

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 57-11807

Priority: March 13, 2012

Maximum Diversion Rate: 1.02 CFS

This is to certify, that SHENK LIVESTOCK
3993 MARKET RD
HOMEDALE ID 83628

has applied for a permit to appropriate water from:

Source: UNNAMED DRAIN

Tributary: JUMP CREEK

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

BENEFICIAL USE

IRRIGATION

PERIOD OF USE

03/01 to 11/15

RATE OF DIVERSION

1.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED DRAIN SE1/4SW1/4 Sec. 14, Twp 03N, Rge 05W, B.M., OWYHEE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE	NW	SW	SE	Totals
03N 05W 14	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	17.0

Total Acres: 17

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2018**.
2. Subject to all prior water rights.
3. This right authorizes excessive diversion rate per acre and excessive field headgate volume per acre based on soils, climate and other limiting factors.
4. This right does not grant any right-of-way or easement across the land of another.
5. 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.
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.

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7. The waste water diverted under this right is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.
8. Upon notification the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 16th day of April, 20 13.



A handwritten signature in blue ink, reading "John Westra", is written over a horizontal line.

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

April 23, 2013

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

SHENK LIVESTOCK
3993 MARKET RD
HOMEDALE ID 83628

RE: Permit No.57-11807

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.

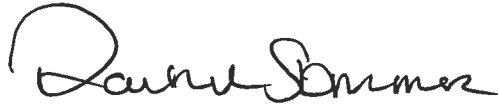
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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,



For:

John Westra
Western Regional Manager

Enclosures

cc: SPF WATER ENGINEERING LLC

CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the persons listed below:

RE: WATER RIGHT NO. 57-11807

**SHENK LIVESTOCK
3993 MARKET RD
HOMEDALE ID 83628**

**SPF WATER ENGINEERING LLC
ATTN: SCOTT KING
300 E MALLARD DR STE 350
BOISE ID 83706**

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.

The Owyhee Avalanche

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

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

RECEIVED

APR 03 2013

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):

MARCH 20, 27, 2013

SIGNED: _____

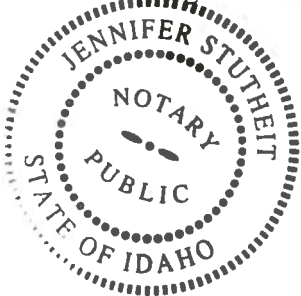
STATE OF IDAHO }
COUNTY OF OWYHEE }

On this 1 day of Apr. in the year of 2013 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
APPLICATION(S)
HAVE BEEN FILED TO
APPROPRIATE THE
PUBLIC WATERS OF THE
STATE OF IDAHO: 57-11807
SHENK LIVESTOCK, 3993
MARKET RD, HOMEDALE,
ID 83628

Point of Diversion SESW S14
T03N R05W OWYHEE County
Source UNNAMED DRAIN
Tributary JUMP CREEK

Use: IRRIGATION 03/01 to
11/15 1.02 CFS

Total Diversion: 1.02 CFS

Date Filed: 5/9/2012

Place Of Use: IRRIGATION

T03N R05W S14 NESW

Total Acres: 17

This application proposes an
excess diversion rate of 0.06 cfs
per acre based on analysis provided
by consultant for applicant.

PROPOSED CHANGE OF
WATER RIGHT(S)

Jackie P. Post of P.O.Box 298,
Mountain Home, ID 83647 filed
Application No. 78259 to transfer
one water right with a 1970
priority date from the Snake River
totaling 1.6 cfs. The purpose of
the transfer is to create a 160-acre
permissible place of use on lands
owned by the applicant. Water
will continue to be diverted at
the original point of diversion
and the right shall be limited
to the irrigation of 80 acres in
a single irrigation season. The
general location of the place of
use is the south side of 20 Mile
Rd. approximately 3/4 mile west
of Shoofly Rd.

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
rights &/or proposed transfer,
please see [www.idwr.idaho.gov/
apps/ExtSearch/WRFiling.asp](http://www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp).
Protests may be submitted based
on the criteria of Sec 42-222
and 42-203A, Idaho Code. Any
protest against the approval of
this application(s) 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 4/8/2013. The protestant
must also send a copy of the
protest to the applicant.

GARY SPACKMAN, Director
3/20/27/13