

**STARTING
LEFT
SIDE OF
FILE**

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 86-11975

Priority: January 17, 2007

Maximum Diversion Rate: 0.05 CFS
Maximum Diversion Volume: 15.0 AF

This is to certify, that PALOUSE PRAIRIE FARMS LLC
1051 PLEASANT HILL RD
TROY ID 83871

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM

Tributary: DRY 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>	<u>ANNUAL VOLUME</u>
STOCKWATER STORAGE	01/01 to 12/31		15.0 AF
STOCKWATER FROM STORAGE	01/01 to 12/31		15.0 AF
STOCKWATER	01/01 to 12/31	0.05 CFS	

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 24, Twp 40N, Rge 03W, B.M. LATAH County
UNNAMED STREAM NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 24, Twp 40N, Rge 03W, B.M. LATAH County
UNNAMED STREAM NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 24, Twp 40N, Rge 03W, B.M. LATAH County

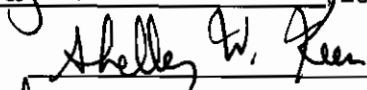
PLACE OF USE: STOCKWATER STORAGE, STOCKWATER FROM STORAGE, STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
40N 03W 24									X	X	X						

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 1, 2012**.
2. Subject to all prior water rights.
3. Stockwater use is for 200 mixed livestock.
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. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.

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 August, 2007.


for DAVID R. TUTHILL, JR., Director

73549

Ident. No. 86-11975

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

JAN 17 2007

DWR/North

Contact:
Jen Elliott

1. Name of Applicant Palouse Prairie Farms LLC Phone 208-835-4246
Mailing address 1051 PLEASANT HILL RD TROY, ID 83871

2. Source of water supply Unnamed intermittent stream which is a tributary of Dry Creek *Per T.C. with Jen.*

3. Location of point of diversion is Township 40N Range 3W Sec. 24 in the SAE $\frac{1}{4}$,
SW $\frac{1}{4}$, SW $\frac{1}{4}$, Govt. Lot —, B.M., LATAH County;

additional points of diversion if any: 3 separate stockwater ponds on same property at different
in NW SW and NE SW *Per T.C. with Jen.* locations

4. Water will be used for the following purposes:

Amount 0.05 for STOCKWATER purposes from 01-01 to 12-31 (both dates inclusive)

Amount 15 for STOCKWATER storage purposes from 01-01 to 12-31 (both dates inclusive)

Amount 15 for STOCKWATER from storage purposes from 01-01 to 12-31 (both dates inclusive)

Amount — for — purposes from — to — (both dates inclusive)

Amount — for — purposes from — to — (both dates inclusive)

Amount — for — purposes from — to — (both dates inclusive)

Amount — for — purposes from — to — (both dates inclusive)

Amount — for — purposes from — to — (both dates inclusive)

5. Total quantity to be appropriated is (a) 15 *Per T.C. with Jen.* and/or (b) 15
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source N/A

b. Height of storage dam 7' feet; active reservoir capacity 35 acre-feet; total
reservoir capacity 35 *Per T.C.* acre-feet *Per T.C. with Jen.*

c. Proposed well diameter is N/A inches; proposed depth of well is — feet

d. Is ground water with a temperature of greater than 85°F being sought? N/A

e. If well is already drilled, when? N/A; Drilling firm —

Well was drilled for (well owner) —; Drilling Permit No. —

7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)

8. Description of proposed uses (if irrigation only, go to item 9): 5 Per T.C. with Jen.

a. Hydropower; show total feet of head and proposed capacity in kW. N/A

b. Stockwatering; list number and kind of livestock BEEF CATTLE, SHEEP, PIGS, POULTRY - AMT TBD - 300 *Per T.C. with Jen.*

c. Municipal; show name of municipality. N/A

d. Domestic; show number of households. N/A

e. Other; describe fully. N/A

3. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. 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.

Per TIC. With Jen,

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
40N	3W	24									S	S	~~SE~~ S						~~SE~~
												S							

Total number of acres to be irrigated 0

10. Describe any other water rights used for the same purposes as described above. N/A

11. a. Who owns the property at the point of diversion? Palouse Prairie Farms LLC

b. Who owns the land to be irrigated or place of use? Palouse Prairie Farms LLC

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Property manager

12. Remarks: We propose to build 3 separate stockwater ponds on our property for year round use.

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" 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.)

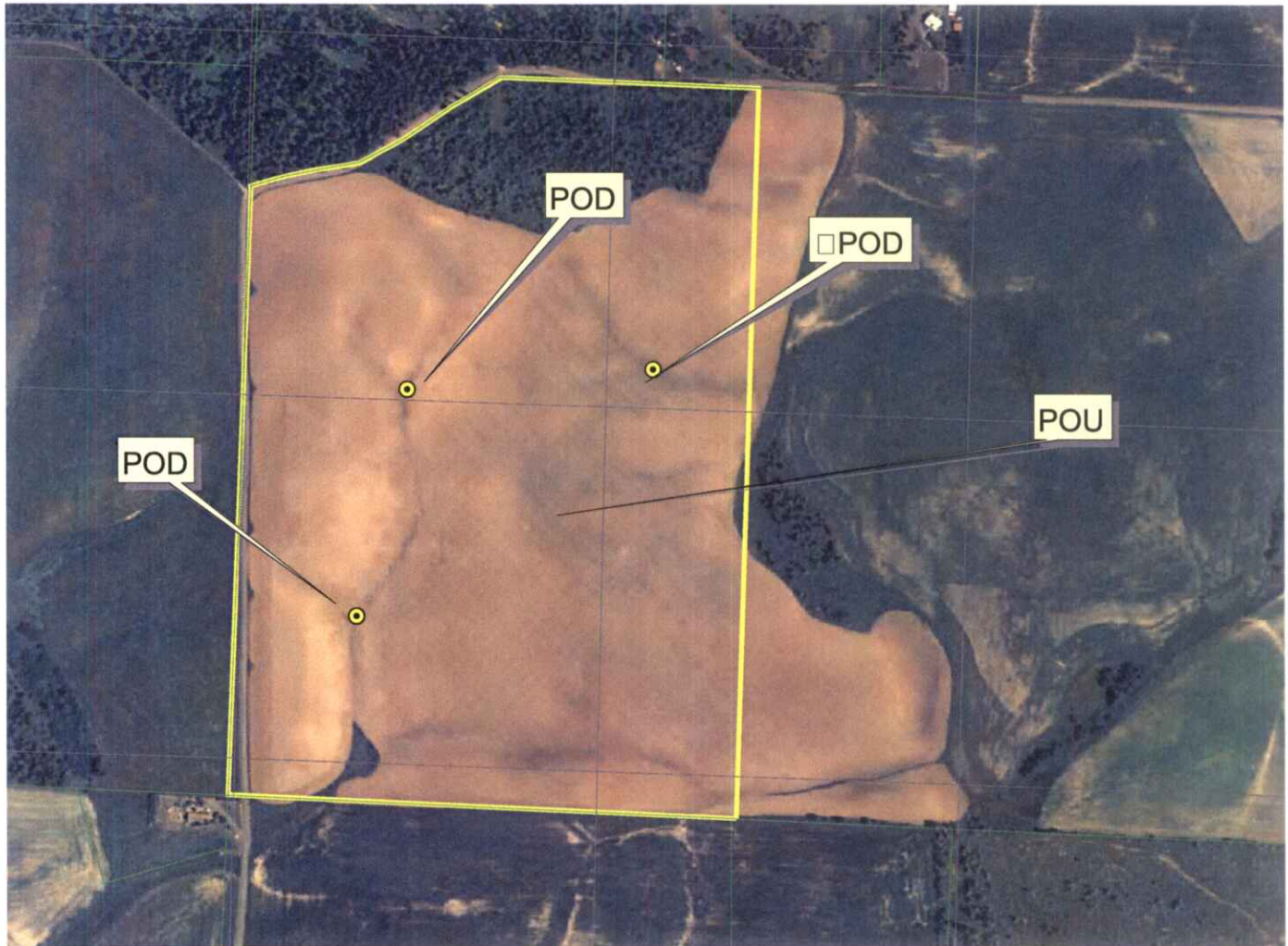
BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Jennifer Elliott Manager
Signature of Applicant (and title, if applicable)

Received by db Date 11/17/07 Time 1:30 p Preliminary check by db Date 11/17/07
Fee \$ 100.00 Receipted by db # N018108
Publication prepared by db Date 5/9/07 / 5/29/07 Published in Manaw Pullman Daily News Date 6/18/07
Publication approved db Date 5/17/07 / 6/14/07

did not publish as originally scheduled - paper error.

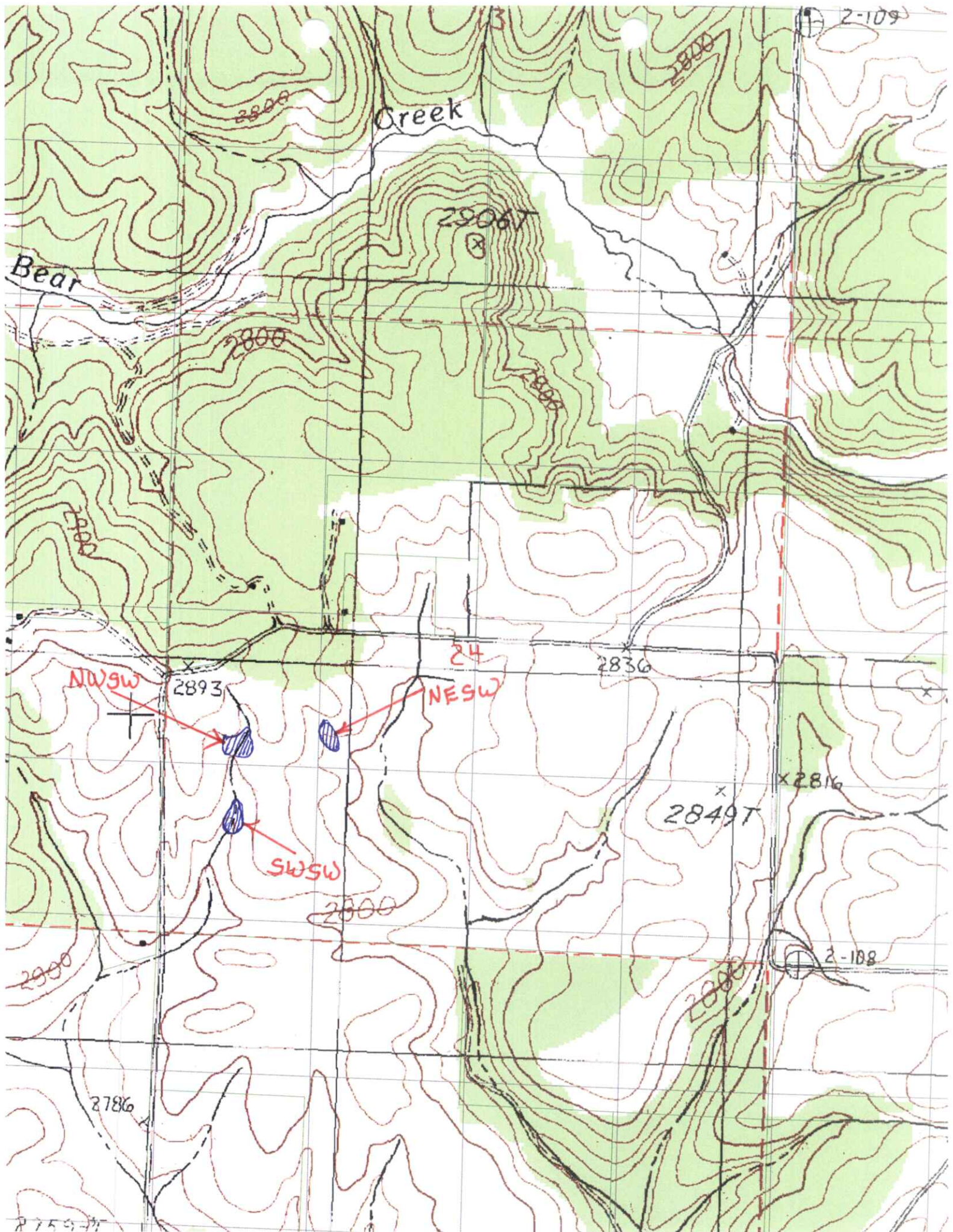
86-11975



0.2 0 0.2 0.4 Miles

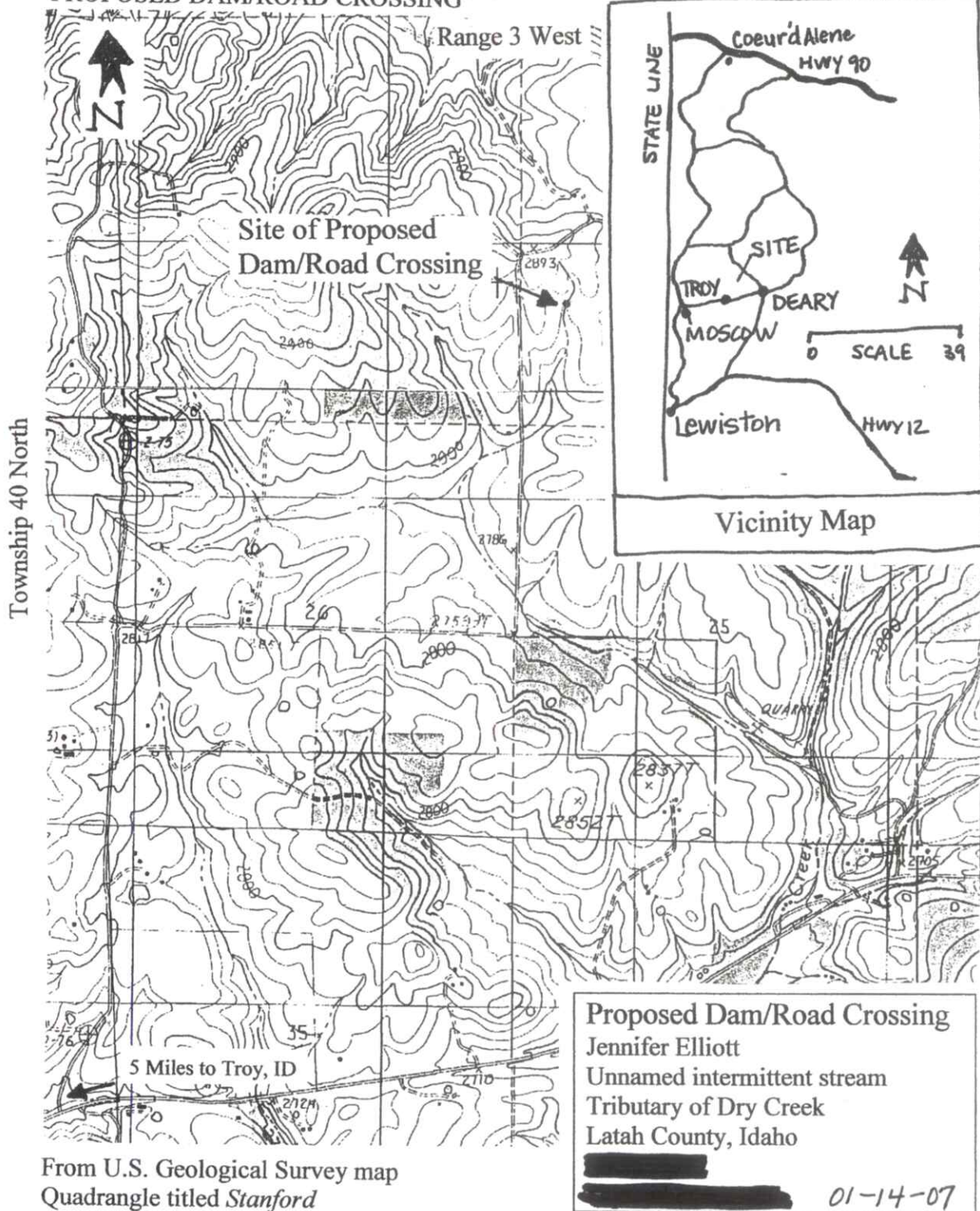
-  Latah taxlots
-  GCDB40N03W GCDB
-  Active Permit POD
-  Active Permit POU
-  Application POU
-  Right POD
-  Pou.shp
-  Pod.shp
-  Administrative BasinsAdminbas.shp





LOCATION MAP

UNNAMED INTERMITTENT STREAM OF DRY CREEK
PROPOSED DAM/ROAD CROSSING



**NOW
STARTING
RIGHT
SIDE OF
FILE**



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

August 14, 2007

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

PALOUSE PRAIRIE FARMS LLC
1051 PLEASANT HILL RD
TROY ID 83871

RE: Permit No. 86-11975

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.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

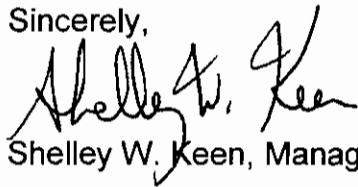
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 208-287-4947.

Sincerely,

A handwritten signature in black ink, appearing to read "Shelley W. Keen". The signature is fluid and cursive, with the first name "Shelley" and last name "Keen" being the most prominent parts.

Shelley W. Keen, Manager
Water Right Permits Section

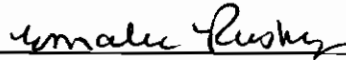
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2007 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person listed below:

RE: WATER RIGHT NO. 86-11975

**PALOUSE PRAIRIE FARMS LLC
1051 PLEASANT HILL RD
TROY ID 83871**

A handwritten signature in cursive script, reading "Emalee Rushing", is positioned above a horizontal line.

**Emalee Rushing
Technical Records Specialist**

Statement of Available Procedures and Applicable Time Limits

RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES (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 issuance 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.

MEMORANDUM

Date: August 10, 2007
To: Water Right File 86-11975
From: cpadilla
Re: Permit Review

WD-none
No protests
No overlaps
Pond capacity is 5 acre ft/pond.
Recommend for approval as suggested by the region.

NEWS REVIEW PUBLISHING COMPANY

The Moscow-Pullman Daily News
P.O.Box 374
Lewiston, Idaho 83501
(208) 743-9411

Date 06/14/2007INVOICE NO. 461770Account No. 30010311Description 461770 Water ResourcesTimes 2Lines 1

Tab. Lines _____

\$ 71.50

PO# _____

**LEGAL ADVERTISING
INVOICE**

SOLD TO: IDAHO DEPT/ WATER RESOURCES
7600 N. MINERAL DR STE10
COEUR D'ALENE ID 83814

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

461770

LEGAL NOTICE

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

86-11975

PALOUSE PRAIRIE FARMS LLC

1051 PLEASANT HILL RD

TROY ID 83871

Point(s) of Diversion(3) SWSW

NESW NWSW S24 T40N R03W

LATAH County

Source UNNAMED STREAM -

Tributary To DRY CREEK

USE: STOCKWATER 01/01 To

12/31 0.05 CFW

Use: STOCKWATER STORAGE

01/01 To 12/31 15 AFA

Use: STOCKWATER FROM

STORAGE 01/01 To 12/31

15 AFA

Total Diversion: 0.05 CFS

Date Filed: 01/17/2007

Place Of Use: STOCKWATER

T40N R03W S24 NESW NWSW

SWSW SESW

Place Of Use: STOCKWATER

STORAGE & STOCKWATER

FROM STORAGE - T40N R03W

S24 - NESW NWSW SWSW

Remark: Stockwater use is for

200 head of mixed stock.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D'Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 06/25/2007. The protestant must also send a copy of the protest to the applicant.

DAVID R. TUTHILL, JR.,

Director

June 7, 14, 2007

AFFIDAVIT OF PUBLICATION

RECEIVED
JUN 21 2007
IDWR/North

Valisa Nelson, Legal Clerk

being first duly sworn, on oath deposes and says: That she is the printer of Moscow-Pullman Daily News, a newspaper of general circulation, printed and published daily except Sunday at Moscow, Latah County, Idaho, in compliance with Sections 60-106, 60-107, and 60-108 of the Idaho Code and the amendments thereto: that the notice of which the annexed is a full, true and correct printed copy was published in the regular and entire issues of said newspaper and not in a supplement thereto, upon the following dates:

June 7, 14, 2007

the same being the date designated for the publication of said notice.

Valisa Nelson

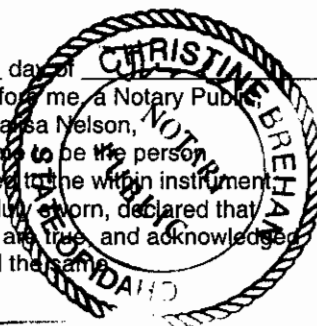
State of Idaho

S.S.

County of Latah

On this 15th day of JUNE in the year of 2006, before me, a Notary Public, personally appeared Valisa Nelson, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Notary Public for Idaho,
Residing at Moscow, Idaho
My Commission Expires 11-9-12



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T40N R03W S24 NESW NWSW SWSW SESW

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DAVID R. TUTHILL, JR., Director - Published on June 7 & 14, 2007



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 FAX: (208) 762-2819 www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

May 29, 2007

*Please FAX proof copy before this goes to press, to 762-2819
Thanks, Dianne*

SHARON FLODIN
LEGAL NOTICE DEPARTMENT
MOSCOW-PULLMAN DAILY NEWS
PO BOX 8187
MOSCOW ID 83843-8187

RE: Application for Permit No. 86-11975

Dear Sharon:

This request for publication is a "redo" for the one that did not run as scheduled on May 17 and 24, 2007, per phone call from Rachel.

Below you will find a legal notice which we wish to have published in your newspaper on the dates indicated, June 7 and 14, 2007, (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 06/25/2007. Your cooperation is GREATLY appreciated, as always.

Thank you for all your good help. Please call me if you need anything else or have any questions.

Sincerely

Dianne

Dianne Ball
Administrative Assistant

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DAVID R. TUTHILL, JR., Director - Published on June 7 and 14, 2007

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, May 30, 2007 3:23 PM
To: Legal Notices-MoscowPullmanDailyNews (E-mail)
Subject: CoverLetter + legal text combo 86-11975 - for publication June 7 & 14, 2007

**State of Idaho****DEPARTMENT OF WATER RESOURCES**

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 FAX: (208) 762-2819 www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor**DAVID R. TUTHILL, JR**
Director

May 29, 2007

Please FAX proof copy before this goes to press, to 762-2819
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SHARON FLODIN
LEGAL NOTICE DEPARTMENT
MOSCOW-PULLMAN DAILY NEWS
PO BOX 8187
MOSCOW ID 83843-8187

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Dianne Ball
Administrative Assistant

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Use: STOCKWATER FROM STORAGE 01/01 To 12/31 15 AFA

5/30/2007

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DAVID R. TUTHILL, JR., Director - Published on June 7 and 14, 2007



State of Idaho

DEPARTMENT OF WATER RESOURCES

7600 Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

NORTHERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Interim Director

May 29, 2007

PALOUSE PRAIRIE FARMS LLC
1051 PLEASANT HILL RD
TROY ID 83871

RE: Application for Permit No 86-11975

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right application. Please refer to the above referenced number in all future correspondence regarding this application.

A legal notice of the application was prepared and scheduled for publication in the Moscow Pullman Daily News on May 17 and 24, 2007. We received word that it did not run as scheduled – paper error. It is now scheduled for publication on June 7 and 14, 2007. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application 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 application is not protested, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved. A typical processing time for an unprotested application is about eight to twelve weeks.

Please feel free to contact this office if you have any questions.

Sincerely,

Keith E. Franklin
Senior Water Resource Agent

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

86-11975

PALOUSE PRAIRIE FARMS LLC

1051 PLEASANT HILL RD

TROY ID 83871

Point(s) of Diversion(3) SWSW NESW NWSW S24 T40N R03W

LATAH County

Source UNNAMED STREAM - Tributary To DRY CREEK

Use: STOCKWATER 01/01 To 12/31 0.05 CFS

Use: STOCKWATER STORAGE 01/01 To 12/31 15 AFA

Use: STOCKWATER FROM STORAGE 01/01 To 12/31 15 AFA

Total Diversion: 0.05 CFS

Date Filed: 01/17/2007

Place Of Use: STOCKWATER

T40N R03W S24 NESW NWSW SWSW SESW

Place Of Use: STOCKWATER STORAGE & STOCKWATER FROM STORAGE - T40N R03W S24 - NESW NWSW SWSW

Remark: Stockwater use is for 200 head of mixed stock.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D' Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 06/04/2007. The protestant must also send a copy of the protest to the applicant.

DAVID R. TUTHILL, JR., Director - Published on May 17 & 24, 2007

*This did not get into paper
as scheduled | paper error*

DEPARTMENT OF WATER RESOURCES
7600 MINERAL DRIVE, SUITE 100
COEUR D'ALENE ID 83814
Phone 208-762-2800 - FAX - 208-762-2819

May 09, 2007

Please FAX proof copy before this goes to press, to 762-2819
Thanks, Dianne

SHARON FLODIN
LEGAL NOTICE DEPARTMENT
MOSCOW-PULLMAN DAILY NEWS
PO BOX 8187
MOSCOW ID 83843-8187

RE: Application for Permit No. 86-11975

Dear Sharon:

Below you will find a legal notice which we wish to have published in your newspaper on the dates indicated, May 17 and 24, 2007, (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 06/04/2007. Your cooperation is GREATLY appreciated, as always.

Thank you for all your good help. Please call me if you need anything else or have any questions.

Sincerely

Dianne

Dianne Ball
Administrative Assistant

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

86-11975

PALOUSE PRAIRIE FARMS LLC
1051 PLEASANT HILL RD
TROY ID 83871

Point(s) of Diversion(3) SWSW NESW NWSW S24 T40N R03W
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Use: STOCKWATER FROM STORAGE	01/01 To 12/31	15 AFA
Total Diversion:		0.05 CFS

Date Filed: 01/17/2007

Place Of Use: STOCKWATER

T40N R03W S24 NESW NWSW SWSW SESW

Place Of Use: STOCKWATER STORAGE & STOCKWATER FROM STORAGE - T40N R03W S24 - NESW NWSW SWSW

Remark: Stockwater use is for 200 head of mixed stock.

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DAVID R. TUTHILL, JR., Director - Published on May 17 & 24, 2007

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, May 09, 2007 10:20 AM
To: Legal Notices-MoscowPullmanDailyNews (E-mail)
Subject: CoverLetter+legal text combo re: 86-11975 for publication 5/17 & 5/24/07

DEPARTMENT OF WATER RESOURCES
7600 MINERAL DRIVE, SUITE 100
COEUR D'ALENE ID 83814
Phone 208-762-2800 - FAX - 208-762-2819

May 09, 2007

Please FAX proof copy before this goes to press, to 762-2819
Thanks, Dianne

SHARON FLODIN
LEGAL NOTICE DEPARTMENT
MOSCOW-PULLMAN DAILY NEWS
PO BOX 8187
MOSCOW ID 83843-8187

RE: Application for Permit No. 86-11975

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Administrative Assistant

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5/9/2007

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DAVID R. TUTHILL, JR., Director - Published on May 17 & 24, 2007



State of Idaho

DEPARTMENT OF WATER RESOURCES

7600 Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

NORTHERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Interim Director

May 09, 2007

PALOUSE PRAIRIE FARMS LLC
1051 PLEASANT HILL RD
TROY ID 83871

RE: Application for Permit No 86-11975

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right application. Please refer to the above referenced number in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the Moscow Pullman Daily News on May 17 and 24, 2007. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application 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 application is not protested, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved. A typical processing time for an unprotested application is about eight to twelve weeks.

Please feel free to contact this office if you have any questions.

Sincerely,

Keith E. Franklin
Senior Water Resource Agent

Enclosure(s) – Receipt No. N018108

M E M O R A N D U M

To: Water Right Application # 86-11975

From: Keith E. Franklin

Date: May 3, 2007

Re: Application for a Permit to Appropriate Water within the Salmon and Clearwater River Basins.

Re: Regional Analysis and Recommendation in accordance with Water Appropriation Rules (IDAPA 37.03.08.040.05).

Water Supply Information.

The Idaho Department of Fish & Game as well as the Department of Environmental Quality have no objection to the applicants request to store 15 AF of water in three separate in-stream ponds, within two unnamed streams for stock water purposes.

Good Faith, Delay, or Speculative Information.

The applicant plans to construct the ponds for its own use on property the applicant owns and there are no known issues with any other party.

Financial Resources Information.

For this project, the applicant estimates the cost to be about \$1,500.00 and will be a part of its farm operating funds.

Local Public Interest.

The Idaho Department of Fish & Game and the Department of Environmental Quality have been ask to comment, by the applicant. Written comments received from these agencies, indicate they are not apposed to the applicant's proposal and see no adverse impact to fish, wildlife or habitat. Applicant agrees to work with Fish & Game in re-establishing riparian corridors, within the draws where the ponds will be located and control livestock access, which will benefit wildlife.

Injury to Other Water Rights.

There doesn't appear to be any foreseen impact to existing water right holders in the area, or to Dry Creek located well below the points of diversion.

Recommendation.

Northern Region recommends proceeding with the processing of this water right application.

May 1, 2007

Keith Franklin
State of Idaho
Department of Water Resources
Northern Region
7600 Mineral Drive, Suite 100
Coeur d'Alene, ID 83815

RECEIVED
MAY 02 2007
IDWR/North

Re: Supplemental Information for Application For Permit to Appropriate the Public
Waters of the State of Idaho

Keith-

Following is the supplemental information you requested addressing Water
Appropriation Rules 40.05.c through 40.05.g. In addition, per your request, I have
included the Articles of Formation for Palouse Prairie Farms LLC, a list of the LLCs'
officers and titles, and a detailed map showing proposed pond locations. I have included
copies of comment letters from IDFG, IDEQ, and Army Corps of Engineers. Please let
me know if you need additional information to process this request.

Sincerely,



Jen Elliott, Operations Manager
Palouse Prairie Farms LLC

Palouse Prairie Farms LLC
Jen Elliott
208-835-4246

RECEIVED
MAY 02 2007
IDWR/North

Response to Water Appropriation Rules 40.05.c through 40.05.g:

- c.
 - i. The unnamed stream that is a tributary to Dry Creek has no current water rights in place.
 - ii. The work will be completed when the stream is dry.
- d.
 - i. The water utilized will be in a flow through system minus the consumptive need of the livestock. We estimate the livestock at 200 animals at approximately .05 cfs. The use period will be year-round.
 - ii. The source of water will be that which accumulates on our property from annual precipitation and subsequent runoff. All water begins on our property with no water flowing from adjacent property.
- e.
 - i. There are no federal or state agencies possessing interest in the land in question.
 - ii. To date, we have received an exemption for one of the three ponds from the Army Corps of Engineers (copy included). Latah County Planning and Building Department has also given verbal approval that the project does not fall within their floodplain management area. Any additional permits, licenses and approvals shall be submitted to your office upon receipt.
- f.
 - i. All anticipated pond construction will be incurred as part of our farm operation funds and will be performed by property owners.
 - ii. All anticipated pond construction will be incurred as part of our farm operation funds and will be performed by property owners. Estimated cost of construction totals \$1500.
- g. Applicant has contacted Idaho Department of Fish and Game and Idaho Department of Environmental Quality and awaits further response. Any correspondence will be submitted upon receipt.



ARTICLES OF ORGANIZATION LIMITED LIABILITY COMPANY

(Instructions on back of application)

RECEIVED
MAY 22 2007
IDWR/North

1. The name of the limited liability company is:

Palouse Prairie Farms LLC

2. The street address of the initial registered office is:

1051 Pleasant Hill Road; Troy, ID 83871

and the name of the initial registered agent at the above address is:

Jennifer A. Elliott

3. The mailing address for future correspondence is:

1051 Pleasant Hill Road; Troy, ID 83871

4. Management of the limited liability company will be vested in:

Manager(s) ☐ or Member(s) ☒ (please check the appropriate box)

5. If management is to be vested in one or more manager(s), list the name(s) and address(es) of at least one initial manager. If management is to be vested in the member(s), list the name(s) and address(es) of at least one initial member.

Name	Address
<u>Jennifer A. Elliott</u>	<u>1051 Pleasant Hill Road; Troy, ID 83871</u>
<u></u>	<u>1051 Pleasant Hill Road; Troy, ID 83871</u>
<u></u>	<u></u>
<u></u>	<u></u>
<u></u>	<u></u>
<u></u>	<u></u>

6. Signature of at least one person responsible for forming the limited liability company:

Signature: [Signature]

Typed Name: John H. Norton

Capacity: Attorney

Signature:

Typed Name:

Capacity:

Secretary of State use only

g:\corp\lme\llc\form\articleoforganization.pdf
Revised 07/2002

IDAH0 SECRETARY OF STATE
12/14/2006 05:00
CK: 3315 CT: 13904 RH: 1019623
1 @ 100.00 = 100.00 ORGAN LLC # 2

Palouse Prairie Farms LLC
1051 Pleasant Hill Rd
Troy, ID 83871
208-835-4246

Palouse Prairie Farms Officers:
Jennifer Elliott, Operating Manager/Member
Chance Chacon, Member

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MAY 02 2007
IDWR/North

Send To Printer

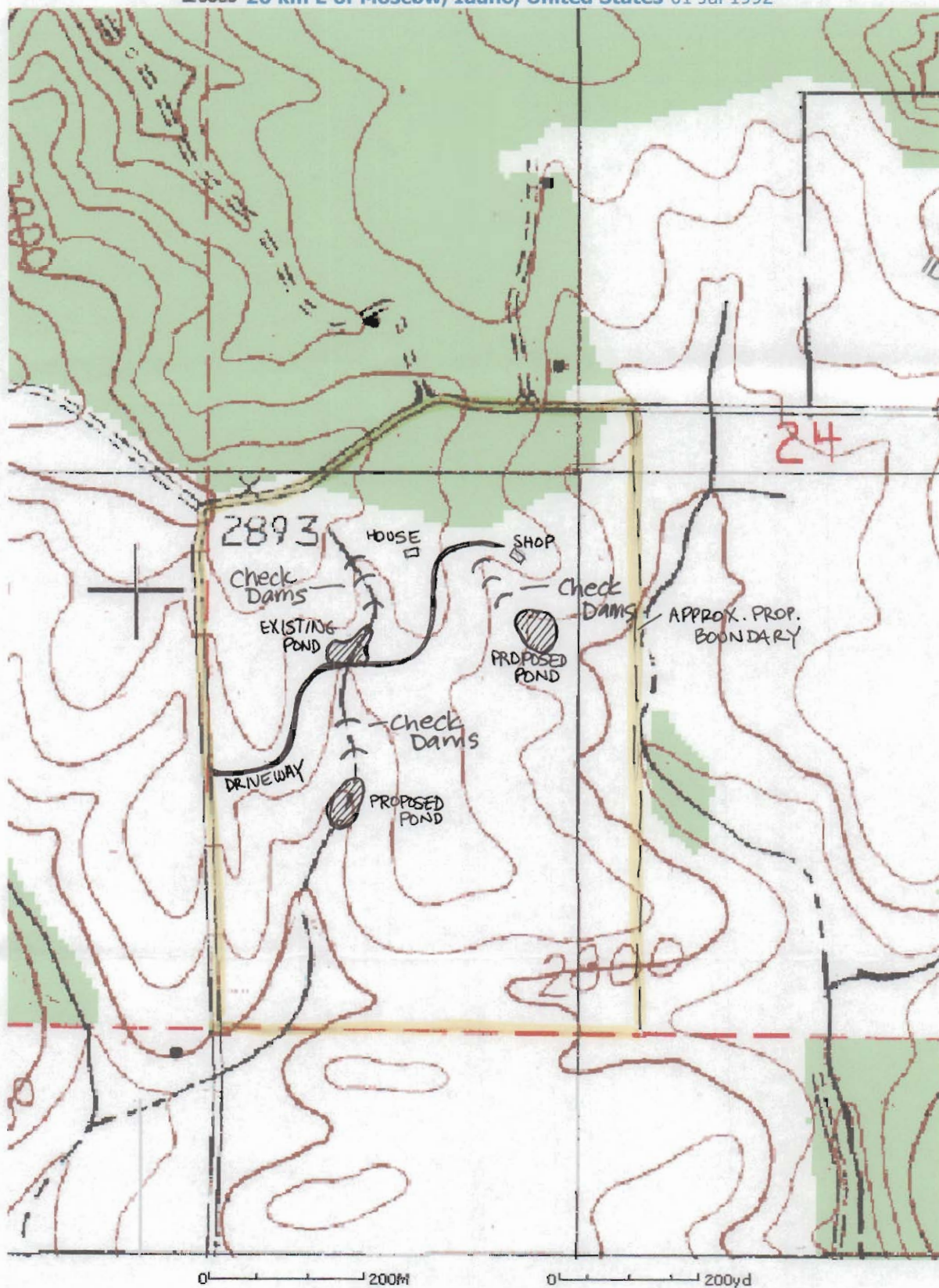
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USGS 26 km E of Moscow, Idaho, United States 01 Jul 1992



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MAY 02 2007
IDWR/North

Image courtesy of the U.S. Geological Survey

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Palouse Prairie Farms LLC - Jen Elliott

1051 Pleasant Hill Rd.

Troy, ID 83871

208 835 4246

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[Show Grid Lines](#)

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2006 36 km E of Moscow, Idaho, United States 29 Jun 1998



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0 200m

0 200yd

Image courtesy of the U.S. Geological Survey

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Palouse Prairie Farms LLC - Jen Elliott
1051 Pleasant Hill Rd.
Troy, ID 83871
208 835 4246



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

COPY

RECEIVED
MAY 02 2007
IDWR/North

1118 F STREET • LEWISTON, IDAHO 83501 • (208) 799-4370

JAMES E. RISCH, GOVERNOR
TONI HARDESTY, DIRECTOR

April 27, 2007

Jen Elliott, Operations Manager
Palouse Prairie Farms LLC
1051 Pleasant Hill Road
Troy, ID 83871

RE: Comments, Water Right Application

Dear Ms. Elliott,

We received your letter requesting our comments and concurrence on the approval of your application for a permit to appropriate water from Dry Creek, located in Latah County. Assuming all federal, state and local permits have been obtained, regulations met, and reviews completed, we offer the following comments.

In the Idaho Water Quality Standards, the Dry Creek water body identification number is 17060306CL059. Dry Creek is currently listed in Section 3 of the Idaho 2002 Integrated Report and is not assessed.

Idaho Water Quality Standards require existing aquatic life be protected and maintained when flows are equal to or greater than one cubic feet per second in intermittent streams. At no time should the proposed action be allowed to impair existing beneficial uses of Dry Creek when stream flow is adequate to sustain existing aquatic life.

Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards or the conditions listed above, please call us at (208) 799-4370.

Sincerely,

A handwritten signature in black ink that reads "Kerby M. Cole".

Kerby M. Cole, P.E.
Regional Administrator

CC: Keith Franklin, IDWR
Ray Hennekey, IDFG
Marti Bridges, IDEQ



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
WALLA WALLA DISTRICT, CORPS OF ENGINEERS
201 NORTH THIRD AVENUE
WALLA WALLA, WASHINGTON 99362-1876

November 8, 2006

COPY

RECEIVED
MAY 02 2007
IDWFR/North

Regulatory Division

SUBJECT: 2006-525-C03

Ms. Jennifer Elliott
1051 Pleasant Hill Road
Troy, Idaho 83871

Dear Ms. Elliott:

This concerns your livestock watering pond which was the subject of your September 6, 2006 Joint Application for Permit.

In accordance with Section 404 of the Clean Water Act (33 U.S.C. 1344), a Department of the Army permit is required for the discharge of dredged or fill material into waters of the United States, including wetlands. This includes excavation activities which result in the discharge of dredged material and destroy or degrade waters of the United States.

Your proposed pond, however, is exempt from the requirements of Section 404 of the Clean Water Act under 33 CFR 323.4(a)(1) (copy enclosed). This exemption is in effect only if applicable best management practices are followed, including the baseline provisions that are a part of the enclosure. These provisions require discharges into waters and wetlands be avoided and minimized to the maximum extent possible. If the requirements outlined in 323.4(b) and (c) cannot be met, a Department of the Army permit will be required, and an application form should be resubmitted to us.

This determination applies only to Department of the Army permits administered by the Corps of Engineers. A local floodplain management ordinance may have been adopted by your local city or county zoning office under the National Flood Insurance Program. You should contact them regarding any approvals or permits they may require for your project.

We are interested in your thoughts and opinions concerning the quality of service you received from the Walla Walla District, Corps of Engineers Regulatory Division. If you have Internet access and are interested in letting us know how we are doing, you can complete an electronic version of our Customer Service Survey form on our web site at: <http://per2.nwp.usace.army.mil/survey.html> which will be automatically submitted to us. Alternatively, you may call and request a paper copy of the survey that you may complete and return to us by mail or fax.

Please contact Mrs. Beth Reinhart in our Coeur d'Alene Regulatory Office at 208-765-7440 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "A. Bradley Daly". The signature is written in a cursive, flowing style.

A. Bradley Daly
Chief, Regulatory Division

Enclosure

Discharges Not Requiring Permits
Section 323.4(a)(1)

RECEIVED
MAY 02 2007
IDWR/North

(a) General. Except as specified in paragraphs (b) and (c) of this section, any discharge of dredged or fill material that may result from any of the following activities is not prohibited by or otherwise subject to regulation under Section 404:

(1)(i) Normal farming, silviculture and ranching activities such as plowing, seeding, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices, as defined in paragraph (a)(1)(iii) of this section.

(ii) To fall under this exemption, the activities specified in paragraph (a)(1)(i) of this section must be part of an established (i.e., on-going) farming, silviculture, or ranching operation and must be in accordance with definitions in § 323.4(a)(1)(iii). Activities on areas lying fallow as part of a conventional rotational cycle are part of an established operation. Activities which bring an area into farming, silviculture, or ranching use are not part of an established operation. An operation ceases to be established when the area on which it was conducted has been converted to another use or has lain idle so long that modifications to the hydrological regime are necessary to resume operations. If an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a Section 404 permit, whether or not it is part of an established farming, silviculture, or ranching operation.

(iii)(A) Cultivating means physical methods of soil treatment employed within established farming, ranching and silviculture lands on farm, ranch, or forest crops to aid and improve their growth, quality or yield.

(B) Harvesting means physical measures employed directly upon farm, forest, or ranch crops within established agricultural and silvicultural lands to bring about their removal from farm, forest, or ranch land, but does not include construction of farm, forest, or ranch roads.

(C)(1) Minor Drainage means:

(i) The discharge of dredged or fill material incidental to connecting upland drainage facilities to waters of the United States, adequate to effect the removal of excess soil moisture from upland croplands. (Construction and maintenance of upland (dryland) facilities, such as ditching and tiling, incidental to the planting, cultivating, protecting or harvesting of crops, involve no discharge of dredged or fill material into waters of the United States, and as such never require a Section 404 permit).

(ii) The discharge of dredged or fill material for the purpose of installing ditching or other such water control facilities incidental to planting, cultivating, protecting, or harvesting of rice, cranberries or other wetland crop species, where these activities and the discharge occur in waters of the United States which are in established use for such agricultural and silvicultural wetland crop production;

(iii) The discharge of dredged or fill material for the purpose of manipulating the water levels of, or regulating the flow or distribution of water within, existing impoundments which have

been constructed in accordance with applicable requirements of CWA, and which are in established use for the production of rice, cranberries, or other wetland crop species. (The provisions of paragraphs (a)(1)(iii)(C)(1)(ii) and (iii) of this section apply to areas that are in established use exclusively for wetland crop production as well as areas in established use for conventional wetland/non-wetland crop rotation (e.g., the rotations of rice and soybeans) where such rotation results in the cyclical or intermittent temporary dewatering of such areas).

(iv) The discharges of dredged or fill material incidental to the emergency removal of sandbars, gravel bars, or other similar blockages which are formed during flood flows or other events, where such blockages close or constrict previously existing drainageways and, if not promptly removed, would result in damage to or loss of existing crops or would impair or prevent the plowing, seeding, harvesting or cultivating of crops on land in established use for crop production. Such removal does not include enlarging or extending the dimensions of, or changing the bottom elevations of, the affected drainageway as it existed prior to the formation of the blockage. Removal must be accomplished within 1 year of discovery of such blockages in order to be eligible for exemption.

(2) Minor drainage in waters of the U.S. is limited to drainage within areas that are part of an established farming or silviculture operation. It does not include drainage associated with the immediate or gradual conversion of a wetland to a non-wetland (e.g., wetland species to upland species not typically adapted to life in saturated soil conditions), or conversion from open wetland use to another (for example, silviculture to farming). In addition, minor drainage does not include the construction of any canal, ditch, dike or other waterway or structure which drains or otherwise significantly modifies a stream, lake, swamp, bog or any other wetland or aquatic area constituting waters of the United States. Any discharge of dredged or fill material into the waters of the United States incidental to the construction of any such structure or waterway requires a permit.

(D) Plowing means all forms of primary tillage, including moldboard, chisel, or wide-blade plowing, disking, harrowing and similar physical means utilized on farm, forest or ranch land for the breaking up, cutting, turning over, or stirring of soil to prepare it for the planting of crops. The term does not include the redistribution of soil, rock, sand, or other surficial materials in a manner which changes any area of the waters of the United States to dry land. For example, the redistribution of surface materials by blading, grading, or other means to fill in wetland areas is not plowing. Rock crushing activities which result in the loss of natural drainage characteristics, the overburden of natural water filtration capacities do not constitute plowing. Plowing as described above will never involve a discharge of dredged or fill material.

(E) Seeding means the sowing of seed and placement of seedlings to produce farm, ranch, or forest crops and includes the placement of soil beds for seeds or seedlings on established farm and forest lands.

(b) If any discharge of dredged or fill material resulting from the activities listed in paragraphs (a)(1) - (6) of this section contains any toxic pollutant listed under Section 307 of the CWA such discharge shall be subject to any applicable toxic effluent standard or prohibition, and shall require a Section 404 permit.

(c) Any discharge of dredged or fill material into waters of the United States incidental to any of the activities identified in paragraphs (a)(1) - (6) of this section must have a permit if it is part of an activity whose purpose is to convert an area of the waters of the United States into a use to which it was not previously subject, where the flow or circulation of waters of the United States may be impaired or the reach of such waters reduced. Where the proposed discharge will result in significant discernible alterations to flow or circulation, the presumption is that flow or circulation may be impaired by such alteration. For example, a permit will be required for the conversion of a cypress swamp to some other use or the conversion of a wetland from silvicultural to agricultural use when there is a discharge of dredged or fill material into waters of the United States in conjunction with construction of dikes, drainage ditches or other works or structures used to effect such conversion. A conversion of a Section 404 wetland to a non-wetland is a change in use of an area of waters of the United States. A discharge which elevates the bottom of waters of the United States without converting it to dry land does not thereby reduce the reach of, but may alter the flow or circulation of, waters of the United States.

(d) Federal projects which qualify under the criteria contained in Section 404(r) of the CWA are exempt from Section 404 permit requirements, but may be subject to other state or Federal requirements.



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1118 F STREET • LEWISTON, IDAHO 83501 • (208) 799-4370

JAMES E. RISCH, GOVERNOR
TONI HARDESTY, DIRECTOR

April 27, 2007

Jen Elliott, Operations Manager
Palouse Prairie Farms LLC
1051 Pleasant Hill Road
Troy, ID 83871

RECEIVED
APR 30 2007
IDWR/North

RE: Comments, Water Right Application

Dear Ms. Elliott,

We received your letter requesting our comments and concurrence on the approval of your application for a permit to appropriate water from Dry Creek, located in Latah County. Assuming all federal, state and local permits have been obtained, regulations met, and reviews completed, we offer the following comments.

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Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards or the conditions listed above, please call us at (208) 799-4370.

Sincerely,

A handwritten signature in black ink that reads "Kerby M. Cole". The signature is written in a cursive, flowing style.

Kerby M. Cole, P.E.
Regional Administrator

CC: Keith Franklin, IDWR
Ray Hennekey, IDFG
Marti Bridges, IDEQ



RECEIVED
APR 24 2007
IDWR/North

IDAHO DEPARTMENT OF FISH AND GAME
CLEARWATER REGION
3316 16th Street
Lewiston, Idaho 83501

C.L. "Butch" Otter / Governor
Cal Groen / Director

April 17, 2007

Jen Elliott
Palouse Prairie Farms, LLC
1051 Pleasant Hill Road
Troy, Idaho 83871

Dear Ms Elliott:

Re: Application to withdraw water from un-named tributaries to Dry Creek, Latah County

IDFG has reviewed the draft of your application to IDWR to withdraw approximately 15 acre feet of water from an un-named intermittent stream, which is tributary to Dry Creek in Latah County. Your application indicates that you wish to dam the un-named tributary to create three ponds, totaling 15 acre feet of water. Water from each pond would be used for stock water. Water would be diverted away from the ponds/stream to stock troughs.

On January 22, 2007, Ray Hennekey spoke with you on the phone and discussed our initial concerns about the biological and physical impacts of creating ponds in streams; at that time, he agreed to visit your site later in the year to discuss alternatives to in-stream ponds. On April 12, Tiege Ulschmidt, IDFG habitat biologist, and Ray Hennekey visited your farm and reviewed your application for withdrawal with you. We also reviewed your plans and drawings for riparian plantings and other improvements you intend to make in conjunction with the proposed withdrawal. Based on your application, our telephone discussion and field visit, we offer the following observations and comments regarding your application:

Based on our observations of the site, we suggest that you modify your final application to IDWR to indicate that the dams would be placed in two shallow draws to capture seasonal runoff. The desired sites for the ponds you indicated are located very near the head of two separate draws that direct seasonal or storm event runoff to Dry Creek during wet periods; however, there were no indications of a stream channel in the draws. Past farming practices could have eliminated a channel, but we do not believe this to have been the case based on elevation and gradient in the draws.

As we discussed with you on the phone and during our site visit, intermittent streams and even ephemeral streams serve many important biological functions that deserve protection; ponds can adversely impact those functions. An in-stream impoundment is likely to contribute to elevated stream temperatures, may impede migrations of fish, amphibians and other wildlife, affect rates

of recharge of waters downstream and have other potentially adverse impacts on biota, flow, water quality and stream hydrologic function. However, during our site visit, you showed us your plans for extensive re-vegetation of the draws, including the area around the proposed ponds, using plants native to the Palouse Prairie. Re-vegetated riparian areas will be fenced to control access by livestock. You intend to use water from the ponds for livestock, but will remove water to troughs located away from the ponds and restored riparian areas. During our site visit, you made tentative plans to confer with Tiege regarding plant selection and the design and location of the ponds to create shallow water habitat for wildlife.

We believe that your long-term plans for the site, including re-establishment of riparian corridors in the draws and controlled livestock access to ponds and riparian areas, will benefit wildlife. In addition, the riparian improvements you intend and the creation of ponds may help to increase upper watershed water storage and late season recharge of Dry Creek and downstream waters in the Potlatch River watershed. Late season low flows are a critical factor limiting fisheries in the Potlatch River system.

Based on our review of the materials provided and on our site visit, IDFG has no objection to your proposed withdrawal. IDFG appreciates your commitment to manage your farm for both profitable livestock production while striving to restore some Palouse Prairie habitat. We look forward to future opportunities to work with you to meet that goal.

Sincerely,



Jay Crenshaw
Acting Regional Supervisor

JC/rh/ss

c: Tracey Trent, NRPB
Keith Franklin, IDWR CDA
Tiege Ulschmidt
Kerby Cole, DEQ Lewiston

Franklin, Keith

From: Hennekey,Ray [rhennekey@idfg.idaho.gov]
Sent: Tuesday, February 06, 2007 11:11 AM
To: Franklin, Keith
Subject: FW: Elliott water right application

From: Hennekey,Ray
Sent: Tuesday, February 06, 2007 11:05 AM
To: Keith Franklin (kfranklin@idwr.idaho.gov)
Cc: Cynthia.Barrett@deq.idaho.gov; Ulschmid,Tiege; 'palouseprairiefarms@hotmail.com'
Subject: Elliott water right application

Keith,

This is to confirm our conversation this morning regarding Jen Elliott, Palouse Prairie Farms, water right request to create three stockwater ponds on an unnamed tributary to Dry Creek, in the Potlatch River drainage. You have agreed to extend Ms Elliott's response deadline until IDFG, DEQ and perhaps IDWR has an opportunity to make a site visit to the subject property.

I had previously spoken with Ms Elliott regarding her application and subsequently with Cindy Barrett at DEQ, Lewiston, and some IDFG staff with knowledge of the area. As I expressed to Ms Elliott, IDFG is always reluctant to endorse building of ponds on a stream, even intermittent streams – wildlife values, water quality and stream function/hydrology can be adversely impacted. However, I'm very encouraged by Ms Elliott's willingness to work with us to protect and even improve wildlife habitat as well as meet her water needs. Other IDFG staff I've spoken to and Cindy Barrett at DEQ agree that there may be some opportunities to improve water quality and wildlife habitat with this development, if Elliott's ponds can be designed/constructed to serve multiple needs. When we spoke on the phone this morning, Ms Elliott agreed to wait on her application pending a site visit to discuss potential alternatives. She subsequently confirmed that discussion with you. I'll arrange a site visit as soon as possible, but we'll have to wait for the snow to melt from the site to see potential channels, etc. I'll get back in touch when the snow is off . . .

Thanks for granting us the extra time to address this application.

Ray Hennekey
Environmental Staff Biologist
IDFG Clearwater Region
3316 16th Street
Lewiston, Idaho 83501
(208) 799-5010



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 FAX: (208) 762-2819 www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR
Interim Director

January 18, 2007

Palouse Prairie Farms, LLC
C/o Jennifer Elliott
1051 Pleasant Hill Rd.
Troy, Idaho 83871

Re: Application For Permit to Appropriate the Public Waters of the State of Idaho.

Dear Mrs.Elliott:

The Idaho Department of Water Resources is in receipt of your Application For a Permit to Appropriate the Public Waters of the State of Idaho. Your property happens to be located within the Salmon-Clearwater River Basins, which are basins known to contain Endangered Species Act (ESA) listed fish species. Each application within these sensitive areas must undergo close scrutiny to ensure the Department is not negatively impacting those species.

The IDWR has recently developed a process by which each application is reviewed. I have attached a copy of an information sheet that outlines the additional information the applicant will be required to supply the Department, along with agency contacts. For your convenience, I have highlighted the portions of the rules that would apply to your application.

The additional information will need to be provided within 30 days unless additional time is requested. If you should have any questions, don't hesitate to contact me at this office.

Also as a reminder, please submit a copy of your LLC's articles of formation, including a list of the current officers, their titles and phone numbers. A USGS map showing the approximate location of the ponds in relation to the unnamed stream and a decision on whether to exclude one of the ponds if the source is diffuse water.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent

Encl/kf

C O P Y

IDAHO DEPARTMENT OF WATER RESOURCES

Applying for a Permit to Appropriate Water in the Salmon and Clearwater River Basins

Idaho Code § 42-203A(5) requires IDWR to evaluate the following criteria for applications to appropriate water:

- The potential to reduce the quantity of water under existing water rights
- The sufficiency of the water supply for the proposed appropriation
- The good faith nature of the application
- The adequacy of the applicant's financial resources
- The local public interest in the public water resource
- The conservation of water resources in Idaho
- Impacts to the economy of the local area or watershed

To ensure that IDWR has sufficient information to evaluate the criteria, Rule 40.05 of the Water Appropriation Rules (IDAPA 37.03.08.040.05) requires water right applicants to submit additional information to IDWR in connection with their applications.

The additional information requirement is usually waived for applications proposing the appropriation of 5.0 cfs or less or the storage of 500 af or less. Because the waters of the Salmon River and Clearwater River drainages are habitat for fish species listed as endangered or threatened under the federal Endangered Species Act, caution is necessary to ensure that new appropriations of water do not undermine efforts to protect and restore the ESA listed fish species and other public values in the basins' rivers and streams. IDWR is, therefore, requiring that applicants submit the additional information required by Water Appropriation Rules 40.05.c through 40.05.g, even when the applications are for less than the usual 5.0 cfs/500 af threshold. Only certain applications for small domestic and stockwater uses and applications to divert ground water for domestic use in multiple homes are exempt from the additional information requirement. A copy of Water Appropriation Rules 40.05.c-g is printed on the back of this page.

Please submit the information required by Water Appropriation Rules 40.05.c-g to IDWR within 30 days from the date you are notified that it is required. IDWR will hold your application until you have submitted the additional information. If you believe that a particular piece of information is not relevant to your application, please explain why. If you do not respond within 30 days, IDWR may void your application. If you need additional time to submit the required information, please submit a written request. IDWR can grant additional time "upon a showing of good cause."

The following are agency representatives who will help you respond to the local public interest requirement of Rule 40.05.g. Please contact these agency representatives at least 15 days prior to the end of your 30-day response period.

IDFG contact list for water right applications:

Panhandle Region: Mary Terra-Berns at 208-769-1414 Clearwater Region: Ray Hennekey at 208-799-5010
McCall Subregion: Dale Allen at 208-634-8137 Southwest Region: Eric Leitzinger at 208-465-8465
Salmon Region: Tom Curet at 208-756-2271

IDEQ contact list for water right applications:

Lewiston: Kerby Cole at 208-769-4370 (Clearwater or lower Salmon River basins)
Cascade: Leslie Freeman at 208-382-6808 (South Fork Salmon River basin)
Idaho Falls: Troy Saffle at 528-2650 (Upper Salmon, Lemhi, Pahsimeroi basins)

Water Appropriation Rules 40.05.c through 40.05.g

c. The following information shall be submitted for applications to appropriate unappropriated water. . . .

Information relative to the effect on existing water rights, Section 42-203A(5)(a), Idaho Code, shall be submitted as follows:

- i. For applications appropriating springs or surface streams with five (5) or fewer existing users, either the identification number, or the name and address of the user, and the location of the point of diversion and nature of use for each existing water right shall be submitted.
- ii. For applications appropriating groundwater, a plat shall be submitted locating the proposed well relative to all existing wells and springs and permitted wells within a one-half mile radius of the proposed well.
- iii. Information shall be submitted concerning any design, construction, or operation techniques which will be employed to eliminate or reduce the impact on other water rights.

d. Information relative to sufficiency of water supply, Section 42-203A(5)(b), Idaho Code, shall be submitted as follows:

- i. Information shall be submitted on the water requirements of the proposed project, including, but not limited to, the required diversion rate during the peak use period and the average use period, the volume to be diverted per year, the period of year that water is required, and the volume of water that will be consumptively used per year.
- ii. Information shall be submitted on the quantity of water available from the source applied for, including, but not limited to, information concerning flow rates for surface water sources available during periods of peak and average project water demand, information concerning the properties of the aquifers that water is to be taken from for groundwater sources, and information on other sources of supply that may be used to supplement the applied for water source.

e. Information relative to good faith, delay, or speculative purposes of the applicant, Section 42-203A(5)(c), Idaho Code, shall be submitted as follows:

- i. The applicant shall submit copies of deeds, leases, easements or applications for rights-of-way from federal or state agencies documenting a possessory interest in the lands necessary for all project facilities and the place of use or if such interest can be obtained by eminent domain proceedings the applicant must show that appropriate actions are being taken to obtain the interest. Applicants for hydropower uses shall also submit information required to demonstrate compliance with Sections 42-205 and 42-206, Idaho Code.
- ii. The applicant shall submit copies of applications for other needed permits, licenses and approvals, and must keep the department apprised of the status of the applications and any subsequent approvals or denials.

f. Information Relative to Financial Resources, Section 42-203A(5)(d), Idaho Code, shall be submitted as follows:

- i. The applicant shall submit a current financial statement certified to show the accuracy of the information contained therein, or a financial commitment letter along with the financial statement of the lender or other evidence to show that it is reasonably probable that financing will be available to appropriate the water and apply it to the beneficial use proposed.
- ii. The applicant shall submit plans and specifications along with estimated construction costs for the project works. The plans shall be definite enough to allow for determination of project impacts and implications.

g. Information Relative to Conflict with the Local Public Interest, Section 42-203A(5)(e), Idaho Code, shall be submitted as follows:

The applicant shall seek comment and shall submit all letters of comment on the effects of the construction and operation of the proposed project from the governing body of the city and/or county and tribal reservation within which the point of diversion and place of use are located, the Idaho Department of Fish and Game, the Idaho Department of Environmental Quality, and any irrigation district or canal company within which the proposed project is located and from other entities as determined by the director.