



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

August 6, 2013

MARC ALLEN VANHARN
PO BOX 300
PALOUSE WA 99161

RE: License No. 92-10321

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 208-287-4916.

Sincerely,

Craig L. Saxton
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2013, 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.

92-10321

**MARC ALLEN VANHARN
PO BOX 300
PALOUSE WA 99161**

A handwritten signature in blue ink, reading "Darla Block", is written over a horizontal line.

**Darla Block
Technical Records Specialist**

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.

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 92-10321

Priority: May 28, 2011

Maximum Diversion Rate: 0.03 CFS
Maximum Diversion Volume: 1.5 AF

It is hereby certified that MARC ALLEN VANHARN
PO BOX 300
PALOUSE WA 99161 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated May 24, 2011; and has submitted Proof of
Beneficial Use on November 05, 2012. An examination confirms water is diverted from:

SOURCE

ALDER CREEK

Tributary: ST MARIES 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>
DOMESTIC	01/01 to 12/31	0.02 CFS	0.6 AF
IRRIGATION	03/15 to 10/31	0.01 CFS	0.9 AF

LOCATION OF POINT(S) OF DIVERSION:

ALDER CREEK NW1/4NW1/4 Sec. 36, Twp 45N, Rge 03W, B.M. BENEWAH County

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE			NW			SW			SE			Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
45N 03W 36						X							

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE			NW			SW			SE			Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
45N 03W 36						.3							.3

Total Acres: 0.3

CONDITIONS OF APPROVAL

1. Water shall not be diverted under this right when flows in the St. Maries River are below minimum flow amounts as defined by Right 92-7200.
2. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.

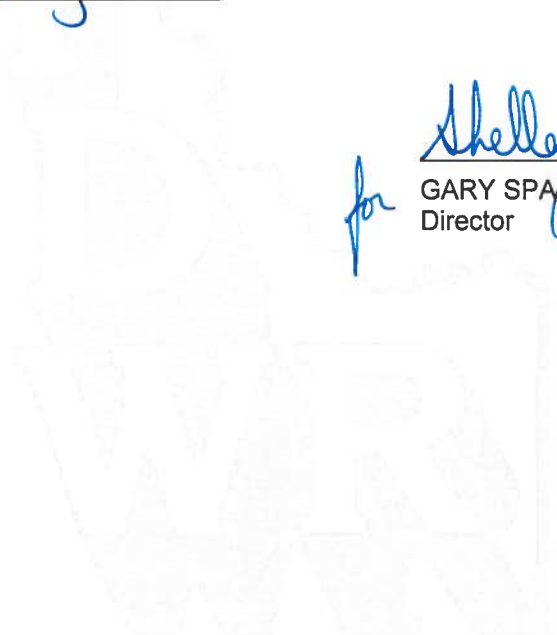
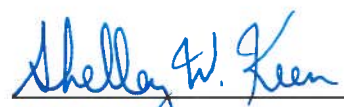
State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 92-10321

3. Domestic use is for 1 home. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.
4. This right does not grant any right-of-way or easement across the land of another.
5. This right when combined with all other rights shall provide no more than 0.01 cfs nor more than 0.9 afa at the field headgate for irrigation of the place of use.

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 6th day of August, 2013.



for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
Attachment To Water Right License
92-10321

This map depicts the DOMESTIC 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.

03W



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

0 0.01 0.02 0.04 Miles



State of Idaho
Department of Water Resources
Attachment To Water Right License
92-10321

This map depicts the IRRIGATION 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.

03W



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

0 0.005 0.01 0.02 Miles



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No: 92-10321

Exam Date: 5/20/2013

1. Current Owner: MARC ALLEN VANHARN
PO BOX 300
PALOUSE WA 99161
208-301-0018

2. Accompanied by: I Forgot to Write down the name

Phone No: NoneAddress: NoneRelationship to Permit Holder: The Owner's Nephew*

* The owner's nephew was at the site, and was taking of the site of the summer. He didn't have a formal address or telephone number at the time of the exam. I forgot to write his name, but I was in contact with the Mr. Van Harn during the process.

3. SOURCE

ALDER CREEK

TRIBUTARY

ST MARIES RIVER

B. OVERLAP REVIEW

1. Other water rights with the same place of use: NONE
2. Other water rights with the same point of diversion: NONE

C. DIVERSION AND DELIVERY SYSTEM**1. LOCATION OF POINT(S) OF DIVERSION:**

ALDER CREEK NW1/4NW1/4 Sec. 36, Twp 45N, Rge 03W, B.M. BENEWAH County

Method of Determination: GPS and Visual Inspection

2.

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>Totals</u>
45N	03W	36						X											

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>Totals</u>
45N	03W	36						.3											.3

Total Acres: 0.3

Method of Determination: Visual Inspection and GIS

3. YES Delivery System Diagram Attached (required). Indicate all major components and distances between components. Indicate weir size/pipe as applicable.

YES Aerial Photo Attached (required for irrigation of 10+ acres).

YES Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
Creek Pump	Intek 205	5.5	UNKOWN	Intek	1 ½ inch Discharge Pipe

*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
NONE						

2. Measurements: We used a bucket and stopwatch using a one gallon bucket. The timing was only 4 seconds, so multiple measurements were not made due to the lack of time. A theoretical calculation was also done.

E. FLOW CALCULATIONS

X Additional Computation Sheets Attached

Measured Method:

Theoretical Calculation = 0.26 cfs

Bucket and Stopwatch Method = (1 gal/4 seconds) X (60 seconds/1 minute) = 15 gpm

Maximum Rate Per Acre = 0.3 acres X 0.03 cfs/ac = 0.009 cfs – rounded to 0.01 cfs.

Maximum amount allowed for in-house domestic use = 0.02 cfs

Permit allows = Domestic 0.04 cfs and Irrigation 0.03 cfs for a total of 0.07 cfs

I recommend the license be issued for 0.02 cfs for the in-house use, and 0.01 cfs of the irrigation use for a total of 0.03 cfs.

F. VOLUME CALCULATIONS**1. Volume Calculations for Irrigation:**

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 0.3 \text{ acres} \times 3.0 \text{ acres} = 0.9 \text{ af}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation season}) \times 1.9835 = 0.01 \text{ cfs} \times 214 \text{ days} \times 1.9835 = 4.2 \text{ af}$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = 0.9 \text{ af}$$

2. Volume Calculations for Other Uses:

I recommend the standard of 0.6 af for in-house use for this domestic use.

G. NARRATIVE/REMARKS/COMMENTS

The water for this permit is diverted from Alder Creek through a 5.5 Hp gas powered pump. The water is diverted through a standard garden hose approximately 100 ft to the northwest to the house for the domestic use. The irrigation use is diverted from the pump by a garden hose to the yard and greenhouse.

The greenhouse is only used from June to October or during the irrigation season, so it was included in the irrigation place of use. The greenhouse actually uses less water due to re-use of the wastewater through the system.

There is no significant overlapping water rights for this property.

Have conditions of permit approval been met? ☐ Yes ☐ No

H. RECOMMENDATIONS**1. Recommended Amounts**

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.020 CFS	0.60 AF
IRRIGATION	03/15 to 10/31	0.010 CFS	0.90 AF
<u>Totals:</u>		0.300 CFS	1.50 AF

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 Daniel A. Nelson – Staff Hydrologist

Field Examiner's Name _____ Date _____

Reviewer _____ Date _____

State of Idaho
Department of Water Resources
Attachment To Field Exam
92-10321

This map depicts the DOMESTIC 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.

03W



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

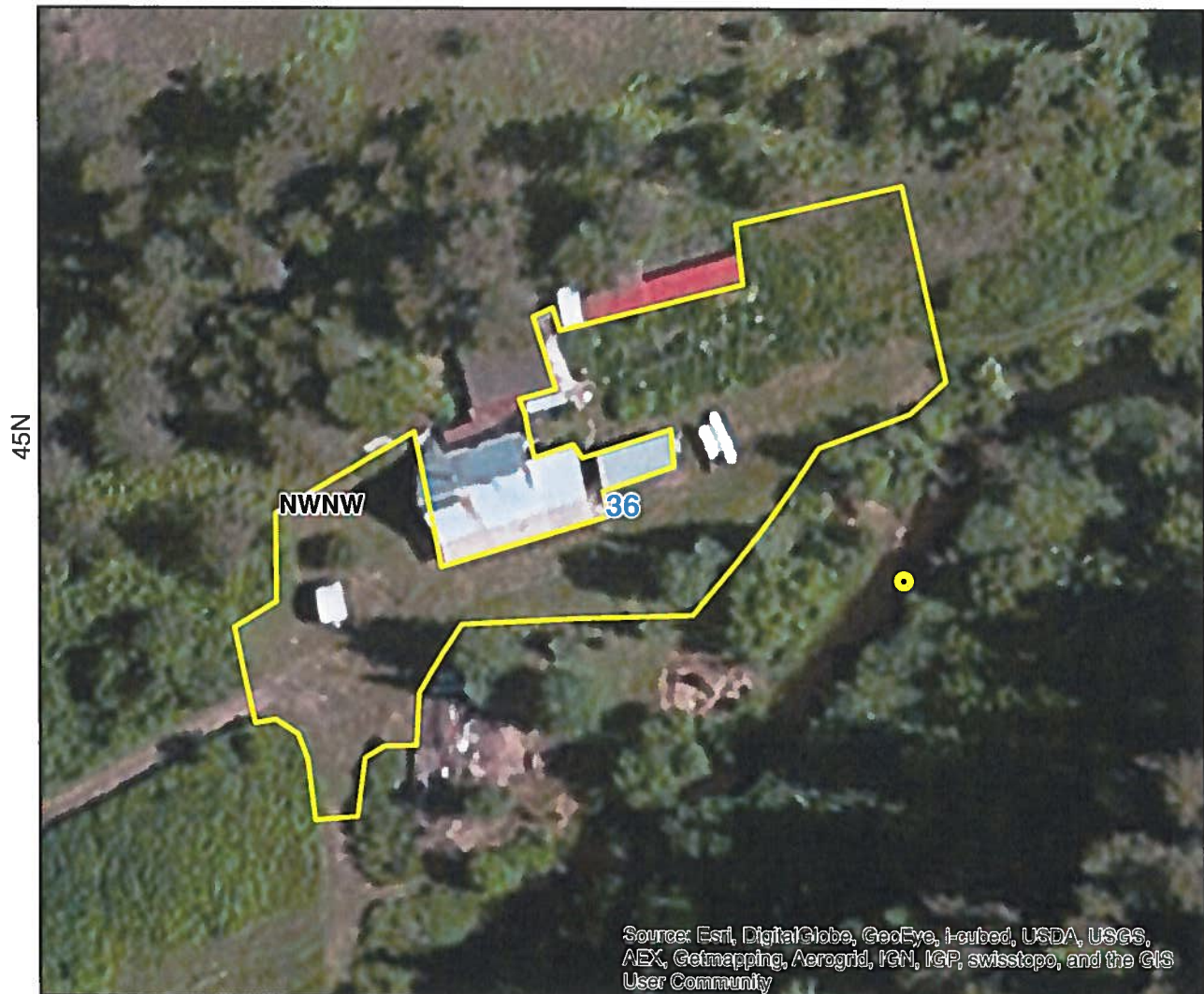
0 0.01 0.02 0.04 Miles



State of Idaho
Department of Water Resources
Attachment To Field Exam
92-10321

This map depicts the IRRIGATION 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.

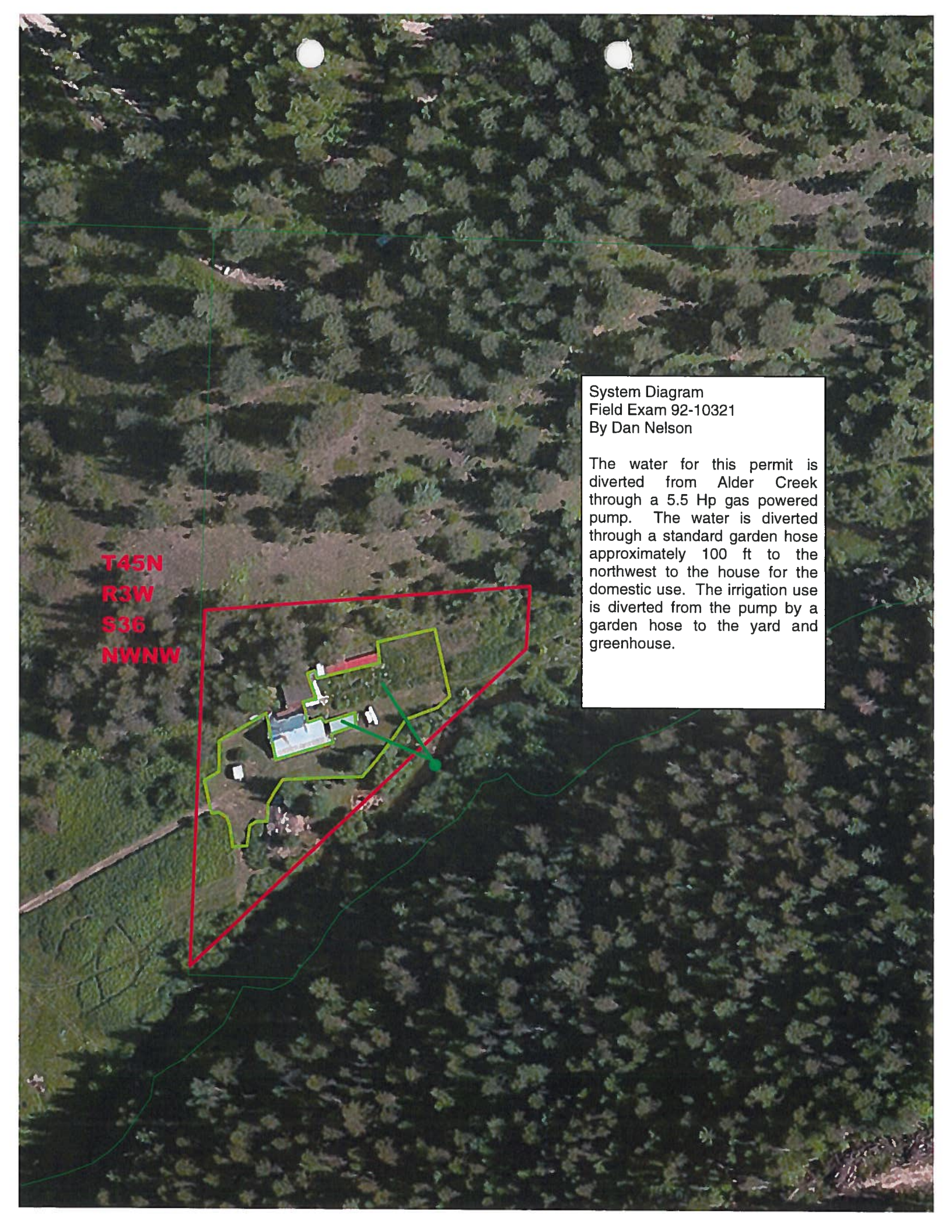
03W



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

0 0.005 0.01 0.02 Miles





**T45N
R3W
S36
NWNW**

System Diagram
Field Exam 92-10321
By Dan Nelson

The water for this permit is diverted from Alder Creek through a 5.5 Hp gas powered pump. The water is diverted through a standard garden hose approximately 100 ft to the house for the domestic use. The irrigation use is diverted from the pump by a garden hose to the yard and greenhouse.

THEORETICAL HORSEPOWER EQUATION WORKSHEET (cjh 1/92)

6

Water Right No.: 92-10321
 Examiner: Dan Nelson
 Date of Field Exam: 8/5/2013

	Option 1	OPTION 2	OPTION 3	
P/D No.:				
PUMP HORSEPOWER	5.5	5.5	5.5	
BOOSTER HORSEPOWER	0	0	0	
PUMPING LEVEL	20	20	20	
DISCHARGE PRESSURE	40	50	60	
FRICTION	0	0	0	
RATE OF FLOW (cfs)	0.30	0.25	0.21	AVE
(gpm)	135.3	112.2	95.9	114.5

The above calculates the formula =

$$Q = \frac{8.8 * (\text{Efficiency}) * \text{hp}}{\text{depth to water} + 2.31 * (\text{psi}) + \text{friction}}$$

Assumptions: %70 efficiency.

Examiners Notes:

The lift was estimated and the pressure was also estimated based on the type of sprinklers used. The owner uses standard garden hose type sprinklers. An bucket and stopwatch measurement was made. We had a 1 gallon bucket that took 4 seconds to fill. This would be a diversion rate of 15 gpm or 0.03 cfs. I wasn't too confident in the measurement, but it does seem more reasonable than the theoretical calculation shown here.

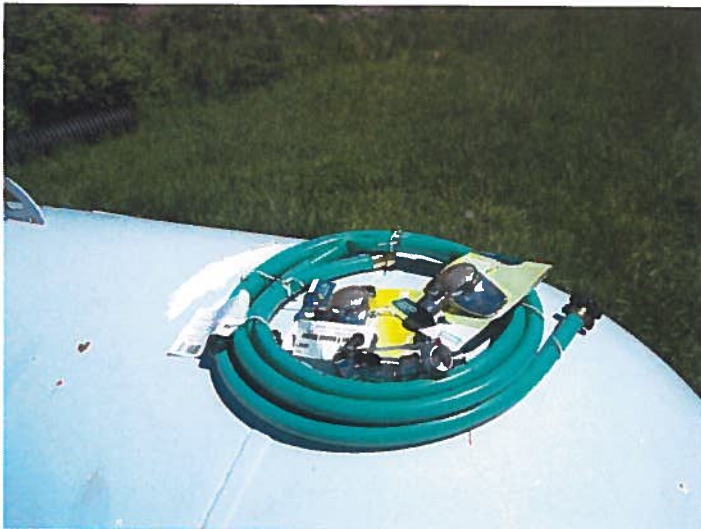
PHOTOGRAPHER AND DATE OF PHOTOS DANIEL A NELSON 5/20/2013

FILE NUMBER 92-10621



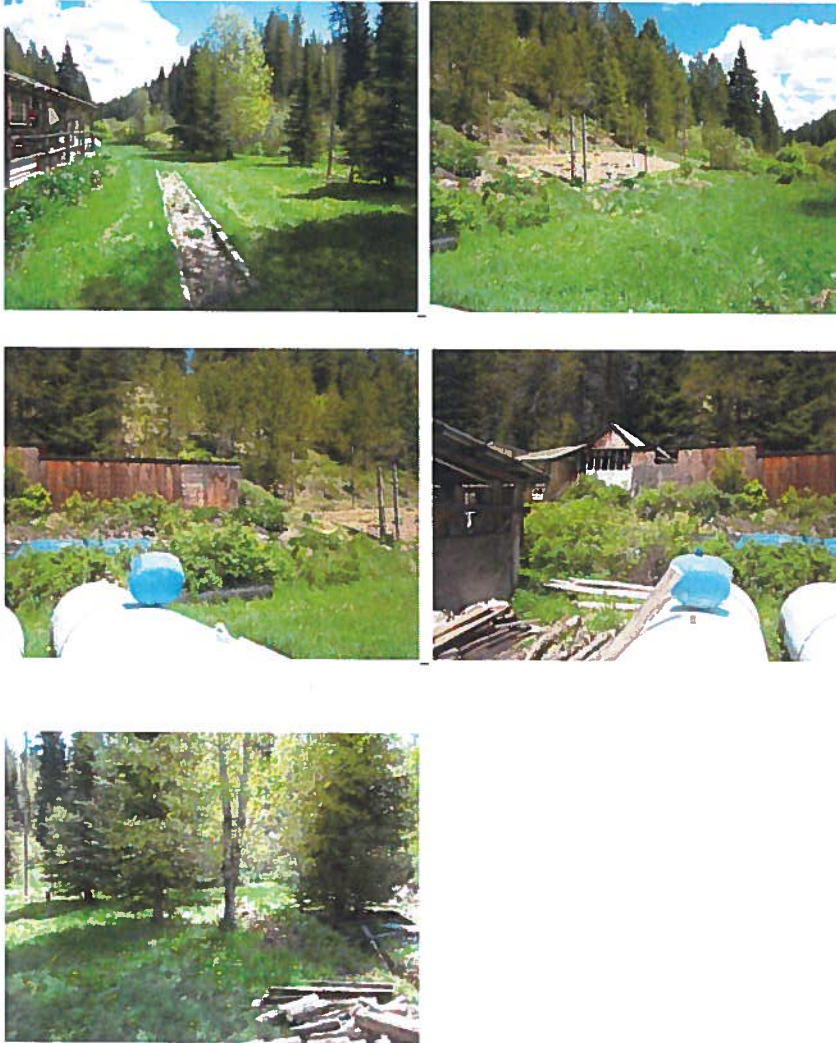
The photo above shows the pump used to divert water from Alder Creek. You can see the fish screen on the end of the intake hose for the pump. There is a single garden hose that comes off the pump.

The photo below shows the sprinklers that are used to irrigate this ground. These sprinklers are approximately 2 to 5 gpm sprinklers. The owner also uses hose splitters to run multiple sprinklers.



PHOTOGRAPHER AND DATE OF PHOTOS DANIEL A NELSON 5/20/2013

FILE NUMBER 92-10621



The photos above show the place of use and where the area is irrigated. The home is shown in the first photo. A greenhouse under 400 sq ft can be seen in the second to last photo. The greenhouse is included in the irrigation component, because it is not used during the non-irrigation season. The greenhouse also uses a re-use type of irrigation system that reuses the irrigation water until the water has been totally consumptively used. The greenhouse uses much less water than the irrigation use done outside.

Nelson, Dan

From: Marc [marc@decagon.com]
Sent: Wednesday, April 24, 2013 12:33 PM
To: Nelson, Dan
Subject: RE: Water Right Licensing Exam

Dan,

You are welcome to inspect the property located at 360 Paradise Drive, St. Maries, ID 83861 on Monday May 20th, 2013. I will do my best to join you if at all possible. I will also inform my neighbors to the North, AL and Norma that you will be there.

As a recap of our phone conversation:

- 1) The cabin is currently occupied from roughly June to October each year.
- 2) We use a 5hp pump to fill an approximate 150 to 200 gallon tank located inside the cabin, about once a week during occupancy.
- 3) This water is pumped from the stream at a location approximately 100ft downstream of the cabin.
- 4) The pump is stored inside during the winter months.
- 5) There is an approximate 400sf green house used during occupancy.
- 6) There will eventually be a garden of approximately ½ acre.

Directions to the cabin:

From Coeur d'Alene ID take 95 south.

5 miles north of Tensed take a left onto Benewah Road

Approximately 8 miles down the Benewah you will pass the Benewah Grange hall

Turn Right onto Alder Creek Road

Approximately 8 miles down Alder Creek turn Right onto Paradise Drive

At the crest of the hill (Approximately ¼ mile) turn left

There will be a nice log home and garage with a large garden at the crest of the hill.

You will come to a locked Green gate. It is a 5 minute walk down the drive from there.

Let me know if there is anything else that you need.

Thanks,

Marc VanHarn

208-301-0018

From: Nelson, Dan [<mailto:Dan.Nelson@idwr.idaho.gov>]
Sent: Wednesday, April 24, 2013 10:36 AM
To: Marc@decagon.com
Subject: Water Right Licensing Exam

Hello Marc,

If you could return an email to me to grant me permission to visit your property on Alder Creek, I would appreciate it. I will plan to be there between 12:00 and 1:00 on Monday May 20th, 2013.

Thank you for your time and patience.

Daniel A. Nelson
Staff Hydrologist
Idaho Department of Water Resources

Telephone # (208) 287-4856

Fax (208) 287-6700 (C/O Dan Nelson)