

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**NOTICE OF DIVERSION AS AN ALTERNATIVE TO
INSTREAM STOCKWATER USE**

(To provide notice of intent to divert surface water from a stream or riparian area to troughs or tanks as an alternative to instream use for the watering of livestock)

1. Name of right holder Bennington Irrigation Co Phone 317 7243
Mailing address 36 Bennington Cemetery Rd Email _____
Montpelier, ID 83254
2. Source of water supply Unnamed Stream tributary to _____
3. Point of Diversion:

- a) Is this notice based on an existing recorded instream stockwater right? If yes,
provide the water right number 11-4226

If no, describe the beginning and ending points for the instream stockwater use:

Beginning point is in Gov't. Lot _____, _____ 1/4 _____ 1/4 _____ 1/4,
Section _____, Township _____ Range _____, B.M.,
_____ County.

Ending point is in Gov't. Lot _____, _____ 1/4 _____ 1/4 _____ 1/4,
Section _____, Township _____ Range _____, B.M.,
_____ County.

- b) Alternate point of diversion is in Gov't. Lot -, SW 1/4 NE 1/4 _____ 1/4,
Section 16, Township 12S Range 44E, B.M.,
Bear Lake County.

4. Description of diversion and delivery system:

- a) Describe the type of diversion Shallow sump about 18" deep & 8 feet from high water mark. Perforated pipe will lay in stream bottom & carry water to sump
b) Describe the delivery system Water will gravity flow from sump to troughs
c) Describe the number, type and total capacity of troughs or tanks 2 troughs Rectangular

RECEIVED

MAR 26 2009

Department of Water Resources
Eastern Region

SCANNED

APR 09 2009

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_____ County.

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Section _____, Township _____ Range _____, B.M.,
_____ County.

- b) Alternate point of diversion is in Gov't. Lot -, SW 1/4 NE 1/4 _____ 1/4,
Section 16, Township 12S Range 44E, B.M.,
Bear Lake County.

4. Description of diversion and delivery system:

- a) Describe the type of diversion Shallow sump about 18" deep 3'
8-feet from high water mark. Perforated pipe will lay in stream
bottom & carry water to sump
- b) Describe the delivery system Water will gravity flow
from sump to troughs
- c) Describe the number, type and total capacity of troughs or tanks 2 troughs
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- d) Describe the automatic shutoff or flow control mechanism or means of returning unused water to the source Unused water will be returned to the source thru overflow pipe.
- e) Describe how the system is designed to allow measurement of the rate of diversion Maximum number of livestock = 100 head x 10 gal/day

5. Describe the place of use by placing an X in the appropriate 40-acre tract(s) below:

TWP	RGE	SEC	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
12S	44E	16			X													

6. Priority date claimed or established 1880-08-06
7. Rate of diversion .02 cfs
8. Season of use: from Nov 1 to May 15
9. a) Who owns the property at the point of diversion? Grave Phelps & Sons
b) Who owns the property at the place of use? Grave Phelps & Sons
10. When will construction occur? Spring, 2009
11. Comments (include number and type of stock) 100 head of beef cows

12. Map of project required - Attach an 8½"x11" map clearly identifying the location of the instream stockwater use and the locations of the alternative point(s) of diversion and stock trough(s). A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

Customer(s): GROVE PHELPS & SONS

District: Bear Lake SWCD

Legal Description: Township 12 S, Range 44 E, Sec 16
Farm 1848, Tract 841

Office: MONTPELIER SERVICE CENTER
Agency: NRCS



Legend

collection system (Point)

EQIP2007

trough

LWS pipeline

plss_blm_a_id007

1 inch equals 280 feet

0 100 200 400 600 800 Feet



11-7635

I hereby assert the following:

- a) Diversion is from a surface water source to which the livestock would otherwise have access. The land where the watering tanks or troughs will be located is land from which the livestock had access to the source of water from which diversion is being made.
- b) The diversion of water out of the stream as described in this notice is for watering livestock and will not injure other water rights.
- c) I will not alter the bed and banks of the source as the term is defined in section 42-3802, Idaho Code. I understand that I may place an inlet conduit into the source in a manner that does not require excavation or obstruction of the stream channel, unless the director of the department of water resources approves a stream channel alteration permit for additional work.
- d) I understand that upon determination of interference with other water rights, the Director may order curtailment of diversion or use of water under this notice or may require the diversion and delivery system to be modified to prevent injury.
- e) I will not divert more than 13,000 gallons per day for livestock watering from this diversion, and I will not use more than one point of diversion under this notice.
- f) I am authorized to make the changes described in this notice and that if the notice involves a federal grazing allotment, the permittee consents to the changes described in this notice.
- g) I understand that any willful misrepresentation on this notice will void any right to divert water for livestock under this notice.

Dated this 3rd day of March, 2009

Grove Phelps & Sons by Rhett Phelps
Right Holder or Authorized Representative

FOR DEPARTMENT USE

Received by SC Date 3/26/09 Preliminary check by _____
Fee: \$ 25 Received by SC Receipt No. 0034892 Date 3/27/09
Water District No. _____ Entered into data base _____ By _____

No. C 49525	Due no later than 5/31/2009 Annual Report Form		2. Registered Agent and Address (NO PO BOX)
Return to: SECRETARY OF STATE 450 NORTH FOURTH STREET PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address: Correct in this box if needed. BENNINGTON WESTSIDE IRRIGATION COMPANY STUART D CRANE 87 S 1ST EAST BENNINGTON MONTPELIER ID 83254		RHETT PHELPS 36 CEMETERY RD, BENNINGTON MONTPELIER ID 83254 3. New Registered Agent Signature:
4. Corporations: Enter Names and Business Addresses of President, Secretary and Directors.			
Office Held	Name	Street or PO Address	City State Zip
President	Rhett Phelps	36 Cemetery Rd Bennington	Montpelier Idaho 83254
Secretary	Stuart D. Crane	87 S 1st East Bennington	Montpelier Idaho 83254
Director	Evan Allemen	91 N. 1st West Bennington	Montpelier Idaho 83254
Director	Darlene Williams	189 N. 1st West Bennington	Montpelier Idaho 83254
5. Organized Under the Laws of:			
ID C 49525	6. Annual Report must be signed. Signature: <u>Stuart D. Crane</u> Date: <u>3-17-09</u> Name(type or print): <u>Stuart D. Crane</u> Title: <u>Secretary</u>		

Issued 3/13/2009 by CLH

200905000360



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

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

EASTERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

April 8, 2009

Bennington Irrigation Co
36 Bennington Cemetery Rd
Montpelier ID 83254

RE: Instream Stock Diversion No 11-~~4226~~ 7635
Notice of Diversion for Instream Stockwater Use

Dear Applicant:

The Department of Water Resources acknowledges receipt of the water right notice you submitted under Section 42-113(3), Idaho Code. Please refer to the above referenced number in all future correspondence regarding this notice.

If exceptions to the notice are filed you will be sent a copy of the exceptions(s).

The filing of the notice does not confirm the validity of the water right. It will serve to record and preserve the information, including any exceptions, regarding the notice.

Please note that the diversion described in your notice may occur only if the following conditions are met.

- The water is diverted from a surface water source to a trough or tank through an enclosed water delivery system.
- The water delivery system is equipped with an automatic shutoff or flow control mechanism or includes a means for returning unused water to the surface water source through an enclosed delivery system, and the system is designed and constructed to allow the rate of diversion to be measured.
- The diversion is from a surface water source to which the livestock would otherwise have access and the watering tank or trough is located on land from which the livestock would have access to the surface water source from which the diversion is made.
- The diversion of water out of the stream in this manner does not injure other water rights.
- The use of the water diverted is for watering livestock.
- The bed and banks of the source shall not be altered as that term is defined in section 42-3802, Idaho Code, except that an inlet conduit may be placed into the source in a manner that does not require excavation or obstruction of the stream channel, unless additional work is approved by the Director of the Department of Water Resources.

- The amount of water diverted for watering of livestock shall not exceed thirteen thousand (13,000) gallons per day.

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.

We are enclosing a copy of the notice for your records. Please feel free to contact this office if you have any questions.

Sincerely,

Sharla Cox
Water Right Administrative Assistant

Enclosure

CC: Steven Spencer
United States Forest Service
161 E Mallard Dr #110
Boise ID 83706

Fred Price
USDI, BLM Idaho State Office
1387 S Vinnell Way
Boise ID 83709-1657