



State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
NO. 86-12039

**PLACE OF USE:** DOMESTIC STORAGE

| Twp Rge Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
| 40N 01W 28  | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
|             |    |    |    |    | X  |    |    |    |    |    |    |    |    |    |    |    |        |

**CONDITIONS OF APPROVAL**

1. Proof of application of water to beneficial use shall be submitted on or before **March 01, 2021**.
2. Subject to all prior water rights.
3. 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.
4. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
5. Right 86-12039 authorizes a total annual storage volume of 4.6 acre-feet to be used for the initial filling of the pond, for the replacement of losses caused by seepage and evaporation and for the storage of water for wildlife, fire protection, domestic, and stockwater purposes.
6. The three (3) ponds or established by the storage of water under this right shall not exceed a total capacity of 2.3 acre-feet or a total surface area of 0.23 acres.
7. Domestic use is for 1 home.
8. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
9. Stockwater use if for 30 head of mixed stock.
10. This right does not grant any right-of-way or easement across the land of another.

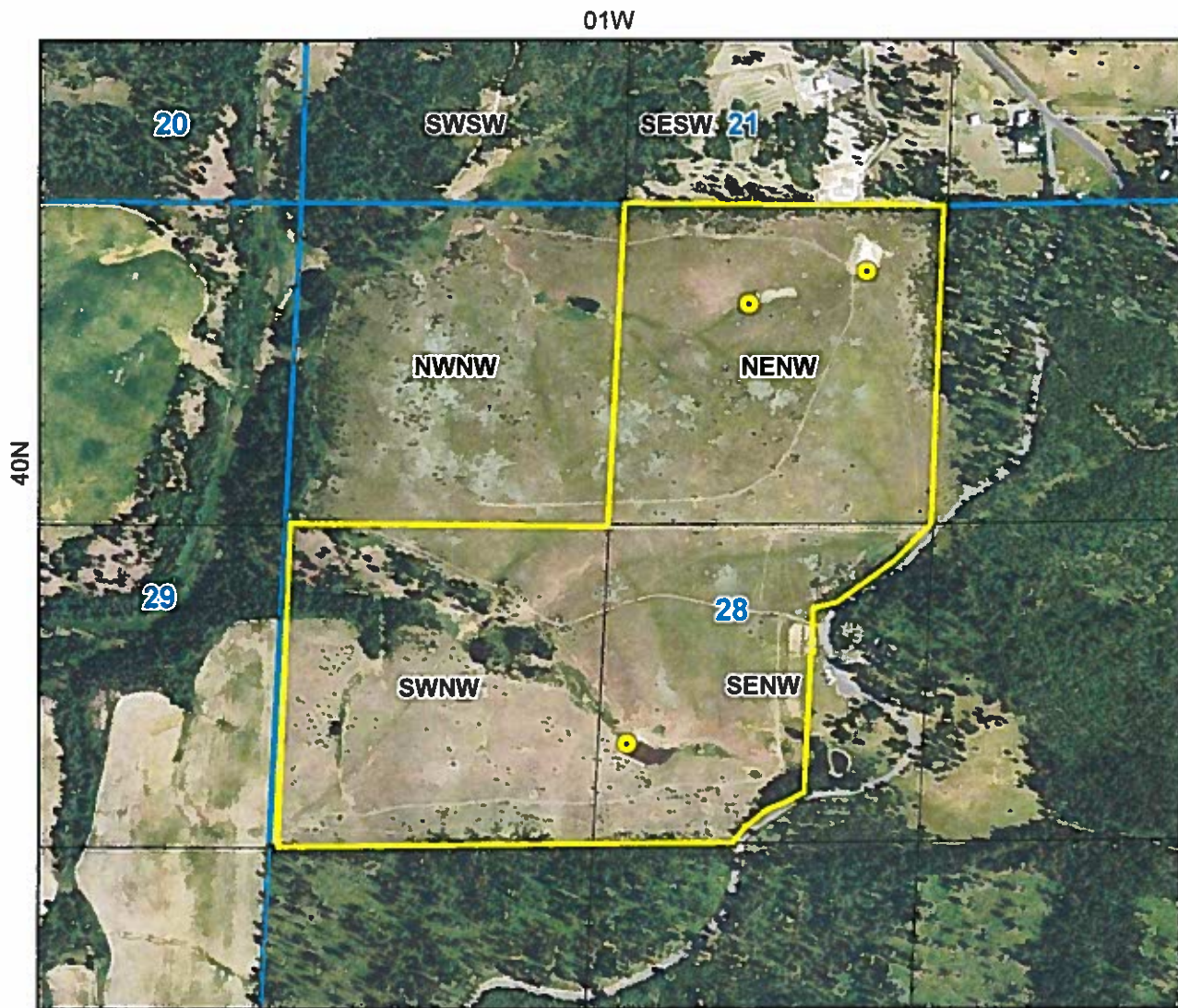
This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Signed this 19 day of February, 2016.

  
KEITH E. FRANKLIN, Program Manager

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
86-12039

DOMESTIC AND STOCKWATER FROM STORAGE



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

0 0.075 0.15 0.3 Miles

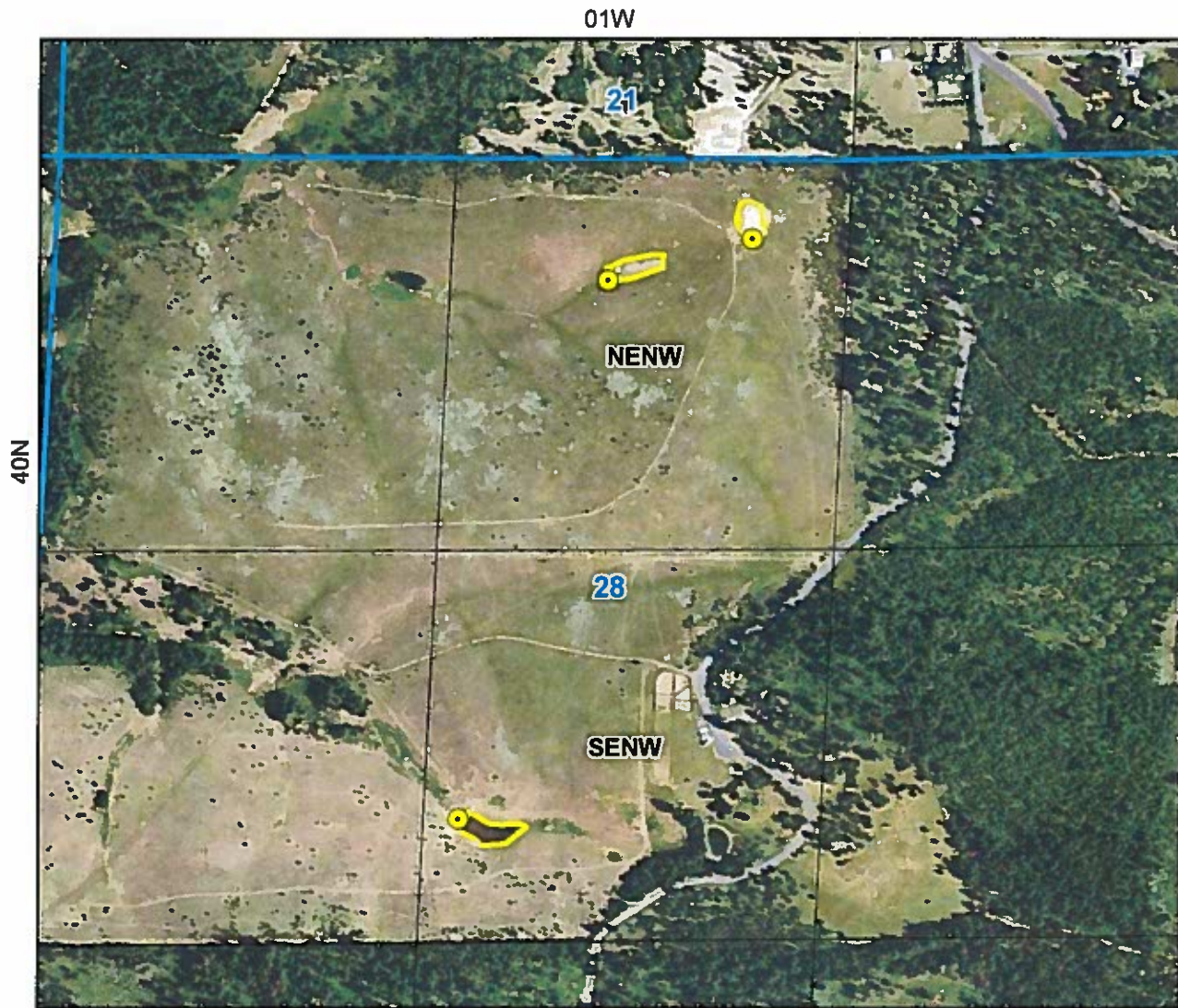


State of Idaho  
Department of Water Resources

# Permit to Appropriate Water

86-12039

STOCKWATER, WILDLIFE, AND FIRE PROTECTION STORAGE

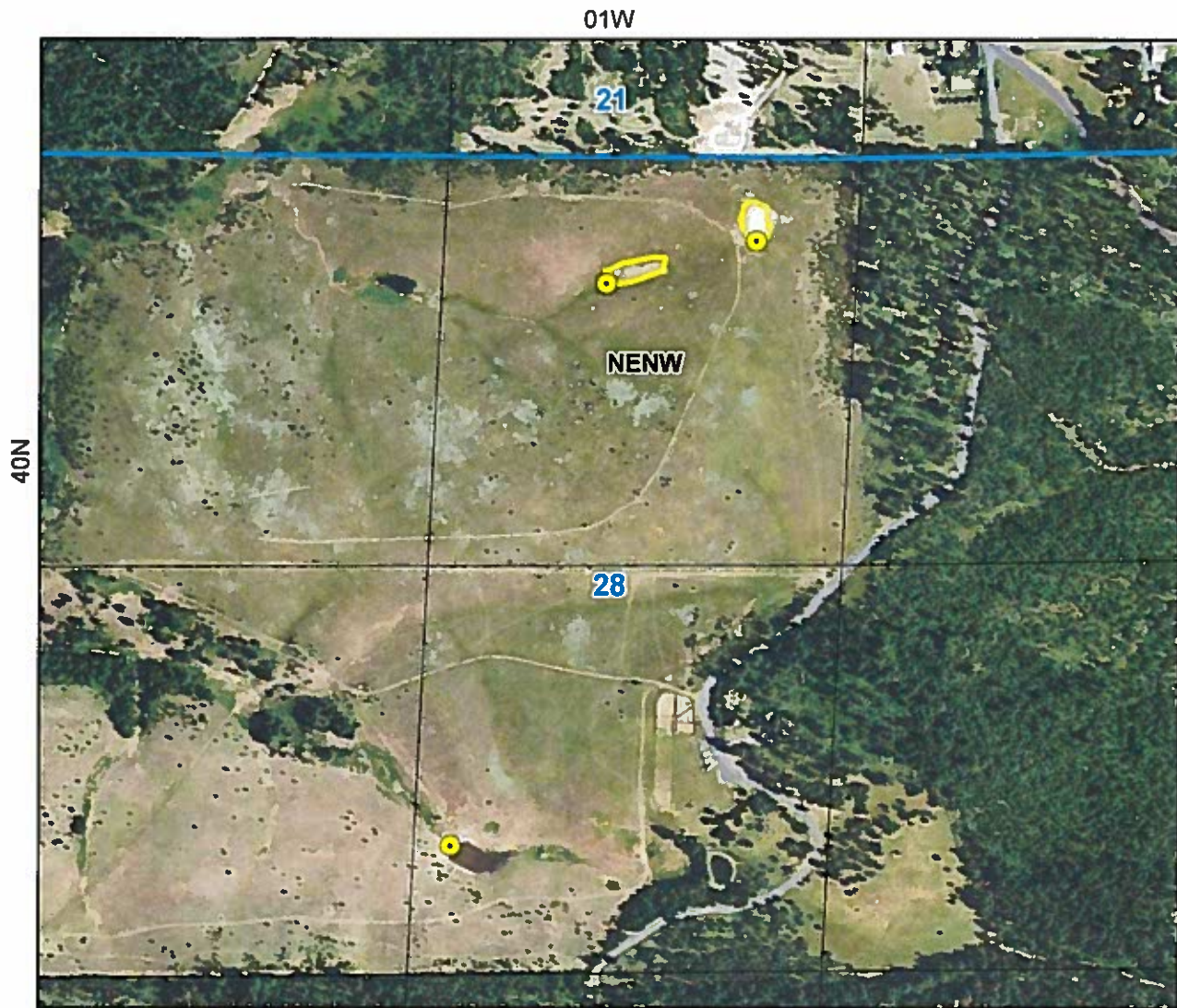


0 0.05 0.1 0.2 Miles

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



State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
86-12039  
DOMESTIC STORAGE



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

0 0.05 0.1 0.2 Miles





**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 FAX: (208) 762-2819 [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

February 25, 2016

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

FRENCH CATTLE LLC  
PO BOX 164  
DEARY ID 83823

RE: Permit No.86-12039

**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.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

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 208 762-2800.

Sincerely,

  
Keith E. Franklin  
Program Manager

Enclosure(s)

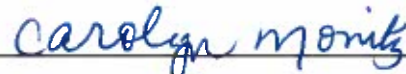
## **CERTIFICATE OF SERVICE**

I hereby certify that on February 25, 2016 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.**

**86-12039**

**FRENCH CATTLE LLC  
PO BOX 164  
DEARY ID 83823**



**Carolyn Monitz  
Technical Records Specialist**

## **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.

# **MEMORANDUM**

**To: Water Right Application 86-12039**

**From: Adam Frederick**

**Date: 2/18/16**

**Re: Application for a Permit to Appropriate Water within the Salmon and Clearwater River Basins.**

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**Re: Regional Analysis and Recommendation in accordance with Water Appropriation Rules (IDAPA 37.03.08.040.05).**

## **Water Supply Information**

The Idaho Department of Fish & Game as well as the Department of Environmental Quality were asked for comments regarding this application. Both Departments did not respond with any comment.

## **Good Faith, Delay, or Speculative Information**

The applicant plans to divert water for his/her own use on property that he/she owns and there are no known issues with any other party.

## **Financial Resources Information**

The applicant will use its own resources to complete the project

## **Local Public Interest**

The Idaho Department of Fish & Game and the Department of Environmental Quality have been asked to comment by the Idaho Department of Water Resources. Both Departments did not respond with any comment

## **Injury to Other Water Rights**

There does not appear to be any foreseen impacts to the minimum stream flow requirement on the Clearwater River. There have been no objections from the Idaho Department of Fish & Game and the Department of Environmental Quality.

## **Recommendation**

The Northern Region recommends proceeding with the processing of this water right application.

NEWS REVIEW PUBLISHING COMPANY  
The Moscow-Pullman Daily News  
P.O.Box 374  
Lewiston, Idaho 83501  
(208) 743-9411

Date: 01/14/2016  
INVOICE NO. 119087  
Account No. 30010311  
Description 119087 The foll  
Times 2  
Lines 78  
Tab. lines  
\$ 228.15

LEGAL ADVERTISING  
INVOICE

RECEIVED

Sold To: IDAHO DEPT/ WATER RESOURCES  
7600 N. MINERAL DR STE 100  
COEUR D ALENE ID 83814

JAN 19 2016

PO# 86-12038 & 86-1203

IDWR / NORTH

NOTICE: This is a invoice of Purchase made by you. Statement will be rendered the first of the month  
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

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

119087  
86-12038  
AISC LLC  
1311 BRUSH CREEK RD  
DEARY, ID 83823  
Point of Diversion SWSE S30 T40N R01W LATAH County  
Source RUNOFF  
Use: DIVERSION to Storage 01/01 to 12/31 0.2 CFS  
Use: DOMESTIC from Storage 01/01 to 12/31 0.6 AF  
Use: DOMESTIC Storage 01/01 to 12/31 9.4 AF  
Use: FIRE Protection Storage 01/01 to 12/31 8.8 AF  
Use: IRRIGATION from Storage 04/01 to 10/31 9 AF  
Use: IRRIGATION Storage 01/01 to 12/31 17.8 AF  
Use: STOCKWATER from Storage 01/01 to 12/31 0.4 AF  
Use: STOCKWATER Storage 01/01 to 12/31 9.2 AF  
Use: WILDLIFE Storage 01/01 to 12/31 8.8 AF  
Total Diversion: 18.8 AF

Date Filed: 12/14/2015  
Place of Use: DIVERSION to Storage  
T40N R01W S30 SWSE  
Place of Use: DOMESTIC Storage T40N R01W S30 SWSE  
Place of Use: WILDLIFE Storage, STOCKWATER Storage,  
FIRE PROTECTION Storage and IRRIGATION Storage,  
same as DOMESTIC Storage.  
Place of Use: DOMESTIC from Storage  
T40N R01W S30 SWSE  
Place of Use: STOCKWATER from Storage & IRRIGATION  
from Storage SAME AS DOMESTIC from Storage.  
Total Acres: 3  
Domestic use is for 1 home.  
Stockwater use is for 30 head of mixed stock.  
86-12039

FRENCH CATTLE LLC  
PO BOX 164  
DEARY, ID 83823  
Point of Diversion NENW S28 T40N R01W LATAH County  
Source RUNOFF  
Point of Diversion NENW S28 T40N R01W LATAH County  
Source RUNOFF  
Point of Diversion SENW S28 T40N R01W LATAH County  
Source UNNAMED STREAM tributary CORRAL CREEK  
Use: DIVERSION to Storage 01/01 to 12/31 0.2 CFS  
Use: DOMESTIC from Storage 01/01 to 12/31 0.6 AF  
Use: DOMESTIC Storage 01/01 to 12/31 3.4 AF  
Use: FIRE Protection Storage 01/01 to 12/31 3.6 AF  
Use: STOCKWATER from Storage 01/01 to 12/31 0.4 AF  
Use: STOCKWATER Storage 01/01 to 12/31 4 AF  
Use: WILDLIFE Storage 01/01 to 12/31 3.6 AF  
Total Diversion: 0.2 CFS

Date Filed: 12/23/2015  
Place of Use: DIVERSION to Storage  
T40N R01W S28 NENW SENW  
Place of Use: DOMESTIC Storage  
T40N R01W S28 NENW SENW  
Place of Use: WILDLIFE Storage, STOCKWATER Storage,  
FIRE PROTECTION Storage same as DOMESTIC Storage.  
Place of Use: STOCKWATER from Storage  
T40N R01W S28 NENW SWNW SENW  
Place of Use: DOMESTIC from Storage  
T40N R01W S28 NENW  
Domestic use is for 1 home  
Stockwater use is for 30 head of mixed stock.  
Permits will be subject to all prior water rights. For additional  
information concerning the property location, contact Northern  
Region office at (208) 762-2800; or for a full description of the  
right(s), please see:

[www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp](http://www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp)  
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, North-  
ern Region, 7600 Mineral Drive, Suite 100, Coeur D' Alene ID  
83815 together with a protest fee of \$25.00 for each application  
on or before 1/25/2016. The protestant must also send a copy of

AFFIDAVIT OF PUBLICATION

Karen J. Lewis, Legal Clerk  
being first duly sworn, on oath deposes  
and says: I am the printer of  
Moscow-Pullman Daily News, a newspaper  
of general circulation, published daily  
except Sunday at Moscow, Latah County,  
Idaho, in compliance with Sections 60-106,  
60-107, and 60-108 of the Idaho Code and the  
amendments thereto; and an official newspaper  
for Whitman County, Washington as required  
by R.C.W. 36.72.071 and other provisions of  
the Revised Code of Washington and the  
amendments thereto: that the notice of which the  
annexed is a full, true and correct printed  
copy was published in the regular and entire  
issues of said newspaper and not in a  
supplement thereto, upon the following dates:

Jan 7, 14, 2016

the same being the date designated for  
the publication of said notice.

Karen J. Lewis

On this 15th day of January  
in the year of 2016 before me, a Notary Public,  
personally appeared Karen J. Lewis  
known or identified to me to be the person  
whose name subscribed to the within instrument,  
and being by me first duly sworn, declared that  
the statements therein are true, and acknowledged  
to me that he executed the same.

Carl Peterson  
Notary Public for Idaho,  
Residing at Lewiston, Idaho  
My Commission Expires 9-1-2017

## Maxey, Shaun

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**From:** Falk, John  
**Sent:** Wednesday, December 30, 2015 6:30 AM  
**To:** Maxey, Shaun; [webb@quality-contractors.com](mailto:webb@quality-contractors.com)  
**Cc:** Keen, Shelley; Peppersack, Jeff  
**Subject:** RE: Dam Safety for AISC & French Cattle Applications for Permit  
**Attachments:** Regulated-Dams-vs-PE-Design.pdf

Mr. French:

I've reviewed the following Water Right applications, and the dimensions listed for dam height and storage capacity:

| Water Right Permit No. | Dam Height | Reservoir Capacity |
|------------------------|------------|--------------------|
| 86-12038               | 15 feet    | 8.8 acre-feet      |
| 86-12039               | 10 feet    | 3.6 acre-feet      |

Idaho Code provides specific exemption from the State's dam safety regulations for all reservoirs less than ten (10) acre-feet storage capacity (see attached illustration). Consequently, you do not need to file or submit any additional information or fees regarding construction of your project dams.

Should you decide to modify your dam(s) during construction in a manner that results in storage capacity equal to or greater than 10 acre-feet, then you will become subject to established dam safety rules/regulations; perhaps including expensive reconstruction to meet all prescriptive design requirements. Please also be aware that the dam owner is responsible and potentially liable for any damage to neighboring properties resulting from a failure and/or uncontrolled release of water from their dam.

Thank you for your cooperation, and if you have any questions about the design or construction of your dam(s), please do not hesitate to call. --jf

John Falk, PE  
IDWR Dam Safety Program  
322 E. Front Street  
Boise, ID 83720  
office: (208) 287-4927  
mobile: (503) 269-3236

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**From:** Maxey, Shaun  
**Sent:** Tuesday, December 29, 2015 4:44 PM  
**To:** [webb@quality-contractors.com](mailto:webb@quality-contractors.com)  
**Cc:** Falk, John  
**Subject:** Dam Safety for AISC & French Cattle Applications for Permit

Mr. French:

Your Applications for permit are being processed by IDWR.

Please contact John Falk at our State Office in Boise regarding safety requirements for your dams. His number is (208) 287-4927.

Thanks,

Shaun Maxey

| Dams and Reservoirs Subject to IDWR Regulation<br>According to Height and Storage Capacity Determination |                                                                                                                                                                                                                                                                                                                |                |                           |                           |
|----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------|---------------------------|
| MATRIX SERVES<br>ALL HYDRAULIC BARRIERS *                                                                | H E I G H T O F B A R R I E R                                                                                                                                                                                                                                                                                  |                |                           |                           |
|                                                                                                          | Less than<br>6.0 Feet                                                                                                                                                                                                                                                                                          | 6 -to- 10 Feet | 10 Feet<br>or More        | More than 20 Feet         |
|                                                                                                          | NO                                                                                                                                                                                                                                                                                                             | NO             | NO                        | NO                        |
|                                                                                                          | Less than<br>10.0 Acre-Feet                                                                                                                                                                                                                                                                                    | NO             | YES                       | YES plus a<br>P.E. Design |
|                                                                                                          | 10 -to- 50 Acre-Feet                                                                                                                                                                                                                                                                                           | NO             | YES                       | YES plus a<br>P.E. Design |
| S T O R A G E                                                                                            | 50 Acre-Feet or More                                                                                                                                                                                                                                                                                           | YES            | YES plus a<br>P.E. Design | YES plus a<br>P.E. Design |
|                                                                                                          | 100 Acre-Feet or More                                                                                                                                                                                                                                                                                          | NO             | YES plus a<br>P.E. Design | YES plus a<br>P.E. Design |
|                                                                                                          | <b>* Note - In general accordance w/ Idaho Code §42.1709:</b><br><i>Artificial hydraulic barriers regardless of height or storage capacity may be regulated for benefit of public safety based on sufficient evidence to indicate the structure poses a significant hazard to downstream life or property.</i> |                |                           |                           |

IDWR Regulated Dams (green) showing the relationship to hydraulic height and reservoir capacity, and the additional requirement for an engineered design prepared by a licensed Professional Engineer (PE).