

State of Idaho  
 Department of Water Resources  
**Permit to Appropriate Water**

NO. 57-11882

Priority: September 06, 2016

Maximum Diversion Rate: 4.50 CFS

This is to certify, that WILSON CREEK CATTLE FEEDER  
 12353 FEEDLOT DR  
 MELBA ID 83641

has applied for a permit to appropriate water from:

**Source:** GROUND WATER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
STOCKWATER	01/01 to 12/31	4.50 CFS

**LOCATION OF POINTS OF DIVERSION:**

GROUND WATER	L1 (NE½NE½)	Sec. 9, Twp 01S, Rge 03W, B.M., OWYHEE County
GROUND WATER	L2 (SE½NE½)	Sec. 9, Twp 01S, Rge 03W, B.M., OWYHEE County
GROUND WATER	SW½NE½	Sec. 9, Twp 01S, Rge 03W, B.M., OWYHEE County
GROUND WATER	SE½NW½	Sec. 9, Twp 01S, Rge 03W, B.M., OWYHEE County
GROUND WATER	NE½SW½	Sec. 9, Twp 01S, Rge 03W, B.M., OWYHEE County
GROUND WATER	NW½SE½	Sec. 9, Twp 01S, Rge 03W, B.M., OWYHEE County
GROUND WATER	NE½NW½	Sec. 10, Twp 01S, Rge 03W, B.M., OWYHEE County
GROUND WATER	NW½NW½	Sec. 10, Twp 01S, Rge 03W, B.M., OWYHEE County
GROUND WATER	SW½NW½	Sec. 10, Twp 01S, Rge 03W, B.M., OWYHEE County

**PLACE OF USE:** STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S 03W 9	X		X	X				X	X						X		
01S 03W 10					X	X	X										

**CONDITIONS OF APPROVAL**

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2022**.
2. Subject to all prior water rights.
3. Rights 57-2214, 57-2215, 57-2303, 57-7227, and 57-11882 when combined shall not exceed a total diversion rate of 6.8 cfs, and a total annual maximum diversion volume of 402.0 af.

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**

NO. 57-11882

4. This stockwater use is for an additional 15,000 range cattle on an existing feedlot. Rights 57-2214, 57-2215, 57-2303, 57-7227, and 57-11882 shall not exceed a total of 30,000 head of cattle.
5. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
6. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
7. This right authorizes diversion from a total of two wells.
8. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
9. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Signed this 14<sup>th</sup> day of August, 2017.



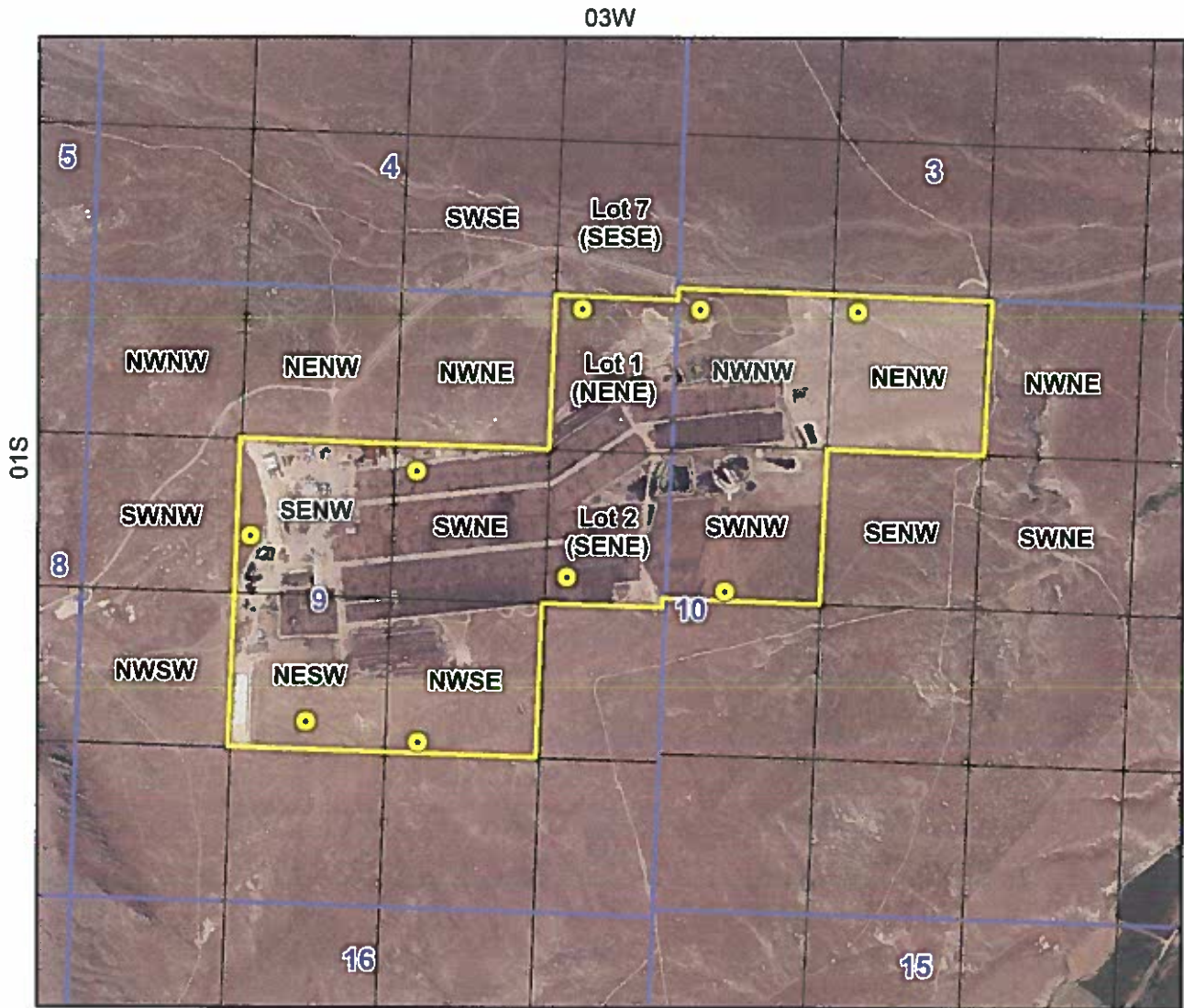
Nick Miller

Manager, IDWR Western Region

# Attachment to Permit to Appropriate Water

57-11882

This map depicts the STOCKWATER 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.



- Point of Diversion
- ▭ Place Of Use Boundary
- ▭ Townships
- ▭ PLS Sections





State of Idaho

## DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

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

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

August 14, 2017

WILSON CREEK CATTLE FEEDERS  
12353 FEEDLOT DR  
MELBA ID 83641

RE: Permit No.57-11882

### Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

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. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208)334-2190.

Sincerely,

A handwritten signature in black ink that reads "Rachel Nedy Feri". The signature is written in a cursive style with a large, stylized initial "R".

Nick Miller  
Western Regional Manager

Enclosure(s)

cc: JOHN HEPTON

**CERTIFICATE OF SERVICE**

I hereby certify that on August 14, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

**RE: WATER RIGHT NO.                      57-11882**

**JOHN HEPTON  
909 N ROBINSON BLVD  
NAMPA ID 83617**

**WILSON CREEK CATTLE FEEDERS  
12353 FEEDLOT DR  
MELBA ID 83641**



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**Rachel Neely  
Administrative Assistant**

## 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.

## Neely, Rachel

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**From:** Neely, Rachel  
**Sent:** Monday, August 14, 2017 3:36 PM  
**To:** 'mhuff@co.owyhee.id.us'  
**Subject:** Permit Approval 57-11882  
**Attachments:** Permit Approval.pdf

Good afternoon,

At the request of Rachel Sommer, I am sending you a copy of the permit approval for Wilson Creek Cattle Feeder.

Thank you,

---

*Rachel Neely*

Administrative Assistant I  
IDWR-Western Region  
2735 Airport Way Boise, ID 83705  
[Rachel.Neely@idwr.idaho.gov](mailto:Rachel.Neely@idwr.idaho.gov)



Owyhee County  
Planning & Zoning  
PO Box 128  
Murphy, ID 83650  
208-495-2095, ext. 2 Office  
208-495-2051 Fax

RECEIVED  
AUG 01 2017  
WATER RESOURCES  
WESTERN REGION

July 31, 2017

Dear Interested Party,

Enclosed is a copy of the legal notice for the Owyhee County Planning and Zoning Commission's Hearing scheduled for August 23, 2017 in the Annex Building of the Owyhee County Courthouse located at 17069 Basey St. Murphy, Idaho.

Please be advised that if you are unable to appear at the hearing but wish to submit a written statement as testimony it must be notarized or on official company letterhead. Additionally, any statements or evidence must be received by our office prior to the hearing to allow sufficient time for the documents to be disclosed to the applicant, which is required by law.

Any person needing special accommodations to participate in the above noticed meeting should contact The Planning and Zoning Department seven days prior to the meeting at 208-495-2095 ext. 2, Owyhee County Annex Building, PO Box 128, Murphy, Idaho 83650.

If you have any questions regarding this notice, please feel free to contact the Planning & Zoning office at the number listed above.

Sincerely,

A handwritten signature in cursive script that reads "Tiffany Tuttle".

Tiffany Nettleton Tuttle – Administrative Assistant - Planner  
Mary Huff – Administrator  
Owyhee County Planning & Zoning

# AGENDA

# OWYHEE COUNTY PLANNING & ZONING



Connie Brandau – Chair  
Scott Jensen – Vice Chair  
Chad Nettleton – Commissioner  
Bob Thomas – Commissioner  
Rich Curtis – Commissioner

**August 23, 2017**

17069 Basey St., Murphy, ID 83650

- 9:00 am** The Commission will hear a request for a conditional use permit filed by **Lance & Ashley Houweling** seeking a two-lot residential subdivision.
- 9:30 am** The Commission will hear a request for a conditional permit filed by **Ryan Robertson** seeking to establish a single family residence in an Agricultural zone.
- 10:00 am** The Commission will hear a request for a conditional permit filed by **Rod Fivecoat Auctions & Tami Dunlap** seeking to establish an online auction business in a multiuse zone.
- 10:30 am** Administrative matters
- 12:00 pm** Recess for Lunch
- 1:00 pm** The Commission will hear a request for a conditional use permit filed by **Hepton Livestock, LLC & Day Ridge, LLC** on behalf of **Wilson Creek Cattle Feeders** seeing to expand from 15,000 head to 30,000 head.

The Commission will adjourn when the day's business is finished.

Any person needing special accommodations to participate in the above-noticed meeting should contact the planning and zoning office at least seven days prior to the meeting.

Copies of the applications for the proposed projects are available for review in the planning and zoning office. For additional information, please contact planning staff at 495-2095 ext. 2, Owyhee County Annex Building, 17069 Basey St., Murphy, Idaho 83650.

Before the Owyhee County Planning & Zoning Commission

On August 23, 2017 beginning at 9:00 am, the Owyhee County Planning and Zoning Commission will hear testimony in the Annex Building of the Owyhee County Courthouse located at 17069 Basey St., Murphy, Idaho on the following matters at the times listed below.

Beginning at 9:00 am, the Commission will hear a request for a conditional use permit filed by **Ashley Houweling** seeking to develop a two-lot residential subdivision. The subject property is located near the intersection of Thompson and Nielsen roads approximately 3.5 miles SW of Homedale. The subject parcel, RP03N05W3060001A is approximately 34 acres in size and is located in an agricultural zone situated in the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 30, Township 3 North, Range 5 West, Boise Meridian, Owyhee County, Idaho.

Beginning at 9:30 am, the Commission will hear a request for a conditional use permit filed by **Ryan Robertson** seeking to establish a single-family residence on an approximately 8-acre parcel of land. The subject parcel, RP01S02W344202A, is located at 12625 Old Bath House Lane, Melba, Id. The site is located in an agricultural zone situated in a portion of the SE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  and a portion of the NE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 34, Township 1 South, Range 2 West, Boise Meridian, Owyhee County, Idaho.

Beginning at 10:00 am, the Commission will hear a request for a conditional use permit filed by **Rod Fivecoat Auction LLC, represented by Tami Dunlap** seeking to establish an online vehicle and equipment auction including a storage yard and small office. The subject property is located at 3523 US Highway 95 in a multiuse zone in the Homedale Impact Area. The subject parcel, RP03N05W098500A is approximately 127 acres in size and is situated in a portion of the SE 1/4 of Section 9, Township 3 North, Range 5 West, Boise Meridian, Owyhee County, Idaho.

Beginning at 1:00 PM the Commission will hear a request for a conditional use permit filed by **Hepton Livestock, LLC & Day Ridge, LLC** seeking a conditional use permit to expand **Wilson Creek Cattle Feeders** from 15,000 head to 30,000 head of cattle. The site is located in an agricultural zone and consists of two separate parcels, RP01S03W090002A and RP01S03W102400A totaling approximately 343 acres. The subject parcels are located at 12353 Feedlot Drive accessed off Wilson Creek Rd and are located in sections 9 and 10 of Township 1 South, Range 3 West, Boise Meridian, Owyhee County, Idaho. In accordance with Idaho Code §67-6529 (2) only members of the public with the primary residence within a two-mile radius of the site will be allowed to provide comment at the hearing.

Copies of the proposed projects are available for review in the Planning and Zoning office. For additional information please contact the Planning and Zoning office at 495-2095 ext. 2.

## **RECIPIENTS OF NOTICE PLEASE TAKE NOTE:**

This is an evidentiary hearing before the Owyhee County Planning and Zoning Commission. It is not a town meeting where anyone in the audience just stands up to talk. Each individual wishing to speak will need to sign in and will be given the opportunity to testify when they are called upon.

This will be a 'quasi-judicial' hearing, conducted for the purpose of hearing evidence in the form of testimony under oath and/or offering exhibits relevant to the application.

Because of the nature of the hearing being quasi-judicial, it is not appropriate for a proponent or opponent to contact any member of the Planning and Zoning Commission to discuss a pending application. If you have questions, please direct them to the Planning and Zoning office at 208-495-2095 ext. 2.

Petitions containing some sort of statement with signatures may or may not be relevant. This is not a voting contest, it is a hearing authorized by the Idaho Code and the Owyhee County Code (Zoning Ordinance).

Hearing procedures are posted in the hearing room at least 30 minutes prior to the start of the hearing. Additionally, general procedures will be announced prior to the commencement of the hearing. Persons who qualify to testify will be called upon to speak under oath. The applicant and any witnesses of the applicant will testify first, then any body who signs in wishing to testify as neutral, and finally, any opposition will testify last followed by a rebuttal by the applicant.

It is possible that a time limit will be imposed on speakers sworn to testify. If this is a concern, please call ahead of time to find out if time limits will be imposed.

It is important that members of the audience remain quiet during the proceedings and that only one person speak at a time so that the recording of the hearing will remain clear for transcription as required by law. Please make sure that all cell phones are turned off during the hearing. If you need to make a phone call, please step outside to do so.

Any person needing special accommodations to participate in a public hearing should contact The Planning and Zoning Department at least seven (7) days prior to the meeting at Owyhee County Annex Building, PO Box 128, Murphy, Idaho 83650, or by calling 208-495-2095 est. 2.

**Sommer, Rachel**

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**From:** Miller, Nick  
**Sent:** Thursday, July 27, 2017 5:14 PM  
**To:** Sommer, Rachel  
**Subject:** FW: Wilson Creek CAFO siting  
**Attachments:** 20170710145741344.pdf; WCF CAFO letter.pdf; Wilson Creek CAFO Scoring sheet 06292017.xls; FW: Wilson Creek CAFO siting

RECEIVED

JUL 29 2017

WATER RESOURCES  
WESTERN REGION

**From:** Mary Huff [mailto:MHuff@co.owyhee.id.us]  
**Sent:** Thursday, July 20, 2017 10:58 AM  
**To:** Miller, Nick <Nick.Miller@idwr.idaho.gov>  
**Subject:** FW: Wilson Creek CAFO siting

Sincerely,  
Mary Huff, AICP  
Administrator  
Owyhee County Planning & Zoning  
Post Office Box 128  
Murphy, Idaho 83650  
(208) 495-2095 ext. 2 Office  
(208) 495-2051 Fax  
[www.owyheecounty.net](http://www.owyheecounty.net)

Confidentiality Notice: This message is intended exclusively for the individual to whom it is addressed. This communication may contain information that is proprietary, privileged or confidential or otherwise exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by e-mail and delete all copies of the message. Thank you.

**From:** Mitchell Vermeer [mailto:[Mitchell.Vermeer@ISDA.IDAHO.GOV](mailto:Mitchell.Vermeer@ISDA.IDAHO.GOV)]  
**Sent:** Monday, July 10, 2017 1:32 PM  
**To:** Mary Huff <[MHuff@co.owyhee.id.us](mailto:MHuff@co.owyhee.id.us)>  
**Cc:** [bob.ohlens@gmail.com](mailto:bob.ohlens@gmail.com); [susan.beattie@deq.idaho.gov](mailto:susan.beattie@deq.idaho.gov); Tesch, Craig <[Craig.Tesch@idwr.idaho.gov](mailto:Craig.Tesch@idwr.idaho.gov)>  
**Subject:** Wilson Creek CAFO siting

Hi Mary,

Here is the Wilson Creek CAFO siting paperwork. Let me know if you have any questions.

Thanks,

Mitchell Vermeer  
Section Manager Animal Industries  
Idaho State Dept. of Agriculture  
2270 Old Penitentiary rd. Box 790  
Boise, Idaho 83701  
(208) 332-8500 cell (208) 860-0675  
[Mitchell.Vermeer@isda.idaho.gov](mailto:Mitchell.Vermeer@isda.idaho.gov)

Risk Form Date April 27, 2009 \*

<p><b>State of Idaho</b> <b>CAFO Site Advisory Team</b> <b>Environmental Risk Form</b></p>	<p>Name &amp; Date of Siting: <b>Wilson Creek Cattle Feeders CAFO</b> <b>6/29/17</b></p>				
<p><u>Risk Scoring System</u>                  1 = Low Risk = Ideal goal for environmental protection                  2 = Moderate Risk = Provides reasonable resource protection                  3 = High Risk = Poses a high risk for health and/or for contaminating ground or surface water</p>					
CATEGORY	VARIABLE NAME	RISK SCORE			
		L	M	H	NA
<b>Soil</b>					
1. Soil permeability	Perm			X	
2. Soil depth	DephShall		X		
3. Thickness of clay in unsaturated zone	Clay	X			
<b>Ground Water</b>					
4. Depth to first encountered water	FirstHOH	X			
5. Mean nitrate level in ground water within a 5 mile radius	AvgNO3	X			
6. Percentage of wells over 5mg/L nitrate within 5 miles	NO3prior	X			
7. Aquifer geology	Vadose		X		
8. Time of travel to a spring	TTSpring	X			
9. Downgradient distance to nearest domestic well	Wells	X			
10. Time of travel to source water delineation area	SourceHOH	X			
<b>Surface Water</b>					
11. Down-surface gradient distance from CAFO to nearest surface water body	DistStream			X	
12. Down-surface gradient distance from land application to nearest surface water body	DistSurf	X			
13. 100-year floodplain	Flood100	X			
<b>Nutrient Transport</b>					
14. Run-on	RunOn		X		
15. Surface Runoff	SurfaceRun	X			
16. Annual Precipitation	Precip	X			
<b>Comments and Observations</b>		<b>Enter Rating Here</b>			
<p>Index 1 Equation:  <math>1.5*Perm + DephShall + 5*Vadose + 3*FirstHOH - 2.5*Clay - Precip + 2.5*Flood100 + 0.5*DistStream + NO3prior + AvgNO3 + 2*Wells + 0.5*RunOn + 6*SurfaceRun + 0.5*DistSurf</math>  <math>1.5(2)+(2)+5(2)+3(2)-2.5(3)-(2)+2.5(1)+0.5(1)+(1)+(1)+2(1)+0.5(3)+6(1)+0.5(3) = 27.5</math></p> <p>If greater than 40, site suitability determination is high risk; if less than 32, use Index 2. If between 32 and 40, use professional judgment. Index 2 Equation:  <math>2*Perm - Vadose - FirstHOH + Clay + 0.5*Precip + TTSpring - 2*Flood100 - 0.5*SourceHOH + NO3prior - 0.5*AvgNO3 - 0.5*SurfaceRun + 0.5*DistSurf</math>  <math>2(2)-(2)-(2)+(3)+0.5(2)+(3)-2(1)-0.5(1)+(1)-0.5(1)-0.5(1)+0.5(1) = 6</math></p> <p>If Index 2 is greater than 3.25, moderate risk; if less than 2.75, low risk. 2.75 to 3.25, is borderline and professional judgment will be used to determine final risk.</p>		<p>Moderate</p> <hr/> <p><b>Individuals Present</b></p> <p>Mitch Vermeer                  Craig Tesch                  Susan Beattie                  Mary Huff                  Bob Ohlensehlen                  John Hepton                  Lawrence Nixon                  Levi Masmeyer</p>			

\* Changed 11 and 12 from downgradient to down-surface gradient for clarification  
 \* Clarified 'borderline range' on Index 1 Equation to determine High Risk



IDAHO STATE DEPARTMENT OF AGRICULTURE



CAFO SITING TEAM

July 7, 2017

RECEIVED

JUL 20 2017

WATER RESOURCES  
WESTERN REGION

Ms. Mary Huff, PCED  
Administrator, Planning & Zoning  
Owyhee County  
P.O. Box 128  
Murphy, ID 83650

**RE: Wilson Creek Cattle Feeders, 12353 Feedlot Drive, Melba, Idaho. 30,000 animals**

Dear Ms. Huff:

The Idaho State CAFO Siting Team has completed its review of the application for the proposed increase in animal numbers from 15,000 to 30,000 head at the combined confined animal feeding operations located at 12353 Feedlot Drive, Melba, Owyhee County, Idaho. The review was completed in response to a request made by the Owyhee County Commissioners in accordance with IDAPA 02.04.18.

The Team, consisting of representatives from the Idaho Department of Environmental Quality (IDEQ), Idaho Department of Water Resources (IDWR) and the Idaho State Department of Agriculture (ISDA) performed a site evaluation on June 29, 2017.

The information evaluated for this facility included the application package provided by Owyhee County, IDWR ground water information and water right records, IDWR State-wide Ambient Ground Water Quality Monitoring Program network data, IDEQ map and data, ISDA Regional Agricultural Ground Water Quality Monitoring Program data, NRCS data, well driller reports, and discussions with the county officials, facility owner and manager and owner's consultant during the site review.

According to IDAPA 02.04.18, the CAFO Site Advisory Team is required to provide a site suitability determination that includes:

- **Risk Category.** A determination of an environmental risk category: high, moderate, low; or insufficient information to make a determination.
- **Description of Factors.** A description of the factors that contribute to the environmental risks.
- **Mitigation.** Any possible mitigation of the environmental risks.

"Serving consumers and agriculture by safeguarding the public, plants, animals and the environment through education and regulation."

Idaho State CAFO Siting Team • PO Box 790 • Boise, Idaho 83701 • (208) 332-8550 • (208) 334-4062 (Fax)

## I. Risk Category

The following determination is based on the information supplied to the team through the county and site-specific conditions at the time of the site visit. However, information used for evaluating the ground water, geology, and soils may be based on regional information and may not fully characterize the local conditions of the specific facility.

The Environmental Risk, as determined by the Team, is Moderate Risk

**Any changes or modification in the application or at the site may alter the Environmental Risk.** Risk is determined through a point-based scoring system (attached) that utilizes and accounts for a combination of environmental factors. Management and mitigation are not factored into this determination; it is a physical characterization of the site only.

## II. Description of Factors

The Environmental Risk is based on physical characteristics of the site. The following technical factors contributed to the environmental risk rating:

### High Risk Factors

- Soil permeability has a geometric mean of approximately 3.3 in/hr.
- Downgradient distance from CAFO to nearest surface water body (Wilson Creek and ephemeral drainage).

### Moderate Risk Factors

- Soil depth is classified as moderate (60 inches deep) for both the Escalante-Tindahay and Hardtrigger-Briabbit on-site soil types.
- Site specific aquifer geology is primarily sandstone with sediment interbeds and basalt.
- Run-on is determined to be moderate by professional judgment of the CAFO Siting Team.

### Low Risk Factors

- Depth to first encountered ground water (>100ft).
- Thickness of clay in the unsaturated zone averages 28 feet from area well logs.
- Downgradient distance from land application to nearest surface water body.
- Based on available data, the mean nitrate concentration in ground water within a five (5) mile radius of the facility is less than 3 mg/L.
- Less than 15% of wells that have been sampled within five (5) miles of the facility have nitrate concentrations greater than 5 mg/L. The facility is not within a Nitrate Priority Area as defined by IDEQ.
- Time of travel to a spring is estimated to be low risk based on information from local well driller's reports.
- Down gradient distance to nearest domestic well (approx. 1.5 miles).
- The CAFO site is not within a source water delineation area for a public water system's intake.
- The CAFO site is not located in a 100-year flood plain.
- Surface runoff is determined to be low risk.
- Average annual precipitation is less than ten (10) inches/year.

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"Serving consumers and agriculture by safeguarding the public, plants, animals and the environment through education and regulation."

### III. Mitigation

The CAFO Siting Team's environmental risk assessment process is focused on water quality. The facility established a compost site in the southwest corner of the operation. The compost is not adequately protected from runoff and run-on. ISDA inspections will be conducted to immediately bring this area into compliance.

The facility is operating as a beef cattle animal feeding operation. ISDA has regulatory jurisdiction over the facility per IDAPA 02.04.15 Rules Governing Beef Cattle Animal Feeding Operations. An NMP has been submitted and approved by ISDA for the proposed expansion to 30,000 animals.

The CAFO site may have run-on from the hills to the west/southwest. The team recommends additional berming on the more vulnerable areas to better protect the operation from run-on.

Other Best Management Practice recommendations include:

- This facility will use evaporation to dispose of wastewater from containment structures. If the need to irrigate does arise, land application of wastewater should be prevented within 100 feet of surface water bodies, including irrigation canals, and drains.
- Care should also be taken to prevent solid waste products and solid waste storage area runoff from entering surface water bodies, or ponding and entering the ground water. The facility should ensure a two hundred (200) foot setback from the stockpiling or land application of waste or wastewater to any domestic or irrigation well or down-gradient surface water of the state of Idaho.
- Care should be taken when applying solid waste/manure to the facility controlled fields to ensure that runoff does not occur as a result of a weather event. Timely incorporation of solid manure applications into the soil will also assist in minimizing runoff potential. Also, animal manure should be incorporated into the soil prior to irrigation and ideally within 72 hours of application.
- Proper construction and maintenance of proposed berms will help protect surface water bodies and contain livestock waste and waste water within the CAFO site boundary.

### IV. Additional Information

Owyhee County may issue "special use conditions" in their permit to the applicant. Special use conditions, if not required by existing State or Federal law, would be the county's responsibility to enforce.

CAFO operations require stock water and/or commercial water rights. A review of IDWR records indicates the operation has appropriate water rights.

Facilities that employ chemigation systems must have those systems inspected and approved by ISDA prior to use. Additionally, approved backflow prevention must be in place to prevent back siphoning of wastewater into the aquifer or irrigation laterals/canals. The facility has agreed to discontinue the use of piping wastewater to small irrigation pond located on northeast corner of the CAFO lot so possible backflow into lateral cannot occur.

The CAFO Siting Team did not:

- Review any information regarding air quality. For a more specific evaluation of air quality concerns, please contact the regional IDEQ office.
- Evaluate any increase in the number of lights or light pollution due to the expansion.
- Evaluate the roads in the local area. For a more specific evaluation, please contact the county highway district or the Idaho State Department of Transportation.

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The site suitability determination is based on the information supplied to the team from the county and site-specific conditions at the time of the evaluation. This assessment does not consider practices not described during the site visit.

The following individuals were present at the CAFO Siting Team evaluation. The names depicted in bold type are the individuals responsible for the suitability determination.

1. **Mitchell Vermeer, Section Manger, ISDA**
2. **Craig Tesch, P.G., IDWR, Hydrogeologist**
3. **Susan Beattie, P.G., IDEQ, Hydrogeologist**
4. Bob Ohlenschlen, Certified Planner, Consultant for Wilson Creek
5. John Hepton, Owner, Reynolds Creek Calf Ranch
6. Lawrence Nixon, Manager, Wilson Creek Cattle Feeders
7. Mary Huff, Administrator, Planning & Zoning, Owyhee County
8. Levi Masmeyer, Wilson Creek Feeders

If you require further information regarding this site determination, please feel free to contact us.



Mitchell Vermeer, ISDA  
(208) 332-8550



Craig Tesch, P.G., IDWR  
(208) 287-4970



Susan Beattie, P.G., IDEQ  
(208) 373-0324

#### ATTACHMENTS

1. CAFO Siting Team Environmental Risk Form
2. IDEQ produced map (including animal units in the area, public water systems, residential wells, irrigated acres and population)

**State of Idaho CAFO Site Advisory Team Environmental Risk Form**

**Name & Date of Siting:**

Wilson Creek Cattle Feeders, Inc.  
6/29/2017

**Risk Scoring System**  
 1 = Low Risk = Ideal goal for environmental protection  
 2 = Moderate Risk = Provides reasonable resource protection  
 3 = High Risk = Poses a high risk for health and/or for contaminating ground or surface water

Category	Result	Risk Score
<b>Soil</b>		
1. Soil permeability	I have high marked, but no notes.	3
2. Soil depth	Average 39 inches from 6 well logs	2
3. Thickness of clay in unsaturated zone	Average 28 inches from 7 well logs	1
<b>Ground Water</b>		
4. Depth to first encountered water	Average 141 feet from 6 well logs	1
5. Mean nitrate level in ground water within a 5 mile radius	5 year is 2.9, 2 year is 2.8	1
6. Percentage of wells over 5mg/L nitrate within 5 miles	0.12	1
7. Aquifer geology	2 basalt, 2 clay, 1 sand, 1 shale	2
8. Time of travel to a spring	4 to 6 year TOT	1
9. Downgradient distance to nearest domestic well	1.5 mi	1
10. Within source water delineation area time-of-travel	> 5 miles	1
<b>Surface Water</b>		
11. Downgradient distance from CAFO to nearest surface water body	> 1 mile	3
12. Downgradient distance from land application to nearest surface water body	NA	1
13. 100-year floodplain		1
<b>Nutrient Transport</b>		
14. Run-on		2
15. Surface Runoff		1
16. Annual precipitation	< 10 inches	1
	Index 1	31.50
	Index 2	3.50
<b>Final Risk Score</b>		<b>MODERATE</b>



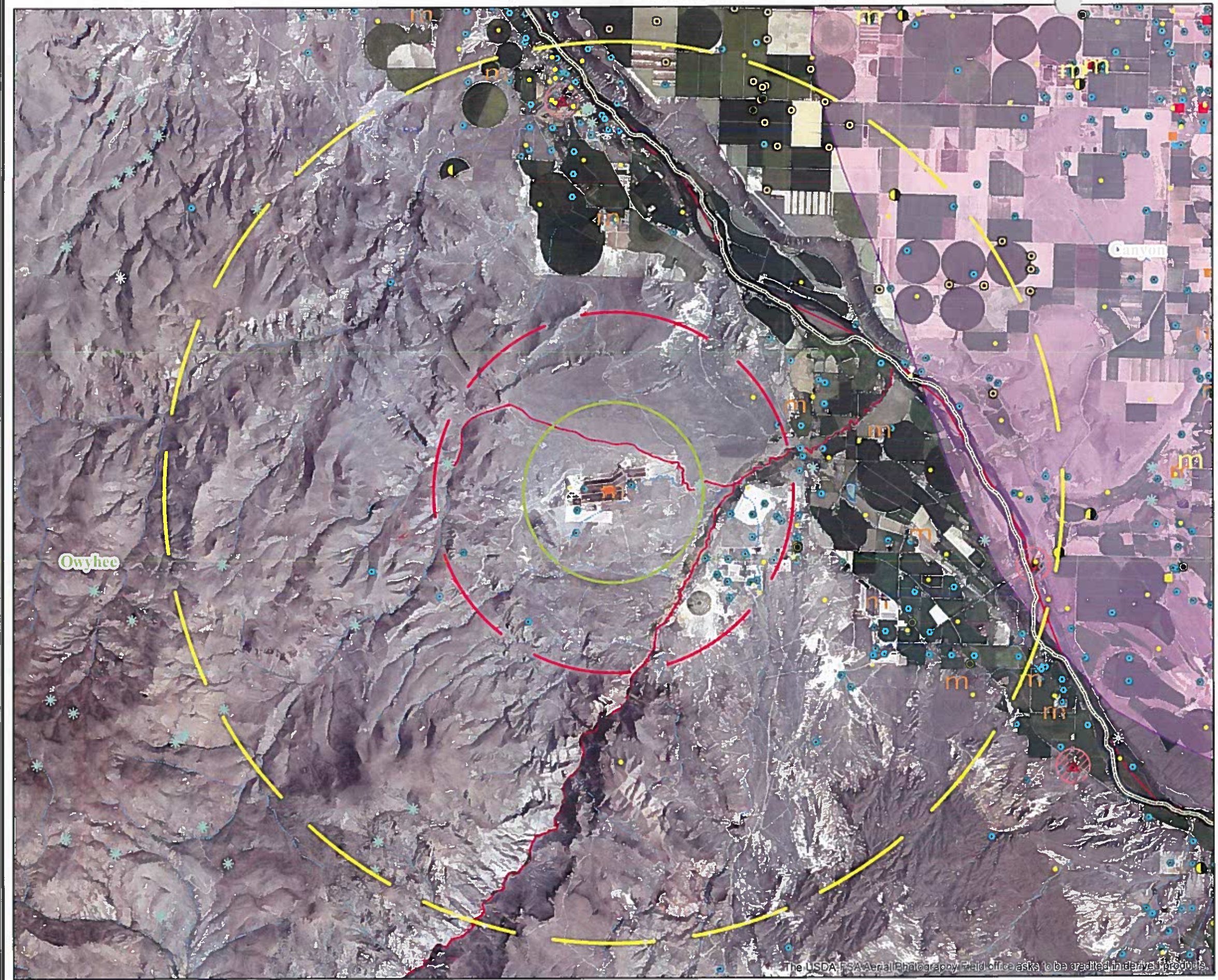
**Wilson Creek Cattle Co**  
 12353 Feedlot Drive  
 Melba, ID 83641

**Map Legend**

Wilson Creek Cattle Feeders, Inc.

- Dairy Locations (ISDA)
- Feedlots (ISDA)
- Schools (GNIS)
- 2010 Census
- Public Water Systems
- SWA 3 Year ToT
- SWA 6 Year ToT
- SWA 10 Year ToT
- Surface Water
- Isda Wells (Nitates)
- Deep Injection Wells (Non-Permitted)
- Deep Injection Wells (IDWR)
- State Monitoring Wells (IDWR)
- Domestic Wells (IDWR)
- Springs (NHD)
- 2012 303(d) Listed Streams
- Nitrate Priority Areas (2014)

Animal Units < 5 Miles ~ 30,000  
 Public Water Systems = 2  
 Residential Wells = 189  
 State Monitoring Wells = 3  
 Deep Injection Wells = 0  
 Population-2010 ~ 553  
 Irrigated Acres ~ 1,357  
 USGS(NHD)Springs = 17  
 Schools ~ 0



The USDA-FSA Aerial Photography Field office asks to be credited in derivative products.

Restriction of Liability. Neither the State of Idaho nor the Department of Environmental Quality, nor any of their employees make any warranty, or assume and legal liability or responsibility for the accuracy, completeness or usefulness, of any information or data provided. The data could include technical inaccuracies or typological errors. IDEQ may update, modify, or revise the data used at anytime, without notice. Map Date: 06/13/2017

O & H Associates  
Bob Ohlensehlen  
450 Falls Avenue, Suite 106  
Twin Falls, ID 83301  
Email: bob.ohlens@gmail.com  
Office Phone: 208-736-6081

RECEIVED

APR 17 2017

WATER RESOURCES  
WESTERN REGION

April 13, 2017

Idaho Department of Water Resources  
Western Regional Office  
2735 Airport Way  
Boise, ID 83705

This letter is being written to solicit comments regarding an application for a Confined Animal Feeding Operation permit being submitted by the Wilson Creek Cattle Feeders. The operation is being submitted by John Hepton, who is currently operating the facility which was purchased in 2008.

The facilities are located at 12353 Feedlot Drive, Melba, Idaho.

The Wilson Creek Feedlot is an existing facility that has a capacity of 15,000 head of feeder cattle. This plan is being submitted as a part of the permitting of the expansion of the feedlot to a capacity of 30,000 head. The animals come into the feedlot at an average of 600 pounds and they are fed until they reach an average of 1,400lbs. The calculations for the plan are based on an average weight of 1,000lbs.

The manure in the feedlot is mounded to provide a resting place for the animals in the corrals. The current corrals provide between 150 and 250 square feet of space per animal. The new corrals will be built to provide 200 square feet of corral space. The property has a slope of >3% so there is potential for runoff from the corrals. It is estimated that there will be no manure to be removed from the new corrals for at least five years as the manure in the new corrals will be used to build mounds for the cattle.

There are several existing small runoff containment ponds, but the new corrals will require the construction of additional runoff containment ponds. The ponds are designed to have a 2-foot freeboard. Most of the containment ponds will be limited to 3 feet of water depth to allow all of the water to be evaporated. There would be an anticipated 36" of evaporation annually above the expected rainfall. There are 4 ponds that will need to be 5' deep and 2 that will be 4' deep. The limited area to locate the ponds on the upper new corrals necessitated designing ponds that were deeper. In years where there is average or above precipitation events, these ponds may need to be pumped out. The operator plans to plant a crop such as triticale into the land near the north corrals if there is enough water that will make pumping necessary. This will happen infrequently and would provide a means to take up any nutrients that might be in the runoff. The liquids in the runoff ponds can also be used to provide moisture to aid in the composting of some of the manure.

There will be two areas that will be available to store manure and to provide partial composting of the manure. This will reduce the weight and volume of the manure, some of which will be transported for several miles from the feedlot site. These sites will be bermed to keep any run-on from entering the composting areas and to prevent any runoff from leaving the area.

The main area of concern on the site is a draw that enters the property on the west boundary and leaves the property on the northwest corner. The draw is normally dry year round; however, in the event of a severe storm or higher than normal rainfall and winter precipitation it could be a concern. The draw runs between the sets of new corrals that are to be constructed on the south and west side of the property. There has been a space of about 80 feet between the corrals with the draw in the middle. There will be berms built on each side of the draw to prevent runoff from entering the draw and to direct runoff from the corrals to the runoff containment ponds.

The alfalfa, grain and other feed commodities will all be imported to the feedlot by truck using the Idaho State Highway 78 and Wilson Creek Road. The cattle will be trucked to and from the feedlot again using the State Highway and Wilson Creek Road.

The cattle are all housed in open pens and may be bedded with long straw during times of wet weather. The straw will be imported to the calf ranch again using the State Highway and Wilson Creek Road.

The amount of water that will be required is covered in the enclosed water use evaluation. The water rights associated with the feedlot are also identified for your reference. There is a total of 421 acre feet of water that will be required for the cattle drinking. There is no process or commercial water required for the operation. The new permit 57-11882 is for the water required for 30,000 head and that is all that there will be on site, so there should be no issue with water availability.

Please submit any comments to the Owyhee County Planning and Zoning Office at:

Post Office Box 128  
17069 Basey Street  
Murphy, Id. 83650  
Telephone: (208) 495-2095

Please send a copy of your comments to:  
Bob Ohlensehlen  
O & H Associates  
450 Falls Avenue, Suite 106  
Twin Falls, ID 83301  
208-539-1279

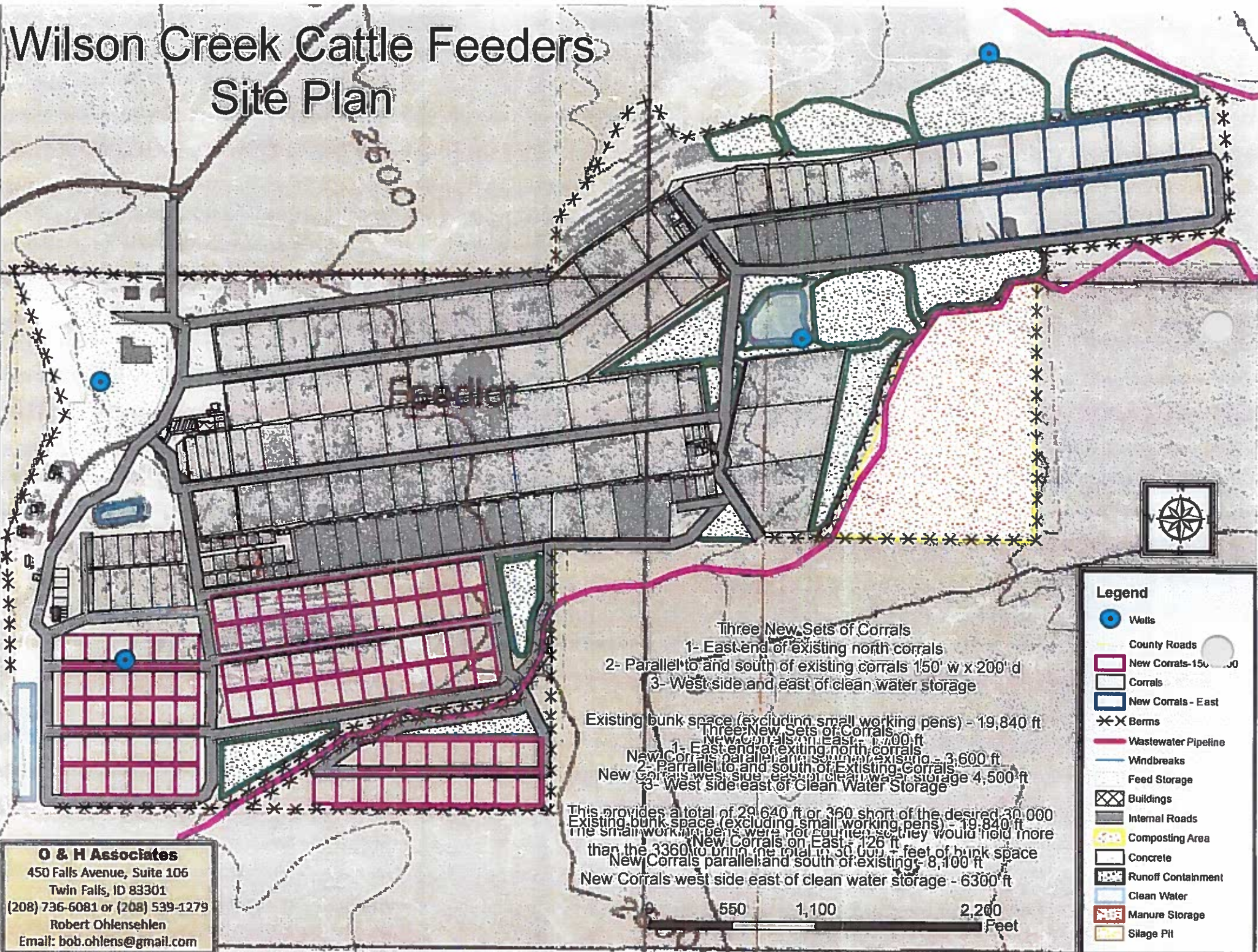
Thank you for your time and consideration.

Sincerely,



Bob Ohlensehlen  
O & H Associates

# Wilson Creek Cattle Feeders Site Plan



**Legend**

- Wells
- County Roads
- New Corrals - 150' x 200'
- Corrals
- New Corrals - East
- Berms
- Wastewater Pipeline
- Windbreaks
- Feed Storage
- Buildings
- Internal Roads
- Composting Area
- Concrete
- Runoff Containment
- Clean Water
- Manure Storage
- Silage Pit

Three New Sets of Corrals

- 1- East end of existing north corrals
- 2- Parallel to and south of existing corrals 150' w x 200' d
- 3- West side and east of clean water storage

Existing bunk space (excluding small working pens) - 19,840 ft

Three New Sets of Corrals

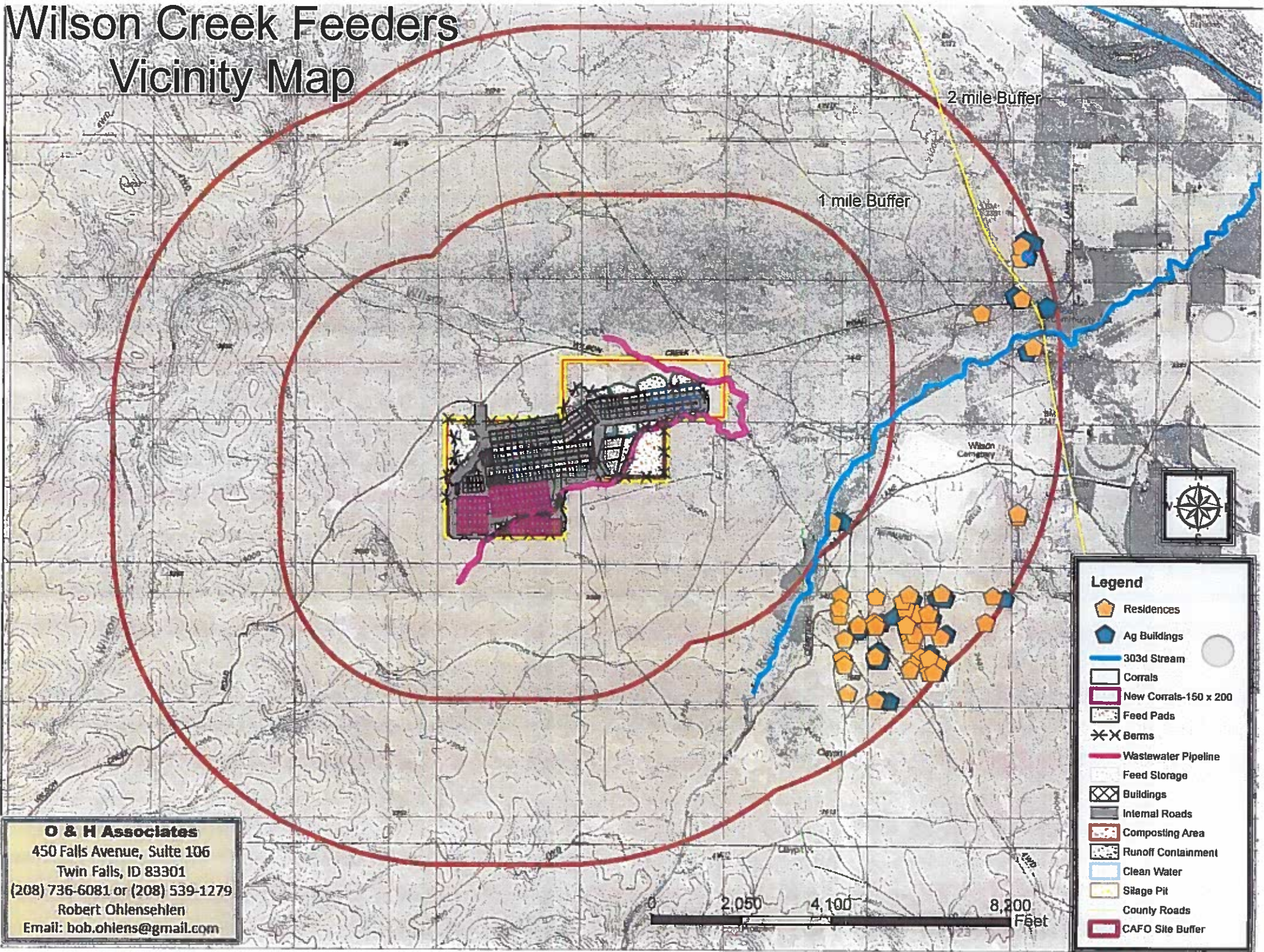
- 1- East end of existing north corrals - 1,700 ft
- 2- Parallel to and south of existing corrals - 3,600 ft
- 3- West side east of Clean Water Storage - 4,500 ft

This provides a total of 29,640 ft or 360 short of the desired 30,000 Existing bunk space (excluding small working pens) - 19,840 ft  
 the small working pens were not counted, so they would hold more than the 3360 to bring the total to 30,000 ft of bunk space

New Corrals on East - 126 ft  
 New Corrals parallel and south of existing - 8,100 ft  
 New Corrals west side east of clean water storage - 6300 ft

**O & H Associates**  
 450 Falls Avenue, Suite 106  
 Twin Falls, ID 83301  
 (208) 736-6081 or (208) 539-1279  
 Robert Ohlensehlen  
 Email: bob.ohlens@gmail.com

# Wilson Creek Feeders Vicinity Map



**O & H Associates**  
 450 Falls Avenue, Suite 106  
 Twin Falls, ID 83301  
 (208) 736-6081 or (208) 539-1279  
 Robert Ohlensehlen  
 Email: bob.ohlens@gmail.com

**Legend**

- Residences
- Ag Buildings
- 303d Stream
- Corrals
- New Corrals-150 x 200
- Feed Pads
- Berms
- Wastewater Pipeline
- Feed Storage
- Buildings
- Internal Roads
- Composting Area
- Runoff Containment
- Clean Water
- Silage Pit
- County Roads
- CAFO Site Buffer

0 2,050 4,100 8,200 Feet

## Sommer, Rachel

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**From:** Sommer, Rachel  
**Sent:** Thursday, February 23, 2017 11:38 AM  
**To:** 'John Hepton'  
**Subject:** RE: Application for Permit

John,

Thank you for the update. I will hold your application until June 22, 2017.

Have a wonderful day.

Sincerely,  
Rachel Sommer | Water Resource Agent  
Idaho Dept. of Water Resources | Western Regional Office  
208.334.2190 | 2735 Airport Way, Boise ID 83705

---

**From:** John Hepton [mailto:John.Hepton@performixnutrition.com]  
**Sent:** Wednesday, February 22, 2017 5:12 PM  
**To:** Sommer, Rachel <Rachel.Sommer@idwr.idaho.gov>  
**Subject:** Application for Permit

Rachel,

Thank you for the follow up on my application. Would you please hold this application for 120 days? I am in the process of collecting additional information for my CAFO application for Wilson Creek Cattle Feeders. Both the county and state are aware of my permitting and I'm working closely with them to gather the rest of the information I need. Please let me know if you have any questions.

Thnx  
John

**MEMORANDUM**

**TO:** Water Permit 57-11882  
**FROM:** Rachel Sommer  
**DATE:** January 9, 2017  
**RE:** Application for Permit

---

On September 6, 2016 Wilson Creek Cattle Feeders submitted an application for permit to appropriate 6.0 cfs with the correct fee of \$450. On November 15, 2016 the applicant amended their application by reducing the quantity to be appropriated to 4.5 cfs; the correct fee the Department would require for this is \$410.

**Please issue a refund of \$40 to:**

JOHN HEPTON  
909 N ROBINSON BLVD  
NAMPA ID 83617

RECEIPT ID: W044597

# The Owyhee Avalanche

P.O. Box 97 • HOMEDALE, ID 83628 • 208/337-4681

## AFFIDAVIT OF PUBLICATION

RECEIVED

JAN 03 2017

WATER RESOURCES  
WESTERN REGION

STATE OF IDAHO )  
 ) ss  
COUNTY OF OWYHEE )

I, Robert E. Aman, being first duly sworn, depose and say:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

2. That during the time of publication of the notice hereinafter mentioned, I was and now am the president of The Owyhee Avalanche, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho.

3. That the said The Owyhee Avalanche has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4. That said notice of which a printed copy, taken from said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in said newspaper, in TWO (2) (consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

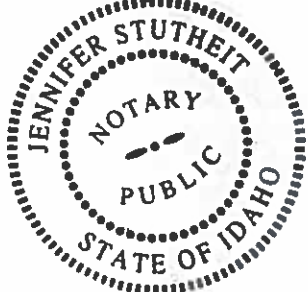
DECEMBER 7, 14, 2016

SIGNED: \_\_\_\_\_

STATE OF IDAHO }  
COUNTY OF OWYHEE }

On this 29 day of Dec in the year of 2016 before me, a

Notary Public, personally appeared ROBERT E. AMAN known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.



Jennifer Stutheit  
Notary Public of Idaho  
Residing at HOMEDALE, IDAHO  
My commission expires: JANUARY 3, 2021

THE FOLLOWING APPLICATION HAS BEEN FILED TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO:  
57-11882, WILSON CREEK CATTLE FEEDER, 12353 FEEDLOT DR, MELBA, ID 83641 **VOK RN 1/4/17**  
Points of Diversion L1(NENE) L2(SENE) SWNE SENW NESW NWSE S9 T01S R03W OWYHEE County Source GROUND WATER  
Points of Diversion NENW NWNW SWNW S10 T01S R03W OWYHEE County Source GROUND WATER  
Use: STOCKWATER 01/01 to 12/31 4.5 CFS  
Total Diversion: 4.5 CFS  
Date Filed: 9/6/2016  
Place of Use: STOCKWATER  
T01S R03W S9 NENE SWNE SENE SENW NESW NWSE T01S R03W S10 NENW NWNW SWNW  
Applicant proposes to construct two wells in two of the nine locations.  
Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s), please see [www.idwr.idaho.gov/WaterManagement/WaterRights](http://www.idwr.idaho.gov/WaterManagement/WaterRights). Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 12/27/2016. The protestant must also send a copy of the protest to the applicant.  
GARY SPACKMAN, Director  
12/7,14/2016