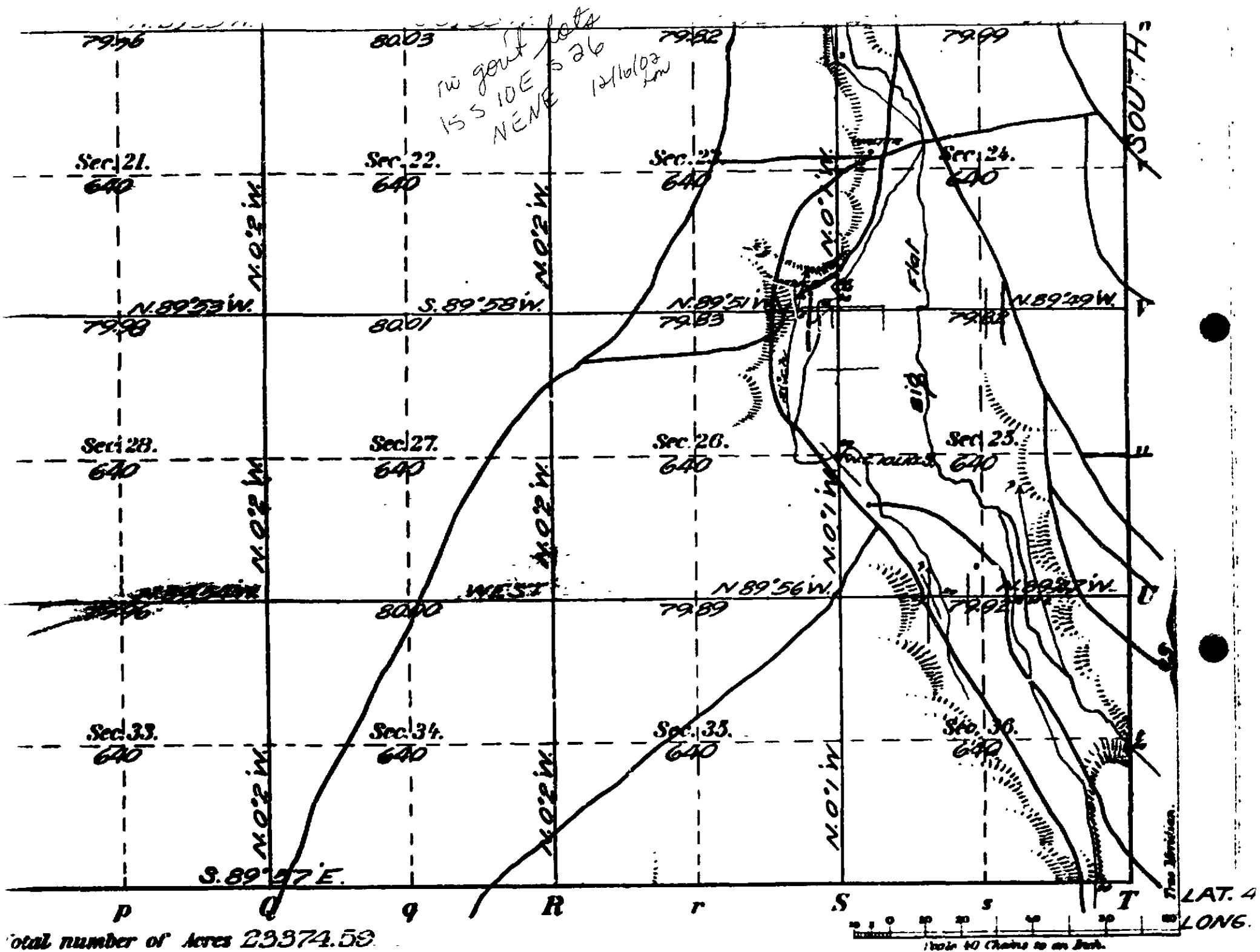
Shape Created by
DAN 2/25/2003



POD SEARCH 15S 10E S26 NENE 12/16/02 LM

Basin	Sequence	Suffix	Basis	Priority Date	Rate(cfs)	Vol(af)	Source	Water Use(s)	Source Table	Version	Source Ta
51	12895		Benefici al Use	6/1/1953	0 23	9		STOCKWATER, STOCKWATER FROM STORAGE, STOCKWATER STORAGE	BRACKETT, BERT (Current), BRACKETT, PAULA (Current)		wrAdjudica
51	12896		Benefici al Use	8/1/1965	0 23	9		STOCKWATER, STOCKWATER FROM STORAGE, STOCKWATER STORAGE	BRACKETT, BERT (Current), BRACKETT, PAULA (Current)		wrAdjudica
51	12897		Benefici al Use	6/1/1953	0 23	9		STOCKWATER, STOCKWATER FROM STORAGE, STOCKWATER STORAGE	BRACKETT LIVESTOCK INC (Current)		wrAdjudica
51	12898		Benefici al Use	8/1/1965	0 23	9		STOCKWATER, STOCKWATER FROM STORAGE, STOCKWATER STORAGE	BRACKETT LIVESTOCK INC (Current)		wrAdjudica
51	✓ 12957		Benefici al Use	1885-04- 01	0 23		PENCE SPRING	STOCKWATER	C E BRACKETT CATTLE CO (Current)		wrAdjudica
51	✓ 12895	A	Benefici al Use	9/14/1966	0.23		PENCE SPRING	STOCKWATER	BRACKETT, BERT (Current); BRACKETT, PAULA (Current)	2	wrAdjudica
51	✓ 12896	A	Benefici al Use	9/14/1966	0.23		PENCE SPRING	STOCKWATER	C E BRACKETT CATTLE CO (Current)	3	wrAdjudica
51	✓ 12897	A	Benefici al Use	9/14/1966	0.23		PENCE SPRING	STOCKWATER	BRACKETT LIVESTOCK INC (Current)	2	wrAdjudica

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Basis</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Vol(af)</u>	<u>Source</u>	<u>Water-Use(s)</u>	<u>Source Table</u>	<u>Version</u>	<u>Source Ta</u>
51	12895		Beneficial Use	6/1/1953	0.23	9		STOCKWATER, STOCKWATER FROM STORAGE, STOCKWATER STORAGE	BRACKETT, BERT (Current); BRACKETT, PAULA (Current)		wrAdjudica
51	✓ 12898	A	Beneficial Use	9/14/1966	0.23		PENCE SPRING	STOCKWATER	BRACKETT RANCHES LTD (Current)	2	wrAdjudica
51	✓ 12957		Beneficial Use	1885-04-01	0.02		PENCE SPRING	STOCKWATER	C E BRACKETT CATTLE CO (Current)	1	wrAdjudica
51	101		Decreed	4/15/1912	0.22		BIG FLAT CREEK , LITTLE SPRING CREEK , SPRINGS	IRRIGATION	BRACKETT LIVESTOCK INC (Current)		wrWaterRig
51	4097		Statutory Claim	1885-04-01	32		BIG FLAT CREEK , CHERRY CREEK , LITTLE SPRING CREEK , SPRING , THREE CREEK , UNNAMED STREAM	IRRIGATION	BRACKETT LIVESTOCK INC (Current)		wrWaterRig
51	10181		Decreed	1885-04-01	13.88		BIG FLAT CREEK , LITTLE SPRING CREEK , SPRINGS	IRRIGATION, STOCKWATER	BRACKETT LIVESTOCK INC (Current)		wrWaterRig
51	10182		Decreed	4/1/1934	10.08		BIG FLAT CREEK , LITTLE SPRING CREEK , SPRINGS	IRRIGATION	BRACKETT LIVESTOCK INC (Current)		wrWaterRig



The Owyhee Avalanche

P.O. BOX 97 • HOMEDALE, ID 83628 • 208/337-4681

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) SS
COUNTY OF OWYHEE)

RECEIVED

MAR 31 2003

RESOURCES
WESTERN REGION

I, Joe E Aman, being first duly sworn, depose and say

1 That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned

2. That during the time of the publication of the notice hereinafter mentioned, I was and now am the publisher of The Owyhee Avalanche, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho

3. That the said The Owyhee Avalanche has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4 That said notice of which a printed copy, taken from said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in

said newspaper, in TWO (2)
(consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

MARCH 5, 12, 2003

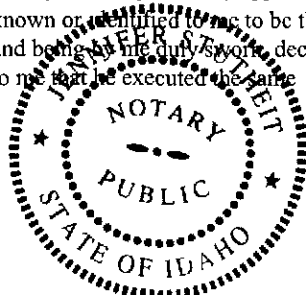
SIGNED:

STATE OF IDAHO)
COUNTY OF OWYHEE)

On this 12th day of March in the year of 2003 before me, a

Notary Public, personally appeared JOE E. AMAN

known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same



Notary Public for Idaho

Residing at Homedale, Idaho

My commission expires 1-3-2009

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

51-12983

BERT BRACKETT
FLAT CREEK RANCH
ROGERSON ID 83302

Point(s) of Diversion SWNENE
S26T15SR10E OWYHEE County
Source PENCE SPRING

Tributary To LITTLE SPRING
CREEK

Use STOCKWATER 01/01 To 12/
31 0 23 CFS

Use STOCKWATER STORAGE
01/01 To 12/31 5 AFA

Use FIRE PROTECTION 01/01
To 12/31 0 23 CFS

Use FIRE PROTECTION 01/01
To 12/31 5 AFA
STORAGE

Use FIRE PROTECTION FROM
01/01 To 12/31 5 AFA
STORAGE

Use DIVERSION TO STORAGE
01/01 To 12/31 0.23 CFS

Total Diversion: 0.23 CFS

Date Filed: 12/13/2002

Place Of Use STOCKWATER

T13S R09E S24 SWSE

T13S R10E S9 SESE

Place Of Use. STOCKWATER
STORAGE

T13S R09E S24 SWSE

Place Of Use. FIRE PROTECTION

T13S R09E S24 SWSE

Place Of Use. FIRE PROTECTION
STORAGE

T13S R09E S24 SWSE

Place Of Use. FIRE PROTECTION
FROM STORAGE

T13S R09E S24 SWSE

Remark: Applicant agrees to
mitigate consumptive use in the
future as needed

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, Western Region, 2735
Airport Wy, Boise ID 83705
together with a protest fee of \$25.00
for each application on or before
03/24/2003. The protestant must
also send a copy of the protest to the
applicant.

KARL J DREHER, Director



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 5, 2003

US DEPT OF DEFENSE
DEPT OF AIR FORCE
366 CES/CEU 1100 LIBERATOR ST
MOUNTAIN HOME AFB ID 83648-5426

Re: Application for Water Right No. 51-12983 in the Name of Bert Brackett.

Dear Sir or Madam:

Enclosed is a copy of the above referenced application which may be of interest to your agency. Please review the application and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if your agency desires to file a formal protest against the approval of this application, your written protest along with the \$25.00 protest fee must be received in this office by March 24, 2003.

If you have any questions regarding the application, please contact this office.

Sincerely,

Dan Nelson

DN:lm

Encl. Copy of Application

MAILED
MAR 11 2003

Mattson, Lisa

To: eleitzin@idfg.state.id.us
Subject: comment letters

March 4, 2003

Eric Leitzinger
Idaho Department of Fish & Game

Dear Mr. Leitzinger:

Attached are copies of applications that the proposed use is from surface water. Please review the applications and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if your agency desires to file a formal protest against the approval of any of these applications, your written protest along with the \$25.00 protest fee for each application protested, must be received in this office by March 24, 2003

If you have any questions regarding these applications, please contact Lori Graves in this office:
Application for Water Right No. 63-31526 in the Name of Paradise Homeowners Association.
Application for Water Right No. 65-22766 in the Name of Anthony F. Yeamans.
Application for Transfer No. 70397 in the Name of Robert J. Huntington.

If you have any questions regarding this application, please contact Dan Nelson in this office:
Application for Water Right No. 51-12983 in the Name of Bert Brackett.

If you have any questions regarding this application, please contact Steve Lester in this office:
Application for Water Right No. 57-11625 in the Name of David Unruh. This amended application is unsigned, but verbally approved for processing by the applicant. IDWR considers the amended application to be accurate based on the applicant's information.

Sincerely,

Lisa Mattson
Water Resources Agent
Idaho Department of Water Resources
2735 Airport Way
Boise ID 83705
334-2190 phone
334-2348 fax



51-12983.pdf



57-11625.pdf



63-31526.pdf



65-22766.pdf



70397.pdf

THE ID DEPT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

February 26, 2003

Legal Notice Department

Owyhee Avalanche
PO Box 97
Homedale ID 83628

RE: Application for Permit No. 51-12983 and 57-11625

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find two legal notices which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notices 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 03/24/2003. Your cooperation is appreciated.

Sincerely

Sue Taylor
Senior Secretary

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

51-12983

BERT BRACKETT
FLAT CREEK RANCH
ROGERSON ID 83302

Point(s) of Diversion SWNENE S26 T15S R10E OWYHEE County Source PENCE SPRING

Tributary To LITTLE SPRING CREEK

Use: STOCKWATER	01/01 To 12/31	0.23 CFS	
Use: STOCKWATER STORAGE	01/01 To 12/31		5 AFA
Use: FIRE PROTECTION	01/01 To 12/31	0.23 CFS	
Use: FIRE PROTECTION STORAGE	01/01 To 12/31		5 AFA
Use: FIRE PROTECTION FROM STORAGE	01/01 To 12/31		5 AFA
Use: DIVERSION TO STORAGE	01/01 To 12/31	0.23 CFS	
Total Diversion:		0.23 CFS	

Date Filed: 12/13/2002

Place Of Use: STOCKWATER

T13S R09E S24 SWSE

T13S R10E S9 SESE

Place Of Use: STOCKWATER STORAGE

T13S R09E S24 SWSE

Place Of Use: FIRE PROTECTION

T13S R09E S24 SWSE

Place Of Use: FIRE PROTECTION STORAGE

T13S R09E S24 SWSE

Place Of Use: FIRE PROTECTION FROM STORAGE

T13S R09E S24 SWSE

Remark Applicant agrees to mitigate consumptive use in the future as needed.

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, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 03/24/2003. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Owyhee Avalanche on March 5 and 12, 2003.