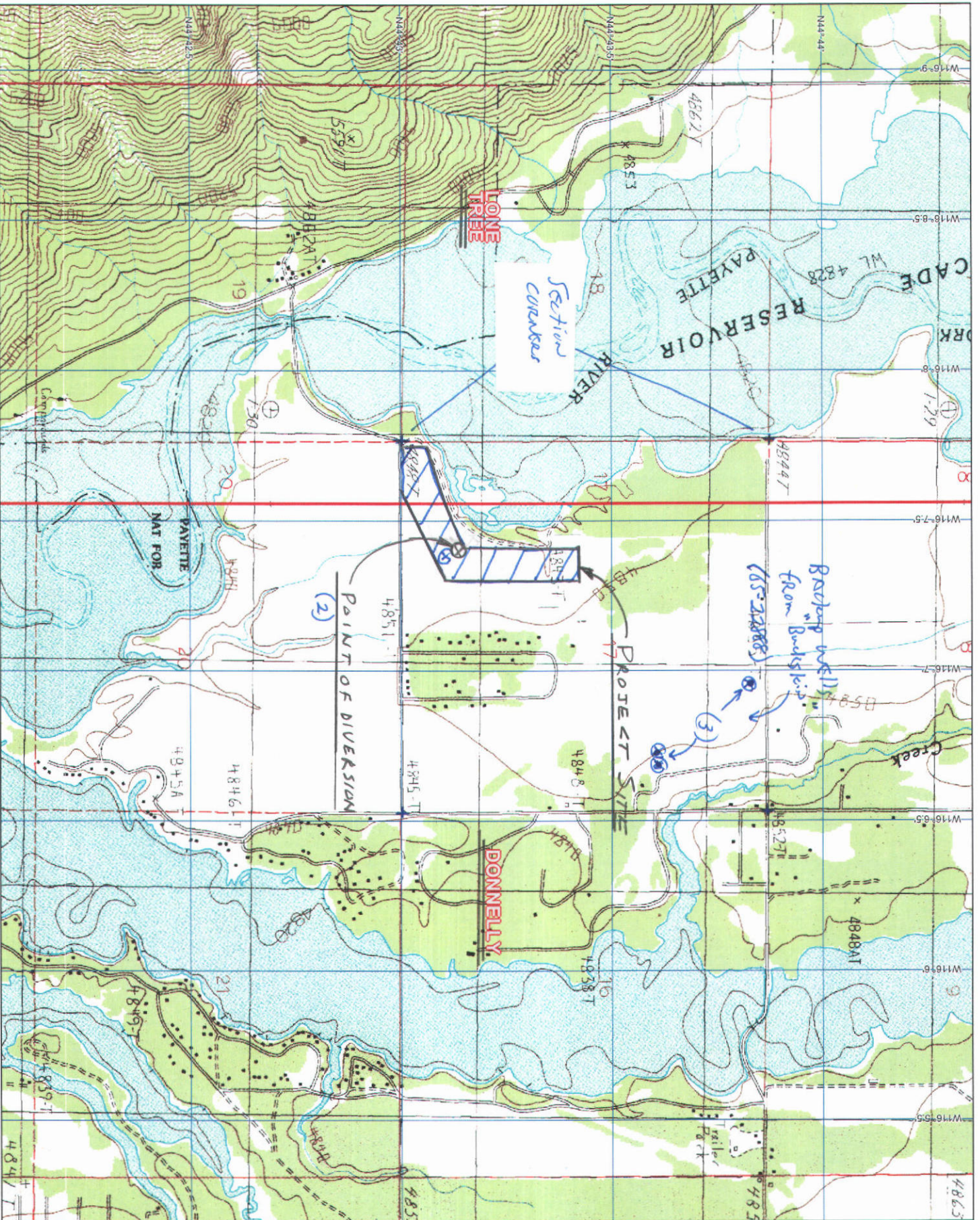




No gov't lot - 52 6/22/94

65-22809

SEC 17, T16N, R3E LONETREE DONNELLY AND MAPS

Publisher's Affidavit of Publication

STATE OF IDAHO

.SS

County of Valley

I, Carol J. Wright, being duly sworn and say, I am the receptionist of The Star-News, a weekly newspaper published at McCall, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county of afore said and is a legal newspaper; that the PUBLIC NOTICE, a copy of which is enclosed hereto and is a part hereof, was published in said newspaper once a week for a period of two weeks in the regular and entire issue of every number there of during the period of time of publication, and was published in the newspaper proper and not in a supplement; and that publication of such notice began July 1, 2004 and ended July 8, 2004.

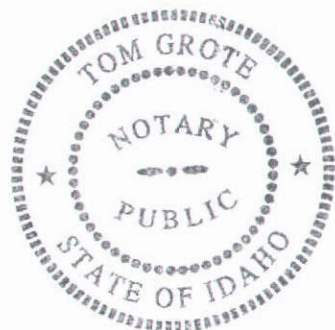
Carol J. Wright

Subscribed and sworn before me this the 8th day of July, 2004.

STATE OF IDAHO

COUNTY OF VALLEY

On this 8th day of July, in the year of 2004, before me, a Notary Public, personally appeared Carol J. Wright, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.



Tom Grote

Tom Grote
Notary Public for Idaho
Residing at McCall, Idaho
Commission Expires 2/8/06

WATER RIGHT APPLICATIONS

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

65-22889

W & S INVESTMENTS INC, 4225 SRIVA RIDGE WY, BOISE ID 83709

Point(s) of Diversion NWNE S17 T16N R03E VALLEY County Source GROUND WATER. Point(s) of Diversion SENE S17 T16N R03E VALLEY County Source GROUND WATER. Point(s) of Diversion SESW S17 T16N R03E VALLEY County Source GROUND WATER. Point(s) of Diversion SENE S17 T16N R03E VALLEY County Source GROUND WATER. Use: IRRIGATION 04/15 To 10/31 0.7 CFS. Use: DOMESTIC 01/01 To 12/31 0.35 CFS. Use: FIRE PROTECTION 01/01 To 12/31 2.23 CFS

Total Diversion: 3.28 CFS

Date Filed: 05/18/2004

Place Of Use: IRRIGATION T16N R03E S17 NESW SWSW SESW

Number of Acres 34.8 Place Of Use: DOMESTIC T16N R03E S17 N E S W SWSW SESW

Place Of Use: FIRE PROTECTION T16N R03E S17 NESW SWSW SESW

Remark: Applicant agrees to mitigate consumptive use in the future as needed for development aka Hawks Bay Estates. Three backup wells from Buckskin Properties Inc. Application 65-22888 are included in this filing.

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 07/19/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director 2tc7/8

RECEIVED

JUL 12 2004

WATER RESOURCES
WESTERN REGION

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-22889

Priority: May 18, 2004

Maximum Diversion Rate

3.28 CFS

This is to certify, that W & S INVESTMENTS INC
4225 S RIVA RIDGE WY
BOISE ID 83709

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	04/15 to 10/31	0.70 CFS
DOMESTIC	01/01 to 12/31	0.35 CFS
FIRE PROTECTION	01/01 to 12/31	2.23 CFS

LOCATION OF POINTS OF DIVERSION:

GROUND WATER	NW¼NE¼	Sec. 17, Twp 16N, Rge 03E, B.M., VALLEY County
GROUND WATER	SE¼NE¼	Sec. 17, Twp 16N, Rge 03E, B.M., VALLEY County
GROUND WATER	SE¼NE¼	Sec. 17, Twp 16N, Rge 03E, B.M., VALLEY County
GROUND WATER	SE¼SW¼	Sec. 17, Twp 16N, Rge 03E, B.M., VALLEY County
GROUND WATER	SE¼SW¼	Sec. 17, Twp 16N, Rge 03E, B.M., VALLEY 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	
16N	03E	17									13.6		13.2	8.0					34.8
Total Acres			34.8																

PLACE OF USE: DOMESTIC & FIRE PROTECTION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	03E	17									X		X	X					

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2006**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 65-22889

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. Domestic use is for 66 homes and does not include lawn, garden, landscape, or other types of irrigation
6. The domestic use authorized under this right shall not exceed 13,000 gallons per day per home
7. Place of use is also known as Hawks Bay Estates
8. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality standards of the Department of Environmental Quality
9. This right does not grant any right-of-way or easement across the land of another
10. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
11. Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire.
12. 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
13. 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 24th day of August, 2004


FOR KARL J DREHER, Director

65-22889

AMENDED

Department of Water Resources
STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

6-14-04
861-8884 or
262-1319

- 1 Name of Applicant W+S Investments INC. Phone 208-362-5575
Mailing address 4225 S. Riva Ridge, Boise Id 83709
2 Source of water supply Groundwater ^{was} which is a tributary of _____
3 Location of point of diversion is Township 16N Range 3E Sec 17, in the SW ~~NE~~ ^W 1/4, SE 1/4, SW 1/4, Govt Lot NA, B M, Valley County,
additional points of diversion if any. NA NONE & SEC 5, 17 T16N R3E

(2 wells)

(3 wells)

- 4 Water will be used for the following purposes:
- | |
|---|
| Amount <u>2.23</u> for <u>Five Protection</u> purposes from <u>1/1</u> to <u>12/31</u> (both dates inclusive)
(cfs or acre-feet per annum) |
| Amount <u>0.7*</u> for <u>Irrigation</u> purposes from <u>4/15</u> to <u>10/31</u> (both dates inclusive)
(cfs or acre-feet per annum) |
| Amount <u>0.35</u> for <u>Domestic</u> purposes from <u>1/1</u> to <u>12/31</u> (both dates inclusive)
(cfs or acre-feet per annum) |
| Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum) |
| Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum) |
| Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum) |

- 5 Total quantity to be appropriated is (a) 3.28 cubic feet per second and/or (b) _____ acre feet per annum

- ## 6 Proposed diverting works

- a Describe type and size of devices used to divert water from the source 16" Wells & pipelines

- b Height of storage dam _____, feet, active reservoir capacity _____ acre-feet, total reservoir capacity _____ acre-feet

- c. Proposed well diameter is 16 inches, proposed depth of well is 400 feet

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

- e If well is already drilled, when? 5/1/84; 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 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 _____

- c Municipal, show name of municipality _____

- d Domestic; show number of households 66 residential lots + 5 common lots = 71 lot;

- e Other, describe fully _____

* See Section 12 for remarks

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	
16N	3E	17									13.6		13.2	8.0					34.8
		17									D		D	D					
		17									F		F	F					

Total number of acres to be irrigated 34.8

10. Describe any other water rights used for the same purposes as described above None that I know of.

11. a. Who owns the property at the point of diversion? Applicant & Bucksley Properties et al
- 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 PER agreements, see Bucksley application

12. Remarks: There will eventually be part of North Lake Recreation / water & sewer dist. (NLRWSD) Fire Protection amount shown in section 4 is required by the NLRWSD. The actual irrigable land at buildout will be less than the amount shown in this application.

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 1/2 minute topographic quadrangle map is preferred)

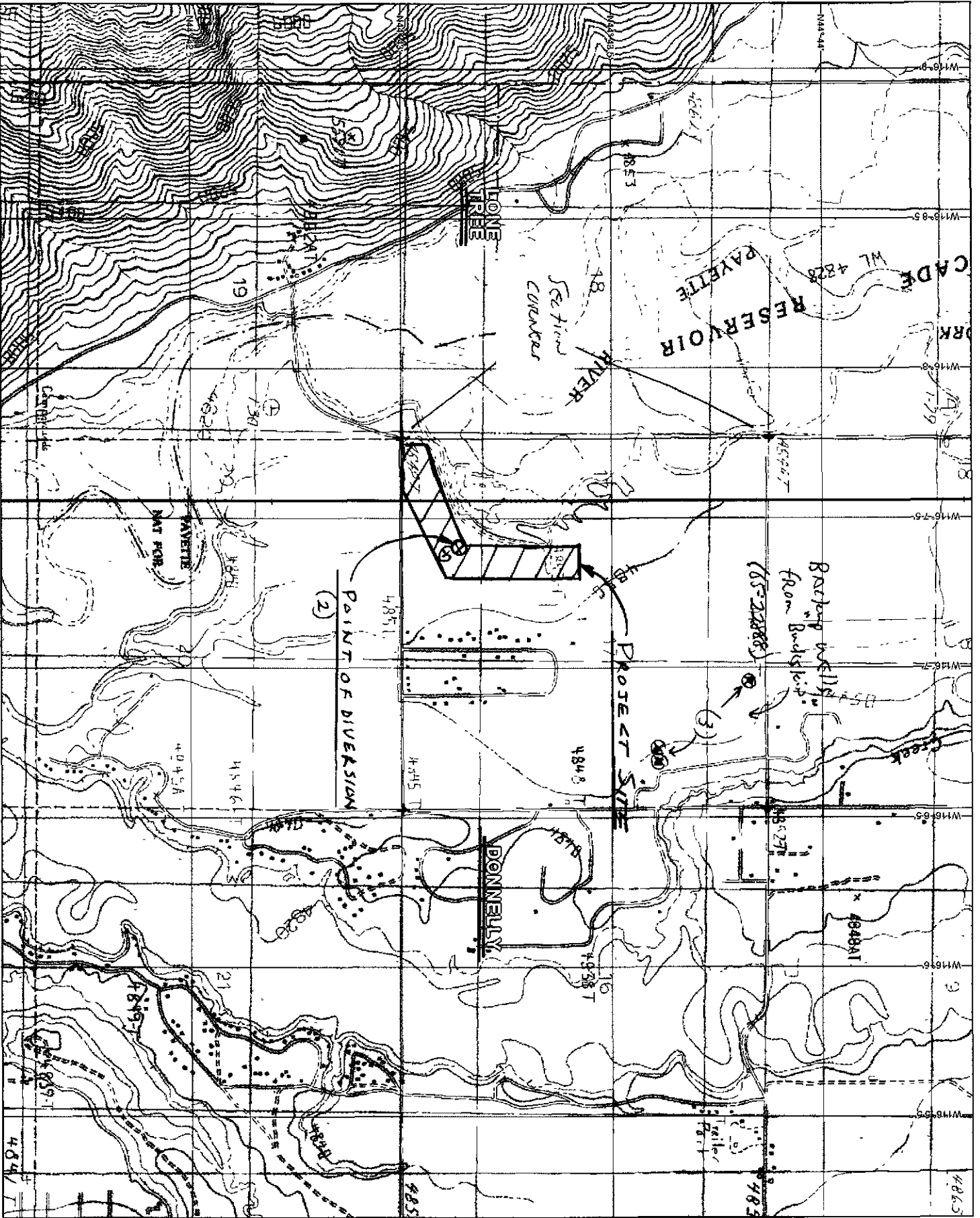
BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth

Walter R. Wanner
Signature of Applicant (and title, if applicable)

Walter R. Wanner, President

Received by 6 Date 5/18/04 Time 4:15 PM Preliminary check by SL
Fee \$ 370 Received by 6 # W031720 Date 5/18/04
Publication prepared by SL Date 7-17-04 Published in STAR NEWS
Publication approved SL Date 7-19-04

amended 6/14/04 office visit -SL



NO GOVT LTR 5/22/04

65-22809

REQUEST TO PROCESS

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

Name of Applicant

W + S Investments

Mailing Address

4225 Riva Ridge
Boise, Idaho 83709

Application No.
(if known)

____ IN LOCAL PUBLIC INTEREST

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

____ PROPOSE MITIGATION NOW

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

☒ WILL AGREE TO MITIGATION IN THE FUTURE IF NECESSARY

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

Signature



Date

5/18/04

Please return this form to:

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

ROBERT L. ALDRIDGE, CHARTERED
Attorney at Law
1209 North Eighth Street
Boise, Idaho 83702-4297
Telephone: (208) 336-3850
Fax: (208) 336-3832

FILED
FEB 10 1999

ARTICLES OF INCORPORATION

OF

W&S INVESTMENTS, INC.

1. Name. The name of the corporation is W&S Investments, Inc..
2. Authorized shares. The aggregate number of shares the corporation is authorized to issue shall be ten thousand (10,000), all of which shall be common voting stock.
3. Registered office and agent. The registered office of the corporation is 4225 South Riva Ridge Way, Boise, Idaho 83709, and its registered agent at that address is Walter R. Wanner
4. Incorporators. The names of the incorporators and their addresses are:

<u>Name</u>	<u>Address</u>
Saundra Wanner	4225 South Riva Ridge Way Boise, Idaho 83709
Walter R. Wanner	4225 South Riva Ridge Way Boise, Idaho 83709

5. Voting Entitlement of Shares.

(a) Except as provided in sections (b) and (d) of this Article, each outstanding share, regardless of class, is entitled to one (1) vote on each matter voted on at a shareholders' meeting. Only shares are entitled to vote

(b) This corporation is not entitled to vote treasury shares. The shares of this corporation are not entitled to vote if they are owned, directly or indirectly, by a second corporation, domestic or foreign, and this corporation owns, directly or indirectly, a majority of the shares entitled to vote for directors of the second corporation.

(c) Section (b) of this Article does not limit the power of this corporation to vote any

02/19/1999 09:09
W&S Investments, Inc.
1000 SECRETARY OF STATE
1000 SECRETARY OF STATE

Received Event (Event Succeeded)
Date: 5/17/2004
Pages: 5
Sender: 208 886 5960
Fax Number: May 17 04 02:57
Type: Betty Jo Bergman
Subject: 12081 886 - 5960
Company: P.2
Duration: 2 min 54 sec
Time: 2:38 PM

65-22889

114

share, including its own shares, held by it in a fiduciary capacity.

(d) Redeemable shares are not entitled to vote after notice of redemption is mailed to the holders and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.

6. Corporate purpose The purpose for which this corporation is organized is the transaction of any and all lawful business for which corporations may be incorporated under the Idaho Business Corporation Act.
7. Board of Directors All corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of, its board of directors, subject to any limitation set forth in a shareholder agreement authorized under section 30-1-732, Idaho Code. The number of directors constituting the initial board of directors shall be two (2), and the names and addresses of the persons to serve as directors until the first annual meeting of shareholders or until their successors are elected and qualified are:

<u>Name</u>	<u>Address</u>
Saundra Wanner	4225 South Riva Ridge Way Boise, Idaho 83709
Walter R. Wanner	4225 South Riva Ridge Way Boise, Idaho 83709

Directors need not be residents of the State of Idaho or shareholders of the corporation

8. Terms of Classes or Series of Shares Determined by Board The board of directors may determine, in whole or in part, the preferences, limitations and relative rights, within the limits of section 30-1-601, Idaho Code, of (a) any class of shares before the issuance of any shares of that class or (b) one (1) or more series within a class before the issuance of any shares of that series. Each series must have preferences, limitations and relative rights identical with those of other shares of the same series and except to the extent otherwise provided in the description of the series, with those of other series of the same class. Before issuing any shares of a class or series created under this section, the corporation shall deliver to the secretary of state for filing articles of amendment, which are effective without shareholder action, that set forth the information required by section 30-1-602, Idaho Code.
9. Voting Each outstanding share entitled to vote shall be entitled to one (1) vote on each matter submitted to a vote at a meeting of shareholders. Shareholders do not

P. 3

12081 888 - 5960

Bette Jo Bergman

May 17 04 02:38P

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208 888 5960

Pages:

5

Date:

5/17/2004

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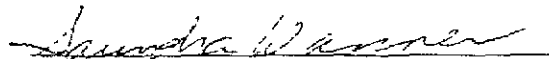
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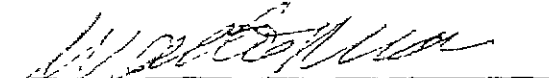
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have the right to cumulate their votes for directors.

- 10 Indemnification. The corporation shall indemnify the directors and officers of the corporation to the fullest extent permitted by the Idaho Business Corporation Act, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the corporation to provide broader indemnification rights than the Idaho Business Corporation Act permitted the corporation to provide prior to such amendment).
- 11 Limitation of Liability. No director shall be liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty except liability for (i) the amount of a financial benefit received by a director to which he is not entitled; (ii) an intentional infliction of harm on the corporation or the shareholders; (iii) a violation of § 30-1-823, Idaho Code; or, (iv) an intentional violation of criminal law.

In witness whereof, we have subscribed these Articles of Incorporation this February 5, 1999.

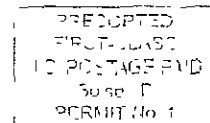

Sandra Wanner, Incorporator


Walter R. Wanner

Received Event (Event Succeeded)
3/4
Date: 5/17/2004
Page: 5
Sender: 208 888 5960
Fax Number: 208 888 5960
Time: 2:38 PM
Duration: 2 min 54 sec
Company: F.4
Subject: Bette Jo Bergman (208) 888 - 5960
TY: 17 04 02:38P



STATE OF IDAHO
BEN L. GILLES
SECRETARY OF STATE
200 WEST HEFFERSON
PO BOX 8720
BOISE ID 83720-0000



IDAHO ANNUAL REPORT FORM

7 12 494

RETURN SERVICE REQUESTED

THIS IS THE ONLY NOTICE YOU WILL RECEIVE

W & S INVESTMENTS INC.
1225 S RIVA RIDGE WAY
BOISE, ID 83709

1. FILING 1. ATTORNEY

1. FILING 1. ATTORNEY

No. C 127499		Due no later than February 29, 2004 Annual Report Form		2 Registered Agent and Office NO PO BOX	
Return to SECRETARY OF STATE 200 WEST HEFFERSON PO BOX 8720 BOISE ID 83720-0000		1. Mailing Address - Correct in this box, if applicable W & S INVESTMENTS INC 4225 S RIVA RIDGE WAY BOISE ID 83709		WALTER R WANNER 4225 S RIVA RIDGE WAY BOISE, ID 83709	
NO FILING FEE IF RECEIVED BY DUE DATE		BOISE ID 83709		3 New Registered Agent Signature	
1 Corporations Enter Names and Business Addresses of President, Secretary and Directors					
Office held	Name	Director or P.O. Address	City	State	Zip
President	Walter R. Wanner	4225 Riva Ridge Way	Boise	Idaho	83709
Sec/Trea	Saundra L. Wanner	4225 Riva Ridge Way	Boise	Idaho	83709
5. Quantities Under the laws of					
IDAHO C 127499		Signature _____ Name ^{Treasurer} _{President} Walter R. Wanner		Date 1-8-2004 Title President	

Issued 12/01/2003

Do Not Tape or Staple

4274

C

Fold, seal and mail this portion

C

P.E.

12081 888 - 5960

Company:
Duration: 2 min 57 sec
Time: 2 38 PM

Bette Jo Bergman

Date: 5/17/2004
Pages: 5
Sender: 208 888 5960
Fax Number: 208 888 5960
May 17 04 02:38P

Received Event (Event Succeeded)

4/4



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

August 24, 2004

W & S INVESTMENTS INC
4225 S RIVA RIDGE WY
BOISE ID 83709

RE: Permit No. 65-22889

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.

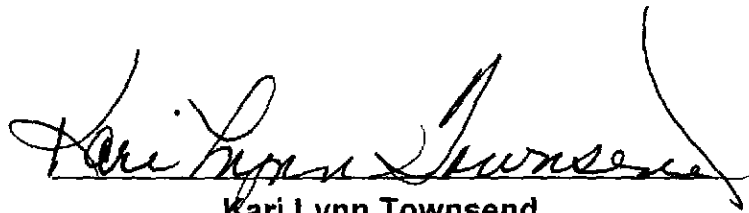
CERTIFICATE OF SERVICE

I hereby certify that on August 24, 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.

65-22889

**W & S INVESTMENTS INC
4225 S RIVA RIDGE WY
BOISE ID 83709**

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

**Kari Lynn Townsend
Secretary**

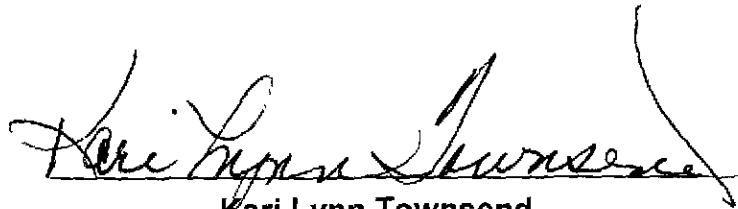
CERTIFICATE OF SERVICE

I hereby certify that on August 24, 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.

65-22889

**W & S INVESTMENTS INC
4225 S RIVA RIDGE WY
BOISE ID 83709**

A handwritten signature in black ink, appearing to read "Kari Lynn Townsend", is 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.

Comment Report

65-22889

1. slester 6/22/2004 2.15.26 PM Additional Information Supporting Application

Comment:

Mitigation Plan or acceptance form. Attached

2 slester 6/22/2004 Legal Notice Remarks

Comment Applicant agrees to mitigate consumptive use in the future as needed for development aka Hawks Bay Estates Three backup wells from Buckskin Properties Inc. Application 65-22888 are included in this filing

3. kwalker 8/13/2004 Permit Review

Comment: Recommend approval No overlapping water rights so not supplemental.

RECEIVED

AUI 12 1002

Form No 202a
April 2004

IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

Initial review by FL Date 6/22/04 Application # 65-22889

REQUIRED INFORMATION

See file, info from IDOS Bw. Entity Registration

- ☒ 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
N P/D
P/U

ADDITIONAL INFORMATION

ADVERTISE REMARKS

☒ YES ☐ NO

YES NO

- ☒ P/D overlap (explain) - *show 3 wells proposed in Bunderkin Appl. 65-22888*
- ☒ P/U overlap (explain) - *work for this new development*
- ☒ 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:
 - N/A 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 _____

PROCESSING

APPLICATION # 65-22889

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 - no rep
☐ ☒ IDFG
☐ ☒ IDL
☐ ☒ IDWR Water Planning Bureau

YES NO

☐ ☒ US BLM
☐ ☒ US Forest Service
☐ ☒ Water Dist #
☐ ☒ Other - list here or attach information

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 7-19-04
☐ ☒ Protests received
☐ ☒ Recommendations attached
☒ ☐ Measuring device required
☐ ☒ Water delivered by water master? District #
☐ ☒ Special conditions of approval or cover letter

Same as 65-22888 (Buckskin) except: surface water condition N/A; AKA Hawks Bay
Estator; allow 2 years.

Recommended Date of Priority 5/18/2004

Recommendation ☒ Approve ☐ Deny by St. Latta for Reg. Mgr. Date 8/9/04

AMENDED prior to legal notice without expansion, priority unchanged, \$50 fee N/A.

ADDITIONAL INFORMATION

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

☒ Shapefile completed (optional: attach with proof report)

Application includes 3 wells also proposed in Buckskin Properties 65-22888
Application. Each Application for separate development proposes to use other
Applicant's wells for back up purposes per 5/19/04 agreement filed
in Buckskin's Application 65-22888.

PROCESSING

APPLICATION # 65-22809

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 - no rep
☐ ☒ IDFG
☐ ☒ IDL
☐ ☒ IDWR Water Planning Bureau

YES NO

☐ ☒ US BLM
☐ ☒ US Forest Service
☐ ☒ Water Dist #
☐ ☒ Other - list here or attach information

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 7-19-04
☐ ☒ Protests received
☐ ☒ Recommendations attached
☒ ☐ Measuring device required
☐ ☒ Water delivered by water master? District #
☐ ☒ Special conditions of approval or cover letter

Same as 65-22888 (Buckskin) except: surface water condition N/A; AKA Hawks Bay
Estator; allow 2 years.

Recommended Date of Priority 5/18/2004

Recommendation ☒ Approve ☐ Deny by ST after the RES. Mgr. Date 8/9/04

AMENDED prior to legal notice without expansion, priority unchanged, \$50 fee N/A.

ADDITIONAL INFORMATION

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

☒ Shapefile completed (optional: attach with proof report)

Application includes 3 wells also proposed in Buckskin Properties 65-22888
Application. Each Application for separate development purposes to use other
Applicant's wells for back up purposes per 5/19/04 agreement filed
in Buckskin's Application 65-22888.

Water Application Report 65-22889

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	W & S INVESTMENTS INC 4225 S RIVA RIDGE WY BOISE, ID 83709 (208)362-5575

Status: Active

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/15 to 10/31	0.700 CFS	
DOMESTIC	01/01 to 12/31	0.350 CFS	
FIRE PROTECTION	01/01 to 12/31	2.230 CFS	
	Total Diversion:	3.280 CFS	

GROUND WATER VALLEY County	NW1/4NE1/4	Sec 17, Twp 16N, Rge 03E, B M.
GROUND WATER VALLEY County	SE1/4NE1/4	Sec 17, Twp 16N, Rge 03E, B M.
GROUND WATER VALLEY County	SE1/4NE1/4	Sec 17, Twp 16N, Rge 03E, B.M
GROUND WATER VALLEY County	SE1/4SW1/4	Sec. 17, Twp 16N, Rge 03E, B M
GROUND WATER VALLEY County	SE1/4SW1/4	Sec 17, Twp 16N, Rge 03E, B.M.

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>Totals</u>
16N	03E	17									13	6	13	2	8	0			34

DOMESTIC, FIRE PROTECTION: Same as IRRIGATION Place of Use

IDAHO DEPARTMENT OF WATER RESOURCES
Water Application Report 65-22889

Conditions of ApprovalRemarksComments

1 slester 6/22/2004 2 15 26 P M Additional Information Supporting Application
Comment
Mitigation Plan or acceptance form Attached

2 slester 6/22/2004 Legal Notice Remarks
Comment Applicant agrees to mitigate consumptive use in the future as needed for development aka Hawks Bay
Estates Three backup wells from Buckskin Properties Inc Application 65-22888 are included in this filing

Dates and Other Information:

Application Received Date 5/18/2004

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

Water District Number

Generic Max Rate Per Acre

Generic Max Volume Per Acre

Application Type New Appropriation

Applicant Remarks Wells will eventually be part of North Lake Recreational Water & Sewer District Fire protection
amount shown is required by the district Actual irrigable land at buildout will be less than amount shown in this
application

Other Water Rights none

Time to Complete Works 2

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

Combined Use Limits

Publisher's Affidavit of Publication

STATE OF IDAHO

.SS

County of Valley

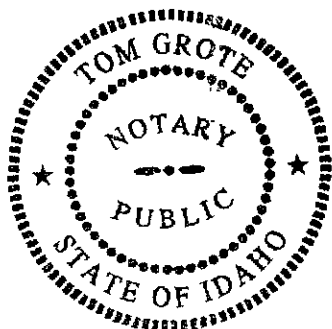
I, Carol J. Wright, being duly sworn and say, I am the receptionist of The Star-News, a weekly newspaper published at McCall, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county of afore said and is a legal newspaper, that the PUBLIC NOTICE, a copy of which is enclosed hereto and is a part hereof, was published in said newspaper once a week for a period of two weeks in the regular and entire issue of every number there of during the period of time of publication, and was published in the newspaper proper and not in a supplement, and that publication of such notice began July 1, 2004 and ended July 8, 2004

Carol J. Wright

Subscribed and sworn before me this the 8th day of July, 2004
STATE OF IDAHO

COUNTY OF VALLEY

On this 8th day of July, in the year of 2004, before me, a Notary Public, personally appeared Carol J. Wright, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same



Tom Grote

Tom Grote
Notary Public for Idaho
Residing at McCall, Idaho
Commission Expires 2/8/06

WATER RIGHT APPLICATIONS

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

65-22889

W & S INVESTMENTS INC. 4225 SRIVA RIDGE WY, BOISE ID 83709

Point(s) of Diversion NWNE S17 T16N R03E VALLEY County Source GROUND WATER. Point(s) of Diversion SENE S17 T16N R03E VALLEY County Source GROUND WATER. Point(s) of Diversion SENE S17 T16N R03E VALLEY County Source GROUND WATER. Point(s) of Diversion SESW S17 T16N R03E VALLEY County Source GROUND WATER. Point(s) of Diversion SESW S17 T16N R03E VALLEY County Source GROUND WATER. Use: IRRIGATION 04/15 To 10/31 0.7 CFS. Use: DOMESTIC 01/01 To 12/31 0.35 CFS. Use: FIRE PROTECTION 01/01 To 12/31 2.23 CFS

Total Diversion. 3.28 CFS

Date Filed: 05/18/2004

Place Of Use: IRRIGATION T16N R03E S17 NESW SWSW SESW

Number of Acres 34.8 Place Of Use DOMESTIC T16N R03E S17 N E S W SWSW SESW

Place Of Use FIRE PROTECTION T16N R03E S17 NESW SWSW SESW

Remark Applicant agrees to mitigate consumptive use in the future as needed for development aka Hawks Bay Estates. Three backup wells from Buckskin Properties Inc. Application 65-22888 are included in this filing.

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 07/19/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director 2tc7/8

RECEIVED
JUL 12 2004

WATER RESOURCES
WESTERN REGION

Kreger (Taylor), Sue

From: Kreger (Taylor), Sue
Sent: Thursday, June 24, 2004 1:52 PM
To: 'srae@deq.state.id.us'

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

June 24, 2004

ID DEPT ENV QUALITY
STEVE RAE
1445 N ORCHARD
BOISE ID 83706-2239

Dear Mr. Rae:

Attached are copies of one or more applications that may be of interest to you and/or to a local District Health office should you choose to delegate review of the application(s) to that organization. Please contact the applicant if your agency and/or District Health have concerns about the application(s). It is not necessary to provide agency comments to the Idaho Department of Water Resources (IDWR), although your comments are welcome if you think IDWR would benefit from them.

If your agency and/or a local District Health office desires to file a formal protest against approval of any of these applications, a written protest along with the \$25.00 protest fee for each application protested must be received in this office by July 19, 2004.

If you have any questions regarding these applications, please contact this office at 334-2190.

Sincerely,

Sue Kreger
(208) 334-2190
Id Dept Water Resources
skreger@idwr.state.id.us



63-31949.pdf



65-22888.pdf



65-22889.pdf



Amended
Application.pdf

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

June 23, 2004

Legal Notice Department
STAR NEWS
1000 1ST ST
MC CALL ID 83638

RE. Application for Permit No. 65-22888 and 65-22889

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find two legal notices 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 notices 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 07/19/2004. 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:

65-22889

W & S INVESTMENTS INC
4225 S RIVA RIDGE WY
BOISE ID 83709

Point(s) of Diversion	NWNE	S17 T16N R03E	VALLEY County	Source	GROUND WATER
Point(s) of Diversion	SENE	S17 T16N R03E	VALLEY County	Source	GROUND WATER
Point(s) of Diversion	SENE	S17 T16N R03E	VALLEY County	Source	GROUND WATER
Point(s) of Diversion	SESW	S17 T16N R03E	VALLEY County	Source	GROUND WATER
Point(s) of Diversion	SESW	S17 T16N R03E	VALLEY County	Source	GROUND WATER

Use	IRRIGATION	04/15 To 10/31	0.7 CFS
Use:	DOMESTIC	01/01 To 12/31	0.35 CFS
Use	FIRE PROTECTION	01/01 To 12/31	2.23 CFS
Total Diversion:			3.28 CFS

Date Filed: 05/18/2004

Place Of Use IRRIGATION

T16N R03E S17 NESW SWSW SESW

Number of Acres 34.8

Place Of Use. DOMESTIC

T16N R03E S17 NESW SWSW SESW

Place Of Use FIRE PROTECTION

T16N R03E S17 NESW SWSW SESW

Remark Applicant agrees to mitigate consumptive use in the future as needed for development aka Hawks Bay Estates.
Three backup wells from Buckskin Properties Inc. Application 65-22888 are included in this filing.

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 07/19/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Star News on July 1 and 8, 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

June 22, 2004

W & S INVESTMENTS INC
4225 S RIVA RIDGE WY
BOISE ID 83709

RE: Application for Permit No. 65-22889

Dear Applicant:

The above referenced application for Hawk Bay Estates will be advertised in the legal notices of the McCall newspaper during the first two weeks of July 2004. Assuming protests are not filed against the application, the Idaho Department of Water Resources (IDWR) should be able to issue a decision for your application by about the middle of August 2004.

Please contact me at 208-334-2190 if you have any questions or need more information.

Sincerely,

Steve Lester
Water Rights Supervisor