

RECEIVED

DEC 24 2019

Department of Water Resources
Eastern Region

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant(s) Rainey Creek Enterprises LLC Phone 973-997-4551
 Name connector (check one): ☐ and ☐ or ☐ and/or
 Mailing address PO Box 5 City Irwin
 State ID ZIP 83428 Email _____
2. Name of representative, if any Rocky Mountain Environmental Associates, Inc Phone 208-524-2353
 Mailing address 482 Constitution Way Ste 303 City Idaho Falls
 State ID ZIP 83402 Email kristin.rmea@gmail.com
- 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 Ground Water which is a tributary of _____
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
2N	43E	36			SE	SW	BONNEVILLE	GROUND WATER	Irrigation Well

5. Water will be used for the following purposes:
- Amount 0.1 cfs for Irrigation purposes from 5/01 to 10/01 (both dates inclusive)
 (cfs or acre-feet per year)
- Amount 6.6 afa for Irrigation purposes from 5/01 to 10/01 (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) 0.1 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. A 48" sandpoint well, approximately 18' deep with a 5 Hp pump and 2" irrigation pipe.
- b. Height of storage dam NA feet; active reservoir capacity NA acre-feet; total reservoir capacity NA 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? 2019; drilling firm Independent Drilling;
 well was drilled for (well owner) _____; Drilling Permit No. _____

For Department Use

Received by JB Date 12/24/2019 Time _____ Preliminary check by _____
 Fee \$ 100.- Receipted by JB Receipt No. E045526 Date 12/24/2019

23-11483

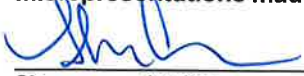
8. Description of proposed uses (if irrigation only, go to item 9):
- Hydropower; show total feet of head and proposed capacity in kW. _____
 - Stockwatering; list number and kind of livestock. _____
 - Municipal; must complete and attach the [Municipal Water Right Application Checklist](#).
 - Domestic; 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	
2N	43E	36												18.7				3.3	22

Total number of acres to be irrigated: 22 **Acre limit: 2.5**

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? Water right 23-11468 authorizes irrigation of 2.5 acres at the place of use. See the attached narrative for more details.
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. See the attached narrative.
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.


 Signature of Applicant
SHANE FURMAN (OWNER)
 Print Name (and title, if applicable)

 Signature of Applicant

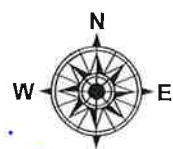
 Print Name (and title, if applicable)



2017 Aerial Photography

Legend

- Proposed Irrigation Well
- Estimated Tree Locations
- Estimated Irrigated Acres
- Proposed PPU
- Twp & Rng
- Section
- QQ



23-11483

Application for Permit

Rainey Creek Enterprises LLC

RMEA #18-0033

by: KM

Date: 12/9/2019



Narrative to Support Application for Permit

Rainey Creek Enterprises LLC

Rainey Creek Enterprises LLC purchased and transferred ground water right 23-11468 (Figure 1) for the irrigation of lawn and open spaces of the development "Centre at Rainey Creek" located at the intersection of Pine Creek Pass and Hwy 26 in Swan Valley, Idaho. Right 23-11468 allows for diversion of 0.03 cfs, or 13.5 gpm, for the irrigation of 2.5 acres. It was recognized when designing the irrigation system that the diversion rate authorized by the water right was uncomfortably low. The proposed irrigation system for the development would rather have an instantaneous diversion rate of 0.1 cfs, or 45 gpm in order to irrigate on an every-other-day basis.

The irrigation system was originally intended to be diverted through the same wells planned for culinary water, which were drilled in 2019. For efficiency, engineering plans were amended to deliver irrigation water through a separate sandpoint well located adjacent to the commercial buildings. The sandpoint well was dug in 2019 to accommodate flows required for the fire suppression system.

For this Application for Permit, it is proposed that the irrigation portion of 23-11468 be used as "mitigation by non-use" to allow the development of a new permit with a higher instantaneous diversion rate. To show that the proposed permit will not result in an enlargement of water right 23-11468, an analysis was performed detailing the historical volume of the water right and the volume requirements of the proposed system. A summary of the analysis is shown in Figure 2.

Historical Volume at the Original Location

Since this water right was recently transferred to the proposed location in Transfer No. 82568, and no diversion has yet occurred at the new location, this analysis is based upon historical consumption under the water right prior to the transfer. At the original location, the water right was used to irrigate alfalfa—less frequent cuttings, which has a precipitation deficit of 842 mm/year at the Blackfoot Station (NWS—USC00100915), or 2.76 afa according to ET Idaho 2017. Annual consumptive use was about 6.9 afa for the irrigation of 2.5 acres of alfalfa.

$$2.5 \text{ acres} \times 2.76 \text{ afa/ac} = 6.9 \text{ afa consumptive use}$$

Volume Requirements at Proposed System

The proposed system will irrigate turf grass and new trees (through driplines) around commercial buildings and townhomes, not exceeding a total of 2.5 acres of irrigation. ET Idaho 2017 indicates the precipitation deficit of turf grass at the Swan Valley 1W Station (NWS—USC00108937) is 521 mm/year, or 1.71 afa. It is estimated that there will be 2.0 acres of lawn within the project, leaving 0.5-acre worth of the water right remaining for the irrigation of trees.

There is no data listed for trees on ET Idaho, and it is difficult to equate the irrigation of trees through dripline with a specific irrigated acreage. Typical irrigation practices suggest that new trees require about 12 gallons per week per tree. The proposed project anticipates just over 150 trees to be established. Total estimates of volume required is about 0.13 afa (12 gallons per week/tree x 150 trees x 23 weeks / 325,850 gallons/af = 0.13 af). Since the suggested irrigation data on tree water

requirements was not referenced in ET Idaho, and irrigation practices suggest it is less than turf grass, this analysis assumed that all irrigation will be for turf grass to ensure that adequate volume is considered.

Total consumptive use of the turf grass is calculated to be 4.3 afa for 2.5 acres of irrigation.

$$2.5 \text{ acres} \times 1.71 \text{ afa/ac} = 4.3 \text{ afa consumptive use}$$

The proposed system would operate at a higher diversion rate than originally, but will require less irrigation days (frequency) within the season. It is anticipated that irrigation will occur 3 days per week for about 22 weeks, beginning May 1 and extending through October 1, for a total of 66 irrigation days. Since irrigation will occur around townhomes and commercial buildings, the irrigation system would only operate for 12 hours per day. At a rate of 0.1 cfs for 12 hours per day (or ½ day), the system output would be 0.1 af/day or 6.6 afa.

$$0.1 \text{ cfs} \times 1.9835 \times \frac{1}{2} \text{ day} = 0.1 \text{ af/day}$$

$$0.1 \text{ af/day} \times 66 \text{ days} = 6.6 \text{ afa}$$

Conclusion

Compared to the historical use of the parent right to water right 23-11468, the proposed permit would result in both a reduction of diversion volume and consumed volume. The historical consumptive use was calculated to be 6.9 afa. It is anticipated that the proposed system, as described above, would not divert more than 6.6 afa. The anticipated new consumptive use would be even less at 4.3 afa resulting in an overall reduction of 2.6 afa. Approval of this permit is consistent with conservation of resources since it will result in the reduction of diverted water from the aquifer.

Figure 1. Water Right Report 23-11468

**IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report**

11/18/2019

Water Right 23-11468

Owner Type **Name and Address**
Current Owner RAINEY CREEK ENTERPRISES LLC
 PO BOX 5
 IRWIN, ID 83428-0005
 (973) 997-4551

Priority Date: 3/20/1959

Basis: Decreed

Status: Active

Source
GROUND WATER

Tributary

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/15	10/31	0.030 CFS	8.8 AF
MITIGATION BY NON-USE	04/15	10/31		0.7 AF
Total Diversion			0.030 CFS	9.5 AF

Source and Point(s) of Diversion

GROUND WATER	SESW	Sec. 36, Twp 02N, Rge 43E, BONNEVILLE County
GROUND WATER	SESW	Sec. 36, Twp 02N, Rge 43E, BONNEVILLE County

Place Of Use

MITIGATION BY NON-USE within BONNEVILLE County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	43E	36												18.7				3.3	

POU Total Acres: 22.0

IRRIGATION within BONNEVILLE County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	43E	36												18.7				3.3	22.0

Right Acre Limit: 2.5

POU Total Acres: 22.0

Conditions of Approval:

1. X27 This right is limited to the irrigation of 2.5 acres within the authorized place of use in a single irrigation season.
2. 206 This right is limited to the irrigation of a specific 2.5 acres within the 22 acre place of use authorized by this right in a single irrigation season. The specific 2.5 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 2.5 acres to be irrigated within the 22 acre place of use, the right holder shall submit a new land list and representative

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

11/18/2019

- electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
3. R63 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
 4. 193 A portion of this right mitigates for the depletion of water resulting from the diversion and use of water under Right 23-11477. To prevent injury to other water right holders, the right holder shall cease the use of 0.7 af and 0.2 acres of this right. If the mitigation portion of this right is used for any purpose, then water shall not be diverted under Right 23-11477. If the mitigation portion of this right is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under the uses of Right 23-11477 that are being mitigated shall be reduced by the same proportion as the reduction to this right.
 5. 046 Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
 6. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
 7. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
 8. T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Figure 2. Calculations Summary

Description	Historical Use of WR 23-11468	Current WR 23- 11468	Permit Mitigated by WR 23-11468
Location:	T1S R32E Sec 24	T2N R43E Sec 36	T2N R43E Sec 36
Station:	Blackfoot	Swan Valley 1W	Swan Valley 1W
Crop:	Alfalfa - less freq Cut	Turf Grass	Turf Grass
ET:	842 mm/yr	521 mm/yr	521 mm/yr
	2.76 afa	1.71 afa	1.71 afa
Acres:	2.5 ac	2.5 ac	2.5 ac
Consumptive volume:	6.9 afa	4.3 afa	4.3 afa
cfs:	0.03 cfs	0.03 cfs	0.1 cfs
# Days / season:	214 days	200 days	200 days
Annual Diversion Limit:	10 afa	8.8 afa	6.6 afa
Daily Diversion Limit:	0.06 af/day	0.06 af/day	0.10 af/day
# Days to get full volume:	168 days	148 days	66 days
Notes:	An evaluation of the historical use of 23-11468 at the original property prior to the recently approved Transfer 82568.	Based upon changes authorized in Transfer 82568, irrigation could continue as shown above.	An evaluation of the proposed usage under a system with a higher instantaneous diversion rate. May - September, 22 weeks 12 hrs/day, 3 days per week



CERTIFICATE OF ORGANIZATION LIMITED LIABILITY COMPANY

Title 30, Chapters 21 and 25, Idaho Code

Filing fee: \$100 typed, \$120 not typed

Complete and submit the application in duplicate.

FILED EFFECTIVE

2017 MAR 14 AM 11:31

SECRETARY OF STATE
STATE OF IDAHO

1. The name of the limited liability company is:

Rainey Creek Enterprises LLC

(Remember to include the words "Limited Liability Company," "Limited Company," or the abbreviations L.L.C., LLC, or LC)

2. The complete street and mailing addresses of the principal office is:

50 Cutthroat Run, Irwin, ID 83428

(Street Address)

P.O. Box 5, Irwin, ID 83428

(Mailing Address, if different)

3. The name of the registered agent and the street address of the registered agent:

Stephen E. Martin

425 S. Holmes Ave., Idaho Falls, ID 83401

(Name)

(Address cannot be a post office box or postal mail box.)

4. The name and address of at least one governor of the limited liability company:

The Shane D. Fleming and Lorraine J. Fleming Family Trust, P.O. Box 5, Irwin, ID 83428

(Name)

(Address)

(Name)

(Address)

(Name)

(Address)

(Name)

(Address)

5. Mailing address for future correspondence (annual report notices):

P.O. Box 5, Irwin, ID 83428

(Address)

Signature of organizer(s). The Shane D. Fleming and
Lorraine J. Fleming Family Trust

Signature: [Signature]

Printed Name: Shane D. Fleming, Trustee

Signature: [Signature]

Printed Name: Lorraine J. Fleming, Trustee

Secretary of State use only

IDAHO SECRETARY OF STATE

03/14/2017 05:00

CK: PREPAID CT: 113824 BH: 1573707

10 100.00 = 100.00 ORGAN LLC #2

W180024



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls ID 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177

Website: idwr.idaho.gov • Email: easterninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

January 7, 2020

RAINEY CREEK ENTERPRISES LLC
PO BOX 5
IRWIN, ID 83428-0005

Application For Permit No. 23-11483

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 POST REGISTER on 1/16/2020 and 1/23/2020. 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,

Christina Henman
Administrative Assistant

CC:

ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
C/O KRISTIN MOORE
482 CONSTITUTION WAY STE 303
IDAHO FALLS, ID 83402-3552

Henman, Christina

From: Henman, Christina
Sent: Tuesday, January 07, 2020 3:06 PM
To: POST REGISTER (legalnotices@postregister.com)
Subject: Legal Ads for Post Register
Attachments: 23-11483 Post Register.doc

Hello,

Please see attached document regarding a legal notice to run in your paper.

Thank You,

Christina Henman
Administrative Assistant
Idaho Dept. of Water Resources, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 497-3793

January 7, 2020

Contains more than 1 page.

Legal Notice Department

Post Register
PO Box 1800
Idaho Falls ID 83403

RE: Application For Permit No.(s): 23-11483

Dear Taylor Winger:

Enclosed you will find a legal notice which we wish to have published in your newspaper 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 2/3/2020. Your cooperation is appreciated.

Sincerely,

Christina Henman
Administrative Assistant
Dept of Water Resources
900 N Skyline Dr Ste A
Idaho Falls ID 83402
208-525-7161

The following application(s) have been filed to appropriate the public waters of the State of Idaho:
23-11483

RAINEY CREEK ENTERPRISES LLC, PO BOX 5, IRWIN, ID 83428-0005

Point of Diversion SESW

S36 T02N R43E

BONNEVILLE County

Source GROUND WATER Tributary

Use: IRRIGATION

05/01 to 10/01: 0.1 CFS, 6.6 AF

Total Diversion: 0.1 CFS, 6.6 AF

Date Filed: 12/24/2019

Place Of Use: IRRIGATION

T02N R43E S36 SESW SWSE

Total Acres: 22

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Eastern Region office at (208) 525-7161. 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, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of \$25.00 for each application on or before 2/3/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director Published on 1/16/2020 and 1/23/2020