

**STARTING
LEFT
SIDE OF
FILE**

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 92-10020

Priority: July 14, 2005

Maximum Diversion Rate: 0.20 CFS

This is to certify, that WESLEY CASE
HC01 BOX 14
AVERY ID 83802

has applied for a permit to appropriate water from:

Source: CARPENTER CREEK **Tributary:** ST MARIES RIVER

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>
IRRIGATION	04/01 to 10/31	0.20 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS
FIRE PROTECTION	01/01 to 12/31	0.20 CFS

LOCATION OF POINT(S) OF DIVERSION:

CARPENTER CREEK	SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 7, Twp 43N, Rge 01E, B.M.	BENEWAH County
CARPENTER CREEK	SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 7, Twp 43N, Rge 01E, B.M.	BENEWAH County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
43N 01E 7	2.0			15.0													17.0

Total Acres: 17

PLACE OF USE: STOCKWATER AND FIRE PROTECTION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
43N 01E 7	X			X													

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2005**.
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. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish passage and fish screening requirements of the Idaho Department of Fish and Game.

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 92-10020

CONDITIONS OF APPROVAL CONTINUED

5. Water shall not be diverted under this right when flows in the St. Maries River are below established minimum flow amounts. The right holder shall be responsible for monitoring the daily flow of the St. Maries River near Santa using real-time data published on the Internet by the U. S. Geological Survey and shall cease diverting water when flows in the St. Maries River are below established minimum instream flow amounts.
6. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
7. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.
8. Stockwater use is for 25 mixed stock.
9. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
10. Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire.
11. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
12. Failure of the right holder to comply with any condition of approval is cause for the Director to void this permit.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 9th day of December, 2005.


FOR KARL J DREHER, Director

Ident. No. 9210020

72/61
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED
JUL 14 2005
IDWR/North

1. Name of Applicant Wesley Case Phone 245-1808
Mailing address HC 01 Box 14 Avery ID 83802
2. Source of water supply Carpenter Creek, which is a tributary of St. Maries River
3. Location of point of diversion is Township 43N Range 1E Sec. 7, in the SE $\frac{1}{4}$, NE $\frac{1}{4}$, Govt. Lot Benevise, B.M., Benevise County;
additional points of diversion if any: T43N R1E Sec. 7 SENE
4. Water will be used for the following purposes:
- | |
|--|
| Amount <u>.20 cfs</u> for <u>Irrigation</u> purposes from <u>4/1</u> to <u>10/31</u> (both dates inclusive) |
| (cfs or acre-feet per annum) |
| Amount <u>.02 cfs</u> for <u>Stockwater</u> purposes from <u>1/1</u> to <u>12/31</u> (both dates inclusive) |
| (cfs or acre-feet per annum) |
| Amount <u>.20 cfs</u> for <u>FIRE PROTECTION</u> purposes from <u>1/1</u> to <u>12/31</u> (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) .20 cubic feet per second and/or (b) _____ acre feet per annum
6. Proposed diverting works: ① Check dam - 2'-rock ② 4' cement check dam
- a. Describe type and size of devices used to divert water from the source Pump to 2'-2 1/2" pipe to troughs & sprinklers
- b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ 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 5 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. <u>25 mixed</u> |
| c. Municipal; show name of municipality. _____ |
| d. Domestic; show number of households. _____ |
| e. Other; describe fully. _____ |

9. 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	
43N	1E	7	2			15													17
			S/F			S/F													

Total number of acres to be irrigated 17

10. Describe any other water rights used for the same purposes as described above. n/a

11. a. Who owns the property at the point of diversion? Applicant
- b. Who owns the land to be irrigated or place of use? Applicant
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

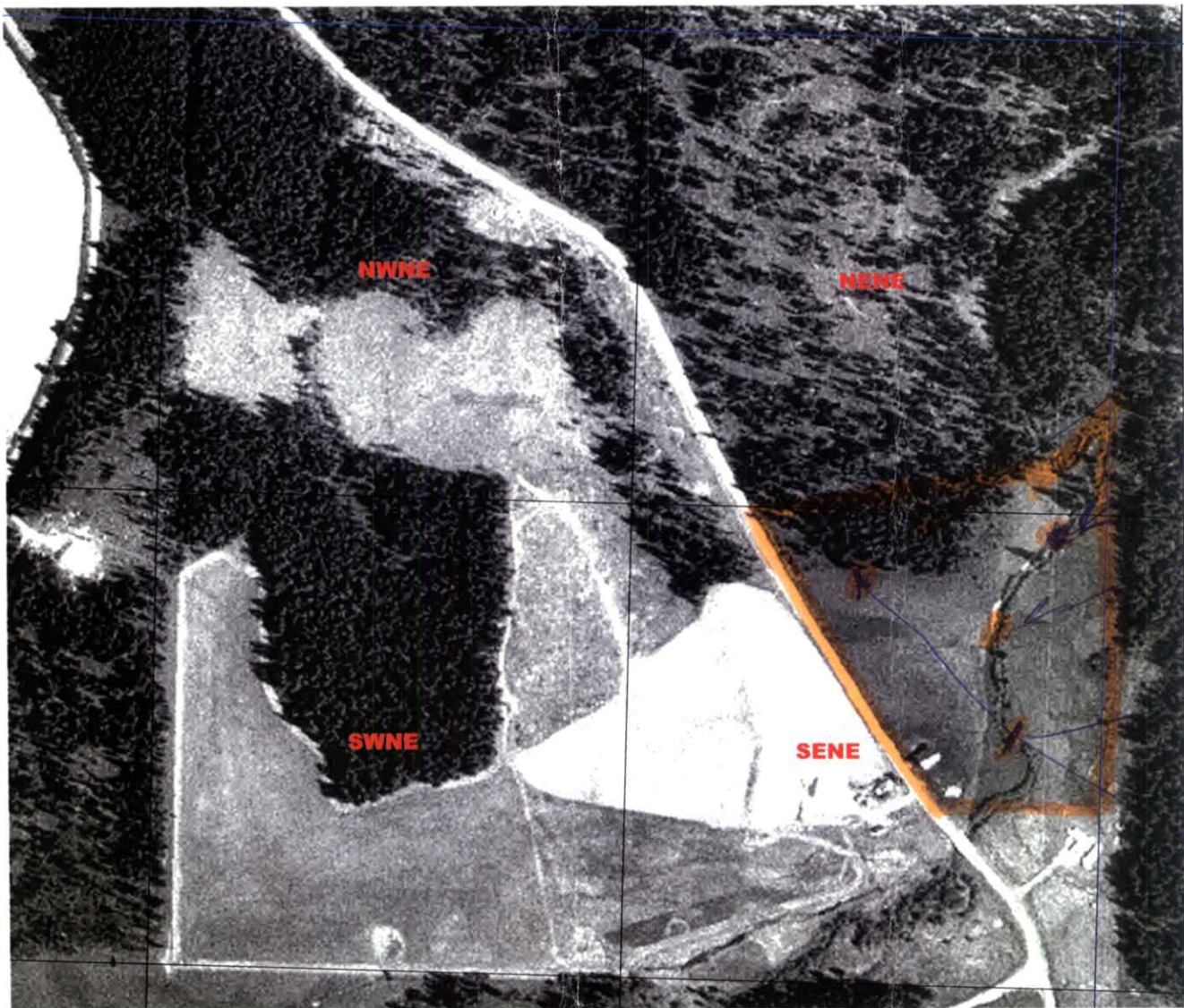
12. Remarks: _____

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.

x Wesley A. Terrell
Signature of Applicant (and title, if applicable)

Received by cb Date 7/14/05 Time 1:35 P Preliminary check by _____
 Fee \$ 100.00 Received by cm # N0114892 Date 5/6/05
 Publication prepared by cb Date 8/5/05 Published in St. Marcus Gazette 8/17-24/05
 Publication approved cb Date 8/29/05



**T43N R01E
Section(s) 7**

House



Place of Use



Point of Diversion

Not @ This Time

1-4 1 year Fire Pump Pool
1/2 collect dam.



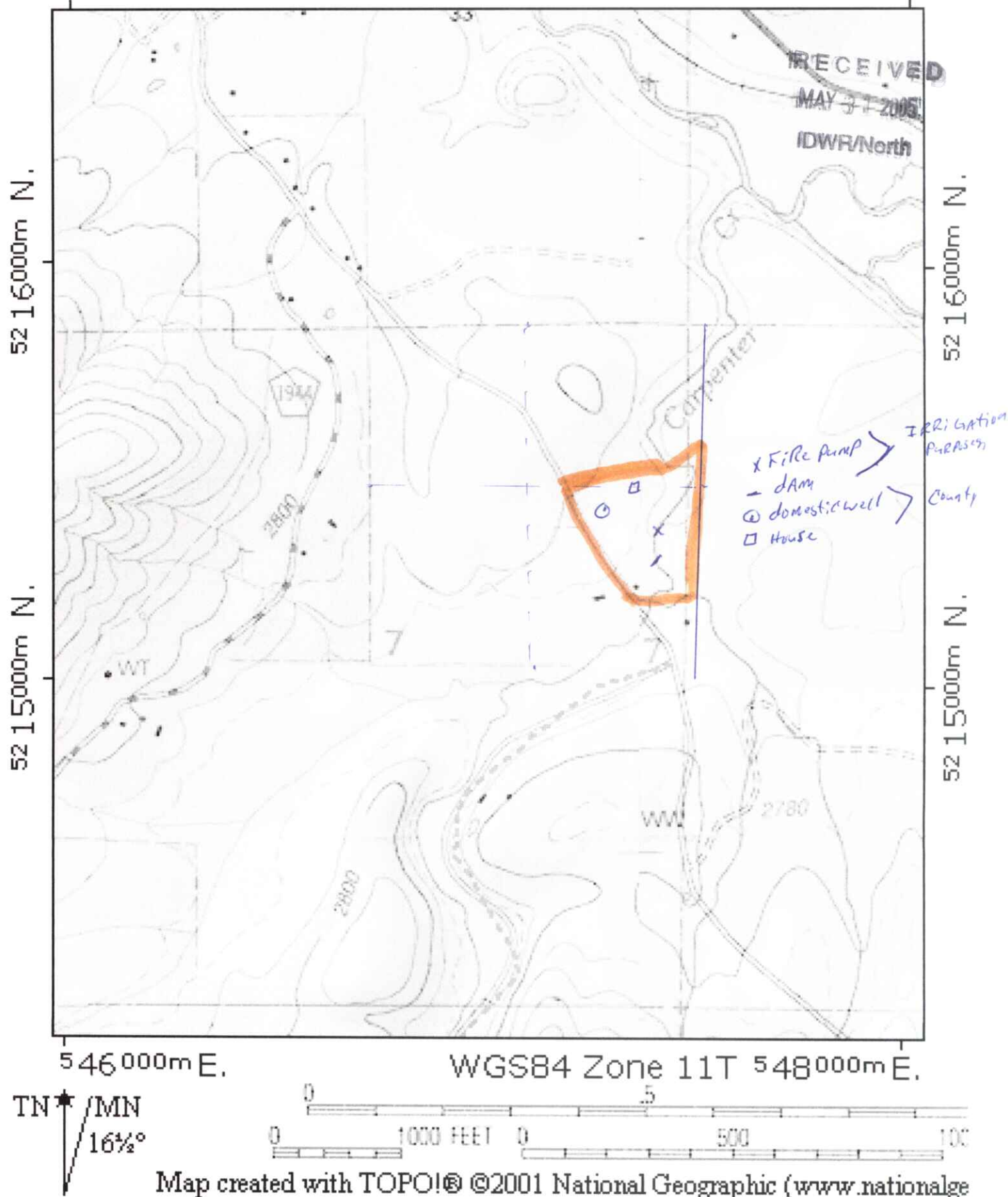
5 ~~at late 2005~~
~~2005~~
5 years

Well 1 year

0 1320 2640 Feet

RECEIVED
MAY 31 2005
IDWR/North

ited on 05/26/05 from "ST JOE ATV TRAIL SYSTEM.tpo" an
546 000m E. WGS84 Zone 11T 548 000m E.



#3

FORM 202
12/99

Ident. No. _____

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

RECEIVED
MAY 31 2005
IDWR/North

1. Name of Applicant Wesley Case Phone 208 245 1808

Mailing address H Col Box 14

2. Source of water supply CARPENTER Creek which is a tributary of ST MARYS RIVER
3. Location of point of diversion is Township 43 N Range 1 E Sec. 7, in the SE 1/4, NE 1/4, Govt. Lot 1, B.M., BENEWAH County;

additional points of diversion if any:

4. Water will be used for the following purposes: ~~stock water~~ 01/01 to 12/31

Amount 1001.00 AF for PASTURE IRRIGATION purposes from 06/01 to 9/15 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 1 AF .02 for STOCK WATER purposes from 01/01 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 3 AF for CHRISTMAS TREES purposes from 06/01 to 9/15 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 4 AF for DOMESTIC purposes from 01/01 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)

5. Total quantity to be appropriated is (a) 12 CFS and/or (b) * 20 AF
cubic feet per second acre feet per annum

6. Proposed diverting works: DAM

a. Describe type and size of devices used to divert water from the source 150 - 300 GALLON PER MINUTE PUMP (PRESSURE) 2" - 2 1/2" DISCHARGE

b. Height of storage dam 4 Feet feet; active reservoir capacity _____ acre-feet; total reservoir capacity 1/10 AF acre-feet

c. Proposed well diameter is 4-6" inches; proposed depth of well is 40' feet

d. Is ground water with a temperature of greater than 85°F being sought? 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 5 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. MAY BE IN THE FUTURE @ 2nd SITE

b. Stockwatering; list number and kind of livestock. 4 COW CALF PAIRS CHAROLIS/GALLOWAY

c. Municipal; show name of municipality. OR 20 GOATS

d. Domestic; show number of households. 1 on private well to be drilled (GARDEN)

e. Other; describe fully. ① PASTURE IRRIGATION, ② LIVE STOCK, ③ IRRIGATE FRUIT TREES GARDEN & FOREST SEEDLINGS, ④ FIRE PROTECTION

⑤ Cement Check Dam 4' High for A. Holding water

B. Sediment capture to improve RESTORING

C. Wet crossing / for Sediment Removal

9. 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	
43N	1E	7				X													
		7				52													15
		7				100													
		7				100													2
		7				100													
		7				100													
		7				100													17
		7				100													1

Total number of acres to be irrigated 17

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? Wes Case

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

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: See Attached

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8 1/2"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.

Wesley A. Case

Signature of Applicant (and title, if applicable)

Received by _____ Date _____ Time _____ Preliminary check by _____

Fee \$ _____ Receipted by _____ # _____ Date _____

Publication prepared by _____ Date _____ Published in _____

Publication approved _____ Date _____

#3 SE of the NE of the NE of 4 } Sec 7 R. 43N Boise Meridian
NE of the NE of the SE Benev AH Co Ident. No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED
MAY 31 2005
IDWR/North

1. Name of Applicant Wesley Case Phone 208 245 1808

Mailing address H Col Box 14 Avery ID 83802

2. Source of water supply CARPENTER Creek which is a tributary of STMARY RIVER

3. Location of point of diversion is Township 43 N Range 1 E Sec. 7, in the NE 1/4 1/4, 4SE 1/4
N 1/4, 4NE 1/4, Govt. Lot 1, B.M., Benev AH County;

additional points of diversion if any: CHRISTMAS TREES 06/15 9/15
01/01 12/31

4. Water will be used for the following purposes: stock water
Amount 100 AF for PASTURE irrigation purposes from 06/01 to 9/15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 1 AF for stock water purposes from 01/01 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 3 AF for CHRISTMAS TREES purposes from 06/01 to 9/15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 4 AF for domestic purposes from 01/01 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)

5. Total quantity to be appropriated is (a) 20 cfs and/or (b) 20 AF
cubic feet per second acre feet per annum

6. Proposed diverting works: 1/2 DAM, 2' creek @ 4' dam cement
a. Describe type and size of devices used to divert water from the source 150 - 300 Gallon per minute pump (pressure) 2" - 2 1/2" discharge
b. Height of storage dam 4 feet feet; active reservoir capacity _____ acre-feet; total reservoir capacity 1/10 AF acre-feet
c. Proposed well diameter is 4-6" inches; proposed depth of well is 40' feet
d. Is ground water with a temperature of greater than 85°F being sought? No
e. If well is already drilled, when? _____; Drilling firm _____
Well was drilled for (well owner) _____; Drilling Permit No. NR

7. Time required for completion of works and application of water to proposed beneficial use is 1000 years (minimum 1 year)
5 yrs dam @

8. Description of proposed uses (if irrigation only, go to item 9):
a. Hydropower; show total feet of head and proposed capacity in kW. MAY be in the future @ 2nd site
b. Stockwatering; list number and kind of livestock. 4 cow calf pairs CHAROLIS/GALLOWAY
c. Municipal; show name of municipality. OR 20 Goats
d. Domestic; show number of households. 1
e. Other; describe fully. 1 PASTURE irrigation, 2 Live stock, 3 IRRIGATE Fruit trees garden & forest seedlings, 4 Fire Protection

5 Cement check dam 4' High for A. Holding water
not @ this time
B. sediment capture to improve fishery
C wet crossing / Sediment
Removal

9. 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	
43N	1E	7				X												X	.1 AC
		7				S												S	.1 AC
		7				F												F	.1 AC
		7				D												D	1 A
		7				H													
		7				IR	GATTSON											I	

Total number of acres to be irrigated 17

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? Wes Case

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

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: See ATTACHED

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.

Wesley A. Case

Signature of Applicant (and title, if applicable)

Received by cm Date 5-5-05 Time 12:18 pm Preliminary check by _____
 Fee \$ 100.00 Received by cm # NO16892 Date 5-5-05
 Publication prepared by _____ Date _____ Published in _____
 Publication approved _____ Date _____

**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

December 13, 2005

WESLEY CASE
HC01 BOX 14
AVERY ID 83802

RE: Permit No. 92-10020

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.

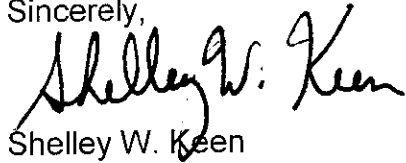
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should 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 that reads "Shelley W. Keen". The signature is written in a cursive style with a large, stylized 'S' and 'K'.

Shelley W. Keen

Water Rights Supervisor

SWK:klf

Enclosure(s)

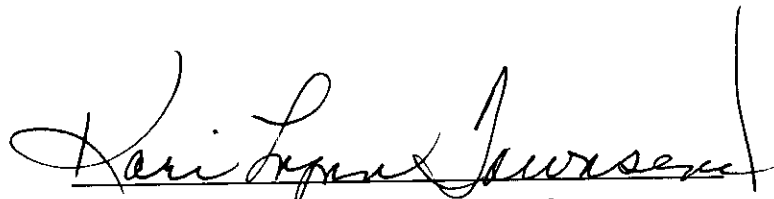
CERTIFICATE OF SERVICE

I hereby certify that on December 13, 2005 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.

92-10020

**WESLEY CASE
HC01 BOX 14
AVERY ID 83802**

A handwritten signature in black ink, appearing to read "Karl Lynn Townsend", written over a horizontal line.

**Karl 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

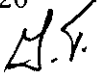
Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district 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.

Date: 11/18/2005

To: File #92-10020

From: Greg Taylor 

RE: IDFG Letter & Minimum stream flow

A letter was sent to Mr. Case explaining that his right will be conditioned to require him to cease diverting from Carpenter Creek if flows in St. Maries River fall below the minimum flows established. He still wishes to pursue his water right.

This Application for Permit, when approved, does not sanction violations of rules or laws required by other State or Federal agencies, including Fish & Game.

Recommend that this permit be **Approved**.

Gregory J. Taylor
State of Idaho
Department of Water Resources
1910 Northwest BLVD., Suite 210
Coeur d'Alene d'Alene, ID 83814
(208) 769 - 1450

RECEIVED

OCT 11 2005

IDWR/North

Application Permit no. 92-10020

Dear Greg,

I wish to pursue my water right claim. First we have been in a drought for many years and all rivers in the western U.S. are low, but the drought will pass. Second, I want to build a check dam to store water from the spring run off and use the water in the dry summer season when it is needed. I could also build ponds to store water from the spring run off to use in the summer. You should remember that the creek flooded this spring. Taking water early in the year will not effect summer flow. I will more than likely irrigate only 5 acres but may want some water on more acreage.

You do not state why you want 141 cfs from December 1 to July 31 and 65 cfs from August 1 to November 30. We might be able to work out a co-operative agreement that would benefit both of us.

Sincerely,

Wes Case
HC01 Box 14
Avery, ID. 83802



IDAHO FISH AND GAME

2750 Kathleen Avenue
Coeur d'Alene, Idaho 83815

Dirk Kempthorne/Governor
Steven Huffaker/Director

September 1, 2005

Idaho Department of Water Resources
Northern Region
1910 Northwest Blvd, S 210
Coeur d'Alene, ID 83814

Via email to Dianne Ball:

REFERENCE: 92-10020 – WESLEY CASE

We have reviewed the above listed application to install two check dams (one rock, one cement) and pipeline on Carpenter Creek, a tributary to the St. Maries River.

We have no objection to issuing the 0.2 cfs water right; however, we recommend against permitting construction of a dam to impound Carpenter Creek. The applicant should be required either to withdraw water from the creek as needed or install off-stream storage.

An in-stream impoundment may contribute to elevated stream temperatures and have other potentially adverse impacts on water quality and stream function. Elevated temperatures may be detrimental to cutthroat trout that depend on cool water streams such as Carpenter Creek for spawning and rearing habitat.

The applicants should be made aware that a dam must be designed, installed and maintained to allow fish passage per Idaho Code 36-906. No dam design or details were provided in the application information; therefore we anticipate that we will have an opportunity to review and comment on a stream alteration permit application detailing the design and construction plans for a dam, if that option is considered for obtaining water for this water right.

Additionally, we recommend for off-stream storage that the applicant be required to install lines beneath the streambed. In-stream installation should occur during low water periods when underwater excavation will be minimized. Dug materials should be sidecast to only one side and the bottom contour and substrate restored. Any unburied sections of the line should be anchored on the bottom. Water intakes should be screened to prevent entrainment or impingement of fish. The maximum screen mesh size should be 0.25 inches; approach velocities should not exceed 0.5 ft/second to prevent losses of juvenile fish.

Thank you for the opportunity to comment.

Mary Terra-Berns
Environmental Staff Biologist

C: IDFG NRPB, Boise; File

File: IDWR WR Case 92-10020



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

September 27, 2005

WESLEY CASE
HC 01 BOX 14
AVERY ID 83802

RE: Application for Permit No. 92-10020

Dear Applicants:

IDWR is reviewing the application you submitted for a right to divert 0.20 cfs from ^{*Capehart*}Olson Creek tributary to the St. Maries River for the irrigation of 17 acres. Idaho Code § 42-203A(5) requires IDWR to ensure that the use of water proposed in an application will not "reduce the quantity of water under existing rights." The Idaho Water Resource Board holds Water Right 92-7200, which establishes a minimum instream flow in the St. Maries River from the confluence of the West and Middle Forks of St. Maries River downstream to the confluence of John Creek. The minimum instream flow amount is 141.0 cfs from December 1 to July 31 and 65.0 cfs from August 1 to November 30.

IDWR is concerned that the diversion and use of water as proposed in your application will reduce the quantity of water available to maintain the minimum instream flow established by Water Right 92-7200. Data collected by the U. S. Geological Survey at the gaging station located on the St. Maries River near Santa from 2000 through 2003 show that the flow of the river falls below the minimum instream flow by July in most years. For your reference, I have enclosed charts comparing actual river flows to the minimum instream flow during the 2002 – 2003 irrigation seasons. The stream flow data was collected from the U. S. Geological Survey's Internet site at <http://id.water.usgs.gov/public/h2odata.html>.

If your application is approved, it will be issued with a condition requiring you to cease diverting water or to mitigate for your diversions during those periods that the flow of the St. Maries River falls below the minimum instream flow established in Water Right 92-7200. To be acceptable, a mitigation plan must offset the depletion of water in one source by replenishing it with water from another source. If your application is approved, you will be responsible for monitoring the flow in the St. Maries River on the USGS Internet site (<http://waterdata.usgs.gov/id/nwis/current/?type=flow>) and curtailing your diversion or mitigating when the flow is below the minimum instream flow amount. If you cannot provide a source of mitigation water, it is likely that you will not be authorized to irrigate during significant portions of many irrigation seasons.

September 27, 2005

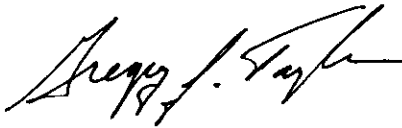
Page 2

Pursuant to Idaho Code § 42-1702, the penalty for the illegal diversion of water for irrigation purposes can be up to \$300 per acre irrigated per year. IDWR can also cancel permits pursuant to Idaho Code § 42-311 if the permit holder does not comply with the conditions of the permit.

After considering the impact of the minimum instream flow on your proposed project, please notify me in writing in 30 days if you still want IDWR to approve your application. If you are no longer interested in your application, please complete the enclosed withdrawal form and return it to me within 30 days. If IDWR does not receive a response within 30 days, IDWR will assume that you have no further interest in your application, and it will be voided.

If you have any questions, please call me at 208-769-1450, or email me at greg.taylor@idwr.idaho.gov.

Sincerely,

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

Gregory J. Taylor
Sr. Water Resource Agent

Enclosures

RECEIVED
AUG 29 2005
IDWR/North

Affidavit of Publication

STATE OF IDAHO
County of Benewah, ss.

Cynthia Ann Hammes, being first duly sworn on oath, deposes and says that she is vice president of The Corporation, owner of the St. Maries Gazette Record, a weekly newspaper printed and published at St. Maries, Benewah County, State of Idaho; the St. Maries Gazette Record is a newspaper having general circulation in Benewah County, State of Idaho, and has been continuously and uninterruptedly published in Benewah County, State of Idaho, during a period of more than seventy-eight consecutive weeks prior to the first publication of notice of advertisement herein.

That the notice, of which the one hereto attached is a true copy, was published in said newspaper for a period of two issues, the first publication being on the 17 day of August 2005 and the last on the 24 day of August 2005.

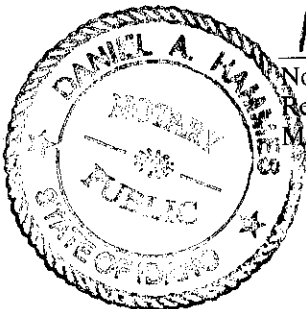
That said newspaper was regularly distributed to its subscribers during the time of the same period; that said notice was published in the regular and entire issue of said paper.

Dated this 24 day of August, 2005

Cynthia Ann Hammes

STATE OF IDAHO)
COUNTY OF BENEWAH)

On this 24 day of August, in the year of 2005 before me, a Notary Public, personally appeared Cynthia Ann Hammes, 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.



Daniel A. Hammes
Notary Public for Idaho
Residing at St. Maries, Idaho
My commission expires: 07-13-2009

Water use application

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

91-7153
STEVE HAWKS
JOHN STACKOW
JILL PERKINS
89231 HWY 3N
ST MARIES ID 83861
Point(s) of Diversion SESENE S7 T46N R02W BENEWAH County
Source GROUND WATER
Use: DOMESTIC 01/01 To 12/31 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 07/26/2005
Place Of Use: DOMESTIC T46N R02W S7SENE NESE Lot 7
Remark: Domestic use is for 3 homes.

92-10020
WESLEY CASE
HC01 BOX 14
AVERY ID 83802
Point(s) of Diversion (2) SENE S7 T43N R01E BENEWAH County
Source CARPENTER CREEK Tributary To ST MARIES RIVER
Use: IRRIGATION 04/01 To 10/31 0.2 CFS
Use: STOCKWATER 01/01 To 12/31 0.02 CFS
Use: FIRE PROTECTION 01/01 To 12/31 0.2 CFS
Total Diversion: 0.2 CFS
Date Filed: 07/14/2005
Place Of Use: IRRIGATION T43N R01E S7 NENE SENE
Number of Acres 17
Place Of Use: STOCKWATER & FIRE PROTECTION same as IRRIGATION
Remark: Stockwater use is for 25 head of mixed stock.

92-10021
RUSTIN L YOUNG
TINA K YOUNG
541 ROUND LAKE RD
ST MARIES ID 83861
Point(s) of Diversion SWNE S22 T45N R01W BENEWAH County
Source UNNAMED STREAM Tributary To THORN CREEK
Use: WILDLIFE 01/01 To 12/31 0.1 CFS
Use: WILDLIFE STORAGE 01/01 To 12/31 0.1 AFA
Use: FIRE PROTECTION STORAGE 01/01 To 12/31 0.1 AFA
Total Diversion: 0.1 CFS
Date Filed: 07/15/2005
Place Of Use: WILDLIFE T45N R01W S22 SWNE
Place Of Use: WILDLIFE STORAGE & FIRE PROTECTION STORAGE same as WILDLIFE

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 09/05/2005. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director Published August 17 & 24, 2005
6219 Aug. 17-Aug. 24

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

91-7153

STEVE HAWKS
JOHN STACKOW
JILL PERKINS
89231 HWY 3N
ST MARIES ID 83861

Point(s) of Diversion SESENE S7 T46N R02W BENEWAH County
Source GROUND WATER
Use: DOMESTIC 01/01 To 12/31 0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 07/26/2005
Place Of Use: DOMESTIC T46N R02W S7 SENE NESE Lot 7
Remark: Domestic use is for 3 homes.

92-10020

WESLEY CASE
HC01 BOX 14
AVERY ID 83802

Point(s) of Diversion (2) SENE S7 T43N R01E BENEWAH County
Source CARPENTER CREEK Tributary To ST MARIES RIVER
Use: IRRIGATION 04/01 To 10/31 0.2 CFS
Use: STOCKWATER 01/01 To 12/31 0.02 CFS
Use: FIRE PROTECTION 01/01 To 12/31 0.2 CFS
Total Diversion: 0.2 CFS

Date Filed: 07/14/2005
Place Of Use: IRRIGATION T43N R01E S7 NENE SENE
Number of Acres 17
Place Of Use: STOCKWATER & FIRE PROTECTION same as
IRRIGATION
Remark: Stockwater use is for 25 head of mixed stock.

92-10021

RUSTIN L YOUNG
TINA K YOUNG
541 ROUND LAKE RD
ST MARIES ID 83861

Point(s) of Diversion SWNE S22 T45N R01W BENEWAH County
Source UNNAMED STREAM Tributary To THORN CREEK
Use: WILDLIFE 01/01 To 12/31 0.1 CFS
Use: WILDLIFE STORAGE 01/01 To 12/31 0.1 AFA
Use: FIRE PROTECTION STORAGE 01/01 To 12/31 0.1 AFA
Total Diversion: 0.1 CFS

Date Filed: 07/15/2005
Place Of Use: WILDLIFE T45N R01W S22 SWNE
Place Of Use: WILDLIFE STORAGE & FIRE PROTECTION STORAGE
same as WILDLIFE

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

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KARL J DREHER, Director Published August 17 & 24, 2005



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

August 05, 2005

PLEASE FAX A PROOF COPY BEFORE PUBLICATION

Thanks, Dianne

KAISIE BREDE
LEGAL NOTICE DEPARTMENT
ST MARIES GAZETTE RECORD
610 MAIN AVE
ST MARIES ID 83861-1838

RE: Application for Permit No. 91-7153, 92-10020 and 92-10021

Dear LEGAL NOTICE DEPARTMENT:

I am sending this to you earlier than usual **for publication on August 17 and 24**, because I will be out of the office next week for some surgery to repair an incision from my surgery the end of last year. Thanks for taking care to see this gets published on those dates.

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated, August 17 and 24, 2005, (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 09/05/2005. Your cooperation is appreciated VERY MUCH!! It's always a pleasure to work with you.

Thank you,
Sincerely

Dianne

Dianne Ball
Administrative Assistant

Ball, Dianne

From: Ball, Dianne
Sent: Friday, August 05, 2005 2:35 PM
To: Legal Notices-SMGazette (E-mail)
Cc: Haynes, Bob; Taylor, Greg
Subject: Legal notice for publication on August 17 and 24, 2005, WRs 91-7153, 92-10020, 92-10021

Good afternoon to you, Kaisie,

As my cover letter (attached) will indicate, I am sending this to you earlier than usual **for publication on August 17 and 24**, because I will be out of the office next week for some repair on an incision from my last surgery the end of last year.

I thank you in advance for taking care to see that this gets published on those dates.

The legal notice is also attached, and I would appreciate your sending a FAX before the publication dates so it can be proof read by Mr. Bob Haynes, our Regional Manager, or Mr. Greg Taylor, our Senior Water Resource Agent.

Bob and Greg will both be alerted by copy of this e-mail, to look for your FAX for proof, with instructions to FAX back any changes or an "OK" to you.

I hope you will be able to simply copy and paste because it will save you lots of work. This one is a little longer than usual.



CoverLetter
8-05-05 SMGazette.



LegalNotice
8-05-05 SMGazette.

Again, MANY THANKS - it's always super to work with you.

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*



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

August 05, 2005

WESLEY CASE
HC01 BOX 14
AVERY ID 83802

RE: Application for Permit No 92-10020

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 St Maries Gazette on August 17 & 24, 2005. 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 and twelve weeks.

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

Sincerely,

Gregory J. Taylor
Senior Water Resource Agent



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

August 3, 2005

MARY TERRA-BERNS
IDAHO DEPARTMENT OF FISH AND GAME
2750 KATHLEEN AVE.
COEUR D'ALENE, ID 83815

FAXED TO MARY 8/3/05
5 pages total

Re: Water Permit Application No. 92-10020

Dear Mary:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application follows for your reference.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

We are sending this to you for your comments, and would appreciate receiving your comments by no later than **September 5, 2005**. If we do not hear from you by that date, we will assume that no comment from you means you have no objection to, concerns about, or conditions pertaining to the issuance of this permit.

You may send comments by regular mail to the address above, by FAX to 769-1454, or by e-mail to Dianne.Ball@idwr.idaho.gov.

Please contact this office if you have any questions regarding the application.

Sincerely,

Dianne Ball
Administrative Assistant

State of Idaho
Department of Water Resources
Northern Region
1910 Northwest Blvd., Suite 210
Coeur d'Alene, ID 83814
(208) 769 - 1450

April 15, 2005

RECEIVED
JUL 14 2005
IDWR/North

RECEIVED
MAY 31 2005
IDWR/North

Water Rights Claim.

I recently purchased 17 acres of land in Benewah County T43 N, R 1E, SEC. 7 a small portion of the SE 1/4 of the NE 1/4 (160) and part of the NE 1/4 of the SE 1/4 (160) totaling 17 acres. Carpenter creek flows through my property and I am claiming the water rights to irrigate my property. I have multiple intentions and uses for the water usage and want to be as environmentally friendly as possible and still accomplish my goals. I estimate I will only need 20 Acre feet a year.

- 1) I will be using the water to water my cows and to irrigate my pasture which I will be using to feed my cows. Irrigation 15 ac total S .1 ac
- 2) I will be watering my garden (fruit trees, grape vines and vegetables) D 2 ac
- 3) I will be watering tree seedlings to insure their survival in the pasture during the summer months. C 2 ac
- 4) I will have a pressure pump for fire protection. F 17 ac

These first four items will be in operation June 2005, Although the cattle will not be on the property this year due to the need to repair the barn.

5) I would like to build a cement dam 4 feet tall with a two series fish ladder to hold water for irrigation purposes as well as catch sediment from the emerald creek mining operation above my property. At this point I would like to build a cement wet crossing of the creek to facilitate the sediment removal. The check dam will provide water for my irrigation and improve fish habitat by

- A. Creating a deep pool to lower water temperatures.
- B. Removing sediment that destroys spawning habitat.
- C. Providing redds for spawning habitat
- D. Develop micro invertebrate and macro invertebrate habitat which is a food source for fish.

However due to finances and time restrictions I will build a small pool to irrigate from, but I want to reserve the right to build the 4' tall dam in the future to develop fish habitat.

I will build a house and a well for domestic purposes only. The approximate locations are noted on the map. I am currently working with local County officials on this project and do not feel I need your permission for that project, but I am giving you this information to help you understand the plans I am making for my property.

The time line for these projects is as follows:

2005 plant tree seedlings, garden, fruit trees and improve pasture and irrigate.
2006 fence and build shelter for cattle, Plant more tree seedlings. Graze cattle.
2007 - 2011 build and maintain check dam.

It is the Applicant's understanding that the water rights will be given as long as the owner owns the property and can be granted to the next purchaser. If you have any questions please call

Wesley Case
HC01 Box 14
Avery ID 83802
(208) 245 1808.