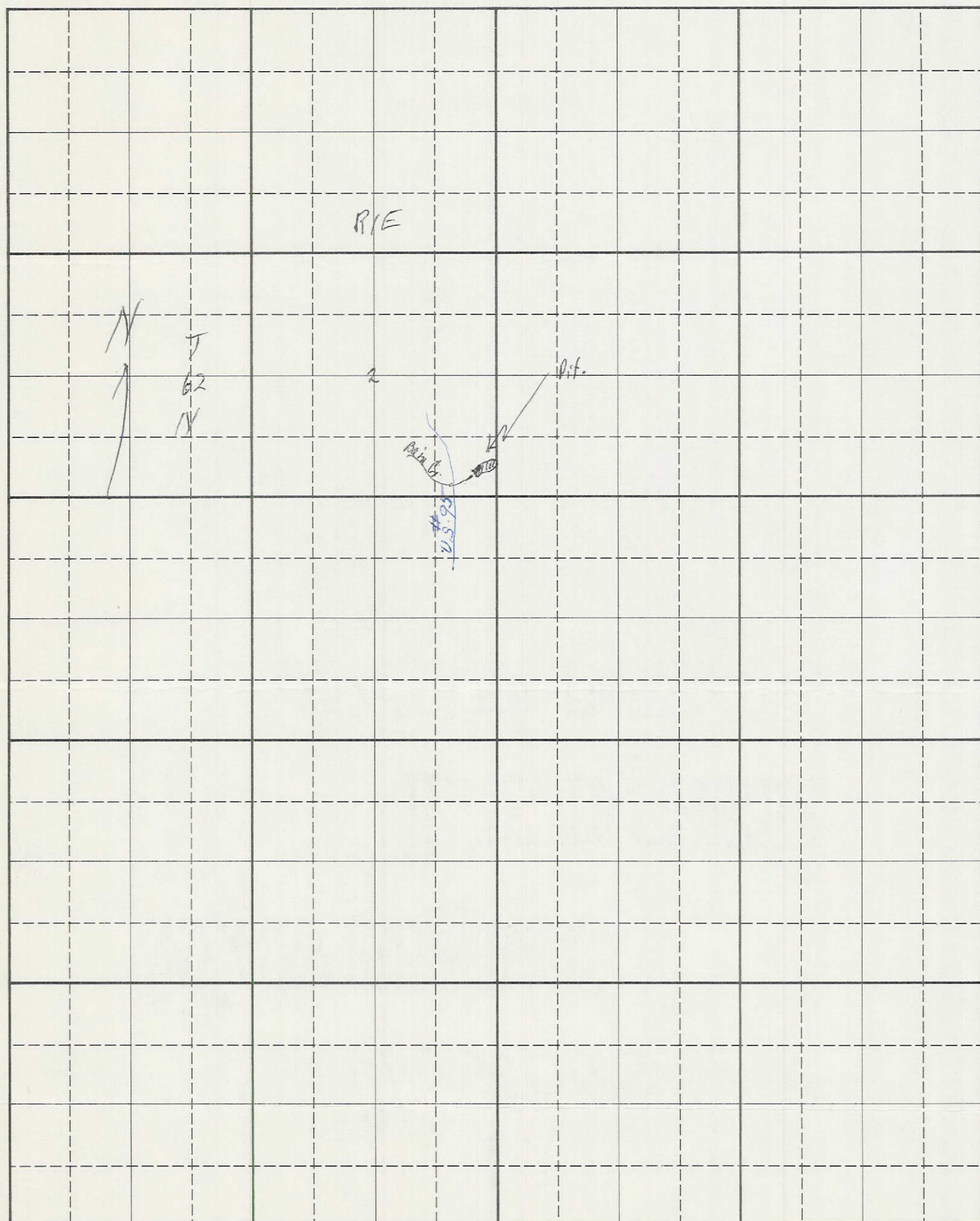


11. Map of proposed project:



Scale: 2 inches equal 1 mile

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

Usher Faust
(Applicant)

98-7024

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 98-7024 Priority April 1, 1970 Amount 0.01 cfs

THIS IS TO CERTIFY, that USHER FOUST
of Bonniers Ferry, Idaho, has complied with the terms and conditions of Permit
No. 98-7024 issued pursuant to Application for Permit dated April 1, 1970,
and has submitted proof to the Department of Water Resources on March 6, 1975,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 0.01 cfs of water from Bain Creek,
tributary to Kootenai River, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Domestic</u> from <u>Jan. 1</u> to <u>Dec. 31</u> at <u>0.01</u> cfs and <u>0.60</u> acre feet			
<u>Stockwater</u> from <u>Jan. 1</u> to <u>Dec. 31</u> at <u>0.01</u> cfs and <u>0.40</u> acre feet			
<u>Recreation</u> from <u>Jan. 1</u> to <u>Dec. 31</u> at <u>0.01</u> cfs and <u>0.30</u> acre feet			

(both dates inclusive)

Subject, however, to the condition that no more than 0.01 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
1.30 acre feet per year, said waters to be diverted within the SE¹₄SE¹₄ of Sec. 2,
Twp. 62 N, Rge. 1 E, B. M. in the County of Boundary

Description and location of place of use:

Twp.	Range	Sec.	NE ¹ ₄				NW ¹ ₄				SW ¹ ₄				SE ¹ ₄				Totals
			NE ¹ ₄	NW ¹ ₄	SW ¹ ₄	SE ¹ ₄	NE ¹ ₄	NW ¹ ₄	SW ¹ ₄	SE ¹ ₄	NE ¹ ₄	NW ¹ ₄	SW ¹ ₄	SE ¹ ₄	NE ¹ ₄	NW ¹ ₄	SW ¹ ₄	SE ¹ ₄	
62 N	1 E	2																X	

Total number of acres irrigated _____

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 28 day of
July, 19 75.

Director

Identification No. 98.7024

Application No. _____

LICENSE ISSUED FOR 01 SEC. F1.
LICENSE PAGE NO. _____STATE OF IDAHO
DEPARTMENT OF RECLAMATION

APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

APPROVED

1. Name of applicant USHER FOUST
post office address Rt-1-Bojars Bonners Ferry, Idaho 83805
2. Source of water supply Bain Creek which is a tributary of Kootenai River
3. a. Location of point of diversion is SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 2 Township 62N
Range 1E B.M. Boundary County; additional points of diversion if any: _____
- b. If water is not consumed, it will be discharged into Bain Creek at a point in SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 2 Township 62N Range 1E B.M. Boundary
4. Water will be used for the following purposes:
Amount .01 for Domestic purpose from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount .01 for Recreation purpose from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount .01 for Stockwater purpose from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. .01 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Pit, wood plank head gate.

b. Height of storage dam 0 feet, active reservoir capacity 1 acre feet; total reservoir capacity 1 acre feet, materials used in storage dam: 2" wood planking (treated)
Period of year during which storage will occur Jan. 1 to Dec. 31 inclusive.
(Mo. Day) (Mo. Day)
c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years.
b. Estimated construction cost is \$ 546 46.
8. Description of proposed uses:
a. If water is **not** for irrigation:
(1) Give the place of use of water: SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 2 Township 62N
Range 1E B.M.
(2) Amount of power to be generated: _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered 15 beef

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water 1.
(5) If water is to be used for other purposes describe: Recreation - area will be used as a fish pond and winter iceskating area.

98.7024

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

TWP.	RANGE	SEC.	NE ¹ / ₄				NW ¹ / ₄				SW ¹ / ₄				SE ¹ / ₄				TOTALS
			NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	

Total number of acres to be irrigated _____

c. Describe any other water rights used for the same purposes _____

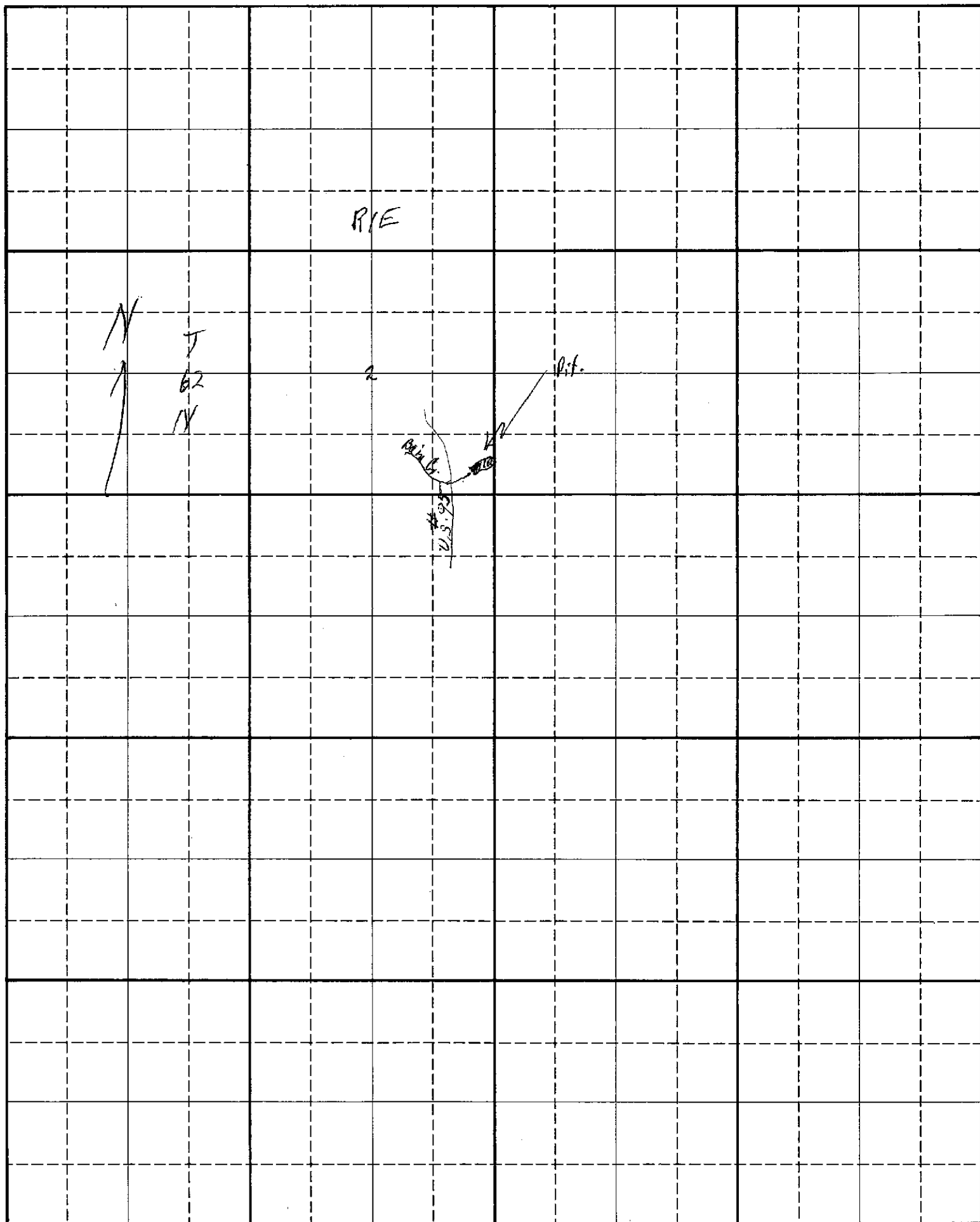
9. a. Who owns the property at the point of diversion Same

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

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

10. Remarks _____

11. Map of proposed project:



Scale: 2 inches equal 1 mile

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

Usher Faust
(Applicant)

98-7024

Received by Y Date 4-1-70 Time 8:00 am

Preliminary check by Y Fee \$ 10.00

Receipted by Y Date 4-6-70

Publication prepared by du Date 4-8-70

Published in Bozeman Daily Herald

Publication dates 4-16 + 23-70

Publication approved du Date 5-11-70

Priority reduced to _____ Reason _____

Protests filed by: _____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by du

APPROVED

ACTION OF STATE RECLAMATION ENGINEER

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 98-7024, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

- SUBJECT TO ALL PRIOR WATER RIGHTS.
- Proof of construction of works and application of water to beneficial use shall be submitted on or before May 1, 19 75.
- Other: _____

2. Denial of said application is for the following reasons: _____

Witness my hand this 20th day of May 19 70.

P. Keith Higgins
State Reclamation Engineer

**NOTICE OF APPLICATION FOR
PERMIT TO APPROPRIATE THE
PUBLIC WATERS OF THE STATE
OF IDAHO**

Notice is hereby given that Usher Foust, Route 1, Box 75, Bonners Ferry, Idaho, has on April 1, 1970, submitted Application No. 98-7024 to appropriate the public waters of Bain Creek, tributary of the Kootenai River. The proposed uses are domestic (0.01 cfs), recreation (0.01 cfs) and stockwater (0.1 cfs) from Jan-

uary 1 to December 31.

The application proposes a maximum diversion and appropriation of 0.01 cubic feet per second of water to be diverted by pit and headgate within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, T. 62N, R. 1E, B.M., Boundary County, and is to be used within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, T. 62N, R. 1E, B.M.

Any permit issued pursuant to this application will be subject to ALL PRIOR WATER RIGHTS and subject to the CONTROL OF A STATE WATERMASTER. Any protest against this application must be filed with the Idaho Department of Reclamation on or before May 4, 1970.

R. KEITH HIGGINSON

State Reclamation Engineer

Published in the Bonners Ferry Herald, Bonners Ferry, Idaho, on April 16 and April 23, 1970.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO }
County of Boundary } ss.

W. H. Chubb

being first duly sworn up his oath, deposes and says that he is the publisher (or foreman)

publisher

of The Bonners Ferry Herald, a newspaper of general circulation, published weekly at Bonners Ferry, Boundary County, State of Idaho; that the said Bonners Ferry Herald has been continuously and uninterruptedly published in said Boundary County during a period of 18 months or 78 weeks prior to the first publication of the hereto attached notice; that

State Reclamation Department

the advertisement of

a **Notice of Application for permit to appropriate the
public waters of the state of Idaho.**

Notice for Publication, a printed copy of which is attached hereto was published in said newspaper and not in a supplement thereof for 2 consecutive issues, commencing with the issue dated April 16, 1970, and ending with the issue dated April 23, 1970.

Subscribed and sworn to before me this 29 day of April, 1970.

Notary Public in and for the County of Boundary, State of Idaho,
Residing at Bonners Ferry, Idaho.

My commission expires Jan. 12, 1974

AFFIDAVIT OF PUBLICATION

NOTICE OF APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

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State Reclamation Engineer

Published in the Bonners Ferry Herald, Bonners Ferry, Idaho, on April 16 and April 23, 1970.

STATE OF IDAHO }
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State Reclamation Department

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a **Notice of Application for permit to appropriate the**
public waters of the state of Idaho.

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mencing with the issue dated April 16, 1970, and ending with the issue dated April 23, 1970

Subscribed and sworn to before me this 24 day of April, 1970.

William H. Chubb
Don Kerby
Notary Public in and for the County of Boundary, State of Idaho,
residing at Bonners Ferry Idaho.



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

December 12, 1980

Mrs. Usher Foust
Box 40, Star Rt. 3
Boise, Idaho 83705

wrong

Dear Mrs. Foust,

file in file

Thank you very much for your letter of September 2, 1980. In reviewing Water Right No. 98-7024, 98-2138/24278, & 98-7039 I have found that they have become Licensed Water Rights. Once a Water Right is licensed it becomes appertant to the land and passes through sell of the land, and interest would be through proof of ownership (Deed, Mortgage, etc.). A transfer would only be filled if the designated point of diversion or place of use was changed.

I hope that this will answer your questions, if not feel free to call me at 334-4123.

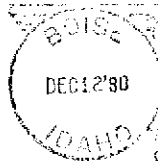
Sincerely,

ROBYN HAMPE
Chief Clerk

RH:mr

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Statehouse
Boise, Idaho 83720

PRESORTED
FIRST-CLASS



13

RECEIVED

DEC 17 1980

Department of Water Resources

POST OFFICE
BOISE, IDAHO
83705
ADDRESS

Mrs. Usher Foust
Box 40, Star Rt. 3
Boise, Idaho 83705

No Luck #



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

C. STEPHEN ALLRED

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

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I hope that this will answer your questions, if not feel free to call me at 334-4123.

Sincerely,

ROBYN HAMPE
Chief Clerk

RH:mr

111

5 1980

Stew Rt. 3 Box 41
Bonners Ferry, Idaho 83805

Department of Water Resources

Sept. 2, 1980

Dear Sir,

I have sold my farm lands to my son and would like, if it is possible, to transfer my water rights to him.

I would like to transfer the water right on the pond and spring, permit No. 24287, and the Drilled Well permit No. 98-7039 to David Fount, Stew Rt. 3 Box 41 Bonners Ferry, Idaho. The location is N²NE⁴Sec 12. T62 R1E

The Water Right for pond on Bain Creek, NE⁴NE⁴Sec 2 T62 R1E permit No 98-7024 I would like to transfer to David Fount, Guyene Fount and Marvin Fount.

I don't know how to go about this or if it is possible. Please let me know.

Mrs. Usher Fount

I D A H O D E P A R T M E N T O F W A T E R R E S O U R C E S

WATER RIGHT
DATA ENTRY LOG

[illegible]

July 29, 1975

Re: Permitt No. 98-7024

Usher Foust
Route 1, Box 75
Bonners Ferry, ID 83805

Dear Mr. Foust:

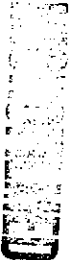
Enclosed herewith is a copy of the water license issued on the above referenced permit.

Sincerely,

D. DARLENE REICH
Water Rights Supervisor

DDR:rb

Enc.



RECEIVED

~~MAR 22 1975~~

Post office address Route #1, Box 75, Bonners Ferry, ID 83805

Department of Health Resources
Northern District Office

Person to contact

Phone

Bain Creek

Tributary to Kootenai River (name spring, stream, etc.)

3. Water will be used for the following purposes:

Amount .01 c.f.s. for domestic (1 house)
 AF/Annum (nature of use)

Period of Use: from Jan. 1 to Dec. 31
(mo.-day) inclusive (mo.-day)

Amount .01 c.f.s. for recreation (fish pond & winter ice-skating)
 AF/Annum (nature of use)

Period of Use: from Jan. 1 to Dec. 31
(mo.-day) inclusive (mo.-day)

Amount .01 c.f.s. for stockwater (15 beef)
AF/Annum (nature of use)

Period of Use: from Jan. 1 to Dec. 31
(mo.-day) inclusive (mo.-day)

Other uses:

Permit No. 98-7024

Examination for b/u

4. Total amount to be appropriated:

Max Rate of Diversion .01 cubic feet per second and annual volume _____ AF/Annum.

5. Location of Point(s) of Diversion:

Township 62N N/S, Range 1E E/W, B.M., Section 2, Subdivision SE $\frac{1}{4}$ SE $\frac{1}{4}$, Boundary
County _____

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ $\frac{1}{4}$ _____ $\frac{1}{4}$, _____
County _____

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ $\frac{1}{4}$ _____ $\frac{1}{4}$, _____
County _____

Other Points of Diversions:

Description of diverting works: Pit, wood plank & headgate.

Measuring device required: yes ☐ no ☒

6. Lands to be irrigated or place of use.

[illegible]**TOTAL ACREAGE**

REPORTED

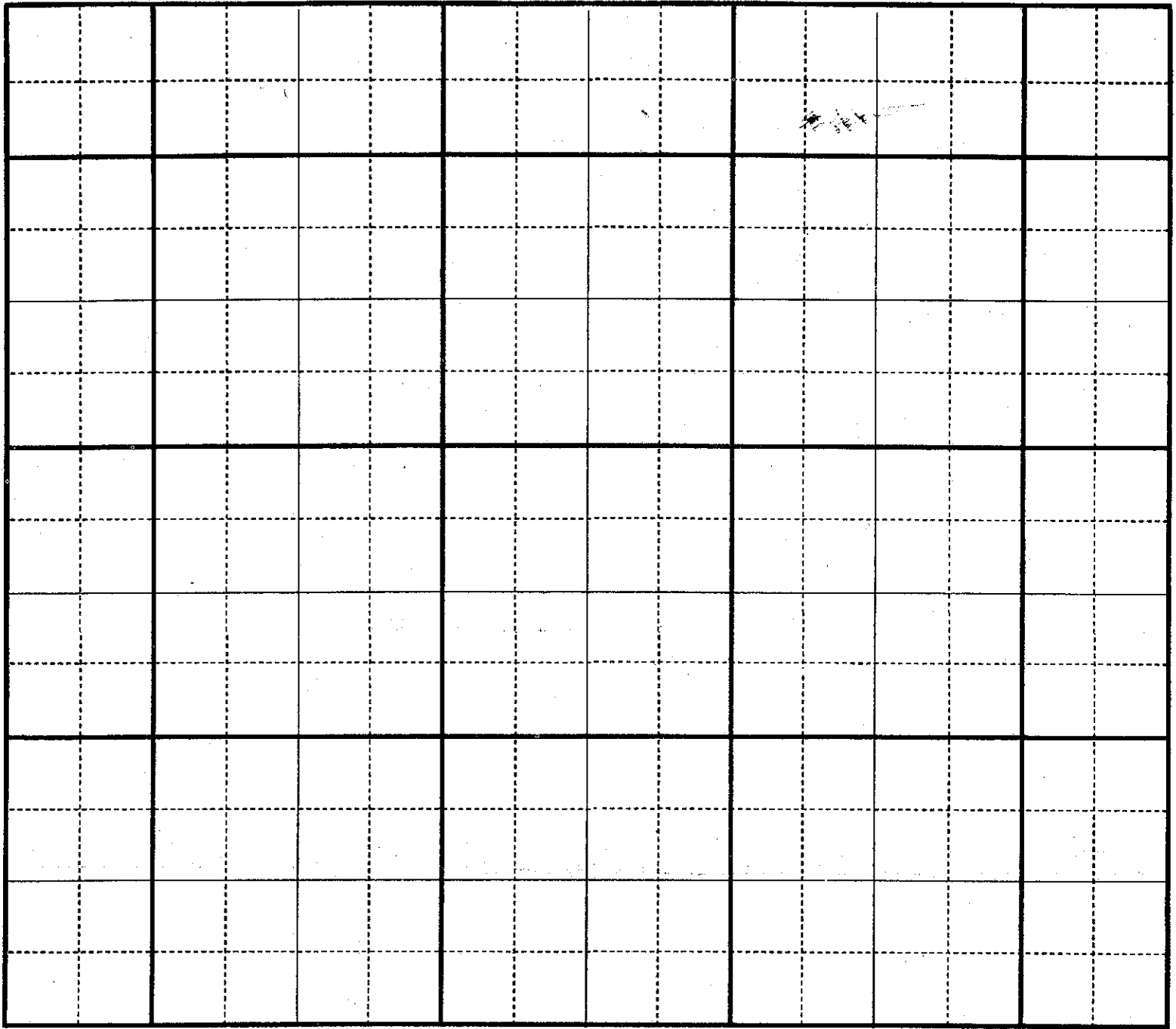
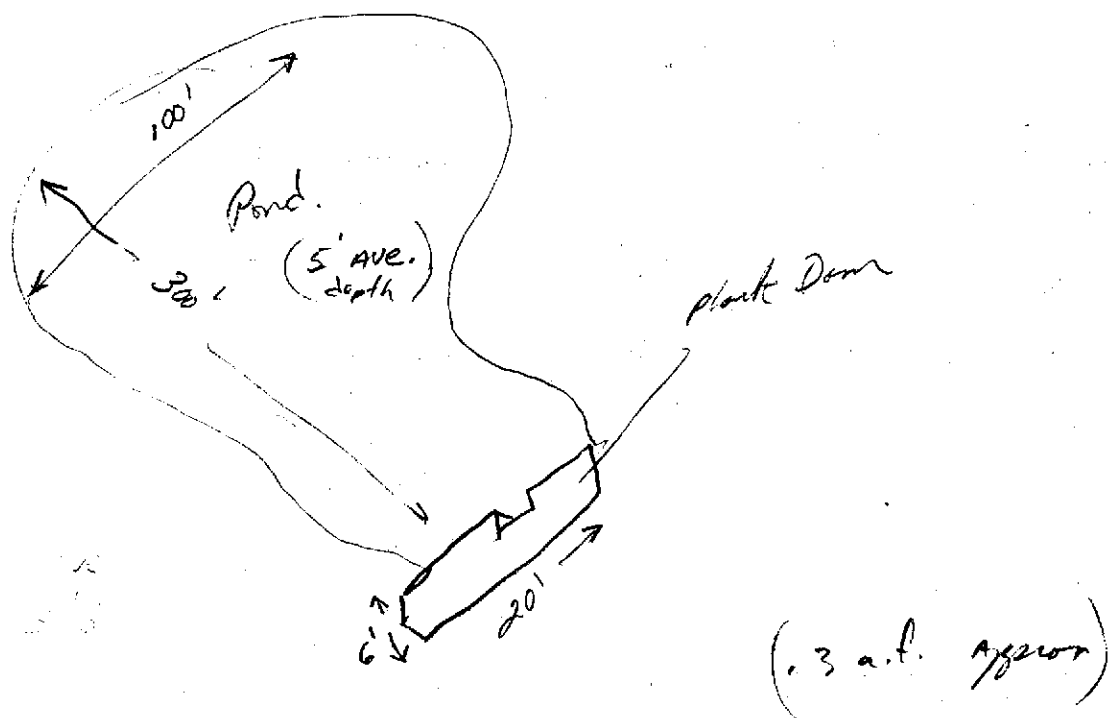


Diagram of System



$$\begin{aligned}
 300' \times 20' \times 5' &= 30,000 \text{ cf.} \\
 \frac{1}{2} (300' \times 80' \times 5') &= 60,000 \text{ cf.} \\
 + &= 90,000 \text{ cf} \div 325,850 = \underline{.28 \text{ a.f.}} \text{ impoundment}
 \end{aligned}$$

DATE OF EXAM 7/15/75

ACREAGE
Found 0
Recommended 0

Irrigation Requirement _____ Ac Ft/Ac

USE
Irrigation Q= _____ c.f.s. V= _____ AF/Ann. from _____ to _____
Domestic Q= .01 c.f.s. V= .60 AF/Ann. from 1/1 to 12/31
Livestock Q= .01 c.f.s. V= .40 AF/Ann. from 1/1 to 12/31
Recreation Q= .01 .28 1/1 12/31

Is water co-mingled? yes _____ no ✓

Name source: _____
twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____
County _____

Exchange? yes _____ no ✓

Name source exchanged with: _____
twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____
County _____

Point of injection:
twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____
County _____

Point of exchange:
twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____
County _____

Total Q measured .01 cfs Method of measurement estimated

Total Q recommended .01 cfs Meter No. _____ Type _____ Condition _____

Total V recommended 1.28 af

Recommended Amendments:

P.D. _____
Place of Use _____
☒ Other _____
☒ None ✓

MEASUREMENT CALCULATION:

estimated

SYSTEM DESCRIPTION:

Water from Basin Creek is impounded by a wooden plank dam (20' long, 6' high) and creates a pond approx. 300' long, 100' wide and 5' deep.

REMARKS:

Water is used for domestic purposes for 1 household, stock water for 15 head of cattle and recreational purposes. The pond contains fish and during the winter time the pond is used for ice skating.

Examiner's Signature Paul Humboldt Jr. Date 7/15/75

Checked by W. H. H. H. Date 7/18/75

Approved by _____ Date _____

March 10, 1975

Re: Permit No. 98-7024

Usher Foust
Route #1, Box 75
Bonners Ferry, ID 83805

Dear Mr. Foust:

We acknowledge receipt of the affidavit submitted as proof of beneficial use for the above referenced permit.

Before a license can be issued, a field examination must be made by a representative of this Department. We cannot tell just when this examination will be made, but our examiner will try to contact you at the time he makes the examination so that you may show him the system.

If you have any questions regarding the field examination, please contact our District Office in Coeur d'Alene.

Sincerely,

D. Darlene Reich
Water Rights Supervisor

DDR:JG

MICROFILMED

Identification No. _____

Permit No. 98-7024

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

MAR 6 1975

ok
JD

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

Department of Water Resources
Northern District Office

1. a) Name of Permit Holder Usher Foust
b) Post Office Address Route 1, Box 75, Bonners Ferry, Idaho 83805
2. Permit Number 98-7024
3. Date of Priority that you are prepared to establish 4-1-1970
4. a) Source from which water was appropriated Bain Creek
b) Location of the point of diversion: SE ¼ SE ¼, Section 2
Township 62N, Range 1E Boise Meridian, Other points of diversion: _____
5. a) The amount of water and use to which the water has been applied:
Amount 0.01 for Domestic purposes from Jan. 1 to Dec. 31 incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)
Amount 0.01 for Recreation purposes from Jan. 1 to Dec. 31 incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)
Amount 0.01 for Stockwater purposes from Jan. 1 to Dec. 31 incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)
b) Total amount appropriated 0.01 cfs and/or acre-feet per annum
c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifications of the person making the measurement: Estimated.
6. If the means of diversion and conveyance are owned by someone other than the Permit Holder:
a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use: _____
b) Describe the agreement or understanding by which you take water from the works: _____
7. a) Briefly describe the works for diverting and conveying the water to the place of use, (if from a subterranean source, give the pump size, motor size, size of well casing, depth of well; if from surface water, give brief description of diversion structure and/or canal or ditch) Pit, wood plank, and headgate.
b) Describe the type and size of measuring device which you have installed at your point of diversion: None
c) Give well driller's name and address and the date the well was completed: _____
8. If for other than irrigation, describe the beneficial use to which you have applied the water and the place of use: Domestic, recreation, and stockwatering purposes.

Exam typed 3/10/25 by JG

MICROFILMED

9. Irrigation uses: describe the lands irrigated by giving the acreages irrigated within each 40 acre subdivision: _____

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres irrigated _____

10. Remarks: _____

The above information is a true statement of the extent to which the above numbered permit has been developed.

3/6/75 (Date) x Usher Faust (Signature)

State of IDAHO)
County of KOOTENAI) ss.

On this 6TH day of MARCH, 19 75, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Corda M. Roberts
Notary Public residing at Idaho

My commission expires SEPT. 11, 1976

OK FG 3/6/75

- **SENDER:** Complete items 1 and 2.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

- ☐ Show to whom and date delivered..... 15¢
- ☐ Show to whom, date, & address of delivery.. 35¢
- ☐ **DELIVER ONLY TO ADDRESSEE** and show to whom and date delivered..... 65¢
- ☐ **DELIVER ONLY TO ADDRESSEE** and show to whom, date, and address of delivery 85¢

2. **ARTICLE ADDRESSED TO:**

CERTIFIED MAIL

3. **ARTICLE DESCRIPTION:**

REGISTERED NO. CERTIFIED NO. INSURED NO.

266612

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE

4.

DATE OF DELIVERY

POSTMARK

5. **ADDRESS** (Complete only if requested)

6. **UNABLE TO DELIVER BECAUSE:**

CLERK'S
INITIALS

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS



SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1 and 2 on reverse side.
- Moisten gummed ends and attach to back of article.

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



**RETURN
TO**



DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

February 28, 1975

CERTIFIED MAIL

26612

Re: Permit No. 98-7024

Usher Foust
Route #1, Box 75
Bonners Ferry, ID 83805

Dear Mr. Foust:

One of the conditions of approval of your water Permit No. 98-7024 (see last page of your approved permit) was that evidence of the extent of development be submitted as proof of application of water to beneficial use to this office on or before May 1, 1975. Enclosed is an affidavit form which must be used to submit the required proof of beneficial use.

If you have not fully completed your project, and you have not previously received an extension of time, you may request an extension of time provided the delay is for reasonable cause as indicated in Section 42-204, Idaho Code, amended. If you have been prevented from proceeding by a governmental agency or by litigation, more than one extension of time can be granted.

Either the beneficial use affidavit or a request for an extension of time must be received by this Department on or before the above mentioned date, otherwise the permit will lapse and be of no further force or effect.



R. KEITH HIGGINSON
Director

MICROFILMED

RKH:jg
Enc: Proof affidavit

RECEIVED

JAN 27 1971

Department of Water Administration

98-7023
Joy is going to court
first appeal

Rt-1 Box 175-

Bannere Ferry, Idaho

Feb-25-1971

State of Idaho -

Dept. of Reclamation

State House annex 2 -

Boise, Idaho-83707

Dear Sirs:

I have a water permit for an unnamed spring for 0.20 cubic feet of water per second, which is capable of conveying 0.06 second foot of water according to the field engineer from your office.

The permit no. is 24287, recorded in Book 86 page 24287 - approved July 14, 1953.

We have lived on this place since 1933 and the overflow from Smith Lake has always come down towards our place and into a lake on our place by diversion - But since W.D. Nixon put in a dam at the outlet of Smith Lake and a new diversion point, we have just got the snow runoff, which is not enough for irrigation of the crops. The U. of I. has on my place as a experiment acreage.

98 7024

For several years, Del. C. Vernon county surveyor went on turned a certain amount of water that was

coming down the channel where my spring towards
my place. Then he passed away and since then
haven't had any of the stored water after the middle
of June -

the underground spring which I have a water
right on is about 200 feet above the conversion
point which Nixon put in -

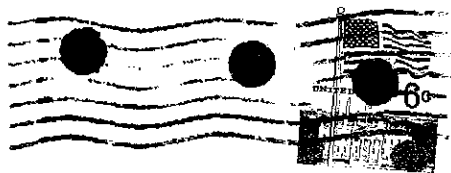
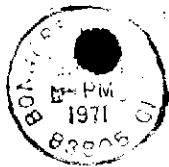
a certain amount of the stored water coming
down the channel where my spring is should
come on down to my place.

would like you to see what can be done
so I could get more water -

Sincerely,

Usher Faust -

U. Faust-
Rt 1-
Banner Fair,
Ida.
83805



State of Idaho.
Dept. of Reclamation
State House Annex 2
Boise, Idaho. 83707

98 7024

May 1, 1970

Mrs. Pearl E. Bourland
1909 N. W. Benton Street
Camas, Washington 98607

Dear Mrs. Bourland:

Your recent letter asked several questions concerning the Idaho water law provisions relative to diversion of water from your private property. I will attempt to answer these questions in the order that you have raised them.

First, you have asked how Mr. Foust proposes to get water twelve months of a year from Bain Creek. You should understand that most applications received by this office for uses such as he has proposed will specify a year-round period of use, even though the stream or the source may be dry part of the year. This is done to allow use of the water at any time that it is available. If he were to specify a specific period of use during the year, then there would be no right under the permit to use water at any other time if it should be available.

Your second question was whether he could tap water originating on your land if a permit is issued. The issuance of the water permit does not grant an easement across your land to divert the water from the spring. He would have to negotiate with you for such an easement. However, in the event that you were not willing to grant the easement, he would have the right to seek condemnation of such easement through the court. Whether it would be granted would, of course, depend upon the information presented to the district court judge.

Your last question asked whether his action could deprive cattle grazing on your land of water. It would appear to me that one of the considerations of an easement, if it were to be granted, should be that he provide protection for your livestock, perhaps by installing a watering trough or leaving sufficient flow of water in the stream to allow for their use. We are advised that the watering of livestock from a natural channel is a type of riparian right which is of secondary value as against an appropriator such as Mr. Foust who would divert the water from its natural source and apply it to beneficial use. I would suggest, however, that this matter be reviewed by a qualified attorney.

Mrs. Bourland

- 2 -

5/1/70

Your protest against the issuance of Mr. Foust's application has been entered in the file and you will be notified at a later date of any necessary conference or hearing concerning the matter.

If we can supply you with any further information, please let me know.

Very truly yours,

R. KEITH HIGGINSON
State Reclamation Engineer

RKH/jib

98 7024

1909 N. W. Benton St.
Canas, Washington
April 27, 1970

RECEIVED
98607 APR 28 1970
Department of Reclamation

R. Keith Higginson
State Reclamation Engineer
Idaho Department of Reclamation
Boise, Idaho 83700

Dear Mr. Higginson:

I have read a "Notice of Application for Permit to Appropriate the Public Waters of the State of Idaho" in the BONNERS FERRY HERALD which is being applied for by Usher Foust. He has submitted the notice under application number 98-7024 to appropriate the water of Bain Creek from January 1 to December 31, within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, T. 62N, R. 1E, B. M. in Boundary County.

I would like to protest this application on the grounds that Bain Creek is not a free-flowing creek twelve (12) months of the year, and my property--SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 1, T. 62N, R. 1E,-- is adjacent to that of Mr. Foust's. Bain Creek runs through my property first and during the summer, any water flowing from my property to his comes from springs on my property.

How does Mr. Foust propose to get water twelve (12) months out of the year from Bain Creek, as it does not flow from its source during the dry season? Is there a legal method whereby he can tap water originating on my land if he gets the water rights to his property? Could this action by Mr. Foust deprive cattle grazing on my land from water? Every summer for over twenty (20) years my family has pastured cattle on this land.

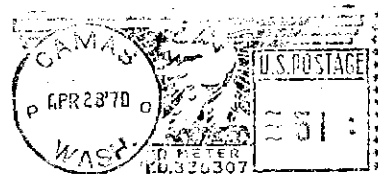
I would very much appreciate hearing from you.

Sincerely yours,

Mrs. Pearl E. Bourland
Mrs. Pearl E. Bourland

98-7024

Mrs. Pearl E. Bourland
1909 N. W. Benton St.
Camas, Washington 98607



RETURN ADDRESS REQUESTED

Mr. R. Keith Higginson
State Reclamation Engineer
Idaho Department of Reclamation
Boise, Idaho 83700

CERTIFIED

No 347971

MAIL

98 7021

May 21, 1970

Re: Permit No. 98-7024

Usher Foust
Rte. 1, Box 75
Bonners Ferry, Idaho 83805

Dear Mr. Foust:

We enclose a copy of your approved application for permit 98-7024 in which we direct your attention to the limitations and conditions as given on the fourth page under approval of the State Reclamation Engineer.

Very truly yours,

C. Stephen Allred, ~~Assistant~~ Deputy
State Reclamation Engineer

CSA:kh

Enclosures: Copy of permit
Receipt No. 4399 for \$10

98-7024

May 5, 1970

Re: Application for Permit No. 98-7024 - Usher Foust

Bonnars Ferry Herald
212 Main
Bonnars Ferry, Idaho 83805

Gentlemen:

Would you please submit an affidavit of publication and a certified bill in connection with the above referenced item(s). The legal notice was to be published in your paper on April 16 and April 23, 1970.

As the above permit application cannot be approved until we are in receipt of the affidavit, it is important that we receive it as soon as possible.

May we please have your prompt attention to this matter.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR

98-7024

**NOTICE OF APPLICATION FOR
PERMIT TO APPROPRIATE THE
PUBLIC WATERS OF THE STATE
OF IDAHO**

Notice is hereby given that Usher Foust, Route 1, Box 75, Bonners Ferry, Idaho, has on April 1, 1970, submitted Application No. 98-7024 to appropriate the public waters of Bain Creek, tributary of the Kootenai River. The proposed uses are domestic (.01 cfs), recreation (.01 cfs) and stockwater (.01 cfs) from January 1 to December 31.

The application proposes a maximum diversion and appropriation of 0.01 cubic feet per second of water to be diverted by pit and headgate within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, T. 62N, R. 1E, B.M., Boundary County, and is to be used within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, T. 62N, R. 1E, B.M.

Any permit issued pursuant to this application will be subject to ALL PRIOR WATER RIGHTS and subject to the CONTROL OF A STATE WATERMASTER. Any protest against this application must be filed with the Idaho Department of Reclamation on or before May 4, 1970.

R. KEITH HIGGINSON

State Reclamation Engineer

Published in the Bonners Ferry Herald, Bonners Ferry, Idaho, on April 16 and April 23, 1970.

98-7024

April 8, 1970

Re: Application for Permit No. 98-7024 - Usher Foust

Bonnars Ferry Herald
212 Main
Bonnars Ferry, Idaho 83805

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted assuming the notice is correct. If we have any corrections, we will notify you before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department of Reclamation along with the publication bill. In order to receive payment, the following certification must appear on the bill:

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

(Signature of the claimant)

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:DR
Enc: Legal notice

*Bill submitted
5-11-70
ds*

98-7024

NOTICE OF APPLICATION FOR PERMIT

TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

Notice is hereby given that Usher Foust, Route 1, Box 75, Bonners
Ferry, Idaho, has on April 1, 1970,
submitted Application No. 98-7024 to appropriate the public waters of
Bain Creek, tributary of the Kootenai River.
The proposed uses are domestic (.01 cfs), recreation (.01 cfs) and stockwater
(.01 cfs) from January 1 to December 31

The application proposes a maximum diversion and appropriation of 0.01
cubic feet per second 1.666/1.666 of water to be diverted by pit and headgate
within the SE~~1~~SE~~1~~, Sec. 2,
T. 62N, R. 1E, B.M., Boundary County,
and is to be used within the SE~~1~~SE~~1~~, Sec. 2, T. 62N, R. 1E, B.M.

Any permit issued pursuant to this application will be subject to ALL PRIOR
WATER RIGHTS and subject to the CONTROL OF A STATE WATERMASTER. Any protest
against this application must be filed with the Idaho Department of Reclamation on
or before ~~April 27, 1970~~ 5-4-70.

R. KEITH HIGGINSON

State Reclamation Engineer

Published in the Bonnors Ferry Herald, Bonners Ferry, Idaho,
on April 16 and April 23, 1970.

98-7024

Rt-1 Box 75 -
Barnes Ferry Idaho.
Oct - 31 - 1970

Dept. of Reclamation
Boise, Idaho.

Dear Sirs:

enclosed is a application for
permit for water on my place
which Bain creek flows through, also
enclosed the fee -

would like a storage application
permit for my place in sec. 12 - here
where we live.

Sincerely

Usher Faust -

RECEIVED

OCT 31 1970

Department of Reclamation

98.7024

February 27, 1970

C
O
P
Y
Mr. Usher Foust
Route 1, Box 75
Bonners Ferry, Idaho 83805

Dear Mr. Foust:

Pursuant to your request of February 24, 1970, we are enclosing an Application for Permit form along with a set of instructions for filing an application.

Also enclosed please find a Claim to a Water Right form, the instructions for filing a claim may be found on the back side of the form.

If we may be of any assistance, please contact us.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR
Enclosures (3)

98-7024

Barnes Ferry, Idaho.
Feb. 24 - 1970
RT-1 - Box 75

Department of Reclamation

Boise, Idaho -

Dear Sirs:

Would like the necessary papers for the construction of a pit reservoir and for storage of water on my place for stock watering and fish propagation. The creek which I will get water from is Bain creek - which flows through my place property is SE⁴ of the SE⁴ of Sec. 2 - Twp. 62 R1E - lying East of North & South Highway #95.

There would be no conversion of creek -

~~Then~~ The above project has already been constructed in the year of June 1960 -

also need application for establishing earlier priority -

Sincerely

Usher Faust -

98-7024