

Van Bussum, Monica

From: LeAnn Brandt [lbrandt@vidlerwater.com]
Sent: Wednesday, March 06, 2013 1:49 PM
To: Van Bussum, Monica; Price, Fredric
Cc: Jeremy Bluma; Kelley Moore
Subject: RE: FW: Basin & Range water banking

Thanks so much I figured it would be easier to pay for each year individually. I should be able to have it mailed out to you by next Friday. Thanks,
LeAnn

LeAnn Brandt
Water Rights Specialist
Vidler Water Company, Inc.
3480 GS Richards Blvd., Suite 101
Carson City, NV 89703
775-885-5000 ext. 106
Fax. 775-885-5005

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Monica,

Based on LeAnn's representation that there will not be spray-over across the fence, it appears the application is good as filed and you can process it. I have access to satellite photos taken every two weeks so I'll be able to confirm whether it has been successfully addressed or not. Sound good?

Fred

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Thank you for speaking with Leann Brandt and I over the phone on 2/20/2013. The purpose of the call was to respond to your letter dated 2/15/2013 and to let you know our progress to date.

As mentioned, we received your letter regarding unauthorized water use on our north Roorda Farm located in southern Payette County near Pearl Road. The letter described approximately 290 acres as irrigated. Our license allows 300 acres but this was reduced by 19.1 acres due to our water banking application. A portion of the banked water was used on our Scarrow farm, located 4.5 miles northwest of the Roorda farm.

Regarding the acreage discrepancy, we used the best tools available to us. We utilized a georeferenced aerial from our Idaho surveyor and traced the irrigated areas via the Autocad polyline command to arrive at the acreage. Please see attached. While we don't expect to, should this situation come up again, we will certainly schedule a meeting to compare methodology and seek prior approval before submittal.

We are in process of correcting the BLM concerns. We have seeded the BLM property with native seed and removed all equipment from that land. A new pivot configuration will be in place prior to the 2013 season.

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Once again, it was a pleasure speaking to you. We look forward to the approved transfer and will keep you apprised of our progress. Should you have any questions or future concerns please call. I can be reached at 775-885-5000 extension 102.

Sincerely,

David A. Merrill, P.E.

LeAnn Brandt

Water Rights Specialist

Vidler Water Company, Inc.

3480 GS Richards Blvd., Suite 101

Carson City, NV 89703

775-885-5000 ext. 106

Fax. 775-885-5005

From: Van Bussum, Monica [<mailto:Monica.VanBussum@idwr.idaho.gov>]

Sent: Saturday, February 23, 2013 6:43 PM

To: LeAnn Brandt

Subject: Basin & Range water banking

Hi LeAnn,

I just listened to your message. I'm sorry it's taken a few days – this is the busiest time of year for us. I'm meeting with a consultant all day Monday and then am out of the office on Tuesday. You can try my cell phone on Tuesday (208.283.9962) or you can call me in the office on Wednesday. It might just be best for you to file for whatever you need to rent from the Bank so we can get started processing. However, I realize there may be other complicating factors, so give me a call or email me if you want.

Monica

MONICA VAN BUSSUM

Sr. Water Resource Agent

Coordinator, State Water Supply Bank

Idaho Department of Water Resources

322 East Front Street

PO Box 83720

Boise, ID 83720-0098

(208) 287-4907

Fax: (208) 287-6700

Van Bussum, Monica

From: Van Bussum, Monica
Sent: Wednesday, March 06, 2013 1:47 PM
To: 'Price, Fredric'
Subject: RE: FW: Basin & Range water banking

Yes, that's fine, Fred. We will process as submitted.

From: Price, Fredric [mailto:fwprice@blm.gov]
Sent: Wednesday, March 06, 2013 1:41 PM
To: LeAnn Brandt
Cc: Van Bussum, Monica; Jeremy Bluma; Kelley Moore
Subject: Re: FW: Basin & Range water banking

Monica,

Based on LeAnn's representation that there will not be spray-over across the fence, it appears the application is good as filed and you can process it. I have access to satellite photos taken every two weeks so I'll be able to confirm whether it has been successfully addressed or not. Sound good?

Fred

From: LeAnn Brandt <lbrandt@vidlerwater.com>
Date: Wed, Mar 6, 2013 at 1:35 PM
Subject: RE: FW: Basin & Range water banking
To: "Van Bussum, Monica" <Monica.VanBussum@idwr.idaho.gov>, "Price, Fredric" <fwprice@blm.gov>
Cc: Jeremy Bluma <jbluma@blm.gov>, Kelley Moore <kmoore@blm.gov>

If we are all on the same page I will order the check for 64.89 AF at \$17.00 per acre foot for \$1,103.13, Monica, can we pay for both 2013 and 2014 irrigation seasons?

Thank you all,

LeAnn

LeAnn Brandt

Water Rights Specialist

Vidler Water Company, Inc.

3480 GS Richards Blvd., Suite 101

Carson City, NV 89703

775-885-5000 ext. 106

Fax. 775-885-5005

From: **Van Bussum, Monica** <Monica.VanBussum@idwr.idaho.gov>
Date: Wed, Mar 6, 2013 at 1:30 PM
Subject: RE: FW: Basin & Range water banking
To: "Price, Fredric" <fwprice@blm.gov>, LeAnn Brandt <lbrandt@vidlerwater.com>
Cc: Jeremy Bluma <jbluma@blm.gov>, Kelley Moore <kmoore@blm.gov>

Hi Fred,

Anything that gets water should be covered by a water right or rental. Also, LeAnn, remember it's \$17 per acre-foot this year as opposed to \$14 per acre/foot. The rental rate went up January 1. We're in receipt of the application – Fred, do you want me to hold it?

Monica

MONICA VAN BUSSUM

Sr. Water Resource Agent

Coordinator, State Water Supply Bank

Idaho Department of Water Resources

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Boise, ID 83720-0098

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On Wed, Mar 6, 2013 at 1:31 PM, LeAnn Brandt <lbrandt@vidlerwater.com> wrote:

Fred,

We are not doing cultivation north of the road fence. And the overspray issue has been addressed and will not occur. Due to that I will submit the check for the 14.42 acres.

Thank you for your assistance,

LeAnn

LeAnn Brandt

Water Rights Specialist

Vidler Water Company, Inc.

3480 GS Richards Blvd., Suite 101

Carson City, NV 89703

775-885-5000 ext. 106

Fax. 775-885-5005

From: Price, Fredric [mailto:fwprice@blm.gov]
Sent: Wednesday, March 06, 2013 12:03 PM
To: LeAnn Brandt
Cc: Van Bussum, Monica; Jeremy Bluma; Kelley Moore
Subject: Re: FW: Basin & Range water banking

LeAnn,

The LUP includes acres for a road which doesn't need to be irrigated. It is also my understanding that the portion of the pivot sweep north of the road is not cultivated and this is just spray over the fence.

I guess I have two questions: (1) LeAnn, is there cultivation north of the road fence; and (2) Monica, do we need to rent water for spray over and should spray over without cultivation be curtailed (turn off end gun)?

Fred

On Wed, Mar 6, 2013 at 12:03 PM, LeAnn Brandt <lbrandt@vidlerwater.com> wrote:

I am just checking with you Fred is it the 14.42 acres or the 15.50 per the LUP? Thanks so much, I just want to have the correct amount ordered for the check. LeAnn

LeAnn Brandt

Water Rights Specialist

Vidler Water Company, Inc.

3480 GS Richards Blvd., Suite 101

Carson City, NV 89703

775-885-5000 ext. 106

Fax. 775-885-5005

From: Price, Fredric [mailto:fwprice@blm.gov]
Sent: Wednesday, March 06, 2013 10:59 AM
To: Van Bussum, Monica
Cc: LeAnn Brandt; Jeremy Bluma; Kelley Moore
Subject: Re: FW: Basin & Range water banking

Monica,

Thanks for the reminder. I'll drop off an application today. Attached is a scanned version of the new application to rent water from the Water Supply Bank for the 2013 and 2014 irrigation seasons, as well as, a copy of the Ag Permit.

Fred

On Wed, Mar 6, 2013 at 11:07 AM, Van Bussum, Monica <Monica.VanBussum@idwr.idaho.gov> wrote:

Hi Fred,

Have you had a chance to talk with Basin & Range yet? (see email chain with LeAnn below)

Monica

MONICA VAN BUSSUM

Sr. Water Resource Agent

Coordinator, State Water Supply Bank

Idaho Department of Water Resources

322 East Front Street

PO Box 83720

Boise, ID 83720-0098

(208) 287-4907

Fax: (208) 287-6700

From: LeAnn Brandt [mailto:lbrandt@vidlerwater.com]

Sent: Wednesday, March 06, 2013 10:37 AM

To: Van Bussum, Monica

Subject: RE: Basin & Range water banking

Hi Monica,

I have left a message with Fred and e-mailed him, about this year's rental for the LUP IDI – 36307, for the Scarrow bank rental, but have not heard back as of yet. I am ordering the check for \$1,185.75 for the 69.75 af needed. I believe this is the correct amount, please let me know if this is incorrect?

Thank you very much,

LeAnn

LeAnn Brandt

Water Rights Specialist

Vidler Water Company, Inc.

3480 GS Richards Blvd., Suite 101

Carson City, NV 89703

775-885-5000 ext. 106

Fax. 775-885-5005

From: Van Bussum, Monica [<mailto:Monica.VanBussum@idwr.idaho.gov>]

Sent: Tuesday, February 26, 2013 9:31 AM

To: LeAnn Brandt

Subject: RE: Basin & Range water banking

Hi LeAnn,

Thanks for the update. I've talked to Fred about your situation, too. If you look at last year's rental agreement, you will see a volume assigned. If you're not familiar with volume, it's calculated in acre-feet (AF). Take the number of AF from last year and multiply by \$17 and that will be the fee for this year.

I am home today, so use my cell phone if you need to talk to me. Otherwise, email will do just fine.

Monica

From: LeAnn Brandt [<mailto:lbrandt@vidlerwater.com>]

Sent: Tue 2/26/2013 10:13 AM

To: Van Bussum, Monica

Subject: RE: Basin & Range water banking

Monica,

I had called concerning a couple of things concerning our Idaho property and the upcoming rental/banking season. After receiving the letter from Mr. Whitney, I tried to call you. Dave Merrill and I, spoke to Rob concerning the issues on the Roorda property. As you may recall you and I spoke late in October or early November about our moving forward on submitting a transfer to change the permissible place of use and that

was filed in November 2012 one transfer number 78260. Having been in contact with BLM concerning the trespass issues, we decided to move everything off, re-seed and correct BLM's concerns, the activities are addressed in the letter below.

I thought we may also need to talk in case the transfer is not acted on before the irrigation season begins if it would be necessary to bank water from the Roorda property, I believe we had spoke about this last year, but was uncertain and don't recall, how we should best proceed for this irrigation season.

The second item is the necessity to have BLM rent water for the next 2 irrigation seasons to water the land under the LUP issued June 5, 2012 permit #IDI-36307 for the Scarrow property. I have been in contact with Fred Price, with BLM, of course all phone messages, and sent him the application for the rental via e-mail yesterday. I realize this is your extremely busy season and saying that I was hoping to get some kind of idea how much the potential fees will be for renting the water, I believe there will be no change the total which is 15.5 acres. Our accounting process for ordering a check takes several weeks, and as you know the irrigation season is soon approaching.

Thank you very much, for your assistance, Let me know if you need anything from me to make the process easier.

Thank you,

LeAnn

Dear Mr. Whitney,

Thank you for speaking with Leann Brandt and I over the phone on 2/20/2013. The purpose of the call was to respond to your letter dated 2/15/2013 and to let you know our progress to date.

As mentioned, we received your letter regarding unauthorized water use on our north Roorda Farm located in southern Payette County near Pearl Road. The letter described approximately 290 acres as irrigated. Our license allows 300 acres but this was reduced by 19.1 acres due to our water banking application. A portion of the banked water was used on our Scarrow farm, located 4.5 miles northwest of the Roorda farm.

Regarding the acreage discrepancy, we used the best tools available to us. We utilized a georeferenced aerial from our Idaho surveyor and traced the irrigated areas via the Autocad polyline command to arrive at the acreage. Please see attached. While we don't expect to, should this situation come up again, we will certainly schedule a meeting to compare methodology and seek prior approval before submittal.

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We submitted a transfer in November 2012 (#78260) to change the permissible place of use. After approval of the transfer, the new PPU will allow us more flexibility to fully utilize the water. We have graded our property in areas not previously farmed in preparation for seeding. We have poured new pivot centers to avoid the BLM ground and are currently laying pipe to the new centers. We will not irrigate land outside the current PPU without banked water or the approved transfer.

Once again, it was a pleasure speaking to you. We look forward to the approved transfer and will keep you apprised of our progress. Should you have any questions or future concerns please call. I can be reached at 775-885-5000 extension 102.

Sincerely,

David A. Merrill, P.E.

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Idaho Department of Water Resources

322 East Front Street

PO Box 83720

Boise, ID 83720-0098

(208) 287-4907

Fax: (208) 287-6700

PERMIT

Permission is hereby granted to of to use the following described lands:	Basin & Range Resource Co., LLC 3480 GS Richards Blvd., Suite 101 Carson City NV 89703	Permit Number IDI-36307
--	---	---------------------------------------

TOWNSHIP	RANGE	SECTION	SUBDIVISION
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6 N. 5 W. 15 S½SE¼SW¼, SW¼SE¼ (within) as shown on the attached Exhibit A

Meridian	Boise	State	Idaho	County	Payette	Acres (number)	15.5 ±
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for the purpose of **wheel-line irrigated crop production.**

and subject to the following conditions:

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. This permit is issued for the period specified below. It is revocable at the discretion of the BLM at any time upon notice. This permit is subject to valid adverse claims heretofore or hereafter acquired. 2. This permit is subject to all applicable provisions of the regulations (43 CFR 2920) which are made a part hereof. 3. This permit may not be assigned without prior approval of the BLM. 4. Permittee must not enclose roads or trails commonly in public use. 5. Authorized representatives of the Department of the Interior, other Federal agencies, and State and local law officials will at all times have the right to enter the premises on official business. 6. Permittee must pay the United States for any damage to its property resulting from the use. 7. Permittee must notify the BLM of address change immediately. 8. Permittee must observe all Federal, State, and local laws and regulations applicable to the premises and to erection or maintenance of signs or advertising displays including the regulations for the protection of game birds and game animals, and must keep the premises in a neat, orderly and sanitary condition. 9. Permittee must pay the BLM, in advance, the lump sum | <p style="text-align: right;">of \$ 2,235.00 for the period of use authorized by this permit or \$ 775.00 , annually, as rental or such other sum as may be required if a rental adjustment is made.</p> <ol style="list-style-type: none"> 10. Use or occupancy of land under this permit will commence within months from date hereof and must be exercised at least days each year. 11. Permittee must take all reasonable precautions to prevent and suppress forest, brush, and grass fires and prevent pollution of waters on or in the vicinity of the lands. 12. Permittee must not cut any timber on the lands or remove other resources from the land without prior written permission from the BLM. Such permission may be conditioned by a requirement to pay fair market value for the timber or other resources. 13. Permittee agrees to have the serial number of this permit marked or painted on each advertising display or other facility erected or maintained under the authority of such permit. 14. This permit is subject to the provisions of Executive Order No. 11246 of September 24, 1965, as amended, which sets forth the Equal Opportunity clauses. A copy of this order may be obtained from the BLM. 15. Permittee acknowledges, by signing below, that he/she knows, understands and accepts the terms and conditions under which this permit is issued. |
|---|---|

16. Special conditions (attach additional sheets, if necessary)

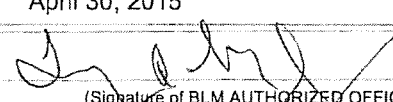
See attached Exhibit B.


 (Signature of PERMITTEE)
VICE PRESIDENT
 (Title)
5/18/2012
 Date

Permit issued for period

From **May 1, 2012**

To **April 30, 2015**


 (Signature of BLM AUTHORIZED OFFICER)
Four Rivers Field Manager
 (Title)
5/30/12
 Date

INSTRUCTIONS

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. Submit, in duplicate, to any local office of the Bureau of Land Management having jurisdiction of the lands. 2. Applications for Land Use Permits will not be accepted unless a notification of the availability of the land for non-BLM use (<i>Notice of Realty Action</i>) has been published in the Federal Register and for 3 weeks thereafter in a newspaper of general circulation. This provision does not apply in those situations where the publication of | <p>a (<i>Notice of Realty Action</i>) has been waived by the BLM.</p> <ol style="list-style-type: none"> 3. If the annual rental exceeds \$250 dollars per year, costs of processing the application must be paid by the applicant in advance. 4. The BLM may require additional information to process an application. Processing will be deferred until the required information is furnished by the applicant. |
|---|---|

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
LAND USE APPLICATION AND PERMIT
(Sec. 302(b) of P.L. 94-579, October 21, 1976, 43 U.S.C. 1732)

FORM APPROVED
OMB NO. 1004-0009
Expires: December 31, 2007

FOR BUREAU OF LAND MANAGEMENT (BLM) USE ONLY

Application Number

1. Name (first, middle initial, and last) Basin and Range Resource Co., LLC	Address (include zip code) Attn: David Buhlig, Realty Specialist 3480 GS Richards Blvd., Suite 101 Carson City, NV 89703-8442	Phone (include area code) (775) 885-5000
--	--	---

2. Attach map or sketch showing public lands for which you are applying

3. Proposed date(s) of use: from **09/03/2008** to **09/02/2009**

4. Give legal basis for holding interest in lands in the State of Idaho
(Check appropriate box at right and explain.)
- | | |
|---|---|
| ☐ Resident | ☐ Partnership |
| ☒ Corporation | ☐ County |
| ☐ Local Government | ☐ State Government |
| ☐ Other | |

5. Are the lands now improved, occupied or used? ☒ Yes ☐ No (If "yes," describe improvements and purposes, identify users and occupants.)
A fenced, leveled field and access road with appurtenant wheel-line irrigation facilities that have been in continuous use since 1960; said field is presently seeded with a grain crop. The area was improved by a previous owner. The present user and occupant is the applicant.

6. Do you need access to the land? ☒ Yes ☐ No (Describe needed or existing access)
Access is provided from the existing road located at the southeast corner of this existing field which continues west on public land along the northern boundary of applicant's property.

- 7a. What do you propose to use the lands for?
The site is used for an irrigated grain crop and access to maintain the existing water rights allocated for this area.

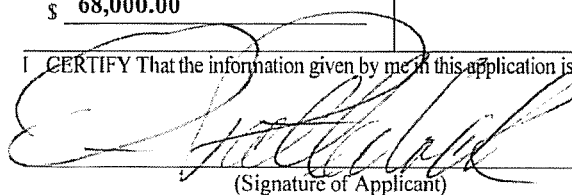
- b. What improvements and/or land development do you propose? (To complete application processing, engineering and construction drawings may be required)
The site is developed with an existing wheel-line irrigated grain crop.

- | | |
|---|---|
| c. What is the estimated capital cost?

\$ 68,000.00 | d. What is the source of water for the proposed use?

Water Permit #63-21614 (issued 02/19/1960) |
|---|---|

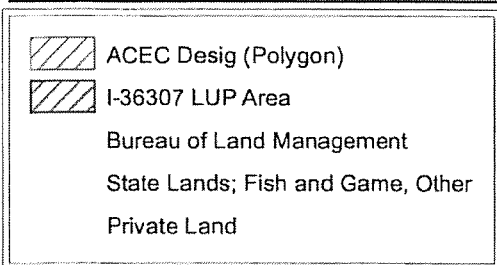
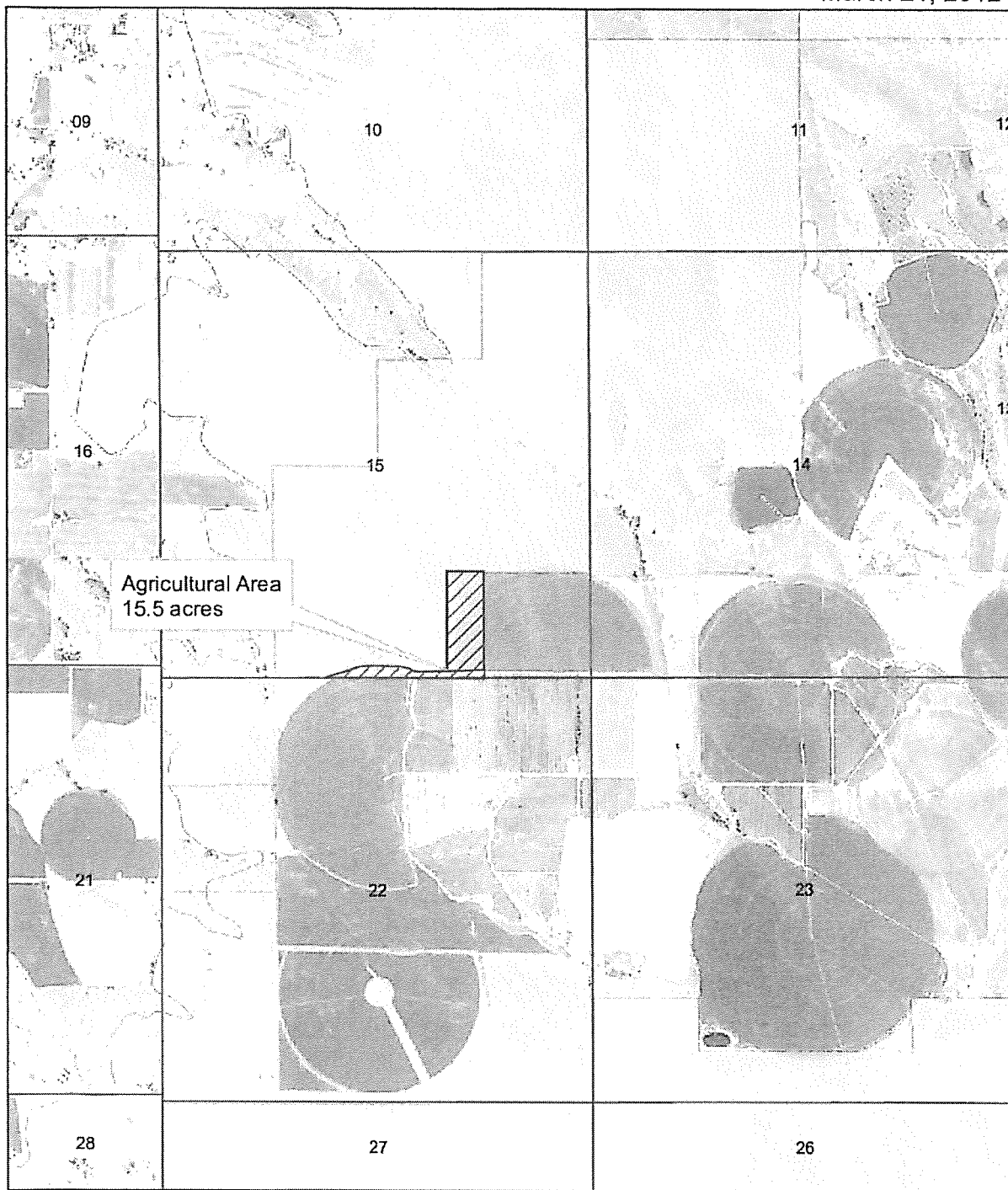
I CERTIFY That the information given by me in this application is true, complete, and correct to the best of my knowledge and belief and is given in good faith.


(Signature of Applicant)

September 2, 2008
(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

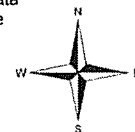
(Continued on page 2)



No Warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data. This map cannot be made Section 508 compliant. For help with its data or information, please contact the BLM Idaho State Office Webmaster at 208-373-4000.

0 0.2 0.4 0.8 Miles

1/26/2010. UTM 11, NAD 83, Meters



LAND USE PERMIT STIPULATIONS

1. A copy of these stipulations shall be provided to all contractors, etc., or any party performing work on the public lands under this permit. The holder of this permit is liable for non-compliance of all contractors, etc., performing work on public land held to be in non-compliance.
2. Permittee will provide BLM with a \$15,000 performance bond prior to issuance of permit. The bond may be in the form of cash, bank draft, or cashier's check made out to Department of Interior – BLM, or a surety bond may be provided from a company listed under the US Treasury, (circular 570). The bond will be returned to the permittee upon completion of successful compliance with the stipulations of this permit, including stipulation #17.
3. The beneficial use of water used on federal public land that is associated with this land use authorization shall be made pursuant to the Permittee acting as an agent of the United States for the limited purposes of establishing and maintaining sole title to water rights in the name of the United States and for no other purpose.
4. Permittee assumes all liability for compliance with applicable state and federal rules, regulations, and laws governing water use, irrigated agriculture, and associated activities, and for damages caused by the Permittee in the pursuit of using federal public land.
5. Any water right(s) arising from the use of federal public land pursuant to this land use authorization shall be by and for the United States, and no claim thereto shall be made by the Permittee. Water rights so acquired shall redound to the benefit of the United States and attach to and become appurtenant to federal public land.
6. No right, title, interest, or economic expectation of use accrues to the Permittee due to the use of federal public land pursuant to this land use authorization, or pursuant to the use of water on said federal public land.
7. The Permittee shall not cause any water to be conveyed off federal public land without the express written permission of the Authorized Officer for the Bureau of Land Management.
8. Since this is a short term authorization, compliance with state water law shall be achieved solely by water being leased from the Idaho Department of Water Resources (IDWR) Water Supply Bank.
9. The Permittee shall not initiate any claim or application for a water use on lands subject to this authorization.
10. Permission to proceed under this land use authorization is withheld until such time that water sufficient to irrigate all of the acres described in this land use has been authorized by IDWR from the Water Supply Bank (eg. an application to lease water from the water bank is not an authorization to use water). Use of

water on federal public land, without permission in the form of an approved water permit, license, decree or authorized water supply bank lease from the Idaho Department of Water Resources, would constitute a violation of the terms of this agreement.

11. No water rights established in trespass shall be accepted for satisfaction of the terms of this authorization.
12. Permittee shall be responsible for all costs associated with obtaining, maintaining in good standing and using water rights to conduct agricultural activities on federal public land described in this land use authorization, including but not limited to: leasing water solely in the name of the United States, fines, violation fines, transfer fees, assessment fees, measurement fees, mitigation, power or fuel costs, and purchase, installation & maintenance of any required measurement devices, etc.
13. Permittee agrees that the United States shall be released and held harmless from loss, injury, damage and/or reduction in value of water rights or the farming operation should this land use authorization be suspended, modified, or terminated according to its terms, or expires and is not renewed.
14. Failure of the Permittee to remain in compliance with state and federal rules, regulations, or laws regarding the use of water or any stipulated condition within this land use authorization to the satisfaction of the Authorized Officer will result in the automatic termination of this land use authorization in accordance with 43 CFR 2920.9-3.
15. The stipulated conditions contained in this land use authorization comprise the entire agreement and no promise, inducement, or representation other than herein set forth has been made, offered and agreed upon, and the terms of this stipulation are contractual and not merely a recital.
16. Rental based upon fair market value shall be paid annually in advance of the anniversary date of the permit.
17. If this Land Use Permit is cancelled or expires, the public land shall be reseeded by the permittee to the satisfaction of the authorized BLM official within one year of the cancellation or expiration date.
18. This permit is subject to an annual compliance check.
19. The permittee will take all reasonable precautions to prevent and suppress any wildfires that may result from their activities.
20. The permittee will take all precautions to prevent pollution of surface and ground waters on or in the vicinity of these public land parcels.
21. No additional structures, appurtenances, or improvements shall be placed upon the land unless approved in writing by the Authorized Officer of the BLM, in advance of construction or placement.

22. This authorization is subject to all applicable regulations found at 43 CFR 2900 and to future regulations to be promulgated by the Secretary pursuant to the provisions of the Act of October 21, 1976, P.L. 94-579 (90 Stat. 2743).
23. The holder shall notify the authorized officer of any change of mailing address.
24. The United States retains the right to authorize other compatible uses (including the subsurface and air space).
25. Any cultural and/or paleontological resource (fossil(s) or historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. The holder will be responsible for the cost of evaluation, and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
26. Use of pesticides, herbicides and rodenticides shall comply with the applicable Federal and State laws, and only in accordance with their registered uses.
27. The holder shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public lands under this grant or permit.
28. The holder(s) shall comply with the Toxic Substances Control Act of 1976 as amended, 15 U.S.C. 2601 et seq. (1982) with regards to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation, and Liability Act, section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
29. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way), or resulting from the activity of the right-of-way holder on the right-of-way. This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.

30. As directed by the Authorized Officer the Holder shall be responsible for control of noxious weed species that result or would result from the construction, use, or maintenance of their grant.
31. If herbicides are used the Holder shall comply with all applicable Federal and State laws and regulations. Herbicides shall be used only in accordance with their registered uses within the limitations imposed by the Secretary of the Interior. Prior to the use of herbicides, the Holder shall obtain from the authorized officer written approval of a Herbicide Use Proposal Plan showing the type and quantity of herbicide to be used, weed(s) to be controlled, method of application, and any other information deemed necessary by the authorized officer.
Applicator(s) shall hold a current State of Idaho applicator's license or be under the direct supervision of a licensed applicator.

For areas and acres treated the Holder shall submit to the BLM a completed "BLM Pesticide Application Record" form.

Other control methods include but are not limited to annual mowing.

32. This permit is subject to immediate termination upon non-compliance with any of the above stipulations.