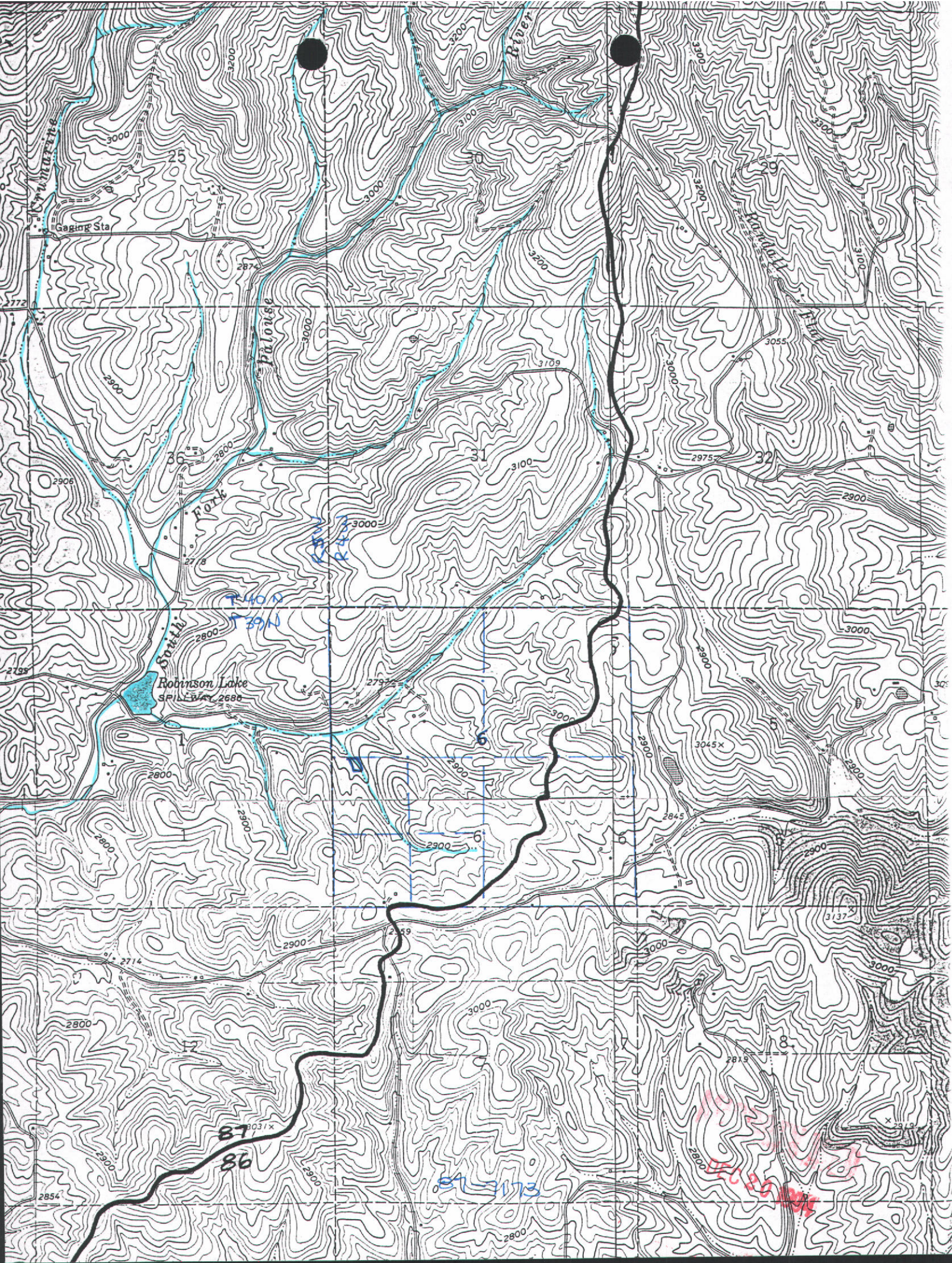
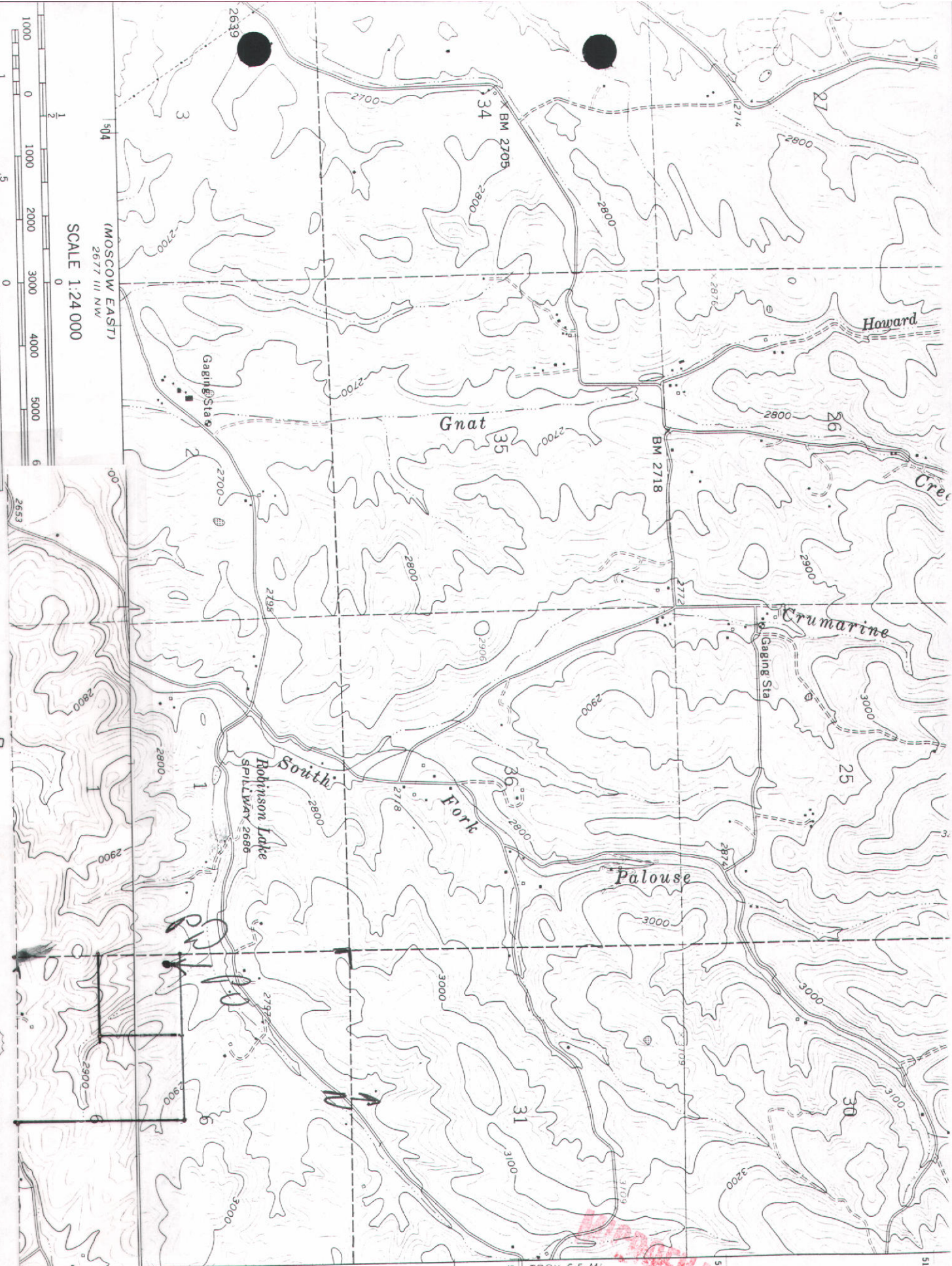


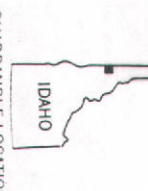




1000 0 1000 2000 3000 4000 5000 6000
1 0 5 1
SCALE 1:24 000

(MOSCOW EAST)
2677 III NW

CONTOUR INTERVAL 20 FEET
NATIONAL GEODETIC VERTICAL DATUM OF 1929



U.S. Route 87-07173
ROBINSON LAKE, IDAHO
QUADRANGLE LOCATION

46°45'
2'30" (TROY)
2677 III NE

5179000 N.
T 39 N
T 40 N

TROY 6.5 MI

FEB 26 1996



Q7-07173
8-13-95

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 87-07173

Priority: February 18, 1994

Maximum Storage Volume:

0.5 AF

This is to certify, that STANLEY M MILLER
2117 ROBINSON PARK RD
MOSCOW ID 83843

has complied with the terms and conditions
of the permit, issued pursuant to Application for Permit dated February 18, 1994; and
has submitted Proof of Beneficial Use on June 22, 1995. An examination indicates
that the works have a storage capacity of 0.500 af of water from:

UNNAMED STREAM

tributary to PALOUSE RIVER, SOUTH FORK

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>
WILDLIFE STORAGE	01/01 to 12/31		0.5 AF

LOCATION OF POINT(S) OF DIVERSION:

NWSW , Sec. 6, Township 39N, Range 04W
LATAH County

PLACE OF USE: WILDLIFE STORAGE

TWN RGE SEC

39N 04W 6

NWSW

CONDITIONS OF APPROVAL AND REMARKS

1. This water right is appurtenant to the described place of use.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. 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 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 28TH
day of OCTOBER, 1995.

Acting for

KARL J. DREHER, Director

FEB 26 1996

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

JUN 22 1995

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 87-07173 Telephone No. 208-882-0793

2. Name(s) of Permit Holder(s): STANLEY M. MILLER

3. Mailing Address: 2117 ROBINSON PARK RD., MOSCOW, ID 83843

4. Source of Water: UNNAMED STREAM If GROUNDWATER (well), Date Drilled: mo. ____ / yr. ____

a. Well Driller: ____ Drilling Permit Number: ____ - ____ - ____

b. **OPTIONAL:**

Pump Horsepower: ____ Pressure (psi): ____ Dynamic pumping level (ft): ____

5. Use(s) (as authorized by the water right permit):

Domestic (No. of households): ____ Stockwater (No. and type of stock): ____

Irrigation (No. of acres): ____ Other: WILDLIFE STORAGE

6. Total rate of diversion and/or volume for which proof is submitted: ____ cfs OR 0.5 acre feet

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)

(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required?

Yes ____ or No ☒

Has the measuring device been installed?

Yes ____ or No ☒

Flow Measurement Port: Is a flow measurement port required?

Yes ____ or No ☒

Has the measurement port been installed?

Yes ____ or No ☒

8. Fee Enclosed: \$ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

9. Person to contact to accompany the Department representative during field examination of the water system.

Name: STANLEY MILLER Telephone Number: 208-882-0793

Address: SAME

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: Stanley M. Miller Date: 6-20-95
(include your title, if on behalf of company or organization)

JUN 30 1995

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 87-07173

Proposed Priority: February 18, 1994

Maximum Storage Volume:

0.5 AF

This is to certify, that **STANLEY M MILLER**
2117 ROBINSON PARK RD
MOSCOW ID 83843

has applied for a permit to appropriate water from:

UNNAMED STREAM

tributary of **PALOUSE RIVER, SOUTH FORK**

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>
WILDLIFE STORAGE	01/01 to 12/31		0.5 AF

LOCATION OF POINT(S) OF DIVERSION:

NWNWSW , Sec. 6, Township 39N, Range 04W
LATAH County

PLACE OF USE: WILDLIFE STORAGE

TWN RGE SEC

39N 04W 6

NWSW

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **September 1, 1995.**
2. Subject to all prior water rights.

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

22nd day of September, 1994

R. Keith Higginson
for R. Keith Higginson, Director

RECEIVED

DEC 20 1994

RECEIVED
AUG 29 1994

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 87-773

Department of Water Resources To appropriate the public waters of the State of Idaho

1. Name of applicant STANLEY M. MILLER Phone 885-5715 (WK)
882-0793 (HM.)
- Post office address 2117 ROBINSON PARK RD., MOSCOW, ID 83843
2. Source of water supply ONNAMED STREAM AN EPHEMERAL CREEK which is a tributary of EPHEMERAL TRIB. OF S. FORK PALOUSE R.
3. Location of point of diversion is NW 1/4 of NW 1/4 of SW 1/4, Govt. Lot _____
Sec. 6 Township 39 N. Range 4 W. B.M. LATAH County; additional
points of diversion if any: _____
4. Water will be used for the following purposes: N.A.
* 0.5 STORAGE FOR
Amount 3.0 for WILDLIFE purposes from Y1 to 12/31 (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 and/or (b) 3.0 0.5
cubic feet per second acre feet per annum
6. Proposed diverting works: N.A.
- a. Description of ditches, flumes, pumps, headgates, etc. excavated, in-stream pond 120' x 160' x 3 to 4' deep.
(per 4/4/94 letter)
- b. Height of storage dam 9.6 feet; active reservoir capacity 3 acre-feet; total
reservoir capacity 3 acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
- d. Is ground water with a temperature of greater than 90°F being sought? NO
7. Time required for the completion of the works and application of the water to the proposed beneficial use is
1 years (minimum 1 year).

DEC 20 1994

* amended by applicant per 4/22/94 letter c3x.

applicant to make this filing.

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the

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

11. a. Who owns the property at the point of diversion? STANLEY M. & PATRICIA E. MILLER

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

Total number of acres to be irrigated.

[illegible]

ponding place of use below. See instructions for standard symbols.

b. If water is used for other purposes, place a symbol of the use (example: *D for Domestic*) in the corresponding column.

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

9. Description of place of use: N.A.

e. Other, describe fully. IDAHO F&G. H.I.P. WILDLIFE POND

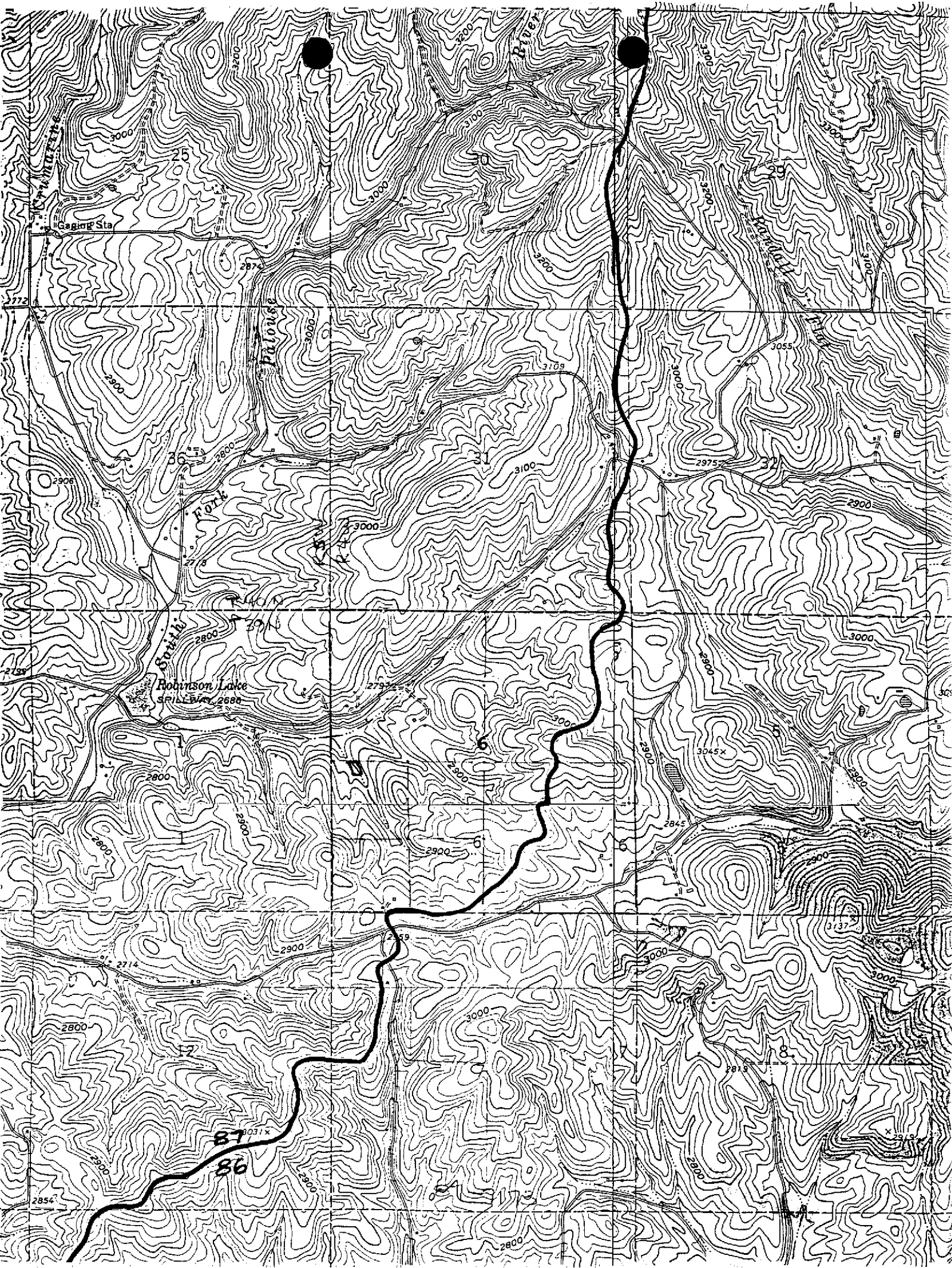
d. Domestic; show number of households.

c. Municipal; show name of municipality.

b. Stockwatering; list number and kind of livestock.

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

3. Description of proposed uses (if irrigation only, go to item 4)



13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

R.5W. R.4W.

T.40N.
T.39N.

SEC. 6

SEC. 5

PROPOSED H.I.P.
WILDLIFE POND
(0.9 ACRES)

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.

Stanley M. Miller
(Applicant)

Received by [Signature] Date 2/18/94 Time 1:50 PM Preliminary check by _____
Fee \$ 30.00 Received by [Signature] # N 7386 Date 2/18/94
Publication prepared by [Signature] Date 3/9/94 Published in Idaho Daily Star
Publication approved [Signature] Date 4/1/94

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19____.

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

e. Other:

RECEIVED
DEC 20 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

October 30, 1995

STANLEY M MILLER
2117 ROBINSON PARK RD
MOSCOW ID 83843

RE: WATER RIGHT NO. 87-07173

Dear Water Right Holder(s):

Enclosed is a copy of the Water Right License issued on the above referenced permit. If you have any questions, please contact me within 10 days of receipt of this license.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:rl

Enclosure

RECEIVED
FEB 2 6 1996

FEB 26 1996

LICENSE REVIEW CHECKLIST

PERMIT NO. 87-07173 DATE 10-25-95



NAME	Change OK	Or Address Change?
PRIORITY DATE	☒	Advance? ☐ Advanced to: _____ Order to reinstate needed? _____ Incorrect fee for rate recommended? <u>NO</u>
SOURCE	☒	Changes or just clarification of originally intended source? _____ Notice of Intent to Void necessary? _____
POINT OF DIV	☒	Amendment needed? _____ Overlaps? _____
PLACE OF USE	☒	Amendment needed? _____ Overlaps? _____
DIV RATE	<u>NA</u>	Permit/fee limits: _____ Meas Q = _____ Theo Q = _____ Recommend: _____ _____ Combined rates exceed capacity _____
ANNUAL VOLUME	☒	Volume Limit: <u>.5 g</u> Season: <u>1-1 to 12-31</u> Calculations: <u>APPROXIMATELY .5 g</u> Flow limit: _____ cfs x _____ x 1.9835 = _____ Combined volumes exceed capacity/allowable _____
USES	☒	Change in Nature of Use or additional uses? _____ Amendment necessary? _____
ADDITIONAL INFO		Supplemental Groundwater _____ PPU Scenario _____ Irr/Dom Combination _____ Shared G/W System _____
NEW REMARKS	☒	Multiple p/d(s) in ¼ ¼? _____ Other _____
NEW CONDITIONS	☒	Watermaster control - District _____ Measuring/Locking Devices _____ Irrigation Overlap _____ Other _____ Water Quality _____ Heat/Cool/Fish verified _____

COMMENTS: Instream pond development

RECOMMENDATION	CFS	VOLUME	SRBA Claim Filed	<u>NA</u>
<u>Wildlife Storage</u>		<u>.5</u>	Adjustment Memo Needed	<u>NO</u>
			LICENSE	☒
			1ST AMEND LETTER	
			2ND AMEND LETTER	

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
OCT 09 1995

Department of Water Resources

A. GENERAL INFORMATION

Permit No. 87-07173

1. Owner: STANley m. miller Phone No. (208) 882-0793

Current Address: 2117 Robinson Park Rd. Moscow ID. 83843

2. Accompanied by: STANley miller EXAM DATE: 9-13-95

Address: SAME AS ABOVE Phone No. _____

Relationship to Permit Holder: _____

3. Source: UNNAMED Stream tributary to Palouse River, South Fork

B. OVERLAP REVIEW

1. Other water rights with the same place of use: _____

2. Other water rights with the same point of diversion: _____

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
		NW	NW	SW	06	39N	04W	Latah	U.S.G.S. 7.5 min Quad

2. Place(s) of Use:

Indicate Method of Determination

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
39N	04W	06									W								

FEB 26 1996

BB 2 6 1998

2. Measurements:

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

D. FLOW MEASUREMENTS

*Code to correspond with No. on map and aerial photo

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size

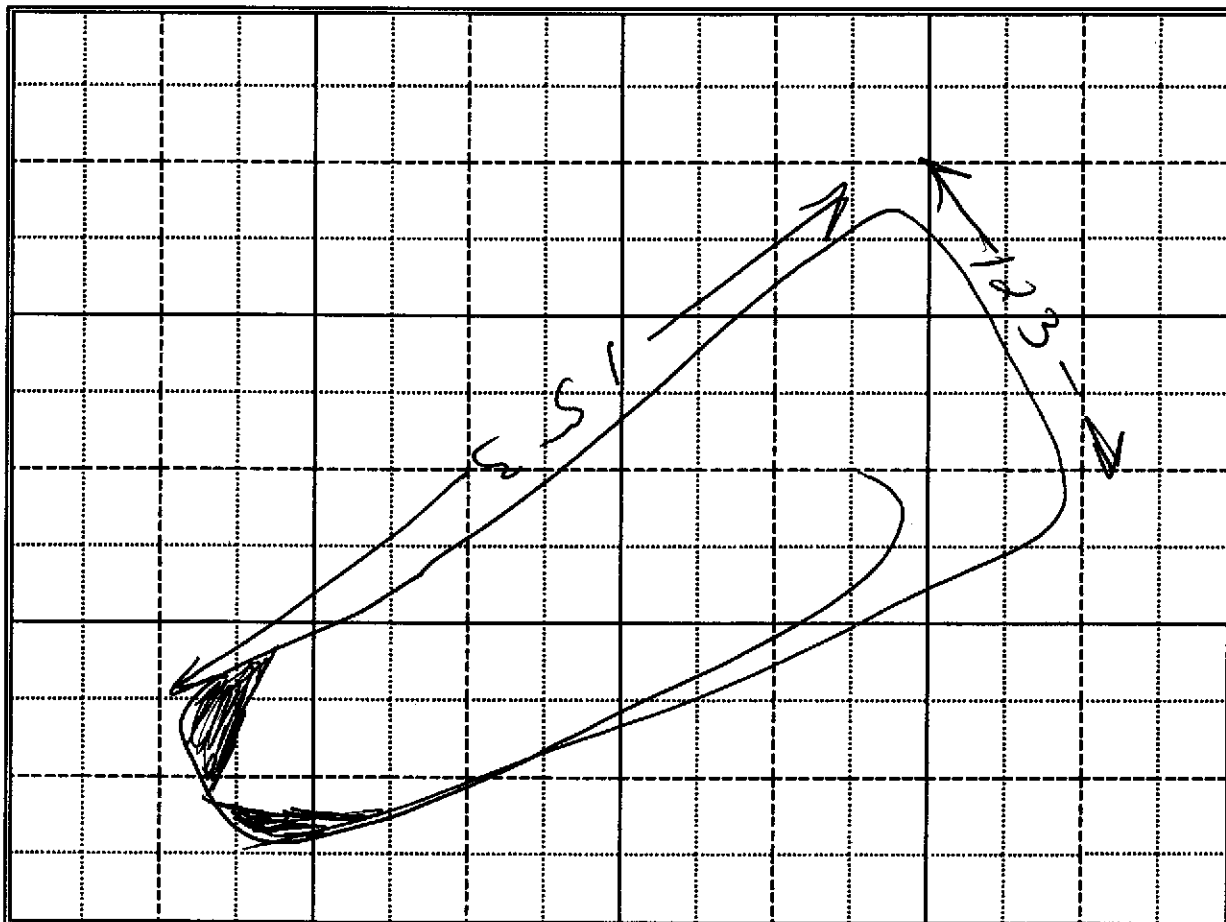
4.

Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

Aerial Photo Attached of (required for irrigation of 10+ acres)

Photo of Diversion and System Attached

Scale: 1" = 1/4" MTS



3. Delivery System Diagram: Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable.

E. NARRATIVE/REMARKS/COMMENTS

Pond is low this time of year. All
calculations + measurements taken at high
water marks.

Have conditions of permit approval been met? ☒ yes ☐ no

APPROVED
FEB 26 1996

F. FLOW CALCULATIONS

Measured Method:

Additional Computation Sheets Attached

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{IR} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$$

$$V_{DR} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$$

$$V = \text{Smaller of } V_{IR} \text{ and } V_{DR} =$$

2. Volume Calculations for Other Uses:

$$153 \times 123 \times 2 \times \frac{43560}{2.5} = 577F$$

$$12.64 \times 2 \times \frac{43560}{1.9835} = 577F$$

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use

Wildlife Storage

From

01-01

Period of Use

To

12-31

Rate of Diversion

Q (cfs)

Annual Volume

V (afa)

2. Recommended Amendments

Change P.D. as reflected above

Add P.D. as reflected above

None

Change P.U. as reflected above

Add P.U. as reflected above

Other

I. AUTHENTICATION

Field Examiner's Name

Wayne G. Baker

Date

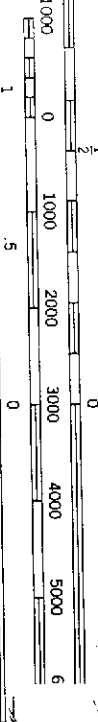
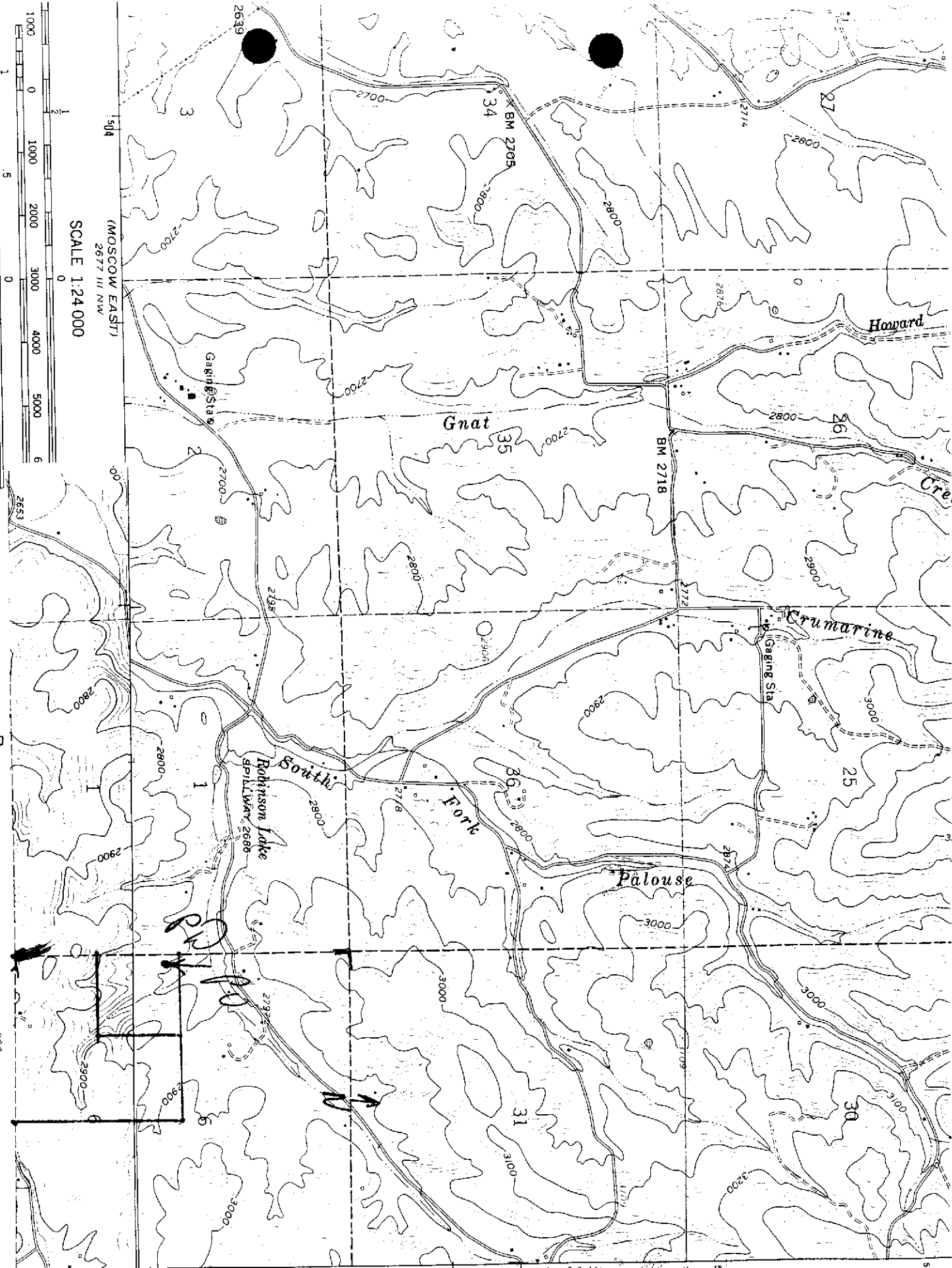
9-22-95

Reviewer

Date

SEAL

FEB 26 1996



SCALE 1:24 000
 (MOSCOW EAST)
 2677 III NW

CONTOUR INTERVAL 20 FEET
 NATIONAL GEODETIC VERTICAL DATUM OF 1929



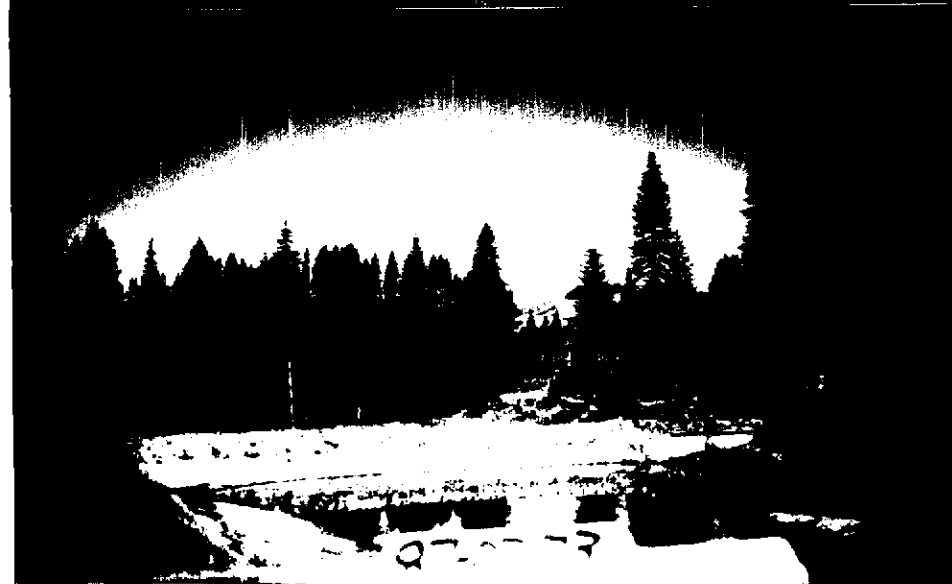
U.S. Route 87-07173
 ROBINSON LAKE, IDAHO

ORIGINATING LOCATION

U.S. ROUTE 87-07173

2677 III NE

5181
 5180
 TROY 6.5 MI
 5179
 T. 40 N.
 T. 39 N.
 5178000 N.
 46° 45'
 2' 30"



June 27, 1995

STANLEY M MILLER
2117 ROBINSON PARK RD
MOSCOW ID 83843

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 87-07173

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

If you have questions concerning this matter, please feel free to contact the NORTHERN Regional Office in Coeur D' Alene at (208)769-1450.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

c: IDWR - Region

MICROFILMED

JUN 30 1995



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

September 22, 1994

STANLEY M MILLER
2117 ROBINSON PARK RD
MOSCOW ID 83843

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 87-07173

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. Please be sure to thoroughly review the "CONDITIONS/REMARKS:" listing on the permit.

Enclosed is a form entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop this permit. Also enclosed is a form entitled "Proof of Beneficial Use". If your project is already completed you should complete and submit this form immediately.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shelley W. Keen'.

Shelley W. Keen
Water Rights Supervisor

SK:dc

Enclosures

A faint, circular official stamp, likely from the Idaho Department of Water Resources, located in the bottom right corner of the page.

DEC 20 1994

August 20, 1994

Mr Rick Augenstein
2111 Robinson Park Road
Moscow ID 83843

Re: 87-07173

Dear Mr. Augenstein:

This is to acknowledge the withdrawal of your protest to the above referenced application for permit to appropriate water. Mr. Miller's application has been forwarded to our state office for approval.

Enclosed are sheets from geographic positioning data that I took on July 11 for the downstream eastern and western extent of where Mr. Miller's excavation will be. The eastern point is at a latitude of 46 degrees, 45 minutes, 5.510 seconds North and a longitude of 116 degrees, 53 minutes, and 39.216 seconds. The western point is at a latitude of 46 degrees, 45 minutes, 5.293 seconds North and a longitude of 116 degrees, 53 minutes, and 39.498 seconds.

If you have any questions, please contact me.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

C Stanley Miller

RECEIVED
DEC 20 1994

	Recs	Mean	Std Dev	Minimum	Maximum
Latitude	187	46½45'05.510"N	3.683	46½45'05.293"N	46½45'05.797"N
Longitude	187	116½53'39.216"W	2.893	116½53'39.498"W	116½53'38.698"W
Altitude	187	828.736	10.548	807.514	851.182

No velocity records in file.

No DOP records in file.

Start GPS Week #757 on 07/11/94 at 17:02:17

End GPS Week #757 on 07/11/94 at 17:04:29

Datum : WGS-84
Coordinate System : Latitude/Longitude
Altitude Mode : Height Above Ellipsoid
Altitude/Distance Units : Meters
Velocity Units : Meters/Second

DEC 20 1994

	Recs	Mean	Std Dev	Minimum	Maximum
Latitude	186	46½45'04.852"N	4.321	46½45'04.439"N	46½45'05.093"N
Longitude	186	116½53'40.193"W	3.380	116½53'40.446"W	116½53'38.980"W
Altitude	186	824.685	8.166	805.378	879.390

No velocity records in file.

No DOP records in file.

Start GPS Week #757 on 07/11/94 at 17:06:21

End GPS Week #757 on 07/11/94 at 17:08:31

Datum : WGS-84
Coordinate System : Latitude/Longitude
Altitude Mode : Height Above Ellipsoid
Altitude/Distance Units : Meters
Velocity Units : Meters/Second

Based on revisions to his application,
I hereby withdraw my objections to
objections to application for permit NO
87-7173

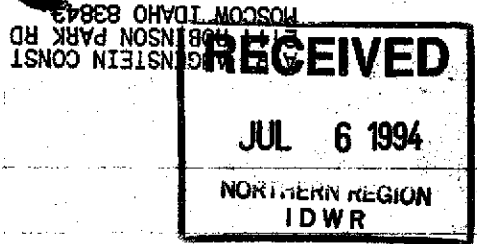
7/11/94

Signed



RECEIVED

DEC 20 1994



Dear Mr Haynes,

Having received your letter of 6-24 I met with Stan Miller and we went up to his proposed pond site together.

I again told Stan if he were to excavate a pond up close to the existing pond (not in the stream bed) I would not have a problem with that.

As we talked, Stan began talking about moving the pond site further north (toward my property), and burying a drain tile in the existing stream channel, and filling it in with dirt, and routing drainage through ponds, and around back to stream channel. I told Stan that I didn't like that idea. I don't think the stream channel should be altered any more than what's already happened. I am afraid that if changes are made in a stream with minimal flow already, I might lose a water source I have used for my livestock for over ten years and was used before me.

DEC 20 1994

2

In a week or so I will be bringing my horses home to pasture on my property. I have two other pastures I use. One is about $3/4$ mile upstream (on stream channel running East & West, not the contested one) and the other pasture is down stream about $1/2$ mile. Both pastures will be dry soon. As you see I use this water source on my property during the driest time of the year.

So in the interest of getting Stan's pond wishes a reality and into the construction phase, if we three (you, Stan & I) could meet, stake out the site and leave the stream channel alone, lets do it soon.

Please call (By 8:00 AM or sooner) and see if you and Stan and I can meet on this at an agreeable time soon.

Sincerely

Arvid Augenstein

DEC 20 1994

June 24, 1994

Mr Rick Augenstein
2111 Robinson Park Rd
Moscow ID 83843

Re: 87-07173 - Stanley Miller

Dear Mr Augenstein:

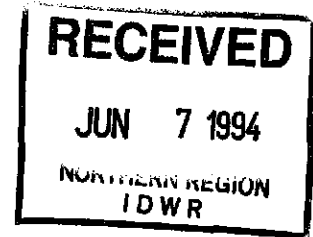
I received a reply to my inquiry about the dimensions of the pond that Mr. Miller proposes to construct. Enclosed is a copy of that letter. Please let me know whether this satisfies your concerns.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

REC'D
JUN 20 1994

Stanley M. Miller, Ph.D., P.E.
2117 Robinson Park Road
Moscow, Idaho 83843
Tel. (208) 882-0793



June 4, 1994

Mr. Robert Haynes
Regional Manager
Idaho Department of Water Resources, Northern Region
1910 Northwest Blvd., Suite 210
Coeur d'Alene, Idaho 83814

RE: Additional Information for Modification of Water Right Application Permit No. 87-07173

In response to your letter of June 2, 1994, to Mr. A.R. Augenstein, I can provide the following information about dimensions of our proposed sediment catch basin (pond) to be excavated as outlined in my letter of April 22, 1994. Based on soil borings taken last summer by 3-inch bucket auger, the soil profile just north of the pond area consists of approximately 1 ft. of organic-rich topsoil, 2 to 4 ft. of silty clay, and 1 ft. of weathered granite and angular granitic gravel, presumably overlying granite bedrock. Therefore, for an excavated basin to retain some water in this intermittent drainage, it must rely on the silty clay layer as a "bed liner" to slow the infiltration of stored water into the more permeable materials below. To meet such a criteria, the excavation cannot be much deeper than 3 to 4 ft. Assuming an average basin depth of 3 ft. and a surface area of approximately 120 x 60 ft. (7200 sq.ft.), then expected storage of the pond is 0.5 acre-ft., as proposed in my modification to Permit Application 87-07173. If no clay filling of the existing channel takes place, then one small portion of the pond may be as deep as 5 ft.

Please forward the above information regarding excavation depth to Mr. Augenstein. As I expressed during your field site visit on May 23, 1994, I am perplexed by the continued delays in the resolution of this water right application. Mr. Augenstein assured me during a telephone conversation on May 5, 1994, that he had no real problems with the modified pond proposal and would withdraw his water right protest. This obviously has not happened to date. Because of a limited construction season, and because his delays have already cost me time and undue inconvenience, I request once again (as I did initially in my letter of April 5, 1994) that you schedule a conference or hearing immediately so that facts can be presented and this issue resolved in a timely fashion.

It profits me little to discuss matters individually with Mr. Augenstein, because my past experiences in dealing with him indicate that I cannot trust what he says. Therefore, I urge you to actively mediate and resolve this dispute as soon as possible.

Again, thank you for your assistance in dealing with this water right application. Please contact me if you need further information.

Sincerely,

A handwritten signature in cursive script that reads "S. Miller".

Stanley M. Miller, P.E.

A faint, rectangular stamp with the date "DEC 20 1994" at the bottom. The text above the date is illegible.

June 2, 1994

Mr Rick Augenstein
2111 Robinson Park Road
Moscow ID 83843

Re: 87-07173 - Stanley Miller

Dear Mr. Augenstein:

I have reviewed the letter that Mr. Miller sent to us modifying his storage proposal. There is no mention in it of how deep he proposes to excavate. He does indicate that the volume of storage would be reduced from 3.0 acre-feet to 0.5 acre-feet. By copy of this letter I am asking that he inform us of how deep the excavation would be.

If you have any other questions, please contact me.

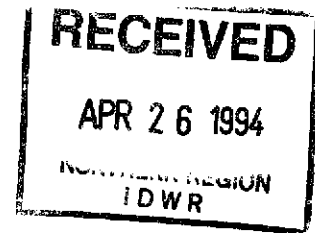
Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

C: Stanley Miller

DEC 20 1994

Stanley M. Miller, Ph.D., P.E.
2117 Robinson Park Road
Moscow, Idaho 83843
Tel. (208) 882-0793



April 22, 1994

Mr. Robert Haynes
Regional Manager
Idaho Department of Water Resources, Northern Region
1910 Northwest Blvd., Suite 210
Coeur d'Alene, Idaho 83814

RE: Request for Modification of Water Right Application Permit No. 87-07173

As a result of telephone conversations this week with you and Allen Beardslee of your regional office, I propose to modify the referenced water right application. If you consider the following proposal to be more extensive than a typical modification, then I will withdraw the previous application for permit and submit a new one as soon as possible.

As you are aware, the original application for water right permit was for a wildlife storage pond supported by the Idaho Department of Fish and Game (IDFG) Habitat Improvement Program and designed by the USDA-Soil Conservation Service (SCS). This proposed pond would have stored approximately 3 acre-ft. of water behind an earth embankment 10-ft. high. The primary purposes for constructing the pond were:

1. To enhance wildlife habitat, especially for the benefit of waterfowl;
2. To improve water quality in the watershed and mitigate a severe channel erosion problem (gully) along a particular reach of the intermittent stream;
3. To provide water storage for late-summer recharge for down-gradient springs;
4. To provide water storage for use in forest-fire protection.

The pond project was authorized and supported by IDFG and approved by the SCS and by the Idaho Department of Lands as part of a Forest Stewardship Plan.

In order to accommodate concerns presented by the Augenstein protest of this pond project and also to meet the above goals at least partially, I propose to eliminate the earth embankment concept for impounding water and significantly decrease the amount of water to be stored. A sediment catch basin located approximately 300 feet upstream from the IDFG/SCS proposed dam site will be enlarged using light excavation equipment. The planned size of the expanded basin (a wide, shallow hole) will allow approximately 0.5 acre-ft. of water storage. Thus, the modified water storage proposal is summarized as follows:

1. An existing sediment catch basin will be enlarged by excavating a wide, shallow hole;
2. The water storage capacity of this basin will be less than about 0.5 acre-ft., a reduction of 83% from the previously proposed pond;
3. No dam will be constructed; some site grading will be required downstream from the basin to eliminate erosional gullies and to protect against future erosion.

Although this new proposal will not qualify for cost-share support from IDFG due to inadequate water storage, it will provide some measure of habitat improvement and water quality protection in line with our forest stewardship program. Also, it hopefully will be acceptable to Mr. Augenstein.

Please review this proposal and let me know if it can be appropriately classified as a modification to a water right application. If not, please send me the water right permit filing forms so that I can re-apply.

DEC 20 1994

A copy of this letter has been mailed to Mr. Augenstein. After a review period of 10 days, if he has not contacted your office with a response, I encourage you to contact him to determine his position regarding the water right protest he has filed.

Thank you for your assistance in dealing with this water right application. If you have any questions or if I may provide any additional relevant information, please contact me.

Sincerely,



Stanley M. Miller, P.E.
Registered Professional Engineer

Copies:

A.R. Augenstein
2111 Robinson Park Road
Moscow, Idaho 83843

Miles Benker
Idaho Department of Fish and Game
Region 2
1540 Warner Avenue
Lewiston, Idaho 83501

Myron Hotinger
Idaho Department of Lands
3130 State Highway 3
Deary, Idaho 83823

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DEC 20 1994

Stanley M. Miller, Ph.D., P.E.
2117 Robinson Park Road
Moscow, Idaho 83843
Tel. (208) 882-0793

~~~~~

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NORTHERN REGION  
IDWR

April 5, 1994

Mr. Robert Haynes  
Regional Manager  
Idaho Department of Water Resources, Northern Region  
1910 Northwest Blvd., Suite 210  
Coeur d'Alene, Idaho 83814

**RE: Response to Augenstein Protest of Water Right Application Permit No. 87-07173**

Following public notice of the referenced water right application for a wildlife storage pond on our property near Moscow, I received one written protest, that being from Mr. A.R. Augenstein, dated March 25, 1994. The statements and accusations presented by Mr. Augenstein in that letter require a detailed response.

Description of Watershed

In his letter, Mr. Augenstein repeatedly refers to a "perennial stream" (with occasionally "observed trout") that flows through his property in the SE 1/4, NE 1/4, of Sec. 1, T.39N., R.5W., Latah County, Idaho. His description of this stream implies that it could be classified as high as a Class I Stream according to criteria in the Idaho Forest Practices Act. However, based on published and physical evidence, no stream in the pertinent watershed east of Robinson County Park could be classified higher than a Class II stream. As shown on the revised 1984 U.S.G.S. 7.5-Minute Topographic Map, *Robinson Lake Quadrangle*, this watershed is bisected by an intermittent stream that drains generally south-westward into the South Fork Palouse River. Two intermittent tributaries that drain generally toward the northwest join this main drainage, one located in Sec. 1 (T.39N., R.5W.) and one in Sec. 6 (T.39N., R.4W.). Our proposed wildlife storage pond is to be constructed in the latter drainage.

Stream channels in this watershed carry flowing water only as a result of spring runoff, which typical extends from March into June. During the highest flow stages of this period, numerous ephemeral drainage areas in the watershed may experience some overland flow of water, but much of it infiltrates into a shallow ground water system that provides subsequent discharge to down-gradient stream channels to sustain some channel flow into late spring and early summer. The only perennial surface water in this watershed occurs as isolated springs located along or near the intermittent stream channels. There are two such springs on our property, one on the eastern border of our property along the main drainage and one along the intermittent tributary just upstream from the proposed pond site. Another spring is located in the eastern portion of the Augenstein property, near the confluence of the main drainage with the tributary drainage that leaves our property. This spring was pointed out to me by Mr. Augenstein last summer when he related that his horses needed access to the eastern portion of his property, because this spring served as their primary watering source during summer and autumn.

The total watershed drainage area that provides surface water to the Augenstein property is approximately 810 acres, as shown on the *Robinson Lake Quadrangle*. Our proposed wildlife pond has a catchment area of 125 acres, which represents 15% of the total drainage area just referenced. Assuming relatively consistent soil and vegetation conditions across the watershed, the vast majority of surface water reaching the Augenstein property comes from the main watershed drainage, the one which "dries up during summer and fall" (stated in Mr. Augenstein's letter) as can be confirmed by neighbors residing downstream. Consequently, the only perennial surface water on the Augenstein property is found at a localized spring or springs.

Influence of Wildlife Pond on Water Supplies

Mr. Augenstein's use of the phrase "stopping of this water" in his letter indicates that he believes our proposed pond will stop all flow of water downstream. This certainly is not the case. In cooperation with

APR 20 1994

specialists from the U.S.D.A. Soil Conservation Service (SCS), the pond dam has been designed with an adequate spillway system to pass surface water flows during spring runoff. In fact, the only loss of water to the watershed system will be due to evaporative loss of stored water in the pond, primarily during summer and early autumn. Assuming an average annual evaporation rate of 27 inches (an appropriate value for this type of pond in a forested drainage in the Moscow Mountain area), a pond with a surface area of one acre will experience an annual evaporative loss of 2.25 acre-ft. (obtained by:  $[27/12] \text{ ft} \times 1.0 \text{ acre}$ ), which is insignificant compared to the hundreds of acre-ft. of water passed by the entire watershed during spring runoff.

Water stored in the pond will provide a continual source of recharge to the ground water system in the local drainage area, which is particularly critical for down-gradient wells and springs during summer and autumn. Annual minimal leakage by this pond can be estimated by using simplifying assumptions in conjunction with Darcy's Law. Using a permeability value for the pond bottom of 0.005 ft/day (a value typical for medium to fine grained silt with some clay; from H. Cedergren, 1989, *Seepage, Drainage, and Flow Nets*, Wiley Publ., p. 21), this annual minimum leakage is on the order of 0.1 to 1 acre-ft.

In summary, projected evaporative losses from the proposed pond will be negligible when compared to the total annual surface water discharge of the watershed. Also, the presence of this pond will help maintain, and perhaps increase, the discharge of down-gradient springs, thus providing potential benefits to downstream water users. Therefore, this proposed pond does not present a water-supply hardship to the Augenstein property, and the concerns expressed in the protest letter are unfounded.

#### Accusations of Reckless Land Management Practices

In a statement unrelated to the pertinent water rights issue, Mr. Augenstein in his letter accuses me of "logging activity and stream bed disturbance that has clouded" the stream water this spring. Our property was enrolled in the U.S.D.A. Stewardship Incentive Program (SIP) in the spring of 1992, and a subsequent 10-year Forest Stewardship Plan was submitted to and approved by the Idaho Department of Lands (IDL), which monitors SIP activity at the local level. All logging activity on our property has been conducted in accordance with this Stewardship Plan. In addition, we planted nearly 1,400 conifer seedlings this spring as per this Plan.

Wildlife specialists from the Region 2 Office (Lewiston) of the Idaho Department of Fish and Game first visited our property in the spring of 1992 to evaluate potential Habitat Improvement Program (HIP) projects. One of their suggestions was a waterfowl pond, and the site eventually agreed upon was one with favorable topography, in a location downstream from a spring, and in an area where a significant stream-channel erosion problem could be mitigated. In the spring of 1993, a HIP cooperative agreement (No. 93-1L-2-036) was instituted for this project, and site preparation commenced that summer. This site work included some logging and stump removal to allow site assessment and surveying work by SCS specialists. Additional logging in the immediate area was done primarily to remove diseased grand fir trees infested with *scolytus ventralis*.

Also, four sediment catch basins were constructed upstream of the proposed dam site, two permanent basins and two temporary ones. These sediment retention structures have performed effectively to minimize the amount of stream sediment carried out of this local drainage area. The "clouded" stream water described by Mr. Augenstein was due to the usual suspended load carried by early spring runoff waters in the entire 810-acre watershed upstream from his property.

#### Request for a Timely Resolution

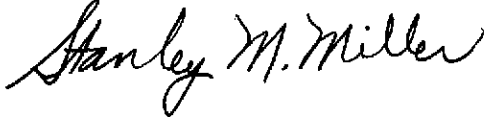
Due to contractual agreements and planned construction schedules related to this HIP project, I respectfully request that your office facilitate a means by which issues related to water right application No. 87-07173 be resolved as soon as possible. If a conference or hearing is required, please schedule it for the earliest possible date. Also, please inform me if there is anything I can do to expedite the process.

DEC 20 1994

I would welcome the opportunity for you or one of your staff to visit our property and the proposed pond site. Also, please let me know if you want to solicit comments or testimony from downstream neighbors or from scientists with IDL and Idaho Fish and Game to confirm the information I have provided herein. I can readily supply you with a list of names and telephone numbers.

Thank you for your assistance in processing and evaluating this application for water right. If you have any questions or if I may provide any additional relevant information, please contact me.

Sincerely,



Stanley M. Miller, P.E.  
Registered Professional Engineer

Copies:

A.R. Augenstein  
2111 Robinson Park Road  
Moscow, Idaho 83843

Miles Benker  
Idaho Department of Fish and Game  
Region 2  
1540 Warner Avenue  
Lewiston, Idaho 83501

John Collins  
USDA Soil Conservation Service  
220 East 5th Street  
Moscow, Idaho 83843

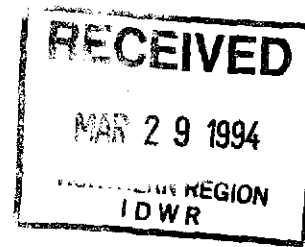
Myron Hotinger  
Idaho Department of Lands  
3130 State Highway 3  
Deary, Idaho 83823

DEC 20 1984

DEC 20 1984

March 25, 1994

Stan Miller  
2117 Robinson Park Road  
Moscow, ID 83843



***Certified Return Receipt Requested***

Re: Water Right Application - # 87-07173

Dear Mr. Miller:

I am protesting your application for water rights (# 87-07173) filed on February 18, 1994. This unnamed perennial stream is a spring fed stream with flow year round.

For ten years I have resided at 2111 (formally 2114) Robinson Park Road. During this time, this stream has served as the sole water source for my livestock. Prior to this period, Brent DeMeerleer resided at 2114 Robinson Park Road, and also watered his livestock from this stream. In fact, one of the reasons I purchased this property from Brent DeMeerleer is because there is year round water for livestock. As you are acutely aware, the drilled water wells in our area are marginal at best. Consequently, running water for livestock is important.

Also be it known, the main stream (South Fork of the Palouse River Tributary) that crosses your property from east to west dries up during summer and fall, and provides only run-off water. It is the perennial stream running north-south that provides year round water for my livestock.

In addition, I would like to call attention to your logging activity and stream bed disturbance that has clouded this normally clear perennial stream, and has been particularly noticeable this spring.

Some of your down-stream neighbors and I were alerted to the fact that you plan to build a dam up-stream from us. I am alarmed because if your dam fails it will cause considerable damage to my residence and property, as well as the three to four houses down-stream.

One additional point to consider is the possible habitat damage your stopping of this water could cause. Less than one half mile down-stream the South Fork of the Palouse River has a year around trout fishery. On occasion, I observe trout in the stream running through my property. If this perennial stream is altered and were to dry up, it could endanger a spawning or trout habitat.

Because of the above concerns, I protest your application (# 87-07173) for water rights.

Sincerely,

A handwritten signature in black ink, appearing to be "A. Riek Augenstein", written over a horizontal line.

A. Riek Augenstein  
2111 Robinson Park Road

DEC 20 1994

Copy: Director, Department of Water Resources  
Idaho Department of Fish and Game  
Brent DeMeerleer

# Affidavit of Publication

STATE OF IDAHO

County of Latah

ss.

Lorraine Hudson  
Legal Clerk

being first duly sworn, on oath,  
deposes and says:

That she is the printer of  
Moscow-Pullman Daily News, a  
newspaper of general circulation,  
printed and published daily except  
Sunday at Moscow, Latah County,  
Idaho, in compliance with Sections  
60-106, 60-107, and 60-108 of the  
Idaho Code and the amendments  
thereof; that the notice of which the  
annexed is a full, true and correct  
printed copy was published in the  
regular and entire issues of said  
newspaper and not in a supplement  
thereof, upon the following dates:

March 17, 24,  
1994

the same being the dates designated  
for the publication of said notice.

Lorraine Hudson

On this 25 day of March  
in the year of 1994, before me, a Notary

Public, personally appeared \_\_\_\_\_

Lorraine Hudson

known or identified to me to be the person whose  
name subscribed to the within instrument, and  
being by me first duly sworn, declared that the  
statements therein are true, and acknowledged to  
me that he executed the same.

Ann Marie Helt  
Notary Public for Idaho

Residing at Moscow, ID

My commission expires: 5/1/98

## NOTICE OF APPLICATION FOR WATER RIGHT

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

87-07173

MILLER, STANLEY M, 2117  
ROBINSON PARK RD, MOSCOW,  
ID 83843

Source: UNNAMED STREAM,  
Tributary: PALOUSE RIVER,  
SOUTH FORK

Diversion Pt: NWNWSW Sec 6 T  
39N R 04W in LATAH County.

Use: WILDLIFE STORAGE (3.00AF)

Total Diversion: ( 3.00 AF)

Date Filed: 2/18/1994

In: LATAH County, T39N R04W  
S06, NWSW

For additional information con-  
cerning the property location, call  
the Northern Regional Office at  
(208) 769-1450.

The permit(s) will be subject to  
all prior water rights. Protests must  
be filed with the applicant and with  
the Director, Dept. of Water  
Resources, Northern Region, 1910  
Northwest Blvd., Suite 210, Coeur  
d'Alene, Idaho 83814 on or before  
APRIL 4, 1994.

KEITH HIGGINSON, Director  
March 17, 24, 1994

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MAR 28 1994

NORTHERN REGION  
IDWR

DEC 20 1994

87-07173

MILLER, STANLEY M  
2117 ROBINSON PARK RD  
MOSCOW, ID 83843

Source: UNNAMED STREAM

Tributary: PALOUSE RIVER, SOUTH FORK

Diversion Pt: NWNWSW Sec 6 T 39N R 04W in LATAH County.

Use: WILDLIFE STORAGE

( 3.00 AF)

Total Diversion:

( 3.00 AF)

Date Filed: 2/18/1994

In: LATAH County  
T39N R04W S06

NWSW

1994  
FEB 20 1994



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

CECIL D. ANDRUS  
Governor  
March 11, 1994

R. KEITH HIGGINSON  
Director

Mr. Stanley M. Miller  
2117 Robinson Park Rd.  
Moscow, Id. 83843

Dear Mr. Miller:

Subject: Water Application for Permit Number 87-7173.

The Idaho Department of Water Resources hereby acknowledges receipt of the above-referenced Application for Permit to Appropriate the Public Waters of the State of Idaho. Enclosed is Receipt Number N7386. Please refer to your Application for Permit Number in future matters concerning this water right application.

Your Application for Permit is currently being prepared for advertising in the local county newspaper. The advertisement will be published for two consecutive weeks followed by a waiting period of ten days to allow for submittal of protests.

If your application is not protested, it will be forwarded to Boise for processing. Normal processing time is approximately 3 to 4 months, if the application is not protested. If your Application for Permit is protested, you will be sent a copy of the protest and instructions to aid you in resolving the protest without a hearing. All protests must be resolved before your Application for Permit can be approved. If the protest is not resolved, this Department will conduct a conference and/or hearing on the matter.

You will receive your approved Application for Permit and instructions on filing the Proof of Beneficial Use from our State Office in Boise.

If your Application for Permit is for a well (groundwater) that was constructed after July 1, 1987, you must apply for a well drilling permit upon approval of your Application for Permit if no permit was obtained by previous owners to construct the well. Well Drilling Permits can only be issued by this office to holders of approved Applications for Permit.

If I can be of further assistance, please feel free to contact me at this office.

Sincerely,

ALLEN BEARDSLEE  
Senior Water Resource Agent  
Enc. - Receipt