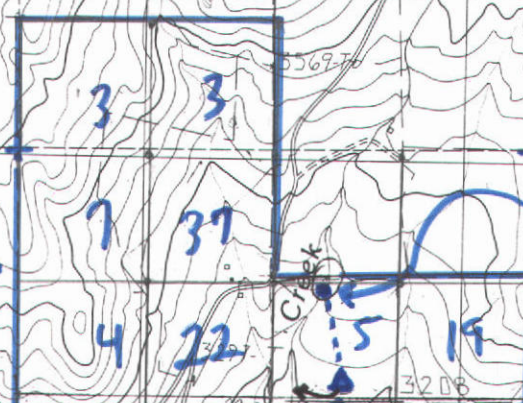




SEC.
②

Sec. 11

RESERVOIR

TN
PW
S. 11+2

No govt
lots

Return flow to
Creek in SW SWNE
S. 11

Creek is trib. to
River & Black
Canyon Reservoir

RESERVOIR
MICROFILMED
JUN 09 1999

BLACK

Boat Ramp

Pier

Boat Ramp
Pier

2523AT

RECEIVED

MAY 14 1998

WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
SS.
COUNTY OF GEM,

Mary K. Black, being first
duly sworn, on her oath deposes and
says that she is the clerk of the Mes-
senger Index, a legal weekly news-
paper published at Emmett, in Gem
County, Idaho; that said newspaper
is in general circulation in said
county and has been published unin-
terruptedly and continuously for
more than 78 weeks prior to the
first publication of the annexed
document; and that the document
notice, process, or advertisement
hereunto annexed was published in
the regular edition of Messenger
Index for two

consecutive weekly issues thereof,
beginning with the issue of
May 6, 1998,
and ending with the issue of
May 13, 1998
Mary K. Black

Subscribed and sworn to me this

13th day of
May, 1998
James D. Lester

Notary Public

Residing at Emmett, Idaho

MY COMMISSION EXPIRES
JUNE 21ST, 2003

My Commission Expires _____

NOTICE OF APPLICATION FOR WATER RIGHT

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

65-13780

SWANDER, JOHN W
4333 BUTTE RD
EMMETT, ID 83617

Source: SPRING CREEK

Tributary: PAYETTE RIVER

Diversion Pt: NWSWNE

Sec 11 T 07N R 01W in GEM County.

Use: IRRIGATION (2.000 CFS)
IRRIGATION STORAGE (10.00 AF)
IRRIGATION FROM STORAGE (10.00 AF)
* DIVERSION TO STORAGE (2.000 CFS)
Total Diversion: (2.000 CFS)

Date Filed: 3/26/98

In: GEM County

T07N R01W S02
S11

SWSW
SWNE
SWNW

SESW
SENE
SENW

NENW

NWNW

100.0 ACRES TOTAL

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 Resources, Western
Region, 2735 Airport Way, Boise, Idaho 83705 together with a protest fee of \$25.00
on or before May 26, 1998. The protestant must also send a copy of the protest to
the applicant.

Pub.: 5 - 6, 13, 1998

KARL J. DREHER, Director

Legal Notice No. 3229
Published in the Messenger Index

* STOCKWATER STORAGE for 10.0 AF not included.
Not fatal per Steve Lester 5/11/99. c.j.

MICROFILMED

JUN 09 1999

Amt of Fee \$ 50.00
Receipt No 0667795
Receipt By gma
Date Received 3-7-03

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

and
\$50.00 pd. 3/19/03
Receipt No. C068090
dg

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner.

1 Permit No 65-13780 Telephone No. 365-4762

2. Name of Permit Holder(s): John W Swander

3. Mailing Address: 4333 Butte Rd

City Emmett State Ida Zip 83617

4. Source of Water: Run Off If GROUNDWATER (well), Date Drilled: mo. _____ / yr. _____

Well Driller: _____ Drilling Permit Number: _____

5. Use(s) (as authorized by the water right permit).

Domestic (No. of households): _____ Stockwater (No. and type of stock): _____

Irrigation (No. of acres): _____ Other: _____

6 Total rate of diversion and/or volume for which proof is submitted: 1 ~~100~~ cfs OR _____ acre-feet

7 Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
(This question is not optional Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required? Yes X or No _____
Has the measuring device been installed? Yes X or No _____

8 Fee Enclosed: \$ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

9 Person to contact to accompany the Department representative during field examination of the water system.

Name: John W Swander Telephone Number: 365-4762

Address: 4333 Butte Rd Emmett, Idaho 83617

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder. John W Swander Date: 3-5-2003
(include your title, if on behalf of company or organization)

MICROFILMED

JUN 05 2003

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 65-13780

Proposed Priority: March 25, 1998

Maximum Diversion Rate:

2.00 CFS

This is to certify, that JOHN W SWANDER
4333 BUTTE RD
EMMETT ID 83617

has applied for a permit to appropriate water from:
SPRING CREEK tributary of PAYETTE RIVER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/15 to 11/15	2.00 CFS	
IRRIGATION STORAGE	01/01 to 12/31		10.0 AF
IRRIGATION FROM STORAGE	03/15 to 11/15		10.0 AF
STOCKWATER STORAGE	01/01 to 12/31		10.0 AF
DIVERSION TO STORAGE	01/01 to 12/31	2.00 CFS	
	Totals	2.00 CFS	

LOCATION OF POINT(S) OF DIVERSION:

SWNE , Sec. 11, Township 07N, Range 01W
GEM County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
07N	01W	2	SWSW 3.0	SESW 3.0		6.0
		11	SWNE 5.0	SENE 19.0	NENW 37.0	
			NWNW 7.0	SWNW 4.0	SENE 22.0	94.0

Total number of acres irrigated: 100.0

PLACE OF USE: IRRIGATION FROM STORAGE, same as IRRIGATION use

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before May 1, 2003.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Use of water under this water right will be regulated by the watermaster of 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.

MICROFILMED
JUN 09 1999

State of Idaho
Department of Water Resources**Permit To Appropriate Water**

NO. 65-13780

CONDITIONS OF APPROVAL AND REMARKS

6. The storage of water under this right is contingent upon the certification of the dam and authorization of storage per the dam safety provisions of the Idaho Code.
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 needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary 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.
8. When water is not available to fill this right, the right holder shall cease diversion or shall rent water from the Payette River Rental Pool.
9. Stockwater use is for 60 range cattle.

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

12th day of May, 1999.

Karl J. Dreher
for Karl J. Dreher, Director

MICROFILMED

JUN 09 1999

Ident. No. 65-13780

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

RECEIVED

MAY 04 1999

To appropriate the public waters of the State of Idaho

DEPARTMENT OF WATER RESOURCES

1. Name of Applicant John W. Swander Phone 865-4762
Post Office address Emmett 4333 Butte Rd Emmett ID 83617
2. Source of water supply Spring Creek which is a tributary of Payette River
3. Location of point of diversion is NW 1/4 of SW 1/4 of NE 1/4, Govt. Lot —
Sec. 11 Township 7N Range 1W B.M. Gem County; additional points of diversion if any: —

4. Water will be used for the following purposes:

* cont below
Amount 2.00 for Irrigation purposes from March 15 to Nov. 15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 2.00 for Diversin & Storage purposes from JAN-1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 10 for Irrigation Storage purposes from JAN-1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 10 for Irrigation from Storage purposes from March 15 to Nov. 15 (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) 2.00 and/or (b) 70
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. 8 inch pipe in stream diverting water at existing culvert to a pond. overflow from pond piped back to creek.

b. Height of storage dam 12 feet; active reservoir capacity 7 (?) acre-feet; total reservoir capacity 10 acre-feet; period of year when water will be diverted to storage: JAN-1 to Dec. 31 inclusive.

c. Proposed well diameter is NA inches; proposed depth of well is NA feet.

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

e. If well is already drilled, when? NA; Drilling firm NA:
Well was drilled for (well owner) NA

7. Time required for completion of works and application of water to proposed beneficial use is 4 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 if KW. —
b. Stockwatering; list number and kind of livestock. 60 Head Cows + Calves
c. Municipal; show name of municipality. —
d. Domestic; show number of households. —
e. Other; describe fully. —

* 10 Af Stockwater Storage Jan. 1 - Dec 31

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JUN 09 1999

9. Description of place of use: ~~SW 1/4 of NE 1/4 and SE 1/4 of NE 1/4 T7N R1W Section 11~~

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	
7N	1W	02											3	3					6
		11			5	19	37	7	4	22									94
					Stalk														

Total number of acres to be irrigated 100

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

65-00407 covers 5 of the 100 acres

11. a. Who owns the property at the point of diversion? John W. Swander

b. Who owns the land to be irrigated or place of use? John W. Swander

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

12. Remarks: Applicant agrees to mitigate consumptive use in the future.

Comments - Applicant is aware of processing delay & possible dam safety, SCA is "immediate mitigation" (water district #65) issued 3/26/98 conversation memo. STORAGE occurs in SW 1/4 S. 11.

13. MAP OF PROPOSED PROJECT ATTACHED ☒ Show clearly the proposed point of diversion, place of use, section number, township and range number.

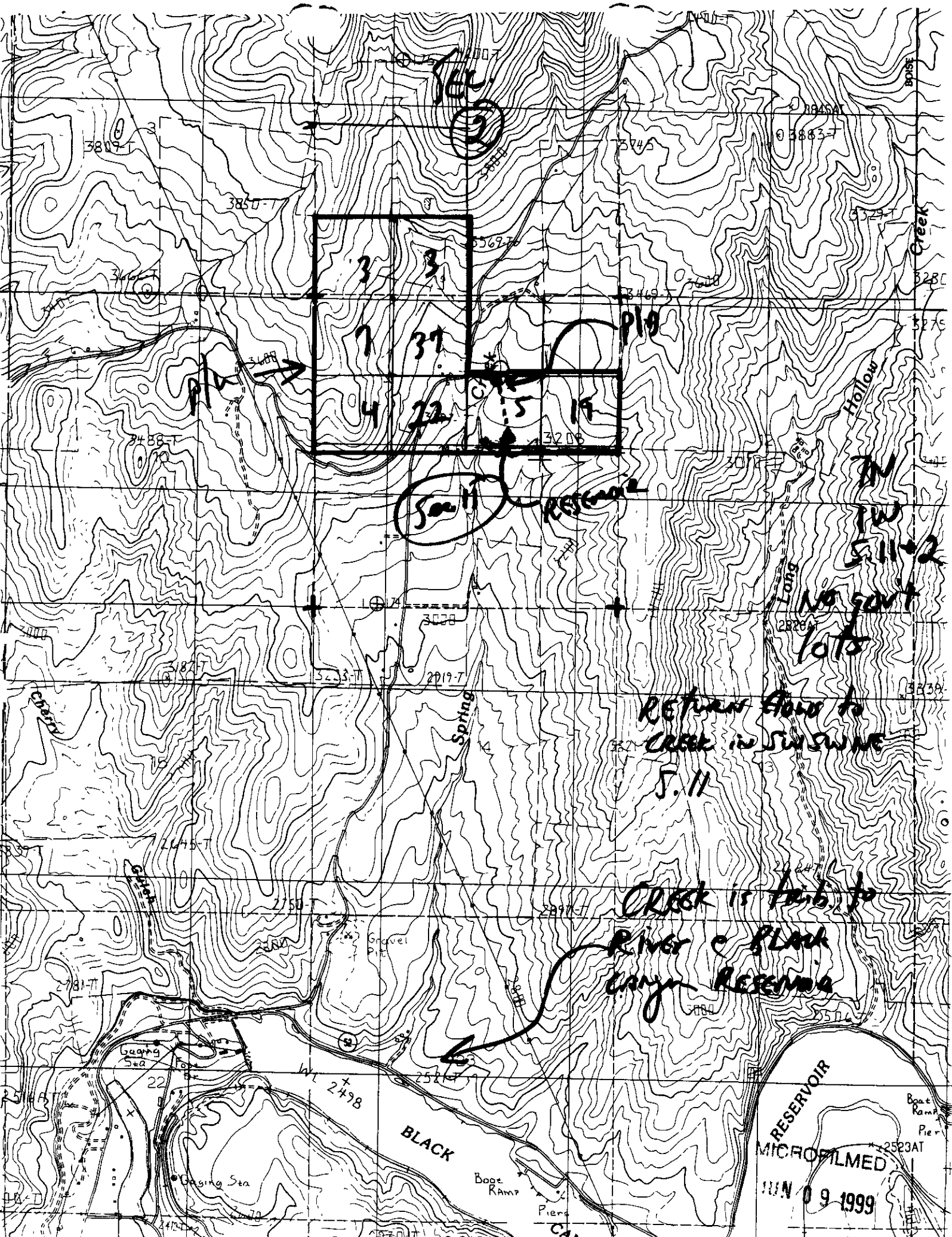
BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

John W. Swander
(Applicant)

Received by SL Date 3/26/98 Time 4:10 Preliminary check by 177
Fee \$ 120.00 Receipted by SL # W023683 Date 3/26/98
Publication prepared by ST Date 4/30/99 Published in Mess. Index on 5/6/99
Publication approved SL Date 5/18/99

MICROFILMED

JUN 09 1999





State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 21, 2003

JOHN W SWANDER
4333 BUTTE RD
EMMETT ID 83617

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 65-13780

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use (proof) form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to contact you to schedule a field examination to determine and confirm the use being made of the water, and that it meets the permitted beneficial use. Since the proof stated that the maximum diversion rate is 1.0 cfs, which is less than the 2.0 cfs you were permitted, the department will need to verify the uses and their quantities you were able to develop.

Be advised that Section 42-248, Idaho Code, requires you or the owner of these water rights to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

If you have questions, please contact the **Western** Regional Office of the department in Boise at (208) 334-2190 or me at (208) 327-7953.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encl.

c: IDWR - Regional Office (w/encl.)

MICROFILMED

JUN 05 2003

ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No.: 65-13780

Reviewed By: dgibson

Date April 18, 2003

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Proof received timely?	X		Drilling permit required?		X
License examination fee required?	X		Drilling permit No.:		
Appropriate fee submitted?	X		Drilling permit upgrade needed?		
Receipt No.:	C067795 & C068090		Well driller's report filed?		X
Additional Amount Due			Measuring device required?	X	
Name and address same as permit?	X		Measuring device installed?	X	
Are the water uses correct?			Measure device waiver requested?		

Priority Calculation

Date proof received		03/19/2003
Date proof due	-	05/01/2003
Lapse notice sent	-	
No. of days late	=	0
Holiday allowance	+	
Priority date	+	03/25/1998
New priority date	=	03/25/1998

Deficiencies of Actions Items

Acknowledge proof Ask for the water uses developed and the quantities at the time the field examination is done.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 11, 2003

JOHN W SWANDER
4333 BUTTE RD
EMMETT ID 83617

RE: PERMIT NO. 65-13780

Dear Mr. and Mrs. Work:

Enclosed is the original Proof of Beneficial Use form ("proof") you have filed with the Department, I am returning this document to you since the department cannot accept it without the appropriate license exam fee or a Beneficial Use Field Report done by a certified water right examiner. The only time a fee is waived for a proof is if the rate of diversion is 0.04 cubic feet per second ("cfs") or less for a ground water right. Since you were permitted a Maximum Diversion Rate of 2.0 cfs your license exam fee is \$125.00 and you submitted \$50.00 with the proof. Please see the enclosed fee schedule.

Please return the enclosed proof form along with the remaining balance of \$75.00 to my attention on or before **May 1, 2003** to avoid lapsing of this water right. If you have any questions regarding filing the proof, please contact me at (208) 327-7953, or contact the regional office in Boise at (208) 334-2190.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosure
c: IDWR- Region

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JUN 05 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner.

1. Permit No. 65-13780 Telephone No. 365-4762

2. Name of Permit Holder(s): John W Swander

3. Mailing Address 4333 Butte Rd

City Emmett State Ida Zip 83617

4. Source of Water: Run Off If GROUNDWATER (well), Date Drilled: mo. _____ / yr. _____

Well Driller: _____ Drilling Permit Number: _____

5. Use(s) (as authorized by the water right permit):

Domestic (No. of households): _____ Stockwater (No. and type of stock): _____

Irrigation (No. of acres): _____ Other: _____

6 Total rate of diversion and/or volume for which proof is submitted: 2 cfs OR _____ acre-feet

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)

(This question is not optional Please check either yes or no Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required?

Yes ☒ or No _____

Has the measuring device been installed?

Yes ☒ or No _____

8. Fee Enclosed: \$ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

9 Person to contact to accompany the Department representative during field examination of the water system.

Name: John W Swander Telephone Number: 365-4762

Address: 4333 Butte Rd Emmett, Idaho 83617

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: John W Swander Date: 3-5-2003
(include your title, if on behalf of company or organization)

MICROFILMED

JUN 9 5 2003

February 28, 2003

JOHN W SWANDER
4333 BUTTE RD
EMMETT, ID 83617

PROOF DUE NOTICE

RE: PERMIT NO. 65-13780

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before May 01, 2003. (See last page of your approval permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a completed field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

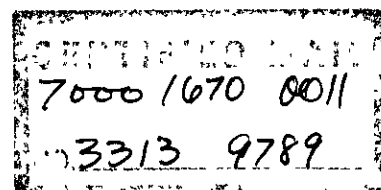
Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

Sincerely,

Deborah J. Gibson, Administrative Assistant
Water Allocation Bureau

Enclosures

MICROFILMED
JUN 05 2003





State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

May 13, 1999

JOHN W SWANDER
4333 BUTTE RD
EMMETT ID 83617

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 65-13780

Dear Permit Holder:

The Department of Water Resources (IDWR) 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 IDWR pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by IDWR unless a party petitions for reconsideration or files an exception and/or brief 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 IDWR prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Be sure to note the special condition requiring you to install a measuring device and lockable controlling works that will enable the watermaster to control the rate of diversion.

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JUN 09 1999

If the diversion dam is 10 feet or more in height, or has an impounding capacity of 50 acre-feet or more, certain dam safety requirements must be met. Please contact the regional office nearest you for details.

Also, please note that water right owners are required to report any change of water right ownership and/or change of 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 reporting form.

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

Sincerely,

A handwritten signature in cursive script that reads "Shelley W. Keen".

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosures

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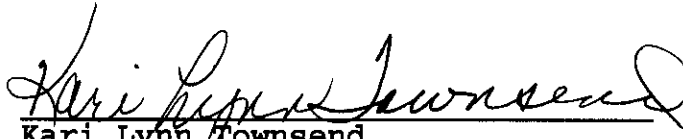
JUN 09 1999

CERTIFICATE OF MAILING

I hereby certify that on the 13th day of **May, 1999**, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER (Approved Permit)** to the person(s) listed below:

Water Right No. 65-13780

**JOHN W SWANDER
4333 BUTTE RD
EMMETT ID 83617**


Kari Lynn Townsend
Secretary

MICROFILMED
JUN 09 1999

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief 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 the 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 twenty-one (21) 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 a 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. Otherwise, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review a preliminary order, the Department 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 Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department orders otherwise, all oral arguments will be heard in Boise, Idaho.

MICROFILMED
JUN 09 1999

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Department in connection with a preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department 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 Department 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.

FILED

APPLICATION FOR PERMIT STATE OFFICE ANALYSIS

No.: 65-13780 Name: Swander Date: 5/10/99 Ad OK? OK per Stone by Cindy Stone
 AREA OF CONCERN: - No/Yes _____ Mor / _____ GWMA / Trust / Non-trust
 PROTESTED: - 020 (Protest Agreement) or *W19 (Order)
 SYSTEM COMPLETED:
 > 1 year - 26A-P17
 ≤ 1 year/no proof - P16

GROUNDWATER: (✓ FLO-CH)

DRILLING PERMIT

- All wells (✓ WDQ3) - 046-P23
- In Basin 34? - 085
- Irr within WD - P05 (new well location)
- WMD (✓ MAP) - North / East / West
- > 0.24 cfs/5 acres - 067 or No MD (in-stream stock or power)
- ≤ 0.24 cfs/5 acres - No MD
- WMD
- Supp irr use only - 065-079 (if GW use SW)-(keep SW)-(GW not primary irr source)
- Supp irr + uses - 100-101
- > 0.24 cfs/5 acres - 01M (report when notified)
- ≤ 0.24 cfs/5 acres - No MD

SURFACE WATER: (✓ FLO-CH) (Surface water that doesn't sink is regulated)

- FISH & GAME CONTACTED - YES / NO, WHEN 8/21/98 RESPONSE None
- IN/ABOVE MSF (✓ MAP) - *WB9
- IN-STREAM DEVELOPMENT - P52 (stream channel alteration)
- WD (✓ MAP & LISTING) - 004 (WD #65)
- > 0.20 cfs - 013-P08 MD & LD
- ≤ 0.20 cfs - 01H-P01 (LD), 01P or No MD (in-stream stock)
- WMD (✓ MAP)
- > 0.24 cfs/5 acres - 067 or No MD (in-stream stock or power)
- ≤ 0.24 cfs/5 acres - No MD
- SPRINGS/SINK, INACTIVE WD & REST OF STATE
- > 0.24 cfs/5 acres - 01M or No MD (in-stream stock or power)
- ≤ 0.24 cfs/5 acres - No MD

RIVER BASINS: (*Surface water)

- Snake R (01) - *W22-P04, NA
- (02/03-irr) - 007 (w/ remark *WB9 if above Weiser), NA
- Payette R(65) - *W22 (regulated uses), 047-P04 (Payette Lake), NA
- Salmon R (70's) - 029 (fish screens), NA
- Weiser R (67) - 086, 087

USE:

- STORAGE (✓ 3 compo) - 10A (in & out MD for on-stream storage), 18B-P09 >10' dam), NA
- IRR ≤ 5 acres - R66/R67/R68/R69 (0.03 cfs/acre + 3 0/3 5/4 0/4 5 AF)
- > 5 acres - R62/R63/R64/R65 (0.02 cfs/acre + 3 0/3 5/4 0/4 5 AF)
- STOCKWATER - R37 (BLM/USFS), NA
- MINING - 054(req) -081-P10
- FISH PROPAGATION - 029(70's only)-007-042(req)-081 (WQ)-P10
- HEATING/COOLING - R07 (injection well)
- POWER - 17H/17K(+uses)-08A-025(P18)-01N-028-081(P10)-027 (if no other cons use),
17G (FERC) or 17M (FERC), 18B-P09, >25 cfs-P18
- MUNICIPAL
- In restricted area? 022, 075, 004 (+memo?)
- Irr, GW supp to SW? 102
- DOMESTIC
- Surface water - *WB5 (Big Wood R or Boise R ↑ Star Bridge), 27A (Payette River), NA
- >1 in rest area 071-070
- FIRE PROTECTION 077

LOCATION:

- BOISE FRONT LOGEO 058 (<85° GW temp only)
- MITIGATION 120
- 42-248 AREA - P84 (in 20/30/40/50/60/70/80 (87) basin)
- SWAN FALLS FLAG (✓ Code) -
- Trust 051-052-053-P74 (Consumptive Uses), NA
- Non-Trust (1) 048-049 (Consumptive Uses), NA

OWNERSHIP:

OTHER CONDITIONS:

STANDARD REMARKS:

BENEFICIAL USE DUE:

COMMENTS:

① W22 ② W07/60 RC
5/1/2003

3/98 RECEIVED

MAY 04 1999

DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

ADVERTISING
DECAYINITIAL REVIEW BY: TTT DATE: 4/01/1998 APPLICATION: 65-13780COW
PROCESS
4/10/98
-82REQUIRED INFORMATION

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

Gov't. Lots:

NO P/DNO P/UADDITIONAL INFORMATION

YES NO

- ☒ Overlapping place of use: (Describe source & relationship to present application on next page.)
- ☒ Overlapping point of diversion.
- ☒ Critical groundwater area:
- ☒ Groundwater management area:
- ☒ 1992 moratorium:
- ☒ Bull trout impact area NOT present
- ☒ E-mail to SCA staff: (perennial stream, non-pump diversion &/or any mining). Enail sent 4/13/1998
- ☒ E-mail to Dam Safety staff: (for any storage)
- ☒ Mitigation plan: Check any that apply.
- ☐ immediate = acceptable plan required and submitted. See notes/conv. 11/22/0 by S.L.
- ☒ future = open areas, acceptance of condition of approval is in file.
- ☒ Send power requirement letter:
- ☒ Send fish farm requirement letter:
- ☒ Power residency affidavit:
- ☒ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres: (If yes, attach Large Diversion supplementary analysis sheet.)
- *REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

NOTE: NCSO IDFG comment letter per S.O.'s latest guideline
— 82 8/28/98

Date Requested _____ Date Response Received _____

PROCESSING

APP. NO. 65-

YES NO

✓ In form for advertising: *Mitigation remark - immediate vs future?*
✓ Statewide advertising: (> 10 cfs &/or 1000 af)
✓ Fee amount, receipt number and date recorded on application:

SEND COPIES TO: NOTE IF E-MAIL COMMENT LETTER USED.

YES NO

YES NO

✓ I.D. Health & Welfare
✓ I.D. District Health
✓ I.D. Fish & Game
✓ I.D. Lands

✓ U.S. BLM
✓ U.S. Forest Service
✓ Water Dist. #
✓ Other

FINAL REGIONAL PROCESSING REVIEW:

mention! does appear no bull trout concern but other fishery issues?

YES NO

✓ Affidavit of publication received:
✓ Application published correctly: If not, record action taken.

✓ Publication dates and paper recorded on application:
✓ Final date for protest 5-26-98
✓ Protests received.
✓ Recommendations attached:
✓ Measuring device required:
✓ Measuring port required:
✓ Water delivered by water master? District #
✓ Special conditions of approval or cover letter: 120, Under control of WRM

See below for additional information

Recommended Date or Priority 3/26/98
Recommended by: [Signature] Date: 4/29/98

STATE OFFICE REVIEW

See below for additional information. By _____ Date _____

ADDITIONAL INFORMATION:

CA5-00407 is a decreed right which appears to belong to the applicant
(see S.L.'s conv. memo dated 3/26/1998). May overlap some of
the acres in this application NEW SII. RD 04/02/1998

MEMORANDUM

**File: #65-13780 Application
Swander**

**From: J Westra
Date: 4/16/99**

RE: Dam Safety

The Dam Safety Section is aware of the application. I have looked at the site and drainage below the proposed facility. More information is needed from the owner to determine the hazard risk and height of the dam. Will follow-up with owner concerning dam safety requirements.

MICROFILMED

JUN 09 1999



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

August 27, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

STATE OF IDAHO
DEPT OF FISH & GAME
600 WALNUT ST
BOISE ID 83707

Re: Applications for Permit Nos. 65-13780 and 65-13792 in the Name of John W. Swander

Dear Sir:

Enclosed are copies of the above-referenced applications for permit which may be of interest to your agency. Please review the applications and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter, however, if your agency desires to file a formal protest against the approval of this application(s), your written protest along with the \$25.00 protest fee must be received in this office by September 21, 1998.

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

Sincerely,

A handwritten signature in cursive script that reads "Gary Spackman".

Gary Spackman

GS:st

Encl.

MICROFILMED

JUN 09 1999



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

July 23, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MARK LIMBAUGH
WATER DISTRICT 65
102 N MAIN
PAYETTE ID 83661

Re: Application for Permit No. 65-13780 in the Name of John Swander

Dear Sir:

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

Please review the application and submit any comments you may have within two weeks. If you have any questions or need information, feel free to contact this office.

Sincerely,

Gary Spackman

GS:st

Encl.

MICROFILMED
JUN 09 1999

RECEIVED

MAY 14 1998

WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
SS.
COUNTY OF GEM,

Mary K. Black, being first
duly sworn, on her oath deposes and
says that she is the clerk of the Mes-
senger Index, a legal weekly news-
paper published at Emmett, in Gem
County, Idaho; that said newspaper
is in general circulation in said
county and has been published unin-
terruptedly and continuously for
more than 78 weeks prior to the
first publication of the annexed
document; and that the document
notice, process, or advertisement
hereunto annexed was published in
the regular edition of Messenger
Index for two

consecutive weekly issues thereof,
beginning with the issue of
May 6, 1998,
and ending with the issue of
May 13, 1998

Mary K. Black

Subscribed and sworn to me this

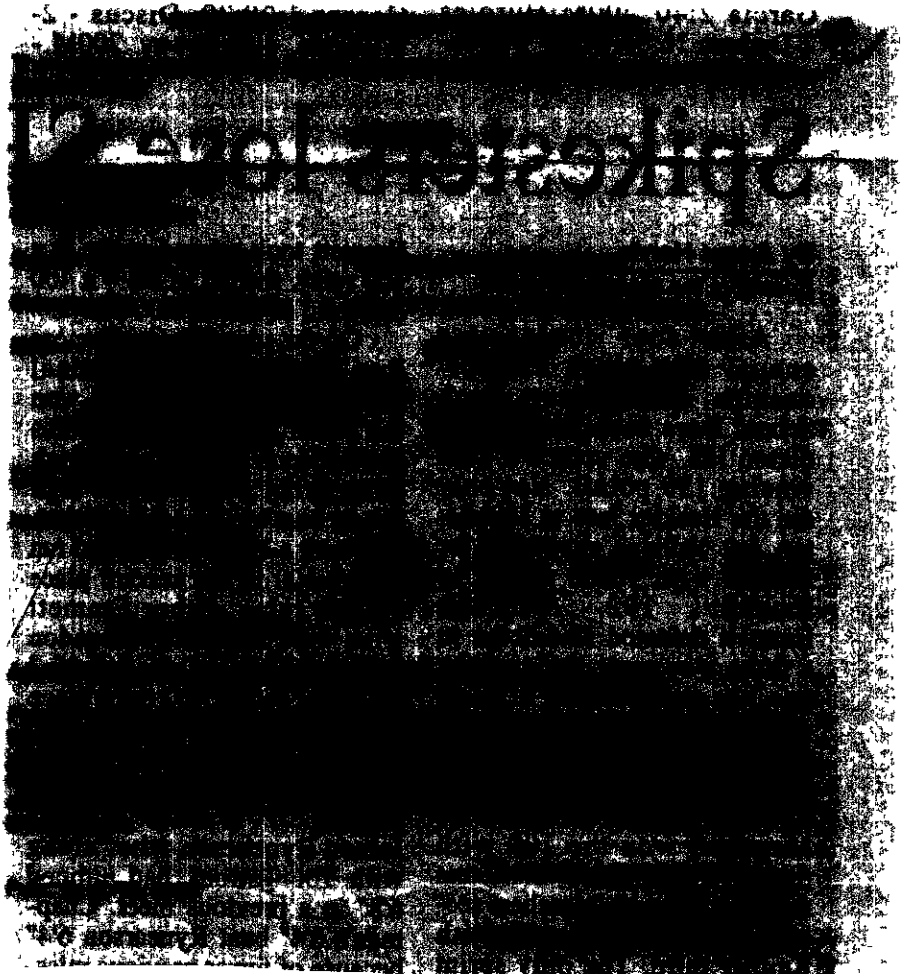
13th day of

May, 1998

J. [Signature]

Notary Public

Residing at Emmett, Idaho



* STOCKWATER STORAGE for 10.0 AF not included.
Not fatal per Steve Lester 5/11/99. c.z.

MY COMMISSION EXPIRES
JUNE 24TH, 2008

My Commission Expires _____

MICROFILMED

JUN 09 1999



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

APRIL 29, 1998

Legal Notices Department
Messenger-Index
P.O. Box 577
Emmett, ID 83617

Dear Legal Dept.:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before MAY 26, 1998.

Yours truly,

SUE TAYLOR
Secretary/Office Coordinator

Encl.

MICROFILMED

JUN 09 1999

NOTICE OF APPLICATION FOR WATER RIGHT

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

MICROFILM

11 9 4 1999

65-13780

SWANDER, JOHN W
4333 BUTTE RD
EMMETT, ID 83617

Source: SPRING CREEK

Tributary: PAYETTE RIVER

Diversion Pt: NWSWNE Sec 11 T 07N R 01W in GEM County.

Use: IRRIGATION	(	2.000 CFS)		
IRRIGATION STORAGE			(	10.00 AF)
IRRIGATION FROM STORAGE			(	10.00 AF)
DIVERSION TO STORAGE	(	2.000 CFS)		
Total Diversion:	(	2.000 CFS)		

Date Filed: 3/25/1998

In: GEM County					
T07N R01W S02	SWSW	SESW			
S11	SWNE	SENE	NENW		NWNW
	SWNW	SENW			

100.0 ACRES TOTAL

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

EMMETT, ID

1998

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, Idaho 83705 together with a protest fee of \$25.00 on or before MAY 26, 1998. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director

Published: 5/ 6/1998 & 5/13/1998

MICROFILM

DATE 12 1998

From: DWR80::MMINICUC 13-APR-1998 13:22:47.77
To: JWESTRA, GGIBSON
CC: MMINICUC
Subj: Application for Permit No. 65-13780

The above application is an off-stream storage facility which may be subject to dam safety or stream channel regulations. The file is located in Sue Taylor's In basket on the east side of her office for your review/comments.

mm

*Will need comments from SCA for outfall
Structure if permitted Also COE*

From: DWR80::MMINICUC 13-APR-1998 13:22:47.95
To: JWESTRA, GGIBSON
CC: MMINICUC
Subj: Application for Permit No. 65-13780

The above application is an off-stream storage facility which may be subject to dam safety or stream channel regulations. The file is located in Sue Taylor's In basket on the east side of her office for your review/comments.

mm

CONVERSATION MEMORANDUM

DATE 5/26/98

FILE _____

NAME OF PARTY John SwankEMPLOYEE FLRE: Office Visit - issues

WR's
AJ's
Dam safety
SCA

- 1) Filed new appl. for permit, Spring ck. for 100 acres.
- 2) Includes proposed 10 af off stream reservoir.
- 3) Return flow from pond to creek (pipe) in
Sw of SWNE S. 11 so SCA applies to that.
- 4) Possible Dam safety & Reservoir.
- 5) "Future mitigation" condition in Appl.
- 6) "Immediate mitigation" probably will apply re
Water Dist #65 - gave him Wm's # to
call & discuss. Told Applicant that processing
will be delayed (buckley reduction).
- 7) May want to file expansion claim for A65-00407,
different source for 5 of the 100 acres. That's
the only inv. right (✓ WRQ4, AJQ4) in
proposed plan. Advised him to make appt.
w/ AJ STAFF figures out more details of
historical use.

MICROFILMED

JUN 04 1998

- 8) Filed FRBA claim A65-12248 to protect
license overlooked in his previous filings. Not
titled on letter per AJQ1 & AJQ4 checks.
- 9) Thinks downstream neighbor (Thomas?) may have
forfeited inv. right due to non-use

cc: ✓ A65-00407
✓ A65-12248