



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 21, 2016

LARRY SZURGOT
PO BOX 100
HORSESHOE BEND ID 83629

RE: Permit 65-13708 and additional pond.

Dear Mr. Szurgot:

Please note!

*This letter was
resent to address*

SO Deke DA on

July 29, 2016. DAN.

7-29-16

We met on June 29, 2016 while I was performing a measurement on the Payette River pump station for Faull Ranch Estates Owners Association Inc. During this meeting, we discussed water right permit 65-13708, which you filed for wildlife storage for a pond on February 21, 1997 and later assigned to Faull Ranch Estates Owners Association Inc.

During our meeting you informed me that Steve Lester formerly from our western region office worked with you on permit 65-13708, and told you that both ponds were covered by this permit and both ponds were legal. I showed you the permit file and tried to explain that it appears as though the permit was only for the pond in Lot 10 of Faull Ranch No. 1 Subdivision, which is currently owned by Richard and Kathleen Keyes. After our meeting, I came back to the office and did some more investigation, and I believe I have discovered what took place at the time you filed permit 65-13708.

I have enclosed notes, a plat map, and topographical map I copied from the permit file. In Mr. Lester's notes, he clearly states that permit 65-13708 was for the pond in Lot 10, and that you had recently purchased the adjacent parcel to the west. This matches the parcel information available to Department which shows you own Tax Lot 412, Faull Ranch Subdivision No. 2, which is the next lot west of Lot 10. It is clear from Mr. Lester's notes and maps submitted with the permit, that the pond associated with permit 65-13708 is the pond on the Keyes property or Lot 10.

I also noticed while viewing the aerial photos available to the Department that the pond on Tax Lot 412 was originally built between 1987 and 1998. The pond was very small from 1998 to 2011, which may suggest that it was only used as an irrigation distribution pond. However, between 2009 and 2011 the pond was enlarged to its current size. I have included the aerial photos for your reference.



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I also noticed while viewing the aerial photos available to the Department that the pond on Tax Lot 412 was originally built between 1987 and 1998. The pond was very small from 1998 to 2011, which may suggest that it was only used as an irrigation distribution pond. However, between 2009 and 2011 the pond was enlarged to its current size. I have included the aerial photos for your reference.

If the smaller pond shown in the 1998 aerial photo was originally used as an irrigation distribution pond and could be filled and emptied under the existing irrigation rights for your property within a 24 hour period, Mr. Lester would have told you that you would not need a water right for the pond if it was only filled and used during the irrigation season. Below is a definition of an irrigation distribution pond:

"A water right permit is not required to construct and use a pond or ponds that are part of a system used to distribute and use water in accordance with a valid water right if the pond or ponds do not impound a larger volume of water than authorized for diversion within a 24-hour period under the water right or rights associated with the project."

In reviewing the aerial photos and the definition of a distribution pond stated above, I can believe that Mr. Lester did tell you that as long as the pond on Tax Lot 412 was an irrigation distribution pond, it would not need a water right.

The aerial photos enclosed with this letter also show that permit 65-13708 could not be associated with the pond on Tax Lot 412, since the pond on Tax Lot 412 didn't exist until after you purchased the property. I didn't investigate the pond on Tax Lot 412 closely enough to determine if it is an irrigation distribution pond, but if it is a distribution pond, it would need to be relatively shallow and could not hold water during the non-irrigation season. You or Faull Ranch Estates Owners Association Inc. could file a new water permit for your pond if it doesn't meet the criteria of an irrigation distribution pond. Any pond not meeting the criteria for an irrigation distribution pond does require a water right, so if the pond on Tax Lot 412 doesn't meet the above criteria, I would recommend that you file a permit to cover this use.

I will continue with the licensing of permit 65-13708 as it is described in the permit and field examination for the pond on Lot 10. You do still have the option to file an application for permit for the pond on Lot 412 if it doesn't meet the definition of an irrigation distribution pond. I hope this clarifies any confusion concerning the pond on your property.

If you have any questions or concerns, please don't hesitate to contact me at the address on this letter.

Respectfully,

A handwritten signature in black ink, appearing to read "Daniel A. Nelson", with a long, sweeping horizontal line extending to the right.

Daniel A. Nelson
Staff Hydrologist
Planning Bureau
Idaho Department of Water Resources
Telephone # (208) 287-4856

Cc Faull Ranch Estates Owners Association Inc.

Comments: Date: 2/21/1997 User-ID: SLESTER

Subject: ADDITIONAL INFORMATION

Existing on-stream pond with headgate & pipe outlet covers about 1 acre, about 5' average depth. Source is runoff via unnamed stream (see topo) & overland flow. Pond is part of existing irrig system under Hill Creek decreed right 65-03803, which does not include storage component (appears has been a 24 hr. fill regulating pond under old system). No additional storage to be developed - applicants want to keep pond as full as can all year for additional use (misc. wildlife species).

Therefore, pond under this right & 65-03803 to be limited to 5 af total.

Property also known as Lot 10, Faull Ranch No. 1 Subdivsion. Applicants previously bought adjacent parcel to west outside of subdivison. Will file appropriate change in ownership pending help to be supplied from regional office (entire subd. & adjacent area hosts variety of rights and confusing overlap - regional staff can assist this & future ownership changes by preparing a master map/chart).

Does not appear that new filing will include any increase in consumptive use on this property.

MICROFILMED

AUG 10 1998

Section 11

Section 2

LINE TABLE

LINE	LINE CHAIN	DISTANCE
1	N 50°11'35" E	102.62'
2	S 87°35'07" W	50.04'
3	N 00°11'33" E	50.00'
4	N 01°34'19" E	23.01'
5	N 10°54'50" E	66.73'
6	N 35°40'00" E	51.72'
7	N 83°27'02" E	117.48'
8	N 83°27'02" E	117.48'
9	N 51°40'35" E	49.51'
10	S 72°37'24" E	58.61'
11	S 18°14'29" W	107.53'
12	S 73°47'25" W	32.08'
13	S 00°09'10" E	23.00'

CURVE TABLE

CURVE	RAIUS	LENGTH	CHORD	BEARING	DELTA
C1	194.00'	44.72'	22.48'	N 59°21'14" E	137°12'37"
C2	400.00'	17.22'	14.41'	S 67°50'28" E	04°35'46"
C3	160.00'	81.59'	41.30'	N 50°48'48" E	207°17'23"
C4	71.00'	52.22'	27.35'	N 31°40'50" E	47°08'13"
C5	106.00'	70.28'	10.17'	N 68°30'18" E	103°17'14"
C6	106.00'	60.13'	42.08'	N 68°44'17" E	43°18'28"
C7	194.00'	31.33'	18.81'	N 68°30'18" E	09°35'10"
C8	76.00'	31.37'	18.81'	N 68°30'18" E	53°58'36"
C9	100.00'	30.17'	20.13'	S 68°50'54" E	37°58'51"
C10	50.00'	54.71'	52.02'	N 67°00'00" E	41°17'07"
C11	50.00'	123.72'	63.37'	S 67°09'11" E	20°58'23"

SESW

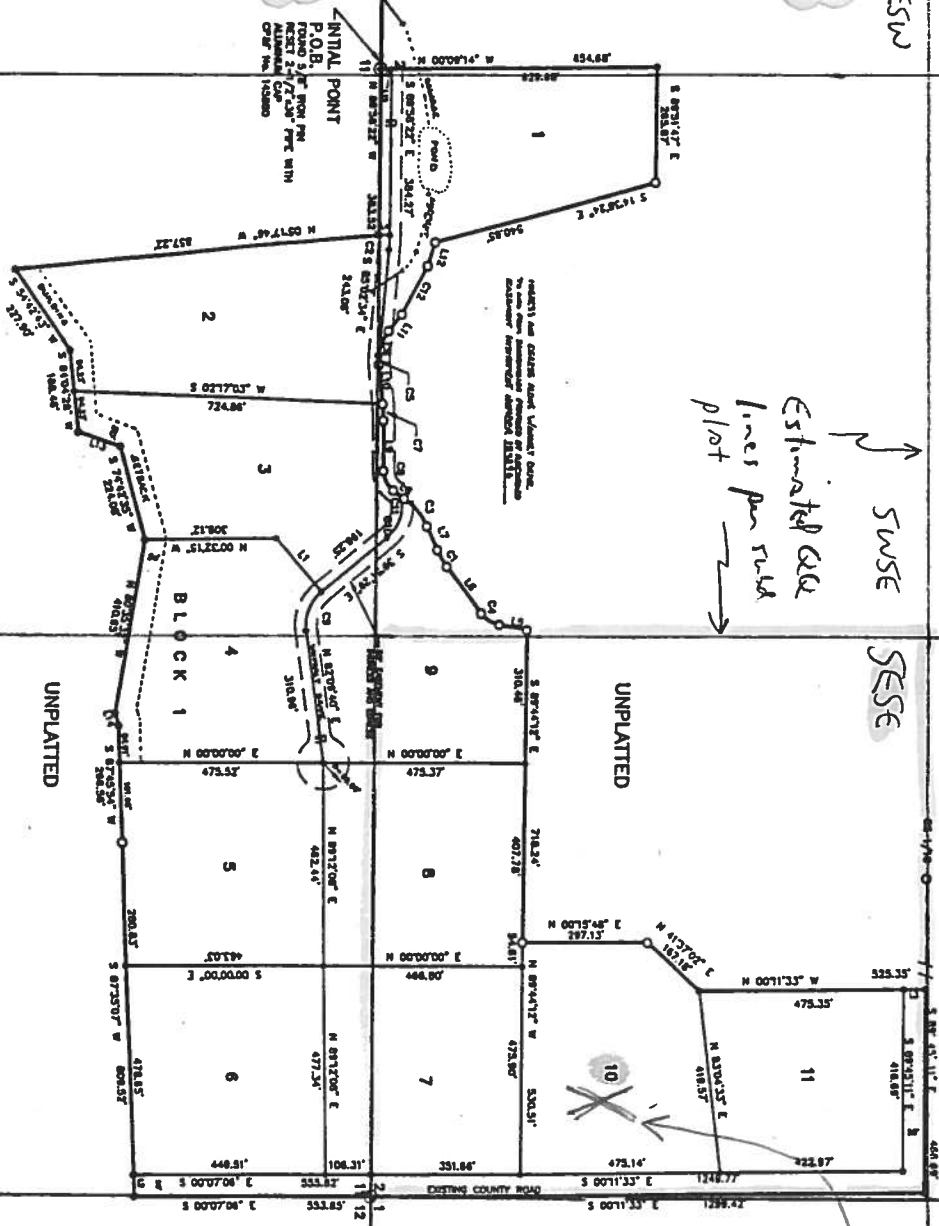
NWSE

NESE

SWSE

SESE

Estimated old lines per sub plot



NWNE

NENE

SUBDIVISION PLAT
of
PAUL RANCH No. 1
A TRACT OF LAND SITUATED IN A PORTION OF
THE SE 1/4 OF SECTION 2 AND THE NE 1/4 OF SECTION 11
T.7N., R.2E., B.M.,
BOISE COUNTY, IDAHO
1995

NOTES

- 1. THE OWNER SHALL COMPLY WITH 31-3805, IDAHO CODE RELATING TO TRANSFER OF WATER RIGHTS.
- 2. BUILDING SETBACKS SHALL BE AT LEAST:
FRONT 10 FEET
REAR 5 FEET
SIDE 5 FEET, PLUS _____ FEET BETWEEN BUILDINGS.
- FLANKING STREET _____ FEET.
- 3. BOISE COUNTY ASSUMES NO RESPONSIBILITY FOR MAINTENANCE OF ROADS PLATTED HEREON, SUBJECT TO ORDINANCE.
- 4. A 12 FOOT UTILITY AND DRAINAGE EASEMENT EXISTS INSIDE ALL LOT LINES ALONG ROADS AND ALONG THE SECTION CORNERS, AND A 12 FOOT EASEMENT WILL BE CENTERED ON ALL INTERIOR LOT LINES.
- 5. LOTS SHALL NOT BE REDUCED IN SIZE WITHOUT PRIOR APPROVAL OF APPROPRIATE HEALTH AUTHORITY AND THE BOISE COUNTY COMMISSIONERS.
- 6. ALL AREAS SHOWN HEREON ARE FOR TAX PURPOSES ONLY.
- 7. UTILITY AND DRAINAGE EASEMENTS ALONG ROADS MAY BE USED AS "ROAD RIGHT-OF-WAY" EASEMENT AND FOR SNOW STORAGE.
- 8. ALL ROADS PLATTED HEREON ARE PRIVATE ROADS AND NOT OPEN TO COUNTY SERVICES (EXCEPT EMERGENCY IN NATURE) WILL BE PROVIDED.

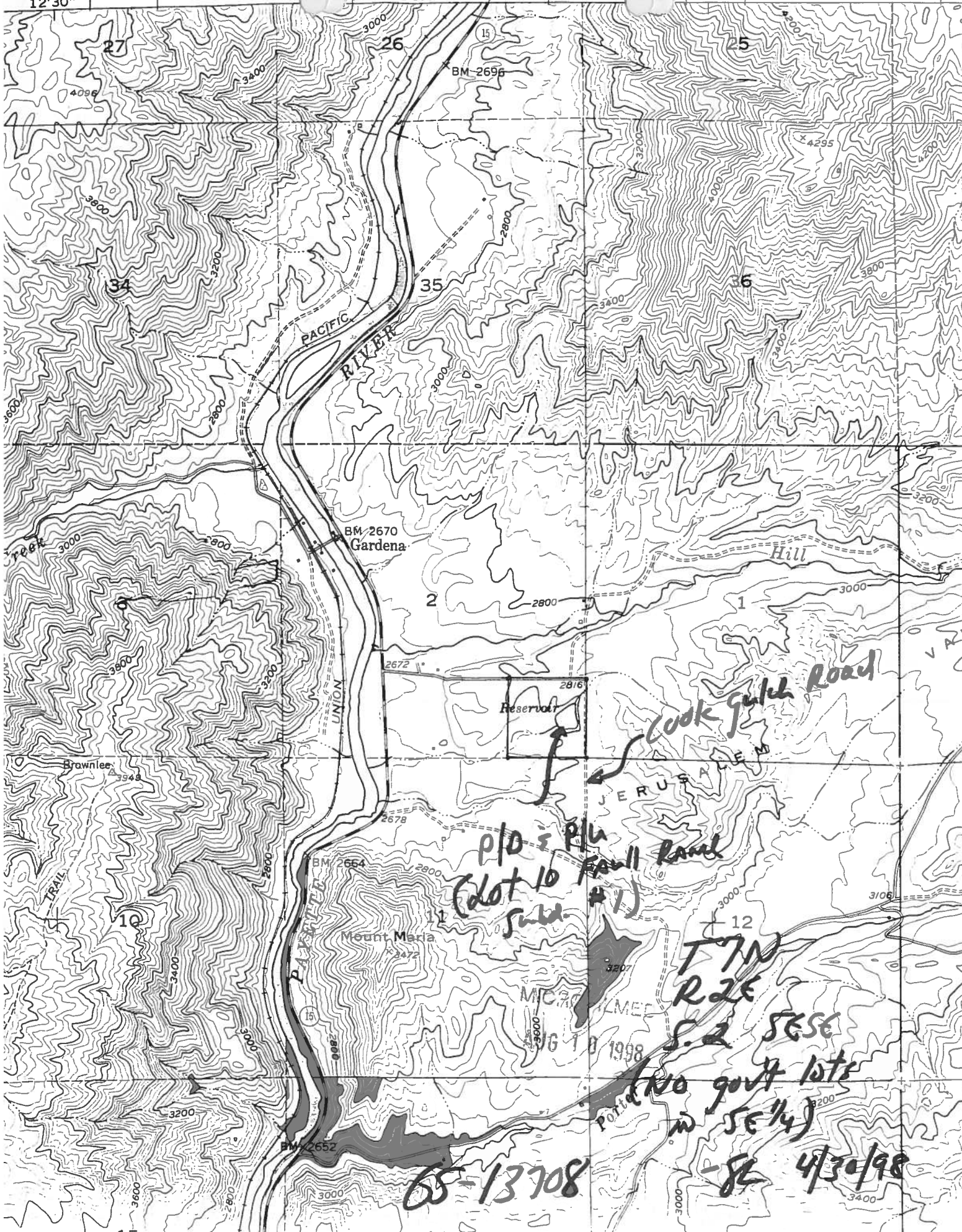
SCALE: 1" = 200'

LEGEND

- FOUND BRASS CAP
- FOUND ALUMINUM CAP
- FOUND 5/8" IRON PIN
- SET 5/8" IRON PIN
- SET 1/2" IRON PIN
- (2640.00) DATA OF RECORD



12'30"



p/o & PLU
(dot 10 Fall Road
Sub. #1)

T7N
R2E
S.2 SESE
(No govt lots
in SE 1/4)

65-13708

4/30/98

Permit 65-13708

-  Pre2000 412 pond
-  Lot 412 Pond
-  13708 Pond
-  Taxlots

1987 Aerial Photo



During licensing of permit 65-13708, there was some confusion on which pond belonged to the permit. The permit was originally issued to a Mr. Szurgot, but was assigned to Faull Ranch Estates Owner's association. At the time the permit was issued, Mr. Szurgot owned both lots 412 and 10. Mr. Szurgot later sold lot 10 to different individual. The licensing exam was done on the pond in tax lot 10 outlined in blue. This pond has a 1.3 acre surface area and an average depth of 5 feet. The pond in lot 10 is slightly larger than the permit requested, but it is reasonably close to the permitted amount. The permit stated that the pond had been used as an irrigation regulation pond and the 1987 aerial photos show the pond in lot 10 as the only pond in existence in 1987. In the 1998 aerial photo, a second pond was developed on lot 412 outlined in Pink. The pond in lot 412 had a surface area of 0.1 acres. The permit stated that the original pond located in lot 10 was used as a regulation pond for water right 65-3803 from Hill Creek. The pond in lot 412 might fit the dimensions of an irrigation regulation pond. 65-3803 has a diversion rate of 0.74 cfs which is approximately 1.5 acre feet within a 24 hour period. The original pond constructed on lot 412, would have to have an average depth of 15 feet to store more water than water right 65-3803 could divert within a 24 hour period. However, between 2006 and 2011 the pond in lot 412 began to increase in size. Currently, the pond in lot 412 has a surface area of 0.4 acres outlined in purple. In order for the pond in lot 412 to be an irrigation regulation pond, the pond needs to be able to fill and empty within a 24 hour period using the diversion rate for the irrigation use. In order for the current pond to comply with the 24 hour fill limitation, the pond can only have an average depth of 3.75 feet. If the pond on lot 412 is an irrigation regulation pond, then the pond can only hold water during the irrigation season, so the pond would need to remain empty during the non-irrigation season. Permit 65-13708 should be licensed on the pond in tax lot 10, since it is obvious that this was the pond the permit was filed on. Mr. Szugot needs to show that the pond on tax lot 412 is an irrigation regulation pond, and not an aesthetic pond or file a permit for the pond on tax lot 412.

Permit 65-13708

-  Pre2000 412 pond
-  Lot 412 Pond
-  13708 Pond
-  Taxlots

1998 Aerial Photo

Tax Lot 412

Tax Lot 10

During licensing of permit 65-13708, there was some confusion on which pond belonged to the permit. The permit was originally issued to a Mr. Szurgot, but was assigned to Faull Ranch Estates Owner's association. At the time the permit was issued, Mr. Szurgot owned both lots 412 and 10. Mr. Szurgot later sold lot 10 to different individual. The licensing exam was done on the pond in tax lot 10 outlined in blue. This pond has a 1.3 acre surface area and an average depth of 5 feet. The pond in lot 10 is slightly larger than the permit requested, but it is reasonably close to the permitted amount. The permit stated that the pond had been used as an irrigation regulation pond and the 1987 aerial photos show the pond in lot 10 as the only pond in existence in 1987. In the 1998 aerial photo, a second pond was developed on lot 412 outlined in Pink. The pond in lot 412 had a surface area of 0.1 acres. The permit stated that the original pond located in lot 10 was used as a regulation pond for water right 65-3803 from Hill Creek. The pond in lot 412 might fit the dimensions of an irrigation regulation pond. 65-3803 has a diversion rate of 0.74 cfs which is approximately 1.5 acre feet within a 24 hour period. The original pond constructed on lot 412, would have to have an average depth of 15 feet to store more water than water right 65-3803 could divert within a 24 hour period. However, between 2006 and 2011 the pond in lot 412 began to increase in size. Currently, the pond in lot 412 has a surface area of 0.4 acres outlined in purple. In order for the pond in lot 412 to be an irrigation regulation pond, the pond needs to be able to fill and empty within a 24 hour period using the diversion rate for the irrigation use. In order for the current pond to comply with the 24 hour fill limitation, the pond can only have an average depth of 3.75 feet. If the pond on lot 412 is an irrigation regulation pond, then the pond can only hold water during the irrigation season, so the pond would need to remain empty during the non-irrigation season. Permit 65-13708 should be licensed on the pond in tax lot 10, since it is obvious that this was the pond the permit was filed on. Mr. Szugot needs to show that the pond on tax lot 412 is an irrigation regulation pond, and not an aesthetic pond or file a permit for the pond on tax lot 412.

Permit 65-13708

-  Pre2000 412 pond
-  Lot 412 Pond
-  13708 Pond
-  Taxlots

2004 Aerial Photo

Tax Lot 412

Tax Lot 10

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Permit 65-13708

-  Pre2000 412 pond
-  Lot 412 Pond
-  13708 Pond
-  Taxlots

2009 Aerial Photo

Tax Lot 412

Tax Lot 10

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Permit 65-13708

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2015 Aerial Photo

Tax Lot 412

Tax Lot 10

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