

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-11977

PRIORITY: January 27, 1993

Maximum Diversion Rate: 7.00 CFS

Maximum Diversion Volume: 73.3 AF

It is hereby certified that:

RONALD P RAINEY ATTORNEY AT LAW PO BOX 26 CALDWELL ID 83606-0026

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated January 27, 1993, and has submitted Proof of Beneficial Use on January 18, 1996. An examination confirms water is diverted from:

SOURCE:
WASTE WATER

TRIBUTARY:
BOISE RIVER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
WILDLIFE STORAGE	01/01 to 12/31		73.3 AF
DIVERSION TO STORAGE	01/01 to 12/31	7.00 CFS	
STOCKWATER STORAGE	01/01 to 12/31		2.7 AF

LOCATION OF POINT(S) OF DIVERSION:

WASTE WATER NW¼SE¼ Sec. 7, Twp 04N, Rge 03W, B.M. CANYON County

PLACE OF USE: WILDLIFE STORAGE and STOCKWATER STORAGE

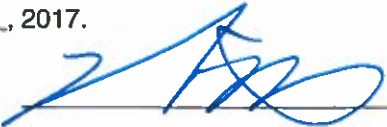
Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	7							X L4	X									

CONDITIONS OF APPROVAL

1. This right authorizes a total annual storage volume of 73.3 acre-feet, 13.8 acre-feet to be used for the initial filling or carryover storage of the ponds, 59.5 acre-feet for the replacement of losses caused by seepage and evaporation.
2. The three (3) ponds established by the storage of water under this right shall not exceed a total capacity of 13.8 acre-feet or a total surface area of 11.5 acres.
3. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
5. This right does not grant any right-of-way or easement across the land of another.

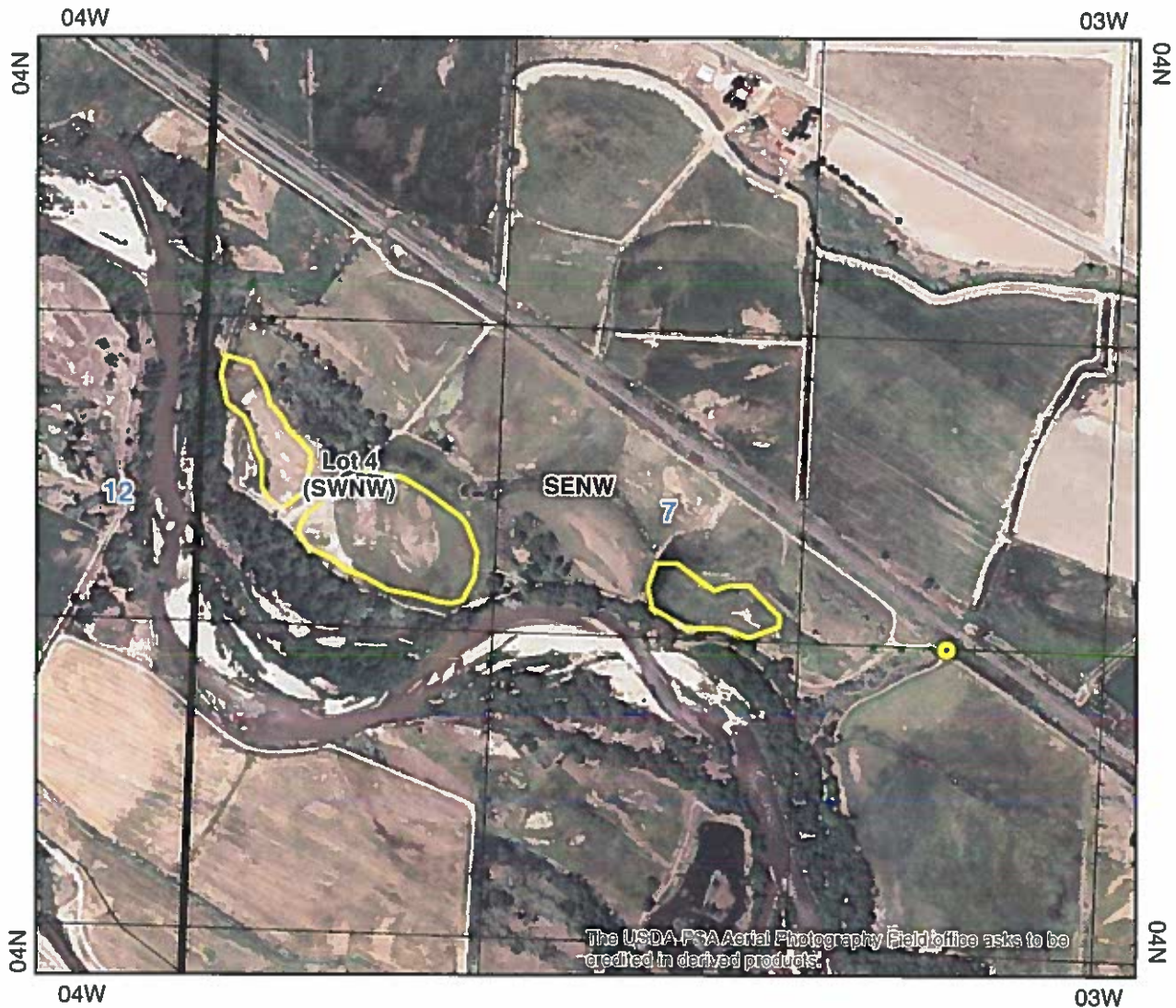
This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 27th day of March, 2017.


Nick Miller
Manager, IDWR Western Region

State of Idaho
Department of Water Resources
Attachment to Water Right License
63-11977

This map depicts the WILDLIFE STORAGE and STOCKWATER STORAGE place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections

0 0.075 0.15 0.3 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

March 27, 2017

RONALD P RAINEY
ATTORNEY AT LAW
PO BOX 26
CALDWELL ID 83606-0026

RE: License No. 63-11977

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208)334-2190.

Sincerely,

 Rachel Neely for:

Nick Miller
Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on March 27, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO. 63-11977

**RONALD P RAINEY
ATTORNEY AT LAW
PO BOX 26
CALDWELL ID 83606-0026**

**REX R. BARRIE
WATERMASTER OF DISTRICT 63
10769 W STATE ST
PO BOX 767
STAR ID 83669**



**Rachel Neely
Administrative Assistant**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document 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 of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing 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. **Note: the petition must be received by the department within this fourteen (14) day period.** 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 fourteen (14) 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 with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

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 IDAPA Rules 37.01.01302 and 37.01.01303 (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 service date 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.

MEMORANDUM

TO: Water Right File 63-11977
FROM: Patrick Kelly; Water Resource Agent Sr.
DATE: March 17, 2017
SUBJECT: Review of Water Right File for Licensing

A field exam for 63-11977 was completed by Vicki Music on October 10, 2014. The basis of her report was based on the exam that Sandy Hemmingway completed on the system October 1, 2006 for overlapping decreed rights.

My review of all documents supplied with the field exam is as follows:

Ownership: Ronald Rainey is the current owner to both the permit and property according to county taxlot data.

Point of Diversion: 2 points of diversion were identified by the permit to the 10 acre tract. Vicky used Sandy's report which identifies a diversion in the SWSWNE (POD #2). Aerial photography of the POD shape created shows a pooling of water and what appears to be the location of a potential headgate before water enters a ditch. Sandy recorded a GPS point of N43d 41.909, W116d 44.442. This is nearly on the border between the two permitted quarter-quarters and a shift in the PLSS mapping may have occurred since Vicky or Sandy reviewed the information. However, at the time of this review, the POD shape created and the GPS coordinates both reflect a location in the NWSE QQ. This is a location described by the permit and no amendment is required. Because this is not a spring source, the 10 acre tract will not be included in the description per department standards.

Place of Use: POU shapes appear to have been created using aerial photography, confirmed by Sandy's 2006 visit. All 3 ponds are within the SWNW L4 and SENW QQ of Sec 7. These are identified by the permit and no amendment is required.

Diversion Rate and Volume: Sandy's 2006 report finds ample amounts of water entering the property from a total of 4 diversions. The property sits on the banks of the Boise River where irrigation district water and drainage pass in large quantity. POD #2 in the 2006 report finds a diversion capacity of 15.85 cfs, exceeding the permitted 12.0 cfs.

Wildlife use at a rate of 7.0 cfs was identified by the permit to account for flow through and seepage and evaporation. A NRCS report directed to the department in 2010 suggested a rate of 0.15 cfs per acre wildlife use to account for infiltration and flow through.

A pond spreadsheet was completed and attached to this memo. The POU shapes that were created total 11.5 acres. A max depth of 3' was recorded by Sandy in 2006. Assuming a 40% gradient, the average depth equals 1.2 ft. This translates into a total pond capacity of 13.8 af. Seepage and evaporation totals 59.5 af.

Stockwater storage is used for 200 head. Vicky recommended a volume of 2.7 af based on department standards. This is less than the capacity of the ponds, however the total capacity is covered by wildlife storage, and the 2.7 af for stockwater use more accurately describes the beneficial use.

Overlap Analysis: The 2006 report was completed for the decree of 63-4531 and 63-28221. 63-4531 is an irrigation right and does not overlap in use, only in POD. 63-28221 carries a wildlife use from the same POD totaling 5.00 cfs but does not identify a volume. The stockwater use under this right identifies a rate of 0.05 cfs for 200 cattle that allows them to drink directly from the source. The stockwater under 63-28221 is not a storage use and is not an overlap to our licensing efforts.

Because decreed right 63-28221 acknowledges a diversion rate of 5.00 cfs for wildlife purposes, no additional wildlife beneficial use is found in permit 63-11977. The Wildlife Storage component of 63-11977 will then reflect a capacity of 13.8 af, and seepage and evaporation of 59.5 af, totaling 73.3 af.

As a result of the recommendation, no combined use limits are required.

Recommended Amounts:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Wildlife Storage	1/1 – 12/31		73.3 af
Stockwater Storage	1/1 – 12/31		2.7 af
Diversion to Storage	1/1 – 12/31	7.0 cfs	
	<u>Totals</u>	7.0 cfs	73.3 af

Recommended Amendments:

☐ Change P.D. ☐ Add P.D. ☒ None

☐ Change P.U. ☐ Add P.U. ☐ Other

Seepage Loss Calculations

This spreadsheet has been designed by Idaho Department of Water Resources to estimate the total annual seepage losses from a pond.

FILE NUMBER	63-11977
REVIEWER	Patrick Kelly
DATE	7/26/2016

User Input
Calculated value
Formula Explanations

INPUTS

Pond Surface Area (AC.)	11.5	AC.
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Pond Surface Area (SQ. FT.)	500940	SQ. FT.
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My Soil Classification is	SC	
Suggested Seepage Rate (FT./DAY)	0.0070	FT./DAY

Formula: (Surface Area X Seepage Rate) X 7.48 = Gallons Per Day Loss
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Convert to GPD	26229	GPD
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Total Seepage Loss (AFA)	29.4	AFA
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Though sand and gravel seepage rates may actually be higher, the maximum allowable rate is 0.2 ft/day, pursuant to Administrative Memo "Seepage Loss Standards for Ponds and Reservoirs."

Suggested Seepage Rates for Different Soil Types:

GW, GP, GM, GC, SW, SP and SM (silty sand, sand silt mixtures and gravel mixtures) = 0.2 ft per day

OL and ML (inorganic silts - very fine sands, silty, or clayey fine sands) = 0.02 ft per day

SC (clayey sands, sand clay mixtures) = 0.007 ft per day

CL (Low to medium plasticity clays) = 0.003 ft per day

MH, OH, PT and CH (high plasticity clays) = 0.0003 ft per day

LINED PONDS (liners can be chemical, fabric, or bentonite) = 0 ft per day

Ponds Intercepting Groundwater (excavated ponds filled by ground water) = 0 ft per day

PLEASE NOTE: The Initial basis for the Suggested Seepage Rates in the table above is found on Page 16 of Seepage from Fish Ponds, Bulletin 599, August 1989 Alabama Agricultural experiment Station, Auburn University, Auburn University Alabama. If you don't know the soil type, please refer to the map provided at <X:\Spatial\Soils\USCS\PondSoils.lyr>. Use "0" if the pond fill relies on the water table.

Evaporation Loss Calculations

This spreadsheet has been designed by Idaho Department of Water Resources to estimate the annual evaporation losses from a pond.

FILE NUMBER	63-11977
REVIEWER	Patrick Kelly
DATE	7/26/2016

User Input
Calculated value
Formula Explanations

The acronyms used on the Kimberly Research Center website are defined below:
P = Precipitation
ET= Evapotranspiration
P _d = Precipitation deficit
P _d =ET-P

USING THIS SPREADSHEET

Use the link below to access the Kimberly Research Center website. This website provides the Precipitation Deficit for a station most representative of the pond under examination. The Precipitation Deficit is the total amount of free water surface evaporation minus the precipitation for a given area, which gives the total amount of evaporative losses incurred by the pond. There are several weather sites that are used throughout the state. IDWR staff can find the nearest site using Arc Map. The shape file containing the sites can be found at X:/Spatial/Climate/ETIdahostations.shp.

Instructions:

1. Use the link below to navigate to ET Idaho 2012.
2. Select the station which is most representative to your pond location.
3. Click Submit Query.
4. Under "Land Covers with Evapotranspiration Estimates," select "Open Water - Shallow Systems (ponds, streams)" or "Open Water - small stock ponds" depending on the pond size.
5. Click the link to "Precipitation Deficit."
6. Reference and copy (ctrl + C) the first subheading "Mean" values.
7. Click the "Paste Values from ET Idaho" button. The table will automatically enter a zero (0) for any negative precipitation deficit values.

Found at: <http://data.kimberly.uidaho.edu/ETIdaho/>

Precipitation Deficit

Station: Caldwell (NWS - 101380)

Month	mm/day ¹	Days per month	mm/Month
Jan	-0.83	31	0.00
Feb	0.18	28	5.04
March	1.22	31	37.82
April	2.51	30	75.30
May	3.74	31	115.94
June	4.22	30	126.60
July	5.01	31	155.31
August	4.27	31	132.37
September	3.06	30	91.80
October	1.89	31	58.59
November	-0.12	30	0.00
December	-0.78	31	0.00

PLEASE NOTE: The seasonal average for precipitation deficit should not be used for calculations because precipitation often exceeds evaporation during wetter months of the year. If the pond is kept full, excess precipitation during wetter months does not serve to refill the pond during drier months.

For example, see Sandpoint KSPT (NWS - 108137), the annual precipitation deficit is -106 mm. However, April through September have positive precipitation deficit values. To properly estimate the annual volume of water necessary to refill a pond due to evaporation losses, the table will automatically enter a zero (0) for each month that the precipitation value is reported as a negative value.

As described above, precipitation offsets evaporation in winter months, so the net effect is that wintertime precipitation deficit is usually zero.

Total mm/year = 798.77

$$\left(\frac{798.77}{304.8} \right) \times 11.50 = 30.1 \text{ AFA}$$

Total Storage Calculations

FILE NUMBER	63-11977
REVIEWER	Patrick Kelly
DATE	7/26/2016

This spreadsheet has been designed by Idaho Department of Water Resources to estimate the total seepage, evaporation and fill capacity required for a pond.

User Input
Calculated value
Formula Explanations

Surface Area (AC.)	11.5	"Surface Area" is automatically carried over from the "Seepage Loss" sheet.
Average Pond Depth (FT.)	1.2	"Average Pond Depth" depicts the actual depth of the pond either measured or estimated. Note: If you know the maximum depth and not the average depth, the Field Examiner's Handbook suggests multiplying the maximum depth by 0.4 to get the average depth, or you can use any method that seems reasonable to attain average depth.
Pond Capacity (AF)	13.8	Pond Capacity is calculated by multiplying the Pond Surface Area by the Average Pond Depth. If you know the capacity, divide the capacity by surface area and enter the average pond depth in the space above. Note: If pond capacity is determined using a method shown on the "Pond Capacity" sheet, the user may need to modify the value of "Pond Capacity" (cell B9) manually. Note that if the value is modified manually, the formula will be altered for future use.
Multiple Fill Volume Above Initial Fill to Fulfill From Storage Needs- "Multiple Fills" (AF)	0	The "Multiple Fill Volume Above Initial Fill" is the acre-feet of water required to meet a <i>from storage</i> component if the <i>from storage</i> component exceeds a one time fill. This section should not include the amount of water needed to fill the pond initially or the amount of water needed to maintain the pond level due to evaporation or seepage. For example: if a pond has a capacity of 5 acre feet and 2.5 acre feet of seepage and evaporation, but the pond is used for irrigation that requires 10 acre feet of from storage for the irrigation use, then you would insert 5 acre feet into this location (10 acre feet needed - 5 acre feet from the initial fill = 5 acre feet of additional storage needed). Note: You must have a "From Storage" component exceeding the initial fill on the permit to include a volume in this space.
Estimated Seepage Loss (AF)	29.4	The "Estimated Seepage Loss" is automatically carried over from the "Seepage Loss" sheet.
Estimated Evaporation Loss (AF)	30.1	The "Estimated Evaporation Loss" is automatically carried over from the "Evaporation Loss" sheet.
Total Volume Required (AF)	73.3	The "Total Volume Required" is calculated by adding the Pond Capacity, Multiple Fills, Seepage Loss, and Evaporation Loss amounts to determine the total amount of storage required.

Flow Rate into Pond (CFS)	7.00	The "Flow Rate into Pond" depicts the actual flow, either measured or estimated, into the pond. For offstream facilities, this will be equivalent to "diversion to storage" rate.
Highest Daily Evaporation Rate From Evaporation Tab. (mm/Day)	5.01	This number is carried over from the "Evaporation Loss" sheet. It is the highest recorded number in the "Precipitation Deficit Table".
Required Daily Maintenance Volume (AF/Day)	0.27	"Required Daily Maintenance Volume" is the maximum volume of water needed on any given day during the year to maintain pond volume. It is calculated by adding the highest daily evaporation loss to the average daily seepage loss in acre feet. The average daily seepage loss is calculated by dividing the "Estimated Seepage Loss" by 365 days. This is acceptable, since the seepage rate shouldn't vary throughout the season unless the pond completely freezes over during the winter months. The highest daily evaporation loss is calculated by dividing the Highest Daily Evaporation Rate by the 304.8 conversion factor and multiplying this number by the pond surface area to attain a combined daily acre feet requirement.
Minimum Maintenance Flow (CFS)	0.14	The "Minimum Maintenance Flow" is the minimum amount of flow required to maintain the level of the pond. This number is determined by dividing the "Maximum Required Daily Maintenance Volume" by 1.9835. This flow can be used to determine if the flow rate into the pond is adequate to maintain the pond level.
Days Required to Fill the Pond	1	The "Days Required to Fill the Pond" is calculated by dividing the "Pond Capacity" by the "Flow Rate" minus "Minimum Maintenance Flow" multiplied by 1.9835. This section will assist you in determining if the flow rate being diverted to the pond is adequate to fill the pond while maintaining the pond level. The length of time to fill the pond will help determine if the flow rate is adequate for the size of pond being proposed. If this number is approximately 6 months (180 days) or more, the reviewer should have a discussion with the applicant to make sure he/she understands that it will take a significant length of time to fill the pond.
Days Required to Fill the Pond at 13,000 Gallons per Day	-60	Some water users may want to fill a pond under the 13,000 gallons per day domestic exemption. The "Days Required to Fill the Pond at 13,000 Gallons per Day" is calculated by converting the "Pond Capacity" and the "Required Daily Maintenance Volume" to gallons. The "Pond Capacity" is then divided by 13,000 gallons minus the "Required Daily Maintenance Volume" in gallons to determine the number of days to fill pond. If this number is approximately 6 months (180 days) or more, the reviewer should have a discussion with the applicant to make sure he/she understands that it will take a significant length of time to fill the pond. Negative values indicate that the supply of 13,000 gallons per day is not enough volume to overcome the required daily maintenance volume; the pond will never fill.