Identification No. 13 7127

Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

APPROVED

To Appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

1. Name of applicant Blair Greaves, Clair Bosen, Don Rigby Phone: Greaves - 852-2012
   post office address 404 East Valley View Drive, Preston, Idaho 83263
2. Source of water supply runoff/Current Creek which is a tributary of Stockton Creek
3. a. Location of point of diversion is SE ¼ of SW ¼ of Section 33 Township 12S
   Range 39 E. B.M. Bannock County; additional points of diversion if any: _____
   SW¼ of SE¼ of Sec. 33, T. 12S, R. 39E, Bannock County.

   b. If water is not consumed, it will be discharged into Current Creek at a point in SE ¼
   of SW ¼ of Section 33 Township 12S Range 39 E. B.M. Bannock County
4. Water will be used for the following purposes:
   Amount 2.4 (cfs or acre-feet per annum) for Irrigation purpose from April 1 to Nov. 1 (both dates inclusive)
   Amount 600 (cfs or acre-feet per annum) for Storage/for Irrigation purpose from Nov. 1 to April 1 (both dates inclusive)
   Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)
   Period of
5. Total quantity to be appropriated:
   a. _____ cubic feet per second and/or
   b. 600 acre feet per annum.
6. Proposed diverting works:
   a. Description of ditches, flumes, pumps, headgates, etc. 150 h.p. engine and pump with 1.5 c.f.s. capacity; one-half mile 8" mainline; four quarter-mile 4" laterals with risers and heads.

   b. Height of storage dam 40 feet, active reservoir capacity 600 acre feet; total reservoir capacity 750 acre feet, materials used in storage dam: Earth-fill; concrete abutments
   Period of year during which storage will occur Nov. 1 (Mo. Day) to April 1 (Mo. Day) inclusive.
   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 3 years.
   b. Estimated construction cost is $86,500.00 .
8. Description of proposed uses:
   a. If water is **not** for irrigation:
      (1) Give the place of use of water: _____ ¼ of _____ ¼ 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: _____

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	
12S	39E	33															20		20
13S	39E	4	35 ~~30~~	~~35~~			~~35~~	35	(Changes made per telecon w/L.D. Castleton)										100

Total number of acres to be irrigated 120

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

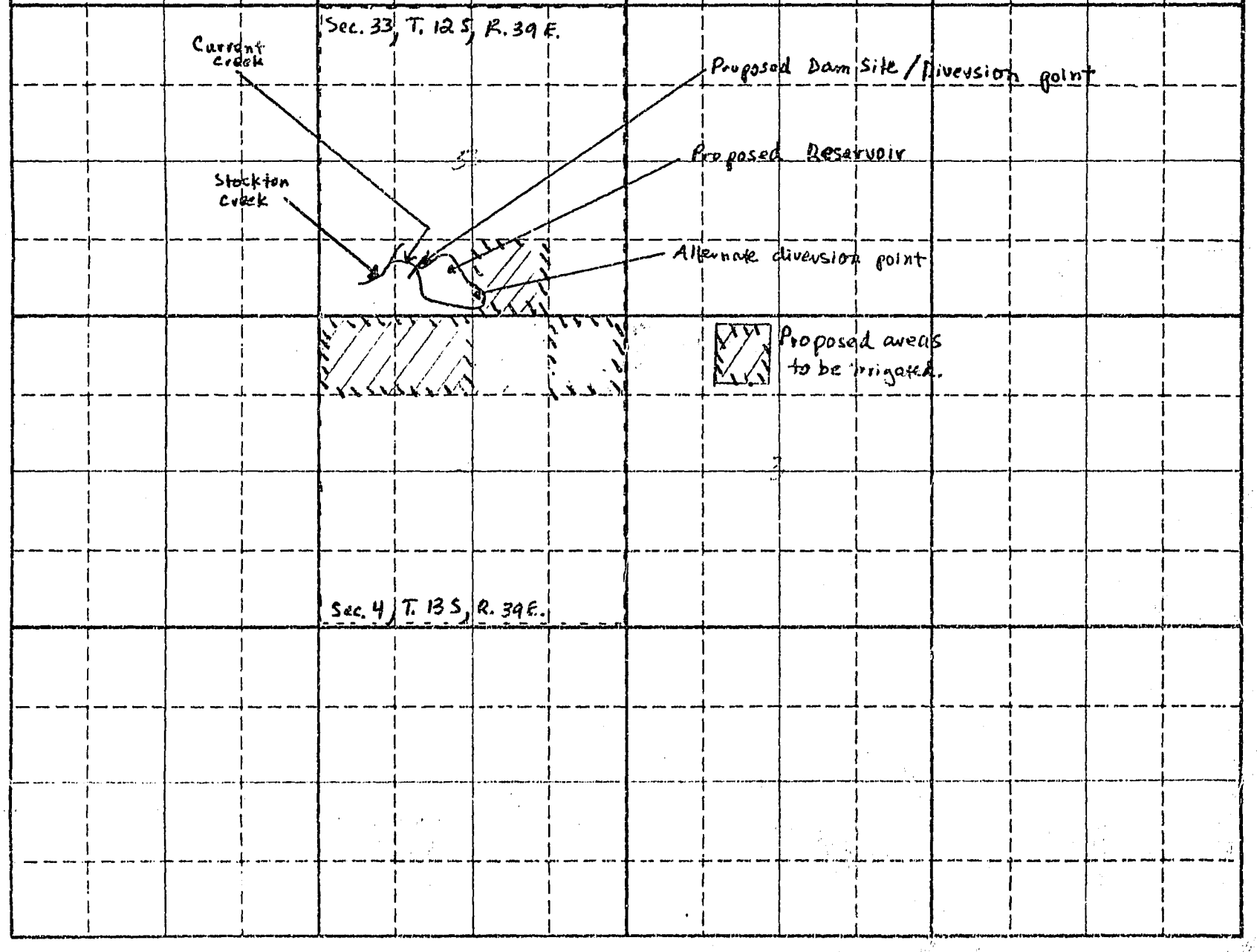
9. a. Who owns the property at the point of diversion Applicants Greaves, Rigby, and Bosen

b. Who owns the land to be irrigated or place of use Applicants Greaves, Rigby, and Bosen

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

10. Remarks Applicant's intentions are to divert for storage purposes up to 600 acre feet of water in the proposed reservoir during the non-irrigation season, to the extent existing water rights during that period are not endangered.
Then, during the irrigation season applicants propose to divert for irrigation purposes the stored water, allowing water to flow downstream as in the past to meet all existing water rights.

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



Scale: 2 inches equal 1 mile

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

R Blair & Heaven
(Applicant)
Stockton
Blair D Bacon

Proposed Priority 2-17-76

Received by CW Date 2-17-76 Time 11:25 A

Preliminary check by CW Fee $ 75.00

Receipted by CW Date 2-18-76 # 15623

Publication prepared by CW Date 2-20-76

Published in Idaho State Journal

Publication dates Feb. 26 & March 4, 1976

Publication approved me Date 3-08-76

Priority reduced to _____ Reason _____

Protests filed by: Lewis A Roberts, Brent Abbott, Lynn Mervin Jones, Abbott Lee H Burkett

Copies of protests forwarded by CW

Hearing held by _____ Date _____

Recommended for approval denial by _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 13-7127, 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 November 1, 1979.

   c. Other: Pursuant to Memorandum Decision and Order of this date.

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

Witness my hand this 25 day of October 1976.

Director

PROOF OF PUBLICATION

RECEIVED
MAR 8 1976
Department of Water Resources
Eastern District Office

STATE OF IDAHO
County of Bannock } ss.

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Blair Greaves, Clair Bosen & Don Rigby, Preston, Idaho have on 2-17-76 submitted Application No. 13-7127 for a permit to appropriate 2.40 cubic feet per second of water from Current Creek tributary to Stockton Creek by means of pump and dam within the SE¼SW¼, SW¼SE¼, Sec. 33, T. 12S, R. 39E, B.M., Bannock County; to be used from Apr. 1 to Nov. 1 for the irrigation of 120 acres; and from Nov. 1 to Apr. 1 for storage of 600 A.F. of water for storage for irrigation; within the SW¼SE¼, Sec. 33, T. 12S, R. 39E; NE¼NE¼, N½NW¼, Sec. 4, T. 13S, R. 39E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401 on or before March 15, 1976.

R. KEITH HIGGINSON
Director

Feb. 26, March 4, 1976
No. 871

"atherine Wanner

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

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

February 26	19 76		19
"arch 4	19 76		19
	19		19
	19		19
	19		19

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

Katherine Wanner

Subscribed and sworn to before me this 4th day of "arch, 1976.

Della L. Lankford

Nota: Public, State of Idaho
Residence: Pocatello, Idaho

Commission Expires
March 5, 1977

Duplicate

PROOF OF PUBLICATION

RECEIVED
MAR 8 1976
Department of Water Resources
Eastern District Office

STATE OF IDAHO
County of Bannock } ss.

Katherine Wanner

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

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

February 26	19 76		19
March 4	19 76		19
	19		19
	19		19
	19		19

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

Katherine Wanner

Subscribed and sworn to before me this 4th day of March, 1976

Ruth Lindsay

Notary Public, State of Idaho
Residence: Pocatello, Idaho

My commission expires March 8, 1977

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Blair Greaves, Clair Bosen & Don Rigby, Preston, Idaho have on 2-17-76 submitted Application No. 13-7127 for a permit to appropriate 2.40 cubic feet per second of water from Current Creek tributary to Stockton Creek by means of pump and dam, within the SE¼SW¼, SW¼SE¼, Sec. 33, T. 12S, R. 39E, B.M., Bannock County; to be used from Apr. 1 to Nov. 1 for the irrigation of 120 acres; and from Nov. 1 to Apr. 1 for storage of 600 A.F. of water for storage for irrigation; within the SW¼SE¼, Sec. 33, T. 12S, R. 39E; NE¼NE¼, N½NW¼, Sec. 4, T. 13S, R. 39E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401 on or before March 15, 1976.

R. KEITH HIGGINSON
Director

Feb. 26, March 4, 1976
No. 871

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 13-7127
IN THE NAME OF BLAIR GREAVES, CLAIR BOSEN & DON RIGBY

MEMORANDUM DECISION AND ORDER

On February 17, 1976, Blair Greaves, Clair Bosen and Don Rigby applied to the Department of Water Resources for a permit to appropriate 600.00 acre feet of water from Current Creek, tributary to Stockton Creek, to be diverted with the SE¼SW¼, SW¼SE¼, Sec. 33, Twp. 12S, Rge. 39E, B.M., Bannock County, to be used for irrigation and storage for irrigation.

Notice of this application was published in the Idaho State Journal on February 26 and March 4. Protests against the approval of this application were received from Leo G. Burkett, James Abbott, Lewis G. Roberts, Brent Abbott and Lynn H. Merrill.

On April 9, 1976, a conference was held in Pocatello, Idaho. The applicants were present and represented by Lowell G. Castleton, Attorney at Law, and the protestants were present and represented themselves. The arguments of all parties were heard at the conference and it was agreed that before the Department made a decision in the matter, there would be an opportunity for both sides to submit written arguments.

On April 19, 1976, written arguments were submitted on behalf of the protestants by Lamont Jones, Attorney at Law, and on April 30, arguments were submitted on behalf of the applicants by their attorney, Lowell G. Castleton.

The Department of Water Resources has taken the matter under consideration and based upon the information presented at the conference, subsequent written arguments and pertinent material contained in the Department's official files, the Director of the Department of Water Resources makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Current Creek is tributary to Stockton Creek.

2. The water of Stockton Creek was decreed by Judge Joseph C. Rich on April 28, 1899.

3. Protestants James Abbott, Lynn H. Merrill and Leo G. Burkett are successors in interest to rights, or portions of rights, decreed to Richard Hadley, Joseph Vaness and Alphonse Brossard.

4. The decree specifies that the parties named in the decree, their successors and assignees shall "have the continuous uninterrupted flow ..., of the waters of Stockton Creek during all of each and every year."

5. The protestants have never made beneficial use of all the waters of Stockton Creek during the period November 1 to April 1.

CONCLUSIONS OF LAW

1. Section 42-104, Idaho Code, states "The appropriation must be for some useful or beneficial purpose, and when the appropriator or his successor in interest cease to use it for such purpose, the right ceases."

2. There is water in Current Creek during certain periods of the year that is not used beneficially and, is therefore, available for appropriation.

3. The diversion of water not needed to fill prior downstream water rights from Current Creek into the applicant's proposed reservoir during the period starting November 1 and ending April 1, would not interfere with the water rights of the protestants.

4. The applicants are entitled to a permit from the Department of Water Resources to appropriate unappropriated water.

ORDER

IT IS, THEREFORE, HEREBY ORDERED and Application for Permit No. 13-7127 is APPROVED subject to the following conditions:

1. It shall be subject to all prior existing water rights.

2. That measuring devices of a type approved by the Department of Water Resources shall be permanently installed and maintained upstream to measure the inflow and downstream to measure the outflow of the reservoir pool.

3. Any dam built for the impoundment of water under this permit shall be constructed pursuant to Section 42-1712, Idaho Code, and the appropriate Rules and Regulations of the Department of Water Resources.

4. Proof of construction of works and application of water to beneficial use shall be submitted to the Department on or before November 1, 1979.

5. That the permit is subject to the control of the watermaster of State Water District No. 11, Bear River.

Dated this 25 day of October, 1976.

R. KEITH HIGGINSON
Director

DEPARTMENT OF WATER RESOURCES
- STAFF ANALYSIS -

Application No. 13 7127

Item	Initial	Date	
	LH	2-17-76	✓ Source ✓ Point of Diversion ✓ County ✓ Quantity of Water and Period of Use ✓ Description of Diverting Works ✓ Time required for B/U of water ✓ Place of Use or Acres Irrigated TC w/ Lowell Castelton ✓ Map ✓ Signature ✓ Fee
(1)	"	"	In form to receipt Yes
(2)	"	"	Send Copies to: ____ Idaho State Health Department ✓ Idaho Fish and Game Department ____ Bureau of Land Management ____
(3)	"	"	NA ____ Request Special Use Permit from U.S.F.S. ____ Request Easement from B.L.M. ____ Request Information from Applicant
(4)	"	"	In form for advertising Yes
(5)			Platted on Map No.____
(6)	"	"	Located within Water District No. NA
(7)	"	"	NA Critical groundwater area: yes____ no____
(8)	"	"	NA Groundwater levels: ____ Declining, ____ Stable, ____ Increasing (comment)____
(9)	"	"	Other rights on the same place of use NO
(10)	"	"	Comments: No Conflicting rights.
(11)	CW	3-08-76	Affidavit of Publication received(date) Mar. 8, 1976
(12)	CW	3-09-76	Final date for protests March 15, 1976 Protests received: yes ✓ no____
(13) ✓	RDC	10/6/76	All requested information received from agencies or applicant: yes____ no____
(14)	"	"	Action recommended: ✓ Approve ____ Deny 2/18/70 Proposed Priority ____ Reason for Reduction____ ✓ Measuring device required ✓ See attached sheet for other conditions of approval ____ No special conditions for approval
(15)	District E		By RDC Date 10/6/76

SEE MEMORANDUM DECISION

WILLIAMS & CASTLETON
LAW OFFICES
24 NORTH STATE - P. O. BOX 191
PRESTON, IDAHO 83263

J. DENNIS "J. D." WILLIAMS
LOWELL D. CASTLETON

TELEPHONE:
(208) 852-2680

RECEIVED
FEB 17 1976
Department of Water Resources
Eastern District Office

February 13, 1976

Idaho Dept. of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 84301

Re: Enclosed Application for Permit

Dear Sirs:

Please find enclosed an Application for Permit from Blair Greaves, Clair Bosen, and Don Rigby and a check to cover the filing fees.

Please direct any correspondence regarding this matter to our office.

Yours very truly,

WILLIAMS & CASTLETON

Lowell Castleton

LOWELL D. CASTLETON
Attorney at Law

LDC/bm

Enclosures

February 18, 1976

RE: Application for Permit No. 13-7127

Mr. Clair D. Bosen
Route 2, Box 337
Preston, Idaho 83263

Dear Mr. Bosen:

Attached herewith is departmental receipt No. 15623 in the amount of $75.00 for the above referenced application.

Very truly yours,

LOREN O. HOLMES
Assistant Regional Supervisor

LOH:cw

Attachment

cc: Lowell D. Castleton, Attorney

February 18, 1976

RE: Application for Permit No. 13-7127 GREAVES, BOSEN, & RIGBY

Mr. Lowell D. Castleton
Attorney at Law
P.O. Box 191
Preston, Idaho 83263

Dear Mr. Castleton:

As you are aware, Section 42-1712 of the Idaho Code requires that large dams be designed by a registered engineer and that plans be approved by this Department.

Please find enclosed an application and a copy of the "Rules and Regulations for Safety of Dam". Plans when submitted must be accompanied by a fee as provided for in Section 42-1713, Idaho Code.

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

Very truly yours,

LOREN O. HOLMES
Assistant Regional Supervisor

LOH:cw

Enclosures

cc: Clair D. Bosen

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that **Blair Greaves, Clair Bosen & Don Rigby, Preston, Idaho**

have ~~XXX~~ on **2-17-76** submitted Application No. **13-7127**

for a permit to appropriate **2.40** cubic feet per second ~~XXXXXXXXXXXXXXXXXXXX~~

of water from **Current Creek tributary to Stockton Creek**

by means of **pump and dam**

within the **SE¼SW¼, SW¼SE¼, Sec. 33, T. 12S, R. 39E, B.M., Bannock County;**

to be used from **Apr. 1 to Nov. 1 for the irrigation of 120 acres; and from**

~~XXXX~~ **Nov. 1 to Apr. 1 for storage of 600 A.F. of water for storage for irrigation;**

within the **SW¼SE¼, Sec. 33, T. 12S, R. 39E; NE¼NE¼, N½NW¼, Sec. 4, T. 13S, R. 39E, B.M.**

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401 on or before **March 15, 1976**.

R. KEITH HIGGINSON
Director

Published in the **Idaho State Journal, Pocatello, Idaho**

on **February 26** and **March 4, 1976**

February 20, 1976

RE: Application for Permit No. 13-7127 GREAVES, BOSEN, RIGBY

Idaho State Journal
Box 431
Pocatello, Idaho 83201

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 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. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

Bill submitted 3-08-76 by CW

RDC:CW

Enc: Legal Notice (1)

February 24, 1976

RE: Application for Permit No. 13-7127 BOSEN, GREAVES, & RIGBY

Mr. John Heimer
Regional Fishery Biologist
Idaho Department of Fish & Game
636 Pershing, Suite B
Pocatello, Idaho 83201

Dear Mr. Heimer:

We are enclosing a copy of an application that may be of interest to your agency. Please review the application and if you have any comments, submit them to our Department as soon as possible. The last date of protest is March 15, 1976, and we are required to take final action shortly thereafter.

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

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Enclosure

STATE OF IDAHO

DEPARTMENT OF FISH AND GAME

REGION 5
636 PERSHING, SUITE B
POCATELLO, IDAHO 83201

March 1, 1976

RECEIVED
MAR 2 1976
Department of Water Resources
Eastern District Office

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

Dear Ron:

Reference: Application for Permit No. 13-7127 by Bosen, Greaves, and Rigby--Current Creek, tributary to Stockton Creek

We have reviewed the proposed application for permit to divert water for the construction of an irrigation reservoir on Current Creek, a tributary to Stockton Creek, and have the following comments:

1. The dam should be structurally sound with no possibility of washing out and causing flooding, deposition of silt, and other problems downstream.

2. Stockton Creek downstream from Current Creek contains a population of cutthroat trout which may be hindered if all the water in Current Creek is stored in the proposed reservoir; therefore, we recommend that water flows in Stockton Creek be not less than present summer flows.

Thanks for the opportunity to review the proposal.

Sincerely,

IDAHO DEPARTMENT OF FISH AND GAME
Joseph C. Greenley, Director

Bill Davidson

Bill Davidson, Supervisor
Region 5

EQUAL OPPORTUNITY EMPLOYER

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT

Cecil D. Andrus
Governor

R. Keith Higginson
Director

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

March 10, 1976

RE: Application for Permit No. 13-7127

Mr. Lewis G. Roberts
Swan Lake, Idaho 83281

Dear Mr. Roberts:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

(1) Will the proposed use reduce the quantity of water under existing water rights?

(2) Is the proposed water supply insufficient for the purposes intended?

(3) Is the application made in good faith or for delay or speculative purposes?

(4) Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC: cw

cc: IDWR - State Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT

Cecil D. Andrus
Governor

R. Keith Higginson
Director

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

March 10, 1976

RE: Application for Permit No. 13-7127

Mr. Brent Abbot
Swanlake, Idaho 83281

Dear Mr. Abbott:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

(1) Will the proposed use reduce the quantity of water under existing water rights?

(2) Is the proposed water supply insufficient for the purposes intended?

(3) Is the application made in good faith or for delay or speculative purposes?

(4) Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC: CW

cc: IDWR - State Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT

Cecil D. Andrus
Governor

R. Keith Higginson
Director

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

March 9, 1976

RE: Application for Permit No. 13-7127

Mr. Lynn H. Merrill
Swan Lake, Idaho 83281

Dear Mr. Merrill:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

(1) Will the proposed use reduce the quantity of water under existing water rights?

(2) Is the proposed water supply insufficient for the purposes intended?

(3) Is the application made in good faith or for delay or speculative purposes?

(4) Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC: CW

cc: IDWR - State Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT

Cecil D. Andrus
Governor

R. Keith Higginson
Director

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

March 10, 1976

Mr. Lowell D. Castleton, Attorney
P.O. Box 191
Preston, Idaho 83263

RE: Application for Permit No. 13-7127
Greaves, Bosen, Rigby

Dear Mr. Castleton:

We have enclosed a copy of the protest filed against the issuance of a permit pursuant to your Application No. 13-7127. You should be aware that the following are the principal items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

(1) Will the proposed use reduce the quantity of water under existing water rights?

(2) Is the proposed water supply insufficient for the purposes intended?

(3) Is the application made in good faith or for delay or speculative purposes?

(4) Has the applicant sufficient financial resources with which to complete the project?

The Department cannot allow a permit for irrigation purposes which would entail the use of more than a continuous flow of 0.02 cubic feet per second of water for each acre of land, or an annual amount of 5 acre feet for each acre of land, unless the applicant can show that more is required (Section 41-202, Idaho Code).

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the applicant through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for a conference and/or hearing to discuss the matters of protest. Legal counsel is not mandatory at any proceeding before the Department, although you may desire to employ an attorney in your behalf.

If we may be of any assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:ME:CW

cc: IDWR - State Office

March 12, 1976

RE: Application for Permit No. 13-7127 GREAVES, BOSEN, RIGBY

Mr. Lowell D. Castleton, Attorney
P.O. Box 191
Preston, Idaho 83236

Dear Mr. Castleton:

Enclosed please find a copy of an additional protest filed against the above referenced application for permit.

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

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Enclosure

cc: IDWR - State Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT

Cecil D. Andrus
Governor

R. Keith Higginson
Director

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

March 12, 1976

RE: Application for Permit No. 13-7127

Mr. James Abbott
State Representative
Swanlake, Idaho 83281

Dear Mr. Abbott:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

(1) Will the proposed use reduce the quantity of water under existing water rights?

(2) Is the proposed water supply insufficient for the purposes intended?

(3) Is the application made in good faith or for delay or speculative purposes?

(4) Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

cc: IDWR - State Office

March 17, 1976

RE: Application for Permit No. 13-7127

Mr. Lowell D. Castleton
Attorney at Law
P.O. Box 191
Preston, Idaho 83236

Dear Mr. Castleton:

Enclosed please find a copy of an additional protest filed against the above referenced application for permit.

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

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Enclosure

cc: IDWR - State Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT

Cecil D. Andrus
Governor

R. Keith Higginson
Director

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

March 17, 1976

RE: Application for Permit No. 13-7127

Mr. Leo G. Burkett, M. D.
Downey, Idaho 83234

Dear Mr. Burkett:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

(1) Will the proposed use reduce the quantity of water under existing water rights?

(2) Is the proposed water supply insufficient for the purposes intended?

(3) Is the application made in good faith or for delay or speculative purposes?

(4) Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC: CW

cc: IDWR - State Office

March 30, 1976

Mr. Merle Wilhelm
Airport Manager
Pocatello Municipal Airport
P.O. Box 1021
Pocatello, Idaho 83201

Dear Mr. Wilhelm:

This is to confirm the use of the Conference Room for conference and/or hearing to be held by this office on Friday, April 9, 1976 at 9:00 a.m.

Thank you for your cooperation in this matter.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

In the Matter of Protests Against Approval of Application for Permit No. 13-7127 in the name of BLAIR GREAVES, CLAIR BOSEN, and DON RIGBY	NOTICE OF CONFERENCE AND/OR HEARING

On February 17, 1976, Blair Greaves, Clair Bosen, and Don Rigby filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On March 9, 1976, the Department received a protest against approval of said application from Lewis G. Roberts, Brent Abbott and Lynn H. Merrill. On March 12, 1976, a protest was received from James Abbott. On March 15, 1976, an additional protest was received from Leo G. Burkett.

The Department has set the matter of protest for conference and/or hearing for Friday, April 9, 1976, at 1:30 p.m., in the Conference Room of the Pocatello Municipal Airport, Pocatello, Idaho. Any hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

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

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

Dated this 30th day of March, 1976.

Ronald D Carlson

RONALD D. CARLSON

Supervisor, Eastern Region

Name and Address of Sender

Indicate type of mail:
☐ REGISTERED ☐ REGISTERED C.O.D.
☐ CERTIFIED

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

	NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET AND POST OFFICE ADDRESS	POSTAGE	FEE	R.R. FEE	REST. DEL. FEE	ACTUAL VALUE	HANDLING CHARGE	REMARKS*
1	46	Brent Abbott, Swanlake, Ida.	13	30	15				13-7127
2	47	David L Roberts, Swanlake, Ida.	13	30	15				"
3	48	Lynn L Mursell, Swanlake, Ida.	13	30	15				"
4	49	James Abbott, Swanlake, Ida.	13	30	15				"
5	50	Russell J. Castleton, Atty. P.O. Box 191, Preston	13	30	15				"
6	51	Lyn A. Burfoot, Downey, Ida.	13	30	15				
7	52	Lorraine Kirk, 2223 Bet Trail Drive, Pky. Ut.	13	30	15				15-7025
8	53	James A Manning, P.O. Box 1391, Pocatello, Id.	13	30	15				"
9	54	J.E. Crowther, Atty. 60 N. Main, Malad, Id.	13	30	15				"
10									
11									
12									
13									
14									
15									
16									
17									
18									
19									
20									

$5.22

U.S. POSTAL SERVICE MAR 9 1976 IDAHO

TOTAL NO. OF PIECES LISTED BY SENDER 9

TOTAL NO. OF PIECES REC'D AT P.O. 9

POSTMASTER, PER (Name of receiving employee) Crow

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

PS Form 3877, Dec. 1973

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

(Declaration of value is required on international registered mail)

☆ U. S. GOVERNMENT PRINTING OFFICE: 1975-0-589-738

FORM MUST BE MADE OUT IN INK OR BALL POINT PEN

J. + Inc Certified Mail 3-30-76 Cw.

PS Form 3811, Jan. 1975

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

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

1. The following service is requested (check one).
- [x] Show to whom and date delivered..... 15¢
- [ ] Show to whom, date, & address of delivery.. 35¢
- [ ] RESTRICTED DELIVERY.
  Show to whom and date delivered..... 65¢
- [ ] RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:
Brent Abbott
Lowell Idaho

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	46	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE [ ] Addressee [ ] Authorized agent
Brent Abbott P.M.

4. DATE OF DELIVERY: 3-31-76
POSTMARK: MAR 31 1976 83281

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:
CLERK'S INITIALS: MWT

☆ GPO: 1975—O-568-047

PS Form 3811, Jan. 1975

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

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

1. The following service is requested (check one).
- [x] Show to whom and date delivered..... 15¢
- [ ] Show to whom, date, & address of delivery.. 35¢
- [ ] RESTRICTED DELIVERY.
  Show to whom and date delivered..... 65¢
- [ ] RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:
Geo F Burkett MD.
Downey Ida.

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	51	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE [ ] Addressee [ ] Authorized agent
Geo F. Burkett MD
by Bruce G Burkett

4. DATE OF DELIVERY
POSTMARK: MAR 31 1976 IDAHO

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:
CLERK'S INITIALS: MWT

☆ GPO: 1975—O-568-047

PS Form 3811, Jan. 1975

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

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

1. The following service is requested (check one).
- [x] Show to whom and date delivered..... 15¢
- [ ] Show to whom, date, & address of delivery.. 35¢
- [ ] RESTRICTED DELIVERY.
  Show to whom and date delivered..... 65¢
- [ ] RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:
Floyd L Roberts
Swanlake Ida.

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	47	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE [ ] Addressee [ ] Authorized agent
X Mrs. Reece G. Roberts
X Floyd L Roberts

4. DATE OF DELIVERY: 3-31-76
POSTMARK: P.M. MAR 31 1976

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:
CLERK'S INITIALS: MWT

☆ GPO: 1975—O-568-047

PS Form 3811, Jan. 1975

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

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

1. The following service is requested (check one).
- [x] Show to whom and date delivered..... 15¢
- [ ] Show to whom, date, & address of delivery.. 35¢
- [ ] RESTRICTED DELIVERY.
  Show to whom and date delivered..... 65¢
- [ ] RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:
James Abbott
Swanlake Idaho

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	49	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE [x] Addressee [ ] Authorized agent
X James Abbott

4. DATE OF DELIVERY: 3-31-76
POSTMARK: P.M. MAR 31 1976

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:
CLERK'S INITIALS: MWT

☆ GPO: 1975—O-568-047

PS Form 3811, Jan. 1975

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

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

1. The following service is requested (check one).
- [x] Show to whom and date delivered..... 15¢
- [ ] Show to whom, date, & address of delivery.. 35¢
- [ ] RESTRICTED DELIVERY.
  Show to whom and date delivered..... 65¢
- [ ] RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:
Mrs. Reece G. Roberts
Swanlake, Ida.

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	48	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE [ ] Addressee [ ] Authorized agent
X Mrs. Reece G. Roberts
X Floyd L Roberts

4. DATE OF DELIVERY: 3-31-76
POSTMARK: P.M. MAR 31 1976

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:
CLERK'S INITIALS: MWT

☆ GPO: 1975—O-568-047

PS Form 3811, Jan. 1975

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

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

1. The following service is requested (check one).
- [x] Show to whom and date delivered..... 15¢
- [ ] Show to whom, date, & address of delivery.. 35¢
- [ ] RESTRICTED DELIVERY.
  Show to whom and date delivered..... 65¢
- [ ] RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:
Mrs. Reece G. Roberts
Swanlake, Ida.

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	48	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE [ ] Addressee [ ] Authorized agent
X Mrs. Reece G. Roberts
X Floyd L Roberts

4. DATE OF DELIVERY: 3-31-76
POSTMARK: P.M. MAR 31 1976

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:
CLERK'S INITIALS: MWT

☆ GPO: 1975—O-568-047

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.
- Complete items 1, 2, and 3 on reverse side.
- Moisten gummed ends and attach to back of article.

RETURN TO

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

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

U.S. MAIL

P.M. MAR 31 1976 83281

RECEIVED

APR 1 1976

Department of Water Resources
Eastern District Office

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.
- Complete items 1, 2, and 3 on reverse side.
- Moisten gummed ends and attach to back of article.

RETURN TO

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

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

U.S. MAIL

RECEIVED

APR 1 1976

Department of Water Resources
Eastern District Office

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.
- Complete items 1, 2, and 3 on reverse side.
- Moisten gummed ends and attach to back of article.

RETURN TO

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

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

U.S. MAIL

RECEIVED

APR 1 1976

Department of Water Resources
Eastern District Office

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.
- Complete items 1, 2, and 3 on reverse side.
- Moisten gummed ends and attach to back of article.

RETURN TO

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

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

U.S. MAIL

RECEIVED

APR 1 1976

Department of Water Resources
Eastern District Office

13-7127 - Blair Greaves, Clair Bosen and Don Rigby

Conference Room, Pocatello Municipal Airport, Pocatello, Idaho

April 9, 1976 - 1:30 p.m.

ROSTER OF ATTENDANCE

Name	Address	Representing
Lowell D. Castleton	Preston, Ida.	Applicants
Clair D Bosen	Preston, Idaho	"
Glynn C. Rigby	Logan, Utah	"
Alvin E. Carr	Idaho Falls, Id	State Land Dept
Wayne Burkhardt	Rigby	State Land Dept
B.K. Allen	Swan Lake	
Brent Abbott	Swan Lake	
Lynn A. Merrill	Swan Lake, Idaho	
Lewis G Roberts	Swan Lake Id	
James Gifford	Swan Lake	
Eso G Burkhead M.D.	Downey Idaho.	"
		"

4/9/76

13-7127 - GREAVES, BOSEN, RIGBY

LAND ON WHICH RESERVOIR WILL BE LOCATED WAS SOLD TO APPLICANTS LAST FALL

LAND UNSURVEYED - SURVEY SHOULD BE COMPLETED PRIOR TO CONSTRUCTION

APPLICANTS - HAVE MORE THAN 120 Q THAT COULD IRRIGATED

PROTESTANT -

POSSIBLE INTERFERENCE BECAUSE OF IRRIGATION SEASON SPECIFIED

- CONCERNED ABOUT SAFETY OF DAM.

- WHO'S GOING TO ADMINISTER PRIORITIES.

- INSUFFICIENT WATER SUPPLY

- NO WATERMASTER NOW ON STOCKTON CREEK.

APPLICANT -

2.5 CFS MEASURED IN FEBRUARY

- PROTESTANT JAMES ABBOTT. -
RESERVOIR PREVIOUSLY PROPOSED
& AGREED TO FILL RES. FRO-
COTTON WOOD CREEK.

- ALL PROTESTANTS DIVERT
FROM STOCKTON CREEK

STOCTON CREEK SUPPLEMENTED
FROM COTTON WOOD

- PROTESTANTS DO NOT WANT
[redacted] RECREATIONAL DEVELOP.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT

Cecil D. Andrus
Governor

R. Keith Higginson
Director

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

April 14, 1976

RE: Application for Permit No. 13-7127 BLAIR GREAVES, CLAIR BOSEN, DON RIGBY

Mr. Lynn Merrill
Swan Lake,
Idaho 83281

Dear Mr. Merrill:

Pursuant to the agreement reached at the conference held in Pocatello, Idaho on April 9, 1976, the Department will withhold action on this application until April 23, 1976, to allow the protestants opportunity to submit additional written information in this matter. We will then allow an additional ten (10) days for the applicants or their attorney to respond.

At the end of this time period, the Department will commence reviewing information in its files and that presented at the conference and in writing, and will prepare a decision in this matter.

If you have any questions concerning this agreement, please contact me at your earliest convenience.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT

Cecil D. Andrus
Governor

R. Keith Higginson
Director

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

April 14, 1976

RE: Application for Permit No. 13-7127 BLAIR GREAVES, CLAIR BOSEN, DON RIGBY

Mr. Brent Abbott
Swan Lake,
Idaho 83281

Dear Mr. Abbott:

Pursuant to the agreement reached at the conference held in Pocatello, Idaho on April 9, 1976, the Department will withhold action on this application until April 23, 1976, to allow the protestants opportunity to submit additional written information in this matter. We will then allow an additional ten (10) days for the applicants or their attorney to respond.

At the end of this time period, the Department will commence reviewing information in its files and that presented at the conference and in writing, and will prepare a decision in this matter.

If you have any questions concerning this agreement, please contact me at your earliest convenience.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT

Cecil D. Andrus
Governor

R. Keith Higginson
Director

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

April 14, 1976

RE: Application for Permit No. 13-7127 BLAIR GREAVES, CLAIR BOSEN, DON RIGBY

Mr. Lewis G. Roberts
Swan Lake,
Idaho 83281

Dear Mr. Roberts:

Pursuant to the agreement reached at the conference held in Pocatello, Idaho on April 9, 1976, the Department will withhold action on this application until April 23, 1976, to allow the protestants opportunity to submit additional written information in this matter. We will then allow an additional ten (10) days for the applicants or their attorney to respond.

At the end of this time period, the Department will commence reviewing information in its files and that presented at the conference and in writing, and will prepare a decision in this matter.

If you have any questions concerning this agreement, please contact me at your earliest convenience.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT

Cecil D. Andrus
Governor

R. Keith Higginson
Director

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

April 14, 1976

RE: Application for Permit No. 13-7127 BLAIR GREAVES, CLAIR BOSEN, DON RIGBY

Mr. James Abbott
Swan Lake,
Idaho 83281

Dear Mr. Abbott:

Pursuant to the agreement reached at the conference held in Pocatello, Idaho on April 9, 1976, the Department will withhold action on this application until April 23, 1976, to allow the protestants opportunity to submit additional written information in this matter. We will then allow an additional ten (10) days for the applicants or their attorney to respond.

At the end of this time period, the Department will commence reviewing information in its files and that presented at the conference and in writing, and will prepare a decision in this matter.

If you have any questions concerning this agreement, please contact me at your earliest convenience.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT

Cecil D. Andrus
Governor

R. Keith Higginson
Director

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

April 14, 1976

RE: Application for Permit No. 13-7127 BLAIR GREAVES, CLAIR BOSEN, DON RIGBY

Mr. Leo G.Burkett
Downey,
Idaho 83234

Dear Mr. Burkett:

Pursuant to the agreement reached at the conference held in Pocatello, Idaho on April 9, 1976, the Department will withhold action on this application until April 23, 1976, to allow the protestants opportunity to submit additional written information in this matter. We will then allow an additional ten (10) days for the applicants or their attorney to respond.

At the end of this time period, the Department will commence reviewing information in its files and that presented at the conference and in writing, and will prepare a decision in this matter.

If you have any questions concerning this agreement, please contact me at your earliest convenience.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT

Cecil D. Andrus
Governor

R. Keith Higginson
Director

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

April 14, 1976

RE: Application for Permit No. 13-7127 BLAIR GREAVES, CLAIR BOSEN, DON RIGBY

Mr. Lowell D. Castleton
Attorney at Law
P.O. Box 191
Preston, Idaho 83263

Dear Mr. Castleton:

Pursuant to the agreement reached at the conference held in Pocatello, Idaho on April 9, 1976, the Department will withhold action on this application until April 23, 1976, to allow the protestants opportunity to submit additional written information in this matter. We will then allow an additional ten (10) days for the applicants or their attorney to respond.

At the end of this time period, the Department will commence reviewing information in its files and that presented at the conference and in writing, and will prepare a decision in this matter.

If you have any questions concerning this agreement, please contact me at your earliest convenience.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Jones, Pomeroy & Jones
Lawyers
CENTRAL BLDG.
PHONE 232-3461
Pocatello, Idaho 83201

T. D. JONES, DECEASED
C. W. POMEROY, DECEASED
RALPH H. JONES
RALPH H. JONES, JR.
LAMONT JONES

RECEIVED
APR 21 1976
Department of Water Resources
Eastern District Office

April 19, 1976

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

Attention: Ronald D. Carlson, Supervisor

Re: Application for Permit No. 13-7127

Dear Mr. Carlson:

With respect to your letters of March 10 and April 14, 1976, addressed to Mr. Brent Abbott, please be advised that the undersigned in protesting the above referenced application represents the following named persons:

Brent Abbott, James Abbott, Lynn Merrill, Lewis Roberts, and Dr. Leo G. Burkett

That the above named parties are the owners of all of the waters of Stockton Creek and its tributaries, which includes Current Creek; that the decreed rights of the above referenced owners are continuous and are not dependent upon any irrigation season.

That the parties making this protest are the successors in interest and claim all of their rights above stated under and pursuant to the terms of a Judgment entered by Judge Joseph C. Rich on the 28th day of April, 1899. We have attached hereto for your information the Findings of Fact and Conclusions of Law and a copy of the Judgment entered in that matter. Please be advised that all of the waters of Stockton Creek and all of its tributaries are used during the irrigation season by the parties above named and that there is no water available for appropriation.

That in addition to the uninterrupted and continuous use of all of said waters by protestors hereinabove named, the Department should be cognizant of the fact that all storage rights in all tributaries of Bear River, not otherwise decreed, was appropriated by Utah Power and Light Company under the Dietrick Decree of 1920, a copy of which can be found in your records.

With respect to the four specific questions set forth in your letter of March 10, we respectfully submit that to allow the permitees to appropriate any waters from Current Creek would reduce the quantity of water decreed to the protestors above named and that the proposed water supply is in fact insufficient to satisfy the permitees requested appropriations and the decreed rights of protestors.

With respect to question 3 and 4, protestors have no reason to believe that the application has not been made in good faith or that the permitees do not have sufficient finances to complete their project, we simply call your attention to the fact that there is no water available for their requested appropriation.

Should you desire any additional information with respect to the protestors rights in the waters of Current Creek and of Stockton Creek, please advise.

Sincerely,

JONES, POMEROY & JONES

Lamont Jones

LJ b
cc: Lowell Castleton

FIRST DIVISION.

EDWARD J. TURNER, *Commissioner.*

COVE, IDAHO.

1903.

DECREED WATER RIGHTS,

Stockton Creek, Bannock County.

JUDGMENT AND DECREE.

In the District Court of the Fifth Judicial District of the State of Idaho, in and for Bannock County.

Alphonse Brossard and Joseph Vaness, Plaintiffs,

vs.

J. T. Morgan, Jason Howell, Maria Howell, John Jorgenson, Peter Jorgenson and Mrs. Peter Jorgenson, Defendants.

This cause came regularly on for trial on the 31st day of March, 1899, Messrs. Reeves & Gough appearing as counsel for plaintiffs and J. T. Morgan, Esq., and F. S. Dietrick, Esq., appearing as counsel for defendant, J. T. Morgan; the defendants, Jason, Howell, Maria Howell, John Jorgenson, Peter Jorgenson and Mrs. Peter Jorgenson, not appearing by counsel or otherwise, and default having been entered against them for failure to appear and answer the complaint herein, and a trial by jury having been expressly waived in open court by the respective parties, the cause was tried by the court without a jury. Whereupon witness upon the part of plaintiffs and defendant were duly sworn and examined and documentary evidence introduced by the respective parties, and the evidence being closed the cause was submitted to the court for consideration and decision, and after due deliberation thereon, and the court being fully advised in and concerning the premises; the court finds its findings of fact and

conclusions of law in writing and orders that judgment be entered herein in favor of the plaintiffs and in accordance therewith.

Wherefore, by reason of the law and the findings aforesaid, it is ordered, adjudged and decreed, that the plaintiff, Alphonse Brossard, have the continuous and uninterrupted flow of 115 inches, measured under a four-inch pressure, of the waters of said Stockton Creek during all of each and every year, and that said right to said amount of water is prior in time to that of the defendant and cross-complainant, J. T. Morgan, hereinafter adjudged to him and equal in dignity and time to the rights of plaintiffs, John O. Caldwell and Rufus A. Caldwell, and plaintiff and intervenor, Richard Hadley, hereinafter adjudged to them.

That John O. Caldwell and Rufus A. Caldwell, as successors in interest to plaintiff, Joseph Vaness, have the continuous and interrupted flow of 105 inches, measured under a four-inch pressure, of the waters of said Stockton Creek during all of each and every year, and that said right to said amount of water is prior in time to the right of the defendant and cross-complainant, J. T. Morgan, hereinafter adjudged to him and equal in time and dignity to the right of plaintiff, Alphonse Brossard, hereinbefore adjudged, and plaintiff and intervenor, Richard Hadley, hereinafter adjudged.

That plaintiff and intervenor, Richard Hadley, have the continuous and interrupted flow of 25 inches, measured under a four-inch pressure of the waters of said Stockton Creek during all of each and every year, and that said right to said amount of water is prior in time to the right of defendant and cross-complainant, J. T. Morgan, hereinafter adjudged and equal in dignity and time to the rights of plaintiffs hereinabove adjudged to them.

That defendant and cross-complainant, J. T. Morgan, have the continuous and interrupted flow of 150 inches, measured under a four-inch pressure of the waters of said Stockton Creek, or so much thereof as may remain after the rights of the plaintiffs hereinabove adjudged, have been fully supplied, and that said right to said amount of water is subsequent in time to the rights of the plaintiff hereinabove adjudged to them.

And it is also adjudged that each and every of the parties to this decree, their agents, employees, servants, counselors and successors in interest, be, and they are each hereby, perpetually enjoined from in any manner whatsoever, interfering with the free flow of the waters of said Stockton Creek, except as herein adjudged to each of the parties hereto, and it is further ordered that each of the parties to this action pay his own cost incurred herein.

Done in open District Court, this 28th day of April, 1899.

By the court.

JOSEPH C. RICH,
Judge.

State of Idaho, County of Bannock, *ss.*

I, E. G. Gallet, Clerk of the District Court in and for said county and State, hereby certify the within and foregoing to be a full, true and correct copy of the original decree as recorded at page 135 of Judgment Book No. 2, records of said county.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, this 11th day of May, A. D. 1903.

(Seal.)

E. G. GALLET,
Clerk of Said Court.

By: D. N. CAMPBELL,
Deputy.

ON AN APPEAL FROM THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT, IN AND FOR BANNOCK.

In the Supreme Court of the State of Idaho—May Term, A. D. 1900.

Alphonse Brossard et al., Plaintiffs and Respondents,

vs.

John T. Morgan and W. D. Hendricks, Defendants and Appellants.

This cause having been heretofore heard, submitted and taken under advisement by the court, and the court having fully considered the same, now on this day the cause was again called, and the decision of the court is delivered by Justice Quarles, to the effect that the judgment of the court below be affirmed.

It is therefore considered, adjudged and decreed by the court, that the judgment and order denying motion to correct finding and decree of the District Court of the Fifth Judicial District, in and for the County of Bannock, in the above entitled cause, be, and the same hereby is, affirmed. Costs are awarded to respondents.

I, Sol Hasbrouck, Clerk of the Supreme Court of the State of Idaho, do hereby certify that the foregoing is a true copy of an original judgment entered in the above entitled cause as of the 29th day of May, 1900, A. D., and now remaining of record in my office.

Witness my hand and seal of the court, affixed at my office, this 23rd day of June, 1900, A. D.

SOL HASBROUCK,
Clerk.

Stockton Cr. 5 J-4

In the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Bannock.

Alphonse Brossard and Joseph Vaness,
and Intervenor Richard Hadley,
Plaintiff,

vs

John T. Morgan, Jason Howell,
Maria Howell, John Jorgenson,
Peter Jorgenson and Mrs Peter
Jorgenson,
Defendants.

Findings of Fact and Conclusiions of Law:

This cause came regularly on for trail before the Court without a jury, a jury having been expressly waived by the espective parties hereto. Defendants Jason Howell, Maria Howell, John Jorgenson, Peter Jorgenson and Mrs. Peter Jorgenson, having failed to answer the complaint of plaintiffs herein, default was entered against said defendants for failure to answer herein. The hearing of said cause was proceeded with upon theissues raised by the answer and cross-complaint of defendant John T. Morgan, W.T. Reeves Esq. and Messrs ~~Conley~~ Hawley & Pucket appearing as counsel for the plaintiffs, and defendant John T. Morgan appearing in person and by his counsel F. S. Dietrich, Esq.

Whereupon witnesses upon the part of plaintiffs and defendant were sworn and examined and documentary evidence introduced, and the evidence being closed and after argument by the respective counsel, and the Court being fully advised in and concerning the premise , finds the facts to be asfollows:

That on the 1st day of May, 1867, and continuously thereafter, the plaintiff, Alphonse Brossard and his grantors and predecessors in interest were, and since have been and now is the owner, in the possession and entitled to the possession of the Northeast quarter (NE¼) of Section twenty-three (23), Township thirteen (13), south of Range thirty-eight (38), East of Boise Meridian,

containing one hundred and sixty acres more or less. Situate lying and being in Bannock County, Idaho, and contiguous and riparian to that certain stream ofwaters known as Stockton Creek.

2nd.

That a portion of said land above described is known as meadow or wild hay land and in order that a profitable crop of hay may be cut and harvested therefrom, it is necessary that the waters of said Stockton Creek be allowed and permitted to flowfreely and uninteruptedly, through and upon said land, continuously during the winter months of each year, beginning on the 15th day of October of each year.

3rd.

That the land above described is agricultural land and arid in character and in order to successfully raise and produce agricultural crops thereon, water is necessary for the irrigation thereof.

4th.

That from the beginning of the irrigation season of each year, up to and including the first day of June of each year, in order to successfully raise and produce profitable agricultural crops upon said land one hundred and sixty inches of water, measured under a four inch pressure, is necessary for the proper irrigation thereof.

5th.

That from the 1st day ofJune, up to and including October 15th, of each and every year, in order to successfully raise and produce profitable agricultural crops upon said land, eighty inches of water, measured under a four inch pressure, is necessary for the proper irrigation thereof.

6th.

That from and after the 1st day ofMay, 1873, plaintiff, his grantors and predeces ors in interest, appropriated and used the waters of said Stockton Creek, and allowed the same to overflow and cover that portion of said above described land known and called

ning the 15th day of October of each and every year.

7th.

That from and after the 1st day of May, 1873, plaintiff, his grantors and predecessors in interest, appropriated and used one hundredand sixty inches, measured under a four inch pressure, of the waters of Stockton Creek upon the land above described, from the beginning of the irrigating season up to and including thelst day June of each and every year, and did by means of dams, ditches and flumes, constructed forthat purpose, divert and conduct the same to and upon said land, and have used the same for irrigating purposes thereon during said time of each year continuously, from said May 1st, 1873, up to and including the present time.

8th.

That of the one hundredand sixty inches of water of said Stockton Creek, appropriated and used by plaintiff, his grantors and predecessors in interest as aforesaid, eighty inches thereof, measured under a four inch pressure, was appropriated and used by the plaintiff, his grantors and predecessors in interest upon the land above described, for agricultural purposes, from the 1st day of June, up to and including the 15th day of October, of each and every year from said 1st day of May, 1873, up to and including the present time.

9th.

That on the first day of May, 1867, and continuously thereafter the plaintiff, Joseph Vaness, and his grantors and predecessors in interest were and since have been and now is the owner in the possession and entitled to the possession of the South-half (S½) of the South-east quarter, and the East half (E½) of the South-west (SW¼) of Section fourt en (14), Township thirteen (13), South of Range thirty-eight (38) East of Boise Meridian, containing one hundred and sixty acres, more or less, situate and lying and beingin Bannock County, State of Idaho, and contiguous and riparian to that certain stream of waters, known as Stockton Creek.

10th.

That a portion of said land above described, is known as

meadow or wild hay land and in order that a profitable crop of hay may be cut and harvested therefrom, it is necessary that the waters of said Stockton Creek, be allowed and permitted to flow freely and uninteruptedly, through and upon said land, continuously during the winter months of each year, beginning on the 15th of October of each year

11th.

That the land above described is agricultural land and arid in character and in order to successfully raise and produce agricultural crops thereon, water is necessary forthe irrigation thereof.

12th.

That from the beginning ofthe irrigation season of each year, up to and including the 1st day ofJune of each year, in order to successfully raise and produce profitable agricultural crops upon said land ninety inches of water, measured under a four inch pressure, is necessary for the proper irrigation thereof .

13th.

That from the 1st day of June, up to and including October 15th, of each and every year, in order to successfully raise and produce profitable agricultural crops upon said land, seventy inches of water, measured under a four inch pressure, is necessary for the properirrigation thereof.

14th.

That from and after the 1st day of May, 1875, plaintiff, his grantors and predecessors in interest, appropriated and used the waters of said Stockton Creek, and allowed the same to over flow and cover that portion of said above described land known and called natural meadow or hay land, during the winter months and beginning the 15th day of October of each and every year.

15th.

That from and after the 1st day of May, 1873 plaintiff, his grantor's and predecessors in interest, appropriated and used ninety inches, measured under a four inch pressure, of the waters

of Stockton Creek, upon the land above described, from the beginning of the irrigatingseason up to and including the 1st day of June of each and every year, and did by means of dams, ditches and flumes constructed for that purpose, divert and conduct the same to and upon said land, and have used the same for irrigating purposes thereon during said time of each year continuously, from the 1st day of May, 1873, up to and including the present time.

16th.

That of the ninety inches of water of said Stockton Creek, appropriated and used by the plaintiff, his grantors and predecessors in interest as aforesaid, seventy inches thereof, measured under a four inch pressure, was appropriated and used by the plaintiff, his grantors and predecessors in interest upon the land above described, for agricultural purposes, from the 1st day of June, up to and including the 15th day of October, of each and every year from the said 1st day of May, 1873, up to and including the present time.

17th.

That on the 1st day of May, 1867, and continuously thereafter the plaintiff, Richard Hadley, intervenor, herein, and his grantors and predecessors in interest, were and since have been and now is the owner, in the possession and entitled to the possession of the North-west quarter (NW¼) of the South-east quarter (SE¼), and the south-west quarter (SW¼) of the North-east quarter (NE¼) and the South-east quarter (SE¼) of the North-west quarter (NW¼), and lots number two (2) and three (3), of section fourteen (14), of Township thirteen (13), South of Range thirty-eight (38), East of Boise Meridian, containing about one hundred and seventy-five acres, situate lying and being in Bannock County, Idaho, and contiguous and riparian to that certain stream of water known as Stockton Creek.

18th.

That the land above described is agricultural land and arid in character and in order to successfully raise and produce agricultural crops thereon, water is necessary for the irrigation thereof.

19th.

That in order to successfully raise and produce profitable crops upon said land, seventeen inches of water, measured under a four inch pressure, flowing continuously throughout the year, is necessary for the properirrigation thereof.

20th.

That from and after the 1st day of May, 1873, plaintiff and intervenor Hadley, his grantors and predecessors in interest, appropriated and used seventeen inches, measured under a four inch pressure, flowing continuously, of the waters of Stockton Creek upon the land above described, and did by means of dams, ditches, and flumes, constructed for that purpose, divert and conduct the same to and upon said land, and have used the same for irrigating purposes thereon, continuously from the said 1st day of May, 1873, up to and including the present time.

21st.

That there is no other water supply available for use upon the lands of the plaintiffs herein or that is used thereon, except the waters of said Stockton Creek.

22nd.

That the appropriation and user by the plaintiffs, their grantors and predecessors in interest, of the respective amounts of the waters of Stockton Creek, is prior in time and right, as above set forth, to that of the defendants and each and every of them.

23rd.

That on the 1st day of January, 1880, the defendant and cross-complainant, John T. Morgan was and ever since has been and now is, the owner and in the possession of and entitled to the possession of those certain tracts and parcels of land, particularly described as follows, to-wit:

The South half (S½) of theSouth-west quarter, and the South half of the South-east quarter, of section twenty-four (24), Township thirteen (13), south of Range thirty-eight (38), East of

Boise Meridian in Bannock County, State of Idaho, and along and upon that certain stream known as Stockton Creek.

That said lands are farming lands and arid in character and in order to successfully raise and produce agricultural crops thereon, it requires the use of water for irrigating purposes.

That on the 5th day of February, 1880, the said defendant and cross-complainant, John T. Morgan, and his grantors and predecessors in interest, appropriated and used for the irrigation of the lands above described, one hundred and sixty inches, measured under a four inch pressure of the waters of Stockton Creek, and by means of dams, ditches and flumes of sufficient size and capacity, diverted and conducted said amount of water to and upon said above described lands and premises and used the same thereon for irrigating purposes, each and every year thereafter during the irrigating season thereof.

That there is no other available water supply, for use upon said lands or that is used thereon, except the waters of said Stockton Creek.

That one hundred and sixty inches of water, measured under a four inch pressure, is sufficient water to properly irrigate the lands above described.

That defendant and cross-complainant, John T. Morgan's date of appropriation and right to the use of one hundred and sixty inches of the waters of Stockton Creek, as above set forth, is subsequent in time and right to that of the plaintiffs and intervenor herein.

The court also finds that the irrigating season of the year 1889, was an extremely dry one and the supply of water in said stream was diminished to an extent far belowthe supply hich it afforded in ordinary seasons, and far below the amount it supplied at any season since its diversion by the parties plaintiff; and that a successful use of the waters for irrigating during said season, could be had only by the use of the waters of the whole stream for an irrigating stream. That if such a season should again occur, the waters of the stream could not be successfully used by dividing it among the several claimants.

As conclusions of law from the foregoing facts, the court finds:

That the plaintiffs Alphonse Brossard and Joseph Vaness are entitled to the use of all the waters of Stockton Creek during the winter months, commencing with October 15th and up to the beginning of the irrigating season of each and every year, with the exception of seventeen inches thereof, and to have the same flow freely and uninterruptedly through, across and upon their said lands above described during said period.

2nd.

That the plaintiff, Alphonse Brossard, is entitled to one hundred and sixty inches, measured under a four inch pressure, of the waters of Stockton Creek, from the beginning of the irrigating season, up to and including the 1st day of June, of each and every year, and eighty inches thereof thereafter, up to and including the 15th day of October of each and every year.

3rd.

That the plaintiff, Joseph Vaness, is entitled to ninety inches measured under a four inch pressure, of the waters of Stockton Creek, from the beginning of the irrigating season up to and including the 1st day of June of each and every year, and seventy inches thereof thereafter up to and including the 15th day of October of each and every year.

4th.

That the plaintiff and intervenor, Richard Hadley, is entitled to seventeen inches, measured under a four inch pressure, of the waters of Stockton Creek, continuously, each and every year, and should the said Hadley desire a periodical use of said waters instead of a continuous flow of seventeen inches, he shall take from the ditches of said plaintiffs Brossard and Vaness, an amount for one day equal to the number of days, at the rate of seventeen inches continual flow per day, that he has failed to use said seventeen inches of water.

5th.

That of the waters in said Stockton Creek, the said defendant and cross-complainant, John T. Morgan, is entitled to one hun-

dred and sixty inches or so much thereof as may remain, under a four inch pressure, of the waters of said Stockton Creek.

6th.

That in case of a recurrence of such a season as the year 1889, when the waters of said stream is limited to a quantity substantially the same as the amount in said year of 1889, then the said defendant shall be allowed to take such quantity of water from said stream as is equal to a continuous flow of fifty inches, measured under a fourinch pressure, and that the parties be required to each use the whole of said stream, alternately, proportionate in time as the amount of water used byeach of them bears to the whole amount so used; the oldest claiment to begin the use first, under such arrangement and to be followed by the next prior appropriator, and so on until each has used it, no one of said claimants to use it, without alternating, for a period of time greater than three days, unless a different period may be agreed upon by consent of all the parties?

7th.

That each party shall pay their own costs.

Let judgment be entered accordingly.

Done in open District Court, this 25th day of January, 1898.

By the Court

D. W. Standrod

Judge.

WILLIAMS & CASTLETON
LAW OFFICES
24 NORTH STATE - P. O. BOX 191
PRESTON, IDAHO 83263

J. DENNIS "J. D." WILLIAMS
LOWELL D. CASTLETON

RECEIVED
MAY 3 1976
Department of Water Resources
Eastern District Office

TELEPHONE:
(208) 852-2660

April 30, 1976

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

Attention: Ronald D. Carlson, Supervisor

Re: Application for Permit No. 13-7127
Applicants' Response to Protestants'
Letter of April 19, 1976.

Dear Mr. Carlson:

Following the testimony taken at the Conference in Pocatello on April 9, 1976, and pursuant to your letter of April 14, 1976, and the letter from LaMont Jones on behalf of protestants, dated April 19, 1976, the following information and authority is submitted in support of the Application in question:

The only issue seems to be whether there is water available for the requested appropriation. At the conference there was considerable discussion on this question, and although mention was made of the protestants' decreed rights, there was an admission by several of the protestants that the winter flow and early spring run-off from Current Creek and Stockton Creek was not actually used during the winter months, or at least that any winter use was not continuous.

I think your notes will confirm that there was a general consensus among protestants and applicants that the winter flow and spring run-off exceed the actual needs of protestants in most years, although there may be an occasional exception. In fact, there was discussion and, I thought, agreement that the heavy run-off in the spring, as well as the continuous winter flow, was in some respects injurious to protestants' interests and that a dam controlling the flow would be helpful to all.

Applicants' position should be restated: 1) Only winter flow and spring run-off in excess of protestants' needs would be stored; 2) there would be no interference with downstream

rights and beneficial use; 3) A measuring device would guarantee full-flow during the summer months, with stored water only being used by applicants during the irrigation season.

Responding to protestants' letter of April 19, 1976, last line of page one, there is no request before the Department for appropriation of waters now used by protestants during the irrigation season. The application states specifically that the water to be appropriated is excess water during the winter season, and during spring run-off, which water is to be stored for subsequent use during the irrigation season. A factual investigation has been conducted by applicants which shows the feasibility of this proposal.

Protestants and the Department of Water Resources seem to recognize the availability of water for appropriation. Protestant James Abbott stated during the conference that he had at one time been issued a permit for the water in question. It would seem that Mr. Abbott should thus be estopped from asserting the position stated by protestants' counsel because of his prior inconsistent position on the issue of water availability.

At least one other permit has been issued for the water in question, i.e. Permit #13-2306, to Malcolm Denton, which permit was cancelled on November 5, 1975. The Department of Water Resources must have recognized the availability of water in that case as well.

There is ample legal authority for applicants' position:

I.

<u>When an appropriator is not using water under his appropriation, the water is considered unappropriated public water.</u>

In the case of <u>Knutson v. Huggins</u>, 62 Idaho 662, 115 P.2d 421 (1941), a situation very similar to that in this case arose. Applicants maintained a dam across the stream for the purpose of storing flood and winter flow waters of the stream for irrigation purposes. Protestants held decreed rights which they claimed were injured. The Court held, among other things, that:

> At such time as an appropriator is not using the water under his appropriation, and is not applying the water to a beneficial use, such

> water must be considered and treated as unappropriated public water of the state, and for such period of time is subject to appropriation and use by others.
>
> When an appropriator is not using water under his appropriation . . . he must allow the water to flow down the bed of the natural channel.

The Court stated further in Knutson, citing numerous earlier cases:

> "It is the policy of the law of this state to prevent the wasting of water." And in Glavin v. Salmon River Canal Company, Ltd., 44 Idaho 583, 589, 258 P. 532, 534, we again held: "It is against the public policy of this state, as well as against express enactments [then Sec. 5640, C.S., now Sec. 41-816, I.C.A.], for a water user to take more of the water to which he is entitled than is necessary for the beneficial use for which he has appropriated it," pointing out that "public policy demands that whatever be the extent of a proprietor's right to use water until his needs are supplied, his right is dependent upon his necessities, and ceases with them," citing and adhering to State v. Twin Falls Canal Company, supra, and Hutchinson v. Watson Slough Ditch Company, supra.

The Court in Graham v. Leek, 65 Idaho 279, 144 P.2d 475 (1943), indicated that a decree of water is not a permanent right without conditions. The Court reiterated in that case that a decree of a definite water right cannot stand where the evidence fails to disclose the amount of water required for the beneficial use to which it is put.

Protestants' use of their decreed water over the past five years would appear to fall short of this test.

II.

The right to the use of public water of the State can only be claimed where it is applied to a beneficial use in the manner required by law.

The "manner required by law" is set out in the current version of Idaho Code Section 42-222(2), where a requirement of continuous use is imposed upon holders of water rights.

> All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through non-use or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter.

Applicants herein contend that the use of the natural flow of Stockton Creek, of which Current Creek is a tributary, has not been completely used during the winter, non-irrigation season, in spite of the decreed rights claimed by protestants. Although abandonment and forfeiture have not been formally alleged by applicants, it is believed that such allegations could be supported by factual investigation.

In conclusion, it is the applicants' contention that within at least one of several legal theories, and in view of the facts as discussed, there is water available for appropriation by the applicants in this matter.

We look forward to your decision.

Yours very truly,

WILLIAMS & CASTLETON

Lowell Castleton

LOWELL D. CASTLETON
Attorney at Law

LDC/kc

cc: LaMont Jones of Jones, Pomery & Jones
Clair Bosen
Blair Greaves
Don Rigby

March 9, 1976

RECEIVED
MAR 8 1976
Department of Water Resources
Eastern District Office

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

Gentlemen:

We the undersigned, declare protest on water appropriation No. 13-7127 from Current Creek tributary to Stockton Creek.

We feel this will be injurious to our decreed water rights on the Stockton Creek Drainage. We feel the water is inadequate to fill our prior rights.

Very truly yours,

LEWIS G. ROBERTS

BRENT ABBOTT

LYNN MERRILL

Dated this 9th day of March, 1976.

JAMES ABBOTT
DISTRICT NO. 33
BANNOCK AND ONEIDA
COUNTIES

HOME ADDRESS
SWAN LAKE, IDAHO 83281
PHONE: 897-5556

COMMITTEES
EDUCATION
LOCAL GOVERNMENT

RECEIVED
MAR 12 1976
Department of Water Resources
Eastern District Office

House of Representatives
State of Idaho

RECEIVED
MAR 11 1976
Department of Water Resources

March 9, 1976

DIRECTOR
PLANNING
WATER PLAN
FILES

R. Keith Higginson, Director
Department of Water Resources
Statehouse
Boise, Idaho 83720

Dear Mr. Higginson:

I, James Abbott, of Swan Lake, Idaho hereby protest the approval of Application for Permit No. 13-7127 in the name of Blair Greaves, Clair Bose and Don Rigby.

The diversion of water from Current Creek, tributary to Stockton Creek, is upstream from my point of diversion and, therefore, would cause injury to my existing water right. The water I use was decreed in the case of Alphonse Brossard and Joseph Vaness v.s. J. T. Morgan, et.al.

Sincerely,

James Abbott
State Representative

JA:bjh

RECEIVED
MAR 15 1976
Department of Water Resources
Eastern District Office

Leo G. Burkett, M.D.
PHYSICIAN & SURGEON
DOWNEY, IDAHO 83234
PHONE 897-5236

March 12, 1976

Mr. Higginson:

I strongly protest the application of permit #13-7127 for water from the Current Creek tributory to Stocton Creek. This would interfere with the irrigation on my land with water out of Stockton Creek.

I'm also very concerned and opposed about the building of a dam up that high. Should it break, it would be very destructive to the land below.

Sincerely,

Leo G. Burkett

BANNOCK COUNTY ASSESSOR'S RECORDS

PROPERTY	OWNERSHIP
W½ NE¼ SEC 14	E. LIONELL MERRILL
E½ NW¼ " "	LYNN H MERRILL
~~E½~~	
E½ SW¼ SEC14	LEO. G BURKETT (38 AC)
S½ SE¼ " "	A. BAR RANCHES INC (JIM ABBOTT)

SEC 23

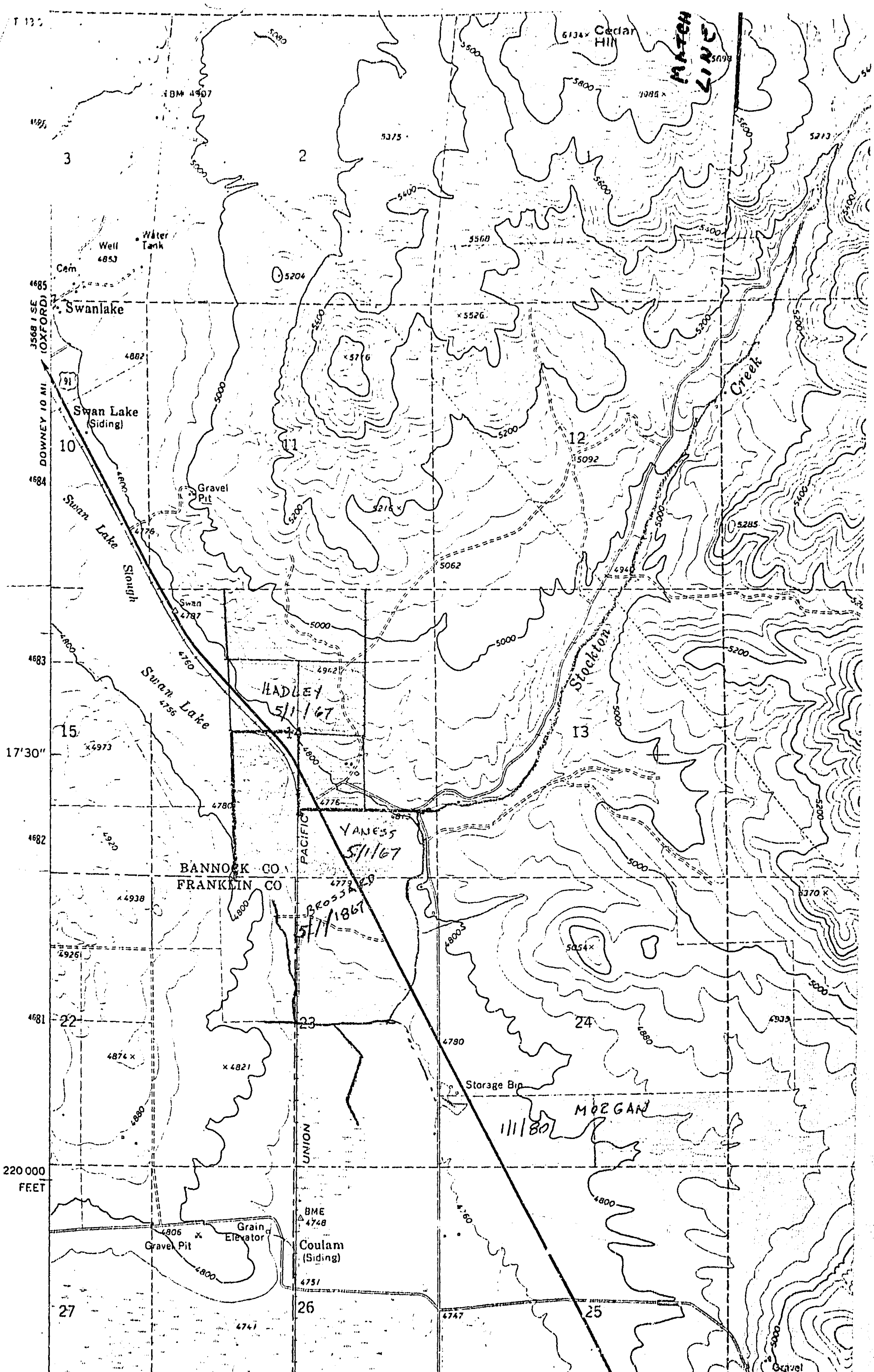
NE¼	SEC 23	(142.4 AC)	A. BAR RANCHES INC
NE¼ NE¼	SEC23	(4.7 AC)	ORVEL B. ABBOTT

SEC 24

S½ S½ SEC 24	ALMA P. ALLEN

ALL IN T 13S R38E

20
21
22
25
30
29
28
27
36
31
32
33
34
1
6
5
4
3
2
T. 12 S.
R A N G E
P O R T N E U F
HOLLOW
MOUNTAIN
Canyon
Hollow
Dry Hollow Spring
Cottonwood
Creek
TREASURETON
CANAL
JEEP TRAIL
Spring
Hutchins
Gravel Pit
Stockham
Cedar Hill
Heart Mtn Spring
CREEK
MAICH LINE
TREASURETON 7 MI.
250 000 FEET



MATCH LINE
Cedar Hill
Swanlake
3568 I SE (OXFORD)
DOWNEY 10 MI.
Swan Lake (Siding)
Well
Water Tank
Cem
BM 4907
Gravel Pit
Swan Lake Slough
Swan Lake
Swan
Stockton Creek
HADLEY 5/1/67
YANESS 5/1/67
BROSSARD 5/1/1867
MORGAN 1/1/80
BANNOCK CO
FRANKLIN CO
UNION PACIFIC
17'30"
220 000 FEET
Storage Bin
BME 4748
Grain Elevator
Coulam (Siding)
Gravel Pit
Gravel Pits
SLOUGH
Alkali Flat
91

WILLIAMS & CASTLETON
LAW OFFICES
24 NORTH STATE · P. O. BOX 191
PRESTON, IDAHO 83263

J. DENNIS "J. D." WILLIAMS
LOWELL D. CASTLETON

TELEPHONE:
(208) 852-2660

RECEIVED
JUL 15 1976
Department of Water Resources
Eastern District Office

July 14, 1976

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

ATTENTION: Ronald D. Carlson, Supervisor

Re: Application for Permit No. 13-7127

Dear Ron:

My clients and I are very anxious to know what action is being taken relative to the above application. Our last action was the sending to you on April 30, 1976, of the applicant's response to protestant's letter of April 19, 1976. This was all in accordance with the procedure outlined at the hearing held on April 9, 1976, in Pocatello.

My clients are understandably anxious to know the outcome of the Department's consideration of this application so that, if approval is forthcoming, they may proceed.

We are all sympathetic with the many problems you must be facing as a result of the flood in the upper Snake River Valley. I am not sure how this has affected your office, but I can't help but think that it has had some impact.

Nevertheless, if it is possible, we would appreciate having a status report on this matter. Your cooperation in the entire application procedure has been appreciated.

Yours very truly,

WILLIAMS & CASTLETON

LOWELL D. CASTLETON
Attorney At Law

LDC/lb

cc: Clair Bosen
Blair Greaves
Don Rigby

WILLIAMS & CASTLETON
LAW OFFICES
24 NORTH STATE - P. O. BOX 191
PRESTON, IDAHO 83263

J. DENNIS "J. D." WILLIAMS
LOWELL D. CASTLETON

RECEIVED
AUG 5 1976
Department of Water Resources
Eastern District Office

TELEPHONE:
(208) 852-2660

August 4, 1976

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

ATTENTION: Ronald D. Carlson, Supervisor

Re: Application for Permit No. 13-7127

Dear Ron:

I wrote to you on July 14, 1976, requesting some kind of an update regarding the above matter. We are indeed most anxious to find out what, if anything, is happening on the application which was filed. My clients have gone to some lengths to pursue the matter and would appreciate your bringing us current on the status of the application. These people are prepared to go ahead with the project as proposed unless there are objections which the department feels have merit.

I hope you will either drop me a note or give me a call and let me know what type of action we can expect regarding the permit applied for. I hope all is well with you personally.

Yours very truly,

WILLIAMS & CASTLETON

Lowell

LOWELL D. CASTLETON
Attorney At Law

LDC/lb

cc: Clair Bosen
Blair Greaves
Don Rigby

Dietrich Decree

13-7127

Question of Location of the 40 acre tract — Survey will be made.

① Not enough water

② Possible interference with the season of normal use which sometimes begins before April 1 and lasts past Nov. 1. ——

→ ③ increase in Watermaster expense. ← Possible

→ ④ safety of the dam

Does.

Protest

Claims applicant will have problems irrigating prior to June because of freezing —

⑤ Financially ability to pay — No question by the

November 6, 1979

Re: Permit No. 13-7127

Earl R. McEntire, P. E.
Preston, ID 83263

DeaerMr. McEntire:

We have received your letter requesting an extension of time in connection with the above referenced permit.

However, in looking through our files we did not come across any correspondence giving you power of attorney for Blair Greavers, Clair Bosen, and Don Rigby. Therefore, we cannot process this extension request.

We are enclosing a power of attorney form along with a request for extension of time form for your use in this matter.

Either the completed power of attorney form and extension signed by you or the extension signed by one of the permit holders must be received within the 60-day reinstatement period to prevent this permit from permanently lapsing.

If you have any questions, please contact us.

Sincerely,

JAN GROVER
Water Rights Supervisor

JG:pb

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 384-2215

GREAVES, BLAIR
404 E. VALLEY VIEW DR.
PRESTON, ID 83263

101255

AUGUST 31, 1979

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 13-7127 WAS THAT EVIDENCE OF THE EXTENT OF DEVELOPMENT MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE NOVEMBER 01, 1979. (SEE LAST PAGE OF YOUR APPROVED PERMIT). ENCLOSED IS A POST CARD WHICH MAY 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 POST CARD OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECIEVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE MENTIONED DATE, OTHERWISE, THE PERMIT WILL LAPSE AND BE OF NO FURTHER FORCE OR EFFECT WITHIN 60 DAYS.

SINCERELY,

RITA FLECK
SR. SECRETARY

ENC: 1

RECEIVED
OCT 30 1979
Department of Water Resources

Preston, Idaho
October 27, 1979

State of Idaho
Department of Water Resources
Statehouse
Boise, Idaho 83720

Subject: Water Permit No. 13-7127

Dear Sirs:

The Current Creek Dam Project which will be used to beneficially store and use water under Water Permit No. 13-7127, has not yet been fully completed. The extremely low runoff this spring and summer which resulted in a very low volume of water removed the urgency to finish the project. Also the volume of water was so low that the owner could not put it to the beneficial use that he had planned.

The only part of the project yet to be finished is the installation of three Parshall measuring flumes above and below the dam. These flumes will be installed prior to the 1980 runoff.

The owner hereby requests an extension of time of one year to complete the project and to put the water impounded by the dam to beneficial use.

Sincerely,

Earl R. McEntire

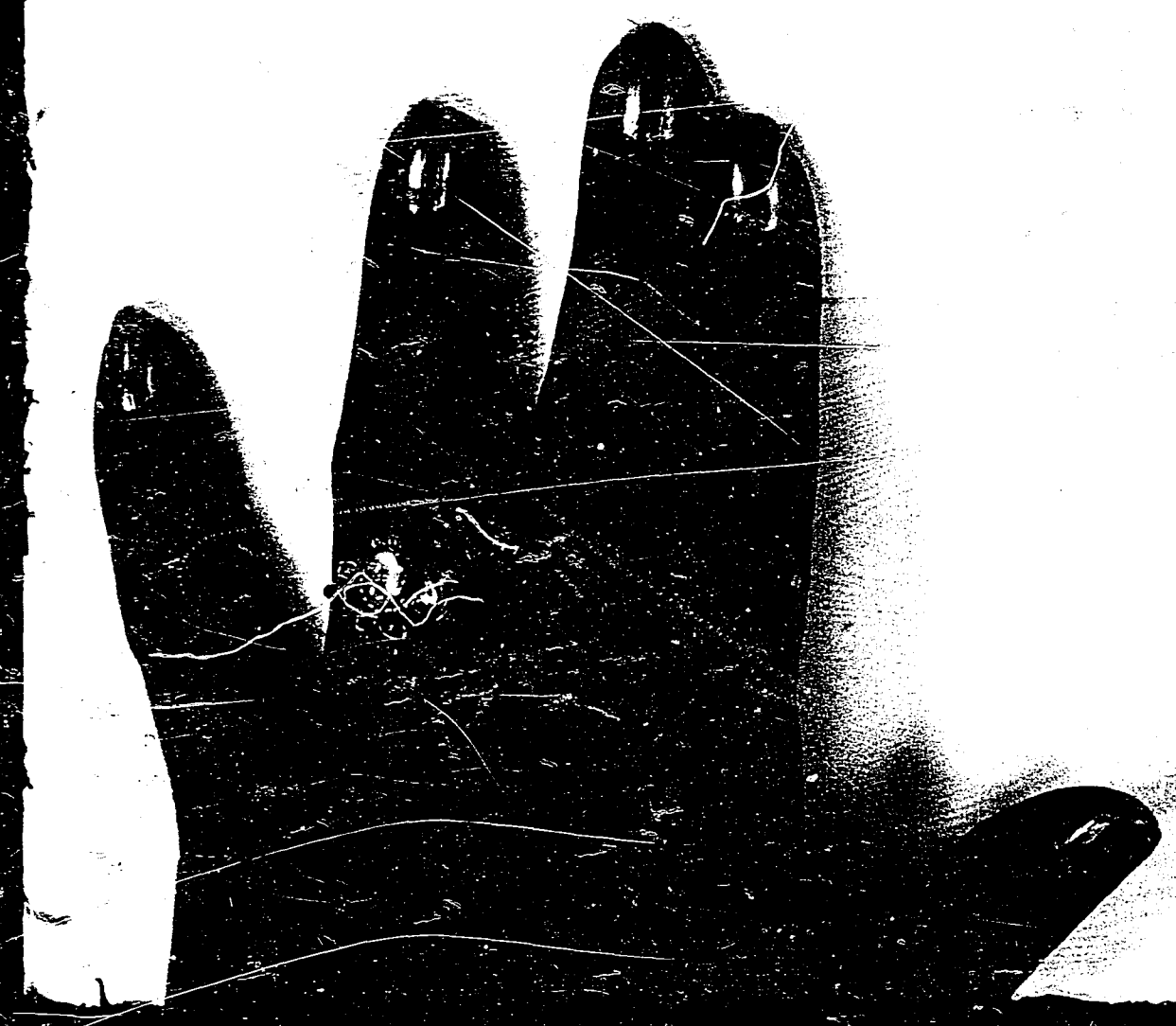
Earl R. McEntire P.E.

Earl R. McEntire
801 W 8 N
Preston, Idaho 83263





STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720



Form 204
6/78

Identification No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit proof of beneficial use on a water right permit

RECEIVED
Department of Water Resources

Clair D. Bosen (Name) of Box 167, Preston (Address)

State of Idaho, deposes and says:

That he is the holder, or the duly authorized agent of the holder*, of Permit to Appropriate the Public Waters of the State of Idaho No. D 13-7127.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before November 1, 1979.

That he has heretofore performed the following work described under said permit: Installed: 1) piezometers, 2) Outlet control structure on the crest of the dam and 3) surveyed alignment pins.

Costing $ _____

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit: Parshall measuring flumes - two above the dam and one below the dam. The extremely low run-off experienced this year did not provide sufficient water to adequately install or test the flumes or to be used as the permit holder desired.

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to November 1, 1980.

Clair D. Bosen
(Signature)*

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within which to submit proof of beneficial use of water is extended to November 1, 1980.

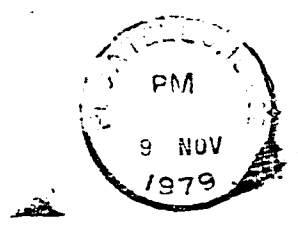
IT IS FURTHER ORDERED that the permit be reinstated and the priority advanced to February 29, 1976.

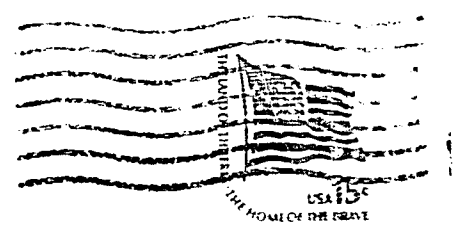
Signed this 26th day of November, 19 79.

L. Glen Saxton
Chief, Operations Bureau

*IF OTHER THAN HOLDER, Power of Attorney must be supplied.

Clair D. Bosen
Box 167
Preston, Idaho 83263





Jan Grover
Water Rights Supervison
State of Idaho
Dept. of Water Resources
State House
Boise, Idaho 83720

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 384-2215

November 6, 1979

RECEIVED
NOV 19 1979
Department of Water Resources

Re: Permit No. 13-7127

Earl R. McEntire, P. E.
Preston, ID 83263

Dear Mr, McEntire:

We have received your letter requesting an extension of time in connection with the above referenced permit.

However, in looking through our files we did not come across any correspondence giving you power of attorney for Blair Greavers, Clair Bosen, and Don Rigby. Therefore, we cannot process this extension request.

We are enclosing a power of attorney form along with a request for extension of time form for your use in this matter.

Either the completed power of attorney form and extension signed by you or the extension signed by one of the permit holders must be received within the 60-day reinstatement period to prevent this permit from permanently lapsing.

If you have any questions, please contact us.

Sincerely,

JAN GROVER
Water Rights Supervisor

JG:pb

13-7127

RECEIVED
NOV 13 1979
Department of Water Resources

Clair B. Bosen
Box 167
Preston, Idaho 83263
November 9, 1979

Jan Grover
Water Rights Supervison
State of Idaho
Dept. of Water Resources
State House
Boise, Idaho 83720

Dear Mrs. Grover:

I apologize for the misunderstanding on the earlier request made by Earl McEntire, P.E. for an extension of time on permit No. D13-7127. My Controller, Thane Winward, had talked to Ron Carlson of your department and he told us that a letter from our engineer would be sufficient to obtain an extension.

We have enclosed a completed formal extension. If you have any additional questions or requirements, we would be happy to provide such information.

Sincerely,

Clair D. Bosen

November 27, 1979

Clair D. Bosen
Box 167
Preston, ID

Dear Mr. Bosen: Re: Permit No. 13-7127

Enclosed is a copy of the approved application for extension of time in connection with the above referenced permit.

The time within which to submit proof of beneficial use of water has been extended to November 1, 1980. The priority has been advanced to February 29 1976 since the extension request was after the November 1st due date.

Sincerely,

Jan Grover
Water Rights Supervisor

LINDA

Please pull file

RECEIVED

AUG 13 1980

Department of Water Resources

BGR Corporation
C/O Box 167
Preston, Idaho 83263

Jan Grover
State Of Idaho
Department Of Water Resources
State House
Boise, Idaho 83720

Dear Ms Grover:

Regarding our extension of time on state water permit # D 13-7127 (copy enclosed), the three parshall flumes have been installed with the assistance of Jimmy Carter, a state water master, this now completes all requirements on which the permit was contingent.

Very truly yours,

Thane D. Winward

Thane D. Winward
Controller, BGR Corporation

ıary

Identification No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
AUG 13 1980
Department of Water Resources

REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit proof of beneficial use on a water right permit

Department of Water Resources

Clair D. Bosen (Name) of Box 167, Preston (Address)

State of Idaho, deposes and says:

That he is the holder, or the duly authorized agent of the holder*, of Permit to Appropriate the Public Waters of the State of Idaho No. D 13-7127.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before November 1, 1979.

That he has heretofore performed the following work described under said permit: Installed: 1) piezometers, 2) outlet control structure on the crest of the dam and 3) surveyed alignment pins.

Costing $ _____

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit: Parshall measuring flumes - two above the dam and one below the dam. The extremely low run-off experienced this year did not provide sufficient water to adequately install or test the flumes or to be used as the permit holder desired.

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to November 1, 1980.

C. Clair D Bosen
(Signature)*

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within which to submit proof of beneficial use of water is extended to November 1, 1980.

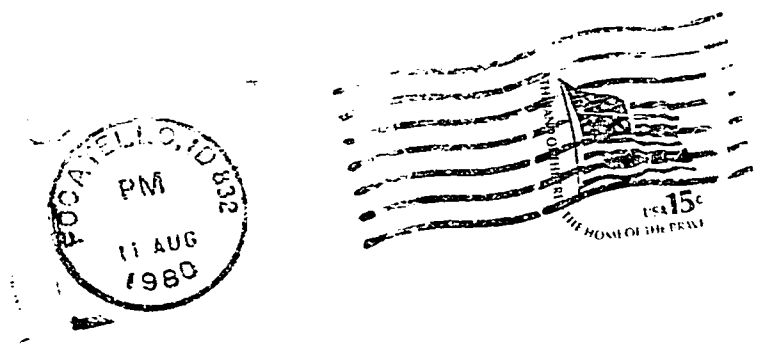
IT IS FURTHER ORDERED that the permit be reinstated and the priority advanced to February 29, 1976.

Signed this 26th day of November, 19 79.

E. Glen Sayton
Chief, Operations Bureau

IF OTHER THAN HOLDER, Power of Attorney must be supplied.

BGR Corporation
C/O Box 167
Preston, Idaho 83263



Jan Grover
State Of Idaho
Department Of Water Resources
State House
Boise, Idaho 83720



August 14, 1980

Thane D. Winward
Controller, BGR Corp.
Box 167
Preston, Idaho 83263

Dear Mr. Winward,

We acknowledge receipt of your letter and have enclosed a proof to Beneficial Use Card that you should fill out and return before November 1, 1980.

If you have any questions on this matter please call me at 334-4162.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:mr

Enclosure

DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card as a statement that the permit holder(s) has completed development to the extent shown below of Permit No. 13-7127

Name(s) of Permit Holder: CLAIR DeBoer, Blair Graves, Don Rigby

Post Office Address: Box 167, Preston, IDAHO 83263

Tel. No. 852-1711

Source of Water: runoff / Current Creek

Extent of Use:
- ☐ Domestic (number of households)
- ☒ Stockwater (number and type of stock)
- ☒ Irrigation 400 (acres)
- ☐ Other Recreational

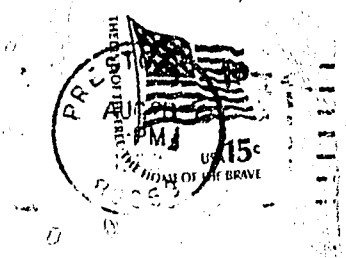
Measuring Device:	Required?	☒ Yes	☐ No	Installed?	☒ Yes	☐ No
Access Port:	Required?	☒ Yes	☐ No	Installed?	☒ Yes	☐ No

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

8/18/80
Date

Signature of Permit Holder

Bosen Farms
c/o P.O. Box 167
Preston, Idaho 83263



RECEIVED
AUG 22 1980

DEPARTMENT OF WATER RESOURCES

Department of Water Resources

IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

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

Sept. 10, 1980

RE: Permit No. 13-7127

Clair DeBosen
Box 167
Preston, Idaho 83263

Gentelmen:

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

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

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

Very truly yours,

Bobbie R. Stephens
Sr. Clerk

cc: IDWR - State Office

RECEIVED
AUG 23 1982
Department of Water Resources
Eastern District Office

OK to Process

ASSIGNMENT OF WATER PERMIT

FOR VALUE RECEIVED, the undersigned, CLAIR D. BOSEN, BLAIR GREAVES and DON C. RIGBY, do hereby transfer, assign, sell and convey all our right, title and interest in Idaho Water Permit No. 13 7127, unto B-G-R CORPORATION, an Idaho Corporation, and authorize any changes necessary to be made upon public records. This Assignment is made in connection with certain Proposals to Acquire Shares in said corporation dated October 19, 1977, between ourselves and the Assignee herein.

DATED This 19th day of October, 1977.

Clair D. Bosen
CLAIR D. BOSEN

Blair Greaves
BLAIR GREAVES

Don C. Rigby
DON C. RIGBY

STATE OF IDAHO)
)
County of Franklin)

On this 19th day of October, 1977, before me, the undersigned, a Notary Public in and for said State, personally appeared CLAIR D. BOSEN, BLAIR GREAVES and DON C. RIGBY, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

Lowell J. Jarvis
NOTARY PUBLIC for State of Idaho
Residing at Preston, Idaho

WILLIAMS & CASTLETON
LAW OFFICES
24 NORTH STATE - P. O. BOX 191
PRESTON, IDAHO 83263

J. DENNIS "J. D." WILLIAMS
LOWELL D. CASTLETON

DALLIN J. PHILLIPS

TELEPHONE:
(208) 852-2660

RECEIVED
AUG 27 1982
Department of Water Resources

RECEIVED
AUG 23 1982
Department of Water Resources
Eastern District Office

August 18, 1982

State of Idaho
Department of Water Resources
150 Shoup
Idaho Falls, Idaho 83401

Re: Water Transfer - Clair D. Bosen
Our File No. 406.26C

Attn: Steve McCormick, P.E.
Senior Resource Analyst

Dear Mr. McCormick:

Enclosed herein you will find the original of the Assignment Of Water Permit pursuant to your letter of June 29, 1982.

If you have any further questions, please contact our office.

Yours very truly,

WILLIAMS & CASTLETON

Dallin J. Phillips

DALLIN J. PHILLIPS
Attorney at Law

DJP/tj

Enclosures

WATER RIGHT SPLIT

SUMMARY

ACTION	RIGHT NO.	NAME	AMOUNT C.F.S.
Orginial Permit	13-7127	Blair Greaves, Clair Bosen, Don Rigby	600.0 AF
Full Assignment	13-7127	B G R Corporation	600.0 AF

September 2, 1982

RE: Permit No. 13-7127

B-G-R Corporation
c/o Clair Bosen
P.O. Box 167
Preston, ID 83263

Gentlemen:

This office acknowledges receipt of the Assignment of the above referenced permit to you.

Enclosed for your records is a copy of the permit. Be sure to note the special conditions of approval on the fourth page that identify requirements necessary for developing the permit into a licensed water right.

If you have any questions on this matter, please feel free to contact us.

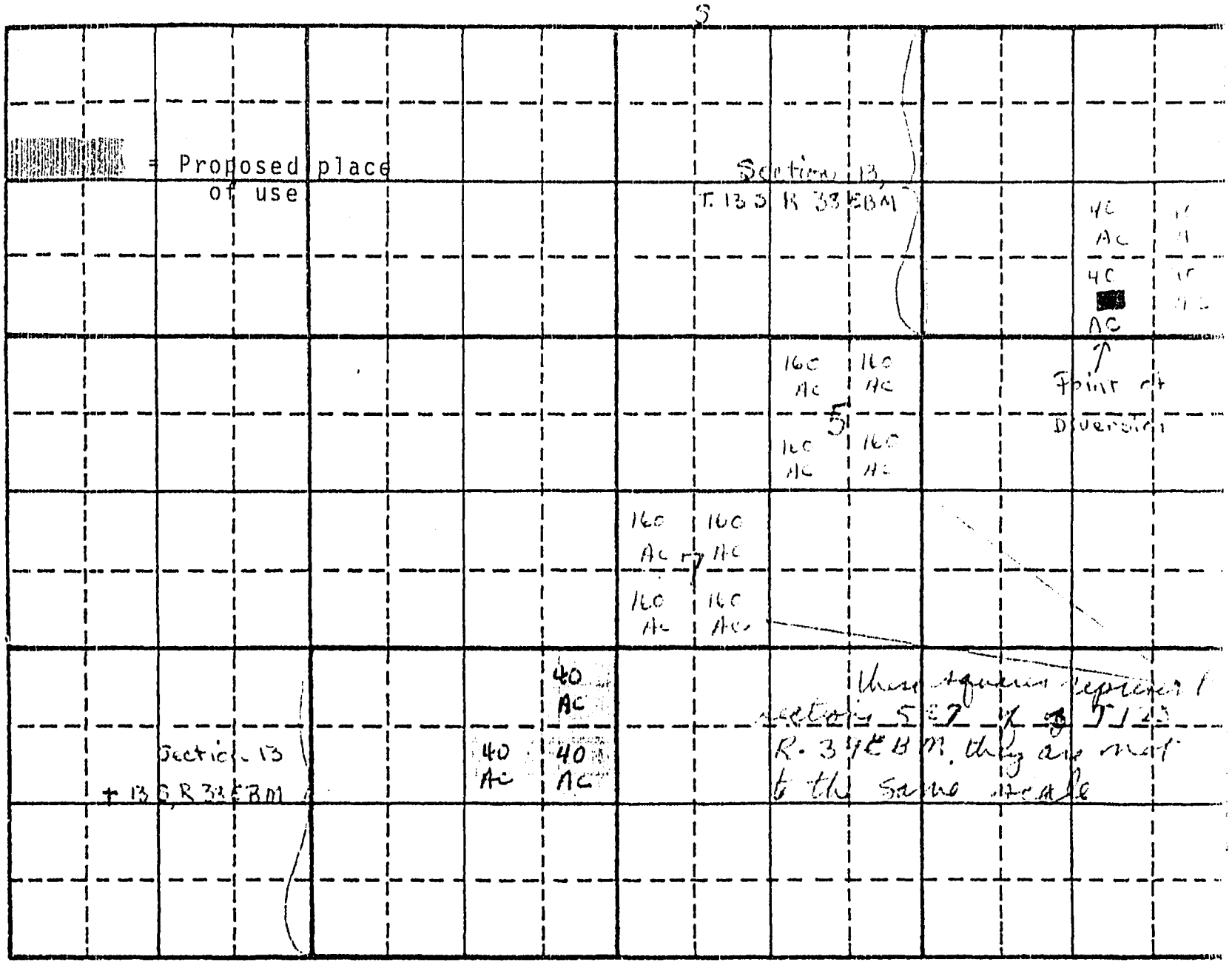
Sincerely,

ROBYN CARLSON
Chief Clerk

RC:kw
Enclosures

Complete the following map by showing land and point of diversion proposed by this amendment.

Show 40-acre subdivisions, townships, ranges and ditches.



Scale: 2 inches equal 1 mile.

That no one will be injured by such change, and that such change will be made at permit holder's own risk.

Signed at Preston IDAHO, this 7th day of July, 19 82.

(Signature)

FOR DEPARTMENT USE ONLY

Preliminary check by SM Fee = $20.00 Receipted by BP Date 6-24-82 #22345

Publication prepared by bp Date _____ Published in Idaho State Journal

Publication dates July 8 and 15, 1982

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

I, _____, Director of the Department of Water Resources hereby

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

_____
Director

Form 211
5/78

Ident. No. 13 7127

cc 9d

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR AMENDMENT OF A PERMIT

JUN 28 1982

Department of Water Resources
Eastern District Office

To change the point of diversion and/or the place of use.

Comes now B-G-R Corporation through its sole shareholder, Clair D. Bose of (address) P.O. Box 167, Preston, Idaho 83263, and represents to the Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 13-7127, and requests that the permit and permit map be changed as follows:

1. Point of diversion: SE ¼ SW ¼, Section 33, Township 12 S., Range 39 E., B.M., County of Bannock. Other points of diversion: SW1/4 of SE1/4 of Section 33, Township 12 South, Range 39 East of Boise Meridian, Bannock County, Idaho

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount 2.4 (cfs or acre feet per annum) for Irrigation Storage purposes from April 1 to Nov. 1 (both dates inclusive)
Amount 600 (cfs or acre feet per annum) for Irrigation purposes from Nov. 1 to April 1 (both dates inclusive)
Amount _____ (cfs or acre feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ (cfs or acre feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

3. Place of use or land to be irrigated:

TWP	RGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
13S	38E	13	40		40	40													120

Total number of acres to be irrigated = 120

4. a. Who owns the property at the point of diversion? B-G-R Corporation

b. Who owns the land to be irrigated or the place of use? Clair D. Bosen

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Clair D. Bosen is the sole shareholder of B-G-R Corporation

RECEIVED

JUL 26 1982

Department of Water Resources
Eastern District Office

IN THE MATTER OF APPLICATION FOR)
AMENDMENT NO. 13-7127 IN THE NAME)
OF B-G-R CORPORATION) PROTEST

In February of 1976, Clair Bosen, Blair Graves and Don Rigby applied to the Idaho Department of Water Resources for a permit to appropriate 600 AF of water from Current Creek, a tributary of Stockton Creek. We objected to the approval of this permit because we were decreed the "continuous and uninterrupted flow of Stockton Creek." The Department found that there was water at times in Current Creek which was not needed to fill prior water rights and approved permit 13-7127.

The flows on Current Creek have never been sufficient and Bosen has consistently diverted water from the upper drainage of Stockton Creek and from Cottonwood Creek to fill his reservoir. No irrigation has ever been accomplished with the water stored in this reservoir. The gates on Bosen's reservoir have never been opened to release water for irrigation or to let our water come through. Now if he proposes to release the water into Stockton Creek and use it on lands in Section 13, Township 13 South, Range 38 East, we will have the problem of assuring releases from the reservoir and segregating stored water downstream.

The Department may hold that this is the watermaster's responsibility. The facts, however, will show that the watermaster lives in Soda Springs and simply is not available to administer diversions on Stockton Creek.

Therefore, we are confident that approval of this amendment will reduce our water supplies and, thereby, injure our prior water rights and for this reason we are objecting to the Department's approval of this application.

Dated this 23 day of July, 1982.

Dyan Hamrell
Susan Dahe
Idaho 83281

IN THE MATTER OF APPLICATION FOR)
AMENDMENT NO. 13-7127 IN THE NAME)
OF B-G-R CORPORATION) PROTEST

In February of 1976, Clair Bosen, Blair Graves and Don Rigby applied to the Idaho Department of Water Resources for a permit to appropriate 600 AF of water from Current Creek, a tributary of Stockton Creek. We objected to the approval of this permit because we were decreed the "continuous and uninterrupted flow of Stockton Creek." The Department found that there was water at times in Current Creek which was not needed to fill prior water rights and approved permit 13-7127.

The flows on Current Creek have never been sufficient and Bosen has consistently diverted water from the upper drainage of Stockton Creek and from Cottonwood Creek to fill his reservoir. No irrigation has ever been accomplished with the water stored in this reservoir. The gates on Bosen's reservoir have never been opened to release water for irrigation or to let our water come through. Now if he proposes to release the water into Stockton Creek and use it on lands in Section 13, Township 13 South, Range 38 East; we will have the problem of assuring releases from the reservoir and segregating stored water downstream.

The Department may hold that this is the watermaster's responsibility. The facts, however, will show that the watermaster lives in Soda Springs and simply is not available to administer diversions on Stockton Creek.

Therefore, we are confident that approval of this amendment will reduce our water supplies and, thereby, injure our prior water rights and for this reason we are objecting to the Department's approval of this application.

Dated this _____day of July, 1982.

Ann Marie Bosen

Boyd Allen Graves

Ann Graves

Box 15

Soda Springs

Idaho 83276

Boyd Allen Graves

Kent Bosen

Edward Bosen

RECEIVED
JUL 23 19
Department of Water R
Eastern District Office

IN THE MATTER OF APPLICATION FOR)
AMENDMENT NO. 13-7127 IN THE NAME)
OF B-G-R CORPORATION) PROTEST

In February of 1976, Clair Bosen, Blair Graves and Don Rigby applied to the Idaho Department of Water Resources for a permit to appropriate 600 AF of water from Current Creek, a tributary of Stockton Creek. We objected to the approval of this permit because we were decreed the "continuous and uninterrupted flow of Stockton Creek." The Department found that there was water at times in Current Creek which was not needed to fill prior water rights and approved permit 13-7127.

The flows on Current Creek have never been sufficient and Bosen has consistently diverted water from the upper drainage of Stockton Creek and from Cottonwood Creek to fill his reservoir. No irrigation has ever been accomplished with the water stored in this reservoir. The gates on Bosen's reservoir have never been opened to release water for irrigation or to let our water come through. Now if he proposes to release the water into Stockton Creek and use it on lands in Section 13, Township 13 South, Range 38 East, we will have the problem of assuring releases from the reservoir and segregating stored water downstream.

The Department may hold that this is the watermaster's responsibility. The facts, however, will show that the watermaster lives in Soda Springs and simply is not available to administer diversions on Stockton Creek.

Therefore, we are confident that approval of this amendment will reduce our water supplies and, thereby, injure our prior water rights and for this reason we are objecting to the Department's approval of this application.

Dated this 21st day of July, 1982.

Boyd K. Allen
Lynn H. Merrill
Brent Abbott
Robert Hadley
Kent Hadley
James Abbott

Mr. Rodney Carlson:

If the other copies do not arrive, please file this copy.

James Abbott
James Abbott
Box 13
Swan Lake Idaho 83281
847 5555

RECEIVED
JUL 22 1982
Department of Water Resources
Eastern District Office

July 28, 1982

RE: Application for Amendment No. 13-7127

B-G-R Corporation
Clair D. Bosen
P.O. Box 167
Preston, Idaho 83263

Dear Mr. Bosen:

Enclosed please find a copy of the protest filed against the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for amendment:

1. Will the proposed change result in the diversion and use of more water than originally permitted?

2. Will the rights of others be adversely effected by the proposed change?

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matter of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

Enclosure (3)

cc: IDWR - State Office

July 28, 1982

RE: Application for Amendment No. 13-7127 B-G-R CORPORATION

Lynn H. Merrill
Swan Lake,
Idaho 83281

Dear Mr. Merrill:

This is to acknowledge receipt of the protest to issuance of the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for amendment:

1. Will the proposed change result in the diversion and use of more water than originally permitted?

2. Will the rights of others be adversely effected by the proposed change?

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matter of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

July 28, 1982

RE: Application for Amendment No. 13-7127 B-G-R CORPORATION

James Abbott
Box 13
Swan,Lake, Idaho 83281

Dear Mr. Abbott:

This is to acknowledge receipt of the protest to issuance of the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for amendment:

1. Will the proposed change result in the diversion and use of more water than originally permitted?

2. Will the rights of others be adversely effected by the proposed change?

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matter of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

July 28, 1982

RE: Application for Amendment No. 13-7127 B-G-R CORPORATION

Brent Abbott
Swan Lake,
Idaho 83281

Dear Mr. Abbott:

This is to acknowledge receipt of the protest to issuance of the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for amendment:

1. Will the proposed change result in the diversion and use of more water than originally permitted?

2. Will the rights of others be adversely effected by the proposed change?

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matter of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

July 28, 1982

RE: Application for Amendment No. 13-7127 B-G-R CORPORATION

Kent Hadley
Swan Lake,
Idaho 83281

Dear Mr. Hadley:

This is to acknowledge receipt of the protest to issuance of the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for amendment:

1. Will the proposed change result in the diversion and use of more water than originally permitted?

2. Will the rights of others be adversely effected by the proposed change?

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matter of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

July 28, 1982

RE: Application for Amendment No. 13-7127 B-G-R CORPORATION

Robert Hadley
Swan Lake,
Idaho 83281

Dear Mr. Hadley:

This is to acknowledge receipt of the protest to issuance of the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for amendment:

1. Will the proposed change result in the diversion and use of more water than originally permitted?

2. Will the rights of others be adversely effected by the proposed change?

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matter of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

RECEIVED
SEP 3 1982
Department of Water Resources
Eastern District Office

AUG 23 1982
Department of Water Resources
Eastern District Office
OK to Process

ASSIGNMENT OF WATER PERMIT

FOR VALUE RECEIVED, the undersigned, CLAIR D. BOSEN, BLAIR GREAVES and DON C. RIGBY, do hereby transfer, assign, sell and convey all our right, title and interest in Idaho Water Permit No. 13 7127, unto B-G-R CORPORATION, an Idaho Corporation, and authorize any changes necessary to be made upon public records. This Assignment is made in connection with certain Proposals to Acquire Shares in said corporation dated October 19, 1977, between ourselves and the Assignee herein.

DATED This 19th day of October, 1977.

CLAIR D. BOSEN

BLAIR GREAVES

DON C. RIGBY

STATE OF IDAHO)
)
County of Franklin)

On this 19th day of October, 1977, before me, the undersigned, a Notary Public in and for said State, personally appeared CLAIR D. BOSEN, BLAIR GREAVES and DON C. RIGBY, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

NOTARY PUBLIC for State of Idaho
Residing at Preston, Idaho

PROOF OF PUBLICATION

RECEIVED
JUL 21 1982
Department of Water Resources
Eastern District Office

STATE OF IDAHO
County of Bannock } ss.

Sheryl Gardiol

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

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

July 8, 1982	, 19
July 15, 1982	, 19
, 19	, 19
, 19	, 19
, 19	, 19

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

Sheryl Gardiol

Subscribed and sworn to before me this 20th day of July, 1982

Notary Public, State of Idaho
Residence: Pocatello, Idaho

NOTICE OF PROPOSED AMENDING OF WATER PERMIT

Notice is hereby given that Permit No. 13-7127 in the name of B-G-R- Corporation was issued for the diversion of 600af of water from runoff/Current Creek tributary to Stockton Creek with the point of diversion within the SE¼SW¼, SW¼SE¼, Sec. 33, T. 12S, R. 39E, B.M. Bannock County; with 2.4cfs of water used for irrigation of 120 acres within the SW¼SE¼, Sec. 33, T. 12S, R. 39E, NE¼NE¼, NE¼NW¼, Sec. 4, T. 13S, R. 39E, B.M. and 600af of water used for storage for irrigation.

The permit holder now proposes to amend Permit No. 13-7127, changing the place of use for irrigation to the NE¼NE¼, S½NE¼, Sec. 13, T. 13S, R. 38E, B.M.

Any protest to the proposed amending of the permit must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Idaho Falls, Idaho, 83401, on or before July 26, 1982.

S/A KENNETH DUNN
Director
July 8, 15, 1982
No. 15

RECEIVED

JUL 26 1982

Department of Water Resources
Eastern District Office

IN THE MATTER OF APPLICATION FOR)
AMENDMENT NO. 13-7127 IN THE NAME)
OF B-G-R CORPORATION) PROTEST

In February of 1976, Clair Bosen, Blair Graves and Don Rigby applied to the Idaho Department of Water Resources for a permit to appropriate 600 AF of water from Current Creek, a tributary of Stockton Creek. We objected to the approval of this permit because we were decreed the "continuous and uninterrupted flow of Stockton Creek." The Department found that there was water at times in Current Creek which was not needed to fill prior water rights and approved permit 13-7127.

The flows on Current Creek have never been sufficient and Bosen has consistently diverted water from the upper drainage of Stockton Creek and from Cottonwood Creek to fill his reservoir. No irrigation has ever been accomplished with the water stored in this reservoir. The gates on Bosen's reservoir have never been opened to release water for irrigation or to let our water come through. Now if he proposes to release the water into Stockton Creek and use it on lands in Section 13, Township 13 South, Range 38 East, we will have the problem of assuring releases from the reservoir and segregating stored water downstream.

The Department may hold that this is the watermaster's responsibility. The facts, however, will show that the watermaster lives in Soda Springs and simply is not available to administer diversions on Stockton Creek.

Therefore, we are confident that approval of this amendment will reduce our water supplies and, thereby, injure our prior water rights and for this reason we are objecting to the Department's approval of this application.

Dated this 23 day of July, 1982.

Lynn H. Merrill
Swan Lake
Idaho 83281

IN THE MATTER OF APPLICATION FOR)
AMENDMENT NO. 13-7127 IN THE NAME)
OF B-G-R CORPORATION) PROTEST

In February of 1976, Clair Bosen, Blair Graves and Don Rigby applied to the Idaho Department of Water Resources for a permit to appropriate 600 AF of water from Current Creek, a tributary of Stockton Creek. We objected to the approval of this permit because we were decreed the "continuous and uninterrupted flow of Stockton Creek." The Department found that there was water at times in Current Creek which was not needed to fill prior water rights and approved permit 13-7127.

The flows on Current Creek have never been sufficient and Bosen has consistently diverted water from the upper drainage of Stockton Creek and from Cottonwood Creek to fill his reservoir. No irrigation has ever been accomplished with the water stored in this reservoir. The gates on Bosen's reservoir have never been opened to release water for irrigation or to let our water come through. Now if he proposes to release the water into Stockton Creek and use it on lands in Section 13, Township 13 South, Range 38 East, we will have the problem of assuring releases from the reservoir and segregating stored water downstream.

The Department may hold that this is the watermaster's responsibility. The facts, however, will show that the watermaster lives in Soda Springs and simply is not available to administer diversions on Stockton Creek.

Therefore, we are confident that approval of this amendment will reduce our water supplies and, thereby, injure our prior water rights and for this reason we are objecting to the Department's approval of this application.

Dated this _____day of July, 1982.

Lynn Merrill is faxing.
Boyd Allen doesn't want to sign

James A Slatt
Box 13
Swan Lake
Idaho - 83281

James A Slatt
Brent Gilbert
Kent Hadley
Robert Hadley

RECEIVED
JUL 23 1982
Department of Water Resources
Eastern District Office

IN THE MATTER OF APPLICATION FOR)
AMENDMENT NO. 13-7127 IN THE NAME)
OF B-G-R CORPORATION) PROTEST

In February of 1976, Clair Bosen, Blair Graves and Don Rigby applied to the Idaho Department of Water Resources for a permit to appropriate 600 AF of water from Current Creek, a tributary of Stockton Creek. We objected to the approval of this permit because we were decreed the "continuous and uninterrupted flow of Stockton Creek." The Department found that there was water at times in Current Creek which was not needed to fill prior water rights and approved permit 13-7127.

The flows on Current Creek have never been sufficient and Bosen has consistently diverted water from the upper drainage of Stockton Creek and from Cottonwood Creek to fill his reservoir. No irrigation has ever been accomplished with the water stored in this reservoir. The gates on Bosen's reservoir have never been opened to release water for irrigation or to let our water come through. Now if he proposes to release the water into Stockton Creek and use it on lands in Section 13, Township 13 South, Range 38 East, we will have the problem of assuring releases from the reservoir and segregating stored water downstream.

The Department may hold that this is the watermaster's responsibility. The facts, however, will show that the watermaster lives in Soda Springs and simply is not available to administer diversions on Stockton Creek.

Therefore, we are confident that approval of this amendment will reduce our water supplies and, thereby, injure our prior water rights and for this reason we are objecting to the Department's approval of this application.

Dated this 21st day of July, 1982.

Boyd ~~K.~~ Allen
Lynn H. Merrill
Brent Abbott
Robert Hadley
Kent Hadley
James Abbott

Mr. Rodney Carlson:

If the other copies do not arrive, please file this copy.

James Abbott

James Abbott
Box 13
Swan Lake Idaho 83281
897 5535-8

RECEIVED
JUL 22 1982
Department of Water Resources
Eastern District Office

Form 211
5/78

Ident. No. 13 7127

STATE OF IDAHO

APPROVED DEPARTMENT OF WATER RESOURCES

RECEIVED
JUN 28 1982
Department of Water Resources
Eastern District Office

APPLICATION FOR AMENDMENT OF A PERMIT

To change the point of diversion and/or the place of use.

Comes now B-G-R Corporation through its sole shareholder, Clair D. Bosen of (address) P.O. Box 167, Preston, Idaho 83263, and represents to the Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 13-7127, and requests that the permit and permit map be changed as follows:

1. Point of diversion: SE ¼ SW ¼, Section 33, Township 12 S., Range 39 E., B.M., County of Bannock. Other points of diversion: SW1/4 of SE1/4 of Section 33, Township 12 South, Range 39 East of Boise Meridian, Bannock County, Idaho

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount 2.4 (cfs or acre feet per annum) for Irrigation Storage purposes from April 1 to Nov. 1 (both dates inclusive)

Amount 600 (cfs or acre feet per annum) for Irrigation purposes from Nov. 1 to April 1 (both dates inclusive)

Amount _____ (cfs or acre feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

Amount _____ (cfs or acre feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

3. Place of use or land to be irrigated:

TWP	RGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
13S	38E	13	40		40	40													120

Total number of acres to be irrigated = 120

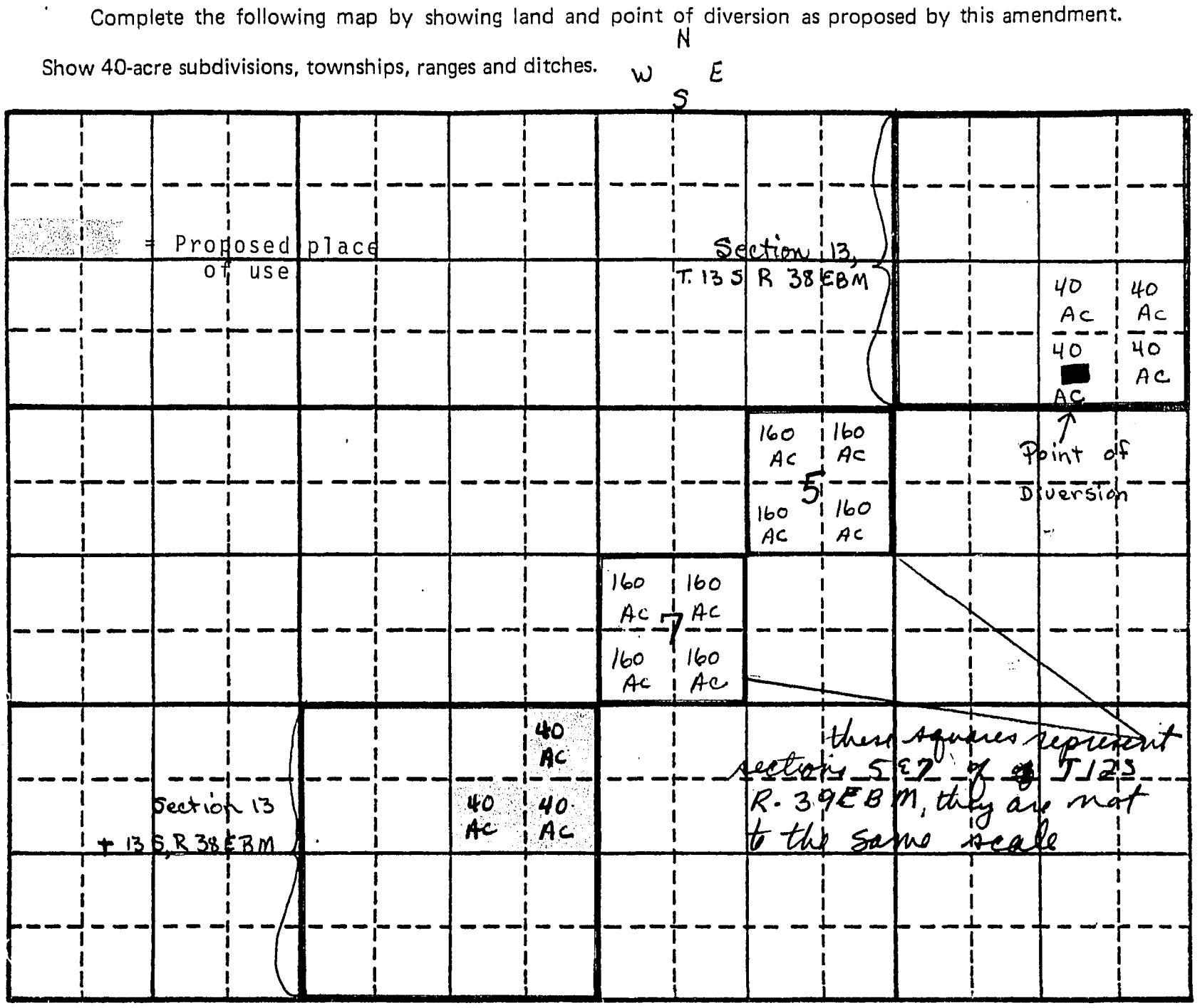
4. a. Who owns the property at the point of diversion? B-G-R Corporation

b. Who owns the land to be irrigated or the place of use? Clair D. Bosen

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Clair D. Bosen is the sole shareholder of B-G-R Corporation

Complete the following map by showing land and point of diversion as proposed by this amendment.

Show 40-acre subdivisions, townships, ranges and ditches.



Scale: 2 inches equal 1 mile.

That no one will be injured by such change, and that such change will be made at permit holder's own risk.

Signed at Preston, IDAHO, this 9th day of June, 19 82.

X _____
(Signature)

FOR DEPARTMENT USE ONLY

Preliminary check by sm Fee = $20.00 Receipted by BP Date 6-29-82 # 22345

Publication prepared by bp Date _____ Published in Idaho State Journal

Publication dates July 8 and 15, 1982

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

I, L. GLEN SAXTON, of the Department of Water Resources hereby

APPROVE the above Application for Amendment of Permit No. 13-7127.

Witness my hand this 22nd day of March, 19 83.

L. Glen Saxton
Chief, Operations Bureau

NOTICE OF PROPOSED AMENDING OF WATER PERMIT

Notice is hereby given that Permit No. 13-7127 in the name of B-G-R- Corporation was issued for the diversion of 600af of water from runoff/Current Creek tributary to Stockton Creek with the point of diversion within the SE¼SW¼, SW¼SE¼, Sec, 33, T. 12S, R. 39E, B.M. Bannock County; with 2.4cfs of water used for irrigation of 120 acres within the SW¼SE¼, Sec. 33, T. 12S, R. 39E, NE¼NE¼, NE¼NW¼, Sec. 4, T. 13S, R. 39E, B.M. and 600af of water used for storage for irrigation.

The permit holder now proposes to amend Permit No. 13-7127, changing the place of use for irrigation to the NE¼NE¼, S½NE¼, Sec. 13, T. 13S, R. 38E, B.M.

Any protest to the proposed amending of the permit must be filed with The Idaho Department of Water Resources, 150 Shoup Ave., Idaho Falls, Idaho, 83401, on or before July 26, 1982.

A. KENNETH DUNN

Director

Published in the Idaho State Journal, Pocatello, Idaho on July 8 and 15, 1982.

July 28, 1982

RE: Application for Amendment No. 13-7127

B-G-R Corporation
Clair D. Bosen
P.O. Box 167
Preston, Idaho 83263

Dear Mr. Bosen:

Enclosed please find a copy of the protest filed against the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for amendment:

1. Will the proposed change result in the diversion and use of more water than originally permitted?

2. Will the rights of others be adversely effected by the proposed change?

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matter of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

Enclosure (3)

cc: IDWR - State Office

July 28, 1982

RE: Application for Amendment No. 13-7127 B-G-R CORPORATION

Lynn H. Merrill
Swan Lake,
Idaho 83281

Dear Mr. Merrill:

This is to acknowledge receipt of the protest to issuance of the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for amendment:

1. Will the proposed change result in the diversion and use of more water than originally permitted?

2. Will the rights of others be adversely effected by the proposed change?

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matter of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

July 28, 1982

RE: Application for Amendment No. 13-7127 B-G-R CORPORATION

James Abbott
Box 13
Swan,Lake, Idaho 83281

Dear Mr. Abbott:

This is to acknowledge receipt of the protest to issuance of the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for amendment:

1. Will the proposed change result in the diversion and use of more water than originally permitted?

2. Will the rights of others be adversely effected by the proposed change?

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matter of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

July 28, 1982

RE: Application for Amendment No. 13-7127 B-G-R CORPORATION

Brent Abbott
Swan Lake,
Idaho 83281

Dear Mr. Abbott:

This is to acknowledge receipt of the protest to issuance of the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for amendment:

1. Will the proposed change result in the diversion and use of more water than originally permitted?

2. Will the rights of others be adversely effected by the proposed change?

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matter of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

July 28, 1982

RE: Application for Amendment No. 13-7127 B-G-R CORPORATION

Kent Hadley
Swan Lake,
Idaho 83281

Dear Mr. Hadley:

This is to acknowledge receipt of the protest to issuance of the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for amendment:

1. Will the proposed change result in the diversion and use of more water than originally permitted?

2. Will the rights of others be adversely effected by the proposed change?

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matter of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

July 28, 1982

RE: Application for Amendment No. 13-

Clair Bosen H 852-1858
O 852-1711
Busy, asked if he would return call.
11:30 - Returned call - Okayed scheduling hearing.

Robert Hadley
Swan Lake,
Idaho 83281

Dear Mr. Hadley:

This is to acknowledge receipt of the protest to issuance of the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for amendment:

1. Will the proposed change result in the diversion and use of more water than originally permitted?

2. Will the rights of others be adversely effected by the proposed change?

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matter of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR AMENDMENT NO. 13-7127 IN THE NAME OF B-G-R CORPORATION	NOTICE OF HEARING AND/OR CONFERENCE

On June 28, 1982, B-G-R Corporation of Preston, Idaho filed with the Department of Water Resources an application to amend permit No. 13-7127. On July 22, 1982, the Department received a protest against approval of said appliction from James Abbott. On July 23, a protest was received from Brent Abbott, Kent Hadley, and Robert Hadley; and on July 26, 1982 an additional protest was received from Lynn H. Merrill.

The Department has set the matter of protest for hearing for Wednesday, September 29, 1982, at 11:00 a.m. in the Commissioner's Room, Franklin County Courthouse, Preston, Idaho. The hearing will be held in accordance with provisions of Chapter 2 and 17, Title 42 and Chapter 52, Title 67 of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved. A pre-hearing conference may be held beginning at the above set time and prior to the hearing.

Dated this 15th day of September, 1982.

Ronald D Carlson

RONALD D. CARLSON

Eastern Regional Supervisor

PS Form 3877, Sept. 1979 — ACCEPTANCE OF REGISTERED, INSURED, C.O.D. AND CERTIFIED MAIL

NAME AND ADDRESS OF SENDER

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE.
IDAHO FALLS, IDAHO 83401

Indicate type of mail
- ☐ Registered
- ☐ Insured
- ☐ COD
- ☒ Certified

I certify that we have
- ☐ Commercial Insurance
- ☐ A deductible clause of $

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

LINE	NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	Handling Charge	Actual Value (If Registered)	DUE SENDER IF C.O.D.	R. R. FEE	S.D. FEE	S. H. FEE	REST. DEL. FEE / REMARKS
1	13005	Lynn H Merrill, Swan Lake	20	75				60			am. 13 - 7127
2	13006	James Abbott, Box 13, Swan Lake									"
3	13007	Brent Abbott, Swan Lake									"
4	13008	Kent Hadley, Swan Lake									"
5	13009	Robert Hadley, Swan Lake									"
6				$3.00		total					
7											
8											
9											
10											
11											
12											
13											
14											
15											

TOTAL NUMBER OF PIECES LISTED BY SENDER	TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE	*POSTMASTER, PER (Name of receiving employee)*
5	15	R Olsen

The full declaration of value is required on all domestic and international registered mail. Commercial Insurance—Payment of the full registry fee is required on articles valued up to $1,000 or the full amount of the deductible if the deductible exceeds $1,000. The maximum indemnity payable is $25,000 for registered mail, $400 for COD and $400 for insured mail. Special handling charges apply only to third- and fourth-class parcels. Special delivery service also includes special handling service.

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN ☆ U.S. GOVERNMENT PRINTING OFFICE: 1979-301-994

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE.
IDAHO FALLS, IDAHO 83401

NAME AND ADDRESS OF SENDER

Indicate type of mail
☐ Registered
☐ Insured
☐ COD
☐ Certified

I certify that we have
☐ Commercial Insurance
☐ A deductible clause of $

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

PS Form 3877, Sept. 1979 — ACCEPTANCE OF REGISTERED, INSURED, C.O.D. AND CERTIFIED MAIL

LINE	NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	Handling Charge	Actual Value (If Registered)	DUE SENDER IF C.O.D.	R. R. FEE	S.D. FEE	S. H. FEE	REST. DEL. FEE / REMARKS
1	12990	Joyce L Williams 1407 W North Temple SLC	20	75				60			11-7284
2	12991	Lucile Ann B Jensen, Star Rt #2 Preston									"
3	12992	Grant Haddock, Soda Springs									11-1058
4	12993	Dean Ward, Bloomington									"
5	12994	Arden Nelson 484 Washington, Montpelier									"
6	12995	Ardella Peterson, 177 East 2nd N, Richfield									"
7	12996	Mayo Krogue, Bloomington									"
8	12997	James Layne, Bloomington									"
9	12998	Arlen Wilkes, St. Charles Idd.									"
10	12999	Lunard Livingston c/o Box 915 Soda Spgs									"
11	13000	Jay A Kohler, 152 Washington, Montpelier									"
12	13001	Clyde Nelson, P.O Box 797 Soda Springs									"
13	13002	Warren Day, Star Rt Box 64, Preston									11-0597
14	13003	L Junior White, Star Rt. Preston, Idd									"
15	13004	BJK Corp. P.O Box 167, Preston, Idd									Am. 13-7127

TOTAL NUMBER OF PIECES LISTED BY SENDER	TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE	*POSTMASTER, PER (Name of receiving employee)*
15	15	R Cass

The full declaration of value is required on all domestic and international registered mail. Commercial Insurance—Payment of the full registry fee is required on articles valued up to $1,000 or the full amount of the deductible if the deductible exceeds $1,000. The maximum indemnity payable is $25,000 for registered mail, $400 for COD and $400 for insured mail. Special handling charges apply only to third- and fourth-class parcels. Special delivery service also includes special handling service.

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN ☆ U.S. GOVERNMENT PRINTING OFFICE: 1979-301-994

13-7127

PS Form 3811, Jan. 1979

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

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

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Lynn H. Merrill
Swan Lake
Id. 83281

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	13005	

(Always obtain signature of addressee or agent)

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

4. Lynn Merrill - Jeanny Merr
DATE OF DELIVERY 9-17-82
POSTMARK SWAN LAKE, P.M. SEP 17 1982

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS mwt,

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

☆GPO : 1979-288-848

13-7127

PS Form 3811, Jan. 1979

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

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

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Kent Hadley
Swan Lake, Id.

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	13008	

(Always obtain signature of addressee or agent)

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

4. Kent Hadley
DATE OF DELIVERY 9-17-82
POSTMARK SWAN LAKE, P.M. SEP 17 1982

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS mwt,

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

☆GPO : 1979-288-848

13-7127

PS Form 3811, Jan. 1979

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

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

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
James Abbott Day 13
Swan Lake
Idaho 83281

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	13006	

(Always obtain signature of addressee or agent)

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

4. James Abbott
DATE OF DELIVERY 9-17-82
POSTMARK SWAN LAKE, P.M. SEP 17 1982

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS Rwt

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

☆GPO : 1979-288-848

☆GPO : 1979-288-848

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

PS Form 3811, Jan. 1979

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

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

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Kent Hadley
Swan Lake, Id. 83281

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	13009	

(Always obtain signature of addressee or agent)

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

4. Robert Hadley
DATE OF DELIVERY 9-18-82
POSTMARK SWAN LAKE, P.M. SEP 18 1982

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS mwt,

☆GPO : 1979-288-848

13-7127

PS Form 3811, Jan. 1979

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

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

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Brent Abbott
Swan Lake, Id 83281

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	13007	

(Always obtain signature of addressee or agent)

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

4. Brent Abbott
DATE OF DELIVERY 9-17-82
POSTMARK SWAN LAKE, P.M. SEP 17 1982

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS mwt,

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

☆GPO : 1979-288-848

13-7127

PS Form 3811, Jan. 1979

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

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

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Brent Abbott
Swan Lake, Id 83281

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	13007	

(Always obtain signature of addressee or agent)

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

4. Brent Abbott
DATE OF DELIVERY 9-17-82
POSTMARK SWAN LAKE, P.M. SEP 17 1982

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS mwt,

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

☆GPO : 1979-288-848

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS
Print your name, address, and ZIP Code in the space below.
- Complete items 1, 2, and 3 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

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

RETURN TO

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE.
IDAHO FALLS, IDAHO 83401

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

SEP 20 1982
Department of Water Resources
Eastern District Office

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS
Print your name, address, and ZIP Code in the space below.
- Complete items 1, 2, and 3 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

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

RETURN TO

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE.
IDAHO FALLS, IDAHO 83401

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

SEP 20 1982
Department of Water Resources
Eastern District Office

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS
Print your name, address, and ZIP Code in the space below.
- Complete items 1, 2, and 3 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

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

RETURN TO

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE.
IDAHO FALLS, IDAHO 83401

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

SEP 20 1982
Department of Water Resources
Eastern District Office

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS
Print your name, address, and ZIP Code in the space below.
- Complete items 1, 2, and 3 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

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

RETURN TO

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE.
IDAHO FALLS, IDAHO 83401

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

SEP 20 1982
Department of Water Resources
Eastern District Office

WILLIAMS & CASTLETON
LAW OFFICES
24 NORTH STATE - P. O. BOX 191
PRESTON, IDAHO 83263

J. DENNIS "J. D." WILLIAMS
LOWELL D. CASTLETON

DALLIN J. PHILLIPS

TELEPHONE:
(208) 852-2680

September 23, 1982

Mr. Ronald E. Carlson
Eastern Regional Supervisor
Department of Water Resources
150 Shoup Avenue
Idaho Falls, ID 83401

Re: Application for Subpoenas in the Matter of the
Application for Transfer of Water Right No. 11-0597

Dear Ron:

In order to provide a friendly inducement for several witnesses to appear the above referenced hearing scheduled for next Wednesday, September 29, 1982, here in Preston, it would be helpful if you could bring with you (or send in advance if that is possible) subpoenas for the individuals stated in the enclosed application.

Quite frankly, I believe these people will come any way but they have indicated that they would like to have a subpoena. I suspect that this is to save face among neighbors since there appears to be no question about the nature of the testimony they will give.

If you have any questions, please let me know.

Yours very truly,

WILLIAMS & CASTLETON

LOWELL D. CASTLETON
Attorney at Law

LDC/cr

Enclosure

P.S. Our law firm will also be representing Clair Bosen and B-G-R Corporation in the hearing set for 11:00 o'clock a.m. on the same day in the matter of the Application for Amendment No. 13-7127. I have not received any copies of protest, etc., except through our client and am a little disappointed since our firm filed the Application on behalf of Bosen and the corporation.

September 24, 1982

Lowell Castleton, Atty.
24 North State, P.O. Box 191
Preston, Idaho 83263

RE: Ammended Application No. 13-7127, B-G-R- Corp.

Dear Mr. Castleton:

Enclosed is a copy of each protest the Department has received concerning the above captioned application. Your office has been added to our mailing list and will receive a copy of all correspondence from this day forward.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:bp

Enclosures

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR AMENDMENT NO. 13-7127 IN THE NAME OF B-G-R CORPORATION	STIPULATION

BY THIS STIPULATION, the undersigned parties to the above-captioned case waive compliance with the requirements of Idaho Code, Section 67-5211, including the right to a proposed decision, to file exceptions to a proposed decision and to present briefs and oral arguments to the Director of the Department of Water Resources and agree that the Director may render a final decision in this case without first submitting a proposed decision.

Dated this _____ day _____, 19____.

_____

_____

_____

_____

_____

(Notary Subscription)

Am 13-7127 - B-G-R Corporation

Commissioner's Room, Franklin County Courthouse, Preston, Idaho

Wednesday, September 29, 1982
11:00 a.m.

ROSTER OF ATTENDANCE

Hearing Officer _____

Name	Address	Representing
Lowell D. Castleton	P.O. Box 191 Preston, ID 83263	B-G-R Corp. / Clair Bosen
Clair O. Bosen	Rt#2 Preston Id.	BGR Clair Bosen
Robert Hadley	Swan Lake	Robert Hadley
LYNN H. MERRILL	SWAN LAKE	LYNN H MERRILL
Brent ABBOTT	Swan Lake	Brent ABBOTT
Kent HADLEY	Swan Lake	Kent HADLEY

WITHDRAWAL OF PROTEST

We hereby agree to withdraw our protest against the approval of application for amendment of 13-7127 with the understanding that the Dept. will require appropriate measuring devices as a condition of approval.

signed at preston Idaho this 29th day of October 1982.

Brent Chatwin

Robert Hadley

Lynn W McNeil

Robert Hadley

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
AMENDMENT NO. 13-7127 IN THE NAME) SHOW CAUSE ORDER
B-G-R CORPORATION)
)

On June 28, 1982, B-G-R Corporation of Preston, Idaho filed with the Idaho Department of Water Resources an application to amend permit No. 13-7127 with the point of diversion for 2.40 cubic feet per second and 600 acre-feet within the SE¼SW¼, SW¼SE¼, Section 33, Township 12 South, Range 39 East, B.M. to be used from November 1 to April 1 for storage for irrigation and from April 1 to November 1 for the irrigation of 120 acres within the E½NE¼, SW¼NE¼, Section 13, Township 13 South, Range 38 East. Notice of this proposed amendment was published in the Idaho State Journal on July 8 and 15, 1982.

WHEREAS, on July 22, 1982, the Department received a protest against approval of said amendment from James Abbott. On July 23, an additional protest was received from Brent Abbott, Kent Hadley, and Robert Hadley; and on July 26, a protest was received from Lynn H. Merrill.

A hearing concerning this matter was held on Wednesday, September 29, 1982, at 11:00 a.m. in the Commissioner's Room, Franklin County Courthouse, Preston, Idaho at which time the protestant, James Abbott, failed to appear.

IT IS, THEREFORE, HEREBY ORDERED that the protestant show cause on or before January 28, 1983, why the protest should not be set aside for failure of the protestant to appear at the hearing.

Dated this 17th day of January, 1983.

Ronald D Carlson

RONALD D. CARLSON

Eastern Regional Supervisor

13-7127

PS Form 3811, Jan. 1979

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

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

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

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
James Abbott
Box 13
Swan Lake, Id. 83281

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	13065	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐Addressee ☐Authorized agent
James Abbott

4. DATE OF DELIVERY
1-19-83

POSTMARK
SWAN LAKE, IL
P.M.
JAN
19
1983
83281

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS
MWD

☆GPO : 1979-288-848

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

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

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

WANLAKE
RM.
JAN
19
1983
83281

U.S.MAIL

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE.
IDAHO FALLS, IDAHO 83401

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

RETURN TO RECEIVED

Department of Water Resources
Eastern District Office

JAN 20 1983

RECEIVED
FEB 1 1983
Department of Water Resources
Eastern District Office

Sorry I was unable to attend the
hearing held in Boston on Sept 29 1982

I agree to accept the conditions
for the withdrawal of the protest as
agreed at the conference held on this matter

James Abbott

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR	)	
AMENDMENT NO. 13-7127 IN THE NAME	)	SHOW CAUSE ORDER
B-G-R CORPORATION	)	
	)	

On June 28, 1982, B-G-R Corporation of Preston, Idaho filed with the Idaho Department of Water Resources an application to amend permit No. 13-7127 with the point of diversion for 2.40 cubic feet per second and 600 acre-feet within the SE¼SW¼, SW¼SE¼, Section 33, Township 12 South, Range 39 East, B.M. to be used from November 1 to April 1 for storage for irrigation and from April 1 to November 1 for the irrigation of 120 acres within the E½NE¼, SW¼NE¼, Section 13, Township 13 South, Range 38 East. Notice of this proposed amendment was published in the Idaho State Journal on July 8 and 15, 1982.

WHEREAS, on July 22, 1982, the Department received a protest against approval of said amendment from James Abbott. On July 23, an additional protest was received from Brent Abbott, Kent Hadley, and Robert Hadley; and on July 26, a protest was received from Lynn H. Merrill.

A hearing concerning this matter was held on Wednesday, September 29, 1982, at 11:00 a.m. in the Commissioner's Room, Franklin County Courthouse, Preston, Idaho at which time the protestant, James Abbott, failed to appear.

IT IS, THEREFORE, HEREBY ORDERED that the protestant show cause on or before January 28, 1983, why the protest should not be set aside for failure of the protestant to appear at the hearing.

Dated this 17th day of January, 1983.

RONALD D. CARLSON

Eastern Regional Supervisor

-Suite 15

February 8, 1983

RE: Amended Application No. 13-7127

Mr. James Abbott
Box 13
Swan Lake, Idaho 83281

Dear Mr. Abbott:

This letter is to acknowledge your withdrawal of protest against approval of the above referenced application. The Department has resumed processing of this application.

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

Very truly yours,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

February 8, 1983

RE: Amended Application No. 13-7127

Mr. Clair D. Bosen
B-G-R Corporation
P.O. Box 167
Preston, Idaho 83263

Gentlemen:

This letter is to advise you that Mr. James Abbott has withdrawn his protest against the above referenced application. The Department has, therefore, resumed the processing of your application.

Very truly yours,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Form No. 211a
11/78

State of Idaho
Department of Water Resources

AMENDMENT ANALYSIS SHEET

INITIAL REVIEW BY: Stac McCormick

Right Number 13-7127 Applicant B-G-12. Corp.

Purpose of Amendment: ☐ Change point of diversion. ☐ Add diversion point(s).

☐ Increase amount. ☒ Change place of use. ☐ Other _____

INTER-DEPARTMENT MEMO — 1

DATE 3-16-83

FROM Jim

TO File

SUBJECT Special conditions requested by Ernie Carlson

The condition requiring area capacity curve by certified Engenier is already an requirement within condition # 3 on the Memorandum Decision and Order. Section 42-1712 requires area capacity curves as part of the dam and reservoir design which must be certified by a professional engineer.

over

SIGNATURE

...Department of Water Resources

Boise, Idaho, June 29, 1982

No 22345

RECEIVED FROM Clair Bosen of Preston $ 20.00

Twenty Dollars and 00/100's DOLLARS

FOR		
Amend App	$ 20	00
	$	
	$	
	$	
TOTAL - - -	$ 20	00

Barbara L. Powers

RECEIVED
10 1983
of Water Resources

The water master condition is also contained on the Memorandum Decision.

INTER-DEPARTMENT MEMO — 1

DATE Feb 8, 1983.

Amended Approved

FROM Ernie

TO File

SUBJECT In addition to the conditions listed on the Memorandum Decision & Order, consideration should be given to adding the following conditions to the original permit

A) A lockable device, subject to the approval of the Dept. shall be permanently installed on the outlet pipe in a manner that will provide the watermaster suitable control of the diversion.

B) For licensing purposes, the applicant shall submit to the Dept. an area capacity curve of the reservoir certified by a professional engineer and complying with the standards of the Dept.

SIGNATURE

...Water Resources

No 22345

Boise, Idaho, June 29, 1952

RECEIVED FROM Clair Bosen of Preston $ 20.00

Twenty Dollars and 00/100's DOLLARS

FOR		
Amend App	$ 20	00
	$	
	$	
	$	
TOTAL - - -	$ 20	00

Barbara L. Powers

EIVED

10 1983

f Water Resources



CHECK:

- OK Description of amended point(s) of diversion.
- OK Amount, nature and period of use. ~~If increased, delay date of priority.~~
- OK Description of amended places of use. ~~If expanded, delay date of priority.~~
- N/A Ownership of point of diversion and place of use.
- OK Map.
- OK Signature (must be permit holder).
- OK Fee. (20.00)
- OK Existing water rights from the same source, amended place of use.
- OK Right number(s) None
- OK Yes ☐ No Should amendment be advertised?
- N/A ☐ Yes ☒ No ~~Should date of priority be delayed? If yes, to what date?~~ _____

No other rights for storage or Natural flow from same source found Jmi

FINAL REGIONAL PROCESSING REVIEW:

- ☑ Affidavit of publication received.
- ☑ Amendment published correctly.
- OK Protests processed.
- OK Approve.
- ☐ Deny.

July 26, 1982

Conditions _____

STATE OF IDAHO

Department of Water Resources

No 22345

Boise, Idaho, June 29, 1982

RECEIVED FROM Clair Bosen of Preston $ 20.00

Twenty Dollars and 00/100's DOLLARS

FOR		
Amend App	$ 20	00
	$	
	$	
	$	
TOTAL - - -	$ 20	00

Barbara L. Powers

EIVED

L 0 1983

f Water Resources

CHECK:

- [x] Description of amended point(s) of diversion.
- [x] Amount, nature and period of use. ~~If increased, delay date of priority.~~
- [x] Description of amended places of use. ~~If expanded, delay date of priority.~~
- [N/A] Ownership of point of diversion and place of use.
- [x] Map.
- [x] Signature (must be permit holder).
- [x] Fee. (20.00)
- [x] Existing water rights from the same source, amended place of use. No other rights for storage or Natural flows from same source found
- [x] Right number(s) None
- [x] Yes ☐ No Should amendment be advertised?
- [N/A] ☐ Yes ☒ No ~~Should date of priority be delayed? If yes, to what date?~~ _____ jmi

FINAL REGIONAL PROCESSING REVIEW:

- [x] Affidavit of publication received.
- [x] Amendment published correctly. July 26, 1982
- [x] Protests processed.
- [x] Approve.
- ☐ Deny.

Conditions _____

By EMC Date Feb 8, 1983.

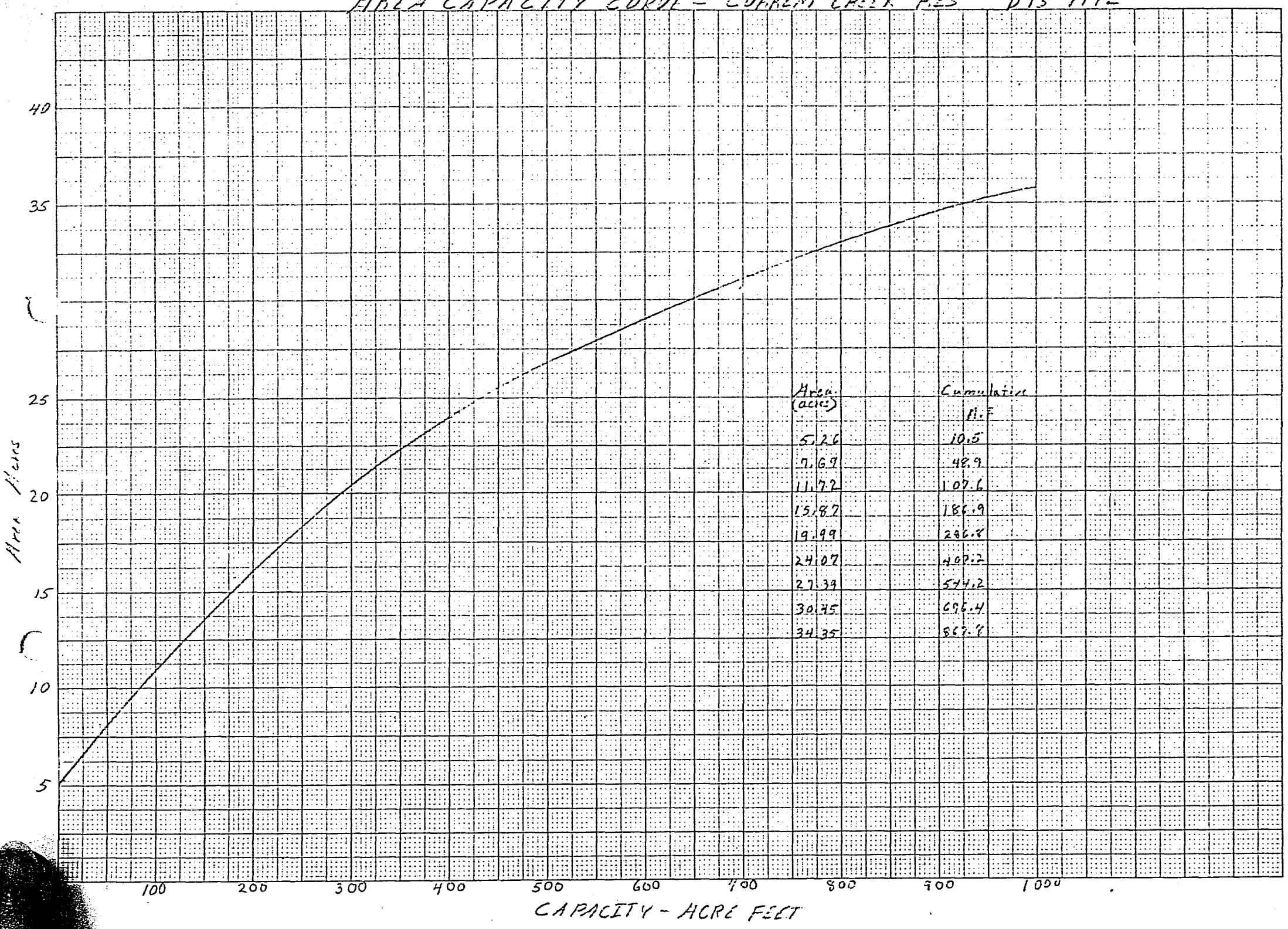
STATE OFFICE PROCESSING:

- [x] Amendment correct and complete. By jmi Date 3-17-83
- ☐ Approved copy sent to applicant and to Region. By _____ Date _____

RECEIVED
FEB 10 1983
Department of Water Resources

STATE OF IDAHO
Department of Water Resources
Boise, Idaho,
RECEIVED FROM Clair Boyer
Twenty dollars
FOR Amend App
TOTAL $ 20 00

AREA CAPACITY CURVE - CURRENT CREEK RES D13-7172



Area (acres)	Cumulative A.F.
5.26	10.5
7.69	48.9
11.72	107.6
15.87	185.9
19.99	286.8
24.07	409.2
27.39	544.2
30.45	696.4
34.35	867.9

46 1510

K+E KEUFFEL & ESSER CO. MADE IN U.S.A. 10 X 10 TO THE CENTIMETER 18 X 25 CM.

May 4, 1983

RE: Permit No. 13-7127

B-G-R Corporation
through Clair D. Bosen
P.O. Box 167
Preston, ID 83263

Dear Mr. Bosen:

Enclosed is a copy of your approved application for amendment submitted in connection with the above referenced permit.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:kw
Enclosure

JUN 25 1987

NOTICE OF TRANSFER OF OWNERSHIP Department of Water Resources

TO: Idaho Department of Water Resources
150 Shoup, Suite 15
Idaho Falls, Idaho 83402

COME NOW, B-G-R Corporation, an Idaho corporation (Seller) and LAWRENCE H. MILLER and KAREN G. MILLER (Buyer), and hereby notify the Idaho Department of Water Resources that Seller has sold and Buyer has purchased certain property, including that property located in Section 33, Township 12 South, Range 39 East of the Boise Meridian, and which includes all of the land upon which the "Current Creek Dam and Reservoir" is located.

This is to authorize and direct the Idaho Department of Water Resources to change its records and indexes to reflect this change of ownership. This is also to authorize and direct the Idaho Department of Water Resources to change its ownership records to reflect the new owners' names and address as follows:

Lawrence H. Miller and Karen G. Miller, not as community property and not as tenants in common, but as joint tenants with right of survivorship, or their nominee,
5800 South State
Murray, Utah 84107

with a copy to:

Dennis V. Haslam, Esquire
WINDER & HASLAM
175 West 200 South
Suite 4004
Salt Lake City, Utah 84101

DATED this 23rd day of April, 1987.

SELLER:

B-G-R Corporation, an Idaho corporation

BY: _____
CLAIR D. BOSEN, President

BUYER:

Lawrence H. Miller
LAWRENCE H. MILLER

Karen G. Miller
KAREN G. MILLER

NOTICE OF TRANSFER OF OWNERSHIP

STATE OF UTAH)
)ss.
COUNTY OF SALT LAKE)

On this 23rd day of April, 1987, before me, Suzy Edwards, a Notary Public, personally appeared CLAIR D. BOSEN, known or identified to me to be the President of B-G-R CORPORATION, that executed the within instrument or the person whose executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Suzy Edwards
NOTARY PUBLIC
Residing at: Salt Lake Co., UT
My Commission Expires: 3-20-90

STATE OF UTAH)
)ss.
COUNTY OF SALT LAKE)

On this 23rd day of April, 1987, before me, Marilyn N. Nunetia, a Notary Public, personally appeared LAWRENCE H. MILLER and KAREN G. MILLER, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

Marilyn N. Nunetia
NOTARY PUBLIC
Residing at: Salt Lake Co., UT
My Commission Expires: June 26, 1989

NOTICE OF TRANSFER OF OWNERSHIP

WATER RIGHT SPLIT

SUMMARY

ACTION	RIGHT NO.	NAME	AMOUNT C.F.S.
Orginial Permit	13-7127	Blair Greaves, Clair Bosen, Don Rigby	600.0 AF
Full Assignment	13-7127	B G R Corporation	600.0 AF
Full Assignment	13-7127	Miller, Lawrence H. Karen G.	600 AF

ATTORNEYS
AT
LAW
WINDER&HASLAM

SUITE 4004
175 WEST 200 SOUTH
SALT LAKE CITY, UTAH 84101
(801) 322-2222

ROBERT D. TINGEY

RECEIVED
JUN 25 1987
Department of Water Resources

June 23, 1987

State of Idaho
Dept. of Water Resources
State Office
450 West State Street
Boise, Idaho 83720

13-7127

Re: BGR Corporation/Miller Transaction

Dear Sirs:

Enclosed for your files is the original NOTICE OF TRANSFER OF OWNERSHIP between BGR Corporation as Seller and Lawrence H. Miller and Karen G. Miller as Buyer. We have kept a copy for our files.

If you have any questions, please give me a call.

Sincerely yours,

ROBERT D. TINGEY

RDT/kr

Enclosure

cc: Mr. Larry H. Miller

Permit No. 13-7127

ASSIGNMENT REVIEW CHECK LIST

1. Signature of Permit Holder? YES
2. Notary? YES
3. a. Full Assignment? YES
   b. Partial Assignment?
4. "No assignment" condition on permit? NO
5. Commencement of Works received? B/U REC'D
   a. Commencement of works requested?
   b. Show Cause Order drafted & sent?
   c. Cancellation necessary?
6. Affidavit of residency required? NO
7. Extension granted due to litigation?
   (If yes, commencement of works is not required.)

1. Type permit summary sheet. Sharla —
2. Coding sheet. ✓ Sharla — #1a ~~#1/2~~
3. Acknowledgement letter type.
4. Copy to region. Sharla —

Date 6-30-87

Employee Jim

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

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

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

July 21, 1987

RE: Permit No. 13-7127

Lawrence H. &/or Karen G. Miller
5800 S. State
Murray, UT 84107

Dear Permit Holder(s):

This office acknowledges receipt of the Assignment of the above referenced permit to you. Enclosed for your records is a copy of the permit.

In reviewing the permit, we find that the next step towards licensing of the permit will be for our regional office to examine your water right system.

If you have any questions regarding this matter, please feel free to contact us.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc
Enclosures