

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 02-10252

Priority: August 03, 2004

Maximum Diversion Rate: 0.20 CFS

This is to certify, that JOHN D EDWARDS
4393 HILLTOP LN
HOMEDALE ID 83628

has applied for a permit to appropriate water from:

Source: SNAKE RIVER

Tributary: COLUMBIA 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	03/01 to 11/15	0.20 CFS

LOCATION OF POINT OF DIVERSION:

SNAKE RIVER L7 (NE $\frac{1}{4}$ SW $\frac{1}{4}$) Sec. 13, Twp 03N, Rge 05W, B.M., OWYHEE 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		
03N 05W 13										6.0			4.0					10.0
										L 7								

Total Acres: 10

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 01, 2006**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
4. 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.
5. Water shall not be diverted under this right when flows in the Snake River are below established minimum flow amounts at any of the following locations: Weiser, 4750 cfs; Johnson Bar, 5000 cfs; Lime Point 13,000 cfs.
6. The right holder shall not assign or sell the permit without first securing the written approval of the Department of Water Resources.

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 02-10252

7. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to 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 22ND day of July, 2005

Gary Spackman
for KARL J DREHER, Director

RECEIVED

JUL 21 2005

Ident. No. 02-10252

RECEIVED

AUG 03 2004

DEPARTMENT OF
WATER RESOURCES
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

WATER RESOURCES
WESTERN REGION

Applicant John D Edwards Phone 208 337 5900
Mailing address 4393 Hilltop Ln Homedale, Idaho 83628
2. Source of water supply Snake River which is a tributary of Columbia River
3. Location of point of diversion is Township 3N Range 5W Sec. 13 in the
NE $\frac{1}{4}$, SW $\frac{1}{4}$, Govt. Lot 7, B.M., Oughes County, IDAHO

additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 2 for Irrigation purposes from 3/15 to 11/15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) 2 and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source 5 HP Electric

pump to 4" mainline

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 1 years (minimum 1 year)

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

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

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; show name of municipality. _____

d. Domestic; show number of households. _____

e. Other; describe fully. _____

3. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- 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	
3N	5W	13									6			4			~~10~~ 11-24		10

Total number of acres to be irrigated 10

10. Describe any other water rights used for the same purposes as described above. No Gen Irrigation Rights

- Who owns the property at the point of diversion? John D Edwards
- Who owns the land to be irrigated or place of use? John D Edwards
- 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.

John D Edwards
 Signature of Applicant (and title, if applicable)

Received by AK Date 8/3/04 Time 10:59 Preliminary check by _____
 Fee \$ 10000 Receipted by AK # W032080 Date 8/3/04
 Publication prepared by AK Date 12-16-23-04 Published in OWYHEE AVALANCHE
 Publication approved AK Date 1-6-05

0
Z
E
O
E
T

- ④ BRASS CAP MONUMENT - FOUND
- ④ 5/8" REBAR - FOUND
- ④ 5/8" x 30" REBAR - SET
- CALCULATED POINT

SCALE: 1" = 400'

BASIS OF BEARING:

The south boundary of Section 13
as S 89° 32'00" E as per G.L.O.
Dependent Survey of 1923

LINE TABLE		
LINE	LENGTH	BEARING
L1	169.87	S 85°23'01" E
L2	127.56	S 87°5'19" E
L3	250.10	S 81°28'21" E
L4	130.13	N 86°16'30" E

CERTIFICATION

CERTIFICATION

I, Fritz Brownell, do hereby certify that I am a Professional Land Surveyor, licensed by the State of Idaho, and that this map has been prepared from an actual survey made on the ground under my direct supervision, that this map is an accurate representation of said survey, and that it is in conformity with the Corner Perpetuation Act, Idaho Code 55-1801 through 55-1612.



354-13-3-1-0-00-00

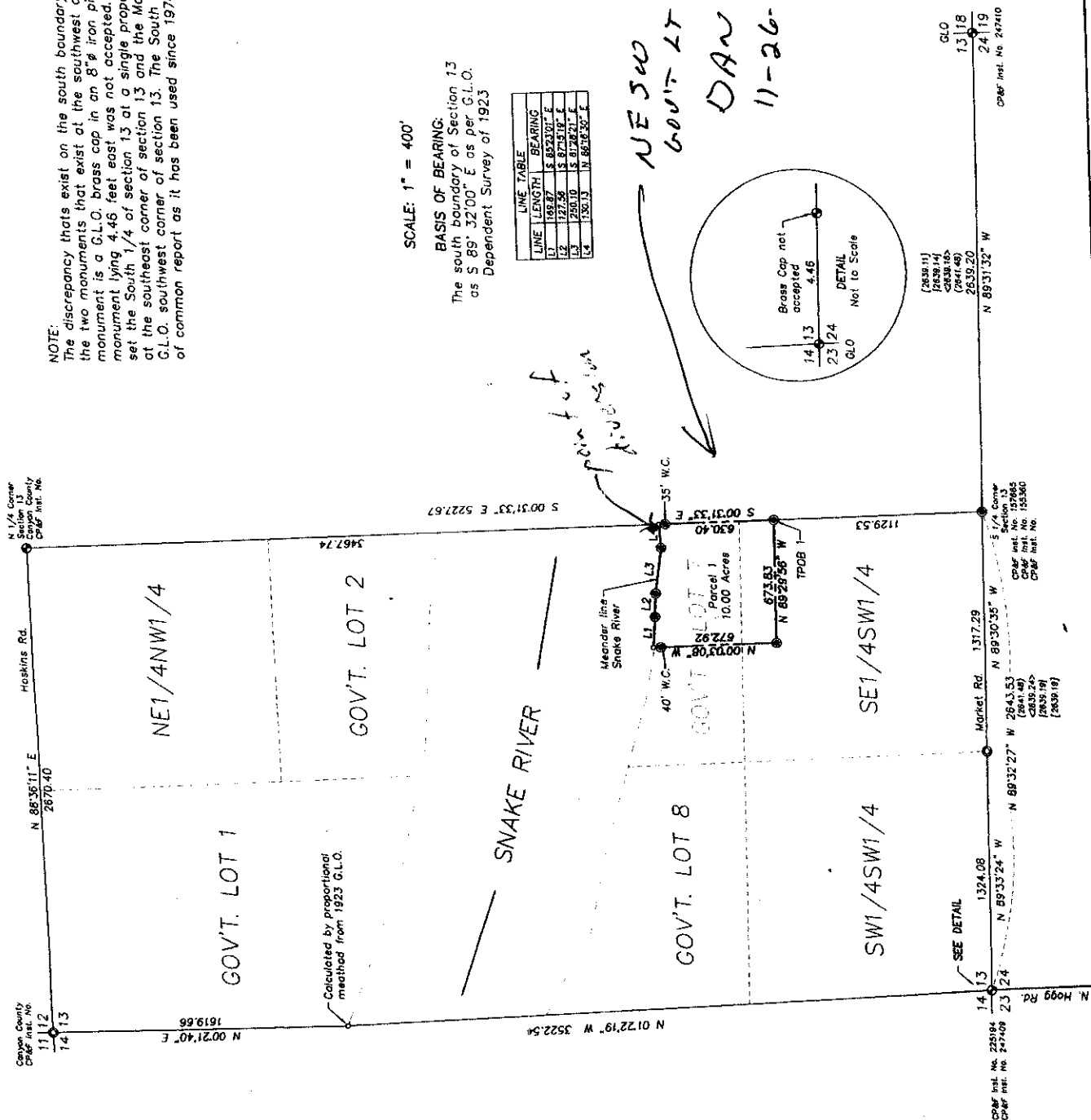
STUBBS, JR.

KATHY SAMMACK

**Skinner Land
Survey Co., Inc.**

2512 S. Georgia Ave.
Culverton, Id. 83605
(208)-464-0223

Job No. MR1404



02-10252

REQUEST TO PROCESS

**COMPLETE REQUEST IF YOU WANT YOUR APPLICATION TO BE PROCESSED USING ONE OF THE
THREE ALTERNATIVES BELOW**

Name of Applicant

John D Edwards

Mailing Address

4393 Hilltop Ln

Homedale ID 83628

Application No.
(if known)

☐ IN LOCAL PUBLIC INTEREST

Yes, I want my application processed and before it is advertised, I will amend my application to demonstrate that the proposed appropriation is in the local public interest including the need to preserve flows in the Snake River during the migration periods of anadromous fish.

☐ PROPOSE MITIGATION NOW

Yes, I want my application processed and before it is advertised, I will amend my application to include proposed mitigation to offset anticipated depletions in the Snake River during periods of anadromous fish migration.

☒ WILL AGREE TO MITIGATION IN THE FUTURE IF NECESSARY

Yes, I want my application processed at this time, and I will accept a condition of approval that will require mitigation should the Director of the Idaho Department of Water Resources determine that mitigation is necessary to offset depletions from this appropriation to flows in the Snake River during periods of anadromous fish migration. I understand that mitigation is not required now but may be needed in the future. I also understand that the Director will not require mitigation until I have an opportunity to review the process by which the need for mitigation is established and the amount of water required is quantified.

Signature

John D Edwards

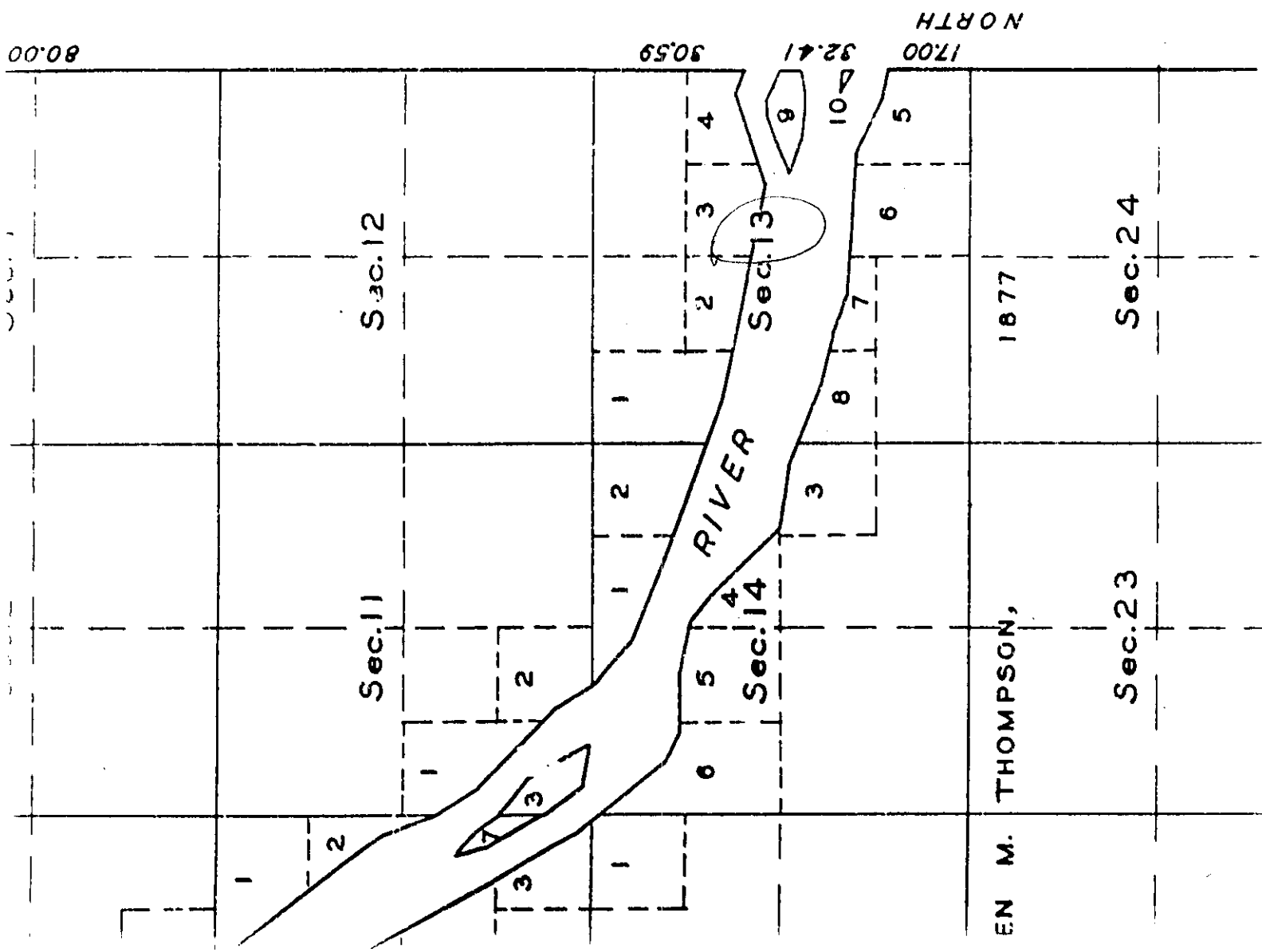
Date

11-26-2004

Please return this form to:

Idaho Dept. of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705-5082

T3N
R5W



THIS PLAT OF THE RESURVEY OF T. 3 N., R. 5 W., DELINEATES A RETRACEMENT AND REESTABLISHMENT OF THE LINES OF THE ORIGINAL SURVEY AS SHOWN UPON THE PLAT APPROVED FEBRUARY 18, 1876, IN THEIR TRUE ORIGINAL POSITION ACCORDING TO THE BEST AVAILABLE EVIDENCE OF THE POSITION OF THE ORIGINAL CORNERS; ALL DIFFERENCES BETWEEN THE MEASUREMENTS SHOWN ON THE ORIGINAL PLAT AND THOSE DERIVED IN THE RETRACEMENT HAVE BEEN DISTRIBUTED PROPORTIONALLY BETWEEN ACCEPTED CORNERS IN ACCORDANCE WITH SURVEYING RULES.

**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

July 5, 2005

JOHN D EDWARDS
4393 HILLTOP LN
HOMEDALE ID 83628

RE: Permit No. 2-10252

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.

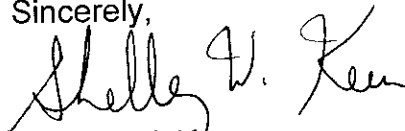
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should 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, reading "Shelley W. Keen". The signature is fluid and cursive, with the first name "Shelley" being the most prominent.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

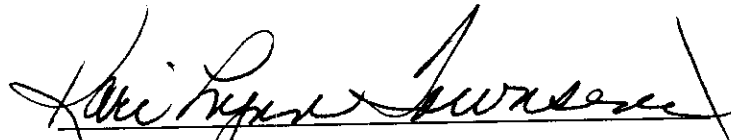
CERTIFICATE OF SERVICE

I hereby certify that on July 25, 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.

2-10252

**JOHN D EDWARDS
4393 HILLTOP LN
HOMEDALE ID 83628**



**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.

Comment Report

2-10252

1. scurtis 8/9/2004 Data Entry

Comment: At the time of entering this application into the database, the applicant had not filled in the pod information. From the maps provided with the application, the pod is in Govt Lot 7 (NESW), S13 and therefore, I entered it as such into the database so that a water right number could be generated.

The place of use entry shown on the application does not match the map, but for data entry purposes I entered the pou as identified in the application. This is another item that will have to be modified by the applicant before processing continues.

2. dnelson 11/26/2004 Legal Notice Remarks

Comment: Applicant agrees to mitigate consumptive use in the future as needed.

3. dnelson 11/26/2004 Comment/Analysis

Comment: This application is for irrigation from the Snake River. The application is just outside of the Gem Irrigation District borders and the applicant has stated that they do not own any canal shares. The SRBA claim for 02-7211 lists its point of diversion in the same location, but the license for this claim lists it in the next government lot over. It appears that the adjudication claim was data entered incorrectly. There are no other significant overlapping rights. This application is downstream from Swan Falls Dam and should not be subject to trust water.

4. kwalker 1/10/2005 Permit Review

Comment: Application does not fall within any problem areas. No place of use overlap found. Recommend approval.

Conversation Memorandum

Telephone

File: Application—#02-10252—John D Edwards

From: J. Westra, Western Region *JFW*

Date 1/25/05

RE: Processing of Snake River Applications--Hold

I called the Edwards residence on 1/25/05, and talked with Mrs. Edwards. I forwarded the information that new applications for diversion from the Snake River would be held temporarily for approval. The water issues surrounding the Eastern Snake Plain and efforts by the State to possibly buy Snake River water rights are the reasons for the Department to hold new applications. Mrs. Edwards was understanding of the situation. I assured her when things changed, our office would notify her.

INTER-DEPARTMENT MEMO--1

FROM Shelley Keen

DATE 1/18/2005

TO John Westra RE: 02-10252

SUBJECT John,

Here's the Snake River application we talked about on the phone. Thanks for offering to contact the applicant. Call or email if you want to talk it over some more.

Shelley K. Keen

SIGNATURE

The Owyhee Avalanche

P.O. Box 97 • HOMEDALE, ID 83628 • 208/337-4681

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

I, Joe E. Aman, being first duly sworn, depose and say:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

2. That during the time of publication of the notice hereinafter mentioned, I was and now am the publisher of The Owyhee Avalanche, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho.

3. That the said The Owyhee Avalanche has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4. That said notice of which a printed copy, taken from said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in said newspaper, in TWO (2)
(consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

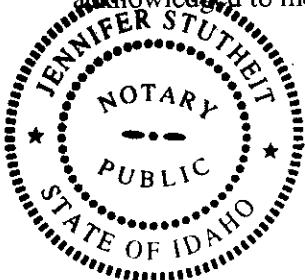
DECEMBER 15, 22, 2004

SIGNED: _____

STATE OF IDAHO }
COUNTY OF OWYHEE }

On this 22nd day of DEC in the year of 2004 before me, a

Notary Public, personally appeared JOE E. AMAN
known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.



Jennifer Stutheit
Notary Public of Idaho
Residing at HOMEDALE, IDAHO
My commission expires: JANUARY 3, 2009

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

of Idaho:
2-10252 ✓sk

JOHN D EDWARDS
4393 HILLTOP LN
HOMEDALE ID 83628
Point(s) of Diversion L7
(NESW) S13 T03N R05W
OWYHEE County Source
SNAKE RIVER
Tributary To COLUMBIA RIVER
Use: IRRIGATION 03/01 To 11/15 0.2 CFS
Total Diversion: 0.2 CFS
Date Filed: 08/03/2004
Place Of Use: IRRIGATION
T03N R05W S13 NESW Lot 7 SESW
Number of Acres 10
Remark: Applicant agrees to mitigate consumptive use in the future as needed.
Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 01/03/2005. The protestant must also send a copy of the protest to the applicant.
KARL J DREHER, Director
12/15,22/04

RECEIVED

JAN 05 2005

WATER RESOURCES
WESTERN REGION

RECEIVED

JAN 03 2005

ACCTS PAYABLE

**IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705**

December 08, 2004

Legal Notice Department
OWYHEE AVALANCHE
PO BOX 97
HOMEDALE ID 83628

RE: Application for Permit No. 2-10252, 2-10264 and 57-11670

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 01/03/2005. Your cooperation is appreciated.

Sincerely

Sue Kreger
Administrative Assistant

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

2-10252

JOHN D EDWARDS
4393 HILLTOP LN
HOMEDALE ID 83628

Point(s) of Diversion L7 (NESW) S13 T03N R05W OWYHEE County Source SNAKE RIVER
Tributary To COLUMBIA RIVER

Use: IRRIGATION 03/01 To 11/15 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 08/03/2004

Place Of Use: IRRIGATION

T03N R05W S13 NESW Lot 7 SESW

Number of Acres 10

Remark: Applicant agrees to mitigate consumptive use in the future as needed.

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

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 01/03/2005. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Owyhee Avalanche on December 16 and 23, 2004.