

RECEIVED

APR 29 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 Idaho 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 Idaho 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 NA
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
2N	43E	36			SE	SW	BONNEVILLE	GROUND WATER	POND

5. Water will be used for the following purposes:
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
- Amount 0.44 cfs for Diversion to Storage purposes from 4/1 to 10/31 (both dates inclusive)
 (cfs or acre-feet per year)
- Amount 4.5 afa for Wildlife Storage purposes from 1/1 to 12/31 (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) 0.44 cubic feet per second (cfs) and/or (b) 4.5 acre-feet per year (af).
7. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source. A shallow well with a 1.5 hp pump
- 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 6 inches; proposed depth of well is <25 feet.
- d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☒ No
- e. If well is already drilled, when? NA; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____

For Department Use

Received by Sc Date 4/29/19 Time _____ Preliminary check by _____
 Fee \$ 500 Received by 4/29/19 Sc Receipt No. 2044924 Date 4/29/19

23-11477

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. One pond: 0.75 ac surface area and 3.6 AF volume.

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												W					

Total number of acres to be irrigated: _____

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? No other water rights for the same purpose. No irrigation.

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 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

Print Name (and title, if applicable)

Signature of Applicant

Print Name (and title, if applicable)

Narrative to Support Application for Permit

Rainey Creek Enterprises LLC

Applicant proposes to develop a new pond that will be approximately 0.75 acres in surface area and up to 12' deep. Ground water at this site is very shallow and is no more than 2 feet below ground surface year round. This application proposes to develop a new water right for storage and maintenance of the pond. Mitigation is offered for the consumptive components of this application.

Storage

The proposed pond will be located in the northwest corner of the applicant's property. Volume of the pond is calculated to be 3.6 acre-feet, as determined by the following equation:

$$V = 0.75 \text{ acres} \times 12' \times 0.4 = 3.6 \text{ af}$$

Due to the shallow ground water, the pond will fill naturally from ground water. Water volume for first-time fill of the pond will be mitigated through non-use of the ground water right 23-11468 that was recently transferred to the property in approved Transfer No. 82568 on September 28, 2018. A copy of the water right report is attached. The irrigation system will not yet be in place to utilize the ground water right this year, and thus it is available to be used as mitigation of the first time fill of the proposed pond.

Water right 23-11468 allows for the irrigation of 2.7 acres. This right has not yet been used for a season at the newly approved location. Prior to being transferred, it was used to irrigate alfalfa – less frequent cuttings near Blackfoot, Idaho, which has a higher consumptive use than the current location. For the purposes of this application, it is assumed that right 23-11468 has been used to irrigate alfalfa—less frequent cuttings at the existing location. ET_{Idaho} 2017 shows that at the Swan Valley 1W (NWS – USC00108937) station, alfalfa – less frequent cuttings has a precipitation deficit of 538 mm/yr, or 1.77 ft/yr, for the growing season. Compensation for the volume of the first time fill of 3.6 af is calculated to only require 2.0 acres of the ground water right 23-11468 (not the full 2.7 acres that is currently available).

Evaporation

At the proposed location of the pond, the existing land cover has been evaluated, revealing that approximately 0.4 acres of the total 0.75 acre pond will overlap existing wetlands. The remaining area overlapped by the pond is uplands with unidentified land cover. The consumption requirements of the pond are determined by calculating the increase in consumption from the existing to the proposed land cover. Since the vegetation of the uplands was unidentified, and there was no irrigation, it is assumed that they contribute an insignificant amount to the existing consumptive use. Wetlands – large stands consumes 4.11 mm/yr, or 1.35 ft/yr, according to ET_{Idaho} 2017. Therefore, consumption of the existing wetlands is 0.54 afa.

$$\text{Consumptive Use of Wetlands} = 1.35 \text{ ft/yr} \times 0.4 \text{ acres} = 0.54 \text{ afa}$$

Using IDWRs Pond Loss Calculation Spreadsheet as shown in Figure 1, evaporation of the 0.75 acre pond is calculated to be 0.9 afa. Therefore, the increase in consumptive use from existing land cover to pond is a net 0.36 afa (0.9 afa – 0.54afa = 0.36afa).

Precipitation Deficit			
Station: Swan Valley 1W (NWS -- USCD0108937)			
Month	mm/day ¹	Days per month	mm/Month
Jan	-0.92	31	0.00
Feb	-0.36	28	0.00
March	0.23	31	7.13
April	0.95	30	28.50
May	0.79	31	24.49
June	2.55	30	76.50
July	3.35	31	103.85
August	2.61	31	80.91
September	1.38	30	41.40
October	0.35	31	10.85
November	-0.84	30	0.00
December	-0.89	31	0.00
Total mm/year =			373.63
$\left(\frac{373.63}{304.8} \right) \times 0.75 = 0.9 \text{ AFA}$			

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

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

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

Figure 1. Excerpt of IDWR Pond Loss Calculation Spreadsheet

It is proposed that to mitigate for the increase in consumption, a portion of water right 23-11468 be retired from irrigation purposes. Using the same historical use as described in the section above, it is calculated to require 0.2 acres to retire permanently from irrigation upon development of the pond.

$$\text{Acres to Retire for Mitigation} = 0.36 \text{ afa} / 1.77 \text{ ft/yr} = 0.2 \text{ acres}$$

Since water right 23-11468 is currently described as a permissible place of use, the total irrigable acres will be reduced by 0.2 acre, from 2.7 acres to 2.5 acres. Currently, IDWR shows 2.0 acres that have been identified as turf. The remaining portions of the water right are expected to be used for establishment of trees across the property through a drip line system. To determine acreage that will be irrigated by the 159 trees, each tree was allotted a 5' or 10' radius of irrigation based upon tree size. The total estimated irrigation under the trees is approximately 0.4 acres. It appears that 2.4 acres of irrigation water right is sufficient to supply the irrigation demand for the remaining project, 2.0 acres of turf, 0.4 acres for tree establishment, and 0.1 acres for contingency for either location.

Flow

To maintain a cleaner, fresher pond, a closed loop recirculation system will be installed. There will be a pipe inlet and a pipe outlet with a suction pump to recirculate pond water. A shallow well will be installed nearby with a 1.5 hp pump which can deliver evaporative replacement water to the system. A higher flow rate of 200 gpm (0.44 cfs) is proposed to allow high flows for short durations for maintenance, rather than a constant very low-rate flow. This component is anticipated to be non-consumptive. Seepage losses are expected to be insignificant with the high water table.

Summary of Proposal

A new 0.75 acre pond is proposed to have a depth of up to 12' and a volume of 3.6 acre feet. The pond will fill naturally with ground water and be maintained through a new shallow well and a closed loop recirculation system.

First time fill of 3.6 acre feet will be accomplished through non-use of 2.0 acres of irrigation water of right 23-11468, which is already appurtenant to the property.

Evaporation is expected to be 0.9 acre feet per year. Existing wetlands covering a portion of the pond area will result in a net 0.36 afa increase above the current land use. Retirement of 0.2 acres of water right 23-11468 is proposed to mitigate for the increase in consumptive use resulting from the development of the pond. Total volume requirements for the pond are calculated to be 4.5 afa (3.6 afa pond fill + 0.9 afa pond evaporation).

Diversion of water for maintenance is anticipated to require 0.44 cfs or 200 gpm for short-duration intervals.



WATER RIGHT REPORT

4/23/2019

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 23-11468

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	RAINEY CREEK ENTERPRISES LLC PO BOX 5 IRWIN, ID 83428-0005 9739974551
Original Owner	PATRICK O DONNELL 1012 DEEPWOOD PL WILMINGTON, NC 28405 9102562850
Security Interest	AXA EQUITABLE LIFE INSURANCE CO C/O AXA EQUITABLE AGRIFINANCE LLC 6300 C STREET SW CEDAR RAPIDS, IA 52499-0001 3193558063

Priority Date: 03/20/1959

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/15	10/31	0.03 CFS	9.5 AFA
Total Diversion			0.03 CFS	

Location of Point(s) of Diversion:

GROUND WATER | SESW | Sec. 36 | Township 02N | Range 43E | BONNEVILLE County

GROUND WATER | SESW | Sec. 36 | Township 02N | Range 43E | BONNEVILLE County

IRRIGATION Use:

Acre Limit: 2.7

Place(s) of use:

Place of Use Legal Description: IRRIGATION BONNEVILLE County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
02N	43E	36		SESW	18.7									
				SWSE	3.3									

Total Acres: 22

Conditions of Approval:

1. X27 This right is limited to the irrigation of 2.7 acres within the authorized place of use in a single irrigation season.
2. 206 This right is limited to the irrigation of a specific 2.7 acres within the 22 acre place of use authorized by this right in a single irrigation season. The specific 2.7 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 2.7 acres to be irrigated within the 22 acre place of use, the right holder shall submit a new land list and representative 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. 046 Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. 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.
7. 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.

Dates:

Licensed Date:

Decreed Date: 04/30/2002

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

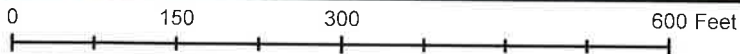
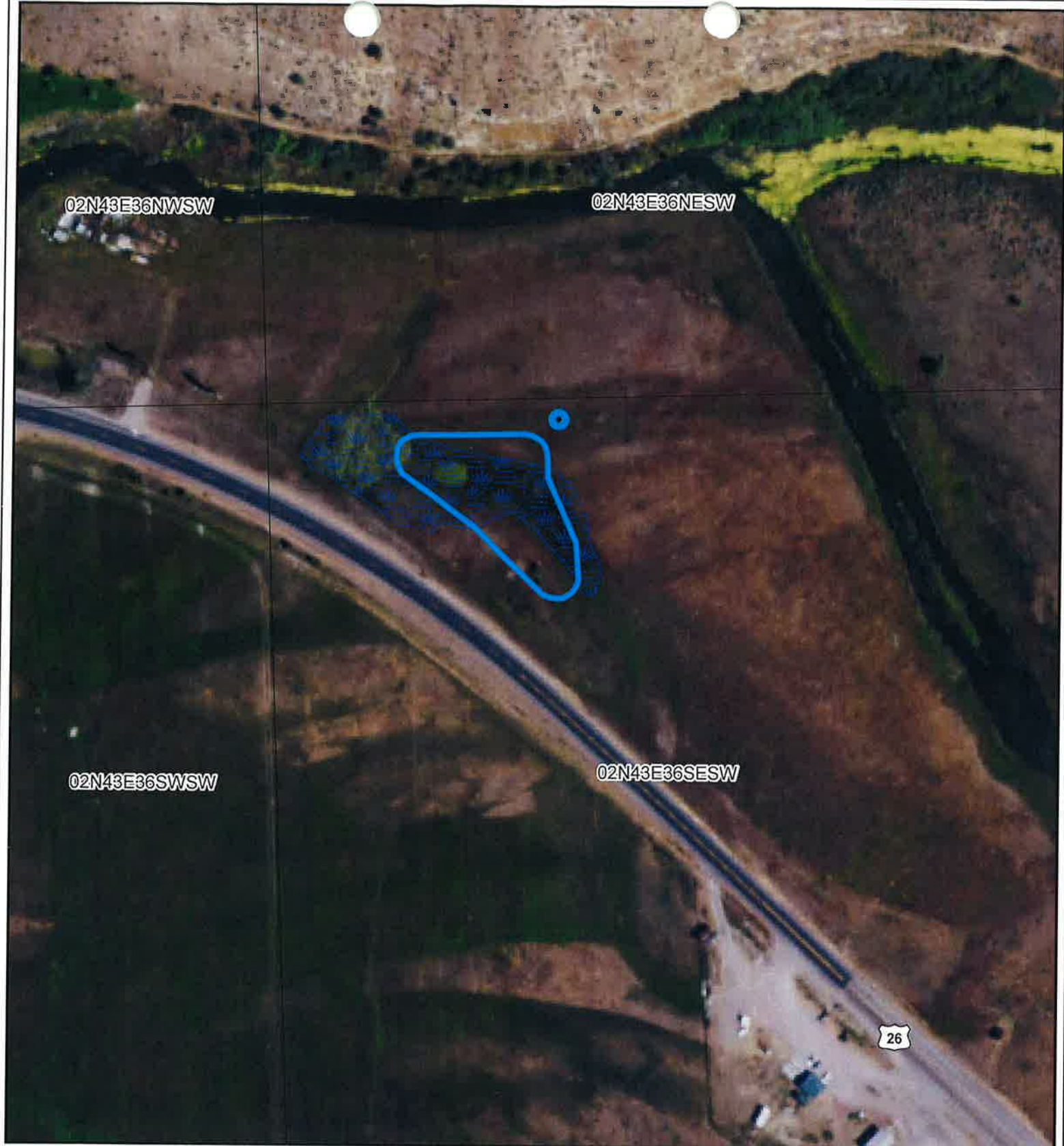
Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

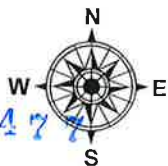


2017 Aerial Photography

Legend

-  Approx. Proposed Well
-  Proposed Pond
-  Delineated Wetlands
-  Twp & Rng
-  Section
-  QQ

23-11477



Application for Permit

Rainey Creek Enterprises LLC

RMEA #18-0033

by: KM

Date: 4/25/2019





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

May 9, 2019

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

Application For Permit No. 23-11477

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 June 16 and 23, 2019. Protests to this application may be submitted for a period ending ten (10) days after the second publication (**on June 3, 2019 at 5:00 pm**).

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,

Sharla Cox
Administrative Assistant

CC: ROCKY MOUNTAIN ENVIRONMENTAL ASSOC
C/O KRISTIN MOORE
482 CONSTITUTION WAY STE 303
IDAHO FALLS, ID 83402

Cox, Sharla

From: Cox, Sharla
Sent: Thursday, May 09, 2019 10:48 AM
To: 'legalnotices@postregister.com'
Subject: Legal Notice for your paper
Attachments: Post Register E-Mail.doc

Sharla

*Sharla Cox
Administrative Assistant
Idaho Dept of Water Resources
900 N Skyline Dr. Ste A.
Idaho Falls ID 83402
sharla.cox@idwr.idaho.gov
208-525-7161 phone
208-525-7177 fax*

May 9, 2019

Legal Notice Department

Post Register
PO Box 1800
Idaho Falls ID 83403

RE: Legal Adds for your paper

Dear Staci Dockery:

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 June 3, 2019. Your cooperation is appreciated.

Sincerely
Sharla Cox
Administrative Assistant
Dept of Water Resources
900 N Skyline Dr Ste A
Idaho Falls ID 83402
208-525-7161
208-525-7177 – fax

The following application(s) have been filed to appropriate the public waters of the State of Idaho:
23-11477

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: DIVERSION TO STORAGE
04/01 to 10/31 0.44 CFS
Use: WILDLIFE STORAGE
01/01 to 12/31 4.5 AF
Total Diversion: 0.44 CFS
4.5 AF

Date Filed: 4/29/2019

Place Of Use: WILDLIFE STORAGE

T02N R43E S36 SESW

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 June 3, 2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on May 16 and 23, 2019

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

23-11477

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: DIVERSION TO STORAGE

04/01 to 10/31 0.44 CFS

Use: WILDLIFE STORAGE

01/01 to 12/31 4.5 AF

Total Diversion: 0.44 CFS

4.5 AF

Date Filed: 4/29/2019

Place Of Use: WILDLIFE STORAGE

T02N R43E S36 SESW

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 June 3, 2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on May 16 and 23, 2019

Cox, Sharla

From: Cox, Sharla
Sent: Thursday, May 09, 2019 9:36 AM
To: Pline, Treva
Subject: Refund please

Please refund the following:

Receipt # E044924
Amount of Refund: \$250.00
Payable to:
Rocky Mountain Environmental
482 Constitution Way #303
Idaho Falls ID 83402

Reason: Overpayment on transfer for 23-11477

Sharla

*Sharla Cox
Administrative Assistant
Idaho Dept of Water Resources
900 N Skyline Dr. Ste A.
Idaho Falls ID 83402
sharla.cox@idwr.idaho.gov
208-525-7161 phone
208-525-7177 fax*