

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 37-22909

Priority: November 07, 2014

Maximum Diversion Volume: 245.0 AF

This is to certify, that JOHN F STEVENSON
36 HILLSIDE RANCH RD
BELLEVUE ID 83313

has applied for a permit to appropriate water from:

Source: STALKER CREEK**Tributary:** SILVER CREEK

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
WILDLIFE STORAGE	01/01 to 12/31	245.0 AF

LOCATION OF POINT(S) OF DIVERSION:

STALKER CREEK
BLAINE County

NW1/4SE1/4

Sec. 28, Twp 01S, Rge 19E, B.M.

PLACE OF USE: WILDLIFE STORAGE

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	19E	28			X			X	X		X	X	X			X			

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2016**.
2. Subject to all prior water rights.
3. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No.37.
4. Prior to June 1, 2015 the right holder shall install a low level outlet with control works to allow the watermaster to regulate the storage in the reservoir.
5. Upon request of the watermaster or the Department the right holder shall permanently install and maintain a staff gage acceptable to the Department to provide a means to measure the pond level on a constant basis.
6. The pond or reservoir established by the storage of water under this right shall not exceed a total capacity of 97.1 acre-feet or a total surface area of 96.5 acres.

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7. Right 37-22909 authorizes the diversion of 97.1 acre-feet to be used for the initial filling of the pond, 147.9 acre-feet for losses due to seepage and evaporation for a total annual storage volume of 245 acre-feet. Note that prior to pond construction the natural wetland that is covered by the pond was 92.9 acres with associated 236.7 acre-feet for fill and evaporation.
8. During the year of the initial filling of the pond 45.8 acres in addition to the 3.9 acres identified for mitigation shall be dried up within the NENE, SENE and the SWNW of Section 30, Township 01S, Range 19E, B.M. (It is acknowledged the pond was filled prior to 2014 and acres as describe were dried up in 2014.) If the pond is depleted for maintenance or other reason the right holder shall seek a separate authorization, such as a Water Supply Bank rental, to re-fill the pond.
9. To mitigate for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official record for the following water right will be changed to show that diversion and use of water is not authorized because the rights, or portion thereof, are being dedicated to mitigation purposes.

Right No.	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
37-118	Mitigation	0.10	N/A	3.9

The land that will no longer be irrigated under this right is located within the NESE, Section 30, Township 01S, Range 19E, B.M.

Additionally these same 3.9 acres will be removed from the permissible place of use of the following rights:

37-2576

37-2681

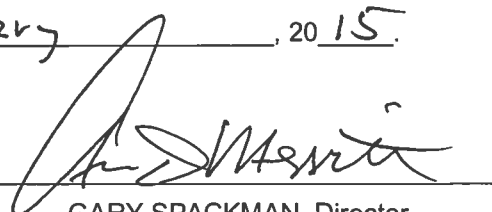
Additionally these same 3.9 acres will be removed from the combined limits condition on associated right 37-7644.

If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this right approval shall be reduced by the same proportion as the reduction to the mitigation rights.

10. Noncompliance with any condition of this right, including the requirement for mitigation, is cause for the director to issue a notice of violation, cancel or revoke the right, or, if the right is included in a water district, request that the watermaster curtail diversion and use of water.
11. Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review 5 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 30th day of January, 2015.

FOR

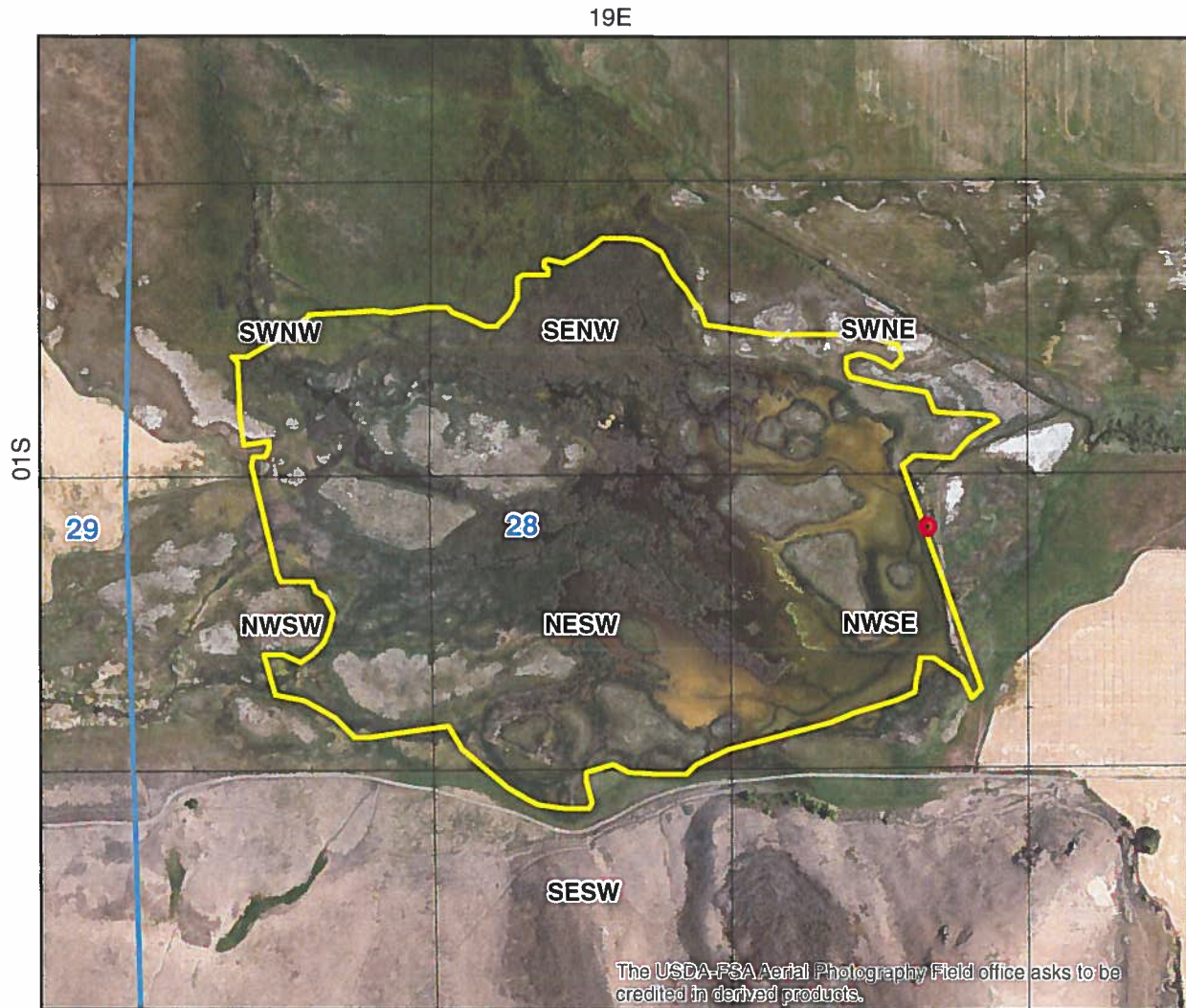

GARY SPACKMAN, Director

State of Idaho
Department of Water Resources

Attachment To Permit to Appropriate Water

37-22909

This map depicts the WILDLIFE STORAGE 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
- Quarter Quarters

0 0.1 0.2 0.4 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 2, 2015

JOHN F STEVENSON
36 HILLSIDE RANCH RD
BELLEVUE ID 83313

RE: Permit No. 37-22909

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. Please note that water right numbers 37-118, 37-2576, 37-2681 & 37-7644 have been modified to reflect mitigation purposes.

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.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

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 208-736-3033.

Sincerely,

Allen Merritt
Southern Region Manager

Enclosure(s)

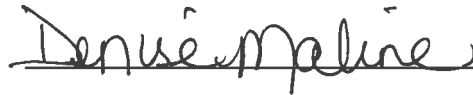
CERTIFICATE OF SERVICE

I hereby certify that on February 2, 2015 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.

37-22909

**JOHN F STEVENSON
36 HILLSIDE RANCH RD
BELLEVUE ID 83313**

A handwritten signature in cursive script, reading "Denise Maline", is written over a horizontal line.

**Denise Maline
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.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 2, 2015

KEVIN LAKEY WATERMASTER
WATER DISTRICT # 37
107 W 1ST ST
SHOSHONE, ID 83352

Via e-mail

Re: **APPROVED Permit No. 37-22909 (John F Stevenson)**

Dear Mr. Lakey:

For your information and records, we have enclosed a copy of an APPROVED Application for Permit within your District. Please note, associated water rights have been modified to reflect mitigation purposes and copies of those water right reports are also attached.

If you have any questions, please contact this office, or the applicant.

Sincerely,

A handwritten signature in cursive script that reads "Denise Maline".

Denise Maline
Administrative Assistant

Enclosure

Skinner, Corey

From: Thiel, Sandra
Sent: Monday, January 05, 2015 4:41 PM
To: Skinner, Corey
Cc: Clark, Cynthia (Bridge)
Subject: 37-22909
Attachments: WATER RIGHT 37-22909.docx

Hi Corey, Thank you for the information about this application. The attached document has the Planning Section's comments.

Sandra Beer Thiel
Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83720-0098
(208)287-4881
sandra.thiel@idwr.idaho.gov

MEMORANDUM

To: Water Right File 37-22909

From: Sandra Thiel

Subject: Water right application 37-22909

Date: January 5, 2015

The purpose of this memo is to provide the Planning Section's comments on the application for permit 37-22909. On November 7, 2014 John Stevenson submitted an application to divert 245 acre feet water from Stalker Creek for wildlife storage. Stalker Creek is tributary to Silver Creek. The applicant should be aware that the Idaho Water Resource Board holds minimum stream flow water right 37-7727 for 99 cfs on Silver Creek. As a junior water right holder the applicant's water could be curtailed when the minimum stream flow is not being met. The Idaho Water Resource Board would like assurance that this water right will be actively administered to protect the Board's minimum stream flow right.

On December 31, 2014 I reviewed the file for this application and talked to Corey Skinner and Janna Reeder at our southern regional office. Corey said that he thought the dam proposed in the application has actually existed for years. A review of IDWR imagery shows that the dam has been in place at least since 1987.

The water right application includes attachments from Doug Higbee, an engineer with the Natural Resource Conservation Service (NRCS). I talked to Doug about the pond. John Stevenson the land owner who submitted the application for permit has applied to enroll a portion of his property in a permanent easement with the NRCS. During the easement review process the agency found that the existing pond did not have a water right. A water right is necessary for the easement process to continue. Doug conducted an analysis of the consumptive use for the pond and the existing water rights (see water right file).

IDWR solicited comments from Kevin Lakey, the water master. Southern regional office received his response but that document had not scanned at the time of this memo. I talked to Kevin and he said that he had no objections to the application. He also believed that the dam had been in place since the 1980's.

RECEIVED

DEC 26 2014

AFFIDAVIT of PUBLICATION

DEPT OF WATER RESOURCES
SOUTHERN REGIONState of Idaho
County of Blaine

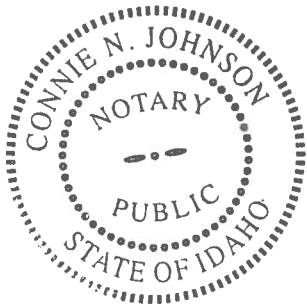
Pam Morris, being the first duly sworn, deposes and says that she is the printer (publisher) of the Idaho Mountain Express, a newspaper published every week in Ketchum, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once

each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first

publication of said advertisement was on the 17 day of Dec., 20 14, and the date of the last publication was on the 24 day of Dec., 20 14

Subscribed and sworn to before me this 24 day of Dec., 20 14.

Connie N. Johnson
NOTARY PUBLIC



RESIDING AT HAILEY, IDAHO
MY COMMISSION EXPIRES ON 7/10/2018

IDAHO MOUNTAIN EXPRESS
P.O. Box 1013
Ketchum, Idaho 83340
COST OF PUBLICATION

Number of Picas per Line 11.5
Number of Lines in Notice 59
Number of Insertions 2

____ Lines tabular at ____ 9.0 cents/pica
59 Lines straight at 54.28 8.0 cents/pica
59 Subsequent lines at 47.50 7.0 cents/pica
TOTAL COST \$101.78

COPY OF NOTICE

Legal Notice
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR
BILL TO

THE FOLLOWING APPLICATION(S)
HAVE BEEN FILED TO
APPROPRIATE THE PUBLIC
WATERS OF THE STATE
OF IDAHO:

37-22909
JOHN F STEVENSON
36 HILLSIDE RANCH RD
BELLEVUE, ID 83313
Point of Diversion NWSE S28 T01S
R19E BLAINE County Source
STALKER CREEK Tributary SILVER
CREEK
Use: WILDLIFE STORAGE 01/01 to
12/31 245 AF
Total Diversion: 245 AF
Date Filed: 11/7/2014
Place Of Use: WILDLIFE STORAGE
T01S R19E S28 SWNE SWNW
SENW NESW NWSW SESW NWSE
Application proposes appropriating
245.0 acre-feet of water from Stalker
Creek for wildlife storage use associ-
ated with an existing pond located
approximately 3.25 to 4.0 miles east
and 1.1 to 1.9 miles south of the HWY
75 and HWY 20 intersection south of
Bellevue. The 245.0 acre-feet includes
approximately 97 acre-feet of water
stored in the pond and approximately
148 acre-feet accounting for evapora-
tive loss from the pond. The application
includes a mitigation plan proposing
drying up acres covered by valid water
rights to offset the new appropriation.

over →

✓ OK DM
1/6/2015

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Southern Region office at (208) 736-3033, or visit our website at www.idwr.idaho.gov and search under New Water Right Applications. 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, Southern Region, 650 Addison Ave W Ste 500, Twin Falls ID 83301 together with a protest fee of \$25.00 for each application on or before January 5, 2015. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH
IDAHO MOUNTAIN EXPRESS
Dec. 17 & 24, 2014

✓ OK DM 1/6/2015

State of Idaho
Department of Water Resources
Application for Permit
RECOMMENDATION FORM

RECEIVED

DEC 23 2014

DEPT OF WATER RESOURCES
SOUTHERN REGION

Application No.: 37-22909

Applicant's Name: JOHN F STEVENSON
#36 HILLSIDE RANCH RD
BELLEVUE, ID 83313

Recommendation:

- a) X I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows:
- c) _____ I oppose approval of this application for the following reasons:
- d) _____ Additional comments:

Dated this 23rd day of December, 2014

Water District No. 37

Kevin Lacey

Watermaster's Signature

Kevin Lacey

Printed Name