



**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](http://www.idwr.idaho.gov)

**C. L. "BUTCH" OTTER**  
Governor

**GARY SPACKMAN**  
Director

January 14, 2016

SHAWN MOSS  
TRINA MOSS  
PO BOX 434  
MC CALL, ID 83638

Application for Permit No. 65-23618

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the STAR NEWS on 1/21/2016 and 1/28/2016. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

Rachel Neely  
Administrative Assistant

CC:  
SPF WATER ENGINEERING LLC  
C/O TERRY SCANLAN  
300 E MALLARD DR STE 350  
BOISE, ID 83706

**Neely, Rachel**

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**From:** Neely, Rachel  
**Sent:** Thursday, January 14, 2016 9:05 AM  
**To:** 'jleedom@frontiernet.net'  
**Subject:** Application for Permit No. 65-23618  
**Attachments:** Watermaster Recommendation Form.docx; Application for Permit No. 65-23618.pdf

January 14, 2016

JOHN LEEDOM  
370 KNIGHTS RD  
MCCALL ID 83638

**RE: Application for Permit No. 65-23618**

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application(s). A copy of the application(s) is enclosed with this email for your reference. Please review the application(s), complete the enclosed recommendation form, and submit your reply, if any, to this office by the protest deadline of February 8, 2016.

If your agency desires to formally protest approval of this application, you may do so by filing a written protest along with a \$25.00 filing fee for each protested application by the protest deadline.

IDWR will assume you do not object to this application(s) if a timely response is not received. Please contact me if you have any questions in this matter. Thank you for your help.

---

*Rachel Neely*

Administrative Assistant I  
IDWR-Western Region  
2735 Airport Way Boise, ID 83705  
[Rachel.Neely@idwr.idaho.gov](mailto:Rachel.Neely@idwr.idaho.gov)

**Neely, Rachel**

---

**From:** Neely, Rachel  
**Sent:** Thursday, January 14, 2016 9:06 AM  
**To:** 'wd65@srvinet.com'  
**Subject:** Application for Permit No. 65-23618  
**Attachments:** Watermaster Recommendation Form.docx; Application for Permit No. 65-23618.pdf

January 14, 2016

RON SHURTLEFF  
WATER DISTRICT #65  
102 N MAIN  
PAYETTE, ID 83661

**RE: Application for Permit No. 65-23618**

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. A copy of the application is enclosed with this email for your reference. Please review the application, complete a recommendation form, and submit your reply, if any, to this office by February 8, 2016.

IDWR will assume you do not object to this application if a timely response is not received. Please contact me if you have any questions in this matter. Thank you for your help.

Sincerely,

---

*Rachel Neely*

Administrative Assistant I  
IDWR-Western Region  
2735 Airport Way Boise, ID 83705  
[Rachel.Neely@idwr.idaho.gov](mailto:Rachel.Neely@idwr.idaho.gov)

**Neely, Rachel**

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**From:** Neely, Rachel  
**Sent:** Thursday, January 14, 2016 8:50 AM  
**To:** 'The Star-News'  
**Subject:** Valley Legal Ad  
**Attachments:** Valley Cover Letter.docx; Valley Legal Ad.docx

Good Morning Legal Clerk,

Please see the attached ad for publication on 1/21/16 & 1/28/16.

Please confirm these are okay to publish as shown.

Thank you,

---

***Rachel Neely***

Administrative Assistant I  
IDWR-Western Region  
2735 Airport Way Boise, ID 83705  
[Rachel.Neely@idwr.idaho.gov](mailto:Rachel.Neely@idwr.idaho.gov)

January 14, 2016

LEGAL NOTICE DEPARTMENT  
STAR NEWS  
1000 1ST ST  
MC CALL, ID 83638

RE: Application for Permit No. 65-23618

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). 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. Please send the affidavit and bill to this office before 2/8/2016. Your cooperation is appreciated.

Sincerely,

Rachel Neely  
Administrative Assistant

Enclosure(s)

The following application has been filed to appropriate the public waters of the State of Idaho:

**65-23618**

SHAWN MOSS

TRINA MOSS

PO BOX 434

MC CALL, ID 83638

Point of Diversion SWSW S14 T17N R03E VALLEY County Source GROUND WATER

Use: AESTHETIC STORAGE 01/01 to 12/31 12 AF

Total Diversion: 12 AF

Date Filed: 7/1/2015

Place of Use: AESTHETIC STORAGE

T17N R03E S14 SWSW

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s), please see [www.idwr.idaho.gov/WaterManagement/WaterRights](http://www.idwr.idaho.gov/WaterManagement/WaterRights). Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 2/8/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 1/21/2016 and 1/28/2016

## MEMORANDUM

TO: Water Right File 65-23618  
FROM: Patrick Kelly  
DATE: 1/6/16  
SUBJECT: Re-Advertising/Mitigation proposal

Application for Permit 65-23618 as received July 1, 2015. This is an aesthetic storage use from a ground water source tributary to Lake Fork Creek. Mitigation was proposed with the application for evaporative/consumptive uses associated with the pond. The original proposal was to use storage right 65-2932B from Browns Pond. However, this right authorizes irrigation storage, and the timing of such a right does not provide sufficient mitigation for an aesthetic pond. Secondly, because the source of 65-23618 is ground water, it has not been found to be hydraulically connected to Lake Fork Creek.

The application was advertised in October 2015 with mitigation for consumptive uses.

In a letter sent November 20, 2015, the Department recommended using existing Lake Fork Creek irrigation rights 65-22967 & 65-22969. Depending on whether the surface water was being delivered to the aesthetic pond or not, the owner could file a transfer or establish a hydraulic connection between the ground water and creek water.

Ultimately, the excavated pond is located in an area where ground water sources are open for appropriation without mitigation required. In the interest to expedite this process, the applicant decided to move forward without mitigation and remove the tributary from the application. Because the Department decided to advertise before an adequate mitigation proposal was established, the Department will provide the cost of re-advertising the application.

Shawn & Trina Moss P.O. Box 434 McCall ID 83638

thefarmerandwife@aol.com

RECEIVED

DEC 21 2015

WATER RESOURCES  
WESTERN REGION

December 17, 2015

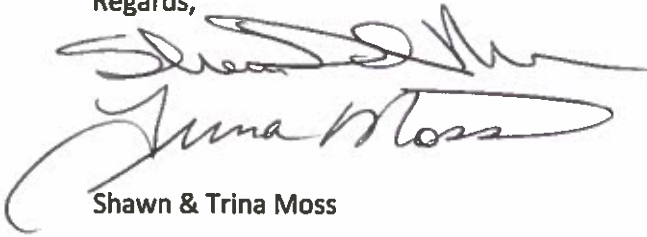
Patrick Kelly

Dear Sir,

Application for Permit 65-23618

In response to your letter, requesting information regarding the water right 65-22967, I do not have any further explanation as to why the water right is combined with Lake Fork Irrigation District. I do not currently receive assessments for Lake Fork Irrigation District.

Regards,

A handwritten signature in black ink, appearing to read "Shawn & Trina Moss", with a large, sweeping flourish at the end.

Shawn & Trina Moss

559-706-3785



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

November 30, 2015

COPY

SHAWN AND TRINA MOSS  
PO BOX 434  
MCCALL ID 83638

RE: Additional information for Application for Permit 65-23618

Dear Applicant,

On July 1, 2015, you filed an application for permit 65-23618 to appropriate 12 acre feet of water for aesthetic storage. Correspondence with Representative Terry Scanlan indicates that due to insufficient mitigation from Browns Pond, you are proposing to retire 1 acre from your active Lake Fork right 65-22967. The Department standard consumptive use of 2.0 af per acre for the region within 65-22967 place of use exceeds the evaporation losses associated with a pond measuring a surface area of 1.0 acre. This would appear to make for acceptable mitigation for permit 65-23618.

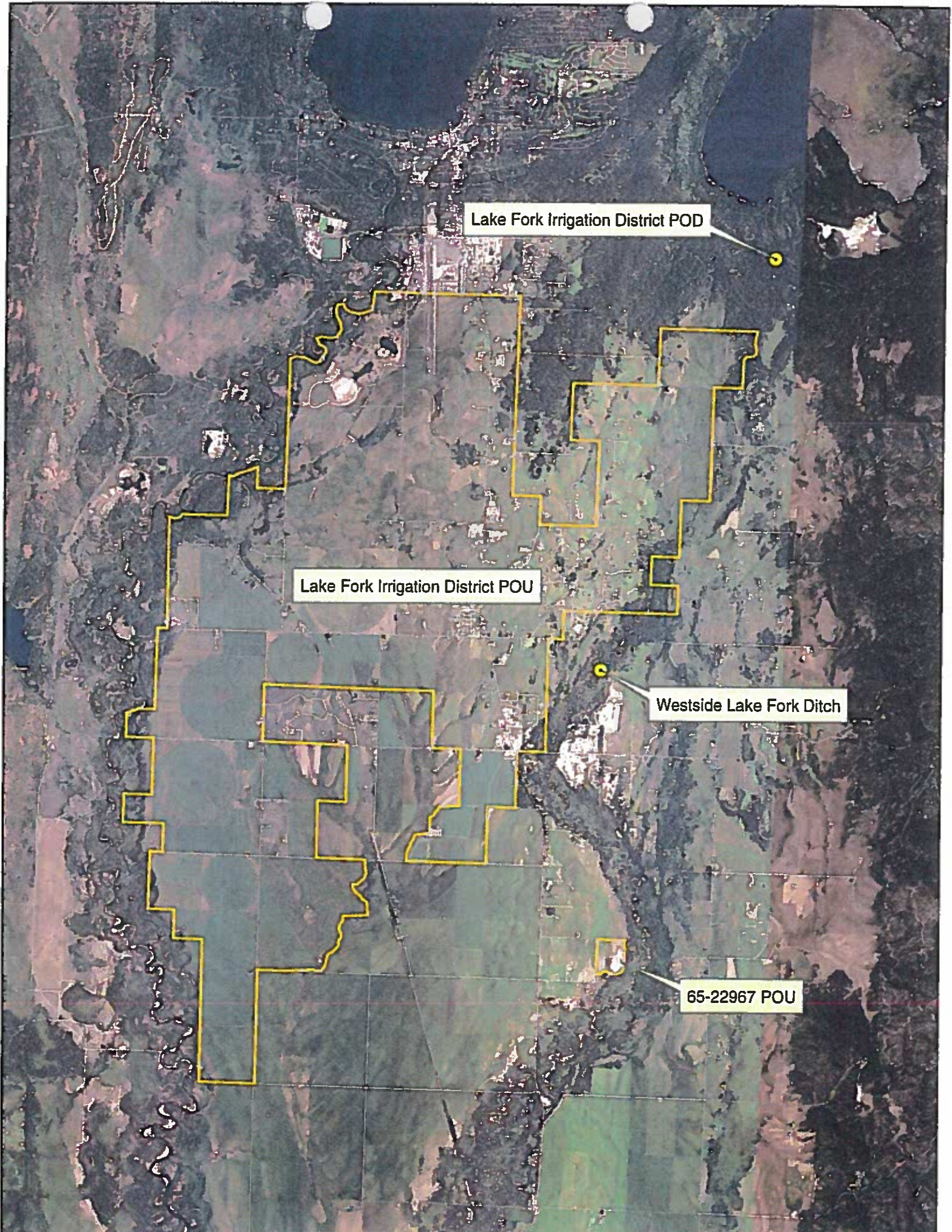
Conditions of approval on 65-22967 state: *Use of this right is combined with water from Lake Irrigation District.* Review of the water rights Place of Use and Point of Diversion finds 65-22967 does not appear to interact with the Lake Fork Irrigation District. Can you provide any information that would suggest water right 65-22967 is combined with Lake Fork Irrigation District use?

I have included a map outlining the water rights referenced above as well as an evaporation analysis of the pond. Please submit the requested information for the application to be processed. You may seek additional time to provide the information by making a written request to interrupt processing for up to six months. The application will be voided without a timely written reply within the next thirty (30) days. Refunds are not issued for voided applications.

IDWR forms and other information are available on the Internet at [www.idwr.idaho.gov](http://www.idwr.idaho.gov). Please contact me at 208-334-2190 if you need more information. Thank you for your attention to these matters.

Respectfully,

Patrick Kelly  
Water Resource Agent  
208.287.4933 phone  
[patrick.kelly@idwr.idaho.gov](mailto:patrick.kelly@idwr.idaho.gov)



Lake Fork Irrigation District POD

Lake Fork Irrigation District POU

Westside Lake Fork Ditch

65-22967 POU

## 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: **65-23618**  
 REVIEWER: **Patrick Kelly**  
 DATE: **11/30/2015**

User Input  
 Calculated value  
 Formula Explanations

The acronyms used on the Kimberly Research Center website are defined below:

P = Precipitation  
 ET = Evapotranspiration  
 P<sub>d</sub> = Precipitation deficit  
 P<sub>d</sub> = 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

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

### Precipitation Deficit

Station: McCall (NWS -- 105708)

| Month     | mm/day <sup>1</sup> | Days per month | mm/Month |
|-----------|---------------------|----------------|----------|
| Jan       | -1.93               | 31             | 0.00     |
| Feb       | -1.46               | 28             | 0.00     |
| March     | -0.70               | 31             | 0.00     |
| April     | 0.73                | 30             | 21.90    |
| May       | 1.38                | 31             | 42.78    |
| June      | 2.42                | 30             | 72.60    |
| July      | 4.12                | 31             | 127.72   |
| August    | 3.49                | 31             | 108.19   |
| September | 1.93                | 30             | 57.90    |
| October   | 0.46                | 31             | 14.26    |
| November  | -1.99               | 30             | 0.00     |
| December  | -2.50               | 31             | 0.00     |

Total mm/year = **445.35**

**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.

$$\left( \frac{445.35}{304.8} \right) \times 1.00 = 1.5 \text{ AFA}$$

Surface Area of Pond is automatically carried over from the Seepage Loss Sheet.

### Example Data:

## ET Idaho 2012 -- Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho

Please send suggestions for improving this site to [et@uidaho.edu](mailto:et@uidaho.edu). Copyright 2012 University of Idaho.

Data enter negative values above as "0"

### Twin Falls 2 NNE (NWS -- 109294)

Statistics based on thirty year normal spans 1943 to 1973 years

For a different land cover or crop click on the above link

Highlight this table and copy via the clipboard to a Microsoft Excel or OpenOffice spreadsheet to plot or otherwise work with this data.

### Open water - shallow systems (ponds, streams)

#### Precipitation Deficit ([Click here for a graph](#))

|                                    | Jan    | Feb  | Mar  | Apr  | May  | Jun  | Jul  | Aug  | Sep  | Oct  | Nov  | Dec   | Growing Season <sup>a</sup> | Non Growing Season <sup>b</sup> | Annual |
|------------------------------------|--------|------|------|------|------|------|------|------|------|------|------|-------|-----------------------------|---------------------------------|--------|
| Mean <sup>1</sup>                  | mm/day |      |      |      |      |      |      |      |      |      |      |       |                             | mm                              |        |
| Monthly <sup>2</sup>               | -0.17  | 0.32 | 1.19 | 2.40 | 3.13 | 3.73 | 4.84 | 4.34 | 3.17 | 2.08 | 0.2  | -0.33 | 151                         | 0                               | 151    |
| 15-Day Moving Average <sup>3</sup> | -0.30  | 0.31 | 1.19 | 2.42 | 3.08 | 3.14 | 4.91 | 4.33 | 3.08 | 2.08 | 0.12 | -0.35 |                             |                                 |        |
| 1-Day Moving Average <sup>4</sup>  | -0.41  | 0.32 | 1.19 | 2.40 | 3.13 | 3.72 | 4.86 | 4.33 | 3.12 | 2.02 | 0.16 | -0.38 |                             |                                 |        |
| 3-Day Moving Average <sup>5</sup>  | -0.17  | 0.33 | 1.20 | 2.41 | 3.12 | 3.73 | 4.84 | 4.34 | 3.12 | 2.01 | 0.20 | -0.33 |                             |                                 |        |

The above table is a snap shot of the tables you find at the Kimberly Research Center Webpage. (Use link above.) Copy (ctrl + C) the



**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

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**COPY**

**C. L. "BUTCH" OTTER**  
Governor

**GARY SPACKMAN**  
Director

November 20, 2015

SHAWN AND TRINA MOSS  
PO BOX 434  
MCCALL ID 83638

RE: Additional Information Required for Application for Permit 65-23618

Dear Representative,

In response to your comments received November 16, 2015, the Department finds the following:

The mitigation plan for application for permit 65-23618 proposes to mitigate using 12 af from storage right 65-2932B. While the annual volume may be sufficient to mitigate the consumptive uses of the pond, the timing of depletion to the system makes the mitigation proposal unacceptable. Water diverted under 65-2932B is appropriated during the spring time when filling of the pond from spring runoff is occurring. Consumptive use is different when excavating a pond since the consumptive use occurs through evaporation primarily later in the irrigation season. Adequate mitigation must then be proposed by acquiring an irrigation right that represents consumptive uses associated with the evaporative losses due to the timing of depletion to the system.

Domestic exemption limits for mitigation purposes are not recognized by the Department. The owner has not established this volume per day limit as a beneficial use and cannot "give up" a use that has not been established or measured.

65-22967 & 65-22969 are Lake Fork surface water rights combined with Lake Irrigation District water diverted through Westside Lake Fork Ditch. The application proposes to use the pond as a 24 hour storage of Lake Fork rights. Does the applicant intend to deliver these surface rights to the pond? If not, the ground water application would be processed as supplemental to the Lake Fork rights and use could only be diverted when the surface water rights were not available. Sufficient mitigation would be required in this case. Alternately, the applicant may complete a transfer of 65-22967 & 65-22969 with the combined Lake Irrigation District rights and add irrigation storage. No mitigation will be required in this situation.

Please review the information I have provided. You may seek additional time to provide the information by making a written request to interrupt processing for up to six months. The application will be voided without a timely written reply within the next thirty (30) days. Refunds are not issued for voided applications.

IDWR forms and other information are available on the Internet at [www.idwr.idaho.gov](http://www.idwr.idaho.gov). Please contact me at 208-334-2190 if you need more information. Thank you for your attention to these matters.

Respectfully,



Patrick Kelly  
Water Resource Agent

Enclosure(s): email dated November 16, 2015

Kelly, Patrick

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**From:** Terry Scanlan [TScanlan@spfwater.com]  
**Sent:** Monday, November 16, 2015 9:33 AM  
**To:** Kelly, Patrick  
**Subject:** RE: SPF Weekly Questions

Thanks Patrick. Regarding water master comments, here are my thoughts.

1. The proposed mitigation plan provides more than adequate mitigation for the impacts of the pond on the Lake Fork Creek drainage. The retirement of 12 acre feet of valid storage right will offset the 2 acre feet of depletive effects from pond evaporation. The pond will also eliminate 1 acre of consumption associated with irrigation. As a result, the mitigation plan provides a net benefit to the Lakefork Creek system of at least 10 acre feet annually. The pond will fill at the time of spring runoff, as Browns Pond historically has filled.
2. The maximum month evaporation is 3.44 mm/day (0.35 feet per month). This is equivalent to 3677 gallons per day (2.5 gpm) for a 1-acre pond surface. If necessary, the evaporative depletion from the Applicant's pond can be covered by pumping water from the applicants well under the domestic exemption provisions of Idaho Code 42-111 and 42-227.

42-111 - Domestic purposes are defined as "The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day"

42-227 – "The excavation and opening of wells and the withdrawal of water therefrom for domestic purposes shall not be subject to the permit requirement under section 42-229, Idaho Code; providing such wells and withdrawal devices are subject to inspection by the department of water resources and the department of environmental quality and providing further that the drilling of such wells shall be subject to the licensing provisions of section 42-238, Idaho Code. Rights to ground water for such domestic purposes may be acquired by withdrawal and use."

3. Given the magnitude of mitigation provided by retirement of the 12 acre foot Browns Pond water right, pumping of domestic well water into the pond does not seem warranted. Similarly, pumping water out of the pond, to provide 2.5 gpm of continuous flow to the Lake Fork Creek watershed does not appear to be warranted.
4. Although a pond loses water to evaporation on an annual basis, a pond will seasonally add water back into the groundwater system if the pond level declines during summer months as the local water table declines. A one foot decline in pond level results in approximately 0.75 acre feet of water entering the groundwater system from a 1-acre pond. This is because aquifer materials have an effective porosity of approximately 25% but a pond has an effective porosity of 100%. As the water table (which controls the pond level) declines, water is pushed from the pond into the groundwater system. We do not know magnitude of seasonal water level decline at the proposed pond site, but it is possible that the decline is adequate to offset any depletions to groundwater caused by pond evaporation. Pond level declines of 0.5 feet for July, 0.4 feet for August, and 0.2 feet for September would be adequate to cover evaporation. It is reasonable to assume that the local water table will fluctuate by these amounts, although we lack data to quantify the fluctuation at the present time.

Let me know if you have any questions or there is anything else that I can do regarding this application. Thanks.

Terry

RECEIVED

NOV 09 2015

WATER RESOURCES  
WESTERN REGION

State of Idaho

Department Of Water Resources

WATERMASTER RECOMMENDATION FORM

Water District # 65

Application # 65-23618

Applicant Name Shawn Moss and Trina Moss

Watermaster Recommendation:

- a) \_\_\_\_\_ I do not oppose approval of this application.  
b) \_\_\_\_\_ I do not oppose approval of this application if it is conditioned as follows:

- c) X I oppose approval of this application for the following reasons:

*Please refer to second sheet.*

- d) \_\_\_\_\_ Additional comments:

Dated this 9th day of November, 2015

Ken Shurtliff  
Watermaster Signature

Ken Shurtliff  
Printed Name

State of Idaho  
Department of Water Resources  
**WATERMASTER RECOMMENDATION FORM (CONT)**

Application # 65-23618

c) X I oppose approval of this application for the following reasons:

1. I am concerned the proposed mitigation plan for Application Permit No. 65-23618 is not valid. This is based on knowledge that Browns Pond dam was breached in 2010 and at this time there has been no effort to rebuild it. Since the Water Right offered as mitigation, No. 65-2932B, is for irrigation storage, and irrigation from storage, the need for a storage vessel is imperative.
2. Without a facility to store the mitigating water, its destiny is to go down stream during the early season freshet and not become impounded for later season usage.
3. I conclude it is not possible to mitigate the late season effect of the proposed aesthetic use under application 65-23618, with the non-usage of water that is destined to pass through the system during a time when no other water right can receive benefit from it. *Stated differently, if the mitigation water was capable of being impounded, the non-usage of that water could make it available to other uses.*

Dated this 9<sup>th</sup> day of November, 2015

  
\_\_\_\_\_  
Ron Shurtleff

RECEIVED

NOV 09 2015

WATER RESOURCES  
WESTERN REGION

State of Idaho

Department Of Water Resources

WATERMASTER RECOMMENDATION FORM

Water District # 65-K

Application # 65-23618

Applicant Name Shawn and Trina Moss

Watermaster Recommendation:

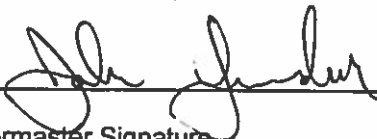
- a)        I do not oppose approval of this application.
- b)  I do not oppose approval of this application if it is conditioned as follows:

- c)  I oppose approval of this application for the following reasons:

I oppose this application I do not think you can be Giving out Rights From Brown's Pond. Especially For aethetic use, I also would like to note they have ~~be~~ started Diging on this Pond 3 weeks ago, Do they have a Permit alredy, Thank John

- d)        Additional comments:

Dated this Oct day of 25, 2015

  
Watermaster Signature

John Heedon  
Printed Name