

RECEIVED

FEB 03 2011

Department of Water Resources
Eastern RegionSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESIdent. No. 13-7783

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant(s) Whiskey Creek Ranch, LLC Phone 843-849-1784
Name connector (check one): ☐ and ☐ or ☐ and/orMailing address: 427 Rice Hope Drive City Mt. PleasantState SC Zip 29474 Email: _____2. Source of water supply Whiskey Creek which is a tributary of Bear River

3. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
11 S	41 E	7			SW	SE	Caribou	Whiskey Creek	

4. Water will be used for the following purposes:

Amount 0.20 cfs for Diversion to Storage purposes from 10/1 to 4/19 (both dates inclusive)
(cfs or acre-feet per year)Amount 12.1 afa for Wildlife Storage purposes from 10/1 to 4/19 (both dates inclusive)
(cfs or acre-feet per year)Amount 12.1 afa for Aesthetic Storage purposes from 10/1 to 4/19 (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) 0.20 cubic feet per second (cfs) and/or (b) 12.1 acre-feet per year (af).

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source. Concrete headgate into 12" plastic pvc pipe.Diverting works, pipeline and two ponds.b. Height of storage dam n/a feet; active reservoir capacity 11.4 acre-feet; total reservoir capacity 11.4 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 ☒ Noc. Proposed well diameter is n/a inches; proposed depth of well is n/a feet.d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ Noe. If well is already drilled, when? n/a; drilling firm n/a;Well was drilled for (well owner) n/a; Drilling Permit No. n/a

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. Aesthetic and Wildlife Storage in two ponds.

8. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- 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	
11 S	41 E	18							J,W										
									lt 2										

Total number of acres to be irrigated: _____ J = Aesthetic Storage; W = Wildlife Storage

- 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? No other water rights for the same purpose.
The small (#1) pond is also utilized during the irrigation season for regulation/distribution of existing irrigation water rights including 13-687A, 13-688, 13-697A, 13-698, 13-699A, 13-700, 13-701, and Last Chance Canal Company shares.
- Who owns the property at the point of diversion? Robert Harris
 - Who owns the land to be irrigated or place of use? Applicant
 - If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Prescriptive easement for a diversion in place for approximately 40 years or more.
- Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. See attached narrative.
- Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).
- 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.

Randall C. Budge
Signature of Applicant

Randall C. Budge, Attorney (see attached POA)
Print Name (and title, if applicable)

Signature of Applicant

Print Name (and title, if applicable)

For Department Use:

Received by SC Date 2/3/11 Time _____ Preliminary check by _____
Fee \$ 100- Received by SC Receipt No. E036437 Date 2/16/11

13- 8783

Part 11: Proposal Description

This application proposes two ponds, both located at Township 11S Range 41E Section 7 SWSE, Caribou County. The 0.20 cfs diversion rate is based on the anticipated flow required to maintain full ponds through the non-irrigation season, meeting seepage and evaporation losses. The 12.1 afa volume is based on the sum of storage capacity and evaporation components: 1) total pond storage capacity of 11.4 acre-feet and 2) projected precipitation deficit of 0.74 acre-feet per year for storage during the non-irrigation season.

Pond 1

Pond 1 has a surface area of approximately 1.3 acres, average depth of 4 feet, and storage capacity of 5.2 acre-feet. During the irrigation season this pond is used as a regulation/distribution pond for water delivered by Last Chance Canal Company and 3.86 cfs of Whiskey Creek Ranch's rights from Whiskey Creek including:

- 13-687A, 13-688, 13-697A, 13-698 totaling 3.12 cfs, and
- A 22% portion (37.4 of 170 acres) of 13-699A, 13-700 and 13-701 totaling 0.74 cfs.

Whiskey Creek Ranch's Last Chance Canal Company shares are also delivered to this pond. The pond's 5.2 acre-feet capacity is less than the 24-hour diversion volume authorized by these rights, and therefore a storage right is not required for fill and storage during the irrigation season.

After conclusion of the irrigation season, the pond is left full and water levels maintained for aesthetic and wildlife benefits by diversion of Whiskey Creek water from the same point of diversion utilized under the irrigation water rights. Maintenance flows are diverted until the pond freezes over at which time diversion typically ceases. In springtime, diversion to the pond resume when needed for irrigation under existing irrigation water rights.

Mitigation for Pond 1 is proposed for precipitation-deficit evaporative losses occurring during the non-irrigation season extending from October 1 through April 19. Based on the University of Idaho's ETIdaho 2009 data and related calculations, this loss is 0.17 acre-feet per acre of pond surface area (see Table 1). For Pond #1 with 1.3 acres of surface area, total mitigation requirement is 0.22 acre-feet per year ($0.17 \text{ af/acre} \times 1.3 \text{ acres} = 0.22 \text{ afa}$). A corresponding transfer application proposes reducing irrigated acreage of Whiskey Creek rights to accommodate this anticipated mitigation requirement.

Because the pond is filled with irrigation water deliveries meeting the 24-hour volume guideline, mitigation is not required for initial fill or for storage during the irrigation season. Any pond seepage enters the local shallow ground water system, which in turn is expected to supply downstream ground and surface water sources. Seepage is not consumptive in relation to basin hydrology and therefore mitigation for seepage is not required.

Open water - shallow systems (ponds, streams)																
Precipitation Deficit																
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Growing Season ^a	Non Growing Season ^b	Annual	Comments
Mean	mm/day												mm			
Monthly ^c	-0.65	-0.21	0.24	1.41	1.53	2.92	3.55	2.06	1.71	0.54	-0.25	-0.51	403	0	403	
Days per Month	31	28	31	30	31	30	31	31	30	31	30	31			365	
Irrigation Season															0	April 20 - Sept 30
Non-Irrigation Season																
Days	31	28	31	19	0	0	0	0	0	31	30	31			201	
Non-Irrigation Season Total Monthly Positive Precipitation Deficit	0	0	7.44	25.73	0	0	0	0	0	16.74	0	0			51	Equivalent to 0.17 ft

Table 1: Open water precipitation deficit calculation per ETIdaho 2009
(kimberly.uidaho.edu/ETIdaho/).

Pond 2

Pond 2 has a surface area of approximately 3.1 acres, average depth of 2 feet, and storage capacity of 6.2 acre-feet. This pond area is essentially a depression in a portion of the ranch's irrigated field. During the irrigation season, the area is watered and cropped using existing irrigation water rights.

After conclusion of the irrigation season, the depression is filled and water levels maintained for aesthetic and wildlife benefits by diversion of Whiskey Creek water from the same point of diversion utilized under the irrigation water rights. Maintenance flows are diverted until the pond freezes over at which time diversion ceases. Water remaining in the pond seeps into the shallow ground water system and/or remains in the soil profile to meet crop requirements.

Mitigation for Pond 2 is proposed for precipitation-deficit evaporative losses occurring during the non-irrigation season extending from October 1 through April 19 plus the required fill volume. The evaporative loss is 0.17 acre-feet per acre of pond surface area (Table 1). For this pond with 3.1 acres of surface area, total anticipated mitigation requirement is 0.52 acre-feet per year ($0.17 \text{ af/acre} \times 3.1 \text{ acres} = 0.52 \text{ afa}$) for the precipitation-deficit evaporative losses. Proposed mitigation for pond fill is the total 6.2 acre foot storage capacity. Total mitigation is therefore 6.72 acre feet ($6.2 + 0.52 = 6.72$). A corresponding transfer application proposes reducing irrigated acreage of Whiskey Creek rights to accommodate the anticipated mitigation requirement

As with Pond 1, seepage from Pond #2 supplies the local shallow ground water system, which in turn is expected to supply downstream ground and surface water sources. Seepage is not consumptive in relation to basin hydrology and therefore mitigation for seepage is not required.

Mitigation Requirements

Annual volumetric mitigation requirements for both ponds total 6.94 afa (0.22 afa for Pond #1 and 6.72 afa for Pond #2). The accompanying transfer application changes the nature of use of 3.4 acres of alfalfa to storage-associated uses to accomplish this anticipated mitigation requirement.

Part 13: Map of Proposed Project

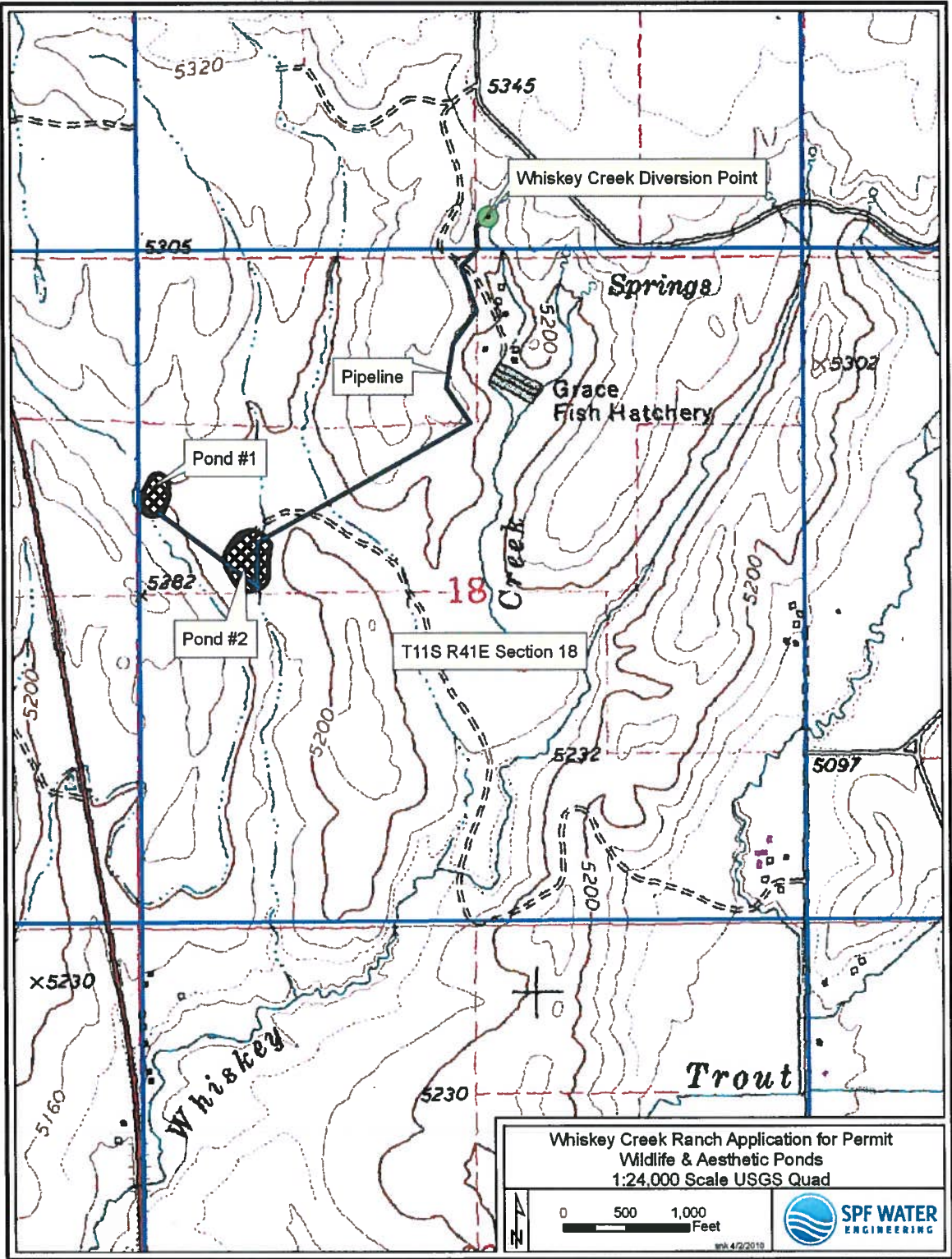


Figure 1: Application Map.

SPECIAL POWER OF ATTORNEY FOR WATER RIGHTS

Whiskey Creek Ranch, LLC, 427 Rice Hope Drive, Mt. Pleasant, SC 29464, hereby appoints the law firm of RACINE OLSON NYE BUDGE & BAILEY, CHARTERED, 201 E. Center Street, Post Office Box 1391, Pocatello, Idaho 83204, its true and lawful attorney for the purpose of dealing with the Idaho Department of Water Resources relative to the management and transaction of water rights owed by the Company, and to allow them to receive any and all information, opinions, and records regarding such water rights, and to sign and submit applications and other filings on the Company's behalf.

DATED this 30th day of December, 2010

WHISKEY CREEK RANCH, LLC

Nathan S. Hale

Nathan Hale, Manager

STATE OF South Carolina)
COUNTY OF Charleston) : SS

On this 30th day of December, 2010, before me, the undersigned Notary Public, in and for said State and County, personally appeared **NATHAN HALE**, known or identified to me to be the person whose name is subscribed to the above instrument and the Manager of **Whiskey Creek Ranch, LLC**, and acknowledged to me that he executed the same on behalf of said Company.

Laura W. Hogan
NOTARY PUBLIC FOR South Carolina
Residing at: 193 Factors Walk, Summerville, SC 29485
My Commission Expires: Nov 24, 2013

RECEIVED
FEB 03 2011
Department of Water Resources
Eastern Region

LAW OFFICES OF

**RACINE OLSON NYE BUDGE & BAILEY
CHARTERED**

101 SOUTH CAPITOL BOULEVARD
SUITE 208
BOISE, IDAHO 83702

TELEPHONE (208) 395-0011
FACSIMILE (208) 433-0167

WWW.RACINELAW.NET

SENDER'S E-MAIL ADDRESS: CMM@RACINELAW.NET

W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL
JOHN B. INGELSTROM
DANIEL C. GREEN
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
ERIC L. OLSEN
CONRAD J. AIKEN
RICHARD A. HEARN, M.D.
LANE V. ERICKSON
FREDERICK J. HAHN, III
DAVID E. ALEXANDER
PATRICK N. GEORGE
SCOTT J. SMITH
JOSHUA D. JOHNSON
STEPHEN J. MUHONEN
CANDICE M. MCHUGH
CAROL TIPPI VOLYN
BRENT L. WHITING
JONATHAN S. BYINGTON
DAVE BAGLEY
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JONATHAN M. VOLYN
MARK A. SHAFFER
JASON E. FLAIG
FERRELL S. RYAN, III

POCATELLO OFFICE
201 EAST CENTER STREET
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POCATELLO, IDAHO 83201
TELEPHONE: (208) 232-6101
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IDAHO FALLS OFFICE
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BOULEVARD, SUITE 106A
COEUR D'ALENE, ID 83814
TELEPHONE: (208) 765-6888

ALL OFFICES TOLL FREE
(877) 232-6101

LOUIS F. RACINE (1917-2005)
WILLIAM D. OLSON, OF COUNSEL

January 31, 2011

James Cefalo, Manager
Water Resource Program
IDWR – Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402

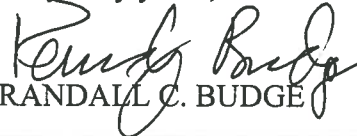
**Re: Whiskey Creek Ranch Application for Permit
IDWR Administrative Basin 13**

Dear Mr. Cefalo:

Enclosed please find an Application for Permit on behalf of Whiskey Creek Ranch, LLC. I have also included a Special Power of Attorney for Water Rights signed by Nathan Hale, Manager of Whiskey Creek Ranch, LLC authorizing me and the firm to represent him in this matter. Finally, I have enclosed the fee of \$100 for the Application.

If you need any further information or explanation, please don't hesitate to contact me or Candice McHugh at (208) 395-0011. Thank you for your time and attention to this matter.

Very truly yours,


RANDALL C. BUDGE

Enclosures



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718
Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

October 13, 2011

WHISKEY CREEK RANCH LLC
427 RICE HOPE DR
MT PLEASANT, SC 29464

RE: Transfer No. 77048 and Application for Permit 13-7783

Dear Applicant(s):

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

A legal notice of the applications has been prepared and is scheduled for publication in the CARIBOU COUNTY SUN on 10/20/2011 and 10/27/2011. Protests to these applications may be submitted for a period ending ten (10) days after the second publication.

If the applications are protested, you will be sent a copy of each protest. All protests must be resolved before the applications 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 applications are not protested, the Department will process your applications and notify you of any action taken on the application. If your applications are approved, the Department will send you a copy of the approval document.

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

Sincerely,

Sharla Cox
Administrative Assistant

cc: RACINE OLSON NYE COOPER & BUDGE
RANDALL C BUDGE
PO BOX 1391
POCATELLO, ID 83205

Cox, Sharla

From: Cox, Sharla
Sent: Thursday, October 13, 2011 11:07 AM
To: 'Caribou County Sun (ccsun10@aol.com)'
Subject: Legal Notice for your paper
Attachments: LegalNotice 474.rtf

Contacts: Caribou County Sun

Sharla

Sharla Cox
Administrative Assistant
Idaho Department of Water Resources
900 N. Skyline Dr. Ste. A
Idaho Falls ID 83402
208-525-7161 - telephone
208-525-7177 - fax
sharla.cox@idwr.idaho.gov

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

13-7783

WHISKEY CREEK RANCH LLC
427 RICE HOPE DR
MT PLEASANT, SC 29464
Point of Diversion SWSE
S7 T11S R41E
CARIBOU County
Source WHISKEY CREEK Tributary BEAR RIVER
Use: AESTHETIC STORAGE
10/01 to 04/19 12.1 AF
Use: DIVERSION TO STORAGE
10/01 to 04/19 0.2 CFS
Use: WILDLIFE STORAGE
10/01 to 04/19 12.1 AF
Total Diversion: 0.2 CFS 12.1 AF
Date Filed: 2/3/2011
Place Of Use: AESTHETIC
STORAGE
T11S R41E S18
L2(SWNW)
Place Of Use: WILDLIFE
STORAGE
T11S R41E S18
L2(SWNW)

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Eastern Region office at (208) 525-7161. 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, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before November 17, 2011. The protestant must also send a copy of the protest to the applicant.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 77048

WHISKEY CREEK RANCH LLC, 427 RICE HOPE DR, MT PLEASANT, SC 29464 has filed Application No. 77048 for changes to the following water rights within CARIBOU County(s): Right No(s). 13-687A, 13-688, 13-697A, 13-698, 13-699A, 13-700, 13-701, 13-728, 13-729, 13-761, 13-4004; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. The purpose of the transfer is to change a portion of the above rights as follows:

The applicant proposes to change the point of diversion, to change the place of use, to change the nature of use and to change the period of use. The points of diversion are in the SWSE Sec 7 T11S R41E (Whiskey Creek) and SESE Sec 18 T11S R41E (Trout Creek, North Fork) for 6.97 cfs. The place of use is within Sec 18 and 19 T11S R41E for 348 acres within a 536 acre permissible place of use. The nature of use and period of use for irrigation is (4/20 to 9/30 and 5/1 to 10/1), diversion to storage (4/20 to 9/30), aesthetic storage and wildlife storage (10/1 to 4/19).

For additional information concerning the property location, contact Eastern Region office at (208) 525-7161. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222.

Any protest against the proposed change must be filed with the Department of Water Resources, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before November 17, 2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Published on October 20 and 27, 2011



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

October 13, 2011

MICHAEL TINGEY
WATER DISTRICT 13S
2114 LAGO LIBERTY ROAD
GRACE, ID 83241

RE: Application for Transfer 77048
Water Right Number(s) 13-699A, 13-687A, 13-700, 13-701, 13-697A,
13-698, 13-728, 13-729, 13-761, 13-4004, 13-688

Dear Watermaster:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered during regional review. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

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

Sincerely,

Blake Jordan
Sr. Water Resources Agent

Enclosure(s)

BJ:sc



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718
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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

October 13, 2011

MICHAEL TINGEY
WATER DISTRICT 13S
2114 LAGO LIBERTY ROAD
GRACE, ID 83241

RE: Application for Transfer 77048
Water Right Number(s) 13-699A, 13-687A, 13-700, 13-701, 13-697A,
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Please contact this office if you have any questions regarding the application.

Sincerely,

Blake Jordan
Sr. Water Resources Agent

Enclosure(s)

BJ:sc



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

October 13, 2011

LYNN RASMUSSEN
WATER DISTRICT 13Q
168 LAGO-LIBERTY RD
GRACE, ID 83241

RE: Application for Transfer 77048
Water Right Number(s) 13-699A, 13-687A, 13-700, 13-701, 13-697A,
13-698, 13-728, 13-729, 13-761, 13-4004, 13-688

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

Sincerely,

Blake Jordan
Sr. Water Resources Agent

Enclosure(s)

BJ:sc



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718

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October 13, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

LYNN RASMUSSEN

Water District 13Q

168 LAGO-LIBERTY RD

GRACE, ID 83241-5352

RE: Application for Permit No 13-7783

Dear Watermaster:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered during regional review. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

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Sincerely,

Blake Jordan
Sr. Water Resources Agent

Enclosure(s)

BJ:sc