

**A MITIGATION PLAN  
FOR PERMIT NO. 72-16625  
IN THE NAME OF FIRSTFRUITS FOUNDATION AND  
CHRISTOPHER W. JAMES TRUST**

**RECEIVED**  
**AUG 30 2007**  
Department of Water Resources

Permit No. 72-16625 authorizes diversion of 0.4 cfs from Garden Creek to a small pond from April 1 to October 31 for aesthetic purposes. The Idaho Department of Water Resources ("IDWR") approved the permit in an order entitled "*Amended Preliminary Order in the Matter of Application for Permit Nos. 72-16624 and 16625 in the Name of FirstFruits Foundation and Christopher W. James Trust*" dated September 3, 2004 (herein termed "the Order"). The Order includes several conditions describing the necessity to mitigate for diverting and using water in the pond.

- Condition No. 3 requires the permit holder to submit a plan to mitigate losses attributable to diversion and use of water for aesthetic uses.
- Condition No. 7 reserves jurisdiction for IDWR to require determination of actual losses in the system and to require additional mitigation for all system losses.
- Condition No. 8. states that the permit is not a new appropriation of water from Garden Creek and only authorizes an additional use of water diverted under the right holder's existing water rights if evaporative losses from the pond are mitigated.
- Condition No. 9 indicates that diversion of water to the pond is not authorized when the right holder's existing rights are not being delivered unless the applicant mitigates for system losses.

These references to mitigation are understood to require that seasonal evaporative losses from the pond surface must be mitigated and that additional mitigation is required to compensate for depletion of the flow of Garden Creek when water is being diverted to the pond while the right holder's existing rights for irrigation purposes are not also being diverted through the pond. This plan has components to address both mitigation requirements.

**Component No. 1. Mitigation of Evaporative Losses from the Pond**

The purpose of this component of the mitigation plan is to prevent an increase in the overall seasonal consumptive use of water from the Garden Creek and Salmon River basins resulting from storage in the pond. The method for doing so is to retire consumptive use from an existing water right from Garden Creek to compensate for the additional consumptive use caused by evaporation from the pond.

In Finding of Fact No. 25 of the Order, the pond is described as:

The size of the pond is about 59' x 110' and averages about 5 feet deep. The pond has a surface area of 0.15 acre, holds about 0.7 AF and is located close to Garden Creek.

A field examination of the pond conducted on June 28, 2007 confirmed that this description accurately fits the pond that has been constructed under the permit. Attachment 1 is a GIS map confirming the size and location of the pond constructed in accordance with the permit.

Attachment No. 2 is a copy of a part of Map No. 2 appended to NOAA Technical Report NWS 33 entitled "Evaporation Atlas for the Contiguous 48 United States," Washington D.C. June 1982. This attachment depicts for Idaho and surrounding states the estimated average evaporation rate from shallow lakes for the period May through October. Attachment No. 3 is a copy of the Idaho part of Map No. 3 appended to the same NOAA report depicting the estimated average annual evaporation from shallow lakes. Based upon these maps the May through October evaporation is estimated to be 25 inches and the annual evaporation is estimated to be 30 inches in the vicinity of Challis, Idaho. For comparison, Finding of Fact No. 12 of the Order uses an annual evaporative depletion rate of 30 inches.

Using these data, the annual volume evaporated from the pond surface can be estimated as  $(0.15 \text{ acres})(2.5 \text{ acre-feet/acre}) = 0.38 \text{ acre-ft per year}$ . This estimate is conservatively large because it assumes year-round evaporation from the pond although the season of use for diverting water to the pond is limited to April 1 to October 31.

The rate of evaporation from the pond is increased when the aeration fountain installed in the pond is in use. A rule-of-thumb design parameter is that evaporation is increased by 1.2 percent for each 10° Fahrenheit of cooling of the water flowing from a cooling tower/fountain (Ref. [www.sustainablenc.org/thewaytogo/water/chap\\_4.htm](http://www.sustainablenc.org/thewaytogo/water/chap_4.htm) page 9, accessed July 17, 2007). Operation of an aeration fountain such as that used in the pond lowers the temperature of the sprayed water about 7° Fahrenheit. The rate of discharge from the fountain has been estimated to be about 0.2 cfs (Ref. Attachment No. 4, an estimate prepared by Jack Hammond, P.E. dated June 9, 2004). Using these data, the additional evaporation caused by operation of the fountain can be estimated to average about  $(0.7)(0.012)(0.2 \text{ cfs}) = 0.0017 \text{ cfs}$  or about 0.75 gpm. The fountain operates about 1/3 of the season when temperatures are higher and flow through the pond is limited. The seasonal volume of evaporation associated with the fountain is estimated to be  $(0.0017 \text{ cfs})(1.9835 \text{ acre-feet/day/cfs})(214 \text{ days})/3 = 0.24 \text{ acre-feet per year}$ .

The combined evaporation associated with the pond is 0.38 acre-feet per year from the pond surface plus 0.24 acre-feet per year from the fountain for a total of 0.62 acre-feet per year.

Historically, the site of the enlarged pond has been used as irrigated grass pasture and the surrounding area is now planted to lawn grass. The average annual consumptive use from an acre of irrigated pasture in the Challis area is estimated to be 35.2 inches and the

average annual consumptive irrigation requirement is estimated to be 31.3 inches (Ref. Allen and Brockway, 1983, Attachment No. 5).

The area of pasture that needs to be dried up to mitigate for total evaporative losses associated with operating the pond and fountain is about 0.24 acres (i.e.; (0.62 acre-feet per year)/(31.3 inches per year/12 inches per foot)).

Accordingly, the permit holder agrees to reduce the acreage under all of the rights for irrigation having the pond within the recorded place of use by 0.24 acres (rounded to 0.2 acres in accordance with IDWR recording standards). The following table lists the four water rights that have the pond within their recorded places of use, the duty of water for irrigation under each of the rights, the number of acres of each right now committed to mitigation for Permit No. 72-16624 (Reference: Condition No. 3 on page 11 of the Order), the flow rate now used for such mitigation, the additional area of irrigation and the proportionate flow rate proposed to be committed to mitigation for the pond constructed under Permit No. 72-16625 and the total acres and combined flow rate from these rights to be used for the existing and proposed mitigation for both of the permits.

| Right No. | Diversion rate/acre<br><br>CFS/<br>ACRE | Existing Miti-<br>gation<br>rate<br><br>CFS | Existing Miti-<br>gation<br>Acres | Proposed Mit-<br>igation<br>Acres | Proposed Miti-<br>gation<br>Rate<br><br>CFS | Total Existing<br>and<br>Proposed<br>Miti-<br>gation<br>Acres | Total Existing<br>and<br>Proposed<br>Miti-<br>gation<br>Rate<br>CFS |
|-----------|-----------------------------------------|---------------------------------------------|-----------------------------------|-----------------------------------|---------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------------|
| 72-106J   | 0.03939                                 | 0.06                                        | 1.5                               | 0.2 <sup>1</sup>                  | 0.01 <sup>1</sup>                           | 1.7                                                           | 0.07                                                                |
| 72-109J   | 0.03939                                 | 0.06                                        | 1.5                               | 0.2                               | 0.01                                        | 1.7                                                           | 0.07                                                                |
| 72-4174C  | 0.04022                                 | 0.03                                        | 1.5                               | 0.2                               | 0.01                                        | 1.7                                                           | 0.04                                                                |
| 72-10486C | 0.03939                                 | 0.06                                        | 1.5                               | 0.2                               | 0.01                                        | 1.7                                                           | 0.07                                                                |
| Totals    | -----                                   | 0.21                                        | 1.5                               | 0.2                               | 0.04                                        | 1.7                                                           | 0.25                                                                |

1. The area of mitigation is herein rounded to the nearest one-tenth acre and the flow rates are rounded to the nearest one-hundredth CFS in accordance with IDWR instruction (Ref. page 3 of a letter dated May 12, 2006 from Corey Skinner to Kent Foster).

The proposed mitigation of 0.2 acres and 0.04 cfs is adequate to prevent an increased consumptive use of the water supplies in the area because a smaller pond used for stock watering purposes existed at this same location for many decades. That pond was deepened and enlarged to create the present pond. The mitigation amounts herein offered are conservatively large because evaporation from the entire surface of the pond is included.

This component of the proposed mitigation plan is included in an application for transfer involving use of these four water rights (Copy without attachments is included as Attachment No. 6). IDWR policy allows approval of applications seeking to change the use of water rights associated with less than 1 acre if the new use is within the presently recorded place of use or a verification procedure is available (Ref: Page 2, "Transfer Processing Procedure," IDWR Transfer Processing No. 24, October 30, 2002). Because the pond has a fixed, verifiable area and is located within the existing place of the water rights, inclusion of the mitigation proposal in the transfer application satisfies both of these policy considerations. Approval of the application for transfer will put the mitigation plan into IDWR's records for these rights.

#### Component No. 2. Mitigation of System Losses When Irrigation Rights are not being Diverted

The purpose of this component of the mitigation plan is to assure that the flow rate of Garden Creek is not diminished by losses in the delivery system to, through, and from the pond. The component is applicable only to those times that the existing rights for irrigation held by the permit holder are not being diverted through the pond. When the permit holder's irrigation rights are being delivered through the ponds, the delivery system losses are no different than they were before the pond was enlarged and the evaporative losses from the pond itself are compensated for by reducing the diversion rate as described in the first component of the plan. The additional mitigation set forth in this component is required when water is being diverted out-of-priority under this permit for aesthetic purposes in the pond as needed to compensate for depletion in supply to senior priority rights calling for water from Garden Creek. The depletion in supply requiring mitigation results from evaporative and seepage losses occurring in the pond and from the ditches leading to and from the pond.

**Evaporation Rate from the Pond Surface:** Based upon an average pan evaporation rate for the month of July of 10.65 inches as measured at Mackay, Idaho (or an average daily rate during July of 0.34 inches) and an adjustment factor of 75 percent to convert pan evaporation data to evaporation from shallow lakes (Ref. "Evaporation Atlas for the Contiguous 48 United States", NOAA Technical Report NWS 33 and "Mean Monthly, Seasonal, and Annual Pan Evaporation for the United States," NOAA Technical Report NWS 34). The evaporation rate from the pond surface is:  $(0.15 \text{ acre})(0.34 \text{ in/day}/12\text{in/ft}) = 0.00425 \text{ acre-ft/day}$ . This is equivalent to a continuous flow rate of 0.00215 cfs or 0.96 gpm.

**Evaporation Rate from the Aeration Fountain:** This rate was estimated in a previous section of this plan as about  $(0.7)(0.012)(0.2 \text{ cfs}) = 0.0017 \text{ cfs}$  or about 0.75 gpm.

The combined rate of evaporation from the pond surface and the aeration fountain is  $0.00215 \text{ cfs} + 0.0017 \text{ cfs} = 0.00385 \text{ cfs}$  or about 1.7 gpm. An estimate for seepage loss is not available, but can be considered negligible because the pond is constructed to limit seepage and the close proximity of the pond to the creek insures timely return of seepage water to the creek.

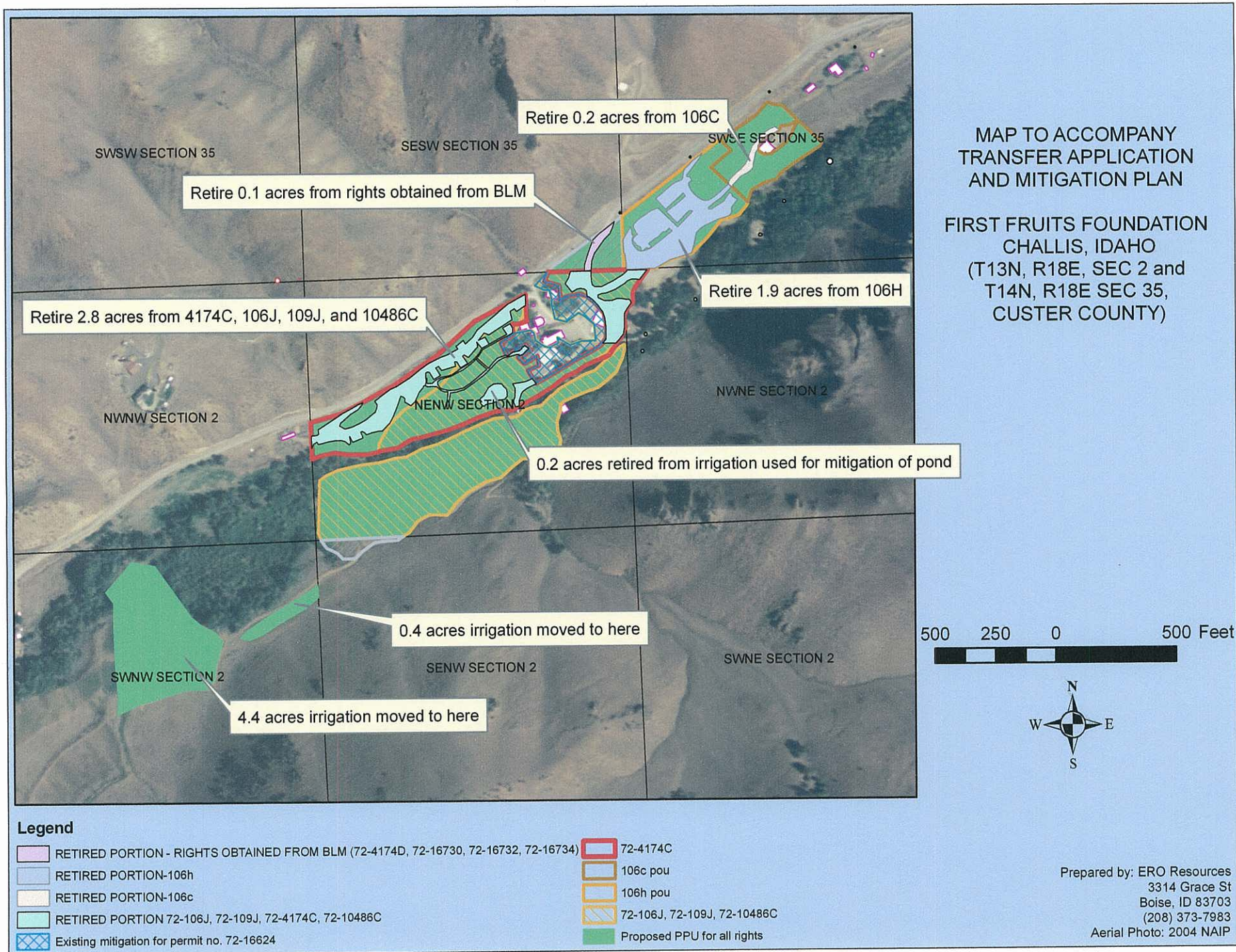
This component of the mitigation plan includes the following provisions:

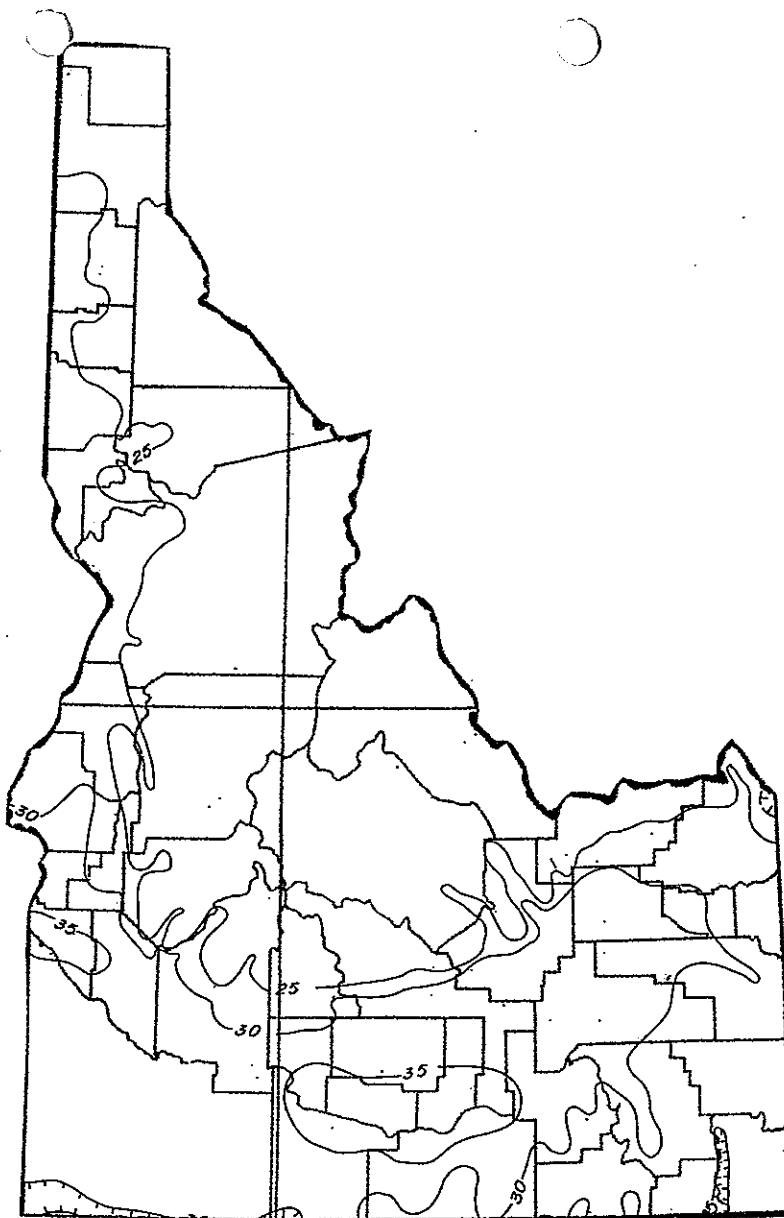
1. The diversion rate to the pond will be limited to 0.2 cfs when diversions are being made only under the right established under Permit No. 72-16625.
2. Measuring devices will be installed and maintained at the point of diversion and at the point of return to Garden Creek capable of measuring the authorized rate of flow of 0.2 cfs to an accuracy of plus or minus 5 percent. Authorized representatives of IDWR and the water master of Water District 72-B will be allowed access to monitor the diversions and measuring devices at all times.
3. The diversions from Garden Creek and the releases from the pond will be managed to assure that the diversion from Garden Creek does not exceed the rate of flow returning to the Creek.
4. Storage in the pond will be drafted as necessary to maintain a rate of return flow to Garden Creek equal to that being diverted from the Creek. When the storage is depleted or the permit holder determines that the pond should not be drafted, diversions from Garden Creek will be terminated until the right established under Permit No. 72-16625 is in priority or the irrigation rights of the permit holder are again routed through the pond.
5. As an alternative to drafting pond storage, upon approval of an application for permit to divert and use 0.01 cfs of water from a spring located south of Garden Creek (Attachment No.7), losses from the pond will be replaced as they occur. The flow of this spring does not reach Garden Creek from mid-summer into late fall during most years. During such periods, when the permit holder's irrigation rights are not in priority, the flow of the spring will be conveyed by pipeline to the pond to provide an independent source of water to mitigate depletions to the flow of Garden Creek resulting from diversion and use of water in the pond.

The provisions of the plan may be recorded by incorporation of the plan as a condition in the license issued for Permit No. 72-16625.

List of Attachments:

1. GIS map confirming area and location of pond
2. Map of Free Water Surface Evaporation (May – October)
3. Map of Free Water Surface Evaporation (January –December)
4. Estimate of flow through fountain into pond
5. CU and CIR for Crops in the Challis Area
6. Application for transfer incorporating mitigation plan element
7. Application for permit incorporating mitigation plan element





MAP 2.

MAY-OCTOBER--

# FREE WATER SURFACE EVAPORATION

## (SHALLOW LAKE)

### 1956-1970

### INCHES

## EXPLANATION OF ISOPLETHS

WESTERN STATES INTERVALS

5 inches - &lt; 80 inches

10 inches - &gt; 80 inches

Interval irregular where crowded

----- Areas of limited data

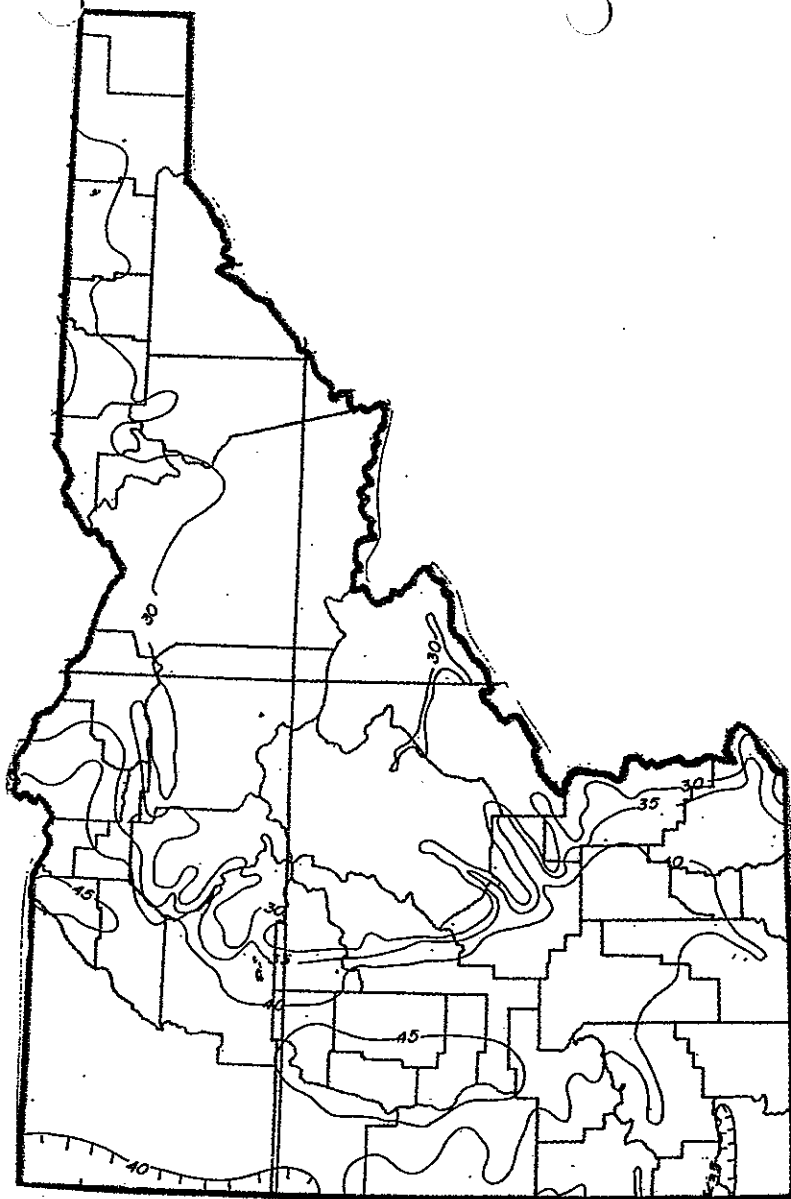
----- Additional information for areas of  
shallow gradient above 80 inches

EASTERN STATES INTERVALS

4 inches - standard interval

----- 2 inch interval

for areas of shall  
gradient



MAP 3.

ANNUAL

# FREE WATER SURFACE EVAPORATION (SHALLOW LAKE) 1956-1970 INCHES

## EXPLANATION OF ISOPLETHS

### WESTERN STATES INTERVALS

5 inches - &lt; 80 inches

10 inches - &gt; 80 inches

Interval irregular where crowded

----- Areas of limited data

----- Additional information for areas of  
shallow gradient above 80 inches

### EASTERN STATES INTERVAL

4 inches - standard interval

----- 2 inch interval

for areas of shallow  
gradient

ATTACHMENT 4

Living Waters Ranch  
PO Box 1190  
Challis, ID 83226  
208-879-2888

Hedco, Inc.  
Attn. Jack Hammond

June 8, 2004

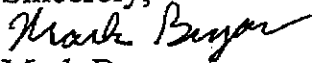
Dear Jack,

I put together the info you requested to help me come up with an estimate of the water use of our fountain.

The diameter of the pipe for the fountain is 2 inches. The length of the pipe from the ball valve to the end of the fountain cap is approximately 126 feet. The elevation from the ball valve to the end of the fountain cap is the same. The fountain cap is a galvanized threaded metal cap. We drilled a center hole in the middle of the cap with a 1/2 inch drill bit. We drilled eight holes around the side of the cap with a 3/16 drill bit. The water pressure in the irrigation system is 80 lbs. When the ball valve is fully opened the center fountain spray shoots 20 feet into the air. We normally operate the fountain with the center spray shooting five feet into the air. The ball valve at normal levels is open about one quarter of the way.

I hope this is all the info that you will need to give me an estimate of the water use that the fountain uses. Thanks for your assistance.

Sincerely,



Mark Bryan

Manager, Living Waters Ranch

Living Waters Ranch (LWR)

6/9/04  
JSH

Flow Estimate for Pond Fountain

Given: Pipe Diameter = 2"  
 Pipe Length = 126' (from Ball Valve)  
 System Pressure = 80 psi (185 ft. of Head) at Ball Valve  
 Cap Orifices = 1/2" Top of Cap  
 " " = 8-3/16" Sides of Cap

Analysis:  $Q = 19.636 K d^2 h^{1/2}$  where  $d/D < 0.3$  ( $0.5/2 = 0.25 < 0.3$ )

Solution: Assume  $Q \approx 100$  gpm

$$H_f = \frac{24.4 \text{ ft}}{100 \text{ ft}} \times 126' = 30.7 \text{ ft}$$

$$\therefore h = 185' - 31' = 154 \text{ ft.} \quad K = 0.82 \text{ for Drilled Hole}$$

$$Q = 19.636 (0.82) (0.5)^2 (154)^{1/2}$$

$$Q = 49.95 \text{ gpm for } 1/2" \text{ Top Orifice}$$

$$Q = 19.636 (0.82) (0.1875)^2 (154)^{1/2} (8)$$

$$Q = 56.20 \text{ gpm for } 8 \text{ } 3/16" \text{ Side Orifices}$$

$$Q = 106.15 \text{ gpm}$$

$$\therefore H_f = \frac{27.2 \text{ ft}}{100 \text{ ft}} \times 126' = 34.3 \text{ ft} \rightarrow h = 185' - 34' = 151 \text{ ft.}$$

$$Q = 19.636 (0.82) (0.5)^2 (151)^{1/2} = 49.46 \text{ gpm}$$

$$Q = 19.636 (0.82) (0.1875)^2 (151)^{1/2} (8) = 55.65 "$$

$$\text{Total } Q = 105.11 \text{ gpm O.K.}$$

Maximum Flow with Valve Open: Use 105 gpm (0.234 CFS)

| Est. CI and CIR. |      | Challins |       | (Allen & Brockway, 1985) |       | mm/day and mm/season |       |       |       |
|------------------|------|----------|-------|--------------------------|-------|----------------------|-------|-------|-------|
| MO               | NYRS | PREC     | ETR   | ALFH.                    | SILGE | POTAT                | SGRAN | WGRAN | PAST. |
| AVE ET           | 49   | .38      | 1.27  |                          |       |                      |       |       | .41   |
| STD ET           | 49   | .00      |       |                          |       |                      |       |       | .25   |
| IR               | 3    | .29      | .39   |                          |       |                      |       |       | .12   |
| STD IR           | 3    | .00      |       |                          |       |                      |       |       | .23   |
| IR               | 3    | .00      | .23   |                          |       |                      |       |       | .62   |
| AVE ET           | 49   | .60      | 4.35  | 1.59                     |       |                      |       |       | 3.20  |
| STD ET           | 49   | .88      |       | 1.28                     |       |                      |       |       | 1.47  |
| IR               | 4    | .42      | .48   | .18                      |       |                      |       |       | .35   |
| STD IR           | 4    | .88      |       | .35                      |       |                      |       |       | .36   |
| IR               | 4    | .70      | -.10  | -.10                     |       |                      |       |       | -.10  |
| AVE ET           | 49   | .88      |       | .43                      |       |                      |       |       | -.39  |
| STD ET           | 49   | .88      |       | .43                      |       |                      |       |       | -.39  |
| IR               | 4    | .88      |       | .43                      |       |                      |       |       | -.39  |
| AVE ET           | 48   | 1.11     | 5.09  | 5.26                     | 1.77  | 1.78                 | 2.10  | 5.82  | 4.52  |
| STD ET           | 48   | .92      |       | 4.31                     | 1.20  | 1.34                 | 1.58  | 5.10  | 3.84  |
| IR               | 5    | .76      | .52   | .46                      | .16   | .38                  | .45   | .81   | .70   |
| STD IR           | 5    | .92      |       | .78                      | .47   | .02                  | .03   | .02   | .02   |
| IR               | 5    | .92      | .03   | -.18                     | -.60  | -.49                 | -.49  | -.12  | -.22  |
| AVE ET           | 49   | 1.27     | 7.44  | 6.59                     | 2.61  | 4.52                 | 6.57  | 7.44  | 5.75  |
| STD ET           | 49   | .92      |       | 5.65                     | 1.92  | 3.91                 | 5.77  | 6.52  | 4.87  |
| IR               | 6    | .80      | .52   | .46                      | .18   | .56                  | .77   | .87   | .75   |
| STD IR           | 6    | .92      |       | .84                      | .53   | .19                  | .19   | .20   | .19   |
| IR               | 6    | .92      | .20   | .20                      | -.71  | -.44                 | -.38  | -.38  | .48   |
| AVE ET           | 49   | .57      | 8.11  | 6.66                     | 6.62  | 6.81                 | 8.11  | 8.02  | 6.25  |
| STD ET           | 49   | .92      |       | 6.25                     | 6.23  | 6.50                 | 7.72  | 7.60  | 5.86  |
| IR               | 7    | .44      | .33   | .31                      | .49   | .44                  | .54   | .53   | .48   |
| STD IR           | 7    | .92      |       | .49                      | .49   | .44                  | .54   | .53   | .48   |
| IR               | 7    | .92      | -.06  | -.08                     | -.07  | -.33                 | -.04  | -.02  | -.04  |
| AVE ET           | 49   | .57      |       | 4.83                     | 5.02  | 5.06                 | 4.00  | 2.58  | 4.93  |
| STD ET           | 49   | .00      | 6.40  | 4.45                     | 5.62  | 4.78                 | 3.69  | 2.28  | 4.36  |
| IR               | 8    | .00      | .37   | .28                      | .35   | .29                  | .23   | .13   | .29   |
| STD IR           | 8    | .00      |       | .52                      | .38   | .46                  | .42   | .35   | .51   |
| IR               | 8    | .00      | .46   | .45                      | .45   | .44                  | .45   | .45   | .45   |
| AVE ET           | 48   | .67      | 4.71  | 2.91                     | 3.85  | 3.00                 |       |       | 3.62  |
| STD ET           | 48   | .92      |       | 2.32                     | 3.43  | 2.71                 |       |       | 3.23  |
| IR               | 9    | .72      | .37   | .23                      | .30   | .24                  |       |       | .59   |
| STD IR           | 9    | .92      |       | .56                      | .61   | .46                  |       |       | .59   |
| IR               | 9    | .92      | .01   | .82                      | -.69  | -.66                 |       |       | .01   |
| AVE ET           | 48   | .55      | 3.00  | .92                      |       |                      |       |       | 2.31  |
| STD ET           | 48   | .33      |       | .70                      |       |                      |       |       | 2.07  |
| IR               | 10   | .49      | .34   | .10                      |       |                      |       |       | .36   |
| STD IR           | 10   | .33      |       | .29                      |       |                      |       |       | .36   |
| IR               | 10   | .33      | -.30  | -.30                     |       |                      |       |       | .30   |
| AVE ET           | 48   | .33      |       | 1.17                     |       |                      |       |       | 1.62  |
| STD ET           | 48   | .33      |       | 1.17                     |       |                      |       |       | 1.62  |
| IR               | 10   | .33      |       | 1.17                     |       |                      |       |       | 1.62  |
| AVE ET           | 46   | 1.57     | 1.263 | 882.                     | 641.  | 650.                 | 678.  | 842.  | 893.  |
| STD ET           | 46   | .00      | .46   | 779.                     | 567.  | 591.                 | 756.  | 796.  | 796.  |
| IR               | 46   | .00      | .35   | .49                      | .39   | .35                  | .40   | .49   | .40   |
| STD IR           | 46   | .00      |       | .08                      | .01   | -.04                 | -.04  | .11   | .14   |
| IR               | 46   | .29      |       | -.08                     | -.58  | -.36                 | -.35  | -.13  | -.07  |

Should questions arise during the processing of this application please contact:  
Norm Young, ERO Resources Corp. (208) 373-7983

**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**  
**APPLICATION FOR TRANSFER OF WATER RIGHT**  
**PART 1**

Name of applicant **FirstFruits Foundation**Phone **(208) 879-4902**Post Office address **P.O. Box 510, Challis, Idaho, 83226****A. Purpose of Transfer**

1. ☐ Change point of diversion    ☐ Add diversion point(s)    ☒ Change place of use  
☒ Change nature of use    ☐ Change period of use    ☐ Other \_\_\_\_\_

2. Describe the reason for the proposed changes

**Areas within the presently recorded places of use for these water rights are being developed for roads, parking lots and buildings. The purpose of this application is to change the location authorized for irrigation and stock watering from areas that are or will be covered by such development features to equivalent areas not within the presently recorded place of use for these rights. A permissible place of use is proposed for the rights included in this application. An additional purpose for this application is to change the nature of use of the portions of the water rights now recorded as irrigation to mitigation for evaporation from a pond enlarged within the place of use of these rights.**

**3. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE**

| 1. Right Number         | Priority                 | Amount<br>(cfs/ac-ft)  | Nature<br>of Use         | Period of Use                |
|-------------------------|--------------------------|------------------------|--------------------------|------------------------------|
| <b><u>72-106C</u></b>   | <b><u>05/15/1890</u></b> | <b><u>0.03 CFS</u></b> | <b><u>Irrigation</u></b> | <b><u>04/01 to 10/31</u></b> |
| <b><u>72-106C</u></b>   | <b><u>05/15/1890</u></b> | <b><u>0.02 CFS</u></b> | <b><u>Stockwater</u></b> | <b><u>04/01 to 10/31</u></b> |
| <b><u>72-106H</u></b>   | <b><u>05/15/1890</u></b> | <b><u>0.04 CFS</u></b> | <b><u>Irrigation</u></b> | <b><u>04/01 to 10/31</u></b> |
| <b><u>72-106J</u></b>   | <b><u>05/15/1890</u></b> | <b><u>0.45 CFS</u></b> | <b><u>Irrigation</u></b> | <b><u>04/01 to 10/31</u></b> |
| <b><u>72-106J</u></b>   | <b><u>05/15/1890</u></b> | <b><u>0.07 CFS</u></b> | <b><u>Mitigation</u></b> | <b><u>04/01 to 10/31</u></b> |
| <b><u>72-109J</u></b>   | <b><u>05/15/1888</u></b> | <b><u>0.45 CFS</u></b> | <b><u>Irrigation</u></b> | <b><u>04/15 to 10/15</u></b> |
| <b><u>72-109J</u></b>   | <b><u>05/15/1888</u></b> | <b><u>0.07 CFS</u></b> | <b><u>Mitigation</u></b> | <b><u>01/01 to 12/31</u></b> |
| <b><u>72-4174C</u></b>  | <b><u>05/20/1914</u></b> | <b><u>0.33 CFS</u></b> | <b><u>Irrigation</u></b> | <b><u>04/01 to 10/31</u></b> |
| <b><u>72-4174C</u></b>  | <b><u>05/20/1914</u></b> | <b><u>0.01 CFS</u></b> | <b><u>Stockwater</u></b> | <b><u>04/01 to 10/31</u></b> |
| <b><u>72-4174C</u></b>  | <b><u>05/20/1914</u></b> | <b><u>0.04 CFS</u></b> | <b><u>Mitigation</u></b> | <b><u>01/01 to 12/31</u></b> |
| <b><u>72-4174D</u></b>  | <b><u>05/20/1914</u></b> | <b><u>0.03 CFS</u></b> | <b><u>Irrigation</u></b> | <b><u>04/01 to 10/31</u></b> |
| <b><u>72-10486C</u></b> | <b><u>05/20/1914</u></b> | <b><u>0.22 CFS</u></b> | <b><u>Irrigation</u></b> | <b><u>04/01 to 10/31</u></b> |
| <b><u>72-10486C</u></b> | <b><u>05/20/1914</u></b> | <b><u>0.07 CFS</u></b> | <b><u>Mitigation</u></b> | <b><u>01/01 to 12/31</u></b> |
| <b><u>72-16730</u></b>  | <b><u>05/15/1890</u></b> | <b><u>0.03 CFS</u></b> | <b><u>Irrigation</u></b> | <b><u>04/01 to 10/31</u></b> |
| <b><u>72-16732</u></b>  | <b><u>05/15/1888</u></b> | <b><u>0.03 CFS</u></b> | <b><u>Irrigation</u></b> | <b><u>04/15 to 10/15</u></b> |
| <b><u>72-16734</u></b>  | <b><u>05/20/1914</u></b> | <b><u>0.02 CFS</u></b> | <b><u>Irrigation</u></b> | <b><u>04/01 to 10/31</u></b> |

2. Total amount of water being transferred 1.88 cubic feet per second and/or \_\_\_\_\_ acre-feet per annum.
3. Source of water No Changes Requested tributary to No Changes Requested
4. Point(s) of Diversion: No Changes Requested

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|-----|---|---|---|------|------|------|--------|--------------------------|
|     |   |   |   |      |      |      |        |                          |

5. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ |      |       |       | NW ¼     |      |      |      | SW ¼ |      |      |      | SE ¼  |      |      |      | Totals |
|------|------|------|------|------|-------|-------|----------|------|------|------|------|------|------|------|-------|------|------|------|--------|
|      |      |      | NE ¼ | NW ¼ | S W ¼ | S E ¼ | NE ¼     | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | N E ¼ | NW ¼ | SW ¼ | SE ¼ |        |
| 13N  | 18E  | 02   |      | 0.1  |       |       | 11.4     |      | 4.8  |      |      |      |      |      |       |      |      |      | 16.3   |
|      |      |      |      | S    |       |       | S & Mit. |      |      |      |      |      |      |      |       |      |      |      |        |
|      |      |      |      | L.2  |       |       | L.3      |      |      |      |      |      |      |      |       |      |      |      |        |
| 14N  | 18E  | 35   |      |      |       |       |          |      |      |      |      |      |      | 0.7  |       |      | 3.2  |      | 3.9    |
|      |      |      |      |      |       |       |          |      |      |      |      |      |      |      |       |      | S    |      |        |

Total acres 20.2

6. General Information:

a. Description of diversion system **Head gates and ditches are used to divert and distribute water for the rights diverting from Garden Creek. A well, ditches, pipelines and sprinklers are used to divert and distribute water under Right No. 72-4174C and 72-4174D. Changes are not proposed to the diversion systems as a result of the approval of this application.**

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? \_\_\_\_\_ Yes X No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer: **Irrigation of some of the area (5.0 acres) within the presently recorded place of use will be permanently discontinued as a result of approval of this transfer. An area of 4.8 acres will be added to the place of use for irrigation within the SWNW Section 2, T13N R18E. There will be no increase in the total number of acres irrigated under the combined rights nor any increase in the number of acres irrigated under the individual rights. The amount of mitigation authorized by these rights will be increased by removing irrigation as an authorized use for 0.2 acres in the NENW Section 2, T13N R18E to mitigate evaporation from a pond located on those 0.2 acres (See the attached mitigation plan prepared for Permit No. 72-16625).**

d. Remarks: **The permissible place of use is requested because of the existing overlap in place of use of the rights and to avoid the need to file multiple applications for transfer to**

record the minor change in use requested. Because the points of diversion and distribution systems will not be changed, water diverted under rights No. 72-4174C and 72-4174D will not be used south of Garden Creek and the effect of the change will be to reduce use under the other rights north of Garden Creek in proportion to the use added south of Garden Creek.

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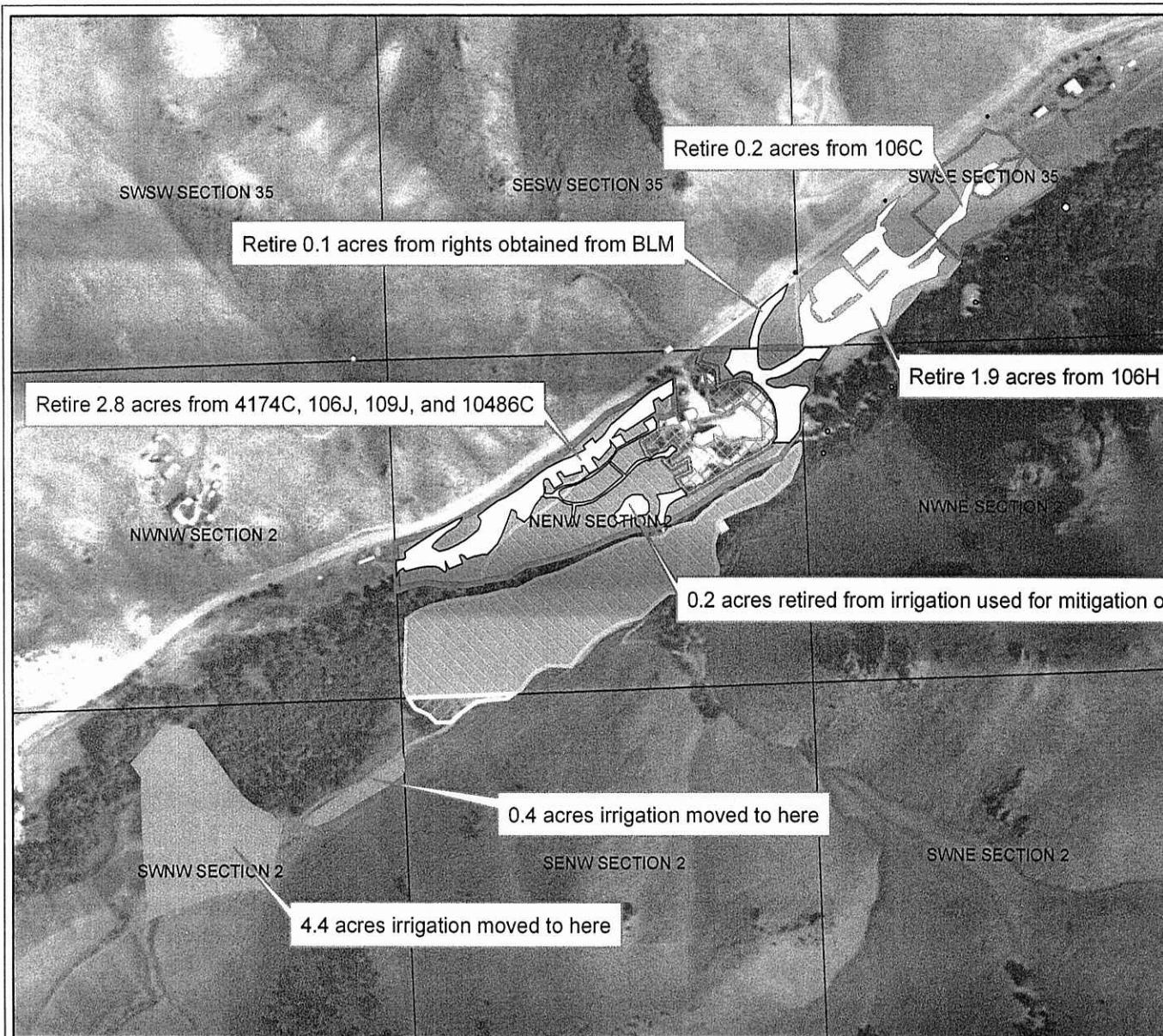
**ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES**

This is to certify that I have examined Application for Transfer of Water Rights No. \_\_\_\_\_  
And said application is hereby \_\_\_\_\_, subject to the following limitations and conditions:

---

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

---



MAP TO ACCOMPANY  
TRANSFER APPLICATION  
AND MITIGATION PLAN

FIRST FRUITS FOUNDATION  
CHALLIS, IDAHO  
(T13N, R18E, SEC 2 and  
T14N, R18E SEC 35,  
CUSTER COUNTY)

500 250 0 500 Feet



Legend

|  |                                                                                     |  |                             |
|--|-------------------------------------------------------------------------------------|--|-----------------------------|
|  | RETIRED PORTION - RIGHTS OBTAINED FROM BLM (72-4174D, 72-16730, 72-16732, 72-16734) |  | 72-4174C                    |
|  | RETIRED PORTION-106h                                                                |  | 106c pou                    |
|  | RETIRED PORTION-106c                                                                |  | 106h pou                    |
|  | RETIRED PORTION 72-106J, 72-109J, 72-4174C, 72-10486C                               |  | 72-106J, 72-109J, 72-10486C |
|  | Existing mitigation for permit no. 72-16624                                         |  | Proposed PPU for all rights |

Prepared by: ERO Resources  
3314 Grace St  
Boise, ID 83703  
(208) 373-7983  
Aerial Photo: 2004 NAIP

## PART 3

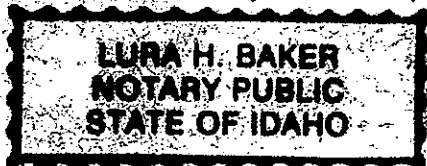
### 3. CHANGES IN NATURE OF USE

| 1. | New Nature of Use                 | Amount<br>(cfs/ac-ft)  | Hours/days/year             | Period of Use              |
|----|-----------------------------------|------------------------|-----------------------------|----------------------------|
|    | <b><u>Mitigation for pond</u></b> | <b><u>0.04 cfs</u></b> | <u>                    </u> | <b><u>4/1 to 10/31</u></b> |
|    |                                   |                        |                             | to                         |

2. Quantity and quality of return flows and location of discharge: **Because the mitigation plan that this transfer implements reduces diverted amounts under existing rights, there will be no adverse effect on return flows.**

3. Describe effects on other water uses resulting from the proposed change: **The purpose of the change in use is to prevent a reduction in water supplies in the area of the pond to protect all other existing water rights.**

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in voiding its approval.



Christopher W. James, Trustee of Freshwater Foundation  
(Signature of Applicant)

Subscribed and sworn before me this 14th day of August, 20 07

Residing Clayton, MO Lera H Baker  
(Notary Public)

My commission expires 12-12-09

**FOR DEPARTMENT USE ONLY**

Transfer contains \_\_\_\_\_ pages and \_\_\_\_\_ attachments

Received by \_\_\_\_\_ Date \_\_\_\_\_ Protest filed by \_\_\_\_\_

Prelim. check by \_\_\_\_\_ Fee \_\_\_\_\_

Receipted by \_\_\_\_\_ Date \_\_\_\_\_

Published in \_\_\_\_\_ Copies of protest forwarded by \_\_\_\_\_

Pub. Dates \_\_\_\_\_ Hearing held by \_\_\_\_\_ Date \_\_\_\_\_

Watermaster recommendation requested on \_\_\_\_\_ Recommended for ☐ approval ☐ denial

\_\_\_\_\_ rec'd. \_\_\_\_\_ by \_\_\_\_\_

Copy of transfer sent to lien holder \_\_\_\_\_

COPY PRIOR TO FILING

FORM 202  
12/99

Ident. No. \_\_\_\_\_

Should questions arise during the processing of this application please contact:  
Norm Young - ERO Resources Corp. (208) 373-7983

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

1. Name of Applicant FIRSTFRUITS FOUNDATION Phone 208-879-4560  
Mailing address P.O BOX 510, CHALLIS, IDAHO 83226
2. Source of water supply UNNAMED SPRING which is a tributary of SINKS Remark No. 1
3. Location of point of diversion is Township 13N Range 18E Sec. 02, in the SE ¼,  
NE ¼, NW ¼, Govt. Lot 03 B.M., CUSTER County;  
additional points of diversion if any: \_\_\_\_\_
4. Water will be used for the following purposes:  
Amount 0.01 CFS for MITIGATION purposes from APR 1 to OCT 31 Remark No. 2 (both dates inclusive)  
(cfs or acre-feet per annum)  
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)  
Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 0.01 CFS Remark No. 3 \_\_\_\_\_ and/or (b) \_\_\_\_\_  
cfs acre feet per annum
6. Proposed diverting works:
  - a. Describe type and size of devices used to divert water from the source EXISTING HEADBOX AND 11  
INCH DIAMETER PVC PIPELINE FROM SPRING TO THE POND WITH VALVES TO CURTAIL AN  
CONTROL FLOW.
  - b. Height of storage dam N.A. Remark No. 4 \_\_\_\_\_ feet; active reservoir capacity N.A. acre-feet; total  
reservoir capacity N.A. acre-feet
  - c. Proposed well diameter is N.A. inches; proposed depth of well is N.A. feet
  - d. Is ground water with a temperature of greater than 85° F being sought? N.A.
  - e. If well is already drilled, when? N.A.; Drilling firm N.A.;  
Well was drilled for (well owner) N.A.; 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 if kW. N.A.

b. Stockwatering; list number and kind of livestock. N.A.

c. Municipal; show name of municipality. N.A.

d. Domestic; show number of households. N.A.

e. Other; describe fully. THE PURPOSE OF USE IS TO PROVIDE AN INDEPENDENT WATER SOURCE TO PROVIDE WATER TO A SMALL EXISTING POND TO MITIGATE FOR EVAPORATION AND OTHER LOSSES TO ALLOW OUT-OF-PRIORITY DIVERSION AND USE OF PERMIT NO. 7 16625 FROM GARDEN CREEK.

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. 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.

| TWP        | RGE        | SEC       | NE |    |    |    | NW          |    |    |    | SW |    |    |    | SE |    |    |    | Total |
|------------|------------|-----------|----|----|----|----|-------------|----|----|----|----|----|----|----|----|----|----|----|-------|
|            |            |           | NE | NW | SW | SE | NE          | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |       |
| <u>13N</u> | <u>18E</u> | <u>02</u> |    |    |    |    | <u>MIT.</u> |    |    |    |    |    |    |    |    |    |    |    |       |
|            |            |           |    |    |    |    | <u>L.3</u>  |    |    |    |    |    |    |    |    |    |    |    |       |
|            |            |           |    |    |    |    |             |    |    |    |    |    |    |    |    |    |    |    |       |
|            |            |           |    |    |    |    |             |    |    |    |    |    |    |    |    |    |    |    |       |
|            |            |           |    |    |    |    |             |    |    |    |    |    |    |    |    |    |    |    |       |
|            |            |           |    |    |    |    |             |    |    |    |    |    |    |    |    |    |    |    |       |
|            |            |           |    |    |    |    |             |    |    |    |    |    |    |    |    |    |    |    |       |
|            |            |           |    |    |    |    |             |    |    |    |    |    |    |    |    |    |    |    |       |
|            |            |           |    |    |    |    |             |    |    |    |    |    |    |    |    |    |    |    |       |

Total number of acres to be irrigated N.A.

10. Describe any other water rights used for the same purposes as described above. Decreed Right No. 72-16274 from the same spring source, but is used for domestic purposes.

11. a. Who owns the property at the point of diversion Applicant

b. Who owns the land to be irrigated or place of use? Applicant

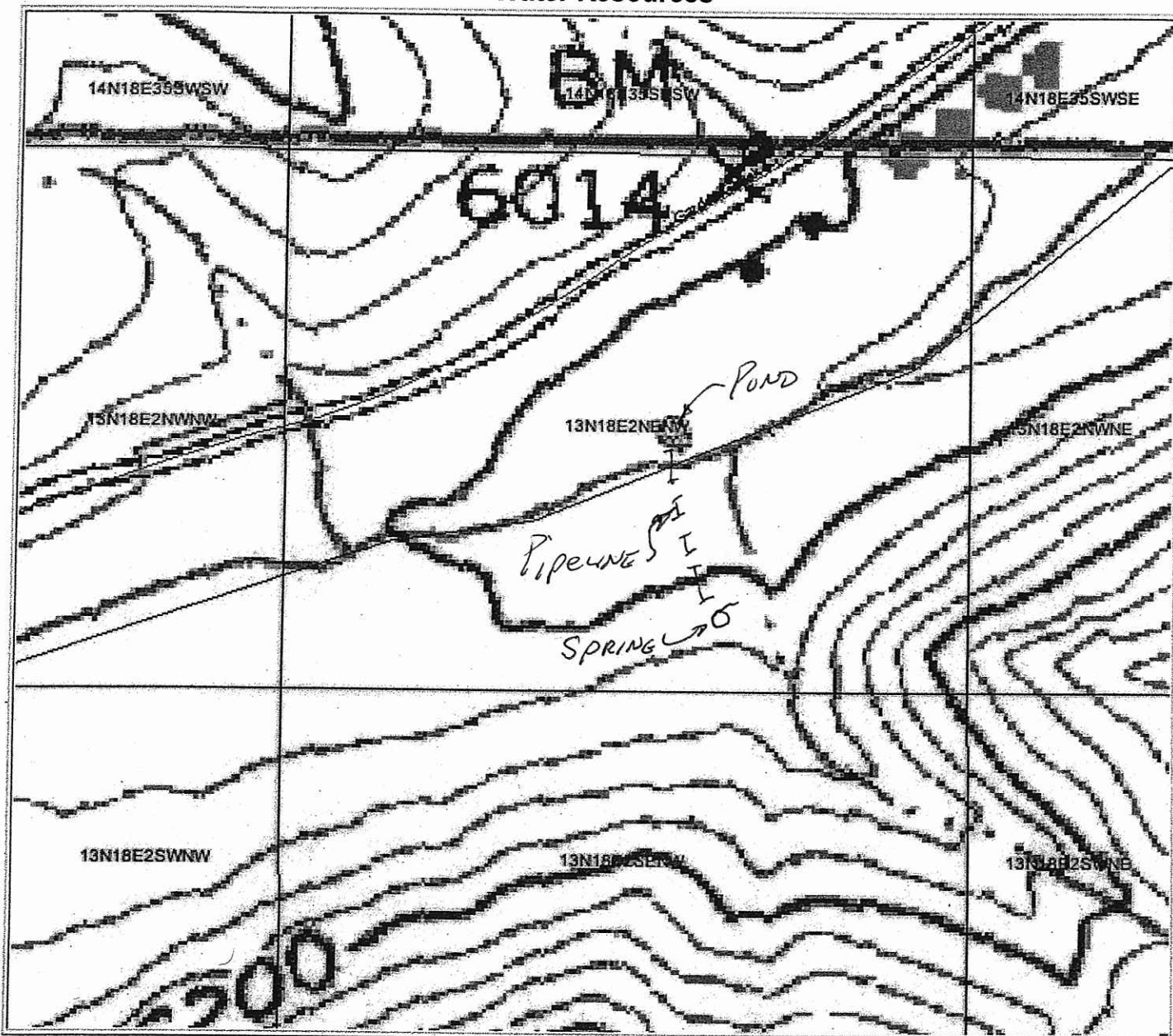
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: N.A.

12. Remarks: 1. The spring listed as the source of supply is tributary to Garden Creek only during wet conditions such as during spring runoff. During dry periods, typical of those during mid summer through late fall, the spring, if not diverted, will not reach the creek as surface flow but as underflow because of its low discharge rate, the distance from the spring to the creek and the intervening vegetative cover. 2. The season of use sought matches the period of use for Permit No. 72-16625 in recognition that on some years, dry conditions can prevail prior to

the time of spring runoff. 3. The requested rate of flow is commensurate with the estimated loss from the pond from evaporation (See the discussion of evaporative loss in the attached mitigation plan) and seepage and is representative of the estimated rate of flow available from the springs when it is not tributary to Garden Creek. 4. A pond having a surface area of approximately 0.15 acres, an average depth of about 5 feet and a storage capacity of about 0.7 acre feet has been constructed in accordance with Permit No. 72-1662. This application seeks water to mitigate losses from this pond, but does not propose to construct a new pond or enlarge storage in the existing pond.

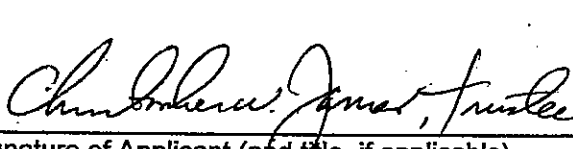
13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7 minute topographic quadrangle map is preferred.)

### Water Resources



The Idaho Department of Water Resources is maintaining this web site as a public service. Persons using information from this site for official purposes, or other purposes, completeness are required, are hereby notified that they should first verify the information with the public records or other primary sources from which the information was obtained.

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

  
Signature of Applicant (and title, if applicable)  
**Christopher W. James, Trustee**

Received by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_ Preliminary check by \_\_\_\_\_  
Fee \$ \_\_\_\_\_ Received by \_\_\_\_\_ # \_\_\_\_\_ Date \_\_\_\_\_  
Publication prepared by \_\_\_\_\_ Date \_\_\_\_\_ Published in \_\_\_\_\_  
Publication approved \_\_\_\_\_ Date \_\_\_\_\_