

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 51-07319

Priority: January 03, 1989

Maximum Diversion Rate: 0.28 CFS

This is to certify, that ACE BLACK RANCHES
C/O TERRY BLACK
28892 HOT SPRINGS RD
BRUNEAU ID 83604-5007

has applied for a permit to appropriate water from:

Source: SPRING**Tributary:** BRUNEAU RIVER

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>
IRRIGATION	03/01 to 11/15	0.28 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING NE¼SE¼NE¼

Sec. 30, Twp 06S, Rge 06E, B.M.

OWYHEE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S 06E 31					15.0												15.0

Total Acres: 15

CONDITIONS OF APPROVAL

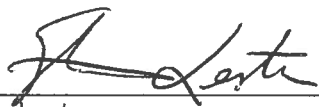
1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2015**.
2. Subject to all prior water rights.
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
5. This right does not grant any right-of-way or easement across the land of another.
6. 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.

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 51-07319

7. 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.
8. The source of the water diverted under this right is "Trust Water" which is identified in the 1984 Swan Falls Agreement and defined as surface and ground water tributary to the Snake River between Milner Dam and Swan Falls. Diversions under this right shall be subject to curtailment if such diversions would impact the established minimum stream flows of 3,900 cfs from April through October and 5,600 cfs from November through March at the Murphy gauge.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 4th day of December, 2014.



Steve Lester
Interim Western Region Manager



45.00

Form 202
6/85

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 51-07319**RECEIVED**

JUL 12 1993

To appropriate the public waters of the State of Idaho Department of Water Resources

1. Name of applicant Ace Black Ranch Phone (208) 845-2542
Post office address HC 85, Box 101, Bruneau, ID 83604
2. Source of water supply Spring which is a tributary of Sinks
3. Location of point of diversion is NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of NE $\frac{1}{4}$, Govt. Lot _____
Sec. 31 Township 6S Range 6E B.M. Quayhee County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 0.30 for Irrigation purposes from 4-1 to 10-31 ⁵³ ~~10-4~~ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 0.30 cubic feet per second and/or (b) _____ acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. Spring box backfilled w/ rocks and cement pipeline (10") to ~~was~~ drain ditch. Pipeline is approx 1200' long to drain ditch.
 - b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet; period of year when water will be diverted to storage: _____ to _____ inclusive.
 - c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
 - d. Is ground water with a temperature of greater than 90°F being sought? _____
7. Time required for the completion of the works and application of the water to the proposed beneficial use is 1 years (minimum 1 year).

8. Description of proposed uses (if irrigation only, go to item 9):

- Hydropower; show total feet of head and proposed capacity in KW. _____
- Stockwatering; list number and kind of livestock. _____
- Municipal; show name of municipality. _____
- Domestic; show number of households. _____
- Other; describe fully. _____

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: *D* for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
6S	6E	31					15												15

Total number of acres to be irrigated 15

10. Describe any other water rights used for the same purposes as described above. Bruneau Buckaroo

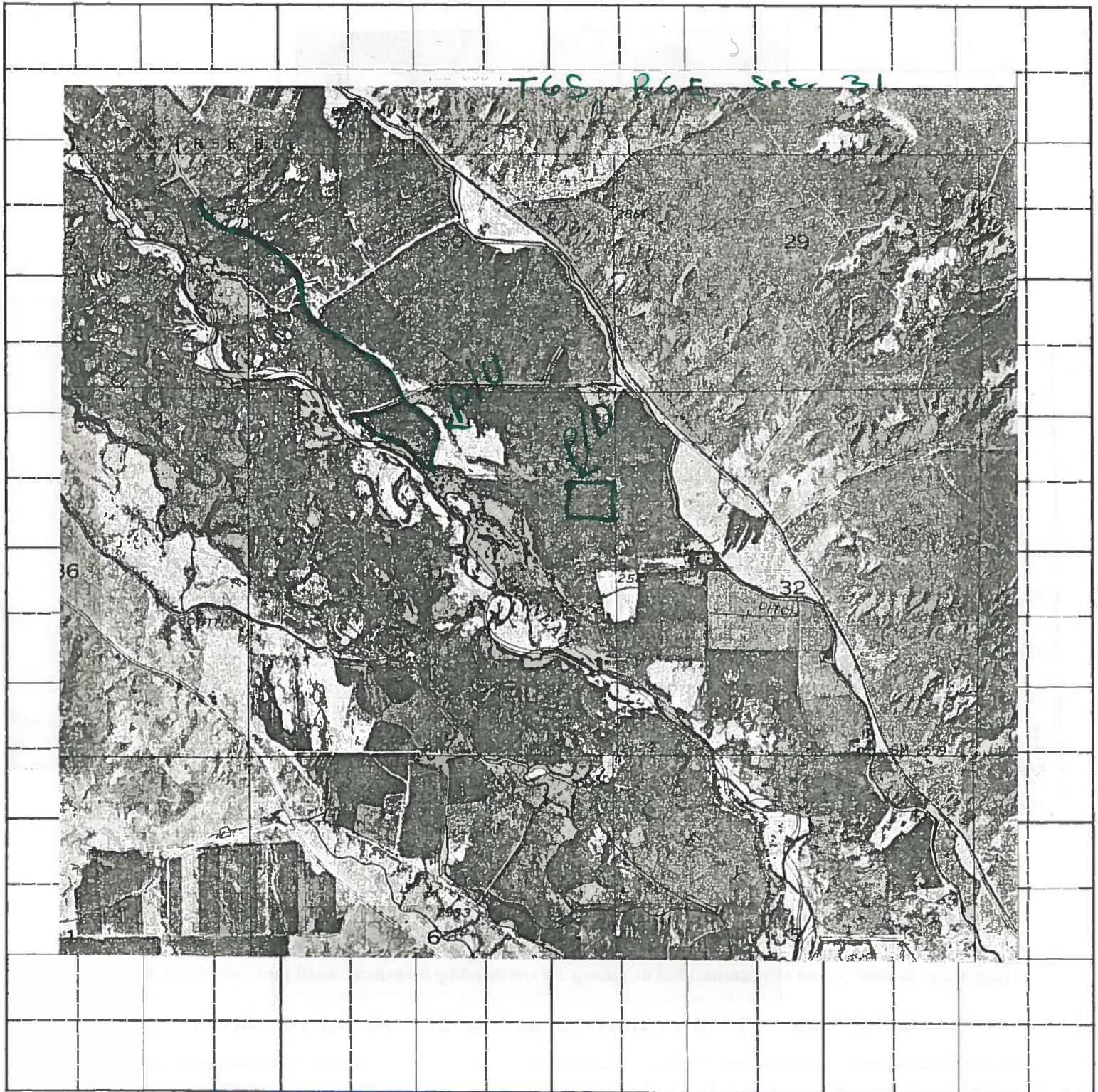
Ditch

- Who owns the property at the point of diversion? Applicant
- Who owns the land to be irrigated or place of use? Applicant
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: _____

RECEIVED

13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Asa Black
(Applicant)

Asa Black, owner & operator

Received by L. Werner Date 1-3-89 Time 1630 Preliminary check by SL
Fee \$ 45.00 Received by L. Werner # W1847 Date 1-3-89
Publication prepared by SL Date 4-12-89⁵⁻²⁷⁻⁹³ Published in Owyhee Avalanche
Publication approved SL Date 7-9-93
6/2/46/9/93

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 ____.

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

e. Other:



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 10, 2014

ACE BLACK RANCHES
C/O TERRY BLACK
28892 HOT SPRINGS RD
BRUNEAU ID 83604-5007

RE: Permit No.51-7319

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.

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)334-2190.

Sincerely,


for:

Steve Lester
Interim Western Region Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2014 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.

51-7319

**ACE BLACK RANCHES
C/O TERRY BLACK
28892 HOT SPRINGS RD
BRUNEAU ID 83604-5007**



**Rachel Sommer
Administrative Assistant I**

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

Date: October 1, 2014
To: File
From: Nick Van Dyke
Re: Pre-Permit Site Visit Ace Black Ranches, Applications 51-7318 & 51-7319

In May of 2014 I was instructed by Steve Lester to conduct a second field visit to ascertain the validity of both application for permit filings. An initial pre-permit visit was conducted by Gene Gibson of IDWR on August 9, 1989. Resulting from Mr. Gibson's visit, Norm Young of the Department raised several questions in a July 22, 1993 memo (see file) that up till my field visit had not been answered/addressed. The questions, in short, were:

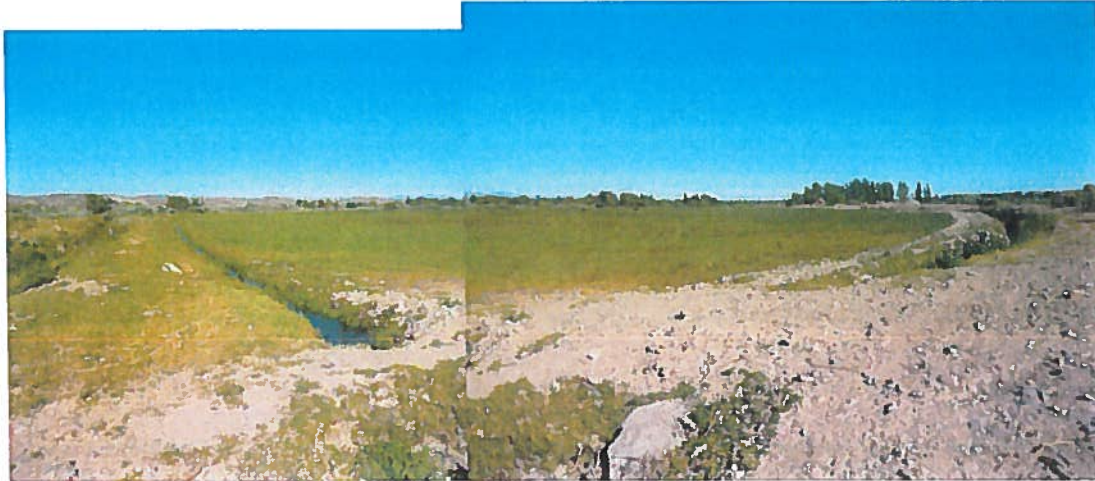
- Is the source of water spring (as stated on the application) or waste water?
- Is water from the springs being used directly from the drain the spring water diverts into or by users downstream on the Bruneau River?
- Does applicant have legal access to the point(s) of diversion?
- Is the listed point of diversion from the drain ditch or spring?

On June 19, 2014, I met with Terry Black, current managing partner of Ace Black Ranches and son of the original applicant, for my site visit. In this memorandum are answers to Norm Young's questions along with general conclusions/pictures of my field visit.

Is the source of water a spring or waste water: For both applications, my assessment concurs with Mr. Gibson's determination that springs are the source for both applications. Culverts intercept spring water that then feeds into drain ditches for each application. The water coming from these culverts was pretty clear. Picture below is water flowing from the culvert/point of diversion into a drainage ditch for 51-7318.



Is water from the springs being used directly from the drain the spring water diverts into or by users downstream on the Bruneau River: Water is being used directly from the drain(s) the spring water is diverted into. Below is the place of use for 51-7318. The water is immediately taken from the drain ditch and put into several other small ditches that irrigate the place of use. View looking NW from SE end of field.



Below is the place of use for 51-7319. As with 51-7318, water is taken directly from a drain ditch the spring diverts into and then delivered to the place of use by secondary ditches. View looking South from NW end of field.



Does applicant have legal access to the point(s) of diversion: The point of diversion for 51-7318 falls within ground owned by Ace Black Ranches. The point of diversion for 51-7319 falls within property owned by Peter and Ruth Jackson per 2013 Owyhee County taxlot data.

Is the listed point of diversion from the drain ditch or spring: For both applications, the listed point of diversion is a spring.

On October 1, 2014, I spoke with Terry Black about the diversion rate the permits will be issued with. Below is a comparison of the requested flow rates on the application and measured flow rates based off Gene Gibson's August 9, 1989 field inspection.

<u>Application #</u>	<u>Requested Flow Rate</u>	<u>Measured Flow Rate</u>
51-7318	1.98 cfs	0.99 cfs
51-7319	0.30 cfs	0.28 cfs

I told Terry I would likely draft the permits with the measured rates versus the requested flow rates. He said that would be fine.

Important to note that during my site visit with Terry on June 19, 2014, he explained the acres listed on the application in Section 32 T6S R6E have never been irrigated with the water from the diversion associated with this application. The draft permit will leave these acres off.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 30, 2014

ACE BLACK RANCH
28892 HOT SPRINGS RD
BRUNEAU ID 83604

Re: Applications for Permit Nos. 51-7318 and 51-7319

Gentlemen:

The Idaho Department of Water Resources (IDWR) has found the above referenced applications for permit are still pending in our office. These applications were filed in January of 1989 to develop some spring water for irrigation purposes. I have enclosed copies of the applications for your information and convenience. We are wondering if you wish to proceed with these filings, or if you want to withdraw them and clear them from our records. Because the applications were advertised back in 1993, we cannot offer a refund of the filing fees.

Enclosed is a copy of a 1993 letter from the Bruneau Buckaroo Coop Ditch Company. The letter was not accepted as a formal protest because it was received after the protest deadline. However, it does raise significant issues. Also, the enclosed copy of a 1993 memo from the department administrator at that time identified several critical issues and questions for both applications. Based on the letter and memo, the department presumption is that the applications are not approvable. In order to proceed with one or both applications, you must provide sufficient information to rebut the presumption. This must include a letter of consent from the ditch company.

The applications were filed under the name of "Ace Black Ranch". If you want to proceed with the applications and wish to update the name on these applications, please complete the enclosed "Assignment of Application for Permit" form. There is no fee to submit this request to the Department. Please confirm the current mailing address listed above should be used instead of the post office box listed on the original application. Also, it appears the land in Section 32 for Application 51-7318 is owned by Martin and Jennifer Black, who are not listed on the Ace Black Ranches business entity registration with the Idaho Secretary of State. Please explain the applicant's legal access to that land to allow it to be included in 51-7318.

Please withdraw the applications or provide the above described additional information for processing to continue. You may seek up to six (6) months more time to complete your response. The applications will be voided without a timely written reply within the next sixty (60) days.

Applications 51-7318 & 51-7319
April 30, 2014
Page 2

IDWR rules, forms and other information are available on the Internet at www.idwr.idaho.gov. Please feel free to contact this office at (208)334-2190 if you need more information. Thank you for your attention to these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Lester", with a stylized flourish at the end.

Steve Lester
Water Rights Supervisor

SL:kw
Enclosures

TO: JIM JOHNSON AND DAVE TUTHILL, file
FROM: NORM YOUNG
RE: APPLICATIONS FOR PERMIT 51-07318 AND 51-07319 (BLACK)
DATE: JULY 22, 1993

I question whether natural springs producing 2.38 cfs would go unappropriated in Owyhee County until 1993. The field inspection appears to have involved measurement of flow in one or more drain ditches into which a culvert is dumping spring(?) water. Subsequent to the field exam, the ditch company attempted to file a protest which was ruled to be untimely. The issues raised in the protest need to be fully reviewed before processing of the applications is continued. Specifically, I would like the following questions to be addressed:

1. What is the source of the water? The applications are for spring water. Are there discreet natural springs or is there a drain field discharging subwater into the drain ditch? If it is simply waste water, who owns it and is a separate permit needed? Is the water really a separate source from that already applied to the applicant's proposed place of use? Is it accurate to describe that the water is tributary to "sinks" or is the Ditch Company more correct?

2. Is the water flowing from the culverts noted by Gibson now being used either directly from the drain or by users downstream on Bruneau River?

3. Does the applicant have legal access to place a diversion in the drain?

4. Is the listed point of diversion from the drain ditch or the spring?

Please place a memo into each file responding to the concerns raised by the protest.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

June 30, 1993

FRANK BACHMAN PRES
BRUNEAU BUCKAROO COOPERATIVE DITCH CO
HC 85 BOX 881
BRUNEAU ID 83604

Re: Applications for Permit 51-7318 and 51-7319 in the Name of
Ace Black Ranch

Dear Mr. Bachman:

We are in receipt of your letter dated June 21, 1993, in which you protested the approval of the above-referenced applications for permit. Please be advised, however, that the final protest date was June 21, 1993, and that the letter was not received by this office until June 23, 1993. Pursuant to the Idaho Code, we cannot officially accept the protest as valid.

The concerns that you have noted have been reviewed by this office. Please be advised that any water right issued by this office is conditioned to be "subject to all prior water rights." This does offer protection to any senior water rights you may have.

At this time we will proceed with processing of the applications. If you have any questions in this matter please call this office.

Sincerely,

A handwritten signature in cursive script, reading "David R. Tuthill, Jr.".

DAVID R. TUTHILL, JR., P.E. Manager, Western Regional Office

DRT:st

CC: Applicants

Bruneau Buckaroo Cooperative Ditch Co.
HC 85 Box 881
Bruneau, ID 83604

June 21, 1993

R. Keith Higginson, Director
Department of Water Resources
Statehouse Mail
Boise, ID 83720

RECEIVED

JUN 23 1993

Department of Water Resources

RE: Application for Trust Water Right; Numbers 51-07318 and 51-07319

Dear Mr. Higginson,

Please consider this letter a formal protest to water applications 51-07318 and 51-07319. Both applications are for water in the Bruneau Valley.

This protest is submitted on behalf of the Bruneau Buckaroo Ditch Co. for the following reasons.

1. The lands identified for place of use are presently serviced by the Ditch Company. These lands are claimed in Snake River Adjudication and are presently receiving a full 3.5 acre feet per acre or 1 inch to the acre allotment.
2. Presently water from a field drain (51-07319) enters a waste ditch constructed and maintained by the Ditch Company. Diversion from this ditch is presently not authorized by the Company. The Ditch Company occasionally spills water down this ditch as a means of regulating water delivery in the system and also during emergencies related to thunder storm runoff.
3. Both fillings state that the water source is a spring which sinks. This is incorrect. Both sources (2.28 cfs) enter the Bruneau River and supply water to downstream obligations. This entire drainage (Bruneau River) was adjudicated in 1925. The court decree stated that waste water must be allowed to re-enter the river to meet the downstream demand. Water decreed to Grand View Mutual Irrigation District must be maintained even though following construction of CJ Strike Dam, Bruneau River water mixes with Snake River water prior to their diversion. Should the Department of Water Resources measure Grand View's flow prior to the water entering Snake River any shortage could impact our water right.
4. Some of the land identified in application 51-07318 is located up hill from the point of diversion and would require pumping. No pump presently exists to put water on Section 32 and should this occur this would constitute an expansion of use.

Based on the points outlined above the Ditch Company protests these applications. Several of the points may be answered by your Department on how you intend to deal with Grand View Mutual decreed right from the Bruneau River. Should this water right be canceled due to the construction of CJ Strike Dam, we would retract that part of the protest.

Sincerely yours,



Frank Bachman, President
Bruneau Buckaroo Ditch

THE OWYHEE AVALANCHE

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

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
)ss
COUNTY OF OWYHEE)

I, Joe 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 the publication of the notice hereinafter mentioned, I was and now am the publisher 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):

June 24, 1993

Signed

Joe E. Aman

Subscribed and sworn to before me this 9th day of June A.D., 1993

Corinne Bowling

Notary Public in and for the State of Idaho
Residing at Homedale, Idaho
Commission expires October 1997

**NOTICE OF APPLICATION
FOR TRUST WATER RIGHT**

51-07319 ✓

ACE BLACK RANCH
HC85 BOX 101
BRUNEAU, ID 83604
Source: SPRING Tributary:
SINKS
Diverslon Pt: NESENE Sec
31 T 06S R 06E in OWYHEE
County.
Use: IRRIGATION (.300 CFS)
Total Diverslon (.300 CFS)
Date Filed: 1/ 3/1989
In: OWYHEE County
T06S R06E S31 NENW
15.0 ACRES TOTAL

51-07318

ACE BLACK RANCH
C/O ACE BLACK
HC 85 BOX 101
BRUNEAU, ID 83604
Source: SPRING Tributary:
SINKS
Diverslon Pt: NWSESE Sec
30 T 06S R 06E in OWYHEE
County.
Use: IRRIGATION (1.980
CFS)
Total Diverslon: (1.980 CFS)
Date Filed: 1/ 3/1989
In: OWYHEE County
T06S R05E S25 NESE SESE
R06E S30 Lot 4 (SWSW)
SESW
S31 NENW Lot 1 (NWNW)
S32 NWNW SWNW SENW
99.0 ACRES TOTAL

57-07565

MURDOCH, DENNIS
MURDOCH, SHIRLEY
HC 79 BOX 2065
OREANA, ID 83650
Source: GROUNDWATER
Diverslon Pt: SWNW Sec 24 T
04S R 01E in OWYHEE
County.
NSW Sec 24 T 04S R 01E
in OWYHEE County.
NWNE Sec 26 T 04S R 01E
in OWYHEE County.
Use: IRRIGATION (1.820
CFS)
Total Diverslon: (1.820 CFS)
Date Filed: 9/ 2/1992
In: OWYHEE County
T04S R01E S23 SENE NESE
SESE
S24 SWNW NSW SWSW
S26 NWNE
91.0 ACRES TOTAL

57-07570

GARRETT, JAMES W.
GARRETT, ANNETTA J
PARKINSON, JOSEPH L
4492 KELDOON
BOISE, ID 83702
Source: PIXLEY CREEK
Tributary: CASTLE CREEK
Diverslon Pt: SWNWSW Sec
10 T 07S R 01W in OWYHEE
County.

Use: IRRIGATION (.400 CFS)
Total Diverslon: (.400 CFS)
Date Filed: 10/27/1992
In: OWYHEE County
T07S R01W S10 SWNW
NSW
20.0 ACRES TOTAL

The permit(s) will be
subject to all prior water
rights. Protests may be
submitted based on the
criteria of Sec. 42-203A,
Idaho Code and/or the new
public interest criteria of Sec.
42-203C, Idaho Code.
Protests must be filed with
the Director, Dept. of Water
Resources, Statehouse Mail,
Boise, Idaho 83720 on or
before JUNE 21, 1993.

R. Keith Higginson, Director
Publish June 2 & 9, 1993



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

May 5, 1993

TO: WATER RIGHT APPLICANT(S)

RE: WATER RIGHT APPLICATION(S) BEING HELD DUE TO MORATORIUM

Dear Interested Party:

An Application(s) for Permit for a water right(s) in your name has been held due to a moratorium declared by the director of this department on May 15, 1992. The moratorium was established because of limited water supplies caused by another year of drought.

The water supply situation in your area has improved this year. The director rescinded the moratorium in your area on April 30, 1993. Processing of your application(s) can now proceed. I will assume that you want to proceed with the application unless this office hears from you by May 14, 1993. You can contact me or other staff by calling (334-2190) or writing to the above address.

Sincerely,

A handwritten signature in cursive script that reads "Steve Lester".

Steve Lester
Water Rights Supervisor



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

July 8, 1992

Ace Black Ranch
C/O Ace Black
HC 85, Box 101
Bruneau, ID. 83604

RE: Application for Permit Nos. 51-07318 and 51-07319

Dear Applicant:

Your applications for permit to appropriate irrigation water from springs were received on 1/3/89 but not processed and approved due to Trust Water issues as indicated in a letter to you dated 2/14/90. The Trust Water delay is more or less ended, but due to continued drought and the need to protect existing water rights and water supplies, the Director of this agency declared a moratorium on 5/15/92 concerning water right applications proposing new consumptive uses of public water. Your applications cannot be processed for possible approval until the moratorium ends. Delays related to department decisions do not affect the date of priority or seniority of an application.

This office will hold the applications pending future developments in the water supply situation and will inform you of any changes. You might be able to locate someone with a valid water right with available water to sell or lease for your needs if necessary. If so, an Application for Transfer of Water Right should be filed at this office to legally change the right(s) prior to any sale or lease.

Please let me know if you need additional information.

Sincerely,

A handwritten signature in cursive script that reads 'Steve Lester'.

Steve Lester
Water Rights Supervisor



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705 - (208) 334-2190

February 14, 1990

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

Ace Black Ranch
c/o Ace Black
HC 85, Box 101
Bruneau, Id. 83604

RE: Applications For Permit 57-7318 and 57-7319

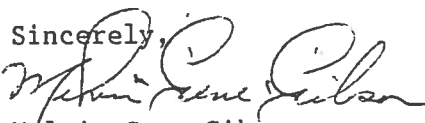
Dear Mr. Black:

The applications you submitted to the department on 1-3-1989 are being held by the department without final action as they are in the Swan Falls trust water area.

While the department is currently advertising and approving applications in the trust water area, the backlog of older applications and approved but undeveloped permits are being considered first. Since the department can only consider approval of up to a total 20,000 acres per year, it will take several years to process the backlog which predates your applications.

The purpose of this letter is to inform you of another alternative if you want to proceed with development of the above projects, before your applications are processed by the department. The alternative would be the acquisition of a valid existing water right that is available for sale or lease that could be transferred to your lands. Potential candidates are those water rights associated with land in the Conservation Reserve Program (CRP). These lands will not be irrigated for at least ten years, thus freeing the appurtenant water rights for sale or lease. This program is administered by the Agriculture Stabilization and Conservation Service (ASCS) office which would have a record of lands in the set aside program. Upon the purchase or lease of such a water right you would be required to file an Application For Transfer with the department and have approval before using it.

Please contact me at 334-2190 or 2735 Airport Way, Boise, Idaho 83705, if I can be any further assistance to you.

Sincerely,

Melvin Gene Gibson
Sr. Water Resource Agent

MEMORANDUM

TO: DAVE TUTHILL *DT*

FROM: GENE GIBSON *GG*

DATE: 11/28/1989

SUBJECT: PREPERMIT FIELD EXAMINATION ON ACE BLACK RANCH APPLICATIONS 51-07318 & 07319

INTRODUCTION

AUTHORIZATION and PURPOSE

On May 5, 1989 I received a request from David R. Tuthill Jr. to do a prepermit field examination on the above applications. The reason for this examination was to confirm the sources as springs and estimate the flow rates. On May 8, 1989 I called Mr. Asa Black to arrange a time for the examination to be conducted. Mr. Black stated that around the first week in August would be the best time as the flow of the springs increased at that time. I called Mr. Black back on July 31, 1989 and arranged for the examination to take place on August 9, 1989.

Sources of Information

Primary Source: - Field examination performed by Gene Gibson, Sr. Water Resource Agent on 08-09-1989.

Secondary Sources: - Interviews with two of the current owners (Asa and Tony Black)

- Original application files

- Sugar Valley Orthophotoquad dated 1974

- USGS Topographic map Sugar Valley, revised edition dated 1978

FIELD EXAMINATION

Background

On August 9, 1989 the following parties met at the Ace Black Ranch in Bruneau to conduct the prepermit examinations:

- Asa Black (also known as Ace Black), owner of Ace Black Ranch
- Tony Black, son of Ace Black
- Gene Gibson, Sr. Water Resource Agent, IDWR

The information presented here results from the field examination requested by David R. Tuthill Jr.

Method of Measurement

The flow rates of the two springs were measured on the crest of a portable 2' Cipolletti weir. The weir was checked at both installations to ensure it had been properly installed.

RESULTS OF FIELD EXAMINATION

APPLICATION 51-07318

The source for this application is a spring located in the SE 1/4 SE/4 of Section 30 T06S, R06E Owyhee County. The spring had a measurable flow rate of .28 (.99 cfs) on the crest of the weir. There are two factors that could have an effect on this flow measurement:

1. There was an additional source of water coming into the drain ditch from Buckaroo ditch (see photo one) I estimated this flow to be approximately .066 cfs (needs to be added to flow rate).

2. There was a loss of approximately .066 cfs through the diversion in the main ditch and .011 cfs around the weir (needs to be subtracted from flow rate).

APPLICATION 51-07319

The source for this application is a spring located in the SE 1/4 NE1/4 of Section 31 T06S, R06E Owyhee County. The spring had a measurable flow rate of .12 (.28 cfs) on the crest of the weir.

CONCLUSION

Mr. Black stated that:

-the flow of the springs was not related to the Buckaroo ditch and increased during the fall months.

-both of the above springs were developed only to the extent of draining two wet areas in the hay fields.

Even though the springs at this time did not supply the requested flow rates there was enough to justify accepting the applications for processing.

Application number	Requested flow rate	Measured flow rate
51-07318	1.98 cfs	.99 cfs
51-07319	.30 cfs	.28 cfs



PHOTO ONE- Taken looking west shows the drain ditch and spring



PHOTO TWO- Taken looking down into the ditch at the spring.



PHOTO THREE- Taken looking northwest shows the drain ditch



PHOTO FOUR- Taken looking east shows the stilling pool and portable weir installed for the purpose of doing a water measurement of the spring flow.

CONVERSATION MEMORANDUM

DATE 3/27/89

FILE _____

NAME OF PARTY Ace Black (office visit)EMPLOYEE Steve LesterRE: 2 applications for springs in Brunson area (Re: letter
of 3/1/89):

a) wants to keep applications separate instead of
combining into one application

b) the 1.98 cfs spring does not flow to a surface
body of water. The area is a depression apparently
surrounded by impervious soils (probably a gravel/mud/
clay layer in area).



State of Idaho

DEPARTMENT OF WATER RESOURCES

WESTERN REGION, 2735 Airport Way, Boise, Idaho 83705 • (208) 334-2190

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

March 1, 1989

Ace Black Ranch
c/o Ace Black
HC 85, Box 101
Bruneau, ID. 83604

Re: Applications for Permit

Dear Sir:

Your applications for permit were received, reviewed, and are in processing. I apologize for the delay in contacting you, but the Snake River Basin Adjudication demands considerable time. Your preliminary priority dates are not affected by Department delays.

Applications for irrigation in your area fall within the Trustwater boundary, an area of ground and surface water upstream from Swan falls and considered tributary to the Snake River. A moratorium on such applications was recently lifted, and the considerable backlog of applications on hold must be processed before new applications such as yours may be approved. Again, the delay will not affect your preliminary priority dates.

The application for 1.98 cfs states that the spring in NWSESE S.30 sinks. This seems like a lot of water for a spring that sinks instead of flowing into a stream or other surface water body. Is this a mistake or does the spring actually sink?

The two applications are for springs about one quarter mile apart and for irrigatable acres that are also close together. You may want to combine the applications into one and save \$25 now and additional amounts in the future development of the water right (licensing fees, etc.). Please let me know if you want to combine the applications and receive the \$25 refund.

Also, please respond to the tributary question within 30 days. This office will provide additional help and information at your request.

Sincerely,

Steve Lester
Sr. Water Resource Agent

SL:sl