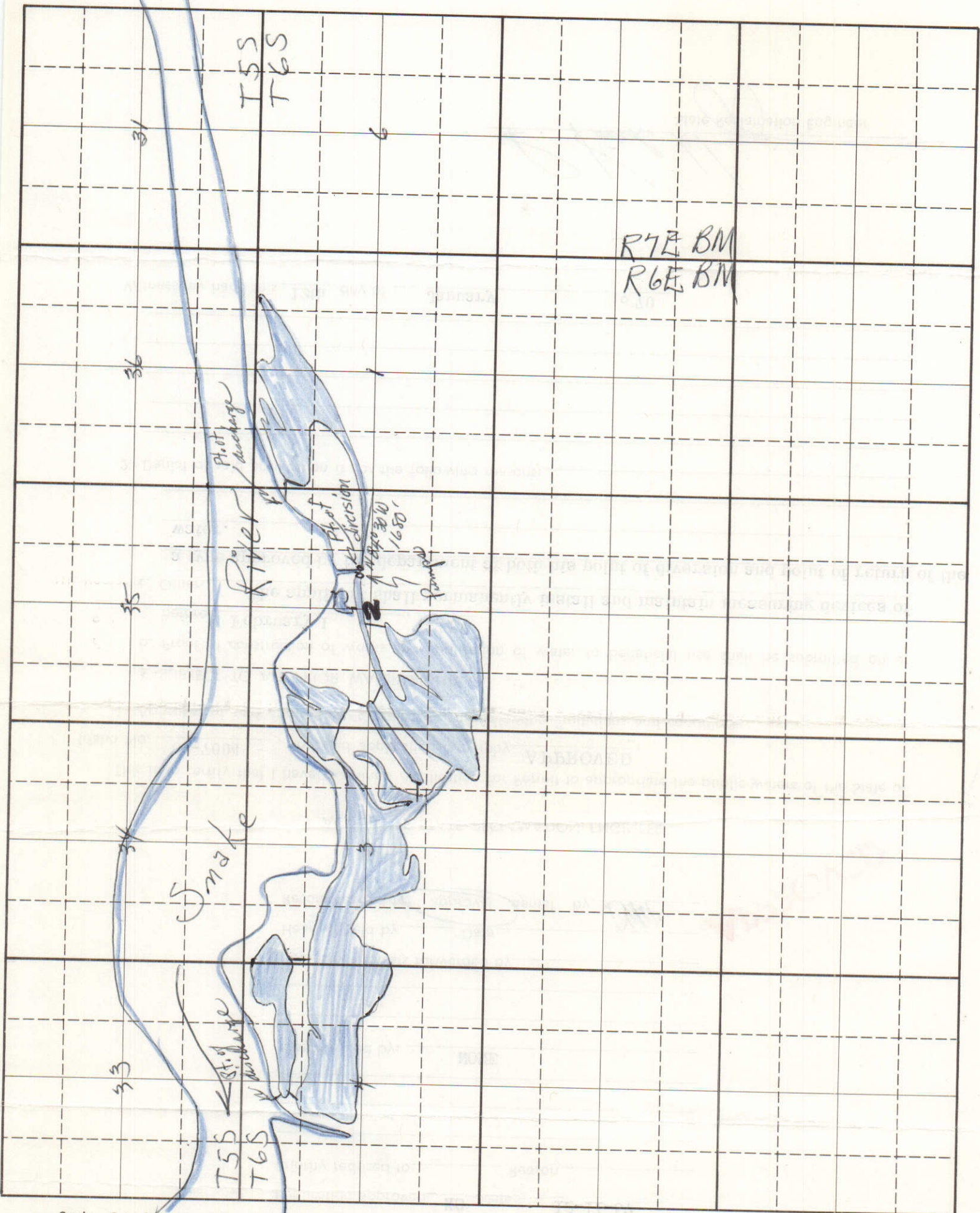




11. Map of proposed project:



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.

State of Idaho, FISH AND GAME DEPARTMENT
John R. Woodworth, Director

Robert L. Salter
(Applicant)

Robert L. Salter, Assistant Director

02-2009

PROOF OF PUBLICATION

STATE OF IDAHO }
County of Owyhee } S.S.

I, RODNEY A. HAWES, being first duly sworn, on oath says that he is the Publisher of the OWYHEE NUGGET, a newspaper of general circulation, published weekly by Rodney A. Hawes, publisher and printer thereof, at Marsing, County of Owyhee, State of Idaho;

That the annexed notice was published in said newspaper once each week and every week for 2 consecutive weeks, the first publication being on the 14 day of December, 1967, and the last publication being on the 21 day of December, 1967;

That the said newspaper has been published continuously and uninterruptedly in said county during a period of more than seventy-eight consecutive weeks prior to the first publication of the attached notice.

Rodney A. Hawes
PUBLISHER

Subscribed and sworn to before me this 22 day of December, 1967.

Leona Schawee
NOTARY PUBLIC

My commission expires 9/10/68

(SEAL)

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that the State of Idaho, Department of Fish and Game has on October 19, 1967, applied for permit to divert 18 cubic feet per second and to store 1,000 acre feet of water from the Snake River, tributary of the Columbia River under application No. 02-7004. Water will be diverted by pumps, ditches, and ponds within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 2, T. 6 S., R. 6 E., B. M., Owyhee County and is to be used from January 1 to December 31 for irrigation, storage, and propagation of wildlife in N $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, Sec. 1; S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 2; NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 3; NE $\frac{1}{4}$ N $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 4, T. 6 S., R. 6 E., B. M.

Any protest against this application must be filed with the Department of Reclamation within ten days from the last date of publication of this notice.

R. KEITH HIGGINSON
State Reclamation Engineer
Published in the Owyhee Nugget, Marsing, Idaho, on December 14 and December 21, 1967.

RECEIVED

DEC 26 1967

Department of Reclamation

02-7004

MICROFILMED

NR₄
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study

N E 1/4

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DEPARTMENT OF WATER ADMINISTRATION

T.
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S

R. 6 E

2 7004

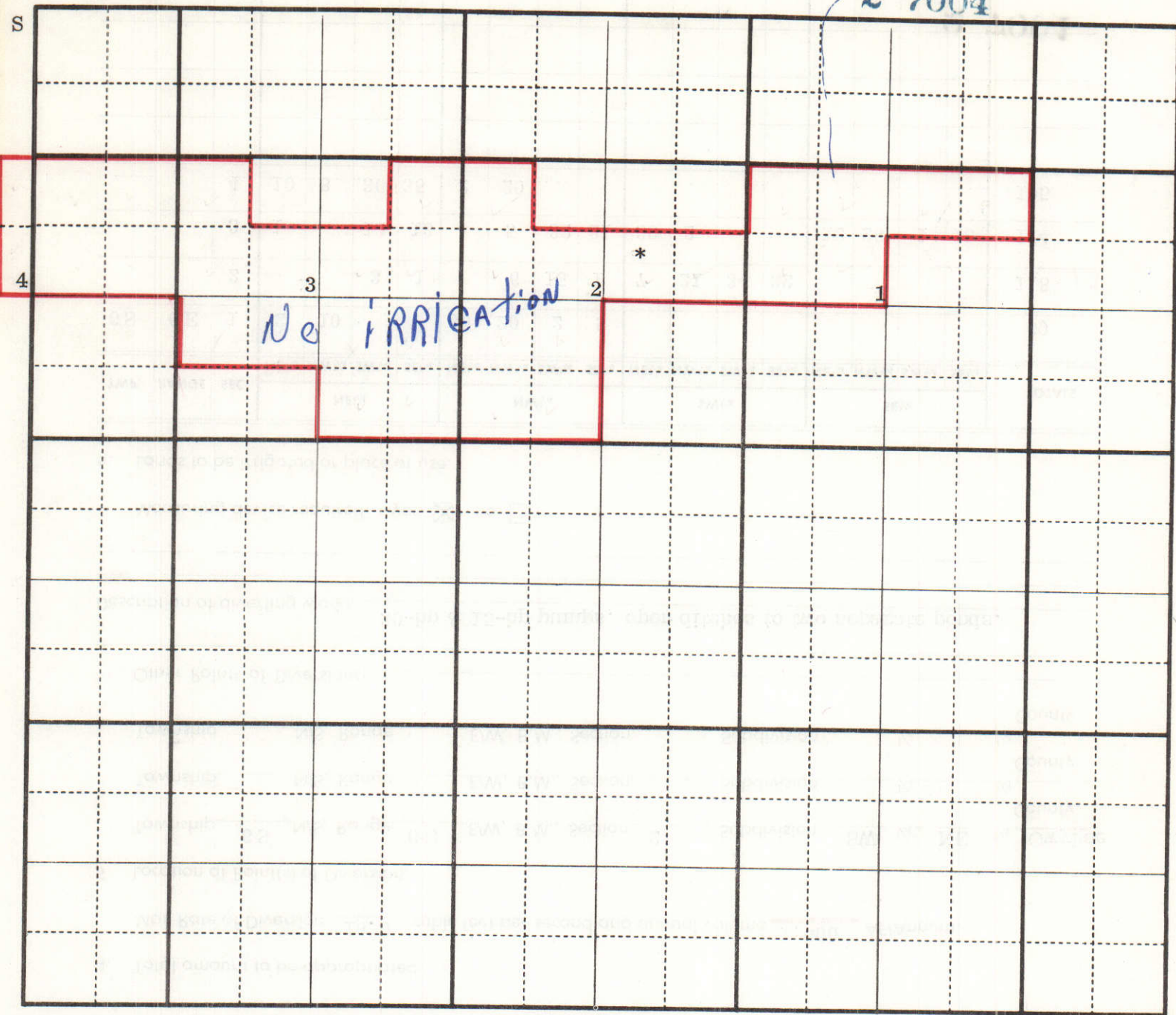
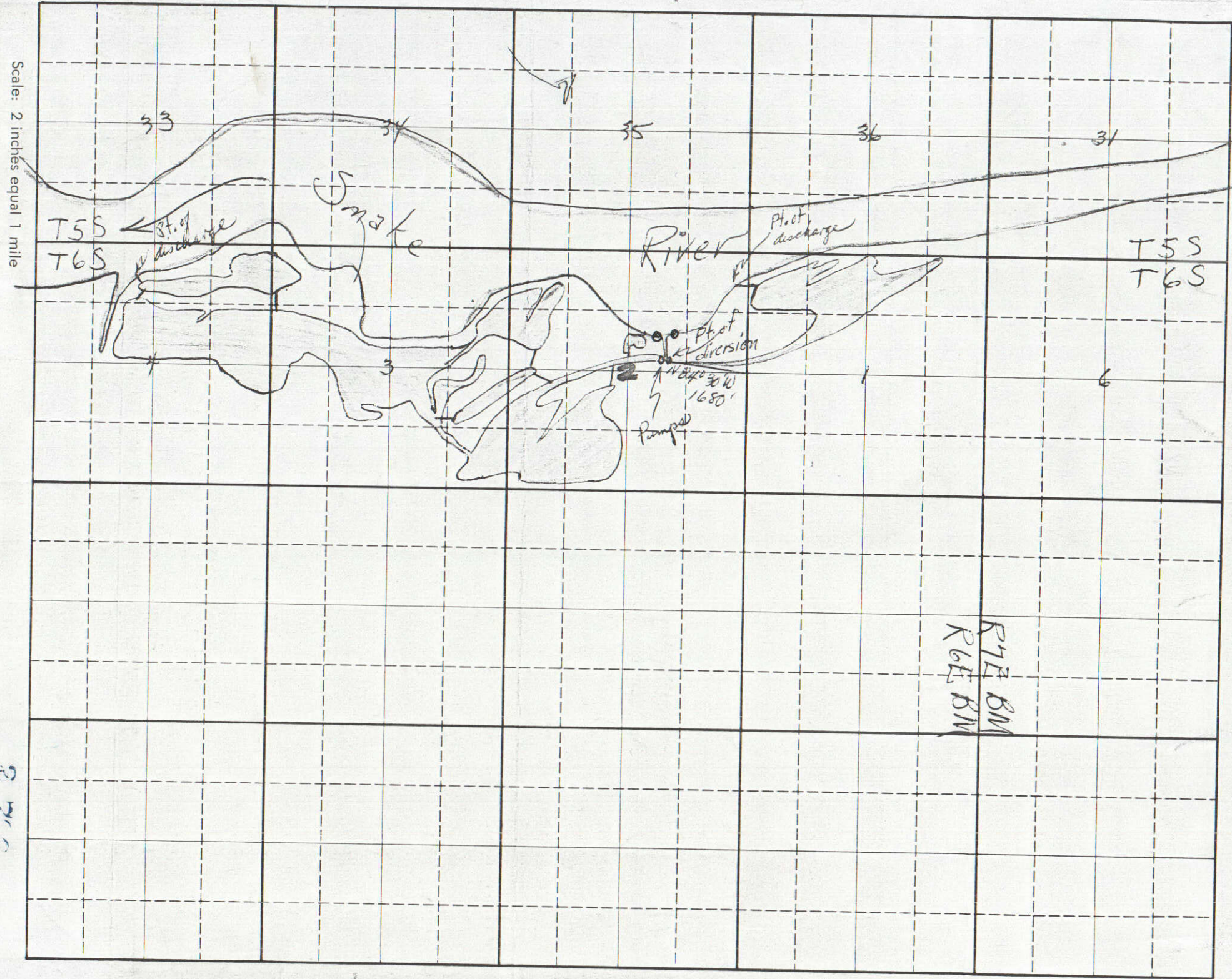


Diagram of System

11. Map of proposed project: 02-9009



Scale: 2 inches equal 1 mile

2 2 2

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 02-7004 Priority Oct. 19, 1967 Amount 18.0 cfs

THIS IS TO CERTIFY, that the State of Idaho, Department of Fish & Game
of Boise, Idaho, has complied with the terms and conditions of Permit
No. 02-7004 issued pursuant to Application for Permit dated October 19, 1967,
and has submitted proof to the Department of Water Resources on January 31, 1973,
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 18.0 cfs of water from the Snake River,
tributary to the Columbia River, 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
Storage	from Jan. 1 to Dec. 31	at 18.00 cfs and	1,000 acre feet
Wildlife Prop	from Jan. 1 to Dec. 31	at 9.68 cfs and	6,450 acre feet
Water for aquatic vegetation	from Jan. 1 to Dec. 31 (both dates inclusive)	at 9.32 cfs and	6,450 acre feet

Subject, however, to the condition that no more than 18.0 cfs 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
6,450 acre feet per year, said waters to be diverted within the SW¹NE¹ (2 points) of
Sec. 2, Twp. 6 S, Rge. 6 E, B. M. in the County of Owyhee

Description and location of place of use: (C. J. Strike Wildlife Management Area)

Twp.	Range	Sec.	NE ¹				NW ¹				SW ¹				SE ¹				Totals
			NE ¹	NW ¹	SW ¹	SE ¹	NE ¹	NW ¹	SW ¹	SE ¹	NE ¹	NW ¹	SW ¹	SE ¹	NE ¹	NW ¹	SW ¹	SE ¹	
6 S	6 E	1	X				X	X	X	X									
		2			X	X		X	X	X	X	X	X						
		3	X		X	X		X	X	X	X	X			X	X	X	X	
		4	X	X	X	X	X	X											

Total number of acres irrigated _____

A measuring device of a type approved by this Department shall be permanently
maintained as part of the diverting works.

NOTE: 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.

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

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 1 day of
July, 19 75.

Director

R. Karl Hjort

MICROFILMED

Identification No. 02-7004
Application No. 42123

LICENSE ISSUED FOR 18.0 SEC. FT.
LICENSE PAS NO.

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
APPLICATION FOR PERMIT

APPROVED

To Appropriate the Public Waters of the State of Idaho

1. Name of applicant State of Idaho, Fish & Game Department, by and through it's Director
post office address 600 South Walnut, Boise

2. Source of water supply Snake River which is a tributary of Columbia River

3. a. Location of point of diversion is SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 2 Township 6 South
Range 6 East B.M. Owyhee County; additional points of diversion if any:

b. If water is not consumed, it will be discharged into Snake River at a point in NE $\frac{1}{4}$
of NW $\frac{1}{4}$ of Section 4 Township 6 South Range 6 East B.M. and the NE⁴ NE⁴ of
Section 2.

4. Quantity to be appropriated:

a. Eighteen (18.0) cubic feet per second and/or

b. One Thousand acre feet per annum will be stored.

5. Water will be used for the following purposes:

9.32 - Irrigation purpose from Jan 1 to Dec 31 (both dates inclusive)
8.108 - Impoundment & storage purpose from Jan 1 to Dec 31 (both dates inclusive)
 - Propagating wildlife purpose from Jan 1 to Dec 31 (both dates inclusive)

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Water will be lifted from Snake River
approximately twelve (12) feet by two pumps. One designed to lift 5,400 GPM and
the other 2,700 GPM. Water will be distributed, by gravity flow, through a system
of ditches & ponds, of which ponds are the place of use. Surplus water being
permitted to flow into Snake River.

b. Height of storage dam 6 - 7 feet; active reservoir capacity 1,000 acre feet; total reservoir
capacity 1,000 acre feet; materials used in storage dam: earth fill

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

7. a. Time required for the completion of the works and application of the water to the proposed beneficial use
is three years.

b. Estimated construction cost is \$ 22,000.00.

8. Description of proposed uses:

a. If water is **not** for irrigation:

(1) Give the place of use of water: $\frac{1}{4}$ of $\frac{1}{4}$ of Section Township
Range B.M.

(2) Amount of power to be generated: hp under feet of head.

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

(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:

02-7004

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
6 S	6 E	1	2	10			30	20	2	5									69
		2			3	1		6	15	1	7	21	36	32					118
		3	1		12	12		5	32	21	30	2			12	28	1	18	174
		4	10	8	30	35	2	20											105

Total number of acres to be irrigated 466

c. Describe any other water rights used for the same purposes None

9. a. Who owns the property at the point of diversion Idaho Power Company

b. Who owns the land to be irrigated or place of use Idaho Power Company and United States

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing The Idaho Fish and Game Department has administrative use of the C. J. Strike Hydroelectric project lands, Project No. 2055, by order of the Federal Power Commission until year 2003 and use of the United States lands by Public Land Order No. 4153 dated February 14, 1967.

10. Remarks Good circulation of fresh water is necessary both to reduce salinity of the water impoundment for maximum productivity of aquatic plants and for maximum productivity of food and cover plants for habitat improvement.

Received by if Date 10-19-67 Time 9:00 a new RKH 11-9-67
Preliminary check by DW Fee \$ No fee required Nov. 9-67
Receipted by _____ Date _____
Publication prepared by KS Date 12-4-67
Published in OWYHEE NUGGETT
Publication dates 12-14-21-67
Publication approved KS Date 12-11-67
Priority reduced to _____ Reason _____

Protests filed by: NONE

Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by DW

APPROVED

ACTION OF STATE RECLAMATION ENGINEER

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 02-7004, 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 February 1, 1973.
- c. Other: The applicant shall permanently install and maintain measuring devices of a type approved by the department at both his point of diversion and point of return of the water.

2. Denial of said application is for the following reasons: _____

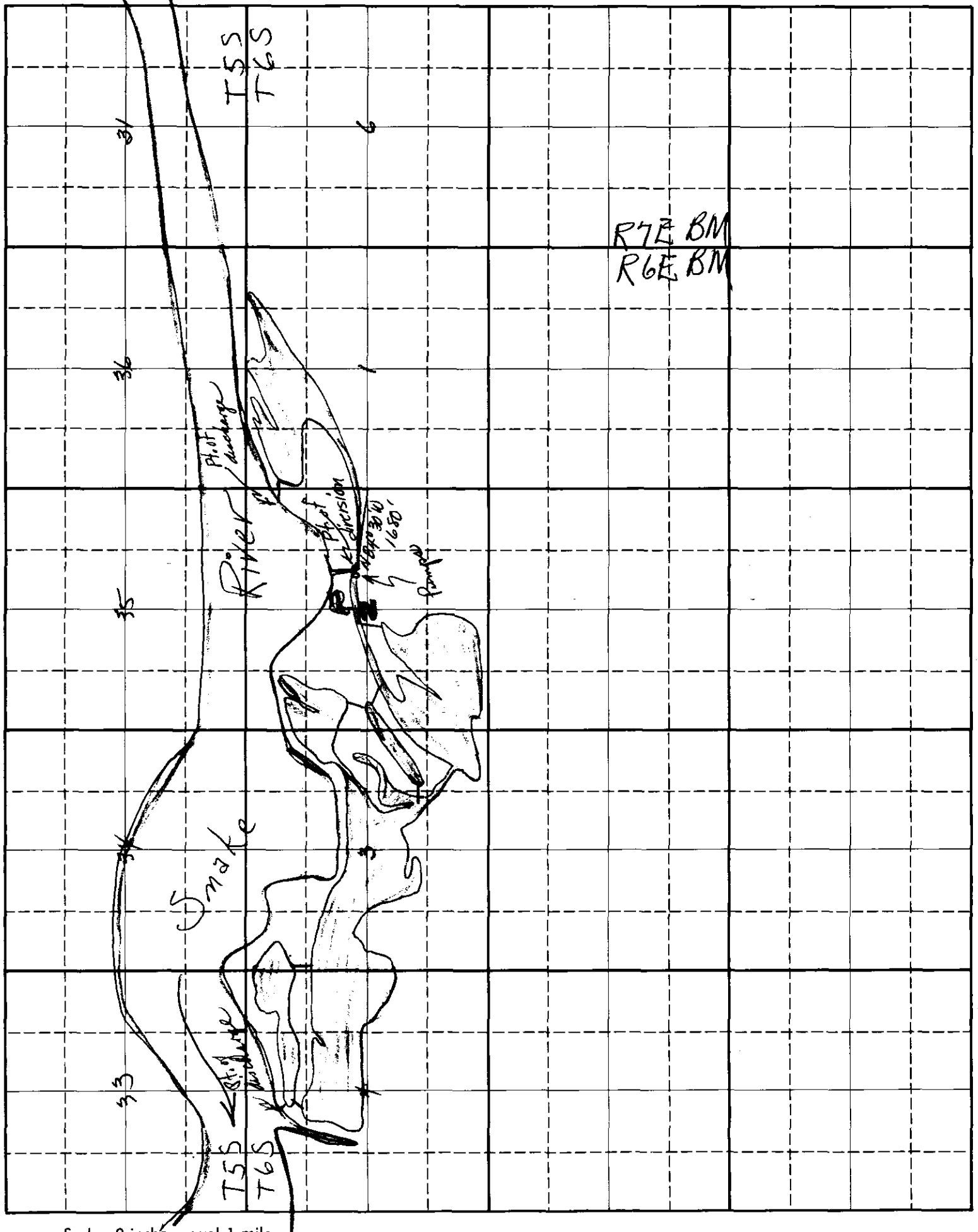
Witness my hand this 12th day of January 1970.

P. Kirk Higgins
State Reclamation Engineer

02-7004



11. Map of proposed project:



Scale: 2 inches equal 1 mile

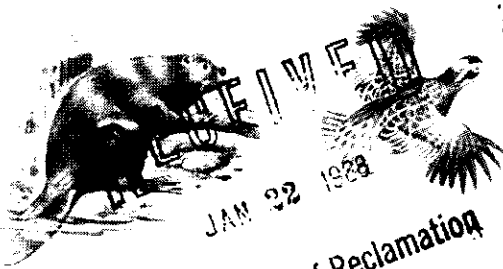
BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

State of Idaho, FISH AND GAME DEPARTMENT
John R. Woodworth, Director

Robert L. Salter
(Applicant)

Robert L. Salter, Assistant Director

02-7004



DON SAMUELSON, Governor
COMMISSIONER
GLENN STANGER, Idaho Falls
R. J. HOLMES, Twin Falls
ARLIE JOHNSON, Boise
WILLIAM B. DUBON, Moscow
RAY SIMS, Bonners Ferry



JOHN R. WOODWORTH, Director

POST OFFICE BOX 25
600 SOUTH WALNUT STREET
BOISE, IDAHO 83707

IDAHO FISH AND GAME DEPARTMENT

January 19, 1968

Re: C. J. Strike
Bruneau Bridge Ponds

R. Keith Higginson
State Reclamation Engineer
Department of Reclamation
STATEHOUSE MAIL

Dear Sir:

Reference is made to the Department's application to appropriate Snake River waters for irrigation and for the propagation of wildlife previously submitted to your office under the date of October 2, 1967, and wherein total volume and apportionment of water use was not made.

It is respectfully requested that, for irrigation purposes, the designated amount of water be 9.32 c.f.s. and that the balance of the 18.0 c.f.s. requested, or 8.68 c.f.s. be allotted to impoundment for the propagation of wildlife.

The total volume of the water requested in the amount of 18.00 c.f.s. is the rated capacity of the pumps installed on the premises. This volume of flow is believed to be sufficient for present water operation needs of the management area.

In further reference to irrigation, the flood type of irrigation proposed by the Department requires a greater volume of water flow than the normal one inch of water per acre. The flooded sites will be maintained as ponds for the production of various species of palatable, aquatic forage plants which will be utilized by wildlife. Excess water flow returns to the Snake River at various places on the site.

Thank you for your cooperation.

Sincerely,

IDAHO FISH AND GAME DEPARTMENT
John R. Woodworth, Director

Robert L. Salter
Robert L. Salter
Assistant Director

02-7009

STATE OF IDAHO } **s.s.**
County of Owyhee

Robert K. Moore
PUBLISHER

Leona S. Lawless
NOTARY PUBLIC

Notice is hereby given that the State of Idaho Department of Fish and Game has on October 18, 1907, applied for permit to divert 15 cubic feet per second and to store 1,000 acre feet of water from the Snake River, tributary of the Columbia River under application No. 287004. Water will be diverted by pumps, ditches and ponds within the SW 1/4, Sec. 2, T. 2 S., R. 3 E., E. 2, Blaine County and is to be used from January 1 to December 31 for irrigation, domestic, stock raising, and other life in Blaine Co. T. 2 S., Sec. 1: SW 1/4, NW 1/4, SE 1/4, SW 1/4, SW 1/4, Sec. 2: NE 1/4, SE 1/4, NE 1/4, NW 1/4, SE 1/4, NW 1/4, Sec. 3: NE 1/4, NW 1/4, NW 1/4, NW 1/4, NW 1/4, NW 1/4, Sec. 4: T. 2 S., R. 3 E., E. 2.

Any protest against this application must be filed with the Department of Reclamation within ten days from the last date of publication of this notice.

R. KEITH HUGHSON
State Reclamation Engineer
Published in the Coeur d'Alene Press
Oct. 28, 1907
Nov. 14, 1907

RECEIVED

Department of Education

02-7004

THE OWYHEE NUGGET

Established 1891 - "Official Newspaper of Owyhee County"

Rodney A. Hawes, Publisher - Phone 896-4393

MARSING, IDAHO

RECEIVED

State Dept. of Reclamation

DEC 26 1967

Department of Reclamation

1967

Dec. 14-21 Idaho Fish and Game Dept.
Application for Water legal

\$8.05

I hereby certify that the above service
has been rendered and I have not received
payment therefor.

R. A. Hawes
publisher

"NUGGET" Advertising Pays: Deduct This Account From Your Income Tax!

02-7009

02-7004

[illegible]

Total number of acres irrigated _____

July 1, 1975

Re: Permit No. 02-7004

Department of Fish & Game
Statehouse
Boise, ID 83720

Gentlemen:

Enclosed herewith is a copy of the water license issued on the above referenced permit.

Sincerely,

D. DARLENE REICH
Water Rights Supervisor

DDR:rb

Enc.

RECEIVED

June 18, 1975

Mr. Joseph C. Greenley, Director
Idaho Fish & Game Department
Statehouse Mail

Re: Permit No. 02-7004

Dear Mr. Greenley:

We have again reviewed the use of water at the C.J. Strike Wildlife Management area and the Department is prepared to issue a water license as follows:

Amount of water that can be recognized as beneficially used under
Idaho law: 18.0 cfs

The maximum quantity diverted shall not exceed 6,450 acre feet
per year.

Point of diversion: SW $\frac{1}{4}$ NE $\frac{1}{4}$ (2 points), Sec. 2, Twp. 6 S, Rge.
6 E, B. M., Owyhee County

Beneficial use: Storage (1,000 acre feet)
Wildlife Propagation (8.68 cfs)
Water for aquatic vegetation (9.32 cfs)

Place of use: N $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, Sec. 1; S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$,
SW $\frac{1}{4}$, Sec. 2; NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$,
Sec. 3; NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 4; Twp. 6 S, Rge. 6 E, B.M.

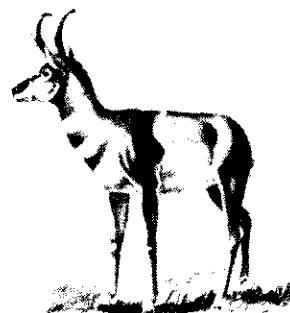
Priority date established: October 19, 1967

If you do not concur with these findings please contact us within 10 days, otherwise a
water license will be issued as set forth above.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:DR



CECIL D. ANDRUS, Governor

COMMISSION

PETE THOMPSON, Sandpoint
PAUL C. KEETON, Lewiston
JOHN EATON, Cascade
JACK HEMINGWAY, Sun Valley
H. JACK ALVORD, Pocatello

IDAHO FISH AND GAME DEPARTMENT

Region 3
109 W. 44th
Garden City, Idaho 83704
384-3725

September 27, 1974

JOSEPH C. GREENLEY
Director

POST OFFICE BOX 25
600 SOUTH WALNUT STREET
BOISE, IDAHO 83707

RECEIVED

OCT 7 1974

Department of Water Resources

Mr. R. Keith Higginson
Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho

Dear Keith:

Re: Permit No. 02-7004

We have evaluated your recent proposal to issue a water right license for 8.68 cubic feet per second of water at our C. J. Strike Wildlife Management area. We wish to retain our present license for 18 cfs.

It is true that the 9.32 cfs of water for irrigation has not been used to irrigate an agriculture crop. However, this water is being used to maintain aquatic vegetation in and adjacent to the duck ponds. We consider the production of this type of vegetation equal to an agriculture crop. We are in the process of developing a Canada goose management plan for that immediate area and the extra water will be needed to maintain an adequate water supply.

Both pumps have been installed and used extensively the past few years. However, the smaller pump recently broke down and we are in the process of making the necessary repairs.

Again, we ask that the permit be reissued for 18 cfs of water as originally licensed.

Sincerely,

IDAHO FISH AND GAME DEPARTMENT

Joseph C. Greenley
Director

MICROFILMED

8/29/74

Dale Von Steen of F&G

called concerning proposed
License on Permit 02-7004

CJ Strike reservoir. They
still contend the license should
include 9. cfs for irrigation

UNRECORDED

F

will
contact
Keith

August 20, 1974

Re: Permit No. 02-7004

Idaho Fish & Game Department
Attn: Mr. Joseph Greenley, Director
Statehouse Mail

Dear Mr. Greenley:

Our letter of August 6th was apparently misleading concerning the reason for not proposing a water right license for the pumping of 18 cubic feet per second of water from the Snake River at C. J. Strike Reservoir.

Your original permit, No. 02-7004, was issued for 8.68 cfs of water for wildlife propagation and storage for wildlife propagation purposes, and 9.32 cfs of water for irrigation purposes. The total rate of diversion for the two uses is 18 cfs.

However, our examiner found the water being used only for wildlife propagation purposes. Therefore, a license can be issued for only the 8.68 cfs of water originally permitted for that purpose.

We again propose to issue this license as shown in our August 6th letter, a copy of which is enclosed for your convenience.

Please let us know within 10 days, if you are still in disagreement with our finding.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:jg
Enclosure

RECEIVED
AUG 21 1974
FLEENOR

INTER-DEPARTMENT MEMO — 1

DATE December 27, 1973

FROM Bob Fleenor

TO Western District

SUBJECT New Field Exam

Fish & Game has requested another field exam because one pump wasn't in operation. They also protest our deletion of irrigation as a beneficial use since they are growing aquatic plants.

Try to contact them before the exam, to make sure the pump is in operation.

UNRECORDED

Bob

SIGNATURE

DEPARTMENT OF WATER ADMINISTRATION
FIELD REPORT

1. Name of permit holder State of Idaho, Fish & Game Dept.
Postoffice address P. O. Box 25, 600 S. Walnut, Boise, ID 83707 Phone _____
Person to contact _____ Phone _____

2. Source of water supply: Groundwater ☐ Surface water ☒ Snake River
(name spring, stream, etc.)
Tributary to Columbia River

3. Water will be used for the following purposes:

Amount 9.32 c.f.s. for irrigation
_____ AF/Annum (nature of use)

Period of Use: from Jan. 1 to Dec. 31
(mo.-day) inclusive (mo.-day)

Amount 8.68 c.f.s. for impoundment & storage
_____ AF/Annum (nature of use)

Period of Use: from Jan. 1 to Dec. 31
(mo.-day) inclusive (mo.-day)

Amount 8.68 c.f.s. for propagating wildlife
_____ AF/Annum (nature of use)

Period of Use: from Jan. 1 to Dec. 31
(mo.-day) inclusive (mo.-day)

Other uses: _____

Permit No. 02-7004
Examination for b/u

4. Total amount to be appropriated:

Max Rate of Diversion 18.0 cubic feet per second and annual volume 1000 AF/Annum.

5. Location of Point(s) of Diversion:

Township 6S N/S, Range 6E E/W, B.M., Section 2, Subdivision SW $\frac{1}{4}$ NE $\frac{1}{4}$ Owyhee
County

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ $\frac{1}{4}$ _____ $\frac{1}{4}$ _____
County

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ $\frac{1}{4}$ _____ $\frac{1}{4}$ _____
County

Other Points of Diversions: _____

Description of diverting works: Waters are lifted from Snake R., by 2 pumps, 1 of 30 hp discharging 1 cfs & 1 of 15 hp discharging 6 cfs. Each pump discharges into open ditches & carried to the head of 2 separate ponds. Water overflow from these ponds flows to other ponds which repeats for total pond area.

Measuring device required: yes ☒ no ☐

6. Lands to be irrigated or place of use.

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$								TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
6S	6E	1	2	10			30	20	2	5									69
		2			3	1		6	15	1	7	21	36	32					118
		3	1		12	12		5	32	21	30	2			12	28	1	18	174
		4	10	8	30	35	2	20											105

TOTAL ACREAGE

466

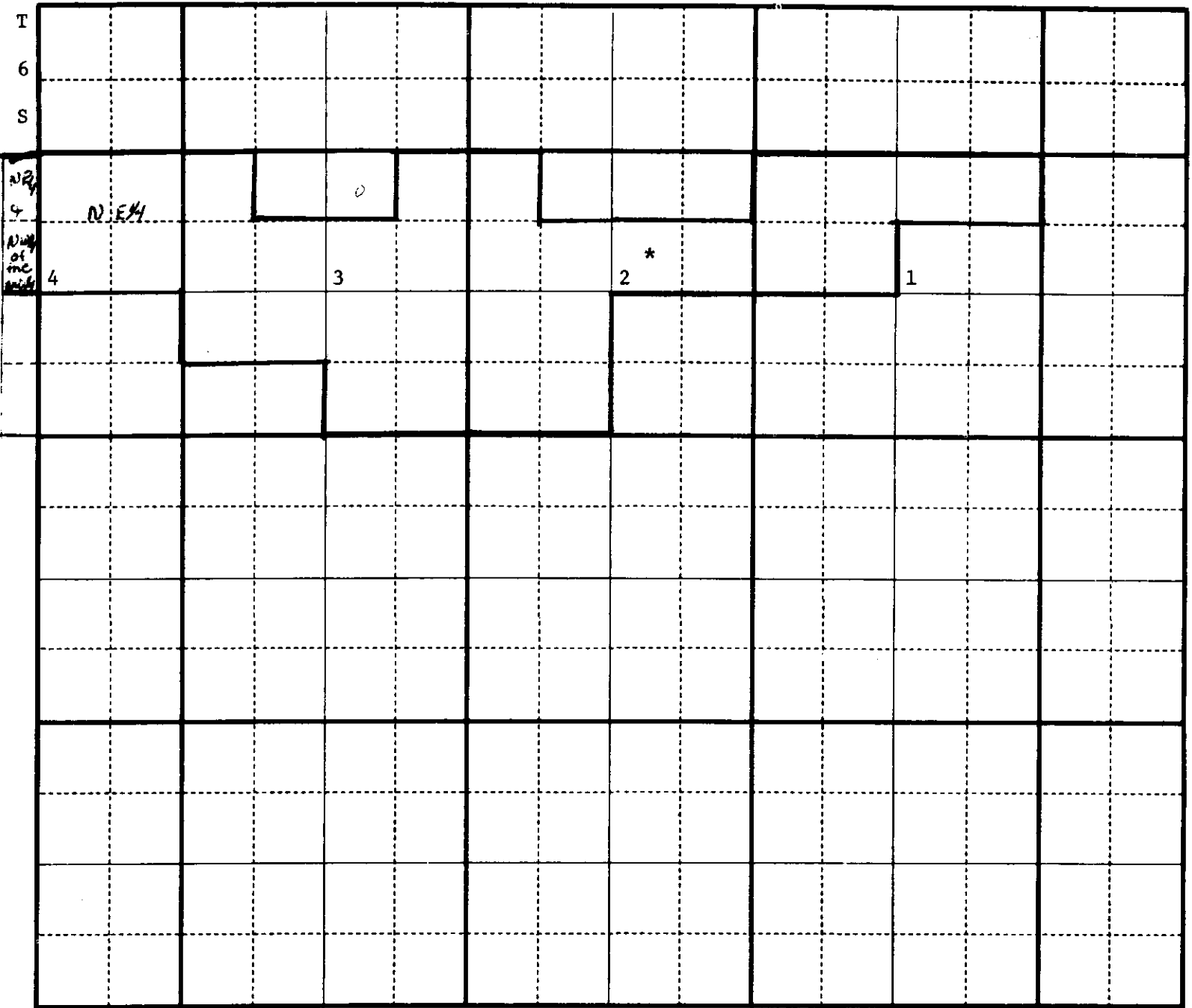


Diagram of System

DATE OF EXAM _____

ACREAGE

Found _____

Recommended _____

Irrigation Requirement _____ Ac Ft/Ac

USE

Irrigation Q= _____ c.f.s. V= _____ AF/Ann. from _____ to _____

Domestic Q= _____ c.f.s. V= _____ AF/Ann. from _____ to _____

Livestock Q= _____ c.f.s. V= _____ AF/Ann. from _____ to _____

Is water co-mingled? yes _____ no _____

Name source: _____

twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____

County _____

Exchange? yes _____ no _____

Name source exchanged with: _____

twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____

County _____

Point of injection:

twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____

County _____

Point of exchange:

twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____

County _____

Total Q measured _____ Method of measurement _____

Total Q recommended _____ Meter No. _____ Type _____ Condition _____

Total V recommended _____

Recommended Amendments:

P.D. _____

Place of Use _____

Other _____

None _____

MEASUREMENT CALCULATION:

SYSTEM DESCRIPTION:

*The second pump has not been installed
There is very little plant growth on the
bottom of these ponds. Some marsh grass benefit
from irrigation the ponds*

REMARKS:

*I recommend we license it as before
I found in the initial examination*

Examiner's Signature _____ Date _____

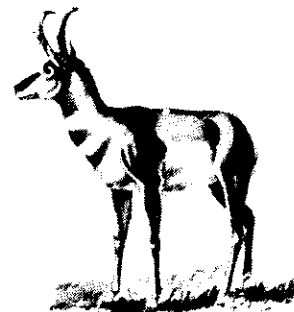
Checked by _____ Date _____

Approved by _____ Date _____

MICROFILMED



CECIL D. ANDRUS, Governor



JOSEPH C. GREENLEY
Director

COMMISSION
PETE THOMPSON, Sandpoint
PAUL C. KEETON, Lewiston
JOHN EATON, Cascade
JACK HEMINGWAY, Sun Valley
H. JACK ALVORD, Pocatello

IDAHO FISH AND GAME DEPARTMENT

August 15, 1974

POST OFFICE BOX 25
600 SOUTH WALNUT STREET
BOISE, IDAHO 83707

Mr. Bobby D. Fleenor
Chief, Water Rights
Department of Water Resources
Statehouse Mail

C. J. Strike
Permit No. 02-7004

Dear Mr. Fleenor:

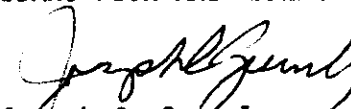
In reference to your letter of August 6, 1974, the Fish and Game Department had its second pump pulled for repair. Repair was found to be impractical and bids are presently outstanding for purchase of a replacement pump.

It would be appreciated if issuance of the Permit could further be delayed to grant time for purchase and installation of the replacement pump to provide evidence of beneficial use of water in the amount of 18 cfs. Both pumps have been in operation on the project, and it is unfortunate that inspections have been made at inopportune times.

Thank you for your cooperation.

Sincerely,

IDAHO FISH AND GAME DEPARTMENT


Joseph C. Greenley
Director

RECEIVED

AUG 19 1974

Department of Water Resources

RECORDED

August 6, 1974

State of Idaho, Dept. of Fish & Game
Statehouse Mail

Gentlemen:

A representative of the Department has made a re-examination of the works covered by your Permit No. 02-7004. Our examiner's report indicates that the second pump has not been installed and, therefore, the Department proposes to issue a water right license as follows:

Quantity of water diverted: 9.1 cfs Source: Snake River

Amount of water that can be recognized as beneficially used under
Idaho law: 8.68 cfs

The maximum quantity diverted shall not exceed 6,450 acre feet per
year.

Point of diversion: SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 2, Twp. 6 S, Rge. 6 E, B.M.

Beneficial use: Impoundment & storage and wildlife propagation within
the N $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, Sec. 1; S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 2;
NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 3; NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$,
Sec. 4; all in Twp. 6 S, Rge. 6 E, B.M.

Priority date established: Oct. 19, 1967

If you do not concur with these findings, please contact us within 10 days; otherwise a
water license will be issued as set forth above.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:DR

INTER-DEPARTMENT MEMO — 1

DATE December 27, 1973

FROM Bob Fleenor

TO Western District

SUBJECT New Field Exam

Fish & Game has requested another field exam because one pump wasn't in operation. They also protest our deletion of irrigation as a beneficial use since they are growing aquatic plants.

Try to contact them before the exam, to make sure the pump is in operation.

MICROFILMED

Bob

SIGNATURE

CECIL D. ANDRUS, Governor
COMMISSION

ROBERT G. THOMAS, Coeur d'Alene

PAUL C. KEETON, Lewiston

JOHN EATON, Cascade

JACK HEMINGWAY, Sun Valley

H. JACK ALVORD, Pocatello

JOSEPH C. GREENLEY
Director

IDAHO FISH AND GAME DEPARTMENT

December 21, 1973

POST OFFICE BOX 25
600 SOUTH WALNUT STREET
BOISE, IDAHO 83707

Mr. R. Keith Higginson, Director
Department of Water Administration
Statehouse, Annex 2
Boise, ID 83707

C. J. Strike
Bruneau Bridge
02-7004

RECEIVED
DEC 26 1973
Department of Water Administration

Attention: Bobby D. Fleenor, Assistant Director

Dear Mr. Fleenor:

Reference is made to Water Administration's letter of December 13, 1973 pertaining to issuance of license on Permit 02-7004 and to which the Fish and Game Department does hereby enter protest to the findings stated therein.

In the Department's application for water permit, it applied for 18 cfs of water flow to be pumped from the Snake River by two pumps, one of which was rated to deliver 9.32 cfs and the other pump rated at 8.68 cfs, all of which water was for irrigation by flooding and for impoundment and storage. We thus request that the measured water delivery of the large pump be allowed in full, which delivery was designated by Water Administration as being 9.1 cfs.

The second pump, with the rated capacity of 8.68 cfs, has been operated for delivery of water to this project area for approximately three years. However, the pump was damaged and inoperative during the 1973 season.

In the matter of acre feet of water pumped, the Department in 1973 operated the large pump for a six-month period of time at various times within the year for delivery of 3,300 acre feet of water to the water storage area. With both pumps in operation, it is estimated that approximately 6,450 acre feet of water will be pumped each year. The 1,000 acre feet of water designated in the Department's application refers to capacity of the impoundment area and does not refer to the amount of water that may be pumped into the pond area and returned to the river by overflow or through ground percolation.

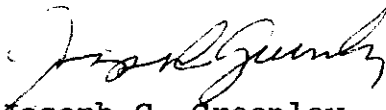
RECEIVED

Mr. R. Keith Higginson, Director
Page 2
December 21, 1973

We respectfully request that the issuance of the water permit be delayed until such time as the pump on the smaller motor is restored and in operating condition, and the permit be issued for approximately 18 cfs of water flow and water quantity in the amount of 6,450 acre feet.

Sincerely,

IDAHO FISH AND GAME DEPARTMENT


Joseph C. Greenley
Director

cc: Game Management
Region 3 Office
Guy Harris

RECEIVED

December 13, 1973

Re: Permit No. 02-7004

State of Idaho
Department of Fish & Game
600 South Walnut
Boise, Idaho 83706

Gentlemen:

A representative of this Department has made an examination of the works covered by your Permit No. 02-7004 and has found the following:

Quantity of water diverted: 9.1 cfs Source: Snake River

Amount of water that can be recognized as beneficially used under Idaho law: 9.68 cfs

The maximum quantity diverted shall not exceed 1,000 acre feet per year.

Beneficial use: Wildlife Propagation, Impoundment & Storage
within the NE¹/₄, NW¹/₄, Sec. 1; SE¹/₄, NE¹/₄, S¹/₂, SW¹/₄, Sec. 2; NE¹/₄, S¹/₂, NW¹/₄, S¹/₂, N¹/₂, SE¹/₄, Sec. 3; NE¹/₄, NW¹/₄, Sec. 4, Twp. 6 S, Rge. 6 E
Point of diversion: SW¹/₄, Sec. 2, Twp. 6 S, Rge. 6 E, B.M.

Priority date established: October 19, 1967

If you do not concur with these findings, please advise us within 10 days; otherwise, a license will be issued as set forth in this letter.

Sincerely,

BOBBY D. FLEENOR
Assistant Director

jfr

02-7004

T.
6
S

R. 6 E

2 7004

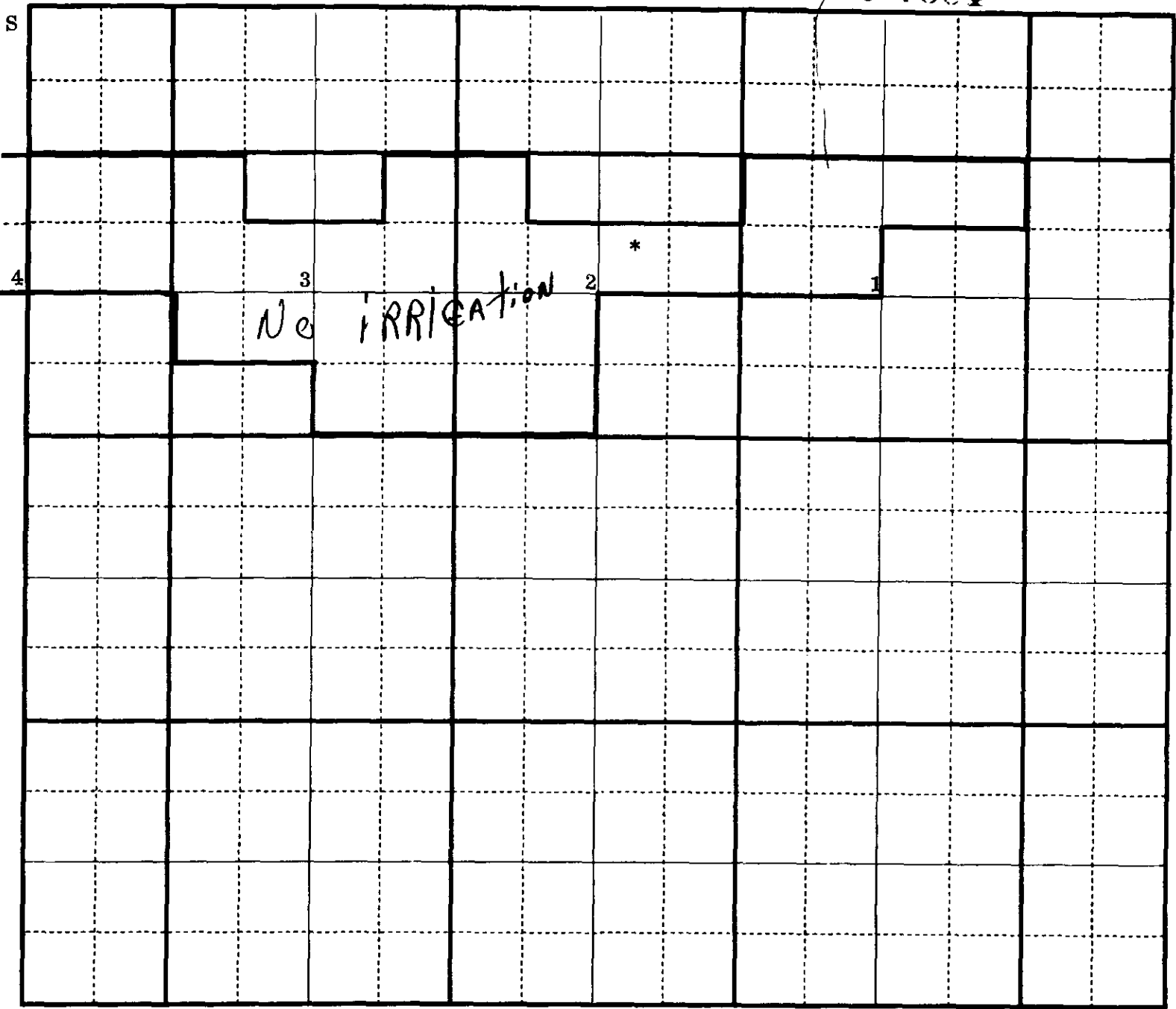


Diagram of System

DATE OF EXAM 20 Aug 73

ACREAGE
Found 0
Recommended 0

Irrigation Requirement _____ Ac Ft/Ac

USE
Irrigation Q= _____ c.f.s. V= _____ AF/Ann. from _____ to _____
Domestic Q= _____ c.f.s. V= _____ AF/Ann. from _____ to _____
Livestock Q= _____ c.f.s. V= _____ AF/Ann. from _____ to _____
Impoundment 8.68 cfs V= 1000 AF/Ann JAN 1 to Dec 31
Wildlife Prop 8.68 cfs V= 1000 AF/Ann JAN 1 to Dec 31

Is water co-mingled? yes _____ no ✓

Name source: Snake River
twp. 6 N/S, Rge 6 E/W, B.M., Sec. 2, Sub. SW 1/4 NE 1/4 Owyhee
County

Exchange? yes _____ no ✓

Name source exchanged with: _____
twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____
County

Point of injection:
twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____
County

Point of exchange:
twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____
County

Total Q measured 9.1 cfs Method of measurement 6' Weir

Total Q recommended 8.68 cfs Meter No. _____ Type _____ Condition _____

Total V recommended 1000 Ac ft/Ann

Recommended Amendments:

P.D. _____
Place of Use _____
Other _____
None

MEASUREMENT CALCULATION:

Q = 9.1 cfs
allow 8.68 cfs for Impoundment Storage
8.68 cfs Preapplying Wildlife
V = 1000 Ac ft/Ann (limited by application)

SYSTEM DESCRIPTION:

GE 30 HP Motor 60 cycle 3 phase 230/460 V. 1170 RPM
Sen # DGT 413508
3 AIRBANKS Morse Pump Sen# F2M 1429 16" discharge 50'
South to open ditch

REMARKS:

6' Standard Rectangular Weir .6' Foot head = 9.1 cfs

Another Weir is installed at the overflow but is
seldom used as the pond is filled to capacity, then the pump
is shut down

Examiner's Signature James Booker Date 21 Aug 73

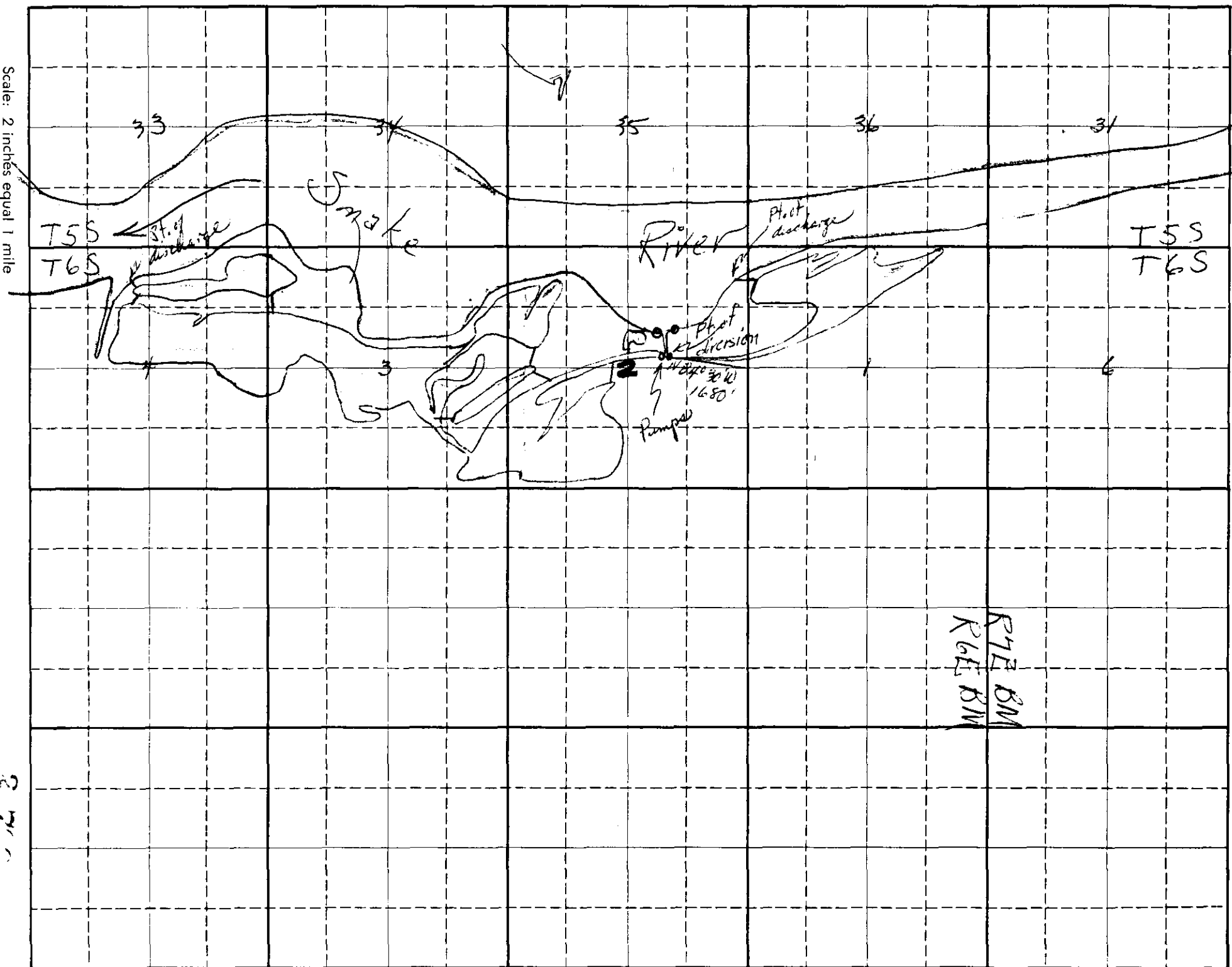
Checked by _____ Date _____

Approved by _____ Date _____

2 7004



11. Map of proposed project: 02-0004



Scale: 2 inches equal 1 mile

2 2 2

February 5, 1973

Re: Permit No. 02-7004

**State of Idaho, Dept. of Fish & Game
Statehouse Mail**

Gentlemen:

We acknowledge receipt of the affidavit submitted as proof of beneficial use 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.

Very truly yours,

**BOBBY D. FLEENOR
Assistant Director**

BDF:DR

2 7004



CECIL D. ANDRUS, Governor

COMMISSION

ROBERT G. KALB, Sandpoint

PAUL C. KEETON, Lewiston

JOHN EATON, Cascade

JACK HEMINGWAY, Sun Valley

H. JACK ALVORD, Pocatello



JOSEPH C. GREENLEY
Director

IDAHO FISH AND GAME DEPARTMENT

January 30, 1973

POST OFFICE BOX 26
800 SOUTH WALNUT STREET
BOISE, IDAHO 83707

Mr. R. Keith Higginson, Director
Water Administration
Statehouse Mail
Boise, ID

File Number of the C. J.
Strike Bruneau Bridge
Permit #02-7004

Dear Keith:

Enclosed is a statement of Proof of Application of Water
to Beneficial Use pertaining to Permit #02-7004.

Sincerely,

IDAHO FISH AND GAME DEPARTMENT

Joseph C. Greenley
Director

Enclosure

2 7004

Identification No. _____

Permit No. 02-7004

**STATE OF IDAHO
DEPARTMENT OF RECLAMATION**

RECEIVED

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

Department of Water Administration

1. a) Name of Permit Holder State of Idaho, Fish and Game Department
 b) Post Office Address P. O. Box 25; 600 So. Walnut; Boise, Idaho 83707
2. Permit Number 02-7004
3. Date of Priority that you are prepared to establish October 19, 1967
4. a) Source from which water was appropriated Snake River
 b) Location of the point of diversion: SW $\frac{1}{4}$ $\frac{1}{4}$ NE $\frac{1}{4}$ $\frac{1}{4}$, Section 2
 Township 6 S., Range 6 E., Boise Meridian, Other points of diversion: _____
5. a) The amount of water and use to which the water has been applied:
 amount 9.32 cfs for flood irriga- purposes from Jan. 1 to Dec. 31 incl.
 (cfs and/or acre feet per annum) tion (Month-Day) (Month-Day)
 amount 8.68 cfs for impoundment purposes from Jan. 1 to Dec. 31 incl.
 (cfs and/or acre feet per annum) storage & recharge (Month-Day) (Month-Day)
 amount 1000 acre ft. for storage & pro purposes from Jan. 1 to Dec. 31 incl.
 (cfs and/or acre feet per annum) pagating wildlife (Month-Day) (Month-Day)
 b) Total amount appropriated 18 cfs & 1,000 acre feet cfs and/or acre feet per annum
 c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifica-
 tions of the person making the measurement: Rate of flow determined by the rated
capacity of pumps installed. One 30 h.p. discharging 12 cfs and
one fifteen h.p. discharging 6 cfs. Amt. of storage: see bottom of page.
 6. If the means of diversion and conveyance are owned by someone other than the Permit Holder:
 a) Give the name or description of the canal, ditch or other works by which the water is conducted to the
 place of use: Not Applicable
 b) Describe the agreement or understanding by which you take water from the works: _____
Not Applicable
 7. a) Briefly describe the works for diverting and conveying the water to the place of use, (If from a subterranean
 source, give the pump size, motor size, size of well casing, depth of well; if from surface water, give brief
 description of diversion structure and/or canal or ditch) Waters are lifted from Snake River
by two pumps, one of 30 rated h.p. discharging 12 cfs and one of 15
h.p. discharging 6 cfs. Each pump discharges into open ditches &
carried to the head of two separate ponds. Water overflow from
these ponds flows to other ponds which repeats for total pond area.
 b) Describe the type and size of measuring device which you have installed at your point of diversion: The
measuring device are wooden cippoletti type weirs. The bottoms
edges are 4-foot at the bottom crest with a one-foot head. The other
ditch has a 2-foot crest and a 1-foot head. Outlet structures are
2-foot crest and 1-foot head.
 c) Give well drillers name and address and date the well was completed _____
- 5c. Storage areas were contoured and levels established prior to
 inundation and storage of water. Capacity was calculated by
 Carlos Livingston, Licensed Surveyor #718.

2 7004

Exam typed 2-5-73 by _____

8. If for other than irrigation, describe the beneficial use to which you have applied the water and the place of use Impoundment, storage & recharge used in N $\frac{1}{2}$ Section 1; N $\frac{1}{2}$ SW $\frac{1}{4}$ Section 2, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ of Section 3 and NE $\frac{1}{4}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 4, all of Township 6 South, Range 6 East, Boise Meridian, Owyhee County, Idaho.

9. Irrigation uses: Describe the lands irrigated by giving the acreages irrigated within each 40 acre subdivision: _____

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
6 S.	6 E.	1	2	10			30	20	2	5									69
		2			3	1		6	15	1	7	21	36	32					118
		3	1		12	12		5	32	21	30	2			12	28	1	18	174
		4	10	8	30	35	2	20											105

Total number of acres irrigated 466

10. Remarks: In actual operation of the impoundment area, which is located on a flood plane of Snake River, most of the water flow is lost through ground percolation with very little, if any, surface flow returns to the river. We assume that all or most of the percolation flow returns to Snake River.

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

IDAHO FISH AND GAME DEPARTMENT

January 30, 1973
(Date)
by: Joseph C. Greenlee
Joseph C. Greenlee, Director

State of Idaho)
County of Ada) ss.

On this 30th day of January, 19 73, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

[Signature]
Notary Public residing at Boise

My commission expires Nov 21, 1976

SENDER: Be sure to follow instructions on other side

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S)

(Additional charges required for these services)

☐

Show to whom, date and address
where delivered

☐

Deliver **ONLY**
to addressee

RECEIPT

Received the numbered article described below

REGISTERED NO.

SIGNATURE OF NAME OF ADDRESSEE (Must always be filled in)

CERTIFIED NO.

29129

1

NAME OF NAME OF ADDRESSEE
Name Fish and Game Dept.
Box 25, 600 So. Walnut St.
Boise, Idaho 83701

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

INSURED NO.

2

2 7004

DATE DELIVERED

SHOW WHERE DELIVERED (Only if requested, and include ZIP Code)

3

DEC 4 1972

E. T. Sorheim

U.S. POSTAL SERVICE
OFFICIAL BUSINESS



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

Postmark of Delivering Office

SENDER INSTRUCTIONS

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

- If special services are desired, check block(s) on other side.
- Moisten gummed ends and attach to back of article.



**RETURN
TO**

**DEPARTMENT OF WATER ADMINISTRATION
STATEHOUSE - ANNEX #2
BOISE, IDAHO 83707**

PS Form 3811 Nov. 1970 055-10-81277-1

December 1, 1972

CERTIFIED MAIL

24129

Re: Permit No. 02-7004 (Bruneau Bridge Ponds)

State of Idaho, Dept. of Fish & Game
600 So. Walnut, Box 25
Boise, Idaho 83707

Gentlemen:

One of the conditions of approval of your water Permit No. 02-7004 (see last page of your approved permit) was that evidence of the extent of development be submitted as proof of application of water to beneficial use to this office on or before February 1, 1973. Enclosed is an affidavit form which must be used to submit the required proof of beneficial use.

If you have not fully completed your project, and you have not previously received an extension of time, you may request an extension of time provided the delay is for reasonable cause as indicated in Section 42-204, Idaho Code, amended. If you have been prevented from proceeding by a governmental agency or by litigation, more than one extension of time can be granted.

Either the beneficial use affidavit or a request for an extension of time must be received by this Department on or before the above mentioned date, otherwise the permit will lapse and be of no further force or effect.



R. KEITH HIGGINSON
Director

Enc: Proof affidavit

2 7004



DON SAMUELSON, Governor
 COMMISSION
 GLENN STANGER, Idaho Falls
 R. J. HOLMES, Twin Falls
 ARLIE JOHNSON, Boise
 WILLIAM B. DURBON, Moscow
 RAY SIMS, Bonners Ferry

JOHN R. WOODWORTH, Director
 POST OFFICE BOX 25
 600 SOUTH WALNUT STREET
 BOISE, IDAHO 83707

IDAHO FISH AND GAME DEPARTMENT

July 26, 1968

RECEIVED

JUL 30 1968

Department of Reclamation

Mr. R. Keith Higginson
 State Reclamation Engineer
 Idaho Department of Reclamation
 State House, Annex #2
 Boise, Idaho

Dear Mr. Higginson:

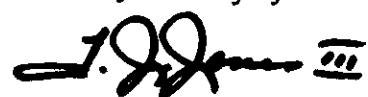
In Re: State Department of Reclamation
 Application Number 42123
 Bruneau Bridge Ponds

Reference is had to my letter of July 5, 1968, addressed to Mr. John R. Woodworth, Director of the Idaho Fish and Game Department, relative to institution of a test case to determine whether or not appropriation of waters by the Idaho Fish and Game Department as a recreational use constitutes a beneficial use under the provisions of Article 15, Section 3 of the Constitution of the State of Idaho.

Please be advised that this matter was taken up with the Idaho Fish and Game Commission at its regular meeting on July 24, 1968. The Commission unanimously determined that the proposed test case should be instituted.

I would, therefore, suggest that an early conference on this matter be scheduled between your staff and representatives of the Idaho Fish and Game Department.

Very truly yours,


 T. J. Jones, III
 Special Counsel

TJJ:mjl

cc John R. Woodworth, Director
 Idaho Fish and Game Department

MEETING MONDAY
 Aug 5
 3:00 PM
 02-7004

DON SAMUELSON, Governor
COMMISSION
GLENN STANGER, Idaho Falls
R. J. HOLMES, Twin Falls
ARLIE JOHNSON, Boise
WILLIAM B. DUBON, Moscow
RAY SIMS, Bonners Ferry

RECEIVED

Department of Reclamation

JOHN R. WOODWORTH, Director
POST OFFICE BOX 25
600 SOUTH WALNUT STREET
BOISE, IDAHO 83707

IDAHO FISH AND GAME DEPARTMENT

July 5, 1968

Mr. John R. Woodworth
Director
Idaho Fish and Game Department
P. O. Box 25
Boise, Idaho 83707

In re: State Department of Reclamation
Application Number 42123
Bruneau Bridge Ponds

Dear Mr. Woodworth:

Recently I again conferred with Mr. R. Keith Higginson, State Reclamation Engineer, and members of his staff relative to institution of a test case to determine whether or not appropriation of waters by the Idaho Fish and Game Department as a recreational use constitutes a beneficial use under the provisions of Article 15, Section 3 of the Constitution of the State of Idaho.

As was discussed in a prior meeting with Mr. Higginson, which was attended by myself and Assistant Director, Robert Salter, if such a test case were instituted, it could best be grounded upon a denial by the State Reclamation Department of the Fish and Game Department's pending application # 42123 for permit to appropriate waters of the Snake River for purposes of fish and wildlife propagation at the Bruneau Bridge Ponds; with a following suit for Declaratory Judgment being brought in the District Court of Ada County.

We have agreed that if such a Declaratory Judgment action is initiated, the same would be tried to the Court on stipulated facts whereby we would seek the Court's determination of the following three issues:

- (1) Is a "recreational use" a "beneficial use" under the provisions of Article 15, Section 3 of the Idaho Constitution?
- (2) May a state agency (Fish and Game Department) appro-

02-7004

Mr. John R. Woodworth

July 5, 1968

Page Two

priate unappropriated public waters for recreational purposes in light of the decision of the State Water Conservation Board v. Enking, 56 Idaho 722, which held that a statute creating the State Water Conservation Board and authorizing it to condemn water rights and appropriate unappropriated public waters, violated the provisions of Article 15, Section 3, Idaho Constitution in that the Board was only an arm of State performing governmental functions?

- (3) Is an "acquisition" under Section 36-104(5), Idaho Code, which is therein called a "public use" a "beneficial use" under Article 15, Section 3, Idaho Constitution?

I have advised Mr. Higginson that this matter of such a test case would be taken up with the Fish and Game Commission at its next meeting on July 24, 1968, and that would in turn advise him of the thoughts of the Commission relative to institution of the proposed action.

If you think advisable that I meet with the Commission at its next meeting later on this month, will you please contact me as to the exact time I should appear before the Commission.

Very truly yours,



T. J. Jones, III
Special Counsel

TJJ:lts

cc: Mr. R. Keith Higginson ✓
State Reclamation Engineer

02-7004

(1) Do NOT USE 42-203 WITH ITS 5 CONDITIONS AS ~~DEFENSE~~ ^{DEFENSE}

(2) IS IT PROPER TO AGREE ON TEST CASE?

(3) ACTION ON OTHER FILINGS OR DEPARTMENTS.

02-2004

Vol 7
36-104 - sub 5

Fish & GAME - Right to
appropriate water

02-2004

**NOTICE OF APPLICATION
FOR WATER**

Notice is hereby given that the State of Idaho, Department of Fish and Game has on October 12, 1967, applied for permit to divert 16 cubic feet per second and to store 1,000 acre feet of water from the Snake River, tributary of the Columbia River, under application No. 02-7004. Water will be diverted by pumps, ditches, and ponds within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 2, T. 6 S., R. 6 E., B. M., Owyhee County and is to be used from January 1 to December 31 for irrigation, storage, and propagation of wildlife in N $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, Sec. 1; S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 2; NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 3; NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 4, T. 6 S., R. 6 E., B. M.

Any protest against this application must be filed with the Department of Reclamation within ten days from the last date of publication of this notice.

R. KEITH HIGGINSON

State Reclamation Engineer
Published in the Owyhee Nug-
get, Marsing, Idaho, on Decem-
ber 14 and December 21, 1967.

02-7004

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that the State of Idaho, Department of Fish
and Game has on October 19, 1967
applied for permit to divert ~~store~~ 13 cubic feet per second ~~acre feet~~
and to store 1,000 acre feet
of water from the Snake River, tributary of the Columbia River
under application No. 02-7004. Water will be diverted by pumps,
ditches, and ponds within the SW¹/₄NE¹/₄, sec. 2, T. 6 S, R.
6 E, 8 M., Owyhee County
and is to be used from January 1 to December 31 for irrigation, storage,
and propating wildlife
in NE¹/₄NE¹/₄, NW¹/₄NE¹/₄, sec. 1; SE¹/₄NE¹/₄, NW¹/₄NE¹/₄, SE¹/₄NE¹/₄, SW¹/₄NE¹/₄, sec. 2; NE¹/₄NE¹/₄, SE¹/₄NE¹/₄,
NW¹/₄NE¹/₄, SE¹/₄NE¹/₄, NW¹/₄NE¹/₄, SE¹/₄NE¹/₄, sec. 3; NE¹/₄NE¹/₄, sec. 4, T. 6 S, R. 6 E, 8 M.

Any protest against this application must be filed with the Department of Re-
clamation within ten days from the last date of publication of this notice.

R. KEITH HIGGINSON
State Reclamation Engineer

Published in the Owyhee Nuggett, Marsing, Idaho,
on December 14 and December 21.

02-7004

December 4, 1967

Re: Application No. 02-7004

Owyhee Nuggett
Marsing,
Idaho 83639

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted assuming the notice is correct. If we have any corrections, we will notify you before the first publication date. If you can not publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department of Reclamation, along with the publication bill. In order to receive payment, the following certification must appear on the bill:

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of same has been paid.

(Do not sign letter)

Signature of claimant

Very truly yours,

Donald W. McElDowney
Water Rights Clerk

DWM:ks

Enclosures: legal notice

Form 3

02-7004



DON SAMUELSON, Governor
 COMMISSION
 GLENN STANGER, Idaho Falls
 R. J. HOLMES, Twin Falls
 ARLE JOHNSON, Boise
 WILLIAM B. DURBON, Moscow
 RAY SIMS, Bonners Ferry



Depa

OCT 19 1967



JOHN R. WOODWORTH, Director

POST OFFICE BOX 25
 600 SOUTH WALNUT STREET
 BOISE, IDAHO 83707

IDAHO FISH AND GAME DEPARTMENT

October 17, 1967

Re: C. J. Strike
 Water Application

Mr. R. K. Higginson
 Reclamation Engineer
 Department of Reclamation
 S T A T E H O U S E

Sir:

Enclosed herewith is an application by the Fish and Game Department to appropriate certain waters of the Snake River for development of wildlife habitat on it's C. J. Strike project.

Sincerely,

IDAHO FISH AND GAME DEPARTMENT
 John R. Woodworth, Director

Robert L. Salter
 Robert L. Salter
 Assistant Director

Enclosure

02-7004

January 13, 1970

Re: Permit No. 02-7004

State of Idaho, Fish and Game Department
Mr. John R. Woodworth, Director
600 South Walnut
Boise, Idaho 83706

Dear Mr. Woodworth:

You will recall that on August 20, 1968, I wrote to you concerning the Department of Fish and Game application no. 02-7004 to appropriate water from the Snake River. My letter suggested that there were several questions which would need to be resolved before we could issue a permit. Our letter was written after considerable discussion between our two departments and the Attorney General's office related to the constitutionality of use of water for recreation and fish and wildlife purposes. It was to be used as the basis for a test case on this subject.

You will also recall that during the 1969 Legislative Session, we submitted House Bill 43 in an attempt to obtain a listing of uses which the Legislature recognized as Beneficial. That bill was held in the Agricultural Committee of the House without action. During this last year I have appeared before the Constitutional Revision Commission and suggested to it that further consideration ought to be given to the language of Article 15, Section 3, to provide for Constitutional recognition of all beneficial uses. It was their belief that no such action was necessary. I therefore requested an Attorney General's opinion on the subject. A copy of this opinion, which I received yesterday, is forwarded for your information. I am also sending you a copy of a statement which I have released to the press today indicating that this office will continue to accept and process applications for any beneficial use.

I am therefore enclosing your approved Application for Permit No. 02-7004 for your files. I wish to call your attention to the condition of approval which we attach to all such permits, requiring the installation of measuring devices which will allow a determination of the quantity of water diverted under the permit. If you have any questions concerning this matter, please let me know.

Very truly yours,

RKH/jib
Enclosures
cc: T. J. Jonas III

R. KEITH HIGGINSON
State Reclamation Engineer

02-7004

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE — ANNEX 2
BOISE, IDAHO 83707

Dear Wateruser:

The Department of Reclamation approves the use of any standard device for which information is readily available. The type selected will depend upon the particular conditions at your diversion point. Any of the following standard types may be used:

Weirs

- a. Rectangular
- b. Cipolletti
- c. V-Notch

Orifices

Flumes

- a. Parshall flume
- b. Trapezoidal flume

Commercial Types

- a. Displacement or propeller meter
- b. Cox flow meter or Collins flow meter
- c. Venturi meter
- d. Deflection meter
- e. Meter gates

Regardless of the type used the device must be properly installed to insure standard conditions. Other types may be approved upon written application to the State Reclamation Engineer stating the description of the device and how you intend to use it. If the device that you install is not a standard type, you should obtain an extra copy of the rating table for this office.

The University of Idaho is presently in the process of preparing a bulletin which will describe these devices, however, this may not be available for sometime.

Very truly yours,

A handwritten signature in cursive script, appearing to read "C. Stephen Allred".

C. Stephen Allred, Assistant
State Reclamation Engineer

02-7004

02-7004

January 14, 1970

Fish and Game Department
State of Idaho
John R. Woodworth, Director
600 So. Walnut
Boise, Idaho

Dear Mr. Woodworth:

We have received an application from the Fish and Game Department to appropriate and store waters of the State of Idaho.

As a reminder, I wish to bring to your attention, the fact that the Idaho Code concerning the safety of dams, requires that any dam built in the State of Idaho which is greater than 20 feet in height or stores more than 100 acre feet, must be designed by a registered, professional engineer and plans and specifications must be submitted to the Department of Reclamation in duplicate, for approval prior to commencing construction. The Department of Reclamation does not attempt to prescribe definite criteria for the design and construction of dams. Instead, the department relies on the initiative and expertise of registered, professional engineers to submit plans and specifications based on sound engineering and construction principles. After we have reviewed such plans and specifications, we do make recommendations to the engineer on items which we feel would present a hazard to the safety of the structure.

If you have any questions concerning the departmental approval, please contact me at your convenience.

Sincerely,

A. KENNETH DUNN, Assistant
State Reclamation Engineer

AKD:mjl

02-7004

January 13, 1970

Re: Permit No. 02-7004

State of Idaho, Fish and Game Department
John R. Woodworth, Director
600 South Walnut
Boise, Idaho

Dear Mr. Woodworth:

You have submitted an application to appropriate and store waters of the State of Idaho. As a reminder, I wish to bring to your attention the requirements of Idaho Code 42-1707 concerning the submission of plans and specifications to the Department of Reclamation for approval.

The Code requires that any person, association, or corporation, excepting the U. S. Bureau of Reclamation, who shall desire to construct any dam or dike, for the purpose of storing or appropriating or diverting any of the waters of this state, when the same is to be more than ten feet in height or have a storage capacity of more than one hundred acre-feet, shall submit duplicate plans, drawings, and specifications of the proposed work to the Department of Reclamation for approval. If approval is granted one approved copy of such plan, drawing, or specification will be returned to you.

Also provided in the Code is an inspection clause which requires the Department of Reclamation to inspect or cause to be inspected as often as it deems advisable, any such dam or dike, to be more than twenty feet in height during construction.

The plans and specifications should provide as a minimum the following information:

A. Drawings

1. Dam profile
2. Spillway profile
3. Outlet work profile
4. General plan view
5. Section of dam or dike
6. Section of spillway
7. Location map

B. Dimensions and Elevations

1. Conduits and gates, dimensions and elevations
2. Water surface elevations

02-7004

3. Slopes of embankment surface
4. Provide dimensions sufficient to determine if the design is adequate

C. Specifications

Specifications should provide standards of control to assure that construction is accomplished in such a manner as to provide a structure which will perform as designed. Spillway capacities and capacities of all water control structures shall be provided.

The Department of Reclamation purposely does not attempt to prescribe definite criteria for design and construction of dams or dikes. Codes cannot be made uniformly applicable to the widely varying conditions encountered at different dam sites, and such a code could inhibit advancement in the science of dam design and construction. Instead, the Department conducts an independent review of individual plans and specifications for each project, as submitted by the applicant's engineer to insure the use of sound engineering and construction principles.

Though it is not required by law, the Department of Reclamation suggests that you obtain the services of a licensed Professional Engineer to design the required structures and prepare plans and specifications. This will not only protect the public from an unsafe structure, but will also protect your investment by reducing the possibility of failure or damage to other parties.

Sincerely,

A. Kenneth Dunn
Assistant State Reclamation Engineer

AKD/jmb

02-7004

June 17, 1969

Mr. T. J. Jones III
Attorney at Law
1611 West Jefferson
Boise, Idaho 83702

Dear T. J.:

I am still concerned about the time that may be involved in obtaining a decision from the District and Supreme Courts in our "Recreational Use" test case.

I would hope that the matter has progressed sufficiently far that the Declaratory Judgment suit can be filed at an early date.

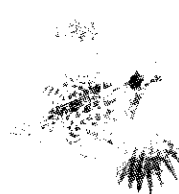
Please let me know the current status of the matter.

Very truly yours,

R. KEITH HIGGINSON
State Reclamation Engineer

RKH/j1b

02-7004



DON SAMUELSON, Governor
COMMISSION
GLENN STANGER, Idaho Falls
R. J. HOLMES, Twin Falls
ARLIE JOHNSON, Boise
WILLIAM B. DURBON, Moscow
RAY SIMS, Bannock Ferry

Department of Reclamation

JOHN R. WOODWORTH, Director

POST OFFICE BOX 25
600 SOUTH WALNUT STREET
BOISE, IDAHO 83707

IDAHO FISH AND GAME DEPARTMENT

May 23, 1968

Mr. R. Keith Higginson
State Reclamation Engineer
Idaho Department of Reclamation
107 State House
Boise, Idaho 83701

In re: "Recreational Use" Test Case

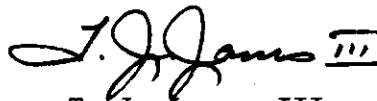
Dear Mr. Higginson:

Subsequent to our conference on May 8, 1968, relative to institution of a Declaratory Judgment suit to determine whether or not a recreational use constitutes a beneficial use as defined by the Idaho Constitution, I have had an opportunity to further confer on the matter with the Assistant Attorney General, William Collins.

Mr. Collins requested that I forward him any citations that I have on this subject. In a letter dated March 12, 1968, to Mr. R. L. Salter, Assistant Director of the Idaho Fish and Game Department, I listed some of these citations. A copy of this letter is enclosed herewith and a copy is also being forwarded to Mr. Collins.

I would suggest that the four of us schedule a conference in the near future at which time we could sit down and informally discuss this matter and the possibility of such a test case.

Very truly yours,



T. J. Jones, III
Special Counsel
Idaho Fish and Game Department

TJJ:1ts
Enclosure
cc: Mr. R. L. Salter
Mr. William D. Collins

June 13 1968

02-7004

RECEIVED

March 12, 1968

March 12, 1968

Mr. R. L. Salter
Assistant Director
Idaho Dept. of Fish and Game
Post Office Box 25
Boise, Idaho 83707

In re: "Recreational Use" Test Case

Dear Mr. Salter:

Reference is had to your memorandum to me of February 14 relative to the suggestion by the State Reclamation Engineer that the application for license to flood the Bruneau ponds would constitute a good test case as to the authority of his office to issue a permit to the Fish and Game Department under the theory of a "recreational use" constituting a "beneficial use" as broadly defined by the Idaho Constitution.

Since receiving your memorandum I have had some opportunity to do a little bit of further research on this question, however, I would like the opportunity to completely research the statutory and case authorities I have run across prior to contacting either the State Reclamation Engineer or discussing the suggested case with his representative from the State Attorney General's office.

For example, the statutes in Kansas and Arizona list recreation as a beneficial use but do not specify the forms of recreation that may be included. Other statutes are more precise, such as Article 7470 of the Texas Revised Civil Statutes which includes public parks, game preserves, recreation and pleasure resorts in the definition or recreation as a beneficial use. Decisions in a few states have indicated that the use of water for swimming, parks and fishing is within the meaning of beneficial use; See Osnes Livestock Co. v. Warren (Mont.) 62 Pac. 2d 206; State ex rel Game Comm. v. Red River Valley Co., (New Mex.) 182 Pac. 2d 421; Snively v. Jaber (Wash.) 296 Pac. 2d 1015; and United States v. Ballard, 184 Fed. Supp. 1 (D.C. New Mex.).

03-7004

Mr. R. L. Salter

-2-

March 12, 1968

Also, I would like to obtain from the University of Wyoming School of Law a treatise by Trelease, "The Concept of Reasonable Beneficial Use in the Law of Surface Streams" 12 Wyoming Law Journal, Volume 1.

Very truly yours,

T. J. Jones, III
Special Counsel
Idaho Fish and Game Dept.

TJJ/sdm

02-7004

DON SAMUELSON, Governor
COMMISSION
GLENN STANGER, Idaho Falls
R. J. HOLMES, Twin Falls
ARLIE JOHNSON, Boise
WILLIAM B. DUBSON, Moscow
RAY SIMS, Benners Ferry

IDAHO FISH AND GAME DEPARTMENT

JOHN R. WOODWORTH
POST OFFICE
600 SOUTH WALF
BOISE, ID

April 8, 1969

RECEIVED

APR 9 1969

Department of Reclamation

Mr. R. L. Salter, Ass't. Director
Idaho Fish and Game Department
Post Office Box 25
Boise, Idaho 83701

Re: Bruneau Bridge Ponds
State Department of Reclamation
Application No. 42124 for
Permit No. 02-7004

Dear Bob:

Due to the fact that House Bill No. 43 redefining beneficial uses of water never made it out of the Agricultural Affairs Committee during this past session of the legislature, I am wondering if we should not again consider institution of our proposed "recreational use" test case with the State Department of Reclamation over the permit for the Bruneau Bridge Ponds.

Since Mr. R. Keith Higginson, the State Reclamation Engineer, may have some additional thoughts along the lines of a test case, I would suggest that we have a conference with him and his staff in the immediate future to discuss the proposed lawsuit if he is still of the feeling that the same should be instituted.

Very truly yours,

T. J. Jones, III
Special Counsel
Idaho Fish and Game Department

TJJ:mfs

cc: ✓ R. Keith Higginson

02-7004

August 20, 1968

State of Idaho
Fish & Game Department
600 South Walnut
Boise, Idaho

Gentlemen:

On October 19, 1967, the Idaho Fish and Game Department filed with this office an application for a Permit No. 02-7004 to appropriate water from the Snake River. Your application proposed use of the water for "Irrigation, propagating wildlife, impoundment and storage purposes. Notice of this application was published in the Owyhee Nugget newspaper on December 14 and 21, 1967. No protests have been filed.

The application appears to meet all of the statutory requirements for issuance of a permit. You are no doubt aware that Section 42-203, Idaho Code provides that the State Reclamation Engineer may refuse issuance of a permit or may partially approve or grant permit upon conditions

. . . where such proposed use is such that it will reduce the quantity of water under existing water rights, or that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or where it appears to the satisfaction of the department that such application is not made in good faith, is made for delay or speculative purposes, that the applicant has not sufficient financial resources with which to complete the work involved therein, or that approval of applications referred to the Idaho Water Resource Board under the provisions of Section 42-1737 would not be in the public interest or would conflict with the establishment or execution of a state water plan or policy, . . .

I find that granting of the permit under your Application 02-7004 would be proper since:

(1) The proposed use is such that it would not reduce the quantity of water under existing rights.

02-7004

(2) The water supply is sufficient for the purpose for which it is sought to be appropriated.

(3) The application is made in good faith and not for delay or speculative purposes.

(4) The applicant has sufficient financial resources with which to complete the proposed work.

(5) The application does not require prior approval of the Water Resource Board under the provisions of Section 42-1737, Idaho Code.

However, I am concerned with several aspects of this application which appear to conflict with provisions of the Idaho Constitution. First, the use you have proposed does not appear to be a beneficial use for which a water right may be established under the language of Section 3, Article 15, which reads as follows:

"The right to divert and appropriate the unappropriated waters of any natural stream to beneficial uses, shall never be denied, except that the state may regulate and limit the use thereof for power purposes. Priority of appropriation shall give the better right as between those using the water; but when the waters of any natural stream are not sufficient for the service of all those desiring the use of the same, those using the water for domestic purposes shall (subject to such limitations as may be prescribed by law) have the preference over those claiming for any other purpose; and those using the water for agricultural purposes shall have preference over those using the same for manufacturing purposes. And in any organized mining district those using the water for mining shall have preference over those using the same for manufacturing or agricultural purposes. But the usage by such subsequent appropriators shall be subject to such provisions of law regulating the taking of private property for public and private use, as referred to in Section 14 of Article I of this Constitution."

You will note that the only beneficial uses mentioned are domestic, agricultural, manufacturing, mining and power. You have applied to appropriate water for irrigation purposes which is normally considered to be agricultural in nature but such use is in connection with the production of aquatic plants for food and cover for wildlife. This is not, in my opinion, a beneficial agricultural use and the other proposed uses are not included within those listed in the Constitution.

02-7004

Page 3
Fish & Game Department

As a second matter, I wish to call your attention to the decision of the Supreme Court in the Case of State Water Conservation Board vs. Enking, 56 Idaho 722, 58 Pac. (2d) 779. It is our understanding that the court held that a state agency (lacking constitutional authority) could not appropriate " . . . monopolize or withdraw the very rights that Sec. 3 of Art. 15 of the Constitution says 'shall never be denied the people of the state'".

I am aware that Section 36-104 (5) Idaho Code grants to the Fish and Game Commission power to -

" . . . acquire for and on behalf of the state of Idaho, by purchase, condemnation, lease, agreement, gift, or devise, lands or waters suitable for the purposes hereinafter enumerated, and develop, operate, and maintain the same for said purposes, which are hereby declared a public use:

- (a) For fish hatcheries, nursery ponds, or game animal or game bird farm;
- (b) Lands or water suitable for game, bird, fish or fur-bearing animal restoration, propagation, or protection;
- (c) For public hunting, fishing, or trapping areas to provide places where the public may fish, hunt, or trap in accordance with the provisions of law, or the regulations of the commission;
- (d) To extend and consolidate by exchange, lands or waters suitable for the above purposes.

However in view of the decision of the Court in the above-cited Water Conservation Board case such grant of power is probably unconstitutional, in so far as it applies to acquiring water rights.

You are therefore advised that it will be necessary for me to reject your Application for Permit No. 02-7004 and that I will take such action unless you are able to give satisfactory reason why I should not do so.

Very truly yours,

R. KEITH HIGGINSON
State Reclamation Engineer

cc. William D. Collins
Assistant Attorney General
Statehouse
Boise, Idaho

T. J. Jones III
Special Counsel
1611 W. Jefferson
Boise, Idaho

02-7004