

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 55-13923

Priority: March 26, 2014

Maximum Diversion Volume: 2.4 AF

This is to certify, that US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM **Tributary:** DEEP 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>
STOCKWATER STORAGE	01/01 to 12/31	2.4 AF
WILDLIFE STORAGE	01/01 to 12/31	2.4 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM NW1/4NW1/4 Sec. 9, Twp 10S, Rge 03W, B.M. OWYHEE County

PLACE OF USE: STOCKWATER STORAGE

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

PLACE OF USE: WILDLIFE STORAGE

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

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2019**.
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. Stockwater storage is for 350 range cattle.

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5. This right, when considered with all other rights common to the same grazing allotment, is limited to the quantity of water beneficially used by the number of stock within the allotment.
6. Project known locally as Pasture #2 Reservoir #09900.
7. Water Right No. 55-13840 storage is for the same facility.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 28th day of July, 2014.



JOHN WESTRA, Western Regional Manager





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

July 28, 2014

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657

RE: Permit No.55-13923

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)334-2190.

Sincerely,

A handwritten signature in cursive script that reads "Raoul Somma". Below the main signature, the word "For:" is written in a smaller, simpler cursive script.

John Westra
Western Regional Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on July 28, 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. 55-13923

**US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657**

A handwritten signature in black ink, reading "Rachel Sommer", is written over a horizontal line.

**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

To File #55-13923-- BLM

From: J. Westra

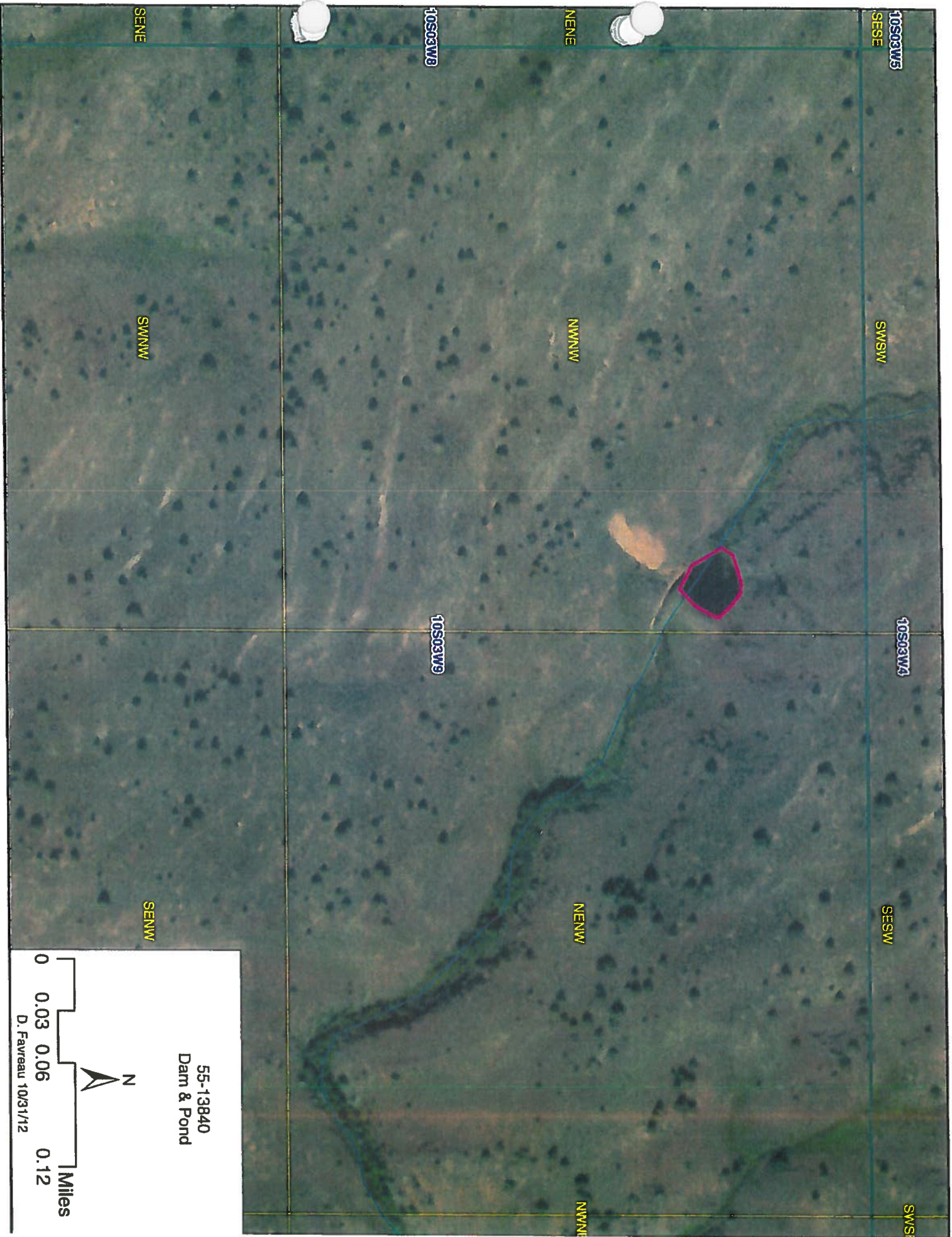
Date: 07/23/14

RE: Dam Safety—Regulation

The embankment and reservoir for this permit already exist under WR license #55-13840. The application lists the dam height as 10 feet and storage capacity of 2.4 ac-ft. The field examination file contains photos taken of the embankment and reservoir which appear much less in size.

The facility is in a remote public grazing land area--no structures or roads downstream and would be classified as low hazard.

Due to the facility size and hazard, it would not be regulated by the Department. An application for dam construction /fees is not warranted.



55-13840
Dam & Pond

N

0 0.03 0.06 0.12 Miles

D. Favreau 10/31/12

G. PURPOSE OF USE

Irrigation _____N # Stock___350 cattle___ Domestic # of Homes _____

Other: Wildlife

Change in Purpose of Use? ____Y__X__N

Method of Determination: Information provided by permit holder.

If Yes: From Use _____ To Use _____ Amount _____ CFS _____ AFA _____

H. NARRATIVE/REMARKS/COMMENTS

Nickel Creek Allotment, Pasture 2 Reservoir, #9900

No Water District

No Fish and Game, Auto-shutoff, Lockable Device, or Measuring Device condition

Have conditions of permit approval been met? ____X__Yes ____No

Very large difference between permitted volume and volume calculated.

I. RECOMMENDATIONS**1. Recommended Amounts**

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Stockwater Storage	04/01 to 12/31	0.0 CFS	0.4 AFA
Wildlife Storage	04/01 to 12/31	0.0 CFS	0.4 AFA
<u>Totals:</u>		0.0 CFS	0.4 AFA

2. Recommended Amendments

_X__Change P.D. as reflected above ____Add P.D. as reflected above ____None

_X__Change P.U. as reflected above ____Add P.U. as reflected above ____None

Other:

J. AUTHENTICATIONField Examiner's Name Daniel H. Meln Date 3-27-14Reviewer Daniel H. Meln Date 3-28-14

Pasture 2 Reservoir (09900)

Water Right # 55-13840

T. 10 s., R. 3 w., Sec. 9

1 Reservoir

Average Depth 5.5 ft.

Pasture 2 Reservoir
Water Right # 55-13840
T. 10 s., R. 3 w., Sec. 9

Spring

4

BM

5326

BM
5380

Pasture 2 Reservoir
524330.677 N 4713493.053 E Meters

5253

Creek

9

Corral

5604

Deep

5595

0 10 20 30 40 50 60 70 80 90 100





The Owyhee Avalanche

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

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

RECEIVED
JUN 30 2014
WATER RESOURCES
WESTERN REGION

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):

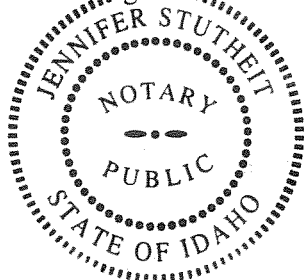
JUNE 18, 25, 2014

SIGNED: _____

STATE OF IDAHO }
COUNTY OF OWYHEE }

On this 26 day of June in the year of 2014 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, 2015

THE FOLLOWING APPLICATIONS HAVE BEEN FILED TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO:

✓ 55-13922, US DEPT OF INTERIOR, BUREAU OF LAND MANAGEMENT, IDAHO STATE OFFICE, 1387 S VINNELL WAY, BOISE, ID 83709-1657

Point of Diversion SENW S25 T06S R04W OWYHEE County Source UNNAMED STREAM Tributary DEER CREEK

Use: STOCKWATER STORAGE, WILDLIFE STORAGE 01/01 to 12/31 9.3 AF

Total Diversion: 9.3 AF

Date Filed: 3/19/2014

Place of Use: STOCKWATER STORAGE, WILDLIFE STORAGE

T06S R04W S25 SWNW SENW

✓ 55-13923, US DEPT OF INTERIOR, BUREAU OF LAND MANAGEMENT,

IDAHO STATE OFFICE, 1387 S VINNELL WAY, BOISE, ID 83709-1657

Point of Diversion NWNW S9 T10S R03W OWYHEE County Source UNNAMED STREAM Tributary DEEP CREEK

Use: STOCKWATER STORAGE, WILDLIFE STORAGE 01/01 to 12/31 2.4 AF

Total Diversion: 2.4 AF

Date Filed: 3/26/2014

Place of Use: STOCKWATER STORAGE, WILDLIFE STORAGE

T10S R03W S9 NWNW

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/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, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 7/7/2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
6/18,25/14