

RECEIVED

JAN 26 1973

AFFIDAVIT of PUBLICATION

Department of Water Administration
Southern District Office

STATE OF IDAHO
County of Twin Falls

ss.

Legal Department

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Pierce, Pierce, and Weaver, a partnership, 110 North Broadway, Buhl, Idaho, has on Dec. 22, 1972, submitted Application No. 47-7173 for a permit to appropriate 8.0 cubic feet per second of water from The J-3 Couley by means of concrete wing dam, ditches, and ponds within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 24, T. 9S, R. 14E, B.M., Twin Falls County to be used from Jan. 1 to Dec. 31 for fish propagation within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 24, T. 9S, R. 14E, B.M. If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Administration, 1041 Blue Lakes Boulevard North, Twin Falls, Idaho, 83301 on or before Jan. 29, 1973.

R. KEITH HIGGINSON
Director

Published in the Buhl Herald,
Buhl, Idaho, on Jan. 11 and Jan. 18,
1973.
(1t2)

I, **Robert E. Bailey**, do solemnly swear that I am the printer and editor of **THE BUHL HERALD**, a weekly newspaper of general circulation, published once each week at Buhl, Idaho; that the notice attached hereto was published in said newspaper two consecutive weeks, the first publication having been made on the 11th day of January, 1973, and the last publication having been made on the 18th day of January, 1973; that said notice was published in the regular and entire issue of every number of the paper during the period and time of publication, and that the said notice was published in the newspaper proper, and not in the supplement thereof.

That said newspaper has been printed and published continuously in **Buhl, Twin Falls County, Idaho**, for a period of more than 78 weeks prior to the first publication of the attached notice.

Robert E. Bailey

Subscribed and sworn to before me this

19th day of January, 1973

Evelyn S. Hatcher
Notary Public.

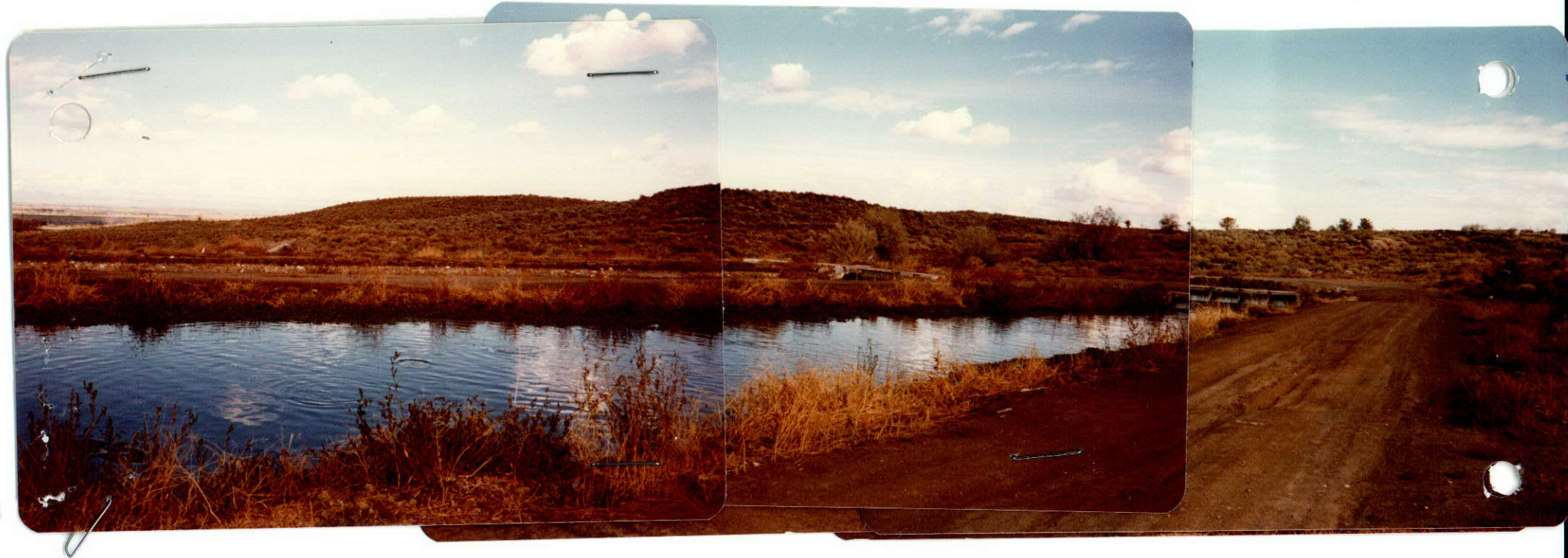
Buhl, Idaho

Residing at

January 1, 1977

My Commission Expires

47 7173

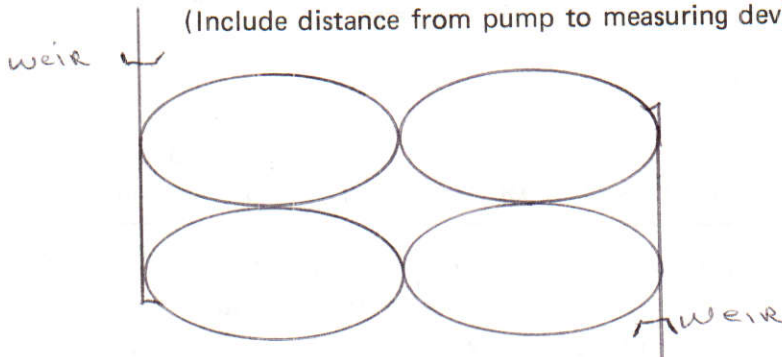


MAP (Attach Aerial Photo)

[illegible]

SCHEMATIC DIAGRAM OF SYSTEM

(Include distance from pump to measuring device, if applicable.)



Point(s) of diversion: 9S 14E Sec. 24 NE, NW,

Place(s) of Use

[illegible]

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 _____

Examiner's Signature Harry - [Signature]

Checked by _____

Approved by _____

Date 7-22-1981

ate _____

late _____

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

(late proof)

License of Water Right No. 47-7173 Priority December 29, 1972 Amount 8.0 cfs

THIS IS TO CERTIFY, that Pierce, Pierce and Weaver
of Buhl, Idaho, has complied with the terms and conditions of Permit
No. 47-7173 issued pursuant to Application for Permit dated December 22, 1972,
and has submitted proof to the Department of Water Resources on September 8, 1977,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 9.15 cfs of water from J-3 Couley,
tributary to the Snake River, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Fish Propagation	from <u>Jan 1</u> to <u>Dec 31</u>	at <u>8.0</u> cfs and	<u>N/A</u>
	from _____	at _____ cfs and	
	from _____	at _____ cfs and	
(both dates inclusive)			

Subject, however, to the condition that no more than 8.0 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
N/A acre feet per year, said waters to be diverted within the NENW Section 24, Twp 9S,
Rge 14E in the County of Twin Falls

Description and location of place of use:

Twp.	Range	Sec.	NE 1/4				NW 1/4				SW 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
9S	14E	24				X									

Total number of acres irrigated _____

Measuring devices of a type approved by this Department shall be maintained
at the point of diversion and point of effluent discharge.

Facility Volume = 1.92 acre feet

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

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

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 3/ day of
August, 19 81.

Director

MICROFILMED

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF REMOVAL OF THE MEASURING)
DEVICE REQUIREMENT FOR PERMIT NO. 47-7173) ORDER
IN THE NAME OF PIERCE, PIERCE, AND WEAVER)

WHEREAS, on December 12, 1972, Pierce, Pierce and Weaver, a partnership applied to the Department of Water Resources for a permit to appropriate 8.00 cubic feet per second of water from J-3 Coulee to be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 24, Twp. 9S, Rge. 14E, B.M., Twin Falls County, to be used for fish propagation; and,

WHEREAS, on August 24, 1973, the Department approved said application and issued Permit No. 47-7173 with the conditions that: 1) proof of construction of works and application of water to beneficial use be submitted to the Department on or before September 1, 1977, and 2) that a measuring device of a type approved by the Department be permanently installed and maintained at the point of diversion and at the point of effluent discharge; and,

WHEREAS, the Department received the required proof of application to beneficial use, and also received a request for a waiver of the requirements for the measuring device at the point of diversion due to installation difficulties and since a flow measuring system has been established at the point of effluent discharge; but,

WHEREAS, the water supply in J-3 Coulee is in high demand as evidenced by the existence of at least two court decrees which provide for delivery of waters from said coulee; and,

WHEREAS, both measuring devices are necessary to determine whether water for downstream appropriators is diminished by the system described by this permit;

IT IS, THEREFORE, HEREBY ORDERED that the request for waiver of a portion of the measuring device requirement for Permit No. 47-7173, be and is, DENIED.

Dated this 14 day of July, 1980.


E. STEPHEN ALLRED

Director

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 47-7173
IN THE NAME OF PIERCE, PIERCE, AND WEAVER

ORDER OF REINSTATEMENT

WHEREAS, on December 22, 1972, Pierce, Pierce, and Weaver, a partnership filed with the Department of Water Resources (formerly the Department of Water Administration) an application for permit to appropriate 8.00 cubic feet per second of water from J-3 Couley, tributary to the Snake River, to be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 24, Twp. 9S, Rge. 14E, B.M., Twin Falls County, to be used for fish propagation purposes; and,

WHEREAS, on August 24, 1973, the Department approved said application and issued Permit No. 47-7173 with the condition that proof of construction of works and application of water to beneficial use be submitted to the Department on or before September 1, 1977; and,

WHEREAS, on June 30, 1977, the Department notified the permit holders by certified mail that proof of beneficial use was due and instructed the permit holder as to the steps to be taken to make said proof; and,

WHEREAS, on September 9, 1977, the Department notified the permit holders that Permit No. 47-7173 had lapsed for failure to submit the required proof of beneficial use of water; and,

WHEREAS, on September 8, 1977, the Department's Southern Regional Office had received the required proof of beneficial use of water; and,

WHEREAS, Section 42-218a of the Idaho Code provides that a permit may be reinstated upon a showing of reasonable cause within 60 days from the date of the notice of lapsing; and,

WHEREAS, the permit holders have provided a reasonable showing as to why said permit should be reinstated;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 47-7173 be REINSTATED and the priority advanced to December 29, 1972.

Dated this 13 day of October, 1977.


BOBBY D. FLEENOR
Chief, Operations Bureau

Identification No. _____

Application No. 47-7173

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
APPLICATION FOR PERMIT

APPROVED

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

1. Name of applicant Pierce, Pierce, and Weaver, a partnership
post office address 110 North Broadway Buhl, Idaho 83316
2. Source of water supply The J-3 Couley which is a tributary of The Snake River
3. a. Location of point of diversion is NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 24 Township 9 South
Range 14 E. B.M. Twin Falls County; additional points of diversion if any: None
- b. If water is not consumed, it will be discharged into J-3 Couley at a point in NE $\frac{1}{4}$
of NW $\frac{1}{4}$ of Section 24 Township 9 South Range 14 E. B.M.
4. Water will be used for the following purposes:
Amount 8 cfs ^{Fish} ~~for propagation~~ purpose from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. Eight (8) cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Concrete wing dam with open
ditch to earthen ponds, with cement head, and tail structures
emptying into headgate, and then open ditch back into the same
J-3 Couley.
b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir
capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)
c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use
is 4 years.
b. Estimated construction cost is \$ 6,000.00.
8. Description of proposed uses:
a. If water is **not** for irrigation:
(1) Give the place of use of water: NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 24 Township 9 South
Range 14 E. B.M.
(2) Amount of power to be generated: _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be
supplied with domestic water _____.
(5) If water is to be used for other purposes describe: Fish propagation purposes only.

47 7173

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

TWP.	RANGE	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	

Total number of acres to be irrigated _____

c. Describe any other water rights used for the same purposes as described above. None.

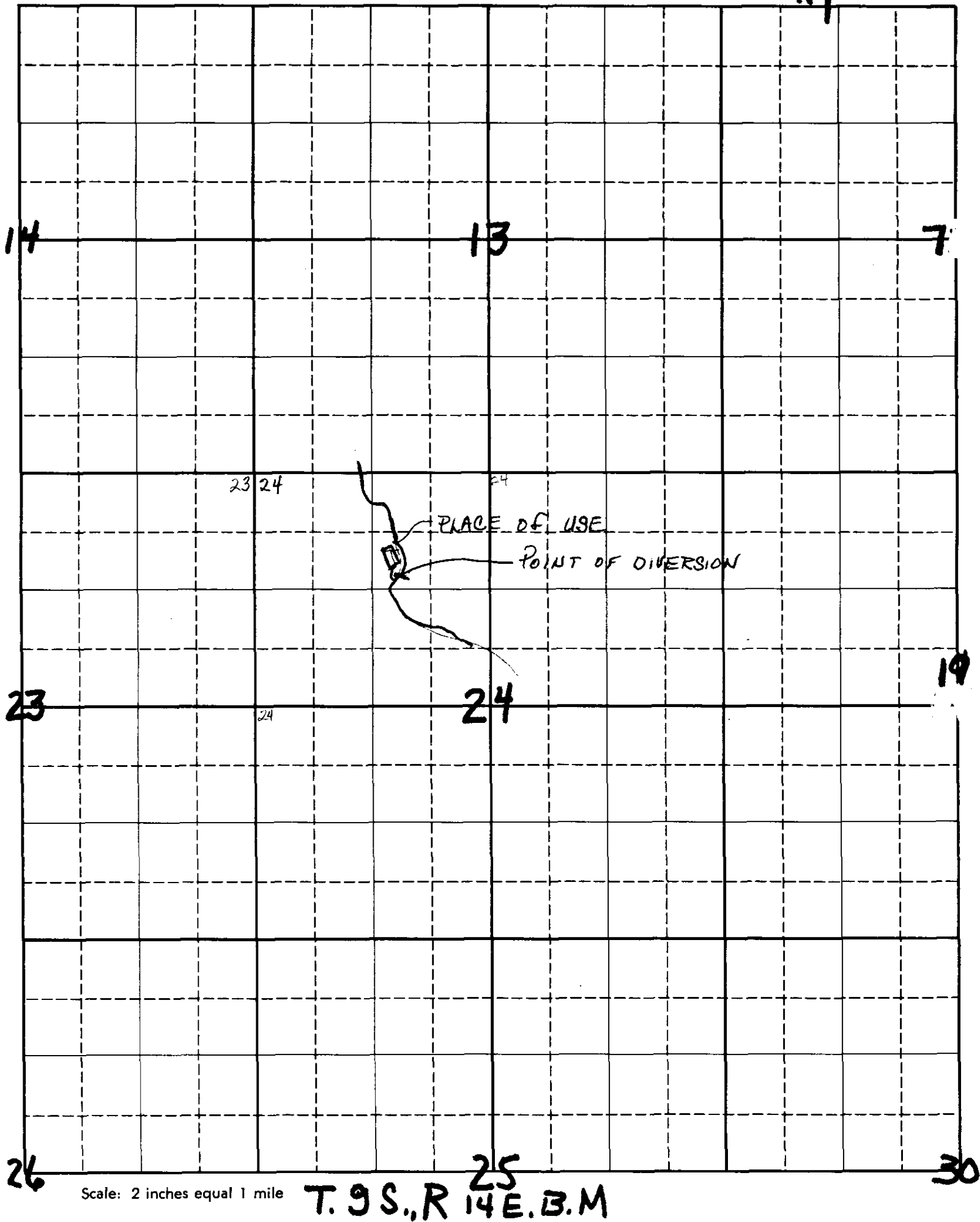
9. a. Who owns the property at the point of diversion Applicant

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 _____

10. Remarks _____

11. 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.

Robert C. Weaver
(Applicant) (general partner)

47 7173

Proposed Priority 12-22-1972

47 7173

Received by af Date 12-22-72 Time 2:30 pm

Preliminary check by Debi Fee \$ 95⁰⁰ 12-22-1972

Received by af Date 12-26-72 # 9151

Publication prepared by alw Date 1-4-73

Published in Buhl Herald, Buhl, ID

Publication dates 1-11 & 1-18-73

Publication approved alw Date 1-26-73

Priority ~~XXXXXX~~ 12-22-72 Reason _____

Protests filed by: Norris Shaub (Theodore V. Behm)

Copies of protests forwarded by alw

Hearing held by _____ Date _____

Recommended for approval denial by af

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER ADMINISTRATION

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 47-7273, and said application is hereby APPROVED.

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 September 1, 19 77.
- c. Other: Measuring devices of a type approved by this Department shall be permanently installed and maintained at the point of diversion and the point of effluent discharge.

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

Witness my hand this 24th day of August 19 73.

R. Keith Higgins
Director

THEODORE V. BEHM
1009 Main Street
P. O. Box 306
Buhl, Idaho 83316
Phone: 543-4397
Attorney for Protestant

RECEIVED
JUL 11 1973
IDAHO DEPARTMENT OF WATER ADMINISTRATION

BEFORE THE IDAHO DEPARTMENT OF WATER ADMINISTRATION

* * * * *

In the Matter of the Application of)
Pierce, Pierce and Weaver) PROTEST
Application No. 47-7173)

* * * * *

COMES NOW, Norris Shaub and protests the above
application and in support of such protest states:

1. That protestant own the following described
real property, to-wit:

The Northeast Quarter of the Southwest Quarter
(NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Thirteen (13), Township
Nine (9) South, Range Fourteen (14) E. B. M.,
Twin Falls County, State of Idaho.

2. That protestant has made a prior filing for right
to take 3.4 cubic feet per second of water for fish propagation
and in addition claims a right to 50 inches of water from the
J-3 coulee or Mendini water for purposes of irrigation.

3. That the applicants cannot beneficially use 8.0
cubic feet of water per second for the purpose set forth in
said application.

4. The right to the use of this water is presently
being litigated in the Supreme Court of the State of Idaho

being case No. 11219.

WHEREFORE, protestant prays that the application be denied.

DATED this 15 day of January, 1973.


Norris Shaub

17 7173

AFFIDAVIT of PUBLICATION

STATE OF IDAHO
County of Twin Falls

ss.

I, **Robert E. Bailey**, do solemnly swear that I am the printer and editor of **THE BUHL HERALD**, a weekly newspaper of general circulation, published once each week at Buhl, Idaho; that the notice attached hereto was published in said newspaper two consecutive weeks, the first publication having been made on the 11th day of January, 1973, and the last publication having been made on the 18th day of January, 1973; that said notice was published in the regular and entire issue of every number of the paper during the period and time of publication, and that the said notice was published in the newspaper proper, and not in the supplement thereof.

That said newspaper has been printed and published continuously in **Buhl, Twin Falls County, Idaho**, for a period of more than 78 weeks prior to the first publication of the attached notice.

Robert E. Bailey

Subscribed and sworn to before me this
19th day of January, 1973

Ervin S. Matthews
Notary Public.

Buhl, Idaho
Residing at

January 1, 1977
My Commission Expires

DEPARTMENT OF WATER ADMINISTRATION
- STAFF ANALYSIS -

Item Initial Date

(1) Application No. 47-7173 Name Pierce, Pierce, and Weaver

(2) RN 1-2-73 Check:

- ☒ Signature
☒ Point of Diversion
☒ Quantity of Water and Period of Use
☒ Description of Diverting Works
☒ Time required for C/W and application of water to B/U
☒ Place of Use
☒ Map
☐ Fee

(3) Send copies to:

- ☐ Idaho State Health Department
☒ Idaho Fish and Game Department
☐ Bureau of Land Management

(4) ☐ Request Special Use Permit from U.S.F.S.
☐ Request Easement from B.L.M.

(5) RN 1-2-73 In form for advertising _____

(6) also 1-26-73 Affidavit of Publication received _____

(7) Final date for protests _____
Protests received: yes ☒ no ☐

(8) Date and Place of hearing Twin Falls March 22 1973
Decision reached at hearing Protest withdrawn August
20, 1973

(9) Located within Water District No. _____

(10) Critical groundwater area: yes _____ no _____

(11) Groundwater levels:

- ☐ Decline (comment) _____
☐ Stable (comment) _____
☐ Increasing (comment) _____

(12) Comments: _____

(13) Action recommended:

☒ Approve

Priority 12-22-72

☐ Deny

Reason for Reduction _____

☒ See attached sheet for conditions of approval

No conditions for approval

(14) District Southern

By Bob Haynes

Date 8-20-73

Title Dist **RECEIVED**

47 7173

AUG 22 1973

RECOMMENDED

CONDITIONS OF APPROVAL

☐ A measuring device of a type approved by this Department shall be permanently installed and maintained as part of the diverting works.

☒ Measuring devices of a type approved by this Department shall be permanently installed and maintained at the point of diversion and the point of effluent discharge.

☐ Use of water under this permit is supplemental to all existing water rights with the same purpose and place of use.

☐ Maximum rate of diversion shall not exceed _____ c.f.s.

☐ Settling ponds shall be installed which are capable of reducing the silt load in the return water to such a level that the quality of the waters of _____ Creek will not be impaired for other beneficial uses.

☐ Return water shall be treated to insure that the effluent meets (interstate) (intrastate) stream water quality standards.

☐ Use of water under this permit is subject to control by the watermaster of State Water District No. _____, _____ River.

☐ The proposed well shall not be drilled within _____ feet of another well.

☐ The issuance of this permit in no way grants any right-of-way or easement across the land of another person.

☐ The permit shall not be assigned or sold without first securing the written approval of the Department of Water Administration.

☐ This permit cannot be assigned, mortgaged, or conveyed without complying with Section 42-208, Idaho Code.

☐ Other: _____

MICROFILMED



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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

September 4, 1981

RE: Permit No. 47-7173 PIERCE, PIERCE & WEAVER

Robert C. Weaver
130 N. Broadway
Buhl, ID 83316

Dear Mr. Weaver:

Enclosed is a copy of the Water Right License issued on the above referenced Permit.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

Enclosure

MICROFILMED



State of Idaho
DEPARTMENT OF WATER RESOURCES
FIELD REPORT

47-7173

Permit No.

CONTACT WITH PERMIT HOLDER

	DATE	INITIALS	REMARKS
☐ Appointment letter mailed:			
☐ Telephone call made: (List Telephone No. used)			
☐ Appointment scheduled for: (Date, time, location)	11-5-1979	D.S.	

EXAMINATION

Date 11-5-1979 Accompanied by Robert Weaver Total Q measured 9.15 CFS.
If source is surface water, estimate total flow of source _____
Methods of measurement Contracted Weir Meets Permit requirements? YES

Measurement calculations: 4' CONTRACTED Rectangular Weir Reading 0.80 = 9.15 CFS.
ALLOWED 8.0 CFS. Permit Requests.

WELL/DIVERSION* NO.	HP	MOTOR MAKE	MOTOR SERIAL NO.	PUMP MAKE	PUMP SERIAL NO.	MEASURING DEVICE TYPE	CONDITION OF MEAS. DEV.	REMARKS

System Description (see Remarks)

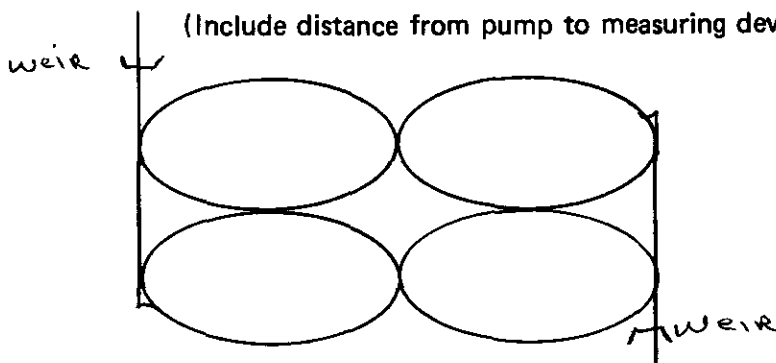
*Code with map on reverse side. Disregard code if only one.

RECOMMENDED AMOUNTS	Irrigation requirement =		AFA/Acre	
	USE	Q (cfs)	V (afa)	FROM TO
FISH PROPAGATION		8.00 CFS		Jan 1 Dec 31
Total				

Remarks WATER IS DIVERTED FROM J-3 COULER AND CONVEYED
TO THE (4) FISH PONDS THRU A DITCH, THEN DISCHARGED
BACK INTO ITS NATURAL CHANNEL.
(4) EARTHED PONDS. (30'x200'x4') 2 (30'x150'x4') 2
LETTER OF REQUEST OF THE WAIVER OF THE Inlet
MEAS. Device WAS DENIED. MR. Reid J. Newby HAS MEAS.
THIS SAME FLOW, MEASUREMENTS WERE MADE AFTER DENIAL
of This Request. on. Sept. 12 1980.

				R. 14E				
		.						
		T 9 S						

(Include distance from pump to measuring device, if applicable.)



Point(s) of diversion: 9S 14E Sec. 24 NE, NW,

Place(s) of Use

[illegible]

☐ Change P.D. as reflected above

☐ Change P.U. as reflected above

☐ Add P.D. as reflected above

☐ Add P.U. as reflected above

☒ None
☐ Other

Examiner's Signature Harry - [Signature]

Checked by _____

Approved by _____

Date 7-22-1981

ate

ate

November 6, 1979

REC-11

Mr. Robert C. Weaver
130 Broadway North
Buhl, Idaho 83316

Department
South

Resources
Not Office

Dear Mr. Weaver:

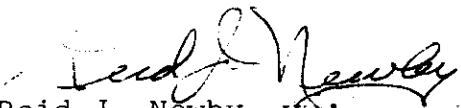
Enclosed please find copy of the current meter measurement made at the outlet of your fish pond approximately four miles North and 1½ miles West of Buhl, Idaho, November 5, 1979.

Using a Type AA current meter #122 rated March 24, 1977, I metered the water from your fish ponds at a point approximately 6 feet up stream from a 36 inch concrete pipe. The cross section was a 2.7 foot wide concrete structure and the depth of the water was 2.5 foot constant. The average velocity was 1.407. There was a total measured flow of 9.15 C.F.S.

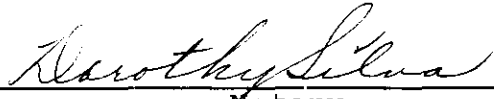
I rated this measurement as good, which is within 5%.

If we can be of further service to you, please call.

Sincerely,


Reid J. Newby, Hydrographer

Subscribed and sworn to before me this 6th day of
November, 1979.


Notary

2-1-83
My commission expires

RECEIVED
NOV 14 1979

Station Number J.3 Cowles - Bob Weaver
 Date 11-5, 1977 Party R. Hawby - Bob Weaver
 Width 2.7 Area 6.50 Vel 1.407 G.H. 2.57 Disch 9.15
 Method 2.8 No. secs. 7 G. H. change +0.2 in 7/12 hrs. Susp. Rod
 Method coef. -0 Hor. angle coef. 0 Susp. coef. 0 Meter No. 3-122

GAGE READINGS			
TIME	RECORDED	INSIDE	OUTSIDE
<u>1:50 P</u>			<u>2.54</u>
<u>2:40</u>			<u>2.58</u>
WEIGHTED M. G. H.			
G. H. CORRECTION			
CORRECT M. G. H.			

Date rated 3-24-78 Used rating

for rod susp. Meter ft.

above bottom of wt.

Wading, cable, ice, boat, upstr., downstr.,

side bridge 1 ft mile, above,

below gage +0.2 R.P.

Measurement rated excellent (2%), Good (5%) fair (8%), poor (over 8%), based on

following conditions: Cross section Concrete Vertical Walls

Flow Steady Weather Warm

Other Air °F @

Gage Will be installed Water 14 = 57°F

Record removed NO Intake flushed U

Control 36" Concrete Pipe.

Remarks R.P. 1:39 to Water Surface

Meas. 30 feet of stream above

36" concrete pipe above 36"

H. of zero flow concrete pipe intake

MICROFILMED

April 4, 1980

Mr. Reid Newby
Box T
Shoshone, Idaho 83352

Dear Reid:

It has come to our attention that you are interested in making a streamflow measurement to satisfy the measuring requirement for a water right permit.

As you are aware, our regulations specify that such measurements must be made by a licensed professional engineer. We are aware that you do not possess this licensure; however, due to your extensive water measurement experience and your familiarity with the rules and regulations of this Department, we will accept your notarized streamflow measurements in lieu of measurement by a licensed engineer.

Sincerely,

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

✓cc: Loren Holmes
Southern Region

July 17, 1980

Robert C. Weaver
130 N. Broadway
Buhl, ID 83316

Dear Mr. Weaver:

Re: Pierce, Pierce and Weaver
Permit No. 47-7173

Enclosed is a copy of the order indicating the Department's decision on your request for waiver of a portion of the measuring device requirement.

Sincerely,

DAVID R. RUTHILL, JR.
Supervisor, Water Allocations Section

DRT:rf

Enclosure

RECEIVED

JUN 18 1980

Department of Water Resources

June 17, 1980

TO: Dave Tuthill *DT*
FROM: Gary Funderburg
SUBJECT: 41-7173 (Permit)

My recommendations for this permit as to measuring device requirements are as follows:

The inlet and outlet are installed and have been measured (see field report). Applicant has had Reid Newby measure outlet prior installation of devices. After reviewing source and prior decree of this source I suggest permit holder a measuring device be maintained or available for future problems that might arise.

MICKFILMED

INTER-DEPARTMENT MEMO — 1

FROM

Dave Tuthill

DATE

04-22-1980

TO

Gary Funderburg

SUBJECT

41-7173

RE: Request for removal of measuring device requirement.

Please write up your recommendations on this m.d. requirement for the file. I know that we discussed this on the phone, but we need adequate documentation for the decision.

Thanks.

Dave

SIGNATURE

INTER-DEPARTMENT MEMO — 1

FROM Glen S
TO Dave T

DATE 4-21-80

SUBJECT - From the info in the file I can't determine whether the request is reasonable or not. We have waived M.D. in the past on similar requests based on field investigation.

I suggest someone from S. Re. field inspect & make some recommendation to us.

[Signature]

SIGNATURE

MICROFILMED

Glen:

Do you concur
with this draft order?

Dave

TO _____

DATE _____

PHONE: _____

AREA CODE _____

NUMBER _____

EXT. _____

☐ Telephoned ☐ Returned Your Call ☐ Will Call Again

☐ Please Call ☐ Called to See You

WHILE YOU WERE OUT

TIME _____

ROUTING SLIP

DATE _____	TIME _____
TO: _____	REF. No. (if any) _____
FROM: (show title) _____	_____

FOR YOUR:

- ☐ Information
- ☐ Approval
- ☐ Signature

REVIEW AND:

- ☐ Call Me ☐ See Me
- ☐ Comment & Return
- ☐ Take Proper Action
- ☐ Draft a Reply for Me

PER:

- ☐ Our Conversation
- ☐ Your Request
- ☐ Boss's Request

Dave S.

WEAVER & DYKAS

Attorneys at Law

130 N. BROADWAY
BUHL, IDAHO 83316

ROBERT C. WEAVER

FRANK J. DYKAS
REGISTERED PATENT
TRADEMARK ATTORNEY

November 6, 1979

APR 14 1980

PHONE (208) 543-8268
Department of Water Resources

RECEIVED

NOV 7 1979

Department of Water Resources
Southern District of Idaho

Department of Water Resources
1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301

Attention: Gary Funderberg

RE: Pierce, Pierce & Weaver
Water Application No. 47-7173

Dear Gary:

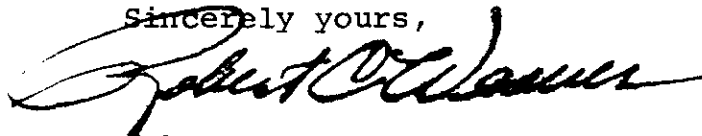
Having made Application for Beneficial Use on the above application and the inspection by the Department of Water Resources it appears it would be very difficult if not impossible to measure the inflow of the waters to our fish propagation facility. At the point of inflow the water is very rapid and it is almost impossible to establish a metering device at that point.

It would appear that water measurements can be taken adequately at the bottom of the facility and Mr. Reed Newby has made measurements and established a water measuring device at the outlet of the fish propagation facility. It would further appear that it would not be injurious to any other property if the water measurements were only taken at the outflow of the fish propagation facility.

I would therefore make a request to the Department to waive the requirements for the measurement of the water at the intake of the fish propagation facility and allow only the one reading at the outflow of the facility.

Thank you very much for your attention in this matter.

Sincerely yours,



Robert C. Weaver

RCW/jms

MICROFILMED

October 14, 1977

Re: Permit No. 47-7173

Pierce, Pierce & Weaver
130 N. Broadway
Buhl, Idaho 83316

Gentlemen:

Enclosed is an Order of Reinstatement; please note that the priority has been advanced to December 29, 1972 on this permit.

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

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

If you have any questions regarding the field examination, please contact our Regional Office in Twin Falls.

Sincerely,

JANICE RENK
Water Rights Bureau

/jr

RECEIVED

SEP 8 1977

STATE OF IDAHO

Department of Water Resources
Southern District Office

DEPARTMENT OF WATER RESOURCES

Identification No. _____

Permit No. _____

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

1. a) Name of Permit Holder PERCE, PIERCE & WEAVER

b) Post Office Address 130 N. Brdwy Buhl, IDAHO

2. Permit Number 47-7173

3. Date of Priority that you are prepared to establish 12/22/72

4. a) Source from which water was appropriated J3 CULLE

b) Location of the point of diversion: NE 1/4 NW 1/4, Section 24

Township 9S, Range 14 E Boise Meridian, Other points of diversion: _____

5. a) The amount of water and use to which the water has been applied:

Amount 8 cfs for FISH PROP purposes from JAN 1 to DEC 31 incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)

Amount _____ for _____ purposes from _____ to _____ incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)

Amount _____ for _____ purposes from _____ to _____ incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)

b) Total amount appropriated 8 cfs cfs and/or acre-feet per annum

c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifications of the person making the measurement: MEASUREMENT BY ROBERT C. WEAVER, ATTORNEY AT LAW
OVER 2 ft sq. WEIR'S AT INTAKE & DISCHARGE ON JAN 10, 1977

6. If the means of diversion and conveyance are owned by someone other than the Permit Holder:

a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use:

N/A

b) Describe the agreement or understanding by which you take water from the works:

N/A

7. a) Briefly describe the works for diverting and conveying the water to the place of use, (if from a subterranean source, give the pump size, motor size, size of well casing, depth of well; if from surface water, give brief description of diversion structure and/or canal or ditch) EARTHEN DAM & CANAL

b) Describe the type and size of measuring device which you have installed at your point of diversion:

2 ft SQUARE WEIR

c) Give well driller's name and address and the date the well was completed: _____

8. If for other than irrigation, describe the beneficial use to which you have applied the water and the place of use:

FISH PROPAGATION

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

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

Total number of acres irrigated _____

10. Remarks: _____

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

Aug 28, 1977
(Date)

Rene H. Weber
(Signature)

State of Idaho)
County of Twins Falls) ss.

On this 28 day of August, 19 77, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

[Signature]
Notary Public residing at Idaho

My commission expires 2-22-81



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Cecil D. Andrus
Governor

R. Keith Higginson
Director

Statehouse
Boise, Idaho 83720
(208) 384-2215

September 9, 1977

Pierce, Pierce & Weaver
110 North Broadway
Buhl, Idaho 83316

Gentlemen:

You are hereby notified that under the provisions of Section 42-218a of the Idaho Code, Permit No. 47-7173 has lapsed since you have not notified us that you have completed the project by the date required on your permit. You were provided forms for that purpose in our notice to you dated June 30, 1977.

Your permit cannot be reinstated unless you submit the proof of beneficial use affidavit, enclosed, or show other reasonable cause why the permit should be reinstated within 60 days from the date of this lapse notice.



C. STEPHEN ALLRED
Director

CSA:jfr

Encl.

RECEIVED

June 30, 1977

CERTIFIED MAIL

18862069

Re: Permit No. 47-7173

Pierce, Pierce & Weaver
110 North Broadway
Buhl, Idaho 83316

Gentlemen:

One of the conditions of approval of your water Permit No. 47-7173 (see last page of your approved permit) was that evidence of the extent of development be submitted as proof of application of water to beneficial use to this office on or before September 1, 1977. Enclosed is an affidavit form which must be used to submit the required proof of beneficial use.

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

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



C. STEPHEN ALLRED
Director

CSA:jfr

Enc: Proof affidavit

August 28, 1973

Re: Permit No. 47-7173

Pierce, Pierce, & Weaver
110 North Broadway
Buhl, Idaho 83316

Gentlemen:

Enclosed is a copy of your approved Application for Permit No. 47-7173. We direct your attention to the conditions of approval as listed on the fourth page.

Be sure to note that a special condition requiring you to install and maintain a measuring device at your point of diversion has been placed upon your permit. We are enclosing a letter describing different types of measuring devices accepted by this office.

Sincerely,

BOBBY D. FLEENOR
Assistant Director

BDF:cd

Enclosures

47 7173

I, Norris Shaub, hereby withdraw my protest of Application No. 47-7173
filed by Pierce, Pierce & Weaver based on Mr. Weaver's statement that his
diversion would be below my point of diversion.

Norris Shaub

Signed this 20th day of August, 1973.

47 7173

MEMORANDUM

TO: File No. 47-7173 - Pierce, Pierce, and Weaver
FROM: Bob Haynes
SUBJECT: Conference held in Twin Falls - March 21, 1973

1. Mr. Weaver stated that his diversion of the water and the return of the water to Mendini Tunnel would be below the diversion from the Mendini Tunnel of Norris Shaub. He further stated that there would be no diversions from the Tunnel between his point of diversion and point of return.

2. He agreed to operate the fish ponds in such a manner that flushing of the ponds would not interfere with downstream users.

3. Norris Shaub agreed to withdraw his protest based on Mr. Weaver's statement that the diversion for his fish ponds will be below Mr. Shaub's irrigation diversion. Mr. Shaub will provide us with the letter withdrawing the protest.

47 7173

SENDER: Be sure to follow instructions on other side

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S)
(Additional charges required for these services)

☐ Show to whom, date and address
where delivered

☐ Deliver ONLY
to addressee

RECEIPT

Received the numbered article described below

REGISTERED NO.

SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)

CERTIFIED NO.

29

1

Robert C. Weaver

2

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

INSURED NO.

By Karen M. Meyers

DATE DELIVERED

SHOW WHERE DELIVERED (Only if requested, and include ZIP Code)

2-1-72

3

12 7173

U.S. POSTAL SERVICE
OFFICIAL BUSINESS



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



Postmark of Delivering Office

SENDER INSTRUCTIONS

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

- If special services are desired, check block(s) on other side.
- Moistener gummed ends and attach to back of article.

**RETURN
TO**

Dept. of Water Administration
1041 Blue Lake Blvd
Twin Falls, ID 83301

17 7173

PS Form 3811 Nov. 1970 c55-16-91277-1

Application No: 47-7173

CERTIFIED MAILING LIST

<u>No.</u>	<u>Name and Address</u>
29	Pierce, Pierce, and Weaver, a partnership 110 North Boradway, Buhl, ID
27	Theodore V. Behm (Also App. 47-7148) Buhl, ID
28	Norris Shaub (Also Apps. 47-7148, <u>47-7160</u>) Route 4, Buhl, ID

47 7173

BEFORE THE DEPARTMENT OF WATER ADMINISTRATION
OF THE
STATE OF IDAHO

In the Matter of Protest Against Approval }
of Application for Permit No. 47-7173 in }
the name of Pierce, Pierce, and Weaver, }
a partnership }

NOTICE OF CONFERENCE
AND/OR HEARING

On December 22, 1972, Pierce, Pierce, and Weaver, a partnership filed with the Department of Water Administration an application to appropriate the public waters of the State of Idaho. On January 19, 1973, the Department received a protest against approval of said application from Norris Shaub.

The Department has set the matter of protest for conference and/or hearing for Thursday, March 22, 1973, at 1:00 p.m., at the Department of Water Administration, 1041 Blue Lakes Boulevard North, Twin Falls, Idaho. Any hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Administration. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

Any party desiring the taking of stenographic notes by a qualified court reporter must request such in writing at least five (5) days before the date set for hearing and must submit to the director the name of a qualified reporter who is available on the date set for hearing. The party requesting the reporter shall bear the expense of the reporter's attendance fees. A taped record of the proceedings will be maintained for the appeal period.

Failure to appear at the time and place set for hearing by the applicant or protestant may allow the Department without prejudice to dismiss the protest or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this twenty-eighth day of February, 1973.

47 7173



BOB HAYNES
District Engineer

April 20, 1973

Mr. Ted Behm
Buhl, Idaho
33310

Dear Mr. Behm:

At the conference held in Twin Falls on March 21, Mr. Shaub indicated that he would withdraw his protest of the Application for Permit filed by Pierce, Pierce, and Weaver. To date, we have received no correspondence concerning this matter.

If Mr. Shaub has changed his mind, please inform us; if not, please have him withdraw the protest so that we may issue the permit.

If you have any questions, don't hesitate to contact us.

Very truly yours,

Bob Haynes
District Engineer
Southern District

BH:alw

47 7173

April 20, 1973

Mr. Ted Behm
Buhl, Idaho
83316

Dear Mr. Behm:

At the conference held in Twin Falls on March 21, Mr. Shaub indicated that he would withdraw his protest of the Application for Permit filed by Pierce, Pierce, and Weaver. To date, we have received no correspondence concerning this matter.

If Mr. Shaub has changed his mind, please inform us; if not, please have him withdraw the protest so that we may issue the permit.

If you have any questions, don't hesitate to contact us.

Very truly yours,

Bob Haynes
District Engineer
Southern District

BH:alw

47 7173

The Farmers National Bank

BOX 392

BUHL, IDAHO 83316

March 22, 1973

RECEIVED
Mar 23-73
Department of Water Administration

State of Idaho
Dept. of Water Administration
State House Annex #2
Boise, Idaho 83707

Re: Robert C. Weaver

Gentlemen:

Mr. Robert Weaver has been a customer of this bank for a number of years. At the present time he carries a satisfactory checking account and has funds available to build fish ponds.

This gentlemen holds a good reputation; he is honest, hard-working, and has excellent character.

Sincerely yours,

Shelby Williams
Shelby Williams
Vice President

SW/jw

47 7173

January 22, 1973

Re: Application No. 47-7173 - Pierce, Pierce, and Weaver, a partnership

Pierce, Pierce, and Weaver
110 North Broadway
Buhl, ID 83316

Gentlemen.

We have enclosed a copy of the protest filed against the issuance of a permit pursuant to your Application No. 47-7173. You should be aware that the following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the applicant through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for a conference and/or hearing to discuss the matters of protest. Legal counsel is not mandatory at any proceeding before the Department, although you may desire to employ an attorney in your behalf.

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

Very truly yours,

Bob Haynes
District Engineer
Southern District

BH:alw

Enc.

47 7173

January 22, 1973

Re: Application No. 47-7173 - Pierce, Pierce, and Weaver, a partnership

Theodore V. Behm
P. O. Box 306
1009 Main
Buhl, ID 83316

Dear Mr. Behm:

We acknowledge receipt of the protest submitted in behalf of Norris Shaub to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

Bob Haynes
District Engineer
Southern District

47 7173

BH:alw

P. O. BOX 306
1009 MAIN

AREA CODE 208
543-4397 OR 543-5913

THEODORE V. BEHM

ATTORNEY AT LAW

BUHL, IDAHO 83316

ASSOCIATES

EDGAR R. FRACHISEUR
GOLDEN R. BENNETT

January 17, 1973

RECEIVED

JAN 17 1973

Department of Water Administration
Southern District Office

Department of Water Administration
1041 Blue Lakes Boulevard North
Twin Falls, Idaho 83301

Re: Application No. 47-7173

Gentlemen:

Please file the enclosed Protest to the above-captioned application for water permit which I have prepared on behalf of Mr. Norris Shaub.

Very truly yours,

THEODORE V. BEHM

T. V. Behm
T. V. Behm

1b

Enclosure

Certified Mail

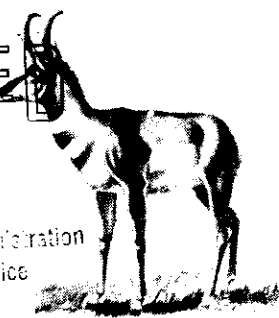
47 7173



JOSEPH C. GREENLEY
Director



RECEIVED
JAN 10 1973
Department of Water Administration
Southern District Office



CECIL D. ANDRUS
Governor

IDAHO FISH AND GAME DEPARTMENT

P.O. Box 138
Jerome, Idaho 83338

January 9, 1973

Mr. Bob Haynes, District Engineer
Idaho Department of Water Administration
1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301

Dear Bob:

I have reviewed application No. 47-7173-Pierce, Pierce and Weaver for permit to divert 8 c.f.s. of water from the J-3 Coulee in Twin Falls. The Fish and Game Department has no objection to this application.

Sincerely,

Robert J. Bell
Regional Fishery Mgt. Biologist
Magic Valley

RJB:1e

47 7173

January 4, 1973

Re: Application No. 47-7173 - Pierce, Pierce, and Weaver, a partnership

Robert Bell
Idaho Fish and Game Department
P. O. Box 138
Jerome, ID 83338

Dear Mr. Bell:

We are enclosing a copy of the above referenced application for permit, which may be of interest to your agency.

Please review the application and if you have any comments, please submit them to our Department as soon as possible.

We normally complete the processing of an application within a six (6) week period and we are required to take final action shortly thereafter.

If we may be of any assistance to you in the meantime, please do not hesitate to contact this Department.

Sincerely,

Bob Haynes
District Engineer
Southern District

BR:alw

Enc.

47 7173

January 4, 1973

Re: Application Nos. 47-7173 - Pierce, Pierce, and Weaver
47-7174 - Edward H. Kerpa

Buhl Herald
P. O. Box 312
Buhl, ID 83316

Gentlemen:

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

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

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

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

(signature of claimant)

Very truly yours,

Bob Haynes
District Engineer
Southern District

Bill submitted 1-26-73 by alw

BH:alw

Enc: Legal Notices (2)

47 7173

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Pierce, Pierce, and Weaver, a partnership,
110 North Broadway, Buhl, ID
has on Dec. 22, 1972 submitted Application No. 47-7173
for a permit to appropriate 8.0 cubic feet per second ~~acre feet per annum~~
of water from The J-3 Couley
by means of concrete wing dam, ditches, and ponds
within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 24, T. 9S, R. 14E, B.M., Twin Falls County

to be used from Jan. 1 to Dec. 31 for fish propagation
~~for~~

within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 24, T. 9S, R. 14E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Administration, 1041 Blue Lakes Boulevard North, Twin Falls, Idaho, 83301 on or before Jan. 29, 1973.

R. KEITH HIGGINSON

Director

Published in the Buhl Herald, Buhl, ID
on Jan. 11 and Jan. 18, 1973

47 7173

LEGAL
**NOTICE OF APPLICATION
FOR WATER PERMIT**

Notice is hereby given that Pierce, Pierce, and Weaver, a partnership, 110 North Broadway, Buhl, Idaho, has on Dec. 22, 1972, submitted Application No. 47-7173 for a permit to appropriate 8.0 cubic feet per second of water from The J-3 Couley by means of concrete wing dam, ditches, and ponds within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 24, T. 9S, R. 14E, B.M., Twin Falls County to be used from Jan. 1 to Dec. 31 for fish propagation within the NE $\frac{1}{4}$ -NW $\frac{1}{4}$, Sec. 24, T. 9S, R. 14E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Administration, 1041 Blue Lakes Boulevard North, Twin Falls, Idaho, 83301 on or before Jan. 29, 1973.

R. KEITH HIGGINSON
Director

Published in the Buhl Herald,
Buhl, Idaho, on Jan. 11 and Jan. 18,
1973. *OK alu*
(112) 1-10-73

17 7173

January 2, 1973

Re: Application No. 47-7173 - Pierce, Pierce, and Weaver, a partnership

Pierce, Pierce, and Weaver
110 North Broadway
Buhl, ID 83316

Gentlemen:

Attached herewith is your Receipt No. 9151 in the amount of \$95.00 for the above referenced Application for Permit which was received in this office on December 26, 1972.

Very truly yours,

Bob Haynes
District Engineer
Southern District

BH:alw

Enc.

47 7173