

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

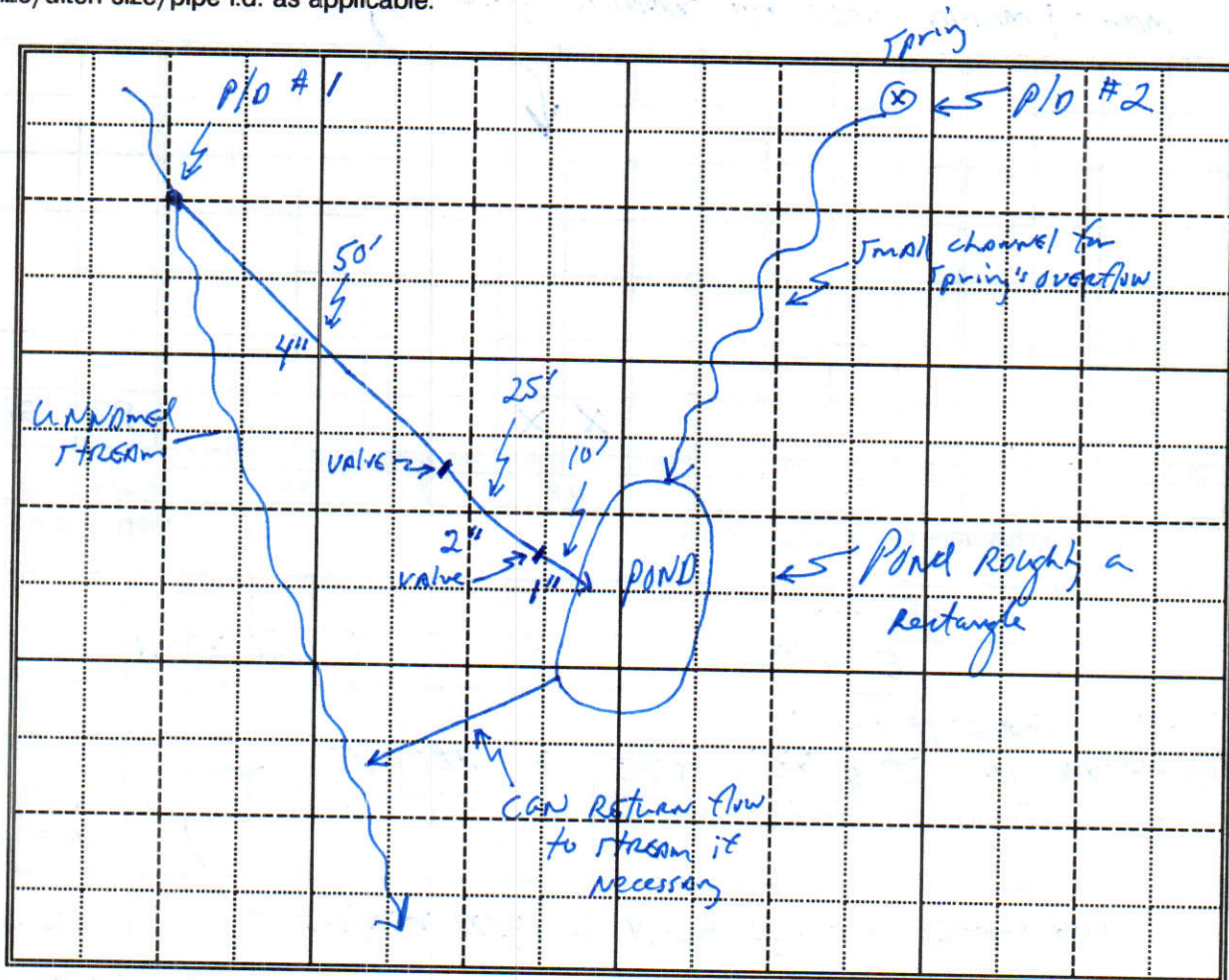


BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

David S. Smith
(Applicant)

JAN 24 1982

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



Scale: 1" = NOT TO SCALE

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

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

☒ Photo of Diversion and System Attached

4. See MARKS topo in 78-07301

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	<u>N/A - no pumping to pond</u>				

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

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
<u>NONE possible</u>						

2. Measurements: l. named stream 50' 4" } pipe to pond,
25' 2" } e 20' head
10' 1" } per topo

pond e 'x40'x8' max depth 16'
mean depth 8'

Spring Minor overflow
"ditch" from Spring to pond - variable flows

P/O - unnamed stream
showing 4" diversion
pipe

PHOTO ONE-



1" outlet
pipe from
4" pld (above) -
this is point
where stream
water can
reach pond

PHOTO TWO-





PHOTO THREE-

P/O Spring - overflow emerges between
large & small pipe under A-frame cover



PHOTO FOUR-

closer view of spring - overflow seen
between pipes, center view.

Large pipe = Pitts = 78-07109
A78-10343

Small pipe = Baum et al
78-07265



PHOTO FIVE-

view looking up pond (P/U) showing
overflow from spring via small channel.



PHOTO SIX-

* This 9/11/92 photo from owners -
showing pond in use for
fire protection.
Photo dated on back.

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 78-07324

Proposed Priority: October 11, 1991 Maximum Diversion Rate: 0.50 CFS
This is to certify, that DAVID PITTS

CAROLYN PITTS
HC 75 BOX 3552
NEW MEADOWS ID 83654

has applied for a permit to appropriate water from:

UNNAMED STREAM
SPRING

tributary of ELK CREEK
tributary of SINKS

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>
FIRE PROTECTION	01/01 to 12/31	0.50 CFS	
FIRE PROTECTION STORAGE	01/01 to 12/31		1.0 AF
FIRE PROTECT. FROM STOR	01/01 to 12/31		1.0 AF
	Totals	0.50 CFS	

LOCATION OF POINT(S) OF DIVERSION:

NWSEW , Sec. 26, Township 22N, Range 01E
IDAHO County

PLACE OF USE: FIRE PROTECTION
TWN RGE SEC

22N 01E 26 SENW

PLACE OF USE: FIRE PROTECT. FROM STOR, same as FIRE PROTECTION use

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before January 1, 1993.
2. Subject to all prior water rights.

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

13th day of January, 1992

R. Keith Higginson
for R. Keith Higginson, Director

RECORDED

JAN 24 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant DAVID & /OR CAROLYN PITTS Phone 628-3010
Post office address HC 75 BX 3552 New Meadows ID 83654
unnamed stream Elk Creek
2. Source of water supply spring which is a tributary of Sinks
3. Location of point of diversion is NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of NW $\frac{1}{4}$, Govt. Lot _____
Sec. 26 Township 22N Range 01E B.M. Idaho County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 1 for fire protection purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum) Storage
Amount 15 cfs for fire protection purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum) fire protection
Amount 1 for farm storage purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum) farm storage
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 5 and/or (b) 1
cubic feet per second acre feet per annum
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. on-stream pond,
pump & hoses
b. Height of storage dam N/A feet; active reservoir capacity 1 acre-feet; total
reservoir capacity N/A acre-feet; period of year when water will be diverted to storage:
1/1 to 12/31 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).

JAN 24 1987

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. _____
- c. Municipal; show name of municipality. _____
- d. Domestic; show number of households. _____
- e. Other; describe fully. Fire protection

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	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
22N	1E	26								FIRE									

Total number of acres to be irrigated _____

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

~~NONE~~ A78-10343, 78-7109

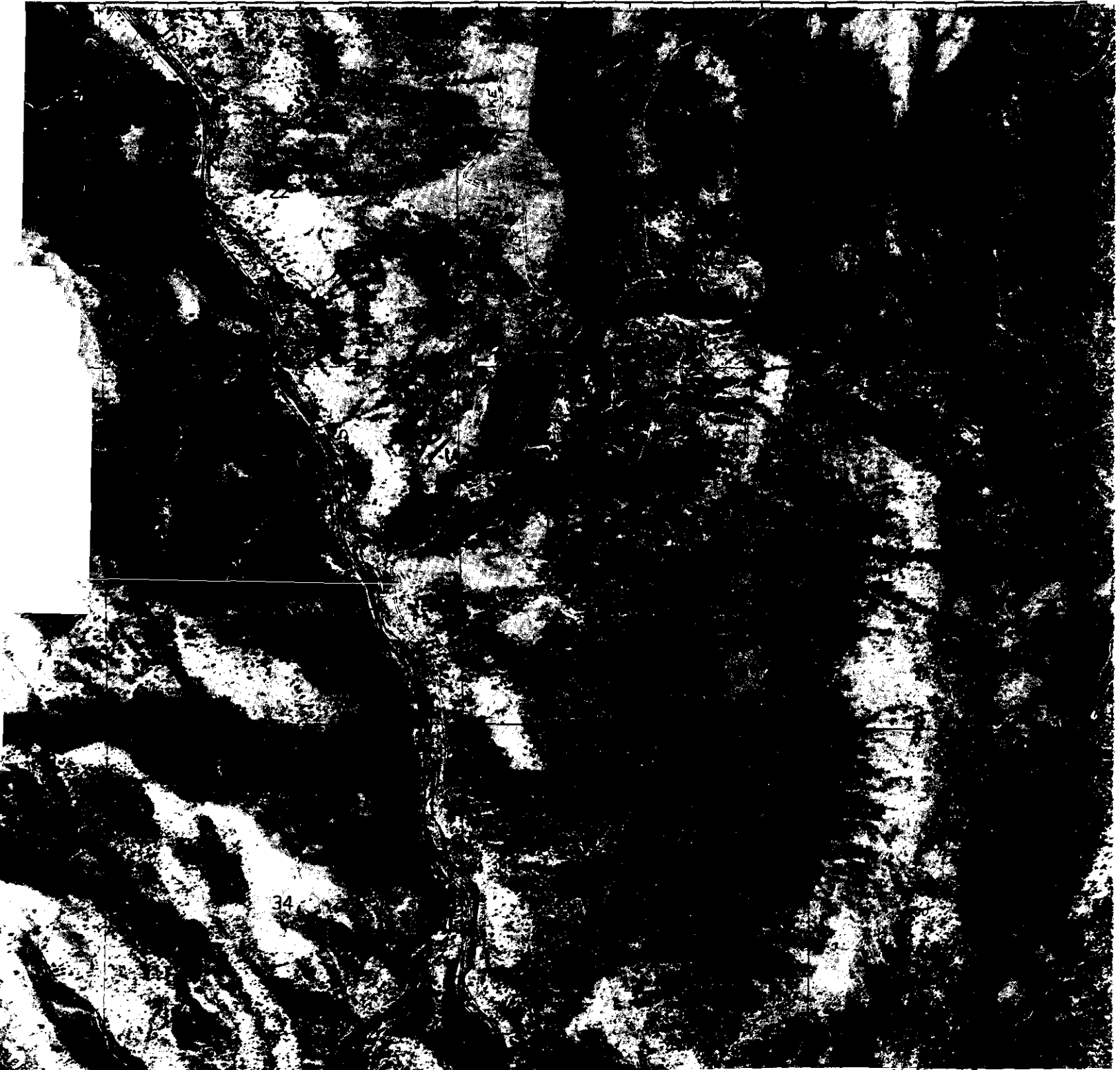
11. a. Who owns the property at the point of diversion? Applicant
- b. Who owns the land to be irrigated or place of use? Applicant
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: Primary Source is unnamed stream. All overflow returns to Elk Creek.

RECORDED

JAN 24 1992

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



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.

JAN 24 1982
Carol S. Smith
(Applicant)

Received by GH Date 10-11-91 Time 1630 Preliminary check by R
Fee \$ 45.00 Receipted by GH # W013778 Date 10-11-91
Publication prepared by GG Date 10-30-91 Published in Idaho County Free Press
11/6 & 11/13/91
Publication approved at Date 11-26-91

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:

Note:

Since applicant is unsure of rate of flow of unnamed stream, an over-estimation was used for ~~Direct flow component~~ ^{Direct flow component}, at applicant's request. Pond takes 2-3 days to fill at high flows.

GH

MICROFILMED
JAN 24 1992

RECEIVED

NOV 18 1991

Department of Water Resources
Western Regional Office

**NOTICE OF APPLICATION FOR
WATER RIGHT**

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

77-07311

CARLSON, GUY M.
CARLSON, CINDY J.
PO BOX 250
RIGGINS, ID 83549
Source: SPRING Tributary:
SINKS
Diversion Pt: SESENW Sec 14 T 24N R
02E in IDAHO County.
Use: IRRIGATION (.030 CFS)
DOMESTIC (.040 CFS)
Total Diversion: (.070 CFS)
Date Filed: 10/21/1991
T24N R02E S14 Lot 3(NESW)
1.0 ACRES TOTAL

78-07324

PITTS, DAVID
PITTS, CAROLYN
HC 75 BOX 3552
NEW MEADOWS, ID 83654
Source: UNNAMED STREAM
Tributary: ELK CREEK
Source: SPRING Tributary:
SINKS
Diversion Pt: NWSENW Sec 26 T 22N R
01E in IDAHO County
Use: FIRE PROTECTION (.500
CFS)
FIRE PROTECTION STORAGE
(1.00 AF)
FIRE PROTECT. FROM STOR (1.00 AF)
Total Diversion: (.500 CFS) (1.00
AF)
Date Filed: 10/11/1991
T22N R01E S26 SENW
The permit(s) will be subject to all prior
water rights. Protests must be filed with
the Director, Dept. of Water Resources,
Western Region, 2735 Airport Way,
Boise, Idaho 83705 on or before
NOVEMBER 25, 1991.

R. KEITH HIGGINSON, Director
N6-13

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO

County of Idaho - ss.

.....Marietta Hanson....., being
first duly sworn, says she is the.....Bookkeeper..... of the
IDAHO COUNTY FREE PRESS, a weekly newspaper published
and issued weekly at Grangeville, Idaho county, State of Idaho,
and is of general circulation in said county and state, that the
said notice, of which the one hereto attached is a true copy, was
published in said paper for two..... weeks, being published
...two.....times, the first publication being on the
...6th.....day of November....., 1991.....,
and the last publication on the.....13th.....day of
...November....., 19...91...; that the said notice was
published in the newspaper proper and not a supplement; that
said newspaper has been continuously and uninterruptedly
published in said county during a period of seventy-eight
consecutive weeks prior to the publication of said notice or
advertisement.

Marietta Hanson

STATE OF IDAHO }

COUNTY OF }

On this.....day of.....in the year
of....., before me, a Notary Public, personally
appeared.....Marietta Hanson....., 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.

.....[Signature].....
Notary Public for Idaho

Residing at.....Grangeville, Idaho.....

My commission expires:.....9-10-92.....

RECEIVED
JAN 24 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED

FEB 26 1993

Department of Water Resources

A. GENERAL INFORMATION

Permit No. 78-07324

1. Owner: David & Carolyn Pitts Phone No. 628-3054
Current Address: HC 75 Box 3552 New Meadows, ID 83654
2. Accompanied by: Carolyn Pitts EXAM DATE: 11/10/92 ^{NEW #}
Address: _____ Phone No. _____
Relationship to Permit Holder: _____

3. Source: (1) UNNAMED STREAM tributary to (1) Elk Creek and
(2) Spring (2) Sinks

* B. OVERLAP REVIEW

1. Other water rights with the same place of use: 78-07109 irrig. > Pitts } all from same
A 78-10343 Dom. } spring as this permit
2. Other water rights with the same point of diversion: 78-07265 Dom. Baum } but other uses.
& Al

See photo #3 & 4 for
pipes from spring.

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion: ON/NEAR CENTER OF NW 1/4 for unnamed stream pld

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
1	-				26	22N	1E	Idaho	SEE # 2 ON MASTER topo in (UNNAMED stream) 78-07301 EXAM
2	-	NW	SE	NW					SEE # 3 " " " " (spring)

2. Place(s) of Use:

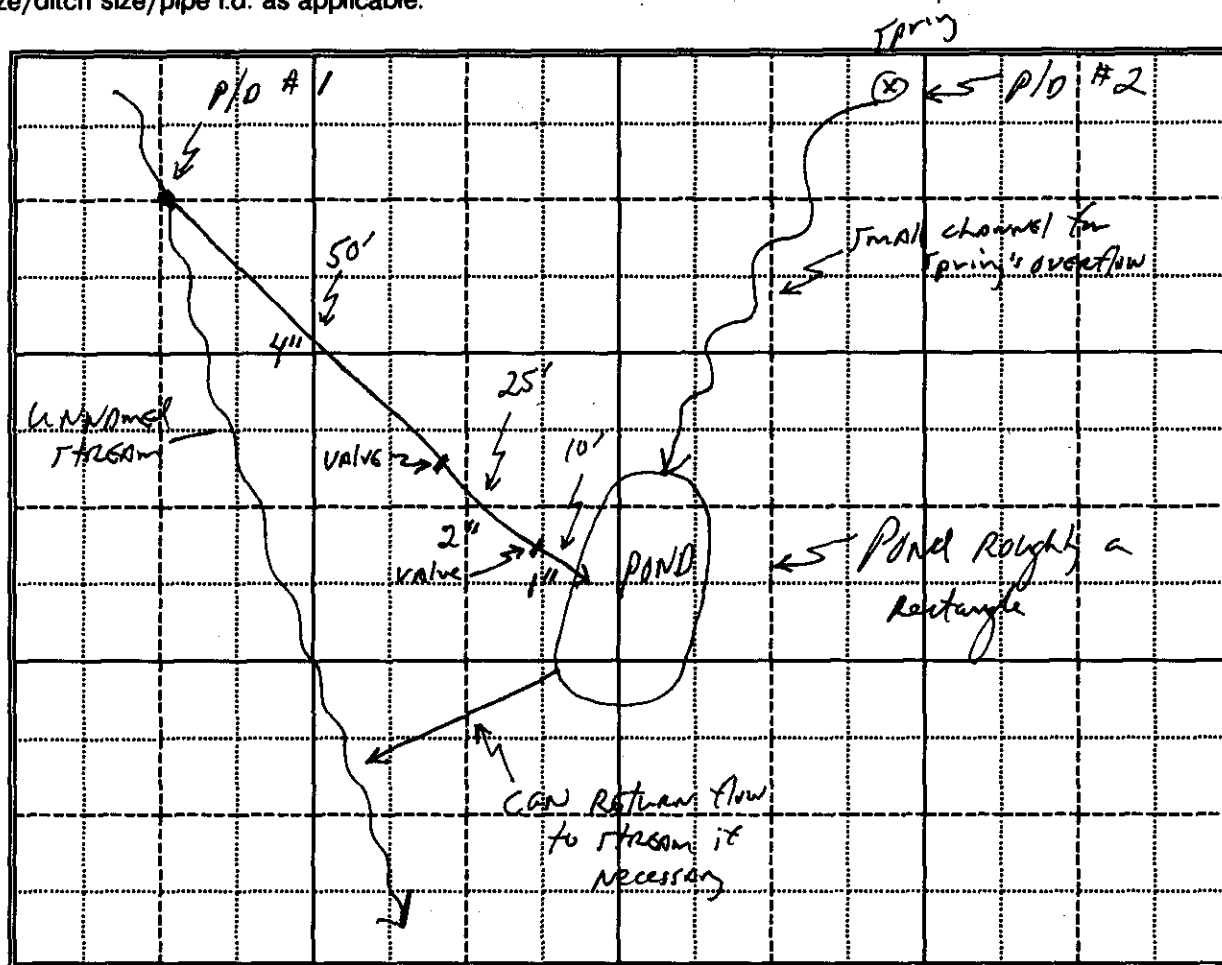
Indicate Method of Determination

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	*NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
22N	1E	26						X	X										

fire pond on/NEAR line b/w. NWNW & SWNW

* a # of other surface water rights found in these legals, mostly for Elk Creek on other land. Have only listed those related to significant overlap.

3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate well size/ditch size/pipe I.D. as applicable.



Scale: 1" = NOT TO SCALE

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

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

✓ Photo of Diversion and System Attached

4. See MAPS top in 78-07301

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	N/A - no pumping to pond				

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

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
NONE possible						

2. Measurements: unn. stream 50' 4" } pipe to pond,
 25' 2" } e 20' head
 10' 1" } per taper
 Pond e 'x 40' x 8' max depth 16'
 max depth 8'
 Spring minor overflow
 "ditch" from Spring to pond - variable flows

E. NARRATIVE/REMARKS/COMMENTS

"2-3 days e high flow" note on original appl. map

This fire pond is filled in e 3 days via 2 sources.

#1 P/O is 4" pipe from unnamed stream (#2 on master topo). Pipe reduces to 2", then 1" at pond. Total e 85' of pipe. Two control valves - where pipe size reduces - are found on this diversion.

#2 P/O is overflow from the spring (#3 on topo). Two other diversions (pipelines) are found at ~~spring~~ spring for other rights:

Pitts - 78-07104	irrig	} These rights are disclaimed in 528A court's order dated 3/19/92 - copy attached.
- A78-10343	domestic	
BAum - 78-07265	domestic	

The Order should not present licensing problems for this permit.

Pipe from creek not in use e exam time - winter conditions. Also, spring overflow low this time of year.

Measurements: Since ^{not} able to obtain adequate flow measurements during exam and situation does not seem to warrant yet another trip by dept.*, used theoretical est. of flow.

PIPE: yield e .06 cfs

Spring overflow: a minor channel can carry ~~variable~~ ^{variable} flow to pond. No defined "ditch" borders etc. to allow estimate of capacity. Best visual estimate based on nature of "channel" (such as it is) is e .04 cfs. Not amenable

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

in the exam to "orange pool" estimate.

Combined capacity - lacking any other data - e .10 cfs

Per owner: storage capacity e 1/2 Af, fills e 3 days.

If so, .10 cfs x 2 = .2 Af/day, takes 2 1/2 days to fill.

Estimates appear to be REASONABLE.

* Previous complaint visit in 1980's plus this complaint visit w/ exams conducted. So 2 visits to site in recent times.

F. FLOW CALCULATIONS

Measured Method:

(1) ☒ Additional Computation Sheets Attached *LOW- stream*

(2) Spring - visual estimate $\approx .04$ cfs ; no measurable parameters found.

Est. capacity (1) + (2) = $.06 + .04$ cfs = $.10$ cfs
flow

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____

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

$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$ _____

2. Volume Calculations for Other Uses:

"Rate of flow" volume N/A per B.U. rules for fire protection
but storage volume is applicable.

POND CAPACITY $\frac{70 \times 40 \times 8}{43560} \approx .5$ af

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
Diversion to storage	1/1	12/31	.10	N/A
Fire protection	}	}	.10	N/A
" " Storage	}	}	N/A	0.5
" " from storage	}	}	N/A	0.5
Totals:			.10 flow capacity	0.5 Storage capacity

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 add div. to storage
since > 24 hr. to fill

I. AUTHENTICATION

Field Examiner's Name

STEVE LESTER

Date 2/20/96

Reviewer

Date

SEAL

* ~~LOW- stream~~ pld classified to center of NW 1/4 } these do not
plu straddles 1/2 line } represent expansion
div. to storage clarifies use } from permit intent.

Pipeflow Computation Spreadsheet (DRT 12/31/1992)

Data Entered By:

Steve Lester - *SL 2/21/96*

Project: Flow Computation for PERMIT NO. 78-07324

D. & C. Pitts

Given: See Data Table

Compute head losses with the Williams and Hazen Formula:

$$f = 0.2083 * (100 / \text{roughness})^{1.85} * ((\text{cfs} * 448.8)^{1.852} / \text{ID}^{4.8655} * \text{Length} / 100)$$

To Find: Compute Rate of Flow

Data Table

Total Head: 20.00 feet

Pressure Req'd: 0.00 psi

Available Head: 20.00 feet

Pipe Roughness: 150.00

Note: pvc = 150, smooth and straight pipe = 140
aluminum - joint length 20' = 125, joint length
30' = 130, joint length 40' = 132, joint length
50' = 134, new riveted steel = 100
old riveted steel = 100, old cast iron = 95,
old pipes in poor condition = 60 to 80

Inside Diameter in Inches	Equivalent Length in Feet	Unit Head Loss	Total Head Loss from Pipe Friction
3.75	50.00	0.04	
1.75	25.00	0.79	
0.75	10.00	19.44	
10.00	0.00	0.00	20.27

Rate of Flow:

0.063 CFS

← closest match to balance available head

Solution is obtained by entering an estimated rate of flow and adjusting until Total Head Loss approximates Available Head.

Pipeline for unim. stream flow into pond

200 in 198-07265

RECEIVED
APR - 1 1992

JIM JONES
960 Broadway, Suite 310
Boise, Idaho 83706
Telephone: (208) 385-9200
Twin Falls (208) 734-3345

Department of Water Resources
Western Regional Office

1992 MAR 19 PM 4:58

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED *Shaney*

Attorney for Plaintiffs

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re the General Adjudication)
of Rights to the Use of Water)
From the Snake River Basin)
Water System.)

GLENN E. BAUM and NETTA BAUM,)
husband and wife, and FLOYD)
D. WEST and FLORENCE WEST,)
husband and wife,)

Plaintiffs,)

vs.)

DAVID G. PITTS and CAROLYN)
PITTS, husband and wife,)

Defendants.)

Case No. 39576

O R D E R

SAME Spring

78-07109

A78-10343

78-07324

} Pitts

78-07265 - BAUM
et al

*Order e dated y priority
from same spring.*

Pursuant to notice and agreement, the parties joined in a
telephonic conference with the Court this 18th day of March,
1992;

Jim Jones, appearing on behalf of plaintiffs.

Kirk MacGregor, of Dee, MacGregor and Fales, appearing on
behalf of defendants.

*Copy for Exam
78-07324*

Clive J. Strong, Deputy Attorney General, State of Idaho, appearing on behalf of the Director of the Idaho Department of Water Resources.

The plaintiffs have filed a motion for preliminary injunction in the Snake River Basin Adjudication (SRBA), raising certain disputes between the plaintiffs and the defendants (the parties) as to the use of a spring and its waters, located on defendants' land in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 26, Township 22 North, Range 01 East, Boise Meridian, as particularly described in the motion. The plaintiffs and defendants have signed a stipulation, dated October 30, 1991, resolving their disputes.

The parties' rights to water from the spring are pending determination in the SRBA. The director of the Idaho Department of Water Resources (director) has not examined the claims filed by the parties to these rights and does not join in the stipulation, except to the extent that the director will observe the subordination of defendants' irrigation right to plaintiffs' domestic right and such subordination shall be included in the director's report and decreed by this court in accordance with Title 42, Chapter 14, Idaho Code.

IT IS THEREFORE ORDERED, as follows:

1. That the stipulation entered into between the parties on October 30, 1991, a copy of which is attached hereto and incorporated herein, is hereby ratified, approved and confirmed as between the parties, except as to the provisions of paragraph 1 thereof that would alter the priority dates of the parties'

rights, and the parties shall hereafter comply in all respects with the terms of the same, as hereby modified.

2. That State Water License No. 78-07109 and Adjudication Claim No. A78-07109 be, and they are hereby permanently and fully subordinated in all respects to State Water License 78-07265 and Adjudication Claim No. A78-07265. Said subordination shall be utilized and observed by the director of the Idaho Department of Water Resources in the director's report hereinabove referenced.

DATED this 19 day of March, 1992.


DANIEL C. HURLBUTT, JR.
District Judge

Re: Phone Conv. w/Dave Shaw:
We will most likely condition Pitts' irrev. right to say it has been subordinated to Baum/West's right per their agreement. However, per highlighted exception above, the priority date will not be changed. Too bad for Pitts. JS

NOV -5 PM 4:04

BY _____
CLERK

Brayley DEPUTY

JIM JONES
960 Broadway, Suite 310
Boise, Idaho 83706
Telephone: (208) 385-9200
Twin Falls (208) 734-3345

Attorney for Plaintiffs

COPY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re the General Adjudication)
of Rights to the Use of Water)
From the Snake River Basin)
Water System.)

GLENN E. BAUM and NETTA BAUM,)
husband and wife, and FLOYD)
D. WEST and FLORENCE WEST,)
husband and wife,)

Plaintiffs,)

vs.)

DAVID G. PITTS and CAROLYN)
PITTS, husband and wife,)

Defendants.)

Case No. 39576

STIPULATION

WHEREAS, the parties, being the sole claimants to the waters of a certain spring located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 26, Township 22 North, Range 01 East, Boise Meridian, on property owned by defendants, David G. Pitts and Carolyn Pitts, husband and wife, which real property is more particularly described in

Exhibit "A" hereto, which exhibit is incorporated herein by this reference; and

WHEREAS, plaintiffs Glenn E. Baum and Netta Baum, husband and wife, and Floyd D. West and Florence West, husband and wife, claim a domestic water right in and to said spring, as well as an easement for access to the same, the same being for the use and benefit of the real property described in Exhibit "B" hereto, which exhibit is incorporated herein by this reference; and

WHEREAS, the rights associated with said spring, as claimed in the Snake River Basin Adjudication, are as follows:

1. Adjudication Claim No. A78-10343, Priority 1/1/62, for .02 cfs for domestic use for January 1 - December 31, based on beneficial use. (Defendants)
2. Adjudication Claim No. A78-07109, Priority 5/4/78, for .02 cfs for irrigation of two acres for March 1 - December 1, based on License 78-07109. (Defendants)
3. Adjudication Claim No. A78-07265, current priority 7/30/85, for .02 cfs for domestic use for January 1 - December 31, based on License 78-07265. (Plaintiffs) An amended claim has been filed, reflecting a 1973 conveyance to plaintiffs of a water right in the spring by defendants' predecessor in interest; and

WHEREAS, the parties' conflicting claims have been brought to the Court for resolution and the parties have reached a compromise with respect thereto that they wish to reduce to writing and have confirmed by the Court;

IT IS THEREFORE STIPULATED, as follows:

1. The parties acknowledge that plaintiffs' predecessors in ownership of the real property described in Exhibit B began beneficially using the waters of the spring located on the real property described in Exhibit A for domestic purposes in 1975 and agree that the priority date of License 78-07265 and Adjudication Claim No. A78-07265 should be July 30, 1975, instead of July 30, 1985. The parties do hereby request that the Court enter an Order amending said license and claim to specify the July 30, 1975, priority date for plaintiffs' .02 cfs for domestic use for January 1 - December 31. It is understood and agreed that defendants' first priority right for domestic use, dating to January 1, 1962, and evidenced by Adjudication Claim A78-10343, shall not be hereby affected, the intent hereof being to subordinate defendants' irrigation use to plaintiffs' domestic use.

2. Defendants and their heirs, successors and assigns, recognize and at all times hereafter shall observe the priority of plaintiffs and their heirs, successors and assigns to the waters of said spring for domestic uses under the terms of License 78-07265 and Adjudication Claim No. A78-07265, as

amended, over defendants' irrigation water right represented by License No. 78-07109 and Adjudication Claim No. A78-07109. Plaintiffs relinquish and waive all other claims to entitlement to the waters of said spring.

3. Plaintiffs shall be entitled to a permanent easement for access to said spring for conveyance of water from the spring to their property and for maintenance and repair of the spring and the conveyance facilities. Any repairs, maintenance or renovation shall be done in a proper and workmanlike manner and shall not damage, interfere with or diminish the rights of the defendants in and to said spring. Plaintiffs agree to use the existing gate installed by defendants in the fence separating their respective properties for access to said spring.

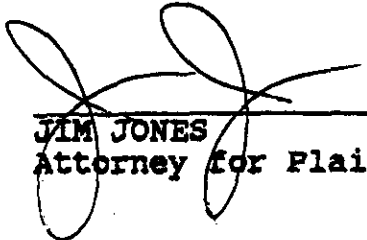
4. Plaintiffs shall have the immediate right to reinstall their water supply pipeline into the spring at sufficient depth to ensure a pure and potable supply of domestic water, free from surface debris, and shall have the continuing right to draw from and maintain said installation, provided that plaintiffs shall not place their water supply pipeline at a lower depth than the defendants' existing pipeline. Plaintiffs shall install a valve, permitting them to draw up to 5 gallons per minute flow from said spring, taking necessary steps to set said valve at a 5 gallon per minute maximum. Plaintiffs and their successors agree to limit their usage to a maximum of 5 gallons per minute so long as defendants or any person related to them by blood or marriage

within the second degree own the property described in Exhibit A hereto.

5. The parties shall take such joint action as may be necessary to protect the purity and integrity of said spring, including steps to fully enclose the spring in order to prevent debris and contaminants from entering the same.

6. In the event that either party institutes suit to enforce the provisions of this agreement or to secure redress for its breach, the prevailing party in such litigation shall be entitled, in addition to any other relief granted by the Court, to a reasonable award of attorney fees.

DATED this 30 day of October, 1991.



JIM JONES
Attorney for Plaintiffs



KIRK A. MACGREGOR
Attorney for Defendants

EXHIBIT A

A tract of land located in Section 26, Township 22 North, Range 1 East, Boise Meridian, Idaho County, Idaho, and more particularly described as follows:

Commencing at the $\frac{1}{4}$ corner common to Sections 26 and 27, Township 22 North, Range 1 East, Boise Meridian;

Thence North $44^{\circ}28'42''$ East, 1753.30 feet to the TRUE POINT OF BEGINNING;

Thence South $37^{\circ}26'45''$ East, 246.95 feet to a point;

Thence South $0^{\circ}00'00''$ West, 116.99 feet to a point;

Thence North $90^{\circ}00'00''$ East, 179.81 feet to a point;

Thence North $0^{\circ}00'00''$ East, 631.40 feet to a point;

Thence South $63^{\circ}56'01''$ West, 255.83 feet to a point;

Thence South $25^{\circ}56'01''$ West, 229.00 feet to the TRUE POINT OF BEGINNING

EXHIBIT B

A tract of land located in Section 26, Township 22 North, Range 1 East, Boise Meridian, Idaho County, Idaho, and being more particularly described as follows:

Commencing at the $\frac{1}{4}$ corner common to Sections 26 and 27, Township 22 North, Range 1 East, Boise Meridian:

Thence North 44°28'42" East, 1753.30 feet to the True Point of Beginning;

Thence South 44°51'04" West, 202.76 feet to a point;

Thence South 29°29'20" West, 60.00 feet to a point;

Thence South 18°29'09" West, 251.56 feet to a point;

Thence North 90°00'00" East, 582.25 feet to a point;

Thence North 0°00'00" East, 121.50 feet to a point;

Thence South 90°00'00" West, 179.81 feet to a point;

Thence North 0°00'00" East, 116.99 feet to a point;

Thence North 37°26'45" West, 246.95 feet to the True Point of Beginning.

Together with an easement and right to the joint use of a spring and the water that originates in that spring which is located on property lying east of and adjacent to the above-described property. The spring lies on what was formerly known as the eastern portion of Tax 24 and which easement and spring is referred to in Idaho County instrument #253806.

CERTIFICATE OF MAILING

I HEREBY CERTIFY that one true and correct copy of the foregoing **ORDER** was mailed this 19th day of March 1992 in an envelope with sufficient first-class postage prepaid thereon to the following:

Six Copies To:

David B. Shaw, Chief
Adjudication Bureau
Idaho Department of
Water Resources
1301 North Orchard
Boise, ID 83706

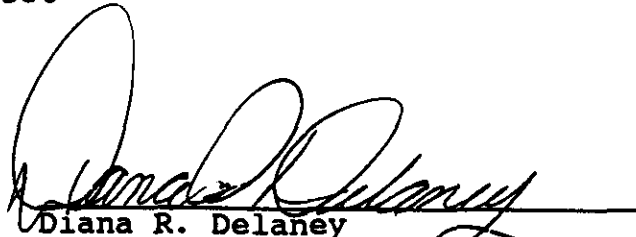
One Copy Each To:

Clive Strong
Office of the Idaho
Attorney General
Room 210, Statehouse
Boise, ID 83720

Peter G. Monson
Indian Resources Section
Environment & Natural Resources
Division
P.O. Box 44378
Washington, DC 20026-4378

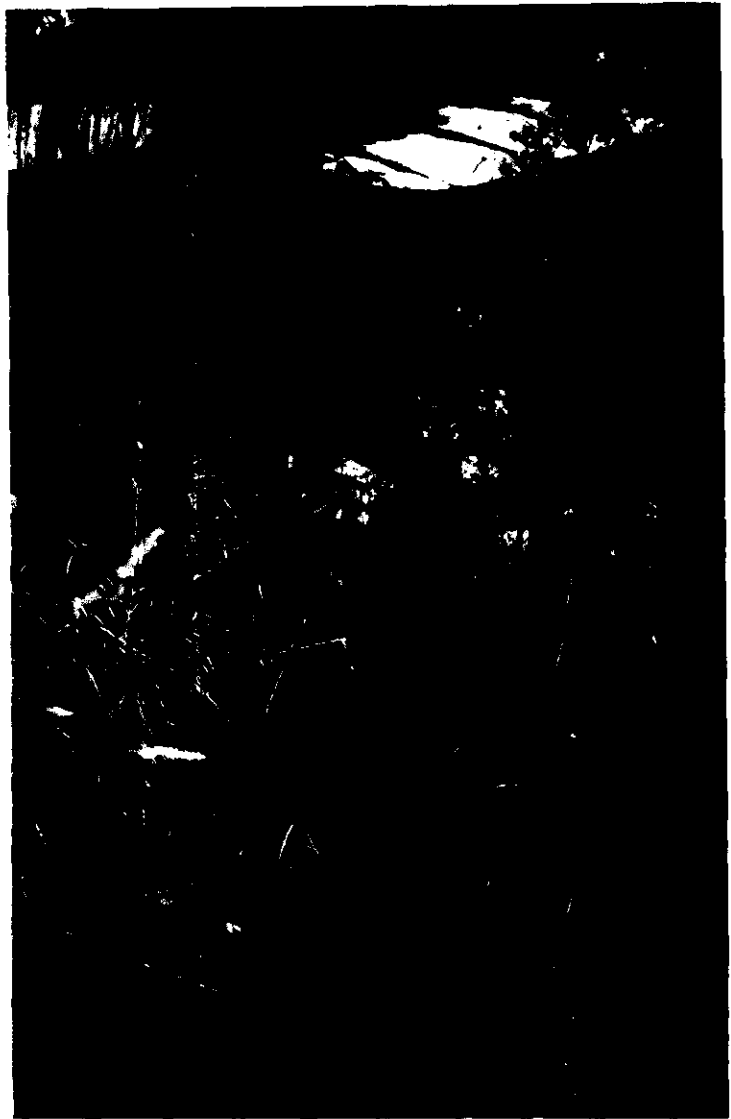
Jim Jones
960 Broadway, Suite 310
Boise, ID 83706

Kirk MacGregor
Dee, MacGregor and Fales
416 West Main Street
Grangeville, ID 83530


Diana R. Delaney
Legal Secretary and Deputy
Clerk of the Court

P/O - unnamed stream
 showing 4" diversion
 pipe

PHOTO ONE-



1" outlet
 pipe from
 4" p/d (above) -
 this is point
 where stream
 water can
 reach pond

PHOTO TWO-

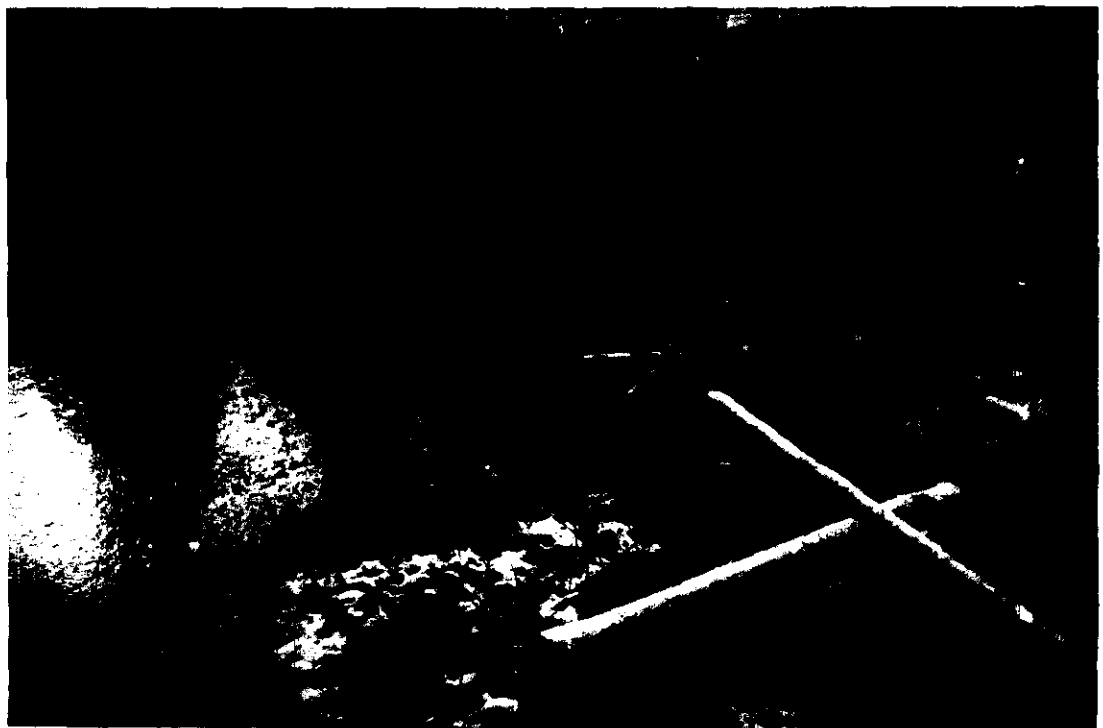




PHOTO THREE-

P/D Spring - overflow emerges between
large & small pipe under A-frame cover



PHOTO FOUR-

closer view of spring - overflow seen
between pipes, center view.

Large pipe = Pits = 78-07109
A78-10343

Small pipe = Barn et al
78-07265



PHOTO FIVE-

VIEW looking up pond (P/U) showing
overflow from spring via small channel.



PHOTO SIX-

* This 9/11/92 photo from owners -
showing pond in use for
fire protection.
Photo dated on back.

May 1, 1992

DAVID PITTS
CAROLYN PITTS
HC 75 BOX 3552
NEW MEADOWS ID 83654

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 78-07324

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 WESTERN Regional Office in Boise at (208)334-2190.

Sincerely,

Karen L. Gustafson
Secretary/Records Manager

c: IDWR - Region

MAY 21 1992

RECEIVED
APR 29 1992

OFFICE USE ONLY

Amt. of Fee \$ 100.00
Date 4.25.92
Receipt No. 0023036
Receipt by LB

STATE OF IDAHO

Department of Water Resources

DEPARTMENT OF WATER RESOURCES

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 a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 78-07324 Telephone No. (208) 628-3010
2. Name(s) of Permit Holder(s): DAVID & CAROLYN PITTS
3. Mailing Address: HC 75 Box 3552 New Meadows, ID 83654
4. Source of Water: Unnamed Stream; Spring
- If GROUNDWATER, Well Driller's Name: N/A Date Drilled: N/A

OPTIONAL:

Pump horsepower: N/A Pressure (psi): N/A Dynamic pumping level (ft.): N/A

5. Extent of Use (as authorized by the permit):

Domestic X Fire protection pond. (No. of households) Stockwater _____ (No. and type of stock)

Irrigation _____ (No. of acres) Other Fire

6. Total rate and/or volume for which proof is submitted .50 cfs OR _____ acre/feet
7. Refer to the approval conditions on your permit and respond accordingly:

Measuring device: Required? _____ Yes X No Installed? _____ Yes X No

OR

Flow Measurement Port: Required? _____ Yes X No Installed? _____ Yes _____ No

8. Fee Enclosed: \$ 100.00 (See License Fee Schedule on back of Instruction Sheet)

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

Name

Telephone No.

Address

10. The above information 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.

RECEIVED
MAY 21 1992

Date

Signature (and title, if on behalf of a company or organization)

27 Apr 92 Carolyn Pitts

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 78-07324 Reviewed by Klg Date 4/29/92

GENERAL CONSIDERATIONS

Yes Name same as permit?
Yes Address same as permit?
Yes Proof timely received?
If not, complete calculation below.

TYPES OF USE

Fire Protection
Correct Uses? Yes

SOURCE OF WATER

☒ Surface water source
☐ Ground water source

NA Drilling permit required?
☒ Copy in the file? Drilling Permit No. _____
☒ Amount paid for permit _____ Correct?
☒ Well log in the file?

LICENSE EXAMINATION FEE

Yes Required?
100 Amount Submitted
Yes Correct?

MEASURING DEVICE

NA Required?
☒ Installed?
☒ Waiver requested?

PRIORITY CALCULATION

Date proof received NA _____
Date proof due _____ - _____
No. of days late _____ = _____
Priority Date _____ + _____
New Priority Date ✓ _____

DEFICIENCIES OR ACTION ITEMS

proof acceptable

DATA ENTRY

New Address _____

Proof Made 4/29/92
5/1/92 Klg



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

January 21, 1992

DAVID PITTS
CAROLYN PITTS
HC 75 BOX 3552
NEW MEADOWS ID 83654

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 78-07324

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. We direct your attention to the conditions of approval on the final page.

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,

PAMELA SKAGGS
Technical Records Specialist

PS:blm

Enclosures

JAN 24 1992

APPLICATION FOR PERMIT REVIEW

Application #: 78-7324
 Date: 01-10-92

Reviewer: Pam Skaggs ²⁸

✓ Existing:

✓ No - 26A-P17
 ✓ Complete in 1 year - P16

Yes

Proof not submitted - P16
 Proof submitted - N/A

Groundwater:

GT. 0.2 cfs - 01G-P03, 01C-P03 (existing well)
 LT. 0.2 cfs - N/A

Drilling Permit:

Approved w/permit - P99
 Not included - 046-P23 (All GW, even existing wells)

✓ Location:

✓ Water Districts - WD No. _____
 Surface water - 005, 005-01H-P01 (LT.2 w/pump)
 005-01J-P08 (GT.2)

Groundwater - P05

Irrigation Districts - 023

Canal Co. Areas - 023

Drainage Districts - 024

Boise Front (63) - 050 (Groundwater)

✓ Swan Falls Flag - _____ (1, Blank or Other)

Trust - 051-052-053-P74 (Consumptive Uses)

Non Trust - 048-049

River Basins:

(Surface Water) Water District Control Condition &....

Boise (63) - 05A & 11E

Payette (65) - 047-P04, 059-P71

Snake (01, 02 & 03) - 11A-P04 (01), 061-P07 (02/03 No W.D. Cond.)

✓ Use:

Fish Propagation - 06A, 09E-P10 & 010 (WQ/Choose One),
 042 (req.), 002-P06 (MD), 07A (Spec.),
 044 (Policy 5G)

Power - Use Power Review

Mining - 06A, 010, or 09E-P10 & 054 (req.)

✓ Storage - 18A-for multiple measuring devices (In WD),
 18B-P09 (Size)

Rec. & Aesthetic - 027 (Non-Consumptive)

Domestic - 021 (restricted areas)

Ownership:

Non land owner - 004

Protested:

Agreement - 020

✓ Beneficial Use Due Date: - 01-01-1993
 Other Conditions Recommended _____

JAN 24 1992

Form No. 202a.
10/90

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

INITIAL REVIEW BY: RZ DATE: 10/16/91 APPLICATION: 78-07324

REQUIRED INFORMATION

Name: (If applicant is a corporation or partnership, names and addresses for the director, officers, and other partners must be included.)
Address:
Source: (See USGS Quad for names of water sources)
Point of Diversion: (10 acres for spring, lot & block descriptions for Subdivisions, local name)
County:
Quantity: (flow and/or volume) SEE NEXT PAGE
Period of use: Gov't. Lots: N P/D
N P/U
Nature of proposed use: (Include description of use)
Description of diverting works:
Time required for beneficial use of water:
Place of use or acres irrigated:
Map:
Signature: (If applicant is corp., partnership, or municipality, title of signatory is required)
Fee:
Yes No* In form to receipt:

ADDITIONAL INFORMATION

YES NO

☒ Overlapping place of use: (Describe source & relationship to present application on the back.)
☒ Overlapping point of diversion:
 Field check required: Field check by:
 Field report attached:
 Critical groundwater area:
 Groundwater management area:
 Diversion within interim protected river area
 Send dam safety information:
 Send power requirement letter:
 Send fish farm requirement letter:
 Power residency affidavit:
 Power efficiency form:
 Within trust water boundary: (If yes, attach Trust Water Supplementary Analysis Sheet.)
 Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres: (If yes, attach Large Diversion supplementary analysis sheet.)
 *REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

RECEIVED
DEC 13 1991

Department of Water Resources

DATE REQUESTED:
☒ Additional information on reverse side:

DAVE

This appl. includes the controversial spring that Cindy (sister) at earlier time became involved in.

PROCESSING

APPLICATION NO. 78-07324

YES NO

☒ ☒
☒ ☒
☒ ☒

In form for advertising:

Statewide advertising:

Fee amount, receipt number and date recorded on application:

SEND COPIES TO

YES NO

☐ ☒
☐ ☒
☐ ☒
☐ ☒

I.D. Health and Welfare

I.D. Fish and Game

I.D. Lands

Adjudication Bureau

YES NO

☐ ☒
☐ ☒
☐ ☒
☐ ☒

U.S. BLM

U.S. Forest Svc.

Water Dist. # _____

Other _____

FINAL REGIONAL PROCESSING REVIEW

YES NO

☒ ☒
☒ ☒

Affidavit of publication received:

Application published correctly: If not, record action taken.

☒ ☒
☐ ☒
☐ ☒
☐ ☒
☐ ☒
☐ ☒
☐ ☒
☐ ☒
☐ ☒
☐ ☒

Publication dates and paper recorded on application:

Protests received. Final date for protest November 25, 1991

Protest dates, resolution of protest recorded on application:

Recommendations attached: Approve, DWR

Measuring device required:

Measuring port required:

Water delivered by water master? District # _____

Special conditions of approval or cover letter: _____

See below for additional information

Recommended Date or Priority 10/11/1991

Recommended by: DWR

Date 12/5/1991

STATE OFFICE REVIEW

See below for additional information. By _____

Date _____

ADDITIONAL INFORMATION

NOTE: RATE v. VOLUME STORED 24 HRS.

ALTHOUGH $(.5)(1.9835) \approx 1$ A.F. / 24 HRS. = POND CAPACITY,

APPLICANT WANTS TO INCLUDE RATE & STORAGE USES SINCE UN-

CERTAIN ABOUT ACTUAL RATE OF FLOW.

OVERLAP: P/O same spring as 78-07109, 78-07265, A78-10343.

Plu " " " " " other
uses on same + other property as in application.

Applicants' Rights from Spring in question: 78-07109 & A78-10343
(1 AC. irrig) (2/1)

No overlap found for same stream which, per conv. with CJH
as agent preparing application, is expected to be main source of flow.
Spring will provide water only as minimally available.

SEE
PROOF REPORT
A78-10343

Water Right Number - A78-10343

Prefix Translation: ADJUDICATION CLAIM

Old (D) Number -

--- Last Name --- +

+ First Name --- +

+ Address --- +

*** C - CURRENT OWNER ***
PITTS

DAVID G.

1 - HC 75, BOX 3552
2 -
3 -

State- ID Zip- 83654

*** O - ORIGINAL OWNER ***
KOLB

WERNER

1 - HC 75
2 - BOX 3552
3 -

State- ID Zip- 83654

--- Priority Date --- +
01/01/1962

--- Region --- +
ERROR IN REGION

--- Stage --- +
J - BENEFICIAL USE

--- Status --- +

--- Source --- +
SPRING

--- Tributary --- +
SINKS

Twn	Rng	Sec	Tract	Lot	R/Lg	County	Point of Diversion	Stream Index (Blank if no Index Code)
22N	01E	26	NW SE NW			(49) IDAHO		

Code	Description	Period From	Period To	Water Use	Diversion Rate	Diversion Volume
43 - DOMESTIC		01/01	12/31		0.020	

+ - Total Div. Rate - + - Total Div. Volume - + - Total Div. Capacity - + - Total Consumptive Use - + - KW Usage - +
0.020

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
22N	01E	26	SE NW			43 DOMESTIC		(49) IDAHO

+ - - Diversion Means - SPRINGBOX WITH PIPELINE TO HOME.

+ - - Non-Irrigation Use - D/1.

+ - - Other Rights for Same Use - 78-07109 FOR IRRIGATION ON SAME PROPERTY.

--- Remarks ---
SPRING IS COMMON POINT OF DIVERSION OF THIS DOMESTIC USE, IRRIGATION OF LAND AROUND HOME (78-07109), AND DOMESTIC USE AT ADJACENT HOME (78-7265). SITE VISIT TO INVESTIGATE WATER SITUATION OCCURRED ON 8/2/88 AND CONFIRMED THE THREE USES AND COMMON P/D. DURING THE VISIT, MR. KOLB PROVIDED INFORMATION ABOUT THE DOMESTIC USE DATING BACK TO 1962. THE ORIGINAL OWNER, MR. SPERLE, NEVER RECORDED THE HISTORICAL DOMESTIC USE. THE INTENT OF THIS

JAN 24 1992

(Handwritten notes)
Spring is common point of diversion of this domestic use, irrigation of land around home (78-07109), and domestic use at adjacent home (78-7265). Site visit to investigate water situation occurred on 8/2/88 and confirmed the three uses and common P/D. During the visit, Mr. Kolb provided information about the domestic use dating back to 1962. The original owner, Mr. Sperle, never recorded the historical domestic use. The intent of this

Water right number - A78-10343

Prefix Translation: ADJUDICATION CLAIM

CLAIM IS TO CLARIFY AND RECORD THE DOMESTIC USE AT KOLB'S HOME.
THE .02 CFS IS NOT CONSIDERED AN ADDITION TO THE LICENSED .04 CFS
FOR IRRIGATION. THE TOTAL USE ON THE KOLB PROPERTY REMAINS AT .04
CFS.
CHANGE IN OWNERSHIP COMPLETED BY L.R.M. ON 1/30/91.

No Old Water Right Numbers found.
No Conditions of Approval found.

- Decree Plaintiff - - - + - - - Decree Defendant - - - + - - - Decree Date - - - 00/00/0000

- Audit Fields - 08/22/88 HARRISON 09/26/89 REFUNDML 01/30/91 WERNER

- Comments -
No Comments Found

- Adjudication Rights Dates and Flags Area - - - - -

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 08/22/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
Proof Due Date	- 00/00/0000	Proof Made Date	- 00/00/0000	Water District	-
Licensed Date	- 00/00/0000	Receipt Number	- W000739	Federal/State Indicator	- S
Claims Tape Error Flag	-	POU Ownership Flag	- Y	Presumption Flag	-
Fee Exempt Flag	-	Name Connector	-	Notice of Error Flag	-

JAN 24 1992

78-07324

PITTS, DAVID
PITTS, CAROLYN
HC 75 BOX 3552
NEW MEADOWS, ID 83654

Source: UNNAMED STREAM
Source: SPRING

Tributary: ELK CREEK
Tributary: SINKS

Diversion Pt: NWSNW Sec 26 T 22N R 01E in IDAHO County.

Use: FIRE PROTECTION	(.500 CFS)	
FIRE PROTECTION STORAGE		(1.00 AF)
FIRE PROTECT. FROM STOR		(1.00 AF)
Total Diversion:	(.500 CFS)	(1.00 AF)

Date Filed: 10/11/1991

T22N R01E S26

SENW

RECORDED

JAN 24 1992