

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 29-7537 Priority March 19, 1980 Amount 2.1 acre feet

THIS IS TO CERTIFY, that Jack Fronk
of Tremonton, Utah, has complied with the terms and conditions of Permit
No. 29-7537 issued pursuant to Application for Permit dated March 19, 1980,
and has submitted proof to the Department of Water Resources on August 17, 1981,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of N/A of water from Birch Creek,
tributary to Marsh Creek, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Recreation</u>	from <u>June 1</u> to <u>December 31</u>	at <u>N/A</u> cfs and	<u>2.1 acre feet</u>
	from _____ to _____	at _____ cfs and	
	from _____ to _____	at _____ cfs and	

(both dates inclusive)

Subject, however, to the condition that no more than N/A of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
2.1 acre feet per year, said waters to be diverted within the NW1/4 SW1/4 Section 13,
Twp 12S, Rge 36E in the County of Bannock

Description and location of place of use:

Twp.	Range	Sec.	NE1/4				NW1/4				SW1/4				SE1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
12S	36E	13									X								

Total number of acres irrigated _____

MICROFILMED

CONDITIONS OF APPROVAL

a. Modifications to or variance from this license must be made within the limits of Section 42-222, **Idaho Code**, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

b. The right to the use of the water hereby confirmed is restricted and appurtenant to lands or place of use herein described, and is subject to all prior water rights, as provided by the laws of Idaho.

c. Any water right confirmed in this license 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 license 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 license.

Use of water under this license is subject to control by the watermaster of State Water District No. 29H, Marsh Creek.

Measuring devices of a type approved by the Department of Water Resources shall be installed in a manner so that the releases from storage can be compared to the inflow of the reservoir.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 29TH day of SEPTEMBER, 19 86.

Acting for the Director



MICROFILMED

285

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

IN THE MATTER OF PROTEST AGAINST APPROVAL OF)
APPLICATION FOR PERMIT NO. 29-7537 IN THE)
NAME JACK FRONK)

MEMORANDUM DECISION
AND ORDER

On March 19, 1980, Jack Fronk, Tremonton, Utah applied to the Department of Water Resources for a permit to appropriate fifteen (15) acre-feet of water from Birch Creek, a tributary of Marsh Creek; for recreation purposes from June 1 to December 31 of each year. The applicant's proposal was to build a five and one-half (5½) foot earthen dam on Birch Creek at a point within the NW¼SW¼, Sec. 13, Twp. 12S, Rge. 36E B.M., Bannock County. The applicant requested on May 21, 1980 that the diverting works be amended to indicate a fourteen and one-half (14½) foot dam to store 2.8 acre-foot of water.

Notice of this application was published in the Idaho State Journal on March 27 and April 3, 1980, and subsequently was protested by Dale Jones, Leona Wakley, David Treasure, William D. Ward, Lewis and Shirley Case, William T. Evans, and Kenneth and Donna Williams.

A conference in the matter was held on August 14, 1980, in Pocatello, Idaho. The protestants were present and represented by Dave Galaphent of the firm Merrill and Merrill of Pocatello, Idaho. The applicant was present and represented by Brent Moss of the firm Smith, Hancock, and Moss of Rexburg, Idaho. The issues in the matter were brought before the Department during an informal conference. At the conclusion of the conference, all parties agreed that the Director of the Department should issue a final decision in the matter without formal hearing.

The Department has taken this matter under consideration and based upon information provided at the conference and that contained in the official files of the Department, and based upon the Director's understanding of the law, the Director of the Department of Water Resources makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1) The applicant has constructed a dam on Birch Creek within the NW¼SW¼, Sec. 13, Twp. 12S, Rge. 36E B.M. This dam was constructed without a permit from the Department of Water Resources.

MAILED

2) In July of 1973, the district court of the Sixth Judicial District of the State of Idaho bound the protestants in an interlocutory decree, Dale Davis and Afton Davis vs. Dave Treasure, et al. This decree specifies the diversion and rotation of the water of Birch Creek among the parties. On April 29, 1974, the court entered its memorandum decision and order in that case.

3) A water right according to Sections 42-203, 42-607, 42-1402, and 42-1409, Idaho Code, is made up of a number of parts which must include the source of the water supply, the nature of use, the period of use, location of the point of diversion, quantity of water that can be used under the right, the place of use, the priority of the right, and the duty of water.

4) Other than the decreed rights there are presently three licensed water rights on record with the Department of Water Resources that authorizes the diversion of water from Birch Creek. These three rights, No. 29-2168, 29-2559, and 29-7567, all have points of diversion upstream from the applicant's dam.

5) On March 20, 1980, Jack Fronk applied to the Department of Water Resources for a permit to appropriate fifteen (15) acre-feet of water from Birch Creek at a point within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 13, Twp. 12S, Rge. 36E B.M., Bannock County. The amount of water required was reduced to 2.8 acre-feet on May 21, 1980.

6) The protestants indicated that the applicant is a successor in interest to one-twelfth (1/12) of the water of Birch Creek as set forth in the interlocutory decree.

7) Water is available in Birch Creek for the applicant's project either from the applicant's decreed share of the flow or at anytime the flow of Birch Creek exceeds the rate needed to supply the beneficial uses of the other users on Birch Creek.

CONCLUSIONS OF LAW

1) The applicant's proposed development would not interfere with any of the existing water rights on Birch Creek nor with the use of water as set out in the decree as long as the rate of flow of water in Birch Creek is not diminished by storage in the reservoir during the time it is needed to fill the rights of the downstream users.

2) The applicant is entitled to a permit from the Department of Water Resources.

ANALYSIS

The protestants argued that the applicant violated the Idaho Stream Protection Act by constructing a dam on Birch Creek without a water right permit from the Department of Water Resources. This assertion, by the protestants, appears to be

correct and the applicant certainly should be reprimanded for his actions. However, Section 42-3806 exempts work on the stream channel that is done in relation to an existing water right. The approval of this permit satisfies the department's enforcement of the Stream Protection Act.

A field inspection of the dam revealed that the existing structure has a hydraulic height of nine (9) feet and a capacity of 2.35 acre-feet. Unless the height and storage are incorrect, the structure is not subject to review or safety inspections under the Idaho Safety of Dams Act.

The protestants were also concerned that there may be a flooding problem associated with a dam being constructed on Birch Creek. While this may be the case, it is not supportable to the extent that it is an issue of local public interest in this decision; and, as is the case with all human activity, there are civil remedies available if someone should suffer injury as a result of this development.

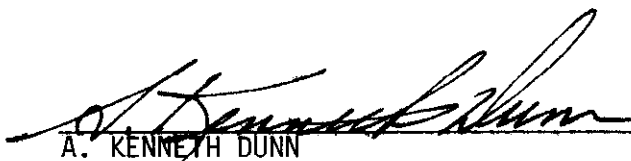
Of great concern to the Department is lack of information about the water rights of the parties involved in this matter that have decreed water rights on Birch Creek. Whatever water rights exist have never been fully described and defined. We would recommend that the parties examine their use of water and compare it carefully with the existing decrees and if they find their rights are not described then they must file appropriate water right claims before June 30, 1983.

ORDER

IT IS, THEREFORE, HEREBY ORDERED and Application for Permit No. 29-7537 is APPROVED subject to the following conditions:

- 1) That it be subject to all prior water rights.
- 2) That proof of construction of works and application of water to beneficial use be submitted on or before July 1, 1982.
- 3) That measuring devices of a type approved by the Department of Water Resources shall be installed in a manner so that the releases from storage can be compared to the inflow to the reservoir.

Dated this 26th day of May, 1981.


A. KENNETH DUNN

Director

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Jack Fronk Phone 1-801-257-5347
Post office address Golden Spike Equipment, Tremonton, Utah 84337
2. Source of water supply Birch Creek which is a tributary of Marsh Creek
3. Location of point of diversion is NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 13 Township 12S
Range 36 E B.M. Bannock County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 15 af for recreation purposes from June 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:

a. _____ cubic feet per second and/or b. 15 a.f. acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. _____
Earthen Dam, spillway

b. Height of storage dam 5½ feet, active reservoir capacity 15 acre-feet; total reservoir capacity 25 acre-feet, materials used in storage dam: earthen dam

Period of year when water will be diverted to storage Oct. 1 to May 1 inclusive.
(Month/Day) (Month/Day)

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 1 years (minimum 1 year — maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 13 Township 12S
36 E.
Range _____ B.M.

(2) Amount of power to be generated: N.A. horsepower under _____ feet of head.

(3) List number of each kind of livestock to be watered N. A.

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____.

(5) If water is to be used for other purposes describe: Recreation only.

100

[illegible]**Total number of acres to be irrigated**

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

9. a. Who owns the property at the point of diversion applicant

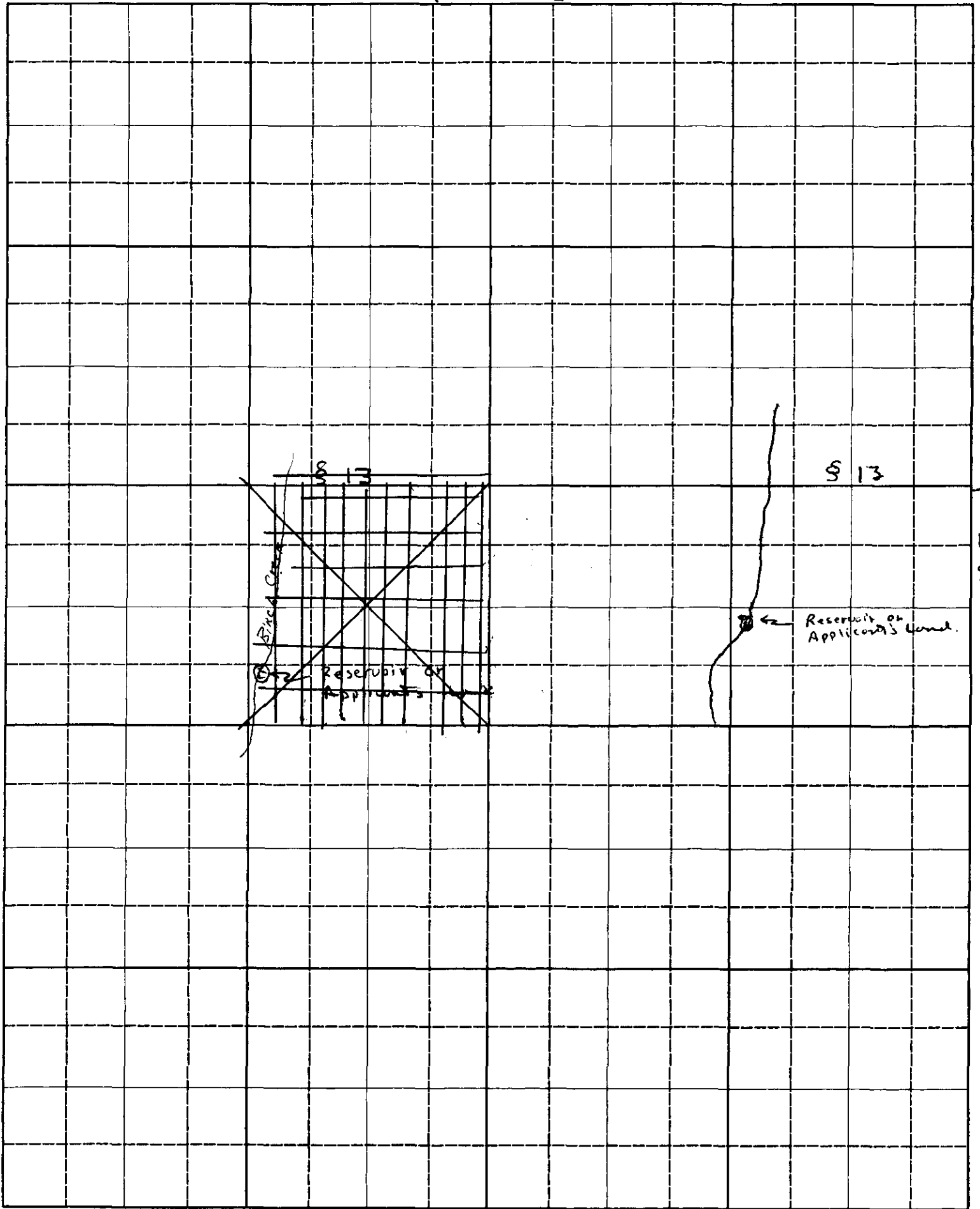
b. Who owns the land to be irrigated or place of use

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

10. Remarks The reservoir will be used only for recreation and fishing.

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

R 36 E. T. 3. M.



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)

RECEIVED
JAN 12 1911

Received by kw Date 3/19/80 Time 2:05
kw Date 2/22/80 Time 11:15
Preliminary check by _____ Fee \$ 20.00
Received by kw Date 3/20/80 # 13865
Publication prepared by kw Date 3/20/1980
Published in Idaho State Journal
Publication dates 3/27 & 4/03/1980
Publication approved kw Date 4/14/80
Protests filed by: Dale Jones, William F. Enns,
David & Shirley Case, Stephen L. Mann, William
D. Ward, David Treasure, Mrs Leona Wukely,
Kenneth & Donna Williams
Copies of protests forwarded by CONFERENCE Bob Fleener
Hearing held by Ren Carlson Date 8/14/1980
Recommended for approval denial by EMC

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. 29-7537, and said application is hereby APPROVED.

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

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before June 1, 19 82.
- 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. Other: PURSUANT TO MEMORANDUM DECISION AND ORDER

Witness my hand this 26th day of May, 19 81.


Director

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PROTEST AGAINST APPROVAL OF
APPLICATION FOR PERMIT NO. 29-7537 IN THE
NAME OF JACK FRONK

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 27th day of May, 1981, true and correct
copies of the foregoing MEMORANDUM DECISION AND ORDER, were mailed, postage prepaid
to:

Jack Fronk
Golden Spike Equipment
Tremonton, UT 84337

Brent J. Moss
SMITH, HANCOCK & MOSS
30 S. 2nd W.
Rexburg, ID 83440

Dale D. Jones
P. O. Box 2675
Pocatello, ID 83201

Ms. Leona Wakley
Route 1
Downey, ID 83234

Mr. David Treasure
RFD
Downey, ID 83234

Mr. William D. Ward
RFD
Downey, ID 83234

Stephen S. Dunn & Dave Galaphent
MERRILL & MERRILL
P. O. Box 991
Pocatello, ID 83201

Lewis and Shirley Case
Downey, ID 83234

William T. Evans
Downey, ID 83234

Kenneth and Donna Williams
Route 1
Downey, ID 83234



RITA I. FLECK
Sr. Secretary
Idaho Department of Water Resources

MICROFILMED

PROOF OF PUBLICATION

STATE OF IDAHO
County of Bannock

ss.

Lyle Judd

being first duly sworn on oath deposes and says: That she
was at all times herein mentioned a citizen of the United States of
America, more than 21 years of age, and the Principal Clerk of THE
IDAHO STATE JOURNAL, a daily newspaper, printed and published at
Pocatello, Bannock County, Idaho, and having a general circulation
therein.

That the document or notice, a true copy of which is attached, was
published in the said IDAHO STATE JOURNAL, on the following dates,
to-wit:

March 27, 1980, 19____
April 3, 1980, 19____
_____, 19____, 19____
_____, 19____, 19____
_____, 19____, 19____

That said paper has been continuously and uninterruptedly pub-
lished in said County for a period of seventy-eight weeks prior to the
publication of said notice or advertisement and is a newspaper within
the meaning of the laws of Idaho.

Lyle Judd
4th

Subscribed and sworn to before me this _____
day of April, 1980

[Signature]

Notary Public, State of Idaho
Residence: Pocatello, Idaho

RECEIVED

APR 7 1980

Department of Water Resources
Eastern District Office

ok
4/14/80

APR 11 1980

PROOF OF PUBLICATION

STATE OF IDAHO
County of Bannock

ss.

Lyle Judd

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

FRONK, JACK
GOLDEN SPIKE EQUIPMENT,
TREMONTON, UT 84337
Source: BIRCH CK. tributary to
MARSH CK.

Date Filed: 03/19/1980
Amount: 15.0 AC-FT
Diversion Point: NWSW Sec 13 T
12S R 36E, BANNOCK CO.
Use: RECREATION (15.0 AC-
FT) from 06/01 to 12/31
Place of Use: NWSW Sec 13 T 12S
R 36E

Diversion Means: EARTHEN
DAM & SPILLWAY.

If issued, the permit(s) will be
subject to all prior water rights.
Protests against the granting of
any permit must be filed with the
Director of the Idaho Department
of Water Resources, 1515 Lincoln
Road, Idaho Falls, Idaho 83401 on
or before APRIL 14, 1980.

S/C. STEPHEN ALLRED
Director

March 27, April 3, 1980
No. 427

being first duly sworn on oath deposes and says: That she
was at all times herein mentioned a citizen of the United States of
America, more than 21 years of age, and the Principal Clerk of THE
IDAHO STATE JOURNAL, a daily newspaper, printed and published at
Pocatello, Bannock County, Idaho, and having a general circulation
therein.

That the document or notice, a true copy of which is attached, was
published in the said IDAHO STATE JOURNAL, on the following dates,
to-wit:

March 27, 1980, 19____
April 3, 1980, 19____
_____, 19____, 19____
_____, 19____, 19____
_____, 19____, 19____

That said paper has been continuously and uninterruptedly pub-
lished in said County for a period of seventy-eight weeks prior to the
publication of said notice or advertisement and is a newspaper within
the meaning of the laws of Idaho.

Lyle Judd
4th

Subscribed and sworn to before me this _____
day of April, 1980

[Signature]

Notary Public, State of Idaho
Residence: Pocatello, Idaho

RECEIVED

APR 7 1980

Department of Water Resources
Eastern District Office



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

September 30, 1986

RE: Permit No. 29-7537

Jack Fronk
c/o Golden Spike Equipment
Tremonton, UT 84337

Dear Mr. Fronk:

Enclosed herewith is a copy of the Water Right License issued on the above referenced Permit.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:sc

Enclosure

MICROFILMED



ate of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

August 12, 1986

RE: Permit No. 29-7537

Jack Fronk
c/o Golden Spike Equipment
Tremonton, UT 84337

Dear Permit Holder(s):

Enclosed is a new draft copy of the license proposed to be issued on the above referenced water right. Please note that the license has been modified from the previous draft copy sent at an earlier date. The changes on the new copy have been highlighted for your convenience.

If you do not concur with the information shown on the new draft license, please advise the Department within ten (10) days. If you have any questions, please let us know; otherwise, the license will be issued as identified on the new draft copy.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

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CONDITIONS OF APPROVAL

a. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

b. The right to the use of the water hereby confirmed is restricted and appurtenant to lands or place of use herein described, and is subject to all prior water rights, as provided by the laws of Idaho.

c. Any water right confirmed in this license 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 license 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 license.

Use of water under this license is subject to control by the watermaster of State Water District No. 29H, Marsh Creek.

*Measuring device condition added
to final license
new 10-day letter sent*

Witness the seal and signature of the Director, affixed at Boise, Idaho, this _____ day of _____, 19 86.

PROPOSED
Director

MICROFILMED



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

July 15, 1986

RE: Permit No. 29-7537

Jack Fronk
c/o Golden Spike Equipment
Tremonton, UT 84337

Dear Permit Holder(s):

Enclosed is a draft copy of the license proposed to be issued on the above referenced water right.

If you do not concur with the information shown on the draft license, please advise the Department within ten (10) days. If you have any questions, please let us know; otherwise, the license will be issued as identified on the draft copy.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

MICROFILMED

12/79

RECEIVED

JAN 31 1984

State of Idaho
DEPARTMENT OF WATER RESOURCES
FIELD REPORT39-1537

Permit No.

Department of Water Resources

CONTACT WITH PERMIT HOLDER

DATE

INITIALS

REMARKS

☐ Appointment letter mailed:☐ Telephone call made:

(List Telephone No. used)

☐ Appointment scheduled for:

(Date, time, location)

EXAMINATION

Date 9-1-1983Accompanied by N.A.

Total Q measured

2.072.06 AF

If source is surface water, estimate total flow of source

Methods of measurement Measuring tape

Meets Permit requirements?

Measurement calculations:

Pond on Creek created by dam.

Physical dimensions are

150' long x 120' wide x 5' deep

 $90,000 \text{ cf} \div 43,560 \text{ cf}$ yield $= 2.06 \text{ af}$ $= 2.066 \approx 2.07 \text{ AF}$

WELL/DIVERSION* NO.	HP	MOTOR MAKE	MOTOR SERIAL NO.	PUMP MAKE	PUMP SERIAL NO.	MEASURING DEVICE TYPE	CONDITION OF MEAS. DEV.	REMARKS

System Description Dam (120' long) on creek creates pond with 30" (outlet) intake pipe, concrete overflow channel and outflow channel. Measuring flumes at inflow + outflow sites

*Code with map on reverse side. Disregard code if only one.

RECOMMENDED AMOUNTS

Irrigation requirement =

AFA/Acre

USE

Recreation ✓

Q (cfs)

N/A

V (afa)

2.06 af

FROM

8-1 ✓

TO

12-31 ✓2.07 ≈ 2.1 AF2.1 AF2.06 af

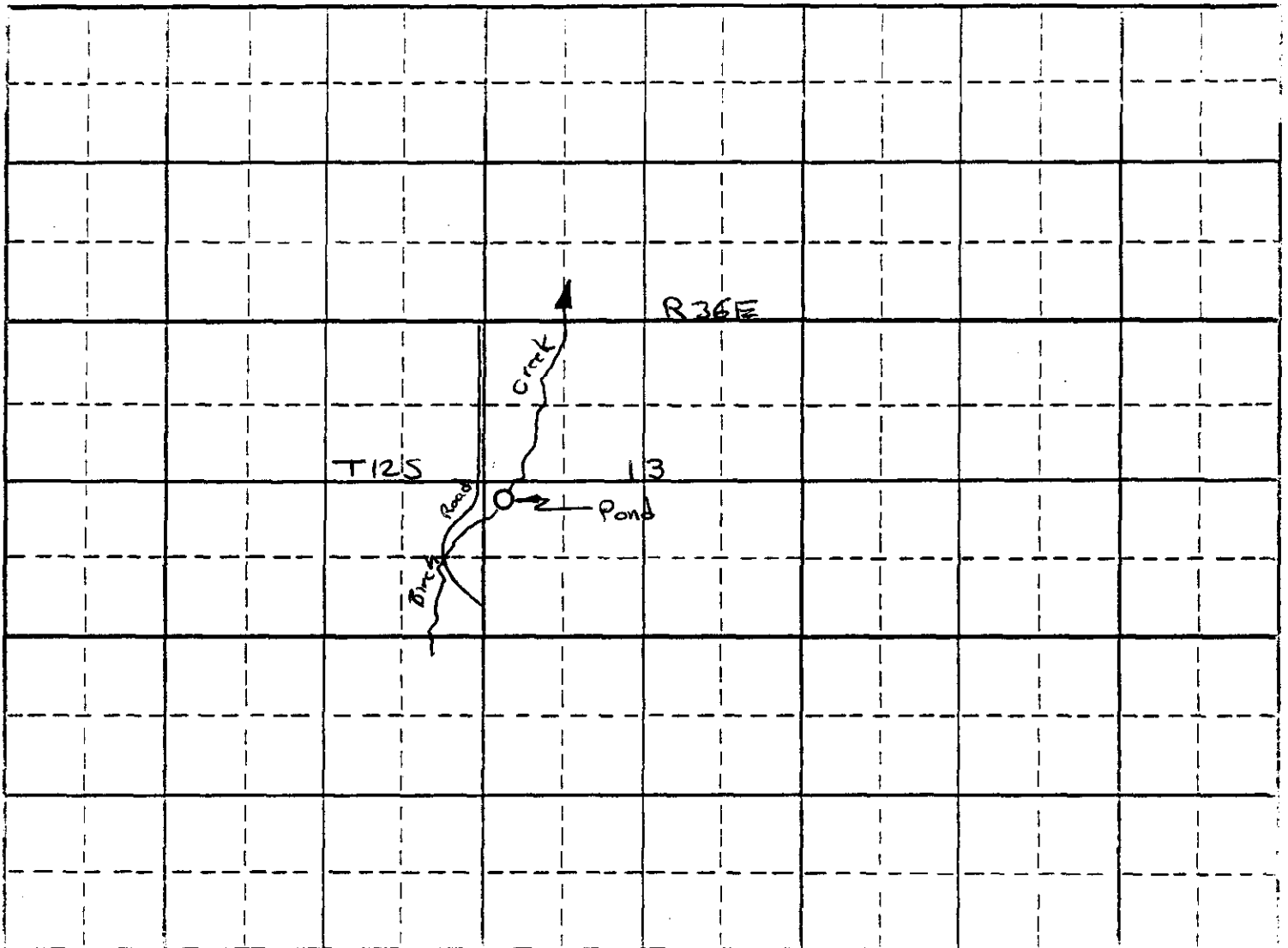
Total

N/A

Remarks

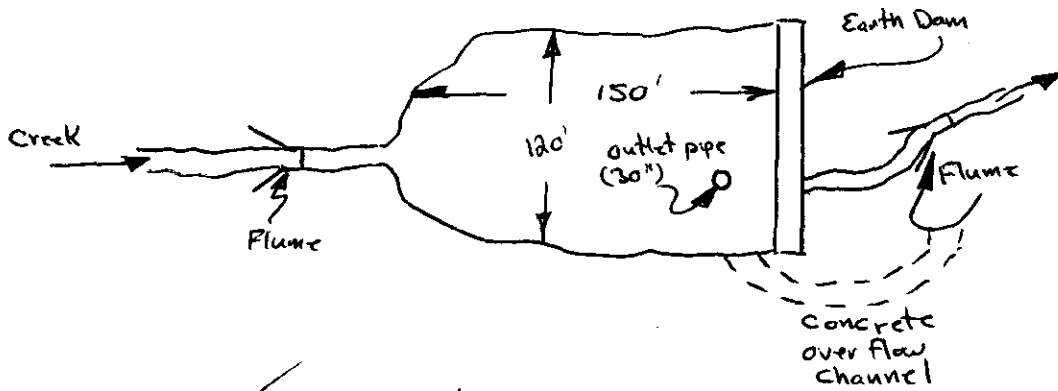
MICROFILMED

MAP (Attach Aerial Photo)



SCHEMATIC DIAGRAM OF SYSTEM

(Include distance from pump to measuring device, if applicable.)



Point(s) of diversion: ✓ NW 1/4 SW 1/4 Sect. 13 T12S R36E

Place(s) of Use ✓

TWP.	RGE.	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
12S	36E	13									X								

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

Examiner's Signature

Checked by

Approved by

[Handwritten signatures: J.W. Jones, Keith Walker, Kay Walker]

Date 12-1-1983

Date 30 Jan 1984

Date 7-7-1986

MICROFILMED

29-7537

915-C

R36E

C262

M
423

E
100.2

(120)

F
25.7

N
10.5

See
496

7125

G
491

.110
599-C

H
10.3

E
159.7

J
45.2

K
2.9

L
12.2

I
71.3

C29
SW-C

A
170.2

Not to Scale

PERMIT 29-7537 Frank
 (Name)
 Accompanied by: NA
 EXAMINATION: DATE: 6-30-82

Motor Make	HP	Motor Serial No.	Pump Make	Pump Serial No.

Measuring Device Type: _____
 Meter # _____ Annubar# _____ Size # _____

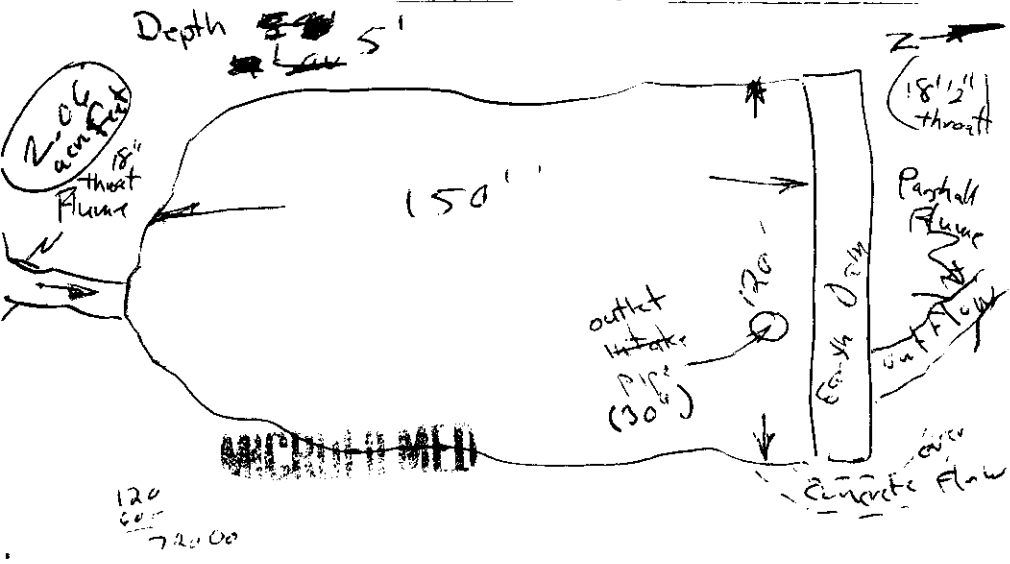
Remarks: outflow 2" deep thru 18 1/2" throat

Measurement calculations: Physical measurement

~~No were installed either up or~~
~~down stream,~~ 2 pr taken
 Parshall Flume of Flumes
~~works in~~ 9-1-83

SCHEMATIC DIAGRAM OF SYSTEM

Mainline Diameter _____ Length _____





Golden Spike

TREMONTON, UTAH 84337

EQUIPMENT CO.

PHONE 257-5347

Aug. 12, 1983

Dear Sirs,

As to our conversation in Sept.
I've now reinstalled the measuring
device for my pond on Birch Creek.

Thank you for your concern.

Yours Truly

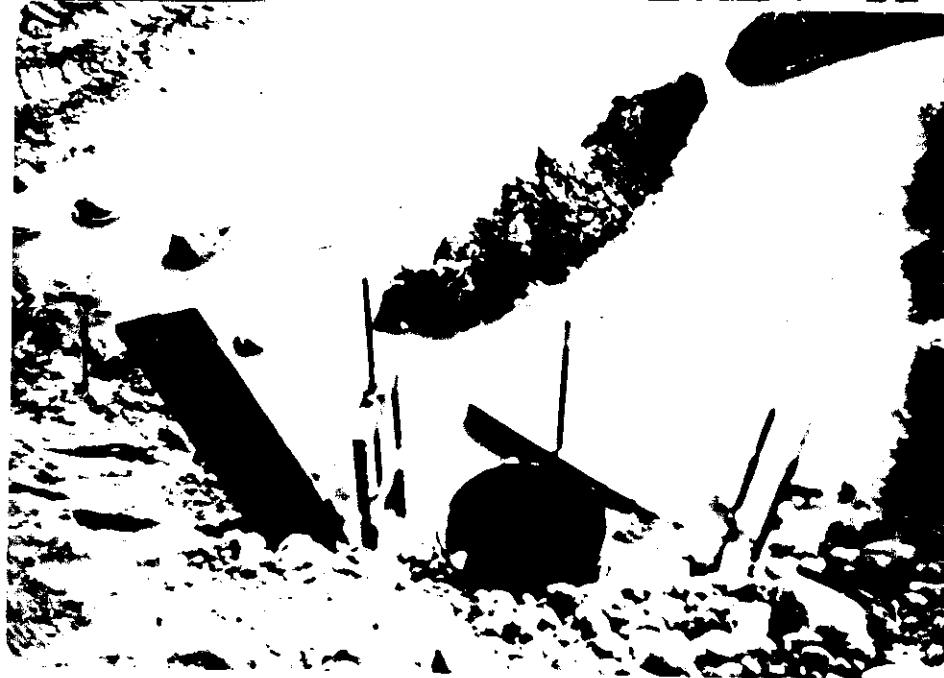
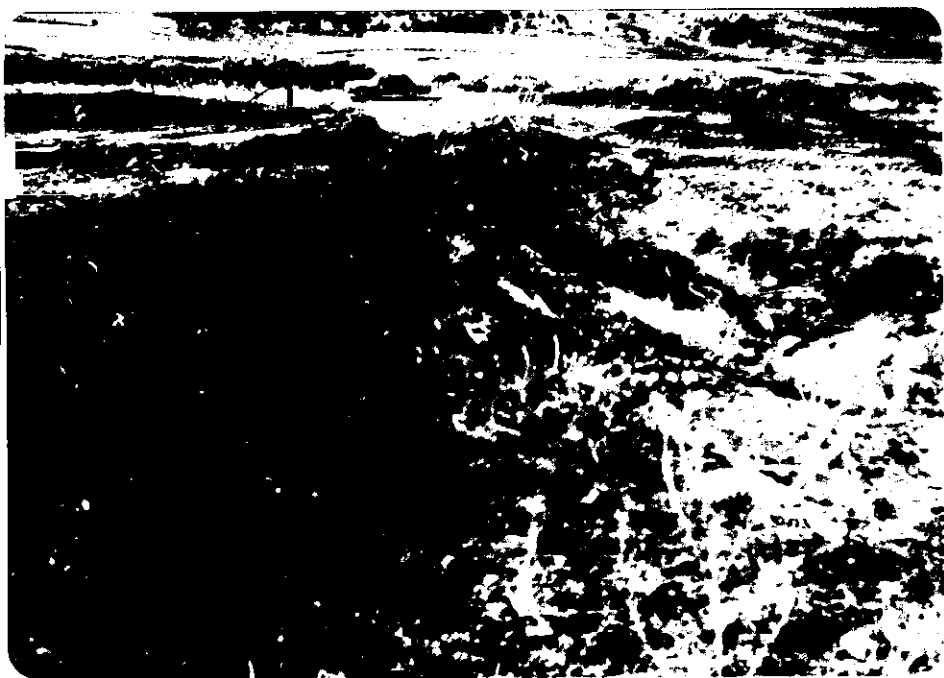
Jack Frank

RECEIVED

AUG 24 1983

Department of Water Resources
Eastern District Office

MICROFILMED



181 -
Spring back
per
of photos

MICROFILMED



MicroFILMED

May 1980-
per back
of photo!



ANCHOR LINED

may 1980 -
per back
of photos



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7188

Sept. 29, 1981

RE: Permit No. 29-7537

Jack Fronk
c/o Golden Spike Equipment
Tremonton, Utah 84337

Dear Mr. Fronk:

We acknowledge receipt of the proof of beneficial use card submitted for the above referenced permit.

Before a license can be issued, a field examination must be made by a representative of this department. We cannot tell just when this examination will be made, but our examiner will try to contact you at the time he makes the examination so that you may show him the system.

If you have any questions regarding the field examination, please contact our eastern regional office.

Very truly yours,

BOBBIE R. STEPHENS
Principal Clerk

cc: IDWR - State Office

RECEIVED

DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card as a permit that the permit holder(s) has completed development to the extent shown below of Permit No. 29-7537

Name(s) of Permit Holder: Jack Fronk

Post Office Address: % Golden Spike Equipment,

Tremonton, Utah 84337

Tel. No. 801-257-5347

Source of Water: Birch Creek A Tributary of March Creek

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

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

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

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

Aug 3, 81 Date [Signature] Signature of Permit Holder

Brent J. M s

30 South 2nd West

Rexburg, ID 83440



RECEIVED

AUG 17 1981



Idaho Department of Water Resources
STATEHOUSE
BOISE, IDAHO 83720

SMITH, HANCOCK & MOSS

Attorneys at Law

MARY SMITH
J. D. HANCOCK
BRENT J. MOSS
W. LLOYD ADAMS (1885-1969)

30 SOUTH 2nd WEST
REXBURG, IDAHO 83440
PHONE: 208 - 356-5493

April 7, 1981

Mr. Ronald D. Carlson
Eastern Region Supervisor
Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

RECEIVED

APR 9 1981

Department of Water Resources
Eastern District Office

Dear Ron:

I am writing in connection with the application of Jack Fronk, permit #29-7537, in an attempt to ascertain what if anything has happened on the granting or denial of that permit. My file shows that a hearing was held on August 14, 1980, there in Pocatello, and since that date, we have received no word other than verbal from the Department of Water Resources. Any information that you can give me on when we might expect some decision would certainly be appreciated, as I have a very anxious client. Your consideration is appreciated.

Yours very truly,

Brent J. Moss

Brent J. Moss

BJM/rjf

MAILED

SMITH, HANCOCK & MOSS

Attorneys at Law

MARY SMITH
J. D. HANCOCK
BRENT J. MOSS
W. LLOYD ADAMS (1885-1969)

30 SOUTH 2nd WEST
REXBURG, IDAHO 83440
PHONE: 208 - 356-5493

November 18, 1980

Mr. Ronald D. Carlson
Eastern Region Supervisor
Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

Dear Ron:

I have a client that has been after me quite hot and heavy on when he might get a decision. The case is that of Jack Fronk permit #29-7537. If you have any idea when it might be accomplished, I would sure appreciate hearing from you so that I can advise Mr. Fronk. Your consideration is appreciated.

Yours very truly,

Brent

Brent J. Moss

BJM/rjf

RECEIVED

NOV 24 1980

Department of Water Resources
Eastern District Office

MICROFILMED

SDT
ok to file

150 Shoup

XXXXXXXXXXXXXXXXXX

June 18, 1981

RE: Permit No. 29-7537 FRONK

Mr. William Ward
Downey,
Idaho 83234

Dear Mr. Ward:

Regarding Mr. Fronk's compliance with the conditions of approval for permit No. 29-7537, I have been in contact with Brent Moss, Mr. Fronk's attorney. Mr. Moss advised me he had discussed the measuring device requirement with his client and that Mr. Fronk had indicated the measuring devices would be installed as soon as possible. Mr. Moss also confirmed that he would again contact Mr. Fronk to insure that he was proceeding with diligence in installing the necessary measuring devices.

In addition, I have discussed the matter with Harold Jones, a Senior Water Resource Agent for the Department, who will be in the vicinity on June 25th. Mr. Jones has agreed to try and contact you on this date to see if you wish to accompany him while he inspects Mr. Fronk's dam hoping to find that the measuring devices have already been installed.

If we can be of assistance to you in the meantime, feel free to contact this office.

Respectfully submitted,

ERNEST CARLSEN
Sr. Resource Analyst

EC:cw

MICROFILMED

CONVERSATION MEMORANDUM

DATE June 15, 1981FILE Permit No. 29-7537
Jack FronkNAME OF PARTY Brent Moss, Attorney at LawEMPLOYEE Ernie Carlsen *ENC*RE: In response to a complaint filed by Bill Ward of Downey (897-5140)

I contacted Brent Moss, Attorney at Law, to discuss his client's
compliance with the conditions of approval stipulated on the above
permit. Mr. Moss stated he had spoke with his client, Jack Fronk, and
informed him of the need for the installation of weirs above and below
the reservoir which had previously been constructed. Mr. Fronk advised
him that it was his impression these measuring devices were in the
process of being installed or would be installed in the near future.

After I had indicated to Mr. Moss that the department had received
a phone call from William Ward, one of the protestants, complaining that
these devices had not been installed he indicated he would attempt to
contact his client again and reinforce the urgent need to install
measuring devices. Based on this committment, I told Mr. Moss I would
correspond with Mr. Ward and advise him that the measuring devices would
be installed as soon as possible.

MICROFILMED

May 27, 1981

Jack Fronk
Golden Spike Equipment
Tremonton, UT 84337

Dear Mr. Fronk:

Re: Application for Permit No. 29-7537

Enclosed is a copy of the approved Application for Permit No. 29-7537 along with a copy of the Memorandum Decision and Order. We direct your attention to the conditions of approval as set forth in the Memorandum Decision and Order.

Be sure to note the special condition requiring you to install and maintain measuring devices in such a manner that the releases from storage can be compared to the inflow to the reservoir. We have enclosed a letter describing the different types of measuring devices accepted by this office.

Any person who does not agree with the decision of the department may request a rehearing before the director within twenty (20) days or may appeal directly to the district court within sixty (60) days of the date the decision is mailed.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

Enclosures

cc: Dale D. Jones
Ms. Leona Wakley
Mr. David Treasure
Mr. William D. Ward
Lewis and Shirley Case

Stephen S. Dunn and Dave Galaphent
William T. Evans
Kenneth and Donna Williams
Brent J. Moss

RECEIVED
MAY 28 1981

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

29 7537

INITIAL REVIEW BY: gc
CHECK:

APPLICATION NUMBER: Frank
29-7537

- ☒ Source.
☒ Point of diversion.
☒ County.
☒ Quantity of water and period of use.
☒ Description of diverting works.
☒ Time required for beneficial use of water.
☒ Place of use or acres irrigated.
☒ Map.
☒ Signature.
☒ Fee.
☐ Yes ☒ No Field check required.
☐ Yes ☒ No Critical groundwater area.
☐ Yes ☒ No Request dam safety information. Sent by: _____ Date: _____
☒ Yes ☐ No* In form to receipt.

Field check by: _____
Date: _____
Comments: _____

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

SEND COPIES TO:

- ☐ Idaho State Health Department. Copies sent by: _____ Date: _____
☐ Idaho Fish and Game Department. _____
☐ Idaho Department of Lands. _____
☐ U.S. Bureau of Land Management. _____
☐ U.S. Forest Service. _____
☐ Other _____

PROCESSING:

- ☒ Yes ☐ No Platted by: gc Map No. Basin 29 CC-41
☐ Yes ☒ No Other rights on same place of use. _____
☒ Yes ☐ No* In form for advertising.
Final date for protests: April 14
☒ Yes ☐ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: April 7, 1980
☒ Application published correctly. If not, record action taken: _____
☒ Fee amount, receipt date & number, recorded on application.
☒ Publication dates and paper, recorded on application.
☒ Protests, dates, withdrawal, etc., recorded on application.
☒ Recommendation & initial, recorded on application.
☒ Yes ☐ No Measuring device required.
☐ Yes ☒ No Access port required.
☐ Yes ☒ No Will water be delivered by watermaster? If yes, what district? _____
3/19/1980. Date of priority recommended.
Special conditions of approval or cover letter. _____

By: Ernest Carlson Date: March 19, 1981

STATE OFFICE REVIEW:

See memorandum Decision

- ☐ See attached sheet for more information.
By: Jim Date: 3/23/81

MICROFILMED

150 Shoup Ave. -----

525-7161

April 17, 1981

Brent J. Moss
Attorney at Law
30 South 2nd West
Rexburg, ID 83440

Dear Mr. Moss:

Regional processing and analysis of protested Application for Permit No. 29-7537, Jack Fronk, has been completed. It is currently undergoing administrative review at our state office. Although I cannot give you a date when the Department's decision will be issued, your inquiry has been forwarded to the state office with the recommendation for prompt action on your client's protested application.

Respectfully submitted,

ERNEST CARLSEN
Sr. Resource Analyst

EC:kw

cc: IDWR - State Office

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8/8/80

Mr. David Galiphant called + wanted
a copy of 29-7537 for use at hearing
8/14/80. Stated he represented protesters.
Copy sent same day.

HWT

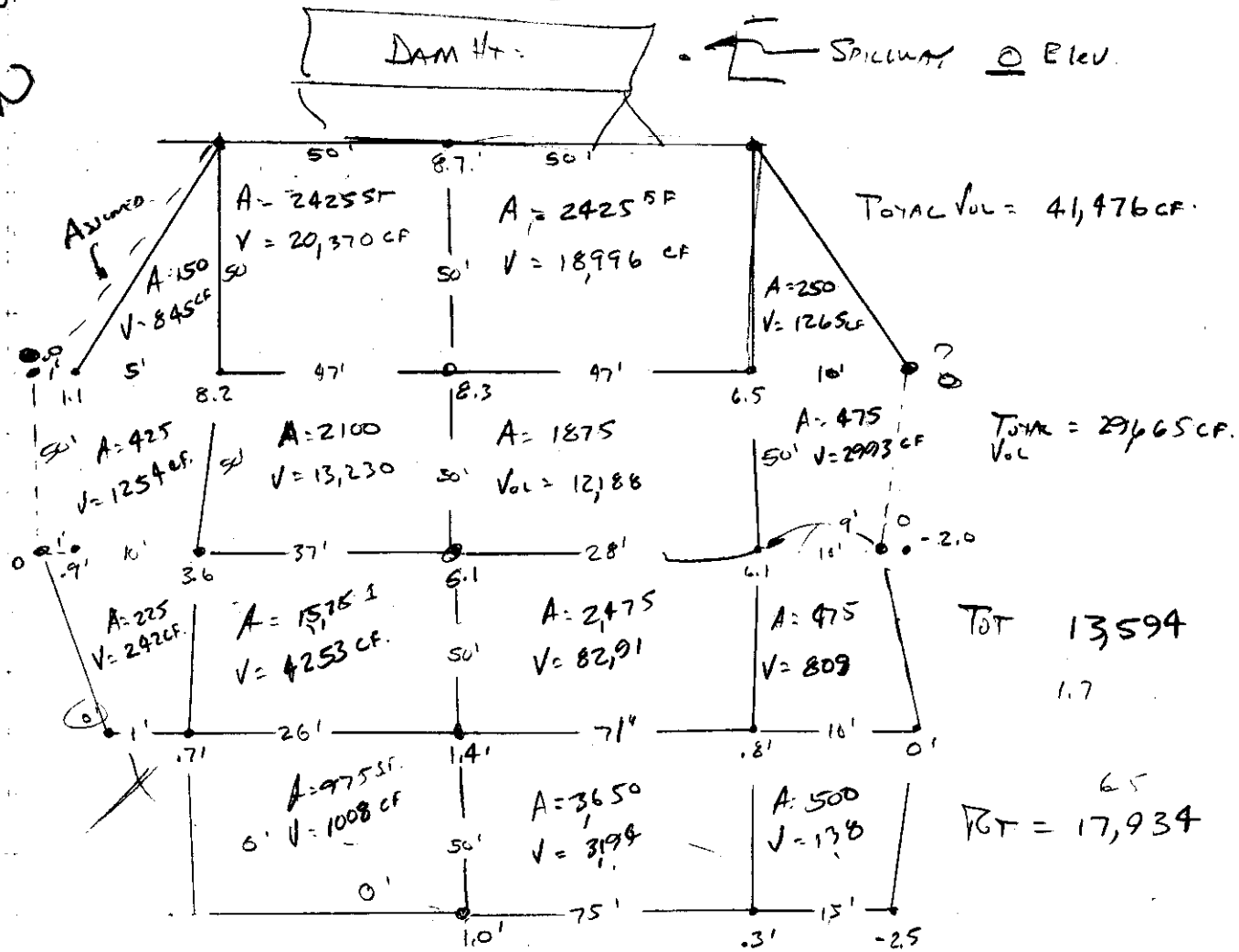
Field inspection:

- Determine surface area of reservoir. & volume
- " flow in Creek.
- " losses thru seepage & evaporation.

MICROFILMED

BRIDGE, INFO ON BRIDGE OR DAM

BRIDGE OR DAM



DAM HT. 9'

VOLUME 2.35 A.F.

Flow IN BRIDGE OR DAM 0.69 CFS

MICROFILMED

UNITED STATES DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

250 South 4th, Suite 112, Pocatello, Idaho 83201

*Reviewed by Applicant
at conference*

October 29, 1979

Mr. Jack Fronk
Golden Spike Equipment
Tremonton, Utah 84337

Dear Mr. Fronk:

In answer to your request, we submit the following information to you.

1. Our survey was based on a height of 2.9 feet above the ground at the fence gate brace. The height being level was extended across the stream channel and up stream until the 2.9 foot level hit ground level. This survey will produce .554 surface acres of water and a depth of 13 feet at the point of greatest fill. The surface acres times (x) the maximum water depth times (x) .4 will give acre feet of water. The .4 is a factor to give the average water depth from the deepest point to the water line. Attached is a drawing of the survey.
2. The soils present are rocky silt loam texture. With the rocks present you may have trouble getting good compaction and this point may cause seepage from the fill material into the Birch Creek downstream. However, there would be no seepage or percolation into the underground water table. The silt loam soil would seal it off.
3. Water evaporation will hurt you but not the people downstream because by law you are required to maintain the definite flow through the dam.

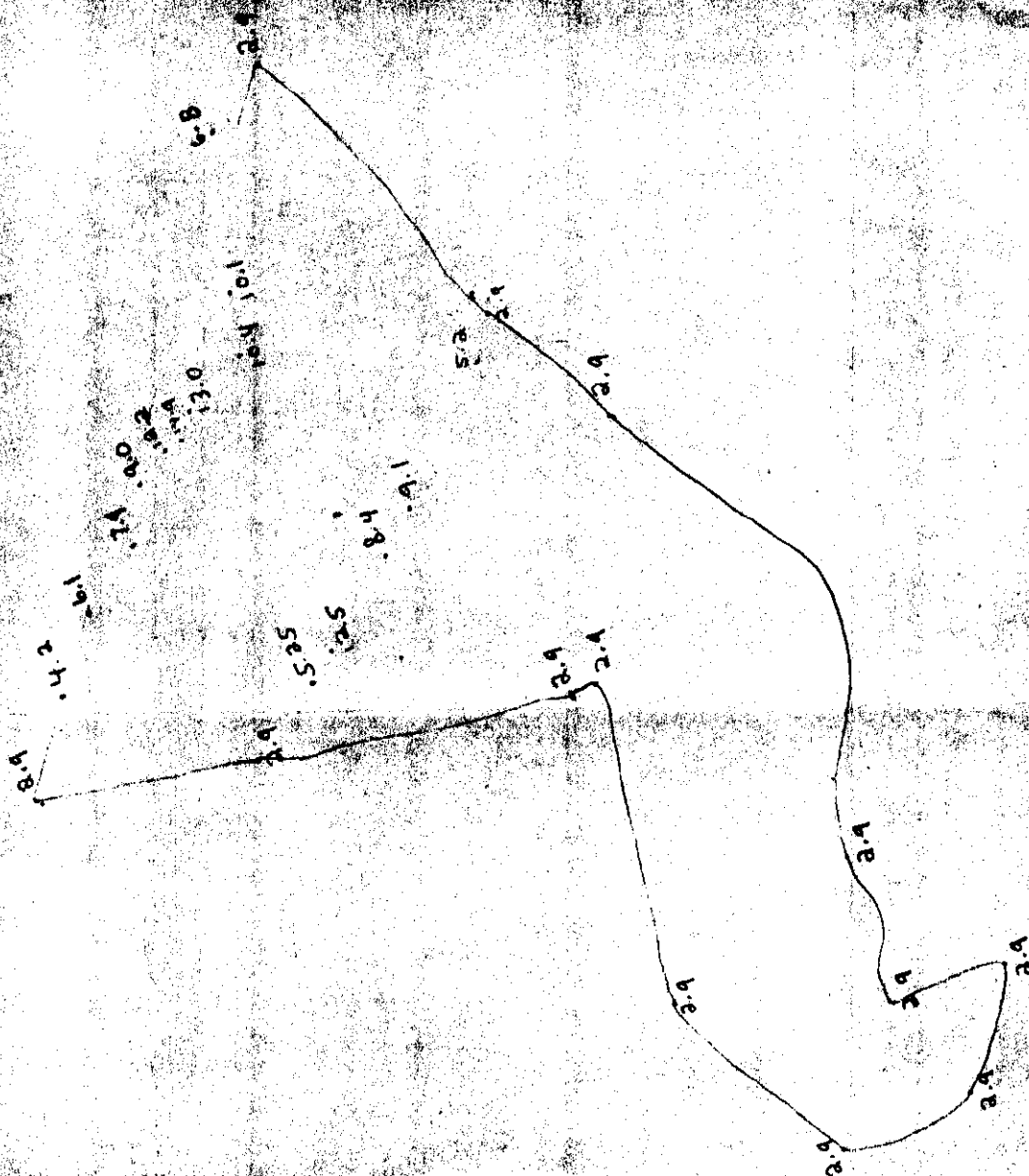
May I suggest you make your spillway large enough to handle the 15.9 square miles of drainage about your dam. We recommend to handle a 25 year storm, the spillway should be 1.75 feet deep and 50 feet wide.

If you have further questions give us a call.

David L. Curtis
David L. Curtis
District Conservationist

RECEIVED

100



MICROFILMED

554 Surface Ac. X 130 depth X 4 = 2.8 Ac ft.

IN THE MATTER OF)
APPLICATION FOR)
PERMIT 29-7537)
IN THE NAME OF)
JACK FRONK)

STIPULATION
AND
AGREEMENT

We hereby waive our right to a formal hearing in this matter and agree to allow the Idaho Department of Water Resources to reach a decision ~~based~~ upon the information presented at the conference held in Pocatello, Idaho on August 14, 1980. We further waive our right to a proposed decision as provided in Sec. 67-5211 Idaho Code. It is understood that nothing in this agreement prevents us from appealing the decision of the department as provided by law.
Signed at Pocatello Idaho this 14th day of August

Bundy J. Hume atty for Applicant
Jack Fronk
Dave Hallopent atty for protestants

RECORDED

APPLICATION 29-7537
JACK FRONK

AUG 14, 1980

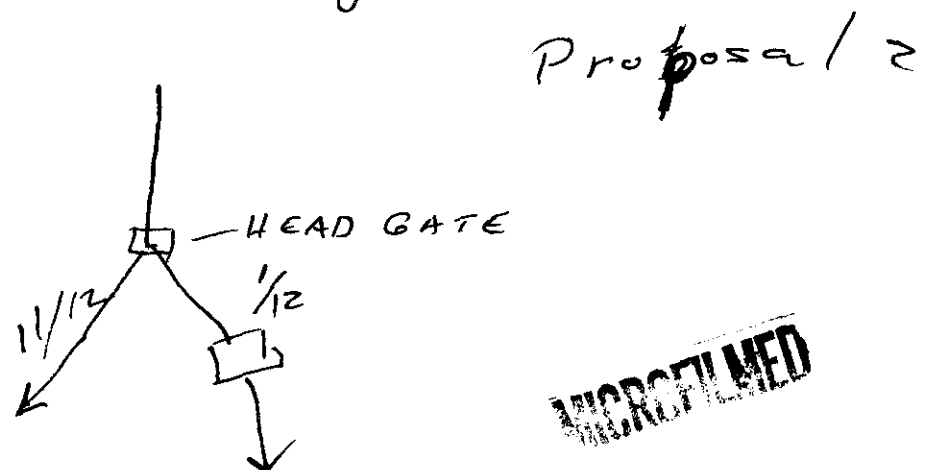
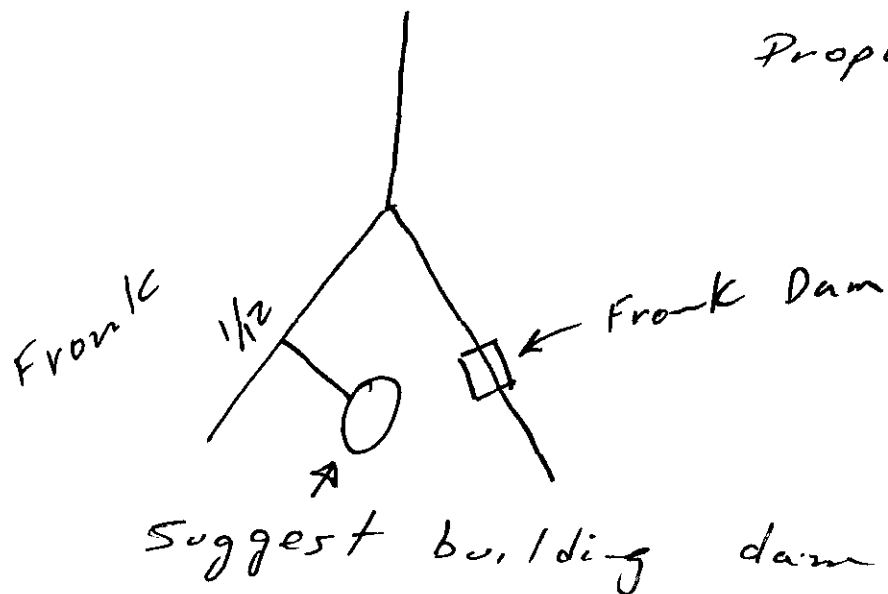
APPLICANT Represented by Brent Moss
Protestants " " Dave Gallefer

Project is built - Gaylan Christensen
built project.

14½ Ft dam
Capacity 2½ AF ACTIVE
out let w/ Gloryhole spillway

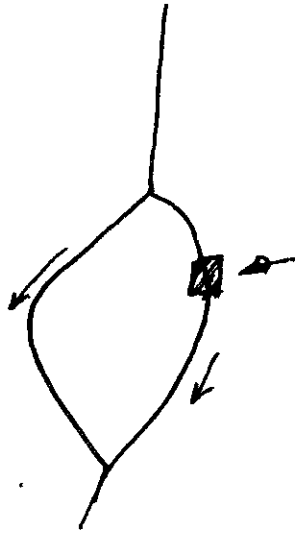
William D Ward - Concerned about
flood potential. -

Protestants - suggestions



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Applicant claims only 1/12 goes through the dam in the summer.



Stream protection act has not been complied with.

Evaporation & SEEPAGE Biggest Problem w/ application.

inspect project prior to decision

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28AF

Applicant

8-14-80

29-7537

Surface $\frac{1}{2}$ acre (13) feet deep

2.8 AF

Built by Gaylen Christensen -

Letter from SCS says +

- Recreation - Boating, swimming, fishing -

→ How is outlet constructed

There is an outlet works at the bottom of the reservoir -

A ~~decrease~~ in flow will cause

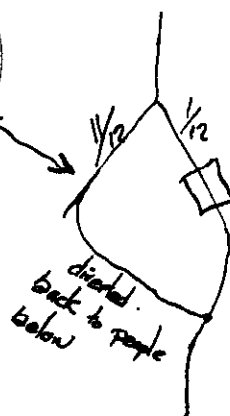
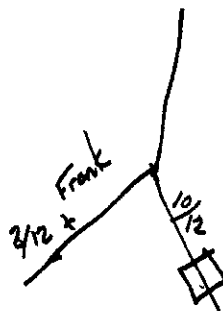
Dam shouldn't be built in the flood channel -

Dam will be inspected →

→ Proponents suggestions

1st - That dam be constructed offstream on Frank ditch

2nd - That ~~the~~ a headgate be installed to divert water into the dam and route all the other water for the other users down the left channel



Applicant

Would be willing to divert his $\frac{1}{2}$ of water of Birch Creek

into the Pond into the pond to fill it and to make up the irrigation

MICROFILMED

Protestant

Concerned about violation of stream protection act -
Issue - that there is not sufficient water -

→

Can we inspect project before decision is made

MICROFILMED

29-7537 - Jack Fronk

Airport Conference Room, Bannock County, Pocatello, Idaho

Thursday, August 14, 1980 (9:00 a.m.)

ROSTER OF ATTENDANCE

Hearing Officer Bob Fleener

Name	Address	Representing
Lave Gallafer	Box 991 Pocatello	Protestants
William O Ward	RFD Downey	self
Dave Treasure	Malad	self
Shirley Case	P. F. D. Downey	self
Dale D. Jones	1420 E ELM POCATELLO	SELF
Kenneth M. Williams	RD #1, Downey, Id.	Self
Leon Wakley	Rt 1, Downey, Id.	self
William Evans	Rt 1, Downey, Id.	self

MICROFILMED

August 6, 1980

C
Pocatello Airport
P. O. Box 1021
Pocatello, ID 83201

O
Gentlemen:

This to confirm the use of the Airport Conference Room for conference and/or hearing to be held by this office on Thursday, August 14, 1980 at 9:00 a.m.

Thank you for your cooperation in this matter.

D
Sincerely,

KAY WILKER
Secretary
Y

UNRECORDED

ATE 8/04/80

FILE 11-7069/11-7182/29-7537

NAME OF PARTY Office of Merrill & MerrillEMPLOYEE Ernest Carlsen *EMC*RE: Postponing hearings: 11-7069 & 11-7182 & 29-7537

Pursuant to the request from Stephen Dunn, Attorney for the protestants, dated July 31, 1980, for postponement of scheduled hearings I contacted the office of Merrill & Merrill. Mr. Dunn was not available so advised his secretary that the Department would not postpone the hearings unless it was agreed to by the applicants. The secretary indicated she would relay the message to Mr. W. F. Merrill and the Department would be notified provided they obtained the applicant's consent to the postponement.

MICROFILMED

MERRILL & MERRILL
CHARTERED
COUNSELORS AND ATTORNEYS AT LAW
SPAULDING BUILDING
POCATELLO, IDAHO 83201

A. L. MERRILL (1886-1961)
R. D. MERRILL (1893-1972)
W. F. MERRILL
E. J. BERRETT
G. T. DANCE
D. R. GALLAFENT
S. S. DUNN
D. RUSSELL WIGHT

P. O. BOX 991
TELEPHONE
208-232-2286

July 31, 1980

Mr. Ernest Carlson
DEPARTMENT OF WATER RESOURCES
Eastern Region
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Hearings: Junior Wallentine
Ward v. Fronk

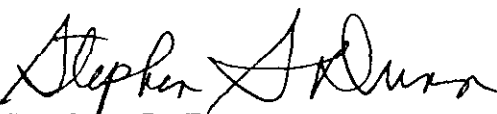
Dear Mr. Carlson:

We regard to the hearing set for Wednesday, August 13, 1980 at 9:00 a.m. on the Junior Wallentine matter and also the hearing set for Thursday, August 14, 1980 at 9:00 a.m. on the Bill Ward-Jack Fronk matter, please be advised that I will be out of the state and unavailable and would greatly appreciate these hearings being postponed until after September 1, 1980.

Your cooperation will be greatly appreciated.

Very truly yours,

MERRILL & MERRILL, CHARTERED

By 
Stephen S. Dunn

SSD:em

RECEIVED

AUG 4 1980

MICROFILMED

Department of Water Resources
Eastern District Office

INTER-DEPARTMENT MEMO — 1

FROM Ernest

DATE 7-27-1980

TO Hearing Examiner

SUBJECT RE: Attorney for applicant notified Dept. of proposed changes to application. It was suggested these changes be made at the conference. see ~~memo~~ letter dated June 5, 1980 & May 21, 1980.

MICROFILMED

SIGNATURE

PS Form 3811, Jan. 1978

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)
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☐ Show to whom, date and address of delivery.....
☐ RESTRICTED DELIVERY
 Show to whom and date delivered.....
☐ RESTRICTED DELIVERY.
 Show to whom, date, and address of delivery.\$____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
 William D. Ward
 RFD
 Downey

3. ARTICLE DESCRIPTION:
 REGISTERED NO. 11637 CERTIFIED NO. INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.
 SIGNATURE [Signature] ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY
 8-1-80

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

POSTMARK AUG 1 1980

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

☆GPO : 1978-288-848

PS Form 3811, Jan. 1978

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

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☐ RESTRICTED DELIVERY
 Show to whom and date delivered.....
☐ RESTRICTED DELIVERY.
 Show to whom, date, and address of delivery.\$____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
 Brent G. Moss, Attorney
 30 S. 2nd W.
 Downey

3. ARTICLE DESCRIPTION:
 REGISTERED NO. 11641 CERTIFIED NO. INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.
 SIGNATURE [Signature] ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY
 JUL 31 1980

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

POSTMARK JUL 31 1980

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

☆GPO : 1978-288-848

PS Form 3811, Jan. 1978

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)
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☐ Show to whom, date and address of delivery.....
☐ RESTRICTED DELIVERY
 Show to whom and date delivered.....
☐ RESTRICTED DELIVERY.
 Show to whom, date, and address of delivery.\$____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
 Dale W. Jones
 P.O. Box 2675
 Pocatello

3. ARTICLE DESCRIPTION:
 REGISTERED NO. 11640 CERTIFIED NO. INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.
 SIGNATURE [Signature] ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY
 8-6-80

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

POSTMARK AUG 1 1980

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☆GPO : 1978-288-848

PS Form 3811, Jan. 1978

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)
☒ Show to whom and date delivered.....
☐ Show to whom, date and address of delivery.....
☐ RESTRICTED DELIVERY
 Show to whom and date delivered.....
☐ RESTRICTED DELIVERY.
 Show to whom, date, and address of delivery.\$____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
 David Treasure
 RFD
 Downey

3. ARTICLE DESCRIPTION:
 REGISTERED NO. 11638 CERTIFIED NO. INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.
 SIGNATURE [Signature] ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY
 7-31-80

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

POSTMARK AUG 1 1980

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

☆GPO : 1978-288-848

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

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

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



RETURN
TO
RECEIVED

AUG 4 1980

Department of Water Resources
Eastern District Office

DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

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

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USE TO AVOID PAYMENT
OF POSTAGE, \$300



Department of Water Resources
Eastern District Office

AUG 7 1980

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DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

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PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



RETURN
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AUG 1 1980

Department of Water Resources
Eastern District Office

DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

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PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



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AUG 4 1980

Department of Water Resources
Eastern District Office

DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

PS Form 3811, Jan. 1979

SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

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☐ Show to whom, date and address of delivery.....
☐ RESTRICTED DELIVERY
 Show to whom and date delivered.....
☐ RESTRICTED DELIVERY.
 Show to whom, date, and address of delivery \$ ____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Deana Wabney
Downey

3. ARTICLE DESCRIPTION:
 REGISTERED NO. 11639 CERTIFIED NO. _____ INSURED NO. _____
 (Always obtain signature of addressee or agent)

I have received the article described above.
 SIGNATURE ☒ Addressee ☐ Authorized agent
Deana Wabney
 DATE OF DELIVERY 7-31-80

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: _____ CLERK'S INITIALS LM

★GPO : 1979-288-848

PS Form 3811, Jan. 1979

SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)
☒ Show to whom and date delivered.....
☐ Show to whom, date and address of delivery.....
☐ RESTRICTED DELIVERY
 Show to whom and date delivered.....
☐ RESTRICTED DELIVERY.
 Show to whom, date, and address of delivery \$ ____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Stephen S. Rumm
P.O. Box 991
Pocahontas

3. ARTICLE DESCRIPTION:
 REGISTERED NO. 11636 CERTIFIED NO. _____ INSURED NO. _____
 (Always obtain signature of addressee or agent)

I have received the article described above.
 SIGNATURE ☐ Addressee ☐ Authorized agent
Russell Wright
 DATE OF DELIVERY AUG - 1 1980

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: _____ CLERK'S INITIALS LM

★GPO : 1979-288-848

PS Form 3811, Jan. 1979

SENDER: Complete items 1, 2, and 3.
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 Show to whom and date delivered.....
☐ RESTRICTED DELIVERY.
 Show to whom, date, and address of delivery \$ ____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
William F. Evans
Downey

3. ARTICLE DESCRIPTION:
 REGISTERED NO. 11634 CERTIFIED NO. _____ INSURED NO. _____
 (Always obtain signature of addressee or agent)

I have received the article described above.
 SIGNATURE ☒ Addressee ☐ Authorized agent
William F. Evans
 DATE OF DELIVERY 7-31-80

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: _____ CLERK'S INITIALS LM

★GPO : 1979-288-848

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☐ RESTRICTED DELIVERY
 Show to whom and date delivered.....
☐ RESTRICTED DELIVERY.
 Show to whom, date, and address of delivery \$ ____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Jack R. Frank
Tremonton, UT

3. ARTICLE DESCRIPTION:
 REGISTERED NO. 11632 CERTIFIED NO. _____ INSURED NO. _____
 (Always obtain signature of addressee or agent)

I have received the article described above.
 SIGNATURE ☐ Addressee ☐ Authorized agent
Jack Frank by Mark Galt
 DATE OF DELIVERY _____ POSTMARK AUG 1 1980

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: _____ CLERK'S INITIALS LM

★GPO : 1979-288-848

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

- Complete items 1, 2, and 3 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.

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

RETURN
TO
RECEIVED

AUG 4 1980

(Name of Sender)

(Street or P.O. Box)

Department of Water Resources
Eastern District Office

(City, State, and ZIP Code)

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

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Form 3811, Jan. 1979

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☐ RESTRICTED DELIVERY.
 Show to whom, date, and address of delivery \$.....
 (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
 Kenneth & Donna Williams
 Rt. 1
 Downey

3. ARTICLE DESCRIPTION:
 REGISTERED NO. CERTIFIED NO. INSURED NO.
 11633
 (Always obtain signature of addressee or agent)

I have received the article described above.
 SIGNATURE ☒ Addressee ☐ Authorized agent
 Kenneth M. Williams

4. DATE OF DELIVERY
 7-31-80

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

POSTMARK
 AUG 1 1980
 DOWNEY, CA 90241

★GPO : 1979-288-848

Form 3811, Jan. 1979

● SENDER: Complete items 1, 2, and 3.
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 Show to whom and date delivered.....
☐ RESTRICTED DELIVERY.
 Show to whom, date, and address of delivery \$.....
 (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
 Lewis & Shirley Case
 Downey

3. ARTICLE DESCRIPTION:
 REGISTERED NO. CERTIFIED NO. INSURED NO.
 11635
 (Always obtain signature of addressee or agent)

I have received the article described above.
 SIGNATURE ☒ Addressee ☐ Authorized agent
 Shirley Case

4. DATE OF DELIVERY
 8-1-80

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

POSTMARK
 AUG 1 1980
 DOWNEY, CA 90241

★GPO : 1979-288-848

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

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PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



RETURN
TO
RECEIVED

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401
(Name of Sender)

AUG 4 1980

Department of Water Resources
Eastern District Office

(Street or P.O. Box)

(City, State, and ZIP Code)

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RETURN
TO
RECEIVED

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401
(Name of Sender)

AUG 4 1980

Department of Water Resources
Eastern District Office

(Street or P.O. Box)

(City, State, and ZIP Code)

DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

1515 LINCOLN ROAD

IDAHO FALLS, IDAHO 83401

Indicate type of mail:

☐ REGISTERED ☐ REGISTERED
☐ C.O.D. ☒ CERTIFIED

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.
POSTMARK AND DATE OF RECEIPT

NO. OF PIECES	NAME OF ADDRESSEE, STREET AND POST OFFICE ADDRESS	POSTAGE	FEE	R.R. FEE	REF. DEL. FEE	ACTUAL VALUE	HANDLING CHARGE	REMARKS*
4	Farrell B. Parting, Star Rt., Soda Springs	15	80	45				~~16-7184~~
5	Driggs Lewis, St., Soda Springs							11-7184
6	Clyde B. Nelson, Attorney, Soda Springs							
7	City of Soda Springs							
8	Elmer E. Gau, P.O. Box 18, Soda Springs							
9	Darrel Swartz, 353 N. Main, Malad							15-7062
20	Nolan F. Blair, 1st St. Malad							
21	C. H. Scott, 4th Main St. Malad							
22	Bugs Shalan, Box 90, Thatcher							13-7276
23	Mr. Gladys R. Williams, Box 85, Thatcher							
24	Jim Spencer, Farmer, Box 73, Thatcher							
25	Randy Parker, Thatcher							
26	Ray M. Walker, Thatcher							
27	Wash R. Housley, Star Rt., Box 84, Thatcher							
28	Arvel E. Alleman, Thatcher							
29	Curtis H. Cox, Oxford							13-7278
30	Harold B. Fisher, Clifton							
31	Douglas S. Fisher, Clifton							
32	Jack R. Frank, Remonton, UT							29-7537
33	Kenneth & Donna Williams, Rt. 1, Remonton							



OF PIECES
SENDER TOTAL NO. OF
PIECES REC'D AT P.O. 20 POSTMASTER, PER (Not for use by employee)

*Show under "Remarks" class postage paid if other than first or if international

APPLICATION FOR REGISTERED, REGISTERED C.O.D. AND CERTIFIED MAIL

(Declaration of value is required on international registered mail)

★ U. S. GOVERNMENT PRINTING OFFICE: 1974-0-529-724

FORM MUST BE MADE OUT IN INK OR BALL POINT PEN

DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

1515 LINCOLN ROAD

IDAHO FALLS, IDAHO 83401

Name and

Address
of Sender

Indicate type of mail:

☐ REGISTERED ☒ REGISTERED
☐ C.O.D. ☒ CERTIFIED

Attach stamp here if issued on workbooks of mailing or for additional copies of this bill.

POSTMARK AND DATE OF RECEIPT

NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET AND POST OFFICE ADDRESS	POSTAGE	FEE	R.R. FEE	AMT. DEL. FRN	ACTUAL VALUE	HANDLING CHARGE	REMARKS
1	11634 William T. Evans, Downey	15	80	45			✓	29.53
2	11635 Lewis & Shirley Case, Downey						✓	
3	11636 Stephen S. Dunn, P.O. Box 991, Pocatello						✓	
4	11637 William D. Ward, RFD, Downey						✓	
5	11638 David Kersaux, RFD, Downey						✓	
6	11639 Deana Wabley, Rt. 1, Downey						✓	
7	11640 Dale D. Jones, P.O. Box 2675, Pocatello						✓	
8	11641 Brent F. Moss, 30 S. 2nd W., Rexburg						✓	
9	11642 Sam & Margaret McLabb, Rt. 1, Box 62, Pocatello							29-75
10	11643 Elma Hines, Sec. WD-29F, Idaho Falls							
11	11644 J. Junior Wallentine, Box 68A, Ovid							11-7069/11-7118
12	11645 Steven S. Dunn, Spauld. Bldg. Pocatello							
13	11646 Kent W. Foster, P.O. Box 629, Idaho Falls							
14	11647 Robert F. Passey, Ovid							
15	11648 Edwin S. Parker, Ovid							
16	11649 Mirl F. Passey, 2008 W. 5950 S., Pro, UT							
17	11650 J. Bruce Passey, 241 E. Cherry Lane, Clayton UT							
18	11651 Ralph Spetten, Ovid							
19	11652 Roy M. Reed, Ovid							
20	11653 Arden Smith, Ovid							

TOTAL NO. OF PIECES LISTED BY SENDER

TOTAL NO. OF PIECES REC'D AT P.O. 20

POSTMASTER, PER (Name of receiving employee) R. Deen

Show under "Remarks" class postage paid if other than first or if international

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

IN THE MATTER OF APPLICATION FOR	)	
	)	
PERMIT NO. 29-7537 IN THE NAME	)	
	)	
OF JACK FRONK	)	NOTICE OF CONFERENCE
	)	AND/OR HEARING

On March 19, 1980, Jack Fronk filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On April 2, 1980, the Department received a protest against approval of said application from Dale D. Jones. Additional protests were received on April 4, 1980, from Leona Wakley, David Treasure, William D. Ward and Attorney Stephen S. Dunn representing Mr. Ward; on April 7, 1980 from Lewis and Shirley Case, and William T. Evans; on April 8, 1980 from Kenneth and Donna Williams.

The Department has set the matter of protest for conference and/or hearing for Thursday, August 14, 1980, at 9:00 a.m., in the Conference Room, Pocatello Municipal Airport, Pocatello, Idaho. Any hearing will be held in accordance with provisions of Chapter 2, Title 42, and Chapter 52, Title 67, of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

In accordance with Idaho Code, Section 42-203, the following issues are involved in the consideration of the application and protest(s):

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 conflict with the local public interest?

RECORDED

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

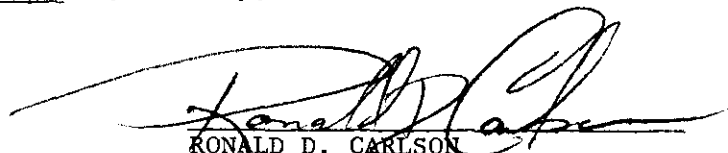
If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be submitted to the parties and the parties will be afforded an opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by Idaho Code, Section 67-5211.

By written stipulation, the parties may waive compliance with Idaho Code, Section 67-5211. If the hearing is conducted by a hearing officer, the hearing officer will ask the parties at the close of the hearing whether they would like to make such a stipulation.

Failure to waive compliance with Idaho Code, Section 67-5211 will not prejudice the Director's review of the party's evidence and arguments. However, such a waiver will shorten the decision-making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 67-5211 is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to Rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the District Court.

Failure to appear at the time and place set for hearing by the applicant or protestant(s) may allow the Department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 30th day of July, 1980.


RONALD D. CARLSON
Supervisor, Eastern Region

RECEIVED

MERRILL & MERRILL
CHARTERED
COUNSELORS AND ATTORNEYS AT LAW
SPAULDING BUILDING
POCATELLO, IDAHO 83201

A. L. MERRILL (1886-1961)
R. D. MERRILL (1893-1972)
W. F. MERRILL
E. J. BERRETT
G. T. DANCE
D. R. GALLAFENT
S. S. DUNN

P. O. BOX 991
TELEPHONE
208-232-2286

June 24, 1980

Mr. Jack Fronk
Golden Spike Equipment
Tremonton, Utah 84337

Dear Mr. Fronk:

As you know, our firm represents certain Marsh Valley Water Users who are protesting your application for a storage right on Birch Creek. I am reliably informed that you have recommenced work on that dam and impoundment area and have brought sufficient materials to the site to allow you to block off Birch Creek and actually impound water. I have attempted to contact your attorney but he is unavailable today and because of the eminence of this matter am writing directly to you.

I would remind you of the letter you received dated March 21, 1980 from Ronald Carlson, Eastern Regional Supervisor for the Department of Water Resources, in which you were instructed that you are not entitled to proceed with the construction of your proposed dam and impoundment area without the authorization of the State of Idaho, which you have not received. That letter warned you that you would be liable for triple damages caused any other water users on the stream and I must advise you that should you proceed with completion of this area and actually impede the flow of water in Birch Creek, we will immediately seek not only an injunction but also the triple damages mentioned. The Department of Water Resources will not and cannot authorize construction of this project until a hearing on this matter has been held. Therefore, I would urge you to seriously consider the immediate curtailment of any work on that project until a hearing has been scheduled.

Very truly yours,

MERRILL & MERRILL, CHARTERED

By
Stephen S. Dunn

SSD:em

cc: Brent Moss

MICROFILMED

RECEIVED

JUN 25 1980

Department of Water Resources
Eastern District Office

June 5, 1980

RE: Application for Permit No. 29-7537

Brent J. Moss
Attorney at Law
30 South 2nd West
Rexburg, ID 83440

Dear Mr. Moss:

We have placed your letter of May 21, 1980 in the file for Mr. Fronk's protested application for permit. However, rather than amending the application at this time it may be more expedient to recommend these changes during the conference and/or hearings. If you have any questions or comments concerning this recommendation, feel free to call or contact me.

Respectfully submitted,

ERNEST M. CARLSEN
Sr. Resource Analyst

EMC:kw

MICROFILMED

SMITH, HANCOCK & MOSS

Attorneys at Law

MARY SMITH
J. D. HANCOCK
BRENT J. MOSS
W. LLOYD ADAMS (1885-1969)

30 SOUTH 2nd WEST
REXBURG, IDAHO 83440
PHONE: 208-356-5493

May 21, 1980

State of Idaho
Department of Water Resources
Eastern Region
1515 Lincoln Road
Idaho Falls, Idaho 83401

Dear Mr. Carlson:

RE: Application No. 29-7537 - Jack Fronk

In reference to the Application for Permit in this matter, we would like to amend the same showing the height of the dam at 14.5 feet with the total acre feet of water to be stored as 2.8 acre feet.

If you require an amended application, please advise, but if possible we would like to simply amend in this way and proceed to the hearing.

Your consideration in this matter is appreciated.

Yours very truly,



Brent J. Moss

b1

MICROFILMED

RECEIVED

MAY 22 1980

Department of Water Resources
Eastern District Office

April 14, 1980

RE: Application for Permit No. 29-7537

Jack Fronk
Golden Spike Equipment
Tremonton, UT 84337

Dear Mr. Fronk:

Enclosed herewith is a copy of another protest against the approval of your application for permit.

Sincerely,

KAY WALKER
Secretary

Enclosure

MICROFILMED

April 14, 1980

RE: Application for Permit No. 29-7537

Jack Fronk
Golden Spike Equipment
Tremonton, UT 84337

Dear Mr. Fronk:

Enclosed herewith is a copy of another protest against the approval of your application for permit.

Sincerely,

KAY WALKER
Secretary

Enclosure

MICROFILMED

April 10, 1980

RE: Application for Permit No. 29-7537 JACK FRONE

Kenneth & Donna Williams
Rt. #1
Downey, Idaho 83234

Dear Mr. & Mrs. Williams:

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

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 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?

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

Very truly yours,

(Handwritten signature)
RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

MICROFILMED

BDF

April 10, 1980

RE: Application for Permit No. 29-7537 JACK PRONE

Kenneth & Donna Williams
Rt. #1
Downey, Idaho 83234

Dear Mr. & Mrs. Williams:

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

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

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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?

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

Very truly yours,

(Signature)
RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

MICROFILMED

April 9, 1980

RE: Application for Permit No. 29-7537

Jack Fronk
Golden Spike Equipment
Tremonton, UT 84337

Dear Mr. Fronk:

Enclosed are copies of additional protests against the granting of your water right application.

Please feel free to contact this office should you have any questions.

Sincerely,

KAY WALKER
Secretary

KW:k
Enclosures

MICROFILMED

DD/

April 9, 1980

RE: Application for Permit No. 29-7537

Jack Fronk
Golden Spike Equipment
Tremonton, UT 84337

Dear Mr. Fronk:

Enclosed are copies of additional protests against the granting of your water right application.

Please feel free to contact this office should you have any questions.

Sincerely,

KAY WALKER
Secretary

KW:k
Enclosures

MICROFILMED

April 8, 1980

RE: Application for Permit No. 29-7537 JACK FRONK

William T. Evans
Downey,
Idaho 83432

Dear Mr. Evans:

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

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

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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?

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

Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

April 8, 1980

RE: Application for Permit No. 29-7537 JACK FRONK

William T. Evans
Downey,
Idaho 83432

Dear Mr. Evans:

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

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

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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?

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

Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

cc: IDWR - State Office

MICROFILMED

April 8, 1980

RE: Application for Permit No. 29-7537 JACK FRONK

Ms. Leona Wakley
Rt. #1
Downey, Idaho 83234

Dear Ms. Wakley:

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

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

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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?

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

Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

April 8, 1980

RE: Application for Permit No. 29-7537 JACK FRONK

Ms. Leona Wakley
Rt. #1
Downey, Idaho 83234

Dear Ms. Wakley:

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

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

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

Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

APR 10 1980
IDAHO DEPARTMENT OF AGRICULTURE
BOISE, IDAHO

April 8, 1980

RE: Application for Permit No. 29-7537 JACK FRONK

Mr. David Treasure
RFD
Downey, Idaho 83234

Dear Mr. Treasure:

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

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

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Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

cc: IDWR - State Office

RECEIVED
APR 10 1980

April 8, 1980

RE: Application for Permit No. 29-7537 JACK FRONK

Mr. David Treasure
RFD
Downey, Idaho 83234

Dear Mr. Treasure:

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

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Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

cc: IDWR - State Office

MICROFILMED

April 8, 1980

RE: Application for Permit No. 29-7537 JACK FRONK

Mr. William D. Ward
RFD
Downey, Idaho 83234

Dear Mr. Ward:

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

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Eastern Region Supervisor

RDC:cw:kw

cc: IDWR - State Office

MICROFILMED

April 8, 1980

RE: Application for Permit No. 29-7537 JACK FRONK

Mr. Stephen S. Dunn
P.O. Box 991
Pocatello, Idaho 83201

Dear Mr. Dunn:

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

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Eastern Region Supervisor

RDC:cw:kw

MICROFILMED

April 8, 1980

RE: Application for Permit No. 29-7537 JACK FRONK

Lewis & Shirley Case
Downey,
Idaho 83234

Dear Mr. Case:

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

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Eastern Region Supervisor

RDC:cw:kw

cc: IDWR - State Office

MICROFILMED

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Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

cc: IDWR - State Office

RECEIVED
APR 10 1980
IDWR

To

- MR. STEPHEN F. RED
- DIRECTOR
- STATE OF IDAHO WATER RESOURCES

FROM

KENN I AND DONNA WILLIAMS
RD #1
DOWNEY, ID. 83234

Subject

PROTEST OF APPLICATION #297537

Date

4/7/80

MESSAGE:

WE ARE WRITING TO PROTEST THE APPLICATION OF JACK FRANKS FOR 15 ACRE FT. OF BIRCH CREEK WATER.

WE HAVE A DECREED DEED FOR $\frac{1}{24}^{TH}$ OF THE CONTINUOUS FLOW OF THIS WATER. THE LOSS OF ANY PART OF THIS WATER WOULD HAVE A GREAT ECONOMICAL EFFECT ON THE PRODUCTION OF OUR FARM.

THIS WATER IS USED TO IRRIGATE OUR CROPS IN THE SPRING AND SUMMER AND TO WATER CATTLE IN THE FALL AND WINTER.

THE GRANTING OF THIS PERMIT WOULD AFFECT THE PRODUCTION OF OUR FARM AS WELL AS THAT OF THE OTHER SHARE HOLDERS ON THIS CREEK.

RECEIVED

APR 8 1980

Kenneth & Donna Williams

Signed

Department of Water Resources

Redistrict Office

Poly Pak (50 sets) 4P468

☐ NO REPLY NECESSARY

☐ REPLY REQUESTED — USE REVERSE

MICROFILMED

To

FROM

• MR. STEPHEN ALI ED

KENNE AND DONNA WILLIAMS

• DIRECTOR

RD #1

• STATE OF IDAHO WATER RESOURCES

DOWNEY, ID. 83234

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Department of Water Resources

Regional Office

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MICROFILMED

Downey, Idaho
April 3, 1980

Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

Dear Sirs:

I hereby submit a protest against the application of permit for water appropriation number 29-7537-Jack Fronk, Golden Spike Equipment. It was filed 3-19-80 for 15.0 acre feet.

I object to the earthen dam and spillway being constructed over and across the original free flowing stream bed of Birch Creek. Also, to the use of the waters of Birch Creek that have been decreed to other water users.

I feel that the water loss from such a diversion as is being constructed would be detrimental to all concerned and I would like to request the diversion of these said waters remain the same as at the present time and place.

Very truly yours,

William A. Evans
Downey, Idaho
83432

RECEIVED

APR 7 1980

Department of Water Resources
Eastern District Office

UNRECORDED

Downey, Idaho
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APR 7 1980

Department of Water Resources
Eastern District Office

MICROFILMED

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APR 7 1980

Department of Water Resources
Eastern District Office

Lewis A. Case
Downey
Idaho 83234
April 4, 1980

Idaho Dept. of Water Resource
1515 Lincoln R.
Idaho Falls, Idaho

Dear Mr. Allred,

This letter is in regards to the application for water rights #297537. We would like to strongly protest the application of Mr. Fromp to use our water to fill and maintain a fish pond.

First of all we are concerned with the legality of Mr. Fromp's actions. He in no way, neither verbally nor in writing, informed us of his intent to use our water. We learned about his application from a neighbor who saw the ad in the newspaper.

We have 1/12 deeded share of Birch Creek that dates back to the turn of the century, filed by the Ware family. We are concerned because Mr. Fromp has already built his dam across the stream with the intent of blocking that stream off to fill his dam and then using the water in the stream to maintain the reservoir's loss through evaporation and seepage. His 1/12 share of Birch Creek does not even run in the stream that he intends to use for his fish pond.

He has applied to us our water from June to December. (How does he intend to keep his fish pond filled the other half of the year?) During most of that time all but two shares of Birch Creek go into other irrigation ditches to irrigate our family farm and other farms down from us. Does Mr. Fromp plan on redirecting our irrigation water when he needs it to keep his fish pond filled during the hot summer months?

We are not trying to be unneighborly, we would like to have enough water to share. But we don't, we need every drop of water that our share provides to raise the few crops that it does. Even now if a beaver or a gopher redirects even a small flow of water the pressure in our sprinkler system is greatly affected.

We appreciate your time and effort in our behalf. Thank you.

Sincerely,

Shirley Case - for -
Lewis and Shirley Case

MICROFILMED

RECEIVED

APR 7 1980

Department of Water Resources
Eastern District Office

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Downey
Idaho 83234
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1515 Lincoln R.
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Lewis and Shirley Case

RECEIVED

MERRILL & MERRILL
CHARTERED
COUNSELORS AND ATTORNEYS AT LAW
SPAULDING BUILDING
POCATELLO, IDAHO 83201

A. L. MERRILL (1886-1981)
R. D. MERRILL (1893-1972)
W. F. MERRILL
E. J. BERRETT
G. T. DANCE
D. R. GALLAFENT
S. S. DUNN

April 3, 1980

P. O. BOX 991
TELEPHONE
208-232-2286

Mr. Ronald D. Carlson
Eastern Regional Supervisor
DEPARTMENT OF WATER RESOURCES
1515 Lincoln Road
Idaho Falls, Idaho 83401

RECEIVED

APR 4 1980

Department of Water Resources
Eastern District Office

Re: Jack Fronk Application 29-7537

Dear Mr. Carlson:

This is to advise you that our firm will continue to represent virtually all of the water users who claim rights to the waters of Birch Creek which are the subject of the above referenced application. I am reliably informed that you will receive several protests to the above referenced application and would appreciate it if you would forward a copy of the Notice of Hearing to me so that we can appear on behalf of the protestants.

For your information, despite your repeated warnings to Mr. Fronk, I am informed that the dam in question has been virtually completed, that the stream banks behind the dam have been weakened significantly as a result of removal of fill behind those banks to build the dam and that there is a very great chance that those banks will wash down during the spring runoff season.

We would also appreciate it very much if we could receive copies of any protest letters received by your office with regard to this application. We have not been in contact with each possible protestant and would like to be fully informed as to the nature of all protests against the application. We would be happy to pay for any copying costs involved.

Again, your cooperation in this matter has been very much appreciated.

Very truly yours,

MERRILL & MERRILL, CHARTERED

By 
Stephen S. Dunn

SSD:em

cc: Bill Ward

MICROFILMED

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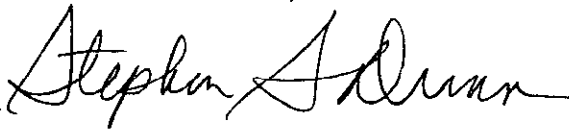
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By 
Stephen S. Dunn

SSD:em

cc: Bill Ward

MICROFILMED

March 28, 1980

Steven Allred
Director
Idaho Dept. of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

RECEIVED

APR 4 1980

RE: Application for permit No. 29-7537

Department of Water Resources
Eastern District Office

Dear Mr. Allred:

This letter is written to strongly protest Mr. Fronk's application for appropriation of 15.0 AC-FT of Birch Creek. The water in question was decreed for use to irrigate cropland on a continuous and uninterrupted basis as early as 1904, and has been upheld in court since that time. (The latest being Case No. 30724, dated July 31, 1973, District Court of the Sixth Judicial District, a copy of which is enclosed). The water is used the year around to irrigate crops including meadow hay through the winter months and is a vital part of the economic stability of our ranches. The stream that Mr. Fronk intends to interfere with contains the water decreed and deeded to the following people and in the proportions shown:

William T. Evans 5/24

Lewis Case 1/12

Vico Inc. (Dale Jones) 1/12

Dale Davis 1/12

Kenneth Williams 1/24

Dave Treasure 2/12

William D. Ward 2/12

During the past few years, the amount of water in Birch Creek has been reduced due to climactic changes and the present flow is marginal for its intended and necessary use. Any additional reduction of water would have a direct adverse affect on our crops.

In addition to the reduced flow, as stated above, the past year we experienced a problem with the water ponding in another location due to beavers. This problem has hopefully been corrected by the Idaho Dept. of Fish and Game, but was a vivid example of the amount of water that is lost due to seepage and evaporation when water is ponded. The land that Mr. Fronk proposes to use is quite gravelly and therefore would result in considerable water loss.

Another reason for not allowing Mr. Fronk to appropriate 15 AC-FT of water or to interrupt or interfere with our water flow in any manner is that it is evident to us that his methods and quite possibly his motives may be different than he has indicated to your office. Up to this point he has ignored the protests of the decreed water users, the S.C.S. office and your office. Verification of this is the fact that he actually started construction of his dam in October 1979.

MAIL ROOM

When contacted by myself at the time, he indicated that he had full approval of both the Idaho Water Resources Board and the S.C.S. Office and that was all he needed.

I was able to convince him that the water users were in complete disapproval of what he intended to do, and he agreed not to proceed and to abandon the project.

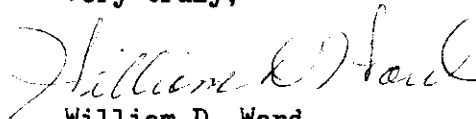
On March 17, 1980, it was evident by the amount and type of equipment on the site that he intended to start work again. I contacted him by phone and he informed me that he had full approval of his project and he didn't care if the water users objected, he was going ahead. It wasn't until two days later, on March 19, that he even applied to your office for a permit. When our attorney, Mr. Dunn contacted your office, Mr. Carlson indicated that he had previously talked with Mr. Fronk, but had been told that he only wanted to build a small impound and intended to put his own share, 1/12 of Birch Creek, into it. Mr. Fronk had not mentioned that he intended to build his dam across a stream that he had no ownership in and that other people's decreed water rights would be affected.

I was informed that Mr. Carlson not only sent a letter (dated March 21) asking him to stop, but also, telephoned him the same date. In spite of this, Mr. Fronk proceeded on March 26, and did build a twelve (12) foot earthen dam (Measured from bottom of stream bed). To obtain his fill material, he removed soil approximately five to six feet deep on both sides of the stream bed leaving the banks susceptible to being washed out. This material must be returned and refilled to prevent high water from washing out what little bank he has left, therefore allowing water to spread over a large area causing loss of water due to seepage and subbing.

If you should grant Mr. Fronk the right to interfere with our water flow and appropriate the 15 AC-FT of our decreed water, it would not only have a direct adverse affect on our crops, but would also open the door to him to make other changes for his benefit, without regard to the rules and regulations of the Dept. of Water Resources or the adverse effects of the decreed water users.

I, therefore, vigorously oppose this application and ask that Mr. Fronk be required to return the stream bed to its original state to prevent further problems, and that he be restrained from further attempts to disrupt the Birch Creek flow.

Very truly,



William D. Ward

RFD

Downey, Idaho 83234

- file
cc - Steven Dunn

MICROFILMED

March 28, 1980

Steven Allred
Director
Idaho Dept. of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

RECEIVED

APR 4 1980

RE: Application for permit No. 29-7537

Department of Water Resources
Eastern District Office

Dear Mr. Allred:

This letter is *ATTACH 2 PAGES* to protest Mr. Fronk's application for appropriation of water in Birch Creek. The water in question was decreed for use to irrigate on a continuous and uninterrupted basis as early as 1904, and has been in court since that time. (The latest being Case No. 30724, dated July 31, 1973, District Court of the Sixth Judicial District, a copy of which is enclosed). The water is used the year around to irrigate crops including meadow hay through the winter months and is a vital part of the economic stability of our ranches. The stream that Mr. Fronk intends to interfere with contains the water decreed and deeded to the following people and in the proportions shown:

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During the past few years, the amount of water in Birch Creek has been reduced due to climactic changes and the present flow is marginal for its intended and necessary use. Any additional reduction of water would have a direct adverse affect on our crops.

In addition to the reduced flow, as stated above, the past year we experienced a problem with the water ponding in another location due to beavers. This problem has hopefully been corrected by the Idaho Dept. of Fish and Game, but was a vivid example of the amount of water that is lost due to seepage and evaporation when water is ponded. The land that Mr. Fronk proposes to use is quite gravelly and therefore would result in considerable water loss.

Another reason for not allowing Mr. Fronk to appropriate 15 AC-FT of water or to interrupt or interfere with our water flow in any manner is that it is evident to us that his methods and quite possibly his motives may be different than he has indicated to your office. Up to this point he has ignored the protests of the decreed water users, the S.C.S. office and your offices. Verification of this is the fact that he actually started construction of his dam in October 1979.

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When contacted by myself at the time, he indicated that he had full approval of both the Idaho Water Resources Board and the S.C.S. Office and that was all he needed.

I was able to convince him that the water users were in complete disapproval of what he intended to do, and he agreed not to proceed and to abandon the project.

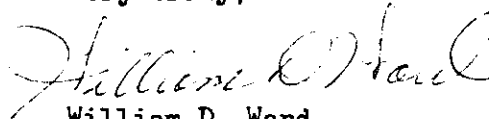
On March 17, 1980, it was evident by the amount and type of equipment on the site that he intended to start work again. I contacted him by phone and he informed me that he had full approval of his project and he didn't care if the water users objected, he was going ahead. It wasn't until two days later, on March 19, that he even applied to your office for a permit. When our attorney, Mr. Dunn contacted your office, Mr. Carlson indicated that he had previously talked with Mr. Fronk, but had been told that he only wanted to build a small impound and intended to put his own share, 1/12 of Birch Creek, into it. Mr. Fronk had not mentioned that he intended to build his dam across a stream that he had no ownership in and that other people's decreed water rights would be affected.

I was informed that Mr. Carlson not only sent a letter (dated March 21) asking him to stop, but also, telephoned him the same date. In spite of this, Mr. Fronk proceeded on March 26, and did build a twelve (12) foot earthen dam (Measured from bottom of stream bed). To obtain his fill material, he removed soil approximately five to six feet deep on both sides of the stream bed leaving the banks susceptible to being washed out. This material must be returned and refilled to prevent high water from washing out what little bank he has left, therefore allowing water to spread over a large area causing loss of water due to seepage and subbing.

If you should grant Mr. Fronk the right to interfere with our water flow and appropriate the 15 AC-FT of our decreed water, it would not only have a direct adverse affect on our crops, but would also open the door to him to make other changes for his benefit, without regard to the rules and regulations of the Dept. of Water Resources or the adverse effects of the decreed water users.

I, therefore, vigorously oppose this application and ask that Mr. Fronk be required to return the stream bed to its original state to prevent further problems, and that he be restrained from further attempts to disrupt the Birch Creek flow.

Very truly,



William D. Ward

RFD

Downey, Idaho 83234

- file
cc - Steven Dunn

RECEIVED

Merrill K. Gee
746 East Lander (P.O. Box H)
Pocatello, Idaho 83201
Tel: 233-2044

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

DALE DAVIS and AFTON DAVIS,
husband and wife,

Plaintiffs,

vs.

DAVE TREASURE, et al.,

Defendants.

Case No. 30724

INTERLOCUTORY DECREE
AND ORDER

This cause having come on for hearing before the court sitting without a jury and extensive evidence having been heard, documents and evidence having been introduced on behalf of both parties and the court having heard the testimony, having examined the grounds, water sources, diversions, and distribution systems; and having entered its Memorandum Decision and Order, makes the following Interlocutory Decree:

That Plaintiffs' entitlement to the waters of upper Birch Creek amounts to one-twelfth thereof, as measured at the middle diversion; the remaining waters of Birch Creek and its tributaries belongs to Defendants;

That at the point in lower Birch Creek designated as the middle diversion, Plaintiffs' one-twelfth and the one-twelfth belonging to Dale Wakley and one-twelfth belonging to Guy Curtis have been co-mingled and shared on a rotation basis, thus maximizing the use of the available water and minimizing the waste that would occur if Plaintiffs' one-twelfth were run down the creek by itself.

WHEREFORE, it is decreed that Plaintiffs are entitled

INTERLOCUTORY DECREE AND ORDER

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Page -1-

to use one-twelfth of the waters of upper Birch Creek as measured at the middle diversion; that the remaining waters of Birch Creek and its tributaries belongs to and is confirmed in the Defendants; that to assist in measuring and dividing the waters as herein determined a concrete structure be installed in the Birch Creek channel at the middle diversion attorneys Johnson and Herzog according to specifications: point under the supervision of the County Agent and that there be installed a weir below such structure to measure the water being delivered to Plaintiffs;

That during the irrigation season Plaintiffs have the use of such waters as flow at the middle diversion of Birch Creek for turns of three days (or three-twelfths of the flow of upper Birch Creek at the middle diversion) and that Defendants Guy Curtis and Dale Wakley have the use of all of such waters at that point for turns of repeated and interspersed periods of six days, alternating with Plaintiffs' three-day turns;

That at the lower diversion, designated in the trial under the supervision of attorneys Herzog and Johnson as PD '73, another concrete structure be installed in accordance with specifications provided by the Bannock County Agent.

During the three-day turns of Dale Davis as above specified, the waters at PD '73 should be divided so that Defendant Davis receives through the lower diversion an identical quantity of water to that flowing over his weir immediately below the middle diversion, with appropriate allowance for the lag in time between turning the water in at the middle diversion point and its appearance at the lower diversion;

That the costs of the various structures be proportionately shared as follows: twenty percent (20%) of the funds remaining from the sale of water to Mullen Company be applied towards the concrete structure at the middle diversion point and the balance of such costs to be born one-third by Dale Davis, one-third by Dale Wakley, and one-third by Guy Curtis; that eighty percent (80%) of the sums remaining from the sale of water to Mullen Construction be applied to the cost of the

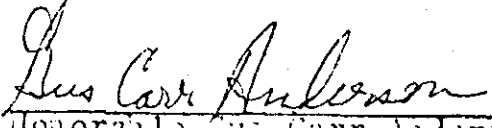
lower concrete structure at PD '73 and the remainder of the cost be shared as follows: three-twelfths to Dale Davis and nine-twelfths to George Treasure and Dave Treasure;

That Defendant Dale Davis be restrained from taking any waters of Birch Creek or its tributaries other than at those times and in those amounts above specified, and from taking such water at any other point than his diversion ditch at PD '73; that he be restrained from taking water from cuts in the bank or elsewhere or otherwise than the diversion point stated immediately above without prior express written agreement from other parties to this action or order of the Court;

That all parties be permitted and directed to perform reasonable maintenance upon the ditches, canals, headgates and weirs involved to the end that maximum benefit be gained from the available waters;

That the court retain jurisdiction for the purpose of determining compliance with this Interlocutory Decree and until such time as a final decree may be entered following installation and reasonable operation of the devices above prescribed.

DATED this 31st day of July, 1973.


Honorable Gus Carr Anderson
District Judge

March 30, 1980

Steven Allred
Director
Idaho Dept. of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

RECEIVED

APR 4 1980

Department of Water Resources
Eastern District Office

RE: Application for permit No. 29-7537

Dear Mr. Allred:

This letter is written to oppose and protest Mr. Fronks appropriation of 15 AC-FT of Birch Creek Water. My interest in Birch Creek is 2/12 of the continuous and uninterrupted flow and was decreed to my property in June of 1904. That decree and my water rights have been upheld on several occasions through the years by both the courts and the Idaho Dept. of Water Resources.

This water is used in the summer months to irrigate crops such as alfalfa and barley and the remainder of the year to irrigate meadow ground for both hay and pasture. The supply of water available is marginal and any further reduction would have a direct adverse effect on my crops.

I am also sure that if Mr. Fronk was allowed to build his pond and impound 15 AC-FT of water, the water lost through seepage, subbing and evaporation would be significant due to the large surface area and the gravelly soil.

I therefore strongly oppose Mr. Fronk's request to appropriate 15 AC-FT of water from Birch Creek and ask that your office uphold my previously decreed and deeded water rights.

David Treasure
RFD
Downey, Idaho 83234

David Treasure

WIDEN 1271

David Treasure
RFD
Downey, Idaho 83234



Mr. Steven Allred, Director
Idaho Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho

83401



March 30, 1980

Steven Allred
Director
Idaho Dept. of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

RECEIVED

APR 4 1980

Department of Water Resources
Eastern District Office

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David Treasure
RFD
Downey, Idaho 83234

David Treasure

MICROFILMED

April, 1, 1980

Mr. Stephen Allred
Director;
State of Idaho Of Water Resources;

Dear Mr. Allred:

I am writing a protest concering the application of Jack Fronk, for 15 acre of Birch Creek water. permit #297537.

I have a decreed ~~deed~~ for 1/12 of the continious flow of this water. The loss of or any of this water would have a great adverse economical effect on our livelihood.

This water is used to irrigate crops in the summer and spring and meadow land, and water cattle in the fall and winter.

The granting of this permit would affect not only our economical well being but the well being of all other share holders on this flow.

Sincerely,

RECEIVED

APR 4 1980

Department of Water Resources
Eastern District Office

Leona Wakley

Leona Wakley
Rt 1
Downey, Idaho
83234

MICROFILMED

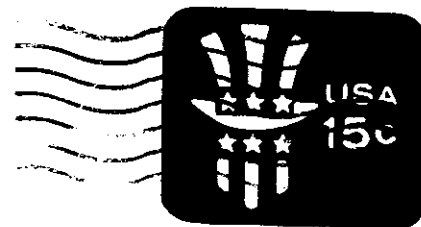
2 Warkley
RT 1
Downyold
83234

**RETURN RECEIPT
REQUESTED**

CERTIFIED

No. 935206

MAIL



Mr. C. Stephen Allred
Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho
83401

April, 1, 1980

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Director;
State of Idaho Of Water Resources;

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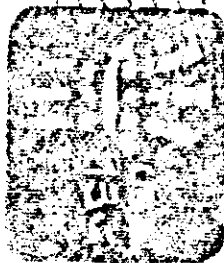
Sincerely,

Leona Wakley
Leona Wakley
Rt 1
Downey, Idaho
83234

RECEIVED

APR 4 1980

Department of Water Resources
Eastern District Office



MICROFILMED

April 3, 1980

Mr. Jack Fronk
Golden Spike Equipment
Tremonton, Utah 84337

Dear Mr. Fronk:

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to your Application No. 29-7537. 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.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. 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 (Section 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?

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

Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

Enclosure

cc: IDWR - State Office
Smith, Hancock & Moss, Attorneys

MICROFILMED

April 3, 1980

Mr. Jack Fronk
Golden Spike Equipment
Tremonton, Utah 84337

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Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

Enclosure

cc: IDWR - State Office
Smith, Hancock & Moss, Attorneys

MICROFILMED

April 3, 1980

RE: Application for Permit No. 29-7537 JACK FRONK

Dale D. Jones
P.O. Box 2675
Pocatello, Idaho 83201

Dear Mr. Jones:

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

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

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Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

RECEIVED
APR 10 1980

April 3, 1980

RE: Application for Permit No. 29-7537 JACK FRONK

Dale D. Jones
P.O. Box 2675
Pocatello, Idaho 83201

Dear Mr. Jones:

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Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

MICROFILMED

MEMBER
AMERICAN INSTITUTE OF
CERTIFIED PUBLIC ACCOUNTANTS

Dale D. Jones
CERTIFIED PUBLIC ACCOUNTANT
675 JEFFERSON P. O. BOX 2675
POCATELLO, IDAHO 83201
April 1, 1980

MEMBER
IDAHO SOCIETY OF
CERTIFIED PUBLIC ACCOUNTANTS

Stephen Allred, Director
Idaho Dept of Water Resources
1515 Lincoln Rd.
Idaho Falls, Idaho 80401

Dear Mr. Allred:

I hereby protest the application of Mr. Fronk for 15 acre feet of Birch Creek, a tributary to Marsh Creek #29-7537 on behalf of myself and also on behalf of Bico, Inc. of which I am secretary.

We have a deeded 1/12 of Birch Creek which goes back as far as 1904. This was originally deeded to the wakley family and came from Mike Wakley to Kenneth Peterson, to me and then to Bico, Inc.

We need the full amount of water for irrigation. In fact the last several years the amount has been inadequate for our acreage of alfalfa and grain which we sprinkle with a gravity flow system.

Even if Mr. Fronk did release the same amount of water as he takes into his dam (which seems impossible because of evaporation and seepage) the water below his dam would be no good to me because it is below the level of the canal which brings it into my gravity system.

Please let me know the time of the hearing

Very truly yours,

Dale D. Jones

RECEIVED

APR 2 1980

Department of Water Resources
Eastern District Office

MICROFILMED

MEMBER
AMERICAN INSTITUTE OF
CERTIFIED PUBLIC ACCOUNTANTS

Dale B. Jones
CERTIFIED PUBLIC ACCOUNTANT
675 JEFFERSON P. O. BOX 2675
POCATELLO, IDAHO 83201
April 1, 1980

MEMBER
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Very truly yours,

Dale B. Jones

RECEIVED

APR 8 1980

Department of Water Resources

RECEIVED

APR 2 1980

Department of Water Resources
Eastern District Office

MICROFILMED

March 24, 1980

RE: Application for Permit No. 29-7537

Smith, Hancock & Moss
Attorneys at Law
30 S. Second West
Rexburg, ID 83440

Gentlemen:

Attached herewith is Departmental Receipt No. 13865 in the amount of \$20.00 for the above referenced application in the name of Jack Fronk.

Sincerely,

KAY WALKER
Secretary

KW:k
Attachment

cc: Jack Fronk
Golden Spike Equipment
Tremonton, UT 84337

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

March 21, 1980

Jack Fronk
Golden Spike Equipment
Tremonton, UT 84337

Dear Mr. Fronk:

Your application to appropriate 15 AF of water from Birch Creek was received on March 19, 1980.

As you are aware from previous conversations, any work commenced prior to the approval of this application is not authorized by the State of Idaho. If you should proceed with construction of the proposed dam you could incur legal exposure equal to triple any damages you cause other water users on the stream and in addition if the permit is not granted, the investment you have in the construction would probably be lost. Because I have already received several phone calls objecting to the project, it appears to be particularly unwise to commence construction before the protest hearing on this matter can be held.

Notice of this application will be published in the Idaho State Journal on March 27th and April 3rd, 1980, and a hearing can be scheduled any time after April 13th, 1980.

I encourage you to take no further action in this matter until that time.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:jd

cc: Steven Dunn

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

MARCH 20, 1980

Idaho State Journal
P. O. Box 431
Pocatello, Idaho 83201

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. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. 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 APRIL 14, 1980.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

MICROFILMED

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho 83401 on or before APRIL 14, 1980.

C. STEPHEN ALLRED

Director

Published 3/27 & 4/03/80.

MICROFILMED

29-2532

FRONK, JACK

GOLDEN SPIKE EQUIPMENT, TREMONTON, UT 84337

Source: BIRCH CK. tributary to MARSH CK.

Date Filed: 03/19/1980

Amount: 15.0 AC-FT

Diversion Point: NWSW Sec 13 T 12S R 36E, BANNOCK Co.

Use: RECREATION (15.0 AC-FT) from 06/01 to 12/31

Place of Use: NWSW Sec 13 T 12S R 36E

Diversion Means: EARTHEN DAM & SPILLWAY.

RECORDED