

RECEIVED
MAY 25 1995

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 13-7493

Department of Water Resources
To appropriate the public waters of the State of Idaho

1. Name of applicant Eldon B. Bingham Phone 852-0787

Post office address 2679 W. 1500 N. Preston, ID 83263

2. Source of water supply Groundwater which is a tributary of _____

3. Location of point of diversion is _____ 1/4 of NE 1/4 of SW 1/4, Govt. Lot _____

Sec. 20 Township 15 S Range 39 E B.M. Franklin County; additional
water from well will be discharged into Five Mile Creek in exchange for surface

points of diversion if any: water returned from a spring in SW 1/4 Sec. 19 T15S R39E

4. Water will be used for the following purposes:

Amount 0.70 for Irrigation purposes from 4-1 to 10-31 (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 is (a) 0.70 and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Artesian well with valve,
pump & sprinkler system

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.

Exists c. Proposed well diameter is 6 inches; proposed depth of well is 160 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
2 years (minimum 1 year).

PM

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. _____
- 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	
15S	39E	19											7	13			15		35

Total number of acres to be irrigated 35

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

This applic. replaces permit 13-7291 which has lapsed.

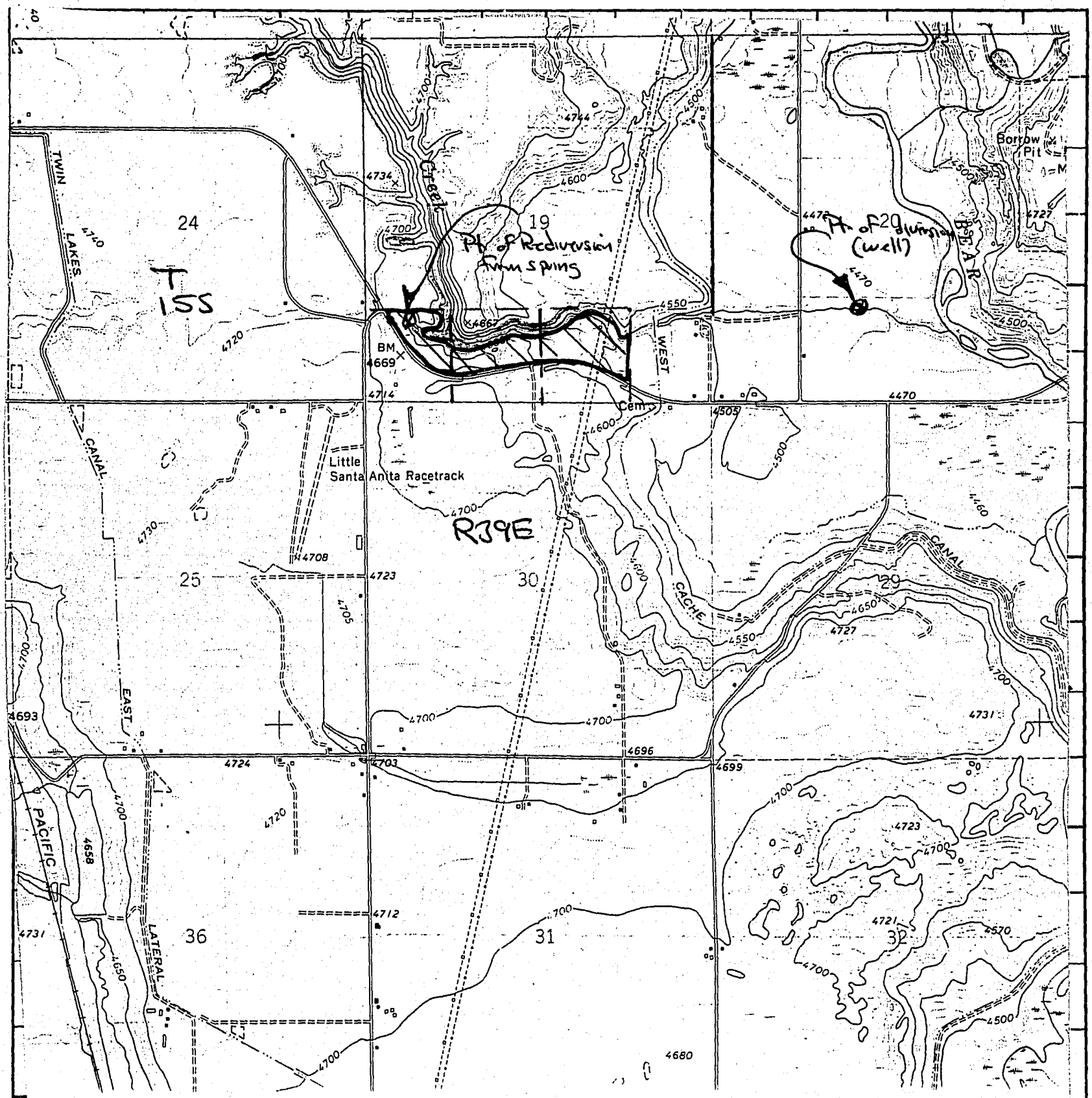
11. a. Who owns the property at the point of diversion? Applicant

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

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. MR. SKOUSEN HAS AGREED NOT TO OPPOSE THIS DIVERSION

12. Remarks There are no water users on Five Mile Creek between the point of re-diversion and point of diversion. The spring at the point of rediversion has traditionally been used to fill the applicant's water rights from Fivemile Creek. With this application the applicants will exchange groundwater from the well for water normally provided by the spring. This will allow him to use the groundwater for irrigation of his property adjacent to the well and apply the spring water to lands at a higher elevation which previously have not been irrigated.

13. 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.

Edmund Bingham
(Applicant)

Received by LB Date 3-17 Time 11:20 Preliminary check by JEM
Fee \$ 45 Received by HUT # EO17049 Date 3-18-92
Publication prepared by LB Date 4-29-92 Published in Preston Citizen
Publication approved LB Date 5-15-92

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. _____, and said application is hereby _____.

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 _____, 19 ____.
- 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:

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 13-07493

Proposed Priority: March 17, 1992 Maximum Diversion Rate: 0.70 CFS

This is to certify, that **ELDON B BINGHAM**
2679 W 1500 N
PRESTON ID 83263
has applied for a permit to appropriate water from: **GROUNDWATER**

and a permit is **APPROVED** for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	04/01 to 10/31	0.70 CFS

<u>LOCATION OF POINT(S) OF DIVERSION:</u>	
Rediversion	NESW , Sec. 20, Township 15S, Range 39E SWSW , Sec. 19, Township 15S, Range 39E FRANKLIN County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
15S	39E	19	SWSW 7.0	SESW 13.0	SWSE 15.0	35.0

Total number of acres irrigated: 35.0

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **June 1, 1997**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
5. Use of water under this right is subject to control by the watermaster of State Water District No. 11.
6. The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.
7. Measuring devices and lockable controlling works of a type acceptable to the Department shall be permanently installed at the point of diversion located within NESW, S20, T15S, R39E and at the point of rediversion located within SWSW, S19, T15S, R39E prior to the diversion of water under this right.

PAGE 2

State of Idaho
Department of Water Resources

Permit To Appropriate Water

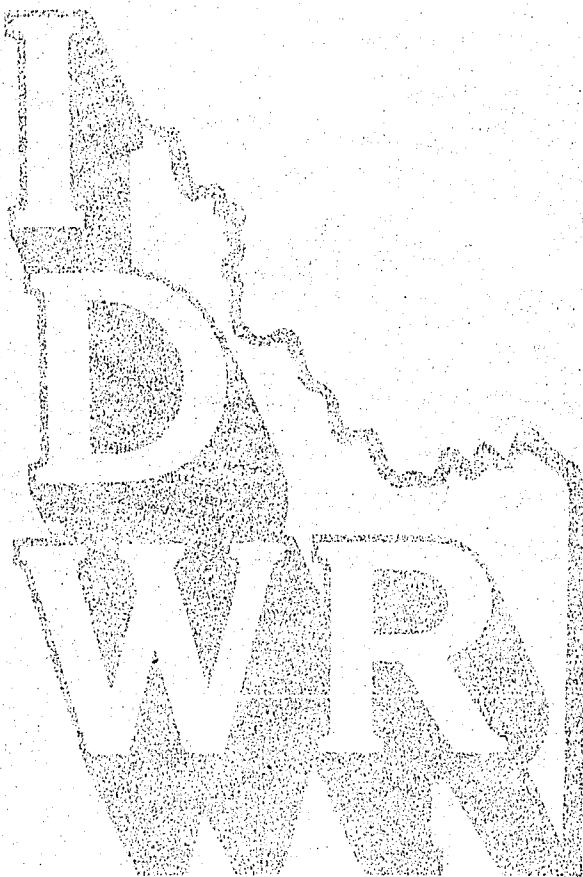
NO. 13-07493

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.
Witness the signature of the Director, affixed at Boise, this

13th day of June, 1995

Karl J. Dreher
Karl J. Dreher, Director

for



NOTICE OF APPLICATION FOR PERMIT
13-7493

ELDON B BINGHAM
2679 W 1500 N
PRESTON ID 83263

This application proposes diversion of groundwater for injection into Five Mile Creek in exchange for surface water diverted from a spring.

Point of Diversion/Injection: NESW SEC 20 T15S R39E,
Franklin County
Point of Rediversion: SWSW SEC 19 T15S R39E,
Franklin County

Use: Irrigation (.70 cfs)
Period of Use: April 1 to October 31
Date Filed: 3/17/92

In: S1/2SW SWSE SEC 19 T15S R39E, Franklin County

35 acres total

The permit will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Eastern Region, 150 Shoup Avenue, Idaho Falls, ID 83402, on or before April 20, 1992.

R. Keith Higginson, Director

Published April 2 & 9, 1992

sent to
50

30-Mar-1992

ELDON B BINGHAM
2679 W 1500 N
PRESTON ID 83263

RE: Application No. 13-7493

Dear Water Right Applicant:

The Department of Water Resources acknowledges receipt of your water right permit. This office is currently in the process of advertising the application in the Preston Citizen on 4-2 & 9-92. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

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

If the application is not protested, it will be forwarded to our state office in about five weeks. State office personnel will conduct a complete review prior to final processing of the 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,

HAROLD W. JONES
Water Rights Supervisor

HWJ/rb

875

No 4546

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

April 1, 1992, and ending

with the issue of April 8, 1992

Fee \$ 39.59Subscribed and sworn to before me this 8 dayof April, 1992.

Notary Public, Residing at Preston, Idaho

My Commission Expires Aug 14, 1995.

**NOTICE OF APPLICATION
FOR PERMIT
13-7493**

ELDON B. BINGHAM
2679 W. 1500 N.
PRESTON, ID 83263

This application proposes diversion of groundwater for injection into Five Mile Creek in exchange for surface water diverted from a spring.

Point of Diversion/Injection: NESW SEC 20 T15S R39E, Franklin County

Point of Rediversion: SWSW SEC 19 T15S R39E, Franklin County

Use: Irrigation (.70 cfs)

Period of Use: April 1 to October 31

Date Filed: 3/17/92

In: S1/2SW SWSE SEC 19 T15S R39E, Franklin County

35 acres total

The permit will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Eastern Region, 150 Shoup Avenue, Idaho Falls, ID 83402, on or before April 20, 1992.

R. Keith Higginson, Director

Legal No. 4546—Publish April 1, 8, 1992.

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MAY 04 1992

Department of Water Resources
Eastern District Office

30-Mar-1992

DEPT OF FISH & GAME
1345 BARTON RD
POCATELLO ID 83401

RE: Application NO. 13-7493

Dear Sir:

We are enclosing a copy of the application(s) that may be of interest to your department. Please review the application(s) and submit any comments you may have to our Department as soon as possible. The last date of protest is 4-20-92, and we are required to take final action shortly thereafter.

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

Respectfully submitted,

HAROLD W. JONES
Water Rights Supervisor

HWJ/rb
enc.

30-Mar-1992

PETE PETERSON
WATER DIST 11
2483 RIVERDALE RD
PRESTON ID 83263

RE: Application No. 13-7493

Dear Watermaster:

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

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

Thank you for your cooperation in this matter.

Respectfully submitted,

Harold Jones
Water Rights Supervisor

HJ/rb
Enclosure

21-Jul-1992

ELDON B BINGHAM
2679 W 1500 N
PRESTON ID 83263

RE: Application for Water Right No. 13-7493

Dear Mr. Bingham:

In response to record low streamflows and declining groundwater levels resulting from drought conditions, the Director of the Department of Water Resources has declared a moratorium on approval on certain pending and future applications to appropriate water in the Bear River Basin. The moratorium applies to both surface water and groundwater appropriations.

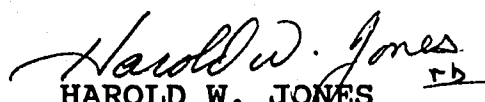
Department records show that you filed an application to appropriate water for irrigation which has not been approved by the Department. Unless you can demonstrate that your proposal qualifies for a narrow exemption to the moratorium, the department will hold your application, and will not process it until the moratorium is lifted.

The enclosed form requests information which will determine whether your proposed use will qualify for the supplemental irrigation exemption. IF YOU FEEL YOUR PROPOSED USE QUALIFIES AS AN EXEMPT USE, YOU MUST COMPLETE THE FORM AND RETURN IT TO THIS OFFICE. If the form is not completed and returned, your application will be held without action. If you return the form but the use does not qualify, the Department will notify you that the application will be held without further processing.

If your application is approved, it will only be good for use until November 1, 1992. The permit would terminate on that date and the well would not be authorized for use unless the drought conditions potentially persist and your surface water source is again depleted before the end of a season.

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

Sincerely,


HAROLD W. JONES
Water Right Supervisor

HWJ/rb

7-9-92

ACTION REQUIRED

FROM: H.W. Jones - IDWR

TO: File 13-07493

The moratorium exemption questionnaire does not address a pre-existing surface water right that would be necessary to set a temporary groundwater permit.

Therefore I do not recommend any further action on this application

H.W. Jones

PERMIT HOLDER: Eldon B. Bingham

PERMIT NO. 13-07493

This is a reapplication for Permit No 13

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JUN 18 1992

MORATORIUM EXEMPTION QUESTIONNAIRE

IF YOUR APPLICATION PROPOSES AN IRRIGATION USE, ~~PERMIT~~ ^{Department of Water Resources}
COMPLETE AND RETURN THE FOLLOWING:

- Has ALL the land you propose to irrigate been irrigated with surface water in the past?

COPY

No. But this is a new water source which needs to be further developed and brought under control. The water is free flowing from an old sun oil well. The pipe is rusting & the water is damaging cropland.

- Do you summer fallow any of your irrigated land? If so, how many acres?

RECEIVED

No.

It does not at present enter into the Bear River System.

But it will when we complete our diversion.

JUL 08 1992

Department of Water Resources
Eastern District Office

List the water right(s) you have used to irrigate the land listed on the application. If you have received water from a canal company or water district, please identify the name of canal or water district.

- During the last ten years, how many years has your surface irrigation water been available for the entire irrigation season?

10

- What crops have you grown in the past ten years?

Alfalfa Hay & Grass

I understand if my proposed diversion of groundwater is approved as a supplemental use, that I can only use my well during periods of drought, when a full supply of water is not available. I also agree that my surface water will be fully used to the extent available, will not be sold or used on other lands, and that a change in use of my surface water may result in revocation of any groundwater right granted pursuant to my application for supplemental water.

Dated this 5 day of June, 1992.

(Please sign)

Eldon B. Bingham

Please note - this application was advertised some time before the moratorium -

July 28, 1992

Eldon Bingham
2679 W 1500 N
Preston, ID 83263

Mr. Bingham:

I have received your moratorium exemption questionnaire for application 13-07493. The basic requirement for consideration of this new application is proof of a past history of reliable surface water rights irrigating all of the proposed place of use in application 13-07493.

The questionnaire you returned did not meet those requirements and application 13-07493 will be put in the moratorium hold file at this time. Should the Department lift the moratorium sometime in the future you will receive written notice from this office.

Sincerely,

HAROLD W. JONES
Water Rights Supervisor

4H

RECEIVED

NOV 25 1992

Department of Water Resources
Eastern District Office

May 27, 1992

ELDON B BINGHAM
2679 W 1500 N
PRESTON ID 83263

file

*Notified
E.C.
Hed*

RE: Water Right No. 13-07493

Certified Mail No. 139116

Dear Water Right Holder(s):

In response to record low streamflows and declining groundwater levels resulting from drought conditions, the Director of the Department of Water Resources has declared a moratorium on approval on certain pending and future applications to appropriate water in the Snake River Basin. The moratorium applies to both surface water and groundwater appropriations.

Department records show that you filed an application to appropriate water for irrigation which has not been approved by the Department. Unless you can demonstrate that your proposal qualifies for a narrow exemption to the moratorium, the department will hold your application, and will not process it until the moratorium is lifted.

An application for groundwater to supplement a normally sufficient surface water irrigation supply is exempt from the moratorium. If you can demonstrate that you normally receive an adequate supply of irrigation water from a surface water source, and that you will continue to fully use the surface water, when available, the Department will continue processing your application. If there are other impediments to approval such as a protest or necessary consent from other agencies, the other obstacle to approval must also be removed independent of the moratorium.

The enclosed form requests information which will determine whether your proposed use will qualify for the supplemental irrigation exemption. IF YOU FEEL YOUR PROPOSED USE QUALIFIES AS AN EXEMPT USE, YOU MUST COMPLETE THE FORM AND RETURN IT TO THIS OFFICE. If the form is not completed and returned, your application will be held without action. If you return the form but the use does not qualify, the Department will notify you that the application will be held without further processing.

1H

Certain domestic and non-consumptive uses are also exempt from the moratorium. If your application proposes one of these uses in addition to irrigation, the department will resolve the exemption issue by reviewing the file.

The Department has scheduled a public meeting on June 2, 1992 where the details of the moratorium can be discussed. The meeting location is:

Preston, Idaho June 2, 1992 7:00p.m.
Franklin County Fairgrounds
Robinson Building
2nd North 2nd West

Sincerely,

GARY SPACKMAN, Supervisor
Water Right Permits Section

GS:cz



IDAHO FISH & GAME

REGION 5

1345 Barton Road
Pocatello, ID 83204-1847
(208) 232-4703

April 6, 1992

RECEIVED
APR 15 1992

Department of Water Resources
Eastern District Office

Mr. Harold Jones
Water Rights Supervisor
Idaho Department of Water Resources
150 Shoup Avenue, Suite 15
Idaho Falls, ID. 83402

RE: Application No. 13-7493

I have reviewed the applicant's request to divert (re-divert) 0.7 cfs of water from a spring which is tributary to Five Mile Creek and replace the water in Five Mile Creek, from a well, approximately three miles down stream from the spring.

From a fisheries standpoint, this will reduce flow throughout a three mile reach of Five Mile Creek by 0.7 cfs. However, I do not know what the fish population status is in Five Mile Creek, nor whether a reduction of 0.7 cfs will have a significant negative effect on fish, such as dewatering part or all of the affected reach, restricting fish passage, increasing summer water temperature, or making fish more vulnerable to predators. If the 0.7 cfs is greater than 1/3 of the total base level flow, then negative effects probably will occur.

Additionally, in section 12 (remarks section) of the application, it states that the applicant will be using the "...groundwater for irrigation of his property adjacent to the well...". Is this the same water that will be returned to Five Mile Creek? If so, the water of this irrigation return flow would be of much less quality, and probably much warmer in summer than the water from the spring.

Without further fish population status and summer flow data, my only concerns are that the amount of water returned to Five Mile Creek is equal to the amount removed, and that the removal and return flows are always operated simultaneously.

Cecil D. Andrus / Governor
Jerry M. Conley / Director

Equal Opportunity Employer



Working for wildlife since 1938

Thank you for your opportunity to comment.

Sincerely,

Jay Genshaw for Tracey Trent

Tracey Trent
Regional Supervisor

cc: Tom Lucia

MEMORANDUM

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MAY 04 1993

Department of Water Resources
Eastern District Office

To: Skip Jones

From: L. Glen Saxton *LS*

RE: APPLICATION FOR PERMIT NO. 13-07493

Date: April 30, 1993

Attached is a letter from Eldon Bingham to Norm Young. While I don't have a copy of the application before me, it appears we may be able to process the application due to the exceptions in the Amended Moratorium Order signed April 30, 1993 for the Bear River drainage.

Paragraph 8b of the Moratorium Order provides an exception for applications which "will have no effect" on prior surface and ground water rights. If, in fact, the existing geothermal resource test well has been constructed and cased so that it has no effect on near surface sources, we should process the application. Groundwater Protection Section may have well logs or other information which shows well construction.

I note that the data base appears to show an incorrect diversion rate of 0.07 cfs in one record and 0.70 cfs in another record. This needs to be corrected.

If you have questions, please call me.

RECEIVED

APR 28 1993

Department of Water Resources

Mr. R. Keith Higginson, Director
Idaho Dept. of Water Resources
Statehouse, Boise, Idaho

April 24, 1993

RKH
Norman

Dear Mr. Higginson,

Mr. Norman Young of your office, in a telephone conversation suggested that I should give you in writing the history of my request for water as per application no. 13-7493. I spoke to you about this matter when you were in Preston last summer. I think it has some unusual aspects worth restating.

The water source in reference is a flowing well which was drilled by Sun Oil Company when they were working the geothermal potential of this area. When I signed the permit for them to drill on the property I then owned, it was specified in the agreement that the well would be cased to the bottom, and would be left open for my use when they had finished with it. But more, After they had finished their work, I again had to sign absolving them, taking complete responsibility for the well. I also had to furnish at my own expense a valve for the top of the well. This I did. So it is my contention that the well belongs to me. It is a new water source and it is quite independent of the Bear River.

This application is the second one I have made to use this water on some land we own adjacent to Five Mile Creek, on an exchange basis. Due to financial problems during the late 1980's we were not able to do the project in the allotted time of the original permit. Now that problem has been resolved, and we are in a position to complete this project as outlined in this application, which was advertised without opposition last March and April. Just in time to get us caught in the moratorium. Water this year seems to be abundant. Also, This really is not Bear River water.

I am 72 years old. My wife and I have been planning on this project to enable us to build a home and to have a small income to supplement our small retirement. Our time is limited. Please, Know that any help you can give us will be greatly appreciated. Please modify the moratorium in our behalf.

Thank you for your time and patience.

Very Truly Yours,

Eldon B. Bingham

Eldon B. Bingham
2679 W 1500 N
Preston, Idaho 83263

INTER-DEPARTMENT MEMO — 1

FROM H.W. JONES

DATE 3-5-93

TO File 13-7493

SUBJECT

Dennis Dunn call BLM, State Lands & the Company that bought out Sun Oil and no one has a record of the well in Mr. Bingham's application. I then called Mr. Bingham & asked if he had any documentation on the well. He said he would look in his records but he remembers the well being 200' deep. This does not seem to be deep enough to be beyond the contributing aquifer in the Bear River drainage. I do not recommend approval.

P.S. Driller Bill Dubbe remembers this well & stated to Mr. Bingham that he recalls 150'-160' of drilling depth. Mr. Dubbe had no well log!

H.W. Jones

SIGNATURE



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

May 13, 1993

RECEIVED

MAY 17 1993

Eldon B. Bingham
2679 W. 1500 N.
Preston, ID 83263

Department of Water Resources
Eastern District Office

RE: APPLICATION FOR PERMIT NO. 13-7493

Dear Mr. Bingham:

In response to your letter dated April 24, 1993 to Mr. Higginson in connection with the above referenced application, our Idaho Falls office has reviewed your application and information in connection with the existing well to determine if the application could be processed outside the terms of the Bear River Moratorium.

Your letter represents that the well was drilled in connection with geothermal resource exploration by Sun Oil Company and that the source of water flowing from the well is an independent source of water from the Bear River.

Upon checking with you, our Idaho Falls office determined that the well probably is not deeper than about 200 feet and has not been constructed to the several thousand foot depths which is typical of geothermal resource exploratory wells.

The department does not question your position that you likely own the well which consists of the hole in the ground, the casing and any associated valving or control works. The department is not convinced, however, that the water which flows from the well is a separate source of water from the Bear River.

For this reason, the department will not process your application as an exception to the Bear River Moratorium unless you can provide evidence to the satisfaction of the department that, the water flowing from the well, in fact, is a separate source of water and is not connected to the Bear River.

If you have questions, please feel free to contact the department.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

c: IDWR - E. Region - Skip Jones
Norm Young



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

June 14, 1995

ELDON B BINGHAM
2679 W 1500 N
PRESTON ID 83263

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 13-07493

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. Please be sure to thoroughly review the "CONDITIONS/REMARKS:" listing on the permit.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a "Proof Due Notice" approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

Be sure to note the special condition requiring you to install a measuring device and lockable controlling works that will enable the watermaster to control the rate of diversion.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:rl

Enclosures

NOV 24 1995

November 24, 1995

Ronald Carlson
Harold Jones
Idaho Dept. of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402

RECEIVED

NOV 27 1995

Department of Water Resources

Gentlemen,

This belated letter is in response to a notice by Atty. Randall Budge, protesting my application to appropriate state water from the area of Bear River, this on behalf of the Last Chance Canal Company and Utah Power and Light Company.

I have taken the summer to ponder this situation and I will answer it in steps.

1. The time for protesting my application # 13-07493 expired, unprotected the day before the administrative moratorium was placed on Bear River water by Mr. Higgenson in April 1992. Thus, it is of no legal value and should be dismissed. I will discuss the moratorium later.

2. Last Chance Canal Company is 45 miles upstream from our area. So, water flowing into the Bear River downstream has nothing to do with state water usage in their area.

3. Utah Power's original application for water usage from Bear River was for nonconsumptive use, only to generate power. (My mother laughed to her dying day about the little lady who stood up in the public meeting. It was held in our area to get permission to run transmission lines through our fields. Her Question, "But what good is the water after you take the electricity out of it?") I will discuss this again later.

4. After all easements and right of ways were in place, then Utah Power instituted the so called Last Chance litigation. It then became 'their river', because of their development at Bear Lake, and the regulatory dams along the river.

5. In the mid 1950's, because of careless and irresponsible fluctuations of the river during winter and summer, extensive damage was caused to roads, lands and livestock bordering the river. A million-dollar damage suit was filed against the Power Company. This was a class action suit by a loosely formed group calling themselves The Bear River Land Owners Association. It included owners of property adjacent to Bear River from west of Preston Idaho, to the headwaters of the Cutler reservoir.

6. Utah Power responded with a huge public relations campaign. Their defense was that they did not own the water. They just had the usage of it through regulation, to generate electricity. Further, that the suit was misfiled, and should have been filed against every person listed as owning water in Bear River under the Dietrich Decree. But, never the Power Company, as they did not own the water.

7. Mr. Tom Heath the manager of the local sugar company, was hired by the Power Company to negotiate the dispute. The Power Company was represented by Mr. Joe Cushman, who later became CEO of Utah Power, and an attorney by the name of Porter, from Salt Lake City. Most of the land owners attended the many meetings held. I was selected to be their representative.

8. There was a negotiated settlement, foolishly unrecorded at Utah Power's demand. The land owners agree, against the advice of attorneys, 1- to drop the damage suit. 2- to lend physical and monetary support to the Power Company sponsored-program, designed to correct stream and land erosion along Bear River in Franklin and Cache County. 3- each property owner was to eat the damages previously caused. (Some of the land involved has not yet returned to former use after 40 years.)

9. The Power Company agreed 1- to purchase additional flooding easements from the headwaters of Cutler Reservoir up to somewhere in the area of Amalga. Utah. 2- agreed not to fluctuate the water from Oneida Station power plant whenever the river channel is covered with ice. Thus, they would eliminate the wintertime ice jams, winter flooding and icing of land along the river and the destruction of fences and roadways. 3- agreed that, since, "they did not own consumptive water rights in the Bear River," they would not oppose or protest filings for water usage in our area.

10. This last item was the deciding factor in our dropping the damage suit.

11. We thus purchased the right to use Bear River water, without harassment, for a million dollars.

12. The Power Company has reaped an additional benefit in that irrigation pumping has largely been responsible for the rebuilding and updating of their former two-phase rural lines with three-phase lines to power the pumps.

13. Again, the Power Company declined to have a written record of these things made. A casual observation of the record of the things which have taken place, relative to power and water, in this area, in the past forty years, bears its own testimony to the truth of what I have written.

There are two other items I have debated with myself about mentioning: The Bear River Compact, and the Moratorium. I think they also apply, so I will.

During the early 1960's, I worked at Utah State University. I had a desk in the office next to Doug Steward, the man who wrote the Bear River Compact. One day, in a bull session, I boldly suggested to Dr. Stewart that he was wasting his time as Idaho folks would never go for it. He came off his chair and gently informed me that the whole purpose of the compact was to get water for Ogden, Salt Lake City, and the Wasatch front. By 1990, he said, the people on the Wasatch front would outnumber the people in Idaho by 200 to one, and they would have no problem taking what they wanted. With this warning, I have been a skeptic of the fairness of the compact.

I have never attended a meeting of the Commission, but what the men from Utah, supposedly sworn to be fair in administering the law for the mutual good of all concerned, were trying to change the wording here and there to make unholy acts appear legal. You take for instance, the water-use rights below Cutler Dam. When they meet, the Utah boys harangue loud and long about the need to honor these ancient, before 1900, water rights. Well in 1900, there were not 13 water storage facilities in Utah and Wyoming, above Bear Lake. These are now all excluded by the way the compact was written. Also, they never mention the multitude of dams on the Logan and Little Bear rivers', above Cutler Reservoir. These were excluded also by the way the compact was written. This leaves Idaho to, supposedly, be the villain in any water shortage, for these ancient obligations, below Cutler Dam. I wonder how this would stack up in court. We never hear about the condition of the water stored above Bear Lake. We only hear about the sad condition of Bear Lake. Nor, do they mention the water stored on the Logan

and Little Bear rivers' above Cutler Dam, in Cache County, Utah.

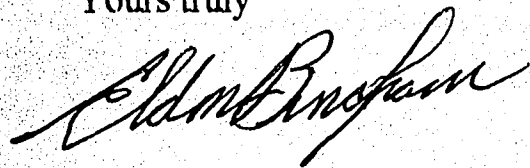
How limited is our manipulated news.

Again, The Moratorium-- to what extent has it been used, as a time delay tool, to deprive Idaho of her legal right to use Idaho water, to benefit Idaho's future? I don't understand how this Administrative Moratorium, by the Idaho Dept. of Water Resources, which only benefited out of state interests, was legally justified.

Time will tell.

Thank you for your patience.

Yours truly



Eldon Bingham
P.O. Box 68
4920 W. 900 N.
Dayton, ID 83232
(208)-747-3679

cc- Randal Budge
cc- Norm Young

March 31, 1997

ELDON B BINGHAM
2679 W 1500 N
PRESTON ID 83263

PROOF DUE NOTICE

RE: PERMIT NO. 13-07493

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 June 1, 1997. (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.

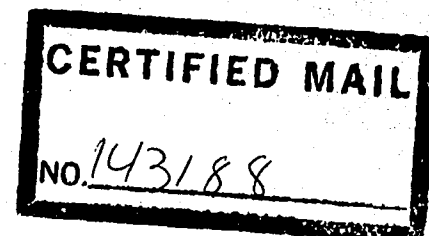
If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental 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,

JULIE L. YARBROUGH
Senior Secretary

Enclosures



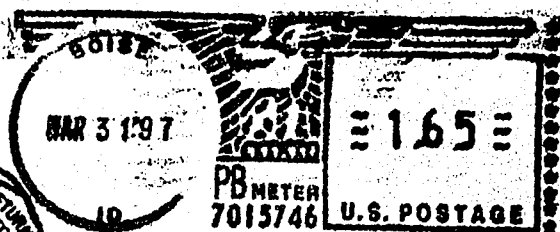
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
North Orchard Street
Boise, Idaho 83706-2237

CERTIFIED MAIL

NO. 143188

NOT DELIVERABLE AS ADDRESSED-
UNABLE TO FORWARD

ELDON B BINGHAM
2679 W 1500 N
PRESTON ID 83263



NOT DELIVERABLE AS ADDRESSED-
UNABLE TO FORWARD

RECEIVED
APR 07 1997
Department of Water Resources

June 18, 1997

ELDON B BINGHAM
PO BOX 68
DAYTON ID 83232

LAPSE NOTICE

RE: PERMIT NO. 13-07493

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced permit has lapsed and is of no further force nor effect. The department provided the proper forms to you in our proof due notice dated March 31, 1997. No further construction or additional development is authorized under this permit unless it is reinstated.

The permit can only be reinstated if you submit an acceptable proof of beneficial use or an acceptable request for extension of time to the department within sixty (60) days of the mailing of this lapse notice. An acceptable proof of beneficial use submittal must include the examination fee or a completed field examination report. A request for extension of time must be accompanied by a fifty dollar (\$50.00) fee.

Enclosed again for your use are a proof of beneficial use form and a request for extension of time form. Please note that only one extension of time can be granted unless the project has not been completed because of lack of a necessary approval by a government agency or by litigation which may bring title to the water in question.

L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosures

CERTIFICATION OF MAILING

I hereby certify that on 6/19/97
a copy/an original of this document was
deposited in the United States mail,
postage prepaid addressed to the
individual(s) named above.

Jley

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

Receipt No: C039810

Date: 8/11/1997
Time: 14:51:40

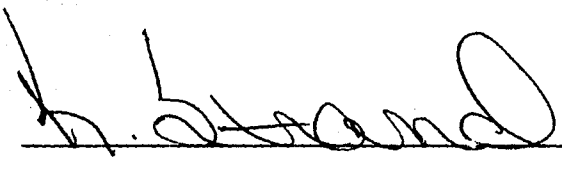
Received From: BINGHAM, ELDON/BETTY ANN

Type of Payment	Program A cct	Amount
PROOF BENEFICIAL USE 13-07493	56104 229 21 1155	100.00

CHECK 1199

Total \$ 100.00

Region: STATE

Signature: 

FOR OFFICE USE ONLY
Amt. of Fee \$: 100.00
Receipt No. 039810
Receipt By: [Signature]
Date Received: 8/11/97

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

AUG 11 1997

PROOF OF BENEFICIAL USE

Department of Water Resources

The Idaho Department of Water Resources considers this form 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, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 13-07493 Telephone No. 208-742-3679
 2. Name(s) of Permit Holder(s): Eldon B. Bingham
 3. Mailing Address: P.O. Box 68, Dayton, ID 83232
 4. Source of Water: Spring, Well Exchange ☒ **GROUNDWATER (well)**, Date Drilled: mo. ____ / yr. ____
 - a. Well Driller: _____ Drilling Permit Number: ____ - ____ - ____
 - b. **OPTIONAL:**
Pump Horsepower: 10 Pressure (psi): 70 PSI Dynamic pumping level (ft): _____
 5. Use(s) (as authorized by the water right permit):
Domestic (No. of households): _____ Stockwater (No. and type of stock): _____
Irrigation (No. of acres): 35 Other: _____
 6. Total rate of diversion and/or volume for which proof is submitted: 20 cfs OR _____ acre feet
 7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device:	Is a measuring device required?	Yes ☒	or	No ☐
	Has the measuring device been installed?	Yes ☐	or	No ☒
Flow Measurement Port:	Is a flow measurement port required?	Yes ☐	or	No ☐
	Has the measurement port been installed?	Yes ☐	or	No ☐
 8. Fee Enclosed: \$ 100.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)
 9. Person to contact to accompany the Department representative during field examination of the water system.
Name: Eldon B. Bingham Telephone Number: 208-742-3679
Address: 4920 W 900 N Dayton, Idaho 83232
 10. The information given on this form 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.
- Signature of permit holder: Eldon B. Bingham Owner Date: Aug 8, 1997
(include your title, if on behalf of company or organization)

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 13-07493)	ORDER OF
IN THE NAME OF ELDON B. BINGHAM)	REINSTATEMENT

WHEREAS, the Department issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted to the Department on or before June 1, 1997; and,

WHEREAS, the Department notified the permit holder on March 31, 1997, by certified mail that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use; and,

WHEREAS, the Department mailed the permit holder a lapse notice on June 19, 1997, since an acceptable proof of beneficial use or extension of time request had not been received; and,

WHEREAS, Section 42-218a, Idaho Code, provides that the Department may reinstate a permit upon a showing of reasonable cause by the permit holder within sixty days of the date of the notice of lapsing; and,

WHEREAS, the permit holder has provided a reasonable showing why the permit should be reinstated by submitting an acceptable proof of beneficial use on August 11, 1997;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 13-07493 is REINSTATED with an advance in priority to May 27, 1992.

DATED this 12th day of August, 1997.

L. Glen Saxton
L. GLEN SAXTON, Chief
Water Allocation Bureau



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

August 12, 1997

Eldon B. Bingham
P.O. Box 68
Dayton, ID 83232

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 13-07493

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The department has issued the enclosed order reinstating the permit and advancing the priority date to May 27, 1992, since proof was submitted after the proof due date.

One of the conditions of your water right permit requires that you install measuring devices and lockable controlling works to measure water discharged from the spring in Section 19 and from the well in Section 20. Your proof submittal shows that you have not installed these devices. Please be aware that your failure to have these devices installed and operable at the time the department conducts the field examination may jeopardize the validity of the permit.

Please be advised that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

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 the field examination, please feel free to contact the **EASTERN** Regional Office of the department in Idaho Falls at phone (208) 525-7161.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Encl: 1

c: IDWR - Region

State of Idaho
Department of Water Resources

Water Right License

WATER RIGHT NO. 13-07493

Priority: March 17, 1992

Maximum Diversion Rate:

0.27 CFS

Maximum Diversion Volume:

108.5 AF

This is to certify, that ELDON B BINGHAM

4920 W 900 N

DAYTON ID 83232

has complied with the terms and conditions

of the permit, issued pursuant to Application for Permit dated March 17, 1992; and

has submitted Proof of Beneficial Use on August 11, 1997. An examination indicates

that the works have a diversion capacity of 0.270 cfs of water from a GROUNDWATER

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>
IRRIGATION	04/01 to 10/31	0.27 CFS	108.5 AF

LOCATION OF POINT(S) OF DIVERSION:

Injection

Rediversion

NESW , Sec. 20, Township 15S, Range 39E

NWSE , Sec. 20, Township 15S, Range 39E

Lot 4 (SWSW), Sec. 19, Township 15S, Range 39E

FRANKLIN County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
15S	39E	19	Lot 4 (SWSW) 7	SESW 10	SWSE 14	31

Total number of acres irrigated: 31

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 11.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
3. Groundwater diverted under this right is injected into the Bear River in exchange for authorization to divert water from an unnamed spring, tributary to Fivemile Creek, at the point of rediversion to irrigate the place of use. Water shall not be diverted from the spring unless an equal amount of groundwater is being injected into the Bear River.
4. Measuring devices and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained at the point of diversion from groundwater and at the point of rediversion from the unnamed spring.
5. Failure of the right holder to comply with the conditions of this license is cause for the Director to revoke the license pursuant to Section 42-350, Idaho Code.

State of Idaho
Department of Water Resources

Water Right License

WATER RIGHT NO. 13-07493

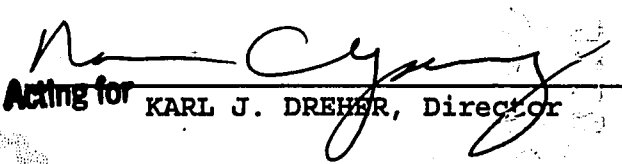
CONDITIONS OF APPROVAL AND REMARKS

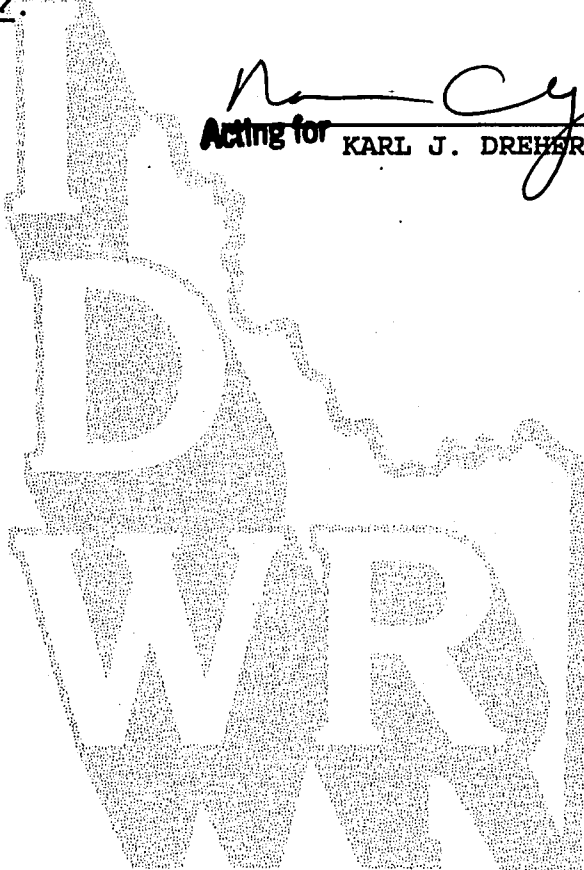
6. Diversion and use of water under this right shall be reduced or curtailed when necessary to prevent injury to holders of prior rights diverted from Fivemile Creek downstream from the point of rediversion.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Signed and sealed this 23rd day of

July, 1999.

Acting for


KARL J. DREHER, Director





State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866 www.idwr.state.id.us/idwr/idwrhome.htm

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 3, 1999

Eldon B. Bingham
Rte. 3
Preston, Idaho 83263

Re: Permit No. 13-07291

Dear Eldon:

I enjoyed seeing you at the meeting in Montpelier yesterday and appreciated your attending and participating. During the meeting, you showed me a copy of permit No. 13-07291 and expressed your concern that a license had not been issued on the permit.

I have researched the status of this permit and find that it was lapsed in 1990 because proof of beneficial use was not filed. A second extension of time had been sought to allow development of the project, but the request was denied because only one extension can be given unless the delay is due to litigation or delay in getting a needed federal approval.

Although permit No. 13-07291 is of no further effect, it is my understanding that the permit you obtained in 1995 (No. 13-07493) is for the same project. You have submitted proof of beneficial use on this more recent permit, and the department has made a field examination. At your request, the field examination report has been forwarded from our Idaho Falls office to the state office to allow a license to be issued. If additional information is needed you will be contacted. You can expect the license to be issued in 30 days unless further field review is needed.

Sincerely,

Norman C. Young
Administrator
Water Management Division

c: Skip Jones, Eastern Region
✓ Shelley Keen, State Office

Permit No. 13-07493

Relationship to Permit Holder: Owner

3. Source: Ground water tributary to LA

1. Other water rights with the same place of use: _____

2. Other water rights with the same point of diversion:

1. Point(s) of Diversion:

[illegible]

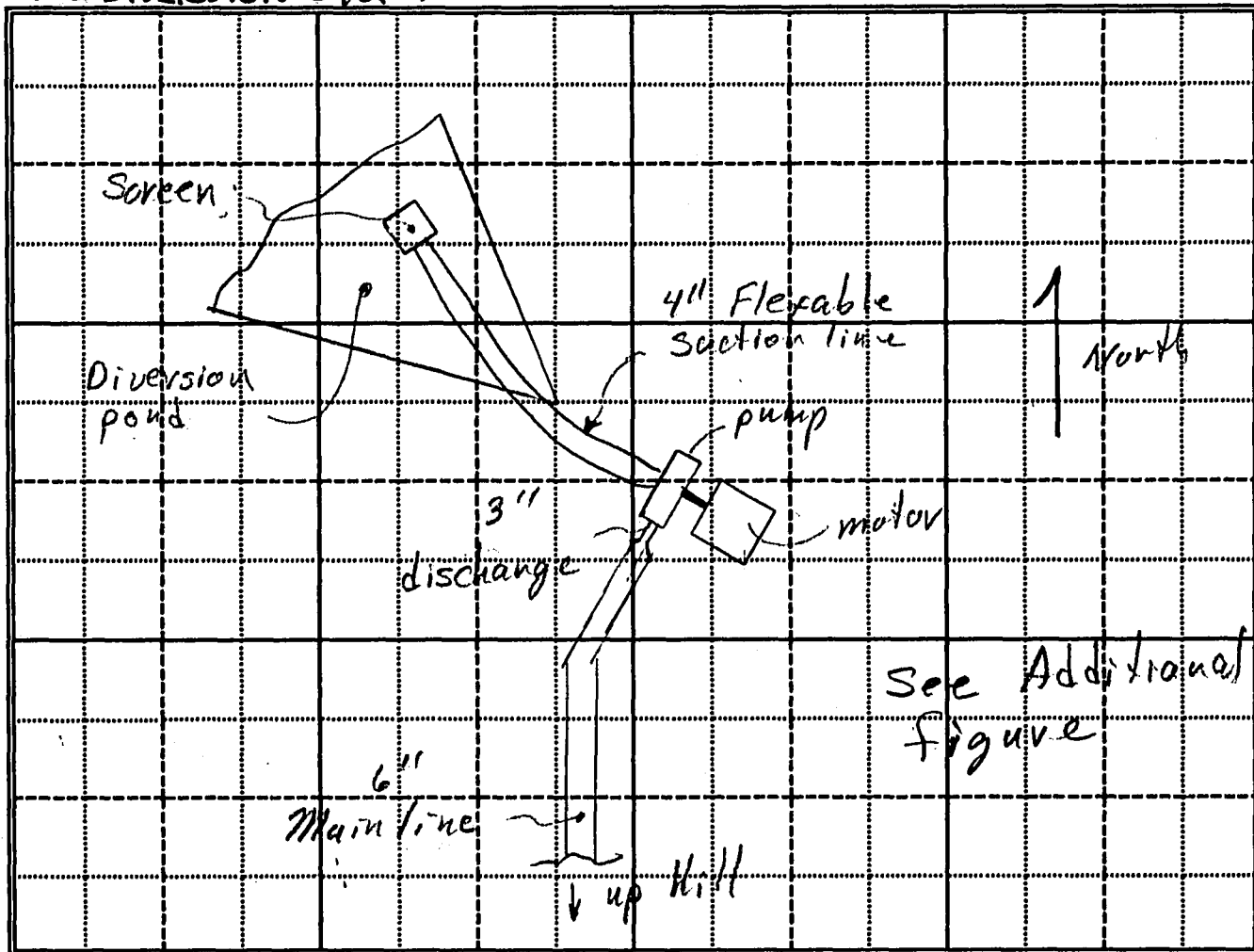
2. Place(s) of Use:

Indicate Method of Determination

[illegible]

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

REDIVERSION SYSTEM



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
Pump		10	37E285X47	Connell	2" 100411 4.60

*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
Polysonics Meter			#149743			

2. Measurements: 189 gpm → 0.42 GFS

E. NARRATIVE/REMARKS/COMMENTS

6-24-98
REDIVERSION SYSTEM

Discharge pressure 55 psi - at pump pressure gauge.

The pump discharges to the main line as shown on drawing and maps. The main line has lateral lines running East and West.

POINT OF DIVERSION

Note that the point of diversion indicated in section 20 on permit is not part of system.

9-4-98

Met with Eldon Bingham and measured the flow from the well in section 20. The flow from the Artesian well was 4 gal in 2 sec = 120 gal/min or .2674 cfs. This will be the limiting factor. The water is routed to the river $\pm$ 1/2 mile through a 12 in pipe. The permit holder Darwyn Smith was diverting the flow from the river to his pasture at $\pm$ 1/4 mile and the measurement was made at that point.

a locking device is not need in section 20 because the flow is artesian. if need the valves can be locked. The pumping section 19 can be turned off and locked out.

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

F. FLOW CALCULATIONS

Additional Computation Sheets Attached

Measured Method:

$$4 \text{ gal/sec} \rightarrow (120 \text{ gpm}) \left(\frac{1 \text{ cfs}}{448.8 \text{ gpm}} \right) = .2674 \text{ cfs}$$

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = (31)(3.5) = 108.5$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = (0.27)(183)(1.9835) = 98$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = 98 \text{ afa}$$

2. Volume Calculations for Other Uses:

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
Irrigation	04/01	10/31	0.27	98.0
Totals:			0.27	98.0

2. Recommended Amendments

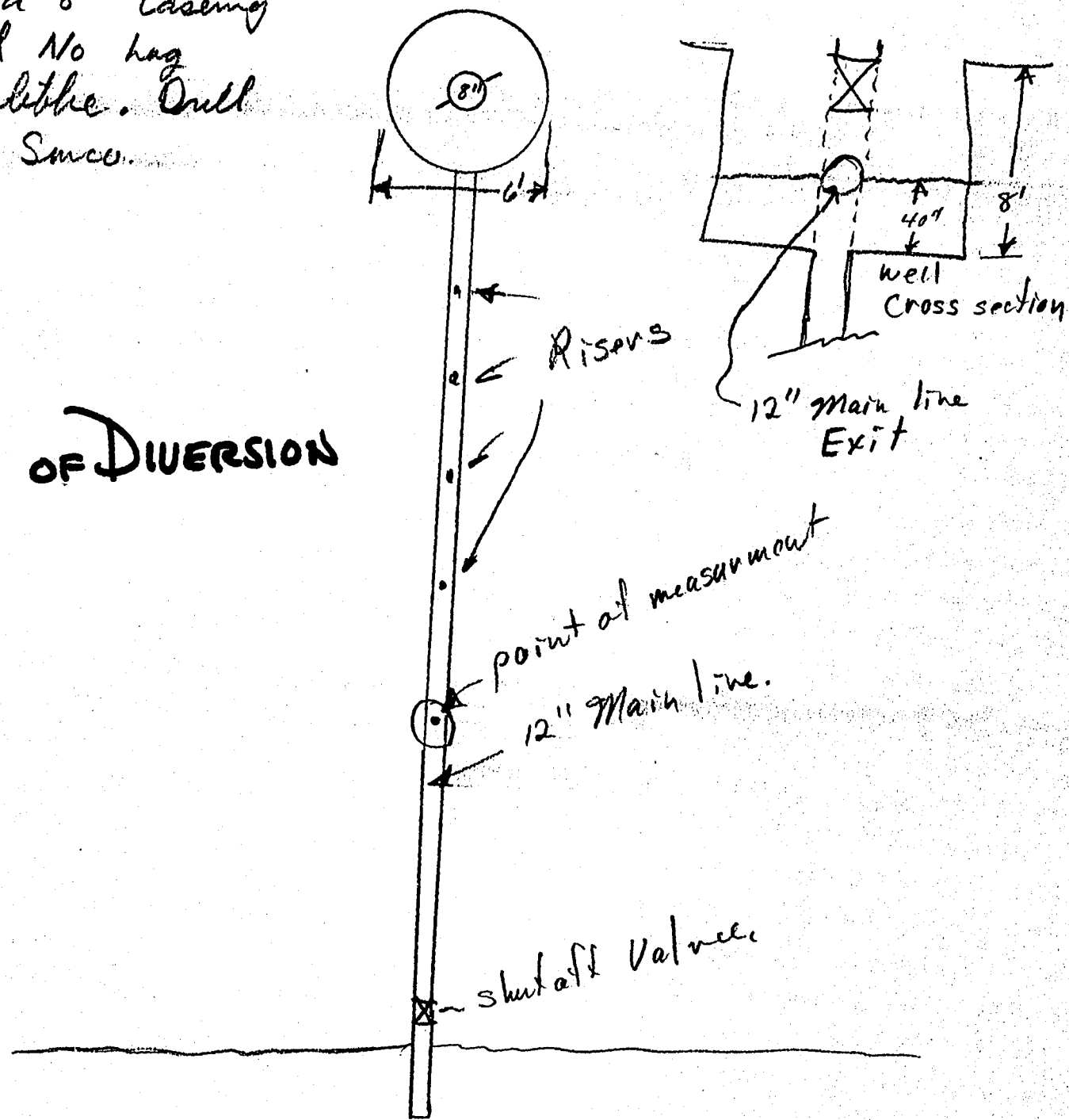
☐ Change P.D. as reflected above ☐ Add P.D. as reflected above ☒ None
☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ Other

I. AUTHENTICATIONField Examiner's Name Lee L. Simmons Date 9-4-98Reviewer KEITH C. WILSON Date 12-9-1998

SEAL

well in Section #20 is 195' deep and the water is brought to the surface by natural gas. It is a 8" casing with No log available. Drilled By Senco.

POINT OF DIVERSION



Permit #
13-7493

River

North
→

13-07493

ZERO MODE
CLEAR
ZERO MODE 13-07493
AUT ZERO

02-24 10:2100 *R
+119.669E 0GPM

MODE SELECT
T0 CHECK

0220.2 MMSEC
100.14 % T0

02-24 10:2200 *R
+003.00 % AI2

02-24 10:2300 *R
+116.499E 0GPM

ZERO MODE
CLEAR

ZERO MODE
AUT ZERO

02-24 10:2400 *R
+120.726E 0GPM

PRT PERIOD
01 MIN

PRT UNIT GPH
YES

PRT UNIT GPM
YES

PRT UNIT MGD
NO

PRT UNIT FPS
NO

PRT UNIT INTEG
NO

PRT UNIT AI1
NO

PRT UNIT AI2
YES

START TIME
06-24 10:26

OPERATION TIME
01 HOR

PRT PERIOD
01 MIN

PRT UNIT GPH
NO

PRT UNIT GPM
YES

PRT UNIT MGD
NO

PRT UNIT FPS
NO

PRT UNIT INTEG
NO

PRT UNIT AI1
NO

PRT UNIT AI2
YES

START TIME
06-24 10:28

OPERATION TIME
01 HOR

DAMPING SET
60 SEC

02-24 10:3500 *R
+158.767E 0GPM

02-24 10:3500 *R
+159.031E 0GPM

02-24 10:3600 *R
+159.559E 0GPM

02-24 10:3800 *R
+160.880E 0GPM

PRT PERIOD
01 MIN

PRT UNIT GPH
NO

PRT UNIT GPM
YES

PRT UNIT MGD
NO

PRT UNIT FPS
NO

PRT UNIT INTEG
NO

PRT UNIT AI1
NO

PRT UNIT AI2
YES

START TIME
06-24 10:28

OPERATION TIME
01 HOR

MM-DD HH:MM
06-24 10:49

06-24 10:5100 *R
+163.258E 0GPM

06-24 11:1200 *R
+170.655E 0GPM

06-24 11:1200 *R
+173.825E 0GPM

06-24 11:1200 *R
+174.353E 0GPM

06-24 11:1200 *R
+175.146E 0GPM

06-24 11:1300 *R
+177.787E 0GPM

06-24 11:1400 *R
+181.222E 0GPM

06-24 11:1500 *R
+183.335E 0GPM

06-24 11:1600 *R
+184.392E 0GPM

06-24 11:1700 *R
+185.977E 0GPM

06-24 11:1800 *R
+186.505E 0GPM

06-24 11:1800 *R
+186.769E 0GPM

06-24 11:1800 *R
+186.769E 0GPM

06-24 11:1900 *R
+187.033E 0GPM

06-24 11:1900 *R
+187.298E 0GPM

06-24 11:2000 *R
+187.562E 0GPM

06-24 11:2100 *R
+187.826E 0GPM

06-24 11:2100 *R
+188.090E 0GPM

06-24 11:2100 *R
+188.354E 0GPM

06-24 11:2300 *R
+188.618E 0GPM

06-24 11:2400 *R
+188.618E 0GPM

06-24 11:2800 *R
+189.147E 0GPM

MODE SELECT
INPUT

OUTER DIAMETER
5.9799 IN

PIPE MATERIAL
? CS,SS

WALL THICKNESS
0.1130 IN

INNER LINING
? NO LING.

KIND OF FLUID
? ANOTHER

SOUND VELOCITY
1440 M/S-

SENSOR MOUNTING
?

TYPE OF SENSOR
? SMALL

DATA CHANGE
? NO

SPACING
3.910 IN U

MODE SELECT
T0 CHECK

0220.0 MMSEC
100.00 % T0

06-24 11:3000 *R
+003.00 % AI2

06-24 11:3100 *R
+188.883E 0GPM

06-24 11:3500 *R
+188.618E 0GPM

MODE SELECT
DATA SET

DATA SET MODE
? FACTOR

SCALE FACTOR
100.00 %

MODE SELECT
DATA SET

DATA SET MODE
? PRINTER

REDIVERSION
DIVERSION RATE

189.147 gpm

448.8 gpm/CFS

= .42 CFS

13-07493

THEORETICAL PUMP FLOW CALCULATIONS

Formula:

REDIVERSION

$$Q_{cfs} = [(Hp)(8.814)(Eff)] \div [Lift + (psi \times 2.308)]$$

$$\begin{aligned} Hp &= \text{Horsepower} = \underline{10} \\ Eff &= \text{Efficiency} = \underline{70\%} \quad (\text{Usually } 70\%) \\ \text{Lift: } &(\text{Static Level} + \text{Assumed Draw down}) \\ &\text{Static Water Level} = \underline{\hspace{2cm}} \text{ ft.} \\ &\text{Assumed Draw down} = + \underline{\hspace{2cm}} \text{ ft.} \\ &\text{Lift} = \underline{4 \text{ ft}} \end{aligned}$$

OR

$$\text{Measured Dynamic Water Level} = \underline{\hspace{2cm}} \text{ ft.}$$

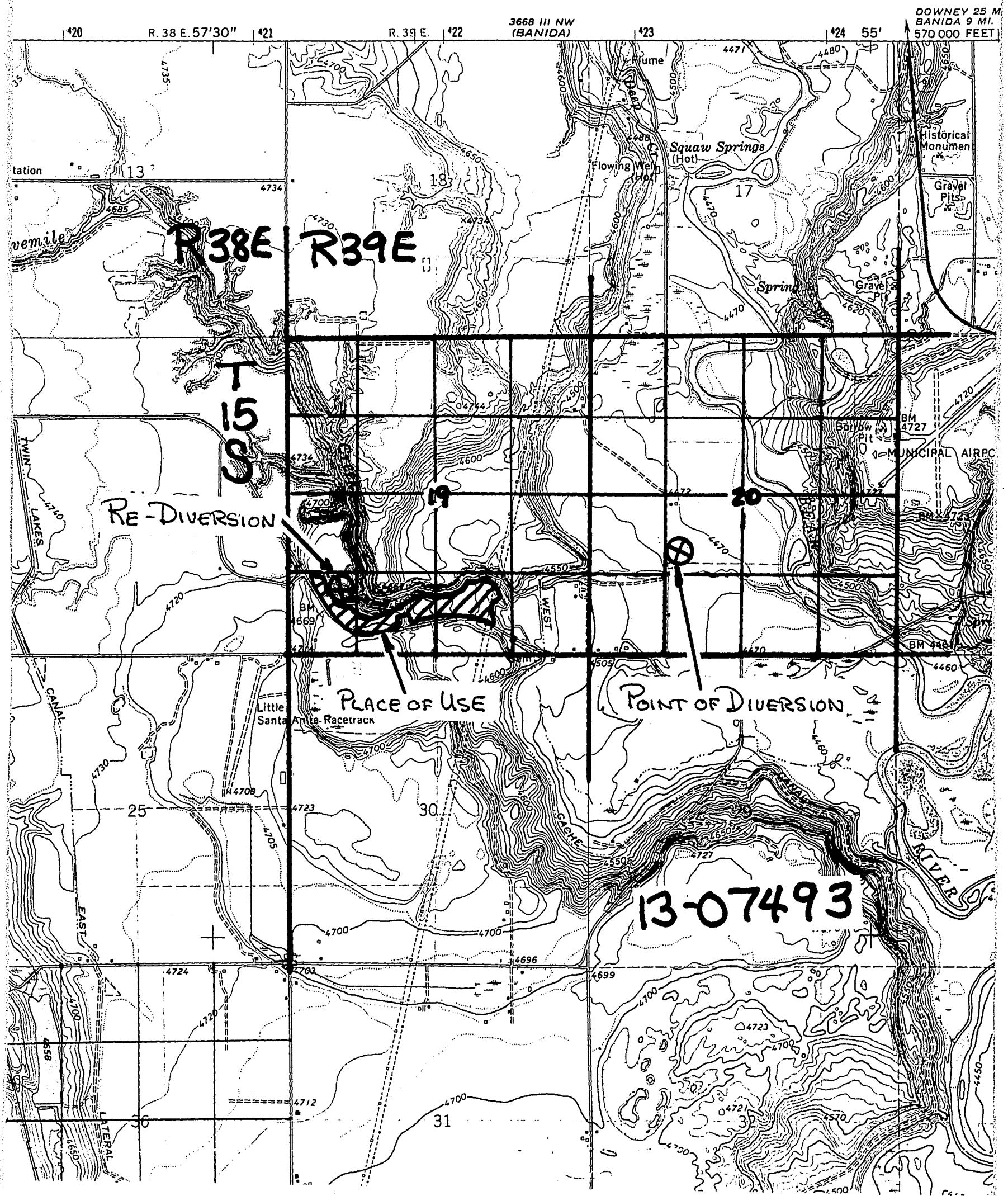
$$psi = \text{Operating Pressure} = \underline{55} \text{ psi}$$

$$Q_{cfs} = \left[\frac{10}{Hp} \times 8.814 \times \frac{0.70}{Eff} \right] \div \left[\frac{4}{Lift} + \left(\frac{55}{psi} \times 2.308 \right) \right]$$

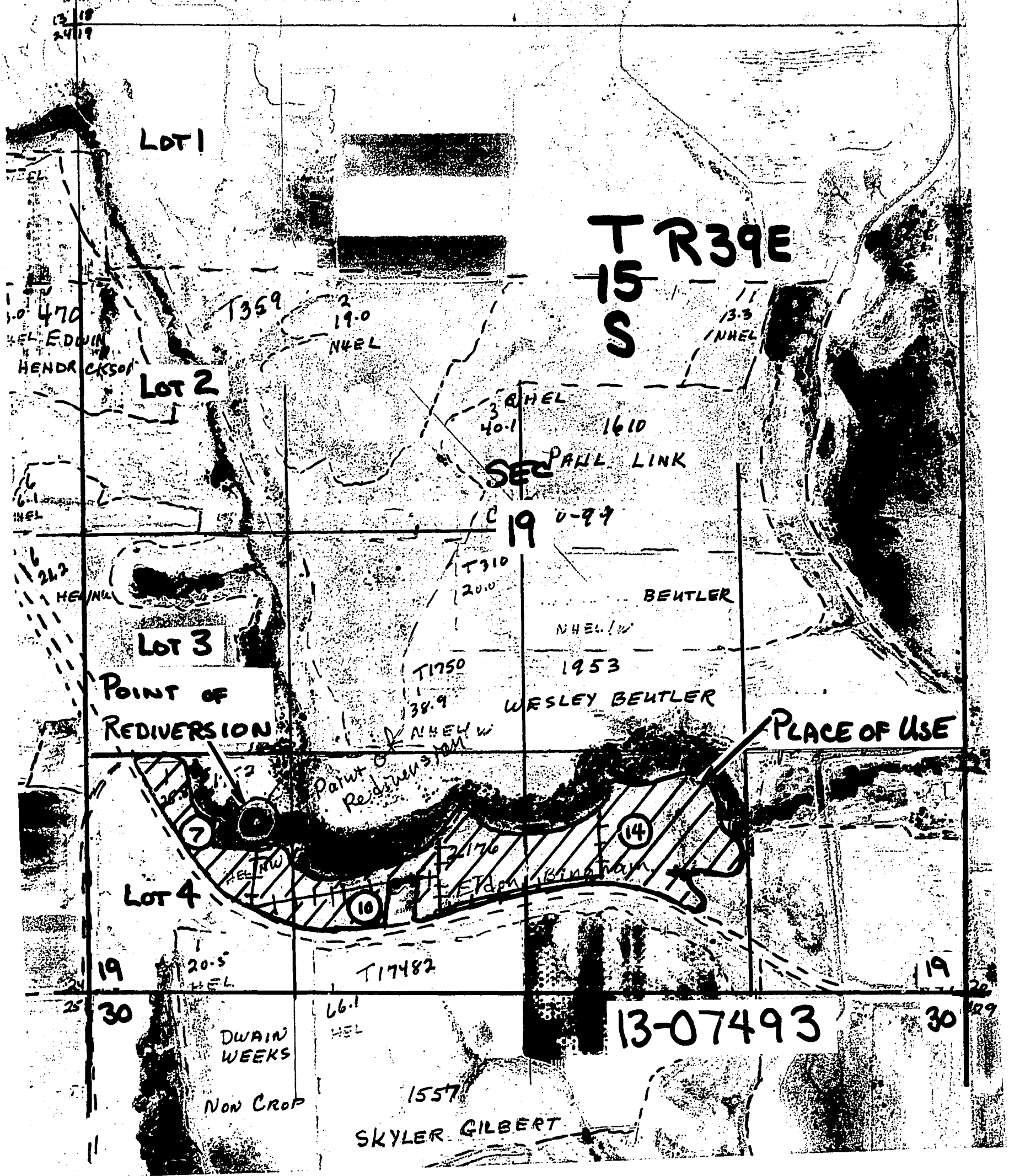
$$Q_{cfs} = \left[\underline{61.698} \right] \div \left[\underline{130.94} \right]$$

$$Q_{cfs} = \underline{0.47} \text{ cfs}$$

PERMIT NO. 13-07493



121



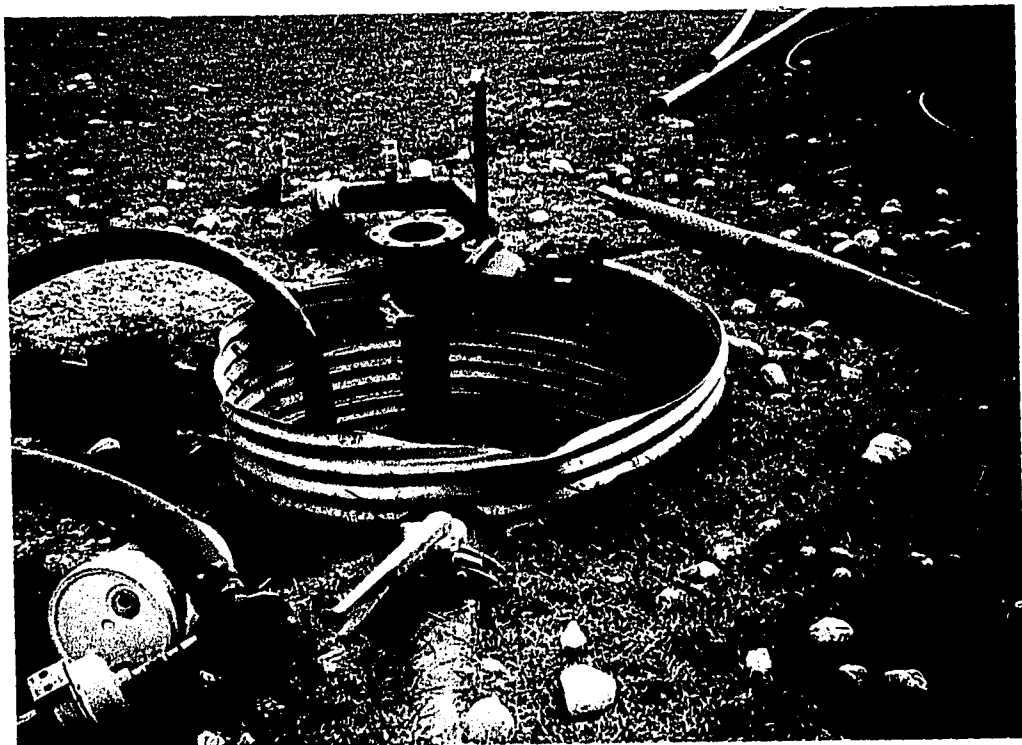


Picture showing
stream diversion and
pump from diversion
looking West. Main
line exits to the
left (South) up hill
REDIVERSION
SYSTEM



Permit # 13-07493

13-07493



hooking a well in section #20



hooking at water entering main line Permit #13-7493



looking at the shut off of
the main line in section 20
Note it is closed. looking
East



looking at well water
being diverted to
pasture. Part
of measurement on
9-4-98

Permit #
13-7493



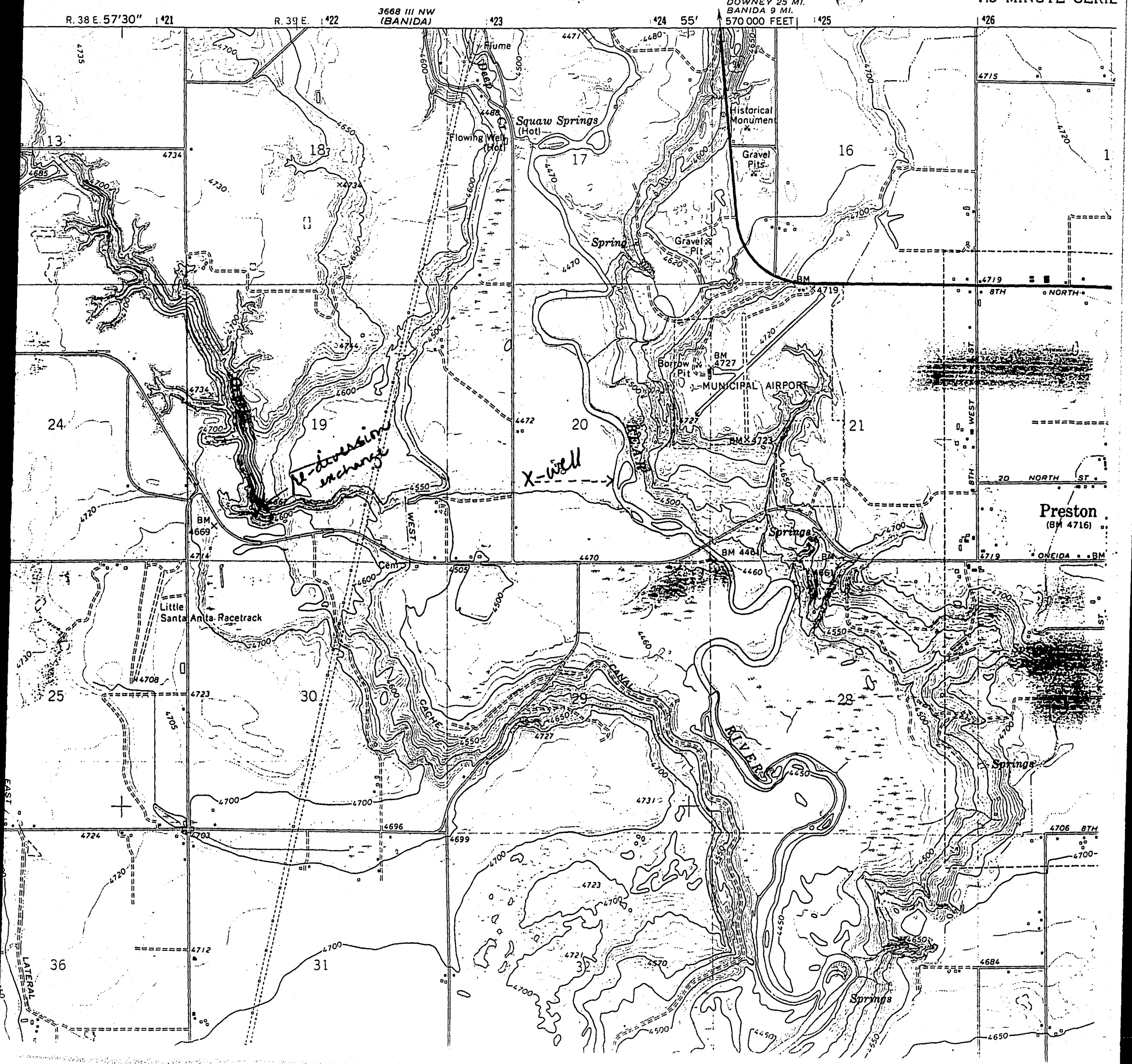
Looking South showing the river confluence
point where not diverted to pasture.
Section 20

Permit # 13-7493

This topographic map depicts a section of the Fort Huachuca National Monument. The map is overlaid with a grid of section numbers (13, 14, 18, 19, 23, 24, 25, 26, 30, 31, 34, 35, 36) and township/range coordinates (T. 38 N., R. 38 E. to T. 39 N., R. 39 E.). Key features include the San Pedro River flowing through the upper right, the San Pedro Canal, and the San Pedro Lateral. Landmarks such as Dayton, Westside High Sch., Historical Monument, and Little Santa Anita Racetrack are labeled. Elevation contours are shown, with peaks reaching over 4800 feet. A proposed diversion interchange is marked with a handwritten note and a dashed line. The map also shows various benchmarks (BM 4818, BM 4747, BM 4726, BM 4745, BM 4777, BM 4693, BM 4701, BM 4712) and other points of interest like a substation and a flowing well.

19
re-division
exchange

IDAHO - FRA
7.5 MINUTE SERIE



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



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

August 12, 1997

Eldon B. Bingham
P.O. Box 68
Dayton, ID 83232

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 13-07493

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The department has issued the enclosed order reinstating the permit and advancing the priority date to May 27, 1992, since proof was submitted after the proof due date.

One of the conditions of your water right permit requires that you install measuring devices and lockable controlling works to measure water discharged from the spring in Section 19 and from the well in Section 20. Your proof submittal shows that you have not installed these devices. Please be aware that your failure to have these devices installed and operable at the time the department conducts the field examination may jeopardize the validity of the permit.

Please be advised that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

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 the field examination, please feel free to contact the EASTERN Regional Office of the department in Idaho Falls at phone (208) 525-7161.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Encl: 1

c: IDWR - Region

MICROFILMED
AUG 19 1997

MEMORANDUM

TO: Skip Jones

THRU: Shelley Keen *SK*

FROM: Sharla Curtis

DATE: April 21, 1999

RE: Returned Field Exam

RECEIVED

APR 26 1999

Department of Water Resources
Eastern Region

As we discussed yesterday, I'm returning the field exam for 13-07493 (Eldon Bingham).

The application was filed for a well which would be injected into Fivemile Creek in exchange for "re"-diverting water from a spring upstream. After looking at every single piece of information in the field report, it appears to me that the well is injected into the Bear River and the "re-diversion" is from Fivemile Creek. I'm also confused by the comment that the permit holder was diverting the flow from the river to his pasture. The photos and narrative don't clearly describe whether it's Fivemile Creek, a spring, or an unnamed stream which is stored in the pond or pumped uphill to the place of use.

Also, one of the permit conditions required measuring devices and lockable controlling works at the point of diversion and redirection point. Attached is a letter from Glen to Mr. Bingham reminding him of the condition. The examiner indicates the conditions weren't met and considering the fact that this is an exchange-type scenario, we're going to take a hard and critical look at compliance with the condition. The examiner indicates the flow from the well was 0.27 cfs but the "redirection" was measured at 0.42 cfs; that reinforces the need for measuring devices.

INTER-DEPARTMENT MEMO — 1

DATE 3-5-93

FROM H.W. JONES

TO File 13-7493

SUBJECT

Dennis Dunn call BLM, State Lands & the Company that bought out Sun Oil and no one has a record of the well in Mr. Bingham's application. I then called Mr. Bingham & asked if he had any documentation on the well. He said he would look in his records but he remembers the well being 200' deep. This does not seem to be deep enough to be beyond the contributing aquifer in the Bear River drainage. I do not recommend approval.

P.S. Driller Bill Dubbe remembers this well & stated to Mr. Bingham that he recalls 150'-160' of drilling depth. Mr. Dubbe had no well log!

H.W. Jones

SIGNATURE

E. NARRATIVE/REMARKS/COMMENTS

6-24-98

Rediversion System — Pump discharge pressure is 55 psi. at a pump discharge pressure gauge. The water is pumped up out of a deep well to the south. This discharge runs into a East-west main line with hand lines running North and South. The maximum flow rate from the spring is 189 gpm or 0.42 CFS. The spring will not support a greater pumping rate. This rediversion is located in section 19 — see maps. The flow rate of 0.42 CFS is a maximum but normal operation is 2 ^(Partial) hand lines with a flow rate of < 0.27 CFS.

9-4-98 Diversion — Artesian System

The diversion in section 20 is a well 195' deep and the water is brought to the surface by natural gas. It is a 8" casing — The well was drilled by SUNCO. The water flow from the well casing into a 8' tall by 6' dia culvert. A 12" main line runs from the culvert to the Bear river 1/4 mile to the east. The water from the rediversion enters Bear river ≈ 100 yards up stream from the entrance of File mile Creek. The flow from the rediversion is artesian and not pumped. The return the flow to File mile creek pumping would be necessary. The flow from the diversion was measured at 4 gal in 20 sec $\rightarrow 120 \text{ gal/min} \rightarrow 0.2674$ CFS

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

Permit # 13-7493

E. NARRATIVE/REMARKS/COMMENTS

Additional notes:

The water flow from the artesian well is very corrosive. Any measuring device would be destroyed within a short time.

While measuring the flow ^{from the artesian well}, an illegal diversion of the artesian flow to a pasture By Darwyn Smith, not Mr Bingham was observed

Control of the artesian flow is not possible because the well head has been eaten away by the water and natural gas coming from the well

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

Permit # 13-7493

RECEIVED

JUN 11 1999

Department of Water Resources

MEMO

TO: SHELLEY KEEN *(SJK)* - *Bowse office*
FROM: H W JONES
RE: FIELD EXAM FOR 13-07493 ELDON BINGHAM

To File

I HAVE HAD SEVERAL DISCUSSIONS WITH LEE SIMMONS, THE FIELD EXAMINER ON THIS PERMIT. IT SEEMS THE WELL WHICH IS THE POINT OF DIVERSION PUTS OUT SUCH A CAUSTIC MIXTURE THAT THE CONTROL DEVICE HAS BEEN EATEN AWAY. I TALKED TO DENNIS DUNN ABOUT THIS ALSO. HE SAYS A CONTROL STRUCTURE SHOULD BE ON THIS WELL BUT THE CASING IS PROBABLY TOTALLY CORRODED AND A CONTROL DEVICE COULD FORCE THE GAS CHARGED WATER INTO THE SHALLOW GROUNDWATER. WE SUGGEST YOU TALK TO MARK SLIFKA AS HE HAS HAD OIL AND GAS DRILLING EXPERIENCE.

THE MEASUREMENT OF THE OUTFLOW OF THE WELL IS QUESTIONABLE AS YOU SUGGESTED SINCE A SMALL ERROR IN MEASUREMENT VALUES COULD SKEW THE RATE OF FLOW CALCULATION CONSIDERABLY. SOME ADDITIONAL MEASUREMENT SHOULD BE REQUIRED BUT IT SHOULD BE UP TO THE APPLICANT TO PROVIDE A SUITABLE MEANS TO DO SO.

THE REDIVERSION (PUMP IN SPRING TO 2 PARTIAL HAND LINES) WAS MEASURED AT FULL CAPACITY TAKING EVERY BIT OF SPRING FLOW FOR A BRIEF TIME BEFORE THE WATER COULD NOT POOL UP. THE STANDARD PRACTICE ACCORDING TO THE FIELD EXAMINER IS TO RUN JUST THE 2 PARTIAL LINES BECAUSE THIS AMOUNT COULD BE SUSTAINED WITHOUT THE PUMP SUCKING AIR. THAT AMOUNT IS 0.27 CFS. I SEE NO NEED OF ANY MEASURING DEVICE AND INDEED I KNOW OF NO PRACTICAL DEVICE FOR CONSTANT RECORDING OF THIS PUMP FLOW.

SINCE THE BEAR RIVER MORATORIUM WAS IMPOSED BEFORE THIS PERMIT WAS APPROVED, I DONT SEE WHY THIS WAS APPROVED IN THE FIRST PLACE. ACCORDING TO MY SCRIBBLED MEMO OF 3-5-1993 IT SEEMS THE APPLICANT IMPLIED THIS SOURCE WAS BELOW THE CONTRIBUTING AQUIFER THAT WAS CONNECTED TO THE BEAR RIVER. I DONT BELIEVE IVE EVER SEEN DATA TO SUPPORT THAT.

UNDOUBTEDLY PACIFICORP NEVER BOUGHT THAT PHILOSOPHY AS EVIDENCED BY THEIR CONSTANT PROTESTS OF BEAR RIVER WELL APPLICATIONS OVER THE YEARS AFTER DIRECTOR HIGGENSON'S REVALATION AND REVERSAL OF OPINION UPON LEAVING OFFICE.

NOW WE HAVE A GROUNDWATER MANAGEMENT DISTRICT CLOSE TO APPROVAL FOR THE BEAR RIVER DRAINAGE. THIS IMPLIES THAT THERE IS A BURDEN ON THE APPLICANT TO DEMONSTRATE NO IMPACT OR PROVIDE MITIGATION.

WITH THOSE THOUGHTS I LEAVE IT IN YOUR GOOD HANDS TO COME UP WITH THE NEXT STEP.

HWJ

July 13, 1999

Memorandum

To: Norm Young
From: Mark Slifka

RE: Eldon Bingham artesian well-WR 13-07493

To Water Right File
S.W. Keen

As you can see from the attached records and memos Mr. Bingham's well and system lacks several things in order to be legal.

1] Well is not controllable/lockable, as presently required by WR permit-valve is corroded. Water has gas (methane and hydrogen sulphide?) in it, appears corrosive and is 74 degrees. The water is likely a mix of cooler water and geothermal water. This well is in a Known Geothermal Resource Area—Preston with hot springs and hot wells (183 degrees F) within a mile or two. Casing is probably in poor shape. Shutting the well in will likely result in subsurface flow.

2] No measuring device is installed as required by the WR permit.

Other issues that Ground Water Protection raises:

1. Owner says he thinks well is about 200 feet deep. We do not have records on this well. Driller (Bill Dubbe-deceased) told Skip in 1993 that the well was about 150-160 feet deep. WR records say the well was drilled by SUNCO—maybe using Dubbe's large rotary equipment in late 1970's. The gas, pressure and corrosive water indicate a deeper source of water—possibly a leaking plug(s) in the abandoned geothermal/oil/gas well. The well may have been plugged back to about 200 feet. If this is the case we may have significant pressure upon shut-in. This would likely result in increased subsurface leakage, particularly if the well casing is in poor condition. For the well to be properly repaired the owner needs to have a down-hole camera run. This may prove expensive and impractical with our camera due to strong upward flow. A cheaper option to repair would be abandonment.

I suggest that we simply require control and measuring devices installed on the well.

Cc: Shelley Keen

MEMORANDUM

DATE: July 22, 1999

TO: Water Right File 13-07493

FROM: Shelley W. Keen *SWK*

RE: Conversation with Mr. Bingham about the proposed license

This morning I spoke with Eldon Bingham (208-747-3679) about the draft license for permit 13-07493. I explained to Mr. Bingham that IDWR is concerned by the fact that he does not have measuring devices in place as required by the permit. Without the measuring devices there is no means for the watermaster to regulate the diversions to be sure that Mr. Bingham is not diverting more from the spring than is being injected into the Bear River.

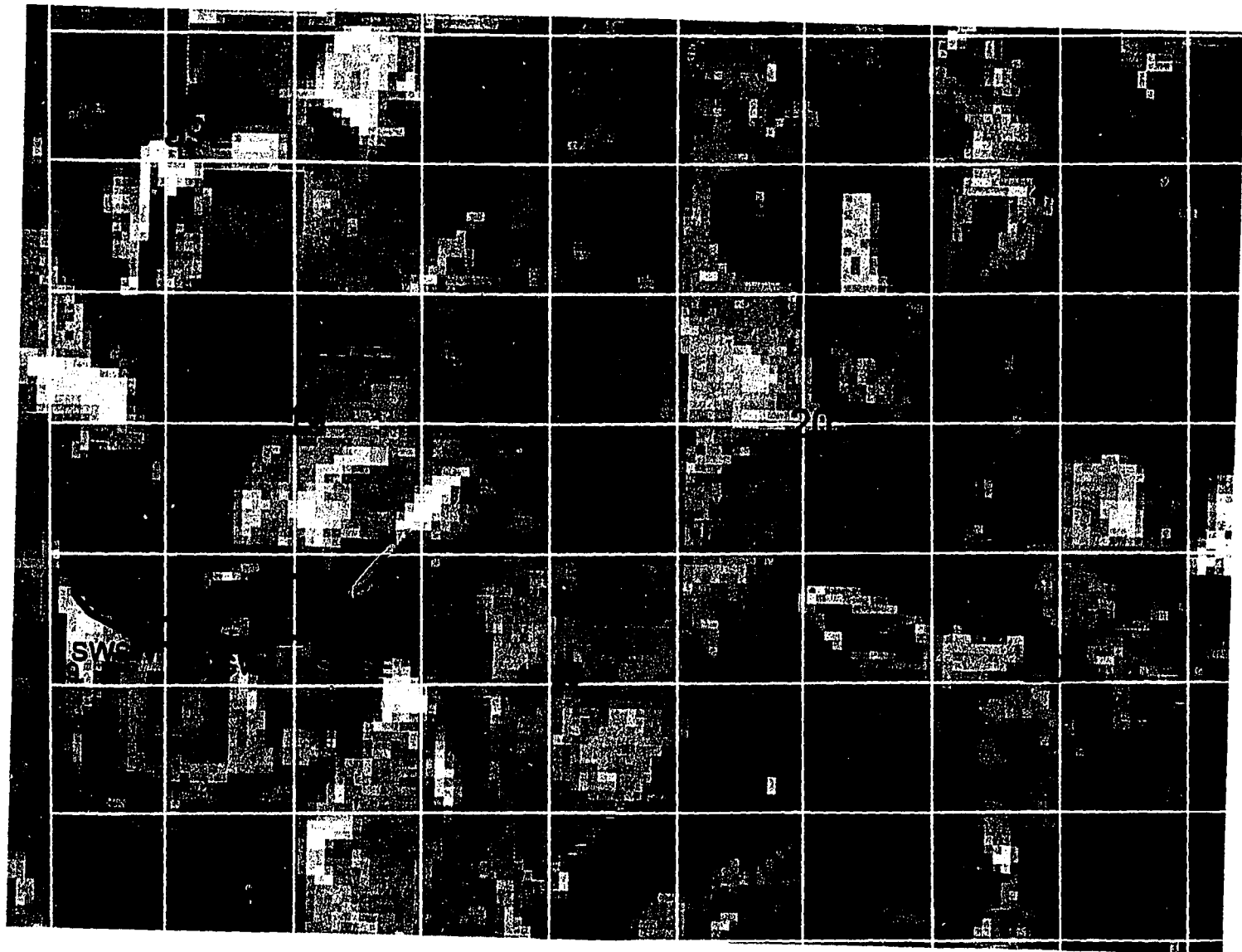
Mr. Bingham told me that the matter is complicated further by the fact that Darwin Smith, not Mr. Bingham, owns the well and the land around the well and has incorporated the water diverted from the well into his irrigation system. Therefore, Mr. Bingham has no control over the timing or amount of groundwater injected into the Bear River. *(I can find no water right for Darwin Smith, but that issue should be addressed separately.)*

I made it clear, and Mr. Bingham indicated that he understood, that under the proposed license he cannot divert water from the spring unless groundwater is being injected into the Bear River. Mr. Bingham also said that he understands that he will have to install measuring devices at the point of diversion and point of rediversion, and a locking device at the point of rediversion, or he will not be authorized to divert water under right 13-07493. Mr. Bingham said he is not sure how he will get a measuring device installed for the groundwater without Mr. Smith's cooperation but that he would do his utmost.

After being apprised that the measuring devices and locking works must be installed and that diversion from the spring cannot exceed injections of groundwater into the Bear River, Mr. Bingham indicated that he is still anxious to have the license as soon as possible.

Right Holder: Eldon Bingham

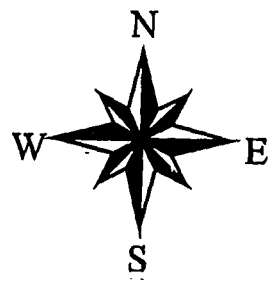
Right 13-07493



0 0.5 1 1.5 Miles

LEGEND

- Point of Diversion (NESW, S20, T15S, R39E)
- Place of Use (S1/2SW, SWSE, S19, T15S, R39E)



Prepared by Sharla Curtis
IDWR - July, 1999
Landsat Data 6/20/1991
Scene 39/30

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief 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 the 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 a 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, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a 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 a 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 a 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.



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

July 26, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

ELDON B BINGHAM
4920 W 900 N
DAYTON ID 83232

RE: WATER RIGHT NO. 13-07493

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 or files an exception and/or brief as described in the enclosed information sheet.

If you have any questions, please call me at 208-327-7946.

Sincerely,

A handwritten signature in cursive script that reads "Shelley W. Keen".

Shelley W. Keen
Water Rights Supervisor

SK:klt

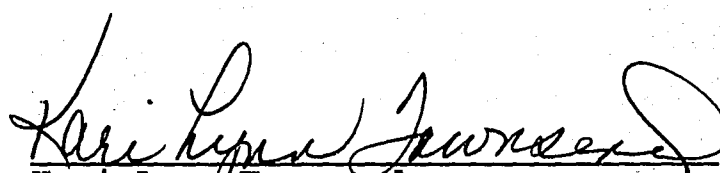
Enclosure

CERTIFICATE OF MAILING

I hereby certify that on the 26th day of July, 1999, 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. 13-07493

ELDON B BINGHAM
4920 W 900 N
DAYTON ID 83232


Kari Lynn Townsend
Secretary