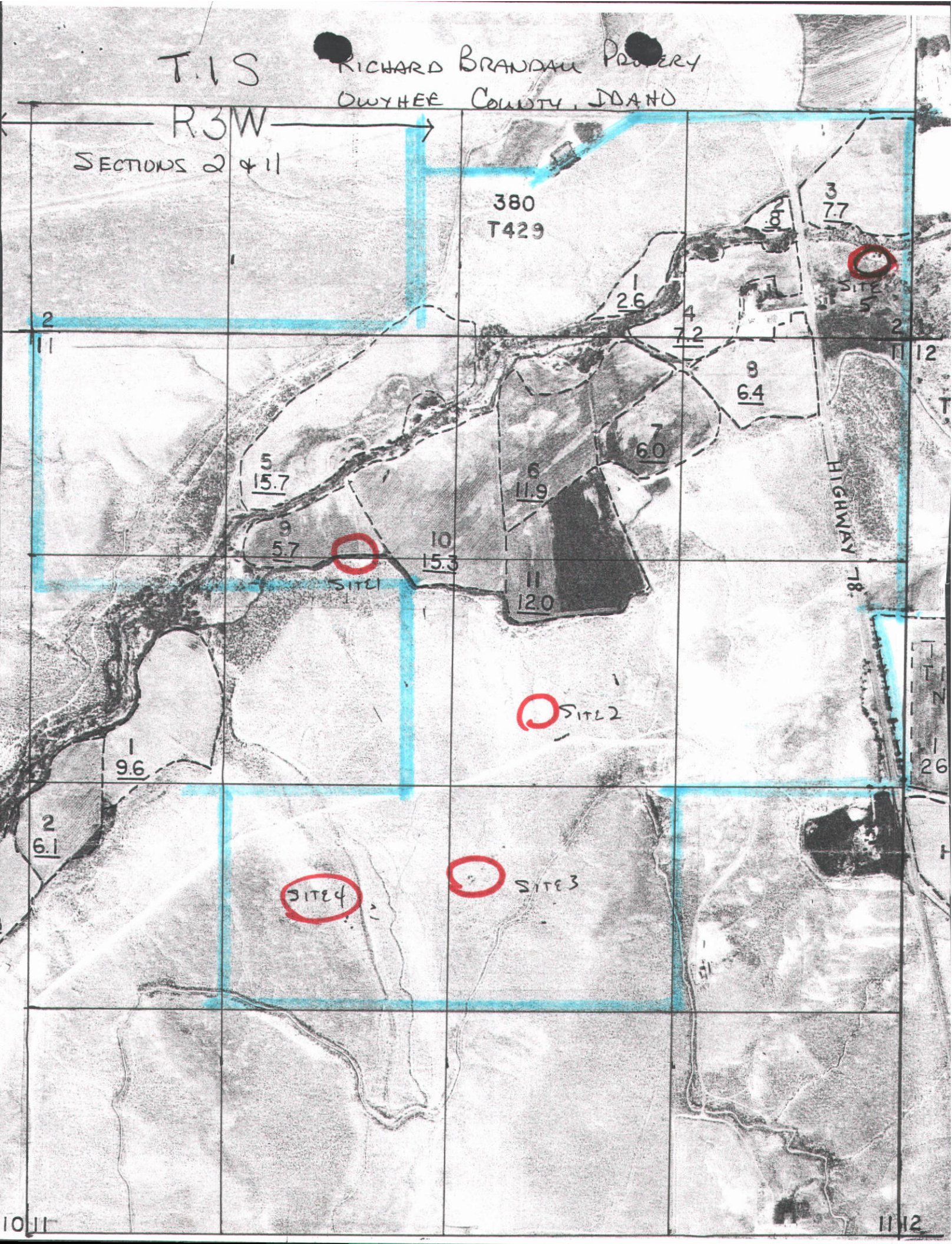


T.1S

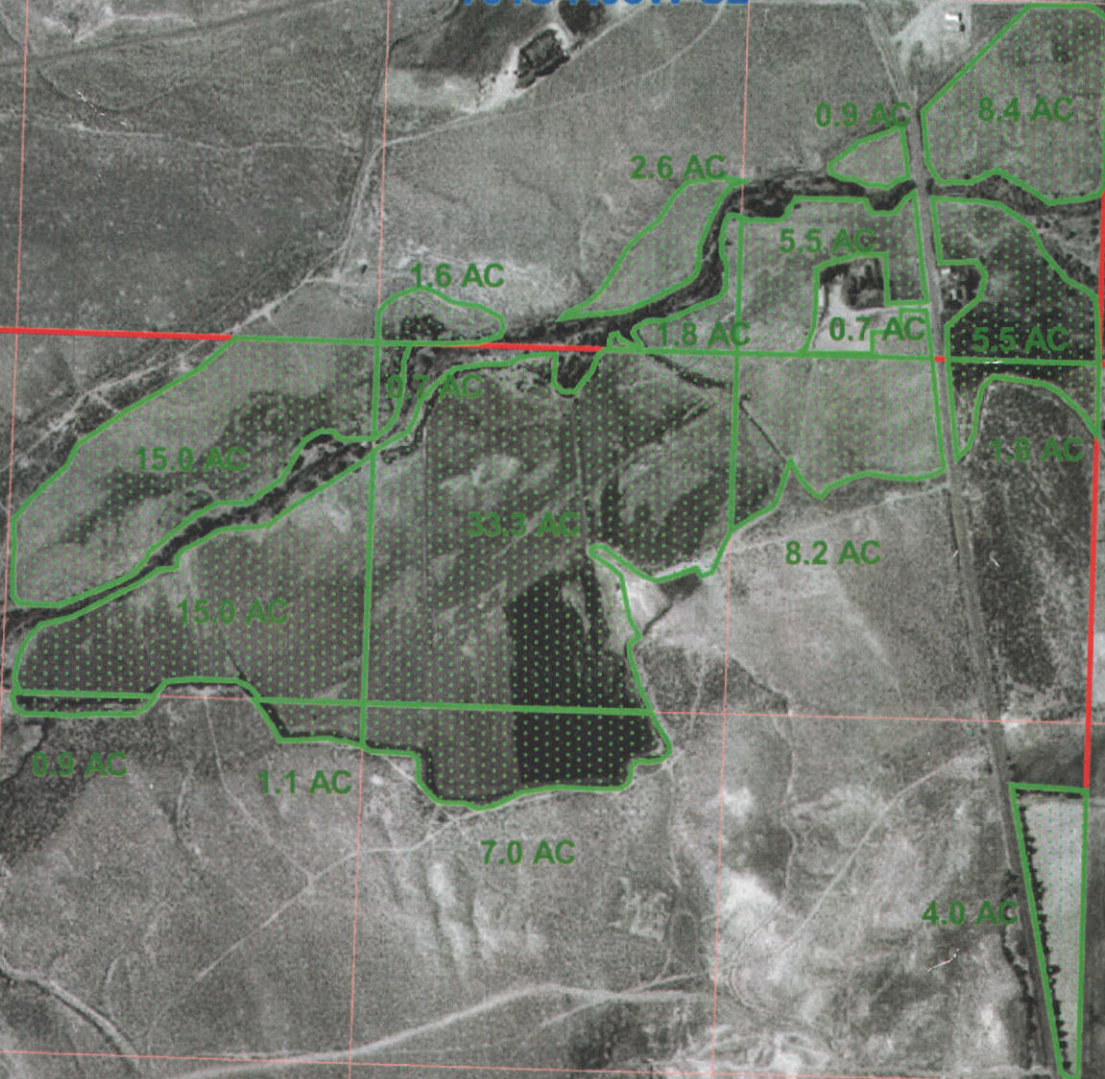
RICHARD BRANDAU PROPERTY
OWYHEE COUNTY, IDAHO

R3W

SECTIONS 2 & 11



T01S R03W S2



T01S R03W S11



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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 21, 2004

RICHARD BRANDAU
CONNIE M BRANDAU
9902 WILSON CEMETERY LN
WILSON ID 83641

RE: Permit No. 57-11631

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

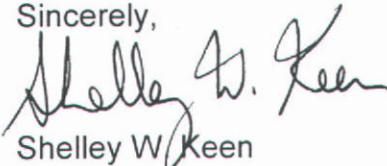
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-327-7946.

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)

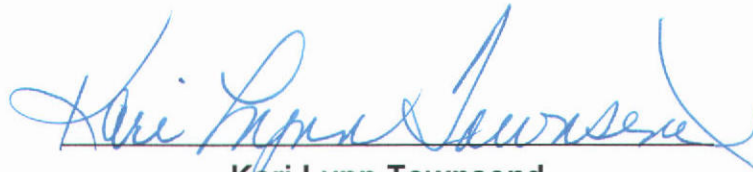
CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2004 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.

57-11631

CONNIE M BRANDAU
RICHARD BRANDAU
9902 WILSON CEMETERY LN
WILSON ID 83641



Kari Lynn Townsend
Secretary



STOCKWATER SHAPE CREATED
BY DAN 9/22/2003



IRRIGATION SHAPE CREATED BY
DAN 9/22/2003

OVERLAND REVIEW

T01S R03W S2

SWSW

SESW

21 ACTUAL
21 RIGHTS SESE

6.0 ACTUAL
6.0 RIGHTS

0.9 AC

8.4 AC

SWSE

2.6 AC

5.5 AC

1.6 AC

1.8 AC

0.7 AC

5.5 AC

30.0 ACTUAL
30.0 RIGHTS

0.7 AC

15.0 AC

1.8 AC

33.3 AC

8.2 AC

NWNW

NENW

15.0 AC

34.0 ACTUAL
34.0 RIGHTS
NWNE

10.0 ACTUAL
10.0 RIGHTS

NENE

0.9 AC

1.1 AC

7.0 AC

2.0 ACTUAL
2.0 RIGHTS

4.0 ACTUAL
4.0 RIGHTS

4.0 AC

SWNW

SENW

SWNE

SENE

T01S R03W S11

The Owyhee Avalanche

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

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

RECEIVED

NOV 26 2003

WATER RESOURCES
WESTERN REGION

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 the 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):

NOVEMBER 19, 26, 2003

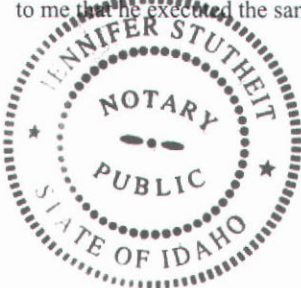
SIGNED: _____

STATE OF IDAHO)
COUNTY OF OWYHEE)

On this 26th day of November in the year of 2003 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 for 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:

57-11631

RICHARD BRANDAU
9902 WILSON CEMETERY
LN

WILSON ID 83641
CONNIE M BRANDAU
9902 WILSON CEMETERY
LN

WILSON ID 83641
Point(s) of Diversion NENW
S11 T01S R03W OWYHEE
County Source GROUND
WATER

Point(s) of Diversion NESW
S11 T01S R03W OWYHEE
County Source GROUND
WATER

Point(s) of Diversion NWSE
S11 T01S R03W OWYHEE
County Source GROUND
WATER

Point(s) of Diversion SWNE
S11 T01S R03W OWYHEE
County Source GROUND
WATER

Point(s) of Diversion SESE S2
T01S R03W
OWYHEE County Source
GROUND WATER

Use: IRRIGATION 03/15 To
11/15 2 CFS
Use: STOCKWATER 01/01 To
12/31 0.09 CFS

Total Diversion: 2 CFS
Date Filed: 07/14/2003
Place Of Use: IRRIGATION
T01S R03W S11 NENE
NWNE SWNE NENW SENW
T01S R03W S2 SWSE SESE
Number of Acres 110
Place Of Use: STOCKWATER
T01S R03W S11 NENE
NWNE SWNE NENW SENW
NESW NWSE

T01S R03W S2 SWSE SESE
Remark: Applicant agrees to mit-
igate consumptive use in the fu-
ture as needed. The above appli-
cation was advertised incorrectly
on October 1 and 8, 2003 with
an incorrect date filed. The cor-
rected date of 7/14/2003 is listed
above. 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 Re-
gion, 2735 Airport Wy, Boise ID
83705 together with a protest fee
of \$25.00 for each application
on or before 12/08/2003. The
protestant must also send a copy
of the protest to the applicant.

The Owyhee Avalanche

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

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

RECEIVED

OCT 30 2003

WATER RESOURCES
WESTERN REGION

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 the 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):

OCTOBER 1, 8, 2003

SIGNED: _____

STATE OF IDAHO)
COUNTY OF OWYHEE)

On this 8th day of October in the year of 2003 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 for 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:

57-11631

RICHARD BRANDAU
9902 WILSON CEMETERY LN
WILSON ID 83641
CONNIE M BRANDAU
9902 WILSON CEMETERY LN
WILSON ID 83641

Point(s) of Diversion NENW S11
T01S R03W OWYHEE County
Source GROUND WATER

Point(s) of Diversion NESW S11
T01S R03W OWYHEE County
Source GROUND WATER

Point(s) of Diversion NWSE S11
T01S R03W OWYHEE County
Source GROUND WATER

Point(s) of Diversion SWNE S11
T01S R03W OWYHEE County
Source GROUND WATER

Point(s) of Diversion SESE S2
T01S R03W OWYHEE County
Source GROUND WATER

Use: IRRIGATION 03/15 To
11/15 2 CFS

Use: STOCKWATER 01/01 To
12/31 0.09 CFS

Total Diversion:
2 CFS

Date Filed: 09/22/2003

Place Of Use: IRRIGATION

T01S R03W S11 NENE NWNE
SWNE NENW SENW

T01S R03W S2 SWSE SESE

Number of Acres 110

Place Of Use: STOCKWATER

T01S R03W S11 NENE NWNE

SWNE NENW SENW NESW
NWSE

T01S R03W S2 SWSE SESE

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
10/20/2003. The protestant must
also send a copy of the protest to the
applicant.

KARL J DREHER, Director

10/18/03

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 57-11631

Priority July 14, 2003

Maximum Diversion Rate 2 00 CFS

This is to certify, that RICHARD BRANDAU And/Or CONNIE M BRANDAU
9902 WILSON CEMETERY LN
WILSON ID 83641

has applied for a permit to appropriate water from

Source: GROUND WATER

and a permit is APPROVED for development of water as follows

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	03/01 to 11/15	2 00 CFS
STOCKWATER	01/01 to 12/31	0 09 CFS

LOCATION OF POINTS OF DIVERSION:

GROUND WATER	NE¼NW¼	Sec 11, Twp 01S, Rge 03W, B M , OWYHEE County
GROUND WATER	NE¼SW¼	Sec 11, Twp 01S, Rge 03W, B M , OWYHEE County
GROUND WATER	NW¼SE¼	Sec. 11, Twp 01S, Rge 03W, B M , OWYHEE County
GROUND WATER	SW¼NE¼	Sec. 11, Twp 01S, Rge 03W, B M , OWYHEE County
GROUND WATER	SE¼SE¼	Sec 2, Twp 01S, Rge 03W, 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	
01S 03W 2															6 0	21 0	27 0
01S 03W 11	10 0	34 0	7 0		30 0			2 0									83 0
Total Acres	110																

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S 03W 2															X	X	
01S 03W 11	X	X	X		X			X	X					X			

CONDITIONS OF APPROVAL

- 1 Proof of application of water to beneficial use shall be submitted on or before **January 01, 2009**.
- 2 Subject to all prior water rights
- 3 Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control

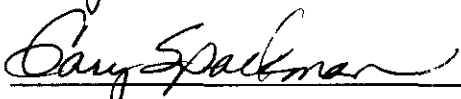
State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 57-11631

- 4 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department
- 5 Stockwater use is for 400 range cattle
- 6 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 495.0 af at the field headgate for the lands above
- 7 The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right
- 8 If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert groundwater shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required
- 9 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
- 10 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 21st day of January, 2004


Acting for KARL J DREHER, Director

Ident. No. 57-11631
RECEIVED

RECEIVED

JUL 14 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

JAN 13 2004

APPLICATION FOR PERMIT

Department of Water Resources

WATER RESOURCES
WESTERN REGION

To appropriate the public waters of the State of Idaho

1. Name of Applicant RICHARD FOR BONNIE BRANDAU Phone 208-495-2529
Mailing address 9902 WILSON CEMETERY LANE WILSON ID 83641

2. Source of water supply GROUND WATER which is a tributary of

3. Location of point of diversion is Township 1 SOUTH Range 3 WEST Sec. 11 in the NE NW 1/4, or NE SW 1/4, R. NOSE, Sec. 2, T. 1 S, R. 3 E, S. 11 N, B.M., DWYER County:
additional points of diversion if any: SESE Sec 2

4. Water will be used for the following purposes:

Amount 2.00 for IRRIGATION purposes from 3/15 to 11/15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 09 for STOCKWATER purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)
Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)
Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)
Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) 2.00 CFS 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 CASED WELL AND VARIABLE SPEED PUMP

b. Height of storage dam feet; active reservoir capacity acre-feet; total reservoir capacity acre-feet

c. Proposed well diameter is 10 TO 12 inches; proposed depth of well is UP TO 300 feet

d. Is ground water with a temperature of greater than 85°F being sought? NO

e. If well is already drilled, when? NA; Drilling firm NA
Well was drilled for (well owner) NA, Drilling Permit No. NA

7. Time required for completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year)

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

a. Hydropower; show total feet of head and proposed capacity in kW.
b. Stockwatering; list number and kind of livestock. 400 HEAD CATTLE
c. Municipal; show name of municipality.
d. Domestic; show number of households.
e. Other; describe fully.

3. Description of place of use.

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15	3W	2																	18.3
15	3W	11	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	73.0
15	3W	2																	27
15	3W	11	10	34	7		30		2	X					X				83

Total number of acres to be irrigated 91.3 110

STOCK WATER SAME AS IRRIGATION PLUS WHERE X'ed.

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

57-00279

57-10847

11 a. Who owns the property at the point of diversion? RICHARD & CONNIE BRANDAU

b. Who owns the land to be irrigated or place of use? RICHARD & CONNIE BRANDAU

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

12. Remarks: TO BE USED AS SUPPLEMENTAL WATER TO EXISTING WATER RIGHTS OUT OF REYNOLDS CREEK

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

Richard Brandau Connie Brandau
Signature of Applicant (and title, if applicable)

Received by KL Date 7/14/03 Time 12:24 Preliminary check by DAN
Fee \$ 290.00 Receipted by KL # W030711 Date 7/14/03
Publication prepared by KL Date 11-12-03 Published in OWYHEE AVALANCHE
Publication approved KL Date 12-5-03

T.1S

RICHARD BRANDY PROPERTY
DWAYHEE COUNTY, IDAHO

R3W

SECTIONS 2 & 11

380
T429

3
7.7

26

7.2

8
6.4

5
15.7

HIGHWAY

7.8

SITE 2

1
9.6

2
6.1

SITE 1

SITE 3

6

4

7

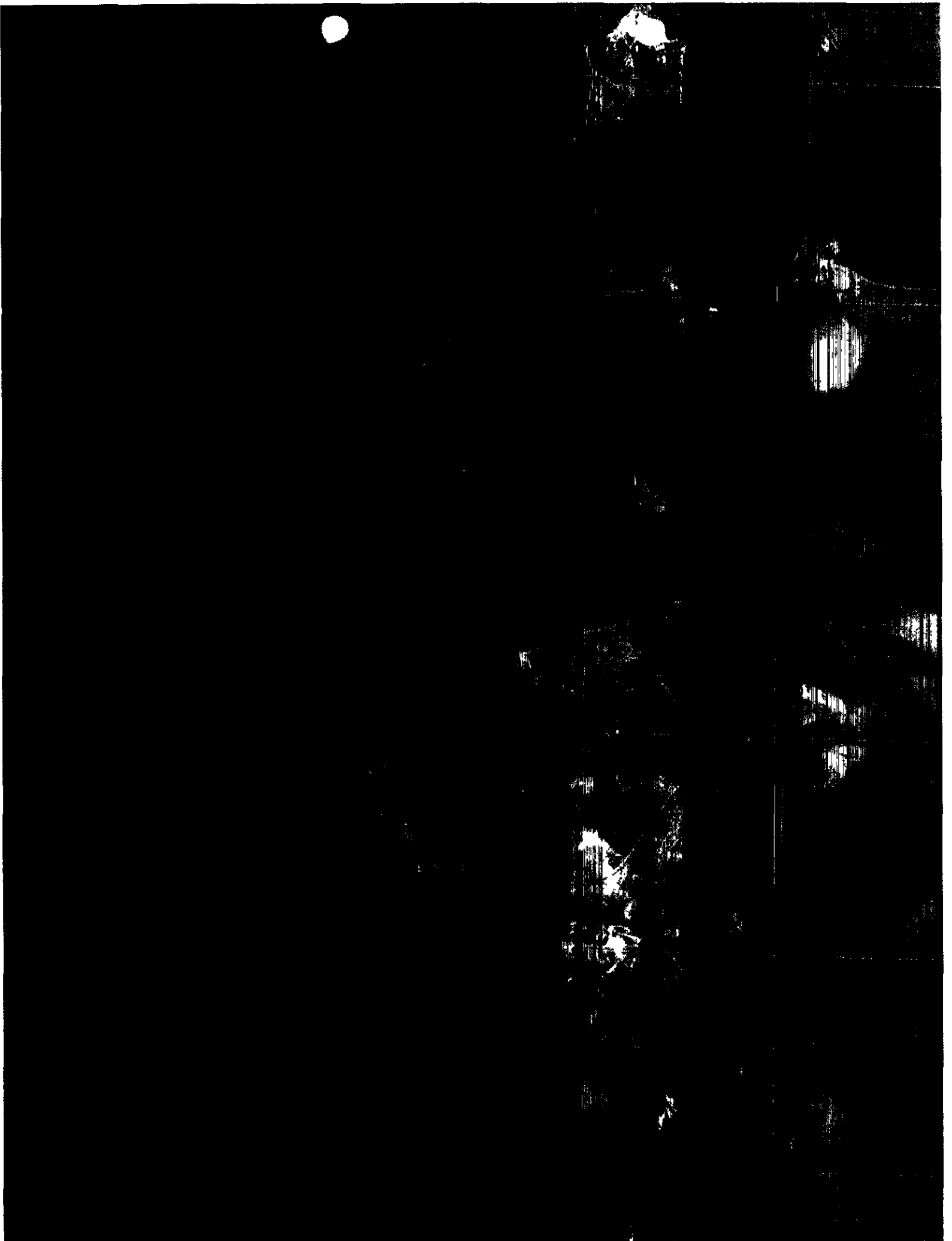
8

9

10

11

12



REQUEST TO PROCESS

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

Name of Applicant RICHARD & OR CONNIE BRANDAN

Mailing Address 9902 WILSON CEMETERY LANE
WILSON IDAHO 83641

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.

X 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

Connie Brandan

Date

9-20-03

Please return this form to:

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



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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 21, 2004

RICHARD BRANDAU
CONNIE M BRANDAU
9902 WILSON CEMETERY LN
WILSON ID 83641

RE: Permit No. 57-11631

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

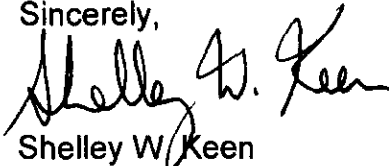
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The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use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

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-327-7946.

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

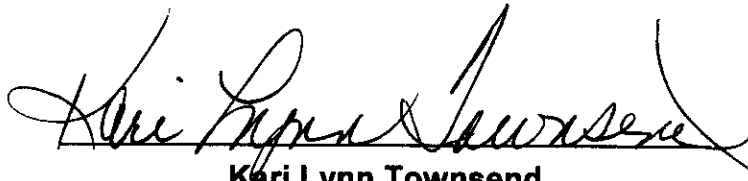
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2004 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. 57-11631

**CONNIE M BRANDAU
RICHARD BRANDAU
9902 WILSON CEMETERY LN
WILSON ID 83641**

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

**Kari Lynn Townsend
Secretary**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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 Idaho Water Resource Board (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.

IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

Initial review by DAN Date 9-18-03 Application # 57-11631

REQUIRED INFORMATION

- ☒ Name (for corporation or partnership, names & addresses for director, officers, &/or other partners must be included)
- ☒ Address
- ☒ Source (see USGS quad for source names)
- ☒ P/D (10 acres for spring, lot & block descriptions for subdivisions, local name)
- ☒ County
- ☒ Quantity (flow & /or volume)
- ☒ Period of use
- ☒ Nature of use (list details in appl. Item 8 if non-irrigation)
- ☒ Description of diverting works
- ☒ Time required for beneficial use of water
- ☒ P/U
- ☒ Map (show T, R, S, QQ &/OR QQQ)
- ☒ Subdivision plat (if > 1 home restricted area ≥ 5 homes non-restricted area)
- ☒ Signature (if corporation, partnership, municipality, need title of signatory)
- ☒ Correct fee paid
- Government Lots
NO P/D
NO P/U

ADDITIONAL INFORMATION

~~YES~~ **ADVERTISE REMARKS (Yes or No)**

YES NO

- ☒ P/D overlap (explain)
- ☒ P/U overlap (explain) 57-0279 & 57-10847 ^{11569 & 57-2052} OVERLAP P/U - But it is
FROM REYNOLDS CREEK. NO
OTHER SIGNIFICANT
OVERLAPPING RIGHTS.
- ☒ Critical groundwater area (send letter)
- ☒ Ground water management area (send letter)
- ☒ Drilling concern area (send letter)
- ☒ 1992 moratorium (send letter)
- ☒ Surface water source, IDFG comment letter
- ☒ Protected river or minimum flow reach, notify water planning bureau
- ☒ E-mail to Dam Safety staff (if any storage)
- ☒ Mitigation plan: "request to process form" in file:
Immediate = closed areas, acceptable plan required & submitted
☒ Future = open areas, plan not required
- ☒ Send power requirement letter &/or fish farm requirement letter
- ☒ Power residency affidavit
- ☒ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres (if YES, attach large diversion supplementary analysis sheet)

☒ REQUEST ADDITIONAL INFORMATION FROM APPLICANT

Date Requested _____ Date Response Received _____

PROCESSINGAPPLICATION # 57-

YES NO

☒☐

In form for advertising

☒☒

Statewide advertising (> 10 cfs &/or 1000 af)

☒☐

Fee amount, receipt number, & date recorded on application

COMMENT LETTERS

YES NO

☐☒

IDEQ

☐☒

District Health

☐☒

IDFG

☐☒

IDL

YES NO

☐☒

US BLM

☐☒

US Forest Service

☐☒

Water Dist #

☐☒

Water Planning Bureau

☐☒

Other

FINAL REGIONAL PROCESSING REVIEW

YES NO

☒☐

Affidavit of publication received

☒☐

Application published correctly? If not, record action taken

☒☐

Publication dates & paper recorded on application

☐☐Final date for protest ~~9-10-2003~~ 12-1-03☐☒

Protests received

☐☐

Recommendations attached

☐☐

Measuring device required

☐☐

Water delivered by water master? District #

☐☐

Special conditions of approval or cover letter

Standard ConditionsWell drilling 046Recommended Date of Priority 7/14/2003Recommendation ☒ Approve ☐ Deny

by

J. L. Weston

Date

1/9/04**ADDITIONAL INFORMATION**☐ See attached proof report, note Legal Notice Remarks &/or Comments☐ Shapefile completed (optional: attach with proof report)



STOCKWATER SHAPE CREATED
BY DAN 9/22/2003

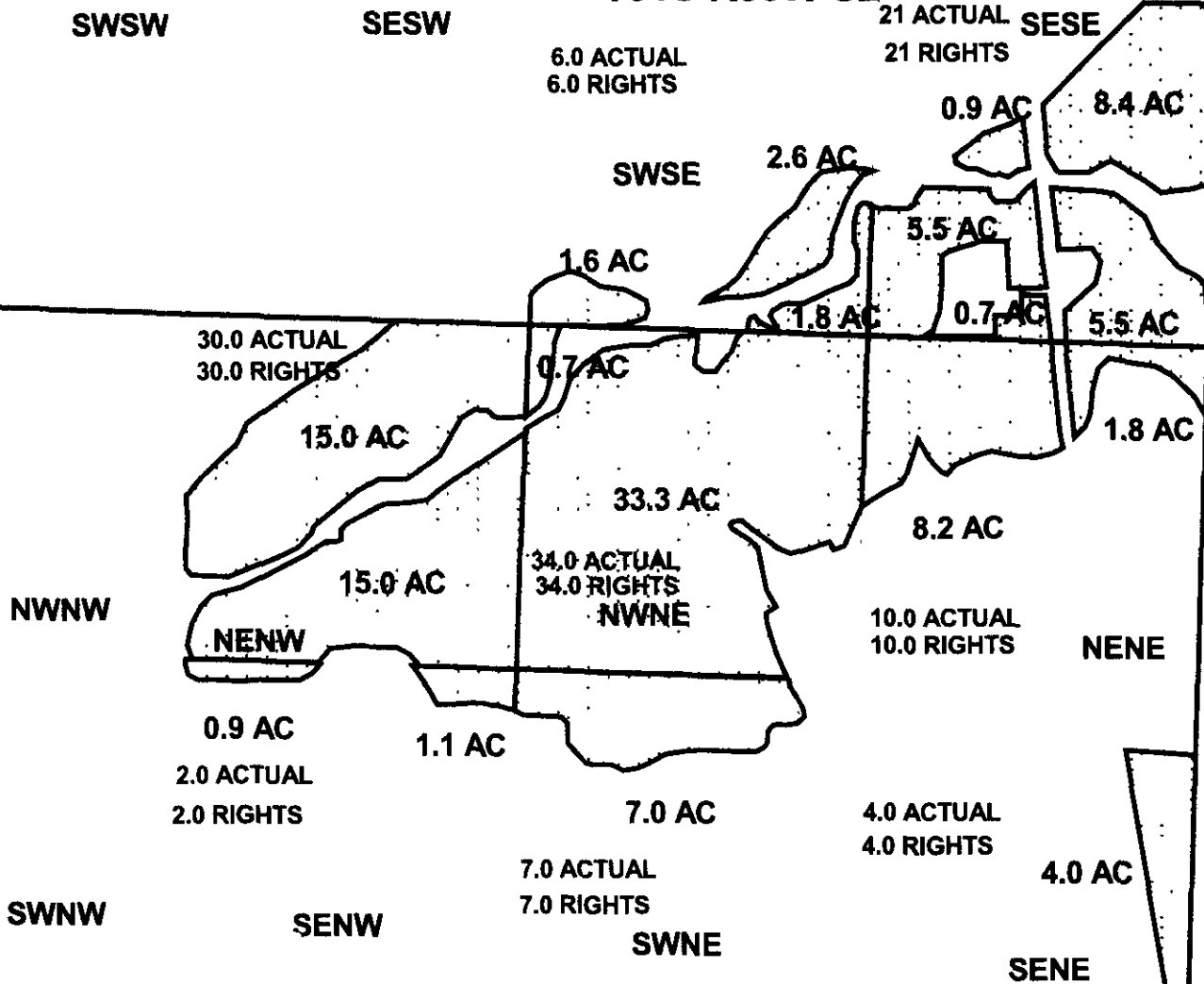




IRRIGATION SHAPE CREATED BY
DAN 9/22/2003

OVERLAND REVIEW

T01S R03W S2



T01S R03W S11

The Owyhee Avalanche

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

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

RECEIVED

NOV 26 2003

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

WATER RESOURCES
WESTERN REGION

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 the 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):

NOVEMBER 19, 26, 2003

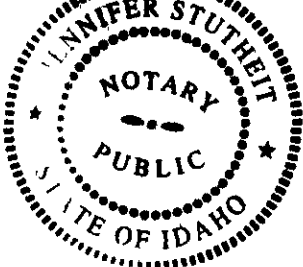
SIGNED:

STATE OF IDAHO)
COUNTY OF OWYHEE)

On this 20th day of November in the year of 2003 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 for 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:
57-11631

RICHARD BRANDAU ✓
9902 WILSON CEMETERY
LN
WILSON ID 83641
CONNIE M BRANDAU
9902 WILSON CEMETERY
LN
WILSON ID 83641
Point(s) of Diversion NENW
S11 T01S R03W OWYHEE
County Source GROUND
WATER
Point(s) of Diversion NESW
S11 T01S R03W OWYHEE
County Source GROUND
WATER
Point(s) of Diversion NWSE
S11 T01S R03W OWYHEE
County Source GROUND
WATER
Point(s) of Diversion SWNE
S11 T01S R03W OWYHEE
County Source GROUND
WATER
Point(s) of Diversion SESE S2
T01S R03W
OWYHEE County Source
GROUND WATER
Use: IRRIGATION 03/15 To
11/15 2 CFS
Use: STOCKWATER 01/01 To
12/31 0.09 CFS
Total Diversion: 2 CFS
Date Filed: 07/14/2003
Place Of Use: IRRIGATION
T01S R03W S11 NENE
NWNE SWNE NENW SENW
T01S R03W S2 SWSE SESE
Number of Acres 110
Place Of Use: STOCKWATER
T01S R03W S11 NENE
NWNE SWNE NENW SENW
NESW NWSE
T01S R03W S2 SWSE SESE
Remark: Applicant agrees to mit-
igate consumptive use in the fu-
ture as needed. The above appli-
cation was advertised incorrectly
on October 1 and 8, 2003 with
an incorrect date filed. The cor-
rected date of 7/14/2003 is listed
above. 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 Re-
gion, 2735 Airport Wy, Boise ID
83705 together with a protest fee
of \$25.00 for each application
on or before 12/08/2003. The
protestant must also send a copy
of the protest to the applicant.
K A I J D E R D

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

November 13 2003

Legal Notice Department
OWYHEE AVALANCHE
PO BOX 97
HOMEDALE ID 83628

RE: Application for Permit No. 57-11630 and 57-11631
Application for Extension of Time to Avoid Forfeiture of Water Right No. 51-2163A

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 12/08/2003. 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:

57-11631

RICHARD BRANDAU
9902 WILSON CEMETERY LN
WILSON ID 83641
CONNIE M BRANDAU
9902 WILSON CEMETERY LN
WILSON ID 83641

Point(s) of Diversion NENW S11 T01S R03W OWYHEE County Source GROUND WATER

Point(s) of Diversion NESW S11 T01S R03W OWYHEE County Source GROUND WATER

Point(s) of Diversion NWSE S11 T01S R03W OWYHEE County Source GROUND WATER

Point(s) of Diversion SWNE S11 T01S R03W OWYHEE County Source GROUND WATER

Point(s) of Diversion SESE S2 T01S R03W OWYHEE County Source GROUND WATER

Use: IRRIGATION 03/15 To 11/15 2 CFS

Use: STOCKWATER 01/01 To 12/31 0.09 CFS

Total Diversion: 2 CFS

Date Filed: 07/14/2003

Place Of Use: IRRIGATION

T01S R03W S11 NENE NWNE SWNE NENW SENW

T01S R03W S2 SWSE SESE

Number of Acres 110

Place Of Use: STOCKWATER

T01S R03W S11 NENE NWNE SWNE NENW SENW NESW NWSE

T01S R03W S2 SWSE SESE

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

The above application was advertised incorrectly on October 1 and 8, 2003 with an incorrect date filed. The corrected date of 7/14/2003 is listed above.

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 12/08/2003. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Owyhee avalanche on November 19 and 26, 2003.

The Owyhee Avalanche

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

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

RECEIVED

OCT 30 2003

RESOURCES
WESTERN REGION

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 the 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):

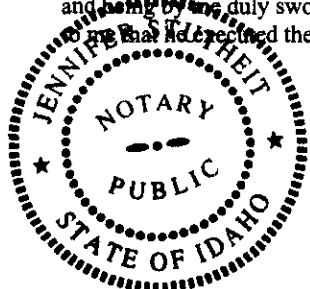
OCTOBER 1, 8, 2003

SIGNED:

STATE OF IDAHO)
COUNTY OF OWYHEE)

On this 8th day of October in the year of 2003 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
that he executed the same



Jennifer Stuthart
Notary Public for Idaho
Residing at Homedale, Idaho

My commission expires. January 3, 2009

The following information
is submitted in support of
the proposed project of the State of

Idaho:
57-11631

RICHARD BRANDAU
9902 WILSON CEMETERY LN
WILSON ID 83641
CONNIE M BRANDAU
9902 WILSON CEMETERY LN
WILSON ID 83641

Point(s) of Diversion NENW S11
T01S R03W OWYHEE County
Source GROUND WATER

Point(s) of Diversion NBSW S11
T01S R03W OWYHEE County
Source GROUND WATER

Point(s) of Diversion NWSE S11
T01S R03W OWYHEE County
Source GROUND WATER

Point(s) of Diversion SWNE S11
T01S R03W OWYHEE County
Source GROUND WATER

Point(s) of Diversion SESE S2
T01S R03W OWYHEE County
Source GROUND WATER

Use: IRRIGATION 03/15 To
11/15 2 CFS

Use: STOCK WATER 01/01 To
12/31 0.00 CFS

Total Diversion:

2 CFS

Date Filed: 10/1/2003

Applicant: RICHARD BRANDAU

T01S R03W S11 NENW NWNE

SWNE NENW S2SW

T01S R03W S2 SWNE S2SW

Number of Acres 110

Place Of Use: IRRIGATION

T01S R03W S11 NENW NWNE

SWNE NENW S2SW NENW

NWSE

T01S R03W S2 SWSE SESE

Remarks: Applicant agrees to
mitigate any disruptive use in the
future as needed.

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

Any protest against the approval
of this application must be filed
with the Director, Dept. of Water
Resource, Western Region, 2735
Airport Wy, Boise ID 83705
together with a protest fee of \$25.00
for each application on or before
10/20/2003. The protestant must
also send a copy of the protest to the
applicant.

KARL J BREMER, Director

10/1/2003

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

September 24, 2003

Legal Notice Department
OWYHEE AVALANCHE
PO BOX 97
HOMEDALE ID 83628

RE: Application for Permit No. ~~51-12991~~ 57-11631

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 10/20/2003. 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:

57-11631

RICHARD BRANDAU
9902 WILSON CEMETERY LN
WILSON ID 83641
CONNIE M BRANDAU
9902 WILSON CEMETERY LN
WILSON ID 83641

Point(s) of Diversion	NENW	S11	T01S R03W	OWYHEE County	Source GROUND WATER
Point(s) of Diversion	NESW	S11	T01S R03W	OWYHEE County	Source GROUND WATER
Point(s) of Diversion	NWSE	S11	T01S R03W	OWYHEE County	Source GROUND WATER
Point(s) of Diversion	SWNE	S11	T01S R03W	OWYHEE County	Source GROUND WATER
Point(s) of Diversion	SESE	S2	T01S R03W	OWYHEE County	Source GROUND WATER

Use:	IRRIGATION	03/15 To 11/15	2 CFS
Use:	STOCKWATER	01/01 To 12/31	0.09 CFS
	Total Diversion:		2 CFS

Date Filed: 09/22/2003

Place Of Use: IRRIGATION

T01S R03W S11	NENE NWNE SWNE NENW SENW
T01S R03W S2	SWSE SESE

Number of Acres 110

Place Of Use: STOCKWATER

T01S R03W S11	NENE NWNE SWNE NENW SENW NESW NWSE
T01S R03W S2	SWSE SESE

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 10/20/2003. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Owyhee Avalanche on October 1 and 8, 2003.