

**STARTING
LEFT
SIDE OF
FILE**

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 84-12232

Priority: November 14, 2005

Maximum Diversion Volume: 890.0 AF

This is to certify, that STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707

has applied for a permit to appropriate water from:

Source: SCHMIDT CREEK **Tributary:** LOLO CREEK

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
RECREATION STORAGE	01/01 to 12/31	890.0 AF

LOCATION OF POINT OF DIVERSION:

SCHMIDT CREEK L1 (NW¼ NW¼) Sec. 19, Twp 35N, Rge 04E, B.M. CLEARWATER County

PLACE OF USE: 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	
35N 04E 19	X	X		X	X	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. 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.
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. Water shall not be diverted under this right when flows in the Clearwater River are below established minimum flow amounts.
6. Recreation storage is for fishing and waterfowl habitat.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 28th day of February, 2006.


KARL J DREHER, Director

RECEIVED
FEB 13 2006
NOV 17 2005
DEPARTMENT OF
WATER RESOURCES
IDWR/North

72424

Ident. No. 84-12232

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

Name of Applicant Idaho Department of Fish and Game Phone (208) 334-3730Mailing address P.O. Box 25, Boise, Idaho 837072. Source of water supply Schmidt Creek which is a tributary of Lolo Creek

3. Location of point of diversion is Township 35N Range 4E Sec. 19, in the SE $\frac{1}{4}$,
NE $\frac{1}{4}$, NE $\frac{1}{4}$, Govt. Lot _____, B.M., Clearwater County;
additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 890 for Recreational purposes from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum) RecreationAmount 890 for Storage purposes from Jan. 1 to Dec. 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) _____ and/or (b) 890
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 no diversion - stream flow
into the reservoir _____b. Height of storage dam 35 feet; active reservoir capacity 610 acre-feet; total
reservoir capacity 890 acre-feet

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet

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

e. If well is already drilled, when? _____; 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 3 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. _____

c. Municipal; show name of municipality. _____

d. Domestic; show number of households. _____

e. Other; describe fully. Recreation - fishing reservoir and waterfowl habitat

5. 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	
35N	4E	19	R	R		R	R	R											

Total number of acres to be irrigated _____

6. Describe any other water rights used for the same purposes as described above. _____

7. a. Who owns the property at the point of diversion? Idaho Department of Fish and Game

b. Who owns the land to be irrigated or place of use? Idaho Department of Fish and Game

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

8. Remarks: _____

9. **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.

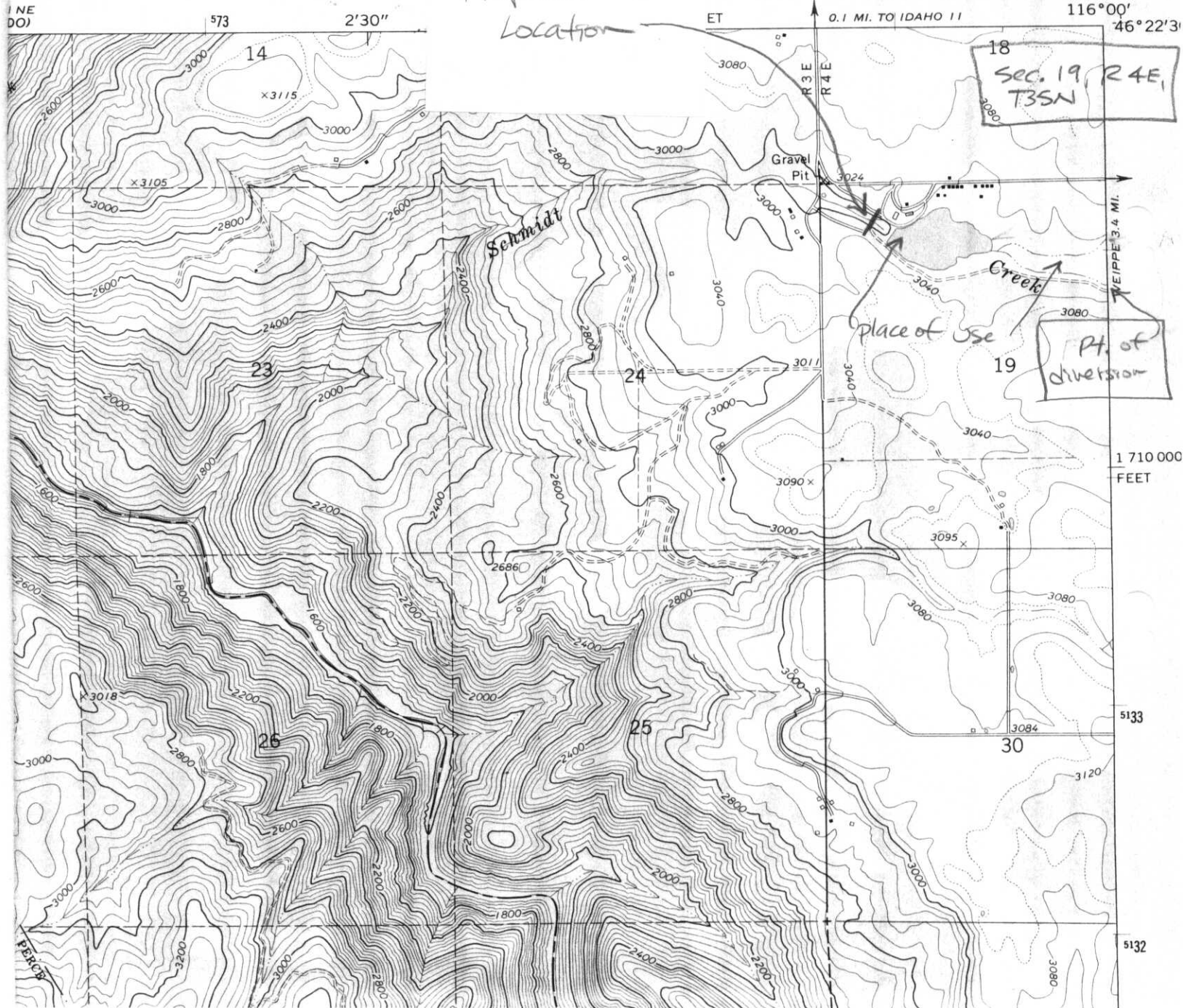
[Signature] Chief, Engineering Bureau
Signature of Applicant (and title, if applicable)

Received by PM Date 11-14-05 Time _____ Preliminary check by _____
Fee \$ 570.00 Receipted by PM # C079625 Date 11-14-05
Publication prepared by PM Date 11/11/06 Published in Engineering Brief 11/19/06
Publication approved PM Date 11/21/06

WOODLAND QUADRANGLE
IDAHO
7.5 MINUTE SERIES (TOPOGRAPHIC)

2876
(WEIP)

Proposed dam
Location



**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.

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 1, 2006

STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707

RE: Permit No. 84-12232

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.

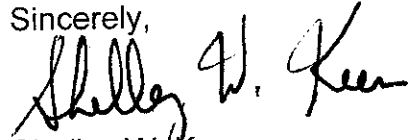
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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" being the most prominent.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

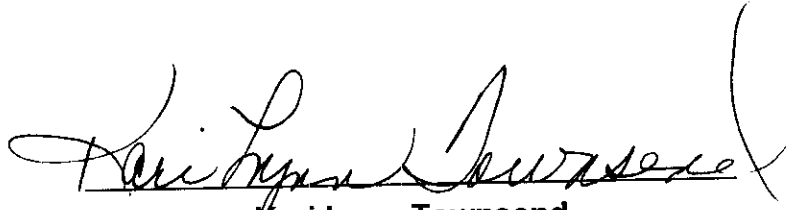
CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2006 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.

84-12232

**STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707**



**Kari Lynn Townsend
Secretary**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

(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. 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: February 21, 2006
To: Water Right File 84-12232
From: eretelle
Re: permit review

No WD or moratorium.

No overlap or protest.

Min Stream Flow Clearwater River 85-07583

Recommend approval as suggested by IDWR Northern.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
County of Clearwater)

MARCIE STANTON

RECEIVED

JAN 31 2006

IDWR/North

being first duly sworn, on oath, deposes and says:

That I am and at all times herein mentioned have been a citizen of the United States and of the State of Idaho, over 21 years of age, and that I am not a party to nor interested in the above entitled proceeding; that I am and at all times herein mentioned have been the Editor, Foreman, of the THE CLEARWATER TRIBUNE; that said Clearwater Tribune is a newspaper of general circulation, printed and published weekly at Orofino, in the County of Clearwater and State of Idaho; that the Clearwater Tribune has been continuously and uninterruptedly published in Clearwater County, Idaho, during the period of seventy-eight consecutive weeks prior to the first publication of attached copy of:

Dept. of Water Resource, Northern Region

STATE OF IDAHO DEPT. OF FISH & GAME WATER APPLICATION

of which the annexed is a full, true and correct printed copy, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for a full consecutive period of two weeks, commencing on the 19th day of January 2006 and ending on the 26th day of January 2006.

STATE OF IDAHO)
)
COUNTY OF CLEARWATER)

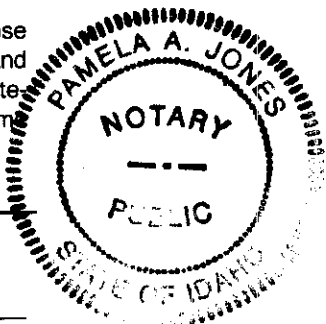
On this 26th day of January in the year of 2006, before me, a Notary Public, personally appeared

Marcie Stanton

known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Pamela A. Jones

Notary Public for Idaho
Resident at Orofino, Idaho
My commission expires: 11-20-07



NOTICE

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

84-12232

STATE OF IDAHO

DEPT OF FISH & GAME

PO BOX 25

BOISE ID 83707

Point(s) of Diversion: L1 (NWNW) S19 T35N R04E CLEARWATER County

Source SCHMIDT CREEK - Tributary To LOLO CREEK

Use: RECREATION STORAGE 01/01 To 12/31 890 AFA

Total Diversion: 890 AFA

Date Filed: 11/14/2005

Place Of Use: RECREATION STORAGE

T35N R04E S19 - NENE NWNE SENE NENW NWNW Lot 1

Remark: Recreation storage is for fishing and waterfowl habitat.

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, 1910 Northwest Blvd, Suite 210, Coeur d'Alene ID 83814 together with a protest fee of \$25.00 for each application on or before 02/06/2006. The protestant must also send a copy of the protest to the applicant.

1-19/26-06c

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

84-12232

STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707

Point(s) of Diversion L1 (NWNW) S19 T35N R04E CLEARWATER County

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Total Diversion: 890 AFA

Date Filed: 11/14/2005

Place Of Use: RECREATION STORAGE

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KARL J DREHER, Director Published January 19 and 26, 2006



State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

Fax (208) 769-1454

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

January 11, 2006

MARCIE STANTON
LEGAL NOTICE DEPARTMENT
CLEARWATER TRIBUNE
PO BOX 71
OROFINO ID 83544

e-mailed January 11, 2006 to cleartrib@cebridge.net

RE: Application for Permit No. 84-12232

Please FAX proof copy before this goes to press, to 208-769-1454
Thanks, Dianne

→ **THIS LETTER IS BEING SENT BY FAX AS WELL AS E-MAIL ~ FYI.** ←

Dear Marcie:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated, January 19 and 26, 2006, (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 02/06/2006. Your cooperation is appreciated.

Sincerely

Dianne

Dianne Ball
Administrative Assistant

DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD., SUITE 210
COEUR D'ALENE ID 83814
Phone 208-769-1450 - FAX - 208-769-1454

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, January 11, 2006 3:24 PM
To: Legal Notices-Clearwater Tribune (E-mail)
Subject: Legal notice for publication Jan. 19 and 26, 2006

Good afternoon,

Attached is our cover letter requesting publication of a legal notice on January 19 and 26, 2006. The legal notice is also attached.

PLEASE FAX A PROOF COPY PRIOR TO PUBLICATION TO 208-769-1454, to allow for any last minute layout or other changes.

Thank you very much.

If you have ANY questions, please call me at 208-769-1450.

Too blessed to be stressed,

Dianne

*Dianne Ball
Administrative Assistant
Idaho Dept of Water Resources
1910 Northwest Blvd., Suite 210
Coeur d'Alene, ID 83814
Phone (208)769-1450 FAX (208)769-1454*



CoverLetter
1-11-06 CT - e-ma..



LegalNotice
1-11-06 CT 84-122.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 1910 Northwest Blvd. Suite 210, Coeur d'Alene, Idaho 83814-2615

Phone: (208) 769-1450

Fax: (208) 769-1454

Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 11, 2006

STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707

RE: Application for Permit No 84-12232

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 Clearwater Tribune on January 19 and 26, 2006.. 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,

Gregory J. Taylor
Senior Water Resource Agent

Enclosure(s) – Receipt No. C079625 – for your records

Idaho Department of Water Resources Receipt

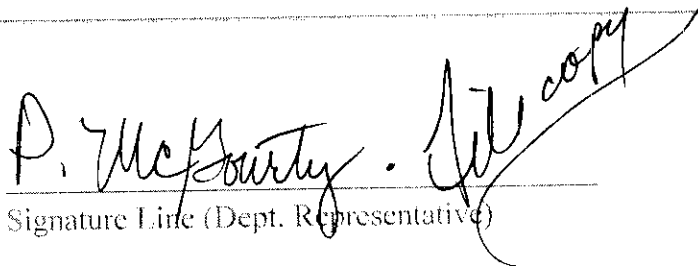
Receipt ID C079625

Payment Amount \$1,660.00 Date Received 11/14/2005 11:44:00 AM Region State Status
 Payment Type Check Check Number 1660.00

Payer STATE OF IDAHO DEPT OF FISH AND GAME
 Comment WATER RIGHT PERMIT SCHMIDT CREEK

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$570.00	PERMITS	0229	21	56103	1155
\$1,090.00	DAM CONSTRUCTION PERMITS	0229	21	53102	1155


 Signature Line (Dept. Representative)