

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

APPLICATION FOR TEMPORARY APPROVAL OF WATER USE MAY 22 2020

For a use not intended to become an established water right and not to exceed one (1) year duration in accordance with Idaho Code § 42-202A. Department of Water Resources Eastern Region

Name of applicant Stewart S. Denney Phone 208 254-9221
 Mailing address 203 E. Jensen Rd. City McCammon
 State Idaho Zip 83250 Email stinkin65lincoln@yahoo.com
 1. Source of water McCoy Creek tributary to Snake River
 2. Location of point(s) of diversion. If more than two, attach a [Point of Diversion/Place of Use Supplement](#). ☐

TWP	RGE	SEC	GOVT LOT	1/4	1/4	1/4	County	Source	Local name or tag #
3S	44E	17	-	SE	SE	-	Bonneville	McCoy Creek	IMC21520

3. Location of place of use. If more rows are needed, attach a [Point of Diversion/Place of Use Supplement](#). ☐

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

4. Proposed use of water:

- a. ☐ Prevention of flood damage ☐ Ground water recharge ☐ Ground water or surface water remediation
☒ Other (Limited to a diverted volume of 5 acre-feet.) Describe: Run mining equipment
 b. Attach a detailed description of how the proposal will accomplish the intended objective, such as prevention of flood damage.

5. Amount of water. Complete all three:

- a. Maximum rate of diversion: _____ cfs; or 20 gpm.
 b. Maximum daily volume: < 1 AF; or 7 gallons.
 c. Maximum volume over the duration of the request: < 1 AF; or _____ gallons.

6. Duration of diversion: from 6-1-2020 (month-day) to 11-30-2020 (month-day).

7. Describe proposed diverting works: 2" pump

8. a. Who owns the property at the requested point of diversion? U.S. Forest Service
 b. Who owns the facilities that will convey water to the place of use? USFS, applicant
 c. Who owns the land to be irrigated or place of use? USFS
 d. If any of the items above is owned by a person or entity other than the applicant, describe the arrangement allowing access and attach written evidence of the arrangement. USFS-Caribou National Forest Plan of Operations

9. Attach an 8 1/2" x 11" map identifying the water source, point(s) of diversion, place(s) of use and conveyance system.

I hereby acknowledge that I assume all risk of the diversion and use of the water under this approval. I certify this is a temporary use and is not intended to become an established water right.

Signature of Applicant Stewart S. Denney Title, if any _____ Date 5-1-2020
 Received by CA th Date 5/22/2020 Time 12:20 pm
 \$50.00 fee received by CA th # E045938 Date 5/22/2020
 Watermaster comments received? _____ Date _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources ("Department") has examined this application for temporary approval to use water under the provisions of Idaho Code § 42-202A and has determined that:

 A. The application for temporary approval should be denied because _____

- ☒ B. The application for temporary approval should be approved, since
1. The temporary approval can be properly administered.
 2. Other water sources are not readily available.
 3. The approval is in the public interest.
 4. The approval will not injure known public values associated with the water source or any known water rights.
 5. If the temporary approval is within a water district, the Department has sought and considered the recommendations of the watermaster.

This application is therefore hereby:

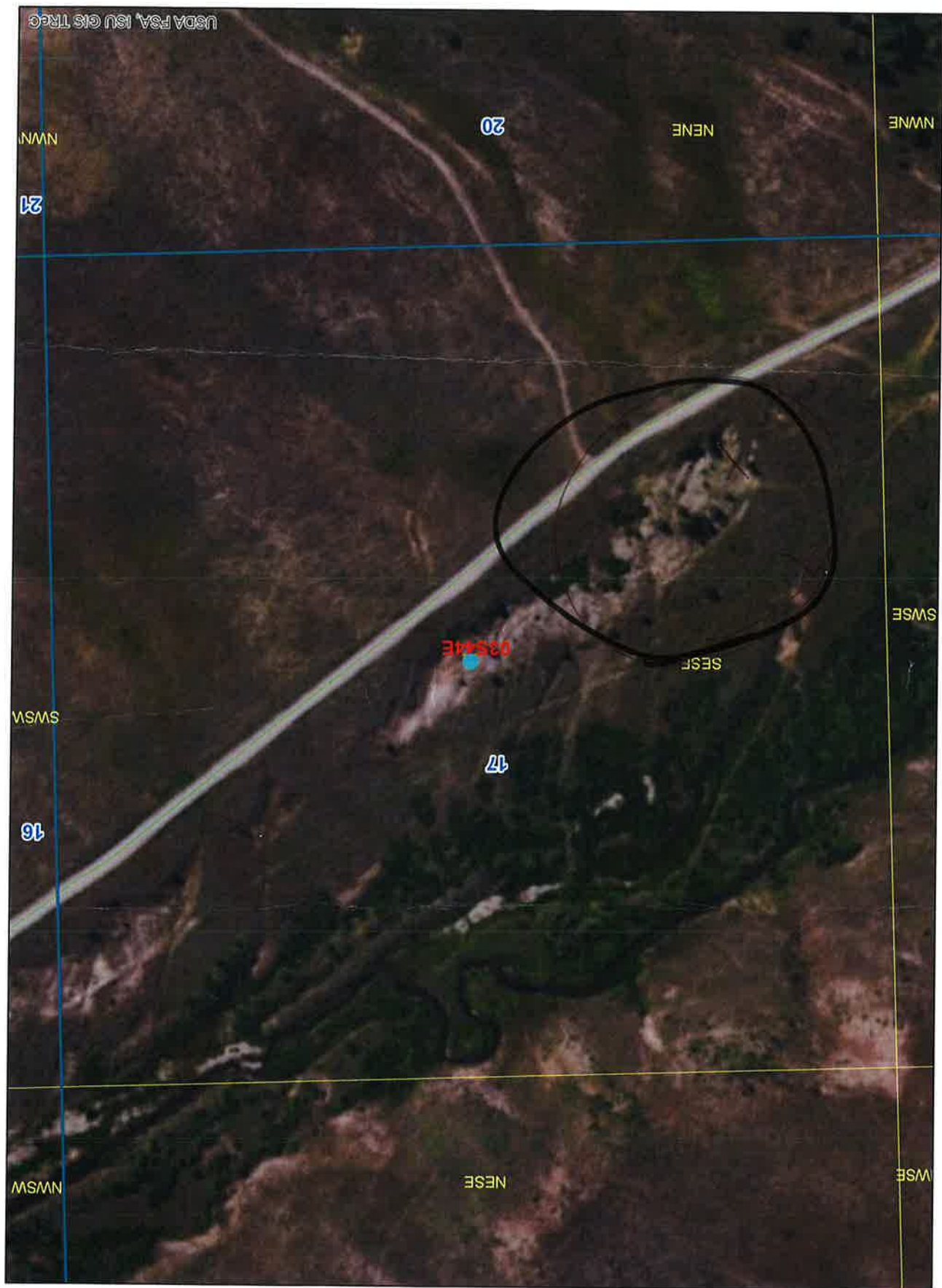
 A. DENIED

- ☒ B. APPROVED, subject to the following conditions:
1. Diversion and use of water under this approval is subject to all valid existing water rights.
 2. The applicant assumes all risk of the use of the water under this approval.
 3. This approval authorizes a maximum diversion volume of 1.0 AF and a maximum diversion rate of 0.05 cfs.
 4. This approval does not grant a right-of-way across the land of another. (20 gpm)
 5. The Department may cancel or reduce the rate of flow or volume authorized by this approval. For example, the Department may cancel or reduce this approval if it concludes the water use is injuring other water rights or adversely affecting fish, wildlife or other public values.
 6. The applicant shall not divert water when downstream minimum flow water rights are not being satisfied.
 7. This approval does not create a continuing right to use water.
 8. A temporary approval for ground water recharge or prevention of flood damage shall be an opportunistic use of surplus water and shall not interfere with the filling of surface water reservoirs.
 9. For a temporary approval authorizing ground water recharge or ground water or surface water remediation, the applicant shall measure and record the weekly quantity of water diverted and report the diversion data to the Department upon request.
 10. This temporary approval is not an authorization for the described water use to be used as mitigation or credit for any other purpose.
 11. Other: _____
 12. This approval expires on: November 30, 2020

Signed this 26th day of May, 20 20.


For the Department





PLAN OF OPERATIONS FOR MINING ACTIVITIES ON NATIONAL FOREST SYSTEM LANDS

**USE OF THIS FORM IS OPTIONAL! 1st TIME USERS SHOULD DIRECT QUESTIONS REGARDING THIS FORM OR
REGULATIONS (36 CFR 228A) TO THE FOREST SERVICE DISTRICT OFFICE NEAREST YOUR AREA OF INTEREST.**

Submitted by:

Stewart Denney
Signature

Leon Denney
Signature

Operator

Title

04/05/2019

Date
(mm/dd/yy)

Operator

Title

04/05/2019

Date
(mm/dd/yy)

Plan Received by:

Denney
Signature

RD
Signature

Geologist

Title

04/05/2019

Date
(mm/dd/yy)

I. GENERAL INFORMATION

- A. Name of Mine/Project: Denney's Coyote Claim Highbanking
- B. Type of Operation: Highbanking
(lode, placer, mill, exploration, development, production, other)
- C. Is this a (☐new/☐continuing) operation? (check one).
If continuing a previous operation, this plan (☐replaces/☐modifies/☐supplements) a previous plan of operations. (check one)
- D. Proposed start-up date (mm/dd/yy) of operation: 05/01/2019
- E. Expected total duration of this operation: ~~11/30/2019~~ 11/30/2024 DLB
- F. If seasonal, expected date (mm/dd/yy) of annual reclamation/stabilization close out: _____
- G. Expected date (mm/dd/yy) for completion of all required reclamation: ~~08/30/2020~~ 08/30/2025

II. PRINCIPALS

- A. Name, address and phone number of operators:
- | | |
|--------------------|-----------------------|
| Stewart Denney | S. Leon Denney |
| 203 E Jensen | 9593 W. Charlotte Dr. |
| McCammon, ID 83250 | Pocatello, ID 83204 |
| 208-254-9221 | 208-844-1457 |
- B. Name, address, and phone number of authorized field representative (if other than the operator).
Attach authorization to act on behalf of operator.
- C. Name, address and phone number of owners of the claims (if different than the operator):

POO-2019-075639

(If more space is needed to fill out a block of information, use additional sheets and attach form)

- D. Name, address and phone number of any other lessees, assigns, agents, etc., and briefly describe their involvement with the operation, if applicable:

III. PROPERTY OR AREA

(Name of claim, if applicable, and the legal land description where the operation will be located.)

MC#	Name	Section	Township	Range
IMC211520	Coyote	17 SESE	33	44E

IV. DESCRIPTION OF THE OPERATION

- A. **Access.** Show on a map (USGS quadrangle map or a National Forest map, for example) the claim boundaries, if applicable, and all access needs such as roads and trails, on and off the claim. Specify which Forest Service roads will be used, where maintenance or reconstruction is proposed, and where new construction is necessary. For new construction, include construction specifications such as widths, grades, etc., location and size of culverts, describe maintenance plans, and the type and size of vehicles and equipment that will use the access routes.

See attached map.

McCoy Creek Road (FS 087) will be used to get to the claim, which is located near the Guard Station. Old existing corral roads would be used to access the claim. Method of transport would be Ford pickup on FS 087, Polaris Ranger UTV, and foot travel.

- B. **Map, Sketch or Drawing.** Show location and layout of the area of operation. Identify any streams, creeks or springs if known. Show the size and kind of all surface disturbances such as trenches, pits, settling ponds, stream channels and run-off diversions, waste dumps, drill pads, timber disposal or clearance, etc. Include sizes, capacities, acreage, amounts, locations, materials involved, etc.

See attached map.

(If more space is needed to fill out a block of information, use additional sheets and attach form)

- C. Project Description.** Describe all aspects of the operation including mining, milling, and exploration methods, materials, equipment, workforce, construction and operation schedule, power requirements, how clearing will be accomplished, topsoil stockpile, waste rock placement, tailings disposal, proposed number of drillholes and depth, depth of proposed suction dredging, and how gravels will be replaced, etc. Calculate production rates of ore. Include justification and calculations for settling pond capacities, and the size of runoff diversion channels.

Hand tools would be used to extract and classify material. Classified material would be run through a highbanker to extract minerals, pending water appropriation permit from IDWR. People involved in operations would be the claim owners and family. At any time there could be 1 to 3 people involved in operations. Depth of extraction for minerals has been from 1 ft. to 4 ft. following the lay of the land. Material dug up and not run through the highbanker, as well as the tailings from the highbanker, would be waste material and used to fill any voids from our extractions and previous mining activities. Size of area to be worked would be approximately ~~20 feet x 20 feet~~. Quantity of materials would be roughly 2 to 4 cubic yds, on account of hand tools and amount of rocks to be moved with physical labor.

10 feet x 10 feet

- D. Equipment and Vehicles.** Describe that which is proposed for use in your operation (Examples: drill, dozer, wash plant, mill, etc.). Include: sizes, capacity, frequency of use, etc.

Equipment would be hand tools (shovels, picks, prybars, buckets, etc.) and a highbanker with a 6-hp motor with a 1.5-inch water pump and 1.5-inch layflat hose to get water from McCoy Creek to operations. Capacity of pump is around 40 GPM, per manufacturer, but would be less on account of pumping 200 feet away and uphill from creek to operations.

Vehicles used to access the site would be a Ford pickup on FS 087 and Polaris Ranger UTV.

- E. Structures.** Include information about fixed or portable structures or facilities planned for the operation. Show locations on the map. Include such things as living quarters, storage sheds, mill buildings, thickener tanks, fuel storage, powder magazines, pipelines, water diversions, trailers, sanitation facilities including sewage disposal, etc. Include engineering design and geotechnical information for project facilities, justification and calculations for sizing of tanks, pipelines and water diversions, etc.

Housing would be in self contained campers (RV's), parked in existing camp spots west of old USFS Guard Station. No other structures are planned.

V. ENVIRONMENTAL PROTECTION MEASURES (SEE 36 CFR 228.8)

- A. Air Quality.** Describe measures proposed to minimize impacts on air quality such as obtaining a burning permit for slash disposal or dust abatement on roads.

N/A

(If more space is needed to fill out a block of information, use additional sheets and attach form)

B. Water Quality. State how applicable state and federal water quality standards will be met. Describe measures or management practices to be used to minimize water quality impacts and meet applicable standards.

1. State whether water is to be used in the operation, and describe the quantity, source, methods and design of diversions, storage, use, disposal, and treatment facilities. Include assumptions for sizing water conveyance or storage facilities.
2. Describe methods to control erosion and surface water runoff from all disturbed areas, including waste and tailings dumps.
3. Describe proposed surface water and groundwater quality monitoring, if required, to demonstrate compliance with federal or state water quality standards.
4. Describe the measures to be used to minimize potential water quality impacts during seasonal closures, or for a temporary cessation of operations.
5. If land application is proposed for waste water disposal, the location and operation of the land application system must be described. Also describe how vegetation, soil, and surface and groundwater quality will be protected if land application is used.

IDWR temporary water appropriations permit will be obtained.

C. Solid Wastes. Describe the quantity and the physical and chemical characteristics of solid waste produced by the operation. Describe how the wastes will be disposed of including location and design of facilities, or treated so as to minimize adverse impacts. Waste and garbage would be taken to Soda Springs or home for disposal.

D. Scenic Values. Describe protection of scenic values such as screening, slash disposal, or timely reclamation. Vegetation onsite consists of natural grasses, weeds and sagebrush. All voids will be filled in using waste material from the operations.

(If more space is needed to fill out a block of information, use additional sheets and attach form)

- E. Fish and Wildlife.** *Describe measures to maintain and protect fisheries and wildlife, and their habitat (includes threatened, endangered, and sensitive species) affected by the operations.*
All IDWR permit requirements will be followed.

-
- F. Cultural Resources.** *Describe measures for protecting known historic and archeological values, or new sites in the project area.*
We will adhere to all requirements as dictated by the cultural survey and the requirements of this plan of operations.

G. Hazardous Substances.

1. *Identify the type and volume of all hazardous materials and toxic substances which will be used or generated in the operations including cyanide, solvents, petroleum products, mill, process and laboratory reagents.*
 2. *For each material or substance, describe the methods, volume, and frequency of transport (include type of containers and vehicles), procedures for use of materials or substances, methods, volume, and containers for disposal of materials and substances, security (fencing), identification (signing/labeling), or other special operations requirements necessary to conduct the proposed operations.*
 3. *Describe the measures to be taken for release of a reportable quantity of a hazardous material or the release of a toxic substance. This includes plans for spill prevention, containment, notification, and cleanup.*
-

(If more space is needed to fill out a block of information, use additional sheets and attach form)

- H. **Reclamation.** Describe the annual and final reclamation standards based on the anticipated schedule for construction, operations, and project closure. Include such items as the removal of structures and facilities including bridges and culverts, a revegetation plan, permanent containment of mine tailings, waste, or sludges which pose a threat of a release into the environment, closing ponds and eliminating standing water, a final surface shaping plan, and post operations monitoring and maintenance plans. All voids will be filled in using waste material from the operations.

VI. FOREST SERVICE EVALUATION OF PLAN OF OPERATIONS

A. Required changes/modifications/special mitigation for plan of operations:

- B. **Bond.** Reclamation of all disturbances connected with this plan of operations is covered by Reclamation Performance Bond No. N/A, dated (mm/dd/yy) 10/10/19 signed by S. Denney (Principal) and USFS (Surety), for the penal sum of \$877.00. This Reclamation Performance Bond is a guarantee of faithful performance with the terms and conditions listed below, and with the reclamation requirements agreed upon in the plan of operations. This Reclamation Performance Bond also extends to and includes any unauthorized activities conducted in connection with this operation.

The bond amount for this Reclamation Performance Bond was based on a bond calculation worksheet. The bond amount may be adjusted during the term of this proposed plan of operations in response to changes in the operations or to changes in the economy. Both the Reclamation Performance Bond and the bond calculation worksheet are attached to and made part of this plan of operations. Acceptable bond securities (subject to change) include:

1. *Negotiable Treasury bills and notes which are unconditionally guaranteed as to both principle and interest in an amount equal at their par value to the penal sum of the bond; or*
 2. *Certified or cashier's check, bank draft, Post Office money order, cash, assigned certificate of deposit, assigned savings account, blanket bond, or an irrevocable letter of credit equal to the penal sum of the bond.*
-

VII. TERMS AND CONDITIONS

- A. If a bond is required, it must be furnished before approval of the plan of operations.
- B. Information provided with this plan marked confidential will be treated in accordance with the agency's laws, rules, and regulations.
- C. Approval of this plan does not constitute certification of ownership to any person named herein and/or recognition of the validity of any mining claim named herein.
- D. Approval of this plan does not relieve me of my responsibility to comply with other applicable state or federal laws, rules, or regulations.
- E. If previously undiscovered cultural resources (historic or prehistoric objects, artifacts, or sites) are exposed as a result of operations, those operations will not proceed until notification is received from the Authorized Officer that provisions for mitigating unforeseen impacts as required by 36 CFR 228.4(e) and 36 CFR 800 have been complied with.
- F. This plan of operations has been approved for a period of _____ or until (mm/dd/yy) 11/30/24. A new or revised plan must be submitted in accordance with 36 CFR part 228, subpart A, if operations are to be continued after that time period.

VIII. OPERATING PLAN ACCEPTANCE

☒ ☐ We have reviewed and agreed to comply with all conditions in this plan of operations including the required changes, modifications, special mitigation, and reclamation requirements.

☒ ☐ We understand that the bond will not be released until the Authorized Officer in charge gives written approval.

Stewart Penney
Signature of ☒ Operator (or ☐ Authorized Representative)

4-24-2020
(Date)
(mm/dd/yy)

IX. OPERATING PLAN APPROVAL

Bryan K. Inell
(Name)

District Ranger
(Title)

Kim S. Forz
Signature of (Authorized Officer)

5/4/20
(Date)
(mm/dd/yy)

Burden and Non-Discrimination Statement

According to the collection burden rule of 2009, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0022. The time required to complete this information collection is estimated to average 12 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

(If more space is needed to fill out a block of information, use additional sheets and attach form.)

Plan of Operations Addendum 1—Mitigation Measures

The highbanking plan of operations received from Stewart and Léon Denney on April 5, 2019, was evaluated based on: (1) the 1994 *Environmental Assessment/Decision Notice and Finding of No Significant Impact for Small Placer Mining Operations, Caribou Basin Area*; (2) the 2003 *Revised Forest Plan for the Caribou National Forest*; and (3) a field review conducted on June 20, 2019. This evaluation was used to develop the following list of required mitigation measures specific to activities described in the plan.

General

- Operator must notify the U.S. Forest Service (FS) Soda Springs District Ranger one week in advance of commencing operations for the season.
- All refuse from prospecting activities must be packed out and disposed of properly.
- In the event previously unknown cultural resources are discovered during ground disturbing activities, operator will halt work and notify the District Ranger.
- During periods of inactivity lasting more than one day when the operator is not on site, the walls of the excavation will be sloped at 3:1 (i.e., 3 horizontal to 1 vertical) to prevent falling and entrapment hazards.
- This Plan of Operations and all other required permits shall be on the operator at all times of activity.

Vehicle/Equipment

- Motorized travel on closed roads or cross country in order to transport equipment must be specifically authorized by the District Ranger. Such travel is prohibited during wet weather conditions.
- Spread of noxious weeds and their seeds into disturbed areas shall be prevented by ensuring equipment and vehicles, including tires and undercarriage, are washed down prior to entering National Forest System lands.

Water

- Operator must provide District Ranger with a current copy of the Idaho Department of Water Resources temporary water appropriation permit before activities may begin each season.
- Intake hose must be screened with 3/32-inch mesh to avoid fish entrainment during water withdrawals. Intake velocities should not exceed 0.5 feet per second to prevent loss of juvenile fish. Pumps must be placed on land and not in stream.
- Water withdrawals shall not undercut or disturb any stream bank. The stream channel may not be dammed or otherwise diverted for any reason.
- Discharge water may not re-enter McCoy Creek or any other natural flowing or ponded surface water except under the conditions specified by the U.S. Environmental Protection Agency.

- Silt fencing or similar sediment control measures shall be used as determined by the FS. Settling ponds or other impoundment structures must be approved by the FS prior to construction and/or use.

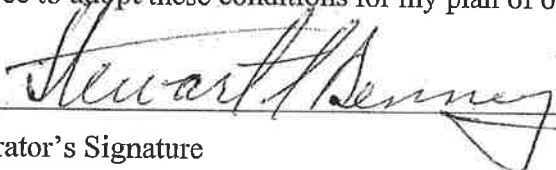
Reclamation

- Any disturbed soil should be salvaged and utilized for reclamation purposes. Due to the small extent of disturbance, areas should not be reseeded. (It is anticipated natural processes will ensure revegetation at these small sites.)
- Disturbed ground shall be stabilized at the end of each operating season, with final site reclamation to occur when prospecting at the site is complete and before moving to the next site.
- Operator must notify the FS Minerals Administrator once a site is reclaimed prior to moving to the next one.

Hazardous Materials

- The use of mercury is prohibited, and mercury recovered during placer operations may not be allowed to re-enter the environment. No chemicals or detergents may be used as part of the operation.
- Fuel storage and equipment refueling may not occur within a riparian zone. Fuel must be stored in an Underwriters Laboratories (UL)-approved container. In the event of a fuel or oil spill, the District Ranger shall be notified immediately.

I agree to adopt these conditions for my plan of operations.


Operator's Signature


Date

Henman, Christina

From: Olenichak, Tony
Sent: Tuesday, May 26, 2020 9:52 AM
To: Henman, Christina
Subject: RE: Application for Temporary Approval Number TP- 23-44

Christina,

This application appears to be for a non-consumptive use. If that's the case, then I don't have any reason for denying the application.

Tony Olenichak
Watermaster
Water District #1

From: Henman, Christina
Sent: Tuesday, May 26, 2020 9:34 AM
To: Olenichak, Tony <Tony.Olenichak@idwr.idaho.gov>
Subject: Application for Temporary Approval Number TP- 23-44

Attention TONY OLENICHAK,

The Department of Water Resources is seeking comment from you regarding an application to temporarily appropriate water. A copy of the application is attached for your reference.

Please submit your comments within 7 days. No response will indicate that you have no objection, concerns or conditions you wish to be added to the issuance of any approval of this application.

If you have any questions regarding this application, please contact me via email or at (208) 497-3793.

Thank you,
Christina Henman
Administrative Asst. I



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region • 900 N SKYLINE DR STE A • IDAHO FALLS, ID 83402-1718

Phone: (208)525-7161 • Fax: (208)525-7177 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

May 26, 2020

STEWART DENNEY
203 E JENSEN RD
MCCAMMON ID 83250-1619

RE: Application for Temporary Approval of Water Use: TP-23-44

Dear Applicant(s):

Your application for temporary water appropriation has been approved and is enclosed. The approval authorizes the temporary use of water and does not grant trespass or other activity on public land or on private property.

Please review the **conditions of approval on page 2 of the Application for Temporary Approval form** to understand the limitations associated with the temporary use of water.

This temporary approval **expires on November 30, 2020**. The expiration date cannot be extended under this temporary approval.

If you have any questions, please feel free to contact this office, and any of our agents will be able to assist you.

If you require additional information regarding this matter, please call me at (208) 497-3793 or email me at Christina.Henman@idwr.idaho.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'CH' followed by a stylized flourish.

Christina Henman
Administrative Asst. I.

Enclosure(s) Receipt

cc: TONY OLENICHAK, Water District 01.