

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 63-34332

Priority: January 17, 2017

Maximum Diversion Volume: 10.2 AF

It is hereby certified that:

H & B CRUSHING LLC PO BOX 117 KUNA ID 83634-0117

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated January 17, 2017, and has submitted Proof of Beneficial Use on March 22, 2022. An examination confirms water is diverted from:

Source : GROUND WATER

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
AESTHETIC STORAGE	01/01 to 12/31		10.2 AF

Location of Point(s) of Diversion

GROUND WATER NE¼ NE¼, Sec. 15, Twp 02N, Rge 01E, B.M. ADA County

Place of Use: AESTHETIC STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	01E	15	X																

Conditions of Approval

1. This right authorizes a total annual storage volume of 10.2 acre-feet, 8.4 acre-feet to be used for the initial filling or carryover storage of the pond and 1.8 acre-feet for the replacement of losses caused by evaporation.
2. The pond established by the storage of water under this right shall not exceed a total capacity of 8.4 acre-feet or a total surface area of 0.7 acres.
3. Water stored under this right is subject to fluctuations of the water table caused by changes in the flow of local streams and by diversions under prior ground water rights. This right does not guarantee the maintenance of any particular ground water level.
4. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.

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JUL 05 2023

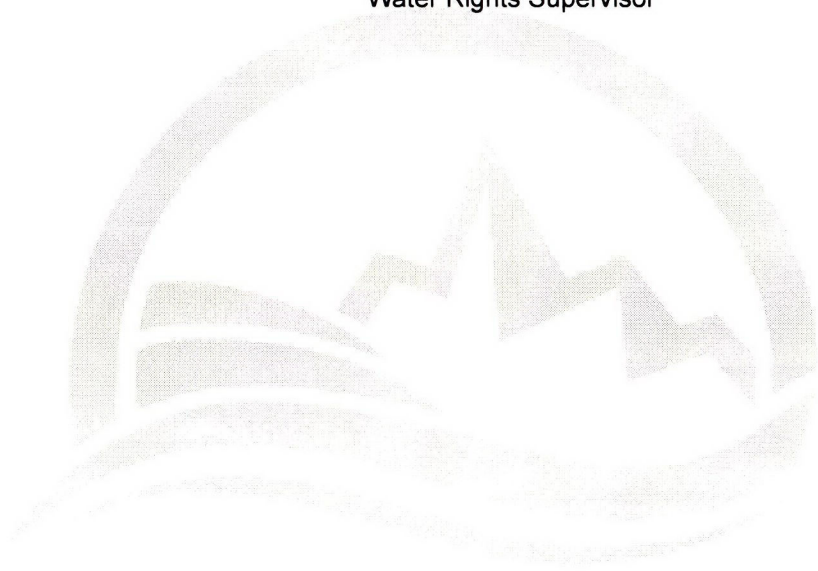
State of Idaho
Department of Water Resources
Water Right License
Water Right No. 63-34332

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 29th day of June, 2023.



SCOTT STORMS
Water Rights Supervisor



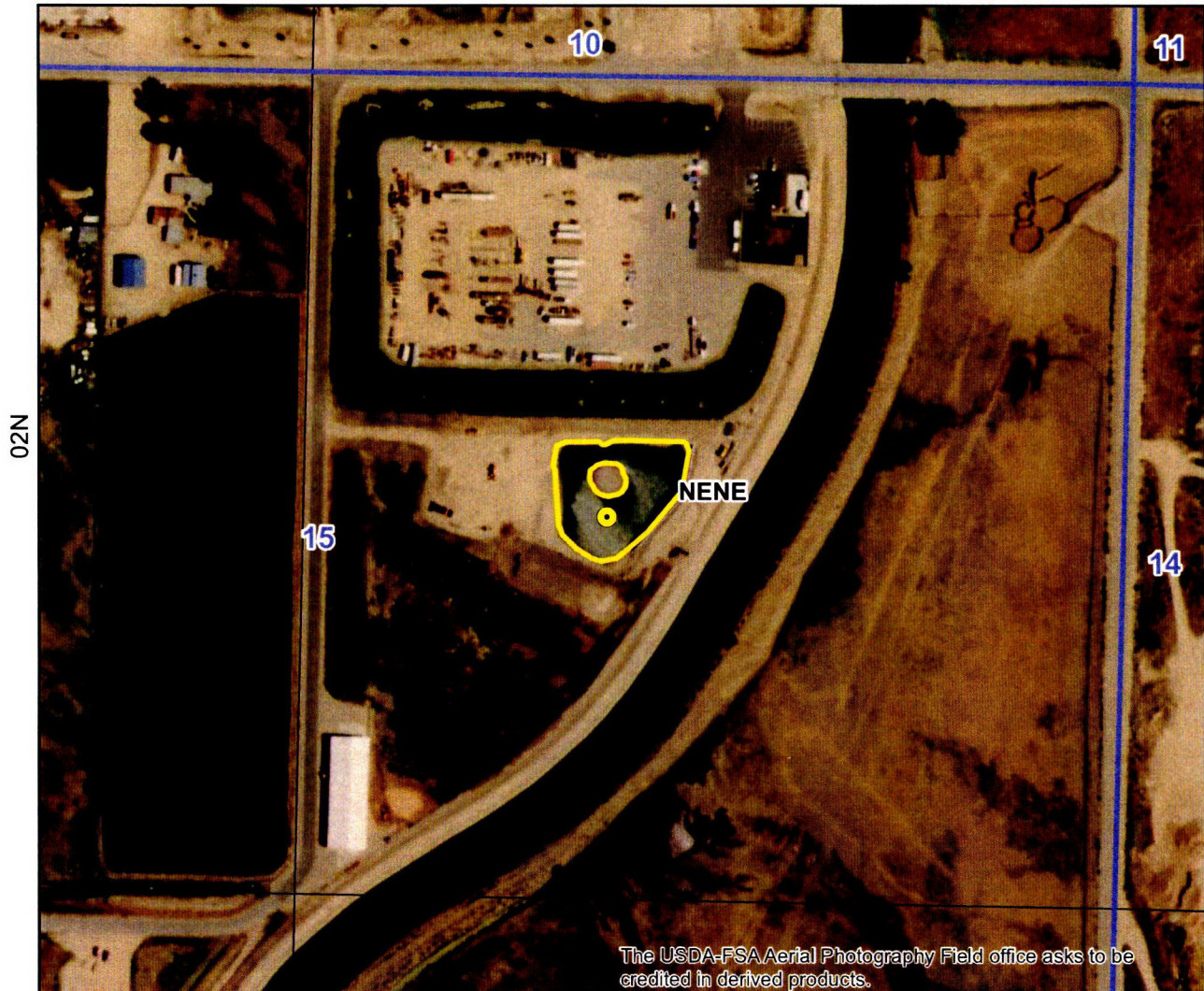
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State of Idaho
Department of Water Resources
Attachment to Water Right
63-34332

This map depicts the AESTHETIC STORAGE 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.

01E



0 0.035 0.07 0.14 Miles

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

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IDAHO DEPARTMENT OF
WATER RESOURCES

Western Region • 2735 W Airport Way • Boise, ID 83705-5082

Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

June 30, 2023

H & B CRUSHING LLC
PO BOX 117
KUNA ID 83634-0117

RE: License No. 63-34332

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) 605-4624.

Sincerely,

Scott Storms
Water Rights Supervisor

Enclosure(s)

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CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2023, I served a true and correct copy of Water Right License No. 63-34332 by U.S. Mail, postage prepaid, to the following:

H & B CRUSHING LLC (Current Owner)
PO BOX 117
KUNA ID 83634-0117

SCOTT KING
HDR INC (Representative)
412 E PARKCENTER BLVD STE 100
BOISE ID 83706-6659



Lynne Evans
Administrative Assistant I

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No: 63-34332
Exam Date: 8/22/2022

1. Current Owner:
H & B CRUSHING LLC PO BOX 117 KUNA ID 83634-0117
2. Accompanied by: Robert Hall
Phone No: 208-866-3461
Address:
Relationship to permit Holder: Same

3. **SOURCE:**
GROUND WATER

Method of Determination: Site visit, aerial imagery, pond intercepts shallow groundwater

B. OVERLAP REVIEW

1. Other water rights with the same place of use: None
2. Other water rights with the same point-of-diversion: None

C. DIVERSION AND DELIVERY SYSTEM

1. **LOCATION OF POINT(S) OF DIVERSION:**
GROUND WATER NE¼ NE¼, Sec. 15, Twp 02N, Rge 01E, B.M. ADA County

Method of Determination: Site visit, aerial imagery

PLACE OF USE: AESTHETIC STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	01E	15	X																

Method of Determination: Site visit, aerial imagery

3.
 - 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

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4.

Well or Diversion ID No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
NONE					

D. FLOW MEASUREMENTS

1.

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

2. Measurements: No flow rate to measure**E. FLOW CALCULATIONS**

_____ Additional Computation Sheets Attached

Measured Method: Flow calculations not required. Permit issued in volume only.**F. VOLUME CALCULATIONS**1. Volume Calculations for irrigation: None

2. Volume Calculations for Other Uses:

Aesthetic Storage: Using the submitted Pond Loss Calculation Spreadsheet, GIS tracing and measurement tools, information collected at the field exam, and depth approximations the following theoretical calculations were determined:

Surface area (GIS): 0.7 acres

Average pond depth: 12 feet

Losses: 1.8 AF Pond Evaporation $[(770.61 \text{ mm/yr} / 304.8) \times 0.7\text{-acre surface area} = 1.8\text{-acre feet annual evap loss}]$ Pond Capacity: 8.4 AF (12 feet avg depth $\times$ 0.7-acre surface area = 8.4 AF pond capacity)

8.4 AF Pond Capacity + 1.8 AF Losses = 10.2 AF

Theoretical Aesthetic Storage Volume: 10.2 AF

Permitted Aesthetic Storage Volume: 35.2 AF

License Recommendation: 10.2 AF

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JUL 05 2023

G. NARRATIVE/REMARKS/COMMENTS

A field exam was conducted on August 22, 2022, by Water Resource Agent Aaron Olson and was accompanied by Robert (Bob) Hall. Robert Hall is a Member of H & B Crushing LLC, the current owner of the permit and original applicant. The permit was issued on April 3, 2017, and proof of beneficial use was submitted on March 22, 2022.

A 0.7-acre pond was excavated to an average depth of 12 feet and intercepts shallow groundwater. The pond is used for aesthetic purposes year-round. The aesthetic use component of this right authorizes the storage of water for the pond capacity and for the evaporation loss. There is no seepage loss because the pond intercepts shallow ground water. ArcMap tools and aerial imagery, supported by photos taken during the field exam, were used to verify the POU area, or aesthetic pond. The bridge connecting the pond to the central island is above the water level.

Condition 26A was removed as per department licensing standards. Condition 121 was updated to 103 as per department licensing standards. Condition 004 was removed since access across lands of another is not a concern.

Have conditions of permit approval been met? ☒ Yes ☐ No

H. RECOMMENDATIONS**1. Recommended Amounts**

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
AESTHETIC STORAGE	01/01 to 12/31		10.2

Totals:

10.2 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

I. AUTHENTICATION

Aaron Olson -

Field Examiner's Name Aaron Olson Date 6/27/2022

Reviewer [Signature] Date 6/28/23

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JUL 05 2023

Evaporation Loss Calculations

This spreadsheet has been designed by Idaho Department of Water Resources to estimate the annual evaporation losses from a pond.

FILE NUMBER	xx-xxxxx
REVIEWER	Joe Agent
DATE	1/1/2000

User Input
Calculated value
Formula Explanations

The acronyms used on the Kimberly Research Center website are defined below:

P = Precipitation
ET= Evapotranspiration
P _d = Precipitation deficit
P _d =ET-P

USING THIS SPREADSHEET

Use the link below to access the Kimberly Research Center website. This website provides the Precipitation Deficit for a station most representative of the pond under examination. The Precipitation Deficit is the total amount of free water surface evaporation minus the precipitation for a given area, which gives the total amount of evaporative losses incurred by the pond. There are several weather sites that are used throughout the state. IDWR staff can find the nearest site using Arc Map. The shape file containing the sites can be found at X:/Spatial/Climate/ETIdahostations.shp.

Instructions:

1. Use the link below to navigate to ET Idaho 2012.
2. Select the station which is most representative to your pond location.
3. Click Submit Query.
4. Under "Land Covers with Evapotranspiration Estimates," select "Open Water - Shallow Systems (ponds, streams)" or "Open Water - small stock ponds" depending on the pond size.
5. Click the link to "Precipitation Deficit."
6. Reference and copy (ctrl + C) the first subheading "Mean" values.
7. Click the "Paste Values from ET Idaho" button. The table will automatically enter a zero (0) for any negative precipitation deficit values.

Found at: <http://data.kimberly.uidaho.edu/ETIdaho/>

Precipitation Deficit

Station: Caldwell (NWS -- USC00101380)

Month	mm/day ¹	Days per month	mm/Month
Jan	-0.84	31	0.00
Feb	0.12	28	3.36
March	1.17	31	36.27
April	2.54	30	76.20
May	3.69	31	114.39
June	4.21	30	126.30
July	4.81	31	149.11
August	4.05	31	125.55
September	2.86	30	85.80
October	1.73	31	53.63
November	-0.08	30	0.00
December	-0.75	31	0.00

PLEASE NOTE: The seasonal average for precipitation deficit should not be used for calculations because precipitation often exceeds evaporation during wetter months of the year. If the pond is kept full, excess precipitation during wetter months does not serve to refill the pond during drier months.

For example, see Sandpoint KSPT (NWS -- 108137), the annual precipitation deficit is -106 mm. However, April through September have positive precipitation deficit values. To properly estimate the annual volume of water necessary to refill a pond due to evaporation losses, the table will automatically enter a zero (0) for each month that the precipitation value is reported as a negative value.

As described above, precipitation offsets evaporation in winter months, so the net effect is that wintertime precipitation deficit is usually zero.

Total mm/year = **770.61**

$$[(770.61 \text{ mm/yr}) \div (304.8 \text{ mm/ft})] \times (0.70 \text{ Surface area of pond, in acres}) = \text{Evaporation Loss in Acre Feet}$$

(**770.61**) ÷ (**304.8**) X **0.70** = **1.8 AFA**

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Total Storage Calculations

FILE NUMBER	XX-XXXXX
REVIEWER	Joe Agent
DATE	1/1/2000

This spreadsheet has been designed by Idaho Department of Water Resources to estimate the total seepage, evaporation and fill capacity required for a pond.

User Input
Calculated value
Formula Explanations

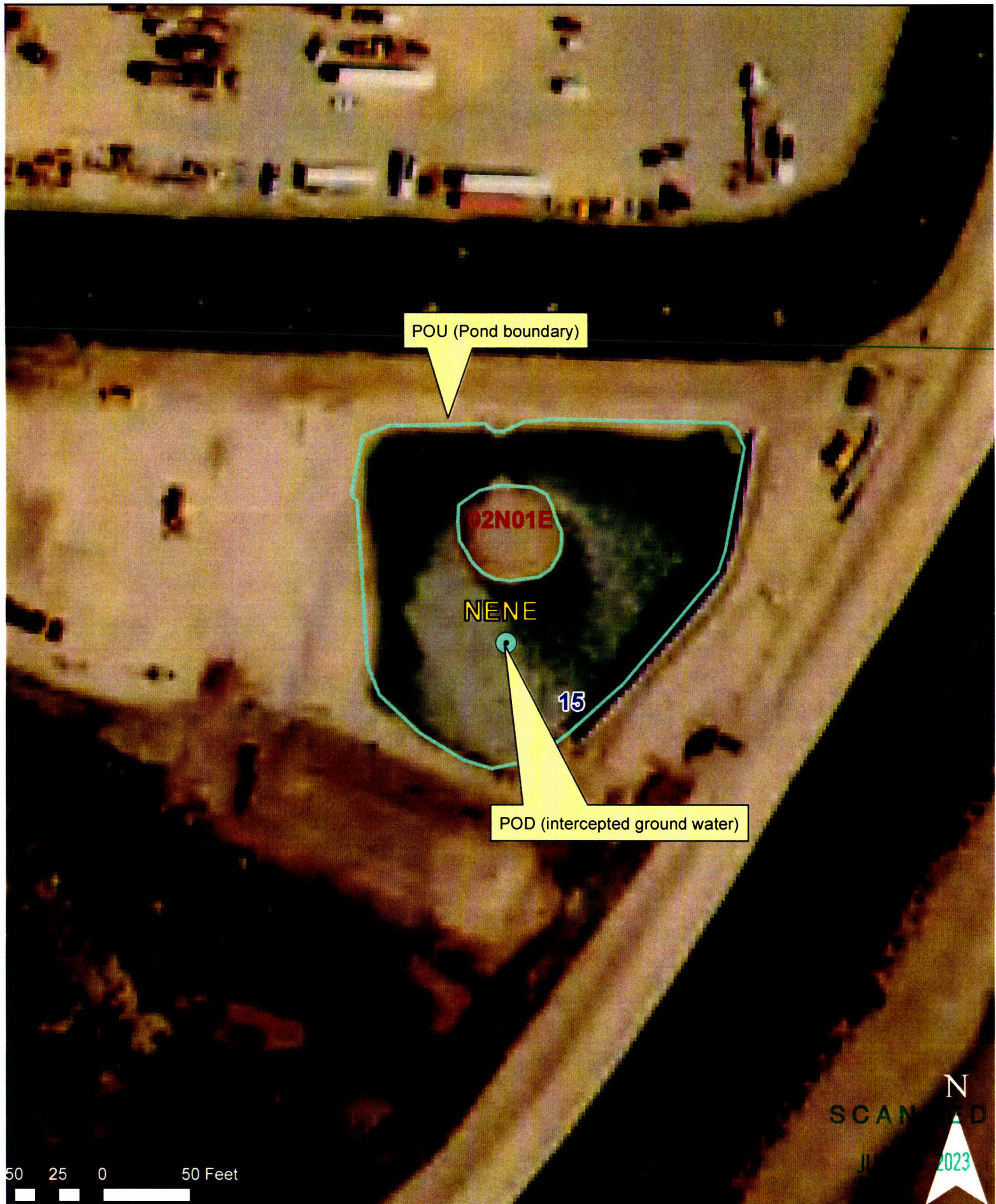
Surface Area (AC.)	0.7	"Surface Area" is automatically carried over from the "Seepage Loss" sheet.
Average Pond Depth (FT.)	12	"Average Pond Depth" depicts the actual depth of the pond either measured or estimated. Note: If you know the maximum depth and not the average depth, the Field Examiner's Handbook suggests multiplying the maximum depth by 0.4 to get the average depth, or you can use any method that seems reasonable to attain average depth.
Pond Capacity (AF)	8.4	Pond Capacity is calculated by multiplying the Pond Surface Area by the Average Pond Depth. If you know the capacity, divide the capacity by surface area and enter the average pond depth in the space above. Note: If pond capacity is determined using a method shown on the "Pond Capacity" sheet, the user may need to modify the value of "Pond Capacity" (cell B9) manually. Note that if the value is modified manually, the formula will be altered for future use.
Multiple Fill Volume Above Initial Fill to Fulfill From Storage Needs- "Multiple Fills" (AF)	0	The "Multiple Fill Volume Above Initial Fill" is the acre-feet of water required to meet a <i>from storage</i> component if the <i>from storage</i> component exceeds a one time fill. This section should not include the amount of water needed to fill the pond initially or the amount of water needed to maintain the pond level due to evaporation or seepage. For example: if a pond has a capacity of 5 acre feet and 2.5 acre feet of seepage and evaporation, but the pond is used for irrigation that requires 10 acre feet of from storage for the irrigation use, then you would insert 5 acre feet into this location (10 acre feet needed - 5 acre feet from the initial fill = 5 acre feet of additional storage needed). Note: You must have a "From Storage" component exceeding the initial fill on the permit to include a volume in this space.
Estimated Seepage Loss (AF)	0.0	The "Estimated Seepage Loss" is automatically carried over from the "Seepage Loss" sheet.
Estimated Evaporation Loss (AF)	1.8	The "Estimated Evaporation Loss" is automatically carried over from the "Evaporation Loss" sheet.
Total Volume Required (AF)	10.2	The "Total Volume Required" is calculated by adding the Pond Capacity, Multiple Fills, Seepage Loss, and Evaporation Loss amounts to determine the total amount of storage required.

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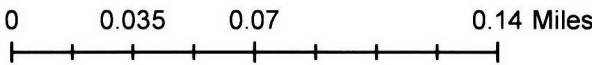
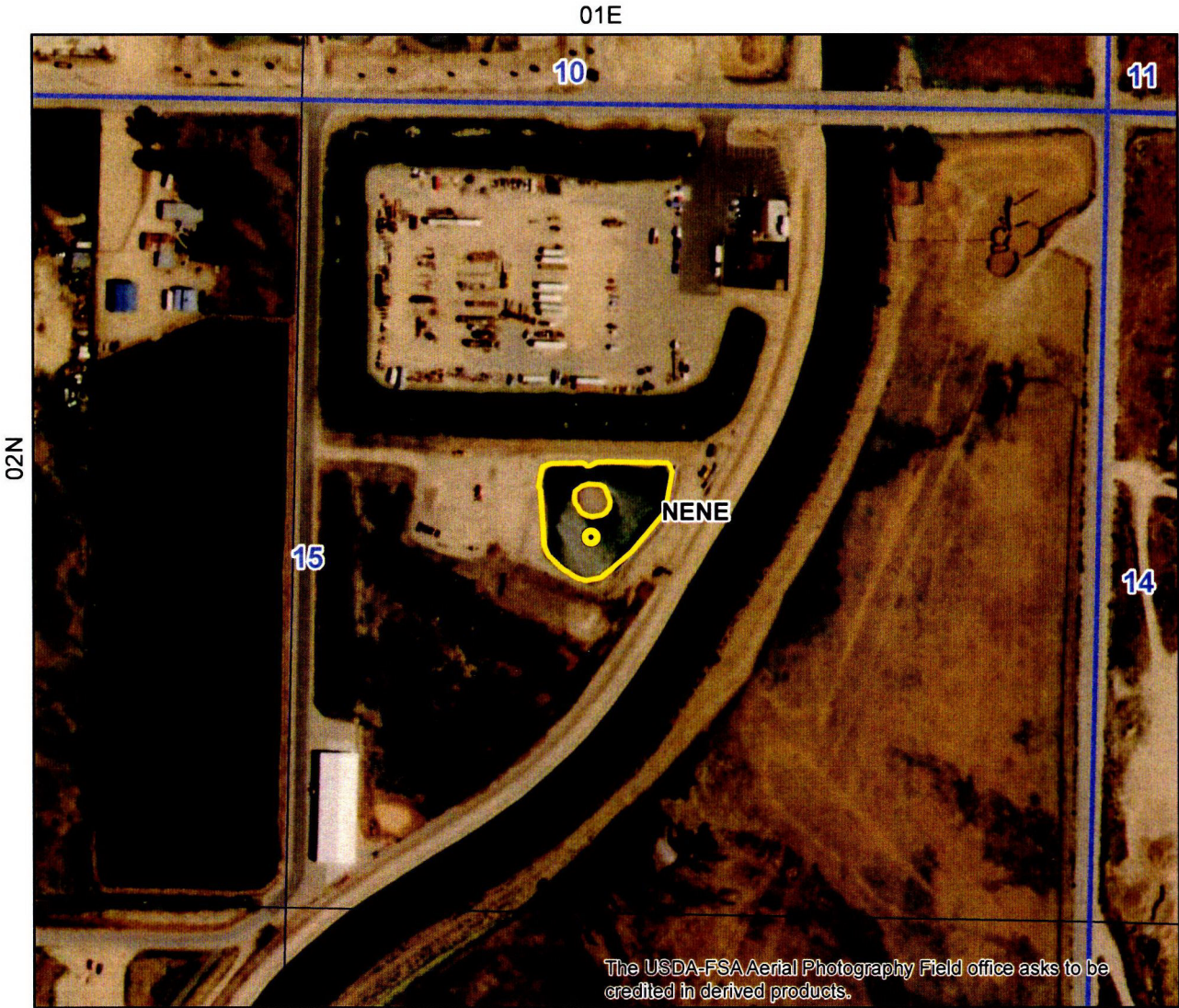
DELIVERY SYSTEM DIAGRAM

Water Right No. 63-34332



State of Idaho
Department of Water Resources
Attachment to Water Right
63-34332

This map depicts the AESTHETIC STORAGE 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

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Fig. 1 – NW corner facing toward pond.



Fig. 2 – SW corner facing toward pond.



Fig. 2 – SW corner facing toward pond.



Fig. 5 – W side facing toward
center island of pond.



Western Region • 2735 W Airport Way • Boise, ID 83705-5082

Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

August 1, 2022

H & B CRUSHING LLC
PO BOX 117
KUNA, ID 83634-0117

RE: Scheduling Field Exam for Water Right Permit No. 63-34332

Dear Permit Holder (H & B CRUSHING LLC):

We are planning to conduct water right examinations in the vicinity of the above-referenced permit **this season**. An examination is needed to verify the water use to issue a water right license.

The above-referenced permit authorizes **35.2 AF of ground water for aesthetic storage**. **If you have developed a beneficial use of water and still own the place of use property, please contact me at your earliest convenience to schedule an examination.**

If you did not develop a beneficial use of water under the permit during the beneficial use period, a license cannot be issued, and the permit should be relinquished. If that use was developed but you have ceased using the water and currently carry no interest in it, please relinquish the permit by submitting the enclosed Relinquishment of Permit form (no fee required).

If you developed a beneficial use of water under the permit but no longer own the place of use property identified in the permit, please submit the enclosed Notice of Change in Water Right Ownership Form with the applicable processing fee.

Please contact me within the next thirty (30) days at (208) 605-4629 to either schedule an examination or submit a relinquishment or assignment form. If you no longer own the place of use property and/or do not respond to this letter, the department will work with the current property owner to issue a license or void the permit.

Sincerely,

Aaron Olson
Water Resource Agent

Enclosure: Relinquishment of Permit Form
Notice in Change of Water Right Ownership Form
Proof Report and Map

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