

**STARTING
LEFT
SIDE OF
FILE**

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 98-07852

Priority: March 29, 2006

Maximum Diversion Rate: 0.05 CFS
Maximum Diversion Volume: 0.4 AF

This is to certify, that SPENCER HITTLE
HCR 01 BOX 332M
NAPLES ID 83847

has applied for a permit to appropriate water from:

Source: RUBY CREEK

Tributary: DEEP CREEK

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	0.03 CFS	
DIVERSION TO STORAGE	01/01 to 12/31	0.05 CFS	
WILDLIFE STORAGE	01/01 to 12/31		0.4 AF
RECREATION STORAGE	01/01 to 12/31		0.4 AF
IRRIGATION STORAGE	01/01 to 12/31		0.4 AF
IRRIGATION FROM STORAGE	04/01 to 10/31		0.4 AF
STOCKWATER STORAGE	01/01 to 12/31		0.4 AF
STOCKWATER FROM STORAGE	01/01 to 12/31	0.02 CFS	

LOCATION OF POINT OF DIVERSION:

RUBY CREEK SE¼ SE¼ Sec. 24, Twp 61N, Rge 01W, B.M. BOUNDARY County

PLACE OF USE: WILDLIFE STORAGE, RECREATION STORAGE, IRRIGATION STORAGE, STOCKWATER STORAGE, STOCKWATER FROM STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
61N 01E 19							X										
							L 2										

PLACE OF USE: IRRIGATION, IRRIGATION FROM STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
61N 01E 19							1.0										1.0
							L 2										

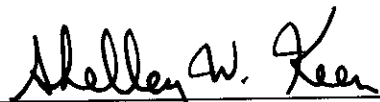
Total Acres: 1

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 98-07852

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 01, 2011**.
2. Subject to all prior water rights.
3. Stockwater use is for 25 head mixed stock.
4. Wildlife storage and recreation storage uses are for a pond.
5. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
6. This right does not grant any right-of-way or easement across the land of another.
7. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 27th day of July, 2006.



FOR KARL J DREHER, Director

FORM 202
12/99 RECEIVED

Ident. No. 98-7852

72721

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

DEPARTMENT OF
WATER RESOURCES

JUN 26 1966

1. Name of Applicant Spencer E. Hittle Phone 208-267-7751

Mailing address HGR 01 Box 332M, Naples, ID 83847

2. Source of water supply Ruby Creek which is a tributary of Deep Creek

3. Location of point of diversion is Township 61N Range 15W Sec. 124, in the _____ 1/4, SE 1/4, SW 1/4, NE 1/4, Govt. Lot 2, B.M., Boundary County;

additional points of diversion if any:

4. Water will be used for the following purposes:

Amount 0.05 for Div. To Storage purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum) Div. To Storage from 1/1 to 12/31 (both dates inclusive)

Amount 0.4 (cfs or acre-feet per annum) for Stockwater Storage purposes from 1/1 to 12/31 (both dates inclusive)

Amount 0.02 (cfs or acre-feet per annum) for Stockwater from Storage purposes from 1/1 to 12/31 (both dates inclusive)

Amount 0.02 (cfs or acre-feet per annum) for Wildlife Storage purposes from 1/1 to 12/31 (both dates inclusive)

Amount 0.4 for Recreation Storage purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 0.4 (cfs or acre-feet per annum) for Irrigation Storage purposes from 3/15 to 11/15 (both dates inclusive)

Amount 0.4 for Irrigation from purposes from 3/15 to 11/15 (both dates inclusive)
(cfs or acre-feet per annum)

Total quantity to be appropriated is (a) 0.03 cfs Irrigation and/or (b) 0.40 acre feet per annum

5. Total quantity to be appropriated is (a) 0.05 cubic feet per second and/or (b) 0.40 acre feet per annum

6. Proposed diverting works: 10 inch pipe

Proposed diverting works: 10 inch pipe

a. Describe type and size of devices used to divert water from the source 10 inch pipe from Ruby Creek to feed a ditch established in 1975 to a 40'x50'x8' pond.

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet

d. Is ground water with a temperature of greater than 85°F being sought? _____

e. If well is already drilled, when? _____; Drilling firm _____
Well was drilled for (well owner) _____; Drilling Permit No. _____

7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)

8. Description of proposed uses (if irrigation only, go to item 9):

a. Hydropower; show total feet of head and proposed capacity in kW. _____

b. Stockwatering; list number and kind of livestock. 0-25 head mixed

c. Municipal; show name of municipality. _____

d. Domestic; show number of households. _____

e. Other; describe fully. Wildlife storage Geese nest on our pond every year. Mallard ducks also nest around our pond every year. Also, wood ducks nest on our pond the last two years. We also have fish in our pond that we purchased.

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				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
61N	1E	19							W										
61N	1E	19							R										
61N	1E	19							S										
61N	1E	19							1.0										1.0

Total number of acres to be irrigated 1.0

10. Describe any other water rights used for the same purposes as described above. _____

11. a. Who owns the property at the point of diversion? _____

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

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

12. Remarks: I am basically applying for the same water right that my neighbor, Jerry Mortensen has. My Grandmother originally had the water right that Jerry Mortensen has now. My Grandmother applied for the water right in 1975 when she bought the property that Jerry Mortensen and myself owns now.

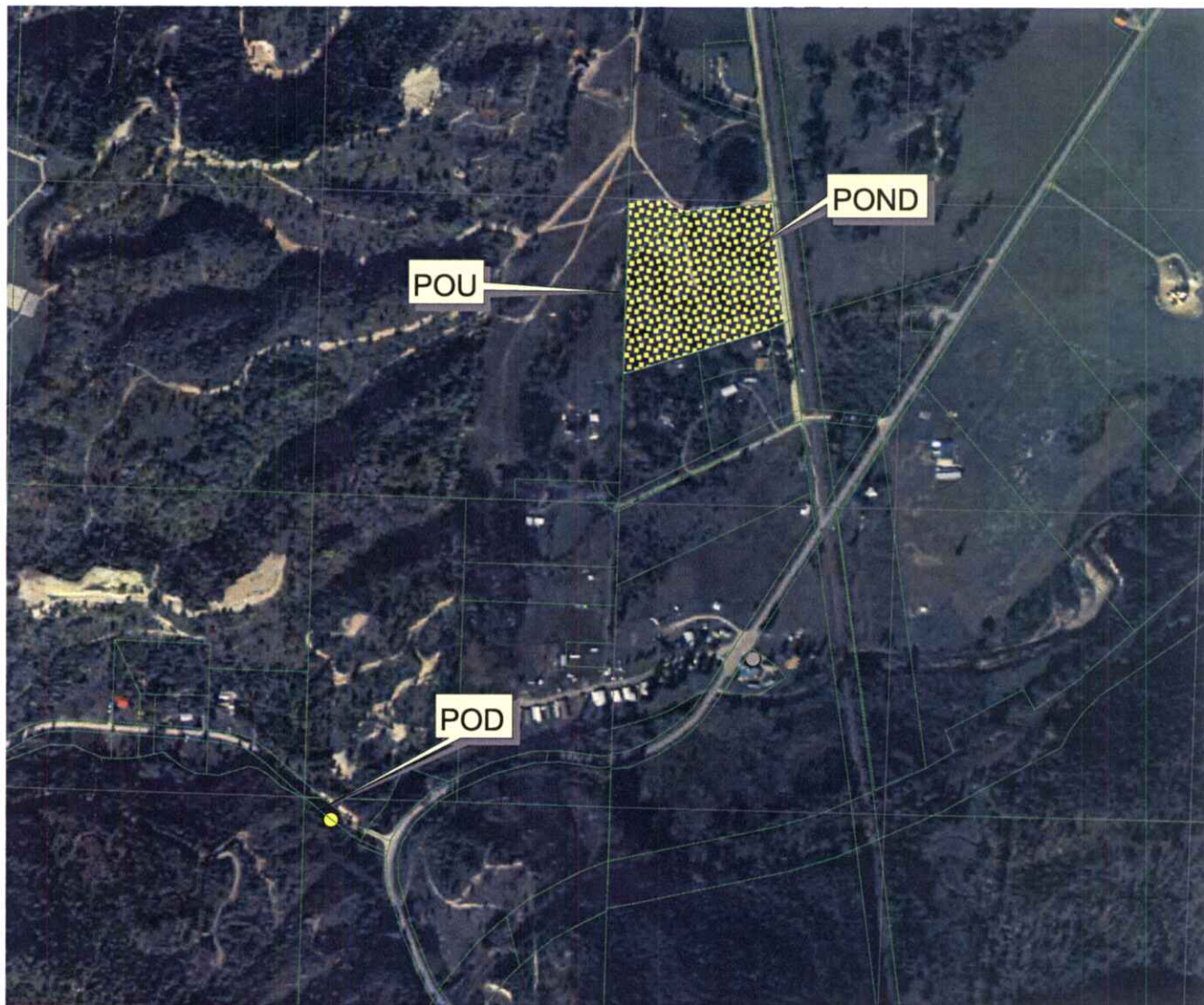
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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

Spencer E. Hittle
Signature of Applicant (and title, if applicable)

Received by CE Date 3/29/06 Time 12:20 Preliminary check by _____
Fee \$ 100.00 Receipted by CP # ND17442 Date 3/29/06
Publication prepared by CP Date 4/26/06 Published in Bonner Ferry Herald 5/4 & 11/06
Publication approved db Date 6/1/06

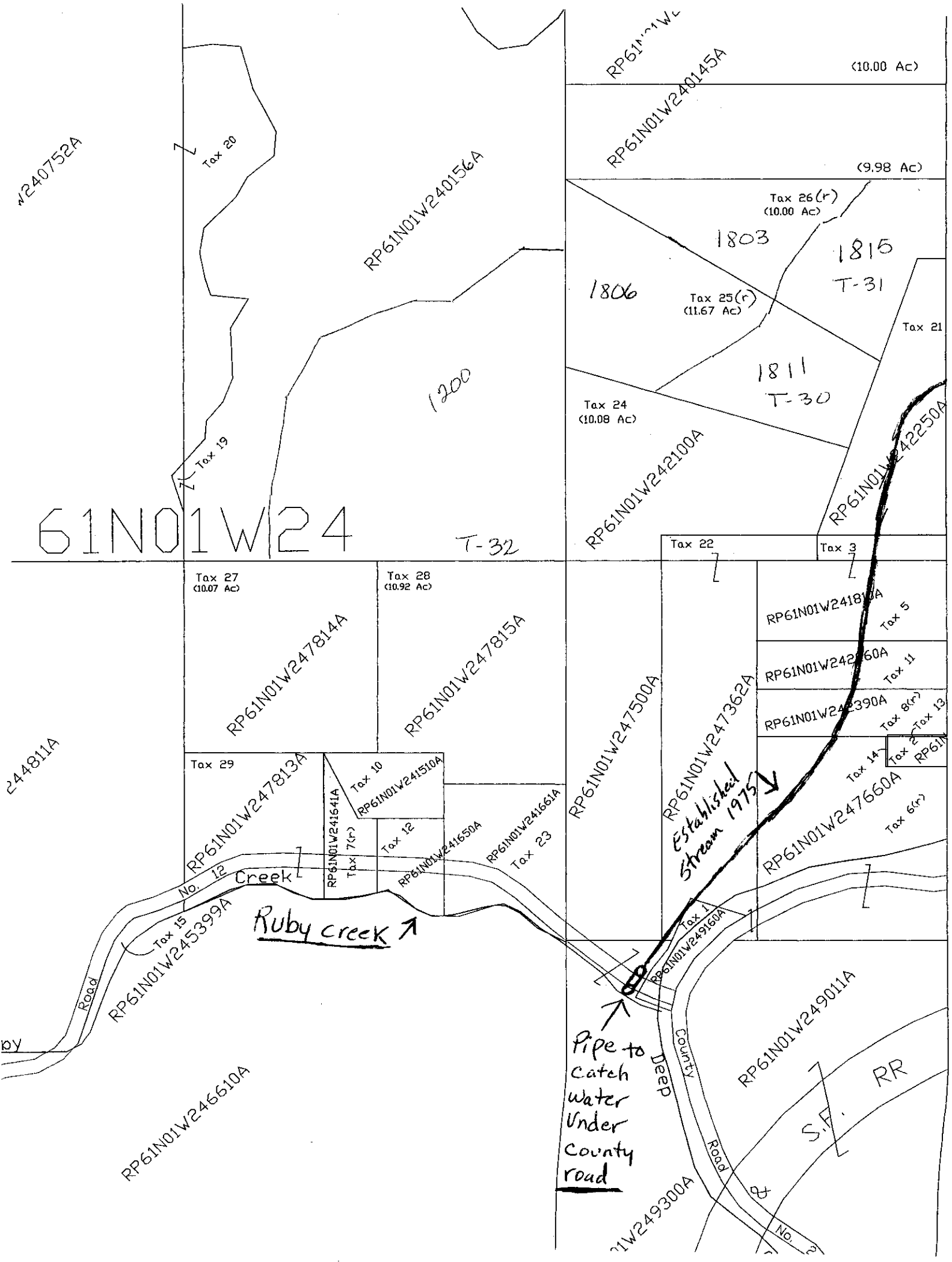
HITTLE

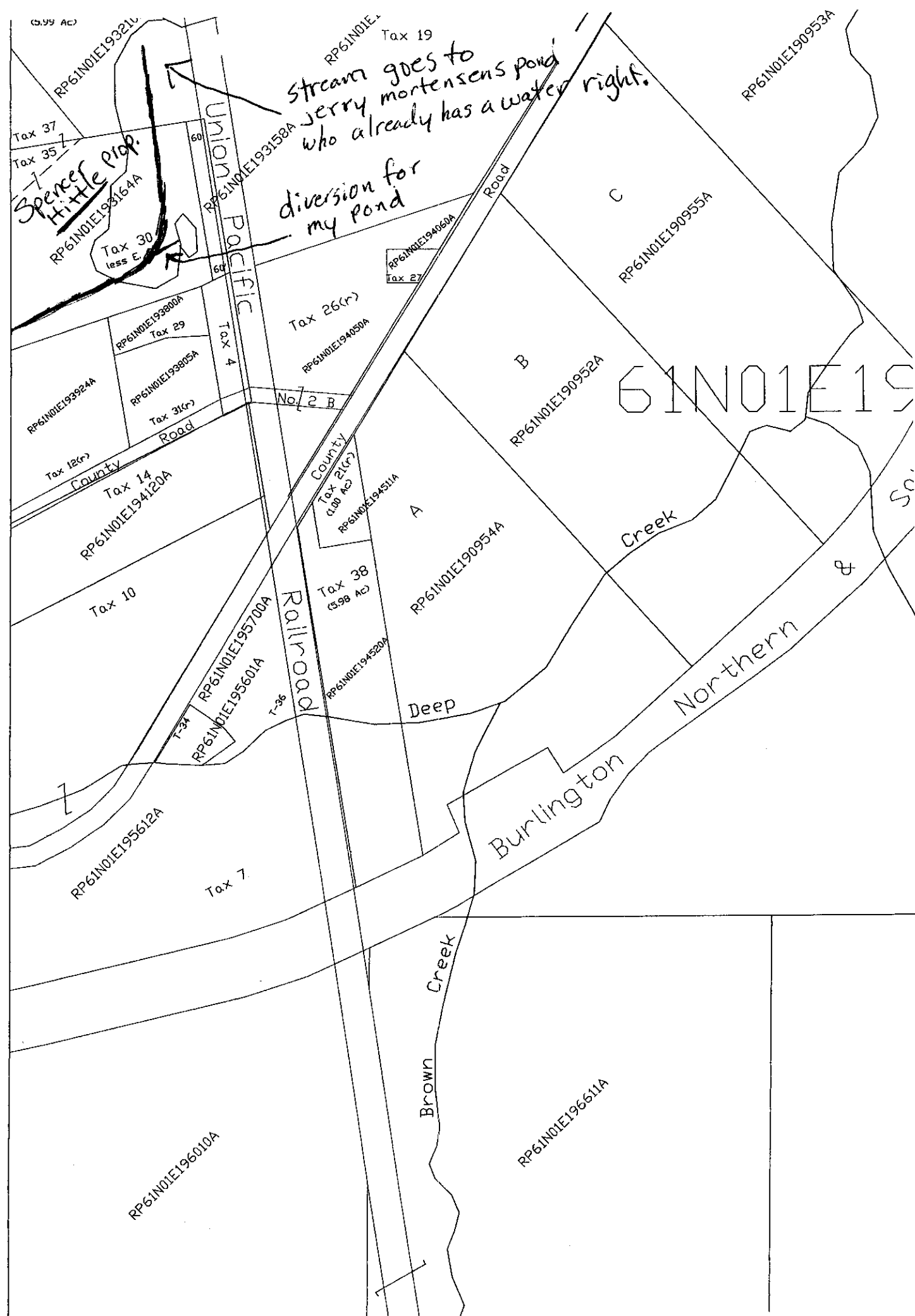


- Boundary taxlots
- GCDB61N01W GCDB
- GCDB61N01E GCDB
- Application POD
- Application POU



0.3 0 0.3 0.6 Miles





JOINT APPLICATION FOR PERMITS
U.S. ARMY CORPS OF ENGINEERS
IDAHO DEPARTMENT OF WATER RESOURCES
IDAHO DEPARTMENT OF LANDS

**DO NOT START WORK UNTIL YOU
 RECEIVE PERMITS FROM BOTH
 THE
 CORPS AND THE STATE**

This application may be used to apply for both a Department of the Army permit from the U.S. Army Corps of Engineers (Corps) and for State of Idaho permits. Department of the Army permits are required by Section 10 of the Rivers and Harbors Act of 1899 for any structures or work in or affecting navigable waters of the United States and by Section 404 of the Clean Water Act for discharges of dredged or fill material into waters of the United States, including their adjacent wetlands. State permits are required under the State of Idaho, Stream Channel Protection Act (Title 42, Chapter 38, Idaho Code) and the Idaho Lake Protection Act, Section 58-142 et. seq., Idaho Code. **Route Uses: Information provided on this form will be used in evaluating the application. Disclosure of requested information is voluntary. If information is not provided, however, the permit application cannot be processed nor can permits be issued.** Applicants should send this completed application, along with one set of good reproducible drawings showing the location and character of the proposed project, to both the Corps of Engineers and the State of Idaho. NOTE: DRAWINGS NO LARGER THAN 8-1/2 X 11 INCHES IN SIZE. The Applicant Information pamphlet provides instructions and a checklist for completing the drawings.

1. Corps of Engineers # _____ Date Received _____	2a. Department of Water Resources # _____ Date Received <u>4-6-06</u> Fee Rec'd By: _____ Receipt # _____	2b. Department of Lands # _____ Date Received _____ Fee Rec'd By: _____ Receipt # _____
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PLEASE TYPE OR PRINT

3. a. Applicant Spencer E. Hittle 4. a. Authorized Agent _____
 b. Mailing Address HCR 01 Box 332 m b. Mailing Address _____
Naples ID 83847
 Area _____ Area _____
 c. Work Phone () _____ Home (208) 267-7751 c. Work Phone () _____ Home () _____
 d. Fax Number _____ d. Fax Number _____
 e. Email Address Spencer H982@AOL.com e. Email Address _____

5. Location where proposed activity exists or will occur. 5. e. Tax Assessor's Description _____
 a. Waterway _____ Distance/Direction from nearest city/town South of Bonners Ferry on Hwy
 Tributary of Ruby Creek
 b. Distance/Direction from nearest city or town _____ County/State _____ f. 1/4 1/4 Section Township Range
83847 Boundary County
 c. Zip Code _____ Local jurisdiction (city or county) _____ g. UTM Coordinate Grid _____
 d. Directions to the site South of Bonners Ferry on old Hwy 2 up Ruby Creek
 Zone _____ Northing _____ Easting _____

6. a. Describe Project (Work below the ordinary high water mark or in wetlands). Put a 10 inch pipe in Ruby creek
to divert water to ditch for irrigation and stock water. The ditch
was established in 1975. My neighbor has a water right. I am applying
for a water right to this ditch. The pipe to be laid in the creek will
be 25 feet long to catch and divert the water to the ditch. There will
be no machine dragging. It will all be hand work.
 b. Construction methods and equipment Making rocks by hand and securing the 10 inch
pipe with rocks and a couple of iron posts.
 c. Length of project along the stream or extension into lake or reservoir: 25 feet up Ruby Creek from diversion point
 d. Size and flow capacity of proposed bridge or culvert and area of drainage served (sq. miles) (Idaho Department of Water Resources requirement.)
10 inch pipe 25 feet long to feed ditch.

COMPLETE THE FOLLOWING FOR DISCHARGES OF DREDGED OR FILL MATERIAL

7. a. Volume dredged or fill material to be placed waterward of the ordinary high water mark (BOTH TEMPORARY AND PERMANENT)? _____ (cubic yards)
 b. Will fill be placed in wetlands? _____ If yes, area: _____ (acres) Type of fill material: _____ (i.e. sand, rock, clay, concrete, etc.)
 c. Will dredging be required waterward of the ordinary high water mark or in wetlands? _____ If yes, volume _____ (cubic yards)
 d. Type of dredged material _____
 e. Disposal site for dredged material: _____ Method of dredging: _____
 f. Method to control turbidity and sedimentation: _____
 g. Is project located in a mapped floodway? _____ If yes, complete the Engineering "No-Rise" certification form.

- 8.a. Purpose and intended use: Commercial _____ Public _____ Private X Other _____ Describe _____
- b. Reason for project over 30 years Ruby creek has gotten lower than diversion pipe. Has to be fed by other pipe
9. Proposed Starting Date 5-01-06 Estimated Duration 8-01-06
10. List portions of the project that are complete with month and year of completion _____
Label this work on your drawings.
11. Names, addresses, and telephone numbers of all adjoining property owners, lessees, etc.

☐ Check here if the alteration is located on endowment lands administered by the Idaho Department of Lands

12. LEGAL OWNER IF OTHER THAN APPLICANT

- a. Name _____ d. Phone Work () _____
Home () _____
- b. Mailing Address _____
- c. City, State, Zip Code _____

13. List applications, approvals, or certifications from other Federal, state, or local agencies for work described in this application.

Issuing Agency	Type of Approval	Identification No.	Date of Application	Date of Approval
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

14. Has any agency denied approval for the proposed activity? Yes _____ No _____ (If "Yes" explain)

15. Other comments/information:

The 10 inch pipe twenty five feet long lays in Ruby creek to divert water to the ditch which in turn feeds my pond. I will use the water to irrigate and stock water.

16. Application is hereby made for a permit or permits to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant to the agencies to which this application is made, the right to come upon the above-described location to inspect the proposed and completed work.

Spencer E. Hittle Spencer E. Hittle 4-04-06
Signature of Applicant (ORIGINAL SIGNATURE REQUIRED) Printed Name Date

17. If you wish to designate an authorized agent, complete item 4, item 16 and the following information.

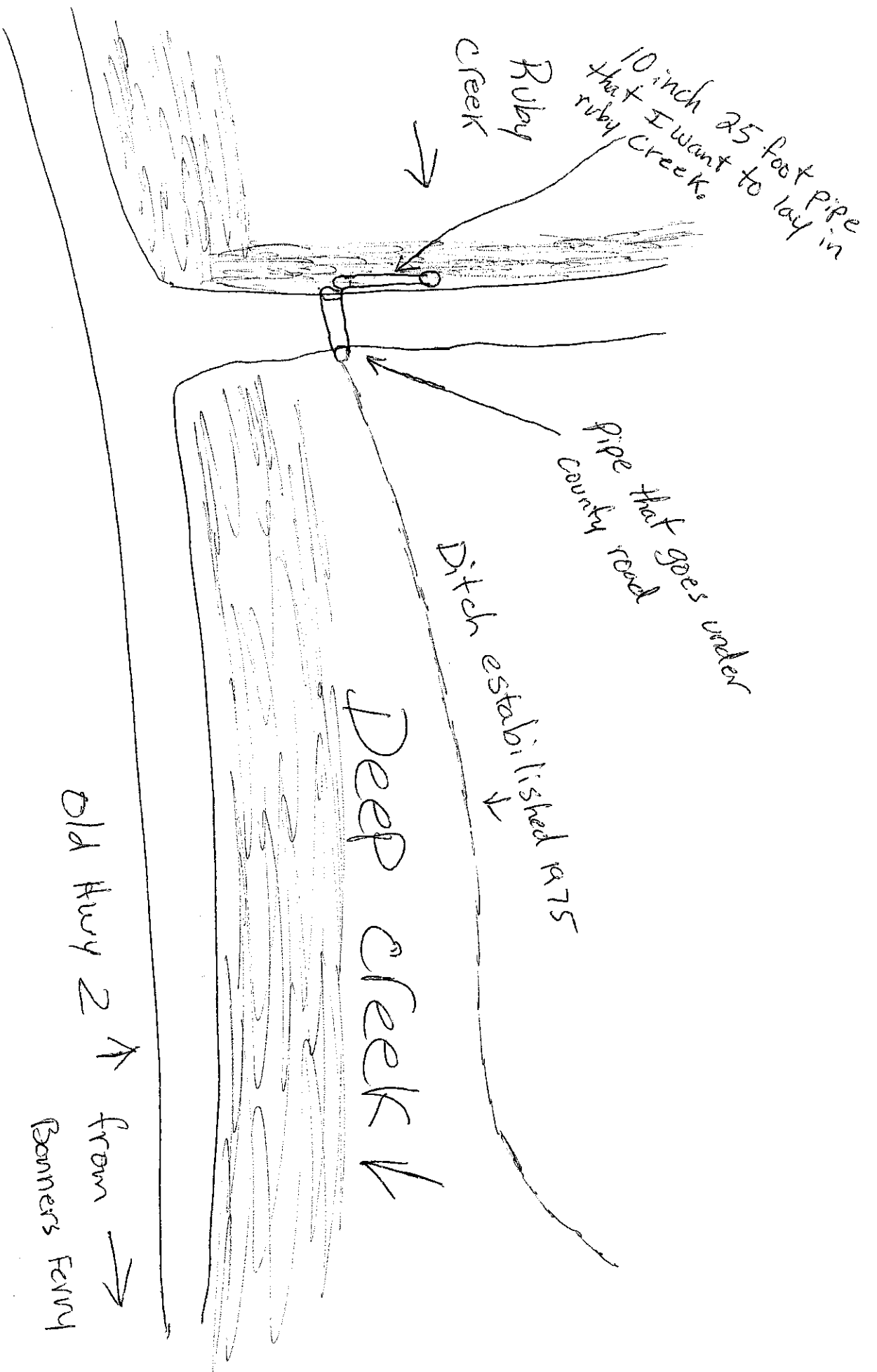
I hereby designate _____ to act as my agent in matters related to this permit application. I understand that if a Federal permit is issued, I must sign the permit.

Original Signature of Authorized Agent	Date	Original Signature of Applicant	Date
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18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years or both.

DO NOT SEND CORPS PROCESSING FEE WITH APPLICATION

SEND IDAHO DEPARTMENT OF WATER RESOURCES OR IDAHO DEPARTMENT OF LANDS FILING FEE WITH APPLICATION



DEED ADDENDUM

File No. HITTLEBorrower HITTLEProperty Address NNA COUNTY ROAD 2-3City NAPLESCounty BOUNDARYState IDZip Code 83847Lender/Client FIRST GUARANTEE CORP.Address 117 1/2 S SECOND AVE, SANDPOINT, ID 83864AFTER RECORDING, MAIL TO GRANTEE.
FALCO #4767/

182257

WARRANTY DEED

For Value Received RUTH SARAH WHEELER, as her sole and separate property

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto
SPENCER HITTLE and BARBARA HITTLE, husband and wife
whose address is: P.O. BOX 3131 BONNEIS FERRY, ID 83805

Hereinafter called the Grantee, the following described premises situated in Boundary County, Idaho, to-wit:

A tract of land in the West Half of the Northwest Quarter of
Section 13, Township 61 North, Range 1 East of the Boise
Meridian, Boundary County, Idaho; being a part of that
property described in Instrument Number 121779 and more
particularly described as follows:

Beginning at a point on the west line of said Section 19
which is N00°41'15"E, 561.00 feet from the West Quarter
corner of the Section; thence along the south line of
Instrument Number 121779 coincident with the north line of
Instrument Number 76122, N71°59'28"E, 660.53 feet; thence
along the northern boundary of that property described in
Instrument Number 21163, N63°25'48"E, 105.00 feet, to the
westerly right of way of the Spokane International Railroad;
thence, along said right of way, N08°49'12"W, 515.00 feet;
thence, perpendicular to the railroad right of way
S81°10'48"W, 408.00 feet; thence S48°42'22"W, 311.50 feet to
the west line of Section 19; thence along said west line
S0°41'15"W, 492.00 feet, to the True Point of Beginning.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee
and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with
the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free
from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent
reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor
will warrant and defend the same from all claims whatsoever.

Dated: July 11

Ruth Sarah Wheeler
RUTH SARAH WHEELER

RECEIVED

JUL 29 2006

IDWR/North

STATE OF IDAHO)

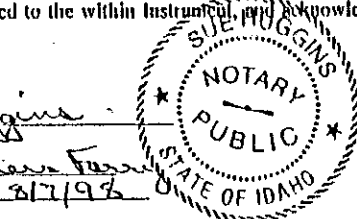
COUNTY OF BOUNDARY)

On this 11 day of July in the year 1996 before me, a Notary Public in and for
said State, personally appeared RUTH SARAH WHEELER, known or identified to me to be the person
whose name is subscribed to the within Instrument, and acknowledged to me that she executed the same.

Notary Public

Residing at

Commission Expires



County of Boundary) SS

Filed for record at the request of

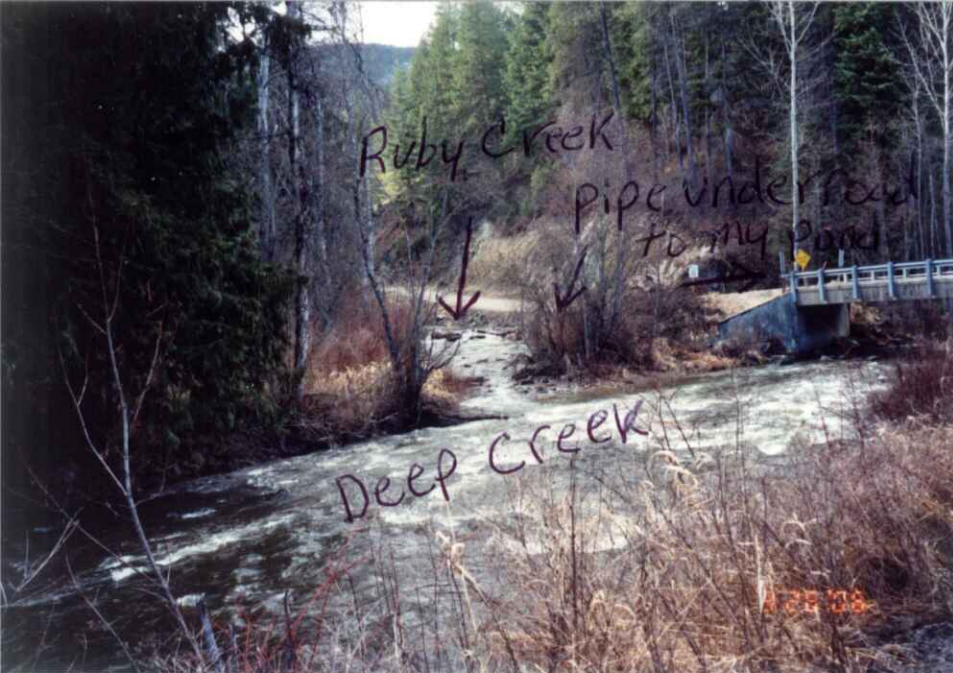
F.A.T.C.O.

on the 16 day of July, 1996, at 12:45
o'clock P. M., and recorded in Book 109
of Dist. on page 369

County Recorder

By B. Brown

Deputy





**NOW
STARTING
RIGHT
SIDE OF
FILE**



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

July 27, 2006

SPENCER HITTLE
HCR 01 BOX 332M
NAPLES ID 83847

RE: Permit No. 98-7852

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

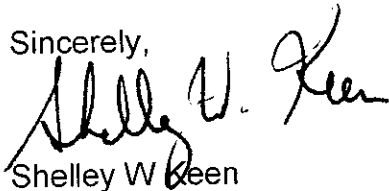
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-287-4947.

Sincerely,

A handwritten signature in black ink, appearing to read "Shelley W. Keen". The signature is fluid and cursive, with the first name "Shelley" being more prominent.

Shelley W Keen

Water Right Supervisor

SWK:ka

Enclosure(s)

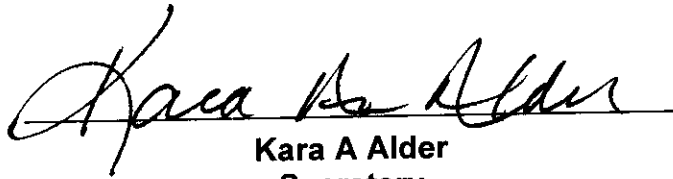
CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2006 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

98-7852

**SPENCER HITTLE
HCR 01 BOX 332M
NAPLES ID 83847**



**Kara A Alder
Secretary**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

Date: July 22, 2006
To: Water Right File 98-7852
From: eretelle
Re: ditch ownership

I spoke with Mr. Hittle yesterday about the ownership of the PoD and ditch. He says that as far as he knows, no one owns the ditch and everyone maintains their portion of it as it crosses their property. From family history, he thinks the ditch was put in as early as the 1940s.

I then called the county assessor. Tom looked up the land ownership at the PoD and said that it's right on the line between Fish and Game land and land owned by Naples Land Co. as far as he could tell. The ditch is diverted from Ruby Creek and promptly goes into a conduit beneath the County Road.

Upon examination of all the water rights diverted from Ruby Creek, I found only one that seemed to be conveyed any distance through a ditch (the others are from pumps set right in Ruby Creek to properties adjacent to the creek). The one right that references a ditch is a statutory claim 98-4032, filed in 1973. The claim describes a ditch and one is marked on the map included. I called the current owners of this claim, Vivian and Harlow Yotter. Harlow is deceased, but their son, Bill, lives on the property and is familiar with the water there. He told me that no one owns the ditch and he thinks the PoD belongs to the county. He says the ditch has been there since probably the late 1800s and the users of water from the ditch typically take turns maintaining it. He also says the ditch water helps to maintain the levels in some shallow wells in the area, so if it gets stopped up, people notice.

In light of the above information, I have included condition 004 on the permit.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 1910 Northwest Blvd. Suite 210, Coeur d'Alene, Idaho 83814-2615

Phone: (208) 769-1450

Fax: (208) 769-1454

Web Site: www.idwr.idaho.gov

June 1, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

MARY TERRA BERNIS
IDAHO DEPARTMENT OF FISH & GAME
2750 KATHLEEN AVE.
COEUR D'ALENE, ID 83815

FAXED TO MARY 6/1/06
6 pages total

Re: Water Permit Application No. 98-7852

Dear Mary:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application follows for your reference. This one and several others came in while I was off again on medical leave, and some of the steps in the process fell by the wayside.

We are sending this to you for your comments, and would appreciate receiving your comments by no later than **June 15, 2006**. If we do not hear from you by that date, we will assume that no comment from you means you have no objection to, concerns about, or conditions pertaining to the issuance of this permit.

You may send comments by regular mail to the address above, by FAX to 769-1454, or by e-mail to Dianne.Ball@idwr.idaho.gov.

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

Thanks for your attention to some of these coming to you this week for quick turn-around. I appreciate your help.

Sincerely,

Dianne Ball
Administrative Assistant

AFFIDAVIT OF PUBLICATION

State of Idaho

SS

County of Boundary, Gail Brown

being first duly sworn on oath deposes and says that he/she is Office Manager of the Bonners Ferry Herald, a newspaper printed and published at Bonners Ferry, Boundary County, Idaho; that the said newspaper has been continuously and uninterruptedly published in said Boundary County during a period of 12 months prior to the first publication of the hereto attached notice of publication in the case of:

#5871 Application to Appropriate Public Waters

as it was published in the regular and entire issue of the said paper for a period of 2 consecutive weeks, commencing on 4 day of May, 2006 and ending on the 11 day of May, 2006 and that said notice was published in said newspaper.

Gail Brown

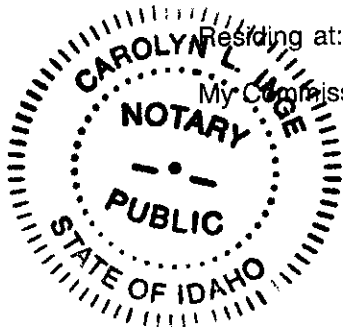
SUBSCRIBED AND SWORN TO before me, this

11 day of May, 2006.

Carolyn L. Inge

Notary Public-State of Idaho

Residing at: Sandpoint
My Commission Expires: 8/06



RECEIVED
JUN 01 2006
IDWR/North

LEGAL NOTICE

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

98-7852
SPENCER HITTLE
HCR 01 BOX 332M
NAPLES ID 83847

Point(s) of Diversion SESE S24 T61N R01W BOUNDARY County
Source RUBY CREEK Tributary To DEEP CREEK
Use: IRRIGATION 03/15 To 11/15 0.03 CFS
Use: IRRIGATION STORAGE 03/15 To 11/15 0.4 AFA
Use: IRRIGATION FROM STORAGE 03/15 To 11/15 0.4 AFA
Use: STOCKWATER STORAGE 01/01 To 12/31 0.4 AFA
Use: STOCKWATER FROM STORAGE 01/01 To 12/31 0.02 CFS

Use: WILDLIFE STORAGE 01/01 To 12/31 0.4 AFA
Use: RECREATION STORAGE 01/01 To 12/31 0.4 AFA
Use: DIVERSION TO STORAGE 01/01 To 12/31 0.05 CFS
Total Diversion: 0.05 CFS 0.4 AFA

Date Filed: 03/29/2006
Place Of Use: WILDLIFE STORAGE, RECREATION STORAGE, IRRIGATION STORAGE & STOCKWATER FROM STORAGE

T61N R01E S19 SWNW Lot 2
Place Of Use: IRRIGATION & IRRIGATION FROM STORAGE
T61N R01E S19 SWNW Lot 2

Number of Acres 1
Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Northern Region, 1910 Northwest Blvd, Suite 210, Coeur D'Alene ID 83814 together with a protest fee of \$25.00 for each application on or before 05/22/2006. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director Published on May 4 & 11
Legal BFH# 5871
May 4, 11, 2006

Phillips, Christy

To: bfherald@cdapress.com
Cc: Phillips, Christy; Ball, Dianne

Hi Carol,
attached is our cover letter requesting publication of a legal notice on May 4 & 11 2006. The legal notice is attached also.

If you have any questions please call me at 208-769-1450 and **please fax me a proof copy** before this goes to press, at 208-769-1454

thanks have a good day,

Christy Phillips
clerk
Id Dept of Water Resources
1910 Northwest Blvd suite 210
Coeur d Alene Id 83814
Phone (208)769-1450 Fax(208) 769-1454



cover letter bf april 26.doc



LegalNotice bf apr 26.doc



State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

Fax (208) 769-1454

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

April 26, 2006

CAROL ARTHUR
Legal Notice Department
BONNERS FERRY HERALD
PO BOX 539
BONNERS FERRY ID 83805

RE: Application for Permit No. 98-7852

***Please fax a proof copy before this goes to press, to 208-769-1454
Thanks Christy***

Dear Carol:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated May 4 & 11 2006 (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 05/22/2006. Your cooperation is appreciated.

Sincerely

Christy Phillips
Clerk

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

98-7852

SPENCER HITTLE

HCR 01 BOX 332M

NAPLES ID 83847

Point(s) of Diversion SESE S24 T61N R01W BOUNDARY County

Source RUBY CREEK Tributary To DEEP CREEK

Use: IRRIGATION	03/15 To 11/15	0.03 CFS	
Use: IRRIGATION STORAGE	03/15 To 11/15		0.4 AFA
Use: IRRIGATION FROM STORAGE	03/15 To 11/15		0.4 AFA
Use: STOCKWATER STORAGE	01/01 To 12/31		0.4 AFA
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Use: WILDLIFE STORAGE	01/01 To 12/31		0.4 AFA
Use: RECREATION STORAGE	01/01 To 12/31		0.4 AFA
Use: DIVERSION TO STORAGE	01/01 To 12/31	0.05 CFS	
Total Diversion:		0.05 CFS	0.4 AFA

Date Filed: 03/29/2006

Place Of Use: WILDLIFE STORAGE, RECREATION STORAGE,
IRRIGATION STORAGE & STOCKWATER FROM STORAGE

T61N R01E S19 SWNW Lot 2

Place Of Use: IRRIGATION & IRRIGATION FROM STORAGE
T61N R01E S19 SWNW Lot 2

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KARL J DREHER, Director Published on May 4 & 11



State of Idaho

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DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 26, 2006

SPENCER HITTLE
HCR 01 BOX 332M
NAPLES ID 83847

RE: Application for Permit No 98-7852

Dear Applicant:

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

A legal notice of the application has been prepared and is scheduled for publication in the Bonners Ferry Herald on May 4 & 11 2006. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.>

If the application is not protested, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved. A typical processing time for an unprotested application is about eight to twelve weeks.

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

Sincerely,

Keith Franklin

Keith Franklin
Water Rights Agent

Enclosure(s)