

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

1. Name of Applicant Mark Harrington Phone 208-354-2900
Mailing address PO Box 300, Driggs, ID 83422 Email NA
Representative: Rocky Mountain Environmental Associates Phone: (208) 524-2353 Fax: (208) 524-1795
482 Constitution, Ste 303, Idaho Falls, ID 83402 Email: kmoore@rockymountainenvironmental.com
2. Source of water supply Unnamed stream which is a tributary of Elliot Creek
3. Location of point of diversion is Township 4N Range 45E Sec. 15, in the 1/4, SW 1/4, SW 1/4, Govt. Lot , E.B.M., TETON County; additional points of diversion if any: T4N R45E SEC 15 SWSW and SESW for three PODs
4. Water will be used for the following purposes:
Amount 2.0 AF for Storage for Wildlife purposes from 1/01 to 12/31 (both dates inclusive)
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 is (a) and/or (b) 2.0
cubic feet per second acre feet per year
6. Proposed diverting works:
 - a. Describe type and size of devices used to divert water from the source Three on-stream unlined ponds created for wildlife storage
 - b. Height of storage dam feet; active reservoir capacity acre-feet; total reservoir capacity 1.1 acre-feet
 - c. Proposed well diameter is inches; proposed depth of well is feet
 - d. Is ground water with a temperature of greater than 85°F being sought? No
 - e. If well is already drilled, when? ; Drilling firm ;
Well was drilled for (well owner) ; Drilling Permit No.
7. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
 - a. Hydropower; show total feet of head and proposed capacity in kW.
 - b. Stockwatering; list number and kind of livestock.
 - c. Municipal; show name of municipality.
 - d. Domestic; show number of households.
 - e. Other; describe fully. Three on-stream unlined ponds created for wildlife as a part of the conservation easement

RECEIVED

DEC 17 2008

Department of Water Resources
Eastern Region

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: *D* for Domestic) in the corresponding place of use below. See instructions for standard symbols.

			NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
Twsp	Rge	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	45E	15											W	W					

Total number of acres to be irrigated: NA

- Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both to irrigate your lawn, garden, and/or landscaping? No other water rights appurtenant. Application is for non-consumptive use. No irrigation.
- Who owns the property at the point of diversion? Applicant
 - Who owns the land to be irrigated or place of use? Applicant
 - If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____
- Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Applicant has already completed the lengthy process to add the place of use to the conservation easement. During this process, he was aided by the NRCS and the Teton Land Trust in creating the three unlined ponds on the property for wildlife. The ponds were constructed on a natural stream bed which is fed by a spring to the east. The historically grown vegetation on this property is grass hay. It has been determined that by adding the ponds, consumptive use is decreased. See attached pages for further explanation.
- MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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

[Signature]
Signature of Applicant (and title, if applicable)

MARK HARRINGTON
Print Name (and Title, if applicable)

For Department Use:

Received by _____ Date 12/17/08 Time _____ Preliminary check by _____
 Fee \$ 100 Receipted by _____ # E034670 Date 12/18/08
 Publication prepared by SC Date 1/15 & 1/22/09 Published in Teton Valley News
 Publication approved _____ Date _____

Application for Permit
Mark Harrington
Mitigation Plan

Prior to the changes made to the Applicant's property, it was previously all covered with grass hay, including timothy, fescue, orchard grass, yarrow, some brome and some wheatgrass. A site visit confirms the vegetation growing across the property. Along the unnamed stream channel, which derives from a spring that flows year-round, there was rough sedge. During the spring and most of the summer months, the ground is saturated to a point that there is standing water in some areas.

Over the last few years, the applicant has been working with the Teton Land Trust and the NRCS to create three unlined ponds along the unnamed stream channel for wildlife. The property has been included in the conservation easement. Once the ponds were completed, they measure 0.53 ac in surface area and have an estimated volume of 1.1 acre-feet (af).

In comparison, it has been determined that the ponds consume less water than the historical vegetation grass hay. Using the annual irrigation requirement from Allen and Robison estimated at the National Weather Service Station in Driggs, irrigated grass hay consumes 2.07 af/ac/yr (631 mm/ac/yr). Without irrigation, the abundance of water described above allows the grass hay a water consumption comparable to that of irrigated grass hay. The ponds fit within the description of an open water-shallow system described in the *Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho*. According to the same station, open water-shallow systems consume 1.56 af/ac/yr (476 mm/ac/yr) through evaporation. Although the three ponds are unlined, no seepage losses are anticipated due to the high ground water level of the wetland area. By replacing 0.53 ac of grass hay with open water, the annual water consumption decreases, serving as a net gain to the surface water system.

Approval of this application would not injure downstream users. Each year, an overabundance of water flows through and from the applicants property. The two downstream users, the Hills and the Weekes, easily obtain all of their water due to the wetland properties of the area. Standing water is prevalent on the applicants and surrounding adjacent lands of the downstream water right owners. Since the addition of the ponds, there has been no decrease in water availability for the downstream users; and therefore, there is no injury.

Pond Calculations Climate Station: Driggs, Idaho 102676 Project Name: Mark Harrington

Pond Consumptive Use Calculations													
Month	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Annual FWW Evaporation (inches)	35	35	35	35	35	35	35	35	35	35	35	35	35
Monthly Distribution (%) #1	1	2	4	7	12	15	19	16	11	6	4	3	100
Monthly FWS Evaporation (in/mo)	0.35	0.7	1.4	2.45	4.2	5.25	6.65	5.6	3.85	2.1	1.4	1.05	35
Avg. Total Precipitation (in/mo) #2	1.42	1.09	1.1	1.24	1.9	1.84	1.11	1.19	1.3	1.23	1.07	1.38	15.87
Pond Loss [(Evap.) - (Precip., in.)] #3	0	0	0.3	1.21	2.3	3.41	5.54	4.41	2.55	0.87	0.33	0	20.92
Pond Surface Area (acres)	0.53	0.53	0.53	0.53	0.53	0.53	0.53	0.53	0.53	0.53	0.53	0.53	0.53
Total Pond Loss (ac-in)	0.0	0.0	0.2	0.6	1.2	1.8	2.9	2.3	1.4	0.5	0.2	0.0	11.1
Total Pond Loss (ac-ft)	0.0	0.0	0.0	0.1	0.1	0.2	0.2	0.2	0.1	0.0	0.0	0.0	0.9

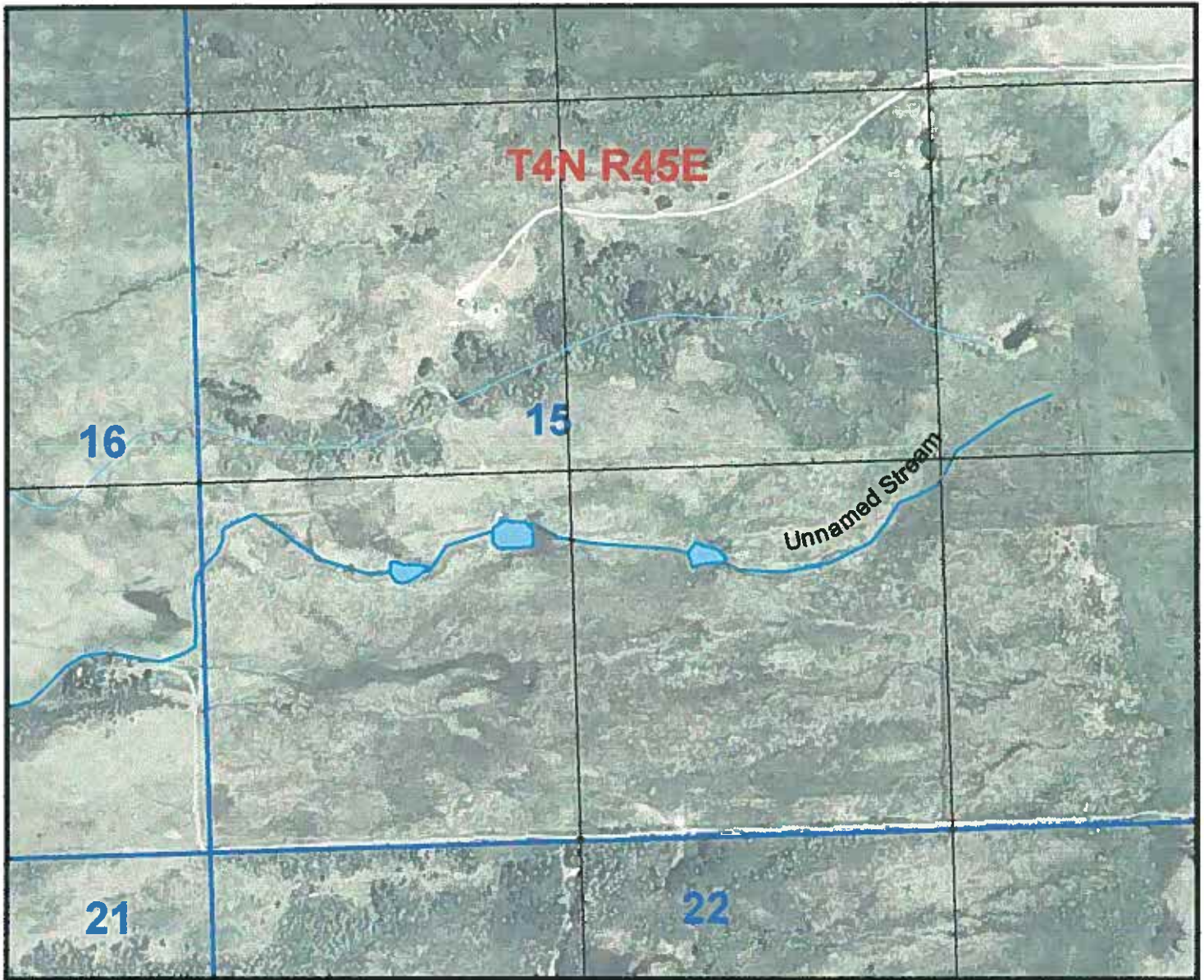
Summary			
Total Water Needed for Transfer	Evaporation (ac-ft)	Pond Fill (ac-ft)	Total (ac-ft)
	0.9	1.1	2.0

#1 - Molau, Myron, Kportze, Kojo C.S., and Craine, Katherine L., 1992. Monthly shallow pond evaporation in Idaho. ASAE paper PNW 92-111.
 #2 - Data collected from the Western Regional Climate Summary, Monthly Climate Summary @ <http://www.wroc.dri.edu/summary/Climsmsid.html> -See attached:
 #3 - Note: for months where precipitation exceeds evaporation, the resultant pond loss is set to zero

22-13912



Application for Permit
Mark Harrington



2006 Aerial Photography



Legend

- | | |
|--|---|
|  Ponds |  Twp & Rng |
|  Unnamed Stream |  Section |
|  Streams |  QQ |



Points of diversion are the ponds.



22 - 13912



Idaho Department of Water Resources

Application
22-13912
(WILDLIFE STORAGE)

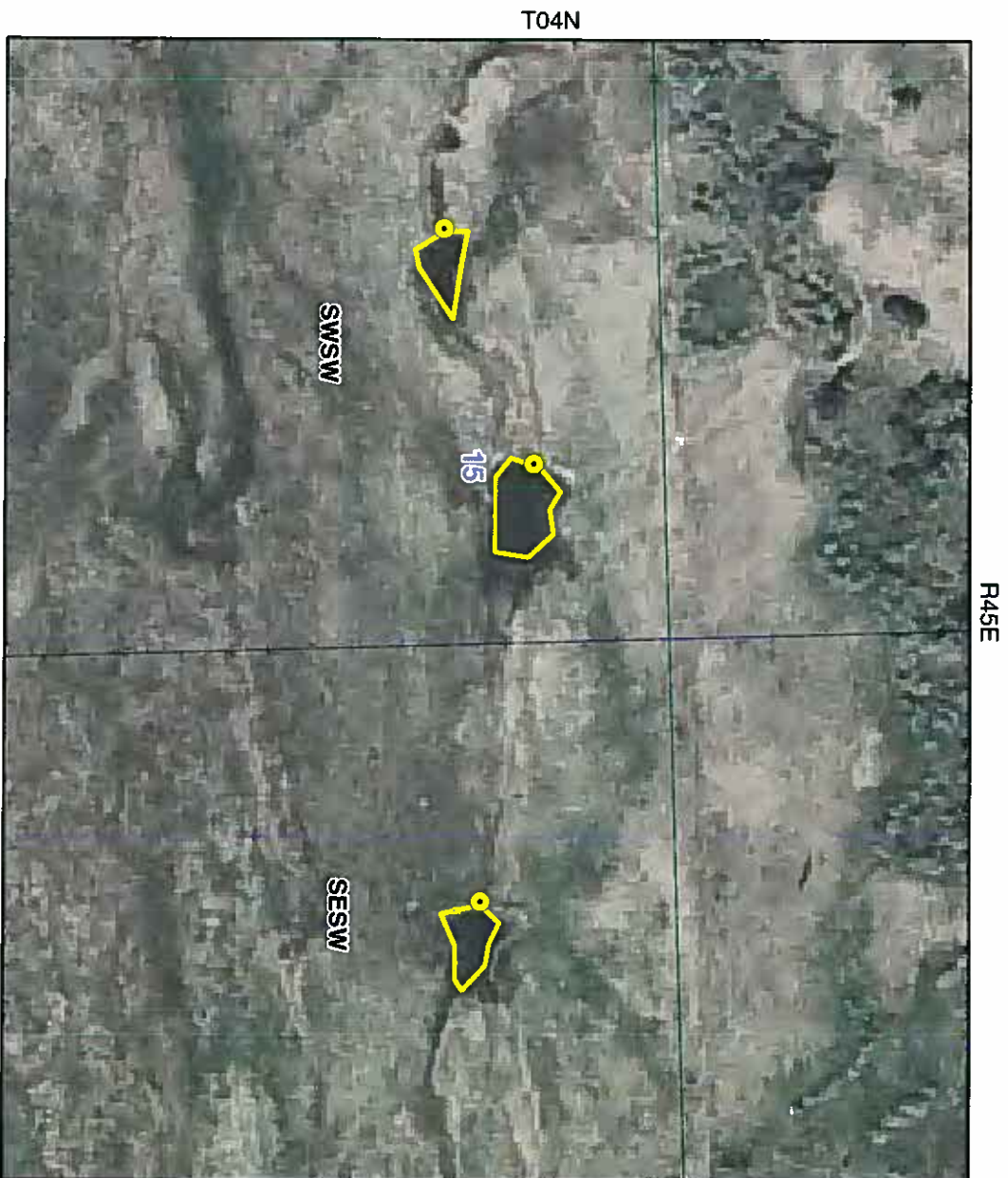
Legend

- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters
- Taxlots



Teton County
IDWR Basin 22

Prepared by Nathaniel Arave
On December 31, 2008
2006 Aerial Photography



Owner:
NOTE: Only one owner is listed. There may or may not be more than this in the IDWR database.

22-13912



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

EASTERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

MEMORANDUM

December 18, 2008

TO: Water Rights Section-Eastern Regional Office

FROM: Tom Bassista, Stream Protection Specialist ^{T.P.B.}

RE: Application for Permit-Harrington-Unnamed Tributary of Elliot Creek

Based on my initial review, this unnamed spring creek would fall under the jurisdiction of Idaho's Stream Protection Act and therefore the work needed to create the 3 on-stream ponds required a Stream Channel Alteration Permit. So far I have not been able to locate any record of the Stream Channel Program receiving a permit application or issuing a stream channel alteration permit. At this point it seems as though the ponds were placed without a stream channel alteration permit and do not comply with Idaho State Code. If the applicant cannot provide documentation that this project was coordinated through the stream channel program I recommend that the ponds either be restored to a spring creek channel or have the applicant submit a Stream Channel Alteration application. If the applicant chooses to submit an application I would consider issuing an "after-the-fact" stream channel alteration permit for the three impoundments with a specific condition to monitor water temperature.

If proper stream channel documentation cannot be found I advise we discuss this issue with the applicant and/or authorized agent at our earliest convenience.



Signature



State of Idaho

DEPARTMENT OF WATER RESOURCES

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EASTERN REGION

January 07, 2009

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

MARK HARRINGTON
PO BOX 300
DRIGGS ID 83422

RE: Application for Permit No 22-13912

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the Teton Valley News on January 15 and 22, 2009. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). 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, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved.

Please feel free to contact this office if you have any questions.

Sincerely,

Sharla Cox
Administrative Assistant



State of Idaho

DEPARTMENT OF WATER RESOURCES

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EASTERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

January 07, 2009

STATE OF IDAHO
DEPT OF FISH & GAME
4279 COMMERCE CIR
IDAHO FALLS, ID 83401

Application to Permit No. 22-13912

STATE OF IDAHO :

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is enclosed for your reference.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

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

Sincerely,

Nate Arave
Sr. Water Resource Agent

Enclosure(s)



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

EASTERN REGION

January 07, 2009

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

Legal Notice Department

TETON VALLEY NEWS

80 E LITTLE AVE

DRIGGS ID 83422

RE: Application for Permit No. 22-13912

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper 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 February 2, 2009. Your cooperation is appreciated.

Sincerely

Sharla Cox
Administrative Assistant

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

22-13912

MARK HARRINGTON
PO BOX 300
DRIGGS ID 83422

Point(s) of Diversion: SWSW S15 T04N R45E, SWSW S15 T04N R45E and SESW S15 T04N R45E, TETON County

Source UNNAMED STREAM, Tributary To ELLIOTT CREEK

Use: WILDLIFE STORAGE 01/01 To 12/31 2 AFA

Total Diversion: 2 AFA

Date Filed: 12/17/2008

Place Of Use: WILDLIFE STORAGE

T04N R45E S15 SWSW SESW

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before February 2, 2009. The protestant must also send a copy of the protest to the applicant.

DAVID R. TUTHILL, JR., Director

Published on January 15 and 22, 2009