

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 22-13768

Priority: March 19, 2007

Maximum Diversion Volume: 0.4 AF

This is to certify, that ELLIOT CREEK LLC
C/O HOLDEN, KIDWELL, HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

has applied for a permit to appropriate water from:

Source: ELLIOTT CREEK
SWAMPS

Tributary: TETON RIVER
ELLIOT CREEK

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31	0.4 AF
WILDLIFE STORAGE	01/01 to 12/31	0.4 AF

LOCATION OF POINT(S) OF DIVERSION:

ELLIOTT CREEK	SW¼NW¼	Sec. 22	Twp 04N	Rge 45E, B.M.	TETON County
SWAMPS	SW¼NW¼	Sec. 22	Twp 04N	Rge 45E, B.M.	TETON County

PLACE OF USE: AESTHETIC STORAGE and WILDLIFE STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 45E 22							X										

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2013**.
2. Subject to all prior water rights.
3. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 01.
4. 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.
5. This right does not grant any right-of-way or easement across the land of another.

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6. To mitigate for the depletion of water under this right and to prevent injury to senior water right holders, the right holder for rights 22-13696 and 22-13699 has agreed to cease diverting and using water as authorized by these water rights for the purposes and amounts specified below during the calendar year when initial fill is occurring under this right. Moreover, the official record for the following water rights will be annotated to show what diversion and use of water is not authorized because the rights, or portion thereof, are being dedicated to mitigation purposes.

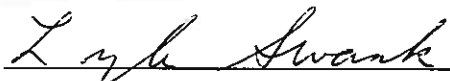
Right No.	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
22-13696	Irrigation	0.01	0.4	0.3
22-13699	Irrigation	0.01	0.4	0.3

The land that will no longer be irrigated under these rights is located within the S½ SE¼, Section 30, Township 05N, Range 45E, B.M. and is limited to a combined total of 0.3 acres and a combined total volume of 0.4 AF.

If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this permit approval shall be reduced by the same proportion as the reduction to the mitigation rights.

7. The mitigation plan associated with this right provides for the initial one time fill of the pond with 0.4 acre feet. Subsequent annual refill of the pond up to 0.4 acre feet is authorized by this permit when deliverable in priority. To restore the pond to its maximum storage elevation because of fluctuations in the water level during periods when water is not deliverable under this permit will require the permit holder to provide a mitigation plan for the additional storage volume.
8. In connection with the proof of beneficial use submitted for this permit, the permit holder shall also submit a report showing a) the elevation of the ground water prior to storage, and b) following construction of the berm the biweekly elevation of water being stored in the pond.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 13th day of May, 2008.


for: DAVID R. TUTHILL, JR., Director