

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 55-13908

Priority: August 27, 2012

Maximum Diversion Rate: 0.02 CFS

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

has applied for a permit to appropriate water from:

Source: SPRING

Tributary: DITCH CREEK

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
STOCKWATER	01/01 to 12/31	0.02 CFS
WILDLIFE	01/01 to 12/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING NW1/4NW1/4NE1/4 Sec. 19, Twp 06S, Rge 02W, B.M. OWYHEE County

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
06S 02W 18															X		
															L 6		

PLACE OF USE: WILDLIFE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
06S 02W 18															X		
															L 6		

CONDITIONS OF APPROVAL

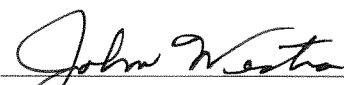
1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2013**.
2. Subject to all prior water rights.
3. This right, when considered with all other rights common to the same grazing allotment, is limited to the quantity of water beneficially used by the number of stock within the allotment.
4. Stockwater use is for 502 range cattle.

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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.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 15th day of November, 2012.



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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

November 15, 2012

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

RE: Permit No.55-13908

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.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-334-2190.

Sincerely,

A handwritten signature in black ink, appearing to read "John Westra". The signature is written in a cursive style with a large initial "J" and "W". Below the signature, the word "for" is written in a smaller, simpler font.

John Westra

Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

55-13908

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

A handwritten signature in black ink, appearing to read "Mandi Pearson", is written above a horizontal line.

**Mandi Pearson
Administrative Assistant II**

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)

I, Robert E. Aman, being first duly sworn, depose and say:

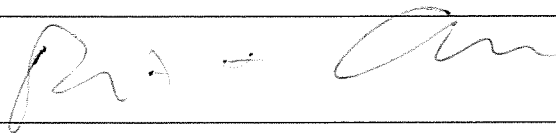
1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

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):

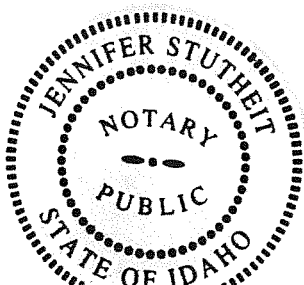
OCTOBER 3, 10, 2012

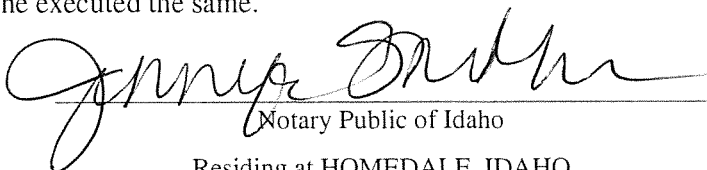
SIGNED: 

STATE OF IDAHO)
COUNTY OF OWYHEE)

On this 5 day of NOV. in the year of 2012 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.




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: 55-13908

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

Point of Diversion NWNWNE
S19 T06S R02W OWYHEE
County Source SPRING Tributary
DITCH CREEK

Use: STOCKWATER 01/01
to 12/31 0.02 CFS, WILDLIFE
01/01 to 12/31 0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 8/27/2012

Place Of Use: STOCKWATER,
WILDLIFE

T06S R02W S18 L6 (SWSE)
57-11832

DAVID DUANE HAYES,
LETICIA PAULINE HAYES,
9678 HARDTRIGGER RD,
MELBA, ID 83641-4232

Point of Diversion L2 (NWNWNE)
S13 T01N R04W OWYHEE
County Source GROUND
WATER

Use: DOMESTIC 01/01 to 12/31
0.04 CFS, IRRIGATION 03/01 to
11/15 0.4 CFS, STOCKWATER
01/01 to 12/31 0.08 CFS

Total Diversion: 0.52 CFS

Date Filed: 9/11/2012

Place Of Use: DOMESTIC,
IRRIGATION, STOCKWATER

T01N R04W S13 L2 (NWNWNE)

Total Acres: 20

Permits will be subject to all
prior water rights. For additional
information concerning the
property location, contact Western
Region office at (208) 334-2190.
Protests may be submitted based
on the criteria of Idaho Code §
42-203A. Any protest against the
approval of this application must
be filed with the Director, Dept.
of Water Resources, Western
Region, 2735 Airport Way, Boise
ID 83705 together with a protest
fee of \$25.00 for each application
on or before 10/22/2012. The
protestant must also send a copy
of the protest to the applicant.

GARY SPACKMAN, Director
10/3,10/12

RECEIVED

NOV 06 2012

WATER RESOURCES
WESTERN REGION