

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 34-13838

Priority: May 06, 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 POINTS OF DIVERSION:

CHERRY CREEK NW¼ NW¼ SW¼ 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 01, 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 inflow to the reservoir from Cherry Creek.
7. Recreation storage use is for a reservoir.
8. The surface area of the reservoir authorized under this right shall not exceed 5 acres.
9. The reservoir authorized under this right shall be lined with bentonite or another impermeable material to reduce seepage losses.

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10. The reservoir and retained waters within the reservoir shall not be used for irrigation purposes and all waters flowing into the reservoir 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. To mitigate for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official record for the following water rights will be changed to show that 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 Acres	Mitigation Rate (cfs)
34-513A	Irrigation	6	0.12
34-514A	Irrigation	6	0.12
34-515A	Irrigation	6	0.04
34-560A	Irrigation	6	0.03
Total		6	0.31

The land that will no longer be irrigated under these rights is located within the NWSE, Section 05, Township 04N, Range 24E, B.M.

The combined annual diversion volume limit under these rights will be changed to 1515.5 af for irrigation purposes and 21 af shall be dedicated to mitigation and shall not be diverted.

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.

13. 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.
14. 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 25th day of May, 2006.


for KARL J DREHER, Director