

State of Idaho
Department of Water Resources

Amended

Permit to Appropriate Water

Amended

NO. 34-13838

Priority: May 6, 2004

Maximum Diversion Rate: 1.00 CFS

This is to certify, that ANTELOPE VALLEY RANCH LLC
2411 WHALER COURT
VIRGINA BEACH VA 23451

has applied for a permit to appropriate water from:

Source: CHERRY CREEK**Tributary:** ANTELOPE 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>
DIVERSION TO STORAGE	11/01 to 03/31	1.00 CFS	
RECREATION	01/01 to 12/31	1.00 CFS	
RECREATION STORAGE	01/01 to 12/31		50.0 AF

LOCATION OF POINT(S) OF DIVERSION:

CHERRY CREEK NW¼NW¼SW¼ Sec. 32, Twp 05N, Rge 24E, B.M. CUSTER County

PLACE OF USE: RECREATION and RECREATION 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 24E 5															X		

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **May 1, 2011**.
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. 34.
4. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
5. Prior to diversion of water under this right, the right holder shall provide a means acceptable to the department to measure the amount of water entering Cherry Creek after passing through or being released from the reservoir.
6. From 4/1 to 10/31, the outflow from the reservoir into Cherry Creek shall equal or exceed the flow of water diverted to the reservoir from Cherry Creek under this right.
7. Recreation storage use is for a reservoir.
8. The surface area of the reservoir authorized under this right shall not exceed 5 acres.

State of Idaho
Department of Water Resources

Amended

Permit to Appropriate Water

Amended

NO. 34-13838

CONDITIONS OF APPROVAL CONTINUED

9. The reservoir authorized under this right shall be lined with bentonite or another impermeable material to reduce seepage losses.
10. The reservoir and retained waters within the reservoir shall not be used for irrigation purposes, and all waters diverted into the reservoir under this right shall flow out of the reservoir to the creek bed and ultimately to Cherry Creek.
11. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish stocking and planting requirements of the Idaho Department of Fish and Game.
12. Mitigation for evaporation losses from the reservoir created under this right is provided by the reduction in irrigated acres under Rights 34-513B, 34-514B, 34-515B, and 34-560B in accordance with Transfer 4903. The 15 af of water authorized to be diverted from Cherry Creek for recreation purposes by Rights 34-513B, 34-514B, 34-515B, and 34-560B can be used to cycle water through the reservoir and back into Cherry Creek or to replace evaporation losses from the reservoir.
13. During the first year that water is diverted to fill the reservoir authorized under this right, either the right holder shall rent, lease, or otherwise acquire an alternative supply of water sufficient to fill the reservoir, or the right holder shall limit the diversion and use of water under Rights 34-513A, 34-514A, 34-515A, and 34-560A to a combined total of 419 acres, 12.05 cfs, and 1466.5 af.
14. During years after the initial filling of the reservoir authorized under this right, if the use of other water rights, including Rights 34-513B, 34-514B, 34-515B, and 34-560B, was not sufficient to keep the reservoir full, either the right holder shall rent, lease, or otherwise acquire an alternative supply of water sufficient to fill the reservoir, or the right holder shall reduce the diversion and use of water under Rights 34-513A, 34-514A, 34-515A, and 34-560A by a combined total of one acre, 0.029 cfs, and 3.5 af for every 2.5 af of water needed to fill the reservoir.
15. 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.
16. The storage of water under this right is contingent upon the certification of the dam and authorization of storage per the dam safety provisions of the Idaho Code.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 11th day of August, 2006.


KARL J DREHER, Director