Received by dh Date 7-27-79 Time 3:15 p.m.

Preliminary check by EMC. Fee $ 35.00

Receipted by dh Date 7-27-79 #13621

Publication prepared by dh Date 8-3-79

Published in Preston Citizen

Publication dates August 9 & 16, 1979

Publication approved HRK Date 9-14-79

Protests filed by: Sheldon Beutler, Travis Bergeson; Wes Nash;
R. Ward Nielsen

Copies of protests forwarded by CEC

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. 13-7255 , and said application is hereby APPROVED .

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

   a. SUBJECT TO ALL PRIOR WATER RIGHTS.

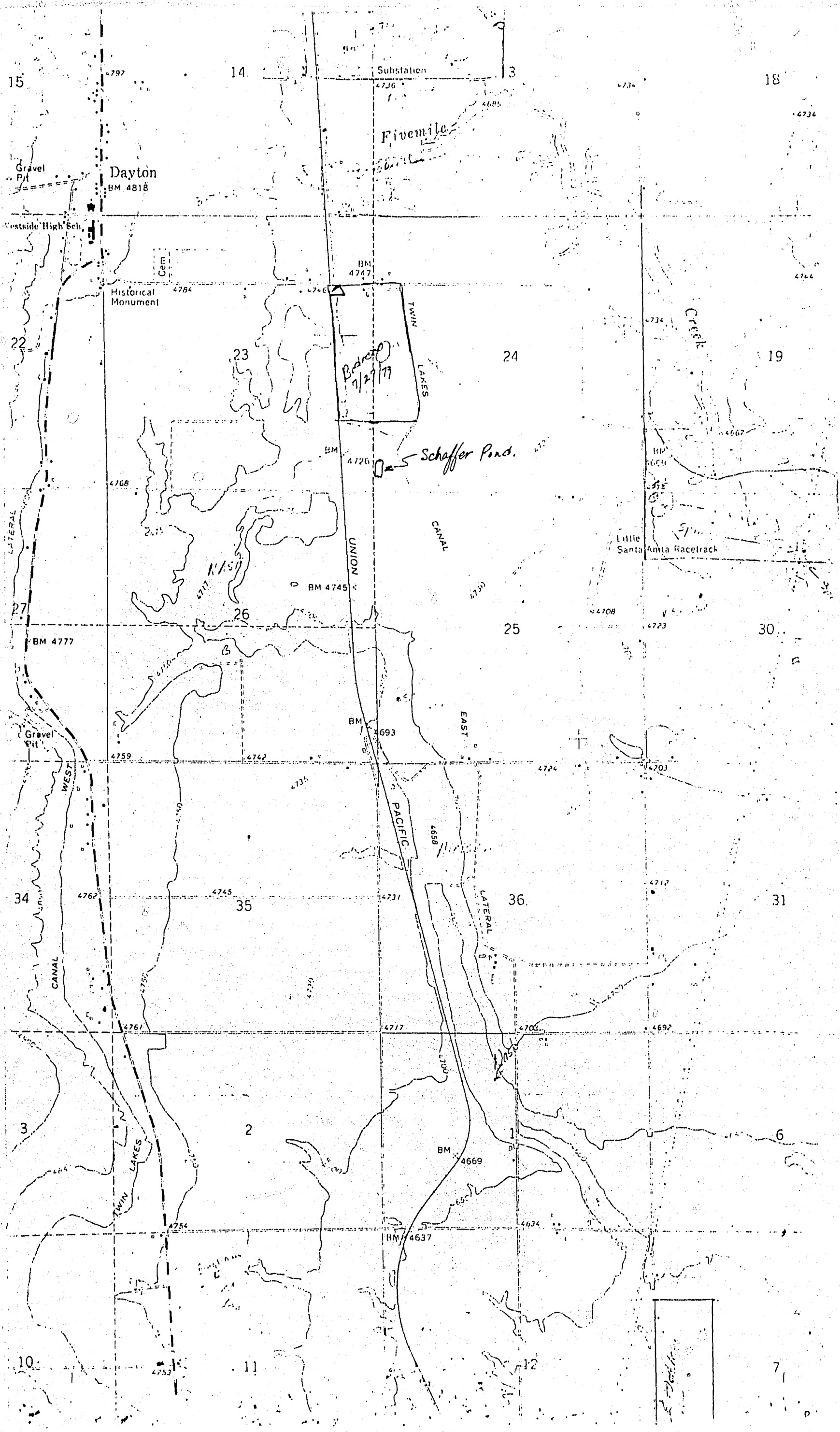
   b. Proof of construction of works and application of water to beneficial use shall be submitted on or before June 1 , 19 86 .

   c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

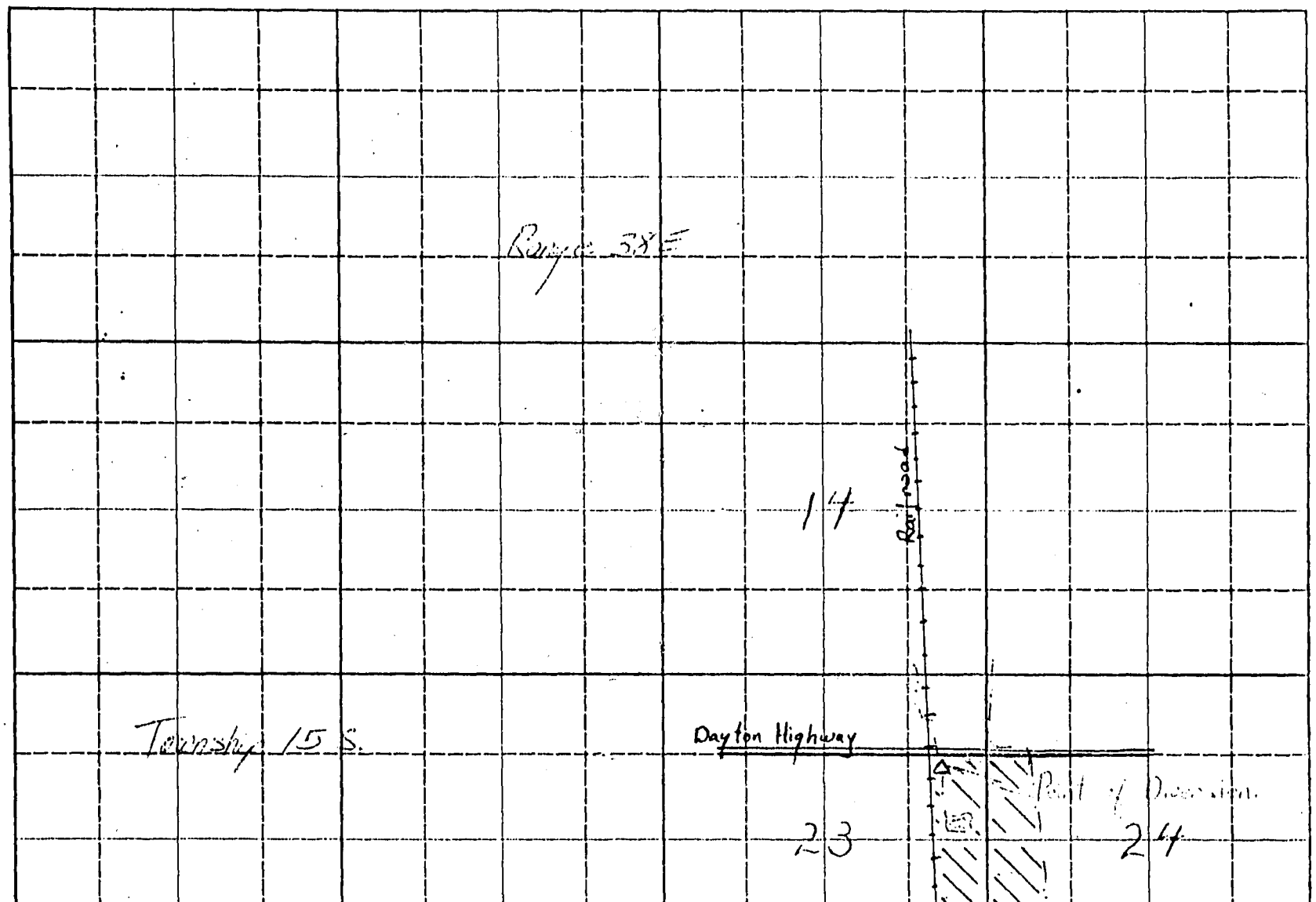
   d. Other: Pursuant to Proposed Memorandum Decision and Order.

Witness my hand this 24 day of July , 19 81 .

A. Dewayne Ullman
Director


Substation
Fivemile
Creek
Dayton
BM 4818
Gravel Pit
Westside High Sch.
Cem.
Historical Monument
BM 4747
TWIN LAKES
Schaffer Pond.
BM 4726
UNION
CANAL
NASH
BM 4745
Little Santa Anita Racetrack
BM 4777
Gravel Pit
WEST
EAST
PACIFIC
LATERAL
BM 4693
BM 4669
BM 4637
15
14
13
18
22
23
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7

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.

(Applicant)

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	
15S	38E	23				22									20				42
		24							20			23							43

Total number of acres to be irrigated 85

c. Describe any other water rights used for the same purposes as described above. Shares in Twin Lakes Canal

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

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

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 Water from unnamed stream originates from drain constructed by Travis Bergeson under Permit No. 13-7110 and is water not used under this permit.

Form 202
3/78

Ident. No. 13 7255

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant K. L. Bodrero Phone 747-3443

   Post office address P. O. Box 5, Dayton, Idaho 83232

2. Source of water supply unnamed stream which is a tributary of Weston Dayton Slough

3. Location of point of diversion is SE ¼ of NE ¼ of Section 23 Township 15S

   Range 38E B.M. Franklin County, additional points of diversion if any: ____

4. Water will be used for the following purposes:

   Amount ~~0.70~~ 1.00 (as per telecon 7-27-79 EMC) (cfs or acre-feet per annum) for Irrigation purposes from 4/1 to 11/1 (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)

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

5. Total quantity to be appropriated:

   a. ~~0.70~~ 1.00 (as per telecon 7-27-79 EMC) cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

   a. Description of ditches, flumes, pumps, headgates, etc. portable dam diverts water into open ditch

   b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____

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

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

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

8. Description of proposed uses:
   a. If water is not for irrigation:
      (1) Give the place of use of water: _____ ¼ of _____ ¼ of Section _____ Township _____

      Range _____ B.M.

      (2) Amount of power to be generated: _____ horsepower 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: _____

2) The permit holder shall permanently install and maintain a measuring device as part of the diverting works.

3) Proof of construction of works and application of water to beneficial use shall be submitted to the Department on or before June 1, 1986.

Dated this 8 day of June, 1981.

Bobby D. Fleenor

BOBBY D. FLEENOR

Hearing Officer

Mr. Castleton explained that the department's Memorandum Decision and Order recommending approval of Permit No. 13-7110 found water developed by Bergeson Drain in excess of 0.50 cubic feet per second to be tributary of Weston Dayton Slough. Therefore, the applicant's proposed development would adversely affect the Licensed Right Nos. 13-2113 and 13-2154 held by Wesley Nash and Ward Nielsen, respectively.

Mr. Beutler stated that subsequent to the installation of the drain in 1975, two other drains were constructed between 1976 and 1979.

Mr. Nash stated that after spring runoff in 1976, the maximum flow in the slough at the SW¼NW¼, Sec. 36, Twp. 15S, Rge. 38E B.M. was measured to be 1.5 cubic feet per second to 1.75 cubic feet per second.

At the conclusion of the conference, all parties agreed to allow the Director of the Department of Water Resources to reach a decision in the matter based upon the information obtained during the conference. The hearing officer having reviewed available information and based on his understanding of the law, proposes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1) The applicant is the owner of those lands identified for irrigation on this application.

2) The Director of the Department of Water Resources found in his decision on Permit No. 13-7110 that water developed through the installation of Travis Bergeson's drain was not tributary to Weston Dayton Slough and maximum flow of the drain at the time was 0.50 cubic feet per second.

3) Water flowing onto the applicant's property, due to installation of two additional drains for Travis Bergeson's property since 1975, was not tributary to Weston Dayton Slough prior to the construction of the drains.

CONCLUSIONS OF LAW

1) Water developed by drains on Travis Bergeson's property in excess of 0.50 cubic feet is unappropriated water and is subject to appropriation.

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

ORDER

IT IS, THEREFORE, HEREBY ORDERED and Application for Permit No. 13-7255 is hereby APPROVED subject to the following conditions:

1) This permit, be and is subject to all prior existing water rights from the Bergeson Drain.

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF APPLICATION FOR PERMIT NO. 13-7255 IN THE NAME OF K. L. BODRERO	PROPOSED MEMORANDUM DECISION AND ORDER

On July 27, 1979, K. L. Bodrero filed the Department of Water Resources Application for Permit No. 13-7255 for a permit to appropriate 1.00 cubic feet per second of water from an unnamed stream tributary to Weston Dayton Slough. The water would be diverted within the SE¼NE¼, Sec. 23, Twp. 15S, Rge. 38E B.M., Franklin County and used from April 1 to November 1 for the irrigation of 85 acres in the SE¼NE¼, NE¼SE¼, Sec. 23; SW¼NW¼, NW¼SW¼, Sec. 24, Twp. 15S, Rge. 38E B.M.

Notice of this application was published in The Preston Citizen, Preston, Idaho on August 9 and August 16, 1979. The application was subsequently protested on August 9, 1979 by Sheldon Beutler and Travis Bergeson who stated this water had been used since 1977 when it was developed by their construction of drains. On August 10, 1979, a second protest by Wesley Nash was received indicating he had made use of the water through storage in Nash Reservoir. An additional protest was received from H. Ward Nielsen on September 14, 1979. Mr. Nielsen was advised by departmental letter that the timeliness of his protest could be considered in any action taken by the department.

On October 31, 1979, a conference was held in Preston, Idaho to consider the protests against approval of the application. The applicant was present and represented himself. The protestants, Wesley Nash and Ward Nielsen were present and represented by Lowell D. Castleton, Attorney at Law. Protestant Sheldon Beutler was also present and represented himself.

The main issue identified by the protestants for consideration by the Department was that the appropriation of this water by the applicant would result in a reduction of water available to fill existing water rights in the Weston Dayton Slough.

Mr. Bodrero stated that prior to Travis Bergeson's construction of a drain in 1974, water flowing onto his property was insufficient to reach the Weston Dayton Slough after spring runoff had subsided. Now during summer months when flow from the drain is not being used by Sheldon Beutler there is an estimated 1.00 cubic foot per second of water flowing onto his property.

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF APPLICATION FOR PERMIT NO. 13-7255 IN THE NAME OF K. L. BODRERO	ORDER ADOPTING PROPOSED MEMORANDUM DECISION AND ORDER

WHEREAS, A. Kenneth Dunn, Director of the Department of Water Resources having issued and served a copy on the parties thereto on June 9, 1981, a Proposed Memorandum Decision and Order in the above-captioned matter, pursuant to Idaho Code, Section 67-5211; and,

WHEREAS, more than fifteen days have passed since the service of the Proposed Memorandum Decision and Order; and,

WHEREAS, no exceptions to that Proposed Memorandum Decision and Order have been received;

IT IS, THEREFORE, HEREBY ORDERED That said Proposed Memorandum Decision and Order be adopted and issued as the Final Decision and Order.

Dated this 24 day of July, 1981.

A. KENNETH DUNN
Director

AKD:jg

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF APPLICATION FOR PERMIT NO. 13-7255 IN THE NAME OF K. L. BODRERO	CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 4th day of August, 1981, true and correct copies of the foregoing ORDER ADOPTING PROPOSED MEMORANDUM DECISION and ORDER and PROPOSED MEMORANDUM DECISION AND ORDER and Application for Permit No. 13-7255, were mailed, postage prepaid to:

K. L. Bodrero
P.O. Box 5
Dayton, ID 83232

Lowell D. Castleton
WILLIAMS & CASTLETON
P.O. Box 191
Preston, ID 83263

H. Ward Nielsen
Route #1, Box 197
Weston, ID 83286

Wes Nash
Weston,
Idaho 83286

Sheldon Beutler
Weston, ID 83286

Travis Bergeson
Dayton,
Idaho. 83232

JAN GROVER
Sr. Water Resource Agent
Idaho Department of Water Resources

EASTERN

State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

RECEIVED
AUG 5 1981
Department of Water Resources
Eastern District Office

August 4, 1981

Re: Application for Permit No. 13-7255

K. L. Bodrero
P.O. Box 5
Dayton, ID 83232

Dear Mr. Bodrero:

Enclosed is a copy of the approved Application for Permit No. 13-7255 along with a copy of the Proposed Memorandum Decision and Order and a copy of the Order Adopting the Proposal for Decision. We direct your attention to the conditions of approval as set forth in the Proposed Memorandum Decision and Order.

Be sure to note the special condition requiring you to install and maintain a measuring device at your point of diversion prior to submitting proof of beneficial use of water. We have enclosed a letter describing the different types of measuring devices accepted by this office.

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

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:jg

Enclosures

cc: (See Certificate of Mailing)

NAME AND ADDRESS OF SENDER

[illegible] OFFICE
150 SHOUP AVE.
IDAHO FALLS, IDAHO 83401

☐ Registered
☐ Insured
☐ COD
☒ Certified

☐ 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

ACCEPTANCE OF REGISTERED, INSURED, C.O.D. AND CERTIFIED MAIL

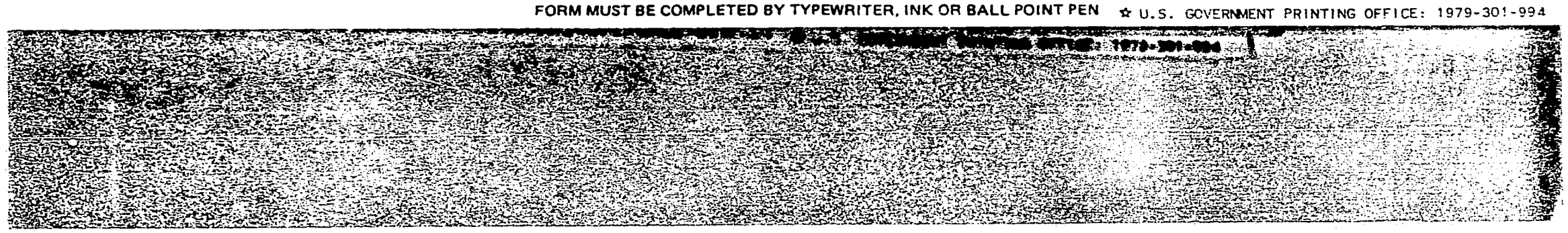
LINE	NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	Handling Charge	Actual Value (If Registered)	DUE SENDER IF C.O.D.	R. R. FEE	S.D. FEE	S. H. FEE	REST. DEL. FEE / REMARKS
1	17266	Dr Vern Smith, Rigby Id	18	75				60			11-3222
2	17267	Ricky L Lamm, Rigby, Id									"
3	17268	Irwin J. Parker, Montpelier									"
4	17269	Lite & Christine Miller, RT#1 Box 96 Inkom									T29-329
5	17270	Mike Fuller Box 397 Inkom									"
6	17271	Elmo Tuiasosopo, RFD Box 83, Inkom									"
7	17272	K & Sodaro P.O. Box 5 Clayton									13-325
8	17273	Grant Carlson P.O. Box 191 Preston									"
9	17274	Elmer Tolboe, RT#1 Box 197, Weston									"
10	17275	Wm Rook, Weston Id.									"
11	17276	Hudson Cuttler, Preston									"
12	17277	Travis Empson, Cuttler, Id									"
13						$41.31					
14											
15		Subtotal Carried to Comax Foster 13-A.									13228-

PS Form 3877, Sep '79

TOTAL NUMBER OF PIECES LISTED BY SENDER	TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE	*POSTMASTER, PER (Name of receiving employee)*
12	12	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



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:
   Lawrence Castleton
   PO Box 196
   Preston Id

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	17273	

(Always obtain signature of addressee or agent)

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

4. DATE OF DELIVERY: 9-2-81 — POSTMARK

5. ADDRESS (Complete only if requested)

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

☆GPO : 1979-300-459

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:
   Who Nash
   Weston Id

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	17275	

(Always obtain signature of addressee or agent)

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

4. DATE OF DELIVERY: 9-2-81 — POSTMARK

5. ADDRESS (Complete only if requested)

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

☆GPO : 1979-300-459

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:
   Lawrence Castleton
   PO Box 196
   Preston Id

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	17273	

(Always obtain signature of addressee or agent)

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

4. DATE OF DELIVERY: 9-4-81 — POSTMARK

5. ADDRESS (Complete only if requested)

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

☆GPO : 1979-300-459

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:
   Who Nash
   Weston Id

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	17275	

(Always obtain signature of addressee or agent)

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

4. DATE OF DELIVERY: 9-2-81 — POSTMARK

5. ADDRESS (Complete only if requested)

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

☆GPO : 1979-300-459

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:
   Glitta Publishers
   Attn: Betty Day
   Weston Id

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	17274	

(Always obtain signature of addressee or agent)

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

4. DATE OF DELIVERY: 9-2-81 — POSTMARK

5. ADDRESS (Complete only if requested)

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

☆GPO : 1979-300-459

September 2, 1981

Franklin County Courthouse
Preston,
Idaho 83263

Gentlemen:

This is to confirm the use of the basement Meeting Room for conference and/or hearing to be held by this office on Tuesday, September 15, 1981 beginning at 9:00 a.m. throughout the day, and on Wednesday, September 16 beginning at 9:00 a.m.

Thank you for your cooperation in this matter.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

5. Will the proposed use conflict with the local public interest?

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

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be submitted to the parties and the parties may be afforded an opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by Idaho Code, Section 42-1701A.

The parties by written stipulation may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not prejudice the Director's review of a party's evidence and arguments. However, such a waiver will shorten the decision-making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to Rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the district court.

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

Dated this 31st day of August, 1981.

Regional Supervisor

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 13-7255 IN THE NAME)
OF K. L. BODRERO) NOTICE OF HEARING

On July 27, 1979, K. L. Bodrero filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On August 9, 1979, the Department received protests against approval of said application from Sheldon Beutler and Travis Bergeson. On August 10, 1979, a protest was received from Wesley Nash, and on September 14, 1979, an additional protest was received from H. Ward Nielsen. Subsequent to the conference for considering the protests against approval of the application and issuance of an order adopting the proposed Memorandum Decision, a Petition for Rehearing was filed with the Department by Mr. Lowell Castleton, Attorney at Law, in behalf of Wesley Nash.

The Department has set the matter of protest for rehearing for Tuesday, September 15, 1981, at 11:00 a.m. in the basement Meeting Room, Franklin County Courthouse, Preston, Idaho. The hearing will be held in accordance with provisions of Chapters 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.

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

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

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF REHEARING ON APPLICATION FOR PERMIT NO. 13-7255 IN THE NAME OF K. L. BODRERO	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)

No 923

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Franklin } ss.

J. Walter Ross
being duly sworn,

deposes and says:

That he is the Co-Publisher of THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for 2 consecutive weeks in the regular and entire issue of said paper during the period of time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

Aug 9, 19 79, and ending

with the issue of Aug 16, 19 79.

J. Walter Ross

Fee $ 23 40

Subscribed and sworn to before me this 29th day

of August, 19 79.

Kevin D Allen

Notary Public, Residing at Preston, Idaho

My Commission Expires June 7, 19 82

NOTICE OF APPLICATION FOR WATER RIGHT

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

13-7255

BODRERO, K.L.
P.O. BOX 5, DAYTON, ID 83232
Source: UNNAMED STREAM tributary to WESTON DAYTON SLOUGH
Date Filed: 07/27/1979
Amount: 1.00 CFS
Diversion Point: SENE Sec. 23 T 15S R 38E, FRANKLIN CO.
Use: IRRIGATION (1.00 CFS) from 04
01 to 11/01
Place of Use: SENE NESE Sec 23 T 15S R 38E SWNW NWSW Sec 24 T 15S R 38E FOR 85 ACRES
Diversion Means: PORTABLE DAM, DITCH

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho 83401 on or before AUGUST 27, 1979.

C. STEPHEN ALLRED
Director ARA
Published 8/9 & 8/16/79.

Legal No. 923—36L — Pub. Aug. 9 and 16. 1979.

RECEIVED
SEP 10 1979
Department of Water Resources
Eastern District Office

BEFORE THE DIRECTOR OF THE DEPARTMENT

OF WATER RESOURCES OF THE

STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF APPLICATION FOR PERMIT NO. 13-7255 IN THE NAME OF K. L. BODRERO	ORDER ISSUING PROPOSED DECISION

A. Kenneth Dunn, Director of the Department of Water Resources, having reviewed the attached proposed decision prepared by his appointee, BOBBY D. FLEENOR, who conducted the hearing or who has read the record in this case, hereby approves the same as a proposal for decision pursuant to Idaho Code, § 67-5211 and orders that said proposed decision and a copy of this order be served upon each of the parties to these proceedings who appeared at the hearing on October 31, 1980, of this matter or upon their attorneys in accordance with Rule 7.3 of the Rules of Practice and Procedure of this Department.

Each party to these proceedings who appeared at the hearing is hereby afforded the opportunity, pursuant to Idaho Code §§ 42-1701A and 67-5211, to file exceptions to the attached proposed decision and to present briefs and oral arguments in accordance with the provisions of this order. Exceptions may not be filed and briefs and oral arguments may not be presented by parties who did not appear at the hearing of this case. If no timely and proper exceptions are received, an order by the Director will be entered adopting and issuing the proposed decision as his final decision.

I.
EXCEPTIONS

A. To be considered by the Director, exceptions must:

1. be received by the Director on or before the 15th day following the day of service of this Order and the proposed decision, and

2. specifically identify the portions of the proposed decision to which exceptions are made and specifically state the grounds for those exceptions.

B. Exceptions not in compliance with the above stated requirements will not be considered and will be deemed an acceptance of the proposed decison.

II.
BRIEFS

A. Any briefs in support of exceptions to the proposed decision shall be filed with the Director at the same time that party's exceptions are filed with the Director.

B. Any party desiring to file a brief in response to any exceptions filed by any other party may do so by filing such brief with the Director on or before the 15th day following the last day any exceptions by any other party were served upon that party desiring to respond.

III.
ORAL ARGUMENTS

A. No oral arguments before the Director on the proposed decision will be held unless specifically requested by a party filing exceptions to the proposed decision and unless that request is filed with the Director concurrently with the filing of that party's exceptions.

B. If oral arguments have been properly requested by a party filing exceptions, any other party, upon reasonable notice to the Director, shall have the right to present oral arguments in response to the exceptions filed.

C. Oral arguments before the Director on exceptions to the proposal for decision shall be heard at the discretion of the Director, pursuant to Idaho Code § 42-1701A. After all exceptions, briefs and requests for oral arguments have been received, the Director will decide whether to hear oral arguments. If oral arguments are to be heard, the Director will, within a reasonable time, set the case for oral arguments and notify each party of the place, date and hour the oral arguments will take place and of the period of time allocated for the arguments of this case. Unless the Director orders otherwise, all oral arguments shall be heard in Boise, Idaho.

IV.
CERTIFICATION OF SERVICE

A. All exceptions, briefs, requests for oral arguments and other matters filed with the Director in connection with the proposed decision shall be served on all other parties to these proceedings in accordance with Rule 7.2.

V.
FINAL DECISION

A. Following the submission of all exceptions and briefs and oral arguments, if they are heard, the Director shall issue a final decision adopting, modifying or rejecting and replacing the proposed decision. Copies of the decision and order shall be served on all parties.

DATED this 8 day of June, 1981.

A. KENNETH DUNN
Director
Department of Water Resources

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF APPLICATION FOR PERMIT NO. 13-7255 IN THE NAME OF K. L. BODRERO	CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 9th day of June, 1981, true and correct copies of the foregoing ORDER ISSUING PROPOSED DECISION and PROPOSED MEMORANDUM DECISION AND ORDER, were mailed, postage prepaid to:

K. L. Bodrero
P. O. Box 5
Dayton, ID 83232

Lowell D. Castleton
WILLIAMS & CASTLETON
P. O. Box 191
Preston, ID 83263

H. Ward Nielsen
Route 1, Box 197
Weston, ID 83286

Wes Nash
Weston,
Idaho 83286

Sheldon Beutler
Weston, ID 83286

Travis Bergeson
Dayton,
Idaho 83232

Rita I. Fleck

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

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF APPLICATION FOR PERMIT NO. 13-7255 IN THE NAME OF K. L. BODRERO

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 4th day of August, 1981, true and correct copies of the foregoing ORDER ADOPTING PROPOSED MEMORANDUM DECISION and ORDER and PROPOSED MEMORANDUM DECISION AND ORDER and Application for Permit No. 13-7255, were mailed, postage prepaid to:

K. L. Bodrero
P.O. Box 5
Dayton, ID 83232

Lowell D. Castleton
WILLIAMS & CASTLETON
P.O. Box 191
Preston, ID 83263

H. Ward Nielser
Route #1, Box 197
Weston, ID 83286

Wes Nash
Weston,
Idaho 83286

Sheldon Beutler
Weston, ID 83286

Travis Bergeson
Dayton,
Idaho 83232

JAN GROVER
Sr. Water Resource Agent
Idaho Department of Water Resources

2) The permit holder shall permanently install and maintain a measuring device as part of the diverting works.

3) Proof of construction of works and application of water to beneficial use shall be submitted to the Department on or before June 1, 1986.

Dated this 8 day of June, 1981.

Bobby D. Fleenor

BOBBY D. FLEENOR

Hearing Officer

Mr. Castleton explained that the department's Memorandum Decision and Order recommending approval of Permit No. 13-7110 found water developed by Bergeson Drain in excess of 0.50 cubic feet per second to be tributary of Weston Dayton Slough. Therefore, the applicant's proposed development would adversely affect the Licensed Right Nos. 13-2113 and 13-2154 held by Wesley Nash and Ward Nielsen, respectively.

Mr. Beutler stated that subsequent to the installation of the drain in 1975, two other drains were constructed between 1976 and 1979.

Mr. Nash stated that after spring runoff in 1976, the maximum flow in the slough at the SW¼NW¼, Sec. 36, Twp. 15S, Rge. 38E B.M. was measured to be 1.5 cubic feet per second to 1.75 cubic feet per second.

At the conclusion of the conference, all parties agreed to allow the Director of the Department of Water Resources to reach a decision in the matter based upon the information obtained during the conference. The hearing officer having reviewed available information and based on his understanding of the law, proposes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1) The applicant is the owner of those lands identified for irrigation on this application.

2) The Director of the Department of Water Resources found in his decision on Permit No. 13-7110 that water developed through the installation of Travis Bergeson's drain was not tributary to Weston Dayton Slough and maximum flow of the drain at the time was 0.50 cubic feet per second.

3) Water flowing onto the applicant's property, due to installation of two additional drains for Travis Bergeson's property since 1975, was not tributary to Weston Dayton Slough prior to the construction of the drains.

CONCLUSIONS OF LAW

1) Water developed by drains on Travis Bergeson's property in excess of 0.50 cubic feet is unappropriated water and is subject to appropriation.

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

ORDER

IT IS, THEREFORE, HEREBY ORDERED and Application for Permit No. 13-7255 is hereby APPROVED subject to the following conditions:

1) This permit, be and is subject to all prior existing water rights from the Bergeson Drain.

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF APPLICATION FOR PERMIT NO. 13-7255 IN THE NAME OF K. L. BODRERO	PROPOSED MEMORANDUM DECISION AND ORDER

On July 27, 1979, K. L. Bodrero filed the Department of Water Resources Application for Permit No. 13-7255 for a permit to appropriate 1.00 cubic feet per second of water from an unnamed stream tributary to Weston Dayton Slough. The water would be diverted within the SE¼NE¼, Sec. 23, Twp. 15S, Rge. 38E B.M., Franklin County and used from April 1 to November 1 for the irrigation of 85 acres in the SE¼NE¼, NE¼SE¼, Sec. 23; SW¼NW¼, NW¼SW¼, Sec. 24, Twp. 15S, Rge. 38E B.M.

Notice of this application was published in The Preston Citizen, Preston, Idaho on August 9 and August 16, 1979. The application was subsequently protested on August 9, 1979 by Sheldon Beutler and Travis Bergeson who stated this water had been used since 1977 when it was developed by their construction of drains. On August 10, 1979, a second protest by Wesley Nash was received indicating he had made use of the water through storage in Nash Reservoir. An additional protest was received from H. Ward Nielsen on September 14, 1979. Mr. Nielsen was advised by departmental letter that the timeliness of his protest could be considered in any action taken by the department.

On October 31, 1979, a conference was held in Preston, Idaho to consider the protests against approval of the application. The applicant was present and represented himself. The protestants, Wesley Nash and Ward Nielsen were present and represented by Lowell D. Castleton, Attorney at Law. Protestant Sheldon Beutler was also present and represented himself.

The main issue identified by the protestants for consideration by the Department was that the appropriation of this water by the applicant would result in a reduction of water available to fill existing water rights in the Weston Dayton Slough.

Mr. Bodrero stated that prior to Travis Bergeson's construction of a drain in 1974, water flowing onto his property was insufficient to reach the Weston Dayton Slough after spring runoff had subsided. Now during summer months when flow from the drain is not being used by Sheldon Beutler there is an estimated 1.00 cubic foot per second of water flowing onto his property.

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF APPLICATION FOR PERMIT NO. 13-7255 IN THE NAME OF K. L. BODRERO	ORDER ADOPTING PROPOSED MEMORANDUM DECISION AND ORDER

WHEREAS, A. Kenneth Dunn, Director of the Department of Water Resources having issued and served a copy on the parties thereto on June 9, 1981, a Proposed Memorandum Decision and Order in the above-captioned matter, pursuant to Idaho Code, Section 67-5211; and,

WHEREAS, more than fifteen days have passed since the service of the Proposed Memorandum Decision and Order; and,

WHEREAS, no exceptions to that Proposed Memorandum Decision and Order have been received;

IT IS, THEREFORE, HEREBY ORDERED That said Proposed Memorandum Decision and Order be adopted and issued as the Final Decision and Order.

Dated this 24 day of July, 1981.

A. KENNETH DUNN
Director

AKD:jg

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT)
) CERTIFICATE OF MAILING
NO. 13-7255 IN THE NAME OF K. L. BODRERO)
)

I HEREBY CERTIFY That on this 10th day of February, 1982, a true and correct copy of the foregoing ORDER ISSING AMENDED PROPOSED DECISION and AMENDED PROPOSED DECISION AND ORDER, were mailed, postage prepaid to:

K. L. Bodrero
P. O. Box 5
Dayton, ID 83232

Lowell D. Castleton
WILLIAMS & CASTLETON
P. O. Box 191
Preston, ID 83263

H. Ward Nelson
Route 1, Box 197
Weston, ID 83286

Wesley Nash
Weston, ID 83286

Sheldon Beutler
Weston, ID 83286

Travis Bergeson
Dayton, ID 83232

Rita I. Fleck

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

could be tending to flow to the east.

ORDER

IT IS, THEREFORE, HEREBY ORDERED and Application for Permit No. 13-7255 is hereby APPROVED subject to the following conditions:

1. This permit, be and is subject to all prior existing water rights from the Bergeson Drain.

2. The permit holder shall permanently install and maintain a measuring device as part of the diverting works.

3. Proof of construction of works and application of water to beneficial use shall be submitted on or before the date indicated on the Final Decision and Order.

Dated this 8 day of February, 1982.

Bobby D. Fleenor

BOBBY D. FLEENOR

Hearing Officer

purposes 0.50 cubic feet per second of water developed from a sub-surface drain he had constructed within Sec. 14, Twp. 15S, Rge. 38E, B.M. In Findings of Fact relevent to his decision, the Director states that "the information now available in the Department's files and that presented by the protestants at the conference does not show the water being developed by the applicant's drains prior to their construction, to have been tributary to the Weston-Dayton Slough. However, in his Order approving application No. 13-7110, the Director specifies that the overflow from these drains be allowed to discharge into the natural drainage of the Weston-Dayton Slough.

3. In the years of 1974, 1976, and 1979, Travis Bergeson and Sheldon Beutler installed drains in property located in Sec. 14, Twp. 15S, Rge. 38E. Unused water from both the Beutler and Bergeson drains flows through the property of K. L. Bodrero.

4. The additional drains which have been installed in the area since 1975 intercept water that flows generally east possibly surfacing as springs south of Five Mile Creek. This water that flows east would not enter the Weston Dayton Slough and, therefore, would not diminish the water supply of the Weston Dayton Slough.

5. The development of drains by Bergeson and Beutler has added a supply to the Weston-Dayton Slough which was not available when licenses 13-2154 and 13-2113 were issued.

CONCLUSIONS OF LAW

1. Water developed by drains on Travis Bergeson's property in excess of 0.50 cubic feet per second which Mr. Bergeson is entitled by permit No. 13-7110 to use for the irrigation of 75 acres of land, is available for appropriation.

2. The applicant is entitled to appropriate water flowing through his property from this drain and, therefore, is entitled to a permit from the Department of Water Resources.

ANALYSIS

It appears from all available evidence that a clay layer exists below much of the area south and east of Dayton. This layer causes water to "perch" near the suface and causes the boggy conditions which occur in this area. This layer appears to slope with the land surface which, in the matter at hand, is generally away from the Weston-Dayton Slough. The protestant's expert witness, under cross examination, agreed that water intercepted by the Bergeson drain

2. Applicant's Exhibit #2 - Aerial photo (copy) identified by designation E-11.

3. Applicant's Exhibits #3 and 4 - Poloroid photo of a pipe flagged "water pipe."

Protestant's Witnesses

1. Wesley Nash
2. Joel Fletcher (expert witness)

Department's Records Considered

1. Application No. 13-7255
2. Affidavit of publication dated August 29, 1979.
3. Letter protesting approval of application No. 13-7255 filed by Sheldon Beulter and Travis Bergeson on August 9, 1979.
4. Letter protesting approval of Application No. 13-7255, filed by Wesley Nash on August 10, 1979.
5. Letter protesting approval of application No. 13-7255, filed by H. Ward Nielsen on September 14, 1979.
6. Water Right License No. 13-2154 in the name of H. Ward Nielsen.
7. Water Right License No. 13-2113 and map showing points(s) of diversion and place of use - Isaac and David Nash.
8. Permit and decision issuing 13-7110, Travis Bergeson.
9. Stipulation and Agreement dated October 31, 1979.
10. Proposed Decision dated June 8, 1981.
11. Order issuing Proposed Decision dated June 9, 1981.
12. Order adopting Proposed Decision dated August 4, 1981.
13. Petition for rehearing received from Lowell Castleton on August 14, 1981.
14. Order approving petition for rehearing dated September 2, 1981.
15. U.S.G.S. Quadrangle map.

FINDINGS OF FACT

1. K. L. Bodrero owns the land he is requesting to appropriate water for by application for permit No. 13-7255.

2. On September 19, 1975, the Department of Water Resources granted permit No. 13-7110 to Travis Bergeson of Dayton, Idaho to use for irrigation

the final decision being issued.

On June 8, 1981, A. Kenneth Dunn, Director of the Department of Water Resources ordered the issuance of the Proposed Decision prepared by his appointee, Bobby D. Fleenor. No objections to the Proposed Decision were received during the fifteen (15) day appeal period and, therefore, on July 24, 1981, the Director issued an Order Adopting the Proposed Decision.

On August 13, 1981, Attorney Lowell D. Castleton petitioned for a hearing on behalf of protestant Wesley Nash to allow this matter to be brought properly before the District Court pursuant to Idaho Code, Sections 67-5215 and 67-5216. Because no record was created at the conference, the case could not be appealed to the District Court without a rehearing. On September 2, 1981, the Director approved the petition for rehearing and on September 15, 1981, a hearing in the matter was held in Preston, Idaho. Protestants Wesley Nash and H. Ward Nielsen were present and represented by Attorney Lowell D. Castleton. The applicant, K. L. Bodrero, was present and represented himself.

All of the evidence and testimony presented at the hearing was directed at a single issue, i.e. is the water developed by the Bergeson and Beutler drains part of the normal water supply available to the protestants?

Based upon the information submitted at the hearing, the Department's records, and the hearing examiner's understanding of the law, the following Findings of Fact, Conclusions of Law, and Order are hereby proposed:

REVIEW OF EVIDENCE

Exhibits and Testimony Presented at Hearing

Testimony of Record

Applicant's Witnesses

1. K. L. Bodrero (applicant)
2. Gordon Gailey
3. Eunice Archibald
4. Steven Kent
5. Walter Beulter
6. LaVar Jensen
7. Velton Martin

Applicant's Exhibits

1. Applicant's Exhibit #1 - Aerial photo (copy) identified by designation D-10.

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT) AMENDED PROPOSED MEMORANDUM
NO. 13-7255 IN THE NAME OF K. L. BODRERO) DECISION AND ORDER
)

On July 27, 1979, K. L. Bodrero applied to the Department of Water Resources for a permit to appropriate 1.ØØ cubic feet per second of water from an unnamed stream for the irrigation of 85 acres of land located within the SE1/4NE1/4 and NE1/4SE1/4, Sec. 23 and SW1/4NW1/4 and NW1/4SW1/4, Sec. 24, Twp. 15S, Rge. 38E, Franklin County.

Notice of this application was published in The Preston Citizen, Preston, Idaho on August 9 and 16, 1979. The application was subsequently protested on August 9, 1979 by Sheldon Beutler and Travis Bergeson who stated this water had been used since 1977 when it was developed by their construction of drains that created the unnamed stream. On August 1Ø, 1979, a second protest by Wesley Nash was received indicating he had made use of the water through storage in Nash Reservoir. An additional protest was received from H. Ward Nielsen on September 14, 1979. Mr. Nielsen was advised by departmental letter that the timeliness of his protest could be considered in any action taken by the department.

On October 31, 1979, a conference was held in Preston, Idaho to consider the protests against approval of the application. The applicant was present and represented himself. The protestants, Wesley Nash and Ward Nielsen, were present and represented by Lowell D. Castleton, attorney at law. Protestant Sheldon Beutler was also present and represented himself.

The main issue identified by the protestants for consideration by the Department was that the appropriation of this water by the applicant would result in a reduction of water available to fill existing water rights in the Weston-Dayton Slough.

At the conclusion of the conference, all parties agreed to allow the Department of Water Resources to reach a decision in the matter based upon the information presented at the conference and information obtained from field examination and other pertinent information in the Department's files. It was further requested that a proposed decision be made available for review prior to

BEFORE THE DIRECTOR OF THE DEPARTMENT

OF WATER RESOURCES OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 13-7255 IN THE NAME OF K. L. BODRERO	ORDER ISSUING AMENDED PROPOSED DECISION

A. Kenneth Dunn, Director of the Department of Water Resources, having reviewed the attached proposed decision prepared by his appointee, Bobby D. Fleenor, who conducted the hearing or who has read the record in this case, hereby approves the same as a proposal for decision pursuant to Idaho Code, § 67-5211 and orders that said proposed decision and a copy of this order be served upon each of the parties to these proceedings who appeared at the hearing on September 15, 1981, of this matter or upon their attorneys in accordance with Rule 7.3 of the Rules of Practice and Procedure of this Department.

Each party to these proceedings who appeared at the hearing is hereby afforded the opportunity, pursuant to Idaho Code §§ 42-1701A and 67-5211, to file exceptions to the attached proposed decision and to present briefs and oral arguments in accordance with the provisions of this order. Exceptions may not be filed and briefs and oral arguments may not be presented by parties who did not appear at the hearing of this case. If no timely and proper exceptions are received, an order by the Director will be entered adopting and issuing the proposed decision as his final decision.

I.
EXCEPTIONS

A. To be considered by the Director, exceptions must:

1. be received by the Director on or before the 15th day following the day of service of this Order and the proposed decision, and

2. specifically identify the portions of the proposed decision to which exceptions are made and specifically state the grounds for those exceptions.

B. Exceptions not in compliance with the above stated requirements will not be considered and will be deemed an acceptance of the proposed decison.

II.
BRIEFS

A. Any briefs in support of exceptions to the proposed decision shall be filed with the Director at the same time that party's exceptions are filed with the Director.

B. Any party desiring to file a brief in response to any exceptions filed by any other party may do so by filing such brief with the Director on or before the 15th day following the last day any exceptions by any other party were served upon that party desiring to respond.

III.
ORAL ARGUMENTS

A. No oral arguments before the Director on the proposed decision will be held unless specifically requested by a party filing exceptions to the proposed decision and unless that request is filed with the Director concurrently with the filing of that party's exceptions.

B. If oral arguments have been properly requested by a party filing exceptions, any other party, upon reasonable notice to the Director, shall have the right to present oral arguments in response to the exceptions filed.

C. Oral arguments before the Director on exceptions to the proposal for decision shall be heard at the discretion of the Director, pursuant to Idaho Code § 42-1701A. After all exceptions, briefs and requests for oral arguments have been received, the Director will decide whether to hear oral arguments. If oral arguments are to be heard, the Director will, within a reasonable time, set the case for oral arguments and notify each party of the place, date and hour the oral arguments will take place and of the period of time allocated for the arguments of this case. Unless the Director orders otherwise, all oral arguments shall be heard in Boise, Idaho.

IV.
CERTIFICATION OF SERVICE

A. All exceptions, briefs, requests for oral arguments and other matters filed with the Director in connection with the proposed decision shall be served on all other parties to these proceedings in accordance with Rule 7.2.

V.
FINAL DECISION

A. Following the submission of all exceptions and briefs and oral arguments, if they are heard, the Director shall issue a final decision adopting, modifying or rejecting and replacing the proposed decision. Copies of the decision and order shall be served on all parties.

DATED this 10th day of February, 1982.

A. KENNETH DUNN
Director
Department of Water Resources

Form 202
3/78

Ident. No. 13 7255

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant K. L. Bodrero Phone 747-3443

   Post office address P. O. Box 5, Dayton, Idaho 83232

2. Source of water supply unnamed stream which is a tributary of Weston Dayton Slough

3. Location of point of diversion is SE ¼ of NE ¼ of Section 23 Township 15S

   Range 38E B.M. Franklin County, additional points of diversion if any: ____

4. Water will be used for the following purposes:

   Amount ~~0.70~~ 1.00 (as per telecon 7-27-79 EMC) for Irrigation purposes from 4/1 to 11/1 (both dates inclusive)
   (cfs or acre-feet per annum)

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

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

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

5. Total quantity to be appropriated:

   a. ~~0.70~~ 1.00 (as per telecon 7-27-79 EMC) cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

   a. Description of ditches, flumes, pumps, headgates, etc. portable dam diverts water into open ditch

   b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____

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

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

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

8. Description of proposed uses:

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

      (1) Give the place of use of water: _____ ¼ of _____ ¼ of Section _____ Township _____

      Range _____ B.M.

      (2) Amount of power to be generated: _____ horsepower 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	
15S	38E	23				22									20				42
		24							20			23							43

Total number of acres to be irrigated 85

c. Describe any other water rights used for the same purposes as described above. Shares in Twin Lakes Canal

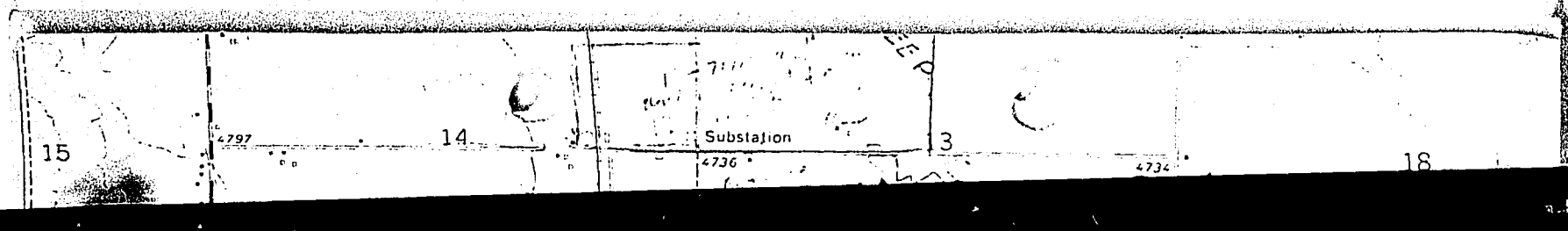
9. a. Who owns the property at the point of diversion Applicant

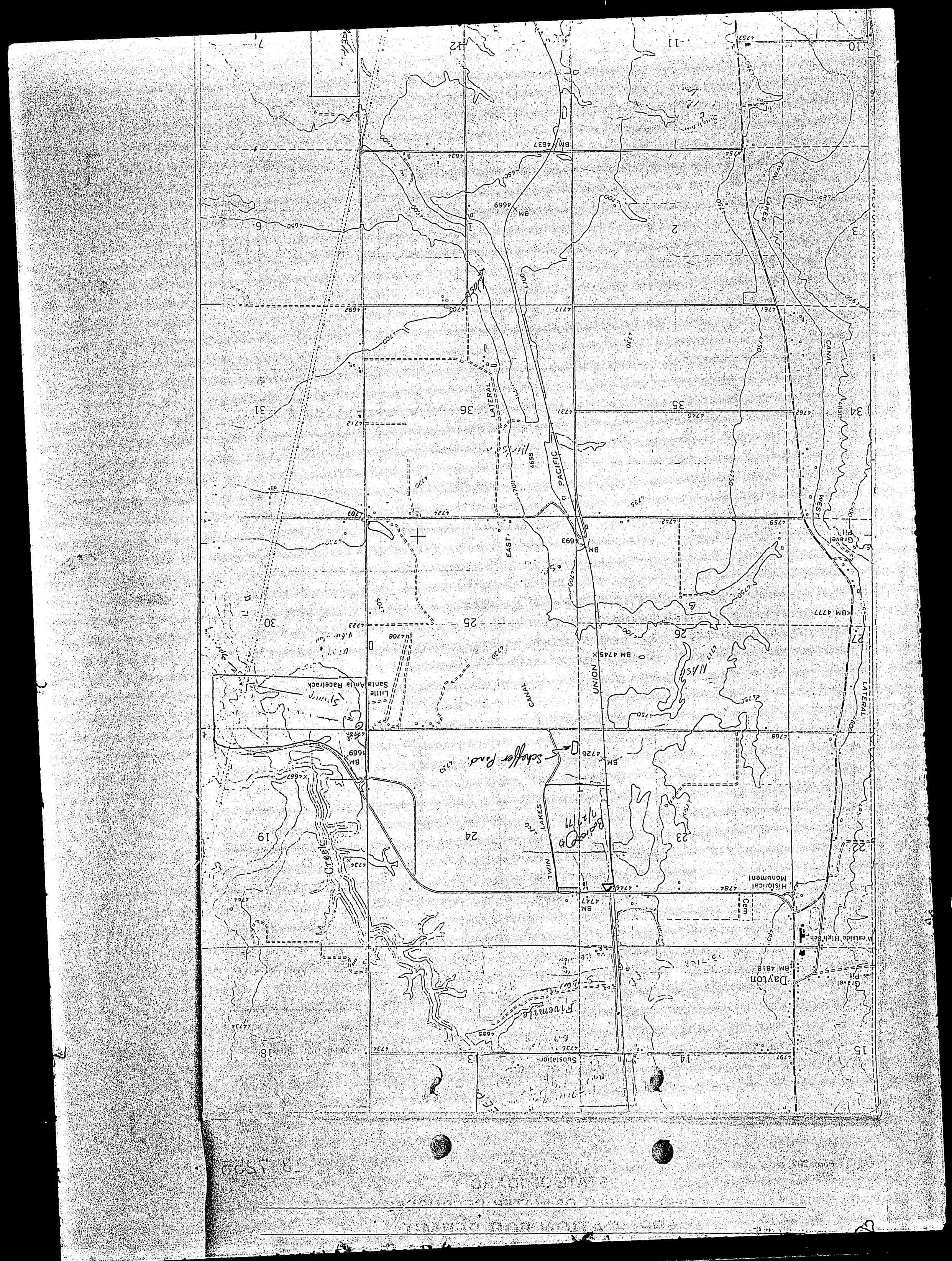
b. Who owns the land to be irrigated or place of use Applicant

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

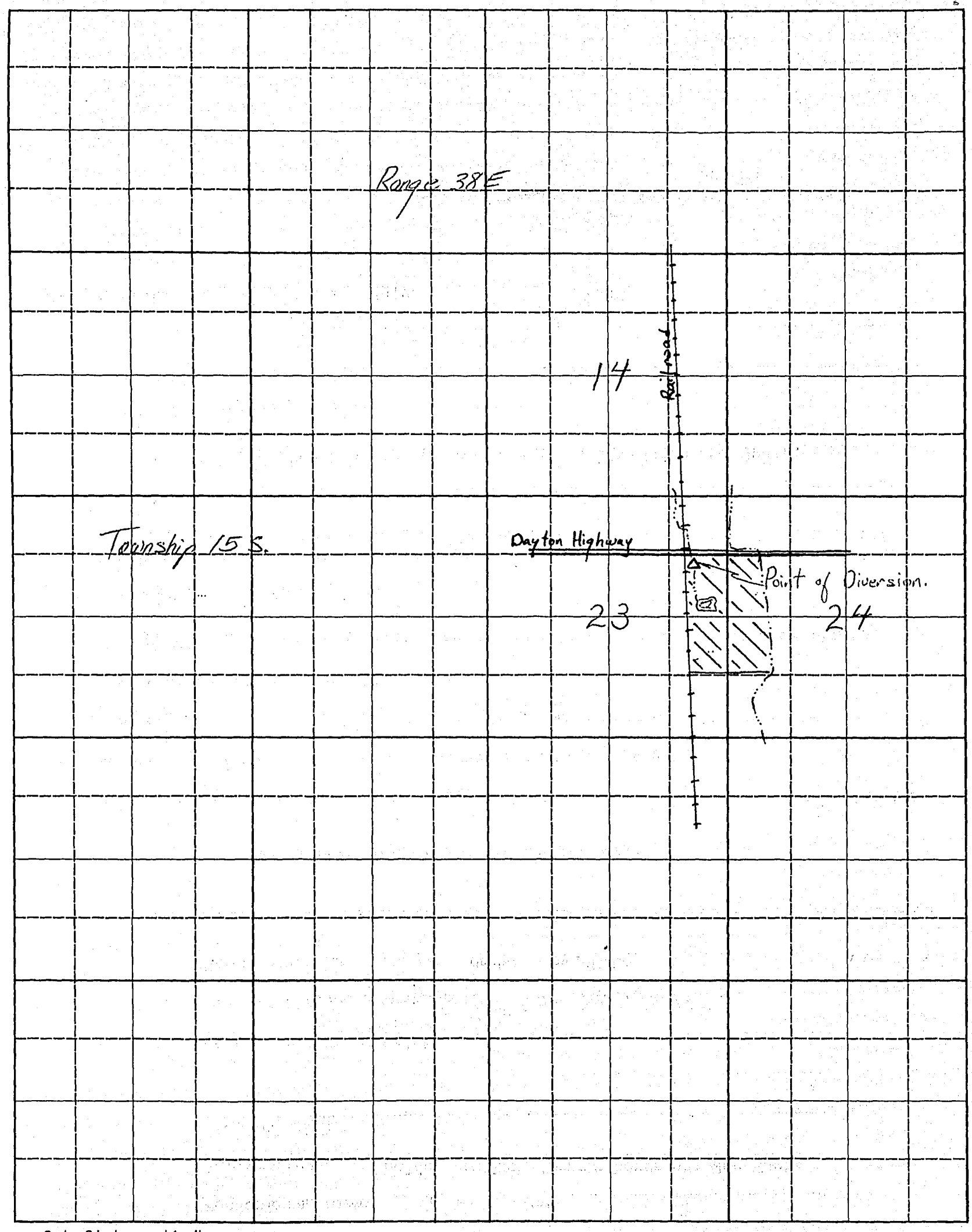
10. Remarks Water from unnamed stream originates from drain constructed by Travis Bergeson under Permit No. 13-7110 and is water not used under this permit.

VERIFIED




Schaffer Pond
Anita Racetrack
Little Santa
Riverside
Substation
Gravel Pit
Historical Monument
Westside High Sch
Dayton
BM 4818
BM 4745
BM 4726
BM 4747
BM 4693
BM 4669
BM 4637
<BM 4777
4685
4667
4658
4669
4693
4637
4669
4726
4745
4747
4818
4777
4685
4667
4658
UNION PACIFIC
EAST
TWIN LAKES
CANAL
LATERAL
Cem
1
2
3
6
7
10
11
12
19
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34
35
36

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.

(Applicant)

Received by dh Date 7-27-79 Time 3:15 p.m.

Preliminary check by EMC. Fee $ 35.00

Receipted by dh Date 7-27-79 #13621

Publication prepared by dh Date 8-3-79

Published in Preston Citizen

Publication dates August 9 & 16, 1979

Publication approved ARK Date 9-14-79

Protests filed by: Sheldon Beutler, Travis Bergeson; Wes Nash;
R. Ward Nielsen

Copies of protests forwarded by dh

Hearing held by ~~Norm Young~~, B. Flcenor Ron Carlson Date Sept. 15, 1981.

Recommended for approval denial by EMC

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 13-7255, 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 March 1, 19 87.

   c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

   d. Other:

   Pursuant to Amended Proposed Memorandum Decision and Order.

Witness my hand this 10th day of March, 19 82.

S. Dennis Wilson
Director

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF APPLICATION FOR PERMIT NO. 13-7255 IN THE NAME OF K. L. BODRERO	)	CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 12th day of March, 1982, a true and correct copy of the foregoing ORDER ADOPTING AMENDED PROPOSED MEMORANDUM DECISION AND ORDER was mailed, postage prepaid to:

K. L. Bodrero
P. O. Box 5
Dayton, ID 83232

Lowell D. Castleton
WILLIAMS & CASTLETON
P. O. Box 191
Preston, ID 83263

H. Ward Nielsen
Route 1, Box 197
Weston, ID 83286

Wes Nash
Weston, Idaho 83286

Sheldon Beutler
Weston, ID 83286

Travis Bergeson
Dayton, ID 83232

Rita I. Fleck

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

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF APPLICATION FOR PERMIT NO. 13-7255 IN THE NAME OF K. L. BODRERO	ORDER ADOPTING AMENDED PROPOSED MEMORANDUM DECISION AND ORDER

WHEREAS, A. Kenneth Dunn, Director of the Department of Water Resources having issued a copy on the parties thereto on February 10, 1982, an Amended Proposed Memorandum Decision and Order in the above-captioned matter, pursuant to Section 42-5211, Idaho Code; and,

WHEREAS, more than fifteen days have passed since the service of the Amended Proposed Memorandum Decision and Order; and,

WHEREAS, no exceptions to that Amended Proposed Memorandum Decision and Order have been received;

IT IS, THEREFORE, HEREBY ORDERED that said Amended Proposed Memorandum Decision and Order be adopted as the Final Decision and Order and that proof of construction of works and application of water to beneficial use be submitted on or before March 1, 1987.

Dated this 10 day of March, 1982.

A. KENNETH DUNN

Director

Form No. 202a
2/79

State of Idaho

Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY: EP APPLICATION NUMBER: 13 7255

CHECK:

- ☑ Source.
- ☑ Point of diversion.
- ☑ County.
- ☑ Description of diverting works.
- ☑ Time required for beneficial use of water.
- ☑ Place of use or acres irrigated.
- ☑ Map.
- ☑ Signature.
- ☑ Fee.

Field check by: _____
Date: _____
Comments: _____

- ☐ Yes ☑ No Field check required.
- ☐ Yes ☑ No Critical groundwater area.
- ☐ Yes ☑ No Request dam safety information. Sent by: _____ Date: _____
- ☑ Yes ☐ No* In form to receipt.

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

SEND COPIES TO:

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

PROCESSING:

- ☑ Yes ☐ No Platted by: EP Map No. DD-93
- ☑ Yes ☐ No Other rights on same place of use. TWIN LAKES CANAL WATER
- ☑ Yes ☐ No* In form for advertising.
  Final date for protests: AUGUST 20, 1979
- ☑ Yes ☐ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☑ Affidavit of publication received. Date: SEPT 10 1979
- ☑ Application published correctly. If not, record action taken: _____
- ☑ Fee amount, receipt date & number, recorded on application.
- ☑ Publication dates and paper, recorded on application.
- ☑ Protests, dates, withdrawal, etc., recorded on application.
- ☑ Recommendation & initial, recorded on application.
- ☑ Yes ☐ No Measuring device required.
- ☐ Yes ☑ No Access port required.
- ☐ Yes ☑ No Will water be delivered by watermaster? If yes, what district? _____

7-22-77 Date of priority recommended.

Special conditions of approval or cover letter. _____

See Amended Proposed Memorandum Decision.

By: Ernest Carlson Date: Oct 6, 1981

STATE OFFICE REVIEW:

☐ See attached sheet for more information.

By: _____ Date: _____

RECEIVED
OCT 1981
Department of Water Resources

NOTICE OF APPLICATION FOR WATER RIGHT

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

13-7255

BODRERO, K. L.

P. O. BOX 5, DAYTON, ID 83232

Source: UNNAMED STREAM tributary to WESTON DAYTON SLOUGH

Date Filed: 07/27/1979

Amount: 1.00 CFS

Diversion Point: SENE Sec 23 T 15S R 38E, FRANKLIN Co.

Use: IRRIGATION (1.00 CFS) from 04/01 to 11/01

Place of Use: SENE NESE Sec 23 T 15S R 38E SWNW NWSW Sec 24 T 15S R 38E
FOR 85 ACRES

Diversion Means: PORTABLE DAM, DITCH

rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho 83401 on or before AUGUST 27, 1979.

C. STEPHEN ALLRED

Director

Published 8/9 & 8/16/79.

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Eastern Region

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

AUGUST 3, 1979

The Preston Citizen
P. O. Box 472
Preston, Idaho 83263

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before AUGUST 27, 1979.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

RECEIVED
AUG 9 1979
Department of Water Resources
Eastern District Office

8-9-79

I wish to protest K. L. Bolleson's permit to file on the water of ~~Right~~ Travis Bergeson Drains

For Reasons

more Drains have been put in since Travis first filed on the water in 1975, so there is more water now. ~~I~~ I have been using this water since 1977 and have spent many Thousands of dollars to pipe it over to my land. I planned on Filing For more water because of the additional Drains being put in.

Sheldo Beutler
Travis Bergeson

Wes Nash
Weston
Idaho
83286



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

Aug - 9 - 79

State of Idaho
Department of water Resources

I Protest the application for
Ken Bodrero's No - 13-7255.

IN Which he is applying For Extra
Water from Travis Bergesor drain

I would like a useage Permit
filed on this Water By Jones from (

[redacted] 1974 - 1979 - have
used this Water through
Ken Bodrero Placer and have
stored in Rock Reservoir -

Dudley Sobach

Dear Mr Carlson.

It Will Cause Jones a more
Shortage on me you see We
have just about Cut all 2nd
crop Right & any time Lake's
Water ; Because of sprinklers
Jones are Spring are producing
only 1/2 what they use to ..
My share of the Water Right

in the Watts slough are
fairly short now - & where
I spent $17,000 on 5 Rest
a sprinkler on my farm.
I depend entirely on the
spring, drain, are short water
and spring storage in are Reservoir
We have no other source of water
Thank you

Dorothy

RECEIVED
AUG 10 1979
Department of Water Resources
Eastern District Office

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Eastern Region

JOHN V. EVANS
Governor
C. STEPHEN ALLRED
Director

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

August 10, 1979

K. L. Bodrero
P. O. Box 5
Dayton, Idaho 83232

RE: App/Permit 13-7255

Dear Sir:

Enclosed is a copy of a protest filed against the approval of a permit pursuant to the above-referenced application. The Department suggests you contact the protestants directly in an effort to determine the nature of the protest and attempt to resolve the protest.

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

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

2. Is the proposed water supply insufficient for the 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?

5. Will the proposed use conflict with the local public interest?

You will be notified at a later date of the time and place of the conference and/or hearing. If we can be of further assistance, please contact us.

Sincerely,

RONALD D. CARLSON
Supervisor, Eastern Region

RDC:dh

Encl.

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Eastern Region

JOHN V. EVANS
Governor
C. STEPHEN ALLRED
Director

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

August 10, 1979

Travis Bergeson
Dayton
Idaho 83232

RE: App/Permit 13-7255 BODRERO

Dear Sir:

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

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

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

2. Is the proposed water supply insufficient for the purpose intended?

3. Is the application made in good faith or for delay or speculation?

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

5. Will the proposed use conflict with the local public interest?

You will be notified at a later date of the time and place of the conference and/or hearing. If we can be of any assistance, please contact us.

Sincerely,

RONALD D. CARLSON
Regional Supervisor

RDC:dh

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Eastern Region

JOHN V. EVANS
Governor
C. STEPHEN ALLRED
Director

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

August 10, 1979

Sheldon Beutler
Weston
Idaho 83286

RE: Application [illegible]

Dear Sir:

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

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

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

2. Is the proposed water supply insufficient for the purpose intended?

3. Is the application made in good faith or for delay or speculation?

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

5. Will the proposed use conflict with the local public interest?

You will be notified at a later date of the time and place of the conference and/or hearing. If we can be of any assistance, please contact us.

Sincerely,

RONALD D. CARLSON
Resional Supervisor

RDC: dh

August 13, 1979

K. L. Bodrero
P. O. Box 5
Dayton, Idaho 83232

Dear Sir:

Re: App/Permit 13-7255

Enclosed is an additional copy of a protest filed against your above referenced application.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:dh

Enclosure

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Eastern Region

JOHN V. EVANS
Governor
C. STEPHEN ALLRED
Director

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

August 13, 1979

Wes Nash
Weston
Idaho 83286

RE: Appl/Permit 13-7255 BODRERO

Dear Sir:

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

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

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2. Is the proposed water supply insufficient for the purpose intended?

3. Is the application made in good faith or for delay or speculation?

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

5. Will the proposed use conflict with the local public interest?

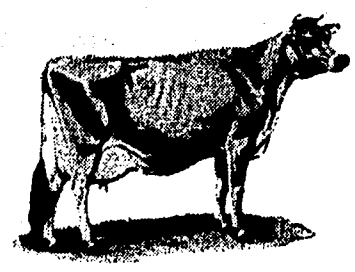
You will be notified at a later date of the time and place of the conference and/or hearing. If we can be of any assistance, please contact us.

Sincerely,

RONALD D. CARLSON
Regional Supervisor

RDC:dh

HAWARDEN
JERSEYS



Mr. and Mrs. H. Ward Nielsen
Route 1, Box 197
Weston, Idaho 83286

Telephone (208) 747-3520

Dear Sirs

I would like to protest the permit No 13-7255 that Mr. Ken Bodine has filed.

I along with Wesley Nash have visited Mr. Bodine and have not been able to come to any agreement.

So we are prepared for a Hearing.

Very Sincerly
H. Ward Nielsen

RECEIVED
SEP 14 1979
Department of Water Resources
Eastern District Office

October 2, 1979

K. L. Bodrero
P. O. Box 5
Dayton, Idaho 83232

Dear Sir:

Re: Your Protested App/Permit 13-7255

Enclosed is an additional protest filed against the approval of your above referenced application. If we may be of any assistance, feel free to contact this office.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:dh

Enclosure

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

October 1, 1979

H. Ward Nielsen
Route 1, Box 197
Weston, Idaho 83286

Dear Sir:

Re: App/Permit 13-7255 BODRERO

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

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

1. Will the proposed use reduce the quanity of water under existing water rights?

2. Is the proposed water supply insufficient for the purpose intended?

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

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

5. Will the proposed use under this permit conflict with the local public interest?

The timeliness of your protest may also be considered in any action taken by the Department. The final protest date for this application was August 27, 1979. Your protest was not received until September 14, 1979. If this office can be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:dh

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

October 8, 1979

RECEIVED
OCT 10 1979
Department of Water Resources
Eastern District Office

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

Re: Application for Permit No. 13-7255 Bodrero
Our File No. 1397.2

Dear Ron:

Please be advised that our firm has been retained to represent Mr. Wesley Nash in his protest against the above referenced application. Would you be so kind as to forward a copy of the application as well as a copy of our client's protest letter to us for our use in this case.

We would, of course, appreciate notice of any conferences and/or hearings being sent to this office.

I would also appreciate receiving a copy of Permit No. 13-7110 for reference purposes in this matter.

Yours very truly,

WILLIAMS & CASTLETON

Lowell

LOWELL D. CASTLETON
Attorney at Law

LDC/kc

cc: Mr. Wesley Nash
Mr. Ward Nielsen

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

October 10, 1979

RE: Application for Permit No. 13-7255 K. L. BODRERO

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

Dear Mr. Castleton:

Pursuant to your letter of October 8, 1979, please find enclosed a copy of the above referenced application and a copy of the protests filed against same.

I have requested a copy of Permit No. 13-7110 from our State Office and will forward it upon receipt.

Very truly yours,

COLLEEN WRAY
Sr. Secretary

Enclosures

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

October 15, 1979

RE: Permit No. 13-7110

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

Dear Mr. Castleton:

Pursuant to your request, please find enclosed a copy of the above referenced permit and other pertinent information.

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

Very truly yours,

COLLEEN WRAY
Sr. Secretary

Enclosures

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

In the Matter of Protests Against Approval of Application for Permit No. 13-7255 in the Name of K.L. BODRERO	NOTICE OF CONFERENCE AND/OR HEARING

On July 27, 1979, K. L. Bodrero filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On August 9, 1979, the Department received a protest against approval of said application from Sheldon Beutler and Travis Bergeson. On August 10, 1979, a protest was received from J. Wesley Nash, and on September 14, 1979, additional protest was received from H. Ward Nielsen.

The Department has set the matter of protest for conference and/or hearing for Wednesday, October 31, 1979, at 9:00 a.m., in the Courtroom of the Franklin County Courthouse. 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 15-12 day of October, 1979.

RONALD D. CARLSON, Supervisor
Eastern Region

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

Name and Address of Sender

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

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

IDAHO FALLS, IDAHO OCT 19 1976

NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET AND POST OFFICE ADDRESS	POSTAGE	FEE	R.R. FEE	RESTRICTED DELIVERY FEE	ACTUAL VALUE	INSURANCE CHARGE	REMARKS*
1336	Travis Ferguson, Dayton, Id.	15	80	45				13-7255
1337	V. Reid Pulsen, Rt. 1 Box 97, Weston, Id.							"
1338	Russell Castleton, P.O. Box 191, Preston, Id.							"
1339	K. L. Rodriguez, P.O. Box 5, Dayton, Id.							"
1340	Wesley Nash, Weston, Id.							"
1341	Shelton Bentley, Weston, Id.						13-7256	"
1342	Eldon K. Bingham, Rt #3, Preston, Id.							13-7256
1343	Alex Kulj & Jerry McCormick, Box 1551, Pocatello, Id.							29-7496
1344	Alex Fagnant, Box 293, Lava Hot Spgs, Id.							"
1345	Chas W. Anderson, Box 176, Lava Hot Spgs, Id.							"
1346	Mary Crapo, Box 351, Lava Hot Spgs, Id.				$.80			"
1347	Lon Pulsipher, Box 361, Lava Hot Spgs, Id.				$.28			"
1348	Alvin D. Powell, Lava Hot Spgs							"
1349	Dean Day, Lava Hot Spgs, Id.				Sent by Certified Mail			"
1350	Farrell Powell, Box 335, Lava Hot Spgs				to Idaho Falls			"
1351	Delray Dobson, Lava Hot Spgs, Id.							
1352	Leland Avery, Lava Hot Spgs, Id.							"
1353	Marvin D. Powell, Lava Hot Spgs, Id.							"
1354	Carl L. Baker, Box 222, Lava Hot Spgs, Id.							"
1355	Carl Smith, Lava Hot Spgs, Id.							"

TOTAL NO. OF PIECES LISTED BY SENDER: 20
TOTAL NO. OF PIECES REC'D AT P.O.: 20
POSTMASTER, PER (Name of receiving employee)

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

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: 1974-0-539-728

FORM MUST BE MADE OUT IN INK OR BALL POINT PEN

13-7255

PS Form 3811, Apr. 1977 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:
K. L. Bodnar
P. O. Box 5
Clayton Del.

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	1339	

(Always obtain signature of addressee or agent)

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

X [signature]

4. DATE OF DELIVERY 10-22-79 — POSTMARK DAYTON DE OCT 22 1979 P.M. 83232

5. ADDRESS(Complete only if requested)

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

☆GPO: 1977—0—249-595

13-7255

PS Form 3811, Apr. 1977 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:
Travis Burgeson
Dayton, Del.

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	1336	

(Always obtain signature of addressee or agent)

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

Travis Burgeson

4. DATE OF DELIVERY — POSTMARK

5. ADDRESS(Complete only if requested)

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

☆GPO: 1977—0—249-595

13-7255

PS Form 3811, Apr. 1977 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:
Jewell Castleton
R.D. 5, Box 231
Milton, De. 19968

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	1338	

(Always obtain signature of addressee or agent)

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

Jewell Castleton

4. DATE OF DELIVERY 10-18-79 — POSTMARK

5. ADDRESS(Complete only if requested)

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

☆GPO: 1977—0—249-595

13-7255

PS Form 3811, Apr. 1977 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:
Wesley Nash
Milton, De.

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	1340	

(Always obtain signature of addressee or agent)

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

Wesley Nash

4. DATE OF DELIVERY 10-18-79 — POSTMARK

5. ADDRESS(Complete only if requested)

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

☆GPO: 1977—0—249-595

13-7255

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

2. ARTICLE ADDRESSED TO:
J. Ward Nielsen
#1 Box 197
Milton, De

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	1337	

(Always obtain signature of addressee or agent)

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

J. Ward Nielsen

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5. ADDRESS(Complete only if requested)

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

☆GPO: 1977—0—249-595

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OFFICIAL BUSINESS

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• Moisten gummed ends and 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

U.S.MAIL

RECEIVED
OCT 19 1979
Department of Water Resources
Eastern District Office

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

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

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(City, State, and ZIP Code)

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

October 22, 1979

Franklin County Courthouse
Franklin County Clerk
Preston, Idaho 83263

Gentlemen:

This is to confirm the use of the Courtroom for conference and/or hearing to be held by this office on Wednesday, October 31, 1979, beginning at 9:00 a.m.

Thank you for your cooperation in this matter.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

13-7255 - K. L. BODRERO

Courtroom, Franklin County Courthouse, Preston, Idaho

October 31, 1979 - 9:00 a.m.

ROSTER OF ATTENDANCE

Name	Address	Representing
Ernest Carlson.	Id. Falls.	Water Resources.
Lowell D. Castleton	P.O. Box 191 Preston, Id.	Wesley Nash Ward Nielsen
H. Ward Nielsen	Route 1 Bx 197 Weston Id.	
Wesley Nash	Rt. 1 Box 215 Weston Id.	
SHELDON BEATLER	WESTON, IDAHO	SHELDON BEATLER
K. L. Bodrero	Dayton, Idaho	K. L. Bodrero

WATER RIGHT NO.

28-7210 13-2154 Nov. 16, 1948 1.85 cfs.

H. WARD NIELSEN

Weston, Idaho

28-7210 13-2154

November 15, 1948

October 31, 1958

1.85 cfs

Weston-Dayton Slough

Dayton Creek

Use	Rate of Diversion	Amount Appropriated
Irrigation	April 1 Nov. 1	1.85 c/s 784 acre feet or 3.5 af per acre

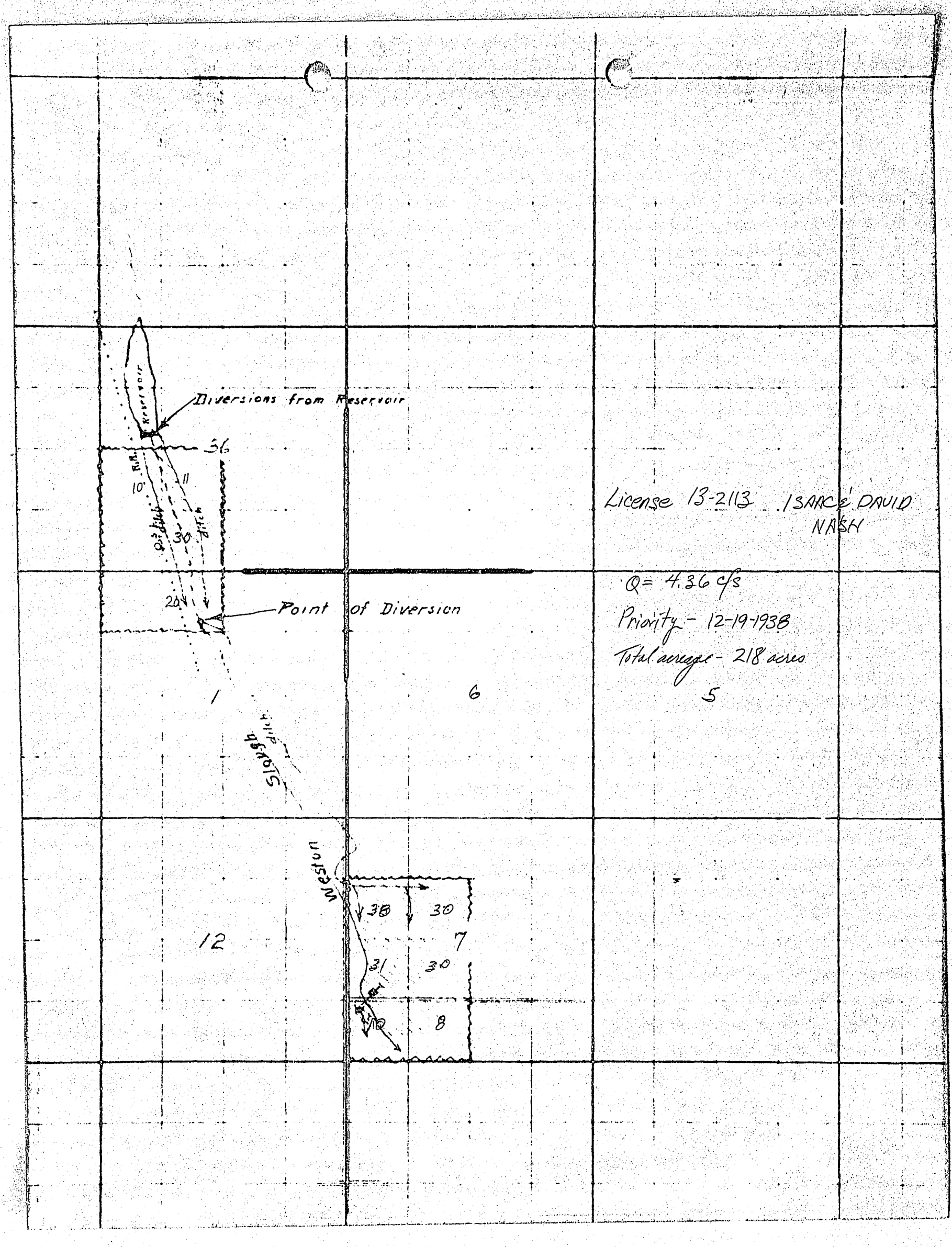
1.85 c/s

SE NW 1/4 Sec. 36

Twp. 15 S Rge. 38 E, B.M.

Franklin

	NE				NW		SW			SE					
	NW	SW	SE	NE	NW	SE	NE	NW	SE	NE	NW	SW	SE		
15S 38E 36	2	20	10	40	4	40	35	10	40	40	40	40	40	361	


Diversions from Reservoir
Reservoir
36
10'
11
30
Ditch
20
Point of Diversion
1
6
5
Slough
Ditch
Weston
35
30
12
7
31
30
8
License 13-2113 ISAAC & DAVID NASH
Q= 4.36 c/s
Priority - 12-19-1938
Total acreage - 218 acres

State of Idaho

License and Certificate of Water Right

RECEIVED

APR 4 1980

Water License No. 16646 / 13-2113

Department of Water Resources
Eastern District Office

Amount 4.36 second fee

Water District No. .....

Priority December 19, 1938

THIS IS TO CERTIFY that ISAAC H. NASH and DAVID NASH of Weston, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated January 29, 19 27; that Permit No. 16646 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 5 second feet, was issued thereunder on February 1, 19 32, showing that said works were completed on the 29th day of January, 19 32; and that on the 30th day of December, 19 44,

ISAAC H. NASH and DAVID NASH

of Preston and Weston, State of Idaho, made proof to the satisfaction of the State Reclamation Engineer of Idaho, of the right to use the waters of Weston Slough, a tributary of Bear River, for the purpose of irrigation and domestic use, under Use Permit No. 16646 of the Department of Reclamation and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the ~~Commissioner of Reclamation~~ State Reclamation Engineer of Idaho and entered of record in Volume 7 of Licenses, at page 4276, on the 29th day of December, 1945;

The right hereby confirmed dates from December 19, 19 38;

The Point of Diversion is located in Lot 3 in the ¼ of ¼, Sec. 1, Tp. 16 S., R. 38 E., B. M. Franklin County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 4.36 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
15 S.	38 E.	36	NE¼ SW¼	-	11
			NW¼ SW¼	-	10
			SW¼ SW¼	-	-
			SE¼ SW¼	-	30
16 S.	38 E.	1	NE¼ NW¼	-	20
			NW¼ NW¼	-	-
16 S.	39 E.	7	SW¼ NW¼	-	38
			SE¼ NW¼	-	30
			NE¼ SW¼	-	30
			NW¼ SW¼	-	31
			SW¼ SW¼	-	10
			SE¼ SW¼	-	8
			Number of acres actually irrigated	-	218

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

State Reclamation Engineer

WITNESS the seal and signature of the ~~Commissioner of Reclamation~~, affixed at Boise, Idaho, this 29th day of December, 19 45

MARK R. KULP

~~Commissioner of Reclamation~~
State Reclamation Engineer

(SEAL)

1-13

CONCLUSIONS OF LAW

(1) The water developed by the applicant is unappropriated water.

(2) The protestants failed to show probable cause of interference to their water rights that would result from the approval of this permit.

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

ORDER

IT IS, THEREFORE, HEREBY ORDERED and Application for Permit No. 13-7110 is hereby APPROVED subject to the following conditions:

(1) That this permit, be and is, subject to all prior existing water rights.

(2) That the permit holder permanently install and maintain a measuring device as part of the diverting works.

(3) That the overflow from his system be allowed to discharge into the natural drainage of the Weston-Dayton Slough.

(4) That proof of construction of works and application of water to beneficial use be submitted to the Department on or before October 1, 1980.

Dated this 19 day of September, 1975.

R. KEITH HIGGINSON
Director

BDF:jfr

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 13-7110 IN THE NAME OF TRAVIS BERGESON	MEMORANDUM DECISION AND ORDER

On April 24, 1975, Travis Bergeson, Dayton, Idaho, applied to the Department of Water Resources for a permit to appropriate 1.50 cubic feet per second of water from an unnamed sub-surface drain with a proposed point of diversion within the SE¼SE¼, Sec. 14, Twp. 15S, Rge. 38E, B.M., Franklin County, to be used from May 1 to October 1 for the irrigation of 75 acres of land.

The Department received protests against the granting of the permit from David A. Nash, Jr., H. Ward Nielsen, Lee C. Nielsen, and Wesley S. Nash. A conference was held to consider the protests against said application on July 10, 1975, at Preston, Idaho. The protestants were present and represented by Ralph H. Jones, Attorney at Law. The applicant was present and represented himself.

Both the applicant and protestants were given an opportunity to present testimony and evidence in the matter. The applicant also reduced the amount requested on the application to 0.50 cubic feet per second since that was the maximum flow of the drain.

All parties agreed to allow the Director of the Department to reach a decision on this matter based upon the information presented at the conference.

The Department has taken the matter under consideration and after having reviewed all pertinent testimony and evidence, including that contained in the Department's records, the Director of the Department of Water Resources makes the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

(1) In 1974, the applicant constructed sub-surface drains in an attempt to reclaim land that had historically been too wet to allow effective farming.

(2) The maximum flow in the completed drains is 0.50 cubic feet per second of water.

(3) The information now available in the Department's files and that presented by the protestants at the conference does not show the water being developed by the applicant's drains prior to their construction, to have been tributary to the Weston-Dayton Slough.

Wes Nash - 747-3526 >

Nielsen 3520 >

Dodrero 747-3443 >

Mr. Nash

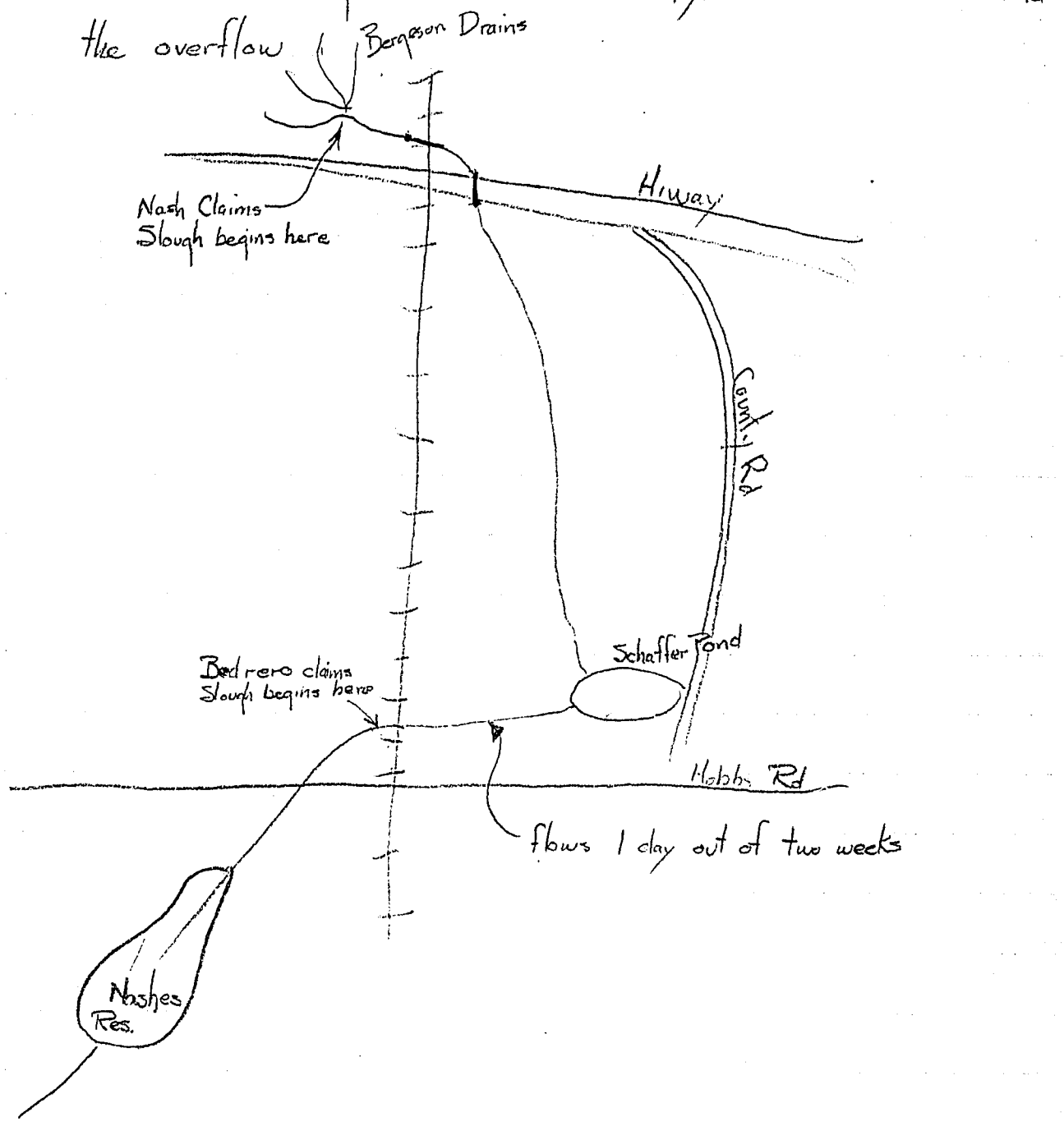
Claim the max amount of flow after spring runoff has be meas. at

1.50 cfs to 1.75 cfs —

Mr Bedrero —

Water from Berg. Drain flow into (illegally) ~~the~~ Schaffers Pond

the overflow



~~340~~ ~~7005~~

13-7255 K. L. Bedrero

Applicant— Moved into the area in 1950
This water flowed into Weston Dayton Slough only during spring flows
After drain const
In 1974, 75 Mr Berg built drains and the water began running across his property. The water began being used and spread upon his land—

Protestant
Lowell Castleton — Representing Wesley Nash and Ward Nielson—

—Take Notice of Permit 13-7110
There is an effect to the downstream rights when the drains are constructed the water will be diminished

Nash — 4.36cfs — 16646 12-19-38
Nielson—1.85— 20759 13/2154 11-16-48

&Applicant
The flow of the drain is not being used there is 1.00 cfs
100cfs is the flow of the drains

Mr. Beutler
1974 — 4 in drain
1976 — 6 in drain
1979 — 4 in drain

Application 13-7255.

Applicant- K.L. Bodrero.

Protestants:

N. Ward Nielson
Wesley Nash.
Sheldon Beutler.
} Lowell D. Castleton, Attorney at law.

Cor

Purchased property in 1952. - During summer, water entering Bodrero property would not flow into Weston Dayton Slough prior to Travis Burgeson constructing drain. 1974-1975.

Mr. Bodrero had to construct ditches to control overflow from Burgeson Drain. Prior to that time no ditches had been constructed.

Castleton:

Travis Burgeson - 13-7110 - Max ϕ - 0.50 c/s - Not tributary to Weston Dayton Slough.

Review Dept. Memorandum & previous licenses.

Clients have licensed right in Weston Dayton Slough. Weston #16646 12-19-38 4.76 c.s.
Nielsen 13-2154 1.85 c/s. 11-16-48 13-2113

+ - Development by applicant will result in reduction of water for licensed rights.

? Water developed by Burgeson Drain in excess of 0.50 cfs is tributary to Weston Dayton Slough.

Issue: - The proposed use reduce the quantity of water under existing water right.

Bodrero - His filing would follow Beutler - who has also filed on excess water from Burgoson Drain.

Issue - (Fleenor)
Are down stream users entitled to water.
If entitled to water, what effect will appropriation have on down stream users.

Nash - Claimed max flow in slough was 1.5 to 1.75 c/s after spring run off. measured during 1976. in SW¼ NW¼ Sec 36 T. 15S R. 38E.

Mr Bodrero - water from Berg Drain flows ~~into~~ (illegally) into Schaffer pond

IN THE MATTER OF APPLICATION }
FOR PERMIT #13-7255 IN THE }
NAME OF K. L. BODRERO. }

STIPULATION
&
AGREEMENT.

We hereby agree to allow the Dept. of Water Resources to reach a decision in this matter based on information presented at a conference held in Preston, Idaho on October 31, 1979 and information obtained ~~due~~ from a field examination, and other information in the Dept.'s files.

We also request that a proposed memorandum be made available for our review prior to the memorandum being issued.

Signed the 31st day of October 1979 in ~~Soda Springs~~ Preston. Idaho.

Sworn Statutory for
Wesley Nash & Ward Nielsen

Sheldon Bentley

K L Bodrero

RECEIVED
MAY 2 1980
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

TELEPHONE:
(208) 852-2680

April 30, 1980

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

Re: Application for Permit No. 13-7255, K. L. Bodreo

Dear Ron:

On October 31, 1979, here in Franklin County a conference was held regarding protest filed by our clients, J. Wesley Nash and H. Ward Nielsen. At that time we were informed that a decision would be reached by the Department and communicated to all parties. As of this date we have had no response and this inquiry is as to the present status of that particular application. Our clients are anxious to know the decision of the Department of Water Resources so as to determine whether or not further action on their part is necessary. Could you advise as to the present status of the case and when we can expect a decision.

Yours very truly,

WILLIAMS & CASTLETON

Lowell

LOWELL D. CASTLETON
Attorney at Law

LDC/csp

cc: J. Wesley Nash
H. Ward Nielsen

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

January 16, 1981

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

Re: Application for Permit No. 13-7255, K. L. Bodreo
our File No. 1397.2

Dear Ron:

I have requested repeatedly action on the part of the Department with reference to Application Number 13-7255, filed by Kenneth Bodreo and protested by our clients, Wesley Nash and H. Ward Nielsen. This matter was heard in conference here in Preston and has been under consideration for far too long a period of time without having had a decision rendered.

Could the Department please expedite this decision and advise us accordingly. This seems especially important in view of the lack of moisture thus far this year and potential problems with reference to water rights in the summer to come. Your response will be appreciated and is expected.

Yours very truly,

WILLIAMS & CASTLETON

Lowell

LOWELL D. CASTLETON
Attorney at Law

LDC/cps

cc: Mr. Wesley Nash
Mr. H. Ward Nielsen

RECEIVED
JAN 21 1981
Department of Water Resources
Eastern District Office

MEMO

To: Bob Fleenor through Ron Carlson

From: Ernest Carlsen

RE: Applications 13-7255 and 13-7256

In the attached decisions there are some matters which may be appurtanent but were not addressed. Example: water from the 2 additional drains on Travis Bergeson's property has been flowing in the Weston Dayton Slough drainage since 1976 and 1979. Is that a sufficient time to recognize the water as now being subject to rights in the Weston Dayton Slough which preceed development of the water? Furthermore, since neither Bodrero and Beutler own the land on which the drains are located, it was not considered private water and was subject to appropriation. Permit 13-7110 granted use of the first 0.50 cfs on Beutler's property. Bodrero has the next filing for 1.00 cfs which appears to be the total quantity developed by the drains. Beutler then filed for another 0.50 cfs as a supplemental right, bringing the total appropriation up to 2.00 cfs under the three filings. It appears the first two filings over appropriated the source. But since this was not an issue in either conference, it was not discussed.

INTER-DEPARTMENT MEMO — 1

FROM Bob Fleenor

DATE 6-22-81

TO File 13-7255

SUBJECT 13-7255 Rehearing

Mr Castleton, attorney for the protestant called at 4:33pm today and I returned his call at 4:50pm.

He did not receive a copy of the proposed decision and was not aware it had been issued until a client brought a copy to him today. His client objects to ~~with~~ one portion but it is not possible, because of short time, to file an objection.

He will file a request for a rehearing after the decision has been issued so a record can be made for appeal to the District Court

Bob Fleenor
SIGNATURE

August 4, 1981

Re: Application for Permit No. 13-7255

K. L. Bodrero
P.O. Box 5
Dayton, ID 83232

Dear Mr. Bodrero:

Enclosed is a copy of the approved Application for Permit No. 13-7255 along with a copy of the Proposed Memorandum Decision and Order and a copy of the Order Adopting the Proposal for Decision. We direct your attention to the conditions of approval as set forth in the Proposed Memorandum Decision and Order.

Be sure to note the special condition requiring you to install and maintain a measuring device at your point of diversion prior to submitting proof of beneficial use of water. We have enclosed a letter describing the different types of measuring devices accepted by this office.

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

Sincerely,

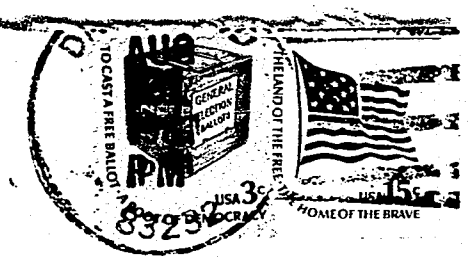
L. GLEN SAXTON
Chief, Operations Bureau

LGS:jg

Enclosures

cc: (See Certificate of Mailing)

K. L. BODRERO
P O BOX 5
DAYTON, IDA.
83232



H. Kenneth Dunn Director
State of Idaho
Department of Water Resources
State house
450 W. State Street
Boise Idaho 83720

I could or will come back if another hearing is heard during the winter months.

I understand the Director of the Water Resources Board has the right to set the name and place if any Oral Arguments are to be heard.

What ever the Director wishes about setting Place & time if another Hearing is to be heard.

I will go along with his request.

I am thanking you kindly in this matter.

Sincerely

L. L. BODRERO

Note

amend and attach the enclosed letter 2 sent to the Water Resources Board dated 8-17-81

2 on the matter of case if there is another hearing.

One of my witnesses will be leaving for Arizona for the winter any time after the 20th of September 1981

2, K. L. Bodreo will be leaving for Arizona, (2f possible) the 1st of November 1981 for the winter months and will not be back until April 1982. 2 have to go where it warmer for my health during the winter months.

early spring months
in Ohio Reservoirs.

Sincerely

R. L. Bodrero

above mentioned Crops will grow in a slough.

Also after spring run off had subsided usually in March. There is a water line that goes over to where a hydrant and a watering trough was used to water the cattle in a small pasture in the bottom land in my property where Mr. Nash claims a slough. The water pipe is still there. I have the person as a witness that watered the cattle.

Mr. Nash gets the water from the Bergeson drain for storage in the fall & Winter and

Castleton of Williams and
Castleton of Preston, Idaho

I have come up with a
witness that will testify
for me. He told me that
when he was a young man
he and his father thinned
and growed sugar beets
and grain where Mr
Nash claims a slough.

Also between the years
of 1956 through 1973 I
growed potatoes, grain
Bush beans & Cabbage
where Mr Nash claims
a slough. I have witnesses
who helped me harvest
these Crops.

There is no way the

Dayton, Idaho
8-20-81

Before the Director of
the Dept. of Water
Resources of the State of Idaho

For the approval of
application for permit no.
13-7255 in the name of
K. L. Bodrero

Dear Sirs

In the previous letter sent
to the Director of the Dept.
of Water Resources of the
State of Idaho dated
8-17-81 I forgot to
mention in Items 2 & 3
in Mr. Wesley Nashes
petition letter sent by
his attorney Lowell D.

NOTE 13-7255

To the Director of the
Water Resources Board
of the State of Idaho

Dear Sirs:

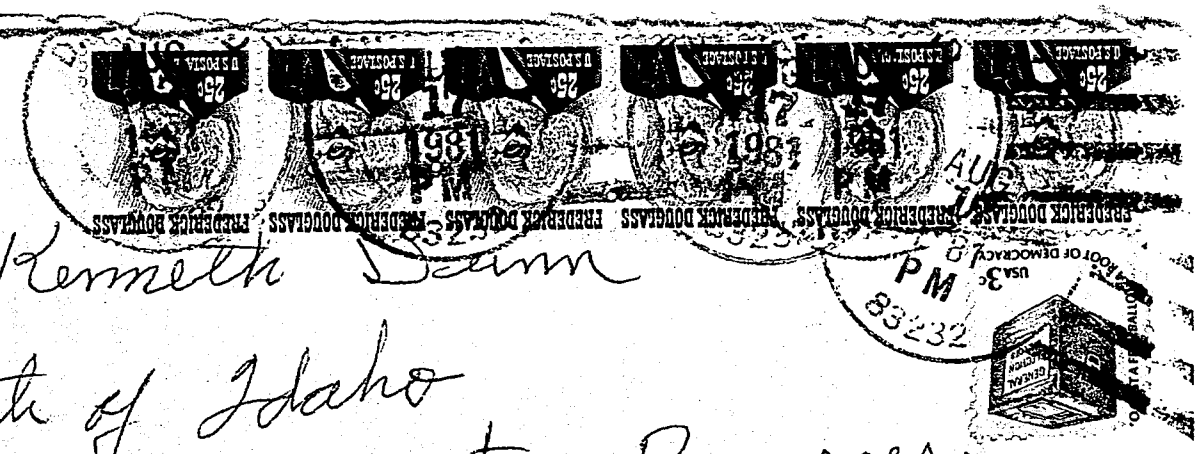
I don't know your procure.
If you wish you can
send a Copy of the enclosed
letter and letter you
recieved dated 8-07-81
to any or all protestants

P.S.
I am thanking you kindly for
your time in this matter

Sincerely

K.L. RodRERO

K. L. BODRERO
P. O. BOX 5
DAYTON, IDA.
83232



H. Kenneth Dunn
State of Idaho
Dept. of Water Resources
State House
Boise, Idaho 83720

CERTIFIED
No. 761154
MAIL

3. Petitioner Nash intends to present these arguments for the record and will support the same by testimony from witnesses who will testify as to the relationship of a slough and the sources from which its water is derived, drainage in the past into the Weston Dayton Slough, and the impact of the installation of new drains in property adjoining the slough.

4. Petitioner Nash further submits that a rehearing must be held in order to establish a formal record of proceedings in this case. Petitioner's attorney, Mr. Castleton, has been informed by the Department that no record was made of the informal conference held on October 31, 1979. Therefore, in order to properly bring this matter before this District Court pursuant to Idaho Code Sections 62-5215 and 67-5216, a rehearing should be held and a record made so that, if necessary, the case can be submitted on appeal to the District Court without a trial de novo.

5. Certificate of Service as set forth in Rule 7.2 of the Department's Rule of Practice and Procedure is being complied with.

DATED This 13th day of August, 1981.

Lowell D. Castleton

LOWELL D. CASTLETON
Williams & Castleton
Attorney for Wesley Nash

RECEIVED
AUG 19 1981
Idaho Water Resources

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

COPY

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF APPLICATION FOR PERMIT NO. 13-7255 IN THE NAME OF K. L. BODRERO

PETITION FOR REHEARING

WESLEY NASH, a party of record in this matter, does hereby, through his attorney of record, LOWELL D. CASTLETON of Williams & Castleton, Preston, Idaho, petition on the Department of Water Resources for a rehearing in this case pursuant to Rule 3.4 of the Rules of Practice and Procedure of the Department. Said Petition is made on the following grounds and for the following reasons:

1. Petitioner Nash believes that the Memorandum Decision and Order of the Department is erroneous in its Finding of Fact identified as number 3 in finding that water flowing onto the applicant's property due to the installation of two additional drains for the Travis Bergeson property was found not to be tributary to Weston Dayton Slough prior to the construction of the drains. While that finding may seem consistent with the Department's earlier finding in the decision on Permit No. 13-7110, Petitioner Nash believes a fundamental point has been overlooked since in Permit No. 13-7110 the Applicant was in essence reclaiming his own water which would otherwise have flowed or drained from his property into the Weston Dayton Slough, whereas in this case the Applicant is attempting to appropriate water flowing not from his own drains but from those of a neighbor.

2. Petitioner Nash believes that the question of whether water flowing from new drains is in fact "new" water subject to appropriation by other than an owner of the land upon which the water flowing from the drains accumulates has not been established as a principle of water law in the state of Idaho. Whereas a landowner may well have the right to water which he reclaims from his own land through the use of a drain (as in Permit No. 13-7110). Petitioner Nash believes the Department to be in error in its Conclusion of Law No. 1 in this case that water "developed" by drains on a neighbor's property is unappropriate and subject to appropriation. Rather, Petitioner Nash believes any attempt at appropriation of such water is subject to all prior rights in that stream into which water would have otherwise found its way. A slough by definition derives its water from drainage.

Mr Naylor told me that all there was that They drained with these Lwd branch drains was just a Couple of wet spots in the field and picked up a very small amount of water

Now therefore my application for Permit No 130 7255 in the name of K. L. Bodrero Dayton, Idaho had already Covered these two additional branch drains

Sincerely

K. L. Bodrero

additional drains that was put in the Travis Bergeson property.

I just talked with Mr. Jaskyo Naylor of Dayton, Idaho. Which his mailing address is RT #1 Weston, Idaho 83286.

Mr. Naylor dug these two drains for Mr. Bergeson

These two drains he dug with his backhoe was just branch drains one about 200 feet long, the other one about 300 feet long. These two branch drains drained into the main drain up ahead of the main drain outlet.

Dayton, Idaho

RECEIVED

AUG 19 1981

State of Idaho
Dept. of water Resources
State house
Boise Idaho 83720

Dear Sirs:

Enclosed is a photo copy of a letter received from Mr. Wesley Nash in which through his attorney Lowell D. Castleton of Williams & Castleton of Preston, Idaho in which you may have already received

They protest against approval of application for Permit No. 13-7255 in the Name of K. L. Bodrero Dayton, Idaho 83232

They protest of the two

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF APPLICATION FOR PERMIT NO. 13-7255 IN THE NAME OF K. L. BODRERO	CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 13th day of August, 1981, true and correct copies of the foregoing Petition For Hearing was mailed, postage prepaid to:

K. L. Bodrero
P. O. Box 5
Dayton, ID 83232

H. Ward Nielsen
Route 1, Box 197
Weston, ID 83286

Wesley Nash
Weston, ID 83286

Sheldon Beutler
Weston, ID 83286

Travis Bergeson
Dayton, ID 83232

A. Kenneth Dunn, Director
Department of Water Resources
450 West State Street
Boise, ID 83720

Lowell D. Castleton

LOWELL D. CASTLETON
Williams & Castleton
Attorney for Wesley Nash

3. Petitioner Nash intends to present these arguments for the record and will support the same by testimony from witnesses who will testify as to the relationship of a slough and the sources from which its water is derived, drainage in the past into the Weston Dayton Slough, and the impact of the installation of new drains in property adjoining the slough.

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5. Certificate of Service as set forth in Rule 7.2 of the Department's Rule of Practice and Procedure is being complied with.

DATED This 13th day of August, 1981.

Lowell D. Castleton

LOWELL D. CASTLETON
Williams & Castleton
Attorney for Wesley Nash

RECEIVED

AUG 14 1981

Department of Water Resources

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF APPLICATION FOR PERMIT NO. 13-7255 IN THE NAME OF K. L. BODRERO	PETITION FOR REHEARING

WESLEY NASH, a party of record in this matter, does hereby, through his attorney of record, LOWELL D. CASTLETON of Williams & Castleton, Preston, Idaho, petition on the Department of Water Resources for a rehearing in this case pursuant to Rule 3.4 of the Rules of Practice and Procedure of the Department. Said Petition is made on the following grounds and for the following reasons:

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2. Petitioner Nash believes that the question of whether water flowing from new drains is in fact "new" water subject to appropriation by other than an owner of the land upon which the water flowing from the drains accumulates has not been established as a principle of water law in the state of Idaho. Whereas a landowner may well have the right to water which he reclaims from his own land through the use of a drain (as in Permit No. 13-7110). Petitioner Nash believes the Department to be in error in its Conclusion of Law No. 1 in this case that water "developed" by drains on a neighbor's property is unappropriate and subject to appropriation. Rather, Petitioner Nash believes any attempt at appropriation of such water is subject to all prior rights in that stream into which water would have otherwise found its way. A slough by definition derives its water from drainage.

5. Will the proposed use conflict with the local public interest?

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

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be submitted to the parties and the parties may be afforded an opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by Idaho Code, Section 42-1701A.

The parties by written stipulation may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not prejudice the Director's review of a party's evidence and arguments. However, such a waiver will shorten the decision-making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to Rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the district court.

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

Dated this 31st day of August, 1981.

Regional Supervisor

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 13-7255 IN THE NAME)
OF K. L. BODRERO) NOTICE OF HEARING

On July 27, 1979, K. L. Bodrero filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On August 9, 1979, the Department received protests against approval of said application from Sheldon Beutler and Travis Bergeson. On August 10, 1979, a protest was received from Wesley Nash, and on September 14, 1979, an additional protest was received from H. Ward Nielsen. Subsequent to the conference for considering the protests against approval of the application and issuance of an order adopting the proposed Memorandum Decision, a Petition for Rehearing was filed with the Department by Mr. Lowell Castleton, Attorney at Law, in behalf of Wesley Nash.

The Department has set the matter of protest for rehearing for Tuesday, September 15, 1981, at 11:00 a.m. in the basement Meeting Room, Franklin County Courthouse, Preston, Idaho. The hearing will be held in accordance with provisions of Chapters 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.

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

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

13-7255 - K. L. Bodrero

Meeting Room, Franklin County Courthouse, Preston, Idaho

Tuesday, September 15, 1981 - 11:00 a.m.

ROSTER OF ATTENDANCE

Hearing Officer Bob Fleenor & Ron Carlson

Name	Address	Representing
Lowell D. Castleton	P.O. Box 191 Preston, ID	Wesley Nash
Joel E. Tolton	Utah Water Res Sol Wesley Nash	
Wesley Nash	Rt-1 Box 215 Weston Idaho	Wesley Nash
H. Ward Nielsen	Rt. 1 Box 197 Weston Idaho	H. Ward Nielsen
Eunice Archibald	Dayton, Idaho	K. L. Bodrero
Steven D. Kent	Weston, Idaho	K. L. Bodrero
LaVar E Jensen	Dayton Ida.	"
Jim Naylor	weston Id.	ITL Bodrero.
Walter Beutler	Dayton, Idaho	"
Eldon ? Martin	Dayton, Idaho	"
K. L. Bodrero	Dayton Ida.	My Self
Gordon Bailey	Clifton Idaho	

Joe Fletcher — Expert witness.
Professor Emeritus Hydrology - Si-ep
1934
1965 Forest service map
Drains is Sec 23 & 24

13-7110 - Travis Bergisson

Applicant
witness' -
1. Gordon Galley - saw potatoes from road

2. Eunice Archibald - water hydrant was installed to provide wate for cattle. Rember Potatoes grown in bottom

3. Steven Kent - hauled Potatoes for Bodrero. in 1964. Worked for Bodrero previous years. was 18 years old in 1964.
4. Walter Buttler - 78 Years old

5. Lavar Jensen - Said blow in Archibald's Bottoms were dry in fall of year. Skating rink above R.R. Track

6. Mr. Martin

Lowell Castleton

Wesley Nash -
Notice license - 16646
Says he will lose the amount of Water Bodrero proposes to use. Shafer pond built & Twin lakes water brought down to it

13-7255 Sept. 15, 1981

K.L. Bodrero

Rehearing for appeal to Dist. Court

Protestant's.
Wesley Nash, Ward Nielsen.
Expert witness - Joe Fletcher of U.S.U.
retired

Applicant -
Request Protestant go first

ISSUES —
Is water developed new water or tributary to westo- Payto- Slough?
Procedure —
Applicant will Proceed —

Bodrero -
History of area
Father's Cousin owned property
Applicants EXHIBIT 1 D-10 Area Photo
Applicants EXHIBIT 2 E-11 1956
" " " Photo of water Pipe
" " 4 " " " " "

Pond started in 1970 on dry ground
Were ~~damp~~ spots adjacent to Pond
Prior to it being dug.

F Kelthar's opinion on reuse of drain water — legal opinion

X-exam -

Summary — Mr. Bedrero

— Mr. Castleton

Change in 13-7110 would be needed if conclusion is changed in this permit —

Gorden Galey
Clifton Idaho—
Water master 1954 - 1976

Eunice Archibald—
Hyrdia
Used to drive across the bottoms.

Stephen Kent-
Weston, Idaho
Hauled Potatoes—

Walter Beutler
Dayton, Idaho
78 years old
Seldom the water runs under highway

=LaVar Jensen—
Dayton, Idaho—

Mr. Martin

Bottom was damp—

Culverts installed to carry water—

Mr Castleton—

Mr Nash— License 16646— Official Notice taken -

Sec 7, 16S 39E Reservoir, Nash—

Affect of water use by Badrero—

Will get 0.5cfs less

Shafer pond was built - and Twin Lakes water was put into the pond —

X-exam

Is Nash Short of water?—

Prof. Joe Fletcher— Testify as an expert witness—

Present - Position - Emeritus Prof of Hydrology

Worked in hydrology since 1934, has worked extensively in the Cache Valley Area—

Sudied Geology of the area—

Used for illustration

~~Protestant Exhibit #'s~~ Map of Area—

Map showing drainage area—

There will be an affect→

Photo 6 DD 67 [redacted] Taken 1967
Mr. Castleton objects to chonology since pond does not show up on later aerial photo

John Sparrow dug a water hole [redacted]
and hit water at 2 to 3 feet.

Bergeson drain built in ~~1974~~ 1975

Mr. Bedrero has spent $30,000 leveling and installing irrigating system
Leveled land and picked up about 10 acres of ground.
[redacted] Mr Bedrero began using the water since 1975
by naturally flowing thru the bottoms —
Water runs into Shafer Pond and stops there 95% of the time —

Discussion on Tributary —
This water is tributary to Nash Reservoir only when

X-exam —
Twin Lakes Water Shares 94 shares to irrigate 130
[redacted]
Mr Bergeson has never rented water stock to anyone else —
Ran out of water on about 26 August —
Bergeson drain is only source of water now —

Rehearing 13-7255

Applicant - K.L. Bodrero

Protestant

Wesley Nash - Lowell Castleton, attorney

Ward Neilsen - Lowell Castleton -

Sheldon Beutler -

Travis Bergeson -

Prof- Joe Fletcher - Expert Witness

Issues -

Are the drains tributary -

Mr. Bodrero - statement -

History of the [redacted] farm -

Familiar with place since 33

Bought place in 1955?

No water ran across the R.R. track

-Question by Mr Castleton -

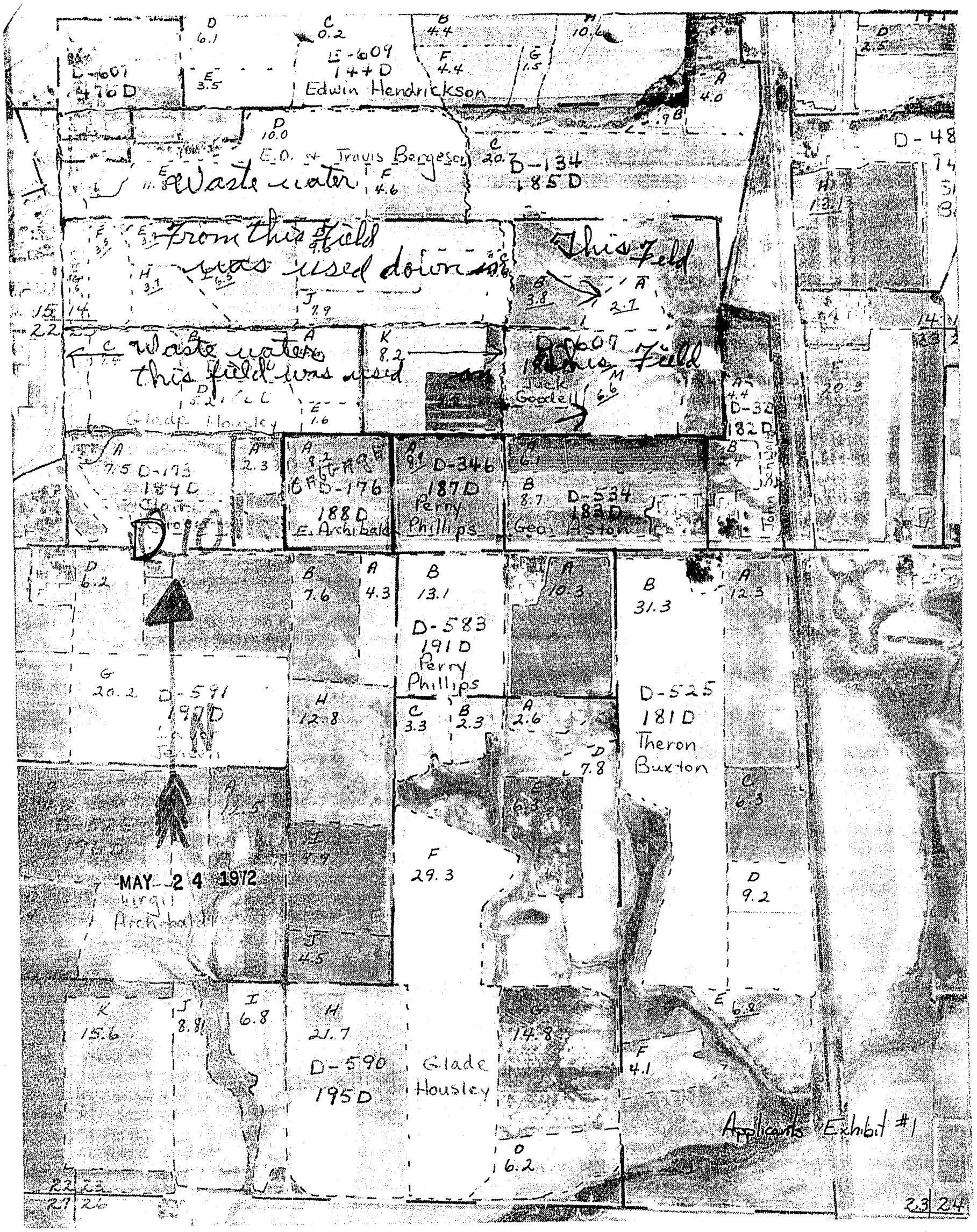
Exhibit 1 - Photo D-10

Exhibit 2. Photo E-11 - Prior to 9-56

Photographs of Water Line

No water west of RR Track for stock water -

Bodrero constructed in 1970 - Pond - Hit water at 4 feet

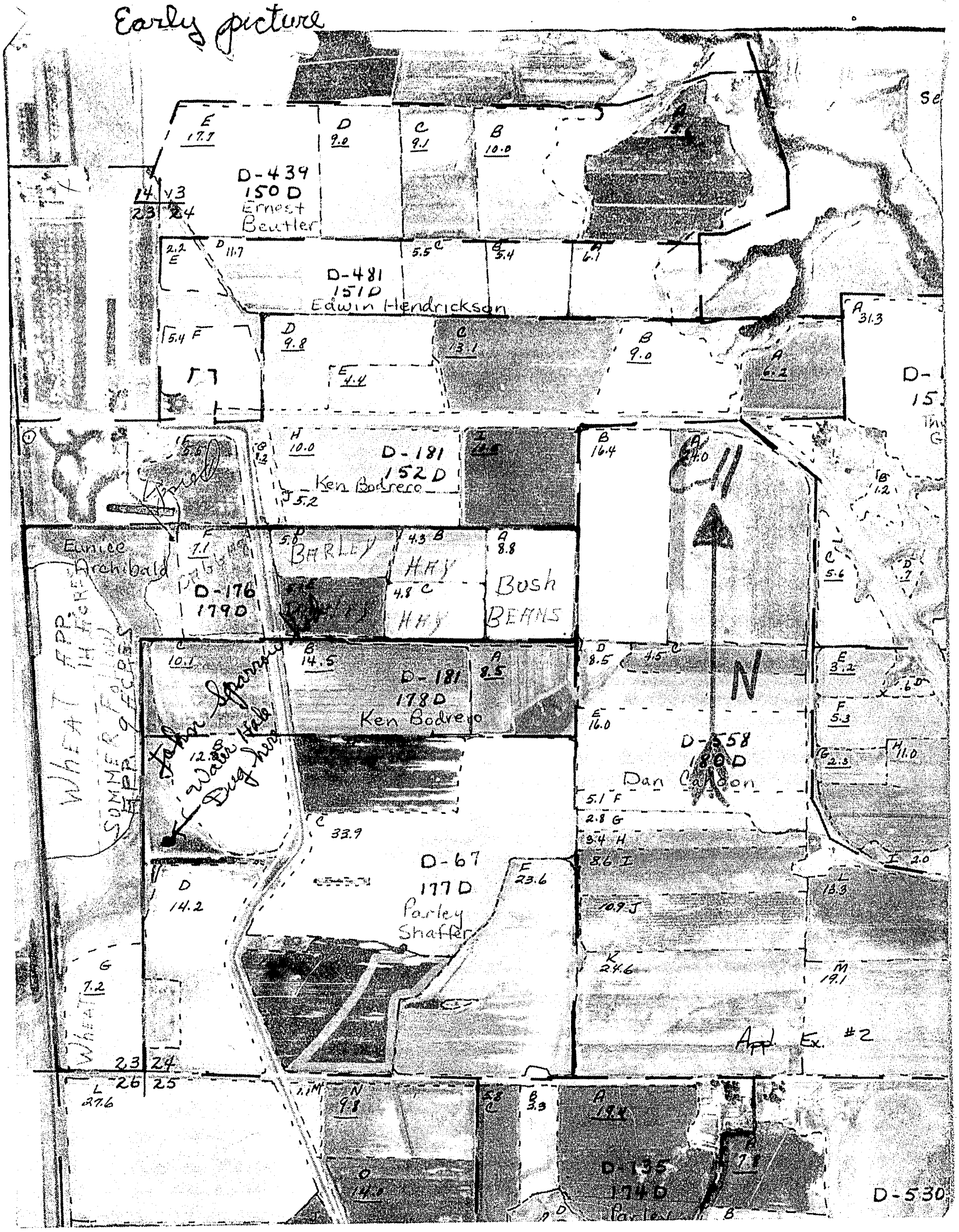

L-607
470D
Edwin Hendrickson
E-609
144D
D-134
185D
E.O. & Travis Bergeson
Waste water
From this field
was used down
this field was used
Jack Goode
D-607
182D
Field
GRD-176
188D
E. Archibald
D-346
187D
Perry Phillips
D-534
183D
Geo. Aston
D-583
191D
Perry Phillips
D-591
190D
D-525
181D
Theron Buxton
MAY 24 1972
Virgil Archibald
D-590
195D
Glade Housley
Glade Housley
Applicants Exhibit #1

Memo fro— Ernie
" " Bob
Proposed Docision letter to Bodrero 8/4/81
Letter fro— Bodrero
Petitio— for Rehearing fro— Bodrero
Letter fro— Brodrero — re. brief dra—s
Petitio— for Rehearing
Roster of attendance for re hearing
Notice of re hearing
hearing Notes
Applicants exhibits #1
" " #2
Picture(s) of Pipe Applicants Exhibit 3&4
Background report Prof. Joel E. FLETCHER

FILE (LEFT)
AFFIDAVIT of Publicatio—
Order issuing proposed decisio—
Applicatio— for permit & Copy of USGS quad ma—
Certified mailing verificatio—
Proposed decisio—
Order Adopting Proposed decisio— 7/24/81
Order Approving Petitio— for rehearing
Edit report,

File (RIGHT)
Staff analysis 13-7255
Data entry log
F Advertising letter 8/3/79
Protest by Sheldon Beutler - 8/9/79
" " Wesley Nash 8/10/79
F Protest letter to Bodrero
F " " " Bergoson
F " " " Beutler
F " " " Nash
Proof Reading report
" " "
Protest Letter fro H Ward Nielsen
Protest letter to Bodrero 9/14/79
Letter Lowell Castleton Represents Nash & Nielsen 10/8/79
" ~~K. L. Bodrero~~ transmitting copy of protests.
" " transmitting copy of ~~Protest~~ application 13-7110
Notice of Hrg scheduled 10/31/79
Certified registers
Return receipts
Confirmation of Court room
roster of attendance
Copy of Water right license 13-2154 H. Ward Nielsen
Map showing PD & Pu for 13-2113
Copy of 13-2113
Copy of Memo Decision 13-7110 - Travis Bergoson
Conference Notes
Stipulation & agreement
request status of AP { Letter fro Castle - 4/30/80
" " " 1/16/81

Early picture



Gravel Pit
Dayton
BM 4818
Westside High Sch
Cem
BM 4747
Historical Monument
4784
4746
TWIN LAKES
Creek
4744
4734
Borrow Pit
4472
4662
BM 4726
4661
4766
4669
WEST
4505
4470
LATERAL
UNION
CANAL
Little Santa Anita Racetrack
BM 4745
4708
4723
CACHE
4727
BM 4777
4660
BM 4693
EAST
Gravel Pit
4759
4742
4724
4703
4696
4699
4659
PACIFIC
4658
4712
4762
4745
4731
LATERAL
34
35
31
32
4721
4570
4723
4658
CANAL
WEST

Isohyetal Maps of Short Duration Rainfall in Utah. Utah Water Research Laboratory, PRWG107-1. 1974.

Highway Erosion Control System--An Evaluation Based on the Universal Soil Loss Equation with Eugene E. Farmer. National Soil Erosion Conference. May 1976. Lafayette, Indiana.

Erosion Control During Highway Construction. Vol. II Manual of Erosion Control Principles and Practices with C. Earl Israelsen, Calvin G. Clyde, Paul E. Packer, Eugene E. Farmer, Eugene K. Israelsen, Frank W. Haws and N. V. Rao. 103 pp. plus Appendix and Maps.

Runoff Estimates for Small Rural Watersheds and Development of a Sound Design Method. Vol. II. Design Manual. With Leon Huber, Frank Haws, and Calvin G. Clyde, Utah Water Research Laboratory, PRWG107-1. 1976.

Environmental Impact of Roosevelt Hot Springs Geothermal Energy Utilization. February 1978.

Evaluation of the Hydrology of Radioactive Waste Repositories in Rock Salt Formations. May 1978. NUS Corp.

The Environmental Impact of Cloud Seeding Agents on the High Plains of United States. For USBR Denver. 1978.

Erosional Transfer of Nitrogen in Desert Ecosystems. With D. L. Sorensen and D. B. Porcella. From Nitrogen in Desert Ecosystems, Ed. West and Skujins, pp. 171-181. 1978. Dowden, Hutchinson and Ross, Inc.

Runoff Estimates for Small Rural Watersheds and Development of a Sound Design Method. Vols. 1, 2, and 3, FHWA-RD-77-158, 159, and 160. 666 p.

Brief Abstracts of Some Papers on Seeding Agents, with Jay D. Schiffman. Report to U.S. Bureau of Reclamation from Utah Water Research Laboratory. February 1967.

Watershed Management, with R. H. Burgy and A. L. Sharp. Chapt. 59. Irrigation of Agricultural Land. Agron. Monograph No. 11. American Soc. Agron., Madison, Wisc. 1967. pp. 1089-1104.

Atomic Absorption as an Index of the Silver Concentration in Precipitation, with H. C. Millar. PRWG-30-4, Utah Water Research Laboratory. 1968. pp. 26.

Determination of Silver Using P-Dimethylaminobenylidene-rhodanine Dissolved in Dimethylformamide as a Chromophore. Reaction Carried Out on Filter Paper, Part I, with H. C. Millar, Utah Water Research Laboratory, PRWG30-5. 1969.

A Theoretical Study of Infiltration into Range and Forest Soils, with Yehia Z. El-Shafei. PRWG-60-1, Utah Water Research Laboratory. 1970.

The Development and Integration of Cold Cloud Seeding Technology for Use in Water Management Systems, with Charles F. Chappell, George W. Reynolds, and William N. McNeill. Interim Report to USBR, Utah Water Research Laboratory. 1971.

Development of Cold Cloud Seeding Technology for Use in Precipitation Management, with Charles F. Chappell, George W. Reynolds, and William N. McNeill. PRWG80-2, Utah Water Research Laboratory. 1971.

Precipitation Characteristics of Summer Storms at High-Elevation Stations in Utah, with Eugene E. Farmer, USDA Forest Service Res. Paper Int. 110, 1971.

Rainfall Intensity-Duration-Frequency Relations for the Wasatch Mountains at Northern Utah, with Eugene E. Farmer, Water Resources Res. 8(1):266-271. 1972.

Forecasting the Level of Great Salt Lake from SCS Snow Survey Data, AWRA, The Great Salt Lake and Utah's Water Resources, pp. 87-96, November 1972.

Some Intra-Storm Characteristics of High-Intensity Rainfall Bursts, with Eugene E. Farmer, from Distribution of Precipitation in Mountainous Area, WMO/OMM No. 326:526-531. 1972.

Snowmelt Peak Flows and Antecedent Precipitation with George W. Reynolds from National Symposium on Watersheds in Transition. Ft. Collins, Colo. 1972.

Isohyetal Maps of Short Duration Rainfall in Utah, PRWG107-1, Utah Water Research Laboratory, Utah State University, Logan, Utah. 1973.

Soil Piping, with Karl Harris. Progressive Agr. in Arizona, 4:2-7. 1952.

Piping, with Karl Harris, H. B. Peterson and V. N. Chandler. Trans. Amer. Geophys. Union 35:258-262. 1954.

Vegetation and Soils of a Small Watershed in Southeastern Ariz., with J. L. Gardner. Presented at AAAS Southwestern Div., Santa Fe, New Mexico. 1955.

A Capacitance Meter for Estimating Forage Weight, with Max E. Robinson. Jour. Range Mgmt. Vol. 9. 1956.

Notes on Plant-Soil Correlation in Desert Grassland, with J. L. Gardner. Presented at AAAS Southwestern and Rocky Mtn. Div., State College, New Mexico, May 2, 1956.

Vegetation Cover as Related to Soils in Desert Grassland, with J. L. Gardner. Presented to AAAS Southwestern and Rocky Mtn. Div., Tucson, Arizona. Apr. 28-30, 1957.

Nitrogen Response of a Semi Desert Grassland Area, with J. L. Gardner. Presented at AAAS Southwestern and Rocky Mtn. Div., Tucson, Ariz., April 28-30, 1957.

Runoffs from Rangelands of the Southwest, with R. V. Keppel. Presented to Rocky Mtn. Div. ASAE, Logan, Utah, Apr. 2-4, 1959.

Some Inter-relations of Plant Cover and Soils in a Desert Grassland Watershed, with J. L. Gardner. Presented to Southwestern and Rocky Mtn. Div. AAAS, Laramie, Wyoming, May 6-7, 1959.

Water in the Southwest, with R. V. Keppel. Soil Conservation 25:54-56. 1959.

Symposium on Water Improvement, with J. A. Schufle, Eds. AAAS. Tucson, Arizona. 1963.

The Role in the Arid West of Watersheds and Forests, Chap. 10, Aridity and Man, with W. G. McGinnies and A. L. McComb. Publ. by AAAS, Tucson, Arizona. 1963.

The Ecology of Groundwater in the Southwest, with Gordon L. Bender, Eds. AAAS and Arizona State University. 1964.

El Papel de los Vertientes Y Las Basques En El Oeste Arido with William G. McGinnies and Andrew L. McComb in El Hambre en las Tierras Aridos. Pub. No. 74 AAAS. 1963.

A Rapid Approximate Method for Estimating Flood Peaks, with Joye J. Davis. Rocky Mountain Sec. Am. Soc. Agricultural Engineers. 7 pages, 23 April, 1966.

Joint Authorship

A Study of Infiltration Capacities of Soils in the Tucson Area, with H. V. Smith and Elersley W. Stevenson. Western Soc. Soil Sci., San Diego, Calif., June 20-22, 1938.

A Comparison of the Biological, Physical, and Chemical Characteristics of Some Typical Range Soils from Mt. Graham, Arizona, with Wm. P. Martin. Prelimn. Rept. Presented to Western Soc. Soil Sci., San Diego, Calif., June 20-22, 1938.

Some Aspects of Infiltration on Certain Arizona Soils, with H. V. Smith and E. W. Stevenson. Presented to Western Branch Amer. Soc. Agron., Tucson, Arizona, August 31 - Sept. 2, 1938.

Erodibility Investigations on Some Soils of the Upper Gila Watershed, Arizona, with E. L. Beutner. USDA Tech. Bul. 794. 1941.

Soil Moisture Conditions and Phenomena in Frozen Soils, with Alfred B. C. Anderson and N. E. Edlefson. Trans. Amer. Geophys. Union, 356-371. 1942.

USDA Soil Survey Series, No. 13, Series of 1936. Soil Survey of Virgin Area, Utah, with F. O. Youngs, O. F. Bartholomew, D. S. Jennings, LeMoyne Wilson, I. D. Zobell, M. H. Wallace and William Baugh. 1942.

Vertical Zonation of Great Soil Groups on Mt. Graham, Arizona as Correlated with Climate, Vegetation, and Profile Characteristics, with Wm. P. Martin. Ariz. Agr. Exp. Sta. Tech. Bul. 99. 1943.

Some Phenomena in Rainfall-Induced Soil Crusts, with Wm. P. Martin. Proc. Soil Sci. Soc. Oregon 1944-46.

USDA Soil Survey Series 23, Series of 1936. Soil Survey Salt Lake Area, Utah, with D. S. Jennings, M. H. Wallace, LeMoyne Wilson, I. D. Zobell, F. O. Youngs, and O. F. Bartholomew. 1946.

The Problem of Choosing Proper Soils for Seeding Southwest Ranges, with Darwin Anderson. Soil Sci. Soc. Cincinnati, Ohio. 1947.

Some Effects of Algae and Molds in Rain-Crust of Desert Soils, with Wm. P. Martin. Ecology 29:95-100. 1948.

Some Properties of Soils Associated with Piping in Southern Arizona, with Paul H. Carroll. Proc. Soil Sci. Soc. of Amer. 13:545-547. 1948.

Observations on the Nodulation of Leguminous Plants of the Southwest, with Wm. P. Martin, L. N. Gooding, L. P. Hamilton, and Lyman Benson. USDA, SCS, Region 6, Bul. 107. Plant Studies, Series No. 4. 1948.

Infiltration Characteristics of Some "Slick Spot" Areas, with Wm. P. Martin. Amer. Soc. of Agr. Engrs., Salt Lake City, Utah, March 18, 1950.

Some Properties of Water Solutions that Influence Infiltration. Trans. Amer. Geophys. Union, 30:548-554. 1949.

Re-vegetation and Reseeding of Arid Lands. Presented to Southwestern Div., AAAS, El Paso, Texas, May 2, 1951.

The Effects of a Soil Conservation Program on the Hydrology and Sediment Production of Southwestern Semi-desert Grassland Areas. Pacific Southwest Interagency Committee on Water Management. Albuquerque, New Mexico, 1956.

Sedimentation Investigations in Walnut Gulch Watershed, Ariz. Joint Sedimentation Workshop, ARS-SCS, Oxford, Miss. 1959.

Characteristics of Precipitation in the Rangelands of the Southwest. Hydrology Workshop of Soil Conservation Service, Forest Service, and Agricultural Research Service. New Orleans, La. 1960.

Summary Remarks to Symposium on Agricultural Problems in Arid and Semi-Arid Environments. Univ. of Wyo. Agr. Exp. Sta. Bul. 367. 1960.

The Effect of Plant Growth on Infiltration in the Southwest. AAAS. Southwestern and Rocky Mountain Division, Alpine, Texas. May 3, 1960. Part of a symposium on the Ecology of Water Yield.

Climate and Soils of the Southwest. Part of Symposium on Arid Land Ecology AAAS Southwestern and Rocky Mtn. Div., Las Vegas, New Mexico, Apr. 27 - May 1, 1958. Released 1961.

Some Properties of Precipitation Associated with Runoff from Walnut Gulch Watershed, Arizona. Presented to American Geophysical Union and International Conference on Meteorological Hydrology. Washington, D.C. April 18, 1961.

The Use of Capacitance to Determine Quantities of Materials in Mixtures. International Symposium on Humidity and Moisture. Washington, D.C. June 1963.

Soil Moisture Measurement in Water Supply Forecasting. Western Snow Conference. April 19, 1966. 5 p.

Atmospheric Water Resources of the Wasatch Front, Utah. Western Snow Conference, Boise, Idaho, 1967, pp. 94-98.

Weather Modification, Sci. 158:276-277, Oct. 1967.

Weather Modification, McGraw-Hill Yearbook Encyclopedia of Sci. and Technology, 1969, pp. 346-348.

Weather Modification. Rain for Sale, Grad. News and Comment Mid-winter, 1970, p. 1.

Precipitation Measurement Symposium. Water Res. Res. 8(1):1972:243.

Consulting Experience (Continued)

Thiokol Chemical Co., Ogden, Utah, and Logan, Utah
Great Salt Lake Minerals-Chemical Corp.
USFS, Ogden
USBLM, Soccoro, New Mexico
Utah Power and Light
S.P. Transportation
Utah Division of Water Res.
U.S. Bureau of Reclamation
Colorado State University
UNESCO
Many Others

Scientific and Professional Societies

Soil Science Society of America
International Society of Soil Science
American Geophysical Union
American Association for the Advancement of Science-Fellow
Society of Sigma Xi-President of Arizona Chapter
Phi Lambda Upsilon
American Geological Institute
American Water Resources Association
Western Snow Conference

Patents

Condensers for soil moisture meters
Capacitance forage meters

Individual Authorship

A Quantitative Expression of Erodibility from Conservation Survey Data. Western Soc. Soil Sci., San Diego, Calif., June 20-22, 1938.

A Preliminary Study of Erodibility of Soils on the Upper Gila Watershed, Arizona-Laboratory Investigations. Western Soc. Soil Sci., San Diego, Calif., June 20-22, 1938.

A Dielectric Method for Determining Soil Moisture. Proc. Soil Sci. Soc. Amer., 4:84-88, 1939.

The Significance of Some Erosion Measurements Made by Use of the Application of Artificial Rainfall. Western Soc. Soil Sci., Palo Alto, Calif., June 26-28, 1939.

Methods of Determining Soil Moisture. Presented to Pac. Coast Sec. Amer. Soc. of Agr. Engrs., Tucson, Arizona, Jan. 1941.

A Study of Some Soil Properties Affecting Relative Infiltration and Erosion Rates of Some Red Desert Soils. Western Soc. Soil Sci., Pasadena, Calif., June 16-18, 1941.

1952-	Irrigation of cotton and citrus crops as influenced by growth of cover crops
1936-53	Factors affecting infiltration
1943-	Convective rainfall and its properties which influence erosion and runoff
1943-53	Electrical estimation of forage weight
1944-50	Ecology of the Sonoran Desert
1944-53	Structural deterioration of soils due to cultivation as it influences crop production and water use
1948-52	Cheap linings to prevent seepage from field ditches
1948-53	Causes of piping
1953-63	Methods of analysis of watersheds in order to synthesize hydrographs for ungaged drainages
	The effect of rain crusts on erosion, sedimentation, and nitrogen fixation
	Development of structures for measurement of sediment-laden waters
	Methods of sampling soils and vegetation for watershed studies
	Sediment movement on watersheds
1955-57	Use of nitrogen and phosphorus fertilizers on Sonoran desert grasslands
1960-63	Methods of measuring snow on an area
1963-64	Development of field equipment for measuring ultraviolet light
1964-	Development of long path hygrometer
1965-present	Atmospheric water resources of the Wasatch Mountains
1968-70	Theoretical study of infiltration into range and forest soils
1968 only	Study of the effects of packing snow on succeeding crops
1969-70	Carcinogens in the environment
1970-present	RO peaks
	Erosion
	Rainfall Characteristics
	Tracing Underground Water
1971-present	Highway hydrographs
1971-present	Estimating runoff peaks from ungaged watersheds

Consulting Experience

Braun Corporation, Los Angeles, California
Beckman Corporation, Pasadena, California
Western Farm Management, Phoenix, Arizona
Kinjockity Ranch Corporation, Montezuma, Arizona
John Jacobs Farms Incorporated, Colorado Springs, Colorado and Phoenix, Arizona
Phillips Petroleum, New York, New York
Grace Chemical Corporation, Memphis, Tennessee
Reynolds Aluminum, Litchfield Park, Arizona
Southwest Clinic and Research Institute, Tucson, Arizona
Arizona Fertilizers, Inc., Phoenix, Arizona
Utah State University, Logan, Utah

JOEL E. FLETCHER

Professor of Hydrology Emeritus
Utah Water Research Laboratory
Utah State University

Dated: February 1980

Date and Place of Birth

January 7, 1911, at Logan, Utah

Degrees

B.S.	Utah State University, Logan, Utah, 1934 (Chemistry)
M.S.	Utah State University, Logan, Utah, 1937 (Soil Chemistry)
	Postgraduate work at University of California, Davis, 1941, 1942; University of California, Berkeley, 1961

Professional Experience

1935	Soil Surveyor, Utah Agricultural Experiment Station, Logan, Utah
1936	Jr. Soil Expert, Soil Conservation Service, Stafford, Arizona
1937-43	Soil Technologist, Soil Conservation Service, Tucson, Arizona, and Davis, California
1943-44	Soil Scientist, and Research Project Supervisor, Soil Conservation Service, Tucson, Arizona
1944-53	Soil Conservationist, and Project Supervisor, Tucson, Arizona
1953-60	Soil Conservationist, Project Supervisor, Agricultural Research Service, Tucson, Arizona
1960-63	Soil Scientist (Physics), Watershed Engineering Center Supervisor, and Investigations Leader in Watershed Engineering, Agricultural Research Service, Boise, Idaho
1958-60	Professor of Agricultural Chemistry and Soils Teaching Courses in Hydrology at the University of Arizona, Tucson, Arizona
1963-76	Professor of Hydrology, Utah State University, Logan, Utah
1976-present	Emeritus Professor of Hydrology, Hydrologist Consultant

Major Research Projects

1936-41	Properties of soil which influence erodibility and infiltration
1936-52	Development of electrical methods for determining soil moisture
1941-42	Infiltration into frozen soils
1952-	Revegetation of desert soils, especially as influenced by moisture conditions

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 13-7255
IN THE NAME OF K. L. BODRERO

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 2nd day of September, 1981, a true and correct copy of the foregoing ORDER APPROVING PETITION FOR REHEARING was mailed postage prepaid to:

K. L. Bodrero
P. O. Box 5
Dayton, ID 83232

Lowell D. Castleton
WILLIAMS & CASTLETON
P. O. Box 191
Preston, ID 83263

H. Ward Nielsen
Route 1, Box 197
Weston, ID 83286

Wesley Nash
Weston,
Idaho 83286

Sheldon Beutler
Weston, ID 83286

Travis Bergeson
Dayton, ID 83232

Rita I. Fleck

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

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 13-7255 IN THE NAME OF K. L. BODRERO

ORDER APPROVING PETITION FOR REHEARING

WHEREAS, on July 27, 1979, K. L. Bodrero applied to the Department of Water Resources for a permit to appropriate 1.00 cubic feet per second of water from an unnamed stream tributary to Weston Dayton Slough to be diverted within the SE¼NE¼, Sec. 23, Twp. 15S, Rge. 38E B.M., Franklin County and used from April 1 to November for the irrigation of 85 acres in the SE¼NE¼, NE¼SE¼, Sec. 23; SW¼NW¼, NW¼SW¼, Sec. 24; Twp. 15S, Rge. 38E B.M.; and,

WHEREAS, notice of the application was published in The Preston Citizen, Preston, Idaho on August 9 and August 16, 1979 and was protested by Sheldon Beutler and Travis Bergeson on August 9, 1979 and by Wesley Nash on August 10, 1979. On September 14, 1979, the Department received an additional protest from H. Ward Nielsen; and,

WHEREAS, on October 31, 1979, a conference was held in Preston, Idaho to consider these protests; and,

WHEREAS, on August 4, 1981, an Order Adopting the Proposed Memorandum Decision and Order which was issued on June 8, 1981, was sent to the applicant and protestants; and,

WHEREAS, on August 14, 1981, the Department received a Petition for Rehearing from Lowell D. Castleton, attorney for Wesley Nash; and,

WHEREAS, after considering the request, the Department finds that a rehearing should be held;

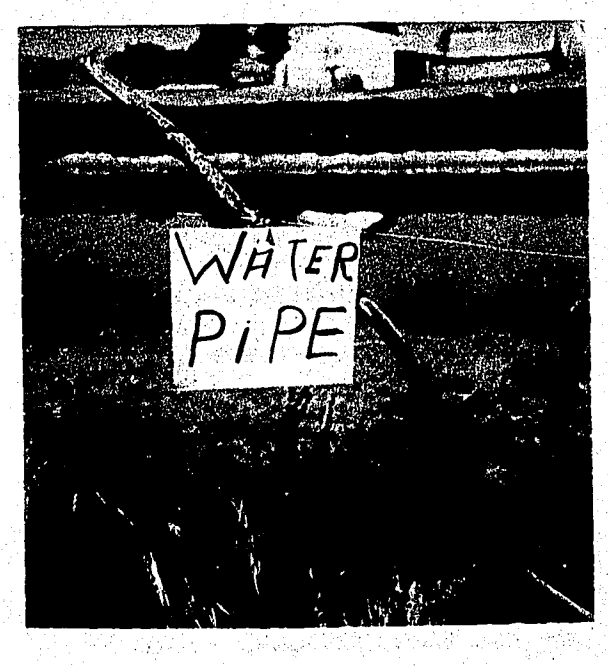
IT IS, THEREFORE, HEREBY ORDERED that the request for rehearing be APPROVED.

Dated this 2 day of September, 1981.

A. KENNETH DUNN

Director

Applicant's Exhibit
No. 3





March 12, 1982

K. L. Bodrero
P. O. Box 5
Dayton, ID 83232

Dear Mr. Bodrero:

Re: Application for Permit No. 13-7255

Enclosed is a copy of the Order Adopting the Proposed Memorandum Decision as the Final Decision and Order of the Director together with a copy of the Proposed Memorandum Decision and Order and a copy of the application.

Be sure to note the special condition requiring you to install and maintain a measuring device at your point of diversion prior to submitting proof of beneficial use of water. We have enclosed a letter describing the different types of measuring devices accepted by this office.

Any person who does not agree with the decision of the department may request a rehearing before the Director within twenty (20) days, or may appeal directly to the district court within thirty (30) days of the date the decision is mailed.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

Enclosures

cc: See certificate of mailing

Form 204
4/86

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

For Office Use Only
$15 FEE Receipted by MD
Date 9-30-86
Receipt # 39900

RECEIVED
OCT 2

REQUEST FOR EXTENSION OF TIME

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

Department of Water Resources

RECEIVED
SEP 29 1986
Department of Water Resources
Eastern District Office

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

Permit No. 13-7255

Name(s) of Permit Holder: K. L. Bodrero

Post Office Address: P.O. Box 5 Dayton, Idaho 83232

Telephone No. 208-747-3364

Date Proof is Due: March 1 1987

Describe what work has been completed toward the development of this water right: This water
(This must be filled out! If no work has been completed, show "none".)
Project is between 90 to 95% done. 2 have all under-ground irrigation pipe installed. all Hand and wheel line sprinkler pipe etc.

Costing $ spent to date. with out my work & app. $26,000.00

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:
In January 1982 my wife to ill. We have had to spend almost all winters in Arizona to be closer to her doctors. 2 have got to get her to Arizona the First of this month coming month, october. So we will have to be in Mesa, Arizona all winter

Permit holder(s) request an extension to Sept 1, 1987.
(1 yr. minimum)

K. L. Bodrero
(Signature)*

*IF OTHER THAN PERMIT HOLDER, POWER OF ATTORNEY MUST BE SUPPLIED.

FEE: $15.00

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to March 1, 1988.

Signed this 4th day of November, 1986.

L. Glen Saxton
Chief, Operations Bureau

Dayton, Idaho
9-22-86

Dears Sirs

The water project 2 can probably get ~~it~~ done by July 1987 The problem is now I have to get my wife to Tempe Ariz. for treatments (doctor). The first of next month (October) 86 I want to get every thing on this water project done right. Thats why I need just a few months more time beyond March 1, 1987

Please let me know as soon as possible if my request will be granted.

RECEIVED
SEP 29 1986
Department of Water Resources
Eastern District Office

Thanks

RECEIVED
OCT 2 1986
Department of Water Resources

Sincerely

K. L. BodRERO

STAFF REVIEW SHEET - EXTENSION OF TIME

Permit No. 13-7255 Reviewed by [signature] Date 11-4-1986

BASIC INFORMATION

Y Date stamp received
Y Extension received timely
(not prior to 6 month before proof due date or after reinstatement period)
Y Fee received and receipted
Y Name and signature same as permit
N Address change (indicate on coding sheet)

BASIS FOR EXTENSION REQUEST

Y Has adequate work been completed to demonstrate due diligence?
Y Has the cost incurred been adequate to demonstrate an intent to complete the project?
N/A Has the permit been involved in litigation?
a. Swan Falls _____ Dismissed from Swan Falls _____
Other _____ Identify _____
b. Is supporting documentation needed to complete the file? _____
Requested _____
c. Calculate the period of delay

Date litigation completed _____

Date litigation began - _____

Total period of delay = _____

Present proof due date + _____

NEW PROOF DUE DATE = _____

N/A Is delay by a government agency?
Is supporting documentation needed to complete the file? _____
Requested? _____

ACTION TAKEN - Recommend approval based on due diligence for one year.

Special conditions or remarks:

N/A Reinstate Date extention received _____ = _____
Proof due date _____ = - _____
No. of days late _____ = _____
Priority date _____ = + _____
ADJUSTED PRIORITY DATE _____ = _____

✓ Prepare coding sheet
Change rolodex card

November 5, 1986

K. L. Bodrero
P. O. Box 5
Dayton, ID 83232

Dear Mr. Bodrero:

Re: Permit No. 13-7255

Enclosed is a copy of the approved request for extension of time. The time within which to submit proof of beneficial use is extended to March 1, 1988.

Enclosed is a copy of receipt No. 39900.

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

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosures

NOTE

Dayton, Id.
8-4-87

The drains where the water comes from varies from season to season and year to year depending on the rain and snow fall. Dry years like this year the water flow is somewhat less. The water flow like the past 3 to 5 years the flow of water was a little over .90 C.F.S. I have neighbors that will varify this statement.

I am thanking you for the help you have given to me.

Sincerely

P.S.
If there is anything I have left out please advise

K.L. BODRERO

RECEIVED
AUG 13 1987
Department of Water Resources

Form 21
03/86

RECEIVED
AUG 5 1987
Department of Water Resources
Eastern District Office

RECEIVED
AUG 13 1987
STATE OF IDAHO Department of Water Resources
DEPARTMENT OF WATER RESOURCES

For Office Use Only
Fee Received $100
Date 8-5-87 8-13-87
Receipt # 44425
Received by
Reviewed by
Sent to region 8-87

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 13-7255

Name(s) of Permit Holder: K. L. Bodreau ✓

Post Office Address: P.O. Box 5 Dayton, ID 83232 ✓

Telephone No. 1-208-747-3364

Source of Water: _____

Extent of Use:

Domestic _____ (number of households) Stockwater _____ (number and type of stock)

Irrigation 85 ✓ (acres) Other/Remark Water cattle on pasture

Total rate and/or volume for which proof is submitted 1.00 C.F.S. _____ acre-feet

Show the date water was first diverted and beneficially used under this permit: 7-27-79

NOTE Water flooded over my property since the 1st drains were put in, in 1975 and was put to beneficial use at that time

Measuring Device: Required? X Yes ___ No Fee enclosed $ 100.00
Installed? X Yes ___ No (See License Examination Fee Schedule)
3 foot weir installed

Flow Measurement Port: Required? ___ Yes ___ No
Installed? ___ Yes ___ No

Person to contact to accompany the Department representative during the field examination:

(Name) (Telephone Number)

(Address)

The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

August 4 - 1987 K. L. Bodreau ✓
Date Signature of Permit Holder (and title, if appropriate)