

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 57-11834 IN THE NAME OF) PRELIMINARY ORDER
CAL AND SUSIE LOW) VOIDING APPLICATION
_____)

FINDINGS OF FACT

1. On September 21, 2012, Cal and Susie Low (Applicants) filed application for Permit No. 57-11834 with the Idaho Department of Water Resources (Department) seeking a permit from Castle Creek, tributary to the Snake River, for a 98 acre foot storage pond to be used for late season irrigation of 79 acres.

2. On January 23, 2013, the Department sent the Applicant's representative a letter requesting an amended application. On February 21, 2013, the Department contacted the Applicant's representative regarding the amended application. On April 5, 2013, the Department sent the Applicant's representative a letter requesting a response and the amended application within 30 days.

3. As of May 17, 2013, the Department has not received a response with the amended application or a written request for additional time from the Applicant's representative.

CONCLUSIONS OF LAW

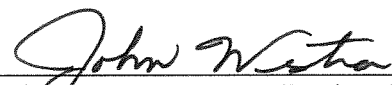
1. Idaho Code (IC)§ 42-204 and the Water Appropriation Rules of the Department state that if an Applicant does not submit requested information to IDWR within thirty (30) days of set deadline, the Department may void the application.

2. The Applicant has failed to provide the Department the requested information by the May 5, 2013 deadline. The application should be voided.

ORDER

IT IS HEREBY ORDERED that Application for Permit No. 57-11834 in the name of Cal and Susie Low is VOID.

Dated this 20th day of May, 2013



John Westra, Western Regional Manager

Identification No. 57-11834**VOID**

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

*Please direct all inquiries to Ed Squires at (208) 342-8369

RECEIVED

SEP 21 2012

WATER RESOURCES
WESTERN REGION

1. Name of applicant(s) Cal and Susie Low Phone (208) 834-2384
Name connector (check one): ☐ and ☐ or ☐ and/or
 Mailing address: 21101 Oreana Loop Drive City Oreana
 State ID Zip 83650-5099 Email: cal@lowsreadymix.com
2. Source of water supply Castle Creek which is a tributary of Snake River
3. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
4S	1E	35			NW	SW	Owyhee	Castle Creek	North 80 Diversion
4S	1E	35			SW	NE	Owyhee	East Side Ditch	Low's Reservoir

4. Water will be used for the following purposes:

Amount 98 ac-ft for diversion to storage purposes from Oct. 16 to Mar. 31 (both dates inclusive)
(cfs or acre-feet per year)

Amount 98 ac-ft for diversion from storage purposes from Apr. 1 to Oct. 15 (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) 3.0 cubic feet per second (cfs) and/or (b) 98 acre-feet per year (af).

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source Existing concrete diversion dam to existing ditch that conveys water to proposed storage pond adjacent to the place of use.

b. Height of storage dam 5 (five) feet; active reservoir capacity 98 acre-feet; total reservoir capacity 98 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 not applicable inches; proposed depth of well is not applicable feet.

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

e. If well is already drilled, when? not applicable; drilling firm not applicable;

Well was drilled for (well owner) not applicable; Drilling Permit No. not applicable.

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. _____
- e. Other; describe fully. The requested water will be diverted to storage from Castle Creek during the non-irrigation season, stored until late in the irrigation season, and diverted from storage for irrigation. The evaporation from a proposed 7-acre pond is considered to have the same duty of water as irrigation and is included in the application as such.

- 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.

7-acre pond

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4S	1E	35	40	39	7														86

Total number of acres to be irrigated: 79 acres of irrigated fields and 7 acres of pond surface area = 86 total acres

9. Describe any other water rights used for the same purpose as described above. Include water delivery 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? 57-10478 (decree) 1.52 cfs for irrigation by Low.
57-220A (decree) for 0.40 cfs for irrigation by Low.

10. a. Who owns the property at the point of diversion? Cal and Susie Low
- b. Who owns the land to be irrigated or place of use? Cal and Susie Low
- 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. New proposed pond (7 acres of surface area by 14-feet deep) will be supplied with water (during non-irrigation season) from seasonal runoff from an existing ditch and diversion dam on Castle Creek. During the irrigation season the pond will be pumped to irrigate ~79 acres that are north of and adjacent to the pond.

12. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8 1/2 "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 misrepresentation made in this application may result in rejection of the application or cancellation of an approval.

Cal Low
Signature of the Applicant
CALD. LOW
Print Name (and title, if applicable)

Susie Low
Signature of the Applicant
Susie Low
Print Name (and title, if applicable)

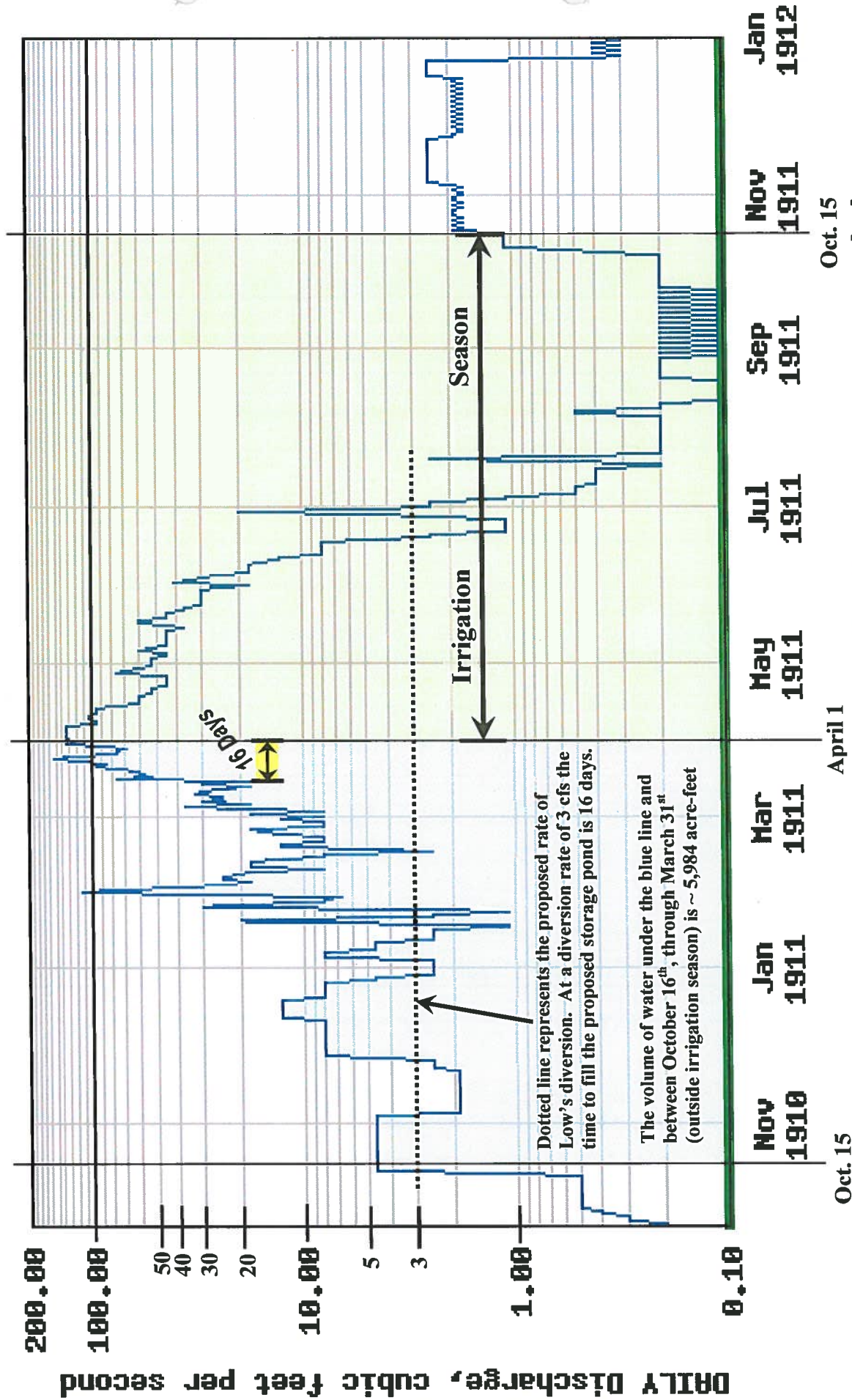
For Department Use:

Received by JA Date 9/21/12 Time 3:00 Preliminary check by _____
Fee \$ 330.00 Received by JA Receipt No. W040586 Date 9/21/12
300 RS W040588 9/21/12

→ this is for dam const Appl - 82 10/2/12

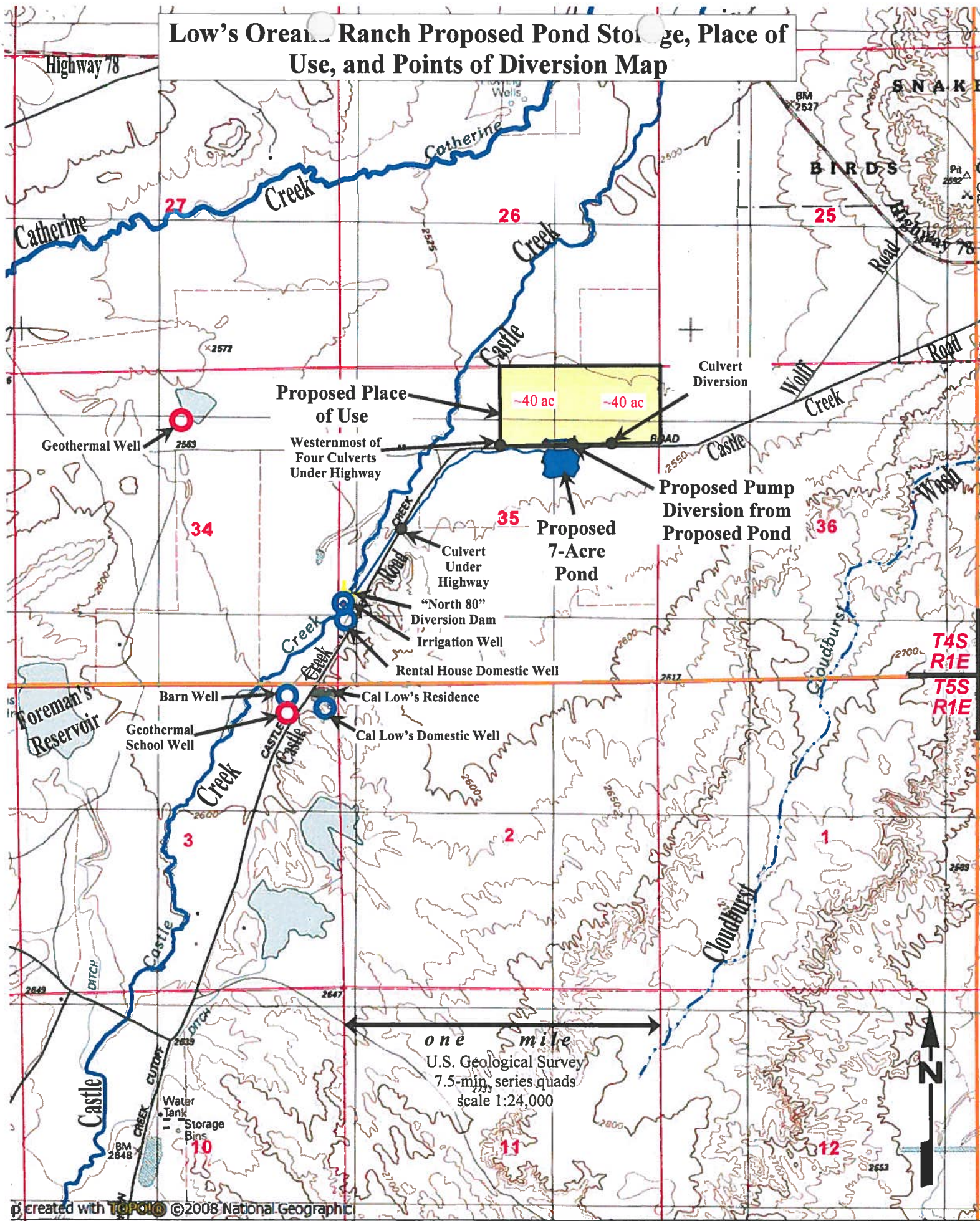


USGS 13172000 CASTLE CREEK NR CASTLE CREEK ID



Hydrograph from the only USGS gauging station data found for Castle Creek. This station was in operation from September 22nd, 1910 through December 31st, 1911 (~15 months). The proposed pond would be filled from Castle Creek during spring runoff before irrigation season and stored until the irrigation season. This gauging station was located 4.72 (straight-line) miles upstream from Low's POD. Note y-axis is logarithmic scale.

Low's Oreana Ranch Proposed Pond Storage, Place of Use, and Points of Diversion Map

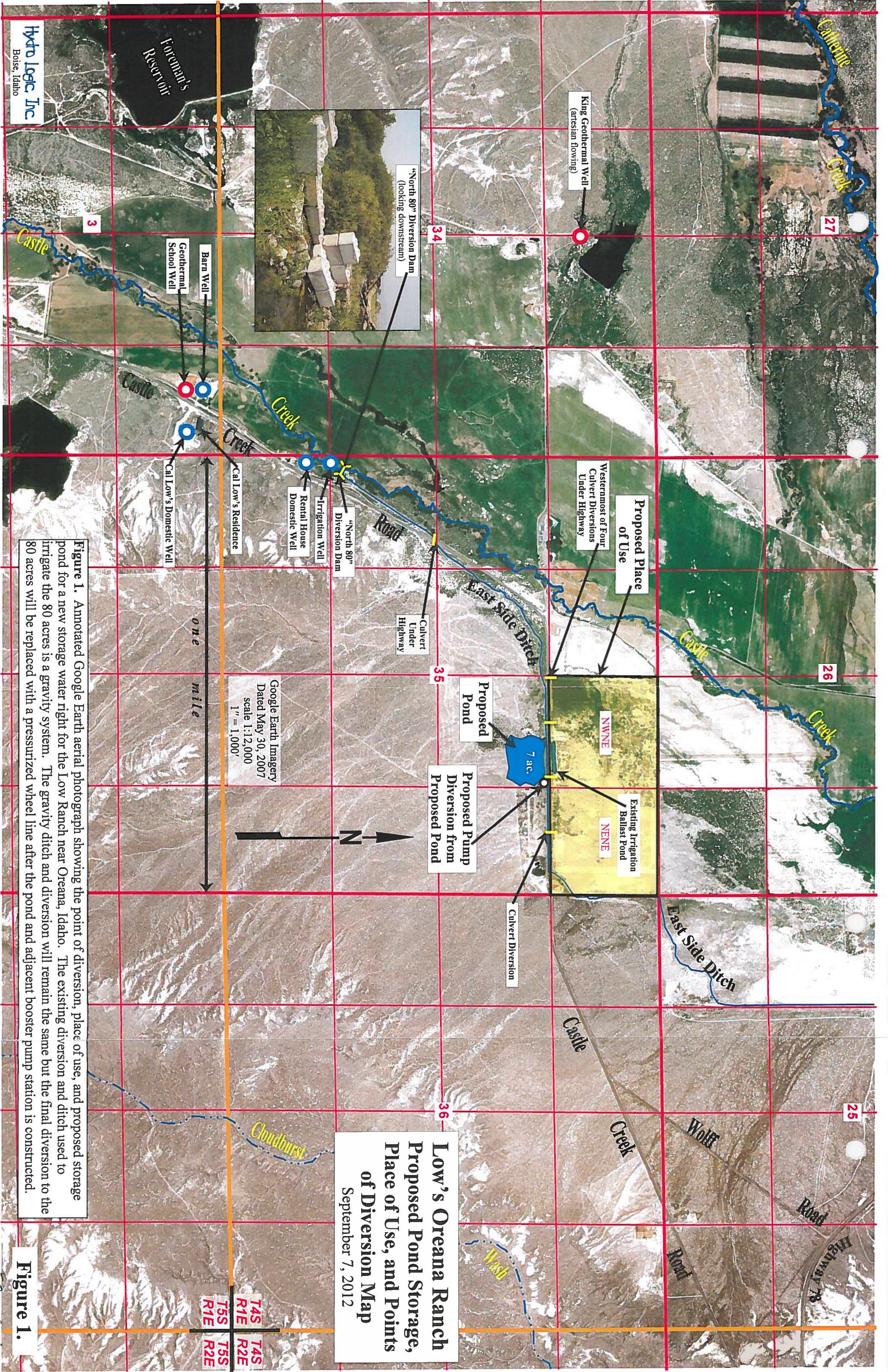


Map created with **TOPOL** ©2008 National Geographic

Hydro Logic, Inc.
Boise, Idaho

0.0 0.5 1.0 miles

Figure 1.



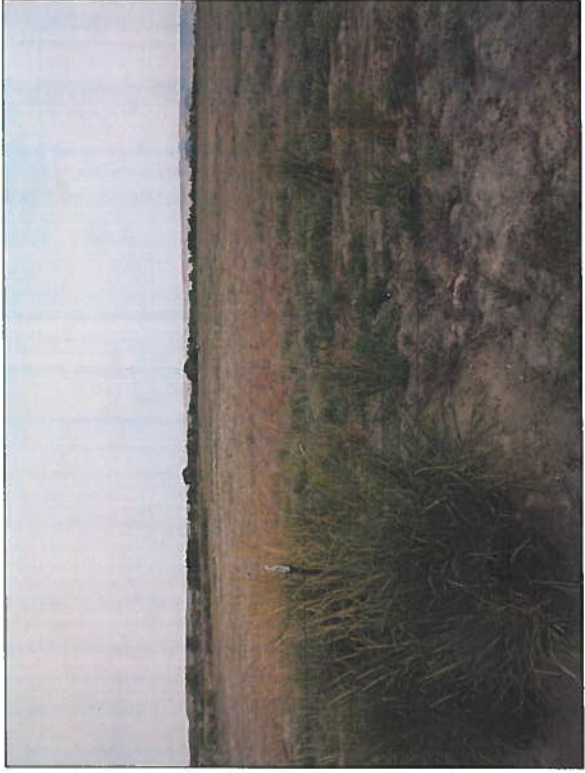
**Low's Oreana Ranch
Proposed Pond Storage,
Place of Use, and Points
of Diversion Map**
September 7, 2012

Figure 1. Annotated Google Earth aerial photograph showing the point of diversion, place of use, and proposed storage pond for a new storage water right for the Low Ranch near Oreana, Idaho. The existing diversion and ditch used to irrigate the 80 acres is a gravity system. The gravity ditch and diversion will remain the same but the final diversion to the 80 acres will be replaced with a pressurized wheel line after the pond and adjacent booster pump station is constructed.

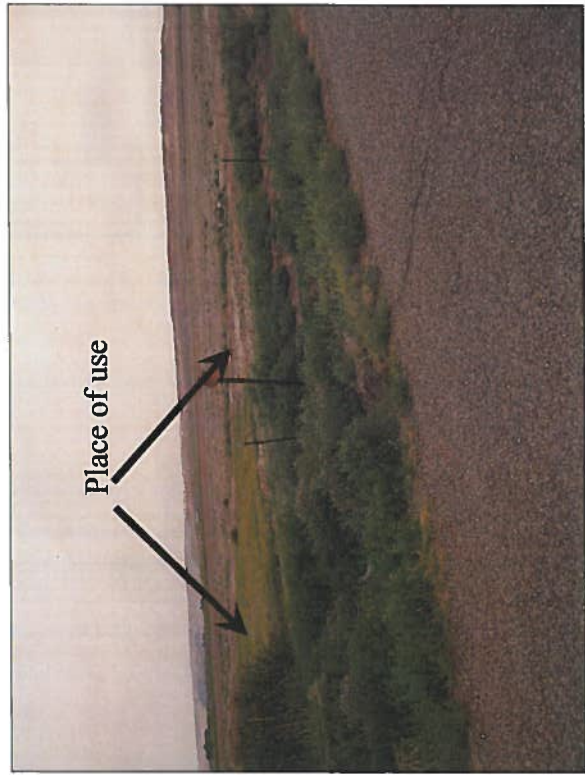
Figure 1.



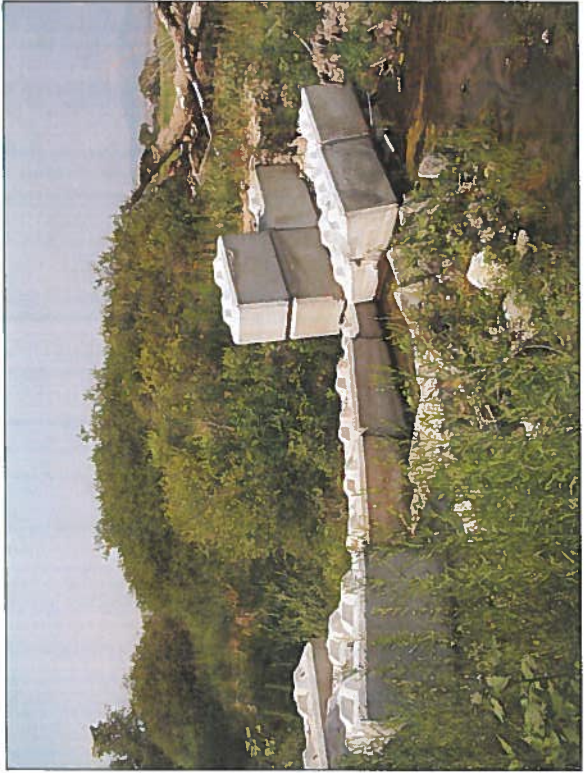
One of the four existing culvert diversions under the highway that is located between the proposed place of use and East Side Ditch.



Proposed place of use located in T4S R1E Section 35, NENE quarter quarter and NWNE quarter quarter and culvert diversion across road in lower left of photograph.



Proposed place of use located in T4S R1E Section 35, NENE quarter quarter and NWNE quarter quarter with culvert crossing under highway. View looks NE.



Existing "North 80" East Side Ditch diversion dam (looking downstream).



One of the four existing culvert diversions under the highway. Photo looks south across highway to East Side Ditch.



Existing irrigation ballast pond and ditch. Photo looks east.



Existing irrigation ballast pond/ditch along highway looking west.



Existing culvert road crossing along the East Side Ditch..



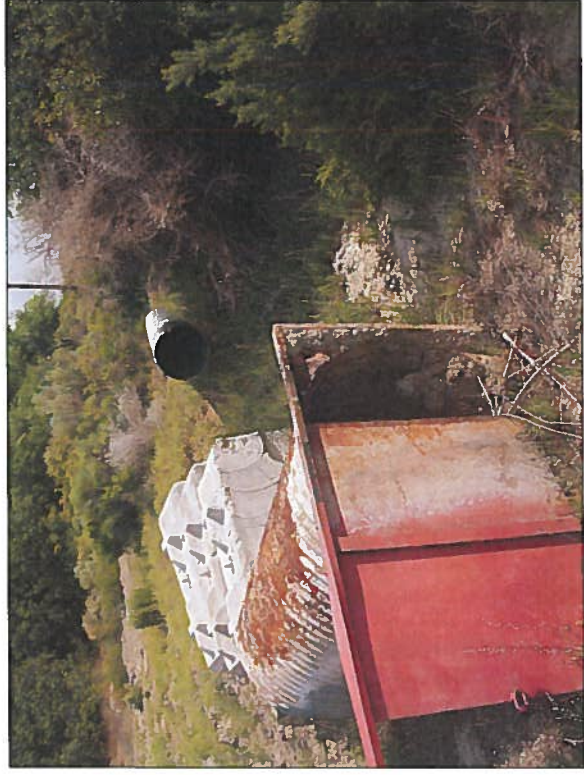
Proposed place of use located in T4S R1E Section 35, NENE quarter quarter and NWNE quarter quarter.



East Side Ditch below the North 80 diversion dam that conveys irrigation water to the place of use.



Existing East Side Ditch below the North 80 diversion dam.



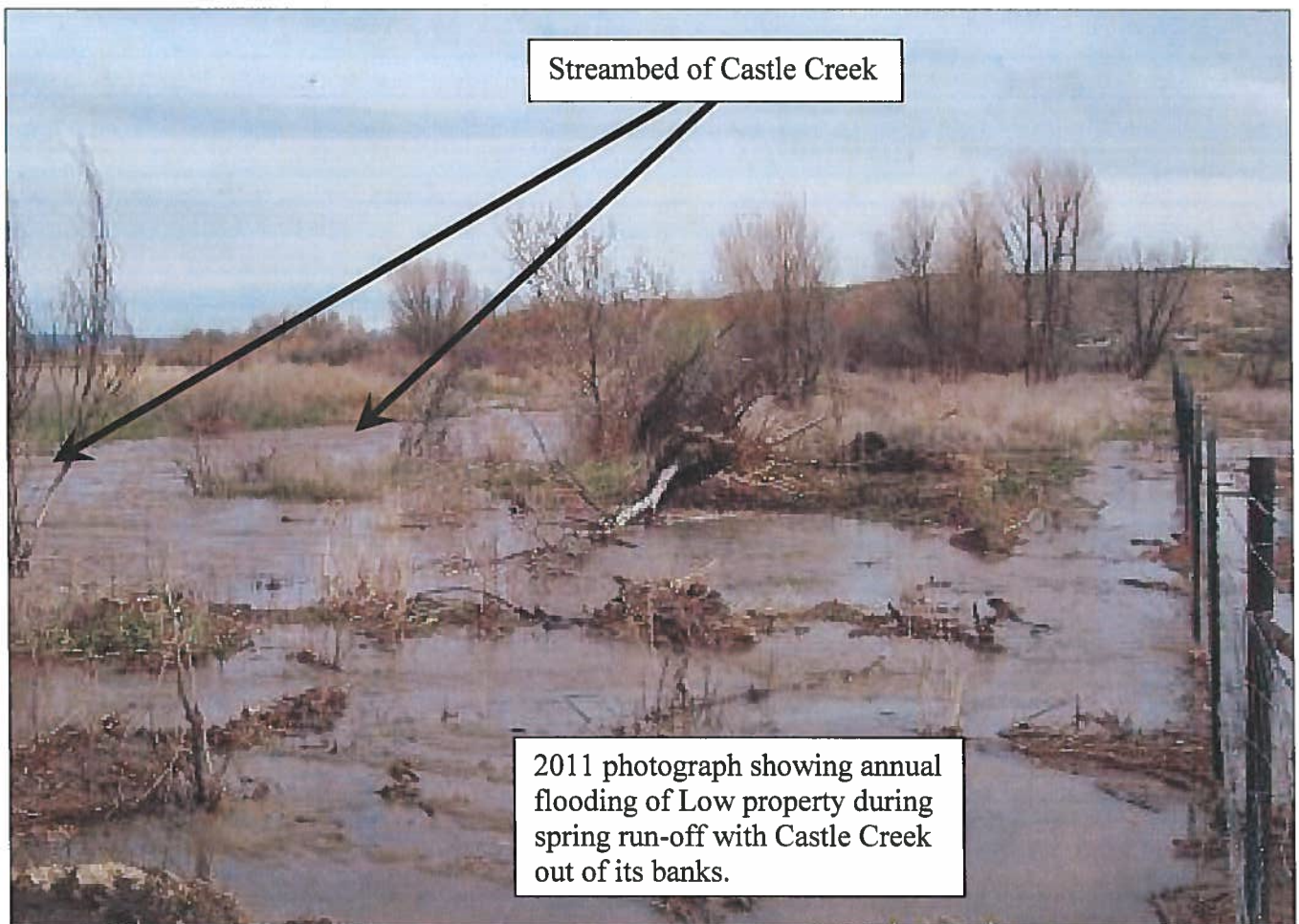
Older lockable slide gate at the North 80 diversion dam that was washed out by flooding the previous year and was replaced in 2011.

From: susielow [mailto:susielow@wildblue.net]
Sent: Friday, September 21, 2012 8:16 AM
To: Ed Squires
Subject: Pictures of Castle Creek

Good Morning Ed,

I'm not sure if you will need these, or maybe it will just give you a idea what we're talking about when the Castle Creek floods in the Spring.
This is why Cal and I thought we could capture some of this water to be put to good use.

Susie





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

May 20, 2013

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

CAL AND SUSIE LOW
21101 OREANA LOOP DR
OREANA ID 83650-5099

Re: Preliminary Order in the matter of Permit No. 57-11834

Dear Interested Parties:

The accompanying order is a "**preliminary order**" issued by the Department pursuant to section 42-219, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed information sheet.

If you have any questions regarding this matter, please call me at (208)334-2190.

Sincerely,


for:

John Westra, Manager
Western Regional Office

Enclosures

Cc: HYDRO LOGIC INC. C/O ED SQUIRES

CERTIFICATE OF SERVICE

I hereby certify that on May 20, 2013, I mailed a true and correct copy, postage prepaid of the foregoing **PRELIMINARY ORDER** to the persons listed below:

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

Rachel Sommer
Administrative Assistant I

Documents #57-11834 - Preliminary Order, Order Explanatory

CAL AND SUSIE LOW
21101 OREANA LOOP DR
OREANA ID 83650-5099

HYDRO LOGIC INC
C/O ED SQUIRES
1002 W FRANKLIN ST
BOISE ID 83702



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

April 5, 2013

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

HYDRO LOGIC INC
1002 W FRANKLIN ST
BOISE ID 83702

RE: Application for Permit 57-11734 – Cal and Susie Low

Dear Mr. Squires:

On January 23, 2013, we sent an "Amended" Application for Permit form to you for clarification of the intentions of the application you submitted on September 21, 2012. As of this date, we have not received the amended application back from you.

The amended application clarified the source of the water, the uses and amount of water and the place of use for the water. We would like to get this application processed but cannot go any further until we receive the amended application from you.

This letter is to request submittal of the amended application or a reason why the amended application will not be submitted. You may seek additional time to provide the information by making a written request to interrupt processing for up to six months. Your written reply must be received within the next thirty (30) days. Failure to make a timely response will cause this application to be voided. A refund of the application fee cannot be issued for a voided application.

IDWR forms and other information are available on the internet at www.idwr.idaho.gov. Please contact me at (208)334-2190 if you need more information. Thank you for your attention to this matter.

Sincerely,

KAY WALKER
Sr. Water Resource Agent



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

January 23, 2013

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
~~Interim~~ Director

HYDRO LOGIC INC
1002 W FRANKLIN ST
BOISE ID 83702

RE: Application for Permit 57-11734 – Cal and Susie Low

Dear Mr. Squires:

We are in the process of reviewing the above referenced application for permit and find we need to have some corrections made to the form to make it acceptable. Enclosed you will find an "Amended" Application for Permit form that we hope covers the intent of the proposal.

Please note that we have made these changes to the form as it was originally submitted:

1. The source of water listed on the form is just Castle Creek. We do not recognize the "East Side Ditch" as a source of water since this ditch is just moving water from Castle Creek to the place of use. The East Side Ditch appears to be a part of the diversion works and not a source of water independent of Castle Creek, therefore, the point of diversion for East Side Ditch has been removed from item 3.
2. The uses of water and the amounts applied for have been clarified based on the original form. Also, you should be advised that the standard season of use for this area is March 1 through November 15th. If you want to change the seasons of use on the amended form, please feel free to do so by lining through the season shown and correcting it. I was reluctant to do this since you may have reasons for the period of use you have applied for.
3. The place of use has been qualified to the 79 acres that will be irrigated. The 7 acres that will be under the pond do not need to be included in the place of use grid.

Please review the changes made to this proposal and if you agree, have the applicants sign the amended form and return it to this office at your earliest convenience. Once we receive the amended application form we will send it for advertising. If you have any questions or concerns regarding the proposed changes, please feel free to contact me at 334-2190.

Sincerely,

KAY WALKER
Sr. Water Resource Agent

Enclosure

1-25-13
Mr. Squires called.
Will submit
amended app.
Kew

AMENDED

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

Ident. No. 57-118341. Name of applicant(s) Cal and Susie Low Phone (208) 834-2384Name connector (check one): ☒ and ☐ or ☐ and/orMailing address: 21101 Oreana Loop Drive City OreanaState ID Zip 83650-5099 Email: cal@lowsreadymix.com2. Source of water supply Castle Creek which is a tributary of Snake River

3. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
4S	1E	35			NW	SW	Owyhee	Castle Creek	North 80 Diversion

4. Water will be used for the following purposes:

Amount 3.0 for diversion to storage purposes from 10/16 to 3/31 (both dates inclusive)
(cfs or acre-feet per year)Amount 98.0 for irrigation storage purposes from 4/1 to 10/15 (both dates inclusive)
(cfs or acre-feet per year)Amount 98.0 for irrigation from storage purposes from 4/1 to 10/15 (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) 3.0 cubic feet per second (cfs) and/or (b) 98.0 acre-feet per year (af).

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source. Existing concrete diversion dam to existing ditch that conveys water to proposed storage pond adjacent to the place of use.b. Height of storage dam 5 feet; active reservoir capacity 98 acre-feet; total reservoir capacity 98 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 ☐ Noe. 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 _____

e. Other; describe fully. The requested water will be diverted to storage from Castle Creek during the non-irrigation season, stored until late in the irrigation season, and diverted from storage for irrigation. The evaporation from a proposed 7-acre(cont. see item 11)

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.

X = STORAGE PLACE OF USE

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4S	1E	35	40	39	X														79

Total number of acres to be irrigated: 79

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? 57-10478 (decree) 1.52 cfs for irrigation by Low, 57-220A (decree) for 0.40 cfs for irrigation by Low.

10. a. Who owns the property at the point of diversion? Cal and Susie Low
- b. Who owns the land to be irrigated or place of use? Cal and Susie Low
- 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. New proposed pond (7 acres of surface area by 14 feet deep) will be supplied with water (during non-irrigation season) from seasonal runoff from an existing ditch and diversion dam on Castle Creek. During the irrigation season the pond will be pumped to irrigate approx. 79 acres that are north of and adjacent to the pond.

→ (cont. from 7e) pond is considered to have the same duty of water as irrigation and is included in the application as such.

12. Time required for completion of works and application of water to proposed beneficial use is 5 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.

X _____
Signature of Applicant

X _____
Signature of Applicant

X _____
Print Name (and title, if applicable)

X _____
Print Name (and title, if applicable)

For Department Use:

Received by JA Date 9/21/12 Time 3:00 Preliminary check by _____
Fee \$ 330.00 Received by JA Receipt No. W040586 Date 9/21/12



1002 W. Franklin Street, Boise, ID 83702 (208) 342-8369, Fax (208) 342-3100, hli@hydrologicinc.net

September 21, 2012

Mr. Steve Lester
Water Rights Supervisor
Idaho Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, Idaho 83705

RECEIVED

SEP 21 2012

WATER RESOURCES
WESTERN REGION

Re: Cal Low Application for Storage Water Right and Dam in State Water District 57

Dear Steve:

With this letter, I transmit an Application for Permit on behalf of Cal and Susie Low of Oreana, Idaho. The application seeks to store surface water, to be diverted from Castle Creek during the non-irrigation season, whenever seasonal runoff is in excess of existing water rights. The Lows wish to supplement their existing irrigation water rights for a 79-acre tract to be able to extend the irrigation season sufficiently to obtain a second cutting or to plant crops requiring a longer growing season. This application seeks an additional 98 acre-feet per acre to accomplish this.

I appreciated your time in helping me to determine that the Low application does not affect waters of the Snake River held in "Trust" by the State of Idaho and I provide no analysis of that here. Because this application *is* subject to administration in State Water Basin 57, and in response to your e-mail request of August 1, 2012, we provide the following analysis of water availability during the pre-irrigation season stream flows.

We have spoken with John Fuquay and Michael Lewis who own and operate larger storage reservoirs *upstream* of the Lows and they indicate that even during relatively low water years there is sufficient water to supply their irrigation water rights which allow diversion to storage during the entire year. Indeed, according to the Lows, Castle Creek floods over its banks on their property even during relatively low water years (see attached e-mail) such that the sought after diversion would help reduce flooding damage. Only one storage reservoir exists below the Low ranch on Castle Creek. This storage water right is relatively small at 27 acre-feet that can be filled over the entire year.

We have located a 15-month record of stream flow data for Castle Creek recorded by the USGS in 1910-1911 (attached). Although the data is quite old, it does serve to give us some indications of the timing and magnitude of flows in Castle Creek which reached highs up to 150 cfs during this period. The total amounts of storage rights on Castle Creek are approximately 48.3 cfs and 834 acre-feet of which only 1.3 cfs and 27 acre-feet are downstream of the proposed Low diversion. During the pre-irrigation season in 1910-1911 we calculate (from the USGS data) that a total of 5,984 acre-feet were available in Castle Creek. Using this data as a guide, water for the downstream storage diversion would appear to be available almost all year and that water right allows

diversions all year. These data tend to support what the local folks are telling us that pre-irrigation season flows are well in excess of existing water right diversion rates.

Given that almost all of the diversions to storage are upstream from the Low Ranch and unaffected by the proposed Low diversion, and that excess flows appear to be available in at least some years, there would seem to us to be a basis to grant the application for permit.

The bulk of the stored water would be in a below ground excavated depression but a five foot dam across the lower end of the depression will allow water to be backed up to the full extent of the excavation to compensate for the slope of the land surface. To that end, and because the stored water volume exceeds 50 acre-feet behind a dam that is less than 10-feet high, we also submit the attached Application for Construction of a New Dam.

The diversion from Castle Creek and the conveyance ditches are all pre-existing (see attached photos and location map) and only the storage pond and pump station need to be constructed.

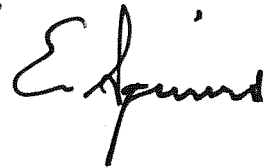
This application consists of the following documents:

- 1) Application for Permit signed by the Applicant.
- 2) Application for Construction of a New Dam signed by the Applicant.
- 3) Annotated (by HLI) USGS stream-flow data for Castle Creek 1910-1911.
- 4) USGS 7½-minute Topographic Series map of the diversions and place of use.
- 5) Annotated Google Earth aerial photograph of the diversions and place of use.
- 6) Photographs of the existing diversion structures and place of use.
- 7) E-Mail from Susie Low with photo of annual flooding of her property in 2011.
- 8) A check in the amount of \$ 330 for processing fees for the water right permit.
- 9) A check in the amount of 300 for processing fees for the dam permit.
- 10) This transmittal letter.

Please call me if you have any questions or if you require any additional information.

Respectfully,

Ed Squires



c: Cal and Suzie Low