

In Equity No. 203

**In the District Court of the United States
for the District of Idaho, Eastern Division**

UTAH POWER & LIGHT COMPANY, a Corporation, *Plaintiff,*

vs.

The Last Chance Canal Company, Limited; The Tanner Canal Company, Limited; The Central Canal Company, The North Extension Canal Company, Limited; West Branch Canal Company, Limited; The Turner Canal Company, Limited; The East Branch Canal Company, The Bench Canal, and Budge Land & Live Stock Company, Limited, corporations; W. H. Larkins, Jas. Ellsmore, Geo. Hogan, Lewis S. Pond and Alex Harris as Trustees of the Gentile Valley Irrigation Company, Limited, late a corporation; The Thatcher Irrigation Company, Limited, a corporation; Nathan D. Thatcher, J. A. Folkman, Milton Robbins and Geo. M. Smith, as Trustees of Thatcher Canal & Power Company, Limited, late a corporation; Nelson Ditch Company, a corporation; A. J. Nielson, B. R. Meek, Henry McCuen, C. S. Burton and Eli Fosgreen, as Trustees of Riverdale-Preston Irrigation Company, late a corporation; The Riverdale Irrigating Company, Nielson-Meek Company and West Cache Irrigation Company, corporations; E. P. Johnson, Albert Johnson, Hyrum Johnson, Geo. D. Anderson, Joseph T. Pond, Frank W. Harris, A. C. Bosen, Hyrum J. Smith, John E. Hill, Melvin Green, Robert L. Smith, Charles Westerburg, Peter Westerburg and David P. Evans.

Horace Howard, Henry Rhinehart, Harvey W. Higley, James Monroe (or Munro), Nellie Simmons, John Baird, William Monroe (or Munro), Orrin Monroe (or Munro), Charles Monroe (or Munro), Charles Foster, Hyrum Foster, Mary Baird, John Woodall (or J. D. Woodall), George Ellis, Skinner Irrigation Company, a corporation; Heber Crane, Fred Bartschi, Charles Bartschi, David Chugg, Phillip Chugg, Fred Stauffer, William Williams, Sr. (or William Morgan Williams), William Williams, Jr. (or William Mormon Williams), Oliver Williams, E. M. Lindsay, Georgetown Irrigation Company, a corporation, and Thomas Freeman.

MAY 14 1996

DATE OF PRIORITY	AMOUNT IN SECOND FEET	POINT OF DIVERSION AND PLACE OF USE
13-0971 11-0277 20. Riverdale-Preston Irrigation Co.: 1883-June 10 3 c.f.s. 11-0278 1902-June 10 6½ c.f.s. TRANS # 1973 13-0972	land situated in Sections 29 and 30, said Township and Range.	Said water to be diverted from the main channel of Bear River at a point 20 rods Northeasterly from the Southeast corner of the Northeast quarter of the Northeast quarter of Section 29, Township 14 South, Range 40 East, B.B.M., and to be used for the irrigation of 615 acres of land in Sections 29 and 31, Township 14 South, Range 40 East, Section 36, Township 14 South, Range 39 East, and Section 1, Township 15 South, Range 39 East, B.B.M.
11-0279 21. Riverdale Irrigating Company: 1882-May 1 13 c.f.s. 13-0973		Said water to be diverted from Bear River in the Northeast quarter of Section 31, Township 14 South, Range 40 East, B.B.M., and to be used for irrigating 800 acres of land in Sections 34, 35 and 36, Township 14 South, Range 39 East, and Sections 1, 2 and 3, Township 15 South, Range 39 East, B.B.M.
11-0280 22. West Cache Irrigation Company: 1899-Sept. 12 186 c.f.s. 13-0974		Said water to be diverted from Bear River at a point 700 feet North and 42°33' West of a point 43 feet East of the Southeast corner of the Southwest quarter of Section 25, Township 14 South, Range 39 East, B.B.M., and to be used for the irrigation of <u>14,832 acres</u> in Sections 19, 20, 29 and 30, Township 15 South, Range 39 East, Sections 4, 5, 17, 19, 20, 29 and 30, Township 16 South, Range 39 East, B.B.M., Sections 35 and 34, Township 15 North, Range 1 West, S.L.B.&M., Sections 3, 4, 9, 10, 11, 15, 16, 21, 22, 23, 25, 26, 27, 28, 33, 34, 35 and 36, Township 14 North, Range 1 West, Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, Township 13 North, Range 1 West, Sections 5, 6, 7, 8, 18, 19 and 30, Township 13 North, Range 1 East, Sections 1, 2, 3, 4, 11 and 12, Township 12 North, Range 1 West, S.L.B.&M.
11-0281 23. Battle Creek Irrigation Company: 1883-July 10 5 c.f.s. 13-0975		Said water to be diverted from Bear River at the point of diversion of the West Cache Irrigation Company last above described, and conveyed through said canal of the West Cache Irrigation Company to a point

All the foregoing reservations of jurisdiction shall extend after the term at which this decree is entered, and during any subsequent term prior to January 1, 1924, at which time, or at such earlier time as the court may determine these matters, this decree shall be closed. In all other respects this decree shall be final.

The court further retains jurisdiction, however, at all times, and from time to time, to make all reasonable rules touching the manner of diverting, measuring and distributing the waters, and the devices to be installed and used for such purposes where it may be impracticable to fully comply with the terms of this decree, and to direct that the parties keep accurate and detailed records of the amounts of water diverted, and to require reports to be filed from time to time of the amount so diverted, and generally to make such orders as may be found reasonably necessary to give effect to the decree, and to appoint commissioners or water masters to make distribution in accordance with its terms, and to punish the parties hereto, their officers, agents and employes, and their grantees and successors in interest, for any violation of the provisions thereof.

Done in open court this 14th day of July, 1920.

FRANK S. DIETRICH,
Judge.

RECORDED

MAY 14 1926

117

Page 1 of 6

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

RECEIVED
NOV 22 1996

4914
Transfer No. ~~RECEIVED~~
SEP 19 1936
Department of Water Resources

APPLICATION FOR TRANSFER OF WATER RIGHT
1996 **PART 1**

Department of Water Resources
Name of applicant West C

Department of Water
Name of applicant West Cache Irrigation Company Phone 801-563-3501

Post Office address % Ed Cottle; 1207 South, 400 East, Trenton, Utah 84338

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes This additional diversion point will allow water to be pumped into the canal below a section of the canal that is very unstable. The total amount of water diverted should be less than at present because less water will be lost due to seepage. The river watermaster will make sure the combined diversions are with in our decreed right, and acurate measuring devices will be constructed at the additional site.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
13-00974 22	1899 Sept. 12	186 c.f.s.	Ag	9-10 Apr. 20 to Sept. 20
				to
				to
				to

2. Total amount of water being transferred 186 c.f. cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Bear River tributary to Great Salt Lake
4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SE	SW	25	14S	39E	Franklin, Id	West Cache Canal Head
		NE	NW	3	14N	1 W	Cache Co. Ut.	West Cache Canal Pump Station <i>NECJ</i>
							Said water to be diverted from Bear River	
							at a point 700 feet North and 42°33' West	
							of a point 42 feet East of the	

5. Lands irrigated or place of use: No Change

[illegible]

Said water to be diverted from Bear River at a point 700 feet North and 42°33' West of a point 43 feet East of the Southeast corner of the Southwest quarter of Section 25, Township 14 South, Range 39 East, B.B.M., and to be used for the irrigation of 14,832 acres in Sections 19, 20, 29 and 30, Township 15 South, Range 39 East, Sections 4, 5, 17, 19, 20, 29 and 30, Township 16 South, Range 39 East, B.B.M., Sections 35 and 34, Township 15 North, Range 1 West, S.L.B.&M., Sections 3, 4, 9, 10, 11, 15, 16, 21, 22, 23, 25, 26, 27, 28, 33, 34, 35 and 36, Township 14 North, Range 1 West, Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, Township 13 North, Range 1 West, Sections 5, 6, 7, 8, 18, 19 and 30, Township 13 North, Range 1 East, Sections 1, 2, 3, 4, 11 and 12, Township 12 North, Range 1 West, S.L.B.&M.

14,832 ac.

PART 1

6. General Information:

a. Description of diversion system 50 miles of main canal and 50 miles of major lateral
deliver water to farmers in south west Franklin county, Id. and northwest Cache
county, Ut.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes X No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
The additional point of diversion will not change the lands being irrigated. Every few
years we have a major failure of the canal somewhere between the head and the Idaho
line. A pumping station below this area would allow us to run the canal at a lower, safer
level, and still meet the farmers needs during peak demand.

d. Remarks:
For example, the failure last year cost \$125,000.00 to repair, and the system was shut
down for 3 weeks during the most critical use period. The crop loss alone was
estimated at over \$1,000,000.00. The pumping station would be used to keep the canal
at a more safe level, and provide water in the event of a complete failure.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____
 And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____.

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 13-00974

STAGE: DECREED

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	04/20 to 09/30	186.00 CFS

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
BEAR RIVER	GREAT SALT LAKE

Priority: 09/12/1899

LOCATION OF POINT(S) OF DIVERSION:SESW , Sec. 25, Township 14S, Range 39E
FRANKLIN CountyPLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
15S	39E	19				
		20				
		29				
		30				
16S	39E	4				
		5				
		17				
		19				
		20				
		29				
		30				

CONDITIONS/REMARKS:

1. P/U, AC IRR=14,832, MOST OF THE LANDS FOR P/U ARE IN UTAH.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.

Please see attached maps

The grid is a large rectangle divided into a 10x10 grid of squares. Each square is further divided into a 3x3 grid of smaller squares, creating a total of 900 small squares. In the lower right corner of the grid, there is a circular seal of the State of Idaho. The seal contains the text "STATE OF IDAHO" and "DEPARTMENT OF WATER RESOURCES".

SCALE: 2 inches equal 1 mile. Draw plan in ink.

Page 56 of 6

Transfer No. _____

PART 3

B. CHANGES IN NATURE OF USE

NO CHANGE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Joseph A. Larsen PRES.
(Signature of Applicant) + Title/Office

Subscribed and sworn to before me this 13th day of December, 1996.



NOTARY PUBLIC
LEELIN VERNON SUMMERS
8 North 100 East
Newton, UT 84327
My Commission Expires
May 7, 1998

Leelin Vernon Summers
(Notary Public)

My commission expires May 7, 1998

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by _____ Date 9-19-96 Protest filed by _____

Prelim. check by HWT Fee \$100.00 Receipt # C036591

Received by Re+ Date 9-19-96 (Preston ID)

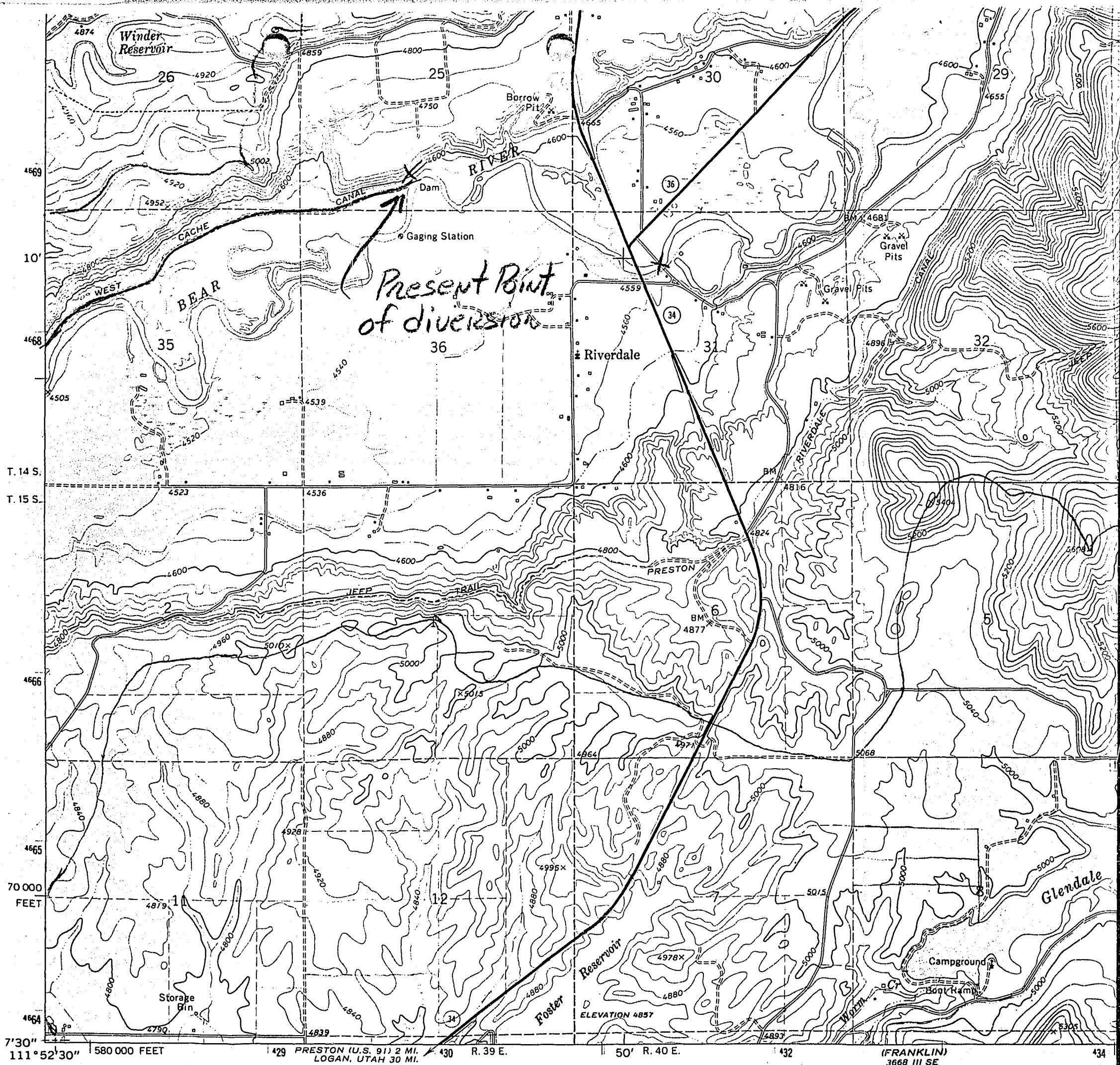
Published in Harold Journal (Logan UT) Preston Citizen Copies of protest forwarded by _____

Pub. dates 10-34-10-10-96 10-24-10-9-96 Hearing held by _____ Date _____

Watermaster recommendation requested on 9-25-96 Recommended for ☒ approval ☐ denial

_____ rec'd. _____ by Rd

Copy of transfer sent to lien holder _____



Present Point of diversion

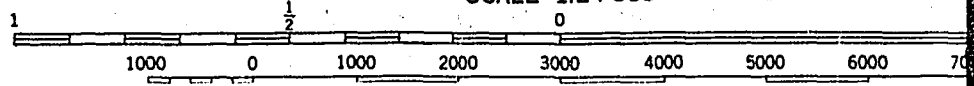
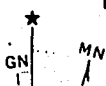
T#4914

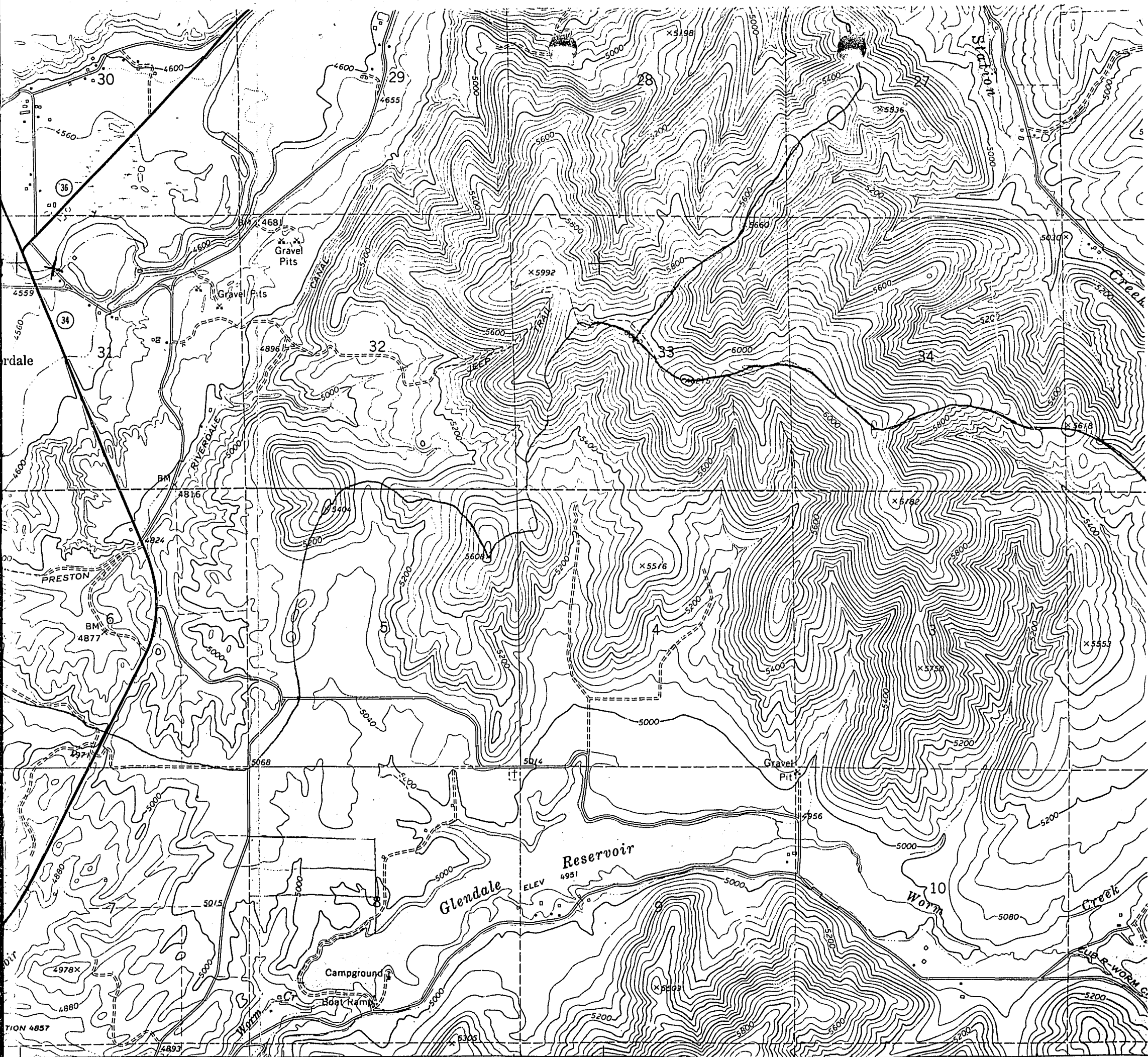
SCALE 1:24 000

Mapped, edited, and published by the Geological Survey

Control by USGS and USC&GS

Topography by photogrammetric methods from aerial photographs taken 1968 Field checked 1969





50' R. 40 E. 432 (FRANKLIN) 3668 III SE 434 47' 30" 435 436

SCALE 1:24 000

1 1/2 0 1000 2000 3000 4000 5000 6000 7000 FEET 1 MILE

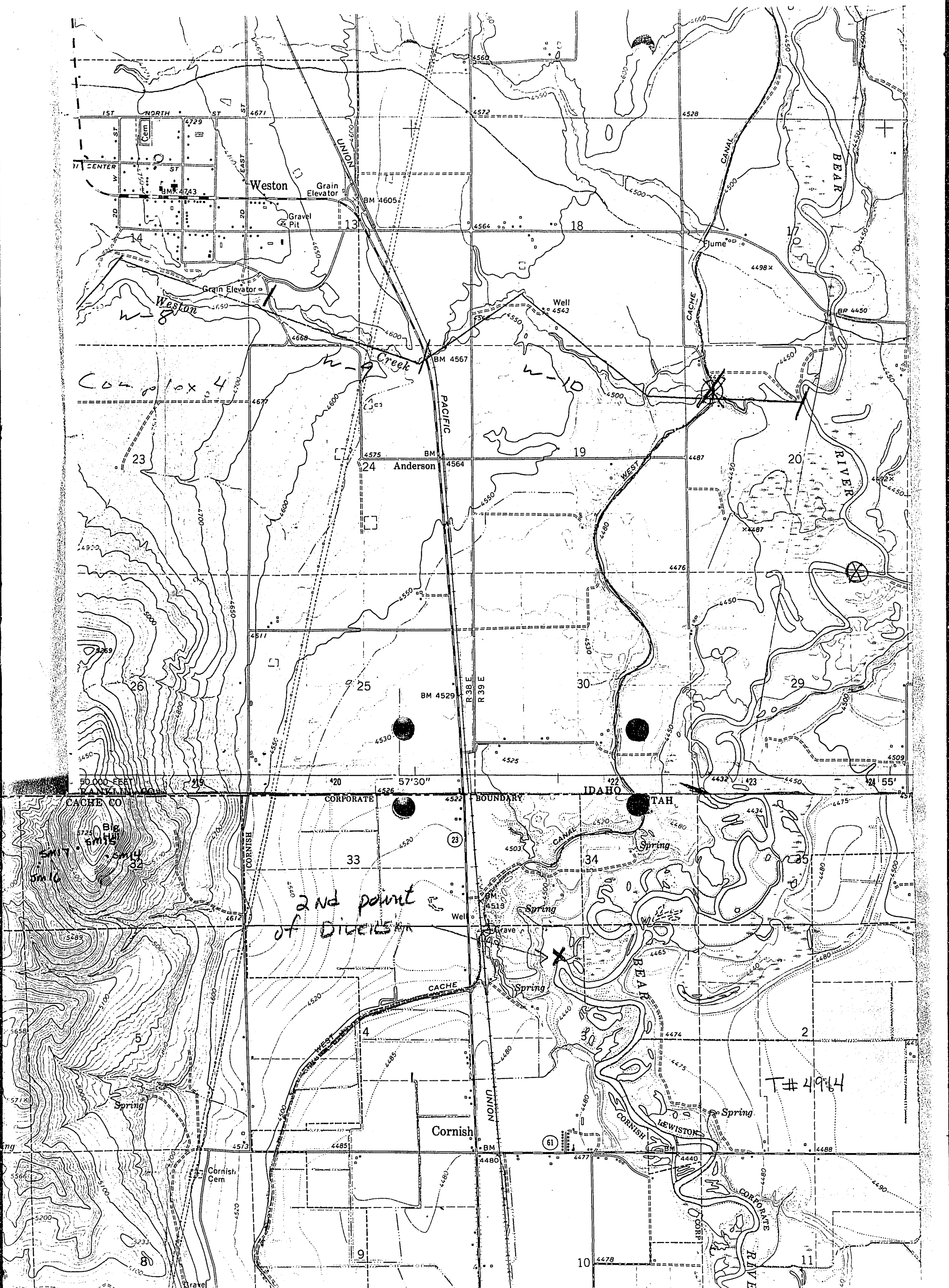
46 F contour

ROAD CLASSIFICATION

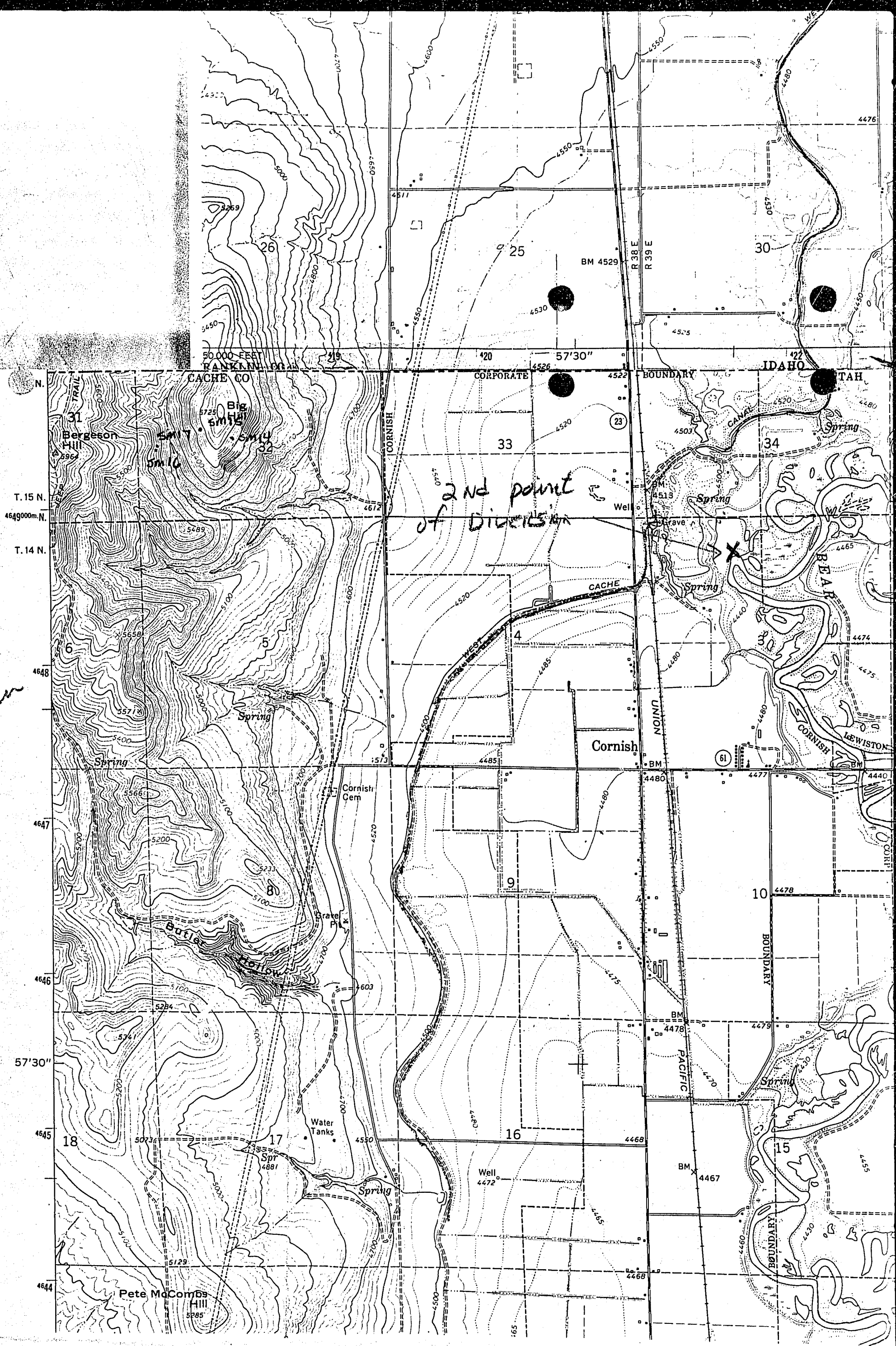
Primary highway, hard surface

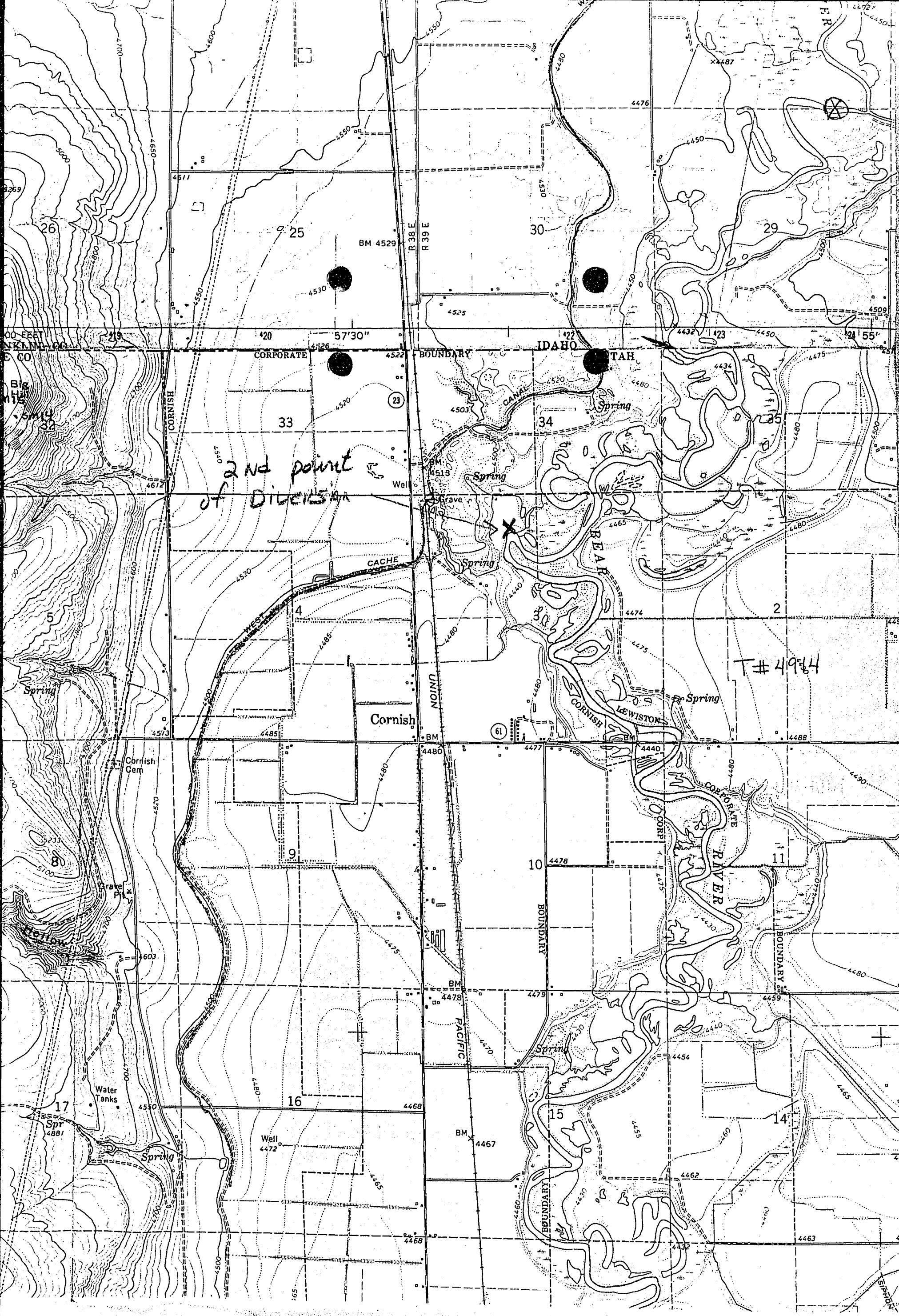
Light-duty road, hard or improved surface

INTERIOR- GEOLOGICAL SURVEY, RESTON, VIRGINIA- 1954 437000m E



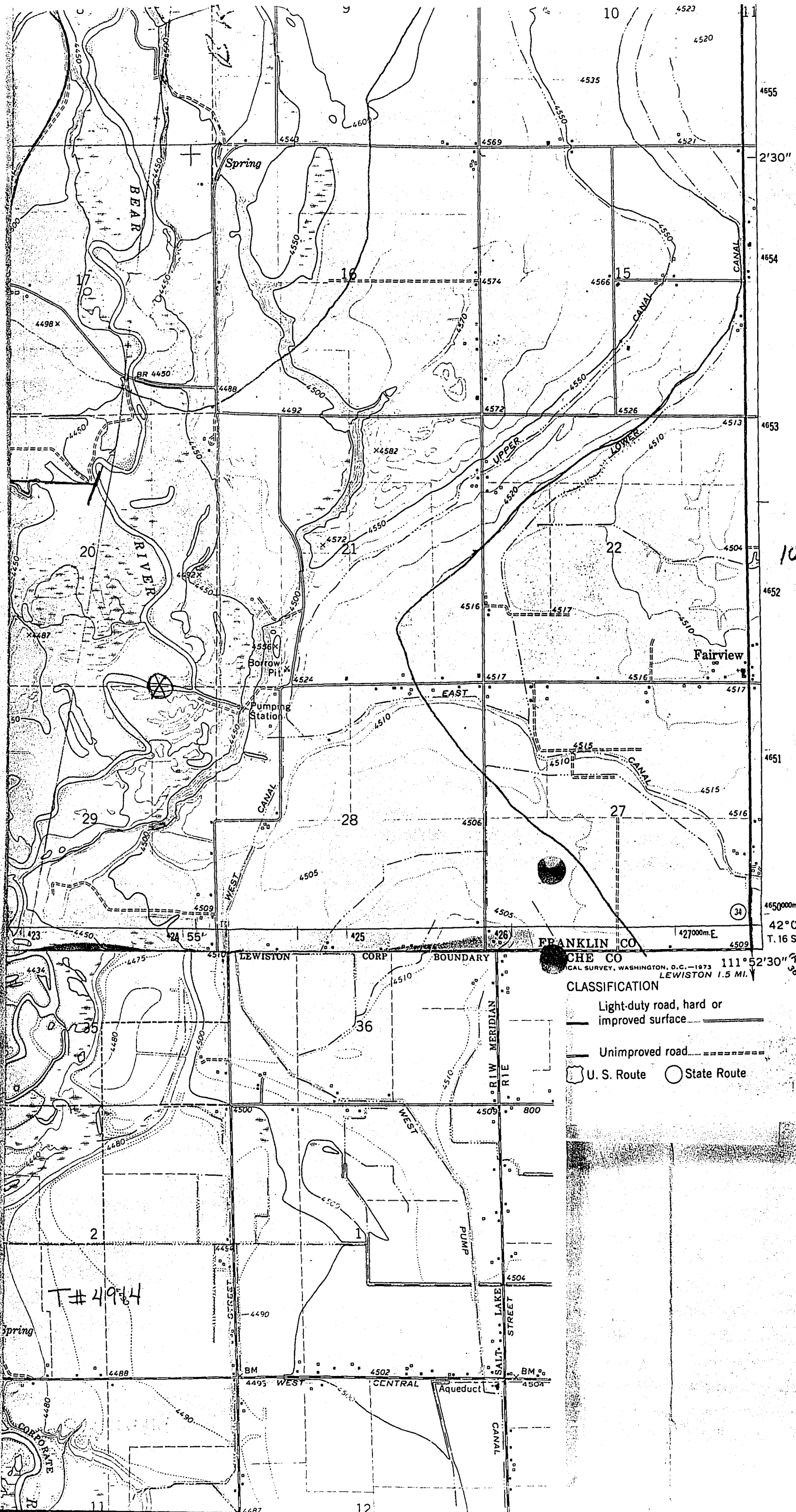
20 ft contour





2nd point
of diversion

T# 4944

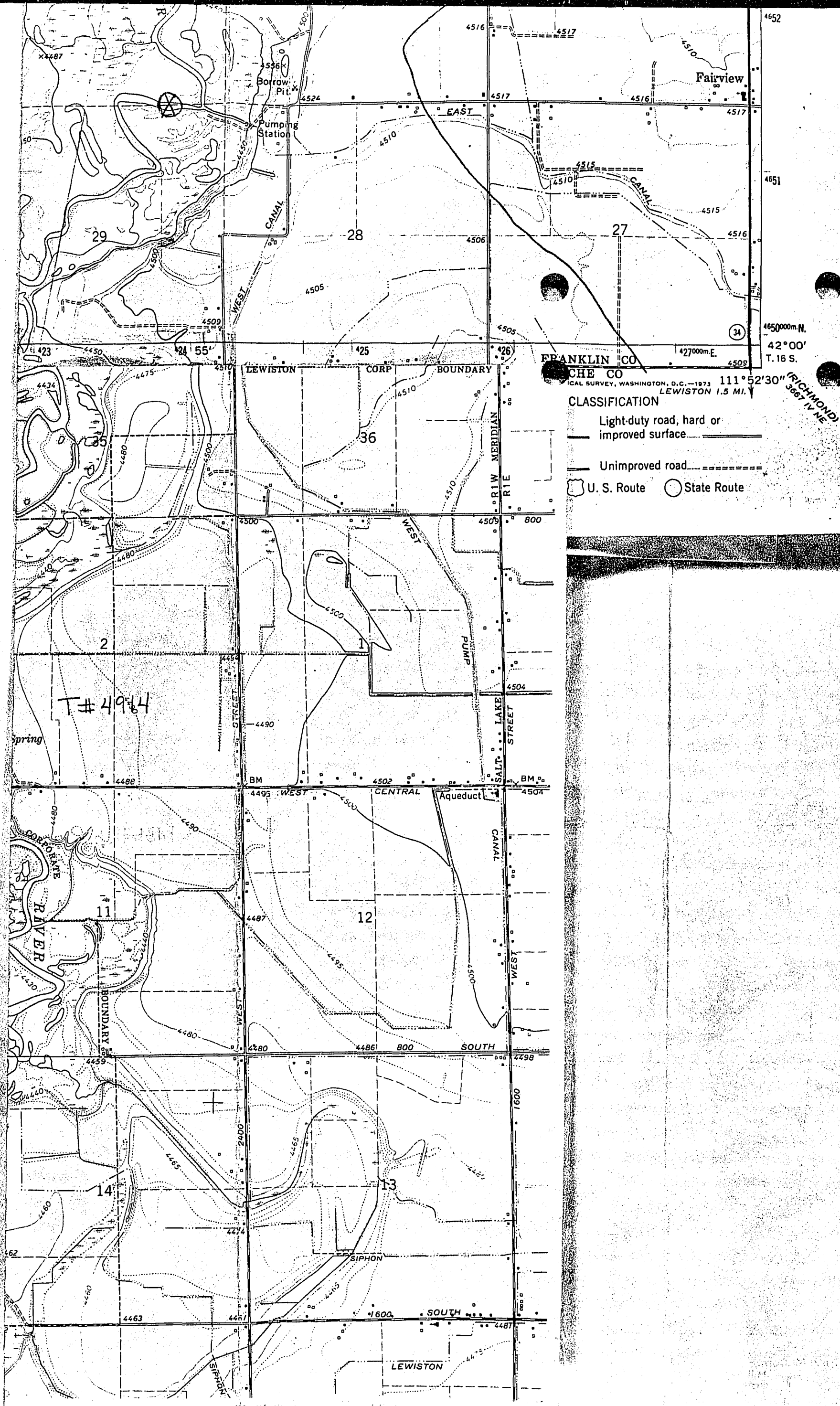


10 ft contour

CLASSIFICATION
Light-duty road, hard or improved surface
Unimproved road
U. S. Route State Route

T# 4914

112



FRANKLIN CO
CHE CO
ICAL SURVEY, WASHINGTON, D.C.—1973
LEWISTON 1.5 MI.
CLASSIFICATION
Light-duty road, hard or improved surface
Unimproved road
U. S. Route State Route

111
211

Bob Morgan State Engineer
Div of Water Rights
1594 W. N. Temple
Suite 220
Box 146300
SLC, Utah
84114-6300

Bob Rotheringham, Reg. Engineer
Div of Water Rights
1780 N. Branch Pkwy
Logan, Utah
84321

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT

TRANSFER NO. 4914
WATER RIGHT NO. 13-00974

This is to certify that: **WEST CACHE IRRIGATION COMPANY**
C/O ED COTTLE
1207 S 400 E
TRENTON UT 84338

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	* 186.00 CFS	* 51912.0 AF

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
BEAR RIVER	GREAT SALT LAKE

Priority: 09/12/1899

LOCATION OF POINT(S) OF DIVERSION: SESW , Sec. 25, Township 14S, Range 39E
FRANKLIN County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
15S	39E	19				
		20				
		29				
		30				
16S	39E	4				
		5				
		17				
		19				
		20				
		29				
		30				

CONDITIONS OF APPROVAL AND REMARKS

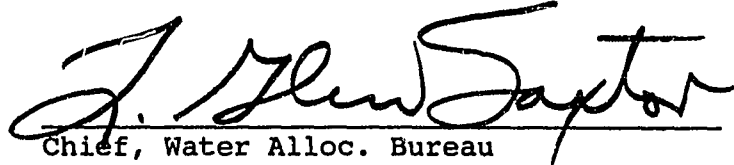
1. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for the lands above.
2. Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.

TRANSFER NO. 4914
WATER RIGHT NO. 13-00974

CONDITIONS OF APPROVAL AND REMARKS

3. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
4. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.
5. Use of water under this water right will be regulated by the watermaster of State Water District No. 11, Bear River District, Idaho in conjunction with the equivalent authority for the second point of diversion located within Utah.
6. Upon a satisfactory showing by the watermaster of Water District No. 11, as determined by the department, that the rate of diversion from the authorized points of diversion cannot be properly controlled to insure there is no injury to other water users and that there is no enlargement in use of water under this transfer, the Director may rescind approval of this transfer.
7. Prior to diversion of water under this approval, the right holder shall provide a means of measurement and method of accounting acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
- * 8. The total instantaneous diversion of water from all points of diversion under Transfer No. 4914 shall not exceed 186.0 cfs, nor total combined annual volume of 51,912.0 af.
9. A second point of diversion is authorized within the NENW, Sec 3, T14N, R01W, Cache County, Utah S.L.B.&M.
10. Right No. 13-00974 is limited to the total combined irrigation of 14,832 acres within the place of use described above located in the state of Idaho and the place of use described below within the state of Utah.
11. The portion of the place of use located within Utah is described as follows: Sec 34 and 35, T15N, R01W; Sec 03, 04, 09, 10, 11, 15, 16, 21, 22, 23, 25, 26, 27, 28, 33, 34, 35 and 36, T14N, R01W; Sec 01, 02, 03, 10, 11, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35 and 36, T13N, R01W; Sec 05, 06, 07, 08, 18, 19 and 30, T13N, R01E, Sec 01, 02, 03, 04, 11 and 12, T12N, R01W; S.L.B.&M.

Dated this 17th day of December, 1996.


Chief, Water Alloc. Bureau

MEMORANDUM

Date: September 19, 1996
From: Jim Johnson
To: Skip
Subject: Special Processing of Transfer

=====

RECEIVED
SEP 23 1996
Department of Water Resources
Eastern Region

Hi Skip.

Norm has asked be to pass on a special request to you about advertising this transfer application.

Norm has been in contact with both Bob Morgan and Bob Farthingham (sp?) about this transfer. Both of them have agreed to recognize this Idaho water right with the addition of the point of diversion located in Utah. However, we need to publish notice of the transfer in both the Preston and Logan newspapers. Also, please send copies of the transfer to both of the above.

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

Receipt No: C036591

Date: 9/19/1996
Time: 10:44:32

Received
From: WEST CACHE IRRIGATION CO.

Type of Payment	Program A cct	Amount
APPLICATION FOR TRANSFER	56105 229 21 1155	100.00
CHECK 5081		
	Total	\$ 100.00

Region: STATE

Signature:

Kari Lynn Townsend



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

September 25, 1996

WEST CACHE IRRIGATION CO
C/O ED COTTLE 1207 S 400 E
TRENTON UTAH 84338

RE: Notice of Application for Transfer 4914

Dear Applicant:

The Department of Water Resources acknowledges receipt of your water right application. This office is currently in the process of advertising the application in the THE PRESTON CITIZEN & LOGAN HERALD-JOURNAL on Oct 3 & 10, 1996. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

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

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

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

Sincerely,

Harold W. Jones
Water Right Supervisor

HWJ/rb



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

September 25, 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

THE HERALD JOURNAL
PO BOX 487
LOGAN UTAH 84323

Dear Publisher:

Enclosed you will find a legal notice which we wish to have published on the date indicated in your newspaper. If you cannot publish the notice on the proposed date, 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 OCTOBER 21, 1996.

Yours truly,

Rita Bodell
Secretary

Enc.



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

SEPT 25, 1996

PETE PETERSON, WATER MASTER
2483 RIVERDALE
PRESTON ID 83263

RE: Application for Transfer No. 4914

Dear Mr. PETERSON

Please find enclosed a copy of the above referenced application. Please review the application and submit any comments you may have to our Department as soon as possible.

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

Thank you for your cooperation in this matter.

Respectfully submitted,

Harold W. Jones
Water Right Supervisor

HWJ/rb
enc.

NOTICE OF PROPOSED CHANGE
OF WATER RIGHT

Notice is hereby given that West Cache Irrigation Company, C/O Ed Cottle, 1207 S 400 E, Trenton, UT 84338, has applied to the Department of Water Resources to change the point of diversion for a portion of a surface water source. The right sought to be changed is evidenced by a decree and recorded as follows:

DECREE NO.: 13-00974.

Source: Bear River

Amount: 186 cfs

Priority: 9/12/1899

Point of Diversion: SESW, Sec 25, T14S, R39E, Franklin County

The water is used for irrigation of 14,832 acres in 11 (eleven) different sections of T15S and T16S, R39EBM. Most of the irrigated lands, however, are in Utah.

TO BE CHANGED AS FOLLOWS:

The point of diversion will be added on the Bear River in Utah. The location is just north of Cornish, Utah in the NENW, Sec 3, T14N, R1W, Cache Co, Utah. This additional point of diversion will bring water into the canal below an unstable area and is intended to reduce losses due to seepage.

Anyone wishing to protest the above change must submit a written protest to the applicant at the above address and to the Department of Water Resources with a fee of \$25.00 on or before October 21, 1996.

KARL J. DREHER
Director

Published in the Preston Citizen on October 3 and 10, 1996.

Published in the Herald-Journal in Logan, UT on October 3 and 10, 1996.

(Civil)

PROOF OF PUBLICATION

RECEIVED

OCT 15 1996

STATE OF UTAH
COUNTY OF CACHE, ..

Department of Water Resources
Eastern District Office

On this 10th day of October..... A.D. 1996..

personally appeared before me Felicia Tapedino..... who being first duly sworn,

deposes and says that she is the chief clerk of the Cache Valley Publishing Co., publishers of The Herald Journal

a daily newspaper published in Logan, City, Cache County Utah, and that the advertisement

..... NOTICE OF PROPOSED CHANGE OF WATER RIGHT

.....
.....
a copy of which is hereto attached, was published in said

newspaper for Two (2) Issues

..... commencing Oct...3,, 1996..... and

ending ...Oct...10,, 1996.....

Signed *Felicia Tapedino*

Subscribed and sworn to before me, the day and year

above written,

Signed
Notary Public.

My Commission expires ..September 7,, 1999..

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

Notice is hereby given that West Cache Irrigation Company, C/O Ed Cottle, 1207 S. 400 E, Trenton, UT 84338, has applied to the Department of Water Resources to change the point of diversion for a portion of surface water source. The right sought to be changed is evidenced by a decree and recorded as follows:

DECREE NO.: 13-00974.

Source: Bear River

Amount: 186 cfs

Priority: 9/12/1899

Point of Diversion: SESW, Sec. 25, T14S, R39E, Franklin County.

The water is used for irrigation of 14,832 acres in 11 (eleven) different sections of T15S and T16S, R39EBM. Most of the irrigated lands, however, are in Utah.

TO BE CHANGED AS FOLLOWS:

The point of diversion will be added on the Bear River in Utah. The location is just north of Cornish, Utah in the NENW, Sec 3, T14N, R1W, Cache Co. Utah. This additional point of diversion will bring water into the canal below an unstable area and is intended to reduce losses due to seepage.

Anyone wishing to protest the above change must submit a written protest to the applicant at the above address and to the Department of Water Resources with a fee of \$2500 on or before October 21, 1996.

KARL J. DREHER

Director

Published in the Preston Citizen on October 3 and 10, 1996.

Published in the Herald Journal in Logan, UT on October 3 & 10, 1996.

875

4229

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Franklin } ss.

RECEIVED
NOV 22 1996

Wayne D. Bell Department of Water Resources
being duly sworn,

deposes and says:

That he is the _____ of THE PRESTON
CITIZEN, a weekly newspaper published at Preston, in the County of
Franklin and State of Idaho; that said paper has been and is in general
circulation in the county aforesaid, and in the vicinity of Preston; that the
advertisement, a copy of which is attached hereto, was published in said

newspaper once a week for 2 consecutive weeks in the regular
and entire issue of said paper during the period of time of publication, and
was published in the newspaper proper and not a supplement; that said
paper has been established and regularly published for more than seventy-
eight consecutive weeks prior to the date of first publication of said
advertisement.

Such notice was published in the issue beginning with

10/2, 1996, and ending

with the issue of 10/19, 1996

Wayne D. Bell

Fee \$ 42.12

Subscribed and sworn to before me this 10 day

of Oct, 1996.

Wayne D. Bell
NOTARY PUBLIC

Notary Public, Residing at Preston, Idaho

My Commission Expires 10/14, 2004.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

Notice is hereby given that West
Cache Irrigation Company, C/O Ed
Cottle, 1207 S. 400 E., Trenton, UT
84338, has applied to the Depart-
ment of Water Resources to change
the point of diversion for a portion
of a surface water source. The right
sought to be changed is evidenced
by a decree and recorded as follows:

DECREE NO: 13-00974

Source: Bear River

Amount: 186 cfs

Priority: 9/12/1899

Point of Diversion: SESW, Sec 25,
T14S, R39E, Franklin County

The water is used for irrigation of
14,832 acres in 11 (eleven) different
sections of T15S and T16S, R39EBM.
Most of the irrigated lands, how-
ever, are in Utah.

TO BE CHANGED AS FOLLOWS:

The point of diversion will be
added on the Bear River in Utah. The
location is just north of Cornish, Utah
in the NENW, Sec 3, T14N, R1W,
Cache Co., Utah. This additional
point of diversion will bring water
into the canal below an unstable area
and is intended to reduce losses due
to seepage.

Anyone wishing to protest the
above change must submit a written
protest to the applicant at the above
address and to the Department of
Water Resources with a fee of \$25.00
on or before October 21, 1996.

KARL J. DREHER
Director

Legal No. 4229 — Publish Oct. 2,
9, 1996.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 6, 1996

Ed Cottle
West Cache Irrigation Co.
1207 S. 400 E.
Trenton, UT 84338

RE: Signature & Notarization

Dear Ed:

I am enclosing the original last page of the transfer application that you submitted for West Cache Irrigation Co. Please have the appropriate, authorized person from the Irrigation Co. sign, note their office and have it all notarized.

When you have returned the form to my attention at the address noted above in Boise, Idaho, I will forward the prepared approval form for final signature. Thank you for your prompt response.

I hope I have answered all your questions regarding this matter. If you require any further assistance, please contact me directly at 327-7943 and I will be happy to help you.

Sincerely,

A handwritten signature in cursive script that reads "Pamela Skaggs".

PAMELA SKAGGS
Sr. Water Resource Agent

MEMORANDUM

TO: FILE NO. 13-00974
FROM: PAM SKAGGS/²⁸STATE OFFICE
SUBJECT: TRANSFER NO. 4914
DATE: December 9, 1996

=====

Transfer No. 4914 was filed to add a second point of diversion under Right No. 13-00974 to be located in Utah to better serve lands located there. The proposed new point of diversion will reduce losses through an unstable portion of the canal system. The transfer was advertised in both Idaho and Utah in the affected vicinity under this right and no protests were received.

The application had not been signed or properly notarized by the applicant & was returned to correct the oversight prior to final recommendation for approval.

No watermaster comment was returned by the watermaster of Water District 11, Bear River when the file was forwarded to the State Office. I contacted Pete Peterson, watermaster, by telephone to discuss the transfer. He feels that with the second point of diversion in Utah, controlling the total diversion will be difficult at best. Cooperation in the past has not been reliable.

He has been working on a river model and new accounting program with Bill Ondrechen, Technical Section, and feels that this transfer will create difficulties without strong conditions and controls. He is concerned about receiving accurate diversion information from the Utah point of diversion for accurate accounting within the new program and recommends measuring devices and the possibility of placing both points of diversion under his direct control.

This decreed right describes a permissible place of use consisting of sections listed in both Idaho and Utah, but limited to the irrigation of 14,832 total acres. Season of use and diversion volume were adjusted to current standards.

Recommended conditions include irrigation overlap, measuring devices & total diversion limits, watermaster control & cooperation with designated Utah counterpart, permissible place of use limits, legal description of the point of diversion & place of use in Utah, right-of-way and standard transfer conditions.



State of Idaho

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PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 18, 1996

PETE PETERSON
WATERMASTER, BEAR RIVER
2483 RIVERDALE RD
PRESTON ID 83263

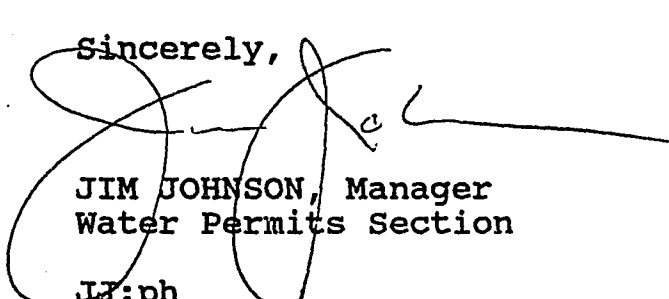
RE: TRANSFER OF WATER RIGHT NO. 13-00874
(Transfer No. 4914)

Dear Mr. Peterson:

Enclosed is a copy of the recently approved Transfer of Water Right for the above referenced water right (Transfer No. 4914) in the name of West Cache Irrigation Company. Also included is a copy of the reviewers notes.

If you have any questions, please call me at (208) 327-7947.

Sincerely,


JIM JOHNSON, Manager
Water Permits Section

JJ:ph

enclosures



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 18, 1996

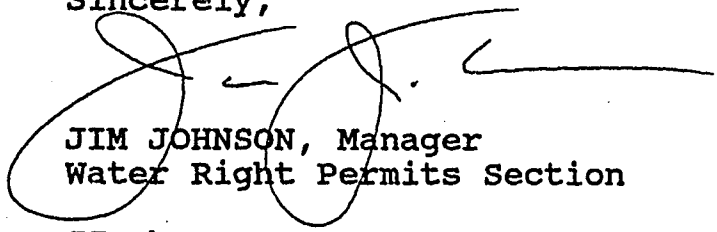
WEST CACHE IRRIGATION COMPANY
C/O ED COTTLE
1207 S 400 E
TRENTON UT 84338

RE: Transfer of Water Right No. 13-00974

Dear Water Right Holder(s):

Enclosed is a copy of your approved Transfer of Water Right for the above referenced water rights (Transfer No. 4914). Please be sure to thoroughly review the "Conditions/Remarks:" as listed on the transfer.

Sincerely,


JIM JOHNSON, Manager
Water Right Permits Section

JJ:ph

Enclosure



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

Robert L. Morgan
State Engineer

1594 West North Temple, Suite 220
Box 146300
Salt Lake City, Utah 84114-6300
801-538-7240
801-538-7467 (Fax)

Mr. Joe Larsen
West Cache Irrigation Company
Box 94
Newton, UT 84327

Dear Mr. Larsen:

On December 12, 1996 I sent you a letter regarding the change application you have filed with the Idaho Department of Water Resources. The application seeks to move your point of diversion downstream which would place it in Utah instead of Idaho.

Since the writing of that letter, a concern has arisen in Utah concerning the proposed change. The particular section of the river where you would be moving your point of diversion is a gaining section. More water will be available at the proposed point of diversion than has been available at the current point of diversion. It is Utah's position that your company should be limited to divert only that amount of water that would be available at the current diversion location. We would hope this limitation would be included in any approval given to your company by the State of Idaho.

If this limitation is included in the approval and adhered to by your company, we see no problem with your company's proposal and would expect the Utah commissioner to cooperate with Idaho in the administration of the water right.

If you have any questions, please call.

Sincerely,

Robert L. Morgan, P.E.
State Engineer

RLM:LHS:bd

cc: Eric Millis, Water Resources
Bob Fotheringham, Regional Engineer
Lee Sim, Assistant State Engineer
Karl J. Dreher, Idaho Department of Water Resources



KJO
Glen SAKTON
T# 4914 WR# 13-00974
Approved 12-17-96
December 23, 1996

RECEIVED

DEC 26 1996

Department of Water Resources