

HEARING EXHIBIT LIST

IN THE MATTER OF APPLICATION TO)
 APPROPRIATE WATER NO. 98-7859)
 IN THE NAME OF RICHARD ANTHONY)
 VILLELLI AND MARIE VICTORIA)
 VILLELLI REVOCABLE TRUST)
 _____)

September 4, 2008

Hearing Officer: Gary Spackman

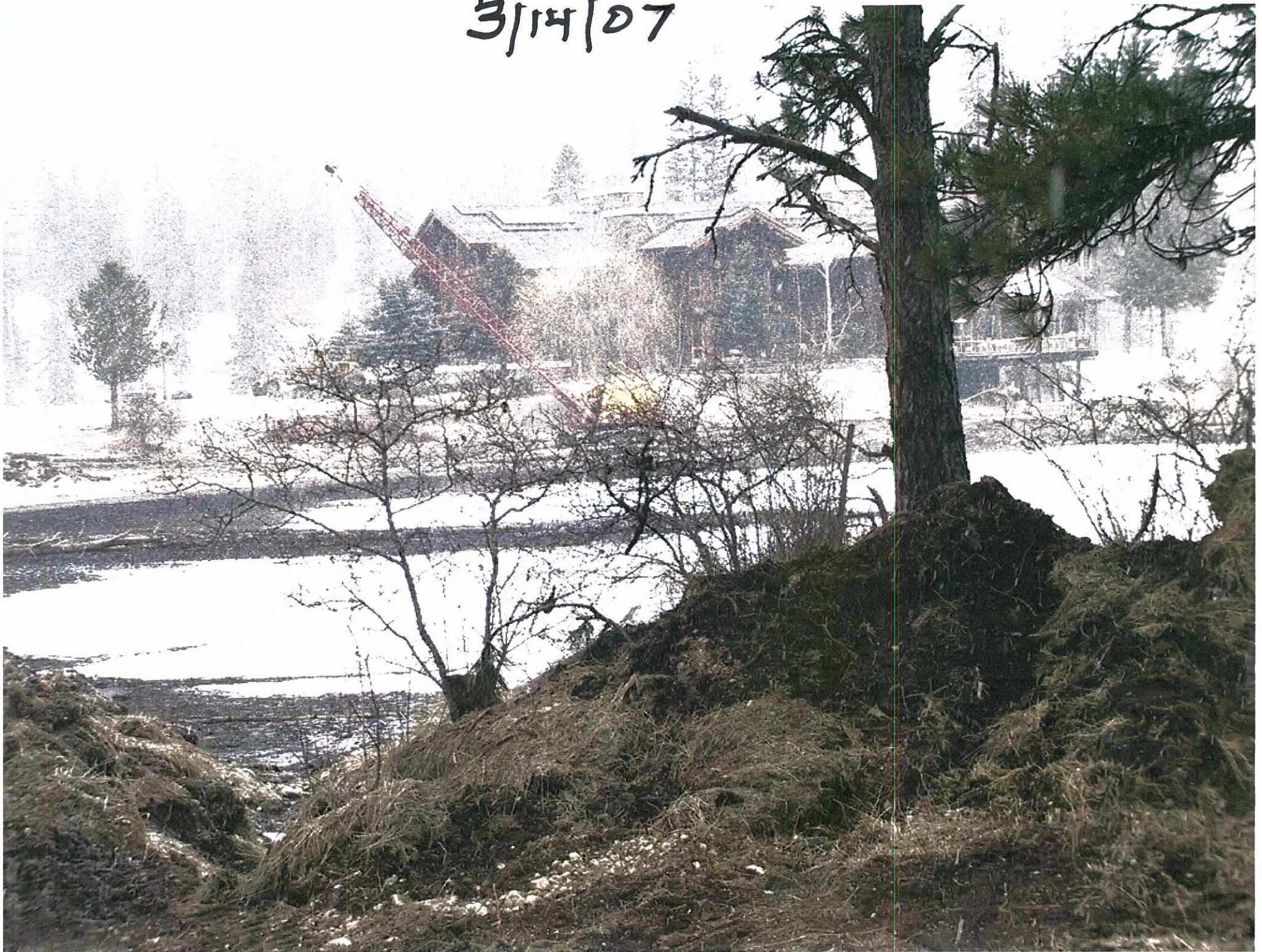
EXHIBIT NUMBER	EXHIBIT DESCRIPTION	STATUS OF EVIDENCE	
		INTRODUCED	ADMITTED
#1	Pic 8/7/07	✓	✓
2	" 8/14/08	✓	✓
3	" 8/7/07	✓	✓
4	" 8/7/07	✓	✓
5	" 8/7/07	✓	✓
6	" 8/14/08	✓	✓
7	" 8/7/07	✓	✓
8	" 8/14/08	✓	✓
9	" 8/14/08	✓	✓
10	" 8/14/08	✓	✓
~~10A~~	License 98-7641	✓	✓
B	Pic Wright Lake	✓	✓
C	Pic Hay Bridge	✓	
D	File 98- ~~237~~ 2137	✓	✓
E	USGS Quad Map Estport	✓	✓

3(14)07

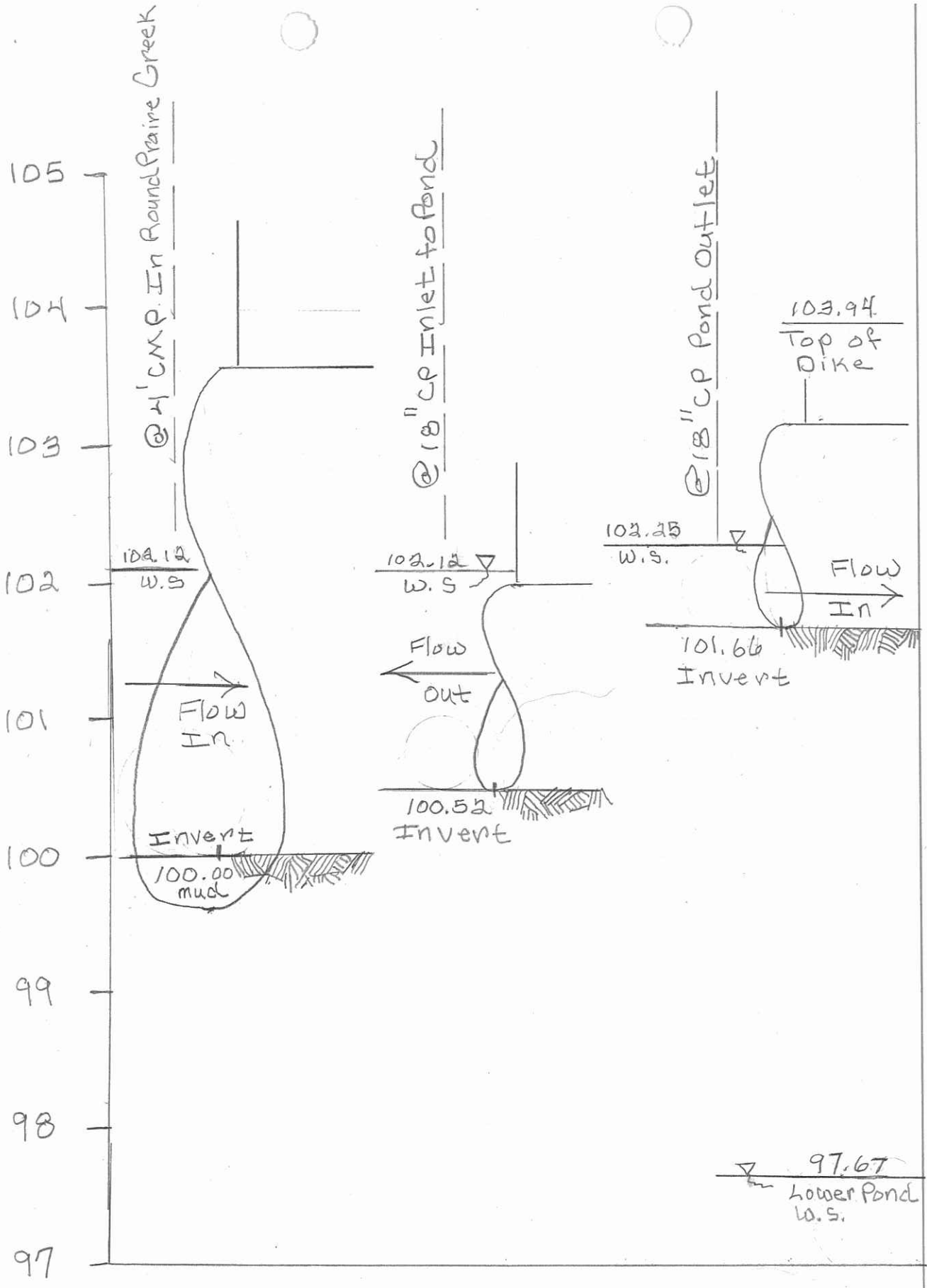
SCANNED
SEP - 3 2008



3/14/07



Elevation 8/14/08



22-141 50 SHEETS
22-142 100 SHEETS
22-144 200 SHEETS

SCANNED

Keith Franklin
Greg Taylor

9B-7B59

SEP 3 2008



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815
Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

September 5, 2008

John Timothy Day
377 Amber Lane.
Bonners Ferry, ID 83805

Re: Protest of Application 98-7859

Dear Mr. Day:

Enclosed please find a copy of photograph exhibits #1 through #10 and a copy of Mr. Villelli's testimony as presented into evidence during the hearing held on September 4, 2008.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent

COPY



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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

September 5, 2008

Dick Villelli
53373 Highway 95
Bonners Ferry, ID 83805

Re: Protest of Application 98-7859

Dear Mr. Villelli:

Enclosed please find a copy of photograph exhibits #1 through #10 and a copy of your testimony as presented into evidence during the hearing held on September 4, 2008.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent

COPY



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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

September 5, 2008

Patrick Williams
804 Moyie River Rd.
Bonners Ferry, ID 83826

Re: Protest of Application 98-7859

Dear Mr. Williams:

Enclosed please find a copy of photograph exhibits #1 through #10 and a copy of Mr. Villelli's testimony as presented into evidence during the hearing held on September 4, 2008.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent

COPY

8/7/07

21



8/14/08

INLET

SCANNED
SEP - 3 2008

8/7/07

SCANNED
SEP 14 2007



8/7/07



8/7/07

25 5



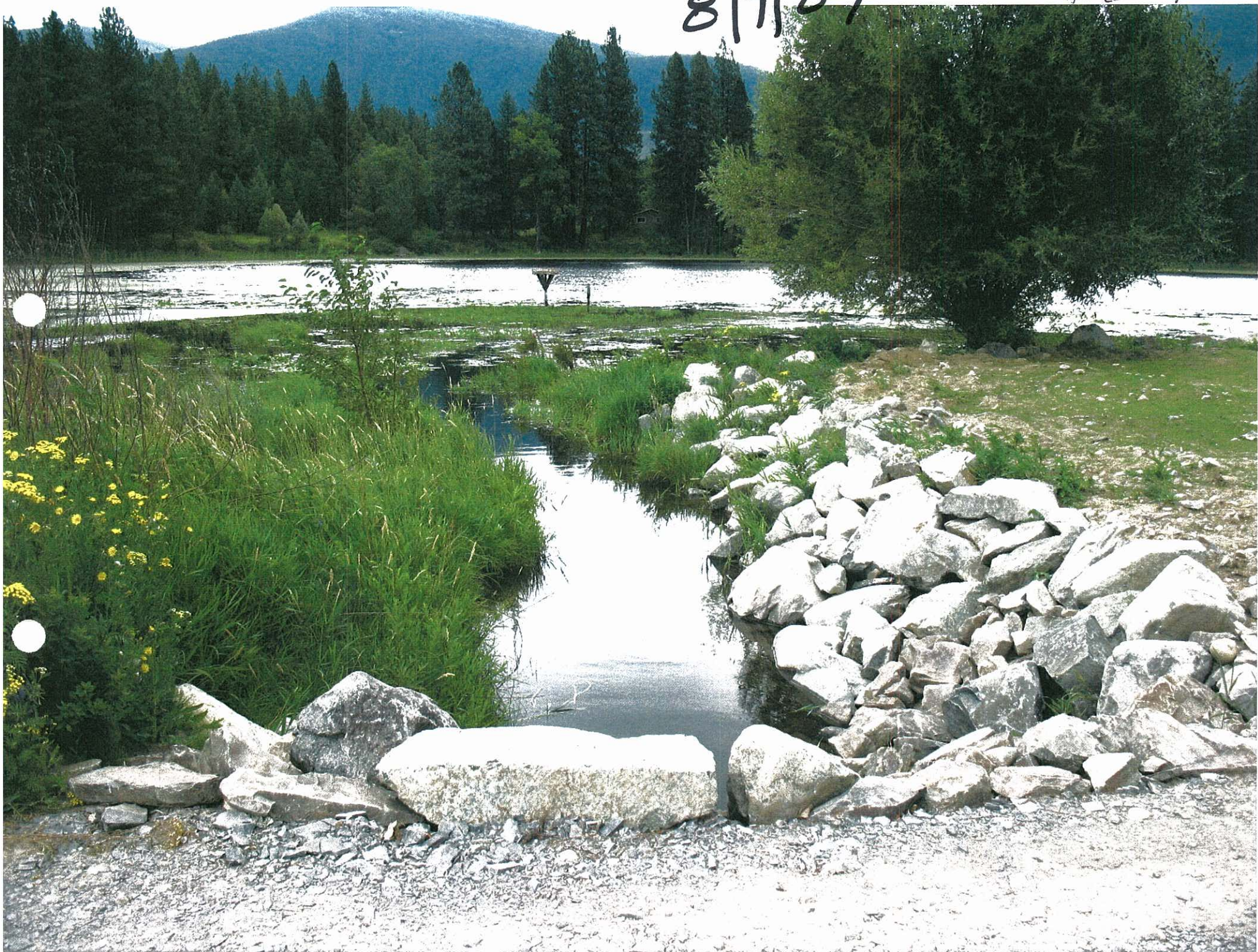
15 4 40

8/14/08
OUTLET

SCANNED

8/7/07

12-1



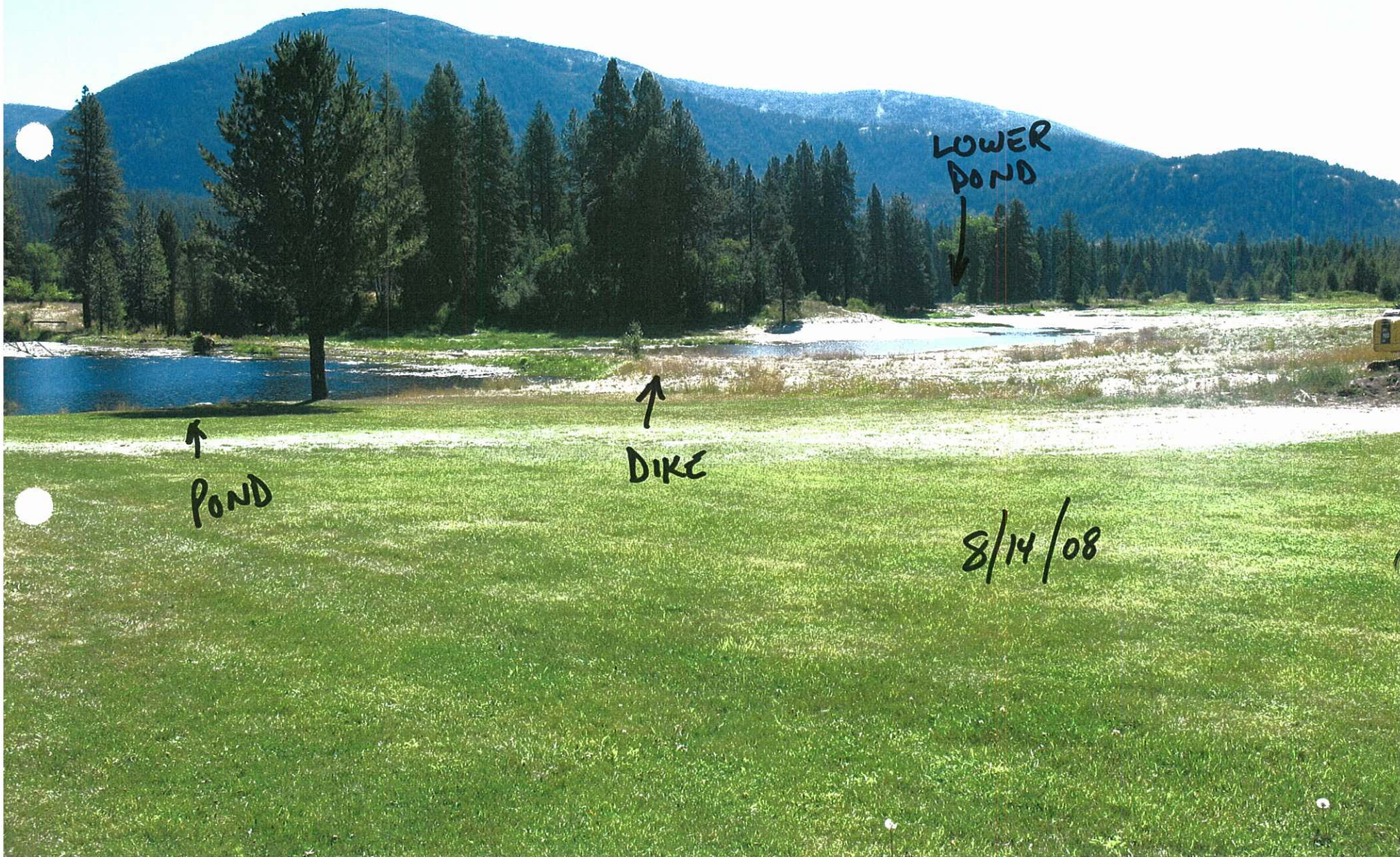
7-4-0
SCANNED
SEP - 3 2008

↑
POND

↑
DIKE

LOWER
POND
↓

8/14/08



8/14/08

OUTLET
FROM UPPER
TO LOWER POND



8/14/08
OUTLET
TO LOWER
POND



State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 98-07641

Priority: May 13, 1988

Maximum Diversion Rate:
Maximum Diversion Volume:

0.02 CFS
3.9 AF

This is to certify, that RICHARD A VILLELLI

HCR 61 BOX 169

BONNERS FERRY ID 83805

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated May 13, 1988; and has submitted Proof of Beneficial Use on November 16, 1989. An examination indicates that the works have a diversion capacity of 0.020 cfs of water from:

POND

tributary to MOYIE RIVER

source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/15 to 11/15	0.02 CFS	3.9 AF
FIRE PROTECTION	01/01 to 12/31	0.01 CFS	
	Totals	0.02 CFS	3.9 AF

LOCATION OF POINT(S) OF DIVERSION:

NWNE, Sec. 34, Township 65N, Range 02E
BOUNDARY County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
65N	02E	34	NWNE	1.3		1.3

Total number of acres irrigated: 1.3

PLACE OF USE:

FIRE PROTECTION, same as IRRIGATION use

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount that can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.

MICROFILMED
DEC 02 1996

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 98-07641

CONDITIONS OF APPROVAL AND REMARKS

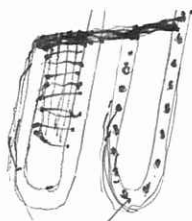
5. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.0 afa per acre for the lands above.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 27th day of SEPTEMBER, 1996.

Acting for

KARL J. DREHER, Director

MICROFILMED
DEC 02 1996



Beth
Ward

1. "Pipe Replaced by 18" 1977 was 18"

Spring - 5' full + flow on 12" + 2' over the road

1. I have agreed to all with draws

Bypass flow - not minimum flow
why take away bypass flow!

Section 42-203A Idaho Code requires the department to consider the following issues in connection with an application for permit:

3. Fish & game estimated 10-12 cfs
4. Hydrants, Shavers & Fire Department July 20.

1. Will the proposed appropriation injure other water rights? All existing water right on Round Prairie are above the point of diversion and have prior right except Doreen Williams who has .03 cfs for domestic and stock water. No one has lived there for more than 30 years and there is no stock; however Patrick Williams moved in a couple of weeks ago and indicated he will be full time resident. We have no intention of causing injury to their rights and certainly understand that they have priority over our rights. Copy of water right and adjudication Search. will increase groundwater
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated? The natural flow from Round Prairie has delivered the quantity of water requested for the last 30 years. We are seeking to secure rights that are commensurate with the actual flow that has been flowing into the pond. We are asking for the right to fill the deeper pond we have created which will allow a longer period of surface water for fish and wildlife. Water resources visited the point of diversion the first week of August this year and concluded that the water level between the point of diversion and the stream was basically static. Approximately two weeks later the Creek level dropped to the point that lake began feeding the Creek.
3. Was the application made in good faith or for delay or speculative purposes? The application was made at the suggestion of Water Resources in order to assure that we actually had the right to fill the ponds and wetlands that have existed for centuries and also to be in compliance since we deepened the seasonal pond to the south of the year round pond.
4. Does the applicant have sufficient financial resources with which to complete the proposed project? The pond has existed for centuries but was enhanced in 1913. The current delivery system has existed since the 1940's. The steel pipe was recently replaced with a PVC pipe after the original rusted out. There is no financial obligation at this time.
5. Will the proposed use conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource? There are six property owners between the proposed use and the Moyie River. As used and outlined I do not know of a direct affect on any of these property owners. The definition of "conflict" in the context used above states that the use is "incompatible". I do not know of any incompatibility caused by this use. I have had property on Round Prairie at the mouth of the Moyie for 25 years and at the point of use for 30 years and have noted that Round Prairie more than 50% of the years slows to a trickle and on occasion stops flowing completely. Most particularly in 8 of the last ten years it has stopped

App
Exhibit
101
Adm. Hcd
pjt
9/4/08

Don't
need to
prove
this

flowing with enough water to allow fish migration to the Moyie during the last two weeks of August. I don't believe our use will change that flow since water actually flows out of our lake into Round Prairie at times when Round Prairie is at low water and the creation of additional impound will actually increase the water table and allow seepage into Round Prairie below our property because of the elevation change and the bedrock level . Show movies of water flow. Mr. Day was on our property giving me copies of his protest of our use and he said "gee you have lots of water in Round Prairie here while it is going dry near our place." That is the result of the many beaver dams and our ponds. If those dams and our ponds were eliminated Round Prairie would dry up much sooner and fish would have very little in the way of habitat to protect them during the low stream flows.

6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho? On the contrary. The diversion of this water will reduce evaporation that occurs in a stream. As water resources will attest, water flowing down a stream evaporates at a greater rate than static water. It also does not replenish the water table in a stream flow as much as in a pond especially when there is elevation change which occurs from the point of diversion to the Moyie River. In the mile before our point of diversion Round Prairie changes elevation 16 feet. From our point of diversion to the Moyie River a distance of one mile, Round Prairie changes elevation 44 feet or nearly three times the gradient. Our pond will put substantially more water into the water table than the same amount of water traveling down the stream to the River and ultimately into Canada and the Columbia. We will actually be retaining more water for the state of Idaho and we will be creating more fish habitat and wildlife habitat. See pictures of Eagles and fish. Show the 19" Brook taken in Round Prairie. The department of Water Resources can attest to the fact that the more surface water impounded the higher the water table is usually. Fish and Game can verify that the more water and wetlands the greater the population of fish and Game.
7. Will the proposed use adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates? It is not outside the watershed.

I have contacted all of the protestants and their representatives and have offered to meet and hold informal discussions as recommended by the Department, but only Fish and Game accepted my offer to meet and we had a good discussion. They indicated they would have a letter regarding a possible solution to me before the meeting.

I was also contacted by Tim Wilson as representative of several of the protesters and he indicated he would meet with the protesters and respond to me. That was on August 14th and I have not heard back from him.

One neighbor, Patrick Williams, asked to meet with me, which we did over the weekend. I do not know if he is representing his mother, but our meeting was very cordial and I think he understands my desires and I certainly understand his request that our action not diminish his right for water.