

RECEIVED

JUN 10 2011

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of IdahoIdent. No. 55-138961. Name of applicant(s) The 45 LLC Phone 208-726-1914Name connector (check one): ☐ and ☐ or ☐ and/orMailing address: c/o Charles Conn, PO Box 9080 City KetchumState ID Zip 83340 Email: charles@charlesconn.com2. Source of water supply Owyhee River, South Fork which is a tributary of Owyhee 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 #
14S	5W	25			SE	SE	Owyhee	South Fork Owyhee River	Dam
14S	5W	36			NE	NW	Owyhee	South Fork Owyhee River	Pump

4. Water will be used for the following purposes:

Amount 0.07 cfs for Stockwater purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per year)Amount 1.28 cfs for Wildlife purposes from 1/1 to 12/31 (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) 1.28 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source. Existing diversion dam, diesel pump, pipe, ditch

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ 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 ☐ No

e. 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. 200 - 300 range cattle

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. Diverse wildlife including bighorn sheep, mule deer, sage grouse, antelope, bobcat, river otter and numerous species of birds

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	
14S	5W	25								W	W			W					
										S	S			S					
		36					W												
							S												

Total number of acres to be irrigated: _____

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? None

10. a. Who owns the property at the point of diversion? Dam site: BLM, pump site: applicant

b. Who owns the land to be irrigated or place of use? Applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Attached letter of consent from BLM

11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Application is being proposed as part of an ecological restoration project initiated by the Nature Conservancy with the goal of improving the ecological condition of the upland and riparian zones within the proposed place of use boundary (aka The 45 Ranch) for enhanced wildlife and wildlife habitat. Diversion rate under this permit will not exceed 1.28 cfs in combination with decreed water right 55-4067. Water will be diverted through the same conveyance system as 55-4067.

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.

CR

Signature of Applicant

Charles R. Conn, 45 LLC

Print Name (and title, if applicable)

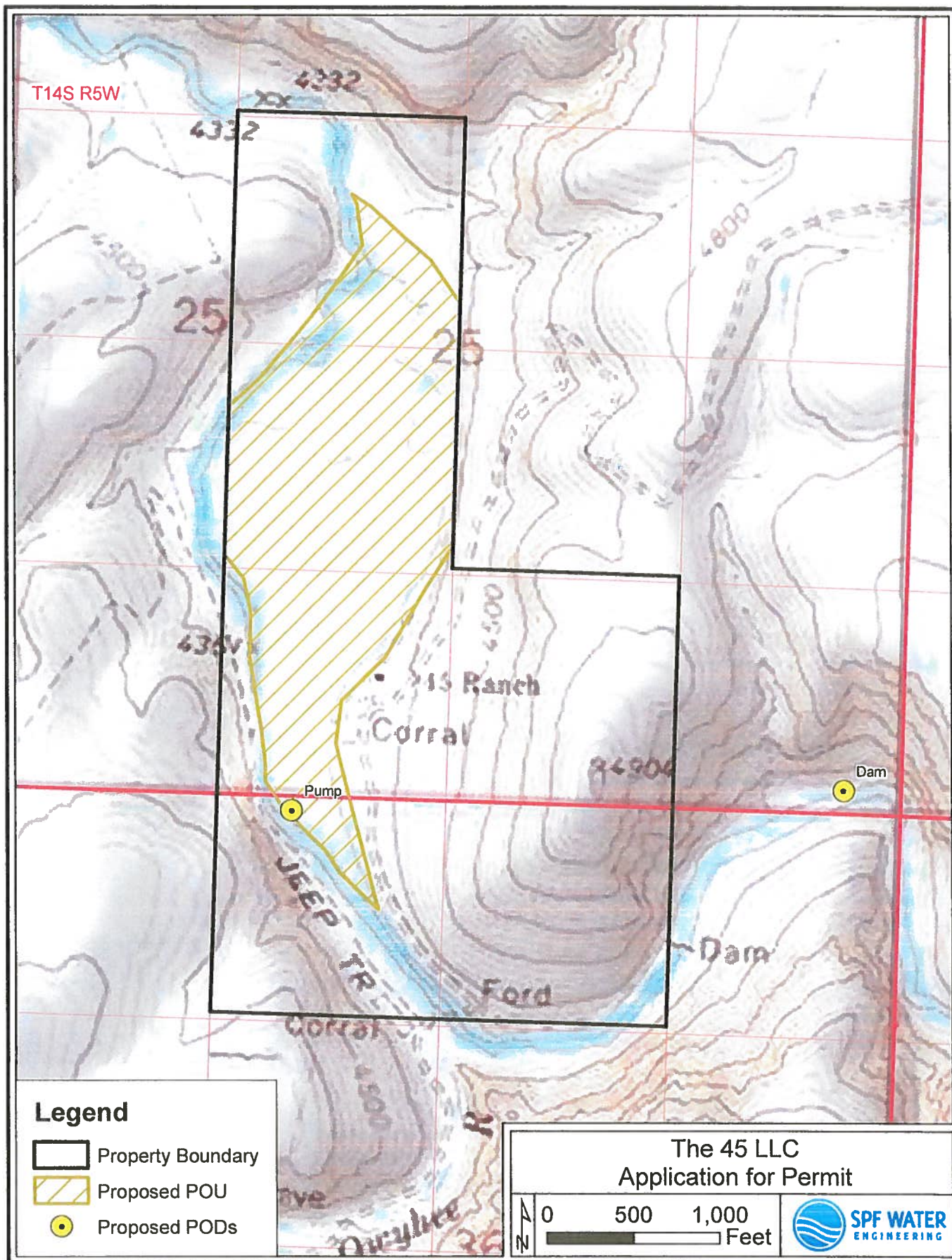
Signature of Applicant

Print Name (and title, if applicable)

For Department Use:

Received by DB Date 6-10-2011 Time 10:30 am Preliminary check by kw
 Fee \$ 290 Received by DB Receipt No. W039310 Date 6-10-2011

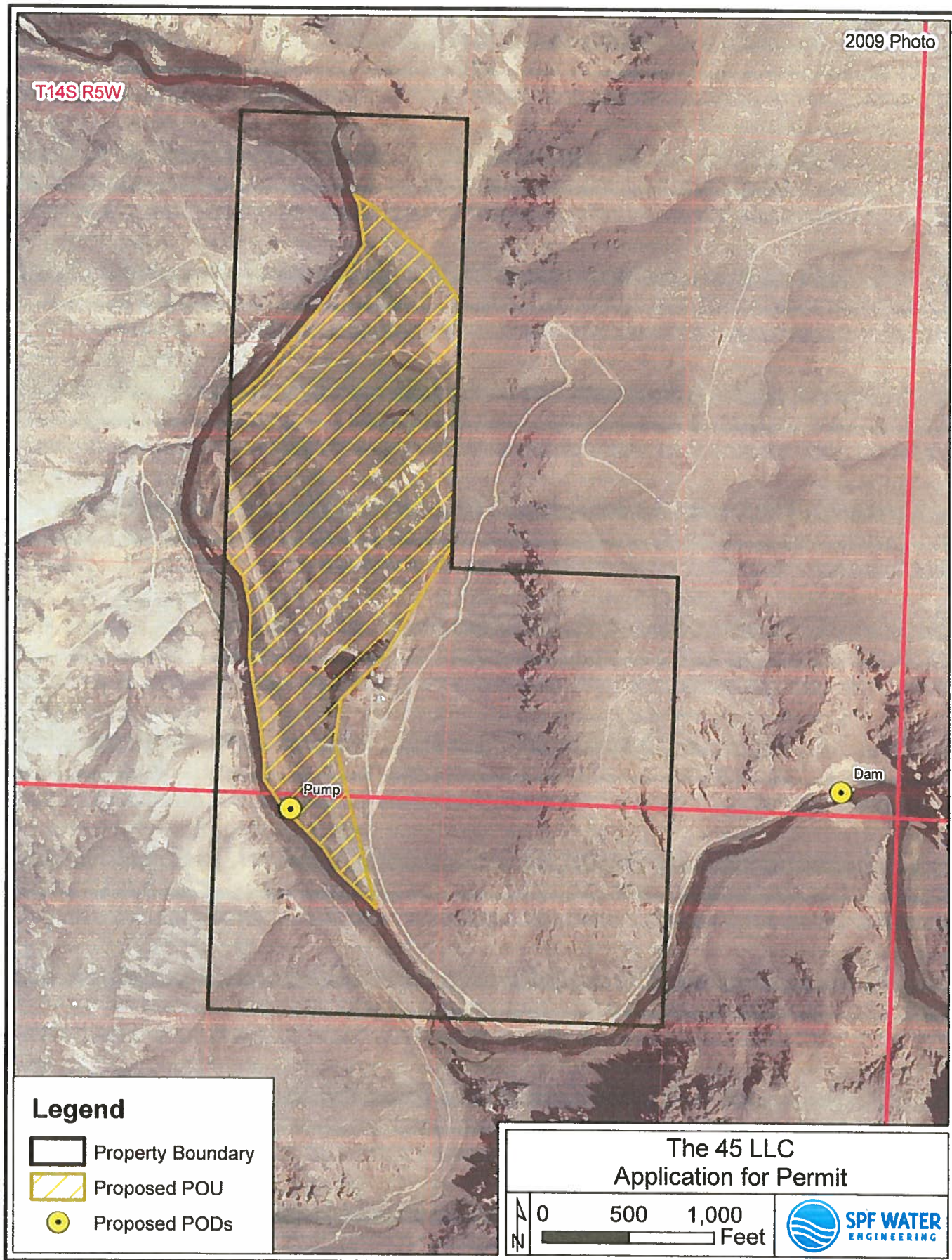
<http://www.sos.idaho.gov/servlet/TransformXMLDoc?URL=%5C20110118%5CXMLPO...> 5/26/2011



55-13896

2009 Photo

T14S R5W



Legend

- Property Boundary
- Proposed POU
- Proposed PODs

The 45 LLC
Application for Permit

0 500 1,000
Feet



55-13896

Buffington, Denise

From: Buffington, Denise
Sent: Tuesday, August 30, 2011 10:02 AM
To: Owyhee Avalanche
Subject: LEGAL NOTICE
Attachments: Owyhee County - Cover Letter.docx; Owyhee County Ads - COMBINED.docx

Attached please find one (1) legal notice being submitted for publication. Please contact me if you have any questions, or if you are not able to publish the ad on the dates requested.

Thank you in advance,

*Denise Buffington
Administrative Assistant I
Dept of Water Resources
Western Region
(208) 334-2190*

August 30, 2011

LEGAL NOTICE DEPARTMENT

OWYHEE AVALANCHE
PO BOX 97
HOMEDALE, ID 83628

RE: Transfer No. 77365
Water Right No(s): 55-4067

RE: Application For Permit No.(s): 55-13896

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before September 26, 2011. Your cooperation is appreciated.

Sincerely,

Denise Buffington
Administrative Assistant

Enclosure(s)

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

55-13896

THE 45 LLC

C/O CHARLES CONN

PO BOX 9080

KETCHUM, ID 83340

Point of Diversion SESE S25 T14S R05W OWYHEE County Source SOUTH FORK OWYHEE RIVER Tributary OWYHEE RIVER

Point of Diversion NENW S36 T14S R05W OWYHEE County Source SOUTH FORK OWYHEE RIVER Tributary OWYHEE RIVER

Use: STOCKWATER 01/01 to 12/31 0.07 CFS

Use: WILDLIFE 01/01 to 12/31 1.28 CFS

Total Diversion: 1.28 CFS

Date Filed: 6/10/2011

Place Of Use: STOCKWATER AND WILDLIFE

T14S R05W S25 SENW NESW SESW

T14S R05W S36 NENW

PROPOSED CHANGE OF WATER RIGHT

The 45 LLC, in care of Charles Conn, PO Box 9080, Ketchum, ID, 83340, filed Application No. 77365 to transfer one water right with a 1890 priority date from the South Fork of the Owyhee River totaling 1.28 cfs. The purpose of the transfer is to add a point of diversion. Water will be used at the current place of use near the confluence of the Little Owyhee and South Fork Owyhee Rivers.

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. 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 September 26, 2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Published on 9/7 & 9/14/2011

Buffington, Denise

From: Buffington, Denise
Sent: Tuesday, August 30, 2011 10:10 AM
To: Rick Ward
Subject: Comment Letters for 55-13896, 65-23444 & 78-12390
Attachments: Comment Letter to F & G.Doc; 78-12390 APP.pdf; 55-13896 APP.pdf; 65-23444 APP.pdf

Attached is a cover letter and a copy of an Application(s), for your review &/or comment. Please feel free to use the attached recommendation form(s) as needed. If you have any questions regarding the attached information, please do not hesitate to contact our office.

Thank you in advance,

*Denise Buffington
Administrative Assistant I
Dept of Water Resources
Western Region
(208) 334-2190*

August 30, 2011

STATE OF IDAHO
DEPT OF FISH & GAME
ATTN: RICK WARD
3101 S POWERLINE RD
NAMPA, ID 83686

RE: Application For Permit No.(s): 55-13896, 65-23444 & 78-12390

Dear Mr. Ward:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is enclosed for your reference. Please review the application, complete the enclosed recommendation form, and submit it to this office within 21 days.

The Department can publish notice of the application as soon as the initial review is completed. Therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

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

Sincerely,

Denise Buffington
Administrative Assistant

Enclosure(s)

State of Idaho
Department of Water Resources

Application for Permit
RECOMMENDATION FORM

RECEIVED

AUG 23 2011

WATER RESOURCES
WESTERN REGION

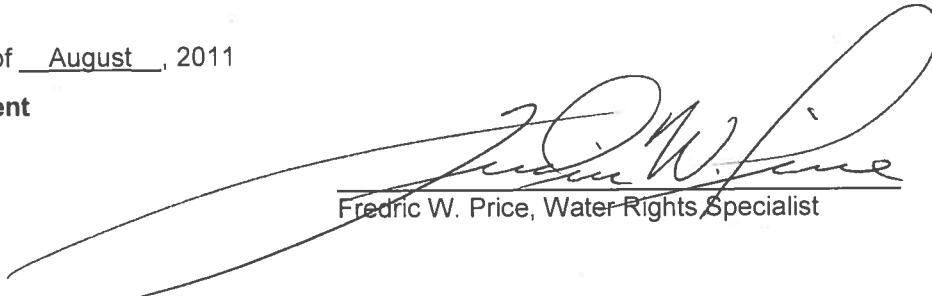
Application No.: 55-13896
Applicant's Name: The 45 LLC
c/o Charles Conn
P.O. Box 9080
Ketchum, ID 83340

Recommendation:

- a) _____ I do not oppose approval of this application.
- b) X I do not oppose approval of this application if it is conditioned as follows:
1. The Application for Permit filed with IDWR on 06/10/2011 describes 4 places of use (POU) on private land where one of those POUs is described as SENW, S25, T14S, R05W. The data entry of the application into IDWR's system contains a typographical error, as the private POU described above was entered into IDWR's database as being on BLM land within the NWNW, S25, T14S, R05W. BLM will not need to file a protest if this is a typo and can be fixed prior to the deadline to file protest.
- c) _____ I oppose approval of this application for the following reasons:
- d) X Additional comments:
1. The Application for Permit describes 2 PODs (1 on private land and 1 on BLM land) and 4 POUs on private land for stockwater and wildlife.
 2. The POD on BLM land in SESE, S25, T14S, R05W is authorized pursuant to a right-of-way grant (IDI-036048) issued by BLM on 09/19/2008.
 3. The Application for Permit does not create an additional burden on the source as the quantity requested is asserted (see item #11) as being used in conjunction with 55-04067. The purpose of the application is to allow the quantity for irrigation under 55-04067 to also be utilized for stockwater and wildlife purposes under this application (55-13896).
 4. BLM non-opposition to the application does not represent recognition by the U.S. of the claim elements nor their validity.

Dated this 19th day of August , 2011

Bureau of Land Management


Fredric W. Price, Water Rights Specialist



SPF WATER
ENGINEERING

June 9, 2011

RECEIVED

JUN 10 2011

WATER RESOURCES
WESTERN REGION

Steve Lester
IDWR Western Region Office
2735 Airport Way
Boise, ID 83705

Subject: *Application for Permit*
Application for Transfer

Dear Steve,

Enclosed on behalf of The 45, LLC is an *Application for Permit* seeking authorization to divert from the South Fork of the Owyhee River for stockwater and wildlife uses and an *Application for Transfer* seeking to add a point of diversion to water right 55-4067. Both applications involve the same diversion points (2) and place of use. One of the diversion points is located on BLM property. Applicants have received approval for reconstruction of the diversion facility from BLM in 2008 for the proposed diversion point. We anticipate that an authorization letter will be submitted shortly by BLM agreeing to the proposed transfer and permit applications. Also attached is a letter of support from the Nature Conservancy.

Check No. 6211 for \$580 is enclosed for the filing fees (\$290/application). Thank you very much for your consideration and assistance in this matter. Please call me if you have any questions.

Sincerely,

Lori Graves
Water Rights Specialist

Cc: Charles Conn
Dennis Fitzpatrick
Michael Homza, GeoEngineers

Enclosures

SPF file number: 863.0010

RECEIVED

JUN 10 2011



The Nature Conservancy in Idaho
116 First Avenue North
Hailey, ID 83333

Tel (208) 788-8988
Fax (208) 788-9040

nature.org
WATER RESOURCES
WESTERN REGION

Mr. John Westra, Regional Manager
Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

June 8, 2011

Re: Support Letter - The 45 LLC Water right 55-4067 for year around use to benefit wildlife and agriculture in the Owyhee's.

Dear Mr. Westra:

The Nature Conservancy has worked cooperatively with owners of the 45 Ranch to enhance and restore wetlands and wildlife habitat along the South Fork of the Owyhee River. We are very supportive of the conservation programs and practices that they have successfully implemented through the river bottom restoration project and ranching in the up-lands. We hold a conservation easement on the 45 ranch and helped design the restoration and conservation plan for the ranch.

We totally support the request for year around use of water to benefit wildlife and add operational life to the irrigation system. The new gravity flow system has already resulted in increased wetlands and green-up of the pasture. By decommissioning the old diesel pump the irrigation system is now saving energy and reducing noise along this wilderness river. We feel having a year around water right will have several additional benefits as follows.

- Wetlands and the wet meadow will be enhanced by allowing native plants to gain a competitive edge over annual grasses.
- Provide continuous recharge to the three relic oxbows that were cut off from the river in the 1950's.
- Add life to the irrigation system and reduce operation costs by eliminating the erosion that occurs in the irrigation pond and channels when they are activated each spring.
- Enhance riparian habitat along the South Fork.
- It will help the native willows and cottonwoods we planted to survive.
- It will provide more permanent wildlife habitat and benefit species like spotted frogs and wintering wildlife like bighorn sheep.
- It will reduce soil erosion and provide the option to water livestock away from the river bank.

Thank you for considering these benefits in the water right request for the 45 ranch.

Sincerely,

Arthur Ray Talsma, Director of Restoration and Stewardship
Cc. Charles Conn and Dennis Fitzpatrick