

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 95-17218

Priority: September 29, 2016

Maximum Diversion Volume: 30.4 AF

It is hereby certified that:

ESTELLE H BARNES REVOCABLE TRUST
337 W COON CREEK RD
PLUMMER ID 83851-2102

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated August 31, 2016, and has submitted Proof of Beneficial Use on November 18, 2021. An examination confirms water is diverted from:

Source : UNNAMED STREAM

Tributary: LITTLE PLUMMER CREEK

Source : GROUND WATER

Tributary: LITTLE PLUMMER CREEK

Source : SURFACE RUNOFF

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Annual Volume</u>
WILDLIFE STORAGE	01/01 to 12/31	30.4 AF
RECREATION STORAGE	01/01 to 12/31	30.4 AF
FIRE PROTECTION STORAGE	01/01 to 12/31	30.4 AF
AESTHETIC STORAGE	01/01 to 12/31	30.4 AF

Location of Point(s) of Diversion

UNNAMED STREAM	NW¼ NW¼, Sec. 27, Twp 46N, Rge 04W, B.M.	BENEWAH County
SURFACE RUNOFF	NW¼ NW¼, Sec. 27, Twp 46N, Rge 04W, B.M.	BENEWAH County
GROUND WATER	NW¼ NW¼, Sec. 27, Twp 46N, Rge 04W, B.M.	BENEWAH County

Place of Use: WILDLIFE 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	
46N	04W	27						X											

Place of Use: RECREATION 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	
46N	04W	27						X											

Place of Use: FIRE PROTECTION 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	
46N	04W	27						X											

SCANNED

JUL 14 2023

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 95-17218

Place of Use: AESTHETIC STORAGE

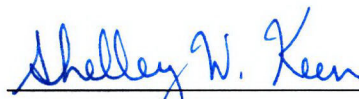
Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
46N	04W	27						X											

Conditions of Approval

1. The pond established by the storage of water under this right shall not exceed a total capacity of 16.3 acre-feet.
2. Right 95-17218 authorizes a total annual storage volume of 30.4 acre-feet, 16.3 acre-feet to be used for the initial filling or carryover storage of the pond, and 14.1 acre-feet for the replacement of losses caused by seepage and evaporation.
3. Recreation storage is for swimming, fishing, and boating.
4. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
5. This right does not grant any right-of-way or easement across the land of another.

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 22nd day of June, 2023.



SHELLEY W. KEEN

Regional Operations Bureau Chief

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JUL 14 2023

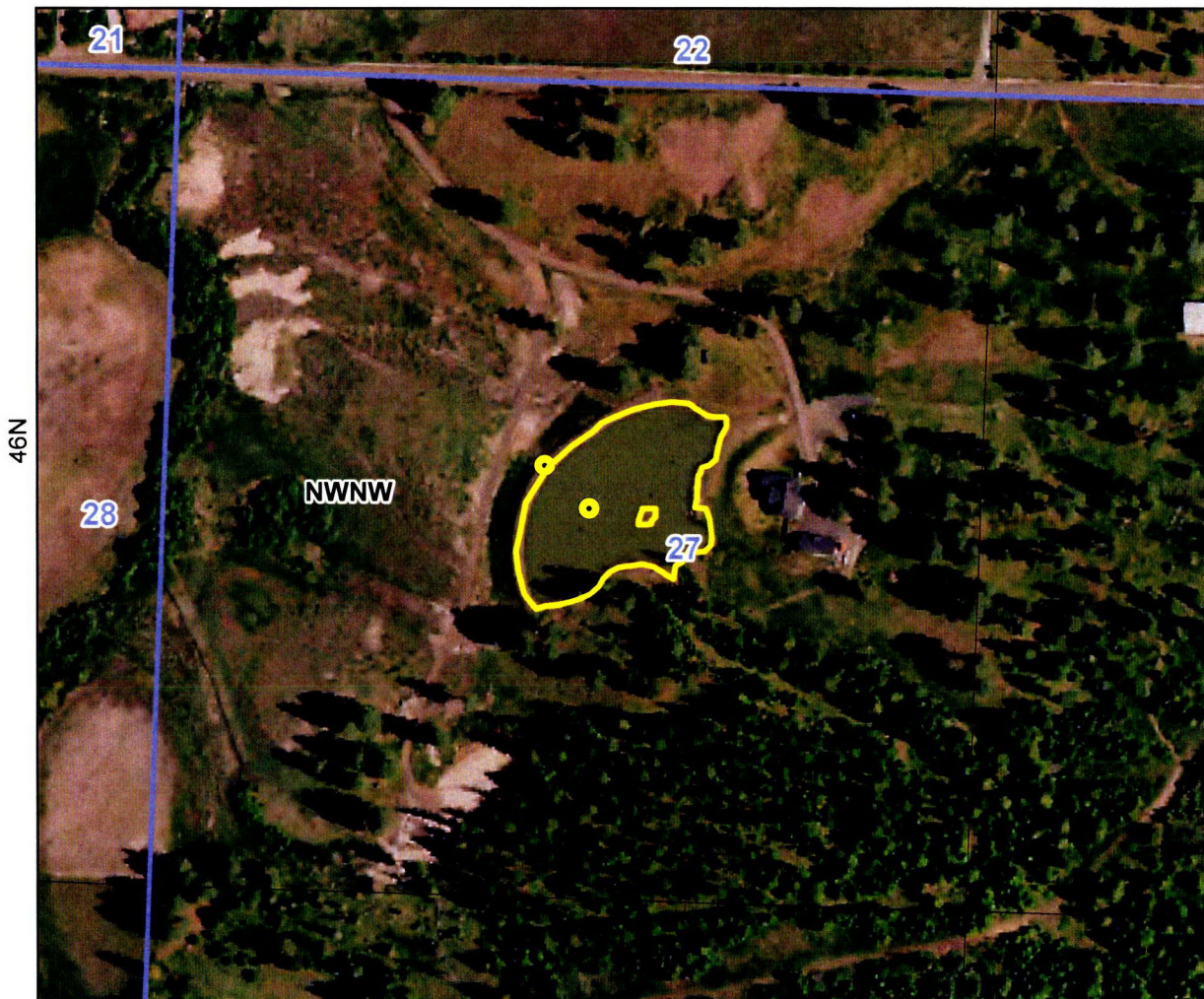
State of Idaho
Department of Water Resources

Attachment to Water Right License

95-17218

This map depicts the WILDLIFE STORAGE, RECREATION STORAGE, FIRE PROTECTION STORAGE, & 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.

04W



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

0 0.035 0.07 0.14 Miles

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JUL 14 2023



IDAHO DEPARTMENT OF
WATER RESOURCES

Northern Region • 7600 N Mineral Drive, Suite 100 • Coeur D'Alene, ID 83815-7763
Phone: 208-762-2800 • Fax: 208-762-2819 • Email: northerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

June 23, 2023

ESTELLE H BARNES REVOCABLE TRUST
337 W COON CREEK RD
PLUMMER ID 83851-2102

RE: License No. 95-17218

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 the Northern Region Office at (208) 762-2800.

Sincerely,

Shelley Keen
Water Allocation Bureau Chief

Enclosure(s)

SCANNED

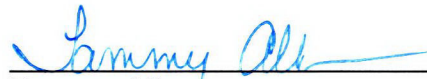
JUL 14 2023

CERTIFICATE OF SERVICE

I hereby certify that on June 23, 2023, I served a true and correct copy of Water Right License No. 95-17218 by U.S. Mail, postage prepaid, to the following:

ESTELLE H BARNES REVOCABLE TRUST (Current Owner)
337 W COON CREEK RD
PLUMMER ID 83851-2102

ESTELLE H BARNES (Trustee)
337 W COON CREEK RD
PLUMMER ID 83851-2102



Tammy Alleman
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: June 22, 2023

Water Right: 95-17218

Author: Shelley Keen 

Subject: Priority Date

Application 95-17218 is date-stamped as having been received in IDWR's State Office on August 31, 2016. The receipt for the application filing fee, #C102442, is dated August 31, 2016. The legal notice for the application states that it was received "8/31/2016." I can find no explanation in the file for why the permitted priority date is September 29, 2016, not August 31, 2016. However, because the permitted priority date was not contested by the applicant, I will carry it forward onto the license.

There are five Basin 95 water right filings with priority dates between August 31, 2016, and September 29, 2016. All are for ground water.

SCANNED
JUL 14 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No: 95-17218
Exam Date: 07/28/2022

1. Current Owner:
ESTELLE H BARNES REVOCABLE TRUST 337 W COON CREEK RD PLUMMER ID 83851-2102
2. Accompanied by: Estelle H Barnes & Emily Barnes (IDWR staff)
Phone No: 708-334-5093
Address: Same as above
Relationship to permit Holder: Current Permit Holder

3. SOURCE:

UNNAMED STREAM
GROUND WATER
SURFACE RUNOFF

Tributary

LITTLE PLUMMER CREEK
LITTLE PLUMMER CREEK
LITTLE PLUMMER CREEK

Method of Determination: Field exam ground truthing, Arcmap, & DRG.

B. OVERLAP REVIEW

1. Other water rights with the same place of use: NO Overlap
2. Other water rights with the same point-of-diversion: NO Overlap

C. DIVERSION AND DELIVERY SYSTEM**1. LOCATION OF POINT(S) OF DIVERSION:**

UNNAMED STREAM NW¼ NW¼, Sec. 27, Twp 46N, Rge 04W, B.M. BENEWAH County
SURFACE RUNOFF NW¼ NW¼, Sec. 27, Twp 46N, Rge 04W, B.M. BENEWAH County
GROUND WATER NW¼ NW¼, Sec. 27, Twp 46N, Rge 04W, B.M. BENEWAH County

Method of Determination: Groundwater is an in-pond source with POD located at approximately -116°49.760, 47°18.389.
Surface Runoff & Unnamed Stream POD is an earthen pond dam located at -116°49.7808, 47°18.3634.

PLACE OF USE: WILDLIFE STORAGE, RECREATION STORAGE, FIRE PROTECTION STORAGE, & 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	
46N	04W	27						X											

Method of Determination: Beneficial use field exam and Arcmap aerial imagery.

3. Delivery System Diagram Attached (required). Indicate all major components and distances between components.
X Indicate weir size/pipe as applicable.
- Map Attached Showing Location(s) of point(s) of diversion and place(s) of use (required). Scale must be 1:24,000 or greater.
X
- X 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
GROUND WATER & POND DAM					

D. FLOW MEASUREMENTS

1.

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

2. Measurements: NONE, pond dam built to capture surface runoff & unnamed stream water in addition to a groundwater source within the high-water level of the pond. There is no diversion rate recommended for licensing this in-stream pond water right.

E. FLOW CALCULATIONS

Measured Method: N/A

F. VOLUME CALCULATIONS

1. Volume Calculations for irrigation: All irrigation beneficial use components removed from the Permit during licensing review, as they were not developed during the Permit's development period (12/9/2016 – 10/21/2021).

2. Volume Calculations for Other Uses: See attached pond analysis worksheet.

G. NARRATIVE/REMARKS/COMMENTS

During field exam performed on 7/28/2022 accompanied by Emily Barnes-IDWR Stream Channel Protection Specialist & applicant, Estelle Barnes, an excavated pond was found impounding multiple water sources for several beneficial uses. As part of the exam a few beneficial use components are recommended to be removed prior to licensing along with clarification of source/tributary as follows:

- Irrigation beneficial use(s) were not developed during the permit's development window; Irrigation storage, Irrigation from storage, & irrigation uses were removed during licensing review. Removal of Irrigation as a direct flow eliminates the diversion rate associated with the permit.
- Both the Groundwater & Surface Runoff water source tributary(s) were clarified to reflect Little Plummer Creek during licensing review after determining overflow discharge from the storage pond on the SW corner flows down grade to the creek.
- The original property owner/applicant applied for a Spring water source on the property which was permit approved but during the field exam the spring was determined to be further up-hill from the pond and an unnamed stream flowed into the pond on the Southeastern corner. Arcmap aerial imagery & DRG layer do not designate an unnamed stream, resulting in the source being an intermittent stream. I have clarified the water source to be an Unnamed Stream (still tributary to Little Plummer Creek) and removed the 10-acre PLSS quarter-quarter legal description designator.

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At the POD, an earthen dam serves to contain unnamed stream, surface runoff, & ground water(s) in a large pond with small island located within the high-water mark. I was able to GPS the pond dam in the location that appears to cross-cut historic water flow from the gently side-hill environment which accounts for unnamed stream and surface runoff sources. The pond remains full year-round even when there is no surface runoff or intermittent stream flow filling, which indicates a groundwater (GW) source is influencing pond water levels from within the high-water level. During licensing review a POD centroid was designated within the pond for the GW source. The pond is considered in-stream and there is no diversion rate recommended for licensing purposes. Any overflow discharges from the SW corner via a rocked swale channel allowing water to route down-hill where it joins Little Plummer Creek.

The pond serves as the Fire Protection Storage, Wildlife Storage, Recreation Storage, & Aesthetic Storage POU(s). Several photographs were taken to provide imagery of the excavated pond which is clearly defined in Arcmap aerial imagery. Arcmap was used to trace out the pond surface area minus small island during licensing review which equals 1.7 acres. During discussion with the current permit holder, it was identified that when excavated the maximum pond depth was 24 feet which equates to an average depth of 9.6 ft. A pond analysis worksheet was developed deriving pond volume metrics as follows: 16.3 af pond capacity, 12.4 af estimated seepage loss, 1.7 af estimated evaporation loss, & total volume required annually equaling 30.4 af. I am recommending seepage be included despite the pond's groundwater source due to the size of the pond bottom increasing the likelihood of some seepage of water.

The permit approved development up to 45.1 af, but the pond size is smaller than applied for and there is reduced volume following removal of irrigation beneficial use factors. The 4ea beneficial uses recommended for licensing are not additive and the maximum diversion volume recommended for licensing equals **30.4 af**. The current owner/permit holder assert that although they had recently purchased the property (assignment of permit received 6/15/2022) there may be potential to develop an irrigation system from the pond and/or stockwater use from the pond in the future. During the exam it was discussed that a new application for permit to add beneficial uses of water to the existing WR can be pursued by the property owners in the future, but IDWR shall only recommend for licensing water usage proven from within the development period of the Permit.

Conditions 26A, 082, 029, and R66 were removed from the permit during licensing review. Condition(s) 219 & 220 were replaced with current conditions reflecting post-field exam volume data derived during licensing review. All other condition on the permit shall be carried to licensing. There are no overlap concerns for this water right.

Have conditions of permit approval been met? X Yes No

H. RECOMMENDATIONS

1. Recommended Amounts

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Annual Volume</u>
WILDLIFE STORAGE	01/01 to 12/31	30.4 AF
RECREATION STORAGE	01/01 to 12/31	30.4 AF
FIRE PROTECTION STORAGE	01/01 to 12/31	30.4 AF
AESTHETIC STORAGE	01/01 to 12/31	30.4 AF

Totals: 30.4 AF

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☐ 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

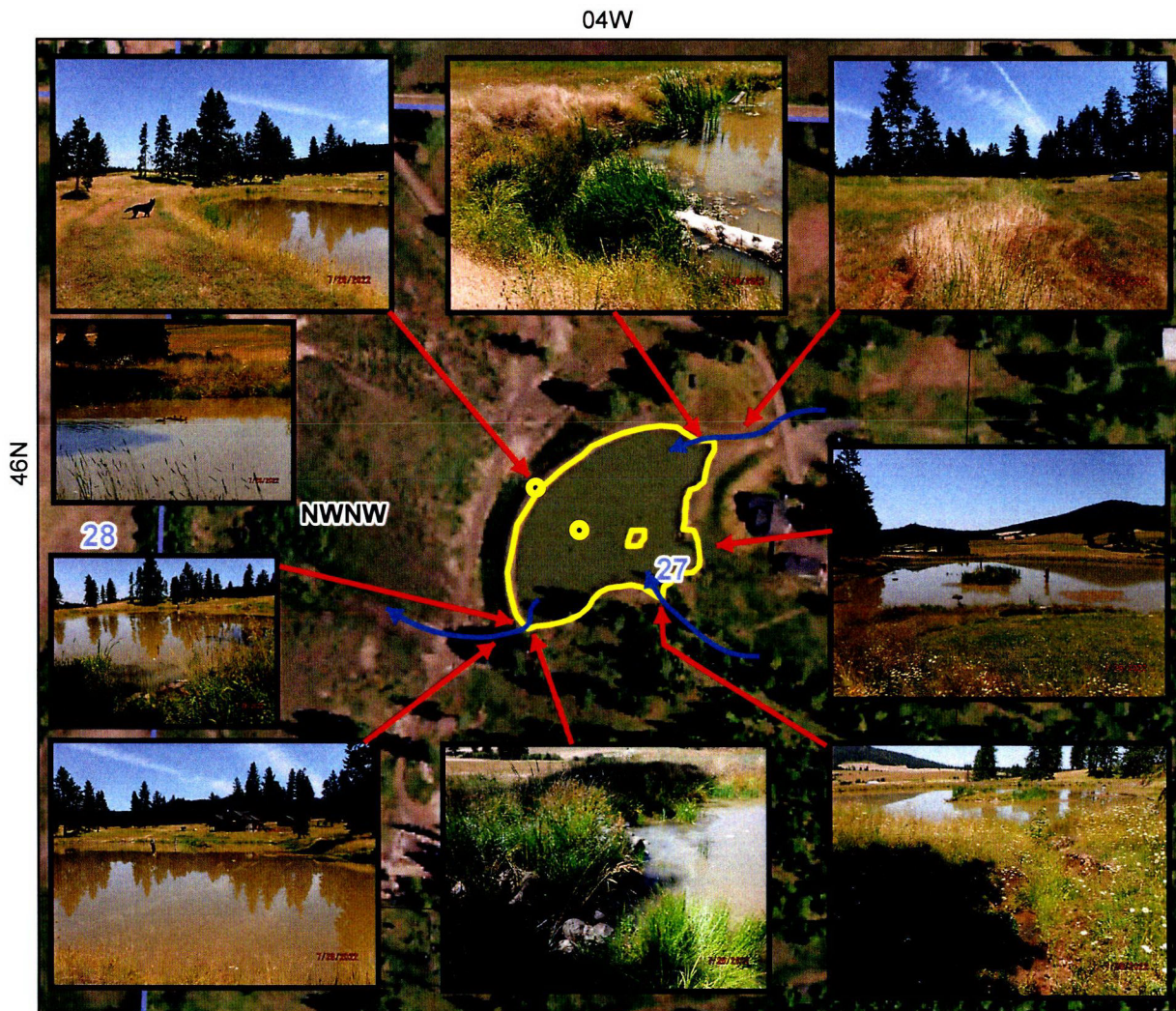
Luke Bates -

Field Examiner's Name J. S. P. Date 12/6/2022
Reviewer _____ Date _____

SCANNED
JUL 14 2023

State of Idaho
Department of Water Resources
Attachment to Field Exam
95-17218

WILDLIFE STORAGE, RECREATION STORAGE, FIRE PROTECTION
STORAGE, & AESTHETIC STORAGE system diagram.



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

0 0.035 0.07 0.14 Miles



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JUL 14 2023



Total Storage Calculations

FILE NUMBER	95-17218
REVIEWER	LUKE BATES
DATE	12/6/2022

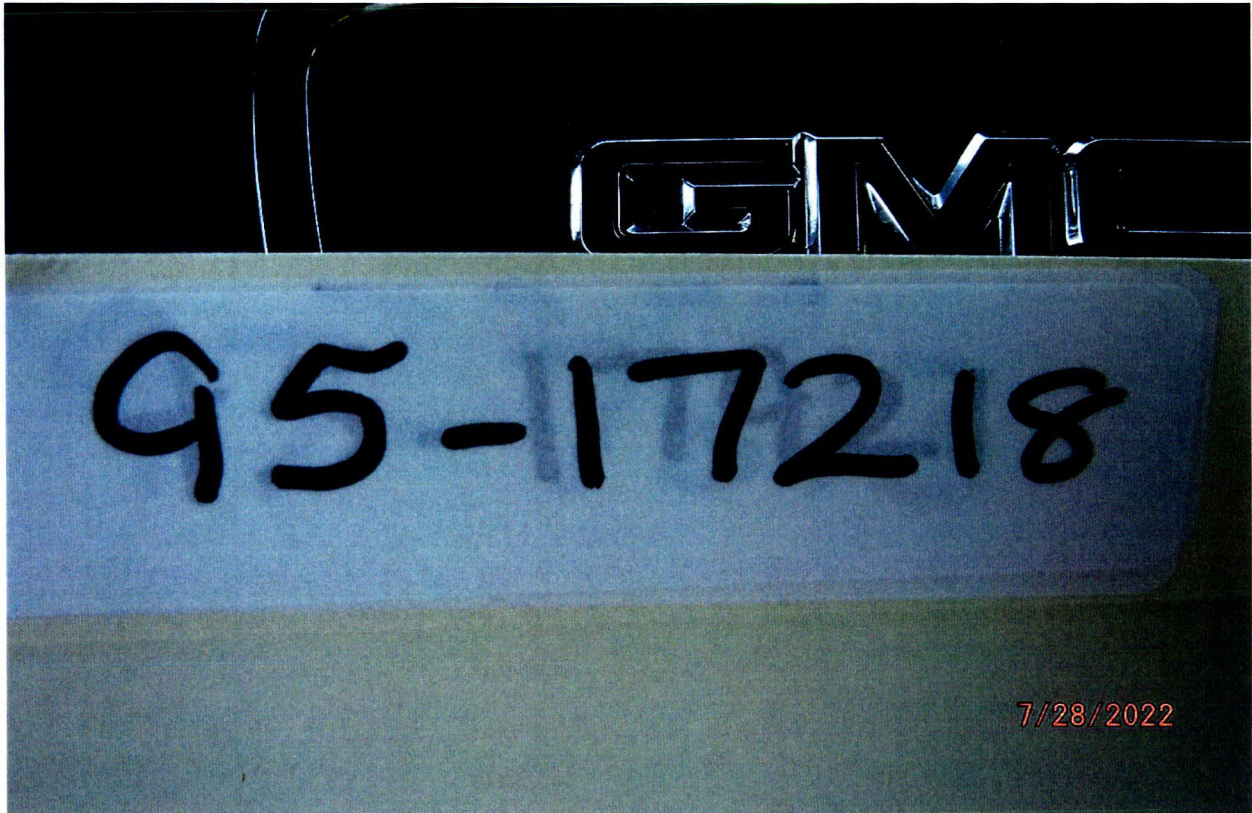
This spreadsheet has been designed by Idaho Department of Water Resources to estimate the total seepage, evaporation and fill capacity required for a pond.

User Input
Calculated value
Formula Explanations

Surface Area (AC.)	1.7	"Surface Area" is automatically carried over from the "Seepage Loss" sheet.
Average Pond Depth (FT.)	9.6	"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)	16.3	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)	12.4	The "Estimated Seepage Loss" is automatically carried over from the "Seepage Loss" sheet.
Estimated Evaporation Loss (AF)	1.7	The "Estimated Evaporation Loss" is automatically carried over from the "Evaporation Loss" sheet.
Total Volume Required (AF)	30.4	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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JUL 14 2023



BENEFICIAL USE FIELD EXAMINATION DATE 7/28/2022



POD – EARTHEN POND DAM

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JUL 14 2023



UNNAMED STREAM – INFLOW TO POND



SURFACE RUNOFF – SEASONALLY FLOWS INTO POND

SCANNED

JUL 14 2023



ROCKED OVERFLOW CHANNEL ALLOWS WATER TO FLOW DOWNGRADE FROM POND



DOWNGRADE FROM POND OVERFLOW DEVICE

SCANNED
JUL 14 2023



SMALL ISLAND IN POND



POU – STORAGE POND FOR: AESTHETIC, RECREATION, WILDLIFE, & FIRE PROTECTION

SCANNED
JUL 14 2023



STORAGE POND POU



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JUL 14 2023



MULITPLE STORAGE USE(S) POND POU

