

IDAHO DEPARTMENT OF WATER RESOURCES  
Proof Report

7/2/2020

Water Application 72-7379

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	MARTIN W POLLOCK , ZZ

Status: Denied

<u>Source</u>	<u>Tributary</u>
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<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
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Source and Point(s) of Diversion

Place Of Use

Conditions of Approval:

Comments:

Dates and Other Information

Application Denied Date: 11/24/1995  
Number of Protests: 0  
Water District Number: TBD  
Application Type: New Appropriation  
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Martin W. Pollock Phone 774-3520

Post office address P. O. Box 57, Stanley, ID 83278

2. Source of water supply See Remarks which is a tributary of \_\_\_\_\_

3. Location of point of diversion is NE $\frac{1}{4}$   $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 11 Township 11N

Range 13E B.M. Custer County, additional points of diversion if any: \_\_\_\_\_

SE $\frac{1}{4}$ SW $\frac{1}{4}$  Sec. 11; NW $\frac{1}{4}$ NE $\frac{1}{4}$  Sec. 15; SW $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 14 T. 11N R. 13E

4. Water will be used for the following purposes:

Amount 2.00cfs for Mining purposes from Jan 1 to Dec 31 (both dates inclusive)  
(cfs or acre-feet per annum)

Amount 2.00cfs for Industrial purposes from Jan 1 to Dec 31 (both dates inclusive)  
(cfs or acre-feet per annum)

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

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

5. Total quantity to be appropriated:

a. 2.00 cubic feet per second and/or b. \_\_\_\_\_ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Headgates, check dams, ditches to small pond formed by damming Kelly Creek; pump from pond to place of use.

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

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

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

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

8. Description of proposed uses:

a. If water is not for irrigation: See Remarks.

(1) Give the place of use of water: \_\_\_\_\_  $\frac{1}{4}$  of \_\_\_\_\_  $\frac{1}{4}$  of Section \_\_\_\_\_ Township \_\_\_\_\_  
Range \_\_\_\_\_ B.M.

(2) Amount of power to be generated: \_\_\_\_\_ horsepower under \_\_\_\_\_ feet of head.

(3) List number of each kind of livestock to be watered \_\_\_\_\_

(4) Name of municipality to be served \_\_\_\_\_, or number of families to be supplied with domestic water \_\_\_\_\_.

(5) If water is to be used for other purposes describe: Placer & hardrock mining of gold;  
milling of quartz to remove gold.

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

[illegible]

Total number of acres to be irrigated

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

9. a. Who owns the property at the point of diversion U. S. Forest Service

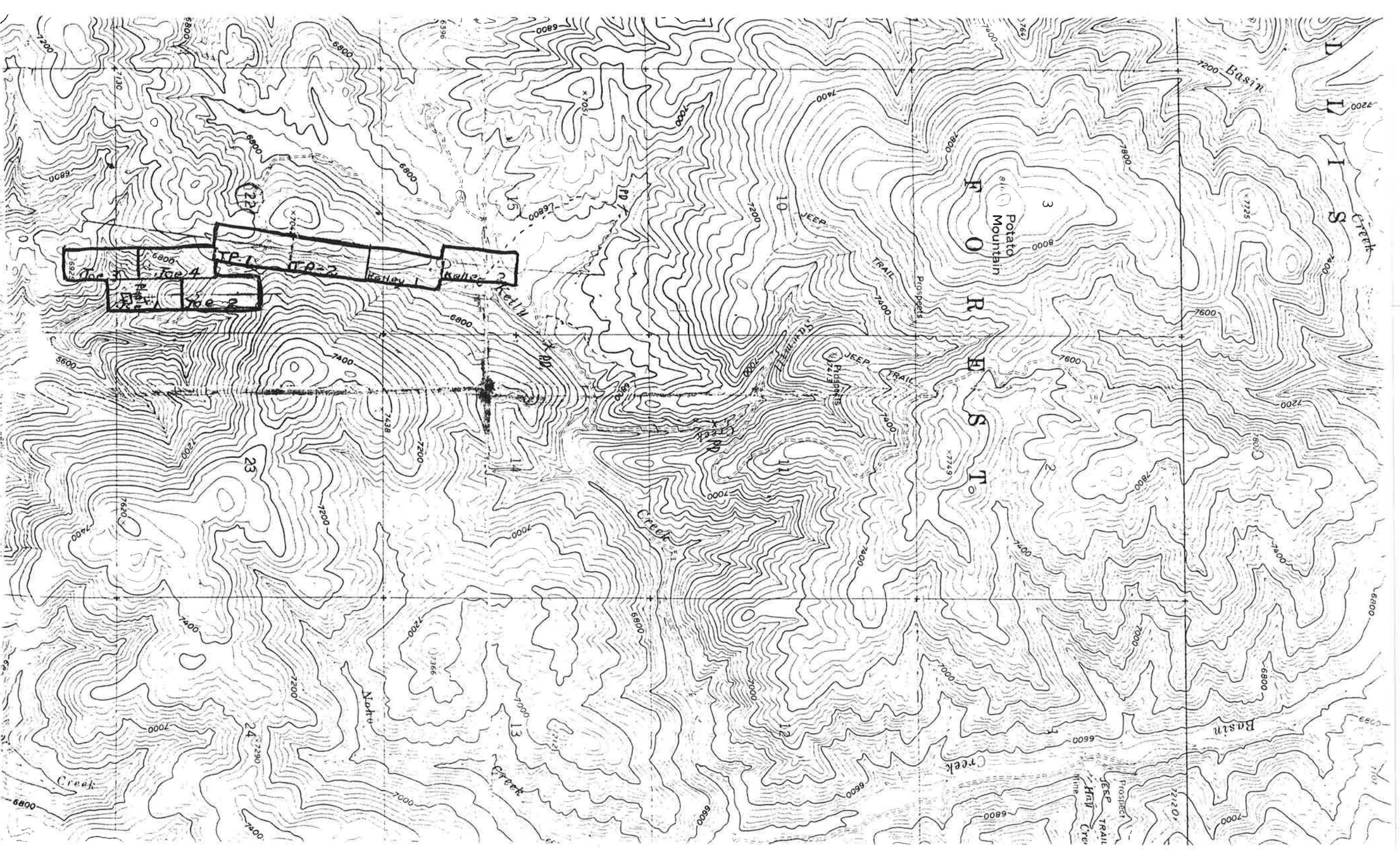
b. Who owns the land to be irrigated or place of use " " "

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing Applicant has valid mining claims on the place of use.

10. Remarks Item #2 Source: Kelly Creek trib. to Basin Creek

Sawmill Creek trib. to Kelly Creek

Unnamed Stream (Spring Creek) trib. to Kelly Creek.



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

Scale: 2 inches equal 1 mile.

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

Martin W. Pollock  
(Applicant)

Received by JP Date 8-15-84 Time 2:50 pm

Preliminary check by TB Fee \$ 65<sup>00</sup>

Receipted by JP Date 8-15-84 # 33170

Publication prepared by maripa Date 8/29/84

Published in ester publishing Co

Publication dates 9/6 + 9/13/84

Publication approved 9/17/84 Date maripa

Protests filed by: w. f. ringert - attny for viola c. evans  
usda - forest service

Copies of protests forwarded by \_\_\_\_\_

Hearing held by \_\_\_\_\_ Date \_\_\_\_\_

Recommended for approval denial by \_\_\_\_\_

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#### 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. Other:



# 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

RECEIVED

August 22, 1995

AUG 24 1995

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

Department of Water Resources  
Southern Region

RE: In the matter of Application for Permit No. 72-07379 in the name of Martin L. Pollock

Dear Interested Party:

The accompanying order is a "preliminary order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

### PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of this order. The hearing officer 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

72-07379  
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 to the Director. Otherwise, this preliminary order will become a final order of the agency.

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 Director. The

Director retains the right to review the preliminary order on his own motion.

#### ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director 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 Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director 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 Director 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 Director 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 Director 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.

Sincerely,



L. GLEN SAXTON  
Chief, Water Allocation Bureau

Enclosure

cc: IDWR - Region

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF APPLICATION )  
FOR PERMIT NO. 72-07379 IN )  
THE NAME OF MARTIN W. POLLOCK)  
\_\_\_\_\_)

**PRELIMINARY ORDER**

This matter having come before the Idaho Department of Water Resources (department) as a result of the review of protested applications for permit pending before the department, the department makes the following Findings of Fact, Conclusions of Law and Order:

**FINDINGS OF FACT**

1. On August 15, 1984, Martin W. Pollock (applicant) filed Application for Permit No. 72-07379 (application) with the department proposing the diversion of 2.0 cubic feet per second of water from Kelly Creek, Sawmill Creek and Spring Creek to be used year-round for mining and industrial purposes in Custer County, Idaho.

2. As required by law, the department advertised the application which was subsequently protested by Viola C. Evans and the U.S. Forest Service.

3. On August 11, 1995, the department corresponded with the applicant to determine continuing interest in the pending application. The letter was returned to the department indicating the applicant was deceased.

**CONCLUSIONS OF LAW**

1. Section 42-203A, Idaho Code, provides that the Director may reject an application for permit which is speculative.

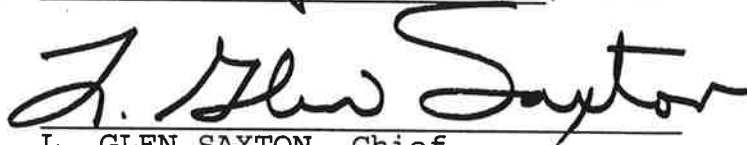
2. failure of the applicant or the applicant's successor-in-interest to actively pursue the proposed project and failure to seek and obtain other authorizations required for the project shows that the application is speculative in nature and should be removed from active department files and records.

3. The department should reject the application pursuant to Section 42-203A, Idaho Code.

ORDER

IT IS THEREFORE, HEREBY ORDERED that Application for Permit No. 72-07379 in the name of Martin W. Pollock is **REJECTED** pursuant to the provisions of Section 42-203A, Idaho Code.

Dated this 21<sup>st</sup> day of August, 1995.

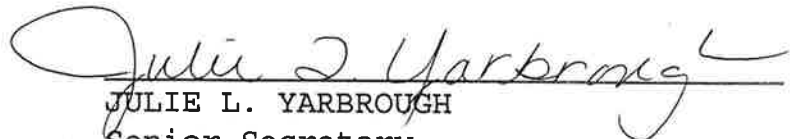


L. GLEN SAXTON, Chief  
Water Allocation Bureau

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 22<sup>nd</sup> day of August, 1995, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER** to the following:

Martin L. Pollock  
P.O. Box 57  
Stanley, ID 83278

  
JULIE L. YARBROUGH  
Senior Secretary



# 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

August 11, 1995

RECEIVED

PHILIP E. BATT  
GOVERNOR

AUG 15 1995

KARL J. DREHER  
DIRECTOR

Martin W. Pollock  
P.O. Box 57  
Stanley, ID 83278

Department of Water Resources  
Southern Region

RE: APPLICATION FOR PERMIT NO. 72-07379

Dear Mr. Pollock:

The department of Water Resources (IDWR) is currently reviewing protested applications for permit which are pending before the department. Our files show that on August 15, 1984, you filed the above referenced application proposing the diversion of 2.0 cubic feet per second (cfs) of water from Kelly Creek, Sawmill Creek and Spring Creek to be used year-round for mining and industrial purposes. The last correspondence from you in our files is dated 1986.

Since substantial time has passed subsequent to the filing of the application, it appears that one of two potential actions needs to occur in connection with the application as follows:

1. If you are no longer actively pursuing the development proposed in the application, please complete and return the enclosed relinquishment form. IDWR will then remove the application from IDWR records.
2. If you are actively pursuing the proposed development, you need to specifically advise IDWR in writing of your continued interest within thirty (30) days of the date of this letter. In addition, you must provide information to IDWR within sixty (60) days of the date of this letter to demonstrate that you have been actively pursuing the project.

If you do not timely respond to this letter or do not make a sufficient showing that you have been pursuing the proposed project, the department will reject the application pursuant to provisions of Section 42-203A(5), Idaho Code, as being filed for speculative purposes. If you have questions, feel free to contact this office or our Southern Regional Office in Twin Falls.

Sincerely,

*L. Glen Saxton*

L. GLEN SAXTON, Chief  
Water Allocation Bureau

Encl: 1

c: IDWR - S. Region

72-07379

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Martin W. Pollock Phone 774-3520

Post office address P. O. Box 57, Stanley, ID 83278

2. Source of water supply See Remarks which is a tributary of \_\_\_\_\_

3. Location of point of diversion is NE $\frac{1}{4}$   $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 11 Township 11N

Range 13E B.M. Custer County, additional points of diversion if any: \_\_\_\_\_

SE $\frac{1}{4}$ SW $\frac{1}{4}$  Sec. 11; NW $\frac{1}{4}$ NE $\frac{1}{4}$  Sec. 15; SW $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 14 T. 11N R. 13E

4. Water will be used for the following purposes:

Amount 2.00cfs for Mining purposes from Jan 1 to Dec 31 (both dates inclusive)  
(cfs or acre-feet per annum)

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6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Headgates, check dams, ditches to small pond formed by damming Kelly Creek; pump from pond to place of use.

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

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

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

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

8. Description of proposed uses:

a. If water is not for irrigation: See Remarks

(1) Give the place of use of water: \_\_\_\_\_  $\frac{1}{4}$  of \_\_\_\_\_  $\frac{1}{4}$  of Section \_\_\_\_\_ Township \_\_\_\_\_

Range \_\_\_\_\_ B.M.

(2) Amount of power to be generated: \_\_\_\_\_ horsepower under \_\_\_\_\_ feet of head.

(3) List number of each kind of livestock to be watered \_\_\_\_\_

(4) Name of municipality to be served \_\_\_\_\_, or number of families to be supplied with domestic water \_\_\_\_\_.

(5) If water is to be used for other purposes describe: Placer & hardrock mining of gold;  
milling of quartz to remove gold.

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
11N	13E	15													X	X	X	X	
																		XX	
		22	X	X	X	X	.								X	X	X	X	
		27	X	X															

X = P. U. for Mining

XX = P. U. for Industrial

Total number of acres to be irrigated

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

9. a. Who owns the property at the point of diversion U. S. Forest Service

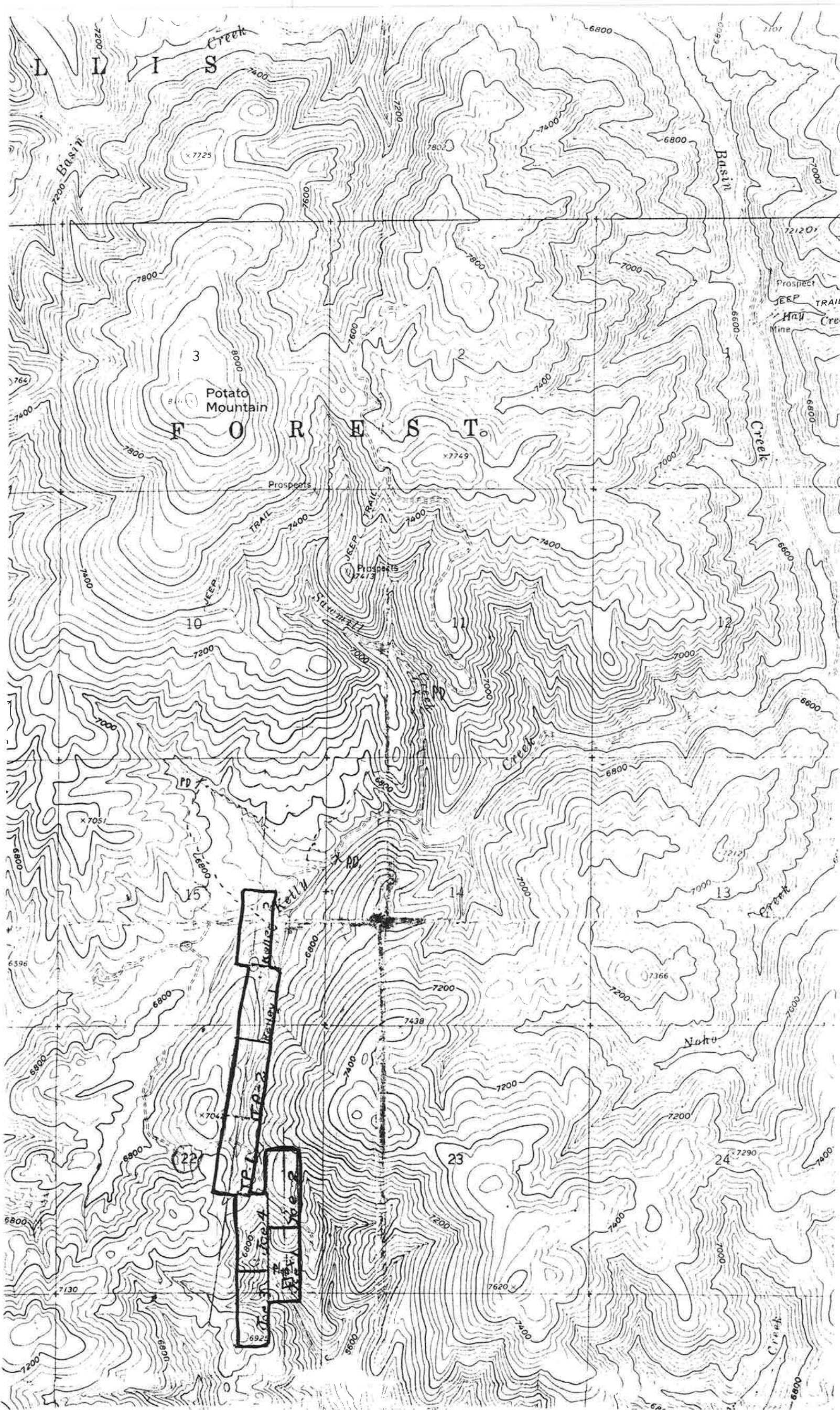
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10. Remarks Item #2 Source: Kelly Creek trib. to Basin Creek

Sawmill Creek trib. to Kelly Creek

Unnamed Stream (Spring Creek) trib. to Kelly Creek.



A full-page sheet of white graph paper featuring a uniform grid of thin black lines. The grid consists of small squares covering the entire area, with no margins or additional markings.

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

(Applicant)

Received by JP Date 8-15-84 Time 2:50 pm

Preliminary check by TB Fee \$ 65<sup>00</sup>

Receipted by JP Date 8-15-84 # 33170

Publication prepared by marpa Date 8/29/84

Published in ester publishing Co

Publication dates 9/6 & 9/13/84

Publication approved 9/17/84 Date marpa

Protests filed by: W. J. Ringert - attny for Viola C. Evans  
usda - forest service

Copies of protests forwarded by \_\_\_\_\_

Hearing held by \_\_\_\_\_ Date \_\_\_\_\_

Recommended for approval denial by \_\_\_\_\_

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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. Other: