

**STARTING
LEFT
SIDE OF
FILE**

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-23055

Priority: April 18, 2006

Maximum Diversion Rate: 0.06 CFS

This is to certify, that WILLIAM D CUTBIRTH Or
DONNA CUTBIRTH
2827 LOWER BLUFF RD
EMMETT ID 83617

has applied for a permit to appropriate water from:

Source: GROUND WATER

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>
DOMESTIC	01/01 to 12/31	0.04 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS

LOCATION OF POINT OF DIVERSION:

GROUND WATER NW¼ SE¼ Sec. 16, Twp 13N, Rge 04E, B.M. VALLEY County

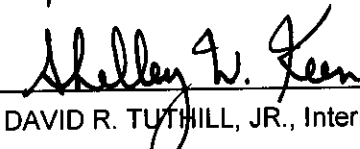
PLACE OF USE: DOMESTIC, STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13N 04E 16															X		

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2009**.
2. Subject to all prior water rights.
3. 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.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. Point of diversion is located within Lot 10, Ben Goslin #2 Subdivision.
6. Place of use is located within Lot 10, Ben Goslin #2 Subdivision.
7. Domestic use is for 1 home.
8. Stockwater use is for 30 head mixed stock.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 7th day of February, 2007.


for DAVID R. TUTHILL, JR., Interim Director

RECEIVED

AUG 30 2006

WATER RESOURCES
WESTERN REGION

AMENDED

Ident. No. 65-23055

W.D.C. agree to the following
application changes.
8-30-06 Date.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant William D. Catbirth or Donna Catbirth Phone 208-365-5788Mailing address 2827 Lower Bluff Rd. Emmett, Id, 836172. Source of water supply Ground water which is a tributary of _____3. Location of point of diversion is Township 13 N Range 4 E Sec. 12 16, in the _____
NW 3/4, SE 1/4, Govt. Lot _____, B.M., Valley County;

additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount .04 for Domestic purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)Amount .02 for Stock purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)5. Total quantity to be appropriated is (a) .06 and/or (b) _____
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 _____

Drilled well with pressure pumpb. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feetc. Proposed well diameter is 6 inches; proposed depth of well is about 60 feetd. Is ground water with a temperature of greater than 85°F being sought? noe. If well is already drilled, when? 1979; Drilling firm _____Well was drilled for (well owner) MARK BROWN; Drilling Permit No. _____7. Time required for completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year)

8. Description of proposed uses (if irrigation only, go to item 9):

a. Hydropower; show total feet of head and proposed capacity in kW. _____

b. Stockwatering; list number and kind of livestock. 30 Range cattle/horses

c. Municipal; show name of municipality. _____

d. Domestic; show number of households. 1

e. Other; describe fully. _____

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.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13N	4E	16														D		S	

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. NONE

11. a. Who owns the property at the point of diversion? Applicate

b. Who owns the land to be irrigated or place of use? Applicate

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

12. Remarks: Lot # 10 Cabarton Ranchettes Subdivision

BEN gustin No. 2

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.

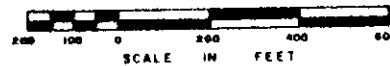
Edith Ann D. Cutbuth Donna Cutbuth
Signature of Applicant (and title, if applicable)

Received by JFW Date 4/18/06 Time 2:30 PM Preliminary check by SC
Fee \$ 100.00 Receipted by JFW # 44034059 Date 4/18/06
Publication prepared by 82 Date 4/26/06 Published in STAR NEWS
Publication approved 82 Date 10/27/06 10/5 & 10/12/2006

A PLAT SHOWING

BEN GOSLIN No. 2

A PARCEL OF LAND LYING IN THE
N1/2 of the S1/2 of Section 16, T13N, R4E, B.M.
VALLEY COUNTY, IDAHO



LEGEND

- Brass Cap
- 5/8" Rebar w/ 2"x2" white guard stake

Lot 10 in NWSE

APPROX. Well location

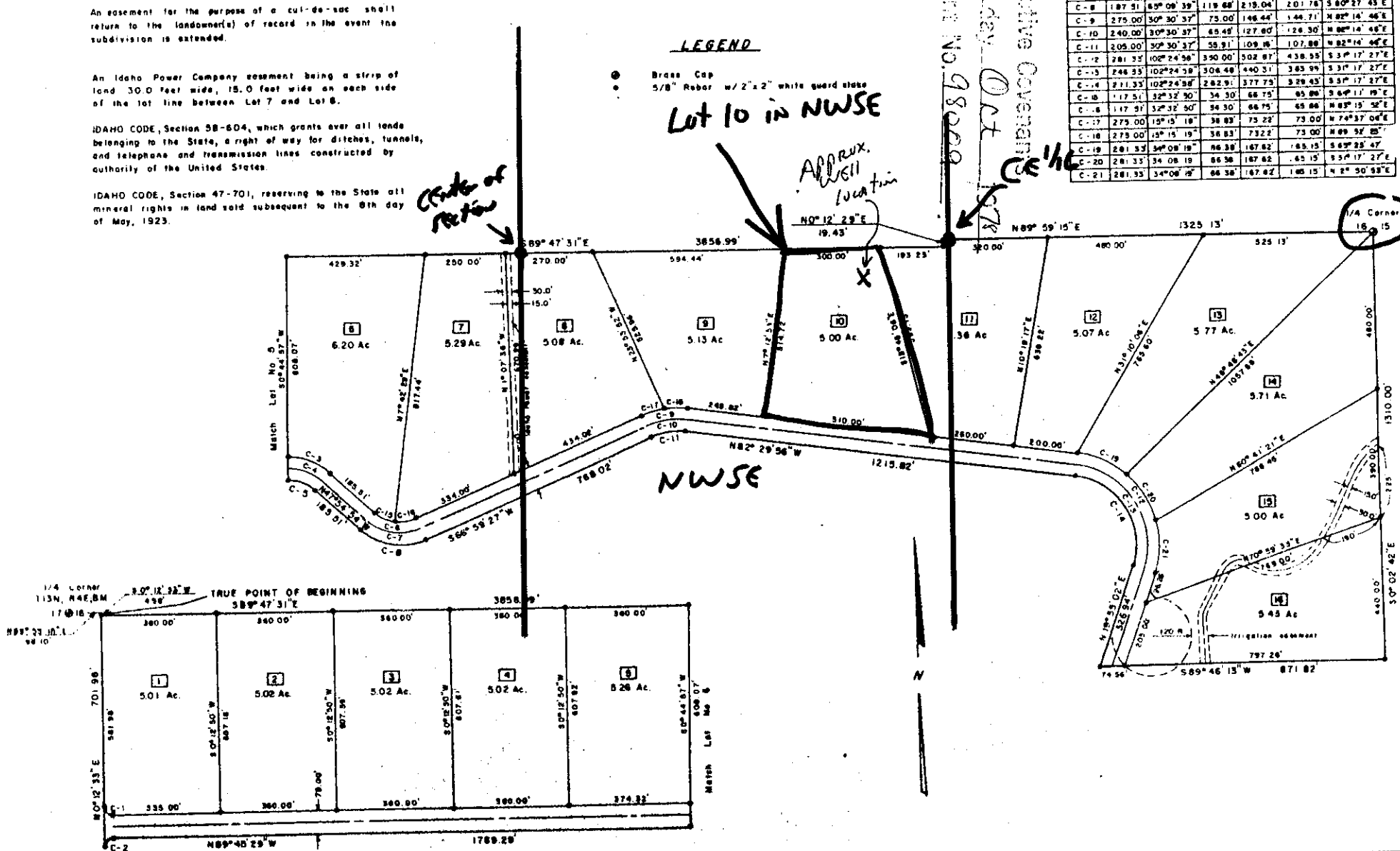
NWSE

Point of Section

Filed 11 day Oct 1978
Instrument No. 98069

CURVE DATA

CURVE	R	A	T	L	CH L	CH BEARING
C-1	25.01	89° 58' 02"	25.00	39.28	35.37	N44° 46' 28" W
C-2	25.99	90° 01' 58"	25.00	39.28	35.36	N45° 15' 36" E
C-3	198.18	41° 50' 36"	75.00	143.27	140.11	S40° 50' 12" E
C-4	161.18	41° 50' 36"	61.62	117.71	118.17	S40° 50' 12" E
C-5	126.18	41° 50' 36"	48.24	92.15	90.12	S40° 50' 12" E
C-6	117.51	55° 09' 59"	75.00	135.51	126.44	S60° 27' 45" E
C-7	152.51	89° 08' 39"	97.34	173.27	164.10	S60° 27' 45" E
C-8	187.51	89° 08' 39"	119.68	215.04	201.78	S60° 27' 45" E
C-9	275.00	50° 30' 37"	75.00	146.44	144.71	N82° 14' 46" E
C-10	240.00	50° 30' 37"	65.48	127.60	126.30	N82° 14' 46" E
C-11	205.00	50° 30' 37"	55.91	109.46	107.88	N82° 14' 46" E
C-12	281.35	102° 24' 58"	390.00	502.87	438.55	S31° 17' 27" E
C-13	246.35	102° 24' 58"	308.48	440.31	385.99	S31° 17' 27" E
C-14	211.35	102° 24' 58"	282.91	377.75	329.45	S31° 17' 27" E
C-15	117.51	32° 32' 50"	34.30	66.75	65.86	S45° 11' 19" E
C-16	117.51	32° 32' 50"	34.30	66.75	65.86	S45° 11' 19" E
C-17	275.00	15° 15' 19"	38.83	73.22	73.00	N74° 37' 06" E
C-18	275.00	15° 15' 19"	38.83	73.22	73.00	N74° 37' 06" E
C-19	281.35	54° 08' 18"	86.38	167.82	165.15	S59° 35' 47" E
C-20	281.35	54° 08' 18"	86.38	167.82	165.15	S59° 35' 47" E
C-21	281.35	54° 08' 18"	86.38	167.82	165.15	S59° 35' 47" E



Removed By Instrument No. 98010

**NOW
STARTING
RIGHT
SIDE OF
FILE**



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

JAMES E. RISCH
Governor

KARL J. DREHER
Director

February 8, 2007

WILLIAM D CUTBIRTH
DONNA CUTBIRTH
2827 LOWER BLUFF RD
EMMETT ID 83617

RE: Permit No. 65-23055

Permit Approval Notice

Dear Permit Holders:

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.

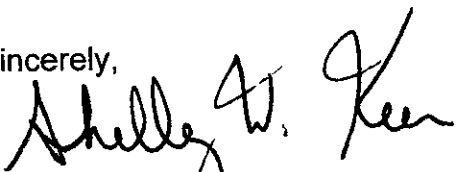
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

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" being the most prominent.

Shelley W. Keen, Acting Section Manager
Water Right Permits Section

Enclosure(s)

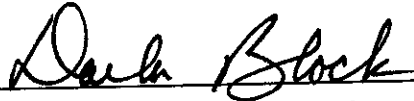
CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2007 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

65-23055

**DONNA CUTBIRTH
WILLIAM D CUTBIRTH
2827 LOWER BLUFF RD
EMMETT ID 83617**

A handwritten signature in cursive script, reading "Darla Block", is written over a horizontal line.

**Darla Block
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.

M E M O R A N D U M

Date: February 05, 2007
To: Water Right File 65-23055
From: eretelle
Re: permit review

No moratorium or WD (groundwater)

No protest or overlap (other D&S groundwater rights in area)

Recommend approval as suggested by IDWR Western

Publisher's Affidavit of Publication

STATE OF IDAHO

} .SS

County of Valley

I, Carol J. Wright, being duly sworn and say, I am the receptionist of The Star-News, a weekly newspaper published at McCall, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county of afore said and is a legal newspaper; that the PUBLIC NOTICE, a copy of which is enclosed hereto and is a part hereof, was published in said newspaper once a week for a period of two weeks in the regular and entire issue of every number there of during the period of time of publication, and was published in the newspaper proper and not in a supplement; and that publication of such notice began October 5, 2006 and ended October 12, 2006.

Carol J. Wright

Subscribed and sworn before me this the 12th day of October, 2006.
STATE OF IDAHO

COUNTY OF VALLEY

}

On this 12th day of October, in the year of 2006, before me, a Notary Public, personally appeared Carol J. Wright, 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 she executed the same.

Tom Grote

Tom Grote
Notary Public for Idaho
Residing at McCall, Idaho
Commission Expires 2/8/12

**THE FOLLOWING
APPLICATION(S) HAVE BEEN
FILED TO APPROPRIATE THE
PUBLIC WATERS OF THE STATE
OF IDAHO:**

65-23055

WILLIAM D & DONNA CUT-
BIRTH

2827 LOWER BLUFF RD

EMMETT ID 83617

Point(s) of Diversion

NWSE

S16 T13N R04E VAL-

LEY County

Source GROUND

WATER

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

Use: DOMESTIC 01/01 To 12/31
0.04 CFS

Total Diversion: 0.06 CFS

Date Filed: 04/18/2006

Place Of Use: DOMESTIC &
STOCKWATER

T13N R04E S16 NWSE

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,
Western Region, 2735 Airport Wy, Boise
ID 83705 together with a protest fee of
\$25.00 for each application on or before
10/23/2006. The protestant must also
send a copy of the protest to the appli-
cant.

KARL J DREHER, Director.
2tc10/12

OK
-SL

RECEIVED

OCT 16 2006

WATER RESOURCES
WESTERN REGION

Lester, Steve

From: Lester, Steve
Sent: Tuesday, September 26, 2006 2:26 PM
To: 'starcarol@citlink.net'
Subject: Legal Ad

Carol:

Please let me know if this can be published as noted. Thanks.

September 26, 2006

Legal Notice Department
STAR NEWS
1000 1ST ST
MC CALL ID 83638

RE: Application for Permit No. 65-23055

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (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 10/23/2006. Your cooperation is appreciated.

Sincerely,

Steve Lester
Water Rights Supervisor
IDWR Western Region
tel 208.334.2190
fax 208.334.2348
steve.lester@idwr.idaho.gov



65-23055
ad.RTF

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

65-23055

WILLIAM D & DONNA CUTBIRTH
2827 LOWER BLUFF RD
EMMETT ID 83617

Point(s) of Diversion NWSE S16 T13N R04E VALLEY County Source GROUND WATER

Use: STOCKWATER 01/01 To 12/31 0.02 CFS

Use: DOMESTIC 01/01 To 12/31 0.04 CFS

Total Diversion: 0.06 CFS

Date Filed: 04/18/2006

Place Of Use: DOMESTIC & STOCKWATER

T13N R04E S16 NWSE

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, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 10/23/2006. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published 10/5 and 10/12/2006



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

JAMES E. RISCH
Governor

KARL J. DREHER
Director

August 22, 2006

WILLIAM OR DONNA CUTBIRTH
2827 LOWER BLUFF RD
EMMETT ID 83617

RE: Application for Permit No. 65-23055

Dear Applicant:

Your recent application for permit regarding ground water for domestic and stockwatering purposes is being processed. To assist this office in completing the initial processing steps, please address the following items.

- 1) The subdivision plat map attached to the application identifies Lot 10 as being located in the NESE rather than the SESE as you have indicated in Item 3. I am enclosing an aerial photo with the NESE and SESE clearly marked. If you agree that the point of diversion is in the NESE, please adjust Item 3 accordingly. Please also mark an "X" where the well is to be located.
- 2) The legal description for the place of use under Item 9 needs to be corrected the same as described above for the point of diversion.
- 3) Items 6c, 6d and 6e on the application need to be completed for the ground water source you have listed.

After you have completed these items, please also place your initials where indicated on the top of the front page.

Please submit the requested information to allow final evaluation of your application to be completed. You may seek additional time to provide the information by making a written request to delay or interrupt processing. Your written response including the requested information, or a request for more time to seek the information must be received within thirty (30)-days of the date of this letter. The application will be voided or removed from our records without a timely reply.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you need more information. Thank you for your attention to these matters.

Sincerely,

Steve Lester
Water Rights Supervisor

Enclosure: Original Application