

RECEIVED

JUL 09 2020

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

Ident. No. 51-13137

1. Name of applicant(s) ACE BLACK RANCHES Phone (208)-845-2601
 Name connector (check one): ☐ and ☐ or ☐ and/or
 Mailing address 28892 HOT SPRINGS RD City BRUNEAU
 State ID ZIP 83604 Email _____
2. Name of representative, if any _____ Phone _____
 Mailing address _____ City _____
 State _____ ZIP _____ Email _____
- a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
☐ Send original correspondence to the applicant and copies to the representative.
- b. ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Bruneau River which is a tributary of _____
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
06S	06E	31			NE	NW	Owyhee	Bruneau River	

5. Water will be used for the following purposes:
- Amount 4.0 cfs for irrigation purposes from 3.1 to 11.15 (both dates inclusive)
 (cfs or acre-feet per year)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
6. Total quantity to be appropriated is (a) 4.0 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source. Ditch to holding pond and pump to pivots and mainline
- b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate [Application for Construction or Enlargement of a New or Existing Dam](#). Application required? ☐ Yes ☐ No
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
- d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No
- e. If well is already drilled, when? _____; drilling firm _____;
 well was drilled for (well owner) _____; Drilling Permit No. _____

For Department Use

Received by IDWR Date 7/9/2020 Time _____ Preliminary check by AK
 Fee \$ 370.00 Receipted by LE Receipt No. W048494 Date 7/22/2020

8. Description of proposed uses (if irrigation only, go to item 9):
- Hydropower; show total feet of head and proposed capacity in kW. _____
 - Stockwatering; list number and kind of livestock. _____
 - Municipal; must complete and attach the [Municipal Water Right Application Checklist](#).
 - Domestic; show number of households _____
 - Other; describe fully. _____

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	05E	25				1					40			40	40	40	40	40	241
06S	05E	36	40	40		10													90
06S	06E	30			5				19	35	40	40	40	40	11	31	40	38	339
06S	06E	31					26	7											33

Total number of acres to be irrigated: 200 acres w/in 703-acre ppu

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? Applicant's Rights 51-27B, 51-28B, 51-29B, 51-30, 51-10252, 51-7318, 51-7319, 51-13127. Bruneau Buckaroo Ditch Co's Rights: 51-2, 51-3, 51-5, 51-10350, 51-10351, 51-10271
11. a. Who owns the property at the point of diversion? Applicant
- b. Who owns the land to be irrigated or place of use? Applicant
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____
12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Proposed right will supplement Ace Black Ranch's irrigation rights and shares from Bruneau Buckaroo Ditch Co. When the ditch company water is not available.
13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).
14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

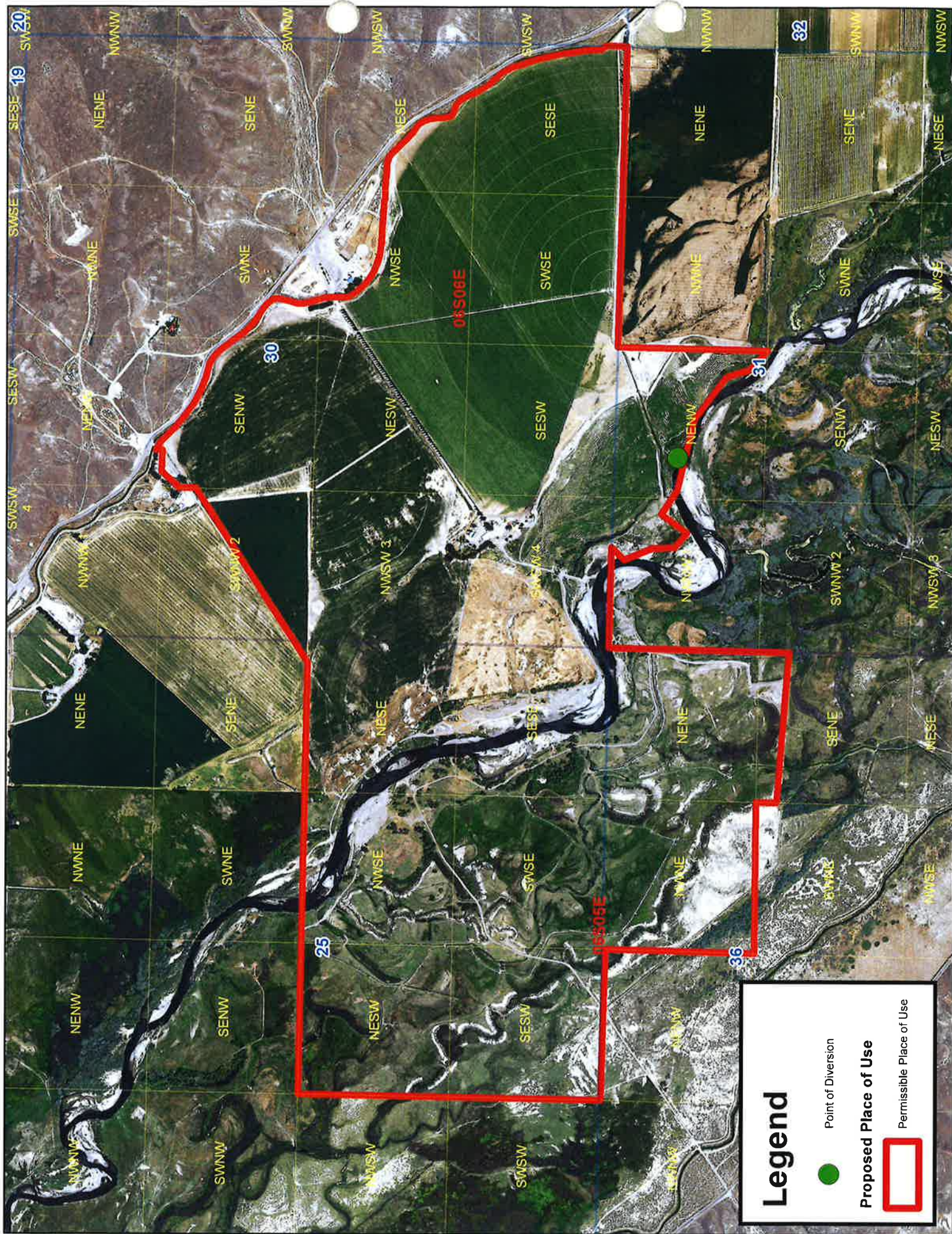
The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Terry Black
 Signature of Applicant

Managing Partner
 Print Name (and title, if applicable)

 Signature of Applicant

 Print Name (and title, if applicable)





Brad Little
Governor

State of Idaho

DEPARTMENT OF WATER RESOURCES

WESTERN Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

Phone: (208)334-2190 • Fax: (208)334-2348 • Website: www.idwr.idaho.gov

Gary Spackman
Director

August 14, 2020

IDAHO POWER CO
1221 W IDAHO ST
PO BOX 70
BOISE, ID 83707

RE: Application for Permit No. 51-13137

Dear Interested Party:

The Department of Water Resources (IDWR) is seeking written comment and/or recommendations from your organization regarding the above referenced water right application. You can find a copy of the application at:
<https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

IDWR can finish reviewing an unprotested application as soon as the protest period has past. Therefore, your prompt response to this request is appreciated. If your organization desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days of the final publication.

Please contact this office if you have any questions regarding the application.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kensie Thorneycroft', is written over a light blue circular stamp. The signature is fluid and cursive.

Kensie Thorneycroft
Administrative Assistant 1

Enclosure(s)



State of Idaho

DEPARTMENT OF WATER RESOURCES

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Brad Little
Governor

Gary Spackman
Director

August 14, 2020

BRUNEAU BUCKAROO CO-OPERATIVE DITCH COMPANY
C/O CHARLES L HONSINGER
HONSINGER LAW PLLC
PO BOX 517
BOISE ID 83701

**RE: Application for Permit No. 51-13137
Application for Transfers No. 83899 & 83900**

Dear Interested Party:

The Department of Water Resources (IDWR) is seeking written comment and/or recommendations from your organization regarding the above referenced water right application. You can find a copy of the application at:

<https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

IDWR can finish reviewing an untested application as soon as the protest period has past. Therefore, your prompt response to this request is appreciated. If your organization desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days of the final publication.

Note that existing protests for the transfer applications remain active and the protestant does not need to re-file their protest.

Please contact this office if you have any questions regarding the application.

Sincerely,

Kensie Thorneycroft
Administrative Assistant 1

Enclosure(s)



Brad Little
Governor

State of Idaho

DEPARTMENT OF WATER RESOURCES

WESTERN Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

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Gary Spackman
Director

August 14, 2020

ACE BLACK RANCHES
28892 HOT SPRINGS RD
BRUNEAU, ID 83604-5007

RE: Application for Permit No. 51-13137
Application for Transfer No. 83899
Water Right No(s). 51-10252, 51-27B, 51-28B, 51-29B, 51-30
Application for Transfer No. 83900
Water Right No(s). 51-13127, 51-7318, 51-7319

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the OWYHEE AVALANCHE on 8/19/2020 and 8/26/2020. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

Kensie Thorneycroft
Administrative Assistant

CC: BRUNEAU BUCKAROO CO-OPERATIVE DITCH CO

Thorneycroft, Kensie

From: Thorneycroft, Kensie
Sent: Thursday, August 13, 2020 3:28 PM
To: Avalanche Office
Cc: jon@owyhee.com
Subject: Owyhee Legal Notice
Attachments: CoverLetter.docx; LegalNotice.docx

Follow Up Flag: Follow up
Flag Status: Completed

Good Afternoon Legal Clerk,

I am sending you the new legal notices, please send confirmation to my email.

Please see the attached ad for publication on 08/19/2020 and 08/26/2020.

Please confirm these are okay to publish as shown.

Kensie Thorneycroft
Administrative Assistant
IDWR Western Region
208-334-2190



State of Idaho

DEPARTMENT OF WATER RESOURCES

WESTERN Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

Phone: (208)334-2190 • Fax: (208)334-2348 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

August 14, 2020

LEGAL NOTICE DEPARTMENT
OWYHEE AVALANCHE
PO BOX 97
HOMEDALE, ID 83628

RE: Application for Permit No. 51-13137

Transfer No. 83899, 83900

Water Right No(s). 51-10252, 51-27B, 51-28B, 51-29B, 51-30, 51-13127, 51-7318, 51-7319

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). 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. Please send the affidavit and bill to this office before 9/8/2020. Your cooperation is appreciated.

Sincerely,

Kensie Thorneycroft
Administrative Assistant

Enclosure(s)

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

51-13137

ACE BLACK RANCHES

28892 HOT SPRINGS RD

BRUNEAU, ID 83604-5007

Point of Diversion NENW S31 T06S R06E OWYHEE County Source BRUNEAU RIVER Tributary SNAKE RIVER

Use: IRRIGATION 03/01 to 11/15 4 CFS

Total Diversion: 4 CFS

Date Filed: 07-09-2020

Place Of Use: IRRIGATION

T06S R05E S25 NESW, NESE, NWSE, SWSE, SENE, SESW, SESE

T06S R05E S36 NENE, NWNW, SENE

T06S R06E S30 NESW, NESE, NWSW, NWSE, SWNE, SWNW, SWSW, SWSE, SENW, SESW, SESE

T06S R06E S31 NENW, NWNW

Total Acres: 200 within a 703 acre ppu

This application proposes to appropriate trust water and will be evaluated in compliance with Section 42-203C, Idaho Code, and IDWR's Water Appropriation Rules, IDAPA 37.03.08.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 83899

ACE BLACK RANCHES, 28892 HOT SPRINGS RD, BRUNEAU, ID 83604-5007 has filed Application No. 83899 for changes to the following water rights within OWYHEE County(s): Right No(s). 51-10252, 51-27B, 51-28B, 51-29B, 51-30; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows: The transfer proposes to change the points of diversion, change the place of use, and establish a permissible place of use in combination with water rights involved in transfer 83900 for water rights 51-27B, 51-28B, 51-29B, 51-30, and 51-10252 to accompany pivot irrigation systems developed directly off the Bruneau River in Owyhee County.

TRANSFER NO. 83900

ACE BLACK RANCHES, 28892 HOT SPRINGS RD, BRUNEAU, ID 83604-5007 has filed Application No. 83900 for changes to the following water rights within OWYHEE County(s): Right No(s). 51-13127, 51-7318, 51-7319; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows: The transfer proposes to change the place of use and establish a permissible place of use in combination with water rights involved in transfer 83899 for water rights 51-7318, 51-7319, and 51-13127 to accommodate pivot irrigation systems directly off the Bruneau River in Owyhee County.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Western office at (208)334-2190; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRApplicationResults/>. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Western Region, 2735 W AIRPORT WAY, BOISE ID 83705-5082 together with a protest fee of \$25.00 for each application on or before 9/8/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 8/19/2020 and 8/26/2020



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

Phone: (208)334-2190 • Fax: (208)334-2348 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

July 22, 2020

ACE BLACK RANCHES
28892 HOT SPRINGS RD
BRUNEAU ID 83604-5007

RE: Application for Permit to Appropriate Trust Water – No. 51-13137

Dear Applicant:

The Department of Water Resources (“Department”) has received your application for permit to appropriate water and has accepted it for filing. Your application has been assigned the identification number referenced in the subject line of this letter. Please refer to that number in all future correspondence regarding this application.

Your application proposes to appropriate Trust Water as described in this letter. The special nature of the trust affects how the Department will process your application as well as some aspects of the water right that may result. The purpose of this letter is to inform you of three items specific to applications proposing to appropriate Trust Water:

1. Your application will be subject to additional evaluation compared to applications that do not propose the use of Trust Water. This may require you to submit additional information and to demonstrate that your application meets the statutory evaluation criteria for appropriating Trust Water.
2. If a water right is issued to you, it could be subject to curtailment to satisfy senior minimum stream flow water rights on the Snake River at the Murphy Gage.
3. If a water right is issued to you, it will be subject to a periodic term review that may impact the future use of the right.

To understand better these three items and why they apply to your application, it helps to understand what Trust Water is and how it came about.

Trust Water arose from the 1984 Swan Falls Settlement between Idaho Power Company (“IPC”) and the State of Idaho (“State”).¹ Prior to the Swan Falls Settlement, the Idaho Supreme Court determined IPC held water rights for use at Swan Falls Dam that exceeded the entire flow of the Snake River at times. This limited future upstream development of water resources in the Snake River Basin. The Swan Falls Settlement resulted in changes to Idaho Law² and to IPC’s water

¹ For more information, including a more complete description of the Swan Falls Settlement and resulting legislation, please see the Department’s web page: <https://idwr.idaho.gov/legal-actions/settlements/swan-falls/>.

² Although several sections of the Idaho Code were affected, the addition of Sections 42-203B and 42-203C, Idaho Code are the changes most relevant to this discussion.

rights. As a result of the Swan Falls Settlement and subsequent legislation and court decrees, IPC's hydropower water rights in excess of the minimum flows at Murphy Gage are held in trust by the State. This change allows future development using water that would have previously been delivered to satisfy IPC water rights at Swan Falls Dam and, therefore, would have been unavailable for upstream appropriation. The purpose of this trust is defined in Idaho Code § 42-203B as follows:

The purposes of the trust established by ... this section are to assure an adequate supply of water for all future beneficial uses and to clarify and protect the right of a user of water for power purposes ... to continue using the water pending approval of depletionary future beneficial uses.

Your application proposes a use of water that could deplete the rights placed in trust, so the State, through the Department must evaluate your proposal under the laws and rules that came after the Swan Falls Settlement.³ In addition to the usual statutory process and evaluation criteria, the Department must also evaluate whether your application will deplete Trust Water and, if so, whether your depletion of Trust Water is in the public interest.

In addition, the availability of Trust Water and the public's interest in the use of Trust Water could change over time. The Department will periodically review rights to use Trust Water to determine if Trust Water remains available for use and if the continued use of Trust Water is in the public interest. The periodic review will occur for any right that issues from your application. A future review by the Department could terminate or limit your ability to use the right in the future.

An important aspect of the Swan Falls Settlement is that the State agreed to protect the minimum stream flows in the Snake River at the Murphy Gage. Should the flows at the Murphy Gage fall below these minimums, the water rights that use Trust Water could be curtailed to restore flow to meet those minimums.

The Department will hold your application for 14 days to allow you time to contact us if you have further questions on this topic or if you choose to withdraw your application. If the Department does not hear from you within 14 days, the Department will process your application and prepare it for publication. If you choose to withdraw your application before it is submitted for publication, you will receive a full refund of your filing fee. Refunds are not available if an application is withdrawn after advertising.

Please contact this office if you have questions regarding this matter.

Sincerely,



Anna Kaiser

Water Resource Agent

Enclosure: Withdrawal of Application form

³ See Sections 42-203C and the Department's Water Appropriation Rules (IDAPA 37.03.08).