

3174 /
ULYSSES MTN.)

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

3274 IV SW
ROAD JUNC 5.6 MI.

MOOSE CREEK

270

155

1272

DARBY (MONT) 76 MI
NORTH FORK 13 MI

27

114°00'
45°15'

265000m E.

R. 21 E. (BIRD CREEK 1:24 000)

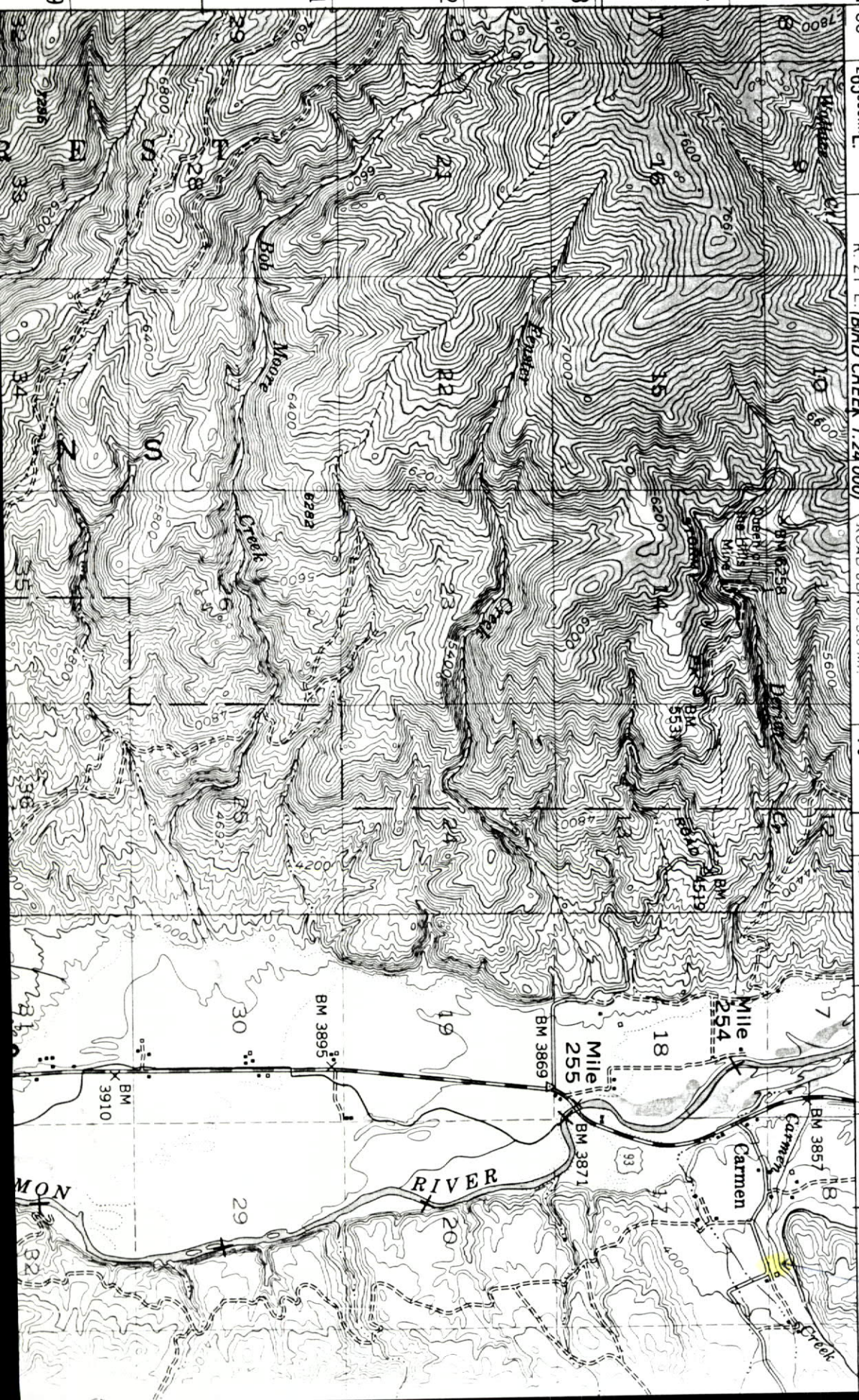
5014000m N.

5013
T. 22 N.

5012

5011

5009



KIRK EBERHARD
BOX 251
CARMEN, IDAHO
83462

JAN 20 1934
POINT OF
DIVERSION

* Diversion for Mirror K. Eberhard Fish Pond is about 10' below (down stream from) existing ditch, Austin # 2 & on same side of stream (south side) outlet to stream from pond is above next diversion ditch, Austin # 1, which is on north side of Carmen Creek. This would eliminate concerns that any water was being removed from current water use.

Austin Ditch # 2

Austin Ditch # 1

JAN 20 1994

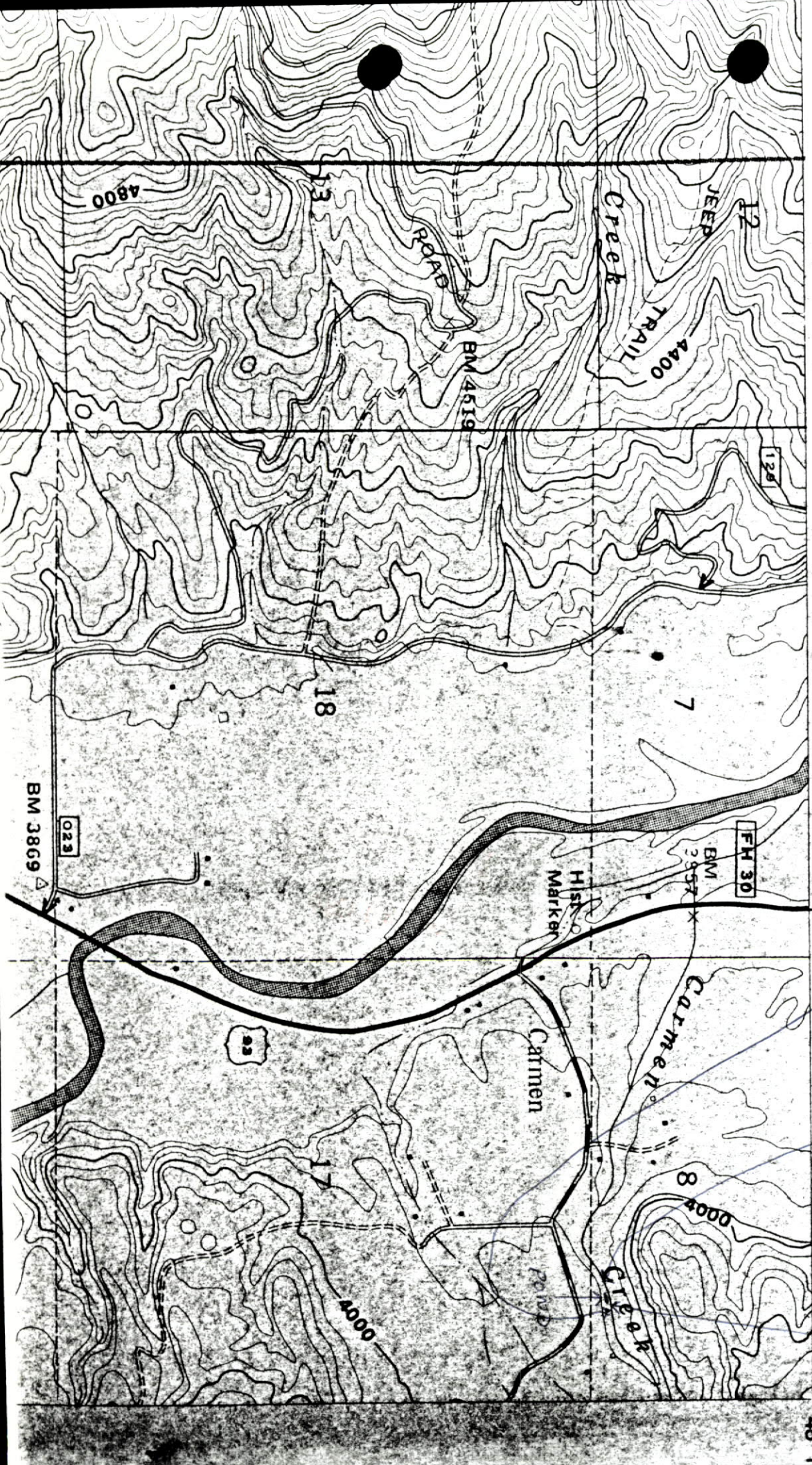
POINT OF DIVERSION

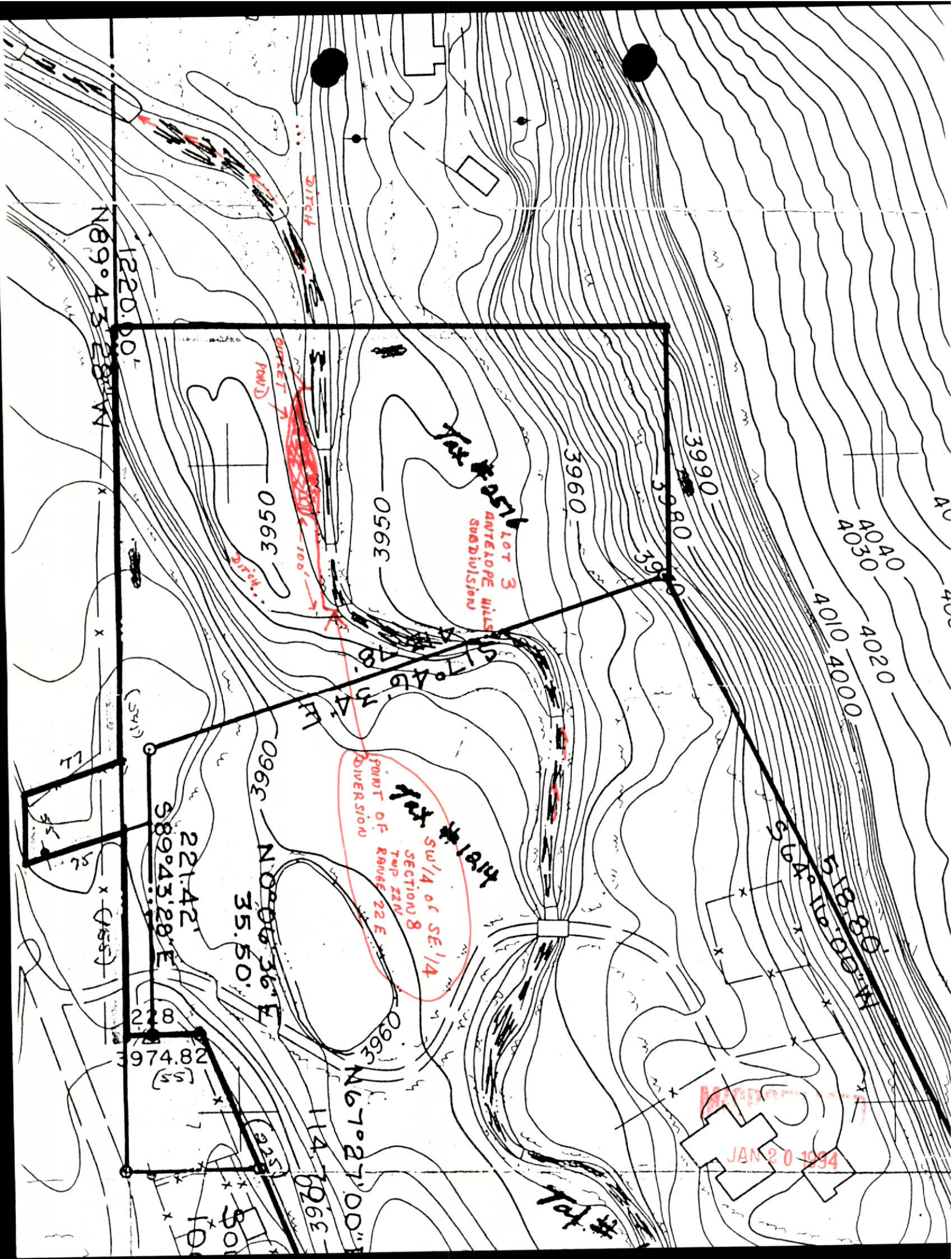
7.5 MINUTE SERIES (TOPOGRAPHIC)

55° R. 21 E. R. 22 E.

NORTH FORK 13 MI

113° 52' 30" 46° 1





Lot # 3
ANTHONY HILL
SUBDIVISION

Lot # 1214
SW 1/4 of SE 1/4
SECTION 8
Twp 22N
RANGE 22E
POINT OF
DIVERSION

JAN 20 1994

N 89° 43' 28" W

1220.00'

221.42'
S 89° 43' 28" E

974.82'
(SS)

N 0° 06' 36" E
35.50'

517° 46' 34" FI

N 67° 27' 00" E
114.3266'

DITCH

POUND

DITCH

3956'

0566'

3960'

3990'

3980'

4030'

4020'

4010'

S 18° 00' 00" E
518.00'

S 16° 00' 00" E
516.00'

POINT OF DIVERSION

TWP-22 N

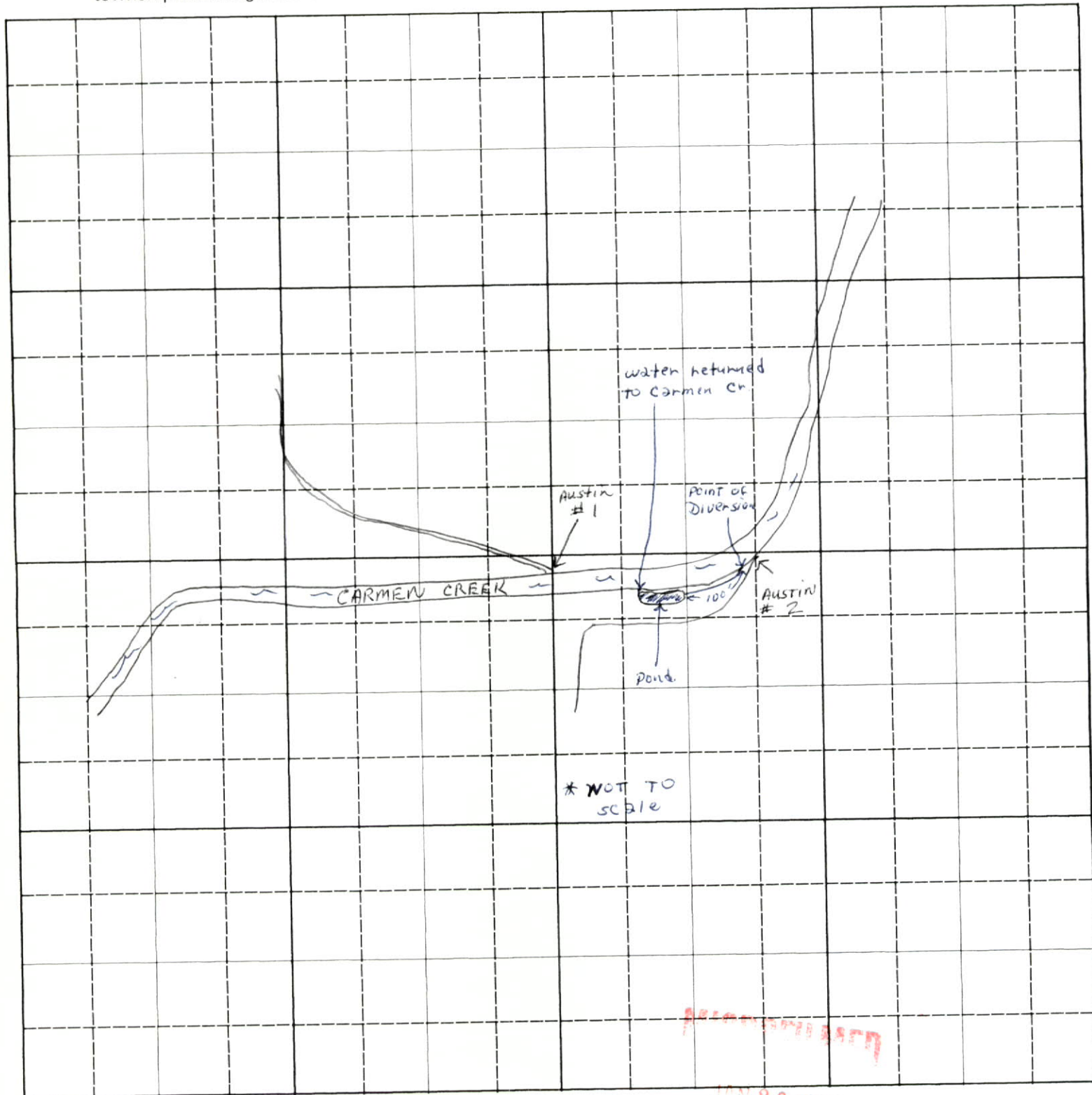
RANGE-22 E

SEC-8

LOT-3

(Antelope Hills subdivision)

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

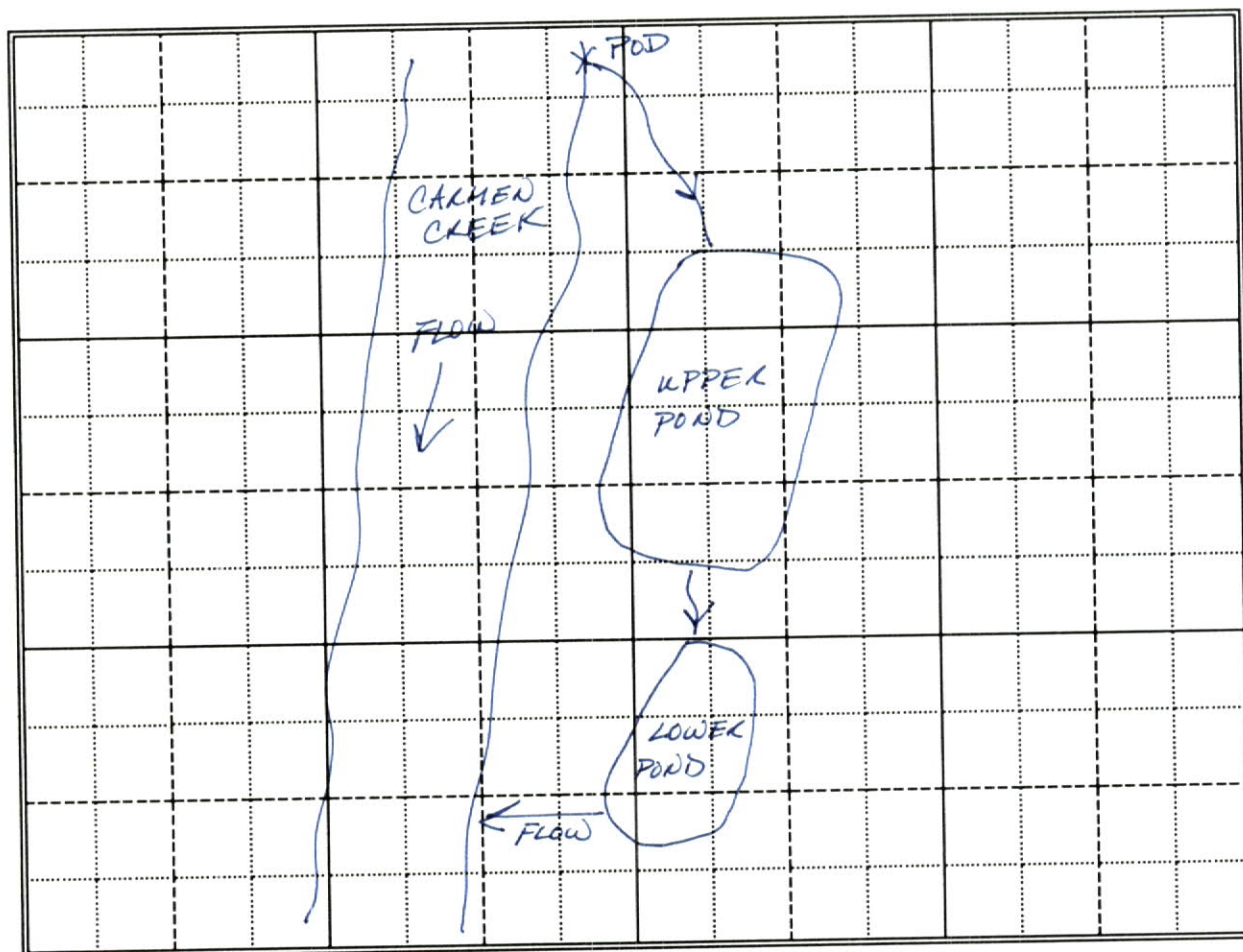


Scale: 2 inches equal 1 mile.

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.

Milton Kirk Elberhard
(Applicant)

3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable.



Scale: 1" = _____

_____ Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

_____ Aerial Photo Attached (required for irrigation of 10+ acres)

_____ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size

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

D. FLOW MEASUREMENTS

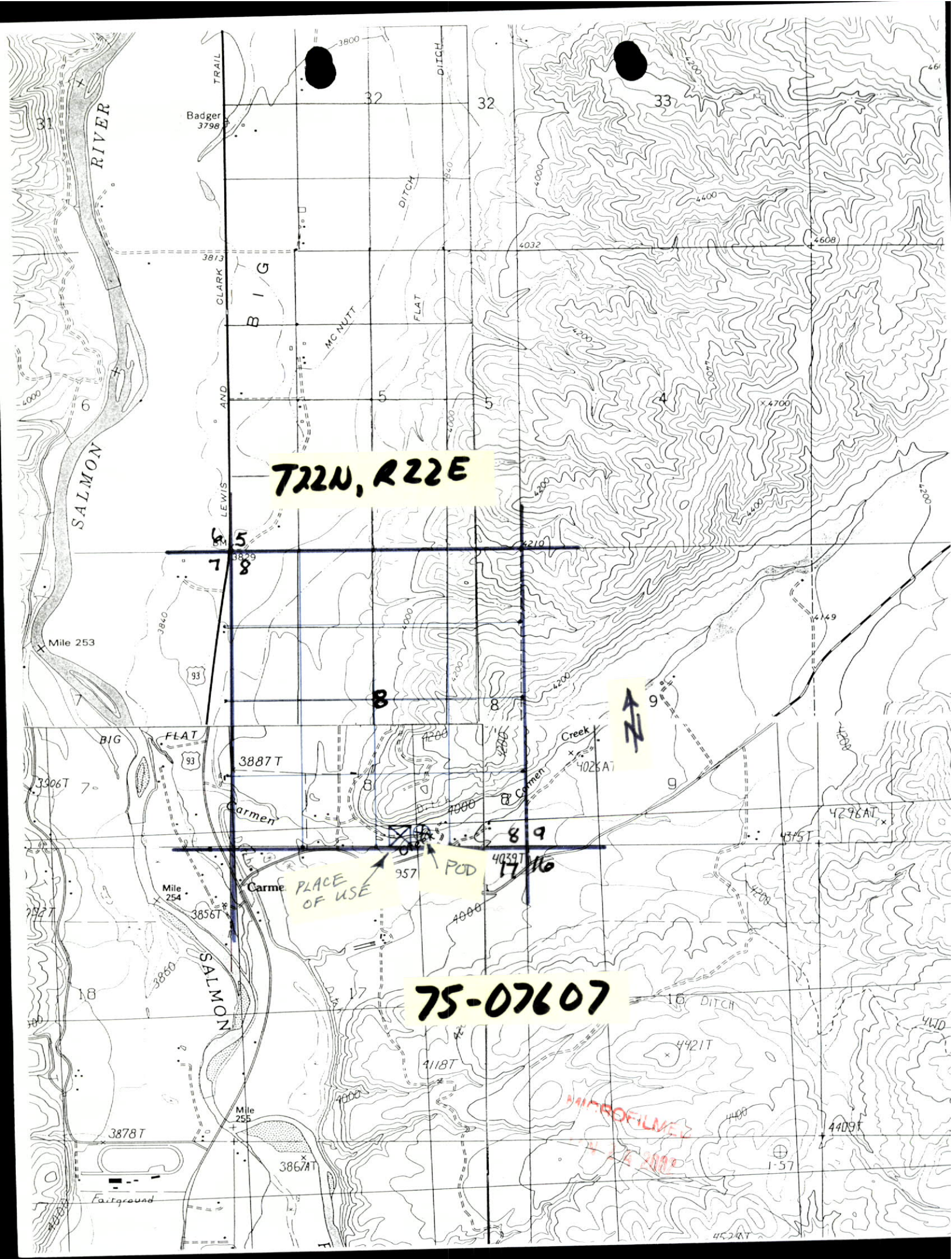
1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
FLOW METER	AA			090127		

2. Measurements: SEE ATTACHMENT

MICROFILMED

JAN 24 2002



722N, R22E

75-07607

PLACE OF USE

POD

MICROFILMED

1-57

124.0

.R22E

21
T41

T42
(See Gr. 42)

POU
POD

FLOW
CANYON
CREEK

225.2

↑
N

MICROFILMED
JAN 24 2002

326.1

171

75-07607

KIRT EBEL HARD

RECREATION

1 of 2



VIEW OF
POINT OF
DIVERSION



STREAM
FLOW THROUGH
DITCH BELOW
POD.

UPPER POND
IN BACKGROUND.

MICROFILMED

24 2002

PERMIT
NUMBER

75-07607

KIRT EBERHARD

RECREATION

2 of 2



VIEW OF
CARMEN
CREEK AND
UPPER POND.



VIEW OF
LOWER CREEK
AND POINT
OF DISCHARGE
BACK TO
CARMEN CK.

← DISCHARGE

MICROFILMED
JAN 24 2002

PERMIT
NUMBER

75-07607

**NOTICE OF APPLICATION
FOR WATER RIGHT**

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

75-07607

EBERHARD, MILTON KIRK
PO BOX 251
CARMEN, ID 83462
Source: CARMEN CREEK
Tributary: SALMON RIVER

Diversion Pt: SWSE Sec 8 T 22N R
22E In LEMHI County.

Use: RECREATION (.500 CFS)

Total Diversion: (.500 CFS)

Date Filed: 10/4/93

In: LEMHI County

T22N R22E S08 SWSE

The permits(s) will be subject to
all prior water rights. Protests must
be filed with the Director, Dept. of
Water Resources, Eastern Region,
900 N Skyline, Idaho Falls, Idaho
83402 on or before NOVEMBER 8,
1993.

R. KEITH HIGGINSON, Director.

Published: 10/21/1993 & 10/28/1993.
10-21-2tc

Affidavit of Publication

STATE OF IDAHO

County of Lemhi

ss.

RECEIVED

NOV 15 1993

RICKY G. HODGES

Department of Water Resources

and says he is one of the printers (publishers) of the RECORDER-HERALD, a newspaper published weekly at Salmon, Lemhi County, Idaho, and of general circulation there.

That the NOTICE OF APPLICATION FOR WATER RIGHT
EBERHARD, MILTON KIRK 75-07607

a true
printed copy of which is attached to the margin hereof, has been and was correctly printed and pub-
lished in the regular and entire issue of every number of said newspaper and not in any supplement
thereof or thereto for TWO (2) consecutive issues commencing with the issue
dated OCT 21 19 93 and ending with the issue dated OCT 28
19 93

STATE OF IDAHO

COUNTY OF LEMHI

ss.

On this 28 day of OCTOBER in the year of 1993
before me, A Notary Public, personally appeared RICKY G. HODGES
known or identified to me to be the person whose name subscribed to the within instrument, and being
by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he
executed the same.

Rachel E. Snook
Notary Public for Idaho

Residing At Salmon, Idaho

My Commission expires: 10-18-97

Publication Fee \$ 31.32

JAN 20 1994

#630

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 75-07607

Priority: October 04, 1993

Maximum Diversion Rate: 0.50 CFS
Maximum Diversion Volume: 362.0 AF

It is hereby certified that MILTON KIRK EBERHARD
PO BOX 251
CARMEN ID 83462-0251 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated October 04, 1993; and has
submitted Proof of Beneficial Use on October 19, 1994. An examination indicates that the works have a
diversion capacity of 0.5 cfs of water from:

SOURCE

CARMEN CREEK

Tributary: SALMON RIVER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
RECREATION	01/01 to 12/31	0.50 CFS	362.0 AF

LOCATION OF POINT OF DIVERSION:

CARMEN CREEK SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 8, Twp 22N, Rge 22E, B.M., LEMHI County

PLACE OF USE: RECREATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
22N	22E	8																X	

CONDITIONS OF APPROVAL

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 75D.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
3. The right holder shall comply with all fish screening requirements of the Idaho Department of Fish and Game.
4. Recreational use is for a private use fish pond.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 30th day of NOVEMBER, 2001.

MICROFILMED
JAN 24 2002

Acting for

KARL J. DREHER
Director

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OCT 19 1994

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Department of Water Resources

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 75-07607 Telephone No. 208 756-4137
2. Name(s) of Permit Holder(s): MILTON KIRK EBERHARD
3. Mailing Address: P.O. BOX 251, CARMEN, IDAHO 83462
4. Source of Water: CARMEN CREEK If GROUNDWATER (well), Date Drilled: mo. NA / yr. NA
 - a. Well Driller: _____ Drilling Permit Number: _____
 - b. **OPTIONAL:**
Pump Horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft): _____
5. Use(s) (as authorized by the water right permit):
Domestic (No. of households): _____ Stockwater (No. and type of stock): _____
Irrigation (No. of acres): _____ Other: Recreational
6. Total rate of diversion and/or volume for which proof is submitted: 5 cfs OR _____ acre feet
7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device:	Is a measuring device required?	Yes ☒	or	No ☐
	Has the measuring device been installed?	Yes ☒	or	No ☐
Flow Measurement Port:	Is a flow measurement port required?	Yes ☐	or	No ☒
	Has the measurement port been installed?	Yes ☐	or	No ☒
8. Fee Enclosed: \$ 100 (See Fee Schedule on back of the instructions for filing proof of beneficial use)
9. Person to contact to accompany the Department representative during field examination of the water system.
Name: MILTON KIRK EBERHARD Telephone Number: 208 756-4137
Address: P.O. BOX 251, CARMEN, IDAHO 83462
10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder:

Milton K. Eberhard

(include your title, if on behalf of company or organization)

Date: 10/16/94

DEC 29 1994

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 75-07607

Proposed Priority: October 4, 1993

Maximum Diversion Rate:

0.50 CFS

This is to certify, that **MILTON KIRK EBERHARD**

PO BOX 251

CARMEN ID 83462-0251

has applied for a permit to appropriate water from:

CARMEN CREEK

tributary of **SALMON RIVER**

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

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

RECREATION

01/01 to 12/31

0.50 CFS

LOCATION OF POINT(S) OF DIVERSION:

SWSE , Sec. 8, Township 22N, Range 22E
LEMHI County

PLACE OF USE: RECREATION

TWN RGE SEC

22N 22E 8

SWSE

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **December 1, 1994**.
2. Subject to all prior water rights.
3. Use of water under this right is subject to control by the watermaster of State Water District No. 75D.
4. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works prior to diversion of water under this right.
5. The issuance of this right in no way grants any right-of-way or easement across the land of another.
6. Recreational use is for a private use fish pond.
7. Construction of diversion works pursuant to this permit shall provide for adequate fish screening and deflection, minimal streambank disturbance, and adequate water quality in any bypass reach.
8. The Director of the Department retains jurisdiction to require a bypass flow for the maintenance of fish, wildlife, riparian and aquatic habitat.

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

6th day of December, 1993

JAN 20 1994

for R. Keith Higginson
R. Keith Higginson, Director

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NOV 24 1993

75~7607

Form 202

6/85

Department of Water Resources

STATE OF IDAHO

Ident. No. _____

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant MILTON KIRK EBERHARD Phone 756-4137
Post office address BOX 251 CARMEN, IDAHO 83462
SALMON RIVER
2. Source of water supply CARMEN CREEK which is a tributary of _____
Lot 3, Antelope Hills Subd.
3. Location of point of diversion is SW 1/4 1/4 of SE 1/4 1/4 of _____ 1/4, Govt. Lot _____
Sec. 8 Township 22 N Range 22 E B.M. LEMHI County; additional
points of diversion if any: NA * Change as per tech con. with Mrs. Eberhard 10-5-93
HCW
4. Water will be used for the following purposes:
Amount 0.5 CFS for FISH PROP. ^{* Recreation} purposes from JAN. 1 to DEC. 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)
5. Total quantity to be appropriated is (a) 0.5 CFS and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. 18" Metal Headgate with culvert installed
in stream bank. Approx. 100' ditch constructed from headgate to pond. Metal
outlet culvert. Vee notch weirs at head of ditch & outlet. Inlet screened
& outlet screened to prohibit fish movement.
b. Height of storage dam NA feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.
c. Proposed well diameter is NA inches; proposed depth of well is _____ feet.
d. Is ground water with a temperature of greater than 90°F being sought? NO
7. Time required for the completion of the works and application of the water to the proposed beneficial use is
_____ years (minimum 1 year).
ONE

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JAN 20 1994

8. Description of proposed uses (if irrigation only, go to item 9):

- a. Hydropower; show total feet of head and proposed capacity in KW. NA
- b. Stockwatering; list number and kind of livestock. NA
- c. Municipal; show name of municipality. NA
- d. Domestic; show number of households. NA
- e. Other; describe fully. NON-CONSUMPTIVE USE, WATER TO ENHANCE FLOW THROUGH PROPOSED PRIVATE FISH POND TO INCREASE OXYGEN SUPPLY AND CIRCULATION.

9. 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	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
22N	22E	8															H		Less than 1/2 acre

Total number of acres to be irrigated NONE

10. Describe any other water rights used for the same purposes as described above. NONE

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

b. Who owns the land to be irrigated or place of use? MILTON K. EBERHARD

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. EASEMENT FOR DITCH AT POINT OF DIVERSION
FROM JOHN MILHALKA

JAN 20 1994

12. Remarks: NON-CONSUMPTIVE WATER RIGHT WOULD ENHANCE WATER FLOW THROUGH SMALL FISH POND. Pond surface area would be less than 3600 square feet, Average depth of 6 feet. Discharge water would return to stream above any ditch. FISH ARE RAINBOW TROUT WHICH ARE USED FOR PRIVATE CONSUMPTION. Bottom of pond is a layer of clay which stops water loss so bottom of pond would fill from ground water. There would be no net loss to downstream irrigation user.

3174 /
ULYSSES MTN.

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

114°00' 265000m E
45°15'

3274 IV SW
MOOSE CREEK
ROAD JUNC 5.6 MI.

270 155' 272

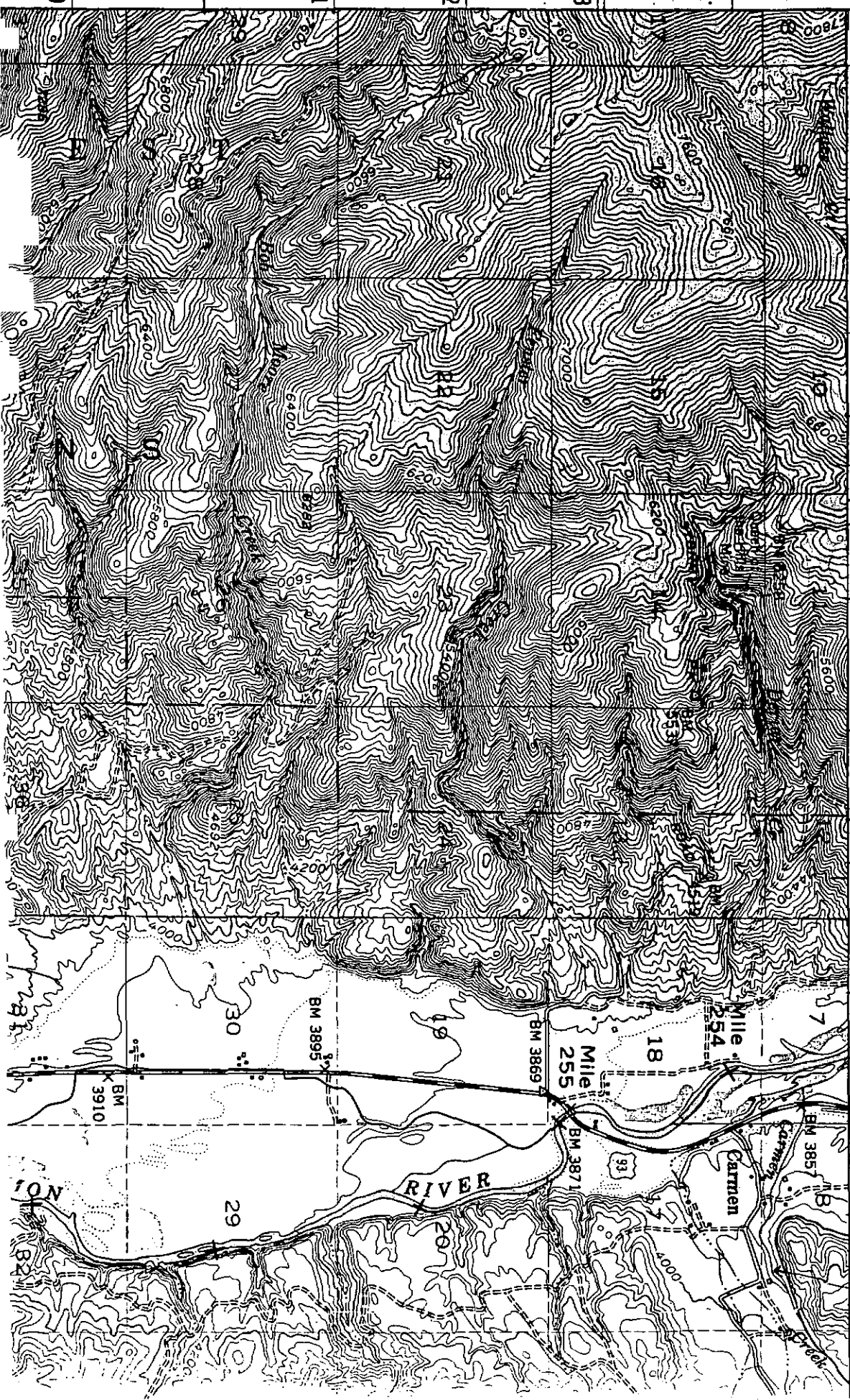
PARRYMOUNT 776 MI.
NORTH FORK 13 MI.

5013
T. 22 N.

5012

5011

5009



KIRK EBERHARD
BOX 251
CARMEN, IDAHO
83462

RECEIVED
JAN 20 1994
POINT OF
DIVERSION

KIRK 251 83462
B x Id.
Carmen, Id.
756-4137

* Diversion for Miron R. Eberhard Fish Pond is about 10' below (down stream) existing ditch, Austin # 2 & on same side of stream (south side) outlet to stream from pond is above next diversion ditch, Austin # 1, which is on North side of canyon creek. This would eliminate concerns that any water was being removed from current water use.

Austin Ditch # 2

Austin Ditch # 1

Microfilm

JAN 20 1994

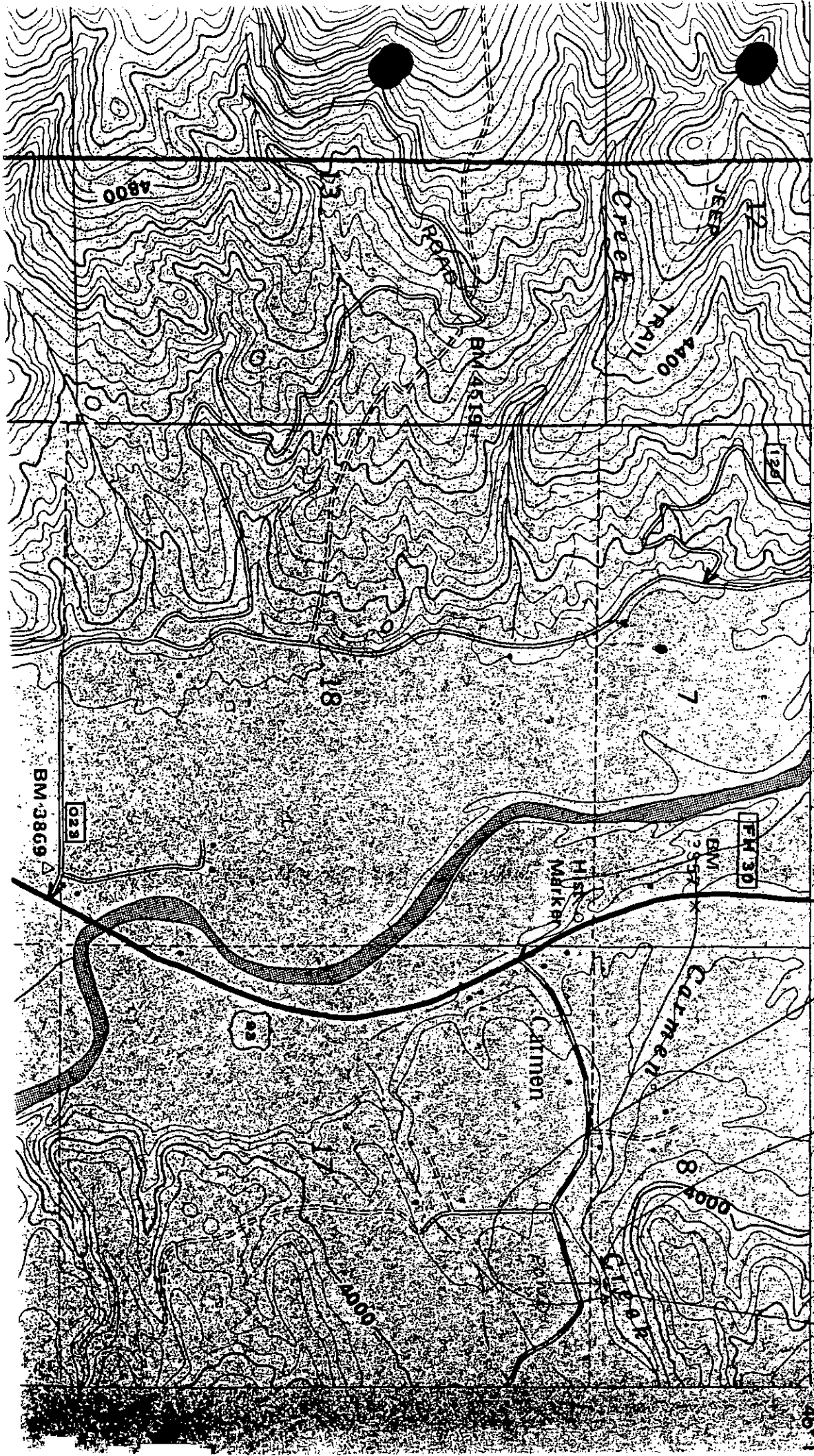
POINT OF DIVERSION

7.5 MINUTE SERIES (TOPOGRAPHIC)

55 R. 21 E. R. 22 E.

NORTH FORK 13 M

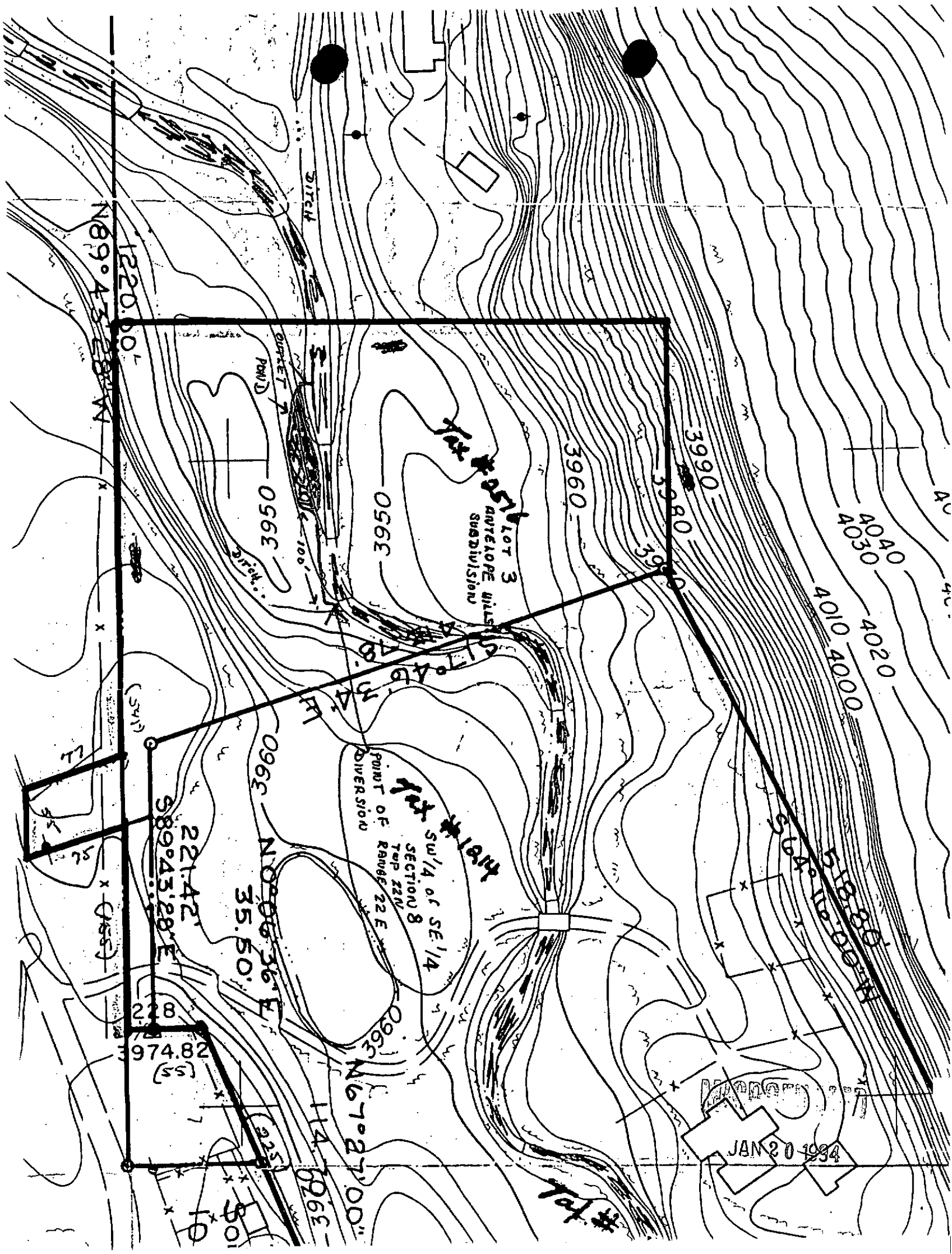
113° 52' 30"



hard
Eber 251 83462
KIRK BOX Id.
P.O. Carmen, Id.
756-4137

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JAN 20 1994



KIRK Eberhard

Box 251

Carmen, Id 83462

756-4137

POINT OF DIVERSION

TWP-22 N

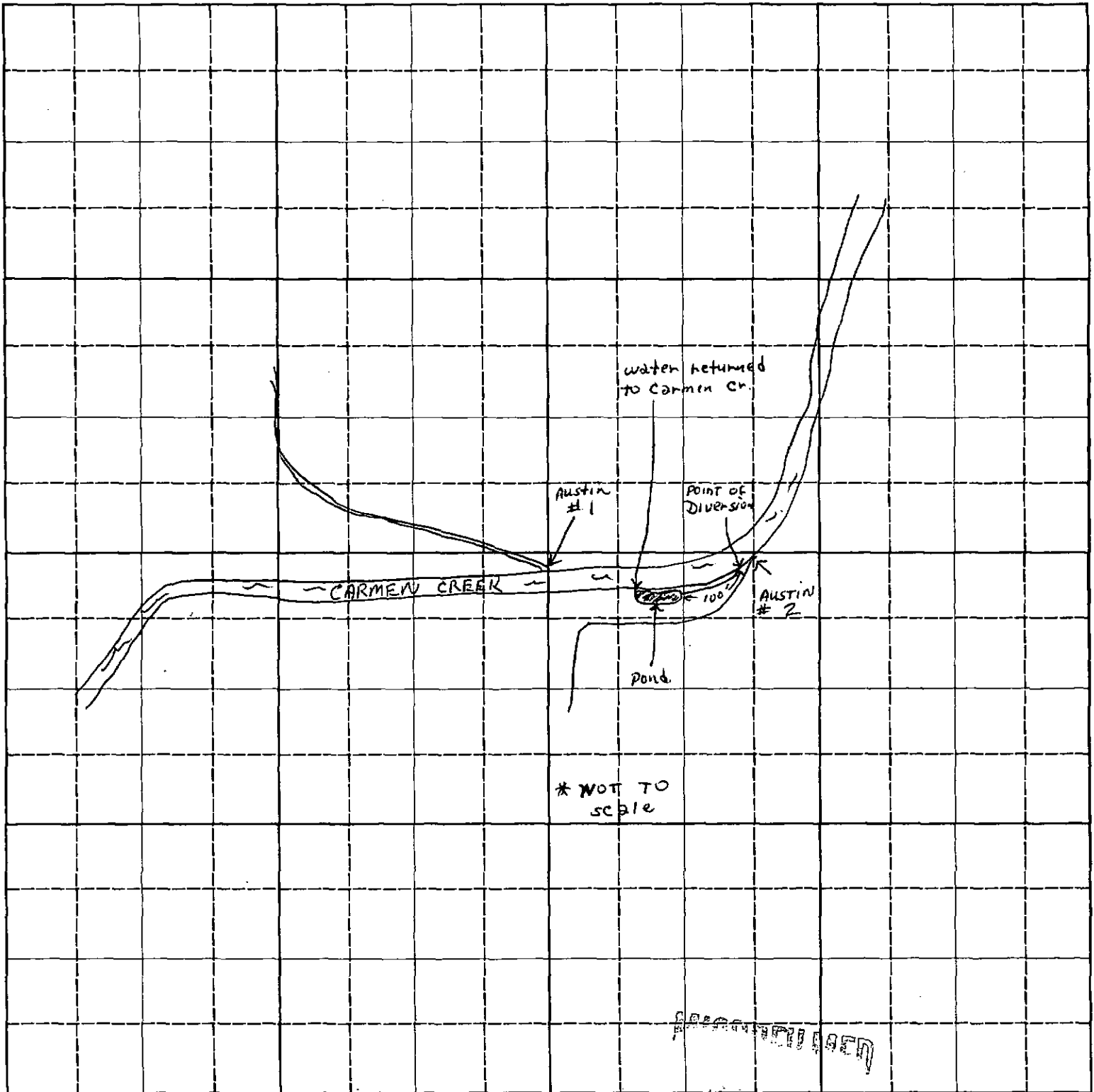
RANGE-22 E

SEC-8

LOT-3

(Antelope Hills subdivision)

13. 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.

JAN 20 1994

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.

Milton Kirk Elward
(Applicant)

Received by WM Date 10/4/93 Time 1:48 pm Preliminary check by ck #772 \$45.00
Fee \$ 45.00 Receipted by HWT # E019211 Date 10-4-93
Publication prepared by LB Date 10-21-93 Published in Recorder-Herald
Publication approved LB Date 11-15-93

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. _____, and said application is hereby _____.

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 _____, 19____.

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

e. Other:

RECORDED

JAN 20 1994

September 29, 1993

Explanation of Application for Non-consumptive water permit
Milton Kirk Eberhard SW quarter of the SE quarter of Section 8
Township 22 N Range 22E Lot 3 Antelope Hills Subdivision

Application is for .5 CFS of water from Carmen Creek to be diverted for use in a pond for propagation of trout for personal use. The pond will have a surface area of 3600 square feet and will have an average depth of six feet.

The pond will be adjacent to Carmen Creek. The bottom of the pond contains a hard layer of clay which will limit water loss. Also, the bottom of the pond will fill from ground water. The water gained from the non-consumptive permit would be required to supply water flow and aeration to rear trout.

The diversion of .5 CFS of water from Carmen Creek would have no affect on fish populations in Carmen Creek since adequate water would remain in the stream channel.

The diversion would not affect downstream water users since all .5 CFS would be returned to Carmen Creek upstream from any other diversions.

Annual production of trout would be 100 pounds.

Kirk Eberhard
Box 251
Carmen, Idaho 83462

RECEIVED

JAN 20 1994



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

January 23, 2002

KIRK EBERHARD
PO BOX 251
CARMEN ID 83462-0251

RE: Water in Excavated Ponds

Dear Kirk:

Thank you for your response to my letter suggesting that you may need a water right to store water in your ponds. As we discussed on the phone, excavated ponds have not always been treated uniformly by IDWR because they do not conform to the classic "diversion and use" scenario the appropriation laws are designed to address. I did find, however, that there is a draft policy memorandum on the subject of ponds. According to the draft policy, which is the best guidance I can find on the subject at this time, and applying the pond dimensions you provided, you are not required to file for a water right for the storage of ground water in your ponds.

The draft memorandum provides the following general guidance regarding the need to file for a water right for water in a pond.

Generally, a water right is needed and can be issued to store water in a constructed pond. This includes ponds constructed either by excavation to create a basin that fills or is filled with water or by constructing an embankment or other structure to create a reservoir that fills or is filled with water. Water Appropriation rule 35.03b provides that the annual storage volume shown on an application shall not exceed the storage capacity of the structure unless the application describes a plan for refilling the reservoir. This would include any plan to replace water lost from a constructed pond due to evaporation and/or seepage. The application fee would be based on the annual storage volume proposed in the application, which should include any proposed refills.

An application for a pond to be constructed by excavation below the ground water level to be filled naturally from ground water should always include the annual volume required to replace evaporation losses in addition to the volume to be stored in the pond. Ponds constructed in this manner should list ground water as the source on the permit.

The concern about excavated ponds is that they expose ground water to evaporation that may not otherwise occur. The result is an overall consumption (loss) of water.

MICROFILMED

JAN 24 2002

Kirk Eberhard
January 23, 2002
Page 2

Particularly applicable in your case, however, is the part of the draft memorandum that addresses the filing exemption for domestic purposes. Note that the exemption applies to ground water only.

A water right permit is not required to construct and use a pond that meets the statutory requirements for exemption for domestic uses (Sections 42-111 and 42-227, Idaho Code). If the pond is excavated and fills naturally with ground water or is constructed in any manner and is filled by pumping ground water, the total use of the pond and the other domestic uses exempted from permitting must not exceed 13,000 gallons per day for uses under part (1)(a) of Section 42-111, Idaho Code or 0.04 cubic feet per second and 2,500 gallons per day for uses under part (1)(b). Determination of the water use for a pond should take into account the fill rate of the pond (for ponds not filled naturally with ground water), evaporation and seepage from the pond, flow-through water to refresh the pond, and any other water used or discharged from the pond. Evaporation should be based upon a typical maximum daily evaporation rate rather than an annual average rate.

Using a spreadsheet designed for use in conjunction with the draft memorandum, I calculated that evaporation of ground water from your ponds, when considered together, should reach a maximum daily value of approximately 1670 gallons. Because this is less than the 2500-gallon per day threshold set forth in §42-111, *Idaho Code*, the filling of your two ponds with ground water is exempt from the water right filing requirement.

As you noted in your letter, the minor impoundment of surface water in addition to the ground water in your ponds is covered under the recreation flow component of water right 75-7607 because the volume impounded fills in less than 24 hours.

If you have any questions, please call me at 208-327-7946, or email me at skeen@idwr.state.id.us.

Sincerely,



Shelley Walter Keen
Water Rights Supervisor

FILE NUMBER 75-7607
REVIEWER S. Keen
DATE 01/23/2002

MAXIMUM DAILY WATER USE FOR DOMESTIC PURPOSES

INPUTS

IN-HOUSE USE (AFY) 0

LAWN AND GARDEN IRRIGATION

ACRES IRRIGATED (AC) 0

ETpk80 (IN/DAY) 0

APPLICATION EFF. (%) 0%

SURFACE AREA (SQFT) 7650

AVERAGE DEPTH (FT) 6.00

FILL OR REFILL RATE (CFS) 0

EVAPORATION (IN/DAY) 0.35

SEEPAGE RATE (FT/DAY) 0.00

FLOW-THROUGH (CFS)
(REFRESH RATE) 0

OTHER (GPD) 0.00

NOTES/SUGGESTED VALUES

IF UNKNOWN, USE IDWR STANDARD OF 0.8 AF
FOR EACH HOUSE

CANNOT EXCEED 1/2 ACRE FOR PART A DOMESTIC*

IF UNKNOWN, USE REFERENCE ETpk80 FOR TURF
EXAMPLE 0.40 IN/DAY FOR HAGERMAN
EXAMPLE 0.30 IN/DAY FOR STANLEY

IF UNKNOWN, USE 70% FOR SPRINKLERS

USE 0 IF FILLED NATURALLY FROM GW
TOTAL DOMESTIC RATE CANNOT EXCEED 0.04 CFS
FOR PART B DOMESTIC*

IF UNKNOWN, USE REFERENCE ETpk80 FROM ABOVE

SUGGESTED VALUES FOR DIFFERENT SOIL TYPES:
0 = NATURALLY FILLED FROM GW, OR LINED
0.5 = CLAY SOILS
1.5 = LOAMS
3.0 = GRAVELS

TOTAL DOMESTIC RATE CANNOT EXCEED 0.04 CFS
FOR PART B DOMESTIC*

STOCKWATER, SMALL BUSINESS USE, ETC.
EITHER FROM POND OR SEPARATE USE

RESULTS

TOTAL IN-HOUSE USE 0 GPD

TOTAL LAWN AND
GARDEN IRRIGATION 0 GPD

CAPACITY 45900 CUFT
343332 G

CONVERT TO GPD 0 GPD

REFERENCE EXAMPLE:
ESTIMATED NUMBER OF DAYS
TO FILL BASED ON PROVIDED
INPUTS NA DAYS
NA HR

CONVERT TO GPD 1669 GPD

CONVERT TO GPD 0 GPD

CONVERT TO GPD 0 GPD

REFERENCE EXAMPLE:
ESTIMATED NUMBER OF DAYS
TO REFRESH BASED ON
PROVIDED INPUTS NA DAYS
NA HR

TOTAL POND 1669 GPD

TOTAL OTHER 0 GPD

TOTAL WATER USE 1669 GPD

FORMULAS

CONVERSION: 1 AFY = 892.74 GPD
1 AF = 325,850 G

FORMULA: $(ETpk80/EFF.) * IRRIG. AREA = GPD$
CONVERSION: $ETpk80 = IN/DAY * FT/12IN = ACRE-FT/DAY PER ACRE$
1 AF = 325,850 G

FORMULA: $SURFACE AREA * AVERAGE DEPTH = CAPACITY$
CONVERSION: 1 CUFT = 7.48 G

NOTE: GPD LIMITED BY POND CAPACITY
CONVERSION: 1 CFS = 646,272 GPD

FORMULA: $CAPACITY / FILL RATE = TIME TO FILL$

FORMULA: $EVAP * SURFACE AREA = POND EVAP$
CONVERSION: $ETpk80 = IN/DAY * FT/12IN = ACRE-FT/DAY PER ACRE$
1 AF = 325,850 G
NOTE: ASSUMES CONTINUOUS REPLACEMENT RATE

FORMULA: $SA * SEEPAGE LOSS = POND SEEPAGE (CUFT/D)$
CONVERSION: 1 CUFT = 7.48 G
NOTE: ASSUMES CONTINUOUS REPLACEMENT RATE

FORMULA: IF FILL RATE = 0 THEN GPD IS BASED ON
CONTINUOUS FLOW
IF FILL TIME > ONE DAY THEN GPD = 0
IF FILL TIME < ONE DAY THEN GPD =
 $(24 HR - FILL TIME) * FLOW THROUGH RATE$
CONVERSION: 1 CFS = 646,272 GPD

FORMULA: $CAPACITY / FLOW RATE = REFRESH TIME$

TOTAL = FILL RATE + EVAP + SEEPAGE + FLOW THROUGH

TOTAL = IN-HOUSE USE + IRR + POND + OTHER

* NOTE: MAXIMUM VOLUME FOR EXEMPTION = 13,000 GPD FOR PART A DOMESTIC
MAXIMUM VOLUME FOR EXEMPTION = 2,500 GPD FOR PART B DOMESTIC

MICROFILMED
JAN 24 2002

RECEIVED

January 18, 2002

JAN 22 2002

Hello Shelley,
Ref. Water right no. 75-07607

Department of Water Resources

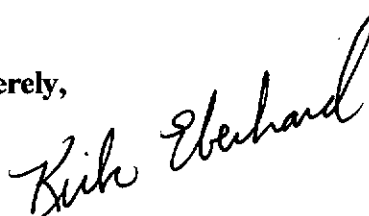
I received a letter from your office dated December 3, 2001 confirming the above water right. It was also mentioned that I needed to file an application to cover storage in the ponds. I do not believe the two ponds are of a size that require a storage permit.

Pond number one is 90 feet long, tear drop in shape with a maximum width of 70 feet and a minimum width of 40 feet. Surface area of this pond would be approximately 5400 square feet. When this pond was constructed it was a dry hole that filled with 6.5 feet of static water after several days. This was prior to any diversion from Carmen Creek. My contention is that this water is not "storage" under your guidelines, it was not diverted water and cannot be removed except by a mechanical pump. The pond when filled with diversion water from Carmen Creek reached a depth of 8.5 to 9 feet. This would indicate a storage of 2.5 feet X 5400 square feet. Which would easily fill within 24 hours at a diversion rate of .5 CFS or .99 acre feet.

Pond number two is 75 feet long with a width of 20-40 feet with an average depth of 5 feet. Surface area would be about 2,250 square feet. This pond sits at a lower elevation and filled completely with static water several days after construction. Some water is diverted from pond one to pond two in order to get some aeration for fish. Pond two maintains water depth without any diversion from Carmen Creek or pond number one. I do not believe this water is "storage" under your guidelines, and would have to be pumped out.

In summary, I do not believe these ponds require a storage right under your guidelines. Pond number one will fill during a 24 hour period at a .5 CFS diversion rate. (the smaller pond requires no diversion to maintain water depth.) Also, it is my understanding that your Director has imposed a moratorium regarding new permits. Any application on my part would not be processed at this time and would only provide a priority date for the application. I appreciate the complexity of your work administering these water issues. Thank you for your consideration.

Sincerely,



MICROFILMED

JAN 24 2002

MEMORANDUM

DATE: January 17, 2002

TO: Water Right File 75-7607

FROM: Shelley W. Keen *SVK*

RE: Storage Requirement

Today Kirk Eberhard called to say that he thinks his ponds are so small that no storage right should be required. I asked him to submit additional information in writing so that IDWR could evaluate it and give him an opinion in writing.

MICROFILMED

JAN 24 2002



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

December 3, 2001

MILTON KIRK EBERHARD
PO BOX 251
CARMEN ID 83462

RE: Water Right No. 75-07607

Dear Mr. Eberhard:

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

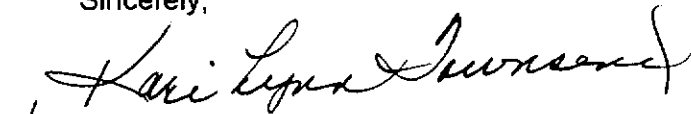
The license is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date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

Please be advised that this water right does not cover any storage water in your ponds. Since your ponds are of a size that requires a storage right, you need to either file an application for permit to cover the storage in the ponds or reduce the size of the ponds so that they do not impound a larger volume of water than authorized for diversion within a 24-hour period. We are enclosing an application for permit with instructions, for your convenience. We are currently not processing any applications for permit in your area, due to the Wilderness Moratorium; however, you can still submit the application and obtain a priority date as of the date you file the application and fee with our Department. Please advise us what you intend to do in regard to the size of the ponds as soon as you have made a decision.

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,


for Shelley W. Keen
Water Rights Supervisor

SWK:kl:kw
Enclosures

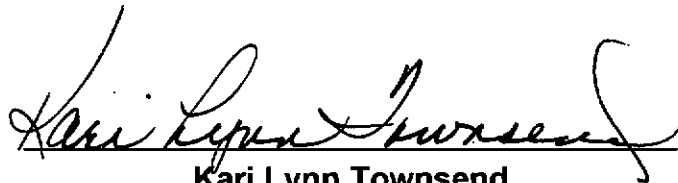
MICROFILMED
JAN 24 2002

CERTIFICATE OF MAILING

I hereby certify that on December 3, 2001 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO. 75-7607

**MILTON KIRK EBERHARD
PO BOX 251
CARMEN ID 83462-0251**

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

**Kari Lynn Townsend
Secretary**

MICROFILMED

JAN 24 2002

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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 Idaho Water Resource Board (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).

MICROFILMED
JAN 24 2002

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.

MICROFILMED
JAN 24 2002

LICENSE REVIEW CHECKLIST

Permit No. 75-7607 Date: 11-21-01 Reviewer: Kay Walker

Change/OK

Name/Address ✓

Source ✓

Point of Diversion: ✓

Does change clarify original intended source? If no, void permit.
Change (P39/P49) Add (P45/P44) Feds (P40)

W32 (multiple in 1/4/1/4)
W36 (overlap)
W59 (subdivision description)

Place of Use ✓

Change (P41/P49) Add (P41/P44) Feds (P43)

W60 (subdivision description)
W27 (ppu acre limit)

Overlaps: Right(s): none
File reviewed _____ Profile reports printed _____

P/D & P/U amend (P37) Feds (P48)

Rate of Diversion:

Permitted rate 0.50 cfs
Fee Limit 1.0 cfs
Measured 0.50 cfs
Theoretical _____ cfs

Recommended Total Diversion Rate 0.50

Water Uses ✓

Change (P46)

Season of Use per new Standards

Irrigation _____ cfs _____ af
Stockwater _____ cfs _____ af
Domestic _____ cfs _____ af
Rec 0.5 cfs 362 af
_____ cfs _____ af
Total 0.5 cfs 362 af

Irrigation - overlap(R58-R61, R62-R65, R66-R69)
~~supp. Gw~~ (WB7/065/104)
overlap spec combined rts (W35)
~~4-acre~~ (W31)
Domestic (W01/wb5/070/071/075)
Power (W42 or W43/025/027/R22 or R23)
Fish (042)
~~Fire~~ (077)
Water Quality (081/R07)
~~Payette~~ - (W22/047/27A)
Stockwater for US (R37)

Volume Determination

0.5 cfs x 1.9835 x 365 days = 361.9 af (vs) _____ acres x _____ (FHR) = _____ af
≈ 362.0

Remarks: _____

Additional Conditions yes Watermaster Control 750
yes GW Measurement/Measuring Device
_____ Other
Trust R55 - remove 051)
Non-trust (048/049)

GW Dist? _____
Water Msmt. Dist? _____
Crit. GWMA? _____
GWMA? _____
Government Lots? _____

Advance Priority? yes If yes, explain why below.
no

SRBA Claim? NO - Not req'd

Adjust memo _____

Amend Letters _____

P87, S06

Second Amendment Notice _____

S06

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
MAY 23 1997
Department of Water Resources

A. GENERAL INFORMATION

Permit No. 75-7607

1. Owner: HILTON KIRT EBERHARD Phone No. (208) 756-4137

Current Address: P.O. Box 251, CARMEN, IDAHO 83462

2. Accompanied by: N/A EXAM DATE: 3/21/96

Address: N/A Phone No. N/A

Relationship to Permit Holder: N/A

3. Source: CARMEN CREEK tributary to SALMON RIVER

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. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			SW	SE	8	22N	22E	LEMMI	U.S.G.S. TOPO MAP

2. Place(s) of Use:

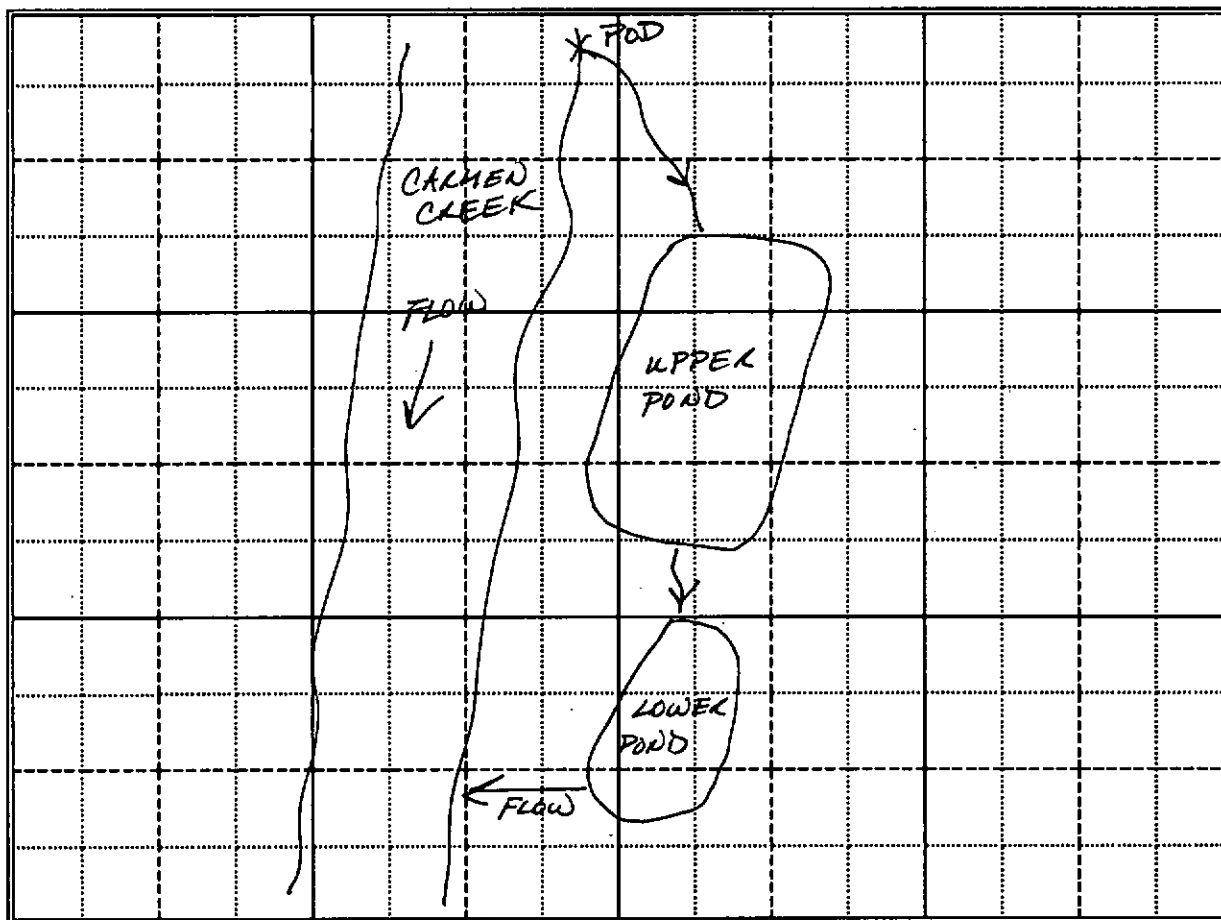
Indicate Method of Determination

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
22N	22E	8															R		

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JAN 24 2002

3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe I.D. as applicable.



Scale: 1" = _____

____ Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

____ Aerial Photo Attached (required for Irrigation of 10+ acres)

____ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size

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

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
FLOW METER	AA			090127		

2. Measurements: SEE ATTACHMENT

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JAN 24 2002

E. NARRATIVE/REMARKS/COMMENTS

WATER IS DIVERTED FROM CARMEN CREEK VIA A
CONTROL DEVICE TO A DITCH WHICH FEEDS WATER
TO TWO PONDS. WATER IS DISCHARGED OUT OF
SECOND (LOWER) POND BACK TO CARMEN CREEK.

WATER CAN BE DIVERTED BACK TO CARMEN CREEK
VIA UPPER POND.

Have conditions of permit approval been met? ☒ yes ☐ no

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JAN 24 2002

F. FLOW CALCULATIONS

☒ Additional Computation Sheets Attached

Measured Method:

$Q = 0.545$ MEASURED ABOVE UPPER POND.
0.44

G. VOLUME CALCULATIONS

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:

UPPER POND 27 YDS X 39 YDS X 9' DEEP = $\frac{85,293 \text{ cu ft.}}{43,560} = 1.95 \text{ AF}$
Very STEEP SIDES

LOWER POND 14 YDS X 32 YDS X 7' DEEP = $\frac{28,224 \text{ cu ft.}}{43,560} = 0.647 \text{ AF}$
VERY STEEP SIDES

H. RECOMMENDATIONS

1. Recommended Amounts PERMIT LIMITS TO 0.50 CFS.

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
RECREATION STORAGE	1/1	12/31	0.50	2.6 AFA
DIVERSION TO STORAGE	1/1	12/31	0.50	
Totals:			0.50 CFS	2.6 AFA

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

SHOULD WE INCLUDE RECREATION STORAGE? *yes*

I. AUTHENTICATION

Field Examiner's Name SIMPKINS Date 1/7/96

Reviewer *[Signature]* Date 1-16-97

SEAL

MICROFILMED

24 2002

Although the Q-note completed by Simpkins was not correct
to standards of the U.S.D. or the department, I was able to
complete a Q-note that (using estimates) I was able to find
the rate of flow at 0.44 cfs.

I would recommend that Permit # 75-07607 be
licensed for the 0.50 cfs applied for. From the pictures
enclosed and discussions with D. Simpkins the actual
capacity of the ditch is much greater than the 0.44 cfs
and the 0.50 cfs on the Permit.

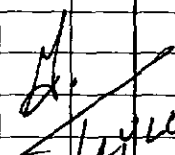
Long
128
Taylor

1-16-97

75-07607

MICROFILMED
JAN 24 2002

River at—												
Angle coef- ficient	Dist. from initial point	Width	Depth	Obser- vation depth	Rev- olu- tions	Time in sec- onds	VELOCITY At point	Mean in ver- tical	Adjusted for hor. angle or	Area	Discharge	
	0.0	.19	.24 ^e		6 EW		.45 ^e			.046	.021 ^c	.80
	0.375	.56	.48		20	50	.891			.269	.240	.85
	1.125	.56	.42		15	47	.716			.235	.168	
	1.50	.19	.21 ^e		26 W		.36 ^e			.040	.014 ^c	.90
											.44	.92
												.94
												.96
												.97
												.98
												.99
○												1.00
												.99
												.98
												.97
												.96
												.94
												.92
												.90
												.85
												.80

~~

 H. TAYLOR~~

 1-16 AT

MICROFILMED

JAN 24 2002

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Water District 01

DISCHARGE MEASUREMENT NOTES

Meas. No.

Comp. by

Checked by

Sta. No.

Estimated Q of Elberhard Ditch

Date 19... Party

Width Area Vel. G. H. Disch.

Method No. secs. G. H. change in hrs. Susp.

Method coef. Hor. angle coef. Susp. coef. Meter No.

GAGE READINGS				
Time	Recorder	Inside	Outside	
				Type of meter
				Date rated for rod, other.
				Meter ft. above bottom of weight.
				Spin before meas. after
				Meas. plots % diff. from rating
				Wading, cable, ice, boat, upstr., downstr., side
				bridge feet. mile, above, below
				gage, and
				Check-bar, found
				changed to at
				Correct
				Levels obtained
Weighted M. G. H.				
G. H. correction				
Correct M. G. H.				

Measurement rated excellent (2%), good (5%), fair (8%), poor (over 8%), based on following conditions: Cross section

Flow Weather

Other Air °F@

Gage Water °F@

Record removed Intake flushed ^u.....

Observer

Control

Remarks

G. H. of zero flow

.0 .10 .20 .30 .40 .50 .60 .70 .80

State of Idaho 75-07607
Department of Water Resources

Date 3/21/96 DISCHARGE MEASUREMENT NOTES

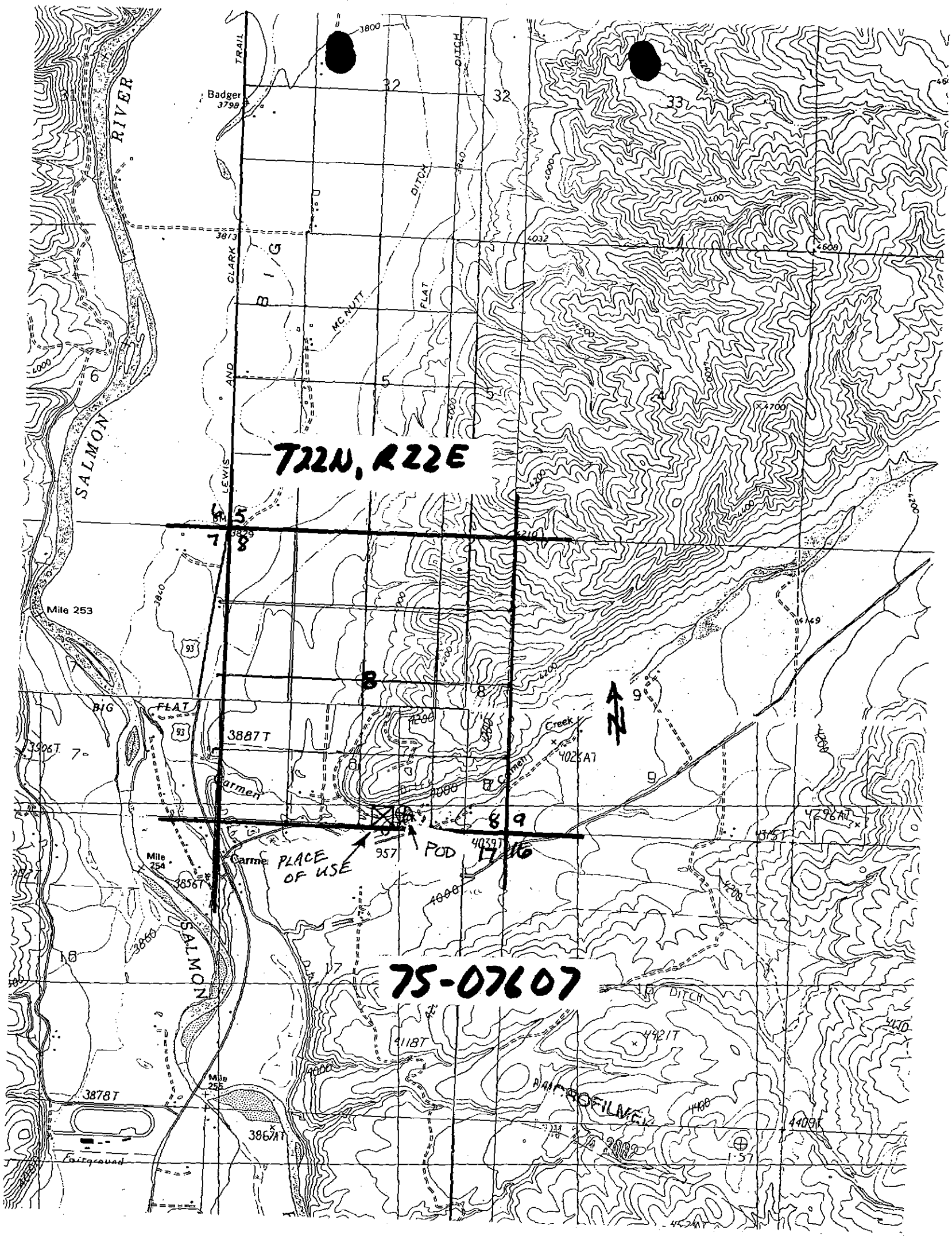
River at _____											
Angle vert. to east	Dist. from initial point	Width	Depth	Observa- tion depth	Revo- lutions	Time in seconds	VELOCITY		Adjust- ed for hor. angle or	Area	Discharge
							At point	Mean in ver- tical			
L	0.375	.75	.48		20	50	.891			0.36	0.320
R	1.125	.75	.42		15	47	.716			0.315	0.225
											0.545 CFS

No. _____ of _____ Sheets, Comp. by SIMPKINS Cbk. by _____

.0 .10 .20 .30 .40 .50 .60 .70 .75

MICROFILMED
JAN 24 2002

75-07607





MICROFILMED
18 NOV 24 2002

75-07607

KIRT EBEL HARD

RECREATION

1 of 2

VIEW OF
POINT OF
DIVERSION



STREAM
FLOW THROUGH
DITCH BELOW
POD.

UPPER POND
IN BACKGROUND.



MICROFILMED

2 4 2002

PERMIT
NUMBER

75-07607

KIRT EBERHARD

RECREATION

2 of 2

VIEW OF
CARMEN
CREEK AND
UPPER POND.



VIEW OF
LOWER CREEK
AND POINT
OF DISCHARGE
BACK TO
CARMEN CK.

← DISCHARGE



MICROFILMED
JAN 24 2002

PERMIT
NUMBER

75-07607

November 2, 1994

MILTON KIRK EBERHARD
PO BOX 251
CARMEN ID 834620251

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 75-07607

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

If you have questions concerning this matter, please feel free to contact the EASTERN Regional Office in Idaho Falls at (208)525-7161.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

c: IDWR - Region

RECEIVED

DEC 29 1994

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 75-07607

Reviewed by Jay

Date 11/2/94

GENERAL CONSIDERATIONS

yes Name same as permit?
yes Address same as permit?
yes Proof timely received?
If not, complete calculation below.

TYPES OF USE

Recreation

Correct Uses? yes

SOURCE OF WATER

☒ Surface water source

☐ Ground water source

☐ Drilling permit required?
☐ Copy in the file? Drilling Permit No. _____
☐ Amount paid for permit _____ Correct?
☐ Well log in the file?

LICENSE EXAMINATION FEE

yes Required?
100.00 Amount Submitted
yes Correct?

MEASURING DEVICE

yes Required?
yes Installed?
Waiver requested?

PRIORITY CALCULATION

Date proof received	_____	_____
Date proof due	_____	_____
No. of days late	_____	_____
Priority Date	_____	_____
New Priority Date	_____	_____

DEFICIENCIES OR ACTION ITEMS

Proof acceptable

DATA ENTRY

New Address _____

Proof Made 10/19/94

September 30, 1994

MILTON KIRK EBERHARD
PO BOX 251
CARMEN ID 834620251

PROOF DUE NOTICE

RE: PERMIT NO. 75-07607

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before December 1, 1994. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

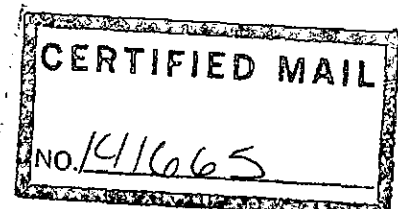
Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

DEC 29 1994





State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

December 6, 1993

MILTON KIRK EBERHARD
PO BOX 251
CARMEN ID 834620251

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 75-07607

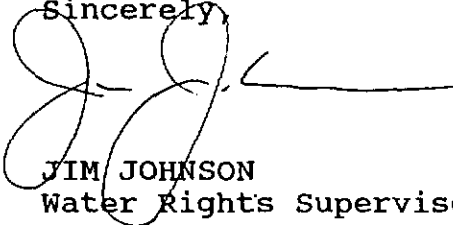
Dear Permit Holder:

Enclosed is a copy of your approved application for permit. Please be sure to thoroughly review the "CONDITIONS/REMARKS:" listing on the permit.

Enclosed is a form entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop this permit. Also enclosed is a form entitled "Proof of Beneficial Use". If your project is already completed you should complete and submit this form immediately.

Be sure to note the special condition requiring you to install a measuring device and lockable controlling works that will enable the watermaster to control the rate of diversion.

Sincerely,



JIM JOHNSON
Water Rights Supervisor

JJ:dc

Enclosures

RECORDED

JAN 20 1994

APPLICATION FOR PERMIT
STATE OFFICE REVIEW

Application #: 75-7607 Date: 11/30/93 Reviewer: Cindy Zimmerman

AREA OF CONCERN? - No/Yes S/C Mor
SYSTEM COMPLETED:
No - 26A-P17
Complete in 1 year - P16
Yes
Proof not submitted - P16
Proof submitted - NA
GROUNDWATER:
+ 0.2 cfs <flo-ch> - 01G-P03 (new), 01C-P03 (existing), NMR
- 0.2 cfs - NMR <flow chart>
Drilling Permit:
Included w/permit - Permit No. - - - - -, P99
Existing well - N/A (if drilled before 7/1/87)
No WD permit? - 046-46A<Irr>-46B-P23 (if drilled after 7/1/87)
SURFACE WATER: not in WD - 01C-P03 (+.2 w/pump), NMR <flow chart>
LOCATION:
Water District - WD No. 75D
Surface water - 005 (req) 01J-P08 <flow chart>
(doesn't sink) or 01H-P01 <flow chart>; NMR
Groundwater - P05 (if well has not been drilled)
In stream channel - 030 (stream channel alteration)
Irrigation Dist. - 023
Canal Co. Areas - 023
Drainage Districts - 024
Flood Control Dist. - 063
Boise Front (63) - 058 (Groundwater temperature)
Swan Falls Flag - 3 <See condition code chart>
Trust - 051-052-053-P74 (Consumptive Uses), NA
Non Trust <1> - 048-049 (Consumptive Uses), NA
RIVER BASINS (Surface): Water District Control Condition (005) &....
Boise (63) - 05A (req), 11E (non-domestic use), NA
Payette (65) - 064 (consump. use), 047-P04 (Payette Lake), NA
Snake (01, 02 & 03) - 11A-P04 (01), 061-P07 (02/03 No W.D.Cond.), NA
USE:
Fish Propagation - 010/06A/09E-P10 (WQ) & 07A-042 (req)
044 (N 1000 Spr)
Irrigation - 803 (if GW use SW 1st) (+5A do POU comp.), NA
Power - 08A-17K-025-027 (req); 01F-P19; 09E-P10;
+25 cfs-P18; 17G(FERC) or 17M(FERE); 18B-P09
Mining - 06A/010/09E-P10 & 054 (req)
Storage (✓ 3 compo.) - 18A-for multi MD in WD, 18B-P09 (+10' dam), NA
Domestic (surface) - 021 (Boise R ↑ L Peak), 27A (Payette R), NA
OWNERSHIP:
Non land owner - 004 (P/D or P/U) - John Milkalka (easement)
PROTESTED:
Prehearing agreement - 020
OTHER CONDITIONS:
REMARKS:
① Recreational use is for a private fish pond. ② W12 ③ W13
BENEFICIAL USE DUE: - 12-1-1994
COMMENTS: - ① Mor Exempt ② Div Desc. ③ P/D owner.

WR0749NP
No. P75-07607

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT
(REGIONAL)

DATE: 11/30/93
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	MILTON KIRK EBERHARD PO BOX 251 CARMEN ID 834620251 (208) 756-4137	10/04/1993	RECREATION	01-01 12-31	0.50 CFS	
TOTAL DIVERSION:					0.50 CFS	

Water Source: CARMEN CREEK

Tributary to: SALMON RIVER

Stage: PERMIT

Point(s) of Diversion: T22N R22E S08 SW SE

Place of use Legal Description for: RECREATION

				NE				NW				SW				SE			
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac
22N	22E	8	:																
																R			

Pou County: LEMHI

Other Water Rights Listing Overlapping Place(s) of use:
75-07425 75-07525

Conditions of Approval:

- 005 - Use of water under this right is subject to control by the watermaster of State Water District No. 75D.
- 01J - A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works prior to diversion of water under this right.
- 004 - The issuance of this right in no way grants any right-of-way or easement across the land of another.

Remarks: Recreational use is for a private use fish pond. Construction of diversion works pursuant to this permit shall provide for adequate fish screening and deflection, minimal streambank disturbance, and adequate water quality in any bypass reach. The Director of the Department retains jurisdiction to require a bypass flow for the maintenance of fish, wildlife, riparian and aquatic habitat.

Dates:	App. Received: 10/04/1993	Priority Date: 10/04/1993
	Proof Due Date: 12/01/1994	Proof Made Date:
	Exam Made Date:	Exam Sent to S.O.:
	Licensed Date:	

Misc: Water District Number: 75D Field Exam Fee:

WR0749NP
No. P75-07607

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT
(REGIONAL)

DATE: 11/30/93
PAGE: 2

=====
Comments: Date: 11/30/1993 User-ID: ZIMMERMA Subject: MORATORIUM EXEMPTION
This permit is located within the Salmon/Clearwater Rivers
Moratorium boundary; however, its recreational use is within the
acceptable parameters of the Moratorium guidelines.

Date: 11/30/1993 User-ID: ZIMMERMA Subject: DIVERSION DESCRIPTION
18" metal headgate with culvert installed in stream bank. Approx
100' ditch constructed from headgate to pond. Metal outlet
culvert. Vee notch weirs at head of ditch & outlet. Inlet
screened & outlet screened to prohibit fish movement. Pond
surface area less than 3600 sq. ft., average depth 6'. Bottom of
pond is a layer of clay which stops water loss, also, bottom of
pond would fill from groundwater. (Total reservoir capacity 0.5
AF; no storage component necessary for 0.5 cfs will fill in less
than 24 hrs.)

Date: 11/30/1993 User-ID: ZIMMERMA Subject: P/D OWNERSHIP
The point of diversion is located on land owned by John Milhalka.
The applicant has an easement with landowner.

Audit: 11/30/93 ZIMMERMA

Form No. 202a
4/87

Dist. for staffing 10-5-93
Submitted for advertising 10-5-93

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATIONS FOR PERMIT ANALYSIS SHEET

757607

INITIAL REVIEW BY HWS
Milton Kirk Eberhard
REQUIRED INFORMATION

DATE 10-5-93

APPLICATION NO. _____

- ☒ Name (If applicant is a corporation or partnership, names must be provided for the director, officers, & other partners.)
☒ Address
☒ Source (See USGS Quad for names of water sources)
☒ Point of Diversion (10 acres for spring, lot & block descriptions for subdivisions, local name, flow and/or volume)
☒ 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
☒ Signature (If applicant is corp. partnership, or municipality, title of signator is required)
☒ Fee
☒ Yes _____ No* In form to receipt

ADDITIONAL INFORMATION

- ☒ Overlapping place of use (Describe source & relationship to present application on the back.)
☒ Overlapping point of diversion
Yes _____ No _____ Field check required
Field check by _____
Yes _____ No _____ Field report attached
Yes _____ No _____ Critical groundwater area
Yes _____ No _____ Groundwater management area
Yes _____ No _____ Send dam safety information
Yes _____ No _____ Send power requirement letter
Yes _____ No _____ Send fish farm requirement letter
Yes _____ No _____ Power residency affidavit
Yes _____ No _____ Power efficiency form
Yes _____ No _____ Within trustwater boundary (If yes, attach trust water supplementary analysis sheet.)
Yes _____ No _____ Diversion greater than 5 cfs or 500 acre ft. (If yes, attach large diversion supplementary analysis sheet.)

See reverse side for additional information

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT _____

Date Requested _____

RECEIVED
NOV 24 1993

Department of Water Resources

PROCESSING Yes No In form for advertising
Yes No Statewide advertising
Yes No Fee amount, receipt date & No. recorded on application

SEND COPIES TO Idaho Dept. of Health & Welfare U.S. BLM
☒ Idaho Dept. of Fish & Game, Salmon U.S. Forest Service
Idaho Dept. of Lands Water District
Adjudication Bureau Unit Other

FINAL REGIONAL PROCESSING REVIEW

☒ Yes No Affidavit of publication received
☒ Yes No Application published correctly. If not, record action taken.

☒ Yes No Publication dates & paper, recorded on application
☒ Yes No Protests received
Final date for protest ~~10-8-93~~ 11-8-93
☒ Yes No Protests, dates, resolution of protest, recorded on application
☒ Yes No Recommendations, attached
☒ Yes No Measuring device required
☒ Yes No Access port required
☒ Yes No Will water be delivered by watermaster? If yes, what Dist. 75-D
☒ Yes No Special conditions of approval or cover letter below.

See below for additional information
Date of priority recommended 10-04-1993
By HWS Date 11-16-93

STATE OFFICE REVIEW

See below for additional information
By Date

ADDITIONAL INFORMATION

Condition

- 1/ That Fish screens at inlet and outlet of pond will be required
- 2/ Delivery of this rt. under the control of the Water Master of 75-D
- 3/ Headgate & measuring device required at headworks

____ City
____ County
____ Reservations

Idaho Fish & Game
Idaho Health & Welfare
Division of Environment

_____ Irrigation District
 _____ Canal Company
 _____ Other

COMMENTS

[illegible]



IDAHO FISH & GAME

SALMON REGION
P.O. Box 1336
Salmon, ID 83467-1336
(208) 756-2271

RECEIVED

OCT 28 1993

Department of Water Resources
Eastern District Office

October 26, 1993

Harold W. Jones
Water Right Supervisor
Idaho Dept. of Water Resources
900 N. Skyline Drive
Idaho Falls, ID 83402

Re: Application No. 75-07607 - Eberhard

Dear Harold:

Department personnel have reviewed Mr. Eberhard's application to divert Carmen Creek water through a proposed private fish pond, have inspected the site with the applicant and have no objection to the issuance of the permit. However, we have some fishery related concerns. Our primary concern regarding this project would be to maintain some minimum flow for fish passage through the section of Carmen Creek between Mr. Eberhard's diversion and return pipe. We also feel that Mr. Eberhard's proposed 18" headgate/culvert is unnecessarily large and would suggest a maximum inflow culvert of 12 inches.

Thank you for the opportunity to comment on this matter.

Sincerely,

Gary Power
Regional Supervisor
Region 7

GP:JRL:jw

c: U.S. Fish and Wildlife Service
Bureau of Fisheries
Natural Resource Policy Bureau
Mark Liter

Cecil D. Andrus / Governor
Jerry M. Conley / Director



Working for wildlife - since 1938

RECEIVED

JAN 20 1994

**NOTICE OF APPLICATION
FOR WATER RIGHT**

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

75-07607

EBERHARD, MILTON KIRK
PO BOX 251
CARMEN, ID 83462
Source: CARMEN CREEK
Tributary: SALMON RIVER

Diversion Pt: SWSE Sec 8 T 22N R
22E In LEMHI County.

Use: RECREATION (.500 CFS)

Total Diversion: (.500 CFS)

Date Filed: 10/4/93

In: LEMHI County

T22N R22E S08 SWSE

The permits(s) will be subject to
all prior water rights. Protests must
be filed with the Director, Dept. of
Water Resources, Eastern Region,
900 N Skyline, Idaho Falls, Idaho
83402 on or before NOVEMBER 8,
1993.

R. KEITH HIGGINSON, Director.
Published: 10/21/1993 & 10/28/1993.
10-21-2tc

Affidavit of Publication

STATE OF IDAHO

County of Lemhi

ss.

RECEIVED

NOV 15 1993

RICKY G. HODGES

Department of Water Resources

being first duly sworn, deposes
and says he is one of the printers (publishers) of the RECORDER-HERALD, a newspaper published
weekly at Salmon, Lemhi County, Idaho, and of general circulation there.

That the NOTICE OF APPLICATION FOR WATER RIGHT

EBERHARD, MILTON KIRK 75-07607

, a true
printed copy of which is attached to the margin hereof, has been and was correctly printed and pub-
lished in the regular and entire issue of every number of said newspaper and not in any supplement
thereof or thereto for TWO (2) consecutive issues commencing with the issue
dated OCT 21 19 93 and ending with the issue date: OCT 28
19 93.

STATE OF IDAHO

COUNTY OF LEMHI

On this 28 day of OCTOBER in the year of 19 93
before me, A Notary Public, personally appeared RICKY G. HODGES
known or identified to me to be the person whose name subscribed to the within instrument, and being
by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he
executed the same.

Rachel E. Snook
Notary Public for Idaho

Residing At Salmon, Idaho

My Commission expires 10-18-97

Publication Fee \$ 31.32

JAN 20 1994

#630

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region
900 N Skyline

Idaho Falls, Idaho 83402
(208) 525-7161

OCTOBER 6, 1993

RECORDER-HERALD
P.O. BOX 310
SALMON, ID 83467

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before NOVEMBER 8, 1993.

Yours truly,

Rita Bodell
Secretary

Encl.

RECEIVED
JAN 20 1994

NOTICE OF APPLICATION FOR WATER RIGHT

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

RECORDED

JAN 20 1994

75-07607

EBERHARD, MILTON KIRK
PO BOX 251
CARMEN, ID 83462

Source: CARMEN CREEK

Tributary: SALMON RIVER

Diversion Pt: SWSE Sec 8 T 22N R 22E in LEMHI County.

Use: RECREATION (.500 CFS)
Total Diversion: (.500 CFS)

Date Filed: 10/ 4/1993

In: LEMHI County
T22N R22E S08 SWSE

RECORDED

JAN 20 1994

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Eastern Region, 900 N Skyline, Idaho Falls, Idaho 83402 on or before NOVEMBER 8, 1993.

R. KEITH HIGGINSON, Director

Published: 10/21/1993 & 10/28/1993

RECEIVED

JAN 20 1994

12-Oct-1993

ID FISH & GAME
SALMON ID SUBREGIONAL OFFICE
PO BOX 1336

RE: Application No. 75-07607

Dear Sir:

We are enclosing a copy of the application(s) that may be of interest to your department. Please review the application(s) and submit any comments you may have to our Department as soon as possible. The last date of protest is 11-08-93 , and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,


Harold W. Jones
Water Right Supervisor

HWJ:rb
enc

ADMITTED FOR FILING

JAN 20 1994

12-Oct-1993

MILTON KIRK EBERHARD
PO BOX 251
CARMEN ID 83462

RE: Application No. 75-07607

Dear Water Right Applicant:

The Department of Water Resources acknowledges receipt of your water right permit. This office is currently in the process of advertising the application in the Recorder Herald on 10-21 & 28-93. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

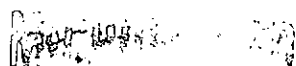
If the application is not protested, it will be forwarded to our State Office in about five weeks. State Office Personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

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

Sincerely,


Harold W. Jones ^{rb}
Water Right Supervisor

HWJ:rb



JAN 20 1994