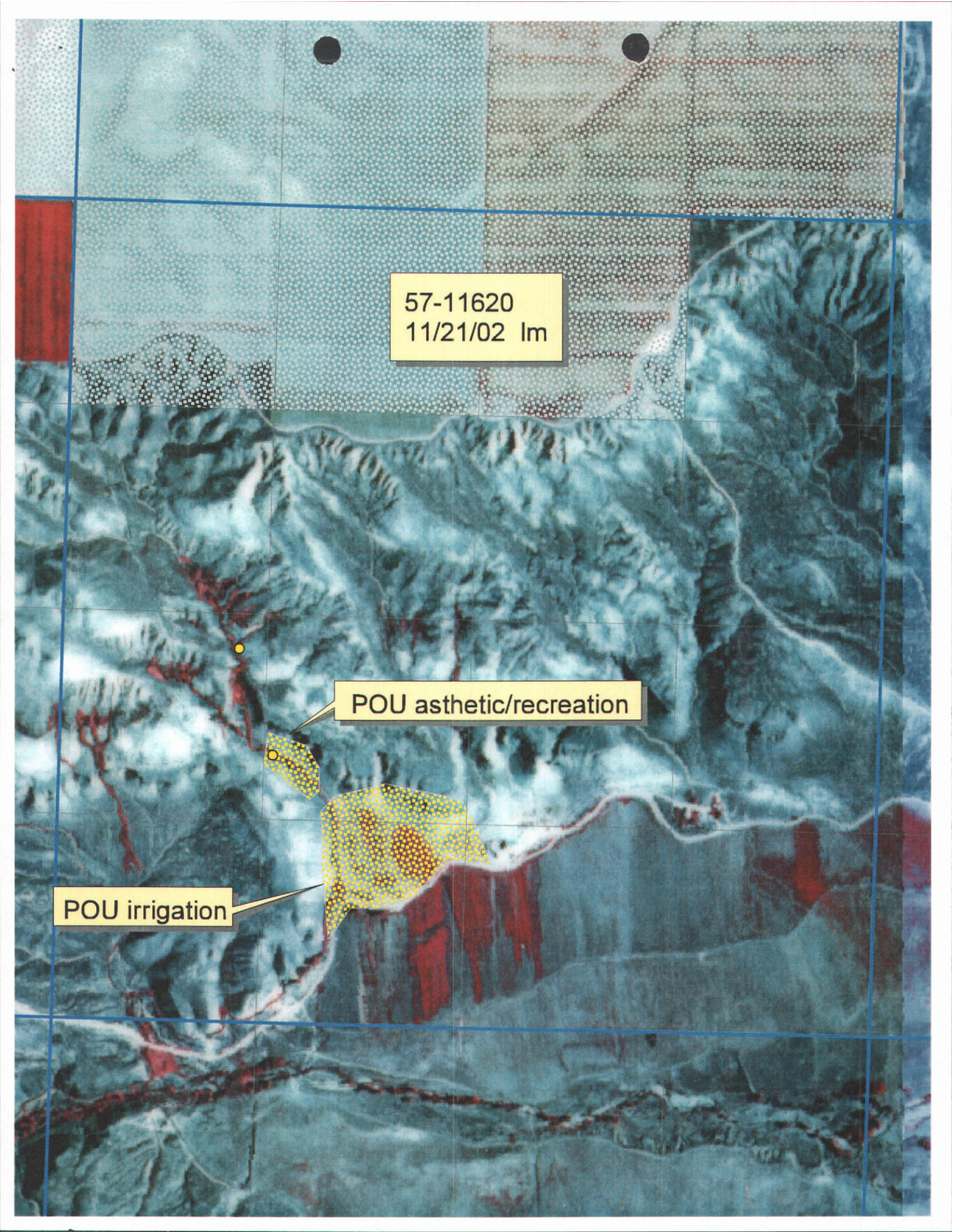


No G-lts



MICROFILMED
MAR 16 2004



57-11620
11/21/02 Im

POU asthetic/recreation

POU irrigation

The Owyhee Avalanche

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

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

RECEIVED

JAN 22 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):

DECEMBER 4, 11, 2002

SIGNED: _____

STATE OF IDAHO)
COUNTY OF OWYHEE)

On this 20th day of January in the year of 2002, 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.



Notary Public for Idaho

Residing at Homedale, Idaho

My commission expires: 1/3/2009

APPLICATION FOR PERMIT NO. 57-11620

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

57-11620

DEBORAH S EDWARDS
PO BOX 91
MURPHY ID 83650
JOHN D EDWARDS
PO BOX 91
MURPHY ID 83650

Point(s) of Diversion
NWSW S15 T03S
R01W OWYHEE County
Source

UNNAMED STREAM
Tributary To SINKS

Point(s) of Diversion
NESW S15 T03S
R01W OWYHEE County
Source

UNNAMED STREAM
Tributary To SINKS

Use: IRRIGATION 03/01 To
11/150.24 CFS

Use: STOCKWATER 01/01 To
12/310.05 CFS

Use: STOCKWATER
STORAGE 01/01 To 12/
3110 AFA

Use: RECREATION STORAGE
01/01 To 12/31 10 AFA

Use: AESTHETIC STORAGE
01/01 To 12/3110 AFA

Total Diversion: 0.24 CFS *ok*
Date Filed: 10/22/2002

Place Of Use:
STOCKWATER
T03S R01W S15 NESW SESW
SWSE

Place Of Use: STOCKWATER
STORAGE

T03S R01W S15 NESW
Place Of Use: IRRIGATION
T03S R01W S15 NESW SESW
SWSE

Number of Acres 12
Place Of Use: RECREATION
STORAGE

T03S R01W S15 NESW
Place Of Use: AESTHETIC
STORAGE

T03S R01W S15 NESW
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
12/23/02

The protestant must also send
a copy of the protest to the applicant.

KARL J DREHER, Director

12/4,11/02

MICROFILMED

MAR 16 2004

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 57-11620

Priority October 22, 2002

Maximum Diversion Rate 0 24 CFS

This is to certify, that JOHN D EDWARDS And/Or
 DEBORAH S EDWARDS
 PO BOX 91
 MURPHY ID 83650

has applied for a permit to appropriate water from

Source: UNNAMED STREAM **Tributary:** SINKS

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>	<u>ANNUAL VOLUME</u>
STOCKWATER	01/01 to 12/31	0 05 CFS	
STOCKWATER STORAGE	01/01 to 12/31		10.0 AF
IRRIGATION	03/01 to 11/15	0 24 CFS	
RECREATION STORAGE	01/01 to 12/31		10 0 AF
AESTHETIC STORAGE	01/01 to 12/31		10.0 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM NW¼SW¼, Sec 15, Twp 03S, Rge 01W, B M , OWYHEE County

UNNAMED STREAM NE¼SW¼, Sec. 15, Twp 03S, Rge 01W, B M , OWYHEE County

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03S 01W 15									X				X			X	

PLACE OF USE: STOCKWATER STORAGE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03S 01W 15									X								

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03S 01W 15									1 0				10 0			1 0	12 0
Total Acres																	12 0

PLACE OF USE: RECREATION STORAGE & AESTHETIC STORAGE same as Stockwater Storage

CONDITIONS OF APPROVAL

- 1 Proof of application of water to beneficial use shall be submitted on or before **June 01, 2008.**
- 2 Subject to all prior water rights

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 57-11620

- 3 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.
- 4 This right does not grant any right-of-way or easement across the land of another.
- 5 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.
- 6 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.
- 7 At the time the right holders submit proof of beneficial use in connection with this permit, the right holders shall also submit documentation showing that they have obtained a right-of-way for their pipeline across public land from the point of diversion to the place of use.
- 8 This right does not authorize the irrigation of land not previously irrigated.
- 9 Stockwater use is for 200 head range cattle and horses.
- 10 Aesthetic use is for a pond, and Recreation uses are for fishing and swimming.

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 May, 2003.


for KARL J DREHER, Director

1000000

MAR 16 2003

Ident. No. 57-11620

RECEIVED

OCT 21 2002

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

MAR 18 2003

1. Name of Applicant John D. Edwards and/or Deborah S. Edwards Phone 208-834-2080
Mailing address P.O. Box 91, Murphy, ID 83650
2. Source of water supply unnamed stream which is a tributary of sinks
3. Location of point of diversion is Township 3S Range 1W Sec. 15, in the 1/4.
NW 1/4, SW 1/4, Govt. Lot , B.M., Owyhee County;
additional points of diversion if any: NESW Sec 15, T3S, R1W
4. Water will be used for the following purposes:
Amount 0.24 for irrigation purposes from 3/1 to 11/15 (both dates inclusive)
(cfs or acre-feet per annum) stockwater
Amount 0.24-10 for diversion to storage purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum) stockwater
Amount 0.05 for stockwater purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum) recreation & aesthetic
Amount 10 for storage 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)
5. Total quantity to be appropriated is (a) 0.24 and/or (b) 10
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 6-inch pipe from stream to sprinklers for irrigation; excavated pond for storage
 - b. Height of storage dam <10 feet; active reservoir capacity 10 acre-feet; total reservoir capacity 10 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. 200 head range cattle and horses
 - c. Municipal; show name of municipality.
 - d. Domestic; show number of households.
 - e. Other; describe fully. aesthetic and recreation will be for a pond; recreation use to include fishing and swimming

MAR 16 2003

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	
3S	1W	15									1			10			1		12
		15									J, R								
		15									S			S			S		

J=aesthetic, R=recreation, S=stock

Total number of acres to be irrigated 12

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? 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: Stream sinks before reaching Sinker Cr. This application is for an irrigation use that was developed in about 1980, but was never permitted

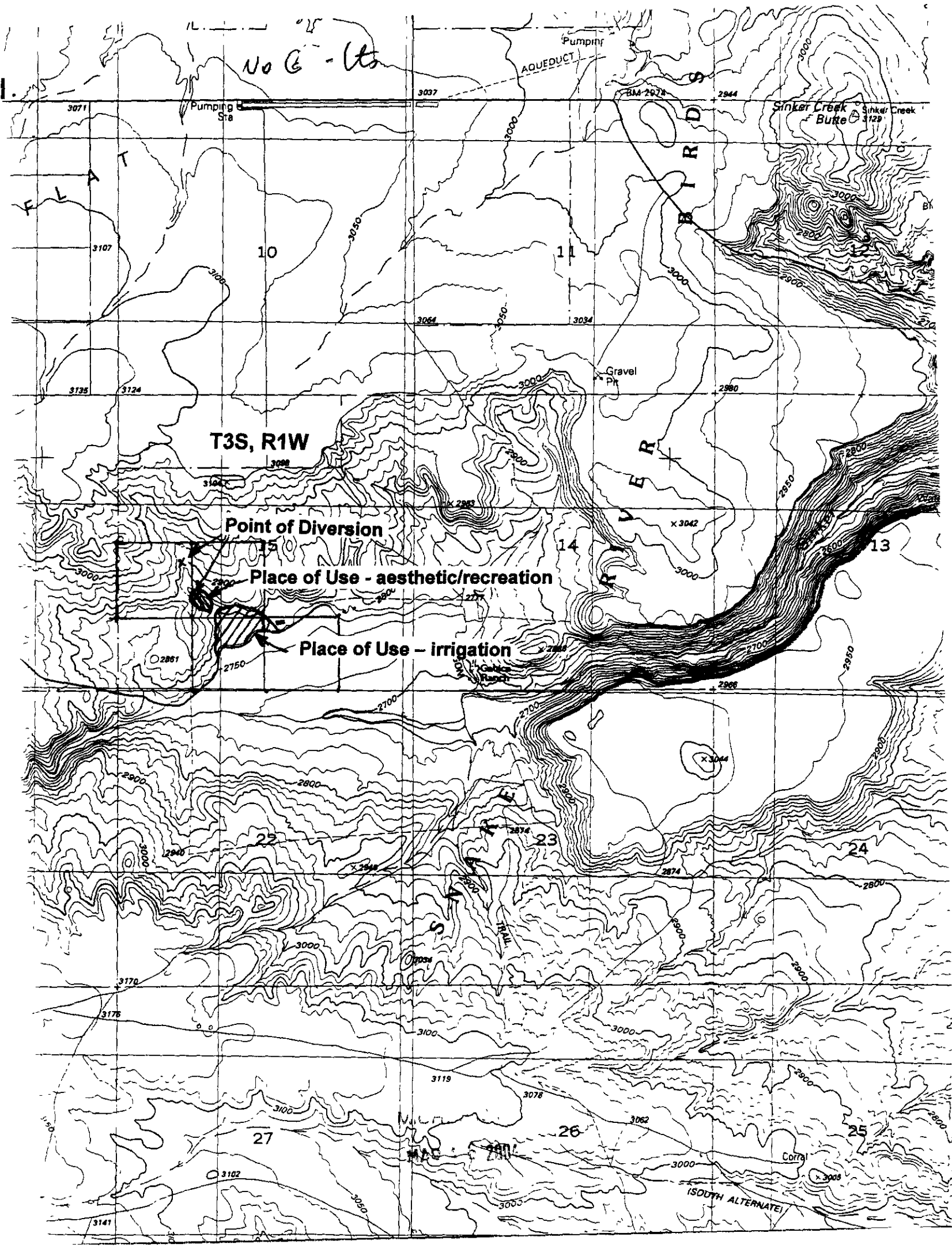
13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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.

Deborah Edwards
Signature of Applicant (and title, if applicable)

Received by KL Date 10/21/02 Time 2:30 Preliminary check by Ly
Fee \$ 250.00 Receipted by KL # W029822 Date 10/22/02
Publication prepared by At Date 12-7-02 Published in OWYHEE AVALANCHE
Publication approved At Date 1-23-03

M&D 1-5-2004



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 and Deborah S. Edwards
Mailing Address P.O. Box 91
Murphy, ID 83650
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

Deborah Edwards

Date

10/3/62

Please return this form to:

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

W. MICRON-1000
MAR 16 2004



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

May 23, 2003

JOHN D EDWARDS
DEBORAH S EDWARDS
PO BOX 91
MURPHY ID 83650

RE: Permit No. 57-11620

Permit Approval Notice

Dear Permit Holder:

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

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

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

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

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed a least sixty days prior to the commencement of work in the stream.

MICHAEL J. DREHER

MAR 16 2004

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,

for Deborah J. Gibson
Shelley W. Keen
Water Rights Supervisor

Enclosure(s)

cc: MATT J HOWARD
US DEPT OF INTERIOR

MAR 15 2004

MAR 15 2004

CERTIFICATE OF SERVICE

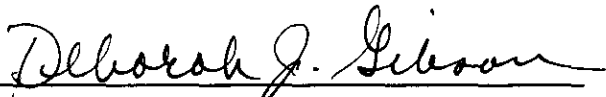
I hereby certify that on May 23, 2003 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 57-11620

**DEBORAH S EDWARDS
JOHN D EDWARDS
PO BOX 91
MURPHY ID 83650**

**MATT J HOWARD
PO BOX 190012
BOISE ID 83719**

**US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
3948 DEVELOPMENT AVE
BOISE ID 83705**


**Deborah J. Gibson
Administrative Assistant**

MILRC
MAR 16 2004

**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.

W.R.C.
MAR 15 2005

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.

MAR 16 2004

MEMORANDUM

Date: May 21, 2003
To: Water Right File 57-11620
From: dgibson
Re: Permit Review

This application was protested by BLM, because the point of diversion and water delivery system is on BLM land. An agreement was reached for the applicant to obtain a right-of-way agreement onto BLM land, in exchange BLM would withdraw their protest. As of the date of the issuance of the permit, the applicant had only received an acknowledgement from BLM that they had received their application for right-of-way. BLM will process the application, and we will be kept informed of the status. Matt Howard has appeared as attorney for the applicant, and has asked to receive a copy of the permit. BLM has requested that they receive a copy of the permit as well.

MICHAEL W. GIBSON

MAR 16 2004

MATT J. HOWARD

ATTORNEY AT LAW

P.O. BOX 190012

BOISE, IDAHO 83719

TELEPHONE (208) 333 0622

FACSIMILE (208) 333-8409

RECEIVED

MAY 20 2003

EMAIL MHOWARD@FIBERPIPE.NET

MAY 20 2003

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Shelley Keen	Matt J. Howard
COMPANY:	DATE:
IDWR	May 20, 2003
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
327-7866	9
RE:	
Water Right Application No. 57-11620 - John & Deborah Edwards	

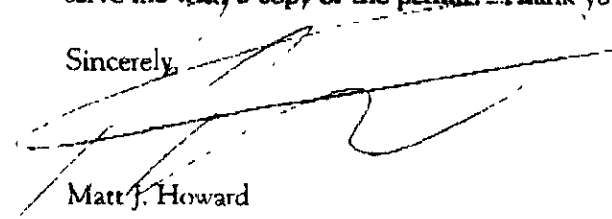
NOTES/COMMENTS:

Dear Shelley -

Enclosed is a copy of a letter received from the BLM confirming receipt of the Edwards' right of way application. Also, enclosed is a signed copy of the application. It is not conformed, but I assume since we have a letter from the BLM confirming receipt of the right of way application, a conformed copy is no longer required. I believe this should provide sufficient evidence to satisfy the "good faith" criterion of IDAPA 37.03 08.045.c.i.

Please let me know if you require anything further. Also, would you please let me know when you expect the water right permit for 57-11620 to be issued and ask your clerk to serve me with a copy of the permit? Thank you.

Sincerely,


Matt J. Howard

Enclosures

Cc: John & Deborah Edwards via fax ((909) 625-8525)

Doug Hipwell via fax ((208) 834-2642)

CONFIDENTIAL & PRIVILEGED INFORMATION

This facsimile is confidential & privileged. It is for use of the individual(s) named on this cover sheet. If you are not the intended recipient, do not read this facsimile. Any further inspection, dissemination, or copying of this facsimile is prohibited. If you have received this facsimile by error, please notify us by phone immediately, and we will arrange to have it returned to us. Thank you for your cooperation.



United States Department of the Interior
Bureau of Land Management

Lower Snake River District
Boise Field Office
3948 Development Avenue
Boise, Idaho 83705-5389
<http://www.id.blm.gov>

In Reply Refer To:

IDI-34408
2800

MAY 14 2003

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

John Edwards
3024 N. Mountain Avenue
Claremont CA 91711

Dear Mr. Edwards:

Subject: Cost Category Determined. Additional Information Needed

This letter is to inform you of our Cost Category Determination and associated appeal rights, and of the additional information needed to process your application.

We received your right-of-way application for an irrigation pipeline, submitted on your behalf by your attorney Matt J. Howard. Serial number IDI-34408 is assigned to this filing. Please refer to that number in all future correspondence concerning this file.

Cost Category Determined

In accordance with 43 CFR 2808.2-2 we have determined the appropriate cost recovery to process your application. Enclosed is the form that illustrates our determination of a Category III. If you feel that we reached our decision in error, you may appeal by following the procedures outlined below:

***Appeal Procedures:** This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary in accordance with the regulations contained in 43 CFR Part 4 and the enclosed Form ID-1840-3. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.*

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR. 4939, January 19, 1993) or 43 CFR 2804.1 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed in item eight of the attached Form. Copies of the notice of

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MAY 16 2004

appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

The non-refundable processing fee for a Category III is \$550.00. Please send your payment to the Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709. If you prefer to make payment by credit card, please call (208) 373-3892.

The monitoring fee for this category is \$100.00. The monitoring fee and rental will be due if we offer to grant the right-of-way.

Additional Information Needed

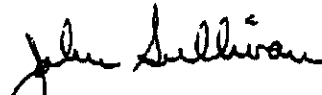
Your application is incomplete. To process the application, we need the following information:

1. Your application indicates the length of the irrigation pipeline is 160 feet across BLM-administered lands. However no width is stated. We need to know the width of the right-of-way you are requesting.

How to Proceed

Please remit the \$550.00 processing fee and provide the requested information within 30 days. If we have not received the processing fee and requested information within the time allowed, we may reject your application. If you have any questions, please call Kelley Moore at (208) 384-3452.

Sincerely,


John Sullivan
NCA Manager

Enclosures

cc: Matt J. Howard, Attorney at Law, PO Box 190012, Boise, Idaho 83719

MICROFILMED

MAR 15 2004

STANDARD FORM 298 (1/88)
Prescribed by DOT/USDOT
P.L. 98-487 and Federal
Register Notice 9-22-95

APPLICATION FOR TRANSPORTATION AND
UTILITY SYSTEMS AND FACILITIES
ON FEDERAL LANDS

FORM APPROVED
OMB NO. 1004-0080
Expires: December 31, 2001

FOR AGENCY USE ONLY

NOTE: Before completing and filing the application, the applicant should completely review this package and schedule a preapplication meeting with representatives of the agency responsible for processing the application. Each agency may have specific and unique requirements to be met in preparing and processing the application. Many times, with the help of the agency representative, the application can be completed at the preapplication meeting.

Application Number

Date Filed

1. Name and address of applicant (include zip code)
John and/or Deborah Edwards
3024 N. Mountain Ave.
Claremont, CA 91711

2. Name, title, and address of authorized agent if
different from item 1 (include zip code)
Matt J. Howard
Attorney at Law
P.O. Box 1900 J2
Boise, ID 83719

3. TELEPHONE (area code)

Applicant 909-625-5354

Authorized Agent 208-333-0622

4. Are applicant are you? (check one)
- a. ☒ Individual
 - b. ☐ Corporation
 - c. ☐ Partnership/Association
 - d. ☐ State Government/State Agency
 - e. ☐ Local Government
 - f. ☐ Federal Agency

* If checked, complete supplemental page

5. Specify what application is for: (check one)
- a. ☐ New authorization
 - b. ☐ Renewing existing authorization No.
 - c. ☐ Amend existing authorization No.
 - d. ☐ Assign existing authorization No.
 - e. ☒ Existing use for which no authorization has been received
 - f. ☐ Other

* If checked, provide details under item 7

6. If an individual or partnership are you a citizen(s) of the United States? ☒ Yes ☐ No

7. Project description (describe in detail): (a) Type of system or facility, (e.g., canal, pipeline, road); (b) related structures and facilities; (c) physical specifications (Length, width, grading, etc.); (d) term of years needed; (e) time of year of use or operation; (f) Volume or amount of product to be transported; (g) duration and timing of construction; and (h) temporary work areas needed for construction (Attach additional sheets, if additional space is needed.)

See Attachment A.

8. Attach a map covering area and show location of project proposal

9. State or Local government approval: ☐ Attached ☐ Applied for ☒ Not Required

10. Nonreturnable application fee: ☐ Attached ☐ Not required

11. Does project cross international boundary or affect international waterways? ☐ Yes ☒ No (if "yes," indicate on map)

12. Give statement of your technical and financial capability to construct, operate, maintain, and terminate system for which authorization is being requested.

The Applicants have the technical and financial capability to construct, operate, maintain, and terminate the system for which authorization is being requested.

(Continued on reverse)

This form is authorized for local reproduction.

13a. Describe other reasonable alternative routes and modes considered.

None.

b. Why were these alternatives not selected?

Because system already in existence.

c. Give explanation as to why it is necessary to cross Federal Lands.

Because system already in existence.

14. List authorizations and pending applications filed for similar projects which may provide information to the authorizing agency. (Specify number, date, code, or name)

Water right application no. 57-11620 (attached)

15. Provide statement of need for project, including the economic feasibility and items such as: (a) cost of proposal (construction, operation, and maintenance); (b) estimated cost of next best alternative; and (c) expected public benefits.

Minimal expense.

16. Describe probable effects on the population in the area, including the social and economic aspects, and the rural lifestyles.

None.

17. Describe likely environmental effects that the proposed project will have on: (a) air quality; (b) visual impact; (c) surface and ground water quality and quantity; (d) the control or structural change on any stream or other body of water; (e) existing noise levels; and (f) the surface of the land, including vegetation, permafrost, soil, and soil stability.

None.

18. Describe the probable effects that the proposed project will have on (a) populations of fish, wildlife, and marine life, including threatened and endangered species; and (b) marine mammals, including hunting, capturing, collecting, or killing these animals.

None.

19. State whether any hazardous material, as defined in this paragraph, will be used, produced, transported or stored on or within the right-of-way or any of the right-of-way facilities, or used in the construction, operation, maintenance or termination of the right-of-way or any of its facilities. "Hazardous material" means any substance, pollutant or contaminant that is listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as defined in the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 9601 et seq., and its regulations. The term hazardous materials also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. The term does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA Section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas.

None.

20. Name all the Department(s)/Agency(ies) where this application is being filed

Bureau of Land Management

I HEREBY CERTIFY, That I am of legal age and authorized to do business in the State and that I have personally examined the information contained in the application and believe that the information submitted is correct to the best of my knowledge.

Signature of Applicant

John Edward J.

Date

4-21-03

Title 18, U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

ATTACHMENT A**Item No. 7 - Cont'd**

Water is diverted from an unnamed stream by an existing diversion box into an existing pipeline (approximately 4-6" diameter) carrying water approximately 160 feet across public land to land owned by Applicants. Applicants' predecessors installed the box and pipeline in approximately 1981 and have used the water for irrigation purposes.

Applicants have filed an Application for Permit No. 57-11620 with the Idaho Department of Water Resources to give Applicants the continued right to use the water for irrigation and other purposes as set out in the water right application (attached). Term of years needed: maximum allowable but not less than 30 years.

MICHAEL J. ...

MAP : 5 2004

FORM 202
2/96Ident. No. 57-11620STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

OCT 21 2002

WATER RESOURCES
WESTERN REGION

1. Name of Applicant John D. Edwards and/or Deborah S. Edwards Phone 208-834-2080
Mailing address P.O. Box 91, Murphy, ID. 83650
2. Source of water supply unnamed stream which is a tributary of sinks
3. Location of point of diversion is Township 3S Range 1W Sec. 15 In the 1/4.
NW 1/4, SW 1/4, Govt Lot , B.M., Owyhee County;
additional points of diversion if any: NESW Sec 15, T3S, R1W
4. Water will be used for the following purposes:
Amount 0.24 for irrigation purposes from 3/1 to 11/15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.24 for diversion to storage purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.05 for stockwater purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 10 for recreation & aesthetic storage 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)
5. Total quantity to be appropriated is (a) 0.24 and/or (b) 10
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 6-inch pipe from stream to sprinklers for irrigation; excavated pond for storage
b. Height of storage dam <10 feet; active reservoir capacity 10 acre-feet; total reservoir capacity 10 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. 200 head range cattle and horses
c. Municipal; show name of municipality.
d. Domestic; show number of households.
e. Other; describe fully. aesthetic and recreation will be for a pond; recreation use to include fishing and swimming

COPY

M...
APR 15 2004

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	N E				N W				S W				S E				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3S	1W	15									1			10			1		12
		15									J, R								
		15									S			S			S		

J=aesthetic, R=recreation, S=stock

Total number of acres to be irrigated 12

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? applicantb. 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: _____

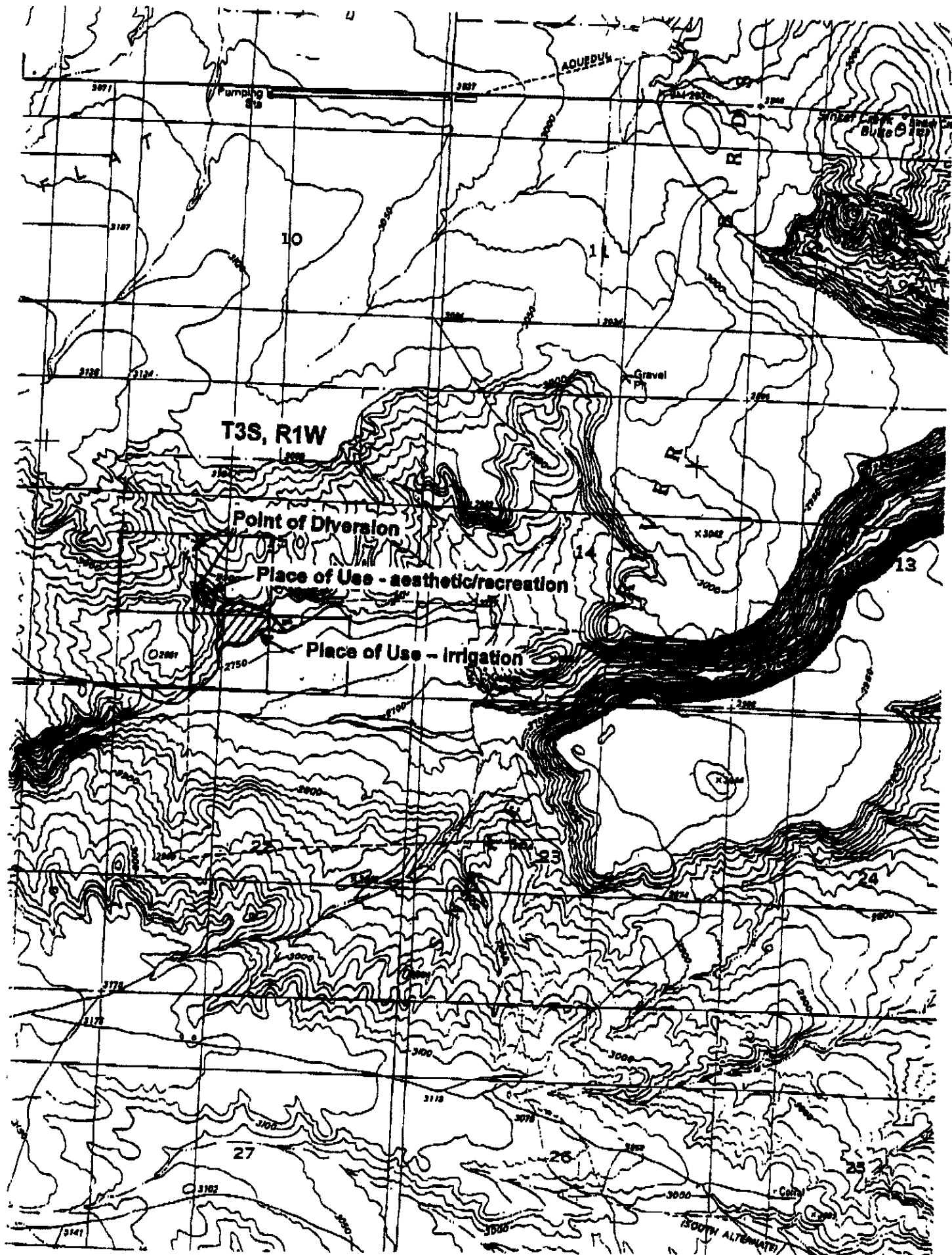
12. Remarks: Stream sinks before reaching Sinker Cr. This application is for an irrigation use that was developed in about 1980, but was never permitted

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.

Deborah Edwards
Signature of Applicant (and title, if applicable)

Received by Kb Date 10/22/02 Time 2:30 Preliminary check by _____
 Fee \$ 25000 Received by Kb # 10029822 Date 10/22/02
 Publication prepared by _____ Date _____ Published in _____
 Publication approved _____ Date _____



Keen, Shelley

To: mhoward@fiberpipe.net
Subject: Edwards App. 57-11620

Matt,

I received a copy of your letter to Kelley Moore at BLM. I will hold the file for another 30 days to give you some time to get a conformed copy of the right-of-way application back from BLM.

Shelley Keen
Water Right Permits Section
Idaho Dept. of Water Resources
208-327-7946
skeen@idwr.state.id.us

MICROFILMED

MAR 16 2004

MATT J. HOWARD

ATTORNEY AT LAW

RECEIVED

P. O. BOX 190012

BOISE, IDAHO 83719

TELEPHONE (208) 333-0622

FACSIMILE (208) 333-8409

MAY 5 2003

EMAIL: MHOWARD@FIBERPIPE.NET

Department of Water Resources

May 3, 2003

Bureau of Land Management
3948 Development Ave.
Boise, ID 83705

Attention: Kelley Moore

RE: Right of Way Application – John and Deborah Edwards

57-11620

Dear Kelley:

Enclosed is a completed right-of-way application submitted on behalf of John and Deborah Edwards requesting permission to maintain their existing water right point of diversion on BLM land. I have also enclosed an additional copy of the right-of-way application that I would ask that you kindly conform and send back to me in the enclosed envelope so that I may provide a conformed copy of the application to the Idaho Department of Water Resources.

If you have any questions concerning the application or require additional information, please do not hesitate to contact me. Thank you.

Very truly yours,

Matt J. Howard

Enclosures

Cc: Clients (w/o encl.)

Doug Hipwell, Ranch Manager (w/o encl.)

Shelley Keen, IDWR (w/o encl.) ✓

MICROFILMED
MAY 15 2003

MATT J. HOWARD

ATTORNEY AT LAW

P O BOX 190012

BOISE, IDAHO 83719

TELEPHONE (208) 333-0622

FACSIMILE (208) 333-8409

RECEIVED
APR 17 2003
Department of Water Resources
EMAIL: MHOWARD@FIBERPIPE.NET

April 16, 2003

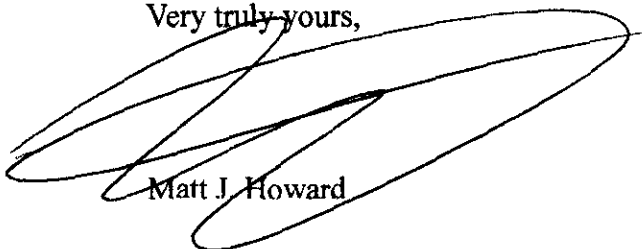
Shelley W. Keen
Idaho Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706

RE: Application for Permit No. 57-11620 – Request for Extension

Dear Shelley:

Thank you for your letter of March 20, 2003, regarding the above-referenced application. I have been in contact with Kelley Moore, the BLM agent who handles right-of-way approvals for the BLM. Ms. Moore has sent me the right-of-way application, which has been filled out and forwarded to my clients, John and Deborah Edwards, for signature. After I receive the signed application, I will file it with the BLM and forward a copy to your office. I expect that I will have a copy of the application to you within 30 days and would, therefore, request an extension until May 16, 2003, to accomplish same. Thank you.

Very truly yours,



Matt J. Howard

Cc: Clients

MICROFILM
MAR 16 2004

MEMORANDUM

DATE: April 16, 2003

TO: Water right file 57-11620

FROM: Shelley W. Keen *SWK*

RE: Time to submit required information

This afternoon I spoke with attorney Matt Howard about the time required to submit the additional information described in my letter of 3/20/2003. Matt told me that he has just sent the right-of-way application to his clients in California. He anticipates that it could take a few weeks to get the signed application back from his clients, to submit the application to BLM, and to get a conformed copy from BLM. Therefore, Matt asked for, and I agreed to, 60 additional days to submit the requested information.



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

March 20, 2003

JOHN D EDWARDS
DEBORAH S EDWARDS
PO BOX 91
MURPHY ID 83650

RE: Application for Permit No. 57-11620

Dear Applicants:

According to the record established for Application for Permit No. 57-11620, which you filed for irrigation, stockwater, recreation, and aesthetic purposes, the proposed point of diversion from the stream source is on public land administered by the Bureau of Land Management (BLM). There is no record in the file that you have requested or obtained authorization from the BLM to access the public land to construct your proposed diversion works. Section 42-203A, *Idaho Code*, requires IDWR to determine that an application is made in good faith and is not for speculative purposes. Rule 45.c.i. of the Water Appropriation Rules (IDAPA 37.03.08.045.c.i.) says that an application will be found to have been made in good faith if:

The applicant shall have legal access to the property necessary to construct and operate the proposed project, has the authority to exercise eminent domain authority to obtain such access, or in the instance of a project diverting water from or conveying water across land in state or federal ownership, has filed all applications for a right-of-way. Approval of applications involving Desert Land Entry or Carey Act filings will not be issued until the United States Department of Interior, Bureau of Land Management has issued a notice classifying the lands suitable for entry.

Within 30 days from the date of this letter, please submit evidence that you have obtained legal access to the proposed point of diversion or that you have filed the necessary applications to obtain legal access to the proposed point of diversion. IDWR may grant additional time if you submit a request and show good cause for needing the additional time.

If you have any questions, please call me at 208-327-7946, or email me at skeen@idwr.state.id.us.

Sincerely,

Shelley Walter Keen
Water Rights Supervisor

cc. Gary Spackman, IDWR Wester Region
Jenna Whitlock, BLM Owyhee Field Office

MICHAEL

MAR 16 2004

IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

Initial review by ly Date 11/20/02 Application # 57-1620

REQUIRED INFORMATION

- ☒ Name (If applicant is a corporation or partnership, the names and addresses for the director, officers, and other partners must be included)
- ☒ Address
- ☒ Source (See USGS Quad for names of water sources)
- ☒ Point of Diversion (10 acres for spring, lot & block descriptions for Subdivisions, local name)
- ☒ County
- ☒ Quantity (Flow and /or Volume)
- ☒ Period of use
- ☒ Nature of proposed use (Include description of use)
- ☒ Description of diverting works
- ☒ Time required for beneficial use of water
- ☒ Place of use or acres irrigated
- ☒ Map (Show T, R, S, QQ &/OR QQQ)
- ☒ Subdivision plat (for > 1 home in restricted area ≥ 5 homes in non-restricted area)
- ☒ Signature (If applicant is corporation, partnership, or municipality, title of signatory is required)
- ☒ Correct fee paid
- Government Lots
☒ P/D
☒ P/U

ADDITIONAL INFORMATION

Y ADVERTISE REMARKS (Yes or No)

YES NO

- ☒ Overlapping place of use (Describe source and relationship to present application on next page)
- ☒ Overlapping point of diversion
- ☒ Critical groundwater area
- ☒ Ground water management area
- ☒ 1992 moratorium
- ☒ Surface water source, IDFG letter needed
- ☒ Protected river or minimum flow reach, notify water planning bureau
- ☒ E-mail to SCA staff (perennial stream, non-pump diversion &/or any mining)
- ☒ E-mail to Dam Safety staff (for any storage)
- ☒ Mitigation plan Check any that apply
- ☒ Immediate = acceptable plan required and submitted
- ☒ Future = open areas, acceptance of condition of approval is in file
- ☒ 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 THE 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, and date recorded on application

SEND COPIES TO NOTE IF E-MAIL COMMENT LETTER USED

YES NO

☐ ☒ I.D. Environmental Quality
☐ ☒ I.D. District Health
☒ ☐ I.D. Fish & Game
☐ ☒ I.D. Lands

YES NO

☐ ☒ US BLM
☐ ☒ US Forest Service
☒ ☐ Water Dist # STD
☐ ☒ Water Planning Bureau
☐ ☒ Other _____

FINAL REGIONAL PROCESSING REVIEW

YES NO

☒ ☐ Affidavit of publication received
☒ ☐ Application published correctly? If not, record action taken _____

☒ ☐ Publication dates and paper recorded on application

☐ ☐ Final date for protest 12-23-02

☒ ☐ Protests received

☒ ☐ Recommendations attached

☐ ☒ Measuring device required

☐ ☒ Water delivered by water master? District # _____

☒ ☐ Special conditions of approval or cover letter

121, Application states the water is not tributary to Sinkers Creek. No watermaster condition is necessary

Recommended Date of Priority 10/22/02

Recommendation ☒ Approve ☐ Deny by Barys Date 3/14/03

ADDITIONAL INFORMATION

☐ See attached proof report, note any Legal Notice Remarks &/or Comments

☐ See attached shapefile

IDAHO DEPARTMENT OF WATER RESOURCES

Water Application Report 57-11620

WATER RIGHT NUMBER: 57-11620

Owner Type Name and Address
 Current Owner DEBORAH S EDWARDS
 PO BOX 91
 MURPHY, ID 83650
 (208)834-2080

Current Owner JOHN D EDWARDS
 PO BOX 91
 MURPHY, ID 83650
 (208)834-2080

Priority Date. 10/22/2002

Basis:

Status: Active

Source Tributary
 UNNAMED STREAM SINKS

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.050 CFS	
STOCKWATER STORAGE	01/01 to 12/31		10.00 AF
IRRIGATION	03/01 to 11/15	0.240 CFS	
RECREATION STORAGE	01/01 to 12/31		10.00 AF
AESTHETIC STORAGE	01/01 to 12/31		10.00 AF
	<u>Total Diversion:</u>	0.240 CFS	

Location of Point(s) of Diversion

UNNAMED STREAM	NW1/4SW1/4	Sec. 15, Twp 03S, Rge 01W, B.M.
OWYHEE County		
UNNAMED STREAM	NE1/4SW1/4	Sec. 15, Twp 03S, Rge 01W, B.M.
OWYHEE County		

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	
03S	01W	15																	
											X							X	

STOCKWATER STORAGE

Twp	Rge	Sec	NE	NW	SW	SE
-----	-----	-----	----	----	----	----

IDAHO DEPARTMENT OF WATER RESOURCES

Water Application Report 57-11620

	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03S 01W 15									X								

IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
03S 01W 15	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	12.0
									1.0			10.0			1.0		

Total Acres: 12

RECREATION STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
03S 01W 15	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
									X								

AESTHETIC STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
03S 01W 15	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
									X								

Conditions of Approval:Remarks:Comments:

1. Imattson 11/21/2002 Legal Notice Remarks

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

2. Imattson 11/21/2002 Comment/Analysis

Comment: P/U is above of Sinker Creek and does not overlap with applicants other irrigation, which is located below Sinker Creek. Applicant proposes to divert the stream in the NWSW, prior to storage, for irrigation use. Diversion to storage is N/A because the pond is located on-stream. Water will not be diverted from the pond for irrigation (per Terry Scanlan 11/20/02).

IDAHO DEPARTMENT OF WATER RESOURCES
Water Application Report 57-11620

Dates and Other Information:

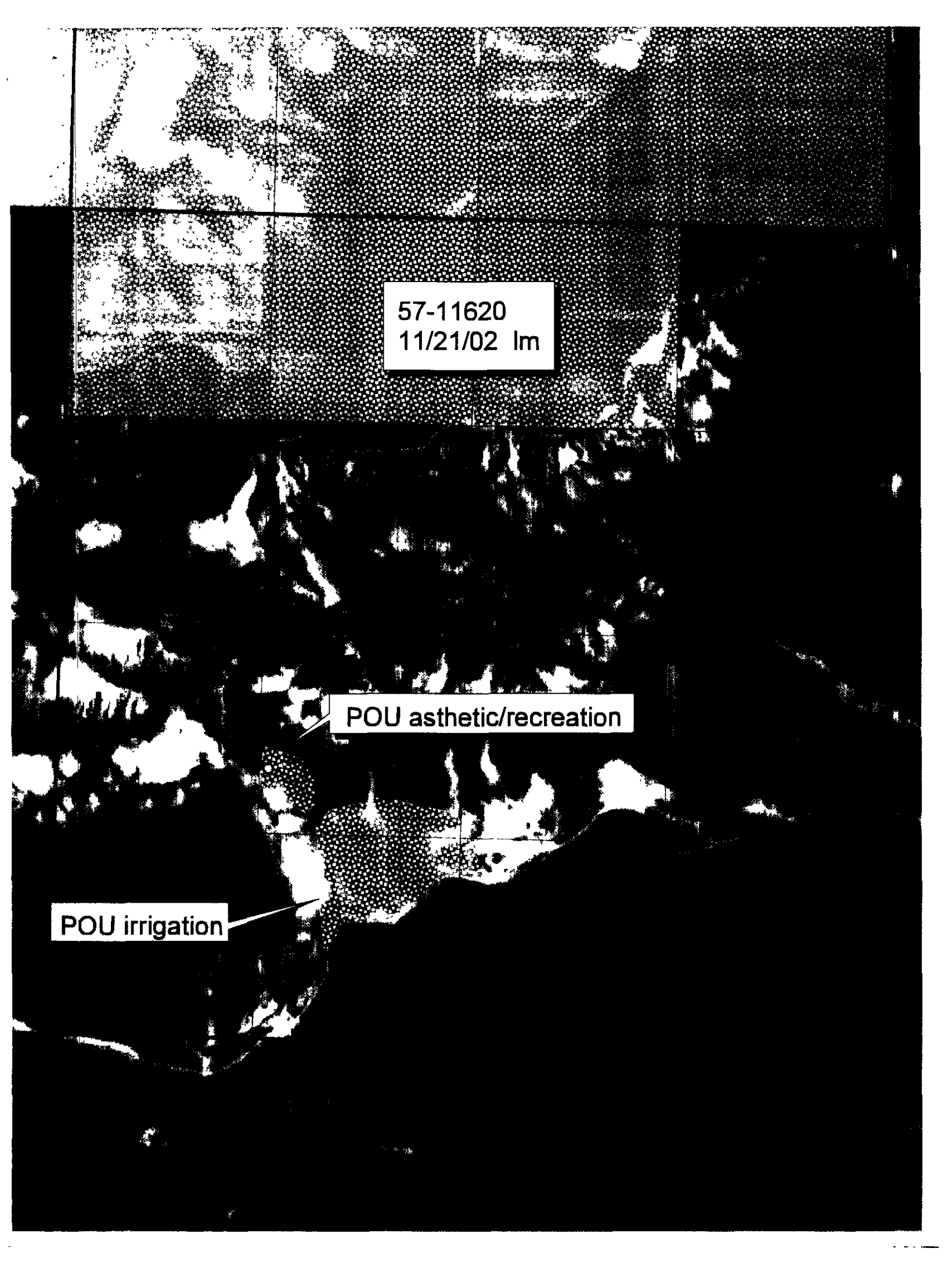
Application Received Date: 10/22/2002
 Application Denied Date:
 Last Date of Beneficial Use:
 Extension End Date:
 Protest Deadline Date:
 Number of Protests: 0
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 State or Federal:
 Owner Name Connector: AND/OR
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Application Type: New Appropriation
 Applicant Remarks: Stream sinks before reaching Sinker Creek. This application is for an irrigation use that was developed in about 1980, but was never permitted.
 Other Water Rights:
 Time to Complete Works: 5
 Transfer Affected Description:
 Transfer Affected Contracts:
 Old Transfer Number:
 Transfer Reason:
 Transfer Return Flows:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Element Reviewed/Verified Dates.

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
----------------	---------------------------	-----------------	---------------------------	-----------------	---------------

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
----------------	------------------------	-----------------	-----------------



57-11620
11/21/02 Im

POU asthetic/recreation

POU irrigation

PROTEST INFORMATION SHEET

APPLICANT: JOHN &/OR DEBORAH EDWARDS
PO BOX 91
MURPHY ID 83650

PH: 834-2080

APPLICATION NO: 57-11620

DATE FILED: 12-21-02 **PROTEST DATE:** 12-23-02

PROTESTANT(S) NAME & ADDRESS:

JENNA WHITLOCK
US BUREAU OF LAND MGMT
3948 DEVELOPMENT AVE
BOISE ID 83705-5082

Attorney Name & Address: Issues:

Applicant - Attorney - Name & Address:

MATT HOWARD
PO BOX 190012
BOISE ID 83719

Dates:

Acknowledgement Letters: _____

Hearing Notice: _____

Hearing Date: _____

Other:

MEMORANDUM

To: Jeff Peppersack, Shelley Keen
From: Gary Spackman *Gary*
Date: March 14, 2003

Re: **Conditions of Approval for Application to Appropriate Water No. 57-11620 in the Name of John D. Edwards**

Application to Appropriate Water No. 57-11620 was protested by the U.S. Bureau of Land Management. A prehearing conference was scheduled for February 11, 2003. Prior to the conference, IDWR received a letter from Jenna Whitlock of BLM, dated February 6, 2003, agreeing to withdraw the protest "subject to the Edwards obtaining a right-of-way for the proposed diversion and water delivery system." Specifically, the letter stated that the permit should include the stipulation that "the applicant must obtain a right-of-way from the BLM for the proposed diversion before the Idaho Department of Water Resources issues a water right license."

The condition could easily be included in the permit approval, and would expressly remind an examiner to look insure that a right of way has been established. Nonetheless, right-of-ways are not within IDWR's direct jurisdiction. The most similar standard condition reads as follows:

004 – This right does not grant any right-of-way or easement across the land of another.

Based on present IDWR procedures, the above appears to be the appropriate condition of approval. Perhaps some reference to a private agreement would be helpful, although I don't believe there is a written agreement binding the applicants to adhere to the conditional language.

Enclosed is a draft letter I have written to inform BLM that the exact language agreed to will not be incorporated into the permit. Perhaps the letter is not necessary since BLM will be served with a copy of the permit, will have an opportunity to review the permit language, and may petition for reconsideration, file exceptions, and request a hearing. If, however, the letter is appropriate, I will sign and mail the letter, or I've transmitted an electronic copy for your review if you want to modify and send it from the state office.

RECEIVED
MAR 16 2004

DRAFT

(Date)

JENNA WHITLOCK
US BUREAU OF LAND MGMT
3948 DEVELOPMENT AVE
BOISE ID 83705

Re: Application for Permit No. 57-11620 in the Name of John D. &/or Deborah S. Edwards

Dear Ms. Whitlock:

On February 5, 2003, you sent a letter to the Idaho Department of Water Resources (IDWR) on behalf of the BLM, withdrawing a protest by BLM to application to appropriate water no. 57-11620 filed by Edwards. In your letter you state that BLM will withdraw its protest "subject to the Edwards obtaining a right-of-way for the proposed diversion and water delivery system." Specifically, the letter stated that the permit should include the stipulation that "the applicant must obtain a right-of-way from the BLM for the proposed diversion before the Idaho Department of Water Resources issues a water right license."

IDWR has determined that it will not place your proposed condition on the permit, but will replace it with the following condition: This right does not grant any right-of-way or easement across the land of another.

When the permit is issued, you will be served with a copy of the approval document containing the conditions of approval. If you object to any portion of the permit, including the exclusion of the language upon which you conditioned your withdrawal of protest, you may petition for reconsideration, file exceptions, and request a hearing. These possible remedies will be explained in the documentation enclosed with the approval document.

Respectfully,

Gary Spackman

John D. Edwards
John Westra

MICROFILMED

MAR 16 2004



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 14, 2003

JENNA WHITLOCK
US BUREAU OF LAND MGMT
3948 DEVELOPMENT AVE
BOISE ID 83705

JOHN D &/OR DEBORAH S EDWARDS
PO BOX 91
MURPHY ID 83650

Re: Application for Permit No. 57-11620 in the Name of John D. &/or Deborah S. Edwards

Dear Parties:

This letter acknowledges the withdrawal of protest of the above-referenced application for permit. The prehearing conference scheduled for February 11, 2003 in Murphy, Idaho was cancelled.

The department will now continue to process this application, subject to certain conditions of approval.

If you have any questions please call this office.

Sincerely,

Gary Spackman

GS:st

MICROFILM

MAR 16 2004



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Lower Snake River District
3948 Development Avenue
Boise, Idaho 83705

In Reply Refer To:
7250 (096)

FEB -5 2003

RECEIVED

FEB 06 2003

WATER RESOURCES
WESTERN REGION

John Westra
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705-5082

Dear Mr Westra:

On December 19, 2002 this office protested water right application 57-11620 in the name of Deborah S. Edwards and John D. Edwards because the point of diversion, described as T. 3 S., R. 1 W., section 15 NWSW (Lot 6), is public land administered by the Bureau of Land Management.

Subsequent to our protest, we have been in contact with Mr. Matt Howard, Attorney at Law, who represents the Edwards. We have reached a verbal agreement with the Edwards, through Mr. Howard, to withdraw our protest subject to the Edwards obtaining a right-of-way for the proposed diversion and water delivery system. We hereby request that the protest conference scheduled for February 11, 2003, in Murphy, Idaho, be cancelled and that Permit No. 57-11620 include the stipulation that the applicant must obtain a right-of-way from the BLM for the proposed diversion before the Idaho Department of Water Resources issues a water right license.

If you have any questions regarding this request, please contact Bob Mallis at (208) 384-3348.

Sincerely,

Jenna Whitlock
Owyhee Field Manager

cc:
John D. and Deborah S. Edwards
Matt J. Howard

MICROFILMED

MAR 5 2004

The Owyhee Avalanche

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

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

RECEIVED

JAN 22 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):

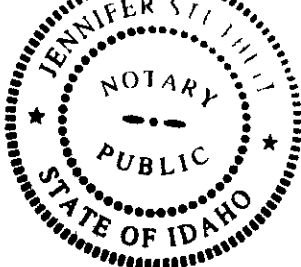
DECEMBER 4, 11, 2002

SIGNED:

STATE OF IDAHO)
COUNTY OF OWYHEE)

On this 20th day of January in the year of 2002 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 S. Drexler
Notary Public for Idaho

Residing at Homedale, Idaho

My commission expires: 1/3/2009

APPLICATION FOR
PERMIT NO. 97-1200

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

57-11620

DEBORAH S. EDWARDS

PO BOX 91

MURPHY ID-83650

JOHN D. EDWARDS

PO BOX 91

MURPHY ID 83650

Point(s) of Diversion

NWSW S15 T03S

R01W OWYHEE County

Source

UNNAMED STREAM

Tributary To SINKS

Point(s) of Diversion

NESW S15 T03S

R01W OWYHEE County

Source

UNNAMED STREAM

Tributary To SINKS

Use: IRRIGATION 03/01 To

11/150.24 CFS

Use: STOCKWATER 01/01 To

12/310.05 CFS

Use: STOCKWATER

STORAGE 01/01 To 12/

3110 AFA

Use: RECREATION STORAGE

01/01 To 12/31.10 AFA

Use: AESTHETIC STORAGE

01/01 To 12/3110 AFA

Total Diversion: 0.24 CFS

Date Filed:

Point of Use:

Place of Use:

Number of Acres:

Place of Use:

Place of Use:

Place of Use:

Place of Use:

Place of Use:

Place of Use:

Place of Use:

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State of Idaho
Department of Water Resources

RECEIVED

RECOMMENDATION OF WATERMASTER

DEC 16 2002

WATER RESOURCES
WESTERN REGIONApplication Number: 57-11620 + 57-11622Applicant's Name: John D. Edwards and/or Deborah S. Edwards

Watermaster's Recommendation:

- a) X I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows:

- c) _____ I oppose approval of this application for the following reasons:

- d) Additional Comments: _____

Dated this 11th day of December, 2002Water District Number: 57-D Watermaster's Signature Nick Ishli

Use back side of this page if you need more space

MICROFILMED

MAR 16 2004

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE
STATE OF IDAHO

RECEIVED

JAN 21 2003

Department of Water Resources

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 57-11620 IN THE)
NAME OF JOHN &/OR DEBORAH)
EDWARDS)

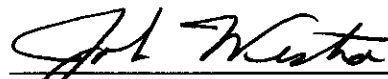
NOTICE OF PREHEARING
CONFERENCE

On October 21, 2002 John D. &/or Deborah S. Edwards filed with the Department of Water Resources (IDWR) an application for permit to appropriate the public waters of the State of Idaho. The application was protested by the US Bureau of Land Management.

IDWR has scheduled a conference for the protest to be held on **Tuesday, February 11, 2003 at 10:00 a.m. in conference room no. 2 at the Owyhee County Courthouse, Highway 78, Murphy, Idaho 83650.** The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Procedure of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources.

The conference will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise IDWR at least (10) days prior to the conference.

Dated this 16th day of January 2003.

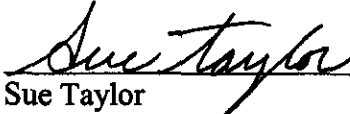

John Westra

MICROFILMED

MAR 15 2004

CERTIFICATE OF MAILING

I hereby certify that on the 17th day of January 2003, I mailed a true and correct copy, postage prepaid, of the Notice of Prehearing Conference to those listed:


Sue Taylor
Senior Secretary

JOHN &/OR DEBORAH EDWARDS
PO BOX 91
MURPHY ID 83650

JENNA WHITLOCK
US BUREAU OF LAND MGMT
3948 DEVELOPMENT AVE
BOISE ID 83705-5082

MATT HOWARD
ATTORNEY AT LAW
PO BOX 190012
BOISE ID 83719

MICHAEL J. JAMES
MAR 16 2004

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

- 1) Will the proposed appropriation injure other water rights?
- 2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?
- 3) Was the application made in good faith or for delay or speculative purposes?
- 4) Does the applicant have sufficient financial resources with which to complete the proposed project?
- 5) Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a preliminary order for the Director's consideration. Parties can file exceptions to a preliminary order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may, by written stipulation, waive their right to a preliminary order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility that meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

RECEIVED

APR 6 2004



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

January 16, 2003

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

RECEIVED

JAN 21 2003

Department of Water Resources

JENNA WHITLOCK
US BUREAU OF LAND MGMT
3948 DEVELOPMENT AVE
BOISE ID 83705-5082

Re: Application for Permit No. 57-11620 in the Name of John &/or Deborah Edwards

Dear Protestant:

This office acknowledges receipt of your protests to the issuance of a permit pursuant to the above referenced application.

The following are the criteria the department must consider in either approving or denying an application for permit (Section 42-203A, Idaho Code):

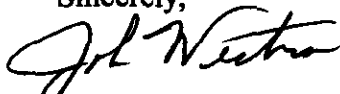
1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

Enclosed is a Notice of Prehearing Conference scheduled for February 11, 2003 at the Owyhee County Courthouse, Murphy, Idaho 83650. At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

The department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest prior to the prehearing conference. Direct, sincere conversation between the parties prior to initiation of formal proceedings can often resolve a protest.

If this office can be of further assistance, please contact us.

Sincerely,


John Westra

MICROFILMED

MAR 10 2003

GS:st

Encl: Copy of Application
Notice of Prehearing Conference



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

January 16, 2003

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

JOHN &/OR DEBORAH EDWARDS
PO BOX 91
MURPHY ID 83650

Re: Application for Permit No. 57-11620

Dear Applicant:

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to the above-referenced application.

The following are the criteria the department must consider in either approving or denying an application for permit (per Section 42-203A, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

Enclosed is a Notice of Prehearing Conference scheduled for February 11, 2003 at the Owyhee County Courthouse, Murphy, Idaho 83650. At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

The department suggests you contact the protestant(s) directly in an effort to determine what is in dispute in the application and to attempt to resolve the protest. Direct, sincere conversation between the parties prior to initiation of formal proceedings can often resolve a protest.

Please contact this office if you have questions regarding this procedure.

Sincerely,

John Westra

GS:st

Enclosure: Copy of protest(s)
Notice of Prehearing Conference

MAILED 1-17-03

JAN 15 2003



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Lower Snake River District
3948 Development Avenue
Boise, Idaho 83705

W029934
12/20/02 Kg
10:54

In Reply Refer To:
7250 (096)

DEC 19 2002

RECEIVED
DEC 20 2002
WATER RESOURCES
WESTERN REGION

Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705-5082

To Whom It May Concern:

This office hereby protests water right application 57-11620 in the name of Deborah S. Edwards and John D. Edwards for the following reason:

The point of diversion described as T. 3 S., R. 1 W., section 15 NWSW (Lot 6), is public land administered by the Bureau of Land Management. There is no recorded authorization for use of the above described public land as a diversion point. We request that the described point of diversion be deleted from the application.

If you have any questions regarding this protest, please contact Bob Mallis of this office at (208) 384-3348.

Sincerely,

For Jenna Whitlock
Owyhee Field Office Manager

Enclosure
Protest fee payment

cc:
John D. and Deborah S. Edwards, P. O. Box 91, Murphy, Idaho 83650

MURPHY, ID
DEC 16 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 9, 2002

NICK IHLI
WATER DISTRICT 57D
PO BOX 25
MURPHY ID 83650

Re: Application for Water Right Nos. 57-11620 and 57-11622 in the Name of John &/or
Deborah Edwards.

Dear Mr. Ihli:

Enclosed is a copy of the above-referenced application for permit. Also enclosed is a
form for your recommendation concerning this application.

Please review the application. We must have your comments within two weeks.

If you have any questions or need information, feel free to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lori Graves'.

Lori Graves

LG:lm

Encl: Copy of Application

10/11/02

DEC 16 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

December 9, 2002

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

STATE OF IDAHO
DEPT OF FISH & GAME
3101 S POWERLINE RD
NAMPA ID 83686

Re: Application for Water Right Nos. 57-11620 and 57-11622 in the Name of John &/or Deborah Edwards.

Dear Sir or Madam:

Enclosed are copies of the above-referenced applications that the proposed use is from surface water. Please review the applications and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if your agency desires to file a formal protest against the approval of any of these applications, your written protest along with the \$25.00 protest fee per application protested must be received in this office by December 23, 2002.

If you have any questions regarding the application, please contact this office.

Sincerely,

A handwritten signature in black ink that reads "Lori Graves".

Lori Graves

LG:lm

Encl: Copy of Applications

November 27, 2002

Legal Notice Department

Owyhee Avalanche

PO Box 97

Homedale ID 83628

RE: Application for Permit No. 57-11620

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 12/23/2002. Your cooperation is appreciated.

Sincerely



Sue Taylor
Senior Secretary

NOV 27 2002

DEC 15 2002

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

57-11620

DEBORAH S EDWARDS
PO BOX 91
MURPHY ID 83650
JOHN D EDWARDS
PO BOX 91
MURPHY ID 83650

Point(s) of Diversion NWSW S15 T03S R01W OWYHEE County Source UNNAMED STREAM
Tributary To SINKS

Point(s) of Diversion NESW S15 T03S R01W OWYHEE County Source UNNAMED STREAM
Tributary To SINKS

Use. IRRIGATION	03/01 To 11/15	0.24 CFS	
Use: STOCKWATER	01/01 To 12/31	0.05 CFS	
Use: STOCKWATER STORAGE	01/01 To 12/31		10 AFA
Use: RECREATION STORAGE	01/01 To 12/31		10 AFA
Use: AESTHETIC STORAGE	01/01 To 12/31		10 AFA

Total Diversion. 0.24 CFS

Date Filed: 10/22/2002

Place Of Use: STOCKWATER

T03S R01W S15 NESW SESW SWSE

Place Of Use: STOCKWATER STORAGE

T03S R01W S15 NESW

Place Of Use: IRRIGATION

T03S R01W S15 NESW SESW SWSE

Number of Acres 12

Place Of Use: RECREATION STORAGE

T03S R01W S15 NESW

Place Of Use: AESTHETIC STORAGE

T03S R01W S15 NESW

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 12/23/2002. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Owyhee Avalanche on December 4 and 11, 2002.

MAR 15 2003