

RECEIVED

FORM 202 03/10 Print form as a 2 page, single-sided document

JUN 02 2014

IDWR / NORTH

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

Ident. No. 82-12253

1. Name of applicant(s) JOHN L. MILLER Phone _____
Name connector (check one): ☐ and ☐ or ☐ and/or

Mailing address: P.O. BOX 69 City STITES

State ID Zip 83552 Email: _____

2. Source of water supply SPRINGS which is a tributary of SINKS

3. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
32N	04E	17		NE	SE	SE	IDAHO	SPRING	
32N	04E	17		NE	SE	SE	IDAHO	SPRING	

4. Water will be used for the following purposes:

Amount 0.04 for DOMESTIC purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)

5. Total quantity to be appropriated is (a) 0.04 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source. GRAVITY FEED

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11.

For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No

e. If well is already drilled, when? _____; drilling firm _____;
Well was drilled for (well owner) _____; Drilling Permit No. _____.

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

a. Hydropower; show total feet of head and proposed capacity in kW. _____

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; show name of municipality or the applicant's qualifications as a municipal provider. _____

d. Domestic; show number of households ONE HOME AND IRRIGATION UP TO 0.5 AC

e. Other; describe fully. _____

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JUL 09 2014

8. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. 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	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
32N	04E	16											D						

Total number of acres to be irrigated: _____

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? _____

10. a. Who owns the property at the point of diversion? EDWINA NITZ (WATER LINE EASEMENT)
- b. Who owns the land to be irrigated or place of use? JOHN L. MILLER
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. (2) SPRINGS FOR DOMESTIC USE.

12. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year).
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

John L. Miller
Signature of Applicant
John L. Miller
Print Name (and title, if applicable)

Signature of Applicant

Print Name (and title, if applicable)

For Department Use:

Received by Dianne Date 5/9/14 Time _____ Preliminary check by _____
Fee \$ 100.00 Received by Dianne Receipt No. NO 30496 Date 5/9/14

SCANNED
JUL 09 2014

82-12253



0 0.0375 0.075 0.15 Miles

Legend

- Working_POD
- Working_POU
- QQ



SCANNED
JUL 09 2014

82-1253

493831

Instrument # 3831

IDAHO COUNTY, IDAHO,

3-11-2014 03:33:10 No. of Pages: 5

Recorded for: INLAND TITLE

KATHY M. ACKERMAN

Ex-Officio Recorder Deputy Fee: 22.00

WARRANTY DEED

GRANTOR, ESTATE OF EDWINA J. NITZ, of 37611 Culdesac Road, Reubens, ID 83548, for a good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey to JOHN L. MILLER, a single man, of 116 Theresa Acres Way, Clearwater, ID 83552, as GRANTEE, and to grantee's heirs and assigns forever, all of the following described real estate located in the County of Idaho, State of Idaho, to wit:

Township 32 North, Range 4 East, Boise Meridian, Idaho County, Idaho

Section 16: That part of the SW $\frac{1}{4}$ lying South and West of the Battle Ridge County Road.

TOGETHER WITH the right to take and use all the water from certain springs located on the property of the Grantor as described in Exhibit "A" attached hereto and depicted in Exhibit "B" attached hereto. Grantor further grants to the Grantee a perpetual easement as described in Exhibit "A" and depicted in Exhibit "B" to enter on such lands of the Grantor as described above to maintain the existing springs and associated water lines for the benefit of the property being transferred herein. Further Grantee shall have the right to excavate and refill ditches and trenches for locations of such a water pipeline and the right to remove any trees, bushes, undergrowth or other obstructions which interfere with the location, construction and maintenance of said pipeline.

TOGETHER with all improvements, water, water rights, ditches, ditch rights, easements, hereditaments and appurtenances thereto.

Subject to:

1. General taxes for the year 2014, which are a lien, not yet due and payable.

2. RIGHT OF WAY EASEMENT to The Washington Water Power Company, recorded February 6, 1941 as Instrument Number 133939.

3. Reservation of all mineral rights to the State of Idaho by document recorded April 9, 1952 as Instrument Number 172824, together with the appurtenant rights to use the surface of the land.

1 4. All matters, covenants, conditions, restrictions,
2 Easements and any rights, interests or claims which may exist
3 by reason thereof, disclosed by Record of Survey and Corner
4 Perpetuation and Filing Record noted below, but deleting any
5 covenant, condition or restriction indicating a preference,
6 limitation or discrimination based on race, color, religion,
7 sex, handicap, familial status, or national origin to the
8 extent such covenants, conditions or restrictions violate 42
9 USC 3604(c).

Record of Surveys:

November 28, 2005 as Instrument Number 445214;

Corner Perpetuation:

recorded December 18, 1992 as Instrument Number 366791;

recorded February 22, 1999 as Instrument Number 0404734.

10 TO HAVE AND TO HOLD the said premises, with their
11 appurtenances, unto the said Grantees, their heirs and assigns
12 forever. And the said Grantors do hereby covenant to and with the
13 said Grantees that they are the owners in fee simple of said
14 premises; that they are free from all encumbrances, and that they
15 will warrant and defend the same from all lawful claims whatsoever,
16 except general taxes for the year 2014, and easements,
17 reservations, restrictions and rights-of-way of record or in use.

18 Except as otherwise expressly provided in this instrument,
19 GRANTORS, hereby declare pursuant to Title 5, Chapter 2 of the
20 Idaho Code, that in the event GRANTORS shall have permitted or
21 suffered at any time prior to the making of this instrument, any
22 person or entity to possess, use or occupy the above-described
23 premises, or any portion thereof, for any purpose, with or without
24 the knowledge of GRANTORS, it was not the intent of GRANTORS, by
25 permitting or suffering such possession, use or occupation, to
26 thereby define property boundaries or ownership thereof.

27 In construing this deed, and where the context so requires,
28 the singular includes the plural and the masculine, the feminine
and the neuter.

EXHIBIT A

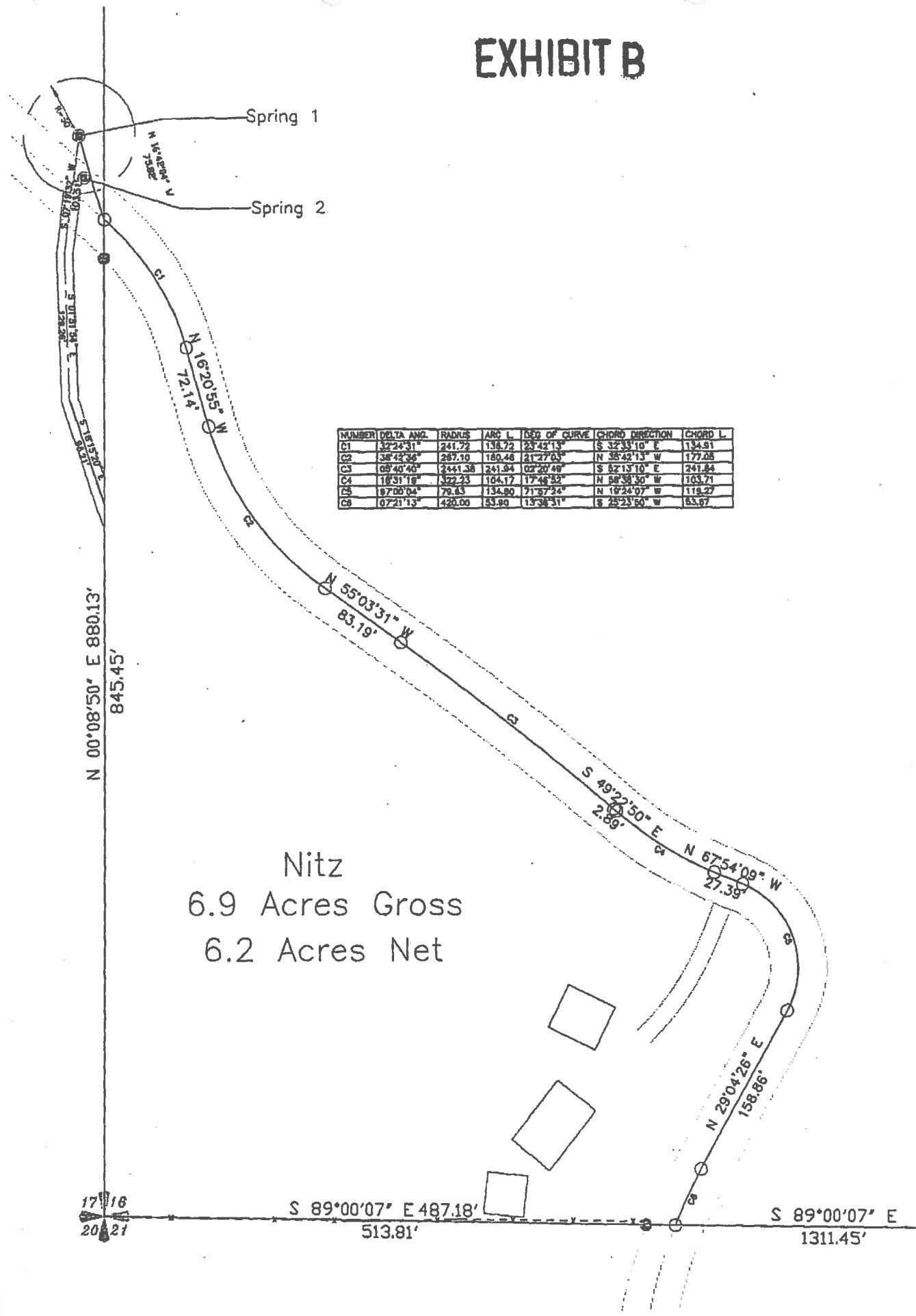
Waterline Easement for Nitz

An easement for purposes of maintaining existing springs and associated water lines, 15.00 feet in width, located in the Southeast Quarter of the Southeast Quarter of Section 17, Township 32 North, Range 4 East, Boise Meridian, Idaho County, State of Idaho, and centered upon the following described line:

Commencing at a brass cap monument marking the Southeast Corner of said Section 17; thence North 00°08'50" East, along the section line between Sections 16 and 17, a distance of 629.53 feet to the **POINT OF BEGINNING** for this Easement; thence North 18°15'20" West, a distance of 96.21 feet, to a point; thence North 01°51'54" West a distance of 129.26 feet, to a point; thence North 07°19'32" East a distance of 103.51 feet to an existing Spring and the center point for a circular easement area, with a 50' radius, surrounding said spring.

(The easement right of way lines are to be extended or shortened to meet adjoining the section line at the POB and to meet the circular easement boundary herein described)

EXHIBIT B



Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, July 16, 2014 1:40 PM
To: rhennekey@idfg.idaho.gov
Cc: Franklin, Keith
Subject: Comments on 82-12253 Miller
Attachments: App_82-12253_-_Miller.pdf

We received notice you were out of the office when this was originally sent to you for comments back on June 25th; your e-mail response indicated you'd be back 7/5, but to date we've had no response from you on this.

We still need comments from you on this. It's currently out for publication in Idaho County Free Press and final date for protests to be received in our office is August 4, 2014.

Please send comments to Keith Franklin, and copy me.

Thank you very much,

Dianne Ball

Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Dr., Ste. 100
Coeur d'Alene, ID 83815
208-762-2800 Fax 208-762-2819



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

July 9, 2014

JOHN L MILLER
PO BOX 69
STITES, ID 83552

Application For Permit No. 82-12253

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the IDAHO COUNTY FREE PRESS on 7/17/2014 and 7/24/2014. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact the Northern Region office at (208) 762-2800 if you have any questions regarding the application.

Sincerely,

Jean Hersley
Technical Records Specialist II

From: Hersley, Jean
To: ["JELEGAL@IDAHOCOUNTYFREEPRESS.COM"](mailto:JELEGAL@IDAHOCOUNTYFREEPRESS.COM)
Cc: ["NDONALDSON@EAGLENEWSPAPERS.COM"](mailto:NDONALDSON@EAGLENEWSPAPERS.COM)
Subject: Idaho County Ad
Date: Wednesday, July 09, 2014 3:48:00 PM
Attachments: [Legal Notice.docx](#)

RE: Application For Permit No.(s): 82-12253

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to the Northern Region office before 8/4/2014. Your cooperation is appreciated.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*

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

82-12253

JOHN L MILLER

PO BOX 69

STITES, ID 83552

(2)Points of Diversion: NESESE S17 T32N R04E IDAHO County Source SPRINGS Tributary SINKS

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 5/9/2014

Place Of Use: DOMESTIC

T32N R04E S16

SWSW

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. 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, Northern 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 8/4/2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 7/17/2014 and 7/24/2014



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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

Applying for a Permit to Appropriate Water in the Salmon and Clearwater River Basins

Idaho Code § 42-203A(5) requires IDWR to evaluate the following criteria for applications to appropriate water:

- The potential to reduce the quantity of water under existing water rights
- The sufficiency of the water supply for the proposed appropriation
- The good faith nature of the application
- The adequacy of the applicant's financial resources
- The local public interest in the public water resource
- The conservation of water resources in Idaho
- Impacts to the economy of the local area or watershed

To ensure that IDWR has sufficient information to evaluate the criteria, Rule 40.05 of the Water Appropriation Rules (IDAPA 37.03.08.040.05) requires water right applicants to submit additional information to IDWR in connection with their applications. Because the waters of the Salmon River and Clearwater River drainages are habitat for fish species listed as endangered or threatened under the Federal Endangered Species Act, caution is necessary to ensure that new appropriations of water do not undermine efforts to protect and restore the ESA listed fish species and other public values in the basins' rivers and streams. IDWR is, therefore, requiring that applicants submit the additional information required by Water Appropriation Rules 40.05.c through 40.05.g, even when the applications are for less than the usual 5.0 cfs/500 af threshold. To satisfy the additional information requirement, please contact the Department of Fish and Game and the Department of Environmental Quality, obtain their written comments on your proposed project, and submit the comments to IDWR.

Please submit the information required by Water Appropriation Rules 40.05.c-g to IDWR within 30 days from the date you are notified that it is required. IDWR will hold your application until you have submitted the additional information. If you do not respond within 30 days, IDWR may void your application. If you need additional time to submit the required information, please submit a written request. IDWR can grant additional time "upon a showing of good cause."

The following are agency representatives who will help you respond to the local public interest requirement of Rule 40.05.g. Please contact these agency representatives at least 15 days prior to the end of your 30-day response period.

Idaho Department of Fish and Game contact list for water right applications:

Panhandle Region: Mary Terra-Berns at 208-760-1414 Clearwater Region: Ray Hennekey at 208-799-5010
McCall Subregion: Dale Allen at 208-634-8137 Southwest Region: Rick Ward at 208-465-8465
Salmon region: Tom Curet at 208-756-2271

Idaho Department of Environmental Quality contact list for water right applications:

Lewiston John Cardwell at 208-799-4370 (Clearwater or lower Salmon River basins)
Cascade: Leslie Freeman at 208-634-4900 (South Fork Salmon River basin)
Idaho falls: Troy Saffle at 208-528-2650 (Upper salmon, Lemhi, Pahsimeroi basins)-



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370

C.L. "Butch" Otter, Governor
Curt Fransen, Director

June 26, 2014

Mr. Keith Franklin
Idaho Department of Water Resources
7600 North Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815

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JUL 03 2014

IDWR / NORTH

Subject: Water Appropriation, Permit # 82-12253

Dear Keith:

We received a request for comment along with a copy of an application for a water appropriation permit to appropriate 0.04 acre feet from a spring located on property in Idaho County. The water will be diverted from the source by gravity feed. The appropriated water will be used for domestic use for one home, and for irrigation for up to 0.5 acres from January 1 to December 31. Assuming all federal, state and local permits have been obtained, regulations met, and reviews completed, we offer the following comments.

The spring is described in the application as a sink. Because we assume any water of the State which occurs beneath the surface of the earth in a saturated geological formation of rock or soil to be ground water (Idaho Code 58.01.02.010.38), we assume there to be hydrologic gradient connectivity to surface waters of the State. It is the policy of the State of Idaho Ground Water Management Plan that existing and projected beneficial uses of ground water and interconnected surface water be maintained and protected and degradation that would impair beneficial uses of ground water and interconnected surface water not be allowed.

Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards, please call us at (208) 799-4370.

Sincerely,

A handwritten signature in black ink, appearing to read "Cindy Barrett". The signature is fluid and cursive, with the first name "Cindy" and last name "Barrett" clearly distinguishable.

Cindy Barrett
Regional Water Quality Program Manager

cc: John Miller, Stites
John Cardwell, DEQ
Ray Hennekey, IDFG

Cooley-Denney, Suzy

From: Hennekey, Ray [ray.hennekey@idfg.idaho.gov]
Sent: Wednesday, June 25, 2014 1:36 PM
To: Cooley-Denney, Suzy
Subject: Automatic reply: 82-12253 (Miller)

I will be out of the office from 6/25 through 7/4.

Cooley-Denney, Suzy

From: Cooley-Denney, Suzy
Sent: Wednesday, June 25, 2014 1:36 PM
To: 'john.cardwell@deq.idaho.gov'; 'ray.hennekey@idfg.idaho.gov'
Subject: 82-12253 (Miller)
Attachments: 82-12253.pdf

Gentlemen ~

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above-referenced water right application. A copy of the application is attached for your reference.

We will be trying to prepare this for publication on July 8, 2014.

Your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact this office if you have any questions regarding this application.

~ Suzy

82-12253



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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 9, 2014

JOHN L. MILLER
P.O. BOX 69
STITES, ID 83552

Re: Application for Permit to Appropriate the Public Waters of the State of Idaho.

The application you had submitted was missing some data. I discovered this after the application was submitted. Please review the application I have returned to you with this letter. If you agree with all the data on this application please sign and return it with the map. I have attached a map with the outline location of the place use. Please review this map for the correct location of the place of use and point of diversion. Please make your changes to the application and map to reflect how this water application is to be used.

Once the department receives this additional information, processing of the application can continue. If you have any questions, please call me at 208-762-2800 or email me at eric.davis@idwr.idaho.gov

Sincerely,

Eric Davis
Senior Water Resource Agent
Northern Region