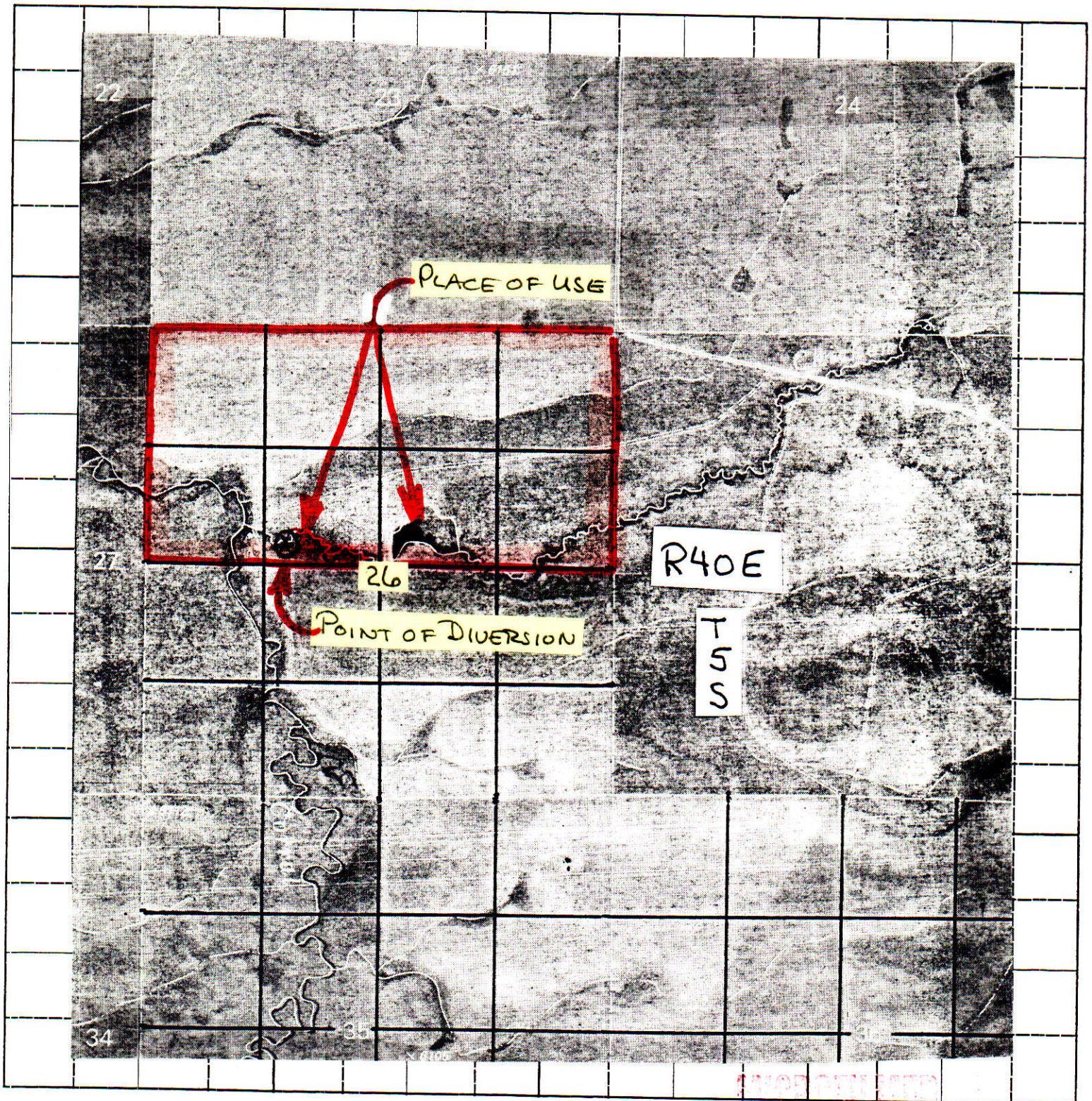
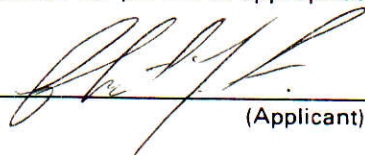


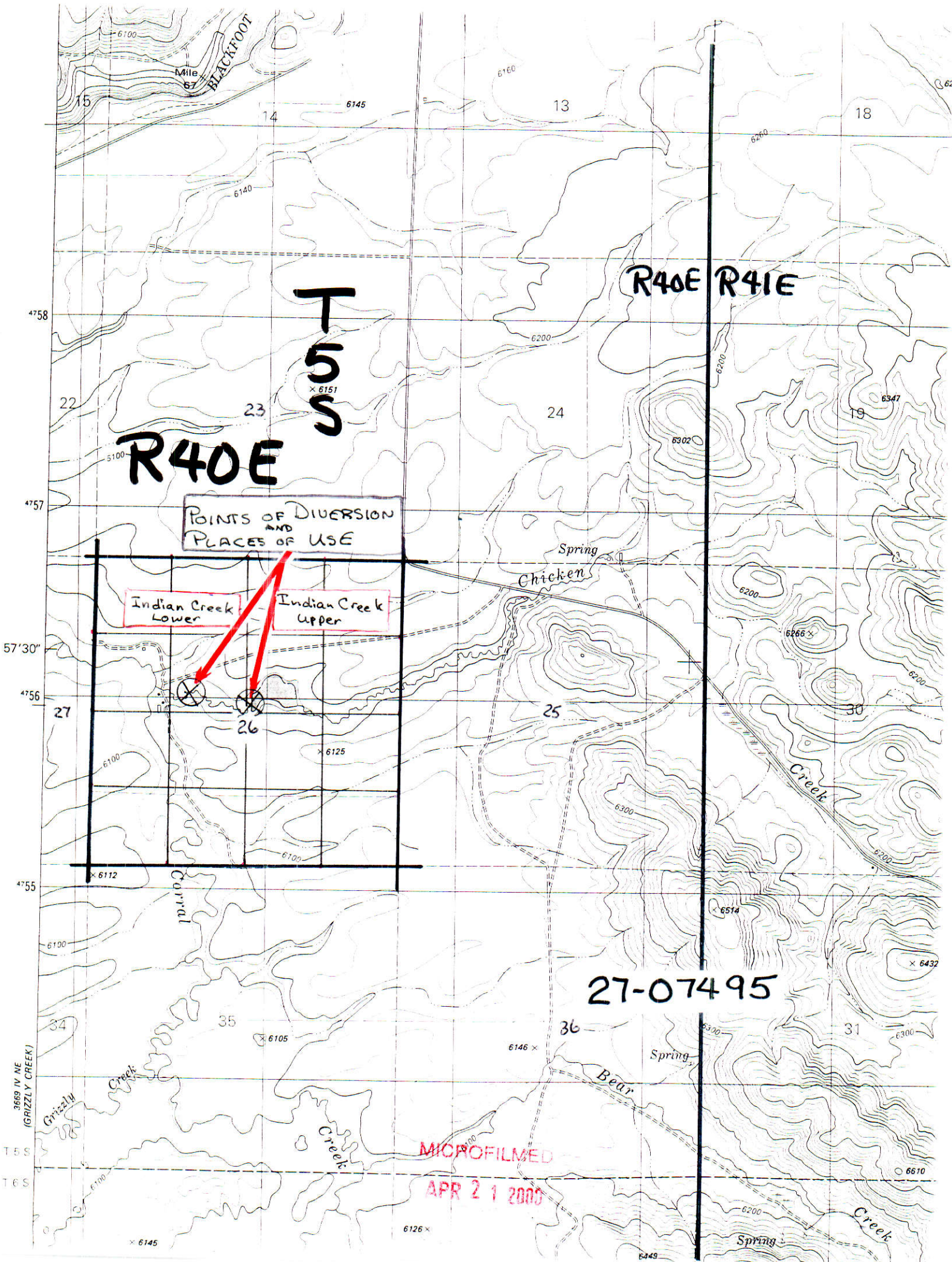
13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



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.


(Applicant)



R40E

T5S

R40E R41E

POINTS OF DIVERSION
AND
PLACES OF USE

Indian Creek
Lower

Indian Creek
Upper

27-07495

MICROFILMED

APR 21 2000

3659 IV NE
(GRIZZLY CREEK)

LOWER INDIAN Creek Reservoir

MICROFILMED
APR 21 2000

27-07495

Lower Indian Creek

4.29.93



APR 21

MICHAEL

SPILLWAY INDIAN CREEK LOWER

27-07495

Lower Indian Cr.
Spillway

8:11:36

MICROFILMED
APR 21 2000

Outlet Control Indian Creek Lower

27-07495

Lower Indian Creek
Outlet Control



Upper Indian Creek Reservoir

APR 21 2000

MICROPH

27-67495

UPPER Indian
Creek dam and
Reservoir

27-67495



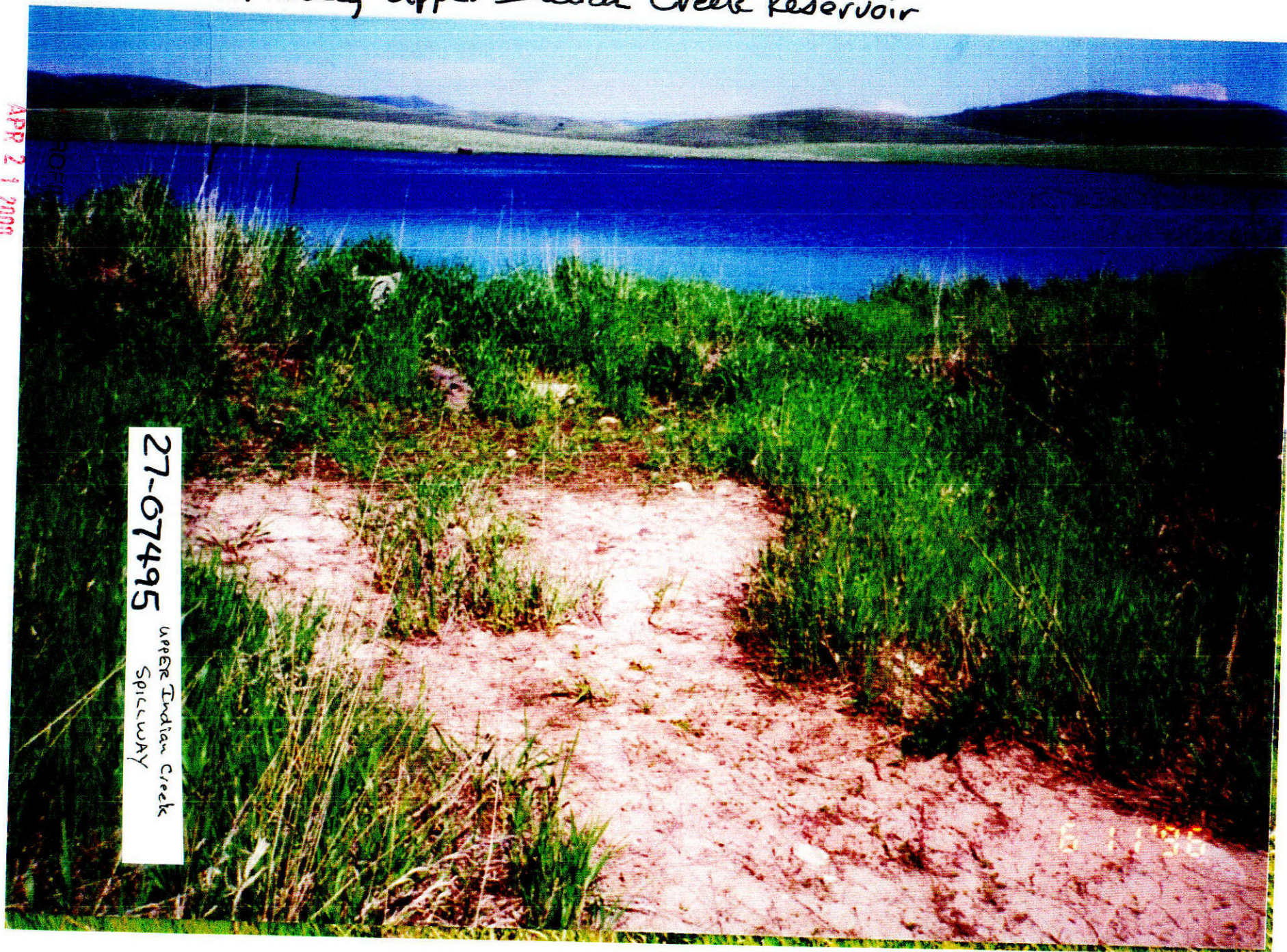
Spillway Upper Indian Creek Reservoir

APR 21 2005

27-07495

Upper Indian Creek
Spillway

6 17 36



Outlet Control Upper Indian Creek Reservoir



27-07495

UPPER Indian Creek
Outlet Control

MICROFILMED

APR 21 2000

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT	)	ORDER GRANTING PETITION
NO. 27-07495 IN THE NAME OF	)	TO REMOVE MEASURING
DAVID M. MODERSITZKI OR	)	DEVICE REQUIREMENT
PHIL J. YOST	)	
_____	)	

This matter having come before the Department of Water Resources (Department) as a petition to remove a measuring device requirement, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On November 15, 1991, the Department issued Permit 27-07495 (permit) to Phil J. Yost and David M. Modersitzki (permit holders) with a condition of approval requiring the installation of permanent measuring devices to measure the amount of water entering the reservoirs and the amount of water released from the reservoirs.
2. On February 18, 2000, the Department received the permit holders' petition to remove the measuring device requirements.
3. The watermaster of Water District No. 27 has informed the department that measuring devices are not necessary for on-stream ponds such as those described in this right. He concurs with the request to remove the condition.

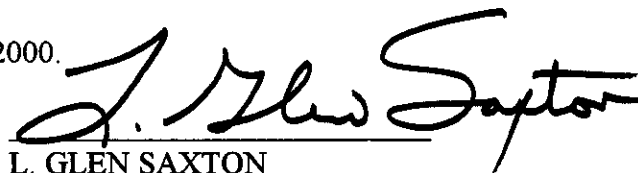
CONCLUSIONS OF LAW

1. Beneficial Use Examination Rule 35.02.d. (IDAPA 37.03.02.35.02.d.) provides for the waiver of a measuring device requirement by the Department.

ORDER

The condition of approval requiring the permanent installation of inlet and outlet measuring devices is **WAIVED**.

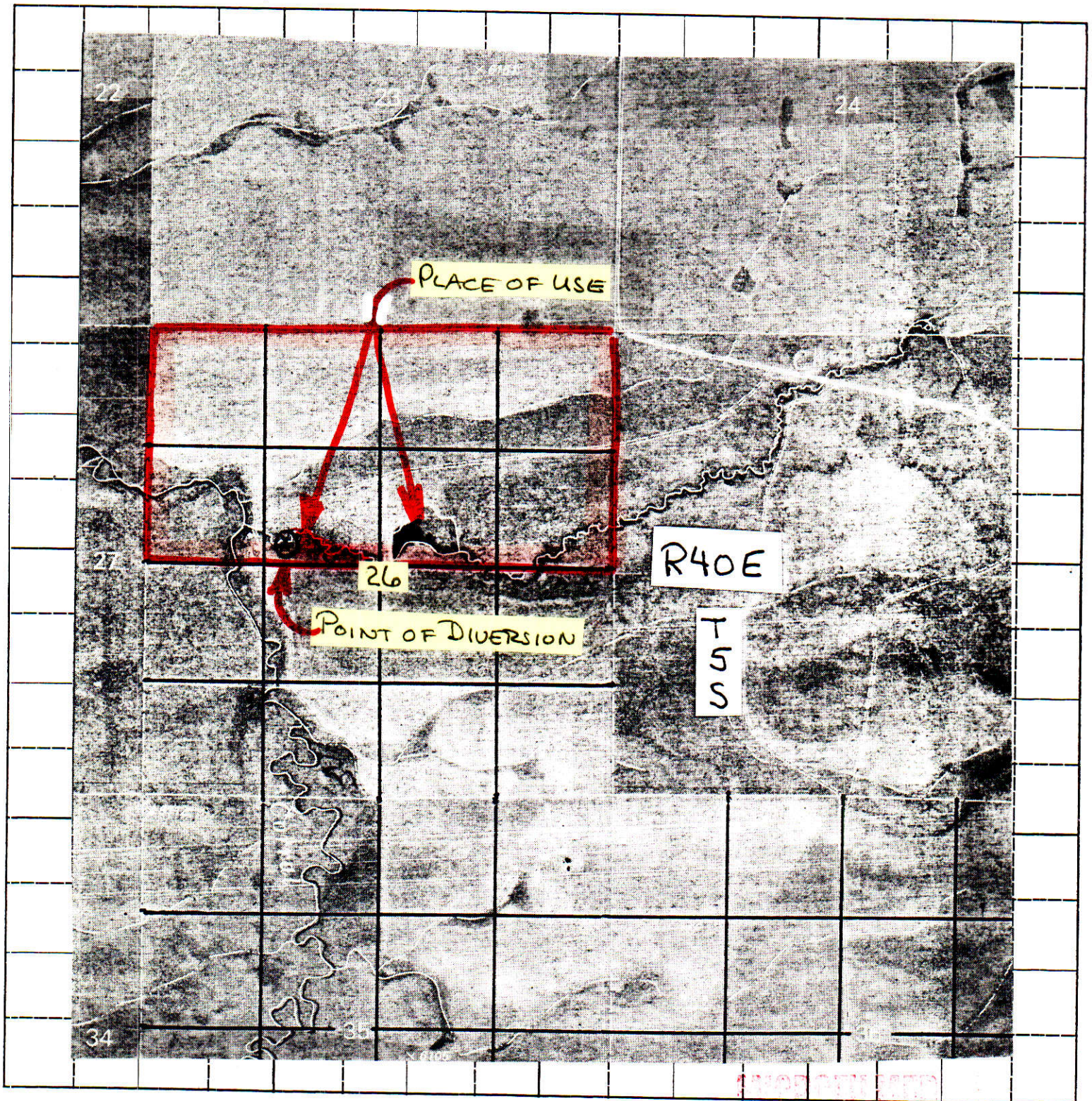
Dated this 20th day of April, 2000.


L. GLEN SAXTON
Chief, Water Allocation Bureau

MICROFILMED

APR 21 2000

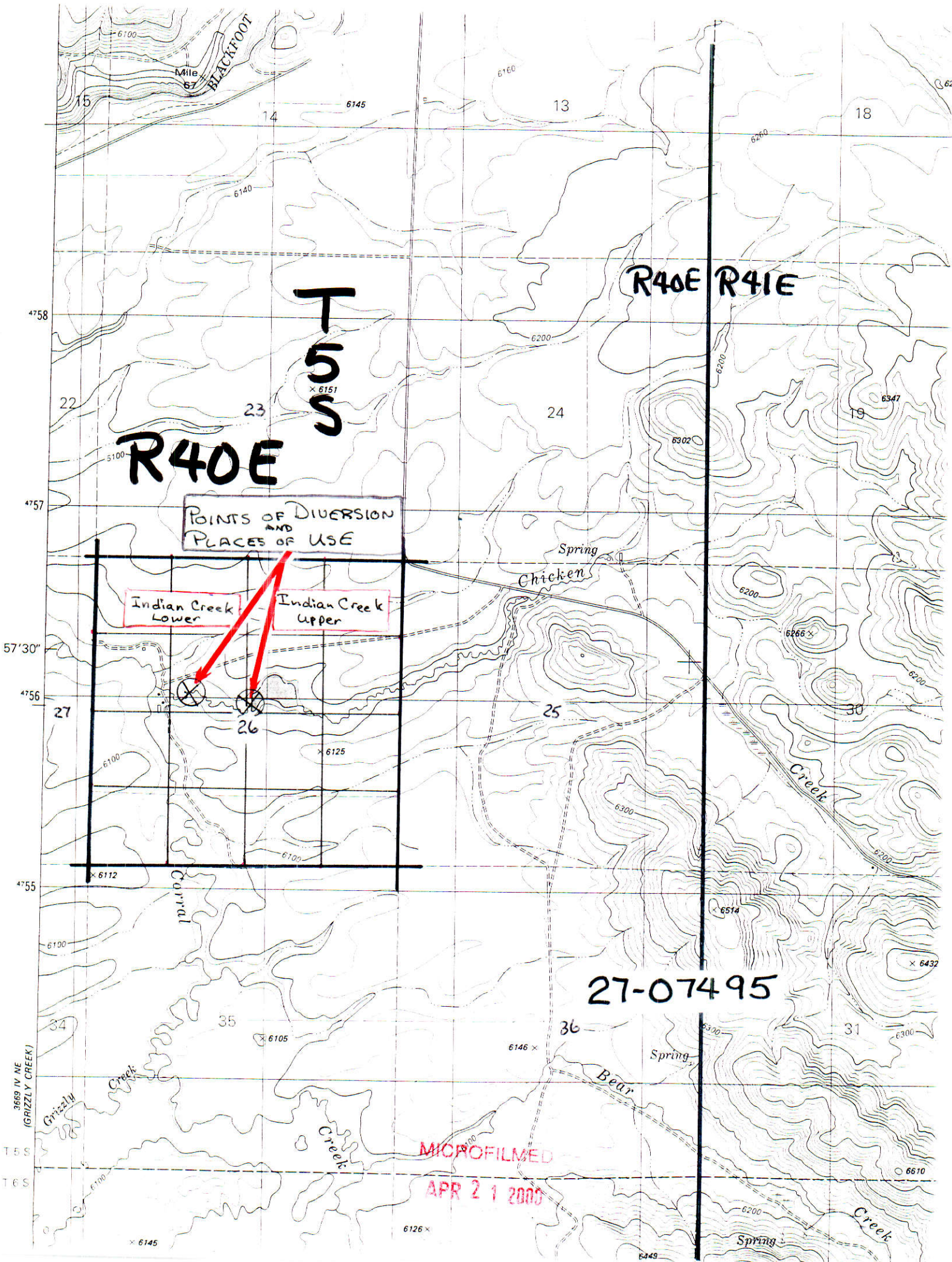
13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



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.

[Signature]
(Applicant)



R40E

T5S

R40E R41E

POINTS OF DIVERSION
AND
PLACES OF USE

Indian Creek
Lower

Indian Creek
Upper

27-07495

MICROFILMED

APR 21 2000

3659 IV NE
(GRIZZLY CREEK)

LOWER INDIAN Creek Reservoir

MICROFILMED
APR 21 2000

27-07495

Lower Indian Creek

4.29.93



APR 21

MICRO

SPILLWAY INDIAN CREEK LOWER

27-07495

Lower Indian Cr.
Spillway

8:11:36



MICROFILMED
APR 21 2000

Outlet Control Indian Creek Lower

27-07495

Lower Indian Creek
Outlet Control



Upper Indian Creek Reservoir

APR 21 2000

MICROPH

27-67495

UPPER Indian
Creek dam and
Reservoir

27-67495



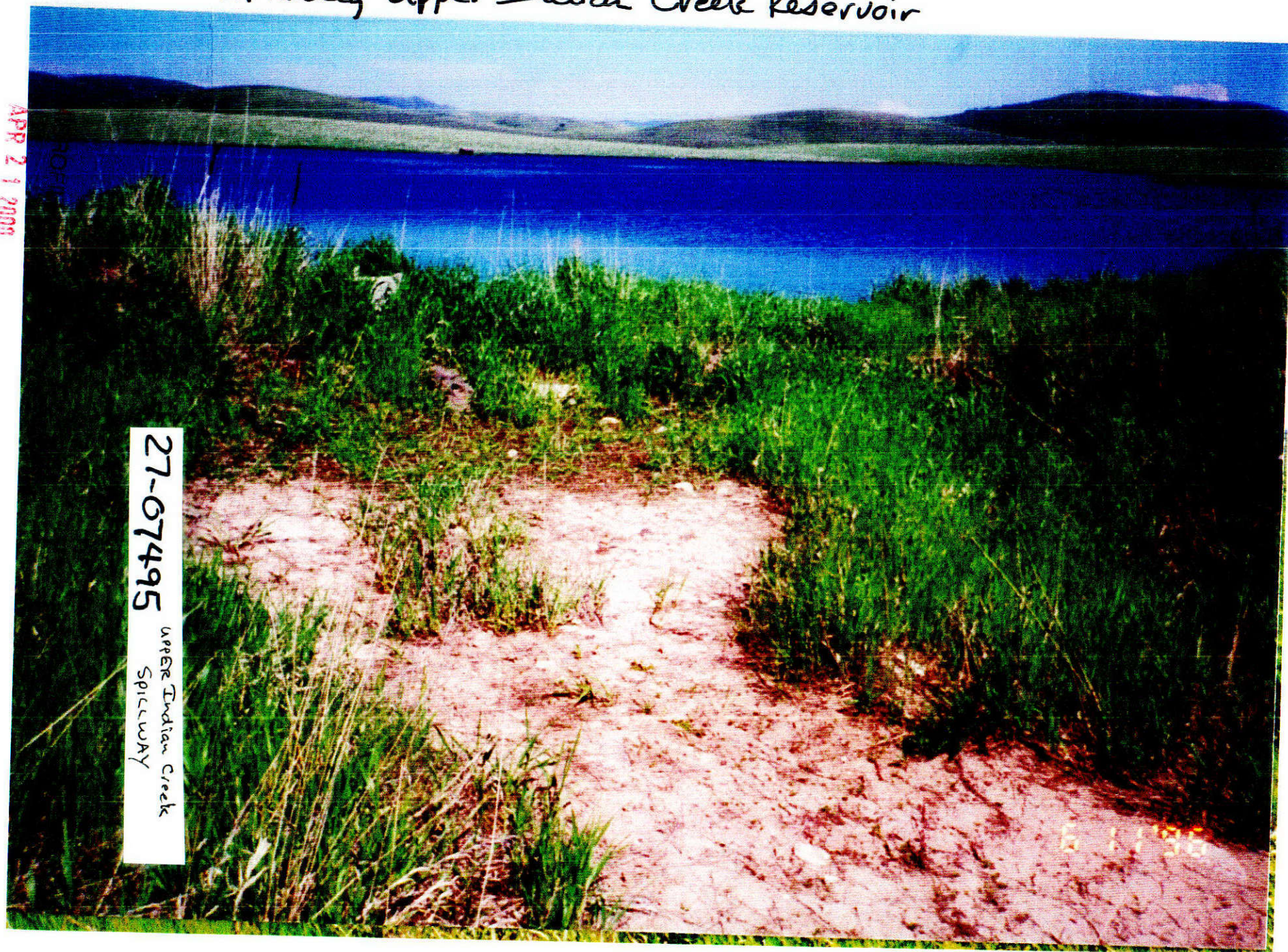
Spillway Upper Indian Creek Reservoir

APR 21 2005

27-07495

Upper Indian Creek
Spillway

6 17 36



Outlet Control Upper Indian Creek Reservoir



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APR 21 2000

27-07495

UPPER Indian Creek
Outlet Control

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 27-07495

Priority: February 25, 1990

Maximum Storage Volume:

49.0 AF

This is to certify, that DAVID M MODERSITZKI
PHIL J YOST

RT 1 BOX 1560

BANCROFT ID 83217

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated February 12, 1990; and has submitted Proof of Beneficial Use on November 30, 1994. An examination indicates that the works have a storage capacity of 0.000 af of water from:

CHICKEN CREEK

tributary to CORRAL CREEK

source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
RECREATION STORAGE	01/01 to 12/31		49.0 AF

LOCATION OF POINT(S) OF DIVERSION:

SWNE , Sec. 26, Township 05S, Range 40E
SENEW , Sec. 26, Township 05S, Range 40E
CARIBOU County

PLACE OF USE: RECREATION STORAGE

TWN RGE SEC

05S 40E 26

SWNE

SENEW

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 27.
2. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
3. The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
4. Use of water under this right shall be non-consumptive.
5. Recreation storage is for 2 fish ponds.

MICROFILMED

APR 21 2000

State of Idaho
Department of Water Resources

Water Right License

WATER RIGHT NO. 27-07495

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 administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Signed and sealed this 20th day of

April, 2000

K. J. Dreher
for KARL J. DREHER, Director

MICROFILMED
APR 21 2000

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 27-07495	)	
	)	
IN THE NAME OF PHIL J. YOST & DAVID M.	)	ORDER OF
MODERSITZKI	)	REINSTATEMENT
	)	

WHEREAS, the Department issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted on or before November 1, 1994; and,

WHEREAS, the Department notified the permit holder on August 31, 1994, by certified mail that proof was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use; and,

WHEREAS, on September 12, 1994, the permit holder submitted an Extension of Time Request which the Department could not process without receiving further information from the permit holder; and,

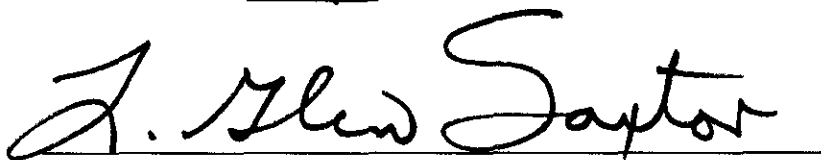
WHEREAS, the Department notified the permit holder on November 17, 1994, that the permit had lapsed for failure to submit the requested information related to the extension request; and,

WHEREAS, Section 42-218a, Idaho Code, provides that a permit may be reinstated upon a showing of reasonable cause within sixty days of the date of the notice of lapsing; and,

WHEREAS, the permit holder has provided a reasonable showing why the permit should be reinstated by submitting an acceptable proof of beneficial use on November 30, 1994;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 27-07495 be REINSTATED with an advance in priority to February 25, 1990.

Dated this 19th day of December, 1994.



L. GLEN SAXTON
Chief, Water Allocation Bureau

DEC 22 1994

RECEIVED

NOV 30 1994

Department of Water Resources

No ✓

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

OFFICE USE ONLY

Amt. of Fee \$ 100.00

Date 11-22-94

Receipt No. FD20516

Receipt by RB

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 a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 27-07495 Telephone No. (208) 425-3875

2. Name(s) of Permit Holder(s): Phil J Yost David m modersitzki

3. Mailing Address: 1760 Rich Rd Grace, Id 83241

4. Source of Water: Chicken Creek Tributary of Corral Creek

If GROUNDWATER, Well Driller's Name: _____ Date Drilled: _____

OPTIONAL:

Pump horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft.): _____

5. Extent of Use (as authorized by the permit):

Domestic _____ (No. of households) Stockwater _____ (No. and type of stock)

Irrigation _____ (No. of acres) Other Recreation Storage

6. Total rate and/or volume for which proof is submitted _____ cfs OR 49.0 acre/feet

7. Refer to the approval conditions on your permit and respond accordingly:

Measuring device: Required? _____ Yes NO Installed? _____ Yes _____ No

OR

Flow Measurement Port: Required? YES No Installed? _____ Yes _____ No

8. Fee Enclosed: \$ 100.00 (See License Fee Schedule on back of Instruction Sheet)

9. Person to contact to accompany the Department representative during field examination of the water system.

Phil Yost
Name

(208) 425-3875
Telephone No.

1760 Rich Rd Grace, Id 83241
Address

10. The above information 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.

Nov. 10, 94
Date

Phil Yost
Signature (and title, if on behalf of a company or organization)

DEC 22 1994

State of Idaho
Department of Water Resources
Permit To Appropriate Water
NO. 27-07495

Proposed Priority: February 12, 1990

Maximum Storage Volume: 49.0 AF

This is to certify, that **PHIL J YOST**
DAVID M MODERSITZKI
1760 RICH RD
GRACE ID 83241

has applied for a permit to appropriate water from:

CHICKEN CREEK

tributary of **CORRAL 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>
RECREATION STORAGE	11/01 to 04/01		49.0 AF
RECREATION FROM STORAGE	01/01 to 12/31		49.0 AF
	Totals		49.0 AF

LOCATION OF POINT(S) OF DIVERSION:

SWNE Sec. 26, Township 05S, Range 40E
SENW Sec. 26, Township 05S, Range 40E
CARIBOU County

PLACE OF USE: RECREATION FROM STORAGE, same as use

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **November 1, 1994**.
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. Use of water under this right is subject to control by the watermaster of State Water District No. 27.
5. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
6. The Director retains jurisdiction of the right and any license subsequently issued to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
7. Permanent measuring devices must be installed in such a manner that the amount of water entering the reservoir and the amount of water released from the reservoir can be measured.

MICROFILMED

DEC 09 1991

State of Idaho
Department of Water Resources

Permit To Appropriate Water

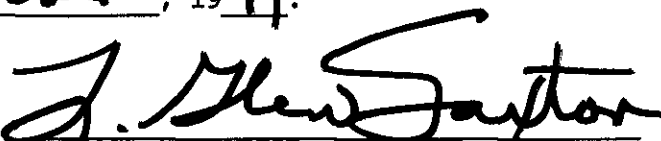
NO. 27-07495

CONDITIONS/REMARKS:

8. Use of water under this right shall be non-consumptive.
9. Recreation use is for a fish ponds.

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

15 th day of November, 1991.

for 
R. Keith Higginson, Director

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DEC 09 1991

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Phil J. Yost or David M. Modersitzki Phone 648-7722
425-3875
Post office address 1760 RICH RD, GRACE IDAHO 83241
R.R. 1, Box 1560 BANCROFT Idaho 83217
2. Source of water supply Chicken Creek which is a tributary of Corral Ck
3. Location of point of diversion is _____ 1/4 of SE 1/4 of NW 1/4, Govt. Lot _____
Sec. 26 Township 5S Range 40E B.M. Caribou County; additional
points of diversion if any: SW NE S26 T5S R40E
4. Water will be used for the following purposes: D.M. 10-23-91
Amount 49 for STORAGE FOR Recreation purposes from 11/1 to 4/1 (both dates inclusive)
(cfs or acre-feet per annum) ~~IRRIGATION FOR Recreation~~
Amount 49 for STORAGE purposes from 11/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum) ~~IRRIGATION FOR Recreation~~
Amount 3.0 for Irrigation purposes from 4/1 to 11/1 (both dates inclusive)
(cfs or acre-feet per annum) ~~IRRIGATION FOR Recreation~~
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 3.0 and/or (b) 49
cubic feet per second acre feet per annum
6. Proposed diverting works: D.M.
a. Description of ditches, flumes, pumps, headgates, etc. On stream reservoirs (2)
pumps mainline to laterals with sprinklers
b. Height of storage dam 9 1/2 feet; active reservoir capacity 49 acre-feet; total
reservoir capacity 65 acre-feet; period of year when water will be diverted to storage:
11/1 to 4/1 inclusive.
c. Proposed well diameter is NA inches; proposed depth of well is NA 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
5 years (minimum 1 year).

RECORDED

DEC 09 1991

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

- Hydropower; show total feet of head and proposed capacity in KW. _____
- Stockwatering; list number and kind of livestock. _____
- Municipal; show name of municipality. _____
- Domestic; show number of households. _____
- Other; describe fully. _____

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- 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	
5S	40E	26	40	40	30	40	40	40	40	30									~~300~~
					R					R									

Total number of acres to be irrigated ~~300~~

10. Describe any other water rights used for the same purposes as described above. ~~27 4010~~

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

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

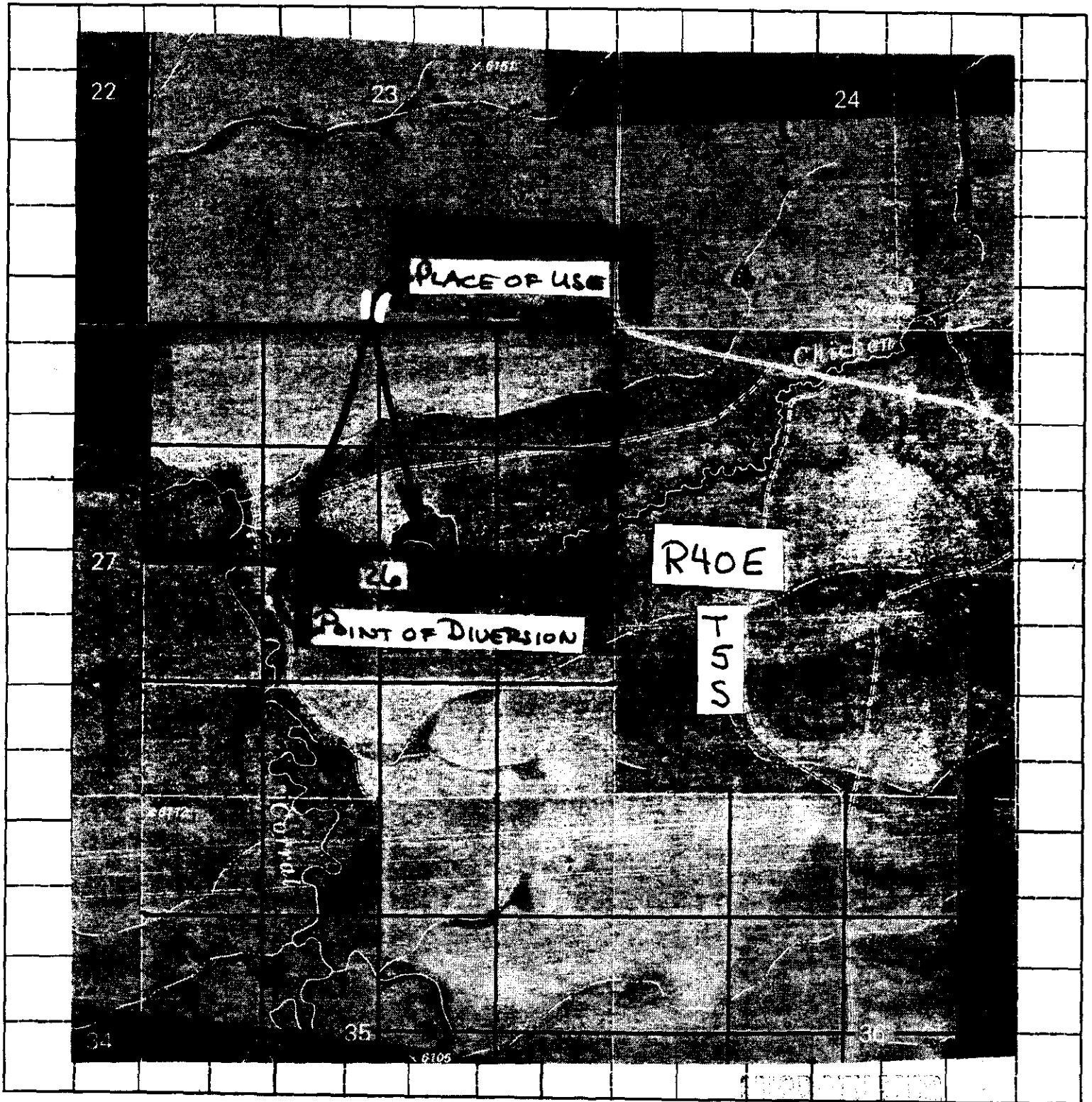
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: PERMIT replaces lapsed permit 27 7118

INDEXED

DEC 09 1991

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.

DEC 09 1991
[Signature]
(Applicant)

Assisted By KW

Received by _____ D. 12 Feb 1990 Time 1140hrs Pre-inary check by _____

Fee \$ 85⁰⁰ Received by KW # E012017 Date Feb 12 1990

Publication prepared by LB Date 4-19-26-90 Published in Caribou Cnty Sun

Publication approved kw Date 6-14-90

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:

RECEIVED

DEC 09 1991

MAY 11 1990

Department of Water Resources
Eastern District Office

PUBLIC NOTICE

First Time Published

NOTICE OF APPLICATION FOR WATER RIGHT

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

24-07176

NATE, ROBERT L.
385 SHELLEY AVE.
SHELLEY, ID 83274
Source: CROW CREEK trib. to
SALT RIVER
Diversion Point: SESWSW Sec 1 T
10S R 45E
Use: IRRIGATION (.030 CFS),
Total Diversion: (.030 CFS)
Date Filed: 1-30-1990
In: T10S R45E S01 SWSW, 1.0
ACRES TOTAL

27-07494

MODERSITZKI, DAVID M.
YOST, PHIL J.
1760 RICH RD.
GRACE, ID 83241
Source: GROUNDWATER
Diversion Point: NENE Sec 35 T
05S R 40E
Use: IRRIGATION (6.670 CFS),
Total Diversion: (6.670 CFS)
Date Filed: 2-12-1990
In: T05S R40E S26 NESE NWSE
SWSE SESE, S35 NENE NWNE
SWNE SENE, S36 NENW NWNW
SWNW SENW, 480.0 ACRES TOTAL

27-07495

MODERSITZKI, DAVID M.
YOST, PHIL J.
1760 RICH RD.
GRACE, ID 83241
Source: CHICKEN CREEK trib. to
CORRAL CREEK
Diversion Point: SENW Sec 26 T
05S R 40 E
Use: IRRIGATION (3.000 CFS),
IRRIGATION STORAGE (49.00
AF), IRRIGATION FROM STOR-
AGE (49.00 AF), Total Diversion:
(3.000 CFS) (49.00 AF)
Date Filed: 2-12-1990
In: T05S R40E S26 NENE NWNE
SWNE SENE, NENW NWNW
SWNW SENW, 300.0 ACRES TOTAL

27-07503

RHONE-POULENC
P.O. BOX 160
MONTPELIER, ID 83254
Source: SPRING
Diversion Point: NWSENE Sec 27
07S R 43E
Use: STOCKWATER (.100 CFS)
Total Diversion: (.100 CFS)
Date Filed: 2-8-1990
In: T07S R43E S27 SENE
27-07504

RHONE-POULENC
P.O. BOX 160
MONTPELIER, ID 83254
Source: GROUNDWATER
Diversion Point: NESWSE Sec 23
07S R 43E
Use: COMMERCIAL (.080 CFS)
Total Diversion: (.080 CFS)
Date filed: 2-8-1990
In: T07S R43E S23 SWNE
27-07505

RHONE-POULENC
P.O. BOX 160
MONTPELIER, ID 83254
Source: GROUNDWATER
Diversion Point: NWNW Sec 23
07S R 43E
Use: COMMERCIAL (.080 CFS)
Total Diversion: (.080 CFS)
Date Filed: 2-8-1990
In: T07S R43E S23 NWNW
27-07506

RHONE-POULENC
P.O. BOX 160
MONTPELIER, ID 83254
Source: GROUNDWATER
Diversion Point: NENWNE Sec 22
07S R 43E
Use: INDUSTRIAL (1.120 CFS)
Total Diversion: (1.120 CFS)
Date Filed: 2-8-1990
In: T07S R43E S14 SWSW

The permit(s) will be subject to a
prior water rights. Protests may be
submitted based on the criteria of Se-
42-203A, Idaho Code and-or the ne-
public interest criteria of Sec. 42-203C
Idaho Code. Protests must be filed with
the Director, Dept. of Water Resource
150 Shoup Ave., Suite 15, Idaho Falls
Idaho 83402 on or before MAY 7, 1990.

R. KEITH HIGGINSON,
Director

Published April 19 and 26, 1990
the Caribou County Sun.

MICROFILMED

DEC 09 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

April 20, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

DAVID M MODERSITZKI
PHIL J YOST
RT 1 BOX 1560
BANCROFT ID 83217

RE: WATER RIGHT NO. 27-07495

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed license confirming that a water right has been established in accordance with the permit referenced above. 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 of the Department unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

Also, please note that water right owners are required to report any change of water right ownership and/or change of 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 reporting form.

If you have any questions, please call me at 208-327-7946.

Sincerely,

FOR Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosure

MICROFILMED

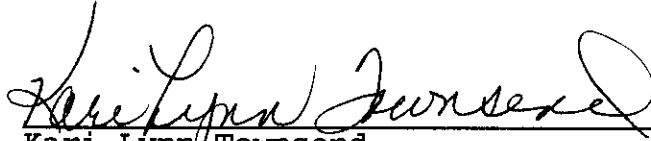
APR 21 2000

CERTIFICATE OF MAILING

I hereby certify that on the 20th day of April, 2000, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

Water Right No. 27-07495

DAVID M MODERSITZKI
PHIL J YOST
RT 1 BOX 1560
BANCROFT ID 83217


Kari Lynn Townsend
Secretary

MICROFILMED
APR 21 2000

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. **A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief 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 the 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 a 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. Otherwise, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have fourteen (14) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

CERTIFICATE OF SERVICE

All documents intended to be part of the Department record in connection with a preliminary order shall be served upon the representatives of each party of record. Every document filed with and intended to be part of the agency record must be attached to or accompanied by proof of service by the following or similar certificate.

I HEREBY CERTIFY (swear or affirm) that I have this day of _____, served the foregoing (name(s) of document(s)) upon all parties of record in this proceeding, (by delivering a copy thereof in person: (list names)) (by mailing a copy thereof, properly addressed with postage prepaid, to: (list names)).
(Signature)

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APR 21 2000

ORAL ARGUMENT

If the Department grants a petition to review a preliminary order, the Department 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 Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case.

FINAL ORDER

The Department 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 Department 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.

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.

RIGHT TO HEARING

Pursuant to Section 42-1701A(3), Idaho Code, unless the right to a hearing before the Department is otherwise provided by statute, any person aggrieved by any decision, determination, order, or action of the Department or any applicant for any permit, license, certificate, approval, registration, or similar form of permission required by law to be issued by the Department, who is aggrieved by a denial or conditional approval ordered by the Department, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the Department to contest the denial or conditional approval upon filing with the Department, within fifteen (15) days after receipt of the denial or conditional approval, a written permission stating the grounds for contesting the action by the director and requesting a hearing.

APPEAL OF FINAL ORDER TO DISTRICT COURT

If a preliminary order becomes final, any party aggrieved by the final order or orders previously issued in the 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 (a) a hearing was held, or (b) the final agency action was taken, or (c) the party seeking review of the order resides, or (d) 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. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. See Sections 67-5270 through 67-5273, Idaho Code.

MEMORANDUM

TO: File 27-07495

FROM: Sharla

DATE: April 18, 2000

RE: Recommendation Adjustment(s)

The adjustments to licensing recommendations for Permit 27-07495 are as follows:

H. RECOMMENDATIONS

Recreation Storage	1/1 – 12/31	49.0 af
--------------------	-------------	---------

There is no diversion from storage; the only use should be recreation storage with year-round season.

On 4/19/00 I spoke with John Davidson (watermaster of District 27) concerning the right holder's request for removing the measuring device requirements. He told me that he saw no need for measuring devices for their fishing ponds and unless the right holders used the creek for irrigation, he wouldn't have a reason to support requiring the devices.

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LICENSE REVIEW CHECKLIST

Reviewed by Sharla Curtis on 4/16/00

Permit No. 27-07495

BU Fee Pd \$ 10000

Name/Address: OK CHANGE

Govt Lots n/a plat copy attached

AREA OF CONCERN: No/Yes SR Moratorium GWMA TRUST/~~NON-TRUST~~

GROUNDWATER: (✓Flow Chart)

Supp irr (irr = only use) - 065-104
Supp irr (+ other uses) - 100-105
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 01M (if on permit)

SURFACE WATER: (✓Flow Chart)

In/Above MSF - WB9
WD 27 (WD# 27)
≤ 0.20 cfs/others - R02- 01P or No MD
> 0.20 cfs - R43

LOCATION:

~~Trust~~ - R55(consumptive uses)
~~Non-Trust~~ 048-049 (consumptive uses
or non-cons. > 1.0 cfs)

PD Change - P39/P47 - feds(P40)
PD Add - P45/P42

PU Change - P41/P47 - feds(P43)
PU Add - P41/P42

PD & PU Change - P37 - feds(P48)

SPRINGS/SINK, INACTIVE WD & REST OF STATE

≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 01M or No MD

RIVER BASINS: (SW special considerations)

Snake R (01) - W22, N/A
(02,03) - WB9 if above Weiser
Payette R (65) - 047(Payette Lake)
Salmon R (70's) - 029 (fish screens)
Weiser R (67) - 086-087

USES:

~~STORAGE~~ 28A-R02-01P-18B-NA
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)
> 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)
STOCK WATER - R37 (BLM/USFS)
MINING - 081
FISH/PROP - 029(70'S only)-042-081
HEAT/COOL - R07(injection well)
FIRE PROT. - 077

Use Change/Add - P46

USES:

POWER - R22-R23 (+uses)-025-081-W42-W43-027
MUNICIPAL
Restricted area - 022,075
Irr. GW supp to SW - 102
DOMESTIC
Surface water - WB5 (Big Wood or Boise above Star Bridge)
27A (Payette R)
>1 in restricted area - 070-071-075(no parks/common areas, etc)
In use listed separate - WB5
Lawn/garden included - W01

ADVANCE PRIORITY? Yes ✓ No

MISC CONDITIONS/REMARKS:

Multiple pd's per ¼ - W32
Subd lot desc (pd) - W59
Subd lot desc (pu) - W60
Use definitions - W02 example - C/tire shop
~~Non-consumptive~~ 027
Water Quality - 081-R07
Mitigation - 121 (if on permit)
PPU/acre limit - W27

CHECK NEW IRR SEASON MAP

OVERLAP ANALYSIS/RATES/VOLUMES:

PD overlap rights - W35-W36 Right #
PU overlap rights - WB7-W31(<1 ac)
GW replaced SW - 050

Permit Rate 19 af cfs Fee Limit 100 af cfs
Measured 63 af cfs Theoretical cfs

Use	Rate	Volume
<u>Pd 50</u>	<u> </u> cfs	<u>19.0</u> af
<u> </u>	<u> </u> cfs	<u> </u> af
<u> </u>	<u> </u> cfs	<u> </u> af
TOTALS	<u> </u> cfs	<u> </u> af

OTHER CONDITIONS/REMARKS/COMMENTS There is no no from storage

SRBA Claim Filed Yes ✓ No

If no, is a claim required: Yes ✓ No

AMENDMENTS REQUIRED Yes ✓ No

Adjustment Memo Needed Yes ✓ No

If yes, paragraph codes:

RECEIVED

MAR 1 2000

Department of Water Resources

MEMORANDUM

TO: Shelley Keen

02/24/2000

FROM: Keith C. Wilson

RE: Recommendations on Permit 27-07495

As per you request from 02/23/2000:

Recommendations are noted on the attached copy of the first and last page of the field exam report.

Also attached is the copy of the letter from Phil Yost with the hand written request for my recommendation.



Keith C. Wilson
Senior Resource Agent

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APR 21 2000

State of Idaho Dept. of Water Resources
Water Allocation Section
1301 North Orchard Street
Boise, Idaho 83706

RECEIVED

FEB 18 2000

Department of Water Resources

Dear Water Dept.,

We recently received a letter from the Idaho Falls Office on the Conditions pertaining to the Water permit #27-07495 to appropriate water of two dams on some property we had bought. The beneficial use of these dams is for Recreational storage. The dams were constructed before we acquired said property. The reservoirs are used strictly for recreational use. The water level is never increased or decreased. The current level on both reservoirs is at the same level as when we purchased the property. We have no future plans of ever increasing the level or decreasing the level in each of the reservoirs. We have spill ways and also a diversion for the stream to continue to flow through the reservoirs. The Idaho Falls Office Senior Resource Agent, Mr. Keith Wilson has recommended that we write to you requesting that condition # 7 be removed. They have done several field exams and feel that we do not need this measuring device. They have also referred to the Safety of Dams File writing this recommendation. We would like to thank you for your help in this matter. We hope that you will remove this condition from the permit. If there are any questions pertaining to this matter please ~~feel~~ free to call me : Phil Yost (208) 425 - 3875, or David Modersitzki (208) 648 - 7722 (we are both owners of said property and permit)

Sincerely,



Phil Yost
1780 Rich Road
Grace, Idaho, 83241
Phone # 208 - 425 - 3875

Shelley
- Request to
remove
meas
device
cond.

- need recomm
from Mr. Wilson?

MY
2-18

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APR 21 2000

CHANGE IN ADDRESS

This form is solely for purposes of notifying IDWR of a change in address of an adjudication claim.

[] Water Right Number(s): 27-07495

[] Old Mailing Address: 1760 Rich Rd

Grace Id 83241

[] New Mailing Address: 1780 Rich Rd

Grace Id 83241

[] Telephone Number: (208) 425-3875

[] Signature of Claimant: Phil York

[] Date: Feb. 14, 99

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: By:

Further Action Needed:

Further Action Taken

Date: By:

Final Review and Data-Entry

Date: 3.3.00 By: Ket

RECEIVED

FEB 18 2000

Department of Water Resources

RECEIVED

MAR 3 - 2000

Department of Water Resources

MICROFILMED

APR 21 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

March 1, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

JOHN DAVIDSON
WATERMASTER
PO BOX 8
FIRTH ID 83236-0008

RE: Permit 27-07495

Dear John:

We have recently received a letter from the permit holder(s) regarding the possibility of removal of a measuring device condition on the above referenced permit.

I will appreciate your review of this letter (copy enclosed) and receiving your comments regarding the permit holder(s) request within thirty (30) days.

If you have any questions regarding this matter, please call me at 208-327-7946.

Sincerely,

for Shelley Walter Keen
Shelley Walter Keen
Water Rights Supervisor

SWK:klt

Enclosure

cc: Phil Yost

MICROFILMED

APR 21 2000

State of Idaho Dept. of Water Resources
Water Allocation Section
1301 North Orchard Street
Boise, Idaho 83706

RECEIVED

FEB 18 2000

Department of Water Resources

Dear Water Dept.,

We recently received a letter from the Idaho Falls Office on the Conditions pertaining to the Water permit #27-07495 to appropriate water of two dams on some property we had bought. The beneficial use of these dams is for Recreational storage. The dams were constructed before we acquired said property. The reservoirs are used strictly for recreational use. The water level is never increased or decreased. The current level on both reservoirs is at the same level as when we purchased the property. We have no future plans of ever increasing the level or decreasing the level in each of the reservoirs. We have spill ways and also a diversion for the stream to continue to flow through the reservoirs. The Idaho Falls Office Senior Resource Agent, Mr. Keith Wilson has recommended that we write to you requesting that condition # 7 be removed. They have done several field exams and feel that we do not need this measuring device. They have also referred to the Safety of Dams File writing this recommendation. We would like to thank you for your help in this matter. We hope that you will remove this condition from the permit. If there are any questions pertaining to this matter please feel free to call me : Phil Yost (208) 425 - 3875, or David Modersitzki (208) 648 - 7722 (we are both owners of said property and permit)

Sincerely,



Phil Yost
1780 Rich Road
Grace, Idaho, 83241
Phone # 208 - 425 - 3875

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APR 21 2000

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
FEB - 9 2000
K
Department of Water Resources

A. GENERAL INFORMATION

Permit No. 27-07495
1. Owner: Phil J Yost / David M Modersitzki Phone No. (208) 425-3875
Current Address: 1760 Rich Rd GRACE Id 83241
2. Accompanied by: N/A (See item H) EXAM. DATE: Feb 3, 2000
Address: _____ Phone No. _____
Relationship to Permit Holder: _____
3. Source: Chicken Creek tributary to CORRAL CREEK

B. OVERLAP REVIEW

1. Other water rights with same place of use: _____
_____ ☐ Copies Attached
2. Other water rights with same point of diversion: _____
_____ ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached

SEE ATTACHED PHOTOS

Scale: 1" = _____

2. ☒ Copy of U.S.G.S. 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 or more).
☒ Photo of Diversion and System Attached
(required for all but single household domestic groundwater, and stockwater).

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System Description (continued)

3. **Narrative:** Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

Two dams on Chicken Creek create two reservoirs (Upper Indian Creek Reservoir; Lower Indian Creek Reservoir) Both reservoirs are on stream

NOTE: There is enough information in the Safety of Dams Program Files to indicate that both the upper & lower reservoirs were developed under lapsed permits 27-7118 & 27-7127.

☐ See Remarks on page 4 for continuation

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

5. **Point(s) of Diversion:**

Ident. No.	Gov't. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
UPPER		SW	SW	NE	26	5S	40E	Caribou	On site by Safety of Dams personnel
LOWER		SW	SE	NW	26	5S	40E	Caribou	"

6. **Place(s) of Use:**

Indicate Method of Determination

Twp.	Rge.	Sec.	NE¼			NW¼			SW¼				SE¼				Totals		
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼		SW¼	SE¼
UPPER INDIAN CREEK	RESERVOIR																		
5S	40E	26			R														
LOWER INDIAN CREEK	RESERVOIR																		
5S	40E	26							R										

Do not use this space

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APR 21 2000



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

February 3, 2000

Phil J. Yost
1760 Rich Rd
Grace, ID 83241

RE: Conditions of Permit 27-07495

Dear Mr. Yost:

Condition number 7, of permit 27-07495, is as follows:

"Permanent measuring devices must be installed in such a manner that the amount of water entering the reservoir and the amount of water released from the reservoir can be measured."

This condition must be met before the permit can be licensed; however, you may request in writing that this condition be removed. The Safety of Dams program file on your reservoirs lists them as low risk that may not require this condition.

The inspection of the reservoirs under the Safety of Dams Program can meet the requirement of a licensing field examination. To facilitate the licensing of permit 27-07495, I used the information in the Safety of Dams file to write up my recommendations. I will send my recommendations to Boise this week. Therefore, if you would like to have the condition removed please write the state office at the following address, requesting that the condition be removed:

Idaho Department of Water Resources
Water Allocation Section
1301 N Orchard St
Boise, ID 83706

Your prompt action will facilitate the licensing of permit 27-07495.

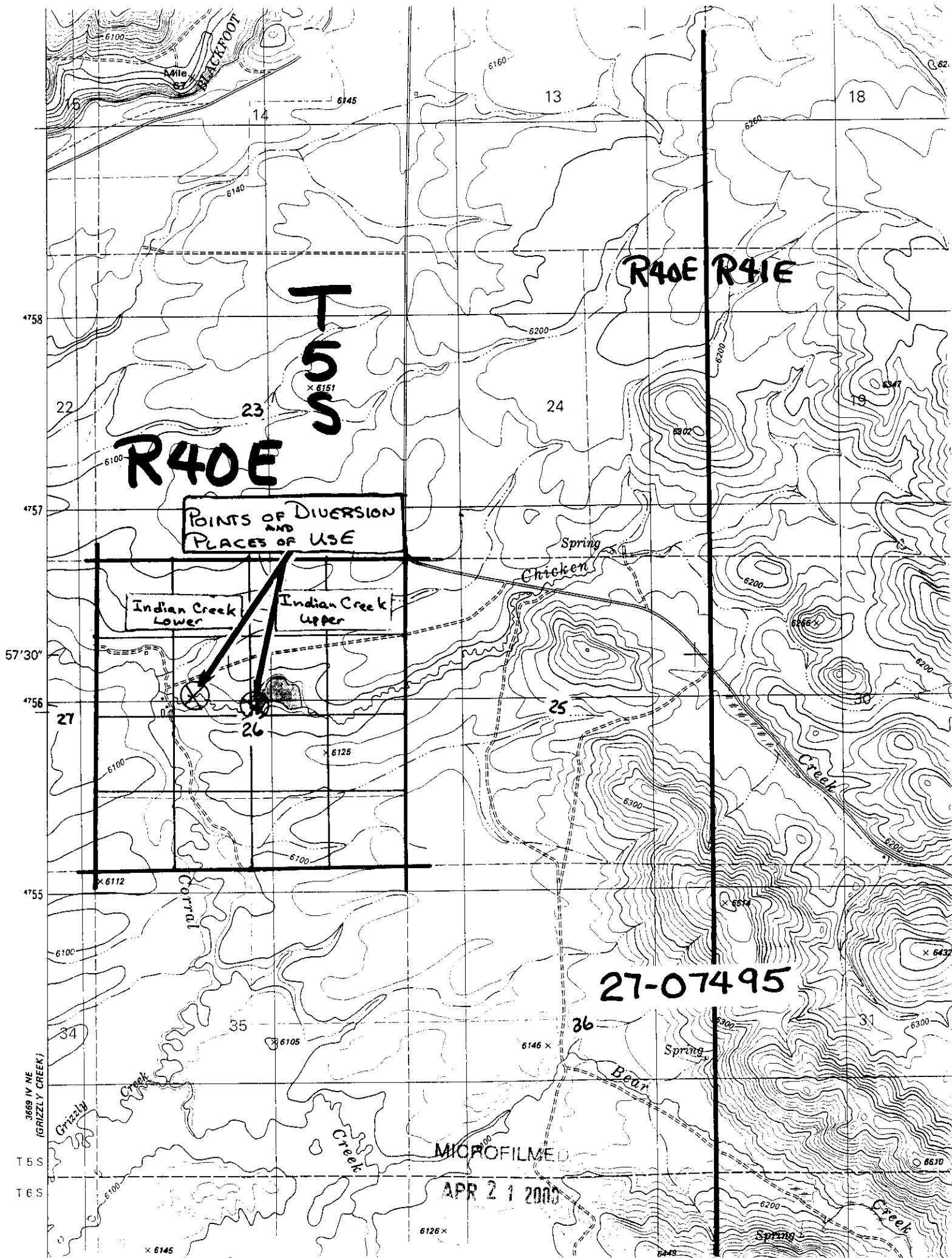
Sincerely,


Keith C. Wilson
Senior Resource Agent

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APR 21 2000

~ Celebrating Our Centennial Year of Service to Idaho 1895-1995 ~



DAM SUMMARY SHEET

September 20, 1996

INDIAN CREEK LOWER

27 - 7127

INVENTORY	_____	A	
BASIN	_____	27	(27-07495)
DAM NUMBER	_____	7127	
FED ID NUMBER	_____		
DAM NAME	_____	INDIAN CREEK LOWER	CONDITION _____ FR
COUNTY	_____	CARIBOU	MAINTENANCE _____ ROUTINE
STREAM	_____	CHICKEN CREEK	INSPECTION DATE _____ 0696 MO/YR
REGION	_____	E	CERTIFICATE EXP DATE _____ 1101 MO/YR
PURPOSE	_____	I	LAST RISK EVALUATION _____ 0696 MO/YR
RISK CATEGORY	_____	3	SURVEY DATE _____ 7/27/92 MO/DD/YR
SIZE CATEGORY	_____	3	CALL UP DATE _____ MO/DD/YR
Q-Q SECTION	_____	SENW	CERT ISSUE DATE _____ 9/13/96 MO/DD/YR
SECTION	_____	26	INSPECTION INTERVAL _____ 2YR
TOWNSHIP	_____	05S	PHASE 1 INSP DATE _____
RANGE	_____	40E	OPERATION PLAN _____ N
LATITUDE DEC	_____	42.9563	SEISMIC ANALYSIS _____ N
LONGITUDE DEC	_____	111.7419	RESTRICTED _____
DAM TYPE	_____	EARTH	JOINT INSPECTION _____
STORAGE CAPACITY	_____	15.00 ACFT	QUAD NUMBER _____ AA45
HEIGHT	_____	11.70 FT	QUAD NAME _____ RESERVOIR MOUNTAIN
DRAINAGE AREA	_____	4.60 SQMI	
RESERVOIR AREA	_____	4.00 AC	
YEAR COMPLETED	_____	1977	
CREST ELEVATION	_____	6,070.00 MSL	
CREST LENGTH	_____	325.00 FT	
SPILLWAY TYPE	_____	GLHOLE	DAM OWNER _____ PHIL YOST
SPILLWAY DEPTH	_____	1.10 FT	ADDRESS - 1 _____
SPILLWAY CAPACITY	_____	0.00 CFS	ADDRESS - 2 _____ 1760 RICH ROAD
OUTLET TYPE	_____	CMP	CITY _____ GRACE
OUTLET SIZE	_____	18 IN	STATE _____ ID
OUTLET CAPACITY	_____	19.00 CFS	ZIP CODE _____ 83241
IDF	_____	Q50	ZIP SUFFIX _____
IDF MAGNITUDE	_____	200.00 CFS	PHONE _____ 4253875
RELEASE CAPACITY	_____	19.00 CFS	AREA CODE _____ 208

GENERAL REMARKS : STREAM KNOWN LOCALLY AS INDIAN CREEK.

TECHNICAL REMARKS : SPILLWAY & REL CAP ARE WITH 2.0' FB. SPILLWAYS WILL PASS 39 CFS AT TOP OF DAM. ALSO HAS ERCHAN SPILLWAY W/ CONCRETE CREST, 14' WIDE X 0.8' DEEP W/3.2:1 SS. GLHOLE SPILLWAY IS 18" CMP INTO OUTLET PIPE.

RESTRICTIONS :

ALTERNATE CONTACTS :

27-07495

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Lower Indian Creek Reservoir

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APR 21 2000

27-07495 Lower Indian Creek

SPILLWAY INDIAN CREEK LOWER

MICRO
APR 21

27-07495 Lower Indian Ch
SPILLWAY

Outlet Control Indian Creek Lower

MICROFILM

APR 2 1988



27-07495 Lower Indian Creek
Outlet Control

DAM SUMMARY SHEET

September 20, 1996

INDIAN CREEK UPPER

27 - 7118

INVENTORY	A	(27-07495)	CONDITION	FR	
BASIN	27		MAINTENANCE	ROUTINE	
DAM NUMBER	7118		INSPECTION DATE	0696	MO/YR
FED ID NUMBER			CERTIFICATE EXP DATE	1101	MO/YR
DAM NAME	INDIAN CREEK UPPER		LAST RISK EVALUATION	0696	MO/YR
COUNTY	CARIBOU		SURVEY DATE	7/27/92	MO/DD/YR
STREAM	CHICKEN CREEK		CALL UP DATE		MO/DD/YR
REGION	E		CERT ISSUE DATE	9/13/96	MO/DD/YR
PURPOSE	1		INSPECTION INTERVAL	2YR	
RISK CATEGORY	3		PHASE 1 INSP DATE		
SIZE CATEGORY	3		OPERATION PLAN	N	
Q-Q SECTION	SWNE		SEISMIC ANALYSIS	N	
SECTION	26		RESTRICTED		
TOWNSHIP	05S		JOINT INSPECTION		
RANGE	40E		QUAD NUMBER	AA45	
LATITUDE DEC	42.9560		QUAD NAME	RESERVOIR MOUNTAIN	
LONGITUDE DEC	111.7366				
DAM TYPE	EARTH				
STORAGE CAPACITY	48.00	ACFT			
HEIGHT	12.50	FT			
DRAINAGE AREA	4.60	SQMI			
RESERVOIR AREA	5.00	AC			
YEAR COMPLETED	1975				
CREST ELEVATION	6,080.00	MSL			
CREST LENGTH	430.00	FT			
SPILLWAY TYPE	GLHOLE		DAM OWNER	PHIL YOST	
SPILLWAY DEPTH	2.30	FT	ADDRESS - 1		
SPILLWAY CAPACITY	5.00	CFS	ADDRESS - 2	1760 RICH ROAD	
OUTLET TYPE	CMP		CITY	GRACE	
OUTLET SIZE	18	IN	STATE	ID	
OUTLET CAPACITY	36.00	CFS	ZIP CODE	83241	
IDF	Q50		ZIP SUFFIX		
IDF MAGNITUDE	200.00	CFS	PHONE	4253875	
RELEASE CAPACITY	36.00	CFS	AREA CODE	208	

GENERAL REMARKS : STREAM KNOWN LOCALLY AS INDIAN CREEK.

TECHNICAL REMARKS : ALSO HAS ERCHAN SPILLWAY 15'W X 1.6'D W/ 2.3:1 SS (AVE). GLHOLE SPILLWAY IS 30" DIA CMP. REQ'D FREEBOARD = 2.0'. SPILLWAYS WILL PASS 134 CFS AT DAM CREST.

RESTRICTIONS :

ALTERNATE CONTACTS :

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APR 21 2000

27-07495

) Upper Indian Creek Reservoir

27-07495 UPPER Indian
Creek dam and
Reservoir

Spillway Upper Indian Creek Reservoir

001130

27-07495 UPPER Indian Creek
Spillway

APR 21 2000

Outlet Control Upper Indian Creek Reservoir



27-07495

UPPER Indian Creek
Outlet Control

APR 21 2000

Wilson, Keith

From: Keen, Shelley
Sent: Tuesday, February 01, 2000 5:01 PM
To: Wilson, Keith
Subject: Lapsed permits 27-07118 and 27-07127

Keith,

Thanks for your memo on lapsed permits 27-07118 and 27-07127. Permits that have been lapsed longer than 60 days can be reinstated under 42-218a(2). They need to submit the proof statement, the examination fee, evidence that development occurred timely, and an explanation for why the proof is late. In this case, I think ownership information would also be useful. The priority will be advanced to the date proof is received.

I will leave it up to you to contact them if you wish.

Shelley Keen
Water Right Permits Section
Idaho Dept. of Water Resources
208-327-7946
skeen@idwr.state.id.us

MEMO

TO: File 27-07495

February 2, 2000

FROM: Keith C. Wilson

RE: Reservoirs in 27-07495 developed under lapsed permits 27-07118/07127

No action is needed on the reinstatement of permits 27-07118 & 27-07127, because the priority would be advanced to at least the year 2000 (date proof received), & 27-07495 has a proposed priority of February 12, 1990. Why lose 10 years? Lapsed permits 27-07118 & 27-07127 have already lost 23 years of priority.


Keith C. Wilson
Senior Resource Agent

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APR 21 2000

MEMO

TO: Shelley Keen

January 26, 2000

FROM: Keith C. Wilson

RE: Lapsed permits 27-07118 & 27-07127
Permit 27-07495

To prepare an exam file for 27-07495, I contacted Louis Rounds, Safety of Dams program, for information on the capacity of reservoirs under 27-07495. No reference to these reservoirs was found under the number 27-07495. However, the Dam Safety files for these reservoirs were listed under lapsed permit numbers 27-07118 & 27-07127.

Further review of the department's files (Dam Safety & microfiche of 27-07118 & 27-07127) revealed what appears to be a change in the ownership of the place of use during the period of time that an examination fee was requested. It appears that Equitable Agri-Business, Inc. may have had a vested interest in the permit. (See attached letters dated 10-08-1986 & 10-23-1986 from David H Hollingshead.) I realize that permits are personal property & do not go with the land.

The Safety of Dams files for 27-07118 & 27-07127 provides information to substantiate that the reservoirs were established during the development era of the permit.

I believe that both 27-07118 & 27-07127 slipped through the "cracks." The permit holder receives a lapse notice, and Equitable Agri-Business, Inc. (lien holder?) received correspondence indicating that the reservoirs needed corrective measures. Here is a case where two different sections of this department corresponded apparently without the knowledge of the other. Another case of "The left hand not knowing what the right hand is doing."

I realize that this situation does not exactly fit the memo "Forfeiture as applied to permits," but it sure seems close. Would there be a mechanism in which both 27-07118 & 27-07127 could be reinstated?



Keith C. Wilson
Senior Resource Agent

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APR 21 2000

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
N/A						

2. Measurements:

From Safety of Dams Program

VOLUME UPPER INDIAN CREEK RESERVOIR = 48 acft

VOLUME LOWER INDIAN CREEK RESERVOIR = 15 acft

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method:

2. Alternate Method for Checking Purposes:

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)

Total Head: (1) + (2) = _____ (3); Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)

Meter Input HP: (6) x 1.34 = _____ (7)

Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Amps x .001732 = _____ (6)

Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

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:

VOL UPPER INDIAN CREEK RESERVOIR = 48 af

VOL LOWER INDIAN CREEK RESERVOIR = 15 af

Vol total = 63 af

Vol Limited by permit
= 49 af

MICROFILMED

APR 21 2000

H. REMARKS AND OVERLAP REVIEW ANALYSIS

Safety of Dams lists Upper Indian Creek Reservoir (27-07118)
Lower Indian Creek Reservoir (27-07127)

Source is Chicken Creek at one time known as Indian Creek

Remove measuring device requirements. According to Safety of Dam files both reservoirs are low risk and would not require measuring devices to operate.

Mr Yost accompanied Safety of Dams Personnel during at least one of the past inspections

I. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
RECREATIONAL STORAGE	11/1	4/1		49 af
Recreation from STORAGE	1/1	12/31		49 af
Totals:				49 af

2. Recommended Amendments

☐ Change P.D. as reflected above

☐ Add P.D. as reflected above

☐ None

☐ Change P.U. as reflected above

☐ Add P.U. as reflected above

☒ Other Remove measuring device requirement

J. AUTHENTICATION

Field Examiner's Name

Signature

Certification Date

Field Report Preparation Date

KEITH C. WILSON
Keith C Wilson

CONSULTANT SEAL

K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.

MICROFILMED
APR 21 2000

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 27-07495 Reviewed by [Signature] Date 12/15/94

GENERAL CONSIDERATIONS

yes Name same as permit?
yes Address same as permit?
no Proof timely received?
If not, complete calculation below.

TYPES OF USE

Rec. Storage

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?
? Installed?
no Waiver requested?

PRIORITY CALCULATION

Date proof received	<u>11-30-94</u>	<u>334</u>
Date ^{lapsed} proof due	<u>11-17-94</u>	<u>321</u>
No. of days late	<u> </u>	<u>= 13</u>
Priority Date	<u>2-12-90</u>	<u>+ 43</u>
New Priority Date	<u>2-25-90</u>	<u>56</u>

> 2/25/90

DEFICIENCIES OR ACTION ITEMS

Reinstate + advance priority to Feb. 25, 1990.
Proof acceptable

DATA ENTRY

New Address [X] Proof Made 11-30-94



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 19, 1994

PHIL J YOST
DAVID M MODERSITZKI
1760 RICH RD
GRACR ID 83241

PROOF ACKNOWLEDGEMENT LETTER

RE: PERMIT NO. 27-07495

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit.

Enclosed is an order reinstating your permit since proof of beneficial use was received after the proof due date. Please note that the priority date has been advanced to February 25, 1990.

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,

A handwritten signature in cursive script that reads "Julie L. Yarbrough".

JULIE L. YARBROUGH
Senior Secretary

Enclosure

c: IDWR - Region

DEC 22 1994

WARNING

CANCELLED OR LAPSED

This permit has been officially CANCELLED or LAPSED.

Ninety days following the date of official action this file will be DESTROYED.



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

November 17, 1994

Phil J. Yost
David M. Modersitzki
1760 Rich Rd.
Grace, ID 83241

LAPSE NOTICE

RE: Permit No. 27-07495

Dear Permit Holder:

On September 14, 1994, the Department of Water Resources (Department) sent you a letter informing you of the need to submit some additional information before the Department could proceed with the analysis of your Extension of Time Request. You were given thirty (30) days to provide the Department with the additional information. To this date the Department has not received the requested information.

You are hereby notified that under the provisions of Section 42-218a of the Idaho Code, the above referenced permit has **lapsed**. No further construction or additional development is authorized under this permit unless it is reinstated.

The permit can only be reinstated if you submit an acceptable Proof of Beneficial Use or an acceptable Request for Extension of Time showing reasonable cause for the delay. Either the completed Proof of Beneficial Use Submittal including the examination fee, or a completed field examination report; or the extension request form together with the \$50.00 fee, must be received by this department within **sixty (60) days** of the date of mailing of this lapse notice or the permit will no longer be of any force or effect.

Additionally, the Department is in the process of refunding the \$50.00 filing fee you submitted with the extension request. This should take approximately seven (7) to ten (10) days and will arrive under separate cover.

If you have any questions or concerns, please do not hesitate to contact the Department.

Sincerely,

L. Glen Saxton
L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosures

cc: Fiscal

CERTIFICATION OF MAILING

I hereby certify that on 11-17-94
a copy/an original of this document was
deposited in the United States mail,
postage prepaid addressed to the
individual(s) named above.

DEC 22 1994

[Signature]

MEMORANDUM

To: Julie
From: Glen *ms*
RE: **EXTENSION OF TIME REQUEST - 27-07495**
Date: September 13, 1994

Yes. We need to correspond with the permit holder and advise that the permit authorizes the diversion of water from Chicken Creek for recreational fish ponds rather than for irrigation which is usually associated with the CRP program.

If this recreational fish pond development truly has been stopped by the CRP program, the permit holder needs to provide such appropriate evidence to us in order to consider extending the proof due date for this permit.

RECEIVED

DEC 22 1994

September 14, 1994

Phil Yost &
David M. Modersitzki
1760 Rich Rd.
Grace, ID 83241

RE: Permit No. 27-07495

Dear Permit Holder:

The Department is in receipt of the Request for Extension of Time you submitted in connection with the above referenced permit. Before the Department can proceed with the analysis of the extension, further information is necessary.

You state that your land is in the CRP program and will not be in production until 1998-1999. The permit in question (copy enclosed) is for recreational storage and should not be affected by the CRP program. Please respond and clarify in the CRP program will affect this water right.

I will hold the extension request for thirty (30) days to allow you time to submit the requested information. **Please address any correspondence directly to me.**

If you have any questions or if I can be of any assistance, please contact me directly at (208)327-7953.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

DEC 22 1994

RECEIVED

SEP 12 1994

Department of Water Resources

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

For Office Use Only

\$50 Fee Received by RTDate 9-12-94Receipt No. 0031244**REQUEST FOR EXTENSION OF TIME****TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT**

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time under the provisions of Section 42-204, Idaho Code in which to complete development of a water right.

Permit No. 27-07495Name(s) of Permit Holder: Phil Yast David M ModersitzkiMailing Address: 1760 Rich Rd Grace Id 83241Date Proof is Due: 11-1-94 Telephone No. 208 425-3875

Describe what work has been completed toward the development of this water right:

(This must be filled out! If no work has been completed, show "none".)

none

Costing \$ _____

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

This property is in the Gov. CRP Program and
will not be in production until 1998-1999 years. In
order to comply with the CRP Program we cannot prove up
on this permit

Permit holder(s) request an extension to Nov. 1, 19 99

FEE: \$50.00

(Signature)*

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be

DEC 22 1994

Signed this _____ day of _____, 19 _____

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resource

5031244

Receipt No:

9/12/1994
13:10:56

Date:
Time:

YOST, PHIL J. OR LISA

Received
From:

EXTENSION OF TIME #27-07495

Type of Payment

56103

Program Act 1155

Amount

Total

\$50.00

CHECK

3526

Region: STATE

Signature: 

DEC 22 1994

August 31, 1994

DAVID M MODERSITZKI
PHIL J YOST
1760 RICH RD
GRACE ID 83241

PROOF DUE NOTICE

RE: PERMIT NO. 27-07495

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 November 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.

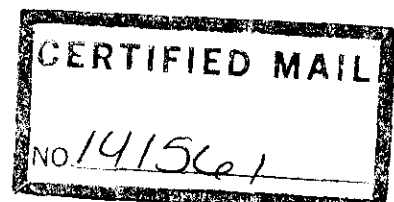
Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the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

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

DEC 22 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

November 21, 1991

DAVID M MODERSITZKI
PHIL J YOST
1760 RICH RD
GRACE ID 83241

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 27-07495

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. We direct your attention to the conditions of approval on the final page.

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. You will receive a "Proof Due Notice" from this Department approximately 60 days prior to the completion date requiring you to file either a Proof of Beneficial Use form stating that the project has been completed or file a Request for an Extension of Time in which to file the proof statement.

Sincerely,

PAMELA SKAGGS
Technical Records Specialist

PS:blm

Enclosures

MICROFILMED

DEC 09 1991

APPLICATION FOR PERMIT REVIEW

Application #: 27-7495
 Date: 11-14-91

Reviewer: Pam Skaggs *PS*

- ✓ Existing:
- ✓ No - 26A-P17
 - Complete in 1 year - P16
 - Yes
 - Proof not submitted - P16
 - Proof submitted - N/A
 - Groundwater:
 - GT. 0.2 cfs - 01G-P03, 01C-P03(existing well)
 - LT. 0.2 cfs - N/A
 - Drilling Permit:
 - Approved w/permit - P99
 - Not included - 046-P23(All GW, even existing wells)
 - ✓ Location:
 - ✓ Water Districts - WD No. 27
 - ✓ Surface water - 005, 005-01H-P01(LT.2 w/pump)
005-01J-P08(GT.2)
 - Groundwater - P05
 - Irrigation Districts - 023
 - Canal Co. Areas - 023
 - Drainage Districts - 024
 - Boise Front (63) - 058 (Groundwater)
 - ✓ Swan Falls Flag - 1 (1, Blank or Other)
 - Trust - 051-052-053-P74(Consumptive Uses)
 - ✓ Non Trust - 048-049
 - River Basins:
 - (Surface Water) Water District Control Condition &....
 - Boise (63) - 05A & 11E
 - Payette (65) - 047-P04, 059-P71
 - Snake (01, 02 & 03) - 11A-P04(01), 061-P07(02/03 No W.D.Cond.)
 - ✓ Use:
 - Fish Propagation - 06A, 09E-P10 & 010 (WQ/Choose One),
 042(req.), 002-P06(MD), 07A(Spec.),
 044(Policy 5G)
 - Power - Use Power Review
 - Mining - 06A, 010, or 09E-P10 & 054(req.)
 - ✓ Storage - 18A-for multiple measuring devices(In WD),
18B-P09(Size)
 - ✓ Rec. & Aesthetic - 027(Non-Consumptive)
 - Domestic - 021(restricted areas)
 - Ownership:
 - Non land owner - 004
 - Protested:
 - Agreement - 020
 - ✓ Beneficial Use Due Date: - 11-01-1994
 - Other Conditions Recommended

RECEIVED

DEC 09 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

October 24, 1991

RE: Application for Permit No. 27-07495

Phil J. Yost
1760 Rich Road
Grace ID 83241

David M. Modersitzki
Rt. 1, Box 1560
Bancroft, ID 83217

Gentlemen:

This letter is to advise you that the protest filed by Water District No. 27, Blackfoot River, against approval of the above referenced application has been withdrawn. The Department has now resumed processing of this application.

If you have any questions, please feel free to contact this office.

Very truly yours,

HAROLD W. JONES
Water Right Supervisor

HWJ:CW

RECEIVED
OCT 31 1991

Department of Water Resources

DEC 09 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

October 24, 1991

RE: Application for Permit No. 27-07495 YOST & MODERSITZKI

Mr. Ed Hall, Watermaster
Water District No. 27
PO Box 6
Firth, ID 83236

Dear Mr. Hall:

This letter acknowledges receipt of the withdrawal of protest against the above referenced application.

If you have any questions, please feel free to contact this office.

Very truly yours,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

DEC 09 1991

/ Dist. for staffing 2-13-90

Submitted for advertising 2-23-90

Form No. 202a
4/87

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NON-TRUST
Hold

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY DN DATE 2-20-90 APPLICATION NUMBER 277495
Phil J. Yost or David M. Modersitzki

REQUIRED INFORMATION

- ☒ 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
☐ Yes ☒ No 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

RECEIVED
OCT 31 1991

Department of Water Resources

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT

USERS LARGE DIVERSION INTO OVER 200 ACRES

Date Requested _____

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 ^{done} ☐ U.S. Forest Service
☐ Idaho Dept. of Lands ☒ Water District 2 ^{done}
☐ 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 5-7-90
☒ Yes ☐ No Protests, dates, resolution of protest, recorded on application ^{withdrawn}
☐ 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. 27
☐ Yes ☒ No Special conditions of approval or cover letter below.

See below for additional information
Date of priority recommended 2-12-1990
By HWT Date 10-23-91

STATE OFFICE REVIEW

See below for additional information
By _____ Date _____

ADDITIONAL INFORMATION

Developing PWD - 27-04010

LOCAL PUBLIC INTEREST

Comments received from:

____ City	____ Idaho Fish & Game	____ Irrigation District
____ County	____ Idaho Health & Welfare	____ Canal Company
____ Reservations	____ Division of Environment	____ Other _____

Project impacts/implications report

COMMENTS

BEFORE THE DIRECTOR
OF THE
DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 27-07495)
IN THE NAME OF PHIL J. YOST AND)
DAVID M. MODERSITZKI)

WITHDRAWAL OF PROTEST

WE, N.R. Wright + Ed Hall, hereby withdraw our protest
against the above referenced application for permit.

Dated this 23 day of Oct., 1991.

N. R. Wright Chairman Board
Ed Hall Watermaster

Neil Bithell the original
Secretary for WD 27 is no
longer with the water District.
HWT

MICROFILMED
DEC 09 1991

Friday, October 25, 1991 - 1:00 p.m.
Conference Room, Pocatello Municipal Airport
Pocatello, ID

Cancelled

MI200FILMED

~~UNRECORDED~~

SEP 9 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

October 10, 1991

ATTN: Sharon
Pocatello Municipal Airport
PO Box 4169
Pocatello, ID 83205-4169

Dear Sharon:

This is to confirm the use of the Conference Room in the Pocatello Airport for water right conferences to be held by this Department beginning at 10:00 a.m. on Friday, October 25, 1991.

Thank you for your cooperation in this matter.

Very truly yours,

COLLEEN WRAY
Adm. Assistant

RECEIVED

DEC 09 1991

NAME AND
ADDRESS
OF SENDERDEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15

Indicate type of mail

☐ Registered
☐ Insured
☐ COD
☒ Certified ☐ Express MailCheck appropriate block for
Registered Mail:
☐ With Postal Insurance
☐ Without Postal InsuranceAffix stamp here if issued as
certificate of mailing or for
additional copies of this bill.

POSTMARK AND DATE OF RECEIPT

Line	Number of Article	Name of Addressee, Street, and Post-Office Address	Postage	Fee	Handling Charge	Act. Value (If Regis.)	Insured Value	Due Sender If C.O.D.	R. R. Fee	S. D. Fee	S. H. Fee	Rest. Del. Fee Remarks
1	0782	John Arkosch Whiskey Ck P.O. Box 32 ^{Boysing 83330}										13-7431
2	0783	Tracy Trent 714 1345 Barton Pocatello										"
3	0784	Jack Trueblood NPAC 217 W State Boise										13-7431
4	0785	Phil Post 1760 Rich Rd Grace 83241										27-7495
5	0786	David M Madersicht Rt 1 Box 1560 Luncyge										"
6	0787	^{WB #27} Bithell Wright 392 E 400N Blackfoot										27-7495
7	0788	Rocky Ross P.O. Box 10 Howe										33-7199/1220
8	0789	Rudolf Rudy P.O. Box 139 Pocatello										"
9	0790	Robert L Map Howe Id										"
10	0791	James L Map Box 1 Howe										"
11	0792	George Woodie HC 65 Box 1018 Howe										33-7199/1200/2
12		Sent to: Not a valid address										
13		Liquid And ⁶⁶⁶¹ 33 Wm.										
14		Glenn Turner ¹⁰⁰ 13-5 Wm.										
15		Ed Howe 27 W. M.										

Total Number of Pieces
Listed by Sender

11

Total Number of Pieces
Received at Post Office

Eleven

POSTMASTER, PER (Name of receiving employee)

R J Inden

The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for nonnegotiable documents under Express Mail document reconstruction insurance is \$50,000 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is \$500. The maximum indemnity payable is \$25,000 for Registered Mail, \$400 for COD and \$400 for Insured Mail. Special handling charges apply only to Third- and Fourth-Class parcels. Special delivery service also includes special handling service.

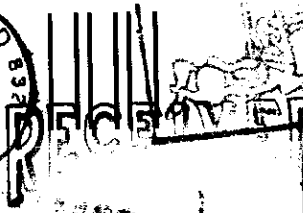
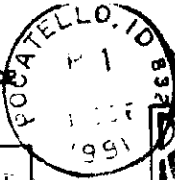
● SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested. 1. ☐ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)	
3. Article Addressed to: <i>Neil Bithell</i> <i>N. R. Wright</i> <i>W. D #27</i> <i>392 E 400 N</i> <i>Blackfoot, ID 83201</i>	4. Article Number <i>0787</i> Type of Service: ☐ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail ☐ Return Receipt for Merchandise Always obtain signature of addressee or agent and DATE DELIVERED.
5. Signature — Addressee X <i>Eleanor Bithell</i>	8. Addressee's Address (ONLY if requested and fee paid) <i>27-7495</i>
6. Signature — Agent X <i>[Signature]</i>	
7. Date of Delivery <i>10-8-91</i>	

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.



OF
LIFETIME
COLLECT
MPS



DEC 09 1991
Department of Water Resources
Eastern District Office

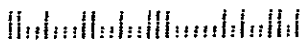
PENALTY FOR PRIVATE
USE, \$300

RETURN
TO



Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHoup AVE. #15
IDAHO FALLS, IDAHO 83402



SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested. 1. ☐ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)	
3. Article Addressed to: <i>Phil West</i> <i>1760 Rich Rd</i> <i>Grace, Id. 83241</i> REGISTERED	4. Article Number <i>0285</i>
	Type of Service: ☐ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail ☐ Return Receipt for Merchandise
Always obtain signature of addressee or agent and <u>DATE DELIVERED</u>.	
5. Signature - Addressee <i>X</i> <i>Phil West</i>	8. Addressee's Address (ONLY if requested and fee paid) <i>27-7495</i>
6. Signature - Agent <i>X</i>	
7. Date of Delivery <i>10-8-91</i>	

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- Endorse article "Return Receipt Requested" adjacent to number.

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

RECEIVED
MAILING

OCT 10 1991

DEC 09 1991

Department of Water Resources
Eastern District Office



PENALTY FOR PRIVATE
USE, \$300



SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check boxes for additional service(s) requested. 1. ☐ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)	
3. Article Addressed to: <i>David M Modersitzki</i> <i>RR #1 Box 1560</i> <i>Bancroft, ID 83217</i>	4. Article Number <i>0786</i>
	Type of Service: ☐ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail ☐ Return Receipt for Merchandise Always obtain signature of addressee or agent and DATE DELIVERED.
5. Signature — Addressee <i>X</i> <i>David Modersitzki</i>	8. Addressee's Address (ONLY if requested and fee paid) <i>1661 60 030</i> Michael Med
6. Signature — Agent <i>X</i>	
7. Date of Delivery <i>10/21/91</i>	

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- Endorse article "Return Receipt Requested" adjacent to number.

RECEIVED

OCT 24 1991

Department of Water Resources
Eastern District Office



PENALTY FOR PRIVATE
USE, \$300

RETURN
TO



RETURNED

Print your name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

150 SHOUP AVE. #15

IDAHO FALLS, IDAHO 83402

DEC 09 1991

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR	)	
PERMIT NO. 27-07495 IN THE NAME	)	NOTICE OF CONFERENCE
OF PHIL J. YOST OR	)	
DAVID M. MODERSITZKI	)	

On February 12, 1990, Phil J. Yost or David M. Modersitzki filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On May 3, 1990, the Department received a protest against approval of said application from N.R. Wright and Neil F. Bithell in behalf of Water District 27. The Department has set the matter of protest for an administrative conference to be conducted at 1:00 p.m. on Friday, October 25, 1991, in the Conference Room, Pocatello Municipal Airport, Pocatello, Idaho.

Agenda items for this conference will include:

1. Identify spokesman and/or counsel representing the protestant.
2. Review of the application.
3. Identify issues of protest.
4. Designate date for identifying witnesses.
5. Designate target date for conducting administrative hearing if resolution is not possible during the conference.

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The conference will be held in accordance with the provisions of the adopted Rules of Practice and Procedure of the Department of Water Resources.

Dated this 7th day of October, 1991.


RONALD D. CARLSON
Eastern Regional Manager

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Permit
APPLICATION FOR TRANSFER OF
WATER RIGHT NO. 27-7495

RECEIVED

MAY 18 1990

Department of Water Resources
Eastern District Office

WATER DISTRICT 27

WATERMASTER Ed Hall

DATE: 5/1/90

COMMENTS: This permit replaces a permit
that had lapsed so the water hasn't
been included in our adjudication
agreement with Ed Hall Shobans
I don't think we can approve this

☐ I do endorse approval of this change.

☒ I do not endorse approval of this change.

I recommend the following conditions of approval:

Ed Hall
Watermaster

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DEC 09 1991

May 21, 1990

Phil J. Yost
1760 Rich Road
Grace, ID 83241

David M. Modersitzki
R. R. 1, Box 1560
Bancroft, ID 83217

Gentlemen:

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to application No. 27-07495. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances requiring additional time, our objective is to schedule a conference and/or hearing to consider the protests within 60 days. At a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Sec. 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

The applicant must be prepared to present evidence and/or testimony addressing each of the five items. Although representation by legal

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DEC 09 1991

May 21, 1990
Page 2

counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

If this office can be of further assistance, please contact us.

Very truly yours,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

Enclosure

cc: IDWR - State Office

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DEC 09 1991

May 21, 1990

RE: Application for Permit Nos. 27-07495 YOST & MODERSITZKI

Neil F. Bithell
N.R. Wright
Water District No. 27
392 E. 400 N.
Blackfoot, ID

Gentlemen:

Your protest against approval of the above referenced application has been received and a copy has been sent to the applicants. The Department suggests you contact the applicants directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances requiring additional time, our objective is to schedule a conference and/or hearing to consider the protests within 60 days. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Sec. 42-203, Idaho Code): the following are the principle items the Department can consider in either approving or denying the application for permit (Sec. 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

DEC 09 1991

May 21, 1990
Page 2

The protestants must be prepared to present proof of allegations involving one or more of the five items.

If this office can be of further assistance, please contact us.

Very truly yours,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

Enclosure

cc: IDWR - State Office

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DEC 09 1991



IDAHO FISH & GAME

REGION 5
1345 Barton Road
Pocatello, ID 83204
(208) 232-4703

May 9, 1990

Harold Jones
Water Rights Specialist
Idaho Department of Water Resources
Eastern Region
150 Shoup Avenue Suite 15
Idaho Falls, Idaho 83402

RE: 27-7495 - Modersitzki

Dear Harold,

We do not oppose issuance of the water right as applied for. Thank you for the opportunity to comment.

Sincerely,

David Neider
Regional Supervisor

DN/LL/ch

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



Working for wildlife since 1938



MAY 11 1990

Department of Water Resources
Eastern District Office

MICROFILMED

DEC 09 1991

April 28, 1990

Ronald D. Carlson
Eastern Regional Manager
Idaho Dept. of Water Resources
150 Shoup Suite 15
Idaho Falls, Idaho 83402

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MAY - 3 1990

Department of Water Resources
Eastern District Office

Re: Protest of application 27-07495

Dear Mr. Carlson:

We have noticed from the legal advertizing in the Caribou County Sun that Phil J. Yost and/or Dave Modersitzki have applied to the department for a permit to appropriate 3.00 cfs and 49 acre feet of water from Chicken Creek, a tributary of the Blackfoot river, for the irrigation of 300 acres of ground. We recognize that this application is ment to replace 27-07118 which lapsed. However we are concerned that any new applications on the Blackfoot River or tributaries will have a direct impact on all of the existing non-indian water users.

As we understand the proposed settlement agreement between the State of Idaho and the Sho-Ban tribes, the non-indian waterusers have a fixed entitlement which allows them to divert a maximum of 45,000 acre feet of water. This 45,000 is based upon watermaster records of current diversions. Unless we do not fully understand the intent of the agreement, it appears that any new appropriation would simply be a conversion from the current users to the new user. If this is not the case we should have it clearly established now, otherwise the Department simply can not grant any additional consumptive permits on the Blackfoot river drainage in light of the pending agreement.

Very truly yours,

W. R. Wright

Neil F. Bitkell

For Water District #27

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DEC 09 1991

19-Apr-1990

Ed Hall
Water Master #27
P.O. Box 6
Firth , ID 83236

RE: Application for Permit No. 27-07495

Dear Watermaster:

Please find enclosed a copy of the above referenced application. Please review the application and complete the form, returning them to this office as soon as possible.

Thank you for your cooperation in this matter.

Respectfully submitted,

Harold Jones
Water Rights Supervisor

HJ/rb
Enclosure

MICROFILMED

DEC 09 1991

27-07495

MODERSITZKI, DAVID M.
YOST, PHIL J.
1760 RICH RD.
GRACE, ID 83241

Source: CHICKEN CREEK

Tributary: CORRAL CREEK

Diversion Pt: SENW Sec 26 T 05S R 40E

Use: IRRIGATION	(3.000 CFS)	
IRRIGATION STORAGE		(49.00 AF)
IRRIGATION FROM STORAGE		(49.00 AF)
Total Diversion:	(3.000 CFS)	(49.00 AF)

Date Filed: 2/12/ 1990

In: T05S R40E S26	NENE	NWNE	SWNE	SENE
	NENW	NWNW	SWNW	SENW

300.0 ACRES TOTAL

RECORDED

DEC 09 1991