

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 74-15436

Priority: April 12, 2004

Maximum Diversion Volume: 1.0 AF

This is to certify, that US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
SALMON DISTRICT
1206 S CHALLIS ST
SALMON ID 83467

has applied for a permit to appropriate water from:

Source: SPRING

Tributary: SINKS

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
WILDLIFE STORAGE	01/01 to 12/31	1.0 AF
WILDLIFE FROM STORAGE	01/01 to 12/31	1.0 AF
STOCKWATER FROM STORAGE	01/01 to 12/31	1.0 AF
STOCKWATER STORAGE	01/01 to 12/31	1.0 AF

LOCATION OF POINT(S) OF DIVERSION:

SPRING SE¼NW¼SE¼ Sec. 12, Twp 14N, Rge 26E, B.M. LEMHI County

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

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
14N 26E 12														X			

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **January 1, 2007**.
2. Subject to all prior water rights.
3. Stockwater use is for 410 range cattle.
4. Project also known as Poison Spring Reservoir.
5. This right, when considered with all other rights common to the same grazing allotment, is limited to the quantity of water beneficially used by the number of stock within the allotment.
6. 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. 74W.
7. When notified by the Department, the right holder shall provide a means acceptable to the Department to measure the amount of water entering the reservoir and the amount of water released from the reservoir.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 12th day of January, 2006.


for **KARL J DREHER, Director**

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APR 12 2004

Department of Water Resources
Eastern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant Bureau of Land Management Phone 208-756-5400
Post Office Address 50 Highway 93 South Salmon, Idaho 83467
2. Source of water supply spring which is a tributary of sinks.
3. Location of point of diversion is Township 14 N Range 26 E Sec. 12, in the SE $\frac{1}{4}$, NW $\frac{1}{4}$, SE $\frac{1}{4}$, Govt. Lot _____, B.M., Lemhi County; additional points of diversion, if any: _____.
4. Water will be used for the following purposes:
amount 1 ac-ft for stockwater from storage purposes from 1/1 to 12/31
(cfs/ac-ft)
amount 1 ac-ft for stockwater storage purposes from 1/1 to 12/31
(cfs/ac-ft)
amount 1 ac-ft for wildlife storage purposes from 1/1 to 12/31
(cfs/ac-ft)
amount 1 ac-ft for wildlife from storage purposes from 1/1 to 12/31
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
5. Total quantity to be appropriated is (a) _____ cubic feet per second and/or 1 acre-feet per annum.
6. Proposed diverting works:
 - a. Describe size and type of devices used to divert water from the source _____.
 - b. Height of storage dam 6 feet; active reservoir capacity 1.5 acre-feet; total reservoir capacity 3.00 acre-feet.
 - c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet
 - d. Is groundwater with a temperature greater the 85°F being sought? ☐ Yes ☒ No
 - 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 1 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, got to item 9):
 - a. Hydropower; show total feet of head and proposed capacity in kW. _____
 - b. Stockwatering; list number and kind of livestock. 410 cattle
 - c. Municipal; show name of municipality. _____
 - d. Domestic; show number of households. _____
 - e. Other; describe fully. wildlife

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JUN 10 2004
Department of Water Resources

9. Description and place of use:

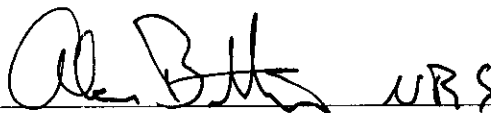
- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: *D* for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
14N	26E	12																S/w	

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above _____.
11. a. Who owns the property at the point of diversion? BLM
- b. Who owns the land to be irrigated or the place of use? BLM
- c. If property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____
12. Remarks: Locally known as Posion Spring Reservoir
13. **MAP OF PROPOSED PROJECT REQUIRED** – Attach an 8 ½" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle 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 of Applicant (and title, if applicable)

Received by: _____ Date _____

Prelim. check by _____ Fee \$ 100

Received by DC # E029704

Publication prepared by Sc

Published in Recorder Herald

Publication Approved Sc

Time _____

Date 4/16/2004

Date _____

Date May 6 & 13, 2004

Date 5/24/04

Poison Spring
Gps U031620A = POD
Gps U031620C = POND Circumference
3/16/04
T 14 N R 26E
Sec 12 SENWSE

Poison Spring

Poison Spring

Spring Prospect

Prospects

Texas

Ditch

Ditch

CENTER

RIDGE

Revised Protraction Diagram No 63 approved 12/21/1971

LEHIGH COUNTY 059
SALMON DISTRICT SEC 3

MT PLAT

[illegible]

1 C0630 Lot PL 167 (Act of Cong 7/23/1955)
completed 12/9/1960. All HF surface wght by
USFS

FOR ORDERS EFFECTING DISPOSAL OR USE OF
UNIDENTIFIED LANDS REFER TO INDEX OF
MISCELLANEOUS DOCUMENTS.

CURRENT TO	CURRENT TO
JAN 20 2000	

USE PLATE:

Rohrer, M.

T 14 N

R 26 F

**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

January 13, 2006

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
SALMON DISTRICT
1206 S CHALLIS ST
SALMON ID 83467

RE: Permit No. 74-15436

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.

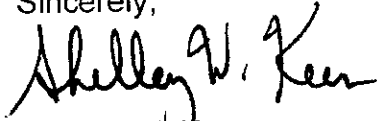
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

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 more prominent.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

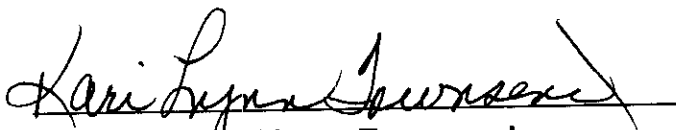
CERTIFICATE OF SERVICE

I hereby certify that on January 13, 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.

74-15436

**US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
SALMON DISTRICT
1206 S CHALLIS ST
SALMON ID 83467**

A handwritten signature in black ink, reading "Kari Lynn Townsend", written over a horizontal line.

**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.

IDWR
Eastern Regional Office
900 N Skyline Dr.
Suite A
Idaho Falls, ID 83402-6105

December 20, 2005

IDWR:

This is in response to your letter of November 21, 2005 regarding several water right Application for Permits and the Order Rescinding Salmon-Clearwater Basin Moratorium and Wilderness Moratorium. Please continue processing the following applications: 73-11973, 73-12039, 74-15436 and 74-15635. The BLM is still in the process of developing these water sources.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan Bittner".

Alan Bittner
Natural Resource Specialist

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DEC 27 2005
Department of Water Resources
Eastern Region

November 21, 2005

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
SALMON DISTRICT
1206 S CHALLIS ST
SALMON ID 83467

Re: Application to Appropriate Water no. 74-15436

Dear Applicant:

The records of the Idaho Department of Water Resources (the Department) show that you filed an application to appropriate water no. 74-15436 with the Department proposing diversion of water from a water source in the Salmon River Basin or the Clearwater River Basin. In April 1993, a moratorium order signed by the Director of the Department prohibited processing and approval of most new permits to appropriate water proposing to divert and use water from surface water sources in the Salmon River and Clearwater River Basins. In October 1999, a second moratorium order signed by the Director of the Department prohibited processing and approval of most new permits to appropriate water proposing to divert and use water from surface water and ground water sources within and upstream of designated wilderness areas in the Salmon River and Clearwater River Basins. Recently, the Director of the Department issued an order rescinding both moratoriums.

Enclosed is the order titled *Order Rescinding Salmon-Clearwater Basin Moratorium and Wilderness Moratorium*. The order directs Department staff to begin processing applications to appropriate water that were held during the moratoriums. Applications will be processed in the approximate order of the Department's receipt of the applications. A reasonable number of applications will be processed each month considering other duties assigned to Department staff. A document attached to the order titled "Statement of Available Procedures and Applicable Time Limits" explains possible actions you might take should you disagree with the order.

Because of the passage of time since you filed your application for permit to appropriate water, ownership of land, desire to use water, or other circumstances may have changed. **This letter requests that you inform the Department in writing, at the address in the letterhead, of your continuing interest in applying for a permit to appropriate water. This letter is a request for additional information under Idaho Code § 42-204. If the requested written statement of continuing interest is not received by the Department within thirty (30) days**

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DEC 01 2005

Scanned by

November 21, 2005

Page 2

of the date of this letter, the Department will assume you are no longer interested in applying for a permit to appropriate water, and will void your application pursuant to Idaho Code § 42-204. If you wish to voluntarily withdraw your application, please complete the enclosed withdrawal form and return it to this office.

If you have questions, please call the Department at (208)287-4952.

Sincerely,

A handwritten signature in black ink, reading "Gary Spackman". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Gary Spackman, Chief
Water Allocations Bureau

Enclosures (2)

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATIONS AND	)	ORDER RESCINDING
PERMITS FOR THE DIVERSION AND USE	)	SALMON - CLEARWATER
OF SURFACE WATER AND GROUND	)	BASIN MORATORIUM AND
WATER IN THE SALMON RIVER AND	)	WILDERNESS
CLEARWATER RIVER BASINS	)	MORATORIUM

FINDINGS OF FACT

Salmon - Clearwater Basin Moratorium

1. On May 15, 1992, the Director of the Department of Water Resources ("Director" or "Department") issued a *Moratorium Order* enjoining the processing of most applications to appropriate surface water sources within the Salmon and Clearwater River Basins. On April 30, 1993, the Director issued an *Amended Moratorium Order* ("Salmon - Clearwater Order"), again enjoining the processing of most applications to appropriate water.

2. The Salmon - Clearwater Order stated:

This moratorium shall be in effect on and after the date it is entered until withdrawn or modified by further order of the Director. A future decision to continue or rescind the moratorium will consider all efforts being made within the region toward the recovery of the salmon.

3. Since the issuance of the Salmon - Clearwater Order, significant efforts have been undertaken in the Salmon River and Clearwater River Basins for the recovery of salmon. These activities include:

- Protection of instream flows in streams and rivers to benefit anadromous fish habitat;
- A process for re-establishment of flows in dewatered anadromous fish streams by delivery of rented or acquired water rights to the dewatered reaches;
- Screening and control of irrigation diversions;
- Consolidation of irrigation diversions;

- Riparian habitat improvement projects; and
- Administration of water rights following creation of the Upper Salmon River Water District (creation anticipated at the end of 2005).

Wilderness Moratorium

4. On October 26, 1999, the Director issued a *Moratorium Order* ("Wilderness Order") enjoining further processing and development of pending applications and permits for the diversion and use of surface and ground water in and tributary to the Selway-Bitterroot Wilderness Area, the Gospel-Hump Wilderness Area, and the Frank Church River of No Return Wilderness Area.

5. The Director issued the Wilderness Order in response to an Idaho Supreme Court decision titled *United States v. City of Challis*, 133 Idaho 525, 988 P.2d 1199 (1999). The *City of Challis* decision affirmed a 1997 Snake River Basin Adjudication (SRBA) District Court decision that the United States is entitled to reserved water rights to all unappropriated water within the Selway-Bitterroot, the Gospel-Hump, and the Frank Church River of No Return Wilderness areas. The Director determined the recognition of the federal reserved water rights to include all unappropriated water within and upstream of the wilderness areas.

6. The Wilderness Order affected all water permits and applications for permit for which proof of beneficial use had not been filed with the Department in the Salmon River Basin upstream from the location where the Salmon River leaves the Gospel-Hump Wilderness Area in Section 3, Township 24 North, Range 4 East, Boise Meridian, and in the Clearwater River Basin upstream from the location where the Selway River leaves the Selway-Bitterroot Wilderness in Section 7, Township 31 North, Range 10 East, Boise Meridian.

7. The Wilderness Order required all water permit holders to cease development authorized by the permits. Some permit holders submitted proof of beneficial use for the beneficial use completed as of the date of the Wilderness Order. Other permit holders ceased development, and the requirement for filing proof of beneficial use was stayed until the Wilderness Order was amended or lifted to allow additional development.

8. The Idaho Supreme Court granted a petition for rehearing of the *City of Challis* decision, and, on October 27, 2000, the Idaho Supreme Court issued another decision titled *Potlatch Corp. v. United States of America*, 134 Idaho 916, 12 P.3d 1260 (2000). The Court reversed its previous decision in *United States v. City of Challis* and held the Wilderness Act and associated wilderness designations did not create federal reserved water rights for the Frank Church River of No Return, the Selway-Bitterroot, and the Gospel-Hump Wilderness Areas.

Wild and Scenic Rivers

9. In the case of *Potlatch Corp. and Hecla Mining v. United States*, 134 Idaho 912, 12 P.3d 1256 (2000), the Idaho Supreme Court determined that federal designation of Wild and Scenic Rivers in Idaho reserved water rights for the federal government to satisfy the intent of the designation. The Idaho Supreme Court remanded the case to the SRBA District Court for quantification of the reserved water rights for the Wild and Scenic Rivers.

10. On November 16, 2004, the SRBA District Court entered an Amended Order Approving Stipulation and Entry of Partial Decrees in SRBA Case No. 39576 (Consolidated Subcase No. 75-13316 Wild & Scenic Act Claims). The amended order and the associated partial decrees define federal reserved water rights nos. 75-13316, 77-11941, 77-13844, 78-11961, 81-10472, 81-10513, and 81-10625 in Wild and Scenic Rivers in the Salmon and Clearwater River basins. A stipulated agreement (hereafter referred to as the "Wild & Scenic Agreement") between the United States and parties to the original subcases prior to consolidation forms the framework for the partial decrees issued by the SRBA District Court. The Wild & Scenic Agreement and the partial decrees defining the federal reserved water rights set forth subordination provisions under which the federal reserved water rights are subordinate to other existing and future water rights, describe limitations on appropriation and beneficial use under existing and future water rights to which the federal reserved water rights are subordinate, and provide specific requirements for the administration of water rights within the Salmon and Clearwater River basins.

CONCLUSIONS OF LAW

1. In issuing the Salmon - Clearwater Order and the Wilderness Order, the Director relied on Idaho Code § 42-1805(7). The subsection grants the Director the authority:

After notice, to suspend the issuance or further action on permits or applications as necessary to protect existing vested water rights or to ensure compliance with the provisions of chapter 2, title 42, Idaho Code, or to prevent violation of the minimum flow provisions of the state water plan.

2. The Salmon - Clearwater Order was issued after the Director found and concluded that further appropriations of surface water at the time would not be in the local public interest and would not be consistent with conservation of the waters of the State of Idaho.

3. Enhancements to streamflows, other improvements to anadromous fish habitat, the execution of the Wild & Scenic Rivers Agreement, and the determination of related federal reserved water rights, have addressed the underlying basis upon which the *Amended Moratorium Order* was issued.

4. The prohibition of new water right appropriations by the Director's Salmon – Clearwater Order dated April 30, 1993, can be rescinded and processing of applications to appropriate surface water in the Salmon River and Clearwater River Basins can be allowed.

5. The Wilderness Order was issued following the initial Idaho Supreme Court decision of *United States v. City of Challis*, 133 Idaho 525, 988 P.2d 1199 (1999). Based on the Court's decision, the Director determined there was no additional water available for appropriation. Upon reconsideration, the subsequent Idaho Supreme Court decision, *Potlatch Corp. v. United States of America*, 134 Idaho 916, 12 P.3d 1260 (2000), determined that the wilderness designations did not reserve water rights for the wilderness. As a result of the latest Supreme Court decision in *Potlatch*, the Wild and Scenic Rivers Agreement, and related federal reserved water rights, there is additional water available for appropriation within the limitations described by the Wild & Scenic Agreement and the partial decrees for related federal reserved water rights.

6. The prohibition of new water right appropriations and development authorized by permits to appropriate water by the Director's Wilderness Order dated October 26, 1999, can be rescinded and processing of applications to appropriate water and continued development authorized under existing permits to appropriate water can be allowed.

7. Permit holders who were prohibited from completing application of water for the beneficial use authorized under existing permits are entitled to additional time to complete application of water for beneficial use. For each permit, the additional time granted for completing development should be equal to the number of days from the date the Wilderness Order was issued to the date proof of beneficial use was originally due under the permit. The Department should issue an order subsequent to this order establishing the additional time to complete development delayed by the Wilderness Order and specifying the revised date for filing proof of beneficial use for each permit.

ORDER

IT IS HEREBY ORDERED that the *Amended Moratorium Order*, issued on April 30, 1993, prohibiting appropriations of surface water in the Salmon and Clearwater River Basins, is **RESCINDED**.

IT IS FURTHER ORDERED that the *Moratorium Order*, issued on October 26, 1999, prohibiting appropriations of surface and ground water and development of permits for the use of surface water or ground water in and tributary to the Selway-Bitterroot Wilderness Area, the Gospel-Hump Wilderness Area, and the Frank Church River of No Return Wilderness Areas, is **RESCINDED**.

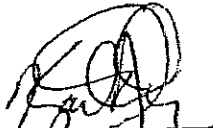
IT IS FURTHER ORDERED that permit holders who were prohibited from completing beneficial use of water authorized under existing permits by the *Moratorium Order* issued on October 26, 1999, are granted additional time for completing the beneficial use authorized. For

each permit, the additional time granted for completing development shall be equal to the number of days from the date the Wilderness Order was issued to the date proof of beneficial use was originally due for the permit. The Department shall issue an order subsequent to this order allowing additional time for completion of beneficial use delayed by the Wilderness Order and specifying a date for filing proof of beneficial use for each permit.

IT IS FURTHER ORDERED that appropriations of ground water and surface water within the Salmon River Basin may resume subject to the requirements of the Wild and Scenic Agreement and the federal reserved water rights decreed in accordance with that stipulated agreement.

IT IS FURTHER ORDERED that Department staff shall process new applications to appropriate water generally in the chronological order of the receipt of the applications. Department staff shall also process a reasonable number of applications per month considering all other duties assigned to Department staff.

Dated this 9th day of November, 2005.



KARL J. DREHER
Director

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**EXPLANATORY INFORMATION
TO ACCOMPANY A
FINAL ORDER**

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "Final Order" issued by the department pursuant to section 67-5246, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order as shown on the certificate of service. **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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter 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: a) the service date of the final order, b) an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

June 15, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
SALMON DISTRICT
50 HWY 93 S
SALMON ID 83467

RE: Application for Permit 74-15436

Dear Applicant:

The Department of Water Resources (IDWR) is reviewing Application 74-15436, in which you applied to store 1 AF of water from a spring in Lemhi County. IDWR cannot take action on this application due to the Wilderness moratorium. I have enclosed a copy of the application and the Moratorium Order issued October 26, 1999, for your information and convenience. Your application proposes to establish a new water right within the area affected by the moratorium order. The moratorium order allows for processing an application only if one or more of the following criteria are met.

1. The application proposes a non-consumptive use of water.
2. The use of the water pursuant to the application would have no affect on other water rights due to the proposed location of use.
3. The use of the water pursuant to the application would have no affect on other water rights due to mitigation provided by the applicant.

The first exception does not apply to your application because the storage use proposed in Application 74-15436 is consumptive because of the increased evaporation that would occur when the water is impounded. The second exception does not appear to apply because a direct hydrologic connection between the source named in your application and Texas Creek is highly probable. The third exception does not apply because you have not offered a source of water to mitigate for your proposed water uses. For these reasons, IDWR cannot continue to process your application at this time. IDWR will hold your application indefinitely in conformance with the moratorium order unless you offer a mitigation plan or other information showing that your application can be processed under the exception criteria listed above.

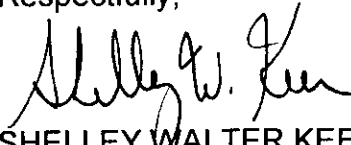
June 15, 2004

Page 2

Application for Permit 74-15436

If you have any questions concerning this matter, please contact me at (208)327-7946.

Respectfully,

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

SHELLEY WALTER KEEN
Water Rights Supervisor

Enclosures

Comment Report

74-15436

1. kwalker 6/11/2004 Permit Review

Comment: Application falls with Salmon Clearwater and Wilderness Moratorium areas.

Will place file in hold drawer until we can take action on it.

APPLICATIONS FOR PERMIT NO:

75-14150, 75-14151, 75-14152,
74-15435, 74-15436, 74-15445,
75-14153

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

BUREAU OF LAND MANAGEMENT
50 HWY 93 S
SALMON ID 83467

75-14150

Point(s) of Diversion: NENENE S14
T47N R20E, Lemhi County

Source: SPRING, Tributary to SINKS
Use: STOCKWATER

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

01/01 To 12/31 0.02 CFS
Total Diversion 0.02 CFS

Date Filed: 04/12/2004

Place of Use: WILDLIFE AND
STOCKWATER

T47N R20E S14 NENE

75-14151

Point(s) of Diversion: SENWNE S11
T17N R20E, Lemhi County

Source: SPRING, Tributary to SINKS
Use: STOCKWATER

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

01/01 To 12/31 0.02 CFS
Total Diversion 0.02 CFS

Date Filed: 04/12/2004

Place of Use: STOCKWATER AND
WILDLIFE

T17N R20E S11 NWNE

75-14152

Point(s) of Diversion: NENWSW S12
T17N R20E, Lemhi County

Source: SPRING, Tributary to SINKS
Use: STOCKWATER

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

01/01 To 12/31 0.02 CFS
Total Diversion 0.02 CFS

Date Filed: 04/12/2004

Place of Use: WILDLIFE AND
STOCKWATER

T17N R20E S12 NWSW

74-15435

Point(s) of Diversion: L4 (NESWNW)
S17 T16N R26E, Lemhi County

Source: SPRING, Tributary to SINKS
Use: STOCKWATER

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

01/01 To 12/31 0.02 CFS

Affidavit of Publication

RECEIVED

MAY 24 2004

Department of Water Resources
Eastern Region

STATE OF IDAHO

County of Lemhi

ss.

RICKY G. HODGES being first duly sworn, deposes and says he is one of the publishers (printers) of The Recorder Herald, a newspaper published weekly at Salmon, Lemhi County, Idaho, and of general circulation therein. That the **APPLICATION FOR PERMITS**, a true printed copy of which is attached to the margin hereof, has been and was correctly printed and published in the regular and entire issue of every number of said newspaper and not in any supplement thereof or thereto for **TWO (2)** consecutive issue(s), commencing with the issue dated **5-6-2004** and ending with the issue dated **5-13-2004**.

STATE OF IDAHO

County of Lemhi

ss.

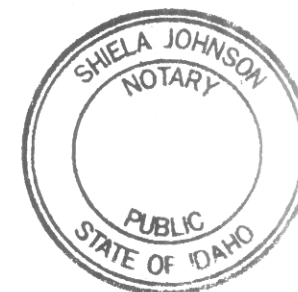
On this **20th day of May** in this year of 2004 before me, A Notary Public, personally appeared RICKY G. HODGES, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Shiela Johnson
Notary Public for Idaho

Residing At Salmon, Idaho

My Commission expires: 01-02-2007

Publication Fee \$195.00



Place of Use: STOCKWATER AND
WILDLIFE

T16N R26E S17 SWNW Lot 4

74-15436

Point(s) of Diversion: SENWSW S12

T14N R26E Lemhi County

Source: SPRING, Tributary to SINKS

Use: STOCKWATER FROM STORAGE

01/01 To 12/31 1 AFA

Use: STOCKWATER STORAGE

01/01 To 12/31 1 AFA

Use: WILDLIFE FROM STORAGE

01/01 To 12/31 1 AFA

Use: WILDLIFE STORAGE

01/01 To 12/31 1 AFA

Total Diversion: 1 AFA

Date Filed: 04/12/2004

Place of Use: WILDLIFE STORAGE
AND STOCKWATER STORAGE

T14N R26E S7 NWSE

74-15445

Point(s) of Diversion: SESE S7 T16N

R26E, Lemhi County

Source: SPRING, Tributary to SINKS

Use: STOCKWATER

01/01 To 12/31 0.02 CFS

Use: WILDLIFE

01/01 To 12/31 0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 03/31/2004

Place of Use: STOCKWATER AND
WILDLIFE

T16N R26E S14 SESE

75-14153

Point(s) of Diversion: SENESE S3

T19N R21E, Lemhi County

Source: SPRING, Tributary to SINKS

Use: STOCKWATER

01/01 To 12/31 0.02 CFS

Use: WILDLIFE

01/01 To 12/31 0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 03/31/2004

Place of Use: STOCKWATER AND
WILDLIFE

T19N R21E S3 NESE

Permits will be subject to all prior
water rights. Protests may be sub-
mitted 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 Re-
source, Eastern Region, 900 N. Sky-
line Dr. Ste. A, Idaho Falls, ID 83402
together with a protest fee of \$25.00
for each application on or before 05/



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. SKYLINE DR., SUITE A, IDAHO FALLS, ID 83402-1718

PHONE: (208) 525-7161 FAX: (208) 525-7177 WEB SITE: www.idwr.state.id.us

EASTERN REGION

April 27, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

BUREAU OF LAND MANAGEMENT
50 HWY 93 S
SALMON ID 83467

RE: Applications for Permit No74-15435, 74-15436, 74-15445, 75-14149, 75-14150, 75-14151, 75-14152, and 75-14153

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 Recorder Herald on May 6 and 13, 2004. 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.

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

Sincerely,

W Roger Warner
Water Rights Supervisor

WRW:sc



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. SKYLINE DR., SUITE A, IDAHO FALLS, ID 83402-1718

PHONE: (208) 525-7161 FAX: (208) 525-7177 WEB SITE: www.idwr.state.id.us

EASTERN REGION

April 27, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Legal Notice Department
RECORDER-HERALD
PO BOX 310
SALMON ID 83467

RE: Applications for Permit No. 75-14149, 75-14153, 74-15445, 74-15436, 74-15435, 75-14150,
75-14151, 75-14152

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 May 24, 2004. Your cooperation is appreciated.

Sincerely

Sharla Cox
Administrative Assistant

Mailed
4/28/04
SC

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

BUREAU OF LAND MANAGEMENT
50 HWY 93 S
SALMON ID 83467

75-14150

Point(s) of Diversion: NENENE S14 T17N R20E, LEMHI County
Source SPRING, Tributary To SINKS
Use: STOCKWATER 01/01 To 12/31 0.02 CFS
Use: WILDLIFE 01/01 To 12/31 0.02 CFS
Total Diversion: 0.02 CFS
Date Filed: 04/12/2004
Place Of Use: WILDLIFE AND STOCKWATER
T17N R20E S14 NENE

75-14151

Point(s) of Diversion: SENWNE S11 T17N R20E, LEMHI County
Source SPRING, Tributary To SINKS
Use: STOCKWATER 01/01 To 12/31 0.02 CFS
Use: WILDLIFE 01/01 To 12/31 0.02 CFS
Total Diversion: 0.02 CFS
Date Filed: 04/12/2004
Place Of Use: STOCKWATER AND WILDLIFE
T17N R20E S11 NWNE

75-14152

Point(s) of Diversion: NENWSW S12 T17N R20E, LEMHI County
Source SPRING, Tributary To SINKS
Use: STOCKWATER 01/01 To 12/31 0.02 CFS
Use: WILDLIFE 01/01 To 12/31 0.02 CFS
Total Diversion: 0.02 CFS
Date Filed: 04/12/2004
Place Of Use: WILDLIFE AND STOCKWATER
T17N R20E S12 NWSW

74-15435

Point(s) of Diversion: L4 (NESWNW) S17 T16N R26E, LEMHI County
Source SPRING, Tributary To SINKS
Use: STOCKWATER 01/01 To 12/31 0.02 CFS
Use: WILDLIFE 01/01 To 12/31 0.02 CFS
Total Diversion: 0.02 CFS
Date Filed: 04/12/2004
Place Of Use: STOCKWATER AND WILDLIFE
T16N R26E S17 SWNW Lot 4

74-15436

Point(s) of Diversion: SENWSE S12 T14N R26E, LEMHI County

Source SPRING, Tributary To SINKS

Use: STOCKWATER STORAGE	01/01 To 12/31	1 AFA
Use: STOCKWATER FROM STORAGE	01/01 To 12/31	1 AFA
Use: WILDLIFE STORAGE	01/01 To 12/31	1 AFA
Use: WILDLIFE FROM STORAGE	01/01 To 12/31	1 AFA
Total Diversion:		1 AFA

Date Filed: 04/12/2004

Place Of Use: WILDLIFE STORAGE AND STOCKWATER STORAGE
T14N R26E S12 NWSE

74-15445

Point(s) of Diversion: SESE S7 T16N R26E, LEMHI County

Source SPRING, Tributary To SINKS

Use: STOCKWATER	01/01 To 12/31	0.02 CFS
Use: WILDLIFE	01/01 To 12/31	0.02 CFS
Total Diversion:		0.02 CFS

Date Filed: 03/31/2004

Place Of Use: STOCKWATER AND WILDLIFE
T16N R26E S7 SESE

75-14153

Point(s) of Diversion: SENESE S3 T19N R21E, LEMHI County

Source SPRING, Tributary To SINKS

Use: STOCKWATER	01/01 To 12/31	0.02 CFS
Use: WILDLIFE	01/01 To 12/31	0.02 CFS
Total Diversion:		0.02 CFS

Date Filed: 03/31/2004

Place Of Use: STOCKWATER AND WILDLIFE
T19N R21E S3 NESE

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, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before 05/24/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on May 6 and 13, 2004