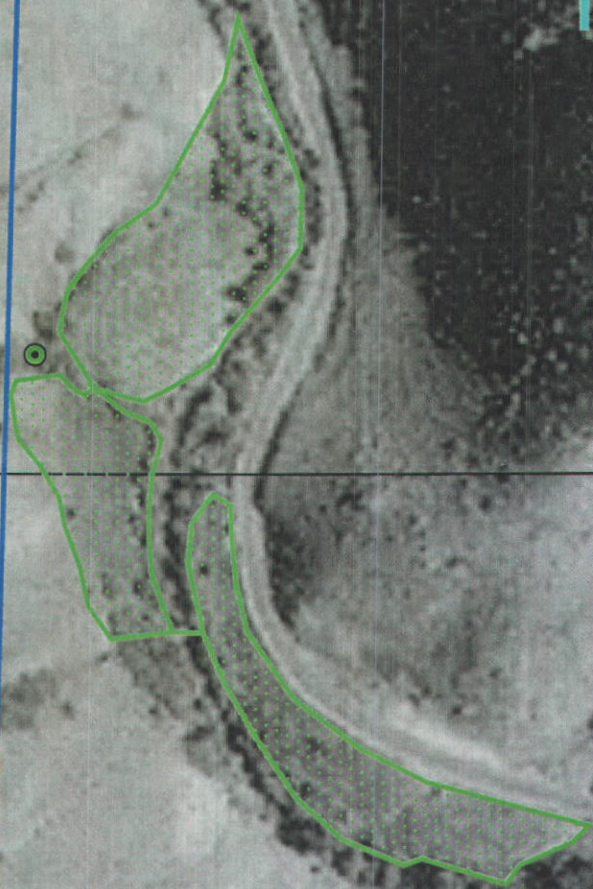


T06N R02E S12
SWNW

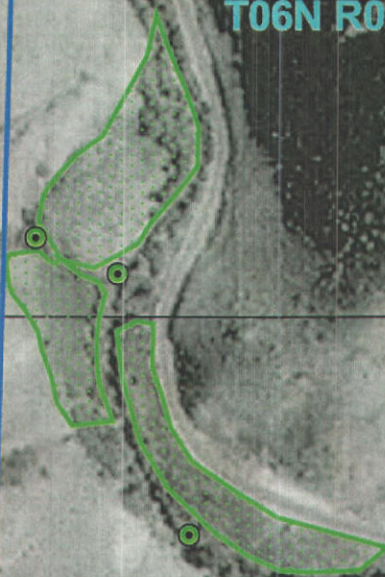


T06N R02E S12S WNW

JF 1026-04

JF 1026-04

T06N R02E S12S WNW



T06N R02E S12
SWNW

65-22884

The Idaho World

P.O. Box 99
Garden Valley, ID 83622
(208) 462-3487

RECEIVED

AUG 09 2004

WATER RESOURCES
WESTERN REGION

State of Idaho)
County of Boise)

Deanna Stevenson, being duly sworn, deposes and says: that she is the Editor of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with July 21, 2004 and ending with the issue of July 28, 2004.

Deanna Stevenson

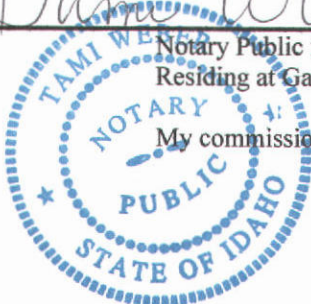
State of Idaho)
County of Boise)

On this 5 day of Aug in the year 2004, before me, a notary public, personally appeared Deanna Stevenson 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.

Tami Weber

Notary Public for Idaho
Residing at Garden Valley, Idaho

My commission expires 2/14/05



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

65-22884

JOEL ALVA FLAKE JR
4814 ALLAMAR DR
BOISE ID 83704

Point(s) of Diversion SWNW S12 T06N R02E
BOISE County Source SHAFER CREEK
Tributary To PAYETTE RIVER

Point(s) of Diversion SWNW S12 T06N R02E
BOISE County Source SHAFER CREEK
Tributary To PAYETTE RIVER

Point(s) of Diversion SWNW S12 T06N R02E
BOISE County Source UNNAMED STREAM
Tributary To SHAFER CREEK

Use: IRRIGATION 03/15 To 10/31 0.11 CFS

Total Diversion: 0.11 CFS

Date Filed: 06/28/2004

Place Of Use: IRRIGATION

T06N R02E S12 SWNW

Number of Acres 3.7

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

This application was originally advertised on June 2 and 9, 2004. It has been amended to add two points of diversion, increase the acres irrigated, and increase the rate of diversion as listed. 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 08/09/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Idaho World on July 21 and 28, 2004.

The Idaho World

P.O. Box 99
Garden Valley, ID 83622
(208) 462-3487

State of Idaho)
County of Boise)

Deanna Stevenson, being duly sworn, deposes and says: that she is the Editor of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with June 2, 2004 and ending with the issue of June 9, 2004.

Deanna Stevenson

State of Idaho)
County of Boise)

On this 10 day of June in the year 2004, before me, a notary public, personally appeared Deanna Stevenson 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.

Diane E. Caughlin

Notary Public for Idaho
Residing at Garden Valley, Idaho

My commission expires

MY COMMISSION EXPIRES

June 26, 2007

BONDED THRU NOTARY PUBLIC UNDERWRITERS

DIANE E. CAUGHLIN
Notary Public
State of Idaho

RECEIVED

JUN 14 2004

WATER RESOURCES
WESTERN REGION

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

65-22884

JOEL ALVA FLAKE JR

4814 ALLAMAR DR

BOISE ID 83704

Point(s) of Diversion SWNW S12

T06N

R02E

BOISE County

Source UNNAMED STREAM

Tributary To HARRIS CREEK

Use: IRRIGATION 03/15 To 10/31

0.08 CFS

Total Diversion:

0.08 CFS

Date Filed: 05/20/2004

Place Of Use: IRRIGATION

T06N R02E S12 SWNW

Number of Acres 2.5

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 06/21/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Idaho World on June 2 and 9, 2004.

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-22884

Priority: June 28, 2004

Maximum Diversion Rate: 0.11 CFS

This is to certify, that JOEL ALVA FLAKE JR
300 HARRIS CREEK RD
HORSESHOE BEND ID 83629-8110

has applied for a permit to appropriate water from

Source: UNNAMED STREAM **Tributary:** SHAFER CREEK

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	03/15 to 10/31	0.11 CFS

LOCATION OF POINT OF DIVERSION:

UNNAMED STREAM SW¼NW¼ Sec. 12, Twp 06N, Rge 02E, B M., BOISE County

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
06N	02E	12							3.7										3.7
Total Acres:			3.7																

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 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.
4. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 65.
5. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
6. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-22884

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

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 7th day of December, 2004.


for KARL J DREHER, Director

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NOV 18 2004

WATER RESOURCES
WESTERN REGION

Ident. No. 65-22884

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PAGE 1
DEC - 3 2004
DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

1. Name: JOEL ALVA FLAKE JR
300 HARRIS CREEK RD
HORSESHOE BEND ID 83629-8110
(208)376-3697

2ND AMENDMENT
11/12/2004

2. Source: UNNAMED STREAM Tributary to: SHAFER CREEK

3. Location of Point of Diversion:

#1 UNNAMED STREAM SW1/4NW1/4 Sec. 12, Twp 06N, Rge 02E, B.M.
BOISE County

4. Water will be used for the following purposes:

Purpose	From To	RATE OF DIVERSION	ANNUAL VOLUME
IRRIGATION	03/15 to 10/31	0.11 CFS	

5. Total quantity to be appropriated is: 0.11 CFS

6. Proposed diverting works:

POINT OF DIVERSION #1

a. Type and size of devices used to divert water from the source: SMALL POND OR TANK
FILLED IN UNDER 24 HOURS, PIPELINE WITH GRAVITY FLOW TO PASTURE BELOW.

b. Height of storage dam _____ feet;
Active reservoir capacity _____ acre-feet;
Total reservoir capacity _____ acre-feet;

c. Proposed well diameter is _____ inches;
Proposed depth of well is _____ feet.

d. Is ground water with a temperature of greater than 85F being sought?

e. If well is already drilled, when? _____;

Drilling Firm _____;

Drilling Permit No. _____.

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

- 8.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

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	
06N 02E 12							3.7										3.7

Total Acres: 3.7

9a. Who owns the property at the point of diversion? If other than applicant, describe the arrangement enabling the applicant to make this filing.

APPLICANT

9b. Who owns the land to be irrigated or place of use? If other than applicant, describe the arrangement enabling the applicant to make this filing.

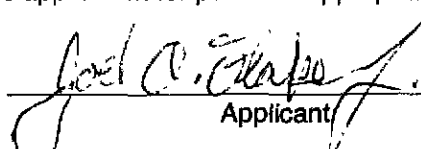
APPLICANT

10. Remarks

Amended application to add additional 1.2 acres. Also corrected unnamed stream tributary to Shafer Creek instead of Harris Creek per quadangle map.

11. Map of proposed point of diversion and place of use attached? ☐

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


Applicant

Received by DN Date _____ Time _____ Preliminary check by _____
Publication prepared by _____ Date _____ Published in _____
Publication approved _____ Date _____

Receipt No. W031346 W031897-50.00 amendment Fee

Date: 6-28-04

Received by: DAN NELSON

NON PORE SIO

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

RECEIVED

JUN 28 2004

WATER RESOURCES
WESTERN REGION

1. Name: JOEL ALVA FLAKE JR

~~4814 ALLAMAR DR~~ 300 HARCIS CREEK RD
BOISE ID 83704 Horseshoe Bend, ID 83629
~~(208) 976-3697~~ (208) 743-3436

AMENDED
6/28/2004

2. Source: ~~SHAFFER CREEK~~ Tributary to: ~~PAYETTE RIVER~~ JF 10-26-04
UNNAMED STREAM Tributary to: SHAFFER CREEK

3. Location of Point of Diversion:

JF 10-26-04 X #1 ~~SHAFFER CREEK~~ SW 1/4 NW 1/4 Sec. 12, Twp 06N, Rge 02E, B.M.
BOISE County
JF 10-26-04 X #2 ~~SHAFFER CREEK~~ SW 1/4 NW 1/4 Sec. 12, Twp 06N, Rge 02E, B.M.
BOISE County
#3 UNNAMED STREAM SW 1/4 NW 1/4 Sec. 12, Twp 06N, Rge 02E, B.M.
BOISE County

4. Water will be used for the following purposes:

Purpose	From	To	RATE OF DIVERSION	ANNUAL VOLUME
IRRIGATION	03/15	10/31	0.03 0.11 CFS	JF 10-26-04

5. Total quantity to be appropriated is:

0.03 0.11 CFS JF 10-26-04
Leave the same

6. Proposed diverting works.

JF 10-26-04 X ~~POINT OF DIVERSION #1~~

- a. Type and size of devices used to divert water from the source. SMALL POND FILLED IN
UNDER 24 HOURS, PIPELINE WITH GRAVITY FLOW TO PASTURE BELOW.

- b. Height of storage dam _____ feet;
Active reservoir capacity _____ acre-feet;
Total reservoir capacity _____ acre-feet;

- c. Proposed well diameter is _____ inches;
Proposed depth of well is _____ feet

- d. Is ground water with a temperature of greater than 85F being sought?

- e. If well is already drilled, when? _____,
Drilling Firm _____;
Drilling Permit No. _____

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NOV 09 2004

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

JF 10-26-04 ~~POINT OF DIVERSION #2~~

a. Type and size of devices used to divert water from the source: SMALL POND FILLED IN UNDER 24 HOURS, PIPELINE WITH GRAVITY FLOW TO PASTURE BELOW.

- b. Height of storage dam _____ feet;
Active reservoir capacity _____ acre-feet;
Total reservoir capacity _____ acre-feet;
c. Proposed well diameter is _____ inches;
Proposed depth of well is _____ feet.
d. Is ground water with a temperature of greater than 85F being sought?
e. If well is already drilled, when? _____;
Drilling Firm _____;
Drilling Permit No. _____.

POINT OF DIVERSION #3

a. Type and size of devices used to divert water from the source: SMALL POND FILLED IN UNDER 24 HOURS, PIPELINE WITH GRAVITY FLOW TO PASTURE BELOW. ¹

- b. Height of storage dam _____ feet;
Active reservoir capacity _____ acre-feet;
Total reservoir capacity _____ acre-feet;
c. Proposed well diameter is _____ inches;
Proposed depth of well is _____ feet
d. Is ground water with a temperature of greater than 85F being sought?
e. If well is already drilled, when? _____;
Drilling Firm _____;
Drilling Permit No. _____.

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

8.

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	
06N	02E	12							3.7										3.7

Total Acres: 3.7

9a. Who owns the property at the point of diversion? If other than applicant, describe the arrangement enabling the applicant to make this filing.

APPLICANT

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

9b Who owns the land to be irrigated or place of use? If other than applicant, describe the arrangement enabling the applicant to make this filing.

APPLICANT

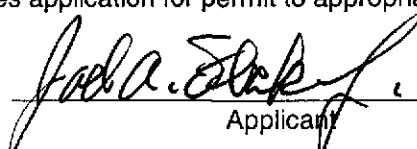
10. Remarks:

Amended application to add additional 1.2 acres and 2 points of diversion from ~~Shafer Creek~~. Also corrected unnamed stream tributary to Shafer Creek instead of Harris Creek per quadangle map.

JF 10-26-04

11. Map of proposed point of diversion and place of use attached? ☐

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


Applicant

Received by OAN Date 6-26-04 Time 1:31 Preliminary check by _____
Publication prepared by _____ Date _____ Published in _____
Publication approved _____ Date _____

Receipt No. W031346 ⁹ W031897X FOR AmendmentDate: 6-28-04Received by: OAN



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

1. Name: JOEL ALVA FLAKE JR
300 HARRIS CREEK RD
HORSESHOE BEND ID 83629-8110
(208)376-3697

2. Source: SHAFER CREEK Tributary to: PAYETTE RIVER
UNNAMED STREAM Tributary to: SHAFER CREEK

3. Location of Point of Diversion:

#1 SHAFER CREEK	SW1/4NW1/4	Sec 12, Twp 06N, Rge 02E, B.M.
BOISE County		
#2 SHAFER CREEK	SW1/4NW1/4	Sec. 12, Twp 06N, Rge 02E, B.M.
BOISE County		
#3 UNNAMED STREAM	SW1/4NW1/4	Sec. 12, Twp 06N, Rge 02E, B.M.
BOISE County		

4. Water will be used for the following purposes:

<u>Purpose</u>	<u>From</u> <u>To</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/15 to 10/31	0.11 CFS	

5. Total quantity to be appropriated is: 0.11 CFS

6. Proposed diverting works:

POINT OF DIVERSION #1

a. Type and size of devices used to divert water from the source: ~~SMALL POND FILLED IN~~
UNDER 24 HOURS, PIPELINE WITH GRAVITY FLOW TO PASTURE BELOW.

b. Height of storage dam _____ feet;
Active reservoir capacity _____ acre-feet;
Total reservoir capacity _____ acre-feet;

c. Proposed well diameter is _____ inches;
Proposed depth of well is _____ feet.

d. Is ground water with a temperature of greater than 85F being sought?

e. If well is already drilled, when? _____;
Drilling Firm _____;
Drilling Permit No. _____.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

JUN 28 2004

WATER RESOURCES
WESTERN REGION

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

AMENDED

6/28/2004

1. Name: JOEL ALVA FLAKE JR
4814 ALLAMAR DR
BOISE ID 83704
(208)376-3697

2. Source. SHAFER CREEK Tributary to: PAYETTE RIVER
UNNAMED STREAM Tributary to: SHAFER CREEK

3. Location of Point of Diversion:

#1 SHAFER CREEK	SW1/4NW1/4	Sec. 12, Twp 06N, Rge 02E, B.M.
BOISE County		
#2 SHAFER CREEK	SW1/4NW1/4	Sec. 12, Twp 06N, Rge 02E, B.M.
BOISE County		
#3 UNNAMED STREAM	SW1/4NW1/4	Sec. 12, Twp 06N, Rge 02E, B.M.
BOISE County		

4. Water will be used for the following purposes:

<u>Purpose</u>	<u>From</u> <u>To</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/15 to 10/31	0.11 CFS	

5 Total quantity to be appropriated is: 0.11 CFS

6. Proposed diverting works:

POINT OF DIVERSION #1

a. Type and size of devices used to divert water from the source: SMALL POND FILLED IN UNDER 24 HOURS, PIPELINE WITH GRAVITY FLOW TO PASTURE BELOW.

b. Height of storage dam _____ feet;
Active reservoir capacity _____ acre-feet,
Total reservoir capacity _____ acre-feet;

c. Proposed well diameter is _____ inches;
Proposed depth of well is _____ feet.

d. Is ground water with a temperature of greater than 85F being sought?

e. If well is already drilled, when? _____,
Drilling Firm _____;
Drilling Permit No. _____

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

POINT OF DIVERSION #2

a. Type and size of devices used to divert water from the source: **SMALL POND FILLED IN UNDER 24 HOURS, PIPELINE WITH GRAVITY FLOW TO PASTURE BELOW.**

- b. Height of storage dam _____ feet,
 Active reservoir capacity _____ acre-feet,
 Total reservoir capacity _____ acre-feet,.
- c. Proposed well diameter is _____ inches;
 Proposed depth of well is _____ feet.
- d. Is ground water with a temperature of greater than 85F being sought?
- e. If well is already drilled, when? _____;
 Drilling Firm _____;
 Drilling Permit No. _____.

POINT OF DIVERSION #3

a. Type and size of devices used to divert water from the source: **SMALL POND FILLED IN UNDER 24 HOURS, PIPELINE WITH GRAVITY FLOW TO PASTURE BELOW**

- b. Height of storage dam _____ feet,
 Active reservoir capacity _____ acre-feet;
 Total reservoir capacity _____ acre-feet,.
- c. Proposed well diameter is _____ inches;
 Proposed depth of well is _____ feet.
- d. Is ground water with a temperature of greater than 85F being sought?
- e. If well is already drilled, when? _____;
 Drilling Firm _____;
 Drilling Permit No. _____.

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

8.

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	
06N 02E 12							3.7										3.7

Total Acres. 3.7

9a. Who owns the property at the point of diversion? If other than applicant, describe the arrangement enabling the applicant to make this filing.

APPLICANT

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

9b Who owns the land to be irrigated or place of use? If other than applicant, describe the arrangement enabling the applicant to make this filing

APPLICANT

10. Remarks:

Amended application to add additional 1.2 acres and 2 points of diversion from Shafer Creek. Also corrected unnamed stream tributary to Shafer Creek instead of Harris Creek per quadangle map.

11 Map of proposed point of diversion and place of use attached? ☐

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

Paul A. Elak
Applicant

Received by DAW Date 6-28-04 Time 1:31 Preliminary check by _____
Publication prepared by sk Date 7-21-04 Published in IDAHO WORLD
Publication approved sk Date 8-16-04

Receipt No. W031346 ¹ W031897X FOR Amended
Date: 6-28-04
Receipted by: DAW



Ident No 65-22884 RECEIVED

MAR 04 2004

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1 Name of Applicant JOEL ALVA FLAKE, JR. Phone (208) 376-3697
Mailing address 4814 ALLAMAR DRIVE, BOISE, IDAHO 83704

2 Source of water supply UNNAMED STREAM which is a tributary of HARRIS CREEK

3 Location of point of diversion is Township 6 N Range 2 E Sec. 12 in the SW $\frac{1}{4}$,
SW $\frac{1}{4}$, NW $\frac{1}{4}$, Govt Lot _____, B M, Boise County;

additional points of diversion if any _____

4 Water will be used for the following purposes

Amount 0.03 cfs for Irrigation purposes from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) 0.03 0.08 and/or (b) _____
cubic feet per second acre feet per annum

6 Proposed diverting works:

a Describe type and size of devices used to divert water from the source A 4800 gallon Fiberglass storage tank, pipeline with gravity flow to pasture below.

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

c Proposed well diameter is _____ inches; proposed depth of well is _____ feet

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

e. If well is already drilled, when? _____; Drilling firm _____;

Well was drilled for (well owner) _____, Drilling Permit No _____

7 Time required for completion of works and application of water to proposed beneficial use is 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 _____

e Other, describe fully, _____

3) Description of place of use:

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

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	2E	12							2.5										

Total number of acres to be irrigated

2.5 5-20-04

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? JOEL A. FLAKE, JR. + MELANIE SUE FLAKE
- b. Who owns the land to be irrigated or place of use? JOEL A. FLAKE, JR. + MELANIE SUE FLAKE
- 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

PLEASE SEE ADDENDUM

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

Joel A. Flake Jr.
Signature of Applicant (and title, if applicable)

Received by LS Date 3/4/04 Time 11:42 Preliminary check by LS
 Fee \$ 100.00 Received by LS # 0031346 Date 3/4/04
 Publication prepared by LS Date 6-3-10-04 Published in IDAHO WORLD
 Publication approved LS Date 6-21-04

ADDENDUM

My name is Joel A. Flake, Jr. My wife, Melanie Sue Flake, and I recently purchased 11.9 acres near Horseshoe Bend, Idaho. We are currently building our primary residence on the recently purchased land. While there are 11.9 acres, at most only ~~8~~ ³ acres can be irrigated, the remaining land is comprised of a mountainside. JF 5-20-04

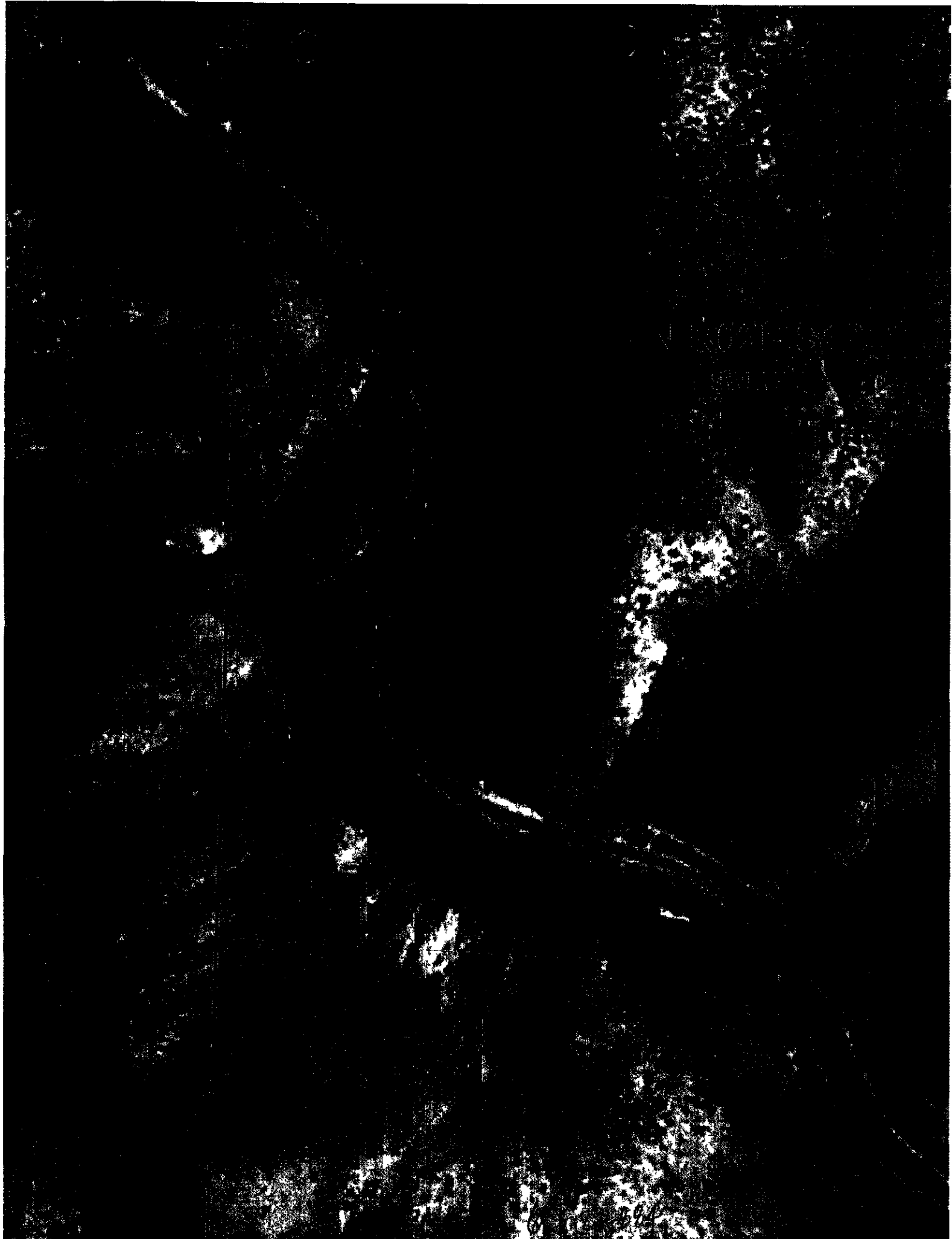
The well which we had drilled for our home is 320 feet deep and yields only 5 gallons/minute. (For your information, I have attached the Well Driller's Report.) Hence, while the well should be sufficient for our domestic home use, there are approximately ~~1~~ ² acres (including our lawn) which we would like to irrigate using another water source. JF 5-20-04

Located on our land is a very small spring, which forms a very small unnamed stream, that runs into Harris Creek. We are petitioning the Idaho Department of Water Resources to appropriate only 0.08 cfs from that small unnamed stream. I have been told that 0.03 cfs represents approximately 4.5 gallons/minute. With that water, we intend to irrigate a small pasture (~~maybe~~ ^{maybe} ~~2~~ ^{one} acres), a small lawn (~~maybe~~ ^{maybe} ~~one~~ ^{one} acre), and perhaps water a small number of livestock (a couple of horses). I plan to divert the water by erecting a 4800 gallon fiberglass storage tank. When the storage tank is full, the remaining water from the stream will flow in its natural course to Harris Creek. From the storage tank I plan to erect a short pipeline which will bring water, via gravity flow, to the pasture below. I may also simply flood irrigate. JF 5-20-04

For financial reasons, and because we are requesting such a small appropriation, my wife and I have tried to avoid retaining the professional services of a water right consultant. To that end, we have had several conversations and much correspondence with Craig Saxton, Dan Nelson, Shane Bendixsen, and John Carlson. It is our belief that we have completed this application properly. That said, should you find any errors, please contact us as soon as possible so that we might remedy the problem.

For your review, I have attached 3 identical maps of varying degrees of enlargement. The unnamed stream does not appear on any map that I could find, so I have drawn it in myself. I have provided a map legend with the larger of the maps in hopes of adequately describing the land, the water, and the point of diversion.

Thanks for your help and consideration.



REQUEST TO PROCESS

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

Name of Applicant

Joel Alva Flake, Jr.

Mailing Address

4814 ALLAMAR DR
BOISE, IDAHO 83704

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

Joel Alva Flake, Jr.

Date

5-20-04

Please return this form to:

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 7, 2004

JOEL ALVA FLAKE JR
300 HARRIS CREEK RD
HORSESHOE BEND ID 83629-8110

RE: Permit No. 65-22884

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.

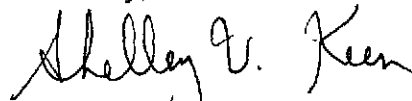
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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.

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

If you have any questions, please contact me at 208-287-4947.

Sincerely,

A handwritten signature in black ink that reads "Shelley W. Keen". The signature is written in a cursive style with a large, stylized 'S' and 'K'.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

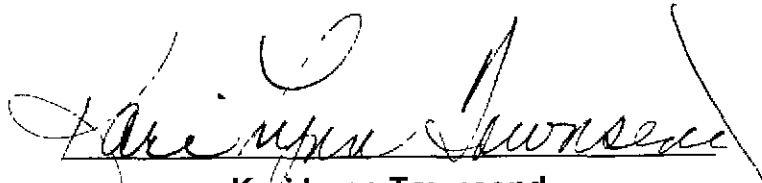
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on December 7, 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. 65-22884

**JOEL ALVA FLAKE JR
300 HARRIS CREEK RD
HORSESHOE BEND ID 83629-8110**

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

65-22884

1. scurtis 5/24/2004 Legal Notice Remarks

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

2 dnelson 5/24/2004 Comment/Analysis

Comment: Priority on this application was advanced due an increase in the diversion rate on 5/20/2004. There are no overlapping water rights.

3 dnelson 7/8/2004 Comment/Analysis

Comment: This application was amended on 6/28/2004. The applicant added multiple points of diversion from Schaver Creek, since the unnamed stream was not producing adequate water. The applicant also added more lands to cover the ground he planned to irrigate in the future.

4. dnelson 7/8/2004 Legal Notice Remarks

Comment: This application was originally advertised on June 2 and 9, 2004 It has been amended to add two points of diversion, increase the acres irrigated, and increase the rate of diversion as listed.

5. dnelson 12/2/2004 Comment/Analysis

Comment: This application was originally received on 3/4/2004 and was reviewed by regional staff. During the initial review, the applicant made corrections to the application on 5/20/2004 that increased the rate of diversion, thus advancing the priority date to 5/20/2004. This application was advertised without protest. The final staff review at the region was completed, and regional staff signed the application, and preparation was be done to sene the application to the office for permit approval. Before the application could be sent to the State Office for approval of the permit, the applicant came back into the region office, and filed an amendment to the application. The amendment increased the diversion rate, acres to be irrigated, and added a new source. The priority date was again advanced by the first amendment to 6/28/2004. The application was re-advertised and protests were filed against the amendments to the application. The applicant filed a second amendment to the application to remove one of the water sources to resolve the protest. The second amendment did not expand the application, so the priority date should remain at 6/28/2004.

6 kwalker 12/6/2004 Permit Review

Comment: No place of use overlap for these lands. Watermaster recommendations state application should be under WD65 control. All protestants signed agreement submitted to region on 11/9/2004 which resolved protests by applicant removing Shafer Creek as a source. Recommend approval

COMMENT
LETTERS

IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

Initial review by DAN Date 5-19-04 Application # 65-22884

*This Analysis sheet was created
for original application, but it
applies to Amendment without charge.*

REQUIRED INFORMATION

- ☒ Name (for corporation or partnership, names & addresses for director, officers, &/or other partners must be included)
- ☒ Address
- ☒ Source (see USGS quad for source names)
- ☒ P/D (10 acres for spring, lot & block descriptions for subdivisions, local name)
- ☒ County
- ☒ Quantity (flow &/or volume)
- ☒ Period of use
- ☒ Nature of use (list details in appl. Item 8 if non-irrigation)
- ☒ Description of diverting works *STORAGE NOT REQUIRED*
- ☒ Time required for beneficial use of water *STORAGE TANK CAN BE FILLED IN 24 H.*
- ☒ 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

RECEIVED
DEC 1 2004
DEPARTMENT OF
WATER RESOURCES

Government Lots
NO P/D
NO P/U

ADDITIONAL INFORMATION

YES ADVERTISE REMARKS (Yes or No)

YES NO

- ☒ P/D overlap (explain)
- ☒ P/U overlap (explain)
- ☒ Critical groundwater area (send letter)
- ☒ Ground water management area (send letter)
- ☒ Drilling concern area (send letter)
- ☒ 1992 moratorium (send letter)
- ☒ Surface water source, IDFG comment letter
- ☒ Protected river or minimum flow reach, notify water planning bureau
- ☒ E-mail to Dam Safety staff (if any storage)
- ☒ Mitigation plan: "request to process form" in file:
 ☒ Immediate = closed areas, acceptable plan required & submitted
 ☒ Future = open areas, plan not required
- ☒ Send power requirement letter &/or fish farm requirement letter
- ☒ Power residency affidavit
- ☒ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres (if YES, attach large diversion supplementary analysis sheet)
- ☒ REQUEST ADDITIONAL INFORMATION FROM APPLICANT

*file copy
discarded
KW
12/6/04*

Date Requested _____ Date Response Received _____

PROCESSING

APPLICATION # 65-22884

YES NO

- ☒ In form for advertising
☒ Statewide advertising (> 10 cfs &/or 1000 af)
☒ Fee amount, receipt number, & date recorded on application

COMMENT LETTERS

YES NO

- ☒ IDEQ
☒ District Health
☒ IDFG
☒ IDL

YES NO

- ☒ US BLM
☒ US Forest Service
☒ Water Dist # 65 sent 5-27-04
☒ Water Planning Bureau rec'd 6-7-04
☒ Other

FINAL REGIONAL PROCESSING REVIEW

Sue, Please Respond Comment Letters with the amendment

YES NO

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

☒ Publication dates & paper recorded on application
☒ Final date for protest 6-21-04 8-9-04
☒ Protests received
☐ Recommendations attached
☐ Measuring device required
☒ Water delivered by water master? District # 65 - Ron Shurtlet
☒ Special conditions of approval or cover letter

Standard Conditions - Watermaster Control - Payette
River Restrictions

Recommended Date of Priority

~~5-20-2005~~ 6-28-04

Recommendation

☒ Approve

☐ Deny

by

David Melson

Date

12-2-04

ADDITIONAL INFORMATION

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

☒ Shapefile completed (optional: attach with proof report)

** This Application was ~~ready~~ Ready To send To The S.O. on 6-24-04, But Applicant came in with a last minute Amendment, which was re-advertised and protested. ~~See~~ PRIORITY See comments. 12-2-04 FOR more detail.*

IDAHO DEPARTMENT OF WATER RESOURCES

Water Application Report 65-22884

WATER RIGHT NUMBER: 65-22884

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JOEL ALVA FLAKE JR 300 HARRIS CREEK RD HORSESHOE BEND, ID 83629-8110 (208)376-3697

Priority Date: 06/28/2004

Basis:

Status: Active

<u>Source</u>	<u>Tributary</u>
UNNAMED STREAM	SHAHER CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15	10/31	0.110 CFS	
	<u>Total Diversion:</u>		0.110 CFS	

Location of Point(s) of Diversion

UNNAMED STREAM	SW1/4NW1/4	Sec. 12, Twp 06N, Rge 02E, B.M.
BOISE 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	
06N	02E	12								3.7									3.7

Total Acres: 3.7

Conditions of Approval:Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Application Report 65-22884

Comments:

1. scurtis 5/24/2004 Legal Notice Remarks

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

2. dnelson 5/24/2004 Comment/Analysis

Comment: Priority on this application was advanced due an increase in the diversion rate on 5/20/2004 There are no overlapping water rights

3 dnelson 7/8/2004 Comment/Analysis

Comment This application was amended on 6/28/2004 The applicant added multiple points of diversion from Schaver Creek, since the unnamed stream was not producing adequate water The applicant also added more lands to cover the ground he planned to irrigate in the future.

4. dnelson 7/8/2004 Legal Notice Remarks

Comment. This application was originally advertised on June 2 and 9, 2004. It has been amended to add two points of diversion, increase the acres irrigated, and increase the rate of diversion as listed.

5. dnelson 12/2/2004 Comment/Analysis

Comment: This application was originally received on 3/4/2004 and was reviewed by regional staff During the initial review, the applicant made corrections to the application on 5/20/2004 that increased the rate of diversion, thus advancing the priority date to 5/20/2004. This application was advertised without protest. The final staff review at the region was completed, and regional staff signed the application, and preparation was be done to sene the application to the office for permit approval Before the application could be sent to the State Office for approval of the permit, the applicant came back into the region office, and filed an amendment to the application. The amendment increased the diversion rate, acres to be irrigated, and added a new source The priority date was again advanced by the first amendment to 6/28/2004. The application was re-advertised and protests were filed against the amendments to the application. The applicant filed a second amendment to the application to remove one of the water sources to resolve the protest. The second amendment did not expand the application, so the priority date should remain at 6/28/2004

Dates and Other Information

Application Received Date. 6/28/2004

Application Denied Date:

Last Date of Beneficial Use:

Extension End Date:

Protest Deadline Date. 8/9/2004

Number of Protests: 5

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: Amended application to add additional 1.2 acres. Also corrected unnamed stream tributary to Shafer Creek instead of Harris Creek per quadangle map.

Other Water Rights:

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:



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

November 19, 2004

Joel Alva Flake Jr.
300 Harris Creek RD
Horseshoe Bend ID 83629-8110

RE: Resolution of Protests—Application for Permit #65-22884

Dear Mr. Flake:

This letter is to acknowledge receipt of a signed protest withdrawal agreement and amended application #65-22884. Your amended application reflects the removal of Shaffer Creek as a source. With the protests resolved, the Department will now continue processing the application.

Should you have any questions, please contact me at the Western Regional Office, phone 334-2190.

Sincerely,

A handwritten signature in cursive script, reading 'John Westra', is positioned above the printed name.

John Westra
Manager, Western Region

Enclosure

cc: K. Gordon, K Renfro, L Hisaw, I Dewey, J. Cooper

October 26, 2004

The following protestors agree to withdraw
their protests from water Application 65-22884.

The Applicants agree to withdraw their
Application on Shafer Creek. The Applicants
will Amend their Application to only include
the unnamed spring.

Applicants
Joel Shafer
Melanie Felt

Protestants
Shirley A. Jordan
Kenneth W. Jordan
Doreen Deane
Jim Cox
Robert Hissaw
Pete Hissaw

RECEIVED

NOV 09 2004

WATER RESOURCES
WESTERN REGION

RECEIVED

NOV 09 2004

WATER RESOURCES
WESTERN REGION

Joel A. Flake, Jr.
300 Harris Creek Road
Horseshoe Bend, Idaho 83629
(208) 793-3436
joelflake@hotmail.com

November 7, 2004

John F. Westra
Regional Manager
Wester Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

Re: Water Application 65-22884

Dear John:

I just wanted to drop you a note and update you on the status of my petition for Water Application 65-22884.

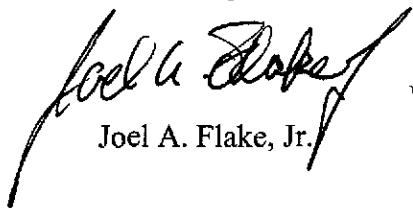
Today, I spoke with the final protestor, Ken Renfro, and basically reviewed with him what had occurred at the water hearing which you facilitated on October 26, 2004. I explained to him my position and concerns, as well as those of the other protestors. He expressed the same concerns and reservations that were expressed at the hearing, but ultimately, he did not have any problem with my petitioning for water on the unnamed stream/spring, and he signed the informal agreement that all of the hearing participants had signed at the hearing. In the end, I found Mr. Renfro to be very agreeable and friendly, and he even made some statements alluding to the fact that he had been a little cajoled into filing his protest in the first place (which may have been the reason he did not appear at the hearing).

I am now submitting to you my amended, Amended Application for Permit 65-22884 and the informal agreement entered into by the Applicant and the Protestants. I amended the application in red pen and initialed and dated the changes. All changes were made in harmony with what was discussed at the October 26, 2004 hearing. Per our conversation, I am not submitting any additional funds as you clarified that it was unnecessary. Please let me know if there is any additional information you, or IDWR, need. I would like to get this resolved as expeditiously as possible.

I appreciate all your help in facilitating this matter. My wife and I feel that the hearing was successful for many reasons, not the least of which was getting to know our neighbors and becoming friends.

Thanks again for everything and please say "hello" to Peter Anderson next time you see him.

Warm regards,



Joel A. Flake, Jr.

Page -2-



UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

JOEL A. FLAKE
STAFF ATTORNEY
TO THE HON LARRY M BOYLE

U S COURTHOUSE MSC 039
550 W FORT STREET
BOISE IDAHO 83724

TEL (208) 334-9010
FAX (208) 334-9215
E MAIL joelflake@hotmail.com



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

November 2, 2004

Ken & Joyce Renfro
130 3rd St Circle
Horseshoe Bend ID 83629

RE: Application for Permit #65-22884- Flake
Prehearing Conference Failure to Appear

Dear Mr. & Mrs. Renfro:

Attached is a Failure to Appear Notice regarding the prehearing protest conference for the above referenced contested application. Please submit to the Department in writing just cause why you failed to appear. If no response is received by **November 26, 2004**, the Department will consider dismissing your protest.

Sincerely,

John Westra
Western Regional Manager

cc: J. Flake

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

**IN THE MATTER OF APPLICATION)
FOR PERMIT 65-22884 IN THE NAME)
OF JOEL ALVA FLAKE JR)**

**NOTICE OF FAILURE TO APPEAR
AT THE PREHEARING PROTEST
CONFERENCE**

On June 28, 2004 Joel Alva Flake Jr. filed with the Idaho Department of Water Resource (IDWR) an Application for Permit #65-22884 for surface water from Shafer Creek and an unnamed stream. The application was protested by Kenneth N. Gordon, Ken & Joyce Renfro, L. Robert Hisaw, Ivergene Dewey, and Jess Cooper.

A Prehearing Conference was held on October 26, 2004 at the Idaho Department of Water Resources Western Regional Office. Conference notices were sent by the Department to the applicant and protestants on August 27, 2004. The applicant and protestants Gordon, Hisaw, Dewey, and Cooper appeared on the scheduled conference date and place. Protestant Ken & Joyce Renfro failed to appear at the conference.

Dated this 2nd day of November, 2004.


JOHN WESTRA

CERTIFICATE OF MAILING

I hereby certify that on the ____ day of November 2004, I mailed a true and correct copy, postage prepaid, of the Notice of Failure to Appear at the Prehearing Protest Conference to those listed below.

Sue Kreger
Administrative Assistant

JOE ALVA FLAKE
4814 ALLAMAR DR
BOISE ID 83704

KENNETH N. GORDON
76 HARRIS CR RD
HORSESHOE BEND ID 83629

KEN &/OR JOYCE RENFRO
130 3RD ST CIRCLE
HORSESHOE BEND ID 83629

L. ROBERT HISAW
60 HARRIS CR RD
HORSESHOE BEND ID 83629

IVERGENE DEWEY
9 HARRIS CREEK RD
HORSESHOE BEND ID 83629

JESS COOPER
19 HARRIS CREEK RD
HORSESHOE BEND ID 83629

PRE HEARING CONFERENCE NOTES

Application for Permit #65-22884—Flake

From: J. Westra, Western Reg.

Date: 10/26/04

Location: Western Regional Office

Attendance: See Attached Roster.

Conference Notes

The conference began with Mr. Flake presenting the project development. They would like to have irrigation for their lawn and $\frac{1}{4}$ ac pasture. The water source would be Shafer Creek and a spring/unnamed stream running thru their property. The spring source is actually on the Renfro property, which dries up during the summer months. Estimates 10 gal /hr for the spring flow. The Flake's well produces 5 gpm yield, which why surface water use is being proposed. There is 3 other properties in their subdivision that border the creek.

The Gordons discussed the pure lack of water during the summer months to fill senior WRs in Shafer Creek. They have concerns when even the county fills water trucks to settle dust.

Mr. Dewey felt there is no water available also, he is at the creek end near the Payette River. He normally doesn't get much water ever. If the Flakes wanted spring runoff water he would not have a problem with that.

Mr. Cooper has the same concerns as he is just upstream of Mr. Dewey.

Mr. Hisaw stated, the state should not be approving any surface water rights. The Payette and Snake River, Idaho Power senior rights are all short . There is no water in Shafer creek for additional appropriation. He had to curtail pumping on July 1 this year and resumed on October 1st. There seems to be less flow every year. He showed several photos of the creek during the summer.

I discussed, the creek has been on the Department's radar as far as no water available. Shafer Creek is one of the creeks that is subject to regulation by the Payette River senior water rights, but is not regulated by the Payette River Watermaster. I discussed the 6 items the Department evaluates in the processing of new applications.

After some discussion, the protestants were willing to withdraw their protests if the Flakes amended their application to only list the spring-unnamed stream as the single source.

Mr. Flake stated, he would not be doing a pond, but would pipe the spring to a tank with an overflow back to Shafer Creek. A protest withdrawal agreement was then drafted by Mr. Flake, the protestants all signed it.

Protestants Ken and Joyce Renfro did not appear at the conference. Mr. Flake was going to meeting with them to see if they would sign the protest agreement as the others.

Mr. Flake will send the Department the protest withdrawal and amended application for processing if the Renfros sign the agreement.

Follow-up:

Draft a just cause for nonappearance letter for Renfros

- Consider same conditions as #65-22821 for regulation - future. JFu

IDAHO DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY, BOISE, IDAHO 83705

Conducted by: John Westra

PHONE

Robert Hisaw 60 HARRIS CRK. RD. 793-2314

19 Harris Cc Rd 793-2511

Joseph Dence 9/14/19 Cr Rcl 7932445

Kenney Gordon 76 Harris Cr. Rd 7932440

Shirley P. Gordon 76 Harris Cr Rd. 793-2440

Joel Flake 300 Harris Creek Rd 793-3436

Melanie Flake	300 Harris Creek Rd.	793-3436
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**UNITED STATES DISTRICT and BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO**

U.S. COURTHOUSE/FEDERAL BUILDING
550 West Fort Street
BOISE, IDAHO 83724

**FACSIMILE TRANSMITTAL SHEET**DATE: October 19, 2004TO: Sue KREGERFAX NO.: (208) 334-2348NUMBER OF PAGES (including this cover sheet): 2FROM: Joel FlakePHONE NO.: 208-334-9010FAX No.: 208-334-9215

If you do not receive all of the pages indicated above or the message is poorly received, please contact our office as soon as possible at the above number.

ADDITIONAL COMMENTS: _____

MEMORANDUM

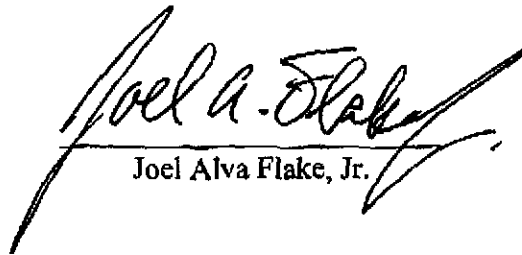
TO: Sue Kreger
FROM: Joel A. Flake, Jr.
DATE: October 19, 2004
RE: Application for Permit No. 65-22884

In your recent correspondence you requested that I verify my new Horseshoe Bend address. It is:

Joel A. Flake, Jr.
300 Harris Creek Road
Horseshoe Bend, Idaho 83629

Please update my address on your records.

Thanks.



Joel Alva Flake, Jr.



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

September 21, 2004

JOE ALVA FLAKE
4814 ALLAMAR DR
BOISE ID 83704

RE: Application for Permit No. 65-22884

Dear Mr. Flake:

Enclosed are copies of two protests of the above-referenced application for permit that were inadvertently omitted from the first letter sent to you. I apologize for this omission.

If you have any questions, please call this office.

Sincerely,

Sue Kreger
Administrative Assistant

Encl.

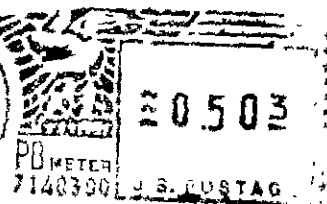
also, please verify your Horseshoe Bend address.

*Thanks,
Sue*

IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 Airport Way
Boise, Idaho 83705-5082

RETURN SERVICE
REQUESTED

POSTED
FIRST CLASS



*resent
9-27-04
sk*

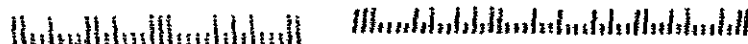
RECEIVED

SEP 27 2004

WATER RESOURCES
WESTERN REGION

FLAKE 14 837042015 1604 18 09/24/04
RETURN TO SENDER
FLAKE
300 HARRIS CREEK RD
HORSESHOE BEND ID 83629-8110
RETURN TO SENDER

HAAGTMS 83705-5082





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

September 21, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

KENNETH N. GORDON
76 HARRIS CR RD
HORSESHOE BEND ID 83629

IVERGENE DEWEY
9 HARRIS CREEK RD
HORSESHOE BEND ID 83629

KEN &/OR JOYCE RENFRO
130 3RD ST CIRCLE
HORSESHOE BEND ID 83629

JESS COOPER
19 HARRIS CREEK RD
HORSESHOE BEND ID 83629

L. ROBERT HISAW
60 HARRIS CR RD
HORSESHOE BEND ID 83629

Re: Application for Permit No. 65-22884 in the Name of Joe Alva Flake, Jr.

Dear Protestant:

This office acknowledges receipt of your protest 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 Tuesday, October 26, 2004 at the Western Region of the Idaho Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705. 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
Western Regional Manager

JW:sk

Encl: Copy of Application
Notice of Prehearing Conference

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 65-22884 IN THE)
NAME OF JOE ALVA FLAKE)
_____)

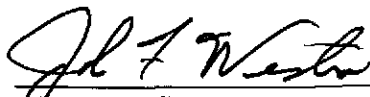
**NOTICE OF PREHEARING
CONFERENCE**

On June 28, 2004 Joe Alva Flake 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 Kenneth N. Gordon, Ken &/or Joyce Renfro, L. Robert Hisaw, Ivergene Dewey, and Jess Cooper.

IDWR has scheduled a prehearing conference for the protest to be held on **Tuesday, October 26, 2004 at 10:00 a.m. at the Idaho Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705**. 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 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 ten (10) days prior to the conference.

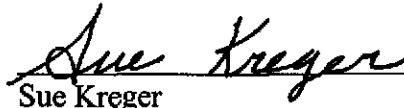
Dated this 21st day of September 2004.



JOHN WESTRA
Western Regional Manager

CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of September 2004, I mailed a true and correct copy, postage prepaid, of the Notice of Prehearing Conference to those listed:


Sue Kreger
Administrative Assistant

JOE ALVA FLAKE
4814 ALLAMAR DR
BOISE ID 83704

*300 Harris Creek Rd
Horseshoe Bend Id 83629-8110*

KENNETH N. GORDON
76 HARRIS CR RD
HORSESHOE BEND ID 83629

KEN &/OR JOYCE RENFRO
130 3RD ST CIRCLE
HORSESHOE BEND ID 83629

L. ROBERT HISAW
60 HARRIS CR RD
HORSESHOE BEND ID 83629

IVERGENE DEWEY
9 HARRIS CREEK RD
HORSESHOE BEND ID 83629

JESS COOPER
19 HARRIS CREEK RD
HORSESHOE BEND ID 83629

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.



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

September 21, 2004

JOE ALVA FLAKE
4814 ALLAMAR DR
BOISE ID 83704

RE: Application for Permit No. 65-22884

Dear Mr. Flake:

Enclosed are copies of two protests of the above-referenced application for permit that were inadvertently omitted from the first letter sent to you. I apologize for this omission.

If you have any questions, please call this office.

Sincerely,

A handwritten signature in cursive script that reads 'Sue Kreger'.

Sue Kreger
Administrative Assistant

Encl.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 64-22884 IN THE)
NAME OF JOE ALVA FLAKE)

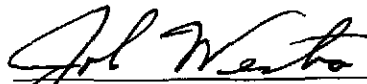
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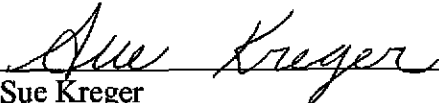
Dated this 27th day of August 2004.



JOHN WESTRA
Western Regional Manager

CERTIFICATE OF MAILING

I hereby certify that on the 27th day of August 2004, I mailed a true and correct copy, postage prepaid, of the Notice of Prehearing Conference to those listed:


Sue Kreger
Administrative Assistant

JOE ALVA FLAKE
4814 ALLAMAR DR
BOISE ID 83704

KENNETH N. GORDON
76 HARRIS CR RD
HORSESHOE BEND ID 83629

KEN &/OR JOYCE RENFRO
130 3RD ST CIRCLE
HORSESHOE BEND ID 83629

L. ROBERT HISAW
60 HARRIS CR RD
HORSESHOE BEND ID 83629

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State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

August 25, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

KENNETH N. GORDON
76 HARRIS CR RD
HORSESHOE BEND ID 83629

KEN &/OR JOYCE RENFRO
130 3RD ST CIRCLE
HORSESHOE BEND ID 83629

L. ROBERT HISAW
60 HARRIS CR RD
HORSESHOE BEND ID 83629

Re: Application for Permit No. 65-22884 in the Name of Joe Alva Flake, Jr.

Dear Protestant:

This office acknowledges receipt of your protest 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 Tuesday, October 26, 2004 at the Western Region of the Idaho Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705. 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
Western Regional Manager

JW:sk

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

June 9, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

JOE ALVA FLAKE
4814 ALLAMAR DR
BOISE ID 83704

Re: Application for Permit No. 65-22884

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 Tuesday, October 26, 2004 at the Western Region of the Idaho Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705. 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
Western Regional Manager

JW:sk

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

The Idaho World

P.O. Box 99
Garden Valley, ID 83622
(208) 462-3487

RECEIVED

AUG 09 2004

WATER RESOURCES
WESTERN REGION

State of Idaho)
County of Boise)

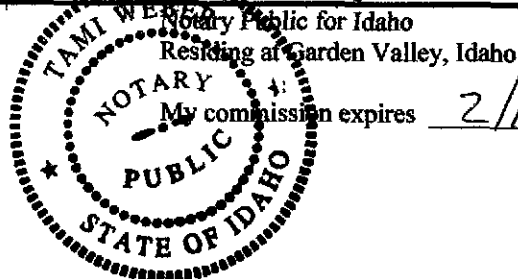
Deanna Stevenson, being duly sworn, deposes and says: that she is the Editor of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with July 21, 2004 and ending with the issue of July 28, 2004.

Deanna Stevenson

State of Idaho)
County of Boise)

On this 5 day of Aug in the year 2004, before me, a notary public, personally appeared Deanna Stevenson 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.

Tami Weber



The following application was filed with the Department of Water Resources of the State of Idaho:

JOEL ALVA FLAKE JR
4814 ALLAMAR DR
BOISE ID 83704

Point(s) of Diversion SWNW S12 T06N R02E
BOISE County Source SHAFER CREEK
Tributary To PAYETTE RIVER

Point(s) of Diversion SWNW S12 T06N R02E
BOISE County Source SHAFER CREEK
Tributary To PAYETTE RIVER

Point(s) of Diversion SWNW S12 T06N R02E
BOISE County Source UNNAMED STREAM
Tributary To SHAFER CREEK

Use: IRRIGATION 03/15 To 10/31 0.11 CFS
Total Diversion: 0.11 CFS

Date Filed: 06/28/2004
Place Of Use: IRRIGATION
T06N R02E S12 SWNW
Number of Acres 3.7

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

This application was originally advertised on June 2 and 9, 2004. It has been amended to add two points of diversion, increase the acres irrigated, and increase the rate of diversion as listed. 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 Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 08/09/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Idaho World on Aug 9 and 23, 2004.

November 26, 1999

RECEIVED

AUG 10 2004

WATER RESOURCES
WESTERN REGION

RECEIVED

AUG 09 2004

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested Water-right # 65-22884
2. Name of protestant Ken Penfro Joyce Penfro (wife)
3. Protestant's Representative for service (If different than protestant)

4. Service mailing address 130 3rd st. Circle Horseshoe Bend, Idw.
83629
5. Service telephone no. 793-2278

6. Basis of protest (including statement of facts and law upon which the protest is based)

Not sufficient water now + the point of diversion is before
ours. We have 1901 water right users taking water before
us now. Our right is 1899.

(additional pages may be attached to describe nature of the protest)

7. What would resolve your protest? No more water rights above our point
of diversion - Not sufficient water

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 8th day of August, 2004

Ken Penfro
Protestant

Protestant's Representative

NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
6. Specifically describe the nature of the protest.
7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by M Date 8-9-04 Time _____
\$25.00 fee Received by M # C074805 Date 8-9-04

November 26, 1999

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

AUG 06 2004

WATER RESOURCES
WESTERN REGION

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested WATER RIGHT # 65-22884
2. Name of protestant Evergene Dewey
3. Protestant's Representative for service (If different than protestant)

4. Service mailing address 9 HARRIS CREEK RD Horseshoe Bend ID 83629
5. Service telephone no. 793-2445

6. Basis of protest (including statement of facts and law upon which the protest is based)

not enough water for what water rights there are now
SHAFFER Creek has been dry for 2 weeks already & its only
the 3rd of August.
(additional pages may be attached to describe nature of the protest)

7. What would resolve your protest? STOP ADDITIONAL WATER
RIGHTS ON SHAFFER CREEK-

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 4th day of August, 2004
Evergene Dewey
Protestant

Protestant's Representative

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
 2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
 3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
 4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
-

FOR DEPARTMENT USE ONLY

Received by KG Date 8/6/04 Time 10:48
\$25.00 fee Received by KG # W032092 Date 8/6/04

November 26, 1999

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information

1. Matter being protested Water Right # 65-22884
2. Name of protestant Jess Cooper
3. Protestant's Representative for service (If different than protestant)

4. Service mailing address 19 HARRIS CREEK Road, Horseshoe Bend, Id 83629

5. Service telephone no. (208) 793-2511

6. Basis of protest (including statement of facts and law upon which the protest is based)

There is an insufficient amount of water, the creek
dries up occasionally because of this

(additional pages may be attached to describe nature of the protest)

7. What would resolve your protest? no additional water rights added.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 2 day of August, 2006

Jess Cooper
Protestant

Protestant's Representative

NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
6. Specifically describe the nature of the protest.
7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by SL Date 8/3/04 Time 3:19 pm
\$25.00 fee Received by SL # W032082 Date 8/3/04

RECEIVED

AUG 02 2004

WATER RESOURCES
WESTERN REGION

November 26, 1999

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested Water right # 65-22884
2. Name of protestant Kenneth N Gordon
3. Protestant's Representative for service (If different than protestant)

4. Service mailing address 26 Harris cr Rd Horseshoe Bend Id
5. Service telephone no. 293-2440

6. Basis of protest (including statement of facts and law upon which the protest is based)

insufficient water flow for amount of
Water Rights

(additional pages may be attached to describe nature of the protest)

7. What would resolve your protest? Stop additional water rights
on Shofer cr.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 2 day of August, 2004

Kenneth N. Gordon
Protestant

Protestant's Representative

NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
 2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
 3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
 4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
-

FOR DEPARTMENT USE ONLY

Received by DB Date 8-2-04 Time 10:50 AM
\$25.00 fee Receipted by DB # W032074 Date 8-2-04

November 26, 1999

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information

1. Matter being protested WATER RIGHT # 6522884
2. Name of protestant L. ROBERT HISAW
3. Protestant's Representative for service (If different than protestant)

4. Service mailing address 60 HARRIS CRK RD.

5. Service telephone no. 793-2314

6. Basis of protest (including statement of facts and law upon which the protest is based)

Insufficient water flow for amount of
Water Right

(additional pages may be attached to describe nature of the protest)

7. What would resolve your protest? Stop additional water right
on Shufer Creek

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 2 day of August, 2004

L. Robert Hisaw

Protestant

Protestant's Representative

NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
6. Specifically describe the nature of the protest.
7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by RL Date 8/3/04 Time 10:20 A.m.
\$25.00 fee Receipted by RL # W032078 Date 8/3/04

Nelson, Dan

From: Nelson, Dan
Sent: Friday, August 06, 2004 10:47 AM
To: 'Joel Flake'
Subject: RE: Joel Flake

Hello Joel,

I normally don't get too involved in protested actions, but I will answer your questions the best I can. I have answered all the questions below. I am not an attorney, so questions concerning specific courses of action should be discussed with qualified legal council. You may want to speak with the neighbors that didn't protest you and see what their take on your development might be. You may also want to speak with Ron Shurtleff the Basin 65 watermaster (642-4465), and see if there is adequate water in the creek for new development. It should give you an idea on what to do from this point forward.

Daniel A. Nelson
Senior Agent
Western Region
Idaho Department of Water Resources

-----Original Message-----

From: Joel Flake [mailto:joelflake@hotmail.com]
Sent: Thursday, August 05, 2004 9:25 PM
To: dnelson@idwr.state.id.us
Subject: RE: Joel Flake

Hi Dan,

I just wanted to touch bases with you and ask a few questions as the protest deadline for our water application nears (Monday 8/9).

1. So what is the timeline after the protest deadline passes regarding when I should know about the IDWR's decision concerning my water rights application? The time line varies greatly depending on what is all involved in the protest action. It can take several months to several years depending on what is needed. The process varies so much that it next to impossible to give actual time frames.
2. *Today, I received two copies of formal protests (from neighbors no less...they better not be the ones using water without permits! (ha, ha)).* What does this mean. Is it normal, bad, really bad? How, or can I, respond? Would I achieve anything by contacting them? Do I get to respond to the IDWR? I have looked at the protests and they are claiming that the creek is fully appropriated or already fully used. It is still too early to determine the severity of the protests. You do have the right to contact these individuals to see if you can work out some sort of an agreement. This contact should give you an idea of the severity of the protests. You can call them and/or write them a letter. You could set up your own meeting with these individuals if you choose. If you can't work something out within the next month or so, our office will setup a pre-hearing conference. This conference will be mediated by a individual from IDWR. You can address your concerns and requests to the department at that time. If the settlement conference doesn't work to settle this issue, then it will go to an informal hearing. This hearing will be facilitated by Department personnel trained to conduct these hearings.
3. So what all does the IDWR take into account when making their final decision? Do they give a simple "Yes," or a simple "No" decision. Or can they award less water, or irrigation for less land, or at certain times of the irrigation season, etc? Do they have flexibility. I guess I am hoping, worst case scenario, that I get enough water rights to irrigate my lawn, or some combination of the water rights for the unnamed stream and Shafer Creek. The Hearing officer can require limits on the water right for amount of flow, period the water will be used, number

of acres irrigated, or several other things. The hearing office can also approve or deny the water right as a whole. Most of this depends on what is presented at the hearing. You have the right to reduce your water use as a result of an agreement also. There is always wiggle room during negotiations. All of these types of situations rely on different issues, so it is very difficult to give anything more than just general advice. If you choose to retain an attorney, he can give you more specific advice for your individual scenario.

As you can tell, I am a little anxious about all this. Thanks in advance for any guidance.

Warm regards,
Joel

>From: "Nelson, Dan" <dnelson@idwr.state.id.us>
>To: 'Joel Flake' <joelflake@hotmail.com>
>Subject: RE: Joel Flake
>Date: Thu, 15 Jul 2004 11:23:33 -0600
>
>Joel,
>
>The application was amended so it required re-advertising, which is the
>reason for the confusion. The amendment will be re-advertised on 7/21 and
>7/28 and the protest deadline will be 8/9.

>
>Daniel A. Nelson
>Senior Agent
>Western Region
>Idaho Department of Water Resources
>
>

>-----Original Message-----

>From: Joel Flake [mailto:joelflake@hotmail.com]
>Sent: Thursday, July 15, 2004 8:45 AM
>To: dnelson@idwr.state.id.us
>Subject: RE: Joel Flake
>
>

>Hi Dan,
>

>Hey, I just wanted to touch bases with you. I have been checking the IDWR
>web site recently and it appears that the protest deadline for my petition
>for water rights (#22884) is July 21, 2004, however, on some parts of the
>web site it lists the protest deadline as "6/21/04". I am assuming that
>the

>
>"6/21/04" is simply a missprint. So, is the protest deadline really July
>21, 2004?

>
>As always, thanks for all your help.

>
>Regards,
>Joel
>
>

>>From: "Nelson, Dan" <dnelson@idwr.state.id.us>
>>To: 'Joel Flake' <joelflake@hotmail.com>
>>Subject: RE: Joel Flake
>>Date: Fri, 25 Jun 2004 12:37:40 -0600
>>
>>

>>Hello Joel,
>>

>>I have a couple of ideas, I will check out a couple of possibilities and
>>see
>>what I can come up with. I will let you know what I find out on Monday.

State of Idaho
Department of Water Resources

RECEIVED

JUL 26 2004

RECOMMENDATION OF WATERMASTER

WATER RESOURCES
WESTERN REGION

Application No: 65-22884 (Amended)

Applicant's Name: Joel Alva Flake, Jr.

Watermaster's Recommendation:

a) I do not oppose approval of this application.

b) X I do not oppose approval of this application if it is conditioned as

follows: Under control of Watermaster for Water District

No. 65.

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

d) Additional Comment: _____

Dated this 23rd day of July, 2004

Water District No. 65

Ron Shurtleff
Ron Shurtleff, Watermaster

Use reverse side of page if you need more space

Kreger (Taylor), Sue

To: Waterdist65@srvinet.com
Cc: Kreger (Taylor), Sue
Subject: comment letters

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

July 15, 2004

RON SHURTLEFF
WATER DISTRICT 65
102 N MAIN
PAYETTE ID 83661

Re: Application(s) for Water Right

Dear Ron:

Attached are copies of one or more applications. Also attached is a form for your recommendation concerning these application(s).

Please review the application(s) that are in your area. We must have your comments within two weeks. If you have any questions or need information, feel free to contact this office at 334-2190.

Sincerely,

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



65-22884.pdf



65-22893.pdf



65-22895.pdf



Copy of
commendation of Wa

Kreger (Taylor), Sue

From: Kreger (Taylor), Sue
Sent: Thursday, July 15, 2004 8:51 AM
To: 'eleitzin@idfg.state.id.us'
Cc: Kreger (Taylor), Sue
Subject: comment letters.

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

July 15, 2004

ERIC LEITZINGER, IDFG
PO BOX 25
BOISE ID 83707

Re: Applications for Permit

Dear Eric:

There are copies of six applications this time. I will try e-mailing them all at once but if it doesn't work again I will send them two at a time (or however many it will let me send). Please review the application(s) 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 for each application protested, must be received in this office by August 9, 2004.

Thanks, Eric. 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



55-13836.pdf



65-22884.pdf



65-22893.pdf



65-22894.pdf



65-22895.pdf



79-14090.pdf

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

July 14, 2004

Legal Notice Department
IDAHO WORLD
PO BOX 99
GARDEN VALLEY ID 83622

RE: Application for Permit Nos. 65-22884, 65-22893 and 65-22895

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find three 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 08/09/2004. 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:

65-22884

JOEL ALVA FLAKE JR
4814 ALLAMAR DR
BOISE ID 83704

Point(s) of Diversion SWNW S12 T06N R02E BOISE County Source SHAFER CREEK

Tributary To PAYETTE RIVER

Point(s) of Diversion SWNW S12 T06N R02E BOISE County Source SHAFER CREEK

Tributary To PAYETTE RIVER

Point(s) of Diversion SWNW S12 T06N R02E BOISE County Source UNNAMED STREAM

Tributary To SHAFER CREEK

Use. IRRIGATION 03/15 To 10/31 0.11 CFS

Total Diversion: 0.11 CFS

Date Filed: 06/28/2004

Place Of Use. IRRIGATION

T06N R02E S12 SWNW

Number of Acres 3.7

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

This application was originally advertised on June 2 and 9, 2004. It has been amended to add two points of diversion, increase the acres irrigated, and increase the rate of diversion as listed.

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 08/09/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Idaho World on July 21 and 28, 2004.

The Idaho World

P.O. Box 99
Garden Valley, ID 83622
(208) 462-3487

State of Idaho)
County of Boise)

Deanna Stevenson, being duly sworn, deposes and says: that she is the Editor of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with June 2, 2004 and ending with the issue of June 9, 2004.

Deanna Stevenson

State of Idaho)
County of Boise)

On this 10 day of June in the year 2004, before me, a notary public, personally appeared Deanna Stevenson 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.

Diane E. Caughlin

Notary Public for Idaho
Residing at Garden Valley, Idaho

My commission expires **MY COMMISSION EXPIRES**
JUNE 26, 2007
BONDED THRU NOTARY PUBLIC UNDERWRITERS

DIANE E CAUGHLIN
Notary Public
State of Idaho

RECEIVED

JUN 14 2004

WATER RESOURCES
WESTERN REGION

The following application has been filed for approval of the public waters of the State of Idaho:

65-22004

JOEL ALVA FLAKE JR
4814 ALLAMAR DR
BOISE ID 83704

Point(s) of Diversion SWNW S12

T06N

R02E

BOISE County

Source UNNAMED STREAM

Tributary To HARRIS CREEK

Use: IRRIGATION 03/15 To 10/31

0.08 CFS

Total Diversion:

0.08 CFS

Date Filed: 05/20/2004

Place Of Use: IRRIGATION

T06N R02E S12 SWNW

Number of Acres 2.5

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 06/21/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Idaho World on June 2 and 9, 2004.

RECEIVED

JUN 07 2004

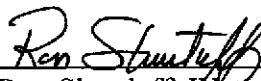
WATER RESOURCES
WESTERN REGION**RECOMMENDATION OF WATERMASTER**Application No: 65-22884Applicant's Name: Joel Alva Flake, Jr.

Watermaster's Recommendation:

- a) ☐ I do not oppose approval of this application.
- b) ☒ I do not oppose approval of this application if it is conditioned as follows: Under control of Watermaster for Water District
No. 65.
- c) ☐ I oppose approval of this application for the following reasons:
- d) Additional Comment:

Dated this 3rd day of June, 2004

Water District No. 65


Ron Shurtleff, Watermaster

Use reverse side of page if you need more space.

Kreger (Taylor), Sue

From: Kreger (Taylor), Sue
Sent: Thursday, May 27, 2004 3:50 PM
To: 'eleitzin@idfg.state.id.us'
Subject: COMMENT LETTERS

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

May 27, 2004

ERIC LEITZINGER, IDFG
PO BOX 25
BOISE ID 83707

Re: Applications for Permit

Dear Eric:

Attached are copies of one or more applications that may be of interest to you. Please review the application(s) 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 for each application protested, must be received in this office by June 21, 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



65-22881.pdf



65-22884.pdf

Kreger (Taylor), Sue

To: WATERDIST65@SRVINET.COM
Subject: COMMENT LETTERS

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

May 27, 2004

RON SHURTLEFF
WATER DISTRICT 65
102 N MAIN
PAYETTE ID 83661

Re: Application(s) for Water Right

Dear Watermaster:

Attached are copies of one or more applications. Also attached is a form for your recommendation concerning these application(s).

Please review the application(s) that are in your area. We must have your comments within two weeks. If you have any questions or need information, feel free to contact this office at 334-2190.

Sincerely,

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



65-22881.pdf



65-22884.pdf



Copy of
Recommendation of Watermaster



Copy of
Recommendation of Watermaster

Nelson, Dan

From: Nelson, Dan
Sent: Wednesday, May 19, 2004 8:49 AM
To: 'Joel Flake'
Subject: APPLICATION FOR PERMIT

Dear Mr. Flake,

I have reviewed your application for permit, and some clarification of your application is required. Processing will be delayed until we can clarify the following:

- 1.) You have listed the legal description as being in the SWSWNW of Section 12. From your plat map drawing it looks as though the point of diversion is actually in the NWSWNW of Section 12. The aerial photography shows two streams one in each legal description. I will need you to get the maps and the legal description to match. ✓
- 2.) You have listed a diversion rate of 0.03 cfs. This rate of diversion is maximum allowable for 1 acre of ground for lands 5 acres and under. The maximum diversion rate you could request for the 5 acres is 0.15 cfs. This rate of diversion would have the same fee as the diversion rate you choose. 0.03 cfs is not adequate to irrigate 5 acres of ground. The maximum amount of land you could successfully irrigate with this diversion rate is approximately 3 acres. You may want to re-think the amount of water you plan to use. ✓
- 3.) The season of use for irrigation in your area is 3/15 to 10/31. You requested year round irrigation. Irrigation of lands outside of the growing season is considered a waste of water and cannot be allowed. ✓
- 4.) You marked the place of use in the SWSW of Section 12. Your maps show that you do not own any property in this legal description. The maps do show that you irrigation would be in the SWNW of Section 12. ✓
- 5.) You are required to submit a request to process form with every application for permit. The form was not submitted. We will need a completed Request to Process form prior to continuing with processing. ✓

Many of the issue on the application can easily be corrected or fixed. It is very common for people to struggle with legal descriptions and seasons of use. Whereas, you cannot afford to hire a consultant to help you with these details, I would be willing to meet with you and assist you with the completion of the form. If you are interested in meeting with me, please contact me to set an appointment to go over your application.

If you wish to continue on your own. I will return your application to you with a letter describing the clarifications that are needed. If I don't hear back from you within the next week, I will go ahead and return the application and send the letter to expedite the process as much as possible.

If you have any questions or concerns or would like to set an appointment please contact me by email or telephone at 334-2190.

Respectfully,

Daniel A. Nelson
Senior Agent
Western Region
Idaho Department of Water Resources

-----Original Message-----

From: Joel Flake [mailto:joelflake@hotmail.com]
Sent: Monday, May 17, 2004 11:26 AM
To: dnelson@idwr.state.id.us
Subject: RE: Joel Flake

Thanks Dan. I appreciate your attention to this matter.

Regards,
Joel

>From: "Nelson, Dan" <dnelson@idwr.state.id.us>
>To: 'Joel Flake' <joelflake@hotmail.com>
>Subject: RE: Joel Flake
>Date: Mon, 17 May 2004 11:19:28 -0600

>

>Dear Mr. Flake,

>

>I have this application for processing. We received the application on
>March 4, 2004. We are currently dealing with a large backlog of water
>rights. I have placed your application on the top of my stack of permits
>to

>work on. However, with the immense backlog we have, it will still be
>several weeks before I can get the application to advertising. Once it is
>sent to advertising it will take approximately 6 to 8 weeks to make it
>through this process. I wish we could get this through the process in a
>more timely manner, but it just isn't possible with the current backlogs.

>I

>should be able to give you a better idea of time frames in approximately 8
>weeks.

>

>Daniel A. Nelson
>Senior Agent
>Western Region
>Idaho Department of Water Resources

>

>

>-----Original Message-----

>From: Joel Flake [mailto:joelflake@hotmail.com]
>Sent: Monday, May 17, 2004 8:55 AM
>To: dnelson@idwr.state.id.us
>Subject: Joel Flake

>

>

>Hi Dan,

>

>Hey I submitted our permit for water rights several months ago and have not
>heard anything back yet. I have tried to check on-line, but to no avail.

>
>Can you tell me who I can contact to ascertain the status of our
>application? The name of the applicant is "Joel Alva Flake, Jr."
>
>Thanks Dan.
>
>Warm regards,
>Joel
>
>

>Best Restaurant Giveaway Ever! Vote for your favorites for a chance to win
>\$1 million! <http://local.msn.com/special/giveaway.asp>

MSN Toolbar provides one-click access to Hotmail from any Web page - FREE
download! <http://toolbar.msn.click-url.com/go/onm00200413ave/direct/01/>

December 17, 2003

APPLICATION RESEARCH

Completed by Sharla Date 4/1/04

Add reviewer's initials DAN to APPS.MS and SAVE, forward file to reviewer after research completed.

Check items #1 through #4 unless otherwise noted.

RESEARCH ITEMS

1. N/A Corporation, partnership or other business entity: conduct Business Entity search at ID Sec. of State website and list results:

_____ registration # _____ not registered
2. ✓ Gov't Lots, attach results if any in the entire section(s). Use most recent survey found on microfiche. none
3. ✓ P/D overlap, existing/proposed site(s). Attach results or summarize here.
✓ none _____ see attached
4. ✓ P/U overlap, existing/proposed site(s). Attach results or summarize here.
✓ none _____ see attached

Additional Notes to Reviewer

✓ SRBA N/A _____ SRBA Reviewer for AJ Record in "active" basin

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

May 27, 2004

Legal Notice Department
IDAHO WORLD
PO BOX 99
GARDEN VALLEY ID 83622

RE: Application for Permit Nos. 65-22881 and 65-22884

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find legals 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 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 06/21/2004. 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:

65-22884

JOEL ALVA FLAKE JR
4814 ALLAMAR DR
BOISE ID 83704

Point(s) of Diversion SWNW S12 T06N R02E BOISE County Source UNNAMED STREAM
Tributary To HARRIS CREEK

Use IRRIGATION 03/15 To 10/31 0.08 CFS

Total Diversion: 0.08 CFS

Date Filed. 05/20/2004

Place Of Use: IRRIGATION

T06N R02E S12 SWNW

Number of Acres 2.5

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 06/21/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Idaho World on June 2 and 9, 2004