

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant United States of America (USDA-Forest Service) Phone 208/236-7500  
Post office address Caribou National Forest 250 S. 4th Ave. Pocatello, ID 83201
2. Source of water supply Spring which is a tributary of Wrights Creek
3. Location of point of diversion is NW  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of SW  $\frac{1}{4}$ , Govt. Lot \_\_\_\_\_  
Sec. 25\* ~~26~~ Township 11 S Range 35 E B.M. Onida County; additional  
points of diversion if any: \* Changes as per tel-con with L. L. Felt (USFS) 8-26-92  
HWS
4. Water will be used for the following purposes:  
Amount 0.02 for stockwater purposes from 6-1 to 9/30 (both dates inclusive)  
(cfs or acre-feet per annum)  
Amount 0.01 for wildlife <sup>①</sup> 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) 0.02 and/or (b) \_\_\_\_\_  
cubic feet per second acre feet per annum
6. Proposed diverting works:  
a. Description of ditches, flumes, pumps, headgates, etc. Spring development with pipeline to two  
troughs.  
\_\_\_\_\_  
\_\_\_\_\_  
b. Height of storage dam N/A feet; active reservoir capacity N/A acre-feet; total  
reservoir capacity N/A acre-feet; period of year when water will be diverted to storage:  
\_\_\_\_\_ to \_\_\_\_\_ inclusive.  
c. Proposed well diameter is N/A inches; proposed depth of well is N/A feet.  
d. Is ground water with a temperature of greater than 90°F being sought? NO
7. Time required for the completion of the works and application of the water to the proposed beneficial use is  
2 years years (minimum 1 year).

① deleted per protest dismissal Order dated 10/25/93 C-3.

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

- a. Hydropower; show total feet of head and proposed capacity in KW. N/A
- b. Stockwatering; list number and kind of livestock. 359 Cattle
- c. Municipal; show name of municipality. N/A
- d. Domestic; show number of households. N/A
- e. Other; describe fully. Wildlife watering - upland birds, non-game wildlife, deer

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       |        |
| <u>11S</u><br><del>11E</del> | <u>35E</u> | <u>26</u> |     |     |     |     |     |     |     |     |     |     |     | <u>*S</u> |     |     |     | <u>SW</u> |        |
|                              |            |           |     |     |     |     |     |     |     |     |     |     |     |           |     |     |     |           |        |
|                              |            |           |     |     |     |     |     |     |     |     |     |     |     |           |     |     |     |           |        |
|                              |            |           |     |     |     |     |     |     |     |     |     |     |     |           |     |     |     |           |        |
|                              |            |           |     |     |     |     |     |     |     |     |     |     |     |           |     |     |     |           |        |
|                              |            |           |     |     |     |     |     |     |     |     |     |     |     |           |     |     |     |           |        |
|                              |            |           |     |     |     |     |     |     |     |     |     |     |     |           |     |     |     |           |        |
|                              |            |           |     |     |     |     |     |     |     |     |     |     |     |           |     |     |     |           |        |
|                              |            |           |     |     |     |     |     |     |     |     |     |     |     |           |     |     |     |           |        |
|                              |            |           |     |     |     |     |     |     |     |     |     |     |     |           |     |     |     |           |        |

Total number of acres to be irrigated \_\_\_\_\_

10. Describe any other water rights used for the same purposes as described above. \_\_\_\_\_

11. a. Who owns the property at the point of diversion? United States of America Forest Service
- b. Who owns the land to be irrigated or place of use? United States of America Forest Service
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. N/A

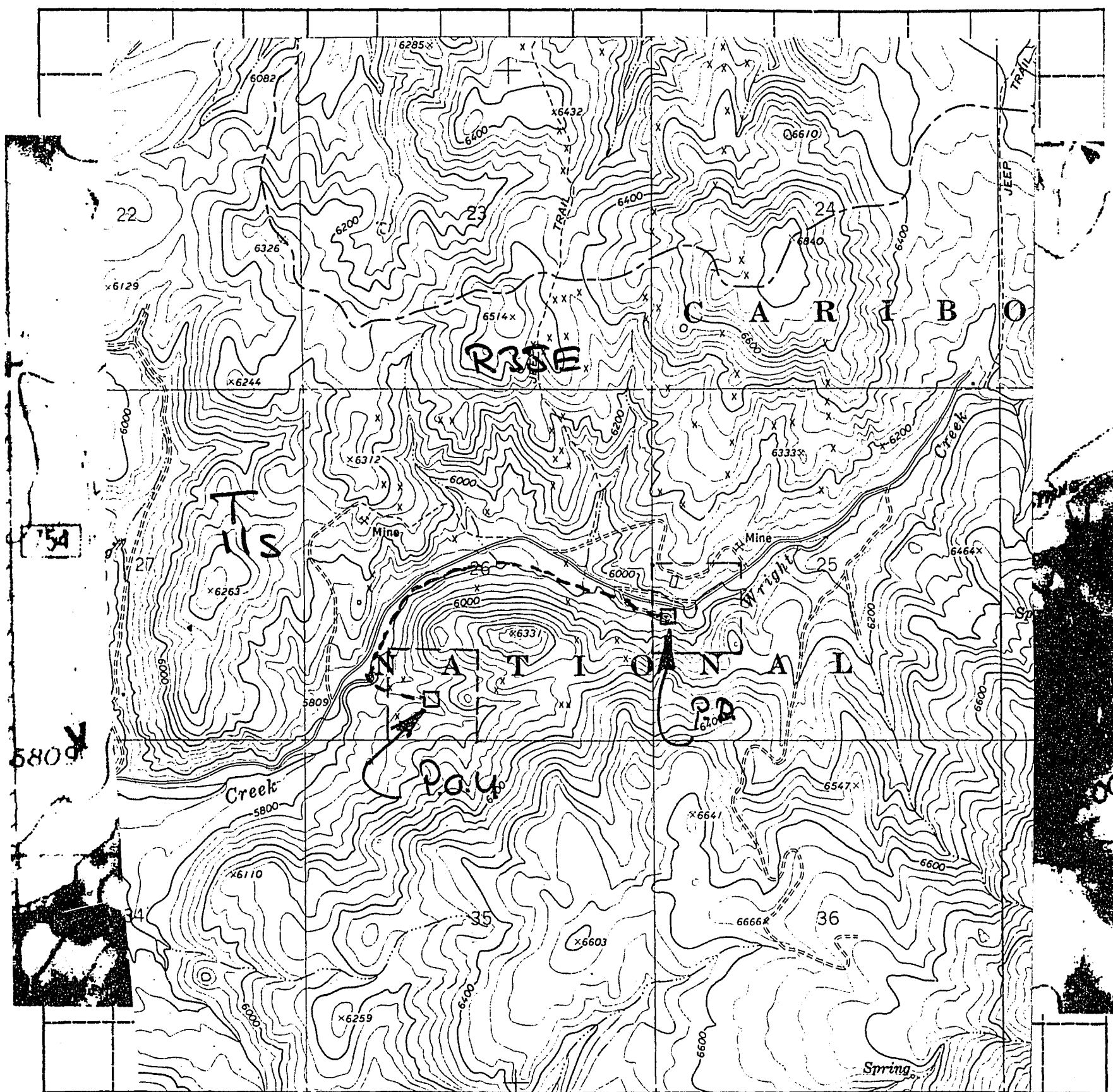
12. Remarks: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

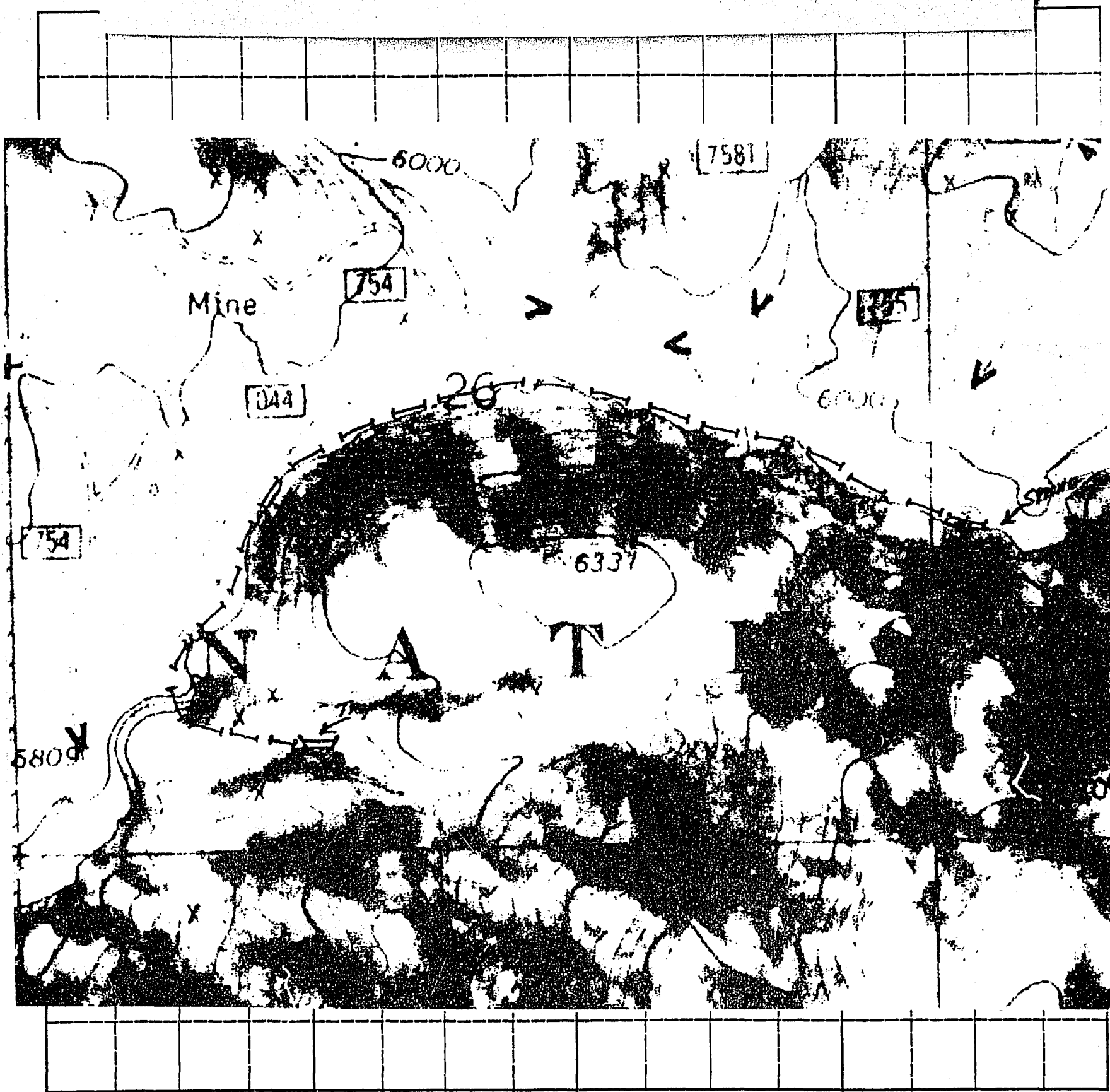


Scale: 2 inches equal 1 mile.

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.

United States of America (USDA-Forest Service)

*Gray F. Reynolds*  
(for) GRAY F. REYNOLDS (Applicant) Regional Forester



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.

United States of America (USDA-Forest Service)

*Gray F. Reynolds*

(for) GRAY F. REYNOLDS (Applicant) Regional Forester

Received by Jo Date 8-20-92 Time \_\_\_\_\_ Preliminary check by \_\_\_\_\_  
Fee \$ 30.00 Receipted by Jo # E 017750 Date 8-20-92  
Publication prepared by LB Date 9-3-92 Published in ID Enterprise  
Publication approved \_\_\_\_\_ Date \_\_\_\_\_

### 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:

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR )  
PERMIT NO. 15-07139 IN THE NAME )  
OF USDA FOREST SERVICE )

ORDER DISMISSING  
PROTEST

A hearing was scheduled regarding a protest filed against application for permit no. 15-07139, filed by the St. John Irrigating Co., on September 28, 1993. At the hearing, St. John Irrigating Co. agreed to withdraw it's protest upon several conditions to which the Forest Service agreed:

1. The maximum quantity of water appropriated will not exceed 0.02 cfs, and will not provide stockwater to more than 360 cattle. The wildlife use described in the application was deleted.

2. The place of use will be limited to the location of the troughs described by the application, and depicted by the attached map.

3. An inlet pipe diverting water from the spring to the water trough shall not exceed two inches in diameter. A four inch diameter pipe shall discharge from the trough, shall be buried and shall discharge directly into the stream bed of Wrights Creek.

4. The period of use shall be limited to June 1 through September 30.

5. The entire system shall be constructed and operated substantially as a full system, with any water not consumed by the livestock being returned to Wrights Creek.

6. Failure to comply with the conditions of this permits or and subsequent license is grounds for revocation or cancellation of the water right.

ORDER

IT IS HEREBY ORDERED that the protests of St. John Irrigating Co. are dismissed subject to the conditions set forth above.

Dated this 25<sup>th</sup> day of October, 1993.



Gary Spackman  
Hearing Officer

CERTIFICATE OF MAILING

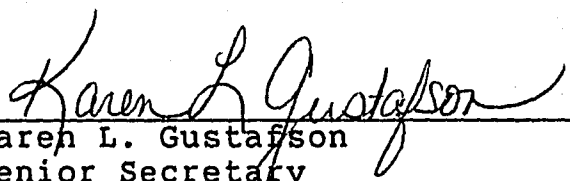
I HEREBY CERTIFY that on this 26th day of October, 1993, I mailed a true and correct copy, postage prepaid, of the foregoing Order Dismissing Protest to the following:

David Deschamps  
c/o E L Scott  
St John Irrigating Co  
Malad, ID 83252

USDA Forest Service  
Caribou National Forest  
250 S 4th Ave  
Pocatello, ID 83201

F Randall Kline Chartered  
PO Box 397  
Pocatello, ID 83204

Gary Boyle  
USDA Forest Service  
Federal Bldg  
324 Ogden 25th St  
Ogden, UT 84401

  
\_\_\_\_\_  
Karen L. Gustafson  
Senior Secretary

State of Idaho  
Department of Water Resources  
**Permit To Appropriate Water**

NO. 15-07139

Proposed Priority: August 20, 1992      Maximum Diversion Rate: 0.02 CFS

This is to certify, that US DEPARTMENT OF AGRICULTURE  
FOREST SERVICE  
CARIBOU NATIONAL FOREST  
250 S 4TH AVE STE 282  
POCATELLO ID 83201

has applied for a permit to appropriate water from:

SPRING      tributary of WRIGHTS CREEK

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> |
|-----------------------|----------------------|--------------------------|
| STOCKWATER            | 06/01 to 09/30       | 0.02 CFS                 |

LOCATION OF POINT(S) OF DIVERSION:      NWNWSW , Sec. 25, Township 11S, Range 35E  
ONEIDA County

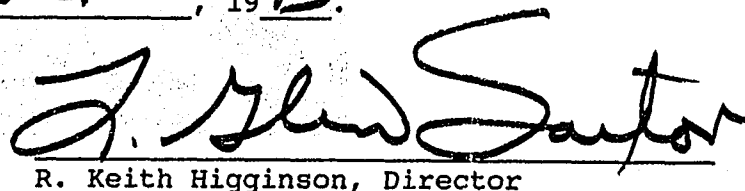
PLACE OF USE: STOCKWATER  
TWN RGE SEC  
11S 35E 26      SESW

CONDITIONS/REMARKS:

1. See Order Dismissing Protests for conditions of approval.

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

16<sup>th</sup> day of November, 1993.

  
R. Keith Higginson, Director

for

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 Avenue, Suite 15, Idaho Falls, Idaho 83402 on or before SEPTEMBER 21, 1992.

R. KEITH HIGGINSON, Director

Published: 9/ 3/1992 & 9/10/1992

15-07139

CARIBOU NATIONAL FOREST  
FEDERAL BUILDING STE 282  
250 S 4TH AVE  
POCATELLO, ID 83201

Source: SPRING

Tributary: WRIGHTS CREEK

Diversion Pt: NWNWSW Sec 25 T 11S R 35E in ONEIDA County.

|                  |             |
|------------------|-------------|
| Use: STOCKWATER  | ( .020 CFS) |
| WILDLIFE         | ( .010 CFS) |
| Total Diversion: | ( .020 CFS) |

Date Filed: 8/20/1992

|                   |      |
|-------------------|------|
| In: ONEIDA County |      |
| T11S R35E S26     | SESW |

NOTICE OF APPLICATION FOR WATER RIGHT

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

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
Eastern Region  
150 Shoup Ave., Suite 15

---

Idaho Falls, Idaho 83402  
(208) 525-7161

AUGUST 27, 1992

THE IDAHO ENTERPRISE  
P.O. BOX 205  
MALAD CITY, ID 83252

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. 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 SEPTEMBER 21, 1992.

Yours truly,

Rita Bodell  
Secretary

Encl.

IN THE MATTER OF: )

APPLICATION FOR WATER RIGHT )  
BY )  
CARIBOU NATIONAL FOREST )

AFFIDAVIT AND PROTEST

RECEIVED

SEP 10 1992

STATE OF IDAHO

Department of Water Resources  
Eastern District Office

COUNTY OF ONEIDA, ss

DAVID DESCHAMPS being first duly sworn deposes and says:

That he is President of the St. John Irrigating Company of Oneida County, Idaho, and makes this Affidavit and Protest for and on behalf of said Company.

That the Application For Water Right for the diversion of water from WRIGHTS CREEK with a point of diversion in the NWNWSW Sec. 25, T 11 S., R. 35 E in Oneida County for stockwater and for wildlife, filed 8/20/1992, is without right and wrongful in that the St. John Irrigating Company is the rightful owner of all of the waters the Little Malad River, of which Wrights Creek is a tributary, for irrigation purposes with a priority dating back to 1894.

DATED this 9th day of September, 1992.



Subscribed and sworn to before me this 9th day of September, 1992.



Notary Public for Idaho  
Residing at Malad City, Idaho

No 1474

## AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }

ss.

County of Oneida

Sandra Struhs

being duly sworn,  
deposes and says: That she is the Secretary of THE IDAHO ENTERPRISE, a weekly newspaper published at Malad, in the County of Oneida and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Malad; 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

September 3, 19 92, and ending

with the issue of September 10, 19 92

Sandra Struhs

Subscribed and sworn to before me this 15 day

of October, 19 92.

Melinda Jones

Notary Public, Residing at Malad, Idaho

My Commission Expires 9/11, 19 98

### NOTICE OF APPLICATION FOR WATER RIGHT

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

CARIBOU NATIONAL FOREST  
FEDERAL BUILDING STE 282  
250 S. 4TH AVE.

POCATELLO, ID 83201

Source: SPRING

Tributary: WRIGHTS CREEK

Diversion Pt: NWNWSW Sec 25 T

11S R 35E in ONEIDA County.

Use: STOCKWATER (.020 CFS)

WILDLIFE (.010 CFS)

Total Diversion (.020 CFS)

Date Filed: 8/20/1992

In: ONEIDA County

T11S R35E S26 SESW

The permit(s) will be subject to all

prior water rights. Protests must be

filed with the Director, Dept. of Wa-

ter Resources, Eastern Region, 150

Shoup Avenue, Suite 15, Idaho

Falls, Idaho 83402 on or before

SEPTEMBER 21, 1992.

R. KEITH HIGGINSON, Direc-

tor.

Published: 9/3/1992 & 9/10/1992

No. 1474

9-3-10 T2



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

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

EASTERN REGION

CECIL D. ANDRUS  
GOVERNOR  
R. KEITH HIGGINSON  
DIRECTOR

13-Oct-1992

USDA FOREST SERVICE  
CARIBOU NATIONAL FOREST  
250 S 4TH AVE  
POCATELLO ID 83201

RE: Application for Permit No. 15-07139

Dear Applicant :

Enclosed is a copy of a protest filed against the issuance of a permit. The Department suggests you contact the protestant directly in an effort to determine the nature of the protests and to attempt to resolve the protests.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protests. At a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for transfer (Sec. 42-203, Idaho Code):

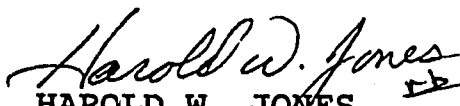
1. Will the proposed use reduce the quantity of water, under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete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

USDA Forest Service  
Caribou National Forest  
13-Oct-1992  
Page 2

The applicant must be prepared to present evidence and/or testimony addressing each of the six 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.

Sincerely,

  
HAROLD W. JONES  
Water Rights Supervisor

HWJ:rb

pc: IDWR - State Office  
Enc.



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

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

EASTERN REGION

13-Oct-1992

CECIL D. ANDRUS  
GOVERNOR  
R. KEITH HIGGINSON  
DIRECTOR

DAVID DESCHAMPS  
C/O E L SCOTT  
MALAD ID 83252

RE: Application for Permit No. 15-07139  
USDA FOREST SERVICE

Dear Mr. Deschamps:

Your protest against 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, our objective is to schedule a conference and/or hearing in the near future to consider the protest. 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 (Sec. 42-203, Idaho Code): the following are the principle items the Department can consider in either approving or denying the application for permit (Sec. 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing 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?
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

David Deschamps  
13-Oct-1992  
Page 2

The protestant must be prepared to present proof of allegations involving one or more of the six items.

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

Sincerely,

*Harold W. Jones*  
HAROLD W. JONES  
Water Rights Supervisor

HWJ:rb  
pc: IDWR - State Office

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF APPLICATION           )  
FOR PERMIT OF WATER RIGHT NO.       )  
15-07139 USDA FOREST SERVICE       ) NOTICE OF  
PREHEARING CONFERENCE

On August 20, 1992, USDA-Forest Service, filed with the Department of Water Resources an application for permit of water right, No. 15-07139 to appropriate the public waters of the State of Idaho. On September 10, 1992, the Department received a protest against approval of said application from David Deschamps on behalf of the St. John Irrigating Company of Oneida County, ID.

The Department has set the matter of protest for a prehearing conference to be conducted at 10:00 a.m. on Tuesday, April 27, 1993, in the Jury Room of the Oneida County Courthouse, Malad, Idaho.

Agenda items for this prehearing conference will include:

1. Identify spokesman and/or counsel representing the protestant.
2. Review of the application.
3. Identify issues of protest.
4. Designate date for identifying witnesses.
5. Designate target date for conducting administrative hearing if resolution is not possible during the prehearing conference.

The prehearing conference will be held in accordance with the provisions of the adopted Rules of Practice and Procedure of the Department of Water Resources.

If you require special accommodations for a disability in order to participate in or attend the prehearing conference, please advise the department within ten (10) days prior to the prehearing conference.

Dated this 29<sup>th</sup> day of March 1993.

  
RONALD D. CARLSON  
Eastern Regional Manager

ONEIDA COUNTY COURTHOUSE

MALAD, ID

**TUESDAY, APRIL 27, 1993**

10:00 A.M.

USDA FOREST SERVICE 15-07139

**Officer:**

Name

## Representing

**Address**

RICK VAN BEEKER

USFS

MAZAD, FRANK

Robert Leffert

US 155

Pocatello, ID

GARY BOYLE

Forest Service

Oaden, UT

Lord Briggs

St. John Irrigation Co. -

ma (al, Tada ho

DAVID DESCHAMPS

ST John's Inst. (C)

MALIBU, ID

F. RANDY KLINE

57-1042

Box 397 Pouches.

Isaac

PS Form 3877, Oct. 1963 FOR REGISTERED, INSURED, C.O.D., CERTIFIED, RETURN RECEIPT FOR MERCHANDISE, AND EXPRESS MAIL

NAME AND ADDRESS OF SENDER

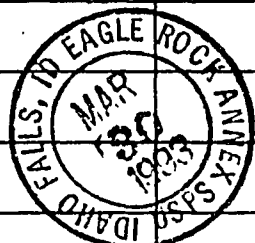
Indicate type of mail  
☐ Registered ☒ Return Receipt  
☐ Insured ☐ For Merchandise  
☐ COD ☐ Express Mail  
☒ Certified

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    | 1110              | BLM<br>138 S Main Malad 83252                                   | .29     | 1.00 |                 |                        |               |                      |           |           |           |                | Prehearing<br>12-7135 |
| 2    | 1111              | DON ELIASON<br>Holbrook 83243                                   |         |      |                 |                        |               |                      |           |           |           |                |                       |
| 3    | 1112              | Pleasantview Livestock<br>200 W Upper St. John - Malad          |         |      |                 |                        |               |                      |           |           |           |                | 12-7143               |
| 4    | 1113              | Dept of Lands<br>3543 Ripic Hwy - Idaho Falls                   |         |      |                 |                        |               |                      |           |           |           |                |                       |
| 5    | 1114              | USDA FS - Lee's Livestock<br>250 S 4th Ave - Pocatello 83201    |         |      |                 |                        |               |                      |           |           |           |                |                       |
| 6    | 1115              | USDA FS - Caribou Nat Forest<br>250 S 4th Ave - Pocatello 83201 |         |      |                 |                        |               |                      |           |           |           |                | 15-7139               |
| 7    | 1116              | David Deschamps<br>St John Irr. Co. - Malad 83252               |         |      |                 |                        |               |                      |           |           |           |                |                       |
| 8    |                   |                                                                 |         |      |                 |                        |               |                      |           |           |           |                |                       |
| 9    |                   |                                                                 |         |      |                 |                        |               |                      |           |           |           |                |                       |
| 10   |                   |                                                                 |         |      |                 |                        |               |                      |           |           |           |                |                       |
| 11   |                   |                                                                 |         |      |                 |                        |               |                      |           |           |           |                |                       |
| 12   |                   |                                                                 |         |      |                 |                        |               |                      |           |           |           |                |                       |
| 13   |                   |                                                                 |         |      |                 |                        |               |                      |           |           |           |                |                       |
| 14   |                   |                                                                 |         |      |                 |                        |               |                      |           |           |           |                |                       |
| 15   |                   |                                                                 |         |      |                 |                        |               |                      |           |           |           |                |                       |



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PS Form 3877, Oct. 1988 FOR REGISTERED, INSURED, C.O.D. RETURN RECEIPT FOR MERCHANDISE, AND EXPRESS MAIL

NAME AND ADDRESS OF SENDER

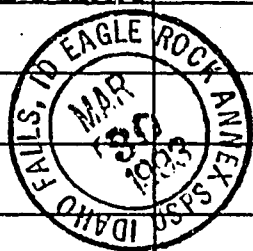
Indicate type of mail  
☐ Registered ☒ Return Receipt  
☐ Insured ☐ For Merchandise  
☐ COD ☐ Express Mail  
☒ Certified

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.

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| Line | Number of Article | Name of Addressee, Street, and Post-Office Address               | Postage | Fee  | Handling Charge | Act. Value (If Regs.) | Insured Value | Due Sender If C.O.D. | R. R. Fee | S. D. Fee | S. H. Fee | Rest. Del. Fee | Remarks               |
|------|-------------------|------------------------------------------------------------------|---------|------|-----------------|-----------------------|---------------|----------------------|-----------|-----------|-----------|----------------|-----------------------|
| 1    | 1110              | BLM<br>138 S Main Malad 83252                                    | .29     | 1.00 |                 |                       |               |                      |           |           |           |                | prehearing<br>12-7135 |
| 2    | 1111              | DON ELIASON<br>Holbrook 83243                                    |         |      |                 |                       |               |                      |           |           |           |                |                       |
| 3    | 1112              | Pleasantview Livestock<br>200 W Upper St. John - Malad           |         |      |                 |                       |               |                      |           |           |           |                | 12-7143               |
| 4    | 1113              | Dept of Lands<br>3543 Ripic Hwy - Idaho Falls                    |         |      |                 |                       |               |                      |           |           |           |                |                       |
| 5    | 1114              | USDA FS - Lee Livestock<br>250 S 4th Ave - Pocatello 83201       |         |      |                 |                       |               |                      |           |           |           |                |                       |
| 6    | 1115              | USDA FS - Caribou Natl Forest<br>250 S 4th Ave - Pocatello 83201 |         |      |                 |                       |               |                      |           |           |           |                | 15-7139               |
| 7    | 1116              | David Deschamps<br>St John Irr. Co. - Malad 83252                |         |      |                 |                       |               |                      |           |           |           |                |                       |
| 9    |                   |                                                                  |         |      |                 |                       |               |                      |           |           |           |                |                       |
| 10   |                   |                                                                  |         |      |                 |                       |               |                      |           |           |           |                |                       |
| 11   |                   |                                                                  |         |      |                 |                       |               |                      |           |           |           |                |                       |
| 12   |                   |                                                                  |         |      |                 |                       |               |                      |           |           |           |                |                       |
| 13   |                   |                                                                  |         |      |                 |                       |               |                      |           |           |           |                |                       |
| 14   |                   |                                                                  |         |      |                 |                       |               |                      |           |           |           |                |                       |
| 15   |                   |                                                                  |         |      |                 |                       |               |                      |           |           |           |                |                       |



\$ 16.03

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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, \$500 for COD and \$500 for Insured Mail. Special handling charges apply only to Third- and Fourth-Class parcels.

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

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**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- ☐ Addressee's Address
- ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:  
USDA FS  
CARIBOU NATIONAL FOREST  
250 S 4TH AVE  
POCATELLO ID 83201

4a. Article Number  
1115

4b. Service Type  
☐ Registered ☐ Insured  
☒ Certified ☐ COD  
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery  
4/17/93

5. Signature (Addressee)  
*Wonne C. Oliver*

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1991 ☆ U.S.G.P.O. : 1992-307-530 **DOMESTIC RETURN RECEIPT**

Thank you for using Return Receipt Service.

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- ☐ Addressee's Address
- ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:  
DAVID DESCHAMPS  
ST JOHN IRRIGATING CO  
MALAD ID 83252

4a. Article Number  
1116

4b. Service Type  
☐ Registered ☐ Insured  
☒ Certified ☐ COD  
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery  
3-31-93

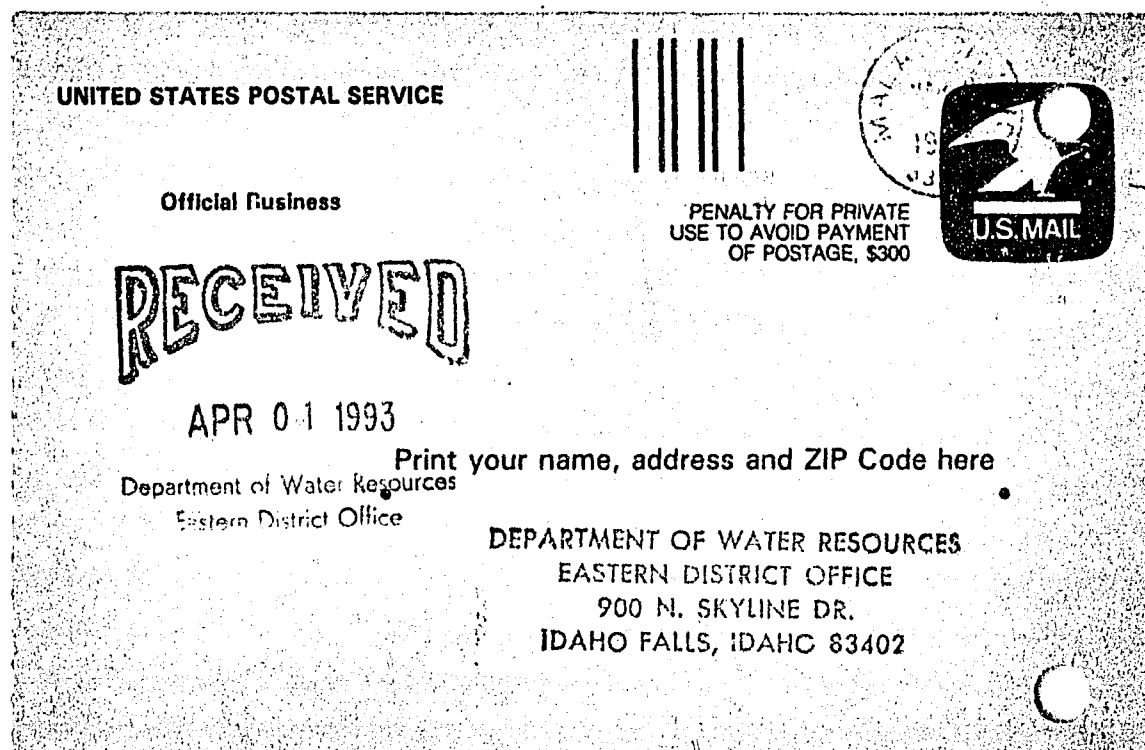
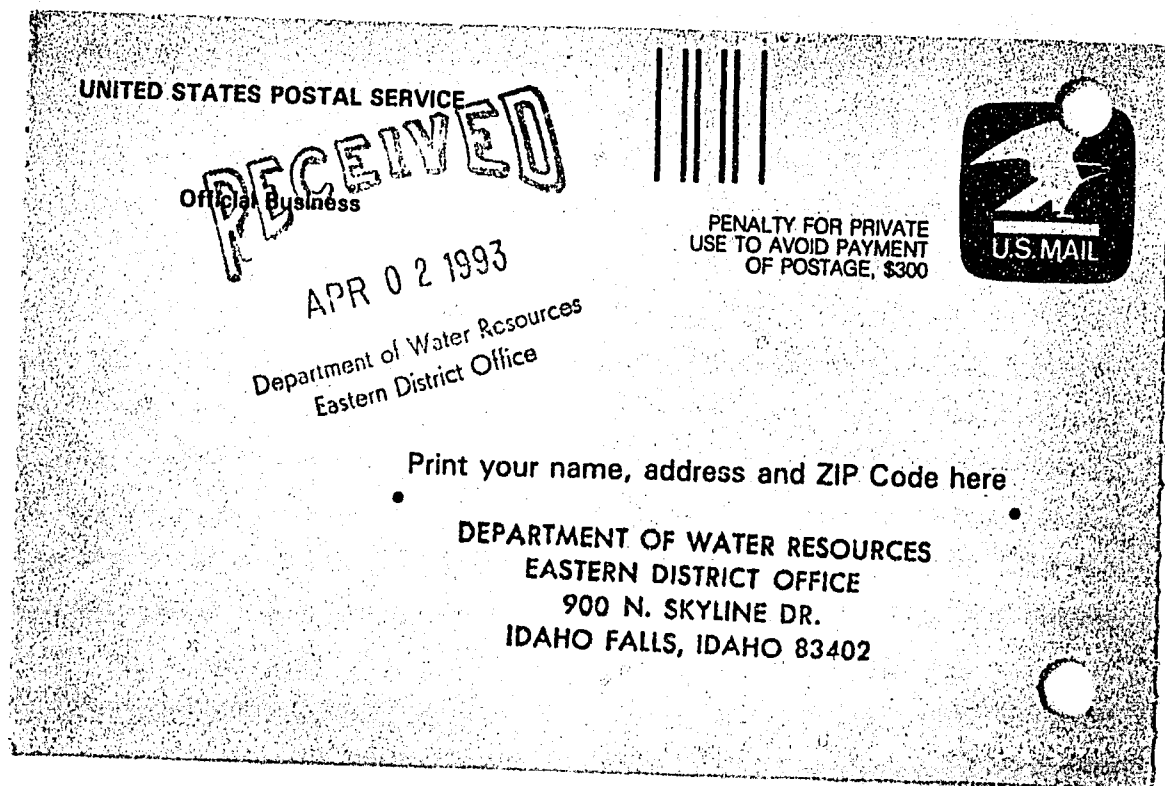
5. Signature (Addressee)  
*David Deschamps*

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1991 ☆ U.S.G.P.O. : 1992-307-530 **DOMESTIC RETURN RECEIPT**

Thank you for using Return Receipt Service.



BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION )  
FOR OF PERMIT NO. 15-07139 ) NOTICE OF HEARING  
IN THE NAME OF USDA FOREST SERVICE )

On August 20, 1992, the USDA Forest Service filed with the Department of Water Resources application for permit no. 15-07139. The application was protested by David Deschamps on behalf of St. John Irrigating Company of Oneida County. The conference held by the Department on Tuesday, April 27, 1993, did not resolve the matter of protest.

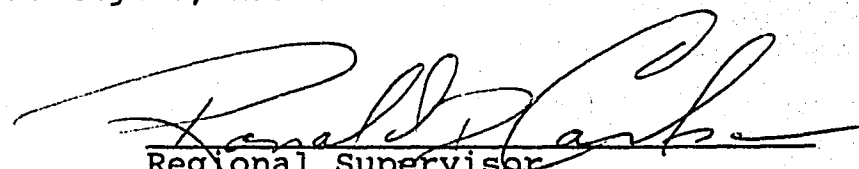
The Department has scheduled the matter for hearing on September 28, 1993, at 10:00 a.m. in the Oneida County Courthouse, Malad, ID. The hearing will be held in accordance with the provisions of the Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the Department and Water Appropriation Rules 40 and 45. A copy of the rules may be obtained from the Department upon request. The presiding officer at the hearing will be Gary Spackman.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the Department within fourteen (14) days prior to the hearing.

NOTICE OF HEARING 1

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 18<sup>th</sup> day of August, 1993.

  
Regional Supervisor

CERTIFICATE OF MAILING

I hereby certify that on the 20<sup>th</sup> day of August, 1993, I mailed a true and correct copy, postage prepaid, of this document to the applicants(s) and protestant(s) listed below:

Lita Bodell  
Secretary

Certified Mail

DAVID DESCHAMPS  
C/O E L SCOTT  
ST JOHN IRRIGATING CO  
MALAD ID 83252

USDA FOREST SERVICE  
CARIBOU NATIONAL FOREST  
250 S 4TH AVE  
POCATELLO ID 83201

F RANDALL KLINE CHARTERED  
PO BOX 397  
POCATELLO ID 83204

GARY BOYLE  
USDA FOREST SERVICE  
FEDERAL BLDG  
324 OGDEN 25TH ST  
OGDEN UT 84401

NOTICE OF HEARING 3

| NAME AND ADDRESS OF SENDER |                   | Indicate type of mail                                                               |                                                         | Check appropriate block for Registered Mail:   |                                                   | Affix stamp here if issued as certificate of mailing or for additional copies of this bill. |               |                      |           |           |           |                |                    |
|----------------------------|-------------------|-------------------------------------------------------------------------------------|---------------------------------------------------------|------------------------------------------------|---------------------------------------------------|---------------------------------------------------------------------------------------------|---------------|----------------------|-----------|-----------|-----------|----------------|--------------------|
|                            |                   | <input type="checkbox"/> Registered                                                 | <input type="checkbox"/> Return Receipt For Merchandise | <input type="checkbox"/> With Postal Insurance | <input type="checkbox"/> Without Postal Insurance | 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                          | 1150              | Gary Boyle, USDA Forest Service<br>Federal Bldg 324 Ogden 25th St<br>Ogden UT 84401 | .29                                                     | 1.00                                           |                                                   |                                                                                             |               |                      |           |           |           |                | Hearing<br>15-7139 |
| 2                          | 1151              | F. Randall Rline Chartered<br>PO Box 397<br>Pocatello ID 83204                      |                                                         |                                                |                                                   |                                                                                             |               |                      |           |           |           |                |                    |
| 3                          | 1152              | USDA Forest Service<br>Caribou National Forest<br>250 S 4th Ave Pocatello 83201     |                                                         |                                                |                                                   |                                                                                             |               |                      |           |           |           |                |                    |
| 4                          | 1153              | David Deschamps c/o EL Scott<br>St John Irrigating Co<br>Molad ID 83252             |                                                         |                                                |                                                   | \$9.16                                                                                      |               |                      |           |           |           |                |                    |
| 5                          |                   |                                                                                     |                                                         |                                                |                                                   |                                                                                             |               |                      |           |           |           |                |                    |
| 6                          |                   |                                                                                     |                                                         |                                                |                                                   |                                                                                             |               |                      |           |           |           |                |                    |
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| 13                         |                   |                                                                                     |                                                         |                                                |                                                   |                                                                                             |               |                      |           |           |           |                |                    |
| 14                         |                   |                                                                                     |                                                         |                                                |                                                   |                                                                                             |               |                      |           |           |           |                |                    |
| 15                         |                   |                                                                                     |                                                         |                                                |                                                   |                                                                                             |               |                      |           |           |           |                |                    |

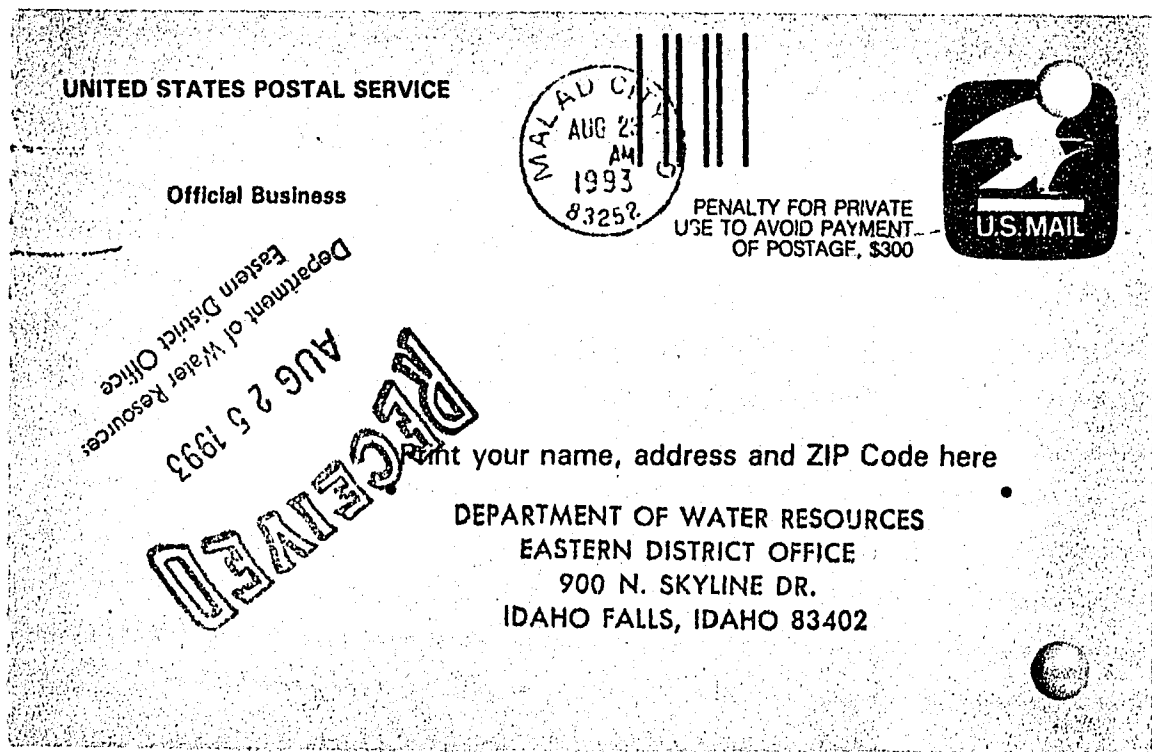
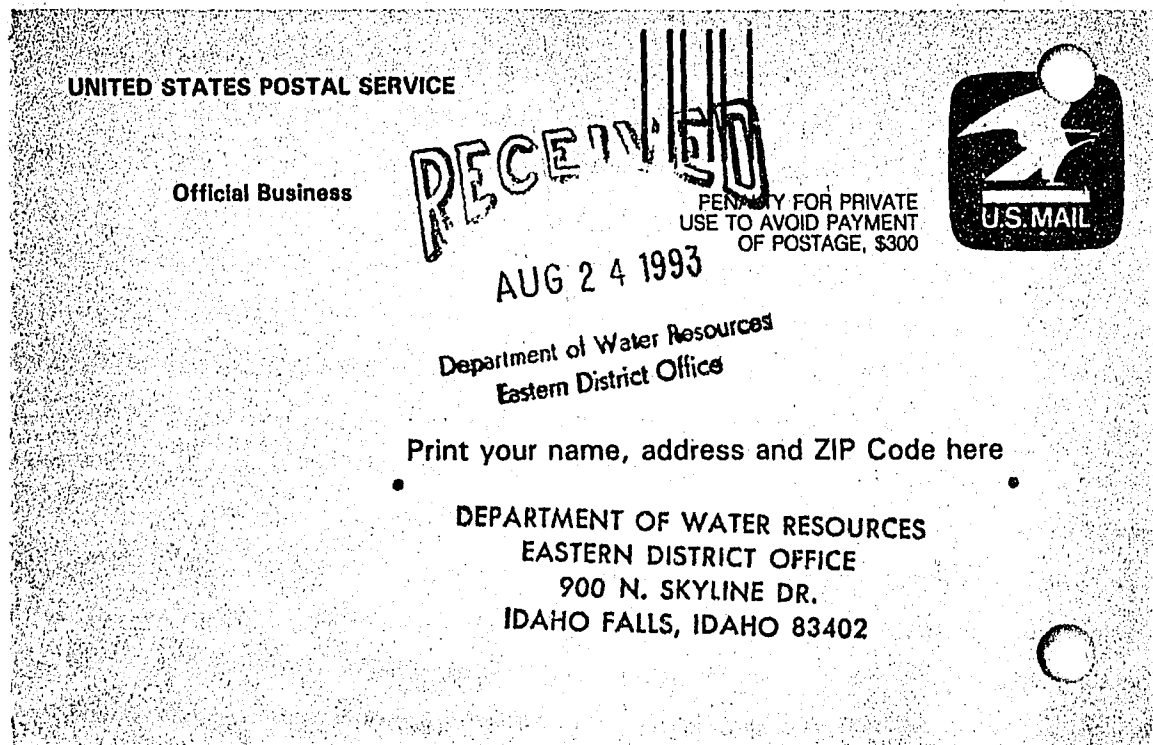
IDAHO FALLS  
 AUG 20 1998  
 ANNEX 1845  
 ROCK SPRING

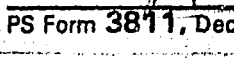
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|-----------------------------------------|---------------------------------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Total number of Pieces Listed by Sender | Total Number of Pieces Received at Post Office<br><i>four</i> | POSTMASTER, PER (Name of receiving employee)<br><i>[Signature]</i> | 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, \$500 for COD and \$500 for Insured Mail. Special handling charges apply only to Third- and Fourth-Class parcels. |
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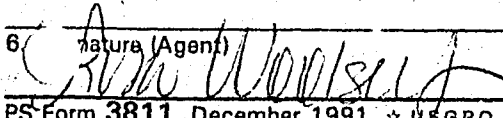
FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN

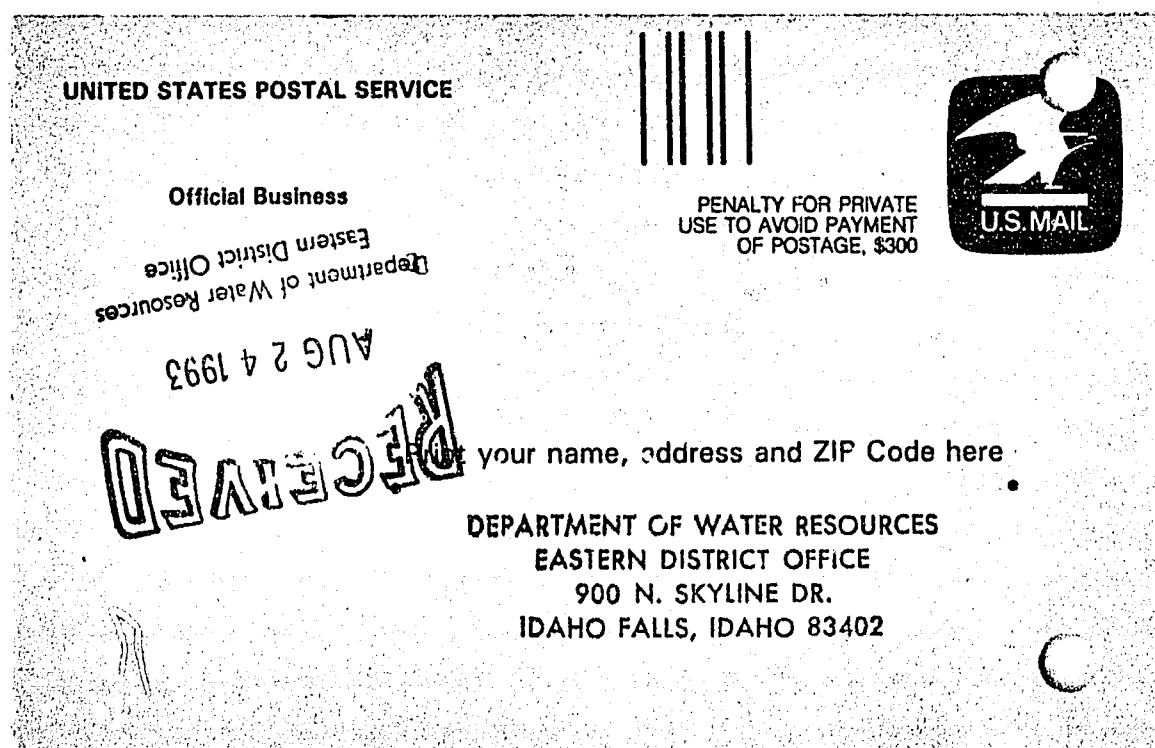
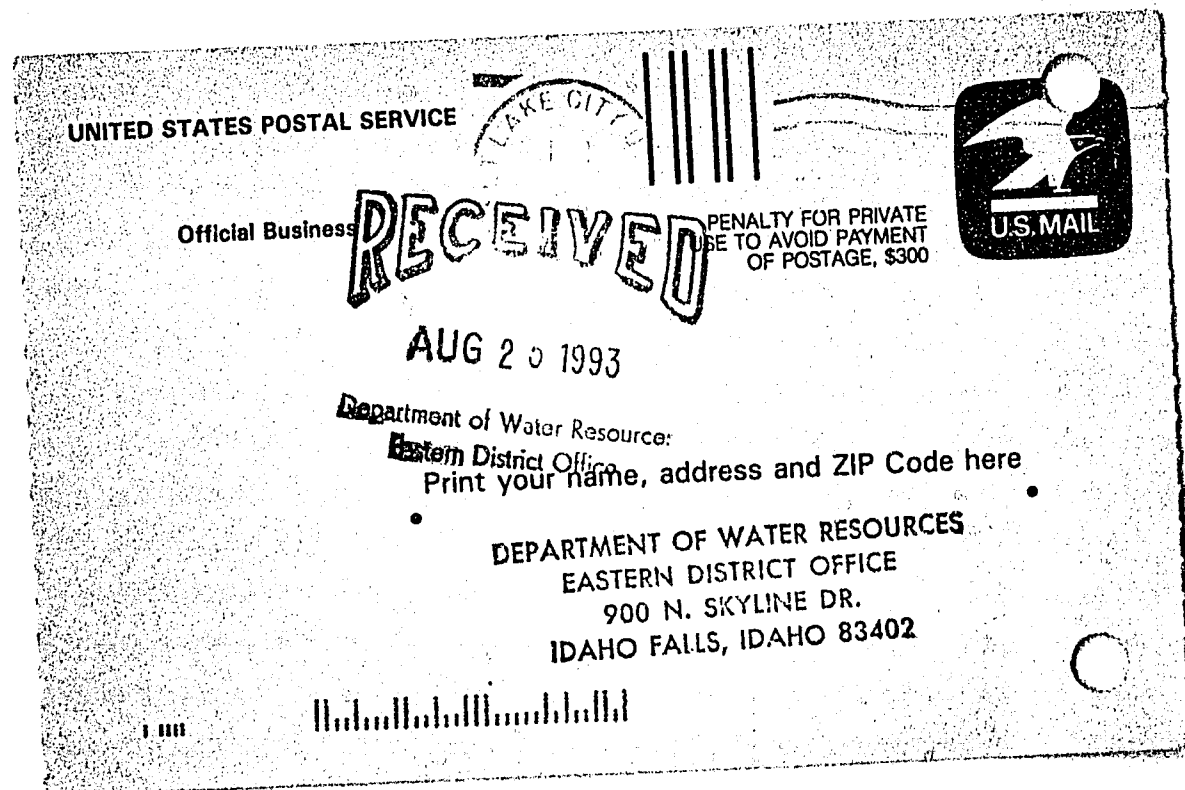
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| <b>INSTRUCTIONS:</b><br>• Complete items 1 and/or 2 for additional services.<br>• Complete items 3, and 4a & b.<br>• Print your name and address on the reverse of this form so that we can return this card to you.<br>• Attach this form to the front of the mailpiece, or on the back if space does not permit.<br>• Write "Return Receipt Requested" on the mailpiece below the article number.<br>• The Return Receipt will show to whom the article was delivered and the date delivered. |  | I also wish to receive the following services (for an extra fee):<br>1. <input type="checkbox"/> Addressee's Address<br>2. <input type="checkbox"/> Restricted Delivery<br>Consult postmaster for fee.                                                                  |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  | 3. Article Addressed to:<br>USDA FOREST SERVICE<br>CARIBOU NATIONAL FOREST<br>250 S 4TH AVE<br>POCATELLO ID 83201                                                                                                                                                       |  |
| 4a. Article Number<br>1152                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  | 4b. Service Type<br><input type="checkbox"/> Registered <input type="checkbox"/> Insured<br><input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD<br><input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise |  |
| 5. Signature (Addressee)<br><i>Thomas C. Oliver</i>                                                                                                                                                                                                                                                                                                                                                                                                                                             |  | 7. Date of Delivery<br>8/23/93                                                                                                                                                                                                                                          |  |
| 6. Signature (Agent)<br><i>Thomas C. Oliver</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  | 8. Addressee's Address (Only if requested and fee is paid)                                                                                                                                                                                                              |  |
| PS Form 3811, December 1991 * U.S.G.P.O. : 1992-307-530 <b>DOMESTIC RETURN RECEIPT</b>                                                                                                                                                                                                                                                                                                                                                                                                          |  |                                                                                                                                                                                                                                                                         |  |

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| <b>INSTRUCTIONS:</b><br>• Complete items 1 and/or 2 for additional services.<br>• Complete items 3, and 4a & b.<br>• Print your name and address on the reverse of this form so that we can return this card to you.<br>• Attach this form to the front of the mailpiece, or on the back if space does not permit.<br>• Write "Return Receipt Requested" on the mailpiece below the article number.<br>• The Return Receipt will show to whom the article was delivered and the date delivered. |  | I also wish to receive the following services (for an extra fee):<br>1. <input type="checkbox"/> Addressee's Address<br>2. <input type="checkbox"/> Restricted Delivery<br>Consult postmaster for fee.                                                                  |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  | 3. Article Addressed to:<br>DAVID DESCHAMPS<br>C/O E L SCOTT<br>ST JOHN IRRIGATING CO<br>MALAD ID 83252                                                                                                                                                                 |  |
| 4a. Article Number<br>1153                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  | 4b. Service Type<br><input type="checkbox"/> Registered <input type="checkbox"/> Insured<br><input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD<br><input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise |  |
| 5. Signature (Addressee)<br><i>David Deschamps</i>                                                                                                                                                                                                                                                                                                                                                                                                                                              |  | 7. Date of Delivery<br>8-23-93                                                                                                                                                                                                                                          |  |
| 6. Signature (Agent)<br><i>David Deschamps</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                  |  | 8. Addressee's Address (Only if requested and fee is paid)                                                                                                                                                                                                              |  |
| PS Form 3811, December 1991 * U.S.G.P.O. : 1992-307-530 <b>DOMESTIC RETURN RECEIPT</b>                                                                                                                                                                                                                                                                                                                                                                                                          |  |                                                                                                                                                                                                                                                                         |  |



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  |                                                                                                                                                                                                                                                                         |  |
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| <b>INSTRUCTIONS:</b><br>• Complete items 1 and/or 2 for additional services.<br>• Complete items 3, and 4a & b.<br>• Print your name and address on the reverse of this form so that we can return this card to you.<br>• Attach this form to the front of the mailpiece, or on the back if space does not permit.<br>• Write "Return Receipt Requested" on the mailpiece below the article number.<br>• The Return Receipt will show to whom the article was delivered and the date delivered. |  | I also wish to receive the following services (for an extra fee):<br>1. <input type="checkbox"/> Addressee's Address<br>2. <input type="checkbox"/> Restricted Delivery<br>Consult postmaster for fee.                                                                  |  |
| 3. Article Addressed to:<br>GARY BOYLE<br>USDA FOREST SERVICE<br>FEDERAL BLDG<br>324 OGDEN 25TH ST<br>OGDEN UT 84401                                                                                                                                                                                                                                                                                                                                                                            |  | 4a. Article Number<br>1150                                                                                                                                                                                                                                              |  |
| 5. Signature (Addressee)<br>                                                                                                                                                                                                                                                                                                                                                                                 |  | 4b. Service Type<br><input type="checkbox"/> Registered <input type="checkbox"/> Insured<br><input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD<br><input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise |  |
| 6. Signature (Agent)<br>                                                                                                                                                                                                                                                                                                                                                                                     |  | 7. Date of Delivery<br>8/2                                                                                                                                                                                                                                              |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  | 8. Addressee's Address (Only if requested and fee is paid)                                                                                                                                                                                                              |  |
| PS Form 3811, December 1991 ★ U.S.G.P.O.: 1992-307-530 <b>DOMESTIC RETURN RECEIPT</b>                                                                                                                                                                                                                                                                                                                                                                                                           |  |                                                                                                                                                                                                                                                                         |  |

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| <b>INSTRUCTIONS:</b><br>• Complete items 1 and/or 2 for additional services.<br>• Complete items 3, and 4a & b.<br>• Print your name and address on the reverse of this form so that we can return this card to you.<br>• Attach this form to the front of the mailpiece, or on the back if space does not permit.<br>• Write "Return Receipt Requested" on the mailpiece below the article number.<br>• The Return Receipt will show to whom the article was delivered and the date delivered. |  | I also wish to receive the following services (for an extra fee):<br>1. <input type="checkbox"/> Addressee's Address<br>2. <input type="checkbox"/> Restricted Delivery<br>Consult postmaster for fee.                                                                  |  |
| 3. Article Addressed to:<br>F RANDALL KLINE CHARTERED<br>PO BOX 397<br>POCATELLO ID 83204                                                                                                                                                                                                                                                                                                                                                                                                       |  | 4a. Article Number<br>1151                                                                                                                                                                                                                                              |  |
| 5. Signature (Addressee)<br>                                                                                                                                                                                                                                                                                                                                                                                |  | 4b. Service Type<br><input type="checkbox"/> Registered <input type="checkbox"/> Insured<br><input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD<br><input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise |  |
| 6. Signature (Agent)<br>                                                                                                                                                                                                                                                                                                                                                                                    |  | 7. Date of Delivery<br>AUG 23 1993                                                                                                                                                                                                                                      |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  | 8. Addressee's Address (Only if requested and fee is paid)                                                                                                                                                                                                              |  |
| PS Form 3811, December 1991 ★ U.S.G.P.O.: 1992-307-530 <b>DOMESTIC RETURN RECEIPT</b>                                                                                                                                                                                                                                                                                                                                                                                                           |  |                                                                                                                                                                                                                                                                         |  |



The Law Offices of  
*F. Randall Kline, Chartered*  
A Professional Corporation

May 25, 1993

RECEIVED

MAY 28 1993

Department of Water Resources  
Eastern District Office

P.O. Box 397  
427 N. Main, Suite L  
Pocatello, Idaho 83204  
Telephone (208) 232-9007

Ron D. Carlson  
Eastern Regional Manager  
Idaho Dept. of Water Resources  
150 Shoup Avenue, Ste. 15  
Idaho Falls, Idaho 83402

Re: Application for Permit No. 15-07139  
Oneida County, Idaho

Dear Mr. Carlson:

I have had an opportunity to review the site and obtain information relative to the above application. On behalf of St. John Irrigating Company, the position remains that all waters of Wrights Creek and its tributaries have been fully appropriated by St. John Irrigating Company, with various priority dates, dating back to 1877. With those various priority dates the Court's have universally made findings and conclusions that St. John Irrigating Company owns, controls, and has fully appropriated all the water of the Little Malad River and its tributaries, except for a few very specific exceptions.

Further, the issue has become even more critical over the last few years wherein Daniels Reservoir has failed to complete it's storage capacity of 8,700 acre feet.

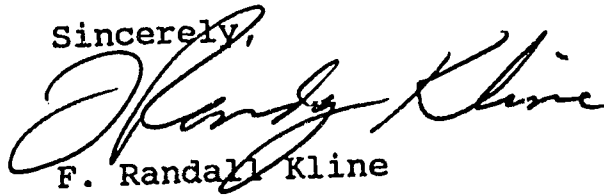
However, should the department determine that the U. S. Forest Service could appropriate water out of Wrights Creek and its tributaries as set forth in the application, the St. John Irrigating Company further objects to the volume of water requested as it is nearly three times the amount of water deemed necessary utilizing the figures of the U. S. Forest Service. The amount on the application to be appropriated would allow U. S. Forest Service to enlarge its use beyond what is currently claimed. It is further indicated that if the system were constructed, it should be through a pipe to the box and that the water trough should have a float valve in it to prevent greater water from being utilized (or spilled upon the ground) than what is necessary for the cattle.

Further, St. John Irrigating Company is concerned that if a pipe were returned back into Wrights Creek and its tributaries below the water trough, by way of pipe, that the likelihood of the pipe being plugged is great.

May 25, 1993  
Page 2

Further, any water spills from the trough would likely be evapotransporated and a loss for beneficial use. Therefore, based upon the information presented, it is requested that the application of the U. S. Forest Service to appropriate and divert waters from the Little Malad River or its tributaries be denied.

Sincerely,



F. Randall Kline

FRK:ljw

c: St. John Irrigating Co.  
Harold Jones

7-16-93

## ACTION REQUIRED

FROM: H.W. Jones - Easton

TO: Raven / Glen - Boise

As per our tel-con of 9-16-1993, could you send an unofficial copy of Rules 40 & 45 (water appropriation) to Attorney Randall Kline as stated on the enclosed letter.

Thanks!

*[Signature]*

The Law Offices of

*F. Randall Kline, Chartered*  
A Professional Corporation

P.O. Box 397  
427 N. Main, Suite L  
Pocatello, Idaho 83204  
Telephone (208) 232-9007

September 13, 1993

RECEIVED

SEP 16 1993

Harold Jones  
Department of Water Resources  
150 Shoup Avenue, Suite 15  
Idaho Falls, Idaho 83402

Department of Water Resources  
Eastern District Office

Re: Application for Permit No. 15-07139

Dear Mr. Jones:

In preparation for the hearing scheduled September 28, 1993 at 10:00 a.m., at the Oneida County Courthouse, Malad, Idaho, relative to the above application, please forward a copy of the Rules of Procedure of the Department of Water specifically Rules 40 and 45.

Also, please forward any and all other information currently in your possession which you deem relevant to any and all issues which have or may be raised in these proceedings.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

  
F. Randall Kline

FRK:ljw

c: St. John Irrigation

Sept. 14, 1993

ONEIDA COUNTY COURTHOUSE  
10 COURT ST  
MALAD ID 83252

Dear Clerk:

This is to confirm the use of the Jury Room for a hearing conference to be held by this office on Tuesday, September 28, 1993, at 10:00 a.m..

Thank you for your cooperation in this matter.

Very truly yours,



Rita Bodell  
Secretary/Office Coordinator

PERMIT NO. 15-07139  
SEPTEMBER 28, 1993  
10:00 A.M.  
ONEIDA COUNTY COURTHOUSE

Officer:

Gary Spokman

| Name              | Representing   | Address          |
|-------------------|----------------|------------------|
| NW Jones          | IDWR           | IF, ID.          |
| GARY BOYLE        | FOREST SERVICE | ORDEM, UT        |
| Robert Lefter     | Forest Service | Pocatello, ID    |
| Rick Brazell      | Forest Service | Malad, Id        |
| KATHY WILLIAMS    | FOREST SERVICE | MALAD, IDAHO     |
| Jesse D. Harrison | St John Irr    | Malad, Idaho     |
| David Henschel    | St John Irr    | Malad, Idaho     |
| F. Randy Kline    | St John Irr.   | Pocatello, Idaho |
| Garth J. Korman   | St John Irr    | Malad, Id.       |



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

October 26, 1993

Re: In the matter of application for permit no. 15-07139  
in the name of USDA Forest Service

Dear Interested Party:

Enclosed is a copy of the Order Dismissing Protest filed  
against the above referenced application for permit.

The Department will now continue with the processing of  
the application for permit.

If you have any questions, or if I can be of any further  
assistance, please feel free to contact me.

Sincerely,

*Karen L. Gustafson*  
Karen L. Gustafson  
Senior Secretary

Enclosure



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

November 17, 1993

US DEPARTMENT OF AGRICULTURE  
FOREST SERVICE  
CARIBOU NATIONAL FOREST  
250 S 4TH AVE STE 282  
POCATELLO ID 83201

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 15-07139

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. You will receive  
a "Proof Due Notice" from this Department approximately 60 days  
prior to the completion date requiring you to file either a Proof  
of Beneficial Use form stating that the project has been  
completed or file a Request for an Extension of Time in which to  
file the proof statement.

Sincerely,

JIM JOHNSON  
Water Rights Supervisor

JJ:dc

Enclosures

794  
RECEIVED  
DEC 06 1995

**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**

## PROOF OF BENEFICIAL USE

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.

Amt. of Fee \$: 50<sup>00</sup>  
Receipt No. E071766  
Receipt By: KW  
Date Received: 12-11-95

RECEIVED  
DEC 13 1966

Department of Water Resources

1. Permit No. 15-07139 Telephone No. (208) 236-7500
2. Name(s) of Permit Holder(s): USDA FOREST SERVICE, United States of America
3. Mailing Address: CARIBOU NATIONAL FOREST, 250 S. 4TH AVE, POCA TELLO, ID 83201
4. Source of Water: SPRING If **GROUNDWATER** (well), Date Drilled: mo. \_\_\_\_\_ / yr. \_\_\_\_\_
- a. Well Driller: \_\_\_\_\_ Drilling Permit Number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_
- b. **OPTIONAL:**  
Pump Horsepower: \_\_\_\_\_ Pressure (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): CATTLE, 359
- Irrigation (No. of acres): \_\_\_\_\_ Other: \_\_\_\_\_
6. Total rate of diversion and/or volume for which proof is submitted: 0.02 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)
- |                               |                                          |           |    |                   |
|-------------------------------|------------------------------------------|-----------|----|-------------------|
| <b>Measuring Device:</b>      | Is a measuring device required?          | Yes _____ | or | No <u>x</u> _____ |
|                               | Has the measuring device been installed? | Yes _____ | or | No _____          |
| <b>Flow Measurement Port:</b> | Is a flow measurement port required?     | Yes _____ | or | No <u>x</u> _____ |
|                               | Has the measurement port been installed? | Yes _____ | or | No _____          |
8. Fee Enclosed: \$ 50.00 (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: Jerry Tower, District Ranger Telephone Number: (208) 236-7500
- Address: CARIBOU NATIONAL FOREST, 250 S. 4TH AVE, POCA TELLO, ID 83201
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: [Signature] Date: 11/29/15  
(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. 15-07139 )

IN THE NAME OF U.S. DEPT. OF AGRICULTURE )

ORDER OF  
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 on or before November 1, 1995; and,

WHEREAS, the Department notified the permit holder on August 31, 1995, by certified mail that proof was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use; and,

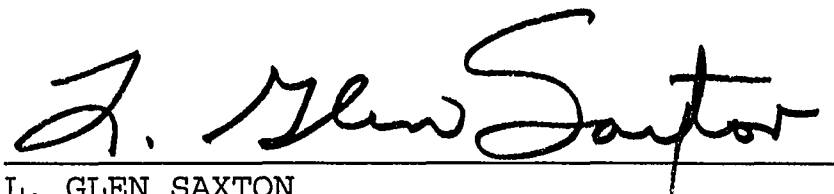
WHEREAS, the department sent a lapse notice on November 8, 1995, since an acceptable proof of beneficial use or extension of time had not been received; and,

WHEREAS, Section 42-218a, Idaho Code, provides that a permit may be reinstated upon a showing of reasonable cause 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 December 6, 1995;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 15-07139 is REINSTATED with an advance in priority to September 24, 1992.

DATED this 11<sup>th</sup> day of January, 1996.



L. GLEN SAXTON

Chief, Water Allocation Bureau

The Law Offices of

*F. Randall Kline, Chartered*  
A Professional Corporation

RECEIVED

JUL 12 1995

Department of Water Resources

15-07139

P.O. Box 397  
427 N. Main, Suite L  
Pocatello, Idaho 83204  
Telephone (208) 232-9007  
Fax (208) 234-4654

July 10, 1995

U.S.D.A. Forest Service  
Caribou National Forest  
Attn: Gray F. Reynolds  
250 S. 4th Avenue  
Pocatello, Idaho 83205

Re: Application for Permit No. 15-07139 in the name of the  
USDA Forest Service; Point of Diversion is NW 1/4 of NW  
1/4 of SW 1/4, Section 25, Township 11 South, Range 35  
East, B.M., County of Oneida, State of Idaho.

Dear Mr. Reynolds:

On behalf of St. John Irrigating Company, please note that the Forest Service is currently violating the Order of Gary Spackman, hearing officer for the Department of Water Resources, regarding Permit No. 15-07139. The hearing was held on September 28, 1993, wherein St. John Irrigating Company protested the application for permit in the above-referenced matter. During a part of that discussion, it was agreed that the Forest Service would design and construct an essentially closed system where any water not being used in the watering tank for livestock would be returned by pipe to Wrights Creek. A specific concern was expressed at the time of the hearing that a sufficient pipe and filtering system would be designed to prevent water from "overflowing and irrigating" the area below the cattle trough. From my understanding, the trough has recently been installed and the pipe which returns water back to Wrights Creek is plugged, which is in violation of the terms and conditions of the stipulation allowing the dismissal.

Apparently, the screening of the return pipe is a fine mesh and is rapidly plugged by moss growth, which was specifically addressed during the hearing and assurances were given by the Forest Service that in the design of the system the plugging of the return pipe would not occur. If, in fact, the tank was placed approximately July 1st of this year, obviously the plugging, unless the system is modified, will be a continued problem.

July 10, 1995  
Page 2

Please note and be advised that if water is spilled from the tank in contravention to the agreement, then the diversion point will be dismantled and the water will continue to be allowed to flow in Wright's Creek in protection of St. John Irrigating Company's decreed water rights pursuant to paragraph 6:

"failure to comply with the conditions of this permit or subsequent license is grounds for revocation or cancellation of the water right".

Please note that St. John Irrigating Company takes this matter very seriously and based upon the attached photographs, continued spilling of water from the water trough shall not be tolerated. If the Forest Service does not take efforts to prevent the spilling of water from this trough within the next ten (10) days, the diversion shall be dismantled. Additionally, if the Forest Service does not permanently make arrangements to prevent plugging of the return pipe, application shall be submitted with the Department of Water Resource seeking revocation and cancellation of the diversion from Wright's Creek in conformity with the order of October 25, 1993, which is also attached.

Please provide to my office written confirmation that this situation has been rectified within ten (10) days of this letter.

Sincerely,

*F. Randall Kline / yjw*  
F. Randall Kline

FRK:ljw

Encl

c: St. John Irrigating Company  
Harold Jones  
Gary Spackman  
Gary Boyle

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR )  
PERMIT NO. 15-07139 IN THE NAME )  
OF USDA FOREST SERVICE )

ORDER DISMISSING  
PROTEST

A hearing was scheduled regarding a protest filed against application for permit no. 15-07139, filed by the St. John Irrigating Co., on September 28, 1993. At the hearing, St. John Irrigating Co. agreed to withdraw it's protest upon several conditions to which the Forest Service agreed:

1. The maximum quantity of water appropriated will not exceed 0.02 cfs, and will not provide stockwater to more than 360 cattle. The wildlife use described in the application was deleted.

2. The place of use will be limited to the location of the troughs described by the application, and depicted by the attached map.

3. An inlet pipe diverting water from the spring to the water trough shall not exceed two inches in diameter. A four inch diameter pipe shall discharge from the trough, shall be buried and shall discharge directly into the stream bed of Wrights Creek.

4. The period of use shall be limited to June 1 through September 30.

5. The entire system shall be constructed and operated substantially as a full system, with any water not consumed by the livestock being returned to Wrights Creek.

6. Failure to comply with the conditions of this permits or and subsequent license is grounds for revocation or cancellation of the water right.

ORDER

IT IS HEREBY ORDERED that the protests of St. John Irrigating Co. are dismissed subject to the conditions set forth above.

Dated this 25<sup>th</sup> day of October, 1993.



Gary Spackman  
Hearing Officer

CERTIFICATE OF MAILING

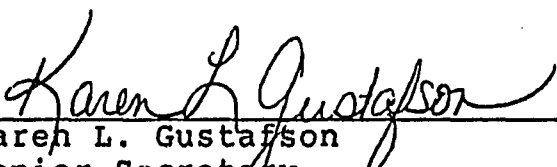
I HEREBY CERTIFY that on this 26th day of October, 1993, I mailed a true and correct copy, postage prepaid, of the foregoing Order Dismissing Protest to the following:

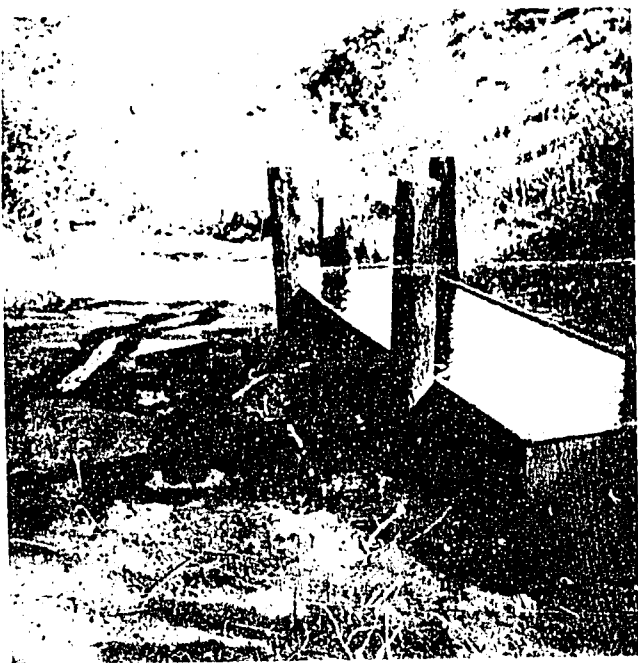
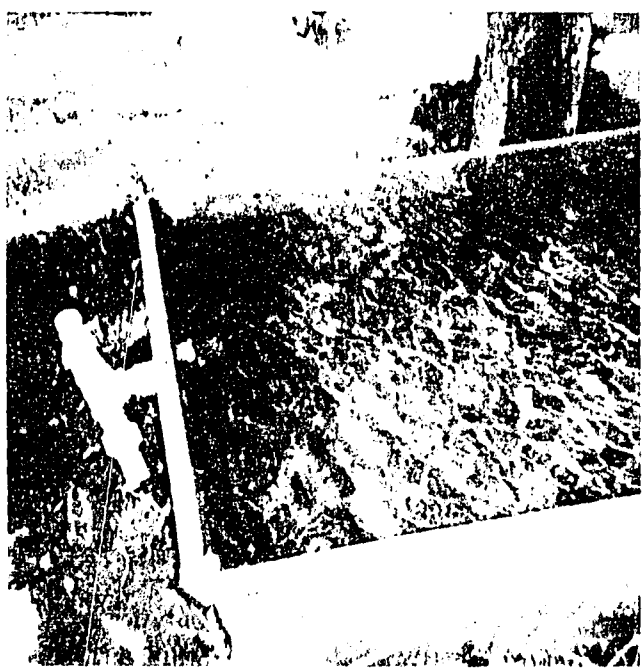
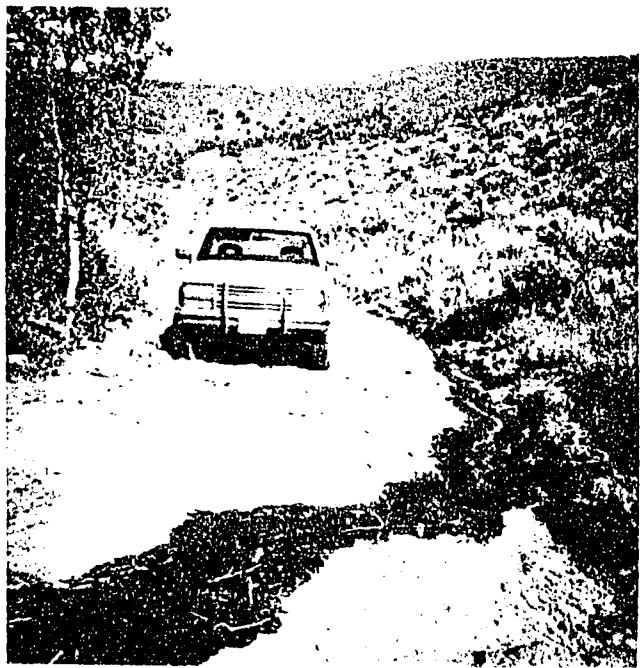
David Deschamps  
c/o E L Scott  
St John Irrigating Co  
Malad, ID 83252

USDA Forest Service  
Caribou National Forest  
250 S 4th Ave  
Pocatello, ID 83201

F Randall Kline Chartered  
PO Box 397  
Pocatello, ID 83204

Gary Boyle  
USDA Forest Service  
Federal Bldg  
324 Ogden 25th St  
Ogden, UT 84401

  
Karen L. Gustafson  
Senior Secretary



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

August 31, 1995

US DEPARTMENT OF AGRICULTURE  
FOREST SERVICE  
CARIBOU NATIONAL FOREST  
250 S 4TH AVE STE 282  
POCATELLO ID 83201

PROOF DUE NOTICE

RE: PERMIT NO. 15-07139

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 November 1, 1995. (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.

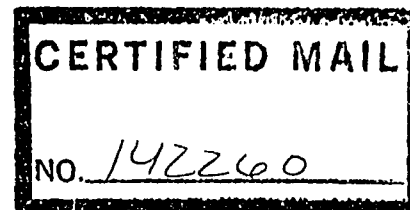
If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental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



The Law Offices of

*F. Randall Kline, Chartered*  
A Professional Corporation

May 25, 1993

RECEIVED

MAY 28 1993

Department of Water Resources  
Eastern District Office

P.O. Box 397  
427 N. Main, Suite L  
Pocatello, Idaho 83204  
Telephone (208) 232-9007

Ron D. Carlson  
Eastern Regional Manager  
Idaho Dept. of Water Resources  
150 Shoup Avenue, Ste. 15  
Idaho Falls, Idaho 83402

Re: Application for Permit No. 15-07139  
Oneida County, Idaho

Dear Mr. Carlson:

I have had an opportunity to review the site and obtain information relative to the above application. On behalf of St. John Irrigating Company, the position remains that all waters of Wrights Creek and its tributaries have been fully appropriated by St. John Irrigating Company, with various priority dates, dating back to 1877. With those various priority dates the Court's have universally made findings and conclusions that St. John Irrigating Company owns, controls, and has fully appropriated all the water of the Little Malad River and its tributaries, except for a few very specific exceptions.

Further, the issue has become even more critical over the last few years wherein Daniels Reservoir has failed to complete it's storage capacity of 8,700 acre feet.

However, should the department determine that the U. S. Forest Service could appropriate water out of Wrights Creek and its tributaries as set forth in the application, the St. John Irrigating Company further objects to the volume of water requested as it is nearly three times the amount of water deemed necessary utilizing the figures of the U. S. Forest Service. The amount on the application to be appropriated would allow U. S. Forest Service to enlarge its use beyond what is currently claimed. It is further indicated that if the system were constructed, it should be through a pipe to the box and that the water trough should have a float valve in it to prevent greater water from being utilized (or spilled upon the ground) than what is necessary for the cattle.

Further, St. John Irrigating Company is concerned that if a pipe were returned back into Wrights Creek and its tributaries below the water trough, by way of pipe, that the likelihood of the pipe being plugged is great.

Gary,

In this letter Mr. Kline  
appears to endorse  
the use of a float  
valve system.

Shuf

The Law Offices of  
*F. Randall Kline, Chartered*  
A Professional Corporation

RECEIVED

AUG 29 1995

P.O. Box 397  
427 N. Main, Suite L  
Pocatello, Idaho 83204  
Department of Water Resources  
Eastern District Office Telephone (208) 232-9007  
Fax (208) 234-4654

August 25, 1995

Harold Jones  
Department of Water Resources  
150 Shoup Avenue, Suite 15  
Idaho Falls, Idaho 83402

Re: In the matter of the Application of Water Right No.  
15-07139 USDA Forest Service  
File No: 92-1094

Dear Mr. Jones:

Enclosed for filing please find the Request for Revocation or  
Cancellation of Water Right regarding the above-entitled matter.

Thank you for your assistance in this regard. If you have any  
questions, please do not hesitate to contact me.

Sincerely,

*F. Randall Kline*  
F. Randall Kline

FRK:ljw

Encl

c: St. John

RECEIVED

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

AUG 29 1995  
Department of Water Resources  
Eastern District Office

IN THE MATTER OF APPLICATION )  
FOR PERMIT NO. 15-07139 IN THE ) REQUEST FOR REVOCATION OR  
NAME OF THE USDA FOREST ) CANCELLATION OF WATER RIGHT  
SERVICE )  
\_\_\_\_\_ )

COMES NOW St. John Irrigating Company, through its attorney of record, F. Randall Kline of F. Randall Kline, Chartered, and request that the permit or license for use of water in the above-referenced matter be revoked or cancelled for failure to comply with the terms and conditions agreed to pursuant to the Order dismissing protest dated October 25, 1993.

The conditions agreed to, to withdraw the protest, was that a maximum quantity of water appropriated will not exceed 0.02 cfs, and will not provide stock water to more that 360 cattle. It is submitted that the amount of water appropriated is in excess of 0.02 cfs and had diverted nearly all of the water from the spring in excess of the 0.02 cfs.

It is agreed that the inlet pipe diverting water from the spring shall not exceed two inches in diameter. A four inch diameter pipe shall discharge from the trough, shall be buried and shall discharge directly into the stream bed of Wrights Creek. It is submitted that the discharge pipe contrary to the agreement is one and one-half inches. The reason why a four inch diameter pipe was requested was to prevent the type of plugging that has occurred resulting in water being discharged out of the trough and running down the area around the trough, which at the time of the protest was a very specific concern.

It is submitted that the use of the one and one-half inch discharge pipe is in contravention of the agreement and conditions of the permit. The entire system shall be

constructed and operated substantially as a whole system and any water not consumed by the livestock be returned to Wright's Creek.

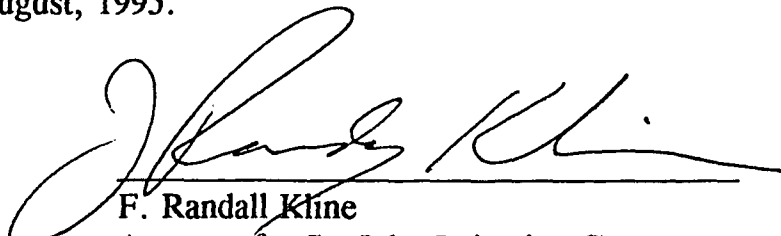
Because of the plugging that has occurred, the terms and conditions of paragraph 5 have been violated.

The system was thereafter modified putting in a float which is also contrary to the agreement reached and with the float in place because of the poorly designed and constructed system water is being released from one of the air vents apparently in excess of the amount being returned to the stream which is washing and eroding away lands and is "irrigating" additional lands in contravention of the agreement and the permit.

In summary, it is submitted that the USDA Forest Service has failed, refused and neglected to comply with the terms and conditions of the permit specifically appropriating more than 0.02 cfs, having less than a four inch diameter discharge pipe from the trough return the water to the stream bed of Wrights Creek, and the system has plugged at the trough thereby spilling water onto the ground adjacent to the trough all in violation of the conditions of the permit. Condition 6 specifically provides that failure to comply with the conditions of this permit and subsequent licenses is grounds for revocation or cancellation of the water right.

It is specifically submitted that the USDA Forest Service has specifically violated the terms and conditions of Application for Permit No. 15-07139. Said violations are significant and material, breaches of the Order Dismissing Protest, therefore, all right or interest of the USDA Forest Service is subject to revocation and cancellation.

DATED this 24 day of August, 1995.

  
F. Randall Kline  
Attorney for St. John Irrigating Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR )  
PERMIT NO. 15-07139 IN THE NAME )  
OF USDA FOREST SERVICE )

ORDER DISMISSING  
PROTEST

A hearing was scheduled regarding a protest filed against application for permit no. 15-07139, filed by the St. John Irrigating Co., on September 28, 1993. At the hearing, St. John Irrigating Co. agreed to withdraw it's protest upon several conditions to which the Forest Service agreed:

1. The maximum quantity of water appropriated will not exceed 0.02 cfs, and will not provide stockwater to more than 360 cattle. The wildlife use described in the application was deleted.

2. The place of use will be limited to the location of the troughs described by the application, and depicted by the attached map.

3. An inlet pipe diverting water from the spring to the water trough shall not exceed two inches in diameter. A four inch diameter pipe shall discharge from the trough, shall be buried and shall discharge directly into the stream bed of Wrights Creek.

4. The period of use shall be limited to June 1 through September 30.

5. The entire system shall be constructed and operated substantially as a full system, with any water not consumed by the livestock being returned to Wrights Creek.

6. Failure to comply with the conditions of this permits or and subsequent license is grounds for revocation or cancellation of the water right.

ORDER

IT IS HEREBY ORDERED that the protests of St. John Irrigating Co. are dismissed subject to the conditions set forth above.

Dated this 25<sup>th</sup> day of October, 1993.



Gary Spackman  
Hearing Officer

CERTIFICATE OF MAILING

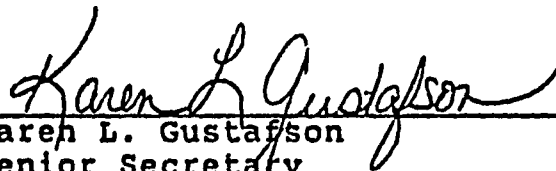
I HEREBY CERTIFY that on this 26th day of October, 1993, I mailed a true and correct copy, postage prepaid, of the foregoing Order Dismissing Protest to the following:

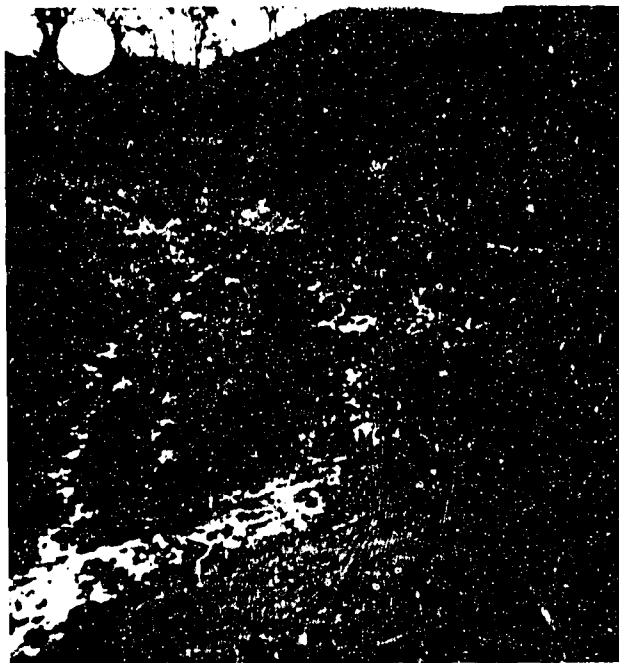
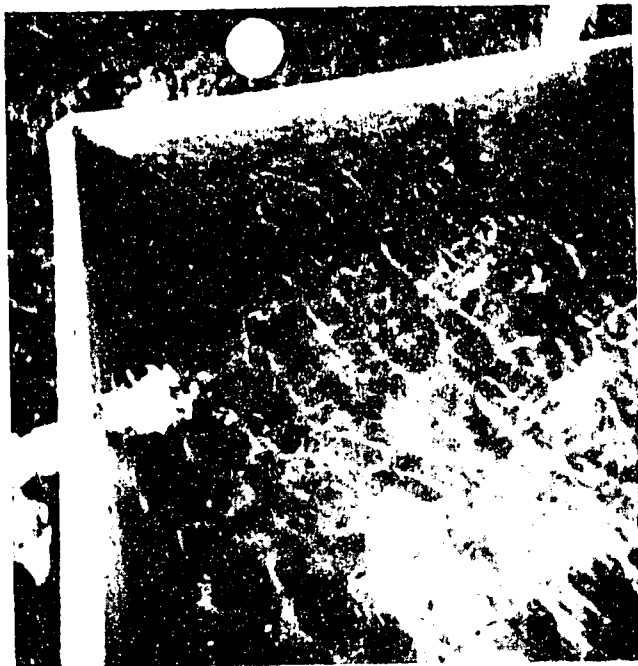
David Deschamps  
c/o E L Scott  
St John Irrigating Co  
Malad, ID 83252

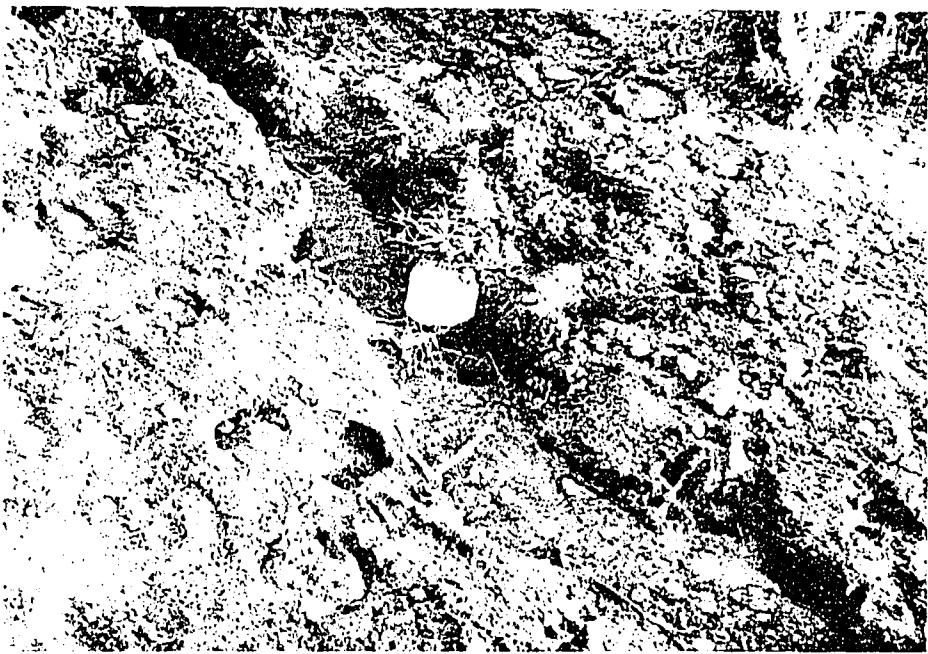
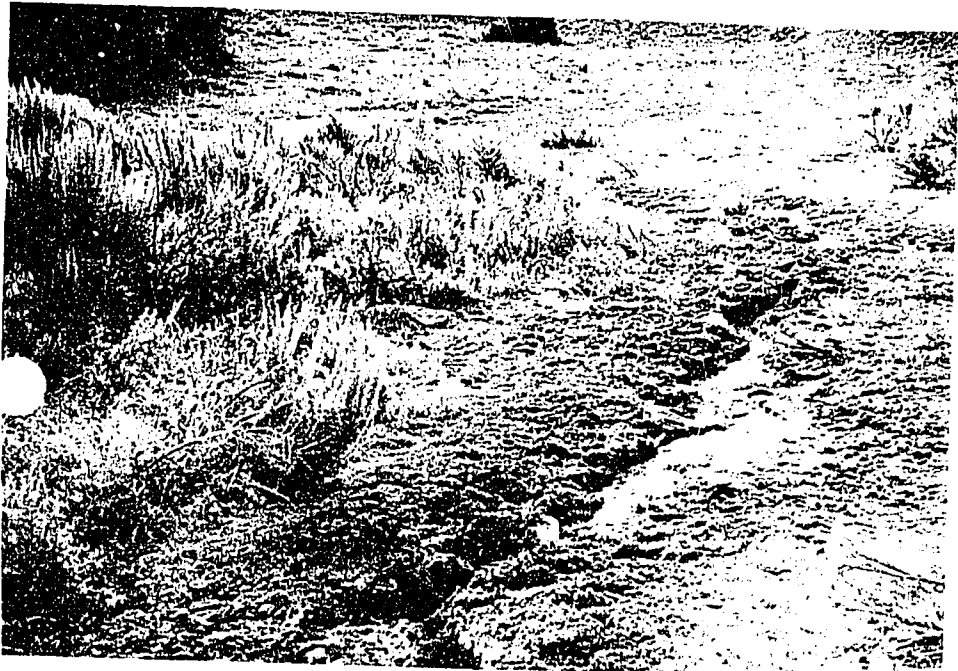
USDA Forest Service  
Caribou National Forest  
250 S 4th Ave  
Pocatello, ID 83201

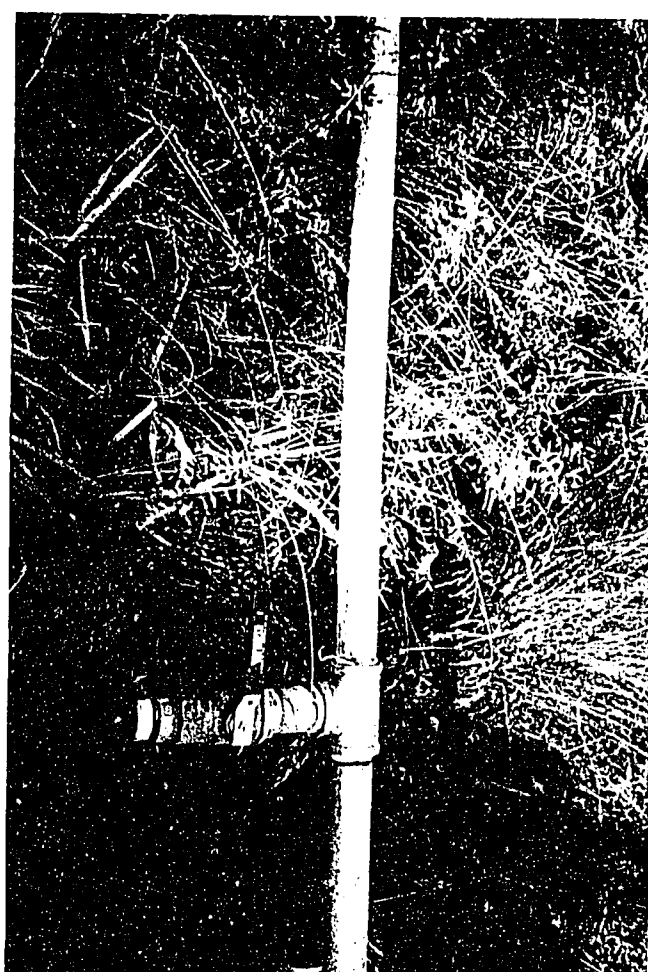
F Randall Kline Chartered  
PO Box 397  
Pocatello, ID 83201

Gary Boyle  
USDA Forest Service  
Federal Bldg  
324 Ogden 25th St  
Ogden, UT 84401

  
\_\_\_\_\_  
Karen L. Gustafson  
Senior Secretary







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

## MEMORANDUM

FROM: H. W. JONES  
TO: GARY SPACKMAN  
RE: PERMIT #15-07139  
DATE: SEPTEMBER 19, 1995

---

On August 25, 1995, I received a letter from Randall Kline, attorney for St. John Irrigating Company. Mr. Kline requested a revocation or cancellation of permit 15-07139 in the name of the USDA, Forest Service. Mr. Kline represented the U.S. Forest Service had violated the terms of the permit by appropriating more than 0.02 cfs and also did not install a 4" overflow pipe. Said overflow pipe was described as 1 1/2" diameter.

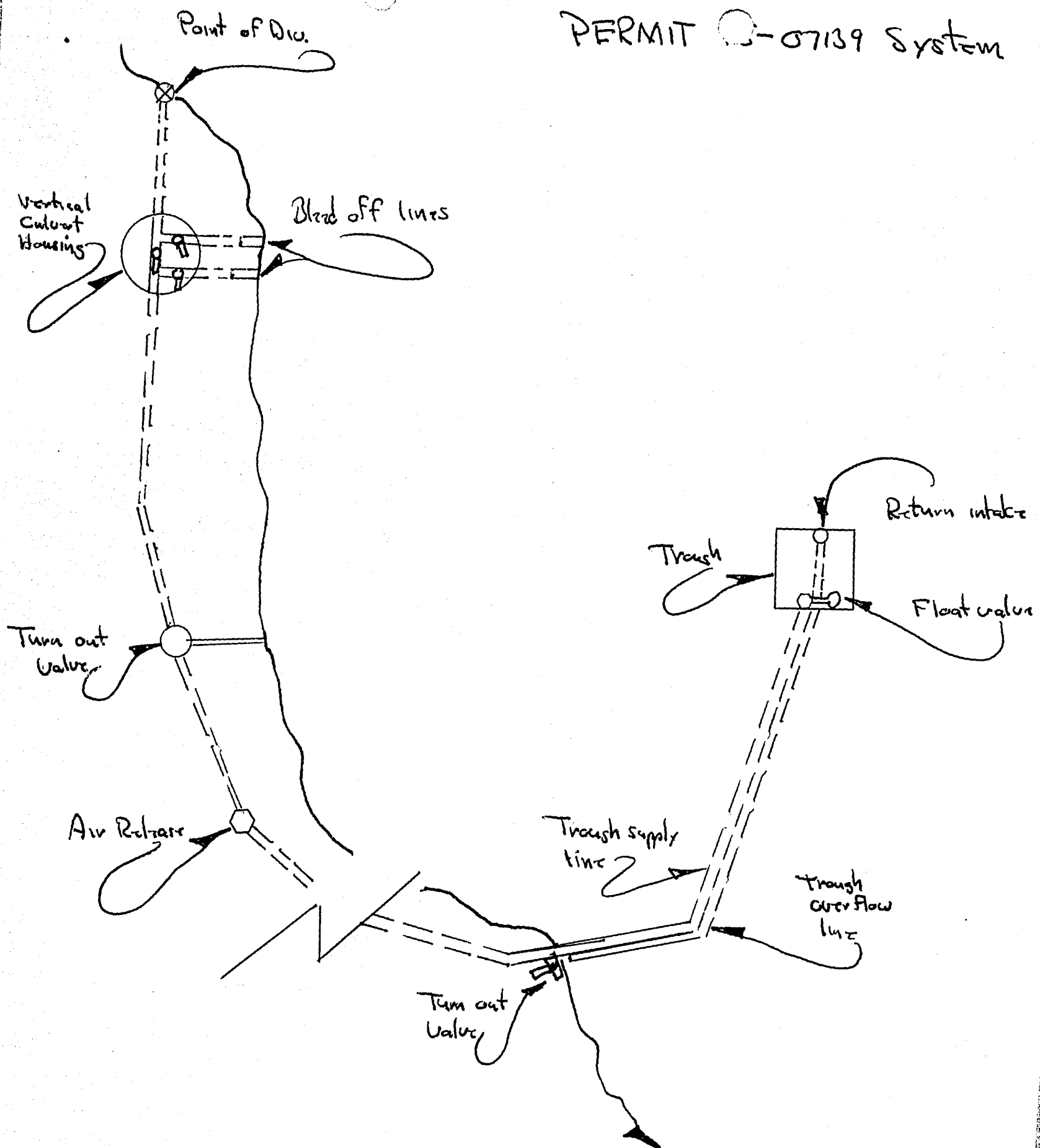
On September 13, 1995, I met with Caribou National Forest District Ranger Jerry Tower and USFS employee, Rick Vanbeber on-site and viewed the water trough setup. The intake line of 1 1/2" diameter is at the spring site and runs to a vertical culvert housing that splits the line three ways. One line is a straight flow to the 1 1/4 miles of 1 1/2" PVC to the water trough. The other two are bleed-off lines that dump directly back to the spring flow. The USFS has adjusted the valving so 9 gpm flows to the trough at peak demand and 3 gpm goes to the pipe and back into the creek.

Along the 1 1/4 mile length of this system are several turn out valves and air release valves. One of the air release valves had been damaged and the USFS believes the resulting spray prompted the complaint letter from St. John Irrigating Company. This air release valve has been replaced.

The water trough has been retrofitted with a float valve instead of just free flowing to an overflow. An overflow pipe (1 1/2" diameter) is present as a precaution. At the time of my inspection no water was flowing into the trough since the cattle had been removed as of September 6 or 7 of 1995. The cattle are allowed to use this area for a total of 2 months each season.

This system appears well built and very controllable at both ends. The float valve is a preferential way of handling inflow since water only comes in on demand and the overflow pipe helps with any malfunctions to direct water back into the creek. I do not feel revocation of this permit is in order. The system as retrofitted is very efficient and serves the same cattle that originally drank from and impacted the stream and riparian zone that supplies St. John Irrigating Company's irrigation water.

PERMIT C-07139 System



Vertical Culvert housing



Blind off lines



Permit 15-07139

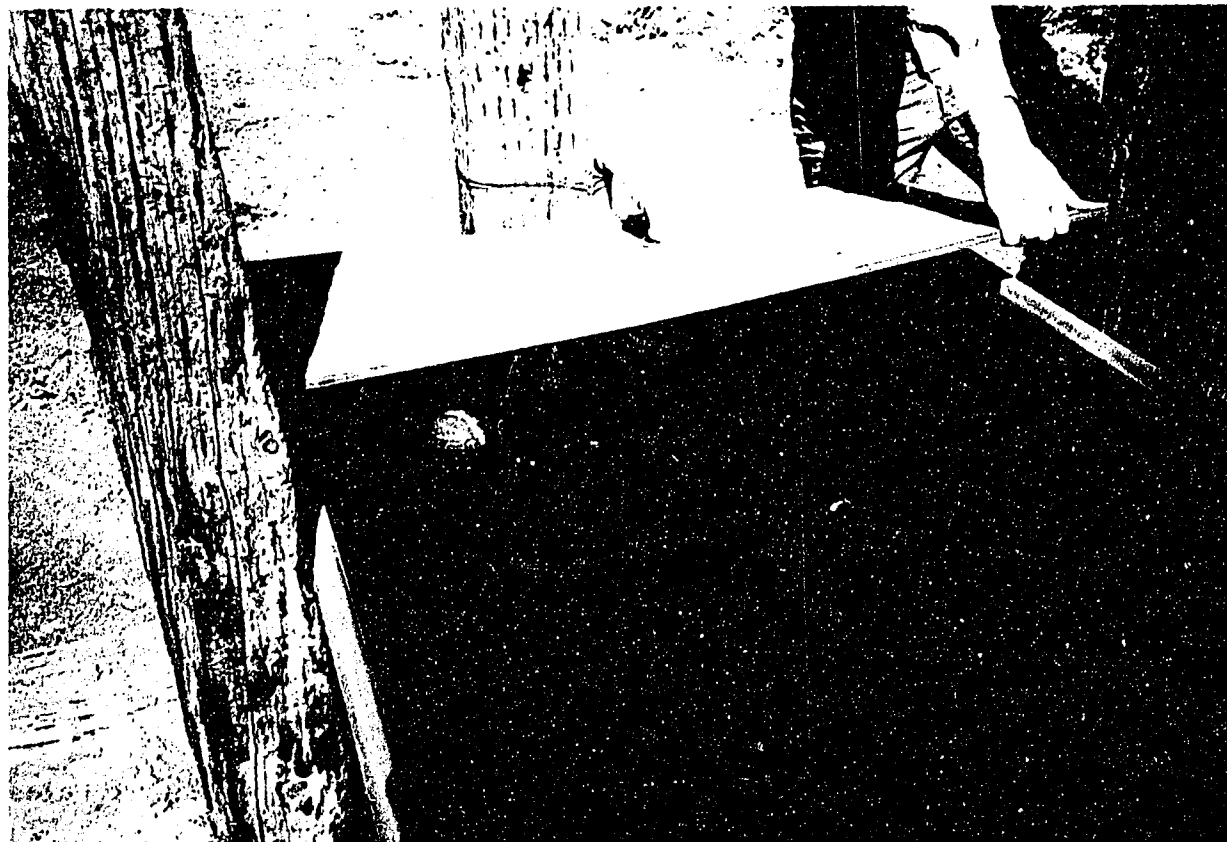
water trough



Permit 15-07139



Air Release  
Valve



Float Valve  
on Trough

Permit 15-07139

***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

September 29, 1995

USDA Forest Service  
Caribou National Forest  
250 S 4th Ave  
Pocatello ID 83201

Re: Permit to appropriate water #15-07139

Dear Sirs:

During the fall of 1993, or early 1994, the Department of Water Resources issued permit number 15-07319 to the Forest Service for maintenance of a water trough diverting water from Wrights Creek in Oneida County. When the application for permit was originally filed, it was protested by the St. John Irrigating Company. The matter was scheduled for a hearing, but at the time of the scheduled hearing, St. John Irrigating Company agreed to withdraw its protest on certain conditions. After the hearing, I issued an order dismissing the protest based on these conditions. A copy of the order is enclosed.

Condition three of the order dismissing protest specifies inlet and outlet pipe sizes. The larger outlet pipe was agreed to by the parties at the hearing. The parties at the hearing also discussed the installation of a float valve system as an alternative method of preventing spill, but the Forest Service thought the float valve system would be too expensive. Enclosed is a letter from Randall Kline which suggests that a float valve shutoff system might be preferable to an overflow pipe.

Because the Forest Service didn't commit to the float valve shutoff, St. John Irrigating wanted a larger pipe to prevent clogging of the outlet pipe with debris, and the Forest Service agreed that the installation of a 4" pipe would not be a significant burden.

Harold Jones of our office visited the point of diversion and place of use with Jerry Tower and Rick Vanbeber on September 13, 1995. He found that the Forest Service had installed a float system to control the inflow into the water trough. The float shut off should prevent water from being diverted into the trough unless there is a malfunction in the float. The installation of the float shut off should diminish the need for an overflow pipe.

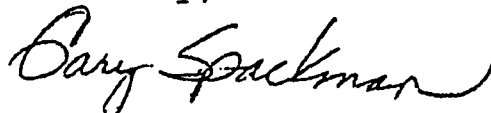
Despite the installation of the float valve, Harold Jones found only a 1 1/2" pipe installed as an overflow pipe. While an

outlet pipe may not be as important with the automatic shutoff valve, the condition of the dismissal of the protest has not been satisfied.

Harold Jones feels the present system is an improvement over any continuous overflow because only water being consumed by the cattle is diverted from Wrights Creek. Nonetheless, because the condition of withdrawal required installation of a 4" diameter outlet pipe, and it was not installed, St. John is entitled to reassert its protest, and present evidence regarding the criteria of Idaho Code Section 42-203A.

This letter is notice that the defects must be remedied or an agreement with St. John Irrigating Company must be in place prior to April 1, 1996. If it is not, further diversion of water will be considered a violation of the conditions of permit, and the Department will ultimately act to remove the permit from its records.

Sincerely,

  
Gary Spackman

enclosure

cc: F. Randall Kline  
Gary Boyle

The Law Offices of  
*F. Randall Kline, Chartered*  
A Professional Corporation

RECEIVED

OCT 04 1995

Department of Water Resources

P.O. Box 397  
427 N. Main, Suite L  
Pocatello, Idaho 83204  
Telephone (208) 232-9007  
Fax (208) 234-4654

October 2, 1995

Gary Spackman  
Department of Water Resources  
1301 North Orchard Street  
Statehouse Mail  
Boise, Idaho 83720-9000

Re: Permit to appropriate water #15-07139

Dear Mr. Spackman:

On behalf of St. John Irrigating Company, we are in receipt of your letter dated September 29, 1995. Please note that St. John Irrigating Company is not only concerned that the Forest Service unilaterally ignored the agreement reached between the parties, but is particularly concerned with the wasting of water by the Forest Service.

Please note that the attached Exhibit "A" shows water being spilled from an air vent (after installation of the float valve [8-3-95]). Exhibit "B" shows water being spilled from the trough prior to installation of the float valve (water being spilled for most of July). This clearly demonstrates, by photograph, that the initial system, as designed, failed and dumped water and the float valve system, because of the design and/or installation deficiencies, is also dumping and spilling water.

It further appears that St. John Irrigating Company is forced to act as "enforcement officers" because of the Forest Service's failure and neglect of monitoring of its own system.

If you will recall, St. John Irrigating Company had particular concerns that the Forest Service would "irrigate" range lands if they installed a poorly designed or installed system. So far, both of the systems, the return pipe and the float valve, have resulted in waters "flood irrigating" range land in direct contravention of the agreement of the parties.

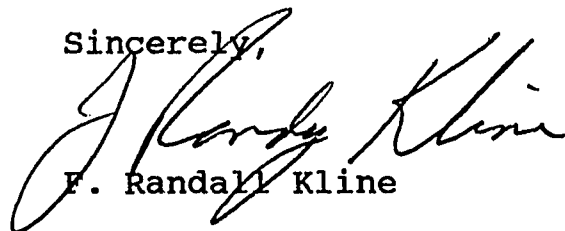
Until the United States Forest Service can demonstrate conclusively that it can 1) comply with the agreements reached between it and St. John Irrigating Company and 2) design and install a system that works without wasting St. John Irrigating Company's appropriated water, then this protest shall remain.

October 2, 1995  
Page 2

Additionally, it may be of some benefit if myself or another representative from St. John Irrigating Company also meet with Harold Jones and Forest Service representatives to do an onsite review to point out to the Forest Service where they are, in fact, continuing to waste water.

Should you have any comments or questions regarding this, please do not hesitate to contact me.

Sincerely,

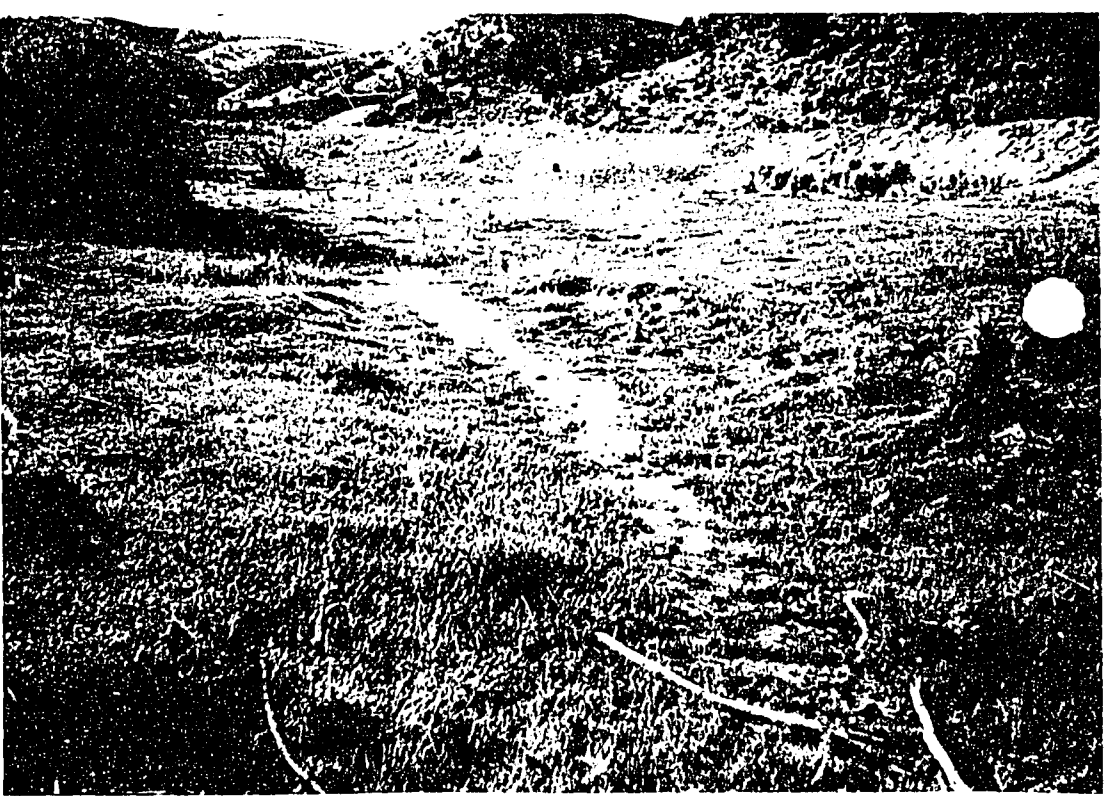
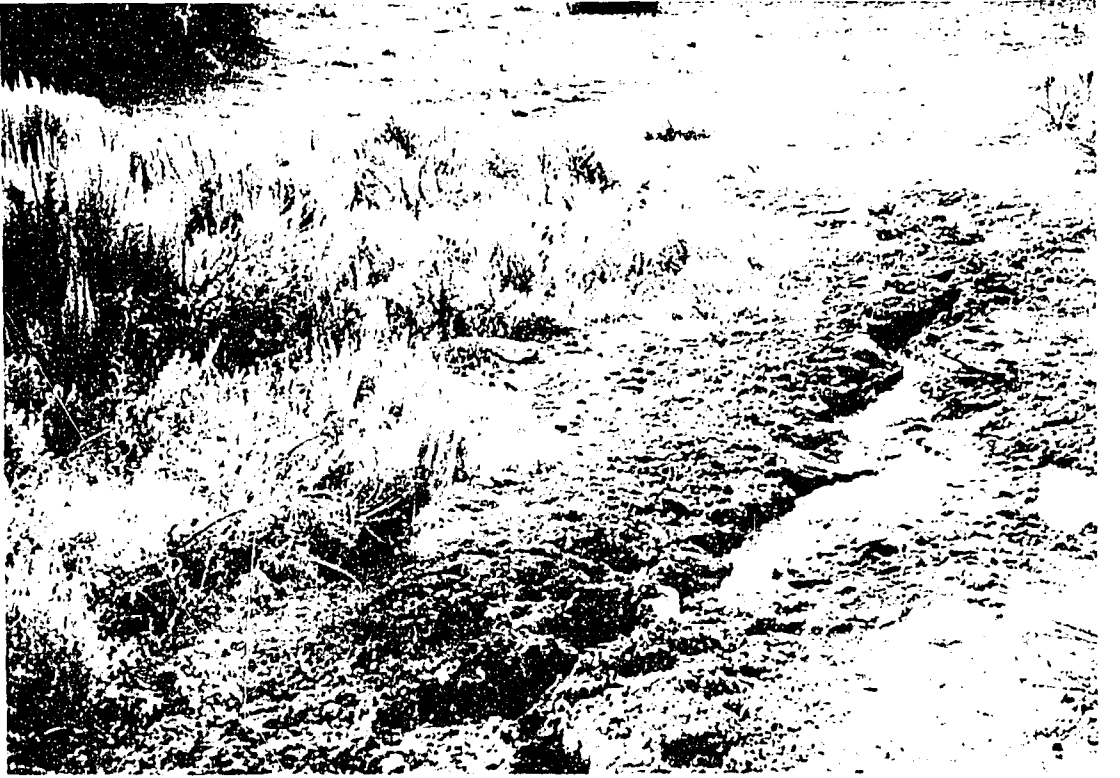
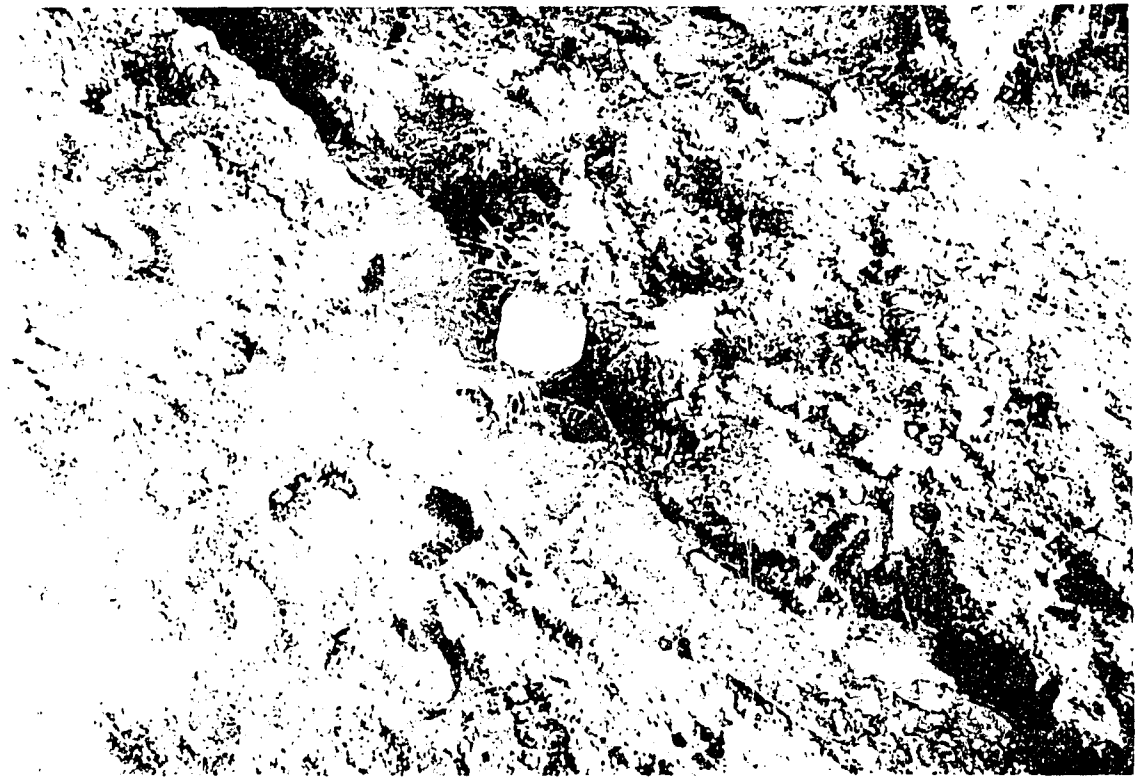


F. Randall Kline

FRK:ljw

Encl

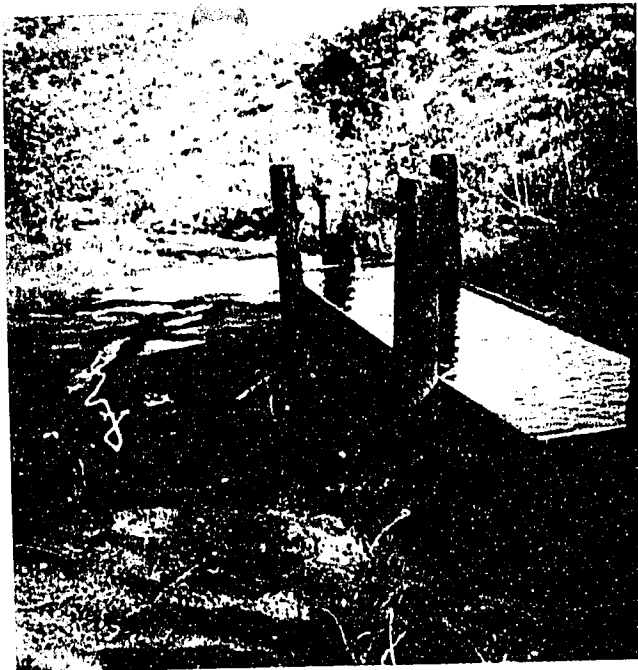
c: St. John Irrigating Company  
Dale N. Bosworth, Regional Forester



Ex. A



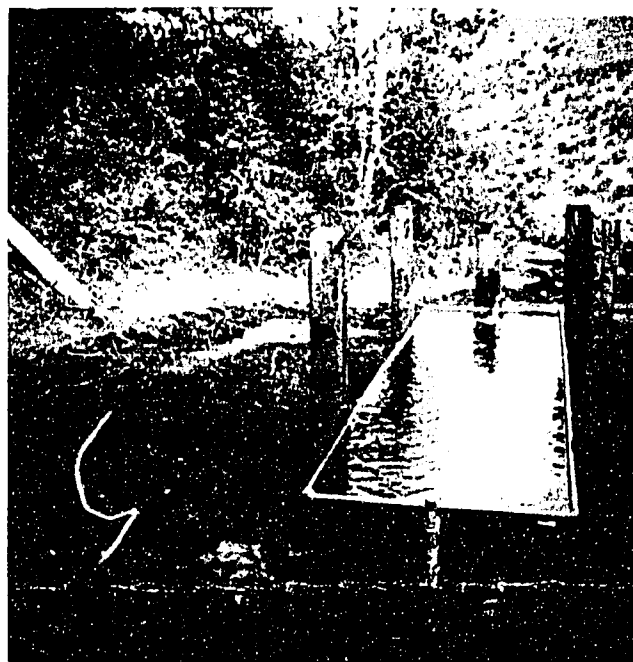
7-1-95



7-1-95



7-20-95



7-20-95

Ex. B

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

November 8, 1995

US DEPARTMENT OF AGRICULTURE  
FOREST SERVICE  
CARIBOU NATIONAL FOREST  
250 S 4TH AVE STE 282  
POCATELLO ID 83201

LAPSE NOTICE

RE: PERMIT NO. 15-07139

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 August 31, 1995. 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.

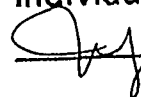
Enclosed again for your use are a proof of beneficial use form and a request for extension of time form. Please note that only one extension of time can be granted unless the project has not been completed because of lack of a necessary approval by a government agency or by litigation which may bring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

L. GLEN SAXTON  
Chief, Water Allocation Bureau

Enclosures

**CERTIFICATION OF MAILING**

I hereby certify that on 11-9-95  
~~a copy~~/an original of this document was  
deposited in the United States mail,  
postage prepaid addressed to the  
individual(s) named above.





United States  
Department of  
Agriculture

Forest  
Service

Pocatello  
Ranger District  
Suite 187

Caribou National Forest  
250 South Fourth Avenue  
Pocatello, ID 83201

File Code: 2540

Date: November 6, 1995

Gary Spackman  
Department of Water Resources  
1301 North Orchard Street, Statehouse Mail  
Boise, Idaho 83720-9000

RECEIVED

NOV 09 1995

Department of Water Resources

Re: Permit to appropriate water #15-07139

Dear Gary:

As of October 30, 1995, all conditions of the dismissal of the protest on the referenced permit have been satisfied. I have also enclosed for you photographic documentation to this effect, so your records may show this last item to have been remedied.

Additionally, by notice of this letter, I feel it helpful to inform all parties associated with this matter, that effective immediately, the ongoing operation and maintenance of this facility will now be assigned to the permittee association authorized to graze this portion of the National Forest. Forest Service personnel will continue to periodically monitor the use of said facility, as is the case with most all government owned range developments under permit for use by grazing permittees. The St. Johns Irrigation Company may now find it more efficient to deal internally in resolving their concerns with this development in the future.

As to the matter of "wasting" or irrigating the Forest with water, I am providing a chronology of events as we know them to have occurred this past year, so that a proper perspective may be shared in this area of expressed concern. As you can see from this enclosure, there appears to be a period of time in the month of August when a defective air release valve resulted in some water leaking from the pipeline onto the ground and back into Wrights creek, as this leak was approximately 30 yards and upslope from the natural, open-air drainage. Obviously, any loss to the system or from volumes that would otherwise drain down the creek was negligible, insignificant, and served only as a focus point for some unwarranted criticism.

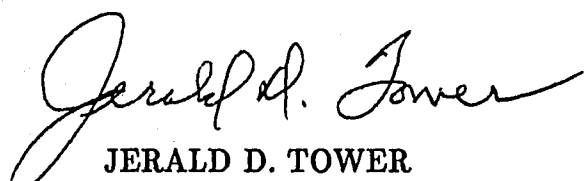
This broken valve appeared to be caused by cattle disturbance, and should have been corrected earlier by the permittees, had they been notified and understood it was expected of them. The press of business in other priority work relating to the Snake River Basin Water Rights Adjudication is somewhat responsible for why this was not picked up on and remedied earlier than it was. In any event, I consider the matter to be closed with no real loss or diminishment of purported water rights held by St. Johns Water Co., as the volume of leakage was well within that appropriated for use by this system on National Forest administered lands.



Caring for the Land and Serving People

I enjoyed my time in the field with Harold Jones and the inspection service he provided. Thank you both for your efforts in helping to get this matter resolved.

Sincerely,

  
JERALD D. TOWER  
District Forest Ranger

cc: Lee Leffert  
cc: F. Randall Kline  
cc: Intermountain Regional Office

Enclosures: (2)

The Law Offices of  
*F. Randall Kline, Chartered*  
A Professional Corporation

RECEIVED  
NOV 13 1995

Department of Water Resources

P.O. Box 397  
427 N. Main, Suite L  
Pocatello, Idaho 83204  
Telephone (208) 232-9007  
Fax (208) 234-4654

November 10, 1995

Gary Spackman  
Department of Water Resources  
1301 North Orchard Street, Statehouse Mail  
Boise, Idaho 83720-9000

Re: Permit to appropriate water #15-01739

Dear Mr. Spackman:

In response to the Forest Service letter of November 6, 1995, there are a couple of items which need to be clarified. Apparently, the system, as it was installed, shows that the final report on completion of the new pipeline has a date of 6/20/95 and was inspected by Rick VanBebber on 6/26/95. Photographs were taken by representatives of the St. John Irrigating Company on 7/1/95 which showed water spilling out over the top of the trough and running down the road. That apparently continued through 7/20/95 which shows even a bigger mud hole around the trough and that water continued to run unabated down the installation road way.

The photographs of 8/3/95 demonstrate that water was, in fact, coming from a defective air release valve and given the amount of erosion, apparently had been flowing for some time. The assertion by Mr. Tower that the water was flowing back into Wright's Creek is absolutely inconsistent with what I physically observed on 8/3/95. The water was, in fact, pooling in a couple of basins adjacent to the riparian area and was serving to "flood irrigate" those areas. This was precisely the type of water wasting that the St. John Irrigating Company was concerned about.

Additionally, the assertions that the "loss was negligible, insignificant and served only as a focus point for some unwarranted [sic] criticism" is also inaccurate. From the amount of flow that I physically observed, there was more water flowing out of the air release valve, in significant degree, than was discharged back into the stream even though the trough was full.

Additionally, with regard to the assertion that St. John Irrigating Company deal internally with some unknown permittee is also inconsistent with the agreement reached with the Forest Service in St. John's withdrawal of its protest.

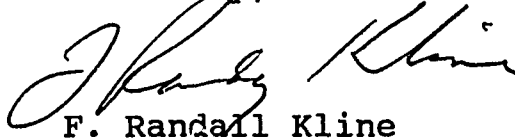
November 10, 1995  
Page 2

Further, St. John Irrigating Company disputes that there was no real loss for diminishment of "purported water rights" held by St. John Irrigating Company. It should be stated clearly that St. John Irrigating Company, by Court decree, claims virtually all water of the Little Malad River drainage above Daniel's Reservoir, not a "purported right". St. John Irrigating Company also disputes that the volume of the recurrent leakages was well within that appropriated by the National Forest Service.

Further, from the photographs submitted, it would appear that the black pipe which is in the watering trough is four inches, but that the white PVC pipe, which I shall assume is the exit pipe, appears to be two inch PVC. Again, the agreement that was reached is that the entire pipe would be of a four inch diameter.

In closing, suffice it to say that St. John Irrigating Company is simply looking for the Forest Service to live up to the obligation that it contracted for and agreed to.

Sincerely,



F. Randall Kline

FRK:ljw

c: Dave Deschamps  
Jerald D. Tower



**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

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

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

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

December 14, 1995

F Randall Kline  
Attorney at Law  
PO Box 397  
Pocatello ID 83204

Jerald J Tower  
District Forest Ranger  
Caribou National Forest  
250 S Fourth Ave.  
Pocatello ID 83201

Re: Permit to appropriate water no. 15-07139

Gentlemen:

I read Jerald Towers letter dated November 6, 1995, and Randall Kline's response dated November 10, 1995. I also reviewed the order dismissing protest which states that "[a] 4 inch diameter pipe shall discharge from the trough, shall be buried and shall discharge directly into the stream bed of Wrights Creek."

Copies of photographs sent to me depict installation of a 4 inch diameter inverted elbow which will act as an outlet once the water level in the trough reaches the elevation of the inside curve of the elbow. I assume the elbow is set at an elevation higher than the float valve system. The outlet pipe should be a backup if the float valve mechanism does not work correctly. After the elbow and a short, straight pipe extension, the diameter of the pipe is again reduced to 1 1/2 inches. Condition four could be interpreted to only require a 4 inch diameter outlet, and not a 4 inch pipe installed for the entire length. I think this interpretation is contrary to my understanding of the condition at the time the agreement was reached, however. I understood that a 4 inch line would be installed for the entire length of the overflow.

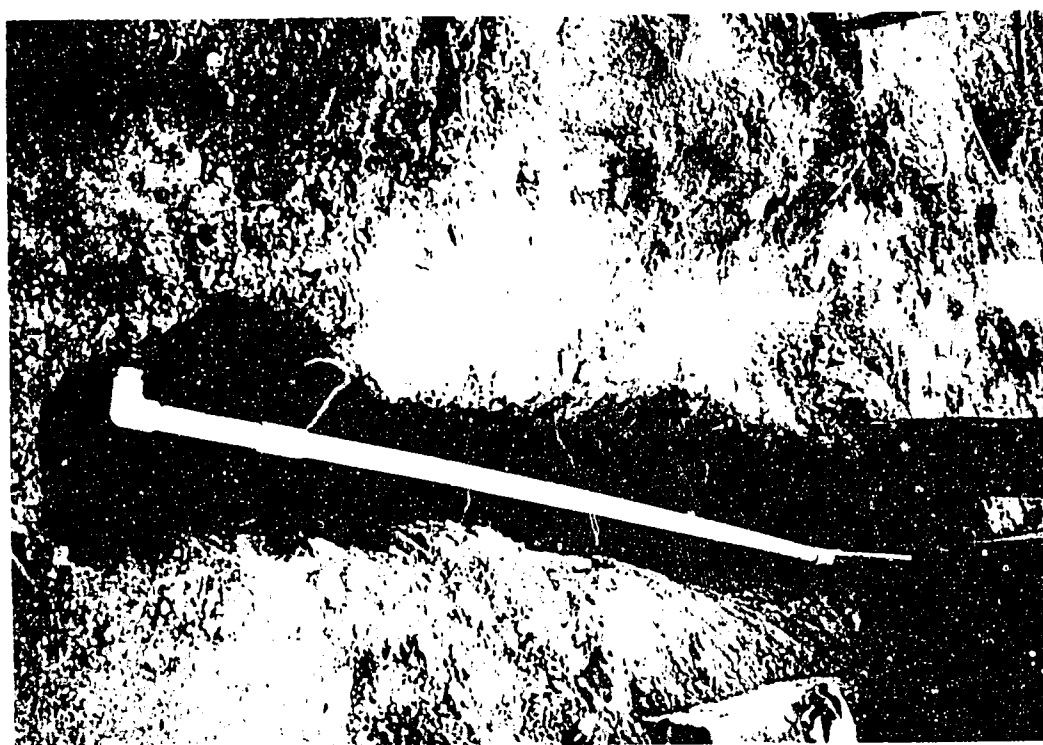
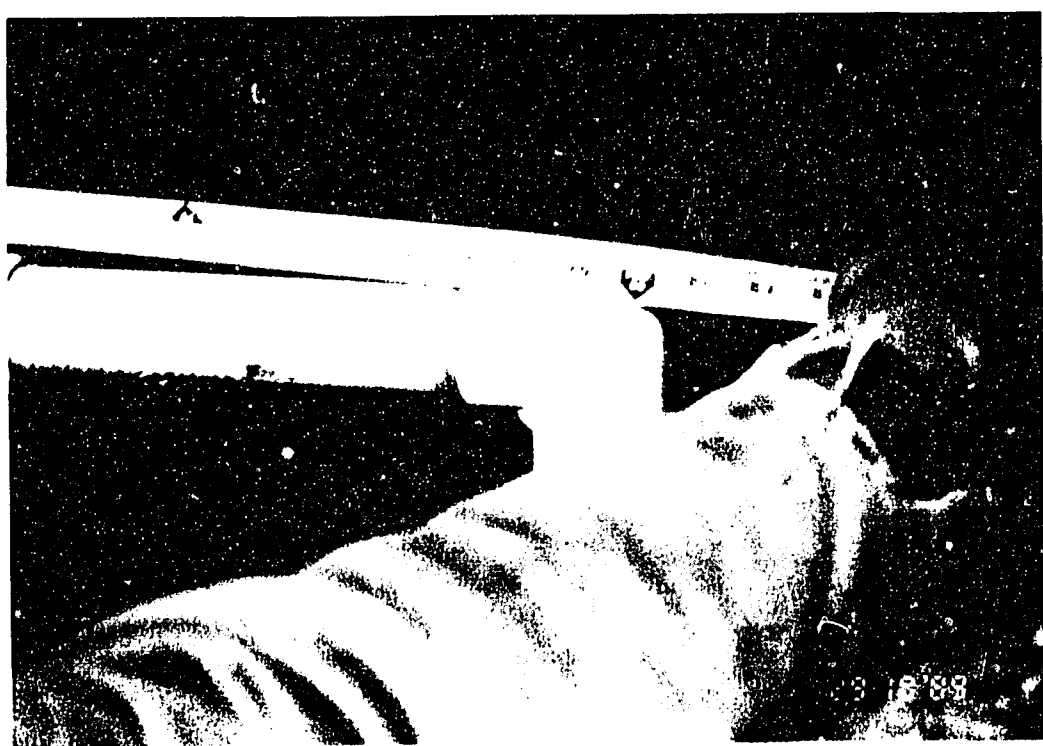
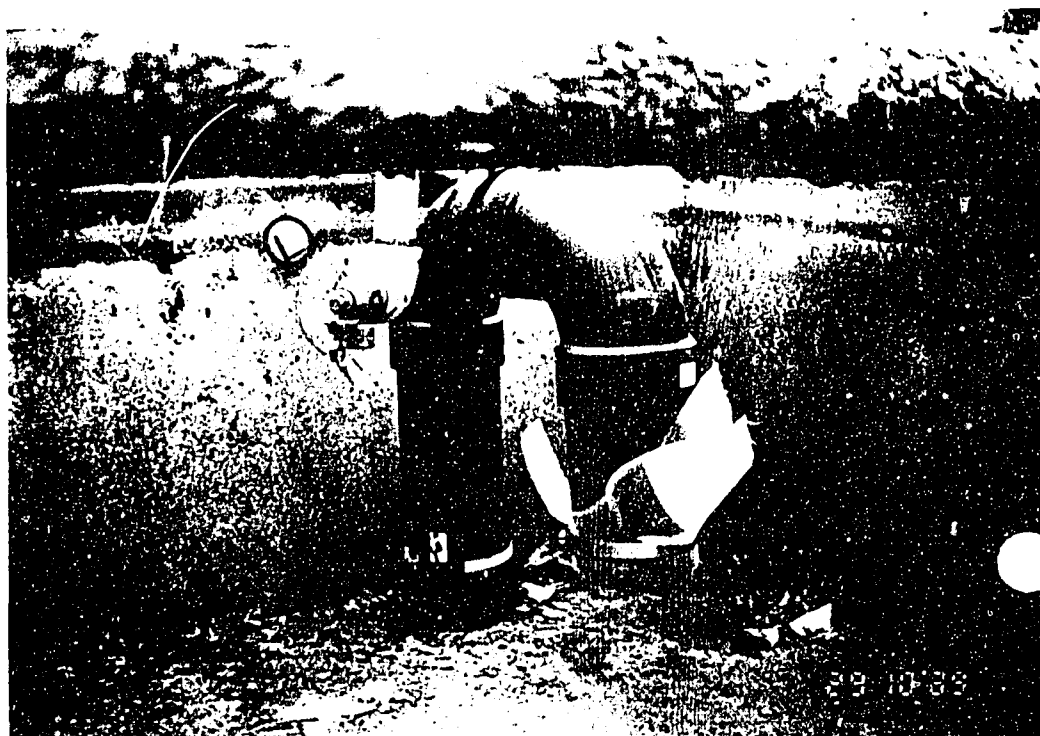
Nonetheless, I propose that the Department impose an additional condition at the time of licensing in lieu of revoking the permit which states that if the overflow ever fails to function as a result of clogging caused by the 1 1/2 inch pipe, that the Forest Service must install a 4 inch pipe for the entire length of the overflow back to Wrights Creek. I wonder whether both parties would be satisfied with this condition.

Please respond to my proposal as soon as possible. If it is unacceptable, the Department may have to act otherwise. I think it is in the best interest of both parties to find some solution, however.

As a footnote, on November 8, 1995, permit 15-07139 lapsed. A lapse notice was sent to the Forest Service. The permit can be reinstated upon submittal of proof of beneficial use, but the priority date will be advanced.

Sincerely,

  
Gary Spackman



-----  
Message:

6/7/95 - New pipeline one-half completed  
6/14/95 - New pipeline completely laid  
6/20/95 - Received final report on completion of new pipeline  
6/26/95 - R.VanBebber inspected completed project, everything OK  
7/19/95 - R.V. and Ken Timothy inspected new pipeline, overflow  
partially plugged but everything else was working OK  
7/25/95 - Brent Clark installed float valve on new trough, no leaks  
8/3/95 - St. John Irrigation Co. photos of broken air release valve  
9/6/95 - Jerry Tower fixed air release valve  
9/13/95 - R.V., J.T. and Harold Jones (IDWR) meeting at Wrights Creek  
9/26/95 - Brent Clark drained system and diverted all water to stream  
10/30/95 - R.V. and Ken Timothy installed 4 inch drain on trough as  
requested by J.T.

-----X-----

***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

January 11, 1996

US DEPT OF AGRICULTURE  
CARIBOU NATIONAL FOREST  
250 S 4TH AVE STE 282  
POCATELLO ID 83201

PROOF ACKNOWLEDGEMENT LETTER

RE: PERMIT NO. 15-07139

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit.

Enclosed is an order reinstating your permit since proof of beneficial use was received after the proof due date. Please note that the priority date has been advanced to September 24, 1992.

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 in Idaho Falls at (208) 525-7161.

Sincerely,

JULIE L. YARBROUGH  
Senior Secretary

Enclosure

c: IDWR - Region

~ Celebrating Our Centennial Year of Service to Idaho 1895-1995 ~

JUL 21 1998

State of Idaho  
Department of Water Resources

APPLICATION FOR AMENDMENT  
(For Licensing Purposes)  
WATER RIGHT NO. 15-07139

Date of Priority: September 24, 1992 Maximum Diversion Rate: 0.02 CFS  
Maximum Diversion Volume: 4.8 AF

Comes now FOREST SERVICE  
CARIBOU NATIONAL FOREST  
250 S 4TH AVE STE 282  
POCATELLO ID 83201

US DEPARTMENT OF AGRICULTURE

and represents to the Director of the

Idaho Department of Water Resources:

That he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho No. 15-07139, and requests that the permit be changed as follows:

Source: SPRING tributary to WRIGHTS CREEK

| BENEFICIAL USE | PERIOD OF USE  | RATE OF DIVERSION | ANNUAL VOLUME |
|----------------|----------------|-------------------|---------------|
| STOCKWATER     | 06/01 to 09/30 | 0.02 CFS          | 4.8 AF        |

LOCATION OF POINT(S) OF DIVERSION: SWNWSW, Sec. 25, Township 11S, Range 35E  
ONEIDA County

PLACE OF USE: STOCKWATER  
TWN RGE SEC  
11S 35E 26 SESW

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

Signed at Pocatello, Idaho, this 27<sup>TH</sup> day of July, 1998.

  
(Signature)

PAGE 2

State of Idaho  
Department of Water Resources

**APPLICATION FOR AMENDMENT**  
(For Licensing Purposes)  
WATER RIGHT NO. 15-07139

\*\*\*\*\*

FOR DEPARTMENT USE ONLY

Preliminary check by SNK Fee = 50.00 Received by HWT # 5024306 Date 7-28-98

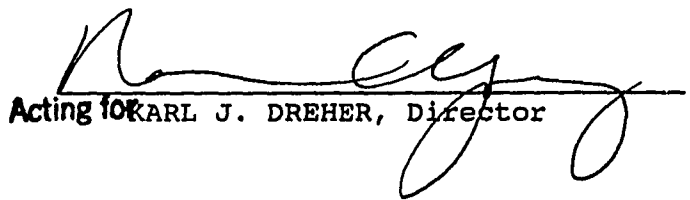
ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, Karl J. Dreher, of the Department of Water Resources hereby approve the  
above Application for Amendment for Permit No. 15-07139 with the following;

**CONDITIONS OF APPROVAL AND REMARKS**

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license shall be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. This right, when considered with all other rights common to the same grazing allotment, is limited to the quantity of water beneficially used by the number of stock within the allotment.
6. Stockwater use is for a maximum of 360 cattle.
7. The entire system shall be operated as a full system, with any water not consumed by the livestock being returned to Wrights Creek.

Witness my hand this 10<sup>TH</sup> day of August, 1998.

  
Acting for KARL J. DREHER, Director

State of Idaho  
Department of Water Resources  
**Water Right License**  
WATER RIGHT NO. 15-07139

Priority: September 24, 1992

Maximum Diversion Rate:

0.02 CFS

Maximum Diversion Volume:

4.8 AF

This is to certify, that US DEPARTMENT OF AGRICULTURE  
FOREST SERVICE  
CARIBOU NATIONAL FOREST  
250 S 4TH AVE STE 282  
POCATELLO ID 83201

has complied with the terms and conditions  
of the permit, issued pursuant to Application for Permit dated August 20, 1992; and  
has submitted Proof of Beneficial Use on December 6, 1995. An examination indicates  
that the works have a diversion capacity of 0.190 cfs of water from:

SPRING tributary to WRIGHTS CREEK

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            | 06/01 to 09/30       | 0.02 CFS                 | 4.8 AF               |

LOCATION OF POINT(S) OF DIVERSION: SWNWSW , Sec. 25, Township 11S, Range 35E  
ONEIDA County

PLACE OF USE: STOCKWATER  
TWN RGE SEC  
11S 35E 26 SESW

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
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3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license shall be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. This right, when considered with all other rights common to the same grazing allotment, is limited to the quantity of water beneficially used by the number of stock within the allotment.

State of Idaho  
Department of Water Resources

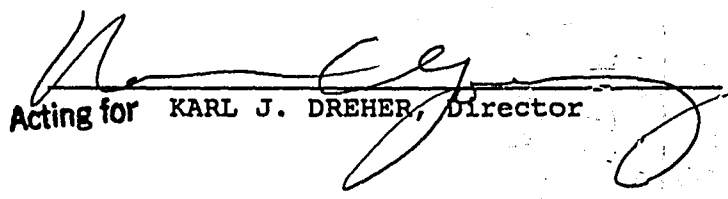
# Water Right License

WATER RIGHT NO. 15-07139

CONDITIONS OF APPROVAL AND REMARKS

6. Stockwater use is for a maximum of 360 cattle.
7. The entire system shall be operated as a full system, with any water not consumed by the livestock being returned to Wrights Creek.

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 16<sup>TH</sup>  
day of August, 19 78

  
Acting for KARL J. DREHER, Director

-----  
Message:

6/7/95 - New pipeline one-half completed  
6/14/95 - New pipeline completely laid  
6/20/95 - Received final report on completion of new pipeline  
6/26/95 - R.VanBebber inspected completed project, everything OK  
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9/26/95 - Brent Clark drained system and diverted all water to stream  
10/30/95 - R.V. and Ken Timothy installed 4 inch drain on trough as  
requested by J.T.

-----X-----



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

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

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

December 14, 1995

F Randall Kline  
Attorney at Law  
PO Box 397  
Pocatello ID 83204

Jerald J Tower  
District Forest Ranger  
Caribou National Forest  
250 S Fourth Ave.  
Pocatello ID 83201

Re: Permit to appropriate water no. 15-07139

Gentlemen:

I read Jerald Towers letter dated November 6, 1995, and Randall Kline's response dated November 10, 1995. I also reviewed the order dismissing protest which states that "[a] 4 inch diameter pipe shall discharge from the trough, shall be buried and shall discharge directly into the stream bed of Wrights Creek."

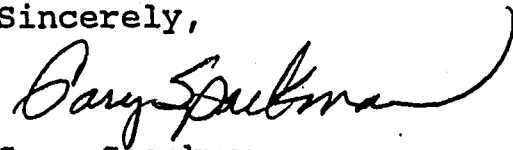
Copies of photographs sent to me depict installation of a 4 inch diameter inverted elbow which will act as an outlet once the water level in the trough reaches the elevation of the inside curve of the elbow. I assume the elbow is set at an elevation higher than the float valve system. The outlet pipe should be a backup if the float valve mechanism does not work correctly. After the elbow and a short, straight pipe extension, the diameter of the pipe is again reduced to 1 1/2 inches. Condition four could be interpreted to only require a 4 inch diameter outlet, and not a 4 inch pipe installed for the entire length. I think this interpretation is contrary to my understanding of the condition at the time the agreement was reached, however. I understood that a 4 inch line would be installed for the entire length of the overflow.

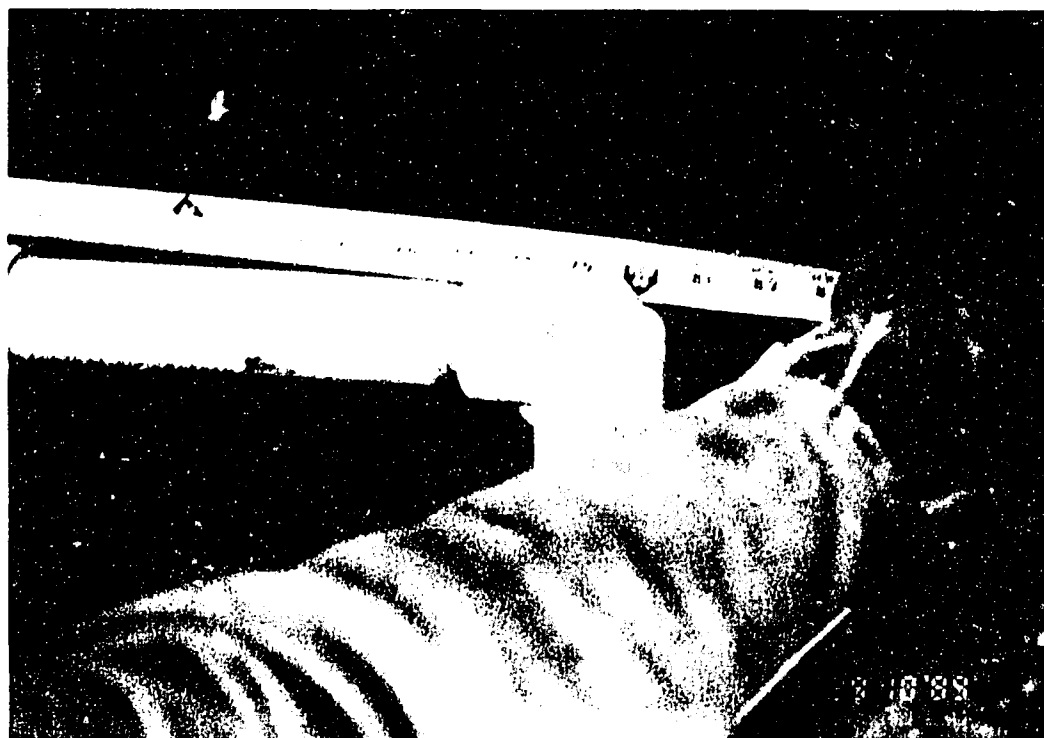
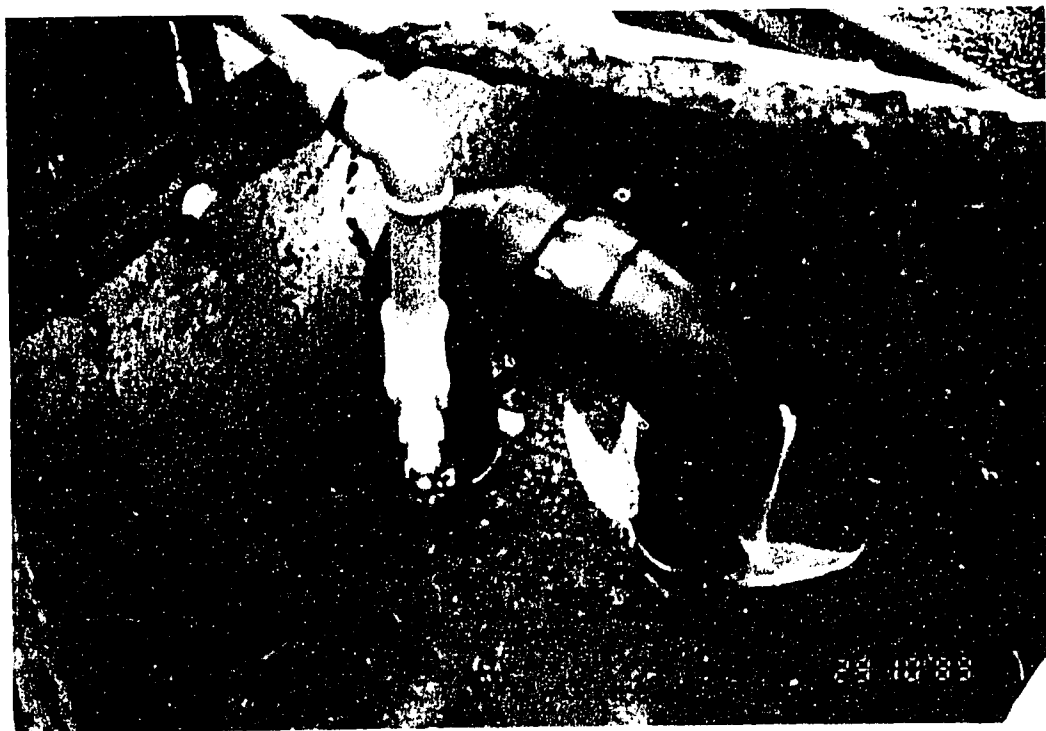
Nonetheless, I propose that the Department impose an additional condition at the time of licensing in lieu of revoking the permit which states that if the overflow ever fails to function as a result of clogging caused by the 1 1/2 inch pipe, that the Forest Service must install a 4 inch pipe for the entire length of the overflow back to Wrights Creek. I wonder whether both parties would be satisfied with this condition.

Please respond to my proposal as soon as possible. If it is unacceptable, the Department may have to act otherwise. I think it is in the best interest of both parties to find some solution, however.

As a footnote, on November 8, 1995, permit 15-07139 lapsed. A lapse notice was sent to the Forest Service. The permit can be reinstated upon submittal of proof of beneficial use, but the priority date will be advanced.

Sincerely,

  
Gary Spackman



The Law Offices of  
*F. Randall Kline, Chartered*  
A Professional Corporation

RECEIVED

FEB 02 1996

Department of Water Resources  
P.O. Box 397  
427 N. Main, Suite L  
Pocatello, Idaho 83204  
Telephone (208) 232-9007  
Fax (208) 234-4654

January 31, 1996

Gary Spackman  
Department of Water Resources  
1301 North Orchard Street, Statehouse Mail  
Boise, Idaho 83720-9000

Re: USFS Permit #15-01739<sup>7139</sup>

Dear Mr. Spackman:

Thank you for your letter of December 14, 1995. I concur with your understanding that the withdrawal of the protest by St. John Irrigating Company was with the understanding that a four inch line would be installed the entire length of the overflow back to Wrights Creek. If you will recall, the discussion was very clear that St. John was concerned that plugging may occur, not only at the outlet, but at some other distance over the length of the pipe. For those reasons, the representatives from St. John seem to be quite clear in requesting that the four inch diameter pipe, which was to serve as the outlet would run the entire course and distance back to Wrights Creek.

The concern of St. John proves to be correct as evidenced by the letter of Dale N. Bosworth, Regional Forester, dated July 21, 1995. At the bottom of the first paragraph the language provided is as follows:

"It was noted that there was an obstruction somewhere in the outlet pipe as water was not exiting the pipe as would be expected."

St. John Irrigating Company is concerned that, although there has been an installation of a four inch elbow, it will not and has not resolved the plugging problem further down the line.

Additionally, it is unknown whether the Forest Service intends to reconnect the float valve assembly which, as evidenced by the pictures accompanying the November 6, 1995 Forest Service letter, show that it has been disassembled.

January 31, 1996  
Page 2

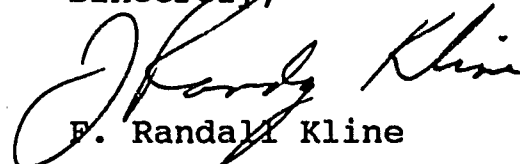
In any event, St. John Irrigating Company believes that the agreement should be complied with which necessitates a four inch pipe serving as the overflow pipe returning to Wrights Creek. There was no agreement that there would be a four inch pipe running three feet and then down sized to an inch and a half pipe which has already failed. If the Forest Service wishes to install system redundancy by reinstalling the float valve, St. John would have no objection to that.

Additionally, while the Forest Service may wish to assign responsibility for maintenance to the permittees, the contact agreement and application remains with the Forest Service and St. John will ultimately look to the Forest Service to 1) comply with the agreement, and 2) maintain the system to prevent additional irrigation of adjacent lands.

Until such time as the Forest Service can conclusively demonstrate that it can install and maintain a system that does not waste water and build it in compliance with the agreement reached, St. John will continue to protest the Forest Service application.

Thank you for your courtesies in this matter. Should you have any comments or questions, please do not hesitate to contact me.

Sincerely,

  
F. Randall Kline

FRK:ljw

Encl

c: Dave Deschamps  
Jess Harrison



United States  
Department of  
Agriculture

Forest  
Service

Intermountain  
Region

324 25th Street  
Ogden, UT 84401-2310

File Code: 2540-1

Date: JUL 21 1995

Mr. F. Randall Kline  
P.O. Box 397  
Pocatello, ID 83204

Dear Mr. Kline:

In response to your letter of July 10, the trough in question was inspected by the Forest at 1600 hours on July 19. The overflow line has been installed with a closed system returning to the stream. The overflow on the trough has a screen and it was partially plugged, as stated in your letter, and a small amount of water was in fact flowing over the edge of the trough. The screen was cleaned and the outlet at the stream's edge was inspected. It was noted that there was an obstruction somewhere in the outlet pipe, as water was not exiting the pipe as would be expected.

In order to comply with the conditions of the permit, the Forest is going to install a float valve in the inlet end of the tank. This will eliminate the problem with the outlet pipe. The float valve will simply not allow water to enter the tank when it is full, allowing the water to flow unobstructed in Wrights Creek, satisfying the condition of the permit. This valve will be installed prior to July 25.

Please note that this improvement is property of the United States, and any attempt to modify or dismantle the structure without the consent of the United States is a violation of Federal law and will be dealt with accordingly.

Additionally, the tank is located in an area restricted to vehicle use except on designated routes, as identified in the Caribou National Forest's Travel Map. A vehicle was noted in the pictures you presented in your letter that is in violation of this Special Order signed by the Forest Supervisor. Any subsequent inspections of this facility should be conducted on foot or by horseback.

Sincerely,

  
For DALE N. BOSWORTH  
Regional Forester



Caring for the Land and Serving People

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FS-6200-28b (12/93)



United States  
Department of  
Agriculture

Forest  
Service

Caribou  
National  
Forest

Malad Ranger District  
75 South 140 East  
Malad ID 83252

File Code: 2250

Date: March 26, 1996

ATTN GARY SPACKMAN  
ST OF ID DEPT OF WATER RESOURCES  
1301 N ORCHARD ST  
STATEHOUSE MAIL  
BOISE ID 83720-9000

RECEIVED

MAR 28 1996

Department of Water Resources

Dear Mr. Spackman:

I read your letter dated December 14, 1995 and find we are in agreement in principle. I would like to address your proposal and detail what I see as mutual concerns.

In your letter, you proposed "the Department impose an additional condition at the time of licensing in lieu of revoking the permit which states that if the overflow ever fails to function as a result of clogging caused by the 1 1/2 inch pipe, that the Forest Service must install a 4 inch pipe for the entire length of the overflow pipe back to Wrights Creek".

I agree with your proposal in principle, but have some concerns about vandalism, earthquakes, or other acts of nature that may damage the drain system. It is quite possible for any of these events to take place. I have particular concern about vandalism.

I propose that the present system be approved with the condition that if the drain system ever fails, excluding vandalism, earthquakes, or other acts of nature, the Wrights Creek C&H permittees, by direction from the Forest Service, will install a 4-inch drain line for the entire length of the overflow pipe back to Wrights Creek.

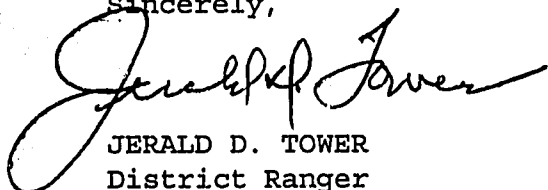
In addition, I also propose to regulate the amount of water entering the system to only that amount the present drainline would handle in case the float system fails. In essence, the entire system would be utilizing less water than appropriated due to the restricted point of entry into the pipeline. I have met with the Wrights Creek C&H permittees and they are in agreement with this proposal.

It should be noted that Dale Daniels, Wrights Creek Association secretary called one of my employees at home the evening of March 4, 1996 at 9:30 p.m. and said he had tried to set up a meeting with St. John Irrigation Co. representatives to discuss this matter. He visited with Lloyd Briggs, St. John Irrigation Co. representative, but Lloyd refused to meet and reportedly stated "there would be no meeting and that they had spent a lot of money on a lawyer and the U.S. Forest Service was going to live up to their agreement"! Dale indicated that Lloyd was very upset.

It is apparent that tensions and animosities are growing. I believe it is time to put this issue to rest and proceed with the proposal I have outlined. It meets the intent of your proposal and exceeds all logic in establishing a watering system benefitting livestock and, more particularly, water quality of a riparian resource that both the State of Idaho and U.S. Forest Service are trying to improve.

With receipt of your acceptance and approval, I will be submitting the proof of beneficial use to reinstate permit 15-07139.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jerald D. Tower".

JERALD D. TOWER  
District Ranger

RVANBEBBER:RV:03/26/96



**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

May 3, 1996

Randall Kline  
Attorney at Law  
PO Box 397  
Pocatello ID 83204

Jerald D. Tower  
Malad Ranger District  
75 S 140 E  
Malad ID 83252

Re: Permit to Appropriate Water No. 15-07139 in the name of  
USDA-Forest Service

Dear Mr. Tower:

I received a letter from Jerald Tower dated March 26, 1996. I notice that it was not carbon copied to Randy Kline, the attorney for St. John Irrigating Company. With this letter, I am mailing a copy of the letter to Randy Kline for review.

In reviewing the file, I also discovered that a letter dated January 31, 1996 to me from Randy Kline was not carbon copied to the Forest Service. I don't believe that I can act as a long distance broker for the parties. The parties should at least exchange their correspondence to me with the other side. May I request that both of you send copies of any information you sent to me to the other party.

Finally, I just received a copy of a letter from Randy Kline, dated May 3, 1996, requesting that the Department prevent diversion by the Forest Service and that the permit be revoked.

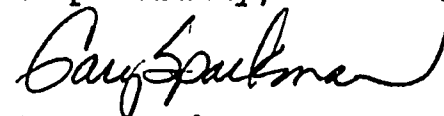
As I read the letters, my impression is that the animosity between the parties is disproportionate to the gravity of the pending matter. Nevertheless, the Forest Service was required to install a four inch diameter pipe from the discharge of the trough to the stream bed of Wrights Creek. This condition has not been satisfied.

Please refer in your files to a letter I wrote on September 29, 1995. In it I stated that "the defects must be remedied or an agreement with St. John Irrigating Company must be in place prior to April 1, 1996. If it is not, further diversion of water will be considered a violation of the conditions of the permit,

and the Department will ultimately act to remove the permit from its records." The April 1, 1996 deadline has passed, and the parties have not agreed how to resolve this matter. This letter is notice to the Forest Service that water should not be diverted pursuant to Permit No. 15-07139 until a pipeline as described in the conditions of the permit is constructed. Diversion of water without complying with the conditions of the permit is violation of Idaho law. The Department will investigate the use of water, and if it determines that water is being diverted illegally, will issue a notice of violation and cease and desist order. In addition, it will act to remove permit no. 15-07139 from its records.

The Forest Service is free to file another application for permit which can be protested by St. John Irrigation Company. Because of my exposure to this matter, I could not be the hearing officer for a hearing regarding a new application. As a result, I can express my feeling to both parties that the present system installed by the Forest Service is probably acceptable to protect the interests of prior-in-time water right holders. The Forest Service constructed the system that was initially suggested by St. John Irrigating Company. The process discussed above is a procedural exercise that the Department must follow to grant due process to St. John Irrigating Company, but probably will have little effect on the Department's ultimate decision.

Respectfully,



Gary Spackman

cc: Eastern Region

The Law Offices of  
*F. Randall Kline, Chartered*  
A Professional Corporation

RECEIVED

APR 30 1996

Department of Water Resources

P.O. Box 397  
427 N. Main, Suite L  
Pocatello, Idaho 83204  
Telephone (208) 232-9007  
Fax (208) 234-4654

April 29, 1996

Gary Spackman  
Idaho Department of Water Resources  
1301 North Orchard Street  
Statehouse Mail  
Boise, Idaho 83720-9000

Re: USDA Forest Service - Caribou National Forest  
Permit to appropriate water No. 15-07139

Dear Mr. Spackman:

On behalf of St. John Irrigating Company and in conformance with your letter of September 29, 1995, in the last paragraph, it is requested that the permit approved be cancelled and that any further diversion of water will be considered to be a violation of the conditions of the permit and that the department remove the permit from its records.

This request is made because the Forest Service has failed, refused and neglected to comply with the terms and conditions of the installation of a four inch diameter outlet pipe.

Additionally, you indicated, in your correspondence of December 14, 1995, that on November 8, 1995, Permit No. 15-07139 lapsed. Lapse notice was sent to the Forest Service. To date, St. John Irrigating Company has not been provided notification that the Forest Service has, in fact, sought reinstatement by supplemental of proof to beneficial use.

Additionally, in my correspondence of January 31, 1996, I indicated that St. John Irrigating Company's position was that the four inch line would be installed for the entire length of the over flow back to Wrights Creek. St. John's position has been consistent that the one and one-half line was plugged previously and that because of two known specific instances wherein water was spilled upon adjacent ground and not returned to Wrights Creek, that St. John would seek strict adherence to the terms and conditions of the agreement reached with the Forest Service.

As indicated in the letter of January 31, 1996, St. John Irrigating Company believes and continues to insist that the agreement in full be complied with which requires a four inch pipe serving as an out flow pipe returning to Wrights Creek, not simply a four foot elbow going into a pipe which is already plugged.

As indicated in the January 31, 1996 letter:

April 29, 1996  
Page 2

"until such time as the Forest Service can conclusively demonstrate that it can install and maintain a system that does not waste water and build it in compliance with the agreement reached, St. John will continue to protest the Forest Service application and appropriation of waters".

Because the Forest Service has not provided information providing clear evidence that it has installed a four inch return pipe as required by the agreement, it is requested that the application and permit be terminated and that any use of the water of Wrights Creek or its tributaries, which forms the Little Malad River, as a result of that permit, be found in violation of the rights of St. John Irrigating Company.

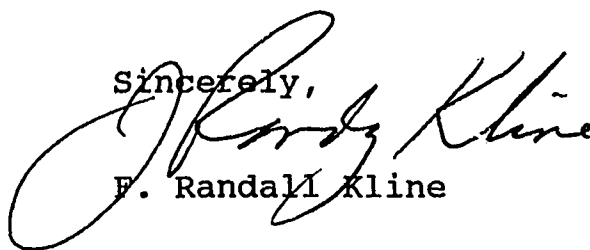
It is specifically requested that the Forest Service disconnect their piping from the pre-existing pipe outlet and that the waters be returned to run in their natural condition in Wrights Creek.

St. John's position is clear. The Forest Service had an ample opportunity to install a system in compliance with the agreement reached at the time that St. John Irrigating Company withdrew its protest. It initially failed, refused and neglected to make that installation per the terms of the agreement. The Forest Service was notified in September, through your office, that:

"the defects must be remedied or an agreement with St. John Irrigating Company must be in place prior to April 1, 1996. If it is not, further diversion of water will be considered a violation of the conditions of permit and the department will ultimately act to remove the permit from its records".

Because the Forest Service has now failed, refused and neglected to comply with the terms of the agreement and no agreement has been reached with St. John Irrigating Company, it is requested that the actions set forth in the September 29, 1995 letter be complied with.

Sincerely,



F. Randall Kline

FRK:ljw

c: Jess Harrison  
Dave Deschamps  
Gerald Tower  
Morgan Evans

The Law Offices of  
*F. Randall Kline, Chartered*  
A Professional Corporation

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MAY 9 - 1996

Department of Water Resources

May 7, 1996

P.O. Box 397  
427 N. Main, Suite L  
Pocatello, Idaho 83204  
Telephone (208) 232-9007  
Fax (208) 234-4654

Jerald D. Tower  
Malad Ranger District  
75 S. 140 E.  
Malad, Idaho 83252

Re: Permit to Appropriate Water No. 15-07139 in the name of  
USDA-Forest Service

Dear Mr. Tower:

Enclosed please find correspondence which inadvertently was  
not forwarded to your office. My apologies in that regard.

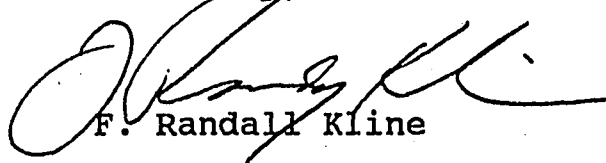
I must also advise that your office's attempt to trivialize  
this matter, and the fact that there were material misstatements of  
fact in representations made by the Forest Service, has generated  
a significant amount of animosity by St. John Irrigating Company  
towards the Forest Service in its capacity as a representative of  
the federal government.

As so, St. John Irrigating Company looks to the local  
representatives for impeccable integrity and honesty. However, I  
must advise that in this and other dealings with the Forest Service  
and other federal regulatory and management agencies that trust has  
been violated.

As a result, St. John seeks strict adherence to agreements  
that are reached by and between the parties without attempting to  
confuse the issue by bringing in other third parties which were not  
a part to the original agreement.

If you would like to discuss this matter more fully, please  
contact me directly.

Sincerely,



F. Randall Kline

FRK:ljw

Encl

c: St. John  
Gary Spackman

The Law Offices of  
*F. Randall Kline, Chartered*  
A Professional Corporation

P.O. Box 397  
427 N. Main, Suite L  
Pocatello, Idaho 83204  
Telephone (208) 232-9007  
Fax (208) 234-4654

January 31, 1996

Gary Spackman  
Department of Water Resources  
1301 North Orchard Street, Statehouse Mail  
Boise, Idaho 83720-9000

Re: USFS Permit #15-01739<sup>71</sup>

Dear Mr. Spackman:

Thank you for your letter of December 14, 1995. I concur with your understanding that the withdrawal of the protest by St. John Irrigating Company was with the understanding that a four inch line would be installed the entire length of the overflow back to Wrights Creek. If you will recall, the discussion was very clear that St. John was concerned that plugging may occur, not only at the outlet, but at some other distance over the length of the pipe. For those reasons, the representatives from St. John seem to be quite clear in requesting that the four inch diameter pipe, which was to serve as the outlet would run the entire course and distance back to Wrights Creek.

The concern of St. John proves to be correct as evidenced by the letter of Dale N. Bosworth, Regional Forester, dated July 21, 1995. At the bottom of the first paragraph the language provided is as follows:

"It was noted that there was an obstruction somewhere in the outlet pipe as water was not exiting the pipe as would be expected."

St. John Irrigating Company is concerned that, although there has been an installation of a four inch elbow, it will not and has not resolved the plugging problem further down the line.

Additionally, it is unknown whether the Forest Service intends to reconnect the float valve assembly which, as evidenced by the pictures accompanying the November 6, 1995 Forest Service letter, show that it has been disassembled.

January 31, 1996  
Page 2

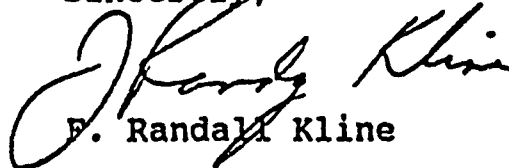
In any event, St. John Irrigating Company believes that the agreement should be complied with which necessitates a four inch pipe serving as the overflow pipe returning to Wrights Creek. There was no agreement that there would be a four inch pipe running three feet and then down sized to an inch and a half pipe which has already failed. If the Forest Service wishes to install system redundancy by reinstalling the float valve, St. John would have no objection to that.

Additionally, while the Forest Service may wish to assign responsibility for maintenance to the permittees, the contact agreement and application remains with the Forest Service and St. John will ultimately look to the Forest Service to 1) comply with the agreement, and 2) maintain the system to prevent additional irrigation of adjacent lands.

Until such time as the Forest Service can conclusively demonstrate that it can install and maintain a system that does not waste water and build it in compliance with the agreement reached, St. John will continue to protest the Forest Service application.

Thank you for your courtesies in this matter. Should you have any comments or questions, please do not hesitate to contact me.

Sincerely,



F. Randall Kline

FRK:ljw

Encl

c: Dave Deschamps  
Jess Harrison



United States  
Department of  
Agriculture

Forest  
Service

Intermountain  
Region

324 25th Street  
Ogden, UT 84401-2310

File Code: 2540-1

Date: JUL 21 1995

Mr. F. Randall Kline  
P.O. Box 397  
Pocatello, ID 83204

Dear Mr. Kline:

In response to your letter of July 10, the trough in question was inspected by the Forest at 1600 hours on July 19. The overflow line has been installed with a closed system returning to the stream. The overflow on the trough has a screen and it was partially plugged, as stated in your letter, and a small amount of water was in fact flowing over the edge of the trough. The screen was cleaned and the outlet at the stream's edge was inspected. It was noted that there was an obstruction somewhere in the outlet pipe, as water was not exiting the pipe as would be expected.

In order to comply with the conditions of the permit, the Forest is going to install a float valve in the inlet end of the tank. This will eliminate the problem with the outlet pipe. The float valve will simply not allow water to enter the tank when it is full, allowing the water to flow unobstructed in Wrights Creek, satisfying the condition of the permit. This valve will be installed prior to July 25.

Please note that this improvement is property of the United States, and any attempt to modify or dismantle the structure without the consent of the United States is a violation of Federal law and will be dealt with accordingly.

Additionally, the tank is located in an area restricted to vehicle use except on designated routes, as identified in the Caribou National Forest's Travel Map. A vehicle was noted in the pictures you presented in your letter that is in violation of this Special Order signed by the Forest Supervisor. Any subsequent inspections of this facility should be conducted on foot or by horseback.

Sincerely,

  
DALE H. BOSWORTH  
Regional Forester



Caring for the Land and Serving People

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FS-6200-26b (12/93)





United States  
Department of  
Agriculture

Forest  
Service

Caribou  
National  
Forest

Malad Ranger District  
75 South 140 East  
P.O. Box 142  
Malad, ID 83252

File Code: 2540

Date: May 21, 1996

RECEIVED

MAY 23 1996

Department of Water Resources

Gary Spackman  
State of Idaho Dept. of Water Resources  
1301 North Orchard Street Statehouse Mail  
Boise, Idaho 83720-9000

Dear Gary:

I received your letter of May 3, 1996, and with this response am providing Randy Kline both a cc of this memo and a copy of my March 26, 1996 letter to you. Your assumption is correct, in that we did not receive a copy of the January 31, 1996 letter from Mr. Kline to you. Therefore, my March 26, 1996 response to your 12/14/95 suggested basis for settlement did not reflect consideration of that information from him.

I, also, apologize for my part in this extended process since last winter in working with DWR and others to get some satisfactory resolution in this matter. At that time in our "federal" existence, we were rebounding from the effects of the pre-holiday furlough, and the subsequent series of Congressional Continuing Resolutions that has kept our flow of business somewhat unsettled up until just recently. We also wanted some time to counsel with grazing permittees to see if they would be interested in assisting with resolution.

Since starting this letter to you last week, I have received one from Mr. Kline including the correspondence you referenced. Again, I will be sending a copy of my March 26, 1996 letter to Mr. Kline along with a cc of this letter. I attempted a phone contact with Mr. Kline on the 15th, but was informed he would be out of his office until the 21st of this month.

On your advice and stated position in this matter at this time, we will try to resolve this matter through contact with Mr. Kline and the other affected parties directly, as has also been suggested in Mr. Kline's May 7, 1996 letter to me. I appreciate your efforts and past suggestions as to how things might be resolved to everyone's satisfaction. To that end I remain hopeful that all interests can eventually be fulfilled.

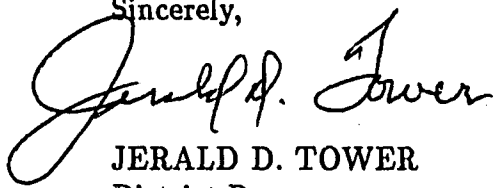
I believed we had legitimately based rationale for why the requirement for a 4" drain line all the way back to the creek was not justified, and forest service personnel that were present at the pre-hearing settlement agreement that would attest to that fact. However, the subsequent record and position that others, including yourself, have taken, has made it clear what the item left to be done, nevertheless, needs to be. I appreciate your efforts in suggesting a possible avenue toward resolution. Our collective timing just didn't work for us.



Caring for the Land and Serving People

Since coming on board in the middle of this matter, my approach has been to assess the record and input from others that were directly involved in the earlier stages of its development. My expectation was that the eventual solution would surface in a commonly shared correct information base and understandings. Mr. Kline's latest correspondence, I believe, is helpful in that regard also. I will keep you posted as to any new progress in this case.

Sincerely,

A handwritten signature in cursive script, reading "Jerald D. Tower". The signature is written in dark ink and is positioned above the printed name and title.

JERALD D. TOWER  
District Ranger

cc:R.Kline  
cc:L.Leffert

The Law Offices of  
*F. Randall Kline, Chartered*  
A Professional Corporation

RECEIVED  
JUN 05 1996

Department of Water Resources

June 3, 1996

P.O. Box 397  
427 N. Main, Suite L  
Pocatello, Idaho 83204  
Telephone (208) 232-9007  
Fax (208) 234-4654

Jerald D. Tower  
Malad Ranger District  
75 S. 140 E.  
Malad, Idaho 83252

Re: USDA Forest Service - Caribou National Forest  
Permit to appropriate water No. 15-07139

Dear Mr. Tower:

I would like to meet with you in an attempt to resolve the issues regarding St. John Irrigation Company.

However, let me reiterate that this case has become complicated solely and only as a result of the Forest Service attempting to do something that was not agreed to.

I was in attendance at the hearing and I was in attendance during the negotiating process at the time it was discussed what it would take for St. John to withdraw its protest. The provision for withdrawing the protest was that there would be a 4" diameter pipe discharging from the trough and running the entire distance back to Wrights Creek. The rational expressed should be on the tape, taken by Mr. Spackman, that St. John representatives expressed concern as to plugging at the point of discharge and plugging somewhere down the line. St. John felt that a 4" pipe would be less susceptible to plugging. In fact, their concerns proved correct. The one and one-half inch line plugged at the entrance and plugged again somewhere down the line within a few weeks after initial installation.

Thereafter, a float valve was installed and again, waters were spilled, which, contrary to your early assertions, did not make it back to Wrights Creek. St. John Irrigating Company's position is and has been extremely clear, all the way through these proceedings. They would withdraw their protest so long as not more than .02 cfs would be taken and that the maximum stock water would be 360 cattle. The inlet pipe would not exceed 2" in diameter and the outlet from the trough, back to Wrights Creek, would be four inches. The period of use would be from June 1st through September 30th. The entire system would be constructed and operated substantially as a full closed system, with any water not consumed by live stock being returned to Wrights Creek and the failure to

June 3, 1996  
Page 2

comply with any of the conditions would be grounds for revocation or cancellation.

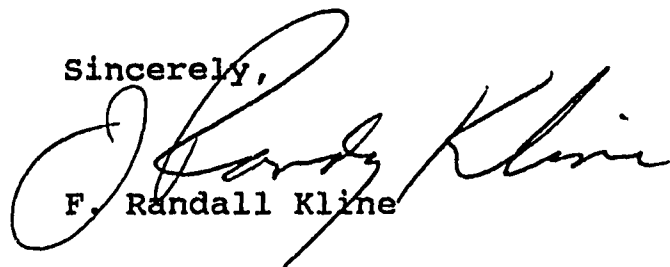
I am at a loss to ascertain what "legitimately based rational" exists for a requirement of something other than a four inch drain line when that was what was agreed to on September 28, 1993.

I am further at a loss to what the Forest Service personnel may have represented to you regarding the pre-hearing settlement, but I can assure you that anything less than the four inch diameter pipe returned to Wrights Creek was not what was agreed to nor would anything less than that be acceptable by St. John Irrigation Company.

It is further submitted that St. John Irrigating Company is not unreasonable in their pursuit in this matter. They simply wish to have what was agreed to be complied with. That is and remains their position with regard to this application.

Please feel free to contact me to discuss this matter more fully.

Sincerely,



F. Randall Kline

FRK:ljw

c: Gary Spackman  
Dave Deschamps  
Jess Harrison



**State of Idaho**  
**DEPARTMENT OF WATER RESOURCES**

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

EASTERN REGION

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

August 7, 1996

RICK VAN BEBBER  
C/O USFS  
PO BOX 142  
MALAD ID 83252

RECEIVED

AUG 09 1996

Department of Water Resources

Mr. Van Bebbber:

I was glad to receive your telephone call stating that the 4" water trough drain line for permit 15-07139 had been completely installed as specified in Gary Spackman's letter of May 3, 1996.

Since proof of beneficial use has been filed on this permit, there remains only the on-site field exam to confirm all construction and verify the place of use and point of diversion.

Sincerely,

Harold W Jones  
Water Resource Supervisor

HWJ:sc

CC: Gary Spackman  
Water Resources  
1301 N Orchard  
Boise ID 83706



United States  
Department of  
Agriculture

Forest  
Service

Pocatello  
Ranger District  
Suite 187

Caribou National Forest  
250 South Fourth Avenue  
Pocatello, ID 83201

RECEIVED

AUG 12 1996

File Code: 1580 (2540)

Date: August 6, 1996

Department of Water Resources

Gary Spackman  
State of Idaho DWR  
1301 N. Orchard St.  
Boise, Idaho 83720-9000

Dear Gary:

This will notify you and the Department of the Status of the Wright's Creek water development on Permit No. 15-07139. As of August 2, the four-inch drain line has been installed from the trough all the way back to Wright's Creek. A member of my staff has informed Harold Jones of this, and I have attempted to contact Mr. Kline since June to inform him of our plan to effect such resolution and its recent completion.

As noted earlier in the year, the system was secured under lock prior to the onset of the grazing season and no water was or had been diverted into the line per your direction. A recent inspection in connection with the pipeline drain work revealed the valve box had been broken into. The security chain had been cut and both the chain and lock had been damaged. However, it appeared that no tampering had occurred with the valves, as the water line had not been charged or water diverted to the trough facility.

With this notice, I would hope we may be able to consider this matter closed and begin a new chapter in our efforts to administer and improve our forest resources and collective concerns in the Wright's Creek area. Please inform me of any additional process requirement you or Harold may need at this juncture, so that we can resume the grazing operations as planned and scheduled for this drainage as soon as possible.

I would particularly enjoy, and therefore, invite you and Mr. Kline to come make an inspection of the facility as soon as possible. We have experienced at least two incidents of vandalism to the facility in the past year, so it would appear there will need to be some level of on-going inspection/monitoring of it in order to keep the system intact and dependably operational. Both the Forest Service and benefitting grazing association will continue to fulfill that obligation as long as the system is authorized for use.

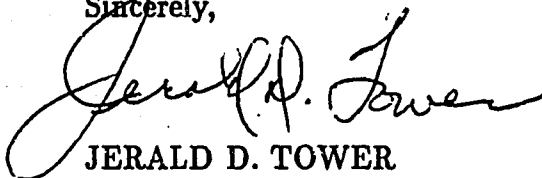
Please feel free to give me call at 236-7500 if additional information would be helpful and you



Caring for the Land and Serving People

Please feel free to give me call at 236-7500 if additional information would be helpful and you would like to schedule a visit to the site. Mr. Kline has indicated earlier interest to do so, and I would project some value in effecting closure on this matter in this way, if possible.

Sincerely,

A handwritten signature in cursive script, reading "Jerald D. Tower". The signature is written in dark ink and is positioned above the printed name.

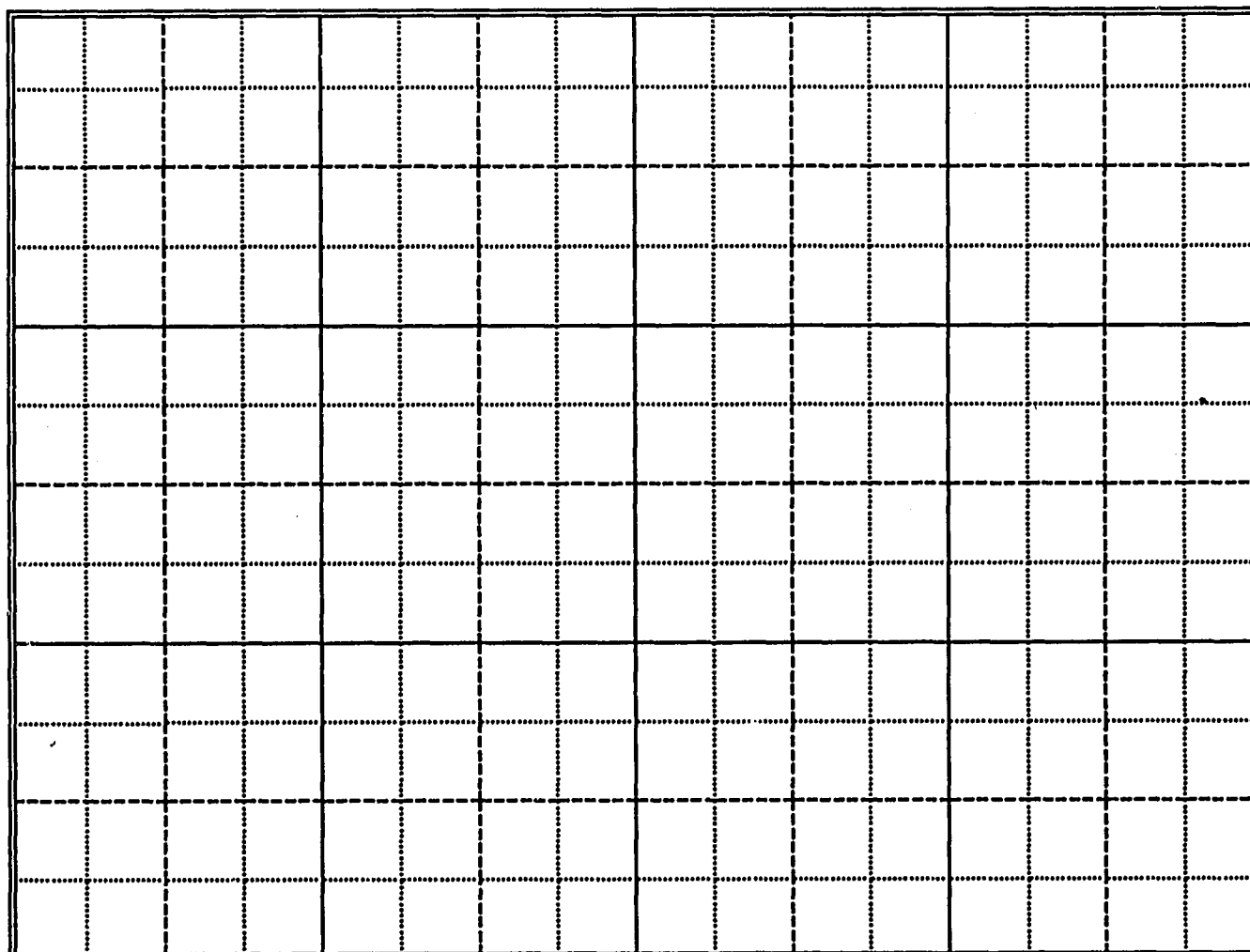
JERALD D. TOWER  
District Forest Ranger

Enclosure

CC: F. Randall Kline.

[illegible]

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



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. *D/A*

| 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 |
|-----------------------|------------------|------|-------------|---------------|------|-------------|
| <i>TYME-FLYTE</i>     | <i>POLYSONIC</i> |      | <i>TF-P</i> | <i>7H0263</i> |      |             |
|                       |                  |      |             |               |      |             |

2. Measurements: TAKEN AT POINT WHERE BURIED SUPPLY LINE CROSSES CREEK.

E. NARRATIVE/REMARKS/COMMENTS

WATER IS COLLECTED ~~BY~~ AT SPRING SOURCE AND GRAVITY  
FEEDS DOWN HILL TO WATERING TROUGH. OVERFLOW POINTS  
ALLOW ~~THE~~ WATER TO RETURN DIRECTLY BACK TO CREEK.

POD ELEVATION = 5970' (APP.)

ELEVATION OF CREEK CROSSING = 5780'

STOCK TANK ELEVATION (APP.) = 5900'

THERE IS APPROX. 1 1/2 MILES OF BURIED 1 1/2" (SCH. 40) PVC

STOCK TANK IS A 490 GL. TANK WITH THE INFLOW CONTROLLED  
BY A BALL FLOAT. OVERFLOW IS A 4" PIPE TO CREEK.

REF. ~~ACT~~ TOP MAP CC40

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

**F. FLOW CALCULATIONS**

Measured Method:

POLYSONIC  $Q = 86.12 \text{ GPH} = 0.19 \text{ CFS}$ STOCK WATER CHART  $Q = .00022 \times 360 \text{ CATLE} = 0.079 \text{ CFS}$ PERMIT  $Q = 0.02 \text{ CFS}$ ☒ Additional Computation Sheets Attached**G. VOLUME CALCULATIONS**

## 1. Volume Calculations for Irrigation:

 $V_{LR} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$  \_\_\_\_\_ $V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$  \_\_\_\_\_ $V = \text{Smaller of } V_{LR} \text{ and } V_{D.R.} =$  \_\_\_\_\_

## 2. Volume Calculations for Other Uses:

 $360 \text{ CATLE} \times 0.0134 = 4.824 \text{ AFA}$ **H. RECOMMENDATIONS**

## 1. Recommended Amounts

| Beneficial Use    | Period of Use |             | Rate of Diversion<br>Q (cfs) | Annual Volume<br>V (afa) |
|-------------------|---------------|-------------|------------------------------|--------------------------|
|                   | From          | To          |                              |                          |
| <u>STOCKWATER</u> | <u>6/1</u>    | <u>9/30</u> | <u>0.02</u>                  | <u>4.8</u>               |
| _____             | _____         | _____       | _____                        | _____                    |
| _____             | _____         | _____       | _____                        | _____                    |
| _____             | _____         | _____       | _____                        | _____                    |
| _____             | _____         | _____       | _____                        | _____                    |
| Totals:           |               |             | <u>0.02 CFS</u>              | <u>4.8 AFA</u>           |

## 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 SIMPKINS Date 3/27/97

Reviewer \_\_\_\_\_ Date \_\_\_\_\_

SEAL

MODE SELECT  
INPUT

OUTER DIAMETER  
1.9300 IN

PIPE MATERIAL  
? CS.SS

WALL THICKNESS  
0.1390 IN

INNER LINING  
? NO LING.

KIND OF FLUID  
? ANOTHER

SOUND VELOCITY  
1460 M/S-

SENSOR MOUNTING  
? U

TYPE OF SENSOR  
? SMALL

DATA CHANGE  
? NO

SPACING  
0.600 IN U

ZERO MODE  
CLEAR

ZERO MODE  
AUT ZERO

MM-DD HH:MM  
09-23 12:32

09-23 12:3200 \*R  
+003.00 % A12

MODE SELECT  
T0 CHECK

0062.4 MMSEC  
100.03 % T0

09-23 12:3400 \*R  
+168.013E-1GPM

09-23 13:1800 \*R  
+102.498E-1GPM

09-23 13:2000 \*R  
+ 82.157E-1GPM

09-23 13:2200 \*R  
+ 86.120E-1GPM

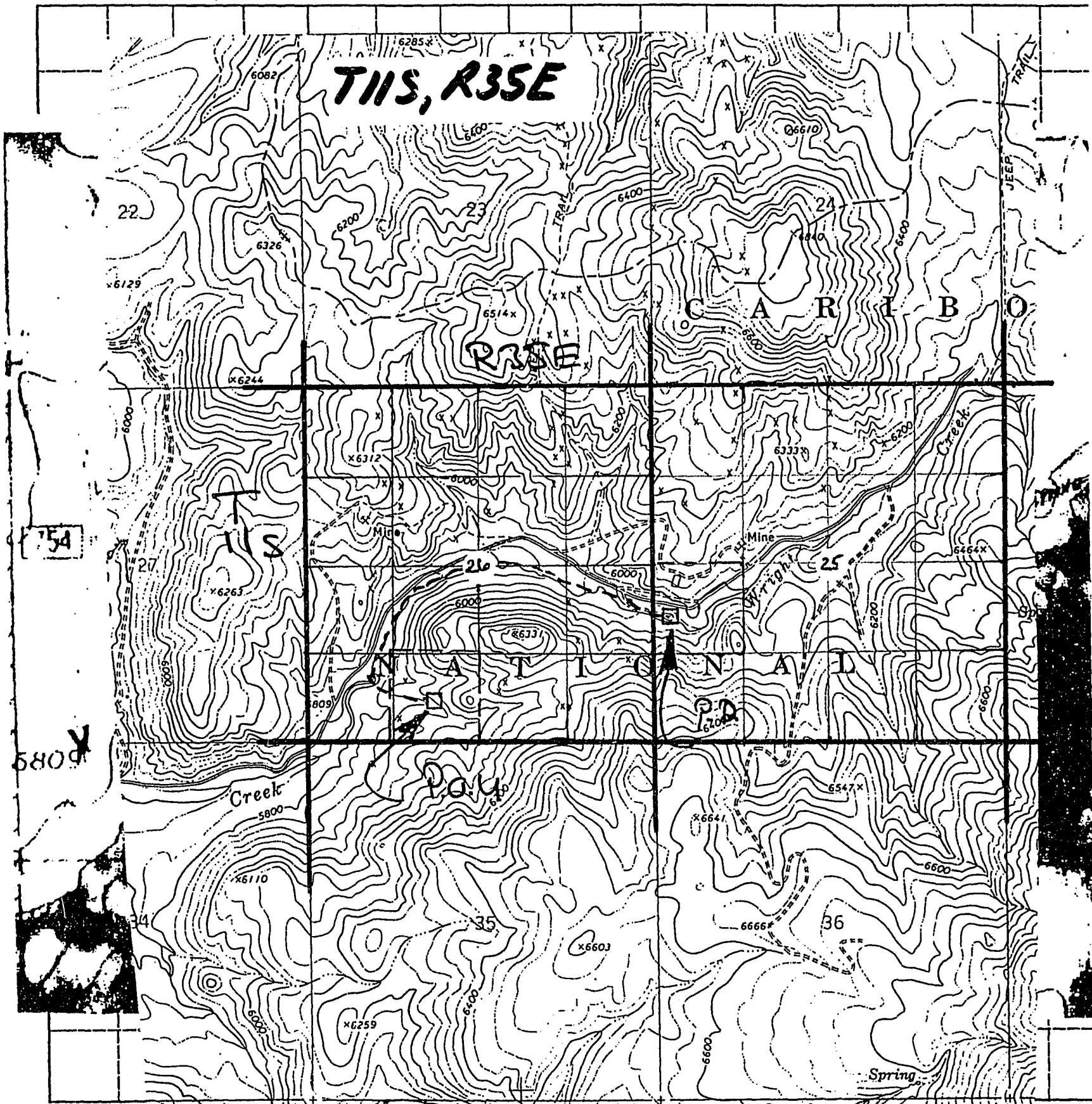
15-07139

15-07139

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
Water District No. 1  
900 N. Skyline Dr., Suite A  
Idaho Falls, ID 83402-1718

15-07139  
U.S. D. A. FOREST SERVICE - MALAD  
SONIC TAPE

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



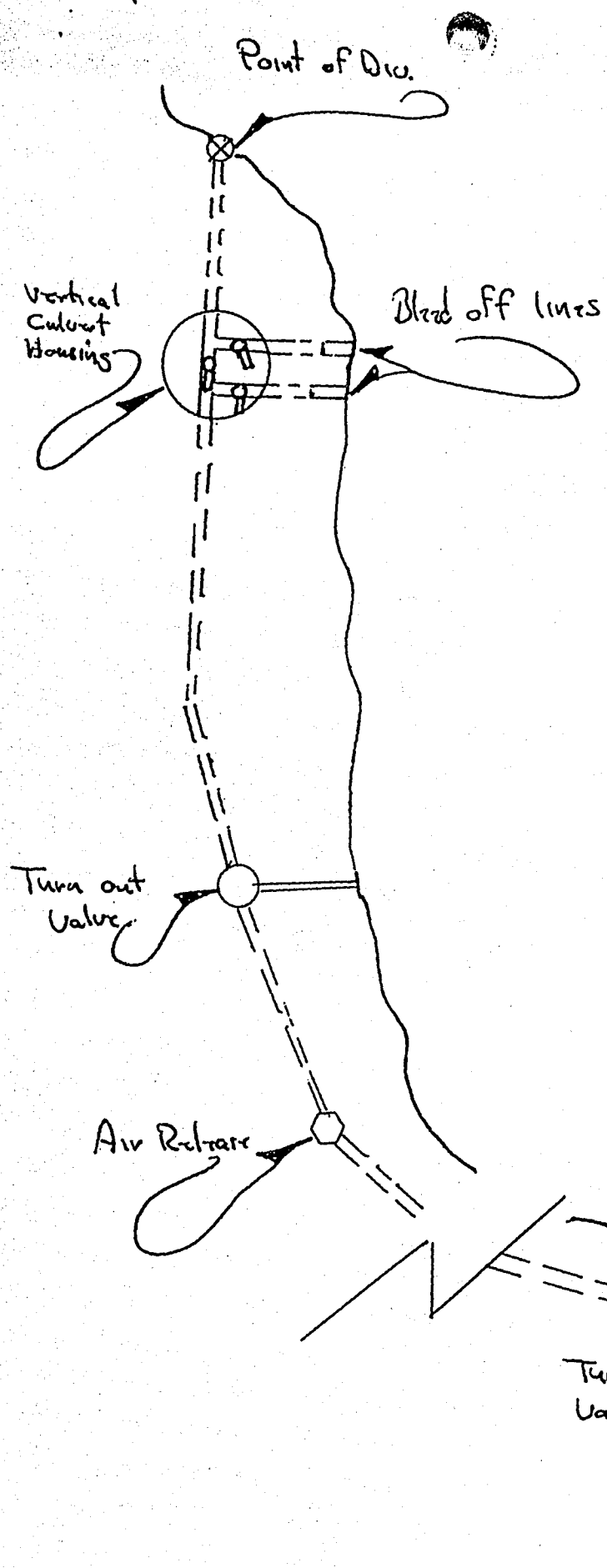
Scale: 2 inches equal 1 mile.

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

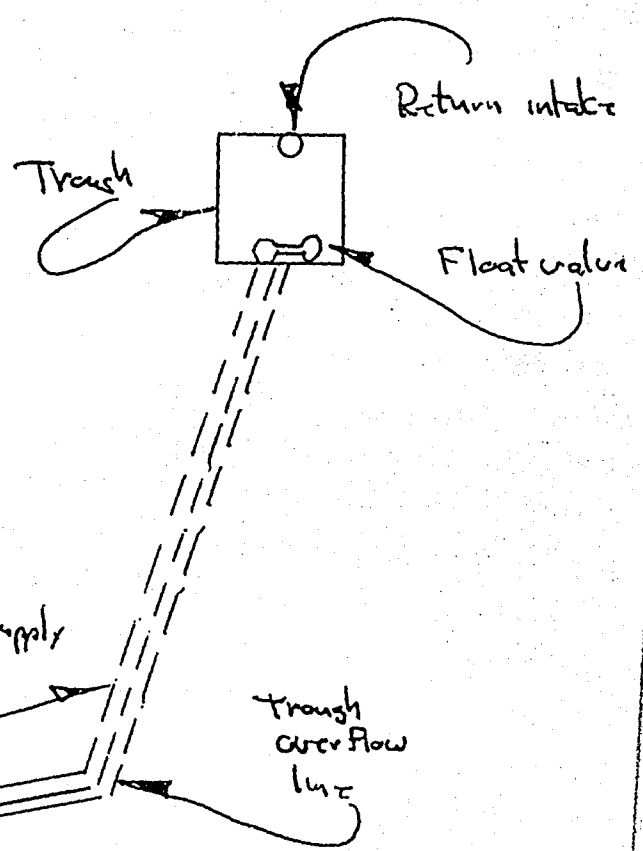
United States of America (USDA-Forest Service)

*[Signature]*

15-07139



PERMIT 15-07139 System.  
 9/23/96  
 THIS IS AN ACCURATE  
 DEPICTION OF THE  
 SYSTEM DESIGN.  
 J.M.



15-07139

WATER FOR LIVESTOCK

Can water source supply required stockwater ACRE FEET PER ANNUM?

$$\underline{0.02} \text{ CFS } \times 448.8 = \underline{8.976} \text{ GALLONS PER MINUTE } \times$$

$$60 \text{ MINUTES } = \underline{538.56} \text{ GALLONS PER HOUR } \times 24 \text{ HOURS } =$$

$$\underline{12,925.44} \text{ GALLONS PER DAY } \times 365 \text{ DAYS } = \underline{4,717,785.6}$$

$$\text{GALLONS PER YEAR } / 325,850 \text{ GALLONS PER ACRE FEET PER ANNUM } =$$

$$\underline{14.47} \text{ ACRE FEET PER ANNUM.}$$

15-07139  
PERMIT NUMBER

U.S.D.A. FOREST SERVICE

STOCKWATER

15/4



PERSON  
STANDING  
LEFT OF  
UPPER CTR  
IN PICTURE  
IS STANDING  
OVER SPRING  
SOURCE  
COLLECTING  
SYSTEM.

POD



JUST  
BELOW  
SPRING  
SOURCE  
CONTROL  
VALVES TO  
RELEASE  
SPRING  
WATER  
BACK TO  
CREEK.

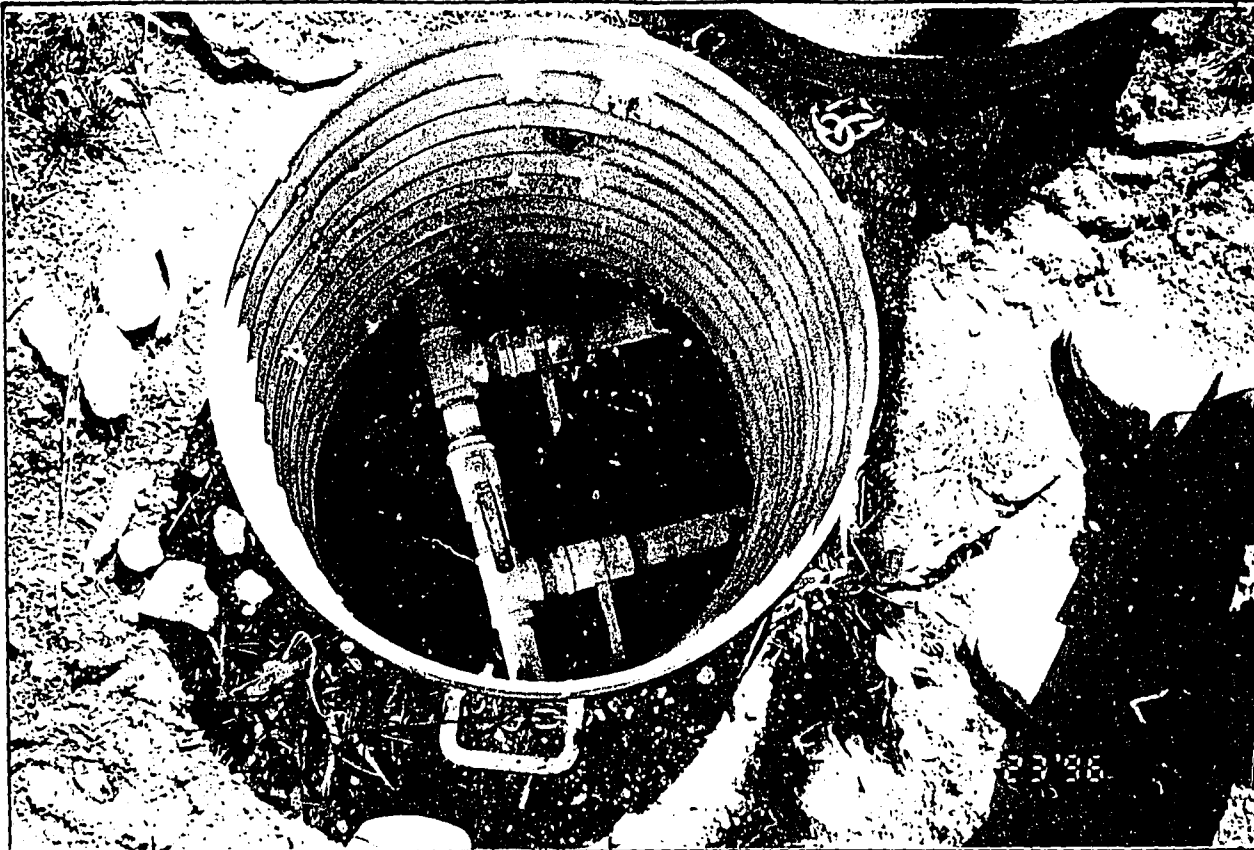
PERMIT  
NUMBER

15-07139

U.S.D.A. FOREST SERVICE

STOCKWATER

254



CONTROL  
VALVES  
FOR  
DIVERTING  
SPRING  
WATER  
BACK TO  
CREEK



VIEW  
OF PIPES  
DIVERTING  
WATER  
BACK TO  
CREEK  
FROM  
CONTROL  
BOX.

PERMIT  
NUMBER

15-07139

U.S. D. A. FOREST SERVICE

STOCKWATER

314

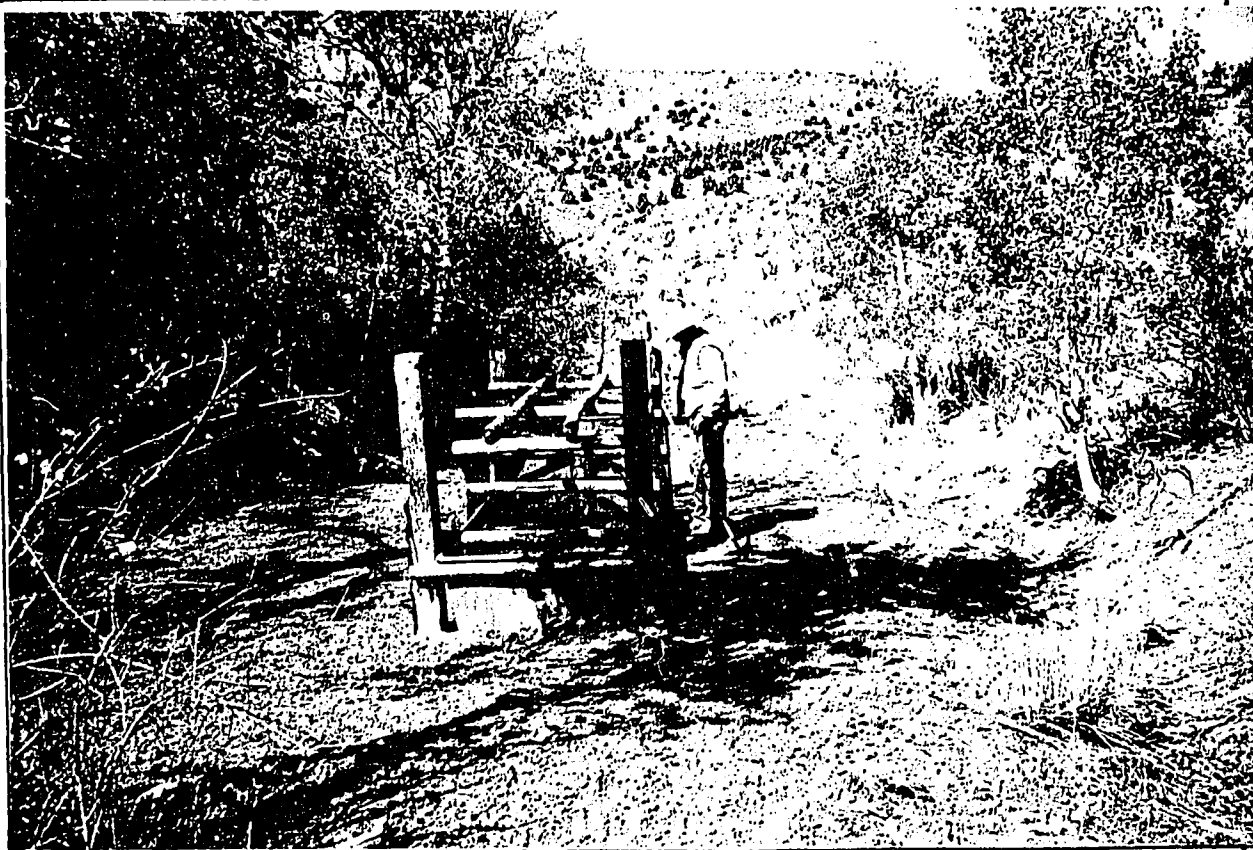


POINT OF  
POLYSONIC  
MEASUREMENT

LARGE  
PIPE  
CROSSING  
CREEK

FLOW

↑  
UP TO  
STOCK TANK



490 GALLON  
STOCK  
TANK

PLACE OF  
USE

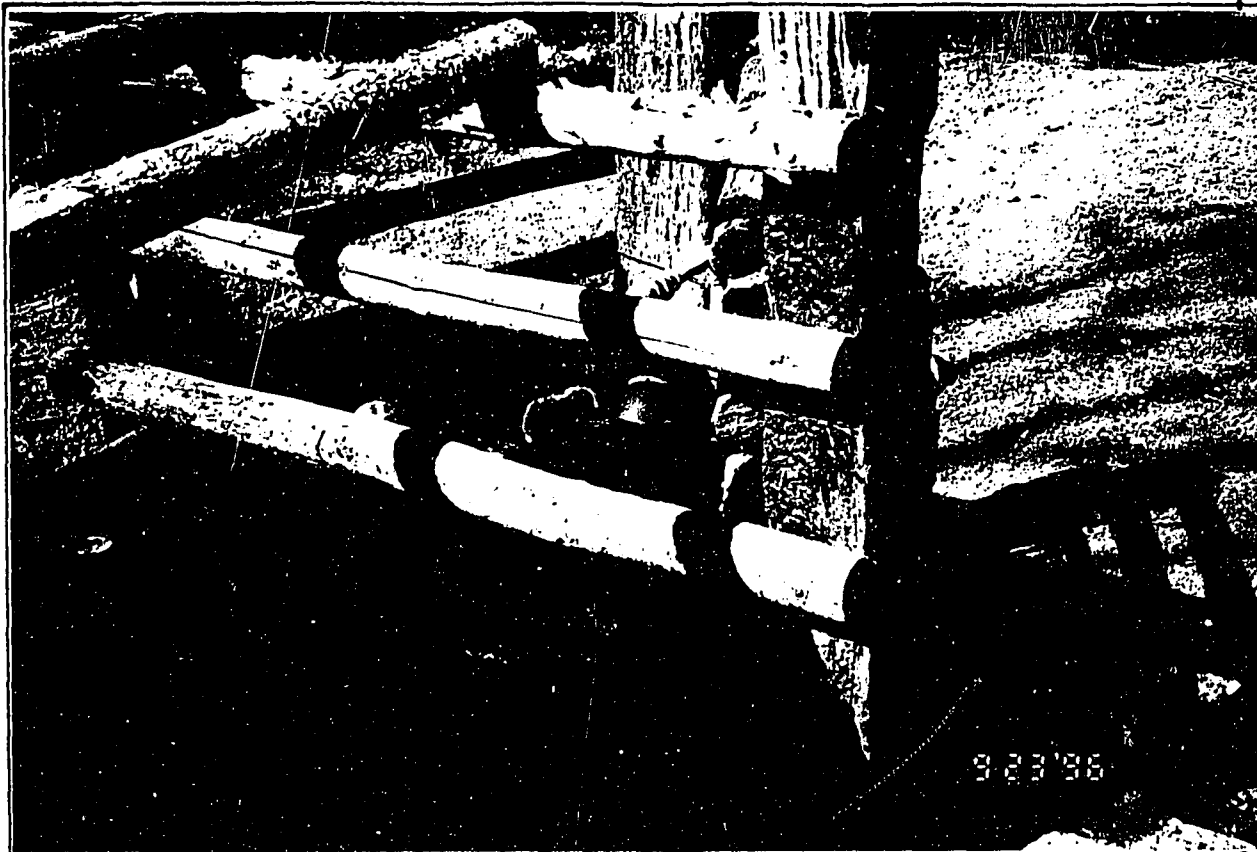
PERMIT  
NUMBER

15-07139

U.S. D. A. - FOREST SERVICE

STOCKWATER

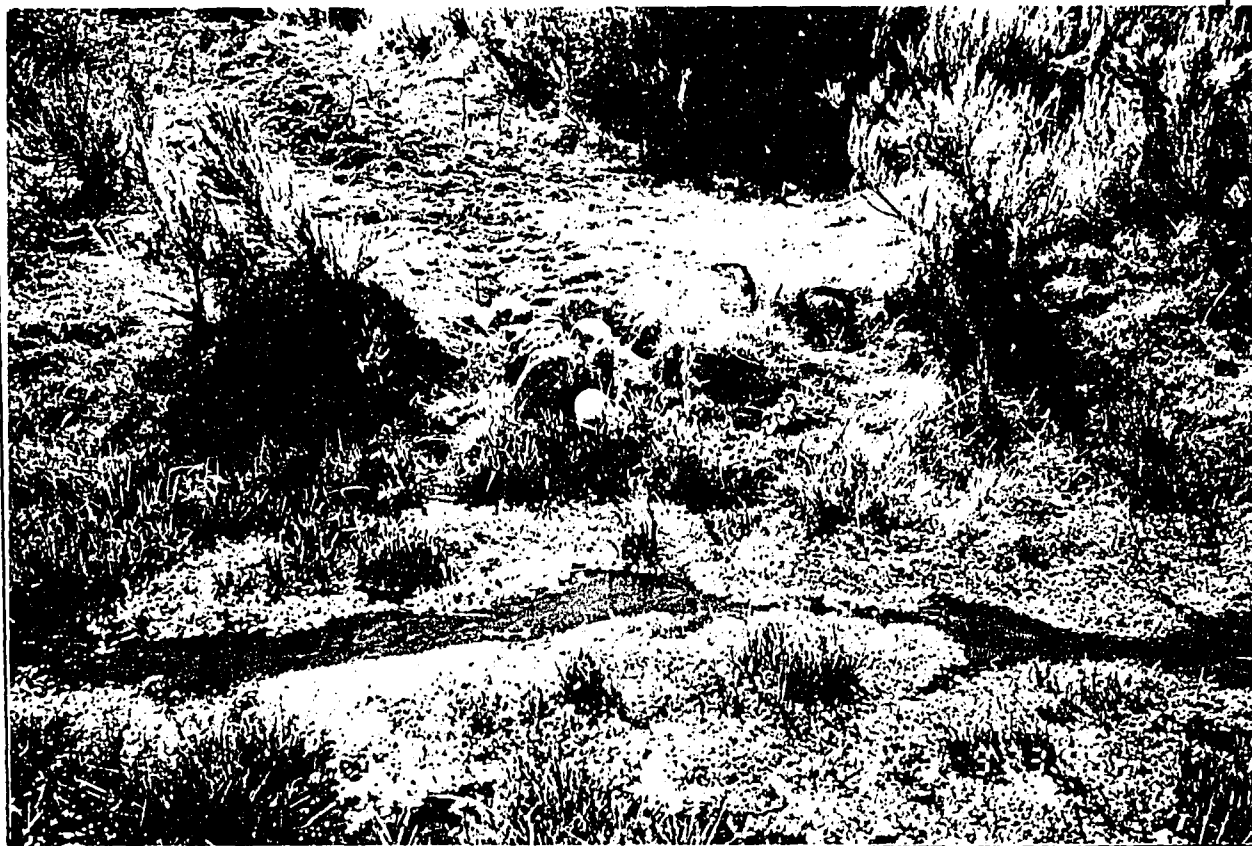
4/4



P.O. U.

STOCK TANK

4" BLACK  
POLY LINE  
IS OVERFLOW  
BACK TO  
CREEK.



POINT OF  
DISCHARGE  
OF STOCK  
TANK OVER  
FLOW BACK  
TO CREEK

PERMIT  
NUMBER

15-07139

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



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

April 8, 1998

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

US DEPARTMENT OF AGRICULTURE  
FOREST SERVICE  
CARIBOU NATIONAL FOREST  
250 S 4TH AVE STE 282  
POCATELLO ID 83201

RE: WATER RIGHT NO. 15-07139

Dear Permit Holder(s):

The Department of Water Resources is reviewing the permit referenced above prior to issuing a water right license. By issuing a license, the Department confirms that a water right has been established in compliance with the terms of the permit. The examiner who verified your water use reported that the point(s) of diversion developed is in a location other than what was described on your permit. Therefore, before a license can be issued, your permit must be amended to depict your water use as it was actually developed.

The enclosed Application for Amendment form depicts the point(s) of diversion and other information as it will appear on the license when it is issued. Please review the amendment form carefully. If you concur with the information presented, please sign the form and return it with the \$50.00 filing fee within 14 days.

Also, please note that some of the proposed conditions of approval and remarks may be modified upon further administrative review.

If you do not concur, or if you have any questions about this information, please contact me as soon as possible. My telephone number is (208)327-7946.

Sincerely,

Shelley W. Keen  
Water Rights Supervisor

SK:klt

Enclosure



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

June 22, 1998

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

US DEPARTMENT OF AGRICULTURE  
FOREST SERVICE  
CARIBOU NATIONAL FOREST  
250 S 4TH AVE STE 282  
POCATELLO ID 83201

RE: WATER RIGHT NO. 15-07139

Dear Permit Holder(s):

I previously forwarded to you an Application for Amendment so that you could amend your permit to depict your water right as it has been actually developed. I have not yet received the amendment. If I do not receive it within 14 days, I will assume you no longer have any interest in the permit and cancellation proceedings will begin.

Enclosed for your convenience is another amendment form. Please note that the filing fee for this amendment is \$50.00. If you have any questions, please call me at (208) 327-7946.

Sincerely,

Shelley W. Keen  
Water Rights Supervisor

SK:klt

Enclosure

6.22.98 - Copy of original letter missed getting in file. This was brought to our attention by phone call from Lee Leffert today.  
Net



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

August 11, 1998

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

US DEPARTMENT OF AGRICULTURE  
FOREST SERVICE  
CARIBOU NATIONAL FOREST  
250 S 4TH AVE STE 282  
POCATELLO ID 83201

RE: WATER RIGHT NO. 15-07139

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 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:

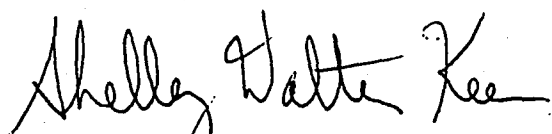
- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

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.

For your records I have also enclosed a copy of your Application for Amendment of Permit, which was approved.

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

Sincerely,



Shelley W. Keen  
Water Rights Supervisor

SK:klt

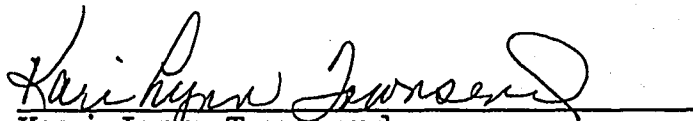
Enclosure

CERTIFICATE OF MAILING

I hereby certify that on the 11th day of August, 1998, 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. 15-07139

US DEPARTMENT OF AGRICULTURE  
FOREST SERVICE  
CARIBOU NATIONAL FOREST  
250 S 4TH AVE STE 282  
POCATELLO ID 83201

  
Kari Lynn Townsend  
Secretary