

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 72-16978

Priority: September 30, 2019

Maximum Diversion Rate: 0.20 CFS

Maximum Diversion Volume: 144.8 AF

It is hereby certified that:

GLORIA BAIRD SCHWARTING
409 RIVER ST
SALMON ID 83467-4162

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated September 30, 2019, and has submitted Proof of Beneficial Use on November 15, 2021. An examination confirms water is diverted from:

Source : PEACH CREEK

Tributary: SALMON RIVER

Beneficial Use

AESTHETIC

Period of Use

01/01 to 12/31

Rate of Diversion

0.20 CFS

Annual Volume

144.8 AF

Location of Point(s) of Diversion

PEACH CREEK SE¼ NW¼, Sec. 25, Twp 11N, Rge 15E, B.M. CUSTER County

Place of Use: AESTHETIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11N	15E	25								X									

Conditions of Approval

1. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No.170.
2. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
3. The right holder shall install or construct a straight length of conduit or ditch suitable for installation of a device for measuring the entire flow of water being diverted in connection with this right. If the right holder uses conduit, the straight length of conduit shall be at least fifteen times the diameter of the conduit and shall be above ground or otherwise easily accessible.
4. Upon specific notification by the Department, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.
5. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
6. This right does not grant any right-of-way or easement across the land of another.

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 72-16978

This license is issued pursuant to the provisions of Idaho Code § 42-219. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 27th day of September, 20 22.

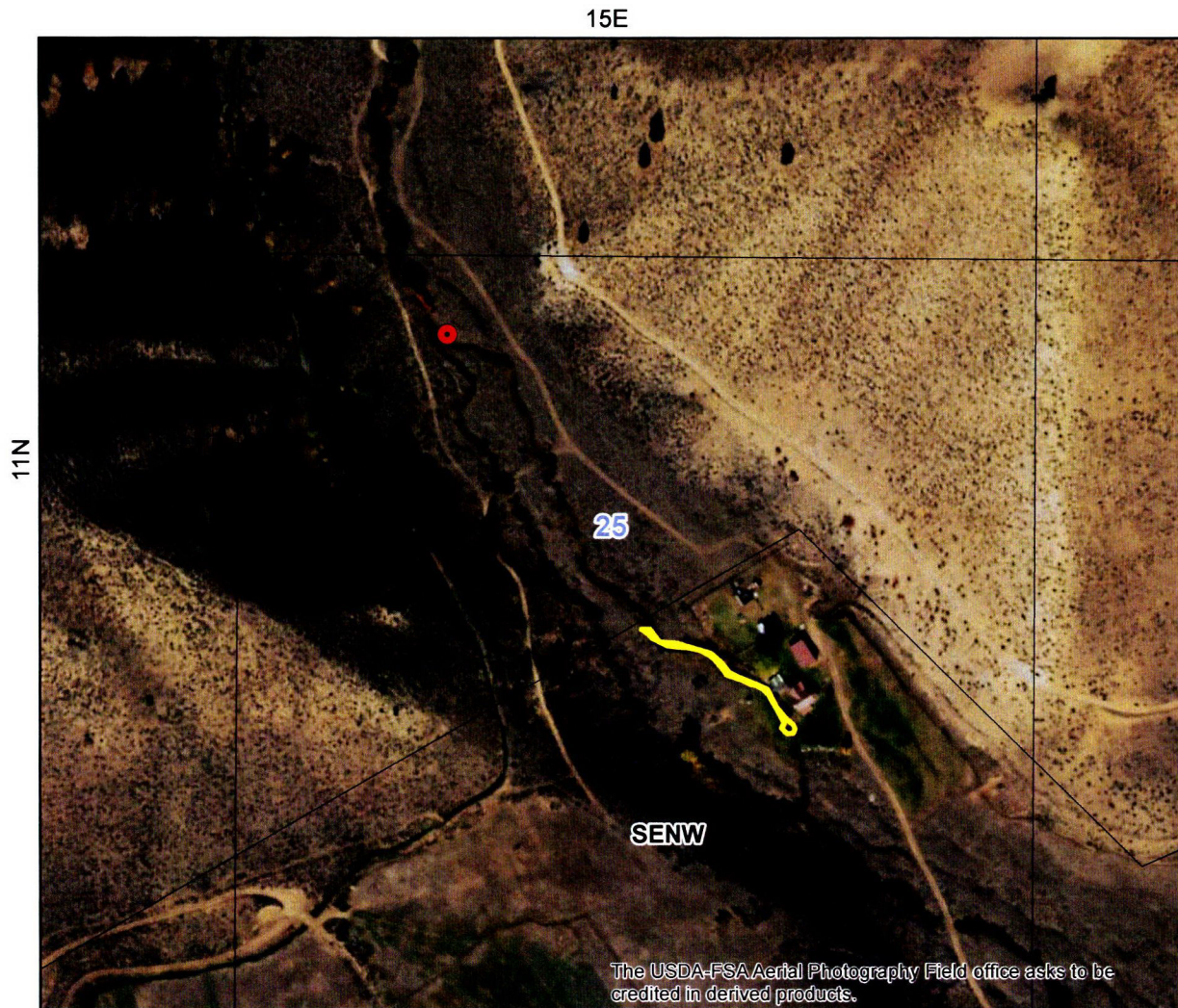


COREY SKINNER
Southern Regional Manager



State of Idaho
Department of Water Resources
Attachment to Water Right License
72-16978

This map depicts the AESTHETIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters
-  Point of Diversion

0 0.035 0.07 0.14 Miles





Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

Phone: 208-736-3033 • Fax: 208-736-3037 • Email: southerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

September 30, 2022

GLORIA BAIRD SCHWARTING
409 RIVER ST
SALMON ID 83467-4162

RE: License No. 72-16978

ISSUANCE OF LICENSE

Dear Water Right Holder(s):

The Department of Water Resources ("Department") has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review all the conditions of approval listed on your license. The conditions may include ongoing requirements, such as maintenance of a measuring device or implementation of mitigation, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district.

The license is a PRELIMINARY ORDER issued by the Department pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Water right forms are available from any office of the Department or on the Department's website at idwr.idaho.gov

If you have any questions concerning the enclosed information, please contact me at (208) 736-3033.

Sincerely,

Corey Skinner
Southern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2022, I served a true and correct copy of Water Right License No. 72-16978 by U.S. Mail, postage prepaid, to the following:

GLORIA BAIRD SCHWARTING (Current Owner)
409 RIVER ST
SALMON ID 83467-4162

WATER DISTRICT #170
DAVID GRAYBILL (Watermaster)
102 S WARPATH
SALMON ID 83467-4435



Denise Maline
Administrative Assistant 1

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

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

(Required by Rule of Procedure 730.02)

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

MEMORANDUM

Date: January 12, 2022
To: Gloria Schwarting Field Exam
From: Kent Aasa
Re: Phone Conversation Memo

Memo
01/10/2022

On December 02, 2021 I performed a field exam for permit 72-16978. Condition 01H required the installation of a lockable works at the point of diversion. On December 30 2021 I mailed a letter via USPS to Gloria Schwarting informing her that a lockable works must be installed so a water right license could be issued. The letter also requested she contact the department within 30 days to prevent voiding the permit.

At 3:39 p.m. on Monday January 10, 2022 Gloria Schwarting contacted me by telephone to discuss her permit. She has agreed to work with David Graybill (watermaster for WD 170) and I to get a lockable works installed in late spring/early summer (depending on the amount of year 2022 runoff).



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Phone: 208-736-3033 • Fax: 208-736-3037 • Email: southerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

December 30, 2021

GLORIA BAIRD SCHWARTING
409 RIVER ST
SALMON ID 83467-4162

RE: Permit No. 72-16978

Dear Gloria:

The Department of Water Resources (IDWR) is reviewing the above referenced permit so we can issue a license for the uses developed. In a review of the file, we notice that you have not complied with the following condition of approval of the permit:

A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

The Department's field examiner found no lockable device on your diversion. You must resolve this issue before a license can be issued. Pursuant to Idaho Code § 42-219(6), if the conditions of approval on a permit are not complied with, IDWR may issue an order voiding the permit or issue a license for only that portion of the authorized use developed in accordance with the permit.

You need to submit documentation that you have complied with this condition. You can install the required lockable device and submit documentation of the installation and then IDWR will be able to issue a license for your development. You may want to contact David Graybill at our Salmon office (208) 742-0658 for guidance on installing the device.

IDWR will withhold further action on your permit for 30 days from the date of this letter in order to allow you time to respond. If IDWR does not receive a response from you within this time period, it will be assumed that you are not interested in pursuing a water right license, and action will be taken to void your permit. If you need additional time to respond, please contact me to discuss your options.

If you have any questions in regard to this matter, please do not hesitate to contact me.

Sincerely,

Kent Aasa
Sr. Water Resource Agent
Southern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION**Permit****No:** 72-16978**Exam Date:** 12-02-2021

1. Current Owner:

GLORIA BAIRD SCHWARTING 409 RIVER ST SALMON ID 83467-41622. Accompanied by: **Tyler Wallace (IDWR) and applicant**3. **SOURCE:**

PEACH CREEK

Tributary

SALMON RIVER

Method of Determination: ArcMap and Field Exam observation**B. OVERLAP REVIEW**1. **Other water rights with the same place of use:** None2. **Other water rights with the same point-of-diversion:** None**C. DIVERSION AND DELIVERY SYSTEM**1. **LOCATION OF POINT(S) OF DIVERSION:**

PEACH CREEK SE¼ NW¼, Sec. 25, Twp 11N, Rge 15E, B.M. CUSTER County

Method of Determination: ArcMap, aerial imagery, and Field Exam observation**PLACE OF USE:** AESTHETIC

Twp	Rng	Sec	NE				NW				SW				SE				Total s
			N E	N W	S W	SE	N E	N W	S W	SE	N E	N W	S W	SE	N E	N W	S W	SE	
11N	15E	25								X									

Method of Determination: ArcMap

2.

- X Delivery System Diagram Attached (required). Indicate all major components and distances between components. Indicate weir size/pipe as applicable.
- X Map Attached Showing Location(s) of point(s) of diversion and place(s) of use (required). Scale must be 1:24,000 or greater.
- N/A Aerial Photo Attached (required for irrigation of 10+ acres).
- X Photo of Diversion and System Attached

D. FLOW MEASUREMENTS

1. **Measurements:** No measurement taken per IDAPA Rule 37.03.02 (Rule 35) Beneficial Use Rules dated 03/29/2012.

E. VOLUME CALCULATIONS

1. Volume Calculations for irrigation: N/A
2. Volume Calculations for Other Uses (Aesthetic): **0.2 cfs = 0.3967 AF/day x 365 days/year = 144.8 AF/year**

F. NARRATIVE/REMARKS/COMMENTS

On December 02, 2021 Tyler Wallace (IDWR employee) and I performed a field exam for permit 72-16978 (0.2 cfs diverted from Peach Creek for aesthetic use). The property is located approximately 12 miles west of Clayton on the north side of Highway 75. Gloria Baird Schwarting (applicant) met us at the property and showed us the developed aesthetic use for a ditch and a splash pond at a cabin. The developed use is a flow-through system and is a non-consumptive use.

Mrs. Schwarting showed us the point of diversion (POD) located on Peach Creek. At the POD a portion of water from Peach Creek naturally flows into a ditch that conveys water approximately 50 feet downstream to a V-notch weir. From the weir water flows approximately 900 feet downstream to the splash pond that holds approximately 14 cubic feet, or 0.0003 AF. Water flows through the pond and returns to Peach Creek at a point approximately 150 feet to the south. Permit condition number 01H required the installation of lockable works and no lockable works were observed during the field exam. On December 30, 2021 the applicant was notified of the need to install a lockable works in order to carry the permit on to licensing. On July 27, 2022 the applicant notified IDWR Southern office that the lockable works was installed. On August 12, 2022 I re-visited the site and verified the installation of the lockable works.

As mentioned above, the applicant installed a measuring device (v-notch weir) although it was not a required condition on the permit. The field exam was conducted on the 2nd day of December 2021, during a time of seasonal low flows, and the weir was useful in determining how much water had been diverted earlier in the season when stream flows were higher. We measured a high water mark on the weir, measured the dimensions of the weir, and used table A7-4 (discharge of 90° V-notch weirs) from the Bureau of Reclamation Water Measurement Manual (Third Edition) to determine that 0.20 cfs had been diverted during the development period earlier in the season.

Because the flow rate on permit 72-16978 is less than 0.24 cfs. no measurement was taken per IDAPA 37.03.02 Beneficial Use Exam Rules. All permit conditions have been satisfied, including condition number 01H, and I recommend licensing permit 72-16978 for 0.20 cfs with an annual volume limit of 144.8 AF.

Have conditions of permit approval been met?

 X Yes No

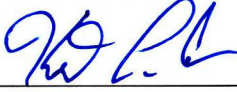
G. RECOMMENDATIONS**1. Recommended Amounts**

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	
AESTHETIC	01/01 to 12/31	0.20 CFS	144.8 AF
<u>Totals:</u>		0.20 CFS	144.8 AF

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	☒ None

H. AUTHENTICATION Kent Aasa -

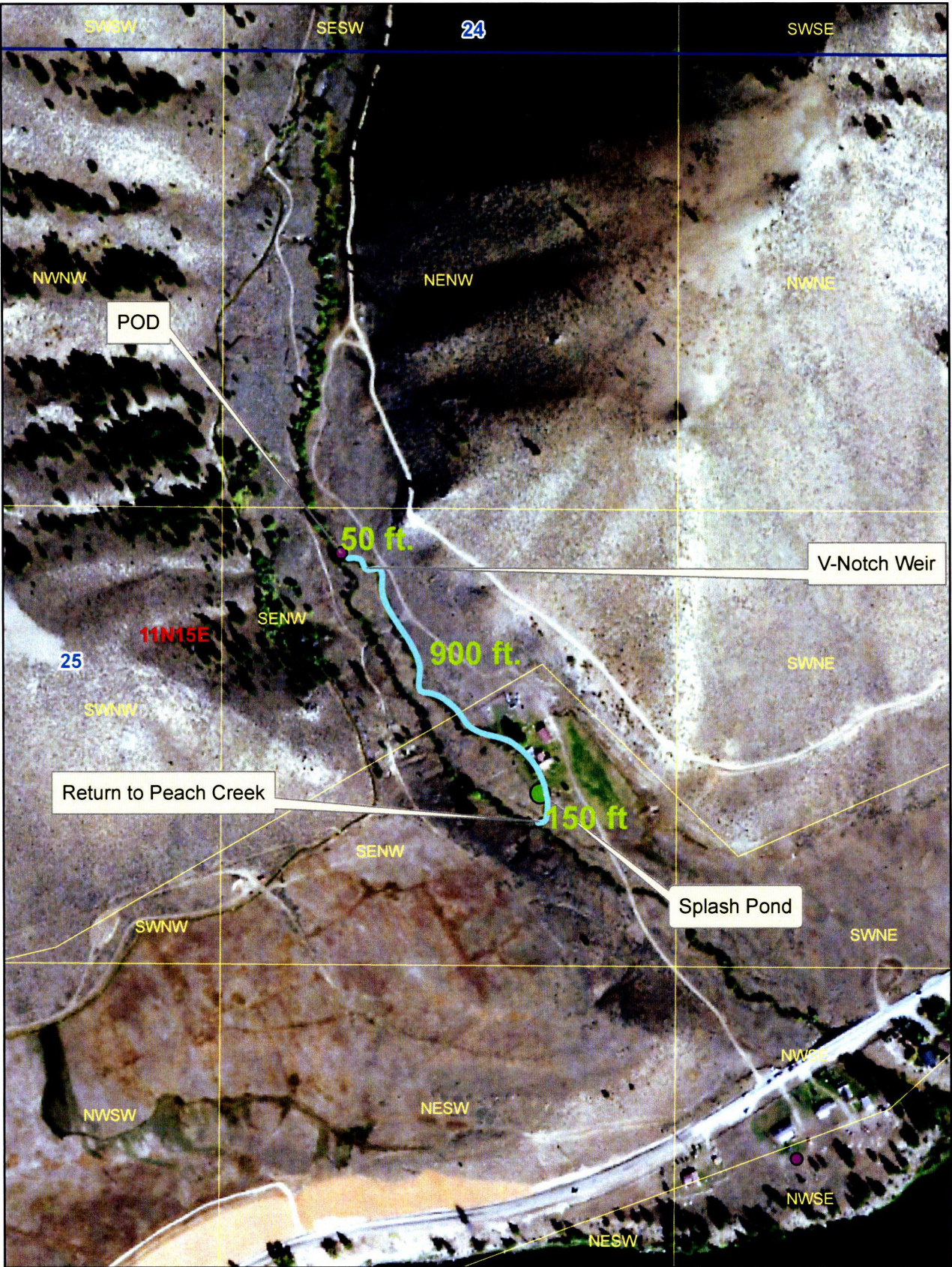
Field Examiner's Name 

Date 09-01-2022

Reviewer _____

Date _____

Permit 72-16978 System Diagram



72-16978

Lockable Diversion Works



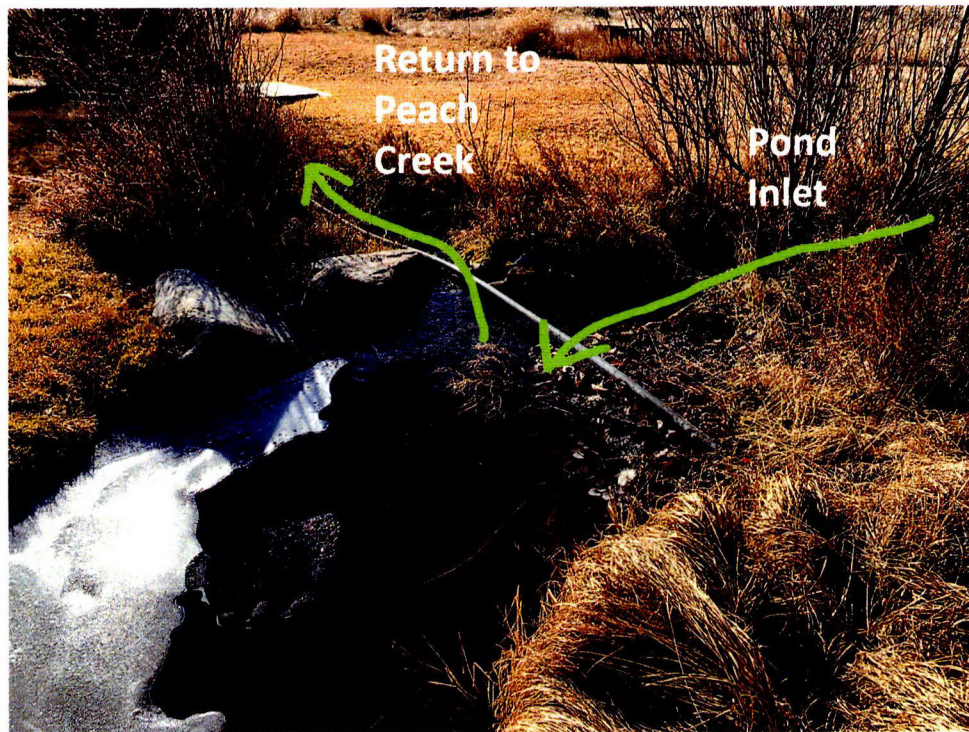
72-16978 POD/LOCKABLE WORKS



72-16978 Measuring Device



72-16978 Splash Pond



72-16978

Return to Peach Creek

