

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 13-7449

To appropriate the public waters of the State of Idaho

APPROVED

1. Name of applicant Warren B. Fox Phone 427-6697
Post office address 16205 North Cleveland Road, Thatcher, Idaho 83283

2. Source of water supply unnamed spring which is a tributary of sinks
NW SE*

3. Location of point of diversion is SE 1/4 of SW 1/4 of _____ 1/4, Govt. Lot _____
Sec. 14 Township 12S Range 40E B.M. Franklin County; additional

points of diversion if any: _____

*changes per telecon ESV 11/4/87

4. Water will be used for the following purposes:

Amount 1 gpm* for stockwater purposes from 10-1* to 10-31* (both dates inclusive)
(cfs or acre-feet per annum) -1/1-* -12/31-*

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) 1 gpm*

5. Total quantity to be appropriated is (a) 1 gpm* and/or (b) _____
cubic feet per second acre feet per annum

* These changes
are made as a result
of the proposed memo.
dec. & final order.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. 300' plastic tile pipe, standpipe & watering tank 4-11-89
rf

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.

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

d. Is ground water with a temperature of greater than 90°F being sought? _____

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

8. Description of proposed uses (if irrigation only, go to item 9):

- a. Hydropower; show total feet of head and proposed capacity in KW. _____
- b. Stockwatering; list number and kind of livestock. 50 beef cattle
- c. Municipal; show name of municipality. _____
- d. Domestic; show number of households. _____
- e. Other; describe fully. _____

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: *D* for *Domestic*) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
12S	40E	14											X			S			

*changes per telecon ESV 11/4/87

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. None

11. 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. _____

12. Remarks: _____

Map of the Bear River Valley area, showing contour lines, roads, and railroads. The map includes handwritten annotations: "T12S" and "R 40E" in large letters, and "POD" and "Spring" with arrows pointing to specific locations. The map is overlaid with a grid showing coordinates 42° 22' 30" and 111° 45". The map is titled "Map of the Bear River Valley" and includes a scale bar for 18 miles to Preston. The map is published by the Geological Survey, Control by USGS and USC&GS, and Topography by photogrammetric methods from aerial photography.

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.

Warren D. [Signature]
(Applicant)

Received by OW Date 11-03-87 Time 12:17p Preliminary check by EB
Fee \$ 30⁰⁰ Received by dg # 42136 Date 11-19-87
Publication prepared by dg Date 11-25-87 Published in Drexton Citizen
Publication approved OW Date 1-06-88

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. 13-7449, 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 April 1, 19 90.
- 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. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
- e. Other: PURSUANT TO PROPOSED MEMORANDUM DECISION AND ORDER AND ORDER ADOPTING PROPOSED MEMORANDUM DECISION AND ORDER.

Dated this 7TH day of April, 1989.

B. Kent Higgins
Director

#875

DEC 22 1987

No 3070

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Franklin } ss.

J. Warren 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

Dec 3, 1987, and ending

with the issue of Dec 10, 1987.

Fee \$ 16.50

Subscribed and sworn to before me this 11th day of Dec, 1987.

Kim D. Alb

Notary Public, Residing at Preston, Idaho

My Commission Expires June 7, 1992

NOTICE OF APPLICATION
FOR WATER RIGHTS

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

13-7449
FOX, WARREN B.
16205 NORTH CLEVELAND ROAD,
THATCHER, ID 83283
Source: UNNAMED SPRING trib. to
SINKS
Diversion Pt. NWSE Sec 14 T 12S R 40E
Use: STOCKWATER (0.010 CFS)
Date Filed: 11-03-1987
In: NWSE Sec 14 T 12S R 40E
The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Eastern Region, 150 Shoup, Suite 15, Idaho Falls, Idaho 83402 on or before DECEMBER 21, 1987.
R. KEITH HIGGINSON, Dir.
Legal No. 3070-21- Publish Dec: 3, 10, 1987.

RECEIVED
JAN 6 1988
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 APPLICATION FOR)
PERMIT NO. 13-7449 IN THE NAME)
OF WARREN B. FOX)

ORDER ISSUING
PROPOSED MEMORANDUM
DECISION

R. Keith Higginson, 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 the this case, hereby approves the same as a proposed decision pursuant to Idaho Code, Sec. 67-5211.

Each party to these proceedings who appeared at the hearing is given the opportunity, pursuant to Idaho Code, Sec. 421701A and 67-5211, to file exceptions to the proposed decision and to present briefs and oral arguments. If no timely and proper exceptions are received, an order by the Director will be entered adopting 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,

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

3. be sent to each of the parties who appeared or their attorneys.

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. All response briefs to the exceptions must be filed with the Director within 15 days after the exceptions were served upon the responding party.

III.

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 exception.

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 argument in response to the exceptions filed.

C. Oral arguments before the Director on exceptions to the proposed decision shall be heard at the discretion of the Director, pursuant to Idaho Code, Sec. 42-1701A. If oral arguments are to be heard, the Director will, within a reasonable time, 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.

CERTIFICATE OF SERVICE

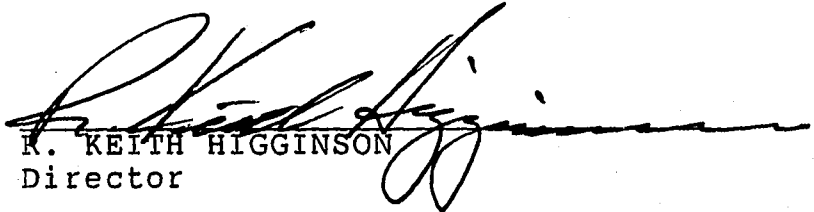
All exceptions, briefs, requests oral arguments and other matters filed with the Director in connection with the proposed decision shall be served on all other parties to these proceedings in accordance with Rule 7.2.

V.

FINAL DECISION

Following the submission of all exceptions, 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 26th day of January, 1989.


R. KEITH HIGGINSON
Director

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION
FOR PERMIT NO. 13-7449

SOURCE: Spring

WARREN B. FOX,
Applicant;

COUNTY: Franklin

LORIN HOOPES,
Protestant.

PROPOSED MEMORANDUM DECISION AND ORDER

BY THE HEARING OFFICER

On November 3, 1987, Warren B. Fox of Thatcher, Idaho applied to the Idaho Department of Water Resources for a permit to appropriate 0.01 cubic feet per second (cfs) from an unnamed spring located within the NW1/4SE1/4, Sec. 14, Twp. 12S, Rge. 40E, B.M., Franklin County; for the purpose of watering 50 head of beef cattle.

Notice of this application was advertised in the Preston Citizen on December 3 and 10, 1987. A protest against the approval of this application was received from Lorin Hoopes of Preston, Idaho on December 4, 1987.

Personnel from the Department inspected the site prior to the conference that was held on March 15, 1988. At the conference, the applicant described his project and the protestant expressed his concern over the development of the subject spring.

At the conclusion of the conference, the parties stipulated that they would agree to the department issuing a Proposed Memorandum Decision in the matter without the formal hearing process.

The Department, after reviewing the available information, proposes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. The protestant's domestic well was dug to its existing depth of 20 feet in 1949 at a location that is 80 feet lower in elevation and 2,700 feet northeast of where the applicant proposes to develop a spring to provide stock water.

2. The applicant also has a 4-inch domestic well which was drilled in 1939 and is located approximately 75 feet south of the protestant's well and is finished at the same depth of 20 feet as is the protestant's.

3. Historically, the applicant's domestic well has been pumped to provide stock water for up to 40 animals. The protestant's water supply was not effected by this use.

4. The Soil Conservation Service (SCS) has designed the collection system for the applicant's proposed development and estimates that a flow of one (1) gallon per minute is required for the number of livestock to be served.

5. The number of livestock indicated on the application will drink about 1,000 gallons of water per day. Any additional water will percolate back into the ground water with some losses from evaporation and phreatophytes.

6. Cattle will only be watered from the development for a period of two weeks during mid-October.

CONCLUSIONS OF LAW

1. The applicant and protestant claim priorities of 1939 and 1949 respectively for their domestic wells.

2. Both the applicant and protestant's wells are finished in the same aquifer and are in the same drainage as the proposed spring development.

3. The applicant's design requires a maximum flow of one gpm for a two-week period.

4. The consumption of 1,000 gallons per day by cattle drinking from the subject spring will have no identifiable affect on the domestic supplies of either Warren Fox or Lorin Hoopes.

5. The applicant is entitled to a permit from the Idaho Department of Water Resources.

ORDER

IT IS, THEREFORE, ORDERED and Application No. 13-7449 is hereby APPROVED subject to the following conditions:

1. That it is subject to all existing water rights on the common water source.

2. The rate of flow is limited to one gpm and the period of diversion and use is slimited to the month of October.

3. That water may not be transported out of the drainage.

4. That proof of beneficial use be submitted on or before the date indicated on the final order.

Dated this 25 day of January, 1989.

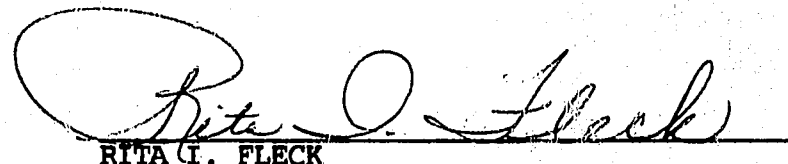

BOBBY D. FLEENOR
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this the 26th day of January, 1989, true and correct copies of the foregoing PROPOSED MEMORANDUM DECISION AND ORDER, was mailed postage prepaid to:

Warren B. Fox
16205 North Cleveland Rd.
Thatcher, ID 83283

Lorin Hoopes
Star Rt., Box 63
Preston, ID 83263

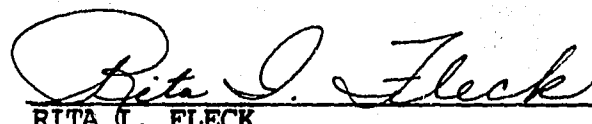

RITA I. FLECK
Secretary/Records Manager

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this the 11th day of April, 1989, true and correct copies of the foregoing PROPOSED MEMORANDUM DECISION AND ORDER, was mailed postage prepaid to:

Warren B. Fox
16205 North Cleveland Rd.
Thatcher, ID 83283

Lorin Hoopes
Star Rt., Box 63
Preston, ID 83263


RITA J. FLECK
Secretary/Records Manager

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 13-7449 IN THE NAME OF)
WARREN B. FOX)

ORDER ADOPTING
PROPOSED MEMORANDUM
DECISION AND ORDER

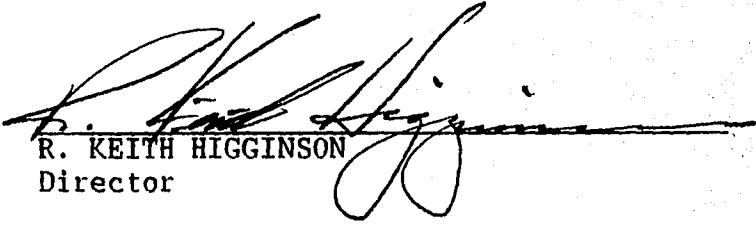
WHEREAS, R. Keith Higginson, Director of the Department of Water Resources having issued and served a copy on the parties on January 26, 1989, a Proposed Memorandum Decision and Order in the above-captioned matter, pursuant to Section 67-5211, Idaho Code; and,

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

WHEREAS, no exception to that Proposed Memorandum Decision and Order has been received;

IT IS, THEREFORE, HEREBY ORDERED that said Proposed Memorandum Decision and Order be adopted and issued as the Final Decision and Order and Application for Permit No. 13-7449 with the condition that proof of construction of works and application of water to a beneficial use is due on or before April 1, 1990.

Dated this 7TH day of April, 1989.


R. KEITH HIGGINSON
Director

November 5, 1987

Mr. Warren B. Fox
16205 North Cleveland Road
Thatcher, ID 83283

Dear Mr. Fox:

Per our conversation, I am returning your check No. 92-362 for \$50.00 which was submitted with your stockwater application. As we discussed, the filing fee for 0.01 cfs is \$30.00 rather than \$50.00.

Please return a check for the correct \$30.00 fee to my attention. To maintain your original priority date, we need to receive the correct fee within 30 days of this letter so your prompt attention is appreciated.

If you need further assistance, please contact our office.

Sincerely,

ERIC VERNER
Sr. Resource Agent

EV:cw

Enclosure: Check

Dear Mr. Turner,

Thank you for returning
the check. Enclosed is one
for \$30.00.

Sincerely
Warren Fox

RECEIVED

NOV 13 1987

Department of Water Resources
Eastern District Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

NOVEMBER 25, 1987

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 DECEMBER 21, 1987.

Yours truly,

Deena Green
Office Secretary

Encl.

13-7449

CONVERSATION MEMORANDUM

Date 12/1/87 File # 13-7449

NAME OF PARTY Preston Citizen

EMPLOYEE Erin Kene

RE Verification of legal notice
publ.

Representative from paper
read back legal notice for
referenced application -

Notice was correct as read
back to me.

13-7449

FOX, WARREN B.

16205 NORTH CLEVELAND ROAD, THATCHER, ID 83283

Source: UNNAMED SPRING trib. to SINKS

Diversion Pt: NWSE Sec 14 T 12S R 40E

Use: STOCKWATER (0.010 CFS)

Date Filed: 11/03/1987

In: NWSE Sec 14 T 12S R 40E

NOTICE OF APPLICATION FOR WATER RIGHT

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Eastern Region, 150 Shoup, Suite 15, Idaho Falls, Idaho 83402 on or before DECEMBER 21, 1987.

R. KEITH HIGGINSON, Dir.

Published 12/3 & 12/10/87.

December 2, 1987

Warren B. Fox
16205 N. Cleveland Rd.
Thatcher, Idaho 83283

RE: Application for Permit No. 13-7449

Dear Water Right Applicant:

The Department of Water Resources acknowledges receipt of your water right application for permit. The application has been assigned identification no. 13-7449. Please refer to this number in all further correspondence.

This office is currently in the process of advertising the application in The Preston Citizen. The advertisement will be published for two weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

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

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

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

Sincerely,

Ernest Carlsen
Water Rights Supervisor

EC/dg



State of Idaho
DEPARTMENT OF WATER RESOURCES
Eastern Region

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

Mailing Address:
150 Shoup Ave., Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

December 2, 1987

Pete Peterson, Watermaster
Water District #11
2483 Riverdale Rd.
Preston, Idaho 83263

RE: Application for Permit No. 13-7449, Fox

Dear Sir:

This office is currently in the process of publishing notices that the above application was filed with the Department of Water Resources. Since the application maybe of interest to you, a copy is enclosed for your examination. Comments concerning the application should be addressed to the applicant with a copy forwarded to this office. Protests objecting to granting the permit should be directed to this Department and received no later than December 21, 1987. Final action will be taken by this office shortly after this date, provided there are no protests lodged against the application.

Respectfully submitted,

Ernest Carlsen
Water Rights Supervisor

EC/dg
Enclosure



State of Idaho
DEPARTMENT OF WATER RESOURCES
Eastern Region

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

Mailing Address:
150 Shoup Ave., Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

December 21, 1987

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

RE: Application No. 13-7449, Warren B. Fox

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced application. The legal notice was to have been published in your paper on December 3, and 10, 1987.

Your cooperation in this matter is greatly appreciated.

Sincerely,

Deena Green
Office Secretary

The Citizen - 12-3-

NOTICE OF APPLICA
FOR WATER RIGHT

The following application(s) have
been filed to appropriate the public
waters of the State of Idaho:

13-7449

FOX, WARREN B.
16205 NORTH CLEVELAND ROAD,
THATCHER, ID 83283

Source: UNNAMED SPRING trib. to
SINKS

Diversion Pt: NWSE Sec 14 T 12S R 40E

Use: STOCKWATER (0.010 CFS)

Date Filed: 11-03-1987

In: NWSE Sec 14 T 12S R 40E

The permit(s) will be subject to all
prior water rights. Protests must be fil-
ed with the Director, Dept. of Water
Resources, Eastern Region, 150 Shoup,
Suite 15, Idaho Falls, Idaho 83402 on or
before DECEMBER 21, 1987.

R. KEITH HIGGINSON, Dir.

Legal No. 3070 — L— Publish Dec. 3,
10, 1987.

RECEIVED

DEC 4 1987

Department of Water Resources
Eastern District Office

Dec. 2-87.

Dear Sirs,

In regard to this notice of application for water rights.

I won't file a protest against this permit. This spring has been used for culinary water for two homes, since 1939.

He was advised last summer not to dig or intrench in it. By myself Ed he agreed not to.

Then this fall without notifying me, or filing for a permit. He started digging & putting in four in drain pipes. When I saw what was going on, I went up & stopped him & tried to tell him what the outcome would be.

My Dad Ed me ran cattle in the same field for at least 70 yrs. Ed they went to the creek for water which is around $\frac{1}{2}$ to $\frac{3}{4}$ of a mile away.

I talked to the water resource

man about it when he was down
last fall. Ron Carlson.

I'm definatly sure it will
effect our water or even dry
it up. Its the only assably water
around that can be got for the
two homes.

I would appreciate any help
you could give me on this
matter.

Resp. Yours
Lorin Hoopes
St. Rt. Preston, Ida
Box 62. - 83263

December 10, 1987

RE: Application for Permit No. 13-7449 WARREN B. FOX

Mr. Lorin Hoopes
Star Route, Box 62
Preston, ID 83263

Dear Mr. Hoopes:

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.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances requiring additional time, our objective is to schedule a conference and/or hearing to consider the protests within 60 days. 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 (§42-203, Idaho Code):

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

The protestant must be prepared to present proof of allegations involving one or more of the five items. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

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

Very truly yours,

ERNEST CARLSEN
Water Rights Supervisor

EC: CW

Enclosure
cc: IDWR - State Office

December 10, 1987

Warren B. Fox
16205 North Cleveland Road
Thatcher, ID 83283

Dear Mr. Fox:

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to your application No. 13-7449. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances requiring additional time, our objective is to schedule a conference and/or hearing to consider the protests within 60 days. 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 (§42-203, Idaho Code):

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

The applicant must be prepared to present evidence and/or testimony addressing each of the five items. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

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

Very truly yours,

ERNEST CARLSEN
Water Rights Supervisor

EC:CW

Enclosures

cc: IDWR - State Office

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 13-7449 IN THE NAME OF) NOTICE OF HEARING
WARREN B. FOX) &/OR CONFERENCE
_____)

On November 3, 1987, Warren B. Fox, filed with the Department of Water Resources application No. 13-7449, to appropriate the public waters of the State of Idaho. On December 4, 1987, the Department of Water Resources received a protest against approval of said application from Lorin R. Hoopes.

The Department has set the matter for hearing and/or conference for 1:00 p.m., Tuesday, March 15, 1988, in the Ag Room, Franklin County Courthouse, Preston, Idaho. The conference will be held in accordance with provisions of Chapter 2, Title 42, 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.

Dated this 29th day of February, 1988.


RONALD D. CARLSON
Eastern Regional Manager

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to: <i>Warren B Fox</i> <i>16205 N. Cleveland Rd.</i> <i>Shafter, Id. 83283</i>	4. Article Number <i>0151</i>
5. Signature — Addressee <i>Warren B Fox</i> X	Type of Service: ☒ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail
6. Signature — Agent X	Always obtain signature of addressee or agent and DATE DELIVERED.
7. Date of Delivery <i>Mar. 2-88</i>	8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Feb. 1986 *13-7449 & 11/0600/0602* **DOMESTIC RETURN RECEIPT**

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to: <i>Kerin Hoopes</i> <i>Star Route, Box 62</i> <i>Preston, Id 83263</i>	4. Article Number <i>0152</i>
5. Signature — Addressee <i>Kerin Hoopes</i> X	Type of Service: ☒ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail
6. Signature — Agent <i>CK</i> X	Always obtain signature of addressee or agent and DATE DELIVERED.
7. Date of Delivery <i>3-2-88</i>	8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Feb. 1986 *13-7449* **DOMESTIC RETURN RECEIPT**

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS
Print your name, address, and ZIP Code in the space below.
• Complete items 1, 2, 3, and 4 on the reverse.
• Attach to front of article if space permits, otherwise affix to back of article.
• Endorse article "Return Receipt Requested" adjacent to number.



PENALTY FOR PRIVATE
USE, \$300

RETURN
TO

Print Sender's name, address, and ZIP Code in the space below.

RECEIVED

DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

150 SHOUP AVE. #15

IDAHO FALLS, IDAHO 83401

MAR 3 1988

Department of Water Resources
Eastern District Office

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

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EASTERN DISTRICT OFFICE

150 SHOUP AVE. #15

IDAHO FALLS, IDAHO 83401

MAR 3 1988

Department of Water Resources
Eastern District Office

NAME AND ADDRESS OF SENDER		DEPARTMENT OF WATER RESOURCES EASTERN DISTRICT OFFICE 150 SHOUF AVE. IDAHO FALLS, IDAHO 83401		Indicate type of mail ☐ Registered ☐ Insured ☐ COD ☐ Certified ☐ Express Mail		Check appropriate block for Registered Mail: ☐ With Postal Insurance ☐ Without Postal Insurance		Affix stamp here if issued as certificate of mailing or for additional copies of this bill. POSTMARK AND DATE OF RECEIPT				
Line	Number of Article	Name of Addressee, Street, and Post-Office Address	Postage	Fee	Handling Charge	Act. Value (If Regis.)	Insured Value	Due Sender If C.O.D.	R. R. Fee	S. D. Fee	S. H. Fee	Rest. Del. Fee Remarks
1	0151	✓ James H. 16205 N Cleveland Rd	39	12					70			11-0600/0602 13-7449
2	0152	✓ Rainier Hooper St Rt Box 62 Preston	22									13-7449
3	0153	✓ J. L. Williams P.O. Box 191 Preston										11-0600/0602
4	0154	✓ Dennis White 15516 N Cleveland Rd										" "
5	0155	✓ Copenhagen Steel John Wilson 2412200 N Hyde St										11-7367
6	0156	✓ Edward Shepherd 440 So 1st Montpel	22									" "
7	0157	✓ Clyde Nelson P.O. Box 797 Soda Spg	39									11-7367 13-0027/0028
8	0158	✓ City of Preston City Hall Preston	22									13-0027/0028
9	0159	✓ Pub. Lumber Div. Preston Id.										" "
10	0160	✓ Angus Co. 1st Preston - Whimney Pt. 3 Preston										" "
11	0161	✓ Williams Post Office P.O. Box 191 Preston										" "
12	0162	✓ Mitt Campbell Box 601 Lava										29-7837
13	0163	✓ Archie Service P.O. Box 4883 Poca										" "
14	0164	✓ Stephen Adams P.O. Box 845 Poca										" "
15	0165	✓ William Tucker P.O. Box 1725 Poca	22									29-7837
Total Number of Pieces Listed by Sender		Total Number of Pieces Received at Post Office		POSTMASTER, PER (Name of receiving employee)		The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for nonnegotiable documents under Express Mail document reconstruction insurance is \$50,000 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is \$500. 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.						
16		16		J. H. H.								

PS Form 3877, May 1985

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN

U.S. G.P.O. 1985-478-804

March 8, 1988

Ag Room
Franklin County Courthouse
Preston, ID 83263

Dear Secretary:

This is to confirm the use of the Ag Room in the Franklin County Courthouse, Preston, Idaho, for water right hearings and/or conferences to be held by this Department on Tuesday, March 15, 1988, beginning at 1:00 p.m. and on Wednesday, March 16 beginning at 9:30 a.m.

Thank you for your cooperation in this matter.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

13-7449 - FOX

Ag Room, Franklin County Courthouse, Preston, Idaho
Tuesday, March 15, 1988 - 1:00 p.m.

ROSTER OF ATTENDANCE

Hearing Officer: Bob Fleener, Ernest Carlson

Name	Representing	Address
Lawrence Fox		16205 N. Cleveland Rd.
Darwin B Fox		Preston, Id. 83263
Lorin Hoopes		Box 64 Preston Id
Effie Hoopes		Box 62 Preston Id

60
224
1440

13-7449

March 15, 1988

Warren B. Fox -

Protestant -

Lorin Hoopes

+

Cattle would have access to the Creek -

Creek is not safe during the Spring -

+

Stock in the field may contaminate the wells in the area -

+

Pump $\frac{3}{4}$ hp - 20 ft pumping level -

Pumps most

Can pump one sprinkler all day and the level of the water will drop about four inches -

Size of casing of hand dug - eight inch -

+

In the matter of Application
for Permit 13-7449 in
the Name of Warren
B. Fox.

Stipulation and
Agreement.

We hereby agree to the Department issuing
a proposed memorandum decision and order in this
matter based on information presented at the
conference held the 15 March 1988 in Preston FD.

Signed the 15th day March 1988.

Warren B. Fox

Lorin Hoopes

- Historical practice of pumping water from Fox well uphill for ~~cattle grazing~~ ^{stockwater} in vicinity of proposed development. ~~This water was pumped by 15 to 40 hp.~~ ~~This practice had~~ Mr. Hoopes indicate this practice did not have noticeable effect on production of his well.

- Fox well dug 1939. 4" dia meter approximately 20 ft. deep. between 50 and 100 fte uphill from Hoopes well.

- Hoopes well dug 1949. hand dug to a depth of 20 to 21'. Well is used ~~for~~ ^{to} provide culinary water and irrigates ~~the~~ yard around home. taken from - then ~~Source of water for both well is a gravel lens.~~ Test holes drilled in the ^{late} 1930's revealed this lens extended up the drainage toward the proposed point of diversion.

- Distance from proposed collection site to ~~the~~ Hoopes & Fox domestic well is $\frac{1}{2}$ mile.

- ~~Foxes propose to go~~ ~~to~~ ~~the~~ ~~development~~ ~~is~~ will be used in fall. Stock will graze in the area of the development during the fall after crops have been harvested.

13-7449.

15 March 88

Applicant - Warren Fox - present.
Protestant - Lorin Hoopes - "

Direct Applicant - System partially installed. ^{some} collector pipe & conveyance pipe & trough. measured $\frac{1}{2}$ gpm. (720 gal/day) need more collector pipe to increase flow to 1 gpm to meet criteria for participation by SCS. 100 hd. cattle used trough for 10 days. (12000 gal/day).

Protestant - dug well 1939 - 1949 - ^{Fox - Hoopes.} 20 to 21' deep. 6x8' concrete side test holes showed water source for well ^{14 ft deep} comes from spring area. 8" casing down to water, &

- historically cattle grazing in area went to creek

- ~~and~~ Concentration of cattle around around spring area may contaminate domestic water. Quality OK 7 to 8 yrs ago.

- Mr. Fox owns land to creek.

- Cattle will graze in area Mid Oct ~~until~~ 10 days to 2 wks.

- Used to pump water from Warren Fox well up hill to water stock 15 to 40 hd.

- ~~Gravel strata~~ ¹⁰⁰² is only source of water. Extends up drainage.

Mr. Hoopes - $\frac{3}{4}$ hp. pump, 20' ^{lift}

- use water for domestic & sprinkler irrigation. -
can run two sprinklers but 1 is better.

Source of water for

✓ Mr. Fox's well is same source and expected to be impacted in a similar manner.

- development excavated to depth of a back hoe could dig. - encountered clay. no gravel lens.

- required to have a pipe convey overflow away from stock trough.

- overflow is in same drainage.

- 1/2 mi between collection pipe and wells.

Hopes & Fox wells 100 ft. apart.

- Intend for area to be used in fall. - will not graze during irrigation season or spring.

- Fox well 4" dia. 12 approximately 20' deep.

- System was partially installed in 19827 ~~year~~
produces $\frac{1}{2}$ gal/min. Stock grazed in area for
~~a week~~ to 10 days. ~~Applicant no~~ Applicant
want to expand system to produce 1 gal/min., 1440 gal/day.

~~Conclusion.~~ Conclusion.

→ Considering distance.

Preston, Idaho
December 14, 1987

Lawrence B. Fox
16205 N. Cleveland Road
Preston, Idaho 83263

Dear Lawrence,

In regards to your spring development and watering
trough, a construction check was made October 22, 1987, at
which time spring flow was inadequate. It was discussed
30 Oct 87 Flow was near 1/2 gpm should be 1+ gpm for # of cows
with you at that time that flow could be increased by

developing more of the wet area. We also spoke of the need
for better cover over part of the pipe line. The rest of
the system looks very good. Trough installation is fine.

You indicated waiting until spring to comply with said
items, and this is acceptable because of deterrent weather.

When above items are completed, please contact the ASCS
office so a final completion report can be given to them.

Sincerely,

M.R. Weatherstone

Mark R. Weatherstone
District Conservationist

cc ASCS

Idaho

C. Maser 23 Oct 87

Lawrence Fox

Proston class II

Spring Development

Mr. Fox wants to develop a spring
in Sec 14 T25 R40 and put in a trough

Standard
USED
574 Spring
516 pipe
614 trough

50 cows w/ calves
slope 5%
Flow 3 or 4 gpm Est
900' to Trough
50' over flow
1 trough
up to 50 foot 4" tile

Requirements

Q needed for Beef Cows

12 gal/cow/day
6 gal/calf/day

12 gal/cow x 50 cows	600
6 gal/calf x 50	300
	<u>900 gal/day</u>

Est Flow 2 gpm for trough

$2 \text{ gpm} \times 60 \times 24 = 2880 \text{ gal/day}$

Spring should flow 1 gpm+ to meet needs.

trough size

Farmer would like Powder River Trough
4' x 18" x 12'

$4 \times 1.5 \times 12 \times 7.48 = 538 \text{ gal}$

This size trough will be ok for the
of cows and calves.

Idaho
G. Moser

23 Oct 87

Spring Development.

Lawrence Fox

Auston (Class II)
2 2

Spring Development.

this is a wet area that can be dug out with back hoe and tiled approx 50' of 4" perf Pipe - w/ a gravel filter to collect water, as shown on Drawing # 574-A. Trench should be 5 to 6' Deep.

Supply Pipe to Trough.

from plastic Pipe chart Mannings n 0.010
Area ID Idaho Oct 59

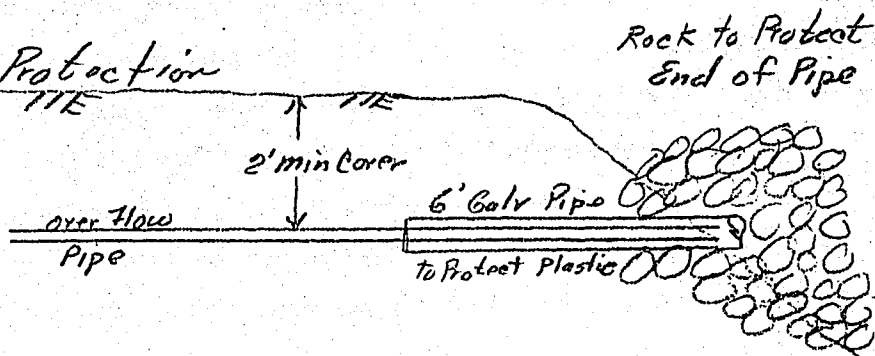
1" plastic 5% slope Flow 26 gpm

USE 1" plastic Pipe as shown on Drawing

if Flow is greater than needed a Float or Tape could be put at the trough inlet to control Flow

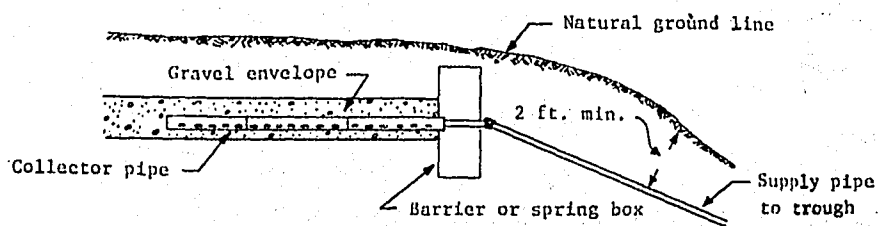
Trough to be put in as shown on Drawing ID 614-A
trench Detail and Spring development as on Drawing ID 574-A
min of 2' cover over all pipe
USE Galv. Pipe on inlet and outlet also on the end of over Flow.

Outlet Protection

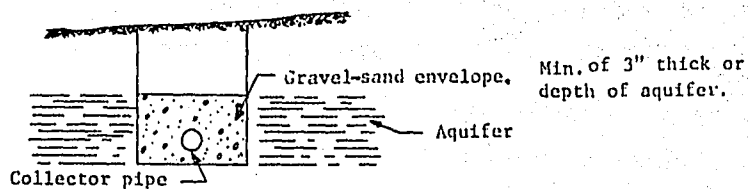


yearly maintenance is required for system to work Proper -

ID-ENG-SD-574-A

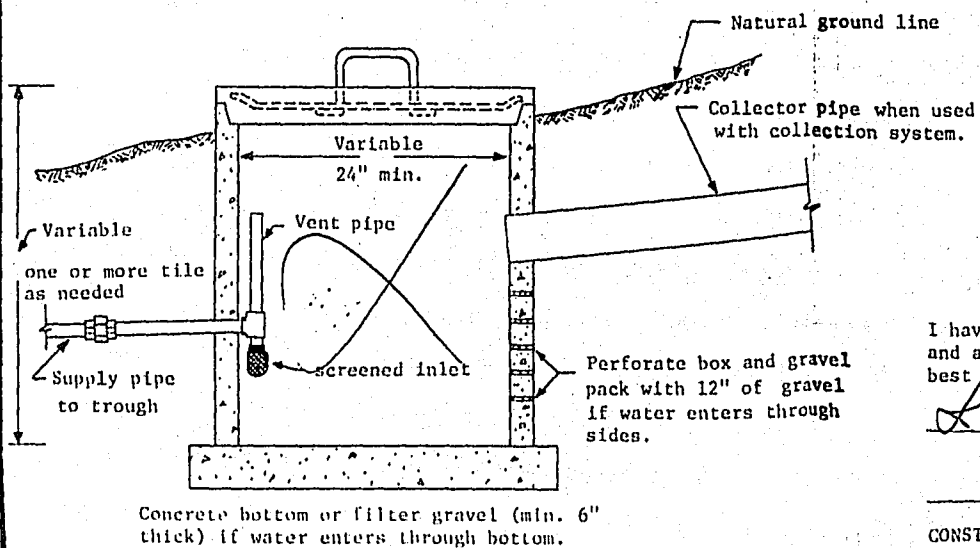


ELEVATION



TRENCH DETAIL

Spring box to be used when water emerges in one spot or with collection system above. Box may be concrete or metal pipe.



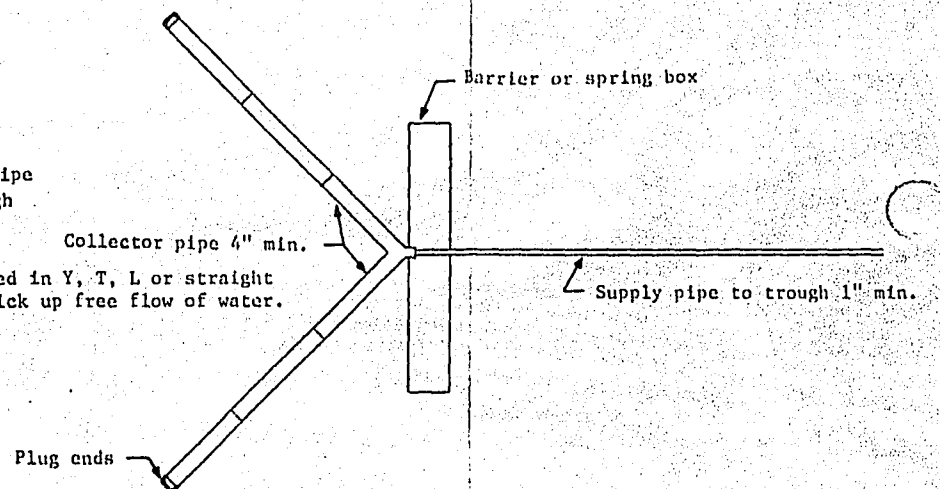
PLAN

I have reviewed the plans and specifications and agree to construct this project to the best of my ability in accordance with them.

L. Fox
Cooperator

Date: 10-23-87

CONSTRUCTION SPECIFICATIONS
ID-SS-E _____ ATTACHED



SCHEMATIC LAYOUT

Box: NA
(Material)

Size _____

Collection system: 4" perf pipe w/ gravel

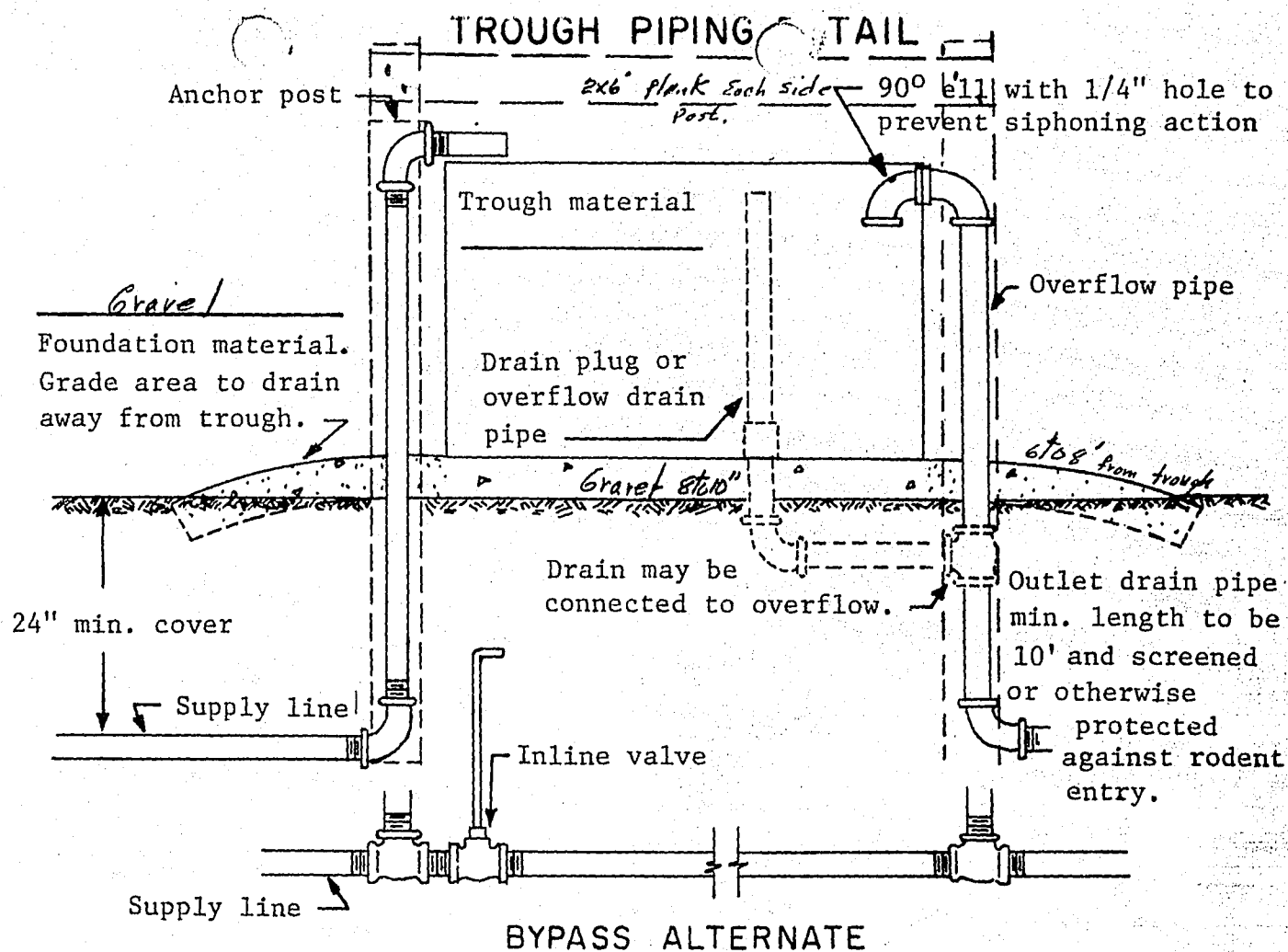
Supply pipe: 1" plastic
(Diameter & type)

Protection of source Back fill and seed.

Job class 1'

SPRING DEVELOPMENT
COOPERATOR L. Fox
Franklin SCD Franklin CO., IDAHO
U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

GM 10/28/87



TROUGH

Length X width or diam. 12 x 3.8'
 Depth 18"
 Capacity 350 gal.

SPECIAL REQUIREMENTS

*Note:
Put Bird walk on
trough.*

PIPE

Supply riser 1" steel 4' min
 diameter-material-length
 Overflow 1" steel 4' min
 diameter-material-length
 Outlet 1" plastic 50' min
 diameter-material-length
 Outlet protection USE length of
steel on end cover w/ rock.

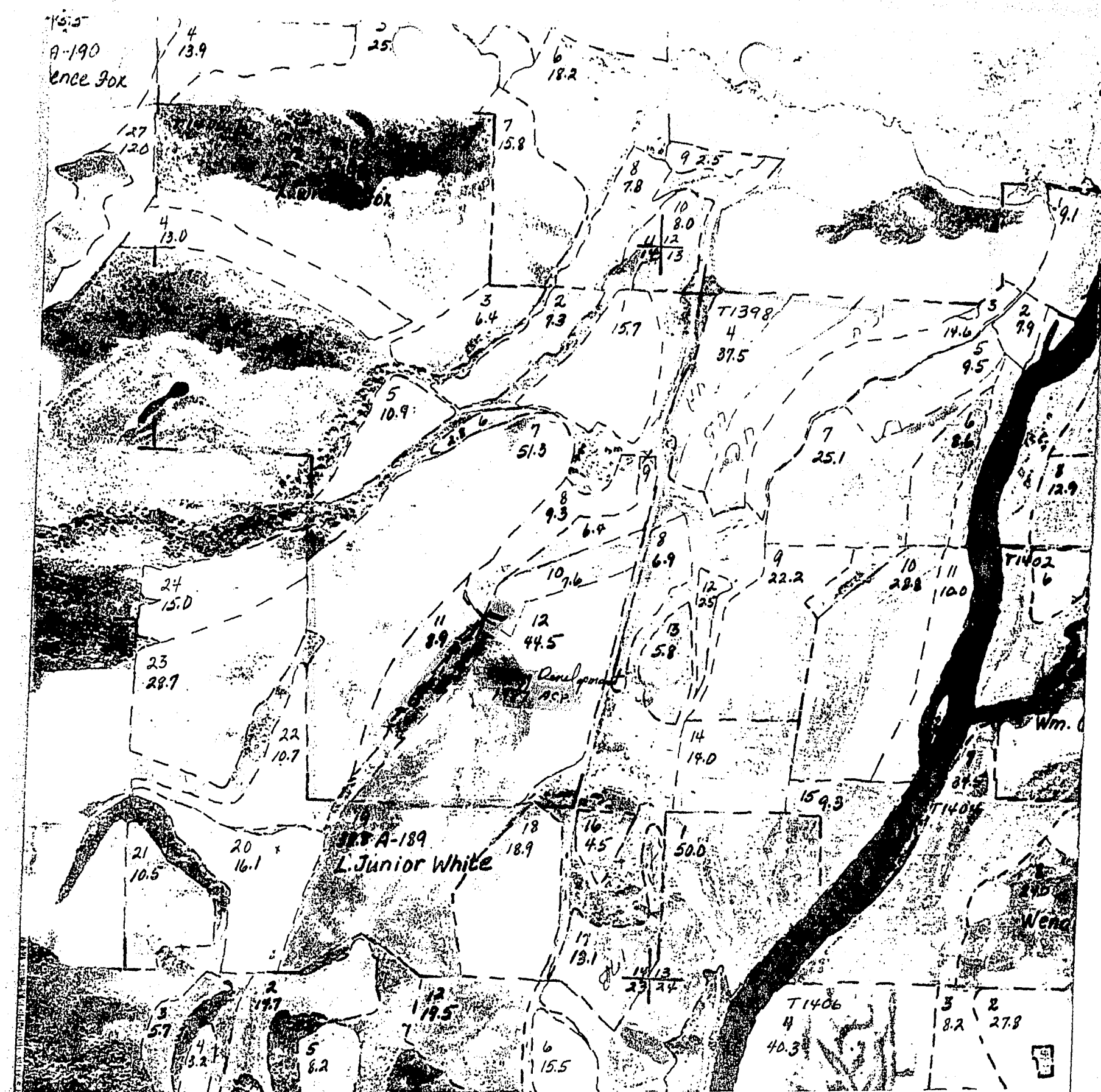
I have reviewed the plans and specifications and agree to construct this project to the best of my ability in accordance with them.

Date: 7/30/87

Cooperator

CONSTRUCTION SPECIFICATIONS
 ID-SS-E 514, 516 ATTACHED

TROUGH OR TANK	
COOPERATOR <u>L. Fox</u>	
<u>Franklin</u> SCD <u>Franklin CO., IDAHO</u>	
U. S. DEPARTMENT OF AGRICULTURE SOIL CONSERVATION SERVICE	
Drawn by <u>5/17/230287</u>	Approved by _____
Drawn _____	Title _____
Traced _____	Title _____
Sheet _____	Drawing No. _____



U.S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

SCS - CPA - 16
2 - 81

CONSERVATION PLAN MAP

Owner Lawrence Fox Operator _____
 County _____ State _____ Date _____
 Approximate acres _____ Approximate scale _____
 Cooperating with _____ Conservation District _____
 Plan identification _____ Photo number _____
 Assisted by _____ USDA Soil Conservation Service

4-177

18.9

15.9

16.0

11.7

RECEIVED

FEB 09 1989

Department of Water Resources

Feb. 4 - 89

Dear Sirs,

I am writing in the matter of Application for Permit No. 13-7449 in the name of Warren B. Fox.

We did agree not to have a formal hearing on this matter. But a few things I would like to bring to your attention, as a matter of concern to me.

Under findings of fact on the sheets No. 6, who's going to ride herd on him a year ago he had over a hundred head of rented cattle in the field for at least a month. And also last spring with some till cropping time.

Under Conclusions of Law, No 4.

He had to bring the ditch water around last fall and let it run above the wells to have enough water to supply his house use, also mine picked up from it also. There is no statement in there that says

he can't go in there and develop
more water if he sees fit any time.

Resp. Yours.
Lavin Hoopes



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

April 11, 1989

Warren B. Fox
16205 North Cleveland Rd.
Thatcher, ID 83283

Dear Mr. Fox:

Re: Permit No. 13-7449

Enclosed is a copy of the approved Application for Permit No. 13-7449 along with a copy of the Proposed Memorandum Decision and Order and Order Adopting the Proposed Memorandum Decision and Order. Please note the conditions of approval as set forth in the Proposed Memorandum Decision and Order.

Enclosed is a form entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop this permit. Also enclosed is a Proof of Beneficial Use form, which should be submitted when the project is complete.

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

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

LGS:rf

Enclosures

c: Lorin Hoopes



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

April 11, 1989

Lorin Hoopes
Star Rt., Box 63
Preston, ID 83263

Dear Mr. Hoopes:

Re: Application for Permit No. 13-7449 -- Warren B. Fox

This office acknowledges receipt of your letter dated February 9, 1989 in which you express concern about the distribution of water.

Note the enclosed copy of the final order and permit. The permit gives Mr. Fox the authority to divert one gallon of water a minute to be used for stock only during a two-week period in October. Water used for any other purpose maybe considered an illegal diversion subject to the laws of the state of Idaho.

If you have any further concern regarding this matter, please feel free to contact this office.

Sincerely,

Bobby D. Fleenor
BOBBY D. FLEENOR
Hearing Officer

Enclosure

c: Warren B. Fox

138047
January 31, 1990

WARREN B. FOX
16205 N. CLEVELAND RD.
THATCHER, ID 832830000

PROOF DUE NOTICE

RE: PERMIT NO. 13-07449

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before April 1, 1990. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

SINCERELY,

Rita Fleck
Secretary/Records Manager

Enclosures

Form 217
08/89

RECEIVED
FEB 9 1990

No fee
Department of Water Resources

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

For Office Use Only

Amt. of Fee \$

Date

Receipt No.

Received by

Ad. 4-20-90

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has/have 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. 13-07449 Telephone No. 427-6697

Name(s) of Permit Holder(s): Warren B. Fox

Post Office Address: 15895 N. Cleveland Rd Preston, Id 83263

Source of Water: Spring

If ground water, well driller's name: _____ Date drilled: _____

Extent of Use:

Domestic _____ (No. of households)

Irrigation _____ (No. of acres)

Stockwater 50 cattle (No. and type of stock)

Other _____

Total rate and/or volume for which proof is submitted 1 gpm cfs _____ acre/feet

Show date water was first diverted and beneficially used under this permit: Sept 9/1/89

One of the following may be a condition of approval of your permit:

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

OR

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

Fee Enclosed: \$ _____ (See License Examination Fee Schedule)

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

Warren B. Fox 427-6697
Name Telephone No.

15895 N. Cleveland Rd Preston
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.

Feb 5/1990
Date

Warren B. Fox
Signature (and title if on behalf of a company or organization)

May 2, 1990

WARREN B. FOX
16205 N. CLEVELAND RD.
THATCHER, ID 832830000

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 13-07449

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

If you have questions concerning this matter, please feel free to contact the EASTERN Regional Office in Idaho Falls at (208)525-7161.

Sincerely,

Rita Fleck
Secretary/Records Manager

c: IDWR - Region

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 13-07449

Priority: November 3, 1987

Maximum Diversion Rate: 1 GPM
Maximum Storage Volume: 0.1 AF

This is to certify, that WARREN B FOX
15895 N CLEVELAND RD
PRESTON ID 83263

has complied with the terms and conditions
of the permit, issued pursuant to Application for Permit dated November 3, 1987; and
has submitted Proof of Beneficial Use on February 9, 1990. An examination indicates
that the works have a diversion capacity of 1 gpm of water from:

SPRING tributary to SINKS

source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
STOCKWATER	10/01 to 10/31	1 GPM	0.1 AF

LOCATION OF POINT(S) OF DIVERSION: NENWSE, Sec. 14, Township 12S, Range 40E
FRANKLIN County

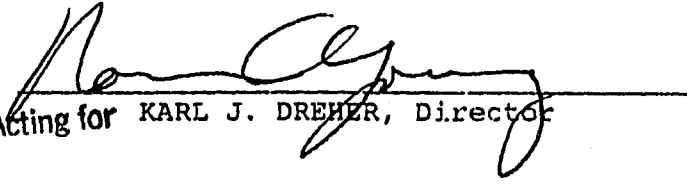
PLACE OF USE: STOCKWATER

TWN RGE SEC
12S 40E 14 NWSE

CONDITIONS OF APPROVAL AND REMARKS

1. This water right is appurtenant to the described place of use.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. Use of water under this water right will be regulated by the watermaster of State Water District No. 11.
5. Water may not be transported out of the drainage.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 26TH
day of FEBRUARY, 19 97.


Acting for KARL J. DREHER, Director

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED

A. GENERAL INFORMATION

JAN 22 1996

Permit No. 13-07449

1. Owner: WARREN B. FOX Department of Water Resources Phone No. (208) 427-6697

Current Address: 15895 N. CLEVELAND RD, PRESTON, IDAHO 83283

2. Accompanied by: OWNER EXAM DATE: 7/20/95

Address: N/A Phone No. N/A

Relationship to Permit Holder: *N/A*

3. Source: SPRING tributary to SINKS

B. OVERLAP REVIEW

1. Other water rights with the same place of use: NONE

2. Other water rights with the same point of diversion: NONE

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

[illegible]

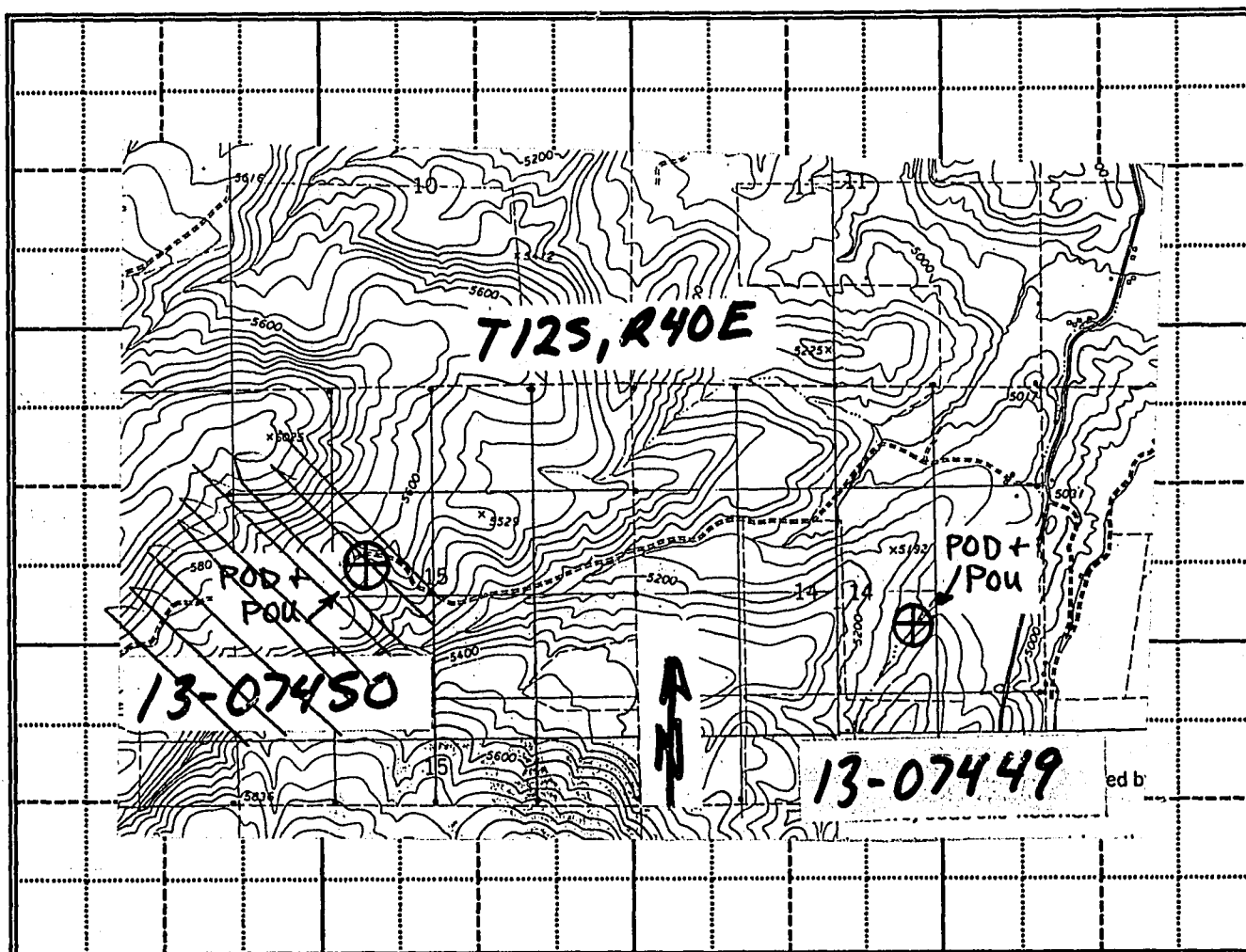
2. Place(s) of Use:

Indicate Method of Determination *Q/A SITE INSP.*

[illegible]

MAP

3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe I.d. as applicable.



Scale: 1" = _____

____ Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

____ Aerial Photo Attached (required for irrigation of 10+ acres)

____ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements: 43 SEC. TO FILL 1 GALLON

E. NARRATIVE/REMARKS/COMMENTS

WATER APPROPRIATION IS FOR STOCKWATER USE.
50 HEAD CATTLE

Have conditions of permit approval been met? ☒ yes ☐ no

F. FLOW CALCULATIONS

Additional Computation Sheets Attached

Measured Method:

$$\frac{1 \text{ GAL}}{43 \text{ SEC}} \times \frac{60 \text{ SEC}}{1 \text{ MIN}} = \frac{1.395 \text{ GAL/MIN}}{448.8} = 0.003 \text{ CFS}$$

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$$

2. Volume Calculations for Other Uses:

$$12 \text{ GALS/DAY} \times 50 \text{ STOCK} \times 365 \text{ DAYS/YR} = 219,000 \text{ GALS/YR}$$

$$\frac{1.0 \times 60 \text{ MIN/HR} \times 24 \text{ HR/D} \times 31 \text{ DAYS}}{325,850 \text{ GALS/AF}} = 0.136 \text{ AFD.}$$

$$\frac{219,000 \text{ GALS/YR}}{325,850 \text{ GALS/AF}} = 0.67 \text{ AFA}$$

* PERMIT LIMITS TO 16PM FOR MONTH OF OCTOBER.

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
STOCK WATER	10/1	10/31	0.002 0.01	0.1
Totals:			0.01 CFS	0.1 AFA

2. Recommended Amendments

☐ Change P.D. as reflected above
 ☐ Add P.D. as reflected above
 ☒ None

☐ Change P.U. as reflected above
 ☐ Add P.U. as reflected above
 ☐ Other

I. AUTHENTICATION

Field Examiner's Name SIMPSON Date 1/11/96

Reviewer [Signature] Date 1-12-96

SEAL

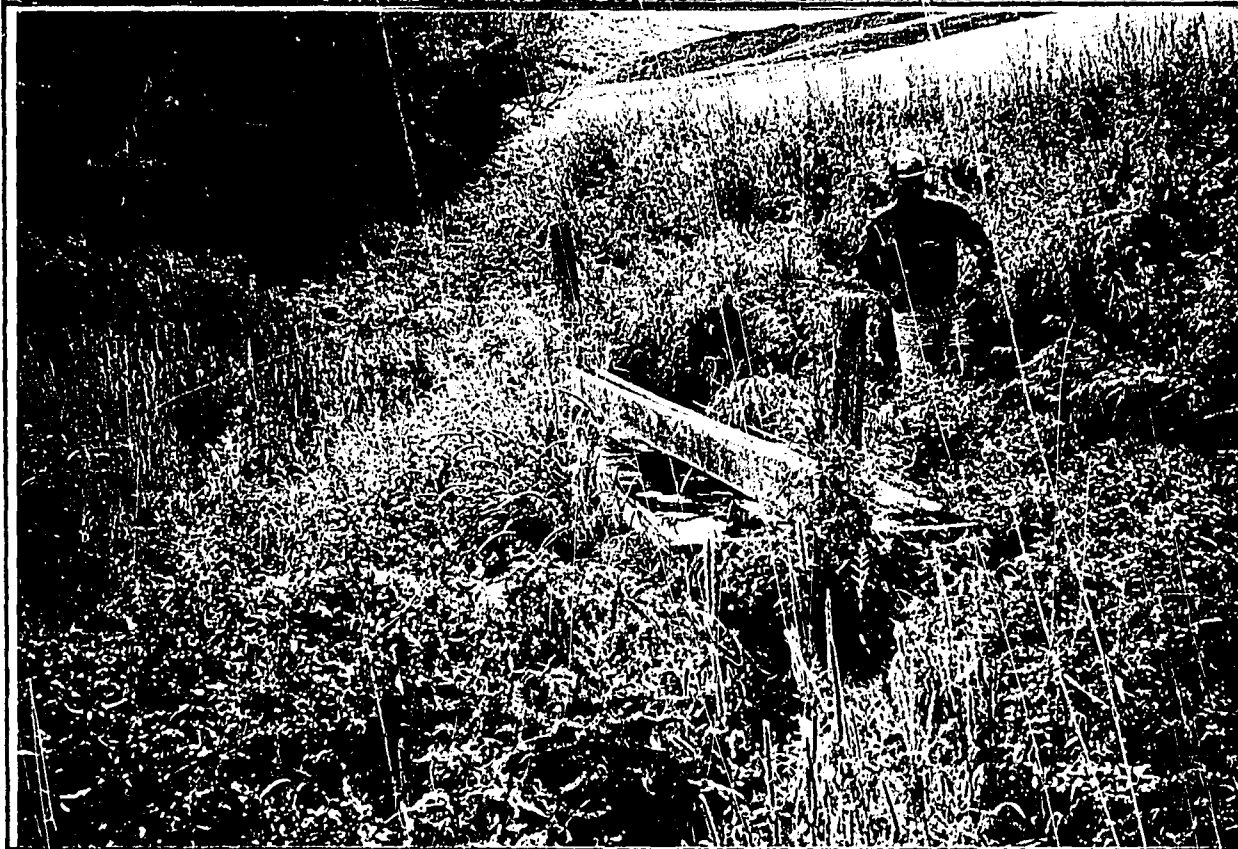
WARREN FOX
STOCKWATER

151



POINT OF
DIVERSION
SPRING

BASE OF
TREES



PLACE OF
USE

STOCK
TROUGH

13-07449

***FOR CLARITY
OF ANY
PHOTOGRAPHS
MICROFILMED,
SEE FILE.***

The license was hand-edited to
reflect the request below from Norm Young.

SC
2/24/97

Issue for 1 gpm
flow rate even
if the license has
to be done manually.

Control of water
water dist 13



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 27, 1997

WARREN B FOX
15895 N CLEVELAND RD
PRESTON ID 83263

RE: WATER RIGHT NO. 13-07449

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed license confirming that a water right has been established in accordance with the permit referenced above. The license is a preliminary order issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the Department within fourteen (14) days of the service date of this order. The Department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3), Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding. Otherwise, this preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review the preliminary order, the Department shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Department in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Department may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The Department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

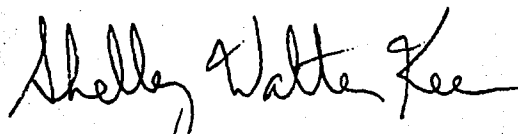
- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or

iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

If you have questions, please contact me at (208) 327-7946.

Sincerely,

A handwritten signature in cursive script, appearing to read "Shelley W. Keen".

Shelley W. Keen
Water Rights Supervisor

c: Eastern Region

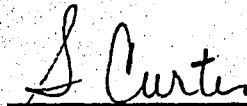
Enclosures

CERTIFICATE OF MAILING

I hereby certify that on the 27th day of February, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER (Approved License)** to the person(s) listed below:

Water Right No. 13-07449

**WARREN B FOX
15895 N CLEVELAND RD
PRESTON ID 83263**



Sharla Curtis
Water Resource Agent